TITLE: FEDERAL REGISTER
(Includes the Code of Federal Regulations)

VOLUME: 45 **ISSUES:** 214-225

DATE: November 3-19, 1980 Pages: 72617-76640
Reel 8 of 11

ISSN: 0042-1219 **PUBLICATION NO:** 2575

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federal register
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LSA

List of CFR Sections Affected

November 1980

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LSA—LIST OF CFR SECTIONS AFFECTED

The LIST OF CFR SECTIONS AFFECTED is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

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The CFR is revised annually according to the following schedule:

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To bring these regulations up to date, consult the most recent LIST OF CFR SECTIONS AFFECTED for any changes, additions, or deletions published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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713.3a (b)(2) and (c) revised 62786
713.5 (a)(2)(iii) added 62786
713.8 (b)(1), introductory text of (b)(2), and (c)(1) revised 62786
713.9 Revised 62786
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713.16 Introductory text and (a)(2)(iii) revised 62786
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103.1 (o)(1) amended ---- 32657
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103.2 (b)(1) amended ---- 32657
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(b) revised ---- 75167
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204.2 (b) amended ---- 32657
(c)(3) and (5) amended ---- 41392
(d)(1) amended; (d)(2) revised ---- 44252
(c)(7) revised; (e) and (f) redesignated as (g) and (h); new (e) and (f) added ---- 75167
207 Added; interim ---- 37393
208 Added; interim ---- 37394
209 Added; interim ---- 37395
211.1 (b)(1) revised; (b)(2) amended ---- 30062
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211.3 Nomenclature change ---- 32657
211.5 (a), (b), and (d) amended ---- 32657
212.1 (a) amended ---- 19215
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212.6 (d) revised ---- 11114
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212.9 Added ---- 63836
214.1 (c) amended ---- 26015, 44918
(c) revised ---- 48867
214.2 (j)(1), (2), and (3) amended ---- 23641
(h)(11) amended ---- 24859
(h)(2)(iv) revised ---- 25793
215 Revised ---- 65516
223.1 Nomenclature change ---- 32657
223a.4 Nomenclature change ---- 32657
231.2 (a) amended ---- 32657
235.1 (f)(1)(iii), (iv), and (g) amended ---- 19545
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235.10 (c) revised ---- 16462
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239.2 (a) amended ---- 29243
242.5 (a)(2) amended ---- 27917
242.17 (a) and (c) amended ---- 41393
242.22 Amended ---- 30063
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244.1 Amended ---- 27917
245.1 (d) amended ---- 26015
(d)(2) revised ---- 26947
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(d) corrected ---- 69429
245.2 (c) and (e) amended ---- 32657

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245.4 Revised 37396
246.9 Nomenclature change 32657
247.14 Amended 32657
248.2 Amended 26015
248.3 (b) amended 23641
249.2 Amended 32657
251.1 (c) and (d) amended 32658
264.1 (a) and (b) amended; (c) revised 32658
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282.1 Revised 6777
292a.1 Revised 43681
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299.1 Amended 6777, 32658
299.2 (c) added 6777
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299.3 Revised 6777
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334.13 Amended 45576
334.16 (a) revised 10313
336.16 Amended 10313
341.1 (a) and (b) revised 10313
343b.11 (a) amended 38340
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3.12 (a)(4) introductory text amended; (a)(4)(i), (ii), and (iii) added 37618
3.104 (b)(3)(iii) and (f)(3) amended 63261
50.1 (q) added 32287
50.3 Revised 32287
50.6 Heading and introductory text revised; (c) added 32287
50.7 Heading revised; (a) heading added 32287
(a) and (b) amended 32288
50.8 Revised 32288
50.9 Revised 32288
50.14 (b) revised 32288
51.1 (cc), (dd), and (ee) and footnote 3 added 43678
51.3 (a) and footnotes 4 through 6 revised 43679
51.5 (b) amended 24860
51.6 (c) revised 40966
Footnotes 3 and 4 redesignated as 7 and 8 43680
75.7 (a)(1)(iv)(Q) and (R) added 1002
(a)(1)(iv)(E) revised 2837
(a)(1)(x)(C) revised 8580
(b)(1)(i)(A) revised; (b)(1)(iii) added 26316
78.20 (b) amended 7246
(a) and (b) amended 14843
(b) amended 29267, 38036, 64901
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(b) amended 52773, 59832
78.21 (b) amended 7246
(a) and (b) amended 14843, 29267
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78.22(b) amended 29267, 38036
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79.2 Revised 6083
82 Heading revised 67054
82.1 (a)(1)(i) and (ii), (k), (l), (m), (n), (o), and (p) added 67054
82.2 (a) amended 67054
82.3 (a)(2) removed 2311
(a)(1) added 26317
(a)(1) removed 30613
(a) introductory text revised; (a)(2) added 30613
(a)(2) removed 48103
(a)(1) added 61595
(a)(1)(ii), and (iii), and (2) added 63262
(a)(2)(ii), (3), (4), and (5) added 64550
(a)(3)(ii) added 64550
(a)(2)(iii), (6), (7), and (8) added 64551

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(a)(9), (10), (11), and (12), added 65182
(a)(1)(iv), (3)(iii), (4)(ii), (12)(ii), (13), and (14) added 65519
(a) introductory text correctly amended 66451
(a)(1)(ii) removed; (a)(7)(ii), (15), (16), and (17) added 67051
(a)(1)(iii) removed; (a)(1)(v), (vi), (vii), (viii), (3)(iv), and (4)(iii) added 67052
Heading revised; (a) redesignated as (c); new (a) and (b) added 67054
(a)(17)(ii), (iii), and (iv) added 67306
(a)(2)(i) removed 67307
(a)(2)(ii) removed; (a)(18)(i) and (19)(i) added 68385
(a)(1)(i), (3)(i), (6)(ii), (9)(i) and (ii), (10)(i) and (ii), and (14)(i) removed 68631
(a)(1)(ii), (2)(i), (3)(v), and (20)(i) added; (a)(11)(i), (ii), and (iii) removed 68632
(a)(12)(i) removed 68633
(a)(1)(vii) and (12)(ii) removed; (a)(21)(i) added 69430
(a)(1)(i) and (iii) and (3)(i) added 70429
(a)(9)(i) added; (a)(17)(ii) removed 70845
(a)(1)(ii), (v), (vi), and (viii), and (16)(i) removed 70846
(a)(2)(iii) and (7)(i) removed 70847
(a)(1)(iv), (2)(i), (4)(i) and (ii), (6)(i), and (18)(i) removed; (a)(10)(i) added 72107
(a)(5)(i), (7)(ii), and (20)(i) removed 72626
(a)(5)(i) added; (a)(1)(i) and (10)(i) removed 73648
(a)(3)(i) added; (a)(17)(i) removed 75168
(a)(1)(iii), and (3)(i), (iii), (iv) removed 75169
(a)(17)(iii) removed 76965
(a)(3)(v) and (13)(i) removed 78623
82.4 Introductory text, (d), and (e) amended; footnotes 1, 2, and 3 redesignated as 4, 5, and 6 67055
82.5 (a) amended 67055
83.2 Introductory text and (d) revised 40099
(a) introductory text amended; (a)(2)(iii), (6), (7), and (8) added 64551
91.3 (a)(1) revised 12376
(a)(1)(i) and (2)(i) revised 67308
92.1 (j)(2)(vi) and (v) added 2839
(r) revised; (v) and (w) added 36358
92.2 (i)(2)(iii)(C) and (iv) revised 1004
(b) amended; (j) added 2839
(c)(2) redesignated as (c)(2)(i) and amended; (c)(2)(ii) added; (c)(3)(ii) amended 10753
(j)(1) revised 45889
92.3 (e) and (f) redesignated as (f) and (g); (a), (b) and (c) revised; new (e) added 11796
(a) amended; (g) redesignated as (h); new (g) and footnote 4a added 52775
92.4 (a)(5), (6), and (7) added 1005
(a)(5)(ii) amended 10314
(a)(4) amended 10754
(a)(5)(ii) amended 24860, 57701, 62026
92.11 (d) redesignated as (d)(1); new (d)(2) and (3) added 52775
Footnote 7a added 52776
92.17 Amended 1005
92.20 (c)(1) amended; (c)(2) through (6) redesignated as (c)(3) through (7) and amended; new (c)(2) added 36358
92.24 (a) amended 8581
92.25 (b) revised 8581
92.31 (a) revised 14018
92.33 (a) amended 14018
92.34 Removed; (a) and (c) redesignated as 92.35 (a) and 92.39 (b) and revised 14018
(c) correctly reinstated 26318
92.35 (a), (b), and (c) redesignated as (b), (c), and (d); new (a) redesignated from 92.34 (a) and revised; new (b) amended 14018
92.39 Revised; (b) redesignated from 92.34 (c) 14018
(b) correctly removed 26318
92.40 Revised 14019
92.41 (a)(2) and (c) amended; footnote 15 added 7779
(a)(2) amended 11797
(b)(7) revised; (c) amended 29269
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92.42 (b)(2)(iv) revised	70224
94.6 (b)(5) and (d)(4) added	29270
(b)(4) amended; (d)(1) revised	65520
97.1 (a) amended	71352
106 Added	65184
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113.86 Heading and (c)(1), (2), and (3) revised	40100
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113.88 Heading and (c)(1), (2), and (3) revised	40100
113.89 Heading and (c)(1), (2) and (3) revised	40100
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113.94 Heading and (c) introductory text, (1), and (2) revised	40101
145.10 (i) added	10315
145.14 (b)(4) added	10315
145.23 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised	10315
145.33 (c)(1)(ii) introductory text and (*a*), and (e)(1)(ii) revised	10316
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308.5 Heading revised; (g) added	68918
309.16 (a) amended; (c) added; interim	26949
317.8 (b)(25) revised	58819
318.4 Heading revised; (b) amended; (c) through (g) added	54322
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319.180 (e) amended	10318
319.181 Amended	10318
319.281 (a)(2) amended	10318
320.6 (b) redesignated as (c); new (b) added	76968
327.2 (b) amended	45890
331.2 Table amended	24861
350.7 (c) revised	65521
351.8 Revised	65521
351.9 (a) revised	65521
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381.56 Heading revised; existing text designated as (a); (b) added	68918
381.76 Comment response	27917
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381.145 (c) transferred to (b); new (c) through (g) added	54323
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2.206 (c)(1) revised	73466
2.700a Added	45254
2.708 (d) revised	49537
2.712 (f) added	49537
2.713 Revised	69878
2.718 (k) and (l) redesignated as (l) and (m); new (k) added	62028
2.719 (b) revised	62028
2.722 Added	62028
2.749 (a) revised	68919
2.750 (c) added	49537
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2.764 (a) and (b) amended; (c) added; footnote 1 revised	74711
2.786 (a) and (b)(5) revised	45890
(a) revised	73466
4 Authority citation revised	14535
4.1 Revised	14535
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4.2 Revised	14535
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4.11—4.93 (Subpart A) Heading added; nomenclature change	14535
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4.101—4.233 (Subpart B) Added	14535
4 Appendix amended	14539
9.14 (a) and (b)(1) revised	70225
9.14b (d) revised	9729
9.95 (n) added	17129
11 Added; eff. 2–4–81	76970
20 Nomenclature change	14200
20.3 (a)(18) revised	14200
20.301 (c) revised; eff. 1–28–81	71763
20.304 Removed; eff. 1–28–81	71762
20.401 (b) and (c)(3) revised; eff. 1–28–81	71763
20.403 (d) added	13435
20 Appendix D amended	18905
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21 Comment review	9893
25 Added	14481
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25.17 (c)(6) and (e) revised	71763
30 Nomenclature changes	14200
30.4 (a–1) revised	14200
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30.33 (a)(5) revised	65530
30.34 (g) added	41394
32.26 (b)(10) revised	38342
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34.32 (l) added	2312
35.14 (b)(4) revised	41394
35.41 Added	31704
35.42 Added	31704
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35.43 Added	31704
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35.45 Added	31705
40 Nomenclature changes	14200
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40.1 (a) revised	65530
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40.11 Nomenclature change	65531
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40.22 (a) revised; (c) added	55420
40.26 (b)(2) removed; (b)(1) redesignated as (b) and amended	12377
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40.31 (g) added	50710
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40.32 (e) revised	65531
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40.64 (a) and (b) amended; (e) added	50710

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40 Appendix A added 65533
50 Nomenclature changes 14200
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Appendix J amended 62789
50.2 (w) revised 14200
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50.33 (g) revised 55408
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50.34 (c) revised 76972
50.47 Added 55409
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50.48 Added 71570
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50.54 (q) through (u) added 55410
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50.70—50.71 Undesignated center heading revised 13435
50.71 (e) added 30615
50.72 Added 13435
50.78 Center heading and section added 50711
50 Appendix F amended 14201
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50 Appendix R added; eff. 2-19-81 76611
51.5 (a)(10) redesignated as (11); new (a)(10), (b)(4)(iv), and (9) added; (b)(5) revised 74711
55.4 (g) revised 18905
70 Nomenclature changes 14201
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70.1 (a) amended; (c) added 74712
70.4 (a-1) revised 14201
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70.14 (b) removed 65536
70.21 (g) added 50711
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70.23 (a)(7) revised 65536
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70.53 (a) revised 50711
70.54 Revised 50711, 73012
71.5 (a) revised 20462
71.7 (b) introductory text revised 20463
72 Added 74699
Effective date corrected 78623
73 Nomenclature changes 14201
Appendix D amended 37410

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73.1 (a)(2)(i) introductory text revised 10328
(b)(5) revised 37408
(b) corrected 67645
(b)(6) added 74712
73.2 (q) revised 14201
73.36 (c)(2) amended 14201
73.37 Revised 37408
73.55 Introductory text revised 72108
73.67 (c)(1) and (2) revised 19215
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75 Added 50711
75.34 (a) revised 73012
95 Added 14483
Effective date postponed 45256
95.39 (c)(2) amended 37410
110.2 (rr) revised 18906
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110.22 Added 18371
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110.24 Revised 18372
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110.26 Revised 18372
110.27 Revised 18372
110.28 Added 18372
110.40 (b) revised 11114
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110.44 (a)(1)(iii) revised 18372
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140.92 Amended 37410
140.93 Amended 37410
140.94 Amended 37410
140.95 Amended 37410
140.107 Amended 37410
140.108 Amended 37410
150 Nomenclature change 14201
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150.3 (j) revised 18906
150.10 Amended 50718
150.15 (a)(7) removed 12377
150.15 (a)(7) added 74712
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150.17a Added 50718
150.31 Added 65537
150.32 Added 65537
170.11 (a) introductory text revised; (a)(10) added 50718

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205.12 (a)(3) revised; (a)(10) added 37684

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205.162 Revised 37684
205.80—205.86 (Subpart F) Appendix A added 5664
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206 Correctly removed 63262
210.35 (d) revised 74673
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211.1 (b)(7) revised 74673
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211.65 (c)(2)(ii) revised 21198
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211.66 (h)(2) and (5) revised 46759
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211.67 (a)(3) and (d)(4) revised 6921
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211.102 Amended 47673
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211 Appendix (Special Rule No. 9) amended 6919
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212.53 (b) revised 71766
212.59 Added 21208
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212.72 Amended 47407, 78594
212.74 (d) and (e) added 9534
212.75 (b) amended 78594
212.77 Appendix amended 14844, 38039, 59138
212.78 (c) amended 40107
(g)(1) and (h)(4) revised; (h)(1)(iii) added; appendix amended 47624
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212.83 (c)(2)(iii)(E) amended; interim 1583
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(h)(2)(iv)(A) revised 41903
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212.92 Amended 29551
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212.93 (b)(1)(iv) added; (e) revised 1584
(e)(1)(ii) revised 28304
(a)(1), (2), and (4), (b) introductory text, (e) introductory text, (1), and (3) revised; (a)(5) and (b)(1)(v) added 29551
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(e)(1)(ii) revised 41903
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212.95 Removed 71767
212.128 (a) revised; (d) and (e) added 78595
212.131 (a)(4) revised 21209
(a)(2)(i)(C), (3)(i)(C) and (G)(3), and (b)(1)(iii) revised 46760
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212.133 Added 71767
212.182 Amended; interim 52117
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212.183 (c) revised; interim 52117
(a) revised 74442
212.185 (c) added; interim 52117
(d) correctly added 58511
220 Added 55379
221 Added 76433
303 Revised 67584
305 Revised 67604
307 Removed 67584
309 Removed 67584
375—390 (Subchapter C) Added 9530
375 Added 9530
375.004 Amended 9539
376 Added 9539
376.110 (a)(4) added 36800
376.301—376.303 (Subpart D) Added 62031
390 Added 36800
391 Added 9532
430.2 Amended 43363, 53719
430.22 (n)(4) redesignated as (n)(5); new (n)(4) added 53719
430.23 (n) revised 53719
430.21—430.24 (Subpart B) Appendix N amended 53720-53728
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430.27 Added 64110
430.44 (c), (d), and (e) correctly designated 13436
436.10—436.23 (Subpart A) Added 5624
436.100—436.108 (Subpart F) Added 44561
436 Appendix A heading and appendixes B, C, and D added 44565
440 Revised; interim 13035
445 Added 10226
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445.14 (b) 1980 compliance dates 10233
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456 Interpretations 53435
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456.301 Amended 63442
456.314 (b), (c) and (d) added 63442
456.701 Amended 63443
456.703 Added 63443
456.704 Added 63444
456.705 Added 63444
456.706 Removed 63448
456.810 Added; interim 63793
456.812 (e) added 63349
456.814 (f) and (g) (3) added 63449
456.905 (d) (1) (ii) added 63449
456.909 Added; interim 63802
456.914 Added 63449
456.915 Added; interim 63453
456.916 Added 63453
456 Appendix II revised 63453
461.30—461.36 (Subpart C) Revised 47390
470 Revised 8928
475 Revised 9544
477 Added; interim 8494
490.35 Heading, (a), (b) introductory text and (d) revised; (b) (5) and (c) amended; (b) (6) redesignated as (b) (7); new (b) (6) added 13050
500 Revised 38280
Interim rules final 53692
501 Interim rules final 53692
501.1—501.14 (Subpart A) Revised 38286
501.20—501.23 (Subpart B) Removed 38289

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501.30—501.35 (Subpart C) Revised 38289
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501.33 Added 53693
501.40—501.41 (Subpart D) Revised 38291
501.51 Revised 53693
501.52 Removed 53694
501.56 Revised 38291
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501.160—501.167 (Subpart K) Revised 38296
501.180—501.183 (Subpart L) Revised 38297
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503 Heading revised 38308
503.1—503.3 (Subpart A) Revised 38309
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503.20—503.25 (Subpart C) Revised 38312
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503.42 Revised 38321
503.43 Added 38322
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504.10—504.21 (Subpart C) Revised 53698
504.12 Removed 40967
504.30—504.40 (Subpart D) Heading revised 53701
504.30 Revised 53701
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504.38—504.40 Revised 53704
504.41 Removed; regulations transferred to 504.61 53710
504.50—504.63 (Subpart E) Added 53705
505.1—505.2 (Subpart A) Removed 38322
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505.20—505.26 Removed 38322
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506 Heading removed 53692
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506.12 Removed 40967
506.20—506.27 (Subpart C) Removed; regulations transferred to Part 504 53692
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506 Appendix I removed 53692
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507 5 Filing deadlines deferred 6084
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600.200—600.290 (Subpart C) Added 46047
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703.200—703.203 Removed 36053

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708 Correctly removed 63232
714 Redesignated as 1014 and revised 7768
781 Revised; supersedes AEC regulations formerly in 10 CFR Part 81 73447
782 Added 26950
790.4 (e) revised 67308
796 Added 15473
797 Added 3543
797.3 (a) amended 62031
798 Added 31607
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1008 Added 61577
1009 Added 70430
1014 Redesignated from 714 and revised 7768
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1024 Added 29764
1040 Added 40515
1050 Added 53972

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27.571 (b), (c), (d)(1) and (3), and (e) amended 60177
27.853 (c) revised 7755
27.1529 Revised 60177

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27 Appendix A added 60177
29 Special FAA Reg. 29 eff. date extended to 12-31-82 71919
29.571 (b), (c), (d)(1) and (3), and (e) amended 60178
29.783 (g) added 60178
29.853 (c) revised 7756
29.1415 (d) amended 38348
29.1529 Revised 60178
29 Appendix A added 60178
31.12 Added 60179
31.16 Added 60179
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31.27 (c) amended 60179
31.65 (a), (b), and (c) revised; (e) added 60179
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31.81 Revised 60180
31.82 Added 60180
31.85 (b)(1) revised 60180
31 Appendix A added 60180
33.4 Added 60181
33.5 Heading and introductory text revised; (c), (d) and (e) removed 60181
33.19 Existing text designated as (a); (b) added 60181
33.55 (c) amended 60181
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35.4 Added 60181
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35.23 Heading revised; (c) added 60182
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35.42 Added 60182
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36.1583 Added 67066
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61.77 Added 5671
61.157 (e) added 44183
63.23 Added 5672
63.42 Heading revised 5673
65.15a Removed 46737
65.31 Heading revised; (a) and (b) amended; (c) added 18911
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Chapter I—Federal Energy Regulatory Commission, Department of Energy

0 Removed 21224
1.1 (a) through (e) removed; (f) introductory text revised; (f)(23) amended 21224

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1.3a Removed 21224
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1.31 (b)(1) revised 28085
1.36 (a) and (c)(14) amended 21224
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1.40 (a)(2) (i), (ii), and (iii) removed 21224
1.41 (a)(3)(i)(A), (B) and (C) removed 21224
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2.1 (a)(1)(xi) (F) and (G) amended 21224
2.66 Heading amended; (e) added 53098
2.102 Added 53114
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3.1—3.3 Removed 21224
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4.90—4.94 (Subpart J) Added 28090
4.101—4.108 (Subpart K) Added 76123
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4.104 (a)(1) heading and (2)(ii)(A), (b) heading, and (e)(1) heading and (2) heading corrected 77420
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46.4 Added 23418
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154.42 Added 53098
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204 Forms No. 2 and 2–A schedules corrected 59305
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191 Amended 71563
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260 Filing requirements suspended 33601

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271.701—271.703 (Subpart G) Revised	56044
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600.68 Added ... 57967
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600 Appendix I revised ... 57967

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841.115 (c)(5) redesignated as 860.204 (e) and revised ... 44267
860.204 (e) redesignated from 841.115 (c)(5) and revised ... 44267
865 Heading revised; interim ... 59505
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865.408 (b) revised ... 30349
865.470—865.482 Undesignated center heading and sections added; interim ... 59505
865.501—865.504 (Subpart E) Added; interim ... 41936
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868.17 Added; interim ... 30350
869 Added; interim rule ... 52372
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881.208 (b)(1), (2), and (3) revised ... 62797
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885.410 (b) and (c) revised ... 51187
885.420 (b) revised; (d) added; interim ... 31990
886.112 Introductory text, (a), and (b) revised; interim ... 59149
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1710.114 (a)(1) and (2), (b)(1), and (c)(1) revised 40489
1710.208 (c)(4) revised 40489
1710.209 (c)(1) revised 40489
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1710.212 (b) and (e)(3) revised 40490
1710.219 Revised 40490
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1710.500—1710.559 (Subpart C) Added 40491
1715 Revised 40496
1715.4 (a) corrected 50735
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11.1 (a)(30) added 29790
31g.12 (a)(2)(v) and (d) revised 75200
55b Added 49225
120—130 (Subchapter K) Heading revised 62036
120a Added 62036
151.24 Revised 69446
161.5 Amended 45910
161.12 Revised 45910
161.20 Introductory text revised 45910
221.12 Removed 37688
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221.13a Removed 37688
221.13b Removed 37688
221.13c Removed 37688
221.13d Removed 37688
221.13e Removed 37688
221.38 Removed 27436
221.39 Removed 27436
221.40 Removed 27436
221.105 Revised 57392
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252.2 Revised 64906
256.11—256.21 (Subpart B) Revised; emergency 47411
256.40—256.50 (Subpart D) Revised; interim; eff. 4–23–80 to 1–1–81 28101
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258 Effective date corrected 79031
258.2 Revised 74690
258.3 (c) revised; (d) and (e) added 74690
258.4 (g) and (h) revised; (s) added 74690
258.6 (c) revised; (d) added 74690
258.7 (a) revised; (c) added 74691
258.8 (e)(9) added; interim 50736
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258.9 Revised 74691
258.10 Revised 74691
258.11 (c)(3)(xix) through (xxii) added 74691
258.12 (a) revised 74691
258.14 (b)(1) and (3) revised; (b)(6) added 74691
258.15 (a) revised; (h) through (j) added 74691
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500 Removed 22924
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504 Removed 22924

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700.8 Revised 25390
700.17 Added 67339

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TITLE 26—INTERNAL REVENUE

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1.21–1 (n) example (l) amended 72651
1.44C–1 Added 57715
1.44C–2 Added 57716
1.44C–3 Added 57719
1.44C–5 Added 57721
1.85–1 Added 46069
1.103–8 Nomenclature changes; (a)(2), (e)(2)(i), and (3) amended; (e)(2)(ii) and (iii) redesignated as (e)(2)(iii) and (iv); new (e)(2)(ii) and (4) added 75645
1.120–3 Added 28320
1.123–1 (a)(3) amended 72650
1.166–5 (a)(2) amended 72650
1.170A–4 (b)(1) amended 72650
1.175 Removed 78634
1.175–2 (a)(1) amended 78634
1.175–4 Revised 78634
1.175–7 Added 78365
1.191–1 Added 38051
1.191–2 Added 38053
1.191–3 Added 38055
1.219–1 Added 52788
1.219–2 Added 52789
1.272–1 (b)(3) amended 72650
1.333–5 (d)(1) and (2) amended 72650

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1.341–4 (a) amended	72650
1.341–6 (b)(2)(iii) and (5) amended	72650
1.357–2 (b) example (1) amended	72650
1.381(c)(3)–1 (c)(1), (4), (d)(1) heading, introductory text, and (ii), (2), (4), (e)(1), (5) heading and text, (6), (7), and (8) amended	72650
1.408–1 Added	52790
1.408–3 Added	52792
1.408–4 Added	52793
1.408–5 Added	52795
1.408–6 Added	52795
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1.408–7 Added	52798
1.409–1 Added	52799
1.410(a)–1 (b)(7) and (8) redesignated as (b)(8) and (9); new (b)(7) added	40980
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1.410(a)–4 (b)(1) amended	40980
1.410(a)–5 (a) amended	40980
1.410(a)–7 Added	40980
1.410(b)–1 (d)(2) and (7) added	74722
1.411(a)–5 (b)(1)(iii) and (2) amended	40985
1.411(a)–6 (c)(1)(iii) amended	40985
1.412(b)–5 Added	40113
1.412(c)(1)–1 Added	75202
1.412(c)(1)–2 Added	75202
1.412(c)(2)–1 Added	74718
1.412(i)–1 Added	47676
(b)(2)(ii) corrected	50563
1.421–5 (a)(1) and (2), (b)(1)(i), (c)(2), (d)(1), and (e) amended	72650
1.423–1 (a)(1) amended	72650
1.423–2 (k)(1)(i) amended	72650
1.424–1 (a)(1)(i) amended	72650
1.424–2 (b)(1)(i) amended	72650
1.501(c)(2)–1 (a) revised	33972
1.501(c)(13) Removed	33972
1.501(c)(13)–1 Revised	33972
1.513–5 Added	33970
1.514(b)–1 (b)(1)(iii) example (3) and (b)(3) example (2) amended	72651
1.514(c)–1 (f) amended	33973
1.528–1—1.528–10 Undesignated center heading added	26321
1.528–1 Added	26321
1.528–2 Added	26321
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1.614–6 (b) introductory text amended	72650
1.631–1 (a)(4), (b)(1), and (d)(4) amended	72650
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1.631–2 (a)(1) and (2), (b)(1), (c)(1), (d)(1), (3)(i) and (iii) amended	72650
1.631–3 (a)(1) and (2), (b)(1) and (c)(3) amended	72650
1.642(c)–3 (c) examples (3) and (5) amended	72650
1.642(f)–1 Revised	38055
1.643(a)–6 (b) example (2) amended	72650
1.665(d)–1A (c)(2) amended	72650
1.691(a)–3 (b)(1) amended	72650
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1.817–2 (b)(1)(i), (3)(i), and (ii) amended	72650
1.852–4 (b)(1), (2)(i), (3), and (d)(1) amended	72650
1.852–10 (b)(1) amended	72650
1.856–2 (c)(1)(iii)(*a*) amended	72650
1.857–4 (b) and (c)(1) amended	72650
1.892–1 Revised; redesignated in part to 1.892–2	48883
1.892–2 Redesignated from 1.892–1 (b)(1) and (2)	48883
1.901–2 Removed	75648
1.903–1 Removed	75648
1.911–1 Added	76133
1.911–2 Added	76134
1.911–3 Added	76135
1.911–4 Added	76135
1.911–5 Added	76136
1.911–6 Added	76136
1.911–7 Added	76137
1.913–1 Added	76137
1.913–2 Added	76137
1.913–3 Added	76138
1.913–4 Added	76139

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1.913–6 Added	76140
1.913–7 Added	76141
1.913–8 Added	76142
1.913–9 Added	96142
1.913–10 Added	96142
1.913–11 Added	76143
1.913–12 Added	96143
1.913–13 Added	76143
1.953–2 (d) amended	76143
1.954–2 (d)(3)(i) revised; (d)(3)(iii), (iv), and (v) and (4) added	42607
1.956–1 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added	52374
1.956–2 (b)(1)(iii), (d)(1)(i) introductory text and (d)(1)(i)(*b*) revised; (b)(1)(viii) and (c)(2) redesignated as (b)(1)(x) and (c)(4); new (b)(1)(viii) and (ix) and (c)(2) and (3) added; (c)(1) and (d)(2) introductory text amended	52374
1.958–2 (a), (b)(3) and (d)(2) amended	52375
1.981–1 (a)(3) revised	76143
1.1012–1 (c)(3)(iii), (e)(3), (4)(i) and (ii) amended	72650
1.1016 Removed	57722
1.1016–5 (t) added	57722
1.1201–1 (a)(1)(i), (2)(i), (4), (b)(1), (2)(i), (ii)(*a*) and (*b*), (e)(1) and (2) amended	72650
(a)(3)(i), (ii)(*a*) and (*b*), (iii), and (iv), (b)(2)(iii), and (g) examples (2), (3), and (4) amended	72651
1.1202–1 (a) amended	72650
1.1211–1 (b)(8) examples (6), (7), and (8) amended	72650
1.1212–1 (a)(2)(i), (3)(ii), (iii)(*a*) and (*f*) amended	72650
(a)(1)(i), (ii) examples (a), (b) and (c), (2)(iii) example (2), (3)(iv) examples (1) through (5), and (b)(5) example (7) amended	72650
1.1222–1 (a), (c), (d)(1), and (h) amended	72650
1.1223–1 (j) amended	72650
1.1231–1 (a), (b), (c)(1), (2), (5), (e)(1) and (3) amended	72650
1.1232–1 (a) amended	72650
1.1232–3 (a)(1) and (b)(1)(ii) amended	72650
1.1233–1 (a)(4), (c)(2), (4), (5), and (e) amended	72650
1.1234–2 (a) amended	72650
1.1235–1 (a) amended	72650
1.1235–2 (d)(2) amended	72650
1.1245–4 (a)(4) amended	72650
1.1247–3 (b)(4) and (d) heading and (1) amended	72650
1.1248–1 (e)(3) amended	72650
1.1248–4 (d)(5)(ii), (iii) example (2), and (g)(2) amended	72650
1.1251–3 (a)(1)(i)(*a*) amended	72650
1.1303–1 (c)(4)(ii) amended	76143
1.1348–2 (d)(1) amended	72650
1.1375–1 (f) examples (4) and (5) amended	72650
1.1385–1 (c)(2)(ii)(*a*) amended	72650
1.1402 (a) removed	50738
1.1402(a)–4 (b)(5) and (6) examples 5 and 6 revised	50739
1.1402(c)–3 (a) amended	24129
(a) amended; (g) added	57123
1.1502–4 (d)(1)(ii) and (j) example (2) amended	72650
1.1502–11 (a)(3) and (b)(6) examples (1), (2), and (3) amended	72650
1.1502–12 Introductory text and (o) revised; (n) amended; (p) added	65561
1.1502–15 (a)(1) amended	72650
1.1502–21 (f)(2) amended	72650
1.1502–22 Heading, (a)(1) heading and text, (c)(2)(i) and (d)(2)(i) amended	72650
1.1502–25 (c)(2)(ii) amended	72650
1.1502–27 (b)(2) amended	72650
1.1502–44 Added	65561
1.1502–79 (a)(3)(ii) and (b)(2)(ii) amended	72650
1.1552–1 (a)(1)(ii)(*b*) amended	72650
1.6050–1 Removed	58520
1.6050A–1 Added	57123
1.6050B–1 Added	46070
1.6073–1 (b)(1) revised; (c) and (d) redesignated as (d) and (e); new (c) added	60902
1.6073–2 (b) and (c) revised	60903
1.6073–3 (b) and (c) revised	60903
1.6073–4 (c) redesignated as (d); new (c) added	76143
1.6081–2 Heading revised; (a)(6) added	76144

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3.4 (c) and (d)(2) amended	72651
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4.903–1 Added	75656
5b Removed	76144
5b.911–1—5b.911–7 Removed	76133
5b.913–1—5b.913–13 Removed	76137
7.0 Removed	26324
7.191–1 Removed	38056
11.412(c)(1)–1 Removed	75201
11.412(c)(1)–2 Removed	75201
20.2032A–3 Added	50739
20.2032A–4 Added	50742
20.2032A–8 Added	50743
20.6081–1 (c) amended	50745
20.6166 Removed	50745
20.6166–1 Redesignated as 20.6166A–1; new 20.6166–1 added	50745
20.6166–2 Redesignated as 20.6166A–2	50745
20.6166–3 Redesignated as 20.6166A–3	50745
20.6166–4 Redesignated as 20.6166A–4	50745
20.6166A–1 Redesignated from 20.6166–1	50745
20.6166A–2 Redesignated from 20.6166–2	50745
20.6166A–3 Redesignated from 20.6166–3	50745
20.6166A–4 Redesignated from 20.6166–4	50745
20.6324–1 Added	50747
23.1 (f) redesignated as (g); new (f) added	73467
26 Added	53125
26a Added	51772
31.3121(d)–1 (a)(1) amended	24129
31.3121(b)(20)–1 Added	57123
31.3401(a)(12) Removed	72652
31.3401(a)(12)–1 Heading revised; (d) added	72652
31.3401(a)(17)–1 Added	57124
31.3506–1 Added	24129
31.6302(c)–1 (a)(1)(i), (ii), and (iv) revised	39501
48.4042–1 Added	70861
48.4042–2 Added	70862
48.4042–3 Added	70862
48.4121–1 Added	66453
(b) correctly added	69214
48.4221–3 (a) text redesignated as (a)(1); (a)(2) added	72653
48.6302(c)–1 (f) added	70863
48.6420(a)–1 Heading, (a)(1), and (b) revised; (c)(1) amended; (c)(2) example (3) added	49545
48.6420(b)–1 Revised	49545
48.6420(c)–1 (c)(2)(i) and (5) amended	49545
48.6420(c)–2 Added	49545
48.6427–1 Added	49546
(d) and (f) corrected	52800
53.4924(b)–1 Revised	58520
53.4940–1 (c)(1)(i), (f)(1), and (4) example (2) amended	72651
53.4942 Removed	56803
53.4942(a)–2 (c)(4)(i)(b) amended; (c)(4)(i)(c) and (d) redesignated as (c)(4)(i)(d) and (e); new (c)(4)(i)(c) added	56803
(c)(4)(iv)(a) amended	56804
54.4974–1 Added	52799
139 Removed	66454
140 Removed	49546
150 Added	23387
150.4989–1 (c) revised; temporary regulation	63263, 64575
(c)(1), (2), (3), and (7) added	75207
150.4995–1 (a) revised	27931
(b)(2) revised	64577
150.4995–2 (a) and (c) revised	27931
150.4995–3 (a)(1) introductory text revised	27931
(a)(1) introductory text and (f)(1) introductory text revised; (g) and (h) redesignated as (h) and (i); new (g) added	73468
(g)(2)(ii) examples (1) and (2) tables corrected	78119
150.4997–1 (a) amended	73469
150.6050C–1 (b) introductory text and (f) revised	27932
150.6402–1 (b) and (c) revised; (e) and (f) added	73469
301.6050–1 Removed	58520
301.6050A–1 Added	57124
301.6103(a)–1 Added	65566
301.6103(a)–2 Added	65567
301.6103(c)–1 Added	65567
301.6103(h)(2)–1 Revised	65567
301.6103(i)–1 Added	65568
301.6103(j)(1)–1 Added	65562
301.6103(j)(2)–1 Added	65569
301.6103(k)(6)–1 Added	65569
301.6103(l)(2)–1 Added	65570
301.6103(l)(2)–2 Added	65571
301.6103(l)(2)–3 Added	65571
301.6013(n)–1 Added	65573
301.6103(p)(2)(B)–1 Added	65574
301.6103(p)(7)–1 Added	26325
301.6324A–1 Added	50747
301.6652–1 (a)(2) revised	57124
301.6693–1 Added	72652
301.7216–2 (c) and (n) revised	49547
301.9001 Added	33974
301.9001–1 Added	33975
301.9001–2 Added	33976
301.9001–3 Added	33976
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404.6103(a)–2 Removed	65575
404.6103(c)–1 Removed	65575
404.6103(i)–1 Removed	65575
404.6103(j)(1)–1 Removed	65564
404.6103(j)(2)–1 Removed	65575
404.6103(k)(6)–1 Removed	65575
404.6103(n)–1 Removed	65575
420.6103(l)(2)–1 Removed	65575
420.6103(l)(2)–2 Removed	65575
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10 Added 63257
11 Added 63258
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31 Added 53772
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42.204 (b) added 54037
42.205 (c)(4) corrected 54037
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3.852–6	Removed	50581
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4.203–5	b)(2) and (3) amended	50570
4.203–7	(a) and (b) amended	50570
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13.202–2	(d) revised	50571
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13.702	Amended	50571, 50582
13.710	(a) introductory text revised	70869
14.400	Revised	50571
14.403	(a)(1) amended	50571
15.205–6	(f)(2)(ii)(A) *b*, *e* and (C) revised	58851
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15.302—15.303–2	Revised	50597
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60–4.2 (d) revised 65977
60–4.3 (a) amended 65977
60–4.6 Revised 65978

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101–2.102 (a) revised 68653
101–1—101–7 (Subchapter A Appendix) Temporary reg. A–15 added 44951
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101–11.209–3 Revised 74925
101–11.209–4 Revised 74925
101–11.209–5 Added 74925
101–11.209–6 Added 74925
101.11—101–13 (Subchapter B Appendix) Temporary reg. 5 expiration date extended to 7–15–82 51201
101–19.603 Removed 67665
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101–17—101–21 (Subchapter D Appendix) Temporary reg. D–65 expiration date extended 61304
Temporary reg. D–66 added 67665
101–26.102–1 Revised 55726
101–26.203 Added 71565
101–26.206 Revised 71565
101–26.301 Introductory text and (b) revised 55726
101–25—101–34 (Subchapter E Appendix) Temporary reg. E–70 added 46388
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Temporary reg. E–47 expiration date extended to 9–30–81 64177
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101–35.300—101–35.308 (Subpart 101–35.3) Added 53150
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101–36.1304–21 Effective date confirmed 47427, 47470
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101–37.201–5 (b) revised 49265
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101–37.203 (e) and (g) revised; note removed 49265
101–37.204–2 (f) and (g) revised; (h) added 49265
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101–37.603 (a), (b), and (d) revised; (e) removed 73049
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101–37.605 Revised 73050
101–38—101–41 (Subchapter G Appendix) Temporary reg. G–41 correctly designated 49082
Temporary reg. G–43 added 56807
Temporary reg. G–44 added 58122
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101–44.001–14 Revised 56808
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101–44.208 (b) revised 56810
101–44.4901–123–1 (b)(1)(i) revised 56810

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101–42—101–49 (Subchapter H Appendix) Temporary reg. H–21 removed 73050
Temporary reg. H–22 added 73050
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57.1801—57.1811 (Subpart S) Added; final 73052
57.3201—57.3202 (Subpart GG) Added 71568
58.201—58.215 (Subpart C) Revised 73661
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58.501—58.515 (Subpart F) Revised 73665
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401.1 Redesignated as 401.101; (a) revised; (b) amended 74914
401.2 Redesignated as 401.102; (a) amended 74914
401.3 Redesignated as 401.105; (b)(2) amended 74914
401.101 Redesignated from 401.1; (a) revised; (b) amended 74914
401.102 Redesignated from 401.2; (a) amended 74914
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405.701 Revised 73932
405.704 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) heading, introductory text, (1), and (13) revised; new (b)(14) added; new (c) introductory text revised 73932
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[1] Public Law 96–88 transferred the regulations of the Office of Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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[1] NOTE: Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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federal register

Monday
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Cumulative List of Public Laws—The third cumulative list of public laws for the second session of the 96th Congress will be published in the **Reader Aids** section of the Wed., Nov. 5th issue.

72617 **Mushroom imports** Presidential proclamation

72637 **Washington National Airport** DOT/Sec'y issues special regulation which allocates Instrument Flight Rules reservations at Washington National Airport; effective 10–29–80

72709 **Waste Treatment and Disposal** EPA proposes modifications to and clarifies its interpretation of criteria for classification of solid waste disposal facilities and practices; comments by 12–3–80

72984 **Grant Programs—Environmental Protection** EPA amends regulations governing cost-effectiveness analysis guidelines prepared under grants for construction of treatment works; comments by 1–2–81 (Part VIII of this issue)

72697 **Low and Moderate Income Housing** HUD/FHC proposes to amend eviction procedures in the Existing Housing Assistance Payments Program; comments by 1–2–81

72647 **Supplemental Security Income** HHS/SSA clarifies how we decide whether adjustment or recovery of an overpayment would defeat purpose of program; effective 11-3-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

72626 **Gasoline** DOE/ERA adopts amendments to mandatory price rules to delete equal application rule with respect to all sales of gasoline; effective 11–1–80

72948 **Pesticides** EPA issues proposed guidelines for registering pesticides in the U.S.; comments by 2–2–81 (Part VI of this issue)

72886 **Improving Government Regulations** DOE publishes semiannual agenda of regulations under development or review (Part III of this issue)

72732 **Grant Programs—Community Services** CSA issues notice of decision to fund ten conduit migrant and seasonal farmworker Emergency Energy Assistance Programs in every State except Hawaii and Alaska; effective 11–3–80

72734 **Petroleum** DOE/ERA issues Domestic Crude Oil Allocation Program Entitlements notice for August, 1980

72675 **Improving Government Regulations** FCA publishes semiannual agenda of regulations under development and review

72883 **Water Pollution Control** EPA proposes amendments to general pretreatment regulations for existing and new sources; comments by 1–2–81 (Part II of this issue)

72714 **Freedom of Information** GSA proposes rule providing procedures for public access to GSA records; comments by 1–2–81

72713 **Federal Buildings and Facilities** GSA proposes regulations providing for display of Code of Ethics for Government Service in public space in Government-owned or fully Government-occupied buildings; comments by 1–2–81

72902 **Television** FCC proposes rules that would modify process for making available additional VHF television allotments; comments by 12–15–80 (Part IV of this issue)

72860 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

Presidential Documents

Title 3—

The President

Proclamation 4801 of October 29, 1980

Temporary Duty Increase on the Importation Into the United States of Certain Mushrooms

By the President of the United States of America

A Proclamation

1. Pursuant to Section 201(d)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2251(d)(1)), the United States International Trade Commission (USITC), on August 18, 1980, reported to the President (USITC Report 201–43) the results of its investigation under section 201(b) of the Trade Act (19 U.S.C. 2251(b)). The USITC determined that mushrooms, prepared or preserved, provided for in item 144.20 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The USITC recommended the imposition of quantitative restrictions on imports of the above specified mushrooms.

2. On October 17, 1980, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy the injury, or threat thereof, found to exist by the USITC by proclaiming a temporary duty increase. On October 17, 1980, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to proclaim a temporary duty increase and stating the reason why my decision differed from the action recommended by the USITC.

3. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 15 days after the import relief determination date.

4. Pursuant to sections 203(a)(1) and 203(e)(1) of the Trade Act (19 U.S.C. 2253(a)(1) and 2253(e)(1)), I am providing import relief through the temporary increase of the import duty on the subject mushrooms.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 604 and 203 of the Trade Act (19 U.S.C. 2483 and 2253), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX to the GATT is modified to conform to the actions taken in the Annex to this Proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this Proclamation.

(3) This Proclamation shall be effective as to articles entered, or withdrawn from warehouse for consumption, on or after November 1, 1980, and before the close of October 31, 1983, unless the period of its effectiveness is earlier expressly suspended, modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

ANNEX

Subpart A, part 2 of the Appendix to the TSUS (19 U.S.C. 1202) is modified by inserting in numerical sequence the following new provision:

Item	Articles	Rates of Duty			
		1			2
		Effective on or after November 1,—			
		1980	1981	1982	
"922.55	Mushrooms, prepared or preserved, provided for in item 144.20...	The rate provided for in item 144.20 + 20% ad val.	The rate provided for in item 144.20 + 15% ad val.	The rate provided for in item 144.20 + 10% ad val.	No change."

[FR Doc. 80-34425
Filed 10-31-80; 11:23 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Question and Answer on the Anti-Inflationary Price Standards Second Program Year

AGENCY: Council on Wage and Price Stability.

ACTION: Question and Answer on the anti-inflationary price standards for the second program year.

SUMMARY: The Council is adopting a Question and Answer that explains its policy on the effect of a change in accounting methods under Statement of Financial Accounting Standards No. 34 on calculations of profits under the price standards.

EFFECTIVE DATE: The effective date of this Question and Answer is November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Andrew Bartels, Office of Price Monitoring, (202) 456-7107.

(Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904, note); E.O. 12092 (November 1, 1978); E.O. 12161 (September 28, 1979)).

Issued in Washington, D.C. October 29, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, Questions and Answers on the anti-inflation Price Standards for the Second Program Year are amended by the addition of a new Question and Answer I., I. 9. which reads as follows:

Q. 9 Profit and net sales are defined in § 705.76 of the price standards in terms of definitions contained in Securities and Exchange Commission regulations. Under these regulations and consistent with the adoption of Statement of Financial Accounting Standards No. 34 (effective December 15, 1979), companies are now required to treat a portion of interest expense for certain long-term activities as part of capital cost or as part of the cost of manufacturing or construction. This could result in different measurements of profit in base and program periods. Should a compliance unit follow these new S.E.C. requirements in reporting profit data to the Council?

A. No. In order for the Council to have comparable data, interest should not be treated as part of capital cost or as part of the cost of manufacturing or construction in any calculations of profit for compliance purposes. Compliance units may, however, follow the S.E.C. requirements for treatment of interest included in depreciation charges as part of asset values, because of the difficulties in determining the amounts of interest included in the amortized asset cost.

[FR Doc. 80-34226 Filed 10-31-80; 8:45 am]
BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 404

Western United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring apples in the Western United States effective with the 1981 crop year. This rule is a revision of the previous regulations for insuring apples to include several changes and to reissue the regulations in a clearer, shorter, and simpler document which will make the program easier to understand and more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The Final Impact Statement describing options considered in developing this final rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified "not significant".

The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Monday, August 4, 1980 (45 FR 51573-51579), prescribing procedures for insuring apples in the Western United States effective with the 1981 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed to revise and reissue the Western United States Apple Crop Insurance Regulations (7 CFR Part 404) as appearing in the **Federal Register** on November 29, 1976 (41 FR 52289), as amended on January 17, 1978 (43 FR 2381), on January 9, 1979 (44 RR 1963), and on December 18, 1979 (44 FR 74792-74793), effective with the 1981 crop year.

In addition to shortening and simplifying the regulations, the revised 7 CFR Part 404 provides (1) for a premium adjustment table that provides for up to 50 percent premium discount for good insuring experience and premium increases for unfavorable insuring experience, which replaces the present premium discount system, (2) for insurance protection to be provided against "fruit-set failure", which is a new insurable cause of loss covering failure of the apple tree to develop blossoms or failure of the apple to set due to adverse weather conditions, but not including poor pollination resulting from inadequate pollinizers in the orchard or failure to set due to spray damage or other manageable causes, (3) that the insurance period will begin on November 21 instead of the present March 1 and March 16, (4) that the premium per acre will be the production guarantee per acre multiplied by the applicable price election and the result multiplied by the premium percentage rate, (5) for a method for computing the production lost due to reduction in grade, (6) for unit division by written agreement between the insured and the Corporation or by applicable guidelines.

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and (7) for changes in the cancellation and termination for indebtedness dates as indicated on the following table:

	Present	Proposed
End of insurance: (No change).		
Cancellation	Oct. 31	Oct. 31.
Termination:	Dec. 31	Sep. 30.
Oregon	Feb. 28	Nov. 20.
Washington	Mar. 15	Nov. 20.

In addition, there has been added a "Good Faith Reliance on Misrepresentation" section found in 7 CFR 404.5 of these revised regulations. This section is now included in all FCIC regulations and provides a limitation of $20,000 in those cases involving good faith reliance on misrepresentation by employees or agents of the Corporation wherein the Manager of FCIC is authorized to take action to grant relief. Similar cases involving in excess of $20,000 may only be considered by the Board of Directors of the Corporation.

All previous regulations applicable to insuring apples in the Western United States as found in 7 CFR Part 404 will not be applicable to the 1981 and succeeding Western United States apple crops but will remain in effect for FCIC Western United States apple insurance policies issued prior to 1981.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and opinions on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be effective starting with the 1981 crop year.

In addition, there is hereby added to the final rule an Appendix "B" which lists the counties where apple crop insurance is available in accordance with the provisions of 7 CFR Part 404.1 which states in part that before insurance is offered in any county, there shall be published by appendix to this part the names of the counties where such insurance shall be offered.

In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 404 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of July 14, 1985.

Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Western United States Apple Crop Insurance Regulations (7 CFR 404) to read as follows:

PART 404—WESTERN U.S. APPLE CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

404.1 Availability of Western U.S. Apple Insurance.
404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
404.3 Public notice of indemnities paid.
404.4 Creditors.
404.5 Good faith reliance on misrepresentation.
404.6 The contract.
404.7 The application and policy.
Appendix A (Additional Terms and Conditions).
Appendix B Counties Designated for Western Apple Crop Insurance.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 404.1 Availability of Western U.S. Apple Insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which Western U.S. apple insurance will be offered.

§ 404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 404.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 404.4 Creditors.

An interest of a person in an insured crop existing by virture of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 404.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Western U.S. apple insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indeminity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 404.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the attached Appendix A, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of

forms referred to in the contract are available at the office for the county.

§ 404.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications for contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1977 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a Western U.S. apple contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Western U.S. Apply Insurance Policy for the 1981 and succeeding crop years, and the Appendix A to the Western U.S. Apply Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19——and Succeeding Crop Years

Western U.S. Apply Crop Insurance Contract

Contract number ——————
Indentification Number ——————
Name and Address ——————
ZIP Code ——————
County ——————
State ——————
Type of Entity ——————
Applicant is over 18 Yes——No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation".), hereby applies to the Corporation for insurance on the applicant's share in the apples grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.
LEVEL ELECTION ——————
PRICE ELECTION ——————

EXAMPLE: FOR THE 19——CROP YEAR ONLY (100% SHARE)

Location/Farm No.	Guarantee per acre*	Percentage premium rate**

* Your guarantee will be on a unit basis (acres x per acre guarantee x share).
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following Western U.S. apple insurance policy, the attached Appendix A, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Signature of Applicant ——————
Date, 19—— ——————
Code No./Witness to Signature ——————
Address of Office for County: ——————

——————
Phone ——————
Location of Form Headquarters: ——————

——————
Phone ——————

Western U.S. Apple Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix A:

1. CAUSES OF LOSS. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from frost, freeze, wind, hail or fruit-set failure occuring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good orchard management practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. CROP AND ACREAGE INSURED. (a) The crop insured shall be apples established as adapted to the area, which is located on insured acreage, and for which the actuarial table shows a guarantee and percentage premium rate.

(b) The acreage insured for each crop year shall be that acreage of apples located on insurable acreage as shown on the acturial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall attach only after the acreage (1) has produced a minimum of 250 boxes per acre and (2) is considered acceptable based upon a Corporation inspection.

3. RESPONSIBILITY OF INSURED TO REPORT ACREAGE, SHARE, YIELD, AND NUMBER OF TREES. The insured shall submit to the Corporation on a form prescribed by the Corporation a report showing the following: (a) all acreage of apples in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share, (b) the insured's share therein at the time insurance attached, (c) the number of bearing trees thereon, and (d) the loose field boxes produced from the preceding year's insurable acreage on each unit. Such report shall be submitted each year not later than November 20.

4. PRODUCTION GUARANTEES. COVERAGE LEVELS, AND PRICES FOR COMPUTING INDEMNITIES. For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the acturial table.

5. ANNUAL PREMIUM. (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the production guarantee per acre, times the price election per loose field box, times the percentage premium rate, times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

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(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. INSURANCE PERIOD. Insurance on insured acreage shall attach each crop year on November 21 and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest of the insured apples, (c) October 31 of the calendar year in which the apples are normally harvested, or (d) total destruction of the insured apple crop.

7. NOTICE OF DAMAGE OR LOSS. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county when the insured damage to the apples becomes apparent giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county (1) at least fifteen days before harvest commences if a final adjustment has not been made on the unit, and (2) immediately if the damage occurs within the fifteen-day period before harvest commences, or during harvest.

(c) In addition to the notices required in subsection (a) and (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earlier of (1) the date harvest is complete on the unit, (2) October 31 or (3) the date the entire apple crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. CLAIM FOR INDEMNITY. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of apples on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of apples on the unit by the applicable guarantee per acre, which product shall be the guarantee for the unit, (2) subtracting therefrom the total prodution of apples to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) mulitiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production: *Provided,* Production which, due to insurable causes, does not grade 80 percent Fancy or better, based on applicable State Standards will be counted as follows:

(1) Production with 21 percent thru 40 percent not grading Fancy or better will be reduced 2 percent for each percent in excess of 20. The difference between the reduced production and the total production will be considered cull production.

(2) Production with 41 percent thru 50 percent not grading Fancy or better will be reduced 40 percent plus an additional 3 percent for each percent in excess of 40. The difference between the reduced production and the total production will be considered cull production.

(3) Production with 51 thru 64 percent not grading Fancy or better will be reduced 70 percent plus an additional 2 percent for each percent in excess of 50. The difference between the reduced production and the total production will be considered cull production.

(i) Production with 65 percent or more not grading Fancy or better will be considered 100 percent cull production.

(ii) 30 percent of all cull production, as determined above shall also be counted as production.

(iii) In no event shall a reduction in grade be applied to any apple grading less than fancy due solely to shape or color.

(4) Appraised production to be counted shall include: (i) any appraisals by the Corporation for potential production, uninsured causes and poor farming practices, and (ii) not less than the production guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause.

(5) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (i) is not put to another use before harvest of apples becomes general in the county, (ii) is harvested, or (iii) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. MISREPRESENTATION AND FRAUD. The Corporation may void the contract without affecting the insured's libility for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. TRANSFER OF RIGHT TO INDEMNITY ON THE INSURED SHARE. If the insured transfers any part of the insured share during the crop year the insured may transfer the right to an indemnity on an approved form. The insured shall be liable for the premium if such form is or is not executed. If such a form is executed, the transferee shall have the same rights and responsiblities as the original insured for the current crop year.

11. RECORDS AND ACCESS TO FARM. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all apples produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. LIFE OF CONTRACT: CANCELLATION AND TERMINATION. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

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State	Cancellation date	Termination date for indebtedness
All states	Sep. 30	Nov. 20

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 6 of the Appendix A, the contract shall continue in force for each succeeding crop year.

Appendix A

(ADDITIONAL TERMS AND CONDITIONS)

(1) *Meaning of Terms.* For the purposes of Western U.S. apple crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, percentage premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall also be considered contiguous.

(c) "County" means the Western U.S. county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period beginning with the date insurance attaches to the apple crop and extending through normal harvest time and shall be designated by the calendar year in which the apples are normally harvested.

(e) "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due to adverse weather conditions, but shall not include poor pollination resulting from inadequate pollinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

(f) "Harvest" means the picking of marketable apples from the trees or from the ground.

(g) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(h) "Insured" means the person who submitted the application accepted by the Corporation.

(i) "Loose field box" means a standard container, accepted by the industry, containing a minimum of 35 pounds of apples.

(j) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(k) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivison of a State, or any agency thereof.

(l) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured apple crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(m) "Tenant" means a person who rents land from another person for a share of the apple crop or proceeds therefrom.

(n) "Unit" means all insurable acreage of apples in the county which is located on contiguous land, and, at the time insurance attaches for the crop year, (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apple crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

(o) "Western U.S." means those states west of a line extending north-south along the eastern state boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

2. *ACREAGE INSURED.* (a) The Corporation reserves the right to limit the insured acreage of apples to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the time insurance attaches.

(b) If the insured does not submit an acreage report on or before November 20, the Corporation may elect to determine by units the insured acreage, share and number of trees, or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *ANNUAL PREMIUM.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *CLAIM FOR AND PAYMENT OF INDEMNITY.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured apple acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c) as amended: *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *SUBROGATION.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The insured thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. *TERMINATION OF THE CONTRACT.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *COVERAGE LEVEL AND PRICE ELECTION.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

8. *ASSIGNMENT OF INDEMNITY.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *CONTRACT CHANGES.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B

Counties Designated for Apple Crop Insurance–7 CFR 404

In accordance with the provisions of 7 CFR 404.1, the following counties in the Western United States are designated for apple crop insurance:

Oregon—
- Umatilla

Washington—
- Benton
- Chelan
- Columbia
- Douglas
- Okanogan
- Yakima

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Roland Wentzel,

Acting Manager.

Dated: October 27, 1980.

[FR Doc. 80-34174 Filed 10-31-80; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Contact Representatives Within the Definition of Immigration Officer; Delegation of Authority

AGENCY: Immigration and Naturalization Service.

ACTION: Temporary Regulatory Amendment.

SUMMARY: This document provides a temporary amendment to 8 CFR 103.1(q) to include Houston Contact Representatives within the definition of Immigration Officer as set forth in 8 CFR 103.1(q). This amendment delegates to such Contact Representatives the authority to adjudicate applications and petitions filed by aliens and citizens for benefits under the Immigration and Nationality Act, as amended. The use of this authority by Contact Representatives will be tested as a part of an experimental INS program to adjudicate certain types of cases as soon as they are filed.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3048.

For specific information: Roger J. Lucas, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3240.

SUPPLEMENTARY INFORMATION:

Background

INS is conducting in the Boston and Houston District Offices a four month test of a procedure called Up-Front Adjudication (UFA). The UFA procedure entails the adjudication of certain routine and fully-documented applications and petitions immediately upon receipt. Upon completion of the test, INS will analyze the cost/effectiveness of UFA and decide whether to implement it nationwide.

In both Boston and Houston, officers as defined in 8 CFR 103.1(q) will adjudicate cases under the UFA test procedures. Additionally, Houston Contact Representatives, who are not as a class included in 8 CFR 103.1(q), will adjudicate some of the less-complex UFA cases. These include, but are not limited to, extensions of temporary stay, and issuance of Re-Entry Permits and Refugee Travel Documents. For the purposes of the test the provisions of 8 CFR 103.1(q) regarding the definition of Immigration Officers are expanded to include Contact Representatives in the Houston District Office. This inclusion will provide the Houston Contact Representatives with the delegated authority to adjudicate cases.

Need for Temporary Amendment

This amendment to 8 CFR 103.1(q) is needed only temporarily because the Up-Front Adjudication Test will conclude on February 25, 1981.

Drafting Information

The author of this amendment was Roger J. Lucas, Adjudications Division, Office of the Associate Commissioner, Examinations, Immigration and Naturalization Service.

Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date in unnecessary and impractical because of the time limitation and because the amendment affects only agency organization and procedure.

Accordingly, the following amendment is made to Chapter I of Title 8 of the Code of Federal Regulations:

Part 103 Powers and Duties of Service Officers; Availability of Service Records

1. 8 CFR 103.1(q) is amended by adding the following sentences to the end of the existing paragraph to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(q) *Immigration Officer.* * * * For the purpose of conducting a four month test of the Up-Front Adjudication procedure, contact representatives at the Houston District Office are designated as immigration officers authorized to exercise the powers and duties of such officers as specified by the Act, or this Chapter. This authority as to contact representatives commences on November 3, 1980, and expires on February 25, 1981.

* * * * *

(Secs. 103, 8 U.S.C. 1103)

Dated: October 30, 1980.

David Crosland,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 80-34277 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-10-M

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to release a portion of Houston County in Minnesota, a portion of Kane County in Illinois, and a portion of Denver County in Colorado, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT:
C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: These amendments exclude a portion of Houston County in Minnesota, a portion of Kane County in Illinois, and a portion of Denver County in Colorado, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

§ 82.3 [Amended]

1. In § 82.3(a)(5), relating to the State of Minnesota, paragraph (i) relating to the premises of Far-Vu Feathers, Route 1, La Crescent, Houston County is deleted.

2. In § 82.3(a)(7), relating to the State of Illinois, paragraph (ii) relating to the premises of Zoological Enterprises, Inc., 135 N. 11th Street, Saint Charles, Kane County is deleted.

3. In § 82.3(a)(20), relating to the State of Colorado, paragraph (i) relating to the premises of Pampered Pets, 1322 South Cherokee, Denver, Denver County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4; 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment of preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 29th day of October 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-34177 Filed 10-31-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-20]

Sales of Gasoline; Equal Application Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts amendments to its mandatory price rules to delete the equal application rule with respect to all sales of gasoline. The effect of the deletion of the rule is that refiners, and resellers and reseller-retailers not using the fixed margin price rule, will be permitted the pricing flexibility to recoup increased costs allocated to gasoline as they deem appropriate.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT:
William Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C. 20461. (202) 653–4055.
Chuck Boehl (Office of Regulatory Policy), Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C. 20461. (202) 653–3220.
William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6736 or 252–6754.

SUPPLEMENTARY INFORMATION:

I.—Background.
II.—Summary of Comments.
III.—Amendments.
IV.—Procedural Requirements.

I. Background

DOE eliminated the equal application rule for retailers [1] on July 15, 1979, and for most resellers and reseller-retailers [2] on May 1, 1980. The elimination of the rule for these marketers was part of a new, simplified pricing scheme for retailers, resellers, and reseller-retailers Generally the maximum lawful selling price for gasoline is its acquisition cost, plus a fixed cents per gallon markup, plus tax costs. Under the new pricing scheme the equal application rule was no longer applicable and, therefore, was deleted.

In September 1979, DOE issued a Notice of Proposed Rulemaking [3] proposing various amendments to remove regulatory constraints that could influence refiners to sell gasoline at retail prices below those of independent retailers. On April 18, 1980, DOE issued a final rule [4] increasing the difference between what refiners may charge in sales at retail outlets and other types of sales without being subject to the equal application rule. These amendments, however, did not remove the regulatory constraints that had been the focus of the public comments at the rulemaking, because they did not alter the requirement that the equal application rule apply *within* a class of purchaser as well as *between* classes of purchasers. That is, refiners are deemed to recoup any increase in one retail sale in all other retail sales.[5] Thus, as a practical matter, the rule created a discincentive for refiners to increase any retail sale price unless every retail price could be raised.

On June 24, 1980, DOE issued another Notice of Proposed Rulemaking and Public Hearing (NOPR) regarding the equal application rule (45 FR 44238, June 30, 1980). Specifically, DOE proposed to eliminate the equal application rule with respect to retail gasoline sales. In the alternative, DOE proposed to eliminate the equal application rule with respect to (1) all sales of gasoline or (2) only retail sales of gasoline that result in greater increased costs being passed through in retail sales than in other sales.

II. Summary of Comments

On August 19 and 20, 1980, DOE held a public hearing in Washington, D.C. regarding the proposed alternative amendments. 21 interested parties testified at the hearing and 23 written comments were received.

The majority of those testifying or submitting written comments on the proposed amendments were refiners; 17 major and 13 independent refiners. The Antitrust Division of the Department of Justice, refiners, and the Service Station Dealers of America supported the first alternative proposal that the equal application rule be eliminated in its entirety. Approximately six parties, mostly independent marketers associations, supported the second alternative proposal that the rule be eliminated only in retail sales that result in an increased price differential between retail sales and other sales. The Office of Special Counsel, DOE, and The Independent Gasoline Marketers Council opposed any amendments to the rule.

A. Alternative Proposal I

Most of the commentators supported eliminating the equal application rule for gasoline in its entirety. The following reasons were those most often cited by those in support of deleting the rule.

(1) Price distortions in retail gasoline prices were said by some to exist in many areas largely because refiners do not want to be deemed to have recouped increased costs pursuant to the equal application rule when, in fact, they have not recouped such increased costs in actual sales.

Because the rule applies *within* a class of purchaser as well as between classes of purchaser,[6] there is a disincentive for refiners to adjust one retail price if all retail prices within the marketing area are not similarly adjusted.

> If a retail price in one area cannot be adjusted without penalty due to failure to make the identical adjustment in another area, then serious difficulties are encountered and refiners are denied the opportunity to react effectively to competitive circumstances in various markets. Timothy Bloomfield, Independent Refiners Association, Oral Testimony, p. 7.

Moreover, a refiner marketing on a national basis is encouraged by the rule to keep recoveries on a nationwide basis within the specific limitations permitted by the rule.[7] Accordingly the inter-regional effect of the rule also can create an incentive that could result in retail price distortions.

> Where [a national marketers'] prices are higher than the regional competition, his dealers will suffer; where they are lower, the regional marketer will suffer. A. Prud'homme, Atlantic Richfield Co., Oral Testimony, p. 9.

Several commenters, however, including both marketing associations and refiners, contended that the current price distortions are not caused by the equal application rule as much as they are by disparities in refiners' crude oil costs.

> IRAA submits, however, that the proposed amendment, important as it is, will have only limited impact on the problem * * * competitive imbalances due to relatively low retail prices by major refiners. The reason why the proposed amendments would not reduce gasoline retail market distortions is that those distortions are caused by disparities in crude oil costs * * * Timothy Bloomfield, Independent Refiners Association of America, Oral Testimony, p. 2.

In addition, several commenters, including some refiners, contended that the elimination of the rule will have little effect on refiners' prices and, therefore, will not alleviate current market price distortions.

(2) Marketing conditions have changed since May 15, 1973. Currently gasoline is plentiful and retail marketing practices have changed to reflect self-serve, high volume sales and population shifts.

> The mandatory petroleum price regulations * * * are now seven years old. As far as price regulations are concerned, they no longer serve the purpose for which they were intended and are certainly out of date insofar as they relate to current petroleum marketing conditions and overall economic conditions. Lowell Way, Union Oil Company of America, Oral Testimony, p. 1.

The equal application rule is intended to create a strong incentive for refiners to maintain May 15, 1973 price differentials. Consequently if refiners alter historic price differentials when adjusting to changed marketing conditions, they are deemed to recover increased costs as through the highest increased price charged to one customer had been charged to all customers.

(3) Given current market conditions, in which crude oil and gasoline inventories are at an all time high, and where many refiners are reducing gasoline prices, there should be little impact on average gasoline prices.

(4) The Emergency Petroleum Allocation Act (EPAA), and therefore DOE's statutory authority to control prices, expires in September 1981. To avoid market disruptions when controls expire, commenters said that the DOE should allow a limited elimination of the current regulations that restrict refiners' flexibility to react to market conditions. Thus, the elimination of the equal application rule would help "phase-in" the return to the free market by giving firms greater pricing flexibility.

B. Alternative Proposal II

The primary argument advanced by marketing associations supporting the adoption of DOE's alternative proposal to eliminate the equal application rule only in retail sales that result in an increased price differential between retail sales and other sales was that elimination of the rule in retail sales or in its entirety might result in predatory

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[1] 44 FR 42541, July 19, 1979.

[2] 45 FR 29546, May, 2, 1980; Before July 1, 1980, approximately 45 resellers and reseller-retailers elected to remain subject to the old pricing rules and therefore remained subject to the equal application rule.

[3] 44 FR 54902, September 21, 1979.

[4] 45 FR 28302, April 29, 1980.

[5] Between regions refiners are allowed a three cent differential. *See* 10 CFR 212.83(h)(2)(i).

[6] *See* § 212.83(h)(2)(iv) for a limited exception to the equal application rule between classes of purchasers for refiners' sales at retail outlets.

[7] *See* § 212.83(h)(2)(i) for a limited exception to the equal application rule between Petroleum Administration for Defense Districts (PADDs).

pricing by refiners, particularly if tight supply conditions were to reoccur.

This alternative is the only one which will protect jobbers against predatory refiner prices. Jane Jachimczyk, National Oil Jobbers Council, Written Comment, p. 1.

Any change should clearly prohibit predatory pricing * * * the second alternative proposal would be the most equitable. John Calhoun, Texas Oil Marketers Association, Written Comment, p. 1.

Most importantly, the adoption of the second alternative proposal would achieve these objectives without creating the opportunity for suppliers to employ price mechanism in a predatory manner * * * Tim Columbus, Society of Independent Gasoline Marketers of America, Oral Testimony, p. 3.

In response to these fears, refiners stated that other laws afforded independent marketers sufficient safeguards against predatory pricing by refiners.

Existing antitrust laws are more than adequate to protect dealers from unfair trade practices. R. J. Landry, Exxon, Oral Testimony, p. 3.

Whatever changes may occur, they must still be in compliance with the antitrust laws, the Uniform Commercial Code, and the Petroleum Marketing Practices Act, all of which will continue to provide the best protection against any potential problems. George Carnahan, Shell Oil Company, Oral Testimony, p. 3.

III. Amendments

The amendments adopted today, effective November 1, 1980, eliminate the equal application rule for all sales of gasoline. DOE realizes that the deletion of the rule fundamentally alters the regulatory scheme by removing from the price regulations one of the more basic provisions. The effect of the deletion of the rule is that refiners, and resellers and reseller-retailers not using the fixed margin price rule, will be permitted the pricing flexibility to recoup increased costs allocated to gasoline as they deem appropriate. Thus, refiners' and these resellers' and reseller-retailers' aggregate price increases will be compared to total increased costs to determine compliance with the price rules.[8]

Thus, the limitation on gasoline price increases for refiners and marketers not using the final margin rule is that they may not allocate more cost to gasoline than allowed under the regulations. Thus, one of the major elements of DOE's price control program—the maintenance of historic price differentials between classes of purchaser—is eliminated. However, the objective of the price control program—prevention of excessive profits by limiting price increases to the amount of increased costs—is retained.

DOE believes the elimination of the rule is appropriate for the following reasons:

After considering all the comments, DOE believes that the benefits of maintaining May 15, 1973 pricing differentials are outweighed by the costs of maintaining those differentials. Three factors, which converge at this time, lead us to this conclusion: (1) The length of time that has elapsed since the imposition of the base price concept and the economic changes that have occurred in that time, (2) the short period of time before controls expire, and (3) the current adequate supply environment.

As was noted in the NOPR, the price control system in effect for several years is based on the concept of a base price in all transactions among classes of purchasers and the addition of increased costs to those base prices in such a manner as to retain the historical price differentials between and within classes of purchasers. In retrospect, on the basis of the information and expectations at the time, we believe such a price control system to have been the best to achieve the purposes of the EPAA. Moreover, until very recently, we believed retention of this system to have best furthered the purposes of the EPAA. Nevertheless, the further one goes beyond a base date under such a price control system, the further regulatory constraints are likely to be at variance with economic realities.[9]

As was also noted in the NOPR, while such relatively inflexible constraints may be entirely appropriate in an environment of pervasive price and allocation controls, the appropriateness of such constraints in an environment soon to be decontrolled and in many regulatory areas already subject to "phased" decontrol must be questioned. DOE believes the "phased" decontrol of crude oil prices is easing the potential economic impacts of abrupt decontrol on both the consumer and the industry. Similarly, DOE believes that by reducing the regulatory restraints associated with the equal application rule, we are fostering competition in the market place generally, minimizing regulatory interference with market mechanisms, and promoting economic efficiency. This will in the long-run benefit both the industry and the consumer.

The current adequate supply of both crude oil and gasoline, notwithstanding the Iraqi-Iranian war, as well as a generally favorable supply outlook for the next year, suggests that it is appropriate to increase gasoline marketing flexibility.

Accordingly, DOE has determined that the equal application rule should be eliminated in its entirety. In so doing, DOE specifically rejects suggestions made by some refiners that the equal application rule was always inappropriate. As described above, DOE continues to believe that maintenance of historical price differentials in the pass-through of increased costs is in a supply shortage the most appropriate means, if not the *only* means, of ensuring equitable pricing, a specific purpose of the EPAA. The convergence of the three factors, discussed above, at this time, justifies the elimination of the rule. Competition in the adequate supply environment should generally continue to protect equitable pricing in the year left before the EPAA expires.

As more fully discussed in the Final Regulatory Analysis, this change should have little impact on consumer prices, given the large amount of unrecovered costs available to refiners, a very competitive gasoline market and the Council on Wage and Price Stability guidelines.

We are not unmindful of the comments and concerns of independent marketers with respect to the possiblity of predatory pricing by refiners if the equal application rule is eliminated. As noted above, however, we believe the adequate supply environment and the competitive marketplace will provide the primary safeguard against anticompetitive pricing by refiners. *See* the comments of the Antitrust Division of the Department of Justice supporting elimination of the equal application rule. Moreover, because the elimination of the rule is undertaken now, as opposed to when the authority for price controls expires, the possibility of reimposing the equal application rule is retained in case the supply environment changes dramatically or refiners abuse the flexibility this amendment provides. The antitrust laws remain available for certain anticompetitive market activities.

In the NOPR and the Draft Regulatory Analysis, we suggested that it was our tentative belief that the equal application rule created a regulatory inducement for refiners both to undersell independent competitors in certain situations and not to reduce prices to marketers to meet price competition in other situations, and that this inducement possibly could have serious long-term effects on the independent sector of the industry. After consideration of all the data and comments, however, it is DOE's determination that the rulemaking record does not in fact support the conclusion that the equal application rule itself is currently harming or is likely in the future to harm the independent sector of the gasoline market. Our tentative belief was unfounded, and our elimination of the equal application rule for gasoline sales is not based on any determination that such elimination is necessary to aid the independent sector of the market. As was noted by both independent marketers and refiners, and as was forcefully stated by the Office of Special Counsel, DOE, most of the current petroleum product price disparities can be attributed to the crude oil cost disparities between refiners, not to the equal application rule. While elimination of the rule may allow refiners to raise or lower prices in particular markets where price anomalies exist, thereby relieving pressures on individual marketers, this will not meaningfully address the larger problem of product price disparities due to varying crude oil costs about which many refiners and marketers have been complaining.

We have addressed this problem by adopting changes to the treatment of Alaskan North Slope Crude under the entitlements program and have published in the **Federal Register** of October 31, 1980 a Notice of Proposed Rulemaking to address the wide variation in post-entitlement costs between controlled and exempt domestic crude oil.

IV. Procedural Requirements

A. FERC Review

Under Section 404(a) of the Department of Energy Organization Act, Pub. L. 95–91 (DOE Act), the proposed rule was referred to the Federal Energy Regulatory Commission (FERC) for a determination as to whether it may significantly affect any functions within the jurisdiction of the FERC under Sections 402(a)(1), (b), and (c)(1) of the DOE Act. The FERC has declined to make such a determination.

B. NEPA Review

Under DOE's Proposed Guidelines for Compliance with the National Environmental Policy Act (44 FR 42136, July 18, 1978) the DOE has determined that the adoption of this rule is not a major federal action significantly affecting the quality of the environment. Thus the preparation of an environmental impact statement is not required.

C. Effective Date

The provisions of 5 U.S.C. section 553(d) generally requiring that a substantive rule may not be made effective less than 30 days following publication of the rule do not apply to rules that grant an exemption, relieve a restriction, are interpretative or if the agency finds good cause for the rule's earlier effectiveness. In this instance, the rule relieves a restriction.

D. Summary of Regulatory Analysis

Although the regulatory change does not allow refiners or resellers any additional increased costs, they will have greater flexibility in passing through the already allowable increased costs or "banked" increased costs incurred but not passed through in prior months. There are a number of indications that this ability will be limited. Gasoline stocks were up by 7.4% in July 1980, over a year ago while demand had decreased by 7.5% over the same period. Competition has forced most refiners to reduce prices by several cents a gallon even though their crude oil costs have been increasing as price controls on domestic crude oil are phased out. Likewise, "banked" costs are also increasing, although part of this increase represents costs associated with unsold product that would be reserved for use when the product is sold in order to prevent excessive price fluctuations. Also guidelines established by the Council on Wage and Price Stability (COWPS) could contribute to banked cost increases as the guidelines are considered by many refiners to constrain their prices more than DOE regulations.

Those who objected to elimination of the rule expressed concern that refiners would use the opportunity to increase prices in areas they no longer wished to serve or to increase their own market share by discriminatory pricing to unwanted buyers. In the current supply surplus, we believe refiners are more interested in selling product than discouraging purchasers, as is evidenced by the recent price reductions. Moreover, the equal application rule has provided a disincentive for many refiners to market in new areas since actual costs of serving new customers are not reflected in prices charged because of the equal application rule.

If refiners did wish to institute discriminatory pricing, they could do so under the present regulations which allow unequal price increases provided cost recovery is computed as if the highest price increase had been charged to all customers. With "banked" costs of $20.6 billion [10] as of July 1980 for refiners, there appears to be ample availability of funds to support the imputed recovery of costs required for unequal price increases, provided these banks are not being retained for other reasons. Even if refiners did use the absence of the rule to discourage sales in areas they wished to abandon, the current surplus supply situation should allow the former purchaser to obtain other sources of supply.

Only about 50 resellers or reseller-retailers remain subject to the equal application rule, and they face the same competitive situation described above for refiners.

For these reasons, we believe that elimination of the rule will have no adverse effect on any sector of the petroleum industry or on users of gasoline. Its deletion will simplify the regulatory program by decreasing the complexity and expense of compliance. Finally, its deletion should remove any disincentive under the rule to supply remote areas because increased delivery costs had to be divided equally among all customers.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212, Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below effective November 1, 1980.

Issued in Washington, D.C., October 24, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 212.83(h)(2)(i) is revised to read as follows:

[8] There remains one restriction on refiners' cost passthrough. Section 212.83(c) (1)(C) prohibits refiners from charging in retail sales at a retail outlet more than 16.9¢ per gallon over the price charged by the refiner in its nearest DTW price to an independent retailer.

[9] When supplies are plentiful, competition may set prices without being constrained generally by the price regulations. Even in such supply situations, however, because of particular anomalies in 1973 or particular developments since then, there remain situations and circumstances where the regulations do constrain market flexibility and inhibit free competition.

[10] This figure may include some retroactive adjustments based on interpretations of the regulations that may not be correct. It represents a $8.3 billion increase over banked costs initially reported for June which were later adjusted to $18.6 billion.

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§ 212.83 Price rule.

* * * * *

(h) *Equal application among classes of purchaser.* * * *

(2) *Special rules.*—(i) *Gasoline.* All sales of gasoline are exempt from the provisions of this paragraph.

* * * * *

2. Section 212.83(h)(2)(iv) is deleted.

3. Section 212.83(h)(3)(iii) is deleted.

4. Section 212.93(e)(1) is revised to read as follows:

§ 212.93 Price rule.

* * * * *

(e) * * *

(1)(i)For gasoline priced pursuant to paragraph (a)(5) of this section and other covered products, if a seller charges prices for a particular product that result in the recoupment of less total revenues than the total amount of increased product costs of that product incurred during the month, the amount of increased product costs not recouped by a price adjustment in the subsequent month pursuant to paragraph (a) of this section may also be added to the May 15, 1973, selling prices of that product in a subsequent month at the time the selling prices are computed pursuant to paragraph (a). A seller shall calculate its amount of increased product cost of a particular product not recouped, since the most recent price increase after November 1, 1973, to include the following: (A) Any "increased product costs" not added to the May 15, 1973, selling price at the time of the most recent price increase implemented after November 1, 1973, multiplied by the volume sold since that price increase, plus (B) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973, multiplied by the volume of product purchased at each such increased product cost, less, (C) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973, multiplied by the volume of product purchased at each such lesser cost.

(ii) With respect to covered products other than gasoline, when a seller calculates its amount of increased product costs not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser had been added in the same amount to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that where an equal amount of increased product cost is not included in the price charged to a purchaser because of either a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

* * * * *

[FR Doc. 80-34271 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R-0329]

Interest on Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation provides that Regulation Q, (interest on deposits), interest rate limitations do not apply to *fixed rate* obligations issued by bank holding companies with a stated maturity of five years or more and with respect to which no more than 5 per cent of the original principal amount of the issue may be redeemed in any one year, with a limitation of $25,000 per investor per year.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3623), or Anthony F. Cole, Senior Attorney (202/452-3612), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: 12 CFR 217 is amended by adding a new section 217.156 to read as folllows:

§ 217.156 Application of Regulation Q to fixed rate obligations issued by the parent bank holding company of a member bank.

(a) The Board has received a request for an interpretation that §§ 217.1(h) and 217.7(h) of Regulation Q (12 CFR 217.1(h) and 217.7(h)) do not apply to small denomination *fixed rate* obligations with limited redemption features issued by bank holding companies. The obligations in question generally have a stated maturity of from 10 to 25 years, but are redeemable at the option of the holder subject to limitations as to the amount that any holder may redeem in any year (usually $25,000) and as to the aggregate amount that may be redeemed in any year (usually 5 per cent of the original principal amount of the issue).

(b) Sections 217.1(h) and 217.7(h) were adopted by the Board effective March 14, 1980, and apply Regulation Q interest rate ceilings to certain obligations issued by a member bank's parent bank holding company. Section 217.1(h) specifically provides that the "deposits" of a member bank includes an obligation that is: (1) issued in a denomination of less than $100,000; (2) required to be registered with the SEC; (3) issued or guaranteed in whole or in part by the member bank's parent which is a bank holding company (regardless of the use of the proceeds); and (4) issued with an original maturity or redemption period of four years or less. Section 217.7(h) specifies the ceiling rates of interest payable on such obligations.

Sections 217.1(h) and 217.7(h) were adopted in view of the Board's concern of the potential adverse impact the widespread issuance by bank holding companies of principally floating rate notes with a redemption feature aimed at the retail market was likely to have on deposit flows among depository institutions. The Board's concern was based on its belief that such obligations, which typically are issued at rates substantially in excess of Regulation Q ceiling rates payable on time deposits of comparable maturity, were competitive with consumer deposits issued by depository institutions.

(c) The Board believes that the obligations in question are distinguished from those that were the subject of the Board's principal concerns in two ways. First, they carry a fixed rate of interest; second, the amount that may be redeemed in any year is limited to 5 per cent. The Board regards this limited redemption feature as having an effect similar to a sinking fund which ensures that repayments are not concentrated, while at the same time preserving the long-term nature of the obligation. In view of these considerations, the Board does not believe that such obligations would be a major source of competition for deposits issued by depository institutions.

(d) Accordingly, the Board has determined that obligations issued by a member bank's parent which is a bank holding company will not be regarded as having a redemption period of four years or less under § 217.1(h) and, thus, will not be subject to the interest rate limitations specified in § 217.7(h), if they have the following characteristics: (1) the obligations possess a *fixed rate* of interest that does not change during the life of the obligation; (2) no more than 5 per cent of the original principal amount of the issue may be redeemed at the option of the holders in any one year; (3) no more than $25,000 per holder may be redeemed in any one year; and (4) the obligations possess a minimum stated maturity of five years or more. The five year minimum maturity requirement (i.e., 25 per cent higher than the current more than four year requirement) offsets the possible 25 per cent maximum reduction (5 per cent per year for five years) in the amount outstanding after five years and is regarded as necessary to preserve the objective of the four year minimum maturity requirement in section 217.1(h). The Board also believes that in order to ensure that potential purchasers are aware of the limited nature of the redemption feature, those limitations should be prominently disclosed in any materials or solicitations concerning such obligations.

The Board has issued this interpretation based upon its statutory authority under section 19 of the Federal Reserve Act, 12 U.S.C. § 461.

By order of the Board of Governors. October 23, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-34239 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 80-655]

12 CFR Part 526

Amendments Regarding Interest on NOW Accounts, Give-aways, Return on Savings Accounts and Finders Fees

October 23, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These amendments revise the Board's regulations regarding interest on NOW accounts, give-aways, the payment of return or interest on savings (including merchandise), and the use of finders' fees to solicit accounts. These changes conform the Board's regulations to rules adopted by the Depository Institutions Deregulation Committee ("Committee"). The Board's regulations must conform to the regulations of the Committee because statutory authority to regulate rates of return paid by members of the Federal Home Loan Bank System has been transferred from the Board to the Committee.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: David J. Bristol, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone: (202) 377-6461.

SUPPLEMENTARY INFORMATION: Title II of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Act) (Pub. L. 96-221) transferred to the Committee the authority conferred on the Federal Home Loan Bank Board under section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) to prescribe rules governing the payment of interest and dividends and the establishment of classes of deposits or accounts, including limitations on the maximum rates of interest and dividends which may be paid on such deposits or accounts.

Pursuant to its authority under the Act, the Committee has adopted regulations: (1) Setting an interest rate ceiling for accounts subject to negotiable orders of withdrawal; (2) revising the Board's rules regarding the use of premiums or give-aways to attract savings; (3) formalizing the Board's previous policy of prohibiting the payment of a return in cash or merchandise on accounts until such return has been earned; and (4) prohibiting the payment of finders' fees in addition to interest in the solicitation of accounts that are subject to the maximum rate ceilings of Part 526 (45 FR 68641; published October 16, 1980).

In order to bring its regulations into conformity with the regulations of the Committee, the Board is amending its rules regarding interest on NOW accounts, give-aways, return on savings (including merchandise) and finders' fees.

The Board notes that the provisions regarding finders' fees will limit the applicability of § 563.25 of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation (12 CFR 563.25), pertaining to brokered savings accounts, to accounts with a balance over $100,000. The Board recently amended § 563.25 (Board Resolution No. 80-615; 45 FR 37613; published October 10, 1980) to remove the ceiling on the amount of funds an association may solicit through a broker. When this amendment was adopted, the Board had expected that the Committee's action prohibiting the payment of finders' fees on accounts subject to rate control would take effect immediately. Thus, the Board delayed for 30 days its removal of the restriction on the use of brokers to allow the Committee's action to take effect so that, as a result of the Board's action, brokers could be used only to solicit accounts that would not be subject to rate control. Since the Committee action takes effect on December 31, 1980, rather than immediately, and since the Board's amendment of § 563.25 has not yet taken effect, to conform its action to the Committee's schedule and to avoid an unintended authorization of unlimited use of brokers to solicit small accounts during the remainder of 1980, the Board is hereby amending Resolution No. 80-615 by changing the effective date of the amendment of § 563.25 to December 31, 1980. The Board notes further that the amendment regarding interest on NOW accounts changes the recently adopted, but not yet effective, paragraph (1) of § 526.1(12 CFR 526.1) (Board Resolution No. 80-613; 45 FR 66781; published October 8, 1980).

Accordingly, the Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) by amending §§ 526.1 and 526.2 thereof, to read as set forth below.

PART 526—LIMITATIONS ON RATE OF RETURN

1. Amend the first sentence of paragraph (l) of § 526.1 to read as follows:

§ 526.1 Definitions used in this part.

* * * * *

(l) *NOW (negotiable order of withdrawal) account.* A savings account on which interest is paid subject to the rate limitation in § 1204.108 of this title, and from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

2. Revise paragraph (f) of § 526.2 and add new paragraphs (h) and (i) thereto, to read as follows:

§ 526.2 Maximum rate of return.

* * * * *

(f) *Give-aways.* Premiums awarded by any member institution in accordance with § 1204.109 of this title shall not be included in calculating the rate of return.

* * * * *

(h) *Finders' fees.* With respect to savings accounts subject to § 526.3 of this Part, fees paid by any member institution to a person who solicits investment in such accounts at the institution must be paid as prescribed in § 1204.110 of this title.

(i) *Prepayment of return and payment of return in merchandise.* Any member institution may pay a return in the form of merchandise, cash, or a credit to an account as prescribed in § 1204.111 of this title.

(Title II, Pub. L. 96-221; Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b); Reorg. Plan No. 2 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

V 45 / 214 NO 3 80 UMI

By the Federal Home Loan Bank Board.
Robert D. Linder,
Acting Secretary.
[FR Doc. 80-34130 Filed 10-31-80; 8:45am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NE-21; Amdt. 39-3966]

Airworthiness Directives; Rolls-Royce, Ltd., DART 506, 510, 511, 514, 515, 520, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 542, 543, 550, and all Variants Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection for cracks and the modification or the removal from service of certain low pressure impellers on Rolls-Royce, Ltd., DART series engines.

DATES: Effective—October 30, 1980.

Comments on the rule must be received on or before compliance schedule—as prescribed in text of AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Technical Publications Department, Rolls-Royce, Ltd., East Kilbride G74 4PY, Scotland.

A copy of the Alert Service Bulletin is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Engine Standards Section, ANE-215, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION: There have been several reports of frettage fatigue cracks and failure of the low pressure impeller in Rolls-Royce DART engines. The failures occurred between 10,200 and 11,500 flight cycles. Metallurgical examination has shown that the failures originated from frettage fatigue cracking of the impeller hub rear abutment face. Since this condition is likely to exist on other engines of the same type design, an AD is being issued to require inspection for cracks and the modification or removal from service of low pressure impellers on DART series engines which have not been previously inspected for cracks and modified in accordance with the applicable Rolls-Royce Alert Service Bulletin.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request For Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Rolls-Royce, Ltd., applies to Rolls-Royce, Ltd., DART 506, 510, 511, 514, 515, 520, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 542, 543, 550, and all variants turboprop engines.

Compliance required as indicated, unless already accomplished.

To preclude possible frettage fatigue failure of low pressure impellers, inspect for cracks and modify or remove from service all low pressure impellers installed in the following DART model engines:

1. DART 506, 510, 511, 514, 515, and their variants; and DART 520, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 550, and all variants of these marks equipped with a low pressure impeller which has run previously in a DART 506, 510, 511, 514, 515, or any variant of these engines.

a. After November 30, 1980, no low pressure impeller may exceed 5,000 flight cycles since new without inspection for cracks and incorporation of Modification 1732, in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service low pressure impellers having crack indications.

b. After November 30, 1980, prior to further flight, all low pressure impellers for which the flight cycles since new cannot be positively established, must be inspected and modified to incorporate Modification 1732; in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service, low pressure impellers having crack indications.

c. Remove from service not later than May 31, 1981, all low pressure impellers which have not been inspected for cracks and do not have Modification 1732 incorporated.

2. DART 520, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 550, and their variants equipped with a low pressure impeller which has not run previously in a DART 506, 510, 511, 514, 515 or any variant of these engines.

a. After December 31, 1982, no low pressure impeller may exceed 9,000 flight cycles since new without inspection for cracks and incorporation of Modification 1732, in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service, low pressure impellers having crack indications.

b. After December 31, 1982, prior to further flight, all low pressure impellers for which the flight cycles since new cannot be positively established, must be inspected and modified to incorporate Modification 1732, in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service low pressure impellers having crack indications.

c. Remove from service not later than December 31, 1984, all low pressure impellers which have not been inspected for cracks and do not have Modification 1732 incorporated.

3. DART 542 and 543 model engines and their variants.

a. After December 31, 1981, no low pressure impeller may exceed 9,000 flight cycles since new without inspection for cracks and incorporation of Modification 1732, in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service low pressure impellers having crack indications.

b. After December 31, 1981, prior to further flight, all low pressure impellers for which the flight cycles since new cannot be positively established, must be inspected and modified to incorporate Modification 1732, in accordance with Rolls-Royce DART Alert Service Bulletin No. Da72-A445, Revision 4, dated October 27, 1980. Remove from service low pressure impellers having crack indications.

c. Remove from service not later than December 31, 1983, all low pressure impellers which have not been inspected for cracks and do not have Modification 1732 incorporated.

Note.—For the purpose of this AD, a flight cycle is considered to be an engine operating sequence from takeoff to landing.

Airplanes may be ferried in accordance with the provisions of FAR 21.197 to a base where the AD can be accomplished.

Upon request of the operator, equivalent means of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England.

The Manufacturer's Alert Service Bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 533(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., East Kilbride G74 4PY, Scotland. The document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Region Office. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective October 30, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves an emergency regulation under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Burlington, Massachusetts, on October 24, 1980.

Robert E. Whittington,
Director, New England Region.

Note.—The incorporation by reference provision of this document was approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-34141 Filed 10-31-80; 8:45 am]
BILLING CODE 4910-13-M

Department of Transportation

14 CFR Part 39

[Docket No. 80-WE-42-AD; Amdt. 39-3965]

Hughes Helicopters Model 269 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons, an amendment adopting a new airworthiness directive (AD) which was previously made effective on certain Hughes Helicopters Model 269 series helicopters by letter AD 80-18-07, dated August 26, 1980. This amendment requires inspection and replacement of pinion assemblies, if necessary, on certain Hughes Helicopters Model 269 series helicopters. This AD is required because there have been pinion assembly failures in the main transmission which could result in failure to transmit power to the rotor system.

DATES: Effective November 11, 1980, and was effective earlier for recipients of letter AD 80-18-07 on or about August 26, 1980.

Compliance schedule—Within 50 hours' time in service from the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Division of Summa Corporation, Centinela and Teale Streets, Culver City, California 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: An emergency AD was issued as letter AD 80-18-07 on or about August 26, 1980 and made effective immediately upon receipt to all known U.S. operators of Hughes Helicopter Model 269 series helicopters. This AD required certain serial numbered main transmission assemblies, P/N 269A5175-7 or 269A5175-9, to be removed, disassembled and that the pinion assembly be inspected and replaced with a like serviceable part if found unserviceable. Since this condition is likely to exist or develop on other helicopters of the same type design an airworthiness directive is being adopted which requires inspection of the pinion assembly and replacement of unserviceable pinion assemblies with like serviceable parts on Hughes Helicopters Model 269 series helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Hughes Helicopters: Applies to Model 269A, and TH-55A, 269A-1, 269B and Model 269C Helicopters with main transmission P/N 269A5175-7 or 269A5175-9, Serial Numbers:

5743 through 5804
5806 through 5811
5813 through 5827
5829 through 5855
5857 through 5863
5867
5868
5870 through 5882
5884
5886 through 5890
5893
5894
5895 through 5901
5903 through 5908
5911
5914
5915
5918
5919
5922
5930
5935
5938
5966
5972
5986

Compliance is required within 50 hours' time in service from the effective date of this AD, unless already accomplished. To prevent loss of power into main tramission, due to fracture of main transmission pinion shaft, accomplish the following:

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(a) Remove main transmission assembly, per Basic Hughes Maintenance Instruction (HMI). Disassemble main transmission assembly, and pinion and bearing retainer assemblies, per HMI Appendix C.

(b) Clean pinion assembly. Using 10X glass, visually inspect pinion for scratches, tooling marks, corrosion or other surface defects. Pay particular attention to area of fillet radii and threaded area forward of bearing journal. If, scratches, tooling marks, corrosion or other surface defect is noted, perform the following:

1. Position pinion on lathe or equivalent rotating fixture.

2. Polish out defect(s) on pinion as it is rotated on lathe or fixture. Use fine emery cloth wrapped around tongue depressor or equivalent for polishing. Extra fine arkansas or carborundum stone may be used, provided diameter of stone matches radius. Emery cloth and hand stone are the only polishing methods approved.

(c) Clean pinion assembly and perform magnetic particle inspection of entire pinion in accordance with MIL–I–6868. Pay particular attention to forward end of bearing journal and fillet radii, pinion gear teeth, and threaded area just forward of H-frame bearing journal. If no defects are found, treat polished area with wet zinc chromate, as applicable.

(d) If magnetic particle inspection indication is noted in area polished per step (B) 2 above, repolish and repeat magnetic particle inspection of the area. If indication cannot be removed by repolishing, or the minimum diameter at the bottom of the fillet radius after polishing is less than 1.472 inches, mark and tag the pinion as unserviceable.

(e) If evidence of cracking is noted, mark and tag pinion as unserviceable.

(f) If inspection pinion is found serviceable and reinstalled in helicopter transmission, treat polished area with zinc chromate primer, as applicable. Paint white dot on gear box ID plate next to Serial Number to denote compliance with this Notice.

(g) As applicable, reassemble pinion and bearing retainer assemblies, and main transmission assembly, per HMI Appendix C.

(h) As applicable, reinstall main transmission assembly, per Basic HMI.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspection required by this AD.

(j) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective November 11, 1980 to all persons, except those whom it was made immediately effective by letter dated August 26, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on October 22, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-34127 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AWE-11]

Designation and Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new VOR Federal Airways V–22 and V–317 in the vicinity of San Diego, Calif., and alters V–460 by extending the airway from Julian, Calif., to the new VORTAC at Poggi, Calif. These changes enhance en route traffic flow and terminal operations in the San Diego area. This action increases air safety in the San Diego area.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: On August 14, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new VOR Federal Airways V–22 from Oceanside, Calif., to Poggi, Calif., and V–317 from Mission Bay, Calif., to Imperial, Calif., via Poggi. Also, it would extend V–460 from Julian, Calif., to Poggi (45 FR 54080). The new Poggi VORTAC, identification PGY, is located at Lat. 32°36'37" N., Long. 116°58'42" W. This action improves en route traffic flow and enhances terminal operations at San Diego, Calif. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only objection to the proposal was submitted by the Aircraft Owners and Pilots Associations (AOPA). They stated that designating airways in the San Diego, Calif., area should be delayed until all studies being conducted on the San Diego Terminal Control Area (TCA) have been completed. However, the FAA is of the opinion that these new airways will benefit the San Diego air traffic flow problems and give the additional flexibility required to improve air safety and expedite traffic in the San Diego terminal area including all satellite airports. Moreover, if the studies being conducted for the San Diego TCA indicate that other airway alignments are warranted, then FAA will initiate appropriate action at that time. This amendment is the same as that proposed in the notice except for minor changes in the coordinates that state the location of the new Poggi VORTAC. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Rule

This amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates new VOR Federal Airway V–22 from Oceanside, Calif., to Poggi, Calif., and V–317 from Mission Bay, Calif., to Imperial, Calif., and extends V–460 from Julian, Calif., to Poggi. This action provides additional route flexibility in the San Diego area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, December 25, 1980, as follows:

Under § 71.123:

"V–22 From Oceanside, Calif., via INT Oceanside 143° and Poggi, Calif., 350° radials; to Poggi." is added.

"V–317 From Mission Bay, Calif., via Poggi, Calif., to Imperial, Calif." is added.

Under V–460 "From Julian, Calif.," is deleted and "From Poggi, Calif., via Julian, Calif.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on October 28, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-34128 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

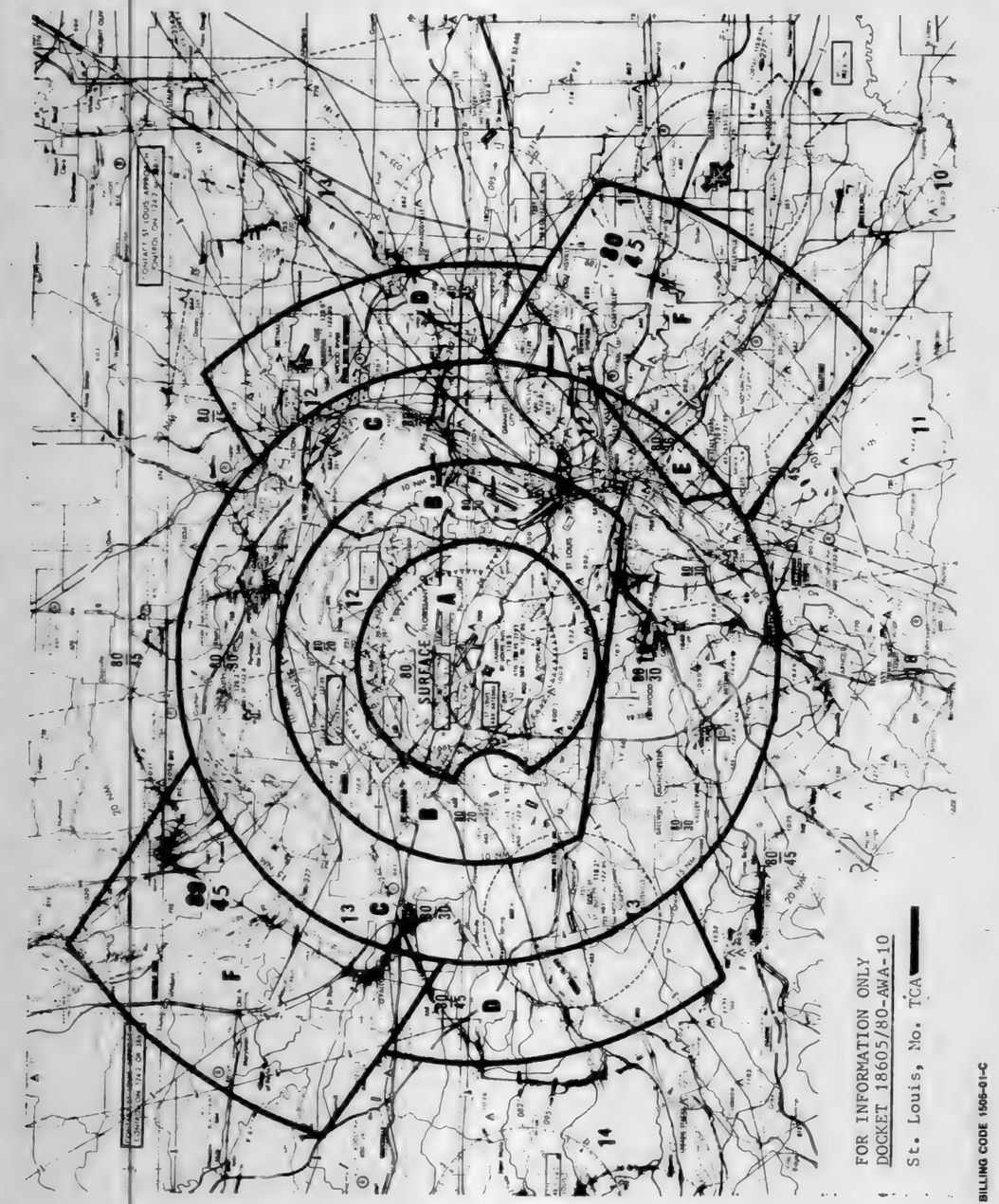
Alteration of Group II Terminal Control Area, St. Louis, Mo.

Correction

In FR Doc. 80–33353, appearing at pages 70853–70855 in the **Federal Register** for Monday, October 27, 1980, the map showing the St. Louis, Mo. Group II Terminal Control Area was inadvertently omitted from publication. That map appears below.

BILLING CODE 1505-01-M

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Office of the Secretary

14 CFR Part 93

Special Federal Aviation Regulation; Temporary Allocation of IFR Reservations at Washington National Airport

AGENCY: Department of Transportation/ Office of the Secretary.

ACTION: Special Federal Aviation Regulation (SFAR).

SUMMARY: This special regulation allocates Instrument Flight Rules (IFR) reservations or "slots" for operations (takeoffs and landings) of air carriers except air taxis at Washington National Airport, a "high density" airport under 14 CFR Part 93, Subpart K. Under that regulation, air carriers are limited to 40 operations per hour at National. In the past, air carrier IFR slots were allocated by an air carrier scheduling committee. On October 14, the committee advised the Department that it was deadlocked and unable to reach any agreement with respect to the period December 1, 1980 to April 26, 1981. This amendment establishes a mechanism for allocation of the available slots for that period and thereby provides for orderly operations at the Washington National Airport and for an efficient utilization of the navigable airspace.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gregory Wolfe, Office of the Assistant General Counsel for Environmental, Civil Rights and General Law, Department of Transportation, Washington, D.C. 20590, Telephone No. 202–426–4710, or Rick Yates, Office of Industry Policy, Industry Operations Division, Department of Transportation, Washington, D.C. 20590, Telephone No. 202–426–4425.

Background

The Secretary of Transportation has broad authority under the Federal Aviation Act of 1958, as amended (FAAct) to regulate and control the use of navigable airspace of the United States. Section 307(a) of the FAAct (49 U.S.C. section 1348(a)), as amended by section 6(c) of the Department of Transportation Act, provides:

> The Secretary of Transportation is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace.

Under section 307(c), (49 U.S.C. section 1348(c)), the Secretary is further authorized and directed to prescribe air traffic rules and regulations for the efficient utilization of the navigable airspace. Except when exercised by the Secretary, these functions are delegated to the Federal Aviation Administrator. 49 CFR 1.47(a). Under the authority of this statutory mandate, the Federal Aviation Administration (FAA) promulgated the High Density Rule (14 CFR 93.121 *et seq.*) in Amendment 93–13 (33 FR 17896, December 3, 1968), effective on April 27, 1969.

The High Density Rule designates five high density traffic airports, prescribes limitations on the number of IFR operations that can be conducted at those airports, and further divides those allowable IFR operations among specified classes of users. It sets the hourly number of IFR operations that air carriers may reserve at Washington National Airport at 40 between 7:00 a.m. and 10:00 p.m., for a total number of 640 slots per day. In the preamble to the High Density Rule the FAA described its purpose in terms of affecting the efficient utilization of the navigable airspace, stating it was "to provide relief from excessive delays at certain major terminals."

In conjunction with the High Density Rule and as a means of implementing the regulations, in 1968 the air carriers formed committees to schedule their operations under the rule. Under the authority of section 412 of the FAAct, the Civil Aeronautics Board (CAB) approved the Air Carrier Scheduling Agreements (Order 68–12–11), finding them not to be adverse to the public interest, and, subject to certain conditions and limitations, granted them immunity from the antitrust laws.

Since CAB approval of the air carrier scheduling committees, they have been the sole instrumentalities for allocating air carrier operations to individual carriers at four high density airports (LaGuardia, John F. Kennedy International, O'Hare International, and Washington National). These allocations have been accomplished at semiannual meetings after extensive discussion and negotiation among the various air carriers authorized to serve the respective airports. After resolving a schedule, the committee has presented it to the FAA, which has then granted IFR slot reservations in accordance with the agreed-upon schedule.

Despite its eleven-year record of managing the allocation of slots, the scheduling committee advised the FAA Administrator on October 14 that it has been unable to reach agreement on the allocation of slots at Washington National Airport after November 30, 1980. This means that as of December 1, 1980, slot reservations must be granted to the carriers on some other basis, unless the committee reconvenes and resolves a schedule.

Without advance assignments of reservations, operations at National would return to the first-come, first-served system now in effect at other airports, where, when congestion does occur, airplanes are kept in holding patterns until they may land, or on the ground until they may take off. Reliance upon such a system at National, where demand far exceeds the number of slots available, would result in acute congestion problems (both in the air and on the ground) similar to (or worse than) those in existence in 1969 when the High Density Rule was first promulgated. Reinstatement of such a system when the number of users seeking access to National is increasing would be contrary to the statutory mandate to provide for "efficient utilization of the navigable airspace."

The Department on October 22, 1980, initiated a rulemaking proceeding to establish a permanent method of slot allocation at National Airport in Notice No. 80–16 (Docket No. 70; 45 FR 71236; October 27, 1980). The Notice of Proposed Rulemaking (NPRM) set forth three alternative methods for public comment: an auction, an administrative or formula allocation, and the present slot committee approach. A public hearing will be held in connection with the NPRM, and the public comment period will close 90 days after its date of publication in the **Federal Register**. Under this schedule, it will not be possible to implement a final comprehensive slot allocation rule in time to resolve the airline schedules at National for the December 1, 1980 to April 26, 1981 scheduling period.

Allocation of slots at one airport affects operations at other airports, and the positioning of aircraft, ground personnel, and equipment. In addition, a substantial change in slots at National could have an appreciable effect on service to other cities and areas. While the carriers could adjust schedules and equipment over a several-month period to compensate for major changes, a significant alteration of the current system on short notice could result in a disruption of the aviation system affecting numerous communities and a significant segment of the traveling public. This would be contrary to the public interest.

Complicating allocation of the slots at Washington National Airport is the number of carriers currently holding slots (more than ever before), the

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number of carriers seeking entry into the airport and the number of slots they are seeking, and the number of additional slots sought by carriers already operating at the airport.

Public Comments

On October 17, the Department issued Notice No. 80–14, which was published in the **Federal Register** of October 20 (45 FR 69403), requesting comments and suggestions on the appropriate action to take in the face of the failure of the scheduling committee to reach agreement. Thirty-seven comments were submitted by air carriers, commuter air carriers and associations representing them, elected government officials, local government agencies, citizens groups concerned with airport problems in the Washington area, the Civil Aeronautics Board Office of Economic Analysis, and two citizens. All comments were fully considered in the development of this rule. The more significant comments are discussed below. The docket for this rulemaking (Docket No. 69) will remain open to receive comments, and the Department will consider making changes in the rule as early as January 5.

Dislocation of Existing Service Patterns. Most commenters argued that any mechanism chosen should avoid serious dislocations of existing service patterns because of the effect they would have on air carrier schedules and the inconvenience that could be imposed on passengers during the holiday season. These commenters stated that many carriers have had planned schedules set for some time, and that seats have already been sold on many National Airport flights for the scheduling period. Elected officials from outside the metropolitan area in particular urged that this rule not result in a loss or diminution of existing service patterns to their communities. The Department agrees with these comments. To the extent that dislocation is not required to accommodate the needs of new airlines serving National, it should be avoided. For that reason, the basis chosen for the regulation has been the November schedule agreed upon by the carriers in the scheduling committee. As explained later in this rule, only a small number of changes will be made to the November schedules.

The Department notes, however, that scheduling problems created by this regulation have been caused in the first instance by the inability of the carriers to agree on a schedule. The carriers that have published December schedules for Washington have done so without an agreed-upon slot allocation. The risk that some of these flights would have to be cancelled was as great under the scheduling committee procedure as it is under this rule. Any of the slots carriers might lose as a result of this rule might have been lost under the scheduling committee process and, in fact, some of the carriers had already agreed to give up slots during the committee's deliberations. Because the committee did not inform the Department until October 14 that it could not resolve a schedule, it has been impossible for the government to provide for the normal amount of public participation while still developing a solution in time for the schedules to be published in the *Official Airline Guide*. Under this rule, if there is any decision to reduce or terminate service to or from any point, it will come about because of a business decision made by the carrier providing the service, as it is under ordinary circumstances. The rule does not compel any particular service reduction by any carrier. This fact is further underscored by the availability of Dulles and Baltimore-Washington International for any flights by air carriers wishing to provide additional service to the Washington metropolitan area.

Several commenters suggested novel mechanisms to allocate slots, such as treating them as marketable rights or by assigning them in accordance with a point system based in part on flight distances and other local airports served. Although worthy of further consideration, these approaches for the short term could take months to work out, preventing the issuance of any timely rule, and could result in severe service dislocation. They must therefore be rejected in this rulemaking. The Department urges those commenters interested in this subject to submit comments on what replacement slot allocation system should be instituted at National Airport in commenting on Notice No. 80–16.

Service to New York. A principal issue discussed by many commenters, both carriers and spokesmen for communities that anticipate a possible loss, reduction, or change in service, was the additional service that would be provided in the Washington-New York market. Texas International Airlines, by permission of the Civil Aeronautics Board, has sought slots for reduced fare service by an affiliated corporation, New York Air, in that market. Many commenters argued that New York has more than enough service already, particularly in view of the guaranteed seats provided by the Eastern Airlines shuttle. Many air carrier commenters argued against providing New York Air with any more than four to eight slots in view of the scheduling committee's past practice of awards to new entrants at National Airport.

The Department does not express any view with respect to the adequacy of the New York-Washington service, except to note that additional low fare service in that market will increase competition and would thus be consistent with the Airline Deregulation Act. This rule is based on the carriers' own approach to the New York Air request. The scheduling committee in several near-unanimous votes, including one in which only New York Air itself dissented, granted that carrier eighteen slots for its proposed new service. Because of the limited time available in which to take action, and in order to minimize service disruptions, the Department has decided to rely on those votes. Since that number is only two less than New York Air had requested, and since it represents the largest number of slots ever given a new entrant at National Airport, the Department has not increased the number. On the other hand, since the carriers had themselves come close to agreement on that number, we have not reduced it.

The High Density Rule. Many commenters suggested that the Department should accommodate the request of new carriers by simply adding the slots they request to the 40 per hour already allocated in the November schedule by exemptions from the High Density Rule. Some of the commenters suggested that the High Density Rule, which provides the 40-per-hour scheduling limitation, is no longer valid. New York Air provided logs from the National Airport air traffic control tower to show that the limitation is often exceeded in a given hour, especially in Visual Flight Rules (VFR) conditions. Some carriers proposed that additional hourly slots be provided by reallocating them from the number assigned to other users. On the other side of this issue, organizations representing those that live and work in the Washington area urged that the number of slots authorized per hour not be increased to deal with the present situation. Organizations representing general aviation and commuter air carrier interests argued that their slots should not be used to solve a scheduled air carrier problem and that consequently there should be no reduction in commuter or general aviation slots to accommodate the needs of air carriers.

With respect to some of the comments on the validity of the High Density Rule, the Department notes that it was never intended to be read as keeping actual operations at National at a total of 60 per hour in all weather conditions. The rule limits reservations only for Instrument Flight Rule (IFR, or poor weather) conditions. In good weather, air traffic is permitted at whatever level the air traffic controllers can safely manage. Further, the rule by regulating IFR reservations does not prescribe a particular time that a particular flight must land or take off; it establishes reservations for *scheduled* operations. The rule recognizes that flights are often not operated on time because of conditions beyond the control of the airlines. Thus for a given hour at National, air carrier operations may fall below the 40 scheduled, followed by an hour in which late arriving or departing flights may cause total operations to exceed 40. The rule nevertheless serves to assure that all scheduled air carrier flights can operate safely without serious delays in poor weather conditions, and that the terminal buildings and other ground facilities, designed for far less activity than now takes place at National, are not regularly clogged with an excess of passengers.

Any alteration of the High Density Rule, no matter how temporary, is totally inappropriate in the context of this emergency rulemaking. That rule serves not only to limit congestion and provide for an efficient use of the navigable airspace, but to limit noise impacts around National Airport, which are caused principally by air carrier aircraft. In the rules implementing the Metropolitan Washington Airports Policy, which are now scheduled to take effect April 26, 1981, air carrier slots will be reduced from 40 to 36 per hour. To allow the carriers to schedule more than 40 operations for the next several months would only intensify the impact of that reduction on the traveling public, and would be inconsistent with the goal of shifting air carrier operations over time to the other two airports serving the metropolitan area. Such a change in longstanding policy could not be undertaken on the basis of the abbreviated rulemaking necessary to resolve the temporary problem addressed by this rule, without full opportunity for public comment on all the associated issues.

Whether or not actual air carrier operations at National currently exceed 40 per hour is not the issue in this rulemaking—the Department's policy, as recently announced, is to reduce flights at National, and increasing the 40 per hour now permitted will increase flights over the current levels. The commenters' arguments fail to come to grips with the fact that demand exceeds supply for IFR air carrier slots, and that this imbalance will likely increase in the future unless operations are shifted to other airports in the region, as contemplated in the Metropolitan Washington Airports Policy. Finally, it is likely that a change in the High Density Rule, as recently amended by the rules implementing the Airports Policy, would be a "major federal action significantly affecting the quality of the human environment" under the National Environmental Policy Act, therefore requiring an environmental impact statement. As such, it could hardly be accomplished quickly enough to resolve the present problem. The Department also agrees that the air carrier problem should not be resolved in the short term by taking slots from other classes of users of National. In short, this rulemaking provides a solution to the scheduling committee impasse within the confines of the High Density Rule.

Procedural Objections. Several commenters argued that insufficient notice was provided for adopting this rule and that a proposed rule should have been presented for public comment. These commenters, however, do not recognize that the development of a comprehensive Departmental proposal for comment would have required a considerable period of time, and that providing a conventional 45 or 60 day comment period would have delayed the rulemaking beyond the December 1 date by which the flights affected by the rule will be operated. Additional lead time is required to permit schedule adjustment and adequate notice to passengers of the post-November schedule. Publication of a comprehensive Notice of Proposed Rulemaking would therefore have been not only contrary to the public interest, but also essentially useless. Thus, good cause exists for making this rule effective upon issuance. The docket in this rulemaking remains open to all wishing to comment on or suggest changes in this final rule.

One commenter questioned the Department's authority to issue the rule. In addition to the FAAct authority discussed above, the Department under the Act for the Administration of Washington National Airport and other statutes has the authority to consider such things as noise impact, energy conservation, and efficiency in regulating National Airport's operation. It was also argued that the allocation of slots in essence a licensing proceeding requiring compliance with Administrative Procedure Act adjudicatory requirements. The Department disagrees. It is well established that the rights or privileges of a large group can lawfully be affected through informal rulemaking, especially in an emergency context. Moreover, if adjudicatory procedures were required, the allocation of slots by the scheduling committee over the past eleven years would have been unlawful. In a similar vein, commenters argued explicitly and implicitly that slots somehow constitute property rights for those that hold them. There is no property right in access to a public facility. The FAA accepts carrier slot reservations on a temporary basis; whether carriers receive them in any subsequent scheduling period in the past has depended entirely upon the unanimous agreement of the airline scheduling committee, acting pursuant to the antitrust immunity granted it by the Civil Aeronautics Board. Plainly the Department has the power to allocate them on any basis that is not arbitrary and capricious, or otherwise contrary to law.

Specific Slot Requests. Several air carriers submitted specific requests for an increased number of slots for the period in question. Others did not. Notice No. 80–14 requested comments only on a mechanism to allocate the available slots. It is not possible for the Department to provide for the allocation of slots on a basis that does not reflect all carrier desires. The Department has had available to it the slot requests as submitted to the scheduling committee and as later refined and compromised by the carriers. It cannot base action at this time on requests that have not been refined through the scheduling committee negotiation process. Finally, the Department will not promulgate a rule governing schedules or frequencies of the individual carriers. These are decisions for the carriers to make, and there is plenty of airport capacity to accommodate their plans among the three airports serving the Washington area.

Provisions of the Rule

In order to minimize disruptions to existing service patterns, enable the air carriers to adjust their schedules and to provide adequate advance notice to the traveling public, and to comply with the provisions of the Federal Aviation Act and the Airline Deregulation Act, this Special Federal Aviation Regulation does the following:

1. Distributes 638 slots per day at Washington National Airport in accordance with the proposal that had the greatest support with the scheduling committee.

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2. Takes as a starting point the hourly distribution of slots agreed to for the period October 26 to November 30, 1980.

3. Requires the carriers receiving fewer slots under the scheduling committee proposal than under the November schedule to select the slots they give up in specified hours.

4. Requires the twelve carriers with the most slots under the November schedule to give up one slot each from the 0700 to the 2100 hours, with the right to receive a new slot in the 2200 hour.

5. Grants Air North four slots; Midway Airlines, Empire Airlines, and Mid-South Airlines two additional slots; and Texas International Airlines eighteen slots.[1]

6. Allows carriers to exchange slots in any hours, subject to CAB authorization.

Procedures for accomplishing the above are set forth in Appendix A of the special regulation.

The number of slots selected for reallocation is based in part on a review of the scheduling committee's recent efforts to resolve the December–April schedule. On October 8, all members, with the exception of Texas International agreed to award 18 slots to that carrier. The same agreement allocated ten slots to Midway, two more than it has for the November schedule; four to Air North, the other new entrant for this scheduling period; and six each to Empire and Mid-South, two more than they hold for November.

The method of assigning slot reductions established in this regulation has been devised to minimize and to spread among the carriers, as equitably as possible, the costs of the scheduling committee's failure to resolve a schedule. The Department recognizes that the impacts on individual carriers cannot be uniform, and has relied on a mechanical process designed to allocate the reductions as impartially as possible. The allocation developed under this regulation is temporary and *ad hoc;* it should not be considered a precedent.

Immediate Effectiveness and Invitation for Additional Comment

As mentioned previously, this rule is necessary to avoid serious disruption and uncertainty of service at National Airport and resultant inconvenience to the public. Therefore, it would be contrary to the public interest to delay the issuance of the rule. In order to complete the allocation of slots as soon as possible before December 1, the rule must be made effective immediately. The Department intends, however, continuously to review experience under this special regulation. Consequently, interested persons are invited to submit such data, views, or arguments as they may desire on this rule. Communications should identify the docket number and be submitted in duplicate to the Docket Clerk, Office of the Secretary, Docket No. 69; Notice No. 80–14, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, or be delivered in duplicate to Room 10421, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments delivered must be marked: Docket No. 69. Comments may be inspected at Room 10421 between 9:00 a.m. and 5:30 p.m.

Commenters who want the Department to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 69." The postcard will be dated, time stamped, and returned to the commenter.

The docket for Notice No. 80–14 will remain open until a decision is made with respect to a long-term solution to slot allocation methods at Washington National Airport. All comments submitted will be available in the rules docket for examination by interested persons. All comments submitted will be considered by the Department in making changes to the rule, if warranted. Changes will be considered to take effect as early as January 5, 1981.

Adoption of the Amendment

Accordingly, the following Special Federal Aviation Regulation is adopted, effective October 29, 1980.

Special Federal Aviation Regulation Number 43

Contrary provisions of Part 93 of the Federal Aviation Regulations notwithstanding, IFR reservations available to air carriers except air taxis at Washington National Airport will be issued in accordance with Appendix A for the period December 1, 1980 to April 26, 1981.

Appendix A

(a) The allocation agreed upon by the Airline Scheduling Committee for Washington National Airport for November, 1980, shown in Table 1 below, shall be in effect from December 1, 1980 until April 26, 1981, with adjustments made in accordance with paragraphs (b) through (f) of this Appendix.

(b) Slots shall be set aside for redistribution in accordance with paragraphs (d) and (e) of this Appendix in the following numbers by hour: at 0700(2 slots), 0800(2), 0900(2), 1000(2), 1100(1), 1200(1), 1300(1), 1400(1), 1500(1), 1600(2), 1700(2), 1800(2), 1900(2), 2000(2), 2100(1), and 2200(4), as shown in Table 2.

(c) The Department shall ask the scheduling committee to reconvene on Friday, October 31.

(d) For the purpose of determining the distribution of the set-aside slot reductions among the carriers, the following procedure shall be used:

(1) The total number of slots available to each carrier for December is established as shown in the right hand column of Table 1.

(2) The five carriers with fewer total slots in December than in the November schedule, as shown in Table 1 (U.S. Air, Braniff, Eastern, Pan American, and Piedmont), shall be ranked in accordance with the number of slots they hold in the December totals.

(3) In rank order, beginning with the carrier with the fewest slots, each of the five carriers shall be called to select the slots in its November schedule to be deleted. The slots selected by each carrier must fall within the hours 0700 to 2100, must correspond to set-aside slots not selected by another carrier, and must equal in total number the difference between the slots shown for each carrier in the November and December totals.

(4) Thereafter the twelve carriers with the most slots in the November totals shall be ranked in order of the number of slots they hold. The rank of carriers with an equal number of slots shall be established by the toss of a coin.

(5) The ranked carrier with the fewest slots shall be called upon to select one of its slots corresponding to one of the remaining set-aside slots in the 0700 to 2100 hours to be shifted to the 2200 hour, or deleted from its schedule at the carrier's option. The other ranked carriers shall do the same, following in rank order.

(6) Any carrier not participating when called or unable to respond within 15 minutes shall be put at the bottom of the rank list.

(7) If any ranked carrier is unwilling or unable to participate, the set-aside slots to be lost or shifted by those carriers shall be determined by lot.

(e) For the purpose of distributing the set-aside slots to the gaining carriers, the following procedure shall be used:

(1) Air North shall select two slots.

(2) Texas International shall select four slots.

(3) Air North shall select two slots.

[1] Air North, Texas International and New York Air are new applicants for slots in the scheduling period. Texas International and New York Air are both subsidiaries of Texas Air. Because New York Air has not yet been certificated, slots for both carriers have been sought, with the permission of the Civil Aeronautics Board, by Texas International.

(4) Texas International shall select four slots.

(5) Empire and Mid-South, in order determined by the toss of a coin, shall select two slots each.

(6) Midway shall select two slots.

(7) Texas International shall receive the remaining ten slots.

Under this section, each carrier may select only one slot in any hour, except the 2200 hour, unless no other slot is available. Each carrier with a total of more than four slots for December shall select one slot from the 2200 hour if one is available.

(f) Subject to CAB authorization, the carriers may then exchange slots in any hour.

(g) The Department shall then issue and publish a final schedule in the **Federal Register.** Thereafter, existing procedures (or any new procedure approved by the CAB) of the scheduling committee for the relinquishment and reassignment of unused slots may be employed.

(h) The FAA will accept at any time a schedule developed by the committee in accordance with its rules for part or all of the scheduling period, in lieu of the schedule published under paragraph (f) of this Appendix.

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Table 1

NOVEMBER SCHEDULE
AND TOTAL SLOTS FOR DECEMBER

CARRIERS	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	TTL		DEC
American	5	3	4	4	3	6	2	4	3	2	5	4	5	3	3	2		58	AA	58
Altair	1		2	1	2	1				2		1	1	1	2	2		16	AK	16
USAir	7	7	6	3	5	3	6	7	5	4	6	5	5	6	5	4		84	AL	82
Braniff	1	1		1	1	2	2	2	3	1	2		2	2	2			22	BN	20
Delta	3	3	1	2	2	2	3	2	1	3	3	2	2	1	2			32	DL	32
Eastern	9	8	7	12	8	7	8	9	9	7	5	8	8	7	12	4		128	EA	124
Aeromech		1	1				1	1					2					6	KC	6
Midway	1				1	1		1	1		1	1			1			8	ML	10
New Air		2					1	1			1	1						6	NC	6
Air North																			NO	4
Northwest	3	2	3	2	2	4	3	1	4	3	2	2	2	5	1	1		40	NW	40
Ozark					1	1				1	1							4	OZ	4
Pan American	2	2	3	5	1	1	4	2	1	2	3	5	2	1	2	2		38	PA	36
Piedmont	2	4	6	4	4	5	4	5	3	4	4	4	4	4	3	4		64	PI	62
Pilgrim		2								1	1							4	PM	4
Air Florida	1	1	1		1	1	1	1	1	1		1	1	1	1	1		14	QH	14
Republic					1	1								2				4	RC	4
Texas Int'l																			TI	18
Trans World	1	2	3	2	1	3	3	2	5	3	3	2	2	3	2	1		38	TW	38
United	4	1	2	2	4	2	1	2	3	3	2	4	2	4	3	1		40	UA	40
Empire		1	1				1		1				2					6	UR	8
Mid-South				2	2					2								6	VL	8
Western					1					1	1				1			4	WA	4
TOTAL	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	22		622		638
	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	TTL		DEC

Table 2

SET-ASIDE SLOTS

07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	TTL
2	2	2	2	1	1	1	1	1	2	2	2	2	2	1	4	28

BILLING CODE 4910-62-C

(Secs. 103, 307 (a) and (c), 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. section 1303, 1348 (a) and (c), and 1354(a)); Secs. 4 and 6 of the Department of Transportation Act (49 U.S.C. 1653 and 1655); Sec. 2, Act for the Administration of Washington National Airport (54 Stat. 688))

Note.—The Department has determined that this document is a significant regulation under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The Department will prepare a regulatory evaluation covering the economic impacts of this rulemaking. A copy of this evaluation will be included in the Docket. The Department has determined that this regulation will not have a signficant impact on the quality of the human environment. This special regulation is a final order under the Federal Aviation Act. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued at Washington, D.C., on October 29, 1980.

William J. Beckham, Jr.,

Acting Secretary of Transportation.

[FR Doc. 80-34212 Filed 10-29-80; 5:10 pm]

BILLING CODE 4910-62-M

Federal Aviation Administration

14 CFR Part 97

[Docket No. 20880; Amdt. No. 1176]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR and (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on November 3, 1980, and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identifier as follows:

* * * Effective December 25, 1980:

Greenwood, IN—Skyway, VOR-A, Original
Grantsburg, WI—Grantsburg Muni, VOR-A, Original

* * * Effective December 11, 1980:

Huntsville, AL—Huntsville Airport North, VOR/DME-B, Amdt. 2
Pittsfield, IL—Pittsfield Penstone Municipal, VOR/DME Rwy 13, Amdt. 1
Mt. Pleasant, MI—Mt. Pleasant Municipal, VOR Rwy 27, Amdt. 7
Redwood Falls, MN—Redwood Falls Muni, VOR A, Amdt. 3
Rocky Mount, NC—Rocky Mount Downtown, VOR-A, Amdt. 10, cancelled
Rocky Mount, NC—Rocky Mount Downtown, VOR/DME-B, Amdt. 7, cancelled

* * * Effective November 27, 1980:

Naples, FL—Naples Muni, VOR Rwy 4, Original

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Naples, FL—Naples Muni, VOR Rwy 22, Original
Coeur d'Alene, ID—Coeur d'Alene Air Terminal, VOR Rwy 5, Amdt. 2

* * * Effective October 9, 1980:

Kahului, HI—Kahului, VOR Rwy 2 (TAC), Amdt. 5
Kahului, HI—Kahului, VOR Rwy 20, Amdt. 8
Kahului, HI—Kahului, VOR/DME or TACAN Rwy 20, Amdt. 3
Kahului, HI—Kahului, VOR/DME or TACAN–A, Amdt. 2

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective October 9, 1980:

Kahului, HI—Kahului, LOC/DME (BC) Rwy 20, Amdt. 6

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective December 25, 1980:

Hutchinson, MN—Hutchinson Muni, NDB Rwy 14, Original
Superior, WI—Richard I. Bong, NDB Rwy 31, Original

* * * Effective December 11, 1980:

Pittsfield, IL—Pittsfield Penstone Municipal, NDB Rwy 31, Amdt. 3
Frankfort, IN—Frankfort Muni, NDB Rwy 3, Amdt. 3
White Plains, NY—Westchester Co., NDB Rwy 16, Amdt. 17

* * * Effective November 27, 1980:

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, NDB Rwy 5, Original
Coeur d'Alene, ID—Coeur d'Alene Air Terminal, NDB Rwy 5, Amdt. 4, cancelled
Millinocket, ME—Millinocket Muni, NDB–B, Amdt. 7, cancelled

* * * Effective October 9, 1980:

Kahului, HI—Kahului, NDB Rwy 20, Amdt. 5

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * Effective December 11, 1980:

Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 4
White Plains, NY—Westchester Co., ILS Rwy 16, Amdt. 19

* * * Effective November 27, 1980:

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, ILS Rwy 5, Original

* * * Effective October 21, 1980:

Louisville, KY—Standiford Field, ILS Rwy 19, Amdt. 3

* * * Effective October 16, 1980:

Boston, MA—General Edward Lawrence Logan International, ILS Rwy 22L, Amdt. 1

* * * Effective October 9, 1980:

Kahului, HI—Kahului, ILS Rwy 2, Amdt. 16

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective December 11, 1980:

Columbus, OH—Port Columbus Intl, RADAR–1, Amdt. 15
Oak Harbor, WA—Oak Harbor Air Park, RADAR–1, Original

* * * Effective October 21, 1980:

Louisville, KY—Standiford Field, RADAR–1, Amdt. 17

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective December 11, 1980:

Redwood Falls, MN—Redwood Falls Muni, RNAV Rwy 30, Original

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

Issued in Washington, D.C., on October 24, 1980.

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 80-33905 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 231

[Release No. 33-6253]

Procedures Utilized by the Division of Corporation Finance for Rendering Informal Advice

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive release.

SUMMARY: The Commission has authorized the issuance of a release describing certain procedures recently adopted by the Division of Corporation Finance (the "Division") for responding to all requests for no-action and interpretive letters except those involving shareholder proposals. In addition, the release discusses some of the alternative methods utilized by the Division in providing informal interpretive advice to the public. Also, it enumerates those matters which the staff of the Division, for policy or other reasons, will not express any view on when raised in a request for no-action or interpretive advice. Finally, it sets forth a discussion of letters regarding shareholder proposals.

FOR FURTHER INFORMATION CONTACT: William E. Morley or Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272–2573.

SUPPLEMENTARY INFORMATION: One of the more important functions of the Commission's Division of Corporation Finance is to respond to requests for informal advice concerning the application of the federal securities laws administered by it.[1] As explained in more detail later in this release, the Division provides such advice in a variety of ways, such as by issuing no-action and interpretive letters,[2] preparing interpretive releases, and answering telephone inquiries. Some other units of the Commission, such as the Divisions of Investment Management and Market Regulation, similarly provide informal advice in this manner.

No-Action and Interpretive Letters

The practice of issuing no-action and interpretive letters in response to written requests has been singled out in the past as an "excellent practice in administrative procedure,"[3] and many members of the public have come to rely on the informal advice provided in this manner.[4] Such letters provide a current statement of the staff's views concerning the application of the securities laws to particular transactions and are monitored closely by many issuers, members of the bar, and the public. As an aid to these persons, the Division publishes monthly in the SEC News Digest a list of those letters issued during the preceding month that it considers significant.

Until recently, all no-action and interpretive letters issued by the Division have followed the format of reciting the essential facts and then setting forth the position of the Division regarding the issues raised. While such detailed responses have been helpful to the public in the sense that they have included in a single document all of the pertinent information relating to the matter under discussion, they have required significant expenditures of staff manpower both in preparation and typing.[5] Due to an increase in the number of disclosure documents which are subject to review by the Division, as well as a decrease in the number of Division attorneys, it no longer is practical for the Division to continue providing such lengthy responses. Accordingly, in order to make more efficient use of its resources, while at the same time continuing its longstanding practice of providing no-action and interpretive letter advice upon request, the Division has instituted a new abbreviated procedure for providing such advice.

The new procedure involves the use of an endorsement to the incoming letter as a method of response. Under this procedure, which is being utilized for all no-action and interpretive requests except those involving shareholder proposals,[6] the Division simply sets forth its position on the issues raised either on the last page of the incoming letter or, more commonly, on a separate page attached at the end of that letter. Both the incoming letter and the Division's endorsement response are then sent to the requester, along with a brief note explaining the procedure.

The principal difference between the endorsement procedure and the procedure formerly utilized by the Division is that the Division no longer recites the facts in its response. The absence of such a recitation is not harmful, since all of the pertinent facts are set forth in the incoming correspondence. The experience of the Commission's Division of Investment Management, which has been utilizing a similar type of endorsement procedure for many years without any apparent adverse results, indicates that while a restatement of the facts is useful, it is not essential and can therefore be dispensed with.

Other Methods for Providing Informal Advice

In addition to no-action and interpretive letters, the Division, as previously mentioned, also provides informal advice in other ways as well. For example, it responds to many thousands of telephone inquiries annually concerning the statutes, rules and regulations administered by it. While the statements made by the staff on the telephone are intended to be helpful to the persons making the inquiries, they are not binding due to their highly informal nature.

The Division also provides informal advice through the periodic issuance of interpretive releases on matters of general interest to the public. In the past, these releases generally have been limited to a discussion of a single issue and have been relatively short.[7] During the past year or so, the Division determined to expand its activities in this regard by issuing interpretive releases on selected subjects or areas of the law that are much more comprehensive than those issued in the past. These comprehensive interpretive releases are intended both to inform the public of the staff's current views on matters of wide interest and to reduce the need for the public to submit no-action or interpretive requests.

The two major interpretive releases issued to date under this policy dealt, respectively, with resales of restricted securities [8] and the application of the 1933 Act to employee benefit plans.[9] Both releases appear to have been quite helpful to the interested public and, as a consequence, the Division intends to continue to issue such releases whenever a need for them is perceived.

Currently, the staff of the Division is engaged in preliminary work for the preparation of an extensive interpretive release on the Commission's rules underlying the insider reporting and liability provisions of Sections 16 (a) and (b) of the 1934 Act. It also is preparing another comprehensive release on employee benefit plans which is intended to supplement the earlier release on that subject by discussing some issues not previously addressed.

The Division would welcome any comments or suggestions from the public regarding other specific topics or areas of the law that are believed to be appropriate subjects for such a release.[10]

Areas of No-Comment

In connection with its function of providing informal no-action and interpretive advice, the Division occasionally finds that it is inappropriate for policy or other reasons to express any position or to comment upon the transaction which is the subject of a particular inquiry. In such situations, the Division will decline to express any view on the application of the securities laws to the proposed transaction.

There are several reasons why the Division may feel it is inappropriate in a particular instance to express an opinion. For example, (1) the Division may be in no position to verify the facts and circumstances which are the basis of the letter; (2) the Division may be concerned that its position may be misconstrued in somewhat different factual situations; and (3) in some areas policy concerns dictate that the Division not express a view.

All of the situations in which the staff will decline to state a position have previously been publicized either in Commission releases or in staff letters which are publicly available.

The Division believes, however, that it would be helpful to provide a comprehensive list of those situations. The list, which relates generally to matters arising under the 1933 Act, is as follows:

(1) *Hypothetical questions.* Responses to such inquiries could be misconstrued when applied to actual fact situations.[11]

(2) *Integration.* Questions of this nature involve factual issues which the staff is not in a position to resolve.[12]

(3) *Affiliate or control status.* This too is an area involving factual questions which the staff is not in a position to resolve.[13]

(4) *Removal of restrictive legends.* Since such legends are applied by the issuer voluntarily, their removal is subject solely to the issuer's discretion.[14]

(5) *Availability of the Section 4(2) exemption.* The Commission has adopted a safe harbor in the form of

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[1] The Division administers the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a, et seq.], the Trust Indenture Act of 1939 ("1939 Act") [15 U.S.C. 80a, et seq.], and portions of the Securities Exchange Act of 1934 ("1934 Act") [15 U.S.C. 78a, et seq.].

[2] A no-action letter is one in which an authorized staff official indicates that the staff will not recommend any enforcement action to the Commission if the proposed transaction described in the incoming correspondence is consummated. In some instances, the staff will state in response to a no-action request that it is unable to assure the writer that it will not recommend enforcement action to the Commission if the transaction occurs in the manner proposed by the writer. An interpretive letter is one in which the staff provides an interpretation of a specific statute, rule or regulation in the context of an actual fact situation.

[3] *See* the "Task Force Report on Legal Services and Procedures" prepared in 1955 by the Commission on Organization of the Executive Branch of the Government, p. 189.

[4] Members of the public are entitled to rely on no-action and interpretive letters as representing the views of the Division. Such letters, however, set forth staff positions only and do not constitute an official expression of the Commission's views. *See* 17 CFR 202.1(d).

[5] The extent of these expenditures is evident in the fact that the Division annually issues more than one thousand such letters, and the letters commonly are four or more pages in length.

[6] Letters involving shareholder proposals will be discussed later in this release.

[7] *See*, e.g., Release Nos. 33–4790 (July 13, 1965) [30 FR 9059] (employee stock purchase plans), 33–4982 (July 2, 1969) [34 FR 11581] (spin-off transactions), 33–5347 (January 18, 1973) [34 FR 1735] (sale of condominiums), 33–5515 (August 8, 1974) [39 FR 28520] (dividend reinvestment plans), and 33–5927 (April 24, 1979) [18163] (registration of certain tender offers.)

[8] Release No. 33–6099 (August 2, 1979) [44 FR 46752].

[9] Release No. 33–6188 (February 1, 1980) [45 FR 8962].

[10] Any such suggestions or comments should be forwarded to William E. Morley, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549.

[11] *See* Release No. 33–5127 (January 25, 1971) [36 FR 2800].

[12] *See*, e.g., letter re *Security Bancorp Inc.* dated January 21, 1980.

[13] *See*, e.g., letter re *Book Mobile, Inc.* dated November 17, 1979.

[14] *See*, e.g., letter re *RLT, Inc.* dated December 12, 1979.

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Rule 146 [17 CFR 230.146] for this exemption.[15] Accordingly, only in the most compelling circumstances will the Division express a view on its availability.

(6) *Availability of the Section 3(a)(11) exemption.* Again, the Commission has adopted a safe harbor, Rule 147 [17 CFR 230.147], for this exemption and will therefore express a view concerning its availability only in the most compelling circumstances.[16]

(7) *Availability of the Section 4(1) exemption.* Rule 144 [17 CFR 230.144] has provided a safe harbor for this exemption since April 15, 1972. As a consequence, the Division will not express any view concerning the availability of the exemption unless the securities involved were acquired on or before April 15, 1972.[17]

(8) *Availability of the Section 3(a)(4) exemption where the issuer has not received a favorable tax ruling.* The exemption provided by Section 3(a)(4) of the 1933 Act depends in part on whether the issuer possesses certain characteristics that are common to specific types of tax-exempt organizations. Under the circumstances, unless the issuer can demonstrate that it has received a ruling from the Internal Revenue Service that it qualifies as such an organization, the Division will not express any view on the availability of the exemption.[18]

(9) *Time-Sharing and other novel real estate offerings.* Pursuant to a directive from the Commission, the Division will not take a position on whether individual offerings of this nature involve securities within the meaning of Section 2(1) of the 1933 Act.[19] The concern underlying the Commission's directive is that incorrect inferences could be drawn from any expression of staff views in this evolving area.

(10) *Esoteric commodity offerings (e.g., gems, rare books, gold, silver, and master recordings).* The Division has declined to express any view as to whether such offerings involve securities because of the unique and unusual circumstances involved and the possibility that no-action letters for such offerings could be misunderstood or misapplied.[20] The applicability of Section 2(1) of the 1933 Act to these offerings is highly dependent on the particular facts and circumstances involved, and the Division is in no position to verify such facts and circumstances.

Shareholder Proposal Letters

As previously noted, the new endorsement procedure outlined earlier in this release will not be used in responding to letters under Rule 14a–8 [17 CFR 240.14a–8] of the Commission's proxy rules relating to the omission of shareholder proposals from an issuer's proxy materials. Letters received from issuers pursuant to Rule 14a–8 generally raise a variety of complex and difficult issues which cannot be easily dealt with through the abbreviated endorsement format. The Division, however, is concerned with the amount of staff time being devoted to shareholder proposal matters and therefore is exploring ways for reducing the length and complexity of its responses in this area.

Some of the alternatives presently under consideration for achieving the above objective are the elimination from the Division's response of a verbatim restatement of the proposal under discussion and the use of a standardized statement of the Division's function regarding such proposals that can be attached to each response rather than retyped in each letter as a separate final paragraph. While none of these alternatives have yet been adopted, it is anticipated that some methods of this nature will be utilized within the next few months to limit the amount of time which must be spent on shareholder proposal matters. Any comments or suggestions from members of the public regarding this subject would be welcomed.[21]

The recently issued Staff Report on Corporate Accountability indicated a desire by the Division and the Commission to reconsider some of the views previously expressed with respect to certain types of shareholder proposals.[22] The Report indicates that the Commission will issue concept releases relating to various shareholder proposal matters in the future.[23] It is anticipated that these releases will reduce the number of requests for no-action letters under Rule 14a–8 because they will set forth the staff's position with respect to the applicability of the rule's provisions to certain relatively common types of proposals. If such a reduction does indeed occur, it will alleviate somewhat the Division's resource problem in this area.

In connection with the foregoing, the Division urges issuers to avoid the practice followed by some in the past of citing frivolous grounds for omitting proposals. Such a practice causes the Division's staff to spend valuable time in responding to such grounds that could be better utilized in other areas. Accordingly, while the Division continues to believe that issuers should feel free to raise all legitimate bases for the omission of a proposal, they and their counsel should review past statements issued by the Division in connection with the same or similar proposals submitted to other issuers to make certain that the grounds for omission have not been previously addressed,[24] thereby reducing the need for the Division to discuss previously settled issues.

Accordingly, 17 CFR Part 231 is amended by adding this release thereto.

By the Commission.

George A. Fitzsimmons

Secretary.

October 28, 1980.

[FR Doc. 80-34234 Filed 10-31-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 80-264]

Entry and Clearance of Aircraft Proceeding Between the United States and Cuba

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

[15] Release No. 33-5487 (April 23, 1974) [39 FR 15266].]

[16] Release No. 33-5450 (January 7, 1974) [39 FR 2353].

[17] Release No. 33-5223 (January 11, 1972) [37 FR 591].

[18] *See*, e.g., letter re *Shannondale Club, Ltd.* dated January 12, 1979.

[19] *See*, e.g., letters re *Tropics International* and *Spirit of Hawaii* dated April 5, 1974.

[20] *See*, e.g., letters re *Publishers Distributors Inc.* dated August 23, 1979 (book sales); *Wes Sanborn* dated November 9, 1979 (master recording leases); and *Diamond Network Associates Inc.* dated July 9, 1979 (gems).

[21] Any such comments or suggestions should be directed to William E. Morley at the address listed in footnote 10.

[22] *See* Chapter Two of the "Staff Report on Corporate Accountability" prepared by the Division. The Staff Report is dated September 4, 1980 and is set forth in a Committee Print for the Senate Committee for Banking, Housing and Urban Affairs, 96th Cong., 2nd Sess. GPO Document No. 052–070–05418–2.

[23] Some areas which are to be the subject of such releases are Rule 14a–8(c)(7) dealing with proposals relating to an issuer's ordinary business, and the Commission's view of the applicability to shareholder proposals of the Supreme Court's decision in *First National Bank* v. *Bellotti*, 435 U.S. 765 (1978).

[24] All correspondence and other materials relating to shareholder proposals which an issuer seeks to omit from its proxy materials pursuant to Rule 14a–8(d) are publicly available. *See* 17 CFR 200.82. Thus, it is a relatively simple matter to review prior statements by the Division on the same or similar proposals submitted to other issuers.

SUMMARY: In a document published as T.D. 80–116, in the **Federal Register** on May 1, 1980 (45 FR 29247), the Customs Regulations were amended on an interim basis, effective April 29, 1980, to provide: (1) that aircraft clearing the United States for, or entering the United States from, Cuba, obtain permission to depart from or enter at the Fort Lauderdale-Hollywood Airport, Fort Lauderdale, Florida; and (2) procedures to be followed by pilots clearing or entering there. As stated in the document, the amendment was made to provide for the safe and expeditious transportation of persons between Cuba and the United States.

The notice advised the public that written comments received on or before June 2, 1980, would be considered in determining whether any change to the regulation would be required before a final rule was published. No comments were received in response to the notice and Customs has determined that the regulation does not require alteration. Accordingly, it is being published as a final rule.

EFFECTIVE DATE: April 29, 1980.

FOR FURTHER INFORMATION CONTACT: John Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Adoption of the Interim Regulation

The interim regulation set forth as T.D. 80–116, in the **Federal Register** of May 1, 1980 (45 FR 29247), is adopted as set forth below.

William T. Archey,

Commissioner of Customs.

Approved: October 16, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

Amendment to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended by adding a new § 6.3a to read as follows:

§ 6.3a Entry and Clearance; Cuba.

(a) Unless otherwise authorized by the Regional Commissioner of Customs, Miami, Florida, the owner or person in command of any aircraft clearing the United States for, or entering the United States from, Cuba, whether the aircraft is departing on a temporary sojourn, or for export, shall:

(1) Clear or obtain permission to depart from, or enter at, the Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida;

(2) Before arrival from Cuba, furnish a notice of intended arrival to the Customs Service, either by or at the request of the commander of the aircraft, not less than 15 minutes before crossing the United States coast or border. The notice shall be furnished through the Federal Aviation Administration flight notification procedures or directly to the Customs officer in charge at the Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida. The notice shall include the following:

(i) Aircraft registration number;

(ii) Name of aircraft commander;

(iii) Number of United States citizen passengers;

(iv) Number of alien passengers;

(v) Place of last foreign departure;

(vi) Estimated time and location of crossing United States coast or border; and

(vii) Estimated time of arrival.

(3) Upon arrival, present a manifest of all passengers on board, as required by 8 CFR 231.1(b), to an officer of the U.S. Immigration and Naturalization Service or to a Customs officer acting as an Immigration officer.

(4) As a condition precedent to clearance, present to Customs:

(i) The documents required by section 6.8 of this Part; and

(ii) A validated license issued by the Department of Commerce, as provided for in 15 CFR 371.19, or a license issued by the Department of State, as provided in 22 CFR Part 123. See footnote (*) to section 6.3 of this Part.

(b) No passenger arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart, before the passenger is released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of that agency.

(c) All other provisions of this part relating to entry and clearance of aircraft are applicable to aircraft subject to this section.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

[FR Doc. 80-34235 Filed 10-31-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Payment of Benefits, Overpayments, and Underpayments Recovery of Overpayments

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final regulation clarifies how we decide whether adjustment or recovery of an overpayment would defeat the purpose of the Supplemental Security Income (SSI) program. The regulation makes clear that the test is whether an individual's income and resources are needed for ordinary and necessary living expenses. For individuals currently receiving SSI benefits, however, we will consider that they meet the test if their monthly income does not exceed a stated amount, since we know they have limited resources. These revisions clarify what had been intended under the previous regulation.

EFFECTIVE DATE: The final regulation shall be effective November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7463.

SUPPLEMENTARY INFORMATION: On May 28, 1980, these rules were published in the **Federal Register** (45 FR 35838) as a Notice of Proposed Rule Making (NPRM) with a 60-day comment period. A total of 8 commentators expressed their views which we discuss under the heading Discussion of Comments.

Section 1631(b)(1) of the Social Security Act provides that, if we make an overpayment, we will adjust future benefits or require repayment. However, if an individual is "without fault" in connection with the overpayment, we will waive adjustment of future benefits or repayment of the overpayment under certain conditions. One of these conditions is where recovery of the overpayment would defeat the purpose of the SSI program.

Current Regulation

The present rule (§ 416.553) has been interpreted by some to provide for a finding that the purpose of the SSI program has been defeated if either of two tests is met. The first test is whether

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the individual's current monthly income does not exceed a stated amount. The amount equals the SSI benefit level (including any applicable State supplement) plus $20 ($85 if income is earned). This amount corresponds to the income level of an eligible individual who has the maximum amount of other income generally allowable without causing a reduction in SSI benefits. The second test is whether adjustment or recovery of the overpayment would deprive the individual of income or resources needed for ordinary and necessary living expenses.

Final Regulation

The revisions make clear that these are not true alternative tests, but rather apply to different situations. Under the final regulation, the general rule is whether the individual's income and resources are needed for ordinary and necessary living expenses. This standard applies to everybody, whether the individual is currently receiving SSI benefits or not. However, we will consider individuals receiving SSI benefits to meet this standard if their income is below stated levels, since, by definition, an individual who is eligible for SSI has limited resources. This final regulation, then, is designed to make clear that there is only one rule.

Discussion of Comments

As previously indicated, we received a number of comments on the NPRM published on May 28, 1980 (45 FR 35838). A summary of the comments and our responses follow.

1. *Comment:* Two commentators believe the regulation is a positive step forward in dealing realistically with the income levels and resources needed for ordinary and necessary living expenses.

Response: This comment requires no response.

2. *Comment:* Two commentators recommend that we state in this regulation the resource levels below which recovery would not be equitable.

Response: We believe placing resource limits in this regulation would have a result opposite to that assumed by the commentator. The regulation, as written, allows for an evaluation of each case on its own merits. Setting resource limits could result in requiring recovery of overpayments out of actual resources even though the individual needs the funds to meet necessary living expenses. We believe this would be contrary to the intent of the law.

3. *Comment:* One commentator states the regulation is not realistic because the result will be negative. The commentator believes overpayments should not become collectable until after the beneficiary has ceased to receive benefits and is deemed to be employable.

Response: This recommendation cannot be adopted because it is in direct opposition to what is called for in section 1631(b)(1) of the Social Security Act. That section requires us to adjust future benefits or require repayment as a means of recouping overpayments.

4. *Comment:* Two commentators suggest we adopt a rule that any current SSI recipient automatically meets the "defeat the purposes" of the Act condition of the waiver test.

Response: As indicated in the response to Comment 3 above, we cannot adopt this suggestion because section 1631(b)(1) of the Social Security Act requires us (with limited exceptions) to recover overpayments out of benefits due an SSI recipient. We believe § 416.553 represents a fair and reasonable method for determining whether recovery of the overpayment defeats the purpose of the SSI program.

5. *Comment:* One commentator states that the test in § 416.553(b) should be applied to nonrecipients as well as current recipients.

Response: Basically, there is one test, not two. The general rule, (§ 416.553(a)) which applies to everybody, is whether recovery or adjustment would deprive the individual of income or resources needed for ordinary and necessary living expenses. However, in applying this test to current SSI recipients, we use a shortcut. If the current recipient's income is below the levels described in § 416.553(b), we find that the test is met, since by definition a current recipient's resources are small (that is, he or she has resources low enough to qualify for SSI).

6. *Comment:* One commenter notes that § 404.508(b) dealing with overpayments under title II of the Social Security Act provides that adjustment or recovery of an overpayment is considered to defeat the purpose of title II where the individual needs substantially all of his current income to meet current ordinary living expenses. The commenter states that this provision makes no reference to resources and suggests that this same principle be followed under the SSI program.

Response: Although § 404.508(b) does not make reference to resources, § 404.508(a) clearly states that an individual's financial resources will be considered in determining whether recovery or adjustment will defeat the purpose of the Social Security Act. As in the SSI program, if the individual has substantial resources, even though not producing income, the resources must be taken into account in determining the ability to repay the overpayment.

7. *Comment:* One commenter states our Claims Manual provides that recovery from an individual will defeat the purpose of the program for nonrecipients if they have resources exceeding specified amounts. The commenter believes the Claims Manual is not consistent with § 416.553 of the regulations which the commenter views as not requiring consideration of resources if the claimant's income is within the limits specified in the regulations.

Response: This interpretation of the current regulations is what is being clarified by this final rule. As indicated in the response to comment 5, both income and resources are considered in all cases.

8. *Comment:* Two commenters state that our Claims Manual provides that if an SSI recipient of an overpayment has identifiable proceeds of the overpayment in his or her possession recovery cannot be considered to defeat the purposes of the SSI program. In essence, the commenters suggest this policy be eliminated or if we continue to apply it, that we put this policy in the regulations.

Response: We believe this comment has potential merit. These commenters are correct in saying that operating policy provides that recovery of erroneous funds still in an individual's possession would not constitute defeat, the purpose of title XVI; however, we could find waiver of recovery based on the criteria in § 416.554 (against equity or good conscience test) or § 416.555 (small amount involved test). Nevertheless, we will give serious consideration to incorporating this operating policy into our regulations. Should we decide that this operating policy belongs in our regulations, we will publish a Notice of Proposed Rule Making in the **Federal Register**. This will give the public full advance notice and provide an opportunity for public comment.

9. *Comment:* One commenter points out that § 416.555 permits waiver of an overpayment where, because of the small amount involved adjustment or recovery would impede efficient and effective administration of the SSI program. The commenter suggests that we include in this section the specific amount currently in effect ($45).

Response: The subject amendment to the regulation deals with one of several bases for waiver. We will consider the commenter's suggestion which concerns a different basis for waiver of an overpayment in the process of recodifying all of the rules on payment of benefits, underpayments, and overpayments.

10. *Comment:* One commenter suggests that we add the following sentence to § 416.553(b): "The general rule of paragraph (a) applies to SSI recipients whose income exceeds this level."

The commenter believes that without this addition, the regulation could be misinterpreted to require repayment from SSI recipients whose income, though above the level stated in paragraph (b), is needed for ordinary and necessary living expenses.

Response: We believe that the regulation, as written, already states what the commenter wishes to have clarified. Nevertheless, to eliminate any potential misinterpretation of this regulation we are adding the following sentence at the end of § 416.553(b): "For those SSI recipients whose income exceeds these criteria, we follow the general rule in paragraph (a) of this section."

11. *Comment:* One commenter states that there should be a regulation that specifically allows for a reevaluation of overpayment recovery actions when the individual has experienced a change of circumstances.

Response: This is our current operating policy as set forth in the Claims Manual (CM 5597(b) and 5597.5(d)). We will give serious consideration to the need for incorporating into the regulations this operating policy (as well as any others not currently in the regulations) in the process of our recodifying all the rules in this Subpart E.

Accordingly, this regulation with one clarifying change is adopted as set forth below.

(Secs. 1102 and 1631 of the Social Security Act, as amended; 49 Stat. 647 as amended, and 86 Stat. 1475; 42 U.S.C. 1302 and 1383)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program for the Aged, Blind, and Disabled)

Dated: October 14, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: October 28, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 416.553 is revised to read as follows:

§ 416.553 Waiver of adjustment or recovery—defeat the purpose of the supplemental security income program.

We will waive adjustment or recovery of an overpayment when an individual on whose behalf waiver is being considered is without fault (as defined in § 416.552) and adjustment or recovery of the overpayment would defeat the purpose of the supplemental security income program.

(a) *General rule.* We consider adjustment or recovery of an overpayment to defeat the purpose of the supplemental security income (SSI) program if the individual's income and resources are needed for ordinary and necessary living expenses under the criteria set out in § 404.508(a) of this chapter

(b) *Alternative criteria for individuals currently receiving SSI benefits.* We consider an individual or couple currently receiving SSI benefits to have met the test in paragraph (a) of this section if the individual's or couple's current monthly income does not exceed—

(1) The applicable Federal monthly benefit rate (see Subpart D of this part); plus

(2) One-third of the quarterly amount of the earned or unearned income exclusion described in § 416.1165 (i.e. $20); plus

(3) One-third of the quarterly amount of the earned income exclusion described in § 416.1167 but no more than $65; plus

(4) The applicable State supplementary payment, if any (see Subpart T of this part).

For those SSI recipients whose income exceeds these criteria, we follow the general rule in paragraph (a) of this section.

[FR Doc. 80-34227 Filed 10-31-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 3, 53

[T.D. 7728]

Holding Period Required for Treatment of Long-Term Capital Gain or Long-Term Capital Loss; Changes in Terms Relating to Transactions in Capital Assets

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to changes in the holding period required for gains or losses on transactions in capital assets to be treated as long-term capital gains or long-term capital losses and to changes in certain terms relating to transactions in capital assets. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect the tax treatment of sales or exchanges of capital assets and provide the public with needed guidance.

DATES: The amendments pertaining to the change in the holding period from 6 months to 9 months are effective for taxable years beginning in 1977. The amendments pertaining to the change in the holding period from 9 months to 1 year are effective for taxable years beginning after December 31, 1977. The amendments pertaining to the new terms "capital gain net income" and "net capital gain" are effective for taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: Claudine Ausness of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T (202-566-3459)).

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations, the Regulations on Capital Construction Fund, and the Regulations on Foundation Excise Taxes (26 CFR Parts 1, 3, and 53) under numerous sections of the Internal Revenue Code of 1954 (45 FR 24205). These amendments were proposed to conform the regulations to sections 1402 (a) (1) and (2), and 1901(a)(136) (A) and (B) of the Tax Reform Act of 1976 (90 Stat. 1731, 1787). A public hearing was neither requested nor held. One written comment was received suggesting a technical amendment to the proposed regulation. The proposed amendments are adopted by this Treasury decision with one technical change.

Explanation

Section 1402(b)(3) of the Tax Reform Act of 1976 makes a technical amendment to section 631(a) (relating to gain or loss in the case of timber) by deleting the requirement that the holding period be satisfied before the beginning of the taxable year in which the timber was cut. Technical amendments are made to §1.631-1(a)(4) and § 1.631-1(b)(1) to reflect this change.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. Evaluation of the effectiveness of these regulations will be based upon comments received from members of Congress, offices within

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Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of these regulations is Claudine Ausness of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Parts 1, 3, and 53 published as a notice of proposed rulemaking in the **Federal Register** for April 9, 1980 (45 FR 24205), are hereby adopted as proposed subject to the following additional amendments: The first sentence of § 1.631–1(a)(4) (relating to effect of election to consider cutting as sale or exchange) is amended by deleting the phrase "the beginning of the taxable year in which" and inserting in lieu thereof "when", and the first sentence of § 1.631–1(b)(1) (relating to who may make election to consider cutting as a sale or exchange) is amended by deleting the phrase "before the beginning of the taxable year" and inserting in lieu thereof "prior to when the timber is cut".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 7, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1980

Paragraph 1. The following regulation sections are amended by substituting "1 year (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977)" for "6 months" and "six months" each place "6 months" or "six months" appears in such regulation sections:

1. Section 1.123–1(a)(3).
2. Section 1.166–5(a)(2).
3. Section 1.170A–4(b)(1).
4. Section 1.272–1(b)(3).
5. Section 1.333–5 (d)(1) and (d)(2).
6. Section 1.341–4(a).
7. Section 1.341–6 (b)(2)(iii) and (b)(5).
8. Example (1) of § 1.357–2(b).
9. Section 1.421–5 (a)(1), (c)(2), (d)(1) and (e).
10. Section 1.423–1(a)(1).
11. Section 1.424–1(a)(1)(i).
12. That portion of § 1.614–6(b) other than the example.
13. Section 1.631–1 (a)(4), (b)(1) and (d)(4).
14. Section 1.631–2 (a)(1), (a)(2), (b)(1), (c)(2), (d)(1), (d)(3)(i) and (d)(3)(iii).
15. Section 1.631–3 (a)(1), (a)(2), (b)(1) and (c)(3).
16. Section 1.691 (a)–3, (b)(1).
17. Section 1.702–1 (a)(1) and (a)(2).
18. Section 1.817–2 (b)(1)(i), (b)(3)(i) and (b)(3)(ii).
19. Section 1.852–4 (b)(1), (b)(2)(i), (b)(3) and (d)(1).
20. Section 1.856–2(c)(1)(iii)(*a*).
21. Section 1.857–4 (b) and (c)(1).
22. Section 1.1012–1 (e)(3), (e)(4)(i) and (e)(4)(ii).
23. Section 1.1222–1 (a) and (c).
24. Section 1.1223–1(j).
25. Section 1.1231–1 (a), (b), (c)(1) (c)(2), (c)(5), (e)(1) and (e)(3).
26. Section 1.1232–1(a).
27. Section 1.1232–3 (a)(1) and (b)(1)(ii).
28. Section 1.1233–1 (a)(4), (c)(2), (c)(4), (c)(5) and (e).
29. Section 1.1234–2(a).
30. Section 1.1235–1(a).
31. Section 1.1235–2(d)(2).
32. Section 1.1245–4(a)(4).
33. Section 1.1247–3 (b)(4) and (d)(1).
34. Section 1.1248–1(e)(3).
35. Section 1.1251–3(a)(1)(i)(*a*).
36. Section 1.1385–1(c)(2)(ii)(*a*).

§§ 1.421–5, 1.423.2 and 1.424–2 [Amended]

Par. 2. Paragraphs (a)(2) and (b)(1)(i) of § 1.421–5, paragraph (k)(1)(i) of § 1.423–2, and paragraph (b)(1)(i) of § 1.424–2 are amended by substituting "1-year (6-month for taxable years beginning before 1977; 9-month for taxable years beginning in 1977)" for "6-month" each place "6-month" appears in such regulation sections.

§ 1.1012–1 [Amended]

Par. 3. Paragraph (e)(3) of § 1.1012–1 is amended by substituting "1-year (6-month for taxable years beginning before 1977; 9-month for taxable years beginning in 1977)" for "6-months" each place "6-months" appears in such paragraph.

§ 1.1012–1 [Amended]

Par. 4. The caption of paragraph (c)(3)(iii) of § 1.1012–1 is amended by substituting "*1-year*" for "*6-months*".

§ 1.1247–3 [Amended]

Par. 5. The caption of paragraph (d) of § 1.1247–3 is amended by substituting "*1 year*" for "*6 months*".

Par. 6. The following regulation sections are amended by substituting "capital gain net income (net capital gain for taxable years beginning before January 1, 1977)" for "net capital gain" and "net capital gains" each place "net capital gain" or "net capital gains" appears in such regulation sections.

1. Section 1.381 (c)(3)–1, (c)(1), (d)(1), (d)(1)(ii), (d)(2), (e)(1), (e)(5), (e)(6), and (e)(7).
2. Section 1.852–10(b)(1).
3. Section 1.1202–1(a).
4. Section 1.1212–1 (a)(2)(i), (a)(3)(ii), (a)(3)(iii)(*a*), and (a)(3)(iii)(*f*).
5. Section 1.1222–1(d)(1).
6. Section 1.1248–4 (d)(5)(ii) and (g)(2).
7. Section 1.1502–4(d)(1)(ii).
8. Section 1.1502–11(a)(3).
9. Section 1.1502–15(a)(1).
10. Section 1.1502–21(f)(2).
11. Section 1.1502–22 (a)(1), (c)(2)(i) and (d)(2)(i).
12. Section 1.1502–25(c)(2)(ii).
13. Section 1.1502–27(b)(2).
14. Section 1.1502–79 (a)(3)(ii) and (b)(2)(i).
15. Section 1.1552–1(a)(1)(ii)(*b*).

Par. 7. The following regulation sections are amended by adding the parenthetical phrase "(capital gain net income for taxable years beginning after December 31, 1976)" directly after the phrases "net capital gain" and "net capital gains" each place the phrases "net capital gain" or "net capital gains" appears in such regulation sections:

1. Section 1.381 (c)(3)–1, (c)(4), (d)(4) and (e)(8).
2. Examples (3) and (5) of § 1.642(c)–3(c).
3. Example (2) of § 1.643(a)–6(b).
4. Examples (6), (7) and (8) of § 1.1211–1(b)(8).
5. Section 1.1212–1(a)(1)(i), examples (a), (b) and (c) of paragraph (a)(1)(ii), example (2) of paragraph (a)(2)(iii), examples (1), (2), (3), (4) and (5) of paragraph (a)(3)(iv), and example (7) of paragraph (b)(5).
6. Example (2) of § 1.1248–4(d)(5)(iii).
7. Examples (4) and (5) of § 1.1375–1(f).
8. Example (2) of § 1.1502–4(j).
9. Examples (1), (2), and (3) of § 1.1502–11(b)(6).

§§ 1.381 and 1.1502–22 [Amended]

Par. 8. The captions of paragraphs (d)(1) and (e)(5) of § 1.381(c)(3)–1, of § 1.1502–22, and of paragraph (a)(1) of § 1.1502–22 are amended by substituting "*capital gain net income*" for "*net capital gain*" each place "*net capital gain*" appears in such captions.

Par. 9. The following regulation sections are amended by substituting "Net capital gain (net section 1201 gain for taxable years beginning before January 1, 1977)" for "net section 1201 gain" each place "net section 1201 gain" appears in such regulation sections:

1. Section 1.665(d)–1A(c)(2).
2. Section 1.1201–1(a)(1)(i), (a)(2)(i), (a)(4), (b)(1), (b)(2)(i), (b)(2)(ii)(*a*), (b)(2)(ii)(*b*), (e)(1) and (e)(2).
3. Section 1.1222–1(h).
4. Section 1.1348–2(d)(1).

Par. 10. The following regulation sections are amended by adding the parenthetical phrase "(net capital gain for taxable years beginning after December 31, 1976)" directly after the phrase "net section 1201 gain" each place the phrase "net section 1201 gain" appears in such regulation sections:

1. Example (1) of § 1.21–1(n).
2. Example (3) of § 1.514(b)–1(b)(1)(iii) and example (2) of paragraph (b)(3).
3. Section 1.1201–1(a)(3)(i), (a)(3)(ii)(*a*), (a)(3)(ii)(*b*), (a)(3)(iii), (a)(3)(iv), (b)(2)(iii) and examples (2), (3) and (4) of paragraph (g).

§ 1.21–1 [Amended]

Par. 11. Example (1) of § 1.21–1(n) is amended by adding the parenthetical phrase "(net capital gain for taxable years beginning after December 31, 1976)" directly after the phrase "section 1201 gain."

§ 1.631 [Amended]

Par. 12. Section 1.631–1 is amended as follows:

1. The first sentence of paragraph (a)(4) is amended by deleting the phrase "the beginning of the taxable year in which" and inserting in lieu thereof "when".
2. The first sentence of paragraph (b)(1) is amended by deleting the phrase "before the beginning of the taxable year" and inserting in lieu thereof "prior to when the timber is cut".

PART 3—CAPITAL CONSTRUCTION FUND

§ 3.4 [Amended]

Par. 13. Paragraphs (c) and (d)(2) of § 3.4 are amended by substituting "1 year (6 months for taxable years beginning before 1977, 9 months for taxable years beginning in 1977)" for "6 months" each place "6 months" appears in such paragraphs.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

§ 53.4940–1 [Amended]

Par 14. Paragraphs (c)(1)(i) and (f)(1) of § 53.4940–1 are amended by substituting "capital gain net income (net capital gain for taxable years beginning before January 1, 1977)" for "net capital gain" each place "net capital gain" appears in such regulation section.

§ 53.4940–1 [Amended]

Par 15. Example (2) of § 53.4940–1(f)(4) is amended by adding the parenthetical phrase "(capital gain net income for taxable years beginning after December 31, 1976)" directly after the phrase "net capital gain" each place the phrase "net capital gain" appears in such regulation section.

[FR Doc. 80-34123 Filed 10-31-80; 8:45 am]

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26 CFR Parts 31 and 301

[T.D. 7730]

Information Return Penalties and Withholding Tax Rules Concerning Individual Retirement Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations prescribing withholding tax rules for individual retirement plans and penalties for failure to furnish information in connection with such plans. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974 and the Tax Reform Act of 1976. These regulations would provide the public with additional guidance needed to comply with those Acts and would affect the parties responsible for furnishing or filing certain documents concerning individual retirement plans and employers contributing to such plans.

DATE: The regulations have varying effective dates as indicated. The provisions imposing a penalty tax for the failure to furnish or file documents concerning individual retirement plans are effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202–566–3430 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1979, the **Federal Register** published proposed amendments to the Procedure and Administration Tax Regulations (26 CFR Part 301) under section 6693 of the Internal Revenue Code of 1954 and to the Employment Tax Regulations (26 CFR Part 31) under section 3401 of the Code (44 FR 48719). The amendments were proposed to conform the Regulations to section 2002 (f) and (g)(7) of the Employee Retirement Income Security Act of 1974 (88 Stat. 967, 970) and section 1501(b)(7) of the Tax Reform Act of 1976 (90 Stat. 1736). A public hearing was neither requested nor held on these regulations. After consideration of all the comments regarding the proposed amendments, those amendments are adopted, as revised by this Treasury decision.

Exclusion From "Wages" of Payments to Individual Retirement Plans

Section 3401 defines the term "wages" for purposes of chapter 24 of the Code (relating to withholding taxes). Section 3401(a)(12)(D) excludes from the definition of "wages" payments to individual retirement plans described in section 219(a) or section 220(a) if, at the time of such payment, it is reasonable for the employer to believe the employee will be entitled to a deduction under section 219 or 220 for the payment. In general, the effect of the exclusion from wages is that the employer does not have to withhold any income taxes for the employee for these payments.

The final regulations make it clear that this exclusion is also available for payments to a simplified employee pension arrangement described in section 408(k).

Penalties for Failure to Furnish Information Concerning Individual Retirement Plans

Section 6693 of the Code imposes a $10 penalty for each failure to furnish or file a report or statement required by the regulations under section 408(i) regarding each individual retirement account or individual retirement annuity. This penalty is assessed against the person required by section 408(i) to furnish or file the report or statement. A penalty shall not be assessed, however, if it is established that there was reasonable cause for the failure.

Drafting Information

The principal author of these regulations is Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly—

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1. Paragraph 1, as set forth in the notice of proposed rulemaking, is withdrawn.

2. The proposed amendments to 26 CFR Parts 31 and 301 are hereby adopted, subject to the changes indicated below.

Employment Tax Regulations

[26 CFR Part 31]

Paragraph 1. Section 31.3401(a)(12)–1(d), as set forth in paragraph 2 of the notice of proposed rulemaking, is revised to read as follows:

§ 31.3401(a)(12)–1 Payment from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans, or to individual retirement plans.

* * * * *

(d) *Payment to individual retirement plans.* (1) The term "wages" does not include any payment to an individual retirement plan described in section 7701(a)(37) by an employer after December 31, 1974, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee will be entitled to a deduction for such payment under section 219(a).

(2) The term "wages" does not include any payment to an individual retirement plan described in section 7701(a)(37) by an employer after December 31, 1976, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee on whose behalf the payment is made will be entitled to a deduction for such payment under section 220(a).

(3) The term "wages" does not include any payment to a simplified employee pension arrangement described in section 408(k) by an employer after December 31, 1978, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee on whose behalf the payment is made will be entitled to a deduction for such payment under section 219(a).

Procedure and Administration Tax Regulations [26 CFR Part 31]

Par. 2. Section 301.6693–1(a), as set forth in paragraph 3 of the notice of proposed rulemaking, is revised to read as follows:

§ 301.6693–1 Penalty for failure to provide reports and documents concerning individual retirement accounts or annuities.

(a) *In general*—(1) *Annual reports, etc.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a report or any other document required under section 408(i) and § 1.408–5 within the time and in the manner prescribed for furnishing or filing such item shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

(2) *Disclosure statements.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a disclosure statement, a governing instrument, an amendment to either, or any other document required under section 408(i) and § 1.408–6, within the time and in the manner prescribed for furnishing or filing such item, shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

* * * * *

Par. 3. The first sentence of section 301.6693–1(b), as set forth in paragraph 3 of the notice of proposed rulemaking is revised by deleting "or the director of the Internal Revenue Service Center".

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; (26 U.S.C. 7805)))

Approved: October 7, 1980.

Jerome Kurtz,

Commissioner of Internal Revenue.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Paragraph 1. Section 31.3401(a)(12) is deleted.

Par. 2. The title of section 31.3401(a)(12)–1 is amended and a new paragraph (d) is added to read as follows:

§ 31.3401(a)(12)–1 Payment from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans, or to individual retirement plans.

* * * * *

(d) *Payment to individual retirement plans.* (1) The term "wages" does not include any payment to an individual retirement plan described in section 7701(a)(37) by an employer after December 31, 1974, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee will be entitled to a deduction for such payment under section 219(a).

(2) The term "wages" does not include any payment to an individual retirement plan described in section 7701(a)(37) by an employer after December 31, 1976, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee on whose behalf the payment is made will be entitled to a deduction for such payment under section 220(a).

(3) The term "wages" does not include any payment to a simplified employee pension arrangement described in section 408(k) by an employer after December 31, 1978, on behalf of an employee, if, at the time of such payment, it is reasonable for the employer to believe that the employee on whose behalf the payment is made will be entitled to a deduction for such payment under section 219(a).

PART 301—PROCEDURE AND ADMINISTRATION

§ 301.6693–1 Penalty for failure to provide reports and documents concerning individual retirement accounts or annuities.

(a) *In general*—(1) *Annual reports, etc.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a report or any other document required under section 408(i) and § 1.408–5 within the time and in the manner prescribed for furnishing or filing such item shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

(2) *Disclosure statements.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a disclosure statement, a governing instrument, an amendment to either, or any other document required under section 408(i) and § 1.408–6, within the time and in the manner prescribed for furnishing or filing such item, shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

(b) *Showing of reasonable cause.* The penalty imposed by section 6693 shall not apply to any person with respect to a failure to furnish or file a report, statement, or other document within the time and in the manner prescribed if it is established to the satisfaction of the district director that such failure was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by such person that it is made under the penalties of perjury and setting forth all the facts alleged to constitute reasonable cause.

(c) *Deficiency procedures not to apply.* The penalty imposed by section 6693 may be assessed and collected without regard to the deficiency procedures provided by subchapter B of chapter 63 of the Code.

(d) *Other penalties.* The penalties of section 6693 and this section are in lieu of any penalty imposed by section 6652(f) for violation of section 6047(d), with respect to any failure to furnish or file described in this section.

(e) *Effective date.* This section shall take effect on January 1, 1975.

[FR Doc. 80-34122 Filed 10-31-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 48

[T.D. 7729]

Excise Tax Treatment of Articles Sold Tax Free for Exportation Upon Their Subsequent Importation Into the United States

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final Manufacturers and Retailers Excise Tax Regulations relating to the excise tax treatment of articles previously sold tax free for exportation under section 4221(a)(2) of the Internal Revenue Code of 1954 upon their subsequent return to the United States. These regulations provide necessary guidance to importers of previously exported articles that are returned to the United States in an unused condition.

DATE: The regulations are effective December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kyllikki Kusma of the Legislation and Regulation Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention CC:LR:T:LR–13–80, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1980, the **Federal Register** published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4221(a)(2) of the Code. No written comments were received, and a public hearing was neither requested nor held. After further consideration, those amendments are adopted as revised by this Treasury decision.

Explanation of the Regulations

Section 48.4221–3 of the regulations is currently silent with respect to the excise tax treatment of articles that previously were sold tax free for exportation but which subsequently are imported to the United States in an unused and undamaged condition. These regulations provide that the importer of these articles is subject to the excise tax imposed by Chapter 32 of the Code on the subsequent sale or use of the imported article in the United States.

A change has been made in these regulations as proposed. The reference to a bus in example (2) at § 48.4221–3(a)(2) is inappropriate as bus chassis and bodies are now exempt from manufacturers excise taxes by reason of section 4063(a)(6) of the Code. Consequently, this example is amended by changing the subject of the example from a bus to a truck.

Drafting Information

The principal author of this regulation is Kyllikki Kusma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations:

Accordingly, the following amendments to the regulations (26 CFR Part 48) are hereby adopted as set forth below:

Paragraph 1. Section 48.4221–3(a) is redesignated as § 48.4221–3(a)(1) and a new § 48.4221–3(a)(2) is added to read as follows:

§ 48.4221–3 Tax-free sales of articles for export, or for resale by the purchaser to a second purchaser for export.

(a) *In general*—(1) * * *

(2) If an article, otherwise taxable under chapter 32 of the Code—

(i) Is sold tax free by the manufacturer pursuant to section 4221(a)(2) and this section, and

(ii) Is returned subsequently to the United States in an unused and undamaged condition,

then the importer is liable for the tax imposed by chapter 32 on the subsequent sale or use of the article in the United States. The provisions of this paragraph (a)(2) may be illustrated by the following examples:

Example (1). Q, a U.S. motor vehicle manufacturer, previously sold a truck chassis to R, a company in Canada. The sale was tax free under section 4221(a)(2). R mounted a truck body on the truck chassis and sold the completed vehicle to S. Thereafter S sold the completed new vehicle to T who imported the vehicle into the United States and sold it. The sale of the completed truck subjects T to an excise tax liability under section 4061(a)(1) with respect to both the body and the chassis.

Example (2). X, a U.S. manufacturer of trucks, sold a trash collection truck to Y, a company in France. The sale was tax free under section 4221(a)(2). The truck was sold by Y to the City of Nice, France. After initial use, the city determined that the truck was not suited for its needs and resold the truck to X. X returned the truck to the United States where it was resold. The resale of the truck by X does not subject X to an excise tax liability under section 4061(a)(1).

* * * * *

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 23, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-34124 Filed 10-31-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 5

Secrecy of Certain Inventions and Licenses To File Applications in Foreign Countries; Exports of Technical Data

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: This amendment of the rules of practice brings them into agreement with changes which the Office of Export Administration of the International Trade Administration, Department of Commerce, has made in its Export Administration Regulations. The Office of Export Administration has amended these regulations by adding the filing of patent applications in foreign countries to the list of exports which are not controlled by the Office of Export Administration. As amended, these regulations point out that exports of unclassified technical data in the form of patent applications, amendments and the like are governed by regulations issued by the Patent and Trademark Office. These changes in the Export Administration Regulations are intended to be reflected in this amendment of the Patent and Trademark Office's rules of practice.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Engle by telephone at (703) 557–2897 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: On July 30, 1980, the International Trade Administration of the Department of Commerce published in the **Federal Register** (45 FR 50556) its amendment of 15 CFR Parts 370 and 379. These amendments added the filing of patent applications in foreign countries to the list of exports which are not controlled

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by the Office of Export Administration. They point out that no validated export license from the Office of Export Administration is required for data contained in a patent application, or an amendment, modification, supplement or division thereof for filing in a foreign country in accordance with the regulations of the Patent and Trademark Office in 37 CFR Part 5. Section 5.19 of 37 CFR Part 5 is therefore being revised to delete the now-obsolete requirement for a validated export license and make clear that such a license is not required if the filing of a patent application in a foreign country is in accordance with Patent and Trademark Office regulations, 37 CFR 5.11–5.23.

This amendment of 37 CFR Part 5 has been reviewed pursuant to Executive Order 12044 and found to have no major economic consequences and therefore does not require a regulatory analysis.

Since the amendment imposes no burden on any person and is a clarification of an existing rule, notice and public procedures thereon are considered to be unnecessary.

Accordingly, pursuant to the authority contained in 35 U.S.C. 6, as amended and 35 U.S.C. 181–188, the rules of practice in 37 CFR Part 5, relating to licenses to file applications in foreign countries are amended as follows:

By revising § 5.19 to read:

§ 5.19 Export of technical data.

(a) Under regulations (15 CFR 370.10(j)) established by the U.S. Department of Commerce, International Trade Administration, Office of Export Administration, a validated export license is not required in any case to file a patent application or part thereof in a foreign country if the foreign filing is in accordance with the regulations (37 CFR 5.11–5.23) of the Patent and Trademark Office.

(b) A validated export license is not required for data contained in a patent application prepared wholly from foreign-origin technical data where such application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent and Trademark Office (15 CFR 379.3(c)).

(c) Inquiries concerning the export control regulations for the foreign filing of technical data other than patent applications should be made to the Office of Export Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230.

Dated: October 15, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Approval:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

Dated: October 28, 1980.

[FR Doc. 80-34082 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-16-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Service Records as Evidence of Service and Character of Discharge

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration has amended its regulation concerning service records as evidence of service. The need for this change results from a July 1, 1979 revision of DD Form 214, Certificate of Release or Discharge from Active Duty, by the Department of Defense. The original copy of the revised DD Form 214 no longer contains information as to character of service. Since this information is necessary to determine Veterans Administration benefit entitlement the original copy is no longer acceptable. In addition the regulation has been rewritten for clarity and to preclude acceptance of a document certified to by a notary public or a public record custodian without verification by the service department.

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: On pages 49297–98 of the **Federal Register** of July 24, 1980, the Veterans Administration published a proposed amendment to 38 CFR 3.203. Interested persons were given until August 22, 1980, to submit comments, suggestions, or objections to the proposed amendment of § 3.203. We received five comments.

Two commentators objected to the format of the new DD Form 214. This form is issued by the Department of Defense. Consequently, the Veterans Administration lacks authority to implement any suggested changes in it.

Two other commentators urged us to accept a copy of a Certificate of Discharge or DD Form 214 that had been issued by a public custodian of records (e.g. a county clerk) and certified by that official as being a correct copy of the document in his or her custody without verification from the service department. The problem here is that the custodian merely furnishes a copy of what was put on public record. There is no guarantee that the document that was recorded is genuine and free of alteration. The use of modern photocopy equipment can easily mask erasures or alterations on the document from which the copy was made.

We believe that to insure the integrity of our benefit programs the Veterans Administration should accept without verification from the service department only a Discharge Certificate or DD Form 214 that was furnished directly to the former service member. In those cases in which service records have been lost or destroyed the Veterans Administration will accept the best available evidence.

The fifth commentator suggested that a decisional document issued by a Discharge Review Board or Board for Correction of Military Records upgrading a discharge be used to establish character of service without waiting for a revised DD Form 214 to be issued. The revised wording of § 3.203 does not preclude such use and will so instruct our adjudicators.

The proposed amendment of § 3.203 is adopted without change.

Approved: October 28, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Adminstrator.

1. Section 3.203 is revised to read as follows:

§ 3.203 Service records as evidence of service and character of discharge.

(a) *Evidence submitted by a claimant.* For the purpose of establishing entitlement to pension, compensation, dependency and indemnity compensation or burial benefits the Veterans Administration may accept evidence of service submitted by a claimant (or sent directly to the Veterans Administration by the service department), such as a DD Form 214, Certificate of Release or Discharge from Active Duty, or original Certificate of Discharge, without verification from the appropriate service department if the evidence meets the following conditions:

(1) The evidence is a document issued by the service department. A copy of an original document is acceptable if the copy was issued by the service department; and

(2) The document contains needed information as to length, time and character of service; and

(3) In the opinion of the Veterans Administration the document is genuine and the information contained in it is accurate.

(b) *Additional requirements for pension claimants.* In addition to meeting the requirements of paragraph (a) of this section, a document submitted to establish a creditable period of wartime service for pension entitlement may be accepted without verification if the document (or other evidence of record) shows:

(1) Service of 4 months or more; or

(2) Discharge for disability incurred in line of duty; or

(3) Ninety days creditable service based on records from the service department such as hospitalization for 90 days for a line of duty disability.

(c) *Verification from the service department.* When the claimant does not submit evidence of service or the evidence submitted does not meet the requirements of paragraph (a) of this section (and paragraph (b) of this section in pension claims), the Veterans Administration shall request verification of service from the service department. If it appears that a length of service requirement may not be met (e.g., the 90 days wartime service requirement to receive pension under 38 U.S.C. 521(j)), the Veterans Administration shall request a complete statement of service to determine if there are any periods of active service that are required to be excluded under § 3.15.

2. In § 3.204, the heading is changed to read as follows:

§ 3.204 Evidence other than evidence of service.

* * * * *

§ 3.205 [Amended]

3. Section 3.205 is amended by deleting the words "widow, (or widower)," and adding the words "surviving spouse" in paragraph (a).

[FR Doc. 80-34148 Filed 10-31-80; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to the People's Republic of China

Correction

In FR Doc. 80–32300 appearing at page 68651 in the issue for Thursday, October 16, 1980, make the following corrections:

(1) On page 68652, in Table 8–16, *Custom Designed Service*, the entry for 7 pounds under Zone 4 now reading "47.41" should read "47.71".

(2) Also on page 68652, in Table 8–17, *On Demand Service*, the entry for 15 pounds under Zone 7 now reading "66.90" should read "63.90".

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 1648-6]

Approval and Promulgation of Implementation Plans; Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve a revision to the air quality standard attainment plan for the Commonwealth of Puerto Rico. This plan revision was prepared by the Commonwealth to meet the requirements of Part D ("Plan Requirements for Nonattainment Areas") of the Clean Air Act, as amended in 1977.

EFFECTIVE DATE: This action is effective on November 3, 1980. Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the Implementation Plan revision submitted by the Commonwealth of Puerto Rico and supplementary information are available for inspection at the following addresses:

Environmental Protection Agency, Region II, 26 Federal Plaza Room 908, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

Environmental Quality Board, 204 Del Parque Street, Santurce Puerto Rico 00910.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (202) 264–2517.

I. Supplemental Information

A. Background

Pursuant to the requirements of Section 107(d) of the Clean Air Act, on January 25, 1979 the Environmental Protection Agency (EPA) published in the **Federal Register** at 44 FR 5119 a designation of the attainment status with respect to each national ambient air quality standard for every area within the Commonwealth of Puerto Rico. These designations represented revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the **Federal Register** at 43 FR 8962. The reader is referred to the January 25, 1979 notice for a detailed description of the geographic areas covered by today's final rulemaking action. A general description is contained in the revisions to § 52.2723, "Attainment dates for national standards," promulgated at the end of today's notice.

Part D of the Clean Air Act requires that for each area designated as not meeting a national ambient air quality standard a State Implementation Plan (SIP) revision must be developed by the state and submitted to EPA by January 1, 1979. The SIP revision must provide for attainment of the contravened standard by December 31, 1982 or, for certain pollutants, no later than December 31, 1987. The required contents of such SIP revisions are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in **Federal Register** notices published on April 4, 1979 (44 FR 20372), July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

On June 29, 1979 the Governor of the Commonwealth of Puerto Rico formally adopted a SIP revision entitled, "Clean Air For Puerto Rico—1979." This document was intended to meet Clean Air Act requirements for the two areas of the Commonwealth designated as not meeting the national ambient air quality standard for particulate matter, the "Guayanilla Air Basin" and the "Catano Air Basin." A notice of availability of the proposed revision was published in the **Federal Register** on August 3, 1979 at 44 FR 45647. This revision was subsequently reviewed by EPA and discussed with the Puerto Rico Environmental Quality Board (EQB). As a result of these discussions, several changes to the proposed revision were undertaken by the Commonwealth prior to proposed rulemaking by EPA. A revised submission, including these changes was provided to EPA under

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cover of a letter dated October 30, 1979 and was the subject of a November 14, 1979 public hearing held in San Juan, Puerto Rico.

On March 26, 1980, EPA proposed action on the subject SIP revision and requested comment on its determinations with regard to the Commonwealth's fulfillment of the requirements for approval. This notice, published at 45 FR 19570, raised several issues (identified as "unfulfilled requirements"), which, based on EPA's review, required additional action by the Commonwealth. These issues, corrective actions and time frames, as well as the general contents of the submission and determinations arrived at by EPA, were identified in this **Federal Register** notice and, as stated, public comment was requested. No specific comments were received. However, general comments, addressed at national policy, were submitted by Covington and Burling, on behalf of the Manufacturing Chemists Association (letter dated July 5, 1979) and the Natural Resources Defense Council, Inc. (letter dated August 6, 1979). These comments are addressed in Section III, "Other Comments and Issues," of today's notice.

On July 24 and August 6, 1980, the EQB submitted additional information to EPA for inclusion in the Commonwealth's proposed SIP revision. This supplementary material, submitted in fulfillment of the conditions on approval proposed by EPA, is discussed in Section II, "Disposition of Proposed Conditions for Approval," of this notice.

The reader is referred to EPA's March 26, 1980 notice of proposed rulemaking for a detailed discussion of EPA's proposed conditions on approval. Based on its review of the supplemental information received, EPA is now taking final action to approve, unconditionally, the Puerto Rico plan revision. EPA finds that good cause exists for making this action immediately effective for the following reasons:

- Implementation plan revisions are already in effect under Commonwealth law and EPA approval imposes no additional regulatory burden.
- EPA has a responsibility under the Clean Air Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

B. Summary of SIP Contents

In summary, attainment of the primary and secondary national ambient air quality particulate matter standards is demonstrated in the revision document submitted by the Commonwealth as a result of expected emission reductions due to:

- New regulations for the control of emissions from agricultural burning, asphalt dryers, open burning, non-process industrial sources, and a program to offset emissions from new major source growth.
- Continued enforcement of existing Commonwealth rules and regulations.

II. DISPOSITION OF PROPOSED CONDITIONS FOR APPROVAL

In its July 24 and August 6, 1980 submittals of supplemental information, the Commonwealth provided documentation adequate to meet the three conditions on approval proposed by EPA. These conditions are identified below along with the pertinent supplemental information.

EPA finds that the Commonwealth's submittals adequately meet the requirements set forth as the required conditions. On this basis, EPA is not promulgating these requirements as conditions for approval of the SIP revision. EPA further finds that, for good cause, notice and comment on this action are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective actions were clearly identified, the submissions fully meet the proposed requirements, and no comment was received in response to the proposal.

Proposed Condition (1):

"On or before April 1, 1980, the Commonwealth must submit to EPA an acceptable revision to its regulatory definition of the term, "air pollution control equipment," as found in Rule 102, "Definitions." The phrase, "according to the Board," should be deleted or reworded so as to give EPA enforcement authority."

Supplemental Information: In its July 24, 1980, submittal, the Commonwealth submitted adopted enforceable regulations that contain a modification to the regulatory definition of the term "air pollution control equipment." This modified definition does not contain the phrase, "according to the Board."

Proposed Condition (2):

"On or before April 1, 1980, the Commonwealth must submit to EPA a commitment to submit external offsets as SIP revisions."

Supplemental Information: In its August 6, 1980 submittal the Commonwealth provided the necessary commitment to submit external offsets as SIP revisions. And, therefore, has insured the continued satisfaction of Part D requirements in this regard. The emission "offsets" will be required in accordance with the now adopted and enforceable regulation, Rule 201, "Location Approval."

Proposed Condition (3):

"On or before April 1, 1980, the Commonwealth must certify to EPA that its "Regulation for the Control of Atmospheric Pollution" has been adopted and is legally enforceable. EPA acceptance of this certification will be based on a determination that the air pollution control requirements contained therein have not been substantively changed from those submitted as a part of the plan revision. Correction of regulatory or other deficiencies discussed in this action shall not be considered "substantive changes." A copy of the adopted regulation must be submitted along with the Commonwealth's certification."

Supplemental Information: In its July 24, 1980 submittal, the Commonwealth provided certification to EPA that its "Regulation for the Control of Atmospheric Pollution" has been adopted and is legally enforceable. A copy of the adopted enforceable regulation was submitted along with the applicable Commonwealth certification. The adopted regulation submitted by the Commonwealth on July 24, 1980 contains no substantive change from the proposed regulation submitted on October 30, 1979.

III. OTHER COMMENTS AND ISSUES

A. General Comments

General comments addressed at national EPA policy and, therefore, applicable to all comprehensive SIP revisions prepared pursuant to Part D of the Clean Air Act were submitted by the Natural Resources Defense Council and the law firm of Covington and Burling on behalf of the Chemical Manufacturers Association. These comments and EPA's response to them are presented in a final rulemaking notice for New York State published on February 5, 1980 at 45 FR 7803.

B. Attainment Dates and Compliance Deadlines

Revisions to § 52.1682, "Attainment dates for national standards," which are promulgated at the end of today's notice, list the deadlines for attaining each national ambient air quality standard in the various areas of the Commonwealth of Puerto Rico. The version of this list appearing in the latest edition of the Code of Federal Regulations does not reflect the new deadlines provided for by Section 172(a) of the Clean Air Act, as amended in 1977. Today's notice updates this list where later dates were provided by the Commonwealth in its SIP revisions and where these later dates were approved by EPA.

However, sources subject to plan requirements and deadlines established prior to the 1977 Amendments to the Clean Air Act remain obligated to comply with those requirements as well as with the new Section 172 plan requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> "Section 110(a)(2) of the Act made clear that each source had to meet its emission limits 'as expeditiously as practicable' but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D." (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendment. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. Even when a new requirement is being added to a SIP, the existing requirement may not ordinarily be relaxed or revoked. The new requirement does not supersede or replace the old requirement. Instead the existing requirement must remain an enforceable provision of the SIP, and must co-exist with the new requirement in the applicable implementation plan. The present emission control requirement must be retained because the source must be prevented from operating without controls (or with less stringent controls) while it is moving toward compliance with (or challenging) the new requirement.

There are some exceptions, however. A State may submit a relaxation or revocation of an existing requirement (or, for an existing requirement promulgated by EPA, have EPA relax or revoke it) if the requirement is in one or more of the following categories:

—Any existing requirement that conflicts with a new, more stringent requirement, making it highly impractical for a source to comply with the old requirement. Any exemption granted must be drawn as narrowly as possible, on a case-by-case basis, and will be acted upon by EPA as a SIP revision.

—Any federally promulgated indirect source review program and any bridge toll requirement revocable under Section 110(c)(5)(A) of the Act.

—Any existing inspection/maintenance or transportation control measure to the extent the measure is demonstrated not to be reasonably available, if the revised SIP satisfies all Part D requirements.

—Any new requirement in a 1979 SIP submittal designed for the 0.08 ozone level as long as the control measures in the revised SIP satisfy all requirements for the 0.12 level.

A relaxation or revocation is also permissible if it will not contribute to concentrations of pollution where there is a violation of an ambient air quality standard or of a Prevention of Significant Deterioration increment. Where relaxation of a requirement is allowed, but where the deadline for compliance is not relaxed, the new requirement must call for compliance no later than the existing deadline for compliance so that there is no gap in enforceability.

C. Other Issues

It should be noted that the Commonwealth, in implementing the necessary regulatory revisions to its plan, provided a recodified version of its air pollution control regulations. Any revisions of substance to these regulations have been discussed in today's notice as well as in EPA's March 26, 1980 notice of proposed rulemaking. However, both the previously approved regulations and those on which action is being taken today contain a number of "discretionary authority" provisions. The most obvious example of this is the authority for modification of maximum fuel oil sulfur content pursuant to Rule 209, "Modification of Allowed Percentage of Sulfur in Fuels," and Rule 410, "Maximum Sulfur Content in Fuels."

EPA is approving, as part of the applicable implementation plan, the Commonwealth's "Regulation for the Control of Air Pollution" to the extent it contains emission limitations, compliance schedules, sampling or testing methods or such other measures as may be necessary to insure the attainment and maintenance of national standards. Any exercise by the EQB of its "discretionary authority" under the provisions of the regulation which serves to vary, alter or modify these applicable plan requirements must be submitted to and approved by EPA as plan revisions. Such variances, granted by EQB under its "discretionary authority," which are not submitted to and approved by EPA as plan revisions do not alter the applicable implementation plan (Clean Air Act Section 110(d); 40 CFR 51.34 and 51.6) and will not be recognized by EPA in carrying out its authority to enforce the applicable plan. In order to prevent any misunderstanding of this requirement, EPA is promulgating today a new § 52.2732, "Control strategy and regulations: General," which serves to clearly enunciate this requirement with regard to the Commonwealth's implementation plan. The regulation being promulgated today is not a substantive one. Because it merely interprets and clarifies, but doe not alter, existing regulatory requirements, prior notice and opportunity for comment are unnecessary (5 U.S.C. Section 553(b)(A)).

Provisions of the "Regulation for Control of Air Pollution" which are subject to this interpretation include, but are not limited to, the following:

—Rule 105, "Malfunction;"
—Rule 106, "Test Methods;"
—Rule 204(C), "Temporary permit to operate;"
—Rule 205, "Compliance for Existing Sources;"
—Rule 204, "Permits to operate;"
—Rule 208, "Agricultural Burning Authorized;"
—Rule 209, "Modification of Allowed Percentage of Sulfur in Fuels;"
—Part III, "Variances;"
—Rule 409, "Non-Process Sources;"
—Rule 410, "Maximum Sulfur Content of Fuel;"
—Rule 411, "Hydrogen Sulfide;"
—Rule 417, "Storage of Volatile Organic Compounds;"
—Rule 419, "Organic Solvents."

A further discussion of the manner in which the new § 52.2732 applies to sulfur-in-fuel assignments under provisions of Rules 209 and 410 is required. First, it should be noted that by approving the plan revisions addressed by today's notice, which do not include any identified changes in EPA-approved (September 11, 1975, at 40 FR 42191) sulfur-in-fuel "assignments" for existing sources, EPA is not

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approving any subsequent EQB-issued, but not EPA-approved, "reassignments." Thus, the sulfur-in-fuel "assignments" to specific sources, as approved by EPA, continue as enforceable implementation plan requirements. Any changes to these EPA-approved "assignments" or any subsequent "assignments" to sources in existence prior to September 11, 1975 must be submitted to and approved by EPA as SIP revisions. Nevertheless, under the procedures established in Rules 209 and 410, EQB continues its independent authority to establish fuel sulfur content limitations, in the context of its "new source review program," for sources upon which construction commenced on or after September 11, 1975. The limits for such sources, implemented by EQB in accordance with procedures approved by EPA pursuant to provisions of 40 CFR 51.18, "Review of new sources and modifications," become a part of the plan without need for EPA review and approval and are federally enforceable.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Puerto, Rico was approved by the Director of the Federal Register on July 1, 1980.

Dated: October 23, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Code of Federal Regulations is amended as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 paragraph (c) is amended by adding new paragraphs (c)(26) and (c)(27) as follows:

§52.2720 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the date specified.

* * * * *

(26) A document entitled, "Clean Air for Puerto Rico," submitted, pursuant to requirements of Part D of the Clean Air Act, on June 29, 1979 by the Governor of the Commonwealth of Puerto Rico.

(27) Supplementary submittals of SIP revision material from the Puerto Rico Environmental Quality Board, dated:

(i) October 30, 1979, containing policy statements of EQB with regard to: its objective to attain both the primary and secondary particulate matter air quality standards by December 31, 1982, assurances with regard to meeting the requirements of reasonable further progress, verification of the detail of its annual reporting effort, clarification of the operation of its offset program and correction of the related inventory and graphical presentations.

(ii) July 24, 1980, providing a comprehensive set of adopted regulations, entitled "Regulation for the Control of Atmospheric Pollution."

(iii) August 6, 1980, providing a commitment to submit "external offsets" as SIP revisions.

2. Section 52.2722 is revised to read as follows:

§ 52.2722 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Puerto Rico's plans for the attainment and maintenance of national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title I, of the Clean Air Act, as amended in 1977.

3. Section 52.2723 is revised to read as follows:

§ 52.2723 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information contained in the Puerto Rico plan. Further information on the specific boundaries of the "nonattainment," "unclassifiable," and "attainment" areas is found in § 81.355 of this Chapter.

Air quality control region and nonattainment area	Pollutant						
	TPS		SO_2		NO	CO	O_3
	Primary	Secondary	Primary	Secondary			
Catano air basin	b	b	a	a	a	a	a
Guayanilla air basin	a	b	a	a	a	a	a
Remainder of Puerto Rico AQCR	a	a	a	a	a	a	a

NOTE 1.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out in the 1978 edition of the *Code of Federal Regulations* at 40 CFR Part 52, § 52.2723.

a. Air quality levels presently attain standards or area is unclassifiable.
b. December 31, 1982.

4. Subpart BBB is amended by adding a new § 52.2732 as follows:

§ 52.2732 Control strategy and regulations: General.

Commonwealth regulations codified as the "Regulation for the Control of Atmospheric Pollution," as submitted July 24, 1980, are approved to the extent they set forth emission limitations, compliance schedules, sampling or testing methods or such other measures necessary to insure the attainment and maintenance of national ambient air quality standards. The air pollution control agency of the Commonwealth of Puerto Rico is authorized, under provisions of this regulation, to exercise its "discretionary authority" in certain circumstances. Any exercise of such discretionary authority by the air pollution control agency of the Commonwealth of Puerto Rico which serves to vary, defer, alter, or modify any limitation, schedule, method or other measure contained in the approved regulations will not revise the applicable implementation plan until the action has been submitted to and approved by EPA as a revision to the implementation plan. This is in accordance with the requirement of 40 CFR 51.6 and 51.34.

[FR Doc. 80-34071 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5941]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A.95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Massachusetts	Essex	Groveland, town of	250083C	Oct. 1, 1980, suspension withdrawn	June 28, 1974 and Nov. 1, 1977.
Ohio	Hamilton	Springdale, city of	390877—New	Oct. 1, 1980, emergency	
Missouri	McDonald	Anderson, city of	290217A	do	May 17, 1974 and Dec. 26, 1975.
Illinois	McHenry	Sunrise Ridge, village of	170976A	Oct. 2, 1980, emergency	July 6, 1979.
Texas	Carson	Groom, city of	480726	do	Dec. 3, 1976.
Michigan	Genesee	Clayton, township of	260663B	Oct. 2, 1980, emergency, Oct. 2, 1980, regular.	Nov. 11, 1977 and Aug. 1, 1980.
Illinois	St. Clair	Fairmont, village of	170627	July 29, 1975, emergency, Mar. 28, 1980, regular, Mar. 28, 1980, suspended, Oct. 2, 1980, reinstated.	Oct. 8, 1976 and Mar. 28, 1980.
California	San Joaquin	Unincorporated areas	060299A	Feb. 23, 1973, emergency, May 15, 1980, regular, July 2, 1980, suspended, Oct. 3, 1980, reinstated.	
Pennsylvania	Allegheny	Blawnox, borough of	420013B	Nov. 1, 1974, emergency, Sept. 3, 1980, regular, Sept. 3, 1980, suspended, Oct. 9, 1980, reinstated.	June 14, 1974 and May 7, 1976.
Do	do	Harmar, township of	421068B	June 3, 1974, emergency, July 2, 1980, regular, July 2, 1980, suspended, Oct. 8, 1980, reinstated.	Sept. 6, 1974 and July 30, 1976.
Maine	Oxford	Denmark, town of	230476A	May 7, 1976, emergency, July 2, 1980, regular, July 2, 1980, suspended, Oct. 15, 1980, reinstated.	Dec. 24, 1976.
Connecticut	Fairfield	Bridgeport, city of	090002B	Oct. 15, 1980, suspension withdrawn	Sept. 13, 1974 and Feb. 11, 1977.
Kansas	Shawnee	Silver Lake, city of	200335B	do	May 31, 1974 and Oct. 24, 1975.
Do	do	Willard, city of	200337B	do	Aug. 16, 1974 and June 18, 1976.
Kentucky	Campbell	Silver Grove, city of	210040A	do	Feb. 1, 1974.
Do	do	Wilder, city of	210041B	do	Feb. 15, 1974 and May 7, 1976.
Maine	Aroostook	Washburn, town of	230037A	do	Aug. 20, 1976.
Maryland	Caroline	Unincorporated areas	240130B	do	Apr. 4, 1975 and Jan. 6, 1978.
Massachusetts	Middlesex	Carlisle, town of	250187B	do	Aug. 16, 1974 and Dec. 10, 1976.
Michigan	Kent	Ada, township of	260248B	do	Nov. 22,1974 and Feb. 6, 1976.
Minnesota	Lesueur	Unincorporated areas	270246A	do	
Missouri	St. Louis	Breckenridge Hills, village of	290337B	do	Dec. 7, 1973 and July 30, 1976.
Do	do	Overland, city of	290375B	do	Jan. 23, 1974 and June 4, 1976.
North Dakota	Cass	Harwood, township of	380259A	do	
Ohio	Montgomery	Kettering, city of	390412B	do	May 31, 1974 and June 25, 1976
Pennsylvania	Westmoreland	Ligonier, borough of	422180B	do	Apr. 12, 1974 and May 14, 1976.
Do	Susquehanna	Oakland, township of	422581A	do	Dec. 27, 1974.
Do	do	Susquehanna Depot, borough of	420816B	do	June 21, 1974 and June 4, 1976.
Do	Lycoming	Watson, township of	420661B	do	Aug. 9, 1974 and Oct. 10, 1975.
Vermont	Franklin	Richford, town of	500218B	do	Mar. 15, 1974 and Oct. 22, 1976.
Virgin Islands		Commonwealth of the Virgin Islands.	780000B	do	Feb. 25, 1977.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 20, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-33786 Filed 10-31-80; 8:45 am]

BILLING CODE 6718-03-M

V 45 / 214 NOV 3 1980 UMI

44 CFR Part 64

[Docket No. FEMA 5939]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Massachusetts	Essex County	Groveland, town of	250083	750619 emerg., 801001 reg	740628
Michigan	Genesee County	Clayton, township of	260663	801002 emerg., 801002 reg	771111
Alabama	Jefferson County	Adamsville, city of	010267	760223 emerg., 801010 reg	750117
North Dakota	McHenry County	Anamoose, city of	380154	770812 emerg., 801014 reg	750117
Connecticut	Fairfield County	Bridgeport, city of	090002	730807 emerg., 801015 reg	740913
Illinois	Du Page County	Bolingbrook, village of	170812	740628 emerg., 801015 reg	740412
Kansas	Shawnee County	Silver Lake, city of	200335	741226 emerg., 801015 reg	740531
Kansas	Shawnee County	Willard, city of	200337	750825 emerg., 801015 reg	740816
Kentucky	Campbell County	Silver Grove, city of	210040	741015 emerg., 801015 reg	740201
Kentucky	Campbell County	Wilder, city of	210041	741024 emerg., 801015 reg	740215
Maine	Kennebec County	Manchester, town of	230239	750530 emerg., 801015 reg	741206
Maine	Aroostook County	Presque Isle, city of	230032	741202 emerg., 801015 reg	740222
Maine	Aroostook County	Washburn, town of	230037	750623 emerg., 801015 reg	760820
Maryland	Caroline County	Unincorporated areas	240130	740618 emerg., 801015 reg	750404
Massachusetts	Middlesex County	Carlisle, town of	250187	760113 emerg., 801015 reg	740816
Michigan	Kent County	Ada, township of	260248	730904 emerg., 801015 reg	741122
Michigan	Muskegon County	Whitehall, city of	260166	750513 emerg., 801015 reg	740823
Minnesota	Le Suer County	Unincorporated areas	270246	730323 emerg., 801015 reg	0
Missouri	St. Louis County	Breckenridge Hills, village of	290337	750718 emerg., 801015 reg	731207
Missouri	St. Louis County	Manchester, city of	290366	750903 emerg., 801015 reg	731217
Missouri	St. Louis County	Overland, city of	290375	740522 emerg., 801015 reg	740123
North Dakota	Cass County	Harwood, township of	380259	780323 emerg., 801015 reg	0
North Dakota	Cass County	Reed, township of	380257	771227 emerg., 801015 reg	0
Ohio	Montgomery County	Kettering, city of	390412	731212 emerg., 801015 reg	740531
Pennsylvania	Lycoming County	Watson, township of	420661	730510 emerg., 801015 reg	740809
Oregon	Lincoln County	Depoe Bay, city of	410263	790111 emerg., 801015 reg	790612
Oregon	Multnomah County	Portland, city of	410183	720519 emerg., 801015 reg	750110
Pennsylvania	Susquehanna County	Lenesboro, borough of	420813	750417 emerg., 801015 reg	741220
Pennsylvania	Westmoreland County	Ligonier, borough of	422160	750430 emerg., 801015 reg	740412
Pennsylvania	Lancaster County	Lititz, borough of	420554	721006 emerg., 801015 reg	740308
Pennsylvania	Susquehanna County	Oakland, township of	422581	751113 emerg., 801015 reg	741227
Pennsylvania	Susquehanna County	Susquehanna Depot, borough of	420816	750401 emerg., 801015 reg	740821
Vermont	Franklin County	Richford, town of	500218	760922 emerg., 801015 reg	740802
Virgin Islands		Virgin Islands, Commonwealth of	780000	751006 emerg., 801015 reg	770225
West Virginia	Jefferson County	Unincorporated areas	540065	751215 emerg., 801015 reg	741220

Total is: 35.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: October 20, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-33797 Filed 10-31-80; 8:45]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5943]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Illinois	St. Clair	Belleville, city of	170618A	July 5, 1973, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	May 3, 1974 Sept. 24, 1976	Nov. 19, 1980.
Do	Cook	Chicago Ridge, village of	170076A	June 28, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Mar. 22, 1974	Do.
Do	McHenry	McHenry, city of	170483B	Jan. 17, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Mar. 29, 1974 Sept. 24, 1976 Feb. 24, 1978	Do.
Do	Cook	Streamwood, village of	170166B	Apr. 14, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Apr. 12, 1974 May 12, 1978	Do.
Do	Winnebago	Unincorporated area	170720A	Feb. 16, 1973, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Jan. 10, 1975 Apr. 1, 1977	Do.
Do	Cook	Winnetka, village of	170176A	July 25, 1973, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Nov. 9, 1973 Jul. 16, 1976	Do.
Kentucky	Harlan	Evarts, city of	210101A	Mar. 5, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	May 17, 1974 Feb. 27, 1976	Do.
Do	Lawrence	Louisa, city of	210241A	Aug. 8, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Feb. 8, 1974 Oct. 29, 1976	Do.
Louisiana	St. Tammany	Covington, city of	220200A	Apr. 8, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Dec. 28, 1973 Dec. 12, 1975	Do.
Minnesota	Wabasha	Hammond, city of	270485B	Sept. 18, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Aug. 2, 1974 Sept. 10, 1976 Mar. 9, 1979	Do.
Montana	Gallatin	Three Forks, town of	300029A	Aug. 1, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Mar. 29, 1974 Sept. 26, 1975	Do.

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State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
New Jersey	Bergen	Washington, township of	340080	Sept. 17, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Nov. 5, 1976	Do.
New York	Erie	Akron, village of	361553A	May 2, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	May 31, 1974 Sept. 19, 1975	Do.
Do	do	Newstead, town of	360251B	July 18, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Aug. 20, 1976 Apr. 12, 1974 Apr. 22, 1977	Do.
Ohio	Greene	Fairborn, city of	390195A	June 19, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Mar. 15, 1974	Do.
Oklahoma	Osage	Hominy, city of	400151A	Apr. 16, 1976, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Dec. 28, 1973 Jan. 9, 1976	Do.
Pennsylvania	Berks	Bern, township of	421060	Mar. 25, 1974, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended.	Dec. 6, 1974	Do.
Do	Northumberland	Delaware, township of	421010A	Nov. 9, 1973, emergency, Nov. 19, 1980, regular, Nov. 19 1980, suspended.	Aug. 5, 1977	Do.
Do	York	East Manchester, township of	420921A	June 6, 1973, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Jan. 28, 1977 Oct. 19, 1973	Do.
Do	Allegheny	Leetsdale, borough of	420047A	Apr. 23, 1974, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Apr. 21, 1974 May 7, 1976	Do.
Do	do	Turtle, borough of	420079A	Aug. 6 1975, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Feb. 1, 1974 May 28, 1976	Do.
Do	Lancaster	Warwick, township of	421786A	July 2, 1975 emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	June 18, 1976	Do.
South Carolina	Richland	Arcadia Lakes, town of	450171B	May 27, 1975 emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Aug. 2, 1974 June 4, 1976 Oct. 22, 1976	Do.
Texas	Dallas	Irving, city of	480180	June 19, 1970, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	June 17, 1970	Do.
Do	Hays	San Marcos, city of	485505A	Oct. 9, 1970, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Aug. 28, 1971 July 1, 1974 Nov. 5, 1976	Do.
Virginia	Stafford	Unincorporated area	510154	Apr. 9, 1974, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	June 9, 1978	Do.
Washington	Lewis	Toledo city of	530303	Feb. 22, 1977, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	July 11, 1975	Do.
Wisconsin	Dove and Green	Belleville, village of	550159A	July 15, 1975, emergency, Nov. 19 1980, regular, Nov. 19, 1980 suspended.	Apr. 16, 1976	Do

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority of Federal Insurance Administrator)

Issued: October 22, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-33795 Filed 10-31-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-72; RM-3390]

Radio Broadcast Services, TV Broadcast Station in El Paso, Tex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein deletes the noncommercial educational reservation on VHF television Channel 7 in El Paso, Texas, reserves VHF television Channel 13 for noncommercial educational use, and modifies the licenses to specify the new channels accordingly. Action is in response to a joint petition filed by El Paso Public Television Foundation, licensee of noncommercial educational television Station KVOS-TV, Channel 7, El Paso and Marsh Media of El Paso, licensee of commercial television Station KVIA-TV, Channel 13.

DATE: Effective December 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (El Paso, Texas).

REPORT AND ORDER

(Proceeding Terminated)

Adopted: October 21, 1980.

Released: October 28, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it a *Notice of Proposed Rule Making*, 45 FR 13152, published February 28, 1980, proposing an exchange in the reservation for television channel assignments 7 and 13 in El Paso, Texas. The proposal was adopted in response to a joint petition filed by El Paso Public Television Foundation ("EPTV"), licensee of Station KCOS (TV), (Channel 7) and Marsh Media of El Paso, licensee of Station KVIA (TV) (Channel 13).

2. The *Notice* proposed to reserve VHF-TV Channel 13 for noncommercial educational use and delete the reservation of Channel 7. If no other interest was expressed in either channel, it also proposed to modify the respective licenses to specify the appropriate channels (Station KCOS (TV) would operate on Channel 13 and Station KVIA-TV on Channel 7) in El Paso. In offering the proposal for comments, the Commission expressed the view that the proposal could give KCOS-TV needed financial assistance which it plans to use to improve its programming, thereby offering substantial public benefit.

3. El Paso (population 322,261),[1] seat of El Paso County (population 359,291) is located in the extreme western part of Texas, on the Mexican border. It is served locally by four commercial and one educational television stations: KDBC-TV, Channel 4; KTSM-TV, Channel 9; KVIA-TV, Channel 13; KCIK(TV), Channel 14; and KCOS-TV, Channel 7, respectively.

4. Petitioners again urged the Commission to adopt their proposal citing what they see as substantial public interest benefits that would result in their proposal to exchange channel assignments. However, they did not agree with the *Cheyenne* policy [2] which gives other interested parties an opportunity to express an interest in a new channel assignment and thereby foreclose the modification of license. They argue that except for the exchange in reservations for the channel, the proposal amounts to no more than an assignment of license which is not subject to competing interests.

5. Based on our review of the allocation situation, it is clear that substantial public benefits can result from the proposed exchange of channels. The El Paso educational station can considerably improve its programming by the use of financial benefits in excess of $250,000 under the terms of the exchange agreement. Since no interest was expressed in the use of either channel, we shall proceed to modify the licenses. Thus, we have not addressed the Cheyenne issue of how the modifications would have been affected should an interest have been expressed.

6. Accordingly, It is ordered, That pursuant to authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, the Television Table of Assignments (§ 73.606(b) of the Rules) Is amended, effective December 22, 1980, with respect to the following community:

City	Channel No.
El Paso, Tex	4, 7, 9, *13, 14, 26+, *38-

7. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding license of El Paso Public Television Foundation for Station KCOS(TV) is modified, effective December 22, 1980, to specify operation on VHF TV Channel *13 instead of VHF Channel 7. The licensee shall inform the Commission in writing by no later than December 22, 1980, of its acceptance of this modification. Station KCOS(TV) may continue to operate on Channel 7 for one year from the effective date of this action or until it is ready to operate on Channel *13, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided.

(a) At least 30 days before commencing operation on Channel *13, the licensee of Station KCOS(TV) shall submit to the Commission the technical information normally required of an applicant for the channel.

(b) At least 10 days prior to commencing operation on Channel *13, the licensee of Station KCOS(TV) shall submit the measurement data required of an applicant for broadcast station license; and

(c) The licensee of Station KCOS(TV) shall not commence operation on Channel *13 without prior Commission authorization.

8. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding license of Marsh Media of El Paso for Station KVIA-TV, is modified, effective December 22, 1980, to specify operation on VHF TV Channel instead of Channel *13. The licensee shall inform the Commission in writing no later than December 22, 1980, of its acceptance of this modification. Station KVIA-TV may continue to operate on Channel *13 for one year from the effective date of this action or until it is ready to operate on Channel 7, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided.

(a) At least 30 days before commencing operation on Channel 7, the licensee of Station KVIA-TV shall submit to the Commission the technical information normally required of an applicant for the channel.

(b) At least 10 days prior to commencing operation on Channel 7, the licensee of Station KVIA-TV shall submit the measurement data required of an applicant for broadcast station license; and

(c) The licensee of Station KVIA-TV shall not commence operation on Channel 7 without prior Commission authorization.

9. It is futher ordered, That copies of this *Report and Order* shall be mailed by certified mail, return receipt requested, to El Paso Public Television Foundation, licensee of Station KCOS(TV), Post Office Box 146, El Paso, Texas 79942 and to Marsh Media of El Paso, licensee of Station KVIA-TV, Post Office Box 12277, El Paso, Texas 79912.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[1] Population figures are from the 1970 U.S. Census.
[2] 62 FCC 2d 63 (1976).

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Federal Communications Commission.
Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-34063 Filed 10-31-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[Docket No. RAR-2, Notice No. 5]

Railroad Accidents/Incidents: Reports, Classification, and Investigations; Biennial Adjustment of Reporting Threshold

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to require railroads to report to FRA only those accidents/incidents that result in damages of more than $3,700. The effect of the rule is to increase the reporting threshold from $2,900 to $3,700 for railroad accidents/incidents that occur during the calendar years 1981 and 1982. This action is needed to ensure that the reporting requirements reflect increases in the cost of labor and materials since the reporting threshold was last computed in 1978.

EFFECTIVE DATE: This rule becomes effective on January 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Frank V. Fanelli, Reports Division, Office of Planning and Analysis, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, DC 20590, phone (202) 426-2762.

Principal Attorney: Edward F. Conway, Jr., Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, DC 20590, phone (202) 426-8836.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 1974, FRA published in the **Federal Register** (39 FR 25956) proposed amendments to Part 225 (49 CFR Part 225). Proposed § 225.19 provided that highway grade crossing and rail equipment incidents would have to be reported to FRA if they result in more than $1,750 in damages. That section further proposed a periodic review and possible adjustment to the $1,750 reporting threshold.

FRA issued the amendment based on the NPRM on December 9, 1974 (39 FR 43222). The amendment reflected a number of changes made by FRA in response to comments received. With respect to the proposed $1,750 reporting threshold, FRA stated the following: "As suggested by several commenters, the $1,750 reporting threshold will be adjusted, as necessary, in increments of $100.00 every two years." Section 225.19(c) of the amendment provided that the adjustments would be made in accordance with the procedures outlined in Appendix A of Part 225.

FRA issued amendments on November 10, 1976 and November 2, 1978, increasing the reporting threshold to $2,300 and $2,900, respectively. (41 FR 50690 and 43 FR 51020). These adjustments to the reporting threshold reflected increases in the costs of labor and materials during each preceding two-year period.

New Reporting Threshold

Because two years have passed since the accident/incident reporting threshold was last revised, FRA has recomputed the threshold, as required by § 225.19(c), based on increased costs of labor and materials. As a result of this computation, FRA has determined that the current reporting threshold of $2,900 should be increased to $3,700. Accordingly, §§ 225.5 and 225.19 are being amended to require railroads to report rail-highway grade crossing accidents/incidents and rail equipment accidents/incidents resulting in more than $3,700 in damages. In addition, Appendix A has been amended to reflect the most recent calculations and the procedure used to determine the reporting threshold.

Economic Impact

FRA has evaluated this amendment in accordance with Executive Order 12044 (43 FR 12661) and the Department of Transportation's policies for the evaluation of regulatory impacts (44 FR 11034). FRA has concluded that this amendment will have no measurable impact since it merely adjusts the accident/incident reporting threshold in accordance with current provisions of § 225.19(c) (49 CFR 225.19(c)) and does not impose any additional requirements on any person. FRA has also evaluated the impact of this action on the environment and on small business and has concluded that there is no measurable impact.

Notice and Public Procedure

Since this amendment merely adjusts the reporting threshold for accidents/incidents in accordance with 49 CFR 225.19(c) and imposes no additional burden on any person, FRA concludes that notice and public procedure are not necessary.

The Final Rule

Accordingly, Part 225 (49 CFR Part 225) is amended effective January 1, 1981, as follows:

1. By amending § 225.5 by revising paragraph (b)(2) to read as follows:

§ 225.5 Definitions.

As used in this part—

* * * * *

(b) "Accident/Incident" means:

* * * * *

(2) Any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in more than $3,700 in damages to railroad on-track equipment, signals, track, track structures, and roadbed;

* * * * *

2. By amending § 225.19 by revising the second sentence of paragraph (b) and the first, third, and fifth sentences of paragraph (c) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(b) *Group I—Rail—Highway Grade Crossing.* * * * In addition, whenever a rail-highway grade crossing accident/incident results in more than $3,700 damages to railroad on-track equipment, signals, track, track structures, or roadbed, that accident/incident must be reported to the FRA on Form FRA F 6180.54. * * *

(c) *Group II—Rail Equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment (standing or moving) that result in more than $3,700 in damages to railroad on-track equipment, signals, track, track structures, or roadbed, including labor costs and all other costs for repair or replacement in kind. * * * If the property of more than one railroad is involved in an accident/incident, the $3,700 threshold is calculated by including the damages suffered by all of the railroads involved. * * * The $3,700 reporting threshold will be reviewed periodically and will be adjusted in increments of $100 every two years in accordance with the procedures outlined in Appendix A of this part.

* * * * *

3. By revising Appendix A to read as follows:

Appendix A—Procedure for Determining Reporting Threshold

(1) Wage figures used for track direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group of Employees," for Group III Maintenance of Way Structures Employees. This information appears in the most recent annual edition (year 1979) of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class I Railroads in the United States."

(2) Wage figures used for mechanical direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group Employees" for Group IV Maintenance of Equipment and Stores Employees. This information appears in the most recent annual edition (year 1979) of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class I Railroads in the United States."

(3) Fringe benefit surcharges will be added to the average straight time rates for mechanical and track employees based on an agreement between the Federal Highway Administration and the Association of American Railroads. This agreement is contained in the Federal Highway Administration's Policy and Procedure Memorandum 30-3 entitled "Reimbursement for Railroad Work" (April 28, 1975, as amended on June 30, 1978.)

(4) To calculate the index number for mechanical labor, divide the present (1980) mechanical wage rate of $12.75 by the previous (1978) mechanical wage rate $10.13. The result is a mechanical labor index number 1.26 for 1980.

(5) The track labor index number is calculated by dividing the present (1980) track wage rate $11.83 by the previous (1978) track wage rate of $9.29. The result is a track labor index number 1.27 for 1980.

(6) Calculation of the labor index number is as follows: (track labor index number) 1.27 × .20 + (mechanical labor index number) 1.26 × .80 = labor index number of 1.26.

(7) The mechanical material index number is calculated by first totaling the present (1980) cost of the following mechanical materials:

Quantity and description	1978	1980
8—33" CS wheels	$1,624	$2,176
8—6 x 11 in. roller bearings	1,000	1,240
4—Roller bearing axles	1,200	1,968
4—6 x 11" Roller bearing truck sides (750 lbs.)	2,736	3,308
2—6 x 11" truck bolsters (1,060 lbs.)	1,978	2,456
2—E couplers	396	706
4—Brake beams	276	324
1—AB cylinder	96	96
1—AB reservoir	196	249
1—AB control valve	794	1,010
500—Steel bar (lbs.)	270	345
1,000—Steel sheets	540	690
1,000—Steel plates	540	690
8—Brake shoes	48	56
8—Roller bearing adapters	152	168
24—Outer coil springs	240	264
800—Board feet hardwood lumber	728	296
1—Traction Motor	19,900	25,250
60—1¼" brake pipe (feet)	97	61
1—Hand brake	158	197
Total mechanical material	32,969	41,550

The mechanical material index number is determined by dividing present (1980) total cost for these mechanical materials ($41,550) by the previous (1978) total cost for mechanical materials ($32,969). The result is 1.26.

(8) The track material index number is calculated by first totaling the present (1980) cost of the following track materials:

Quantity and description	1978	1980
4,500—Ties, wooden	$54,270	$77,940
250 ton—Rail	83,322	104,707
90 ton—Tie plates	32,048	41,685
27,000—Spikes (5.8 tons)	2,976	3,856
800—Joint bars (25.4 tons)	12,358	19,479
2,000—Track bolts	782	995
1—Frog	2,848	3,860
1—Switch	2,586	3,504
Total mechanical material	191,190	256,026

The track material index number is determined by dividing the present (1980) total cost for these track materials ($256,026) by the previous (1978) total cost for track materials ($191,190). The result is 1.34.

(9) Calculation of the material index number is as follows: (track material index number) 1.34 × .20 + (mechanical material index number) 1.26 × .80 = material index number of 1.28

(10) Calculation of the threshold index number is as follows: (labor index number) 1.26 × .40 + (material index number) 1.28 × .60 = threshold index number of 1.27.

(11) In order to calculate the new reporting threshold, multiply the existing reporting threshold ($2,900 by the threshold index number of 1.27. The result is $3,683. The result, when rounded to the nearest $100.00, is the new accident/incident reporting threshold figure of $3,700.

(Sec. 20, Interstate Commerce Act, as amended (49 U.S.C. 20); Secs. 1 and 6, Accident Reports Act (45 U.S.C. 38 and 42); Secs. 202 and 208, Federal Railroad Safety Act, as amended (45 U.S.C. 431 and 437); Sec. 6(e) and (f), Department of Transportation Act (49 U.S.C. 1655(e) and (f)); Sec. 1.49(h) and (n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49 (h) and (n))

Issued in Washington, DC on October 20, 1980.

John M. Sullivan,
Administrator.

[FR Doc. 80-34149 Filed 10-31-80; 8:45 am]
BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1031A

[Ex Parte No. 389]

Procedures for Requesting Rail Variable Cost and Revenue Determinations for Joint Rates Subject to Surcharge or Cancellation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: This rulemaking is to determine the most efficient procedure for obtaining information from rail carriers which will permit the Commission to discharge its functions pursuant to Section 217 of the Staggers Rail Act of 1980. Further, the interim rules shall apply to all rail carriers, subject to the jurisdiction of the Commission under subchapter 1 of Chapter 105 of Title 49, on an interim basis effective upon publication of this notice in the **Federal Register**, until such time as a final rule is adopted.

DATES: Effective November 3, 1980 on an interim basis. Written representations should be filed with the Commission on or before December 18, 1980.

ADDRESSES: All written submissions shall be sent to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Section 217 of the Staggers Rail Act of 1980 establishes a new provision, 49 U.S.C. 10705a(h), which provides that within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or cancelling the application of the joint rate.

The Commission is concurrently releasing a Notice to the Public (published elsewhere in this issue), detailing procedures to be followed by participating carriers, shippers, and ports for requesting cost and revenue determinations under Section 10705a(h). Some of the information required for such determinations is not readily available to the Commission, participating carriers, shippers, or ports.

For example, shippers can provide a freight bill, the car-type, and the name of the surcharging carrier. However, the revenue division would not be immediately available. The same problem might occur with respect to the actual distance the subject shipment moved on the surcharging or cancelling carrier's line. Ports may well have no information whatsoever concerning such joint traffic movements. The Commission has no "In-house" sources available for revenue divisions or specific shipment data. Accordingly,

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interim requirements are instituted to facilitate the mechanics of data retrieval. It should be noted that the interim requirements and the rules requiring comment are the same (See Appendix A).

It is necessary that we impose the interim requirements without prior comments from interested persons in order that Section 10705a(h) be implemented without delay. Because the nature of the proposed rules are procedural, we do not contemplate any hardship on the railroads in supplying the necessary information in a timely manner. Notice of the interim rules, with time allowed for comment prior to their effectiveness, is both impractical and contrary to the public interest, pursuant to 5 U.S.C. 553 (b)(B). Nevertheless, we are giving interested parties an opportunity to participate in the final rulemaking.

This proceeding specifically elicits public comment on the interim rules. If adopted, participating carriers, shippers, and ports would be permitted to request the following information for each movement from the surcharging or cancelling carrier:

(1) A legible copy of the waybill or freight bill;

(2) The actual distance the shipment moved while on the surcharging or cancelling carrier's portion of the joint route;

(3) The car-type;

(4) The division of revenue accruing to the surcharging or cancelling carrier; and

(5) The amount of surcharge in the event that no traffic has yet moved under the surcharged or cancelled joint rate.

Further, the surcharging or cancelling carriers would have to respond to any such requesting carrier, shipper, or port within three (3) days of receipt of written request.

Participants' submissions should focus on a method of requesting such information which would be the least burdensome to all parties.

These interim rules does not appear to affect significantly the quality of the human environment or conservation of energy resources.

This rulemaking is instituted pursuant to 49 U.S.C. 10321, 10705a and 5 U.S.C. 553.

Decided: October 27, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

This rulemaking amends Chapter X of Subtitle B of Title 49 of the Code of Federal Regulations to include a new Part 1031A to read as follows:

PART 1031A—PROCEDURES FOR REQUESTING SURCHARGE COSTS AND REVENUES FROM RAIL CARRIERS APPLYING A SURCHARGE OR CANCELLING THE APPLICATION OF A JOINT RATE PURSUANT TO 49 U.S.C. SECTION 10705a

Sec.
1031A.1 Scope.
1031A.2 Purpose.
1031A.3 Data requirements.

Authority: 49 U.S.C. 10321, 10705a and 5 U.S.C. 553.

§ 1031A.1 Scope.

The provisions of this part apply only to rail carriers subject to the jurisdiction of the Commission under subchapter 1 of Chapter 105 of Title 49.

§ 1031A.1 Purpose.

Pursuant to 49 U.S.C. 10705a, the Commission must furnish determinations of the variable cost-of-service and revenue of a rail carrier applying a surcharge or cancelling the application of a joint rate. This requires that certain information be made available by the rail surcharging or cancelling carrier to the participating carriers, shippers, and ports for provision to the Commission for making such determinations.

§ 1031A.3 Data Requirements.

(a) The surcharging or cancelling rail carrier is required to provide the following information for each movement to any participating carrier, shipper, or port:

(1) A legible copy of the waybill or freight bill;

(2) The actual distance the subject shipment moved while on the surcharging or cancelling carrier's portion of the joint route;

(3) The car-type;

(4) The division of revenue accruing to the surcharging or cancelling carrier; and

(5) The amount of surcharge in the event that no traffic has yet moved under the surcharged or cancelled joint rate.

(b) The surcharging or cancelling carrier is required to respond to any such requesting carrier, shipper, or port within three (3) days of receipt of written request.

[FR Doc. 80-34088 Filed 10-31-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

Fishermen's Protective Act

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: This amendment changes § 258.33(c) relating to applications to increase the filing period for claims filed under the Fishing Vessel and Gear Damage Compensation Fund from 60 to 90 days. This document implements an amendment to section 10(c)(1) of the Fishermen's Protective Act, recently enacted.

EFFECTIVE DATE: This amendment is effective as of June 30, 1980.

FOR FURTHER INFORMATION CONTACT:
Ms. Kathryn E. Hensley, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, telephone number (202) 634-4688.

SUPPLEMENTARY INFORMATION: On Thursday, October 25, 1979, the final rules implementing Section 10 (Section 10) of the Fishermen's Protective Act of 1967 (Act), as amended by Pub. L. 95-376, were published in the **Federal Register** 44 FR 61546. Section 258.33(c) of those rules reads as follows:

"(c) *Time Requirement.* Applications must be submitted to the Financial Services Division within 60 calendar days of the date the owner or operator became aware of the casualty. Applications sent by mail must be postmarked during that 60 day period. Applications made later than 60 days are not eligible."

This amendment to 50 CFR Part 258 implements an amendment to Section 10(c)(1) of the Fishermen's Protective Act, Pub. L. 95-376. The statutory change was effected by H.R. 6614 which was enacted on June 30, 1980. This legislation reads as follows:

"Section 10(c)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended by striking 'sixty' and substituting '90.' "

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

October 24, 1980.

(Pub. L. 95-376, 92 Stat. 715 (22 U.S.C. 1980))

Subpart C—Compensation for Fishing Vessel or Fishing Gear Damage in a U.S. Fishery Attributable to Other Vessels or Acts of God

Accordingly, in 50 CFR Part 258, § 258.33(c) is deleted in its entirety and the following is inserted in lieu thereof:

§ 258.33 Applications.

* * * * *

(c) *Time Requirement.* After June 30, 1980, applications must be submitted to the Financial Services Division within 90 calendar days of the date the owner or operator became aware of the casualty. Applications sent by mail must be postmarked during that 90-day period. Applications made later than 90 days are not eligible.

* * * * *

[FR Doc. 80-34237 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 671

Tanner Crab off Alaska: Final Regulations Implementing Amendment to Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Commerce.

ACTION: Final regulations.

SUMMARY: These regulations implement Amendment Number 5 to the Fishery Management Plan for Tanner Crab off Alaska (FMP). Amendment No. 5 and proposed regulations were published on April 15, 1980 (45 FR 25421) for public comment. The regulations are necessary because: (1) the quantity and distribution of the Tanner crab stocks have changed; and (2) participation in the fishery by U.S. vessels has increased dramatically in the last several years. The regulations will strengthen U.S. harvest and export capability and ensure protection of the Tanner crab stocks by establishing new harvest limits and by reducing the total allowable level of foreign fishing (TALFF).

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert McVey, Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION:

A. Background

The FMP for Tanner crab off Alaska was prepared by the North Pacific Fishery Management Council (Council), approved by the Assistant Administrator for Fisheries, NOAA, on behalf of the Secretary of Commerce, and published in the **Federal Register** on May 16, 1978 (43 FR 21170) under authority of the Fishery Conservation and Management Act of 1976 (Act) (16 U.S.C. 1801 *et seq.*). Final regulations applicable to vessels of the United States were published on December 6, 1978 (43 FR 59292).

The FMP has been amended four times. The first amendment extended the implementing regulations through October 31, 1979 (44 FR 1115). The second amendment increased the optimum yield (OY) for the Kodiak district from 25 million pounds to 35 million pounds, and the third authorized vessels of foreign nations to take a portion of the TALFF in a specified area south of 58° N. latitude (44 FR 15503). Amendment No. 4 extended the FMP and implementing regulations, as amended, through October 31, 1980 (45 FR 785).

At its October 4-5, 1979 meeting, the Council reviewed the results of the 1979 National Marine Fisheries Service (NMFS) Tanner crab trawl survey in the Bering Sea, and received extensive testimony from U.S. and foreign interests participating in this fishery. On the basis of new information presented and analysis of fishery performance, the Council prepared Amendment No. 5, which has been reviewed and approved by the Assistant Administrator.

During the 60-day public comment period on the amendment and proposed regulations to implement the amendment, two comments were received. Response to the comments can be found below under "public comments."

B. Substance of Amendment

Amendment No. 5, as implemented by these final regulations, changes the management of the Bering Sea and Aleutian Islands area Tanner crab stocks as follows:

1. Optimum Yield (OY)

(a) Reduce the OY for *C. bairdi* Tanner crab from the current level of 40,381 metric tons (m.t.) to a range of 10-15,000 m.t.; and

(b) Increase the OY for *C. opilio* Tanner crab from the current levels of 16,360-17,268 m.t. north of 58° N. latitude, and 10,000 m.t. south of 58° N. latitude, to a total OY of 58,984 m.t.

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2. Domestic Annual Harvest (DAH)

(a) Increase the estimate of DAH for *C. opilio* from the current level of 12,268 m.t. to 51,484 m.t.; and

(b) Decrease the estimate of DAH for *C. bairdi* from the current level of 40,381 m.t. to a range of 10–15,000 m.t., which is the new OY.

3. TALFF

Reduce the TALFF for *C. opilio* from the current level of 15,000 m.t. to 7,500 m.t.

4. Area Restrictions

Restrict foreign fishing to the area north of 58° N. latitude and west of 164° W. longitude.

5. Joint Venture Amendment

Implement provisions of the Joint Venture Amendment. For clarity, the amendment incorporates parts of the FMP which had previously been approved.

A discussion of the intent of and need for the amendment, as well as the full text of the amendment indexed to the original FMP text (43 21170), can be found at 45 FR 25421.

Public Comments

(1) Biological Condition of the C. opilio Resources

Comment: It was unreasonable for the Council to accept only the results of the 1979 National Marine Fisheries Service trawl survey, conducted by the Northwest and Alaska Fisheries Center, as the best scientific evidence available.

Response: National Marine Fisheries Service scientists calculated the maximum sustainable yield from the estimated abundance of male crabs with a carapace width greater than 104 millimeters (mm) to be 218 million pounds (98,900 m.t.). From this, and using an exploitation rate of 0.58, acceptable biological catch (ABC) was calculated to be 126 million pounds (57,170 m.t.). Six percent of this amount, or 7.56 million pounds (3,430 m.t.), was estimated to be north of 58° N. latitude. In comparison, the Japanese estimate of ABC north of 58° was 28.6–33.06 million pounds (13,000–15,000 m.t.). Japanese data differed from National Marine Fisheries Service data, but were of unknown validity. Thus, National Marine Fisheries data were adopted by the Council as being the best scientific information available.

(2) Assessment and Specification of the DAH for C. Opilio; Allowable Level of Foreign Fishing; Fleet Separation Line

Comment: The DAH for *C. opilio* of 113.47 million pounds (51,500 m.t.) was set too high relative to market conditions, although harvesting and processing capacity for that amount was realistic. TALFF should be retained at 33.06 million pounds (15,000 m.t.). The U.S. Tanner crab fishery will probably not expand north of 58° N. latitude or west of 173° W. longitude in 1980.

Response: At the October, 1979, North Pacific Fishery Management Council (Council) meeting, a spokesman for the Tanner crab industry presented its best realistic estimate for DAH of 129.63 million pounds (58,800 m.t.). This exceeded ABC by 3 million pounds. Based on this estimate of DAH, the Council could have set TALFF at zero under the Fishery Conservation and Management Act of 1976, since there was no surplus OY. However, after considering past market opportunities for *C. opilio*, the traditional U.S. fishing grounds for Tanner crab, and the needs of the recent Japanese fishery in the area, the Council set TALFF at 16.53 million pounds (7,500 m.t.) and restricted foreign fishing to north of 58° N. latitude and west of 164° W. longitude.

The NMFS estimates that during 1980 U.S. crab fishermen will not harvest the entire *C. opilio* DAH. The harvest to date has been about 40.0 million pounds. In spite of this smaller-than-expected harvest, DAH should not be reduced for these reasons:

1. A smaller DAH would result in a higher TALFF, which would further aggravate the basic problem of a soft Japanese market for U.S. production of Tanner crab.

2. A higher TALFF could be achieved only by allowing foreign fishing in traditional U.S. crab fishing grounds south of 58° N. latitude, as the size of stocks north of this latitude are still considered to be small in relation to the existing TALFF.

3. Foreign fishing south of 58° N. latitude would cause gear conflicts, and would reduce the density of *C. opilio* available to U.S. fishermen, reducing their catch per unit of effort and increasing their costs per unit of catch.

4. Foreign incidental catches of *C. bairdi* south of 58° N. latitude would be treated as a prohibited species and discarded, resulting in some mortality. Any such wastage by foreign fishermen of a species which is fully utilized by the U.S. industry and which is currently at a low level of abundance is not acceptable.

Concerning the fleet separation line, large areas presently available to U.S. fishermen will not be fished in 1980. The industry has expanded rapidly in harvesting and processing capacity recently, however, and as market conditions improve, will likely increase its efforts towards *C. opilio*.

In future years, the fleet could expand north of 58° N. latitude and west of 173° W. longitude and further displace the Japanese crab fleet.

Although previous amendments to this FMP have included expiration dates, Amendment No. 5 does not. Consequently, an annual amendment for the sole purpose of extending the FMP for an additional year will no longer be needed. However, the FMP will be reevaluated annually to consider new scientific information with respect to OY, DAH, and TALFF. If appropriate, the FMP will be amended to reflect this new information.

The Assistant Administrator for Fisheries, NOAA, under delegation of authority from the Secretary of Commerce, has determined that the regulations as described above:

1. Are necessary and appropriate to the conservation and management of Tanner crab resources off the coast of Alaska;

2. Are implementing management measures which are consistent with the National Standards and other provisions of the Act and other applicable law;

3. Do not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act (an environmental assessment and declaration of negative environmental impact was filed with the Environmental Protection Agency on February 21, 1980);

4. Shall become effective November 1, 1980.

This reduction of the 30-day cooling-off period specified by the Administrative Procedures Act is necessary because the U.S. fishery begins on November 1, and availability of the inseason adjustment and closure provisions of the regulations are necessary to assure adequate protection of the Tanner crab resource; and

5. Are significant under the provisions of Executive Order 12044, "Improving Government Regulations." A Regulatory Analysis was prepared and a notice of availability was published on April 15, 1980 (45 FR 25421). No public comments on the Regulatory Analysis were received. The final Regulatory Analysis has been approved, with the final regulations, by the Administrator of NOAA. A copy of the final Regulatory Analysis may be obtained from Robert McVey, Director, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 1668, Juneau, Alaska 99802.

Since the complete regulations governing the fishery for Tanner crab off Alaska were published in 1978, for the purpose of clarity domestic regulations, including all amendments to date, are republished below.

Signed in Washington, D.C., this 28th day of October, 1980.

(16 U.S.C. 1801 *et seq.*)

Terry L. Leitzell,

Assistant Administrator, National Marine Fisheries Service.

A. 50 CFR Part 611 is amended as follows:

§ 611.20 Appendix 1 [Amended]

1. Entry 4C of Appendix 1 to § 611.20 is amended to read:

	Species and code	Areas	OY	DAH	DAP	JVP = (DAH–DAP)	DNP	Reserve	TALFF
4. Alaska Fisheries: N.C. Tanner Crab Fishery....	*C. opilio and hybrid*, 610, 684.	North of 58°, and west of 164°W.	58,984	51,484	51,484	0	—	—	7,500
	C. bairdi, 501		15,000	15,000	15,000	0	—	—	0

§ 611.91 [Amended]

2. Section 611.91(b)(2) is amended to read:

(b) * * *

(2) TALFF. The total allowable level of foreign fishing (TALFF) for Tanner crab is set forth in Appendix 1 to § 611.20.

* * * * *

3. Section 611.91(d) is amended to read:

* * * * *

(d) *Closed Areas.* No foreign vessel may engage in fishing for Tanner crab:

(1) Within twelve nautical miles of the baseline used to measure the U.S. territorial sea;

(2) South of 58°N. latitude; or

(3) East of 164°W. longitude.

B. 50 CFR Part 671 is revised to read as follows:

PART 671—TANNER CRAB OFF ALASKA

Subpart A—General

Sec.

671.1 Purpose and scope.
671.2 Definitions.
671.3 Relation to other laws.
671.4 Reporting requirements.
671.5 General prohibitions.
671.6 Enforcement.
671.7 Penalties.

Subpart B—Management Measures

671.21 Optimum yield table.
671.22 Size and sex restrictions.
671.23 Vessel registration.
671.24 Vessel inspection.
671.25 Landing requirements.
671.26 Season and gear restrictions.
671.27 Time and area closures.

Authority: Sec. 305, Fishery Conservation and Management Act of 1976, as amended; 16 U.S.C. 1801 *et seq.*

Subpart A—General

§ 671.1 Purpose and scope.

(a) This part regulates fishing for Tanner crab by vessels of the United States within that portion of the Bering Sea and Gulf of Alaska over which the United States exercises exclusive fishery management authority. These regulations implement the Tanner crab fishery management plan developed by the North Pacific Fishery Management Council.

(b) For regulations governing fishing for Tanner crab in the Gulf of Alaska and Bering Sea by fishing vessels other than vessels of the United States, see 50 CFR 611.91.

§ 671.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this Part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, as amended.

ADF&G means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research, which involves:

(a) the catching, taking or harvesting of fish;

(b) the attempted catching, taking or harvesting of fish;

(c) any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing Vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (a) fishing or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Landing means off-loading fish (including Tanner crab).

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) any person who owns that vessel in whole or in part;

(b) any charterer of the vessel, whether bareboat, time or voyage;

(c) any person who acts in the capacity of a charter, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control

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over the destination, function, or operation of the vessel; or

(d) any agent designated as such by any person in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska, 99802 or an individual to whom appropriate authority has been delegated.

Registration Area A (Southeastern Alaska-Yakutat) is that portion of the FCZ in the Gulf of Alaska east of 143° 53'36" W. longitude (Cape Suckling).

Registration Area E (Prince William Sound) is that portion of the FCZ between 143°53'36" W. longitude (Cape Suckling) and 148°53' W. longitude (Cape Fairfield).

Registration Area H (Cook Inlet) is that portion of the FCZ lying west of 143°53' W. longitude (Cape Fairfield) and north of 58°52' N. latitude (Cape Douglas).

Registration Area J (Westward) includes the FCZ in the Bering Sea, and that part of the FCZ in the Gulf of Alaska between 148°53' W. longitude (Cape Fairfield) and 172° E. longitude south of 58°52' N. latitude (Cape Douglas).

Ring Net means a bag-shaped net suspended from a circular or retangular frame.

Tanner Crab means all species of the genus *Chionoecetes* including *C. bairdi* and *C. opilio*.

Tanner Crab Pot means a portable structure designed and constructed to capture and retain fish and shellfish alive in the water. The Tanner crab pot has rigid tunnel eye openings which individually are a maximum of five (5) inches (13 cm) in one dimension, and tunnel eye opening perimeters which individually are larger than thirty (30) inches (76 cm); or the pot tapers inward from its base to a top consisting of one horizontal opening of undescribed size.

Vessel of the United States means:

(a) a vessel documented or numbered by the Coast Guard under United States law; or

(b) a vessel, under five net tons, which is registered under the laws of any State.

§ 671.3 Relation to other laws.

(a) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to make in-season adjustments pursuant to section 671.27 of this Part.

(b) *Other Agreements.* Certain responsibilities relating to the administration of this Part will be performed by personnel of the State of Alaska under the terms of an agreement with NOAA/NMFS and the United States Coast Guard.

§ 671.4 Reporting requirements.

(a) The operator of any fishing vessel subject to this Part whose port of landing is in the United States is responsible for the submission of an accurately completed State of Alaska fish ticket for each sale or delivery of any Tanner crab covered by this Part.

(b) At the election of the vessel operator, the fish ticket shall be either: (1) submitted by the vessel operator directly to the ADF&G within one week after such Tanner crab are sold or delivered; or (2) prepared, at the request of the operator, by the purchaser (i.e., any person who receives Tanner crab for a commercial purpose from a fishing vessel subject to this Part) and submitted by the purchaser to the ADF&G within one week after such Tanner crab are received by the purchaser.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (b)(2)) shall also accurately state on each such fish ticket: (1) total time fished; (2) total number of pot lifts; and (3) quantity and type of gear used.

(d) The operator of any fishing vessel subject to this Part whose port of landing is outside the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket and in section 671.4(c), to the ADF&G within one week after the date of each sale or delivery of any Tanner crab. [Sample alternative document reserved.]

(e) Any U.S. processor who receives Tanner crab by way of purchase, barter, trade, or sale from a U.S. fishing vessel or prior purchaser subject to this Part shall provide, when requested to do so by the Regional Director, but in no event more than twice a year, the following information by Tanner crab species:

(1) Actual plant capacity to process Tanner crab in the next fishing year, in terms of weight, and

(2) The estimated actual amount by weight of Tanner crab to be processed in the coming fishing year.

§ 671.5 General prohibitions.

It is unlawful for any person to:

(a) fish for, take, or retain Tanner crab in violation of the Act, this Part, or any regulation or permit issued under the Act, including but not limited to the following: during closed seasons or in closed areas specified in Subpart B; after closure of an area when a catch limitation is reached, or as otherwise announced by a field order issued under this Part; or by means of gear or methods prohibited by this Part, *except that C. bairdi* Tanner crab taken incidentally to permitted fishing for *C. opilio* Tanner crab in the area north of 58° N. latitude and west of 164° W. longitude may be retained;

(b) take and retain Tanner crab in violation of Section 671.22 of this Part;

(c) possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any Tanner crab taken in violation of the Act, this Part, or any other regulation or permit issued under the Act;

(d) refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this Part, or any other regulation or permit issued under the Act;

(e) forcibly assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (d) of this section;

(f) resist a lawful arrest for any act prohibited by this Part; or

(g) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part.

§ 671.6 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A fishing vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) If requested, provide a safe ladder for the Authorized Officer and party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and party and to facilitate the boarding.

§ 671.7 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 671.21 Optimum yield.

(a) *Table.* The optimum yield for Tanner crab for each Federal registration area is set forth in Table I. These specifications of optimum yield are effective for the fishing year beginning on November 1, and ending on October 31.

Table I

Registration area	Optimum yield (in metric tons) [1]	Species
Registration Area A (Southeast-Yakutat).	2,495	All.
Registration Area E (Prince William Sound).	3,175	All.
Registration Area H (Cook Inlet).	2,404	All.
Registration Area J:		
Kodiak district	15,865	All.
South Peninsula district	13,608	All.
Aleutian district	907	All.
	10,000-15,000	*C. bairdi.*
Bering Sea district	58,984	*C. opilio.*

[1] Catches of Tanner crab in State of Alaska registration area will be considered part of the optimum yield specified for the contiguous Federal registration area.

(b) *Limitation.* Except that *C. bairdi* Tanner crab taken incidentally to permitted fishing for *C. opilio* Tanner crab in the area north of 58° N. latitude and west of 164° W. longitude may also be retained.

(c) *Field Orders.* Except as provided in § 671.21(b), if the Regional Director determines that the optimum yield for a particular species of Tanner crab in any geographic area specified in Table I will be reached, he shall issue a field order pursuant to § 671.27(a) prohibiting fishing for that particular species of Tanner crab by vessels of the United States in the applicable geographic area from the effective date of the field order.

§ 671.22 Size and sex-restrictions.

(a) *Female Tanner crabs.* No female Tanner crab may be retained.

(b) *Male Tanner crabs.* No male Tanner crab of the species *C. bairdi* measuring less than 5½ inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crabs of the species *C. bairdi* in Federal registration area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) or greater, across the greatest width of the carapace. The width measurement of Tanner crab is determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point midway between the eyes and the midpoint of the posterior portion of the carapace.

(c) *General.* All female and undersized male Tanner crabs of the species *C. bairdi* must be returned to the sea immediately with a minimum of injury, regardless of their condition.

§ 671.23 Vessel registration.

(a) *Requirement.* Any vessel of the United States fishing for Tanner crab in any Federal registration area must be registered for fishing in such area pursuant to this section.

(b) *Applications:*

(1) The owner (or the owner's authorized agent) of a fishing vessel desiring to fish for Tanner crab in a Federal registration area, not registered for a State of Alaska registration area contiguous with such Federal registration area, must submit to the Regional Director, within 30 days prior to the scheduled opening of fishing in the Federal registration area, a completed State of Alaska registration form to be used as a Federal form.

(2) A fishing vessel registered for a State of Alaska registration area will be deemed to be registered for the contiguous Federal registration area.

(c) *Registration Certificate.* The registration certificate shall be signed by the owner (or the owner's authorized agent), shall be kept onboard by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(d) *Registration Validation.* A registration certificate is not valid until the fishing vessel has complied with the inspection requirements contained in § 671.24 of this Part. A valid registration certificate becomes invalid:

(1) Upon landing Tanner crab in a Federal registration area other than the area for which the vessel is registered (or other than the contiguous State of Alaska registration area); or

(2) Seventy-two (72) hours after the close of the season for the applicable Federal registration area, whichever occurs first.

(e) *Late Registration.* The late registration of any fishing vessel may be permitted by the Regional Director in the case of the loss of a registered fishing vessel. For purposes of this paragraph, "loss of a registered fishing vessel" means that the fishing vessel is incapable of being used to take Tanner crab during the open Tanner crab season in the area for which it is registered. An application for late registration under this paragraph shall be documented by submission of adequate proof, in writing, concerning the loss of the vessel. The late registration shall be for the Federal registration area in which the lost fishing vessel was registered.

(f) *Expiration.* A registration certificate expires on the last day of the registration year. Registration for any subsequent year shall be obtained by re-application in accordance with the procedure set forth in this section.

(g) *Registration Year.* The registration year shall be August 1 through July 31.

(h) *Exclusive Registration Areas.* (1) Federal registration areas E and H are exclusive registration areas. No fishing vessel registered for an exclusive Federal registration area may be registered for any other Federal registration area (exclusive or non-exclusive) during a registration year.

(2) A fishing vessel registered for an exclusive State of Alaska registration area may register only in the contiguous Federal exclusive registration area during that registration year.

(3) No operator of a fishing vessel registered for an exclusive Federal registration area may operate any other fishing vessel registered for any other exclusive Federal registration area.

(i) *Non-Exclusive Registration Areas.* Federal registration areas A and J are non-exclusive registration areas. A fishing vessel may be registered for any or all of the non-exclusive Federal registration areas during any registration year.

§ 671.24 Vessel inspection.

(a) *Inspection.* (1) Within 72 hours prior to fishing for Tanner crab for the first time during an open season, each registered fishing vessel must have its holds and live tanks, if any, inspected by an Authorized Officer at an

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inspection point specified in paragraph (b) of this section.

(2) *Requirement.* A registration certificate will not be validated if there are Tanner crab on board the fishing vessel at the time of inspection.

(3) *Certificate.* No fishing vessel will be issued an inspection certificate unless a current registration certificate for the contiguous Federal registration area is displayed to the Authorized Officer conducting the inspection. The inspection certificate shall be signed by the current fishing vessel operator, shall be kept on board by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(4) *Landings.* The operator of a fishing vessel landing Tanner crab in a Federal registration area other than the area for which the fishing vessel is registered (or other than in the contiguous State of Alaska registration area) must attach the inspection certificate to the back of the ADF&G copy (yellow copy) of the State of Alaska fish ticket at the time the Tanner crab are landed.

(b) *Inspection Points.* Inspection points are those established by the ADF&G for State of Alaska purposes and by these regulations for Federal purposes. Additional inspection points may be authorized by the Regional Director if the Regional Director finds that:

(1) Existing inspection points are imposing an unusual and material hardship which affected fishermen cannot themselves mitigate; or

(2) The ADF&G has no practical means of making special administrative accommodations regarding existing inspection points; and

(3) Authorization of additional inspection points would not result in a significant likelihood of unauthorized fishing or other management or enforcement problems.

§ 671.25 Landing requirements.

(a) Except as provided in paragraph (b) of this section, all Tanner crab must be landed in the State of Alaska registration area contiguous to a Federal registration area for which the fishing vessel is registered.

(b) The operator of a fishing vessel who desires to land Tanner crab outside the State of Alaska, or in a State registration area other than the State registration area contiguous to a Federal registration area for which the fishing vessel is registered, shall contact, by radio or other means, an Authorized Officer prior to leaving the Federal registration area for which the fishing vessel is registered, and shall state to the Authorized Officer the amount of Tanner crab on board at the time. A fishing vessel operator acting pursuant to this paragraph shall submit the vessel to inspection at such location as the Authorized Officer may require. The operator shall not land an amount of Tanner crab which is more than one hundred and ten (110) percent or less than ninety (90) percent of the amount stated to be present onboard upon leaving the Federal registration area, or observed to be present onboard at the time of any inspection.

(c) *Certificate Validity.* If a fishing vessel lands Tanner crab pursuant to paragraph (b) of this section, the registration certificate of the fishing vessel becomes invalid. To again become validly registered for a Federal registration area, the fishing vessel must be reinspected pursuant to the procedures of section 671.24 of this Part.

§ 671.26 Season and gear restrictions.

(a) *Season Dates.* All season dates in this section are inclusive. Time periods begin at 12:01 a.m. and end at 11:59 p.m. on the dates specified, based on local zone time, unless otherwise specified.

(b) *General Requirements.* (1) At least one buoy on each Tanner crab pot or ring net shall be legibly marked with the permanent ADF&G vessel license number of the fishing vessel using the gear or, if a fishing vessel does not have a permanent ADF&G vessel license number, with the official documentation number of the fishing vessel operating the gear. Identification numbers shall be painted on the top one-third of the buoy in numerals at least 4 inches in height and ½ inch in width in contrasting color to that of the buoy. The buoy markings shall be legible and visible on the buoy above the water surface when attached to the Tanner crab pot, and maintained in a legible condition.

(2) All Tanner crab pots shall contain an opening in the webbing of a side wall of the pot which has been laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one half of the tunnel eye opening perimeter.

(3) During any period when fishing for all species of Tanner crab is prohibited in any Federal registration area, Tanner crab pots shall either be removed from the water or stored in less than 25 fathoms (46m) of water, with all doors secured fully open and all bait and bait containers removed, with the following exceptions:

(i) In the Kamishak Bay and Southern districts of the Cook Inlet area, the maximum pot storage depth is 15 fathoms (27m);

(ii) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours prior to the opening of the Tanner crab season, and for 72 hours after the season closure where the pots are fished;

(iii) Tanner crab pots may be stored in waters deeper than 25 fathoms (46m) if specifically allowed by this section.

(c) *Registration Area A:* Tanner crab may be taken in Registration Area A from September 1 through May 1 only, except that west of the longitude of Cape Spencer (at 136°40′ W. longitude), Tanner crab may be taken from September 1 through 6:00 p.m. (YST) April 20.

(d) *Registration Area E.* (1) *Districts.* The following districts within Federal Registration Area E are established:

(i) *Western District:* All waters east of the longitude of Cape Fairfield (148°53′ W. longitude) south of a line from the southern entrance of Port Nellie Juan at 60°36′ N. latitude to Point Eleanor (60°34′42″ N. latitude, 147°34′6″ W. longitude) to the eastern tip of Smith Island (60°31′54″ N. latitude, 147°19′ W. longitude) to Montague Point (60°22′18″ N. latitude, 147°06′0″ W. longitude), west of a line from Zaikof Point (60°18′12″ N. latitude, 146°55′42″ W. longitude) to Seal Rocks (60°10′ N. latitude, 146°50′ W. longitude) and west of the longitude of Seal Rocks.

(ii) *Eastern District:* All waters east of the longitude of Seal Rocks (60°10′ N. latitude, 146°50′ W. longitude), east of a line from Seal Rocks, to Cape Hinchinbrook (60°15′54″ N. latitude, 146°37′18″ W. longitude), south of a line from Point Bentinck (60°23′24″ N. latitude, 146°05′36″ W. longitude) to Point Whitshed (60°26′36″ N. latitude, 145°53′12″ W. longitude), and west of the longitude of Cape Suckling (51°59′ N. latitude, 143°53′36″ W. longitude).

(iii) *Hinchinbrook District:* All waters east of a line from Montague Point to the eastern tip of Smith Island, south of a line from the eastern tip of Smith Island to Johnstone Point (60°28′48″ N. latitude, 146°37′18″ W. longitude), north and east of a line from Cape Hinchinbrook to Seal Rocks (60°10′ N. latitude, 146°50′ W. longitude), and east of a line from Seal Rocks to Zaikof Point.

(2) *Seasons.* Tanner crab may be taken in Registration Area E from November 15 through May 31 only, subject to adjustment by the Regional Director pursuant to section 671.27 of this Part.

(3) *Gear.* (i) Only Tanner crab pots may be used to fish for Tanner crab. Tanner crab taken by any other means must be returned immediately to the sea, with a minimum of injury, regardless of their condition.

(ii) Two escape rings, 4¾ inches (121 mm) in minimum inside diameter, so located on the vertical plane to permit the escape of undersized crabs, shall be provided for each Tanner crab pot.

(e) *Registration Area H.* (1) *Districts.* The following districts within Registration area H are established:

(i) *Central District:* All waters between a line extending from Boulder Point at 60°46′23″ N. latitude, to Shell Platform C (60°45′50″ N. latitude, 151°30′08″ W. longitude), then to a point on the west shore at 60°46′23″ N. latitude, and the latitude of Anchor Point Light (59°40′12″ N. latitude, 151°52′ W. longitude).

(ii) *Southern District:* All waters within a line from Anchor Point Light west to 59°46′15″ N. latitude, 152°20′ W. longitude, then south to 59°04′15 N. latitude, 152°20′ W. longitude, then in a northeasterly direction to Cape Elizabeth (59°9′12″ N. latitude; 151°53′18″ W. longitude), then from Cape Elizabeth to Point Adam, (59°15′12″ N. latitude; 151°58′48″ W. longitude, including Kamishak Bay.

(iii) *Kamishak Bay District:* All waters within a line from 59°46′15″ N. latitude, 153°00′30″ W. longitude, then east to 59°46′15″ N. latitude, 152°20′ W. longitude, then south to 59°04′15″ N. latitude, 152°20′ W. longitude, then southwesterly to Cape Douglas (58°50′54″ N. latitude, 153°16′24″ W. longitude), including Kamishak Bay.

(iv) *Barren Islands District:* All waters within a line from Cape Douglas to Cape Elizabeth, then south to 58°52′ N. latitude, 151°53′ W. longitude, then west to Cape Douglas.

(v) *Outer District:* All waters within a line from Point Adam to Cape Elizabeth, then south to 58°52′ N. latitude, 151°53′ W. longitude, then east to the longitude of Aligo Point (149°44′33″ W. longitude), then north to the mainland of Alaska.

(vi) *Eastern District:* All waters east of the longitude of Aligo Point (149°44′33″ W. longitude), west of the longitude of Cape Fairfield (148°53′ W. longitude), and north of 58°52′ N. latitude.

(2) *Seasons.* (i) Tanner crab may be taken in the Southern district from December 1 through April 30 only, subject to adjustment by the Regional Director pursuant to section 671.27 of this Part.

(ii) Tanner crab may be taken in the Central, Kamishak Bay, Barren Islands, and Outer and Eastern Districts from December 1 through May 31 only, subject to adjustment by the Regional Director pursuant to section 671.27 of this Part.

(3) *Gear.* During any king crab season established by the State of Alaska an aggregate of not more than 75 king and Tanner crab pots (including Tanner crab pots used in State waters) may be fished in Registration Area H from any registered Tanner crab vessel.

(f) *Registration Area J.* (1) *Districts.* The following districts within registration area J are established:

(i) *Kodiak District:* South of 58°52′ N. latitude, west of 150° longitude and east of the longitude of Cape Kumlik (157°27′ W. longitude).

(ii) *South Peninsula District:* Between the longitude of Cape Kumlik and the longitude of Scotch Cap Light (164°44′6″ W. longitude).

(iii) *Aleutian District:* Between the longitude of Scotch Cap Light (164°44′6″ W. longitude) and 172° E. longitude, and south of 54°36″ N. longitude.

(iv) *Bering Sea District:* Bering Sea waters north of 54°36′ N. latitude. The following subdistricts within the Bering Sea District are established:

(A) *Southeastern Subdistrict:* East of 168° W. longitude, and south of the latitude of Cape Newenham (58°39′ N. latitude), and all Bristol Bay waters.

(B) *Pribilof Subdistrict:* West of 168° W. longitude and south of the latitude of Cape Newenham (58°39′ N. latitude).

(C) *Northern Subdistrict:* North of the latitude of Cape Newenham (58°39′ N. latitude). The following sections within the Northern Subdistrict are established:

(*1*) *Nome Section:* All waters of Norton Sound between the longitude of Penny River and the longitude of Tophok Head.

(*2*) *General Section:* All other waters of the northern subdistrict.

(2) *Seasons.* Subject to adjustment by the Regional Director pursuant to section 671.27 of this Part, Tanner crab may be taken in Federal Registration Area J:

(i) In the Kodiak district from January 5 through April 30 only, except that in that portion of the Kodiak district between 156°20′13″ W. longitude (Kilokak Rocks) to 157°27′ W. longitude (Cape Kumlik) Tanner crab may be taken from January 5 through May 15 only.

(ii) In the South Peninsula district from November 1 to 12 noon, May 15 only, except in the Deer Island, Pavlof Bay, and Beaver Bay-Balboa Bay areas of the South Peninsula district east of a line extending from Cape Tachilni (54°56′10″ N. latitude, 162°52′45″ W. longitude) to the northernmost point of Cherni Island (54°39′ N. latitude, 162°22′10″ W. longitude) and north of line extending from the northernmost point Cherni Island to Sombrero Point on Unga Island (55°12′24″ N. latitude, 160°51′06″ W. longitude) and north of a line extending from West Head on Unga Island (55°22′28″ N. latitude, 160°31′06″ W. longitude) to the westernmost point of Henderson Island (55°25′12″ N. latitude, 160°21′30″ W. longitude) and west of a line extending from the western tip of Henderson Island to Renshaw Point (55°36′36″ N. latitude, 160°21′18″ W. longitude) Tanner crab may be taken from November 1 through 12 noon (AST) April 12.

(iii) In the Aleutian district from November 1 to 12 noon, June 15 only; and

(iv) In the Bering Sea district from 12:00 noon November 1 to 12:00 noon June 15 only, except that Tanner crab, other than *C. bairdi*, and *C. bairdi* taken incidentally in the area north of 58°N. Latitude and west of 164°W. longitude, may be taken or possessed from 12:00 noon November 1 to 12:00 noon September 3 only.

(3) *Storage of Gear.* During any period when fishing for all species of Tanner crab is prohibited in the applicable area, Tanner crab pots may be stored in the water only if stored:

(i) in the waters which are both west of 172°W. longitude and 30 fathoms (55 meters) or less in depth; or

(ii) in the Southeastern Subdistrict, in the waters which are bounded on the north by 58°N. latitude, on the south by 57°N. latitude, on the east by 164°W. longitude and on the west by 166°W. longitude.

§ 671.27 Time and area closures.

(a) *Field Orders.*

(1) Field orders issued by the Regional Director under this Part shall include the following information: (i) a description of the area to be opened or closed; (ii) the effective date and any termination date of such opening or closure; and (iii) the reason for the opening or closure.

(2) No field order issued under this section shall be effective until:

(i) it is filed for publication with the **Federal Register**;

(ii) it has been posted and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure for 48 hours prior to its effective dates; and

(iii) it has been broadcast, at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure, for 48 hours prior to its effective date.

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(3) Field orders issued pursuant to this section shall remain in effect until the earlier of the following dates: (i) any expiration date stated in the field order; or (ii) the effective date of any field order which modifies, rescinds, or supersedes the initial field order.

(b) *In-season Adjustments.*

(1) *General.* The Regional Director may, following consultation with the ADF&G, adjust the opening and closing dates for the Federal registration areas, districts, subdistricts, and sections specified in section 671.26 of this Part.

(2) *Determinations.* Any adjustment under this section shall be based on a determination by the Regional Director that (i) the condition of Tanner crab stocks in any such geographic area is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for in-season conservation measures to protect such Tanner crab stocks.

(3) *Data.* Fishery data reported in-season which relate to one or more of the following factors may be considered in making this determination:

(i) the effect of overall fishing effort within the area;

(ii) catch per unit of effort and rate of harvest;

(iii) relative abundance of Tanner crab within the area in comparison with pre-season prediction;

(iv) the proportion of immature or softshell Tanner crab being handled;

(v) general information on the condition of Tanner crab within the area; and

(vi) any other factors relevant to the conservation and management of Tanner crab.

(4) *Procedures.*

(i) The Regional Director shall publish proposed adjustments in the **Federal Register** for public comment before they are made final, unless the Regional Director finds for good cause that such advance notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

(ii) If the Regional Director decides, for good cause, that any in-season adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of 15 days after the effective date of the adjustment.

(iii) During any such 15-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the adjustment was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802).

(iv) If comments are received during the 15-day period, the Regional Director shall reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, shall either: (A) publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received; or (B) modify or rescind the adjustment.

(5) *Notice of Adjustments.* The Regional Director shall give notice of in-season adjustments by issuance of field orders in accordance with the procedures in paragraph (a) of this section.

(c) *Optimum Yield.* No action which has the effect of raising the optimum yield for Tanner crab in any geographic area as specified in Table 1 of section 671.21(a) is authorized under this section.

(d) *Prohibition.* Any fishing for Tanner crab contrary to a field order issued under this section is prohibited.

[FR Doc. 80-34126 Filed 10-29-80; 2:07 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Improving Government Regulations Semiannual Agenda of Regulations

AGENCY: Farm Credit Administration.

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to Section 2 of Executive Order 12221 (previously E.O. 12044), the Farm Credit Administration has established the following agenda of significant regulations which it will have under development and review during the period October 31, 1980, through March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578, (202) 755-2181.

Significant Regulations Under Development

12 CFR 618.8360—Authorization (Disposition of Obsolete Records).

This regulation authorizes the Farm Credit banks and associations to dispose of obsolete records, except those records identified in the regulation. The Farm Credit Administration is considering amending this section pursuant to 12 U.S.C. 2243 and 2252 to provide for the following:

1. Retention of capital stock transfer records for 10 years or until the expiration of the statute of limitation, whichever is longer, after the date on which the stock was retired and proceeds paid to the owner.

2. Retention of records in form other than original form. This provision will be subject to the acceptability of the form in which the institution is located.

None of the proposed amendments to the above regulations will result in: (a) An annual effect upon the economy of $100 millon or more; or (b) a major increase in costs or prices for individual industries, levels of government, or geographical regions. Therefore, regulatory analysis of the type required by Section 3 of Executive Order 12221 will not be prepared for these proposals.

Significant Regulations Selected for Review

12 CFR Parts 612.618—Regulations for Banks and Associations of the Farm Credit System.

These parts of Chapter VI, Title 12 of the Code of Federal Regulations are being reviewed in terms of changes that may occur from the passage of the proposed Farm Credit Act Amendments of 1980 (H.R. 7548 and S. 1465).

Status of Regulations Previously Selected for Review

On March 31, 1980, the Farm Credit Administration published in the **Federal Register** (45 FR 20900) lists of significant regulations under development and review. The current status of those regulations is as follows:

12 CFR 611.1031—Limitation on Special Assignments.

A draft amendment to this section was reviewed by the Federal Farm Credit Board at its April 1980 meeting. The Board determined that the provisions of the present regulation are adequate and the draft amendment was not approved.

12 CFR Part 612—Personnel Administration.

Proposed amendments to the sections under this part were published in the July 8, 1980, issue of the **Federal Register** (45 FR 45917). Comments, which were due in FCA on September 8, 1980, were presented to the Federal Farm Credit Board at its October 4–6, 1980 meeting, along with the proposed rules. At its meeting, the Board approved the regulations effective on October 22, 1980, (see 45 FR 69880).

12 CFR 617.7100–7170—Irregularities.

Review of these regulations has been terminated. There is no plan for review in the immediate future at this time.

12 CFR 618.8300–8350—Release of Information.

Review of these regulations has been terminated. There is no plan for review in the immediate future at this time.

12 CFR 618.8430—Internal Control.

The proposed amendment to this section was published in the June 11, 1980 issue of the **Federal Register** (45 FR 39507). The board approved the proposed amendment at its October 4–6 meeting, effective on October 22, 1980, (see 45 FR 69887).

For further information concerning any item on the agenda, please contact: Mr. Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578, (202) 755-2181.

Donald E. Wilkinson,
Governor.

[FR Doc. 80-34179 Filed 10-31-80; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80.653]

Alternative Mortgage Instrument Amendments

October 23, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its renegotiable-rate mortgage (RRM) regulation with regard to maximum annual interest-rate changes and grouping of loans, and to amend its alternative mortgage instrument regulation to make it consistent in certain respects with the RRM regulation. The Board believes that its proposed changes will allow lenders greater flexibility in offering these mortgage plans while maintaining adequate consumer protections for borrowers.

DATE: Comments must be received by: December 30, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Hall, Office of General Counsel ((202) 377-6466), or Susan Kelsey, Office of Policy and Economic Research (202-377-6914), at the above address.

SUPPLEMENTARY INFORMATION: Since the spring of 1976, the Board has been studying the use of alternative mortgage instruments to meet the needs of homeowners during different phases of their financial life cycles. This continuing study has resulted in the introduction of several new types of

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mortgages. On December 14, 1978, and May 30, 1979, the Board adopted regulations authorizing Federally-chartered associations to offer three new types of mortgage instruments, the variable rate mortgage, the graduated payment mortgage, and the reverse annuity mortgage (FHLBB Res. Nos. 78-708, 79-303; 43 FR 49336 (1978), 44 FR 32199 (1979)). On April 3, 1980, the Board authorized the use of the renegotiable rate mortgage (FHLBB Res. No. 80-231; 45 FR 24108 (1980)). In addition, the Board recently proposed to authorize the issuance of two additional types of mortgage instruments—the graduated payment adjustable mortgage (45 FR 66798 (1980) and the shared appreciation mortgage (45 FR 66801 (1980)).

Proposed Changes to Adjustable-Rate Mortgages

The Board authorizes Federal Associations to offer two types of adjustable-rate mortgages to borrowers on the security of owner-occupied, one-to-four-family dwellings: the variable-rate mortgage and the renegotiable-rate mortgage. (Federal associations are not limited by the Board in offering adjustable-rate mortgages on other types of real estate security.)

As currently structured, the variable rate mortgage (VRM) is a long-term loan on which the interest rate may be adjusted annually by not more than 50 basis points (0.5%), subject to a limitation on the total increase of the rate of 250 basis points (2.5%) over the life of the mortgage (12 CFR 545.6-4(c)). Total rate decreases may not be limited. Adjustments in the contract interest rate are governed by changes in a national cost-of-funds index calculated by the Board. Interest rate decreases must be passed on to the borrower while interest rate increases are optional with the lender. The renegotiable rate mortgage (RRM) may be structured as either a short-term note that is automatically renewable for the life of the loan or as a long-term note of up to 30 years. The interest rate on a RRM may be adjusted every 3, 4 or 5 years, in accordance with a national average mortgage rate index computed monthly by the Board. However, on any adjustment date, changes in the interest rate may not exceed 50 basis points multiplied by the number of years in an adjustment period, and the overall increase or decrease in the interest rate from the original contract rate is limited to 5 percentage points. Rate decreases must be passed on to the borrower while increases are optional with the lender.

Currently, the Board's regulations do not place a percentage-of-assets limitation on the number of RRM loans that may be made, but do limit the amount of a Federal association's VRM investment to 50 percent of assets. The RRM regulation sets forth a disclosure form that must be given to the applicant at the time of receipt of an application. Although associations are required to make certain disclosures concerning the VRM and other alternative mortgage instruments at the time of application for such instruments, no specific forms of disclosure currently are designated for use by associations.

1. *Proposed changes to the RRM.* The Board proposes to amend its RRM regulation by changing the maximum permissible interest-rate adjustment from 50 basis points (0.5 percentage points) per year of the loan term or adjustment period to 100 basis points (1 percentage point), and by amending the provision that permits associations to extend the initial term or adjustment period of RRM by up to six months to require that the base index rate (used to calculate rate adjustments) be set at the beginning rather than the end of any six-month period—that is, three, four or five years *plus* six months prior to the first interest rate adjustment.

a. *Limitations on rate adjustment.* The proposed change in the maximum permissible interest-rate adjustment reflects the Board's recognition of the effects of the extraordinary volatility of interest rates over the past year and the expectation that this volatility will continue for at least several more years. On October 6, 1979, the Federal Reserve Board announced a major change in its planned implementation of monetary policy. It announced that it would focus on the control of monetary aggregates instead of on the control of interest rates. One of the results of this new strategy is that fluctuations in the financial markets or even minor disturbances in the manufacturing sector of the economy can cause large swings in interest rates unless the Federal Reserve temporarily departs from its money supply targets.

Interest rates rose to unprecedented heights during the first quarter of 1980, perhaps partly as an overreaction to Federal Reserve policy. During the second quarter of 1980, interest rates fell by record amounts, again perhaps overreacting, this time to the softness of the economy. In the third quarter, interest rates swung around once more and rose by several hundred basis points. Clearly, the magnitude of these interest rate swings and dependence by associations on short-term funds for long-term mortgage lending has made the mortgage investing role of savings and loan associations exceedingly difficult.

The ability to raise mortgage rates allows the lender to have sufficient income to pay for both savings and borrowed funds. Almost half of total savings balances are in market rate accounts. Since these funds are very sensitive to short-term increases in interest rates, lenders must have some degree of portfolio flexibility. Given the enormous magnitude of interest rate swings in the past year, the Board feels that the one-half of one percentage point per year limit on changes in RRM interest rates provides insufficient portfolio flexibility to lenders.

From the borrower's viewpoint, the more liberal limitation proposed by the Board can help the borrower to achieve greater rate decreases than would otherwise be possible. For example, under the existing RRM limits, the maximum decrease a borrower with a 14 percent RRM could realize over a three-year period would be 1.5 percentage points, resulting in a rate of 12.5 percent. If market rates were 10.5 percent and the borrower wished to refinance the mortgage, the borrower would be faced with the substantial costs associated with refinancing. With an annual interest rate adjustment limit of one percentage point, however, the borrower's mortgage rate would fall to 11 percent in three years, a drop that should be satisfactory to the borrower.

The proposed amendment is also intended to make Federal associations more competitive with other home mortgage lenders that currently are not similarly restricted with regard to interest rate adjustments. In this connection, the Board notes that the Office of the Comptroller of the Currency has proposed regulations that would permit national banks to adjust the rates on such mortgages by one percentage point per year (see proposed regulations for national banks issued by the Office of the Comptroller of the Currency, published at 45 FR 64196 on September 29, 1980).

The proposed regulations of the Office of the Comptroller of the Currency also request comment on whether there should be no limit on the amount by which the interest rate may increase or decrease over the life of the mortgage. While the Board intends to keep abreast of the comments received by the Comptroller of the Currency and will consider comments on the issue before promulgating a final regulation, the Board has determined at this time not to propose deletion of its 5 percentage point limitation.

b. "Grouping" authority. The current regulation authorizes extension of the initial renewal or adjustment period for up to six months longer than subsequent periods. The extended period is added at the beginning of the initial three-, four-, or five-year term or adjustment period rather than at the end. The regulation provides that the base index rate, which in conjunction with the index rate available at the time of adjustment of the interest rate establishes the amount by which the contract interest rate may be adjusted, be set at the end of the extended period. As a result, neither the lender, the borrower, nor secondary market investors know the value of the base index rate at the time the loan is closed.

In order to eliminate this uncertainty, the proposed regulation would require that the base index rate be established as of the date that is six months prior to the date three, four or five years before the first adjustment of the index rate—*i.e.*, three, four or five years *plus* six months prior to the first adjustment. This means that, where the initial term or adjustment period is extended by less than six months, the base index rate will actually pre-date the closing date of the loan. For example, if a three-year RRM loan were closed on October 31, 1980, and the initial term were extended by two months, the loan interest rate would be adjusted on December 31, 1983, and the base index rate would be the rate most recently available as of June 30, 1980—the date three years plus six months prior to the initial rate adjustment.

c. *RRM index.* The existing RRM regulation provides that the index by which adjustments in the interest rate are calculated is the national average mortgage rate for all major lenders for the purchase of previously-occupied homes. The proposed regulation would retain this index, but the Board specifically requests comment on whether the regulation should be amended to provide for use of some other index or indices, and on whether the indices used for the RRM and VRM should be identical.

2. *Proposed changes to the VRM.* At the time the Board authorized issuance of VRMs on a nationwide basis, the board stated its intention to undertake a continuing review of VRM loan activity. This continuing review has demonstrated that, except in the State of California, issuance of VRMs has been light. Even in California, issuance of the VRM authorized by Federal regulations has been light relative to use of the VRM authorized by the state for use by state-chartered associations. This is due in part to the newness of the concept, and in part to restrictions in the Federal VRM regulation that have limited its usefulness to lenders. The Board has therefore determined to propose amendments to this mortgage instrument to allow greater flexibility to associations, while maintaining adequate borrower protections by more closely aligning its provisions to the RRM.

a. *VRM index.* The current VRM regulation requires associations to use a national cost-of-funds index computed by the Board, whereas the RRM regulation requires use of a national average mortgage rate index computed by the Board. Experience with the cost-of-funds index indicates that it tends to move steadily upwards. In addition, because deposit rates are in part administratively set, the index does not appear to reflect mortgage market movement and may, in fact, move against mortgage rates, or at least at a different pace. Although the proposed VRM regulation would retain the cost-of-funds index, the Board requests comment on whether the VRM regulation should be amended to require use of the mortgage rate index, or whether the VRM and RRM regulations should be amended to provide for some other index or indices. In this respect, the Board would like to receive comments on all types of indices, whether national or regional, including indices tied to the cost of funds, a national average mortgage rate, and Treasury bill rates.

b. *Limitations on rate adjustment.* The Board proposes to change the VRM's maximum annual and overall interest-rate adjustments to be consistent with the proposed changes in the RRM adjustments described above. In addition, the Board proposes to authorize VRM adjustments every six months rather than once a year, as currently provided, which would benefit both lenders and borrowers in periods of interest-rate volatility. Thus, the maximum rate adjustment would be 50 basis points (0.5 percentage points) every six months, with a maximum increase or decrease of five percentage points over the life of the mortgage.

The proposal provides that the initial interest rate adjustment may not take place sooner than six months after the first regular loan payment. The Board requests comment on whether this period is appropriate. The proposal also provides that, once an adjustment period has been fixed, its length may not later be altered. Thus, for example, an association that establishes 18 months as the period between the first loan payment and the first interest rate adjustment may not at a future time shorten the period between adjustments to 12 months, or lengthen it.

The current regulation provides for a minimum adjustment in the interest rate of one-tenth of one percentage point (0.1 percentage points). The Board proposes to delete this provision, and notes that, under current Board interpretation of the RRM regulation, which contains no minimum adjustment provision, this would mean that the loan interest rate must be computed to a hundredth of a percentage point. Since the index rate is calculated to the thousandth of a percentage point, the loan interest rate would have to be rounded to the nearest hundredth of a percent to obtain the appropriate rate. In no event, though, could the interest rate, as a result of such rounding, exceed the regulatory limitation on changes in the loan interest rate. Since the VRM regulation makes all interest rate decreases mandatory, even a decrease of only one one-hundredth of a percentage point would have to be passed on to the borrower. This should not place an undue burden on associations, however, since the notification procedure for adjustment of the interest rate must be followed even if there is no change at all in the rate.

Currently, the VRM regulation provides that changes in the index rate that are not taken (either at the lender's option in the case of increases or because they are too small or too large) may be accumulated by the lender in the case of increases and must be accumulated in the case of decreases, and may be taken at a later time or used to offset other rate changes (12 CFR 545.6-4(c)(4)). In view of the more liberal limitations on interest rate adjustments proposed herein, the Board believes that the provision for accumulation is no longer needed by associations and so proposes to delete the provision. The Board notes that the regulation would continue to enable associations to "catch up" to increases in the index rate.

c. *Multi-year VRM.* The existing VRM regulation permits associations to issue VRMs with interest rate adjustment periods exceeding one year, in multiples of 12 months (12 CFR 545.6-4(c)(6)). The Board believes it is unnecessary to have a separate provision in order to authorize use of a multi-year VRM since the regulation merely limits the minimum period of time that may elapse between adjustments of the interest rate and does not place any limits on the maximum period of time. Therefore, the Board proposes to delete this provision.

d. *Offer of fixed-rate, fixed-payment mortgage.* Existing 12 CFR 545.6-4(a) requires Federal associations to offer a "standard" mortgage to borrowers who

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may be eligible for a VRM. This requirement was adopted to reflect the Board's concern over the newness of the adjustable-rate concept and to indicate the Board's intent to monitor the growth and market acceptance of such instruments. Experience gained after adoption of these provisions, most notably with regard to the VRM authorized by the state of California for use by California savings and loan associations, has satisfied the Board that the required disclosures give consumers sufficient information to make an informed choice about mortgage financing. Therefore, the Board proposes to eliminate the mortgage-choice requirement.

e. *Notification; prepayment penalty.* The current VRM regulation requires a 30-day notice of a change in the interest rate when a 1-year adjustment is used, and prohibits prepayment penalties for 90 days after receipt of the notice. By comparison, the RRM regulation requires a 90-day notice for a 3-to-5 year adjustment and prohibits the imposition of prepayment penalties at any time after notice of the first interest rate adjustment. In view of the proposed liberalization of the limitation on interest rate adjustments, the Board believes that a 30-day notice of adjustment may be insufficient. Therefore, the Board proposes to increase the minimum notice period to 60 days, and requests comment on whether this period should be longer or shorter. In addition, to prevent potential abuses resulting from notice being given too far in advance (*e.g.*, selection by the lender of the index rate most favorable to it), the Board proposes to place a limitation on the maximum length of the notice period of 90 days. In addition, in views of the proposed similarity of the rate adjustments permitted for both VRMs and RRMs, the Board proposes to prohibit imposition of a prepayment penalty at any time after commencement of the notice period for the first interest rate adjustment period.

f. *Addition Changes.* At present, the VRM regulation limits the dollar amount of an association's investment in VRM loans to 50 percent or less of the amount of the association's home mortgage loans, and provides that authority to invest in VRMs will cease as of December 31, 1982 (12 CFR 545.6–4(c)(2)). Experience gained about the use of mortgage loans permitting adjustment of the interest rate has led the Board to believe these provisions are no longer needed. Therefore, the Board proposes to eliminate both the portfolio restriction and the sunset limitation.

Other Proposed Changes to Alternative Mortgage Instruments

1. *Offer of fixed-rate, fixed-payment mortgage.* As noted above, 12 CFR 545.6–4(a) requires that Federal associations offer a "standard" mortgage to borrowers who may be eligible for a VRM. This requirement applies also to the other alternative mortgage instruments authorized pursuant to 12 CFR 545.6–4, the graduated-payment mortgage ("GPM") and the reverse annuity mortgage ("RAM").

The GPM is a mortgage instrument with scheduled payments beginning at a level lower than would be necessary to amortize the loan's principal and interest over the loan term. Payments rise at a graduated rate to a predetermined point, after which they remain constant for the remainder of the loan term. The RAM authorizes periodic payments to homeowners based on accumulated equity; payments are made directly by the association or indirectly through purchase of an annuity, and the total loan (the sum of the principal payments plus accumulated interest) becomes due either at a specific date or when a specified action occurs, such as sale of the property or death of the borrower.

The GPM was developed to provide home financing for potential borrowers who would be ineligible for fixed-payment loans because of inadequate monthly income in the early years of the loan. Associations have indicated there is considerable confusion with regard to the "standard" mortgage option required to be offered to these applicants, *i.e.*, a fixed-payment loan with the same downpayment and other terms as the GPM, for which they would be ineligible, or a fixed-payment loan with the same monthly payments as the GPM in its first year, which would require a very substantial downpayment. The confusion stems from the fact that neither of these "options" is reasonable or helpful to the applicant. Similarly, the RAM applicant, typically a person with substantial home equity or other assets but a retirement income level, wants monthly payments from the lender as an income supplement and is not interested in an offer of a fixed-payment loan which will require additional monthly expenses and an income test for eligibility. The Board therefore proposes to eliminate the fixed-payment-mortgage option for all of its alternative mortgage instruments, but specifically requests comment on this proposal.

2. *Disclosure requirements.* The Board proposes to amend its disclosure requirements for VRMs, GPMs, and RAMs to make them consistent with the substantive changes proposed above. In addition, the Board proposes to adopt standard disclosure documents for VRMs and GPMs in response to the strong approval voiced by lenders and consumers for the standardized disclosures provided in the Board's RRM regulations.

The Board proposes to structure the VRM preapplication form to closely reflect its RRM standard disclosure form. Since associations would no longer be required to offer a fixed-rate mortgage alternative, the side-by-side comparison and full-term "worst case" schedule would be replaced by an example of the effect of the maximum increase allowable at the first adjustment, and the maximum possible rate changes (up and down) over the life of the mortgage, using the association's current mortgage rate. The Board notes that Truth-In-Lending statements will continue to provide specific credit information supplemental to the Board's disclosure material.

The GPM regulation currently gives a borrower the right to convert, at a time chosen by the borrower, to a standard mortgage instrument (provided the borrower is eligible for such instrument under the association's normal underwriting standards) (12 CFR 545.6–4(c)(3)). Also, the disclosure required by the regulation must contain a side-by-side comparison of the two types of instruments. The standard GPM disclosure form proposed by the Board would continue to contain a comparison in the form of an example of two instruments having the same term, interest rate and initial principal balance.

Since the entire payment schedule of a GPM is known at the time of loan commitment, something which is not possible with either the RRM or the VRM, an additional question is raised as to whether the borrower should be given a post-application, instrument-specific disclosure setting out both the payment schedules of the GPM loan offered to the borrower and of the standard mortgage loan to which the borrower may convert. The Board specifically requests comment on whether this additional disclosure should be required as a means of fully informing the borrower of the borrower's options.

3. *Option to convert.* The Board also specifically requests comment on whether the borrower's right to convert from a GPM to a standard mortgage instrument should be retained in the regulation. The conversion option is only usable during the graduation period, since after the graduation period monthly payments do not change in amount. It is unclear, therefore, how many borrowers can avail themselves of this feature. On the other hand, through utilization of the option, a borrower would be able to obtain a monthly payment amount that, although larger than the amount being paid prior to conversion, would be lower than the amount the borrower would have had to pay at the end of the full graduation period.

4. *Extension of loan maturity of RRMs and VRMs.* The VRM regulation permits borrowers to extend the loan term up to a maximum of one-third of the original loan term in order to avoid or lessen the impact on monthly payments of interest rate increases. The Board proposes that this provision be amended to permit an extension of up to ten years, though not to such an extent that monthly loan payments would be reduced below the original monthly payment amount, and proposes to extend this right to RRM borrowers, who currently possess no such right.

The Board notes that, when it promugated the RRM regulation in April, it considered giving RRM borrowers the right to extend the loan maturity but determined not to include such a provision for several reasons. First, although permitting extension would lessen the effects of an interest rate increase, it also would result in a substantial increase in the total mortgage payments. In addition, it was felt that payment changes created by the combination of loan extension and rate adjustment would create administrative problems for lenders and secondary market participants. Finally, it was believed that loan extensions would create secondary market problems because instruments included in a loan portfolio would move at different rates. The Board remains concerned with these potential problems and therefore requests comment on all aspects of the proposed change.

5. *Merger of RRM and VRM regulations.* The Board specifically requests comment on whether the RRM and VRM regulations should be combined into one regulation that would authorize Federal associations to issue one type of adjustable-rate mortgage incorporating features of both the existing and proposed RRM and VRM regulations. The Board notes that the regulations on adjustable-rate mortgages proposed by the Comptroller of the Currency contemplate only one type of instrument.

6. *Federal preemption.* The Board proposes to codify its view that the alternative mortgage instruments regulation is promulgated pursuant to the Board's plenary and exclusive authority to regulate all aspects of the operations of Federal associations. As such, the Board's exercise of this authority is preemptive of any state law purporting to restrict the ability or right of any Federal association to use alternative mortgage instruments.

Finally, the Board would like to clarify that any of the alternative mortgage instruments authorized by the Board may be used to finance the purchase of mobile homes where the loan is made on the combined security of the mobile home and the real estate to which it is affixed, because this is considered to be a home loan under 12 CFR 545.6–2(a). Where the loan is secured only by a mobile home and not by the real estate to which it is affixed, however, it is considered to be a mobile home loan under 12 CFR 545.7–6, which does not contain any restrictions on adjustment of the rate on such a loan.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend §§ 545.6–4 and 545.6–4a of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.6–4 and 545.6–4a), to read as set forth below.

PART 545—OPERATIONS

1. Amend 12 CFR 545.6–4 by amending paragraph (a), paragraphs (b)(1) and (b)(6), and paragraphs (c)(1), (c)(3), (c)(4)(i), (c)(4)(iv), (c)(4)(v), and (c)(5), deleting paragraphs (b)(5), (c)(2), (c)(4)(iii), (c)(4)(v)(*c*), (c)(4) (vii)(*c*), and (c)(6), and redesignating existing paragraphs (b)(6), (c)(3), (c)(4), (c)(4)(iv), (c)(4)(v), (c)(4)(vi), (c)(4)(vii), (c)(4)(vii)(*d*), (c)(4)(vii)(*e*), (c)(4)(vii)(*f*), and (c)(5), as paragraphs (b)(5), (c)(2), (c)(3), (c)(3)(iii), (c)(3)(iv), (c)(3)(v), (c)(3)(vi), (c)(3)(vi)(*c*), (c)(3)(vi)(*d*), (c)(3)(vi)(*e*), and (c)(4), to read as follows:

§ 545.6–4 Alternative mortgage instruments.

(a) *Authorization.* (1) A Federal association may make, purchase or participate in the alternative mortgage instrument loans described in this section if such loans comply with the provisions of § 545.6–2(a) of this Part, pertaining to one-to-four-family home loans. The instruments described in this section allow certain payment and other provisions otherwise prohibited by this Subchapter. An association using an alternative mortgage instrument shall obtain and retain in the loan application file a certification signed by the prospective borrower indicating that the borrower has received the disclosure materials specified in this section before electing to take the alternative mortgage instrument.

(2) This regulation is promulgated pursuant to the plenary and exclusive authority of the Board to regulate all aspects of the operations of Federal associations, as set forth in § 5(a) of the Home Owners' Loan Act of 1933, as amended. This exercise of the Board's authority is preemptive of any state law purporting to address the subject of a Federal association's ability or right to make, purchase, or participate in the alternative mortgage instruments set forth in this section, or to directly or indirectly restrict such ability or right.

(b) *Graduated-payment mortgage.* (1) *Description.* For purposes of this section, a graduated-payment mortgage loan is a fixed-rate loan on which the monthly payments begin at a level lower than that of a level-payment, fixed-rate loan. During a period the length of which is fixed at loan origination (the "graduation period"), the monthly payment amount gradually rises to a level sufficient to amortize the remaining principal balance over the remaining term of the loan. Limitations on the rate of increase in the monthly payment amount during the graduation period are also fixed at loan origination.

* * * * *

(5) *Application disclosure.* An applicant for a graduated payment mortgage loan must be given, at the time of receipt of an application, a disclosure notice in the following form:

Information About the Graduated Payment Mortgage

You have received an application form for a graduated payment mortgage (GPM). The GPM differs from a level-payment mortgage in the following respect: during the early years of the loan, monthly payments are lower than they would be on a level-payment mortgage and are not sufficient to cover the interest being charged on the loan. As a result, the outstanding principal balance on the GPM loan actually increases somewhat during these years.

To compensate for the initial, lower payments, monthly payments increase gradually each year during a period of up to 10 years (the "graduation period") until they reach a level sufficient to pay all interest and principal by the end of the loan term. The amount of the maximum payment increase due to the graduation feature varies from 7.5 percent per year for up to a 5-year graduation period to 3 percent per year for a 10-year graduation period. The length of the graduation period and limitations on the rate of increase of monthly payments are fixed at loan origination.

Payment amounts may not be changed more than once a year, and the first change may not occur sooner than one year after the date of the first regular loan payment.

You have the right to convert this mortgage, at any time you choose, to a level-payment mortgage instrument, provided that you are then eligible for such mortgage under the

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association's normal underwriting standards. You may not be charged any fees or penalties if you convert to a level-payment mortgage bearing the same interest rate and outstanding maturity as the GPM. Such a mortgage has a fixed interest rate and level payments sufficient to pay all interest and principal by the end of the loan term.

Example of Operation of GPM

Consider a $50,000 GPM that has an interest rate of [*Lender's current commitment rate*] percent, a graduation period of —— years, and a term of —— years. The monthly payments in the first —— years of the mortgage (the graduation period) will be as shown in the following table, which reflects a —— percent graduation. After the —— year, the payment will remain constant; it will not be increased beyond the level paid in the —— year.

Year	Principal at year-end	Monthly payment

By comparison, a $50,000 level-payment mortgage with the same interest rate and for the same term would carry a monthly payment of $——, and the remaining principal balance at the end of the [*number corresponding to year in which graduation period on above GPM would end*] year would be $——.

(c) *Variable-rate mortgage.*

(1) *Description.* For purposes of this section, a variable rate mortgage loan is a loan issued for a term of up to thirty years, secured by a mortgage of equal term, on which the interest rate may be adjusted as frequently as once every six months. Thus, future monthly payment amounts are not known at the time of loan origination. Adjustments of the interest rate are tied to changes in an index, as described in subparagraph (2). Prepayment in full or in part of the loan balance secured by the mortgage may be made without penalty at any time after the beginning of the notice period for the first adjustment, or at any earlier time specified in the loan contract.

(2) *Index.* * * *

(3) *Interest-rate adjustments.*

(i) *Frequency.* Interest-rate adjustments (and loan payment changes resulting from them) may not be made more frequently than once every six months, and the first adjustment may not occur sooner than six months after the date of the first regular monthly payment.

(ii) *Calculation and timing of adjustments.*

* * * * *

(iii) *Maximum adjustments.* Rate adjustments (up or down) may not exceed one-half of one percentage point (0.5 percentage points) every six months, provided that the maximum increase or decrease in the interest rate over the life of the loan may not exceed five percentage points. Downward adjustments must be made, but increases are at the lender's option. Associations may offer a borrower a variable rate mortgage loan with maximum interest rate decreases smaller than the maximums set out in this subparagraph; provided, however, that in such case the maximum interest rate increases offered shall not exceed the maximum decreases set out in the loan contract.

(iv) *Actions relating to rate increases.* Upon notification of an increase, the borrower shall have the following options:

(*a*) Not respond to the notice; payment will be adjusted upward to reflect the higher interest rate; or

(*b*) Request that loan maturity be extended by up to 10 years (but not to such an extent that monthly loan payments would be reduced below the original monthly payment amount).

(v) *Actions relating to rate decreases.* * * *

(vi) *Notification requirements.* * * *

(4) *Application disclosure.* An applicant for a variable-rate mortgage loan must be given, at the time of receipt of an application, a disclosure notice in the following form:

Information About the Variable-Rate Mortgage

You have received an application form for a variable-rate mortgage ("VRM"). The VRM differs from the fixed-rate, fixed-payment mortgage with which you may be familiar. Instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the VRM has an interest rate that may increase or decrease as frequently as once each six months. This means that the amount of your monthly payment may also increase or decrease.

The term of the VRM is —— years. The interest rate may be adjusted every —— months (the "adjustment period").

Adjustments to the interest rate are based on changes in an index rate. The index used is computed by the Federal Home Loan Bank Board, an agency of the Federal government. The index is based on the national average cost of funds to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

At the time of adjustment of the interest rate, if the index has moved to a level higher than it was at the beginning of the mortgage, the lender has the right, subject to the limitations described in the paragraph below, to adjust the interest rate to a rate equalling the original interest rate plus the increase in the index rate. Although taking such an increase is optional with the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

If the index has moved down, the lender must at the time of adjustment reduce the original interest rate by the decrease in the index rate. No matter how much the index rate increases or decreases, the lender, at the time of adjustment, may not increase or decrease the interest rate on your VRM loan by an amount greater than ——— of one percentage point per adjustment period, and the total increase or decrease over the life of the mortgage loan may not be more than ——— percentage points.

If the interest rate increases, you have the right to extend the maturity of the loan by up to 10 years, although the loan may not be lengthened to such an extent that the monthly loan payments would be reduced below the original monthly payment amount. In addition, you have the right to prepay the loan in part or in full without penalty at any time after notification of the first interest rate increase or decrease. This notification, which also sets out the new interest rate, monthly payment amount, and remaining principal balance, must be sent to you at least 60 but not more than 90 days prior to adjustment of the interest rate.

Example of Operation of VRM

The maximum interest-rate increase at the end of the first adjustment period, which is ——— months long, is ——— percentage points. On a $50,000 VRM with a term of ——— years and an original interest rate of [*lender's current commitment rate*] percent, this rate change would increase the monthly payment (principal and interest) from $——— to $———. Using the same example, the highest interest rate you might have to pay over the life of the mortgage would be ——— percent, and the lowest would be ——— percent.

2. Amend subparagraphs (c)(1) and (2) and paragraph (f) of 12 CFR 545.6–4a, and add a new subparagraph (c)(4), to read as follows:

§ 545.6–4a Renegotiable rate mortgage instruments.

* * * * *

(c) *Interest-rate changes at renewal or adjustment; extension of loan maturity.* (1) The interest rate offered at renewal or adjustment shall reflect the movement, in reference to the date of the loan, of the Board's most recent monthly national average mortgage rate index for all major lenders for the purchase of previously-occupied, single-family homes: *Provided,* That an association may alter the initial term or initial adjustment period of all loans originated within a six-month period so that they mature or adjust on the same date three, four or five years after the end of that period, in which case the interest rate offered at renewal or adjustment shall reflect the movement of the index from the beginning of the six-month period (that is, as though all loans in the group had originated at the beginning of the period).

(2) The maximum increase or decrease in the contract interest rate shall be one percentage point per year multiplied by the number of years in the loan term or adjustment period, with a maximum increase or decrease of five percentage points over the life of the mortgage. Associations may offer a borrower a renegotiable rate mortgage loan with maximum annual and total interest rate decreases smaller than the maximums set out in this subparagraph; provided, however, that in such a case the maximum annual and total interest rate increases offered shall not exceed the maximum annual and total decreases set out in the loan contract.

* * * * *

(4) Upon notification of an increase in the interest rate, the borrower may request that loan maturity be extended by up to 10 years (but not to such an extent that monthly loan payments would be reduced below the original monthly payment amount).

* * * * *

(f) *Application disclosure.* An applicant for a renegotiable rate mortgage loan must be given, at the time of receipt of an application, a disclosure notice in the following form (underlined, bracketed language should be substituted for bracketed language if the loan is structured as a long-term note):

Information About The Renegotiable-Rate Mortgage

You have received an application form for a renegotiable-rate mortgage ("RRM"). The RRM differs from the fixed-rate mortgage with which you may be familiar. [In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3–5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan.] [*Instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease every three, four or five years.*] This means that the amount of your monthly payment may also increase or decrease.

[The term of the RRM loan is ——— years, and the length of the underlying mortgage is ——— years. The initial loan term may be up to six months longer than later terms.]

[*The term of the RRM is ——— years. The interest rate may be adjusted every ——— years. The initial adjustement period may be up to six months longer than later periods.*].

[The lender must offer to renew the loan, and the only loan provision that may be changed at renewal is the interest rate. The interest rate offered at renewal is based on changes in an index rate.] [*Adjustments to the interest rate are based on changes in an index rate.*] The index used is computed monthly by the Federal Home Loan Bank Board, an agency of the Federal government. The index is based on the national average contract rate for all major lenders for the purchase of previously-occupied, single-family homes.

[At renewal, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to offer a renewal of the loan at an interest rate equalling the orginal interest rate plus the increase in the index rate.] [*At the time of interest rate adjustment, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to adjust the interest rate to a rate equalling the original interest rate plus the increase in the index rate.*] This is the maximum increase permitted to the lender. Although taking such an increase is optional with the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

In addition, if the interest rate is to be increased, you have the right to extend the overall maturity of the loan by up to 10 years, although the loan may not be lengthened to such an extent that the monthly loan payments would be reduced below the original monthly payment amount.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder

Acting Secretary.

[FR Doc. 80-34131 Filed 10-31-80; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Parts 546, 561, 563c, and 571

[No. 80-654]

Treatment of Goodwill Acquired in Mergers

October 23, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to revise its policy statement on mergers of savings and loan associations by providing benchmarks for the amount of goodwill that merging institutions may use in calculating net worth. Conforming changes would be made to the Board's net worth definition and its regulations that delegate authority to its Principal Supervisory Agents to approve certain mergers. In addition, the Board proposes to change its accounting rule regarding discount on assets acquired in a merger to require that such discount be accured on the same basis and over the same time period as goodwill is amortized. The Board believes these changes are necessary to assure the capital adequacy of resulting associations.

DATE: Comments must be received by: December 31, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Thomas F. Timmins, Deputy Director, Office of Examinations and Supervision, (202–377–6545) or Patricia C. Trask, Attorney, Office of General Counsel, (202–377–6442) Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: The Board's regulations regarding mergers involving Federal savings and loan associations (12 CFR 546.2), and those involving institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation (12 CFR 563.22), are supplemented by a policy statement at 12 CFR 571.5 which sets out factors the Board uses in considering merger applications. This policy statement does not ordinarily apply to mergers instituted for supervisory reasons.

The Board's primary requirement for a merger is that the institution resulting from a merger ("resulting institution") have the managerial and financial resources to operate successfully. The Board thus reviews the overall operations and financial condition of the merger applicants to determine the resulting institution's prospects of generating sufficient income to meet competition, and otherwise conducting its affairs in a safe and sound manner.

In reviewing the financial resources of merger applicants, the Board determines whether the resulting institution's net worth (defined in 12 CFR 561.13 to mean the sum of all reserve accounts, except specific or valuation reserves; retained earnings; capital stock; and any other nonwithdrawable accounts of an insured institution) will adequately satisfy the net worth and reserve levels of 12 CFR 563.13. This review focuses in part on the assets of the resulting institution. An important asset in many purchase mergers is goodwill, which is the part of the purchase price paid for an acquired institution that exceeds the fair value of the institution. Recent merger applications have disclosed amounts of goodwill that are disproportionately large in relation to the resulting institution's net worth, causing the Board concern about the capital adequacy of the resulting institution. Instead of treating goodwill in each purchase merger application on a case-by-case basis to determine capital adequacy, the Board has decided

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to propose benchmarks for the amount of goodwill that may be counted in calculating net worth of the resulting institution. The Board will approve non-supervisory mergers only where the resulting institution's net worth, calculated including permitted goodwill, meets regulatory net worth and reserve levels for that institution.

As proposed, the benchmarks would set a ceiling of 30% of net worth as the maximum amount of aggregated goodwill that could be used in calculating net worth both at the time of merger and thereafter. Aggregated goodwill in amounts between 20 and 30 percent will be permitted to count in determining net worth if, in the opinion of the Board, applicants have carefully and thoroughly substantiated their value considerations. Such substantiation could include evidence that the institution being acquired has, for instance, extraordinary earnings, valuable branch locations, or appreciated assets still carried on the association's books at a conservatively determined value.

As a general rule, the Board anticipates that goodwill in amounts of 20% or less of net worth may be used in calculating net worth, although there may be occasion for the Board to reduce the amount of goodwill, especially if the resulting institution's financial condition was otherwise inadequate.

The Board is also proposing to amend its definition of net worth in § 561.13 to conform to the proposed change. Currently, after a merger has been approved, the Board treats goodwill like any other asset of the resulting association for the purpose of calculating its net worth. However, as proposed, the net worth definition would provide that the net worth of an insured institution will be reduced by the amount of aggregated goodwill that exceeds the percentage authorized by the Board in a resolution approving a merger. As a result of this change, the treatment of goodwill in a merger would be carried over to subsequent annual calculations of net worth.

As a corollary to this proposal, the Board is proposing, as a regulation, its current procedures for accounting for goodwill in mergers. The existing policy is currently in the form of a technical staff memorandum designated R31a, and would be changed in substance only by adding a provision that concerns the accrual to income of discount on assets acquired in a merger and included in goodwill.

Currently, the discount on acquired assets may be accrued using the straight-line, sum-of-the-years digits, or level yield method of accounting. Goodwill, on the other hand, must be amortized using the straight-line method. The use of different accounting methods in this instance may give rise to distortions in net worth levels and computations. Therefore, the proposed change would require that the amount of discount arising out of an acquisition would be accrued to income on the same basis, and over the same time period, as goodwill is amortized.

The Board also proposes conforming changes to its regulations that delegate to the Board's Principal Supervisory Agents (PSAs) the authority to approve certain mergers. The proposed revision would require that the PSAs deduct goodwill when calculating net worth. If the resulting institution's net worth would not meet the regulatory net worth level without goodwill, the merger application would be sent to the Board. Specific comment is invited on this procedure, as well as the potential impact any of the proposed changes might have on mergers of small associations.

Accordingly, the Board hereby proposes to amend 12 CFR 546.2; 12 CFR Part 563; 12 CFR Part 563c by adding thereto new § 563c.14; and 12 CFR 571.5, to read as set forth below.

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Revise paragraph (h)(6) of § 546.2, to read as follows.

§ 546.2 Procedure; effective date.

(h) * * *

* * * * *

(6) The resulting association's net worth, excluding goodwill, would at least equal the amount required for that association under § 563.13 of this chapter;

* * * * *

PART 561—DEFINITIONS

2. Add the following sentence at the end of § 561.13:

§ 561.13 Net Worth.

* * * For purposes of satisfying any net worth requirement of the Corporation, including the annual net worth requirement of § 563.13(b) of this subchapter, the net worth of an insured institution shall be reduced by the amount of aggregated goodwill that exceeds the percentage thereof authorized by the Corporation in a resolution approving any merger.

PART 563—OPERATIONS

3. Revise paragraph (e)(6) of § 563.22, to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

* * * * *

(e) * * *

(6) The resulting institution's net worth, excluding goodwill, would at least equal the amount required for that association under § 563.13 of this chapter;

* * * * *

PART 563c—ACCOUNTING REQUIREMENTS

4. Amend Part 563c by adding new § 563c.14, to read as follows:

§ 563c.14 Accounting for goodwill in mergers.

Purchase price shall be allocated to assets acquired and liabilities assumed on the basis of fair value at the date of acquisition in accordance with generally accepted accounting principles. The determination of the fair value of assets acquired and liabilities assumed must be adequately supported and documented. The excess of the purchase price over the fair value thus determined is goodwill. Goodwill may be written off in the year of acquisition or amortized over the future periods estimated to be benefited, but no more than 10 years from the acquisition date. An insured institution shall use the straight-line method of amortization of goodwill. The amount of annual amortization shall be charged to non-operating expense. The amount of discount arising out of an acquisition may only be accrued to income on the same basis and over the same time period that goodwill is amortized.

PART 571—STATEMENTS OF POLICY

1. Amend paragraph (d)(2) of § 571.5 by adding at the end thereof the following language:

§ 571.5 Mergers.

* * * * *

(d) *Managerial and financial aspects.*

(1) * * *

(2) *Financial aspects* * * * In evaluating the adequacy of net worth, the Board's policy is to exclude aggregated goodwill in amounts exceeding 30 percent of a resultant association's net worth in calculating the net worth of the resultant association. Aggregated goodwill in amounts between 20 and 30 percent of a resultant association's net worth may be counted by the Board in calculating net worth if, in the opinion of the Board, substantiated value considerations for the amount exceeding 20 percent have been presented by applicants. As a general rule, the Board will not deduct from the resulting association's net worth goodwill in amounts of 20 percent or less of the resultant association's net worth. However, if the Board finds that one or both of the merging associations has substantial operating losses or presents other reasons for concern, the Board may reduce the amount of goodwill included in the net worth calculation below 20 percent.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-34132 Filed 10-31-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-ASW-46]

Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airway V-385 from Abilene, Tex., to Lubbock, Tex. This alteration would provide a route that bypasses the Reese 4 and 5 and Roby Military Operations Areas (MOAs) when they are activated, thereby improving flight safety in the area.

DATES: Comments must be received on or before December 3, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASW-46, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before December 3, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate new VOR Federal Airway V-385 from Abilene, Tex., to Lubbock, Tex. This airway would be utilized when MOAs Reese 4 and 5, and MOA Roby are activated, otherwise, aircraft would proceed via V-62. This action would aid flight planning and increase air safety in the area during the period when Military Flight Training is being conducted. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart C of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) as republished (45 FR 307) as follows:

Under § 71.123

"V-385

From Lubbock, Tex.; INT Lubbock 096°T(085°M) and Abilene, Tex., 333°T(323°M) radials; Abilene." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on October 28, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-34129 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 456

State and Private Ophthalmic Advertising Regulation; Comments Solicited

AGENCY: Federal Trade Commission.

ACTION: Call for Comment on State and Private Ophthalmic Advertising Regulation.

SUMMARY: On February 6, 1980, the United States Court of Appeals for the District of Columbia Circuit remanded the advertising provisions of the Commission's rule on Advertising of Ophthalmic Goods and Services (16 CFR Part 456). The court did this so that the Commission could reconsider the need for these provisions in light of changes in the regulation of ophthalmic advertising which have occurred since the rule's promulgation. In response to the remand, the Commission has directed its staff to evaluate whether or not changes in state and private regulation of advertising, including enforcement policies, have occurred or are occurring which would eliminate the need for Commission action in this area, to examine whether unwarranted public or private burdens and limitations on advertising continue to exist and to make a recommendation as to whether any Commission action is appropriate. As part of this inquiry, we are aksing for comments from any interested person concerning these questions.

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DATES: Since this is a continuing inquiry, there is no formal closing date.

ADDRESSES: Comments should be submitted to: Federal Trade Commission, 6th and Pensylvania Avenue, NW, Washington, DC, 20580. Attention: Eyeglasses I TRR, Room 250.

FOR FURTHER INFORMATION CONTACT: Renee Kinscheck, Bureau of Consumer Protection, Federal Trade Commission, Rm. 250, 6th Street and Pennsylvania Ave., N.W., 20580. Telephone (202) 523-3377.

SUPPLEMENTARY INFORMATION: On June 2, 1978, the Commission promulgated the trade regulation rule on Advertising of Ophthalmic Goods and Services which prohibited states and professional associations from placing limitations and burdens on nondeceptive advertising of eye examinations, prescription eyewear and related dispensing services. The rule also required that eye doctors release eyeglasses prescriptions to their patients to enable them to comparison shop. The rule was promulgated in response to widespread public and private bans, limitations and burdens on nondeceptive ophthalmic advertising and evidence showing great consumer harm flowing from these restrictions. Studies indicated that in states where price advertising was allowed average prices were from 25 to 40 percent lower than in states where advertising was restricted. Other surveys showed that prices for lenses, frames or complete eyeglasses varied as much as 300 percent from seller to seller.

Although the rule became effective on July 13, 1978, the American Optometric Association (AOA), joined by the American Medical Association and 17 states, challenged its validity in court. On February 6, 1980, the United States Court of Appeals upheld the rule's prescription release requirement but remanded the advertising provisions of the rule. In its opinion, the court did not rule on any substantive or procedural questions regarding the remanded advertising provisions. Rather, it held that there had been significant changes in the status of advertising regulation by the states, and possibly by private groups, since the time the FTC developed the record in support of the rule. The court remanded the rule so that the Commission could reconsider the need for these rule provisions in light of these changes.

As a result of the court's remand, the advertising provisions of the FTC rule are not currently in effect and thus state and local laws or regulations which previously conflicted with the rule are no longer superseded. In holding that the FTC rule's advertising provisions may no longer be necessary, however, the D.C. Circuit stated that the Supreme Court "has declared illegal the flat bans on advertising which the rule would prohibit. The Court has probably made illegal state laws which 'burden' or 'limit' advertising, just as the rule would." [1] Consequently, advertisers should check with state authorities regarding applicable law and the state's enforcement policy.

Advertising restrictions imposed by private associations, although not covered by the First Amendment, remain subject to the requirements of the Federal Trade Commission Act and Commission interpretations of it.[2]

In response to the court's remand, we have directed our staff to examine changes in ophthalmic advertising which have occurred since we originally promulgated our rule and to monitor changes which may be presently occurring to enable us to assess the need for continued Commission involvement.

In promulgating the rule, we decided that some limitations and burdens on advertising, other than total bans, might violate section 5 of the FTC Act because they may cause substantial and unnecessary harm and violate the public policy in favor of the right to advertise. Such limitations and burdens may reduce the amount of information available to consumers, thereby increasing prices and may be unnecessary to prevent unfairness or deception.

The Commission's staff will examine whether such burdens and limitations continue to exist. If warranted by the evidence and the public interest, the Commission will decide if it should take action to protect the ability to nondeceptively advertise.

Call For Public Comment

To further our inquiry, we are soliciting public comment from all persons who have any interest in ophthalmic advertising, especially state officials, ophthalmologists, optometrists, opticians and consumers. We are interested in any activities by states and private associations since our rule was originally promulgated in 1978. Because this is a continuing inquiry, we will be interested in changes in state or private activity in the future, and thus, we would welcome comments on these issues as changes occur.

We are specifically seeking comments which address the questions which are listed below, but other comments on advertising issues will also be welcome.

Laws, Regulations and Codes

(1) Have any changes been made recently in the laws or regulations of your state which apply to ophthalmic advertising? [3]

(2) Are there codes of conduct promulgated by national, state or local private associations which apply to ophthalmic advertising?

(3) Are there any proposals for changes in the current laws or regulations or private codes governing ophthalmic advertising in your state?

(4) Have any limitations on advertising been challenged in court? if so, what was the outcome and what costs were associated with bringing the case (*i.e.*, litigation costs, etc.)?

Enforcement

(5) How are the private codes and laws or regulations in your state being enforced, and how have they been enforced during the past two years?

For example:

(a) What ads, letters or telephone calls have licensing officials in your state or association officials found to violate regulations? Why?

(b) What ads, etc. have such officials found to be unfair or deceptive? Why?

(c) What have such officials told or written advertisers or potential advertisers about the legality or propriety of certain advertisements or about advertising in general?

(d) Have these rules or regulations been enforced informally, for example, through letters or telephone calls?

Effect

(6) What effect do these state laws and regulations and association codes have on advertising in your state or locality?

For example:

(a) How much advertising has occurred in your state or locality?

(b) What kind of advertising has occurred? Is it price advertising?

(c) Who has advertised: opticians; chain stores; optometrists; ophthalmologists?

(d) Has anyone desired to advertise but decided not to because of the laws or codes?

(e) Has anyone decreased the amount of their advertising because of the laws or codes?

(f) Have the laws or codes helped to eliminate deception or unfairness to consumers?

Comments or questions should be directed to: Eyeglasses I TRR, Room 250, Federal Trade Commission, Washington, DC 20580.

By Direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-34225 Filed 10-31-80; 8:45 am]

BILLING CODE 6750-01-M

[1] *American Optometric Ass'n. v. FTC*, CCH 1980-1 Trade Cas. ¶63,165 (D.C. Cir. 1980).

[2] *See, e.g.*, In the Matter of the American Medical Association, Docket No. 9064 (Oct. 12, 1979), *appeal pending* Nos. 79-4214 and 79-4226 (2nd Cir.).

[3] The word "advertising" as we use it throughout this statement, refers to all forms of dissemination of information, including activity which is often referred to as solicitation.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6252; File No. S7-861]

Resales of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment a proposal to amend Rule 144, which provides a safe harbor for the resale of securities to the public. The proposed amendments would permit persons who have held securities covered by the rule for periods of three or four years, depending on the status of the issuer of the securities, to sell such securities without compliance with the provisions of the rule relating to amount limitation, manner of sale and notice, provided such persons are not affiliates of the issuer and there is current information available to the public concerning the issuer. The purpose of the amendments is to relax restrictions on resales of restricted securities that may be more burdensome than necessary. The Commission specifically invites comment from interested persons on its proposal to eliminate the notice of sale requirement, as it has no way to determine the utility of information furnished thereby to issuers, the investment community, or the general public. When Rule 144 was adopted in 1972, the notice requirement (Form 144) was considered valuable as an aid to the Commission in monitoring the operation of the rule, and as an enforcement tool to assist in the detection of abuses. The Commission also would welcome comments as to whether the Form 144 requirement should be retained for non-affiliates, but with revisions in content or format, so as to provide information that would be especially relevant to those functions in light of the other proposed amendments.

DATE: Comments must be received on or before December 1, 1980.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-861 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Ann M. Glickman or William E. Toomey at (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549

SUPPLEMENTARY INFORMATION: The Commission today published for comment proposed amendments to Rule 144 (17 CFR 230.144) under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.]. The amendments are being proposed for the purpose of relaxing certain provisions of the rule which may be unnecessarily burdensome.

Background

Rule 144 provides a safe harbor for the resale of "restricted securities" [1] and securities held by affiliates [2] of an issuer. The rule sets forth standards which, if met, permit persons who hold such securities to sell them publicly without the need for registration and without being deemed underwriters [3] unde the Securities Act. Rule 144 was considered experimental at the time of its adoption in 1972.[4] Because the rule represented a significant departure in the effort to regulate resales of restricted securities, the resale provisions of the original rule were relatively strict. The Commission has watched the operation of the rule carefully and, from time to time, has relaxed its requirements to alleviate the burden of compliance with the rule in a manner consistent with its goal of investor protection.

In Release No. 33-6032 (March 5, 1979) [44 FR 15610] the Commission adopted amendments for Rule 144 which permitted sales of securities by non-affiliates without regard to the volume restrictions of the rule, provided that the seller held the securities for at least three years, if the securities to be sold were of a class listed on a national securities exchange or quoted on NASDAQ;[5] or after a four-year holding period, if the issuer filed periodic reports under Sections 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. The Commission did not change any of the other requirements of the rule. In the adopting release, the Commission indicated that the amendments gave some recognition to the fact that a non-affiliate who has held his securities for a considerable length of time has provided a substantial indication that he did not adquire his securities with a view to distribution, and is therefore not an underwriter who must register his securities for resale. Anyone who is not an issuer, underwriter or dealer may resell securities in any manner he wishes subject, of course, to the antifraud provisions of the Securities Act and the Exchange Act.[6] The Commission believes that similar considerations warrant the proposed elimination of the manner of sale and notice requirements of the rule for non-affiliates who have held their securities for the specified periods.

The proposed amendments would also eliminate the manner of sale, amount limitation and notice requirements of the rule for sales by non-affiliates who have held their securities for four years, if the issuer of such securities is in compliance with the requirements of paragraph (c)(2) of Rule 144 regarding the availability of current public information. The Commission is of the opinion that the three- or four-year stratified holding period condition is appropriate for the protection of persons who purchase securities sold pursuant ot Rule 144. Issuers with securities listed on an exchange or quoted on NASDAQ

[1] The term "restricted securities" includes securities acquired in nonpublic offerings, such as those under Section 4(2) of the Securities Act, as well as securities acquired in offerings made in reliance upon Rule 240 (17 CFR 230.240) under the Act.

[2] An "affiliate" of an entity is defined in Rule 405 (17 CFR 230.405) under the Securities Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the (entity)."

[3] The term "underwriter" is broadly defined in Section 2(11) of the Securities Act and includes persons who acquire securities "with a view to * * * distribution.

[4] See in this regard that portion of Release No. 33-5223 (January 11, 1972) (37 FR 591) entitled "Operation of the Rule."

[5] NASDAQ is an electronic interdealer quotation system which is owned and operated by the National Association of Securities Dealers, Inc.

[6] If the proposed amendments are adopted, the manner in which a nonaffiliate resells his securities may raise questions as to whether he is engaged in a distribution for purposes of Rule 10b-6 (17 CFR 240.10b-6) under the Exchange Act. The traditional test of a Rule 10b-6 distribution involves analysis of such factors as (i) the magnitude of the offering, (ii) the selling efforts, and (iii) the selling methods used. *See Bruns, Nordeman & Co.*, 40 S.E.C. 652, 660 (1961). These are the same criteria used to determine wheter sales pursuant to the liberalized volume limitations under Rule 144, effective as of September, 1978 (Release No. 33-5979 (September 27, 1978)), constitute a distribution for purposes of Rule 10b-6. See Release No. 33-6099 (August 4, 1979), Question 57. If sales pursuant to Rule 144 constitute such a distribution, Rule 10b-6 prohibits, among other things, purchases of the class of securities to facilitate the distribution by a participant in the distribution until his participation has been completed.

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are subject to self-regulatory controls and trading surveillance not applicable to other issuers, and there is a significant difference in the amount of information available concerning exchange-listed or NASDAQ-quoted securities and the securities of other companies that meet the conditions of paragraph (c) of Rule 144.

Certain other considerations prompt the Commission's proposal at this time to provide limited relief from the manner of sale and notice requirements of Rule 144. In Release No. 33–5979 (September 27, 1978) [42 FR 43709] the Commission amended Rule 144 to permit persons selling securities to deal directly with a market maker as an alternative to the unsolicited brokers' transaction historically required by the rule. As a consequence, meaningful amounts of securities have been sold through market makers in transactions involving some degree of solicitation. The Commission is not aware that this relaxation has resulted in any significant adverse effect on the securities markets or the investing public, and a further easing of this restriction seems appropriate at this time. Indeed, a recent joint study by the Commerce Department and the Commission's Directorate of Economic and Policy Analysis suggests that Rule 144 sales generally do not have a significant impact in the over-the-counter market.[7] When Rule 144 was adopted in 1972, the notice requirement (Form 144) was considered valuable as an aid to the Commission in monitoring the operation of the rule, and as an enforcement tool to assist in the detection of abuses. After eight years of successful experience under the rule the Commission's need for the information provided by the notice provision is no longer so great, and it has therefore proposed deletion of this requirement for certain non-affiliates. However, the notice requirement remains the primary, if not the sole, source of information regarding certain transactions under the rule. The Commission would therefore welcome comments as to whether the Form 144 requirement should be retained for non-affiliates, or retained but with revisions in content or format, so as to provide information that would be especially relevant to the monitoring and enforcement functions in light of the proposed amendments. Specifically, comment is requested as to the usefulness of the representation as to material adverse information required to be made in the form. And, from the point of view of a monitoring function, which aspects of the form would be particularly useful? Comment is also invited on the cost or burden involved in the preparation and filing of the form and whether the form should be required to be filed at the time the sale order is placed or after the transaction is effected. The Commission particularly urges any persons who utilize the information provided by Form 144 to comment upon the proposal so that we may measure more adequately the utility of the information provided by Form 144 to issuers, the investment community, and the general public.

The Commission is not recommending any relaxation of the requirements of paragraph (c) of Rule 144 relating to current public information regarding the issuer of the securities to be sold. Because Rule 144 provides a safe harbor for the public resale of restricted securities, the Commission considers these requirements essential in light of the basic policy and purpose of the Securities Act "to provide full and fair disclosure of the character of securities." As the Commission proceeds to relax the more mechanical provisions of Rule 144, the current public information requirement of the rule will help assure the continuance of informed and orderly markets.

Discussion of the Proposal

The Commission is proposing for public comment an amendment which would add to Rule 144 a new paragraph (k), exempting from the amount limitation, manner of sale and notice requirements of the rule sales of securities by non-affiliates after a specified holding period, such holding period to depend upon the information status of the issuer. Specifically, new paragraph (k) as proposed would exempt from the requirements of paragraphs (e), (f) and (h) of Rule 144 sales of restricted securities by persons who have been non-affiliates of the issuer of such securities for a period of at least three months, provided that (i) the securities have been held for at least three years, and are of a class listed on a national securities exchange or quoted in NASDAQ; or (ii) the securities have been held for at least four years, and the issuer thereof files reports pursuant to Setions 13 or 15(d) of the Exchange Act and otherwise is in compliance with the requirements of paragraph (c)(1) of Rule 144, or there is publicly available concerning the issuer of the securities the information specified in clauses (1) to (14), inclusive, and clause (16) of paragraph (a)(4) of Rule 15c2–11 under the Exchange Act or, if the issuer is an insurance company, the information specified in Section 12(g)(2)(G)(i) of that Act.

Paragraph (e)(2) of Rule 144 specifies the amount of restricted securities which may be sold by a non-affiliate within a three-month period.[8] Paragraph (e)(2) by its terms exempts from the amount limitations securities held for at least three years, if they are of a class listed on a national securities exchange or quoted on NASDAQ, or securities held for at least four years, if the issuer thereof files reports pursuant to Sections 13 or 15(d) of the Exchange Act. The proposed amendment would delete this exemptive language and substitute therefor a cross reference to the broader exemptive provisions of proposed paragraph (k).

Paragraph (f) of Rule 144 specifies that all securities sold pursuant to the provisions of the rule must be sold in "brokers' transactions" within the meaning of Section 4(4) of the Securities Act, or in transactions directly with a "market maker" as defined in Section 3(a)(38) of the Exchange Act. Paragraph (f) also requires the seller of securities not to solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with the transaction, or to make any payment in connection with the offer and sale of the securities to any person other than the broker who executes the order to sell the securities. Paragraph (f) by its terms is not applicable to sales of securities for the account of a decedent's estate or the beneficiary of such an estate, if the estate or the beneficiary thereof is not an affiliate of the issuer. The proposed amendments would add to paragraph (f) a cross reference to paragraph (k) to alert the reader to the non-applicability of the general requirements of paragraph (f) if the conditions of paragraph (k) are satisfied.

Paragraph (h) requires the filing of notices of proposed sale pursuant to the provisions of Rule 144, except in *de minimis* situations. The proposed amendments would add to paragraph (h) a cross reference to paragraph (k) to alert the reader to the non-applicability of such notice requirements if the conditions of paragraph (k) are satisfied.

Text of the Proposed Amendments

It is proposed to amend 17 CFR Part 230 by revising paragraphs (e)(2), (f), and (h) of § 230.144 and adding paragraph (k) thereto to read as follows:

[7] "Rule 144 Sales in the OTC Market: A Preliminary Analysis of the Impact of Rule 144 Sales in the OTC Market," pp. 14–16.

[8] In general, a person may sell during any three-month period an amount equal to the greater of the average weekly trading volume (if available), or one percent of the outstanding securities of the class. See, in this regard, paragraph (e)(1) of Rule 144.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(e) * * *

(2) *Sales by persons other than affiliates.* The amount of restricted securities sold for the account of any person other than an affiliate of the issuer, together with all other sales of restricted securities of the same class for the account of such person within the preceding three months, shall not exceed the amount specified in paragraphs (e)(1)(i), (1)(ii) or (1)(iii) of this section, whichever is applicable, unless the conditions in paragraph (k) of this rule are satisfied.

* * * * *

(f) *Manner of sale.* The securities shall be sold in "brokers' transactions" within the meaning of section 4(4) of the Act or in transactions directly with a "market maker," as that term is defined in section 3(a)(38) of the Securities Exchange Act of 1934, and the person selling the securities shall not (1) solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transaction, or (2) make any payment in connection with the offer or sale of the securities to any person other than the broker who executes the order to sell the securities. The requirements of this paragraph, however, shall not apply to securities sold for the account of the estate of a deceased person or for the account of a beneficiary of such estate: *Provided* the estate or beneficiary thereof is not an affiliate of the issuer, nor shall they apply to securities sold for the account of any person other than an affiliate of the issuer, *Provided* the conditions of paragraph (k) of this rule are satisfied.

* * * * *

(h) *Notice of proposed sale.* If the amount of securities to be sold in reliance upon the rule during any period of three months exceeds 500 shares or other units or has an aggregate sale price in excess of $10,000, three copies of a notice on Form 144 shall be filed with the Commission at its principal office in Washington, D.C.; and if such securities are admitted to trading on any national securities exchange, one copy of such notice shall also be transmitted to the principal exchange on which such securities are so admitted. The Form 144 shall be signed by the person for whose account the securities are to be sold and shall be transmitted for filing concurrently with either the placing with a broker of an order to execute a sale of securities in reliance upon this rule or the execution directly with a market maker of such a sale. Neither the filing of such notice nor the failure of the Commission to comment thereon shall be deemed to preclude the Commission from taking any action it deems necessary or appropriate with respect to the sale of the securities referred to in such notice. The requirements of this paragraph shall not apply, however, in the event the conditions of paragraph (k) of this rule are satisfied.

* * * * *

(k) *Sales by persons other than affiliates after specified holding period.* The requirements of paragraphs (e), (f) and (h) of this rule shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the preceding three months: *Provided* (1) the securities have been beneficially owned by the person for a period of at least three years prior to their sale and are part of a class that is either listed on a national securities exchange or quoted in the National Association of Securities Dealers, Inc.'s electronic interdealer quotation system known as NASDAQ, or (2) the securities have been beneficially owned by the person for a period of at least four years prior to their sale and the issuer thereof is in compliance with the requirements of paragraph (c)(1) of this rule regarding the filing of reports under sections 13 or 15(d) of the Securities Exchange Act of 1934, or with the requirements of paragraph (c)(2) of this rule regarding the availability of public information concerning the issuer. In computing the period for which securities have been beneficially owned for purposes of this provisions, reference should be made to paragraph (d) of this section.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 88, 85; secs. 201, 203, 209, 210, 48 Stat. 904, 906, 908; secs. 1–4, 5, 68 Stat. 683, 684; sec. 12, 78 Stat. 580; (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)))

Statutory Basis

The amendments to Rule 144 are being proposed by the Commission pursuant to the Securities Act of 1933, particularly Sections 2(11), 4(1), 4(4) and 19(a) thereof.

Shirley F. Hollis,

Assistant Secretary.

October 24, 1980.

[FR Doc. 80-34224 Filed 10-31-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. Rm 79-76 (Louisiana-1)]

High-Cost Gas Produced From Tight Formations; Ceiling Prices

AGENCY: Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the State of Louisiana Office of Conservation that the Arkadelphia Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 28, 1980.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 12, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner (202) 357–8299 or William Bushey (202) 357–8590.

Issue: October 28, 1980

I. Background

On October 10, 1980, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a recommendation in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Arkadelphia Formation, located in the northeast corner of the State of Louisiana be designated as a tight formation in the Commission's regulations. Pursuant to § 271.703(c)(4) of the regulations, this Notice of

Proposed Rulemaking is hereby issued to determine whether Louisiana's recommendation that the Arkadelphia Formation be designated a tight formation should be adopted. Louisiana's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation lies entirely within Union Parish and is located in the northwest section of the Monroe Gas Field. The Arkadelphia Formation is defined as that formation occurring between the measured depths of 2038 feet and 2080 feet. Within the recommended area, the Arkadelphia varies in thickness from 30 to 60 feet, thinning from the northwest to the southeast.

III. Discussion of the Recommendation

Louisiana claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Louisiana on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Accordingly, Louisiana recommends that the Arkadelphia Formation be designated as a tight formation since it meets the requirements set forth above under § 271.703(c)(2)(i) of the regulations. Evidence presented to Louisiana also indicates that the Arkadelphia Formation would qualify under § 271.703(c)(2)(ii), since the evidence establishes that the price set forth in § 271.703(a) is necessary to provide reasonable incentives for production. In view of this, Louisiana is also recommending that the Arkadelphia Formation qualify under § 271.703(c)(2)(ii).

Louisiana further asserts that the spacing requirements of Statewide Order No. 29–B will assure that development of the Arkadelphia formation will not adversely affect any fresh aquifer that is or is expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued August 1, 1980 in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Louisiana that the Arkadelphia formation, as described and delineated in Louisiana's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 27, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Louisiana—1), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 12, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. sections 3310–3342).

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Louisiana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

(1) Section 271.703(d) is amended by adding new subparagraph (18) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geological extent and geological parameters of the designated tight formation is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) * * *

(2) Through (17) [Reserved].

(18) *Arkadelphia formation in Louisiana.*

(i) *Delineation of formation.* The Arkadelphia Formation is found in Union Parish, Louisiana. RM79-76 (Louisiana—1).

(ii) *Depth.* The Arkadelphia Formation is defined as that formation occurring between the measured depts of 2038 feet and 2080 feet.

[FR Doc. 80-34240 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-884]

Proposed Use of Materials Bulletin No. 70a Particleboard Interior Stair Treads and Certification Program

AGENCY: Department of Housing and Urban Development (HUD) Office of Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Proposed rule.

SUMMARY: This is a revision to HUD Use of Materials Bulletin No. 70 (UM 70) dated August 16, 1976. The change is necessitated in order to reference a recently published American National Standard ANSI A 208.1 Mat-Formed Wood Particleboard and to provide for increasing the distance between two stringers which support the particleboard interior stair treads from 30 inches to 42 inches.

DATES: Comment due date: January 2, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Lynford K. Snell, Director, Materials Acceptance Division, Office of Architecture and Engineering Standards, Room 6178, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone: (202) 755–5929. (This is not a toll free number).

SUPPLEMENT INFORMATION: HUD Use of Materials Bulletin No. 70 (UM 70) outline the physical properties, limitation of use, guideline for application, certification program for particleboard interior stair tread.

After publication of UM 70, the National Particleboard Association (NPA) at request of its members has conducted a series of tests on 42 inches distance and proved that particleboard interior stair treads supported by two stringer 42 inches apart meets the design criteria. A field performance survey conducted by HUD Office of Architecture and Engineering Standards also showed that this material performed well in service.

Recently, the American National Standard Institute promulgated ANSI A 208.1, Mat-Formed Wood Particleboard which superseded the Commercial Standard CS 236–66, Mat-Formed Wood Particleboard. HUD UM 70 was revised to reference the ANSI A 208.1 and to incorporate 42 inches distance limitation and is herewith promugated as HUD Use of Materials Bulletin 70a.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2) (C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

A copy of existing UM 70 and of revised UM 70a are available for review during regular business hours in the Office of Architecture and Engineering Standards, Room 6178, or in the Office of the Rules Docket Clerk, Office of General Counsel, room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(Sec. 7(d)), Department of Housing and Urban Development Act of 1965, 79 Stat. 670; 42 U.S.C. 3535(d); sec. 211, 52 Stat. 23; 12 U.S.C. 1715b and 81 Stat. 54; 5 U.S.C. 552(a).

Issued at Washington, D.C. on October 16, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

Department of Housing and Urban Development Assistant Secretary for Housing—Federal Housing Commissioner

[Use of Materials Bulletin No. 70a]

To: Regional Administrators, Directors, Offices of Regional Housing, Field Office Managers and Supervisors.

Subject: Particleboard Interior Stair Treads and Certification Program.

Members of the HUD Staff processing cases and inspecting construction shall use this information in determining acceptability of the subject material for the uses indicated.

This bulletin should be filed with Bulletins on Special Methods of Construction and Materials as required by prescribed procedures. Additional copies may be requisitioned by the field offices.

The technical description, requirements and limitations expressed herein do not constitute an endorsement, approval or acceptance by the Department of Housing and Urban Development (HUD) of the subject matter, and any statement or representation, however made, indicating approval or endorsement by the Department of Housing and Urban Development is unauthorized and false, and will be considered a violation of the United States Criminal Code 18, U.S.C. 709.

Any reproduction of this Bulletin must be in its entirety and any use in sales promotion or advertising is not authorized.

Subject to good workmanship, compliance with applicable codes, and the methods of application listed herein, the materials described in this bulletin may be considered suitable for HUD Housing Programs, including Housing for the Elderly and Care-Type Housing.

The eligibility of a property under these Programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, compliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.

General

This UM Bulletin specifies the physical requirements, use limitations, and installation instructions for particleboard interior stair treads. It provides a third party certification program based upon 24 CFR Part 200.935 Administrator Qualifications and Procedures for HUD Building Products Certification Programs.

Description

Particleboard stair treads accepted under this Bulletin are urea resin bonded intermediate density mat-formed particleboard complying with ANSI A 208.1, Grade 1.M.3 except that face screw holding capacity shall be 225 lbs. minimum and edge screw holding capacity shall be 200 lbs. minimum.

Particleboard stair treads shall be 1 1/16 inch minimum thickness and 12 inches maximum width with one edge bullnosed to standard tread bullnose pattern.

Warp Tolerances and Measurement Procecure

Warp tolerances shall not exceed the following: Cup — 1/8 inch. Bow and Twist — 1/32 inch per lineal foot of specimen length.

A. *Specimen.* The warp tolerance specimen shall be a finished product or shall be cut from a length of finished product. The specimen shall be the length and width required by end use, but the specimen length shall not exceed 8 feet.

B. *Procedure.* The specimen shall be laid on a flat surface during measurement of warp tolerances.

Cup—cup is a deviation flatwise from a straight line stretched across the width of the specimen. It is measured at the point of greatest distance from the straight line to the product surface.

Bow—Bow is the deviation flatwise from a straight line stretched parallel to the lenght of the specimen. It is measured at the point of greatest distance from the straight line to the product surface.

Twist—Twist is a deviation from a plane in which one corner of a piece twists so that the four corners of a surface are no longer is the same plane. It is measured by holding three corners of the test specimen snugly against a horizontal flat surface and measuring the distance the fourth corner is raised above the flat surface.

C. *Calculations and report.*—Measurements for bow, cup, and twist shall be made to the nearest 1/64 inch.

Cup shall be reported in inches.

Bow shall be calculated by dividing the measured deviation by the specimen

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length and reported in inches per lineal foot.

Twist shall be calculated by dividing the measured deviation by the specimen length and reported in inches per lineal foot.

Limitations and Installation

A. Particleboard stair treads shall be limited to interior stairways subject to normal design loads in one and two family residences. They shall not be installed until the building is sheltered.

B. Particleboard stair treads shall be covered with carpeting or other finish flooring material.

C. The maximum distance between stringers shall be 42 inches.

D. Particleboard stair treads shall be installed, using conventional framing and fastening practices, in compliance with all applicable requirements of the HUD Minimum Property Standards and the instructions in this UM Bulletin.

E. Each particleboard stair tread shall be supported at both front and back by a full length 1 inch (nominal) wood board or ¾ inch structural grade plywood riser fastened with both nails and structural adhesives. Structural adhesives shall comply with Section V of UM 60—Field Glued Plywood & Wood Frame Structural Floor Systems. The tread shall be glued and nailed to the front riser with 8-penny finish nails spaced a maximum of 12 inches on center. The back riser shall extend down flush with or past bottom of the tread and shall be glued and nailed to the tread through the center of the back edge of the tread with 8-penny box nails spaced a maximum of 6 inches on center. The nosing shall not extend beyond the riser more than 1⅛ inch.

F. Stairs which may be subject to wet foot traffic should have the treads protected with a waterproof wearing surface such as vinyl sheet floor covering. When carpeting is used in these areas, the treads shall be protected with a suitable moisture resistant coating before installation of the carpet.

Handling and Storage

Particleboard stair treads are wood products and shall be handled and stored to avoid excessive moisture pickup. Particleboard stair treads should be acclimatized to its surroundings for 24 hours before installation.

Certification

A. *General.*—A third party which meets the requirements of 24 CFR 200.935 Administrator Qualifications and Procedures for HUD Building Products Certification Programs and is acceptable to HUD shall validate the manufacturer's certification that the particleboard stair tread meets the requirements of this UM Bulletin.

Copies of the Administrator Qualifications and Procedures for HUD Building Products Certification Programs may be obtained from: Director, Office of Architecture and Engineering Standards, Room 6164, Department of Housing and Urban development, Washington, D.C. 20410.

B. *Certification Program Development.*—The certification program developed by an administrator shall be based upon the procedures and standards for the specific building product described in this UM Bulletin.

A copy of the accepted program shall be on file in HUD.

C. *Laboratory Approval.*—The administrator shall review laboratories that apply for participation in this program. This certification program allows the use of the administrator's testing laboratory provided that this laboratory is reviewed by a qualified third party acceptable to HUD.

D. *Periodic Tests and Quality Control Inspections.*—The manufacturer shall notify the administrator, of any changes in a certified product and submit the necessary drawings and specifications. If the administrator determines that these changes are significant enough to affect the performance of the product, a new initial test shall be made.

The administrator shall visit the manufacturer's facility every three months to assure that the initially accepted quality control procedures are being followed.

E. *Labeling.*—Each panel certified as conforming to this bulletin shall be stamped with the following information:

a. The registered administrator validation mark.

b. Conformance with HUD UM 70a.

c. The Manufacturer's assigned mill number.

d. Interior Use Only; Install in Sheltered Buildings.

F. *List of Administrators.*—The list of HUD accepted administrators and facsimilies of their labels will be published in the attached Appendix A after their certification programs are evaluated and accepted by HUD subsequent to the promulgation of this UM Bulletin. This list will be revised as administrators are added to or deleted from the program. Only products bearing these labels shall be accepted by HUD Field Offices as evidence that the product complies with this UM Bulletin.

Appendix A

The list of HUD accepted administrators and facsimilies of their labels will be published below after their certification programs are evaluated and accepted by HUD subsequent to the promulgation of this UM Bulletin.

[FR Doc. 80-33331 Filed 10-31-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

24 CFR Parts 203, 220, 221, 222, 226, 227, 234, 240

[Docket No. R-80-885]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional Waiver Request.

SUMMARY: Section 7(o)(4) of the Department of HUD Act permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information an interim rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepublication review period, under Section 7(o)(2), and the 30-day delayed effective date for the interim rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Interim Rule—24 CFR Parts 203, 220, 221, 222, 226, 227, 234, and 240—Mutual Mortgage Insurance and Insured Home Improvement Loans

This interim rule amends several sections of 24 CFR in order to comply with the intent of the Housing and Community Development Act of 1980. The new provision will provide for a change in the maximum mortgage amounts for single family mortgage insurance programs. In order to compensate for regional differences in the cost of housing, the new provisions will provide for increases in the maximum mortgage amounts in areas

where middle- and moderate-income persons have limited housing opportunities due to prevailing high housing sales prices. The higher maximum mortgage amounts will be applicable for Sections 203(b) and 220(d)(3)(A)(i) along with Sections incorporated by reference. An individual maximum limit is also established for Section 234(c).

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., October 24, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-34150 Filed 10-31-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-870]

Community Development Block Grants: Subpart F—Small Cities Program

AGENCY: Department of Housing and Urban Development (HUD), Assistant Secretary for Community Planning and Development.

ACTION: Proposed rule.

SUMMARY: This rule adds a new section to Subpart F, which applies only to the Commonweaith of Puerto Rico. It incorporates portions of Subpart F and adds new provisions that deal with factors unique to Puerto Rico.

COMMENTS DUE DATE: January 2, 1980.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, telephone number 202-755-6322. (This is not a toll free number.)

SUPPLEMENTAL INFORMATION: This revision to Subpart F is being promulgated as a proposed rule and interested persons are invited to participate in the making of the final rule by providing written comments. All comments received by January 2, 1980 will be considered in the development of the final rule. Comments received after that date will be considered if time permits. Such comments should be filed with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address. The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the Finding of No Significant Impact is available for inspection in the Office of the Rules Docket Clerk, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act.

This rule is not included in the list of items on the Significant Rule Agenda issued pursuant to E. O. 12044 and E.). 12221.

Factors unique to the municipios in the Commonwealth of Puerto Rico, such as the relatively large amount of funds provided, large percentage of population below the poverty level, large number of economically depressed areas, and the fact that there are only approximately 72 municipios eligible for funding under the Small Cities Program, make a competitive system unnecessary. Therefore, HUD has determined that a formula method of distributing funds to eligible municipios under the Small Cities Program in the Commonwealth of Puerto Rico to be a logical and equitable system. A major advantage will be a more simplified application process which will save considerable staff time for eligible applicants and HUD staff. Additionally, municipios will have a predictable level of community development funding, subject to their own performance.

Since funds will be distributed to municipios in predictable amounts, eligible applicants will submit only one application annually to the Caribbean Area Office. A preapplication will no longer be required. Application submission dates will be established by the Caribbean Area Office.

Applicants will be notified of submission dates and amounts for which they may apply. The requirement that clearinghouses must have advance notification of intent to apply for a Federal grant will be satisfied by the Caribbean Area Office.

The Housing and Community Development Act of 1974 as amended in 1977, provides in Section 106 that in making Small Cities grants "the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified * * *." HUD complies with this requirement in that the basic grant amount to be invited is computed and coupled with provision to adjust the grant amount to ensure that the grant amount will be sufficient to produce meaningful projects.

Section 106 continues by saying that "* * * the Secretary shall consider such things as * * *" and lists eleven considerations. In determining the basic amounts and making the adjustments described in this rule, HUD has directly taken into account five of the eleven considerations. Additionally, in reviewing the application submitted, the Caribbean Area Office will consider whether an applicant has ignored the needs for economic development or has ignored the need to deal with serious threats to health and safety. This review will directly or indirectly address five of the remaining six considerations.

Many of the changes made to Subpart F in § 570.436 are for the purpose of eliminating references to preapplications and to single purpose and comprehensive grants, which are not applicable to the Small Cities Program in the Commonwealth.

§ 570.436(b) lists those portions of 24 CFR 570 Subpart F that apply to this section.

§ 570.436(c) establishes the method of determining the basic grant amount for each municipio. It further details the steps to be followed in making adjustments to the basic grant amount for each municipio. A minimum grant amount sufficient to ensure a meaningful program will be established.

Following determination of basic grant amounts for each municipio, those municipios that would not receive the minimum grant amount will have their grants adjusted upward to the minimum. Those amounts added to the amount set aside for application by the Commonwealth would be deducted from the total amount of funds available. Each remaining municipio's basic grant would then be reduced proportionally to compensate for the adjustment. Further adjustments in grant amounts for each municipio may be made at the discretion of the Caribbean Area Office, based on past performance in administering prior grants.

§ 570.436(d) incorporates 24 CFR 570.302 into this section, which is the entitlement program's method for determining program benefits to low- and moderate-income persons, and which will be used for the Small Cities Program in Puerto Rico.

§ 570.436(e) details the application process. Municipios will not submit every third year, beginning with its first

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application on or after October 1, 1980, a summary of its three year community development and housing plan, a comprehensive strategy, a three year project summary, and a Housing Assistance Plan. A project summary, cost summary, maps, annual housing action program, assurances, and any clearinghouse comments with the applicant's explanation of inconsistencies if any, with areawide plans, shall be submitted annually. Application forms with instructions will be furnished by the Caribbean Area Office. Because of the new approach to funding, applicants will not be required to submit the form dealing with Title VI of the Civil rights Act of 1964. The Caribbean Area Office should have sufficient information based on annual submissions and past performance to made the necessary Title VI finding.

A performance assessment report will be required annually, and will be used as a factor in judging the applicant's performance in carrying out its community development program.

§ 570.436(f) provides for program amendments.

§ 570.436(g) details the actions taken by HUD in reviewing and approving an application, and details the conditions under which HUD will conditionally approve, or disapprove an application.

§ 570.436(h) contains the provisions for Citizen Participation that are applicable to the Commonwealth of Puerto Rico under this new approach.

§ 570.436(i) contains the OMB Circular No. A–95 procedures that apply to the Commonwealth of Puerto Rico.

I. 24 CFR 570, Subpart F is amended in the table of contents by adding § 570.436 to read as follows:

* * * * *

Subpart F—Small Cities Program

* * * * *

570.436 Special procedures applicable to the Commonwealth of Puerto Rico.

* * * * *

II. Part 570, Subpart F is proposed to be amended by adding § 570.436 to read as follows:

§ 570.436 Special procedures applicable to the Commonwealth of Puerto Rico.

(a) *General.* This section shall apply to the Small Cities Program in the Commonwealth of Puerto Rico.

(b) *Scope and Applicability.* (1) *Applicable regulations.* 24 CFR 570.420(a), and (c) shall apply to this section.

(2) *Program Objectives.* The Small Cities Program in Puerto Rico provides grants to units of general local government and to the Commonwealth in both metropolitan and nonmetropolitan areas to undertake the same community development activities as may be funded under the entitlement program. Application must be consistent with one or more of the following purposes: (i) Support realistic and attainable strategies for expanding low- and moderate-income housing opportunities;

(ii) Promote expansion of housing choice for low- and moderate-income persons outside areas of minority and low- and moderate-income concentrations or in revitalizing neighborhoods;

(iii) Promote more rational land use;

(iv) Provide increased economic opportunities for low- and moderate-income persons;

(v) Correct deficiencies in public facilities which affect the public health or safety, especially of low- and moderate-income persons.

(c) *Grant Amount.* (1) *Basic Grant Amount.* A basic grant amount shall be determined for each eligible unit of general local government, based on a ratio of the total amounts available for metropolitan and nonmetropolitan areas to the average of the following ratios for each eligible unit of general local government:

(i) *Metropolitan.*

(A) The population of the eligible unit of general local government and the population of all eligible units of general local government in the metropolitan areas of the Commonwealth;

(B) The extent of poverty in the eligible unit of general local government, and the extent of poverty in all eligible units of general local government in the metropolitan areas of the Commonwealth; and

(C) The extent of housing overcrowding in the eligible unit of local government and the extent of housing overcrowding in all the eligible units of general local government in the metropolitan areas of the Commonwealth.

In determining the average of ratios under this paragaph, the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once (0.25+0.50+0.25=1.00).

(ii) *Nonmetropolitan.* Nonmetropolitan funds shall be allocated according to the formula in (c)(1)(i) of this section, except that the ratio shall compare population, poverty, and housing overcrowding in nonmetropolitan areas and nonmetropolitan eligible units of general local government.

(2) *Adjustments.* The following adjustments may be made in determining the amounts for which applicant shall be invited to apply:

(i) A minimum grant amount shall be established for units of general local government which shall be sufficient to ensure meaningful projects;

(ii) A set aside may be established for the Commonwealth;

(iii) An adjustment may be made for any applicant approved for multiyear funding at a level exceeding its basic grant amount.

(iv) An application from an applicant having received a prior Community Development Block Grant may be invited for less than the basic grant amount where past performance is judged by the Caribbean Area Office to be below acceptable levels based on considerations of factors in (c)(3)(iv) of this section.

(v) An application from an applicant having received a prior Community Development Block Grant may be invited for more than the basic grant amount where past performance is judged by the Area Office to be superior based on considerations of factors in (c)(3)(iv) of this section.

(3) *Amount of invitation.* In determining the amount for which each eligible unit of general local government shall be invited to submit an application, the following steps will occur:

(i) The amount necessary to bring each unit of general local government up to the minimum grant amount as determined in (c)(2)(i) of this section shall be calculated and set aside along with any amount set aside for the Commonwealth. This shall be done separately for metropolitan and nonmetropolitan areas;

(ii) Any community with approved multiyear funding for Fiscal Years 1981 and/or 1982 at a funding level exceeding their basic grant amounts, will be funded at the approved level for those years.

(iii) Each unit of general local government's basic grant amount, as determined in accordance with (c)(1) of this section, will be reduced on a pro rata basis so that the total of adjusted basic grant amounts, which includes the minimum grant amount described in (c)(2)(i) of this section, any adjustments necessary to meet multiyear commitments described in (c)(2)(iii) of this section and the amount for the Commonwealth described in (c)(2)(ii) of this section, will equal the total metropolitan and nonmetropolitan allocations, respectively;

(iv) Past performance adjustments may then be made for each unit of general local government and for the Commonwealth in accordance with (c)(2)(iv) or (c)(2)(v) of this section. Any increase in grant amounts for superior performance cannot exceed the decrease in grant amounts for performance below acceptable levels. Past performance adjustments may be made, considering:

(A) Rate of drawdown

(B) Rate of obligation of funds

(C) Performance under the Housing Assistance Plan

(D) Compliance with other program requirements based on monitoring visits and audits.

(v) Each eligible unit of general local government and the Commonwealth shall be invited to submit an application for the amount determined by the preceding steps. Applicants shall be advised no less than 45 days in advance of date for submission of applications, of amounts of grants to be provided.

(d) *Program benefit to low- and modern-income persons.* Program benefits to low- and modern-income persons shall be determined in accordance with § 570.302 of Subpart D.

(e) *Application process.* (1) *Community Development and Housing Plan Summary.* Each applicant shall submit in a form prescribed by HUD, a summary of its three year community development and housing plan. This document shall be submitted every third year as part of the annual application for funds, beginning with the first application submitted on or after October 1, 1980. It shall summarize the applicant's community development and housing needs, describe a comprehensive strategy for meeting those needs, and specify both short- and long-term objectives to be met by the strategy. The community development and housing plan summary shall include:

(i) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households and any special needs of identifiable segments of the total group of lower income persons. The narrative shall include a brief description of the major needs for neighborhood revitalization, for community facilities and public improvements, for housing and for economic development needs.

(ii) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income households residing in or expected to reside in the community and any special needs of identifiable segements of the lower income population. The provision of all improved community facilities and public improvements, including supporting health, social and similar services where necessary or appropriate, shall be described in a manner that fully ensures opportunity for participation by, and benefits to the handicapped. The strategy shall include the following components:

(A) *Communitywide component* which describes the development strategy of the applicant, the major objectives the applicant seeks to accomplish, the priorities it has established, and the factors it has taken into account in selecting areas for treatment and designing programs to meet identified needs.

(B) *Neighborhood revitalization* shall include the strategy for maintaining and preserving viable neighborhoods and for upgrading neghborhoods affected by blight and deterioration. The strategy shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community.

(C) *Housing.* (*1*) Describe a communitywide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. The strategy shall include a Housing Assistance Plan (HAP) as described in § 570.306. It shall include: the strategy for any programs to be carried out on a communitywide basis, such as provision of rehabilitation financing for low- and moderate-income persons or elimination of detrimental conditions; regulatory and other actions proposed to foster housing maintenance and improvements; strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including members of minority groups and female-headed households, efforts to achieve expanded housing opportunities and actions to affirmatively further fair housing; and any community facilities and improvements to be provided in furtherance of the applicant's housing strategy and to assure accomplishment of goals for assisted housing.

(*2*) When displacement or other hardships to low- and moderate-income persons will result from Community Development Block Grant funded acquisition, demolition, code enforcement, and rehabilitation, the strategy shall describe what steps will be taken to minimize involuntary displacement and to enable displaced persons to remain in the same neighborhood if they prefer.

(iii) *Economic development.* A description of the applicant's strategy for economic development is required from applicants that propose block grant funded economic development activities. The strategy shall include a description of:

(*A*) *Major needs* for economic development in the locality.

(*B*) *The activities proposed* to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions, and a timetable for provision of other Federal and State resources.

(*C*) *The number and types of permanent jobs* expected to result from economic development projects, particularly jobs for unemployed or underemployed population groups and low- and moderate-income persons, and the types and extent of any job training which will be provided to them.

(*D*) *Evidence of financial commitments or interest by developers* in new or expanded employment facilities. In the absence of commitments, the city may supply feasibility studies or other documents evidencing the marketability of new or expanded employment facilities.

(2) *Project Summary.* All applicants shall, after consideration of appropriate environmental factors pursuant to 24 CFR 58, describe the project that will be undertaken which includes:

(i) A description of the project which states its purpose, location, and the sequence of activities;

(ii) Whether the project or activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community needs having a particular urgency;

(iii) A description of the activities which comprise each project, and their estimated costs and timing;

(iv) The amounts and sources of other public funds and private investments anticipated to be provided;

(v) Anticipated accomplishments.

(3) *Three year project summary.* In addition to the project summary required under paragraph (e)(2) of this section, applicants shall also submit a three year project summary. It shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the next three years to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided, and indicating whether the activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency.

(4) *Cost summary.* Each applicant shall submit a cost summary annually on a form prescribed by HUD.

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(5) *Housing Assistance Plan.* Each applicant shall submit a Housing Assistance Plan in accordance with § 570.306 of Subpart D.

(6) *Certifications of assurances.* The certifications of assurance required by § 570.307 of Subpart D shall be submitted by all applicants except that in lieu of § 570.307(d) the applicant shall certify that it:

(i) Has prepared and followed a written citizen participation plan that meets the requirements of (h);

(ii) Has provided citizens with an opportunity to participate in the development of the Housing Assistance Plan;

(iii) Has provided adequate notices of public hearings as required by the written plan;

(iv) Has held hearings on the proposed application before adoption of a resolution or similar action by the local governing body authorizing the filing of the application;

(v) Will provide for citizen participation when considering amendments to the Community Development Program and the Housing Assistance Plan; and

(vi) Will provide for citizen participation in the planning, implementation and assessment of the Community Development Program including the development of the report on performance and the submission of views to the HUD Area Office.

(7) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district), or geographic quadrant of the community where census tracts or enumeration districts are either not available or include a substantial area, such as an entire community:

(i) Location of areas with minorities, showing number and percent;

(ii) Location of areas with low- and moderate-income persons, showing number and percent;

(iii) Locations of the proposed activities described in the program schedule and, if applicable, the three year project summary, including boundaries of areas in which activities will be concentrated and service areas of activities where appropriate;

(iv) the median income of the Census tracts in which the proposed activities are to be undertaken;

(v) general locations of proposed new or rehabilitated housing assistance;

(vi) the location of areas with substandard and deteriorated housing, showing number and percent.

Maps should be clearly legible and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

(8) *Threshold requirements.* Notwithstanding the provisions of paragraph (c) of this section, the Caribbean Area Office shall review the progress of each eligible applicant based on the performance assessment report. If the progress is so inadequate as to indicate that the eligible applicant does not have the capacity to effectively handle a new grant, or a portion thereof, in addition, to the grant currently under contract, that applicant shall not be invited to submit an application for current year funding. Also, if the applicant's performance under its HAP does not meet the standards provided at 24 CFR 570.909(e)(2)(i) and (ii), it will not be invited to submit an application for current year funding.

(9) *Program Design.* The program as a whole must principally benefit low- and moderate-income persons and directly impact on the applicant's needs. All activities contained within such program must either benefit low- and moderate-income persons, or aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency.

(10) *Performance assessment report.* Performance assessment reports shall be submitted to HUD at a time prescribed by the Area Office, but sufficiently in advance of application submission dates so that performance adjustments can be considered based on the information submitted in the report.

(11) *Application submission dates.* HUD shall establish deadlines for submission of applications by letter of notification to eligible applicants. This notification will be provided at least 45 days prior to the date by which the applicant must submit the completed application to HUD.

(f) *Program Amendments.*

(1) HUD may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries.

(2) *Housing Assistance Plan Amendments.*

Recipients shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(i) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306(b)(3)(i) or § 570.306(b)(4)(i);

(ii) The recipient proposes the inclusion of a goal by household type or housing type, not previously specified pursuant to § 570.306(b)(3)(i) or (b)(4)(i);

(iii) The recipient proposes to exceed any three year goal by housing type or household type by the percentage cited in 24 CFR Part 891;

(iv) The recipient proposes a revision of the general locations for assisted housing established pursuant to § 570.306(b)(3)(ii); or

(v) There is a significant change in, or new data available regarding the conditions of the housing stock or the housing needs of lower income persons.

(3) *A–95 and citizen participation requirements.* Whenever an amendment requires HUD approval, the requirements of this Subpart for A–95 review and citizen participation must met. The recipient shall provide the A–95 clearinghouse with thirty days in which to review and comment on the proposed amendment prior to its submission to HUD.

(g) *HUD review and actions on applications.* (1) *Applications.* Only applications from communities that have been invited to apply are accepted for review, and then only if:

(i) The application has been received before the deadline that has been established by the Area Manager, unless the Area Manager decides that an extension of the deadline is warranted;

(ii) The application requirements are complete;

(iii) The funds requested do not exceed the amount of the invitation by HUD;

(iv) Any conditions that were established at the time of invitation are satisfied;

(v) The application is submitted to the clearinghouse prior to or concurrently with submission to HUD. The applicant shall indicate in its application the date it was submitted to the clearinghouse.

(2) *Review and notification.* While HUD is not required to review discretionary applications within 75 days, it will try to do so. Following the review, HUD promptly notifies the applicant of the actions taken with regard to its application.

(3) *Scope of review.* (i) HUD will normally base its review upon the applicant's assurances, statements of facts and data, and other information. The Secretary reserves the right, however, to consider relevant evidence which challenges the assurances, and information submitted by the applicant, and to require additional information or assurances from the applicant as warranted by such evidence.

(ii) The review will include, but need not be limited to, the following matters contained in the application and the performance assessment report, or derived from monitoring:

(A) Eligibility of proposed activities;

(B) That the program identified in the application has a reasonable cost relationship to the amount of the grant;

(C) Program benefit to low- and moderate-income persons in accordance with the provisions of § 570.302;

(D) Housing Assistance Plan conformity to the requirements of § 570.306;

(E) Coordination of housing assistance and community development activities;

(F) Consistency of the needs stated in the plan with generally available data;

(G) Appropriateness of proposed plans and programs to meeting the applicant's needs and objectives;

(H) Compliance with previous contract conditions or other corrective and remedial actions required by HUD;

(I) Experience regarding the effectiveness of the proposed activities in meeting the community development needs in the locality;

(J) Applicant's capacity to carry out the program proposed as evidenced by its previous performance record; and

(K) Compliance with the requirements of this Part and other applicable laws and regulations.

(4) *Criteria for conditional approval.* HUD may make a conditional approval in which case the grant will be approved but the obligation and utilization of funds for affected activities will be restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a reduction or termination of the grant. Conditional approval may be made:

(i) Where local environmental reviews under § 570.603 have not yet been completed;

(ii) The requirements of § 570.607 regarding the provision of public services and flood or drainage facilities have not yet been satisfied;

(iii) Pending site and neighborhood standards approval for proposed housing projects, if applicable;

(iv) Where there is substantial evidence that there had been, or there will be, a lack of substantial progress, nonconformance, noncompliance, or a lack of continuing capacity, as described in § 570.909. In such case, the reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a reduction in the annual grant amount pursuant to § 570.910(b)(10).

(5) *Criteria for disapproval of an application.* HUD may disapprove an application if:

(i) On the basis of significant facts and data generally available and pertaining to community and housing needs and objectives, HUD determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and HUD such as census data; or other data available to both the applicant and HUD, such as recent local, areawide or Commonwealth comprehensive planning data;

(ii) On the basis of the application, or other available information, HUD determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(A) Experience over a period of time has demonstrated that the types of activities proposed have not been or are unlikely to be effective in alleviating the conditions they were designed to affect;

(B) The applicant has identified serious economic development needs or serious threats to health and safety; activities are eligible which could address the needs with the likelihood of substantial positive results, and yet the applicant proposes no such activities to address the identified needs;

(C) The application does not meet the requirements of § 570.302(b)(2) with respect to the extent of funding proposed to principally benefit low- and moderate-income persons;

(D) The applicant has identified areas containing significant concentrations of deteriorated housing and blight and does not propose to undertake a concentrated program of activities in any such areas;

(E) Proposed activities will have a detrimental effect on low- and moderate-income persons or members of minority groups, and adequate measures to mitigate those effects are not proposed;

(F) Actions essential to accomplish housing assistance goals, including supportive community development activities, are not proposed;

(G) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c);

(H) The proposed program does not reflect previous requirements of HUD for corrective or remedial actions, or activities proposed have previously been the basis of such requirements.

(iii) HUD determines that the application does not comply with the requirements of this Part with specific regard to the primary purposes of principally benefitting persons of low and moderate income, or aiding in the prevention or elimination of slums or blight, or meeting other community development needs having a particular urgency, or with other applicable laws, or the application proposes activities which are ineligible under Subpart C of this Part;

(iv) Conditions established at the time of invitation have not been fully met;

(v) There is new evidence of a lack of performance or capacity of a recipient to carry out the proposed activities;

(vi) Performance under the HAP is inadequate.

(6) *Previous audit findings and outstanding monetary obligations.* HUD shall not invite an application from any applicant that has an outstanding audit finding for any HUD program, or has an outstanding monetary obligation to HUD. However, the Regional Administrator may provide waivers to this prohibition, but in no instance shall a waiver be provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made.

(h) *Citizen participation requirements.*

(1) *General.* Each applicant shall provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Plan.

(2) *Written Citizen Participation Plan.* To achieve these goals, each applicant shall prepare and follow a written citizen participation plan that serves as a citizens' guide to interacting with the block grant program in a meaningful way. Citizens shall be involved in the development of, and any changes to the plan. The plan shall remain in effect until all activities assisted under this Subpart are completed or until it is superseded by a new plan. The plan

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must provide procedures that meet the following requirements:

(i) Provide a process of citizen participation at the communitywide level with regard to the overall application, the Community Development Program, and the assessment of performance where applicable.

(ii) Solicit and respond in a timely manner, to views and proposals of citizens, particularly low and moderate income persons, members of minority groups, and residents of blighted areas where activities are proposed. Written responses shall be made to written proposals.

(iii) Provide technical assistance to facilitate citizen participation, where requested. The level and type of technical assistance shall be determined by the applicant.

(iv) Provide adequate notices of public hearings and the availability of the report on assessment of performance, where applicable, in a timely manner and in such a way as to make them accessible and understandable to all citizens, including non-English speaking persons. The plan must state the number of days prior to a hearing that a notice will be published.

(v) Schedule hearings to obtain citizen views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.

(vi) A public hearing shall be held during the planning process and a public hearing shall be held prior to the submission of the application to the Caribbean Area Office. Additionally, a minimum of one separate hearing shall be held to provide citizens an opportunity to assess performance under previous grants prior to submission of the performance assessment report to HUD;

(vii) Conduct at least one public hearing during the grant closeout process, prior to submission to HUD of the assessment of performance report, if such a report has not been made and a hearing has not been held concerning performance in the last 12 months.

(viii) Provide full public access to program records and information and make affirmative efforts to get adequate information to citizens, especially persons of low and moderate income and residents of blighted neighborhoods and project areas. The citizen participation plan shall identify the information that will be made available to the public by the applicant.

(ix) Conduct a minimum of two public hearings on any amendment requiring HUD approval. A public hearing shall be held to consider the merits of the amendment in its formative stages and a public hearing shall be held on the amendment when it is ready for submission. Citizens, particularly affected citizens, shall also be involved in amendments not requiring prior HUD approval, budget revisions, and changes to the Community Development Program and the Housing Assistance Plan. The methods by which citizens will be involved shall be described in the plan.

(x) Involve citizens in planning, implementing and assessing the Community Development Program and performance. The methods by which citizens and citizen organizations will be given the opportunity to assess and submit comments on the applicant's community development performance shall be described in the plan.

(xi)Advise citizens of the bases and process to be used to submit objections to HUD to the approval of an application.

(xii) Ensure low- and moderate-income persons and minorities substantial representation on any advisory committee.

(xiii) Provide bilingual opportunities at public hearings, when necessary.

(xiv) Provide written responses to written complaints generally within 15 working days.

(3) *Requirements for citizen participation in the application process*—(i) The objective of citizen participation is to provide for meaningful citizen input in the decision making process during the consideration of priorities and of options associated with the development and submission of the application. The applicant shall assure that the following citizen participation requirements have occurred:

(A) Developed and made available to the public a written Citizen Participation Plan at the beginning of the application stage that meets the requirements of paragraph (2). The procedures outlined in this plan were followed during the planning and development of the application prior of its submission to the HUD Area Office.

(B) Provided the public with the following information:

(*1*) Amount of funds that may be applied for by the applicant for community development.

(*2*) Range of activities that may be undertaken with these funds, the kind of activities previously funded if any, and the progress made with respect to those activities.

(*3*) The processes to be followed in soliciting and responding to the views and proposals of citizens in a timely manner.

(*4*) A summary of other important program requirements.

(ii) The applicant shall provide certifications of assurance as prescribed in $570.436(e)(6).

(4) *Post Approval Stage.* The applicant shall assure citizen participation when considering subsequent amendments to the Community Development Program and the Housing Assistance Plan in accordance with the requirements at (h)(2)(ix), and during closeout in accordance with (h)(2)(vii).

(5) *Assessment of performance.* A copy of each written citizen comment or complaint on the grantee's community development performance, the grantee's assessment of the comment or complaint, and the grantee's description of any actions taken and any written response made to the comment or complaint, if any, shall be submitted to HUD with the report on assessment of performance.

(6) *Consideration of objections to applications—(i) Notice of Submission of application.* The applicant shall at the time of submission to HUD, publish a notice in a newspaper of general circulation stating that the application has been submitted to HUD and is available to interested parties upon request, and describing the conditions whereby citizens may submit objections to approval of applications by HUD, as described below.

(ii) *Citizen objections to applications.* Persons wishing to object to approval of an application by HUD may make such objection known to the appropriate HUD Area Office. HUD will consider objections made only on the following grounds:

(A) The applicant's description of needs and objectives is plainly inconsistent with available facts and data.

(B) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant.

(C) The application does not comply with the requirements of this Subpart or other applicable law.

(D) The application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely. Although HUD will consider objections submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the application has been submitted to HUD in accordance with paragraph (6)(1) of this section. HUD will not approve an application until at least 45 days after receipt of the application.

(7) *Citizen comment to HUD.* Persons may comment to the Caribbean Area Office at any time concerning the applicant's failure to comply with the citizen participation requirements contained in this section.

(i) *Modified OMB Circular No. A–95 procedures.* (1) *General.* (i) Applicants for grants under the Small Cities Program must comply with all of the procedures set forth in Part I of OMB Circular No. A–95 except as modified below. These procedures also require that program amendments which must receive HUD approval shall be submitted to the clearinghouse for a thirty day review and comment period prior to submission to HUD pursuant to 24 CFR 52.101(g).

(ii)All applicants are urged to contact their A–95 clearinghouse for forms and instructions which the clearinghouse has developed to facilitate its review, and to consult with the clearinghouse during development of the application.

(iii) The clearinghouse will be of assistance to the applicant and to HUD if its review addresses the subject matter of comments and recommendations in item 5, Part I, Attachment A of OMB Circular No. A–95, with emphasis on consistency with Commonwealth, areawide and local plans, and compliance with environmental and civil rights law.

(2) *Clearinghouse notification.* The A–95 requirement that clearinghouses be notified of an applicant's intent to apply for Federal assistance will be satisfied by HUD. Each fiscal year HUD will advise the clearinghouse, with a copy to the applicant, of those communities invited to apply for grants under this section. This notification will be provided at least 60 days prior to the date by which the applicant must submit the completed application to HUD. Upon receipt of its copy of the HUD notification to the clearinghouse, the applicant shall make arrangements with the clearinghouse regarding early transmittal of information describing the contents of the application.

(3) *A–95 procedures for applications.* (i) Applications for grants shall be submitted to the areawide A–95 clearinghouse prior to or concurrent with the submission of the application to HUD. The clearinghouse shall have 45 days from receipt of the application in which to conduct its review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. Applicants are urged to provide applications to the clearinghouse prior to submission to HUD whenever possible.

(ii) HUD shall take no final action on the application until comments have been received or until 45 days after the application filing deadline. If the A–95 review comments contain any findings of inconsistency with Commonwealth, areawide, or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, the applicant must consider these findings and state what action it plans to take as a result of these findings and the reasons therefor. Further, HUD shall make no decision on the application until all adverse clearinghouse findings are resolved.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95.123); and Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., September 19, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80–34152 Filed 10–31–80; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R–80–871]

Section 8 Housing Assistance Payments Program—Existing Housing; Eviction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend eviction procedures in the Section 8 Existing Housing Assistance Payments Program to provide that the PHA shall have the sole right to issue the Notice to Vacate and to establish modified procedures for issuance of the Notice to Vacate. This revision is made in accordance with Section 8(d)(1)(B) of the United States Housing Act of 1937. An Owner may make representation to the PHA for termination of tenancy. The PHA notifies the tenant of the Owner's desire to evict and the tenant's right to present objections. If the PHA finds that the grounds for eviction are sufficient under the lease, the Notice to Vacate that is issued must comply with State and local law requirements. Comments due: January 2, 1981.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Edward C. Whipple, Office of Public Housing, Room 6240, (202) 755–5840 or Patricia Arnaudo, Office of Existing Housing and Moderate Rehabilitation, Room 6234, (202) 426–0910, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. These are not toll-free telephone numbers.

SUPPLEMENTARY INFORMATION: The Department proposes to revise 24 CFR § 882.215 to relieve the uncertainty about the regulation that has resulted from recent challenges to its legality.

Present Eviction Policy in § 882.215

The Department's present Existing Housing eviction policy has been in effect since May 6, 1975, the day after § 882.215 was initially published in the **Federal Register.** Section 882.215 currently requires an Owner who wishes to evict a Family to furnish the PHA and the Family with a written notice of the proposed eviction, stating the grounds for eviction and informing the Family that it has ten days (or such greater period of time as may be required by State or local law) within which to respond to the Owner's request to the PHA for authorization of eviction. The Owner is required to obtain PHA authorization before proceeding with the eviction. The PHA is required by Section 882.215 to examine the Owner's grounds for eviction for sufficiency under the terms of the Lease, and to notify the Owner and Family of its finding within twenty (20) days of the date of the notice of proposed eviction. Unless it finds the stated grounds for eviction to be insufficient under the Lease, the PHA is obliged to authorize the eviction. The PHA is deemed to have authorized the eviction if it does not respond within the 20-day period.

Litigation Challenges

Section 8(d)(1)(B) of the United States Housing Act of 1937 provides: "the agency shall have the sole right to give notice to vacate, with the owner having

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the right to make representation to the agency for termination of tenancy." There have been several recent legal challenges to § 882.215 by plaintiffs claiming that the regulation is inconsistent with Section 8(d)(1)(B). Decisions in a number of these lawsuits have ruled that § 882.215 conflicts with this section of the statute.

The Department wishes to remove the uncertainties resulting from these decisions as to the procedure for eviction of a Section 8 existing housing tenant.

New Eviction Policy

The proposed revisions of § 882.215 include two basic elements:

(1) Procedures for the owner's representations to the PHA for termination of a family's tenancy, and

(2) Procedures for the PHA determination on the owner's representation, and for issuance of a Notice to Vacate by the PHA if the PHA finds that the grounds for eviction as stated by the Owner are sufficient under the lease.

Under the new rule, the period for the tenant to present objections to the owner's representation for termination of tenancy (ten days), and for the PHA to act on the owner's representation (twenty days) would not be changed. However, these periods would run from the time the PHA notifies the family of the owner's request (rather than from the owner's notice of a proposed eviction as provided under the current rule). The provision allowing the owner to proceed with eviction if the PHA fails to act on the owner's request within the twenty-day period has been deleted.

The new rule would explicitly provide that the Notice to Vacate, as issued by the PHA under Section 8(d)(1)(B), is also to be the Notice to Vacate required under State landlord and tenant law. For this reason, the owner would delegate to the PHA the right to issue the State Notice to Vacate as the owner's agent.

The following is a summary of major features of the proposed regulation:

1. The PHA must be notified in writing by the Owner. The Owner's signed statement to the PHA must cite the relevant provisions of the lease when discussing the specific grounds for eviction. The Owner also must provide a written authorization for the PHA so that the PHA can act as the Owner's agent for the purpose of issuing the Notice to Vacate. A Notice to Vacate must be included. It must be signed and prepared by the Owner in the form required by State law.

2. After receiving the Owner's statement, the PHA must send it to the family immediately, along with a copy of the form *Notification of the Owner's Request to PHA for Termination of Tenancy* (the form is set forth in Appendix III of this Part). The form Notification informs the family that, while the Owner wishes to terminate the Lease, the Owner's notice to the PHA is not a Notice to Vacate. In addition, the Notification states that the Family has the opportunity, within 10 days, to present to the PHA any objections it has to the Owner's request. The family is also informed of its rights with respect to the issuance of another Certificate.

3. After the period for response by the Family has ended, the PHA must examine the Owner's grounds for eviction and consider any objections by the Family. The PHA must determine, within 20 days from the day the Owner's statement was sent to the family, whether the grounds for eviction are sufficient under the terms of the Lease.

4. If the grounds are insufficient under the Lease, the PHA must notify the Owner and Family. If the grounds are sufficient, the PHA, must issue a notice to Vacate. The PHA acts as the Owner's agent for the sole purpose of issuing the Notice to Vacate.

5. Any Notice to Vacate prepared by the Owner must comply with all applicable state and local requirements. The Notice to Vacate must be issued to the Family by the PHA. A copy of the Notice to Vacate must be sent to the Owner at the same time.

6. When the PHA issues the Notice to Vacate, the PHA must advise the Family in writing concerning the Family's rights with respect to the issuance of another Certificate. The Family must be told that before the family is determined to be ineligible for a new Certificate, the family will be notified in writing of the reasons and given an opportunity for an informal hearing within a reasonable time (as required by Section 882.209(f)).

7. After the Notice to Vacate has been served by the PHA, the Owner may proceed with the eviction in accordance with State and/or local law and the provisions of the Lease.

8. The revised rule would apply to all HAP Contracts including Contracts executed before the effective date of the new rule. However, owners with units previously placed under HAP Contract may elect not to follow those provisions relating to issuance by the PHA of the State law Notice to Vacate where the election does not derogate from the PHA's sole right to give Notice to Vacate under Section 8(d)(1)(B) of the United States Housing Act of 1937.

NEPA

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a Finding of Inapplicability of Environmental Impact has been prepared and is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address specified above. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act.

This Rule is not listed in HUD's semiannual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, it is proposed to amend 24 CFR Part 882, Subpart B, as follows:

1. By revising § 882.215 to read as follows:

§ 882.215 Evictions.

(a) *General.*

Eviction of a Family must comply with the requirements of this section. The Owner may make representation to the PHA for termination of tenancy, and the representations shall be in accordance with paragraph (b) of this section. The PHA shall, however, have the sole right to give Notice to Vacate in accordance with Section 8(d)(1)(B) of the United States Housing Act of 1937, and the Notice to Vacate shall be given in accordance with paragraph (c) of this section.

(b) *Owner's representation for termination of tenancy.*

(1) If the Owner desires to evict a Family, the Owner shall provide the PHA:

(i) A written statement of the grounds for eviction. The statement shall cite the relevant provisions of the lease. The statement must be signed by, or for, the Owner.

(ii) A written authorization designating the PHA as the Owner's agent for the sole purpose of issuing, prior to the commencement of eviction proceedings, any Notice to Vacate required under State or local law.

(iii)(A) A Notice to Vacate, as prepared by the Owner in the form required under State or local law, for execution by the PHA on behalf of the Owner. If any information or dates needed for the Notice to Vacate are not yet known or determined, the Owner may leave the items blank, to be filled in by the PHA prior to service on the Family.

(B) The Notice to Vacate shall be signed by the Owner to indicate the Owner's concurrence.

(2) Immediately after receiving the Owner's representation for termination of tenancy, the Owner's statement (as described in paragraph 882.215(b)(1)(i)(d)) shall be attached to the form of Notification of Owner's Request to PHA for Termination of Tenancy shown in Appendix III, and the PHA shall send the statement and notification to the Family.

(c) *Proceedings for issuance of Notice to Vacate by PHA.*

(1)(i) The Family may present any objections to the Owner's representation for termination of tenancy within ten days after the PHA sends the Owner's statement of the grounds for eviction to the Family.

(ii) The PHA's determination of the Owner's representation shall be made within twenty days after the PHA sends the Owner's statement of the grounds for eviction to the Family.

(2) In making the determination, the PHA shall examine the grounds for eviction, as contained in the Owner's statement, and shall consider any objections submitted by the Family.

(3) The PHA shall not issue the Notice to Vacate if the PHA finds that the stated grounds for eviction are not sufficient under the lease. The PHA shall give separate written notifications to the Family and the Owner of the determination not to issue a Notice to Vacate.

(4) The PHA shall issue the Notice to Vacate as requested by the Owner if the PHA finds that the stated grounds for eviction are sufficient under the lease.

(5) (i) If the PHA decides to issue the Notice to Vacate, the Notice to Vacate shall be served by the PHA within twenty days after the PHA sends the Owner's statement of the grounds for eviction to the Family.

(ii) The Notice to Vacate shall be in writing. A copy of the Notice to Vacate shall be sent to the Owner at the same time that the Notice is served by the PHA on the Family.

(iii) The Notice to Vacate shall comply with any requirements of form and procedure for issuance of a Notice to Vacate under State and local law. The Notice to Vacate shall be served by the PHA in accordance with State and local law.

(iv) At the same time as the PHA serves the Notice to Vacate, the PHA shall advise the Family in writing of the Family's rights with respect to issuance of another Certificate. In particular, the Family shall be advised of the right to an informal hearing in accordance with Section 882.209(f) before a determination by the PHA not to issue a new Certificate.

(d) Procedures for HAP Contracts executed before [*effective date of this revised rule*]

Owners under Contracts executed before [*the effective date of this revised rule*] may elect not to follow § 882.215(b)(1) (ii) and (iii) and § 882.215(c)(5)(iii) where the election does not derogate from the PHA's sole right to give Notice to Vacate under Section 8(d)(1)(B) of the United States Housing Act of 1937.

2. By revising paragraph (e) of the Addendum to Lease in Appendix I to read as follows:

Appendix I

* * * * *

(e) The Owner may not evict the Family unless the Owner complies with the provisions of the Housing Assistance Payments Contract between the Owner and the PHA, as affected by HUD requirements. A copy of the applicable eviction procedures is attached to and made a part of this Lease.

* * * * *

3. By adding after Appendix II a new Appendix III to read as follows:

Appendix III

Notification of the Owner's Request to PHA for Termination of Tenancy

THIS IS NOT A NOTICE TO VACATE

(Fill in name of owner)
the owner of your dwelling, located at

(Fill in address of family)
has asked this Agency to issue you a Notice to Vacate. Since the rent for your dwelling is assisted under the Section 8 Existing Housing Assistance Payments Program, only we can issue a Notice to Vacate. A copy of the owner's request to us is attached. It gives the owner's reasons for requesting the eviction.

You have the right to tell us your objections to the owner's request. You may tell us your objections in writing or in person. You must tell us the objections by

(Fill in date that is 10 days after owner's statement is sent to the family)

If we decide to approve the eviction and to issue a Notice to Vacate, you may be entitled to another Certificate of Family Participation to use at another location. If we find that you are ineligible for another Certificate, we will tell you why. You have the right to an informal hearing before we make the final decision not to give you another Certificate.

(Print Name of Housing Authority)
By: —
(Signature of person signing notification for PHA)

(Print name of person signing notification for PHA)

(Print position of person signing notification for PHA)

(Section 7(d), Department of HUD Act [42 U.S.C. 3535(d)); section 5(b) of the U.S. Housing Act of 1937 [42 U.S.C. 1437c(b)).)

Issued at Washington, D.C., September 19, 1980.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-34151 Filed 10-31-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 103a and 103b

Indian Moneys, Proceeds of Labor; Special Deposits 1980

September 25, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes rules to establish two new internal accounting procedures. Part 103a establishes regulations dealing with the source, deposit, investment, and use of Federal moneys classified as "Indian Moneys, Proceeds of Labor". Part 103b will prescribe policies governing the handling of "special Deposits" by the Bureau.

DATES: Comments must be received on or before December 3, 1980.

ADDRESSES: Submit written comments to the Bureau of Indian Affairs, Division of Program Development and Implementation (Code 720), Room 355, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Thomas A. Stangl, Program Analysis Officer, Bureau of Indian Affairs, Room 355, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone (202) 343-4807.

SUPPLEMENTARY INFORMATION: "Indian Moneys, Proceeds of Labor," are miscellaneous receipts collected by the Bureau of Indian Affairs at BIA agencies and schools. Although these "IMPL" funds originally included moneys belonging to Indian tribes, different laws now govern the collection, deposit, and use of tribal funds and the proposed regulations therefore deal only with income from BIA agencies and schools which belongs to the federal government as opposed to tribes or individual Indians.

The proposed regulations on "IMPL" funds would made several changes with respect to the types of income which

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have been considered IMPL receipts. For example, interest earned on "special deposits" will no longer be included as IMPL receipts, as a general rule.

Part 103a also requires that IMPL funds be used to support Bureau programs at the agency or school in accordance with approved program plans for the expenditure of such funds. Under Federal law, IMPL funds may be expended only for the benefit of the agency or school at which the funds were collected.

Part 103b revises Bureau policy with respect to the investment of "special deposits". As noted above, prior to this time, any interest earned from the investment of special deposits was included as IMPL receipts. Under the proposed regulations, interest earned on special deposits will, with certain limitations, be distributed to the owners of the principal account which earned the interest. This means that tribes and individual Indians will now receive the interest earned on special deposit funds which belong to them rather than having such interest paid to the Bureau. The $500/60 day limitation on payment of interest earned on special deposits has been established because the administrative workload required to manually determine the precise distribution of interest to every principal account would be excessive and economically infeasible.

The proposed regulations were drafted by a BIA task force group established at the direction of the Assistant Secretary—Indian Affairs. The primary author of this document is Thomas A. Stangl, Division of Program Development and Implementation, BIA.

The Department has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. It has been determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (a), (c)).

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

It is proposed to add a new part 103a and a new part 103b to Subchapter J, Chapter 1 of Title 25 of the Code of Federal Regulations to read as follows:

PART 103a—INDIAN MONEYS, PROCEEDS OF LABOR (IMPL)

Sec.

103a.1 Purpose and scope.
103a.2 Definitions.
103a.3 Sources of IMPL funds.
103a.4 Collection and deposit of IMPL funds.
103a.5 Investment of IMPL funds.
103a.6 Expenditure and use of IMPL funds.
103a.7 Development and approval of IMPL use plans.
103a.8 Limitations on use of IMPL funds.

Authority: 25 U.S.C. 2, 25 U.S.C. 9; 25 U.S.C. 155.

§ 103a.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the receipt, deposit, investment, and use of miscellaneous revenues derived from BIA agencies and schools under the Act of March 3, 1883, as amended (25 U.S.C. 155). These regulations apply only to income belonging to the federal government and not to tribal funds or moneys belonging to individual Indians.

§ 103a.2 Definitions.

(a) "Agency" means any field office of the Bureau officially designated as an Indian agency and which provides direct services at the local level to Indians and Indian tribes, who are recognized by the Bureau as eligible for federal services to Indians because of their status as Indians.

(b) "Agency Superintendent" means the Bureau official in charge of a Bureau agency.

(c) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(d) "Enterprise operation" means an economic activity operated at a Bureau agency or school which is designated to provide goods or services where such goods or services are not available or are not provided in an effective or satisfactory manner, or which has as its primary purpose enhancement of the educational experience of Indian students and is only incidentally commercial in nature.

(e) "IMPL funds" means all miscellaneous revenues included within the definition of IMPL receipts under section 103a.3 of this Part which are covered into the U.S. Treasury as federal trust funds under Account 14x8500, Indian Moneys, Proceeds of Labor.

(f) "P.L. 638" means the Indian Self-Determination Act, Act of January 4, 1975, Title I, Public Law 93–638 (25 U.S.C. 450 et seq.).

(g) "Project basis" means short-term Bureau program at an agency or school aimed at a specific objective which can usually be accomplished within one year's time, and which supplements on-going Bureau programs of a more permanent nature.

(h) "School" includes any school operated directly by the Bureau or by an Indian tribe or organization pursuant to a P.L. 638 contract, except that tribally controlled previously private contract schools are not included within the term "school" for the purpose of section 103a.3(a)(1) of this Part.

(i) "School Supervisor" means the Bureau official in charge of a Bureau school.

§ 103a.3 Sources of IMPL funds.

(a) IMPL receipts include—

(1) All miscellaneous revenues collected on behalf of the Bureau through Bureau agencies and schools as income from the sale of goods or services by the Bureau, gross receipts from leases, rentals, permits, licenses, and fees for the use of federal lands, facilities, and property and revenues from other Bureau activities, including gross receipts from activities financed by appropriated funds, except as otherwise provided by federal statute superseding 25 U.S.C. 155, and

(2) Interest from the investment of IMPL funds.

(b) IMPL receipts do not include—

(1) Special deposits and interest on special deposits except to the extent provided under Part 103b;

(2) Funds belonging to individual Indians or Indian tribes;

(3) Fees collected under 25 U.S.C. 413 to cover the cost of work performed by the Bureau of Indian tribes or individual Indians;

(4) Fees collected under 40 U.S.C. 490 (k) as charges for space and services in Bureau facilities not in excess of actual operating and maintenance costs of providing such space or services; or

(5) Fees collected from the lease of federal buildings or the sale of supplies, equipment, or services to other government bureaus and departments under 31 U.S.C. 686 (b) or 40 U.S.C. 303b.

§ 104a.4 Collection and deposit of IMPL funds.

IMPL receipts will be handled in accordance with the procedures set forth in Chapter 3—Collections, Title 7 Fiscal Procedures, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. IMPL receipts will be deposited to appropriate income codes for Activity 2660, "IMPL", as contained in the Bureau Financial Management Accounts Handbook, as revised.

§ 103a.5 Investment of IMPL funds.

IMPL funds not immediately required for expenditure will be invested by the Bureau as part of its regular investment program and will remain invested until notice is given that the funds are being allotted from the trust account for

expenditure under an approved program plan.

§ 103a.6 Expenditure and use of IMPL funds.

(a) IMPL funds may be used only for the benefit of the agency or school for which such receipts were collected, and in accordance with an approved program plan under § 103a.7.

(b) In general, IMPL funds may be expended for any program at an agency or school which the Bureau has statutory authority to operate. However, they should not be used to fund projects specifically reduced or disallowed by the Congress. IMPL funds may be expended directly by the Bureau or pursuant to a P.L. 638 contract covering tribal operation of an authorized agency or school program. As a matter of policy, however, IMPL funds will not generally be used to finance the full costs of an on-going Bureau program on a permanent basis, either directly or through contract. IMPL funds may be used up to three (3) years to fund the full cost of authorized Bureau programs for which appropriations have been requested but not received or for which appropriations are not currently available, and to fund the full cost of temporarily expanding regular Bureau programs, whether directly or through contract. IMPL funds may also be used to support Bureau enterprise operations at Bureau agencies and schools without any limitation on time. IMPL funds may also be used to supplement regular Bureau programs on a project basis, either directly or through contract.

§ 103a.7 Development and approval of IMPL use plans.

(a) Each agency superintendent, school supervisor, or other Bureau official responsible for a Bureau school or agency shall submit an annual IMPL program plan for the expenditure of IMPL funds held for, and IMPL receipts accruing to, such agency or school. Program plans will be developed within the budget cycle and will utilize guidelines, formats, exhibits, justification, costs principles, and other procedures developed within the Bureau's financial management system.

(b) Each program plan shall be reviewed and approved or disapproved by the Bureau official having direct line authority over such agency superintendent, school supervisor, or other appropriate Bureau official.

(c) All expenditures of IMPL funds shall be in accordance with such program plan and any amendments or revisions thereto. Expenditures under "IMPL" use plans are subject to the same audit, review, and investigation as expenditures of appropriated funds under other Bureau programs.

§ 103a.8 Limitations on use of IMPL funds.

(a) IMPL funds may not be expended as part of a P.L. 638 grant, but may be expended under a separate P.L. 638 contract which supplements a program pursuant to a P.L. 638 grant.

(b) IMPL funds will not be expended for the construction or major alteration and improvement of federal facilities, except as specifically authorized in the Bureau's annual budget or in case of emergency approved by the Commissioner of Indian Affairs.

(c) IMPL funds may not be expended to acquire lands for tribes or for the construction of tribal facilities, or for the operation and maintenance of tribal facilities except where such expenditure represents a portion of Bureau program costs in situations where such costs are paid by the Bureau in lieu of rent.

(d) IMPL funds may not be expended for any other use which, from time to time, may be excluded by executive order or by administrative limitations issued by the Secretary of the Interior, or his authorized representative.

PART 103b—SPECIAL DEPOSITS

Sec.

103b.1 Purpose and scope.
103b.2 Definitions.
103b.3 Investment of special deposit funds.
103b.4 Payment and distribution of interest on special deposit funds.

Authority: 25 U.S.C. 2, 25 U.S.C. 9.

§ 103b.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the deposit, investment, and distribution of interest on funds held by the Bureau in special deposits.

§ 103b.2 Definitions.

(a) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(b) "Eligible principal account" means a principal account which has been on deposit for at least 60 calendar days during the investment period and which has an average month-end balance of at least $500 during the investment period.

(c) "IMPL account" means Account 14X8500, Indian Moneys, Proceeds of Labor, U.S. Treasury.

(d) "Principal account" means each separate payment or deposit of money to the Bureau which is held as a special deposit.

(e) "Proportionately" means in the same proportion that the amount of an eligible principal account bears to the total amount of all eligible principal accounts.

(f) "Special deposit" means any suspense account used for the temporary deposit of funds which cannot be credited to specific accounts or readily distributed, including, but not limited to, (1) advance deposits required when bidding on and awaiting approval of mining leases on trust or restricted Indian lands, including oil, gas, coal, and other minerals, (2) advance deposits on other leases and permits for such Indian lands, (3) advance payments and advance deposits required on sales of timber and other natural resources from such Indian lands, (4) deposits for rights of way over such Indian lands and anticipated right-of-way damages held until such damages are determined, and (5) deposits for grazing fees on such Indian lands.

(g) "Special deposit funds" means those funds held in special deposits.

§ 103b.3 Investment of special deposit funds.

(a) It is the policy of the Bureau to invest all special deposit funds which have been paid to the Bureau on behalf of Indians or Indian tribes pending the eventual payment for the sale, lease, or other transfer of tribal or individual Indian property.

(b) It is the policy of the Bureau not to invest special deposit funds which are (1) deposited solely for the purpose of guaranteeing performance, or (2) subject to immediate return on demand of the depositor.

§ 103b.4 Payment and distribution of interest on special deposit funds.

(a) It is the general policy of the Bureau that interest and earnings from the investment of special deposit funds will be credited to subsidiary interest accounts for principal accounts upon which the interest was earned. Therefore, interest and earnings from special deposit funds will not be deposited into the Bureau's IMPL account, except as expressly provided in this section.

(b) Interest earned through investment of special deposit funds shall be deposited every six months into a subsidiary interest account for each eligible principal account, subject to the limitations contained in paragraph (c), and shall be distributed on the same basis as the principal account.

(c) Interest earned through investment of special deposit funds shall not be distributed to any principal account which is on deposit less than 60 calendar days during the investment period or which has an average month-end balance of less than $500 during the investment period, and earnings attributable to such accounts shall be

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distributed under subsection (b), along with the remaining earnings, to all eligibile principal accounts proportionately, or, if there are no remaining eligible principal accounts, to the Bureau's IMPL account to the credit of the Bureau agency or school where the special deposit was made.

(d) Payment of the principal from special deposits shall not be delayed because of computation and distribution of interest, if any, payable to such principal account.

Thomas W. Fredericks,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-34175 Filed 10-31-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 354; Re: Notice No. 333]

Cider; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: This document withdraws Notice No. 333 (45 FR 2855) in which the Bureau of Alcohol, Tobacco and Firearms (ATF) solicited public comment as to whether the standard of identity for cider should be changed to allow the designation "cider" on wine derived from a mixture of apple and pear juices if not more than 25 percent of the mixture is pear juice. Presently, fruit wine which is designated "cider" must be derived entirely from apple juice. ATF is withdrawing the advance notice as a result of comments received from the public and the industry.

FOR FURTHER INFORMATION CONTACT: Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington DC. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Notice No. 333

ATF originally issued Notice No. 333 on January 15, 1980, (45 FR 2855) in response to a petition from a trade association representing the cider industry. ATF did not propose any regulatory changes in Notice No. 333, but solicited input from interested persons on the desirability of changing the standard of identity for cider. ATF also sought information concerning the current consumer understanding of cider.

Summary of Comments

ATF received 104 comments in response to Notice No. 333. The overwhelming majority of the commenters felt that ATF should not allow fruit wine designated as "cider" to be dervied from a mixture of apple and pear juices. Most of the commenters felt that the consumer understanding of cider is that cider is produced entirely from apples. The commenters generally felt that by allowing pear juice as an ingredient in cider, ATF would promote consumer deception and would lower the quality of the cider available in this country.

Among the comments, was one from the petitioning trade association. The association changed its position on its proposal and stated that the use of pears in cidermaking in the United States is neither traditional, necessary, nor desirable.

ATF agrees that fruit wine derived from apple and pear juices should not be designated as cider. ATF, therefore, withdraws Notice No. 333.

Drafting Information

The principal author of this document is Thomas L. Minton of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This document is issued under the authority of 27 U.S.C. 205.

Signed: October 2, 1980.

G. R. Dickerson,

Director.

Approved: October 27, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-34125 Filed 10-31-80; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 1653-4]

Interstate Pollution Abatement; Notice of Proceedings Under Section 126 of the Clean Air Act and Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of proceedings under Section 126 of the Clean Air Act (Interstate Pollution Abatement).

SUMMARY: This notice concerns a public hearing to discuss the interstate air pollution impact of particulate matter and sulfur dioxide within the New Jersey-New York-Connecticut metropolitan area. Section 126 of the Clean Air Act provides a mechanism for any state or political subdivision to petition the Environmental Protection Agency to determine after public hearing whether a major pollution source in another state is causing or has the potential to cause an interstate air pollution problem. Such petitions have been filed by the State of Connecticut and the State of New Jersey. Findings with respect to these petitions will be made on the basis of the record of this public hearing and other information contained in the proceedings.

Petitions from both Connecticut and New Jersey deal with the air quality impact of the use of 1.5 percent sulfur content fuel oil by the Consolidated Edison Company of New York, Inc. at its Arthur Kill and Ravenswood plants in New York City. An additional petition from Connecticut deals with the air quality impact resulting from the use of 2.8 percent sulfur content fuel oil by the Long Island Lighting Company at certain units of its Northport and Port Jefferson generating stations, located in Suffolk County, New York. In addition, all the petitions generally raise the issue of potential interstate air pollution resulting from the possible conversion of many power facilities in New Jersey-New York-Connecticut metropolitan area from fuel oil to coal. The New Jersey petition raises this issue specifically. Such conversions can be required by the U.S. Department of Energy.

DATES: The hearing will be held on December 3 and 4, 1980. Requests to present testimony at the hearing should be received by November 25, 1980. EPA requests an advance copy of written testimony and factual information wherever possible; however, written material will be accepted up until the close of the public hearing record on January 5, 1981.

ADDRESSES: The hearing will be held at: The Federal Office Building, 26 Federal Plaza (on Broadway between Worth and Duane Streets), Room 305B, New York, New York 10278.

The hearing will convene on December 3, 1980 at 10:00 a.m. and recess at 5:00 p.m. (or such time as all speakers scheduled for the afternoon have completed their testimony); it will reconvene at 9:00 a.m. on December 4, 1980 and adjourn when all scheduled testimony has been completed.

Individuals wishing to be scheduled to present testimony at the hearing must contact by letter or phone: Robert A. Predale, Environmental Protection Agency, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264-9800.

Copies of the technical and background documents are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

New York State Department of Environmental Conservation, Region 2, Two World Trade Center, 61st Floor, New York, New York 10047.

New York State Department of Environmental Conservation, Region 1, Building 40, State University of New York, Stony Brook, New York 11794.

New Jersey Department of Environmental Protection, Bureau of Air Quality Management and Surveillance, Room 1110, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625.

Connecticut Department of Environmental Protection, Air Compliance Unit, Room 144, State Office Building, Hartford, Connecticut 06115.

In addition, EPA is establishing a docket for these proceedings. The docket, 2A-80-1, will be maintained in the Environmental Protection Agency Public Information Unit and in the Environmental Protection Agency Region II Office at the preceding addresses and will be available for public inspection during normal business hours. All correspondence, comments or other written submissions pertaining to the proceedings announced in today's notice should reference "Docket No. 2A-80-1."

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 3 and 4, 1980 the Environmental Protection Agency will hold a public hearing in response to petitions filed by the States of New Jersey and Connecticut pursuant to the provisions of Section 126 of the Clean Air Act (see Section II of today's notice for a description of "Section 126 Provisions"). The time and location of the hearing plus information on arranging for an opportunity to testify can be found in the preceding dates and addresses sections of this notice. Additional information on the "Hearing Format" can be found in Section VI of today's notice.

The petitions filed by the State of Connecticut and the State of New Jersey were in response to State Implementation Plan (SIP) revisions submitted to EPA by the New York State Department of Environmental Conservation (NYSDEC) and deal with potential particulate matter and sulfur dioxide interstate air quality impacts. The details of these SIP revisions, affecting the Consolidated Edison Company of New York, Inc. (Con Edison) and the Long Island Lighting Company (LILCO), are discussed in Section III of today's notice under the heading of "Actions Leading to Petitions." A description of the petitions filed by New Jersey and Connecticut is presented under the heading of "Petition Contents and Background Data" in Section IV of today's notice. Section V of today's notice presents the issues to be considered at the hearing.

II. Section 126 Provisions

Section 126(b) of the Clean Air Act authorizes any State or political subdivision to petition the Administrator of the EPA for a finding that any major source emits or will emit an air pollutant in violation of the prohibition of Section 110(a)(2)(E)(i) of the Clean Air Act. This latter section prohibits any stationary source within a state from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other state of any national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under Part C of the Act to prevent significant deterioration of air quality or to protect visibility. After public hearings, the Administrator either makes a finding that Section 110(a)(2)(E)(i) is being violated or denies the petition. If a finding of violation is made, Section 126(c) provides that operation of the source for more than three months after the finding has been made shall be a violation of the applicable implementation plan unless the Administrator permits continued operation of the source conditioned on its compliance with emission limitations and compliance schedules provided by the Administrator. Compliance with the requirements contained in Section 110(a)(2)(E)(i) must be as expeditious as practicable, but no later than three years after the date of such finding.

III. Actions Leading to Petitions

A. Long Island Lighting Company

On April 29, 1980 New York State submitted to EPA a proposed revision to its SIP to allow LILCO to continue using fuel oil with a maximum sulfur content of 2.8 percent, by weight, in units 1, 2 and 3 of its Northport generating facility and in units 3 and 4 of its Port Jefferson generating facility, all located in Suffolk County, New York. This "special limitation" if approved by EPA would be in effect for a maximum period of three years from the date of EPA's final approval action. "Special limitations" are authorized by Section 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York and are subject to approval as SIP revisions by EPA (40 CFR 52.1675(e)). The affected LILCO units have never burned fuel oil with a maximum sulfur content of 1.0 percent, by weight, as normally rquired by State regulation for sources in Suffolk County.

The use of high sulfur content fuel oil was first proposed for approval by EPA on May 25, 1976 (41 FR 21360) and subsequently approved on July 20, 1976 (41 FR 29817). This "special limitation," which expired on May 31, 1977, allowed the use of fuel oil with sulfur content of 2.5 percent, by weight, at units 1, 2 and 3 of the Northport generating facility and 2.8 percent, by weight, at units 3 and 4 of the Port Jefferson generating facility. EPA approved a renewal until May 31, 1980 of this initial "special limitation" on August 26, 1977 (42 FR 43078). This renewed "special limitation" increased the allowable sulfur content for the applicable units at the Northport generating facility from 2.5 to 2.8 percent, by weight, and kept the existing limitation of 2.8 percent, by weight, for the applicable units at the Port Jefferson generating facility.

The State's April 29, 1980 submittal for further renewal included a technical support document which purported to show that the continued use of 2.8 percent sulfur content fuel oil would not result in a contravention of any health or welfare related national ambient air quality standard. Moreover, since the emission levels associated with the burning of 2.8 percent sulfur content fuel oil were included in the baseline as defined in EPA's prevention of significant deterioration (PSD) regulation (45 FR 52675, August 7, 1980), no PSD increment would be consumed as a result of its use.

EPA reviewed the technical material submitted by New York State and concurred with the State's determination that no violation of national ambient air quality standards would occur. Based

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upon this review and EPA's own analysis of the technical material submitted, EPA proposed to approve the State's SIP revision submittal on July 31, 1980 (45 FR 50833). In this **Federal Register** notice EPA advised the public that comments, received on or before September 2, 1980, would be considered in the administrator's final decision.

On August 28, 1980 the State of Connecticut filed a petition with EPA in accordance with Section 126 of the Clean Air Act requesting a finding that the continued burning of 2.8 percent sulfur content fuel oil would result in emissions that would violate the prohibition of Section 110(a)(2)(E)(i) of the Clean Air Act. The contents of this petition in this regard are discussed in Subsection IV.A.1. of today's notice.

B. Consolidated Edison Company of New York, Inc.

On November 29, 1979 New York State submitted to EPA a proposed revision to its SIP to allow Con Edison to use fuel oil with a maximum sulfur content of 1.5 percent, by weight, in units 2 and 3 of its Arthur Kill generating facility on Staten Island, New York and in unit 3 of its Ravenswood generating station in Queens, New York. These units were limited by State regulation to the use of 0.30 percent, by weight, sulfur content fuel oil. The use of the higher sulfur content fuel oil was permitted for a maximum period of one year from August 12, 1980, which was the date Con Edison first used the high sulfur content fuel oil. This test burn was undertaken by Con Edison as a prelude to the use of coal at its Ravenswood and Arthur Kill generating facilities.

A notice of proposed rulemaking on the State's SIP revision request was published in the **Federal Register** on January 17, 1980 (45 FR 3331). The reader is referred to this January 17 notice where a detailed description of the revision request is provided. The comment period established by this notice ended on February 19, 1980 and was subsequently extended to March 5, 1980 by another **Federal Register** notice (45 FR 12266, February 25, 1980). In these notices EPA advised the public that comments would be accepted as to whether the proposed revision to the New York SIP should be approved or disapproved. During the comment period, EPA received numerous comments. Based on the significant public comment received regarding the implications of the State's proposed action upon regional growth potential and based on the acquisition of new air quality data which indicated a violation in lower Manhattan of the national annual ambient air quality standard for sulfur oxides, on April 17, 1980 (45 FR 26101), EPA reopened its comment period. As a result of this extension, which ended on May 19, 1980, EPA received additional comments on the proposed SIP revision.

Based on its review of all available information, including the numerous public comments received, EPA found the State's SIP revision request to be approvable. Action to promulgate this determination was taken in the August 11, 1980 issue of the **Federal Register** (45 FR 53139), where a detailed discussion of the comments received is provided.

On April 29, 1980 and May 16, 1980 the States of New Jersey and Connecticut, respectively, filed petitions under Section 126 of the Clean Air Act regarding emissions from the Con Edison facilities. The contents of these petitions as they relay to the Con Edison facilities are discussed in Subsections IV.A.2. and IV.B.1. of today's notice.

C. Regional Coal Conversion

EPA, during the public comment period established on the New York SIP revision request with regard to Con Edison, received numerous letters from units of government and elected officials, most notably from New Jersey, expressing concern that EPA's proposal to approve the "special limitation" could affect future new source development and regional economic growth. The basis for this concern was Con Edison's stated purpose to use its temporary "special limitation" to demonstrate its ability to permanently burn 1.0 percent sulfur content coal at the affected units without sulfur dioxide controls. This fact, coupled with the likelihood that many power plants in the New York City metropolitan area may be required by the U.S. Department of Energy to convert to coal, led many commentors to recommend that the cumulative impact of all such conversions should be analyzed before proceeding with approval of any individual application. Commentors noted that such conversions should be based on a comprehensive areawide fuel use strategy.

EPA in its review of these comments concluded that there were substantial reasons for concern with respect to interstate air quality impacts, assuming long term high sulfur content fuel use by Con Edison and other utilities in the metropolitan area (45 FR 53138, August 11, 1980). EPA further stated, that it intended to convene a future hearing under Section 126 of the Clean Air Act for the purpose of addressing whether and under what circumstances the long term use of high sulfur content fuels by utilities in the metropolitan area has an acceptable interstate air quality impact. In addition, EPA's decision to incorporate the regional coal conversion issue in the Section 126 hearing is in direct response to the State of New Jersey's Section 126 petition on Con Edison, as discussed in Subsection IV.B.2. of today's notice.

IV. Petition Contents and Background Data

A. State of Connecticut

1. *Long Island Lighting Company.* On August 28, 1980, EPA was petitioned by the State of Connecticut Department of Environmental Protection, pursuant to Section 126 (b) and (c) of the Clean Air Act, to make a finding that the sulfur dioxide and particulate matter emissions from the continued use of high sulfur content fuel oil at LILCO's Northport and Port Jefferson generating facilities are interfering with attainment of particulate matter and sulfur dioxide ambient air quality standards in Connecticut and are otherwise in violation of Section 110(a)(2)(E)(i) of the Act. Specifically, the State of Connecticut requested the Administrator of EPA to disapprove the New York SIP revision request to allow the continued use of high sulfur content fuel oil at LILCO's Northport and Port Jefferson generating facilities. Connecticut's reasons were as follows:

- Section 110(a)(2)(E)(i) of the Act prohibits adoption of this proposal as a final rule in that it would exacerbate existing violations of the national ambient air quality standards (NAAQS) for total suspended particulates (TSP) in the State of Connecticut. All of the State of Connecticut has been designated non-attainment for the secondary TSP standard, and Greenwich, Connecticut, which would be among the most severely impacted by the granting of New York's SIP revision request, has been designated non-attainment for the primary TSP standard. In view of the anticipated interference with NAAQS for TSP in Connecticut that would result from the granting of the approval of this SIP revision, said approval should be withheld by EPA.
- The proposed SIP revision, if approved by the Administrator, would interfere with attainment and maintenance of the State of Connecticut's secondary 24-hour sulfur dioxide ambient air quality standard. This standard, although no longer a NAAQS, is nevertheless a part of Connecticut's federally approved SIP.
- Inadequate consideration is being given by EPA to the aggregate impact of adjacent sources of sulfur dioxide and TSP which impact is especially significant when assessing the subject SIP revision's effect upon applicable 24-hour ambient air quality standards. Connecticut claims that the significance of this source's impact must be assessed in the context of the aggregate impact on the region within which this source is located. In this particular instance, Connecticut offers to demonstrate an already existing significant impact from the New York Metropolitan Region (as much as 60 percent or more of a given 24-hour reading) upon Connecticut's ambient air based upon data collected from monitors located within the State of Connecticut. Therefore, any increase in emissions from these sources, however, "insignificant" in and of themselves, exacerbate existing significant impacts when considering the impact of the aggregate of emissions from the New York Metropolitan Region upon Connecticut's ambient air. It is submitted that EPA's failure to make such an assessment of the aggregate emissions impact in evaluating whether or not emissions from the subject source complies with Section 110(a)(2)(E)(i) would be an error.
- Even in areas within Connecticut where applicable ambient air quality standards will not be exceeded as a result of the impact from the LILCO emissions, such emissions nevertheless add to Connecticut's air pollution and thus make it more difficult if not impossible for Connecticut to attain and maintain applicable ambient air quality standards within its borders pursuant to its federally approved SIP. Thus, LILCO's emissions will contribute to preventing attainment and maintenance of applicable air quality standards in Connecticut.

EPA, in proposing to approve the continued use of high sulfur content fuel oil by LILCO, had determined that no violation of the national ambient air quality standards would occur. Furthermore, no consumption of any applicable PSD increment would result since the emissions levels associated with the burning of 2.8 percent sulfur content are included in the baseline as defined in the PSD regulations. In reaching this determination, EPA had conducted an extensive review of the air quality modeling conducted by LILCO and New York State and the available air monitoring data from New York and Connecticut.

The air quality modeling indicated that under worse-case conditions the maximum 24-hour sulfur dioxide impact in Connecticut from the Northport and Port Jefferson generating facilities (including units not affected by the "special limitation") is 233 $\mu g/m^3$. Sulfur dioxide collected by the State of Connecticut, which includes a final data compilation for 1978 and a preliminary data compilation for 1979, are summarized below for several locations in southern Connecticut:

Site	Maximum 24-hour SO_2 1978	Concentration ($\mu g/m^3$) 1979
New Haven	239	207
Bridgeport	237	207
Stamford	230	231
Greenwich	151	116

Since the affected LILCO units were burning 2.8 percent sulfur fuel oil at this time, EPA believes that the impact from LILCO's emissions is included within these measured values. It should be noted that no violation of either the primary 24-hour national ambient air quality standard for sulfur dioxide of 365 $\mu g/m^3$ or the State of Connecticut's secondary 24-hour standard for sulfur dioxide of 260 $\mu g/m^3$ has occurred. Furthermore, LILCO has submitted for EPA review a supplemental air quality modeling analysis which indicates that on the day of the recorded maximum 24-hour concentration of 239 $\mu g/m^3$, only 14.6 $\mu g/m^3$ could be attributed to LILCO's emissions.

There are no measured or predicted violations of the primary annual (80 $\mu g/m^3$) or secondary 3-hour (1300 $\mu g/m^3$) national ambient air quality standard for sulfur dioxide.

With respect to particulate matter emissions, EPA had determined that there were no discernable increases in particulate matter emissions associated with this SIP revision. Particulate matter emission control equipment is operated at each affected unit, and stack tests have demonstrated compliance with the New York State particulate matter emission limitation of 0.1 lbs./million BTU. However, in response to the Connecticut petition, EPA has determined that the maximum particulate matter impact in Connecticut resulting from emissions from the Northport and Port Jefferson generating facilities is 0.10 $\mu g/m^3$ on an annual basis and 2.06 $\mu g/m^3$ for a 24-hour period. The primary annual standard for particulate matter is 75 $\mu g/m^3$, the secondary annual guideline is 60 $\mu g/m^3$ and the secondary 24-hour standard for particulate matter is 150 $\mu g/m^3$.

2. *Consolidated Edison Company of New York, Inc.* The State of Connecticut filed a Section 126 petition with EPA on May 16, 1980, requesting EPA to disapprove New York State's proposed SIP revision to allow Con Edison to use fuel oil with a maximum sulfur content of 1.5 percent, by weight, for a one-year period at two units of its Arthur Kill generating station and at one unit of its Ravenswood generating station.

Connecticut requested the Administrator of EPA to disapprove the proposed SIP revision for the following reasons:

- Section 110(a)(2)(E)(i) of the Act prohibits adoption of this proposal as a final rule in that it would interfere with Connecticut's SIP by consuming, according to EPA, approximately 21 percent of the PSD increment for sulfur dioxide for a 24-hour period in the Connecticut portion of the New Jersey-New York-Connecticut Air Quality Control Region. Furthermore, to permit such a large increment for one utility would demonstrate EPA's total failure to consider a regional approach to an air quality issue that clearly cuts across state lines. It would further threaten to restrict economic growth in parts of Connecticut during a time in which there is great concern over the region's economic stability and unemployment. In addition, it would prejudice the State of Connecticut in its attempt to marshal its clean air resources under its SIP as approved by the EPA and will most certainly inhibit the establishment of any state-run PSD program within the State of Connecticut in the future. Also, the lack of competent technical data for purposes of establishing the baseline in the Connecticut portion of the New Jersey-New York-Connecticut Air Quality Control Region renders any final determination as the impact on existing clean air margins within the State of Connecticut and elsewhere by the subject proposed SIP revision incompetent at this time and, therefore, requires that the subject proposal be denied. Finally, failure on the part of the applicant to scrupulously follow EPA modeling guidelines renders any determination as to the amount of increment consumed in Connecticut unreliable at best.
- Section 110(a)(2)(E)(i) of the Act further prohibits adoption of this proposal as a final rule in that it would exacerbate existing violations of the NAAQS for TSP in the State of Connecticut. All of the State of Connecticut has been designated non-attainment for the secondary TSP standard, and Greenwich,

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Connecticut, which would be among the most severely impacted by the granting of New York's SIP revision, has been designated non-attainment for the primary TSP standard. In view of the anticipated interference with NAAQS for TSP in Connecticut that would result from the granting of the approval of this SIP revision, said approval should be withheld by EPA.

As indicated earlier in this notice, in Subsection III.B., EPA approved New York State's proposed SIP revision on August 11, 1980 (45 FR 53138). EPA in approving the New York SIP revision had determined that the use of high sulfur content fuel oil by the two Con Edison generating stations for a one-year period would not cause any primary or secondary ambient air quality standard to be exceeded. With regard to the issue of PSD increment consumption, EPA had determined that the use of high sulfur fuel oil would not violate any PSD increment and, since its use had only been approved for one year, would not preclude regional growth. It was further stated that any extension of EPA approval of this action would have to be initiated by a new SIP revision request from New York State. EPA would then be required to evaluate this new request on the basis of the amounts of PSD increment which remain available at the time of the request, considering the emissions growth which had occurred on a "first come-first served" basis in the intervening period.

If a source wished to locate within the impact area of this action it presumably could fulfill all PSD requirements and receive a PSD permit during this intervening period of time. In this event, the amount of PSD increment used by the source would not be available to accommodate a permanent relaxation of fuel sulfur requirements for oil contained in the New York SIP.

In establishing the air quality baseline for PSD increment analysis within the Connecticut portion of the New Jersey-New York-Connecticut Air Quality Control Region, EPA utilized data generated by the Connecticut Department of Environmental Protection. Furthermore, EPA had determined that the air quality modeling submitted by the State of New York met EPA's modeling requirements.

As noted in the May 21, 1980 **Federal Register** (45 FR 33981), New York State is currently revising its SIP for the New York City metropolitan area to provide for attainment of the secondary national ambient air quality standard for particulate matter. The particulate matter emission limitations in the currently approved SIP were being met by Con Edison prior to the approval of the SIP revision and must continue to be met with the use of high sulfur content fuel oil. EPA intends to assure that these limitations are currently being met by requiring, under Section 114 of the Clean Air Act, stack sampling of the affected sources. This sampling is expected to be conducted in November. With regard to the impact within Connecticut from particulate matter emissions from the affected Con Edison units, EPA in its analysis had predicted a maximum impact of 1.44 $\mu g/m^3$ on a 24-hour basis and 0.10 $\mu g/m^3$ on an annual basis.

B. New Jersey

1. *Consolidated Edison Company of New York, Inc.* On April 29, 1980 the State of New Jersey petitioned EPA in accordance with Section 126 of Clean Air Act to request that EPA disapprove New York State's proposed SIP revision which allows the use of high sulfur content fuel oil at two plants operated by Con Edison.

The State of New Jersey requested the Administrator of EPA to disapprove the proposed SIP revision for the following reasons:

- Section 110(a)(2)(E)(i) of the Act prohibits adoption of this proposal as a final rule in that it would interfere with New Jersey's SIP by consuming approximately 46 percent of the PSD increment for sulfur dioxide for a 24-hour period in parts of New Jersey. Furthermore, to permit such a large increment for one utility would demonstrate EPA's total failure to consider a regional approach to an air quality issue that clearly cuts across state lines. It would further threaten to restrict economic growth in parts of New Jersey during a time in which there is great concern over the region's economic stability and unemployment.
- Section 110(a)(2)(E)(i) of the Act further prohibits adoption of this proposal as a final rule in that it would exacerbate the particulate emissions problem in a non-attainment area for the secondary ambient air quality standard for particulates. The estimate submitted by Con Ed of the increment to be consumed for particulate emisssions is unsubstantiated and deserves further analysis by EPA.

For background information on PSD increment consumption and regional economic growth, the reader is referred to the discussion in Subsection IV.A.2. of today's notice.

Regarding the issue of particulate matter emission factors as calculated by Con Edison, EPA reviewed these factors and found them acceptable. Even if the emission factors suggested by New Jersey were used, the predicted impacts would not change significantly. EPA also projected the particulate matter impact within New Jersey from the affected Con Edison units and calculated a maximum 24-hour impact of 3.18 $\mu g/m^3$ and an annual impact of 0.25 $\mu g/m^3$.

2. *Regional Coal Conversion.* As noted earlier, the State of New Jersey petitioned EPA under the provisions of Section 126 of the Clean Air Act to disapprove the New York SIP revision affecting Con Edison. In its petition the State also requested that its comments submitted on February 19, 1980, in response to EPA's proposed approval, be incorporated as a part of the State's petition. In its February 19, 1980 submittal the State made the following statements dealing with regional coal conversion:

> "It makes little sense to use the limited, remaining dilutive capacity of our air in the New York-New Jersey region for the buring of high sulfur fuel oil. The proposal does nothing to promote President Carter's national energy policy; not one more ounce of coal will be burned as a result of this action. The remaining dilutive capacity of the atmosphere to absorb additional contaminants must be reserved for the increased air pollution that will necessarily result from anticipated coal conversions at utility and industrial plants in the region and for new economic growth. The idea of this as a test for a future decision on coal burning is so flimsy as to not deserve comment."

The State continued by noting that:

> "Before any sulfur-in-fuel or coal conversion changes are approved, it is incumbent upon EPA and the states to determine precisely the full extent of all reasonably foreseeable changes in emission limits, and then develop a comprehensive and equitable regional strategy for limiting sulfur pollution."

In the State's concluding comments, it recommends that EPA reject the SIP revision in the hope that this action will encourage the early development of a common policy by New York and New Jersey with respect to the air pollution control problems generated by the coming need for clean coal conversions.

Concern about the problems resulting from anticipated coal conversions can also be inferred from the Connecticut petitions.

As a first step in quantifying the magnitude of potential particulate matter and sulfur dioxide interstate air quality impacts associated with anticipated regional coal conversions, EPA will present at the public hearing initial findings from a modeling study EPA has undertaken after discussion with the states. This study considers the emissions from 17 power plants in and around the New Jersey—New York—Connecticut metropolitan area which are being considered by the U.S. Department of Energy as coal conversion candidates. Opportunity for the public to examine and comment for the record on this initial modeling effort will be available until the January 5, 1981 date when the record closes. In the future this model will be refined so as to be capable of being used by the states in the selection of various mutually acceptable control strategy scenarios governing future coal use.

V. Hearing Issues

EPA considers that the degree of protection afforded by the interstate pollution provisions of Section 126 include not only protection against national ambient air quality standard violations, but also protection against unreasonable interference with a maintenance program or margin for growth in a SIP. In reaching this conclusion, the Agency has reviewed the interstate pollution provisions of the Act, including Sections 101, 110, 126 and 301, their legislative history and pertinent case law. The Agency is of the opinion that these provisions evidence Congressional intent to protect against unreasonable interstate interference with State programs to maintain national ambient air quality standards and create margins of growth, as well as efforts to attain the standards, prevent significant deterioration of air quality and protect visibility. Such efforts may include State adoption of emission limitations that are more stringent than needed to attain federal standards. In addition, EPA believes that the provisions are designed to protect against interstate interference with State or local ambient air standards or other measures more stringent than necessary to attain federal standards. See, H.R. Rep. No. 95–294, 95th Cong., 1st Sess., May 12, 1977, 331, n.14.

Issues that should be addressed at the hearing by the interested parties and the public are as follows:

A. Connecticut Petitions

Long Island Lighting Company. 1. Do the affected LILCO generating facilities by themselves cause or substantially contribute to air pollution concentrations in excess of the national ambient air quality standards in Connecticut?

2. Does the use of fuel oil with a sulfur content of 2.8 percent, by weight, in five units at the affected LILCO generating facilities interfere with measures contained in the Connecticut SIP to provide a program for air quality maintenance or create a margin for future growth for attainment or PSD purposes?

3. Should the fact that the use of fuel oil with a sulfur content of 2.8 percent, by weight, is reviewable at three year intervals, and hence can be reevaluated in light of future SIP measures which may be developed by Connecticut, be considered by EPA in making its findings?

4. Should approval of the LILCO "special limitation" be accompanied by the establishment of an appropriate air monitoring network in Connecticut?

5. Whether and to what extent EPA should consider the aggregate impact upon Connecticut from emissions originating in the New York City metropolitan area in determining whether emissions from the LILCO facilities violate the prohibitions of Section 110(a)(2)(E)(i) of the Clean Air Act?

Consolidated Edison Company of New York, Inc. 6. Do the affected Con Edison generating facilities by themselves cause or substantially contribute to air pollution concentrations in excess of the national ambient air quality standards in Connecticut?

7. Does the use of fuel oil with a sulfur content of 1.5 percent, by weight, in three units at the affected Con Edison generating facilities interfere with Connecticut's program to maintain or prevent significant deterioration of air quality?

8. Should the fact that the use of fuel oil with a sulfur content of 1.5 percent, by weight, is reviewable at a one year interval, and hence can be reevaluated in light of future SIP measures which may be developed by Connecticut be considered by EPA in making its findings?

B. New Jersey Petition

Consolidated Edison Company of New York, Inc. 9. Do the affected Con Edison generating facilities by themselves cause or substantially contribute to air pollution concentrations in excess of the national ambient air quality standards in New Jersey?

10. Does the use of fuel oil with a sulfur content of 1.5 percent, by weight, in three units at the affected Con Edison generating facilities, interfere with New Jersey's program to maintain or prevent significant deterioration of air quality?

11. Should the fact that the use of fuel oil with a sulfur content of 1.5 percent, by weight, is reviewable at a one year interval, and hence can be reevaluated in light of future SIP measures which may be developed by New Jersey be considered by EPA in making a finding?

Regional Coal Conversion. 12. To what extent should regional coal conversion issues be considered in EPA's review of the pending Section 126 petitions affected LILCO and Con Edison?

13. How should projections of the aggregate air quality impact of anticipated coal conversions at 17 candidate power plants in the New Jersey-New York-Connecticut metropolitan area under existing SIP emission limits and other control assumptions be factored into the findings to made as a result of the Section 126 petitions?

14. Assuming an unacceptable air quality impact is determined to occur, what is an appropriate forum for ensuring, consistent with the nation's oil independence objectives, that the maximum amount of coal is used while minimizing adverse air quality impacts? What are the states' roles in this decision?

15. What control strategy development actions should be considered in light of the impact of coal conversions on acid rain?

16. Should any actions be taken by the states to revise their current regulations governing coal burning in the New Jersey-New York-Connecticut metropolitan area?

C. Generic Issues

17. Suggestions are also solicited on other appropriate criteria for EPA arbitration of interstate disputes. Suggestions should include consideration of the following questions:

a. What constitutes an unacceptable interstate air quality impact?

b. How should differences between state emission limits generally be compared against the estimated air quality impacts of out-of-state sources and comparable in-state sources.

c. What criteria should EPA utilize when air quality impacts may be difficult to ascertain, for example, when multiple sources and pollution transport over considerable distances may be involved?

d. In such a situation, should EPA give a lesser weight to air quality impacts and a greater weight to differences in emission limits?

e. Under what circumstances should the Agency consider the application of reasonably available control technology by the contested sources to be sufficient in and of itself to avoid a finding of impermissible interstate pollution?

f. Under what circumstances should EPA require regionally uniform emission limits or uniform control technologies?

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VI. Hearing Procedures

A. Hearing Format

A panel of EPA officials will conduct an informal public hearing on the issues identified in Section V of today's notice. Although no cross-examination will take place at the hearings, the panel may ask questions of witnesses to clarify issues or to make the record complete. Written questions directed at the witnesses may be submitted to the panel by members of the audience. Any person wishing to make a presentation or submit material for inclusion in the hearing record should provide written notice of this intention by November 25, 1980, to: Robert A. Predale, Environmental Protection Agency, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–9800.

This notice should include: (1) the name(s), title(s), and affiliation(s) of the person testifying, (2) an estimate of the amount of time necessary for the presentation and (3) an identification by number of the specific issue identified in Section V, "Hearing Issues," of today's notice which will be addressed by the commentor. If an individual believes that any of his comments will not address an issue explicitly identified by EPA in Section V, EPA requests that the individual petition to which the comment applies be identified. The petitions are described in Section IV, "Petition Contents and Background" of today's notice. The time allotted for each presentation will depend on the number of persons seeking an opportunity to appear.

A verbatim transcript of the hearing, copies of written statements, and copies of other material will be made available for public inspection and copying during normal working hours at the EPA Region II Air Programs Branch (New York), and the EPA Public Information Reference Unit (Washington). The same documents will be available for inspection at the New Jersey Department of Environmental Protection (Trenton), the New York State Department of Environmental Conservation (New York City and Stony Brook) and the Connecticut State Department of Environmental Protection (Hartford). The addresses for these locations are listed in the ADDRESSES section at the beginning of this notice.

B. Submission of Written Material

EPA solicits and will accept from all interested parties written materials relevant to the issues set forth above. Ten copies of the material should be submitted. EPA encourages the filing of written statements prior to the hearing, but they may be filed at the hearing itself. The public hearing record will be kept open until January 5, 1981 to provide an opportunity for the public to submit rebuttal and supplementary information on the data presented at the hearing. Written materials should be submitted to Robert A. Predale, Air Programs Branch at the address provided earlier and should include reference to "Docket No. 2A–80–1."

EPA recognizes that interested persons may require a period of time prior to the hearing to read the written submissions of other interested parties so that informed comments can be made at the public hearing. All written comments submitted prior to the public hearing will be available for public inspection and copying during normal business hours at the following addresses: Environmental Protection Agency, Region II, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278 and Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

C. Final Determination

EPA's final determination in these proceedings will be based upon evidence in the record and will be announced in the **Federal Register**. If EPA finds that emissions from those major sources which are the subject of these proceedings violate the prohibitions of section 110(a)(2)(E)(i) of the Clean Air Act, it may propose the establishment of emission limitations, and compliance schedules as may be necessary to ensure compliance with the requirements of Section 110(a)(2)(E)(i) as expeditiously as practicable, but no later than three years after the finding. Such proposals will be published in the **Federal Register.**

Dated: October 29, 1980.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-34287 Filed 10-31-80; 8:45 am]

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40 CFR Part 163

[FRL 1541-2; OPP-250027]

Guidelines for Registering Pesticides in the United States; Notification of the Secretary of Agriculture of Final and Proposed Regulations

Correction

In FR Doc. 80–21716 appearing on page 48170 in the issue of Friday, July 18, 1980, make the following correction:

In column three of page 48170, the second paragraph under **Supplementary Information** contained several errors. For the convenience of the reader, the entire paragraph is reprinted below:

For a proposed regulation, Section (a)(2)(A) of FIFRA requires that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary, and the response thereto of the Administrator. If the Secretary does not comment within 30 days of receiving the final regulation, the Administrator may sign such regulation for publication in the **Federal Register** any time after such 30-day period.

BILLING CODE: 1505-01-M

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40 CFR Part 180

[PH-FRL 1652-7; PP OE2323/P153]

Acephate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite methamidophos (*O,S*-dimethyl phosphoramidothioate) in or on mint hay at 15 parts per million (ppm) (of which no more than 1 ppm is methamidophos). This proposal was submitted by the Interregional Research Project No. 4 (IR–4). This amendment will establish a maximum permissible level for residues of acephate on mint hay.

DATE: Comments must be received on or before December 3, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted a pesticide petition (OE2323) to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Idaho, Indiana, Michigan, Oregon, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite methamidophos (*O,S*-dimethyl phosphoramidothioate) in or on the raw agricultural commodity mint hay at 15 ppm (of which no more than 1 ppm is methamidophos).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance were a two-year oral dog feeding study with a no-observed-effect-level (NOEL) of 100 ppm, based on a systemic toxicity; a rat teratology study with a NOEL of 200 mg/kg; a 90-day cholinesterase rat study with a NOEL of 5 ppm, based on brain, plasma, and red blood cell activity; an interim (12 months) report on an ongoing two-year rat feeding/oncogenic study which indicates a NOEL of 5 ppm for cholinesterase activity for red blood cells and plasma for both male and female rats, and 5 ppm for female rats and less than 5 ppm for male rats for brain cholinesterase activity. On the basis of this incomplete report and an interim report of oncogenic effects in the mouse, acephate does not appear to be a carcinogen. Acephate did not display mutagenic activity in a recently conducted micronucleus test (mouse bone marrow).

The metabolism of acephate is adequately understood and an adequate analytical method (gas chromatograph equipped with a themionic detector) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. No detectable residues (less than 0.02 ppm) were found in the mint oil.

Thus, based on the above information considered by the Agency, the significance of mint in the human diet, and the fact that the currently established tolerances for meat and milk are adequate to cover any residues from spent mint hay as a animal feed, it is concluded that the tolerance of 15 ppm in or on mint hay established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register**, that the rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "PP OE2323/P153." All written comments filed in response to the notice of proposed rulemaking will be available for public inspection at the office of Clinton Fletcher from 8:00 a.m. to 4:00 p.m., Monday through Friday, except holidays.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 516, (21 U.S.C. 346a(e))

Dated: October 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "mint hay" in the table under § 180.108 to read as follow:

§ 180.108 Acephate; tolerances for residues.

* * * * *

Commodity	Parts per million
Mint hay	15 (of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)

[FR Doc. 80-34111 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 257

[SW-FRL 1650-3]

Criteria for Classification of Solid Waste Disposal Facilities and Practices

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing modifications to and clarifying its interpretation of its Criteria for Classification of Solid Waste Disposal Facilities and Practices. The proposed modifications and clarifications concern the criteria for ground water, surface water and air protection. The modifications also clarify the exclusion for mining overburden returned to the mine site. EPA is proposing this rule as part of a settlement agreement reached with industrial groups which have challenged the criteria in Federal court.

DATES: EPA will accept public comments on the proposed modifications until December 3, 1980.

ADDRESSES: Comments should be addressed to Albert A. Peter, Jr., Director, Land Disposal Division, Office of solid Waste [WH-564], U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 4004."

The public docket for this proposed rulemaking is located in room 2711, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Shuster, Office of Solid Waste (WH–564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–9125.

SUPPLEMENTARY INFORMATION: On September 13, 1979, EPA published a final rule establishing Criteria for the Classification of Solid Waste Disposal Facilities and Practices. 44 FR 53438. These Criteria were issued pursuant to Sections 1008(a)(3) and 4004(a) of the Solid Waste Disposal Act (the Act), as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§ 6907(a)(3), 6944(a), and Section 405(d) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1345(d).

These Criteria serve two purposes

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under RCRA. First, under Section 4004(a) they provide criteria for classifying disposal facilities as "sanitary landfills" and "open dumps." As part of their solid waste management planning programs funded under Subtitle D of RCRA, the States will use these Criteria to classify existing disposal facilities. Under 4005(b) of RCRA, EPA will publish an inventory of facilities classified as open dumps. As part of its plan, the state must provide for the closing or upgrading of existing open dumps. the state will use the inventory in setting priorities for its state planning activities.

Second, under Section 1008(a)(3) the Criteria define those solid waste disposal practices that constitute "open dumping." Section 4005 of RCRA prohibits open dumping. Under Section 7002 citizens may bring suit in Federal district court to enjoin acts that constitute open dumping. For both purposes the Criteria establish the level of protection necessary to assure that there will be "no reasonable probability of adverse effects on health or the environment."

A number of trade associations petitioned for review of the Criteria. Their concerns focused on the ground water, surface water and air portions of the Criteria as well as the applicability of the Criteria to mining wastes. After discussing these issues with the petitioners, EPA has decided to reconsider certain portions of the Criteria and clarify other portions. While EPA anticipates that the finalization of these proposed modifications will provide a basis for settlement of the litigation affecting these regulations, EPA will consider carefully all public comments on this proposal before making its final decision.

EPA recognizes that the 30-day comment period for this proposed rule is somewhat shorter than that which is provided for in other Agency proposals. EPA believes, however, that two factors justify the shorter time period. First the issues involved should not require lengthy analysis by public commentes. The proposed modifications involve a limited number of primarily procedural changes. Since the proposal does not raise major technical questions requiring the development and presentation of scientific data, commenters should be able to address the issues adequately in the 30-day period. Second, there is a need to clarify these issues quickly because they are related to the ongoing Subtitle D planning program. In particular the States will need a prompt clarification of the extent of their discretion in implmenting the ground-water portion of the Criteria as they conduct the open dump inventory.

I. Ground Water (§ 257.3–4)

The existing ground water standard requires that the facility or practice "not contaminate an underground drinking water source beyond the solid waste boundary or beyond an alternative boundary" specified by the State. An "underground drinking water source" is an aquifer that supplies drinking water for human consumption or that contains less than 10,000 mg/liter of total dissolved solids. The "solid waste boundary" is defined as "the outermost perimeter of the solid waste (projected in the horizontial plane) as it would exist at completion of the disposal activity."

"Contamination" as used in the standard refers to increases in the level of certain specified pollutants that exceed maximum contaminant limits (MCL's) specified for each pollutant. These MCL's, contained in Appendix I of the existing regulation, are based on standards established by EPA in the National Interim Primary Drinking Water Regulation under the Safe Drinking Water Act, as amended, 42 U.S.C. § 300f *et seq.* EPA also has proposed (44 FR 53465) adding the MCL's established under the National Secondary Drinking Water Regulations to Appendix I.

While EPA decided that the solid waste boundary was the appropriate point of application of the standard as a general rule, it recongized that in particular situations it may not actually be possible or probable that ground water downgradient from a facility would be needed or used as a drinking water source. EPA, therefore, believed that it was appropriate to allow the State to modify the point of application of the standard (establish an alternative boundary) for particular facilites. In order to establish such an alternative boundary, the State has to make a finding that "such a change would not result in contamination of ground water which may be needed or used for human consumption." This finding has to be based on the consideration of seven specified factors. In addition, only a State with a solid waste management plan approved by the Administrator pursuant to section 4007 can move the boundary.

The petitioners have argued that the alternative boundary mechanism under the regulation is too inflexible for at least two reasons. First, it does not allow the State to fix alternative boundaries unless the State has an approved State plan. The petitioners contend that the plan development and approval process may be time-consuming. They argue that a State which wishes to make alternative boundary determinations will be forced to wait until the plan is approved. In the interim such a State would be basing its decisions on compliance at the solid waste boundary, even though it believed that an alternative boundary was more appropriate for that facility.

Second, the petitioners contend that defendants in open dumping suits should be allowed to argue for the appropriateness of an alternative boundary designation in assessing their compliance with the Criteria. The petitioners contend that the right to demonstrate that an alternative boundary is appropriate is particularly necessary in an open dumping suit, where legal sanctions attach to violations of the Criteria.

After examining these contentions EPA has decided to propose modifications to the regulations which respond to those two concerns. First, EPA proposes to drop the requirement that the State have an approved plan before it may establish alternative boundaries. Many States are currently conducting the inventory. EPA has not yet received many draft State plans and, therefore, anticipates that plans will not be approved for several months in many States. EPA acknowledges that this situation limits the flexibility of a State which believes that alternative boundaries are appropriate for particular facilities.

While EPA believes that the alternative boundary decision is best made in the context of a comprehensive solid waste mangement plan as contemplated by Subtitle D of RCRA, EPA also recognizes that existing State planning programs for solid waste management and ground water protection may provide an adequate framework for making such decisions. In addition the elimination of the "approved-State plan" limit on the alternative boundary decision does not alter the substantive finding which the State must make in order to establish an alternative boundary. Under this proposal the State still could establish such a boundary only after considering the seven factors set forth in § 257.3–4(b) and concluding that the change "would not result in contamination of ground water which may be needed or used for human consumption."

Second, EPA proposes to allow defendants in open dumping suits to argue that an alternative boundary is appropriate in determining its compliance with the Criteria. The court hearing the open dumping claim would then be allowed to set such an alternative boundary if it determined, based on evidence presented by the defendant, that the change "would not result in contamination of ground water which may be needed or used for human consumption," after a consideration of the seven factors in § 257.3–4(b).

In making this modification EPA must draw a distinction in the Criteria between the two purposes of the regulation under RCRA. Under Section 1008(a)(3) the Criteria define open dumping, practices which are prohibited under Section 4005(c). The question of whether acts of open dumping have occurred is one for the courts to resolve after reviewing the evidence presented in citizen suits. Therefore, for purposes of the open dumping prohibition, EPA believes that the court, rather than the State, is the appropriate public decision-maker to determine whether an alternative boundary is appropriate in a given case. (The State is not necessarily a party to open dumping suits.) Thus this proposal would make clear that for purposes of Section 1008(a)(3) the court could establish alternative boundaries based on evidence presented by the parties in a citizen suit.

EPA believes that a *de novo* determination that a party has engaged in open dumping should be made only after that party has had an opportunity to demonstrate that an alternative boundary should be established for the facility. Because a finding of "open dumping," unlike listing a facility on the inventory, is an adjudication that a particular party is in violation of the law, EPA believes that careful consideration should be given to the appropriateness of establishing an alternative boundary. If the court determines that a particular alternative boundary should be set, and that the ground-water criterion is satisfied at that alternative boundary, then (under today's proposal) it could not find that the owner had engaged in the practice of "open dumping."

Under Section 4004(a), the Criteria provide a benchmark for the State to use in classifying facilities for purposes of its solid waste management planning program. As part of that planning program the States will be developing a State-wide strategy for protecting ground water from the adverse effects of solid waste disposal. In such a situation it is appropriate for the State to make the decision about alternative boundaries in consideration of the ground-water needs of its communities. EPA believes that alternative boundaries will be appropriate in particular circumstances. It also believes, however, that the decision about setting such boundaries for purposes of solid waste planning must be a State option. Therefore, for purposes of section 4004(a), this proposal would retain the State's role in establishing alternative boundaries.

The petitioners challenging the Criteria have raised another issue that should be noted. The existing language of section 257.3–4 does not include provisions, as contained in the proposed regulation of February 6, 1978 (43 FR 4954), authorizing States to designate "Case II" aquifers which would not be protected for use as drinking water supplies. The petitioners are concerned that States may interpret the final EPA regulations as discouraging long-range ground-water planning efforts that identify those aquifers which may or may not have importance as potential drinking water sources. EPA is currently reviewing its overall approach to ground-water protection under Subtitles C and D of RCRA. The comprehensive ground-water policy which it is developing may incorporate the concept that aquifers may be designated for different uses. Thus State designation of particular aquifers as not for drinking water use may eventually become part of the Subtitle D program.

EPA is not prepared at this time to provide specific guidance to the States regarding criteria to be used in designating aquifers that would not need to be protected for use as drinking water supplies. However, the Agency definitely does not intend to discourage the development and continuation of ground-water planning efforts by the States. *See* 40 CFR 256.11(c) (1979). Nor does EPA intend that State ground-water planning decisions presently cannot be considered in implementing the Subtitle D program. In particular, where a State has determined that a certain aquifer need not be protected for drinking water use, such a determination may be used in establishing an alternative boundary under section 257.3–4(b), providing that the State has considered the factors and made the finding required in the Criteria.

Finally EPA wishes to clarify its intent regarding the inclusion of the National Secondary Drinking Water Regulation MCL's in Appendix I. While EPA is considering using those standards as part of its overall ground-water strategy, it has no immediate plans to incorporate them into Appendix I.

II. Surface Water (§ 257.3–3)

Section 257.3–3 states that a facility or practice shall not cause (1) a discharge of pollutants into waters of the United States in violation of NPDES requirements under Section 402 of the Clean Water Act (CWA), (2) a discharge of dredge or fill material into waters of the United States in violation of requirements under Section 404 of the CWA, or (3) non-point source pollution of waters of the United States that violates legal requirements implementing an approved water quality management plan under Section 208 of the CWA.

The petitioners have expressed concern that the Criteria make a violation of the CWA also a violation of RCRA. They argue that this raises the possibility that parties will simultaneously be subject to penalties under the CWA and citizen suits to enjoin open dumping under RCRA.

EPA does not believe that a solid waste disposal facility or practice which violates the CWA is environmentally acceptable. At the same time EPA believes that the CWA provides adequate sanctions to deter violations of that Act. It is not necessary to make violations of the CWA subject to sanctions under RCRA. Therefore EPA proposes to eliminate this possibility by deleting the references to NPDES permits and 404 permits in the Criteria for purposes of Section 1008(a)(3). This assures that a violation of Sections 402 or 404 of the CWA is not automatically open dumping, a violation of Section 4005(c) of RCRA.

EPA does not propose to change the NPDES and 404 permit requirement for purposes of Section 4004(a). The open dump inventory is a planning tool and does not subject a facility to direct sanctions under RCRA. Therefore the prospect of legal exposure under both acts is not present. Likewise EPA does not propose to change the reference to legal requirements implementing Section 208 water quality management plans. Such requirements are matters of State or local law, and violations are not directly enforceable under the CWA. Therefore the prospect of sanctions under both acts is not present.

III. Air (§ 257.3–7)

Section 257.3–7 states that a facility or practice shall not violate applicable requirements developed under an approved State implementation plan (SIP) under Section 110 of the Clean Air Act (CAA). In addition that section bans open burning except in certain special situations (e.g. emergency clean-up operations, burning of agricultural wastes in the field.)

The petitioners have expressed concern that violations of a SIP may evoke sanctions under both the Clean Air Act and RCRA. Since SIP requirements may be enforced by EPA and by citizens under the CAA such a possibility exists. While EPA does not

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believe that solid waste management activities which violate a SIP are acceptable, it also believes that such violations can be adequately enforced under the CAA. Therefore EPA is proposing to delete the reference to SIP's in the air portion of the Criteria for purposes of Section 1008(a)(3).

With respect to the "open burning" prohibition set forth in § 257.3–7(a) of the regulations, petitioners have asked whether EPA intended to subject incinerators to regulation under Subtitle D of RCRA. Subtitle D applies only to disposal facilities. As defined in Section 1004(3), "disposal" is the "discharge, deposit, injection, dumping, spilling, leaching, or placing of any solid waste or hazardous waste *into or on any land or water*. . . ." Accordingly, EPA does not intend that conventional incinerators be covered by Subtitle D since they do not typically involve burning of waste in direct contact with the land. Trench or pit incinerators, which do involve burning of waste in direct contact with the land, are covered by the Criteria. EPA believes that this preamble statement should eliminate any confusion or concern on the application of the open burning prohibition to incinerators. Therefore no actual amendment to the Criteria is necessary.

IV. Mining Overburden (§ 257.1(c)(2))

Currently the Criteria, at § 257.1(c)(2), exclude from regulation "overburden resulting from mining operations intended for return to the mine site." That term is not defined in the existing regulations. Several of the petitioners representing the mining industry have sought clarification of the scope of this exclusion.

The exclusion is drawn from the legislative history of RCRA and applies to both solid and hazardous waste. The hazardous waste regulations issued May 19, 1980 (45 FR 33066) include an exclusion for "mining overburden returned to the mine site" based on the same legislative history. To provide consistency between the two programs EPA will use the term "mining overburden returned to the mine site" when referring to this exclusion under either program.

As indicated, this exclusion is based on RCRA's legislative history. In enacting RCRA, the Congress specifically included mining wastes within the Section 1004(27) definition of "solid waste." Therefore unless the statute or legislative history clearly indicate that mining wastes are to be exempt the presumption is that they are to be regulated like any other solid or hazardous waste. Portions of RCRA's legislative history in both the Senate and House of Representatives suggest, however, that certain kinds of mining overburden are not within the Act's jurisdiction. In discussing RCRA's scope the House Report states:

> [O]verburden resulting from mining operations and intended for return to the mine site is not considered to be discarded material within the meaning of this legislation. This however does not preclude any finding by the Administrator that specific mine wastes are hazardous within the scope of this legislation.

In the Senate this issue was discussed during the floor debate when Senator Domenici asked about the effect the RCRA on mining operations, particularly strip mining. As part of his response Senator Randolph stated:

> The measure would not affect surface mining activities. Reclamation is not solid waste disposal.

Reclamation of surface mines will commonly involve the return to the mine site of waste overburden that has been removed to gain access to the ore deposit. Since it is assumed that both the Senate and House had similar objectives in passing RCRA, the "returned to the mine site" language in the House Report must be read in light of the Senate's concern that mining wastes used to reclaim surface mines should not be subject to RCRA. EPA believes, therefore, that the most reasonable interpretation of the "returned to the mine site" phrase is one that limits the exemption to mining waste used to reclaim surface mines.

In defining "overburden" it is necessary to distinguish that material from the underlying strata of material to which the mining operator seeks to gain access. EPA considered referring to this underlying material as the "economic mineral" or the "mineral being mined for use." While both terms basically convey the same meaning, EPA has decided to use "economic mineral" because it may have a clearer meaning to mining operators. The intent of the term is to identify the material that the mining operator is in the business to extract from the ground.

In keeping with the Congressional intent that this exclusion is designed for overburden used to reclaim surface mines, the definition is limited to overburden "overlying" a mineral deposit. The Department of Interior makes a similar distinction in the definition of overburden in its regulations under the Surface Mining Control and Reclamation Act. EPA does not intend this definition of overburden to be limited exclusively to the material located directly above a mineral deposit. Some material is removed from the sides of a mining pit to permit safe access to the economic mineral, and such material should be treated as overburden. EPA urges the public to provide suggestions about how the definition may be refined if there appears to be any confusion about the meaning of "overlying" in this context.

Overburden material must be "returned to the mine site" before it is excluded from regulation under RCRA. As indicated earlier, the purpose of the exemption is to assure that mining wastes used to reclaim surface mines are not subject to regulation as solid or hazardous waste. EPA recognizes that reclamation does not necessarily involve replacement of overburden into the portion of the ground from which it was taken. EPA also recognizes that surface mining reclamation may be subject to State or Federal regulation, making it difficult to provide a national definition of what constitutes reclamation. In particular it is difficult to provide a general definition of "mine site" that will fit with the various State and Federal requirements for reclamation.

EPA has decided, therefore, not to define what is meant by reclamation of a surface mine. Several commenters indicated that most reclamation activities are subject to State or Federal regulation. EPA expects that any permits or reclamation plans developed to satisfy such regulatory agencies will specify the reclaimed area, and these actions should provide an acceptable and understandable specification of the "mine site" as that term is used in this definition. EPA contemplated limiting the exemption to reclamation that was approved by State or Federal agencies. While such a requirement is not part of this proposed regulation, EPA is considering whether such a requirement should be part of the final definition. EPA seeks public comment on such a modification and is particularly interested to discover the extent to which environmentally sound reclamation activity occurs in the absence of Federal and State regulation.

This approach addresses two specific concerns. First, it clarifies the time component of the "returned to the mine site" concept because it ties the exemption to reclamation activity. Particularly where the mining operation is subject to State or Federal regulation, it should be reasonably clear what portion of the mine's overburden will be used over what period of time to implement a reclamation plan. Second, as indicated above, it eliminates the need for a specific definition of mine site.

Dated: October 20, 1980.

Douglas M. Costle,

Administrator.

Accordingly it is proposed to amend Title 40 CFR, Part 257 by amending 40 CFR Part 257 as follows:

1. Revise § 257.1(c)(2) as follows:

§ 257.1 Scope and purpose.

* * * * *

(c)* * *

(2) The criteria do not apply to mining overburden returned to the mine site. "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

2. Revise § 257.3–3 (a) and (b) as follows:

§ 257.3–3 Surface water.

(a) For purposes of Section 4004(a), a facility shall not cause a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act, as amended.

[Note.—Solid waste management practices that violate Section 402 are subject to enforcement actions under the Clean Water Act.]

(b) For purposes of section 4004(a), a facility shall not cause a discharge of dredged material or fill material to waters of the United States that is in violation of the requirements under section 404 of the Clean Water Act, as amended.

[Note.—Solid waste management practices that violate Section 404 are subject to enforcement actions under the Clean Water Act.]

3. Revise § 257.3–4(b) as follows:

§ 257.3–4 Ground water.

* * * * *

(b)(1) For purposes of Section 1008(a)(3), a party changed with open dumping may demonstrate that compliance should be determined at an alternative boundary in lieu of the solid waste boundary. The court shall establish such an alternative boundary only if it finds that such a change would not result in contamination of ground water which may be needed or used for human consumption. This finding shall be based on analysis and consideration of all of the following factors that are relevant:

(i) The hydrogeological characteristics of the facility and surrounding land, including any natural attenuation and dilution characteristics of the aquifer;

(ii) The volume and physical and chemical characteristics of the leachate;

(iii) The quantity, quality, and direction of flow of ground water underlying the facility;

(iv) The proximity and withdrawal rates of ground water users;

(v) The availability of alternative drinking water supplies;

(vi) The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water;

(vii) Public health, safety, and welfare effects.

(2) For purposes of Section 4004(a), the State may establish an alternative boundary for a facility to be used in lieu of the solid waste boundary only if it finds that such a change would not result in the contamination of ground water which may be needed or used for human consumption. Such a finding shall be based on an analysis and consideration of all of the factors identified in paragraph (b)(1) of this section that are relevant.

4. Revise § 257.3–7(b) as follows:

§ 257.3–7 Air.

* * * * *

(b) For purposes of Section 4004(a), the facility shall not violate applicable requirements developed under a State implementation plan (SIP) approved or promulgated by the Administrator pursuant to Section 110 of the Clean Air Act, as amended.

[Note.—Solid waste management practices that violate SIP requirements are subject to enforcement actions under the Clean Air Act.]

[FR Doc. 80–34027 Filed 10–31–80; 8:45 am]

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40 CFR Part 423

[WH-FRL 1652–3]

Steam Electric Power Generating Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Public hearing.

SUMMARY: Notice is hereby given of a hearing open to the public to discuss and receive comments on pretreatment regulations proposed in the **Federal Register** as follows:

Proposal Date—October 14, 1980 (40 FR 68328)

Category—Steam Electric Power Generating.

DATES: A public hearing has been scheduled for the following date and place: December 9, 1980—Washington, D.C.

ADDRESS: The public hearing will be held at the following address: Hall of States, Skyline Inn, South Capitol and I Streets, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold B. Coughlin, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2560.

Anyone wishing to make an oral statement and submit written testimony at the hearing should indicate so in writing to the above address.

SUPPLEMENTARY INFORMATION: Registration for the Hearing will be held from 9:30 to 10:00 a.m. Oral testimony will be presented as follows: 10:30 to 11:30 a.m.; 1:00 to 3:00 p.m. Following the registration period there will be a brief presentation by an EPA official covering the development of effluent limitations and standards under the Clean Water Act of 1977. Also, opportunity will be given through the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during a thirty minute question and answer session which will follow the presentation of oral testimony.

A court recorder will be present at the public hearing. Official transcripts will be available upon request.

Dated: October 29, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80–34103 Filed 10–31–80; 8:45 am]

BILLING CODE 6560–29–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Part 101–20

Management of Buildings and Grounds; Display of the Code of Ethics for Government Service

AGENCY: Public Buildings Service, GSA.

ACTION: Proposed rule.

SUMMARY: This regulation implements Pub. L. 96–303, an Act to provide for the display of the Code of Ethics for Government Service. The Act requires the Administrator to provide for the publication and distribution of the code; to prescribe regulations by which each agency (Executive agency, the United States Postal Service, and the Postal Rate Commission) shall display the

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Code in appropriate areas of buildings in which at least 20 individuals are regularly employed by an agency as civilian employees; and to accept any unconditional gift made for the purpose of the Act. The Act further stipulates that there shall be no cost imposed on the Federal Government for the printing, framing, or other preparation of the Code, which does not mean that appropriate hardware cannot be utilized for display. This regulation also requires that the Code be appropriately displayed in public space in Government-owned or fully Government-occupied leased buildings such as lobbies, auditoriums, cafeterias, and other high traffic areas.

DATE: Comments must be received on or before January 2, 1981.

ADDRESS: Comments should be addressed to the General Services Administration (PBOP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Saul Katz, Special Counsel for Ethics, Office of the Administrator, General Services Administration, Washington, D.C. 20405, telephone (202) 566-1212, or Mr. Virgil Ostrander, Director, Operations Division, Office of Buildings Management, General Services Administration, Washington, D.C. 20405, telephone (202) 566-1563.

Subpart 101-20.4 is added to read as follows:

Subpart 101-20.4—Display of the Code of Ethics for Government Service

Sec.

101-20.400 Applicability.
101-20.401 General Services Administration responsibility.
101-20.402 Applicability in Government owned buildings and fully Government-leased buildings.
101-20.403 Applicability to partially leased buildings and Government controlled space in other buildings and facilities.
101-20.404 Availability.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)

Subpart 101-20.4—Display of the Code of Ethics for Government Service

§ 101-20.400 Applicability.

These regulations apply to all Executive agencies (as defined by section 105 of title 5, U.S. Code), the United States Postal Service, and the Postal Rate Commission in accord with the contents of Pub. L. 96-303. The head of each such agency shall be responsible for observance of these rules and regulations.

§ 101-20.401 General Services Administration responsibility.

The Administrator of the General Services is charged by Pub. L. 96-303 to prescribe regulations by which each agency shall display the Code; to provide for the publication and distribution of the Code; and is authorized to accept unconditional gifts for the purposes of the Act.

§ 101-20.402 Applicability in Government owned buildings and fully Government-leased buildings.

Each agency, as defined in 101-20.400, shall display copies of the Code in the space they occupy in Government-owned buildings or fully Government-leased buildings. Operating agencies shall also display the Code in appropriate locations in lobbies, auditoriums, cafeterias, and other high traffic areas. The act is not interpreted to prohibit the use of additional hardware and materials for appropriate mounting or displaying of the Code. This should be accomplished in a manner consistent with the display of the building rules and regulations. Display shall be consistent with the decor and architecture of the building space. Installation shall cause no permanent damage to stonework or other difficult to maintain or repair surfaces.

§ 101-20.403 Applicability to partially leased buildings and Government controlled space in other buildings and facilities.

Agencies shall display the Code in government occupied space in buildings not covered by 101-20.402 where at least 20 individuals are regularly employed by an agency as civilian employees.

§ 101-20.404 Availability.

Agencies may obtain copies of the Code of Ethics for Government Service poster by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requisitioning agency. Ordering information for the poster is as follows: National stock number (NSN) 7690-01-099-8167; unit of issue—ea.; and unit price—50 cents to cover shipping and handling.

Dated: October 28, 1980.

A. R. Marschall,

Commissioner, Public Buildings Service.

[FR Doc. 80-34084 Filed 10-31-80; 8:45 am]

BILLING CODE 6820-32-M

41 CFR Part 105-60

Revisions to Public Access Regulations

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide procedures for public access to GSA records under the Freedom of Information Act (5 U.S.C. 552). The Administrator of General Services is required by law to issue these regulations.

DATE: Comments must be received by: January 2, 1981.

ADDRESS: Written comments should be sent to the General Services Administration (LR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Rebecca P. Thompson, Attorney-Advisor, Information and Privacy (202-566-1460).

SUPPLEMENTARY INFORMATION: On February 26, 1975, the Administrator of General Services published in the **Federal Register** (40 FR 8200) public access regulations implementing the Freedom of Information Act (5 U.S.C. 552, "FOIA"). Those regulations combined instructions to the public on reviewing and obtaining copies of GSA records and provided guidance to GSA officers and employees on processing FOIA requests. This proposed rule will simplify procedures for the public's review of GSA records by separating the procedures for the public access rules from the procedures for GSA employees to follow. Procedures for access to records on deposit from other agencies in the Federal record centers are found in Part 105-61 of Title 41, Code of Federal Regulations. GSA's newly revised internal procedures for processing FOIA requests will appear as part of the GSA order system. Accordingly, GSA proposes to revise Part 105-60 to read as follows:

PART 105-60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Sec.

105-60.000 Scope of part.

Subpart 105-60.1—General Provisions

105-60.101 Purpose.
105-60.102 Application.
105-60.103 Policy.
105-60.103-1 Availability of records.
105-60.103 2-Applying exemptions.
105-60.104 Records of other agencies.
105-60.105 Inconsistent directives of GSA superseded.

Subpart 105-60.2—Publication of General Agency Information and in the Federal Register

105-60.201 Published information and rules.
105-60.202 Published materials available for sale to the public.

Subpart 105-60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

105-60.301 General.
105-60.302 Available materials.
105-60.303 Rules for public inspection and copying.
105-60.304 Index.
105-60.305 Fees.
105-60.305-1 Scope of section.
105-60.305-2 Record material available without charge.
105-60.305-3 Copy of GSA records available at a fee.
105-60.305-4 Waiver of fee.
105-60.305-5 Searches.
105-60.305-6 Prepayment of fees over $10.
105-60.305-7 Form of payment.
105-60.305-8 Fee schedule.
105-60.305-9 Fees for authenticated and attested copies.

Subpart 105-60.4—Described Records

105-60.401 General.
105-60.402 Procedures for making records available.
105-60.402-1 Submission of requests for described records.
105-60.402-2 Response to initial requests.
105-60.403 Appeal within GSA.
105-60.404 Extension of time limits.

Subpart 105-60.5—Exemptions

105-60.501 Categories of records exempt from disclosure under FOIA.

Subpart 105-60.6—Subpoenas or Other Legal Demands for Records and Authentication of Copies of Records

105-60.601 Service of subpoena or other legal demand.
105-60.601-1 GSA administrative records.
105-60.601-2 Records transferred to the National Archives and Records Service.

Authority: The provisions of this Part 105-60 are issued under section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502).

§ 105-60.000 Scope of part.

This part sets forth policies and procedures concerning the availability to the public of records held by GSA with respect to: (a) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability, (b) agency final opinions and orders, including policy statements and staff manuals, (c) operational and other appropriate agency records, and (d) agency proceedings. This part also covers exemptions from disclosure of these records; procedures for the guidance of the public in inspecting and obtaining copies of GSA records; and the service of a subpoena or other legal demand with respect to records.

Subpart 105-60.1—General Provisions

§ 105-60.101 Purpose.

This Part 105-60 implements the provisions of the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") (Pub. L. 90-23, which codified Pub. L. 89-487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.); and Pub. L. 93-502, popularly known as the Freedom of Information Act Amendments of 1974.) This part prescribes procedures by which the public may inspect and obtain copes of GSA records under the FOIA.

§ 105-60.102 Application.

This Part 105-60 applies to all records and informational materials generated, developed, or held by GSA which come within the scope of 5 U.S.C. 552.

§ 105-60.103 Policy.

§ 105-60.103-1 Availability of records.

GSA records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. GSA will furnish them promptly to any member of the public upon request addressed to the office designated in § 105-60.402-1 at fees specified in § 105-60.305-8. The person making the request need not have a particular interest in the subject matter, nor must that person provide justification for the request. The requirement of the FOIA that records be available to the public refers only to records in being at the date of the request and imposes no obligation on GSA to compile a record in response to a request.

§ 105-60.103-2 Applying exemptions.

GSA may deny a request for a GSA record if the records falls within an exemption to the FOIA as outlined in Subpart 105-60.5. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. GSA will not withhold a record unless there is a compelling reason to do so. In the absence of a compelling reason, GSA will disclose a record although it otherwise is subject to exemption.

§ 105-60.104 Records of other agencies.

(a) *Other agencies' records managed and administered by GSA.* The availability of records of other agencies located in the National Archives of the United States and Federal Archives and Records Centers is governed by Part 105-61 (Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Record Service).

(b) *Current records of other agencies.* If GSA receives a request to make available current records that are the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. GSA will inform the requester that GSA has forwarded the request to the responsible agency.

§ 105-60.105 Inconsistent directives of GSA superseded.

Any policies and procedures in any GSA directive that are inconsistent with the policies and procedures set forth in this Part 105-60 are superseded to the extent of that inconsistency.

Subpart 105-60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105-60.201 Published information and rules.

In accordance with paragraph (a)(1) of the FOIA (5 U.S.C. 552(a)(1)), GSA publishes in the **Federal Register**, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statements of the general courses and methods by which GSA functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places where forms may be obtained, and instructions on the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by GSA.

(e) Each amendment, revision, or repeal of the materials described in this § 105-60.201.

§ 105-60.202 Published materials available for sale to the public.

Substantive rules of general applicability adopted by GSA as authorized by law which this agency publishes in the **Federal Register** and which GSA makes available for sale to the public are the Federal Procurement Regulations, the General Services Administration Procurement Regulations, the Federal Property Management Regulations, and the

General Services Administration Office of Acquisition Policy Regulations. These series of regulations are codified in Title 41 of the Code of Federal Regulations and also are published in looseleaf volume form. The looseleaf version of the Federal Procurement regulations is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at prices established by that office. In addition, all of these regulations are available for sale by the Superintendent of Documents in (a) daily **Federal Register** form and (b) Code of Federal Regulations form, at prices established by that office.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105–60.301 General.

GSA makes available for public inspection and copying the materials described in paragraph (a)(2) of the FOIA (5 U.S.C. 552(a)(2)), which are listed in § 105–60.302, and an Index of those materials as described in § 105–60.304, at convenient locations and times. Central Office materials are located in Washington, DC; some are also available at GSA regional offices. Each regional office has the materials of its region. All locations provide public reading rooms or selected areas for the inspection and copying of documents. Reasonable copying services are furnished at fees specified in § 105–60.305.

§ 105–60.302 Available materials.

GSA materials available under this Subpart 105–60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by GSA and are not published in the **Federal Register**.

(c) Administrative staff manuals and instructions to staff affecting a member of the public unless these materials are promptly published and copies offered for sale. (Any materials published and offered for sale also will be available in each reading room.)

§ 105–60.303 Rules for public inspection and copying.

(a) *Locations.* Reading rooms or selected areas containing the materials available for public inspection and copying, described in § 105–60.302, are located in the following places:

Central Office

(GSA Headquarters), Washington, DC, Telephone: 202–566–1240
General Services Administration, 18th & F Sts. NW., Library (Room 1033), Washington, DC 20405

Region 1

Boston, Massachusetts (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont). Telephone: 617–223–2868
Business Service Center, General Services Administration, John W. McCormack Building, Post Office & Courthouse, Boston, MA 02109

Region 2

New York, New York (Comprising the States of New Jersey, New York, the Commonwealth of Puerto Rico and the Virgin Islands). Telephone: 212–264–1234
Business Service Center, General Services Administration, 26 Federal Plaza, NY, NY 10007

National Capital Area

Washington, DC (Comprising the District of Columbia and the metropolitan area). Telephone: 202–472–1804
Business Service Center, General Services Administration, 7th & D Streets SW., Rm. 1050, Washington, DC 20407

Region 3

Philadelphia, Pennsylvania (Comprising the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia). Telephone: 215–597–9613
Business Service Center, General Services Administration, 9th & Market Sts., Rm. 5142, Philadelphia, PA 19107

Region 4

Atlanta, Georgia (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Telephone: 404–221–5103
Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street SW., Atlanta, GA 30303

Region 5

Chicago, Illinois (Comprising the States of Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin). Telephone: 312–353–5383
Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604

Region 6

Kansas City, Missouri (Comprising the States of Iowa, Kansas, Missouri, and Nebraska). Telephone: 816–926–7203
Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131

Region 7

Fort Worth, Texas (Comprising the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma). Telephone: 817–334–3284
Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102

Region 8

Denver, Colorado (Comprising the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming). Telephone: 303–324–2216
Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225

Region 9

San Francisco, California (Comprising the States of Hawaii, California, Nevada, and Arizona). Telephone: 415–556–0877
Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105

Region 10

Seattle, Washington (Comprising the States of Alaska, Idaho, Oregon, and Washington). Telephone: 206–442–5556
Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174

(b) *Time.* The reading rooms or selected areas will be open to the public during the hours of business of the GSA office in which they are located.

(c) *Copying.* GSA will furnish reasonable copying services at fees specified in § 105–60.305. The fees will be posted in each reading room or selected area. In suitable circumstances, a member of the public may receive authorization to copy materials personally under the procedures determined by the authorizing official (the Director of Public Information in the Central Office or the Assistant Regional Administrator for External Affairs in the regional offices).

(d) *Reading room and selected area rules.* (1) *Age.* GSA will not give permission to inspect materials to a person under 16 years of age unless accompanied by an adult who agrees to remain with the minor while the minor uses the materials.

(2) *Handling of materials.* The unlawful removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. When requested by a reading room or selected area attendant, a person inspecting materials must present for examination any briefcase, handbag, notebook, package, envelope, book, or other article that could contain GSA informational materials.

(3) *Reproduction services.* The GSA Central Office Library or the Regional Business Service Centers will furnish reasonable reporduction services for available materials at the fees specified in § 105–60–305.

§ 105–60.304 Index.

GSA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 105–60.302. GSA will publish quarterly and make available copies of each index or supplements thereto. The index will be maintained for public inspection in each reading room.

§ 105–60.305 Fees.

§ 105–60.305–1 Scope of section.

This section set forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search and reproduction of GSA records.

§ 105–60.305–2 Record material available without charge.

Each GSA reading room or selected area provides a rack displaying GSA records available to the public in that region. Certain material related to bids (excluding construction plans and specifications) and any material displayed on the rack are available without charge upon request.

§ 105–60.305–3 Copy of GSA records available at a fee.

GSA will make a record not subject to exemption available at a time and place mutually agreed upon by GSA and the requester. GSA will agree either to (a) show the originals to the requester, (b) make one copy available at a fee, or (c) a combination of these alternatives. In the case of voluminous materials, GSA will make copies as quickly as possible. GSA may make a reasonable number of additional copies at a fee when commercial reproduction services are not available to the requester.

§ 105–60.305–4 Waiver of fee.

Any request for waiver or reduction of a fee should be included in the initial letter requesting access to GSA records under § 105–60.402–1. The waiver request should explain how waiver of fees primarily would benefit the public and should comment on the following:

(a) How release of the records in whole or in part primarily will benefit the general public interest rather than a commercial, financial or other private interest, specifically;

(1) whether the requested information is available to the general public through other sources;

(2) how disclosure of the records will enhance civic activities or the quality of national life (e.g., in the areas of public safety, public health, economic well-being, and integrity and efficiency in government);

(3) how the requester intends to disseminate the records (or the public benefits resulting from the disclosure of the records) to a substantial part of the general public.

(b) How waiver of fees will meet the needs of indigent persons or relieve substantial personal hardship.

(c) How the cooperation of the requester has limited a costly request resulting in a reduction of GSA processing costs.

§ 105–60.305–5 Searches.

(a) GSA may charge for the time spent in the following activities in determining "search time" subject to applicable fees as provided in § 105–60.305–8:

(1) Time spent in trying to locate GSA records which come within the scope of the request;

(2) Time spent in either transporting a necessary agency searcher to a place of record storage, or in transporting records to the locations of a necessary agency searcher; and

(3) Direct costs involving the use of computer time to locate and extract requested records.

(b) GSA will not charge for the time spend in the following activities in determining "search time" subject to applicable fees as provided in § 105–60.305–8:

(1) Time spent in examining a requested record to determine whether GSA can or should assert an exemption; or

(2) Time spent in deleting exempt matter being withheld from records otherwise made available; or

(3) Time spent in monitoring a requester's inspection of disclosed agency records; or

(4) Time spent in operating reproduction facilities.

§ 105–60.305–6 Prepayment of fees over $10.

GSA will require prepayment of fees for search and reproduction which are likely to exceed $10. When the anticipated total fee exceeds $10, the requester will receive notice to prepay, and GSA will remit the excess paid by the requester or will bill the requester an additional amount according to variations between the final fee and the amount prepaid.

§ 105–60.305–7 Form of payment.

Requesters should pay fees by check or money order made out to the General Services Administration and addressed to the official named by GSA in its correspondence.

§ 105–60.305–8 Fee schedule.

In computing applicable fees, GSA will consider only the following costs in providing the requested records:

(a) *Reproduction fees.* (1) The fee for reproducing copies of GSA records (by routine electrostatic copying) up to and including 8½ by 14 inches is $0.10 per page.

(2) The fee for reproducing copies of GSA records over 8½ by 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying or which require reduction, enlargement, or other special technical services is the direct cost of reproducing the records through Government or commerical sources.

(b) *Search fees.* (1) The standard search fee is $5 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When GSA must use professional staff to search for the requested records because clerical staff would be unable to locate them, the search fee is $10 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(3) When the search includes nonpersonnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee is the direct cost to GSA.

§ 105–60.305–9 Fees for authenticated and attested copies.

The fees set forth in § 105–60.305–8 apply to requests for authenticated and attested copies of GSA records.

Subpart 105–60.4—Described Records

§ 105–60.401 General.

(a) Except for records made available in accordance with Subparts 105–60.2 and 105–60.3, GSA promptly will make records available to a requester when the request reasonably describes the

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records unless GSA invokes an exemption in accordance with Subpart 105–60.5. Although the burden of reasonable description of the records rests with the requester, GSA will assist in identification.

(b) Upon receipt of a request that does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 10-workday time limit set forth in § 105–60.402–2 will not start until the official identified in § 105–60.402–1 receives a request reasonably describing the records.

§ 105–60.402 Procedures for making records available.

This section sets forth initial procedures for making records available when they are requested. These procedures do not apply to records of other agencies that have been transferred to the National Archives and Records Service in accordance with the Federal Records Act of 1950 (44 U.S.C. 2103 and 3103); in those cases, the procedures in Part 105–61 govern.

§ 105–60.402–1 Submission of requests for described records.

For records located in the GSA Central Office, the requester should submit a request in writing to the director of Public Information, General Services Administration (XI), Washington, DC 20405. For records located in the GSA regional offices, the requester should submit a request to the Assistant Regional Administrator for External Affairs for the relevant region, at the address listed in § 105–60.303(a). Requests should include the words, "FREEDOM OF INFORMATION REQUEST," prominently marked on both the face of the request letter and the envelope. The 10-workday time limit for agency decisions set forth in § 105–60.402–2 begins with receipt of a request in the office of the appropriate official identified in this section. A requester who has questions concerning an FOIA request may consult the GSA Director of Public Information, 18th and F Streets NW., Washington, DC 20405 (202) 566–1231.

§ 105–60.402–2 Response to initial requests.

GSA will mail a response to an initial FOIA request within 10 workdays (that is, excluding Saturdays, Sundays, and legal public holidays) after receipt of a request by the office of the appropriate official specified in § 105–60.402–1. In unusual circumstances, GSA will inform the requester of the agency's need to take an extension of time.

§ 105–60.403 Appeal within GSA.

(a) A requester who receives a denial, in whole or in part, of a request may appeal that decision within GSA. The requester shall direct the appeal to the Director of Public Information, General Services Administration (XI), Washington, DC 20405, regardless whether the denial being appealed was made by a Central Office official or by a Regional Administrator.

(b) The Director of Public Information must receive an appeal no later than 30 calendar days after receipt by the requester of the initial denial of access.

(c) The requester must appeal in writing and include a brief statement of the reasons he or she thinks GSA should release the records and enclose copies of the initial request and denial. The appeal letter should include the words, "Freedom of Information Appeal," on both the face of the appeal letter and on the envelope. GSA has 20 workdays after the receipt of an appeal to make a determination with respect to the appeal. The 20-workday time limit shall not begin until the office of the Director of Public Information receives the appeal.

(d) If the Administrator of General Services made the initial denial, there shall be no right to appeal within GSA.

(e) A requester who has received a denial of an appeal, or who has no right of appeal within GSA, may seek judicial review of GAS's decision in the United States district court in the district in which the requester resides or has a principal place of business, or where the records are situated, or in the District of Columbia.

§ 105–60.404 Extension of time limits.

In unusual circumstances the Director Public Information may extend the time limits prescribed in §§ 105–60.402 and 105–60.403. GSA will provide a written notice to the requester of any extension of time limits.

Subpart 105–60.5—Exemptions

§ 105–60.501 Categories of records exempt from disclosure under the FOIA.

(a) 5 U.S.C. 552(b) provides that the requirements of the FOIA do not apply to matters that are:

(1) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and that are, in fact, properly classified under the Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute, other than the Privacy Act, provided that the statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of these records would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) GSA will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section.

(c) GSA will invoke no exemption under this section if the requested records would be available under the Privacy Act of 1974 and implementing regulations, Part 105–64, or if disclosure would cause no demonstrable harm to any public or private interest.

Subpart 105–60.6—Subpoenas or Other Legal Demands for Records

§ 105–60.601 Service of subpoena or other legal demand.

§ 105–60.601–1 GSA administrative records.

(a) A subpoena duces tecum or other legal demand for the production of records held by GSA should be addressed to the General Counsel, General Services Administration (L), Washington, DC 20405, with respect to GSA Central Office records; to the appropriate Regional Counsel, for records in GSA regional offices; or to the Administrator of General Services.

(b) The General Counsel, Deputy General Counsel, Assistant General Counsels, Inspector General, and, with respect to records in a GSA regional office, also the Regional Administrator and Regional Counsel are the only GSA employees authorized to accept service of a subpoena duces tecum or other legal demands on behalf of GSA.

§ 105.60.601–2 Records Transferred to the National Archives and Records Service.

(a) Access to records transferred to a Federal Archives and Records Center (see § 105–61.001–3) is controlled by the instructions and restrictions imposed on GSA by the Federal agency that transferred the records to the Federal Records Center. GSA will honor a subpoena duces tecum or other legal demand for the production of these records, to the extent required by law, if the transferring agency has imposed no restrictions. In contrast, when the transferring agency has imposed restrictions, GSA will notify the authority issuing the subpoena or other legal demand and will request authority to pursue the matter directly with the transferring agency.

(b) The Administrator of General Services, the Archivist of the United States, the General Counsel, the Deputy General Counsel, the Assistant General Counsels, the Regional Administrators, and the Regional Counsels, as appropriate, and the Director of the Federal Archives and Records Center in which records are stored are the only GSA officials authorized to accept a subpoena or other legal demand for records transferred to a Federal Archives and Records Center.

(c) A subpoena duces tecum or other legal demand for the production of records designated as "archives" or "donated historical materials" administered by the National Archives and Records Service (see §§ 105–61.001–2 and 105–61.001–4) may be served only on the Administrator of General Services, the Archivist of the United States, the General Counsel, or the appropriate Assistant Archivist, Regional Counsel, Director of a Federal Archives and Records Center, or Director of a Presidential Library.

Dated: October 20, 1980.

Allie B. Latimer,

General Counsel.

[FR Doc. 80-34236 Filed 10-31-80; 8:45 am]

BILLING CODE 6820-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 80.603; FCC 80.565]

Inquiry Into the Development of Regulatory Policy in Regard to Direct Broadcast Satellites for the Period Following the 1983 Regional Administrative Radio Conference

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This Notice requests comment on two Staff Reports discussing direct broadcast satellites, one describing technical characteristics, the other discussing appropriate long-term regulatory policies. The Notice also requests comment on appropriate regulation of interim direct broadcast satellite systems approved before 1983 Regional Administrative Radio Conference. The Federal Communications Commission must decide on allocation of spectrum and regulatory policies for satellite-to-home television transmission. Public comment will help the Commission make informed decisions.

DATE: Comments on interim regulations must be received on or before: November 28, 1980. Comments on rest of Notice must be received on or before January 31, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Florence Setzer, Office of Plans & Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

In the matter of inquiry into the development of regulatory policy in regard to Direct Broadcast Satellites for the period following the 1983 Regional Administrative Radio Conference, Gen Docket No. 80–603.

Adopted: October 2, 1980.

Released: October 29, 1980.

By the Commission: Commissioners Ferris, Chairman; Lee, Washburn and Fogarty issuing separate statements.

I. Introduction

1. A Direct Broadcast Satellite service (DBS), which would provide video programming transmitted by satellite directly to small parabolic receiving antennas that can be located at individual homes, has been operated experimentally and has been shown to be viable, at least from the technical point of view.[1] Frequencies have been allocated for such a service by the 1979 World Administrative Radio Conference, though final allotments to the United States will not be made until the Western Hemisphere Regional Administrative Radio Conference (RARC) in 1983. We are today beginning a process to establish regulatory policies for DBS to ensure that is serves the public interest. We think the public interest requires that we pursue three goals: Efficient use of the spectrum (including the balance between DBS and other services), opening new channels to allow an opportunity for diversity of voices in order to further the goals of the First Amendment, and satisfaction of consumers' preferences for programming.

II. Commission Preparations for DBS

2. Our consideration of broadcast satellite issues extends from the basic question of whether any broadcast satellite service is appropriate for the United States through the detailed issues of implementation of a DBS service. In order to resolve the public interest considerations early so that the policy debate does not delay the introduction of service that we may find in the public interest, the Commission has begun to plan for DBS in advance of any formal application by a potential service provider. In a *Notice of Inquiry* issued recently, the Commission initiated formal preparation for the 1983 RARC.[2] At that conference the United States delegation will attempt to obtain provisions for frequencies and orbital positions for DBS use by the United States that will be conducive to efficient spectrum use and technical flexibility in order to provide the most valued services from the radio spectrum.

3. In addition, the Commission staff has prepared and released two reports that are today being put into the record of this proceeding. The opinions

[1] Community reception using larger antennas and more complex equipment than individual reception is also included in the broadcasting-satellite service under the ITU definition. ITU Radio Regulation 84AP Spa2.

[2] *Notice of Inquiry* in General Docket No. 80–396, adopted July 17, 1980, Released July 25, 1980, 45 FR 51914. We retain the right to use those frequencies for services other than DBS, in conformity with the ITU allocations.

expressed in the reports are those of authors and do no necessarily reflect a position of the Federal Communications Commission. The first, Technical Aspects Related to Direct Broadcasting Satellite Systems, was prepared by the Office of Science and Technology and describes the technical characteristics of a DBS system. The second, *Policies for Regulation of Direct Broadcast Satellites,* by the Office of Plans and Policy with a legal appendix by the Office of General Counsel, addresses the form of regulation that would be most appropriate for DBS, given its technical characteristics and the market in which it would be likely to function.[3] Since final regulations for DBS cannot be established until the outcome of the 1983 RARC is known, this Staff Report deals with regulation for the period following implementation of the Conference results, beginning roughly in 1985.

III. Request for Comments on Permanent Regulatory Policies

4. In order to determine the opinions of the interested public concerning the best form of regulation for DBS, and to receive informed judgments concerning the accuracy and validity of the staff's analyses, the Commission requests comment on the issues set forth in the two Staff Reports cited above. We welcome comment on any issues that members of the public consider relevant to decisions concerning the approval of applications to provide a satellite-to-home video programming service and the requirements that should be imposed on providers of such a service.[4] We particularly seek comment on the enumeration of necessary Commission functions set forth in the Conclusion of *Policies for Regulation of Direct Broadcast Satellites.* We solicit the opinion of interested parties concerning whether the specific functions set forth there would be appropriate for DBS, whether any important Commission policy issues have been omitted, and whether the general regulatory strategy described in the Staff Report would be appropriate for DBS. We also request comments on any of the technical parameters or analyses set forth in *Technical Aspects Related to Direct Broadcast Systems.*

5. In order to provide a framework so that respondents can discuss these issues in an organized fashion, the Commission requests comment in any or all of the following specific questions, which are arranged by subject:

A. The Market for Video Programming

(a) Is the analysis of the market for DBS presented in the OPP Staff Report correct? Specifically, are cable, STV, MDS, and video discs and cassettes close enough substitutes for DBS to provide competitive restraints on its behavior? The Commission would like to see any information interested parties can provide on likely prices of the alternative program sources, their likely penetration rates, and their availability in various geographic areas and types of communities by 1985.

(b) Will abundance of channels and competition among program sources make regulation of program content, types of service, and prices unnecessary?

(c) Will DBS service constitute a threat to any existing sources of programming? If so, which ones? What will be the costs and benefits to the public? Should regulatory policy take account of the effects of one programming source on others?

(d) To what extent can competition among DBS systems be expected to occur?

B. Spectrum Allocation and Assignment

(a) What method of spectrum allocation and orbit allotment should be used for DBS? For example, should the United States attempt to acquire the full use of several obital positions of should fewer channels be spread among many orbital positions? (Responses to this question may also be considered in Gen. Docket No. 80-398.)

(b) Are the advantages cited in the OPP Staff Report for a block allocation scheme valid? If so, what is the proper block of spectrum to assign to one DBS operator? Adequate space for one TV channel? Contiguous space for several channels? If large contiguous blocks are assigned, should any constraints be placed on an operator's use of the block?

(c) Studies undertaken to date appear to indicate that frequency sharing in the same geographic area between existing terrestrial microwave systems and DBS may not be feasible due to interference caused to the DBS receiver. If this is true, how can the adverse effects on DBS reception be minimized? What kinds of sharing arrangements are feasible?

(d) If sharing with other services is not possible, how much spectrum should be allocated to DBS systems? How much to terrestrial systems? On what basis should choices between the two systems be made?

(e) If the terrestrial fixed services now in the broadcasting-satellite band were required to change frequency, what would be the costs involved, what lead time would be necessary, and what alternative frequency bands would be suitable?

(f) Are auctions, lotteries, and paper proceedings useful means of choosing among mutually exclusive license applicants?

C. Technology and Technical Standards

(a) In what areas of DBS technology are advances most likely to occur in the near term? How would these advances be most likely to affect DBS system configurations, and what might be the implications of these advances for DBS policy decisions?

(b) Should the Commission set technical standards for DBS systems? For example, should the Commission set standards to insure receiver compatibility for signals from different satellites or to insure some minimum signal quality? One operator may wish to provide fewer channels of high-resolution video service while another may wish to provide more channels of conventional television. Should the Commission allow different operators to provide different types of services, even though they may not be receivable by the same receivers? What are the costs and benefits of setting technical standards?

(c) Under what conditions, if any, should DBS receiver systems be leased rather than sold? If so, would the public be less likely to be locked in to one level of technology and its attendant standards?

(d) Should the Commission set standards to insure efficient use of spectrum and orbit space? What kinds of regulations would be most likely to result in efficient use of the electromagnetic spectrum?

D. Ownership and Control

(a) Is the local geographic market the relevant unit to consider in determining whether competition among program sources exists?

(b) Are the antitrust laws sufficient to prevent excessive concentration of control of video programming? Is there any reason to require greater diversity of control of communications media than of other industries?

(c) Under what conditions, if any, should cross-ownership limits be applied to DBS operators (or programmers of specific channels)? Should constraints be placed on the control of multiple DBS channels by one entity? What regulatory distinctions and constraints should be established with respect to the ability to own, operate and lease DBS channels?

(d) What constraints, if any, should apply to the transfer of DBS licenses?

E. Program Content

(a) What should the liability of DBS operators be with respect to the issue of copyright?

(b) To the extent that DBS fosters diversity will it tend to increase the quantity of material, the number types of material produced, or the number of producers? How will these effects occur?

F. Appropriate Regulatory Classification

(a) If the Commission decided to structure DBS as a common carrier service, and if some program content requirements were found to be in the public interest or required by the Communications Act, who would be accountable to the Commission for ensuring compliance with these provisions? The common carrier licensee? The carrier's customers? What practical problems might be encountered in enforcing such requirements? Does Section 301 of the Act envision a two-tiered licensing scheme whereby the same radio facility may be licensed both to a common carrier operator and to the carrier's customers, who are licensed as radio broadcasters? As a practical matter, would it be possible to administer such a two-tiered licensing scheme?

(b) What effect, if any, does Section 3(h) of the Act have on the Commission's authority to require a DBS operator to function, at least in part, as a common carrier? To the extent Section 3(h) is relevant at all, does it make any difference that programming services are provided to the public on a subscription rather than on a non-subscription basis?

(c) Should each transponder on a satellite be licensed individually as a separate radio station or is it only the satellite that should be licensed? Does the Commission have the discretion to choose whether to license individual transponders or the entire satellite?

(d) Does the Commission have authority under the Act to establish a hybrid classification for subscription direct-to-home services as discussed in Appendix C of the Staff Report? If such a hybrid classification is legally permissible, may the Commission exempt these hybrid services from statutory provisions that apply to broadcasting stations?

(e) Would Section 605 of the Act, 47 U.S.C. § 605, apply to DBS subscription programming services?

(f) DBS operators were to offer direct-to-home programming services on a non-subscription basis, would there be any legal basis for distinguishing such services from "broadcasting" as defined in Section 3(o) of the Act?

(g) Are there any legal consequences that flow from the differences between the definition of "broadcasting" in the Communications Act and the definition of the "broadcast satellite service" in the international Radio Regulations in light of the legal status accorded treaties ratified by the United States in relation to domestic law such as the Communications Act? Does the legal status of the international Radio Regulations afford any ground for viewing satellite broadcasting services as a unique regulatory classification that may not be subject to the mandatory requirements applicable to broadcasting stations in Title III of the Act?

G. General

(a) Do the regulatory strategies pursued by other countries initiating DBS systems provide useful lessons for the United States?

(b) Are the services of DBS likely to be of equal value to all segments of the population, or will its services be of particular value to certain population groups such as rural residents or ethnic minorities? If so, to which groups is it likely to be most valuable?

(c) Are any regulatory models not discussed in the staff report relevant to DBS?

(d) Would there be any advantage to imposing regulation on DBS gradually, as experience is gained with the system, rather than at the outset?

(e) Should the Commission set standards with respect to the geographic coverage required of a DBS system?

(f) Are there any reasons for the Commission to require either advertiser-supported or for-pay programming? Is there any reason to provide different technical or behavioral regulations for advertiser-supported and subscription services? Are any other financing methods likely to be useful for DBS?

Interested parties may file comments on the above issues on or before January 31, 1981 and reply comments on or before March 31, 1981. For further information concerning the OPP Report on regulatory issues, contact Florence Setzer, Office of Plans and Policy, (202) 653-5940. For information concerning the technical Report, contact Bruno Pattan, Office of Science and Technology, (202) 653-8116.

IV. Request for Comments on Regulation of Interim Systems

6. Footnote 3787E to the allocations table adopted by the 1979 WARC recognizes that administrations may implement broadcasting-satellite systems prior to the 1983 Region 2 broadcasting-satellite conference. We will consider the public interest implications of exercising this authority in the context of receiving and processing any applications for interim systems that may be filed before completion of the Region 2 conference. Potential interim operators should be advised that we have reached no determination at this time concerning whether such applications will be processed under Parts 5, 74, some other existing part of the Commission's rules, or a new part of the Commission's rules, and that we are not at this time prescribing the particular form for such an application. We invite comments on the public interest standard that should be applied in deciding to grant interim applications, and on what standards and procedures should be applied in processing applications in the interim period. Specifically, we invite comment on the following issues:

(a) Should the Commission permit a DBS system to operate on an experimental basis prior to the 1983 RARC? If so, under what conditions? For example, should the experiment include nationwide coverage?

(b) If the Commission permits an interim DBS system, how should it be authorized? For example, should the experiment be authorized under Part 5 of the Commission's rules, *Experimental Radio Services (Other than Broadcast);* under Part 74, *Experimental, Auxiliary, and Other Program Distributional Services;* under some other existing part of the Commission's rules; or should it be authorized under some new part where all the requirements unique to this service may be covered? Would a new part be more in keeping with the notion that the Commission is not prejudging the issue of what regulatory framework should be applied to DBS?

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[3] Bruno Pattan, *Technical Aspects Related to Direct Broadcast Satellite Systems* (Federal Communications Commission, September 1980) and Florence O. Setzer, Bruce A. Franca, and Nina W. Cornell, *Policies for Regulation of Direct Broadcast Satellites* (Federal Communications Commission, 1980).

[4] The National Black Media Coalition (NBMC) filed a petition for rulemaking (RM-3502) on October 5, 1979 dealing with rules and policies to further the advancement of black Americans in mass communications. Proposal 33 of this petition included 12 suggestions for regulatory policies to be applied to Direct Broadcast Satellites (DBS) and was referred to the Office of Plans and Policy's working group on DBS for their consideration. In addition, comments filed in response to Proposal 33 by the Satellite Program Network (SPN) were also forwarded to the working group. We believe that the interests of the viewing public will be served best if the regulatory policies to be applied to DBS are considered in a uniform manner in the context of the overall proceeding on DBS. Accordingly, we are placing the NBMC's Proposal 33 and the comments of SPN into the record and will consider them as comments in this proceeding.

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(c) What regulatory or other constraints, if any, should be placed on a DBS experiment?

(d) How much spectrum should be made available to an interim DBS system? Should the DBS experiment share spectrum with existing terrestrial microwave systems or should exclusive frequencies be made available?

Comments related specifically to the authorization of interim systems are due on or before November 28, 1980, and reply comments are due on or before December 15, 1980. For information concerning interim systems contact Bruce Franca, Office of Plans and Policy, (202) 653–5940.

7. This Notice of Inquiry is issued pursuant to authority contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. All relevant and timely comments and reply comments filed in response to this Notice will be considered by the Commission. In accordance with the provisions of § 1.419 of the rules, an original and five copies of all comments, replies, briefs, and other documents filed in this proceeding shall be furnished the Commission. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

Federal Communications Commission.[5]

William J. Tricarico,

Secretary.

October 2, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: Direct Broadcast Satellites

In 1976, then Commissioner Glen O. Robinson described the apparent regulatory philosophy of this Commission in the following terms:

> If it moves, regulate it; if it doesn't move, kick it—and when it moves, regulate it. (60 FCC 2d 340–41)

Today, our staff recommended deregulating a service, Direct Broadcasting Satellites, that does not even exist yet. We have come a long way in a short time.

A Direct Broadcast Satellite may or may not fly. I believe the point of today's action is that the question of whether there should be such a service should be decided by consumer demand and the capability of the technology—not by the costs of regulation.

Separate Statement of Commissioner Robert E. Lee in re: DBS Notice of Inquiry

I hope that my fellow Commissioners are approaching this with an open mind and that everyone who should have an interest in DBS—the public, broadcasters, common carriers, manufacturers, programmers, and the Congress—will provide us with data and participate in the debate the Staff Reports should stimulate. The impact of DBS could range from nothing to a complete undermining of the locally oriented broadcasting system we have today. Open, robust debate is important.

Separate Statement of Commissioner Abbott Washburn

Re: Notice of Inquiry for Direct Broadcast Satellites

October 2, 1980.

I hope for, and urge, the fullest possible public response to the two DBS staff studies to be released in accordance with today's action. We are just at the threshold of assessing the nature and parameters of this new service. We need all the data and comment we can get—to help us reach, later on, a determination as to what regulatory role the Commission should play with respect to it.

The Commission directed that a sentence be added to the NOI making it unequivocal that the views expressed in the two staff studies are solely those of the staff—that the recommendations and conclusions reached are not endorsed by the Commissioners. This leaves the members of the Commission free to react to the contents of the studies along with everyone else.

In the weeks ahead I will be further analyzing each study and commenting, particularly, on the OPP study on regulatory policies. The projections it makes for 1985 and beyond, on which many of the conclusions are based, require a giant leap of faith . . . a leap which I am unprepared to make without considerably more evidence. The legal underpinning for the recommendations also appears deficient. There are, as well, significant omissions, such as the question of impact on local TV service to the community.

The two studies are excellent vehicles to get the public-discussion ball rolling and to funnel needed data and comments to the Commission.

Meantime, as the Commission makes clear in the NOI, there are no obstacles to potential DBS operators filing applications with the FCC.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Inquiry into the Development of Regulatory Policy in regard to Direct Broadcast Satellites for the Period following the 1983 Regional Administrative Radio Conference.

The prospect of Direct Broadcast Satellite service (DBS) is exciting. It offers a significant opportunity for the larger and more effective use of radio in the public interest and for enhancing the variety and quality of video programming sources and services available to the consumer. In light of the considerable anticipation and speculation concerning the possible advent of DBS, I am pleased that the Commission has activated the regulatory process in advance of the 1983 RARC so that decision on the required rule and policy will not obstruct or delay the realization of this service's full potential.

The central issues here are "What is DBS?" and "How should it be regulated?". The staff report takes the position that DBS is like nothing we have ever seen before, falls into none of our traditional regulatory categories, and therefore should be essentially "non-regulated" except in the most basic necessities of spectrum allocation. While the staff report advances a serviceable broad-brush argument in favor of this decidedly "hands off," free marketplace approach to DBS, I frankly would have preferred a bit more detailed analysis and a little less advocacy. There is another regulatory perspective which deserves serious consideration here, and that is the view that a somewhat more deliberate regulatory structure, particularly with respect to technical parameters and standards, might better serve the public interest in seeing that DBS has an adequate chance to get off the ground and join the competition. On the whole, however, I tend to subscribe to the basic "minimal regulation" approach of the staff report, at least at this early juncture, and believe it serves as an adequate vehicle for seeking full public comment in this initial inquiry.

Turning to the specifics of the staff report, I would note that some of the observations and conclusions on which its policy recommendations are based are highly problematical. There is a certain cloudy crystal ball quality to the prediction of a virtual cornucopia of video program sources and services in the offing for 1985 and after. It is not at all clear to me that the demand for video programming, on a pay basis, is as open-ended as predicted by the staff, particularly in these inflationary times.

This comment and question in turn point out that DBS is likely to be a relatively risky venture in terms of capital investment, operations, and marketing development. DBS will not come into the competitive arena until cable television, STV, MDS, and video cassettes and discs, in addition to conventional TV, have all had the opportunity to gain a solid foothold in the video programming marketpace. This observation does not suggest that we should be "laid back" on DBS. On the contrary, it means that the Commission should move all the more expeditiously to decide the issues of policy and regulatory structure, and to allow DBS to enter the competitive fray sooner rather than later, if that entry is deemed to be in the public interest. In this connection, the Commission should also invite and expeditiously consider interim applications for experimental or developmental DBS service. One year of real-world experience would be worth two years of paper proceedings in terms of fully understanding this new technology and its public interest ramifications.

The staff's speculation as to video programming abundance in the 1985 time frame also raises a fundamental issue concerning our existing regulation which is not addressed or even alluded to in the report. If the staff report's predictions of vast pay program source and service diversity are fulfilled, that development will of necessity raise a question as to whether "scarcity", as a rationale for the purpose of justifying conventional broadcast content- and conduct-related regulation, will have lost its validity. I believe that the prospect of the death of scarcity and consequent broadcast deregulation should not be cause for alarm, but rather the occasion for public interest rejoicing. And, I look forward to the comments of the various parties interested in this DBS *Inquiry*, including those of the established broadcast industy, which may be addressed to this possibility. However, I also believe that the Commission has a great responsibility to make certain that preliminary reports of scarcity's death are not greatly exaggerated, and that any proposed finding of abundant programming diversity is supported by real-world fact as well as general economic theory.

As a final comment at the outset of this *Inquiry*, I note that the staff report expends a good deal of ink and paper on the auction spectrum allocation alternative, despite the rather plain ultimate holding that auctions are not within this Commission's statutory authority. Similarly, while lottery and "streamlined" paper hearing alternatives are worthy of pursuit in this proceeding, it would have been useful for the staff report to have addressed at least equal time to the matter of whether comparative criteria consistent with existing Commission and judicial precedent could be developed to resolve competing DBS applications expeditiously.

[FR Doc. 80-34068 Filed 10-31-80; 8:45 am]

BILLING CODE 6712-01-M

[5] See attached statements of Commissioners Ferris, Chairman, Lee, Washburn and Fogarty.

47 CFR Parts 2, 21, 74, and 94

[Gen Docket 80-112]

Frequency Allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service

AGENCY: Federal Communication Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: This order extends the time for filing reply comments to a proposed rule. The proposed rule would reallocate the 2500–2690 MHz frequency band that is now allocated to Instructional Television Fixed Service and to the Operational Fixed Service and would permit equal sharing of the band among those services and the Multipoint Distribution Service.

The original proposed rule was published at 45 FR 29323 on May 2, 1980, and the correction to the proposed rule was published at 45 FR 45601 on July 7, 1980.

DATES: Reply comments are due on or before November 12, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kevin Kelley, Domestic Facilities Division, Common Carrier Bureau, (202) 632–6430.

In the Matter of Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service; and Inquiry into the development of regulatory policy with regard to future service offerings and expected growth in the Multipoint Distribution Service and Private Operational Fixed Microwave Service, and into the development of provisions of the Commission's Rules and Regulations in regard to the compatibility of the operation of satellite services with other services authorized to operate in the 2500–2690 MHz band; *Order extending time reply comments.*

Adopted: October 23, 1980.

Released: October 27, 1980.

By the Chief, Common Carrier Bureau:

1. The Commission has before it a number of timely filed motions to extend the time for filing reply comments in the above-captioned proceeding. The date for filing reply comments is October 27, 1980.

2. The motions request extensions until late November. The reasons given for requiring more time to prepare reply comments are: (1) there were an extraordinarily large number of comments, more than 100, filed in this proceeding; (2) because of the considerable interest in this docket many who wish to file reply comments have experienced difficulty in getting copies of the comments filed; and (3) the comments of Microband, the largest MDS licensee, were not filed until October 6, 1980 and public notice of the availability of Microband's comments was not issued until October 9, 1980, 13 days after the due date of September 26, 1980.

3. Section 1.46(a) of the Commission Rules, 47 C.F.R. § 1.46(a) (1977), clearly provides it is not the policy of the Commission to routinely grant extensions of time. However, we do recognize our responsibility to make as complete a record as possible in all proceedings and to give all those who wish to do so a reasonable opportunity to comment. We also recognize our responsibility to insure that all proceedings move forward in an orderly and expeditious fashion. Upon consideration of our responsibilities and the arguments contained in the motions, we have concluded that granting a brief extension of time for filing reply comments would be in the public interest. However, we do not believe that the reasons given warrant as much additional time as was requested in the

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motions. We have concluded that an extension of time for filing reply comments to November 12, 1980 would be appropriate.

4. Therefore, it is Ordered, That the date for filing reply comments IS EXTENDED to and including November 12, 1980.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. The Secretary shall cause this order to be published in the **Federal Register.**

Federal Communications Commission.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-34429 Filed 10-31-80; 12:17 p.m.]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service Richland Creek Watershed, Miss.

Correction

In FR Doc. 80-32820 appearing on page 70035 in the issue for Wednesday, October 22, 1980, please insert the following signature immediately above the "FR Doc. file line (see end of document):

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended October 24, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Oct. 21, 1980	38867	Braniff Airways, Inc., Braniff World Headquarters, Braniff Blvd., Dallas/Ft. Worth Regional Airport, Dallas, Texas 75261. Application of Braniff Airways, Inc. pursuant to Section 401(e)(7)(B) of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment to its certificate of public convenience and necessity for Route 153 and 151, segment 1, to remove the restriction against nonstop service between Sao Paulo and Buenos Aires. Conforming Applications and Answers may be filed by November 4, 1980.
Oct. 20, 1980	38862	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests amendment of its certificate of public convenience and necessity for Route 4 so as to add the following points: Amarillo, Tex., Baton Rouge, La., Birmingham, Ala., Boise, Idaho, Charleston, S.C., Columbia, S.C., Corpus Christi, Tex., Jackson, Miss., Lubbock, Tex., Midland-Odessa, Tex., Santa Barbara, Calif., and Shreveport, La. Conforming Applications and Answers are due November 17, 1980.
Oct. 22, 1980	38873	ALM Antillean Airlines, Bruce H. Rabinovitz, Ginsburg, Feldman, Weil and Bress, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Application of ALM Antillean Airlines pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit to serve Santo Domingo as an intermediate stop on its existing flights between the Netherlands Antilles and San Juan, Puerto Rico. Conforming Applications and Answers may be filed by November 19, 1980.
Oct. 24, 1980	38888	Great American Airways, Inc., Suite 260, 1005 Terminal Way, Reno, Nevada 89502. Application of Great American Airways, Inc. pursuant to Section 418 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity authorizing it to engage in: Domestic air transportation of property between any point in any state of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications and Answers are due November 21, 1980.
Oct. 24, 1980	38889	Great American Airways, Inc., Suite 260, 1005 Terminal Way, Reno, Nevada 89502. Application of Great American Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificate of public convenience and necessity authorizing it to engage in: Foreign charter air transportation of property between any point in any state of the United States or the District of Columbia or any territory or possession of the United States and any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India. Conforming Applications and Answers are due November 21, 1980.

Phyllis T. Kaylor,

Secretary.

FR Doc. 80-34170 Filed 10-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38770; Order 80-10-158]

Peninsula Airways, Inc., Service Mail Rates Investigation; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of October, 1980.

By this order, we institute an investigation to determine the fair and reasonable service mail rates to be paid Peninsula Airways, Inc. by the Postmaster General for the transportation of mail by aircraft in its certificated services and establish temporary service mail rates for such transportation pending conclusion of the investigation.

By Order 80-9-149, we granted a certificate of public convenience and

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necessity to Peninsula authorizing the transportation of persons, property, and mail between and among a number of points in the Bristol Bay area of Alaska. Mail is currently being transported in the Bristol Bay area by Kodiak-Western Alaska Airlines under temporary mail rates established by Orders 80-1-96 and 80-1-185. Since Peninsula will be providing the same mail service as Kodiak-Western is now providing in the Bristol Bay area, we see no reason why these rates should not apply as temporary rates for Peninsula's certificated mail operations as well. We will therefore establish Kodiak-Western's service mail rates as temporary rates for Peninsula.

Ordinarily, mail rates are established after notice and opportunity for comment by the Postal Service (14 CFR 302.310). Here, however, we are dealing with rates that went through the full notice and comment procedures when they were originally established for Kodiak-Western, and that are currently being paid by the Postal Service for the same services that Peninsula will perform in the Bristol Bay area. We conclude, therefore, that the institution of show-cause procedures on these rates is unnecessary and that they should be made effective on and after September 30, 1980, the date on which Peninsula filed its rate petition.[1] Based on the foregoing, we waive the procedural requirements of Rule 310.[2]

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302:

1. We institute an investigation to determine the fair and reasonable final service mail rates to be paid by the Postmaster General to Peninsula Airways, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over Route 242, on and after September 30, 1980;

2. We set the fair and reasonable temporary rates of compensation to be paid by the Postmaster General to Peninsula Airways, Inc., on and after September 30, 1980, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for operations between points on Route 242, at the rates established for Kodiak-Western Alaska Airlines, Inc., by Orders 80-1-96 and 80-1-185;

3. The temporary service mail rates established in this order shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment to September 30, 1980, as may be required by the order establishing final service mail rates in the investigation instituted by this order;

4. Peninsula Airways, by notice, may elect to transport mail between points for which rates here established are applicable at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(a) An original and three copies of each notice of election and agreement shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notice shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed, and shall similarly describe the charge with which it is being equalized.

(b) Any rate established shall be effective for the electing carrier or carriers on the date of filing of the notice, or such later date as may be specified in the notice, until such election is terminated. Elections may be terminated by any electing carrier upon ten days' notice filed with the Board and served upon the Postmaster General and each carrier providing service between the stated points; and

5. We will serve this order upon the Postmaster General and Peninsula Airways, Inc.

We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,[3]

Secretary.

[FR Doc. 80-34172 Filed 10-31-80; 8:45 am]

BILLING CODE 6320-01-M

[1] We will make these rates subject to the customary provisions that allow for rate equalization.

[2] As requested by Peninsula, we also waive the Rule 303 requirement that it specify a fair and reasonable final rate in its petition. We accept Peninsula's statement that it is unable at this time accurately to determine the cost of carrying mail in scheduled operations; and therefore cannot now suggest a final rate. However, Peninsula will be expected to state what it considers to be a fair and reasonable final rate prior to the conclusion of this investigation.

[3] All Members concurred.

Sea Airmotive, Inc., Service Mail Rate Investigation; Order

[Docket 38180; Order 80-10-159]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of October, 1980.

By this order, we institute an investigation to determine the fair and reasonable final service mail rates to be paid Sea Airmotive Inc. by the Postmaster General for the transportation of mail by aircraft in its certificated services and establish temporary service mail rates for such transportation pending conclusion of the investigation.

By Order 80-9-149, we granted a certificate of public convenience and necessity to Seair authorizing it to engage in air transportation of persons, property, and mail over Route 244. Mail is currently being transported in the same general area by Wien Air Alaska under final mail rates established by Order 80-4-53. Since Seair will be providing substantially the same mail service as Wien is now providing, we see no reason why these rates should not apply as temporary rates for Seair's certificated mail operations as well. We will therefore establish Wien's service mail rates as temporary rates for Seair.

Ordinarily, mail rates are established after notice and opportunity for comment by the Postal Service (14 CFR 302.310). Here, however, we are dealing with rates that went through the full notice and comment procedures when they were originally established for Wien, and that are currently being paid by the Postal Service for substantially the same services that Seair will perform over its newly certificated route. We conclude, therefore, that the institution of show-cause procedures on these rates is unnecessary and that they should be made effective on and after September 29, 1980, the date on which Seair updated its mail rate petition.[1] Based on the foregoing we waive the procedural requirements of Rule 310.[2]

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302;

1. We institute an investigation to determine the fair and reasonable final service mail rates to be paid by the Postmaster General to Sea Airmotive, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over Route 244, on and after September 29, 1980;

2. We set the fair and reasonable temporary rates of compensation to be paid by the Postmaster General to Sea Airmotive, Inc., on and after September 29, 1980, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over Route 244, at the rates established for Wien Air Alaska, Inc., by Order 80-4-53;

3. The temporary service mail rates established in this order shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment to September 29, 1980, as may be required by the order established final service mail rates in the investigation instituted by this order;

4. Sea Airmotive, by notice, may elect to transport mail between points for which rates here established are applicable at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(a) An original and three copies of each notice of election and agreement shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notice shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed, and shall similarly describe the charge with which it is being equalized.

(b) Any rate established shall be effective for the electing carrier or carriers on the date of filing of the notice, or such later date as may be specified in the notice, until such election is terminated. Elections may be terminated by any electing carrier upon ten days' notice filed with the Board and served upon the Postmaster General and each carrier providing service between the stated points; and

5. We will serve this order upon the Postmaster General and Sea Airmotive, Inc.

We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,[3]

Secretary.

[FR Doc. 80-34171 Filed 10-31-80; 8:45 am]

BILLING CODE 6320-01-M

[1] We will make these rates subject to the customary provisions that allow for rate equalization.

[2] We also waive the Rule 303 requirement that Seair specify a fair and reasonable final rate in its petition. In the absence of operating experience over its new route, it would be difficult for Seair at this time accurately to determine the cost of carrying mail in scheduled operations; and therefore state what it believes to be a fair and reasonable final rate. However, Seair will be expected to specify the rate prior to the conclusion of this investigation.

[3] All members concurred.

DEPARTMENT OF COMMERCE

International Trade Administration

Plastic Animal Identification Tags From New Zealand; Preliminary Affirmative Countervailing Duty Determination

AGENCY: United States Department of Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a preliminary determination, under section 303 of the Tariff Act of 1930, that the Government of New Zealand has given subsidies within the meaning of the countervailing duty law, to the manufacturers, producers or exporters of plastic animal identification tags.

The Department also has determined that critical circumstances do not exist in this case. The Department, therefore, will instruct Customs officers to suspend liquidation on all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after November 3, 1980.

The Department will make a final determination no later than January 8, 1981.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Jr., Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-4087).

SUPPLEMENTARY INFORMATION

Procedural Background

On August 1, 1980, the Department of Commerce ("the Department") received a petition in proper form from Y-Tex Corporation, Cody, Wyoming, alleging, on behalf of U.S. producers of plastic animal identification tags, that the Government of New Zealand provides to manufacturers, producers or exporters of such animal identification tags certain benefits which are bounties or grants ("subsidies") within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303) ("the Act").

On August 25, 1980, the Department published a notice of initiation of this countervailing duty investigation which stated that because New Zealand is not a country under the Agreement within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation (45 Fed. Reg. 56380). Usually a determination of injury to a domestic industry is not required in investigations under section 303. It is required, however, in investigations concerning non-dutiable merchandise not subject to normal customs duties. Since animal identification tags are non-dutiable, the International Trade Commission (ITC), under section 303 of the Act, conducted an investigation and, on September 25, 1980, issued a preliminary determination that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of plastic animal identification tags from New Zealand (45 FR 63573).

Foreign Producer and Product Description

According to information submitted to the Department, Delta Plastics, Ltd., a subsidiary of Allflex Holdings, Ltd., Palmerston North, New Zealand, is the only producer of animal identification tags in New Zealand. The four U.S. companies importing Allflex animal identification tags from New Zealand are: (1) Allflex Tag Co., Culver City, Calif.; (2) G. C. Hanford Manufacturing Co., Syracuse, N.Y.; (3) Vet Brand, Inc., Torrance, Calif.; and (4) Diamond Shamrock Corp., Cleveland, Ohio. The Allflex Tag Co., a wholly owned subsidiary of Delta Plastics, Ltd. (New Zealand), acts as agent for its parent company in the United States by conducting a retail mail order business for Allflex tags and maintaining a complete stamping operation for numbering and personalizing tags.

Plastic animal identification tags are used for the temporary or permanent identification of animals such as cattle, hogs, sheep, and goats. The tags vary between 1.75 and 7.5 square inches of surface area. Numbers stamped into the plastic tags are used for identification or information purposes. One-piece tags are attached to the animal with a knife-like applicator called a trocar. Two-piece tags are attached by means of an applicator similar to a pair of pliers with a needle point on one side and a clamp on the other. All of these tags are classifiable under the provision for "other" agricultural and horticultural machinery and implements, in item 666.00 of the Tariff Schedules of the United States.

The Program Investigated

The New Zealand Government has several programs which allow special income tax deductions. One of these is the "Export Performance Taxation Incentive" (EPTI) program identified in the August 25, 1980, **Federal Register** Notice. The Government of New Zealand has informed the Department that no New Zealand exporter of animal

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identification tags to the United States has received any tax credits from the EPTI.

However, the Government of New Zealand has informed the Department that Delta Plastics has qualified for another program, the Increased Export Taxation Incentive Scheme (IETI). Authorized by section 156 of the New Zealand Income Tax Act of 1976, as amended, the IETI provides the taxpayer with a deduction from income for increases in export sales of qualifying goods during the income tax year. Where (a) there is an increase in export sales for the income tax year, or (b) there are export sales for the income tax year and an increase in export sales for the income tax year immediately preceding that income year, section 156(5) of the Income Tax Act allows the taxpayer to deduct from assessable (taxable) income the greater of the following amounts: (1) 25 percent of the value of the qualifying f.o.b. export sales in excess of the average annual level of export sales in the base period, or (2) an amount equal to the value of the export sales during the income tax year divided by the value of the export sales during the income tax year immediately preceding that income tax year multiplied by 25 percent of the increase in export sales for the income year immediately preceding that income year. The base period is defined as the first 3 of the 7 years immediately preceding the income tax year.

Because of confidentiality restrictions in the New Zealand Revenue Department Act, the Government of New Zealand has refused to release specific tax information for specific taxpayers. However, the Government noted that in the Consolidated 1980 Annual Report of Allflex Holdings, the company reported that it received $438,819 (New Zealand dollars) in "tax credits" for its worldwide export sales in fiscal year 1980. We have been advised by counsel for Allflex Holdings that animal identification tags and applicators were the only export products for which the company recieved the $438,819 "tax credit," and that this money was received under the IETI program discussed above. This tax credit is 6.7 percent of the company's total export sales for fiscal year 1980.

A special deduction from income taxes which is related to export performance, such as provided under the IETI program, is clearly a subsidy within the meaning of the countervailing duty law. (See The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariff and Trade, Annex, "Illustrative List of Export Subsidies," (a) and (e)).

Preliminary Determination

We preliminarily determine that there is a reasonable basis to believe or suspect that the IETI program established by section 156 of the New Zealand Income Tax Act, as amended, is a subsidy within the meaning of the U.S. countervailing dury law (19 U.S.C. 1303). Based on figures supplied by the Government of New Zealand, the amount of the subsidy 6.7 percent *ad valorem* on exports to the United States.

Critical Circumstance Determination

The petitioner alleged critical circumstances, under section 703(e) of the Act (19 U.S.C. 1671b(e)), due to massive imports of animal identification tags during a relatively short period. The petitioner provided United States sales figures for the period April 1, 1974 through March 31, 1980.

Section 303(b) of the Act, as amended (19 U.S.C. 1303(b)), provides, in effect, that the critical circumstance provision applies to duty-free merchandise from a country that is not a country under the Agreement. Therefore, section 703(e) applies to this case.

Imports of animal identification tags have increased substantially between 1977 and 1979. However, the rate of increase at which imports are penetrating the U.S. market appears to have been leveling off during the 18 months prior to June 1980. Moreover, while imports from New Zealand, have had an overwhelming share of the market of two-piece animal identification tags, U.S. producers have been capturing increasingly larger share of this subsector of the animal identification tag market.

"Critical circumstances" was introduced in the legislation to provide retroactive application of countervailing duties in cases where recent actions on the part of exporters or the exporting country led to a significant increase in exports in absolute terms or relative to the U.S. market share. We have not found such a situation in this case, nor have we found that such a situation is likely to develop.

Therefore, I preliminarily conclude that there have not been massive imports of animal identification tags from New Zealand over a relatively short period, within the meaning of section 703(e)(1)(B). Accordingly, liquidations will not be suspended retroactively, as provided in section 703(e)(2).

Administrative Procedures

In accordance with § 355.34 of the Commerce Department Regulations (19 CFR 355.34, 45 FR 4946), interested parties may submit information or written views concerning this proceeding to the address indicated above in at least 10 copies, not later than December 3, 1980.

The Department will afford interested parties an opportunity to present oral views in accordance with § 355.35 of the Commerce Department Regulations. This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, Room 3817, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 beginning at 10:00 a.m. on December 4, 1980. Interested parties who wish to have such a conference should submit a written request to the Office of Deputy Assistant Secretary for Import Administration, Room 2800 at the address shown above. These requests should contain (1) the name, address and telephone number of the requester (2) the number of participants and (3) a statement outlining the issues to be discussed. The Deputy Assistant Secretary for Import Administration must receive the requests no later than November 13, 1980.

Interested parties must submit pre-hearing briefs no later than November 28, 1980, to the Office of the Deputy Assistant Secretary at the address noted above. Oral presentations by persons submitting pre-hearing briefs will be limited to those issues raised in the briefs. All written views must be filed in accordance with § 355.34 of the Department of Commerce Regulations.

In accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)), Customs officers will be advised to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after the date of publication of this notice in the **Federal Register**. This suspension of liquidation shall remain in effect until further notice. The posting of a cash deposit, bond, or other security, in the amount of 6.7 percent *ad valorem*, will be required as of that date.

We will issue a final determination no later than January 8, 1981.

This determination is published in accordance with section 703(f) of the Act (19 U.S.C. 1671b(f)).

John D. Greenwald,

Deputy Assistant Secretary.(Import Administration).

October 28, 1980.

[FR Doc. 80-34060 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing An Import Restraint Level for Certain Man-Made Fiber Textile Products Under a New Bilateral Agreement with Costa Rica

October 28, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing an import restraint level for man-made fiber brassieres in Category 649, produced or manufactured in Costa Rica and exported to the United States during the twelve-month period which began on January 1, 1980

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1978 (45 FR 13172), as amended on april 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: On September 22, 1980, the Governments of the United States and costa Rica exchanged diplomatic notes establishing a cotton, wool and man-made fiber textile agreement beginning on January 1, 1980 and extending for four years through December 31, 1983. The agreement establishes a specific level of restraint for man-made fiber textile products in Category 649 during the agreement year which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Category 649, produced or manufactured in Costa Rica and exported during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, in excess of the designated level of restraint.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

This letter and the actions taken pursuant to it are not designed to implement all of the provisins of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

October 28, 19880.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 22, 1980, between the Governments of the United States and Costa Rica; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11961 of January 6, 1977, you are directed to prohibit, effective on November 4, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 649 in excess of 1,575,000 dozen.[1]

In carrying out this directive, entries of man-made fiber textile products in Category 649 produced or manufactured in Costa Rica, that have been exported to the United States before January 1, 1980 shall not be subject to this directive.

Man-made fiber textile products in Category 649 that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 22, 1980 between the Governments of the United States and Costa Rica which provide, in part, that: (1) the specific limit may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of man-made fiber textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-34135 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any entries after December 31, 1979. Imports during the January 1980 through August 1980 period have amounted to 895.8111 dozen.

Additional Import Controls on Certain Apparel Products from the Republic of Korea

October 24, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in the Republic of Korea, at a level of 195,196 dozen (2,342,348 pieces) during the twelve-month period which began on January 1, 1980.

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, it has been agreed that imports from the Republic of Korea of down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 will not exceed a level of 195,196 dozen during the agreement year which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided to control imports at the agreed level.

DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76573) a letter dated December 20, 1979 from the chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fibe textile products, produced or manufactured in the Republic of Korea, which may be

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entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs also to prohibit entry for consumption, or withdrawal from warehouse for consumption, of down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 in excess of 195,196 dozen.

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 24, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 20, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 7, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in the Republic of Korea in excess of 195,196 dozen.[1] Merchandise in the foregoing T.S.U.S.A. numbers which has been exported before January 1, 1981 is not subject to the export visa requirement.

The foregoing feather-filled textile products which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Further, such products which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to feather-filled textile products in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-34134 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports in the designated T.S.U.S.A. numbers have amounted to 93,574 dozens during the January-August period of 1980.

Adjusting Import Restraint Levels for Certain Wool Textile Products From the Republic of Korea

October 29, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for swing and carryover for wool sweaters in Category 445/446, produced or manufactured in Korea and exported during the agreement year which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea provides for percentage increases in certain specific category ceilings during an agreement year (swing) and for the carryover of shortfalls in certain categories from the previous agreement year (carryover). Pursuant to the terms of the bilateral agreement, and at the request of the Government of the Republic of Korea, the import restraint level established for Category 445/446 is being increased for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 27, 1979 a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (44 FR 76573), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

On September 9, 1980, a further letter, dated September 5, 1980, was published in the **Federal Register** (45 FR 59371), which established import controls on wool sweaters in Category 445/446, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1980.

In accordance with the terms of the bilateral agreement and at the request of the Government of the Republic of Korea, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs in the letter published below to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 445/446, produced or manufactured in the Republic of Korea, in excess of the adjusted level of 57,901 dozen, during the twelve-month period which began on January 1, 1980.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

October 29, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: On December 20, 1979, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Footnotes continued on next page

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, which provide, in part, that (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on November 4, 1980, to amend the twelve-month level of restraint established for wool textile products in Category 445/446 to the following:

Category 445/446: Amended twelve-month level of restraint, 57,901 dozen.[2]

The action taken with respect to the Government of the Republic of Korea and with respect to imports of wool textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-34136 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

Additional Import Controls on Certain Apparel Products from Taiwan

October 24, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in Taiwan, at a level of 200,914 dozen (2,410,963 pieces) during the twelve-month period which began on January 1, 1980.

SUMMARY: In discussions between the American Institute in Taiwan and the Coordination Council for North American Affairs concerning the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, it has been agreed that imports from Taiwan of down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 will not exceed a level of 200,914 dozen during the agreement year which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided to control imports at the agreed level.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76839) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs also to prohibit entry for consumption, or withdrawal from warehouse for consumption, of down and feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 in excess of 200,914 dozen.

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 24, 1980.

Committee for The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 7, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in Taiwan, in excess of 200,914 dozen.[1]

The foregoing feather-filled textile products which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Further, such products which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 34133 Filed 10.31.80; 8:45 am]

BILLING CODE 3510-25-M

Further Amending the Export Visa Requirement to Include Certain Down and Feather-Filled Apparel Products From Taiwan

October 24, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Further amending the export visa requirement previously established for textile products from Taiwan to include men's and boys' women's, girls' and infants' down and feather-filled jackets/coats/vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports in the designated T.S.U.S.A. numbers have amounted to 122,607 dozens during the January-August period of 1980.

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748.4062, produced or manufactured in Taiwan. It is anticipated that new categories will be established for these products, effective on January 1, 1981.

SUMMARY: Under the terms of the visa arrangement concerning cotton, wool and man-made fiber textile products exported from Taiwan, it has been agreed to include down and feather-filled jackets/coats/vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 within the export visa requirement previously established. In place of the category designation on the visa, the words "down filled jackets/coats/vests" will appear. The appropriate unit of measure shown on the visa will be dozens. Shipments which fail to show the correct category and quantity descriptions on the visas will not be denied entry until January 1, 1981.

EFFECTIVE DATE: November 7, 1980 for the designated products exported on and after that date. Such products exported before November 7, 1980 shall not be denied entry.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On October 3, 1972, there was published in the **Federal Register** (37 FR 20745) a letter from the Chairman of the Committee for the Implementation of Textile Agreements, which established an export visa requirement for cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported to the United States. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of down and feather-filled jackets/coats/vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in Taiwan and exported on and after November 7, 1980 which are not accompanied by an appropriate export visa.

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 24, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of September 27, 1972, as amended, from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan for which the authorities in Taiwan had not issued an export visa.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 7, 1980, and until further notice, entry into the United States for consumption, and withdrawal from warehouse for consumption, of feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062, produced or manufactured in Taiwan and exported on an after November 7, 1980, that are not accompanied by an export visa. Feather-filled jackets, coats and vests in T.S.U.S.A. numbers 748.4042, 748.4044, 748.4054 and 748.4062 that have been exported before November 7, 1980 shall not be denied entry for lack of a visa. In place of the textile category designation on the visa, the following description will be used: Down-filled jackets/coats/vests. The appropriate unit of measure on the visa will be dozens. Shipments in the foregoing T.S.U.S.A. numbers which have visas that do not include the correct category description and correct quantity in dozens shall not be denied entry until January 1, 1981.

The actions taken with respect to the autorities in Taiwan and with respect to imports of the designated feather-filled apparel products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-34137 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Correction of Additions

FR Doc. 80–33171 published on October 24, 1980 (45 FR 70538) is amended to correct the Effective Date to October 24, 1980 for the following:

Class 2090

Weight, Canvas Bag
2090–00–845–9150.

Class 5140

Bag, Tool
5140–00–473–6256.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-34087 Filed 10-31-80; 8:45 am]

BILLING CODE 6820-33-M

COMMUNITY SERVICES ADMINISTRATION

Decision to Fund Ten (10) Conduit Migrant and Seasonal Farmworker Emergency Energy Assistance Programs Operating in Every State Except Hawaii and Alaska

Note.—This document was originally published on Friday, October 31, 1980. It is republished to comply with CSA's Day of the Week Program.

AGENCY: Community Services Administration.

ACTION: Notice to all Boards of Directors of CAA(s) and SEOO(s).

SUMMARY: The Community Services Administration is notifying all Boards of Directors of Community Action Agencies (CAAs) and State Economic Opportunity Offices (SEOOs), in accordance with Section 222(a) of the Economic Opportunity Act of 1964, as amended, that a decision has been made to fund ten (10) conduit migrant and seasonal farmworker Emergency Energy Assistance Programs in every state except Hawaii and Alaska.

Grants are being awarded to the following organizations for operation in the following states: New England Farmworker Council (serving Maine, Connecticut, Rhode Island, New Hampshire, Vermont, Massachusetts); Rural New York Farmworker Opportunities, Inc. (serving: New York and New Jersey); Farmworker Corporation of New Jersey, Inc. (serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia); Mississippi Delta Housing Corporation (serving: Alabama, Georgia, Louisiana, Tennessee, Kentucky, North Carolina, South Carolina, Florida, Mississippi); Minnesota Migrant Council (serving: Illinois, Indiana, Michigan, Minnesota, Ohio, South Dakota, Wisconsin); Colonias del Valle (serving: New Mexico, Oklahoma, Texas, Arkansas); ORO Development Corporation (serving: Kansas, Nebraska, Missouri, Iowa); North Dakota Migrant Council (serving: North Dakota, Montana, Wyoming, Utah, Colorado); Campesinos Unidos (serving: California, Arizona, Nevada); and Idaho Migrant Council (serving: Idaho, Oregon, Washington). These organizations will directly engage in Emergency Energy Assistance and delegate activities in those areas where the conduit has no direct delivery system.

DATE: This notice becomes effective October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Eduardo Gutierrez or Mr. Tom Blackburn-Rodriguez, 1200 19th Street, NW., Washington, D.C. 20506, Telephone: (202) 254–5400, Teletypewriter (202) 254–6218.

Authority: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

William W. Allison,

Acting Director.

[FR Doc. 80-34037 Filed 10-30-80; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

[DOE/EIS-0071-D]

Medium Btu Industrial Fuel Gas Demonstration Plant Project, Memphis, Shelby County, Tennessee; Public Hearing; Draft Environmental Impact Statement

The Department of Energy (DOE) has filed a draft Environmental Impact Statememt (EIS), DOE/EIS–0071–D, Medium Btu Industrial Fuel Gas Demonstration Plant Project, with the Environmental Protection Agency on October 24, 1980. The 45-day public review and comment period will begin on October 31, 1980, and close on December 15, 1980. Notice is hereby given that a public hearing on the draft EIS will be held on December 3, 1980.

The draft EIS was prepared in compliance with the National Environmental Policy Act of 1969, to assess the environmental impacts of and alternatives to a proposed DOE action to cost share the design, construction and operation of a medium Btu industrial fuel gas demonstration plant with a 3155 tons-of-coal per day capacity at a site in Shelby County, Memphis, Tennessee. The facility is intended to demonstrate the technical operability, economic viability and environmental acceptability of the Institute of Gas Technology's "U" Gas process for converting coal into fuel gas.

The environmental impacts assessed include the effects of the project resulting from the production of industrial fuel gas from coal using the "U" gas process; potential impacts on terrestrial and aquatic ecology, including state and Federal threatened and endangered species; potential and expected impacts on land use; withdrawal and alteration of prime agricultural land; projected effects on floodplains and wetlands areas; effects on ambient air quality; and socioeconomic impacts in the project area. The effects of continued operation of the demonstration plant, mothballing, conversion to another use and decommissioning are also included. The development of a construction and operational monitoring plan for the duration of the demonstration phase to assess the effectiveness of mitigation measures is also discussed.

The range of alternatives assessed in the draft EIS includes programmatic alternatives, as well as proceeding with the proposed project, modifying the action and subsequently continuing the project, and terminating with no further action. An evaluation of alternate plant designs and alternate plant sites is included.

DOE will conduct the public hearing in connection with the draft EIS on Wednesday, December 3, 1980, from 2 p.m. to 5 p.m., and 7 p.m. to 10 p.m. in the Christian Brothers College Science Auditorium, 650 East Parkway South, Memphis, Tennessee. The purpose of the public hearing is to receive additional public comments and to assure maximum public participation in the EIS process. The substantive comments received at the public hearing, as well as those received within the public comment period, will be addressed and revisions will be incorporated, where appropriate, in the final EIS.

The public hearing will be conducted by a Presiding Board selected by DOE. The Presiding Board will not attempt to undertake a resolution of issues or render judgments concerning the Medium Btu Industrial Fuel Gas Demonstration Plant Project.

The public hearing will not be conducted as an evidentiary hearing and those who choose to make statements may not be questioned by anyone other than the members of the Presiding Board.

In order to facilitate arrangements for the public hearing, those wishing to participate are requested to contact: Dr. Robert Laza, Memphis Project Public Hearing, Chicago Operations and Regional Office, 9700 South Cass Avenue, Argonne, Illinois 60439, Phone: (312) 972–2306, by 5 p.m., C.S.T., November 21, 1980.

Written comments or suggestions may also be submitted to Dr. Laza at the address noted above. Written and oral comments will be given equal weight. Speakers are requested to provide a telephone number and mailing location so that they can be contacted prior to the meeting regarding scheduling information. Those who desire a copy of the draft EIS for review prior to the public hearing may obtain a copy by contacting Dr. Laza.

Persons, organizations or government agencies wishing to participate, but who have not submitted a request in advance, may register at the time of the hearing. DOE reserves the right to arrange the schedule of presentations and to establish procedures governing the conduct of the meeting. DOE desires to maximize the number of participants and to assure a broad spectrum of viewpoints. However, the actual allocation of time for speakers will depend upon the number of persons requesting to be heard. Total time allocated for statements will be limited to the two 3-hour periods noted at the beginning of this notice. DOE may allow more time for representatives of organizations than for individuals.

Those persons wishing to speak on behalf of an organization should identify their organizational affiliation in their request. Should any speaker desire to provide further information for the record subsequent to the meeting, it may be submitted in writing no later than 5 p.m., C.S.T., December 15, 1980.

Any further procedural rules needed for the proper conduct of the hearing will be announced at the start of the hearing.

A transcript of the public hearing will be made available for public inspection at:

Government Document Room, Memphis-Shelby County Public Library and Information Center, 1850 Peabody Avenue, Memphis, Tennessee,

and also in DOE's Public Document Rooms located at:

Public Reading Room, FOI–Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

Chicago Operations and Regional Office, Project Management Division, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations and Regional Office, 175 West Jackson Boulevard, Chicago, Illinois.

Copies of the draft EIS and documents used in preparing the EIS are available for inspection at the above locations. Upon completion of the final EIS, its availability will be announced in the **Federal Register.**

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Issued in Washington, D.C., on October 29, 1980.

George Fumich Jr.,

Assistant Secretary for Fossil Energy.

[FR Doc. 80-34244 Filed 10-30-80; 11:47 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlements Notice for August 1980

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: August 1980 Entitlements Notice.

SUMMARY: Under the Department of Energy's (DOE) Domestic Crude Oil Allocation (Entitlements) Program, this is the monthly Entitlements Notice which sets forth the entitlements purchase or sale requirements of domestic refiners and eligible firms for August 1980.

DATES: Payments for entitlements required to be purchased under this notice must be made by October 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by November 10, 1980.

FOR FURTHER INFORMATION CONTACT:

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128Q, Washington, D.C. 20461, (202) 653-3459.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A.127, Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the Domestic Crude Oil Allocation Program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for August 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlements adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); September 1980 deliveries of crude oil to the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for August is calculated to be .176659.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of August 1980 each barrel of old oil is equal to one barrel of deemed old oil each barrel of upper tier crude (excluding ANS upper tier) oil is equal to .702376 of a barrel of deemed old oil and each barrel of ANS upper tier crude oil is equal to .381239 of a barrel of deemed old oil.

The issuance of entitlements for the month of August 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm, including the Strategic Petroleum Reserve (SPR), to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of August 1980 is hereby fixed at $26.86, which is the exact differential as reported for the month of August between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of August 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of August 1980 equal to the difference between the number of barrels of of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of August 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for the month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR § 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

In accordance with 10 CFR 211.67(a)(7), adopted effective August 29, 1980 (45 FR 56788, August 25, 1980), the Strategic Petroleum Reserve (SPR) has been issued entitlements for crude oil purchased, delivered and accepted for delivery into the SPR in the month of September. An entry in the Appendix for the SPR has been included.

The listing contained in the Appendix identifies, in a separate column labeled "Exceptions and Corrections", additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing in the Appendix indicates that a correction has been made to Arizona Fuels' entitlements position. A negative adjustment of 1898 entitlements is based upon on OHA exception decision and order. A negative adjustment of 6601 entitlements reflects Arizona Fuels' outstanding and continuing purchase obligation. *See* Entitlements Notice for October 1977, 42 FR 64401 (Decemberr 23, 1977). Thus, Arizona Fuels' outstanding and continuing purchase obligation has been reduced by an amount equal to 6601 times the entitlement price for August 1980. Moreover, this notice constitutes a direction to Arizona Fuels to sell 6601 entitlements to Arizona Fuels at the entitlement price for August 1980, or $26.86. *See* 10 CFR 211.67(k).

For the month of August 1980 imports of residual fuel oil eligible for entitlement issuances totaled 21,822,521 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil, as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	927,530	23
California Upper Tier Crude Oil	2,405,712	28

The total number of entitlements required to be purchased and sold under this notice is 18,132,695.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for August 1980 the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of barrels per day	Weighed average cost	Percent of total volumes[1]
Lower tier	1183	$7.15	8.6
Upper tier (Excluding ANS)	1709	15.14	12.4
ANS upper tier	872	23.77	6.3
Exempt domestic:			
Other ANS	550	29.26	4.0
Heavy and market tier	1582	33.24	11.5
Naval Petroleum Reserve	82	33.77	0.6
Newly discovered	412	37.82	3.0
Stripper	1921	33.98	14.0
Tertiary	34	33.21	0.2
Total Domestic	8345	24.98	60.7
Imported	5412	34.44	39.3
Total uncontrolled (Exempt domestic and imported)	9993	34.01	72.6
Total reported crude oil receipts	13757	26.70	
Total reported crude oil runs to stills	13541		

[1] Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for August 1980 must be made by October 31, 1980.

On or prior to November 10, 1980, each firm which is required to purchase or sell entitlements for the month of August shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of August 1980.

The monthly transaction report forms (ERA-116) for the month of August 1980 have been mailed to all reporting firms. Firms that have been unable to locate other firms for the required entitlements transactions by October 31, 1980, are requested to contact the ERA at (202) 653-3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlements tranactions on or prior to October 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 3, 1980.

Issued in Washington, D.C., on October 29, 1980.

Hazel R. Rollings,

Administrator, Economic Regulatory Administration.

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
AUGUST 1980

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	78,479	0	31,360	0	0	78,479
ADM	0	9,573	0	0	0	0	9,573
AKRON-OHIO	0	1,317	0	0	0	0	1,317
ALEXANDRIA-VA	0	38	0	0	0	0	38
ALLIED	22,297	48,402	0	0	0	0	26,105
AMER-AGRI-FUELS	0	393	0	0	0	0	393
AMER-PETROFINA	520,033	775,806	0	0	0	0	255,773
AMERADA-HESS	3,119,565	2,390,497	0	98,463	0	729,072	0
AMERICAN-CAN-CO	0	1,796	0	0	0	0	1,796
AMES-IOWA	0	656	0	0	0	0	656
AMOCO	7,049,610	4,685,208	0	0	0	2,364,402	0
ANCHOR	0	43,739	0	0	0	0	43,739
APEX	0	25,087	0	25,087	0	0	25,087
ARCO	3,405,826	3,281,412	0	0	4,666	128,414	0
ARIZONA	14,083	14,083	-8,499 5/ 1/	0	333	0	(1/
ARIZONA-CHEM	0	3,454	0	0	0	0	3,454
ASAMERA	72,930	181,690	56,655 5/	0	0	0	108,760
ASHLAND	547,410	1,870,831	0	0	0	0	1,323,421
BAYOU	20,140	9,680	0	0	0	10,460	0
BEACON	4,516	101,291	0	0	116	0	96,775
BELCHER	0	121,776	0	121,776	0	0	121,776
BELOIT-WI	0	87	0	0	0	0	87
BERGEN-COUNTY	0	223	0	0	0	0	223
BI-PETRO	1,574	0	0	0	0	1,574	0
BOSTON-QUINCY	0	7,589	0	0	0	0	7,589
BRONCO	0	7,656	0	0	0	0	7,656
BRUIN	14,395	72,447	0	0	0	0	57,952
C&H	0	76	0	0	0	0	76
CALCASIEU	6,649	72,095	0	0	0	0	65,446
CALUMET	6,587	14,766	0	0	0	0	8,409
CANAL	4,435	39,473	0	0	0	0	35,038
CARBONIT	0	34,794	0	0	0	0	34,794
CARIBOU	63,123	40,685	4,074 5/	0	0	22,438	0
CASTLE	0	8,813	0	8,813	0	0	8,813

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
AUGUST 1980

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
CEA	0	311	0	0	0	0	311
CHAMPLIN	-45,482	434,299	0	0	14,962	0	479,781
CHARTER	0	388,521	0	0	0	0	388,521
CHEVRON	6,531,385	6,492,063	0	0	36,964	35,322	0
CIBRO	0	56,215	0	56,215	0	0	56,215
CITGO	2,160,380	944,161	-97,193 4/	0	0	1,216,219	0
CITY-OF-WICHITA	0	210	0	0	0	0	210
CLAIBORNE	28,170	27,260	0	0	0	910	0
CLARK	271,946	581,270	56 4/	0	0	0	309,324
COASTAL	-109,861	1,043,119	0	52,717	0	0	1,152,980
COASTAL-PETRO	0	38,835	0	0	0	0	38,835
COLDWATER	0	279	0	0	0	0	279
COLONIAL	0	19,736	0	19,736	0	0	19,736
COLUMBUS-OHIO	0	92	0	0	0	0	92
CON-LO	0	26,330	0	26,330	0	0	26,330
CONOCO	1,036,205	1,541,315	0	0	2,257	154,890	0
CONSUMERS-POWER	0	35,056	0	35,056	0	0	35,056
COPANO	0	32,166	0	0	0	0	32,166
CORAL	0	310,245	0	10,668	0	0	310,245
CORCO	0	506,378	-300,321 5/	440,895	0	0	506,378
CRA-FARMLAND	201,049	301,428	0	0	0	0	100,379
CROSS	36,316	48,522	0	0	0	0	12,206
CROWN	-19,329	385,417	0	0	0	0	404,746
CRYSTAL-OIL	58,423	90,028	0	0	0	0	31,605
CRYSTAL-REF	0	18,040	0	0	0	0	18,040
CUMBERLAND	0	2	0	0	0	0	2
DELTA	168,260	307,768	0	0	0	0	139,508
DEMENNO	0	50,638	0	0	0	0	50,638
DETROIT-ED	0	42,798	0	42,798	0	0	42,798
DFSC	0	12,246	0	12,246	0	0	12,246
DIAMOND	528,070	307,209	0	0	0	20,861	0
DILLMAN	0	285	0	0	0	0	285
DORCHESTER	7,194	137,562	0	0	0	0	130,368
DOW	62,225	245,174	0	0	0	0	182,949

UMI 008 30N 4121544V

NOTICE OF ENTITLEMENTS FOR COMESTIC CRUDE OIL
AUGUST 1980

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
DOWNERS-GROVE	0	141	0	0	0	0	141
E-SEABOARD	0	60,685	0	60,685	0	0	60,685
EAGLE-REFINING	1,935	5,939	0	0	0	0	4,010
EAST-BAY-MUD	0	142	0	0	0	0	142
EASTERN-MUD	0	1,986	0	0	0	0	1,986
ECO	0	56,742	0	0	0	0	56,742
EDDY	19,747	18,585	0	0	0	1,162	0
ELGIN-IL	0	5	0	0	0	0	5
ENERGY-COOP	0	125,971	0	0	0	0	125,971
ERGON	-1,279	0	0	0	0	0	1,279
ERICKSON	2,879	166,218	0	0	0	0	163,339
ESSEX-UNION	0	139	0	0	0	0	139
EVANGELINE	-11,797	14,753	0	0	0	0	26,550
EWING-LAWRENCE	0	411	0	0	0	0	411
EXXON	10,998,014	6,357,760	0	392,606	0	4,530,254	0
EZ-SERVE	1,743	15,811	0	0	0	0	14,068
FARMERS-UN	160,233	152,229	0	0	0	8,004	0
FLETCHER	0	231,373	0	0	0	0	231,373
FLINT	2,832	5,250	0	0	0	0	2,418
FRIENDSWOOD	8,540	62,256	0	0	0	0	53,716
FUNDING	23,330	27,645	0	0	0	0	4,315
GARY	75,295	61,373	0	0	0	17,922	0
GETTY	457,654	1,272,127	0	0	6,396	0	424,262
GETTY-SYN	0	921	0	0	0	0	921
GIANT	12,935	39,378	0	0	0	0	26,379
GIBSON	0	22,364	0	0	0	0	22,364
GLACIER-PARK	-2,403	0	0	0	0	0	2,403
GLADIEUX	33,377	10,975	0	0	0	22,402	0
GLENROCK	0	8,825	0	0	0	0	8,825
GOLDEN-EAGLE	0	28,185	0	0	0	0	28,185
GOLDKING	17,197	99,179	0	0	0	0	82,032
GOLD-HOP	2,833	374,544	0	0	0	0	371,741
GRAFTON-WI	0	34	0	0	0	0	34
GUAM	0	95,018	0	0	0	0	95,018

NOTICE OF ENTITLEMENTS FOR COMESTIC CRUDE OIL
AUGUST 1980

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
GULF	5,665,059	3,703,918	0	33,774	6,036	1,962,041	0
GULF-ENERGY	11,468	9,358	0	0	0	2,110	0
GULF-STS	31,125	117,987	0	0	0	0	86,862
HARRISBURG-PA	0	3,834	0	0	0	0	3,834
HEALTH-CARE	0	77	0	0	0	0	77
HEMPSTEAD-TOWN	0	1,248	0	0	0	0	1,248
HIRI	15,478	309,506	0	0	0	0	294,028
HOWELL	468,839	154,749	0	0	0	314,090	0
HUDSON-OIL	-27,674	89,902	0	0	0	0	117,576
HUNT	160,760	147,915	0	0	0	12,845	0
HUNTWAY	0	27,271	0	0	0	0	27,271
HUSKY	314,602	314,602	52,865 2/	0	0	0	0
INDEPENDENT-REF	0	66,262	0	0	0	0	66,262
INDIANA-FARM	12,885	88,828	0	0	0	0	75,939
INDUST-FUEL	5,931	16,443	0	0	0	0	6,537
INTER-PROCESS	-1,260	124,319	0	0	0	0	125,579
IRVING	0	15,537	0	15,537	0	0	15,537
KENCO	39,398	24,068	0	0	0	15,330	0
KENTUCKY	14,015	14,419	2,991 5/	0	0	186	0
KERN	-6,337	130,417	0	0	125	0	136,754
KERR-MCGEE	780,386	546,639	0	0	0	233,747	0
KOCH	298,267	696,658	0	10,668	0	0	397,991
LA-COUNTY	0	3,825	0	0	0	0	3,825
LA-CROSSE	0	19	0	0	0	0	19
LAGLORIA	239,563	269,543	0	0	0	0	25,980
LAKE-CHARLES	0	73,100	0	0	0	0	73,100
LAKESIDE	14,172	15,457	0	0	0	0	1,285
LAKETON	49,858	91,464	75,806 5/	0	0	0	41,596
LIQUID-ENERGY	0	35,457	0	0	0	0	35,457
LITTLE-AMER	638,173	373,306	-51,735 5/	0	0	264,847	0
LOS-ANGELES-CA	0	2,970	0	0	0	0	2,970
LOUISIANA-LAND	487,350	240,622	0	0	0	247,308	0
MACMILLAN	6,021	100,275	0	0	77	0	93,654
MADISON-CHATHAM	0	11	0	0	0	0	11

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL — PAGE: 15
AUGUST 1980

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
MADISON-CITY-MI	0	892	0	0	0	0	892
MADISON-WI	0	137	0	0	0	0	137
MALLARD	5,759	23,045	0	0	0	0	17,286
MARATHON	4,033,540	2,153,786	0	0	0	1,879,754	0
MARION	730	105,115	0	0	0	0	104,385
MARLEX	348	65,997	0	0	22	0	65,649
METRO-DENVER	0	1,293	0	0	0	0	1,293
METRO-SEATTLE	0	265	0	0	0	0	265
METROPOLITAN	0	25,170	0	25,170	0	0	25,170
MID-AMER	3,505	37,316	18,405 5/	0	0	0	22,711
MIDWEST-SALV	0	650	0	0	0	0	650
MILWAUKEE-WI	0	554	0	0	0	0	554
MOBIL	4,415,500	4,073,681	0	35,930	8,466	341,819	0
MOBILE-BAY	1,778	69,862	0	0	0	0	68,084
MONOCO	0	3,738	0	3,738	0	0	3,738
MONROE-MI	0	21	0	0	0	0	21
MONSANTO	295,501	61,571	0	0	0	233,930	0
MORRISON	47,302	18,120	0	0	0	29,182	0
MOUNTAINEER	3,949	3,096	0	0	0	853	0
MSDJC	0	1,219	0	0	0	0	1,219
MT-AIRY	-5,723	91,595	0	0	0	0	97,318
MURPHY	496,793	475,967	0	0	0	16,826	0
N-AMER-PETRO	113,743	75,792	0	0	0	37,951	0
N-LITTLE-ROCK	0	687	0	0	0	0	687
N-SAN-MATEO	0	22	0	0	0	0	22
NASHVILLE-TENN	0	3,093	0	0	0	0	3,093
NASSAU-COUNTY	0	213	0	0	0	0	213
NATL-COOP	43,756	236,140	0	0	0	0	192,384
NAVAJO	255,390	164,724	1,911 5/	0	0	90,818	0
NEPTUNE	0	10	0	0	0	0	10
NEVADA	0	12,607	0	0	0	0	12,607
NEW-HOUSTON	22,685	140,325	0	0	2,079	0	117,640
NEW-ENGL-PETRO	0	201,383	0	201,383	0	0	201,383
NEW-ENGL-POWER	0	31,182	0	31,182	0	0	31,182

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL — PAGE: 16
AUGUST 1980

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND CORRECT.	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
NEW-YORK-EP	0	2,881	0	0	0	0	2,881
NEWHALL	304	105,640	0	0	25	0	105,336
NORTHEAST-PETRO	0	13,468	0	13,468	0	0	13,468
NORTHVILLE	0	4,977	0	4,977	0	0	4,977
OCEAN-TOWNSHIP	0	4	0	0	0	0	4
OCEAN-UTILITIES	0	78	0	0	0	0	78
OCONOMOWOC-WI	0	156	0	0	0	0	156
OKC	5,284	135,510	0	0	0	0	129,926
OKLA-REF	4,351	85,447	0	0	0	0	81,096
ORANGE-COUNTY	0	1,166	0	0	0	0	1,166
OSCEOLA-AR	0	188	0	0	0	0	188
OXNARD	0	17,736	0	0	0	0	17,736
PEERLESS	0	27,984	0	0	0	0	27,984
PENNZOIL	151,526	276,457	0	0	0	0	124,931
PESTER	128,454	139,483	0	0	0	0	11,029
PETRACO-VALLEY	0	15,256	0	0	0	0	15,256
PHILADELPHIA-PA	0	243	0	0	0	0	243
PHILLIPS	1,259,953	1,309,849	0	0	0	0	49,896
PHILLIPS-PR	0	168,166	0	168,166	0	0	168,166
PIONEER	15,377	30,500	0	0	0	0	15,123
PLACID	277,676	248,274	0	0	0	29,402	0
PLATEAU	108,773	157,652	43,248 5/	0	0	0	48,879
PORT	0	37,545	0	0	0	0	37,545
POWERINE	54,948	169,733	0	0	1,800	0	114,785
PRIDE	0	171,486	0	0	0	0	171,486
QUAKER-ST	11,360	148,299	0	0	0	0	136,939
QUITMAN	0	36,413	0	0	0	0	36,413
RACINE-WASTE-WI	0	53	0	0	0	0	53
RAHWAY	0	103	0	0	0	0	103
RESCO	0	8,122	0	0	0	0	8,122
RICHARDS	0	241	0	0	0	0	241
ROAD-OIL	0	26,848	0	0	0	0	26,848
ROCK-ISLAND	14,137	215,258	0	0	0	0	181,121
SAHER-TEX	8,813	33,385	0	0	0	0	24,572

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
AUGUST 1980

PAGE: 17

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
SABRE-CAL	0	16,715	-2,052 5/	0	0	0	16,715
SAGE-CREEK	2,350	1,613	1,427 5/	0	0	1,047	0
SALEM-VA	0	402	0	0	0	0	402
SAN-JOAQUIN	0	119,023	0	0	0	0	119,023
SAN-JOSE-CA	0	13,478	0	0	0	0	13,478
SANTA-CRUZ-CA	0	777	0	0	0	0	777
SCALLOP	0	178,020	0	178,020	0	0	178,020
SCANOIL	0	45,639	0	45,639	0	0	45,639
SCHULZE	0	4,654	0	0	0	0	4,654
SEAVIEW	0	139,574	0	0	0	0	139,574
SEMINOLE	17,043	71,228	0	0	0	0	54,185
SENTRY	0	65,645	0	0	0	0	65,645
SHELL	1,196,065	4,543,740	0	0	3,297	2,622,715	0
SHEPHERD	1,334	23,746	0	0	0	0	22,412
SIGMOR	1,858	168,786	0	0	0	0	166,928
SILVER-EAGLE	1,848	5,292	0	0	0	0	3,444
SIOUX-FALLS	0	47	0	0	0	0	47
SLAPCO	-2,457	59,610	0	0	0	0	62,067
SMRSA	0	25	0	0	0	0	25
SO-HAMPTON	106	94,262	0	0	0	0	94,156
SOHIO	2,257,143	2,080,150	0	0	0	176,993	0
SOMERSET	16,745	24,945	0	0	0	0	8,196
SOONER	0	24,253	0	0	0	0	24,253
SOUND	14,087	32,744	0	0	0	0	18,657
SOUTHERN-UNION	130,764	157,297	0	0	0	0	26,533
SOUTHLAND	100,405	170,018	45,248 5/	0	0	0	69,613
SOUTHEAST-PETRO	0	18,749	0	0	0	0	18,749
SOUTHWESTERN	14,634	3,954	12	0	0	10,680	0
SPR	0	1,612,342	1,612,342 6/	0	0	0	1,612,342
SPRAGUE	0	41,567	0	41,567	0	0	41,567
ST&SAN-CHICAGO	0	8,201	0	0	0	0	8,201
ST-CLOUD-MINN	0	26	0	0	0	0	26
STEVENS-PT-WI	0	65	0	0	0	0	65
STINNES-INTER	0	32,492	0	32,492	0	0	32,492

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
AUGUST 1980

PAGE: 18

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECT.	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
STOCKTON-CA	0	264	0	0	0	0	264
SUNLAND	-20,790	70,843	0	0	-293	0	51,632
SUNOCO	2,354,420	2,222,939	0	35,815	0	131,681	0
SWANN	0	67,380	0	67,380	0	0	67,380
T&S	595	8,007	0	0	0	0	7,458
TAMCO	17,258	5,623	0	0	0	12,235 3/	0
TENNECO	235,538	487,050	0	0	2,094	0	251,512
TESORO	447,775	335,904	0	0	0	112,071	0
TEXACO	4,385,681	4,345,705	0	124,372	6,789	42,516	0
TEXAS-AMERICAN	14,035	38,966	0	0	0	0	24,061
TEXAS-CITY	448,274	431,281	0	0	0	16,993	0
TEXAS-STANDARD	0	5,732	0	0	0	0	5,732
THAGARD	-84,072	46,950	0	0	-2,731	0	131,022
THORN-CREEK	0	21	0	0	0	0	21
THRIFTWAY	19,443	25,500	6,815 5/	0	0	0	5,657
THUNDERBIRD	34,436	47,994	0	0	0	0	13,558
TIPPERARY	1,251	38,041	0	0	0	0	36,790
TONKAWA	-4,530	73,514	0	0	0	0	78,104
TOSCO	391,745	910,425	0	0	18,456	0	18,676
TOTAL-PETROLEUM	-24,935	451,044	0	0	0	0	475,999
UCC-CARIBE	0	111,559	3,225 4/	108,334	0	0	111,559
UNI-REF	0	127,848	0	0	0	0	127,848
UNION-OIL	2,026,412	2,023,831	0	0	1,655	2,581	0
UNTD-REF	45,938	221,166	0	0	0	0	135,068
US-OIL	0	88,029	0	0	0	0	88,029
USA-PETROCHEM	4,937	122,338	0	0	12	0	117,341
VAL-VERDE	0	1,740	0	0	0	0	1,740
VICKERS	77,533	322,877	0	0	0	0	245,544
VICKSBURG	-1,470	17,830	0	0	0	0	19,300
WARRIOR	17,526	30,974	10,488 5/	0	0	0	13,448
WATSON	0	572	0	0	0	0	572
WEST-COAST	0	136,877	0	0	0	0	136,877
WEST-MINMOUTH	0	26	0	0	0	0	26
WESTCHESTER-NY	0	2,922	0	0	0	0	2,922

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AUGUST 1980

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND CORRECTIONS	ENTITLEMENTS PRODUCT CALIFORNIA	REQUIRED TO BUY	********** REGLIRED TO SELL
WESTERN	0	52,881	0	0	12,048	52,881
WINSTON	75,079	639,633	0	0	12,048	0
WIREBACK	0	333	0	0	0	333
WITCO	1,959	113,607	0	0	0	111,648
WOOSTER	0	23	0	0	0	23
WYATT	0	15,838	0	0	0	15,838
WYOMING	26,942	58,967	0	0	0	32,025
YOUNG	43,895	37,373	0	0	6,522	0
TOTAL	80,125,940	1,448,801	2,644,965	115,598	18,132,655	16,132,695

1/ See discussion in Notice.

2/ This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), remanded 582 F.2D 644 (TECA, August 10, 1978).

3/ This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA, Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

4/ Correction of prior month.

5/ Exception from Office of Hearings and Appeals.

6/ Value accrued from SPR deliveries. See discussion in Notice.

[FR Doc. 80-34180 Filed 10-31-80; 8:45 am]
BILLING CODE 6450-01-C

V45/214 NOV 03 1980 UMI

[Docket Number ERA-TA-80-07]

Champlin Petroleum Co.; Issuance of Final Decision and Order

On August 28, 1980, the Economic Regulatory Administration issued a Proposed Decision and Order to Champlin Petroleum Company (Champlin) that would, pursuant 10 CFR 212.78(e)(1) and (e)(3) permit tertiary incremental production from the Champlin Fault Block III Unit, Wilmington Field, California to be sold at market prices and allow Champlin to recover certain tertiary incentive expenses, in addition to those allowed in the Appendix section 212.78, for immiscible fluid flooding projects. The Proposed Decision and Order was published in the **Federal Register** on September 5, 1980, (45 FR 58951). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision Order is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, Room 1E-190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, (except Federal holidays).

Issued in Washington, D.C., on October 28, 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-34181 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, D.C. 20461, phone 202/653-3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 27th day of October 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Station	Address	Date	Violation amount	Cents per gallon in violation
Proposed Remedial Orders—Washington, D.C., Metro Area				
Hillcrest Shell	2721 Naylor Road SE, Washington, D.C. 20020.	10-23-80	$1,252.09	0.4
Braxton's Sunoco	424 Rhode Island Avenue, NE, Washington, D.C. 20002.	10-24-80	20,082.69	2.6
Proposed Remedial Order—Western District				
Osko's Service Center	731 Santa Monica Blvd., Santa Monica, CA 90401.	7-29-80	$1,551.63	4.4
Jim Daniel's Texaco Service	5153 Old Redwood Highway, Petaluma, CA 94952.	8-15-80	3,064.15	6.9
Shaw & 99 Chevron	5270 West Shaw, Fresno, CA 93711	8-25-80	6,722.27	6.0

[FR Doc. 80-34182 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure, Subcommittee on Review of Hearing Procedures; Change in Date of Meeting

October 28, 1980.

In FR Doc. 80-32826 appearing at page 70077 in the issue for Wednesday, October 22, 1980, the November 6 meeting of the Subcommittee on Review of Hearing Procedure has been changed to November 18, 1980. All other information is correct as appears.

Kenneth F. Plumb,

Secretary.

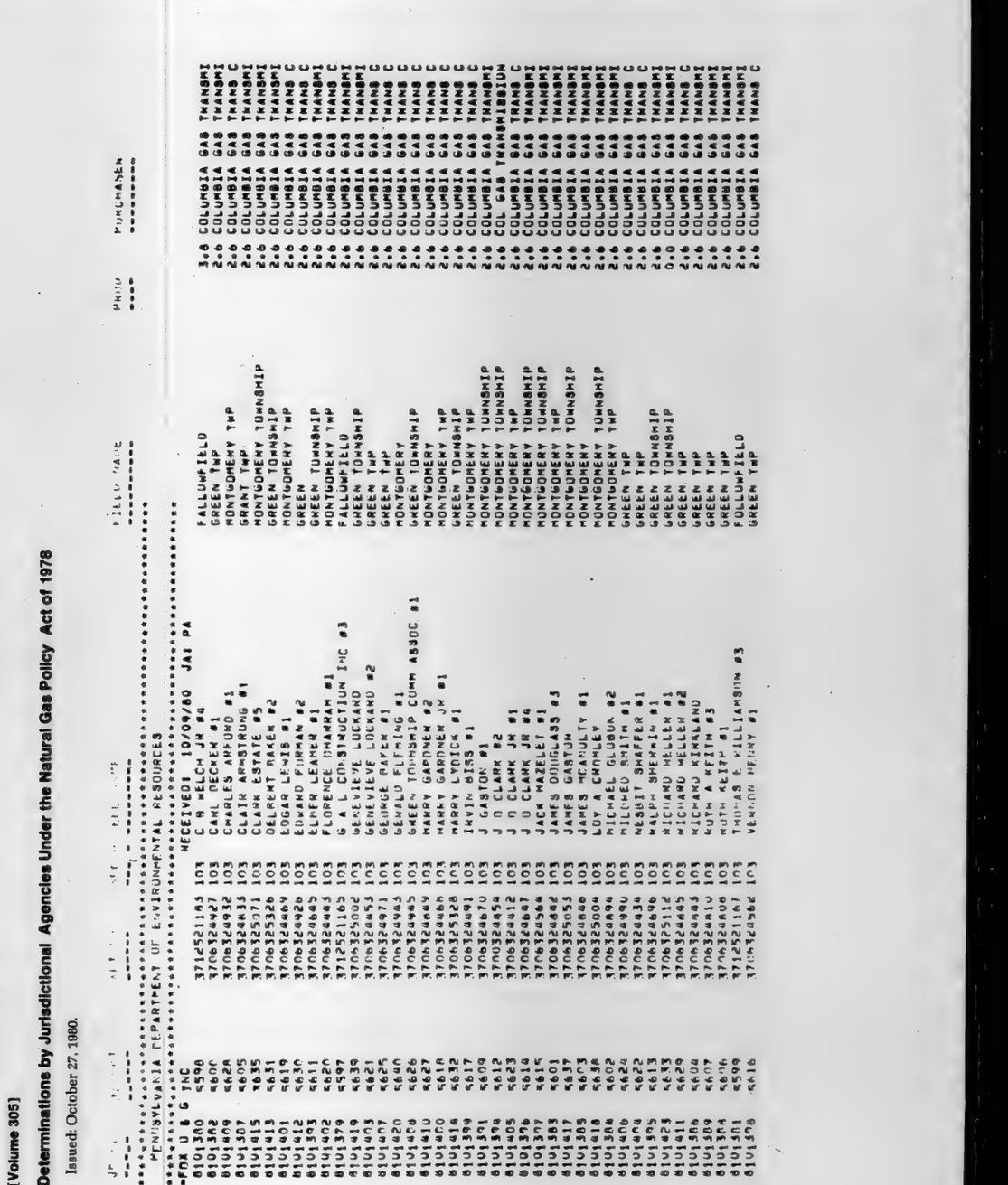
[FR Doc. 80-34223 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 305]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 27, 1980.



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JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8101422	5634	3706325098	103	WILLIAM BUTERBAUGH #1	MONTGOMERY TOWNSHIP	2,6	COLUMBIA GAS TRANSMI
8101390	560H	3706324650	103	WILLIAM DEGENKOLB #1	MONTGOMERY TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8101392	5610	3706324672	101	WILLIAM LEWIS #1	MONTGOMERY TOWNSHIP	2,6	COLUMBIA GAS TRANSMI
8101410	5636	3706325062	103	WILLIAM LEWIS #2	BANNESBURG TOWNSHIP	2,6	COLUMBIA GAS TRANSMI
*KARL O KUCH				RECEIVED: 10/09/80 JA: PA			
8101421	5642	3703920861	102	LAIRD #1	LIMESVILLE	10,0	NATIONAL FUEL GAS
*NATIONAL FUEL GAS SUPPLY CORP				RECEIVED: 10/09/80 JA: PA			
8101387	3284	3704720352	108	ALLEGHENY NATIONAL FOREST 1718 (P)	APPALACHIAN SHALLOW DEVO	2,6	
*NINOCO OIL & GAS COMPANY				RECEIVED: 10/09/80 JA: PA			
8101378	5596	3703920672	102	DAVID PRUCHENSKI NO 1 (W-51)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101373	5591	3703920663	102	FLOYD M & RUBY I CHILDS #1 (W-41)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101369	5587	3703920574	102	GEO W & LUIS L BANCROFT NO 1 (W-8)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101377	5595	3703920667	102	MARLEY & RUTH HALL NO 1 (W-45)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101375	5593	3703920662	102	JOSEPH W ARNOLD NO 1 (W-42)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101372	5590	3703920596	102	MICHAEL & GLORIA J KELLY #1 (W-37)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101376	5594	3703920665	102	O RAYMOND CRAGRAFT #1 (W-44)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101370	5588	3703920572	102	RAY M & EVA BUCHANAN NO 1 (W-10)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101371	5589	3703920651	102	RICHARD A HEATH NO 1 (W-35)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101368	5586	3703920567	102	SCOTT J PRESTON NO 1 (W-7)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8101374	5592	3703920664	102	WILLIAM E STEIN NO 1 (W-43)	ATHENS	40,0	COLUMBIA GAS TRANSMI

TEXAS RAILROAD COMMISSION

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*ADOBE OIL & GAS CORPORATION				RECEIVED: 10/09/80 JA: TX			
8101479	20364	4247531897	103	BARSTOW NO 16	SCOTT (CHERRY CANYON)	1080,0	TRANSWESTERN PIPELIN
*ALLEN & SHUMATE INC				RECEIVED: 10/09/80 JA: TX			
8101572	22506	4228931092	103	A J BAKER HEIRS NO 5	TERESA (3110) FIELD	110,0	COASTAL STATES GAS P
*AMOCO PRODUCTION CO				RECEIVED: 10/09/80 JA: TX			
8101545	22297	4220130869	103	DRILLING DISTRICT 24 #5	HOUSTON SOUTH (OLIGOCENE	5,5	AMOCO GAS CO
8101538	22071	4213532720	103	WEST GRAYBURG UNIT #33	CUMDEN SOUTH	23,9	PIONEER NATURAL GAS
*ANDERSON PETROLEUM INC				RECEIVED: 10/09/80 JA: TX			
8101562	22384	4210532408	103	AUSTIN MILLSPAUGH A #2-32	OZONA (CANYON SAND)	35,0	ANDERSON PIPELINE CO
*ARCO OIL AND GAS COMPANY				RECEIVED: 10/09/80 JA: TX			
8101527	21666	4229530706	102	CHARLINE PAINE #1			
8101574	22523	4213505443	108	TXL P #3	KIOWA CREEK N (MORROW UP	1095,0	TRANSWESTERN PIPELIN
8101565	22458	4206530736	103	WARE A #1-38	GULDSMITH (5600)	7,0	PHILLIPS PETROLEUM C
*ARKLA EXPLORATION COMPANY				RECEIVED: 10/09/80 JA: TX	PANHANDLE CARSON COUNTY	4,0	GETTY OIL CO
8101469	19010	4236530891	103	M JERNIGAN #2	CANTHAGE (COTTON VALLEY)	365,0	ARKANSAS LOUISIANA G
*BASS ENTERPRISES PRODUCTION CO				RECEIVED: 10/09/80 JA: TX			
8101548	22301	4249531155	103	BEN JENKINS ET AL A NO 16	KEYSTONE (COLBY)	5,5	TRANSWESTERN PIPELIN
8101547	22300	4249531156	103	BEN JENKINS ET AL A NO 17	KEYSTONE (COLBY)	5,5	TRANSWESTERN PIPELIN
8101546	22299	4249531151	103	M E BAIRD NO 14	KEYSTONE (COLBY)	5,5	TRANSWESTERN PIPELIN
*BELCO PETROLEUM CORPORATION				RECEIVED: 10/09/80 JA: TX			
8101534	21979	4225531400	102	SUGG 07708 114 1	SUGG (ELLENBURGER)	44,0	EL PASO NATURAL GAS
*BETTIS BOYLE & STOVALL				RECEIVED: 10/09/80 JA: TX			
8101509	18659	4248300000	108	C L NICKELL NO 1	PANHANDLE EAST	5,1	WARREN PETROLEUM CO
8101505	18634	4248300000	108	HOLMES #1	PANHANDLE EAST	2,0	PHILLIPS PETROLEUM C
8101504	18601	4248300000	108	IVY CLUSE 13	PANHANDLE EAST	0,1	WARREN PETROLEUM
8101487	18683	4248300000	108	J M STAUFFER	PANHANDLE EAST	8,9	WARREN PETROLEUM
8101507	18657	4248300000	108	NELSON #3	PANHANDLE EAST	10,6	PHILLIPS PETROLEUM C
8101508	18658	4248300000	108	NELSON #5	PANHANDLE EAST	1,0	PHILLIPS PETROLEUM C
8101510	18661	4248300000	108	PARSONS NO 1	PANHANDLE EAST	15,0	WARREN PETROLEUM CO

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JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8101511	18664	4248300000	108	PITSCH #1	PANHANDLE EAST	6,0	WARREN PETROLEUM
8101512	18665	4208700000	108	POWELL #1A	PANHANDLE EAST	6,1	WARREN PETROLEUM
8101513	18666	4208700000	108	POWELL B-1	PANHANDLE EAST	6,4	WARREN PETROLEUM
8101514	18667	4248300000	108	POWELL B-2	PANHANDLE EAST	1,0	WARREN PETROLEUM
8101515	18675	4248300000	108	RIPPY NO 1	PANHANDLE EAST	9,4	WARREN PETROLEUM
8101517	18678	4248300000	108	SMITH #1	PANHANDLE EAST	3,0	PHILLIPS PETROLEUM C
8101518	18679	4248300000	108	SMUCK #1	PANHANDLE EAST	5,2	PHILLIPS PETROLEUM C
8101486	18681	4208700000	108	STAFFORD #3	PANHANDLE EAST	7,5	WARREN PETROLEUM
8101488	18687	4248300000	108	UNION GEORGE #1	PANHANDLE EAST	7,1	WARREN PETROLEUM
8101489	18688	4248300000	108	UNION MUSHER #1	PANHANDLE EAST	14,2	WARREN PETROLEUM
8101516	18676	4248300000	108	VENNA MITCHEY #1	PANHANDLE EAST	7,1	WARREN PETROLEUM
8101506	18640	4217900000	108	W P LATHAM #1	PANHANDLE WEST	11,8	CITIES SERVICE CO
8101491	18691	4248300000	108	WALLACE #1 (#26899)	PANHANDLE EAST	4,0	WARREN PETROLEUM
8101490	18690	4248300000	108	WALLACE #1 (#26977)	PANHANDLE EAST	9,8	WARREN PETROLEUM
*CENTEX OIL & GAS INC				RECEIVED: 10/09/80 JA: TX			
8101443	18847	4224500000	105	HIGH ISLAND BLOCK 10-L NO 1	HIGH ISLAND BLOCK 10-L G	365,0	TRANSCONTINENTAL GAS
*CHALMERS OPERATING CO INC				RECEIVED: 10/09/80 JA: TX			
8101475	20220	4242932265	103	LULA BEN MASON #1 RRC # 85803	MASON (STRAWN LOWER)	120,0	SOUTHWESTERN GAS PIP
*CHAMPLIN PETROLEUM COMPANY				RECEIVED: 10/09/80 JA: TX			
8101503	18516	4236500000	103	CANTHAGE GAS UNIT NO 27-2	CANTHAGE (COTTON VALLEY)	730,0	TENNESSEE GAS PIPELI
*CHAPARROSA OIL CO				RECEIVED: 10/09/80 JA: TX			
8101440	11273	4250731071	102	B K JOHNSON #13	PHESA (OLMOS)	170,3	LOVACA GATHERING CO
8101440	11273	4250731071	103	B K JOHNSON #13	PHESA (OLMOS)	170,3	LOVACA GATHERING CO
*CHEVRON U S A INC				RECEIVED: 10/09/80 JA: TX			
8101485	21539	4249531081	103	M E LOVETT 9CL	KEYSTONE	185,0	TRANSWESTERN PIPELIN
*CLAYTON W WILLIAMS JR				RECEIVED: 10/09/80 JA: TX			
8101439	10853	4236500000	103	NED DEAN NO 1 RRC #76016	CANTHAGE S E (COTTON VAL	550,0	
*COLA PETROLEUM INC				RECEIVED: 10/09/80 JA: TX			
*8101476	20228	4222731869	103	NEID #1	COAHOMA N (FUSSEL)	144,0	GETTY OIL CO
*COLUMBIA GAS DEVELOPMENT CORP				RECEIVED: 10/09/80 JA: TX			
8101530	21891	4205130538	102	RAYMOND ZGABAY NO 2	GIDDINGS (AUSTIN CHALK)	120,0	FERGUSON CRUSSING PI
8101531	21896	4205130596	102	SCOTT TYSON NO 2	GIDDINGS (AUSTIN CHALK)	70,0	FERGUSON CRUSSING PI
*CONOCO INC				RECEIVED: 10/09/80 JA: TX			
8101457	17730	4222731005	108	M M CLAY A #53 ID #18992	MURAND GLASSCOCK	0,1	PHILLIPS PET CO
*DALLAS PRODUCTION INC				RECEIVED: 10/09/80 JA: TX			
8101561	22369	4242530100	103	DAVIS A NO 1	MCINTOSH (STRAWN)	410,0	WARREN PETROLEUM CO
*DIAMOND SHAMROCK CORPORATION				RECEIVED: 10/09/80 JA: TX			
8101436	05015	4235700000	108	CARL ELLIS ET AL A NO 1 (U&L)	ELLIS RANCH (CLEV & MORR	8,0	NATURAL GAS PIPELINE
8101529	21860	4242130212	103	CARLANDER NO 2	TEXAS HUGUTON	100,0	NORTHERN NATURAL GAS
*DISCOVERY OPERATING INC				RECEIVED: 10/09/80 JA: TX			
*8101567	22465	4241330791	103	DELONG A #2	KA-ZE-SA (CANYON)	45,0	CMA INC
*DONALD C SLAWSON				RECEIVED: 10/09/80 JA: TX			
8101521	18079	4221131152	103	#1-108 YUKLEY	CANADIAN WEST (MORROW UP	400,0	NORTHERN NATURAL GAS
*ENBERCH EXPLORATION INC				RECEIVED: 10/09/80 JA: TX			
8101522	18186	4242900000	108	A M MUELLER B NO 1	CHANEY	15,0	PETROLEUM CORP OF TE
*EXXON CORPORATION				RECEIVED: 10/09/80 JA: TX			
8101501	18377	4239330671	103	FLOWERS TRUST A #2L	MENDOTA NW (GRANITE WASH	187,0	TRANSWESTERN PIPELIN
*8101556	22348	4200332106	103	FULLERTON CLFK UNIT #1835	FULLERTON	14,0	PHILLIPS PETROLEUM C
8101466	18954	4210332113	103	J B A/C 1 #2000	SAND HILLS (JUDKINS)	20,0	EL PASO NATURAL GAS
8101477	20281	4210332140	103	J B TUBB A/C 1 #2080	SAND HILLS (MCKNIGHT)	77,0	EL PASO NATURAL GAS
8101555	22344	4210332210	103	J B TUBB A/C 2 #2130	SAND HILLS (MCKNIGHT)	101,0	EL PASO NATURAL GAS
8101554	22343	4210332182	103	J B TUBB B #220	SAND HILLS (MCKNIGHT)	45,0	EL PASO NATURAL GAS

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JD NO	JA DKT	API NO	SEC	WELL NAME
8101557	22347	4216531693	103	ROBERTSON CLFK UNIT #1072
8101556	22346	4216531726	103	ROBERTSON CLFK UNIT #1152
				RECEIVED: 10/09/80 JA: TX
*FAIR OIL LTD				
8101458	17777	4206930898	103	G T LEE UNIT #1
				RECEIVED: 10/09/80 JA: TX
*FISHER-*WEBB INC				
8101525	18343	4208130694	103	GARTMAN NO 3
				RECEIVED: 10/09/80 JA: TX
*GALAXY OIL COMPANY				
8101426	15926	4223300000	108	RILEY I #3-01609
				RECEIVED: 10/09/80 JA: TX
*GARY D TURNER DBA TURNER PROPERTIES				
8101480	20647	4245130830	103	COPELAND NO 1
8101519	17954	4208130817	103	TUBB NO 1 (FORM NONWOOD #1)
				RECEIVED: 10/09/80 JA: TX
*GETTY OIL COMPANY				
8101494	18727	4236500000	103	WERNER E NO 2
				RECEIVED: 10/09/80 JA: TX
*GRACE PETROLEUM CORPORATION				
8101425	14993	4224931041	103	STELZIG-ZERNEMAN 12
				RECEIVED: 10/09/80 JA: TX
*GULF OIL CORPORATION				
8101448	17165	4213500000	108	C A GOLDSMITH ET AL NO 586
8101449	17166	4213500000	108	C A GOLDSMITH ET AL NO 608
8101450	17167	4213500000	108	C A GOLDSMITH ET AL NO 737
8101451	17168	4213500000	108	C A GOLDSMITH ET AL NO 949
8101504	22456	4223700000	108	C B CRUMLEY NO 1
8101495	18733	4203330473	108	CANON RANCH UNIT NO 1009
8101496	18734	4203330478	108	CANON RANCH UNIT NO 1120
8101497	18735	4203330472	108	CANON RANCH UNIT NO 1121
8101498	18736	4203330457	108	CANON RANCH UNIT NO 1403
8101499	18737	4203330478	108	CANON RANCH UNIT NO 1806
8101539	22205	4247532010	103	HUTCHINGS STOCK ASSN NO 1067
8101541	22207	4247532008	103	HUTCHINGS STOCK ASSN NO 1069
8101563	22432	4249531113	103	KEYSTONE CATTLE CO NO 349
*8101578	22536	4249531089	103	KEYSTONE MULT UNIT NO 9334
8101528	21858	4215730426	103	R A WOLTERS ET AL B #24 (#04153)
8101570	22493	4235505997	108	TEXAS STATE #32973 #3 (ID#72745)
				RECEIVED: 10/09/80 JA: TX
*M L BROWN JR				
8101559	22554	4231732133	103	SLAUGHTER-MANCUCK NO 4
				RECEIVED: 10/09/80 JA: TX
*MIGH CHAPPARAL OIL CO				
8101481	20791	4247330317	102	COWAN-ZULLMAN-MIGH CHAPPARAL #1
				RECEIVED: 10/09/80 JA: TX
*MILLIAND OIL & GAS INC				
8101526	21611	4206750307	102	RAWLES ET AL NO 1
				RECEIVED: 10/09/80 JA: TX
*MNG OIL COMPANY				
8101462	17815	4243130195	108	MCENTIRE 15 #1 64095
8101461	17814	4243130151	108	MCENTIRE 16 #1 61192
8101460	17813	4243130186	108	MCENTIRE 22 #1 64092
				RECEIVED: 10/09/80 JA: TX
*INTERNATIONAL OIL & GAS CORP				
8101459	17789	4210532229	103	INGHAM 44-1
				RECEIVED: 10/09/80 JA: TX
*J A LEONARD				
8101454	17569	4205130409	103	COOKSEY A 5
				RECEIVED: 10/09/80 JA: TX
*J CLEO THOMPSON				
8101435	02218	4213500000	103	WEST SOUTH CUMDEN UNIT 3-6
				RECEIVED: 10/09/80 JA: TX
*JAKE L HAMON				
8101549	22302	4221131150	103	UNSCHEL #1-50
				RECEIVED: 10/09/80 JA: TX
*KOMANCHE OIL & GAS				
8101457	06488	4217900000	108	SOUTH JACKSON #3 00549

FIELD NAME	PROD	PURCHASER
ROBERTSON CLFK UNIT #107	16,0	PHILLIPS PETROLEUM C
ROBERTSON N (CLFK 7100)	25,0	PHILLIPS PETROLEUM C
QUITMAN NE (RUDESSA)	54,0	ARKANSAS LOUISIANA G
ANLEDGE (PENN SAND)	150,0	SUN GAS CO
PANHANDLE FIELD	10,0	J M HUBER CORP
JAMESON (STRAWN)	0,0	SUN GAS CO
JAMESON (STRAWN)	173,0	SUN GAS CO
CARTHAGE (COTTON VALLEY)	250,0	DELMI GAS PIPELINE C
AMANGUBA 2300	73,0	NATUMAL GAS PIPELINE
GOLDSMITH (5600)	1,2	PHILLIPS PETROLEUM C
GOLDSMITH (5600)	3,5	PHILLIPS PETROLEUM C
GOLDSMITH (5600)	1,6	PHILLIPS PETROLEUM C
GOLDSMITH (5600)	1,4	PHILLIPS PETROLEUM C
BOONSVILLE BEND (CONGL G	10,0	NATUMAL GAS PIPELINE
JO-MILL (SPRABERRY)	6,2	GETTY OIL CO
JO-MILL (SPRABERRY)	10,0	GETTY OIL CO
JO-MILL (SPRABERRY)	1,0	GETTY OIL CO
JO-MILL (SPRABERRY)	2,3	GETTY OIL CO
JO-MILL (SPRABERRY)	5,5	GETTY OIL CO
WAGON WHEEL (PENN)	109,0	CABOT CORP
WAGON WHEEL (PENN)	217,0	CABOT CORP
KEYSTONE (COLBY)	263,0	CABOT CORP
KEYSTONE (MULT)	95,0	CABOT CORP
THUMPSON	15,0	UNITED TEXAS TRANSMI
CORPUS CHRISTI BAY N (FB	15,0	FLORIDA GAS TRANSMIS
SULPHUR DRAW (DEAN 8790)	29,2	GETTY OIL CO
COMOLLA (WILCOX 10300)	365,0	LONE STAR GAS CO
KILDARE (COTTON VALLEY U	50,0	TEXAS EASTERN TRANSM
CWEDU E (CISCO UPPER)	20,0	INTRATEX GAS CO
CWEDU E (CISCO UPPER)	11,0	INTRATEX GAS CO
CWEDU E (CISCO UPPER)	17,0	INTRATEX GAS CO
INGHAM (DEVONIAN)	704,0	EL PASO NATURAL GAS
INEZ JAMESON (NAVARRO A)	36,5	
SOUTH CUMDEN	2,0	PHILLIPS PETRO CO
TRISTEN (DOUGLAS)	545,0	CITIES SERVICE GAS C
WEST PANHANDLE	21,0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	WELL NAME
				RECEIVED: 10/09/80 JA: TX
*L & L PETROLEUM CORPORATION				
8101433	00574	4246931274	102	C K MCCAN JR #2
8101434	00718	4246931384	102	C K MCCAN JR ET AL #4-T
				RECEIVED: 10/09/80 JA: TX
*L E WINDHAM				
8101470	19844	4213500000	108	J E PANKEN A (EU) NO 1
				RECEIVED: 10/09/80 JA: TX
*L&M OIL CO				
8101445	16969	4208331589	103	W C HENDERSON B #4
8101444	16968	4208331749	103	W C HENDERSON B #6
8101446	16970	4208331690	103	WILLIE HENDERSON #2
				RECEIVED: 10/09/80 JA: TX
*LEAR PETROLEUM EXPLORATION INC				
8101502	18492	4205930423	102	BLASINGAME #1
				RECEIVED: 10/09/80 JA: TX
*MCCULLOCH OIL CORP OF TEXAS				
*8101429	09347	4221100000	103	YOUNG NO 11-66
				RECEIVED: 10/09/80 JA: TX
*MCDONALD & MIDKIFF (HUNTER MIDKIFF)				
8101441	12640	4246100000	108	MIDKIFF-ARCO A NO 1 56800
8101442	12641	4246100000	108	MIDKIFF-ARCO B NO 1 06171
				RECEIVED: 10/09/80 JA: TX
*MEADCO PROPERTIES				
8101533	21963	4223531409	102	A SUGG 1904 MRC #08042
				RECEIVED: 10/09/80 JA: TX
*MESA PETROLEUM				
8101523	18252	4210531045	108	MOOVER 1-64
				RECEIVED: 10/09/80 JA: TX
*MGF OIL CORP				
8101544	22257	4231732127	103	HERZOG A #1 (25860)
8101569	22489	4232930852	103	STIMSON-BURLEY NO 2
8101568	22488	4232930854	103	STIMSON-BURLEY NO 4
				RECEIVED: 10/09/80 JA: TX
*MILLS BENNETT ESTATE				
8101586	22628	4204700000	108	BENNETT MILLS ESTATE FEE #30
				RECEIVED: 10/09/80 JA: TX
*MITCHELL M J				
8101520	18063	4200100000	108	A G WILLIAMS #1
				RECEIVED: 10/09/80 JA: TX
*MOBIL OIL CORP				
8101427	16332	4237100000	108	STATE BALDWIN B NO 1
				RECEIVED: 10/09/80 JA: TX
*MOBIL PRDG TEXAS & NEW MEXICO INC				
8101551	22312	4233531630	103	MARY FOSTER NO 132
8101550	22311	4233531631	103	MARY FOSTER NO 133
*8101553	22317	4247531979	103	STATE AK NO 2
*8101552	22316	4247532003	103	STATE AK NO 4
				RECEIVED: 10/09/80 JA: TX
*MORAN EXPLORATION INC				
8101532	21909	4223531466	103	RUCKER B G #5
				RECEIVED: 10/09/80 JA: TX
*MURJO OIL & ROYALTY CO				
8101428	08792	4236700000	103	LADD-CARR M #2
				RECEIVED: 10/09/80 JA: TX
*PHILCON DEVELOPMENT CO				
8101573	22516	4229500000	108	BROWN #1
				RECEIVED: 10/09/80 JA: TX
*PHILLIPS PETROLEUM COMPANY				
8101447	17107	4223300000	108	JOHNSON L NO 1
8101500	18782	4234100000	108	YOUNGEN A NO 1
				RECEIVED: 10/09/80 JA: TX
*R L ADKINS CORP				
8101543	22226	4215131019	103	WICKHAM B #1
				RECEIVED: 10/09/80 JA: TX
*R L BURNS CORP				
8101473	19856	4243530520	108	MICKS 23 #1
8101472	19855	4243530959	108	MAYER 1 #1
8101471	19854	4243530553	108	MAYER 17 #1
8101474	19857	4243531149	108	MAYER 3 #1
				RECEIVED: 10/09/80 JA: TX
*RALPH L MAY INC				

FIELD NAME	PROD	PURCHASER
SALEM	73,0	TEXAS EASTERN TRANSM
SALEM	85,0	TEXAS EASTERN TRANSM
MAMPER	1,6	PHILLIPS PETROLEUM C
BURKETT SW (DUFFER GAS)	55,0	WEST CENTEX GAS CO
BURKETT SW (DUFFER GAS)	55,0	WEST CENTEX GAS CO
BURKETT SW (DUFFER GAS)	55,0	WEST CENTEX GAS CO
	730,0	ARKANSAS LOUISIANA G
GRANITE WASH FORMATION	500,0	PIONEER NATURAL GAS
SPRABERRY TREND (CLEARFO	3,8	EL PASO NATURAL GAS
SPRABERRY TREND (CLEARFO	10,6	EL PASO NATURAL GAS
ELA SUGG (CISCO)	0,0	NORTHERN NATURAL GAS
AMERICAN (CLEAR FORK)	0,0	DELMI GAS PIPELINE C
SPRABERRY (TREND AREA)	35,1	PHILLIPS PETROLEUM C
SPRABERRY (TREND AREA)	20,1	NORTHERN NATURAL GAS
SPRABERRY (TREND AREA)	18,7	NORTHERN NATURAL GAS
MILLS BENNETT (A SAND SE	14,4	TEXAS EASTERN TRANSM
CAYUGA TRINITY (RUDESSA)	14,0	LONE STAR GAS CO
ABELL (CLEARFORK)	10,6	PGP GAS PRODUCTS INC
IATAN-EAST HOWARD	0,4	GETTY OIL CO
IATAN-EAST HOWARD	0,4	GETTY OIL CO
CAPRITO (DELAWARE MIDDLE	56,2	LONE STAR GAS CO
CAPRITO (DELAWARE MIDDLE	68,1	LONE STAR GAS CO
SPRABERRY (TREND AREA)	0,0	NORTHERN NATURAL GAS
BRAZOS EAST (MARBLE FALL	55,0	LONE STAR GAS CO
KIOWA CREEK (MORROW UPPE	10,0	NORTHERN NATURAL GAS
PANHANDLE WEST	20,0	EL PASO NATURAL GAS
WEST PANHANDLE	18,0	EL PASO NATURAL GAS
WICKHAM (PALO PINTO)	1215,0	PALO DURO PIPELINE C
SAWYER (CANYON) FIELD	12,8	LUVACA GATHERING CO
SAWYER (CANYON) FIELD	11,5	LUVACA GATHERING CO
SAWYER (CANYON)	5,2	LUVACA GATHERING CO
SAWYER (CANYON) FIELD	6,8	LUVACA GATHERING CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8101576	22533	4238331568	103		UNIVERSITY 9A #2	FANNIN (SAN ANDRES)	36,7	NORTHERN NATURAL GAS
8101577	22534	4238331569	103		UNIVERSITY 9A #3	FANNIN (SAN ANDRES)	6,5	NORTHERN NATURAL GAS
*RMUDER DRILLING CO					RECEIVED: 10/09/80 JA: TX			
8101566	22460	4208131434	103		JAMES GRIFFIN F #1 ID=15583	ROBERTSON-GRIFFIN (GRAY	23,0	UNION TEXAS PETROLEU
*RICHEY EXPLORATION CO					RECEIVED: 10/09/80 JA: TX			
8101478	20289	4249731541	103		M R NORTH NO 1 (885910)	GAS FINDERS (CONGL)	280,0	NATURAL GAS PIPELINE
*ROWE PRODUCTION CO					RECEIVED: 10/09/80 JA: TX			
8101484	21438	4205730935	102		GENE THAYLOR NO 1	LAURA (8100)	7,0	HOUSTON PIPE LINE CO
*S K BARRY					RECEIVED: 10/09/80 JA: TX			
*8101438	10823	4208500000	102		BRAGG #1	BRAGG (FRY-LO)	137,4	EL PASO NATURAL GAS
*SHELL OIL CO					RECEIVED: 10/09/80 JA: TX			
8101575	22529	4210500000	108		MITCHELL 15	JM	4,0	EL PASO NATURAL GAS
*SIMPSON-MANN OIL PRODUCERS					RECEIVED: 10/09/80 JA: TX			
8101432	14860	4245100000	102		HAZEL JONES #1	HAZEL JONES (STRAWN LIME	144,0	LONE STAR GAS CO
*SOUTHWESTERN GAS EXPLORATION					RECEIVED: 10/09/80 JA: TX			
8101582	22212	4249731538	103		W B MITCHELL #1	BOUNSVILLE (BEND CONG GA	80,0	
*SUBURBAN PROPANE GAS CORP					RECEIVED: 10/09/80 JA: TX			
8101455	17635	4223531419	103		BAKER 1217 #1	BAKER RANCH (CANYON)	22,0	NORTHERN NATURAL GAS
*SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/09/80 JA: TX			
8101424	16449	4227330570	103		A T CANALES NO 50	TIJERINA-CANALES-BLUCHER	2209,0	FLORIDA GAS TRANSMIS
8101482	21159	4242731323	102		B G DEGANCIA NO 36	FROST	888,0	
8101483	21164	4223732675	103		DURHAM GAS UNIT F NO 2	BOUNSVILLE (BEND CONGL G	48,5	LONE STAR GAS CO
8101464	18929	4213500000	108		FOSTER JOHNSON UNIT NO 10-1	FOSTER FIELD	0,4	ODESSA NATURAL CORP
8101465	18930	4213500000	108		FOSTER JOHNSON UNIT NO 14-1	FOSTER FIELD	0,2	ODESSA NATURAL CORP
8101466	18932	4213500000	108		FOSTER JOHNSON UNIT NO 14-13	FOSTER FIELD	0,1	ODESSA NATURAL CORP
8101467	18933	4213500000	108		FOSTER JOHNSON UNIT NO 15-15	FOSTER FIELD	0,2	ODESSA NATURAL CORP
8101468	18928	4213500000	108		FOSTER JOHNSON UNIT NO 5-8	FOSTER FIELD	1,5	ODESSA NATURAL CORP
8101430	13582	4242700000	108		MRS AMANDA MCKINNEY NO 25	SUN	22,0	
*TAMUE OIL & CATTLE CO					RECEIVED: 10/09/80 JA: TX			
8101584	22592	4237102184	108		STATE UNIVERSITY A&D #1	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101583	22591	4237102194	108		STATE UNIVERSITY A&D #2	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101582	22590	4237102195	108		STATE UNIVERSITY A&D #3	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101581	22588	4237102301	108		STATE UNIVERSITY A&D #5	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101580	22587	4237110391	108		STATE UNIVERSITY A&D #6	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101587	22597	4237110450	108		STATE UNIVERSITY A&D #7	LEON VALLEY (OBRIEN)	1,5	LARCO GAS CORP
8101586	22596	4237110908	108		UNIVERSITY #2-B	LEON VALLEY E (OBRIEN)	3,3	LARCO GAS CORP
8101585	22593	4237111492	108		UNIVERSITY #5-B	LEON VALLEY E (OBRIEN)	3,3	LARCO GAS CORP
*TAUBERT & STEED					RECEIVED: 10/09/80 JA: TX			
8101535	22027	4249900000	102		MAINESVILLE COMM CENTEN UNIT #1	NEUMUFF (WOODBINE)	70,0	UNITED GAS PIPELINE
8101536	22028	4249900000	102		HOWARD MOORE NO 1	NEUMUFF (PALUXY)	55,0	UNITED GAS PIPELINE
8101537	22029	4249900000	102		VELMA CRAWFORD NO 2	NEUMUFF (PALUXY)	55,0	UNITED GAS PIPELINE
*TENNECO OIL COMPANY					RECEIVED: 10/09/80 JA: TX			
8101450	17630	4221131103	103		FRED A HUBART #3	HEMPHILL (GRANITE WASH)	288,0	PIONEER NATURAL GAS
*TEXACO INC					RECEIVED: 10/09/80 JA: TX			
8101540	22200	4210532488	103		C E DAVIDSON JM B #8-U	OZUNA (CANYON SAND)	116,0	NORTHERN NATURAL GAS
8101579	22555	4221932719	103		I P DELUACHE #3	LEVELLAND	6,2	AMOCO PRODUCTION CO
*TEXCAN RESOURCES CORP					RECEIVED: 10/09/80 JA: TX			
*8101431	14820	4208931082	102		A J HRUSEK NO 1	MUDD (3700)	160,0	NATURAL GAS PIPELINE
8101453	17506	4208931070	102		R LOEBER NO 1	MUDD (2900 FWIU)	120,0	NATURAL GAS PIPELINE
*U B OPERATING INC					RECEIVED: 10/09/80 JA: TX			
8101571	22496	4228730637	103		VIVIAN #1	GIDDINGS (AUSTIN CHALK)	190,0	PGP GAS PRODUCTS INC
*W L COTTON					RECEIVED: 10/09/80 JA: TX			
8101492	18709	4224730909	103		MORSEMUE RANCH GAS UNIT #1-A	STROMAN (OWERN A)	182,0	NATURAL GAS PIPELINE

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8101493	18710	4224730910	103		PAUL NETH GAS UNIT #1-A	STROMAN (OWERN 3575)	75,0	NATURAL GAS PIPELINE
*W T WAGGONER ESTATE					RECEIVED: 10/09/80 JA: TX			
8101560	22362	4249700000	103		TOBOLOWSKY 1-A	ALVORD SOUTH (ATOKA)	360,0	
*WALTER EXPLORATION INC					RECEIVED: 10/09/80 JA: TX			
8101524	18223	4242931951	103		REPASS NO 1	IVAN NE	70,0	SOUTHWESTERN GAS PIP
*WARREN PETR CO A DIV OF GULF OIL CO					RECEIVED: 10/09/80 JA: TX			
8101452	17269	4210332057	103		W N WADDELL ET AL NO 1119	SAND HILLS (JUDKINS)	203,0	M & T GATHERING CO
**********								
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM								
**********								
*DUGAN PRODUCTION CORP					RECEIVED: 10/14/80 JA: NM 8			
8101589	NM-0005-80ER	3004522265	108	D	RACHEL #2	WAW FRUITLAND PC	14,0	EL PASO NATURAL GAS

OTHER PURCHASERS VOLUME 305

8101493	NORTHERN NATURAL GAS CO
8101431	EL PASO NATURAL GAS CO
8101453	PIONEER GAS CO
8101452	EL PASO NATURAL GAS CO
8101492	PIONEER GAS CO
8101493	PIONEER GAS CO
8101560	ARKANSAS LOUISIANA GAS CO
8101524	NORTHERN NATURAL GAS CO
8101452	NORTHERN NATURAL GAS CO
8101571	PGP GAS PRODUCTS INC, GASOLINE PLT

BILLING CODE 6450-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative Determinations are indicated by a "D" after the section Code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these procedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Person objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 18, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33983 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA81-1-000]

Armco Inc.; Application for Adjustment and for Interim Relief

Issued: October 28, 1980.

Take notice that on October 7, 1980, Armco Inc., P.O. Box 600, Middletown, Ohio 45043 (Armco), filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*), and § 1.41 of the Commission's regulations. Armco seeks relief from certain alternative fuel price ceilings set forth in 18 CFR 282.404.

Specifically, Armco states that its steelworks plant in Ashland, Kentucky consumes natural gas subject to the incremental pricing program of Title II of the NGPA. Armco states that the alternative fuel price ceilings published by the Energy Information Administration for the months of September and October, 1980, for the State of Kentucky were $3.51 per MMbtu and $3.53 per MMbtu, respectively. Armco believes that these fuel price ceilings are based on an incorrect methodology and are unrealistic and excessive. Armco requests that the alternate fuel price ceilings for the State of Kentucky be adjusted to $2.60 per MMbtu for both the months of September and October, 1980. The $2.60 per MMbtu ceiling is based, according to Armco's application, on both the purchase price in Ohio of Low Sulphur #6 fuel oil and the cost of transporting the fuel oil to the Ashland, Kentucky plant. (Armco states that Low Sulphur #6 is more expensive than High Sulphur #6, the benchmark for calculating alternate fuel price ceilings).

In addition, Armco requests interim relief, pursuant to § 1.41(m) and seeks a stay of the operation of the application alternative fuel price ceilings, pursuant to § 286.101 of the Commission's regulations (18 CFR 286.101).

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed by November 18, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34202 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3447]

Cascade Waterpower Development Corp.; Application for Preliminary Permit

October 27, 1980.

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for proposed Project No. 3447 to be known as Warm Springs Project located on the Middle Fork of the Malheur River in Malheur County, Oregon. The proposed project would affect U.S. lands under the administration of the U.S. Water and Power Resources Service. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529; and Philip Merrill Esq., Special Counsel, 5 Moulton Street, Portland, Maine 04111.

Project Description.—The proposed project would consist of: (1) two penstocks through the existing Water and Power Resources' 106-foot high, thin-arch concrete Warm Springs Dam; (2) a powerhouse containing two generating units, each rated at 1.5 MW; and (3) a transmission line.

The average annual energy generation is estimated to be 15.4 million kWh and would be based on the irrigation water releases.

Purpose of Project.—The energy output from the project would be sold to the Idaho Power Company.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering and geotechnical studies, perform preliminary designs and a feasibility analysis, prepare cost estimates, consult with agencies, conduct environmental studies, and prepare a FERC license application.

The estimated cost of the work to be performed under the preliminary permit is $72,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 3, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 2, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34195 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-32-001 (PGA81-1) (IPR81-1)]

Colorado Interstate Gas Co.; Compliance Filing

October 28, 1980.

Take notice that Colorado Interstate Gas Company (CIG) on October 22, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1980. Such changes, according to CIG, are in compliance with the Commission's September 29, 1980, Order in this docket.

Copies of the compliance filing have been served on all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34183 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 3369, etc.]

Continental Hydro Corp. et al; Applications for Preliminary Permit

October 24, 1980

Continental Hydro Corporation, Project No. 3369, and Pennsylvania Renewable Resources, Inc., Project No. 3418, and Noah Corp. and the Town of Clintwood, Virginia, Project No. 3475.

Take notice that Continental Hydro Corporation (CHC), Pennsylvania Renewable Resources, Inc. (PRR), and Noah Corp. and the Town of Clintwood, Virginia (NCC) filed on August 25, 1980, September 2, 1980, and September 15, 1980, respectively, competing applications for preliminary permits (pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)) for proposed hydroelectric projects, each to be known as the John W. Flannagan Project, FERC Projects Nos. 3369, 3418, and 3475, respectively, located on the Pound River in Dickenson County, Virginia. Correspondence with CHC should be directed to: Mr. A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Correspondence with PRR should be addressed to: Mr. Jeffrey M. Kossak, Pennsylvania Renewable Resources, Inc., Suite 1900, 14 Wall Street, New York, NY 10005. Correspondence with NCC should be addressed to: Mr. James B. Price, Ph.D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801.

Project Description.—The proposed project would utilize the existing U.S. Army Corps of Engineers' John W. Flannagan Dam and would consist of: (1) A 100-foot long penstock located along the right (east) bank (CHC) or investigation of several methods of conducting water (PRR) or a 100-foot long penstock attached to the existing outlet (NCC); (2) a powerhouse containing generating unit(s) having a rated capacity of 3,500–kW (CHC) or 1,500–kW (PRR) or 7,000–kW (NCC); (3) a tailrace; and (4) appurtenant facilities. CHC would deliver project energy to existing powerlines serving the dam or to Appalachian Power Company's 138–kV transmission lines within 4,000 feet of the project. PRR would deliver project energy to an existing substation through a 3-mile long transmission line. NCC would deliver project energy to Appalachian Power Company's 69–kV transmission lines through a project switchyard and a 1.7-mile long 69–kV transmission line. CHC estimates the annual generation would average about 13,800,000 kWh; PRR estimates the annual generation would average about 6,500,000 kWh. NCC estimates the annual generation would average about 15,000,000 kWh.

Purpose of Project.—CHC would sell the project energy to Appalachian Power Company. PRR would conduct studies to identify a purchaser of the project energy. NCC would sell the project energy to a public or private utility.

Proposed Scope and Cost of Studies Under Permit.—Each Applicant seeks issuance of a preliminary permit for a period of 36 months. Each Applicant proposes that it would perform data acquisition, investigations, studies, feasibility evaluation, would consult with Federal, State, and local government agencies, and prepare an application for an FERC license, including an environmental report. CHC, PRR, and NCC estimate that the cost of studies under the permit would not exceed $58,000, $55,500, and $100,000, respectively.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice

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of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the Requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before January 5, 1981, and must specify which of the above applications is being addressed. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34196 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF81-4-000]

Dickerson Lumber Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 28, 1980.

On October 14, 1980, Dickerson Lumber Company filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed facility is located in Glasgow, Barren County, Kentucky. Dickerson Lumber Company states that it intends to construct, wholly and solely own, and operate a facility which will utilize heat energy of the sawmill developed sawdust and bark to fuel a series of low pressure (150 psi) boilers, producing steam to operate a noncondensing steam turbine-generator with a capacity to develop 1,000 kilowatts of power. Dickerson Lumber Company further states that the entire fuel source will be biomass fuel constituted of wood bark and sawdust. No natural gas, coal, or oil will be used.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34203 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-8-000]

El Paso Natural Gas Co.; Application

October 24, 1980.

Take notice that on October 2, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-8-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by conveyance to Samedan Oil Corporation (Samedan) certain pipeline facilities with appurtenances located offshore Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that in Docket No. CP79-335 it was conditionally authorized to construct and operate certain natural gas facilities located offshore Texas, in order to permit it to connect certain new production platforms in the Mustang Island Area, offshore Texas, to the existing intrastate pipeline facilities of Houston Pipe Line Company (Houston) located on Padre Island, Kleberg County, Texas. Applicant further states that pursuant to such authorization it constructed, *inter alia*, the Lateral A-2 pipeline commencing at the proposed site of Platform "E" and terminating at a point of interconnection with Applicant's 20-inch O.D. Trunk "A" pipeline in order to receive and transport certain quantities of natural gas produced by Samedan in the North Chevron gas field, offshore Texas.

Applicant asserts that subsequent to its construction of the Lateral A-2 pipeline Samedan acquired Gulf Oil Corporation's 100 percent interest in State Tract 942-S. Applicant further asserts that inasmuch as Applicant had secured the right to purchase all natural gas produced by Samedan from State Tract 818-L, Samedan also elected to sell all the natural gas produced from State Tract 942-S to Applicant and that as a result of Samedan's acquisition of the interest in State Tract 942-S, Samedan's personnel responsible for the construction of Platform "E" further investigated the requirements of such platform. Applicant submits that based upon this evaluation, it has been advised by Samedan that Samedan no longer intends to construct and operate Platform "E" and that Platform "F" currently under construction would be utilized by Samedan to gather and compress the natural gas produced in the vicinity of Platform "F" as well as natural gas produced in the vicinity of the previously proposed Platform "E". Samedan has also advised Applicant that its decision not to construct and operate Platform "E" would not result in any loss of natural gas supplies which were to be purchased by Applicant from Samedan at Platform "E".

Applicant believes that in view of Samedan's decision not to construct and operate Platform "E" it has no further operational need for the Lateral A-2 pipeline. However, Applicant states that it has been advised by Samedan that the Lateral A-2 pipeline could be utilized by Samedan in conjunction with the gathering of natural gas located in proximity to Platform "E" and the ultimate transportation of such natural gas to Platform "F". Accordingly, Applicant proposes to abandon by conveyance to Samedan the Lateral A-2 pipeline.

It is further stated that Samedan has agreed to pay Applicant $388,432 for such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34204 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-527]

El Paso Natural Gas Co.; Notice of Application

October 24, 1980.

Take notice that on August 28, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-527 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term transportation of up to 4,000 Mcf of natural gas per day for the account of Phelps Dodge Corporation (Phelps Dodge) on a best-efforts basis, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that on December 29, 1979, it commenced the transportation of natural gas pursuant to Section 284.202(a)(1) of Subpart F of the Commission's Regulations. The subject gas, it is stated, is purchased by Phelps Dodge from Ike Lovelady, Inc., *et al.*, (Lovelady) pursuant to a gas purchase agreement dated October 22, 1979, from the Garza No. 1A well located in Live Oak County, Texas. Applicant further states that Seagull Pipeline Corporation (Seagull), an intrastate pipeline company, accepts the gas at the wellhead and transports such gas to Valero Transmission Company (Valero), also an intrastate pipeline company, for delivery to Applicant. Applicant, it is asserted, delivers the natural gas to Phelps Dodge at existing delivery points located on Applicant's interstate pipeline transmission system. Applicant asserts that although it anticipated the service would terminate on June 1, 1980, the Commission permitted transportation of fuel oil displacement gas to continue through August 31, 1980.

Applicant submits that as a result of the Commission's Order No. 30-D issued August 15, 1980, in Docket No. RM79-34 the transportation service rendered by Applicant for the account of Phelps Dodge would no longer be exempted from the requirements of Section 7(c) of the Natural Gas Act after August 31, 1980, and that as a consequence by telegram dated August 28, 1980, it *inter alia*, requested pursuant to Section 284.208(c) of the Commission's Regulations issuance of a temporary certificate in order to continue without interruption the transportation service for Phelps Dodge. Temporary authorization was granted by order dated September 5, 1980, in Docket No. CP80-527 conditioned upon Applicant's filing a formal application within 30 days of the date of such order, it is said. Accordingly, Applicant now seeks permanent authorization to continue the transportation service for Phelps Dodge for the duration of the fuel shortage emergency period including any extensions thereof.

Applicant, it is stated, has agreed to accept on a best-efforts basis from Valero at an existing point of interconnection between the pipeline systems of Valero and Applicant located in Sterling County, Texas, such quantities of natural gas as Phelps Dodge shall cause to be tendered to Valero by Seagull in Live Oak County, Texas. Applicant proposes to deliver to Phelps Dodge equivalent quantities of gas at existing delivery points in New Mexico and Arizona less 5 percent of such volumes retained for fuel and line loss. Applicant asserts that it and Phelps Dodge have agreed to eliminate any imbalances within 30 days after such imbalances are known to the parties.

Applicant states that Phelps Dodge has agreed to pay it for transportation volumes delivered in New Mexico the rate in effect and reflected from time to time as the mainline transmission charge—New Mexico, and for gas delivered in Arizona the rate in effect and reflected from time to time as the mainline transmission charge—Arizona all as set forth on Sheet No. 1-D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2, or superseded tariff.

Applicant additionally states that Phelps Dodge has agreed to reimburse it for all fees and/or charges billed by Valero to Applicant. Valero, it is asserted, would charge 14.5 cents per million Btu's per month for the first year of operation (December 28, 1979, through December 28, 1980), 15.5 cents per million Btu's per month for the second year of operation (December 28, 1980, through December 28, 1981), and thereafter as mutually agreed to by Applicant and Valero. Furthermore, pursuant to the terms and conditions of a gas transportation agreement dated December 28, 1979, between Phelps Dodge and Seagull, Seagull would bill Phelps Dodge 5.0 cents for each Mcf per month transported, it is said.

Applicant states that the proposed extension of service would be accomplished by use of available excess capacity existing from time to time in its existing interstate pipeline system and would not entail the construction of any new facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

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application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34205 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-9262, G-18338, CP61-94, CP63-14, CP65-26, CP70-104, CP73-17]

Florida Gas Transmission Co.; Petition to Amend

October 24, 1980.

Take notice that on September 15, 1980, Florida Gas Transmission Company (Petitioner), P.O. Box 44, Winter Park, Florida 32790, filed in Docket Nos. G-9262, G-18338, CP61-94, CP63-14, CP65-26, CP70-104, and CP73-17, a petition to amend the certificates issued in the above dockets [1] pursuant to Section 7(c) of the Natural Gas Act so as to authorize the extension of the service agreements with certain distribution company customers as set forth in the appendix hereto, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that under the above proceedings it was authorized to sell and deliver natural gas to various distribution customers within Florida and Alabama. It is stated that Petitioner purchases and receives natural gas from suppliers in the Gulf Coast Areas of Texas, Louisiana, Mississippi, Alabama, Florida and the offshore Federal Domain, and transports, sells and delivers said natural gas into Florida for both resale and direct consumption.

Petitioner proposes herein to continue the sale of natural gas to the distribution company customers for an extended period to July 1, 1999, and from year to year thereafter.

It is stated that the sales to the various distribution companies would be made on the same basis as was made prior to the new service agreements and no change would be made in the volumetric entitlements under the new service agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Appendix

Distribution Companies Served:

Blountstown, Florida City of
Central Florida Gas Corporation (St. Cloud)
Central Florida Gas Corporation (Winter Haven, Haines City, Auburndale, Lake Wales, Bartow and Lake Alfred)
Chattahoochee, Florida City of
Chipley, Florida City of
City Gas Company of Florida (Cocoa and Eau Gallie)
City Gas Company of Florida (Cutler Ridge, West Miami and South Miami)
City Gas Company of Florida (Hialeah, Opa Locka and Lake Forrest)
City Gas Company of Florida (Melbourne)
City Gas Company of Florida (Titusville)
Clearwater, Florida City of
Crescent City, Florida City of
Florida Public Utilities Company (DeLand)
Florida Public Utilities Company (Sanford)
Florida Public Utilities Company (West Palm Beach, Lake Worth, Riviera Beach, Boynton Beach and Boca Raton)
Fort Meade, Florida City of
Fort Pierce Utilities Authority, City of
Gainesville Gas Company
Geneva County Gas District
Gulf Natural Gas Corporation (Ocala Division)
Gulf Natural Gas Corporation (Panama City Division)
Indiantown Gas Company
Jay, Florida, Town of
Lake Apopka Natural Gas District (Apopka)
Lake Apopka Natural Gas District (Plymouth)
Lake Apopka Natural Gas District (Winter Garden)
Lake City, Florida City of
Leesburg, Florida City of
Live Oak, Florida City of
Madison, Florida City of
Mariana, Florida City of
Miller Gas Company
Palatka Gas Authority
Peoples Gas System, Inc. (Avon Park Division)
Peoples Gas System, Inc. (Daytona Beach Division)
Peoples Gas System, Inc. (East Coast Division)
Peoples Gas System, Inc. (Frostproof Division)
Peoples Gas System, Inc. (Jacksonville Division)
Peoples Gas System, Inc. (Lakeland Division)
Peoples Gas System, Inc. (Miami Division)
Peoples Gas System, Inc. (Orlando Division)
Peoples Gas System, Inc. (St. Petersburg Division)
Peoples Gas System, Inc. (Triangle Division)
Peoples Gas System, Inc. (West Coast Division)
Perry, Florida City of
Plant City Natural Gas Company
Reedy Creek Utilities Company, Inc. (Residential)
Reedy Creek Utilities Company, Inc. (Theme Park)
St. Joe Natural Gas Company, Inc.
Seacoast Gas Corporation
South Florida Natural Gas Company
Southern Gas Company
Starke, Florida City of
Sunrise, Florida City of
Utilities Board of the City of Florala, Alabama
Williston, Florida City of

[FR Doc. 80-34206 Filed 10-31-80; 8:45 am]

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[1] These proceedings were commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the Commission.

[Docket No. TA80-1-51 (PGA81-2)]

Great Lakes Gas Transmission Co.; Filing

October 28, 1980.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on October 14, 1980, tendered for filing First Revised Sheet No. 57-A, to its FERC Gas Tariff First Revised Volume No. 1, proposed to be effective November 1, 1980.

Great Lakes states that the revised tariff sheet reflects the projected incremental pricing surcharge for the November 1, 1980 through April 30, 1981 period in which it is estimated that Great Lakes will incur no incremental costs subject to passthrough.

Great Lakes further states that copies of this filing have been served upon its customers and the Public Service Commission of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34184 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. E-9329, ER76-792, ER76-716]

Indiana and Michigan Electric Co.; Filing

October 28, 1980.

The filing company submits the following:

Take notice that on October 9, 1980, Indiana and Michigan Electric Company submitted for filing a compliance report pursuant to Commission Opinion No. 95, issued September 2, 1980, in the above-captioned proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34207 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-380]

Indiana and Michigan Electric Co.; of Filing

October 28, 1980.

The filing company submits the following:

Take notice that on October 9, 1980, Indiana and Michigan Electric Company, (I&M) submitted for filing a revised supplement to I&M's F.E.R.C. Rate Schedule No. 22, and revised exhibits A, B, C, and D.

These documents are being filed to replace documents submitted for filing on September 3, 1980, in the above-captioned proceeding. It has been determined by the parties that the documents submitted on September 3 contained incorrect calculations.

A copy of this filing has been sent to Northern Indiana Public Service Company.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34208 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-9-000]

Lone Star Gas Co. a Division of Enserch Corp., Application

October 24, 1980.

Take notice that on October 8, 1980, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP81-9-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap for the delivery of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a tap for the sale and delivery of natural gas to Mr. Aaron Wood III. It is stated that Mr. Wood operates a commercial ethanol distilling plant in Waurika, Oklahoma, for the production of ethanol which is then blended with gasoline to produce gasohol. It is stated that in order to supply the plant with a constant heat source Applicant would provide Mr. Wood with an estimated annual requirement of 19,710 Mcf from the H3-4-inch mainland pipeline

Applicant states that it has sufficient natural gas supplies in the area to serve this relatively small facility and meet its high priority demand and further that sales to this customer would be curtailable as necessary to provide for all current and future high priority consumption.

Applicant states that the estimated total cost of $2,751.00 would be financed from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34209 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3389]

MacGregor Downs, Inc.; Application for Preliminary Permit

October 27, 1980.

Take notice that MacGregor Downs, Inc. (Applicant) filed on August 26, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for proposed Project No. 3389 to be known as the Lockville Dam Project located on the Deep River in Chatham and Lee Counties in North Carolina. Correspondence with the Applicant should be directed to: Mr. Peter

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Reynolds, MacGregor Downs, Inc., P.O. Box 790 Cary, North Carolina 27511.

Project Description.—The proposed project would consist of: (1) An existing dam, including embankments and gate structures, with a height of 15 feet and an overall length of 950 feet; (2) an existing, 2,300-foot long headrace canal; (3) an existing powerhouse with a proposed installed generating capacity of 1,840 kW; (4) an existing 20 acre reservoir with a gross storage capacity estimated at 150 acre-feet; and (5) appurtenant facilities. The average annual energy generation is estimated to be 8,400 MWh.

Purpose of Project.—MacGregor Downs, Inc. proposes to develop the hydroelectric potential of the project and sell the power output to Carolina Power and Light.

Proposed Scope and Cost of Studies Under Permit.—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic, and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing applications for a license, and a State Water Quality Certificate for the project. The Applicant's estimated total cost for performing a feasibility study is $100,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—This application was filed as a competing application to the Lockville Dam Project No. 3159 on the Deep River in North Carolina under 18 CFR 4.33 *as amended*, 44 FR 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any portest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34197 Filed 10-31-80; 8:45 am]

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[Docket No. QF81-2-000]

Merced Irrigation District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 28, 1980.

On October 3, 1980, Merced Irrigation District filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to §292.207 of the Commission's rules.

The proposed small hydroelectric facility is located on Merced Irrigation District's Main Canal in Merced County, approximately 12 miles north of the City of Merced, California. Merced Irrigation District states that the hydroelectric plant will have a capacity of approximately 2.8 megawatts, with an annual estimated energy generation of approximately 9.75 million kilowatt hours. The facility will generate hydroelectric power by utilizing the water flows on the Applicant's main irrigation canal as water is delivered to the agricultural users. Merced Irrigation District also states that it will be the sole owner of the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34210 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP78-77]

Mississippi River Transmission Co.; Settlement Conference

October 27, 1980.

Take notice that an informal settlement conference in the subject proceeding will be convened on November 6, 1980, at 10:00 a.m. in a conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34198 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80.463]

National Fuel Gas Supply Corp.; Amendment to Application

October 28, 1980.

Take notice that on September 25, 1980,[1] National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in Docket No. CP80.463 an amendment to its application pending in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations (18 CFR 187.7 (b)) so as to reflect an increase in total expenditures for gas purchase facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states in its application filed in the instant docket on July 25, 1980, it requested authorization to construct and operate certain gas purchase facilities in order to improve its supply deliverability and to offset depletion of its existing reserves. Applicant states that its application indicated that total expenditures for the proposed facilities would not exceed two percent of its gas plant account.

Applicant asserts that recent developments have given rise to a reassessment of necessary facilities which revisions would result in expenditures exceeding the originally requested level of two percent of Applicant's plant account. Accordingly, Applicant by this amendment seeks authorization for total expenditures of three percent of its plant account.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 19, 1980, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34211 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This application was initially tendered for filing on September 25, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 7, 1980; thus the filing was not complete until the latter date.

[Docket No. CP81-2-000]

Natural Gas Pipeline Company of America; Application

October 24, 1980.

Take notice that on October 1, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-2-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of lateral pipeline and other facilities (High Plains "B" project) to attach new gas supplies to its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under its High Plains "B" project to construct and operate lateral pipeline consisting of approximately 130 miles of 4, 6, 8 and 10-inch pipeline, approximately 4,000 horsepower of compression, and other appurtenant facilities in Yuma, Sedgwick and Phillips Counties, Colorado. Applicant states that it would also install communication facilities. It is stated that the pipeline and facilities would deliver up to 28,000 Mcf of natural gas per day from Applicant's area of interest in eastern Colorado and Western Nebraska to a point of connection on Trailbrazer Pipeline Company's proposed pipeline located in Sedgwick County, Colorado. Applicant states that this construction is necessary because the new and developing gas fields, located at a considerable distance from Applicant's transmission system represent some of the best and most economical sources of new long-term gas reserves.

Applicant projects that approximately 35,000,000 Mcf of combined proved gas reserves and probable and possible potential gas supply are contained in Niobnana Chalk Formation within the evaluated area. Applicant would purchase gas found in the Niobnana Chalk formation and from any other zones producing under contracted acreage available to it.

Applicant states that the total estimated cost of the High Plains "B" Project would be $19,946,000. Said cost would be financed initially, it is stated, with funds on hand, borrowings under Applicant's revolving credit arrangements or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34213 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-579]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 24, 1980.

Take notice that on September 29, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-579 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Panhandle Eastern Pipe Line Company

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(Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Exploration and Production Division of Internorth, Inc. has a ten percent leasehold interest in Eugene Island Block 39 (Block 39) and that in order to accommodate the transportation of such gas to its system it has entered into an agreement with Michigan Wisconsin Pipe Line Company (Mich Wis) dated October 30, 1979, for transportation of such gas attributable to Block 39. By such agreement, Applicant asserts that Mich Wis would transport Applicant's Block 39 gas onshore and deliver such gas to Trunkline Gas Company (Trunkline) for Applicant's account at an existing point of interconnection between the facilities of Mich Wis and Trunkline on the discharge side of Mich Wis' Patterson compressor station in St. Mary Parish, Louisiana.

Applicant proposes herein to implement the terms of its transportation and sales agreement with Panhandle and Trunkline dated July 10, 1980, which provides for the transportation of Applicant's Block 39 gas and the sale of up to 20 percent of such gas to Panhandle. Trunkline would receive Applicant's Block 39 gas at the Patterson compressor station and transport such gas to its Longville, Louisiana, compressor station located in Beauregard Parish, Louisiana. Such gas, it is asserted, would be transported from Trunkline's Longville compressor station to Applicant's system by Trunkline and Panhandle pursuant to the terms of a transportation agreement between the parties dated September 24, 1976, it is asserted.

It is submitted that the gas would be sold to Panhandle on a monthly cost of service basis which cost represents Applicant's cost of gas at the point of delivery to Trunkline with average cost of service per Mcf for the first year of operation estimated to be $2.66. It is further submitted that the option by Panhandle to purchase up to 20 percent of the volumes delivered to Trunkline would be partial consideration for the transportation of Applicant's Block 39 gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34214 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-118]

Oklahoma Corporation; Request for Withdrawal of Well Category Determination

October 28, 1980.

Oklahoma Corp., Section 108 NGPA Determination, Mobil Oil Corporation, J. L. Martin No. 7 Well, FERC JD No. 80-29206.

Take notice that on June 26, 1980, the Oklahoma Corporation Commission, Oklahoma City, Oklahoma (Corporation Commission) filed with the Federal Energy Regulatory Commission (Commission) a request to withdraw its determination that the J.L. Martin No. 7 Well did not qualify as a stripper well pursuant to section 108 of the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301, *et seq.* The determination of eligibility for the subject well became final by operation of § 275.202 of the Commission's regulations on June 9, 1980, prior to the date on which the Corporation Commission filed its request for withdrawal of its determination of eligibility.

In its request to withdraw its determination of eligibility, the USGS states that Mobil Oil Corporation (applicant) has furnished additional production records which should be considered by the Corporation Commission.

Any person desiring to be heard or to protest this request should, within 30 days after publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestant parties to the proceeding. Any person wishing to become a party to proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34215 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-7-000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

October 24, 1980.

Take notice that on October 2, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-7-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company, Division of Inter-North, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport and redeliver to Northern gas purchased by Northern from Vermilion Block 372, offshore Louisiana. It is stated that pursuant to a transportation and sales agreement dated September 18, 1980, between Applicants and Northern, Trunkline would receive the natural gas at an existing interconnection of facilities of Trunkline and Michigan Wisconsin Pipe Line Company (Mich Wis) in Cameron Parish, Louisiana, or St. Mary Parish, Louisiana, through arrangements made by Northern with Mich Wis. Applicants state that Trunkline would redeliver the natural gas for Northern's account at Trunkline's Longville, Louisiana, compressor station in Beauregard Parish, Louisiana.

It is stated that by order issued in Docket No. CP77-17, the Commission approved two transportation arrangements between Applicants and Northern. Under one, it is stated, Trunkline would receive natural gas for Northern's account at its Longville, Louisiana, compressor station and redeliver the natural gas to Panhandle at the interconnection of Applicants' facilities in Douglas County, Illinois, for further delivery by Panhandle to Northern in Kiowa County, Kansas. Applicants state that under the second agreement, Trunkline would transport natural gas for Northern from offshore Louisiana to the Longville, Louisiana, compressor station. Applicants state that the proposal herein is to provide for the transportation of gas purchased by Northern from Vermilion Block 372 to Longville for further transportation and delivery under the previous arrangements.

Applicants state that under the September 18, 1980, agreement, up to 16,500 Mcf per day would be delivered during the period of five years from the date of first delivery and in the sixth and subsequent years no less than 50 percent of the initial volumes. It is stated that Northern would sell to Panhandle up to 20 percent of said volumes. It also is stated that Panhandle would purchase additional natural gas as Northern would deem it available.

It is stated that Northern would pay Panhandle a monthly charge of $6,102 based on a firm volume of 13,200 Mcf per day for transportation service between Cameron Parish, Louisiana, and Trunkline's Longville, Louisiana, compressor station and an additional charge of 8.51 cents per Mcf for natural gas from St. Mary Parish, Louisiana. Furthermore, it is stated, an adjustment of 1.52 cents per Mcf would be made for any deficiency or excess in quantities taken. It is stated that Panhandle would pay Trunkline its *pro rata* share of the transportation service for amounts paid by Northern. It is asserted Northern would reimburse Trunkline for fuel usage and line loss.

Applicants further state that they have agreed that Trunkline would transport the natural gas Panhandle would purchase, up to 20 percent of the volumes transported, to an existing point in Douglas County, Illinois. It is stated that Panhandle would pay Trunkline a monthly charge of $23,826 based on a firm volume of 3,300 Mcf per day for five years from the date of first delivery and an additional 8.51 cents per Mcf for natural gas delivered at the St. Mary Parish, Louisiana, point of receipt. It is stated that an adjustment of 23.73 cents per Mcf would be applied to any deviation from the 3,300 Mcf per day. Applicants assert that Panhandle might reduce the quantity in the sixth and subsequent years to no less than 50 percent of the initial volume. In addition, it is asserted that Trunkline would retain gas for fuel and line loss.

It is asserted that the purchase price for gas purchased by Panhandle would be Northern Exploration and Production Division's unit modified cost of service reflected in the cost of service underlying Northern's then effective jurisdictional sales rate plus associated transportation charges paid to others to effectuate delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34216 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-581]

Pataya Storage Co.; Application

October 24, 1980.

Take notice that on September 30, 1980, Pataya Storage Company (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP80-581 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of underground natural gas storage facilities in Mohave County, Arizona, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate facilities necessary to develop two underground storage caverns capable of storing 4,000,000 Mcf of natural gas of which 3,000,000 Mcf would be top or working gas and 1,000,000 Mcf would be base gas. Applicant states it would utilize a salt body approximately 12 miles long, 5 miles wide and 2 miles thick located on the northern part of the Hualapai Valley, Mohave County, Arizona. Applicant also proposes to construct and operate a compressor station and 30 miles of 16-inch pipeline to tie the storage field into the main line transmission system of El Paso Natural Gas Company (El Paso) near Kingman, Arizona.

Applicant further proposes to render natural gas service under its proposed Rate Schedule SCS-1, Salt Cavern Storage Service, to its parent company, Southwest Gas Corporation (Southwest). It is stated that under its Rate Schedule SCS-1, Applicant would make a demand charge of $4.98 per Mcf, a capacity charge of .1573 cents per Mcf, an injection charge of .0307 cent per Mcf and a withdrawal charge of .01 cent per Mcf. Applicant estimates that withdrawals from the Pataya Storage Field would total 100,000 Mcf per day and 3,000,000 Mcf annually.

Moreover, it is stated, El Paso would deliver the volumes from storage to Southwest at various receipt points in Nevada and Arizona in order to enable Southwest to ensure service to its Priority 1 and 2 requirements on a firm basis and to supply its Priority 3 requirements on a best-efforts basis. It is stated that since 1973 Southwest has

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been experiencing curtailment in gas deliveries for its Priority 3 and Priority 5 requirements throughout its gas service areas in southern Nevada, central Arizona, and southern Arizona. Moreover, Applicant states that El Paso would have severely curtailed Priority 2 gas if it had not developed California back-off arrangements, the use of Rhodes Storage, and arrangements with the Clay Basin Storage System. It is stated that long-range gas supply forecasts prepared by El Paso indicate continued increasing curtailments in gas delivery to Southwest and that since 1975 Southwest has been engaged in a self-help supplemental gas procurement program for its service areas in an effort to attain gas supplies from sources other than El Paso. It is asserted that to make the purchases of supplemental gas supplies, Southwest has had to make arrangements to sell off gas that it did not need due to take-or-pay obligations to purchase at a high load factor from the wellhead. It is stated that the sell-off of well gas can cease and the gas be more efficiently used after the development of the storage field.

Applicant estimates the cost of the proposed project to be $42,902,000 which would be financed by the creation of a construction trust capable of issuing commerical notes supported by bank letter of credit and/or notes payable to a bank.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time rquired herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34217 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER77-277 (Phase I)]

Pennsylvania Power Co.; Filing

October 28, 1980.

The filing Company submits the following:

Take notice that the Pennsylvania Power Company on October 1, 1980, tendered for filing Revised Cost of Service and Rate Schedule Amendments in compliance with Commission Order No. 89, issued July 18, 1980, in the above docket.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (1.8 and 1.10). All such protests should be filed on or before November 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34185 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-27]

Quaker Oats Co., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 28, 1980.

On September 26, 1980, The Quaker Oats Company filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is located in Pekin, Illinois, and is a topping cycle cogeneration system which provides power, steam and hot water for the manufacture of paperboard from recycled waste paper and kraft clippings. Quaker Oats states that the primary energy source for the facility is natural gas which is used to produce high pressure, superheated steam in a boiler. Number 2 fuel oil serves as a stand-by boiler fuel. Quaker Oats further states that it is the sole owner of the facility. The turbine-generator has a power output capacity of 1500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20428, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before December 8, 1980 and must be served on the applicant: Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34219 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3444]

Rocky Gorge Corp.; Application for Preliminary Permit

October 24, 1980.

Take notice that Rocky Gorge Corporation (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3444 to be known as the Rocky Gorge Project located on the Great Works River in the Town of South Berwick, York County, Maine. Correspondence with the Applicant should be directed to: Mr. Jon Truebe, Rocky Gorge Corporation, Box 84, South Berwick, Maine 03908.

Project Description—The proposed project would consist of: (1) an existing 16-foot high, 140-foot long stone based Ambursen timber dam; (2) an existing reservoir with a maximum storage capacity of 98 acre feet; (3) a new 65 or 300-foot long steel penstock; (4) a new powerhouse containing a single 300-kW turbine-generator; (5) a 150-foot long transmission line; and (6) appurtenant facilities. The project could generate up to 1,500,000 kWh annually saving the equivalent of 2,500 barrels of oil or 700 tons of coal.

Purpose of Project—Power generated at the project would be sold to Central Maine Power Company or Public Service Company of New Hampshire for distribution to their customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $12,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commision's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34199 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-336]

Sugar Bowl Gas Corp.; Application for Approval of Rates

October 24, 1980.

Take notice that on September 12, 1980, Sugar Bowl Gas Corporation (Applicant), 1200 Milam Street, Houston, Texas 77002, filed in Docket No. ST80-336 an application pursuant to Part 284 of the Commission's Regulations for approval of rates charged for transporting natural gas for Southern Natural Gas Corporation (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Southern have entered into an agreement whereby it would transport volumes of natural gas purchased by Southern pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978.

Under the terms of the stated agreement, the rate to be charged by Applicant for such transportation would be 20.0 cents per million Btu subject to a monthly inflation adjustment predicated upon the monthly increase in the Consumer Price Index, it is said.

Applicant submits that the unit transportation cost of service rate for the SGBC system is 19.5 cents per Mcf. Additionally, based on system operations, Applicant submits that it would incur incremental fuel costs of 2.3 percent for transporting the stated volumes, and that it would redeliver to Southern an equivalent number of Btu's to those delivered. Accordingly, Applicant asserts that the fair and equitable rate must be increased by the value of those additional volumes of fuel used to transport these volumes on behalf of Southern. Applicant further asserts that inasmuch as this is Section 107 gas with a first sale price of $6.53 per million Btu, the resulting fuel charge approximates 15.0 cents per Mcf which charge results in a total fair and equitable transportation rate of 34.5 cents per Mcf. However notwithstanding the higher demonstrated rate, Applicant states that it would not charge Southern a rate in excess of the above-referenced contract rate agreed to by the parties subject to the fair and equitable rate limitation.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34218 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-139-001

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Filing

October 28, 1980.

Take notice that on October 17, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following:

Substitute First Revised Sheet No. 210
Substitute First Revised Sheet No. 220
Substitute First Revised Sheet No. 222

Tennessee states that the purpose of these tariff sheets is correct certain

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typographical errors in the revision of Tennessee's tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34186 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76-138-004]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

Third Revised Sheet No. 763

The purpose of this filing is to terminate Rate Schedule X-81, which is a transportation agreement dated January 17, 1977, as amended August 1, 1977, among Transco, Cannon Mills Company (Cannon), Public Service Company of North Carolina, Inc. (Public Service) and Piedmont Natural Gas Company, Inc. (Piedmont), authorized by certificate issued December 22, 1975 and subsequently amended by orders issued February 7, 1977 and December 22, 1977, in Docket No. CP76-138, and which terminated by its own terms on December 31, 1979. A copy of the instant filing has been served upon Cannon, Public Service, and Piedmont.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34187 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76-241-008]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 826

The purpose of this filing is to terminate Rate Schedule X-90, which is a transportation agreement dated August 8, 1977, as amended May 23, 1978, among Transco, Nabisco, Inc. (Nabisco), Public Service Electric and Gas Company (PSE&G), CNG Transmission Company, now Commonwealth Gas Pipeline Corporation (Commonwealth), Natural Gas Pipeline Company of America (NGPL) and Texas Eastern Transmission Corporation (Texas Eastern), authorized by certificate issued May 24, 1976 and subsequently amended by orders issued June 6, 1977, October 18, 1978 and December 20, 1978, in Docket No. CP76-241, and which terminated by its own terms on June 23, 1980. A copy of the instant filing has been served upon Nabisco, PSE&G, Commonwealth, NGPL and Texas Eastern.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34188 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-369-001]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

First Revised Sheet No. 1340

The purpose of this filing is to terminate Rate Schedule X-145, which is a transportation agreement dated February 15, 1977, among Transco, Laurens Glass Company (LGC), the City of Laurens, South Carolina (Laurens) and Public Service Company of North Carolina, Inc. (Public Service), authorized by certificate issued September 21, 1977, in Docket No. CP77-369, and which terminated by its own terms on September 14, 1979. A copy of the instant filing has been served upon LGC, Laurens and Public Service.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34189 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-370-001]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

First Revised Sheet No. 1347

The purpose of this filing is to terminate Rate Schedule X-146, which is a transportation agreement dated February 15, 1977, among Transco, Minnesota Mining and Manufacturing Company (3M) and the City of Laurens, South Carolina (Laurens), authorized by certificate issued September 21, 1977, in Docket No. CP77-370, and which terminated by its own terms on September 14, 1979. A copy of the instant filing has been served upon 3M and Laurens.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34190 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-392-003]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

First Revised Sheet No. 1353

The purpose of this filing is to terminate Rate Schedule X-147, which is a transportation agreement dated May 3, 1977, among Transco, South Jersey Gas Company (South Jersey) and Texas Eastern Transmission Corporation (Texas Eastern), authorized by certificate issued September 30, 1977, in Transco/Texas Eastern joint Docket No. CP77-392, and which terminated by its own terms on April 15, 1980. A copy of the instant filing has been served upon South Jersey and Texas Eastern.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34191 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-3-002]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 914

The purpose of this filing is to terminate Rate Schedule X-100, which is a transportation agreement dated September 14, 1977, among Transco, Pine Hall Brick & Pipe Company (Pine Hall) and North Carolina Gas Service Division of Pennsylvania & Southern Gas Company (N.C. Gas), authorized by certificate issued January 5, 1978, in Docket No. CP78-3, and which terminated by its own terms on January 4, 1980. A copy of the instant filing has been served upon Pine Hall and N.C. Gas.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34192 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-351-002]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 881

The purpose of this filing is to terminate Rate Schedule X-96, which is a transportation agreement dated April 26, 1978, among Transco, Ball Corporation (Ball) and Public Service Company of North Carolina, Inc. (Public Service), authorized by certificate issued June 8, 1979, in Docket No. CP78-351, and which terminated by its own terms on July 18, 1980. A copy of the instant filing has been served upon Ball and Public Service.

The proposed effective date of this sheet is December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

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with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34199 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-280]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

October 24, 1980.

Take notice that on September 26, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-280 a petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's Regulations (18 CFR 2.79) in the instant docket on August 5, 1977, as amended, so as to authorize the transportation of natural gas for Kerr Finishing Division of Allied Products Corporation (Kerr) for an additional term of one year, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on August 5, 1977, it was authorized to transport on an interruptible basis up to 250 Mcf of natural gas per day for Kerr, an industrial customer of Public Service Company of North Carolina (PSNC), one of Petitioner's resale customers. Petitioner further states that the subject gas was purchased by Kerr from Trinidad Petroleum Corporation (Trinidad) from production of the McCants Well, Standard Field, LaSalle Parish, Louisiana, and that Texas Gas Transmission Corporation (Texas Gas) transported the purchased gas from said Parish to Petitioner at a point of interconnection near Eunice, Evangeline Parish, Louisiana, (Mamou) with Petitioner delivering equivalent quantities of gas less 3.8 percent for compressor fuel and line loss to PSNC for ultimate delivery to Kerr's Concord, North Carolina, plant. Transportation service began on July 16, 1977, and was authorized to continue until July 17, 1980, it is said.

Petitioner asserts that it has been informed by Kerr that Kerr's Concord, North Carolina, plant was substantially destroyed by fire on January 31, 1979, and that since that date Kerr has incurred take-or-pay obligations under its gas purchase contract with Trinidad to the extent that it has paid for but not taken 131,750 Mcf of gas as of July 16, 1980. It is further asserted that in order to resume operations previously accomplished at its Concord, North Carolina, plant Kerr has established a new facility at Travelers Rest, South Carolina, which is served by Piedmont Natural Gas Company, Inc. (Piedmont), one of Petitioner's resale customers.

Petitioner proposes to extend the term of the subject transportation service for an additional one-year period so as to allow Kerr to receive gas for which it has paid but not taken. It is asserted that Petitioner proposes to transport up to the dekatherm equivalent of 400 Mcf of gas per day pursuant to an agreement among Petitioner, Kerr and Piedmont dated July 10, 1980.

Petitioner submits that it would receive the gas from Texas Gas at the Mamou interconnection and other mutually agreeable existing points of interconnection between it and Texas Gas and would deliver thermally equivalent quantities to Piedmont for ultimate delivery to Kerr's Travelers Rest plant.

For such transportation service, Petitioner asserts that it would charge initially, 23.97 cents per dekatherm equivalent transported which rate includes .47 cents per dekatherm for GRI General R&D Funding Unit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34220 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-402-002]

Transcontinental Gas Pipe Line Corp.; Amendment to Application

October 24, 1980.

Take notice that on October 9, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-402-002 an amendment to its application filed May 20, 1977,[1] as amended July 31, 1979, pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to reflect an addition in the volumes of gas transported for Florida Gas Transmission Company (Florida), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that by temporary authorization issued August 3, 1977, Applicant now transports for Florida up to 40,000 Mcf of gas per day produced in Vermilion Area Block 22, offshore Louisiana, and delivered into Applicant's Central Louisiana gathering system onshore in the Pecan Island area, Vermilion Parish, through facilities jointly owned by Applicant, Florida and Sea Robin Pipeline Company. It is stated that Applicant redelivers equivalent volumes to Florida at the interconnection between the Central Louisiana gathering system and Florida's East White Lake Lateral in Vermilion Parish.

Applicant's amendment requests authorization to transport additional natural gas for Florida. It is stated that Florida has arranged to purchase approximately 10,000 Mcf of gas per day to be produced in Vermilion Area Block 21 and delivered to the jointly owned Vermilion 22 facilities by means of production facilities in Vermilion Area Block 22. Applicant proposes to receive such gas at the Pecan Island location and redeliver equipment volumes to Florida at the East White Lake Lateral.

It is stated that no additional facilities would be required by Applicant to perform the proposed service. Applicant states that the proposed service would help to maintain as adequate and reliable service as possible in Florida's marketing areas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34221 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP79-389-001]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 28, 1980.

Take notice that on October 20, 1980, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2:

(1) Original Sheet Nos. 2169 through 2187 constituting Rate Schedule X-222, a transportation agreement dated June 22, 1979, between Transco and Public Service Electric and Gas Company (Public Service).

(2) First Revised Sheet No. 659, constituting Notice of Termination of Rate Schedule X-71.

Transco states that the subject transportation arrangement was authorized by the Commission in Transco Docket No. CP79-389 by certificate issued April 16, 1980, and that a copy of the instant filing has been served upon Public Service. As indicated therein, Rate Schedule X-222 supersedes and cancels the X-71 rate schedule, which was a transportation agreement between Transco and Public Service dated September 14, 1973.

The tariff sheets are proposed to become effective April 16, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34194 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-530]

Utah Power and Light Co.; Filing

October 28, 1980.

The filing company submits the following:

Take notice that on October 14, 1980, Utah Power and Light Company (Utah) submitted for filing a letter stating that charges by Utah to the City of Provo for Emergency Capacity have been changed so as to conform with Commission Order No. 84.

A copy of this filing has been sent to the City of Provo, Utah.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34222 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3423]

Water Power Development Corp.; Application for Preliminary Permit

October 27, 1980.

Take notice that Water Power Development Corporation (Applicant) filed on September 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3423 to be known as Birch Hill Project located on the Millers River in Worcester County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. Kenneth E. Mayo, P.E., President, Water Power Development Corporation, 23 Temple Street, Nashua, New Hampshire 03060.

Project Description.—The proposed project would utilize the existing U.S. Army Corps of Engineers Birch Hill Dam and would consist of: (1) a penstock which would utilize the existing outlet works; (2) a powerhouse containing generating units having a total rated capacity of 670 kW; (3) a tailrace; (4) a new transmission line; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 2,700,000 kWh.

Purpose of Project.—Project energy would be sold to Massachusetts Electric Company or the New England Power Company. Other markets including another utility or a private customer, will be investigated.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 7, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this

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application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in §1 .10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 7, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34200 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3417 and Project No. 3476]

West Virginia Renewable Resources, Inc. and Noah Corp.; Application for Preliminary Permit

October 24, 1980.

Take notice that West Virginia Renewable Resources, Inc. (Applicant/WVR) and Noah Corp. (Applicant/NC) filed on September 2, 1980 and September 15, 1980, respectively, competing applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project Nos. 3417 and 3476, respectively, each to be known as Tygart Hydro Project located on the Tygart River in Taylor County, West Virginia. Correspondence with the Applicants should be directed to: WVR: Jeffrey M. Kossak, West Virginia Renewable Resources, Inc., Suite 1900, 14 Wall Street, New York, N.Y. 10005 and to NC: James B. Price, Ph.D., President, Noah Corp, P.O. Drawer 640, Aiken, South Carolina 29801.

Project Description.—The proposed project would utilize the existing U.S. Army Corps of Engineers Tygart Lake Dam and would consist of: (1) a powerhouse containing generating units having a total rated capacity of 6,000 KW (WVR) or 20,000 KW (NC); (2) a tailrace; (3) a new transmission line; and (4) appurtenant facilities. WVR estimates the annual generation would average about 26,000,000 KWH; NC estimates the annual generation would average about 34,000,000 KWH.

Purpose of Project.—Both applicants propose that project energy will be sold to public or private purchasers depending on studies to be made.

Proposed Scope and Cost of Studies under Permit.—Both applicants seek issuance of preliminary permits for a period of three years. Each applicant proposes that it would perform data acquisition, investigations, studies, feasibility evaluation; would consult with federal, state and local government agencies; and, depending on the results, would prepare an application for an FERC license. WVR and NC estimate that the cost of the studies under the permit would be $55,500 and $100,000, respectively.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before December 29, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 29, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34201 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Extension of Time for Comments on Consent Order Refunds

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Extension of Comment Period.

SUMMARY: On September 10, 1980, the Department of Energy Office of Hearings and Appeals published a Notice soliciting comments on the manner in which Consent Order funds under the control of the DOE should be distributed. Six Consent Orders involving funds totalling approximately $89 million were specifically mentioned in the Notice. Comments were also sought regarding a proposal to distribute a portion of these funds through a "Public Energy Trust." That proposal had been submitted to the DOE by the Consumer Energy Council of America and nineteen allied groups represented by common counsel. The Notice requested that comments regarding these matters be submitted by October 27, 1980. To date 27 comments have been received. In addition, requests for extensions of the time in which to submit comments have been received by entities including a United States

cabinet department, public interest groups, and industry representatives. These entities state that the Notice requesting comments only recently came to their attention, and that they intend to submit detailed, substantive comments on the issues involved. We are unaware of any person who would be injured by the extension requested, nor would any person appear to be inconvenienced by the extension. In view of the foregoing, we have determined that the comment period should be extended until November 24, 1980.

DATE: Comments by November 24, 1980.

ADDRESS: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Room 8014, Washington, D.C. 20461.

Re: Consent Order Comments.

Issued in Washington, D.C. on October 28, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 80-34092 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders Filed with the Office of Hearings and Appeals

During the week of September 1 through September 5, 1980 the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR § 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

October 28, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Hilliard's Chevron, Giants, New Mexico, BRO–1304, motor gasoline

On September 3, 1980, Hilliard's Chevron, 511 E. Santa Fe, Giants, New Mexico 87920, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE (Midland, Texas District Office of Enforcement) issued to the firm on June 16, 1980. In the PRO the Midland, Texas District found that during the period 5–16–80, the firm failed to post and maintain maximum legal selling prices for each grade of gasoline, charged prices in excess of the maximum lawful selling prices for certain grades of gasoline, and failed to keep and maintain books and records to support lawfulness of prices charged. According to the PRO, the Hilliard's Chevron violation resulted in $205.60 of overcharges. In connection with the PRO, in June, 1980 the DOE also assessed a penalty against Hilliard's of $500.

[FR Doc. 80-34093 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of September 29 through October 3, 1980

During the week of September 29 through October 3, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception procedings (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedual regulations, the date of service is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a notice of objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: October 28, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Proposed Decision and Orders

A&B Holding Co., Inc., San Antonio, Tex., BEE–1210, gasohol

A&B Holding Company, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 211, Subpart F. The exception request, if granted, would permit A&B Holding Company to receive an increased allocation of unleaded gasoline for the purpose of blending gasohol. On October 2, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part and that the firm's base period allocation should be increased by 130,000 gallons of unleaded gasoline per month.

Aminoil USA, Inc., Houston, Tex., BXE–1295 crude oil

Aminoil USA, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell at upper tier ceiling prices a certain portion of the crude oil produced for the benefit of the working interest owners from the California State Lease 392. On October 2, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Atlantic Richfield Co., Los Angeles, Calif., BEE–1294, crude oil

The Atlantic Richfield Company filed an Application for Exception from the provisions of the Entitlements Program, 10 C.F.R. § 212.67. The exception request, if granted, would require Chevron U.S.A. Inc. to purchase additional entitlements to equalize its imported crude oil costs with those of other refiners. On October 2, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Charles H. Booth, Inc., Anniston, Ala., BEE–0874, gasohol

Charles H. Booth, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211, Subpart F. The exception request, if granted, would permit Booth to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. On September 29, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Chevron U.S.A. Inc., San Francisco, Calif., BXE–1317, crude oil

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The exception request, if granted, would result in an extension of

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exception relief previously granted and would permit the firm to sell at upper tier ceiling prices a certain portion of the crude oil which it produces for the benefit of the working interest owners from the Greeley Unit, Rio-Bravo-Vedder Pool Lease. On September 30, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Raritan Oil Co., Inc, Edison, N.J., BEE-0411, gasohol

Raritan Oil Company, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211, Subpart F. The exception request, if granted, would permit Raritan to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. On October 2, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

T.O.C. Inc., Indianapolis, Ind., BEE-0521, gasohol

T.O.C. Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211, Subpart F. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded gasoline for the purpose of blending gasohol. On September 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

T&H Automotive Enterprises, Inc., BEE-1466—Washington, DC.
Grogan's Marathon Service (Marathon Oil Co.), BEE-1428—Speedway, IN.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Vantage Petroleum Corp., DEE-7275—Bohemia, NY.

[FR Doc. 80-34096 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders; Filed Week of September 22 through September 26, 1980

During the week of September 22 through September 26, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before November 24, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Office of Hearings and Appeals.

October 28, 1980.

Bailey's Standard Service, Lebec Calif., BRO.1313, motor gasoline

On September 22, 1980, Bailey's Standard Service, I-5 and Grapevine, Lebec, California 93243, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on July 30, 1980. In the Proposed Remedial Order, the Western District found that during the period August 1, 1979, through June 9, 1980, Bailey's committed pricing violations in its sales of motor gasoline. According to the Proposed Remedial Order the Bailey's violations resulted in $3,953.86 of overcharges to its customers.

General Petroleum Products, Inc., Gary, Ind., Bro-1319, motor gasoline

On September 26, 1980, General Petroleum Products, Inc., 1122 E. 10th Place, Gary, Indiana, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on September 12, 1980. In the Proposed Remedial Order, the Central District found that during the period November 1, 1973, through April 30, 1974, General Petroleum committed pricing violations in its sales of motor gasoline and Nos. 2, 5, 5-200, and 6 heating oil. According to the Proposed Remedial Order, the General Petroleum violations resulted in $195,125.12 of overcharges to its customers.

Glaser Gas, Inc., Calhan, Colo., Bro-1316, propane

On September 23, 1980, Glaser Gas, Inc. Calhan, Colorado, filed a Notice of Objection to a Proposed Remedial Order which the DOE Rocky Mountain District Office of Enforcement issued to the firm on August 15, 1980. In the Proposed Remedial Order, the Rocky Mountain District found that during the period November 1, 1973 through February 29, 1976, Glaser committed pricing violations in its sales of propane. According to the Proposed Remedial Order, the Glaser violations resulted in $67,712.46 of overcharges to its customers.

Jim's Texaco Service, Petallma, Calif., Bro-1314, motor gasoline

On September 22, 1980, Jim's Texaco Service, 5153 Old Redwood Highway, Petallma, California 94952, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on August 25, 1980. In the Proposed Remedial Order, the Western District found that during the period December 15, 1979, through June 10, 1980, Jim's Texaco committed pricing violations in its sales of motor gasoline. According to the Proposed Remedial Order, the Jim's Texaco violations resulted in $3,064.15 of overcharges to its customers.

North Eastham Exxon, North Eastham, Mass., Bro-1318, motor gasoline

On September 25, 1980, North Eastham Exxon, Box AH, North Eastham, Massachusetts 02651, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on September 3, 1980. In the Proposed Remedial Order, the Northeast District found that during the period August 1, 1979, through June 27, 1980, North Eastham Exxon committed pricing violations in its sales of motor gasoline. According to the Proposed Remedial Order, the firm's violations resulted in $3,779.28 of overcharges to its customers.

Shaw & 99 Chevron, Fresno, Calif., BRO-1315, motor gasoline

On September 22, 1980, Shaw & 99 Chevron, 5270 W. Shaw, Fresno, California 93711, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on August 25, 1980. In the Proposed Remedial Order, the Western District found that during the period December 12, 1979, through July 7, 1980, Shaw committed pricing violations in its sales of motor gasoline. According to the Proposed Remedial Order, the Shaw violations resulted in $6,722.27 of overcharges to its customers.

Traders Oil & Royalty, Seguin, Tex., BRO-1312, crude oil

On September 19, 1980, Traders Oil & Royalty, P.O. Box 188, Seguin, Texas 78155, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Office of Enforcement issued to the firm on June 17, 1980. In the Proposed Remedial Order, the Southwest District found that during the period September 1, 1973, through March 31, 1977, Traders Oil committed pricing violations in its sales of crude oil. According to the Proposed Remedial Order, the Traders Oil violations resulted in $340,849.31 of overcharges to its customers.

[FR Doc. 80-34095 Filed 10-31-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66076; PH-FRL 1651-7]

Certain Pesticide Products; Intent to Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATES: December 3, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. E-228, 401 M St., SW., Washington, D.C. 20460 (202-426-8540).

SUPPLEMENTARY INFORMATION: EPA has been advised by Monsanto Co. of its intent to voluntarily cancel registration of the following pesticide products.

EPA Reg. No.	Product name	Registrant	Date reg.
524-3	2,4-D Acid	Monsanto Co., 1101 17th St., NW., Suite 604, Washington, DC 20036.	Jan. 19, 1948.
524-22	2,4-D Isopropyl Ester	do	May 26, 1948.
524-47	2,4,5-T Isopropyl Ester Technical Grade	do	Jan. 30, 1951.
524-48	2,4,5-T Acid	do	Jan. 30, 1951.
524-62	2,4,-D Butyl Ester Technical Grade	do	June 5, 1953.
524-67	Technical Grade 2,4,5-T Butyl Ester	do	May 3, 1954.
524-71	Monsanto Isopropyl and Butyl 2,4-D Mixed Esters.	do	May 11, 1954.
524-75	2,4-D-2,4,5-T Butyl Ester Brush Killer Code 22.	do	June 24, 1955.
524-76	2,4-D Isopropyl Ester Weed Killer	do	June 27, 1955.
524-78	Monsanto 2,4-D Amine Weed Killer	do	June 27, 1955.
524-79	Monsanto 2,4-D Ester Aerial Weed Killer Emulsifiable.	do	June 29, 1955.
524-80	Monsanto MCP Amine Weed Killer	do	June 29, 1955.
524-81	2,4,5-T Low Volatile Ester Brush Killer	do	June 29, 1955.
524-82	2,4-D Low Volatile Ester Weed Killer	do	June 30, 1955.
524-84	Monsanto 2,4-D Ester Aerial Non-Emulsifiable Weed Killer.	do	July 6, 1955.
524-85	Monsanto 2,4-D Butyl Ester Weed Killer	do	July 13, 1955.
524-86	Monsanto 2,4-D Butyl Ester Concentrate Weed Killer.	do	July 15, 1955.
524-94	D-Leet Herbicide	do	June 20, 1956.
524-95	Monsanto 2,4,5-T Isooctyl Ester	do	Aug. 24, 1956.
524-97	Monsanto 2,4,5-T Ester Brush Killer	do	Aug. 21, 1957.
524-99	2,4,5-T Amine Brush Killer	do	Dec. 16, 1957.
524-100	Monsanto 2,4,5-T Amine Brush Killer	do	Dec. 16, 1957.
524-110	Brush-O-Cide Brush Killer	do	Jan. 26, 1960.
524-111	Brush Blitz Brush Killer	do	Jan. 26, 1960.
524-112	Crop Guard Weed Killer	do	Jan. 26, 1960.
524-115	Field Clean Weed Killer	do	Feb. 16, 1960.
524-116	2,4-D Granular Weed Killer	do	Feb. 18, 1960.
524-125	2,4,-D Amine 5 Pounds Active Per Gallon	do	Feb. 26, 1962.
524-126	2,4-D Amine 6 Pounds Active Per Gallon	do	Feb. 26, 1962.
524-147	2,4-D Amine Concentrate Weed Killer	do	Sept. 3, 1963.
524-149	2,4-D—2,4,5-T Mixed Esters *N* -Butyl and Isobutyl.	do	Jan. 17, 1964.
524-150	2,4-D/2,4,5,-T Butyl Esters	do	Jan. 17, 1964.
524-254	2,4-D/2,4,5-T Low Volatile Ester Brush Killer.	do	Aug. 17, 1966.
524-257	2,4-D Mixed Esters *N* -Butyl and Isobutyl	do	Nov. 25, 1966.
524-258	2,4,5-T Isobutyl Ester Technical Grade	do	Nov. 25, 1966.
524-259	2,4-D Mixed Esters Isobutyl and *N* -Butyl	do	Nov. 25, 1966.
524-260	2,4-D Isobutyl Ester Technical Grade	do	Nov. 25, 1960.

The Agency has agreed that such cancellation shall be effective December 3, 1980, unless within this time Monsanto Co., or other interested person with the concurrence of the company, requests that the registration be continued in effect. Monsanto Co. was notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66076]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-447, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136)

Dated: October 24, 1980

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34104 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-02-M

[EW-9-FRL 1650-7]

Issuance of PSD Permit to Provident Energy Company

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Provident Energy Company, Inc., Mobile, Arizona, EPA project number AZP 79-02.

SUPPLEMENTAL INFORMATION: Notice is hereby given that on March 4, 1980, the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate a 50,000 barrel per stream day oil refinery to be located in Mobile, Arizona.

V 45 / 214 NOV 3 1980 UMI

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR § 52.21) regulations and is subject to certain conditions including allowable emissions of: SO_2 at 1862 tons/year, NO_x at 1386 tons/year, particulates at 237 tons/year, CO at 193 tons/year and HC at 325 tons/year.

Best Available Control Technology (BACT) requirements include: for Total Suspended Particulates: Electrostatic Precipitator, filter fuel oil, paving; for SO_2: fuel oil desulfurized to 0.4% fuel gas H_2S content 0.1 gr/dscf, feed to Fluid Catalytic Cracking Unit (FCC) desulfurized to 0.1%; for NO_x: low NO_x burners, fuel bound nitrogen reduction; CO minimized by use of CO bioler; for HC: I/M program for valves, seals and flanges, covered separators, vapor recovery and double sealed floating roofs on tanks, hydrocarbon detector on cooling tower, vapor recovery on loading racks.

Continuous monitoring is required for opacity and CO on FCC catalyst regenerator, for H_2S content of fuel gas burned in any combustion device, for SO_2 from Claus sulfur recovery unit.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 2, 1980.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecelia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: October 7, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-34109 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-38-M

[AD-FRL 1651-1]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11255), has designated another reference method for the measurement of ambient concentrations of carbon monoxide. The new reference method is an automated method (analyzer) which utilizes a measurement principle based on non-dispersive infrared spectrometry. The method is:

RFCA-1180-048, "Horiba Model APMA 300E/300SE Ambient Carbon Monoxide Monitoring System," consisting of the following components:

300SE Sampler Module

300E Analyzer Module

Operated on the 0-20 ppm,* the 0-50 ppm, or the 0-100 ppm range, with a time constant switch setting of No. 5. The monitoring system may be operated at temperatures between 10° and 40° C.

*Note.—Users should be aware that designation of ranges less than 50 ppm are based on meeting the same absolute performance specifications required for the 0-50 ppm range. EPA is considering but has not yet established proportionately more restrictive performance specifications applicable to ranges less than 0-5. ppm. Thus, designation of a lower range does not guarantee commensurably better performance than that obtained on the 0-50 ppm range.

This method is available from Horiba Instruments, Incorporated, 1021 Duryea Avenue, Irvine, California 92714.

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 45, August 27, 1980, page 57165.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method.

The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as a reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation aplicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above. Technical questions concerning the method should be directed to the manufacturer.

Stephen Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-34115 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-26-M

[OPTS-59034A, TSH-FRL 1640-6]

Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 4, 1980, EPA received an application for a test marketing exemption (TM-80-39) from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA) from E.I. du Pont de Nemours & Co., Inc. (du Pont).

EPA has determined that the manufacturer's test marketing of this chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted du Pont an expemtion from the TSCA premanufacture reporting requirements for test marketing of the substance in the manner described in the application.

FOR FURTHER INFORMATION CONTACT: David Dull, Chemical Control Division (PTS-794), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202/426-2601).

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Du Pont's application was assigned test marketing exemption number TM 80-39; receipt of the application was announced in the **Federal Register** on September 24, 1980 (45 FR 63346).

Du Pont claimed the specific chemical identity, the production volume, the specific use, and physical and chemical property data as confidential business information.

The substance is described generically as "polyurethane polyacrylic block polymer"; its generic use is as an intermediate. Twenty gallons of the material will be used as an intermediate in 1200 gallons of a final product during a maximum test marketing period of 20 days.

EPA has established that the test marketing of TM 80-39, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below.

Du Pont submitted the results of an acute oral test (rats) showing a lethal dose (ALD) of greater than 11,000 mg/kg. In its risk assessment accompanying the application du Pont stated that the substance is to be mannufactured in a closed system with mechanical introduction of monomers, solvents, and reactants. After polymerization, the polymer in solvent solution will be mechanically filtered and drummed for later use as an intermediate. In addition to the use of protective clothing and equipment in all phases of the operation, workers transferring the substance will use airline masks. Du Pont further stressed the low monomer concentration in the polymeric product.

Based on the data and risk assessment provided by du Pont, and the limited exposure involved, and after independent examination of the structure of the polymer, its molecular weight and other properties, EPA concluded that test marketing of the substance poses no unreasonable risk to the health of persons engaged in its manufacture or processing.

Nor does EPA have concerns with regard to environmental release in connection with the test marketing of this polymer. All solvents used in the manufacture of TM 80-39 are recovered or recycled; still bottoms and solid wastes are incinerated or landfilled.

Due to the above considerations, EPA accordingly grants the manufacturer a test marketing exemption for TM 80-39, effective immediately, but subject to all conditions set out in the exemption application, and in particular those enumerated below:

1. This exemption is granted solely to du Pont;

2. The applicant must maintain records of the date(s) of shipment(s) to any customers who will test market the substance, and the qantities shipped in each shipment, and must make these records available to EPA upon request;

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application;

4. The production volume of the new substance may not exceed the quantity described in the test market application;

5. The test marketing activity approved in this notice is limited to a 20-day period commencing on the date of publication of the notice in the **Federal Register**.

Dated: October 28, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-34120 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-3-M

[OPTS-51131A; TSH-FRL 1652-1]

Benzene Propanoic Acid, 3,5-Bis (1,1-Dimethyl-Ethel)-4-Hydroxy-(1,2-Dioxo-1,2-Ethanediyl) Bis(Imino-2,1-Ethanediyl) Ester; Premanufacture Notice; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects certain information on a premanufacture notice (PMN) on the new substance benzene propanoic acid, 3,5-bis (1,1-dimethyl-ethyl)-4-hydroxy-(1,2-dioxo-1,2-ethanediyl) bis(imino-2,1-ethanediyl) ester submitted by the Uniroyal Chemical Co..

FOR FURTHER INFORMATION CONTACT: Carolyn C. Brown, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 N St., SW., Washington, D.C. 20460, (202-426-3980).

V45/214 NOV 3 80 UMI

SUPPLEMENTARY INFORMATION: EPA issued a notice of receipt of a PMN identified as PMN 80–228 submitted by the Uniroyal Chemical Co., a Division of Uniroyal Inc., Naugatuck, CT 06770, on the above new chemical substance. The summary of the PMN was published in the **Federal Register** of September 18, 1980 (45 FR 62194) as provided for in section 5(a)(1) of the Toxic Substances Control Act (TSCA).

In the FR Doc. 80–28817 appearing at page 62194, the following information is corrected:

1. On page 62195, second column, under PMN 80–228, the entry following "Production Estimates." is corrected to read "Claimed confidential business information."

2. On page 62195, third column under "Toxicity Data." of PMN 80–228, the entry following "Oral LD_{50} (rats)—" is corrected to read ">10 g/kg."

Dated: October 26, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

[FR Doc. 80-34101 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP–C31027C; PH–FRL 1652–2]

Chevron Chemical Co.; Approval of Application to Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Chevron Chemical Co. has received approval to conditionally registered pesticide product Orthene Ornamental Insect Spray which contains the active ingredients acephate and resmethrin for indoor houseplant use.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–343, 401 M St., SW., Washington, D.C. 20460, (202–426–9458).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 17, 1980 (45 FR 26119) that Chevron Chemical Co. had submitted an application to amend the conditional registration of the pesticide product Orthene Ornamental Insect Spray which contains the active ingredient acephate and resmethrin. The application requested registration of the product Orthene Ornamental Insect Spray (EPA File Symbol 239–2440) containing 0.25% of the active ingredient acephate (*O,S*-dimethylacetylphosphoramidothioate) and 0.1% of the active ingredient resmethrin [5-benzyl-3-furyl)methyl 2,2-dimethyl-3-(methylpropenyl)cyclopropanecarboxylate]. The application proposed that the use pattern be changed from outdoor ornamental spray to indoor houseplant spray. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved September 9, 1980, and the product has been assigned the EPA registration No. 239–2440. A copy of the approval label and list of data references used to support registration are available for public inspection in the office of the product manager.

The data and other scientific information used to support registration, except for material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; (7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Rm. EB–35, EPA, 202–426–8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should (1) identify the product by name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(5), 92 Stat. 824; (7 U.S.C. 136))

Dated: October 24, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34102 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-32-M

[SA–FRL 1651–6]

Science Advisory Board, Ecology Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Ecology Committee of the Science Advisory Board will be held on November 20 and 21, 1980, beginning at 9:00 a.m., in the Hall of States–A, Skyline Inn, South Capitol and I Streets, SW., Washington, D.C.

This is the twenty-third meeting of the Ecology Committee. The agenda includes a report on Science Advisory Board activities; a presentation on the need for an ecosystem basis in environmental impact assessment; briefing on the Ecosystem Research Center program; review of the Office of Research and Development's Pesticide Research Strategy; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Committee, or Ms. Anita B. Najera (202) 472–9444.

Dated: October 28, 1980.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80-34119 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-34-M

[OPTS–59037; TSH–FRL 1651–4]

1, 6 Hexanediamine, Distillation Residues—Amines, C_{4-6} Alkyl Di- and C_6 Cyclic Di—Dichloroethane—Epichlorohydrin Polymer; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by November 16, 1980. Persons should submit written comments on the application no later then November 18, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances,Environmental Protection Agency, Rm. E–210, Washington, DC 20460 (202–426–3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substsance is any chemical substance that is not on the Inventory of existing chemical Substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558–Initial) and July 29, 1980 (45 FR 50544–Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before November 18, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59037]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 24, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

TM 80–42

The following summary is taken from data submitted by the manufacturer in the test marketing exemption.

Close of Review Period. November 16, 1980.

Manufacturer's Identity. Monsanto Co., 800 Lindbergh Blvd., St. Louis, MO 63166.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. 1,6-Hexanediamine, distillation residues—amines, C_{4-6} alkyl di- and C_6 cyclic di—dichloroethane—epichlorohydrin polymer).

Use. Corrugating medium in paperboard production.

Production Estimates. Monsanto states a total of 60,000 pounds of the substance will be manufactured for test marketing purposes involving two customers.

Physical/Chemical Properties.

Viscosity—40–80 cps. typical.

Freezing point—25° F (−4° C) freeze/thaw stable.

Weight/gallon—9.25 lb.

Solids—35±1%

pH—4.5±0.5

Molecular weight—10–40K (number average) estimated.

Toxicity Data. The submitter states that the PMN substance is similar to four commercial products offered by Monsanto Co. The polymers have been identified as HDR–E,* ACA–DCE–E, HDR–DCE, and HD–DCE–E. The relationships and acute toxicity of these polymers are as follows:

	HDR-E*	ACA-DCE-E	HDR-DCE	HD-DCE-E
Oral LD_{50} (rats) Single dose, mg/kg	8,880	14,000	9,000	1,460 11,300

*Nomenclature:
ACA = Amines, C_{4-6} alkyl di- and C_6 cyclic di-.
HD = 1,6-Hexanediamine.
HDR = 1,6-Hexanediamine, distillation residues.
DCE = 1,2-Dichloroethane.
E = Epichlorohydrin.

Exposure. The manufacturer states that potential exposure through inhalation, ingestion, and skin exists both in the manufacturer's and user's sites; that exposure will be incidental and momentary.

Environmental Release/Disposal. The submitter states that barring accidental

*Nomenclature:
ACA = Amines, C_{4-6} alkyl di- and C_6 cyclic di-.
HD = 1,6-Hexanediamine.
HDR = 1,6-Hexanediamine, distillation residues.
DCE = 1,2-Dichloroethane.
E = Epichlorohydrin.

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spills, there will be no disposal of the new polymer at the manufacturing site.

[FR Doc. 80-34117 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-C30177B; PH-FRL 1652-6]

Mobay Chemical Corp.; Approval of Applications to Conditionally Register Pesticide Products Containing New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Mobay Chemical Corp. has received approval to conditionally register pesticide products containing a new active ingredient not previously registered in pesticide products.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E.343, 401 M ST., SW., Washington, D.C. 20460 (202-426-9458).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 14, 1980 (45 FR 25125) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120 had submitted applications to register the following pesticide products:

AMAZE 6 Emulsifiable Insecticide—Actice Ingredient: 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate at 66 percent for restricted use to control corn rootworm on corn.

AMAZE 15 percent Graunlar Insecticide—Active Ingredient: 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate at 15 percent for general use on corn to control corn rootworm and on turf grasses to control Japanese beetle larvae.

AMAZE 20 percent Graunlar Insecticide—Active Ingredient: 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate at 20 percent for general use on corn to control corn rootworm and on turf grasses to control Japanese beetle larvae.

The applications were conditionally approved for use on corn to control corn rootworm on August 22, 1980, and the products were assigned the following EPA registration numbers and classifications: AMAZE 6 Emulsifiable Insecticide, EPA Reg No. 3125-322 for restricted use; AMAZE 15 percent Granular Insecticide EPA Reg. No. 3125-323 for restricted use; and AMAZE 20 percent Granular Insecticide EPA Reg. No. 3125-324 for restricted use.

A copy of the label and list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Rm. EB-35, EPA, 202-425-8850 in accordance with section 3(c)(2) of FIFRA. Request for the data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA at the above address. Such requests should: (1) identify the product by name and the registration number and (2) specify the data or information desired.

(Sec. 3(c)(5), 92 Stat. 824, (7 U.S.C. 136))

Dated: October 24, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34099 Filed 10-31-80; 8:45]

BILLING CODE 6560-32-M

[OPTS 211002, TSH-FRL 1651-5]

Nitrilotriacetic Acid; Denial of Citizen's Petition to Initiate Regulatory Proceedings Prohibiting the Manufacture and Distribution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of Citizen's Petition.

SUMMARY: On May 5, 1980, Mr. Walter Fitzpatrick of Stony Brook, New York filed a citizen's petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. Mr. Fitzpatrick requested that EPA initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of nitrilotriacetic acid (NTA). The Agency has denied the petition. The Agency's Decision and the reasons supporting it appear below.

ADDRESSES: The public record is available for inspection at: Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Rm. E-447, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), Washington, D.C.: (554-1404).

Copies of the Agency's Decision may be obtained from the Industry Assistance Office.

SUPPLEMENTARY INFORMATION: The following Decision of the Agency was sent in response to a Petition filed by Mr. Walter Fitzpatrick of Stony Brook, New York under section 21 of The Toxic Substances Control Act, 15 U.S.C. § 2620, in regard to nitrilotriacetic acid (NTA).

Decision of the Agency

The Environmental Protection Agency (EPA) has received a petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2620, requesting that the Agency initiate rulemaking to prohibit the manufacturing, processing, or distribution in commerce of nitrilotriacetic acid (NTA) under section 6(a) of TSCA, 15 U.S.C. § 2605(a). The petition was filed on May 15, 1980 by Mr. Walter Fitzpatrick of Stony Brook, New York ("Mr. Fitzpatrick"). For the reasons set forth below, the petition is denied.

I. Background

Citizens' Petitions Under TSCA

Under section 21 of TSCA, a citizen may petition the EPA "to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 . . . [of TSCA]," 15 U.S.C. § 2620. Within 90 days after the filing of a section 21 petition, the Agency must either grant or deny the petition. If the Agency denies the petition, the reasons for the denial must be published in the **Federal Register.** This notice sets forth the reasons for the Agency's denial of Mr. Fitzpatrick's petition.

Petition Request

The petition filed by Mr. Fitzpatrick requested that EPA promulgate a rule, under section 6(a) of TSCA, banning the future use of NTA as a detergent additive. In his petition, Mr. Fitzpatrick expressed his reasons for believing that the use of NTA in detergents in the future would present unreasonable risks to people and the environment. Mr. Fitzpatrick's petition states that NTA is teratogenic, affects various body functions, and does not slow down or stop eutrophication in coastal and estuarine waters. Mr. Fitzpatrick's petition also asserts that there are safe and economically feasible alternatives to the use of NTA in detergents.

II. Reasons for the Agency's Decision to Deny the Petition

Each of the substantive points Mr. Fitzpatrick's petition raises, and the Agency's conclusions with respect to each, is summarized below. The Agency's conclusions are based on a document entitled "Final Report: NTA" ("NTA Risk Assessment"), a copy of which is in the public record established for this decision. The NTA Risk Assessment presents the results of a quantitative and qualitative assessment of the potential risk to human health and the environmental arising from the use of NTA in detergents. The NTA Risk Assessment reviews the findings and recommendations of committees that have examined NTA, and supplements these findings with recent information. The references to scientific studies appearing here are taken from the NTA Risk Assessment; complete bibliographic information is in that document.

A. *Human Toxicity of NTA.* 1. *Teratogenicity.* Mr. Fitzpatrick expressed concern that NTA may alter physio-chemical processes and cause teratogenic effects. He alleged that NTA may be teratogenic in combination with heavy metals, such as cadmium or mercury.

The NTA Risk Assessment (page 1) states that preliminary findings from a study performed at the National Institute of Environmental Health Sciences (1970) suggested that NTA might increase the teratogenic activity of methylmercury. To further evaluate the teratogenicity of NTA, Tjalva (1972) and Nolan et al. (1971, 1972) exposed mice and rabbits to NTA in drinking water during pregnancy (page 35, NTA Risk Assessment). Data from these studies failed to show any teratogenic or embryotoxic effects. Nolan et al., 1972 and Scharpf and co-workers, 1974 and 1975 exposed rats to heavy metals in the presence of NTA. Results of these studies showed that NTA does not increase toxicity or teratogenicity of heavy metals, such as mercury, iron, and cadmium (page 35, NTA Risk Assessment). The NTA Risk Assessment (page 36) concludes that NTA, even in the presence of heavy metals, does not cause teratogenic or reproductive effects.

2. *Carcinogenicity.* Mr. Fitzpatrick's petition did not raise the issue of carcinogenicity. It should be noted, however, that the Agency has conducted an assessment of NTA's carcinogenicity. The Agency has concluded that NTA appears to be a weak carcinogen and presents a relatively low human cancer risk. The text of a statement made on June 26, 1980 by Steven D. Jellinek, EPA's Assistant Administrator for Pesticides and Toxic Substances, to the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce has been made part of the public record for this decision. Mr. Jellinek's statement discusses, among other things, the Agency's conclusions with respect to NTA's carcinogenicity.

3. *Other toxic effects.* Mr. Fitzpatrick stated that NTA ingestion by humans affects certain body functions. He cited several effects observed in test animals (rats), such as reduced growth, increased kidney to body weight ratio, increased urinary calcium levels, hematuria, and the presence of crystals (calcium-sodium-NTA complex) in the urine. Mr. Fitzpatrick stated that NTA inhibits alkaline phosphatase activity in the liver of humans.

Available health data on hazards other than oncogenicity, mutagenicity, and teratogenicity, as presented on pages 28-33 of the NTA Risk Assessment, indicated that absorption of NTA from oral ingestion, inhalation or dermal exposure is relatively poor in humans. In addition, low doses (of NTA) produced no other toxic effects in animals. Hopping, 1979, found that biochemical and hematological parameters were not changed except at a high dietary level of NTA (0.15 percent). Nixon et al, 1972 and Anderson, 1979 found that urinary zinc levels increased, dose dependent increase of urinary calcium excretion occurred, and urinary crystals were present at high dietary levels of NTA. No significant toxic effects occurred below 0.15 percent. According to Thayer and Kensler, (1973) and Michael and Wakim (1973), no alterations in enzyme levels and activity have been found in dietary dosage of 20,000 ppm NTA for up to 90 days in kidney, liver and blood systems. The Agency has concluded that the risk to man from such effects is likely to be negligible at expected consumer, workplace, and environmental levels.

B. *Human Exposure to NTA—Contamination of Drinking Water Sources.*

Mr. Fitzpatrick expressed concern that the replacement of phosphates in detergents with NTA will lead to billions of pounds of this substance or its by-product's contaminating surface and groundwater yearly.

NTA is not expected to accumulate in groundwater and surface water in concentrations that would be harmful to human health. According to pages 21-23 of the NTA Risk Assessment, estimates allowing for dilution and biodegradation of NTA indicate that levels of NTA in U.S. drinking waters are expected to be in the low micrograms per liter range. Pages 12-19 present evidence from both laboratory and field studies that NTA biodegrades into innocuous intermediates or by-products in aerobic wastewater systems, fresh water, and groundwater. Relatively little is known about the degradation of NTA under anaerobic conditions. Nevertheless, studies have demonstrated that some degradation of NTA takes place under anaerobic conditions, such as those in flooded soils, lake sediments, and septic tanks.

C. *Ecological Effects of NTA.* 1. *Eutrophication.* Mr. Fitzpatrick stated that the use of nitrogenous compounds such as NTA as a replacement for phosphates does not confer the environmental benefit of retarding eutrophication in estuarine and coastal waters. Rather, Mr. Fitzpatrick asserted that the enrichment of these waters with nitrogen increases eutrophication.

According to the NTA Risk Assessment, pages 62-65, studies have shown that the nitrogen(N) contribution by NTA, assuming complete degradation, would reach a maximum of 2 mg N/l (milligrams of nitrogen per liter of water) with a median value of about 0.3 mg N/l. Therefore, it appears that the contribution of nitrogen from NTA would be of a magnitude that would not increase eutrophication significantly.

2. *Metal Solubilization.* Mr. Fitzpatrick stated that the use of NTA results in the formation of extremely stable toxic metal complexes such as NTA-mercury, -cadmium, -nickel and -copper, which contaminate surface and groundwaters by solubilizing transition metals from bottom sediments.

Theoretically, the introduction of NTA to an aqueous environment containing soluble metal ions, precipitated metal salts, or adsorbed metals ions may result in metal complexation with NTA and solubilization of previously insoluble metal. The extent of this solubilization, however, is dependent upon the concentration of NTA. Investigation by Gregor 1972; Barica et al., 1973; Sanchez and Lee, 1973; Banat et al., 1974; Allen and Boolayangoor, 1977 showed that significant release of metals from the sediments and subsequent solubilization as the NTA complex, generally occurs only when NTA is present at concentrations of 1 mg/l or higher (page 10, NTA Risk Assessment). Since the levels of NTA in U.S. drinking waters are expected to be in the low micrograms per liter range, it is unlikely that NTA will occur in concentration of 1 mg/l or higher.

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D. *Alternatives to NTA Use in Detergents.* Mr. Fitzpatrick stated that there are safe and economically feasible alternatives to the use of NTA in detergents. The NTA Risk Assessment does not include an evaluation of alternatives to NTA or a comparison of the risks of using NTA with the risks of using other detergent builders. Because the Agency concluded that the risks of using laundry detergents containing NTA are not significant, it did not consider an evaluation of alternatives to be necessary. The Agency is not required to perform a full risk/benefit analysis with respect to every chemical substance which may present a risk.

III. Conclusions

Based on the findings presented in the NTA Risk Assessment, the Agency has concluded that projected levels of general population exposure from the use of NTA in laundry detergents would be generally low and that the associated risks to human health also would be low. In light of this conclusion, coupled with the need to deal with higher priority problems, the Agency denies Mr. Fitzpatrick's petition to initiate rulemaking proceedings under section 6(a) of TSCA with respect to NTA. If at any time the Agency receives substantial new evidence suggesting that NTA presents an unreasonable risk to health or the environment, it will reevaluate its position. Meanwhile, the Agency has taken some precautionary steps. In a letter to Procter and Gamble, EPA has urged manufacturers and processors of NTA to limit occupational exposure and to perform additional monitoring and environmental studies. The Agency also recommended that NTA not be used in consumer products to which there is direct dermal or oral exposure (such as shampoos, foods, and hand washing detergents).

Public Record

EPA has established a public record for this decision; it is available for inspection in the Document Control Office, Management Support Division, Office of Pesticides, Rm. E-447, 401 M St., SW, Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes the EPA risk assessment on NTA cited in this Notice; the Petition from Mr. Fitzpatrick; the testimony of Steven D. Jellinek, Assistant Administrator for Pesticides and Toxic Substances, to the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce; and any other correspondence between EPA and the Petitioner. Information about the public record may be obtained from Joni T. Repasch, Document Control Officer, at (202-755-8050).

Coordination

The Occupational Safety and Health Administration, the Consumer Product Safety Commission, the National Toxicology Program of the Department of Health and Human Services, and the Food and Drug Administration have commented upon the Agency's response to this petition; their comments have been taken into account in this response.

Dated: October 23, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-34118 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-180516; PH FRL 1651-8]

North Carolina; Issuance of Specific Exemption for Methomyl on Forage Grasses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use methomyl to control the fall armyworm on 262,000 acres of forage grasses in North Carolina. The specific exemption is issued under the Federal Insecticide, Fungicide and Rodenticide Act.

DATE: The specific exemption expires on October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, EPA, Rm. E-124, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: Forage grasses comprise a major portion of cool season forage grown in North Carolina. Many growers depend on these crops as the primary source of cattle feed. According to the Applicant, North Carolina growers cannot afford additional losses due to armyworm damage. Damages equal to or greater than those encountered in previous years are expected if an effective pesticide is not used. Fields where infestations are heavy may be stripped, eliminating grazing in the late fall months in a year when such grazing will be essential for maintenance of productive herds. According to the Applicant, growers may be forced to sell off their herds if forage or hay is not available at a price they can afford.

The fall armyworm overwinters in the Gulf Coast region and migrates northward each summer. The armyworms fluctuate greatly in abundance north of their overwinter sites and undergo cycles which reach destructive peaks. According to the Applicant, there is usually only one generation in each locality in North Carolina each season; however, several overlapping generations are known to occur. Like the true armyworm, the caterpillars often move from field to field in large number devouring the foliage and tender stems of field and vegetable crops. The Applicant indicates that the fall armyworm, if uncontrolled, can cause damage which could create an extreme financial hardship for the livestock industry throughout the State.

Carbaryl and trichlorfon are registered for control of the fall armyworm in North Carolina. However, under field conditions in North Carolina, carbaryl, the most widely used insecticide, generally did not give effective control, the Applicant reported. Methomyl was reported effective for fall armyworm control when used in several States as authorized by specific exemptions granted by EPA.

The Applicant proposed to treat forage grasses with applications of methomyl at a maximum dosage of one-half pound active ingredient per acre per application on 262,000 acres throughout North Carolina. A maximum of three applications will be made; applications will be by ground or aerial equipment.

Tolerances have been established for residues of methomyl on Bermudagrass and Bermudagrass hay. EPA has determined that residues of methomyl should not exceed 5 parts per million (ppm) in or on green grass, and 10 ppm in or on ground or pelletized meal, from the proposed use. These residue levels have been judged adequate to protect the public health. The proposed use is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until October 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The following products containing the active ingredient methomyl (S-methyl N-[(Methylcarbamoyl)oxy]thioacetimidate) may be used at a maximum dosage rate of one-half pound of active ingredient per acre: Dupont Lannate Insecticide (EPA Reg. No. 352-342), Dupont Lannate WP Methomyl Insecticide (EPA Reg. No. 352-362), Dupont Lannate L Insecticide (EPA Reg. No. 352-370), Shell Nudrin 90 Methomyl Insecticide Water Soluble Powder (EPA Reg. No. 201-324), and Shell Nudrin 1.8 Insecticide Solution (EPA Reg. No. 201-347). If unregistered labels are used, they must contain the identical applicable precautions and restrictions which appear on the registered labels.

2. A maximum of three applications may be made.

3. A maximum of 65,000 pounds of active methomyl may be applied.

4. Applications may be made by either State-licensed commercial applicators or State-certified private applicators using air or ground equipment.

5. There must be a waiting period of seven days before grazing, feeding, or cutting for hay or for dehydration and processing into meal and pellets.

6. Green grass with residue levels of methomyl not exceeding 5.0 ppm, and cured hay and ground or pelletized meal with residues of methomyl not exceeding 10.0 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

7. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid spray drift to nontarget areas.

8. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed.

9. The Applicant is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by April 1, 1981.

10. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136)).

Dated: October 24, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34100 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-32-M

[W-4-FRL 1651-2]

Proposed Determination To Prohibit or Deny the Specification, or the Use for Specification, of an Area As a Disposal Site; Extension of Time

AGENCY: Environmental Protection Agency [EPA].

ACTION: Notice of extension of time No. 80 FL 404-004—October 27, 1980.

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) provides that, if the Administrator of the U.S. EPA determines that unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas would result from the discharge of dredged or fill material, he may exercise his authority to withdraw, restrict, or prohibit the defined area from specification as a disposal site. The procedures for implementation of 404(c) are set forth in 40 CFR 231 (44 FR 8076, October 9, 1979).

On October 2, 1980, a Public Hearing was held on the proposed determination to prohibit or deny the specification of an area as a disposal site. The public hearing covered the Corps of Engineers permit No. 75B-0869 and proposed permit No. 77B-0376. The record was to remain open until October 15, 1980 for the submittal of comments. The State of Florida has requested that the record remain open for an additional fifteen days. Pursuant to 40 CFR 231.8 I have determined that good cause exists to extend the time for the record to remain open until November 15, 1980.

DATE: The date to submit comments is extended until November 15, 1980. Accordingly, the date by which I will either withdraw the proposed determination or prepare a recommended determination is extended until November 30, 1980.

ADDRESSES: Additional comments may be sent to Cheryn B. Jones, Record Clerk, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryn B. Jones, Record Clerk, Legal Branch, Enforcement Division, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881-3506.

Dated: October 24, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-34116 Filed 10-31-80; 8:45]

BILLING CODE 6560-32-M

[RD-FRL 1652-4]

Public Meeting on Indoor Air Quality Research Needs

AGENCIES: Environmental Protection Agency; Department of Energy; Department of Housing and Urban Development; National Institute for Occupational Safety and Health; Consumer Product Safety Commission.

ACTION: Notice of Public Meeting.

SUMMARY: A workshop on "Indoor Air Quality Research Needs" will be held to receive expert review and public comment on a draft research strategy/plan to guide federally sponsored activities. Statements by public participants will be scheduled to the extent that time permits and should be limited to the subjects of: (1) comments on the draft strategy/plan and (2) indoor air quality research needs and objectives. Additional opportunities for discussion will be afforded to all participants. Copies of the draft strategy/plan are available upon request and written comments submitted by mail will be accepted until December 10, 1980.

DATE: The workshop will be held on December 3-4-5, 1980 from 9:00 a.m. until 9:00 p.m. each day. *Individual Requests to attend must be made by November 19, 1980* and will be accommodated on a space available basis.

WORKSHOP LOCATION: Xerox International Center for Training and Management Development, P.O. Box 2000, Leesburg, Virginia 22075.

FOR FURTHER INFORMATION AND TO REQUEST ATTENDANCE CONTACT: Ms. Janet Ford, GEOMET Technologies, Inc. (GTI), 15 Firstfield Road, Gaithersburg, Maryland 20760, (301) 948-0755. Conference coordinators: David Berg, EPA (202) 755-0205; Howard Ross, DOE (202) 252-9187.

SUPPLEMENTARY INFORMATION: A number of Federal agencies (including Department of Housing and Urban Development, National Institute for Occupational Safety and Health, Consumer Product Safety Commission, Environmental Protection Agency and Department of Energy) are now pursuing research on indoor air quality. This meeting is intended to coordinate the federal research program involving all agencies. The workshop will address five major research and development areas: (1) monitoring (characterization of indoor air quality), (2) instrumentation, (3) health and welfare effects, (4) contaminant control, and (5) risk assessment. Government administrative and scientific representatives, indoor air quality experts outside the Federal Government, and the public are invited to participate. A lodging and meals fee of $171.60 ($57.20 per day) will be charged to overnight participants; a meals and

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facilities fee of $78.00 ($26.00 per day) will be charged to commuters.

Kurt Riegel,

Associate Deputy Assistant Administrator for Environmental Engineering and Technology, Environmental Protection Agency.

October 28, 1980.

[FR Doc. 80-34088 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-35-M

[OPTS-53018; TSH.FRL; 1652-8]

Premanufacture Notices; Monthly Status Report for September, 1980

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for September, 1980.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on a specific chemical substance..

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Robert Smith, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M St., SW, Washington, DC 20460 (202–428–8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558) and the notice of availability of the Revised Inventory was published on July 29, 1980 (45 FR 50544). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances that EPA has added to the Inventory during the month. Therefore, EPA is publishing the September, 1980 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–53018]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's, and other documents in public record may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: October 28, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

Premanufacture Notices Monthly Status Report for September 1980

I. Premanufacture Notices Received during the Month

PMN No.	Identity/generic name	FR citation	Expiration date
80–237	Generic name: Aliphatic polyurethane water-borne dispersion	45 FR 63347 (9/24/80)	Dec. 1, 1980.
80–238	Generic name: Glycerine, 1-alkanoate, 3-substituted alkanoate	45 FR 65662 (10/3/80)	Dec. 2, 1980.
80–239	2,2,4-Trimethyl-1,3-pentanediol, trimethylol-propane, succinic anhydride, adipic acid, isophthalic acid.	45 FR 63919 (9/26/80)	Dec. 2, 1980.
80–240	Generic name: Ethene-alkene-vinyl carbonyl amine polymer	45 FR 65030 (10/1/80)	Dec. 1, 1980.
80–241	Generic name: Polyurethane polyacrylic polymer	45 FR 63345 (9/24/80)	Dec. 3, 1980.
80–242	*N*(2-Hydroxypropyl)-*N*-tris(5-hydroxy-2-oxopentyl)-ammonium acetate	45 FR 64245 (9/29/80)	Dec. 4, 1980.
80–243	2,2,4-Trimethyl-1,3-pentanediol, trimethylol-propane, succinic anhydride, trimellitic anhydride, adipic acid, and isophthalic acid.	45 FR 65033 (10/1/80)	Dec. 7, 1980.
80–244	1-Nitronaphthalene-6-sulfonic acid, potassium salt	45 FR 65029 (10/1/80)	Dec. 7, 1980.
80–245	1-Nitronaphthalene-7-sulfonic acid, potassium salt	45 FR 65029 (10/1/80)	Dec. 7, 1980.
80–246	Generic name: Disubstituted heptadecane	45 FR 65032 (10/1/80)	Dec. 7, 1980.
80–247	Generic name: Aliphatic diol	45 FR 65032 (10/1/80)	Dec. 7, 1980.
80–248	Azelaic acid, 1,4-cyclohexanedimethanol, dimer acid, dimethylol propionic acid, methylenebis (cyclohexyl isocyanate), neopentyl glycol, trimethylolpropane polymer.	45 FR 65033 (10/1/80)	Dec. 8, 1980.
80–249	Generic name: Aliphatic polyurethane waterborne dispersion	45 FR 65034 (10/1/80)	Dec. 9, 1980.
80–250	Propylene glycol, ethylene glycol terephthalic acid polymer, phthalic anhydride, and maleic anhydride.	45 FR 65664 (10/3/80)	Dec. 11, 1980.
80–251	Generic name: Carbomonocyclic, carbopolycyclic polyester	In preparation	Dec. 11, 1980.
80–252	Generic name: Acryloxyethylheteromonocycle	45 FR 67449 (10/10/80)	Dec. 15, 1980.
80–253	Coconut fatty acids, benzoic acid, isophthalic acid, neopentyl glycol, propylene glycol.	45 FR 67450 (10/10/80)	Dec. 15, 1980.
80–254	Generic name: Dimer fatty acid polyamide	45 FR 67450 (10/10/80)	Dec. 15, 1980.
80–255	1-Octanamine, *N, N*-dimethyl-, phosphate salt	In preparation	Dec. 16, 1980.
80–256	Generic name: Methylaziridinylcarbonylimino oleyl trimido diisophorone poly(propylene glycol).	In preparation	Dec. 17, 1980.
80–257	Generic name: Unsaturated branched chain hydrocarbon having 10 carbon atoms.	In preparation	Dec. 17, 1980.
80–258	Generic name: Unsaturated branched chain ketone having 12 carbon atoms	In preparation	Dec. 17, 1980.
80–260	Generic name: Neutralized polymer of styrene, alkyl acrylates, and substituted alkyl methacrylates.	In preparation	Dec. 18, 1980.

PMN No.	Identity/generic name	FR citation	Expiration date
80–261	Polymer of: Palm oil, coconut oil pentaerythritol, benzoic acid, phthalic anhydride, and maleic anhydride.	In preparation	Dec. 21, 1980.
80–262	Generic name: Fatty acids, esters with polyols	In preparation	Dec. 21, 1980.
80–263	Linseed oil, styrene, glycerine, toluene diisocyanate	In preparation	Dec. 22, 1980.
80–264	Benzenamine, [*N*-(1-methylhexylidene)-*N'*-(1-methyl butylidene)-4,4-methylene bis].	In preparation	Dec. 25, 1980.
80–265	Generic name: Di (substituted alkyl) carbomonocyclic dicarboxylate	In preparation	Dec. 25, 1980.
80–266	Generic name: Polymer of alkanedioic acids, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol,2,2-dimethyl-1,3-propanediol.	In preparation	Dec. 25, 1980.
80–267	Generic name: Substituted phenol, reaction products with sulfur chloride	In preparation	Dec. 28, 1980.
80–268	Generic name: Esterified polyamic acid	In preparation	Dec. 28, 1980.
80–269	Generic name: Dineoalkyl ester of glycerine	In preparation	Dec. 28, 1980.
80–270	Polymer of glycidyl methacrylate, hydroxy propyl methacrylate, 12-hydroxystearic acid, methacrylic acid, methyl methacrylate polymer.	In preparation	Dec. 28, 1980.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month

80–157	Generic name: Halogenated polyimide	45 FR 51264 (8/1/80)	Oct. 4, 1980.
80–158	Polymer of: Epoxy resin, maleic anhydride, butanol, styrene, methacrylic acid	45 FR 51264 (8/1/80)	Oct. 4, 1980.
80–159	Generic name: Resin from monocarboxylic acids, polyhydric alcohols, dibasic acid anhydride, polycarboxylic acid anhydride, and a silicone resin.	45 FR 56433 (8/25/80)	Nov. 3, 1980.
80–160	Generic name: Hydrolyzed starch-poly-(acrylonitrile) copolymer	45 FR 51262 (8/1/80)	Oct. 6, 1980.
80–161	Polymer of 2,2-dimethyl; 1,3-propanediol; 2,2,4-trimethyl, 1,3-pentanediol; butendioic acid.	45 FR 51646 (8/4/80)	Oct. 6, 1980.
80–162	Generic name: Lignosulfonate reaction product with an alkenoic acid and an inorganic salt.	45 FR 51274 (8/1/80)	Oct. 6, 1980.
80–163	Generic name: Monosubstituted dialkyl aniline	45 FR 51910 (8/5/80)	Oct. 13, 1980.
80–164	Generic name: Disubstituted indole	45 FR 51910 (8/5/80)	Oct. 13, 1980.
80–165	Ethanedioic acid, di-*N*-butyl ester	45 FR 51272 (8/1/80)	Oct. 13, 1980.
80–166	Generic name: Carbocyanine dye	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80–167	Generic name: Arylhydrazide	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80–168	Generic name: Disubstituted pyrazoloquinazolone	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80–169	Generic name: Disubstituted pyrazoloquinazolone carboxaldehyde	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80–170	Zinc dibutyl dithiocarbamate dibutylamine complex	45 FR 54423 (8/15/80)	Oct. 14, 1980.
80–171	Generic name: Polyester plasticizer	45 FR 54422 (8/15/80)	Oct. 14, 1980.
80–172	Generic name: Polyisobutenyl succinic anhydride reaction products with substituted ethanol.	45 FR 52241 (8/6/80)	Oct. 14, 1980.
80–173	Generic name: Polyester of: Adipic acid, phthalic anhydride, trimethylol propane, ethylene glycol, and diethylene glycol.	45 FR 54420 (8/15/80)	Oct. 15, 1980.
80–174	Generic name: Polyester reaction product with toluene diisolcyanate acrylate terminated.	45 FR 52243 (8/5/80)	Oct. 15, 1980.
80–175	Generic name: Alkyd resin polymer, fatty acid, and urethane modified	45 FR 54420 (8/15/80)	Oct. 16, 1980.
80–176	Generic name: Oxirane, polymer with methyl oxirane, 1,1'-methylenebis(4-isocyanatocyclo-hexane), and (2-hydroxyethyl)-2-propenoate.	45 FR 54422 (8/15/80)	Oct. 19, 1980.
80–177	Generic name: Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate.	45 FR 54422 (8/15/80)	Oct. 19, 1980.
80–178	Generic name: Isocyanate terminated urethane prepolymer	45 FR 52445 (8/7/80)	Oct. 19, 1980.
80–179	Generic name: Polymer of mixed alkyl acrylates	45 FR 53866 (8/13/80)	Oct. 19, 1980.
80–180	Generic name: Polymer of: Carbomonocyclic carboxylic acid, alkanediol, and 2,5-furandiol.	45 FR 58200 (9/2/80)	Oct. 22, 1980.
80–181	Benzenemethanaminium, *ar*-bromoethenyl-*N,N,N*-trimethylchloride (or sulfate), polymer with diethenylbenzene, diisopropenylbenzene, and 2-methyl-1,3-butadiene.	45 FR 54423 (8/15/80)	Oct. 19, 1980.
80–182	Generic name: Alkanedioic acids mixed alkano-lamines salt	45 FR 54425 (8/15/80)	Oct. 21, 1980.
80–183	Generic name: Dimethylaminopropyl fluoroalkyl adducts	45 FR 58677 (9/4/80)	Oct. 22, 1980.
80–184	Polymer of: Castor oil fatty acid, benzoic acid, epoxy resin, fumaric acid, styrene, and *N,N*-dimethyl ethanol amine.	45 FR 56429 (8/25/80)	Oct. 26, 1980.
80–185	Generic name: Polymer of hydroxyethyl acrylate, styrene, 2-ethylhexyl acrylate, alkyl methacrylate, substituted alkyl acrylate, and alkyl mercaptan.	45 FR 58189 (9/2/80)	Oct. 26, 1980.
80–186	*N*-Methyl-2,4-dinitro-*N*-phenyl 6-(trifluoro-methyl) benzeneamine	45 FR 54425 (8/15/80)	Oct. 26, 1980.
80–187	Generic name: 1-Amino-4-substituted-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid.	45 FR 54854 (8/18/80)	Oct. 26, 1980.
80–188	Generic name: Primary amyl nitrates	45 FR 55268 (8/19/80)	Oct. 26, 1980.
80–189	Bisphenol A-epoxy resin, 1,4-butanediol, para amino benzoic acid, and phthalic anhydride polymer.	45 FR 54854 (8/18/80)	Nov. 2, 1980.
80–190	Copolymer from dimethyl terephthalate, alpha, omega-hydroxy terminated aliphathic hydrocarbons; and a polyalkylene glycol.	45 FR 56429 (8/25/80)	Nov. 2, 1980.
80–191	Polymer of: Methylene bis (4-4-cyclohexyl isocyanate), poly propylene glycol, hydroxy ethyl acrylate, and polyoxy propylene diamine.	45 FR 59196 (9/8/80)	Nov. 3, 1980.
80–192	Generic name: Very short oil non-oxidizing alkyd resin	45 FR 58201 (9/2/80)	Nov. 3, 1980.
80–193	Neopentyl glycol, 1,6-hexanediol, adipic acid, phthalic anhydride, and trimellitic anhydride.	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–194	2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol phthalic anhydride	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–195	Generic name: Substituted alkyl oxamide	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–196	Generic name: Trimethyl monocyclic ethyl alkenal	45 FR 59196 (9/8/80)	Nov. 5, 1980.
80–197	Generic name: Trimethyl monocyclic ethyl alkenol	45 FR 59196 (9/8/80)	Nov. 5, 1980.
80–198	Generic name: Styrene acrylic terpolymer	45 FR 58194 (9/2/80)	Nov. 6, 1980.
80–199	Generic name: Methyl aminoheteropolycycle	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–200	Generic name: 1-Substituted-1-(*p*-substitutedphenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–201	Generic name: 1-Substituted-1-(4-(substitutedheteromonocyclic)phenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–202	Generic name: 1-Substituted-1-(4-(substitutedheteromonocyclic)phenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–203	Generic name: *p*-(Methylsubstituted) (substitutedbenzene), triethylammonium salt.	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–204	Generic name: 1-Substituted-4-(methyl-sbustituted)benzene	45 FR 60003 (9/11/80)	Nov. 6, 1980.

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II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
80-205	Generic name: 1-(Methylsubstituted)-4-(substitutedheteromonocyclic)benzene	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80-208	2-Oxepanone, polymer with 1,4-butanediol, 1,3-diisocyanatomethyl benzene, and (2-hydroxyethyl)-2-propenoate.	45 FR 59200 (9/8/80)	Nov. 9, 1980.
80-209	Generic name: Bis(1-polyamino-2-alkyl imidazoline)	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80-210	Generic name: Bis(1-polyamino-2-alkyl imidazoline)	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80-211	Generic name: Polytetramethylene glycol, aliphatic polyglycol, and alkyl diisocyanate.	45 FR 60008 (9/11/80)	Nov. 11, 1980.
80-212	Generic name: Adduct of polytetramethylene glycol, aliphatic polyglycol, aliphatic diisocyanate, and an alkyl diisocyanate.	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80-213	Generic name: Halogenated copolyester resin	45 FR 60008 (9/11/80)	Nov. 16, 1980.
80-214	Generic name: Polyester of aliphatic polyols and aromatic diacids	45 FR 60009 (9/11/80)	Nov. 16, 1980.
80-215	Generic name: Styrene-acrylate copolymer	45 FR 61023 (9/15/80)	Nov. 17, 1980.
80-216	Generic name: Methyl fatty acid ester	45 FR 61021 (9/15/80)	Nov. 17, 1980.
80-217	Generic name: Aromatic trisazo dye	45 FR 61021 (9/15/80)	Nov. 18, 1980.
80-218	Generic name: Aromatic trisazo diester dye	45 FR 61021 (9/15/80)	Nov. 18, 1980.
80-219	Generic name: An aliphatic ester	45 FR 62194 (9/18/80)	Nov. 18, 1980.
80-220	Generic name: Polybasic acid ester of mixed short alkyl mono alcohol and a polyol.	45 FR 62985 (9/22/80)	Nov. 19, 1980.
80-221	Cyclohexanecarbonitrile, 1,1'azobis	45 FR 62195 (9/18/80)	Nov. 24, 1980.
80-222	Cyclohexanecarbonitrile, 1-amino	45 FR 62195 (9/18/80)	Nov. 24, 1980.
80-223	Polymer of: 1,6-Hexanediol, terephthalic acid, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.	45 FR 61019 (9/15/80)	Nov. 24, 1980.
80-224	Polymer of: Isophthalic acid, (tall fatty acid, trimelletic anhydride, terephthalic acid, neopentyl glycol, and trimethyl propane.	45 FR 61019 (9/15/80)	Nov. 24, 1980.
80-225	Generic name: Mono di, and tri esters of polybasic acids	45 FR 62985 (9/22/80)	Nov. 24, 1980.
80-226	Dimethyl 1,4-cyclohexanedicarboxylate, maleic anhydride, neopentyl glycol phthalic anhydride, trimethylol ethane polymer.	45 FR 61022 (9/15/80)	Nov. 19, 1980.
80-227	Benzoic acid fatty acids C_{14-18} unsaturated maleic anhydride, and pentaerythritol polymer.	45 FR 61022 (9/15/80)	Nov. 24, 1980.
80-228	Benzene propanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-(1,2-dioxo-1,2-ethanediyl) bis (imino-2,1-ethandiyl) ester.	45 FR 62194 (9/18/80)	Nov. 24, 1980.
80-229	Generic name: Dichloro dimethoxy diethyl amino, azobenzene, sodium salt	45 FR 62987 (9/22/80)	Nov. 24, 1980.
80-230	Generic name: Fatty acid ester	45 FR 62898 (9/22/80)	Nov. 25, 1980.
80-231	Napthalene, 1,2,3,4-tetrahydro-1,2,4,4-tetramethyl	45 FR 62197 (9/18/80)	Nov. 26, 1980.
80-232	2-Napthalene ethanol, 5,6,7,8-tetrahydrobeta, 5,5,8,8-penta methyl	45 FR 65664 (10/3/80)	Nov. 26, 1980.
80-233	Polymer of adipic acid, benzoic acid, neopentyl glycol, phthalic anhydride, propylene glycol, trimethylol ethane, tall oil fatty acids.	45 FR 65662 (10/3/80)	Nov. 26, 1980.
80-234	Adipic acid, dimethyl 1,4-cyclohexane dicarboxylate, maleic anhydride, neopentyl glycol, phthalic anhydride, trimellitic anhydride, trimethylol ethane polymer.	45 FR 63343 (9/24/80)	Nov. 27, 1980.
80-235	2-Pyridinamine, *N, N*-dimethyl	45 FR 65034 (10/1/80)	Nov. 27, 1980.
80-236	Generic name: Aliphatic polyurethane water borne dispersion	45 FR 63347 (9/24/80)	Nov. 27, 1980.

III. Premanufacture Notices For Which the Notice Review Period Has Ended During the Month

[Expiration of the notice review period does not signify that the chemical has been added to the Inventory]

80-129	Generic name: Poly(amide-ester) resin X2-669	45 FR 44394 (7/1/80)	Sept. 3, 1980.
80-130	Generic name: Poly(amide-ester) resin X2-600	45 FR 44394 (7/1/80)	Sept. 3, 1980.
80-131	2-[2-[4-(2-hydroxyethoxy)phenyl] ethenyl]-4,6-bis(trichloromethyl)-1,3,5-triazine.	45 FR 43461 (6/27/80)	Sept. 3, 1980
80-132	Generic name: Acidic phenyltetrazole derivative	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80-133	Generic name: Substituted nitroaromatic	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80-134	Generic name: Nitro acid	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80-135	Generic name: Substituted propane	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80-136	12-Molybdosilicic acid	45 FR 46207 (7/9/80)	Sept. 15, 1980.
80-139	Generic name: Epon 1004, soya fatty acid, styrene acrylic acid, and di-tertiary butyl peroxide.	45 FR 46199 (7/9/80)	Sept. 15, 1980.
80-140	Generic name: Polyer of: Epoxy resin, styrene, diallyl amine, dimethyl amino propyl methacrylamide, 2-ethyl hexyl methacrylate, and isobutoxy methylacrylamide.	45 FR 46199 (7/9/80)	Sept. 15, 1980.
80-141	Generic name: Substituted-(substituted-alkenyl)-heteropolycyclic salt	45 FR 49157 (7/23/80)	Sept. 17, 1980.
80-142	Neopentyl glycol, dimerized fatty acid polymer	45 FR 49150 (7/23/89)	Sept. 21, 1980.
80-143	Generic name: Complex of *p*-phenylphenol and an alkyl amine	45 FR 46202 (7/9/80)	Sept. 21, 1980.
80-144	Generic name: Amineextended alpha-w-hydorxypoly[oxy(methyl-1,2-ethanediyl)]polymer with 1,3-diisocyanatomethylbenzene.	45 FR 49149 (7/23/80)	Sept. 21, 1980.
80-145	Generic name: Methyl-(substituted)-(disubstituted) carbomonocycle	4545 FR 49157 (7/23/80)	Sept. 21, 1980.
80-148	Supra castor fatty acid, tall oil fatty acid, trimethylolpropane, pentaerythritol, phthalic anhydride, and para-tert butylbenzoic acid alkyd polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-149	Generic name: Soya fatty acid, supra castor fatty acid, benzoic acid, phthalic anhydride, maleic anhydride, and pentaerythritol alkyl polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-150	Generic name: Safflower fatty acid type, phthalic anhydride, maleic anhydride, trimethylolpropane, pentaerythritol alkyd polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-151	Generic name: Substituted-(substitutedvinyl)-heteropolycyclic salt	45 FR 49152 (7/23/80)	Sept. 25, 1980.
80-152	Poly(vinylacetate-co-butyl acrylate, terioctylacrylamide)	45 FR 49151 (7/23/80)	Sept. 25, 1980.
80-154	Generic name: Reaction products of [(amino-disubstitutedcarbomonocyclic) azo]carbomono-cyclesulfonic acid and [(amino-monosubstituted-carbomonocyclicazo] carbomonocyclesulfonic acid with carbonic dichloride.	45 FR 51647 (8/4/80)	Sept. 30, 1980.
80-155	Cyclohexanehexacarboxylic acid, penta sodium	45 FR 51262 (8/1/80)	Sept. 30, 1980.

IV. New Substances Added to the Inventory During the Month

PMN No.	Manufacturer	Chemical identity	FR citation
80-23	Grow Group Inc., 3155 W. Big Beaver Road, Troy, MI 48084	Polymer of: Epichlorohydrinbis A; bisphenol A; *N*-methyl morpholine; and acetic acid.	45 FR 16006 (3/12/80).
80-31	Claimed confidential business information (CBI)	Generic name: Chloro organoaminofluoran dye.	45 FR 15644 (3/11/80).
80-57	Sun Petroleum Products Co., 1608 Walnut St., Philadelphia, PA 19103	Generic name: Alkyl biphenyls	45 FR 24696 (4/10/80).
80-70	CBI	Generic name: Sulfonic acid salt of ureylenebis-(hydroxy-[(sulfonaphthayl)azo])napthalene.	45 FR 27006 (4/24/80).
80-71	CBI	Generic name: Sulfonic acid of a ureylene-bis(hydroxy-[sulfonaphthayl)azo]) napthalene compound.	45 FR 24696 (4/10/80).
80-75	CBI	Polymer of: 12 Hydroxy stearic acid and epoxy resin.	45 FR 30127 (5/7/80).
80-84	CBI	Generic name: Polyester reaction product with isophorone diisocyanate and hydroxypropyl acrylate.	45 FR 30132 (5/7/80).
80-88	Ciba Geigy Corp., P.O. Box 114222, Greensboro, NC 27409	Generic name: Cyanalkyl carbomonocyclicsulfonate. (Added August 1980).	45 FR 32772 (5/19/80).

[FR Doc. 80-34105 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-31-M

[AS-FRL 1653-2]

Renewal of Two Advisory Committees; National Air Pollution Control Techniques Advisory Committee and Management Advisory Group to the Municipal Construction Division

October 29, 1980.

The U.S. Environmental Protection Agency announces the renewal of the National Air Pollution Control Techniques Advisory Committee and the Management Advisory Group to the Municipal Construction Division. EPA has determined that renewal of these advisory committees is in the public interest in connection with the performance of duties imposed on the Agency by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, as required. The charters which continue the National Air Pollution Control Techniques Advisory Committee and the Management Advisory Group to the Municipal Construction Division until December 1, 1982, unless otherwise sooner terminated, will be filed with the appropriate Congressional Committees and the Library of Congress, in accordance with Section 14 of the Federal Advisory Committee Act (Pub. L. 92-463).

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, 202-755-0866.

Dated: October 28, 1980.

Saul R. Rosoff,

Acting Assistant Administrator for Planning and Management.

[FR Doc. 80-34107 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-36-M

[OPTS-51159; TSH-FRL 1653-1]

Substituted Phenol, Reaction Products With Sulfur Chloride; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Secton 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMM within 5 working days after receipt. This Notice announces receipt of a PMM and provides a summary.

DATES: Written comments by November 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Cynthia Work, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW, Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

V45/214 NO 3 80 UMI

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before November 28, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51159]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: October 28, 1980

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–267.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 28, 1980.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identify. Claimed confidential business information. Generic name provided. Substituted phenol, reaction products with sulfur chloride.

Use. Claimed confidential business information. Generic use provided: Lubricant additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. (For a 50% weight solution of substituted phenol, rection products with sulfur chloride).

Estimated oral LD_{50} (rats)—<16gm/kg body wt.

Primary skin irritation index—5.33.

Eye irritation score—11.9, 9.3, 6.0, 1.3, 0 at 24, 48, and 82 hours, 5 and 7 days respectively.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

[FR Doc. 80–34106 Filed 10–31–80; 8:45 am]

BILLING CODE 6560–31–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A–19]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: October 28, 1980.

Cut-Off Date: December 5, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after December 5, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 5, 1980, which involves a conflict necessitating a hearing with any application on this list must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on December 5, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on December 5, 1980.

BP–800527AD (new), Hayden, Colorado, Z Broadcasters, Inc. Req: 1000 kHz, 10 kW (5 kW–Ch), D.

BP–800527AN, KCNO, Alturas, California, KCNO, Inc. Has: 570 kHz, 5 kW, D. Req: 570 kHz, 2.5 kW, 5 kW–LS, DA–N, U.

BP–800611AA (new), White Bluff, Tennessee, Dickson County Radio, Inc. Req: 1150 kHz, 500 W, DA–D.

BP–800611AC (new), Black Canyon, Arizona Black Canyon Broadcasting Corporation. Req: 710 kHz, 500 W, DA–D.

BP–800613AC, WCUB, Two Rivers, Wisconsin, CUB Radio, Inc. Has: 980 kHz, 5 kW, D (Manitowoc). Req: 980 kHz, 5 kW DA–2, U (Two Rivers).

BP–800619AF, WBME, Belfast, Maine, Seth Broadcasting Corporation, Has: 1230 kHz, 250 W, SH. Req: 1230 kHz, 250 W, 1 kW–LS, U.

BP–800624AK, WFBZ, Minocqua, Wisconsin, Frederick H. Bierbaum. Has: 1570 kHz, 1 kW, D. Req: 1570 kHz, 2.5 kW, D.

BP–800721AD (new), North Myrtle Beach, South Carolina, North Myrtle Beach Broadcasting Corp. Req: 900 kHz, 500 W, DA–D.

BP–800729AH, WTNR, Kingston, Tennessee, WTNR, Incorporated. Has: 1410 kHz, 500 W, D. Req: 1410 kHz, 1 kW, 500 W–LS, DA–N, U.

BP–800903AE, WRTR, Two Rivers, Wisconsin, Paragon Radio Network, Inc. Has: 1590 kHz, 1 kW, D. Req: 1590 kHz, 500 W, 1 kW–LS, DA–N, U.

BP–800908AC, WAXO, Lewisburg, Tennessee, Lewisburg Radio Co., Inc. Has: 1220 kHz, 250 W, D. Req: 1220 kHz, 1 kW, D.

BP–800911AG, KTBB, Tyler, Texas, Smith County Broadcasters. Has: 600 kHz, 1 kW, DA–N, U. Req: 600 kHz, 2.5 kW, 5 kW–LS, DA–2, U.

BP–801015AC (new), Cornwall, New York, Mid-Hudson Valley Broadcasting, Inc. Req: 1170 kHz, 1 kW, DA–D.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–34165 Filed 10–31–80; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket Nos. 80–655, 80–656; File Nos. BPCT–5154, BPCT–5203]

International Panorama TV, Inc. (KTBN–TV) and Saddleback Broadcasting Co., Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: October 10, 1980.

Released: October 28, 1980.

In re Applications of International Panorama TV, Inc. (KTBN–TV), Santa Ana, California, BC Docket No. 80–655, File No. BPCT–5154; and Saddleback Broadcasting Company, Inc., Santa Ana, California, BC Docket No. 80–656, File No. BPCT–5203; For a Television Station Construction Permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by International Panorama TV, Inc. (IPTV or International), for a major change in its existing facility [1] and Saddleback Broadcasting Company, Inc. (Saddleback) for a construction permit for a new commercial station to operate on Channel 40, Santa Ana, California; [2] and related pleadings.

Preliminary Matters

2. On August 29, 1980, IPTV filed a "Motion For Deferred Processing," of the above applications pending the outcome of an appeal seeking review by the U.S. Court of Appeals for the District of Columbia Circuit of the Commission's *Report and Order* in BC Docket No. 79–176, FCC 80–474, released August 12, 1980, in which the Commission determined that Channel 40, should remain assigned to Santa Ana and could not be reassigned to Riverside for use there by IPTV without necessitating the acceptance of competing applications for a new authorization.[3] IPTV asserts in the "Motion" that the relief requested satisfies the legal standards governing request for stays, as set forth in *Virginia Petroleum Jobbers Association v. FPC,* 259 F. 2d 921 (D.C. Circuit 1958). However, upon consideration of the information presented by IPTV, the Commission believes that the public interest will best be served by a denial of the motion and the designation of the above applications. This will avoid further delay if IPTV is unsuccessful in its appeal and will cause no irreparable injury to IPTV should the appeal be successful.

International Panorama TV, Inc.

3. International's ascertainment survey indicates that, as a growing community, Santa Ana is faced with many problems and needs such as transportation, ecology, government and tax related problems. International has not indicated how its programming will address these specific needs. Therefore, an appropriate issue will be specified.

4. From the information before the Commission, it appears that IPTV has failed to comply with certain requirements of the *Primar on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21RR 2d 1507 (1971). International has indicated that it has interviewed leaders of organizations representing minority and ethnic groups, but it is not possible to determine what minority or ethnic groups those persons represent. Accordingly, a limited ascertainment issue will be specified.

Saddleback Broadcasting Co., Inc.

5. Pursuant to § 1.65 of the Commission's Rules, 47 CFR 1.65, Saddleback submitted a copy of a complaint filed in U.S. District Court for the Eastern District of Pennsylvania. The complaint involves the alleged violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78j(b) and rule 10b–5. Named as a defendant party is David H. Methvin, a principal in Saddleback. In the event of grant of the application of Saddleback, the construction permit will be conditioned on the final outcome of the civil proceeding.[4]

6. Except as indicated by the issues specified below, the Commission finds International Panorama TV, Inc. and Saddleback Broadcasting Co. legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must therefore be designated for hearing on the issues set out below.

Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are Designated for hearing in a Consolidated Proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, with respect to International:

(a) whether International interviewed leaders of minority and ethnic groups in Santa Ana.

(b) whether International's programming proposal is designed to respond to the ascertained needs and problems.

(c) whether, based on evidence adduced pursuant to the above, International is qualified.

(2) To determine, on a comparative basis, which of the applications would better serve the public interest.

(3) to determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That in the event of a grant of Saddleback's application, the construction permit will be conditioned upon the final outcome of the civil proceeding naming as a defendant party, David H. Methvin, a principal in Saddleback.

9. It is further ordered that the motion for deferred processing, filed by International IS DENIED.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80–34166 Filed 10–31–80; 8:45 am]

BILLING CODE 6712–01–M

[1] International is seeking to change the city of license of KTBN–TV, Channel 40, from Fontana to Santa Ana, California.

[2] These applications were filed under the procedures adopted in *Adjudicatory Re-regulation Proposals,* 58 FCC 2d 865 (1976). Subsequently, the Commission adopted new procedures, *Revised Procedures for the Processing of Contested Broadcast Applications,* 45 RR 2d 1220 (1979). Accordingly, these applications will be considered under the revised procedures. Therefore, as contemplated in the new procedures, "Petitions to Specify Issues" will not be considered.

[3] On September 12, 1980, Saddleback Broadcasting Company, Inc. filed an "Opposition" to IPTV's "Motion For Deferred Processing."

[4] See, *Violation by Applicants of Laws of United States,* 42 FCC 2d 399 (1951).

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Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 77

"Committee to Revise the RTCM Marine Radiotelephone Handbook," Notice of 3rd Meeting, Wednesday, November 19, 1980—9:30 a.m., Conference Room A-106, F.C.C. Annex, 1229 20th Street, N.W., Washington, D.C.

Agenda

1. Call to Order; Chairman's Report.
2. Review of draft revision of Marine Radiotelephone Handbook.
3. Assignment of work projects.
4. Establishment of future meeting schedule.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-34167 Filed 10-31-80; 8:45 am]

BILLING CODE 6712-01-M

SES Performance Award Schedule

The Federal Communications Commission plans to grant performance awards to SES members on or about November 12, 1980. For further information contact Joan C. McDonald, Director of Personnel, at 632-7120.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-34067 Filed 10-31-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA 5925]

National Flood Insurance Program; Communities With Flood-Prone Areas Subject to Section 202(A), Prohibition of Federal and Federally Related Assistance

Correction

In FR Doc. 80-32860, appearing on page 70111, in the issue of Wednesday, October 22, 1980, make the following correction.

On page 70124, second column, the following entries were inadvertently omitted at the beginning of the listing for "**Oklahoma**":

Ident.	Community name	County	Original hazard date
	Oklahoma		
400255	Achille, town of	Bryan County	760402
400256	Adair, town of	Mayes County	760402
400074	Addington, town of	Jefferson County	741018
400259	Asher, town of	Pottawatomie County	760604
400260	Bennington, town of	Bryan County	760813
400261	Bessie, town of	Washita County	750815
400346	Bethel Acres, town of	Pottawatomie County	761231
400347	Billings, town of	Noble County	760813
400263	Bradley, town of	Grady County	760813
400465	Bridgeport, town of	Caddo County	770401
400482	Bryan County*	Bryan County	771206
400149	Burbank, town of	Osage County	750110
400266	Butler, town of	Custer County	761105
400479	Caddo County*	Caddo County	780103
400270	Camargo, town of	Dewey County	750919
400273	Caney, town of	Atoka County	760409
400355	Carmen, town of	Alfalfa County	750919
400030	Carter County*	Carter County	770705
400276	Carter, town of	Beckham County	760402
400278	Castle, town of	Okfuskee County	760507
400187	Chelsea, city of	Rogers County	731228
400488	Cherokee County*	Cherokee County	780110
400281	Colcord, town of	Delaware County	761119
400253	Colony, town of	Washita County	760813
400489	Comanche County*	Comanche County	780620
400156	Commerce, city of	Ottawa County	760604
400225	Corn, town of	Washita County	750110
400122	Council Hill, town of	Muskogee County	741213
400363	Cowlington, town of	LeFlore County	770311
400097	Coyle, town of	Logan County	760813
400282	Cromwell, town of	Seminole County	760813
400364	Cyril, town of	Caddo County	760402
400226	Dacoma, town of	Woods County	741108
400367	Delaware, town of	Nowata County	760409
400369	Dickson, town of	Carter County	760730
400377	Fairland, town of	Ottawa County	760409
400379	Forest Park, town of	Oklahoma County	760625
400381	Geary, city of	Blaine County	761029
400032	Gene Autry, town of	Carter County	741108
400013	Greenfield, town of	Blaine County	740630
400243	Guymon, city of	Texas County	770520
400388	Helena, town of	Alfalfa County	760402
400467	Hughes County*	Hughes County	770809
400024	Hydro, town of	Caddo County	740726
400288	Indianola, town of	Pittsburg County	760402
400007	Jet, town of	Alfalfa County	741206
400290	Kansas, town of	Delaware County	750926
400392	Keyes, town of	Cimarron County	760813
400394	Kingston, town of	Marshall County	760402
400168	Kiowa, town of	Pittsburg County	760625
400294	Lahoma, town of	Garfield County	761203
400295	Lamont, town of	Grant County	760409
400484	LeFlore County*	LeFlore County	780110
400299	Lehigh, city of	Coal County	761029
400301	Lima, town of	Seminole County	761210
400096	Logan County*	Logan County	741227
400083	Loyal, town of	Kingfisher County	750425
400399	Mannford, town of	Creek County	761112
400303	Mannsville, town of	Johnston County	750926
400400	Manetta, city of	Love County	761029
400305	Marland, town of	Noble County	760813
400306	Marshall, town of	Logan County	760813
400458	Mayes County	Mayes County	771122
400106	McCurtain County	McCurtain County	780711

FEDERAL MARITIME COMMISSION

[Docket No. 80-71]

Royal Hawaiian Cruises, Inc.; Order To Show Cause

Royal Hawaiian Cruises, Inc. (Royal Hawaiian Cruises), World Trade Center, Ferry Building, San Francisco, California, is presently the holder of Certificate (Performance) No. P-201 covering the SS *Monterey*. Certificate (Performance) No. P-201 was issued on January 18, 1980. Royal Hawaiian Cruises qualified for its Certificate (Performance) by submitting a surety bond issued by the Aetna Casualty and Surety Company in the amount of $1,600,000.

In July 1979, Mr. Othmar G. Grueninger, who is now President of Royal Hawaiian Cruises, advised the Commission of a sailing schedule for the SS *Monterey* which was to commence on October 29, 1979 with a five-day cruise between San Francisco, California and Honolulu, Hawaii. By letter dated November 13, 1979, Mr. Grueninger submitted the application of Royal Hawaiian Cruise Lines, Inc. for a Certificate (Performance) covering the SS *Monterey* and advised the Commission that Royal Hawaiian Cruise Lines, Inc. intended to commence operating the vessel on February 4, 1980. In January, 1980, a new application in the name of Royal Hawaiian Cruises, Inc. was filed by Mr. Grueninger for a Certificate (Performance) covering the SS *Monterey*. In that application, it was stated that Royal Hawaiian Cruises had contracted to purchase the SS *Monterey* from World Airways, Inc., Oakland, California, and that Royal Hawaiian Cruises planned to commence operations on March 31, 1980, with a five-day cruise between San Francisco, California and Honolulu, Hawaii.

Effective January 18, 1980, Certificate (Performance) No. P-201 covering the SS *Monterey* was issued to Royal Hawaiian Cruises. The Commission approved the issuance of the Certificate (Performance) based upon an understanding that Royal Hawaiian Cruises would obtain title to the SS *Monterey* on March 1, 1980, and commence operations on March 31, 1980.

In the January 7, 1980 *Travel Weekly's Cruise Guide*, an advertisement of Royal Hawaiian Cruise Lines, Inc. appeared promoting, among other cruises, and inaugural cruise of the SS *Monterey* on March 2, 1980. In late January, 1980, the Commission received a brochure of Royal Hawaiian Cruises indicating the 1980 Hawaiian sailings of the SS *Monterey*. This schedule specified initial departures from San Francisco, California on March 30 and from Los Angeles, California on March 31, with an arrival in Honolulu, Hawaii on April 5.

As of the date of service of this Order, Royal Hawaiian Cruises has not taken delivery of the SS *Monterey* and the Commission has received information that negotiations for the purchase of the vessel by Royal Hawaiian Cruises may have been terminated. Despite Royal Hawaiian Cruises' failure to take delivery of the SS *Monterey*, a large amount of money has apparently been collected by Royal Hawaiian Cruises and its agents in the form of passenger deposits and fares for cruises of the SS *Monterey*, which subsequently have been cancelled.

The Commission has been advised that Royal Hawaiian Cruises and its agent, Dolphin Cruises, Inc., Laguana Hills, California, have failed to make timely refunds of the deposits and fares collected for cruises on the SS *Monterey* which have not been performed.

On August 26, 1980, the Commission's Managing Director sent a letter to Royal Hawaiian Cruises inquiring into its alleged failure to make refunds of passenger deposits and fares collected for cruises on the SS *Monterey* which have not been performed. To date, the company has failed to respond to that inquiry.

Section 3(a) of Pub. L. No. 89-77, 46 U.S.C. § 817e, provides that:

> No person in the United States shall arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers and which is to embark passengers at United States ports without there first having been filed with the Federal Maritime Commission such information as the Commission may deem necessary to establish the financial responsibility of the person arranging, offering, advertising, or providing such transportation, or in lieu thereof a copy of a bond or other security, in such form as the Commission, by rule or regulation, may require and accept, for indemnification of passengers for nonperformance of the transportation.

Section 540.3 of Commission General Order 20, 46 CFR 540.3, provides as follows:

> No person in the United States may arrange, offer, advertise or provide passage on a vessel unless a Certificate (Performance) has been issued to or covers such person.

Section 540.8 of Commission General Order 20, 46 CFR 540.8, provides in pertinent part that:

> (b) A Certificate (Performance) may be denied, revoked, suspended, or modified for any of the following reasons:
> (1) Making any willfully false statement to the Commission in connection with an application for a Certificate (Performance);
> (2) Circumstances whereby the party does not qualify as financially responsible in accordance with the requirements of the Commission;
> (3) Failure to comply with or respond to lawful inquiries, rules, regulations or orders of the Commission pursuant to the rules of this subpart.

Section 540.9(k) of Commission General Order 20, 46 CFR 540.9(k), provides as follows:

> (k) Every person in whose name a Certificate (Performance) has been issued shall be deemed to be responsible for any unearned passage money or deposits in the hands of its agents or of any other person or organization authorized by the certificant to sell the certificant's tickets. Certificants shall promptly notify the Commission of any arrangements, including charters and subcharters, made by it or its agent with any person pursuant to which the certificant does not assume responsibility for all passenger fares and deposits collected by such person or organization and held by such person or organization as deposits or payment for services to be performed by the certificant. If responsibility is not assumed by the certificant, the certificant also must inform such person or organization of the certification requirements of Public Law 89-777 and not permit use of its name or tickets in any manner unless and until such person or organization has obtained the requisite Certificate (Performance) from the Commission.

Therefore, it is ordered, that pursuant to Section 22, Shipping Act, 1916, 46 U.S.C. 821, section 3 of Pub. L. No. 89-777, 46 U.S.C. 817e, §§ 540.3, 540.8 and 540.9(k) of the Commission's General Order 20, 46 CFR 540.3, 540.8 and 540.9, and Rule 66 of the Commission's Rules of Practice and Procedure, 46 CFR 502.66, Royal Hawaiian Cruises is hereby ordered to show cause why Certificate (Performance) No. 201 should not be revoked for the following reasons:

(a) For failure to take title to the SS *Monterey* and commence sailings of that vessel on March 31, 1980 as stated in its application for a Certificate (Performance), correspondence and promotional literature; and

(b) Royal Hawaiian Cruises' failure to respond to a lawful inquiry of the Commission, dated August 26, 1980, concerning its failure to make refunds of passenger deposits and fares collected for cruises on the SS *Monterey* which have not been performed;

It is further ordered, that Royal Hawaiian Cruises show cause why it should not be ordered to cease and desist from arranging, offering and advertising passage on the SS *Monterey* and collecting passage fares and deposits for such passage;

It is further ordered, that in accordance with Rule 42 of the Commission's rules of practice and procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, that this proceeding shall be limited to the submission of affidavits of facts and memoranda of law and replies thereto. Oral argument may also be scheduled if deemed necessary by the Commission. Should any party believe that an evidentiary hearing is required that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all nonrespondent parties of record no later than close of business on November 28, 1980. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing

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Counsel no later than close of business on December 15, 1980. Intervenors shall file as their interests shall appear. Requests for hearing or for oral argument shall be filed on or before December 22, 1980; and

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record.

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.[1]

Francis C. Hurney,

Secretary.

[FR Doc. 80-34089 Filed 10-31-80; 8:45 am]

BILLING CODE 6780-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reaons written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 27, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (consumer and commercial finance and insurance activities; Texas): to engage through existing offices of its indirect subsidiary, Nationwide Financial Corporation, located in the cities of Irving, Lubbock and Houston, in the following previously approved activities: the purchasing for its own account and servicing of sales finance contracts; the sale of credit related life and accident and health, decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Nationwide Financial Corporation and to the extent permissible under applicable State insurance laws and regulations; and the making of loans to individuals and businesses secured by real and personnel property, the proceeds of which may be for purposes other than personal, family or household usage, including but not limited to the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. In addition, the Irving and Lubbock offices engage in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes. Citicorp is applying to expand the service areas of all three offices to include the entire State of Texas, and to expand the activities of the Houston office so that it will also engage in the making or acquiring of loans and other extensions of credit secured or unsecured, for consumer and other purposes.

2. CITICORP, New York, New York (consumer and commercial finance and insurance activities; Oklahoma): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., in conducting the following activities: the purchasing for its own account and servicing sales finance contracts; the sale of credit related life and accident and health, decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the making of loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage, incuding but not limited to the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. These activities would be conducted from an office in Tulsa, Oklahoma, serving the entire State of Oklahoma.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34157 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Enterprise Bancorp; Formation of Bank Holding Company

Enterprise Bancorp, Oakland, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First Enterprise Bank, Oakland, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34158 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Lamoni Bancshares, Inc.; Formation of Bank Holding Company

Lamoni Bancshares, Inc., Lamoni, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Lamoni, Lamoni, Iowa. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34159 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Mountain Financial Services, Inc.; Acquisition of Bank

Mountain Financial Services, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Southeast National Bank, Denver, Colorado, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34160 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

North Side Bancshares, Inc.; Formation of Bank Holding Company

North Side Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 per cent or more of the voting shares of North Side State Bank, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34161 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Oakdale Bancshares, Inc.; Formation of Bank Holding Company

Oakdale Bancshares, Inc., Oakdale, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.5 percent or more of the voting shares of First State Bank, Oakdale, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34162 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

South Banking Co.; Formation of Bank Holding Company

South Banking Company, Alma, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by aquiring 54.5 percent or more of the voting shares of Alma Exchange Bank and Trust, Alma, Georgia, and 60.2 percent or more of the voting shares of Citizens State Bank, Kingsland, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34163 Filed 10-31-80; 8:45 am]

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Temple Bancorporation, Inc.; Formation of Bank Holding Company

Temple Bancorporation, Inc., Temple, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Temple, Temple, Oklahoma. The factors that are

[1] Commissioner Peter N. Teige not participating.

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considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34184 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Acquisition of Bank

Central Bancorporation, Inc., and its parents/subsidiaries Central Colorado Company; C.C.B., Inc.; and Central Colorado Bancorp, all of Denver, Colorado, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire, directly and indirectly 98 percent or more of the voting shares of Central Bank of West Greeley, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34078 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Chimney Rock Bancorp.; Formation of Bank Holding Company

Chimney Rock Bancorp., Bayard, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bayard, Bayard, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 27, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34077 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of September 16, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held September 16, 1980.[1]

The information reviewed at this meeting suggests that the decline in economic activity has moderated in the third quarter following a sharp contraction in the second quarter. Industrial production and nonfarm payroll employment expanded in August after several months of decline; the unemployment rate edged down from 7.8 to 7.6 percent; and total retail sales advanced considerably further. In July housing starts rose slightly, following a substantial rebound in June, and were well above the depressed levels of the preceding three months. Producer prices of finished goods rose rapidly in July and August, after increasing at a sharply reduced pace in the second quarter; the recent advance reflected mainly a surge in food prices. Over the first eight months of the year, the rise in the index of average hourly earnings was somewhat faster than the pace recorded in 1979.

The weighted average value of the dollar in exchange markets has declined somewhat over the past five weeks. The U.S. trade deficit in July was significantly lower than the monthly average in the second quarter, reflecting a sharp decline in petroleum imports.

M–1A and M–1B grew at record rates in August, while growth in M–2 moderated from an exceptionally rapid pace in June and July. For the year through August growth of M–1A was in the lower half and growth of M–1B in the upper half of their respective ranges set by the Committee for the year from the fourth quarter of 1979 to the fourth quarter of 1980, while growth in M–2 was somewhat above the upper limit of its range. Market interest rates have fluctuated widely since mid-August and on balance short-term rates have risen considerably while long-term rates have increased moderately.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, encourage economic recovery, and contribute to a sustainable pattern of international transactions. At its meeting in July, the Committee agreed that these objectives would be furthered by growth of M–1A, M–1B, M–2, and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges to 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent. For the period from the fourth quarter of 1980 to the fourth quarter of 1981, the Committee looked toward a reduction in the ranges for growth of M–1A, M–1B, and M–2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates. These ranges will be reconsidered as conditions warrant.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth of M–1A, M–1B, and M–2 over the August to December period at annual rates of about 4 percent, 6½ percent, and 8½ percent respectively, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 8 to 14 percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, October 24, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-34074 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

[1] The record of Policy Actions of the Committee for the meeting of September 16, 1980, is filed as part of the original document. Copies are available on request to the board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[Docket No. R-0330]

Policy Statement Concerning the Use of Brokerage Commissions to Pay for Research Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed policy statement.

SUMMARY: This policy statement reflects the judgment of the Board that each trust institution subject to the Board's supervisory jurisdictional [1] exercising investment discretion over the accounts of customers should: (1) Establish written policies and procedures providing for the identification and periodic review of so-called "soft-dollar" practices involving the payment for research services with brokerage commissions to ensure compliance with applicable provisions of law, and (2) prepare and make available to its customers a disclosure statement setting forth specific information relating to the brokerage and research services received from, or on behalf of, brokers in exchange for commission dollars. A sample disclosure statement is provided to aid trust institutions in the making of such disclosures.

COMMENT PERIOD: All comments should be received by December 22, 1980.

ADDRESS: Comments, which should refer to Docket No. R–0330, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, Northwest, Washington, D.C. 20551, or delivered to Room B–2223 between 8:45 and 5:15 p.m. Comments received may also be inspected at Room B–1122 between 8:45 and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Robert S. Plotkin, Assistant Director ((202) 452–2782), or Walter R. McEwen, Attorney ((202) 452–2521), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Prior to the May 1, 1975 elimination of fixed commission rates charged by brokers which execute transactions on national securities exchanges, it had been common practice for many brokers to provide research analysis and other market services and to compete on the basis of these services as well as on the basis of execution capacity. Money managers, including bank trust departments, were able to obtain research and other services from brokerage firms at no cost beyond the fixed commission rate then in effect for the execution of securities transactions; in effect, paying for such services with so-called "soft-dollars." The elimination of the fixed commission rate structure, however, threatened to disrupt this practice since many money managers feared that, under fiduciary law, they would be obliged to seek the lowest execution cost for transactions and the payment of higher commissions for execution plus research could give rise to liability. This could have interrupted the availability and distribution of research services with potentially harmful consequences to investors. In order to prevent such an occurrence, section 28(e) was added to the Securities Exchange Act of 1934 to provide a safe harbor for money managers that use commission dollars, at rates in excess of the lowest rates available, to pay for brokerage and research services where the money manager has determined that the commission paid is reasonable in relation to the value of the services provided by the broker-dealer.

Since the enactment of section 28(e), considerable uncertainty has arisen concerning the extent to which specific products and services do qualify for the protections afforded by section 28(e)(1). In addition, a recent investigation by the Securities and Exchange Commission into soft dollar arrangements utilized by several money managers, including banks, disclosed practices that were not believed to fall within the safe harbor provisions and, in several cases, resulted in the reimbursement of commission dollars to the affected accounts.[2] Because failure to comply with the safe harbor provision of section 28(e) may subject the money manager to liability where certain products and services are acquired with commission dollars, the Board believes it is incumbent upon each trust institution subject to its supervisory jurisdiction to establish written policies and procedures providing for the identification and periodic review of practices involving payment for research services with commissions in order to ensure conformance with the provisions of section 28(e).[3] Moreover, the Board believes that the potential for liability can be further minimized and the public interest better served if disclosures of such practices are made known to interested customers.

To assist the Board in determining the feasibility of implementation of the policy and disclosure requirements contained herein, the Board invites comment on the revisions of this policy statement. In particular, comment is invited on that portion of the policy statement which would suggest establishment of written policies and procedures to ensure that commission dollars generated by *nondiscretionary* accounts be applied to the purchase of brokerage and research services (other than execution) only with the knowledge and consent of the customer or other holder of the direction power. This provision was inserted in recognition of the fact that the safe harbor provision of section 28(e)(1) literally is available only to persons "in the exercise of investment discretion with respect to an account." In some direction trusts the customer or other third party not only has the power to make investment decisions but also may direct the selection of the broker to be used in effecting transactions for the account. On the other hand, there may be some direction trusts where the bank has full authority to select the broker to be used in effecting transactions for the direction trust. Query: To what extent would this category of accounts be impacted by the proposed policy statement? Also, it should be noted that the policy statement as proposed contemplates that orders from discretionary and nondiscretionary accounts be separately identified.

The policy statement would make it clear that it does not apply to any trust institution which does not receive products and services for commission dollars from brokers other than brokerage services. The Board is concerned about the burden of compliance with the policy statement on smaller institutions and invites comment as to whether some other criteria might be used consistent with the Board's statutory responsibilities. For example, should an institution that paid brokerage commissions for research and execution services of not more than a *de minimis* dollar amount (say $5,000) during the past year be exempt? Or should the institution be exempt where the total amount of commissions paid for research and execution did not exceed some *de minimis* percentage of total commissions paid? If so, what should such dollar amount or percentage be? In responding to these questions, it should be kept in mind that the Board is seeking

[1] State member banks and State-chartered, nondeposit, trust company subsidiaries of bank holding companies.

[2] Securities and Exchange Act Release No. 16679, dated March 19, 1980.

[3] Where a trust institution acts as fiduciary with respect to an employee benefit plan, the failure to comply with section 28(e) could result in a violation of section 406(b)(3) of the Employee Retirement Income Security Act of 1974 which prohibits a fiduciary from receiving any consideration for his own account in connection with a transaction involving the assets of the plan.

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information as to developing a cut-off point below which the payment of higher brokerage commissions in return for research services is not material to either the bank or the customer.

A regulatory impact analysis has been prepared; this analysis focuses on the burdens and benefits imposed by the proposed policy statement, as compared to alternative methods of dissemination of the same information. The conclusion of the regulatory impact analysis is that the proposed policy statement appears to be the most effective and least costly means of guaranteeing that disclosure statements be furnished only to those persons who desire the information provided in the disclosure statement.

The policy statement would be issued pursuant to the authority granted to the Board by section 28(e)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(2)), and pursuant to the Board's supervisory authority contained in section 9 (12 U.S.C. 321 *et seq.*) of the Federal Reserve Act, the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b)), and the Bank Holding Company Act of 1956 (12 U.S.C. 1844 and 1847).

Statement of Policy Concerning the Use of Brokerage Commissions To Pay for Research Activities

Section 28(e)(1) of the Securities Exchange Act of 1934, as amended, relieves money managers exercising investment discretion over accounts of customers of liability under fiduciary law that might accrue to them if they cause the accounts which they manage to pay a brokerage commission in excess of the amount another broker would have charged for effecting the same transaction if the higher commission is determined in good faith to be justified by the value of brokerage and research services provided by the broker. In order to rely upon this safe harbor provision, the following conditions must be observed: (1) The trust institution must exercise investment discretion over the accounts generating the commissions used to pay for the additional services provided; (2) the services acquired must be brokerage and research services and be provided by the broker to the trust institutions; and (3) the trust institution must determine in good faith that the commission being paid is reasonable in relation to the value of the services provided.

Since the enactment of section 28(e), considerable uncertainty has arisen concerning the extent to which specific products and services received in exchange for commission dollars do qualify for the protections afforded by section 28(e)(1). Because the types of products and services received in exchange for commission dollars are many and varied, the Board recognizes that it is not possible to establish definitive guidelines that would be applicable to all situations. For this reason, the burden necessarily falls upon each trust institution to satisfy itself by a good faith determination that its brokerage allocation practices qualify for the protections of section 28(e), if liability under fiduciary law is to be avoided or at least minimized. The Board, therefore, expects each trust institution subject to its supervisory jurisdiction that exercises investment discretion over the accounts of customers, to establish written policies and procedures, suitable to its circumstances, to ensure that its obligations under the law are properly observed. Such policies and procedures should, at a minimum provide for: (1) The identification and reporting to an appropriate senior management level of all services received for which commissions in excess of the lowest available commission rate, consistent with safe and speedy execution, are being paid; (2) the periodic review of such services to ascertain whether the services reasonably enhance the institution's research capability; and (3) the documentation of management's determination that the provision of such services justifies the amount of commissions paid. Operating procedures should also be established to ensure that commission dollars used or allocated for the payment of such products and services are generated only by: (1) accounts over which the institution exercises investment discretion; and (2) other accounts, with the knowledge and consent of the customer or other holder of the direction power.

The Board also recognizes that brokerage placement practices could have a material influence on the decisions of many persons in selecting a particular bank of trust institution to act in their behalf or on behalf of their designated beneficiaries in effecting securities transactions. Brokerage expenses may constitute a significant cost to a customer's account over a period of years. Although the use of commission dollars to pay for research services ultimately enhances the money managers' ability to service, in the aggregate, customers' accounts, it is possible that a particular account will be structured in such a way that research purchased with its commission dollars is of little or no use to the account. On the other hand, research services, which were obtained by commissions generated by other accounts, may be used to service a particular account. Accordingly, the Board believes that information concerning a trust institution's brokerage placement practices should be made available to its customers. However, the Board recognizes that not all customers would have an interest in this type of information and, indeed, some may even object to the unsolicited receipt of information of this nature. Accordingly, the Board concludes that the public interest would be served to the extent the customers of trust institutions are informed that a disclosure statement of this nature will be provided to them upon request.

Therefore, the Board expects each trust institution subject to its supervisory jurisdiction which exercises investment discretion over the accounts of customers and pays higher brokerage commissions in return for research services to prepare and make available to such customers a disclosure statement setting forth certain specific information relative to its brokerage allocation practices. To ensure that interested customers are aware of the existence of the disclosure statement, each such trust institution is expected to make part of, or append to, its fee schedules and periodic statements of account, a notice of the right to receive the disclosure statement, without charge and upon request.

The disclosure statement to be made available to interested customers should, at a minimum, (1) identify the general types of products and services, other than execution, for which a higher commission rate was paid than that which a competing broker may have charged for a similar transaction; (2) indicate the aggregate commission dollars allocated in payment of these services (including execution) during the previous calendar year stated both in dollars and as a percentage of total commission dollars paid during the previous calendar year; (3) indicate the extent to which any such arrangements permit the trust institution to recapture commissions paid on a transaction basis in lieu of purchasing certain goods and services; and (4) describe the use to which these services are put and indicate generally how they benefit the management of customers' accounts. The disclosure statement should be revised at any time there is a material change in the information required to be contained therein. A sample disclosure statement is attached for the guidance of trust institutions.

Sample Disclosure Statement

Brokerage and Research Services Acquired Through Allocation of Brokerage Commissions

We regularly utilize brokers in executing orders who have been selected on the basis of the amount and quality of brokerage and/or research services that they provide to us, either directly or through a third party. In return for such services, we pay a higher commission rate than that which a competing broker may charge for execution of the transaction alone. Services acquired in this manner are said to be acquired with "soft dollars" because they do not entail explicit payment of separate amounts for each component service that is provided.

Description and Use of Services

Specific services for which we have paid a higher commission rate than that which a competing broker would have charged are as follows: (Describe services received such as analytical reports, pricing tapes, market information, financial data, etc.). During 19— (the previous calendar year), we allocated aggregate commission dollars, including cost of execution, amounting to $——— on transactions totalling $——— among ——— brokers in payment for these services. This amount represents —% of total commission dollars paid during the calendar year.

None of the above service arrangements permit us to recapture for a client's account any commissions paid on a per transaction basis in lieu of the purchase of these services. In the case of each such arrangement, we have made a good faith determination that the amount of commissions paid is reasonable in relation to the value of the serices received and reserve the right to terminate the arrangement at any time that we may determine that the value of the service no longer justifies the cost.

Effect of Brokerage Commission Payments Upon Accounts

The research services obtained from brokers in exchange for commission dollars provides us with information which improves the ability of our analysts to monitor the securities markets and to keep abreast of financial developments in the various companies whose securities are held in the accounts of our clients. The research received is used by us to service all of our managed accounts. However, not all such services may be used by us in connection with a particular account even though that account may have generated some of the commissions used to pay for the services. Alternatively, certain research services may be used in connection with a particular portfolio which were obtained with brokerage commissions generated by other accounts.

Regulatory Impact of Policy Statement Requiring Disclosure of Brokerage Placement Practices

Background

The Securities Reform Act Amendments of 1975 added Section 28(e) to the Securities Exchange Act of 1934. This section expressly permits investment managers to pay brokerage commissions in excess of other available rates, if the commissions are reasonable in terms of the value of the brokerage and research services provided. Section 28(e) grants broad authority to the appropriate regulatory agency to prescribe regulations requiring the disclosure of practices relating to these brokerage commissions. Board staff, in order to implement Section 28(e)(2), has proposed a policy statement which states the expectation of the Board of how state member banks and state chartered, non-deposit trust company subsidiaries of bank holding companies should disclose the brokerage placement practices of their trust operations.

The motivation for adding Section 28(e) to the Securities Exchange Act was the transition from minimum fixed to negotiated brokerage rates by the New York Stock Exchange in 1975. Prior to negotiated rates, brokerage houses competed on the basis of services. However, with the advent of negotiated rates, competition has become more price oriented. As a result, some brokerage houses have become specialized in executions only at discount prices, while others offer a full service line at competitive prices. The additions to the Securities Exchange Act are intended to take account of these changes in the marketplace by allowing investment managers, including bank fiduciaries, to pay commissions in excess of the minimum executions rates when these commissions are reasonable in terms of the value of the brokerage and research services received by the investment manager. The purpose of the disclosure statement is to notify the fiduciary's account parties of the amount and types of services purchased from brokers.

Board staff has recommended that state member bank trust departments and state chartered, non-deposit trust company subsidiaries of bank holding companies make appropriate disclosure statements available to their account parties. Notice of the availability of such statements would be provided without charge and upon request by these notices being made part of, or appended to, fee schedules and periodic statements of account.

Regulatory Impact

1. *Criteria for Evaluating Alternative Methods of Disclosure.* The intent of disclosure is to protect trust department account parties by providing them with information pertaining to the brokerage placement practices of the investment manager. Since the primary function of this disclosure statement is to provide information to account parties, the economic criterion for evaluating alternative methods of disclosure should be to adopt that disclosure requirement which leads to the most efficient dissemination of information; that is, to select the method of disclosure which best provides information to those persons that value this information highly while not incurring costs to provide these statements to persons who already have the information or who assign a negligible value to it.

Bank trust departments are likely to willingly supply information when they perceive that the benefits accruing to them exceed the cost of producing this information. Thus, they will be inclined to supply a disclosure statement when they expect it to be helpful in retaining old customer accounts or attracting new trust accounts. Alternatively, when the incremental cost of providing the information exceeds the value of the disclosure statement, the bank will probably be unwilling to provide this statement. Similarly, the account parties benefit when the value of knowing the placement practices and costs of different bank trust departments is greater than the cost of supplying these statements. However, when the cost of supplying these statements exceeds the benefits received, despite the fact that the disclosed information might have some positive value, it would not appear to be a productive use of resources since an alternative use of these same resources could possibly benefit these customers more.[1]

2. *Alternative Methods of Disclosure.* There are four principal alternative methods of disclosing bank trust operations. These are:

(1) The trust department delivers disclosure statements to each account party.

[1] One such alternative utilization would be to allocate the cost of producing disclosure statements to the trust accounts as investment returns. When the marginal cost of supplying information exceeds its information value, then this alternative is preferred by the account parties.

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(2) The trust department delivers disclosure statements to only those accounts over which it has investment discretion.

(3) The trust department provides notice of the availability of a disclosure statement to its trust account parties and such parties will receive a statement as requested.

(4) No disclosure. Board staff has recommended Alternative 3. The following analysis supports this alternative since it is the most efficient means of providing information to those persons who desire this information.

In Alternative 1 the trust department is required to deliver a disclosure statement to every account regardless of the degree of investment discretion exercised by the bank. Technically this exceeds the requirements of the statute which pertain only to the disclosure of placement practices for those accounts over which the investment manager has discretion. However, sending disclosure statements to all account parties could be justified since the brokerage placement practices of bank trust departments affect all accounts, not just the ones over which the bank exercises investment discretion and some of these other account parties may place a high value on this type of information. The drawback to Alternative 1 is that the incremental cost to the bank of sending disclosure statements probably exceeds the value of information to many of the recipients.[2] Not only would there probably be many mailings to parties that place no value on the information content of these statements, but in many situations this information may be redundant. Under this alternative, account parties could either receive multiple mailings (e.g., when one of the account parties is an investment advisor who employs the services of the bank for a number of accounts), or the same information might be obtained by other means; for example, discussions with the bank trust department. Extensive discussions between account parties and trust departments would probably occur most frequently with agency accounts,[3] where the non-bank investment advisor is in close contact with the bank's trust department, and with employee benefit trusts where the treasurer's office of a large corporation can be expected to maintain close contact with bank trust departments.[4] On balance, this alternative is unacceptable.

Alternative 2 is the same as 1 except that the non-discretionary accounts are exclused from disclosure requirements. This alternative still has the problems of multiple mailings and redundant information. Furthermore, to the extent that some non-discretionary accounts may value disclosure statement information highly, excluding them will not result in the most desirable dissemination of information.[5] This alternative is also not acceptable.

Alternative 3 differs from the previous alternatives in that it requires the bank to provide notice of the availability of a disclosure statement (rather than automatically sending the statement) and to make such statements available upon request to each trust account party over whose account the bank exercises investment discretion. The notice of availability of the disclosure statement will probably become part of the customer's annual statement of account. This alternative has the advantage that all fiduciary accounts will, at negligible cost, be informed of disclosure statements, and that only those account parties that find such statements valuable will receive them. This disclosure method is efficient in that the benefits of each statement will outweigh the costs associated with its provision.

Further, although Section 28(e) does not require that disclosure notices be provided to non-discretionary accounts, investment discretion is defined (Section 3A35 of the Securities Exchange Act) to include any trust department recommendations for purchases or sales to its customers regardless of who has responsibility for such investment decisions. Therefore, most of the bank's trust accounts will entail some degree of investment discretion. Since under this alternative the incremental cost of notification is negligible, it will probably be more expensive for the bank to analyze its accounts to determine the degree of investment discretion rather than to simply send all its accounts a disclosure notification. Thus, it is anticipated that all account parties will receive a notice of the availability of a disclosure statement.

The last principal alternative is no disclosure. From Section 28(e)(2) the Board appears to have the alternative of not requiring disclosure if it feels that this is in the public interest and there is adequate protection for investors. This alternative is less desirable than Alternative 3 since account parties that prefer and would benefit from detailed disclosure statements would find it difficult if not impossible to obtain this information. Board staff has proposed that notice of availability be made part of or appended to fee schedules and periodic statements of account. Since it would be expensive to send disclosure notices to those beneficiaries who do not receive a statement of account, and it is unlikely that these beneficiaries assign a high value to the information contained in these statements because they have no control over the trust agreement, staff's suggestion is appropriate.

The Board staff's proposal also requires that the disclosure *statement* be revised any time there is a "material change in the information contained therein". These proposals do not require the bank to provide immediate notice of a material change in placement practices, but rather that they revise the next statement delivered, after such changes occur. Although changes in placement practices could be important to account parties, it appears unlikely that immediately sending out new disclosure statements would justify the expenses incurred.

3. *The Content of the Disclosure Statement.* Section 28(e) of the Securities Acts Amendments of 1975 requires that the trust department disclosure its policies and practices with respect to commissions that will be paid for effecting securities transactions. The statute does not require that the bank provide any information on the research services that it performs itself or acquires from an affiliated investment management firm, nor must it report the fees charged for these services. To comply with the requirements of the statute, Board staff has proposed that the disclosure statement describe the types of products and services purchased for commissions in excess of the minimum executions charge, and that banks disclose the relative amount of its total commission charges used to pay for these services (including execution).

The bank's customers are interested in the relative amount of executions at minimum transactions charges and the nature of the services purchased, and at what cost, when commissions in excess of the minimum are paid. Bank

[2] Although this cost could be minimized by sending the disclosure statement with the annual account mailing, the extra weight of the disclosure statement would almost certainly raise the mailing cost of each statement of at least 13 cents.

[3] In an agency account, the bank provides services to the account party and engages in transactions at the account party's request.

[4] The corporation is likely to keep track of fiduciary performance because poor performance will force the company to incur greater expenses than would be necessary under a high-performance trust in order for the employees to receive the same benefits.

[5] Even though the account party dictates to the bank trust department what transactions are desired, the bank may execute in excess of the minimum price to compensate for other services provided such as research. Therefore a disclosure statement could be useful for agency account parties.

responses consistent with Board staff's sample disclosure statement should accomplish this.[6] Certainly some customers can get this kind of general information directly from their banks. For them these disclosure statements principal value is in terms of confirming the information provided by the bank. But in may other cases the information may not otherwise be available to customers who will find it of some use. For these customers the disclosure statement has significant information-content. Therefore, staff's recommendations regarding the nature of disclosed information seems appropriate.

The proposed disclosure statement provides complete information on the cost aspects of selecting brokers and affecting securities transactions but the bank is not required to include its own services and fees in its disclosure statement.[7] It is anticipated that the information contained in the proposed disclosure statements together with the information customers typically obtain in their relationship with trust departments will enable customers to make informed decisions regarding their choice and use of bank trust department services.[8]

Conclusions

In this regulatory impact analysis, consideration has been given to how banks can efficiently disseminate information on their trust department activities in such a manner as to maximize the economic value of the information content of the disclosure statement required by Section 28(e) of the Securities Act Amendments of 1975. The impact analysis confirms the staff's proposal of providing at least annual notice of the availability of disclosure statements on the customer's statement of account. This appears to be the most effective and least costly means of guaranteeing that disclosure statements go only to those people who place a high value on the information content of these statements.

On the question of the value of the disclosed information, it was concluded that the information that is currently available from the bank plus that required in disclosure statements will inform the trustors of the services and costs associated with different bank trust departments and will allow them to select that fiduciary which is best able to meet their needs.

This policy statement would not apply to any trust institution which does not receive products and services for commission dollars from brokers other than brokerage services.

By order of the Board of Governors, October 23, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-34075 Filed 10-31-80; 8:45 am]

BILLING CODE 6210-01-M

[6] The disclosure statement allows customers to determine the cost of transactions involving higher than minimum commission rates. With an estimate of the minimum executions charge, a customer can then compute the trust's average.

[7] It is expected that many banks will also provide this additional information on their disclosure statements.

[8] Since the Securities Exchange Act allows some trust account to subsidize others when it states in Section 28(e)(1) that ". . . services provided by such members, broker, or dealer, viewed in terms of either that particular transaction or his overall responsibilities with respect to the accounts as to which he exercises investment discretion," this information may be valuable to the customer in determining whether his account is subsidizing the returns of others. For example, if the broker purchases information regularly in the area of real estate, but the trust agreement explicitly excludes real estate assets, the customer may be subsidizing the transactions charges of other accounts. In a market with complete information, one would expect a trustor to select a trust department where he believes his account will not subsidize else's.

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory reports Review Staff, GAO, on October 28, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 21, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests an extension-without-change clearance of Form QFF, Quarterly Report of Revenues, Expenses and Statistics of Freight Forwarders, required to be filed by some 151 Class A freight forwarders pursuant to Section 11145 of the Interstate Commerce Act. Data collected by Form QFF are used for economic regulatory purposes. Reports are mandatory and available for use by the public. The ICC estimates that reporting burden will average 9 hours per quarterly report.

John M. Lovelady,

Senior Group Director.

[FR Doc. 80-34091 Filed 10-31-80; 8:45 am]

BILLING CODE 1610-01-M

GOVERNMENT PRINTING OFFICE

Micropublishing Advisory Council to the Public Printer; Meeting

The Micropublishing Advisory Council to the Public Printer will meet on November 24, 1980, at 9:00 a.m. in the Carl Hayden Room, Government Printing Office, North Capitol and H Streets, N.W., Washington, D.C. 20401.

The purpose of this meeting is to discuss the Depository Library Microform Program.

The meeting will be open to the public, and anyone who wishes to attend should notify Ms. Barbara Smith, Government Printing Office, Washington, D.C. 20401 (Telephone: (703) 557-2145).

Dated: October 22, 1980.

Samuel L. Saylor,

Acting Public Printer.

[FR Doc. 80-34155 Filed 10-31-80; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistance Secretary for Health

National Center for Health Care Technology; Meeting

Pursuant to the Federal Advisory Act (Public Law 92-463) notice is hereby given that the seventh meeting of the National Council on Health Care Technology, which was established pursuant to the Health Research, Health Statistics, and Health Care Technology Act of 1978 (Public Law 95-623) and which advises the Secretary and the Director of the National Center for Health Care Technology on the activities of the Center, will convene on Thursday, November 13, 1980 at 9:30

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a.m. and Friday, November 14, 1980 at 9:00 a.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. on November 13 and from 9:00 a.m. to 2:30 p.m. on November 14 to discuss the business of the Council and the Center. Principal consideration and discussion will be devoted to the reports of the Subcommittees on Criteria, Coverage, Grants and Contracts, and Dissemination.

Additionally, there will be updates on Center activities including the heart transplant evaluation project, coverage issues, End-Stage Renal Disease and the third-party payors project. The Council will also discuss the process for development of criteria and the process for development of criteria and standards for the use of health care technologies and follow-up on Cesarean Delivery assessment.

This meeting on November 14, 1980, will be closed to the public from 2:30 p.m. to adjournment in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would consitute a clearly unwarranted invasion of personal privacy.

Further information regarding the Council may be obtained by contacting Sharon Paino, Executive Secretary, National Council on Health Care Technology, Room 17A–29, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: October 24, 1980.

Wayne C. Richey, Jr.,

Acting Executive Secretary Office of Health Research, Statistics and Technology.

[FR Doc. 80-34066 Filed 10-31-80; 8:45 am]

BILLING CODE 4110-85-M

Health Resources Administration

Advisory Council and Subcommittees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of November 1980:

Name: NATIONAL GUIDELINES, GOALS, PRIORITIES, AND STANDARDS SUBCOMMITTEE OF THE NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT
Date and Time: Thursday, November 13, 1980; 8:30 a.m.–5:00 p.m.
Place: Terrace Room, Holiday Inn Downtown, 125 Calhoun Street, Charleston, South Carolina 29403.
Open for entire meeting.
Purpose: The objectives of the National Guidelines, Goals, Priorities, and Standards Subcommittee are to study the experience nationwide in the public and private sectors with the adoption and/or adjustment of the National Guidelines for Health Planning and their impact and recommend changes as appropriate; study the experience of the Health Systems Agencies and State Health Planning and Development Agencies nationwide in implementation of high priority goals and sub-goals and their impact; advise the Council in identifying additional high priority goals and sub-goals; investigate and coordinate information on demonstrations underway by provider, reimbursement, regulatory, labor, industry, and community groups on sub-goals, such as those on alcoholism and prevention; study, investigate and identify research needs appropriate to the formulation, adjustment and refinement of the National Guidelines, and study and develop improved indicators to assess the impact of the Guidelines or the need for revisions; and recommend to the Council on the need for further development and/or revision of the National Guidelines.
Agenda: Update on National Guidelines for Health Planning; consideration of revisions in Resource Standards on CT Scanner and Psychiatric Beds; panel discussion on Planning for the Rural Hospital; implications for guideline development. Afternoon session is on Alternative Modes of Rural Health Delivery with public testimony from 3:30 p.m. to 5:00 p.m. Any person wishing to testify, please call (301) 436–7272 or 7175.

Name: IMPLEMENTATION AND ADMINISTRATION SUBCOMMITTEE OF THE NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT
Date and Time: Thursday, November 13, 1980; 9:00 a.m.–5:00 p.m.
Place: 9:00 a.m.–11:00 a.m., Palmetto-Lowcountry Health Systems Agency, 107 West 6th Street, Summerville, South Carolina 29483; 1:00 p.m.–5:00 p.m., Directors Room, Holiday Inn Downton, 125 Calhoun Street, Charleston, South Carolina 29403.
Open for entire meeting.
Purpose: The objective of the Implementation and Administration Subcommittee is to study and make recommendations on the implementation and administration of Titles XV and XVI of the Public Health Service Act. Specific areas for the Subcommittee's consideration are (1) the impact of HHS's implementation/administration on the effectiveness of Health Systems Agencies and State Health Planning and Development Agencies; (2) the effectiveness of the interrelationships between health planning agencies and HHS, Central and Regional Offices; (2) the timing and strategy of implementation and of the dissemination and distribution of regulatory and technical material; (4) how to better meet the needs of HSAs and SHPDAs; and (5) the review of the Council's responsibilities under section 1122 of the Social Security Act.
Agenda: Morning site visit to Palmetto-Lowcountry Health Systems Agency. Afternoon business meeting and public hearings on two main issues: Consumer Participation in Health Planning and Federal-State-Local Relationships in the Health Planning Program. For further information contact Terry Shannon, Special Assistant, Bureau of Health Planning, Health Resources Administration on (301) 436–6825 or Judy Silsbee, Executive Secretary of the Council, on (301) 436–7175.

Name NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT
Date: and Time: Friday, November 14, 1980; 8:30 a.m.–4:00 p.m.
Place: Charleston Room, Holiday Inn Downtown, 125 Calhoun Street, Charleston, South Carolina 29403.
Open for entire meeting.
Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Public Law 93–641, (2) the implementation and administration of Title XV and XVI of Public Law 93–641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.
Agenda: Presentation on Health Planning from Southeastern Association of Health Systems Agency Executives; reports from Subcommittee on National Guidelines, Goals, Priorities, and Standards and Subcommittee on Implementation and Administration; status reports from Health Resources Administration officials; Health Professions Planning Issues—presentation on recommendations made by the Graduate Medical Education National Advisory Committee and discussion of recommendations by the Council on productivity and health; discussion of future goals, organization and plans of the Council; and public comment period.

Anyone requiring information regarding the subject Council should write to or contact MRS. S. JUDY SILSBEE, Executive Secretary, National Council on Health Planning and Development, Health Resources Administration, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436–7175.

Agenda items are subject to change as priorities dictate.

Dated: October 29, 1980.

Irene D. Skinner,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 80-34147 Filed 10-31-80; 8:45 am]

BILLING CODE 4110-83-M

National Institutes of Health

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Reseach Review Committee A, National Heart, Lung, and Blood Institute, December 5–6, 1980, Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20205.

This meeting will be open to the public on December 5, 1980, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 5, 1980 from approximately 9:30 a.m. until the adjournment on December 6, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur Merrick, Executive Secretary, NHLBI, Westwood Building, Room 552, Bethesda, Maryland 20205, phone (301) 496–7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: October 24, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-34079 Filed 10-31-80; 8:45 am]

BILLING CODE 4110-08-M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, December 5–6, 1980, Building 31, Conference Room 9, at the National Institutes of Health, Bethesda, Maryland 20205.

This meeting will be open to the public on December 5, 1980, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 5, 1980, from approximately 9:30 a.m. until the adjournment on December 6, 1980 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, Bethesda, Maryland 20205, (301) 496–7915, will furnish substantive program information.

Dated: October 24, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-34080 Filed 10-31-80; 8:45 am]

BILLING CODE 4110-08-M

National Cancer Advisory Board and Board Subcommittees; Meetings

Pursuant to Pub. L. 92.463, notice is hereby given of the meetings of the National Cancer Advisory Board and its Subcommittees on Organ Site Programs and Board Activities and Agenda, November 16–19, 1980, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The National Cancer Advisory Board and the Subcommittee on Board Activities and Agenda meetings will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

The Subcommittee on Organ Site Programs meeting will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of a grant application. This application and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings, substantive program information and rosters of members, upon request.

Name of Committee: *National Cancer Advisory Board*
Dates of Meeting: November 17–19, 1980
Place of Meeting: Building 31C, Conference Room 6 National Institutes of Health
Open: November 17, 8:30 a.m.–adjournment
November 18, 9:00 a.m.–adjournment
November 19, 9:00 a.m.–adjournment
Name of Committee: *Subcommittee on Organ Site Programs*
Date and Place of Meeting: November 16, 1980, 7:30 p.m.–10:00 p.m., Building 31C, Conference Room 8
Closed for the Entire Meeting

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Agenda: To review grant application from the National Pancreatic Cancer Project
Name of Committee: *Subcommittee on Board Activities & Agenda*
Date and Place of Meeting: November 19, 1980, immediately following Board meeting, Building 31C, Conference Room 6
Open for the Entire Meeting.

Dated: October 24, 1980.

(Catalog of Federal Domestic Assistance Program Numbers: 13.393, project grants in cancer cause and prevention. 13.394, project grants in cancer detection and diagnosis research. 13.395, project grants in cancer treatment research)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Suzanne L. Fremeau,
Committee Management Officer, National Institute of Health.

[FR Doc. 80-34078 Filed 10-31-80; 8:45 am]
BILLING CODE 4110-08-M

Office of the Secretary

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation: coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on November 19–20, 1980, in the Century Room of the Plaza Cosmopolitan Hotel, 1780 Broadway, Denver, Colorado, from 9:00 a.m. to 5:00 p.m. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness and prevention of mental retardation.

These meetings are open to the public. A translator for the Deaf will be available upon advance request. The Hotel is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Allen R. Menefee, Acting Executive Director, Room 4025, ROB No. 3, 7th & D Streets, S.W., Washington, D.C., telephone: (202) 245–7634.

Dated: October 24, 1980.

Allen R. Menefee,
Acting Executive Director, President's Committee on Mental Retardation.

[FR Doc. 80-34146 Filed 10-31-80; 8:45 am]
BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Establishment of Predatory Animal Damage Control Research advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of advisory committee establishment.

SUMMARY: This notice announces the establishment of a Predatory Animal Damage Control Research Advisory Committee. The Committee will provide advice on current predatory animal damage control research programs and a new five year plan for such research currently under development. The Committee will aid in assuring that the research programs on predatory animal damage control consider all approaches to predatory animal damage reduction techniques, and all related environmental and economics matters.

FOR FURTHER INFORMATION CONTACT:
Duncan MacDonald, Division of Wildlife Ecology Research, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (202) 343.7667.

SUPPLEMENTARY INFORMATION:

Notice of Establishment

This notice is published in accordance with the provision of 5 U.S.C. 552(a)(1), and Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92.463, 5 U.S.C. App. 1). Following consultation with the General Services administration, notice is hereby given that the Secretary of the Interior is establishing the Predatory Animal Damage Control Research Advisory Committee concomitant with implementation of a new secretarial policy on predator damage. The Committee will review current predatory animal damage research programs and a 5-year plan for such research currently under development. They will provide advice to the Secretary and, through the Assistant Secretary for Fish and Wildlife and Parks, to the Director, U.S. Fish and Wildlife Service, concerning the conduct of this research effort. Such advice is consistent with enhancing the missions of the Department of the Interior. The certification of establishment is published below.

Certification

I hereby certify that the Predatory Animal Damage Control Research Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior

Dated: September 17, 1980.

Cecil D. Andrus,
Secretary of the Interior.

[FR Doc. 80-34085 Filed 10-31-80; 8:45 am]
BILLING CODE 4310-55-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Hans Baldung Grien: Prints and Drawings" (included in the list [1] filed as a part of this determination), imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art, the Yale University Art Gallery and the foreign lenders set forth in the list filed as a part of this determination. I also determine it to be in the national interest for the listed exhibit objects to be exhibited or displayed at the National Gallery of Art, beginning on or about January 25, 1981 to on or about April 5, 1981, and at the Yale University Art Gallery, beginning on or about April 23, 1981 to on or about June 14, 1981.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: October 28, 1980.

John E. Reinhardt,
Director.

[FR Doc. 80-34142 Filed 10-31-80; 8:45 am]
BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibits is filed as part of the original document.

INTERSTATE COMMERCE COMMISSION

Interim Procedures for Requesting Rail Variable Cost and Revenue Determination for Joint Rates Subject to Surcharge or Cancellation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Availability of Cost and Revenue Information.

SUMMARY: The Commission is announcing by this notice that it will furnish determinations of the variable cost-of-service and revenue of a rail carrier applying a surcharge or cancelling the application of a joint rate pursuant to Section 217 of the Staggers Rail Act of 1980. Such determinations will be furnished upon written request by participating carriers, shippers, or ports.

Further, all rail carriers subject to the jurisdiction of the Commission under subchapter I of Chapter 105 of Title 49, are ordered to provide any of the information shown in the procedure below to participating carriers, shippers, or ports. This information is to be provided to the requesting carrier, shipper or port within three (3) days of written request, pursuant to the interim rule established in the Notice of Proposed Rulemaking, Ex Parte No. 389, *Procedures for Requesting Rail Variable Cost and Revenue Determinations for Joint Rates Subject to Surcharge or Cancellation*, served October 28, 1980.

Written requests to the Commission by participating carriers, shippers, or ports shall include for each movement:

(1) A legible copy of the waybill or freight bill;

(2) The actual distance the subject shipment moved while on the surcharging or cancelling carrier's portion of the joint route;

(3) The car-type;

(4) The division of revenue accruing to the surcharging or cancelling carrier;

(5) The amount of surcharge in the even that no traffic has yet moved under the surcharged or cancelled joint rate;

(6) The name of the surcharging or cancelling carrier; and

(7) The name, address, and telephone number of the requesting party.

ADDRESS: Submit written requests to Mr. William T. Bono, Chief, Section of Cost Development, Room 6331, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William T. Bono, Tel: (202) 275–7354.

SUPPLEMENTARY INFORMATION: Section 217 of the Staggers Rail Act of 1980 establishes a new provision, 49 U.S.C. 10705a(h), which requires the Commission to furnish certain variable cost and revenue determinations to participating carriers, shippers, and ports within five days of request. Such requests must pertain to joint movements subject to surcharge or cancellation in accordance with the provisions of Section 217 of the Staggers Rail Act. Further, the Commission need provide only the cost and revenue of the carrier applying the surcharge or cancelling the application of the joint rate. In addition, Section 10705a(m) of the Act requires the use of unadjusted Rail Form A costs (or an accepted alternative) for such determinations. For these reasons, written requests must contain the specific information shown in the summary. This information will permit the Commission to determine the variable cost-of-service and the revenue accruing to the carrier applying the surcharge or cancelling the joint rate within the legal time frame.

To provide participating carriers, shippers, and ports with access to necessary information, the Commission has instituted a rulemaking proceeding. Concurrent with the initiation of that proceeding, the Commission established interim rules, applicable to all rail carriers subject to the Commission's jurisdiction under Subchapter 1 of Chapter 105 of Title 49, which provide a method of insuring parties access to the necessary information until such time as final rules are adopted (See summary for procedural reference).

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources.

Dated: October 27, 1980.

By the Commission, Chairman, Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34089 Filed 10-31-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted. NOTE: all applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–68

The following applications were filed in Region 1. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 50640 (Sub-1–13TA), filed October 21, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, Three Commerce Drive, Cranford, NJ 07016. *Contract carrier:* irregular routes: *Such commodities as are dealt in and sold by supermarkets, drug stores, retail department stores, home-center stores, novelty stores and hardware stores, ceramic mugs, displays, and equipment, materials and supplies used in the conduct of such businesses,* points in KY, NJ, and NY, under continuing contract(s) with Gallery House, Inc., Hackensack, NJ. Supporting shipper: Gallery House, Inc., 419 Essex Street, Hackensack, NJ 07601.

MC 152255 (Sub-1–1TA), filed October 20, 1980. Applicant: SAN–TOM, INC., d.b.a. PARK AVENUE LIMOUSINE, 157 East Main Street, Somerville, NJ 08876. Representative: Kelleher, Ross & Moore, 23 Maple Street, Somerville, NJ 08876. *Passengers and their baggage, and occasional packages,* between the offices of AT&T Long Lines Division, Basking Ridge, NJ and/or Johnson & Johnson offices in Central, NJ, and John

F. Kennedy International Airport, LaGuardia Airport and other points in NY, NJ and CT. Supporting shipper(s): There are 25 statements in support of this application which may be examined at the ICC Regional Office in Boston, MA.

MC 142603 (Sub-1–12TA), filed October 20, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Rubber Products and articles, including Latex and rubber particles, also, materials, equipment and supplies used in the manufacture, sales, and distribution of such commodities,* between all points in the US under continuing contract(s) with Omni Products Company of Garland, Texas. Supporting shipper: Omni Products Company, 1839, Plaza Drive, Suite 1390, Garland, TX 75041.

MC 890 (Sub-1–1TA), filed October 20, 1980. Applicant: ADKINS TRUCKING AND FREIGHT LINES, INC., Box 190, 750 Charles Street, Gloucester City, NJ 08030. Representative: Robert B. Einhorn, Esq., 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. *Foodstuffs, bakery goods, and animal, fish and poultry feed (except commodities in bulk),* from Camden City, Camden County, NJ to Wallkill, Ulster County, NY and Newburgh, Orange County, NY. Supporting shipper: Campbell Soup Co., 100 Market Street, Camden, NJ 08101.

MC 142579 (Sub-1-1TA) filed October 20, 1980. Applicant: B. W. T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Toys, pool supplies, chemicals, and cleaning compounds, and materials, equipment and supplies used in the manufacture and sale thereof, (except in bulk)* between Carlstadt, NJ on the one hand, and, on the other, points in the US (except AK, CT, DE, HI, IN, MD, MA, NJ, NY, OH, PA, RI, VA and DC) under continuing contract with Coastal Industries, Inc. Supporting shipper: Coastal Industries, Inc., 190 Jony Drive, Carlstadt, NJ 07072.

MC 140248 (Sub-1–2TA), filed October 16, 1980. Applicant: IDEAL CONTRACT CARRIERS, INC., 89 Main St., P.O. Box Z, Medway, MA 02053. Representative: Edward Kiley, 1730 M Street, Suite 501, Washington, DC 20036. *Contract carrier:* irregular routes: *Stoves and stove parts,* between the facilities of Plymouth Coal Stove Works, Inc. at Plympton, MA, on the one hand, and, on the other, points in CT, DE, ME, MD, NH, NJ, NY, OH, PA, RI, and VT, under a continuing contract or contracts with Plymouth Coal Stove Works, Inc. Supporting shipper: Plymouth Coal Stove Works, Inc., 37 County Road, Plympton, MA 02367.

MC 42343 (Sub-1–1TA), filed October 21, 1980. Applicant: CORPENZA, INC., 310 Chestnut Avenue, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. *Petroleum Distillate Fuel (Diesel Fuel, Fuel Oil No. 2), Petroleum Refined Oil (Kerosene) and Petroleum Residual Fuel (Fuel Oil Nos. 4, 5 and 6), in bulk in tank vehicles,* (1) from the facilities of Texaco U.S.A. at Pennsauken, NJ, and Claymont, DE, to Bath, Bethlehem, Emmaus, Lebanon and Avondale, PA; and (2) from the facilities of Texaco U.S.A. at Pennsauken, NJ to Milford, Newark, Glasgow, Newport, Clayton and Dover, DE. Supporting shipper: Texaco U.S.A., a division of Texaco, Inc, 1111 Rusk, Houston TX 77052.

MC 3753 (Sub-1–6TA), filed October 16, 1980. Applicant: AAA TRUCKING CORP., 3630 Quaker Bridge Road, P.O. Box 8042, Trenton, NJ 08650. Representative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, Suite 2373, One World Trade Center, New York, NY 10048. *Common carrier:* regular route: *General Commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Boston, MA and Manchester, NH, serving all intermediate points and the off route points located in Belknap, Cheshire, Hillsborough, Merrimack, Rockingham, Strafford and Sullivan Counties, NH, from Boston, MA to Manchester, NH over Interstate 93 and return over the same route. Tacking and Interline requested. Supporting shipper(s): There are 71 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 152209 (Sub-1–1TA), filed October 15, 1980. Applicant: TRANSPORT DE VEHICULES L.G. LTEE, 9980 Papineau Street, Montreal, Quebec, Canada. Representative: Adrien R. Paquette, 200 St. Jacques Street Ouest, Montreal, Quebec, Canada H2Y 1M1. *Used passenger vehicles in truckaway service* from the CD/US International Boundary line located in Champlain, NY to points in FL. Supporting shipper: Les Excursions Organisees Tour Monde LTEE, 901 Bleury St., Suite 400, Montreal, Quebec, CD.

MC 113774 (Sub-1–5TA), filed October 15, 1980. Applicant: LAIDLAW TRANSPORT LIMITED, P.O. Box 3020, Station B, Hamilton, Ontario, CD. Representative: David A. Sutherlund, Fulbright & Jaworski, 1150 Connecticut Ave., NW., Suite 400, Washington, D.C. 20036. *Iron and Steel commodities,* from ports of entry on the International Boundary line between the US and CD located at NY to Berwick, PA. Supporting shipper: Burlington Steel Div. of Slater Steel Industries, Ltd., Box 943, Hamilton, Ontario, CD L8N 3P9.

MC 148632 (Sub-1–5TA), filed October 15, 1980. Applicant: DIXON LEASING CO., INC., 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Gary V. Dixon, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. *Insulation products and materials,* between Camden County, NJ on the one hand, and, on the other, points in IA, IL, MO, OK, TK, and WI. Supporting shipper: Certainteed Corp., P.O. Box 860, Valley Forge, PA 19482.

MC 145108 (Sub-1–12TA), filed October 14, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Malt beverages, materials, equipment, and supplies used in the manufacture and sale of malt beverages, in mechanical refrigerated equipment,* from Milwaukee, WI, to points in CA, OR, and WA. Supporting shipper: Pabst Brewing Co., 917 W. Juneau, Milwaukee, WI 53201.

MC 73081 (Sub-1–1TA), filed October 15, 1980. Applicant: ANYTIME DELIVERY SYSTEMS, INC., 375 Western Highway, Tappan, NY 10983. Representative: Piken & Piken, Esqs., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. *General commodities, with the usual exceptions, in expedited service, restricted to shipments delivered within 24 hours of pick up,* between points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VT, VA and DC. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 151639 (Sub-1–3TA), filed October 17, 1980. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Plastic articles* (Except in bulk), from Manchester, NH and Woburn, Lawrence, Wilmington and Somerville, MA to points in GA, IL, MD, NJ, NY, PA,

and OH. Supporting shipper: Sweetheart Plastics, Inc., Wilmington, MA 01887.

MC 118803 (Sub-1–5TA), filed August 16, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives and household goods as defined by the Commission)* between points in the US (except AK and HI). Supporting shipper: Sun Chemical Corporation, 222 So. Marginal Road, Fort Lee, NJ 07024.

Republication

MC 152051 (Sub-1–1TA), filed October 1, 1980. Applicant: A. HUTTER & SONS, INC., 300 Cedar Court, Belle Mead, NJ 08502. Representative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, Suite 2373, One World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Salt, salt products, food seasoning compounds and materials and supplies used in the manufacture, packaging, marketing and distribution of salt and salt products,* between all points in NJ, DE and PA, restricted to traffic originating at or destined to the facilities of Morton Salt, Division of Morton Norwich. Supporting shipper: Morton Salt Division of Morton Norwich Prod. Inc., 110 N. Wacker Dr., Chicago, IL 60606.

Republication

MC 108247 (Sub-1–1TA), filed October 6, 1980. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Road, P.O. Box 892, New Haven, CT 06504. Representative: Ronald G. Esposito, 35 Edgemere Road, P.O. Box 892, New Haven, CT 06504. *Alcohol, gin, beverages (carbonated and non-carbonated), and materials used in beverage manufacturing, distribution and sales,* between the States of MD, PA, NJ, NY, CT, RI, MA, VT and ME. DE and NH to be traversed for operating convenience. Supporting shipper(s): Cott Corporation, 197 Chatham St., New Haven, CT 06513; Eder Bros, Inc., 11 Eder Road, West Haven, CT 06516; Allan S. Goodman Co., 180 Goodwin St., East Hartford, CT; and Connecticut Distributors, 160 Aven St., Stratford CT.

MC 152291 (Sub-1–1 TA), filed October 22, 1980. Applicant: ASSEMBLY SQUARE TRANSPORTATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Commercial and industrial rubber, fabric and plastic articles; supplies and equipment used in the manufacture of commercial and industrial rubber, fabric and plastic articles* between points in MA on the one hand, and, on the other, points in CA, GA, IL, IN, MO, OH, PA, TX and WI under continuing contract(s) with Plymouth Rubber Company, Inc.

MC 133841 (Sub-1–8 TA), filed October 22, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Titanium and Titanium Products and Fabrications; and (2) Materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk in tank vehicles),* between Fairfield, NJ, on the one hand, and, on the other, Brunswick, GA; Kansas City, MO; San Francisco, CA; Wilmington, DE; Wilmington, NC; Freeport, TX; and the piers in the Baltimore, MD harbor. Supporting Shipper: Titanium Industries, Fairfield, NJ 07006.

MC 150559 (Sub-1–2 TA), filed October 23, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Avenue, Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Antifreeze, Charcoal, Charcoal Briquets, Charcoal Lighter Fluid, Empty Paper Bags, Fireplace Logs, Ground Clay in bags, Lubricants, Motor Oil, in straight or mixed shipments,* between all points east of the Mississippi River plus AR, LA, MO and OK. Supporting shipper(s): Emerson Fuel Co., Inc., 545 Lyell Ave., Rochester, NY 14606; Eastern Charcoal Co., Inc., 545 Lyell Ave., Rochester, NY 14606.

MC 152276 (Sub-1–1 TA), filed October 21, 1980. Applicant: JLMS, INC., 115 Moonachie Avenue, Moonachie, NJ 07074. Representative: Lawrence S. Burstein, Esq., Zelby, Burstein, Hartman & Burstein, One World Trade Center, Suite 2373, New York, NY 10048. *Contract carrier:* irregular routes: *Printing paper on rolls* between points in MA, NJ, NY, PA, MD and CT, under a continuing contract with Beekman Paper Co., Inc. Supporting Shipper: Beekman Paper Co., Inc., 137 Varick Street, New York, NY 10013.

MC 150254 (Sub-1–3TA), filed October 21, 1980. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 210 Beacham Street, Everett, MA 02149. Representative: Raymond P. Keigher, Esq., 401 E. Jefferson Street, Suite 102, Rockville, MD 20850. *Chemicals, petroleum and containers, (except commodities in bulk),* from Worcester County, MA, to Atlanta, GA, Chicago, IL, Indianapolis, IN, Louisville, KY, Detroit and Grand Rapids, MI, Green Bay, WI, Nitro, WV, points in Baltimore County, MD, and those in OH, PA, NJ, and NY. Supporting shipper: SAY Industries, 163 Pioneer Drive, Leominster, MA 01453.

MC 145108 (Sub-1–13TA), filed October 20, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Paper, and paper products; and (2) Plastic and plastic articles; and (3) Materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk in tank vehicles),* between points in the U.S. Supporting shipper: Stone Container Corporation, 360 North Michigan Ave., Chicago, IL 60601.

MC 140768 (Sub-1–12TA), filed October 23, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *General commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between the facilities of Amway Corp. at or near Dayton, NJ, on the one hand, and, on the other, points in ME, MA, NH, NY, PA, RI and VT. Supporting shipper: Amway Corporation, Monmouth Junction Road, Dayton, NJ 08810.

MC 143236 (Sub-1–10TA), filed October 20, 1980. Applicant: WHITE TIGER TRANSPORATION CO., INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Brock Adams, 1919 Pennsylvania Avenue, N.W., Washington, DC 20006. *Stack control and emission control inhibitors, chemicals, boiler cleaning compounds, water treating compounds, fuel additives, (except in bulk), and equipment, materials and supplies used in the manufacture and distribution thereof,* between Morris County, NJ and Harrison County, TX, on the one hand, and, on the other, points in the U.S. Supporting shipper: Apollo Technologies, Inc., One Apollo Drive, Whippany, NJ 07981.

MC152225 (Sub-1–1TA), filed October 16, 1980. Applicant: RICK PERRONE TRANS., INC., 39 Depot St., Broad Brook, CT 06016. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *(1) Electronic cable &*

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accessories used in connection with electronic cable & plastic pellets; (2) supplies, materials & equipment used in connection with the manufacture of electronic cable & wire plastic insulation (1) from South Hadley,, MA to Nogales, AZ; (2) Fron Nogales, AZ to points in the US (except AK & HI). Supporting shipper: E.I.S. Holyoke Wire & Cable Co., 775 New Ludlow Rd., South Hadley, MA 01075.

MC71593 (Sub-1–13TA), filed October 17, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Planis, NJ 07076. Representative: David W. Swenson, 1608 E. Second Street, Scotch Plains, NJ 07076. *Such commodities as are dealt in by manufacturers or converters of paper and paper products,* between the facilities of Westvaco at or near New Orleans, LA. and points and places in the states of WA, OR, CA, AZ, NV, NM, CO, MN, IA, MO, IL, IN, WI, OH, KY, TN. Supporting shipper: Westvaco, P.O. Box 60220, New Orleans, LA 70160.

MC148370 (Sub-1–5TA), filed October 21, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega, 11 Newark Street, Providence, RI 02906. *Contract carrier:* irregular routes: *Hydronic Heating and Well Water Systems and related accessories including supplies and raw materials* between points in the US. Supporting shipper: Amtrol, Inc., 1400 Division Road, West Warwick, RI 02893.

MC135873 (Sub-1–3TA), filed October 16, 1980. Applicant: KSS TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Contract carrier:* irregular routes: *General commodities (with the usual exceptions)* between points in the U.S., under a continuing contract with Beatrice Foods Co. and its wholly-owned subsidiaries. Supporting shipper: Beatrice Foods Co., 312 East Main Street, P.O. Box 260, Watertown, WI 53094.

MC 148764 (Sub-1–5TA), filed October 21, 1980. Applicant: MAR PAT TRANSPORTATION CORP., 2445 Allen Avenue, Niagara Falls, NY 14305. Representative: William Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Non-radioactive hazardous waste,* between points east of the States of ND, SD, NE, KS, OK, and TX. Supporting shipper: Cecos International, Inc., Niagara Falls, Blvd. & Walmore Road, NY 14304.

MC 37398 (Sub-1–1TA), filed October 21, 1980. Applicant: JOHN J. BOYCE TRANSPORTATION, INC., 116 So. Elberon Ave., Atlantic City, NJ 08401. Representative: Jay H. Weinstein or Morris D. Weinstein, 116 So. Elberon Ave., Atlantic City, NJ 08401. *Food and food products, packinghouse products and by-products, and commodities used in the sale and display thereof, when transported in refrigerated trucks,* between points in NJ, Chester, PA, and the commercial zones of New York City, NY, on the one hand, and, on the other hand, points in FL. Supporting shipper(s): There are six (6) supporting shippers' statements attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 152108 (Sub-1–5TA), filed October 21, 1980. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Road, Lockport, NY 14094. Representative: George V. C. Muscato, Esq., 188 East Avenue, Lockport, NY 14094. *Hazardous chemical waste, in bulk, in tank vehicles and dump trailer,* from points in NJ, PA, OH, NY, VT, and MA to points in Niagara Falls, NY, and Williamsburg, OH. Supporting shipper: Cecos International, Inc., Walmore Rd. and Niagara Falls Blvd., Niagara Falls, NY.

MC 150969 (Sub-1–1TA), filed October 22, 1980. Applicant: GRAND STREET WAREHOUSE, INC., 57 Grand Street, Moonachie, NJ 07074. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 097934. *Food Oils,* from Carlstadt and Moonachie, NJ, to points in CT, FL, GA, MA, NY, PA, and RI. Supporting shipper(s): Food Oils Corp., 145 Grand St., Carlstadt, NJ 07072.

MC 144029 (Sub-1–2 TA), filed October 22, 1980. Applicant: CUMBERLAND TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives and household goods as defined by the Commission)* between Onondaga County, NY on the one hand, and, on the other, points in the US. Supporting shipper: The Mead Corp., Courthouse Plaza, N.E., Dayton, OH 45463.

MC 151959 (Sub-1–2 TA), filed October 16, 1980. Applicant: TRANS-COPPER EXPRESS, CO., 512–514 State Fair Boulevard, Syracuse, NY 13204. Representative: Donald G. Hichman, R.D. #1, Box 7, Union Springs, NY 13160. *(a) Copper Wire, Copper Cable, Aluminum Wire and (b) materials and supplies used in the manufacture, distribution and assembly of items listed in (a)* between Rome and Syracuse, NY (and their commercial zones), on one hand, and, on the other, points in AL, DC, FL, GA, IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, NC, NJ, NY, OH, PA, SC, TX, VA, WI and WV. Supporting shipper: Cyprus Wire & Cable Co., 421 Ridge St., Rome, NY 13440.

MC 99046 (Sub-1–1 TA), filed October 20, 1980. Applicant: TOTAL TRANSPORTATION, INC., 304 A Oakwoods, Bellingham, MA 02019. Representative: Peter G. Baker, 304 A Oakwoods, Bellingham, MA 02019. *General commodities* between MA and RI. Supporting shipper: Real Warehousing, 1494 Main St., Millis, MA 02054.

MC 59640 (Sub-1–12 TA), filed October 20, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, Three Commerce Drive, Cranford, NJ 07016. *Contract carrier:* irregular routes: *Such commodities as are dealt in and sold by supermarkets, home-center stores and retail department stores, and materials, supplies and equipment used in the conduct of such businesses, (except commodities in bulk),* between points in AZ, AR, ID, LA, MN, MO, MT, NV, NM, ND, OK, OR, SD, UT, WA, WV, WY, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY and PA, under continuing contract(s) with Supermarkets General Corporation. Supporting shipper: Supermarkets General Corporation, 301 Blair Road, Woodbridge, NJ 07095.

MC 141245 (Sub-1–3TA), filed October 17, 1980. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington, DC 20006. *Flour* from Buffalo, NY to points in VT. *Canned Goods* from points in NY to points in MA, NH, VT, and CT. *Wine* from Canandaigua, NY to points in VT. *Calcium Chloride in 100# bags and in bulk* at or near Solvay, NY to points in VT and NH. Supporting shipper(s): Champlain Valley Fruit, P.O. Box 428, Burlington, VT 05401; Burlington Grocery, 747 Pine St., Burlington, VT 05401; Snyder Sales & Service, 1616 Soldiers Field Road Extension, Boston, MA 02135; James J. Lowe, 68 Fairfield Street, St. Albans, VT 05478.

MC 141245 (Sub-1–2TA), filed October 17, 1980. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington, DC 20006. (1) *Malt beverages,* from the facilities of Joseph Schlitz Brewing Co. at or near Winston-Salem, NC, Carling National Brewers at or near Baltimore, MD, F & M Schaeffer Brewing Co. at or near Allentown, PA, and Meadowlands Warehouse Co., Inc. at or near Secaucus, NJ to points in NH and VT; and (2) *empty malt beverage containers,* in the reverse direction. Supporting shipper(s): Champlain Valley Fruit Co., Inc., 77 No. Union St., Burlington, VT 05401; Calmont Beverage Co., Inc., 21 So. Main St., Barre, VT 05641; Twin State Fruit Corp., Drawer P.O. 547—Railroad Row, White River Jct., VT 05001.

MC 143127 (Sub-1–26TA), filed October 21, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *Drugs and medicines,* from Evansville and Mt. Vernon, IN to points in AL, AR, CO, DE, FL, GA, IL, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA WV, WI, and DC. Supporting shipper: Mead Johnson and Company, 917 Bond St., Evansville, IN 47721.

MC 150463 (Sub-1–1TA), filed October 20, 1980. Applicant: ROETHEL COACH LINES, INC., 515 Ford Street, Ogdensburg, NY 13669. Representative: Thomas G. Roethel, President, 515 Ford Street, Ogdensburg, NY 13669. *Passengers & Baggage in Charter & Special Operations,* between Ogdensburg, NY on the one hand, and, on the other, points in PA, DC, VA, WV, NC, SC, NJ, FL, GA, TN, KY, OH, NY, AL, and MD. Supporting shipper: Roethel's Ogdensburg Business Institute, 515 Ford St., Ogdensburg, NY 13669.

MC 112963 (Sub-1–7TA), filed October 16, 1980. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. *Plastic materials, dry, in bulk, in tank vehicles* from Passic, NJ to Amsterdam, NY. Supporting shipper: Pantasote, Inc., 26 Jefferson St., Passaic, NJ 07055.

MC 152262 (Sub-1–1TA), filed October 16, 1980. Applicant: LAW-TON TRUCKING, INC., 7 Cedar Crest Drive, Dix Hills, NY 11746. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier:* irregular route: *Soap and soap products, and supplies used in the manufacture and distribution of soap and soap products,* between points in Suffolk County, NY on the one hand, and, on the other, points in SC, NC, GA, FL, NJ, PA, MA, and MI, under a continuing contract with Sunshine Chemical Corp. Supporting shipper: Sunshine Chemical Corp., 60 Austin Blvd., Commack, NY.

MC 129301 (Sub-1–1TA), filed October 21, 1980. Applicant: ENGLISH AND SONS CORPORATION, 412 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, 468 Kentucky Ave., Williamstown, NJ 08094. *Contract carrier:* irregular route: *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith equipment, materials and supplies used in the conduct of such business,* from points in CT, MA, NC, OH, RI and VA to Jessup, Elkridge, Columbia, Landover and Silver Spring, MD, under continuing contract(s) with Giant Food, Inc. Supporting shipper: Giant Food, Inc., P.O. Box 1804, Washington, DC 20013.

MC 151078 (Sub-1–2TA), filed October 22, 1980. Applicant: COASTAL FAST FREIGHT, INC., 346 Claremont Avenue, Jersey City, NJ 07305. Representative: Charles A. Webb, 1828 L Street, N.W., Suite 1111, Washington, D.C. 20036. *Contract carrier:* irregular route: *Automobile air conditioners and parts and accessories therefor,* from Carson, CA on the one hand, and, on the other, Dayton, OH, Mansfield, MA, Glen Burnie, MD, and West Caldwell and Moorestown, NJ, under a continuing contract with Nippondenso of Los Angeles, Inc. Representative: Nippondenso of Los Angeles, Inc., 857 East 230 Street, Carson, CA 90745.

Republication

MC 65491 (Sub-1–1TA), filed September 2, 1980. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd Street, Bronx, NY 10469. Representative: William Biederman, 371 Seventh Avenue, New York, NY 10001. *Pulp, paper or allied products and materials, equipment and supplies used in the manufacture of paper (except in bulk, and such size requiring special equipment),* between Lock Haven, PA on the one hand, and, on the other, MD, ME, MI, NH, NJ, NY, OH, VA and VT. The purpose is to add the State of *VA* before VT previously omitted in **Federal Register**, page 61034, of September 15, 1980. Supporting shipper: Hammermill Paper Company, P.O. Box 268, Lock Haven, PA 17745.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 147993 (Sub-II–4TA), filed October 14, 1980. Applicant: C. H. MASLAND & SONS, 50 Spring Rd., Box 40, Carlisle, PA 17013. Representative: J. Roger Gratz (same as applicant). *Contract; irregular: paper tubes, synthetic crude rubber, reclaimed rubber & rubber lubricant used in the manufacturing of rubber roofing material, pneumatic tires, innertubes & radiator hose* from Adrain, MI, Columbus, OH, Greenville, IL & St. Louis, MO, to Carlisle Rubber Plants in or near Carlisle, PA, for 270 days under continuing contract(s) with Carlisle Tire & Rubber Co. Supporting shipper: Carlisle Tire & Rubber Co., Manager Material Distribution, P.O. Box 99, 621 N. College St., Carlisle, PA 17013.

MC 78228 (Sub-II–5TA), filed October 14, 1980. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Pig iron, in bulk in dump vehicles,* from Portsmouth, NH to Randolph, VT for 270 days. Supporting shipper: Philipp Bros., Division of Engelhard Minerals & Chemicals Corp., 1221 Avenue of the Americas, New York, NY 10002.

MC 111611 (Sub-II–5TA), filed October 14, 1980. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Glassware bulbs, or bulb parts* from Dale Summit, PA. to National City, CA. for 270 days. Supporting shipper: Corning Glass, P.O. Box 544, Corning, NY 14830.

MC 150339 (Sub-2–15TA), filed October 14, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Strip steel, coils on skids, and sheet steel* from Youngstown, OH, to points in the US under a continuing contract(s) with Hynes Industries, Inc., 3760 Oakwood Ave., Youngstown, OH 44509 for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Hynes Industries, Inc., 3760 Oakwood Ave., Youngstown, OH 44509.

MC 107403 (Sub-II–34TA), filed October 10, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Landsdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Dry sugar, in bulk, in tank vehicles,* from Philadelphia, PA to points in NJ for 270 days. Supporting shipper(s): The National Sugar Refining Co., 1037 N. Delaware Ave., Philadelphia, PA 19125.

MC 152195 (Sub-II–2TA), filed October 14, 1980. Applicant: LEO PETRILLO, 3465 Bowman St., Philadelphia, PA 19129. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Roofing Paper and Supplies,* between Quakertown, PA and Yardville, NJ for

270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Georgia-Pacific Corp., Box 11308, Rte 130, Yardville, NJ 08620.

MC 107012 (Sub-II–94TA), filed October 14, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Appliances* from Edison, NJ to points in AL, CT, DE, DC, FL, GA, ME, MD, MA, NH, NY, NC, PA, RI, SC, VT, VA, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Edison Products Co. NJ, Route 27 at Vineyard Road, P.O. Box 337, Edison, NJ 08817.

Note.—Common control may be involved.

MC 10712 (Sub-II–92TA), filed October 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Carpet cushion and automotive felt* from the facilities of Dixie Manufacturing Co., Inc. at or near Norfolk, VA to points in IA, KS, and MN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dixie Manufacturing Co., Inc., 110 Colley Ave., Norfolk, VA 23501.

Note.—Common control may be involved.

MC 146015 (Sub-II–12TA), filed October 8, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. *Contract; Irregular: Dehydrated instant noodle soup,* from Lancaster, PA to points in MA, NY, NJ, PA, VA, NC, GA, FL, MD, IL and OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Nisson Foods (USA) Co., Inc., 2125 Center Ave., Fort Lee, NJ 07024.

MC 150445 (Sub-II–2TA), filed October 8, 1980. Applicant: ALPHONZO V. MANGIONE, 310 S. Main St., Pittston, PA 18630. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Coal,* from Luzerne and Schuylkill Counties, PA to NH, VT, NY, DE & OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lehigh Valley Coal Sales Co., P.O. Box 450, W. Pittston, PA 18640; Centralia Coal Sales Co., 101 S. Main St., Ashley, PA 18706.

MC 112304 (Sub-II–19TA), filed October 14, 1980. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Calcined anthracite coal* (except in bulk), from the facilities of Airco Carbide, at or near Calvert City, KY, to Chicago, IL, for 270 days. Supporting shipper(s): Airco Carbide, Division of Airco, Inc., P.O. Box 10037, Louisville, KY 40210.

MC 150512 (Sub-II–2TA), filed October 14, 1980. Applicant: B & M TRANSIT, INC., Rt. 603, Phymouth, OH 44865. Representative: L. S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. Contract, irregular: *meats, meat products, meat by-products, and articles described in Sections A and C of Appendix I to the report in descriptions in motor carrier certificates,* 61 M.C.C. 209 and 766 between points in the U.S., for 270 days. Supporting shipper: Lincoln Packing Company, Inc., 137 Newmarket Sq., Boston, MA 02118.

MC 119894 (Sub-II–3TA), filed October 14, 1980. Applicant: BOWARD TRUCK LINE, INC., 100 Roesler Rd., Suite 200, Glen Burnie, MD 21061. Representative: M. Bruce Morgan, 100 Roesler Rd, Suite 200, Glen Burnie, MD 21061. *Paper, Paper Products, Paperboard Products, Waste Paper, and those commodities used in the manufacture or distribution of Paper, Paperboard Products or Paper Products.* Between the Plantsite of Sonoco Products Company at or near Hartsville, SC and points in the States of NC, VA, TN and GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sonoco Products Co., P.O. Box 160, Hartsville, SC 29550.

MC 102616 (Sub-II–21TA), filed October 14, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillion Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same as applicant). *Sodium Citrate, dry, in bulk,* from Zeeland, MI to Chicago, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle Street, P.O. Box 40, Elkhart, IN 46515.

MC 150019 (Sub-II–3 TA), filed October 14, 1980. Applicant: EDWARD E. GARBER, d.b.a. CUSTOM TRANPORT, 6600 Sweet Air Lane, Sykesville, MD 21784. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Wash. D.C. 20005. *General commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Baltimore, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restriction: Restricted to traffic originating at or destined the facilities of Streamline Shippers Association. An underlying ETA seeks 120 days authority. Supporting shipper: Streamline Shippers Association, Baltimore, MD 21225.

MC 147454 (Sub-II–1 TA), filed October 14, 1980. Applicant: JAMES CONDOSTA, 807 Exeter Ave., W. Pittston, PA 18643. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Anthracite Coal,* from Luzerne & Schuylkill Counties, PA to points in NY, CT, MA, NH, RI, VT, ME, OH, IN, IL, GA, MI, DE & NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lehigh Valley Coal Sales Co., P.O. Box 450, Pittston, PA 18643.

MC 112304 (Sub-II–20 TA), filed October 16, 1980. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Heating equipment, stoves, fireplaces, furnaces and incinerators,* from Athens, Huntsville and Sheffield, AL and Americus, GA, to all points in the US (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Martin Industries, Inc., P.O. Box 128, Florence, AL 35630.

MC 140243 (Sub-II–4 TA), filed October 16, 1980. Applicant: APPLE HOUSE, INC., 3726 Birney Ave., Scranton, PA 18505. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Foodstuffs* (except commodities in bulk and those requiring special equipment) from Milton, PA to points in the states of AL, FL, GA, NC, and SC for 270 days an underlying ETA seeks 120 days. Supporting shipper(s): American Home Foods Div., American Home Products Corp., 685 Third Ave., New York, NY 10017.

MC 128067 (Sub-II–1TA), filed October 16, 1980. Applicant: W. F. BURNS TRUCKING, INC., Box 127A, R.D. #2, Ruffsdale, PA 15679. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract, Irregular: Chemicals,* from Solvay, NY to points in MD, VA and WV, under continuing contract(s) with United Chemicals, Inc. for 270 days. Supporting shipper: United Chemicals, Inc., P.O. Box 18049, Pittsburgh, PA 15236.

MC 14252 (Sub-II–7TA), filed October 16, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and classes A & B explosives),* serving all points in Nicholas County, WV as off route points in connection with carriers presently authorized regular route operations. Applicant intends to tack and interline, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bright of America, 300 Greenbrier Rd., Summersville, WV.

MC 128746 (Sub-II–4TA), filed October 16, 1980. Applicant: D'AGATA NATIONAL TRUCKING CO., 3240 S. 61st St., Phila., PA 19153. Representative: Edward J. Kiley, 1730 M St., NW., Washington, D.C. 20036. *Non-alcoholic carbonated beverages, in containers, and materials, supplies and equipment used in the manufacture, sale and distribution of non-alcoholic carbonated beverages,* between the facilities of Shasta Beverages, Inc., at or near New Bedford, MA, on the one hand, and, on the other, points in NY, NJ, CT, Baltimore and Patuxent, MD, Berrington, RI, Greensburg, PA, Charlotte, NC, Salem and Manchester, NH; between the facilities of Shasta Beverages, Inc., at or near Union, NJ, on the one hand, and, on the other, New Bedford, MA; between the facilities of Shasta Beverages, Inc., at or near Baltimore, MD, on the one hand, and, on the other, New Bedford, MA; between the facilities of Shasta Beverages, Inc., at or near Baltimore, MD, on the one hand, and, on the other, Union, NJ. For 270 days. Supporting shipper: Shasta Beverages, Inc., Industrial Park, New Bedford, MA.

MC 114301 (Sub-II–2TA), filed October 16, 1980. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St. NW., Washington, DC 20005. *Plastic Resin,* from the railhead of Flexi-Flo, Inc., at or near Allston, MA to Brooklyn and Schenectady, NY; Pawtucket, RI; Jewett City and Stratford, CT; Manchester, NH; Edison, Newark, Kearney and Pedricktown, NJ, and Action, Hatfield, Lowell, Leominster, South Braintree and Taunton, MA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The B. F. Goodrich Co., 6100 Oak Tree Blvd., Cleveland, OH 44131.

MC 150567 (Sub-II–4TA), filed September 29, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. *Coffee, cans or bags,* from the facilities of Hills Bros. Coffee, Inc., San Francisco, CA to Portland, OR and Seattle, WA and points intermediate, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R. J. DeMers, P.O. Box 3149, San Francisco, CA 94119.

MC 114569 (Sub-II–32TA), filed September 29, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as above). Transporting: *Coffee.* From the facilities of Chock Full O'Nuts at or near Brooklyn and Jamacia, NY and St. Louis, MO to points in CA; Phoenix, AZ; Portland, OR; and Chicago, IL, for 270 days. Supporting shipper(s): Chock Full O'Nuts, 425 Lexington Avenue, New York, 10017.

MC 146423 (Sub-II–5TA), filed September 30, 1980. Applicant: STEPHEN HROBUCHAK, d.b.a. TRANS-CONTINENTAL REFRIGERATED LINES, P.O. Box 1456, Scranton, PA 18501. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Foodstuffs* (except in bulk and when requiring special equipment) from Milton, PA to Los Angeles, CA, Oakland, CA, San Francisco, CA, Vacaville, CA, Portland, OR and Seattle, WA for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): American Home Foods Division, American Home Products Corporation, 685 Third Ave., New York, NY 10017.

MC 8922 (Sub-II–1TA), filed September 29, 1980. Applicant: THE WAHL MOVING & TRANSFER CO., 16100 S. Waterloo Rd., Cleveland, OH 44110. Representative: Daniel B. Johnson, 4304 East-West Hwy., Washington, DC 20014. *Crushers, granulators, breakers, rotor assemblies, machinery, frames, and metal fabrications* between Cuyahoga Falls, OH, on the one hand, and, on the other, points in the United States, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pennsylvania Crusher Corp., Cuyahoga Falls, OH 44221.

MC 110683 (Sub-II–7TA), filed October 1, 1980. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washinton, DC 20036. *Common; regular: General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving the facilities of Tyler Warehouse in Tyler, TX, as an off-route point in connection with carrier's authorized regular routes for 270 days. Applicant intends to tack the authority sought herein with existing authority held under MC110683. Applicant intends to interline at all present interchange points. An underlying ETA seeks 120 days authority. Supporting shipper(s): Philip Morris, P.O. Box 26603, Richmond, VA 23261.

MC 152071 (Sub-II–1TA), filed October 2, 1980. Applicant: BERNARD E. ROCHE d.b.a., EDDIE ROCHE'S MOBILE HOMES MOVING AND SERVICE, 438 Barcelona Lane, Virginia Beach, VA 23452. Representative: Blair P. Wakefield, Suite 1001 First and Merchants National Bank Bldg., Norfolk, VA 23510. *Mobile homes: prefabricated buildings, complete, knocked down, or in sections; and modular* dwelling units, between all pts. in NC, VA, MD and DC, for 270 days. Supporting shipper: Jim's Mobile Home Moving & Service, Inc., 3117 Douglas Rd., Chesapeake, VA 23320.

MC 125023 (Sub-II–4TA), filed October 2, 1980. Applicant: SIGMA–4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy (same as applicant). *Paper and paper products, and materials, equipment and supplies used in the manufacture of paper and paper products (except commodities in bulk and those which because of size or weight require the use of special equipment),* between the facilities of Hammermill Paper Company, at or near Erie, PA; Lock Haven, PA; and Oswego, NY; on the one hand, and on the other, points in the U.S. in and East of MN, IA, MO, AR, and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hammermill Paper Co., P.O. Box 1440, 1540 E. Lake Rd., Erie, PA 16533.

MC 138805 (Sub-II–1TA), filed October 2, 1980. Applicant: S&L SERVICES, INC., RD #1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. (1) *Foodstuffs* (except in bulk) from the facilities of American Home Foods Division of American Home Products Corporation at or near Milton, PA to points in AL, FL, GA, KY, NC, SC, TN, and TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs from points in AL, FL, GA, KY, NC, SC, TN, and TX, to the facilities of American Home Foods at or near Milton, PA, for 270 days. Supporting shipper: American Home Foods, 685 Third Avenue, New York, NY 10017. An underlying ETA seeks 120 days authority.

MC 146807 (Sub-II–9TA), filed October 1, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Coal, in bags and in boxes,* from Wilkes-Barre, PA to points Washington, Oregon, California, Arizona, Colorado, Texas, Louisiana,

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Florida, Georgia, North Carolina, Virginia, Maryland, the District of Columbia, New York, Maine, New Hampshire, Vermont, Massachusetts, Ohio, Michigan, Minnesota, Wisconsin, Iowa, Oklahoma, Kansas, Arkansas, and Missouri for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper(s): Hubbard Coal Co., 110 Miller St., Wilkes-Barre, PA 18705.

MC 136012 (Sub-II–2TA), filed October 6, 1980. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Dr., Cincinnati, OH 45246. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Liquid Chemicals, in bulk, in tank vehicles,* from Chicago, IL and Rothschild, WI, and their respective commerical zones, to Cincinnati, OH and South Shore, KY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Didier Taylor Refractories Corp., Rt. 23, P.O. Box 457, South Shore, KY 41175. Ashland Chemical Co., Div. of Ashland Oil, Inc., P.O. Box 2219, Columbus, OH 43216. M. J. Daly Co., 38 Elm St., Ludlow, KY 41016.

MC 146656 (Sub-II–6TA), filed October 10, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Contract, irregular *polyurethane foam* from Baltimore and Jessup, MD to points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): William T. Burnett & Co., Inc., 150 Bush St., Baltimore, MD 21230.

MC 115703 (Sub-II–8TA), filed October 10, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. B. 375, 225 Park Road North, Wyomissing, PA 19610. Representative: Robert D. Gunderman, Suite 710, Statler Bldg., Buffalo, NY 14202. *Machinery, machine parts, and articles because of size or weight require the use of special handling or equipment,* between points in CT, DE, DC, MD, MA, NJ, NY, NC, OH, PA, RI, VA and WV, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OH and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 13 supporting shippers' statements attached to this application which may be examined at the Philadelphia Regional office.

MC 152241 (Sub-II–1TA), filed October 17, 1980. Applicant: LANCASTER EXPRESS, INC., 2314 Norman Rd., P.O.B. 4771, Lancaster, PA 17604. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17001. *General commodities, (except household goods as defined by the Commission and Classes A and B explosives),* between points in Allegheny, Cumberland, Berks, Lancaster, Lebanon and York Counties, PA; and McConnelsville and Gansevoort, NY; Cleveland, OH; Port Elizabeth and Dorchester, NJ; and Lugoff, SC, on the one hand, and, on the other, points in the U.S. for 270 days. Supporting shipper(s): There are 6 supporting shippers' statements attached to this application which may be examined at the Phila. Regional office.

MC 152057 (Sub-II–1TA), filed October 15, 1980. Applicant: LANDSMAN CAR CARRIER SERVICE, INC., 5801 Reisterstown Rd., Baltimore, MD 21215. Representative: Harold E. Mesirow, 1333 New Hampshire Ave., NW, Suite 850, Washington, DC 20036. *Motor vehicles, new and used, in secondary movements, in truckaway service* between points in AK, DC, FL, GA, IL, IN, IA, KS, LA, MD, MA, MI, MO, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, VA, ME, KY, WV, MS, AL, CT, NH, VT, RI, DE, for 270 days. Movements of new motor vehicles are restricted to relocation of delivered dealer inventory on behalf of shippers who are automobile dealers. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 8 supporting shippers' statements attached to this application which may be examined at the Phila. Regional office.

MC 145773 (Sub-II–4TA), filed October 16, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Contract, irregular: (1) *Electric motors and parts thereof in containers, pallets and crates,* from the facilities of A. O. Smith Corp. at Tipp City, OH; Mt. Sterling, KY and Mebane, NC to points in the U.S. (except AK and HI), and (2) *equipment, materials, supplies, (scrap and rejects) and parts* used in the manufacture and distribution of the above commodities in the reverse direction (except commodities in bulk), for 270 days. Supporting shipper: A. O. Smith Corp., 3533 N. 27th St., Milwaukee, WI 53216.

MC 138000 (Sub-II–21TA), filed October 16, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. (1) *Paper, paper products, pulpboard, printed matter, ores, plastic, plastic products, chemicals and building supplies (except in bulk), and* (2) *materials, equipment and supplies used in the manufacture, sale and distribution of (1) above,* between all points in the United States in and east of WI, IL, MO, AR and LA. Restricted to the transportation of shipments originating at or destined to the facilities of or utilized by Union Camp Corporation and its subsidiaries, for 270 days. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470.

MC 151327 (Sub-II–2TA), filed October 16, 1980. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254. Contract, irregular, *Lift Trucks, platform or warehouse; Parts and Attachments, as well as Machine Parts, (except in bulk, in tank vehicles); and materials, equipment and supplies used in the manufacture and distribution of above commodities* on return, between the facilities of Baker Material Handling Corporation, Cuyahoga County, OH, on the one hand, and, on the other, points in the US (except AK and HI), for 270 days. An underlying ETA seeking 120 days authority has been granted. Supporting shipper: Baker Material Handling Corporation, 5000 Tiedeman RD, Cleveland, OH 44144.

MC 124821 (Sub-II–24TA), filed October 16, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Television picture tubes and parts used in the manufacture thereof,* between the facilities of RCA Corporation at or near Dunmore, PA, on the one hand, and, on the other, Lebanon, Greenville and Nashville, TN, and Forest City, AR, including points in the commercial zones, for 270 days. Supporting shipper: RCA Corporation, Building 204.2, Route 38, Cherry Hill, NJ 08358.

MC 60430 (Sub-II–1TA), filed October 14, 1980. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. B. 480, Wilkes-Barre, PA 18773. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points within the Philadelphia commercial zone as defined by the Commission. Applicant intends to tack the rights sought here with its recent grant of authority under MC–60430 (Sub 30) to serve all points in PA on and East of U.S. Hwy. 15. An underlying ETA seeks 120 days authority. Supporting shipper's statement attached to this application. Applicant furnished a verified statement.

MC 60430 (Sub-II–2TA), filed October 14, 1980. Applicant: FRIEDMAN'S EXPRESS, INC., P.O.B. 480, Wilkes-Barre, PA 18773. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005. Common, regular—*General commodities,* except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Newark and Phillipsburg, NJ over U.S. Hwy 22 to junction NJ Hwy 31, then over NJ Hwy 31 to U.S. Hwy 202, then over U.S. Hwy 202 to junction U.S. Hwy 611, then over U.S. Hwy 611 to Phillipsburg and return over the same route; between Doylestown, PA and Riegelsville, NJ serving all intermediate points, and the off-route points of Stockton and Milford, NJ, and those within 5 miles to Doylestown, PA: From Doylestown over U.S. Hwy 202 to New Hope, PA, then over PA Hwy 32 to Riegelsville, PA, and then across the Delaware River to Riegelsville, NJ, and return over the same route. Between Philadelphia, PA and Riegelsville, PA serving all intermediate points between Doylestown and Riegelsville, PA, including Doylestown, and the off-route points within 5 miles of Doylestown, and those in PA within 3 miles of U.S. Hwy 611 between Doylestown and Riegelsville, PA: From Philadelphia over U.S. Highway 611 to Riegelsville, and return over the same route. Applicant intends to tack the foregoing regular route authority with its existing regular route authority both at Phillipsburg and at Newark. An underlying ETA seeks 120 days authority. Supporting shipper(s): No supporting shipper's statement attached to this application. Applicant furnished a verified statement.

MC 48948 (Sub-II–TA), filed October 15, 1980. Applicant: THE HOCKING CARTAGE COMPANY, 28424 Chieftain Dr., Logan, OH 43138. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. *Glass cullett and glass tubing* between Logan, OH, and Bridgeville, PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): General Electric Company, 4504 Nela Park, Cleveland, OH 44112.

MC 125335 (Sub-2–19TA), filed October 17, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: GAILYN L. LARSEN, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs (except in bulk) and materials, supplies, and equipment used in the production, sale and distribution thereof,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to the facilities of The Pillsbury Company and its subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402.

MC 125335 (Sub-II–TA), filed October 14, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O.B. 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O.B. 82816, Lincoln, NE 68501. *Foodstuffs,* between Atlanta, GA, and its commercial zone, and points in the U.S. in and east of CO, NE, NM, ND and SD. An underlying ETA seeks 120 days authority. Supporting shipper: Pet Incorporated, Frozen Foods Division, 400 S. Fourth St., St. Louis, MO 63102.

MC 48386 (Sub-II–TA), filed October 14, 1980. Applicant: GRAVER TRUCKING, INC., R.D. 7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Coal,* from Schuylkill County, PA to New York, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Burnside Coal & Oil Co., Inc., 1905 White Plains Rd., Bronx, NY 10462. Gassman Coal & Oil Co., Brown Pl., & E. 132nd St., Bronx, NY 10454.

MC 140294 (Sub-II–7 TA), filed October 14, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Transporting such commodities as are used by or dealt in by grocery, foodstuff, and drug manufacturers, and wholesale and retail drug stores, grocery stores, and food business houses, except commodities in bulk,* between the facilities of Dauphin Distribution Services Company in Silver Spring Township and the borough of Camp Hill and the township of Hampden, Cumberland County, PA, on the one hand, and on the other, points in MD, VA, WV and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dauphin Distribution Services Company, P.O. Box 427, Camp Hill, PA 17011.

MC 143394 (Sub-II–15 TA), filed October 14, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Road, P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). *Contract: Irregular: General Commodities (except those of unusual value, Class A&B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between points in the U.S. under continuing contract(s) with Northeastern Pennsylvania Shippers Cooperative Association, Inc., Dunmore, PA 18512, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northeastern Pennsylvania Shippers Cooperative Association, Inc., 1212 O'Neill Highway, Dunmore, PA 18512.

MC 21866 (Sub-II–34 TA), filed September 22, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *General Commodities,* except Classes A and B explosives and household goods as defined by the Commission, between East Greenville and Souderton, PA, on the one hand, and, on the other, points in AL, AR, CO, KY, IL, IN, IA, KS, LA, MI, MN, MS, MO, OH, TN, VA, WV and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Knoll International, Water Street, E. Greenville, PA 18041.

MC 146807 (Sub-II–8 TA), filed September 24, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Plastic film and sheeting and plastic bags,* from Pottsville, PA to points in California, Texas, Missouri, North Carolina, South Carolina, Georgia, Iowa, Indiana, Illinois, and Ohio; materials and supplies on return for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Exon Chem. G.V.S.A., P.O. Box 395, Pottsville, PA 17901.

MC 151992 (Sub-11–1TA), filed September 25, 1980. Applicant: STOTTLEMIRE TRUCKING COMPANY, INC., 1650 Williams Rd., Columbus, OH 43207. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Contract; irregular: Such commodities as are dealt in or used by grocery and food business houses,* (except commodities in bulk), between Columbus, OH, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, Ohio 45201.

MC 126826 (Sub-II–1TA), filed September 24, 1980. Applicant: KENNETH SCHMIDT, Box 23,

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Saxonburg, PA 16056. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* moving on bills of lading of freight forwarders as defined in 49 U.S. Code, Section 10102, between Pittsburgh, PA on the one hand, and, on the other, New Castle, PA, for 270 days. Supporting shipper: California Western Freight Assn., d.b.a. Western Freight Assn., 10 Try St., Pittsburgh, PA 15219.

MC 114569 (Sub-II–31TA), filed September 25, 1980. Applicant: SHAFFER TRUCKING INC., P.O. Box 418, New Kingstown, Pa. 17072. Representative: N. L. Cummins (same address as applicant). *Such commodities as are dealt in by manufacturers of furniture* from the facilities of Mantua Manufacturing Company, (1) between Chicago, IL and Cleveland, OH and (2) from points in IL, OH and PA, to points in CT, FL, IN, MA, MN, and MO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Mantua Manufacturing Company, 7055 Krick Road, Bedford, OH 44146. Supporting shipper(s): Mantua Manufacturing Co., 7055 Krick Rd., Bedford, OH 44146.

MC 119968 (Sub-II–2TA), filed September 24, 1980. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Ave., Dover, OH 44622. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Liquid chemicals, in bulk, in tank vehicles,* between Moundsville, WV, on the one hand, and, on the other, points in OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: LCP Transportation, Inc., Subsidiary of Linden Chemicals & Plastics, Inc., Raritan Center, Plaza II, Edison, NY 08817.

MC 116763 (Sub-II–39TA), filed September 24, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the U.S. in and east of MN, IA, MO, OK and TX for 270 days. Restricted to the transportation of traffic originating at or destined to the facilities of Tru-Matic, Inc. Supporting shipper(s): Tru-Matic, Inc., Paradise Road, R.D. 2, Box 214, E. Stroudsburg, PA 18301.

MC 148522 (Sub-II–6TA), filed October 20, 1980. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Corrugated Fiberboard Products* from Williamsport, PA to MA, CT, NY, MD, NJ & PA: Materials, supplies & equipment used in the manufacture and distribution of the above commodities, on return, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Stone Container Corp., Reach Rd. Indus. Park, Williamsport, PA 17701.

MC 145252 (Sub-II–4TA), filed October 20, 1980. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Wash., D.C. 20005. *Display cases and service counters,* from King George, VA, to points in the U.S. located in and east of MN, IA, MO, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Royal Wood Kitchens, King George, VA 22485.

MC 123255 (Sub-II–5TA), filed October 20, 1980. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Rd., Newark, OH 43055. *Filters, Air* from Ashville, OH to Atlanta, GA; Birmingham, AL; Charlotte, NC; Chattanoga, TN; Columbia, SC; Dallas, TX; Hartford, CT; Jackson, MS; Jacksonville, FL; Knoxville, TN; Memphis, TN; Minneapolis, MN; Montgomery, AL; Nashville, TN; Newark, NJ; New York, NY; Norfolk, VA; Providence, RI; Raleigh, NC; St. Louis, MO; St. Petersburg, FL; Tampa, FL; Texarkana, AR; and Washington, DC. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Columbus Industries, Inc., St. Rte. 762, Ashville, OH 43103.

MC 133384 (Sub-II–1TA), filed October 20, 1980. Applicant: BARBERTON RECON CENTER, INC., 5075 Wooster Rd., Barberton, OH 44203. Representative: E. H. van Deusen, 220 W. Bridge St., Dublin, OH 43017. *Used automobiles and trucks,* in secondary movements, in truckaway service, from the facilities of the Ford Motor Company, at or near Dearborn, MI, to Lakeland, FL, Concord, MA, and Fairfield, NJ, for 270 days. Supporting shipper: Ford Motor Company, P.O. Box 43335, Detroit, MI 48243.

MC 115413 (Sub-II–8TA), filed October 20, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *General commodities, (except those of unusual value, Class A and B explosives, and commodities in bulk)* between Chicago, IL and its commerical zone, on the one hand, and, on the other, points and places in Lenawee County, MI and points and places in Ohio North and West of a line beginning at the Ohio-Indiana State Line and Extending along U.S. Highway 30 to Bucyrus, OH and thence along OH Highway 4 to Sandusky, OH, including points and places on the indicated portions of the highways specified. Restricted to the transportation of traffic originating at or destined to the facilities of or used by East-West Shippers Ass'n. Supporting shipper: East-West Shipper Ass'n., 3500 S. Kedzie St., Chicago, IL 60632.

MC 77016 (Sub-II–2TA), filed October 20, 1980. Applicant: BUDIG TRUCKING CO., 1100 Gest St., Cincinnati, OH 45203. Representative: George M. Catlett; McClure Bldg., Suite 708, Frankfort, KY 40601. *Common:* regular: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* (1) Between Boonville, MO, and Kansas City, KS. From Boonville, MO over US 40 to Kansas City, KS and return over the same route, serving all intermediate points and serving all points in Wyandotte and Johnson Counties, KS and all points in MO as off route points in connection with applicants otherwise authorized regular routes; (2) Between Cincinnati, OH, and Lexington, KY from Cincinnati, OH, over I–75 to Lexington, KY, and return over the same route, serving those intermediate points South of the Grant Scott County, KY line. Service at Lexington, KY, is restricted against the handling of traffic originating at, destined to, or interchanged at points in Mason County, KY; (3) Between St. Louis, MO and Cincinnati, OH. From St. Louis, MO, over I–70 to Junction of I–74, thence over I–74 to Cincinnati, OH, and return over the same route, serving all intermediate points, and serving those points in IL on and North of I–64 and on and South of U S 36, those points in IN on and South of IN Rt. 28, and Ft. Wayne, IN, and all points in OH as off route points in connection with applicants otherwise authorized regular routes. (4) Between St. Louis, MO, and Nashville, TN. From St. Louis, MO, over I–64 to Junction of I–57, thence over I–57 to Junction of I–24, thence over I–24 to Nashville, TN, and return over the same route, serving no intermediate points. (5) Between Louisville, KY, and Morehead, KY. From Louisville KY, over I–64 to Morehead, KY, and return over the same route, serving those intermediate points East of the Woodford-Fayette County, KY, line. Service at Louisville, KY, is restricted against the handling of traffic originating at, destined to, or interchanged at points in Mason County, KY; (6) Between Louisville, KY, and Nashville, TN. From Louisville, KY, over I–65 to Nashville, TN, and return over the same route, serving Bowling Green, KY as an intermediate point. Service at Nashville, TN, is restricted against the handling of traffic originating at, destined to, or interchanged at points in Fayette and Scott Counties, KY; (7) Between Olive Hill, KY, and Charleston, WV. From Olive Hill, KY, over U S 60 to Charleston, WV and return over the same route, serving all intermediate points. Authority is sought to serve the Commerical Zones of all Pts and all intermediate Pts. Applicant intends to tack the authority sought herein at Boonville and St. Louis, MO, Louisville, Morehead, Lexington, and Olive Hill, KY; and at Cincinnati and Aberdeen, OH. And to interline, for 270 days. Supporting shippers: There are 376 statements of support. they can be examined at the ICC Reg. Ofc. Phila., PA.

MC 152239 (Sub-II–2TA), filed October 17, 1980. Applicant: C–B BROKERS, INC., P.O. Box 10, Hanover, VA 23069. Representative: J. D. Brown (same as applicant). Contract, irregular: *Household appliances,* between the plant sites and distribution centers of Warwick Manufacturing Corp. to pts. in the US for 270 days. Supporting shipper: Warwick Manufacturing Corp., 1112 Cavalier Blvd., Chesapeake, VA 23323.

MC 145018 (Sub-II–2TA), filed October 17, 1980. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Foodstuffs, and materials and supplies used in the manufacture and distribution of foodstuffs,* from Fremont, OH, to the facilities of Welch Foods, Inc., at or near North East, PA and Westfield, NY for 270 days. Supporting shipper(s): Welch Foods, Inc., 2 South Portage St., Westfield, NY 14787.

MC 107012 (Sub-II–95TA), filed October 16, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Paper and paper products, materials, equipment and supplies used in the manufacture or distribution of paper and paper products and plastic and plastic articles and furniture, except commodities in bulk,* between points in the US (except AK and HI and except from the facilities of Scott Paper Co. located in the states of DE, ME, MA, NJ, NY, and PA, to points in the US in and East of ND, SD, NE, KS, OK, and TX), restricted to traffic originating at or destined to the facilities of Scott Paper Co. for 270 days. Supporting shipper: Scott Paper Co., Scott Plaza II, Philadelphia, PA 19113.

Note.—Common control may be involved.

MC 107012 (Sub-II–97TA), filed October 17, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such commodities as are dealt in or used by fabric stores* (1) from the facilities of Minnesota Fabrics at Charlotte, NC, and Westfield, IN to points in MI, PA, OH, WI, IL, IN, MN and NE; and (2) from points in MA, ME, CT, NJ, NY, RI, PA, TX, CA, OR, MS and Amana, IA and Minneapolis and St. Paul, MN to the facilities of Minnesota Fabrics at Charlotte, NC and Westfield, IN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Minnesota Fabrics, 13500 Westinghouse Blvd., Charlotte, NC.

Note.—Common control may be involved.

MC 107012 (Sub-II–96TA), filed October 17, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *General commodities (except commodities in bulk, Class A and B explosives, and commodities which, because of size or weight require the use of specialized equipment)* between the facilities of Charlotte Freight Association at or near Charlotte, NC and Atlanta, GA, on the one hand, and, on the other, points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Charlotte Freight Association, P.O. Box 8825, Charlotte, NC 28208.

Note.—Common control may be involved.

MC 145018 (Sub-II–1TA), filed October 17, 1980. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Rubber and plastic articles and tennis balls,* between Mercer County, NJ, on the one hand, and, on the other hand, points in the U.S. (except AK & HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Goodall Rubber Co., P.O. Box 8237, Trenton, NJ 08650.

MC 150339 (Sub-2–16TA), filed October 15, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: General commodities, except household goods as defined by the Commission and classes A & B explosives,* (1) between facilities of the BF Goodrich Company at or near Birmingham, Pinson Valley, Tuscaloosa, and Winfield, AL; E. Camden, AR; City of Industry, Long Beach, Los Angeles, Modesto, and Santa Fe Springs, CA; Denver, CO; Miami, FL; Thomaston, GA; Chicago, Elmhurst, Franklin Park, Henry, Quincy and St. Charles, IL; Bloomington, Salem and Woodburn, IN; Dubuque, IA; Kansas City, KA; Barboursville, Calvert City, Louisville and Salyersville, KY; Convent and Plaquemine, LA; Baltimore, MD; Glouster and Worcester, MA; Dearborn, MI; New Ulm, MN; Kansas City and Neosha, MO; Reno and Sparks, NV; Pedricktown, NJ; Charlotte, Hickory, Newton and Salisbury, NC; Akron and Cleveland, OH, Commercial Zones; Columbus, Green Camp, Marietta, Medina, Toledo, and Troy, OH; Miami, OK; Portland, OR; Bensalem, Exeter and Oaks, PA; Elgin, Greenville, and Spartanburg, SC; Oneida, TN; Beaumont, Dallas, Houston, Memphis, Orange, Pt. Arthur, Pt. Neches, San Benito and Sherman, TX; Fenwick, Grantsville, Richmond, Spencer and Union, WV; and (2) between points named in (1) above on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with The BF Goodrich Co., 500 South Main St., Akron, OH 44318. An underlying ETA seeks 120 days authority. Supporting shipper(s): The BF Goodrich Co., 500 South Main St., Akron, OH 44318.

MC 143730 (Sub-II–1TA), filed October 15, 1980. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 So. 16th St., Phila., PA 19102. *Contract; irregular: Such merchandise as is dealt in by wholesale, retail, and chain drug and pharmaceutical business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business* between pts. in AL, AZ, AR, CA, CO, GA, ID, IL, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VT, WA, WV, WI, and WY for 270 days under continuing contract(s) with R. Baylin Co. t/a Action Drug Co., New Castle, DE. Restricted to the facilities of R. Baylin Co. t/a Action Drug Co., New Castle, DE. Supporting

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shipper(s): R. Baylin Co. t/a Action Drug Co., P.O. Box 388, New Castle, DE 19720.

MC 6078 (Sub-II–1TA), filed September 18, 1980. Originally published in **Federal Register** October 1, 1980.[1] Applicant: D. F. BAST, INC., 1425 N. Maxwell St., Allentown, PA 18001. Representative: James F. Maher, 1200 Four Penn Center Plaza, Phila., PA 19103. *Iron and steel articles, and materials, equipment and supplies used in the manufacture of iron and steel articles,* between MI, MD, DE, PA, NJ, and NY for 270 days. Supporting shipper(s): North Star Steel Co., 2901 Metro Dr., Minneapolis, MN 55420.

MC 113158 (Sub-II–5TA), filed September 24, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Secretary, MD 21664. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Malt Beverages,* from Rochester, NY to East New Market, Easton and Salisbury, MD; and, from Forsyth County, NC to Easton, MD, for 270 days. Supporting shipper is Choptank Distributing Company, Inc., East New Market, MD 21631. An underlying ETA seeks 120 days authority.

MC 125023 (Sub-II–3TA), filed September 23, 1980. Applicant: SIGMA–4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy (same as applicant). *Malt beverages in containers, containers, materials, equipment and supplies used in the manufacture, sale and distribution of malt beverages and containers,* between all Jos. Schlitz Brewing Company facilities to all destinations in the United States except AK and HI, for 270 days. Supporting shipper: Jos. Schlitz Brewing Co., 235 W. Galena St., Milwaukee, WI 53212.

MC 116763 (Sub-II–38TA), filed September 22, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the United States (except AK and HI), for 270 days. Restricted to the transportation of traffic originating at or destined to the facilities of T. G. & Y. Stores or its customers or suppliers. Supporting shipper(s): T. G. & Y. Stores Co., P.O. Box 25967, Oklahoma City, OK 73125.

MC 9914 (Sub-II–5TA), filed September 23, 1980. Applicant: WARREN TRUCKING CO., INC., P.O. Box 5224, Martinsville, VA 24112. Representative: D. R. Beeler, Rt. 3, Carter's Creek Pike, Franklin, TN 37064. *(1) New furniture; (2) Materials, equipment and supplies used in the manufacture and distribution of new furniture and furniture parts* (1) from Smyth and Henry Counties, VA to points in SC, GA, AL, and FL; (2) from points in SC, GA, AL, and FL to Smyth and Henry Counties, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Hooker Furniture Company, Inc., E. Church St., Martinsville, VA 24112; American Furniture Company, Inc., Martinsville, VA 24112.

MC 70502 (Sub-II–1TA) filed September 24, 1980. Applicant: WARNER STORAGE, INC., 3208 Broadview, Cleveland, OH 44109. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW., Washington, D.C. 20036. *Household goods as defined by the Commission,* (1) bewtween points. in OH, PA, MD, IN, NY, VA, IL, VT, DC, MO, NH, WV, IA, ME, NC, MN, MA, SC, WI, CT, GA, MI, NJ, RI, IN, DE, and KY, for 270 days. Supporting shippers: Hauserman, Inc., 5711 Grant Ave., Cleveland, OH. Warner & Swasey Co., 5701 Carnegie Ave., Cleveland, OH 44103. TRW, Inc., 23555 Euclid Ave., Cleveland, OH. Reliance Electric, 355 Richmond Rd., Cleveland, OH. Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH. Technicare Corp., 29100 Aurora Rd., Cleveland, OH. Harley Hotels, 2100 Terminal Tower, Cleveland, OH.

MC 147021 (Sub-II–3) filed September 18, 1980. Applicant: C. SUMMERS, INC., 112 Spruce St., Elizabethville, PA 17023. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Foodstuffs,* between the facilities of Kunzler & Company, Inc., Lancaster, PA, on the one hand, and, on the other, points in CT, DC, DE, MD, MA, NJ, NY, OH, VA and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Kunzler & Company, Inc., 640–622 Manor St., Lancaster, PA 17604.

MC 136511 (Sub-II–4TA) filed September 26, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CO., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main Street, Altavista, VA 24517. *Foodstuffs* (except in bulk), from the facilities of Schrafft Candy Company at or near West Reading, PA to points in the United States (except AK & HA) restricted to traffic originating at the named facilities for 270 days. Supporting shipper: Schrafft Candy Company, West Reading, PA 19611.

MC 108631 (Sub-II–4TA), filed September 26, 1980. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Road at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Cement plant equipment* and *materials, supplies* and *equipment* used in the manufacture, sale and distribution of those commodities between the facilities of The Fuller Company in Allentown and Catasauqua, (Lehigh County), PA, on the one hand, and, on the other, Leamington, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Fuller Co., 2040 Avenue C, Bethlehem, PA 18001.

MC 135653 (Sub-II–4TA), filed September 26, 1980. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 W. Smith Rd., Medina, OH 44256. Representative: Michael Spurlock, Beery & Spurlock Co., L.P.A., 275 E. State St., Columbus, OH 43215. *Foodstuffs and equipment, materials, and supplies used in the manufacture and processing thereof,* between the facilities of C. F. Mueller Co. at Jersey City, NJ, on the one hand, and, on the other, points in OH, MI, PA, and NY (except New York City and its commercial zone), for 270 days. Supporting shipper: C. F. Mueller Co., 180 Baldwin Ave., Jersey City, NJ 07306.

MC 1222 (Sub-II–1TA), filed September 26, 1980. Applicant: THE REINHARDT TRANSFER, 1410 Tenth St., Portsmouth, OH 45662. Representative: Robert H. Kinker, P.O. Box 464, Frankfurt, KY 40602. Transporting *chemicals, plastic film sheeting, expanded plastic foam, and metal products with or without plastic coating,* from Will County, IL; Mason County, MI; and Hancock, Licking and Lawrence Counties, OH to points in AL, GA, IA, IL, IN, KY, MI, MN, MS, MO, NC, OH, SC, TN, VA, WV, and WI, for 270 days. Supporting shipper: Dow Chemical U.S.A., P.O. Box 36000, Strongsville, OH 44136.

MC 117565 (Sub-II–9TA), filed October 20, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Metal Articles and (2) Accessories and Supplies used in the installation, manufacture, maintenance and distribution of (1) above,* between Cuyahoga County, OH and points in AR, IA, LA, MN, MO, And Points East thereof and points in CA, KS, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Metalblast, Inc., 871 E. 67th St., Cleveland, OH 44103.

MC 107012 (Sub-II–98TA), filed October 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such commodities as are dealt in or used by retail drug stores* from the facilities of Superx Drugs, Inc., at or near Melbourne, FL to Herrin, IL; Peoria, IL; W. Frankfort, IL; Harlan, KY; Paducah, KY; Chilicothe, OH; Nashville, TN; and Johnson City, TN for 270 days. Supporting shipper(s): Gerald T. Eschenbach, Superx Drugs, Inc., 175 Tri-County Parkway, Cincinnati, OH 45246.

Note.—Common control may be involved.

MC 152218 (Sub-II–1TA), filed October 16, 1980. Applicant: OHIO PIGGYBACK TRANSPORTATION, INC., 2660–A Fisher Rd., Columbus, OH 43204. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular: (a)(1) Vinyl wall coverings and (2) materials, equipment and supplies used in the manufacture, distribution and installation of vinyl wall coverings (except commodities in bulk)* between Columbus, OH, and Indianapolis, IN, on the one hand, and, on the other, pts. in IL, IN, MI, OH, KY, PA and WV for the account of Columbus Coated Fabrics, Inc., Division of Borden Chemical, Borden, Inc. *(b)(1) warm air heating and cooling units and (2) equipment, materials and supplies used in the manufacture, distribution and installation of warm air heating and cooling units* between Columbus, OH, on the one hand, and, on the other, pts in IL, IN, MI, KY, PA and WV for the account of Lennox Industries, Inc. and *(c)(1) plastic housewares and (2) materials, equipment and supplies used in the manufacture and distribution of plastic housewares (except commodities in bulk)* between Columbus, OH, on the one hand, and, on the other, pts in IL, IN, MI, KY, PA and WV for the account of Lustro-Ware, Division of Borden Chemical, Borden, Inc. for 270 days. Supporting shippers: Columbus Coated Fabrics, Inc., Div. of Borden Chemical, Borden, Inc., N. Grant & 7th Ave., Columbus, OH 43201; Lennox Industries, Inc., 1711 Olentangy Rv. Rd., Columbus, OH 43216; Lustro-Ware, Div. of Borden Chemical, Borden, Inc., 1625 W. Mound St., Columbus, OH 43223.

MC 147949 (Sub-II–2TA), filed October 20, 1980. Applicant: ROEDER CARTAGE CO., INC., 175 Mumaugh Rd., Lima, OH 45804. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Contract; irregular: Pulvarized rubber and equipment, materials and supplies used in the processing and shipping of pulvarized rubber,* between Wapakoneta, OH., on the one hand, and, on the other, points in the U.S. except AK and HI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Midwest Elastomers, Inc., Wapakoneta, OH. 45895.

MC 146864 (Sub-II–8TA), filed October 16, 1980. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Michael Valencik (same as applicant). *Paper and paper products, and materials, equipment and supplies used in the manufacture of paper and paper products (Except commodities in bulk and those which because of size or weight require the use of special equipment)* between the facilities of Hammermill Paper Co. (Strathmore Paper Co. Division and Old Colony Envelope Co. Division), at or near Westfield, MA, on the one hand, and, on the other, points in FL and GA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Hammermill Paper Co., P.O. Box 1440, 1540 East Lake Rd., Erie, PA 16533.

MC 144739 (Sub-II–1TA), filed October 22, 1980. Applicant: BOB'S TRUCKING SERVICE, INC., P.O. Box 528, Middletown, OH 45042. Representative: Paul F. Berry, 275 E. State St., Columbus, OH 43215. *Lumber and lumber products,* from Hatchechubbee, AL to points in KY, IN, and OH for 270 days. Supporting shipper: Walker-Williams Lumber Co., Inc., P.O. Box 170, Hatchechubbee, AL 36858.

MC 94265 (Sub-II–24TA), filed October 22, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs* (except in commodities in bulk, in tank vehicles) from Fulton, DeKalb and Gwinnett Counties, GA to pts. in SC., for 270 days. Supporting shipper: Commercial Cold Storage, 4300 Pleasantdale Rd., Atlanta, GA 30340.

MC 135707 (Sub-II–1TA), filed October 22, 1980. Applicant: DIETZ TRUCKING, INC., Rich Hill Road, Cheswick, Pa. 15024. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract, irregular: Fabricated sheet metal products,* from Pittsburgh, PA to Atlantic City, NJ, under a continuing contract or contracts with McKamish Chesapeake, Inc. of Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days. Supporting shipper: McKamish Chesapeake, Inc., 55th and A.V.R.R., Pittsburgh, PA 15201.

MC 146568 (Sub-II–2TA), filed October 22, 1980. Applicant: PHOENIX BIRD, INC., Suite 118, 1 Neshaminy Plaza, Street Road & Bristol Rk., Cornwells Heights, PA 19020. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. *Contract; Irregular: General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between NJ on the one hand, and, on the other, AZ, CA, CO, NM, NV, OK, and TX for 270 days under continuing contract(s) with Cosmair, Inc., Clark, NJ. Supporting shipper: Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066.

MC 146637 (Sub-II–1TA), filed October 14, 1980. Applicant: YANKEE REFRIGERATED XXPRESS, INC., 5500 Tacony St., Phila., PA 19137. Representative: Eugene D. Anderson, 910 Seventeenth St. NW., Suite 428, Washington, DC 20006. *Plastic articles, equipment and supplies used in the manufacture and distribution of plastic articles* from the facilities of Mobil Chemical Co., Plastics Division, located in Bakersfield, CA; to Canandagua, NY; Covington, GA; Jacksonville, IL; Frankfurt, IL; Lowell, MA; Macedon, NY; Stratford, CT; Washington, NJ; Temple, TX; Shawnee, OK; Woodland, CA; and 48 states, for 270 days. Supporting shipper(s): Mobil Chemical Co., Plastics Div., Macedon, NY 14502.

MC 110683. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, D.C. 20036. *Common: regular: General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving the facilities of Tennlite Inc. at or near Greenbrier, TN, as an off-route point in connection with carrier's regular routes for 270 days. Applicant intends to tack the authority sought herein with existing authority held under MC110683. Applicant intends to interline at all present interchange points. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tennlite, Inc., P.O. Box 340, Greenbrier, TN 37073.

MC 116763 (Sub-II–44TA), filed October 20, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380.

[1] The purpose of this republication is to change the destination state to NY (previous publication had NJ listed twice.)

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Representative: Gary J. Jira (same as applicant). *Steel Wire* Between points in the United States in and east of MN, IA, MO, OK and TX. Restricted to traffic originating at or destined to the facilities of Merit Steel Co., A Division of Nachman Corporation, and/or its customers and suppliers, for 270 days. Supporting shipper(s): Nachman Corporation, 6544 Warren Drive, Norcross, GA 30071.

MC 128905 (Sub-II–5TA), filed October 20, 1980. Applicant: ZERKLE TRUCKING COMPANY, 2400 Eighth Ave., P.O. Box 5628, Huntington, WV 25703. Representative: N. W. Bowen, Jr. (same as applicant). *Contract Carrier, Irregular Route, General Commodities,* except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment, between points and places in the US, (except AK & HI). Restricted to traffic moving under continuing contract(s) with Heck's, Inc. for 270 days. Supporting shipper: Heck's Incorporated, Hub Industrial Park, McJunkin Road, Nitro, WV 25143.

MC 150567 (Sub-II–5TA), filed October 20, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. *Contract Irregular: Those articles dealt in retail trade by department stores, drug stores, and supermarkets,* between points in the U.S. under continuing contract with A & D Transco, Seattle, WA, for 270 days. Supporting shipper: A & D Transco, 1762 6th Ave. South, Seattle, WA.

MC 72495 (Sub-II–2TA), filed October 14, 1980. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Rough iron castings* from Belmont County, OH to points in KY, NY, PA and WV for 270 days. Supporting shipper: James H. Beans Foundry Company, First & Locust St., Martins Ferry, OH 43935.

MC 129086 (Sub-II–4TA), filed October 20, 1980. Applicant: SPENCER TRUCKING CORP., Rt. 2, P.O. Box 254A, Keyser, WV 26726. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Charcoal and materials and supplies used in the production of charcoal,* from Reybold, DE to Parsons, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Kingsford Company, 1700 Commonwealth Building, P.O. Box 1033, Louisville, KY 40202.

MC 1017 (Sub-II–1TA), filed October 16, 1980. Applicant: SWAN TRUCKING CORPORATION, INC., 3433 Holyoke Road, Philadelphia, PA 19114. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Contract Carrier, Irregular Routes, New and Used Tires, loose,* between New Brunswick, NJ and Philadelphia, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Under a continuing contract with The Pep Boys, Philadelphia, PA.

MC 116763 (Sub-II–43TA), filed October 20, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), Between points in the United States (except AK and HI), Restricted to traffic originating at or destined to the facilities of Avery International Corp., its customers or suppliers, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Avery International Corp., Fasson Division, 316 Highway 74 South, Peachtree City, GA 30269.

MC 146678 (Sub-2–4TA), filed October 22, 1980. Applicant: SOUTHLAND TRANSPORTATION, INC., P.O. Box 7760, Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Electric motors,* from Nashville, TN, to Marlboro County, SC for 270 days. Note: Applicant intends to interline at Nashville, TN. An underlying ETA seeks 120 days authority. Supporting shipper: Humboldt Express, Inc., P.O. Box 110906, Nashville, TN 37210.

MC 110683 (Sub-II–9TA), filed October 23, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, D.C. 20036. Common regular: *General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving Amsterdam, NY, and points in its Commercial Zone as off-route points in connection with carrier's regular routes for 270 days. Applicant intends to tack the authority sought herein with existing authority held under MC110683. Applicant intends to interline at all present interchange points. An underlying ETA seeks 120 days authority. Supporting shipper(s): Leisure Time Pools, 4831 N.W. 39th Expressway, Oklahoma City, OK 73122.

MC 150567 (Sub-II–6TA), filed October 22, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William A. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Paper and paper articles,* between the Louisiana Parishes of Washington and West Feliciana and points in the United States (excluding AK and HI), under continuing contract with Crown Zellerbach Corporation, Bogalusa, LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Crown Zellerbach Corporation, PO Box 1060, Bogalusa, LA 70427.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 94201 (Sub-3–5 TA), filed September 17, 1980. Republication—originally published in **Federal Register** of 10–08–80, page 66900, volume 45, No. 197. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Sam Cerniglia (same as above). *Common carrier,* regular routes, *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* (Route 1) Between Memphis, TN and Oklahoma City, OK: (a) over Interstate Hwy. 40. (b) From Memphis over U.S. Hwy. 64 to its junceion with U.S. Hwy. 266, then over U.S. Hwy. 266 to its junction with U.S. Hwy. 62, then over U.S. Hwy. 62 to Oklahoma City, and return over the same route, serving all intermediate points. (Route 2) Between Memphis, TN and Wichita, KS. From Memphis over U.S. Hwy. 64 to its junction with U.S. Hwy. 177, at or near Perry, OK, then over U.S. Hwy. 177 to Wichita, KS, and return over the same route, serving all intermediate points. (Route 3) Between Memphis, TN and San Antonio, TX: (a) From Memphis over U.S. Hwy. 70 to Little Rock, AR, then over U.S. Hwy. 67 and/or Interstate Hwy. 30 to Dallas, TX, then over U.S. Hwy. 81 and/or Interstate Hwy. 35 to San Antonio, and return over the same route, serving all intermediate points. (b) From Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy. 67 to Texarkana, then over U.S. Hwy. 59 to Houston, TX, then over U.S. Hwy. 90 to San Antonio, and return over the same route, serving all intermediate points. (Route 4) Between Oklahoma City, OK and Dallas, TX: From Oklahoma City, OK, over Interstate Hwy. 35 and 35E and/or U.S. Hwy. 77 to Dallas and return over the same route, serving all intermediate points. Supporting Shipper: There are 46 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with existing authority and to interline with other carriers.

MC074761 (Sub-3–1TA), filed October 20, 1980. Applicant: TRAILWAYS TAMIAMI, INC., P.O. Box 56669, 200 Spring Street, N.W., Atlanta, GA 30303. Representative: Gregory A. Presnell and Robert B. Nadeau, Jr., 17th Floor, CNA Bldg., P.O. Box 231, Orlando, FL 32802. *Common carrier,* regular routes, *passengers and their baggage, and express and newspapers in he same vehicle with passengers* (a) Between Jacksonville, FL and Tallahassee, FL: from Jacksonville over Interstate Hwy 10 to junction U.S. Hwy 90 (approximately 8 miles east of Tallahassee), then over U.S. Hwy 90 to Tallahassee, and return over the same route, serving the intermediate points of Lake City and Live Oak via the following access roads: U.S. Hwy 441 and 41, Interstate Hwy 75 and U.S. Hwy 129: (b) Between Jacksonville, FL and Gainesville, FL: from Jacksonville over U.S. Hwy 301 to Waldo, then over FL Hwy 24 to Gainesville, and return over the same route, serving all intermediate points; (c) Between Tampa, FL and Clearwater, FL: from Tampa over FL Hwy 60 to Clearwater, and return over the same route, serving no intermediate points; (d) Between Daytona Beach, FL and Fort Lauderdale, FL: from Daytona Beach over U.S. Hwy 92 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Florida's Turnpike, then over Florida's Turnpike to junction FL Hwy 74 (Palm Beach Gardens Interchange 44), then over FL Hwy 74 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Fort Lauderdale, and return over the same route, serving all intermediate points; (e) Between Titusville, FL and junction FL Hwy 50 to junction Interstate 95: from Titusville over FL Hwy 50 to junction Interstate Hwy 95, and return over the same route, serving all intermediate points; (f) Between Cocoa, FL and junction FL Hwy 520 and Interstate Hwy 95: from Cocoa over FL Hwy 520 to junction Interstate Hwy 95, and return over the same route, serving all intermediate points; (g) Between Melbourne, FL and junction U.S. Hwy 192 and Interstate Hwy 95: from Melbourne over U.S. Hwy 192 to junction Interstate Hwy 95, and return over the same route, serving all intermediate points; (h) Between Fort Pierce, FL and junction FL Hwy 68 and Interstate Hwy 95: from Fort Pierce over FL Hwy 68 to junction Interstate Hwy 95, and return over the same route, serving all intermediate points; also between Fort Pierce and junction FL Hwy 70, Florida's Turnpike, and Interstate Hwy 95: from Fort Pierce over FL Hwy 70 to junction Florida's Turnpike and Interstate Hwy 95, and return over the same route, serving all intermediate points; (i) Between Fort Pierce, FL and Orlando FL: from Fort Pierce over FL Hwy 70 to junction Florida's Turnpike, then over Florida's Turnpike to junction U.S. Hwy 441, then over U.S. Hwy 441 to Orlando, and return over the same route, serving junctions FL Hwy 70, Florida's Turnpike and Interstate Hwy 95, Florida's Turnpike and FL Hwy 60, Florida's Turnpike and combined U.S. Hwys 192 and 441 for purposes of joinder only; also between Yeehaw Junction, FL and junction FL Hwy 60 and Florida's Turnpike: from Yeehaw Junction over FL Hwy 60 to junction Florida's Turnpike, and return over the same route, serving the termini for purposes of joinder only; (j) Between Titusville, FL and Melbourne, FL: from Titusville over U.S. Hwy 1 to Melbourne, and return over the same route, serving all intermediate points. Note: Common Control may be involved. Supporting shippers: There are 38 statements of support which may be examined at the ICC Regional Office, Atlanta, Georgia. Applicant intends to tack with existing authority and interline at Jacksonville and West Palm Beach, FL.

MC 151619 (Sub-3–1TA), filed October 15, 1980. Applicant: WESTERN CAROLINA EXPRESS, INC., P.O. Box 3523, 300 16th St. Place SE, Hickory, NC 28601. Representative: John H. Sigmon III (same address as applicant). *New Furniture,* between points and places in NC. Applicant intends to interline with other carriers or consolidators at, Hickory, Lenoir, Hudson, Greensboro, High Point, Charlotte, Asheville, Conover and Connelly Springs, NC. There are fourteen supporting shippers and their statements may be examined at the Regional Office.

MC 152265 (Sub-3–1TA), filed October 16, 1980. Applicant: STEVE BROWN PRODUCE CO., INC., Route 1, Box 112, Taylorsville, NC 28618. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Plastic products,* from Caldwell County, NC, to all points in the United States in and east of the States of TX, NM, CO, WY and MT. Supporting shipper: International Paper Company, International Boulevard, Hudson, NC 28638.

MC 136898 (Sub-3–2TA), filed October 16, 1980. Applicant: BAKER TRANSPORT, INC., P.O. Box 668, Hartselle, AL 35640. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Contract carrier;* irregular routes; *Lumber,* between Hartselle, AL, on the one hand, and, on the other, points in the United States (except AK and HI) under continuing contract(s) executed and in force with Baker Industries, Inc. Supporting shipper: Baker Industries, Inc., P.O. Box 668, Hartselle, AL 35640.

MC 146293 (Sub-3–26TA), filed October 16, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *New furniture, in cartons,* from facilities of Silver Manufacturing, Inc., Knoxville, TN to El Paso, TX and points in AZ and CA. Supporting shipper: Silver Manufacturing, Inc., P.O. Box 2748, Knoxville, TN 37901.

MC 112520 (Sub-3–10TA), filed October 16, 1980. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Pulp Mill Liquids, in bulk, in tank vehicles,* from Ashdown, AR to Springhill, LA. Supporting shipper: Arizona Chemical Company, 859 Berdan Avenue, Wayne, NJ 07470.

MC 147665 (Sub-3–2TA), filed October 16, 1980. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., d.b.a. BASSETT TRUCKING COMPANY, Post Office Box 47, Newton, North Carolina 28658. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, North Carolina 28204. *Packaging products and materials, supplies and equipment used in the manufacture of packaging products,* between points in PA, MS, IL, NC, IN, FL, MD, KY and GA, on the one hand, and points in PA, NC, GA, SC, TN, IN, AR, FL, MD, KY and VA, on the other, under contract with Jiffy Packaging Corporation, 1015 Second Street, NE, Hickory, NC 28601. Supporting shipper: Jiffy Packaging Corporation, 1015 Second Street, NE, Hickory, NC 28601.

MC 143956 (Sub-3–14TA), filed October 15, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative:

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Steven W. Gardner, 3574 Piedmont Road, Atlanta, Georgia 30305. *Bagged soybean meal in containers* from Valdosta, GA to Jacksonville, FL. Supporting shipper: Gold Kist, Inc., 244 Perimeter Pkwy., Atlanta, GA 30346.

MC 145205 (Sub-3–1TA), filed October 15, 1980. Applicant: RECO TRANSPORTATION, INC., P.O. Box 9926, Asheville, NC 28805. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier:* Irregular: *Comforters, sleeping bags, and quilted garments,* from points in Jackson and Swain Counties, NC to points AZ, CA, NV, NM, OK, and TX. Supporting shipper: Heritage Quilts, Inc., P.O. Box 913, Bryson City, NC 28713.

MC 107478 (Sub-3–9TA), filed October 15, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., Post Office Box 2006, High Point, NC 27261. Representative: C. T. Harris, 506 Mayo Street, Post Office Box 999, Wilson, NC 27893. (1) *Fabricated metal products (except ordnance) and (2) materials, equipment and supplies used in the manufacture, distribution and sale thereof* (1) between points in Beaufort, Pitt, and Sampson Counties, NC and Guernsey County, OH and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Hamilton Beach Division Scovill, Inc., Post Office Box 1158, Washington, NC 27889.

MC 106074 (Sub-3–14TA), filed October 18, 1980. Applicant: B and P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *(1) Liquid Resin Solution (except in bulk),* from Mayes County, OK to pts. in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MO, MS, NV, NM, NC, SC, TN, TX, VA, and WV; and, *(2) Material used in the manufacture of Liquid Resin Solutions,* from pts. in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MO, MS, NV, NM, NC, SC, TN, TX, VA, and WV to Mayes County OK. Supporting shipper: Interplastic Corporation, Commerical Resins Division, 845 Adams Bldg., Bartlesville, OK 74004.

MC 2934 (Sub-3–21TA), filed October 16, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *New office furniture, fixtures and parts for manufacturing thereof,* from Muscatine, IA and Cedartown GA, to points and places in the states of: AL, AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI. Supporting shipper: The Hon Company, P.O. Box 820, Muscatine, IA 52761.

MC 85970 (Sub-3–14TA), filed October 16, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Larry Kilzer (same as above). *Cloth, rags, pads, plastic articles, foil-lined pulpboard items, cleaning compounds, glassware, and janitor supplies* between Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Southern Wiping Cloth Co., 1655 Harbor Avenue, Memphis, TN 38101.

MC 124964 (Sub-3–2TA), filed October 15, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Contract; irregular: Cleaning and scouring compounds and materials, equipment, and supplies used in the manufacture, sale and distribution thereof (except in bulk),* between Mauldin, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KS, LA, MD, MI, MO, NJ, NY, OH, PA, TN, TX, and WI. Supporting shipper: Texize, Division of Morton Norwich, P.O. Box 368, Greenville, SC 29602.

MC 151352 (Sub-3–4TA), filed October 15, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 South Lawrence Street, Montgomery, AL 36104. *Charcoal and gas grills and accessories,* from the facilities utilized by W. C. Bradley Enterprises, Inc. in Columbus, GA, to the facilities utilized by W. C. Bradley Enterprises, Inc. in Los Angeles, CA, and Dallas, TX. Supporting shipper: W. C. Bradley Enterprises, Inc., P.O. Box 1240, Columbus, Ga 31993.

MC 102806 (Sub-3–1TA), filed October 15, 1980. Applicant: PETROLEUM TRANSPORTATION, INCORPORATED, 701 East Davis St., Gastonia, NC 28052. Representative: Danny K. Summitt (same address as applicant). *Petroleum and Petroleum Products, in bulk, in tank vehicles,* from Thrift, NC and SC. Supporting shipper: Metro Transport Co., Inc., 3727 Weona Ave., Charlotte, NC 28209.

MC 115093 (Sub-3–5TA), filed October 15, 1980. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 North Grady Ave. (P.O. Box 23406), Tampa, FL 33607 33623. Representative: Joseph W. Watson (same as above). *Foodstuffs (except in bulk), and materials, equipment, and supplies used in the manufacture and distribution of foodstuffs,* between Shelby County, TN, on the one hand, and, on the other, points in and East of OH, KY, TN and AL. Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 115311 (Sub-3–11TA), filed October 10, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. *Non-exempt food or kindred products* between points in Mecklenburg County, NC on the one hand, and, on the other, points in the United States. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 138157 (Sub-3–32TA), filed October 19, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *Business forms, printed matter, office supplies, paper and paper products, and materials, equipment, and supplies used in the manufacture, production, and distribution of the above-named commodities* between Carson, Fullerton, San Diego, Santa Ana, San Jose, Santee, and Los Angeles, CA; Benton, LA; Brookfield, WI; Chicago, IL; Dallas, Houston, and San Antonio, TX; Eden, NC; Randolph Township, NJ; Salt Lake City, UT; Tulsa, OK; and Sewanee, GA. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Vanier Graphics Corporation. Supporting shipper: Vanier Graphics Corporation, 1851 Deere Avenue, Box 2155, Santa Ana, CA 92705.

MC 85970 (Sub-3–15TA), filed October 16, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Larry Kilzer (same as applicant). *Rock salt in packages* from Fairport Harbor, OH to all points in TN. Supporting shipper: Morton Salt Division of Morton Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606.

MC 149218 (Sub-3–13TA), filed October 18, 1980. Applicant: SUNBELT EXPRESS, INC., U.S. Hwy. 78, W., Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. (1) *Paper and paper products, and (2) materials and supplies used in the manufacture and distribution of paper and paper products.* (1) From LaGrange, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA, WV, and (2) from points in the destination states named in (1) above to LaGrange, GA.

Supporting shipper: SPC Company, a corporation, 1707 Shorewood Drive, LaGrange, GA 30240.

MC 121339 (Sub-3–1TA), filed October 20, 1980. Applicant: McCOMBS FREIGHT LINE, INC., 1201 North 20th Avenue, Birmingham, AL 35204. Representative: Tommy D. McCombs (same address as above). *Common carrier:* Regular: *general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment):* Between Birmingham, AL and Thorsby, AL over U.S. Hwy 31 and/or Federal Hwy. I–65 serving all intermediate points and return over the same route. Applicant intends to interline all freight handled on this authority at Birmingham, AL. We must have Interstate authority to handle the freight brought in by other carriers from out of state because they do not deliver or pick up in this area. Instead, they interline it with us for final delivery. There are 7 statements in support of this application which may be examined at the Interstate Commerce Commission Regional Office at Atlanta, GA.

MC 11220 (Sub-3–11TA), filed October 20, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *Common carrier,* regular route, *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Chicago, IL, and Milwaukee, WI, over U.S. Hwy 41, serving all intermediate points, and serving as off-route points, points in Cook, Lake and McHenry Counties, IL, and Kenosha, Racine, Milwaukee, Washington, and Ozaukee Counties, WI. Applicant intends to tack with its existing authority, to serve commercial zones of all points, and to interline with carriers at Milwaukee, WI, Chicago, IL; Memphis and Chattanooga, TN; Atlanta, GA; Birmingham and Mobile, AL; Jackson, MS; Dallas and Houston, TX; Fort Smith and Little Rock, AR; New Orleans, LA; and St. Louis, MO, there are 76 supporting appendix which may be reviewed at the Atlanta, GA Regional Office.

MC 11220 (Sub-3–10TA), filed September 23, 1980. Republication—originally published in **Federal Register** of 10–08–80, page 66897, volume 45, No. 197. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *Common carrier,* regular routes; *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Malvern, OH as an off-route point in connection with carrier's authorized regular route operations. Applicant intends to tack with its existing authority and to interline with other carriers. Supporting shipper: Col For, Inc., P.O. Box 485, Malvern, OH.

Note.—Applicant intends to interline with other carriers at Memphis, Atlanta, Birmingham and Dallas.

MC 2934 (Sub-3–20TA), filed October 16, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Modular office systems for institutional, educational and office use,* from Atlanta, GA; Grand Rapids, MI; Grandville, MI; Holland, MI; Zeeland, MI; and Dallas, TX, to points and places in the states of: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV and WI. Supporting shipper: Herman Miller, Inc., 8500 Byron Road, Zeeland, MI 49464.

MC 2934 (Sub-3–19TA), filed October 14, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). *Institutional and hotel furniture,* from Sheboygan, WI, to: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA and WV. Supporting shipper: Ebenreiter Woodworking Co., 1221 Erie Avenue, Sheboygan, WI 53081.

MC 146226 (Sub-3–1TA), filed October 17, 1980. Applicant: J & P TRUCKING CO., INC., P.O. Box 457, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Fiberglass, fiberglass materials, and fiberglass products,* from Shelby and Lexington, NC to points in AL, AR, MS, and TN under contract with PPG Industries, Inc. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburg, PA 15222.

MC 152266 (Sub-3–1TA), filed October 16, 1980. Applicant: ABC EXPRESS, INC., 300 Sunrise Circle, Mt. Juliet, TN 37122. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *General commodities except Class A and B explosives and household goods as defined by the Commission,* between points in Wilson County, TN, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Lebanon Distributing Co., Rt 2, Box 1, Lebanon, TN 37087; Precision Rubber Products Corp., Hartman Dr., Lebanon, TN 37087; Fortune Plastics of Tenn., Inc., Hartman Dr., Lebanon, TN 37087 and Toshiba America, Inc., Toshiba Dr., Lebanon, TN 37087.

Note.—Applicant intends to interline with carriers at Lebanon, TN.

MC 139958 (Sub-3–10TA), filed October 16, 1980. Applicant: R. T. TRUCK SERVICE, INC., 2334 Millers Lane, Louisville, KY 40216. Representative: Rudy Yessin, 113 W. Main Street, Frankfort, KY 40601. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between all points and places in the states of TX, OK, LA, AR, MS, AL, FL, GA, SC, NC, TN, KY, VA, WV, WI, IL, MO, IA, MN, DC, MD, DE, NJ, CT, RI, MA, NY, PA, OH, IN, and MI. Supporting shipper: There are eleven shippers. Their statements may be examined at the Atlanta Regional Office.

MC 128720 (Sub-3–12 TA), filed October 14, 1980. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Dr., Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Louisville, KY, and Nashville, TN, and points in their commercial zones, on the one hand, and, on the other, points in Warren, Barren, Edmonson, and Hart Counties, KY, (except Bowling Green and Glasgow, KY) and between Louisville, KY and its commercial zone, and Simpson County, KY. *Note:* Applicant intends to tack with MC–128720 at Nashville, TN and to interline at Louisville, KY, Nashville, Chattanooga, Knoxville, Memphis, and Cookeville, TN. Supporting shippers: There are 20 shippers. Their statements may be examined at the Atlanta Regional Office.

MC 119777 (Sub-3–20 TA), filed October 20, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway

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85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Construction and renovation equipment, materials and supplies (except in bulk),* between points in the United States (except AK and HI), restricted to shipments originating at or destined to facilities of Foster Wheeler Energy Corporation or its suppliers or customers. Supporting shipper: Foster Wheeler Energy Corporation, P.O. Box 22395, Houston, Texas 77027.

MC 151405 (Sub-3–1 TA), filed October 17, 1980. Applicant: CRUM AG HAULERS, INC., 2130 SE 5th Street, Tallahassee, FL 32670. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Tallahassee, FL 32301. *Contract; irregular; citrus pulp and pellets,* between points in the state of FL, restricted to shipments having a prior or subsequent movement by water. Supporting shipper: Cargill, Inc., Box 9300, Transportation 17, Minneapolis, MN 55440.

MC 144503 (Sub-3–6 TA), filed October 17, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Bakery goods, NOI, other than frozen,* from the plantsite of Benson's Old Home Kitchens, Bogart, GA to points in the United States, except AK and HI. (2) *Material, equipment and supplies used in the manufacture of bakery goods,* from points in the United States, except AK and HI, to the plantsite of Benson's Old Home Kitchens, Bogart, GA. Supporting shipper: Benson's Old Home Kitchens, Elder St., Bogart, GA 30622.

MC 150747 (Sub-3–2TA), filed October 14, 1980. Applicant: L AND O TRUCKING COMPANY, INC., 2179 Freemont, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. (1) *Reinforced concrete pipe and related accessories,* from the facilities of Allied Products Company at West Memphis, AR, to points in TN on and west of the TN River; (2) *Iron and steel and iron and steel articles and aluminum* from Memphis, TN, and its commercial zone to points in AR, MS, and points in TN on and west of the TN River. There are six supporting shippers.

MC 115654 (Sub-3–28TA), filed October 19, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, Tennessee 37202. Representative: Jackie L. Hastings (same address as applicant). *Foodstuffs, chemicals, equipment, materials and supplies that might be used in a retail, wholesale or institutional organization,* from Jackson, MS to Atlanta, GA and it's commercial zone and Nashville, TN and it's commercial zone. Supporting shipper: Morco Food Distributors of MS, P.O. Box 10627, 4240 Industrial Dr., Jackson, MS 39209.

MC 138635 (Sub-3–12TA), filed October 15, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same as above). *Foodstuffs, meats, meat products, meat by products, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; or such commodities as are dealt in by grocery and food business houses* between points in the U.S. Supporting shipper: Butcher Boy Foods, Inc., 12155 Magnolia, Riverside, CA 92517.

MC 143059 (Sub-3–20TA), filed October 16, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same as applicant). *General commodities (except households goods as defined by the Commission and Classes A and B explosives),* between Somerset County, NJ; New Haven County, CT; and Cook County, IL, on the one hand, and, on the other, points in the United States (except AK and HI). The supporting shipper is Asarco, Inc.

MC 150643 (Sub-3–1TA), filed September 4, 1980. Republication—originally published in **Federal Register** of 09–22–80, page 62920, volume 45, No. 185. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Iron and steel and iron and steel articles,* between Moundridge (McPherson County), KS, on the one hand, and, on the other, all points in the U.S. Supporting shipper: The Bradbury Company, Inc., P.O. Box 667, Moundridge, KS 67107.

MC 126195 (Sub-3–1TA), filed September 15, 1980. Republication—originally published in **Federal Register** of 10–01–80, page 65062, volume 45, No. 192. Applicant: COLEY MOVING & STORAGE, INC., Industry Dr., P.O. Box 941, Burlington, NC 27215. Representative: Carl B. Coley (same as above). *Contract carrier,* irregular routes; *Toliet prep-compounds, waxes, polishes, brushes, and preminums of general merchandise such as irons, blankets, similar gifts,* from Burlington, NC to points in NC and counties of Chesterfield, Marlboro, Marion, Dillon and Horry, SC, under a continuing contract with Stanley Home Products Company, Westfield, MA. Supporting shipper: Stanley Home Products, Inc., Richmond, VA 23228.

MC 115654 (Sub-3–27TA), filed October 6, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same address as applicant). *Steamship containers,* from the facilities of Lykes Bros. Steamship Co., Inc. at New Orleans, LA and its commercial zone, to points in AL, GA, IN, IL, KY, MI, MO, MS, OH, TN, and Kansas City, KS. Supporting shipper: Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, LA 70130.

MC 151036 (Sub-3–2TA), filed October 18, 1980. Applicant: DECATUR TRANSIT, INC., 161 First Avenue, NE., Decatur, AL 35601. Representative: Eric G. Hancock (same as above). *Asphalt and paving materials, in bulk, in tank vehicles* from Tuscaloosa and Cordova, AL to points in the counties of Bedford, Cannon, Giles, Grundy, Hamilton, Lawrence, Lewis, Lincoln, Marshall, Maury, Rutherford, and Warren, TN. Supporting shipper: Tillet Bros. Contractors, P.O. Box 1095, Murfreesboro, TN 37130.

MC 121470 (Sub-3–3TA), filed October 20, 1980. Applicant: TANKSLEY TRANSFER CO., 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Pressure treated lumber and lumber mill products,* from the facilities of Walker Williams Lumber Company, Inc. at or near Hatchechubbee, AL, to points in TN and KY. Supporting shipper: Walker Williams Lumber Company, Inc., P.O. Box 170, Hatchechubbee, AL 368548.

MC 109708 (Sub-3–12TA), filed October 20, 1980. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., P.O. Box AG, Dundee, Fla. 33838. Representative: John J. Harned (same as above). *Corn Syrups and Liquid Sweeteners, in Bulk Tank Vehicles,* From Indianapolis, IN, to Jacksonville, Fl. Supporting shipper: Seven-Up of Indiana 5430 W. 81st. Street, Indianapolis, IN 46268.

MC 143276 (Sub-3–4TA), filed October 16, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, Georgia 30080. Representative: Jack Weaver, President (same address as applicant). *Pulpboard Waterproof in rolls: foil core insulation on pallets* between Bibb County, Floyd County and, Whitfield County, GA, on the one hand, and on the other, points in AL, AR, FL, IN, KS, LA, MI, MS, NB, NC, OK, TN and TX. Supporting shipper: Shepherd Products Company, Inc., P.O. Box 10067, Macon, GA 31201.

MC 146293 (Sub-3–27TA), filed October 15, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Such commodities as are dealt in by manufacturers and distributors of electronic equipment,* from Seattle, WA and points in its commercial zone to points in the US on and east of US Hwy 85 and CA. Supporting shipper: Gold Star Electronics International, Inc., 330 Madison Ave., New York, NY 10017.

MC 69492 (Sub-3–3TA), filed October 15, 1980. Applicant: HENRY EDWARDS TRUCKING CO., INC., P.O. Box 97, Clinton, KY 42031. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Malt beverages and brewery supplies* between Ft. Worth, TX (and its commercial zone) and Phillips County, AR. Supporting shipper: Centenio Distributing Co., Inc., 211 Missouri Street, Helena, AR 72342.

MC 141849 (Sub-3–1TA), filed October 15, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., NE., Atlanta, GA 30326. *Contract carrier:* irregular: *General commodities (except commodities in bulk, commodities which, because of size or weight, require the use of special equipment, Class A and B explosives and used household goods),* between points in the US (except AK & HI), under a continuing contract or contracts with United Freight, Inc., a licensed property broker pursuant to MC–103667F. Supporting shipper: United Freight, Inc., 1260 Southern Rd., Morrow, GA 30260.

MC 152268 (Sub-3–1TA), filed October 17, 1980. Applicant: KEN WILKINSON, d.b.a. WILKINSON FREIGHT LINES, 15 S. Main St., Belmont, NC 28012. Representative: Ken Wilkinson (same as above). *Textile products,* between all points on and west of I–77 in NC on the one hand, and, on the other, Florence, Jefferson and Clover, SC. Supporting shippers: There are five appendix of support which may be reviewed at the Atlanta, GA Regional Office.

MC 121654 (Sub-3–16TA), filed October 20, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., NE, 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Non-Frozen Foodstuffs* from facilities of Campbell Soup Company at or near Maxton, NC to points in SC, VA, GA, AL, FL, and TN. Supporting shipper: Campbell Soup Company, Route 2, Box 98, Maxton, NC 28364.

MC 2934 (Sub-3–18TA), filed October 20, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Furniture,* from Jackson, MS to: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI. Supporting shipper: DeSoto, Inc., 1700 South Mt. Prospect Road, Des Plaines, IL 60018.

MC 146927 (Sub-3–4TA), filed October 20, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a distributor of paper and paper products,* between Mobile County, AL, on the one hand, and, on the other, points in NC, SC, GA, FL, TN, MO, KY, AR, TX and CA. Supporting shipper: Scott Paper Company, Scott Plaza 2, Philadelphia, PA 19113.

MC 144977 (Sub-3–1TA), filed October 19, 1980. Applicant: BOBBY MCDANIEL, d.b.a. SERVICE TRUCKING COMPANY, 2050 Beaver Road, Rossville, GA 30741. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. *Chemicals, fabrics and products, materials and supplies manufactured and/or utilized by Olin Chemicals (except in bulk)* between Charleston and Chattanooga, TN on the one hand, and, on the other, the states of FL and GA. Supporting shipper: Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904.

MC 152193 (Sub-3–1TA), filed October 20, 1980. Applicant: REYNOLDS TRUCK LINES, INC., 215 Cherry Street, Madison, Tennessee 37115. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Grating, decking, stairtreads, materials, supplies and equipment used in manufacturing and distribution of grating, decking, and stairtreads* between Nashville, TN and its commercial zone, on the one hand, and, points in and east of MN, IA, KA, OK and TX, on the other, under a continuing contract(s) with IKG Industries, Inc. Supporting shipper: IKG Industries, Nashville, TN 37202.

MC 148490 (Sub-3–7TA), filed October 20, 1980. Applicant: C. & N. EVANS TRUCKING COMPANY, INC., RFD 2, Box 39E, Stoneville, NC 27048. Representative: F. Kent Burns, Attorney at Law, P.O. Box 1406, Raleigh, NC 27602. *Containers, container ends, materials and supplies used in the manufacture and distribution and sales of above products and such other items as dealt in by National Can Corporation* between points in AL, FL, GA, MD, MS, NC, SC, TN, VA, and W. VA. Supporting shipper: National Can Corporation, Route 287 & South Randolphville Rd., Piscataway, NJ 08854.

MC 148825 (Sub-3–1TA), filed October 20, 1980. Applicant: CHRISTY TRUCKING COMPANY, INC., Rt 3, Box 241–A, Mocksville, N.C. 27028. Representative: Steven M. Beaver (same address as applicant). *Synthetic Fiber Yarn, NOI* from Yadkinville and Burlington, N.C. to Los Angeles, Compton, Vernon and Gardena, CA. Supporting shipper: Unifi, Inc., P.O. Box 698, Yadkinville, N.C. 27055.

MC 72442 (Sub-3–1TA), filed October 20, 1980. Applicant: AKERS MOTOR LINES, INCORPORATED, P.O. Box 34303, Charlotte, N.C. 28234. Representative: Garland V. Moore (same as above). *General commodities, except those of unusual value, Class A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission:* 1) Between points in GA, SC and NC; 2) Between GA, SC and NC on the one hand, and, on the other, Washington, DC, MD, VA, PA, NJ, CT, MA, DE, NY and RI; 3) Between New York, NY, and its commercial zone, Bergen and Essex counties, NJ, on the one hand, and, on the other, Albany, Schenectady, Montgomery, Rensselaer, Columbia, Dutchess, Putnam, Westchester and Rockland Counties, NY. Supporting shipper(s): There are no supporting shippers to this application as it is a conversion from regular route to irregular route authority in accordance with ICC Decision in MC–C–10094 and MC–C–10167, served September 17, 1980, with alternative mandate to initiate appropriate proceedings to convert regular route certificates to irregular route certificates. Applicant intends to interline with other carriers.

MC 139975 (Sub-3–2TA), filed October 20, 1980. Applicant: FLAMINGO TRANSPORTATION, INC., 11405 N.W. 36th Ave., Miami, FL 33167. Representative: S.S. Eisen, 370 Lexington Ave., New York, NY 10017. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and mobile homes), which are moving*

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on bills of lading of freight forwarders as defined in 49 USC 10102(a) of the Interstate Commerce Act, Restricted to the transportation of traffic moving to or from the facilities of Florida-Texas Freight, Inc., located in the States of CT, MD, MA, NJ, NY, PA and RI, on the one hand, and, on the other, FL. Supporting shipper: Florida-Texas Freight, Inc., 11405 N.W. 36th Ave., Miami, FL 33167.

MC 143059 (Sub-3–21TA), filed October 20, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Forest Products, Lumber and Lumber Products,* between points in and east of ND, SD, NE, KS, OK and TX. Supporting shippers: There are 13 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 11220 (Sub-3–12TA), filed October 15, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *Common carrier,* regular route, *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving the facilities of Wal-Mart Stores, Inc., at or near Palestine, TX, as an off-route point in connection with carrier's authorized regular route operations from and to Dallas, TX. Applicant intends to tack with its existing authority and to interline with other carriers at authorized interline points as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper: Wal-Mart Stores, Inc., Bentonville, AR.

THE FOLLOWING PROTESTS WERE FILED IN REGION 4. SEND PROTESTS TO: CONSUMER ASSISTANCE CENTER, INTERSTATE COMMERCE COMMISSION, 219 SOUTH DEARBORN STREET, ROOM 1304, CHICAGO, IL 60604.

MC 149170 (Sub-4–20TA), filed October 10, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Polyfilm, polyethylene film and bags, and plastic granules, and related items (except commodities in bulk),* between Minneapolis, MN, and Denver, CO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Poly-Tech Company, 1401 W. 94th Street, Minneapolis, MN 55440.

MC 142830 (Sub-4–3TA), filed October 10, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. Contract; irregular. (1) *Steel and fiber cable, wire, rope, cordage and accessories,* and (2) *materials, equipment and supplies,* used in the manufacture, sale and distribution of commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Bridon American Corporation of Wilkes-Barre, PA, for 270 days. Supporting shipper: Bridon American Corporation, Hanover Industrial Estate, South Main Road, Wilkes-Barre, PA 18702.

MC 108382 (Sub-4–3TA), filed October 10, 1980. Applicant: SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI 48706. Representative: Richard L. Poirier (same address as applicant). *Automobile parts,* between Lewiston, MI and Cook County, IL. Supporting shipper: Lewiston Lustre, Inc., 516 N. Airport Road, Lewiston, MI 49766.

MC 114632 (Sub-4–17TA) filed October 10, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Paint, lacquer, enamel, epoxies, resins, pigments, adhesives, rubber cement, and thinning and removing compounds; and materials, equipment, and supplies used in the manufacture of such commodities,* between Shelby County, TN and Orange County, CA on the one hand, and, on the other, points in the United States. Supporting shipper: Pratt & Lambert Company, Inc., Box 22, Buffalo, NY 14240.

MC 128837 (Sub-4–20TA) filed, October 9, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. (a) *Flex-el pads,* from Memphis, TN to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI; (b) *Syfi pads,* from Nashville, TN to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI; (c) *Duon,* from Seneca and Utica, SC to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI. Supporting shipper: Simmons U.S.A., P.O. Box 105032, Atlanta, GA 30348.

MC 311 (Sub-4TA) filed, October 9, 1980. Applicant: BURREN TRANSFER COMPANY, Second & Berkley Streets, Elgin, IL 60120. Representative: Eugene L. Cohn, One North LaSalle St., Chicago, IL 60602. *Foodstuffs, Meats, Meat Products and Meat By-Products and articles distributed by meat packinghouses* between points in Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Lake, Carrol, Ogle, De Kalb, Kane, Du Page, Cook, Whiteside, Lee, Kendall, Will, Rock Island, Henry, Bureau, La Salle, Grundy, Putnam, Stark, Marshall, Livingston, Kankakee, and Iroquois Counties, IL; Lake and Porter Counties, IN; and Rock, Kenosha, Walworth and Racine Counties, WI. An underlying ETA seeks 120 days authority. Supporting shippers: Swift Independent Packing Company, Division of Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604.

MC 142779 (Sub-4TA) filed, October 9, 1980. Applicant: WEIER AIR FREIGHT, INC., 4928 S. Second St., Milwaukee, WI 53207. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WIO 53703. *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A & B explosives, commodities in bulk, and those requiring special equipment) between points in Brown, Calumet, Dodge, Fond du Lac, Kenosha, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, WI, on the one hand, and, on the other, Milwaukee, WI and Chicago, IL and its commercial zone. An underlying ETA seeks 120 days authority. Restriction: Restricted to the transportation of traffic having a prior or subsequent movement by water. Supporting shippers: Schenkers International Forwarders, Inc., 4950 South 2nd St., Milwaukee, WI 53207; Arthur J. Fritz and Company, 2301 Mount Prospect Road, Des Plaines, IL 60018; Micro Design, Division of Bell & Howell, 857 W. State St., Hartford, WI 53027; and Mariner International Company, Division of Brunswick, 1939 Pioneer Road, Fond du Lac, WI 54935.

MC 147488 (Sub-4–4TA), filed October 9, 1980. Applicant: BURT CLIFFORD TRANSPORT, INC., Box 400, Ruthven, Ontario, Canada NOP 2GO. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Glassware, glass table products, molds, empty cartons* and *pallets,* between ports of entry on the U.S.-Canada International Boundary Line in MI and NY, on the one hand, and, on the other, points in PA, WV, NY, MD, NJ, MI and OH, restricted to

shipments moving to or from facilities of Libbey-St. Clair, Inc., 1250 James Street, Wallaceburg, Ont., Canada N8A 4L8.

MC 76266 (Sub-4–12TA), filed October 7, 1980. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Furnaces, house heating, hot air* from the facilities of Applies Air Systems, Inc. at St. Paul, MN to all points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Applied Air Systems, Inc., 2475 Doswell Avenue, St. Paul, MN 55108.

MC 150786 (Sub-4–2TA), filed October 9, 1980. Applicant: BOBBY BARNES AND CHARLES FITZPATRICK, d.b.a. B & F TRUCKING CO. (a partnership), 3240 Sangamon St., Steger, IL 60415. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. I. *Pasta products, spaghetti, noodles and macaroni,* between IL, KS, and NJ; II *Manufactured fertilizers,* in 50 pound packages, between CA, GA, IN, IL, LA, MI, MO, NJ, OH, TX, AR, MS, WI, and NC. Restricted to transportation under continuing contracts with D'Amico Foods Co. and Wm. C. Lyons Associated, Ltd. Supporting shippers: D'Amico Foods Company, 3601 Chicago Road, Steger, IL 60475; Wm. C. Lyons Associated, Ltd., 21141 Governors Hwy., Matteson, IL 60443.

MC 95876 (Sub-4–5), filed October 7, 1980. Applicant: ANDERSON TRUCKING SERVICE, 203 Cooper Avenue N., St. Cloud, MN 56301. Representative: William L. Libby (address same as applicant). (1) *Aluminum ingots and billets* from Ferndale, WA to Rockwall, TX (2) *Aluminum scrap* (a) from Alexandria, MN, Oklahoma City, OK, Bryan, TX and Sanford, FL. to Rockwall, TX and Magnolia, AR, and (b) from Sanford, FL to Frederick, MD and (3) *Aluminum and aluminum products* from Rockwall, TX to Lancaster, PA. Supporting shipper: Howmet Aluminum Corp., 475 Steamboat Road, Greenwich, CT 06830.

MC 115876 (Sub-4–1TA), filed October 8, 1980. Applicant: ERWIN HURNER, 413 Valley Avenue, Moorhead, MN 56560. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* Irregular: *Potato flakes,* from the facilities of The Pillsbury Company at or near Grand Forks, ND, to Golden Valley, MN. Restricted to traffic moving under continuing contract(s) with The Pillsbury Company. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Company, Consumer Products Division, 1100 North 4th Street, LeSueur, MN 565058.

MC 152005 (Sub-4–2TA), filed October 8, 1980. Applicant: TRANSCONTINENTAL FREIGHT SYSTEMS, INC., 2550 South Archer Avenue, Chicago, IL 60608. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Contract* Irregular: *General commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk and those requiring special equipment), between points in the United States (except AK and HI), under a continuing contract with International Nu-Way Shippers, Inc., of Chicago, IL. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 108185 (Sub-4–8TA), filed October 9, 1980. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber; Building materials; Posts and poles, wooden,* from the plant site of Newburg Road Lumber Co., Inc. at or near Haleyville, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. Supporting shipper: Newburg Road Lumber Co., Inc., P.O. Box 548, Haleyville, AL 35565.

MC 139151 (Sub-4–3TA), filed October 10, 1980. Applicant: CANUS TRUCKING, LTD., 150 Sutherland Ave., Winnipeg, Manitoba, Canada R2W5K4. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, D.C. 20005. *Paper* (except newsprint), from Hamilton, OH, Chillocothe, OH, Aurora, IL and Plainwell, MI to Noyes, MN on the U.S./Canada border. Supporting shipper: Inter City Papers Limited, Ville LaSalle, Quebec H8R 3W1.

MC 139482 (Sub-4–18TA), filed October 1, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Tires, tubes, automotive accessories and related products (except commodities in bulk),* from Buffalo, NY; Camden, AR; Carlisle, PA; Cincinnati, OH; Conshohoken, PA; Des Moines, IA; Eau Claire, WI; Elk Grove Village, IL; Findlay, OH; Indiana, PA; Indianapolis, IN; Jackson, MS; Kansas City, MO; Lenexa, KS; Little Rock, AR; Morton, IL; and Natchez, MS to Minneapolis and St. Paul, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Trans-Continental Tire Sales, Inc., 7968 Main St. N.E., Fridley, MN 55432.

MC 118612 (Sub-4–4TA), filed October 4, 1980. Applicant: COLUMBIA TRUCKING, INC., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Hot asphalt, in bulk, in tank vehicles* from McCook, IL to Detroit, MI. Supporting shipper: Trumbull Asphalt Division of Owens-Corning, Fiberglas Corporation, 59 & Archer Road, Summit, IL 60501.

MC 134022 (Sub-4–1TA), filed October 8, 1980. Applicant: RICHARD A. ZIMA, d.b.a. ZIPCO, P.O. Box 715, West Bend, WI 53095. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Such commodities as are dealt in by retail gift and curio shops,* from the facilities of Swiss Colony, Inc. and Swiss Colony Stores, Inc., at Madison and Monroe, WI to points in the U.S. (except AK and HI). Supporting shipper: Swiss Colony Stores, Inc., Swiss Colony, Inc., 1112 7th Ave., Monroe, WI 53566.

MC 152132 (Sub-4–1TA), filed October 9, 1980. Applicant: FRANK PEYERL, P.O. Box 607, Cando, ND 58324. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. *Foodstuffs (including in bulk), and machinery and supplies used in the manufacture thereof,* between Towner County, ND on the one hand, and, on the other, points in the U.S. Supporting shipper: Noodles by Leonardo, Cando, N.D. 58324.

MC 145792F (Sub-4–3TA), filed October 10, 1980. Applicant: RED MOVERS AND VAN LINES, INC., 7000 S. Chicago Ave., Chicago, IL 60637. Representative: Walter L. Weart, 548 Anita St., Des Plaines, IL 60016. *Furniture or fixtures or parts thereof and material, equipment and supplies used* in the manufacture and distribution thereof between Cook County, IL and points in the U.S. (Except AK and HI). Supporting shipper: Douglas Furniture Corp., 5020 West 73rd St., Chicago, IL 60638.

MC 151507 (Sub-4–3TA), filed October 9, 1980. Applicant: J. LAKES TRUCKING, INC., 2957 S.E. St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Paper and paper products and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk)* between pts. in Butler County, OH, on the one hand, and, on the other, pts. in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities

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of The Beckett Paper Co. Supporting shipper: The Beckett Paper Co., 4th & Buckeye Sts., Hamilton, OH 45012.

MC 146761 (Sub-4–1TA), filed October 8, 1980. Applicant: P. J. TRUCKING, INC., P.O. Box 376, Summit, IL 60501. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Non-exempt food or kindred products.* (1) Between points in CA in interstate commerce restricted to shipments in containers or trailers having a prior or subsequent movement by rail. (2) Between Chicago, IL and points in IA, IL, IN, KY, MI, MO, OH, PA and WI restricted to shipments in containers or trailers having a prior or subsequent movement by rail. An underlying ETA seeks 120 day authority. Supporting shippers: Weibel Champagne Vineyards, 1250 Sanford Avenue, Mission, San Jose, CA 94538, Delicato Vineyards, 12001 S. Hwy 99, Manteca, CA 95336 and Gloreitta Foods, P.O. Box 5040, San Jose, CA 95150.

MC 151988 (Sub-4–1TA), filed October 16, 1980. Applicant: THOMAS C. GORTER MOTOR EXPRESS, INC., 2031 Waldorf, North West, Grand Rapids, MI 49504. Representative: Edith L. Gorter (address same as above). *Furniture* set up and knocked down and parts thereof; *Seats* and *seating equipment* set up and knocked down and parts thereof; *seats* for *automobiles* and *passenger buses* set up and knocked down and parts thereof; *materials* used in the manufacturing of above commodities; between Kent County, MI and points in OH, IN, IL, IA, WI, and MN. There are six supporting shippers.

MC 124078 (Sub-4–39TA), filed October 16, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Fly ash, in bulk,* from Wapello County, IA to IL, MN, MO and WI. Supporting shipper: Midwest Fly Ash, Box 3557, Sioux City, IA 51102.

MC 56270 (Sub-4–3TA), filed October 20, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., 1401 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Flour,* between points in Otter Tail County, MN on the one hand, and, on the other, points in the Chicago, IL commercial zone. An underlying ETA seeks 120-day authority. Supporting shipper: Con Agra, Inc., 200 Kiewat Plaza, Omaha, NE 68131.

MC 123048 (Sub-4–4TA), filed October 20, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Water heaters, house heating boilers, glass lined tanks, solar panels, and materials and equipment and supplies used in their manufacture,* from the facilities of A. O. Smith Corporation, at Kankakee, IL, on the one hand, and, on the other, points in AL, FL, GA, IN, KY, LA, NC, OH, SC, and TN. Supporting shipper: A. O. Smith Corporation, P.O. Box 28, Kankakee, IL 60901.

MC 152246 (Sub-4–1TA), filed October 17, 1980. Applicant: SCHULD TRANSPORTATION, INC., 774 Flanner Rd., Box 57, Mosinee, WI 54455. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. (1) *Steel, aluminum and stainless bulk storage tanks, silos, bins and accessories,* (2) *equipment, materials, and supplies* used in the manufacture, sale and distribution of commodities named in number one between Mosinee, WI, Iowa Falls, IA, Van Wert, OH, and Milton, PA on the one hand, and, on the other, points in the U.S. Supporting shipper: Schuld Manufacturing Co., Inc., Box 130, Mosinee, WI 54455.

MC 114632 (Sub-4–19TA), filed October 16, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Meats, meat products, meat byproducts and articles distributed by meat packinghouses,* as described in Sections A & C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates,* 61 MCC 209 & 766 from Fargo and West Fargo, ND to points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Held Beef Industries, Inc., Stockyards Road, West Fargo, ND 58078.

MC 152240 (Sub-4–1TA), filed October 17, 1980. Applicant: WI–IL EXPRESS COMPANY, 2400 Lakeview, Rm. 511, Chicago, IL 60610. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *General commodities (except in bulk, classes A and B explosives household goods)* between points in IL and WI restricted to articles weighing less than 1000 pounds. There are 21 supporting shippers.

MC 82492 (Sub-4–9TA), filed October 17, 1980. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853. Kalamazoo, MI 49003. Representative: Neil E. Hannan (same address as applicant). *Such commodities as are dealt in or used by retail drug, variety, and department stores (except commodities in bulk),* between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, points in NY on and west of Interstate Hwy. 81, ND, OH, points in PA on and west of Interstate Hwy. 81, PA Hwys. 9 and 100 and U.S. Hwy. 202, SD, TN, and WI. Restricted to the transportation of traffic originating at or destined to the facilities of Ardan, Inc. Supporting shipper: Ardan, Inc. 2320 Euclid Ave., Des Moines, IA 50310.

MC 111812 (Sub-4–15TA), filed October 17, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Chemicals or allied products (except commodities in bulk),* from the facilities of the Bostik Division located at or near Marshall, MI to points in NJ. An underlying ETA seeks 120 days authority. Supporting shipper: Bostik Division, Middleton, MA 01949.

MC 128270 (Sub-4–4TA), filed October 17, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Common*—Regular, *Iron and steel articles* Between the facilities of Manufacturers Steel & Supply company located at or near St. Louis, MO and points in IN, IL and MI. Supporting shipper: Mfg. Steel Co., Inc., 400 Edwin Street, St. Louis, MO 63103.

MC 144452 (Sub-4–3TA), filed October 17, 1980. Applicant: ARLEN LINDQUIST d.b.a. ARLEN E. LINDQUIST TRUCKING, 9172 Davenport St., N.E., Minneapolis, MN 55434. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Petroleum and petroleum products,* from Oklahoma City and Tulsa, OK to the facilities of Grover Distributing, Inc. located at Detroit Lakes, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Grover Distributing, Inc., P.O. Box 842, Detroit Lakes, MN 56501.

MC 140820 (Sub-4–2TA), filed October 17, 1980. Applicant: A & R TRANSPORT, INC., 2996 N. Illinois 71, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Chemicals, in bulk,* from the facilities of American Cyanamid Company, Joliet, IL to Louisville, KY. Supporting shipper: American Cyanamid Company ICD Traffic, Wayne, NJ 07470.

MC 108453 (Sub-4–4TA), filed October 13, 1980. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *Paper, paper products and scrap paper, and materials and supplies used in the manufacture and distribution thereof (except in bulk)* between points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV and WI, under a continuing contract with Continental Forest Industries. Supporting shipper: Continental Forest Industries, Consumer Products Division, P.O. Box 348, Three Rivers, MI 49093.

MC 6031 (Sub-4–4TA), filed October 16, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: William P. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract,* irregular; *scrap metals* between points in IL, IA, MN, the Upper Peninsula of MI, and in IN, within the Chicago, IL Commercial Zone, on the one hand, and on the other points in WI, under a continuing contract with Miller Compressing Co. Supporting shipper: Miller Compressing Co., 510 South Muskego, Milwaukee, WI, 53204.

MC 142891 (Sub-4–4TA), filed October 17, 1980. Applicant: A&H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, Beener, McQuilkin & Socha, 67 Wall St., New York, N.Y. 10005. *Foodstuffs (except in bulk) and such merchandise as is dealt in by retail gift curio shops and catalogue distribution centers,* between Green County, WI on the one hand and on the other points in FL, OR, WA, CA, NY, NJ, PA, OH, MA, CT, DC, MD, TX, IA, IL, IN, MN, MO, KS, NE, UT and NV. Supporting shipper: Swiss Colony, Inc., 1112 7th Avenue, Monroe, WI 53566.

MC 150301 (Sub-4–7TA), filed October 20, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *General commodities* between all points in the U.S. (except AK and HI) restricted against the transportation of commodities in bulk and under a contract with Quality Stores, Inc. Supporting shipper: Quality Stores, Inc., 1460 Whitehall Rd., N. Muskegon, MI 49445.

MC 125777 (Sub-4–6TA), filed October 16, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Duane C. O'Donnell, 4600 East 15th Ave., Gary, IN 46403. *Silicon Carbide & Silicon Carbide Briquettes* between Jefferson City, AL and points in and East of KS, NE, ND, OK, SD, TX. Supporting shipper: Miller & Co., 55 E. Monroe St., Chicago, IL. 60603.

MC 125777 (Sub-4–7TA), filed October 16, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Duane C. O'Donnell, 4600 East 15th Avenue, Gary, IN 46403. *Silicon Carbide & Silicon Carbide Briquettes* between Saginaw County, MI and points in and East of KS, NE, ND, OK, SD, TX. An underlying ETA seeks 120 day authority. Supporting shipper: Miller & Company, 55 East Monroe Street, Chicago, IL 60603.

MC 147943 (Sub-4–2TA), filed October 17, 1980. Applicant: E. W. K. CARTAGE, INC., 4855 South Leamington, Chicago, IL 60638. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *General Commodities* (Except Class A & B explosives, household goods, as defined by the Commission, articles requiring special handling or articles of unusual value), between Chicago, IL and its Commercial Zone on the one hand, and, on the other, points in OH. Restricted to the transportation of traffic having a prior or subsequent movement by rail or water. An underlying ETA seeks 120 days authority. Supporting shipper: Clipper Exxpress, Inc., 3401 West Pershing Rd., Chicago, IL 60632.

MC 129290 (Sub-4–1TA), filed October 22, 1980. Applicant: CHIPPEWA TRANSPORT CO., 1500 Pine Street, Essexville, MI 48732. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Cement,* in bags, from the plantsite of Aetna Cement Corporation, Essexville, MI, to the international boundary line between the U.S. and Canada. Supporting shipper: Aetna Cement Corporation, 155 Pine Street, Essexville, MI 48432.

MC 76266 (Sub-4–13TA), filed October 22, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 215 South 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such commodities as are used in the manufacture and erection of steel storage tanks (except commodities in bulk),* from the facilities of G.A.T.X. Tank Erection Corporation in East Chicago, IN to points in the (except AK and HI). Supporting shipper: G.A.T.X. Tank Erection Corporation, P.O. Box 440, East Chicago, IN 56312.

MC 152283 (Sub-4–1TA), filed October 22, 1980. Applicant: P.H. TRUCKING, INC., 6003 Guion Road, Indianapolis, IN 46268. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract;* Irregular, *Such merchandise as is dealt in by womens retail specialty stores, materials, equipment and supplies used in the manufacture and distribution thereof,* between Indianapolis, IN on the one hand, and on the other, points in the U.S. (except AK. and HI.) Restriction: Restricted to service to be performed under continuing contracts with Paul Harris Stores, Inc. Supporting shipper: Paul Harris Stores, Inc., 6003 Guion Road, Indianapolis, IN 46268.

MC 152243 (Sub-4–1TA), filed October 22, 1980. Applicant: DISTRIBUTORS, LTD., E. Forest Avenue, P.O. Box 159, Antigo, Wisconsin 54409. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, Wisconsin 53719. *Contract;* irregular; *meat, meat products, meat by-products, and articles distributed by meat packinghouses,* from Schuyler NE, to Menominee, MI. Restriction: restricted to transportation performed under a continuing contract(s) with Carpenter-Cook, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Carpenter-Cook, Inc., 1230 48th Avenue Menominee, Michigan 49858.

MC 67111 (Sub-4–1TA), filed October 22, 1980. Applicant: KAIN'S MOTOR SERVICE CORP., West End of Bates Street, Logansport, IN 46947. Representative: Frank M. Cook, 616 Circle Tower Building, Indianapolis, IN 46204. *Common;* Regular; *General Commodities (Except Classes A and B Explosives, Household Goods as Defined by the Commission, and Commodities in Bulk)* between Chicago, IL, and Milwaukee, WI, over U.S. 41 serving the intermediate point of Kenosha, WI. Supporting shipper: There are 9 supporting shippers.

Note.—(1) Applicant proposes to serve all points in the Commercial Zones of Chicago, IL, and Kenosha and Milwaukee, WI. (2) Applicant proposes to tack this authority at Chicago, IL, with its existing regular route authority. (3) Applicant proposes to interline with other carriers at Milwaukee, WI.

MC 133189 (Sub-4–6TA), filed October 20, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. *(1) Pallets, pallet parts and sawdust,* from Escanaba, MI to points in IL, IA, IN, WI, OH, and MN; and *(2) Wood stakes,* from Escanaba, MI to points in the U.S.; and *(3) materials, equipment and supplies used in the manufacture and distribution of the commodities described in (1) and (2) above* in the reverse direction. An underlying ETA seeks 120 days authority. Supporting shipper: Lakestate Industries, P.O. Box 279, Escanaba, MI 49829.

MC 15364 (Sub-4–1TA), filed October 21, 1980. Applicant: WISCONSIN–MICHIGAN COACHES, INC., 725 Smith Street, Green Bay, WI 54302.

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Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. *Regular, passengers and their baggage, newspapers and express shipments in the same vehicle with passengers* between Green Bay, WI and Milwaukee, WI over Highway 141 and I-43 (now under construction) serving no intermediate points. Supporting shippers: There are 27 supporting shippers.

MC 123294 (Sub-4–13TA), filed October 20, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Waste and scrap paper* from Delair, NJ; Marion, KY; Philadelphia, PA; Pittsburgh, PA; Bloomington, IL; and Whitehall, IL, to points in IL, MI, OH, and WI. Supporting shipper: *Paper & Pulp Fibers, Inc., 1400 E. Touhy, Des Plaines, IL 60018. An underlying ETA seeks 120 days authority.

MC 126904 (Sub-4–6TA), filed October 21, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. (1) *Malt beverages*, from Frankenmuth, MI to points in AL, LA and MS; and (2) *empty containers used in the transportation of malt beverages*, from points in AL, LA and MS to Frankenmuth, MI. An underlying ETA seeks 120 days authority. Supporting shipper: G. Heileman Brewing Company, 925 South Third Street, La Crosse, WI 54601.

MC 107295 (Sub-4–23TA), filed October 21, 1980. Applicant: PRE–FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Composition board* from Booneville, MO to Meridian, MS and Phoenix, AZ. Supporting shipper: Cant Strip Corporation of America, Highway 45N, Meridian, MI 39301.

MC 114194 (Sub-4–9TA), filed October 21, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Avenue, P.O. Box 147, Madison, IL 62060. Representative: Joseph R. Behnker (same address as applicant). *Dry Sugar, from Mathews, LA, to Robinson, IL.* An underlying ETA seeks 120 days authority. Supporting shipper: L. S. Heath & Sons, Inc., Robinson, IL 62454.

MC 105045 (Sub-4–21TA), filed October 21, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, Vice President (same as above). *Aluminum Sheet and Plate and Steel Sheet and Coils and Copper Cable* between Gwinette Co., GA, Orange Co., FL, Los Angeles, CA, Maricopa Co., AZ, Tulsa Co., OK, King Co., WA, Caddo Co., LA, Harris Co., TX and Bernalillo Co., NM, on the one hand, and, on the other AL, AR, MS, IN, OH, IL, TX, OK, TN, KY, IA, MD, FL, NC, SC, PA and NJ. An underlying ETA seeks 120 days authority. Supporting shipper: Du Commun Steel, Doraville, GA.

MC 105045 (Sub-4–20TA), filed October 21, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, Vice President (same as above). *Iron and Steel* between Hillsborough County, FL and Fulton Co., GA, Jefferson and Shelby Co., TN, Lorman Co., MS, St. Louis Co., MO, Davidson Co., TN, Knox Co., TN, Mobile Co., AL, Montgomery Co., AL, Dallas Co., TX, Harris Co., TX, Grason Co., TX, Richland Co., SC, Mecklenburg Co., NC, Wake Co., NC and Charleston Co., SC. An underlying ETA seeks 120 days authority. Supporting shipper: Dick Moss Steel, Tampa, FL.

MC 145664 (Sub-4–11TA), filed October 21, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave., W., Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Building materials and equipment, supplies and materials* used in the manufacture, sale and distribution thereof between points in Itasca County, MN on the one hand, and, on the other, points and places in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Blandin Wood Products Company, 115 SW 1st St., Grand Rapids, MN 55744.

MC 150944 (Sub-4–2TA), filed October 21, 1980. Applicant: BIG FOOT, INC., 410 Library Lane, Streamwood, IL 60103. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. (a) *general commodities*, between Chicago, IL, on the one hand, and, on the other, points in the U.S.,* restricted to shipments having a prior or subsequent movement by rail or water; (b) *containers*, between Chicago, IL, on the one hand, and, on the other, points in IN, OH, MI, KY, TN, MO, WS, IA, MN, PA, and NY, restricted to shipments originating at the facilities of Inland Steel Containers, and (c) *general commodities*, between Chicago, IL, on the one hand, and, on the other, points in the U.S.,* restricted to shipments originating at or destined to Locke Warehouse. Supporting shippers: Streamline Shippers, Baltimore, MD, Inland Steel Containers, Chicago, IL, Gem Products Co., Villa Park, IL, A. J. Oster Company, Addison, IL, Locke Warehouse Co., Streamwood, IL, and J. Moyles & Assoc., Chicago, IL.

MC 151775 (Sub-4–1TA), filed October 21, 1980. Applicant: MAGNUM, LTD., P.O. Box 775, Hillsboro, ND 58045. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* irregular: *Sugarbeet pulp pellets*, from the facilities of American Crystal Sugar at or near Moorhead, East Grand Forks, and Crookston, MN, and Drayton and Hillsboro, ND, to Duluth and Minneapolis-St. Paul, MN and points in their commercial zone, and Tacoma, WA. Restricted to traffic moving in foreign commerce. An underlying ETA seeks 120 days authority. Supporting shipper: American Crystal Sugar Company, 101 North 3rd Street, Moorhead, MN 56560.

MC 108185 (Sub-4–9TA), filed October 21, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Conveyors or Parts thereof;* between the plantsites of Continental Conveyor & Equipment Co., Inc., at Salyersville, KY and Winfield, AL on the one hand and points in AZ, CO, IL, IN, KS, KY, LA, MI, MN, NV, NM, ND, SD, OH, OK, PA, TN, TX, UT, WI and WY on the other. Supporting shipper: Continental Conveyor & Equipment Co., Inc., P.O. Box 400, Winfield, Alabama 35594.

MC 145807 (Sub-4–1TA), filed October 20, 1980. Applicant: THOMAS A. HART AND KENNETH GRAMS, d.b.a. DERBY TRANSPORT, 609 First Avenue North, Box 695, Weyburn, Saskatchewan, Canada S4H 1P1. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. (1) *Fertilizer* (except liquid), from ports of entry on the International Boundary Line between the U.S. and Canada located at or near Portal and Northgate, ND and Noyes, MN to points in IA; and (2) *Soybean meal*, from points in IA to the ports of entry named in (1) above. Restricted to the transportation of traffic moving in foreign commerce. Supporting shippers: Pillsbury Company, 7900 Xerxes Ave. S., Bloomington, MN 55431; Kalium Chemicals, P.O. Box 20623, Kansas City, MO 64195; Farmers Cooperative Elevator Co., Thompson, IA 50478.

MC 133566 (Sub-4–11TA) filed October 21, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Printing, computer, audio and visual equipment and supplies*, from the facilities of BASF Systems at Beford and Lowell, MA to points in the U.S. in and east of ND, SD, NE, CO, OK and TX. Supporting shippers: BASF Systems, Crosby Drive, Bedford, MS.

MC 133566 (Sub-4–10TA) filed October 20, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *(1) Foodstuffs and (2) equipment, materials and supplies used in the production and distribution of foodstuffs, (except commodities in bulk)*, between Marion County, IN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX. Supporting shipper: Royal Food Products, A Division of Mutual Milk Company, Inc., 2243 Bethel Avenue, Indianapolis, IN 46203.

MC 144645 (Sub-4–3TA) filed October 15, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract; Irregular: (1) meats, meat products, and meat by-products and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certification, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between points in Kenosha County, WI, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *materials, equipment and supplies used in the processing or distribution of the commodities listed in part* (1) above, between points in the U.S. (except AK and HI) on the one hand, and, on the other, points in Kenosha County, WI, under continuing contracts with Birchwood Meat and Provision Co., Inc., and Kenosha Beef International, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Birchwood Meat and Provision Co., Inc., Kenosha Beef International, Inc., 3111 152nd Ave., Kenosha, WI 53142.

MC 145664 (Sub-4–10TA) filed October 17, 1980. Applicant: STALBERGER, INC., 223 S. 50th Avenue, West, Duluth, MN 55807. Representative: Norman A. Cooper, 145 West Wisconsin Avenue, Neenah, WI 54956. *Fabricated steel products and equipment, materials and supplies* between the facilities of Dyckerhoff and Widmann, Inc. at Lemont, IL and points and places in IA, KS, LA, MN, MO, MS, ND, SD, and TX. An underlying ETA seeks 120 days authority. Supporting shippers: Dyckerhoff & Widmann, Inc., 301 Marmon Drive, Lemont, IL 60439.

MC 123294 (Sub-4–12TA), filed October 16, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H.E. Miller, Jr. (same address as applicant). *Kitchen matches, book matches, clothespins, toothpicks, cotton swabs, ice cream sticks, and related woodenware* from Dayton, OH, to Chicago, IL; St. Louis, MO; Kansas City, KS; and Kansas City, MO. Supporting shipper:* Diamond International Corporation, P.O. Box 236, Middletown, OH 45042.

MC 142245 (Sub-4–2TA), filed October 20, 1980. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *Apple juice, apple cider and vinegar (except in bulk)* between Belding, MI; Coloma, MI; Grand Rapids, MI; Evansville, IN; and Sodus, NY; and points in the U.S. (except AK and HI), under a continuing contract with Indian Summer, Inc. Supporting shipper: Indian Summer, Inc., 700 Kiddville Rd., Belding, MI 48809.

MC 152256 (Sub-4–1F), filed October 20, 1980. Applicant: GRAMMER INDUSTRIES, INC., Post Office Box 51, Grammer, IN 47236. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. *Dry fertilizer and fertilizer ingredients*, from Floyd County (New Albany), IN, to points in IL on and south of U.S. Highway 36, and points in KY. Supporting shipper: W. R. Grace & Company, 2818 Grantline Rd., New Albany, IN 47150. An underlying ETA seeks 120 days authority.

MC 123048 (Sub-4–5TA), filed October 7, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Wood burning stoves, furnaces, and attachments, and accessories*, from the facilities of Dunham Lehr, at Racine, WI, and Richmond, IN to Albany, NY, Atlanta, GA, Denver, CO, Portland, OR, Glastonbury, CT, Frederick, MD and Richmond, IN, An underlying ETA seeks 120 days authority. Supporting shipper: Dunham Lehr, Inc., 300 Industrial Parkway, Richmond, IN 47374.

MC 152261 (Sub-4–1TA), filed October 21, 1980. Applicant: M. W. ETTINGER, INC., 2711 Fairview Ave. N. Roseville, MN 55113. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Candies, confectionery products and bakery goods*, from Plymouth, MN, to points in the U.S. except AK and HI. Supporting shipper: Rose Confections, Inc., Plymouth, MN. An underlying ETA seeks 120 day authority.

MC 152259 (Sub-4–1TA), filed October 20, 1980. Applicant: CLIFFORD D. & LOIS R. SANBERG, d.b.a. SCHULTZ & SON TRUCKING, Minnesota Division, Rural Route 4, Long Prairie, MN 56347. Representative: Clifford D. Sandberg, Rural Route 4, long Prairie, MN 56347. *Fresh and frozen boneless beef; fresh carcass beef*, between Long Prairie, MN, and points in the States of IL, WI, and IA. Supporting shipper: Long Prairie Packing Company, Long Prairie, MN 56347.

MC 133566 (Sub-4–9TA), filed October 20, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Meat, meat products, meat byproducts, and articles distributed by meat packing houses*, from the facilities of Madison Packing Inc., at Waterloo, WI to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Madison Packing, Inc., 333 Portland Road, Waterloo, WI 53594.

MC 51146 (Sub-4–56TA), filed October 20, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (same address as applicant). *Scrap brass* from points in the U.S. to East Alton, IL. Supporting shipper: Olin Corporation, East Alton, IL 62024.

MC 124078 (Sub-4–40TA), filed October 16, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Chemicals, in bulk, in tank vehicles*, from Charleston, SC, to all points in NC. Supporting shipper: Burris Chemical, Inc., P.O. Box 70788, Charleston, SC 29405.

MC 116791 (Sub-4–1TA), filed October 20, 1980. Applicant: FARMERS ELEVATOR OF KENSINGTON, MN, INC., Box 184, Kensington, MN 56343. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Salt*, (1) between Scott and St. Louis Counties, MN, on the one hand, and, on the other, points in IA, ND, SD, and WI;

* Except AK and HI.

* An underlying ETA seeks 120 days authority.

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and (2) between Douglas County, WI, on the one hand, and, on the other, points in MN. An underlying ETA seeks 120 days authority. Supporting shippers: Cargill, Incorporated, Salt Division, P.O. Box 9300, Minneapolis, MN 55440; Cutler-Magner Company, Salt Division, P.O. Box 6807, Duluth, MN 55806.

MC 152257 (Sub-4–1TA), filed October 20, 1980. Applicant: LORDCO TRUCKING, INC., 555 N. Tripp St., Chicago, IL 60610. Representative: Paul J. Maton, 10 S. La Salle St., Rm. 1620, Chicago, IL 60603. *Contract;* irregular: *Malt beverages and materials, equipment and supplies used in the manufacture, distribution, and sale of malt beverages,* between LaCrosse, WI and Cook, Lake and Will Counties, IL. An underlying ETA seeks 120 days authority. Supporting shippers: G. Heileman Brewing Company, Inc., 100 Harborview Plaza, La Crosse, WI 54601; C & K Distributors, Inc., 555 N. Tripp Street, Chicago, IL 60610.

MC 129863 (Sub-4–1TA), filed October 20, 1980. Applicant: FREDERICK L. BULTMAN, INC., 11144 West Silver Spring Drive, Milwaukee, WI 53225. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular: *Lubricating oils,* in packages, from Rockford, IL, to points in WI, under contract(s) with Ashland Chemical Company, Division of Ashland Oil, Inc. Supporting shipper: Ashland Chemical Company, Division of Ashland Oil, Inc., 5200 Paul G. Blazer Memorial Parkway, Dublin, OH 43017.

MC 133689 (Sub-4–30TA), filed October 20, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. (1) *Foodstuffs,* (2) *Materials, equipment and supplies used in the production of gelatin products,* from the facilities of Geo. A. Hormel & Co. in Davenport, IA (Scott County) to points in CT, DE, DC, GA, IL, IA, ME, MD, MA, NE, NH, NJ, NY, NC, ND, PA, RI, SC, SD, TN, VT, VA, WV, and WI: (2) from points named in (1) above to the facilities of Geo. A. Hormel & Co. at or near Davenport, IA (Scott County). Supporting shipper: Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912.

MC 127840 (Sub-4–7), filed September 23, 1980. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Transporting chemicals, in bulk, in tank vehicles,* from Magnolia, AR to Patterson, NJ. Supportiong shipper: Mason Chemical Company, 5253 West Belmont Ave., Chicago, IL 60641.

MC 126904 (Sub-4–7TA), filed October 24, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Wine,* from Westfield and Hammondsport, NY, and points in their Commercial Zones, to Belleville, IL, and points in its Commercial Zone. An underlying ETA seeks 120 days authority. Supporting shipper(s): Jul Fischer Distributor, Inc., #1 Whiskey Road, Belleville, IL 62221.

MC 133689 (Sub-4–36), filed October 23, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Glass containers, caps, and enclosures for glass containers,* between the facilities of Brockway Glass Company, Inc. at or near Rosemount, MN on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days of authority. Supporting shipper: Brockway Glass Company, 13500 S. Robert, Rosemount, MN 55068.

MC 133689 (Sub-4–3S), filed October 23, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuff,* from Springfield, IL and points in its Commercial Zone as defined by the Commission to Chattanooga, TN and points in its Commerce Zone as defined by the Commission. An underlying ETA seeks 120 days authority. Supporting shipper: Pillsbury, 608 2nd Ave. So., Minneapolis, MN 55402.

MC 133689 (Sub-4–34TA), filed October 23, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs and materials, supplies and equipment used in the manufacture and distribution of foodstuffs* (except commodities in bulk), between Archbold, OH, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Beatrice Frozen Specialities, P.O. Box 180, Archbold, OH 43502.

MC 133689 (Sub-4–33), filed October 23, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs and materials, supplies and equipment used in the manufacture and distribution of foodstuffs* (except in bulk) between the facilities of Sanna Division Beatrice Foods Co. located at or near Menomonie, Vesper, Eau Claire, Cameron and Wisconsin Rapids, WI on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Sanna Division Beatrice Foods Co., P.O. Box 8046, 6501 Grand Teton Plaza, Madison, WI 53708.

MC 121745 (Sub-4–2), filed October 23, 1980. Applicant: C. D. SPAIN AND J. T. SPAIN d.b.a. SPAIN'S TRANSFER, P.O. Box 68, Minot, ND 58701. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Common; Regular; General Commodities* (except those of unusual value), class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Minot, ND, to Voltaire, ND, over U.S. Highway 52, thence to Velva, ND, over U.S. Highway 52, thence to Granville, ND, over ND Highway 14 and U.S. Highway 2, thence to Minot, ND, over U.S. Highway 2, and vice versa, serving all intermediate points. Underlying ETA seeks 120 days authority. Supporting shippers: N C Auto Parts, 15 N. Main, Velva, ND 58790; Velva Lumber Co., Inc., 12 1st Avenue West, Velva, ND 58790; Valley Chevrolet Imp. d.b.a. Velva Implement, 122 N. Main, Velva, ND 58790; Haybuster Sales and Service, Granville, ND 58741; and Verendrye Electric Cooperative, Inc., P.O. Box 70, Velva, ND 58790.

MC 139420 (Sub-R4–1TA), filed October 23, 1980. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Non-exempt food or kindred products, and machinery and supplies used in the manufacture and distribution thereof,* between the facilities of Noodles By Leonardo located in Towner County, ND on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Noodles By Leonardo, P.O. Box 272, Cando, ND, 58324.

MC 117730 (Sub-47), filed October 21, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route #47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 323 North LaSalle Street, Chicago, IL 60142. *Refrigerated ready to serve desserts,* from the facilities of Winky Food Products, Inc., at Cicero, IL to Delphos and Cleveland, OH, Otsego, Warren and Auburn Heights, MI, Indianapolis, IN, and Philadelphia, PA. Supporting shipper: Winky Food Products, Inc., 4900 W. 25th Place, Cicero, IL 60650.

MC 152284 (Sub-4–1), filed October 23, 1980. Applicant: INDIANA HEAVY & SPECIALIZED CARRIER, INC., Route 1, Wilson Avenue, Madison, IN 47250. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Contract* Irregular: *Leather, leather fiberboard, and leather products and materials used or useful in the manufacture of leather products,* between the facilities of Robus Products Corporation, Madison, IN, on the one hand, and, on the other, points in IL, MA, MD, ME, MI, MO, NC, NH, NJ, NY, OH, PA, TN and WI, under contract with Robus Products Corporation, Madison, IN. Supporting shipper: Robus Products Corporation, Route 6, Box 6, Madison, IN 47250. An underlying ETA seeks a 120 days.

MC 151968 (Sub-4–4), filed October 16, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, 10700 Lyndale Avenue South, P.O. Box 877, MInneapolis, MN 55440. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *Contract;* Irregular. (1) *Lawn, garden, and recreational equipment,* and *materials, equipment and supplies* used in the manufacture, installation and sale thereof, (2) *Generators, generator sets, internal combustion engines* and *materials, equipment and supplies,* utilized in the manufacture, installation, and sale thereof, and (3) *Windows* and *materials, equipment and supplies* used in the manufacture, installation and sale therof, between points in the U.S. under continuing contracts with The Toro Company, Minneapolis, MN; Onan Corp., Fridley, MN. Supporting shipper(s): Toro Company, Minneapolis, MN; Derac, Inc., Minneapolis, MN 55441; and Onan Corp., Fridley, MN 55432.

MC 152285 (Sub-4–1), filed October 22, 1980. Applicant: PACKERLAND TRANSPORT INC., 2580 University Ave., P.O. Box 1184, Green Bay, WI 54305. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Contact,* Irregular: *Fresh and frozen meats and packinghouse products and by-products, and materials, equipment and supplies used in the manufacture and distribution of the aforementioned commodities* between Green Bay, WI on the one hand and, on the other hand, all points in the U.S., under continuing contract(s) with Packerland Packing Company, Inc., Green Bay, WI. Corresponding ETA seeks 120 days of authority. Supporting shipper: Packerland Packing Company, Inc., 2580 University Avenue, Green Bay, WI 54305.

MC 116519 (Sub-4–5TA), filed October 22, 1980. Applicant: FREDERICK TRANSPORT LTD., R. R. 6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, 1511 K Street, NW, Suite 733 Investment Bldg., Washington, DC 20005. *Such commodities* as are dealt in or used by agricultural equipment dealers (except commodities in bulk), from Albany, GA, Kewanee and Bloomington, IL, Hopkins, Green Isle, and Glencoe, MN, Stratton, NE, Fulton, MO, Dewey, OK, Athens, TN, Lockeney, TX, Brillon, Broadhead and New Holstein, WI, to ports of entry on the U.S.-Canada boundary line located in MI and NY, restricted (1) to traffic moving in foreign commerce, and (2) to traffic destined to the facilities and/or dealers of Allied Farm Equipment (Canada), Limited, in the Provinces of Ontario, Quebec, Prince Edward Island, Nova Scotia, New Brunswick, and Newfoundland, Canada. Supporting Shipper: Allied Farm Equipment (Canada) Ltd., P.O. Box 910, St. Mary's, Ontario, Canada N0M 2V0.

MC 150049 (Sub-4–5), filed October 22, 1980. Applicant: JAMES RESSLER, 300 East Turnpike Ave., Bismark, ND 58501. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract;* Irregular: *Lumber, Lumber Products, Wood Products and Forest Products,* from WA, OR, ID, and MT, to points in MN and WI. An underlying ETA seeks 120 days authority. Under a contract(s) with Lyman Lumber Co. and Sage Cedar Distribution Center. Supporting shipper(s): Lyman Lumber Company, Box 40, Excelsior, MN 55331 and Sage Cedar Distribution Center, Inc., Box 40, Excelsior, MN 55331.

MC 103993 (Sub-4–22TA), filed October 22, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: JAMES B. BUDA (Same Address As Applicant). *Lumber and wood products and building materials,* between Winnebago County, WI; Baltimore, MD, and points in WA, ID, and CA, on the one hand, and, on the other, points in IL, MI, and OH. Supporting Shipper: Forrest City, Cleveland, OH 44130.

MC 118612 (Sub 4–5 TA), filed October 20, 1980. Applicant: COLUMBIA TRUCKING, INC., 700—131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. *Petroleum or coal products (STCC 29)* from La Porte County, IN to IL. Supporting shipper: Fluids Engineering Corp. 2500 New York Avenue, Whiting, IN 46394.

MC 135410 (Sub 4–14TA), filed October 21, 1980. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, P.O. Box 266, North 6th St. Rd., Monmouth, IL. 61462. Representative: Daniel O Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *(1) Electro plating and metal finishing materials, equipment and supplies and (2) cleaning compounds and phosphates* (except commodities in bulk), from the facilities of Oxy Metal Industries Corporation at Morenci and Warren, MI to points in the U.S. in and east of ND, SD, NE, CO, OK and TX. (Representative destination: Cleveland and Cincinnati, OH, Mt. View, NJ, St. Louis, MO, Elmhurst, IL, Atlanta, GA and Dallas, TX.) Supporting shipper: Oxy Metal Industries Corporation, 21441 Hoover Road, Warren, MI 48089.

MC 149170 (Sub 4–21TA), filed October 21, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *General Commodities* (Except Household Goods as Defined by the Commission, Commodities in Bulk, and Classes A & B Explosives) Between points in AL, CA, IN, IA, IL, KY, LA, MN, ND, MT, OH, PA, TX, WA, OR, ID and WI. Supporting shipper: Super Valu Stores, Inc., 101 Jefferson Ave., South, Hopkins, MN 55343.

Note.—This application may involve common control.

MC 90870 (Sub-4–5TA), filed October 21, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route—1284, Granite City, IL 62040. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *CONSTRUCTION MATERIALS AND SUPPLIES* between St. Charles County, MO and points in IA, IL, IN and MO. Supporting shipper: Husband Contracting, 403 Roberta, St. Charles, MO 63301.

MC 133689 (Sub-4–31TA), filed October 22, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *(1) Animal and poultry feed, feed ingredients and animal health products, and (2) materials, supplies and equipment used in the manufacture and distribution of commodities in (1) above* (except commodities in bulk), between the facilities of International Multifoods at or near Portland, Indiana, on the one hand, and points in and east of ND, SD, NE, CO and NM. An underlying ETA seeks 120 days authority. Supporting

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shipper: International Multifoods, 1200 Multifoods Building, 8th & Marquette Avenue, Minneapolis, MN 55402.

MC 133689 (Sub-4–32TA), filed October 22, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Sugar,* between Renville, Moorhead, E, Grand Forks, Chaska, Crookston, Minneapolis-St. Paul, MN and Drayton, ND on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: American Crystal Sugar, 101 N. 3rd St., Moorhead, MN 56560.

MC 124078 (Sub-4–41TA), filed October 20, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Fly ash and bottom ash,* from Person County, NC to points in VA. Supporting shipper: Austin H. Morgan, Jr., Vice President, Mid-Atlantic Region, Monier Resources, Inc., 2708 Church Street, Greensboro, NC 27405.

MC 142268 (Sub-4–4TA), filed October 23, 1980. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada N0R1G0. Representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, DC 20036. *Alcoholic beverages, wines and cordials,* except in bulk, from points in the U.S. (except AK and HI), to the facilities of Lone Star Company, Quality Beverage Co., Inc., and Julius Schepps Wholesale Liquors, in the State of Texas. Supporting shippers: Lone Star Company, Dallas, TX, Quality Beverage Co., Inc., Houston, TX, and Julius Schepps Wholesale Liquors, Dallas, TX.

MC 110988 (Sub-4–52TA), filed October 23, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Commodities* as are dealt in, or used by, manufacturers and distributors of emulsifiers between Milton, WI and points in the U.S. (except WI). Supporting shipper: Tomah Products, Milton, WI 53563.

MC 142888 (Sub-4–2), filed October 23, 1980. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Paper bags,* from Hazelwood, MO to Peoria, IL. An underlying ETA seeks 120 days authority. Supporting shipper: T. J. O'Brien, Inc., 1610 West Altorfer Drive, Peoria, IL 61615.

MC 95876 (Sub-4–6TA), filed October 22, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (Same as applicant). *Carbon electrodes* from Columbia, TN to Beaumont, TX. Supporting shipper: Georgetown Texas Steel Corporation, P.O. Box 1349, Beaumont, TX 77704.

MC 152158 (Sub-4–TA), filed, October 22, 1980. Applicant: WALLACE E. SHEFLAND, d.b.a. WALLY SHEFLAND TRUCKING, 730 Florence Street, Baldwin, WI 54002. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract:* Irregular: *Agricultural machinery, implements, and parts; and materials, equipment and supplies used in the manufacture thereof,* between points in the U.S. under continuing contracts with Hedlund Manufacturing Company, Inc., Boyceville, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Hedlund Manufacturing Co., Inc., Boyceville, WI.

MC 152306 (Sub-4–1), filed October 23, 1980. Applicant: COTTER & COMPANY, 2740 Clybourn Ave., Chicago, IL 60614. Representative: Homer L. Clark, 7600 Jonesboro Rd., Jonesboro, GA 30236. *Single strength juice from citrus and fruit and citrus byproducts.* From various points in FL to various points in GA, AL, TN, and SC. Supporting shipper: General Produce, Bldg "F", Georgia State Farmers Market, Forest Park, GA. 30050.

MC 127840 (Sub-4–7), filed September 23, 1980. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Transporting chemicals, in bulk, in tank vehicles,* from Magnolia, AR to Paterson, NJ. Supporting shipper: Mason Chemical Company, 5253 West Belmont Ave., Chicago, IL 60641.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–60TA), filed October 20, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Clothing, wearing apparel, and related articles and accessories,* between Hudson County, NJ, on the one hand, and, on the other, Grand Rapids, MI. Restricted to shipments originating at or destined to facilities used by K Mart, its suppliers, affiliates, or vendors. Supporting shipper: K Mart Apparel Corporation, 7373 West Side Ave., North Bergen, NJ 07047.

MC 200 (Sub-5–61TA), filed October 20, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Bracing, bulkheads, or fiberboard, or paper and bracing, blocks, or panels, fiberboard, paper or corrugated,* between the facilities of Down River Forest Products, at or near Waco, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and OK. Restricted to shipments originating at or destined to facilities used by Down River Forest Products, its affiliates, suppliers, or vendors. Supporting shipper: Down River Forest Products, 7201 Imperial, Waco, TX 76710.

MC 200 (Sub-5–62TA), filed October 20, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between Bergen County, NJ, on the one hand, and, on the other, Milwaukee County, WI. Restricted to shipments originating at or destined to facilities used by J.C. Penney Co., its affiliates, suppliers, and vendors. Supporting shipper: J.C. Penny Co., 1301 Ave. of Americas, New York, NY 10019.

MC 29910 (Sub-5–55), filed October 20, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Lawrence, KS as an intermediate point in connection with applicant's regular route operations between Kansas City and Salina, KS. Supporting shipper: There are five supporting shippers.

Note.—Applicant intends to tack and interline.

MC 31879 (Sub-5–1TA), filed October 20, 1980. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Avenue, North Kansas City, MO 64116. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in IA and Rock Island County, IL and between points in IA and Rock Island County, IL, on the one hand, and, on the other, points in MO, KS, NE, points in Boone and Carroll Counties, AR; Lee County, IA: Weld, Adams, Denver, Jefferson, Douglas, El Paso, Fremont, Pueblo, Huerfano, Las Animas, Logan, Sedgwick, Phillips, Morgan, Washington, Yuma, Arapahoe, Elbert, Lincoln, Kit Carson, Cheyenne, Crowley, Kiowa, Otero, Benton, Prowers and Baca Counties, CO; Laramie and Goshen Counties, WY; points in IL within the St. Louis, MO-East St. Louis, IL commercial zone as defined by the Commission, and those in Cooke, Kane, DuPage, Rock Island and Will Counties, IL, those points in that part of IL bounded on the west by the Mississippi River, and on the east, north and south by a line beginning at Chester, IL and extending along IL Hwy. 150 to Junction IL Hwy. 154, then along IL Hwy. 154 to Junction U.S. Hwy. 51, then along U.S. Hwy. 51 to junction IL Hwy. 15, then west along IL Hwy. 15 to junction IL Hwy. 127, then north along IL Hwy. 127 to junction U.S. Hwy. 50, then east along U.S. Hwy. 50 to junction U.S. Hwy. 51, then north along U.S. Hwy. 51 to Decatur, IL, then west along U.S. Hwy. 36 to Springfield, IL, then along combined IL Hwys. 36 and 54 to junction U.S. Hwy. 36, and then along U.S. Hwy 36 to the Mississippi River, including points on the indicated portions of the highways specified, and those points in that part of NM in and on a line beginning at the northwest corner of Colfax County NM, at the CO-NM state line and extending along the western boundary of Colfax County to the western boundary of Mora County, then along the western boundary of Mora County to the boundary of Santa Fe County, NM, then in a northerly and westerly direction along the Santa Fe County boundary to the boundary of Los Alamos County, NM, then in a northerly and westerly direction along the Los Alamos County boundary until that boundary meets the Santa Fe County boundary at the southern tip of Los Alamos County, then along the Santa Fe County boundary to junction combined U.S. Hwy 85 and Interstate Hwy. 25, then along combined U.S. Hwy 85 and Interstate Hwy 25 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the NM-TX state line, and then along the NM State line in a northerly and westerly direction to the point of beginning. Restriction: The service authorized above is subject to the following conditions. The authority granted above is restricted against the transportation of parcels, packages or articles weighing in the aggregate more than 200 pounds from any one consignor, at any one location, to any one consignee, at any one location, on any one day. The authority granted above is restricted against the transportation of any single parcel, package or article weighing more than 100 pounds. Supporting shipper: There are 111. Applicant intends to interline.

Note.—Applicant currently conducts operations between all points in the destination territory described in paragraph B above. The only new authority sought involved points in Iowa and Rock Island County, IL.

MC 35320 (Sub-5–36), filed October 20, 1980. Applicant: T.I.M.E.-DC, Inc., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Grand Rapids, MI, and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting shippers: 5.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 35320 (Sub-5–37TA), filed October 20, 1980. Applicant: T.I.M.E.-DC, Inc., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Indianapolis, IN, and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting shippers: Ayr-Way Stores, Inc., 8250 Zionsville Rd., Indianapolis, IN. Hoechst-Roussell Pharmaceutical, 7951 Zionsville Rd., Indianapolis, IN. Silver Burdett Company, 4200 N. Industrial Blvd., Indianapolis, IN. Spaulding Distribution Center, 5427 W. 84th Street, Indianapolis, IN.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 48221 (Sub-5–3TA), filed October 20, 1980. Applicant: W.N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Beverages,* (1) from Cincinnati, OH and Janesville, WI to Omaha and Lincoln, NE and (2) from Milwaukee, WI to Lincoln, NE. Supporting shippers: Nebraska Distributing Company, 211 Walnut Street, P.O. Box 3306, Omaha, NE 68103; Citi-Sales, Inc., 400 West Industrial Lake Drive, P.O. Box 83311, Lincoln, NE 68501; and B and J Enterprises, Inc., d/b/a State Distributing, P.O. Box 80117, Lincoln, NE 68501.

MC 53965 (Sub-5–5), filed October 20, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 838, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Descriptions on Motor Carrier Certificates, 61 MCC 209 and 766, except in bulk,* from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in and west of MI, OH, KY, MO, AR, and LA. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 60066 (Sub-5–5), filed October 20, 1980. Applicant: BEE LINE MOTOR FREIGHT, Inc., 1804 Paul Street, Omaha, NE 68102. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *General commodities (except commodities in bulk, house trailers, mobile homes and prefabricated buildings by truckaway method)* (1) between points within the area beginning at the junction of NE Hwy 15 and 41, then east on NE Hwy 41 to its junction with NE Hwy 50, then north on NE Hwy 50 to its junction with NE Hwy 92, then west of NE Hwy 92 to its junction with NE Hwy 15, then south on NE Hwy 15 to the place of beginning: and (2) between points within the area described in (1) above, on the one hand, and, on the other, all points in NE. Tacking with applicant's regular route authority is intended. Supporting shippers: 7.

MC 100666 (Sub-5–9), filed October 20, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address). *Magazines, books, catalogs, periodicals and newspaper inserts* between facilities of Wisconsin Cuneo Press, Inc. in Milwaukee County, WI, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Wisconsin Cuneo Press, Inc., 5400 W. Good Hope Road, Milwaukee, WI 53223.

MC 107496 (Sub-5–35TA), filed October 20, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Dry sugar, in bulk,* from Reserve, LA, to points in AL, AR, FL, GA, IL, IA, KY,

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MS, MO, NC, OH, OK, SC, TN, TX, VA, WI, WV, IN, KS, MI, and NE. Supporting shipper: Godchaux-Henderson Sugar Co., Inc., P.O. Drawer AM, Reserve, LA 70084.

MC 107496 (Sub-5–36TA), filed October 20, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moies, IA 50309. Representative: E. Check, Attorney, 666 Grand Avenue, Des Moines, IA 50309. *Caustic soda,* from Two Rivers, WI, to points and places in the state of IL. Supporting shipper: U.S. Oil Company, P.O. Box 25, Combined Locks, WI 54113.

MC 107496 (Sub-5–37TA), filed October 20, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, 666 Grand Avenue, Des Moines, IA 50309. *Dry sugar, in bulk,* from Mathews, LA to Robinson, IL. Supporting shipper: L. S. Heath & Sons, P.O. Box 679, Robinson, IL.

MC 108207 (Sub-5–38TA), filed October 20, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Animal feed supplements (except in bulk),* in mechanically refrigerated equipment, from Story County, IA, to points in TX and OK. Supporting shipper: Norman Nossaman Agricultural Consultants, 13411 Rolling Hills Lane, Dallas, TX 75240.

MC 109397 (Sub-5–22TA), filed October 20, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *(1) Building materials, and (2) equipment, materials and supplies used in the manufacture, sale, distribution and handling of (1) above,* between Harrison County, MS, on the one hand, and, on the other, points in the U.S. Supporting shipper: Confederate Building Supply, Inc., P.O. Box 3201, Gulfport, MS 39503.

MC 109397 (Sub-5–23), filed October 20, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *(1) Primary metal products; including galvanized; except coating or other allied processing; (2) fabricated metal products; except ordnance, machinery or transportation equipment: (3) machinery and supplies;* between Shelby County, TN, on the one hand, and, on the other, points in the U.S. Supporting shippers: 6.

MC 111231 (Sub-5–14), filed October 20, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same as applicant). *Prefabricated horse stalls, equipment, material and supplies used in the manufacture of same,* between Adams County, NE on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Alumco Manufacturing Inc., Hastings Industrial Park East, Building #2, Hastings, NE 68901.

MC 112713 (Sub-5–20TA), filed October 20, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: John M. Records, P.O. Box 7270, Overland Park, KS 66207. *Building materials and plant food,* between points in the states of AL, AZ, AR, CA, CO, FL, GA, IL, KS, KY, LA, MD, MA, MI, MN, MO, MS, NE, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, WA and WI, on the one hand, and, on the other, points in the U.S. Supporting shipper: W. R. Grace & Co., Construction Products Division 62 Whittemore Avenue, Cambridge, MA 02140.

MC 113651 (Sub-5–26TA), filed October 20, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific Street, Oak Park Office Building, Suite 210B, Omaha, NE 68114. *Iron and steel articles, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209,* between points in Columbia County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Berwick Forge & Fabricating Division, Whittaker Corporation, P.O. Box 188, West Ninth Street, Berwick, PA 18603.

MC 124774 (Sub-5–4TA), filed October 20, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Such commodities as are dealt in by chain grocery stores,* from Chicago, IL and Kansas City, MO and their respective Commercial Zones to Douglas County, NE. Supporting shipper: Hinky Dinky Supermarkets, 4206 South 108th Street, Omaha, NE 68137.

MC 126822 (Sub-5–30TA), filed October 20, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* between points in the U.S. restricted to the transportation of shipments from, to, or between the facilities of Camerican International, Inc. Supporting shipper: Camerican International, Inc., 260 Madison Avenue, New York, NY 10016.

MC 128883 (Sub-5–6TA), filed October 20, 1980. Applicant: NORTH IOWA EXPRESS, INC., 1921 N.E. 58th Avenue, Des Moines, IA 50316. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *General commodities, except Class A and B explosives, household goods, commodities in bulk and commodities requiring special equipment* between Minneapolis-St. Paul, MN, and its commercial zone on the one hand, and, on the other, points in IA. Applicant intends to interline and join the subject authority with its present operations. Supporting shippers: 6.

MC 134922 (Sub-5–4TA), filed October 20, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Traffic Manager (same as above). *Foodstuffs (except commodities in bulk, in tank vehicles),* from Shelby County, TN to points in the U.S. (except AK and HI.) Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 135797 (Sub-5–77TA), filed October 20, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Automobile parts,* between points in FL, LA, GA, OK, AL, and TN on the one hand, and, on the other, points in MI. Supporting shipper: Fred Jones Manufacturing Company, 900 West Main, Oklahoma, OK 73106.

MC 135797 (Sub-5–78TA), filed October 20, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (address same as applicant). *Alumina, calcined or hydrated,* between points in AR on the one hand, and on the other, points in OK. Supporting shipper: Organon Teknika, 5300 South Portland, Oklahoma City, OK 73144.

MC 135997 (Sub-5–2TA), filed October 20, 1980. Applicant: TEXAS TANK LEASING, INC., Route 5, Box 99, Conroe, TX77301. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Air Pollution Devices* from the facilities of Conservatek, Inc. in Montgomery County, TX to all points in the U.S. Supporting shipper: Conservatek, Inc., P.O. Box 1678, Conroe, TX 77301.

MC 138469 (Sub-5–24TA), filed October 20, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Glass and glass products,* between Sherman, TX, and Rossford, OH. Supporting shipper: Libby-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 138627 (Sub-5–5TA), filed October 20, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Roofing materials and supplies,* from Phillipsburg, KS, to points in the U.S. Supporting shipper: Tamko Asphalt Products, Inc., 220 West Fourth, Joplin, MO 64801.

MC 140033 (Sub-5–9TA), filed October 20, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Foodstuffs (except in bulk, in tank vehicles),* from Chatsworth, CA to points in the states of CO, GA, KY, MO, NM, OH, OK and TX. Supporting shipper: Serv A Portion, Inc., 9140 Lurine Avenue, Chatsworth, CA 91311.

MC 141108 (Sub-5–5TA), filed October 20, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, Ltd., P.O. Box 279, Ottumwa, IA 52501, telephone: 515–682–8154. *Materials, equipment, and supplies used in the manufacture, sale and distribution of office equipment,* From points in IL, IN, MO, OH, PA, and WV to Muscatine, IA Supporting shipper: Hon Company, 200 Oak Street, Muscatine, IA 52761.

MC 144678 (Sub-5–5), filed October 20 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey, American Freight System, Inc., 9393 West 110th Street, Overland Park, KS 66210. *Common:* Regular. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Chattooga, Floyd, Polk, Gordon, and Bartow Counties, GA as off route points in connection with carrier's otherwise authorized, regular route service. Supporting shippers: 7. Applicant intends to tack with existing authority. Applicant intends to interline.

MC 147196 (Sub-5—15TA), filed October 20, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. *Contract:* Irregular. *Cleaning Compounds, Detergents, Waxes and Toilet Articles,* between Floyd County, IN, on the one hand, and, on the other, the 48 states under a continuing contract or contracts with Colgate Palmolive Company, Jeffersonville, IN. Supporting shipper: Colgate Palmolive Company, P.O. Box 9, Jeffersonville, IN 47130.

MC 147348 (Sub-5–3), filed October 20, 1980. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Building, Little Rock, AR 72201. *(1) Household appliances, (2) Television sets and recorders (tape or wire) and (3) Parts and accessories for household appliances, television sets and recorders,* from the facilities of General Electric Company, in Little Rock, AR to all points in TX. Supporting shipper: General Electric Company, Little Rock, AR.

MC 148591 (Sub-5–1TA), filed October 20, 1980. Applicant: KILE TRANSFER CORP., 4600 78th Street, Des Moines, IA 50324. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *General commodities, except Class A and B explosives, household goods, commodities in bulk and commodities requiring special equipment,* between Des Moines, IA, on the one hand, and, on the other, Osceola, Corning, and Creston, IA, from Des Moines, IA, over U.S. Highway 65 to U.S. Highway 34 then to Corning, IA, and return over the same route. Applicant intends to interline traffic and join the requested authority with its present regular route operations. Supporting shippers: 12.

MC 148833 (Sub-5–4TA), filed October 20, 1980. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat products* from the facilities of Carl Buddig, Inc. at South Holland, IL, to points in WA, OR, CA, ID, NV, MT, WY, UT, CO, AZ, NM and TX. Supporting shipper: Carl Buddig, Inc., 50 West Taft, South Holland, IL.

MC 148972 (Sub-5–2TA), filed October 20, 1980. Applicant: EDWARD J. WHALEN, d.b.a. WHALEN TRUCK SERVICE, R.R. 2, Auxvasse, MO 65231. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Coal,* between points in MO, IL, and IA. Supporting shipper: Wyoming Fuel Company, P.O. Box 15265, Lakewood, CO 80215.

MC 151768 F (Sub-5–5TA), filed October 20, 1980. Applicant: ARM TRANSPORTATION CORP., P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, Att'y., Quaintance & Swanson, P.O. Box 1103, Sioux Falls, SD 57101. *Inedible meat by-products* (except in bulk, in tank vehicles) between the facilities of Consolidated Pet Foods, Inc., on the one hand, and, on the other, points in the U.S. Supporting shipper: Consolidated Pet Foods, Inc., P.O. Box 30488, Amarillo, TX 79120.

MC 51983 (Sub-5–2TA), filed October 20, 1980. Applicant: DAVID REYNOLDS d.b.a. REYNOLDS FEED & SEED, 200 E. Front Street, Runge, TX 78151. Representative: Same as applicant. *Contract;* irregular; *fertilizer grade ortho phosphoric acid (in bulk as a liquid in tank type vehicles),* from points in Saint Charles Parish, LA, to points in Hinds County, MS. Supporting shipper: Southeastern Chemical, Inc., No. 7 Lakeland Circle, Suite 600, Jackson, MS 39216.

MC 152260 (Sub-5–1TA), filed October 20, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Contract,* irregular. *Printed matter,* and *materials, equipment and supplies used by printing companies,* between points in the U.S., except AK and HI, under continuing contract(s) with World Color Press, Inc. of Effingham, IL. Supporting shipper: World Color Press, Inc., P.O. Box 1248, Effingham, IL 62401.

MC 152263 (Sub-5–1TA), filed October 20, 1980. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, FAIN & FAIN, Attorneys, 333 Madison Street, Jefferson City, MO 65101. *Contract;* irregular. *Fabricated metal products; except ordinance, machinery and transportation equipment* from the facilities of Progressive Fabricators, Inc., St. Louis, MO, to Winchester, KY; West Point, MS; New Rhoads, LA; Mesa, AZ; and Littleton, CO. Supporting witness: Robert Spehn, Vice President, Progressive Fabricators, Inc., 6880 North Broadway, St. Louis, MO 63147.

MC 152269 (Sub-5–2TA), filed October 20, 1980. Applicant: HOWARD W. LESTER, INC., 308 N. Jefferson, Indianola, IA 50125. Representative: Douglass Blakely (same address as above). *Commodities, the transportation of which, because of their size or weight, require special handling or the use of special equipment, and materials, equipment or supplies used in the construction industry,* between points in IA and IL, on the one hand, and, on the other, points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR,

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LA, WI, IL, MI, IN, KY and OH. Supporting Shippers: 12.

MC 152270 (Sub-5–1TA), filed October 20, 1980. Applicant: CARSON CARRIERS OF DALLAS, INC., 3422 Gilbert Road, Grand Prairie, TX 75050. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. *Construction equipment and machinery, forklifts and machine tools,* between points in Dallas County, TX, on the one hand, and, on the other, points in MI and KY, and points in and south of AZ, CA, AR, NM, NC, OK, and TN. Supporting Shippers: Shaw Equipment Company, Box 225687, Dallas, TX 75265; Powrlift Corporation, 1400 S. Walton Walker, Irving, TX 75060.

MC 29910 (Sub-5–56), filed October 21, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. *Building materials,* between Austin, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting Shipper: Howard Systems Corp: P.O. Box 6308; Austin, TX 78762.

MC 35320 (Sub-5–38), filed October 22, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). *Common,* regular. *General Commodities, except household goods as defined by the Commission and Classes A and B explosives,* serving Wichita Falls, TX and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting Shippers: Seven.

Note.—Applicant intends to tack and interline.

MC 102567 (Sub-5–13TA), filed October 22, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, Vice President—Traffic, 13403 Northwest Fwy.—Suite 130, Houston, TX 77040. *Caprolactam, in bulk, in tank vehicles,* from Augusta, GA to Laredo, TX. Supporting shipper: Trafpak, U.S.A., Inc., 2000 West Loop South, Suite 1800, Houston, TX 77027.

MC 121658 (Sub-5–8TA), filed October 22, 1980. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy Street, Winnsboro, LA 71295. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. Common; regular *general commodities* (except household goods, Classes A and B explosives) between Monroe, LA and Houston, TX. From Monroe over U.S. Hwy 165 to junction U.S. Hwy 90 and I. 10, then over U.S. Hwy 90 and I. 10 to Houston and return over the same route, serving all intermediate points and points within the commercial zones of Houston and Beaumont, TX. Supporting shippers: 58.

Note.—Such authority to be tacked with Applicant's existing authority.

MC 124236 (Sub-5–11TA), filed October 22, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as above). *Cement* between LA and TX. Supporting shipper: Ideal Basic Industries, Inc., Cement Division, 950 17th Street, Denver, CO 80202.

MC 124236 (Sub-5–12TA), filed October 22, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as above). *Lime, in bulk,* From the plant site of Pelican State Lime at Amelia, LA, to TX, AR, and MS. Supporting shipper: Pelican State Lime Division, SI Lime Company, P.O. Box 1637, Morgan City, LA 70381.

MC 134467 (Sub-5–13 TA), filed October 22, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *(1)(a) Foodstuffs (except in bulk) and (b) such merchandise as is dealt in by retail, gift, and curio shops and catalog • distribution centers (except in bulk),* from the facilities of The Swiss Colony at Monroe and Madison, WI, to points in the United States (except AK and HI), and *(2)(a) Foodstuffs (except in bulk); (b) such merchandise as is dealt in by retail, gift, and curio shops and catalog distribution centers (except in bulk), and (c) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above (except in bulk),* from points in the United States (except AK and HI), to the facilities of The Swiss Colony at Madison and Monroe, WI. Supporting shipper: The Swiss Colony, 1112 7th Ave., Monroe, WI 53566.

MC 134922 (Sub-5–5 TA), filed October 22, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Traffic Manager, Route 6, Box 15, North Little Rock, AR 72118. *Foodstuffs, NOI,* from the facilities of Southern Food Corporation located in Los Angeles, CA to points in CA, ID, OR, UT and WA. Supporting shipper: Southern Foods, 5353 Downey, Vernon, CA 90058.

MC 135078 (Sub-5–9 TA), filed October 22, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Non-Exempt Food or Kindred Products (STCC Code No. 20)* between points in the U.S. Supporting shipper: Prairie Creek Commodities Corp., 103 Allen Drive, P.O. Box 143, Allen, TX 75002.

MC 135797 (Sub-5–79 TA), filed October 22, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (address same as applicant). *General commodities (with the usual exceptions),* between Oklahoma County, OK and points in the United States (except AK and HI). Supporting shipper: Robertson Home Products, 3232 West Reno, Oklahoma City, OK 73108.

MC 135797 (Sub-5–80TA), filed October 22, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Chemicals and products used in the manufacture of caulking compounds,* Between points in TX on the one hand, and on the other, points in OK. Supporting shipper: Macklanburg-Duncan Company, 4041 No. Santa Fe, Oklahoma City, OK 73118.

MC 138469 (Sub-5–25TA), filed October 21, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Printed matter,* from Amarillo and Dallas TX, and Lincoln, NE, to the facilities of Criss-Cross Numerical Directory, Inc. at Oklahoma City, OK. Supporting shipper: Criss-Cross Numerical Directory, Inc., 4700 N.W. 25th, Oklahoma City, OK 73127.

MC 143594 (Sub-5–6TA), filed October 22, 1980. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Chemicals,* in bulk, from Nashville, TN to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Stauffer Chemical Company, Westport, CT 06880.

MC 144170 (Sub-5–1TA), filed October 22, 1980. Applicant: NATIONWIDE TRUCK LINES, INC., P.O. Box 609, Ennis, TX 75119. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Bakery products (not frozen)* from Marietta, OK and Louisville, KY to all points in CA, WA, OR, NV, NM, TX, OK, AR, LA, AZ, CT, GA, ID, KS, KY, ME, MD, MN, MS, MO, MT, NE, NY, NC, OH, PA, RI, SC, UT, VT, WV, WI, WY, VA, AL, DE, IL, IN, MA, MI, NH, NJ, and TN. Supporting shipper: Little Brownie Bakers, P.O. Box 249, Marietta, OK 73448.

MC 144416 (Sub-5–1), filed October 22, 1980. Applicant: C. F. McGRAW, P.O. Box 498, Garden City, KS 67846. Respresentative: HERBERT ALAN DUBIN, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS to points in and west of MT, WY, CO, OK, AR, and LA. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 144682 (Sub-5–10TA), filed October 21, 1980. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Foodstuffs (except commodities in bulk),* from the facilities of the American Home Food Corp. located at or near Vacaville, CA to points in the states of MT, NM, OR, UT and WA. Supporting shipper: American Home Foods Corp., 685 Third Ave., NY, NY, 10017.

MC 146078 (Sub-5–17TA), filed October 22, 1980. Applicant: CAL-ARK, INC, 864 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Cleaning, washing, and scouring compounds for household uses,* from the facilities of the Purex Corporation in Dallas, TX; Jefferson, LA; and St. Louis, MO, to all points and places in AR, OK, LA, TX, MS, and TN. Supporting shipper: Purex Corporation, 9300 Rayo Avenue, Southgate, CA 90280.

MC 146448 (Sub-5–12TA), filed October 22, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Polydoroff and Miller, P.C., Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Tile and commodities used in the distribution and installation of tile (except commodities in bulk)* from Chicago, IL to points in AL, AR, FL, GA, KY, LA, OK, MS, MT, NC, SC, TN and TX, restricted to shipments originating at facilities of Kentile Floors, Inc. Supporting shipper: Kentile Floors, Inc., 58 Second Avenue, Brooklyn, NY 11215.

MC 146517 (Sub-5–1TA), filed October 22, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N. W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Contract, irregular; general commodities (except household goods as defined by the Commission, Commodities in bulk, Commodities of unusual value, Classes A and B explosives, and Commodities requiring special equipment)* Between all points in the United States (except AK and HI) under continuing contract with Dow Chemical, U.S.A., Texas Division, Freeport, TX.

MC 150215 (Sub-5–2TA), filed October 22, 1980. Applicant: LARRY H. BURLESON, d.b.a., BURLESON DISTRIBUTORS, 2020 N. 9th Street, St. Louis, MO 63102. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. No. 314–727–0777. Contract Irregular *Plastic Products and Materials and Supplies used in the manufacture thereof,* between points in places in the U.S., except AK and HI. Supporting shipper(s): I.T.L. Industries, P.O. Box 877, Newark, OH 43055.

MC 152069 (Sub-5–1TA), filed October 22, 1980. Applicant: C & M TRUCKING COMPANY, 2862 Brenner Drive, Dallas, TX 75220. Representative: William Sheridan, 1025 Metker, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *drugs, medicines, cosmetics, plastic boxes, weed killing compounds, herbicides and animal or poultry feed supplements, materials, equipment and supplies used in the manufacture, distribution and production of the commodities named above (except commodities in bulk),* Between the facilities of Eli Lilly and Company, Farmers Branch-Dallas, TX and points in AR, CO, KS, LA, MO, NM and OK. Supporting shipper: Eli Lilly and Company, 4404 Beltwood Parkway, Farmers Branch, TX 75234.

MC 152292 (Sub-5–1TA), filed October 22, 1980. Applicant: SUNBELT EXPRESS, INC., 3129 Robin Hill Lane, Dallas, TX 75042. Representative: Jack Kennedy, P.O. Drawer 5049, Irving, TX 75062. *Alcoholic liquor or wine* from CA to TX. Supporting shipper: Glazer Wholesale Drugs Company, Inc., 508 Park Avenue, Dallas, TX 75201.

MC 61440 (Sub-5–9TA) (Republication), filed September 15, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *General commodities (except household goods as defined by the Commission and Classes A & B explosives.* Between points in St. Louis County, MO, on the one hand, and, on the other, points in GA, IA, LA, MS and TN, restricted to traffic moving for the account of Japco Manufacturing Company. Support shipper: Japco Manufacturing Company, 11534 Adie Road, Maryland Hgts., MO 63043.

MC 200 (Sub-5–63TA), filed October 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Insulated copper wire on reels, spools, and cartons,* between Los Angeles County, CA and San Bernardino County, CA, on the one hand, and, on the other, Denver County, CO and Providence County, RI. Restricted to shipments originating at or destined to the above named points. Supporting shipper: Collyer Insulated Wire, 100 Higginson Ave., Lincoln, RI 02865.

MC 29910 (Sub-5–57TA), filed October 23, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Common, Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Ponca City, OK as an off-route point in connection with carriers regular route operations at Tulsa, OK. Applicant intends to tack and interline. Supporting shipper: There are eight supporting shippers.

MC 29910 (Sub-5–59TA), filed October 24, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. *Foodstuffs and supplies and equipment used in the manufacture, processing, or distribution thereof,* between Cowley and Sedgewick Counties, KS, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Kansas Food Packers, Inc., 608 Burton Avenue, Wichita, KS 67213.

MC 29910 (Sub-5–60TA), filed October 24, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. *Meats, meat products and articles distributed by meat packing houses,* between Barton, Sedgewick and Shawnee Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Thies Packing Co., Inc.; South Main Street, Great Bend, KS.

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MC 29910 (Sub-5-58TA), filed October 24, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Common, Regular. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Fort Collins, CO as an off-route point in connection with applicant's regular route operations at Denver, CO. Applicant intends to tack and interline. Supporting shippers: Teledyne Water Pik, 1730 E. Prospect Street, Fort Collines, CO 80525.

MC 30844 (Sub-5-25TA), filed October 24, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Paints and paint products, and such materials and supplies as are used or dealt in by manufacturers and distributors of paints and paint products,* between Newark, NJ; Gallatin, TN and Elk Grove Village, IL and all points and places in the contiguous 48 states, restricted to shipments originating at or destined to the facilities of John L. Armitage Co. Supporting shipper: John L. Armitage Co., 140 Thomas St., Newark, NJ 07114.

MC 30844 (Sub-5-26TA), filed October 24, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Nonexempt food or kindred products* between points in Mecklenburg County, NC on the one hand, and, on the other, points in and east MT, WY, UT and AZ, restricted to shipments originating at or destined to facilities of H. J. Heinz Co. Supporting shipper: Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 30844 (Sub-5-27TA), filed October 24, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, 4616 E. 67th Street, Tulsa, OK 74121. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Sprinklers and Lawn Care Products; and (2) Materials and supplies used in the manufacture of sprinklers and lawn care products,* between Moonachie, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Melnor Industries, 1 Carol Place, Moonachie, NJ 07074.

MC 68100 (Sub-5-1TA), filed October 23, 1980. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Nate Bonham, Jr. (same as applicant). *Tile and Materials and Supplies used in the manufacture thereof,* between the facilities of National Tile Industries, Inc. at or near Shawnee, OK, on the one hand, and points in AR, CO, KS, LA, MO, NM and TX, on the other. Supporting shipper: National Tile Industries, Inc., 706 West Independence, Shawnee, OK.

MC 100449 (Sub-5-5TA), filed October 23, 1980. Applicant: MALLINGER TRUCK LINE, INC., R. R. 4, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C to Appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS, to points in and west of MI, OH, KY, MO, AR, and LA. Restricted to the traffic originating at the named origin points and destined to the named destination states. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68701.

MC 113908 (Sub-5-24TA), filed October 24, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Fertilizer, de-icer, cat letter and kindred products, (non-exempt farm products; pulp, paper, or allied products; chemicals or allied products; petroleum or coal products; hazardous materials; general commodities) (except household goods as defined by the Commission and classes A & B explosives),* between Viroqua, (Vernon County), WI, on the one hand, and, on the other, points in AL. Supporting shipper: Howard B. Johnson Enterprises, Inc., P.O. Box 67, Viroqua, WI 54665.

MC 113908 (Sub-5-25TA), filed October 24, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Fertilizer, de-icer, cat litter and kindred products, (non-exempt farm products, pulp, paper or allied products; chemicals or allied products: petroleum or coal-products; hazardous materials; general commodities) (except household goods as defined by the Commission and classes A and B explosives),* Between Viroqua, (Vernon County), WI, on the one hand, and, on the other, points in MD. Supporting shipper: Howard B. Johnson Enterprises, Inc., P.O. Box 67, Viroqua, WI 54665.

MC 114273 (Sub-5-33TA), filed October 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, corporate counsel (same as above). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)* between points in MN and WI, on the one hand, and, on the other, Cedar Rapids, IA (and is commercial zone) and points in MO. Restricted to traffic originating at or dsetined to the facilities of Quaker Oats Company. Supporting shipper(s): Quaker Oats Co., 345 Merchandise Mart Plaza, Chicago, IL 60654.

MC 114273 (Sub-5-34TA), filed October 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, corporate counsel (same as above). *Meat, meat, by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions on Motor Carrier Certificates, 61 M.C.C. 209 and 766,* from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS to points in the states of CT, DE, DC, IA, IL, IN, KS, KY, MA, ME, MD, MI, MN, MO, NE, ND, NH, NJ, NY, OH, PA, RI, SD, VA, VT, WI, and WV. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 115331 (Sub-5-13TA), filed October 23, 1980. Applicant: TRUCK TRANSPORT, INC., 11040 Manchester Road, St. Louis, MO 63122. Representative: J. R. Ferris, (same as applicant). *Ferrous sulphate, in bulk,* from Clinton, IA to the Minnesota Mining and Manufacturing Company facilities at or near Cordova, IL. Supporting shipper(s): Minnesota Mining and Manufacturing Company (3M), 3M Center, St. Paul, MN 55144.

MC 115331 (Sub-5-14TA), filed October 23, 1980. Applicant: TRUCK TRANSPORT, INC., 11040 Manchester Road, St. Louis, MO 63122. Representative: J. R. Ferris, (same as applicant). *Lime,* from the plant site of Pelican State Lime at or near Amelia, LA to points in MS, TX, AL & AR. Supporting shipper(s): Pelican State Lime, Div. of S.I. Lime Co., P.O. Box 1637, Morgan City, LA 70380.

MC 116949 (Sub-5-1TA), filed October 24, 1980. Applicant: BURNS TRUCKING, INC., Rural Route 1, Box 304, So. Sioux City, NE 69886. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Contract Irregular; *General Commodities (Except Classes A&B Explosives and household goods as defined by the Commission, and Commodities in bulk)* Between points in the U.S. Supporting shipper: Hensen Manufacturing Corp., Route 1, Box 67-A, Hartford, SD 57033.

MC 118535 (Sub-5-4TA), filed October 23, 1980. Applicant: Tiona Truck Line, Inc., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr., (same as applicant). *Non-Ferrous Metals, Non Ferrous Scrap, Scrap Plastic and Scrap Rubber, Junk batteries, Burned-Out Battery Plates, Drosses and or Residues.* Between Carroll County IL on the one hand and on the other points in AR, AZ, CO, IA, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, NM, OH, OK, SD, TN, TX, WI, WY. Supporting shipper: Gould Inc., Metals Division, Mendota Heights, MN 55118.

MC 119493 (Sub-5-47TA), filed October 24, 1980. Applicant: Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, traffic manager, Monkem Co., Inc., P.O. Box 1196, Joplin, MO 64801. *Fertilizer compounds* from Chicago Heights IL and its commercial zone to Abilene and Lawrence, KS. Supporting shipper: Ted Evans, Manager of Transportation, USS Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree Street, N.E., Atlanta, GA 30303.

MC 124109 (Sub-5-1 TA), filed October 24, 1980. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract* irregular, *Liquid sucrose, in bulk,* from Des Plaines, IL, to Cedar Rapids, IA, under contract with The Quaker Oats Company. Supporting shipper: The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654.

MC 124813 (Sub-5-21 TA), filed October 24, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Lumber and building materials,* from points in MN and WI to points in Wright County, IA. Supporting shipper: American Wood Products, Inc., P.O. Box 248, Belmond, IA 50421.

MC 126118 (Sub-5-34 TA), filed October 24, 1980. Applicant's name: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders,* between points in the U.S. (except AK and HI). Supporting shipper: Acme Fast Freight, J. Harn, Vice President, 2110 Alhambra Ave., Los Angeles, CA 90031.

MC 133959 (Sub-5-6 TA), filed October 23, 1980. Applicant: ALBAUGH TRUCK LINE, INC., 123 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Contract irregular general commodities, except Class A and B explosives, commodities in bulk and commodities requiring special equipment* between points in IA, NE, IL, KS, MO, TX, MN, LA, and WI on bills of lading of ITOFCA, Inc. and under continuing contract with ITOFCA, Inc. Supporting shipper: ITOFCA, Inc., Two Walker Avenue, Clarindon Hills, IL 60514. Applicant intends to interline traffic with rail carriers.

MC 135070 (Sub-5-29TA), filed October 24, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: Gailyn L. Larsen, P.O. Box 81616, Lincoln, NE 68501. *Such commodities as are dealt in or used by wholesale and retail grocery stores and food business houses,* from all points in the US in and east of CO, MT, MN, and WY to Allegheny and Butler Counties, PA. Supporting shipper: Giant Eagle Markets, Inc., 101 Kappa Drive, Pittsburgh, PA 15238.

MC 138134 (Sub-5-1TA), filed October 23, 1980. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main Street, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. BOX 279, Ottumwa, IA 52501, Telephone: 515-682-8154. Contract irregular *General Commodities (except Class A & B Explosives),* Between points in the U.S. (except AK and HI) under continuing contract or contracts with Sheller Globe Corporation. Supporting shipper: Sheller Globe Corporation, 3200 Main Street, Keokuk, IA 52632.

MC 140635 (Sub-5-6TA), filed October 23, 1980. Applicant: ADAMS LINES, INC., 2619 N Street, P.O. Box 7343, Omaha, NE 68107. Representative: John L. Hornung, President, 2619 N Street, P.O. Box 7343, Omaha, NE 68107. *Foodstuffs and food specialities (except in bulk),* from the facilities utilized by American Roland Food Corp., in New York, NY, to points in and west of OH, KY, TN, GA and FL. Supporting shipper: American Roland Food Corp., New York, NY and/or Bruno Scheidt, Inc.

MC 144622 (Sub-5-55TA), filed October 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Foodstuffs (except in bulk),* from the facilities of Lamb-Weston, Inc. located in OR, WA, ID, and UT to points in the U.S. on and east of U.S. Highway 85. Supporting shipper: Lamb-Weston, Inc., P.O. Box 23517, 6600 S.W. Hampton St., Portland, OR 97223.

MC 144622 (Sub-5-56TA), filed October 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such commodities as are dealt in by discount or variety stores* between points in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN, and TX originating at or destined to the facilities of Wal-Mart Stores, Inc. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 144678 (Sub-5-6TA), filed October 23, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey, American Freight System, Inc., 9393 West 110th Street, Overland Park, KS 66210. Common; Regular. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Berrien, Colquitt, Thomas, Brooks, Cook, Lanier, Clinch, Grady, and Lowndes Counties, GA, as off route points in connection with carrier's otherwise authorized, regular route service. There are 18 supporting shippers. Applicant intends to tack with existing authority. Applicant intends to interline.

MC 145032 (Sub-5-1TA), filed October 23, 1980. Applicant: NATIONAL TRANSPORTATION SERVICES, INC., P.O. Box 3291, Lubbock, TX 79410. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street N.W., Washington, DC 20001. (1) *Trailers, trailer chassis, and containers* (except those designed to be drawn by passenger automobiles), in truckaway service, and (2) *Parts* for the commodities named in (1) above, between the facilities of Lufkin Industries, Inc., Lufkin Trailer Division, Lufkin, TX, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Lufkin Industries, Inc., Lufkin Trailer Div., P.O. Box 8458, Lufkin, TX 75901.

MC 145441 (Sub-5-29TA), filed October 24, 1980. Applicant: A.C.B. TRUCKLING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative:

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Ralph E. Bradbury, Traffic Manager, P.O. Box 5130, North Little Rock, AR 72119. *Alcoholic beverages, (except in bulk),* between points in NJ on the one hand, and on the other, points in the United States. Supporting shipper: Fedway Associates, Inc., P.O. Box 519, Kearney, NJ 07032.

MC 145441 (Sub-5–30TA), filed October 24, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *Building materials, (except commodities in bulk),* from Ellis County, TX to points in the U.S. (except AK & HI). Supporting shipper: Elk Corporation, P.O. Box 500, Ennis, TX 75119.

MC 145441 (Sub-5–31TA), filed October 24, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *General commodities, (except in bulk),* between the facilities owned or utilized by Velsicol Chemical Corporation on the one hand, and points in the United States, on the other hand. Supporting shipper: Velsicol Chemical Corp., 341 E. Ohio, Chicago, IL 60611.

MC 150592 (Sub-5–4TA), filed October 24, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Food and food products and items used in the manufacture and distribution thereof,* from points in Allegheny County, PA to points in Platte County, NE. Supporting shipper: Tasty-Toppings, Inc., Gordon M. Hull, President, P.O. Box 728, Columbus, NE 68601.

MC 150783 (Sub-5–13TA), filed October 23, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same as applicant). *(1) Foodstuffs (2) such commodities as are dealt in or used by manufacturers and distributors of foodstuffs* between the facilities of Good-O-Days Foods, Little Rock, AR on the one hand and points in the U.S. on the other. Supporting shipper: Good-O-Days Foods, Box 9918, Little Rock, AR 72219.

MC 150783 (Sub-5–14TA), filed October 23, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Malt beverages and related advertising materials, empty used beverage containers and materials and supplies used by breweries.* Between Golden, CO; Omaha, NE; and Perry, GA on the one hand and points in AR on the other. Supporting shippers: Malczycke Beverage Co., Box 568, Fayetteville, AR 72701 and Midwest Beverage Co., 901 Wheeler Ave., Ft. Smith, AR 72901.

MC 150806 (Sub-5–4TA), filed October 24, 1980. Applicant: WECO, INC., 500 Scott Street, P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, Esq., 719 Capitol Federal Building, Topeka, KS 66603. Contract: Irregular. *Newspaper Supplements, Magazines, Printed Matter* and *Catalogs,* to and from points in the U.S. except AK and HI. Under continuing contract with Henry Wurst, Inc., 1331 Saline, Kansas City, MO 64116. Supporting shipper: Henry Wurst, Inc., Kansas City, MO 64116.

MC 151660 (Sub-5–2TA), filed October 23, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 1701 E. Irving Boulevard, P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin, President (same as above). Contract: Irregular. *Paper and paper articles.* Between the Louisiana parishes of Washington, and West Feliciana, on the one hand, and, on the other, the 48 states under a continuing contract with Crown Zellerbach Corporation, Bogalusa, LA. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70247.

Docket No. MC 152117 (Sub-5–1TA), filed October 24, 1980. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 824 27th Avenue, S.W., Cedar Rapids, IA 52404. Representative: Virginia A. Wilson, same. (1) *Disassembled gymnasium apparatus,* from Cedar Rapids, IA to points in CA & TX. (2) *Plastics, synthetic, other than liquid,* from Clinton, IA to points in the States of AZ, CA, CO, ID, OR, WA & TX. (3) *Non-exempt food or kindred products,* from Cedar Rapids, IA to points in the U.S. (except HI & AK). (4) *Castings,* from at or near Waupaca, WI to Cedar Rapids, IA. Shippers: Universal Corp., 930 27th Ave., S.W., Cedar Rapids, IA 52406. National Oats Co., Inc., 1515 H Ave., N.E., Cedar Rapids, IA 52402. Chemplex Company, 3100 Golf Road, Rolling Meadows, IL 60008.

MC 152319 (Sub-5–1TA), filed October 24, 1980. Applicant: CAYMAN WEST CORPORATION, d.b.a. CAPROCK PIGGYBACK SERVICE, P.O. Box 4303, Odessa, TX 79761. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. *General Commodities (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk),* from points in Ector County, TX, to points in NM and TX. RESTRICTED to traffic having a prior or subsequent movement by rail. Supporting shippers: Five.

MC 152323 (Sub-5–1TA), filed October 24, 1980. Applicant: STANLEY A. SHERMAN, d.b.a. SHERMAN FOODS, 419 Water Street, Sioux City, IA, 51101. Representative: D. Douglas Titus, Titus and Storm, Suite 510 Benson Building, Sioux City, IA 51101. Contract, irregular *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, and 766,* between points in IL, IA, KS, MN, MO, NE, ND, SD, TX, and WI. Supporting shipper: D & L Processors, Inc., 2600 N. Hwy. 75, Sioux City, IA 51105.

MC 152324 (Sub-5–1TA), filed October 24, 1980. Applicant: CARTWRIGHT MOVING & STORAGE CO., INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: Alex M. Lewandowski, 1221 Balitimore Avenue, Suite 600, Kansas City, MO 64105. Contract: Irregular. *General commodities,* between Jackson County, MO, on the one hand, and, on the other, points in KS in and east of Jewell, Mitchell, Lincoln, Elsworth, Rice, Reno, Kingman and Harper Counties. Supporting shipper: The Jones Store Company, 12th and Main, Kansas City, MO 64105.

MC 146696 (Sub-5–1TA), filed September 15, 1980. Applicant: AGRI-BUILDING SYSTEMS, INC., P.O. Box 130, 2nd & Euclid, Waukomis, OK 73773. Representatives: B. Gene Anderson or Robert J. Jantzen, P.O. Box 130, 2nd & Euclid, Waukomis, OK 73773. *Iron and Steel articles,* between points in TX, OK, IN, IL, MO, IA, NE, KS, CA, FL, and LA. Supporting shipper: C. M. I. Corporation, Edward L. Turner, Traffic Manager, Box 1985, Oklahoma City, OK 73101. Applicant intends to tack with authority already held.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 152049 (Sub-6–1TA), filed October 17, 1980. Applicant: AIRO SERVICES, INC., 2103 E. 112th St., Tacoma, WA 98445. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Hazardous waste materials* from points in WA, OR, ID, MT and UT to points in OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chem Security Systems, Inc., P.O. Box 1866, Bellevue, WA 98009.

MC 152249 (Sub-6–1TA), filed October 17, 1980. Applicant: JOEL HECKMANN, d.b.a. A & A TRANSPORTATION & SUPPLY, P.O. Box 2586, Martinez, CA 94553. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Foodstuffs (except frozen foods and commodities in bulk)* between all points in CA on one hand and points in Counties of Alameda, Los Angeles, Sacremento, San Francisco and San Joaquin, CA on other hand, for 270 days. Supporting shippers: Allied Canners and Packers, 100 California St., San Francisco, CA 94111. Martin Mueller & Co. Export Inc., 450 Mission St., San Francisco, CA 94105.

MC 116544 (Sub-6–20TA), filed October 15, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Such commodities as are dealt in by grocery and food business houses and material, equipment and supplies used in the manufacture, sale and distribution of such commodities (except commodities shipped in bulk),* between St. Louis County, MO, St. Louis, MO, commercial zone, and all points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lever Brothers Company, 1400 North Pennsylvania Avenue, St. Louis, MO.

MC 063562 (Sub-6–10 TA), filed October 6, 1980. Applicant: BN TRANSPORT INC., 6775 East Evans Avenue, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Meat and packinghouse products* between Denver, CO on the one hand, and, on the other, points in ID, UT, AZ, NV, OR, WA, and CA, for 270 days. Supporting shipper: Cudahy Foods Company, 4801 Brighton Blvd., Denver, CO 80216.

MC 42487 (Sub-6–39 TA), filed October 15, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities (except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading),* serving the facilities of Ghent Manufacturing, Inc. at Lebanon, OH, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined, as an off-route point, with authority presently held in Docket MC 42487 Subs 500, 578 and 744. These authorities, in turn, will be joined with other authority presently held by Applicant at such points as Atlanta, GA; Boston, MA; Buffalo, NY; Chicago, IL; Cincinnati, OH; Des Moines, IA; Indianapolis, IN; Louisville, KY and St. Louis, MO to permit service to and from points throughout the U.S. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the U.S. as provided in tariffs on file with the I.C.C. Supporting shipper: Ghent Manufacturing, Inc., South St. at Cherry, Lebanon, OH 45036.

MC 42487 (Sub-6–40 TA), filed October 15, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular route: *General commodities, (except those of unusual value, Classes A and B explosives, livestock, green hides, assembled automobiles, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading),* serving the facilities of A. B. Chance Company, subsidiary of Emerson Electric Co., at or near Washington, MO, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined, as an off-route point, with authority held in Docket No. 42487 Subs 500, 578, 646 and 708. These authorities, in turn, will be tacked or joined with other authorities of Applicant at such points as Chicago, IL, Cincinnati, OH, Minneapolis, MN, Kansas City, MO, Denver, CO and Dallas, TX, to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States, as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper: Emerson Electric Co., 8100 West Florissant Ave., St. Louis, MO 63136.

MC 42487 (Sub-6–41TA), filed October 15, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities, (except household goods as defined by the Commission and Classes A and B explosives),* Between Netcong, NJ and Newton, NJ, serving all intermediate points: From Netcong over U.S. Hwy 206 to Newton, and return over the same route for 270 days. The proposed authority will be tacked or joined at Netcong, NJ, with authority acquired by Applicant from Nestor Bros., Inc., as authorized by the Commission in Docket No. MC–F–12748. The Commission has not yet issued a Certificate in the name of Applicant, covering this authority. Applicant proposes to interline traffic with its present connecting carriers at authorized points throughout the United States, as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the Regional office listed.

Note.—Applicant intends to tack with its existing authority and any authority it may acquire in the future.

MC 152252 (Sub-6–1TA), filed October 17, 1980. Applicant: CONSOLIDATED PRODUCTIONS, INC., 333 N. Foothill Blvd., Beverly Hills, CA 90210. Representative: Ira S. Rubin, Loeb and Loeb, One Wilshire Bldg., Suite 1600, Los Angeles, CA 90017. *Equipment, materials, supplies, sound and lighting* for theatrical, stage, trade and industrial shows and productions between all points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: "Ain't Misbehavin'" International Co., 250 W. 52nd St., NYC 10019; Michael White Productions, Ltd., 1501 Bdwy, Suite 1501, NYC 10036; "Evita" Company c/o Hal Prince, 1270 Ave of Americas, NYC 10020; "They're Playing Our Song" Company, c/o Emanuel Azenburg, 165 W. 65th St., NYC 10019.

MC 52858 (Sub-6–3TA), filed October 16, 1980. Applicant: CONVOY COMPANY, 3900 N.W. Yeon Ave., Portland, OR 97210. Representative: Raymond A. Greene, Jr., 100 Pine St., #2550, San Francisco, CA 94111. *Motor vehicles* in truckaway service between St. Paul, MN and points within the St. Paul, MN Commercial Zone and points in IA and points in Keweenaw, Houghton, Ontonagon, Gogebic, Iron, Baraga, Marquette, Dickinson, Menominee, Delta, Alger, Schoolcraft, Luce, Mackinac, Chippewa counties, MI for 270 days. Supporting shippers: Mazda Motors of America (Central), Inc., 3040 E. Ana St., Compton, CA

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90221: Nissan Motor Corp. in USA, 18501 S. Figueroa St., Carson, CA 90248.

MC 150054 (Sub-6-4TA), filed October 15, 1980. Applicant: J. W. CROWLEY, d.b.a., J. W. CROWLEY & SONS, P.O. Box 533, Dove Creek, CO 81324. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. *Salt and salt products*, from points in Grand County, UT to points in AZ, CA, CO, ID, NV, NM, TX, and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Utah Salt Co., Inc. 1935 Main, Suite 307, Salt Lake City, UT 84115.

MC 136605 (Sub-6-18TA), filed October 17, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Plywood and Particleboard with decorative covering*, from the facility of National Plywood, Inc., located at or near Long Beach, CA to Yakima, WA; Dundee, Wilsonville, McMinnville, OR; Boise, ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: National Plywood, Inc., P.O. BOX 9340, Long Beach, CA 90810.

MC 150044 (Sub-6-2TA), filed October 17, 1980. Applicant: R. ERDMANN TRUCKING, INC., Highway 101 W., P.O. BOX 564, Port Angeles, WA 98362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Lumber and wood products*, from Port Angeles, WA, to points in WA and OR on and west of U.S. Hwy. 97, for 270 days. Supporting shipper: Shannon Pacific Forest Products, Lumber Trader, P.O. Box 16142, Portland, OR 97233.

MC 141205 (Sub-6-4TA), filed October 16, 1980. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry St., Denver, CO 80222. Representative: F. Robert Reeder, James M. Elegante, P.O. Box 11898, Salt Lake City, UT 84147. *Contract carrier*, irregular routes: *crude oil, scrubber oil and condensate* between points in Stillwater County, MT, and the facilities of Husky Oil Company in Park County, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Husky Oil Company, 600 South Cherry St., Denver, CO 80222.

MC 141205 (Sub-6-5TA), filed October 16, 1980. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry St., Denver, CO 80222. Representative: F. Robert Reeder, James M. Elegante, P.O. Box 11898, Salt Lake City, UT 84147. *Contract carrier*, irregular routes: *crude oil, scrubber oil and condensate* from points in Renville County, ND, to the pipeline injection station on Portal Pipeline near Stanley, ND, the pipeline injection station on Wesco Pipeline near Sidney, MT, and the pipeline injection station on Kenco Pipeline near Reserve, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Husky Oil Company, 600 South Cherry St., Denver, CO 80222.

MC 125952 (Sub-6-5TA), filed October 16, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St., S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract;* irregular routes: *Potato chips*, from Los Angeles, CA, and its commercial zone to Portland, OR, and its commercial zone; from Portland, OR, and its commercial zone to Spokane, WA, and its commercial zone for the account of Sunshine Biscuits, Inc., for 270 days. Supporting shipper: Sunshine Biscuits, Inc., P.O. Box 7, Sayreville, NJ 08872.

MC 152109 (Sub-6-1TA), filed October 16, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract carrier*, Irregular routes: *asphalt roofing products* from Phillipsburg, KS to Denver, CO and points in Arapahoe County, CO for the account of Tamko Asphalt Products, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Tamko Asphalt Products, Inc., 5300 E. 43rd Ave., Denver, CO 80216.

MC 152109 (Sub-6-2TA), filed October 17, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th Street, N.W., Suite 1000, Washington, D.C. 30036. *Contract carriage*, Irregular routes: (A) *gypsum wallboard* from Albuquerque, NM to Flagstaff, Fredonia, Holbrook, Page, Phoenix, Prescot, Tucson, Winslow and Yuma, AZ; Los Angeles and San Diego, CA; Colorado Springs, Denver, Fort Collins, Grand Junction and Loveland, CO; Las Vegas, NE; and Cedar City, Hurricane Kanab and Saint George, UT; (B) *wallboard paper* from Pryor, OK; Denver and Commerce City, CO to Albuquerque, NM, and (C) *starch* from Plainview, TX to Albuquerque, NM for the account of American Gypsum Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Gypsum Company, P.O. Box 6345, Albuquerque, NM 87197.

MC 152109 (Sub-6-3TA), filed October 16, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michale F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract carrier*, Irregular routes: *Crushed, flattened automobile bodies* from Rapid City, SD, points in WY, and points in NE and KS on and west of US Highway 281 to points in Arapahoe County, CO, for the account of Milford Pepper d/b/a Century Enterprises for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Milford Pepper d.b.a., Century Enterprises, 234 Columbine, Denver, CO 80206.

MC 124735 (Sub-6.3TA), filed October 16, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth St., Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier*, irregular routes: *General commodities, except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, and commodities, which because of their size or weight, require the use of special equipment*, between Seattle, WA, commercial zone, on the one hand, and points in the U.S., on the other hand, restricted to traffic moving to or from the facilities of Bostrum-Warren, Inc., for 270 days. Supporting shipper: Bostrum-Warren, Inc., 920 2nd Ave., Seattle, WA 98104.

MC 152247 (Sub-6-1TA), filed October 14, 1980. Applicant: KOHLER TRUCKING, INC., 3026 E. Vernon Ave., Los Angeles, CA 90058. Representative: Eldon R. Clawson, 333 W. Foothill, Blvd., Glendora, CA 91740. *Contract carrier*, irregular: *fresh, prepared, and processed meat*, to Los Angeles, CA, from Sioux Center, IA, Downs, KS, York, NE, and Brush, CO, under a continuing contract with Packers Bar M Meat Co. of Los Angeles, CA. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Packers Bar M Meat Co., 4215 Exchange Ave., Los Angeles, CA 90058.

MC 144829 (Sub-6-2TA), filed October 17, 1980. Applicant: HB MUCHMORE d.b.a., MUCHMORE TRUCKING, 4659 Crater Lake Highway, Medford, OR 97501. Representative: Jerry R. Woods, Suite 1600—One Main Pl., 101 S.W. Main St., Portland, OR 97204. *Prefabricated wooden buildings, knocked down*, from the facilities of Cathedralite Domes at White City, OR to points in AZ, CA, NV and WA, for 270 days. Supporting shipper: Cathedralite Domes, 7050 6th St., White City, OR 97503.

MC 142847 (Sub-6-3TA), filed October 16, 1980. Applicant: LESLIE OAKLEY AND BARRY D. OAKLEY d.b.a., OAKLEY BROTHERS TRUCKING, P.O. Box 338, Fairfield, MT 59436. Representative: Dennis E. Lind, Suite A, Century Plaza, Missoula, MT 59801. *Wrought steel pipe, coated and wrapped wrought steel pipe* from the facilities of Beall Pipe and Tank Corporation at or near Portland, Oregon to Colorado for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Beall Pipe and Tank Corporation, P.O. Box 03310, Portland, OR 97203.

MC 138732, (Sub-6-7TA), filed October 16, 1980. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 5 Crow Canyon Ct., Suite 200, San Ramon, CA 94583. *Lumber, Lumber Products, and Wood Products*, from points in OR to points in UT, for 270 days. Supporting shipper: Weyerhaeuser Company, Tacoma, WA 98447.

MC 150584, (Sub-6-3TA), filed October 17, 1980. Applicant: PAPER MERCHANTS TRANSPORT & SUPPLY, INC., 175 Second St., Oakland, CA 94607. Representative: Myron F. Tower, 2257 Bancroft Ave., San Leandro, CA 94577. *Contract carrier*, Irregular Routes: *Paper bags in bales; paper, wrapping NOI, in rolls or cartons*, from the facilities of the Cupples Paper Bag Company, Northwest Division, at Portland, OR to points in the following CA counties: Orange, Sacremento, San Joaquin, Shasta, Stanislaus, Tehama and Tulare Counties, GA for the account of Cupples Paper Bag Company, Northwest Division, for 270 days. Supporting shipper: Cupples Paper Bag Company, Northwest Division, 525 University Ave., Palo Alto, CA 94301.

MC 146724, (Sub-6-1TA), filed October 16, 1980. Applicant: DEAN RAPPLEYE, INC., P.O.B. 204, West Jordan, UT 84084. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Flour*, from the facilities of Peavey Company, Ogden, UT and points in its commercial zone, to points in CA and ID for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Peavey Company, 220 W. 30th, Ogden, UT 84401.

MC 150502 (Sub-6-4TA), filed October 14, 1980. Applicant: REBANDA TRANSPORTATION, INC., 2323 Madrone Ave., Healdsburg, CA 95448. Representative: Ronald C. Chauvel, 100 Pine St. No. 2550, San Francisco, CA 94111. *Irregular Carrier*, Carrier Routes: *Musician's equipment, materials and supplies, and show materials* used in connection with concerts presented by shipper between all points on and east of the Mississippi River under continuing contracts with Pat Armstrong and Associates for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Pat Armstrong & Associates, P.O. Box 7877, College Park Station, Orlando, FL 32804.

MC 124692 (Sub-6-23TA), filed October 15, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Building materials*, from Koochiching County, MN to points in NV, AZ and CA, for 270 days. Supporting shipper: Boise Cascade Corporation, P.O. Box 2885, Portland, OR 97208.

MC 95920 (Sub-6-4TA), filed October 16, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier*, irregular routes: *Such commodities as are dealt in and used by petroleum distributors and dealers (except commodities in bulk)* from Portland, OR, and its commercial zone to points in WA on and west of U.S. Hwy. 97, for the account of Mobil Oil Corporation, for 270 days. Supporting shipper: Mobil Oil Corporation, 612 S. Flower St., Los Angeles, CA 90017.

MC 152237 (Sub-6-2TA), filed October 15, 1980. Applicant: STEINBECKER BROTHERS, Box 852, Greeley, CO 80632. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Contract Carrier*, irregular routes: *Meats and meat products*, from points in CO and NE to points in ID, WA, MT, OR, CA, AZ and NV under a continuing contract(s) with Iowa Meat Distributors, Inc. of Beaverton, OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Iowa Meat Distributors, Inc., P.O. Box 1489, Beaverton, OR 97075.

MC 136897 (Sub-6-2TA), filed October 17, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Rd., Phoenix, AZ 85014. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. *Contract Carrier:* Irregular routes: *General commodities*, (except Classes A and B explosives), from Los Angeles, CA to points in AZ, for the account of LAWI-CSA Consolidators, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: LAWI-CSA Consolidators, Inc., 5610 S. Soto St., Huntington Park, CA 90255.

MC 136897 (Sub-6-22TA), filed October 17, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Rd., Phoenix, AZ. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. *Contract Carrier:* Irregular Routes: *Iron and Steel articles:* between Dallas, TX and points in AL, CA, CO, CT, FL, GA, IN, KS, KY, MA, MD, MI, MO, MS, NJ, NY, OH, OK, OR, PA, RI, SC, TN, and WA, for the account of Associated Spring Barnes Group, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Spring Barnes Group, Inc., 3443 Morse Drive, Dallas, TX 74211.

MC 147528 (Sub-6-6TA), filed October 16, 1980. Applicant: T.A.S. TRUCKING, INC., 2652 Springwood Dr., Meridian, ID 83642. Representative: Dan L. Poole, Elam, Burke, Evans, Boyd and Koontz, P.O. Box 1559, Boise, ID 83701. *Contract Carrier:* Irregular Routes: *treated poles, prefabricated log home kits, and materials and supplies used in the erection, manufacture and distribution thereof*, from Boise, ID to points in WY, CO NE, SD, MT, OR, WA, CA, ND, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Robert C. Darrow, dba Pressure Treated Timber Co., 3200 Gowen Rd., Boise, Idaho 83705.

MC 152130 (Sub-6-2TA), filed October 17, 1980. Applicant: TABOR TRUCK LINES, INC., 325 North 5th St., Sacramento, CA 95814. Representative: Michael T. Applegate (same as applicant). *Contract Carrier*, irregular routes: *General commodities* between Washoe County, NV and Los Angeles County, CA for the account of Wells Manufacturing, for 270 days. Supporting shipper: Wells Manufacturing, Two Erik Circle, Verdi, NV 89439.

MC 110325 (Sub-6-45TA), filed October 14, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. *Common Carrier*, regular routes: *General commodities*, (except household goods as defined by the Commission and classes A and B explosives), (1) between Dallas, TX and Shreveport, LA, (a) over U.S. Hwy 80; (b) over Interstate Hwy 20; (2) between Longview, TX and Waco, TX, from Longview over U.S. Hwy 259 to junction TX Hwy 31, then over TX Hwy 31 to Waco, and return over the same route; (3) between Longview, TX and Hearne, TX, from Longview over U.S. Hwy 259 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Hearne, and return over the same route; (4) between Longview, TX and Houston, TX, from Longview over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, and

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return over the same route; (5) between Nacogdoches, TX and Memphis, TN, from Nacogdoches over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (6) serving all intermediate points in routes (1) through (5), above, including points in their commercial zones, and the off-route points in Rockwall, Kaufman, Hunt, Van Zandt, Hopkins, Wood, Raine, Henderson, Smith, Upshur, Gregg, Rusk, Cass, Marion, Harrison and Panola Counties, TX, for 270 days. Applicant proposes to tack to its existing authority and interline at authorized points throughout its system. There are 89 supporting shippers. Their statements may be viewed at the regional office listed.

MC 110325 (Sub-6–46), filed October 15, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave, Kansas City, MO 64105. Common Carrier; *Regular routes; general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), (1) between Houston, TX and Lake Charles, LA (a) over Interstate Hwy 10; (b) over U.S. Hwy 90; (2) between Beaumont, TX and Marshall, TX, from Beaumont over U.S. Hwy 96 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Marshall, and return over the same route; (3) between Lake Charles, LA and Memphis, TN, from Lake Charles over U.S. Hwy 171 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (4) between Shreaveport, LA and Birmingham, AL, over Interstate Hwy 20; (5) between Houston, TX and Texarkana, AR, over U.S. Hwy 59; (6) between Marshall, TX and Shreveport LA over Interstate Hwy 20; (7) serving all intermediate points in (1) through (6) above, including their respective commercial zones, and the off-route points in Jefferson, Orange, Hardin, Polk, Tyler and Jasper Counties, TX, for 270 days. Applicant proposes to tack to its existing authority and interline at authorized service points throughout its system. There are 50 supporting shippers. There statements may be viewed at the regional office listed.

MC 110325 (Sub-6–47TA), filed October 15, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore, Ave, Kansas City, MO 64105. Common Carrier; *Regular routes; general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), (1) between Denver, CO and Houston, TX, from Denver over Interstate Hwy 25 to junction U.S. Hwy 87, then over U.S. Hwy 87 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Houston, and return over the same route; (2) between Dallas, TX and Port Arthur, TX, from Dallas over U.S. Hwy 175 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Port Arthur, and return over the same route; (3) between Houston, Tx and Memphis, TN, from Houston over U.S. Hwy 59 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, the over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (4) between Houston, TX and Beaumont, TX, (a) over Interstate Hwy 10, (b) over U.S. Hwy 90; (5) between Corsicana, TX and Texarkana, AR, from Corsicana over TX Hwy 31 to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction TX Hwy 155, then over TX Hwy 155 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction Interstate Hwy 30, then over Interstate Hwy 30 to Texarkana, and return over the same routs; (6) between Gilmer, TX and junction U.S. Hwy 259 and Interstate Hwy 30, from Gilmer over U.S. Hwy 271 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 259, and return over the same route; (7) serving all intermediate points in (1) through (6), above, including points in their respective commercial zones, and the off-route points in Kaufman, Van Zandt, Henderson, Smith, Anderson, Cherokee, Houston, Nacogdohes, Anelina, Polk, Tyler, Japer, Hardin, Orange and Jefferson Counties, TX, for 270 days. Applicant proposes to tack to its existing authority and interline at authorized service points throughout its system. There are 71 supporting shippers. Their statements may be viewed at the regional office listed.

MC 110325 (Sub-6–48TA), filed October 15, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA. Representative: Wentwoth E. Griffin, Midland Bldg., 1221 Baltimore Ave, Kansas City, MO 64105. Common carrier; *Regular routes, general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), (1) between Brownsville, TX and Atlanta, GA, from Brownsville over U.S. Hwy 77 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Atlanta, and return over the same route; (2) between Brownsville, TX and Laredo, TX over U.S. Hwy 83; (3) between Laredo, TX and Memphis, TN, from Laredo over Interstate Hwy 35 to junction TX Hwy 31, then over TX Hwy 31 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (4) between Victoria, TX and Waco, TX, over U.S. Hwy 77; (5) between McAllen, TX and Denver, CO, from McAllen over U.S. Hwy 281 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Denver, and return over the same route; (6) between Victoria, TX and Raton, NM, over U.S. Hwy 87; (7) between San Antonio, TX and Birmingham, AL, from San Antonio over Interstate Hwy 10 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Birmingham, and return over the same route; (8) between junction U.S. Hwys 81 and 79 and junction U.S. Hwy 79 and Interstate Hwy 20, over U.S. Hwy 79; (9) between junction U.S. Hwy 96 and Interstate Hwy 10 and junction U.S. Hwys 96 and 59 over U.S. Hwy 96; (10) serving all intermediate points in routes (1) through (9) above, including points in their respective commercial zones, for 270 days. Applicant proposes to tack to its existing authority and interline at authorized service points throughout its system. There are 92 supporting shippers. Their statements may be viewed at the regional office listed.

MC 148791 (Sub-6–4TA), filed, October 14, 1980. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representive: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier, Irregular routes;* (1) *Appliances,* and (2) *parts, materials, supplies and equipment used in the distribution of repair of appliances,* from the facilities of Whirpool Corporation at Clearfield, UT to all points in AZ, CA, and NV, for the account of Whirlpool Corporation, for 270 days per Ex Parte MC 67 (Sub–9). Supporting shipper: Whirlpool Corporation, 2000 U.S. 33, North Benton Harbor, MI 49022.

MC 144330 (Sub-6–2TA), filed October 16, 1980. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: D. Michael Jorgensen, 143 S. State St., Salina, UT 84654. *Gypsum and gypsum wallboard, joint compound and materials and supplies used in the application thereof,* from points in Sevier County, UT to points in CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Georgia Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204

MC 140313 (Sub-6–3TA), filed October 14, 1980. Applicant: VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *General commodities, except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value and commodities which because of their size and weight require the use of special equipment,* between points in WA, on the one hand, and points in OR, CA, NV, MT, ID, UT, OH, KY, MI, IL, MN, TX, NJ, NY, PA and MO, on the other hand, restricted to traffic moving to or from the facilities of Farwest Shippers' Association, Inc., for 270 days. Supporting shippers: Farwest Shippers' Association, Inc., 12855 48th Ave. So., Seattle, WA 98168.

MC 140313 (Sub-6–4TA), filed October 16, 1980. Applicant: VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *General commodities, except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value and commodities which because of their size and weight require the use of special equipment,* between points in the Seattle, WA, commercial zone, on the one hand, and points in the U.S., on the other hand, restricted to traffic moving to or from the facilities of A & D Transco, for 270 days. Supporting shipper: A & D Transco, 1762 6th So., Seattle, WA 98134.

MC 26396 (Sub-6–50TA), filed October 16, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Diatomaceous earth* from points in Nevada, to points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eagle-Picher Industries, Inc., P.O. Box 12130, Reno, NV 89510.

MC 141804 (Sub-6–83TA), filed October 16, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). (1) *Camping equipment and supplies; sporting goods and supplies; outdoor recreational furniture, goods and supplies* (2) equipment, materials and supplies used in the manufacture and distribution of (1) above, between the facilities of Imperial American Company at Tyler, TX on the one hand, and, on the other, points in the U.S. (except AK & HI), for 270 days. Supporting shipper: Imperial American Company, P.O. Box 878, Tyler, TX 75710.

MC 152250 (Sub-6–1TA), filed October 17, 1980. Applicant: WHITE TRANSPORT, INC., P.O. Box 2063, Sheridan, WY 82801. Representative: Thomas O. White (same as applicant). (1) *Construction, mine and mill, machinery, equipment and supplies,* between points in WY, MT, SD, NE, CO, UT, ID for 270 days. Supporting shipper(s): Decker Coal Company, P.O. Box 12, Decker, MT 59025. Big Horn Coal Co., P.O. Box 724, Sheridan, WY 82801. Spring Creek Coal Co., P.O. Box 67, Decker, MT 59025. Peter Kiewit & Son's Co., P.O. Box 1009, Sheridan, WY 82801.

MC 152280 (Sub-6–1TA), filed October 20, 1980. Applicant: ALASKA RAPID TRANSPORT, INC., 5400 Fairbanks St., #1, Anchorage, AK 99502. Representative: Julian C. Rice, 330 Wendell St., Fairbanks, AK 99701. *General commodities,* except household goods as defined by the Commission, articles of unusual value, commodities requiring the use of special equipment, and Class "A" and "B" explosives between points within a 45-mile radius of Anchorage, AK, having a prior or subsequent movement by water, for 270 days. Supporting shippers: Sea-Land Service, Inc., 100 W. Harrison St., Suite 505, Seattle, WA 98119 and Northern Lights Express, P.O. Box 3365, Seattle, WA 98114.

MC 116544 (Sub-6–21TA), filed October 21, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Gypsum or gypsum products* from the ports of entry on the International Canadian boundary located in Washington to all points in the states of AZ, CA, CO, ID, MT, NM, OR, TX, and UT for 270 days. Supporting shipper: Epsilon Building Materials Ltd., 385 Lynn Avenue, North Vancouver, British Columbia, Canada V7J 2C4.

MC 151998 (Sub-6–1TA), filed October 20, 1980. Applicant: AMERICAN WAY TRANSPORT INC., 717 E. Artesia Blvd., Carson, CA 90746. Representative: W. G. Reese III, 623 E. Artesia Blvd., Carson, CA 90746. *Such merchandise as sold in department stores. Excepting commodities in bulk, restricted to freight association traffic in TL lots.* Between Los Angeles Cy, CA on the one hand, and, on the other, points and places in Dade Cy. FL., Mecklenburg Cy. NC., Fulton Cy. GA., NYC NY., and TX. for 270 days. Supporting shipper: Charlotte Freight Association, P.O. Box 8825, Charlotte, N.C. 28208.

MC 99694 (Sub-6–1TA), filed October 21, 1980. Applicant: BOLAND TRUCKING COMPANY, INC., 435 23rd St., San Francisco, CA 94107. Representative: Roland C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Bamboo baskets, plastic flowers, plastic corsages, plastic toys noi, Christmas decorations, acrylic yarn bunny, toys noi, and acrylic yarn,* from piers in Oakland, CA to Woodland, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Russell Stover Candies, Inc., 1004 Baltimore, Kansas City, MO 64105.

MC 116645 (Sub-6–1TA), filed October 21, 1980. Applicant: BULK TRANSPORTERS, INC., P.O. Box 127, Gilcrest, CO 80623. Representative: Leslie R. Kehl, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Molasses in bulk,* between points in Goshen County, WY on the one hand, and, on the other, points in Weld County, CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 152287 (Sub-6–1TA), filed October 21, 1980. Applicant: CITY OF SOUTH LAKE TAHOE, 1700 D St., South Lake Tahoe, CA 95705. Representative: Norma L. Smith (same as applicant). *Passengers,* in special operations, between South Lake Tahoe, CA, and Heavenly Valley North, Douglas County, NV, for 180 days. Supporting shipper(s): "There are 18 shippers. Their statements may be examined at the Regional office listed."

MC 42487 (Sub-6–42 TA), filed October 20, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities, (except those of unusual*

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value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the facilities of Beach Island Knitting Co., at or near Quitman, GA, ITT Automotive Electronics Products Division, Torrington Co., and W. B. Rodden Berry Co., at or near Cairo, GA and Niagara Wires at or near Quincy, FL, for 270 days. Applicant intends to tack to its existing authority to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers. Supporting shipper(s): Beach Island Knitting Co., Young Street Industrial Park, Quitman, GA 31643. ITT Automotive Electronics Products Division, 2051—2nd Ave., N.E., Cairo, GA 31728. Torrington Co., 2525 Torrington Drive, Cairo, GA 31728. W. B. Rodden Berry Co., 17 First Avenue, N.E., Cairo, GA 31728. Niagara Wires, P.O. Box 979, Quincy, FL 32351.

MC 152251 (Sub-6–1 TA), filed October 21, 1980. Applicant: DKM, INC., P.O. Box 1083, Gunnison, CO 81230. Representative: William F. Schenkein, 718 17th St., Suite 1600, Denver, CO 80202. *General commodities,* between points in Chaffee, Gunnison, Hinsdale, Lake, Mesa, Montrose and Saguache Counties, CO, on the one hand, and points in CO on the other hand; with all shipments having prior or subsequent transportation in interstate commerce. Restricted against commodities in bulk, household goods and commodities requiring special equipment, for 270 days. An underlying ETA seeks 120 days authority. Applicant proposes to interline. Supporting shippers: Climax Molybdenum Co., (Mount Emmons Project) P.O. Box 579, Crested Butte, CO 81224; Homestake Mining Co., 320 North Main Street, Gunnison, CO 81230; Lake City Grocery & Market, Wades Addition, Lake City, CO 81235.

MC 136605 (Sub-6–19 TA), filed October 22, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Oil and gas well drilling pipe, pumping units, and iron sponge filtration material,* between Chicago, IL, Houston, TX, Durant, OK, Los Angeles, CA, Portland, OR, Seattle, WA, LaJunta, CO, and their commercial zones on one hand, and points in the states of ND, SD, NE, CO, WY, and MT on the other hand, for 270 days. Supporting shipper: Tool Pushers Supply Company, P.O. Box 2360, 106 Rivercross Road, Casper, WY 82602.

MC 145102, filed October 16, 1980. Applicant: Freymiller Trucking, Inc., 1400 S. Union Avenue, Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Dairy products* from New Ulm, MN; Cresco and Decorah, IA; Wishek, ND and Veblen and Timber Lake, SD, to AZ, CA and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: N.C.D. Corporation, 3200 West Temple Street, Los Angeles, CA 90026.

MC 263 (Sub-6–3TA), filed October 21, 1980. Applicant; GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green (same as applicant). *Common carrier,* Regular routes: *General commodities,* except those of unusual value, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, between Denver and Pueblo, CO, serving all intermediate points and the off-route point of Canon City, CO and points in the commercial zones of Colorado Springs, Pueblo and Canon City, CO, from Denver over Interstate Hwy 25 to Pueblo, and return over the same route, for 270 days. Supporting shippers: There are approximately 116 shippers. Their statements may be examined at the Regional Office listed. Authorization is sought to interline and tack the above-named authority with MC 263 and subs.

MC 26377 (Sub-6–1TA), filed October 20, 1980. Applicant: LEONARDO TRUCK LINES, INC., 511 So. 1st St., Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Recycleable materials,* between points in OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Owens-Illinois, Inc., Glass Container Div., 5850 N.E. 92nd Dr., Portland, OR.

MC 14045 (Sub-6–3TA), filed October 14, 1980. Applicant: HAYWOOD L. WASHUM, d.b.a. LOS ANGELES-YUMA FREIGHT LINES, P.O. Box 4849, Kofa Station, Yuma, AZ 85364. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. *Common Carrier;* Regular Routes: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which, because of size or weight, require the use of special equipment) between Yuma, AZ, and Phoenix, AZ, from Yuma over Interstate Hwy 8 to Gila Bend, AZ, thence over U.S. Hwy 80 to Phoenix, and return over the same route, serving all intermediate points between Wellton and Phoenix, AZ, and points within 25 miles of Hyder and Roll, AZ, as off-route points for 270 days. There are 29 shippers. Their statements may be examined at our regional office listed. Authorization is requested to interline with connecting carriers at Yuma and Phoenix, AZ, to serve commercial zones of all service points and to tack the above sought authority with MC–11045.

MC 152271 (Sub-6–1TA), filed October 20, 1980. Applicant: VINCENT AND ROGER MARCHESE d.b.a. VINCENT MARCHESE & SON, DRIVE AWAY SERVICE, 6333 David Ave., Loomis, CA 95650. Representative: Vincent J. Marchese (same as above). *Contract,* irregular routes, *automobiles,* in drive-away service between points in the states of AZ, CA, CO, ID, NV, NM, MT, OR, UT, WA, WY, for 270 days, under continuing contracts with the General Motors Acceptance Corp., Sacramento, CA. Supporting shipper(s): General Motors Acceptance Corp., 650 Howe Ave., Sacramento, CA 95825.

MC 152101 (Sub-6–1TA), filed October 16, 1980. Applicant: MID MONTANA, INC., 1010 N. Rouse, Bozeman, MT 59715. Representative: Jerome Anderson, 100 Transwestern Bldg., Billings, MT 59101. *Contract Carrier,* Irregular Routes: *General commodities (except household goods as defined by the Commission and Classes A and B explosives)* between points in the U.S., including points on the International Boundary line between the U.S. and Canada under continuing contracts with Parker Montana Co. and Parker Dakota Co., for 270 days. Supporting shipper: Parker Montana Co. and Parker Dakota Co., P.O. Box 31555, Billings, MT 59107.

MC 125916 (Sub-6–6TA), filed October 20, 1980. Applicant: NORWOOD TRANSPORTATION, INC., 2232 South 7200 West, Magna, UT 84044. Representative: Macoy A. McMurray, 800 Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. *Salt and salt products* in packages or in bulk, from Potash, UT to CO, NE, and NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Utah Salt Company 1935 South Main Street, Suite 307, Salt Lake City, UT 84115.

MC 151312 (Sub-6–3TA), filed October 14, 1980. Applicant: NORTHWEST FREIGHTLINES, INC., East 604 Montgomery, Spokane, WA 99207. Representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. *Contract carrier:* Irregular routes: *Used brick,* from points in MT, to points in WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Jensen Brick Company, P.O. Box 165, Clarkston, UT 84305.

MC 138875 (Sub-6–27TA), filed October 20, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Food and kindred products* (except commodities in bulk), from Monroe, WI to Phoenix, AZ, Los Angeles, Oakland and San Jose, CA, Commerce City, CO and Portland, OR, for 270 days. Supporting shipper: The Swiss Colony, Monroe, WI 53566.

MC 150956 (Sub-6–6TA), filed October 20, 1980. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95077. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Bananas,* from: Los Angeles County, CA to AZ, CO, ID, MT, NM, NV, OR, UT, WA, WY; from: Galveston County, TX to AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, OK, SD, TN, WI; from: Harrison County, MS to AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, ND, NE, OK, SD, TN, TX, WI, for 270 days. Supporting shipper: Castle & Cooke, Fresh Products Division, 50 California St., San Francisco, CA 94111.

MC 128246 (Sub-6–8TA), filed October 20, 1980. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95077. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Contract carrier:* irregular route: *Frozen Foods, Frozen Vegetables & Frozen Berries* from CA to AZ & NV for 270 days, under a continuing contract with John Inglis Frozen Food Co. An underlying ETA seeks 120 days authority. Supporting shipper: John Inglis Frozen Food Company, P.O. Box 3111, Modesto, CA 95353.

MC 141867 (Sub-6–8TA), filed October 22, 1980. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader, 2301 Milwaukee Way, Tacoma, WA 98421. *Fibrous glass products and materials, mineral wool insulation products and materials,* between the facilities of CertainTeed Corporation at or near Chowchilla, CA on the one hand, and, on the other, points in the states of UT, ID, OR and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: CertainTeed Corporation, 850 E. Swedesford Rd., Valley Forge, PA 19482.

MC 136818 (Sub-6–23TA), filed October 20, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Rd., Phoenix, AZ 85041. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. *Lumber and lumber products,* (1) from points in ID and WA to points in CA, UT, and AZ, and (2) from points in CA, ID, MT, OR, and WA, to points in AZ, CO, KS, NE, and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Bendix-American Forest Products Corp., 3601 N. 34th Ave., Phoenix, AZ 85017; All-State Forest Products Corp., 3601 N. 34th Ave., Phoenix, AZ 85017; All-State Forest Products Co., P.O. Box 1582, Pendleton, OR 97801; Gittings Lumber Co., Inc., 4501 Wynkoop St., Denver, CO 80216; Hern Lumber and Saw Mills, 718 Hulton Bldg., Spokane, WA.

MC 110325 (Sub-6–49TA), filed October 16, 1980. Applicant: TRANSCON LINES, P.O.B. 9220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. *Common Carrier:* Regular routes, *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), (1) between Waco, TX and San Antonio, TX, over Interstate Hwy 35; (2) between San Antonio, TX and Houston, TX, over Interstate Hwy 10; (3) between San Antonio, TX and Denver, CO, from San Antonio over Interstate Hwy 10 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Denver, and return over the same route; (4) between Waco, TX and Memphis, TN, from Waco over TX Hwy 31 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (5) between Hearne, TX and Marshall, TX, from Hearne, over U.S. Hwy 79 to junction U.S. Hwy.59, then over U.S. Hwy 59 to Marshall, and return over the same route; (6) between Houston, TX and Austin, TX over U.S. Hwy 290; (7) between San Antonio, TX and Raton, NM over U.S. Hwy 87; (8) serving all intermediate points in (1) through (7) above, including points in their respective commercial zones, and the off-route points in Hill, McLennan, Bell, Falls, Caldwell, Milam, Williamson, San Patricio, Nueces, Travis, Hays, Robertson, Brazos, Burleson, Comal, Guadalupe, Bexar, Hidalgo, Willacy and Cameron Counties, TX, for 270 days. Applicant proposes to tack to its existing authority and interline at authorized points throughout its system. There are 58 supporting shippers. Their statements may be examined at the Regional office listed.

MC 108121 (Sub-6–1TA), filed October 17, 1980. Applicant: TRANSPORT STORAGE & DISTRIBUTING CO., 18800 Southcenter Parkway, Tukwila, WA 98188. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101. *Automobiles and trucks,* in secondary movements, in truckaway service, between Seattle, WA, and Carson City and Reno, NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nissan Motor Corporation in USA, P.O. Box 191, Gardena, CA 90247.

MC 152286 (Sub-6–1TA), filed October 21, 1980. Applicant: TRUCANO CONSTRUCTION COMPANY, P.O. Box 870, 3560 N. Douglas, Juneau, AK 99802. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton WA 98055. (1) *Prefabricated Modulars in Sections, without under carriages;* (2) *Lumber, Plywood and Building Materials* between points in Alaska South and East of the International Boundary Line between the U.S. and Canada near Haines, AK. Restricted to prior or subsequent movement by water, for 270 days. Supporting shipper: Boise Cascade Corporation, P.O.B. 7747, Boise, ID 83707.

MC 148875 (Sub-6–1TA), filed October 20, 1980. Applicant: KELLY H. WATSON ENTERPRISES, INC., d.b.a. WATSON TRUCKING CO., 8477 Aero Dr., San Diego, CA 92123. Representative: William R. Daly, P.O. Box 20521, San Diego, CA 92120. *Contract carrier,* irregular routes: *Games or Toys, NOI, viz. coin operated amusement games,* between Los Angeles and Long Beach Harbors and San Diego County CA., for account of Gremlin Industries, Inc. for 270 days. An underlying ETA seeks 120 day Authority. Supporting shipper: Gremlin Industries, Inc., 8401 Aero Dr. San Diego, CA 92123.

MC 141804 (Sub-6–86TA), filed October 22, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *Plastic articles,* from the facilities of Union Carbide Corporation at or near Cartersville, GA; East Hartford, CT; Rogers, AR and Southhampton, PA to points and places in the U.S. (except AK and HI), for 270 days. Supporting shipper: Union Carbide Corporation, 270 Park Ave., New York, NY 10017.

MC 151596 (Sub-6–2TA), filed October 20, 1980. Applicant: BOB WHITAKER & SON, INC., P.O. Box 65, Roswell, NM 88201. Representative: Bob Whitaker (same address as applicant). (1) *Meats, meat products, meat by-products and articles distributed by meat-packing*

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houses, and (2) Materials, equipment and supplies used in processing, distribution and sale of the commodities named in (1) above, between points in Curry County, NM on the one hand and points in the United States (except AK and HI) on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Clovis Packing Co., Inc., P.O. Box 1926, Clovis, NM 88101.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34000 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Remedy Imminent and Substantial Endangerment to Health and the Environment Caused by the Disposal of Hazardous Waste by W. R. Grace & Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 21, 1980, a proposed consent decree in *United States of America* v. *W. R. Grace & Co.*, Civil Action No. 80-748-C, was lodged with the United States District Court for the District of Massachusetts. The proposed consent decree commits W. R. Grace & Co. to cleaning up hazardous waste contamination on its property in Acton, Massachusetts, after the completion of studies to develop a clean-up program. The proposed decree also requires W. R. Grace & Co. to develop and implement a program to remove hazardous waste contamination from the aquifer located beneath its property. The clean-up programs and time schedules required by the proposed decree must be approved by the plaintiff. W. R. Grace & Co. is subject to a $2,500 per day penalty for failing to meet deadlines required by the decree. A letter agreement between the parties makes immediately effective the terms of the proposed decree keyed to entry of the decree, while compliance with 28 CFR § 50.7 takes place.

The proposed consent decree may be examined at the office of the United States Attorney, Room 1107, John W. McCormack Post Office and Courthouse, Devonshire Street, Boston, Massachusetts 02109; at the Region I office of the United States Environmental Protection Agency, Enforcement Division, 21st Floor, John F. Kennedy Federal Building, Boston Massachusetts 02203; and at the Hazardous Waste Section, Land and Natural Resources Division, United States Department of Justice, Room 1644, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Hazardous Waste Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *W. R. Grace & Co.*, D. Massachusetts, Civil Action No. 80-748-C, D.J. Ref. 90-7-1-44.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-34063 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-01-M

Membership of the Department of Justice's Performance Review Boards

AGENCY: Department of Justice.

ACTION: Amendment to Notice of the Department of Justice's Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 USC 4314(c)(4), on Wednesday, August 20, 1980, the Department of Justice announced the membership of its Performance Review Boards. Subsequent to that notice, several changes to the original Board membership were required.

FOR FURTHER INFORMATION CONTACT:

Mr. Warren Oser, Director, Personnel and Training Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633-3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

Offices, Boards and Divisions Performance Review Boards:

Board 1

Dr. Paul Saenz, Associate Deputy Commissioner, Immigration and Naturalization Service.
Replaced
Martin B. Danziger, Deputy Commissioner, Immigration and Naturalization Service.

Board 3 (were added to Board 3)

Jo Ann Harris, Chief, Fraud Section, Criminal Division;
and
Mary Lynn Walker, Chief, Special Litigation Section, Civil Rights Divison.

Board 4 (was added to Board 4)

Arden B. Schell, Deputy Assistant Attorney General, Office of Legislative Affairs.

Office of Justice Assistance, Research and Statistics Performance Review Board:

Jane Restani, Director, Civil Litigation Branch, Civil Division.
Replaced
Robert F. Diegelman, Assistant Administrator, Planning and Management, Office of Justice Assistance, Research and Statistics, as a member of the Board and also as the Chairman of the Board.

[FR Doc. 80-34064 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Final Judgment in United States v. Detroit Lumbermen's Association, et al., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed Final Judgment and a Competitive Impact Statement ("CIS") as set out below have been filed with the United States District Court for the Eastern District of Michigan, Southern Division, in *United States* v. *Detroit Lumbermen's Association, et al.*, Civil No. 872522. The Complaint in this case alleges that six retail lumber dealers and a trade association violated the Sherman Act by conspiring to fix, raise, stabilize and maintain prices of lumber and related products in Southeastern Michigan.

The proposed Judgment enjoins the defendants from engaging in the alleged conspiracy and prohibits them from communicating certain pricing information to any other retail lumber dealer. The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Joseph H. Widmar,

Director of Operations.

United States District Court for the Eastern District of Michigan Southern Division

United States of America, Plaintiff, v. *Detroit Lumbermen's Association; ERB Lumber Co.; C. F. Gibbs Lumber Company; Groesbeck Lumber & Supply, Inc.; Haggerty Lumber & Supply Co.; National Lumber Company; and Wallich Lumber Company*, Defendants.

Civil No. 872522, Judge Patricia J. Boyle.

Filed: October 16, 1980.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: October 16, 1980.

For the Plaintiff: Sanford M. Litvack, *Assistant Attorney General:* Joseph H. Widmar; Charles F. B. McAleer; John A. Weedon; David F. Hils, *Attorneys, Department of Justice.* James K. Robinson, *United States Attorney.* Deborah Lewis Hiller; Richard E. Reed; *Attorneys, Department of Justice, Antitrust Division,* 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: 216-522-4078.

For the Defendants:

Philip H. Dawson, *Counsel for Detroit Lumbermen's Association.* Robert G. Cutler, *Counsel for Erb Lumber Co.* W. Robert Chandler, *Counsel for Haggerty Lumber & Supply Co.* David F. Dumouchel, *Counsel for C. F. Gibbs Lumber Company.* Frank J. Bujold. George B. Bailey, Jr., *Counsel for Groesbeck Lumber & Supply, Inc.* Herbert N. Weingarten, *Counsel for National Lumber Company.* Gregory L. Curtner, *Counsel for Wallich Lumber Company.*

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on September 29, 1978, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

Ordered, Adjudged, and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment, the term:

(A) "Person" means any individual, sole proprietorship, corporation, partnership, firm, association, or other business or legal entity;

(B) "Lumber and related products" means wood and other building materials, including but not limited to dimensional lumber, timber, boards, plywood, sheathing, underlayment, and hardwood flooring;

(C) "Retail lumber dealer" means a person who sells lumber and related products to the ultimate consumer, including but not limited to builders;

(D) "Southeastern Michigan" means the counties of Wayne, Macomb, Oakland, Lapeer, Genesee, Washtenaw, Monroe, and Livingston in the State of Michigan.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, participating in, maintaining, reviving, renewing, furthering, enforcing, or claiming any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any defendant or other retail lumber dealer to fix, establish, raise, stabilize or maintain prices or other terms or conditions for the sale of lumber and related products.

V

Each defendant is enjoined and restrained from, either directly or indirectly:

(A) Recommending, suggesting the use of, publishing, circulating, or otherwise transmitting to, or formulating, adopting, reviving, or renewing with, any defendant or any other retail lumber dealer any price, price list, formula, guide, schedule, manual, report or method for pricing of lumber and related products;

(B) Communicating to, requesting from or exchanging with any defendant or any other retail lumber dealer in Southeastern Michigan any statistics or other information concerning past, current, or future prices, costs, terms or conditions of sale, discounts, or actual or proposed pricing policies, or any consideration or contemplation of changes therein, for the sale of lumber and related products in Southeastern Michigan by any retail lumber dealer.

VI

Each defendant retail lumber dealer is enjoined and retrained from belonging to, or participating in, the activities of the defendant Detroit Lumbermen's Association and any trade association whose activities are inconsistent with any of the terms of this Final Judgment.

VII

The defendant Detroit Lumbermen's Association is enjoined and restrained from sponsoring or participating in any meeting, conference, or siminar at which past, current, or future prices, costs, terms or conditions of sale, discounts, or actual or proposed pricing policies for the sale of lumber and related products are discussed or communicated.

VIII

Nothing contained in this Final Judgment shall prohibit:

(A) A defendant retail lumber dealer's negotiations, arrangements, or communications with another retail lumber dealer or with any agent, broker, distributor, or representative of another retail lumber dealer solely in connection with a *bona fide* transaction involving:

(1) The actual or proposed purchase or sale of lumber and related products between retail lumber dealers;

(2) The actual or proposed participation in a joint venture for the purchase or sale of lumber and related products by two or more retail lumber dealers; or

(3) The actual or proposed acquisition of, or merger or consolidation with, any retail lumber dealer.

(B) A defendant retail lumber dealer's participation in any pension, insurance, or worker's compensation plan or program administered by the Detroit Lumbermen's Association so long as such plan or program, or participation therein, is not inconsistent with any of the terms of this Final Judgment.

IX

(A) Each defendant retail lumber dealer shall advise each of the officers who has management responsibility for the sale of lumber and related products, and each of its employees and agents who is engaged in the sale of, or who has responsibility for or authority over the establishment of prices for, lumber and related products, of its and his obligations under this Final Judgment.

(B) Defendant Detroit Lumbermen's Association shall advise each of its officers, directors, agents, employees and members, of its and his obligations under this Final Judgment.

(C) Each defendant is ordered and directed, with respect to the appropriate subsection, (A) or (B), hereof, to:

(1) Furnish a copy of this Final Judgment to each of the persons described in subsections (A) and (B) hereof within thirty (30) days after the date of the entry of this Final Judgment;

(2) Furnish a copy of this Final Judgment to each successor to each person described in subsections (A) and (B) hereof within thirty (30) days after each successor becomes associated with the defendant;

(3) Obtain from each of those persons described in subsections (A), (B), and (C)(2) hereof and furnished a copy of this Final Judgment a signed receipt therefor, which

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receipt shall be retained in the defendants' files;

(4) Attach to each copy of this Final Judgment furnished to each of those persons described in subsections (A), (B), and (C)(2) hereof a statement, in substantially the form set forth in Appendix A attached hereto, advising each such person of his obligations and of such defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him and upon such defendant for violation of this Final Judgment;

(5) Hold within sixty (60) days after the date of entry of this Final Judgment, a meeting of the persons described in subsections (A), (B), and (C)(2) hereof, at which meeting such persons shall be instructed concerning the defendant's and their obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment;

(6) Establish and implement a plan for monitoring compliance by the persons described in subsections (A), (B), and (C)(2) hereof with the terms of the Final Judgment; and

(7) File with this Court, and serve upon the plaintiff within ninety (90) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsections (C) (1), (4), (5), and (6) hereof.

(D) For a period of five (5) years from the entry of this Final Judgment, each defendant shall file with the Court and with plaintiff on the anniversary date of this Final Judgment an affidavit, by a responsible official designated by the defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Final Judgment. This affidavit shall be accompanied by copies of all written directives issued by the defendant during the prior year with respect to compliance with the antitrust laws and with this Final Judgment.

X

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in its retail lumber dealership, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court and serve upon the plaintiff its consent to be bound by this Final Judgment at least thirty (30) days prior to the transfer of ownership.

XI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal officer, be permitted:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to a defendant's principal offices, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XII

This Final Judgment shall terminate ten (10) years from the date of its entry.

XIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XIV

Entry of this Final Judgment is in the public interest.

United States District Judge

Dated:

Appendix A

Notice

Re: United States v. Detroit Lumbermen's Association; Erb Lumber Co.; C. F. Gibbs Lumber Company; Groesbeck Lumber & Supply, Inc.; Haggerty Lumber & Supply Co.; National Lumber Company; and Wallich Lumber Company, Civil No. 872522 (E.D. Mich. 1978)

Attached hereto is a copy of a Final Judgment entered ————, 1980 in the captioned case. We are required to provide this to you. You should read it carefully. The provisons of the Final Judgment contained in Sections IV, V, and/or VI and VII apply to you. If you violate these provisions, you may subject the Company to a fine and you may also subject yourself to a fine and imprisonment.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On September 29, 1978, the United States filed a civil antitrust complaint alleging that six retail lumber dealers and one trade association conspired to fix prices in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that, beginning at least as early as 1970 and continuing thereafter until April 1977, the defendants engaged in a combination and conspiracy to fix, raise, stabilize, and maintain the prices of lumber and related products to builders in Southeastern Michigan. The Complaint alleges that in forming and effectuating the combination and conspiracy, the defendants: (a) participated on the Marketing Committee of the Detroit Lumbermen's Association and through that Committee formulated and agreed upon a list of prices for lumber and related products to be published in a Market Report for the following month; (b) discussed and agreed upon, at regular monthly meetings of the Marketing Committee, costs and mark-ups to be reflected in the prices included in the Market Report for the following month; and (c) disseminated the Market Report to members of the Detroit Lumbermen's Association, as well as other retail lumber dealers and builders in Southeastern Michigan, for their use in arriving at pricing decisions.

The Complaint seeks a judgment by the Court that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also asks that the Court enjoin the defendants from such activities in the future, and it seeks to have the Detroit Lumbermen's Association dissolved.

The defendants named in the Complaint are: Detroit Lumbermen's Association; Erb Lumber Co.; C.F. Gibbs Lumber Company; Groesbeck Lumber Company; Haggerty Lumber & Supply Co.; National Lumber Company; and Wallich Lumber Company. Since the filing of the Complaint, Groesbeck Lumber Company, a partnership, has incorporated its retail lumber business and now operates that business as Groesbeck Lumber & Supply, Inc.

All of the defendants to this action have previously pleaded *nolo contendere* to criminal felony charges concerning the same combination and conspiracy alleged in this action. Fines ranging from $20,000 to $75,000 were levied against the defendants. This civil case had been held in abeyance until the criminal charges were resolved.

II

Description of the Practices Giving Rise to the Alleged Violation of the Antitrust Laws

During the period covered by the Complaint, each of the defendants, except the Detroit Lumbermen's Association, sold lumber and related products in Southeastern Michigan, and the Detroit Lumbermen's Association was a trade association of lumber dealers in that area. The defendant retail lumber dealers purchased lumber and related products from mills, brokers, and wholesalers, and sold them to builders in Southeastern Michigan and outside the State of Michigan. For the period 1970 to April 1977, the defendant retail lumber dealers, which were among the leading retail lumber dealers in Detroit and Southeastern Michigan, had total sales in excess of $200 million for lumber and related products listed on the Market Report.

The Complaint alleges that the defendants engaged in an illegal combination and conspiracy beginning at least as early as 1970 and continuing threafter until April 1977 that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators to fix, raise, stabilize and maintain prices of lumber and related products to builders in Southeastern Michigan.

The Complaint alleges that the combination and conspiracy had the following effects, among others:

(a) prices of lumber and related products to builders were fixed, raised, stabilized and maintained in Southeastern Michigan at artificial and non-competitive levels; and

(b) customers, including builders, in Southeastern Michigan were deprived of the benefits of full, free, and open competition in the purchase of lumber and related products.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV enjoins and restrains the defendants from entering into, adhering to, participating in, maintaining, reviving, renewing, furthering, enforcing, or claiming any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any defendant or other retail lumber dealer to fix, establish, raise, stabilize or maintain prices or other terms or conditions for the sale of lumber and related products.

Section V of the proposed Final Judgment enjoins the defendants from communicating with each other or with any other retail lumber dealer about the prices or terms of sale of lumber and related products. Specifically, the defendants are enjoined and restrained from:

(A) Recommending, suggesting the use of, publishing, circulating, or otherwise transmitting to, or formulating, adopting, reviving, or renewing with, any defendant or other retail lumber dealer any price, price list, formula, guide, schedule, manual, report or method for pricing of lumber and related products;

(B) Communicating to, requesting from or exchanging with any defendant or any other retail lumber dealer in Southeastern Michigan any statistics or other information concerning past, current, or future prices, costs, terms or conditions of sale, discounts, or actual or proposed pricing policies, or any consideration or contemplation of changes therein, for the sale of lumber and related products in Southeastern Michigan by any retail lumber dealer.

Since the defendant retail lumber dealers often sell lumber to one another, as well as to builders and consumers, Section VIII of the proposed Final Judgment permits communications in connection with a *bona fide* purchase or sale between the defendants. Section VIII also permits communications in connection with lawful joint ventures or an acquisition, merger or consolidation with another retail lumber dealer.

Section VI of the proposed Final Judgment enjoins the defendant retail lumber dealers from belonging to, or participating in, the activities of the Detroit Lumbermen's Association. Section VIII(B) is a limited exception that permits a defendant retail lumber dealer to participate only in a pension, insurance, or worker's compensation plan administered by the Detroit Lumbermen's Association so long as such plan or program is not inconsistent with any of the terms of the Final Judgment.

The Detroit Lumbermen's Association is enjoined by Section VII from sponsoring or participating in any meeting, conference, or seminar at which past, current, or future prices, costs, terms, or conditions of sale, discounts, or actual or proposed pricing policies for the sale of lumber and related products are discussed or communicated.

Section IX of the proposed Final Judgment orders the defendant retail lumber dealers to furnish a copy of the Final Judgment to each of their officers, employees, and agents who has responsibility for the pricing or sale of lumber and related products. Section IX also orders the defendant Detroit Lumbermen's Association to furnish a copy of the Final Judgment to each of its officers, directors, agents, employees and members. Successors of those persons are also to be furnished a copy of the Final Judgment. Each copy of the Final Judgment so provided will have attached a statement informing the recipient that a violation of the Final Judgment could result in a fine for the company and a fine and imprisonment for the individual. Section IX also requires each defendant to hold a meeting every year for five years at which the persons mentioned above are instructed on their obligations and the obligations of their company or Association under the Final Judgment. The defendants are required to implement a plan for monitoring compliance of those persons with the Final Judgment.

Section III of the proposed Final Judgment makes the Judgment applicable to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who have received actual notice of the Final Judgment.

Section X requires that, if a defendant sells the assets of its retail lumber dealership, the purchaser must agree to be bound by the Final Judgment and must so inform the Court and the United States.

Section XII makes the Final Judgment effective for ten years from the date of its entry.

Section XIV of the proposed Final Judgment states that entry of this Judgment is in the public interest. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

Standard provisions similar to those found in other antitrust Final Judgments entered by consent are contained in Section I (jurisdiction of the Court), Section XI (investigation and reporting requirements), and Section XIII (retention of jurisdiction by the Court).

It is anticipated that the relief provided by the proposed Final Judgment will have a salutory effect on competition in the retail lumber market in Southeastern Michigan. Not only have the defendants been enjoined from future collusive behavior, but they also are required to provide copies of the Final Judgment to their officers, employees, and agents who have responsibility for the sale or pricing of lumber and related products. In addition, those people must meet annually to be instructed about their responsibilities under the Judgment. It is anticipated that these provisions will reduce the possibility of future violations.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to John A. Weedon, Chief, Great Lakes Field

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Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070). These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register.**

All comments will be given due consideration by the Department of Justice. The Department remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Further, Section XIII of the proposed Judgment provides that the Court retains jurisdiction over this action for the life of the Final Judgment and that the parties may apply to the Court for such order as may be necessary or appropriate for the modification, interpretation, or enforcement of the Judgment after its entry.

VI

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial on the merits and on relief. The Division considers the proposed Judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the Complaint.

In the Complaint, the United States had sought to have the Detroit Lumbermen's Association dissolved. The proposed Final Judgment, however, does not order the Association to be dissolved. The United States has agreed, instead, to certain injunctions that the United States believes will be a sufficient remedy. Section VI of the proposed Final Judgment prohibits the defendant retail lumber dealers from belonging to, or participating in, the activities of the Detroit Lumbermen's Association. In addition, Section VII of the proposed Final Judgment prohibits the Detroit Lumbermen's Association from sponsoring or participating in any meeting, conference, or siminar at which past, current, or future prices, costs, terms, or conditions of sale, discounts, or actual or proposed pricing policies for the sale of lumber and related products are discussed or communicated. These two provisions will substantially reduce the possibility that the Association could be an instrument for renewing the violation alleged in the Complaint.

Even though the proposed Final Judgment prohibits the defendant retail lumber dealers from participating in the activities of the Detroit Lumbermen's Association in general (Section VI), the Judgment itself does not prohibit these defendants from participating in pension, insurance, and worker's compensation plans administered by the Detroit Lumbermen's Association so long as these plans are not inconsistent with any of the terms of the Final Judgment (Section VIII(B)). Only one defendant is currently a member of these plans, however, and the present rules of the Detroit Lumbermen's Association would not allow the other defendants to join these plans without joining the Association, which is prohibited by the Judgment (Section VI). These plans had no bearing on the violation alleged in the Complaint and allowing participation in these plans in no way weakens the injunctions in the proposed Final Judgment.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Respectfully submitted,

John A. Weedon,
David F. Hils,
Attorneys, Department of Justice.

Deborah Lewis Hiller,
Richard E. Reed,
Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone: 216–522–4078.

[FR Doc. 80-34061 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-01-M

United States v. Warren Five Cents Savings Bank

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Massachusetts in *United States* v. *Warren Five Cents Savings Bank,* Civil Action No. 79–1257–Mc. The complaint in this case alleged that the defendant entered into contracts prohibiting the use of space for retail banking facilities of other financial institutions at and adjacent to a large suburban shopping center, thereby restraining interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The proposed Consent Judgment enjoins the defendant from entering into, adhering to, enforcing, maintaining, or claiming any rights under any provision of any contract, agreement, arrangement or understanding with any person which limits or restricts the number, location or use of offices or facilities of any financial institution at the Northshore Shopping Center in Peabody, Massachusetts. The proposed Judgment further enjoins the defendant from entering into any contract, agreement, arrangement or understanding with any person which limits or restricts the number, location or use of offices or facilities by any other financial institution.

Public comment is invited within the statutory 60-day comment period. Such comments, and reponses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Room 504–B, Safeway Building, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202/724–6693).

Joseph H. Widmar,
Director of Operations.

U.S. District Court for the District of Massachusetts

United States of America, Plaintiff, v. *Warren Five Cents Savings Bank,* Defendant.

Civil No. 79–1257 Mc.

Filed: October 20, 1980.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or any other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff or defendant in this or any other proceeding.

For the plaintiff: Sanford M. Litvack, *Assistant Attorney General;* Mark Leddy; Stanley M. Gorinson; Robert E. Hauberg, Jr.; Thomas A. Schulz; Rebecca P. Dick; *Attorneys, Department of Justice.*

For the defendant: John A. McNiff, *Pearl, McNiff, Crean & Cook;* 30 Main Street, Peabody, Massachusetts 01960.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on June 29, 1979, and the plaintiff and the defendant by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. Sec. 1), as amended.

II

For purposes of this Final Judgment:

(A) "Defendant" shall mean Warren Five Cents Savings Bank.

(B) "Financial institution" shall mean any institution which accepts deposits or grants loans.

(C) "Person" shall mean any individual, corporation, partnership, association, firm, or any other business or legal entity.

(D) "Northshore Shopping Center" shall mean a tract or parcel of land located in Peabody, Massachusetts, at the intersection of Routes 114 and 128, on which is constructed one or more buildings primarily designed to provide space for the operation of multiple retail and service establishments.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, trustees, agents, and employees and to its successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Defendant is enjoined and restrained from entering into, adhering to, enforcing, maintaining or claiming any rights under any provision of any contract, agreement, arrangement or understanding with any person which limits or restricts the number, location or use of offices or facilities of any financial institution at the Northshore Shopping Center.

(B) Defendant is enjoined from entering into any contract, agreement, arrangement or understanding with any person which limits or restricts the number, location or use of offices or facilities by any other financial institution.

V

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office, shall be permitted, subject to any legally recognized claim of privilege, (a) access during the office hours of said defendant to inspect and copy such books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of said defendant which relate to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding such matters.

(B) Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

(C) No information obtained by the means provided in this Paragraph V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

(D) If, at any time, information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which defendant is not a party.

VI.

Jurisdiction is retained for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions contained herein, and for the enforcement of compliance therewith.

VII.

This Final Judgment shall terminate ten (10) years from the date of its entry by this Court.

VIII.

Entry of this Final Judgment is in the public interest.

Dated:

_____,

United States District Judge.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h), P.L. 93–528 (December 21, 1974)) the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

This is a civil antitrust action by the United States against Warren Five Cents Savings Bank, Peabody, Massachusetts. The complaint, filed on June 29, 1979, alleged that the defendant had entered into an exclusive lease contract at the Northshore Shopping Center, a regional shopping center in Peabody, Massachusetts, and another restrictive contract concerning land adjacent to Northshore, restraining interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The case was brought to enjoin Warren from entering into, maintaining, and enforcing such contracts.

II. Practices and Events Giving Rise to the Alleged Violation

Defendant Warren is a state-chartered mutual savings bank having no capital stock. It is operated for the benefit of its depositors by a Board of Trustees. Its main business is receiving time and savings deposits on which it pays interest or divdents and making loans and investments.

On March 19, 1957, defendant entered into a lease agreement for the purpose of opening and operating a branch office at the Northshore Shopping Center. The lease agreement contained a provision called a "Tenant's Exclusive" prohibiting the lessor from leasing space in Northshore to any other financial institution for the twenty-year term of the lease and, at the option of the lessee, for two additional five-year terms.[1]

In 1969, Essex County Bank & Trust Company, a commercial bank acquired property adjacent to Northshore to construct a new building to house its executive offices and a retail banking office. On June 3, 1969, defendant filed an action in Essex County Superior Court against Essex County Bank & Trust seeking to enjoin the use of the property for any banking purpose. The parties settled this suit on December 24, 1969. That settlement provided that Warren would dismiss the Superior Court action and Essex Bank & Trust was permitted to construct and occupy its proposed new building with a banking office on the ground floor. However, the settlement agreement also provided that no other financial institution would be permitted to operate an office on land adjacent to the shopping center owned by the corporate parent of Northshore, as long as Warren maintained its office in Northshore.

In 1977, Salem Five Cents Savings Bank, a state-chartered mutual savings bank, arranged to lease space in Northshore for a branch office and attempted to have defendant waive its Tenant's Exclusive. Defendant refused to waive its restriction. On August 3, 1978, defendant obtained a preliminary injunction from the Essex County Superior Court restraining the owner of Northshore from leasing space to Salem and Salem from operating an office in the shopping center. In October 1978, the Commissioner of Banks for the Commonwealth of Massachusetts granted Salem permission to establish a branch office in Northshore. However, on July 12, 1979, the Essex County Superior Court made permanent its injunction against Salem and the shopping center.

The Complaint alleged that the lease agreement between the owner of Northshore and defendant and the 1969 settlement agreement prohibits the owner of Northshore from leasing space in that shopping center to any other financial institution and from allowing the use of certain adjacent property as a retail banking facility by any other financial institution. According to the Complaint, these contracts have had the effect of denying Salem and other financial institutions the opportunity to establish branch offices at Northshore and/or on land adjacent to it; restraining, eliminating, and suppressing competition between defendant

[1] On the same date, another financial institution, Merchants-Warren National Bank also entered into a separate but similar lease. It also contained provisions prohibiting the lessor from leasing space in Northshore to any other financial institution. In 1977, Merchants' successor waived that restriction.

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and other financial institutions in the area served by Northshore; and denying to the public the benefits of additional competition among financial institutions at Northshore.

III. Explanation of the Proposed Final Judgment

The United States and defendant have agreed that a Final Judgment, in the form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation provides that there has been no admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon a determination by the Court that the Judgment is in the public interest.

Section IV of the proposed Final Judgment prevents the defendant from entering into or enforcing any agreement which limits or restricts the number, location or use of financial institution offices or facilities at the Northshore Shopping Center. It also prevents the defendant from entering into any other such restrictive agreements in the future.

The proposed Final Judgment expressly provides in Section III that its terms apply to the defendant's officers, trustees, employees, agents, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Under Section V of the proposed Final Judgment, the Department of Justice will have access upon reasonable notice to the records and personnel of the defendant in order to assess the defendant's compliance with the provisions of the Final Judgment. Under Section VI of the Final Judgment, jurisdiction is retained by the Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the Final Judgment, for modification of any of its provisions, or for punishment of violations of it.

Section VII of the proposed Final Judgment limits its force and effect to a period of ten (10) years from the date it is entered by the Court.

IV. Remedies to the Private Plaintiff

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action.

Under the provision of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment, since it is a consent judgment that will be entered before any testimony has been taken, may not be used as *prima facie* evidence in any subsequent private lawsuit which may be brought against the defendant.

V. Procedures Available for Modifications of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division, Department of Justice, Safeway Building, Room 504, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments and responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should be determined that some modification of the Final Judgment is necessary.

VI. Alternatives to the Proposed Final Judgment

The proposed Final Judgment prohibits the defendant from engaging in the illegal conduct alleged in the Complaint at Northshore Shopping Center, Peabody, Massachusetts. It also prohibits the defendant from entering into any agreement which limits or restricts the number, location or use of any offices or other facilities (*e.g.*, night depository boxes, automated teller machines, automated cash dispensers) by any other financial institution during the term of the proposed Final Judgment.

The only additional relief which would be available and which was considered by the Department of Justice would have prohibited the defendant from maintaining a restrictive lease, similar to that challenged in the Complaint, for a branch office at the King's Plaza Shopping Center. King's Plaza is a small, neighborhood shopping center whose principal tenants are a discount department store and a grocery store (which recently went out of business). It is located in the west end of Peabody, Massachusetts, and is surrounded by residential areas with no room for any significant expansion. Defendant's branch office is a small, drive-up facility located in the parking lot at King's Plaza, and accounts for 13.8 percent of defendant's time and savings deposits. There is an office of another financial institution located adjacent to King's Plaza. In addition, defendant's lease for its King's Plaza office will expire on January 31, 1983.

In view of the limited commercial significance of King's Plaza, the existence of another financial institution adjacent to King's Plaza and the limited term remaining for defendant's King's Plaza office lease, the Department of Justice has concluded that this single restrictive lease should not be an impediment to settlement of this litigation. Of course, the Department of Justice remains free to challenge defendant's King's Plaza lease under the antitrust laws should it deem such action to be in the public interest.

VII. Other Materials

There are no other materials or documents which the Department of Justice considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Dated:

Thomas A. Schulz, Rebecca P. Dick,

Attorneys, U.S. Department of Justice, Washington, D.C. 20530.

[FR Doc. 80-34062 Filed 10-31-80; 8:45 am]

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Attorney General

Certification of the Attorney General, Atascosa County, Texas

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution of the United States in Atascosa County, Texas. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on September 18, 1975, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on September 23, 1975 (40 FR 43746).

Dated: October 29, 1980.

Benjamin R. Civiletti,

Attorney General of the United States.

[FR Doc. 80-34243 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-01-M

Certification of the Attorney General, Quitman County, Mississippi

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Quitman County, Mississippi. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: October 29, 1980.

Benjamin R. Civiletti,

Attorney General of the United States.

[FR Doc. 80-34242 Filed 10-31-80; 8:45 am]

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Drug Enforcement Administration

[Docket No. 80-2]

Aaron A. Moss, D.D.S.; Denial of Application

On February 6, 1980, the Administrator of the Drug Enforcement Administration [DEA] issued to Aaron A. Moss, D.D.S. [Respondent], an Order to Show cause proposing to deny the Respondent's pending application for registration pursuant to Section 303(f) of the Controlled Substances Act, 21 U.S.C. 823(f). By letter dated February 12, 1980, the Respondent requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Washington, D.C., on May 6, 1980. Administrative Law Judge Francis L. Young presided. On August 12, 1980, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. No exceptions were filed and, on September 9, 1980, Judge Young transmitted the record of these proceedings to the Administrator. The record included, *inter alia*, the Administrative Law Judge's report or opinion, the hearing transcript and all exhibits which had been placed in the record. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that beginning in late-1971, and continuing into mid-1973, the Respondent was involved in a series of smuggling ventures in which he brought hashish and cocaine into the United States from Morocco and South America. The Respondent was primarily a courier. He carried illicit drugs which had been concealed in false-bottomed suitcases. He also transported money between the United States and Peru on behalf of the principals in the transactions. The Respondent received between $1,000 and $15,000 for his role in the various ventures and, on at least one occasion, invested his own money in a cocaine transaction.

The Respondent's value to the smuggling conspiracy was principally due to his age, profession and physical appearance. At the time of the hearing, he was seventy years old. He was in his early sixties and retired when he engaged in smuggling drugs. The Administrative Law Judge noted that judging from the Respondent's appearance at the hearing, he must have looked like the perfect example of a quiet, gentle, respectable, upright and law-abiding retired professional, a tourist or expatriate, traveling for pleasure about the world. These factors greatly reduced the probability that he would draw attention as a possible smuggler. To further conceal his activities, the Respondent utilized at least two, and possibly as many as four, passports. He obtained additional passports fraudulently, by telling embassy personnel that his passport had been lost or destroyed. By using one passport to travel between the United States and Spain, where he resided part-time, and by using another to travel between Europe and South America, he could enter this country without alerting Customs authorities to his trips to South America.

Dr. Moss was named in a multi-count indictment which was handed up by a Grand Jury of the U.S. District Court for the Southern District of New York. He ultimately entered a plea of guilty to the fourth count of the indictment and, on August 5, 1975, was convicted of violating 21 U.S.C. 952(a). This offense, relating to controlled substances, is a felony by virtue of the provisions of 21 U.S.C. 960. The Respondent was sentenced to a term of imprisonment of five years, to be followed by a three-year special parole term. The sentence was suspended and the Respondent was placed on probation. he was released from probation on July 28, 1978.

The Respondent is presently practicing dentistry in New York City. He has applied for registration to handle controlled substances in Schedule III. At the present time, when he finds that a patient is in need of a prescription for a controlled substance, he asks another dentist, with whom he shares office space, to write the prescription.

After concluding that there is a lawful or statutory basis for the denial of the Respondent's application for registration, the Administrative Law Judge discussed his reasons for recommending that the Administrator deny the application. Judge Young noted that the Respondent is a very appealing individual and that he appeared to be sincere when he admitted the scope and gravity of his past misdeeds. Yet, he did not admit that his smuggling activity was motivated by substantial remuneration. Instead, the Respondent attributes his involvement in the illicit drug trade to a period of mental or emotional illness. The Administrative Law Judge does not credit the Respondent's explanation with much validity. The Administrator agrees.

During the course of the hearing, the Respondent stated that his true needs for controlled substances in connection with his practice were limited. The drugs he named were analgesics and tranquilizers in Schedules II, III and IV. As Government counsel pointed out during these proceedings, in explaining the Government's unwillingness to register the Respondent even for a limited list of drugs, or drug-types, it is most difficult to adequately monitor the prescribing or dispensing activities of an individual practitioner once a registration has been granted.

Judge Young concluded that the Respondent is an individual who has flouted the law with respect to controlled substances in the past, in such a manner as to give rise to a real apprehension that he may do so again, albeit in a different manner, if given the opportunity to do so. The Administrative Law Judge has recommended that the Respondent's application be denied. The Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The application must be denied.

Having concluded that there is a lawful basis for the denial of the Respondent's application for registration, and having further concluded that under the facts and circumstances presented in this case the application should be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), hereby orders that the application of Aaron A. Moss, D.D.S., for registration under the Controlled Substances Act, be, and it hereby is, denied.

Dated: October 28, 1980.

Frederick A. Rody, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-34173 Filed 10-31-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-74)]

Space Science Steering Committee, Physical Science Spacelab and LDEF Ad Hoc Advisory Subcommittee; Meeting

The Physical Science Spacelab and LDEF Ad Hoc Advisory Subcommittee of the Space Science Steering Committee will meet at NASA Goddard Space Flight Center at Greenbelt, MD, on November 17–19, 1980. The meeting will be held in Room 200 of Building 26 from 9:00 a.m. to 5:00 p.m. on each day. The Subcommittee will discuss and evaluate the proposals submitted to NASA as a result of the Space Science Notice of February 25, 1980, calling

attention to the opportunity for investigations using the Solar Optical Telescope to be flown on Spacelab. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to Space Science would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. (c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Dr. Eric Chipman, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8490).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

October 24, 1980.

[FR Doc. 80–34073 Filed 10–31–80; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Evaluation of Agreement State Radiation Control Programs: Proposed General Statement of Policy

Correction

In FR Doc. 80–30822, published in the issue of Friday, October 3, 1980, on page 65726, please make the following corrections:

1. On page 65728, the beginning of the first paragraph in the first column was inadvertently omitted. For the convenience of the reader, the full text of that paragraph should read:

The revised Guide also utilizes categories of indicators. The purpose of the categories is to indicate the potential seriousness of deficiencies in the program areas addressed by the various indicators. Category I indicators reflect a State program's ability to adequately protect the public health and safety. Significant problems in meeting the guides for acceptable practice for these indicators probably means the State program has a serious need for improvement. If significant problems exist in more than one of these areas, then the need for improvements may be critical. Category II indicators address functions and activities which support a States' program. Good performance in meeting the guidelines for these indicators is considered essential if the State is to avoid significant problems in conducting an effective program to protect the public health and safety. Category III indicators address those areas of a State program which are considered highly desirable features of a soundly based, comprehensive program for controlling agreement materials, but which have little or no direct bearing on the State's ability to protect the public health and safety. These categories of indicators reflect the *potential* seriousness of deficiencies in various program areas. NRC obviously uses discretion in reviewing deficiencies within the various categories.

2. In that same column, the last paragraph is a duplicate of the paragraph above it, and should be removed.

BILLING CODE 1505–01–M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 28, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Metro-Goldwyn-Mayer Film Co.
Common Stock, No Par Value (File No. 7–5773)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 19, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–34169 Filed 10–31–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–6352]

John H. Harland Co., Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

October 27, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of John H. Harland Company (the "Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on August 26, 1980, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). Simultaneously, such stock was suspended from trading on the Amex. The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its common stock.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before November 18, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–34166 Filed 10–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17248; File No. SR–NYSE–80–40]

Self-Regulatory Organization; Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 17, 1980 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment to Rule 46 would increase the number of Floor Governors which the Chairman of the Board of Directors may designate, with the approval of the Board from fourteen to sixteen.

The Exchange's Statement of Basis and Purpose

Exchange Rule 46 currently provides for the designation of fourteen Floor Governors. The increase to sixteen Floor Governors is necessary due to the increased activity in one area of the Exchange's trading Floor due to the facilities upgrade. The additional Floor Governors would relieve the increased burden which resulted from the facilities upgrade.

The Exchange's Statement of Basis Under the Act for Proposed Rule Change

The proposed rule change relates to Section 6(b)(1) of the Act in that it will permit the Exchange, through its Floor Governors, to more efficiently perform those duties prescribed in the rules relating to supervision and regulation of Floor matters.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not solicited comments regarding the proposed rule change and has received none.

Burden on Competition

The proposed rule change will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 24, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 24, 1980.

[FR Doc. 80–34006 Filed 10–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17251; File No. SR–PHLX 80–24]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 6, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (PHLX) proposed by-law amendments and a Board Directive relating to the designations, procedures and functions of standing committees.

Standing committees, except for the Hearing Committee, shall be composed of not less than nine members, at least three of whom shall be members of the Board. Except as otherwise specifically provided, such a committee may act through a quorum composed of a majority of all its members then in office and no specified number of the quorum need be governors. Committee chairmen shall be empowered to appoint governors temporarily to standing committees to effect quorums.

The Admissions Committee shall have jurisdiction over admission to membership in accordance with policies established by the Board. It shall be empowered to admit applicants and reinstate suspended members. Hearing and appeal procedures are provided for applicants who are denied membership.

An Allocation, Evaluation and Securities Committee shall be established with jurisdiction over the allocation, retention and transfer of the privileges to deal in and trade equity securities and options to, by and among members on the equity and options trading floors. It shall establish standards for periodic review and evaluation of performance. It shall also perform the functions of the discontinued Stock List Committee which involve the listing and admitting to dealings of equity securities and their removal from the list or from dealings.

An Executive Committee shall be established to execute and implement corporate policy previously established by the Board and to make recommendations concerning corporate policy to the Board.

The Floor Procedure Committee shall continue to have supervision over dealings on the equity trading floor and over specialists, dealers, market-makers, floor brokers and their employees. It shall have supervision over operations and policies of the national market system insofar as they are related to the Exchange's participation in the system. The Committee shall be empowered to make temporary appointments of equity specialists, dealers and market-makers, and advise the Allocation, Evaluation and Securities Committee on their permanent appointments. It shall enforce rules relating to order, decorum, health, safety and welfare on the equity trading floor.

The Options Committee shall continue to have supervision over dealings on the options trading floor and over specialists, registered options traders, market-makers, floor brokers and their employees. It shall resolve trading disputes and supervise communications with the options trading floor, the location of equipment, and the use of space. The Committee shall be empowered to make temporary appointments of options specialists, registered options traders and market-makers, and advise the Allocation, Evaluation and Securities Committee on their permanent appointments. It shall enforce rules relating to order, decorum, health, safety and welfare on the options trading floor.

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A Nominating and Elections Committee has been designated as a standing committee. It will combine the functions of the present separate Nominating and Elections Committees under by-law amendments yet to be submitted.[1]

No comments have been received and none were solicited except through circulation of the By-Law amendment notice.

No burden on competition will be imposed by the proposed amendment.

The Exchange's Basis and Purpose under the Act for the Proposed Rule Change

The amendments enhance the ability of the Exchange to carry out the purposes of the Securities Exchange Act and to enforce compliance with the Act and with its own rules (Act, Sec. 6(b)(1)); and to provide a fair procedure for denial of membership or the prohibition or limitation of any person with respect to access to services offered by the Exchange (Act, Sec. 6(b)(7)).

Within 35 days of the date of publication of this notice in the Federal Register (December 8, 1980), or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

October 27, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34005 Filed 10-31-80; 8:45 am]

BILLING CODE 8010-01-M

[1] By-Law sections affected by the amendments are as follows: 5-3: 10-3(a): 10-3(a): 10-3(c): 10-6 (a), (b), (c), (d), (e), (f): 12-4 (a), (b), (c), (d), (e), (f), (g), (h): 12-5: 15-1: 15-2: 17-1: 17-5: 17-6: 10-7 (a), (b), (c): 10-14: 10-10 (a), (b), (c): 10-12: 10-15: present sections 10-17, 10-8, 10-10, 10-12, and 10-15 shall be renumbered sections 10-8, 10-9, 10-11, 10-13, 10-14, respectively.

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council Meeting; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, California, will hold a public meeting at 10:00 a.m., Wednesday, November 19, 1980, at the World Trade Center, 350 South Figueroa, Suite 600, Los Angeles, California, to discuss such matters as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Rudolph I. Estrada, District Director, U.S. Small Business Administration, 350 S. Figueroa, Suite 600, Los Angeles, California 90071—(213) 688-2977.

Dated: October 27, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-34231 Filed 10-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0271]

Small Business Enterprise Associates; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (CFR 107.102(1980)) by Small Business Enterprise Associates, a limited partnership, Suite 2170, 555 California Street, San Francisco, California 94104, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. et seq).

The proposed General Partner, individual General Partners, and Limited Partners:

General Partner

Merrill, Pickard & Company, 555 California Street, Suite 2170, San Francisco, California 94104.

Individual General Partners

Steven L. Merrill, 555 California Street, Suite 2170, San Francisco, California 94104.

W. Jeffers Pickard, 555 California Street, Suite 2170, San Francisco, California 94104.

Limited Partners

Bank of America National Trust and Savings Association, 555 California Street, Suite 2170, San Francisco, California 94104.

The limited partner, Bank of America NT&SA, is a national bank and a wholly-owned subsidiary of BankAmerica Corporation.

The general partner is a California partnership, which will consist of three to five general partners, including Steven L. Merrill as managing general partner and W. Jeffers Richard as general partner. The other general partners will be selected at a later date.

BankAmerica Capital Investments, Inc., also a wholly-owned subsidiary of BankAmerica Corporation, and the general partner of the Applicant, Merrill, Pickard & Company, will be the sole limited and sole general partner respectively of another proposed California limited partnership, Five-Percent Partners, 555 California Street, Suite 2170, San Francisco, California 94104, a non-SBIC. The purpose of Five-Percent Partners will be to provide investment funds to companies that do not qualify for investment by an SBIC limited partnership.

Applicant intends to follow a diversified investment policy with emphasis on "venture capital" investments in "small business concerns" as those terms are defined in § 107.3 of the Regulations. The limited partner will contribute initially to the Applicant certain portfolio securities having a market value of approximately $11 million (cost about $10 million). At least $500,000 will be cash. In addition, the limited partner and BankAmerica Capital Investments, Inc., will commit additional cash as needed up to a maximum amount of $15 million between the Applicant and Five-Percent Partners. While it is not possible to determine at this time the eventual distribution of the additional cash between the two proposed partnerships, it is assumed it will be divided equally.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing would be in the furtherance of the purpose of the Act.

Notice is hereby given that any person may not later than (15 days from date of publication of this Notice) submit written comments to the Acting Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 27, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34230 Filed 10-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1905; Amdt. No. 1]

Virginia; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 61060), is amended by adding the following counties:

County, Natural Disaster(s), and Date(s)

Augusta—Drought—5/15/80 to 9/9/80.
Bedford—Drought—5/27/80 to 9/4/80.
Brunswick—Drought—5/20/80 to 8/19/80.
Campbell—Drought—5/26/80 to 8/19/80.
Charlotte—Drought—6/1/80 to 8/22/80.
Clarke—Drought—6/1/80 to 8/31/80.
Culpeper—Drought—5/15/80 to 8/15/80.
Fairfax—Drought—7/1/80 to 8/31/80.
Fauquier—Drought—5/20/80 to 9/10/80.
Franklin—Drought—5/20/80 to 8/19/80.
Frederick—Drought—5/20/80 to 8/19/80; Hail, 6/3/80.
Greene—Drought—6/1/80 to 9/4/80.
Greensville—Drought—5/20/80 to 9/9/80.
Halifax—Drought—6/15/80 to 9/5/80.
Henry—Drought—7/1/80 to 8/31/80.
Loudoun—Drought—7/1/80 to 8/31/80.
Lunenburg—Drought—5/20/80 to 8/14/80.
Madison—Drought—5/20/80 to 8/19/80.
Mecklinburg—Drought—5/1/80 to 9/5/80.
Nottoway—Drought—5/20/80 to 9/2/80.
Page—Drought—5/20/80 to 9/8/80.
Patrick—Drought—6/1/80 to 8/31/80.
Pittsylvania—Drought—7/1/80 to 9/9/80.
Prince Edward—Drought—5/20/80 to 9/8/80.
Prince William—Drought—5/20/80 to 9/10/80.
Rockbridge—Drought—6/1/80 to 9/8/80.
Rockingham—Drought—5/20/80 to 9/8/80.
Shenandoah—Drought—5/20/80 to 7/18/80.
Warren—Drought—5/20/80 to 9/9/80.

and adjacent counties within the State of Virginia and independent cities within the declared counties and independent cities within the adjacent counties as a result of natural disaster as indicated. All other information remains the same i.e., the termination date for filing application for physical damage is close of business on March 5, 1981, and for economic injury until the close of business on June 5, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 8, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-34232 Filed 10-31-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92.463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held November 13, 1980, at 10:00 a.m. until 12:00 p.m. at the Department of Transportation, 400 7th Street, S.W., Room 6434, Washington, D.C. 20590. The agenda for the meeting is as follows:

—Capital Formation/MESBIC Status
—LOC Focus—FY-81
—Clearinghouse System—Status
—Open Discussion

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Office of the Secretary, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on October 28, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 80-34138 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

National Tank Truck Carriers, Inc.: Application for Inconsistency Ruling; Public Notice and Invitation to Comment

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Public notice and invitation to comment.

SUMMARY: The National Tank Truck Carriers, Inc. (NTTC) has applied for an administrative ruling as to whether certain provisions of House Bill No. 1870 passed by the Legislature of the State of Washington which impose certain shipping paper requirements for the transportation of hazardous materials are inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) and regulations issued thereunder.

DATES: Comments received on or before January 9, 1981 will be considered before an inconsistency ruling is issued by the Associate Director for Operations and Enforcement.

ADDRESSES: The NTTC's application and any comments received may be reviewed in the Dockets Branch, Office of Public Affairs and Consumer Participation, Division of Public Information, Room 8426, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments on the above application must be submitted to the Dockets Branch at the above address. Five copies are requested. A copy of each comment must also be sent to Mr. Clifford J. Harvison, Managing Director, National Tank Truck Carriers, Inc., 1616 "P" Street, N.W., Washington, D.C. 20036, and that fact certified at the time the comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that a copy of this comment has been sent to Mr. Clifford J. Harvison at the address noted in the Federal Register publication.")

FOR FURTHER INFORMATION CONTACT: Beatriz V. Ferreira, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (phone (202) 755-4972).

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 U.S.C. 1801-1812) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement", of the HMTA or

regulations issued thereunder. Section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent State or political subdivision requirement ceases to be preempted, however, if upon application the Secretary of DOT determines that the requirement in question (1) provides an equal or greater level of protection to the public than the HMTA or regulations issued under the HMTA and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201–225. These regulations provide for the issuance of inconsistency rulings and non-preemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a State or political subdivision requirement and a requirement of the HMTA or regulations issued under the HMTA. 49 CFR 107.209(c) sets forth the following factors which are considered in determining whether a State or political subdivision requirement is inconsistent:

(1) Whether compliance with both State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with a Federal requirement, the State or locality may seek a non-preemption determination, i.e., a waiver of preemption pursuant to section 112(b) of the HMTA (49 U.S.C. 1811(b)).

2. National Tank Truck Carriers' Application for Inconsistency Ruling

On July 1, 1980, the National Tank Truck Carriers, Inc. of Washington, D.C. filed an application for an administrative ruling as to whether certain shipping paper requirements passed on March 3, 1980 by the Legislature of the State of Washington pertaining to the transportation of hazardous materials are inconsistent with the requirements of the HMTA or regulations issued under the HMTA. The NTTC is an national and international trade association of the for-hire tank truck industry.

Applicable segments of the Washington requirement, entitled House Bill No. 1870, are included as Appendix A to this document. The shipping paper provision passed by the Washington Legislature applies where hazardous materials are transported by motor vehicle within the State of Washington. The State requires that any common motor carrier receiving a hazardous material, as defined in 49 CFR 172, for transportation within the State shall issue a receipt or bill of lading, which is red in color or has a red border. The bill also empowers the Washington Utilities and Transportation Commission to promulgate regulations and provides for enforcement and civil penalties.

Briefly, the NTTC contends that the State requirement fails to offer an equal or greater level of protection to the public than the Federal requirement and unreasonably burdens (interstate) commerce because interstate carriers affected by the State requirement would have to "duplicate administrative and operational procedures" in order to comply with the State requirement. The NTTC additionally argues that such regulations may "create a false sense of security" at an accident scene and cause "dangerous confusion" among emergency personnel trained in commonly-used hazard warning systems. Further, the NTTC contends that the State requirement holds great potential for direct conflict with the shipping requirements set forth at 49 CFR 172.200 and 172.201(a)(1)(ii). Section 172.200 requires that each person who offers hazardous materials for transportation shall describe the hazardous material on the shipping paper in the manner required by Subpart C. Specifically, 49 CFR 172.201(a)(1)(ii) requires that hazardous material description entries specified by § 172.202 and any additional entries specified by § 172.203 must be entered in a color that clearly contrasts with any description of a material not subject to the requirements of Subchapter C. Section 107.201 also permits such entries to be entered *first* on the shipping paper (49 CFR 172.201(a)(1)(i)), or to be identified by the entry of an "X" placed before the proper shipping name in a column captioned "HM" (49 CFR 172.201(a)(1)(iii)).

Pursuant to 49 CFR 107.205(a), the Attorney General's office for the State of Washington has submitted comments regarding NTTC's application for inconsistency ruling. Essentially, the State of Washington advocates rejection of NTTC's application based on the argument that the red or red-bordered bills of lading apply only to intrastate common carriers and do not affect interstate carriers. Further, the State argues that even if the State requirement affects interstate carriers, it affords a greater level of protection than the Federal requirements and does not unreasonably burden commerce. (section 112(B), 49 U.S.C. 1811(b))

Finally, the State asserts that the "red or red-bordered" requirement is additional to any Federal requirement; does not interfere with Federal compliance and is in furtherance of the policy of the HMTA, i.e., to protect "against the risks of life and property which are inherent in the transportation of hazardous materials in commerce."

3. Public Comment.

Comments should be restricted to the following issue: whether Washington's requirement that a receipt, manifest, or bill or lading issued for hazardous materials be red or have a red border is inconsistent with the HMTA or regulations issued thereunder.

Since the NTTC's application is for an inconsistency ruling and not a non-preemption determination, comments on the effect on interstate commerce of Washington's requirement as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b), are inappropriate at this time and will not be considered.

Persons intending to comment on the application submitted by NTTC should examine the HMTA (49 U.S.C. 1801–1812), the DOT Hazardous Materials Regulations (49 CFR Parts 171–179), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–211) as well as the Washington requirement contained in the Appendix to this Notice.

Issued in Washington, D.C., on October 23, 1980.

Alan I. Roberts,

Associate Director, Office of Hazardous Materials Regulation.

Appendix A.—Excerpts of House Bill No. 1870

State of Washington, 96th Legislature, 1980 Regular Session

By: Representatives Sherman, Martinis, Bender, Becker, Walk, Keller and Charnley

Read first time January 22, 1980, and referred to Committee on Transportation.

An Act Relating to common carriers; amending section 81.29.020, chapter 14, Laws of 1961 and RCW 81.29.020; amending section 81.80.230, Chapter 14, Laws of 1961 and RCW 81.80.230; amending section 81.80.230, chapter 14, Laws of 1961 and RCW 81.80.330; and providing an effective date.

Be it Enacted by the Legislature of the State of Washington: Section 1. * * * If the receipt, manifest or bill of lading is for hazardous material, as defined in 49 CFR Part 172, transported by motor vehicle upon the public highways of this state, it shall be red in color or shall have a red border. Red bills of lading, receipts or manifests or red bordered bills of lading, receipts or manifests shall only be used for the transportation of hazardous materials as defined in 49 CFR 172.

Section 2. Section 81.80.230, chapter 14, Laws of 1961 and RCW 81.80.230 are each amended to read as follows:

Any person, * * * who shall * * * fraduently seek to evade or defeat regulation as in this chapter provided for motor carriers shall be * * * subject to a civil penalty of not more than one hundred dollars for each violation. Each and every violation shall be a separate and distinct offense, and in case of a continuing violation every day's continuance shall be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under this section and subject to the penalty provided for in this section.

The penalty provided for in this section shall become due and payable when the person incurring the penalty receives a notice in writing from the commission describing the violation with reasonable particularity and advising the person that the penalty is due. The commission may, upon written application therefor, receive within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the penalty upon such terms as the commission in its discretion deems proper. The commission has authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the penalty is not paid to the commission within fifteen days after receipt of notice imposing the penalty or application for remission or mitigation has not been made within fifteen days after the violator has received notice of the disposition of the application, the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston County or of some other county in which the violator may do business, to recover the penalty. In all such actions, the procedure and rules of evidence shall be the same as in an ordinary civil action except as otherwise provided in this section. All penalties recovered under this section shall be paid into the state treasury and credited to the public service revolving fund.

Section 3. Section 81.80.330, chapter 14, Laws of 1961 and RCW 81.80.330 are each amended to read as follows:

* * * It shall be the duty of the Washington state patrol and the sheriffs of the counties to make arrests and the county attorneys to prosecute violations of this chapter.

This 1980 act took effect on July 1, 1980.

[FR Doc. 80-33972 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Public Transportation Alternatives in New York; Intent to Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (NEPA); (83 Stat. 852), the Council on Environmental Quality's (CEQ) implementing regulations (40 CFR Parts 1500–1508), and the Urban Mass Transportation Administration's Policy on Major Urban Mass Transportation Investments (published in the **Federal Register** on September 22, 1976), the Urban Mass Transportation Administration hereby gives notice that an analysis of public transportation alternatives between Manhattan, New York and the John F. Kennedy International Airport through the Queens, New York transportation corridor and preparation of related Draft and Final Environmental Impact Statements are to begin following a public meeting on November 18, 1980, at which the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State and local agencies are invited to comment on the proposed scope of work, alternatives to be studied, impacts to be assessed, and evaluation criteria to be used to arrive at a decision. The Scoping Meeting will be held at 7:30 P.M. in Queensboro Hall, 120—55 Queens Boulevard, Queens, New York (November 18, 1980).

The Urban Mass Transportation Administration's Policy on Major Urban Mass Transportation Investments requires an analysis of alternatives to be undertaken if an area is contemplating seeking Federal funding for a major investment. The Policy defines a major investment as any new or extended fixed guideway transit facility. To be eligible for Federal funding, the analysis must be conducted, but completion of the analysis does not ensure that Federal funding will be forthcoming. The subject analysis will be conducted by the Port Authority of New York and New Jersey, through the Tri-State Regional Planning Commission. The analysis will be under the supervision of the Urban Mass Transportation Administration with the cooperation of the Federal Highway Administration and the Federal Aviation Administration.

John F. Kennedy Airport is expected to experience substantial, continued traffic growth in the upcoming years. Ground access to the airport already promises to constrain this future growth. To meet the anticipated travel demand of 35 million air passengers by 1990, improved transportation access between the airport and Manhattan and surrounding areas is a vital necessity. Manhattan is the single largest concentration of air passengers, employees and visitors destined for the airport and the area of highest transit dependence. Thus, Manhattan is the primary area of interest in the subject analysis, but consideration is also given to public transportation needs from other parts of New York City and from suburban areas.

To accommodate the future demand, 14 alternatives for public transit access from Manhattan to the airport were examined in a preliminary analysis. The capital cost of these alternatives ranged from nominal sums to almost $500 million for the most extensive construction proposals.

As a result of preliminary community meetings, staff analysis and preliminary review by the involved local transportation agencies, four of the 14 alternatives examined in the preliminary analysis are proposed for further evaluation in the subject analysis. These alternatives, each of which is estimated to cost less than $200 million, include:

1. Null (Do Nothing)—Continuation of the current public transportation services such as the Airport Coach service operated by Carey Transportation and the Metropolitan Transportation Authority's JFK Express subway-bus from Manhattan to the airport. In this and other alternatives, other airport-related public transportation services are assumed to continue; i.e., airport limousines, local bus services, etc.

2. Airport Coach and JFK Express TSM—low cost Transportation Systems Management improvements to the current operation of both these systems.

3. Fulton Street/Boundary—more extensive station and track improvements to the JFK Express subway-bus service, including improved travelways for the connecting bus on the airport.

4. Queens Transitway—An exclusive travelway for buses, limousines and high-occupancy vehicles which would originate in central Queens, at the intersection of the Long Island Expressway and the Long Island Railroad, and then via the abandoned LIRR Rockaway Line right-of-way to Kennedy Airport, tying in with improved on-airport travelways into the Central Terminal Area.

Additionally, an examination of one or more combinations of these four alternatives could be explored. Reactions to this abbreviated list of alternatives, in terms of the desirability of further study, will be sought at the Scoping Meeting.

Potentially significant impacts of the alternatives on air quality, noise, vibration, and water quality shall be examined, including impacts during construction. Mitigating measures shall be explored for any adverse impacts

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that might be identified. Other possible impacts on land use, urban development, ecologically sensitive areas, energy requirements, historic properties, etc. shall be examined in accordance with NEPA, CEQ and UMTA procedures.

The proposed evaluation criteria include transportation, environmental, social, economic and financial impact areas as required by current Federal (NEPA) and State (CEQA) environmental laws and current Federal CEQ, UMTA and FHWA guidelines. Reactions to this tentative list of evaluation criteria will also be sought at the Scoping Meeting, and criteria judged to be relevant to local decision-making that are not identified in this tentative list will also be included.

At the November 18th Scoping Meeting, staff will present the above information in more detail using maps and visual aids, as well as a plan for an active citizen involvement program, a work schedule and budget. The public and affected public agencies are invited to comment, either orally at the meeting or in writing for a period of 30 days following the meeting. Appropriate adjustments will be made following a review of these comments.

If there are any questions, please contact the UMTA Project Manager, Ms. Margarita Sainz de la Pena, Office of Planning Assistance, Urban Mass Transportation Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone—(202) 426–2360, or the UMTA Regional Office Planning Representative, Mr. Brian Sterman, Suite 14–130, 26 Federal Plaza, New York, NY 10007, telephone—(212) 264–8162, or the Local Agency Project Director, Mr. Leon Goodman, the Port Authority of New York and New Jersey, One World Trade Center, 72 West, New York, NY 10048, telephone—(212) 466–8397.

Dated: October 29, 1980.

Robert H. McManus,

Associate Administrator for Planning, Management and Demonstrations.

[FR Doc. 80-34228 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-57-M

Transportation Alternatives in New Jersey; Intent to Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (83 Stat. 852) the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508) and the Urban Mass Transportation Administration's Policy on Major Urban Mass Transportation Investments (published in the **Federal Register** on September 22, 1976), the Urban Mass Transportation Administration hereby gives notice that an analysis of transportation alternatives in the Lindenwold-Berlin-Atco Corridor, Camden County, New Jersey, and preparation of the related Draft Environmental Impact Statement is to begin following two public meetings to be held on November 19, 1980, and December 3, 1980, at which time the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State and local agencies are invited to comment on the proposed scope of work, the alternatives to be studied, and the evaluation criteria to be used to arrive at a decision. Both scoping meetings will be held at 7:30 p.m. in the auditorium of the Overbrook Junior High School, Lindenwold, New Jersey.

The subject alternatives analysis will be conducted by the Delaware River Port Authority (DRPA) in cooperation with the New Jersey Department of Transportation, the Delaware Valley Regional Planning Commission, and the Urban Mass Transportation Administration. Consultant support will also be used in this effort.

The Lindenwold-Berlin-Atco Corridor extends southeastward from the Lindenwold station of the Philadelphia-Lindenwold PATCO rapid transit line a distance of 7 miles to the vicinity of the interchange of US Route 30 and NJ Route 73 in Waterford Township. The axis of the corridor is an existing railroad right-of-way over which Conrail operates railroad commuter service between Atlantic Ocean shore points and the PATCO Lindenwold station. The influence area for the corridor is a band 10 miles in width centered on the corridor axis and bounded at the eastern end of the corridor by a semi-circle centered at the intersection of NJ Route 73 and the railroad right-of-way. This influence area contains approximately 110 square miles and in 1970 supported a population of 94,000. About 81% of the influence area and 91% of the area's inhabitants lie in Camden County, with the remainder in Burlington County. Of the 18 civil divisions of government situated wholly or substantially within the influence area, 16 are in Camden County.

The alternatives proposed for study include the following:

1. A no-build alternative designed to maintain the level of service provided by the existing transportation system. This alternative will serve as one basis for comparisons among the alternatives.
2. Region-wide carpooling, including economic incentives designed to promote higher auto occupancy.
3. Improvement of local bus service.
4. Provision of express bus service.
5. Initiation of demand-activated transportation service.
6. Initiation of railroad commuter service on the existing railroad line.
7. Construction of a light rail transit line.
8. Construction of an extension of the existing PATCO rail rapid transit system.

The project objectives and the evaluative criteria which will be derived from them include transportation, environmental, social, economic and financial considerations as required by current Federal and State environmental laws and current Federal CEQ, UMTA, and FHWA guidelines. Additional considerations of importance to local decision-making will also be included.

At the two scoping meetings, all of the information described above will be presented in greater detail using maps and visual aids. A plan for an active citizen participation program will also be described. Interested agencies, groups and private citizens will be invited to provide comments and questions, either orally at the meeting or in writing following the meeting. Appropriate adjustments to the work scope and the list of alternatives to be analyzed will be made accordingly.

If there are any questions, please contact the UMTA project manager, James M. Ryan, Office of Planning Assistance, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 426–2360, or the UMTA regional office planning representative, Mr. Alfred LeBeau, 434 Walnut Street, Philadelphia, PA 19106, telephone (215) 597–4179 or the designated contact of the sponsoring agency, Mr. Paul T. Osisek, Delaware River Port Authority, Bridge Plaza, Camden, NJ 08101, telephone (215) 925–8780. Questions may also be directed to the consultant, George Beetle Company, at the Project Office in Berlin, NJ, during normal business hours or by telephone at (609) 772–1242.

Dated: October 29, 1980.

Robert H. McManus,

Associate Administrator for Planning, Management and Demonstrations.

[FR Doc. 80-34139 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-57-M

Transporation Alternatives, Columbus North Corridor, Ohio; Intent to Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (83 Stat. 852) the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508) and the Urban Mass Transporation Administration's Policy on Major Urban Mass Transporation Investments (published in the **Federal Register** on September 22, 1976), the Urban Mass Transporation Administrations hereby gives notice that an analysis of transporation alternatives in the Columbus North Corridor and preparation of a related Draft Environmental Impact Statement are to begin following a public meeting on November 17, 1980 at which time the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State and local agencies are invited to comment on the proposed scope of work, the alternatives to be studied and the evaluation criteria which should be used to arrive at a decision. This Scoping Meeting will be held at 1:30 p.m. at Mid-Ohio Regional Planning Commission, Large Conference Room, 514 S. High Street, Columbus, Ohio.

The subject alternatives analysis will be conducted by the Mid-Ohio Regional Planning Commission (MORPC) and an areawide Task Force in cooperation with the Urban Mass Transporation Administration. Consultant support will also be used in this effort.

The North Corridor is broadly defined as that area lying north of the Columbus Central City Area between the Olentangy River and State Route 3 and principally served by the I–71 and I–270 Freeways, High Street, Cleveland Avenue, Marconi Avenue, Indianola, and Third, and Fourth Streets. The North Corridor provides for transportation between the communities of Clintonville, Worthington, Westerville, Riverlea, Minera Park, Columbus and the Central City, as well as points north and west. Within the broadly defined North Corridor lies 23 percent of the employment in Franklin County, or approximately 90,000 employees. Also within this corridor is approximately 30 percent of the County's population or 260,000 persons.

The alternatives proposed for study include the following:

1. Construction of a guideway transit line haul light rail facility.
2. Construction of a High Occupancy Vehicle (HOV) facility, e.g., exclusive bus and/or carpool lanes.
3. Transporation System Management (TSM) strategies utilizing minor capital improvements and changes to the present transportation system including programs such as transit service improvements, signal pre-emptions, and ramp metering on highways and arterials in the North Corridor.
4. Do Nothing (Baseline) alternative designed to maintain the present transportation system along with service improvements included in the current Transit 5-Year Capital Improvement Program. This strategy would provide one basis for comparing the other alternatives.

The proposed evaluation criteria will include transportation, environmental, social, economic and financial impacts, areas as required by current Federal (NEPA) environmental laws and current Federal CEQ, UMTA and FHWA guidelines. Additional impact areas and measures important to local decisionmaking will also be included.

At the November 17 Scoping Meeting, staff will present the above information in more detail using maps and visual aids, as well as a work schedule and budget. The public and affected public agencies will be invited to comment, either orally at the meeting or in writing for a period of thirty days following the meeting. Appropriate adjustments to the work scope and alternatives will be made accordingly.

If there are any questions, please contact the UMTA Project Manager, Edward L. Thomas, Office of Planning Assistance, Urban Mass Transprotation Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 426–2360, or the UMTA Regional Office Planning Representative, Mr. Harold Crane, U.S. DOT UMTA Region V, 300 S. Wacker Drive, Suite 1740, Chicago, Illinois 60606, telephone (312) 353–2820, the local agency responsible official, Douglas Moore, Mid-Ohio Regional Planning Commission, 514 S. High, Columbus, Ohio, telephone (614) 228–2663.

Dated: October 29, 1980.

Robert H. McManus,

Associate Administrator for Planning, Management and Demonstrations.

[FR Doc. 80-34140 Filed 10-31-80; 8:45 am]

BILLING CODE 4910-57-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Civil Aeronautics Board	1
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National Credit Union Administration	8
Nuclear Regulatory Commission	9

1

[M-298 Amdt. 2, Oct. 29, 1980]

CIVIL AERONAUTICS BOARD.

Closed session was not held on item 25.

TIME AND DATE: 9:30 a.m., October 29, 1980 (after regular meeting.)

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Docket 38608, Application of Aeroservicios Ecuatorianos, C.A. (AECA), for an exemption from section 402 of the Act to permit it to engage in limited nonscheduled cargo service between Miami, Houston and Ecuador (Memo 021, BIA, OGS).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2011-80 Filed 10-30-80; 3:31 pm]

BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, November 5, 1980 at 2 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Litigation. Compliance. Audits.

* * * * *

DATE AND TIME: Thursday, November 6, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions:
Draft AO 1980-114: Ralph T. Defranco (Calabrese for Congress Committee).
Draft AO 1980-117: Susan Danielski, Treasurer, Concerned Citizens for Kleczka.
Draft AO 1980-118: Alvin J. Helfgot, Exchange Community Action II PAC.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

* * * * *

DATE AND TIME: Thursday, November 6, 1980 at 2 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Litigation. Audits. Compliance.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-123-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-2012-80 Filed 10-30-80; 3:40 pm]

BILLING CODE 6715-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 209, 7103910, October 27, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 30, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the open meeting:

Merger: Maintenance of Branch Office; Cancellation of Membership and Insurance; and Transfer of Stock—Metropolis Federal Savings & Loan Association, Washington, D.C. into Interstate Federal Savings & Loan Association, Washington, D.C.
Proposed Merger—American Federal Savings & Loan Association, Washington, D.C. into Perpetual Federal Savings & Loan Association, Washington, D.C.
Proposed Acquisition and Merger of—Saddleback Savings & Loan Association, Laguna Hills, California and Coast Federal Savings & Loan Association, Los Angeles, California.

[S-2005-80 Filed 10-30-80; 11:08 am]

BILLING CODE 6720-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

October 29, 1980.

TIME AND DATE: 2:30 p.m., Wednesday, November 5, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Allied Chemical Company, Docket No. HOPE 78-222-P (Issues include interpretation and application of 30 CFR § 75.1404-1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632).

[S-2008-80 Filed 10-30-80; 3:28 pm]

BILLING CODE 6820-12-M

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, November 3, 1980.

PLACE: Room 532, (open); room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Litton Industries, Inc., et al., Docket 9123.

Portions closed to the Public:

(2) Executive Session to discuss Oral Argument in Litton Industries, Inc., Docket 9123.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2006-80 Filed 10-30-80; 11:08 am]

BILLING CODE 6760-01-M

6

FOREIGN CLAIMS SETTLEMENT COMMISSION.

FCSC Meeting Notice No. 10-80.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Wednesday, November 5, 1980 at 10:30 a.m.—Canceled.
Wednesday, November 12, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China; Claims for Vietnam Prisoner of War Compensation.
Wednesday, November 19, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China; Claims for Vietnam Prisoner of War Compensation.
Wednesday, November 26, 1980 at 10:30 a.m.—Canceled.
Thursday, November 13, 1980 at 10 a.m.—
G-1576—Willy Sundheimer
G-1362—Aimee Von Hoyningen-Huene
G-1332—Frederick Mueller
G-1139—Hildegard Cooper
G-0476—Edith Pinkuss
Thursday, November 13, 1980 at 2 p.m.—
G-1477—Alice Matyas
G-0819—Ottie Bowers
G-0029—Fridel Zander
G-0836—Helene Horowitz
G-0837—Dr. Sasha Englard
G-1651—Hans W. Schwerin, Gunther K. Schwerin
Tuesday, November 18, 1980 at 10 a.m.—
G-2491—Margot Prober
G-2431—Samuel Gutwein
G-2243—John K. Wertheim
G-2682—Louise Gans, Adele Gruner
Tuesday, November 18, 1980 at 2 p.m.—
G-3168—Estate of Cyril P. Durnovo
G-3048—Herman Sichel
G-3039—Amalia Steinberger, Elfriede Mayer
G-2853—Ella Gross, Frieda Orbach, Joseph Reiss

Subject matter listed above not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Requests for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. 20579. Telephone (202) 653-6155

Dated at Washington, D.C. on October 29, 1980.

Francis T. Masterson,
Executive Director.

[S-2007-80 Filed 10-30-80; 3:27 pm]

BILLING CODE 4410-01-M

7

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

MEETING: Cultural Minorities Task Force.

DATE AND TIME:

9 a.m.-4 p.m., Thursday, November 6, 1980.
9 a.m.-4 p.m., Friday, November 7, 1980.

PLACE: Gramercy Hotel, North Scott Room, 1616 Rhode Island Avenue, N.W.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Study and recommend specific actions on the White House Conference Resolutions dealing with cultural and ethnic minorities.
Gain a greater perspective on the library and information service needs of the cultural minorities.
Exchange ideas about existing programs, collections and services, including their strengths and weaknesses.

October 29, 1980.

Mary Alice Hedge Reszetar,
Associate Director, NCLIS.

[S-2009-80 Filed 10-30-80; 3:29 pm]

BILLING CODE 7527-01-M

8

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, November 6, 1980.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Proposed Rule on Premiums.
3. Final Regulation on Share, Share Draft and Share Certificate Accounts and Operational Procedures for Federally Insured State Chartered Credit Union Share Draft Programs.
4. Report on actions taken under delegations of authority.
5. Applications for charter, amendment to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

* * * * *

TIME AND DATE: 10:30 a.m., Thursday, November 6, 1980.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. State examination of federal credit union records for purposes of assuring compliance with state laws. (Uniform Abandoned Property Statute and Escheat Laws.) Closed pursuant to exemptions (9)(B) and (10).
2. Requests from Six Federal Credit Unions to amend field of membership. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Proposed bylaw amendment. Closed pursuant to exemption (8).
4. Proposed conversion. Closed pursuant to exemption (9)(A)(ii).
5. Merger. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Consideration of State Credit Union Insurance Application. Closed pursuant to exemption (i)(A)(ii).
7. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
8. Administrative Action under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
9. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed to exemptions (8) and (9)(A)(ii).
10. Consideration of the Internal Budget Authorizations and Policy governing authority for amendment or revision of budget for NCUA Offices for fiscal year 1981. Closed pursuant to exemptions (2), (6) and (9)(B).
11. Personnel Actions. Closed pursuant to exemption (6).

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant; telephone (202) 357-1100.

[S-2004-80 Filed 10-29-80; 4:30 pm]

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9

NUCLEAR REGULATORY COMMISSION.

DATE: Tuesday, November 4, 1980.

PLACE: Chairman's conference room, 1717 H Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

2 p.m.

Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed exemption 2 and 6) (tentative).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

October 28, 1980.

Walter Magee,
Office of the Secretary.

[S-2010-80 Filed 10-30-80; 3:30 pm]

BILLING CODE 7590-01-M

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register

Monday
November 3, 1980

Part II

Environmental Protection Agency

General Pretreatment Regulations for Existing and New Sources; Submission of National Pollutant Discharge Elimination System State Pretreatment Programs; Proposed Rulemaking

federal

V 45 / 214 NO 3 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[EN-FRL-1699-4a]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing amendments to the general Pretreatment Regulation which would allow National Pollutant Discharge Elimination System ("NPDES") States requesting approval of pretreatment programs a grace period in which to revise statutes or regulations as necessary to comply with the Consolidated Permit Regulations published May 19, 1980.

DATES: Comments on the proposed amendment to subparagraph (1)(iv) of § 403.10(g) are due on or before January 2, 1981.

ADDRESSES: Comments should be addressed to: Nancy Hutzel, Environmental Protection Agency, Permits Division (EN-336), 401 M St., SW., Washington, D.C. 20460, (202) 755-0750. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Nancy Hutzel, 202-755-0750.

SUPPLEMENTARY INFORMATION: Under Section 402(b) of the Clean Water Act ("the Act"), States desiring to administer their own permit programs for discharges into navigable waters may submit such programs to the Administrator for approval. States approved by EPA become part of the National Pollutant Discharge Elimination System ("NPDES"). Section 402(b) of the Act also requires that NPDES states have a program to ensure compliance by publicly-owned treatment works ("POTW's") with various requirements now prescribed in the General Pretreatment Regulations (40 CFR Part 403 June 26, 1978). States with approved NPDES Programs must seek modifications of their programs, if necessary, to incorporate pretreatment authorities. States which have not yet received NPDES authority must develop the requisite pretreatment program elements before their application to assume NPDES authority can be approved.

For those States that already have NPDES authority, the recently promulgated Consolidated Permit Regulations, 40 CFR Part 122 *et seq.*, impose some additional requirements. (45 FR 33290, May 19, 1980.) The Consolidated Permit Regulations apply to pretreatment programs unless otherwise stated. These regulations provide a grace period for NPDES States to change their statutes or regulations in order to comply with the Consolidated Permit Regulations. 40 CFR 123.13(g). However, under the terms of this section, State pretreatment programs are not covered by this exception and must comply with the State program requirements contained in 40 CFR 403.10(g) of the General Pretreatment Regulations. Under the present General Pretreatment Regulations, no additional time is provided for States to promulgate regulations or enact statutes that are required by the Consolidated Permit Regulations.

This proposed amendment would modify the requirements set forth in § 403.10(g) of the General Pretreatment Regulations for approval of pretreatment programs submitted by NPDES States. It would give NPDES States one year from the effective date of the Consolidated Permit Regulations, i.e., until June 2, 1981, to make any regulatory changes required by those regulations. Where statutory changes are necessary, NPDES States would be given two years, i.e., until June 2, 1982 to make the statutory and any attendant regulatory changes. These grace periods are identical to the time authorized for NPDES Programs to comply with the Consolidated Regulations. Approval of State pretreatment programs, accordingly, will not be delayed because a State lacks a specific regulatory or statutory authority newly required by the Consolidated Permit Regulations.

Elsewhere in today's **Federal Register** EPA has promulgated a final amendment to § 403.10(g) of the General Pretreatment Regulations which permits approval of an existing NPDES State's pretreatment program which does not have complete State regulations if the State has adequate statutory authority and has submitted a complete description of how it intends to implement its pretreatment program.

Executive Order 12044

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these regulations "specialized". I have reviewed this regulation and determine that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 28, 1980.

Douglas M. Costle,
Administrator.

EPA proposes to add 40 CFR § 403.10(g)(1)(iv) as follows:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

§ 403.10 Development and Submission of NPDES State Pretreatment Programs.

* * * * *

(g) * * *

(1) * * *

(iv) Notwithstanding paragraphs (g)(1)(i) and (ii) of this section, a proposed State Pretreatment Program submitted by a State with an approved NPDES Program may be approved if its statutes or regulations do not fully comply with the requirements of this section solely because the statutory or regulatory revisions required by 40 CFR 123.13(g) have not yet been made. In that case, the revision must occur by June 2, 1981, unless a statutory amendment or enactment is required, in which case the revision must occur by June 2, 1982.

(Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 (Pub. L. 95.217) (33 U.S.C. 1251 *et seq.*), secs. 204(b), 208(b), 301(b), 301(h), 301(i), 304(e), 304(g), 307, 308, 309, 402(b), 405, 501(a))

[FR Doc. 80-34112 Filed 10-31-80; 8:45 am]

BILLING CODE 6560-33-M

V 45/214
NO3 80
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federal register

Monday
November 3, 1980

Part III

Department of Energy

Improving Government Regulations; Semiannual Agenda

V 45 / 214 NOV 03 1980 UMI

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Energy.

ACTION: Notice of regulations under development or review.

SUMMARY: The Department of Energy (DOE) is publishing an agenda of its regulations under development or review as of October 1, 1980.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda in general, contact: Jeffrey D. Stoermer (Office of General Counsel), Department of Energy, Room 6A–127, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6754.

Specific

For further information about any particular item on the Agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Executive Order 12044, "Improving Government Regulations," (43 FR 12661, March 24, 1978), subsequently extended by Executive Order 12221 (45 FR 44249, July 1, 1980), requires every Federal agency to publish semiannually an agenda of its significant regulations currently under development or review. One of the objectives of the Order is to encourage greater public involvement at an early stage in the regulatory process. DOE implemented Executive Order 12044 by a Department Order (DOE 2030.1) issued December 18, 1978 (43 FR 1032, January 3, 1979), which established April and October of each year as the months during which DOE would publish a semiannual agenda of regulations in the **Federal Register**.

The Departmental Order requires that the agenda include *all* regulations currently being developed or reviewed. For each regulation that is *significant* (as defined in the Departmental Order) the Departmental Order requires that the agenda state the need the legal basis for the regulation, its status, whether a regulatory analysis will be required, and the name and telephone number of a knowledgeable agency official.

Appended to this Notice is DOE's October 1980, Regulatory Agency. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the DOE's regulatory activity. In an attempt to be as comprehensive as possible, the Agenda includes those DOE regulations, both significant and nonsignificant, that are under development or review as of October 1, 1980. The Agenda also includes any regulation that has been issued in final form since publication of the April 1980 Agenda, and that is no longer under development or review. Such a final regulation will not be listed on future agendas unless the regulation is being reviewed or an amendment to the regulation is being developed.

At the time of the publication of the April 1980 Agenda we assigned the highest priority to the completion of those regulatory actions that would help achieve the greatest reduction in regulatory burdens. In the preamble to the April 1980 Agenda we identified several regulations or areas of regulation where we felt the need for regulatory interference in the market place was no longer necessary or where we felt the degree of regulation could be reduced in a manner consistent with the Department's statutory responsibilities. In the past six months we have taken the following regulatory actions in regard to those high priority regulations or areas of regulation identified in the April Agenda:

(1) NEA-Fuel Use Act—Administrative Procedures and New Facilities (Docket ERA–R–78–19 D, E): final rule issued;

(2) NEA-Fuel Use Act—Existing Facilities (Docket ERA–R–78–19 C, F, and G): final rule issued;

(3) Revision of Crude Oil Supplier/Purchaser Rule: final rule issued;

(4) Reseller's and Reseller-Retailers' Price Rules for Gasoline: final rule issued;

(5) Modification or Elimination of the Equal Application Rule: final rule issued;

(6) Motor Gasoline Allocation Revisions—General: notice of proposed rulemaking issued;

(7) Amendments to Propane Pricing Regulations: notice of proposed rulemaking planned for issuance in fourth quarter of 1980.

The next semiannual agenda is scheduled to be published in April 1981.

Issued in Washington, D.C. this October 28, 1980.

Lynn R. Coleman,

Acting Deputy Secretary.

The DOE regulations under development or review as of October 1, 1980, are as follows:

I. Environment.
II. Conservation and Solar Energy.
III. Alcohol Fuels.
IV. Equal Opportunity.
V. General Counsel.
VI. Procurement and Contracts.
VII. Consumer Affairs.
VIII. Resource Applications.
IX. Economic Regulatory Administration.
A. National Energy Act Regulations.
B. Crude Oil and Refinery Operations.
C. Refined Products.
D. Deregulation.
E. Emergency Preparedness.
F. Utility Systems.

I. Environment

1. DOE NEPA Implementing Procedures

DOE has published final guidelines implementing the Council on Environmental Quality regulations for compliance with the National Environmental Policy Act (NEPA).

A regulatory analysis is not required.

Status: Proposed guidelines were published on July 18, 1979 (44 FR 42136). Final guidelines were published March 28, 1980 (45 FR 20694). Interim special procedures to provide for NEPA compliance in the competitive procurement process were published with the March 28 final guidelines. Comments regarding the interim procedures were solicited, none were received, and final procedures are now being developed.

Authority: National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); Executive Order 11514, as amended.

Contact: Robert Stern (202) 252–4600

2. Proposed Guidelines for Implementation of Executive Order 12114

DOE will publish final guidelines to implement Executive Order 12114, concerning the Environmental Effects Abroad of Major Federal Actions.

A regulatory analysis is not required.

Status: Proposed guidelines were published on September 6, 1979 (44 FR 52146).

Authority: National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); Executive Order 12114.

Contact: Robert Stern (202) 252–4600

II. Conservation and Solar Energy

1. Identification of Consumer Product Types which may be Subject to Minimum Energy Efficiency Standards

DOE will publish a notice listing those types of covered products which are not specified in section 322(a) of the Energy Policy and Conservation Act but which may be subject to energy efficiency standards. Criteria for selecting these types of covered products are specified in section 325(a) of the Act and include considering the average annual per-household energy use and the aggregate household energy use of individual types of consumer products.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking will be issued before the end of November 1980.

Deadline: Not later than November 1980.

Authority: Energy Policy and Conservation Act, section 325(a)(2) (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act, section 422 (Pub. L. 95–619).

Contact: James A. Smith (202) 252–9127.

2. Amendment to Room Air Conditioner Test Procedures

DOE has amended its test procedures for room air conditioners, prescribed under the Energy Conservation Program for Consumer Products, to clarify the scope of the room air conditioner test procedures as applied to packaged terminal air conditioners.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** June 26, 1980 (45 FR 43362).

Authority: Section 323 of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619).

Contact: James A. Smith (202) 252–9127.

3. Amendment to Furnace Test Procedures

DOE has amended its test procedures for furnaces, prescribed under the Energy Conservation Program for Consumer Products, to include test procedures for pulse combustion furnaces and condensing furnaces.

A regulatory analysis was not required.

Status: A final rule was published in the **Federal Register** August 12, 1980 (45 FR 14188).

Authority: Section 323 of the Energy Policy and Conservation Act (Pub. L. 94–163).

Contact: James A. Smith (202) 252–9127.

4. Amendment to Test Procedures for Refrigerators, Refrigerator-Freezers and Freezers

DOE is proposing a rule to modify existing test procedures for refrigerators, refrigerator freezers and freezers to reduce testing time and burden.

A regulatory analysis was not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** July 14, 1980 (45 FR 47396).

Authority: Energy Policy and Conservation Act, section 323(a) (Pub. L. 95–163); National Energy Conservation Policy Act, section 421(c) (Pub. L. 95–619).

Contact: James A. Smith (202) 252–9127.

5. Energy Efficiency Standards for Nine Types of Consumer Products

DOE will establish minimum energy efficiency standards for nine types of consumer products: Refrigerators and refrigerator-freezers, freezers, water heaters, room air conditoners, kitchen ranges and ovens, furnaces, central air conditioners, home heating equipment (not including furnaces), and clothes dryers.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** June 30, 1980 (45 FR 43976).

Deadline: Final rule to be issued no later than January 1981.

Authority: Energy Policy and Conservation Act, section 325 (Pub. L. 94–163), as amended by National Energy Conservation Policy Act, section 422 (Pub. L. 95–619).

Contact: James A. Smith (202) 252–9127.

6. Energy Efficiency Standards for Five Types of Consumer Products

DOE will establish minimum energy efficiency standards for five product types: humidifiers/dehumidifiers, clothers washers, television sets, dishwashers, and heat pumps.

A regulatory analysis will be completed.

Status: An advance notice of proposed rulemaking for four products was published in the **Federal Register** on December 13, 1979 (44 FR 72276). An advance notice of proposed rulemaking for heat pumps (the fifth product) was published in the **Federal Register** on January 23, 1980 (43 FR 5602).

Deadlines: Final rule to be issued no later than November 1981.

Authority: Energy Policy and Conservation Act, section 325 (Pub. L. 94–163), as amended by National Energy Conservation Policy Act, section 422 (Pub. L. 95–619).

Contact: James A. Smith (202) 252–9127.

7. Amendments to Clothes Dryer Test Procedures

DOE is proposing to amend its test procedures for clothes dryers to account for automatic cycle termination, and to include several technical revisions, primarily to reduce the variability of test results.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** July 10, 1980 (45 FR 46762).

Authority: Section 323, Energy Policy and Conservation Act (Pub. L. 94–163).

Contact: James A. Smith (202) 252–9127.

8. Waiver of Consumer Product Test Procedures

DOE has established provisions for the temporary waiver of test procedure requirements for certain consumer products. These products contain unique design characteristics which prevent testing according to DOE test procedures.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** on September 26, 1980 (45 FR 64108).

Authority: Section 323 of the energy Policy and Conservation Act (Pub. L. 95–163).

Contact: James A. Smith (202) 252–9127.

9. Reporting Guidelines for Municipal Waste Reprocessing Demonstration Program

Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, provides for financial assistance to establish municipal waste reprocessing demonstration facilities. Guidelines are required to obtain pertinent information about projects funded by DOE under section 20.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on May 16, 1980 (45 FR 32560).

Authority: Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577), as amended by Pub. L. 95–238.

Contact: Donald Walter (202) 252–9397.

10. Urban Wastes Demonstration Facilities Guarantee Program

DOE has issued a rule which establishes procedures and requirements for loan guarantees to support urban wastes demonstration facilities.

A regulatory analysis was not required.

Status: A final rule was published in the **Federal Register** on May 13, 1980 (45 FR 31604).

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, section 19(y) (Pub. L. 93–577), as amended.

Contact: Donald Walter (202) 252–9397.

11. Municipal Waste Energy Price Support Loan Program

The regulations to be developed by DOE will establish policy and set forth procedures for submitting applications for price support loans for energy produced from municipal waste energy projects. The regulations will be issued in two phases. The initial portion of the regulations (phase 1) will establish the components for setting the amount of price support loans. The main regulation (phase 2) will cover the remaining components of the price support loan program, including procedures for filing applications, criteria for project eligibility and approval, and deadlines for filing.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on September 25, 1980 (45 FR 63822) for phase 1; proposed rules for phase 2 are expected to be published in November 1980.

Authority: Title II, Subpart B of the Energy Security Act (Pub. L. 96–294); Pub. L. 95–238.

Contact: Charlotte Rines (202) 252–9397.

12. Life Cycle Costing Procedures for Federal Buildings

DOE has promulgated procedures for estimating and comparing life cycle costs for the purchase and installation of energy conservation measures for Federal Buildings (45 FR 5620, January 23, 1980). DOE is now proposing to amend the procedures to update average energy prices for use in fiscal year 1981. DOE is also planning additional amendments to substitute marginal fuel cost projections for average energy prices by no later than the end of fiscal year 1981.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking to update average energy prices and an advance notice of proposed marginal fuel costs were published in the **Federal Register** on October 7, 1980 (45 FR 66620, 66632).

Authority: Section 545 of the National Energy Conservation Policy Act (Pub. L. 95–619), as amended by section 405 of the Energy Security Act (Pub. L. 96–294); Executive Order 11912, as amended by Executive Order 12003.

Contact: Jack Vitullo (202) 252–9467.

13. Building Energy Performance Standards

DOE intends to issue interim and then final energy performance standards for new residential and commercial buildings. DOE will establish energy goals without specifying methods, materials or processes for achieving those goals. The standards require achievement of a higher degree of energy efficiency in the construction of new residential and commercial buildings. After issuance of the final rule, Congress must decide whether to make the standards mandatory.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** November 28, 1979 (44 FR 68120). A notice of interim energy performance standards is planned for issuance in August 1981.

Authority: Energy Conservation and Production Act, Title III (Pub. L. 94–385), as amended by Pub. L. 95–91 and Pub. L. 95–619.

Contact: James Binkley (202) 252–9197.

14. Grant Programs for Schools and Hospitals and Other Public Buildings

DOE is planning to propose revisions in its current regulations (10 CFR Part 455) which provide guidelines and procedures for DOE's grant programs funding technical assistance and energy conservation measures for schools, hospitals, buildings owned by units of local government, and public care institutions.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking is planned for issuance in the fall of 1980.

Authority: Title III of the National Energy Conservation Policy Act (Pub. L. 95–619).

Contact: Frank Stewart (202) 252–2198.

15. Industrial Waste Loan Guarantee Program

DOE intends to propose rules for a program of loan guarantees covering up to 75% of the cost of demonstration facilities for the utilization of industrial waste materials.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: Section 19(y) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577), as amended by the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95–238); Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Pub. L. 96–126), Title II.

Contact: Tom Gross (202) 252–2384.

16. Renewable Energy Resources

DOE has requested the public to identify DOE regulations which interfere with the development of renewable resources. In view of the comments received, no further action will be taken.

A regulatory analysis was not required.

Status: A notice of inquiry was published in the **Federal Register** on August 29, 1979 (44 FR 50801). No further action will be taken.

Authority: Executive Order 12044.

Contact: Lois Arck (202) 252–9329.

17. Identification of Hard-To-Understand Energy Conservation Regulations

DOE has requested that the public identify energy conservation regulations which are hard to understand.

A regulatory analysis is not required.

Status: A notice of inquiry was published in the **Federal Register** November 6, 1979 (44 FR 64094). No further action is anticipated at this time.

Authority: Executive order 12044.

Contact: Herb Myers (202) 252.9338.

18. Guidelines for Overall Federal Energy Management Planning

By Executive direction, all Executive Agencies are required to develop plans, establish goals, and report on progress in energy conservation in all their operations. This rule provided the guidance necessary to develop these plans.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** July 1, 1980 (45 FR 44558).

Authority: Executive Order 12003, section 10(d).

Contact: Jack Vitullo (202) 252–9467

19. Emergency Building Temperature Restrictions

The Emergency Building Temperature Restrictions Plan places temporary restrictions on temperatures for heating, cooling, and domestic hot water in commercial, industrial, government, and other non-residential buildings.

DOE has published proposed amendments to the Plan to refine temperature measurement techniques, to provide for altenative methods of complying with the Plan, and to provide for exemptions from the restrictions for health and safety reasons.

A regulatory analysis is not required.

Status: A proposed rule was published on May 27, 1980 (45 FR 35788). The final rule is to be published in the near future.

Authority: Energy Policy and Conservation Act (Pub. L. 94.163); Emergency Energy Conservation Act, section 231 (Pub. L. 96.102).

Contact: Henry G. Bartholomew (202) 252–4966.

20. Standby Federal Emergency Conservation Plan

DOE established a Standby Federal Emergency Energy Conservation Plan which may be implemented in accordance with Title II of the Emergency Energy Conservation Act only after emergency energy conservation targets have been established by the President and the States have had reasonable opportunity to establish and implement State Conservation Plans.

A regulatory analysis is being prepared.

Status: An interim final rule and a notice of proposed rulemaking were published in the **Federal Register** on February 7, 1980 (45 FR 8462).

Authority: Section 213(a) of the Emergency Energy Conservation Act (Pub. L. 96–102).

Contact: Henry G. Bartholomew (202) 252–4966.

21. Evaluation of Industrial Electric Motors and Pumps

DOE is required to conduct a detailed classification and evaluation study of industrial electric motors and pumps, and to submit a report to Congress on electric motors and pumps after providing interested persons an opportunity to comment on the proposed report.

A regulatory analysis is not required.

Status: A notice of availability of the final report is expected to be published in the **Federal Register** before the end of 1980.

Authority: Section 441 of the National Energy Conservation Policy Act (Pub. L. 95–619).

Contact: Tom Gross (202) 252–2384.

22. Inclusion of Electric Vehicles in Calculation of Average Fuel Economy Standards

DOE is proposing equivalent petroleum-based fuel economy values to implement section 18 of the Chrysler Loan Guarantee Act. Final promulgation of the values is required no later than six months after the proposed rule is issued. DOE will review these values on an annual basis and will propose revisions if necessary.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on May 21, 1980 (45 FR 34008). A supplementary notice of proposed rulemaking is expected to be issued in October 1980. Issuance of the final rule is expected in December 1980.

Authority: Section 18 of the Chrysler Loan Guarantee Act (Pub. L. 96–185).

Contact: Robert Kirk (202) 252–8032.

23. Reserved Section of the Residential Conservation Service Program Rule

DOE has adopted a rule which fills in several of the reserved sections of the November 7, 1979, final rule for the Residential Conservation Service Program. Included in the rule are standards for vent dampers, wind energy systems and solar devices. Also included are qualification criteria for inspectors and installers of furnace retrofit devices and wind energy systems.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** on September 24, 1980 (45 FR 63432).

Authority: National Energy Conservation Policy Act (Pub. L. 95–619), Title II, Part 1.

Contact: James Tanck (202) 252–9161.

24. Residential Conservation Service Program—Urea Formaldehyde Foam Insulation Standards

DOE has adopted a rule setting material and installation standards for urea formaldehyde foam insulation used in the Residential Conservation Service Program.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** on September 25, 1980 (45 FR 63786).

Authority: Part 1 of Title II of the National Energy Conservation Policy Act (Pub. L. 95–619).

Contact: James R. Tanck (202) 252–9161.

25. Technical Corrections to Residential Conservation Service Program Regulations

DOE is proposing changes to the final rule for the Residential Conservation Service Program. These proposed changes would include technical amendments to correct clerical, grammatical and typographical errors as well as a small number of changes that reflect proposed substantive changes.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on August 11, 1980 (45 FR 53422).

Authority: National Energy Conservation Policy Act, (Pub. L. 95–619).

Contact: James Tanck (202) 252–9161.

26. Amendments to the Residential Conservation Service Program Rule

This proposed rule would change prohibitions regarding utility supply, installation and financing of energy measures in residential buildings. It would also affect the current utility costing and accounting provisions for the RCS program and the warranty of manufacturers, suppliers, and installers participating in the RCS program.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published on October 8, 1980, 45 FR 66960.

Authority: Energy Security Act (Pub. L. 96–294).

Contact: James Tanck (202) 252–9161.

27. Residential Energy Efficiency Program—Energy Conservation Demonstrations

DOE is planning to propose guidelines for the funding of energy conservation demonstrations for the Residential Energy Efficiency Program.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has not yet been published.

Authority: Title V, Subtitle C of the Energy Security Act (Pub. L. 96–294).

Contact: James Tanck (202) 252–9161.

28. Federal Standby Residential Conservation Service Plan

This rule will propose a standby plan to be implemented in States that have not submitted their own State Residential Conservation Service Plan, and in States where the State plan has been disapproved or has been found to be inadequately implemented.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking is planned to be issued in the fall of 1980.

Authority: National Energy Conservation Policy Act, (Pub. L. 95–619).

Contact: James Tanck (202) 252–9161.

29. Extension of the Residential Conservation Service Program

The proposed rule would extend coverage of the Residential Conservation Service Program to include multi-family dwellings with more than four units and commercial buildings. (The existing program is limited to single family homes and multi-family dwellings with up to four units.) The program will provide energy audits and certain other services to these additional customers of large public utilities and home heating oil suppliers.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking is planned to be issued in the fall of 1980.

Authority: National Energy Conservation Policy Act, (Pub. L. 95–619) as amended by the Energy Security Act (Pub. L. 96–294).

Contact: James Tanck (202) 252–9161.

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30. Residential Conservation Service Program—Auditor Training and Certification

DOE has proposed guidelines for providing funding to States for the training and certification of energy auditors in support of State efforts to implement the Residential Conservation Service Program and other energy audit programs.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published October 8, 1980, 45 FR 66970.

Authority: Energy Security Act (Pub. L. 96.294).

Contact: James R. Tanck (202) 252–9161.

31. Weatherization Assistance for Low Income Persons: General Revisions

DOE is planning to issue a notice of inquiry to solicit comments as to the general direction and scope of the Weatherization Assistance for Low-Income Persons Program. In addition, the notice of inquiry would solicit specific comments in the following areas: hiring labor, criteria for selecting local agencies, standards and procedures, definition of weatherization materials, the allocation formula, utilization of interim weatherization measures, rental units in multi-family buildings, procedures to permit cost averaging, Federal and State management roles, and provision of training and technical assistance.

A regulatory analysis decision has not been made.

Status: A notice of inquiry is planned for publication in the **Federal Register** before the end of 1980.

Authority: Part A of Title IV of the Energy Conservation and Production Act (Pub. L. 94–385) as amended by the National Energy Conservation Policy Act (Pub. L. 95.619) and the Energy Security Act (Pub. L. 96–294).

Contact: Carolyn Martin (202) 252–2204.

32. Weatherization Assistance for Low-Income Persons: Amendments Mandated by Energy Security Act and Technical Corrections

A final rule is planned to implement two changes in the Weatherization Assistance for Low-Income Persons Program (raising the repair limitation from $100 to $150 per dwelling unit and revising the administrative expenditure procedures to permit States to pass through up to 10% of their grants to subgrantees for administration) mandated by the Energy Security Act. The rule would also make several technical corrections, including changing the definition of "eligible State" to include Hawaii, upgrading the standard for cellulose type I insulation, and deleting a comma to correct a typographical error.

A regulatory analysis is not required.

Status: Publication of the final rule in the **Federal Register** is expected before the end of 1980.

Authority: Part A of Title IV of the Energy Conservation and Production Act (Pub. L. 94–385), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) and the Energy Security Act (Pub. L. 96–294).

Contact: Carolyn Martin (202) 252–2204.

III. Alcohol Fuels

1. Loan Guarantees for Alcohol Fuels, Biomass Energy, and Municipal Waste Energy Projects

DOE has adopted a regulation which provides guidelines to persons submitting proposals for financial assistance through DOE's loan guarantee program in regard to the development of alcohol fuels, biomass energy, and municipal waste energy projects.

A regulatory analysis was not required.

Status: A final rule was published in the **Federal Register** on October 8, 1980 (45 FR 66960).

Authority: Title II of the Energy Security Act (Pub. L. 96–294).

Contact: Bert Greenglass (202) 252–9487 (Alcohol Fuels Projects); Leslie S. Levine (202) 376–4424 (Non–Alcohol Biomass Projects); Donald K. Walter (202) 252–9397 (Municipal Waste Projects).

IV. Equal Opportunity

1. Nondiscrimination in Federally Assisted Programs

The regulation implements Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of the 1973 Rehabilitation Act. These laws prohibit discrimination on the basis of race, color, and national origin (Title VI), sex (Title X), and handicap (Section 504) in programs and activities which receive financial assistance from DOE.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** on June 13, 1980 (45 FR 40514).

Authority: Title VI of the 1964 Civil Rights Act; Title IX of the 1972 Education Amendments; Section 504 of the 1973 Rehabilitation Act.

Contact: Carlos A. Ruiz, (202) 252–2244.

2. Nonsdiscrimination on the Basis of Age

DOE is proposing a regulation to implement the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age in programs or activities receiving financial assistance from DOE.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 610 *et. seq.*

Contact: Carlos A. Ruiz, (202) 252–2244.

V. General Counsel

1. Regulations for Implementation of the Foreign Gifts and Decorations Act

DOE has adopted regulations to establish procedures and policies relating to the acceptance, use and disposition of gifts and decorations from foreign governments.

A regulatory analysis was not required.

Status: A final rule was published in the **Federal Register** on August 13, 1980 (45 FR 53972).

Authority: Foreign Gifts and Decorations Act, 5 U.S.C. 7342.

Contact: Katherine B. Soffer (301) 353–4016.

2. Conduct of Employees

DOE is proposing to revise its Conduct of Employees regulations, 10 CFR Part 1010 (44 FR 24696), to reflect certain provisions of the Ethics in Government Act (Pub. L. 95–521, as amended by Pub. L. 96–28). DOE is also reviewing the current regulations and may propose other revisions to simplify or clarify the regulations.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: Sections 601–608, and 644 of the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7211–7218, 7254); The Ethics in Government Act (Pub. L. 95–521, as amended by Pub. L. 96–28); 18 U.S.C. 201–209.

Contact: Katherine B. Soffer (301) 353–4016.

3. Payment of Travel Expenses of Non-DOE Employees.

DOE is drafting proposed regulations to clarify the authority of DOE employees to authorize or approve payment of travel expenses from DOE funds to persons who are not DOE employees.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: 5 U.S.C. Ch. 57; 4 Comp. Gen. 281; 8 Comp. Gen. 465; 21 Comp. Gen. 29, 409, 610; 27 Comp. Gen. 183, 194.

Contact: Susan Fonner (301) 353–4016

4. Privacy Act Regulations.

DOE has promulgated regulations, effective October 16, 1980, implementing DOE compliance with 5 U.S.C. 552(a), the Privacy Act of 1974. The rule provides Department-wide regulations to replace Privacy Act regulations implemented by the Federal Energy Administration and the Energy Research and Development Administration which were previously in force.

A regulatory analysis is not required.

Status: The final rule was published in the **Federal Register** on September 16, 1980 (45 FR 61576).

Authority: Department of Energy Organization Act (Pub. L. 95–91), and authorities incorporated by reference therein; the Privacy Act of 1974, 5 U.S.C. 552(a).

Contact: Ken Cohen (202) 252–8618

5. DOE Patent Licensing Regulations.

This proposed regulation governs licensing of inventions owned or controlled by the Department of Energy. It is needed to provide guidance to the public regarding: (1) Procedures for obtaining non-exclusive and exclusive licenses, and (2) standards under which such licenses may be granted and the terms and conditions of the licenses.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on July 22, 1980 (45 FR 48911).

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. 2186; and general authorities available to the Department due to transfer of functions from other agencies under the DOE Organization Act (Pub. L. 95–.91) and other Acts.

Contact: Robert Marchick (301) 353–4970

6. Patent Compensation Board Regulations.

The regulation being developed would provide policies and procedures with respect to the Patent Compensation Board declaring a patent affected with the public interest, issuing a compulsory license on a patent, and determining a reasonable royalty fee, just compensation or the grant of an award for patents, inventions or discoveries. It is needed to provide guidance to the public as to the requirements and procedures that will be followed in proceedings before the Patents Compensation Board.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Department of Energy Organization Act of 1977, 42 U.S.C. 7151, 7254; Energy Reorganization Act of 1974, 42 U.S.C. 5814, 5815; the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2183, 2187, 2223; and the Patent Act of 1952, 35 U.S.C. 183.

Contact: Judson R. Hightower (301) 353–5093

VI. Procurement and Contracts

1. DOE Assistance Regulations—Grants and Cooperative Agreements (Subparts A, B, and C).

The present DOE assistance regulations, 10 CFR Part 600, Subparts A, B, and C were published March 8, 1979 (Subparts A and B), and July 8, 1980 (Subpart C). These regulations serve to provide a consistent basis for the use of grants and cooperative agreements throughout DOE. They also establish a regulatory basis for the implementation of Office of Management and Budget and other Executive Branch guidance which impacts on DOE's provision of financial assistance. The existence of generic "assistance" regulations allows for incorporation by reference of these regulations in programmatic regulations. These latter regulations may then be more concise since they need not deal at length with a variety of administrative matters.

The present effort represents a revision of Subparts A and B for updating, expansion of coverage, and conformance with Subpart C.

A regulatory analysis is not required.

Status: Publication of a notice of proposed rulemaking for revision of Subparts A and B is expected in calendar year 1981.

Authority: Section 644 of the Department of Energy Organization Act (Pub. L. 95–91); Pub. L. 95–224.

Contact: Ellen L. Feinsilber (202) 252–9738

2. DOE Assistance Regulations, Direct Loans (Subpart D).

Subpart D of the DOE assistance regulation will provide general policies and procedures for use in the issuance of direct loans by the Department. The regulation is needed to provide the public and DOE personnel with the general requirements and standards to be followed in soliciting, evaluating, and awarding direct loans.

A regulatory analysis if not required.

Status: No notice concerning Subpart D of this regulation has yet been published.

Authority: Section 644 of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Bernell W. Bohlman (202) 252–9578.

3. DOE Assistance Regulations, Loan Guarantees (Subpart E).

Subpart E of the DOE assistance regulations will provide general policies and procedures for use in the issuance of loan guarantee agreements by the Department. The regulation is needed to provide the public and DOE personnel with the general requirements and standards to be followed in soliciting, evaluating, and awarding loan guarantee agreements.

A regulatory analysis is not required.

Status: No notice concerning Subpart E of this regulation has yet been published.

Authority: Section 644 of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Bernell W. Bohlman (202) 252–9578.

4. DOE Assistance Regulations, Price Support Agreements (Subpart F).

Subpart F of the DOE assistance regulation will provide general policies and procedures for use in the award of price support agreements by the Department. The regulation is needed to provide the public and DOE personnel with the general requirements and standards to be followed in awarding this type of agreement.

A regulatory analysis is not required.

Status: No notice concerning Subpart F of this regulation has yet been published.

Authority: Section 644 of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Bernell W. Bohlman (202) 252–9578.

5. Energy Conservation Clauses

DOE has considered proposing the use of clauses requiring energy conservation for DOE prime contractors and DOE has decided not to proceed further with this regulation.

A regulatory analysis decision has not been made.

Status: No further action in regard to this regulation is planned.

Authority: Section 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: James J. Cavanaugh (202) 252–8188.

6. *Environmental, Safety, and Health Clauses.*

DOE is considering proposing the use of contract clauses which are designed to assure: (1) Compliance by DOE contractors with relevant environmental protection requirements; (2) the greater safety of DOE operations; and (3) a more healthy working environment.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Section 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: Ed Lovett, (202) 252–8188

7. *Disputes Clause—Sales Contracts.*

DOE is considering requiring the use of a standard disputes clause in sales contracts. This rule would establish applicability of the Contract Disputes Act of 1978 and would establish uniform

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avenues of appeal for disputes in sales contracts.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on June 20, 1980 (45 FR 41649).

Authority: Section 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: James J. Cavanagh (202) 252–8188

8. *Corrective and Conforming Amendments to DOE Procurement Regulations.*

These proposed amendments involve correction of minor errors in the Procurement Regulations and other changes to keep the Regulations current and consistent with Government-wide policy. The rule would also include the use of cost plus incentive and fixed price incentive clauses for DOE contracts and would adopt a suggested award fee schedule.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Section 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: Thomas O. Ruppert, (202) 252–8188

9. *Reporting of Former DOE Employees Under Consultant Contracts.*

DOE is developing a proposed rule that would require a DOE consultant contractor to identify former DOE employees who will perform work under a contract with DOE.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Section 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: James J. Cavanagh, (202) 252–8188

10. *Contract Clause Prohibiting Payment to Contractors if Government Functions are Performed.*

Office of Management and Budget (OMB) Circulars A–76 and A–120 stipulate that Federal Government functions must be performed by Government employees. The proposed clauses will prohibit contracting out Government functions and payment to contractors for performance of these functions.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Section 644 of the Department of energy Organization Act (Pub. L. 95–91).

Contact: James J. Cavanaugh (202) 252–8188.

VII. Consumer Affairs

1. *Intervenor Funding Regulations.*

These proposed regulations are designed to provide financial assistance to qualified persons who have or represent an interest which would not otherwise be adequately represented in certain DOE decision-making processes.

A regulatory analysis is not required.

Status: No notice has been published.

Authority: Section 302(b)(2) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326.

2. *Geothermal Competitive Interest Regulation.*

DOE is planning to propose regulations redefining "known geothermal resource area" (KGRA) to establish criteria to determine what constitutes competitive interest for leasing tracts of Federal land for geothermal exploration and development. Pending legislation to amend the Geothermal Steam Act of 1970 may affect this proposed regulation. Therefore, DOE has decided to suspend development of the proposed regulation until enactment of the legislation.

A decision has not yet been made as to whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Section 302(b)(1) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326.

3. *Coal Bidding Systems Regulations.*

DOE is proposing regulations to establish bidding systems for the sale of Federal coal leases. Such bidding systems would help the Federal Government obtain fair market value for Federal leases, and would enhance competition for such leases.

A regulatory analysis is being prepared.

Status: A notice of proposed rulemaking was published in the **Federal Register** on July 10, 1980 (45 FR 46742).

Authority: Sections 302(b) and 303(c) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326

4. *Coal Diligence Regulation.*

DOE is considering the proposal of a regulation for new, adjusted, and assigned coal leases to establish requirements or the timely submission of exploration and mining plans. Such a regulation would ensure diligent development of and production from Federal coal leases.

A determination as to whether a regulatory analysis will be required has not yet been made.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: Section 302(b)(3) of the DOE Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326

5. *Coal Loan Guarantee Program.*

DOE intends to simplify the Coal Loan Guarantee regulations, and to expand them to include loan guarantees for the construction of preparation plants to reduce the sulfur content of coal.

A determination as to whether a regulatory analysis will be required has not yet been made.

Status: No notice concerning the regulations has yet been issued.

Authority: Section 102 of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended; seciton 802 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620).

Contact: Fredic Kerulis (202) 633–8200

6. *Geothermal Loan Guaranty—Community Impact Assistance.*

DOE is drafting regulations to establish procedures by which municipalities, Indian Tribes and other qualified entities having geothermal development projects in their communities can obtain Federal aid for planning to mitigate adverse impacts.

A determination as to whether a regulatory analysis will be required has not yet been made.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Act of 1978–Civilian Applications (Pub. L. 95–238).

Contact: Lachlan W. Seward (202) 633–8760

7. *OCS Diligence Regulation*

DOE is analyzing the need for a regulatory approach to Outer Continental Shelf (OCS) lease diligence in contemplation of a proposed rule. DOE would use such a proposed rule, if needed, to enforce diligence in OCS operations.

A decision has not yet been made as to whether a regulatory analysis is required.

Status: A notice of inquiry was published May 14, 1979 (44 FR 28037). The comments received in reply to this Notice have been summarized and are being analyzed to determine if a notice of proposed rulemaking should be issued.

Authority: Section 302(b)(3) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326.

8. *OCS Profit Share Bidding Regulation*

DOE has adopted a regulation which establishes a fixed profit share bidding system for the sale of oil and gas leases on the Outer Continental Shelf (OCS). The regulation also establishes related accounting procedures to govern calculation of the profit share and the allocation of costs and revenues. This regulation is designed to enhance competition for Federal OCS leases.

A regulatory analysis has been prepared.

Status: A final rule was published in the **Federal Register** on May 30, 1980 (45 FR 36784).

Authority: Section 302(b)(2) of the Department of Energy Organization Act (Pub. L. 95–910.

Contact: Robert H. Lawton (202) 633–9326

9. *OCS Work Commitment Bidding System*

DOE is beginning the necessary analysis to prepare a proposed regulation to establish a work commitment bidding system for the sale of oil and gas leases on the Outer Continental Shelf. This regulation would implement an alternative bidding system authorized under the Outer Continental Shelf Lands Act, as amended.

A determination as to whether a regulatory analysis is required has not yet been made.

Status: As notice of inquiry was published in the **Federal Register** on July 25, 1980 (45 FR 49586).

Authority: Section 302(b)(2) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326

10. *Power and Transmission Rate Adjustment Procedures.*

Uniform procedures are being developed by DOE's Office of Resource Applications for Federal power marketing administrations to contact their customers and encourage participation by interested parties in rate adjustment proceedings.

A regulatory analysis is not required.

Status: Proposed power and transmission rate adjustment procedures were published in the **Federal Register** on July 5, 1979 (44 Fr 39184), with an invitation for written comments. In addition, oral hearings were held in Washington, D.C., on July 27 and August 17, 1979.

A proposed revision of the procedures is being prepared. Final procedures as adopted will be published in the **Federal Register.**

Authority: Department of Energy Organization Act (Pub. L. 95–91).

Contact: Jim Braxdale (202) 633–8338

11. Royalty Oil Regulations

DOE has proposed regulations governing onshore and offshore royalty oil. These regulations would continue the operation and policy of the existing Department of Interior programs, but contain certain substantive changes.

A regulatory analysis is not required.

Status: A final rule relating to offshore royalty oil was published February 12, 1980 (45 FR 9526). A further notice of proposed rulemaking will be issued for onshore royalty oil.

Authority: Section 302(b)(5) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326

12. Sequential Bidding Process Regulations

DOE has proposed a regulation to establish a sequential bidding process for experimental use in Outer Continental Shelf oil and gas lease sales. This proposal may enhance competition by increasing the number of participants and bids submitted.

A draft regulatory analysis has been completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** on September 11, 1979 (44 FR 52842). A final rule is expected to be issued shortly.

Authority: Section 302(b)(1) of the Department of Energy Organization Act (Pub. L. 95–91).

Contact: Robert H. Lawton (202) 633–9326

13. OCS Joint Bidding Regulations

This regulation will foster competition for Outer Continental Shelf (OCS) leases by eliminating the requirement that firms chargeable with average worldwide daily production of less than 1.6 million barrels of oil file Statements of Production in order to bid jointly at an OCS lease sale. Because the purpose of the filing requirement is to identify those firms subject to the joint bidding ban and because the ban applies only to firms with an average daily production in excess of 1.6 million barrels, the requirement that all firms file statements of production may be an undue burden on smaller firms wishing to bid jointly.

A regulatory analysis is not required.

Status: A final rule was published in the **Federal Register** on September 18, 1980 (45 FR 62029).

Authority: Section 302(b)(1) of the DOE Organization Act (Pub. L. 95–91); Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), as amended.

Contact: Robert H. Lawton (202) 633–9326

IX. Economic Regulatory Administration

A. National Energy Act (NEA) Regulations

1. NEA—Fuel Use Act—Administrative Procedures and New Facilities (Docket ERA–R–78–19 D, E).

These regulations implement certain provisions of the Fuel Use Act which prohibit the use of oil and gas by new facilities and establish the criteria for granting exemptions provided by law. These regulations also provide the definitions and administrative procedures necessary to implement the Act.

A regulatory analysis has been completed.

Status: Final rules were published in the **Federal Register** on June 6, 1980 (45 FR 38276; 38302).

Authority: Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*).

Contact: Stephen M. Stern (202) 653–3217.

2. NEA—Fuel Use Act—Existing Facilities (ERA Docket ERA–R–78–19C, F and G).

These regulations implement certain provisions of the Fuel Use Act including statutory prohibitions, provide the criteria the economic Regulatory Administration (ERA) will employ in issuing prohibition orders to existing facilities and establish the criteria and procedures applicable to granting exemptions. These regulations also implement provisions of the Act which prohibit the increased use of petroleum by existing powerplants and implement the electric utility system compliance option provided in the law.

A regulatory analysis has been completed.

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Status: A final rule was published in the **Federal Register** on August 12, 1980 (45 FR 53682).

Authority: Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*)

Contact: Stephen M. Stern (202) 653–3217

3. *NEA—Fuel Use Act—Alternate Fuel Matrix.*

ERA is seeking public comment on whether to issue guidelines to assist petitioners in identifying the availability of alternate fuels, innovative technologies, mixtures and conservation measures (fuel technologies) which must be analyzed under the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

A regulatory analysis is not required.

Status: A notice of inquiry was issued on September 12, 1980 (45 FR 62525, September 19, 1980).

Authority: Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*)

Contact: Stephen M. Stern (202) 653–3217

4. *NEA—Fuel Use Act—Calculation of the Cost of Using Alternate Fuels under FUA.*

ERA has proposed a rule to implement certain cost calculation provisions of the Fuel Use Act (FUA) pertaining to ERA's authority to issue orders prohibiting the use of petroleum and natural gas to certain existing facilities and to grant exemptions from the prohibitions of FUA to both new and existing facilities.

A regulatory analysis has been completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** on June 23, 1980 (45 FR 42190). The comment period will close on October 20, 1980.

Authority: Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*)

Contact: John Detweiler (202) 653–3217.

5. *NEA—Fuel Use Act—Congeneration Exemption.*

ERA has proposed a rulemaking to amend certain provisions of ERA's interim rule implementing the Fuel Use Act (FUA) provisions pertaining to permanent exemptions from FUA prohibitions for eligible congeneration facilities. The proposed rule would establish a new approach to encourage cogeneration, amend the definitions of "electric generating unit" and "cogeneration facility", and set forth eligibility requirements for the cogeneration exemption.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking was issued August 1, 1980 (45 FR 53368, August 11, 1980). The comment period will close November 7, 1980.

Authority: Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*)

Contact: Marcy Cotton (202) 653–3217.

6. *NEA Fuel Use Act—Prohibition on Sale and Direct Industrial Use of Natural Gas for Decorative Outdoor Lighting.*

This rule implements the Fuel Use Act provisions which prohibit: (1) The installation of new or replacement natural gas outdoor lighting fixtures by local distribution companies and direct industrial customers; (2) the provision by local distribution companies of natural gas to residential, commercial, and industrial customers for use in outdoor lighting; and (3) the use of natural gas by direct industrial customers for outdoor lighting. The rule also delegates authority to the States to administer the regulation authorities of DOE with regard to gas lighting under section 402 of the Act.

A regulatory analysis was not required.

Status: An amended final rule was published in the **Federal Register** on May 23, 1980 (45 FR 35206).

Authority: Powerplant and Industrial Fuel Use Act (42 U.S.C. 8301 *et seq.*)

Contact: Nancy E. Tate (202) 653–3920

7. *NEA—PURPA—Grant Assistance to the Public Utility Commissions and Innovative Utility Regulatory Projects.*

ERA has adopted regulations setting out its administrative requirements for grant assistance to public utility commissions and nonregulated utilities in meeting their duties and responsibilities under Titles I and III and section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and for financial assistance to undertake innovative utility rate structure projects (*see* 44 FR 40262, July 9, 1979). Revisions to subpart C of the regulations, regarding the innovative rates program, have been adopted.

A regulatory analysis was not required.

Status: Final revisions to subpart C were issued on July 1, 1980 (45 FR 47388, July 14, 1980).

Authority: Sections 141 and 142 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617); Section 204(1)(B) of the Energy Conservation and Production Act (EPCA) (Pub. L. 94–385).

Contact: Ron White (202) 653–4006

8. *Exemption from Natural Gas Incremental Pricing.*

ERA issued a Notice of Inquiry asking for comment on the establishment of a program to provide exemptions from natural gas incremental pricing for firms converting from oil and gas to alternative fuels.

A regulatory analysis will be completed if it is decided to issue a notice of proposed rulemaking.

Status: A notice of inquiry was issued on June 12, 1980 (45 FR 41450, June 19, 1980).

Authority: Natural Gas Policy Act of 1978 (Pub. L. 95–621) and Department of Energy Organization Act (Pub. L. 95–91).

Contact: Stephen M. Stern (202) 653–3217

9. *NEA-Natural Gas Policy Act—Review of Natural Gas Curtailment Priorities (Docket ERA–R–89–10).*

ERA has issued a notice of proposed rulemaking (NOPR) concerning natural gas curtailment priorities. As a general matter, the NOPR establishes curtailment priorities applicable to interstate pipelines. More particularly, in certain respects the proposed rule implements Title IV of the Natural Gas Policy Act, by establishing curtailment priorities for high priority uses and for essential agricultural, feedstock and process uses.

A regulatory analysis has been completed.

Status: A notice of proposed rulemaking was issued on June 24, 1980 (45 FR 45098, July 2, 1980). Hearings were held in Washington, D.C. on August 12 and 13, 1980 and in Chicago on July 22, Atlanta on July 24 and San Francisco on July 31, 1980.

Authority: Sections 301(b) and 402(a)(1)(E) of the Department of Energy Organization Act (Pub. L. 95–91); Title IV of the Natural Gas Policy Act of 1978.

Contact: Albert F. Bass (202) 653–3286.

10. *NEA-Natural Gas Policy Act—Emergency Natural Gas Regulations.*

ERA will develop standby regulations regarding emergency authorization for the purchase and the allocation of natural gas during a Presidentially declared natural gas supply emergency.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking will be issued in the fall of 1980.

Authority: Natural Gas Policy Act of 1978, Title III (Pub. L. 95–621).

Contact: Gary Barch (202) 653–3286.

11. *Regulations for Natural Gas Import and Export Proceedings.*

ERA will develop procedural regulations for considering applications to import and export natural gas. The procedures will replace the applicable Federal Energy Regulatory Commission regulations (18 CFR Part 1) adopted by ERA on an interim basis.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking will be issued in the fall of 1980.

Authority: Sections 3, 15 and 19 of the Natural Gas Act of 1938 (52 Stat. 821) as amended; Sections 301, 402, and 644 of the DOE Organization Act (Pub. L. 95–91).

Contact: Lawrence DiRicco (202) 653–3220.

12. *NEA-Natural Gas Policy Act—Administrative Procedures for Adjustments of Natural Gas Curtailment Priority Regulations (Docket ERA–R–79–24).*

This rule proposes procedures for the applications for "adjustments" to the natural gas curtailment priority regulations in Subchapter G of Chapter II of 10 CFR. These procedures are applicable to the curtailment priority regulations established for essential agricultural uses in 10 CFR Part 580, and include procedures governing requests for repeal, modification, and interpretation of those rules.

A regulatory analysis is not required.

Status: A proposed rule was issued on May 7, 1979 (44 FR 27676, May 11, 1979). The Federal Energy Regulatory Commission (FERC) took jurisdiction over the proposed rule on June 15, 1979, under Section 404 of the DOE Organization Act, and the matter is currently at FERC.

Authority: Sections 502 and 506 of the Natural Gas Policy Act of 1978 (Pub. L. 95–621); Section 644 of the Department of Energy Organization Act (Pub. L. 95–91); and the Administrative Procedures Act (Pub. L. 89–554).

Contact: Paula Daigneault (202) 653–3286.

B. Crude Oil and Refinery Operations

1. *Production Incentives for Marginal Properties.*

DOE has extended the depth brackets/production rate allowances for marginal properties.

A regulatory analysis was not required.

Status: A final rule was issued on July 7, 1980 (45 FR 47406, July 14, 1980).

Authority: Emergency Petroleum Allocaton Act of 1973 (Pub. L. 93–159, as amended).

Contact: William Carson/Douglas Harnish, (202) 653–3263.

2. *Newly Discovered Crude Oil Rule Amendment and Certification Requirements.*

DOE has proposed regulations to establish certification procedures and to clarify technical parts of the final rule on newly discovered crude oil.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was issued on June 16, 1980 (45 FR 4222, June 23, 1980). A hearing was held in Washington, D.C. on July 22, 1980 and written comments were received through August 20, 1980. Issuance of a final rule is expected in November 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: William Carson/Douglas Harnish, (202) 653–3263.

3. *Adjustment of Alaska North Slope Crude Oil.*

DOE recently amended the entitlements program modifying the entitlement treatment of Alaska North Slope (ANS) crude oil (45 FR 46752, July 10, 1980). The amendment imposed an entitlement obligation on price-controlled ANS crude oil in order to distribute the benefits of price controls on this crude oil equitably to all refiners.

DOE is concerned, however, that the newly imposed entitlement obligation may have an adverse effect on the wellhead prices and production of ANS crude oil. Accordingly, DOE has proposed a reduction in the entitlement obligation of approximately $2.00 per barrel.

A regulatory analysis has been completed.

Status: A notice of proposed rulemaking was issued on September 8, 1980 (45 FR 60268, September 15, 1980). Comments are due by November 12, 1980.

Authority: Emergency Petroleum Allocaton Act of 1973 (Pub. L. 93–159, as amended).

Contact: Daniel J. Thomas, (202) 653–3263.

4. *Resales of Crude Oil.*

While resellers are currently required to compute their permissible average markups in different manners designed to insure that their average markups are consistent with markups in May 1973, the average markups being realized by resellers vary widely. In order to insure consistency among resellers, ERA is adopting a uniform permissible average markup for all crude oil resellers.

A regulatory analysis will be completed.

Status: A regulatory analysis and final rule was issued in the fall of 1980.

Authority: Emergency Petroleum Allocaton Act of 1973 (Pub. L. 93–159, as amended).

Contact: Ralph A. Rohweder, (202) 653–3263.

5. *Amendments Concerning Processing Agreements Involving Non-Refiners.*

DOE has analyzed the increases in the amount of crude oil being refined for the account of non-refiners (typically producers and crude oil resellers) over the past year. Based on this analysis and other information DOE has decided not to proceed with any further regulatory action, but will continue to monitor these transactions.

Status: A notice of intent was issued on January 10, 1980 (45 FR 3060, January 16, 1980). No further action is planned.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Margaret A. Carroll (202) 653–3254.

6. *Emergency Allocation Provisions of the Crude Oil Buy/Sell Program (Docket ERA–R–79–212).*

In April 1979, in connection with amendments to the emergency allocation provisions of the Buy/Sell Program adopted on an emergency basis, ERA proposed additional amendments that would (1) add the seven largest independent refiners (refining capacity in excess of 175,000 b/d) to the seller's list, for purposes of emergency allocations only, and (2) provide that, with respect to emergency allocations, the price of crude sold to a small refiner whose refining capacity is more than 50,000 b/d would the replacement or, alternatively, actual cost, of the crude sold, rather than the seller's adjusted weighted average landed cost of imports as currently provided.

In view of the fact that no further action on this proposal will be taken, a regulatory analysis will not be completed.

Status: A notice of proposed rulemaking was issued on April 27, 1979 (44 FR 26113, May 4, 1979). No further action is planned.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: John Glynn (202) 653–3274.

7. *Revision of Crude Oil Supplier/Purchaser Rule.*

On August 18, 1980, ERA adopted a final rule amending the crude oil supplier/purchaser rule, effective October 1, 1980. The amendments provide for the removal from the scope of the rule of all crude oil which is exempt from the Mandatory Petroleum Price regulations. The amendments also release suppliers from any requirement under the rule to supply price-controlled crude oil to major refiners.

A regulatory analysis has been completed.

Status: A final rule was issued on August 18, 1980 (45 FR 56732, August 25, 1980).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

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Contact: Margaret A. Carroll (202) 653–3254.

8. *Canadian Allocation Program (CAP) Revisions.*

On November 17, 1978, DOE issued a Notice of Proposed Rulemaking regarding revisions to the Canadian Allocation Program (CAP) (43 FR 55735, November 28, 1978). The proposed amendments were intended to reflect the declining volumes of Canadian crude oil exports, the varying success refineries have had in obtaining non-Canadian supplies, and the simplification of the administration and industry reporting requirements of the CAP. In August 1979, DOE determined that any changes in the CAP at that time might exacerbate the already fragile supply and demand balance for crude oil and petroleum products in the Northern Tier. Consequently, DOE issued a Notice deferring action until at least early 1980.

A regulatory analysis is not required.

Status: A notice of intent to defer issuance of a final rule was issued August 9, 1979 (44 FR 47951, August 16, 1979). No further action is planned.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: John Glynn (202) 653–3274.

9. *Annual Revision of Fee-Free Licenses Under the Mandatory Oil Import Program.*

Prior to May 1, 1980, annual revision of the Mandatory Oil Import Program was required to reflect the fee-free allocation levels established by Presidential Proclamation 3279 for each allocation year. Under the terms of Proclamation 3279, however, this program expired on April 30, 1980.

A regulatory analysis was not required.

Status: No further action will be taken in view of the expiration of the program.

Authority: Presidential Proclamation 3279, as amended (38 FR 9645; 38 FR 16195; 39 FR 35103).

Contact: Josette Maxwell (202) 653–3256.

10. *Entitlement Exemption for Start-up Inventories.*

It had been the practice of the Office of Petroleum Operations to grant exemptions from entitlement obligations for price-controlled crude oil used for start-up inventories. ERA, in considering regulatory amendments regarding that practice, has reviewed the need for granting such exemptions and the appropriate mechanism for implementing such exemptions. ERA has decided that these exemptions should not be granted, and that no further action is needed.

A regulatory analysis decision was not made.

Status: No further action will be taken.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Norman V. Breckner (202) 653–3202.

11. *Incentives To Refine Lower Quality Crude.*

Maximum lawful prices for covered products such as motor gasoline are determined by adding to the base period prices actual increases in crude oil and non-product costs. A refiner that substitutes a lower cost crude oil is required to adjust product prices to reflect that lower costs. ERA has been advised that the price reduction is a disincentive to investing in facilities to utilize lower cost crude oils. Refiners have stated that the economic justification for such investments is the saving in crude costs, and that refiners need to be able to capture that saving for their own use in order to make such investments.

In light of the decontrol of crude oil after September 1981, with the expiration of authority to promulgate regulations under the Emergency Petroleum Allocation Act (EPAA), ERA has decided to develop a procedure that would preclude this type of investment disincentive only if any legislation is enacted that would be effective after the expiration of the EPAA.

A regulatory analysis decision has not yet been made.

Status: A notice of inquiry on incentives for refinery investments was published in the **Federal Register** on August 30, 1979 (44 FR 50847). A notice was published in the **Federal Register** on September 26, 1980 (45 FR 63866), announcing the decision to postpone formulation of a rule until it is determined whether to develop standby regulations in reponse to post-EPAA legislation.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Norman V. Breckner (202) 653–3263.

12. *Incentives for Enhanced Crude Oil Recovery.*

ERA is proposing several clarifying and remedial amendments to the tertiary incentive rule. The proposal would allow "in-house" expenses so long as such expenses do not exceed the price that would have been paid in an arm's-length transaction. Another proposal would require producers to report "prepaid expenses" on an annual basis. A third proposal revises the required annual opinion by a certified public accountant (CPA) to conform to CPA auditing capability. The final proposal would exclude prospectively injected hydrocarbons as an allowed expense for miscible fluid flooding projects.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was issued on August 8, 1980 (45 FR 54688, August 15, 1980). A hearing was held in Washington, D.C. on September 16, 1980. Written comments were received through October 10, 1980. The final rule is expected to be issued in November 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Douglas Harnish (202) 653–3263.

13. *Domestic Crude Oil Entitlements.*

The net post-entitlement cost of price-controlled crude oil in recent months has been less than that of equivalent uncontrolled crudes in PADDs I–IV, providing a benefit to refiners with access to controlled crudes. In PADD V, Price-controlled crudes ahve a post-entitlement cost in excess of the average PADD V exempt domestic crude. The existing price controls also do not reflect the market differential for high- and low-sulfur crude oils in PADDs I-IV. amendments to the entitlements program to reduce these disparities will be proposed.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking and a regulatory analysis are being prepared.

Authority: Emerengcy Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Daniel J. Thomas (202) 653–3263.

C. Refined Products

1. *Gasohol Regulations.*

On May 16, 1980, DOE issued a notice of proposed rulemaking (NOPR) proposing allocation and pricing rules to facilitate the production and marketing of gasohol (45 FR 34846, May 22, 1980).

A draft regulatory analysis was completed.

Status: Following issuance of the NOPR, public hearings were held in Des Moines on June 23, 1980, and in Washington, D.C. on July 8–9, 1980. DOE is evaluating the hearing testimony and written comments in response to the NOPR before deciding what action will be taken.

Authority: Emergency Petroleum Allcoation Act of 1973 (Pub. L. 93–159, as amended).

Contact: James Berry (202) 653–3274.

2. *Puerto Rican Naptha Entitlements Program Revisions.*

ERA has been petitioned by the Puerto Rican Government and the petrochemical industry to revise the naphtha entitlements program. ERA has tentatively determined that regulatory revisions are necessary because the current provisions of the naphtha entitlements program do not adequately equalize the cost of naphtha feedstocks to the Puerto Rico petrochemical producers, which are dependent on high-priced imported naphtha, with those of their U.S. mainland competitors, which have access to lower-cost naphtha produced by domestic refiners. Therefore, ERA has proposed altenative amendments to the regulations (10 CFR 211.67) to change the method of calculating benefits for naphtha imported into Puerto Rico for use as petrochemical feedstocks.

A draft regulatory analysis has been completed.

Status: A notice of proposed rulemaking was issued on August 28, 1980 (45 FR 59818, September 10, 1980).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159).

Contact: John Glynn (202) 653–3274.

3. *Amendments Pertaining to Entitlements for Residual Fuel Oil.*

ERA issued an emegency amendment June 10, 1979 (44 FR 34468, June 15, 1979), extending the Residual Fuel Oil Entitlements Program then in effect through December 31, 1979. Importers of residual fuel into the East Coast market and Michigan receive 50% of an entitlements runs credit while domestically produced residual fuel oil shipped on foreign tankers incurs a loss of 50% of an entitlements runs credit. This was later extended through September 30, 1980, to implement congressional policy.

A regulatory analysis has been completed.

Status: A final rule was issued on January 25, 1980 (45 FR 6719, January 31, 1980), in which ERA asked for comments on the treatment of residual fuel oil imported in U.S. flag vessels. A notice of proposed rulemaking was issued on September 12, 1980 (45 FR 62478, September 19, 1980), that proposes to extend the program without change or interruption through September 30, 1981.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended; Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Pub. L. 96–126).

Contact: Josette Maxwell (202) 653–3256.

4. *Maximum Lawful Selling Price for Unleaded Gasoline.*

ERA has proposed amendments to the pricing regulations for unleaded gasoline to revise the base price calculation for the minimum grade and to remove current disincentives for refiners to produce new grades of unleaded gasoline. This could result in more efficient domestic gasoline production.

A draft regulatory analysis has been completed.

Status: A notice of continued rulemaking was issued November 27, 1979. A further notice of proposed rulemaking was issued August 8, 1980 (45 FR 54694).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Maurice Boehl (202) 653–3220.

5. *Resellers' and Reseller-Retailers' Price Rules for Gasoline.*

DOE has increased the cents per gallon margins for retail and delivered reseller sales of gasoline to reflect inflation and to be consistent with the price rules for independent retailers. The regulations now provide that the resellers and reseller-retailers' maximum lawful selling price for resales of gasoline is the acquisition cost plus a fixed cents per gallon markup, plus tax costs. The new regulations eliminate the carry forward of unrecouped costs and existing restrictions on the amount of increased commissions paid to consignee agents by refiners are also eliminated.

A regulatory analysis has been completed.

Status: The proposed rule was issued on November 28, 1979 (44 FR 69602, December 3, 1979). The final rule was issued on April 28, 1980 (45 FR 29546, May 2, 1980). The rulemaking was continued with respect to the proposal to adopt a "layering" provision.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Maurice Boehl (202) 653–3220 or Roger Miller (202) 653–3245.

6. *Amendments to the Equal Application Rule as Applied To Retail Sales of Gasoline.*

These amendments remove some of the current regulatory constraints which encourage refiners and reseller-retailers to sell gasoline at retail prices substantially below those of independent retailers. The old 3 cents per gallon limit on the difference refiners may charge in retail gasoline sales without being subject to the equal application rule has been increased to 8.6 cents per gallon. In addition, the amendments allow reseller-retailers to pass through up to an 8.6 cents per gallon difference between increased costs without being subject to the equal application rule. Any allowable increase in retail margins are offset by corresponding reductions in "banks" or in cost pass-throughs to other classes of purchasers.

A regulatory analysis has been completed.

Status: The final rule was published in the **Federal Register** on April 29, 1980, effective April 18, 1980 (45 FR 28302).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Maurice Boehl (202) 653–3199.

7. *Modification or Elimination of the Equal Application Rule.*

DOE has eliminated the equal application rule with respect to all sales of gasoline.

A regulatory analysis has been completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** on June 30, 1980 (45 FR 44238). The final rule was issued in October 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Maurice Boehl (202) 653–3220.

8. *Motor Gasoline Allocation Revisions—General.*

On June 6, 1980, DOE proposed amendments to correct certain deficiencies in the present motor gasoline allocation regulations and to enable DOE to deal more effectively with dislocations during tight supply situations (45 FR 40078, June 12, 1980).

A draft regulatory analysis was completed concurrently with the notice of proposed rulemaking.

Status: A final rule is expected to be issued in the fourth quarter of 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: William E. Caldwell (202) 653–3256.

9. *Motor Gasoline Allocation: Downward Certification Adjustments.*

DOE is considering regulations that would establish a downward certification procedure for wholesale purchaser-resellers when their supply obligations decrease.

After a careful review of earlier public comments, DOE decided not to adopt its principal downward certification proposal and to instead prepare a draft regulatory analysis to provide an opportunity for a more complete examination of this and other issues.

Status: A notice of availability of a draft regulatory analysis was issued August 26, 1980 (45 FR 58788, September

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4, 1980). The draft analysis is set forth as an appendix to the notice.

Written comments are due by October 31, 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Eric Hager (202) 653–3274.

10. *Motor Gasoline Allocation: Assignments and Adjustments to Firms; Allocation Level for Mail Hauling.*

The allocation regulations were amended to enable mail hauling uses of the United States Postal Service and private firms engaged in the business of transporting certain goods to qualify for a first priority allocation of motor gasoline without regard to vehicle size. The definition of "firm" was also amended to permit ERA to make allocation assignments and adjustments with reference to separate facilities, rather than to an entire firm as previously required.

A regulatory analysis was not required.

Status: A final rule was issued on July 10, 1980 (45 FR 47671, July 16, 1980).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended.

Contact: Eric Hager (202) 653–3274.

11. *State Set-Aside Monthly Report.*

The ERA intends to institute a monthly reporting requirement for State energy offices participating in the State set-aside program under the Mandatory Petroleum Allocation Regulations. A new report form to be administered by the ERA will solicit data by product category on total volumes available, assigned, and released by State energy offices under the program. The new reporting requirement would enable the ERA to monitor more closely the set-aside program and enhance its capability to respond to emergency supply conditions.

A regulatory analysis is not required.

Status: Notice of proposed form and opportunity for public comment was issued on May 16, 1980 (45 FR 34957, May 23, 1980).

Authority: Emergency Petroleum Allocation Act of 973 (Pub. L. 93–159), as amended; Federal Energy Administration Act of 1974 (Pub. L. 93–275).

Contact: Eric Hager (202) 653–3274.

12. *Assignments to Base Period Supplier: Notice to Aggrieved Parties.*

The DOE has proposed to adopt new procedures for notifying potentially aggrieved parties in connection with applications for new assignments or adjustments of motor gasoline to service stations. Based on information received during the public comment period, DOE determined that the proposed changes to the aggrieved parties procedures were not needed.

A regulatory analysis was not required.

Status: A notice of proposed rulemaking was issued (44 FR 67338, November 23, 1979). Termination of this rulemaking proceeding was announced on August 18, 1980 (45 FR 56070, August 22, 1980).

Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159), as amended.

Contact: William Caldwell (202) 653–3256.

13. *Amendments to the Normal Business Practices Rule*

DOE proposes eliminating its role in regulating extensions of credit for purchases of motor gasoline at the retail level. An alternative proposal is also being considered that would amend the normal business practices rule by removing credit controls relating to consumer sales of gasoline at retail sales outlets, but retain controls on credit extended to bulk purchasers and wholesale purchaser consumers.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on August 27, 1980 (45 FR 57138).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Maurice Boehl, (202) 653–3220 or Roger Miller (202) 653–3220.

D. Deregulation

1. *Amendments to Propane Pricing regulations*

ERA is considering proposing amendments to the propane price rules that will: (1) Incorporate the GNP deflator adjustment on a semiannual basis to the fixed cents-per-gallon markups for nonproduct and marketing cost increases allowed small resellers and retailers under Subpart F and refiners that sell at retail under Subpart E; and (2) allow independent gas processors to calculate increased marketing costs in a more equitable manner.

A preliminary regulatory analysis that analyzes the economic impacts of the proposals is being prepared.

Status: A notice of proposed rulemaking is planned for issuance in the fourth quarter of 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Roger Miller (202) 653–3245.

2. *Deregulation of SNG Feedstocks*

DOE has issued a proposal to ease allocation controls on Synthetic Natural Gas (SNG) feedstocks. The proposal would exempt naphtha used as SNG feedstock and to provide allocations of propane at historical levels for existing SNG plants.

A regulatory analysis will be completed.

Status: A notice of proposed rulemaking was published in the **Federal Register** on July 21, 1980 (45 FR 48646) and public hearings were held. The public comment period closed September 19, 1980. DOE expects to issue a final rule during the fourth quarter of 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: Bob Reinstein (202) 653–3281.

E. Emergency Preparedness

1. *Standby Gasoline Rationing Plan*

The Energy Policy and Conservation Act of 1975 (Pub. L. 94–163, EPCA) as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96–102, EECA) required the development and transmission to the Congress of a standby gasoline rationing plan. The Act provides that a rationing plan can be implemented in the event of a severe energy supply interruption or to comply with obligations of the United States under the international energy program.

A regulatory analysis is not required. Considerable economic analysis accompanied the plan, however.

Status: A notice of proposed rulemaking was published on December 10, 1979 (44 FR 70799). The plan was deemed approved by Congress on July 30, 1980. The final rule was issued on June 12, 1980 (45 FR 41330, June 18, 1980).

Authority: EPCA as amended by EECA.

Contact: Barry Van Lare, 653–4133.

2. *Amendments to the Standby and Current Crude Oil Allocation and Refinery Yield Programs to Provide for the Distribution of SPR Crude Oil*

DOE has issued regulations to implement the congressionally approved Strategic Petroleum Reserve (SPR) Distribution Plan for use during an energy supply emergency.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on August 19, 1980 (45 FR 55374).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended). Energy Policy and Conservation Act (Pub. L. 94–163).

Contact: Josette Maxwell (202) 653–3256.

3. *Amendments to the Allocation Regulations to Obtain Crude Oil for the Stategic Petroleum Reserve by Exchange of Naval Petroleum Reserves Crude Oil and Other Means*

DOE has proposed alternative amendments to the allocation regulations to establish procedures for obtaining crude oil to fill the Strategic Petroleum Reserve by exchange of Naval Petroleum Reserves crude oil and other means.

The regulatory analysis requirement has been waived.

Status: A notice of proposed rulemaking was issued on August 8, 1980 (45 FR 54662, August 15, 1980).

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended; Energy Policy and Conservation Act (Pub. L. 94–163), as amended; Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94–258), as amended; Energy Security Act (Pub. L. 96–294).

Contact: Josette Maxwell (202) 653–3256.

4. *Defense Production Act Regulations*

The DOE has issued a notice of proposed rulemaking which would authorize it to issue priority rated orders to the Department of Defense requiring suppliers to supply petroleum products on a priority basis to the Defense Department for national defense needs.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has been issued (44 FR 63109, November 2, 1979). Public hearings have been held and DOE expects to issue a final rule in the fourth quarter of 1980.

Authority: Defense Production Act of 1950, 50 U.S.C. App. 2071 *et. seq.*

Contact: William E. Caldwell (202) 653–3256.

5. *Priority Supply of Crude Oil and Petroleum Products Under the Defense Production Act for Non-DOE Defense-Related Activities*

A notice of proposed rulemaking (NOPR) issued October 26, 1979 (44 FR 63109, November 2, 1979), proposed procedures for issuance of priority rated orders to the Department of Defense (DOD) for national defense petroleum supply needs. A NOPR now under development will propose procedures for issuance of priority rated orders for crude oil and petroleum products for non-DOD defense-related Government activities and for defense contractors.

A regulatory analysis is not required.

Status: DOE expects to issue a notice of proposed rulemaking during the fourth quarter of 1980.

Authority: Defense Production Act of 1950, 50 U.S.C. App. 2071 *et. seq.*

Contact: William E. Caldwell (202) 653–3256.

6. *Strategic Petroleum Reserve Entitlements*

DOE has amended the Entitlements Program regulations (10 CFR 211.67) so as to achieve the same effect as if lower tier crude oil were directly allocated to the Federal Government for storage in the Strategic Petroleum Reserve (SPR). These amendments were adopted to implement the congressional directive set forth in section 805(a) of the Energy Security Act. The statutory deadline for adoption of the amendments was August 29, 1980.

A regulatory analysis is not required.

Status: The final rule was issued on August 21, 1980 (45 FR 56788, August 25, 1980). Written comments were accepted through September 10, 1980. The comments are now being analyzed and a notice responding to such comments is planned for publication in the **Federal Register.**

Authority: Energy Security Act (Pub. L. 96–294).

Contact: Josette L. Maxwell (202) 653–3256.

7. *Revision of Standby Regulations Regarding Allocation Levels for Petrochemical Feed-Stock Use*

The Group to Improve Standby Product Allocation Regulations (GISPAR) has petitioned for a change in the allocation level for petrochemical feedstock use from base period volumes subject to an allocation fraction to current requirements. GISPAR alleges inequitable treatment of the petrochemical industry if the standby regulations were activated. DOE will review the allocation levels for priority users of petroleum products and will seek to eliminate any inequitable treatment of users, to the extent possible.

A regulatory analysis will be completed.

Status: DOE expects to issue a notice of proposed rulemaking during the fourth quarter of 1980.

Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).

Contact: William E. Caldwell (202) 653–3256.

F. Utility Systems

1. *Authorization to Transmit Electric Energy to a Foreign Country*

Section 202(e) of the Federal Power Act requires that any jurisdictional electric utility obtain an authorization from the Secretary of Energy prior to exporting electric energy to a foreign country. DOE has proposed to simplify the rule and to make it consistent with current authority.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on April 15, 1980 (45 FR 25780). The final rule is expected to be issued before the end of 1980.

Authority: Section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

Contact: Jim Brown (202) 653–3825.

2. *Presidential Permit to Construct Electric Power Lines Crossing International Boundaries*

Executive Order 10485 as amended requires that any person obtain approval of the Secretary of Energy prior to constructing an electric power line across an international boundary. DOE has proposed to modify the rules to make them consistent with current authority and legislation enacted since issuance of the original Federal Power Commission regulations.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published in the **Federal Register** on April 15, 1980 (45 FR 25780); a final rule is expected to be issued before the end of 1980.

Authority: Executive Order 10485 as amended by Executive Order 12038.

Contact: Jim Brown (202) 653–3825.

3. *Electric Power System Outage and Incident Reporting*

Electric utilities currently report certain bulk power system outages, disturbances, load reduction actions and other significant events to ERA. ERA has proposed to modify and simplify the reporting rules to meet current program needs.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published on March 27, 1980 (45 FR 20109) and reissued on August 5, 1980 (45 FR 51833); a final rule is expected to be issued before the end of 1980.

Authority: Section 311 of the Federal Power Act (16 U.S.C. 825j).

Contact: Jim Brown (202) 653–3825.

4. *Emergency Electrical Interconnections and Transfers of Electricity*

Section 202(c) of the Federal Power Act provides authority to order emergency electrical interconnections and transfers of electricity either upon application or on the Department of Energy's own initiative. Section 202(d) of the Federal Power Act provides that in an emergency a person transmitting or selling electricity, and not subject to the jurisdiction of DOE, may make a temporary interconnection with a jurisdictional utility or construct a temporary interstate interconnection, without becoming subject to DOE's jurisdiction. DOE will revise the regulations to clarify those situations which ERA will view as emergencies.

A decision as to whether a regulatory analysis is required has not yet been made.

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Status: A notice of proposed rulemaking is expected to be issued before the end of 1980.

Authority: Section 202(c) and (d) of the Federal Power Act (16 U.S.C. 824a(c) and (d)).

Contact: Jim Brown (202) 653-3825.

[FR Doc. 80-34145 Filed 10-31-80; 8:45 am]

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federal register

Monday
November 3, 1980

Part IV

Federal Communications Commission

Table of Television Channel Allotments

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73

[BC Docket No. 80-499; FCC 80-545]

Table of Television Channel Allotments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Commission proposes rule changes to permit new VHF television allotments at less than the specified minimum mileage separation distances, provided the new stations antenna height and power are reduced to provide equivalent protection to existing stations. These proposed changes result from the Commission's desire to utilize the radio spectrum more efficiently and satisfy the demand for additional television outlets. The proposed rule changes should create opportunities for a significant number of new VHF television allotments throughout the country.

DATES: Comments must be received on or before December 15, 1980 and Reply Comments must be received on or before February 15, 1981.

ADDRESS: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Benjamin Perez, Federal Communications Commission, Broadcast Bureau, Washington, D.C. 20554 Phone: (202) 632-3861.

In re: Table of Television Channel Allotments, BC Docket: No. 80-499.

Adopted: September 18, 1980.

Released: October 21, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioners Lee, Quello and Washburn dissenting and issuing statments.

I. Introduction

1. The Commission has before it today a *Notice of Proposed Rule Making* that would modify the process for making available additional Very High Frequency (VHF) television allotments.[1] The primary impetus for these modifications is that, taken together, they will provide the potential for a substantial amount of new television service. There are a number of significant benefits to this potential, if realized. Among them are: Meeting an increased viewer demand for additional television service; providing increased program and ownership diversity of television stations; as well as enhancing competition. Thus, the basic public interest issue that must be addressed in this proceeding is whether the benefits of added service, diversity of programming and ownership, and competition that would ensue from increasing the number of VHF television outlets outweigh claims of potential harm of VHF television from greater UHF competition and to VHF television viewers from the prospect of some increase in interference. On balance, at this time, we believe that the scales tip in favor of the proposed rule changes.

2. The modifications that we are today proposing in the current process for adding VHF television allotments are incremental, building on existing technical and other policies and on legal precedent. The proposed changes themselves do not constitute a significant departure from existing practice. It is only in the context of the potential for additional new television service created by these changes that they assume significance. There are three basic areas on which the proposals in this notice focus: technical considerations, utilizing criteria already adopted by the Commission for similar purposes, that minimize the potential for an increase in interference to existing VHF television viewers; changes in the way in which the competitive impact on UHF television service is considered; and, procedural changes in the way in which additions of VHF television allotments are made to the Table of Assignments (which we propose to rename the Table of Television Channel Allotments, hereinafter "Table").

3. Basically, the proposed technical rule changes are ones that would allow additions to the Table wherever sought, provided any proposed station situated at less than the minimum standard distance specified in our Rules reduced its power radiated in the direction of any existing station by an amount commensurate with the reduction in distance. The particular method of formulation that relates power to distance is called "equivalent protection," and was first considered by the Commission in the initial stages of its regulation of broadcast television. Equivalent protection has been used numerous times since then in move-in proceedings,[2] and is discussed in greater detail at paragraphs 97–100, *infra*.

4. Although employing established technical methods, the proposed rules do represent a procedural change in the manner in which allotments are added to the Table. In particular, the net public interest benefits from the new service potential offered by a new allotment at less than full mileage separation initially would be presumed to be controlling; the burden of proof to show otherwise would fall on the opponent to the new allotment. Under current rules, the petitioner for the new allotment has the burden of showing, in a waiver context where the burden of proof is always heavy, that a short-spaced allotment is in the public interest. The current procedure for additional short-spaced VHF facilities requires the proponent to submit lengthy and expensive analyses of engineering and population surveys before an allotment can even be made. These analyses are then hotly contested. This procedure creates barriers to entry, discouraging rather than inviting those seeking to provide new service, particularly minorities and others with little representation in the current broadcast television industry. By incorporating the tradeoff between power and distance into a rule to which petitioners for new allotments must adhere, it is possible to dispense with the waiver procedure while at the same time assure interference levels that are consistent with the public interest.

5. Under the new proposal, if the required formula is met, the proposed allotment is presumed to be in the public interest. Opponents, however, can introduce at the allotment rulemaking stage evidence that they believe shows why the addition of the new allotment is not in the public interest. In so doing, any opposing party would have a heavy burden of proof in showing that a grant would not be in the public interest. The Commission would deny only those contested rulemaking petitions where it was shown that a grant would result in a net loss of service to the public. The proposed procedure is set forth in detail. *See* Section VI, *infra*.

6. In the past, as explained Section IV, *infra*, our concern for the impact of additional VHF allotments or increased VHF facilities on existing or potential UHF service has been an important factor in determining whether to authorize additional VHF service.[3] We were concerned that additional VHF service might so damage the UHF television service that over a period of time the viewing public would end up having fewer total signals available. For this reason, we have carefully scrutinized the current viability of the UHF television service and considered its ability to continue to provide service to the American public in the future.[4] We have concluded that the potential negative impact on UHF is limited and far outweighed by the benefits to the public from additional VHF service. We propose, therefore, that existing precedent, established in *WFMY Television Corp.* (hereinafter, *WFMY*), 59 F.C.C. 2d 1010 (1976),[5] be extended. Since *WFMY*, The impact of new or changed VHF service on unused UHF allocations can only be considered if opponents show that there will be an applicant for the unused UHF channel within two to three years. We are now proposing that the potential effect of the proposed new VHF service on *unused* UHF allocations not be considered in allotment rulemakings. Opposition to new VHF service based on allegations of harm to *existing* UHF stations will continue to be allowed at the allocation rulemaking stage. Unlike the current approach, however, it is proposed that the opposition to the new VHF service should have the burden of proving that the alleged adverse impact outweighs the strong public interest in additional television service.

7. The Commission's decision last week to add short-spaced VHF allotments in four cities[6] represented the first application of the *WFMY* policy to a VHF drop-in. Based on the same technical criteria that underlie the proposals before us today, a strong public interest justification was made for the four allotments. Events in the rulemaking on those cities, however, illustrates a major weakness of current policy that today's proposal could remedy. The existing market-by-market waiver procedure proved costly and lengthy. It took over six years and a tremendous investment of resources to reach the point of concluding the proceeding. The proposed rule changes before us today would alleviate the situation where petitioners expend huge sums fo money on allotment proceedings with no assurance that they will be the party ultimately granted a license.

8. In addition to promoting diversity, these proposed measures should increase the efficiency of the use made of that portion of the spectrum set aside for broadcast television, in accordance with the mandate of Section 303(g) of the 1934 Act. In a time when the demands on spectrum use are rapidly growing, the Commission must review all of its policies with spectrum conservation in mind. In this regard, we are also proposing rule modifications that will have additional spectrum saving benefits. For example, the joint implementation of precise offset or synchronous carrier technology by short-spaced stations will reduce co-channel interference, thus expanding service to the public. In the past, the dropped-in station has borne the entire cost of installing this technology. Because efficient use of the spectrum is a responsibility that should be shared by all licensees, we propose that each station bear its own share of the costs of offset precise or sychronous carrier equipment and calibration.[7]

9. Finally, we recognize that our proposed approach could result in some degradation of the television signals received by some viewers. We believe, however, that any potential loss experienced will be more than offset by the benefits of such a policy—additional television service for the public. We also look to recent and future technological advances in television receivers and antenna systems and greater transmitter frequency stability to more than offset any decrease in the signal quality of those who view stations that are affected by the addition of more television stations as a result of this proceeding.[8] As we detail in paragraph 106, *infra*, the use of outdoor receiver antennas with reasonable front-to-back ratios and the introduction of precise frequency offset (paragraph 117, *infra*) can be used to compensate for any added interference, providing distant viewers of existing stations with a grade of service (i.e., picture quality) equivalent to what is provided by our rules in the absence of the new station's interfering signal.

10. In general, it is in the public interest for the Commission to promote opportunities for additional service to the American public. Increasing the number of television competitors is likely to (1) put pressure on competitors to be more responsive to the wants and needs of consumers, (2) increase the total amount of service available to comsumers, and (3) increase the diversity of service offered. The proposed rule changes, by providing the opportunity for additional VHF service, would give entrepreneurs greater flexibility in choosing the most effective means of delivering television service to the public. Because there is strong evidence of considerable unmet demand for both more television service and more diverse television service,[9] the proposed rule changes would provide substantial public benefits.

11. We are aware that proposals similar to those before us today have been made in the past and, on those occasions, have been rejected by the Commission. We believe, however, that changed conditions—especially the major improvements and penetration of the UHF television service, technological improvements in television transmission and reception

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[1] The Commission has referred to the process of designating a particular television channel to a particular city or area as the "assignment" of the channel. In a separate proceeding involving all interested potential licensees, the station license is "assigned" to a particular individual or group, to the exclusion of other applicants. This dual use of the term "assignment" has led to some confusion. *See e.g., Sangamon Valley Television Corp.*, 269 F. 2d 221 (1959).

At the 1979 World Administration Radio Conference (WARC), new definitions were added (in Article N 7/5) to the International Radio Regulations. These new definitions, which are consistent with the internationally accepted terminology found in Resolution No. 6 of the 1959 WARC, provided specific terminology for distribution of radio frequencies to specific areas within a country ("allotment"), and the designation of a particular station to use that frequency or channel ("assignment").

Consistent with that adoption of international terminology (which will be binding on the United States if the United States Senate ratifies Article N 7/5 of the 1979 WARC final resolutions) and consistent with the change of direction the rules we are proposing today will herald, we propose, upon final adoption of today's proposed rules, to change the terminology used in Part 73 of the rules to conform to the WARC 1979 terminology. Accordingly, § 73.606, Table of Assignments, would be amended to be called "Table of Television Channel Allotments," and all other terminology in our Rules would be changed to conform appropriately.

[2] In fact, the underlying technical considerations and planning factors are derived from the *Third Notice of Proposed Rule Making*, in Dockets Nos. 8736, 8975, 9175, 16 FR 3072 (March 21, 1951). In 1961 the Commission adopted the concept of equivalent protection and the formulation we are proposing today for use in future consideration of short spaced allotments. *Supplement to Report and Order* in Docket No. 13340, 21 R.R. 1709 (1961). *See* paragraphs 33–36, *infra*.

[3] *See Report and Order* in Docket No. 20418 allocating new VHF–TV channels for Knoxville, Tennessee; Johnson, Pennsylvania; Charleston, West Virginia; and Salt Lake City, Utah, adopted September 9, 1980.

[4] *See* Section V, *infra*.

[5] In *WFMY*, the Commission, recognizing "that UHF broadcasting had advanced it to the point where a much more 'substantial' impact can be tolerated without disservice, overall, to the total public interest," 59 F.C.C. 2d at 1017, held that regardless of the extent of impact on UHF, the VHF applicant would be allowed to show that overall the public interest would be advanced. Interested parties will continue to be allowed at the allotment rulemaking stage to demonstrate adverse impact on UHF stations. Unlike the current approach, however, it is proposed that the opposition to the new VHF service should have a heavy burden to prove that the UHF impact outweighs the strong public interest in additional television service.

[6] *Report and Order* in Docket No. 20418, —— FR —— (October —, 1980—).

[7] For a fuller discussion, *see* paragrpahs 112—116, *infra*..

[8] As long as strict mileage separation rules are imposed, there are no incentives for equipment manufacturers to invest in research and development aimed at developing receivers with the improved performance characteristics needed in an intensively used spectrum environment. With the easing of these rules, such incentives are created. Note, for example, the development of more spectrally efficient mobile radio equipment as the frequency bands allocated to that service have become more crowded. Similary significant advances in the bandwith, selectivity and susceptability of present day television receivers have not taken place, although the technology necessary for this type of progress is already available. *See, e.g., Final Report for High Performance Television Receive*, D. L. Ash and C. S. Hartmann, Texas Instruments Inc., F.C.C./OCE 78–01 (March 1978).

[9] *See* paragraphs 12–20, *infra*.

that allow for better service in a congested environment, and continued growth in demand for television services—yield a situation in which the public benefits from the proposed rule changes now may outweigh the costs. Given that the proposed rule changes are evolutionary in nature but offer the potential for substantial new service to the public, we believe it is appropriate at this time to propose the changes.

II. Public Interest Benefits of Additional Television Service

12. To the fullest extent possible, opportunities to provide service should be made available whenever would-be broadcasters are willing to offer such service. That is, subject to appropriate technological constraints (i.e., limiting interference to acceptable levels), it is in the public interest to have a regulatory framework that permits the maximum number of signals that can be economically viable.[10] Only if the provision of a smaller amount of additional service to the public now would foreclose the possibility of a greater amount of service in the future should restrictions be placed on potential providers.[11]

13. There are two major public interest benefits from allowing, whenever technically feasible, all who want to broadcast to have access to the capacity to do so. The first is the increased benefits to viewers from filling an excess demand for service that is unmet today. The second is the first amendment gains from additional voices.[12]

14. For a number of years various students of television have pointed to the existence of a desire by viewers for more signals than the number they were receiving.[13] These studies have been extensively discussed and analyzed by the Commission in the *Cable Economic Inquiry* and by our staff in the Low Power Television Staff Report.[14] Those discussions need not be repeated here. There is, however, additional, if indirect, evidence that more stations could be economically viable than are currently on the air.

15. Because most television service is not directly purchased by consumers, it is difficult to get direct estimates of how much service consumers would be willing to support. An indirect indication of the demand for television service is the demand by entrepreneurs for broadcast and nonbroadcast systems of television service. It is useful to note the number of channel allotments that have already been licensed or applied for. Table 1 summarizes the use of television channels as of December 31, 1979. It is clear that the VHF-band is virtually saturated. There were no vacant commercial VHF Channels in the top 100 markets, and only 6 vacant, unapplied for commercial V's in the second 100 markets. A computer run on September 9, 1980 indicated that here were no allocated frequencies—UHF of VHF—available in the top 36 markets. Although the UHF band continues to have some vacancies in markets below the top 36, applications were pending for 72 new commerical UHF channel in the top 100 markets and 14 more in the second 100 markets. The non-commercial channels were virtually saturated in the VHF band, somewhat saturated for the top 100 markets in the UHF band.

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[10] Attempts to determine in advance how many stations are economically viable in any given market are extremely difficult and subject to a high degree of uncertainty. Viability depends upon many factors, including, perhaps most importantly, the potential broadcaster's successful estimate of what services will appeal most to his target audience.

[11] In the context of this proceeding, the only possibility of such foreclosure lies in the possible impact of additional VHF service in given markets upon the viability of UHF television as a whole. This question is discussed in Sections IV and V, *infra*.

[12] In addition to the value of allowing more diversity of voices, additional opportunities for broadcast signals allow viewers more ability to influence the type of services that will be made available. If the number of outlets increases, each may serve a slightly smaller audience. The smaller audience size in turn is likely to make the broadcaster more sensitive to the specific tastes of that audience.

[13] Several economic studies have shown that viewers were willing to pay more for such additional service than it would have cost to offer the service. See, for example, Noll, Peck, and McGowan. *Economic Aspects of Televison Regulation*, (Washington, D.C.: Brookings Institution, 1973), which (at 25–26, 287–288) attempted estimates in the early 1970's of consumers' valuations of televison service based on data collected in the late 1960's. First, they examine by income group what people "° ° ° would pay rather than have free TV disappear ° ° °" They found that, on average, in 1965 the level of services available were worth approximately $350 per household. *Id.* at 26. The authors were careful to note that for the poor, especially, the estimates probably understated the value of the services. Therefore, the $350 figures was likely to be too small, all else equal. The analysis was based upon data collected during a study performed in Hartford, Connecticut, from 1963 to 1965 involving an experimental broadcast subscription TV service, and using certain assumptions by the authors regarding the income elasticity of demand for the TV service.

See also Cable Economic Inquiry, Report in Docket No. 21284, at 47–50, not 5, for a summary. Other studies are W.S. Comanor and B.M. Mitchell, "Cable Television" (1971); R.E. Park, "Prospects for Cable in the 100 Largest Television Markets." 3 *Bell Jour. of Econ. and Management Sci.* 130 (1972); Charles River Associates, Inc., "An Analysis of the Demand for Cable Television." (1973); The John Hopkins University Center for Metropolitan Planning and Research, K. Lyall, R. Duncan, and C. DeKay, *Estimation of an Urban Cable Demand Model and its Implications for Regulation for Major Markets* (1976).

[14] *See* Staff Report on: *Low Power Television (BC Docket No. 78–253)*, September 1980.

Table 1: Use of Television Channels Summarized as of December 31, 1979

Channel Status	Market Designations a/ 1–50		51–100		Total 1–100		101–150		151–200		Total 101–200		201–609		Total U.S. b/		Commonwealth and Possessions 610–626	
	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U
Commercial Channels																		
Total Allocated c/	157	190	108	143	265	333	112	95	65	78	177	173	442	506	136	142	578	648	12	23
Licensed d/	157	79	107	53	264	132	109	31	57	19	166	50	430	182	70	25	500	207	10	1
Construction Permit e/	---	31	1	12	1	43	1	10	2	9	3	19	4	62	3	7	7	69	1	--
Application	---	48	---	24	---	72	--	2	11	3	2	14	2	86	8	20	10	106	--	1
Vacant	---	32	---	54	---	86	--	2	43	4	6	90	6	176	55	90	61	266	1	22
Non-Commercial Channels																		
Total Allocated c/	31	99	17	76	48	175	21	56	15	46	36	102	84	277	52	293	136	570	6	8
Licensed d/	28	55	17	35	45	90	17	21	10	11	27	32	72	122	34	47	106	169	4	--
Construction Permit e/	1	2	---	3	1	5	2	2	--	2	2	5	3	7	2	5	5	12	--	--
Application	1	2	---	3	1	5	--	3	1	2	--	5	1	10	--	5	2	15	--	--
Vacant	1	40	---	35	1	75	2	30	5	33	7	63	8	138	15	236	23	374	2	8

a/ The market designations are those used in the FCC industry market reports of television broadcast financial data. The markets numbered 1–212 are in approximate Arbitron rank by ADI television households, 1978. Additional markets numbered 213–609 are listed alphabetically by states; the markets in Alaska and Hawaii are included in this group. The markets im Guam, Puerto Rico and the Virgin Islands are numbered 610–626.

b/ Excludes 24 UHF Channels assigned for land mobile use and not available until further FCC action.

c/ VHF and UHF Channels allocated for commercial use are included with non-commercial channels. UHF channels assigned for land mobile use and not available until further actton by the Commission are excluded.

d/ May include stations licensed but not on the air.

e/ May include stations not licensed but on the air with program test authority.

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16. It is not surprising that the television spectrum, as currently allocated, is totally saturated in the large markets. The Table distributed channels geographically such that the number of stations *per capita* was smaller in large markets than in smaller markets.[15] The low number of stations per capita and total saturation in the large markets suggests there is unmet consumer demand for television services in these markets. Predictably, alternate methods of delivering television signals—such as multipoint distribution systems (MDS)—have been implemented or been applied for in those cities. In fact, the demand for MDS has been so great, resulting in many mutually exclusive applications, that the Commission currently has an open rulemaking proceeding in which it is considering expanding the number of MDS channel.[16] Also, despite the great cost of laying cable in urban canyons,[17] cable television is being demanded and introduced in these markets—often with the capability for many channels in recognition of the great diversity of tastes in large urban markets.

17. In medium sized markets, there remain some vacant UHF channels. This could be interpreted to indicate a lack of demand for additional television service. It is possible, however, that there exists an unmet demand, but because of the higher cost of television signal delivery inherent in UHF vis-a-vis VHF,[18] a potential broadcaster would not be able to recover his costs in the UHF mode, but could with VHF. Thus, allowing short-space VHF might afford the broadcaster greater flexibility in his investment decision and might result in additional service to the public that might not otherwise be provided or that might not be provided for a lengthy period of time.

18. The continued flow of applications for conventional television, subscription television, and multipoint distribution system licenses indicates that entrepreneurs are willing to risk their capital to provide additional television service. This, in itself, is a strong indication that knowledgeable parties believe there remains a substantial unmet consumer demand for television service. Most dramatic of all, of course, is Comsat's announced intention to implement a direct broadcast satellite system at a cost of over half a billion dollars. These investment decisions are consistent with the fact that both television station profits and television station transfer prices continue to rise rapidly. Broadcast income for all television stations increased from $513.2 million in 1974 to $1,273.5 million in 1978, a 25.51% per annum compound rate of growth.[19] During the same period of time, the implicit price deflator for the gross national product, a measure of the rate of inflation in the economy as a whole, rose from 116.02 to 152.05, a compounded annual rate of only 6.99%.[20] There is no aggregate picture of the value of television station licenses; we must rely on transfer price information. When scrutinizing transfer prices, there are many variables at play (e.g., size of market, UHF vs. VHF, power, etc.) and too few transfers to yield many observations. Hence, we are not able to estimate the rate of growth in the value of television stations. Nonetheless, trade press accounts suggest rapidly increasing transfer prices. For example, an article in the August 20, 1979 issue of *Broadcasting*,[21] entitled "Price tags for stations on a skyrocket," cites specific examples of, and quotes industry experts who refer to, the rapidly increasing prices for television stations.

19. The finding of unmet demand is also buttressed by the findings of a Louis Harris and Associates survey performed for the UHF Comparability Task Force.[22] The survey of a nationally representative sample of viewers indicated that 50 percent of the viewers would pay $5.00 per month for a first-run movie channel, 20 percent would pay that amount for an all-sports station, but less than 20 percent would pay $5.00 for variations of currently available programming such as is found on PBS or commercial networks. Although 80 percent of the viewers were satisifed with the number of channels available to them, only 66 percent expressed satisfaction with the availability of programs that appealed to them.[23] Moreover, to the extent that a new station in a market reduces expected market shares and makes specialty audiences more attractive to stations, then added channels will result in programming more responsive to consumer tastes. In all, despite the lack of hard data to directly measure demand, there is strong evidence that substantial unmet demand for television service exists and that the provision of additional service would be in the public interest.

20. The second benefit from increased service is the potential it brings for increased diversity in programming voices. Diversity of programming has long been a prime Commission goal and is closely related to first amendment objectives. As noted many years ago, the first amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public * * *" *Associated Press* v. *United States*, 326 U.S. 1, 20 (1944). It has also been said that "[i]t is the purpose of the first amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of the market * * *" *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390 (1969). Clearly, adding more television voices in markets where our past policies have had the effect of limiting them promotes this first amendment purpose. We also recognized the benefit of diversity in our pending Radio Deregulation proceeding where we stated "society as a whole benefits when its citizens have access to many points of view (or diversity of opionions or 'voices') on both problem-oriented and issue oriented matters," *Deregulation of Radio*, 73 F.C.C. 2d 457, 516 (1979); and concluded that while some of our rules and policies aid in this goal "a better key to attaining many voices * * * is a structural one—maximizing the number of stations in a market." *Id.* at 517. Thus, our proposal today is another step in advancing this important First Amendment objective.

[15] For example, the top three markets (New York, Los Angeles, and Chicago) contain approximately the same number of television households as do the 123 smallest markets combined, though nowhere near as many stations.

[16] However, it is in those large markets where additional channels are least likely to be available.

[17] An "urban canyon" refers to a densely populated area where cable must be run underground. In some of these urban areas, the underground cable ducts already may be full, thus requiring the installation of new ducts.

[18] *See* Staff Report on: *Comparability for UHF Television:* Final Report, September 1980, Chapter 5.

[19] "TV Broadcast Financial Data—1978." F.C.C. News Release 19540, July 30, 1979, Table 3. These are the most recent aggregate data available. The total number of television stations whose data were included in these totals increased from 696 in 1974 to 708 in 1978. The compounded annual rate of growth of income *per station*, therefore, was 24.99%.

[20] *Economic Report of the President*, January 1980, Table B-4, at 208, Department of Commerce, Bureau of Economic Analysis.

[21] Vol. 97, No. 8, at 23–24.

[22] *See* Staff Report on: *Comparability for UHF Television:* Final Report, September 1980, at 29–30.

[23] In assessing these results, it is worth keeping in mind that cable subscribers were excluded from the sample. Hence, in those areas where cable was available, those who most valued increased viewing options were probably excluded from the sample, since they probably subscribed to the cable service, making these relatively conservative estimates of demand. Approximately 21 percent of the potential respondents were excluded because they subscribed to cable.

III. Background Concerning Television Channel Allotments[22]

21. The history of television allotment principles has been set forth many times, including a detailed discussion in the 1977 *Notice* in Docket No. 20418, and need not be repeated at length here.[23] Recitation of that history's highlights, however, with a view toward the action proposed today, is appropriate.

22. Present fundamental television allotment principles, including the Table and the mileage separations on which it is based, date from the *Sixth Report and Order*, 41 F.C.C. 148 (1952). In addition to adoption of a Table alloting specific VHF and UHF channels to communities throughout the United States to be used by television stations licensed to serve those communities [24], the *Report and Order* set forth some other concepts especially pertinent here:

(a) The Table adopted contained [and still contains] many communities with both VHF and UHF channels alloted, a so-called "intermixed" system. Rejecting arguments by Allen B. DuMont Laboratories, Inc., and others that UHF would not develop under these circumstances, the Commission concluded that in time UHF would be able to compete effectively. Despite arguments that greater spectrum efficiency would result from an allotment system that created separate all-VHF and all-UHF markets,[25] the Commission chose intermixture primarily for two reasons:

An all VHF market might restrict service in some large cities to the limited number of stations possible on VHF television channels, while at the same time "all-UHF" cities and surrounding areas might be deprived of the wide-area coverage provided by VHF. The suggestion of moving all television to UHF was also rejected, the Commission noting the absence of any specific showings or proposals that might serve to justify the extensive reallocations and reassignments that would be required.[26]

(b) The *Sixth Report* adopted rather large permissible maxima for both effective radiated power (100 kilowatts (kW) for low VHF channels, 316 kW for high VHF channels, 1 megawatt (MW) for all UHF channels [27]) and antenna height above average terrain (1,000 ft. for VHF in zone 1 [28], 2,000 ft. for VHF in other zones, 2,000 ft. for UHF in all zones), in order to afford opportunity for stations to achieve wide-area coverage. In support of its policy favoirng wide-area coverage, the Commission adopted minimum mileage separations between stations designed to provide each station with a fairly large interference-free area. Since various proposals under consideration at the time for limited power stations and shorter spacings would have vitiated the benefits the Commission saw accruing from its plan for wide-area coverage stations, it rejected such proposals, stating that it did "not believe that limited power stations should be provided for in The Table of (Television Channel Allotments) *at this time* in order to squeeze in additional allotments." [29]

(c) The Commission discussed requests that, in appropriate cases, the "shielding" between stations afforded by rough terrain be taken into account, to permit assignments at less than minimum separations. It also considered suggestions that shorter separations be permitted where one station would protect the other by a directional transmitting antenna. Despite the fact that both of these concepts were rejected, essentially on the ground that not enough was yet known about the full implications of such operations, their future use was clearly not ruled out if a more information record could be provided.[30]

23. After several years experience with the framework provided by the *Sixth Report and Order*, it was clear that many UHF stations were having financial problems and that VHF service was fast becoming the medium of preference.[31] This is turn was impeding the establishment of a nationwide television service.

24. On September 10, 1955, the Commission promulgated a *Notice of Proposed Rulemaking (NPRM) in Docket No. 11532 to consider proposals directed at solving the television allotment problem, noting that:*

A nationwide competitive television service has not been realized to the extent contemplated at the time the Commission issued its *Sixth Report and Order*. Many of the smaller communities are without a first local outlet and the expansion of multiple, competing service in the larger economic and population centers of the country is lagging. Difficulties encountered in achieving successful operation of stations in the UHF band have been a significant factor leading to this situation.[32]

25. On June 25, 1956, the Commission issued its *Second Report on Deintermixture* [33], concerning the issues raised in its *Notice of Proposed Rule Making* in Docket No. 11532, *supra*. [34] It admitted that at least two serious problems hindered the continued expansion of television services. The first was the severe limitation on the number of channels available in the VHF band, and the second was the "UHF problem," which was accentuated by, (a) the preponderance of VHF-only receivers in use, (b) the serious performance deficiencies in UHF transmitters and receivers, and (c) the resulting preference of program and revenue sources for VHF outlets. The Commission concluded that "many UHF stations which normally cannot provide a viewing audience comparable to those of their VHF competitors have been forced to operate on a marginal or submarginal basis or cease operation." [35]

26. In the *Second Report on Deintermixture*, the Commission evaluated the proposed solutions submitted by the various parties. Four major proposals were analyzed.

(1) The Allocation of Additional VHF Spectrum

27. The Commission stated that before the initiation of Docket No. 11532, it had undertaken negotiations with The Office of Defense Mobilization to ascertain whether any government VHF frequencies could be made available to broadcasters. Citing "National security requirements and the need of air navigation and air communications," the Office of Defense Mobilization

[22] The findings and arguments in this Section are primarily based on Section VI, "Commission Attempts to Rescue UHF" of the staff report on: *Preliminary Report on Prospects for Additional Networks* (Preliminary Report) Network Inquiry Special Staff, Federal Communications Commission at 96 (February 1980).

[23] *See, e.g., Petition for Rule Making to Amend Television Table of Assignments to Add New VHF Stations in the Top 100 markets and to Assure that the New Stations Maximize Diversity of Ownership Control and Programming*, 63 F.C.C. 2d at 847–856 (1977). *See also*, a recent comprehensive account contained in "The Effect of the Federal Communications Commission's Spectrum Management Policies Upon the Number of Television Networks", Thomas L. Schuessler, contained as an Appendix in the Commission's Network Inquiry Special Staff's *Preliminary Report on Prospects for Additional Networks* at 1–88 (February 1980).

[24] The Table was adopted as a way of providing more efficient channel usage than would a "demand" application system, as a way of providing channels for smaller markets where demand might be slower to develop, and as a means of expediting the handling of the forthcoming flood of applications. *See* 41 F.C.C. at 151–152 (paragraphs 13–16) (1952).

[25] The shifting of all television service in a community to either all VHF or all UHF Channels is called "deintermixture."

[26] 41 F.C.C. 155, 208, para. 25, 197 (1952).

[27] Since raised to 5 MW (except within 250 mile of the U.S.-Canada border). *See Report and Order* in Docket No. 11592, 13. R.R. 1571 (1956).

[28] Zone I corresponds roughly to the Northeastern United States except for extreme Northern New England; Zone III consists of a band of land approximately 150 miles wide along the Gulf Coast; and Zone II consists of the remainder of the continental United States, Puerto Rico, Alaska, Hawaii, and the U.S. Virgin Islands. *See* 47 CFR 73.609.

[29] 41 F.C.C. 148, 188 (1952), emphasis added.

[30] *Sixth Report and Order*, 41 F.C.C. at 187, paragraph 133, (1952); 41 FCC 213–215, paragraphs. 215–221 (1952).

[31] *See Preliminary Report on Prospects for Additional Networks*, Network Inquiry Special Staff, at 90, Federal Communications Commission.

[32] *Notice of Proposal Rulemaking* in Docket No. 11532, 20 Fed. Reg. 8501 (November 16, 1955).

[33] 13 R.R. 1571 (1956). (Hereinafter referred to as the *"Second Report."*)

[34] Some of the important issues raised in the NPRM for alleviating the difficulties involved: (1) The reduction of the minimum mileage separation to create additional VHF allotments; (2) proposals for modification of the then present standards that would permit the use of directional antennas, cross polarization, new limits on antenna height and power restrictions; and (3) deintermixture.

[35] *Second Report*, *supra* at 1574.

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concluded that such frequencies could not be released.[36]

(2) Short-spaced VHF Allotments

28. The American Broadcasting Company (ABC), then the weakest of the three networks, proposed the allotment of additional VHF channels at mileage spacing substantially shorter than that required in the *Sixth Report.* However, the Commission was doubtful that the allotment of additional VHF channels with substantially shorter mileage separations would adequately serve future needs. Such short spaced stations, it observed, would "reduce the service area of existing VHF stations and create new interference areas within which satisfactory signals might not be received either from existing stations or from the new stations." [37] The Commission acknowledged, however, that interference problems could be limitated to some extent by requiring the station to use directional antennas, lower antenna heights, reduce power emission and implement cross polarization. Yet perhaps more important, it concluded that even with maximum exploitation of short spaced allotments, it was unlikely that enough television stations could be created by this method to meet the expected nationwide needs in the future. Moreover, the Commission feared that the wide-spread use of such allotments would discourage the development of additional UHF stations as well as having an adverse impact on those on the air.

(3) Deintermixture

29. Several parties advocated deintermixing markets containing both "UHF and VHF channel allotments in order to more nearly equalize competitive opportunities in individual markets while at the same time utilizing both the VHF and UHF bands in the nationwide television system." [38] Although the Commission rejected deintermixture on a nationwide basis because there was little support for eliminating VHF in areas with low UHF set saturation, it stated that deintermixture deserved careful consideration as a means of enhancing the opportunity for effective competition among a greater number of stations in certain individual areas.[39]

(4) All UHF Television

30. Another recommendation by some industry representatives involved shifting all television broadcast to the UHF band. This would have had the effect of depriving VHF stations of their technical superiority over UHF and place all stations on a comparable technical basis. The Commission reasoned, however, that such an approach was fraught with problems. One was the effect that terrain and natural impediments had on weakening and blocking UHF transmission. The second problem was the tremendous cost and dislocation to the public and industry of switching to an all UHF system.[40]

31. These proposed alternatives were rejected, not so much for their technical insufficiency, but basically for the same reasons as in the *Sixth Report.* The Commission was still convinced that its plan as set out in the *Sixth Report* held the best opportunity for a truly competitive nation-wide television service. With particular reference to additional VHF allotments utilizing reduced power and height and directional transmitter antennas, the Commission recongnized some of the interference problems could be solved, but concluded that the creation of "numerous" small VHF stations with very limited service areas would not further two long-range objectives, i.e., wide area coverage and UHF growth.

32. Five years later, however, with the continuing and increasing pressure for three competitive commercial outlets in cities of substantial size to serve as outlets for each of the three existing networks, efforts were again undertaken to speed the institution of new television service. In the 1961 *Report and Order* in Docket No. 13340,[41] the Commission recognized shortcomings in its allocation structure, and concluded that short-spaced VHF allotments should be proposed in eight markets that met certain conditions.[42]

33. The Commission examined the various means for adjusting its planning factors to minimize the increase in interference that would result if full facility stations were added at less than the minimum separation distance. It settled on a procedure first suggested to it by proponents of limited power VHF stations during the deliberations that culminated in the *Sixth Report and Order.* The methodology, called "equivalent protection," involved a separation distance—effective radiated power (ERP) trade-off.[43] The concept of equivalent protection was adopted by the Commission in Docket No. 13340 as a possible means of alleviating the shortage of VHF stations in some large cities.[44]

34. The question of equivalent protection was again discussed by the Commission in its 1967 decision providing for the establishment and use of antenna farm areas. In the *Notice of Proposed Rule Making* in this proceeding we proposed to amend § 73.612 of the Rules—a rule section which limits the nature and extent of protection from interference accorded television Broadcast stations—to provide for short-spaced stations "only on the basis of equivalent protection." [45] In its *Report and Order* in Docket No. 16030, 10 R.R. 2d 1514 (1967), the commission adopted a new § 73.612(b) which provided that:

> When the Commission determines that grant of an application would serve the public interest, convenience and necessity and the instrument of authorization specifies an antenna location in a designated antenna farm area which results in mileage separation less than those specified in this subpart, TV broadcast station permittees and licensees shall be afforded protection from interference equivalent to the protection afforded under the minimum mileage separations specified in this subpart. 47 CFR § 73.612(b)

35. This action was taken over the objections of Maximum Service Telecasters (MST) that the equivalent protection concept had been adopted by the Commission in Docket No. 13340 only for the limited purpose of the drop-in cases before the Commission in 1961 and therefore should not be employed in this late context. The Commission noted that *

> MST's arguments against the "equivalent protection concept" have been considered by this Commission in Docket (No.) 13340, and in subsequent proceedings. After completion of the rule making in Docket (No.) 16004, in which we expect to adopt curves and procedures for * * * TV broadcasting, we will issue an Order outlining the procedure to be followed in determining equivalent protection for * * * VHF and UHF co-channel stations. As far as the VHF adjacent channels . . . these matters will be considered on an *ad hoc* basis if and when the problems arise. 10 R.R. 2d at 523–24 (1967).

By rejecting MST's "attack [on] the equivalent protection concept which [the Commission] adopted in Docket [No.] 13340," the Commission effectuated the following results:

(1) It reaffirmed its earlier conclusion that equivalent protection concept was technically acceptable means of short spacing stations;

(2) It implemented the concept by adding a provision to the rules requiring short-spaced stations to use the equivalent protection methodology;

(3) It confirmed that the methodology used was that set out in the *Supplement* to the *Report and Order* in Docket No. 13340; and,

(4) It indicated that the existing calculation methodology would be modified after completion of the proceeding revising the FCC propagation curves (Docket No. 16004).

36. Docket No. 16004 was terminated with a *Report and Order,* 34 R.R. 2d 361 (1975), which amend § 73.699 of 47 U.S.C. to add revised propagation curves to the Rules. At that time the Commission did not issue an order revising its outstanding equivalent protection methodology, to incorporate the revised F(50,50) and the new F(50,10) curves. As developed in detail below, we are today proposing rule changes which would incorporate the equivalent protection methodology into our Rules explicitely for the first time. Given the above somewhat contradictory history of whether or not equivalent protection is to be calculated using the current or the pre-1975 propagation curves, we wish to state clearly that the curves specified in the Rules at the time a petition or application is considered by the Commission are the curves referred to in the proposed rule section (§ 73.614(b)(5)). The propagation curves adopted in 1975 are presently the applicable curves. In addition, in section VIII, *infra* we will discuss how we propose equivalent protection of VHF adjacent channels to be calculated.

37. Seven of the short-spaced allotments proposed in the 1961 *Report and Order* were denied and one, Oklahoma City (more correctly a "move-in", *See* Para. 39, *infra)* was granted. *Television Assignment—Third Service,* 41 F.C.C. 1119 (1963). The decision to deny these new allotments was predicated on the enactment, by Congress, of the All-Channel Receiver Act [46] in July of 1962, empowering the Commission to adopt rules requiring that all television receivers shipped in interstate commerce, or imported, be capable or receiving all frequencies allocated by the Commission to television broadcasting. The Commission viewed this legislation as Congressional ratification of the FCC's commitment to the promotion of UHF as an integral part of the nations's television system, requiring hiatus in its VHF drop-in activities until this new authority could take effect. The Commission stated that its "judgment to reject short-spaced VHF (allotments) rests on optimism for the long range future of UHF * * *." [47] It should be noted, though, that the Commission's optimism was tempered with the commitment that "if events prove us wrong * * * we can always consider the "interim" or "short-range" actions such as these short-spaced (allotments)." [48] Having reached this conclusion, the Commission firmly stated its policy to scrutinize all VHF applications for their impact on UHF development, a policy that dominated the thinking in this area for over a decade. This policy is discussed in some detail in Section IV, *infra.*

38. The only true VHF drop-in allotment allowed after Docket No. 11532 was a short-spaced allotment made in *Charlotte Amalie, V..I.,* 26 F.C.C. 2d 853 (1970), for educational use. The station was required to provide equivalent protection to the stations to which it was short spaced.[49] Aside from the strong public benefit involved in the promotion of educational television, there were two distinctive factors: All of the predicted interference area was over water and, therefore, would affect no population, and there was no UHF station or application involved.

39. While there have been no new short-spaced VHF allotments in the continental United States, there have been a number of "move-in" authorizations—stations at standard spacings authorized to move closer to their city of license, even though such a move violated the minimum mileage separation rule. These have generally been permitted for two reasons—to improve the station's service and thus its competitive situation vis-a-vis others in the market or to permit location in an "antenna farm" or otherwise meet air navigation safety considerations. Equivalent protection was successfully utilized to protect existing co-channel television stations to the degree they were protected prior to the interim move.[50]

40. In other cases in the late 1950's and early 1960's, VHF channels, called "squeeze-ins," were newly alloted to communities at separations quite close to the minimum, sometimes with changes in other VHF allotments being necessary to accommodate the new channel. Many of these were the third VHF commercial allotment designed to provide three competitive network outlets.[51] Three such decisions in 1961 involved Grand Rapids, Mich., 21 R.R. 1737 (1961) (a second VHF channel for Grand Rapids and a third for the Grand Rapids-Kalamazoo market); Rochester, N.Y., 21 R.R. 1748 (1961); and, Syracuse,

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[36] *Id.* at 1575.
[37] *Id.*
[38] 13 R.R. 1571, 1576 (1956).
[39] *Id.*

[40] "In 1955 a Commission economist predicted that an all UHF system would result in a loss of service to as many as three to six million families which now receive VHF stations. In addition, he predicted that many more would lose service as the result of poor terrain despite the fact they were well within the service area of potential UHF stations." Staff Report on: *Preliminary Report on Prospects for Additional Networks (Preliminary Report),* Network Inquiry Special Staff, Federal Communications Commission at 107.(February 1980).

[41] *Interim Policy on VHF Television Assignments and Amendments of Part 3 of the Rules Concerning Television Engineering Standards,* 21 R.R. 1965, 1709 (1961 Supp.).

[42] The eight markets were Oklahoma City, Okla.; Johnstown, Pa.; Baton Rouge, La.; Dayton, Ohio; Jacksonville, Fla.; Birminghan, Ala.; Knoxville, Tenn, and Charlotte, N.C.; Providence, R.I. and Syracuse, N.Y. were originally included but then ways were found to provide additional VHF channels at standard spacings. The requirements were that the market be among the top 75 and have two VHF stations operating, that there be minimal dislocation to existing stations and no significant impact on UHF stations in other cities, that the potential service gains outweigh the losses, that international requirements were met, and that the separation would not be less than 140 miles for co-channel stations or 40 miles for adjacent channel stations.

[43] The idea of this type of trade-off was something the Commission had long recognized as desirable in some instances. The Rules already provided that licensees could employ antennas in excess of the specified maximums if they compensate by lowering their effective radiated power sufficiently. *See* 47 CFR 73.612(b) (1978).

[44] 10 R.R. 2d 1514, 1523, paragraph 17 citing *Interim Policy on VHF TV Channel Assignments,* Docket No. 13340, 21 R.R. 1699 (1961); *Supplement to Report and Order,* Docket No. 13340, 21 R.R. 1709 (1961).

[45] *Report and Order* in Docket No. 16030, 10 R.R. 2d 1514 (1967).

[46] Pub. L. No. 87–529, 87th Cong. 2d Sess. (1962), 47 U.S.C. 303(s) (1962).

[47] 41 F.C.C. at 1124 (1952).

[48] *Id.* at 1124.

[49] 26 F.C.C. 2d 853 (1970).

[50] Examples of moves to improve service are *Peninsula Broadcasting Corp.,* 45 F.C.C. 1662 (1964), *Television Broadcasters, Inc.,* 45 F.C.C. 1897 (1965), and two Albany, N.Y. stations *Capital Cities Broadcasting Corp.,* 24 R.R. 1067 (1963) and *Van Curler Broadcasting Corp.,* 24 R.R. 1079 (1963). The Commission's policy concerning antenna farms was set forth in *Antenna Farm Areas,* 8 F.C.C. 2d 559 (1967). Examples of authorizations granted on this basis are *Midcontinent Broadcasting Co.,* 45 F.C.C. 1798 (1964); *Coral Television Corp.,* 6 F.C.C. 2d 749 (1967); *WTCN Television, Inc.,* 14 F.C.C. 2d 870 (1968) and *The Outlet Company,* 11 F.C.C. 2d 528 (1968). In 1962 the New Bedford, Mass. channel 6 station was permitted to move in closer to Providence, R.I., to a location which is short-spaced with respect to Schenectady-Albany Channel 6 (WRGB). As a result, all three Albany-Schenectady-Troy VHF stations are short-spaced with respect to co-channel stations.

[51] Some of the inequality between VHF anf UHF can be explained by the inherent propagation advantages of VHF transmission. To that extent, it enhances spectrum efficiency to use the VHF television spectrum intensively to provide broader service to the public. Some of the advantage is accentuated and perpetuated. However, by past allotment practices that have been designed to assure at least three-network service stations, but not more, to each of the top markets. These policies have restricted entry into these markets, conferring supernormal profits on some of our VHF television licensees, giving them a chronic competitive advantage over the UHF operator. In 1978, the average VHF station had net revenues of $3,784,600. After adjustment for a 13.8% increase in expenses, the resulting profit was $1,072,900 or a 32.5% increase in profits over the previous year. *Broadcasting* at 23 (July 9, 1979). In the long run, intensified competition in the VHF television band could be expected to distribute both service and profits more evenly and so make the UHF operator more comparable to its VHF television competitors than is true today.

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N.Y., 21 R.R. 1754 (1961). The earlier Albany-Schenectedy-Troy, NY. decision led to the allotment of two VHF channels at near-minimum standard spacing and, as mentioned the stations were later permitted to move in.[52] A later action, *Mt. Vernon, Illinois*, 17 R.R. 2d 1620 (1969), is perhaps an extreme example of this: To meet separation requirements, the station's transmitter would have been required to be located approximatedly 30 miles north of Mount Vernon, within a small triangular area with sides one to two miles long.

IV. History of the UHF Impact Policy

41. When, in the late 1950's it became evident that UHF television was not developing at the rate expected at the time of the *Sixth Report*, the Commission instituted an affirmative policy of fostering such development. The core of this policy involved the denial of attempts to create new or change existing VHF service which might have an adverse effect on UFH stations. In *Triangle Publications, Inc.*, 29 F.C.C. 315 (1960), the Commission denied an application by a New Haven, Connecticut, VHF station to move its trasmitter some 14 miles north in the direction of a Springfield, Massachusetts, UHF station. The reasoning in this case became a standard followed for years thereafter—that economic injury to a UHF station is reason to deny a change in a VHF facility if the public interest would be affected by injury to the UHF service. The decision quoted as follows from the *Fresno Deintermixture* rule making decision (Docket No. 11759, 19 R.R. 1581, 1585, (1960):

> If there is one circumstance which has been established beyond doubt in the manifold experiences of UHF operators everywhere that they compete with VHF, it is that, for a complex of familiar reasons related to receiver conversion, advertiser support, program availabilities and other related factors, UHF operations, however serviceable to the public, are subjected to competitive adversities which impose seemingly inescapable and substantial burdens upon the chances for financially successful operation of a UHF service in competition with an available VHF service.

42. After enactment of the 1962 All-Channel Receiver Law, the Commission denied various rulemaking proposals for additional VHF channels, both short-spaced allotments and others at standard separations such as in *Columbia, South Carolina*, 25 R.R. 1714f (1963). It was concluded that the statutory enactment of the All-Channel Receiver Law was an implicit directive to the Commission to foster UHF development, requiring denial of opportunities for additional VHF service that might adversely affect such development. Although no substantive data was relied on, the conclusion was reached that an "inevitable" negative affect would result. In a second *Triangle Publications, Inc.*, decision, 37 F.C.C. 307, 321 (1964), the Commission adhered to this policy, despite enactment of the All-Channel Receiver Law, stating: [53]

> For UHF to be a truly competitive service, there must be a capability of reception throughout the service contour and not merely within the limits of its home counties. It will be several years before the all-channel receiver legislation has an appreciable effect upon set conversion, whereas the impact upon the existing UHF stations from the encroachment of the VHF signal upon their service areas will be immediate. As we stated in the *Springfield Deintermixture Case*, FCC 62–798, 23 R.R. 1579, 1590 (1962): "[i]n time, the all-channel receiver legislation may alleviate this situation by, for example, increasing to 100 percent the number of homes in Champaign and Vermilion Counties equipped for UHF reception (now estimated to be 62 and 81 percent, respectively). But surely it makes little sense to take dislocating action to worsen the competitive situation in the hope that it will be improved years from now." Moreover, our goal is to hasten UHF conversion in advance of expectable set replacement to the extent possible.

43. Denial of VHF facility increases, however, was not automatic. In designating for hearing three Iowa VHF-TV station applications for increases in output power because of impact on a Ft. Dodge, Iowa UHF station, the Commission stated that it was appropriate to explore the extent to which other services would be available to populations served by the UHF station in the event of its demise. Two of the three applications were later granted because of the small extent of impact (VHF Grade B overlap of only 16% of the UHF coverage area), various joint measures taken to guarantee the UHF station's survival, and the lack of potential for other UHF stations in the small communities within the overlap area. *KTIV Television Co.*, 4 R.R. 2d 243 (1965). In *Atlantic Telecasting Co.*, 3 F.C.C. 2d 442 (1966), the Commission refused to designate for hearing a VHF-TV station's application for an increase in facilities on the basis of unsupported allegations of UHF impact.

44. During the 1960's and 1970's, "UHF Impact" cases often became battles of experts, since there was no reliable indicator as to what was "injury adverse to the public interest." A multitude of criteria were employed in various cases, including: Stability of the market and maintaining a fair possibility for UHF development, *Midwest Television, Inc.*, 13 F.C.C. 2d 478, recon. denied, 15 F.C.C. 2d 84 (1968); decreased ability to attract advertising, *Cosmos Broadcasting Corp.*, 21 F.C.C. 2d 729 (1970); ability to secure or retain network affiliation, *Cosmos, supra; Selma Television, Inc.*, 12 F.C.C. 2d 781 (1967); *WLVA, Inc.*, 15 F.C.C. 2d 757 (1968); *South Carolina Educational Television Commission*, 39 F.C.C. 2d 180 (1972);[54] audience fragmentation, future UHF potential, *Selma Television, supra: Daily Telegraph Printing Co.*, 20 F.C.C. 2d 976 (1969); first time overlap and/or increased overlap of signals, *Daily Telegraph, supra;* first time service for audience *Cosmos, supra;* and past financial profitability of UHF station, *Capital Cities Communications, Inc.*, 59 F.C.C. 2d 435 (1976).

45. It was early recognized that in this area any conclusion would often be highly speculative, since seldom if ever would there be positive proof of impact or the absence of it. In *Midwest Television, Inc.*, 13 F.C.C. 2d 478 (1968), the Commission, applying for the first time the "UHF Impact" policy to the importation of distant signals on CATV, stated that no definite finding could be reached that UHF television would or would not succeed in the market (San Diego); the only way to find out is to maintain the market for a period free of distant signal competition, to give UHF television a chance to develop. If no UHF station materialized, the situation could be reexamined (13 F.C.C. 2d 502 (1968)).

46. While "UHF Impact" has been applied in some other cases (e.g., *Jefferson-Pilot Broadcasting Co.*, 42 F.C.C. 2d 908 (1973)), it has not always stood as a bar to increased VHF service or improvements in facilities. In *Mount Vernon, Illinois*, 17 R.R. 2d 1620 (1969), the Commission added a VHF channel (at minimum separations) because of the substantial first service and local outlet benefits that would accrue. The very slight impact on existing or potential UHF development was found not to be a ground for denial.[55] The same result was

[52] *Report and Order* in Docket No. 11751, 15 R.R. 1514a (1975).

[53] The second *Triangle* case involved the same requested facilities change as the first *Triangle* case except that the antenna would be directionalized to afford a degree of protection to the UHF stations. This too was denied.

[54] The *South Carolina* case held that where there is a network "white area," i.e., an area with no usable signal containing a sizeable community (there, Florence, South Carolina and the ABC network), there is a presumption that a UHF station would get a network affiliation.

[55] In view of the passage of time since the All Channel Law, the *Mount Vernon* case stated that it is unnecessary to "insulate every UHF station or potential station from any possible small wind of VHF impact where there is a substantial service

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reached in *Cosmos Broadcasting Co., supra*, concerning increased transmitter facilities. There the VHF station showed the likelihood of only minimal, rather than substantial, impact and there were substantial first and second service benefits to be gained.

47. *The Cosmos* case put the "UHF Impact" question in terms of a balance between two potentially conflicting objectives: (1) Encourgaging VHF stations to expand to make the most efficient use of their channel allotments by serving more people; and, (2) fostering UHF development. In *South Carolina Educational Commission, supra*, it was held that where these policies come into real conflict—i.e., where the UHF impact is more than minimal—the UHF policy must prevail. If the impact would be only minimal, the VHF application need not be denied, particularly if substantial public benefits would result. The same result was reached by the Commission in *Daily Telegraph Printing Co.*, 56 F.C.C. 2d 990 (1975), where it was held that, if there will be substantial adverse impact on existing or potential UHF development, the VHF application could not be granted even if the benefits would outweigh any loss.

48. Shortly thereafter, however, the Commission changed its analysis of this principle. In *WFMY Television Corporation, Inc. ("WFMY, Inc.")*, 59 F.C.C. 2d 1010 (1976), it held that regardless of the character of the impact, "minimal" or "substantial," a comparison would be made between the possible adverse consequences of impact and the gains from the increase in VHF service to determine whether the public interest would be better served by the increased VHF service. This change was premised upon the Commission's belief that "UHF broadcasting had advanced to the point where a much more 'substantial' impact can be tolerated without disservice, overall, to the public interest." The *WFMY, Inc.* case also modified the requirements for establishing impact, requiring a showing of the likelihood of *specific* impact related to the advent of expanded VHF service. The Commission noted its disinclination to insulate UHF stations from competition and stated that what is important is "that the UHF station be afforded an opportunity to develop free from * * * substantially adverse competitive circumstances (citation omitted)." If the opposition to the expanded use of VHF service was based on a claim of impact on *potential* UHF development, the party urging UHF impact had the burden of establishing the likelihood that, absent the VHF expansion, an application for a new UHF station would be filed within two or three years. In adopting this standard the Commission stated that it did not believe "that the public interest is served by foreswearing indefinitely the benefit of additional VHF service while awaiting the germination of dormant interest in an idle UHF allocation."[56]

49. The modified policies announced in *WFMY Inc.* were based on UHF porgress in the years just prior to the decision. The Commission stated that:

> We are aware of significant advances made by UHF television since the enactment in 1962 of the All-Channel Receiver Law, 47 U.S.C. § 303(s). These advances are beyond even those noted by Commission in the *Mount Vernon* allotment case, *supra*, at 1630. For example, in 1974 (the most recent year for which data is available) 48% of the UHF television stations reporting financial data indicated profitable operations for the year. UHF penetration, i.e., the percentage of households with UHF receivers, has increased, nationally, from 55 percent in 1969, the year of the *Mount Vernon* decision, to 89 percent in 1974, a figure exceeded in many areas with more than one UHF station. *WFMY Inc.*, 59 F.C.C. at 1015 (1976) (footnotes omitted).

50. There have been three significant "UHF Impact" cases since *WFMY Inc.* Two cases, *Central Alabama Broadcasters, Inc.*, 68 F.C.C. 2d 1339 (1978) and *KOTV, Inc.*, FCC 79–607, 44 FR 60818 (October 22, 1979), are in hearing status. The third, *North Carolina Television, Inc.*, 42 R.R. 2d 1685 (1978), was a grant of a VHF application without hearing. It was concluded that the benefits from the expanded VHF service (in terms of population receiving first and second services and first NBC service) outweighted the impact that could result from increased overlap with the UHF station, also NBC-affilitated. It was noted that the latter would have a stronger signal in the overlap area, and was in a larger market than the VHF station. It was also observed that the bulk of the overlap resulted from a recent transmitter move by the UHF station in the direction of the VHF station.

V. The Relevance of UHF the Impact Policy Today

51. The history of the "UHF Impact" issue demonstrates that since the enactment of the All Channel Receiver Law, the Commission has taken into account the overall profitability of stations in the UHF television service and the effects of implementation of that law when balancing the diversity gained from additional VHF service against the potential harm to UHF television service. Analysis of these factors today points to a conclusion that our past deep concern for the development of UHF television may no longer need to stand in the way of the added service possible from short-spaced VHF allotments. UHF television has made tremendous progress in recent years, as indicated in several areas. In 1978, the revenues of UHF commercial stations were $514 million, including $255 million to stations that were network affiliates and $259 million to independent UHF stations. These represented increases of 26.2 percent and 30.2 percent respectively over 1977 figures.[57] UHF network-affiliated and independent stations had 1978 profits of $42 million and $52 million respectively, up 53.6 percent and 18.2 percent from the corresponding 1977 net income figures. In 1973, only 31 percent of UHF stations reported net income; in 1975, UHF stations as a group were profitable for the first time with 52 percent showing profits; and in 1978, 73.1 percent of those reporting showed net income (136 out of 186). See the FCC's *Revised TV Broadcast Financial Data—1978* (July 17, 1980) and corresponding reports for earlier years.

52. Further, the number of UHF stations in operation has increased rather substantially, from 180 in 1970 to some 218 in early 1980. Even more striking is the increase in the demand for new UHF facilities evidenced by applications filed—between 8 and 15 per year during the 1971–1975 period compared to 94 in 1978, with more than 240 pending as of July 31, 1980.[58] The growing demand is also shown by high selling prices for stations. ABC mentions in its comments in Docket No. 20418 the $11,600,000 figure paid for a Houston independent UHF station in 1976; since then a UHF station sold for $20,000,000 (WRET–TV, Charlotte, North Carolina in 1979) and there have been at least three other sales of $15,000,000 or more (stations in Ft. Smith, Arkansas, Washington, D.C., and a pending application for a Baltimore, Maryland station).

53. Equally important as the increased profitability and the increased level of applications for UHF television stations are the developments that have followed

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benefit involved in a different course. The time when such caution was appropriate has, in our judgment, passed." (17 R.R. 2d at 1630 (1969)).

[56] *WFMY, Inc., supra* at 1016.

[57] VHF figures for the same classes of stations were 20 percent and 9.0 percent respectively.

[58] For a recital of figures in this connection, see the *Notice of Proposed Rule Making Concerning Multiple Ownership of AM, FM and TV Broadcast Stations*, FCC 79–537, 44 FR 55603, (September 1, 1979).

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from the implementation of the All-Channel Receiver Law. In *Triangle Publications, Inc.*, the Commission was concerned, in part, about the impact of increased VHF service availability on the market for UHF converters. In this period, viewers who wanted to receive UHF signals had to acquire a separate UHF converter. The demand for converters clearly related to the number and quality of the UHF signals in the market, as well as to the programming those stations offered. Moreover, most potential UHF viewers had to buy the converter before they could sample the programming to see if they really did want to watch it. From the point of view of potential UHF broadcasters, therefore, the more converters that were already in the hands of the public, the less risky was an attempt to start a UHF station.

54. The All-Channel Receiver Act changed the situation. Since its implementation, the number of viewers who do not have all-channel capacity has declined steadily. In the *WFMY Inc.* decision, the Commission noted that all-channel receivers were in 89 percent of households in 1974, up from 55 percent in 1969. It is now 98 percent or better.[59] Moreover, widespread penetration of all-channel receivers has not been the only result of the All-Channel Receiver Law. In a series of proceedings the Commission has moved to require that the technical parameters of the UHF portion of the receiver be comparable to those of the VHF portion. Thus, in the 1960's and 1970's the Commission ordered improvements in such features as (a) tuners,[60] (b) weak signal performance (noise figure),[61] and (c) comparable attached antennas.[62] As long as the tuning process is mechanical, it may be necessary generally to have UHF tuning involve an extra step, albeit a simple one; but electronic tuning, now coming into widespread use, promises to remove even that difference.

55. Nor do we intend to stop seeking further improvements that might offer significant gains to UHF reception. In 1978 the Commission formed a UHF Comparability Task Force to study measures for alleviating the remaining differences and, if possible, eliminating them completely. This group has issued a number of notices of inquiry and several reports, including one (September 1979) reviewing the whole area of VHF–UHF comparability.[63] In a companion proceeding today we have released the *Final Report of the UHF Comparability Task Force* [64] and are issuing a *Notice of Inquiry and Notice of Proposed Rulemaking* that seeks further improvements in UHF reception.[65] Nor is this work complete. Several ongoing research studies are looking at various aspects of UHF reception.

56. These efforts at technical improvement are doubly relevant here: They provide reasonable assurance that the "UHF–VHF difference" will be less than it is now at the time in the future when stations are likely to go on the air using any new VHF allotments, and reconfirm that the Commission is firmly committed to continuing to ensure that viewers will be capable of receiving comparable UHF service.

57. The *Final Report of the UHF Comparability Task Force* states that further technical gains in UHF reception, at least given the current technology, must come by inducing viewers to purchase and install improved UHF receiving antenna systems. To convince viewers to make such purchases requires that UHF broadcasters offer to viewers a program package that the viewers find particularly attractive. It can be argued that the problem of convincing viewers that better antennas are worthwhile is no different than that faced by the early UHF broadcasters, namely, to convince viewers to buy UHF converters. There are, however, at least two differences.

58. First, prior to the All-Channel Receiver Act viewers without a UHF converter had no access at all to UHF programming. In contrast, most viewers today can sample UHF programming. As already noted, due to the All-Channel Receiver Act virtually all viewers use receivers capable of tuning in UHF stations. Furthermore, most viewers can receive watchable if not always good quality pictures from UHF stations with their existing antenna equipment.[66]

59. Second, early UHF broadcasters who lacked network affiliations faced a severe shortage or program material suitable for advertizer sponsorship. UHF broadcasters now have a broader selection of programming than was available in the 1950's. The intervening years have seen the creation of a vast amount of programming, both material originally for television as well as movies, that can be acquired by UHF broadcasters.[67] Means of delivering these programs are also proliferating. Further easing the UHF programmer's task is the fact that video program production is no longer a new field, making it less difficult to learn how to produce local material should the broadcasters prefer that route.

60. In light of all these changes since the adoption of the UHF Impact policy, namely full implementation of the All-Channel Receiver Act, improvements in the technical parameters of the UHF television service, and the much more abundant programming available, the concern of the Commission that the amount of VHF coverage in a market would decrease the penetration of UHF receivers, expressed in the *Fresno Deintermixture* rulemaking decision, Docket No. 11759, 19 R.R. 1581, 1585 (1960), repeated in *Triangle Publications, Inc.*, 29 F.C.C. 315 (1960), in the second *Triangle Publications, Inc.* decision, 37 F.C.C. 2d 307 (1964), and in the *WFMY Inc.* decision, 59 F.C.C. 2d 1010 (1976), seems now to be answered.

[59] *See* note 66, *infra*.

[60] *See, Report and Order*, 21 F.C.C. 2d 245 (1970); *Memorandum Opinion and Order*, 23 F.C.C. 2d 793 (1970); *Report and Order*, 32 F.C.C. 2d 612 (1971); *Report and Order*, 43 F.C.C. 2d 395 (1973).

[61] *First Report and Order* in Docket 14769, 27 Fed. Reg. 11698 (September 28, (1962)); *Report and Order*, 70 F.C.C. 2d 1176 (1978).

[62] *Report and Order*, 62 F.C.C. 2d 164 (1976).

[63] *"Comparability for UHF Television: A Preliminary Analysis"*, prepared as part of General Docket No. 78–391 and available from the National Technical Information Service, Springfield, Virginia, NTS No. PB 301267–AS. The report found three main areas of differences—channel selection (tuning), picture quality, and programming. It noted the potential of electronic tuning in the first area, and, in the second, new developments in receiving antennas and also a more efficient UHF transmitter which could reduce the tremendous (and costly) amounts of power which UHF stations now use just to produce a signal comparable in geographic reach to VHF stations having much lower power. The report concluded that differences in programming (largely reflecting UHF unwillingness or inability to pay high prices) will tend to disappear as technical differences continue to be reduced.

[64] This Report is available from the National Technical Information Service, Springfield, Virginia, NTS No. ——.

[65] *Further Notice of Inquiry and Notice of Proposed Rule Making* in General Docket No. 78–391. —— FR —— (——).

[66] A Louis Harris and Associates survey of UHF viewers conducted for the UHF Comparability Task Force included an objective test of reception of two UHF stations for each viewer interviewed; 75 percent to 69 percent of viewers who were within the Grade A contours of the UHF stations tested and who relied on indoor UHF antennas were able to receive the UHF stations. (*A Survey of Consumer Attitudes and Experience Regarding UHF Television*, Study No. 792–806, September 1980.) A higher percentage of viewers using outdoor UHF antennas received UHF stations. Approximately 75 percent of viewers within the A contours of these stations used outdoor or indoor UHF antennas. Of those who used no UHF antenna, 56 to 52 percent still were able to receive the UHF stations tested. The percent of viewers using at least an indoor UHF antenna may be expected to increase since the Commission in 1978, required, under the authority of the All-Channel Receiver Act, that all sets sold in interstate commerce with VHF attached antennas also must have UHF attached antennas (*Report and Order* in Docket No. 20839, 62 F.C.C. 2d 164 (1976)). Finally, a viewer without a UHF indoor antenna could, at a cost of under $10, buy one in order to sample UHF programming.

[67] For more detail about the program supply market, *see* Staff report on: *An Analysis of Television Program Production, Acquisition and Distribution* (Preliminary Report), Network Inquiry Special Staff, Federal Communications Commission (June 1980).

The likelihood that a viewer is now able to receive programming on UHF television no longer depends on the nonavailability of three VHF channels to carry the three networks. Receivers now automatically have the technical capability to receive UHF and alternative programming fare exists. Thus, it no longer appears that adding VHF service in the near term will lead, through adverse impact on the UHF television service as a whole, to reduction in the total amount of television service available to viewers in the long term. Rather, UHF is now sufficiently mature and viable to compete directly against VHF competition on the basis of its ability to provide programming of superior interest to the viewing public.

61. Accordingly, as we view the current situation, our duty is to open the way to more service by providing opportunities for it in the form of additional television channels, in accordance with the mandate of Section 303(g) of the Act to further "the larger and more effective use of radio. As the Commission stated in *Channel Assignment at Glendive, Montana*, FCC 69–183, 15 R.R. 2d 1559 (1966):

> When there is under consideration a proposed action which would permit the addition of an additional broadcast service to a community and area . . . we believe that there must necessarily be a presumption that the action should be taken. Otherwise we run the risk of thwarting the mandate of Section 303(g) of the Communications Act, which adjures the Commission to further the larger and more effective use of radio. This presumption is of course subject to rebuttal; but it is nonetheless a substantial one * * * As we stated in the *Dickinson, North Dakota* decision * * * we should be slow to act in a manner which would thwart the development of competition. 15 R.R. 2d at 1564 (1966), *supra*.

62. Basically, now that UHF–TV has achieved a *reasonable* degree of viability, it should be left to the market place to determine whether new service comes from VHF or UHF. A prospective broadcaster who wishes to offer a service to a market would be free to compare the costs and revenue potential of a full-coverage UHF allotment with a limited facility VHF allotment and choose which would be most effective for his service were the Commission ultimately to adopt these proposed rules. To achieve full coverage using the UHF allotment would cost more for power and equipment, but the operator would be free to cover the entire market with the signal, unlike the limited facility VHF allotment.[68]

63. Finally, it also most be borne in mind that the policy of "UHF Impact" protects against new VHF competition not only actual or potential UHF stations but also existing *VHF* stations—those in the same market where the limited facility VHF allotment would be located. Thus, in *Jefferson Pilot Broadcasting Co.*, 42 F.C.C. 2d 908 (1973), the "UHF Impact" was on potential use of the Greensboro, North Carolina UHF allotment (a station operating on it had recently gone dark), but the immediate beneficiaries of the policy's application were the three VHF stations in the market that includes Greensboro.[69] this aspect of this policy is undesirable in any event, since it limits the availability of alternative program sources and competition, and affords protection to entities that do not need it.

VI. The Proposed Procedure for Adding New Allotments to the VHF Television Table

64. The preceeding discussion in Sections II through V sets forth why increased potential VHF television service is in the public interest, e.g., satifaction of unmet demand for more television service by viewers as well as prospective broadcasters and promotion of the first amendment principles, by increasing diversity of voices and competition. That discussion also recites the history of Commission actions aimed toward improving television service to the public. The history reflects an evolutionary approach by the Commission in this area. As will be explained in this section, this evolutionary process has brought the Commission to the point where the next incremental developoment of the legal and policy precedent makes possible an opportunity for significant expansion of television service. There are three basic areas where we are proposing changes:[70] (1) A presumption that the new service from a new station is a benefit exclusive of other considerations; (2) the general allotment rulemaking process by which short-spaced VHF television allotments are made, and (3) how any alleged adverse impact on UHF television service is considered in the overall allotment rulemaking process.[71] Our proposed changes in the general allotment rulemaking process for VHF will be addressed first.

General Proposals Involving New VHF Allotments

65. Under the rules in existence today, if a prospective broadcaster requests a television channel allotment not presently specified in the Table, his petition falls into one of two categories under existing FCC procedures. If it is possible to fit an allotment into the selected principal community in conformity with the minimum cochannel and adjacent channel mileage separation distances, the petitioner's task is relatively straight forward. Once it is established that the standard spacing requirements can be met, the Commission issues a notice of proposed rulemaking (NPRM) to amend the Table to add the new allotment. During the comment period of this NPRM, parties opposing the new allotment can introduce evidence which they believe show why the addition of the new allotment is not in the public interest. Proponents of the new allotment can file reply comments supporting the addition of the allotment or rebuting the adverse comments. If there are no opposing comments filed, the rule amendment to the Table is adopted as a matter of course, given the obvious benefit the new service to the public that would result.

66. If there is opposition to the new standard spaced allotment, the Commission weighs the evidence on both sides and denies the proposed new allotment only if the result of granting it would be a net loss of service to the public. In this type of proceeding those filing in opposition to the new station have the burden of introducing evidence to contradict the obvious public interest benefit of the added service the new allotment would bring. The opponents of the proposed standard spaced allotment also have the burden of proving that the presumption in favor of an additional allotment is unwarranted in the particular community under the high standard of the *Carroll* doctrine (proof that losses of existing service will

[68] Indeed, there may be situations where "drop-in" VHF stations go on the air before vacant UHF allotments in the same markets are applied for. This obviously would be a reflection of the continued perceived gap in comparability between UHF and VHF stations. While this demonstrates the need to pursue vigorously technical improvements in UHF television, *see* paragraph 55, *supra*, it is difficult to find how the public interest would be served by depriving viewers in a given market of immediate additional service merely because it comes from a VHF rather than a UHF station

[69] Two of them were the objecting parties.

[70] It should be noted that the changes referred to at this point are exclusive of the technical modifications set forth in Sections VII and IX.

[71] It is proposed that these changes not apply to applications for changes in existing VHF television stations. Those situations do not offer the same degree of potential for new service, a fundamental basis for the action proposed here, and, consequently, should continue to be determined under the existing approach.

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outweigh the service gains).[73] We note that the impact of proposed VHF allotments on vacant VHF allotments is not considered in these service gain and loss calculations. For example, if the addition of the allotment to city A brings new service to both city A and nearby smaller city B, the availability of a vacant VHF allotment in city B that potentially could have served the two cities but has not yet begun to do so is never a basis for refusing the allotment to city A.

67. Under current rules, if it is not possible to fit in a standard spaced allotment into the selected principal community, the prospective broadcaster can request that the rule requiring that the specified minimum, mileage separation distances be waived and that a short spaced allotment be granted. Such an allotment could then be applied for by a station using reduced effective radiated power and reduced antenna height—a limited facility station (LFS). Under this waiver procedure, the proponent of the new service has both the burden of coming forward with evidence showing why a waiver of the rule would be in the public interest, and the ultimate burden of proving that a grant of the waiver would serve the public interest, convenience and necessity. In waiver situations this burden is always a heavy one.[73]

68. Under the new proposal, if the required equivalent protection formula is met, the proposed allotment would now be treated in the same manner as, under current rules, we treat petitions for new, standard spaced allotments. Initially, the proposed allotment would be presumed to be in the public interest. But this presumption would not be irrebutable. Any interested party could attempt to demonstrate in the rulemaking proceeding to add a new allotment that the proposed new service is not in the public interest. While we propose to presume that the gain of service to the public that will result from the addition of a new VHF station will in most circumstances outweigh any "lost" service because of interference created by the added station, any interested party will have the opportunity to show that, because of increased interference the public interest would best be served by rejection of the petition to add the new station. But the burden of coming forward with sufficient evidence and the burden of proving that the clear benefits of added service that would result from any new channel allotment are outweighed by increased interference would be a heavy one.[74] The practical effect of this procedural change would be to permit the addition of new, LFS VHF television allotments to the Table in much the same way that standard spaced allotments are now added.

Comments Related to UHF Impact

69. In our decision in *WFMY Inc.*, 59 F.C.C. 2d 1010 (1976), the Commission was confronted with claims of adverse impact on potential and existing UHF stations as a result of an application by a VHF station to modify its facilities to increase its coverage. In repudiating its past practice concerning determination of the UHF impact issue, the Commission stated that "[W]e simply do not believe that the public interest is served by forswearing indefinitely the benefit of additional VHF service while awaiting the germination of dormant interest in an idle UHF allocation." 59 F.C.C. 2d at 1016 (1976). The Commission explained that while the applicant for VHF facilities bears the ultimate burden of proving that a grant of the application would be in the public interest, the burden of demonstrating at the threshold the existence of substantial adverse impact to the opportunity for UHF service must be carried by the party alleging adverse impact. Moreover, the Commission modified its approach whereby it would weight the benefits of improved VHF service against adverse competitive impact on UHF only in cases where the adverse impact was already determined to be "minimal." In *WFMY Inc.*, the Commission recognized "that UHF broadcasting has advanced to the point where a much more 'substantial' impact can be tolerated without disservice, overall, to the total public interest." 59 F.C.C. 2d at 1017 (1976). Therefore, the Commission held that regardless of the characterization of the impact on UHF—whether "substantial" or "minimal"—the VHF applicant would be permitted to demonstrate by countervailing evidence, that, overall, the weight of the public interest favors a grant of the application." *Id.*

70. In this proceeding, we propose to extend the "substantial adverse impact" policy announced in *WFMY Inc.* generally to all new proposals for short-spaced VHF allotments. As set forth in Section V, *supra*, we have carefully scrutinized the current viability of the UHF television service and considered its ability to continue to provide service to the American public in the future. We have concluded that generally the potential negative impact on UHF service from additional VHF service is limited and far outweighed by the benefit to the public from additional UHF service.[75] Consequently, we are proposing that we will not consider in allotment proceedings for new VHF stations the potential effect of the proposed VHF service on vacant UHF allocations. To repeat again what we concluded in *WFMY Inc.*: "We simply do not believe that the public interest is served by forswearing indefinitely the benefit of additional service, while awaiting the germination of dormant interest in an idle UHF allocation." 59 F.C.C. 2d at 1016. If the record before us supports the view that there is a large unfulfilled present demand for television service which could be met by prompt initiation of additional VHF service, we do not believe the public interest would be served by consideration of potential impact on UHF allocations which have remained unapplied for to this time. We are soliciting comment concerning whether consideration of potential impact on idle allocations should be foreclosed in cases where applications for those UHF channels are pending or only in those cases for which no applications have been filed.

71. With respect to the impact on existing UHF stations from additional VHF allotments, we do not propose to foreclose consideration of such impact in the rulemaking proceeding proposing a new allotment. While any interested party will have the opportunity in the allotment proceeding to contend that the impact of the proposed VHF allotment on existing UHF service is sufficient to warrant denial of the allotment, the burden of proving that the UHF impact outweighs the stong public interest in additional television service will be particularly heavy. Under the *Carroll* doctrine,[76] the Commission presently is required to consider claims that the public interest would be harmed by actual loss of existing service caused by authorization of new service. Thus, we propose now to consider claims of adverse impact to existing UHF service from new VHF allotments as we would consider under the *Carroll* doctrine claims of adverse impact to any existing broadcast service. But, as the Court emphasized in *Carroll*, the party claiming adverse impact as a result of additional service bears the burden of proving the adverse impact—"and it is certainly a heavy burden." 258 F. 2d at 444. It is entirely appropriate for the party claiming such adverse impact to bear such a heavy burden because as the court in *Carroll* noted, "[c]ompetitors may severely injure each other to the great benefit of the public." *Id.* at 443.[77]

72. The approach we are proposing for consideration of UHF impact would represent only an evolutionary extension of the Commission's *WFMY Inc.* decision. By utilizing this rulemaking to make well-supported findings concerning the public interest benefit in authorizing the prompt initiation of additional VHF service rather than foreclosing such service while awaiting perhaps for many years some potential unrealized UHF service, the Commission will be able to avoid the lengthy delays that would be required to authorize additional service under the present system.

73. The Commission's recent decision to add short-spaced VHF allotments in four cities[78] represented the first application of the *WMFY* policy to a VHF drop-in. Based on the same technical criteria that underlie the proposals before us today, a strong public interest justification was made for the four allotments. The events in those four instances however, illustrates a major weakness of current policy that today's proposal could remedy. *See* note 73, *supra*. The proposed rule changes before us today would alleviate the situation where petitioners expend huge sums of money on allotment proceedings and yet never gain consideration for assignment.

74. The rule changes we are proposing today, while a small change from past practices are, we believe, of extreme importance to the public because of the benefits that should result from their implementation. Specifically, the proposed rule changes should result in a significant amount of new television service. This service will be in response to actual, immediate demand for that service, as identified by the potential broadcasters and others who will prosecute the petitions to add these news allotments to the Table. Thus, the remaining VHF television spectrum capacity will be put to use satisfying real needs, as opposed to being held idle, thus increasing the efficiency of spectrum use in accordance with Section 303(g) of the Communications Act.[79]

VII. Background Technical Information

75. The following discussion of the technical side of our proposal is best understood if proceeded by a brief review of the conceptual basis of the Table and the underlying phenomena of television signal propagation, service contours, and interference. The reader is cautioned that for the sake of clarity (and brevity) we have omitted what we believe to be unnecessary details.

76. Using the extensive data accumulated as a result of its long deliberation up until that point, the Commission adopted a scheme of standard separation distances and the Table in the *Sixth Report and Order*, *supra*. Three important factors in that decision are also crucial to our decision today. First, having developed a set of field strength propagation curves (a mathematical model that predicts how strong a television station's signal is at various distances from the station), the Commission selected cochannel (i.e. stations on the same frequency) and adjacent channel (i.e. stations one channel higher or lower than the subject channel) separation distances that resulted in a predicted amount of interference to viewers near the edge of each station's service area. The distances chosen represented a trade off between a desire to have stations tightly packed together, to provide as many channels as possible in the major population centers, and a desire to have the stations far enough apart to permit reception of their signal in sparsely populated areas well outside the urban centers. As is explained in paragraph 97, *infra*, the level of interference selected by the Commission in this decision will be preserved by the rule changes proposed today, but the separation distances used to implement them will be replaced with a system of reducing effective radiated power in the direction of the existing station commensurate with the reduction in mileage separation between the stations.

77. Second, the Commission limited the maximum output power allowed and selected conservative (i.e. extra far apart) separation distances to ensure that the future addition of stations in more sparsely settled areas of the country (e.g. outside of Zone I) did not deny rural viewers the little service they then received.[80] Given the situation then facing the Commission (in 1952 most of these rural viewers had at most only one viewable program source), this cautious protection of each station's fringe service areas was well justified. This situation has changed substantially.

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[73] Since the "loss" to be shown under the *Carroll* doctrine is *actual*, rather than theoretical loss of service we propose that opponents to the new allotments who base their objections on predicted cochannel interference must take into account the availability of precise carrier frequency offset equipment, discussed in detail at paragraphs 117 to 121, *infra*, and front-to-back ratios of typical home roof top antennas, discussed in detail at paragraphs 103 to 108, *infra*, in calculating predictions of interference losses.

[74] One example of what is involved is the recently completed proceedings in Docket No. 20418; a proceeding which ultimately resulted in four waiver requests being granted. The successful petitioners had to show that: (1) The principal community to be served was one of the top 100 markets; (2) they provided a grade A signal to the city of license; (3) antenna sites were available; (4) that the proposed allotments would not be more than 17.65% short spaced to other allotments in the table; (5) they were not short spaced to Mexico or Canada; (6) existing UHF stations would not be substantially harmed; (7) they were not in an all UHF market or would not provide substantially the same service as an existing UHF station; and, (8) a net service gain to the public was likely. In addition, they were called on to rebut evidence that: (1) the proposed markets would not support an additional station; (2) antenna orientation problems would prevent acceptable service to the principal community; (3) a complement of three networks, one educational and one independent was adequate service; (4) the utilization of vacant UHF channels was a better means of providing for additional service; (5) the move towards a demand system of allotments would be costly and complex; (6) any VHF drop-ins at all would have a psychologically negative impact on UHF television general; and, (7) they would cause unacceptable interference.

[75] Under our proposal, we do not envision that objections to loss of service because of interference created by a new station would be considered in the license assignment proceeding. The most appropriate time to raise such objections is during the allotment proceeding where these claims can be considered in the context of the allotment decision. Unless a party were to come forward with some newly discovered evidence which for good reason was not available at the time of the allotment proceeding or otherwise demonstrate good cause, we do not contemplate that "gain" versus "loss" issues will be considered again in an assignment proceeding to determine if an application for the allotment should be granted. Agencies, like courts, apply the doctrines of *res judicata* and collateral estoppel to administrative proceedings in order to promote efficiency and finality in agency decisionmaking. The Supreme Court has specifically approved the application of *res judicata* to agency proceedings. *United States v. Utah Construction and Mining Co.*, 384 U.S. 394, 422 (1966). The FCC has applied both the doctrines of *res judicata* and collateral estoppel to its own proceedings with the approval of the courts. *Gordon County Broadcasting Co. v. FCC*, 446 F.2d 1335, 1338 (D.C. Cir. 1971); *Sayger v. FCC*, 312 F.2d 352, 356 (D.C. Cir. 1962); *Tomah-Mauston Broadcasting Co. v. FCC*, 306 F.2d 811, 813 (D.C. Cir. 1962).

[76] See Section II, *supra*, for a discussion of the public interest benefits of additional television service.

[77] *Carroll Broadcasting Co.* v. *F.C.C.*, 103 D.C. App. 346, 258 F. 2d 440 (1958).

[78] Again, as with consideration of traditional "gain" versus "loss" issues, we do not contemplate that impact on viewers on existing UHF stations will be considered in assignment proceedings. Any party wishing to contend that new VHF service should not be authorized because of UHF impact should do so in the allotment proceeding, and it is not in the public interest to relitigate the same issue during the assignment proceeding absent the proffer of newly discovered evidence which for good reason, was not available at the time of the allotment proceeding or other good cause. For a discussion of the application of the principle of *res judicata* and collateral estoppel to agency proceedings, *see* note 74 *supra*.

[79] Report and Order in Docket No. 20418, FR (October , 1980).

[80] Although the Commission has no direct statutory mandate to protect the economic well being of television broadcasters, VHF or UHF, we must be concerned if the impact of a proposed new service on existing broadcast stations is so severe that a real and significant decrease in the amount of service reaching the public can be demonstrated. *See Carroll Broadcasting Co.* v. *F.C.C.*, 258 F. 2d 440 (D.C. Cir. 1958).

[81] *Sixth Report and Order*, 41 F.C.C. 148 at para. 111 (1952).

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Most rural Americans now receive signals from four or five different stations, rather than zero or one. Alternative video delivery systems such as cable television make the loss of a particular over-the-air signal less significant. Also, the maturation of home rooftop antenna technology to provide a more consistently high quality antenna means that today rural viewers are now more likely to employ a receiving antenna superior to their 1952 counterpart. Furthermore, recent advances in television reception technology may result in the availability of even better reception systems before the effect of the proposed rule changes occurs.

78. Third, in the *Sixth Report and Order* the Commission decided not to take advantage of several recognized ways of placing stations more closely together. It chose instead to reserve these possibilities as "safety factors" that would resolve future problems if the newly developed propagation curves proved to be overly optimistic and a large amount of unexpected interference resulted. This margin of error was provided by not taking into account the effects of terrain shielding (i.e. the presence of high mountain and rough terrain causing the station's signal to decrease in strength more rapidly than the propagation curves predict), precise frequency control (i.e. controlling the carrier frequency of the transmitter with an extremely high degree of accuracy, resulting in a lessening of the cochannel interference effects), and receiver antenna front-to-back characteristics (i.e. a characteristic of typical rooftop television antennas that results in their receiving a signal arriving from the front much better than another signal arriving from the rear).[81]

79. The Commission faces a very different situation today than in 1952. The VHF portion of the Table is virtually saturated and over 600 VHF stations are on the air, yet problems of television co-channel interference have been minimal. The propagation curves, amended twice since 1952, have proved to yield reasonably accurate predictions of service area. Technological advances have made the accurate control of transmitter frequency widespread. As the use of precise frequency control technology has spread, its cost has declined. And, as mentioned above, home receiver antennas have been standardized on a few superior performing configurations so that front-to-back ratio of at least 12 dB [82] on any channel in the VHF band are the norm and more expensive antennas with 20 or 25 dB front to back ratios are available to resolve special reception problems. Only the terrain shielding effect is not yet amenable to precise quantification, and therefore not available as a tool to configure more efficiently the placement of future VHF station allotments. Given this greater understanding of these phenomena, and the greater availability of this improved equipment (plus the advent of computer calculation capabilities) the Commission is now in a position to reassess its decision to limit interference between television stations by means of fixed mileage separation distance.

Table of (Television Channel Allotments).

80. The Commission sought to obtain a suitable balance among several objectives in its *Sixth Report and Order*—wide area service by each station, multiple service in populous areas, and an equitable distribution of stations throughout the country. To help accomplish these goals, it developed a set of parameters it called "planning factors." The planning factors described different technical characteristics of the television delivery system that determine when and where service can be expected when different arrangements of transmitter and receiver equipment are employed in the system. The receiving antenna front-to-back ratio and the propagation curves mentioned above are two of the planning factors then relied upon by the Commission. The height of the receiving antenna, the amount of co-channel interference acceptable, the amount of adjacent channel interference acceptable, the "selectivity" of the "typical" receiver (how well the average receiver picks out a desired signal from other unwanted signals on nearly the same frequency), the receiver noise figure (a measure of how much "snow" is added to the television picture by the home receiver), and the transmitter output power, antenna pattern, and antenna height, are some of the other planning factors quantified by the Commission as part of these deliberations.

81. The Commission was confronted with a situation involving hundreds of applicants requesting channels in hundreds of cities, all wishing to begin construction and operation as soon as the Commission lifted its "freeze" on further licenses. Which cities could be served depended on a combination of variable factors including what transmitter power and antenna height was selected and the distance to other cochannel and adjacent channel stations. Both to resolve the administrative nightmare of selecting the location and characteristics of so many different stations, and to ensure that service was equitably divided among different cities and between urban and rural areas, the Commission set about its task by fixing exact values on each of the technical planning factors. All rooftop antennas were assumed to be exactly 30 feet above the ground. All terrain was assumed to consist of gently rolling hills. All receiving antennas were assumed to have no front-to-back ratio. Maximum transmitting antenna height and output powers were specified for different parts of the television bands and different parts of the country. Stations were assumed to be operating at these maximum output powers and antenna heights. All receivers were assumed to have at least a certain selectivity and noise figure, and so forth. The result of these fixed assumptions was to define a minimum distance at which two cochannel or adjacent channel stations could be placed and still meet all the planning assumptions.

82. The Commission than distributed these stations among the existing cities in a scheme it called the "Table of Assignments" (now, Table of Television Channel Allotments). Two important decisions resulted in the Table being configured as it is today. First, by selecting prescribed cochannel and adjacent channel desired-to-undesired signal ratios at 28 dB and 0 dB respectively the Commission determined that each station's service area would be interference limited in the direction of adjoining stations in the Table. In other words, the Commission selected a mix of noise-limited and interference limited television service as the vehicle likely to maximize service to the public.

83. Second, and more important to the discussion at hand, the Commission selected a system of maximum antenna heights and transmitter power and incorporated an assumption that all stations would operate with these maximum facilities. Given the above described maximum permissible levels of co-channel and adjacent channel desired-to-undesired signal ratios, station allotments had to be spaced at certain minimum distances in order to operate with these assumed maximum facilities. These minimum spacing requirements were then incorporated in the rules, thereby insuring that the prescribed desired-to-undesired signal ratios were preserved whenever stations wer added to the Table. The assumption that all stations would operate with the maximum permitted facilities is critical.

[81] *See* note 106 *infra.*
[82] *See* paragraph 108. *infra.*

Stations operating with less-than-maximum facilities could maintain the prescribed desired-to-undesired ratio (i.e. cause no more interference than planned on by the *Sixth Report and Order*) and could be spaced at less than the minimum distances currently specified in the rules. In other words, the Commission decided in its *Sixth Report and Order* to limit the amount of interference by assuming a certain uniform effective radiated power and then prescribing fixed station separation distances accordingly.

84. An equally valid means of achieving the same objective—to ensure that no more than the prescribed levels of interference are created—would be to allow station allotments at variable distances, but to vary the stations' effective radiated power such that the permitted desired-to-undesired signal ratios between each pair of co-channel and adjacent channel stations are not exceeded. This would provide existing stations with protection from interference that is equivalent to the protection accomplished by the standard mileage separation distances in the Rules. Because the Commission was faced with many hundreds of prospective applicants and because extensive hand calculations were necessary to specify individual limits for each station's effective radiated power, the administrative burden of adopting this case-by-case engineering approach would have resulted in extremely long delays in getting this "new" service to the public. The Commission was thus quite reasonable in adopting the simplifying assumption that all stations should be assumed to employ the same transmitter facilities. The system selected worked well. Over 600 VHF stations have come on the air. And most of them have, in fact, selected close to the maximum permitted facilities. Today, however, few additional stations can be squeezed into the Table with transmitter power outputs at the maximum level; certainly no more stations could be added to any of the larger television markets.

85. Given the present circumstances—more information on home receiver antennas, a saturated VHF Table, computer technology with which to calculate more expeditiously individual station characteristics, and thirty years of experience with the effects of adding stations at distances predicted to cause the maximum permitted amount of interference—we believe the time has come to reexamine the decision that all stations should be assumed to operate with the maximum specified facilities. The grid of VHF stations that has developed contains numerous spaces too small to fit maximum facility stations, but large enough to place more limited facility stations (LFS) which, given appropriate restrictions on their radiated powers would not exceed the desired-to-undesired cochannel and adjacent ratios assumed as planning factors by the *Sixth Report and Order*. It is the means of accomplishing this which we now wish to explore.

Multiple Interference

86. The question of multiple (in the sense of cumulative or additive) interference was addressed in the *Third Notice* and repeated in paragraph 180 of the *Sixth Report and Order supra*. The Commission concluded that the effect of two interfering co-channel stations was no worse than the effect of each treated separately. That is, given the geometry of a situation where three stations are all located at minimum separations with respect to one another, and where directional receiving antennas are employed, the interference at any point within a Grade B contour should be no worse than that which would be caused by a single undesired signal. 41 F.C.C. at 203 (1952).

87. In this proposal the possibility exists that two undesired stations may be closer together than would otherwise be permitted with fixed minimum spacings. This creates a mathematical possibility of interference slightly greater than would be caused by either station alone. We are persuaded, however, that the likelihood of measureable harm is insignificant, for these reasons:

1. First, the effect of two interfering signals is not directly additive. The worst case of two equal interfering signals raises the level of received interference approximately 3 dB. This causes a reduction in the quality of service of less than ½ TASO grade or, alternatively, a reduction in the radius of the interference-limited contour by, at worse, about 4 miles.[83]

2. Second as the likelihood of an LFS causing multiple or cumulative interference increases, the attractiveness of such an LFS allotment decreases. In any situation where an LFS is capable of causing additive interference, the geometry of its placement will result in it also receiving interference from the equivalent of two full-powered stations. In such a case, the LFS will have been required to reduce its effective radiated power in two directions, rather than the one normally contemplated. The result should be an unusably small service area.

3. Third, we will deny any proposal in which it appears that the costs clearly do outweigh the benefits. Anomalous situations, if they arise, will be dealt with individually, as part of the rule making proceeding adding the LFS allotment.

Coverage

88. Although an LFS is required to reduce its radiated power in the direction of a co-channel adjoining station, the effect on its predicted coverage is not so extreme as to make the allotment worthless. For example, in the case of a channel 10 station operating in Zone I at a short spacing of only 106 miles, its estimated Grade B coverage is approximately 2,800 square miles. If the spacing were increased to 122 miles, the coverage would exceed 7,100 square miles. Both are enough to serve urban, suburban and rural areas. If the effects of home rooftop antenna front-to-back ratios and the use of precise frequency offset are taken into account, the possible service areas of these LFS' for spacings of 106 and 122 miles would be approximately 5,400 and 8,200 square miles respectively. Of course if there is any question as to the coverage of a potential station—say, because of rough terrain—an enterpreneur can choose to make preliminary measurements for his own analysis before applying for an allotment.

Probabilities and Uncertainty

89. In considering calculations based on the propagation curves, we consider it instructive to refer to a remark made in the *Third Notice* and repeated in paragraph 85 of the *Sixth Report and Order:*

> • • • the propagation charts are sufficient to afford an adequate statistical basis for describing field intensities *under average conditions*, but it is expected that there may be substantial variations in individual areas. [emphasis added]

Because of these expected but unpredictable variations the Commission, in 1952, selected minimum separation criteria which erred, if at all, on the side minimizing unacceptable interference. 41 F.C.C. 148 at paragraph 113 (1952). Since the notion of equivalent protection is based on the propagation curves and separation criteria, the safety factor inherent in the original

[83] While it is difficult to quantify the impact of noise on the quality of reception, one group—a panel of the Television Allocations Study Organization (TASO)—conducted studies which found that increasing the signal to noise ratio by 4 dB would cause roughly one-third of all television viewers to raise their description of picture quality by one "TASO grade." TASO grades are labeled "unusable", "inferior", "marginal", "passable", "fine" and "excellent." Charles E. Dean, "Measurements of the Subjective Effects of Interference in Television Reception," 48 *Proceedings of the IRE* 1042 (June 1960). Figure 8. This estimate was obtained as follows. For each TASO grade the percentage of observers classifying a picture as that TASO grade was determined for ± 2 dB around the median observer. The differences were then averaged across all six TASO grades.

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spacings is preserved in our current proposal. Furthermore, developments in home receiving antennas add a much greater margin of safety than was possible in 1952. Lastly, and this is one additional point that is all too easy to overlook, the station separation criteria have been in use for almost 3 decades. In the interim numerous VHF stations have been added to the existing system. In over forty of these instances short spacing to another station was involved. Nevertheless, a general review of our records of interference complaints and a detailed review in the six shortest spaced cases uncovered no pattern of service interruption or consumer reports of increased objectionable interference. With the advantage of hindsight we may conclude that the original criteria were correct, if not overly conservative, and that confidence is warranted in calculations based on those standards. We do not deny that it is possible to find situations in which our current propagation curves may not apply, but we do assert that such instances are not so common as to cast doubt on the validity of the present proposal and can be treated on a case-by-case basis.

VIII. Technical Proposals

90. The strength of a television signal more than a few miles from the transmitting antenna cannot be predicted with a high degree of certainty. The field strength of a television signal at any particular point is a function of effective radiated power, antenna height above average terrain, frequency and distance from the transmitting antenna. The signal also varies with time and location because of atmospheric and terrain effects. To describe such a signal properly we find that we must resort to statistics, using terms based on median values of field strength (i.e., signal strength) exceeded at a given percentage of locations for a given percentage of time. We can use standard statistical methods to describe these variations so as to predict the strength of the signal within certain calculated confidence limits. The notation F(L,T) means the value of field strength equaled or exceeded at L% of the receiving locations for T% of the time or better.

91. Estimates of the variation of signal strength with distance are obtained from curves contained in the Commission's rules. These curves were derived from many measurements on different stations under varying conditions and therefore represent average values; they are intended for allocation purposes and general studies and will likely prove inaccurate in individual cases that deviate significantly from the norm.[84] The Commission has officially adopted two sets of curves, called the F(50,50) and F(50,10) curves. For a given channel, radiated power, transmitting antenna height and distance, the F(50,50) curves predict the value of field strength that should be equaled or exceeded at 50% of the potential receiving locations for 50% of the time, when measured at a height of 30 feet. The F(50,10) curves are similar except that they predict the value of field strength equaled or exceeded 10% of the time. For convenience in calculations, the field strengths predicted by the F(50,50) and F(50,150) curves are expressed as logarithmic ratios in decibels (dB) above a reference field strength of one microvolt per meter. This unit of field strength is commonly abbreviated dBu.

92. The rules define two service contours that relate to two grades of service. Grade A service is a signal capable of providing an acceptable picture at least 90% of the time at the best 70% of receiving locations, in the absence of interference from other stations. Grade B service is a signal capable of providing an acceptable picture at least 90% of the time at the best 50% of receiving locations, also in the absence of interference from other stations. Both types of service are "noise limited" in that they ultimately are limited by natural or man-made electrical noise.

93. The Grade A and B contours represent the outer limits within which the population, taken as a whole, receives that particular grade of service, or better. These contours are depicted in figures 1(a) and 1(b), which also show their relationship to a propagation curve. The example is based on a station operating on channel 8 in Zone I with an effective radiated power of 25 dBk[85] and an antenna height of 1,000 feet.

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[84] To avoid any misperception on the part of television service licensees, the F.C.C. Rules contain an explicit provision to make it clear that the definition of these field strength contours are not for the purpose of defining a protecte service area. Rather, a television station's theoretical service area is defined in terms of whatever service area results when it operates in the presence ot co- and adjacent channel stations operating with maximum antenna height and power at the minimum separation distances in the rules (a) service area that would not be reduced as a result of the equivalent protection criteria proposed today). To wit: "Permittees and licesees of television boradcast stations are not protected from interference which may be caused by the grant of a new station or of authority to modify the facilities of a existing station in accordance with the provisions of this subpart. The nature and extent of protection from interference accorded to television broadcast stations is limited solely to the protection which results from the minimum (allotment) and station separation requirements and the rules and regulations with respect to maximum powers and antenna heights set forth in this subpart." Sec. § 73.612(a) of the rules, 47 CFR § 73.612(a) (1978).

[85] 25 dBk is 25 decibels above one kilowatt, or 316 kilowatts. The antenna height is actually height above-average-terrain (HAAT).

FIGURE 1 (a)

Decrease of Signal Strength with Distance

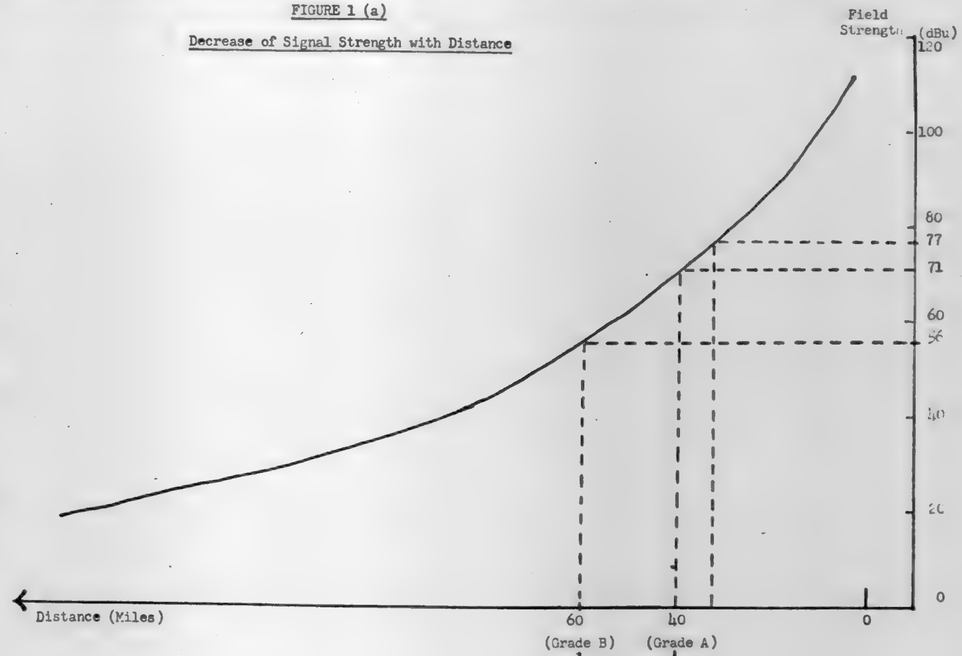
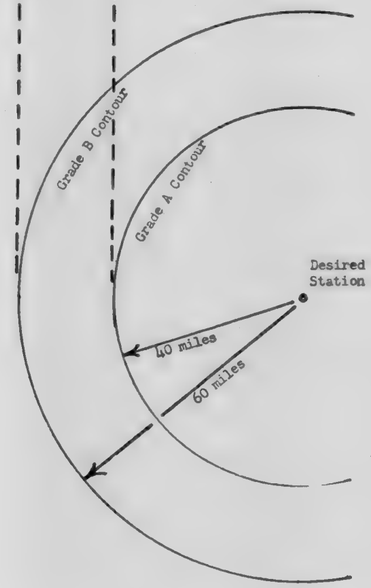


FIGURE 1 (b)

A Plan View of Grade A and B Contours



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94. A television station that operates sufficiently close to another station on the same channel (co-channel) will interfere with that other station's signal. The point at which this interference becomes significant depends both on the relative magnitude of the two signals and their frequency relationship. The relative magnitude is commonly expressed as a ratio (in decibels) of the desired (D) to the undesired (U) signal, where the desired signal is calculated from the F(50,50) curves and the undesired signal from the F(50,10) curves. The term "frequency relationship" applies to the visual carriers of the two signals and whether they are on the same frequency (non-offset), by 10 ± 1kHz (offset) or offset by 10,010 ± .005 kHz (precise offset).[86] In the *Sixth Report and Order* the Commission accepted the following D/U ratios as permissible for Grade B service:

Non-offset, 45 dB; and
Offset, 28 dB.

These values should result in a picture in which the interference is perceptible but not objectionable.

95. Interference can also arise when two stations operate near one another on immediately adjacent channels. In the case of adjacent channel interference, the D/U ratio needed to provide equivalent protection from adjacent channel interference is −6 dB and −12 dB for the upper adjacent channel.[87] We propose, however, to use OdB as the appropriate planning factor in either case with both the desired and undesired signals calculated from the F(50,50) curves. We are not proposing to incorporate the revised values (−6 and −12dB) into our equivalent protection criteria for a variety of reasons. First, the incorporation of these lower adjacent channel protection ratios would allow an existing or a new VHF station to come several miles closer to an existing VHF station without any reduction of its effective radiated power below the maximum. The implications of this possibility have not been sufficiently explored to warrant proposing such a change at this time. Second, our analysis of the adjacent channel interference question was premised on substitution of new service for old service up to the OdB point between the two stations (equidistant between them for two full power stations). If, at this equidistant point, the lower protection ratios are used to determine the amount of protection, an existing station would enjoy a smaller protected service area than it would receive using the old, more conservative OdB adjacent channel protection ratio. Since we are preserving the existing protection levels as much as possible while making the proposed changes, continued use of the admittedly antiquated planning factor seems appropriate. Third, by retaining the OdB adjacent channel protection ratio we space adjacent channel stations such that viewers in a large area experience the addition of the new station without a loss of the existing service. This benefit mitigates, somewhat, the lost benefits from not using the spectrum in the absolutely most intensive manner. Lastly, new receiver technology is on the horizon that may permit the Commission to do away with the adjacent channel separation distances altogether. If this capability reaches the marketplace sufficiently quickly, the whole system of adjacent channel separation distances will have to be revised in a much more comprehensive manner in the future in any case. In that context, an incremental adjustment now may cause more disruption than its long term usefulness justifies.

96. Although neither the co-channel nor adjacent channel ratios were incorporated in the Rules, they were employed by the Commission in establishing power, height and spacing standards adopted in the *Sixth Report and Order*. Thus, the Commission intentionally defined an acceptable level of co-channel and adjacent channel interference when it set up the minimum station separation distances used in the Table.[88] Under our current rules co-channel stations are permitted to operate at minimum distance separation provided their carriers are offset. The result of this is to create a crescent-shaped area between the Grade A and Grade B contours within which the theoretical interference becomes progressively more objectionable. By "objectionable" we mean interference that degrades the picture quality observed by the typical viewer sufficiently, in enough locations, enough of the time, that "Grade B" service is no longer received. This situation is illustrated in figures 2(a) and 2(b). The shaded area theoretically no longer receives Grade B service.

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[86] If the visual carrier frequencies are separated by less than about 0.50 to 0.1 Hz or less, the required protection ratio appears to be approximately 28 dB. A new station could achieve this "zero offset" condition (± 0.1 Hz) either by having both it and the affected co-channel station use very precise frequency standards or by phase locking the new carrier to the carrier frequency of the existing station. When two stations achieve zero offset they are said to have "synchronous carriers." *See A Review of the Technical Planning Factors for VHF Television Service*, Gary S. Kalagian, FCC/OST/RS 77-01, at Appendix E (1977), National Technical Information Service No. 286341.

[87] The adjacent channel ratio is lower than the value assumed in the *Sixth Report and Order* to reflect changes in television receivers that have taken place in the thirty years since that action. *See A Review of the Technical Planning Factors for VHF Television Service*, Gary S. Kalagian, FCC/OST/RS 77-01, (1977), National Technical Information Service No. 286341.

[88] *See Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 480 at paragraph 55 (1977). Although the Commission cited these "permissible co- and adjacent channel levels" in the *Sixth Report and Order* (41 F.C.C. at 177), it concluded that their inclusion in the rules was unnessary since the standard station separations then adopted ensured that these limits would be observed.

FIGURE 2 (a)

Relationship of a Desired Signal to an Undesired Signal

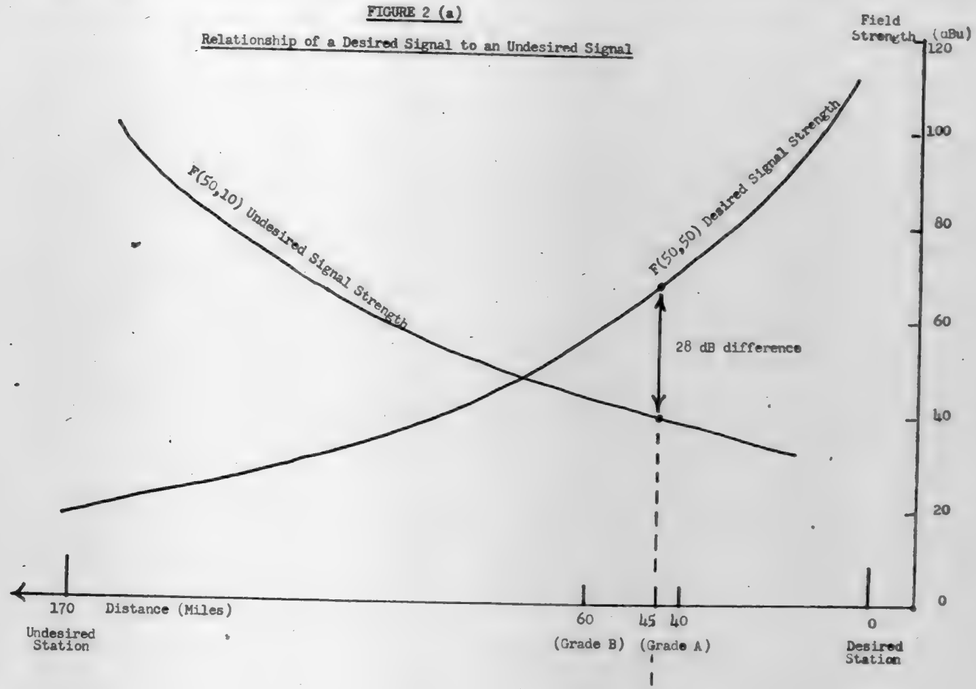
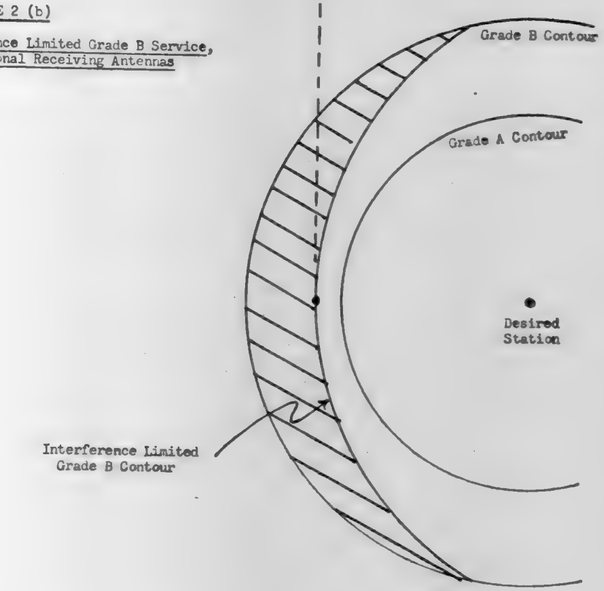


FIGURE 2 (b)

A Plan View of Interference Limited Grade B Service, Assuming Non-directional Receiving Antennas



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In examining this diagram it is worth keeping in mind a statement made in paragraph 94 of the *Sixth Report and Order:*

"It is recognized that there exist no sharp line of demarcation between service and interference but that the service available may be more satisfactory or less satisfactory in varying degrees."

The joining of all points at which the D/U ration is 28 dB results in a new contour which we may call an "interference-limited" contour. The example given assumes that the receiving antenna is non-directional, that is, that it receives the undesired signal equally as well as the desired signal. We will return to this assumption in paragraph 106, *infra.*

Equivalent Protection

97. When a station is placed at less than the standard distance from a co- or adjacent-channel station, its radiated power can be reduced until its (undesired) signal strength at the interference limited contour of the station to which it is short spaced is no higher than the strength of a signal from a full power station at the standard distance. If this adjustment in the short spaced station's radiated power is made, the other station receives *protection* from the interfering signal that is *equivalent* to that provided by the minimum separation distances adopted by the Commission when the Table was set up. We now propose to adopt this "equivalent protection" standard as the standard for determining where future VHF television allotments can be made. Allotments for new VHF stations would be added to the Table in conformity with the rule changes we proposed today if they provide "equivalent protection" to existing VHF stations. "Equivalent protection is achieved as follows:

by limiting the radiation of the new station so as to cause no more interference than would result between cochannel stations operating at standard minimum spacings with maximum height and power. The technical definition is that amount of suppression sufficient to maintain a 28 dB ratio between the estimated F(50,50) signal strength value of the desired signal and the estimated F(50,10) signal strength value of the undersired signal (45 dB in the case of nonoffset, nonsynchronous cochannel operation), at the same distance from the existing station as would occur if the stations were operating with the maximum permissible facilities at standard minimum separations. In other words, a drop-in could present no more interference than would a new station with full facilities and no short-spacing. Equivalent protection to adjacent channels is achieved following the same procedure to maintain a 0 dB ratio between the estimated F(50,50) signal strength value of the desired signal and the estimated F(50,50) signal strength value of the undesired signal.[99]

The application of this principle is shown in figure 3. The power of the short-spaced station has been reduced so that it maintains the 28 dB difference at the point established by the full power station at standard spacing.

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[99] *Memorandum Opinion and Order and Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 840 at paragraph 41 (1997). Note that this definition assumes the protected station is operating at full power and maximum antenna height. Thus, if the existing station to which a Limited Facility Station (LFS) is short spaced is not at full facilities it can later increase its facilities without any adjustment by the LFS.

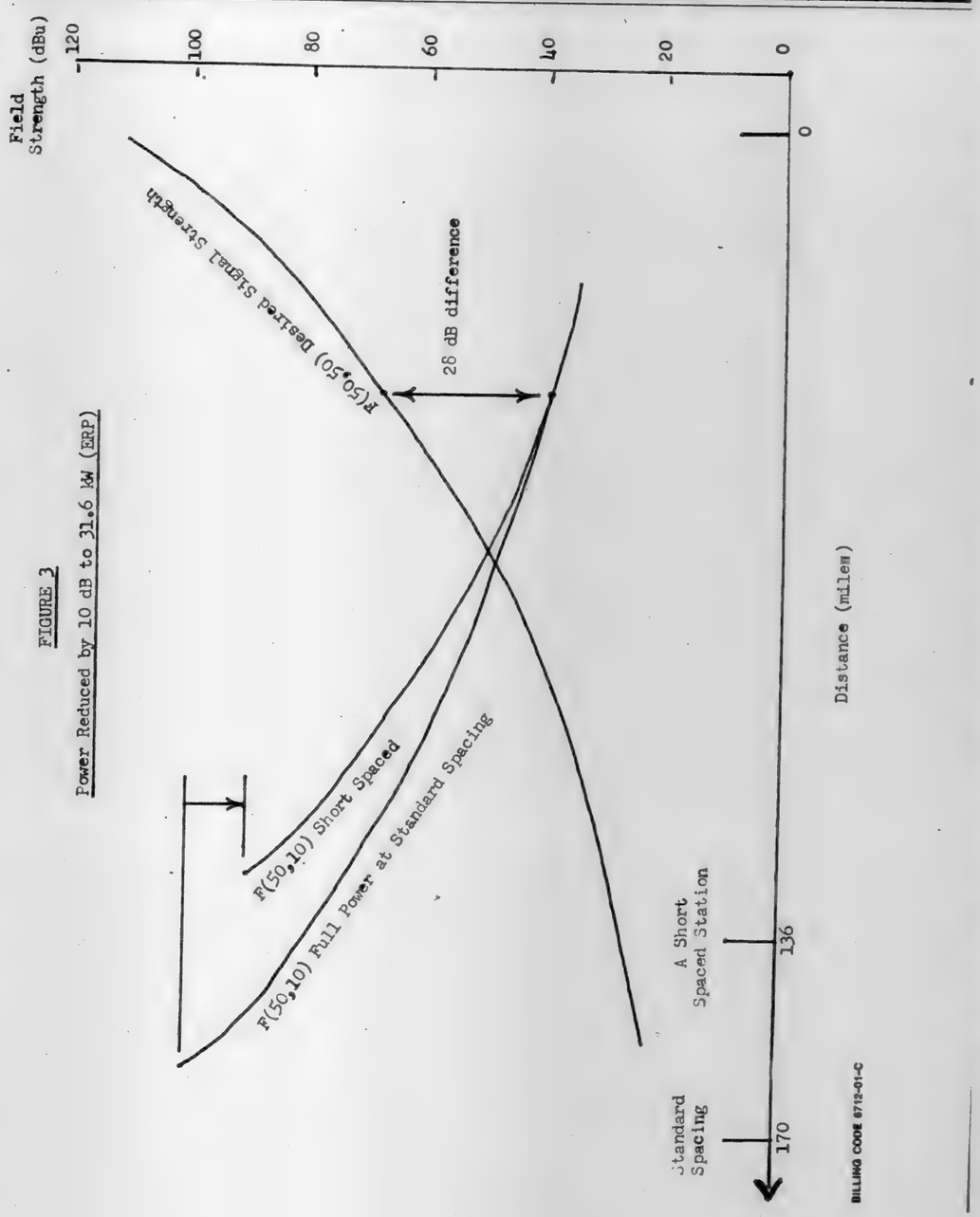


FIGURE 3

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98. Implementation of the "equivalent protection" standard assumes a departure from existing practices in the allotment process. First, we propose to amend our Rules to reflect this reduced spacing criterion. Petitions for the addition of new allotments meeting the equivalent protection criterion would be explicitly provided for in our Rules. Such petitions would be treated as routine, in the same manner as petitions for new allotments that meet the standard mileage separation criterion.[90] Second, because of the flexibility of this approach, we think the vast majority of proposals for new VHF allotments could be accommodated within the proposed rules. While we would continue to entertain petitions for waiver of this part of our rules, we would expect petitioners for new allotments to expend their first effort to adapt their proposals to the constraints of the equivalent protection criterion. Thus, future waiver applicants would face the initial burden of demonstrating that they tried, but were unable, to comply with this fundamental technical requirement. They then would be subject to the customarily high burden required under the waiver standard.[91] Third, requests for new allotments that meet this equivalent protection criterion would no longer be characterized as "drop-ins." Once approved, these new allotments would then be available to license applicants as is now the case with additions to the Table. Allotments for stations that are not authorized to operate at maximum permissible transmitter power or that are required to directionalize their antenna pattern in order to comply with the Rules would be designated as Limited Facility Stations (hereinafter "LFS") and identified with an "L" in the Table of Television Channel Allotments.[92] Applicants for such stations would have a limitation, as part of their license, that requires them to operate with lower than the maximum radiated power otherwise permitted by the Rules in some direction or directions.[93]

99. In all other respects, an LFS will have status equal to that of full power stations. Thus, following Commission approval of an LFS allotment, subsequent applicants for new allotments would have to provide an existing LFS the same equivalent protection provided to a full power/full spaced station. Similarly, one a new LFS is added to the Table, its status as a full-fledged VHF allotment would imply protection of its signal from changes in the antenna location of existing stations in its vicinity. Licensees of existing stations proposing antenna moves that would have an adverse effect on the LFS's coverage would have their licenses conditioned to require that they provide protection to the LFS.[94]

100. As proposed, future additions to the Table need no longer be accompanied by engineering studies counting theoretical service gains and losses (i.e., the number of added households reached or formerly reached but now believed unreachable due to interference) within and outside of variously defined service areas according to variously defined assumptions. The four waiver requests granted by the Commission in Docket No. 20418 illustrate the difficulties associated with that type of analysis.[95] In granting future new VHF allotment proposals we intend to rely, instead, on a general assumption that, where equivalent protection is provided to existing stations, the public interest will generally benefit from the addition of a new station.[96] Thus, future requests for new VHF television allotments will be evaluated strictly in terms of technical compliance with our Rules and will no longer initially involve the calculation of hypothetical gained and lost service areas. If an interested party does choose to raise the issue of lost service during allotment proceeding, he will bear a heavy burden to demonstrate that the public interest will not be served by the gains in additional service.

Directionalization of transmitter antenna.

101. In the *Notice of Proposed Rule Making* in Docket No. 20418,[97] we raised the possibility of allowing the use of directional transmitter antennas with suppression ratios equal to or greater than that currently provided for in the Rules, thus enhancing the ability of an LFS to provide equivalent protection.[98] The new Table of Television Channel Allotments we now propose is intended to be as flexible as is technically possible, and yet still provide interference levels no greater than the level chosen as "acceptable" in the *Sixth Report & Order*. One means of insuring this flexibility is to allow petitioners proposing additions to the Table to make use of the best available transmitter antenna technology. To this end, we are proposing a new Rule § 73.685(e), that will allow routine approval of proposals for signal suppressions of up to 15 dB in any direction, compared to the signal strength in the maximum direction of radiation. In addition, we will entertain waiver petitions providing for signal suppressions of up to 25 dB, on a case-by-case basis, if the petitioner demonstrates that there will be no reflected signals of unacceptable level into the null.[99]

[90] When a petition is filed with the Commission requesting the addition of a new allotment in conformity with the standard spacing requirements a proponent of a mutually exclusive use of the channel must submit its proposal during the comment period of the rule making proceeding. If no opposing party comes forward, the allotment request is normally granted. If preclusion is raised, in comments, the Commission weighs the evidence before it and allots the channel where it provides the most needed service. This same procedure would apply to preclusion questions raised by LFS allotment petitions.

[91] Petitions for such waiver would face "a high hurdle even at the starting gate." *WAIT Radio v. F.C.C.*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969).

[92] While we wish to maximize the flexibility provided by these new allotments, it is not our intention to change the underlying distribution of television service the Table ensures. Existing licensees will therefore continue to be required to conform to the rules now in effect. Requests for waivers of these rules will continue to be subjected to searching scrutiny for conformity with the precepts of the *Sixth Report and Order*.

[93] The designation will also indicate that they do not have to comply with the requirement for a "city grade" signal over their entire "principle community". *See* paragraph 125, *infra*.

[94] This procedure would result in the limitation on the future flexibility of the existing station's allotment, i.e., the station would no longer be able to move its antenna closer to the LFS allotment. Consequently, we are considering accepting applications for construction permits from existing stations affected by the addition of a LFS for some initial period before granting the LFS allotment request without this limitation being added to their license, e.g., for three months, or until the close of the comment period in the notice of proposed rule making proposing the allotment. *See also* paragraph 128 *infra*.

[95] See note 72, *supra*. *Report and Order* in Docket No. 20418, ——FR —— (October ——, 1980).

[96] We also believe that, generally, the new service provided on an equivalent protection basis will be much greater than any service that is lost. The basis for our conclusion as to overall service loss is outlined below in our discussion of receiver antenna directivity, terrain shielding and other service area considerations, below at paragraphs 103 through 111. It is possible in rare situations involving atypical propagation and terrain situations, that this presumption will be incorrect. Accordingly, we will entertain comments to the notice of proposed rule making adding each of these new allotments addressing the issue of service gains and losses. The burden of proof in these instances, will be on those opposing the addition of the new allotment. *See* Section VI., paragraph 64, *supra*.

[97] *Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 840, at paragraph 61 (1977).

[98] The existing rule limits the ratio of maximum to minimum radiation in the horizontal plane to no more than 10 dB because it was feared that antenna radiation pattern would become unstable if more than 10 dB directivity was allowed. 47 CFR 73.685(e) (1978).

[99] We would expect such a petition to make a detailed engineering showing of two preconditions: First, that the immediate topography surrounding the (proposed) antenna site must be free of large buildings or large natural obstructions that might serve as reflectors into the antenna pattern nulls; and second, that the frequency of the transmitter is sufficiently stable to ensure the antenna acts as designed. Since we expect the majority of these new stations to be required to implement precise offset,

Footnotes continued on next page

102. In reaching the conclusion that a rule allowing up to 15 dB suppression should be proposed, we have considered the studies cited by Association of Maximum Service Telecasters (AMST) in opposition ot this idea. We conclude, however, that the technical basis for the existing limit (10 dB), though once valid, is now antiquated.[100] Twenty years have passed since the compilation of the data on which we based our earlier conclusion. In the interim, technology has advanced to the point where transmitters with frequency stability necessary to allow higher directivity are now routinely available on the equipment market. More importantly, experience with antennas in Canada and elsewhere has demonstrated that greater directivity, without unacceptable degradation of protection criteria, is achievable with today's antennas.[101] In light of this record, we think it is important that we amend our Rules to take advantage of this increased technical flexibility to intensify utilization of the valuable VHF television spectrum.

Receiver Antennas Front-to-Back Ratio

103. We are less satisfied with the amount of information in the record of Docket No. 20418 on the question of receiver antenna directivity. That record is devoid of quantitative data except for some limited observations by the Group for the Advancement of Television Service (GATS). Historically, the Commission has assumed the receiving antenna to be nondirectional. The *Sixth Report and Order* gave three major reasons for this assumption:

(1) Directivity is needed as a safety factor to permit adjustment of the antenna to minimize multipath distortion and local oscillator radiation;

(2) Not taking into account the directivity of the receiver antenna allows use of the antenna in a compromise orientation for the reception on the same antenna of several desired signals from stations located in different directions; and,

(3) Directivity should be used as a safety factor to permit adjustment of the antenna to minimize the effect of multiple source interference.

In other words, *Sixth Report and Order* treated the receiving antenna directivity as a safety factor that would tend to reduce the amount of interference resulting from two full facility stations operating at or near the minimum required distance separation. This safety factor was appropriate at the time because of uncertainty regarding how well the interference model reflected the real situation. Even if the model used in the *Sixth Report and Order* had been reasonably accurate, it was not clear at the time that the choice the Commission made regarding the amount of interference to be tolerated was the best compromise available. The Commission was comfortable with this uncertainty because when the safety factors (*e.g.* terrain shielding, directional receiver antenna, etc.) utilized in its allotment scheme were factored in, the safety factors would prevent extensive damage to the overall service. If actual experience turned out to be approximately that predicted by the curves there would be considerably less interference than the acceptable worst case projection.[102] Today, with twenty-five years of experience, we no longer face this same degree of uncertainty. It now appears clear that the present separation distances (or protection equivalent to that guaranteed by the standard separation distances) causes little unacceptable interference.[103]

104. We now know that high gain, directional receiving antennas[104] have been well used by viewers to overcome many situations involving potential interference and lack of service. Their use has made an important contribution to the quality and quantity of television reception in many, generally rural, areas. Their use has also reduced the actual loss of service in the predicted interference areas of stations meeting the minimum spacing requirements. In addition, since we propose to allow this spectrum to be more heavily used, this safety factor will take on even more importance in the future. Rather than automatically assuming the universal use of directional receiver antennas, we believe it is preferable to continue to use this technical tool in individual instances to overcome particular cases of interference.[105] Thus, we will continue to treat receiver antenna directivity as a safety factor rather than incorporating it into our equivalent protection criterion.

105. Even if we wished to incorporate some adjustment factor for high gain receiver antennas into our VHF television frequency allotment scheme, we do not a this time have available, in the record of Docket No. 20418 or elsewhere, the type and amount of data necessary to quantify this parameter with the necessary degree of accuracy. Furthermore, the test studies cited in footnote 104, *supra*, raise numerous problems with the incorporation of an assumed average receiving antenna front-to-back ratio[106] in our protection criteria. First, although all antennas exhibited some front-to-back ratio across the entire VHF-TV band, variations of more than 10 dB were observed in the performance of a single antenna on different channels. Second, the direction of the high and low gain areas are frequency dependent, thus an antenna oriented to maximize the

Footnotes continued from last page

we do not expect this frequency stability requirement to be a significant additional cost in most instances.

[100] Filings in the record of Docket No. 20418 report operational VHF television transmitter antennas with signals suppressed below the maximum effective radiated power (ERP) by as much as 23 dB. In the absence of tall buildings or mountains situated so as to cause reflection of unacceptable levels of signal into the "null," we conclude that the use of these more directional antennas is possible provided each proposal is carefully reviewed to protect existing spectrum users.

[101] *See Memorandum, Opinion and Order* in Docket No. 20418, 63 F.C.C. 2d 840 (1977) at paragraph 61 and 62.

[102] *Sixth Report and Order*, 41 F.C.C. 148 at paragraph 109.

[103] During the first decade following the *Sixth Report and Order* the Commission licensed an average of 45 VHF stations per year; the second decade averaged 11 per year and the last eight years average 5 per year. As the available channels filled up, particularly in the Eastern and Western coastal corridors, numerous stations have been added at or close to the minimum mileage separation distances. At this point virtually every East Coast station has one or more channel stations at close to the minimum mileage separation distances from it and six stations have stations less than this minimum from them. (In these six instances the Commission utilized equivalent protection to "move-in" stations below the mileage standards.) We note that the addition of the last 25 stations to the already crowded Table of the six instances involving move-ins using equivalent protection did not result in a surge of interference (RFI) complaints by viewers of the existing stations. Since television viewers have historically been very quick to alert the Commission to instances of RFI, this silence strongly suggests that objectionable interference rarely results from the addition of a new television station at the minimum separation distances (or below these distances if equivalent protection is used.)

[104] *See e.g., NBS Report No. 6099*, Performance of VHF-TV Receiving Antenna *(May 26, 1960); NTIA Report 79-23*, Television Antenna System Components, *R. G. Fitzgerrell* et al. *(June 1979)*, Johnstown VHF Drop-In Study, *W. P. Huber, F.C.C., Pittsburgh Field Office (February 15, 1980)*; Report of the Television Allocation Study Group, *Table 3, at 138 (1957)*.

[105] This would include the availability of such highly directional receiver antennas to reduce the actual loss of service in predicted interference areas of stations meeting the equivalent protection requirement as well.

[106] We use "front-to-back ratio" to mean a measure of an antenna's ability to discriminate against signals striking it from the back. The front-to-back ratio compares the reception of signals hitting the front 180° of the antenna to the back 180°. This is contrasted with antenna "directivity" which is the ratio of the maximum radiation intensity of the antenna to the average radiation. A third term also used to describe an antenna's performance characteristics is "gain" by which we mean a ratio of the maximum radiation intensity of the antenna to the maximum radiation intensity from a reference antenna (usually a half wave dipole) with the same power input.

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desired-to-undesired ratio of the signal received from one station may in fact be maladjusted for optimum rejection of an undesired signal at a different frequency. Lastly, it was determined that under actual field conditions the directional patterns of receiver antennas in use often varied greatly and generally were different than when measured on the antenna test range. Because of these problems, we will not assign a value to the receiving antenna directivity factor or grant waivers to our equivalent protection requirement based on attempts to show that directionalized antennas permit closer spacing of stations.[107] We aknowledge its availability as a tool that, in many cases, can be used to reduce or eliminate predicted interference, but we think this potential has already been adequately factored into our process for spacing television allotment.

106. Although we have not chosen to incorporate antenna directivity into our proposal of equivalent protection, its value as a safety factor should not be underrated. In the example given earlier we followed the longstanding practice of treating all receiving antennas as non-directional. This is highly artificial because, insofar as we are aware, *all* receiving antennas *are* directional to a greater or lesser extent. In fact studies show that, despite their variability, rooftop antennas of reasonable quality (generally, those selling for $35.00 and up) can usually achieve an 8 to 12 dB front-to-back ratio. In fact, not unduly expensive antennas are available that provide 20 dB front-to-back ratios. Choosing the least of these figures and drawing on the discussion beginning in paragraph 90, *supra*, we will provide one last diagram. The employment of precise carrier offset reduces the required D/U ratio to 24 dB. The use of a receiving antenna having a front-to-back ratio of 8 dB has the effect of reducing the D/U ratio still further to 16 dB. This produces a shift in the location of the interference-limited contour in a direction away from the existing stations, as shown in figures 4(a) and 4(b). The assumed station parameters are the same as those used in the preceding illustrations.

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[107] Naturally, a television household at the perimeter of a station's interference limited contour is more likely to employ an outdoor antenna having better characteristics than a household located inside, say, the Grade A contour. In addition, while it is more of a sociological than an engineering observation, the households most strongly desiring the station have resorted to self-help to improve their reception, so that theoretical losses of service must be offset by the probability that those most in need of service and most lacking in over-the-air alternatives long since have taken their own corrective action, where it was technically possible to do so. In short, we believe that it is a serious mistake to underestimate the determination and intelligence of TV watchers, particularly in isolated rural areas where the problems of poor reception and the strategies for overcoming it have been a familiar part of the landscape for many years.

FIGURE 4 (a)

Relationship of Desired to Undesired Signal

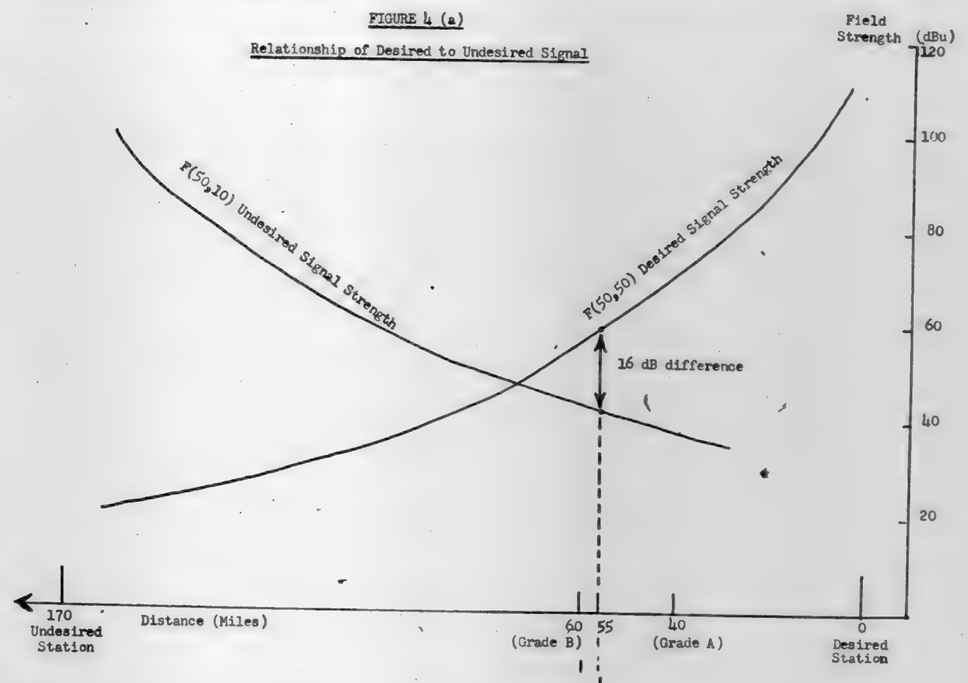
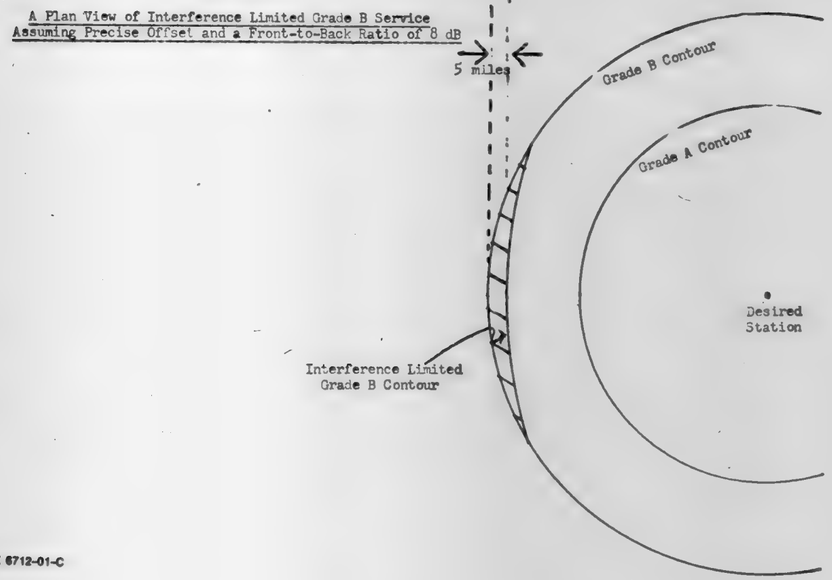


FIGURE 4 (b)

A Plan View of Interference Limited Grade B Service Assuming Precise Offset and a Front-to-Back Ratio of 8 dB



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107. Several observations concerning picture quality are in order at this point. The picture quality at the interference-limited contour received at the best 50% of the locations 90% of the time will be equivalent to or better than a TASO 3 (interference perceptible but not objectionable). At the noise-limited Grade B contour it will have decreased to approximately a TASO 4 (interference somewhat objectionable). Within the shaded area the quality of service will vary from TASO 3 near the interference limited contour to TASO 4 near the noise limited Grade B contour for the same 50% of the locations/90% of the time measurement. At worst the interference will have increased by a modest amount along the outer margin of a cresent measuring 5 to 6 miles thick. The same results could have been achieved without precise offset by using a receive antenna with a 12 dB front-to-back ratio. Continuing this line of reasoning, we note that the D/U ratio at the noise limited contour is 16 dB in the examples we have given. Any combination of precise carrier offset and antenna directivity adding up to 16 dB would shift the interference-limited contour to a position congruent with the noise-limited contour. In such a case there would be no predicted loss of service within the Grade B area.

108. During the pendancy of Docket No. 20418 the Commission's staff investigated the question of receiver antenna characteristics. As a result, several observations on typical home receiver antenna characteristics can be made. A survey of rooftop antennas in Grade B service areas was conducted. Though limited in scope, this survey indicated that the vast majority of homes employed rooftop antennas when cable TV was not present, and that the vast majority of these antennas had ten elements or more; these include log periodics which is a type of antenna that did not exist in 1952. The results of studies of antenna characteristics were then reviewed to quantify the front-to-back ratios of the types of antennas that are in actual use today. The reported studies indicated these types of antennas have an average front-to-back ratio, across the VHF band, of 11.5 dB. to 12 dB. Given the possibility that some viewers still employ older antenna types that have poor performance, and the possibility that multiple source or multipath interference might require intentional misalignment of an antenna, we selected a more conservative average antenna front-to-back ratio of 8dB for the purpose of estimating the actual amount of interference that would be caused by the proposed rule changes.

Effects of terrain

109. The state of the record in Docket No. 20418 on the question of terrain shielding of undesired (co-channel) signals is not sufficient to provide a basis for specific rules at this time. That rugged terrain can attenuate co-channel signals from a distant interfering source is beyond dispute. Similarly, rugged terrain can significantly attenuate the size of a station's Grade B service area, decreasing the service area to which interference actually would be caused. The unresolved problem is how to quantify the terrain shielding phenomenon in the form of a terrain correction factor that could be incorporated in the FCC propagation curves in order to predict the reduced signal levels with the desired degree of confidence. Studies of automated terrain correction computer programs were included in the record of the proceeding, but these models are still developmental and need further field measurement.[108] Actual signal levels were measured in the field environment in support of particular new allotment proposals, but these submissions cannot be relied on because the measurement procedures specified in the Rules (or an equivalent alternative) were not used and supporting test condition documentation was missing.[109]

110. A terrain correction factor was developed and incorporated into the FCC Rules in 1975, but reliance on this factor was suspended later that year when it became apparent that there were too many unusual situations where the procedure produced illogical results.[110] A similar situation of uncertainty and lack of field verification exists relative to the automated terrain correction factors submitted for consideration in Docket No. 20418.[111] No attempt was made to verify the computed results of the various test cases and, in some instances, computed results differed so greatly from the results of selected hand calculated results (which allow rational selection of what type of correction factors to apply, but are too cumbersome to utilize on a general basis) that errors obviously exist in the automatically processed results.

111. We recognize that in highly unusual circumstances, neither the proposal contained herein nor any other general method will provide satisfactory estimates of coverage and interference. Anomalies caused by extreme variations in topography will be treated on a case-by-case basis. Although terrain considerations will continue to be examined on a case-by-case basis, we do not expect to grant waivers to the equivalent protection standard proposed today on the basis of alleged terrain shielding effects. We prefer, instead, to continue our investigation of this area. When we have developed an adequate record on this question, we will propose a further amendment to the Rules to correct our propagation curves accordingly. Prior to that time, the added attenuation to distant interfering signals provided by terrain shielding will continue to be a safety factor that, in some instances, will result in less interference than is assumed by our Rules. We will also, of course, consider any additional data on this question submitted in response to this *Notice.*

Changes in Carrier Offset

112. Under the system for future additions to the Table of Television Channel Allotments we are proposing today, new stations are required to provide equivalent protection to existing co-channel stations. We are defining this protection using a desired-to-undesired signal ratio of 28 dB at the protected station's interference limited contour, assuming the added and existing stations are offset.[112] Adding new stations to the VHF television service will frequently require existing stations to change their offset designation. As more stations are added, the number of existing stations thus affected may increase. When proposing how to allocate this added expense (and the added expense of precise offset discussed below in paragraph 47), one of the Commission's most important concerns is to do so in a manner that encourages the use of these spectrum saving techniques and also equitably distributes the expense of utilizing the available radio spectrum more extensively.

113. The burden of the equipment cost to existing VHF television licensees necessitated by the addition of a new station to the existing VHF service can be shared in several ways. At one extreme, the proposed new station can bear the entire burden of any changes necessary to accommodate its presence. At the other extreme, each licensee affected by a new station can bear its own additional costs. Or, as an intermediate approach, a cost sharing scheme could be negotiated between the stations. Requiring that the new licensee bear the cost of every stations' modifications will create an additional financial barrier to the introduction of new stations. In certain instances this barrier may foreclose the creation of a new broadcast outlet that would otherwise provide additional service to the public. Furthermore, it might be inequitable to require the new station applicant, merely because it appears on the scene later in time, to bear the entire cost of imposing on other licensees spectrum efficiency measures that have a general public interest benefit.[113]

114. As the spectrum became more crowded, the Commission has decreased channel bandwidths,[114] required the addition of polarization diversity,[115] increased the channel loading and in other ways intensified the utilization of the available spectrum in order to accommodate the growth of demand for the spectrum resource.[116] In these situations, it has been our general policy to require each user to bear the cost of upgrading its own equipment to the new, more spectrum efficient standard.[117] This approach was adopted because radio spectrum is a public resource in which no user gains a vested right. Every time the Commission has found it in the public interest to mandate more efficient equipment, we have decided that each user had to share the burden of the additional equipment cost, as part of its right to continued use of the spectrum. Under this approach each station would bear the cost of modifying its own equipment in order to accommodate additional spectrum users.

115. The manner in which the Commission now allocates the cost of adding new television channels to the Table is contrary to the approach followed elsewhere when we have implemented spectrum conservation measures. The eventual permittee for a new television allotment bears the cost of offset changes of existing licensees necessary to accommodate the proposed new station. Although this procedure does not involve a sharing of the burden, it is not totally one-sided. The tradeoff is that the existing station consents to an immediate modification of its license to implement the needed offset adjustment, rather than waiting until the end of its three year license term or insisting upon a hearing. This benefits the new station and the public by allowing an earlier operational date.[118]

116. Continuation of this procedure may not be required in the future, if, in the context of this rule making, we determine that this type of shifting of costs is not in the public interest. The record on the desirability of maintaining or abandoning this practice is not sufficiently complete to warrant Commission action on the matter at this time. Accordingly, we will leave this question open for further comment. When the rules proposed today are considered for adoption by the Commission we will also define our policy, if indeed any is needed, on future conduct as to the allocation of costs in these circumstances. At this point, we believe the approach most consistent with the Commission's practices generally and most approach most consistent with the Commission's practices generally and most desirable from a public interest viewpoint would be to require each licensee to bear the cost of equipment modifications necessary for its continued use of the spectrum.

Use of Precise Offset

117. We also are considering the possibility of requiring the use of precise offset,[119] to provide further improvements in picture quality beyond that provided by our equivalent protection criteria.[120] This raises a corollary issue of how to allocate the costs of precise offset if its use were required. At the outset, we can state unequivocally that the use of precise offset is desirable and we wish to encourage its use. The use of precise offset has been demonstrated to improve the quality of reception of a desired signal in the presence of an undesired co-channel station by the equivalent of four to six dB.[121] As the VHF television spectrum becomes more valuable, reflecting both increasing demand for existing services and the increasing number of potentially beneficial uses of the spectrum, it becomes increasingly important that spectrum be used as intensively and efficiently as possible. Once a particular licensee receives limited rights to a portion of the spectrum, there is little or no incentive to be concerned about interference to other spectrum users (*e.g.,* to invest additional resources to replace current equipment with newer, more spectrum efficient equipment). In fact, to the extent that adjacent or co-channel spectrum users represent potential competitors, interference to them may benefit the licensee.

118. A major reason why the individual licensee does not have the incentive to make such investments is that it does not pay for the spectrum it uses. This has two effects: (1) If a licensee has unlimited free use of the spectrum protected by minimum separation requirements there is very little incentive to improve equipment to permit more intensive use of the spectrum; and, (2) because the licensee has a guaranteed market share arising from monopoly control over a particular portion of the spectrum resource, there is no motivation to negotiate with prospective competitors to reach an agreement by which new entry into its market can take place. Thus, in the absence of a spectrum fee it may be more in the public interest to require that resources be expended on equipment that permits more efficient use of the spectrum than and prospective new LFS operators. Since the technology for precise offset now appears to be available at a modest cost compared to the total investment in a VHF television station, the approach we shall propose will be one designed to foster its use in as many circumstances as possible.

119. We propose to use precise offset as an interference reducing tool that either new or existing licensees can use to capture (or recapture) service areas not guaranteed them by our equivalent

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[106] *See e.g., Techniques for the Evaluation of Proposed VHF TV Drop-Ins,* G.A. Hufford, OT Report 77-112 (July 1977).

[109] *See, e.g.,* Engineering Exhibit attached to petition for rule making (RM-2727) filed July 9, 1976 by the Group for the Advancement of Television Service.

[110] *Report and Order* in Docket Nos. 16004 and 18052, 53 F.C.C. 2d 855 *but see,* 56 F.C.C. 2d 749, 750 (1975).

[111] *Notice of Proposed Rule Making,* 63 F.C.C. 2d 840, at para. 66 (1977).

[112] When offsetting is not possible and synchronous carrier frequency control is not utilized, a 45 dB protection ration must be observed. *See* paragraph 94, *supra.*

[113] When precise offset is utilized both stations enjoy an enlargement of their coverage areas.

[114] Channel-Splitting in the Maritime Band, 156-162 MHz. 13 F.C.C. 2d 874 (1968); Frequency Allocations 450-470-MHz. Band, 11 F.C.C. 2d 648 (1968); Frequency Allocations 450-470-MHz. Band, 10 F.C.C. 2d 885 (1967); channel Splitting 450-470-MHz. Band, 8 R.R. 2d 1629 (1966); *Report and Order* in Docket No. 18263, 19 R.R. 1663, 1670 (1970). *Cf.* Report of the Advisory Committee on Land Mobile Radio Service, Vol 1 at 45 (1967).

[115] *See e.g., Notice of Proposed Rule Making* in Docket No. 21505, F.C.C. 79-310, 44 FR 32420 (June 6, 1979), 45 R.R. 2d 1203 (1979).

[116] *See e.g., Further Notice of Proposed Rule Making* in Docket No. 13847, 10 F.C.C. 2d 885, 896, paragraph 36 and 37 (1967).

[117] The Commission has also implemented antenna performance standards in the Common Carrier Point-to-Point Microwave and Private Operational Fixed Microwave Service, in each case requiring each spectrum user to bear their own costs. 47 CFR 94.75(b), note 1.

[118] *See e.g., Booneville, Mississippi,* 40 F.C.C. 2d 629, 634 (1973).

[119] Precise Offset is accomplished by offsetting a station's carrier frequency 10,010 Hertz and keeping it within about 2.5 Hertz of that frequency. To accomplish this, the station must be equipped with special equipment that currently costs approximately $10,000, but which should cost somewhat less in the future as the demand for this type of equipment grows. *See* paragraphs, 120-121 *infra.*

[120] *See* paragrph 106 *supra.*

[121] *See, Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 840 at paragraph 59 (1977).

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protection criterion. The 28 dB equivalent protection standard we propose to adopt as the cornerstone measurement of a station's protected service area limits objectionable interference to an area close to a station's noise limited Grade A contour (as defined in § 73.683 of the Rules). If a new station begins operating at the allowed minimum distance from an established station, there may be viewers in the established station's audience within the region between the noise limited A and B contours who will no longer be able to receive an acceptable picture from the established station. In addition, a very small portion of the predicted Grade A service area will be degraded to slightly less than Grade A service quality (but still better than Grade B). We have concluded, based upon the record in Docket No. 20418, that, because of terrain shielding in some cases, the ability to orient highly directional receiver antennas in others and the availability of substitute sources for the "lost" signal (e.g., cable systems), many of these potentially "lost" viewers will not be lost or can be recovered. We propose to reserve the use of precise offset as an additional safety factor to be used at the election of the affected stations.

120. Specifically, we propose to allow either of two stations so spaced that it receives interference within its noise limited Grade B contour (i.e., a D/U ratio of less than 28 dB at the noise limited Grade B contour) to elect to use precise offset to regain some of the potential service area lost to this mutual interference. If one station requests the use of precise offset, both stations will be required to use precise offset. Consistent with our general policy of distributing the cost of spectrum saving technologies among all users of the spectrum, we propose to require each station to bear the cost of its own equipment modification. This cost distribution is equitable, we believe, because both stations will enjoy larger interference-free Grade B service area as a result of the introduction of precise offset operation.

121. Since a station required to go to precise frequency offset operation by one co-channel station will face no additional cost if it requests that other co-channel stations interfering with its signal also be required to go to precise offset, we expect the majority of stations in the more spectrally crowded areas of the country to convert to precise offset over a period of time as a result of this chain of requests spreading. The introduction of this new equipment, with costs borne by all spectrum users, is appropriate for efficient utilization of the highly-valued spectrum in these high demand areas and the resultant more intensive use of the spectrum is clearly in the public interest.

IX. Additional Policy Considerations

122. The cumulative result of the technical and policy changes we propose above is a new orientation toward the expected service area of both existing and new VHF television stations. The existing Table of Television Channel Allotments is virtually saturated in medium and large markets. The objectives of the VHF television allotment scheme implemented by the *Sixth Report and Order* [122] have been substantially achieved. The only additional service that can arise from this spectrum must come from its more efficient utilization. A significant amount of VHF television spectrum remains vacant, though primarily it falls outside the Table, and largely outside the major markets. In the absence of demand for television services we might not be concerned about this unused spectrum capacity. But, in light of the continued strong demand for more television programming, both in terms of quantity and diversity offered, it cannot be in the public interest to allow this spectrum to remain fallow.

123. To achieve this greater efficiency, we propose to introduce a flexible allotment scheme that permits the tailoring of each station's effective radiated power (ERP) to use up to the full remaining capacity of these under-utilized spectrum areas, stopping short of causing more interference than was initially found acceptable under the *Sixth Report and Order*. The existing grid of VHF television allotments, and the fixed UHF television allotment scheme, will remain in place to guarantee basic television service to the vast majority (over 96%) of the population. Superimposed on this fundamental system, [123] we envision a patchwork of new limited VHF television allotments dictated in size not by a desire to provide broad universal coverage to large areas of the country, but rather defined by the existence of sufficient demand for television service to support a station. Of course the parameters of these new stations will be constrained by the limited amount of spectrum still available.

124. Since these new stations must fit into and protect an irregular distribution of existing stations, each will be unique to the particular underserved market it seeks to serve. Therefore, certain rules and practices used by the Commission to evaluate the desirability of creating new allotments or granting new license assignments, based on general criteria that were relevant to the 1950's, are no longer desirable. *See* Section VI, *supra*. The type of analysis used to consider and reject VHF drop-ins in the past is of questionable validity not only in terms of spectrum efficiency but also because it proceeds from the improbable assumption that the Commission, rather than the prospective broadcaster, has the most knowledge about the demand for additional service and the other criteria that determine how this remaining spectrum capacity might best be used. Thus, the justification for a proposed new allotment will not depend on how many people it can potentially serve, but rather on how many people will actually be interested in the service. The prospective broadcaster will define the desired service, limited only by the requirement that existing stations be protected from unacceptable interference, i.e., by providing equivalent protection, and by preclusion. *See* Section VI, *supra*. Since starting up a television station requires a large capital investment, we think it is unlikely that proposals for allotments serving minimal service areas will become a real source of spectrum waste. [124] Furthermore, the economic dynamics of television service creates a strong natural incentive for the businessman to try to serve as large an audience as possible. [125]

125. Consistent with this deemphasis of an idealized service area as a measure of a new station's desirability, we propose to no longer consider the "city grade service" or coverage of the complete "principal community" as a criterion when evaluating proposals for new VHF television allotments. [126] We expect the petitioner to seek an allotment that would serve as much of a potentially available audience as is technically feasible and will continue to award merit on this basis in rule making proceedings involving a selection between different cities. Outside of such situations, no consideration would be given to whether the service area of future LFS allotments are designed to comprise a complete city or urban area, or whether the complete "principal community" receives a "city grade signal." We propose this change for two reasons: (1) The areas of unmet demand may not conform exactly to city boundaries; and, (2) many potential LFS allotments (where spectrum is currently going unused) may not conform exactly to city boundaries. In neither of these situations should potential new service be denied because of geographical or historical accident.

126. It is our intention, for the present, to continue to require applicants for new channel allotments and LFS licensees to ascertain the programming needs of the "community" they serve. [127] Consistent with the flexibility with which LFS licensees can define their proposed service area, however, we propose to allow LFS licensees to define any "community" as their "principal community" for the purpose of Section 73.685(a) of the Rules. We also propose to allow LFS licensees to specify "communities" that are subdivisions of cities, towns, villages, or other political delineations, as well as contiguous combinations of such areas as their "principal community" for the purpose of ascertainment. [128]

127. Consistent with our more flexible interpretation of "community," we also invite comment on how the comparative licensing policy for LFS facilities could be modified to give comparative weight to applications proposing to serve "communities" defined other than geographically, e.g., for ethnic, racial, or cultural groups.

Notice to Existing Licensees.

128. When a request is filed with the Commission for the creation of a new VHF television allotment under the rules proposed today, existing licenses within a 200 mile radius may be affected. Stations to which the proposed station is short spaced must be provided equivalent protection or they will experience unacceptable interference. Furthermore, stations in the same or overlapping markets will experience increases competition. In addition, there may be other factors that warrant providing notice of any new allotment to these existing stations and to other parties. [129] Consequently, we will continue our practice of placing petitions for rule making to amend the Table on 30 days public notice prior to disposition of the request. In addition, to ensure direct notice to those licensees who may be required to provide protection to the LFS signal, we propose that the petitioner be required personally to serve notice to all co- and adjacent channel stations to which it has less than standard spacing. [130]

Impact on Vacant Allotments.

129. A small number of unused VHF television allotments still exist in smaller cities. Because an application for a new allotment creates the immediate prospect for a new television service while the vacant allotment holds only the promise of a new service that might someday go into service, we believe it is inappropriate to restrict the service area of proposed LFS allotments to protect allotments presently in the Table. [131] Thus, the rules we are proposing do not require equivalent protection of vacant allotments. Once a licensee has been granted for an LFS allotment, a subsequent proposal for use of any vacant allotment at less than the standard spacing from the LFS will have to provide equivalent protection to that LFS. The equitable issues in the distribution of frequencies can be addressed by all interested parties in the course of rule making to amend the Table of Television Channel Allotments, whenever an LFS allotment would have a preclusionary effect upon the use of a pre-existing allotment that lies vacant and unapplied for.

130. If an application to activate a vacant allotment at less than standard spacing from a proposed LFS is filed before the Commission grants the new allotment, we propose to consider the license application without regard for the short spacing to the LFS, and the LFS application will be required to modify its proposal to reflect the added full facility station. In order to eliminate the possibility that applications for vacant channels will be filed in these circumstances simply to delay the introduction of an LFS or to preserve the unrestricted status of a vacant allotment for some projected future demand, license applications filed under these circumstances will be rigorously scrutinized for any indication that they are motivated by a desire to delay the introduction of an LFS. Furthermore, we plan to adopt a policy of refusing to grant requests for extensions of construction permits ("C.P.'s") granted under these circumstances. If the proposed unrestricted facilities do not begin operation on schedule, extensions of C.P.'s of such stations will be granted only if they propose to provide equivalent protection to the LFS petitioners and licensees. [132]

131. We believe that applicants who are proposing to fill an immediate demand for service should be preferred over allotments that have been available for almost 30 years and yet remain vacant. Adherence to this new policy will result in the reallotment of

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[122] Adoption of the Table was predicated on three primary considerations: (1) Efficient use of the spectrum allocated to television; (2) a truly universal nationwide television service and, (3) preventing procedural delay in the granting of licenses. *Sixth Report and Order*, 41 F.C.C. at 152 (1952).

[123] Which serves, among other purposes, the statutory goal of guaranteeing a fair and equitable distribution of this radio service to all citizens. 47 U.S.C. 307(b) (1962).

[124] Assuming a straight line depreciation over 15 years, it is estimated that the annual cost associated with a transmitter and antenna, including its electrical needs is $55,360 and $82,350.00 respectively for 100 KW (low VHF) and 316 KW (high VHF). These figures are exclusive of the cost of personal, building and plant, especially studio equipment. *Staff Report on: Comparability for UHF Television*, Table 5–1 at 76 (September 1979). The low power television service, adopted by the Commission in a rulemaking on September 9, 1980, provides a less expensive option for achieving this objective. *See* NPRM in Docket No. 78–253, 45 FR 69178 (October 17, 1980).

[125] For example, of the 583 commercial VHF television stations licensed in the 48 contiguous states, 531 have facilities that result in a predicted noise limited Grade B contour within 20 miles of the maximum possible Grade B contour (i.e., 60 miles of a possible 80 mile radius, or 45 of a possible 65 mile radius.)

[126] *See* 47 CFR 73.685; *WSTE–TV, Inc. v. F.C.C.*, 41 R.R. 2d 1117 (1977), 33 F.C.C. 2d 435,451 (Rev. Bd. 1972); *Shenandoah Valley Broadcasting, Inc.*, 5 R.R. 2d 552 (1965); *Central Coast Television*, 2 F.C.C. 2d 306 (1966), 14 R.R. 2d 575 (Rev. Bd. 1968); *Cf. Riverside Amusement Park Co., Inc.* 69 F.C.C. 2d 1040 (1978).

[127] Section 73.685(a) of the rules requires each license to cover its "principal community" with a "city grade signal". This same principal community is the licensee's area of primary responsibility for ascertainment purpose. *See Ascertainment of Community Problems by Broadcast Applicants (Primer)*, paragraph 10, 36 FR 4093 (March 3, 1971).

[128] Accordingly, LFS licensees would not be bound by the earlier definitions of principal community in 73.685(a) of our Rules and cases such as *Capitol Broadcasting Co.* 5 R.R. 2d 231 (1965); *KSD/KSD–TV, Inc.* 38 R.R. 2d 1208, 1211, paragraph 11 (1976); *North American Communications Corp.*, 44 R.R. 2d 1635, 1643, paragraph 11 (1976); *North American Communications Corp.*, 44 R.R. 2d, 1208, 1211, paragraph 7 (1978). Cf. *Notice of Inquiry and Proposal Rule Making* in BC Docket No. 80–130, 45 FR 26390 at paragraph 15 (March 18, 1980).

[129] For example, existing stations may wish to relocate their transmitter antenna facilities prior to Commission approval of a nearby LFS allotment in order to avoid the requirement that they provide equivalent protection to the LFS. *See* paragraph *30, supra*.

[130] *See paragraph 99, supra*, specifying the circumstances under which we propose to require existing stations to provide protection to LFS allotments. Existing stations will have the period between, for example, the date an application for a new VHF allotment is put on public notice and the close of the comment period in the rule making proceedings proposing the new allotment in which to request changes in their facilities without being required to protect the proposed new allotment. Extensions of time on construction permits (C.P.'s) granted to existing stations under these circumstances will not be extended so that C.P.'s are not used as a means of preventing or delaying the introduction of a new allotment into an area.

[131] Because they are located primarily in small cities more than the minimum mileage separation distances from the top 100 markets, only two of the existing vacant educational allotments are close enough to a top 100 market to be significantly affected by the addition of an LFS allotment. We, therefore, do not propose special rules regarding the protection of vacant educational channels.

[132] Since our proposed new policy of not granting C.P. extensions under these circumstances could have harsh repercussions in certain circumstances, applicants for new or changed facilities at less than standard spacing from a proposed LFS should be careful to ensure that construction is completed within the 18-month period provided for by § 1.598(a) of the rules.

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spectrum from the potential Grade B contour of the vacant standard spaced station to the actual Grade B contour of a soon to operate LFS station.

132. We conclude that this reallotment is desirable for several reasons. First, and foremost, this shifting of spectrum capacity will meet existing demand for new service. Thus limited spectrum will be realloted to areas where there is immediate demand for its use. Second, although there may be some shifting of maximum potential service area from the vacant allotment to the LFS allotment, we consider the potential service area thus shifted to be relatively unimportant. The radius of the interference limited Grade A contour of a typical VHF station is roughly 30 miles. Even with some restrictions imposed on it, the Grade A contour of a normally equipped station outside the largest cities (none of which have vacant television allotments) is many times larger than any city or metropolitan area to which it would be licensed. Thus there is little likelihood that the loss of even a substantial percentage of its potential Grade B service area will seriously affect a vacant allotment's ability to serve its designated city or seriously decrease its potential audience.

133. Third, the Low Power Television service we proposed in our *Notice of Proposed Rule Making* in BC Docket No. *78–253* adopted on September 9, 1980,[133] presents a much nore cost effective,[134] spectrally efficient,[135] substitute to the use of full power station allotments to provide service to a medium or small urban area. Given these considerations, we think it is in the public interest to make this spectrum available to those wishing to provide new service now.

Impact on Translators and Low Power Stations

134. Some of the proposed additions to the Table of Television Channel Allotments likely to be received as a result of the proposed rule changes will be for the use of frequencies currently utilized by television translators under Part 74, Subpart G, of our Rules. In addition, in a separate, recently instituted proceeding, we propose to create a new "Low Power Television Service" that may add hundreds of additional secondary[136] spectrum users to the VHF television bands. As television spectrum utilization outside the major urban centers intensifies (partially as a result of the various rule changes we propose today), situations will arise where existing translators and low power television will be forced to change frequencies by recrystalizing or, less frequently, by buying new UHF equipment because of the addition of an LFS close to their service area. In paragraph 206 of the *Notice of Proposed Rule Making* in Docket No. 20418, it suggested that the cost associated with this type of frequency shift of the translator (and, in the future, Low Power Television Stations) might be borne by the VHF Drop-in applicants.[137] After careful consideration of the equities involved, we conclude that it may not be in the public interest to burden potential applicants for full service VHF television stations with the cost of accommodating secondary spectrum users. Secondary spectrum usage is a license status accepted by this type of licensee with full knowledge that its user privileges are subordinated to the needs of those proposing to use the spectrum for the purpose to which it was principally allocated. There is no expectation of any repayment for costs incurred or user opportunities supplanted as a result of the licensing of a primary service spectrum user. Allowing this cost shifting in the circumstances at hand would be inconsistent with this fundamental spectrum management principle and would create a misleading and inappropriate precedent. Users in a secondary service implicity accept this risk in return for the use of spectrum that otherwise would not be available. If the spectrum they occupy is needed for its primary use, no payment or substitute spectrum is expected or required, especially from the primary user the status was designed to protect. We therefore propose not to require applicants for VHF assignments to pay for costs incurred by secondary television services.

Policy Favoring the Highest Possible Transmitter Antenna Height

135. If a licensee of a station with facilities below the maximum permitted in the Table wishes to enlarge its service area, there are two basic ways of accomplishing its goal: Increased transmitter power and increased transmitter antenna height.[138] If the licensee chooses to expand its service area by increasing its transmitter power (e.g., achieving a 6 dB increase by quadrupling its transmitter output power), for every 1 dB increase in its viewable signal there is an approximately 1 dB increase in its signal strength beyond its viewable area. In other words, using higher transmitter power to increase service area also proportionately increases potential interference caused to other stations. If the same service area increases are accomplished by increasing antenna height (e.g., a 6 dB gain by doubling antenna height) a 1 dB increase in the service area signal strength is accompanied by a much smaller increase in signal strength beyond the horizon, far from the areas where the station is viewable. Increasing antenna height increases service area primarily by increasing the radius of the station's line of sight signal coverage area rather than by increasing distant signal strength. The greater spectral efficiency of the increased antenna height approach is obvious.

136. The Commission is interested in encouraging the selection of equipment configurations that provide the most efficient possible use of the spectrum. Because of countervailing consideration such as: (1) The great cost of constructing self supporting towers; (2) restrictions on tower site availability or height because of air navigation safety considerations, or (3) the possibility of shared use of existing, but less than maximum height towers at a great cost saving, we do not believe it is desirable to propose rules defining minimum antenna heights for either new or all licensees at this time.[139] On the other hand we do wish to encourage the selection of the highest practicable tower whenever existing VHF television facilities are changed or new facilities proposed. By way of furthering this objective, we propose that the maximum power an LFS may radiate is to be calculated on the basis of an assumed maximum antenna height. If the applicant proposed a less than maximum antenna height, it may not increase its proposed output power to regain lost service area above the maximum allowable had the maximum antenna height been selected. As a result, only by selecting maximum antenna facilities will the licensee enjoy the largest potential viewership.

137. In addition, in situations involving competing technical proposals, such as comparative hearings between mutually exclusive applicants for the same allotment, we propose to award a comparative merit to proposals incorporating the greater spectral efficiency of higher antennas. Beyond these limited proposals, we will accept comments and solicit suggestions on regulatory mechanisms that will encourage this and similar conscious choices concerning spectrum efficiency by current and future users of the VHF television spectrum.

Substitutes for Lost Service Area

138. As discussed in paragraphs 90–93, *supra*, the radius of the Grade A and B contours of a full facility VHF television station (i.e. operating with the maximum permitted facilities several hundred miles from either co- or adjacent-channel stations) is predicted on the basis of the signal levels calculated using the FCC propagation curves.[140] The radius of a "noise limited" Grade B contour is significantly greater (e.g. 15–30 miles farther away) than the radius of an "interference limited" contour of a maximum facility station surrounded by maximum facility co-channel stations at minimum spacing. These limited contours involve the same type of statistical predictions of average signal conditions as the noise limited Grade A and B contours.

139. A television station that operates completely free of interference from all other television stations is assumed to experience a reduction in coverage from its noise limited boundary to its interference limited boundary when a maximum facility station placed at the minimum spacing from it begins operation.[141] An equal or smaller reduction of its predicted Grade B coverage is expected when an LFS that is placed at less than standard distance from it begins operation in conformity with our proposed "equivalent protection" criteria. In either case, a theoretical crescent shaped "loss" area will be created within its predicted noise limited Grade B contour but outside its predicted noise limited Grade A. Within this "loss" area an unknown number of that station's distant viewers may experience some loss in quality of service with their existing television equipment.[142] We are proposing the addition of such VHF stations despite this conclusion because we are confident that much more new television service (and local service at that) would be created as a result of the more intensive utilization of the VHF television spectrum we are proposing today. Simply stated, many people would gain service and a few would lose service. The overall public interest would be best served by introducing the new station even if some viewers suffer a reduction in service. As will be shown, in most cases the loss of service will be minor, generally would involve the loss of relatively distant signals, and in many cases may be remedied by the use of directionalized receiver antennas and precise offset.[143]

140. Highly directional receiver antennas are routinely available to consumers and are in widespread use in outlying areas.[144] If distant viewers of a station lose service because of the addition of an interfering station, in most cases a solution is available. Those with highly directional rooftop antennas can, in effect, tune their receiver system to recapture the impaired signal by either pointing the highest gain "lobe" of the antenna towards the desired station or pointing the lowest gain "null" of their antenna towards the interfering station. Those viewers with low gain rooftop antennas (or no outside antennas at all) have the option, if that lost service is sufficiently valuable to them, of purchasing better (i.e., higher gain) antenna systems and adjusting them during installation to take into account the possible interference. Furthermore, cable television service and translators are increasingly available as a means of regaining this lost service.

141. A second reason we use the term "loss" advisedly is that in some instances the predicted service "loss" is either the "loss" of service that was never available or, if previously available, will not in fact be lost as a result of the addition of a new station. If rough terrain or mountains exist between a station and an area predicted to be within the station's noise limited Grade B contour, terrain attenuation can result in a usable signal being received in a significantly smaller percentage of the locations than the present FCC curves predict. These viewers will not lose service since they never received the service in the first place. Similarly, in some instances there are mountains or rough terrain between the theoretically predicted lost viewer and the interfering signal. In these instances, service that the FCC propagation curves predict would be lost due to interference caused by the new signal will not be lost because the level of the interfering signal will be significantly below the theoretically predicted level.

142. A third reason for treating predictions of lost service with caution

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[133] *Notice of Proposed Rule Making* in BC Docket No. 78–253, note 124 *supra*.

[134] The projected cost of a low power television station will be significantly below the cost of a full service station because of its limited technical capabilities and the less demanding technical standards we are proposing for that service. Thus, for small coverage areas, low power television should be more cost effective than a full service station.

[135] Because of the § 73.614(a) requirement that VHF television stations radiate a minimum of 100 Watts in every direction and our assumption when calculating equivalent protection ratios that the LFS is operating with the maximum permitted antenna height, the minimum co-channel spacing of LFS allotments will be on the order of 100 miles. If a prospective broadcaster, who wished to serve a very small service area utilizes an LFS station two inefficiencies may result. First, he will be required to radiate a least 100 watts in every direction resulting in a service area of about 1,000 square miles; possibly much more than he wishes to serve. Second, no one else could use that VHF channel for primary services within approximately 100 miles of him, needlessly tying up more spectrum than might otherwise be the case. Thus, when small coverage areas are desired, the low power television service we will be a more spectrum efficient choice.

[136] We use "secondary" here in the technical sense of the word, meaning a user who may not cause harmful interference to primary spectrum users and must accept harmful interference from them.

[137] 63 F.C.C. 2d 480 at paragraph 208 (1977).

[138] Going to precise offset and encouraging the use of better receiver antennas and lead-in can also be options.

[139] *But Cf. Notice of Proposed Rule Making* in BC Docket No. 80–90, where the Commission placed a stricter requirement on FM radio stations by proposing rule changes that require FM radio

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stations to have certain minimums for antenna height or be subject to reclassification to a lower class of station. BC Docket No. 80–90, 45 FR 17602 at paragraph 9 (March 19, 1980).

[140] The fact that we refer to these curves as predictions is significant. The curves are statistical averages and so cannot be relied on to predict precisely the actual presence or absence of service at a given distance from a station. Furthermore, as highlighted above in paragraphs 109–111, *supra*, the FCC propagation curves do not take into account the presence of large obstructions such as mountains or extremely rough terrain. Thus the interference limited contours and the strength of interfering signals from distant television stations may both be significantly overstated for specific situations.

In addition, these contour areas, in and of themselves, are average statistical descriptions of difficult to characterize, extremely variable parameters, signal strength and resultant picture quality at great distances from the transmitter site. By definition (*See* § 73.683) only the best 50 percent of the locations receive the prescribed signal level (e.g. a signal strong enough to produce a TASO 3 picture or better 90 percent of the time. A TASO 3 picture is a picture of acceptable quality that displays perceptible, but not objectionable interference. This is further complicated by the included assumptions that 30 foot rooftop antennas are used, that the receiver antennas are nondirectional, that all receivers have average performance characteristics.

[141] We note that § 73.612 of the rules provide for reduction of service area and specifies that licensees are not entitled to protection from this "new interference" if the interference is "caused by the grant of a new station * * * in accordance with the provisions of the subpart of the rules." 47 CFR 73.612(a) (1978). For this reason existing stations cannot prevent the addition of a new channel to the Table on the basis of allegations that peculiar conditions will result in more than the predicted amount of interference. Any interference resulting must be tolerated. As a practical matter, the safety factors discussed, *supra*, in paragraphs 106, 109, and 117 have minimized the amount of actual harmful effects, minimizing the amount of controversy that has actually resulted.

[142] We use the term "loss" advisably for a series of reasons outlined *infra*, at paragraphs 140–145.

[143] *See* also paragraphs 106–8, *supra*.

[144] *See* paragraphs 103–108, *supra*. Outdoor television receiver antennas are available with a wide range of performance characteristics. *See Staff Report on: UHF Comparability (A Preliminary Analysis)* Philip B. Gieseler, *et al.* (September 1979) and studies cited therein. Thus, by selecting an appropriate receiving antenna the consumer could potentially "engineer" his reception system to his signal environment.

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is the probable adjustment of television reception equipment characteristics to reflect the changes in the signal environment as we move from a noise limited to an interference limited television service delivery situation. In several technical respects, for example, adjacent channel interference susceptability, the performance of television receivers has not improved perceptibly in thirty years. This is true despite the introduction of several generations of improvement in other communications services that use the radio spectrum—improvement that relies on technical innovations that could be incorporated into television reception equipment e.g., solid state devices with unusually low noise figures, or highly selective tuners, or receiver antennas with significantly improved front-to-back ratios. Equipment manufacturers operate in a highly competitive environment and are responsive to market demand. The lack of improvement in such reception equipment results from the lack of market place pressure to produce equipment with superior performance of this type. That is, our rigid mileage separation rules have made efforts to improve in these areas unnecessary.[145]

143. The television reception equipment market is essentially both unregulated and extremely competitive. Few performance characteristics are presently mandated by the FCC rules as a precondition for type certification of new receiver models. No performance characteristics are presently mandated for receiver antennas or lead-ins. Since most existing television stations are spaced well beyond the standard co- and adjacent-channel spacing, a significant percentage of today's television service is noise limited (that is, limited as a result of random and atmospheric noise), rather than interference limited. As a result, there is little present consumer demand for television reception equipment with the characteristics that are suited for the interference limited environment that will result if every bit of available VHF television spectrum is utilized to its full capacity.[146]

144. The same marketplace forces that currently direct engineering energies in other directions can direct this energy towards improved television receivers and antennas if our rules changes create the appropriate incentives. As the spectrum becomes more congested, consumers will desire (and, hence demand) television receivers that are more selective and less susceptible than their 1950–1980 predecessors.[147] Superior antennas that can resolve much of the cochannel interference problems may become standard equipment. As a result, much of the theoretical service "loss" will be lost in a temporary sense only. Thus, over time, improvements in receivers and antennas should do much to reverse any degradation experienced by viewers as a result of the proposals we make today.

145. A last reason we do not believe the issue of service "loss" is of overriding concern is because we recently also proposed a source of substitute service that we believe will provide a more spectrally efficient means of serving the small population pockets that typically make up the audience out near a station's Grade B contour. The most opportunity for new VHF allotments will be outside the 10 largest cities. In these markets, urbanized areas rarely approach the 20 to 40 mile radius of a full power station's Grade A contour. Fifty to eighty miles from the station's antenna at the noise limited Grade B contour, where potential service loss could take place, most viewers live in small towns or cities that are a fraction of a mile in diameter. Currently, to provide service to these scattered population pockets, stations in the distant urban centers blanket hundreds of miles of scarcely populated land with high power signals. In the Low Power Television Notice of Proposed Rulemaking, *supra*, we are proposing a new television service that will permit the creation of small local television outlets with signal patterns tailored exactly to cover each pocket of unsatisfied television demand. Our proposal here and our Low Power Television proposal, in effect, go hand in hand. We believe that the new low power television service, together with other alternative delivery systems, future improvements in television receivers, the installation and use of directional receiver antennas, and the safeguards implicit in the FCC propagation curves and contour definitions, will overcome any actual, short term losses of present television service as a result of the rule changes we propose. When this limited amount of loss is weighed against the large amount of additional service that will result, the public interest choice is clear.

Conclusion

146. The rule changes the Commission proposes today would constitute only a small, though extremely significant, step in our procedures for identifying potential new VHF television allotments and selecting who will be assigned a license to operate on that channel. Petitioners for new allotments will continue to be scrutinized by the Broadcast Bureau's Policy and Rules Division to ensure that use of the spectrum in other communities where a demand exists is not more in the public interest. Prospective licensees would continue to be scrutinized by the Broadcast Bureau's Facilities Division, though the burden of providing a "city grade" signal over the entire community of license and the requirement that the community of license be a particular type of "community" would be significantly deemphasized. New VHF television allotments made possible by the proposed changes would be assigned to licensees who would be traditional, full fledged television broadcasters in every other sense. The Commission's rules involving technical standards, fairness and political broadcasting, public service programming, licensee qualifications, and obscenity would apply in full to these new licensees exactly as they are now applied.[148]

147. We are proposing a fundamentals change of one particular criterion for determining where VHF allotment will go. In place of a rigid system of fixed mileage separations, we are proposing to maximize the flexibility with which entrepreneurs can utilize the limited remaining VHF television spectrum capacity. We propose to employ as a principle feature of our new rules a technical criterion long recognized and utilized by the Commission—"equivalent protection"—which will simplify the procedure by which stations are to be engineered to fit into fragments of unused spectrum too small for standard spaced allotments. This rule change, if adopted, would allow the creation of dozens of new VHF television stations in areas where there is still a stong unsatisfied demand for additional television service, utilizing spectrum capacity that would otherwise remain unused. Careful consideration of this potential for new service is clearly in the public interest.

148. In proposing this change in our station separation standards we recognize that we are reexamining a proposal that was considered and rejected by the Commission both during its deliberations that culminated in the *Sixth Report and Order* and twice since.[149] We conclude, however, that a reexamination of this question is now appropriate. Technology has changed. We now have computer programs that will calculate variable effective radiated power and protected contours in an efficient and accurate manner. Alternative video technologies are in use or on the threshold of introduction that will mitigate service losses that might be caused by the more heavy use of VHF television spectrum. And the UHF television service has matured, no longer requiring absolute protection from VHF television competition.

149. In order to maximize the flexibility of this new allotment criterion the Commission also proposes a number of related, minor rule changes. The proposals relating to a flexible definition of community, the relaxation of the "city grade" signal requirement, and the proposal to allow more directional transmitter antennas will ease the problems associated with utilization of the remaining spectrum capacity by eliminating restrictions that now prevent the addition of some possible allotments and that would be even more restricting under the proposed new allotment system.

150. Lastly, we are proposing several changes in our rules and policies that are consistent with the increased value of the spectrum resource and consistent with each licensee's status as a prospective user of a public good that is entrusted to its use without charge. The Commission proposes to change its procedures to encourage the use of certain spectrum saving techniques, such as carrier offset, precise carrier offset, sychronous carrier, higher transmitter antennas, and the freer reallotment of unutilized or underutilized spectrum to more immediate potential users.

151. Taken as a whole, these proposals may result in the most significant potential for new VHF television service since the 1952 *Sixth Report and Order*. In adition to public comment on these proposed rules, the Commission welcomes public comment on the policy changes being proposed, for example the way that we propose to allocate the cost of spectrum saving equipment. We also solicit further comment on specific proposals set out in the *Notice of Proposed Rule Making* in Docket No. 20418,[150] but not carried over as specific rule proposals here—for example, the question of how to incorporate a terrain shielding factor into our propagation curves. Possible further refinements in our allotment policies and procedures, based upon these comments, could then be considered in a further notice in this proceeding.

152. Accordingly, it is proposed to amend Part 73 of the Commission's rules and regulations as set forth in the attached Appendix.

XI. Procedural Matters

153. Interested persons desiring a VHF television allotment at a specific community that would be available only under the proposed rules should not submit a petition for rule making to amend the Table of Television Channel Allotment (Section 73.606(b)) during the comment period. Rather they should wait until a decision is made in this proceeding. Assuming positive Commission action, the request would then be made through the normal "petition" procedures (*see* Section 1.401 *et.al*).

154. Authority for the actions taken herein is contained in Section 4(i), and 303(a), (b), (c), (d), (e), (f), (g), (h), (n) and (r) of the Communications Act of 1934, *as amended*.

155. Pursuant to precedures set out in §§ 1.4, 1.415, and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before December 15, 1980, and reply comments on or before February 15, 1981. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

156. In accordance with § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying docket number BC 80,499.

157. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

158. For further information concerning this proceeding contact Benjamin Perez, Federal Communications Commission, Broadcast Bureau, 1919 M Street, NW., Washington, D.C. 20554. Phone (202) 632–3861. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contracts presented to the Commission in proceedings such as this one will be disclosed in the public docket file.

159. All comments, reply comment, and other matter in the record of Docket No. 20418 are hereby incorporated into the record of this proceeding.

160. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she should follow the Commission's procedures governing *ex parte* contacts in informal rule making. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554. Phone (202) 632–7000.

Federal Communications Commission.[151]

William J. Tricarico,

Secretary.

APPENDIX

PART 73—RADIO BROADCAST SERVICES

It is proposed to amend Parts 73 and 1 of the Commission's rules and regulations as follows:

[145] The Commission has recently acted to stimulate the improvement of several television receiver characteristic by financing the development of "improved" television receivers. *Final Report for High Performance TV Receiver*, D. L. Ash and C. B. Hartmann, Texas Instruments Inc., FCC/OCE CE 78-01 (March 1978). RF Monolithics, Inc. contact to develop a prototype Improved High Performance Receiver with superior selectivity. FCC News (June 1, 1979) "FCC Issued Contract for Improved High Performance Television Receiver."

[146] *Cf. Notice of Inquiry* on *Radio Frequency Interference to Electronic Equipment*, General Docket No. 78-369, 43 FR 56062 (November 30, 1978).

[147] Even absent any changes in our VHF allotment rules, some of these improvements will be necessary in order to preserve the present level of service because the home spectrum environment is rapidly changing in many respects. With the increasing popularity of personal communication systems such as C.B's, home computers, paging devices, mobile telephone, wireless or electronic switches, and door openers, the home environment is becoming more and more crowded with potential sources of interference. This situation has already dramatically increased the number of complaints of radio frequency interference to television receivers. Commission investigations have determined that most of the problems result from the interference susceptibility of the television receiver being affected and not the improper operation of the source originating the interfering signal. This matter is under consideration in the Commission's outstanding *Notice of Inquiry* in Gen. Docket No. 78-369 released November 21, 1978.

[148] The Commission will, of course, continue its ongoing process of revising rules that have became outmoded or undesirable, but such rule changes will apply to all television broadcast licensees, whether LFS, full facility VHF or UHF station operator.

[149] *Sixth Report and Order* at para. 129, 41 F.C.C. at 206 (1952); *Intermin Policy on VHF Television Channel Assignments*, Docket No. 13340, 21 R.R. 1695, 1697 (1961); *Second Report on Deintermix*, in Docket No. 11532, 13 R.R. 1575–1576 (1956); *Report and Order* in Docket Nos. 14231–14238, 25 R.R. 1687, 1692 (1963).

[150] *Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 480 (1977).

[151] See attached statements of Chairman Ferris and Commissioners Lee, Quello and Washburn.

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1. It is proposed to revise § 73.606(a) to read as follows:

§ 73.606 Table of Television Channel Allotments.

(a) *General.* The following table of allotments contains the channels alloted to the listed communities in the United States, its Territories, and possessions. Channels designated with an asterisk are allotted for use by noncommercial educational broadcast stations only. A station on a channel identified by a plus or minus mark is required to operate with the carrier frequencies offset 10 kHz above or below, respectively, the normal carrier frequencies. When a station is required by § 73.1545(c)(3) to operate with a carrier frequency tolerance of ±3 Hz in lieu of ±1,000 Hz, on a channel identified by a plus or minus mark, it shall operate with the carrier frequencies offset 10,010 Hz above or below, respectively, the normal carrer frequencies. Channels designated with an "L" are allotted for use by stations with a limited effective radiated power in the direction of a co-channel or adjacent channel station where the distance between stations is less than the standard minimum distance separation.

* * * * *

2. It is proposed to amend § 73.610 by revising the introductory clauses of (b) and (c) and by adding (b)(3) and (c)(3) to read as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(b) Minimum co-channel allotment and station separations:

(1) * * *

(2) * * *

(3) Limited allotments may be located at communities separated by distances less than those specified in this paragraph. Stations occupying allotments which are so limited must meet the requirements of § 73.614(b)(5).

(c) Minimum allotment and station adjacent channel separations applicable to all zones:

(1) * * *

(2) * * *

(3) Limited allotments may be located at communities separated by distances less than those specified in this paragraph. Stations occupying allotments which are so limited must meet the requirements of § 73.614(b)(5).

* * * * *

3. It is proposed to revise § 73.612(b) to read as follows:

§ 73.612 Protection from interference.

* * * * *

(b) When the Commission determines that grant of an application would serve the public interest, convenience, and necessity and the instrument of authorization specifies an antenna location which results in a distance separation less than that specified in this subpart, TV broadcast station permitees and licensees shall be afforded protection from interference equivalent to the protection afforded under the minimum distance separation specified in this subpart. Such equivalent protection shall be determined in accordance with the provisions of § 73.614(b)(5).

* * * * *

4. It is proposed to add a new § 73.614(b)(5) as follows:

§ 73.614 Power and antenna height requirements.

* * * * *

(b) * * *

(5) The procedure for determing the restriction on the maximum effective radiated power of a station operating on a limited allotment shall be as follows:

(i) A straight line will be drawn between the proposed site of the new station and the site of the existing co-channel or adjacent channel station which is to be afforded protection. This line will be extended beyond the location of the proposed new station to a distance from the existing station equal to the standard minimum separation that would apply to the zone location of the actual proposed site.

(ii) A hypothetical station will be assumed to be operating at a point on this line that is at the standard minimum separation determined in subparagraph (5)(i) of this paragraph. This hypothetical station will also be assumed to have a circular radiation pattern centered on the hypothetical site and to be operating with the following parameters: Zone I, Channels 2 to 6 inclusive—100 kW ERP and 1000 ft.; Zone I, Channels 7 to 13 inclusive—316 kW ERP and 1000 ft.; Zones II and III, Channels 2 to 6 inclusive—100 kW ERP and 2000 ft.; Zones II and III, Channels 7 to 13 inclusive—316 kW ERP and 2000 ft.

(iii) Regardless of the actual power and antenna height employed by the existing station, it will be assumed to be operating with the maximum facilities for the zone in which it is located as detailed in subparagraph (5) (ii) of this paragraph, and it too will be assumed to have a perfectly circular radiation pattern center on its transmitter site. For co-channel stations, the "interference limited" contour resulting from the assumed operations will then be established as the line through all points where the estimated F(50,50) signal of the existing station is exactly 28 decibels higher than the estimated F(50,10) signal of the hypothetical station. For adjacent channel stations, the "interference limited" contour resulting from the assumed operations will then be established as the line through all points where the estimated F(50,50) signal of the existing station is exactly equal to the estimated F(50,50) signal of the hypothetical station.

(iv) If the proposed new station is located in Zone I and its proposed antenna height is less than 1,000 feet above average terrain, it will be assumed to have an antenna height above average terrain of 1,000 feet for determining its power limitation. If the proposed new station is located in Zone II or Zone III and its proposed antenna height is less than 2,000 feet above average terrain, it will be assumed to have an antenna height above average terrain of 2,000 feet for determining its power limitation. If the proposed antenna height above average terrain is greater than 1,000 feet in Zone I or 2,000 feet in Zone II or III, the actual proposed antenna height above average terrain is to be used for determining the power limitation.

(v) For co-channel stations, the proposed new station shall reduce its effective radiated power to the extent necessary so that its estimated F(50,10) signal is at least 28 decibels below the estimated F(50,50) signal of the existing station (45 decibels lower in the case of non-offset, nonsynchronous carrier operation) at any point on or within the interference limited contour of the existing station, established as set forth in subparagraph (5)(iii) of this paragraph. For adjacent channel stations, the proposed new station shall reduce its effective radiated power to the extent necessary so that its estimated F(50,50) signal is not greater than the estimated F(50,50) signal of the existing station at any point on or within the interference limited contour of the existing station, established as set forth in subparagraph (5)(iii) of this paragraph.

* * * * *

5. It is proposed to revise § 73.683(c)(4) to read as follows:

§ 73.683 Field strength contours.

* * * * *

(c) * * *

(4) In determining equivalent protection using § 73.614(b)(5).

* * * * *

6. It is proposed to revise § 73.684(a) to read as follows:

§ 73.684 Prediction of coverage.

(a) Except for limited facilities stations, predictions of coverage made pursuant to this section shall be made without regard to interference and shall be made only on the basis of estimated field intensities. Limited facilities stations may include a supplemental showing of their interference limited contours to demonstrate compliance with § 73.636. The peak power of the visual signal is used making predictions of coverage.

* * * * *

7. It is proposed to revise § 73.685 (a) and (e) to read as follows:

§ 73.685 Transmitter location and antenna system.

(a) Except for stations oprating on limited assignments (See § 73.606(a), the transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum field intensity in decibels above one microvolt per meter (dBu) will be provided over the entire principal community to be served:

Channels 2–6, 74 dBu
Channels 7–13, 77 dBu
Channels 14–83, 80 dBu

Stations operating on limited assignments are expected to serve as much of their principal community as possible, but no minimum field intensity is required.

* * * * *

(e) An antenna designed or altered to produce a noncircular radiation pattern in the horizontal plane is considered to be a directional antenna. Antennas purposely installed in such a manner as to result in the mechanical beam tilting of the major radiation lobe are included in this category. Stations operating on Channels 2–13 and stations operating on Channels 14–83 with transmitters delivering a peak visual power output of more than 1 kilowatt will not be permitted to employ a directional antenna having a ratio of maxiumm to minimum radiation in the horizontal plane in excess of 15 decibels. Stations operatng on Channels 14–83 and employing transmitters delivering a peak visual power output of 1 kilowatt or less are not limited as to the ratio of maximum to minimum radiation.

8. It is proposed to revise § 73.687(c)(1) to read as follows:

§ 73.687 Transmission system requirements.

* * * * *

(c) *Requirements applicable to both visual and aural transmitters.*

(1) Automatic means shall be provided in the visual transmitter to maintain the carrier frequency within one kilohertz of the authorized frequency; automatic means shall be provided in the aural transmitter to maintain the carrier frequency 4.5 Megahertz above the actual visual carrier frequency within ± one kilohertz. If pursuant to § 73.1545(c)(3), a carrier frequency tolerance of ± three Hertz is required, automatic means shall be provided in the visual and audio transmitter to maintain the carrier frequencies with ± three Hertz of the authorized carrier frequencies.

* * * * *

9. It is proposed to add a new § 73.1545(c)(3) as follows:

§ 73.1545 Carrier frequency departure tolerances.

* * * * *

(c) *TV stations. (1)* * * *

(2) * * *

(3) In a situation where two co-channel stations are causing unacceptable interference to each other, the Commission may, upon a showing of such interference by either licensee or permittee, require a visual and aural carrier frequency tolerance of ±3 Hertz in lieu of the ±1000 Hertz tolerances specified in subparagraphs (1) and (2) of this paragraph. For this purpose "unacceptable interference" is defined as occurring where the F(50,10) signal from an interfering co-channel station is less than 28 dB below the Grade B contour of the requesting station as defined by § 73.683(a).

PART 1—PRACTICE AND PROCEDURE

10. It is proposed to revise § 1.401(d) to read as follows:

§ 1.401 Petition for rule making.

* * * * *

(a) Petitions for amendment of the FM Table of Assignments (§ 73.202 of this chapter) or the Table of Television Channel Allotments (§ 73.606) shall be served by petitioner on any Commission licensee or permittee whose channel allotment would be changed by grant of the petition. Petitions for amendment of the Table of Television Channel Allotments which request a limited allotment shall be served by petitioner on any Commission licensee or permittee whose station the proposed allotment would be limited to protect (§§ 73.610(b)(3), 73.610(c)(3) and 73.614(b)(5)). The petition shall be accompanied by a certificate of service on such licensees or permittees. A draft Notice of Proposed Rule Making may be submitted with a petition for amendment of the FM Table of Assignments or Table of Television Channel Allotments.

September 18, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: VHF Drop-In Rulemaking Proposal

When the Commission unveiled the original VHF television allocation scheme in 1952, unleashing the potential of TV, it could not have predicted the choice and diversity this medium would offer. Twenty-eight years have passed, and demand to serve the public with new channels has burgeoned, not quieted.

Today's proposals would alter our method of adding new channels to the nation's VHF television table of allotments. The direct result would be to bring viewers in many markets more over-the-air television service than at present.

In many markets, all existing VHF and UHF television outlets are filled or applied for. Entrepreneurs may well find new VHF stations, even short-spaced ones, to be financially viable. In other markets competing applicants are fighting for remaining vacant UHFs. A short-spaced VHF may be the carrot to lead some of these applicants out of the costly contests for these full-power UHF stations.

Finally, there are those markets, mostly below the top 50, where still vacant and unapplied for UHF television stations remain. In these markets, decades-old dormancy of these UHF outlets may indicate that the costs of full-power UHF operation may be too high a deterent to these UHFs coming on the air in the near future. A short-spaced VHF may, contrarily, be financially yiable.

Perhaps our action last week proposing cheaper, low-power UHF television operation will begin to stimulate a more efficient use of UHF channels in swollen markets, with the potential for full power UHF upgrading later. In the interim, a short-spaced VHF outlet could provide immediate additional TV service to those citizens, to be later complemented by UHF operations.

We have in no way backed away from our strong support of expanded UHF TV service. Last week's action in the low power TV field is but another in a long string of recent FCC actions to strengthen the UHF service. We have removed the barrier that there could be only one subscription TV service in a market. This action, taken last fall, has broken a longstanding log jam in competing UHF STV applications. Today's *UHF Comparability Task Force*

Report analyzes the "UHF handicap" more thoroughly than ever before and proposes new means to close the gap with VHF.

Allowing new, short-spaced VHFs could redound to the ultimate benefit of UHF television. This action could lead to creation of a fourth commercial network based on short-spaced VHFs in some markets, UHFs in others. This development could not only strengthen network-affiliated UHFs, but also attract viewers to the UHF band generally, making other UHF operations more attractive.

Programming possible with new short-spaced VHFs would not be limited to adding a fourth commercial network. Public broadcasting, primarily a UHF service, has long wished to expand its operations to VHF. The higher costs of UHF power, particularly in these times of rapidly increasing energy costs, weigh heavily on publicly-supported, non-commercial broadcasters. These broadcasters, in some major markets, may wish to switch to a short-spaced VHF and reach its basic audience at less cost, freeing the UHF channel for commercial operation. Or they could continue to operate the UHF outlet as an instructional service while using the VHF to carry the basic PBS service.

These proposals offer not only the potential for more program services for more viewers. They also offer the opportunity for new owners of television facilities. Minority entrepreneurs are benefiting by our policies stimulating transfers of existing television stations their way through favorable tax treatment for sellers and the ability of licensees designated for possible loss of license to sell out at a distress price to minority purchasers. But the process of bringing minority owners into the media could be speeded up by encouraging minority applicants to apply for these new potential TV channels.

I hope that we receive wide comment in this docket not only from existing VHF and UHF broadcasters, non-commercial and commercial, but also from individuals throughout the country as to whether they would like additional television service, and from entrepreneurs who would seek to apply for the new channels.

Dissenting Statement of Commissioner Robert E. Lee In Re: Drop-Ins to the Table of Television Allotments

The Eyes of the Beholder

I dissent. I cannot agree that this proposal is a small incremental step in the evolution of the Commission's television policy. This proposal turns past policy and precedent inside-out for the sake of a "diversity" which can be achieved easily through the allotment of UHF channels at the spacings presently prescribed in our rules.

I certainly am not opposed to diversity. That would be like being opposed to motherhood. What I object to is the use of "diversity" as the rationale for short-sighted, short-spaced VHF drop-ins. I believe that the public will get better, more diverse service in the long run if the Commission adheres to its standards for the time being and insists on full UHF development before authorizing substandard VHF channels. Otherwise, I am afraid the Commission may retard the development of the maximum possible number of television outlets.

The *Notice* does note that there are adverse consequences to the proposed drop-ins in the form of increased interference, particularly in rural areas. However, the *Notice* dismisses the problem as inconsequential because, if the affected consumers are willing to spend money, they can purchase the equipment necessary for maintaining the quality of their reception or they can seek non-broadcast alternatives.

While this tradeoff might make sense at some future time, it doesn't today when broadcast channels are still available in the UHF band. I recognize that a large number of UHF allotments are in use and that no channels listed in the Table of Allotments are available in some of the larger markets. However, consideration of available channels shouldn't end with those already listed in the Table. It should also include the potential for adding new full-spaced UHF channels. The potential is there. With a little juggling to reflect actual demand, I believe the Commission can add UHF channels to most if not all of the present television markets. The proposal here to drop-in bobtailed VHF channels when UHF channels are still available strikes me more as a vote of no-confidence for UHF than as a vote for increased diversity.

I am also concerned about the *Notice's* reliance on the equivalent protection theory as the reason why any increase in interference will be negligible if the Commission deviates from the present separation standard. According to this theory, if the drop-in can be engineered to produce the same effect on an existing station as would be produced by a full facility station located at the required minimum mileage separation, the existing station is afforded equivalent protection and the qualitative standards of the *Sixth Report and Order* can be maintained. This theory assumes that the real world result of decreasing power to compensate for a reduced mileage separation will approximate the predicted result. Unfortunately, we still do not know enough about propagation to be sure of achieving this result in most cases. To provide the parameters of equivalent protection, two factors must be evaluated. First, one must be able to evaluate the effect on an existing station if a full facility station is operated at the required minimum distance from the existing station. Then, one must determine the required power level for the short-spaced station to duplicate these effects.

Under current assignment standards, an existing station is subject to whatever interference accrues when a new full facility station is assigned at the minumum standard separation. The actual interference experienced may be more than, or less than, that which would be predicted, based on calculations utilizing the Commission's TV proportation curves. Since it is proposed that the prediction method will be used to evaluate equivalent protection, it is important to understand how results arrived at by that method may differ significantly from actual results.

The Commission's TV proportation curves have been derived by determining a best fit to a large number of measurements. The measured values, which are true indications of observed signal levels, exhibit a wide dispersion around the best fit curve. The degree of dispersion can be quantified in terms of "the standard deviation." The standard deviation identifies the dispersion limit for approximately 68% of those measured values which most nearly fit the curve. The remaining 32% of the measurements are at greater variance from the curve.

FCC Report No. R.6602, Development of VHF and UHF Propagation Curves For TV and FM Broadcasting, includes a Table showing a standard deviation of F(50,50) data as 9.0 db for low VHF, and 7.4 db for high VHF. Note is made that the relatively low values for high VHF can be attributed to the fact that nearly all of the data pertinent to the study were taken over relatively smooth terrain. It is important to recognize that the specific db levels given for the standard deviation are not of critical concern. What is important is that actual observed signal strengths are almost always different from predicted signal strengths, and the difference can be quite substantial.

To demonstrate the significance of all of this, it should be examined in the context of a real-life situation. Consider that a drop-in is to be made at low VHF in TV Zone I. This drop-in will be assumed to be separated from an existing station by 140 miles.[1] The normal required separation is 170 miles. Under the proposed rules one would initially determine the location of the predicted interference limited Grade B contour of the existing station if a new full facility co-channel station is authorized at the standard required separation of 170 miles. If the 9 db standard deviation referenced above obtains, the location of the predicted interference limited contour can be significantly different from the location of the actual interference limited contour in a full third of the short-spaced cases which will eventually be before the Commission.

By way of illustration, the location of the interference limited contour is a function of two signals (desired and undesired) and these two signals are characteristically uncorrelated. That is, in an actual case, observed signal levels will be independently related to predicted values—one can be higher than predicted while the other can be lower than predicted. To further complicate matters, signals from two stations, when one is 30 miles more distant from an observation point (hypothetical full facility station at standard separation) than another (drop-in), will not necessarily be correlated. In these circumstances, and based on a 9 db difference between actual signal strength and predicted signal strength, the location of a predicted interference limited contour could be approximately 20 miles removed from the location of the actual interference limited contour.

At the other end of the scale, the power limit imposed on the drop-in pursuant to the proposed rules, is a function of the predicted interference limited contour. If the actual interference limited contour is 20 miles from the predicted interference limited contour, the power limit imposed on the drop-in can be off by a factor of 9 db, which, for example, can be the difference between 10 kilowatts of radiated power and 80 kilowatts of radiated power.

It follows therefore, that under the proposal, and due to the limited adequacy of available tools for predicting service and interference in specific cases, approximately one-third of the drop-in cases which may come before the Commission will be decided on terms which may be significantly unfair, either to an existing station or to the drop-in.

[1] The separation of 140 miles merely reflects the short spacing which the original OTP report suggested could be readily accommodated.

Because I do not believe that the premises for this drop-in proposal have been adequately studied or understood, I dissent. This isn't the time to give up our goal of one television service made up of both VHF and UHF channels.

Dissenting Statement of FCC Commissioner James H. Quello

In re: Notice of Proposed Rulemaking re: Table of TV Channel Allotments (Limited Facility Stations—LFS Drop-ins) September 18, 1980.

The Commission is unwisely rushing to judgement on one of the most significant and potentially disruptive proposals in FCC history.

We simply do not have sufficient information on which to base an informed, responsible decision for a Notice of Proposed Rulemaking for Limited Facilities Stations.

In an attempt to achieve some idealistic but unproven social benefits which may be predestined to failure, the majority is dismantling the landmark Sixth Report and Order which provided an orderly, responsible TV allocations process. The proposed restructuring of TV with LFS (Limited Facilities Stations) is potentially damaging to this nation's television system because of interference to existing service and the disruption and confusion to consumers. It could well result in disservice to the overall public, minorities and majorities alike, with inferior, inadequate or lost service.

This massive step should be considered only after the most thorough study and analysis developed by a comprehensive inquiry. We must know more about the *full* consequences of LFS interference with full service stations and the effect on consumers in fringe and loss areas. There is a wide variation in interference in different areas. The "equivalent protection" theory is subject to valid challenge—it seems more like a "paper" rather than practical alternative. Further, we should not rely on propagation curves for individual cases which do not adequately predict the interference levels in the real world.

We should have guidelines and specific, complete information as to what services will be affected or eliminated. We should know more about the relative stability of directional TV antennas in the VHF band. We need to know more about specific capabilities and total costs to consumers of receiving antennas which might reduce interference. We obviously need more information on effective use of terrain roughness factors in calculating propagation curves.

I particularly need considerably more information about the advantages of Limited Facilities Stations in relation to UHF stations before I can support a proposed rule. In my opinion, the staff greatly exaggerated the comparability of UHF and VHF. The proponents of this new allocations policy have conveniently concluded that there is no longer a UHF handicap and that the millennium has arrived. If this is true, I see no immediate need for LFS since there are numerous UHF allocations which are not being utilized.

Historically, soon after the Commission first decided that VHF and UHF stations could co-exist within the same markets, it became obvious that the decision was based on inadequate information. Many UHF stations were constructed in the 50's only to go dark within a short time because they were unable to compete. Now that UHF is finally showing signs of progress, the majority is, in effect, adding new impediments to its further growth by proposing nationwide VHF drop-ins.

Also, if UHF is now fully comparable to VHF, it certainly isn't appreciated in New Jersey or Delaware, two states with justifiable complaints about no full VHF–TV service. I welcome even the promise of VHF service to New Jersey. However, it is doubtful if petitioners for full VHF service would be satisfied with low power drop-ins of LFS.

If substantial VHF service is really technically feasible for New Jersey, we should promptly provide that needed service without awaiting the outcome of this proceeding. Last October, the Commission was informed by our staff that there was "no possible way" to provide VHF service in New Jersey or Delaware. Since I am not aware that the laws of physics have been amended, I hope the technical judgments made today are superior to those made last October and that finally we can overcome this serious problem. If feasible, we should provide VHF service authorizations to New Jersey and Delaware on a special basis without awaiting the outcome of this rulemaking. The needs of these two states are obvious and unique and should be accorded specific, immediate attention without requiring a nationwide Limited Facilities Service allocation.

Overall, I can't understand why it is so imperative to restructure the entire television industry in September 1980 instead of adopting a more reflective, responsible approach based upon more complete knowledge and analysis.

I believe a matter of this significance and impact should receive the guidance and approval of Congress, not an "arm of Congress." It should be determined on

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a higher level by elected officials directly responsible to the American people—by the Congress and not by appointees to regulatory agencies. I have a nagging concern the majority is rushing into a course of action that may have a negative, disruptive impact on our quality of service and on the entire American TV system—a system that with all its flaws and human errors is still the most informative, creative and diversified in the world.

Dissenting Statement of Commissioner Abbott Washburn

Notice of Proposed Rulemaking re: Table of Television Channel Allotments

Adverse Impact on UHF

The executive Summary of the Report of the Comparability Task Force (approved by the Commission on September 18, 1980) speaks of the goal of "a fully competitive and prosperous UHF service". Its closing sentence reads "* * * this goal is now beginning to be achieved * * *"

In direct contrast, this Notice on page 29 states "* * * UHF is now sufficiently mature and viable to compete directly against VHF * * *"

The first statement is the correct one. UHF has begun to turn the corner. It should not now be subjected to additional hazards. Many UHF stations are still marginal. UHF channels remain available to be applied for and to be activated.

This rulemaking, in proposing to do away with the minimum mileage separations and substituting so-called "equivalent protection", is an abrupt reversal of the Commission's long-standing policy of bending every effort to assist the development of UHF. With the issuance of this proposed rulemaking, the continued healthy growth of UHF will be stifled. Entrepreneurs will prefer to opt for the short-spaced "V's". In my judgment we should not now propose such a drastic change of direction.

"Equivalent Protection" Approach Seriously Flawed

The Notice states that "the proposed approach will eliminate much of the uncertainty* * * of the current procedure." In point of fact the opposite will be the case. In place of today's clear-cut mileage separations, the "flexible criteria" here proposed will lead to greater uncertainty. There will be costly arguments in television markets throughout the country as to whether or not specific applications for short-spaced VHF stations will provide the required "equivalent protection". Engineers and lawyers will reap a harvest contesting and defending these applications. Rather than shortening the process, the proceedings resulting from this approach will be as long or longer than those we now have.

Adding to the disruption and uncertainty is the definition of "equivalent protection". The use of the F(50, 50) and the F(50, 10) curves to define "equivalent protection" in specific instances is a misapplication of the engineering principle underlying the derivation of these curves. In paragraph 91, on page 43, the authors of the Notice recognize this:

> These curves were derived from many measurements on different stations under varying conditions and therefore represent average values; they are intended for allocation purposes and general studies and *will likely prove inaccurate in individual cases that deviate significantly from the norm.* (Emphasis added.)

Statistically, 68% of the data points will fall within plus or minus 9 dB of the interference curve. 32% of them will fall more than 9 dB outside of the curve. Thus, in almost one third of the cases the use of the curve to allot a channel produces an unrealistic and unfair result: Either penalizing the drop-in station by imposing a power limit that is too low to enable it to serve its market, or allowing too high a power level causing serious interference to the existing station. (In the latter case an exceedingly heavy burden-of-proof rests on the existing station.) The curves, therefore, are neither a fair nor a workable tool. To attempt to so use them can only cause uncertainty and contention.

It is like taking a mean January temperature for 100 U.S. cities of 50° and concluding from this that motorists in Detroit, Duluth and Cheyenne won't need snow tires and chains next winter.

In addition to the unsound use of the curves to predict service or interference in specific situations, the Notice relegates several significant elements to the status of mere "safety factors". For example, in paragraph 104 on page 56 *receiving antenna directivity* is not incorporated into the "equivalent protection" criteria.* Likewise in paragraph 111, page 60, *terrain shielding* is relegated to an additional "safety factor" and does not enter into the protection standard. These considerations are of over-riding importance in specific drop-in situations and should be factored into the allotment methodology as such.

A More Accurate Recommended Procedure

In any specific case there are three possible types of propagation paths from the interfering transmitter to the protected receiver. Each of these three paths has distinct characteristics. However, in the derivation of the FCC curves they have necessarily been averaged, which explains the wide variability associated with those curves. The three categories of propagation paths are:

1. Line of sight between the transmitter and the receiver, normally limited to relatively short paths (less than 50–60 miles).

2. Paths with one obstacle where the transmitter and receiver essentially share the same horizon. These paths are normally of an intermediate distance, and in some of the short-spaced stations envisioned here this type of path applies. These one-obstacle paths can either offer shielding or they can result in significant gain over the average values depicted in the FCC curves. Where these paths exhibit gain they are known as knife-edge diffraction paths and this phenomenon was originally described by Bullington.* The situation where the knife-edge diffraction results in significant gain can occur in as many as three-quarters of a random sample of one-obstacle paths. Furthermore, these knife-edge diffraction paths exhibit a greater stability over time than do other propagation paths. Where this type of transmission is present it would seem risky to rely on the FCC curves alone.

3. Two-obstacle paths exhibit no such gain but only shielding effects. These paths generally occur at greater distances and usually obtain under the present rules where minimum distance separations of 170 miles or more are required.

Additionally, there are certain cases where there is very flat terrain between the interfering transmitter and the protected receiver where the terrain roughness factor described in the FCC rules is slightly positive. Today's Notice of Proposed Rulemaking attempts to treat terrain solely as a "safety factor". This is appropriate only insofar as terrain provides attenuation or shielding. It is not appropriate to consider it solely as a "safety factor" if the terrain shielding factor is positive nor is it appropriate to disregard knife-edge diffraction gain in those single-obstacle paths where it applies.

While I would prefer that each drop-in proposal be supported by its own unique measured data and calculations, I recognize that such a policy might be unduly cumbersome and expensive for the applicant and the Commission. However, I find that the variability in the simplistic use of the average FCC curves, as proposed, entails too much risk of significant interference. Accordingly I would suggest that, as a mimimum, consideration be given to augmenting the use of curves by having the drop-in applicant furnish appropriate path profiles and some minimum amount of measured data. It has been estimated that very minimal supplementary measurements** would reduce the variability in the FCC curves from 9 or 10 dB without measurements to around 4 to 6 dB.

[FR Doc. 80-33637 Filed 10-31-80; 8:45 am]

BILLING CODE 6712-01-M

* Notwithstanding the uncertainties highlighted in paragraph 105, page 56, front-to-back ratios of "typical" home rooftop antennas ar required to be added to the near impossible showing under the *Carroll* doctrine (see footnote 72 page 31) by those who file in opposition to the drop-in.

* K. Bullington, "Radio Propagation Fundamentals," Bell System Technical Journal, vol. 36, no. 3, Fig. 7, AT&T.

** For a fuller explanation of how to obtain improved prediction by measurements, see National Bureau of Standards Technical Note No. 102, August 1961.

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federal register

Monday
November 3, 1980

Part V

Environmental Protection Agency

General Pretreatment Regulations for Existing and New Sources

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[EN-FRL-1629-4]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: On June 26, 1978, the Environmental Protection Agency promulgated the final General Pretreatment Regulations at 43 FR 27736. Amendments to these regulations were proposed on October 29, 1979, at 44 FR 62260. The October 29 proposal included an amendment to § 403.10(g) specifying the information to be included in a request for State pretreatment program approval. This notice amends the requirements for approval of State pretreatment programs to give EPA clear authority to approve State pretreatment programs submitted by National Pollutant Discharge Elimination System ("NPDES") States in the absence of implementing state regulations if certain requirements are met.

DATE: The effective date of 403.10(g)(1)(i)–(iii) is November 18, 1980.

In accordance with 40 CFR 100.01 (45 FR 26048), these regulations shall be issued for purposes of judicial review at 1:00 p.m. eastern time on November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy Hutzel, Environmental Protection Agency, Permits Division (EN–336), 401 M St., S.W., Washington, D.C. 20460, (202) 755–0750.

SUPPLEMENTARY INFORMATION:

Under Section 402(b) of the Clean Water Act ("the Act"), States desiring to administer their own permit programs for discharges into navigable waters may submit such programs to the Administrator for approval. States approved by EPA become part of the National Pollutant Discharge Elimination System ("NPDES"). Section 402(b) of the Act also requires that NPDES States have a program to ensure compliance by publicly owned treatment works ("POTW's") with various requirements now prescribed in the General Pretreatment Regulations (40 CFR Part 403, June 26, 1978). States with approved NPDES programs must seek modifications of their programs, if necessary, to incorporate pretreatment authorities. States which have not yet received NPDES authority must develop the requisite pretreatment program elements before their application to assume NPDES authority can be approved.

This amendment would modify the requirements set forth in Section 403.10(g) of the General Pretreatment Regulations for approval of pretreatment programs submitted by NPDES States. (Elsewhere in today's **Federal Register**, EPA is proposing an amendment to the General Pretreatment Regulations which would allow NPDES States requesting approval of pretreatment programs a grace period in which to revise statutes or regulations as necessary to comply with the final Consolidated Permit Regulations, 40 CFR 122–124, 45 FR at 33290.)

Amendments to the General Pretreatment Regulations (43 FR 27736, June 26, 1978), were proposed on October 29, 1979, at 44 FR 62260. The October 29 proposal included an amendment to § 403.10(g) clarifying the information to be included in a request for State pretreatment program approval. The proposed § 403.10(g) required that all "statutes and regulations" upon which a State relied in attesting to its authority to implement a pretreatment program be in "full force and effect" at the time the program was approved. The quoted phrases appear in similar form in the NPDES program regulations pertaining to State application requirements which have been interpreted to require the submission of complete State implementing regulations before program approval. (40 CFR Part 123). The Agency believes, however, that State regulations pertaining to pretreatment authorities are not a necessary prerequisite to pretreatment program approval for existing NPDES States. Accordingly, we are amending § 403.10(g) to allow existing NPDES States to submit pretreatment programs which may be approved in the absence of State pretreatment regulations if: (1) the State has sufficient statutory authority, and (2) the State has submitted a detailed description of the procedures by which it proposes to implement the program.

There are several reasons for approval of these State pretreatment programs without regulations. First, NPDES States have already demonstrated their ability to carry out a complex NPDES permit program on a statewide level. Thus, specific regulations detailing the manner in which a State must exercise its authorities are not essential to ensure implementation of the program. Moreover, substantial environmental benefit will result from early approval of State pretreatment programs which would otherwise be delayed while State regulations are being promulgated. The application of State resources to the pretreatment program implementation is likely to improve compliance with the program and thereby decrease the introduction of pollutants into POTW's and the navigable waters. Second, many of the authorities that are necessary to carry out the pretreatment program are part of the NPDES program and are encompassed by the State's existing NPDES regulations. Existing authorities encompass the ability to levy civil and criminal penalties, to enter and inspect, and to carry out other requirements of the Clean Water Act. Thus, many of the requirements for a pretreatment program will already be satisfied by the previously approved NPDES program. For those matters that are unique to the pretreatment program, the Agency believes that a statement describing how the State intends to carry out this portion of the program and to promulgate regulations in the future, if necessary, will provide sufficient public notice and assurance of the State's authority and intention to carry out the program.

These factors are also the basis for distinguishing between requirements imposed on NPDES States and non-NPDES States. While NPDES States will be permitted to submit programs without final and complete regulations, non-NPDES States must submit either detailed statutory authority or broad statutory authority with detailed implementing regulations.

The remaining amendments to the General Pretreatment Regulations which were proposed on October 29, 1979, will be promulgated in final form shortly.

Effective Date

These regulations shall take effect on November 18, 1980. In accordance with 5 U.S.C. 553(d)(3), the Administrator finds good cause that the effective date not be postponed until 30 days after publication in the **Federal Register** because several State applications have been pending before EPA which require immediate action. One State advised EPA that if the Agency does not approve the State program immediately, it will have to reallocate the pretreatment program funds to other programs. This would delay the pretreatment program until the next fiscal year. Another State cannot take any action with respect to planning, budgeting, or implementation until EPA approves its program. Other States will have similar problems if program approval is not immediately forthcoming. In addition, the Agency's regulations require that EPA approve or disapprove State programs expeditiously. 40 CFR Part 123. Thus, EPA must decide rapidly whether to approve or disapprove programs that have been awaiting decision for some time. The public interest will be served by early action on these program submissions. The Administrator also believes that the public has received adequate notice of the changes in these regulations to justify an early effective date.

Executive Order 12044

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these regulations "specialized". I have reviewed this regulation and determine that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 28, 1980.

Douglas M. Costle,

Administrator.

Part 403 of Title 40 of the Code of Federal Regulations is amended by revising § 403.10(g)(1) to read as follows:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

§ 403.10 Development and Submission of NPDES State Pretreatment Programs.

* * * * *

(g) The request for State Pretreatment Program approval will consist of:

(1)(i) A statement from the State Attorney General (or the Attorney for those State agencies which have independent legal counsel) that the laws of the State provide adequate authority to implement the requirements of this Part. The authorities cited by the Attorney General in this statement shall be in the form of lawfully-adopted State statutes or regulations which shall be effective by the time of approval of the State Pretreatment Program.

(ii) Copies of all State statutes and regulations cited in the above statement.

(iii) Notwithstanding paragraphs (g)(1)(i) and (ii) of this section, if the State has the statutory authority to implement the requirements of this Part, and if the State at the time of submission of this request has an approved NPDES program, then regulations setting forth the requirements of this Section need not be promulgated by the State if the Administrator finds that the State has submitted a complete description of procedures to administer its program in conformance with the requirements of this Section. States without an approved NPDES program will be required to comply with the requirements of paragraphs (g)(1)(i) and (ii) of this section.

(Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 (Pub. L. 95.217) (33 U.S.C. 1251, *et seq.*), Sections 204(b), 208(b), 301(b), 301(h), 301(i), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a))

[FR Doc. 80–34233 Filed 10–31–80; 8:45 am]

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Part VI

Environmental Protection Agency

Proposed Guidelines for Registering Pesticides in the United States: Hazard Evaluation of Use of Pesticides for Nontarget Plants and Microorganisms

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 163 and 172

[OPP-30044; PH FRL-1545-3]

Proposed Guidelines for Registering Pesticides in the United States: Subpart J: Hazard Evaluation: Nontarget Plants and Microorganisms

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes one subpart of the pesticide registration guidelines. Subpart J describes certain data required to support the registration of pesticide products, and deals principally with the potential damage that pesticides may inflict on desirable plants within or outside the site where pesticide applications are to be made. Guidelines in this subpart state the conditions under which specific data would be required to support applications for registratin of pesticide products. These guidelines also specify the standards for acceptable testing, provide references to test protocols in the scientific literature, and describe the formats for reporting data. The Agency believes that adherence to these guidelines would result in more reliable data to support applications. Furthermore, uniform testing and data submission in accordance with the guidelines will accelerate and upgrade the Agency's review and evaluation of applications. In addition, the Agency believes that these guidelines would aid applicants in planning the development of data to support new and improved pesticides.

DATE: Interested persons are invited to submit written comments on these proposed rules to the EPA. Comments must be received prior to the close of business on or before: February 2, 1981, and identified with the Document Control Number OPP 30044.

ADDRESS: Written views and comments should be submitted to: Document Control Officer, Office of Pesticides and Toxic Substances (TS–793), Chemical Information Division, Environmental Protection Agency, Room E447, 401 M Street S.W., Washington D.C. 20460; Attention: Pesticides.

AVAILABILITY OF SUPPORT DOCUMENTS AND COMMENTS: The support documents mentioned in this preamble and all written comments received under this notice are available for public inspection in the OTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday except holidays [Room E447, 401 M Street S.W., Washington, D.C. 20460].

FOR FURTHER INFORMATION CONTACT: William Preston, Hazard Evaluation Division (TS–769), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460; Telephone 703–557–1405.

SUPPLEMENTARY INFORMATION:

I. Authority

These reproposed guidelines are published under the authority of §§ 3(c)(2), 5(d), and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA") (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 *et. seq.*). Section 3(c)(2) states that "The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time."

II. Background

On July 3, 1973, the Environmental Protection Agency ("EPA", "Agency") promulgated final registration regulations, 40 CFR Part 162, Subpart A. These regulations established the basic requirements for registration of pesticide products. Section 162.8 lists the kinds of data which the Agency would generally require to register a product.

On June 25, 1975, EPA published proposed Guidelines for Registering Pesticides in the United States ("1975 proposed guidelines", 40 FR 26802). The 1975 proposed guidelines were intended to describe with more specifically the kinds of data which must be submitted to satisfy the requirements of the registration regulations. They included sections explaining the scope and intent of the guidelines, detailing the product performance hazard evaluation, and chemistry data requirements for registration of a pesticide product, and providing guidance on proper label development. Some of the information now included in Subpart J regarding phytotoxicity, nontarget plant injury and spray drift appeared in the Product Performance portion of the 1975 proposed guidelines.

During the past year, the Agency has distributed prepublication drafts of Subpart J to the public in connection with reviews of this document by the FIFRA Scientific Advisory Panel. As a result, EPA received submittals of additional comments on these guidelines. The Agency has also considered these comments in the development of these proposed guidelines.

The Agency intends that the guidelines provide meaningful instruction to applicants, registrants, and the general public on the specific data requirements to accompany applications for an experimental use permit and for registration of a pesticide product. Such guidance should enable the pesticide industry to anticipate the costs and time involved In preparation and review of such applications and to plan research and testing programs using methodology acceptable to the Agency.

Toward these ends, these proposed guidelines would specify: (1) the standards for acceptable testing, stated with as much specificity as the current scientific disciplines can provide; and (2) the information required in a test report. The guidelines also indicate when an applicant should consult with the Agency before initiating certain tests. In addition, the appendix to the Subpart J guidelines provide useful information and references for designing test protocols and, in some cases, examples of acceptable protocols for conducting the required testing.

At present and until these guidelines are published as final, the procedures and data requirements for registration, the standards for acceptable testing, and the information required in a test report will be determined on a case-by-case basis. The Agency will, however, consider these proposed guidelines as a general statement of policy regarding the nature and extent of the data required to support pesticide registrations.

The Agency intends that these guidelines be revised from time to time to keep up with policy changes and technology. Revisions will be made in accordance with the Administrative Procedures Act (5 U.S.C. 551 et seq.). Under that Act, routine changes that have well-publicized precedent or minor changes that reflect no impact on policy may be made without proposal and opportunity for public comment. Changes having a significant impact on the registration process, registrants, applicants, testers, outcome and evaluation of studies, and similar related activities and affected parties, would require public notice and opportunity for comment. Until all such changes (important or minor) have been published as final rules, however, the Agency can implement them on a case-by-case basis. (For example, the Agency can use its authority on a case-by-case basis to waive certain data requirements, approve non-conforming tests, and require data from additional tests.)

The Agency has already published four other subparts of the guidelines: B, D, and E, as proposed rules on July 10, 1978 (43 FR 29696); and F, as proposed rules on August 22, 1978 (43 FR 37336). The Agency has also published proposed rules for good laboratory practices as part of Subpart F on April 18, 1980 (45 FR 26373). Subpart B would contain general provisions applicable to all subparts of the guidelines. Subparts D, E and F would establish the requirements for product and environmental chemistry fish and wildlife toxicity data, and toxicology for human and domestic animal safety evaluation, respectively. The Agency solicits comments on any section of Subparts B, D, E, or F which would be affected by provisions contained in this proposal. Additional subparts of the guidelines will be proposed in the future, including Subpart G, Product; Performance Subpart H, Label Development; Subpart I, Experimental Use Permits; Subpart K, Exposure Data Requirements: Reentry; Subpart L, Hazard Evaluation: Nontarget Insects; Subpart M, Data Requirements for Biorational Pesticides; Subpart N, Chemistry Requirements: Environmental Fate (derived from Subpart D; will be promulgated as a final rule); Subpart O, Chemistry Requirements: Residue Chemistry; and Subpart P, Data to Support Disposal Instructions.

EPA's Office of Toxic Substances has developed testing rules under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 15 U.S.C. 2601 et seq.) which contain data requirements comparable to those proposed by section series 163.122 through 163.123 of Subpart J. The Agency's policy is to reduce the burdens on the regulated public which might arise from competing requirements under these different sets of regulations and guidelines. Therefore, the Agency will establish testing rules under TSCA and guidelines under FIFRA which are consistent to the extent permitted by the different laws.

III. Organization and Philosophy of Subpart J

Subpart J has been organized into seven series of sections. The first section series (163.120) would deal with the overview and scope of the subpart, the definitions of specific words used in the subpart, the basic standards for testing, the general evaluation and reporting requirements and the tier testing sequence policy. The second section series (163.121) would deal with target area plant toxicity testing, that is the toxicity of those plants that would be intentionally sprayed. The next four section series (163.122, 163.123, 163.124, and 163.125) would comprise the tier testing sequences (tiers 1, 2, 3 and 4, respectively) employed to study and report on pesticide toxicity nontarget area plants. The effects of the pesticides would be performed on a series of tests as dictated by specific requirements of each test and each tier. The tests would be designed to gather pesticide effects information on terrestrial and aquatic plant growth as influenced by geographical, seasonal, and species variation, on nitrogen fixation potential, and on plant mutagenicity effects. The final section series (163.126) would measure the potential for pesticides to cause plant damage by spray drift when applied by aircraft (fixed and rotary wing), mistblower (air carrier), and other application techniques. The other application techniques may include but are not limited to overhead sprinkler irrigation devices, and roadside and right-of-way sprayers.

Each individual test section would contain an opening paragraph indicating under what circumstances and for what products the data are required. These test sections would also contain specific standards and reporting requirements. In addition to these specific test standards and test requirements, the general test standards and reporting requirements would apply to the conduct of required studies.

The proposed nontarget area plant and microorganism data requirements would be arranged in a tier system. The requirement to produce data from studies in the higher tiers would depend on the results of studies in the lower tiers. The tier system is intended to reduce repetititve consultation between the registrant and the Agency about the need for tests of greater complexity, and as a result, to reduce the time required to develop data for registration of a pesticide. [Those portions of this Subpart that refer to microorganism testing other than the testing of algae may be removed to a new Subpart, yet • to be designated and developed.]

The proposed subpart would establish standards and requirements for testing and data submission concerning the effects of pesticides on nontarget plants and microorganisms. These data would be used by the Administrator, along with other information to make the determination required by FIFRA § 3(c)(5), whether a pesticide "• • • will perform its intended function without unreasonable adverse effects on the environment", and thus whether the pesticide might be registered. The proposed standards and requirements specifically concern: pesticide toxicity to desirable plants within the target area; pesticide toxicity to plants and microorganisms outside the target area, as measured through a tier system test series, and spray drift evaluation.

Specific reference to data requirements concerning hazard data is given in 40 CFR 162.18–2 (c)(2) and (d)(4) of this chapter for manufacturing-use and end-use formulated products, respectively.

The data submitted from these studies and from other unsolicited sources would be used to evaluate and draw conclusions concerning the toxicity of the pesticide to microorganisms and plants (which would include food and cover vegetation for animals, and food, fiber, timber, and ornamental plants for man). No set of results from these tests will automatically preclude the registration of a pesticide product. In certain cases, limitations, precautions, and/or restrictions would be imposed upon the use of the pesticide because of its toxicity coupled with proposed use patterns and transport characteristics.

The data requirements for this subpart are a portion of the overall environmental risk assessment. A pesticide may have a detrimental effect on several levels of production and consumption in the ecosystem. The combination of the information submitted in response to the requirements of this subpart with information derived from studies performed concerning the enviriomental fate of the pesticide, and the effect of the pesticide on fish, wildlife, invertebrates, and laboratory animals will lead to an all-encompassing risk assessment or hazard evaluation.

Concern has been expressed regarding the use which the Agency would make of data on mutagenicity and on microorganisms if such data reflected positive adverse effects. Generally, the Agency would take this adverse data into account in its overall hazard evaluation of the chemical (or its products) in relation to the proposed uses. Specifically, the Agency may, as a result of positive test results, require label restrictions or deny registration, depending on the evaluation of hazard in relation to specific use patterns. Examples of specific Agency actions regarding positive mutagenicity tests might include requirements for warnings in the instructions, such as: "Do not use for crops grown for seed production" or "Do not use except where total kill of target vegetation is intended and expected." For example of an action regarding positive test results that portend major adverse effects to certain comon soil microorganisms, a warning in the instructions might be required, such as: "Do not use in areas where soil

nitrification bacteria or mycorrhiza are important in crop production or in health of desirable ornamental plants."

A. "When Required" Paragraphs.

Each of the sections of this subpart which would establish data requirements begins with a paragraph entitled "When required." These paragraphs would estabish the conditions under which specific data would be required to support the registration of a pesticide product.

This subpart would require the necessary data to support the registration of pesticides intended for outdoor application [that which occurs outside of enclosed man-made structure(s), 40 CFR § 162.3(cc)]. There will however, be certain uses or situations where the use pattern would eliminate or markedly reduce a particular kind of risk; in such cases, the data requirements would accordingly be reduced or eliminated. For example, data from testing at higher tiers (3 and 4) normally would not be required for pesticides applied by tree injection, by directed sprayers having capture and recycling capabilities, or by incorporation into the soil. There may also be other instances in which the Agency would routinely require data to support the registration of a formulated product, even though the product was not used outdoors. For example, testing would be rquired for pesticides that are used within industrial structures where the waste water would be discharged into the environment without treatment. Finally, testing of products to be used in greenhouses would be required under the section dealing with "Target Area Plant Toxicity Testing" (§ 163.121.1).

B. "Test Standards" Paragraphs.

The proposed standards for acceptable testing are set out in the "Test Standards" paragraphs which follow the "When required" paragraphs in all of the test sections (proposed section series 163.121 through 163.126). In addition, testing would be required to be performed in accordance with the "Basic Standards for Testing", proposed § 163.120.3. The general and specific test standards for acceptable testing would identify the factors in the peffrmance of a test which EPA has determined would be necessary to ensure the reliability and completeness of the data. The test standards would cover such aspects of testing methodology as the test substance and its state, test species and life stages, number of organisms to be tested, the duration of the test, and the dosage levels.

The references provided in the test standards paragraphs or the protocols of the Appendix are recommended only.

C. Deviation from Test Standards.

The test standards are not intended to be inflexible rules or to be the exclusive methods of meeting the specified data requirements. The Agency recognizes that the prescribed standards would not be appropriate for every pesticide product. Equally effective alternative test procedures may exist and new procedures for deriving data may be developed. Accordingly in Subpart B (in § 163.40.3), the Agency proposed procedures for acceptance of data which would be derived from tests which deviate from the prescribed Agency standards (43 FR 29696, 29707, July 10, 1978).

Proposed § 163.40.3(a)(1) contains a provision governing acceptance of data which are derived form nonconforming tests: "All data required to support the registration or reregistration of a pesticide product must be derived from tests which satisfy the purpose of the standards for acceptable testing." An applicant would be required to inform the Agency whenever data have been derived from tests which do not conform to the standard. In the case of data submitted to the Agency prior to the effective date of these guidelines, the Agency may conduct this evaluation on its own initiative.

Agency files contain large amounts of data derived from tests already performed. The Agency proposes to apply the guidelines test standards to these data in a common-sense manner. To avoid expending scarce laboratory resources in repeating tests, data will not be rejected merely because they were not developed in accordance with the guidelines test standards. Rather, the Agency will accept as valid those data which permit sound scientific judgments to be made.

In addition other published and unpublished research has been conducted in the areas of seed germination, plant vigor, and spray drift that may be submitted in order to fulfill the requirements of the studies of the testing regimes proposed in these guidelines. (The term "unpublished data" means data from tests already performed but not yet submitted to the Agency or published in a scientific journal. Refer to proposed §§ 163 120.5(c) and 163.126.1(a) concerning these data substitutions.

Commenters within the Agency have questioned whether label changes could preclude certain data requirements in this subpart. Typical label instructions changed by the registration applicant are normally made in response to studies that show the product to be more hazardous than originally thought. In cases where application for registration has not yet been made, such label changes are easily made, and certain data may not be required. The Agency should be consulted when such steps are anticipated. However, label changes that reflect over-labeling (i.e., label statements warning of or implying a hazard greater than the actual hazard for such products) are not acceptable as an alternative to submittal of data. Indeed, such over-labeling would usually prompt the Agency to deny registration unless data are submitted to demonstrate how the implied hazard can reasonably be avoided.

The acceptability of data derived from nonconforming tests would depend on a number of factors. In the first place, the Agency would have to consider the characteristics of the pesticide product to determine whether an appropriate test methodology was used. Assuming that the standards for acceptable testing are appropriate for the pesticide product, the Agency would consider both the extent and the significance of the deviation and the particular test results. In general, the less significant the deviation from the standards, the more willing the Agency would be to accept data from these tests. Furthermore, the Agency would be more willing to accept data when it appears unlikely that the particular deviation would significantly affect the test results. The preamble to Subpart B contains an example and additional discussions of how these provisions would be applied (43 FR 29696, 29698).

D. Waivers and Additional Data

The amendments to FIFRA enacted on September 30, 1978, provide the Administrator with the authority to waive requirements for submittal of efficacy testing data. The Agency in testimony before Congress, stated that it is most concerned about ensuring a product's effectiveness when a lack of efficacy could result in adverse human health effects. In keeping with this concern, the Administrator has deemed that all products not having a direct impact on public health may have their efficacy requirements waived. However, under certain conditions (such as when pesticides are under cancellation or suspension, or under rebuttable presumption against cancellation), efficacy data would be required.

In the past, plant toxicity (phytotoxicity) data on desirable target area plants have been associated with efficacy data. Accordingly, data on phytotoxicity to desirable target area plants (proposed § 163.121–1) will not be required for products with use patterns for which efficacy data requirements would also be waived.

A detailed discussion of the efficacy waiver policy with the waiver of target area phytotoxicity data requirements appeared in the preamble to the recently-published regulation on conditional registration of pesticides (44 FR 27938–27940, Friday May 11, 1979). This discussion is quoted below, in its entirety:

> Section 3(c)(5) of the Act provides that the Administrator may waive data rquirements pertaining to efficacy of a product under consideration for registration, and that if he waives the requirement for data, he may also waive the finding of efficacy required by FIFRA section 3(c)(5)(A). Since efficacy data waiver is a major deregulation action, the Agency will consider the waiver policy enunciated in these regulations as an experiment in public policy. If there is sufficient evidence to clearly establish that this deregulation is being abused (such as a significant increase in complaints from the agricultural community, other user groups, or the general public about ineffective products), the Administrator may take any steps necessary to correct the abuses, including withdrawal of any or all waivers of efficacy data requirements.
>
> The decision to pursue efficacy waiver as an Agency policy stemmed from a need to reduct the amount of resources devoted to reviewing product performance so that additional effort could be devoted to the evaluation of health and safety data, and from a desire to reduce regulatory burdens in pesticide registration. Data review obligations placed on the Agency by the requirements for registration were important factors influencing the decision. Maintenance of a rigorous efficacy data submission and review posture for registration and reregistration would require the reevaluation of much of the 1.5 million items of product performance data that have been amassed by the EPA. Because many of these studies are quite old, their value as tools for assessing current levels of product performance is questionable in many cases. Therefore, commitment of the resources needed to fully evaluate these data for purposes of reregistration was determined to be less than an ideal use of limited resources for pesticide regulation.
>
> The Agency's viewpoint concerning waiver of efficacy data requirements is in line with a general belief among persons in the pesticide industry, the U.S. Department of Agriculture and the agricultural community that the efficacy of agricultural pesticides can be effectively regulated by the marketplace (in conjunction with extension services and university research personnel). This opinion has subsequently received some qualified support from the findings of A.D. Little Inc. (Draft Report: Evaluation Design for a Change in the Pesticide Regulatory Process: The Waiver of Efficacy Data). As originally proposed in the draft Conditional Registration regulation of October 6, 1978, the efficacy waiver was to apply to all product uses except for those termed "public health uses." These public health uses were restricted to certain disinfectant uses and a limited number of vertebrate and invertebrate control agents aimed at potential disease vectors such as bats, rats, and mosquitoes. The proposal of efficacy data waiver generated a mixed response from commenters. The pesticide industry was generally supportive of the concept of efficacy waiver. On the other hand, comments from State researchers and Cooperative Extension Service personnel expressed reservations about various facets of the proposed waiver. Many commenters expressed concern over the extent of efficacy waiver, arguing that the scope of "public health" uses should be greater than that proposed. The efficacy data requirement contained in § 162.18–2 retains the concept of public health uses, but has clarified and expanded public health uses to include additional disinfectant, rodenticide and insecticide uses, and one fungicide use.
>
> Some commenters expressed the belief that waiver of efficacy data requirements will signal an open season to unscrupulous "fly-by-night" operators who will defraud the public by marketing ineffective products, or products with exaggerated or unwarranted efficacy claims on labeling and in advertising. Undoubtedly, there will be instances in which the marketplace will fail to operate as expected. The Agency believes that foreseeable imperfections in marketplace self-regulation are acceptable tradeoffs in return for a reduction of overall Federal regulation in the efficacy area.
>
> EPA, in cooperation with the Experimental Technology Incentives Program of the National Bureau of Standards will monitor the impacts of the efficacy waiver policy to determine if:
>
> (1) Consumer fraud increase[s]; or
>
> (2) Consumer fraud is effectively reported and curtailed through existing market institutions including State regulation processes, USDA and the Extension Service, farmers associations and the marketplace.
>
> The Agency expects that all registrants will perform the tasks necessary to assure themselves that the products the market will perform their intended functions when applied in accordance with label directions and commonly accepted pest control practices. The Agency must rely upon the integrity of the industry, the soundness of extension service recommendations and the good judgment of pesticide users to insure that abuses seldom occur. The Administrator reserves the right to request submission of efficacy data in support of label claims for to request submission of efficacy data in support of label claims for any registered product. A request may be made for any product for which a pattern of inadequate performance has been reported.
>
> Some respondents feared that efficacy data waivers would lead to a lack of sound information on the "benefits" side of the risk/benefit analyses performed as part of the Rebuttable Presumption Against Registration (RPAR) or cancellation processes. Benefits analysis in the RPAR process entail substantially more than reconsideration of efficacy data supporting the original registration. Concern in the benefits analysis is not with historical but with current product performance. In addition, economic factors pertaining to the current use of the pesticide and efficacy of alternative chemicals or non-chemical control practices must be considered. Front-end efficacy review does not provide useful information on the suitability of alternatives. However, when a substantial risk of unreasonable adverse effects has been identified via the RPAR or cancellation/suspension processes for old use patterns of a pesticide, it is incumbent upon the Agency to more carefully scrutinize new or added uses of the pesticide, weighing those risks with the benefits they offer. Thus, the waiver policy has been amended to include a requirement for efficacy data for new or added uses of products which have becn RPAR'd, cancelled or suspended for adverse effects of other uses, if the identified adverse effects would also be expected to occur with the new or added use.
>
> A. The Agency is limiting its direct concern to, and requiring efficacy data for health-related use patterns and new and added uses of chemicals which have been identified as posing a risk of unreasonable adverse effects. Specifically, the Agency will require product performance data in support of registration for the following uses:
>
> 1. *Public health uses.* A public health use exists whenever the continued presence of the target pest organisms may pose a threat to human health, either by direct action or through transmittal of disease. Such uses include, but are not limited to:
>
> a. *Disinfectant uses.* Performance data will be required for all antimicrobial products intended to control microorganisms infectious to man in any area (inanimate surface) where these microorganisms may present a health hazard.
>
> b. *Fungicide uses.* Performance data will be required for products intended for control of organisms that produce aflatoxins.
>
> c. *Invertebrate uses.* Performance data will be required for: (1) Invertebrate control products intended for use in or on humans (or in or on pets for control of pests which attack humans) to control pests such as fleas, mites, lice, ticks, biting flies, and mosquitoes. (2) Invertebrate control products intended for use either in premises or in the environment to control pests of sanitary or public health significance such as mosquitoes, biting flies, ticks, fleas, houseflies, cockroaches, fire ants, hornets, wasps, poisonous spiders, scorpions, centipedes, and bedbugs.
>
> d. *Rodenticide uses.* Performance data will be required for: (1) Commensal rat and mouse products. (2) Products used to control or disperse birds from buildings, roosts and other areas where they present health hazards. (3) Products used to control rabies vectors such as bats, skunks, raccoons and canids. (4) Products used to control rodents considered to be significant plague vectors.
>
> 2. New uses of pesticides containing active ingredients some uses of which have been:
>
> a. Suspended, or cancelled by the Agency for reasons of human or environmental safety (if the risks identified in the suspension/cancellation action also apply to the new use).

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b. The subject of a Notice of Rebuttable Presumption Against Registration (if the risks identified in the RPAR notice also apply to the new or added use).

If efficacy data are required, the applicant may in all cases satisfy the requirement by submitting data developed in accordance with the Registration Guidelines. In some cases, the applicant may choose instead to cite all applicable data in Agency files, in accordance with §§ 162.9–1 through 162.9–8.

For disinfectant products and bait formulations of rodenticides, efficacy data, when required, must be developed and submitted for the individual formulation proposed by the applicant. The applicant may not rely on, and need not offer to pay compensaton for, data already in our files pertaining to similar formulations. It has been the Agency's experience borne out by efficacy data submitted in the past and by enforcement actions, that efficacy data in the disinfectant and rodenticide bait areas cannot be transferred from one formulation to another, even though the formulations may be virtually identical. Small variations in manufacturing process, order of addition of ingredients, or quality and age of ingredients in bait formulations appear to radically affect the ability of the product to perform as intended. Thus each individual product must be supported by its own efficacy data.

B. Efficacy data will generally not be required for products of the following types:

1. Nearly all agricultural pesticide products (including forest and crop uses). Exceptions include products falling into category A.2. above;

2. Disinfectants: Products used to control bacteria producing odor or deterioration and spoilage of products such as paint, industrial fluids, leather, where product failure does not have human health consequences;

3. Algaecides and slimicides, herbicides, fungicides, nematicides, and rodenticides except as provided in A above. Several commenters in the public meeting requested clarification as to whether phytotxicity data are included within the meaning of efficacy data. The Agency takes the position that data on phytotoxicity to the target site, i.e., crop or plants, are part of an efficacy evaluation and are thus waived. On the other hand, data on phytotoxicity to crops or other plants that are non-target sites are considered to be hazard data and must be submitted for all products as prescribed in the Registration Guidelines (Subpart J).

Notwithstanding the waiver of efficacy data, the Agency must have sufficient information about the use patterns proposed to permit evaluation of the hazards of the product to humans and fish and wildlife. In the past, efficacy data have served the purpose of providing supplementary information to the labeling use directions, enabling the Agency to accurately assess the hazards of the proposed use, and to label and classify the product to protect the public and the environment.

If the labeling submitted with an application for conditional registration is not sufficiently detailed as to the use pattern proposed, the Agency will request more detailed information may be required to be placed on the lable in the form of use directions, precautionary statements, or use restrictions if it is deemed essential to the proper use of the pesticide, or if lack of such information could potentially result in adverse effects from use of the pesticide.

In addition to the concerns reflected in the discussion quoted above, the Agency staff have also expressed concern that the waiver policy might result in ineffective products being made available on the market and in products that carry fraudulent label claims. They pointed out that failure of such products to perform the functions claimed on the label might also require regulatory action by the Federal Trade Commission.

The Agency, acting under 40 CFR 162.8(c), can impose data requirements which are not listed in these guidelines. EPA expects that the information required by the proposed guidelines will generally be adequate for hazard assessments. Occasionally, however, the Agency may need additional data in order to make the statutorily-required findings concerning the effects of pesticides on humans or the environment. EPA will decide whether to require additional data on a case-by-case basis. The guidelines will be amended to include the additional data requirement, if it has general applicability.

E. Combined Testing.

In the interest of efficient use of test organisms, facilities, and personnel resources, the Agency encourages applicants and registrants, when possible, to fulfill multiple data requirements through utilization of combined testing. Whenever a single test is performed to satisfy two or more data requirements, all applicable test standards would have to be met. For example, the appropriate tier 1 and tier 2 tests of seed germination (§ 163.122–1 and § 163.123–1) may be combined where the pesticide (such as a herbicide) has a known or suspected phytotoxic property. Also, those organisms used in growth studies (proposed §§ 163.122–1 and –2) may be used in the biochemical studies such as the nitrogen fixation potential determination (proposed § 163.125–3). The registrant should note that the species used for testing in tiers 1 and 2 (preliminary tests) (section series 163.122 and 163.123) would not be acceptable to satisfy the data requirements of tier 3 (section series 163.124) where an expanded number of species in different taxonomic groups would be used.

F. "Data Reporting and Evaluation" Paragraphs.

The proposed data reporting requirements are included in each of the test sections. These requirements, together with the requirements of § 163.80–4 would prescribe the format and content of test data reports. Generally, the test report would be required to include a summary of test results and an evaluation of test results supported by specific detailed information.

The paragraphs specifying the required data are quite detailed and would ask for considerably more basic information than has previously been required. Some of this information would be considered "raw" data. Some comments already received point out that the Agency is requiring too much detailed data. The data required by this subpart would be the basic data necessary for making independent analyses of a test. The applicants would be required to perform the analyses and evaluation of the basic data before submittal in order to become more aware of the environmental effects of their products. EPA considers it appropriate for applicants, in addition to the Agency staff, to perform this work in order that each may make independent analysis of a test.

It must be noted that data concerning equipment and certain environmental measurements used in the evaluation will not necessarily have a direct bearing on the label statements. These equipment and environmental data are necessary for the Agency to compare different studies and to obtain a more complete understanding of the various testing situations.

After the final guidelines of this subpart become effective, EPA will not accept any data which are not in conformity with the intent of the reporting requirements. However, this policy will become effective only after the passage of a reasonable time period following the effective date of the final guidelines. This time period will be specified in the final guidelines. The Agency welcomes comments on a time period that would be reasonable. Until the final guidelines become effective, the Agency strongly encourages applicants and registrants to follow the reporting requirements in the proposed guidelines.

G. Appendix.

This proposed subpart contains a single appendix which provides acceptable protocols and recommended references to other suggested protocols. Some of the proposed protocols are combinations of several methods

provided in the literature which are currently the most acceptable methodology for that specific test. Other protocols provided in the proposed appendix have been published and are generally acceptable test procedures in use by private and governmental organizations.

IV. The Standards for Acceptable Testing

A discussion of the test standards governing the methodologies of this subpart is provided below.

A. Test Substances.

The "test substance" paragraphs prescribe what chemical element, compound, or mixture(s) would have to be tested to generate the required data. One of the following substances would be required to be tested in a particular study: the technical or purer grade of each active ingredient in the product; or (one or more) typical formulated products; or the applicant's formulated product. The terms "manufacturing-use product" and "formulated product" are defined in § 163.40–2 (c) and (d) of the proposed guidelines (43 FR 29696, 29707), and were previously discussed in this preamble. The term "technical grade of the active ingredient" is also defined in § 163.40–2(a) of Subpart B of the proposed guidelines (43 FR 29696, 29707). "Technical grade of the active ingredient" or "technical chemical" refers to a certain level of purity in the active ingredient of a particular chemical substance. Presently, the purity of the technical chemical is not fixed by an absolute standard. It is usually determined by traditional industry standards, and usually refers to that identifiable stable substance produced during the normal manufacturing process which contains the highest concentration of the active ingredient.

In all tests, the composition of the test substance would have to be precisely identified. When the required test substance is a manufacturing-use product or formulated product, its composition would also have to conform to the limits certified in accordance with § 163.61–6 of the proposed Product Chemistry guidelines (Subpart D) (43 FR 29696, 29707). The purpose and uses of certified limits are discussed in more depth in the preamble to that subpart (43 FR 29696, 29700).

In most field studies, the formulated product would be tested, since this is the substance that will be intentionally introduced into the environment. The formulated product contains one or more pesticidally-active ingredients and usually one or more inert ingredients. The inert ingredients in the formulated product may affect the placement of the active ingredient on or into the plant and the subsequent absorption by the plant. Therefore, the inert ingredients may alter the phytotoxic nature or selectivity of the pesticide.

When the technical or purer grade of the active ingredient would be tested (such as in greenhouse, laboratory, and first tier studies), other substances may have to be added to modify its solubility, dilution, or stability. This would require the use of both negative and intermediate controls to test the effect of these added substances. Testing of the technical or purer grade along with the formulated product would demonstrate effects caused by possible synergism or other interaction.

The Agency proposes that the technical or purer grade of each active ingredient in a product is the test substance used in tier 1 and 2 tests. The proposal also provides that an applicant could satisfy the data requirements for tier 1 and tier 2 tests by providing comparable data which the applicant had already produced or published in scientific journals. The Agency notes, however, that such data must be derived from studies using the technical or purer grade of an active ingredient in the applicant's product.

The Agency invites public comment on whether the laboratory and field studies should be performed using the technical or purer grade of the active ingredient(s) or the formulated product.

B. Test Species.

The test standards would specify which species of plant or microorganism must be used in the test. The species have been selected to fulfill a number of criteria specific to the organism: widely acceptable usage; existence of acceptable test methodology; economic or biological importance; and the appropriateness of its representation within the taxonomic and/or physiological group of plants to which it belongs.

Ten plant species would be required for use in the proposed seed germination and vegetative vigor studies (§§ 163.122–1 and 163.123–1). Five of these are from the basic set of plants recommended by the Franklin Institute Research Laboratories, Philadelphia, Pa., in a report to EPA (EPA 560/5–75–008). The five species are corn, oats, ryegrass, cucumber, and tomato. A sixth recommended species, green bean, would be replaced with soybean because the latter is a better indicator of soil-influencing nitrogen fixation, and its smaller seed volume would provide a more rapid indication of detrimental effects. Lettuce and cabbage have been added because both are very sensitive to chemical injury and are representative of groups that are sensitive to various environmental pollutants. Common onion has been added as a representative of an economically important and often very sensitive monocot group, the lily family. Carrot was added as a dicot representative root crop which can be directly affected by edaphic conditions and by soil-applied pesticides. By increasing the number of plants to be tested, a better indication of selective phytotoxicity would be possible, and would lead to a more accurate hazard evaluation.

Other factors influencing species selection were seed size and research utilization. The size of the seed is recognized as being directly related to the extent of phytotoxicity expression. A relatively small endosperm or nutrient supply forces the young plant to derive its nutrient more quickly from the surrounding environment; therefore, it may be affected more quickly by pesticides in the environment. Seven of the ten species required have relatively small seeds. The required species have also been utilized by a large number of researchers both as test organisms and teaching subjects to demonstrate the effects of various environmental factors on seed germination and vegetative vigor.

For the proposed aquatic plant growth studies (§§ 163.122–1 and 163.123–2), the required plant species are a duckweed and four species of algae (three freshwater and one marine). The duckweed, *Lemna gibba* G3, has been extensively used as an aquatic pollution test organism and is recommended by leading researchers in this field as the *Lemna* species to be used in these tests. The widely-used *Lemna minor* was not chosen because in too many instances *Lemna* plants have been mistakenly presumed to be *L. minor* or possibly a species of the closely-related *Spirodela*.

The four algal species represent a small cross section of a very large and diversified plant grouping. Three species, *Anabaena flos-aquae*, *Selenastrum capricornutum*, and *Skeletonema costatum* have been used in the development of acceptable algal assay bottle tests to determine the effects of pollutants on both freshwater and marine algae. The National Eutrophication Research Program, EPA, Corvallis, OR, and the Environmental Research Laboratory (for oceanic research), EPA, Gulf Breeze, FL, have selected these organisms as widely accepted representatives. In addition,

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each of the species has certain strengths as a test species. *Skeletonema* is a marine diatom. It is a sensitive indicator species of aquatic pollution [Patrick, R., and C. W. Reimer. 1966. The diatoms of the United States. Vol. 1. Monographs of the Acad. Nat. Sci. Phila. (No. 13), Philadelphia, Pa. 19103]. *Anabaena* is included not only to represent the blue-green algae, but also to serve as the second indicator species of nitrogen fixation potential. *Selenastrum* has been selected by the EPA Laboratory in Corvallis as the test organism for green algae because it is nonmotile, sometimes colonial, cosmopolitan, and is easily counted by mechanical means. Testing using these aquatic species should provide a good indication of possible adverse pesticidal effects on aquatic plants.

A fourth algal species, *Navicula seminulum*, was selected as a representative of a freshwater diatom. However, it is no longer available for use, and an appropriate replacement is being sought. Scale field testing is required (tiers 3 and 4), the number of plant species would be increased to include representatives of other taxonomic groups. More species would be tested in the given taxonomic groups to determine if there is any pattern of sensitivity. Those plants of the less familiar groups would be tested because of their ecological importance. These plants are primarily the cryptogams which include the mosses, liverworts, and ferns.

The plant species proposed for testing mutagenic effects are those that have been extensively used in laboratory tests and for which the mutagenic expressions are known and easily recognizable.

Anabaena flos-aquae and the soybean *Rhizobium* symbioses have been chosen for the proposed initial nitrogen fixation potential determination. They represent two different types of organism systems capable of nitrogen fixation. *Anabaena flos-aquae* is a free-living, autotrophic, blue-green alga, and soybean contains the symbiotic, heterotrophic, nitrogen-fixing bacterium, *Rhizobium japonicum*. When an indication occurs that both plant species suffer from a lack of fixed nitrogen, the guidelines would require that the nitrogen fixation potential of a larger number of plants be evaluated more directly. *Azolla* with its nitrogen-fixing phycobiont, *Anabaena azollae*, would be required for the nitrogen fixation study due to its increasing importance as a green fertilizer for rice production in the U.S. (California) and worldwide. *Azotobacter vinelandii*, a free-living bacterium, is a major component of the soil nitrogen fixers. The method used to test nitrogen fixation potential would be the widely accepted acetylene reduction method which measures ethylene production by gas chromatography. Testing this group of organisms for nitrogen fixation potential will provide data that would allow EPA to assess the effects of pesticides on any combination of nitrogen fixers, free-living and symbionts, autotrophs and heterotrophs. The nitrogen fixation tests required by this subpart should be coordinated with those required in proposed § 163.62–8(f)(3) of Subpart D.

The selection of species for testing of pesticides is being coordinated with the Interagency Regulatory Liaison Group (IRLG) and the group within the Office of Toxic Substances working on the Toxic Substances Control Act (TSCA).

The Agency invites public comment on the selection of test species for the various tests.

C. Selection of Dose Levels.

The first level of tier testing would be required to be conducted with a dose level equal to 3 times the maximum application rate. Such levels of exposure may occur in several different situations: for example, overlapping of applications, abnormal spray drift patterns, misapplications, and extended residual activity through repeat applications. The Agency has detected numerous situations involving commonly recognized practice where the actual dosage level has exceeded the maximum recommended label rate by 2 or 3 times. By testing at the 3-fold level of the maximum recommended label rate, these situations may be assessed.

The test standards in subsequent tiers would require testing with lower concentrations of the test substance to determine the 10 and 50 percent detrimental effect levels and to ascertain a no-observed-effect level. There may be instances where responses to the calculated 10 percent and no-observed-effect levels are the same or cannot be distinguished. The concentration levels should be a progression, either geometric or logarithmic, to facilitate the determination of these detrimental effect levels. The levels should be of such a factor (about 2 for geometric progressions) as to facilitate statistical determinations.

The Agency recognizes that, in order to satisfy these standards, applicants may find it useful to perform a range-finding test before the full scale study. The Agency also recognizes that these preliminary tests can yield other information helpful to the design of the full scale study.

D. Control Groups.

In testing the formulated products, only negative control groups and the experimental groups would be required. However, when testing would involve the technical grade of the active ingredient, a second control group will be needed to ascertain the effects of added "insert ingredients" or adjuvants including solubilizers, carriers, driers, penetrators, and similar materials that are needed in order to work with the test substance. This second "intermediate" control group would be identical to the standard or negative control group but would be treated with the "inert ingredients" of the proposed pesticide product to determine any possible synergistic (or antagonistic) effects.

V. Reporting Requirements

The proposed reporting requirements for each proposed study of this subpart are separated into two sections. Proposed § 163.120–4 would establish reporting requirements that would generally apply to all testing conducted under Subpart J. The individual testing sections would establish specific reporting requirements tailored to present the results of each different kind of test. Those requirements for target area plants are given in proposed § 163.121–1 and include situations, applications, and locations where phytotoxicity is likely to occur with outdoor and greenhouse applications. Reporting requirements for the nontarget area plants are found in the individual tier sections (section series 163.122 through 163.125), and would include reporting such information as: the species, the response, and the statistical analysis. The reporting requirements for the proposed special tests of spray drift evaluation (section series 163.126) call for reporting of the equipment, methodology, and various other factors that may influence spray drift.

VI. Progression Requirements of the Tier System

The proposed tests for evaluating toxicity to nontarget area plants and microorganisms are arranged in a tier or hierarchical system. The requirements to develop data from the higher tiers would depend on the results of tests in the lower tiers. At the end of each proposed tier test section of this subpart are descriptions of the kinds of results which would result in the requirement of additional data. The tier system is arranged in a way that the applicant or registrant can develop all of the data necessary to allow a comprehensive and complete evaluation of the hazards to nontarget plants and microorganisms. Also, the "When required" paragraph of each of the higher tiers of testing restates the proposed requirement for that test based on the results of the lower tier studies.

Comments already received question the use of EC10 as a criterion for progression from tier 1 to tier 2 and from tier 2 to tier 3 or 4. The comments state that this criterion is too stringent. EPA recognizes that certain crops can, at times, suffer a significant reduction in growth without any effect on yield, but that a detrimental effect to growth or appearance of certain other crops such as ornamentals is generally considered unacceptable. Therefore, the EC10 was selected as the criterion.

The EC50 value for progression in the aquatic plant studies was selected based on information concerning the population dynamics of these and other aquatic organisms. Some comments received have stated that an EC95 is sufficient for the progression criteria especially with respect to algae while others refute this statement on the grounds of natural population dynamics.

For both terrestrial and aquatic plant testing, the Agency invites comments concerning the EC value system as the criterion for tier progression and also whether different standards for food and fiber crops and for ornamentals and for aquatic plants are appropriate. The tests of the various tiers may be combined or substituted with similar ones as provided for in proposed § 163.120–5. The purpose of this is to reduce the cost of testing where similar tests from various tiers would be required. Substitution of tests with similar tests already performed would also be permitted to reduce redundant testing. In all instances the test standards should be followed and the reports developed as required.

VII. Discussion of Individual Tests

This section of the preamble presents the purpose of requiring data from each of the different kinds of tests and the major issues identified in developing the individual tests.

A. Target Area Plant Phytotoxicity Testing.

The data from testing of pesticides in the target area under actual or simulated use conditions would be used to evaluate the effect of the pesticide on the growth and development of the crop or host plant and on the yield and quality of the commodity by methods of application not prohibited on the label.

B. Seed Germination and Vegetative Vigor.

Seed germination is one of the most widely accepted means of testing the effect of a substance on growth and development of plants. The seed germination study would be required to evaluate the germination process as affected by pesticides applied before or during planting.

The vegetative vigor study is included with the seed germination study, and data derived from this study would be used to predict major vegetative growth phase. The purpose is to evaluate pesticide effects on nontarget area plants with which the pesticide may come into contact.

The vegetative vigor study is a greenhouse or field plot study.

In the case of both seed germination and vegetative vigor, pesticidal effects are assessed using both processes because nontarget effects of pesticides on plant growth and development during the area plants may be exposed to pesticides at any one stage or several stages of growth.

C. Lemna Growth and Flowering.

The *Lemna gibba* test is the only study in tiers 1 and 2 which is performed with an aquatic macrophyte. It therefore can be used to assess the effect of pesticides on a representative of a very large, diversified number of vascular plants that inhabit aquatic ecosystems. *Lemna gibba* G3, when cultured axenically as indicated in the appendix to this subpart and with the addition of EDTA (9 mg/1) and sucrose (10 g/1), can be a flowering aquatic plant. These tests with this plant are the only ones contained in the first and second tier levels which would permit assessment of the effect of a pesticide on a plant while in flower.

D. Algal Studies.

Data from the testing of aquatic plants would be used to evaluate the effect of pesticides that may be applied directly or introduced into the aquatic ecosystem by leaching, runoff, or spray drift. The species selection would allow the evaluation of both fresh water and marine aquatic ecosystems.

The test procedures for the algae have been extensively evaluated by academic, governmental, and private researchers. The studies have illustrated the consistency of testing results, using the species and conditions prescribed by scientifically competent people, regardless of where the test has been performed.

It has been suggested that the tier 1 algal test use *Selenastrum capricornutum* as the sole test species. *Anabaena*, *Skeletonema*, and a freshwater diatom (yet to be selected) would be used in the tier 2 testing, if necessary. This would be a financial and time-saving step. The Agency invites comments on this possible modification to the algal tier testing scheme.

E. Mutagenicity Studies.

This subpart would require studies to assess possible mutagenic effects of pesticides on plants. Mutagenicity requirements are divided into two tiers. The first tier of study (proposed § 163.122–3) would be required if a pesticide produced mutagenic effects in the testing required for human hazard evaluation (see proposed guidelines §§ 163.84–1 through –4). Positivie results in the first tier of study would lead to testing in the second tier (proposed § 163.124–3). All mutagenicity test results would be used to determine the degree to which the pesticide can produce mutagenic effects in plants.

The first tier of the mutagenicity test (§ 163.122–3) would involve testing with *Tradescantia* and observing the number of pink (mutant) staminal hair cells in the exposed organisms. At present, *Tradescantia* is being used as a monitor for possible chronic mutagenic substances in air and water. There are several other tests, including the expression of waxiness in corn pollen grains, which can be used to observe mutagenic changes in plants. Some of these and additional species and methods are provided in proposed § 163.124–3.

Pesticides may cause mutations in plants in at least three ways:

(1) These pesticide may be the direct causative agent as in the case of auxin herbicides (Tomkins, D. J., and W. F. Grant. 1976. Monitoring natural vegetation for herbicide-induced chromosomal aberrations. *Mutat. Res.* 36:73–84);

(2) The pesticide may enter into the cellular metabolism process and be altered to form a mutagenically-active chemical; or

(3) The pesticide may alter a cellular metabolite which may become a mutagenically-active chemical (Plewa, M. J., and J. M. Gentile. 1976. Mutagenicity of atrazine: Maizemicrobe bioassay. *Mutat. Res.* 36:287–292).

Comments already received have questioned EPA's need for any data on the mutagenic effects of pesticides in plants. The Agency notes that in laboratory and recently in field studies, pesticides have been found to cause abnormalities in plants which are

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expression of mutagenic changes [Tomkins and Grant. 1976. (above)].

Although no substantial adverse effects on plants have been reported which can be attributed to mutagenic effects caused by pesticides, theoretically, such mutations in plants would have environmental and economic significance. For example, a pesticidally-induced mutation in a pest organism could make the pest more resistent to the controlling pesticide or, in the case of a weed, more competitive with the desirable nontarget plants. As a result of natural selection pressures, the representation of these kinds of mutations would be likely to increase in the gene pool of the species. Other mutations could make individual organisms less adapted to their environment. These mutations might be expressed in crop plants which are less tolerant to pesticides or adverse growing conditions or which are less resistant to pest attack. These latter changes generally are less likely to be perpetuated in the gene pool of the species due to natural selection pressures.

EPA expects that mutations in plants are most likely to be of concern to people who use pesticides to treat plants in flower which eventually will produce seed for future crops. At present, however, several seed producers contacted by the Agency feel that testing of pesticides at a primary level for mutagenic effects is not necessary to protect seed crop plants. They state that their tightly controlled production methodology would preclude carrying any significant yield or quality changes due to pesticidally-induced mutation(s) farther than one or two generations.

EPA requests comment on the need to evaluate the potential of pesticides to cause mutagenic effects on plants. Comments should describe the nature of the problem(s) associated with pesticidally-induced mutations in plants.

Comment already received suggest that EPA would obtain adequate information about the mutagenic potential of pesticides on plants from date required to assess mutagenic hazards to humans in proposed §§ 163.84–1 through –4 (43 FR 37336, 37388.) These comments state that if it is necessary to evaluate the mutagenic effects of pesticides on plants, the data from tests using bacteria and fungi would be adequate. EPA disagrees in part with these comments. While genetic material from bacteria, fungi, and higher plants has a similar molecular structure, there are differences between these orgamisms with respect to metabolism, cytoplasm, protective membranes, cell walls and possibly mechanisms of DNA repair. These differences might affect the ultimate incidence and expression of mutations. In summary, EPA feels that testing with higher plants would provide the most reliable data for assessing mutagenic effects in higher plants. The Agency welcomes comments on the use of bacteria and fungi mutagenicity data to assess mutagenicity hazards to higher plants.

Data from mutagenicity testing using higher plants may have a second use. EPA would examine the correlation of results from plant tests with results from bacterial, yeast, mammalian, and other studies to assess mutagenic hazards to humans and consider whether the correlations support use of plant mutagenicity data to evaluate human risks. If plant-test systems are reliable predictors of possible human risks, they should be included in the battery of tests used to assess mutagenic risks to humans. These test systems possess many advantages over other test systems. They are easily adapted to the study of actual exposure conditions including low level and long duration exposures. A recent review and workshop brought out other advantages: (1) plant chromosome structures are similar to those in mammals, including man; (2) plant responses to given mutagens are similar to those of other non-mammalian and mammalian systems; (3) regeneration is possible from single haploid and diploid cells; (4) mutagen response is sensitive with short life cycles; (5) the plants are relatively inexpensive to culture and data are easily obtained from them; and (6) *in situ* monitoring is possible [Nilan, R.A. 1978. Potential of plant genetic systems for monitoring and screening mutagens. *Environ. Health Perspectives* 27: (181–196). NIEHS Workshop on Higher Plant Systems as Monitors of Environmental Mutagens, Marineland, Florida, January, 1978].

In addition to the advantages brought out by the workshop, greater statistical reliability can be attained with plant systems than with animal systems. *Tradescantia*, the most commonly-used higher plant species, contains millions of potential observable units, staminal hairs. This compares with animal tests in which only 100 or so rodents or a few thousand *Drosophila* can be used.

It is apparent that plant studies may be a readily acceptable means of testing pesticides for mutagenic effects. Numerous chemical companies have routinely submitted data from these relatively inexpensive plant studies to the Agency for evaluation to determine some of the mutagenic effects of pesticides on organisms. The continued submission of these data is encouraged until the Agency makes a final determination whether such data are or are not required by this subpart.

The Agency also invites comments concerning the second use of higher plants studies to evaluate the mutagenic potential of pesticides on humans.

F. Field Tests.

The field tests are employed to evaluate the phytotoxic nature of the pesticide in environmental conditions and situations under which the pesticide will be used.

The increase in number of species and the geographical areas will permit the Agency to more accurately evaluate the risks associated with pesticide selectivity and the varied species susceptibilities. By increasing the number of test areas, it will be possible to evaluate the effect of different environmental variables on the toxicity of the pesticide to nontarget plants and microorganisms.

G. Sorption Studies.

The sorption study (proposed § 163.125–4) is designed to derive information concerning the effects of pesticides on aquatic plants when the pesticide is likely to be carried into the aquatic system sorbed to soil or organic matter. These pesticides normally will not readily dissolve in water, nor will they have exceptionally high soil or organic carbon sorption coefficients. The pesticides so carried could be readily transferred from the soil or organic matter carrier directly to the plant surface, root, or submersed foliage, as is the normal occurence with nutrients for plants.

The other aquatic studies (proposed § 163.122–2, 123–2, and 124–2) are designed to assess the effects of dissolved material only on aquatic plants.

Because experimentation of this nature has not been conducted with the requirement to measure the various parameters, a defined level with relation to "readily sorbed" is not available. The Agency, therefore, invites the submission of information and comments concerning this type of study and a reasonable value or range of values.

VIII. Special Tests

A special test series (§ 163.126) is proposed by this subpart of the guidelines to evaluate spray drift potential of pesticides that are to be applied by aircraft (fixed wing and helicopter), air carrier (mist blower), and other ground application equipment. Examples of such ground application equipment include but are not limited to overhead sprinkler irrigation, and sprayers for roadsides and railroad rights-of-way.

A recent amendment to the Act states "The term 'to use any registered pesticide in a manner inconsistent with its labeling' means to use any registered pesticide in manner not permitted by the labeling: Provided, that the term shall not include. (3) employing any method of application not prohibited by the labeling under FIFRA sec. 2(ee)." Under this new interpretation, liquid or wettable powder pesticides not normally expected to be sprayed (i.e., soil-injected or -incorporated) might be sprayed on occasion without the spray application being illegal or grossly "inconsistent" with the labeling. Therefore, products formulated such that there may exist a reasonable likelihood of application by spraying would generally be subject to the requirements of the spray drift studies, §§ 163.126–1 through –4.

These guidelines would establish data requirements which primarily address hazards from swath displacement. The results from the testing would be used to develop appropriate limitations on the use of the pesticide to reduce the hazards identified. Such restrictions might include general equipment restrictions, wind velocity limitations, buffer zone establishment, and release heights.

From the definition of extended airborne displacement and from the fact that damage from such drift has been significant up to several miles from the target areas, it can be seen that protection from airborne displacement cannot always be effected by means of small buffer zones around the target area. The primary factors which could equally reduce drift hazard from both swath and extended airborne displacement are related to droplet size. Hazards from both swath and extended displacement can be reduced simultaneously when technology reaches the point where uniformly-sized and -distributed droplets are: (1) sufficiently large to reduce drift, but small and numerous enough to maintain efficacy; (2) sufficiently few to prevent uneconomical and inefficient applications; and (3) which possess sufficient integrity to maintain droplet size from formation until deposition. Until that time, it would seem that reduction of drift hazard from swath displacement can be regulated and attained through specific label restrictions, buffer zones, and precautions, while reduction of drift hazard from extended airborne displacement must rely upon adherence to a combination of general label precautions and awareness by those applying pesticides of potential hazards in a particular area.

The evaluation of swath displacement is a three-part study (see proposed § 163.126–1). The first part is a bioassay study (proposed § 163.126–2) to determine the phytotoxic levels of the pesticide on plants that may be grown in close proximity to areas of application. The bioassay test performed in tiers 1 and 2, vegetative vigor (proposed §§ 163.122–1 and 123–1), may be substituted for the plant activity spectrum test. The protocols for this bioassay test are those given in the appendix: vegetative vigor (foliar application). Data to fulfill the requirement of the plant activity spectrum may be substituted by submission of published or unpublished information.

The second part of the spray drift evaluation would be the droplet volume spectrum study under proposed § 163.126–3. Inclusion of this set of data is of great importance. Droplet sizes along with wind speed are the primary determining factors of spray drift. A wind tunnel or similar device can simulate to some extent the wind conditions that may occur in the field, and can be used to study the effect of various nozzle types and cores, pressures, angles, product formulations, and droplet distribution from nozzle to impact. It should be noted, however, that the wind tunnel studies are not intended to be total substitutes for the field studies.

Because it is impossible to test all possible nozzle types and utilize all expected weather conditions, the droplet size spectrum studies would be performed using a good cross-sample of commonly-used or label-recommended nozzle types and arrangements under typical weather conditions expected during application. Equipment and conditions that simulate "worst-case" conditions for spray drift should be evaluated. The registrant or applicant would be required to determine the droplet size and volume distributions for each set of conditions. By performing these relatively less expensive tests, the number of the more expensive field studies can be reduced, and predictions of spray drift patterns under various conditions can be made.

The third part of this evaluation, the actual field determination of swath displacement spray drift using commercial equipment (proposed § 163.126–4), would be required when the plant activity spectrum indicates that plants outside the target area are likely to be detrimentally affected. Data from the field test would provide the Agency with information from actual situations and allow a more accruate hazard evaluation.

To fulfill the requirements of the droplet spectrum study and the swath displacement spray drift study, registration applicants may either conduct the studies according to the standards set forth in these guidelines, or submit published information regarding droplet size distribution and spray drift patterns which would be expected to be similar to those of the prospective pesticide product. When published information is submitted, it would have to be supported by a rationale concerning the claim of "similar or identical" spectra and patterns. While most registration applicants would probably choose to supply published data, a few may choose to develop their own data by following the standards set forth in these guidelines, simply because published information would not support the superior or different characteristics that have been incorporated into the formulations planned to be marketed.

IX. Regulatory Impact Analysis

Although individual sections of the guidelines may not be "significant" regulations under Executive Order 12044, EPA has decided to pursue the following procedure because of its concern over the total impacts of the guidelines. EPA issued an economic impact analysis of the proposed guidelines as they existed in mid–1978 published in the **Federal Register** of September 6, 1978 (43 FR 39644). As sections are reproposed or promulgated, or as new sections are proposed, EPA will estimate or revise its estimates of the costs for the relevant sections of the guidelines. The costs for these sections would be set into the context of the cost of the overall guidelines. Reference would be made to the economic impact of the total guidelines by summarizing the impacts estimated in the 1978 analysis. Once a significant proportion of the guidelines has either been reproposed or promulgated, EPA will make at least one further revision, once the guidelines are substantially complete.

A paper entitled "Economic Impact Analysis of Pesticide Registration Guidelines for Subparts G, I, and J" contains the cost and context information for the FIFRA guidelines Subpart J. This analysis is available by contacting the Document Control Officer at the address given above. The Agency

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welcomes public comment on this report.

In summary, the projected total costs of reregistration for Subpart J total approximately $6 million. This amount represents a small percentage, about 0.6%, of the total data requirement costs of pesticide registration.

EPA's economic impact analysis of the proposed guidelines of 1978 was based on Subparts B, D, E, and F proposed in July and August of that year. The annualized total for registration and reregistration was estimated then at $76.5 million, some 33% lower than the current estimate of $140 million. Based on the 1978 estimates, EPA made the following conclusions about the economic impact of the whole set of registration guidelines:

1. Sales value of pesticides at the basic producers level would increase by between 1.4 and 4.4 percent.

2. Pesticide research and development expenditures would increase by between 20 and 63 percent.

3. Pesticide users would face about a 1.3% increase in pesticide costs.

4. Overall added consumer costs are estimated to be quite small (about 35 cents per capita per year).

5. Employment dislocations of 38 to 75 jobs per year are expected to be largely offset by continued industry growth.

6. The guidelines are expected to have little impact on the economic viability of the roughly 200 major active ingredients.

7. Of the 300 to 550 smaller volume active ingredients subject to reregistrtion during the 1980's, however, the guidelines were estimated to cause about 35% to become uneconomical unless significant waivers of data requirements are requested and granted.

8. The "minor use problem" (i.e., how to register or maintain registration of products for minor agricultural (and other) uses) is not expected to be significantly aggravated by the guidelines, provided a minor use policy [utilizing the USDA/State Inter-Regional Project No. 4 ("IR-4"), other existing programs, and new efforts] can be developed by EPA.

9. Major pesticide firms are not expected to be adversely affected by these guidelines. A major impact on competition in the industry, however, consists of the guidelines operating as barriers and making it more difficult for smaller firms to compete effectively. This impact may be lessened as a result of the implementation of the 1978 amendments to FIFRA.

10. The effects on pesticide formulators are not fully known at this time, and are currently being examined by the Agency through its own investigations and through contract studies.

11. There is a possibility that resource constraints (laboratory facilities and personnel) may hinder the implementation of the testing guidelines. The extent of that potential problem is currently unresolved and is being investigated.

No attempt has been made to relate Subpart J to the economic impacts summarized above.

Note.—The Environmental Protection Agency has determined that Subpart J, in and of itself, does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 28, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Addendum I to Preamble

FIFRA section 25(a)(2)(A) requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** This provision is to permit the Secretary opportunity to comment on the proposal, and he did so for the guidelines and preamble for Subparts G, I, and J. The comments of the Secretary and the Administrator's response thereto are published below. In this instance, correspondence was exchanged between Edwin L. Johnson, Deputy Assistant Administrator for Pesticide Programs, EPA, and Robert C. Riley for Barry R. Flamm, Director, Office of Environmental Quality. Each of the individual comments from USDA on Subpart J is reproduced in full, but USDA comments on Subpart G and I (also included in the letter) were not included here. The page numbers mentioned in USDA comments refer to pagination in the June 22 draft being reviewed at the time. For purposes of brevity in this addendum, each USDA comment is followed immediately by insertion of the corresponding EPA response set off in brackets.

Department of Agriculture,
Office of the Secretary,
Washington, D.C., August 6, 1979.
Mr. Edwin L. Johnson (TS-766),
Deputy Assistant Administrator for Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C.

Dear Mr. Johnson: Thank you for your July 5, 1979 letter, transmitting copies of EPA's proposed "Guidelines for Registering Pesticides in the United States." The guidelines transmitted include Subpart G—Product Performance; Subpart I—Experimental Use Permits; and Subpart J—Hazard Evaluation: Nontarget Plant and Microorganisms.

We are pleased that the U.S. Environmental Protection Agency is making progress in the development of guidelines for registering pesticides in the United States. These guidelines will be of value to those wishing to pursue registration of pesticides.

USDA cursory comments on each of the subparts are attached. We expect to have additional comments during the 90-day comment period after the guidelines are published in the **Federal Register.**

We waive the 30-day waiting period requirement for publication in the **Federal Register** after receipt of USDA comments as you requested in your letter.

We hope you will find our comments constructive. We look forward to continued cooperation with the U.S. Environmental Protection Agency as the development of these important registration guidelines progress.

Sincerely,

Robert C. Riley (for)

Barry R. Flamm,

Director, Office of Environmental Quality.

USDA Comments on Draft of Subpart J

Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms

I. Organization and Philosophy of Subpart J

This section should emphasize only essential information to fit the basic needs of regulation. *Mutagenicity studies with plants* (163.84 and 163.124-3) do not appear essential and it is recommended that the requirements be deleted.

[EPA response: The proposed tests described in §§ 163.122-3 and 163.124-3 provide that, if chemicals cause mutagenic changes in animal and microorganism systems as determined through testing under Subpart F (§§ 163.84-1 through -4), the chemicals should also be tested to determine if they also adversely affect plant systems. The Agency is concerned about the possible adverse effects on plants of mutagenic chemicals that are or may be marketed as pesticides, as discussed in the preamble at part V. E. EPA assumes that the Department has considered the Agency's reasons for proposing mutagenicity testing requirements, and that the Department disagrees with them. The Department's comment will be considered along those supplied by the public on the appropriateness, scientific merit, and feasibility of the requirements, and on the criterion that invokes the requirements.]

Pages 7 and 8—The topic of overlabeling needs further clarification to avoid confusion or improper regulation.

[EPA response: The preamble, at part I. C., paragraph 5, indicated that overlabeling (label statements implying hazard far in excess of actual hazard) of pesticide products is not an acceptable alternative to the submittal of hazard evaluation data. The original statement has been modified slightly to clarify meaning and intent. A more detailed discussion with regard to overlabeling problems and prohibitions will be set forth in Subpart H "Label Development".]

[II. The Standards for Acceptable Testing]

Page 14—It would seem logical that EPA should only be concerned with laboratory and field phytotoxicity studies of the formulated products. There appears to be no reason to require data on unformulated components not intended for use in the environment.

[EPA response: Nontarget plant toxicity testing, as required by tiers 1 and 2 (§§ 163.122-1 and -2, 163.123-1 and -2) employs the technical or purer grade of the active ingredient ("technical chemical") for several reasons. The information on plant response to the technical chemical is sufficiently indicative of the phytotoxic nature of the chemical for preliminary evaluation, and is far less costly to develop than to require individual tests on each and every pesticide formulation. When phytotoxic effects are found, further testing at tiers 3 and 4 (§§ 163.124 and 162.125) may be required, in which case field testing employing the formulated product is performed. Since the technical chemical is the required test substance in the first 2 tiers of testing, data from already-performed tests with the technical chemical and published (or unpublished) reports of tests with the technical chemical can be substituted for actual testing by the applicant and submitted as support for the registration.] Page 18—It should be pointed out that nitrification has been addressed previously in the guidelines. Is there a need to duplicate on p. 18?

[EPA response: Nitrification (the process in which the oxidative state of nitrogen is increased) is not addressed in Subpart J. Nitrogen fixation (the process in which dinitrogen's oxidative state is reduced to produce ammonium ions) is addressed in § 163.125-3 and discussed in the preamble at part II. B., paragraph 8. The nitrogen fixation studies required by this subpart are to be coordinated with the nitrogen fixation requirements of § 163.62-8(f)(3) of Subpart D (Environmental Chemistry). Statements have been added in both the preamble and the guidelines to prevent, to the extent possible, duplication of testing.]

[V. Discussion of Individual Tests]

Page 23—The seed germination and vegetative vigor section is too broad and lacks definition. This seems to be a section concerning primarily herbicides. Soil type, moisture, content of soil, pH and other variables contribute to difficulty of interpreting laboratory, green house or early field test studies.

[EPA response: The discussion regarding seed germination and vegetative vigor in the preamble at part V. B., paragrahs 1 and 2, was modified to explain better the scope of the required studies and the intended use of the data.]

Page 25—We do not understand the relationship of plant mutagenicity testing, human hazard and practical regulation. We recommend that plant mutagenicity testing be deleted from the regulation. [EPA response: See the EPA response to the first comment in this Addendum.]

[VI. Special Tests]

Page 31 (Special Studies—Section Series 163.126)—USDA is concerned about the relationship of spray drift potential as presented in Subpart J and the need for an interagency task force between the EPA and Department of Agriculture to develop application methodology and pesticide labeling directed toward an advisory opinion relative to the "misuse" provisions concerning dilution (concentration) and unspecified methods of application. It would seem that our knowledge of spray drift as related to formulation and equipment needs greater study and followup recommendations before this part of Subpart J is accepted in final form.

[EPA response: One of the major causes of nontarget plant damage is drift of pesticides applied as sprays to areas outside the intended application site. The Agency proposes to establish data requirements to evaluate the potential of a product to drift when applied as a spray. Since these guidelines will not be published in final form for many months, there is opportunity for more information to be developed which would help the Agency provide more specific testing standards and data requirements for spray drift studies. The Agency published an advisory statement in March 1979 concerning the "misuse" of a chemical where its application concentration may not be other than indicated on the label. This opinion was provided in response to FIFRA § 2(ee). Presently, the Agency and the Department of Agriculture are involved in developing a second advisory. statement on the "misuse" provision concerning dilution (concentration) and unspecified methods of application.]

General Information and Testing Requirements

The general principle of tier testing is considered acceptable but there is concern about cost if all tests are required on a pesticide product.

[EPA response: An economic impact analysis with regard to this subpart is published with these proposed guidelines. It should be noted that there are several statements in the guidelines indicating that data based on the testing requirements may be substituted with data from tests already performed (§§ 163.120-5(c) and 163.126-1(a)). Also, applicants may request that certain testing requirements be waived (see preamble at part I. D., paragraph 1), thereby reducing the costs of testing.]

Page 3—USDA is concerned about the lack of clarity in discussing target area phytotoxicity data requirements. It would seem that target area phytotoxicity studies would be generated by the States testing the product prior to developing recommendations for the farmers of the State.

[EPA response: The concern about lack of clarity is not sufficiently precise to prompt the Agency to make any changes to clarify the requirements of this subpart. With reference to the latter comment, phytotoxicity information generated by the States would definitely benefit farmers and certain other pesticide users. However, such State-generated information usually would not be available at the time EPA needed to decide whether to register a particular pesticide product. Accordingly, the burden of producing target area phytotoxicity data (when such are required) usually falls on the registration applicant.]

Page 14(3)—Maintaining plants under their normal or natural cultural environment will be impossible for many microorganisms.

[EPA response: The comment refers to § 163.120-3(e)(4) which states that test organisms "should be maintained under conditions similar to their natural or normal cultural environment." The Agency recognizes the validity of the Department's comment, but calls attention to the fact that this statement actually is only advisory in nature: note that organisms "should" (not "shall") be maintained under conditions "similar to" (not "exactly like") those natural conditions.]

Page 21—Detrimental or adverse effects to be reported do not include "effects on root systems."

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[EPA response: The Agency concedes that this was an important oversight in the draft supplied to the Department for review. In response to the comment, the following wording has been added, in § 163.120–4(c)(3): "Effect on root growth and structure".]

Page 22(8)—Addressing pesticide effects on nontarget areas, other than nontarget plants, seems repetitious since other Subparts of the Guidelines cover the subject.

[EPA response: The language of the statement referred to (§ 163.120–4(c)(8) has been changed to reflect the intent of the requirement more clearly, such that duplicative requirements are no longer implied.]

[Tier 1 Testing]

Page 41—Section 163.122–1(1)—The formulated product should be the "test substance" rather than the technical chemical.

[EPA response: See the EPA response to the third comment on Subpart J in this Addendum.]

Addendum II to Preamble

FIFRA section 25(a)(2)(A) requires the Administrator to provide the FIFRA Scientific Advisory Panel a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. This provision is to permit the Panel opportunity to comment on the impact on health and the environment of the proposal. The specific comments of the Panel on a June 22, 1979 draft of Subpart J and the Administrator's responses thereto are published below. In this instance, correspondence was exchanged between Edwin Johnson, Deputy Assistant Administrator for Pesticide Programs, and Wade Fowler, Executive Secretary of the Panel. In the letter from the Panel provided in this addendum, deletions were made that referred to the Good Laboratory Practice proposal that was reviewed at the same time. Also, readers should note that the Panel also reviewed Subparts G and I at this time; the Panel's specific comments on these 2 subparts are also deleted. For purposes of brevity in this addendum, each Panel comment on Subpart J is followed immediately by insertion of the corresponding EPA response and set off in brackets.

United States Environmental Protection Agency
Office of Toxic Substances.
Washington, D.C. 20460. October 22, 1979.
Subject: Review of Proposed Guidelines for Registering Pesticides in the United States

From: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766).
To: Deputy Assistant Administrator for Pesticide Programs (TS–766).

The FIFRA Scientific Advisory Panel has completed review of Subparts . . G, I, and J of the Guidelines for Registering Pesticides in the United States. The review was completed in open meetings held in Arlington, Virginia, during the period July 19–20, 1979. Attached is a report of findings by the Panel.

This report was delayed due to a shift of office resources for resolufion of Panel business relating to conclusion of the RPAR's on 2,4,5–T and Silvex. The secretariat regrets the delay and sincerely hopes that the delay did not significantly impede progress with proposed rulemaking on the Guidelines.

Please convey our special thanks to Dr. Preston, Mr. Jordan, and all members of the EPA staff who participated in the meeting for an excellent briefing on the important features of the proposed rulemaking documents.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel; Review of Proposed Guidelines for Registering Pesticides in the United States

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel completed review of several additional Subparts of Proposed Guidelines for Registering Pesticides in the United States during open meeting held in Arlington, Virginia, during the period July 19–20, 1979. The following specific subparts were reviewed during the meeting:

1. ***
2. Subpart G. Product Performance.
3. Subpart I. Experimental Use Permits.
4. Subpart J. Hazard Evaluation: Nontarget Plants and Microorganisms.

Maximum public participation has always been encouraged at all meetings of the FIFRA Scientific Advisory Panel. In respect to this session of the Panel, a **Federal Register** Notice was published on July 3, 1979. In addition, telephonic notices and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written statements relative to the Proposed Guidelines, Subpart G, Product Performance, were received from Huntington Laboratories, Inc. In addition to comments by EPA staff, informal comments were received from the general public and representatives of the pesticide industry.

The superb efforts of Dr. William H. Preston, Jr. and other technical staff of EPA who presented various Subparts of the Guidelines to the Panel are worthy of special recognition. The Panel wishes to commend the Agency for being exceptionally cooperative in their working relationship with the Panel in all matters dealing with the proposed Guidelines. This has materially aided in the expeditious review of a large amount of technical material. Additionally, the Panel wishes to recognize the value of preliminary review of massive documents such as Subpart G, Product Performance (676 pages). Introduction of the document to the Panel and the public in Houston, Texas, during a special subcommittee meeting in November 1978 made it possible to focus attention on a limited number of central issues and avoid lost time in discussions emanating from problems of communication relative to isues easily resolved by Agency officials.

In consideration of all matters brought out in the meeting and a careful review of the proposed rulemaking document * * *, the Panel submits the following report:

The FIFRA Scientific Advisory Panel is of the opinion that the *** subparts of the Guidelines (Subparts *** G, I, and J) submitted to the Panel as proposed rulemaking during the Twenty-fourth meeting of the Panel, July 19–20, 1979, deals effectively with the intended procedures with a limited number of specific exceptions and recommendations:

The FIFRA Scientific Advisory Panel unanimouslyu submits the following comments on the *** proposed subparts of the pesticide registration Guidelines:

I. ***
II. ***
III. ***
IV. Subpart J Hazard Evaluation: Nontarget Plants and Microorganisms.

This subpart encompasses concerns relative to potential damage to plants within the target area that are intended to be protected as well as valuable plants outside target areas. Panel Comments and Recommendations: The Scientific Advisory Panel concurs with this subpart with the stipulation that the Agency will provide appropriate remedies to a series of minor issues identified and recorded by EPA staff during the meeting.

[EPA response: The more important of the minor issues noted and acted upon by the Agency include:

(1) Preamble, part II. B., paragraph 2: The statement mentioning statistical analysis between species has been deleted.

(2) Preamble, part IV., paragraph 6: A paragraph has been added regarding testing of combinations of nozzles and nozzle configurations. It explains that studies should be performed using a good cross sample of commonly-used or label-recommended nozzle types and arrangements used under typical weather conditions, and that, during field evaluations, the commonly-used equipment and expected weather conditions that provide "worst case" conditions should be used.

(3) § 163.120–3(e) and § 163.120–4 (throughout): The repetitious wording "nontarget plant and microorganism test species" has been changed to "test organism".

(4) § 163.120–3(f): A paragraph on nontarget organism safety has been added to help ensure that endangered or threatened plant and animal species will not be adversely affected by conducting the field tests required by this subpart.

(5) § 163.120–4(a): A statement has been added to reflect the need to obtain an experimental use permit for field studies where more than 10 acres are involved or where spray drift studies are to be performed.

(6) §§ 163.122 and 163.123: The statement under "Test substance" referring to use of water as a diluent has been deleted.

(7) § 163.125–3: Cross reference is made to § 163.62–8(f)(3) of Subpart D to prevent duplication of testing for nitrogen fixation potential effects.

(8) Appendix Item (2): A change has been made indicating that vegetative vigor studies using *Rhizobium*-inoculated soybeans should be conducted during the 7–9 week period so that the effect on *Rhizobium* nitrogen fixation can be observed.]
[End of comment.]

It is proposed to add a new Subpart J to 40 CFR Part 163 to read as follows:

Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms

General

Sec.
163.120–1 Overview.
163.120–2 Definitions.
163.120–3 Basic test standards.
163.120–4 General evaluation and reporting requirements.
163.120–5 Tier testing sequence.

Target Area Testing

163.121–1 Target area plant toxicity testing.

Tier 1 Testing

163.122–1 Seed germination/seedling emergence and vegetative vigor (Tier 1).
163.122–2 Growth and reproduction of aquatic plants (Tier 1).
163.122–3 Mutagenicity effects (Tier 1).

Tier 2 Testing

163.123–1 Seed germination/seedling emergence and vegetative vigor (Tier 2).
163.123–2 Growth and reproduction of aquatic plants (Tier 2).

Tier 3 Testing

163.124–1 Terrestrial field testing (Tier 3).
163.124–2 Aquatic field testing (Tier 3).
163.124–3 Mutagenicity testing (Tier 3).

Tier 4 Testing

163.125–1 Widespread geographical uses (Tier 4).
163.125–2 Widespread seasonal uses (Tier 4).
163.125–3 Nitrogen fixation potential (Tier 4).
163.125–4 Readily sorbed materials (Tier 4).

Special Testing

163.126–1 Spray drift: General requirements.
163.126–2 Spray drift: Plant activity spectrum studies.
163.126–3 Spray drift: Droplet size spectrum studies.
163.126–4 Spray dreft: Field evaluation.
Appendix A to subpart J

Authority: Secs. 3, 8, and 25(a)(1), Federal Insecticide, Fungicide, and Rodenticide Act, as amended; 92 Stat. 819; (7 U.S.C. 136 et seq.; 1972, 1975, and 1978).

General

§ 163.120–1 Overview

(a) *General*—(1) *Scope.* This subpart deals with data requirements to support registration of all outdoor use pesticides that come in contact with plants and microorganisms. This subpart addresses testing for adverse effects to nontarget plants, including those which are within the pesticide application target area (such as crop plants that are growing with weeds or are hosts for insecs and disease organisms), those which are outside the target area (such as typical adjacent crop plants, desirable ornamentals, important wildlife food and cover species, and forestry, lumber, and conservation plantings and endangered and threatened plant species), and microorganisms both within and outside of the target area. This subpart is concerned with toxicity resulting from direct exposure (i.e., application of a pesticide to a plant or microorganism) and from indirect exposure (i.e., exposure resulting from movement of the pesticide through the environment).

(2) *Organization.* This subpart contains three broad areas of data requirements:

(i) Toxicity to plants in the target area (§ 163.121–1);

(ii) Toxicity to plants and microorganisms outside of the target area (section series 163.122, 163.123, 163.124, 163.125); and

(ii) Evaluation of spray drift potential (section series 163.126). These data must be derived from tests and reported in a manner which complies with the general test standards contained in § 163.120–3 and the general reporting requirements contained in § 163.120–4 as well as the specific standards and reporting requirements of each section listed in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Waiver of requirements for target area phytotoxicity*—(1) Section 3 of FIFRA requires an applicant for registration of a pesticide to submit data showing that the product "will perform its intended function without (causing) unreasonable adverse effects on the environment." Toxicity data are necessary to show that products do not cause undue damage to nontarget organisms, including plants, in the environment. However, in accordance with Section 3(c)(5) of the amended FIFRA, "(i)n considering an application for the registration of a pesticide, the Administrator may waive date requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the presticide's composition is such as to warrant proposed claims of efficacy." The Administrator has determined that efficacy test data include target area phytotoxicity testing data, and that data submittal for such testing may ordinarily be waived for most kinds of pesticide products. Such products generally include all pesticides whose uses result in direct or indirect application to plants in the target area such as agricultural, lawn, and garden use. Target area phytotoxicity data submittal will not be waived for pesticides that are under review in a cancellation or suspension proceeding, or aginst which a rebuttable presumption against registration (RPAR) notice has been issued.

(2) Even though the Administrator will ordinarily waive the requirement for submittal of target area phytoxicity test data as indicated in paragraph (b)(1) of this section, he reserves the authority to require such data on a case-by-case basis whenever he deems that such data are necessary to evaluate the acceptability of a product for registration. Thus the guidelines in this subpart shall be used by registration applicants as phytotoxicity test standards and phytotoxicity data reporting requiremetns when target area phytotoxicity data must be submitted to support registration applications. The guidelines may also be used to provide helpful guidance on testing to support the claims and directions for use on product labeling for products for which target area phytotoxicity data submittal is waived.

(c) *Nontarget area phytotoxicity testing.* Data concerning the determination of pesticidal effects on nontarget area plants and microorganisms required to support the registration of pesticide products for outdoor applications are arranged in a tier system. Each tier test section

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specifies the conditions under which the data are required. Tests in the lower tiers (1 and 2) are designed to screen those technical chemicals to determine the potential to cause adverse effects on seed germination, vegetation vigor, and aquatic plant growth and reproduction. The higher tiers (3 and 4) are designed to broaden knowledge concerning any determination effects on nontarget plants and microorganisms of either technical chemicals or formulated products. Waivers of specific nontarget phytotoxicity test data may be requested. The request for waiver must address the product applicaiton methodology, the pesticide product's chemical and physical properties, and the known phytotoxicity properties of the pesticide product.

(d) *Pesticide movement that relates to phytotoxicity evaluations.* During and after pesticide application, pesticides may be transported through the environment to nontarget areas where they may induce undesirable effects on nontarget plants. For some uses and some pesticides, data may be required concerning transport by wind (via spray drift, volatilization), water (via leaching, lateral movement in soil, runoff, drainage), movement of contaminated soil itself, and movement of treated plant material. The spray drift evaluation guidelines of section series 163.126 will not deal with other types of pesticide aerial movement such as violatization and movement by wind of treated or contaminated soil or plant material.

(e) *Application rates in relation to phytotoxicity evaluations.* Application rates for these tests generally include stated on product labeling, but may also include higher concentrations or more frequent applications that label-recommended rates to cover those use situations where commonly recognized practices of pesticide usage frequently involve over-application.

(f) *Comparability tests.* (1) In certain circumstances, the registrant may establish the comparability of detrimental effects between proposed and registered uses of formulations rather than conducting a large-scale testing program in which all variables pertinent to the amended use or altered formulation are extensively reevaluated. These circumstances may exist when a registrant seeks to amend his registered label by altering directions for use, rates, or applicaton techniques, or by adding tank mixes, serial applications, adjuvants, or alternate carriers, or when a registrant seeks initial registration of an alternate formulation of a product which he has previously registered. Use of this approach will generally decrease the time and expense involved in generating toxicity data in support of registration. Prior to initiating testing to establish comparability, the applicant should discuss with the Agency the propriety of this approach and the toxicity data required in the specific situation encountered. Establishing comparability requires direct comparisons of results from plots (preferably adjacent ones) subjected to identical test condition.

(2) Since tests may be fewer in number and smaller in size than those involved in full scale testing programs, more emphasis must be placed on selection of test conditions such that comparability will be evaluated under the most rigorous test conditions.

(g) *Relation of Subparts B, D, F, G, and H to Subpart J.* (1) The registration applicant is referred to Subpart B—Introduction to the Guidelines for: purpose of the guidelines, definitions of widely-used terms, policy on flexibility in relation to deviation from test standards and acceptable protocols, and requirements for retention and submission of raw data, specimens, and samples of test substances.

(2) Data required by other sections of these guidelines for pesticide registration contain information which may be considered in the evaluation of pesticidal hazards to plants resulting from the use of a pesticide. This information appears in the following section series:

Sec.
163.62 Environmental chemistry.
163.84 Mutagenicity testing.
163.90 Overview, definitions, and general requirements.
163.91 Efficacy of antimicrobial agents.
163.92 Efficacy of aquatic pest control agents.
163.93 Efficacy of fungicides and nematicides.
163.94 Efficacy of terrestrial herbicides, plant regulators, desiccants, and defoliants.
163.95 Efficacy of invertebrate control agents.
163.96 Efficacy of vertebrate control agents.

In no instance will the data requirements of these sections be imposed such that duplicative data would have to be submitted to meet the requirements of these sections and of this subpart.

(3) The registration applicant is referred to Subpart H—Label Development for requirements on pesticide labeling. One of the important objectives of the testing programs required in Subpart J is to develop sufficient data to support appropriate and adequate precautionary statements and instructions for use, with respect to nontarget plants and microorganisms. Applicants should read the appropriate paragraphs of § 163.100–4 and section series 163.104 dealing with phytotoxicity and nontarget plant effects.

§ 163.120–2 Definitions.

Terms used in this subpart shall have the meaning set forth in FIFRA at § 162.3 of this chapter, at § 163.40–2, at § 163.60–2, and at § 163.90–2. In addition, for the purposes of this subpart:

(a) The term "algae" includes all chlorophyllous *Thallophyta* other than the *Bryophyta*. It includes the blue-green algae (*Cyanophyta*), green algae (*Chlorophyta*), golden algae and diatoms (*Crysophyta*), brown algae (*Phaeophyta*), red algae (*Rhodophyta*), and golden-green algae (*Xanthophyta*).

(b) The term "aquatic plants" includes those plants which are totally aquatic (free-floating or attached, submersed, and emersed) and those which are semi-aquatic such as swamp and wetland plants.

(c) The term "drift" as defined in 40 CFR 162.3(n) means movement of a pesticide through air during or immediately after application or use to a site other than the intended site of application or use. Drift includes two major components:

(1) Swath displacement downwind: that which is deposited in or adjacent to the intended target area.

(2) Extended airborne displacement: that which is carried and deposited beyond and not necessarily adjacent to the target area.

(d) The term "ECx" means that external pesticide concentration required to cause a detrimental change or alteration (in a nontarget plant) expressed as a percent (x) in comparison to untreated control plants. An EC10, EC50, and EC90 are the concentrations required to effect a 10, 50, or 90 percent detrimental change, respectively, on nontarget plant growth or activity.

(e) The term "EDx" means that internal pesticide concentration or dosage required to detrimentally affect dry weight gain (in a nontarget plant) expressed as a percent (x) in comparison to untreated control plants.

(f) The term "Ix" means that pesticide concentration required to effect a detrimental change (usually inhibition) in enzymatic activity in a nontarget plant expressed as a percent (x) in comparison to that in untreated control plants.

(g) The term "microorganism" means any of those organisms classified as algae, fungi (*Myxomycota* and *Eumycota*), and bacteria (*Schizomycota*).

(h) The terms "nontarget plant" and "nontarget microorganism" mean any plant and microorganism species considered not to be pests. These species are not intended to be controlled, injured, killed, or detrimentally affected in any way by a pesticide. "Nontarget plants" include desirable or pest host plants such as crops or ornamentals within the target area, and desirable plants outside the target area.

(i) The term "pest-free" means as free of pests as possible. For example, for herbicide tests which require pest-free plots, such plots should be free of weeds; for tests with insecticides which require pest-free plots, such plots should be free of damaging insects.

(j) The term "phytotoxicity" means unwanted detrimental deviations from the normal pattern of appearance, growth, and function of plants in response to toxic pesticides and to other toxic chemicals that may be applied with the pesticide. The phytotoxic response may occur during germination, growth, differentiation, and maturation of plants, and may be of a temporary or long-term nature. Phytotoxic responses include adverse effects on growth habit, yield, and quality of plants or their commodities to the extent that a relationship between cause and effect can be established.

(k) The term "plants" includes vascular and nonvascular plants, algae, and fungi.

(l) The term "target area" means the area actually treated with a pesticide when label use directions are followed.

(m) The term "target area plants or microorganisms" means all plants or microorganisms located within the target area, and includes both desirable and undesirable species.

§ 163.120–3 Basic test standards.

(a) *Scope.* This section contains test standards which apply to all studies in this subpart unless another section of this subpart contains a specific test standard on the same subject, in which case the specific test standard in the other section shall apply to the conduct of that particular study.

(b) *General.* The experimental design, execution of the experiments, classification of the organism, sampling, measurement, and data analysis in support of an application for registration must be accomplished by use of sound scientific techniques recognized by the scientific community. The uniformity of procedures, materials, and reporting must be maintained throughout the toxicity evaluation process. Refinements of the procedures to increase their accuracy and effectiveness of the evaluation are encouraged. When such refinements include major modifications of any test procedure or standard, the Agency should be consulted before implementation. All references supplied with respect to protocols or other test standards are provided as recommendations.

(c) *Personnel.* (1) All testing and evaluation must be done under the direction of personnel who have the education, training, and/or experience to perform the testing and evaluation in accordance with sound scientific experimental procedures. The Agency may require resumés of personnel who have supervised, performed, evaluated, or reported the testing.

(2) To help assure consistency in the development of data, one person should be responsible for each particular phase of study.

(d) *Test substance.* (1) Plant hazard evaluation tests to support the registration of a pesticide shall employ either the technical or purer grade of the active ingredient or the formulated product(s), as specified in the following series of sections in this subpart: 163.121, 163.122, 163.123, 163.124, 163.125, and 163.126.

(2) The composition of the test substance shall be determined, including the name and quantity of contaminants and impurities, as far as is technically feasible, in order to account for 100 percent of the test sample. If the test substance is a formulated product, it shall be within the limits, if any, certified in accordance with § 163.61–6(b).

(3) Samples from the same lot of the test substance shall be used throughout a particular test or study. The samples shall be stored under conditions that maintain their purity and stability. In the case of formulated products, storage should be under conditions as found in commonly-recognized storage practices. If the stability of the test substance cannot be maintained for the duration of the study or if, for other reasons, it is not possible to use the same lot throughout the test, subsequent lots of the test substance should be selected that are as nearly identical physically and chemically to the original lot as practical. Chemical assays shall be performed to assure this identity and permit reporting of any deviations in compositions.

(4) For long term studies, such as field tests, when the test substance is incorporated into or applied to soil or water, the initial concentration of test substance in the soil or water shall be determined and samples collected periodically to determine the concentrations. (This information may be cross-referenced to the data requirements of §§ 163.62–7 through 163.62–11 in Subpart D.)

(5)(i) If a carrier, vehicle, or adjuvant is used to dissolve, dilute, or modify the physical characteristics of the test substance for any study, it should be chosen to possess as many of the following characteristics as possible:

(A) It should not interfere with the metabolism of the test substance;

(B) It should not alter the chemical properties of the test substance; and

(C) At levels used in the study, it should not produce physiological or toxic effects to plants.

(ii) Products with labeling which recommends the addition of separately-packaged adjuvants to the spray tank must be tested to determine whether any detrimental effects (such as increased crop phytotoxicity) may result from their addition to the pesticides. The adjuvants to be tested for use with a pesticide are those adjuvant brand names or defined adjuvant classes specifically named on the pesticide label. If a range of adjuvant rates is recommended, the maximum and minimum rates within that range must be evaluated in conjunction with the intended pesticide product.

(6) For testing pesticides in aquatic systems, the test substance must be solubilized in the water to the extent that it will be present in the environment as though introduced by a formulated product.

(7) In addition to or in lieu of data required by this subpart, the Agency may require, after consultation with the applicant, data derived from testing to be conducted with:

(i) An analytically pure grade of an active ingredient;

(ii) The technical grade of an active ingredient;

(iii) An inert ingredient of a pesticide formulation;

(iv) A contaminant or impurity of an active of inert ingredient;

(v) A metabolite or degradation product of an active or inert ingredient;

(vi) The pesticide formulation;

(vii) Any additional substance which enhances the phytotoxic activity (up to and including synergistic effects) of the product for which registration is sought; or

(viii) Any combination of the test substances mentioned in paragraphs (c)(7)(i) through (vii) of this section.

(8) When tank mixtures are recommended on product labeling, a study must be conducted to demonstrate the extent of antagonism and synergism with respect to detrimental effects on

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nontarget plants and microorganisms of the products of tank mixtures. Antagonism and synergism are best evaluated in adjacent plots where possible interactions are subjected to statistical analysis.

(9) Data requirements for serial application(s) of one or more pesticide(s) preceding or following another pesticide on the same crop area in the same growing season are identical to those described in paragraph (d)(8) of this section for tank mixes with respect to phytotoxicity, when such serial applications are recommended on the label.

(e) *Nontarget plant and microorganism test species.* (1) The organism species or groups to be tested are specified in the following series of sections of this subpart: 163.121, 163.122, 163.123, 163.124, 163.125, and 163.126.

(2) Healthy plants must be used.

(3) Either cultivated crop, ornamental, or wild indigenous plants may be used; endangered or threatened species as determined by the Endangered Species Act of 1973 (Public Law 93–205) shall not be used.

(4) Test organisms that are obtained from natural systems and which are to be used for testing should be maintained under conditions similar to their natural or normal cultural environment.

(f) *Nontarget organism safety.* While performing field tests, all necessary measures shall be taken to ensure that nontarget plants and animals, especially endangered or threatened species, will not be adversely affected either by direct hazard or by impact on food supply or food chain.

(g) *Controls.* (1) Control groups are used to assure that effects observed are associated or attributed to the test substance exposure. In phytotoxicity evaluations, all treated plots, plants, and commodities must be compared directly to untreated control plots, plants, and commodities. The appropriate control group shall be similar in every respect to the test group except for exposure to the test substance. Within a given study, all test organisms including the controls shall be from the same source. To prevent bias, a system of random assignment of the test plants to test and control groups is required. Where a carrier, vehicle, or adjuvant other than water is used, appropriate experiments and controls should be included to distinguish the possible action of the carrier, vehicle, or adjuvant.

(2) When technical chemicals are formulated with dissolving or dispersing agents to make solutions or mixtures suitable for the performance of the tests, the solutions or mixtures without the technical chemical must be included as additional controls in the test regimen.

(h) *Equipment.* (1) All equipment used in conducting the test, including equipment used to prepare and administer the test substance, and equipment to maintain and record environmental conditions, shall be of such design and capacity that tests involving this equipment can be conducted in a reliable and scientific manner. Equipment shall be inspected, cleaned, and maintained regularly, and be properly calibrated.

(2) The application equipment used in testing products in small field plot studies must be designed to simulate conventional farm equipment. This can be accomplished by using the basic components of commercial application equipment in the design of the small-plot equipment. For example, nozzle types, sizes, and arrangements on small plot sprayers can be identical to those used by growers on commercial ground sprayers; or single-row commercial granular application equipment mounted on a garden tractor for small plot trials should produce results comparable to a multiple of such units on a large tractor. For large-scale field trials, commercial application equipment must be used. Specific details as to description of equipment design, adjustment, and operation must be provided in test reports.

(i) [Reserved]

(j) *Observations.* All observed signs or absence of toxicity to plants and microorganisms and related detrimental effects must be determined and reported.

§ 163.120–4 General evaluation and reporting requirements.

(a) *General.* (1) The registration applicant is reminded that certain efficacy data submittal requirements may be waived as described generally in § 163.120–1(b) of this subpart.

(2) The registration applicant is also reminded that an experimental use permit will usually be required in order to conduct field spray drift studies described in § 163.126–4. Also, experimental use permits may be required for the testing of pesticides under field conditions involving more than 10 acres, such as in described in §§ 163.121–1, 163.124–1, 163.124–2, 163.125–1, and 163.125–2.

(3) The report shall include a detailed and accurate description of test procedures, materials, results and analysis of the data, a statement of conclusions drawn from the analysts, and a tabular summary and abstract of results. When they have been determined, the primary and secondary modes of action with respect to plant morphogenic and biochemical levels should be reported.

(4) The metric system shall be used in test reports. The U.S. standard measures also be included in field test studies. The two systems shall not be mixed (e.g., g/sq. ft.).

(5) The English language shall be used in all test reports. English translations must be provided with foreign language reports.

(b) *Test materials and methods.*—(1) *Dates.* Actual dates of the studies shall be reported, including date(s) of initiation (planting, transplanting, and cultural practices), application(s), observations, and harvest.

(2) *Laboratories.* The names of the laboratories or institutions performing the tests shall be included.

(3) *Personnel.* Name and title of each principal investigator, and the name, address, and phone number of the employer shall be reported.

(4) *Test substance.* Identification of the test substance shall be provided, including:

(i) Chemical name, molecular structure, and quantative and qualitative determination of its chemical composition;

(ii) Relevant properties of the substance tested, such as physical state, pH, and stability; and

(iii) General identification and composition of any vehicles (e.g., diluents, suspending agents, and emulsifiers) or other materials used in the testing of the substance.

(5) *Untreated control (check) plots.* Detailed descriptions of plots and plants or microorganisms used as control treatments for comparisons of toxic effects must be included for each test. Data must indicate if the control plot or plants were untreated (received no pesticide), received standard cultural practices (which must be described) similar to those for plants in the experimental plot, and received other pesticides (which must be listed). Data from untreated plots or plants must include measurements of the same factors to be evaluated in determining detrimental effects resulting from use of the proposed pesticide.

(6) *Test organisms.* The description shall include the indentification of the test organisms (genus, species, and cultivar or variety, as appropriate), rationale for selection of the species employed, and location of plant collection areas including their physiographic data. When plant species othe than those identified for specific studies have been tested, their degree of susceptibility to the pesticide must be included in the test report. This susceptibility should be reported in terms of EC values as in the regular test plant reports.

(7) *Location.* Geographic location, including relation to the target sites, shall be reported.

(8) *Substrate conditions.* (i) For aquatic pesticide applications, the following physiographic conditions shall be reported:

(A) Type of aquatic site, such as lake, pond, reservoir, stream, or irrigation ditch with flow rate (if moving water);

(B) Size (area and depth or volume or length, width, and depth of the treated areas, and of the whole site), as is the appropriate to the type of application and the type of target organism(s);

(C) Water quality, including pH, temperature, hardness, alkalinity, salinity;

(D) Turbidity, conductivity, and dissolved oxygen (for submerged plants only); and

(E) Soil texture, including that of soils along the immediate shoreline or ditchbank and the submersed soil where the target pests are present (with the percent organic material in the soil also reported). (Recommended methods and soil texture classifications may be found in the Walkley-Black Procedures in *Soil Sci.* 63:251, 1947, and the Soil Survey Manual, U.S. Dept. Agr. Handbook No. 18, 1951, Fig. 1, and *Soil Sci. Soc. Amer.* 26:305–317, 1962.)

(ii) For terrestrial pesticide applications, the following physiographic conditions shall be included:

(A) The edaphic conditions and characterization including soil type and texture, approximate pH and temperature, and presence of a hard pan or shallow bedrock;

(B) The degree and direction of slope and its orrientation to the row direction.

(9) *Environmental conditions.* (i) For growth chambers and laboratory experimentation, the light quality, light quantity (lux), air temperature, humidity, photo- and thermoperiods, and watering schedules shall be reported.

(ii) For greenhouse and field experiments, the approximate light quantity (usually expresed in degree of cloudiness), high and low daily air temperatures, relative humidity, and photoperiod (day length) shall be reported. The field environmental conditions are required only for the day of application. Area environmental conditions may be used to satisfy long term study data requirements.

(10) *Application*—(i) *General.* The test substance application method shall be reported, including dosage rates, application equipment (nozzle, orifice, pressure), time and number of applications (with reference to season and stage of growth), spray dilution, spray volume per unit area, and adjuvants;

(ii) *Dosage rates.* Dosage rates shall be reported in units of active ingredient or acid equivalent as appropriate. Rates may be expressed as units of ingredient per unit of land area to be treated, units of concentration (such as parts per million), units per flow rate, or units of ingredient per unit volume applied to obtain a specified degree of foliage coverage (such as "to runoff"). If a product is applied more than once within a year or growing season, each rate and the interval between applications must be indicated. If products are applied in a tank mixture or are applied serially, rates and intervals, as appropriate, must be reported with identification and formulation for each product.

(iii) *Timing of applications.* When the test substance, particularly herbicides, plant regulators, desiccants, or defoliants, is applied to any desirable nontarget plants within or adjacent to the target area, the plant's stage of growth or development at application must be described in test reports.

(iv) *serial applications.* In addition to the detrimental effects of the pesticides, the times of application (or application interval) must be indicated for each product or tank mix involved in the serial application.

(c) *Observations.* (1) Observations shall be reported to include all variations, either inhibitory or stimulatory, between the treated test organisms and the untreated control test organisms. Such variations may be phytotoxic symptoms (chlorosis, necrosis, and wilting), formative (leaf and stem deformation) effects, growth and development rates, and stage of development and dates when adverse results occurred and subsided or recovered.

(2) Observations shall be reported in sufficient detail as to allow complete evaluation of the results. This evaluation, to be performed by both the registrant and the Agency, shall include the degree or extent of effects exerted by the pesticide in question for each replicate and variable.

(3) The detrimental or adverse effects to be considered and reported during the observation period of terrestrial studies shall include:

(i) Stand or plant population;

(ii) Overall vigor of the plants expressed as height, weight, diameter, length, or other similar aspect of growth;

(iii) Phytotoxicity or visible symptoms such as discoloration, malformation, desiccation, or defoliation;

(iv) Lodging of plants;

(v) Effect on root growth and structure;

(vi) Development delay or acceleration with respect to emergence, vegetative growth, flowering or sporulation, and maturation;

(vii) Yield of the crop or commodity that is affected as compared to those of crops or commodities of untreated check plots; and

(viii) The effects of pesticide applications on grass or the other desirable plant stands and growth where these plants are used to prevent erosion.

(4) Where pesticides are applied to aquatic systems and influence plant growth and development in aquatic systems, the effects of that pesticide on nontarget plants must be evaluated and reported, including vigor of the plants, phytotoxicity or other visible symptoms, and delay or acceleration with respect to vegetative growth, flowering or sporulation, and maturation.

(5) Uniform scoring procedures shall be used to evaluate the observable toxic responses.

(6) At least two methods of evaluation (such as linear and mass determinations) must be used in the evaluation of pesticide effects on growth, reproduction, and yield of plants in greenhouse and controlled chamber experiments. When direct measurements cannot be made, such as in large field evaluations, a zero to one hundred (0–100) or zero to ten (0–10) scale shall be used, where zero (0) indicates no injury and one hundred or ten (100 or 10) indicates a total kill produced by the test substance. An explanation of the steps of the rating scale employed shall be included with the report.

(7) Observation reports shall include the basic data used for the statistical analysis [see paragraph (d) of this section]. Such data shall include the actual values used to determine any percentages of effects. Raw data (chromatographs, field reports, and analysis data) may also be included to substantiate the basic data that are required.

(8) The effects of pesticides on plants in nontarget areas adjacent to the target area must be evaluated and reported. These areas may include any aquatic or terrestrial site where pesticides may drift, be carried by soil erosion or surface water runoff, or otherwise be transported by natural means.

(d) *Statistical analysis.* (1) When test results such as efficacy, phytotoxicity, or yield indicate adverse effects on crops and other nontarget test organisms, statistical analysis is

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required to evaluate the response(s). The statistical analysis shall consist of:

(i) The tabulation of the response data at each treatment level;

(ii) Calculation of the slope of the dose response line;

(iii) The determination of 10, 50 and 90 percent detrimental effect levels (e.g., EC10, ED90, I50, as appropriate) and the 95 percent confidence limits for each;

(iv) A goodness of fit test of the dose response curve; and

(v) The estimated non-discernible effect level. This is the level at which there would be no significant effect on the intended yield, quality, or aesthetics of the crop or plant which might be exposed. The value reported may be either calculated (usually calculated as a 5 percent reduction in growth, yield, or quality) or observed directly.

(2) Statistical analysis is also useful in evaluation of interactions resulting from studies supporting tank mixtures or serial applications.

(e) *References.* Copies of references or literature used in modifying the test protocol, performing the test, making and interpreting observations, and compiling and evaluating the results shall be submitted. Copies of unpublished literature shall also be included. Copies of the recommended literature referenced in these guidelines are not required.

(f) *Special test requirements.* In addition to the data required in this subpart, data from other tests may be required by the Agency for making judgments regarding safety to nontarget plants. Such data will be required where there are special problems, such as a proposed pattern of use, mode of phytotoxic action, or a unique chemical property. Methods are usually derived from those already described or cited in other subparts of these guidelines.

§ 163.120–5 Tier testing sequence.

(a) *General.* The data requirements and their associated protocols in section series 163.122, 163.123, 163.124, and 163.125 are arranged in a hierarchical or tier system. Data from certain basic tests will be required of pesticides for registration (tier 1, §§ 163.122–1 through 163.122–2). Additional tests will be conducted on the basis of criteria addressing certain data requirements and standards. The criteria to proceed from one tier to the next are contained in the "Tier progression" paragraph of each section. The requirements to perform a specific test or test series are also given in the "When required" paragraph of each section.

(b) *Performance.* Before a product is to be considered for registration, all tests required by the tier testing systems must be performed or referenced.

(c) *Substitutions.* If the pesticide has been extensively tested by the registrant using screening tests similar to those of tiers 1 and 2, the data from those tests may be submitted in lieu of tier 1 and 2 test data (other than mutagenicity). The term "extensively tested" means testing of at least the plants or plant families represented in §§ 163.122–1(b)(2) and 163.122–2(b)(2) under environmental conditions suitable to determine any phytotoxic effects. The reports shall be submitted as provided in paragraphs (c) of §§ 163.122–1, 122–2, 123–1, and 123–2. The Agency will reserve the right to require testing as provided in tiers 1 and 2 (exclusive of mutagenicity testing) if the submitted test data do not prove to be adequate to assess a pesticide's phytotoxic nature.

Target Area Testing

§ 163.121–1 Target area plant toxicity testing.

(a) *When required.* Data concerning the phytotoxic effects of a pesticide on desirable target area plants are required to support the registration of each formaulated product intended for outdoor and greenhouse applications. Such data submittal are waived or not waived in accordance with the policy set forth in § 163.120.1(b).

(b) *Test standards.* In addition to the general standards set forth in § 163.120–3, the target area phytotoxicity testing shall meet the following standards:

(1) *Test substance.* The formulated product shall be tested to support the registration of a formulated product.

(2) *Test species.* Those desirable target area or pest host plant species as listed on the label (for example, the crop plant or ornamental) which will be within the target area shall be tested. The plant cultivars to be tested shall include representatives of the cultivars that are most likely to be used.

(3) *Dose levels.* (i) The minimum, maximum, and 3 times the maximum label dosage levels shall be tested. Levels greater than 3 times the label rate may also be included. The estimated non-discernible effect levels shall also be determined.

(ii) The multiples of the dosage rate to be tested are those various quantities of the formulation in the label-recommented quantity of carrier (such as water) to be used per land or aquatic use area.

(iii) Appropriate controls shall be utilized. Refer to § 163.120.4(f).

(4) *Adjuvants.* Products with labeling which allows or recommends the addition of separately-packaged adjuvants to the spray tank must be supported with data indicating any detrimental effects (such as increased crop phytotoxicity) which may result from their addition to the pesticide, especially a herbicide, plant regulator, desiccant, or defoliant. If a range of adjuvant rates is recommended, the maximum and minimum rates within that range must be evaluated in conjunction with the intended pesticide product.

(5) *Site.* The test shall be performed in crop fields or greenhouses where it is intended that the product would be used.

(6) *Protocol.* The protocols, methods, or practices shall be those employed during the actual use of the pesticide product. Specific points of information that should be addressed concerning use patterns, application methodology, cultural practices, responses, and subsequent planting are found in paragraph (c) of this section.

(c) *Reporting.* In addition to the information required by § 163.120–4, the test report shall include the following information with respect to phytotoxicity to the plants within the target area (with the exception of weeds). This information shall include the method of application, cultural practices, plant responses, subsequent plantings, and use patterns that may be involved.

(1) *General information*—(i) *Timing of applications.* When crops or desirable target area plants are or will be involved in the application of any pesticide, their stage of growth or development at application must be described in the test report.

(ii) *Meteorological conditions.* Where meteorological conditions cause detrimental effects on plants which in turn allow the pesticide to further adversely affect the plants, the specific factor(s), such as temperature, wind conditions, precipitation, or daylength, affecting product activity must be measured and reported. Edaphic factors, such as soil moisture content and temperature, which are directly affected by meteorological conditions, must also be reported. Soil moisture may be observed and expressed in terms of dry and cracked, waterlogged, or other similar conditions.

(iii) *Spray dilutions.* In foliar applications, when a pesticide is applied as a diluted spray and the quantity is dependent upon the number of trees per area or density of vegetation, any detrimental effects to the nontarget plants must be reported.

(iv) *Untreated controls (checks).* In phytotoxicity evaluations, all treated plots, plants, and/or commodities must be compared directly to untreated control plots, plants, or commodities. All quanlity and/or yield evaluations of pesticide-treated plants or commodities must be compared to control plants or commodities receiving the same pesticides (e.g., herbicides, insecticides, fungicides) except the one being evaluated. Detailed descriptions of plots and plants used as control treatments for comparisons of detrimental side effects must be included for each test. Since such control plots are established to evaluate any direct detrimental effects of the pesticide on the crop or commodity rather than an evaluation of efficacy, any detrimental effects on the crop or commodity resulting from the pests intended to be controlled must be eliminated by controlling these pests in another manner. In other words, the control plots must be both untreated by the pesticide in question and as pest-free as possible. If, in addition to the untreated control plots, plants, and/or commodities, a registered product is also applied (as a standard) for comparison of detrimental effects, data must indicate the standard product's name, active ingredient, dosage rate, and performance results.

(2) *Use patterns.* When the following use patterns are found on the label, the corresponding information as detailed below must be reported.

(i) *Use in field crops.* Effects of pesticides on desirable target area plants must be evaluated and reported. The extent and duration of the effect must be expressed in terms of stand and vigor, recovery, yields, and degree of phytotoxicity.

(ii) *Use on pastures and rangelands.* Effects of pesticides on desirable target area plants must be evaluated and reported. Severity and duration of adverse effects on desirable plant species, expressed in terms of stand and vigor reductions, recovery, and changes in yields, must be reported. Data must be submitted addressing: Reseeding intervals which minimize adverse effects on reseeded plants, and animal grazing recommendations which allow recovery of desired plant species. Data must be submitted which describe general shifts in desirable plant populations due to treatment.

(iii) *Use on and around fruit and nut trees.* Applications of pesticides on and around fruit and nut trees require evaluation and reporting of detrimental effects on foliage, and changes in growth compared to pre-application measurements. Pesticide applications to bearing fruit and nut tree areas also require evaluation and reporting of detrimental effects on yields and commodity (produce) quality for the year of and the year after application. Supporting data must address, for all trees, the age of the trees, the transplant-to-application interval, and the maximum allowable extent of contract between the pesticide (with particular reference to herbicide spray drift) and trees. For ground sprays, unless the pesticide is broadcast over the entire orchard floor, data must indicate the application technique (band, spot, shielded, or directed spray application) and the size of the treated ground area around the tree trunk. For foliar sprays, the data must include the volume of finished spray applied per unit of land area, concentration of product in the spray solution, and the extent of foliage coverage (such as volume of finished spray per tree or application to the point of runoff).

(iv) *Use on lawns and turf.* Evaluation of effects of pesticides on representative species or cultivars of desirable lawn and turf plants should include such factors as color, density, percent cover, growth rate, rooting, and tillering. Data must address use on newly seeded lawns by demonstrating safety to representative species and cultivars of desirable lawn plants claimed, with appropriate seeding-to-application intervals. Data must address use of an appropriate application-to-reseeding interval for each desirable lawn species and variety claimed. Interactions between herbicide application and lawn cultural practices (such as raking, mowing, mowing height, watering, and fertilizing) must be evaluated for possible adverse effects on desirable lawn species. In situations where fertilizer and a pesticide are applied serially and both types of products may contact the emerged crop foliage (such as in turf or lawns), the interval between application of the pesticide and the fertilizer must be reported, as well as any resultant phytotoxic effect, stunting, or discoloration, and recovery time for the injured desirable species.

(v) *Use around ornamentals.* Phytotoxicity data in support of use on or around an ornamental or crop species must include an evaluation of the sensitivity of representative cultivars of that species. Test data must identify the method of application as to directed spray and/or topical applications. Growth stage of the ornamentals and the transplant-to-application interval (when applicable) must be indicated in the test data. Information must be submitted on specialized nursery cultural practices employed in tests, such as use of artificial soils, mulches, containerized stock, and other pesticides.

(vi) *Use in forest development.* The effects of the pesticide on desirable plant species commonly present in forest development, in addition to the desirable forest trees, must be indicated in the report with any detrimental or adverse effects that the pesticide may cause. Special attention must be given to pesticidal effects on noncompetitive ground cover species that aid in the land management practices such as erosion control. Small plot testing techniques may be used to determine the effect of pesticides on ground cover plants. Large plot testing (for example, quadrat or line interception method) should be used for pesticide evaluation in larger standing vegetation. (A recommended reference is: Phillips, E. A. 1959. Methods of Vegetation Study. Hold, Rinehart, and Winston, Inc.: New York, N.Y. 107 pp.)

(3) *Application methodology.* All methods of pesticide application not prohibited by the label [see § 2(ee) of the Act] shall be evaluated and reported. Specific detail as to descriptions of equipment design, adjustment, and operation must be provided in test reports involving aerial applications and applications using conventional farm equipment (such as tillage or planting equipment), irrigation systems, mechanical incorporation, directed sprays, subsurface placement, or band rather than broadcast distribution.

(i) *Aerial application.* Guidance and the data requirements for testing aerial applications are provided in § 163.126–1.

(ii) *Irrigation system application.* (A) For irrigation system applications, multiple plots within a treated field must be examined and the results reported from crop phytotoxicity (expressable as yield quantity and quality of harvestable commodity) as an indication of pesticide hazard. Data from such plots must be reported for each individual plot and not simply averaged together. It is important that, in addition to the standard requirements for conventional applications, submitted data must include soil texture, percent soil organic matter, relative soil moisture content (dry, medium, or wet) at application, acre-inches of water applied, and precipitation quantities within one week after application.

(B) For overhead sprinkler irrigation systems, plots must be located at several nozzle positions along the length of the lateral. Plots must be placed at both extreme ends of the lateral as well as in areas where the sprinkler patterns overlap. The concentration of active ingredient at several nozzles along the lateral must also be determined and reported. Comparison studies should be made between plots treated

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conventionally with ground application equipment and irrigated with untreated water, and plots in the same field treated through the irrigation system.

(C) For surface irrigation systems, the following data are required.
Concentrations of active incredients in water must be determined for the study plots where the treated water enters the field, and at the lower end of the field or where the water exits. When furrow irrigation is used, data must indicate the spatial relationship between crop rows and furrows. If the pest control in furrow irrigation applications is intended only for the furrow itself and not the bed between the furrows, the data must so indicate.

(iii) *Directed sprays.* When sprays are directed toward or away from certain portions of the soil or plants, data must indicate nozzle arrangements, nozzle orientations, the extent of spray contact with soil or plants, and application height.

(iv) *Subsurface soil applications.* When pesticides are applied directly beneath the soil surface (injected through shanks or spray blades, gravity-fed, or incorporated), test reports must include information on the application equipment. For example, for injection equipment, the following must be specified: application device spacing, depth or operation, injection pressure, speed of operation, volume of liquid or gas applied per unit area or linear row distance, and the injection device-to-row spacing orientation.

(v) *Other applications.* When a pesticide is applied to an aquatic system other than an irrigation system, the following application information must be included:

(A) Target site where the pesticide was applied (for example, to weed foliage, to surface of water, to bottom of water body, into water, to ditchbank, or to shoreline);

(B) Description of the equipment used to apply the pesticide (for example, ground-spraying device, pumping device, boat, blower, helicopter, or fixed-wing aircraft):

(C) Description of any water level changes used in conjunction with the pesticide application, such as drawdown operation or drainage of conveyance system, including the extent of water level change, the time of the change in relation to the pesticide application, and the duration of the change in water level; and

(D) The timing of the application in relation to the calendar date and the stage of growth of the target and nontarget organisms.

(4) *Cultural practices.* Cultural practices for a given use pattern or application method vary with production areas and frequently from grower to grower within an area. The effects of cultural practices on the product's possible detrimental effects must, therefore, be addressed.

(i) *Irrigation.* Irrigation and watering practices must be studied as a variable if the product is to be used in irrigated areas or greenhouses, respectively. The influence of different irrigation practices must be studied in the use area. Refer to § 163.120(c)(3)(ii) of this subpart concerning information required for irrigation practices. Irrigation data must include a description of equipment and techniques used in water application, the number and timing of irrigations, and quantity of water in acre-inches (hectare-centimeters) applied at each irrigation. Also, a description is required of the chronological relationship between irrigation applications and application of the pesticide, such as herbicide, plant regulator, desiccant, or defoliant. Where flood irrigation is utilized (such as in rice production), depth, duration, and any "flushing" must be described for each test. When irrigation is used to activate a pesticide in the absence of precipitation, the minimum and maximum application-to-irrigation interval (producing the desired efficacy level) must be reported. Since crop safety is often influenced by pesticide placement in the soil profile, and irrigation may directly affect such placement, label-recommended or allowed irrigation practices must be supported by crop safety data (phytotoxicity and yield). When irrigation practices result in loss of pesticide-contaminated water (as in runoff or drainage) from the target area, data must be submitted addressing effects of such water on nontarget plants.

(ii) *Mowing.* Mowing operations may have a direct effect on detrimental effects from pesticides intended for use on lawns, turf, golf courses, median strips, pastures, rangeland, and hay and forage crops. Mowing just prior to or just after a pesticide application may, by mechanically injuring desirable plant or by decreasing growth rates, increase injury to desirable plants (especially young shoots). Mowing just prior to application may be a requirement for plant regulators intended to maintain the neat appearance of grassy areas by retarding grass growth. In situations where mowing is routinely a part of cultural practices, or may influence detrimental effects, such practices must be reported in test results.

(5) *Target area plant responses.* The detrimental effects on crops, commodities (produce), or any other desirable plant species or commodity within the target area must be evaluated and reported. The following are some of the characteristics that should be addressed:

(i) *Stand.* Crop stand counts, reported as percentage of untreated control crop stands, must be submitted to support pesticides applied prior to crop emergence.

(ii) *Vigor.* Crop vigor (or stunt) ratings or measurements (plant height, weight, diameter, or length) in treated areas must be compared to plants in check plots in which commercially acceptable levels of pest control are maintained. Vigor ratings must be reported at the point of maximum stunting. If stunting is observed, it is important that subsequent evaluations be made to document the degree of recovery.

(iii) *Planting depths.* A range of planting depths within the range recommended for the crop must be included in preliminary studies with preplant and preemergence (to crop) applications. Date obtained from these trials must reflect any effects of varying planting depths on the incidence of crop injury that might be encountered under commercial use conditions. In subsequent trials, commercial planting equipment at recommended depth settings must be used. If in preliminary studies the planting depth is found to be a critical variable, crop emergence data must be taken from all trials.

(iv) *Loading.* The effect of pesticides on lodging of target area crops such as soybean, wheat, corn, sorghum, rice, or sugarcane must be indicated. Observed percent of treated plants affected and the severity or approximate degree of angle of lodging in treated plots must be compared to that in weed-free check plots.

(v) *Phytotoxicity.* Evaluations of visible symptoms of pesticide injury (such as discoloration, malformations, desiccation, defoliation, or death) to crop plants must be at least visually assessed and reported. These symptoms must be compared to results in untreated pest-free check plants. Evaluations must be performed at the time injury is first observed and at periodic intervals thereafter to document the degree of recovery.

(vi) *Development.* Effects of pesticides on plant development (such as delayed emergence, prolonged vegetative growth, delayed or decreased flowering or fruit set, or delayed maturation) must be indicated in test results. If such effects are outgrown by or before the usual harvest date, such recovery must be reported.

(vii) *Yields.* Effects of pesticides on yields must be reported. Yield data can confirm that there are no detrimental effects on the desirable target area plants due to the pesticide application. Yield data may also be used to evaluate benefits derived from the application. When yields are evaluated in relation to crop safety or phytotoxicity, yields from treated plots should be compared to yields from untreated plots.
Comparisons of treated and untreated (control) plot yields, when expressed as weight of seed (grain and dry beans) or hay, must be based upon equivalent moisture contents (percent moisture) acceptable for commodity storage. In the case of weed control, yields from weedy check plots may be reduced as a result of weed competition and may mask crop injury due to herbicide application. Therefore, herbicide yield comparisons should be drawn from the treated plots and untreated pest-free plots. When any adverse effects indicated in paragraphs (c)(5) (i) through (vi) of this section occur, the ultimate indication of their impact can usually be evaluated at harvest.

(viii) *Crop and commodity (produce) quality.* In some cases, pesticides may not affect yields, but may affect the quality of the crop or commodity (produce) and its value. Crop and produce quality must be reported based on comparison with check plants. Flavor and acceptance studies are required for crop plants or commodities intended for direct consumption by humans and animals. Quality determinations will vary widely with crops or the uses of end products. As an example, fruit finish is important for fresh market citrus, but may be of little consequence in citrus for processing where rinds are discarded. The use of an official grading system such as USDA's is appropriate for many fruit, vegetable, and agronomic crops. A study of the quality of a fiber crop must indicate trash content and fiber length, strength, uniformity, color, condition, and diameter. For bulb, corn, and tuber crop treatments involving ornamentals, evaluations must continue for two growing cycles to determine effects on flowering. A quality study of a seed crop must indicate seedling vigor and percent germination. In cases where crops are produced for commodities (such as sugar, oil, or drugs) other than raw vegetable matter, both quantity and quality of the finished product must be evaluated. If crop or commodity quality is a factor in determining value, an optional method of indicating quality is by indicating dollar value per unit quantity of both treated and check crop or commodity. This approach is often advantageous since the grower's main concern is the monetary return for the crop. This system also does not require extensive background information on grading systems, and quality evaluations.

(6) *Subsequent planting.* The effects of pesticides on desirable plants subsequently planted in the area of application must be evaluated and reported. Subsequent planting may include emergency replanting of crops or trees within the target area where crop failure may have occurred and where the planting of rotational crops (including cover crops) takes place after the harvesting of the crop present during the pesticide application.

(i) *Emergency replanting.* If pesticide labeling states that crops may be safely replanted after an initial crop failure, the submitted data must support: the crops suitable for replanting; pesticide application-to-replanting intervals; additional pesticide applications recommended or allowed; recommended soil tillage; and soil and meteorological conditions under which replanting is or is not recommended. For example, when the original pesticide was applied in bands, as in the case of herbicides, replanting may be recommended to take place only between the treated bands.

(ii) *Rotational crops (including cover crops).* If detrimental effects are observed, results of studies evaluating severity and duration of effects on the injured rotational crops must be submitted. To determine the duration of phytotoxic effects, susceptible rotational crops must be planted at varying time intervals after pesticide application. Such studies may be combined with field studies designed to evaluate soil residues. [See § 163.62–11(b) of Subpart D.]

Tier 1 Testing

§ 163.122–1 Seed germination/seedling emergence and vegetative vigor (Tier 1).

(a) *When required.* Data on the toxic effects of a pesticide on seed germination or seedling emergence and vegetative vigor are required to support the registration of each formulated product intended for outdoor pesticide application, and each manufacturing-use product which legally could be used to make such formulated products.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, the seed germination or seedling emergence and vegetative vigor studies shall meet the following standards:

(1) *Test substance.* The technical or purer grade of the active ingredient shall be tested.

(2) *Species.* The following species shall be tested:
Lycopersicon esculentum (tomato)
Cucumis sativus (cucumber)
Lactuca sativa (lettuce)
Glycine max (soybean) (inoculated with *Rhizobium japonicum* for vegetative vigor study)
Brassica oleracea (cabbage)
Avena sativa (oat)
Lolium perenne (perennial ryegrass)
Allium cepa (common onion)
Daucus carota (carrot)
Zea mays (corn)

(3) *Dose levels.* One concentration level equal to 3 times the maximum label rate shall be tested. The phrase "3 times the maximum label rate" means 3 times the amount of active ingredient in the recommended quantity of carrier such as water to be used per land area. For purposes of calculating the dose level in the seed germination/seedling emergence study, 1 pound of active ingredient per acre is considered to be equal to 10 ppmw in the solution which is applied to seeds.

(4) *Number of plants.* At least 3 replicates, each with 5 plants, shall be tested per dose level for the vegetative vigor tests. At least 3 replicates, each with 10 seeds, shall be tested per dose level for the seed germination study.

(5) *Site.* The seed germination/seedling emergence studies shall be conducted under controlled conditions in growth chambers. The vegetative vigor test may be performed in a growth chamber, greenhouse, or in small field plots.

(6) *Duration.* (i) Seed germination/seedling emergence shall be observed weekly, or more frequently, for at least 2 weeks. See the Appendix, Item (1) for details of this study.

(ii) The effect on vegetative vigor shall be observed weekly, or more frequently, for at least 2 weeks. If abnormal symptoms occur, the observations shall be continued until the plant dies or fully recovers. See the Appendix, Item (2) for details of this study.

(7) *Protocols.* The protocols for these tests outlining the acceptable environmental conditions, procedures, and some pertinent references are found in the Appendix, Items (1) and (2).

(c) *Reporting.* In addition to the information required in § 163.120–4(b), the test report shall include the following information.

(i) The actual number of seeds tested and the number germinated or emerged per dosage level for each replicate;

(ii) Descriptions of the appearance and the growth and development (height and weight) of the seeds and emergent plants, indicating any abnormalities and expressions of phytotoxicity; and

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(iii) Tabulation of the results indicating the percentage effect level for each species as compared to untreated control plants.

(d) *Tier progression.* (i) If a detrimental effect or response on plant growth and development for any plant species for the 3X concentration is 10 percent or greater with respect to the control, testing at tier 2 is required. See § 163.123–1.

(ii) If less than a 10 percent detrimental effect or response is noted, no additional testing at higher tiers is ordinarily required. The Agency, after review of the data, may require certain additional tests to determine a more definite nondiscernible effect level.

§ 163.122–2. Growth and reproduction of aquatic plants (Tier 1).

(a) *When required.* Data on the toxic effects of a pesticide on growth and reproduction of aquatic plants are required to support the registration of each formulated product intended for outdoor pesticide application, and each manufacturing-use product which legally could be used to make such formulated products.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, studies of the growth and reproduction of aquatic plants shall meet the following standards:

(1) *Test substance.* The technical or purer grade of the active ingredient shall be tested.

(2) *Species.* The following species shall be tested:

Lemna gibba (duckweed)

Selenastrum capricornutum (freshwater green alga)

Skeletonema costatum (marine diatom)

A freshwater diatom (unspecified species)

Anabaena flos-aquae (blue-green alga)

(3) *Dose levels.* The quantity of test substance to be tested shall be equivalent to a 3-fold (or 3X) concentration of the maximum label rate as though it were directly applied to the surface of a 15-cm or 6-inch water column. The phrase "3-fold concentration of the maximum label rate" means 3 times the formulation or active ingredient content in the recommended quantity of carrier such as water to be used per aquatic area or volume.

(4) *Number of plants.* At least 3 replicates, each with 5 vascular aquatic plants (*Lemna gibba*) (stage: 3 fronds per plant) shall be tested per dose level. The recommended quantities of algal plant material to be used are provided in the recommended references of the protocols provided in the Appendix, Items (4), (5), (6), and (7).

(5) *Site.* All studies provided for in this section shall be conducted under controlled conditions in growth chambers.

(6) *Duration.* (i) *Lemna* studies shall be conducted for at least 14 days with daily observations. If abnormal symptoms occur, the observations shall be continued until the plants recover or die.

(ii) Algal studies shall be conducted for at least 5 days with daily observations. If abnormal symptoms occur, the observations shall be continued until the plants recover or die.

(7) *Protocols.* The protocols for these tests outlining the acceptable environmental conditions and procedures and some pertinent references are found in the Appendix, Items (3) through (7).

(c) *Reporting.* In addition to the information required by § 163.120–4(b)(1) through (5), and (8), of this subpart, the test report shall include the following:

(1) *Lemna.* (i) The percent of flowering or its inhibition; and

(ii) The increase in growth expressed as the number of original plants and fronds and the additional plants and fronds produced;

(2) Algae. (i) The gram dry weight;

(ii) The cell count per ml; and

(3) Tabulation of the results indicating the percentage effect level versus time as compared to the control.

(d) *Tier progression.* (1) If a detrimental effect or response on plant growth and development for any plant species for the 3X concentration is 50 percent or greater with respect to the controls, testing at tier 2 is required. See § 163.123–2.

(2) If less than a 50 percent detrimental effect or response is noted, no additional testing at higher rates is required. The Agency, after review of the data, may require certain additional tests to determine a more definite nondiscernible effect level.

§ 163.122–3 Mutagenicity effects (Tier 1).

(a) *When required.* (1) Data on the mutagenic effect of a pesticide on plants are required to support the registration of each formulated product which:

(i) Is intended for outdoor application, and

(ii) Contains any ingredient producing a mutagenic effect in tests conducted according to §§ 163.84–1 through –4 of Subpart F.

(2) These data are also required to support the registration of each manufacturing-use product which legally could be used to make such formulated products.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, the mutagenic effects studies shall meet the following test standards:

(1) *Test substance.* The technical or purer grade of the active ingredient shall be tested.

(2) *Species.* The following species shall be tested: *Tradescantia reflexa.*

(3) *Dose levels.* (i) At least 5 dosage levels shall be tested. The doses shall include a toxic concentration, a subtoxic concentration, and a concentration that does not induce any toxicity.

(ii) The dosage levels shall be of geometric progression of no more than 2-fold. For example, the test concentration series may be: 1, 2, 4, 8, 16, and 32 ppm (a 2-fold progression).

(4) *Number of plants.* At least 3 replicates, each with 5 plants, shall be tested per dose level for the mutagenic effects test.

(5) *Duration.* The mutagenic effects test shall extend for 10 days with daily observations.

(6) *Site.* This study shall be conducted in the laboratory under controlled conditions.

(7) *Protocols.* The protocols for these tests outlining the acceptable environmental conditions and procedures and some pertinent references are found in the Appendix, Item (8).

(c) *Reporting.* In addition to the information required by § 163.120–4(b)(1) through (4), the test report shall include the following information:

(i) The number of pink cells (mutagenically-affected) in the strings of otherwise blue (normal) staminal hair cells; and

(ii) Tabulation of the results indicating the percentage effect level versus time as compared to the control. The test report shall include the determination of the 10, 50, and 90% detrimental effect levels, and the 95% confidence limits for each.

(d) *Tier progression.* (i) If any of the dosage levels employed in this test produces a mutagenic incidence exceeding the EC10 for the mutagenicity test, testing at the tier 3 level is required. See § 163.124–3 which expands the number of plants to be tested.

(ii) If less than 10 percent effect is noted in this test, no additional testing at a higher tier is ordinarily required. The Agency, after review of the data, may require certain additional tests to determine a more definite non-discernible effect level.

Tier 2 Testing

§ 163.123–1 Seed germination/seedling emergence and vegetative vigor (Tier 2).

(a) *When required.* Data on the toxicity effects of a pesticide on seed germination or seedling emergence and vegetative vigor are required at the tier 2 level to support the registration of each formulated product intended for outdoor application, and each manufacturing-use product which legally could be used to make such formulated products, if the results of the tier 1 tests required by § 163.121–1 have indicated an adverse effect on growth and development greater than 10 percent on plant species.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, the test standards for this section shall be the same as those contained in the tier 1 studies [§ 163.122–1(b)] with the following modifications:

(1) At least 5 dosage levels shall be tested;

(2) The doses shall include a toxic, subtoxic, and a concentration that does not induce any toxicity;

(3) The highest dosage levels shall be less than the 3-fold dose level tested in § 163.122–1(b)(3); and

(4) The dosage levels shall be of geometric progressions of no more than 2-fold. For example, the test concentration series may be: 0.1, 0.2, 0.4, 0.8, and 1.6 kg/ha (a 2-fold progression).

(c) *Reporting.* In addition to those items required in § 163.122–1(c), the test shall include determination of the 10, 50, and 90 percent detrimental effect levels and the 95 percent confidence limits for each.

(d) *Tier progression.* (1) Testing at the tier 3 level is required if the calculated expected exposure concentration (the maximum recommended rate or concentration) is greater than the EC10 for any terrestrial plant species tested. (Tier 3 testing increases the number of species to be tested.) See § 163.124–1.

(2) Testing at the tier 4 level may be required if, in addition to the criterion described in paragraph (d)(1) of this section:

(i) The geographical use is potentially widespread (two or more regions); testing according to § 163.125–1 is then required. The area of testing shall be expanded to include all of those geographical regions defined in § 163.125–1(b) where the product is expected to be used. This requirement and that of testing under § 163.124–1 may be met by performing combined testing.

(ii) The applications include varying periods or seasons of application; testing according to § 163.125–2 is then required. The more susceptible plant life stages that correspond to those encountered during field application shall be evaluated.

(iii) The material is readily sorbed on soil solids; testing according to § 163.125–4 is then required, to assess the effect of the pesticide on the growth of aquatic plants. Employ sediment, particle, and solution concentrations that may be expected under natural conditions.

(3) If there is a marked reduction in growth of soybean (§ 163.123–1) and *Anabaena* (§ 163.123–2), as compared to other species tested in tier 2, then testing must be undertaken to assess the effect of the pesticide on the ability of certain organisms to fix nitrogen, as described in § 163.125–3. [See also § 163.62–8(f)(3) of Subpart D for related nitrogen fixation studies.]

§ 163.123–2 Growth and reproduction of aquatic plants (Tier 2).

(a) *When required.* Data on the toxic effects of a pesticide on growth and reproduction of aquatic plants are required to support the registration of each formulated product intended for outdoor pesticide application, and each manufacturing-use product which legally could be used to make such formulated products, if the results of the tier 1 tests required by § 163.122–2 have indicated an adverse effect on growth and reproduction of any aquatic plant greater than 50 percent.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, the test standards for this section shall be the same as those contained in the tier 1 studies [§ 163.122–2(b)] with the following modifications:

(1) At least 5 dosage levels shall be tested;

(2) The dose levels shall include a toxic, subtoxic, and a concentration that does not induce any toxicity;

(3) The highest dosage level shall be less than the 3-fold concentration tested in § 163.122–2(b)(3); and

(4) The dosage levels shall be of geometric progression of no more than 2-fold. For example, the test concentration series may be: 0.1, 0.2, 0.4, 0.8, and 1.6 kg/ha/15 cm (a 2-fold progression).

(c) *Reporting.* In addition to the information required by § 163.122–2(c), the test report shall include the determination of the 10, 50, and 90 percent detrimental effect levels and the 95 percent confidence limits for each.

(d) Tier progression. (1) Testing at the tier 3 level is required if:

(i) The calculated expected exposure quantity [the maximum recommended quantity where 1 kg/ha (0.892 lb/A) = 0.655 ppm in 15 cm (6") of water] is greater than the EC50 for any one aquatic plant species tested; and

(ii) The pesticide is expected to be applied to a fresh water, estuarine, or marine aquatic system by either direct application or direct discharge of treated water, or the pesticide is to be used within a forest system. (A forest system is considered equivalent to an aquatic system, since it ordinarily contains brooks, streams, and rivers. See § 163.62–6 (b), (c), and (d) of Subpart D for full explanation of pesticide aquatic use patterns.) See § 163.124–2 (tier 3) where the number of species to be tested has been expanded. In addition to this criterion:

(2) Testing at the tier 4 level may be required if, in addition to the criterion described in paragraph (d)(1) of this section:

(i) The geographical use is potentially widespread (two or more regions); then testing according to § 163.125–1 is required. The area of testing shall be expanded to include all of those geographical regions defined in § 163.125–1(b) where the product is expected to be used. This requirement and those under § 163.124–2 may be met by performing combined testing.

(ii) The applications include varying periods or seasons of application; then testing according to § 163.125–2 is required. Potentially susceptible plant life stages which correspond to those encountered during field application shall be evaluated.

(iii) The material is readily sorbed on soil solids; then testing according to § 163.125–4 is required, to assess the effect of the pesticide on the growth of aquatic plants. Employ sediment, particle, and solution concentrations that may be found under natural conditions.

(3) If there is a marked reduction in growth of soybean (§ 163.123–1) and *Anabaena* (§ 163.123–2) as compared to other species tested in tier 2, then testing must be undertaken to assess the effect of the pesticide on the ability of certain organisms to fix nitrogen, as described in § 163.125–3. [See also § 163.62–8(f)(3) of Subpart D for related nitrogen fixation studies.]

Tier 3 Testing

§ 163.124–1 Terrestrial field testing (Tier 3).

(a) *When required.* (1) Data on the toxic effects of the active ingredient (in the form of a typical formulation) on seed germination, vegetative vigor, and reporduction patential of an expanded number of terrestrial plants are required to support the registration of each

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formulated end-use product intended for outdoor application, when the calculated exposure quantity (the maximum recommended quantity) is equal to or greater than the EC10 for any terrestrial plant species as found in the tier 2 tests (§ 163.123–1).

(2) Data as indicated in paragraph (a)(1) of this section are also required to support the registration of each manufacturing-use product which legally could be used to make formulated end-use products that are intended for outdoor application.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3, the test standards for this section shall be the same as those contained in § 163.122–1(b) of this subpart, with the following modifications:

(1) *Test substance.* The test substance shall be a typical formulated end-use product representative of a major formulation category (e.g., wettable powder, emulsifiable concentrate, granular product) and containing the active ingredient of the applicant's product.

(i) If the applicant's product is an end-use product, the test substance shall be a product whose formulation is typical of the formulation category to which the product belongs.

(ii) If the applicant's product is a manufacturing-use product which legally could be used to make an end-use product with outdoor uses, the test substance shall be a product representative of the major formulation category which includes that end-use product. (If the end-use products with outdoor uses that could be made from the manufacturing-use product belong to two or more major formulation categories, a separate study must be performed for each such category.)

(2) *Dose levels.* The dose levels tested shall be the same as those employed in the tier 2 test [§ 163.123–1(b)(1)].

(3) *Species.* (i) Representatives of the following plant groups are to be tested, subject to the limitations of paragraph (iii) below:

(A) *Dicotyledonae* (dicots), representatives of three families;

(B) *Monocotyledonae* (monocots), representatives of three families;

(C) Vascular *Cryptogamae* (ferns and allies), representatives of two families;

(D) *Bryophyta* (mosses and liverworts), one representative; and

(E) *Gymnospermae* (conifers), one representative.

(ii) Plant species used for testing tiers 1 and 2 cannot be used to satsify the test requirements of this section.

(iii) If any of the plant groups are not likely to be exposed to the pesticide under normal conditions of use, testing of such groups is not required. Justification for elimination of a test species or group must be included in the test report.

(4) *Test conditions.* (i) Plants may be grown in either natural soil or similar substrate maintaining approximately the same edaphic conditions as found in the natural habitat. These conditions must be reported.

(ii) The light quality and quantity must be similar to that in the natural environment.

(iii) Other test conditions such as relative humidity and temperature must be similar to those of the natural habitat of the plants.

(c) *Reporting.* In addition to the information required in §§ 163.120–4 and 163.122–1(c) of this subpart, the test report shall include the determination of the 10, 50, and 90 percent detrimental effect levels and the 95 percent confidence limits for each.

§ 163.124–2 Aquatic field testing (Tier 3).

(a) *When required.* (1) Data on the toxic effects of the active ingredient (in the form of a typical formulation) on growth and reproduction of an expanded number of aquatic plants are required to support the registration of each formulated end-use product intended for outdoor pesticide application, when:

(i) The calculated expected exposure is equal to or greater than the EC10 for any one aquatic plant species tested in tier 2 tests (§ 163.123–2); and

(ii) The pesticide is expected to be applied to a fresh water, estuarine, or marine aquatic system by either direct application or direct discharge of treated water, or the pesticide is to be used within a forest system. [See § 163.62–6(b), and (d) of Subpart D for descriptions of these aquatic uses.]

(2) Data as indicated in paragraph (a)(1) of this section are also requred to support the registration of each manufacturing-use product which legally could be used to make such a formulated product.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3 of this subpart, the test standards for this section shall be the same as those in § 163.122–2(b), with the following modifications:

(1) *Test substance.* The test substance shall be a typical formulated end-use product representative of a major formulation category (e.g., emulsifiable concentrate, granular product, wettable powder) and containing the active ingredient of the applicant's product.

(i) If the applicant's product is a manufacturing-use product which legally could be used to make an end-use product with outdoor uses, the test substance shall be a product representative of the major formulation category which includes that end-use product. (If the end-use products with outdoor uses that could be made from the manufacturing-use product belong to two or more major formulation categories, a separate study must be performed for each such category.)

(2) *Dose levels.* The dose levels tested shall be the same as those specified in the tier 2 aquatic test standards [§ 163.123–2(b)(1)].

(3) *Species.* (i) Aquatic plant representatives of the following plant groups are to be tested:

(A) *Dicotyledonae* (dicots), one representative;

(B) *Monocotyledonae* (monocots), representatives of three families;

(C) Vascular *Cryptogamae* (ferns and allies), representatives of three families;

(D) Algae (including *Cyanophyta*), a representative of each Division; and

(E) *Bryophyta*, one representative.

(ii) Plant species used for testing tiers 1 and 2 cannot be used to satisfy the test requirements of this section.

(4) *Environmental conditions.* (i) Plants may be grown in either native soil, water, or other substrate of similar nature to that of the indigenous area or under other conditions similar to the natural habitat. The edaphic conditions must be reported.

(ii) Reduction of light intensity by natural or constructed light shade may be necessary to simulate the reduced light intensities found with certain plant communities such as deeply submerged sites or shaded waters.

(iii) Other natural conditions must also be maintained where plants are removed from their natural habitat. Soil, water, and air temperatures should approximate those of the natural habitat. For estuarine and marine habitats, the following conditions should, to the extent possible, simulate the natural environment: tidal action, wave action, water turbidity, flow rates, depth, salinity, and degree of exposure.

(iv) Tests must be performed either in enclosed, controlled areas of a lake, pond, or swamp, or in large water cultures such as aquaria or plastic wash tubs. Tests are not to be performed in dynamic or flowing water where the release of the chemical cannot be contained or its escape prevented.

(v) The performance of the field studies shall be conducted using acceptable protocols as may be found in the following recommended reference: Truelove, B., 1977, Research Methods in Weed Science, Southern Weed Science Society, Auburn Printing Inc., Auburn, AL; *or* by a protocol with prior approval of the Agency.

(c) *Reporting.* In addition to the information required by §§ 163.120–4 and 163.122–2(c) of this subpart, the test report shall include the determination of the 10, 50, and 90 percent detrimental effect levels and the 95 percent confidence limits for each.

§ 163.124–3 Mutagenicity tests (Tier 3).

(a) *When required.* Data on the mutagenic effects of a pesticide on an expanded number of plant species are required to support the registration of each formulated product intended for outdoor pesticide application, and each manufacturing-use product which legally could be used to make such formulated products, when the tier 1 test (§ 163.122–3) indicates incidence of mutagenic effects on plants exceeding 10 percent.

(b) *Test standards.* In addition to the general test standards set forth in § 163.120–3 of this subpart, the test standards for this section shall be the same as those in § 163.122–3(b), with the following modification as to species:

Glycine max (soybean)
Vicia faba (broad bean)
Allium cepa (common onion)
Zea mays (corn).

(c) *Reporting.* The reporting requirements shall be the same as those specified for the tier 1 mutagenicity tests [§ 163.122–3(c)] of this subpart.

Tier 4 Testing

§ 163.125–1 Widespread geographical uses (Tier 4).

(a) *When required.* Data on the toxic effects of the active ingredient (in the form of a typical formulation) on growth and development of plants in those regions where the product is expected to be used are required to support the registration of each formulated end-use product intended for outdoor terrestrial or aquatic pesticide applications, and each manufacturing-use product which legally could be use to make such formulated products, when:

(1) The calculated expected exposure quantity is greater than the EC10 for plants as determined in the tier 2 tests (§ 163.123–1 or 163.123–2); and

(2) The product use is expected to be widespread (two or more regions).

(b) *Test standards.* In addition to the test general standards set forth in § 163.120–3, the test standards for this section shall be the same as those in § 163.124–1(b) (for terrestrial plants) and § 163.124–2(b) (for aquatic plants) depending on target area, with the following modifications:

(1) The following United States geographical areas must be considered: northeastern temperate deciduous, southeastern temperate deciduous, northern grassland (prairie), southern grassland (prairie), northwestern (and Alaskan) conifer forest and high desert, southwestern chapparal Mediterranean and low desert, and Hawaiian and Caribbean tropical forest. Where important species diversity and phsiographic differences occur within a region of intended application, the regional testing may be inadequate, and testing at a more specific region or biome level will be required.

(2) Those areas where tests are to be conducted are those where the product would be expected to be used.

(c) *Reporting.* The test reports shall provide the information required in §§ 163.124–1(c) and 163.124–2(c).

§ 163.125–2 Widespread seasonal use (Tier 4).

(a) *When required.* Data on the toxic effects of the active ingredient (in the form of a typical formulation) on plant growth and development under different environmental conditions are required to support the registration of each formulated end-use product intended for outdoor terrestrial and aquatic pesticide application, and each manufacturing-use product which legally could be used to make such a formulated product, when:

(1) The calculated expected exposure quantity is greater than the EC10 for plants as determined in the tier 2 tests [§§ 163.123–1 and 163.123–2]; and

(2) The applications are expected to include varying periods or seasons of application.

(b) *Test standards.* The test standards for this section shall be identical to those in § 163.124–1(b) for terrestrial plants and in § 163.124–2(b) for aquatic plants with the following modification: the test substance is to be applied over the period of time or season according to the proposed label instructions.

(c) *Reporting.* The test reports shall provide the information required in §§ 163.124–1(c) and 163.124–2(c). The report shall contain an evaluation of the pesticide effects over a period of time and with the repeated applications.

§ 163.125–3 Nitrogen fixation potential (Tier 4).

(a) *When required.* Data on the effect of a pesticide on nitrogen fixation potential are required to support the registration of each formulated product intended for outdoor pesticide use, and each manufacturing-use product which legally could be used to make such formulated products, if there is a marked reduction in growth of soybean (§ 163.123–1) and *Anabaena* (§ 163.123–2), as compared to other species tested in tier 2. [See also § 163.62–8(f)(3) of Subpart D for related nitrogen fixation data requirements.]

(b) *Test standards.* The test standards for this section shall be identical to those for tier 1 and 2 studies [§§ 163.122–1(b), 163.123–1(b), 163.122–2(b), and 163.123–2(b)] with the following modifications:

(1) *Species.* The following species shall be used:

Trifolium repens (white clover)
Glycine max (soybean)
Azolla spp. (waterfern)
Azotobacter vinelandii
Anabaena flos-aquae

(2) *Protocol.* (i) The acetylene reduction method is to be used to measure the nitrogen fixation potential.

(ii) The individual protocols for the legumes, *Azolla*, *Azotobacter*, and *Anabaena* are provided in the Appendix, Item (9).

(c) *Reporting.* The test report shall include the test data and the determination of the 10, 50, and 90 percent (I10, I50, and I90) detrimental effect levels on nitrogen fixation potential and the associated 95 percent confidence limits for each species. The data shall be expressed as moles of ethylene produced per gram of fresh or dry weight per time period.

§ 163.125–4 Readily sorbed materials (Tier 4).

(a) *When required.* Data on the effects of sorbed pesticides on aquatic plant life are required to support the registration of each formulated product intended for outdoor pesticide application, and each manufacturing-use product which legally could be used to make such formulated products, when the pesticide is readily sorbed to materials such as soils and organic matter that are likely to be carried into aquatic systems. Extent of sorption is determined in the absorption/desorption studies of § 163.62–9(d) of Subpart D.

(b) *Test standards.* In addition to those test standards required in § 163.123–2(b), the following standards shall be met:

(1) *Protocol.* An aquatic ecosystem approach may be used to assess the effect of sorbed pesticide materials. The pesticide at the appropriate concentrations should be mixed with the substrate and allowed to stand for 24 hours before filling the tanks or trays. Filling must be performed in a manner as to minimize substrate turbulence. The concentration in the soil and the filtered water should then be determined. Where turbulent conditions are desired in order to stimualte mixing or turbulent conditions in aquatic systems, the turbulence should be uniform and the

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amount of suspended particulate matter and its pesticide content determined.

(c) *Reporting.* In addition to the information required by § 163.123–2(c), the following data are required:

(1) The concentration of the pesticide in the sediment and water after equilibrium is attained;

(2) The concentration of the pesticide in the suspended particles during the turbulent conditions; and

(3) The concentration of the pesticide within the plants at the termination of the study.

Special Testing

§ 163.126–1 Spray drift: General requirements.

(a) *When required.* (1) Data on the toxic or hazard effects and extent of the potential drift of a pesticide are required to support the registration of each formulated product expected to be applied by aerial application spray methods (fixed-wing and helicopter), by air carrier (mist blower) method, or by other ground spray application methods. Such ground spray application methods may include, but are not limited to, overhead sprinkler irrigation devices, roadside and railroad right-of-way sprayers, and tractor-mounted booms.

(2) (i) The requirement to submit test data established by § 163.126–2 (Plant activity spectrum) may be satisfied by the submittal of published or unpublished information on plant spectrum studies such as are required in §§ 163.123–1 and –2 of this subpart.

(ii) The requirement to submit test data established by §§ 163.126–3 (Droplet size spectrum) and 163.126–4 (Field evaluation) may be satisfied by the submittal of published or unpublished information regarding spray drift patterns that would be expected to be similar to those for the formulated product when used according to commonly-recognized practice. Such submitted information must be accompanied by a statement of reasons why the registration applicant considers that the characteristics of his product are similar or identical to those of the desginated formulation described in the published information.

(3) If the applicant chooses not to furnish published and unpublished information as provided by paragraphs (a)(2)(i) and (ii) of this section, he may use the requirements of this section as guidance for studies he may wish to conduct to support his product if it may, for example, have superior or different characteristics regarding spray drift patterns and resultant phototoxicity than published or unpublished test data would demonstrate.

(b) *Data requirements.* The drift hazard of a peticide applied either by aircraft or ground equipment shall be determined in three stages. The initial stage (see § 163.126–2) involves the determination of possible pesticidal effects on plant growth activity that may be produced through direct foliar spraying and through exposure to pesticide-contaminated (spiked) soil. The second stage (see § 163.126–3) involves determination of droplet size spectrums to indicate which of the conventionally-used nozzle types, orifice sizes and cores, operating conditions, adjuvants, formulations, and discharge orientations would produce the greatest probable drift potential (for example, greatest volume of droplets less than 100 microns in diameter). The final stage (see § 163.126–4) involves field studies using commercial equipment to determine the extent of spray drift (concentration vs. distance) from swath displacement under "worst case" equipment and environmental (e.g., inversion) conditions. Data required by §§ 163.126–3 and –4 (Droplet size spectrum, and Spray drift evaluation) will be submitted only when the maximum label dosage produces a 10 percent detrimental effect or greater on the most sensitive plant(s) as tested in accordance with § 163.126–2. Determination of the spray droplet size spectrum (§ 163.126–3) may be performed before undertaking or during the aerial spray drift field study evaluation using commercial equipment (§ 163.126–4).

(c) *Additional data.* Submission of data from §§ 163.126–2, –3, and –4 will allow evaluation of the effect of swath displacement to nontarget plants. If, upon submission of data on activity levels as described in § 163.126–2, there are no effects of the pesticide on nontarget plants, additional data on spray drift may not be necessary with respect to nontarget plant hazard. If the addition of new crops, new uses, or new methods of application to the labeling of a registered product is planned by the registrant, additional testing as described in §§ 163.126–3 and –4 of this subpart may be required.

§ 163.126–2 Spray drift: Plant activity spectrum studies.

(a) *When required.* Data on the toxic effects of a pesticide on vegetative vigor are required to support the registration of each formulated product expected to be applied by aerial application spray methods, by air carrier (mist blower) methods, or by other ground spray application methods. Data may be supplied through either of the following alternative means:

(1) Where the effects on vegetative vigor have been determined according to the tier 1 and 2 terrestrial plant tests (§§ 163.122–1 and 163.123–1) using the specific formulation [or formulations similar to that of the proposed formulated product (e.g., a 4EC can be substituted for a 6EC, etc.)], data employing the formulation(s) may be submitted; or

(2) Data from screening tests performed by the registrant using the specific formulation (or formulations similar to that of the proposed formulated product) may be submitted in place of the studies as noted in this section. The Agency will reserve the right to require testing as provided by this section if the submitted data do not prove to be adequate to answer the question(s) concerning a pesticide's phytotoxic nature.

(b) *Test standards.* In addition to those test standards set forth in § 163.120–3, the following test standards shall be substituted for the appropriate portions of the tier 2 vegetative vigor test [§ 163.122–1(b)]:

(1) *Test substance.* The formulated product shall be tested. Similar formulations of a particular type may be substituted in the study (such as a 4EC for a 6EC formulation).

(2) *Plant species.* (1) Plant species evaluated must include those species or representatives of the families listed in § 163.121–1(b)(2) and any other plant species or family representatives of known high susceptibility to the product. Any additional plant species selected must be representative of those species found in the geographical area(s) of the United States where the product is expected to be used.

(ii) Culture of bioassay plants must be described both prior to and subsequent to exposure. Plants may be greenhouse-, growth chamber-, or field-grown.

(iii) Stages of nontarget plant growth at application must encompass those stages encountered under actual use situations.

(c) *Reporting.* The information required in §§ 163.120–4(b) and 163.123–1(c) shall be reported. The applicant must report product activity on sensitive nontarget plants that may be affected through direct foliar contact by spray, and through exposure to pesticide-contaminated soils. The latter exposure represents those situations where plants are grown in soil contaminated with pesticides that have drifted or have been irrigated with water that has been contaminated with the pesticide.

(d) *Test progression.* If the product is to be applied by aerial, air carrier (mist blower), or other ground spray application methods, and the detrimental effect is greater than 10% for any of the species as compared to the untreated controls, then the droplet size distribution shall be determined (see § 163.126–3) and the product shall be evaluated according to § 163.126–4, employing commercial application equipment.

§ 163.126–3 Spray drift: Droplet size spectrum studies.

(a) *When required.* (1) Data on the droplet size spectrum are required to support the registration of each formulated product expected to be applied by aerial, air carrier mist blower, and by other ground spray application equipment when the detrimental effect level of those desirable plants anticipated to be present exceeds 10 percent as determined by plant activity spectrum tests of § 163.126–2.

(2) In lieu of the wind tunnel study required by this section, droplet size distribution may be determined under field conditions during the spray drift evaluation test as provided in § 163.126–4.

(b) *Test standards.* In addition to those test standards set forth in § 163.120–3, the following standards shall be met:

(1) *Equipment.* The label-recommended or commonly-used nozzles and associated parts, nozzle pressures, and nozzle discharge orientation that would produce droplets that would be most conducive to spray drift shall be tested.

(2) *Meteorological conditions.* (i) For wind tunnel studies, the following conditions shall be tested:

(A) The product shall be tested at various temperature levels from 10 to 30°C.

(B) The air flow (velocity) in the wind tunnel will be adjusted to relate to the type of equipment used [e.g., 130 to 225 kmph (80 to 140 mph) for fixed-winged aircraft and air carriers, 65 to 110 kmph (40 to 70 mph) for helicopter, and 5 to 40 kmph (3 to 25 mph) for ground applications other than air carriers (mist blowers)].

(ii) For field determination studies, the meteorological conditions shall be those most conducive to spray drift (high temperature and low relative humidity).

(3) *Collection devices.* The collection devices shall be either remote sensing laser-powered particle spectrometers, collection cards (flat horizontal or vertical surfaces), or other devices by which droplet size distribution can be determined.

(c) *Reporting.* In addition to those reporting requirements set forth in § 163.120–4, the following data are required:

(1) The nozzle type, orifice size, and core identification;

(2) The nozzle pressure and flow rate;

(3) The nozzle discharge orientation to the airstream;

(4) Air velocity past the nozzle;

(5) Descriptions of techniques and size determination devices;

(6) Particle size distribution vs. cumulative percent volume and droplet number (an attempt should be made to determine the droplet size distribution as the droplets leave the nozzle);

(7) Product formulation, dilution, mixtures, adjuvants, and their physical properties (surface tension, viscosity, density, vapor pressure, etc); and

(8) Air temperature and relative humidity (not required for wind tunnel studies where droplets at the nozzle are measured).

§ 163.126–4 Spray drift: Field evaluation.

(a) *When requried.* (1) Data on the extent of the potential drift of a pesticide are required to support the registration of each formulated product expected to be applied by aerial, air carrier, (mist blower), or other ground spray application methods when the detrimental effect level of those desirable plants anticipated to be present exceeds 10 percent as determined by the plant activity spectrum tests of § 163.126–2.

(2) Experimental use permits will usually be required for conduct of these field evaluations.

(b) *Test standards.* In addition to the test standards set forth in § 163.120–3, the following test standards shall be met:

(1) *Test substance*—(i) *Products with single active ingredients.* The formulated product shall be tested. Use of dyes or other indicators with the pesticide are acceptable only if these materials do not interfere with chemical analysis or bioresponse, do not alter chemical or physical properties of the diluted spray, do deposit in direct proportion to concentrations of active ingredients, and do remain stable until analysis.

(ii) *Tank mixes and package mixes.* Drift data requirements for each package mix, and for each tank mix allowed in labeling are identical to those requirements for any single pesticide applied alone; that is, the plant activity spectrum, droplet spectrum, and swath displacement must be evaluated. Alternatively, the swath displacement data for the mixture may not be required if the mixture activity spectrum, droplet size spectrum, and physical data are sufficiently similar to such data characterizing the mixture's most phytotoxic component for which acceptable swath displacement data have been submitted.

(2) *Dosage levels.* Maximum label-recommended pesticide dosages must be evaluated in all spray drift field evaluations.

(3) *Location.* The evaluation should preferably be performed in a field having foliage or crop cover conditions similar to actual use conditions. The site should be typical in geography, topography, and meterology of those sites within intended use patterns and seasonally similar in relation to the test plants. Open fields (not runways) will be acceptable only for evaluation of pesticides to be applied directly to soil or just emerging plants. If it is felt that barren fields should be used to test where vegetation would exist according to the label recommendations, the justification must be submitted to indicate the reason for this test modification.

(4) *Collection surfaces.* Collection surfaces for fallout sampling must be located within the target area and at least one swath width upwind and downwind at known distances outside the target area to a minimum of 1000 feet for aerial and air carrier application and 500 feet for other ground applications. The surfaces may be either inanimate or biological. Collection surfaces must be located in a straight line parallel to a stable wind direction and as close as possible to the perpendicular of the direction of travel for the application equipment. At each collection station, collection surfaces must be located at the soil surface or, if vegetation is present, at a level which corresponds to the height of the surrounding canopy. The downwind and upwind line of collection stations must extend at least to the point where quantities of pesticide collected are less than the no-effect level of the most sensitive plant species evaluated in § 163.126–2(b). Air samplers, such as a high volume type (20–50 ft^3/min), must be placed at a 2- or 3-meter height at least three downwind collection stations (for example, at 200, 600, and 1000 feet downwind) to sample airborne particles of the chemical. While lateral distances between collection stations are left to the discretion of the applicant, it is important that a sufficient number of collecton stations be established to present a definitive uninterrupted picture of deposits across the treated swath as well as outside the target area. Location of collection stations is particularly critical in areas where deposition rates are expected to

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change rapidly over a small lateral distance.

(5) *Protocols.* (i) Spray drift evaluation data from one or more applications to a single swath line will be acceptable. When plant bioassays are used in the swath displacement test, only single applications over the swath test area may be performed. The length of the treated swath must be such that a line of continuation of the spray cloud would pass above the most distant downwind collection devices, taking into account the probability that wind direction may not coincide perfectly with the line of collection points. Normally the spray line should equal the sampling line length.

(ii) At least one study must be conducted using equipment, equipment adjustment and operation, procedures, and conditions most conducive to drift as would be allowed in labeling, and as determined in part from droplet spectrum tests. As an example, evaluate the spray drift using the following parameters that would be permitted in normal application practices: maximum recommended nozzle height, nozzle pressure, crosswind velocity, temperature gradient at 3 and 10 m, ground speed of the equipment, pesticide dosage, and airstream shear force (nozzle discharge orientation to air stream); minimum recommended nozzle orifice diameter, spray volume and relative humidity; and using cores any other devices to increase droplet dispersion or produce sheets, fans, or cones.

(c) *Reporting.* In addition to data reporting information required by § 163.120–4, the following information must be submitted:

(1) A diagram of the plot indicating north, swath width, and orientation, and location and spacing of the collection stations;

(2) Temperature at two levels, wind velocity and direction, variations in velocity and direction during the application, relative humidity, atmospheric pressure, and air stability. The latter is expressed as Barad's stability ratio:

$$\frac{T_{10\ \text{meters}} - T_{3\ \text{meters}}}{(\text{ave. wind vel.})^2} \times 10^5$$

Temperture and wind velocity shall be determined at the 3 and 10 meter height for aerial and air carrier applications and for all other ground applications;

(3) Dosage of active ingredients or acid equivalent per hectare (or acre).

The concentration of the final diluted spray mixture (in the spray tank) must be sampled, chemically analyzed, and reported;

(4) Physical property data, including droplet size, viscosity, density, vapor pressure, visco-elasticity, and surface tension;

(5) Spray volume (liters per hectare or gallons per acre) and carrier(s). The maximum and minimum carrier volumes recommended on the label must be reported;

(6) Adjuvant identification and dilution used;

(7) The ground speed of application equipment, the number of swaths sprayed during exposure of collecting surfaces, and swath width;

(8) A description of the spray equipment, including nozzle type, orifice, size, core, nozzle pressure, nozzle spacing and arrangement, and nozzle discharge orientation. Nozzle discharge orientation shall be designated in degrees related to the direction of travel of the spray equipment. Zero degrees indicates a horizontal nozzle discharge pointing rearward (opposite to the equipment direction of travel), 90° indicates a vertical nozzle discharge pointing downward, and 180° indicates a horizontal nozzle discharge pointing forward (with the equipment direction of travel);

(9) The minimum and maximum nozzle-to-target height;

(10) The quantity of active ingredient(s) or acid equivalent collected or detected at each sampling point in terms of kilograms per hectare (pounds per acre); and

(11) Where droplet size distribution is determined during the field evaluation, refer to § 163.126–3(c) for the reporting requirements.

Appendix A to Subpart J

Test Protocols. The following test protocols have been developed to provide guidance in the performance of pesticide plant hazard evaluation testing:

(1) *Seed germination.* Surface-sterilized seeds are germinated in Petri dishes between sheets of sterile filter paper moistened with the chemical; or the surface-sterilized seeds are germinated in washed quartz sand that has been sprayed or otherwise treated with a known quantity of the chemical.

Use at least ten seeds per dish. The seeds are incubated for up to 14 days. The seeds are observed weekly (or more frequently), and seed germination is reported as the number of emerged or germinated seeds.

The methods of Horowitz (1966), Kratky and Warren (1971), or Rubinstein et al. (1975) may be used in this assessment.

Recommended References

Horowitz, M. 1966. A rapid bioassay for PEBC, and its application in volatilization and absorption studies. *Weed Res.* 6:22–36.

Kratky, B.A., and G.F. Warren. 1971. The use of three simple, rapid bioassays on forty-two herbicides. *Weed Res.* 11:257–262.

Rubenstein, R., E. Cuirle, and H. Cole. 1975. Test methods for assessing the effects of chemicals on plants. EPA Report 560/5–75–008. NTIS PB 248–298.

(2) *Vegetative vigor-foliar spray.* The foliar spray can be applied by any commonly acceptable method using laboratory-, greenhouse-, or field-grown plants. The plants are to be sprayed during their most susceptible growth or reproductive stage as determined by prior testing. For vegetative vigor testing, the plant may be 0 to 4 weeks post-emergent (7–9 weeks for *Rhizobium*-inoculated soybeans). Types of sprays and methods of foliar applications may be found in the references below. Detrimental effects are to be reported as phytotoxicity, abnormal changes in growth and development, and/or abnormal changes in plant morphology.

Recommended References

Rubinstein, R., E. Cuirle, and H. Cole. 1975. Test methods for assessing the effects of chemicals on plants. EPA report 560/5–75–008. NTIS PB 248–298.

Truelove, B., (ed). 1977. Research methods in weed science. Southern Weed Science Society. Auburn Printing Inc., Auburn, AL. 221 pp.

(3) *Lemna gibba: Growth conditions.* The following are acceptable culture conditions for the growth and maintenance of *Lemna gibba* G3.

Species: *Lemna gibba* G3.
Environmental Conditions:
- Light Intensity: 10 klux (10 k lum n /sq. meter)
- Light Quality: warm white fluorescent
- Photoperiod: continuous light
- Thermoperiod: continuous 25° C

Culture Conditions:
- Liquid culture
- Nutrients: M type Hoagland's medium *without* EDTA or sucrose (Hillman, 1961 a & b); pH 5.0± 0.1 after autoclaving.

The vessel-to-medium ratio shall be 5 to 2. Maintain the *Lemna* stock under axenic conditions. The tests may be performed under non-axenic conditions as long as non-organic mediums are used.

Recommended References

Hillman, W.S. 1961a. Experimental control of flowering in *Lemna* III. A relationship between medium composition and the opposite photoperiodic responses of *L. perpusyilla* 6746 and *L. gibba* G3. *Amer. J. Bot.* 48:413–419.

Hillman, W.S. 1961b. The *Lemnaceae*, or duckweeds. *Bot. Rev.* 27:221–287.

(4) *Selenastrum capricornutum: Growth conditions.* The following are acceptable culture conditions for the growth and maintenance of *Selenastrum capricornutum.*

Species: *Selenastrum capricornutum* Printz.
Source: EPA Corvallis Laboratory, Corvallis, OR 97330.
Environmental conditions:
- Light Intensity: 400 ft-c (4300 lumens/sq. meter)
- Light Quality: cool white fluorescent
- Photoperiod: continuous light
- Thermoperiod: continuous 24 ± 2°C

Culture conditions:
- Liquid culture
- Nutrients: U.S. EPA (1978) medium
- pH 7.5

Recommended References

Environmental Protection Agency, National Eutrophication Research Program, 1971. Algal Assay Procedure: Bottle Test (AAP:BT), National Environmental Research Center, Corvallis, OR 97330.

Miller, W.E., J.C. Greene, and T. Shiroyama. 1978. The *Selenastrum Capricornutum* Printz algal assay bottle test. U.S. Environmental Protection Agency, Corvallis, OR 97330 (EPA 600/9–78–018).

(5) *Skeletonema costatum: Growth coinditions.* The following are acceptable culture conditions for the growth and maintenance of *Skeletonema costatum.*

Species: *Skeletonema costatum.*
Environmental conditions:
- Light Intensity: 6–6.5 klux (6–6.5 k lumens/sq. meter)
- Light Quality: cool white fluorescent
- Photoperiod: continuous light
- Thermoperiod: 18° C continuous

Culture conditions:
- Liquid culture
- Nutrients: U.S. EPA (1974) medium
- pH 8

Recommended References

U.S. Eutrophication and Lake Restoration Branch National Environmental Research Center-Corvallis. 1974. Marine Algal Assay Procedure: Bottle Test.

U.S. Environmental Protection Agency. 1978. Bioassy procedures for the ocean disposal permit program. U.S. EPA Laboratory, Gulf Breeze, FL 32561 (EPA–600/9–78–010).

(6) *A Freshwater Diatom Growth conditions.* The following are acceptable culture conditions for the growth and maintenance of *Navicula seminulum* or other selected freshwater diatom.

Species: (To be selected).
Environmental conditions:
- Light Intensity: 400 ft-c (4300 lumens/sq. meter)
- Light Quality: cool white fluorescent
- Photoperiod: continuous light
- Thermoperiod: continuous 24 ± 2° C.

Culture conditions:
- Liquid culture
- Nutrients: U.S. EPA (1971) medium
- pH 7.5

Recommended Reference

Environmental Protection Agency, National Eutrophication Research Program. 1971. Algal Assay Procedure: Bottle Test (AAP:BT). National Environmental Research Center, Corvallis, OR 97330.

(7) *Anabaena flos-aquae: Growth conditions.* The following are acceptable culture conditions for the growth and maintenance of *Anabaena flos-aquae.*

Species: *Anabaena flos-aquae* (Lyngb.) DeBrebisson.
Source: EPA Corvallis Laboratory, Corvallis, OR 97330.
Environmental conditions:
- Light Intensity: 200 ft-c (2150 lumens/sq. meter)
- Light Quality: cool white fluorescent
- Photoperiod: continuous light
- Thermoperiod: continuous 24 ± 2° C

Culture conditions:
- Liquid culture
- Nutrients: U.S. EPA (1978) medium
- pH 7.5 (not greater than 8.5)

Recommended References

Environmental Protection Agency, National Eutrophication Research Program. 1971. Algal Assay Procedure: Bottle Test. (AAP:BT). National Environmental Research Center, Corvallis, OR 97330.

Miller, W. E., J. C. Greene, and T. Shiroyama. 1978. The *Selenastrum capricornutum* Printz algal assay bottle test. U.S. Environmental Protection Agency, Corvallis, OR 97330 (EPA 600/9–78–018).

(8) *Mutagenicity study procedures. Tradescantia reflexa* will be used as the tier 1 test species. The growth conditions are provided herein. The protocol to test for mutagenicity effects are given in Sawamura (1964), Sawamura and Jackson (1968) and Wada (1952).

Species: *Tradescantia reflexa* (tetraploid species).
Environmental conditions:
- Light Intensity: 20 klux (20 k lumens/sq. meter)
- Light Quality: incandescent and cool white fluorescent
- Photoperiod: 16 hrs/8 hrs D/N
- Thermoperiod: 24°C/18°C D/N
- Relative Humidity: 60–70%

Culture conditions:
- Soil (Sawamura, 1964 and Wada, 1952)
- pH 6.0 (5.0–7.0)
- For mutagenicity effects testing, ensure that the variety and ploidy levels are those specified in the references. Growth conditions and test protocols are provided in Sawamura (1964), Sawamura and Jackson (1968), and Wada (1952). Other protocols and plant species may be used with prior approval of the Agency.

Recommended References

Sawamura, S. 1964. Cytological studies on the effects of herbicides on plan cells *in vivo*. I. Hormonic herbicides. *Cytologia* 29:86–102.

Sawamura, S., and W. T. Jackson. 1968. Cytological studies *in vivo* of picloram, pyriclor, trifluralin, 2,3,6–TBA, 2,3,5, 6–TBA and nitralin. *Cytologia* 33:545–554.

Wada, B. 1952. Effects of chemicals on mitosis studied in *Tradescantia* cells *in vivo*. I. p-Acetyl aminotropollene. *Cytologia* 17:14–34.

(9) *Nitrogen fixation study procedures*—(i) *General.* When required, the effect of the pesticide on nitrogen fixation shall be determined by the acetylene reduction method. The following test conditions are common to all of the species to be tested.

(A) The chemical to be tested should be applied to the experimental medium for a period of time before and then to the incubation medium during the enzyme assay.

(B) Acetylene reduction will be allowed to occur for the required incubation time (30 to 60 min) under the environmental conditions in which the plant is grown. The acetylene partial pressure (PC_2H_2) will be 0.1 atm (10%).

(C) After the required incubation time, a sample of the vapor phase is obtained and either stored or assayed directly.

(D) Assays for ethylene content (acetylene reduction end-product) will be performed using a gas chromatograph equipped with a hydrogen ion flame ionization detector (F.I.D.). The gases will be separated on a column 3.2 mm wide (OD) 2 m long containing 80/120 mesh Parapak N or similar packing material. The standard curves for the ethylene standard must be provided with the retention times. Oven and injection temperatures and carrier gas used are at the discretion of the reseacher but must be reported.

(ii) *Protocols.* The following protocols are provided for guidance in the growth and maintenance of the species to be used for testing nitrogen fixation potential.

(A) *Legumes. Glycine max* is inoculated with *Rhizobium japonicum. Trifolium repens* is inoculated with *Rhizobium trifolii.* The general growth conditions and methods for determination of nitrogen fixation potential are provided below. Apply *Rhizobium* in a peat slurry to the seed. Use 7- to 9-week-old seedling for assays. Measure nitrogen fixation potential using nodules attached to roots. Note the number, size, and fresh weight of the nodules.

Environmental Conditions:
- Light Intensity: 20–30 klux (20–30 k lumens/sq. meter)
- Light Quality: fluorescent and incandescent
- Photoperiod: 16 hrs/8 hrs D/N
- Thermoperiod: 30/20°C D/N
- Relative Humidity: 60%

Culture Conditions:
- Sand/Nutrient culture
- Nutrients: *Trifolium*—Crone's nitrogen-free medium.
- *Glycine*—Sloger's nitrogen-free medium.

pH: 6–7 (not less than 5.2)

Recommended References

Allen, N. O. 1957. Experiments in soil bacteriology. pp. 93–94. Burgess Publ. Co., Minneapolis.

Masterson, C. L., and P. M. Murphy. 1976. Application of the acetylene reduction technique to the study of nitrogen fixation by white clover in the field. Pp. 299–316 *in* Symbiotic Nitrogen Fixation in Plants. P. S. Nutman (ed.). (IBP Vol. 7) Cambridge University Press, Cambridge, U.K.

Sloger, C. 1969. Symbiotic effectiveness and N_2 fixation in nodulated soybean. *Plant Physiol.* 44:1666–1668.

(B) *Azolla-Anabaena azolloe.* Three species of *Azolla* occur in the continental United States: *A. caroliniana, A. mexicana,* and *A. filiculoides.* The growth, maintenance, and determination of nitrogen fixation potential by the symbiosis are found in the following references.

Recommended References

(i) *A. caroliniana.*

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Peters, G. A., and B. C. Mayne. 1974. The *Azolla, Anabaena azollae* relationship II. *Plant Physiol.* 53:820–824.

Peters, G. A. 1975. Studies on the *Azolla-Anabaena azollae* symbiosis. Pp. 592–610 *in* Proc. Internat. Symp. on Nitrogen Fixation. W. E. Newton and C. J. Nyman, eds. Washington State Univ. Press: Pullman, WA.

(ii) *A. mexicana.*

Holst, R. W., and J. H. Yopp. 1979. Environmental regulation of nitrogenase and nitrate reductase as systems of nitrogen assimilation the *Azolla mexicana-Anabaena azollae* symbiosis. *Aquatic Bot.* 7:369–384.

Holst, R. W., and J. H. Yopp. 1979. Studies of the *Azolla-Anabaena* symbiosis using *Azolla mexicana.* I. Growth in nature and laboratory. *Amer. Fern J.* 69:17–25.

(iii) *A. filiculoides.*

[No specific references are available. Refer to the publications in (i) and (ii) (above)], and

Moore, A. W. 1969. *Azolla:* biology and agronomic significance. *Bot. Rev.* 35:17–34.

(C) *Anabaena.* Either *A. flos-aquae* or *A. cylindrica* may be used. The growth conditions for *A. flos-aquae* are given in paragraph (7) of this Appendix. Those for *A. cylindrica* are given in Hattori (1962). In both cases, the alga must be grown on a nitrogen-free medium. Nitrogen fixation determination must be performed utilizing intact filaments and cells. The technique of Stewart et al. (1971) shall be used and the samples assayed without termination of the reaction with trichloracetic acid.

Recommended References

Hattori, A. 1962. Light-induced reduction of nitrate, nitrite, and hydroxylamine in a blue-green alga, *Anabaena cylindrica. Plant Cell Physiol.* 3:355–369.

Stewart, W. D. P., T. Mague, G. P. Fitzgerald, and R. H. Burris. 1971. Nitrogenase activity in Wisconsin lakes of differing degrees of eutrophication. *New Phytol.* 70:497–509.

(D) *Azotobacter vinelandii. Azotobacteri vinelandii* can be grown on a modified Burke's medium supplemented with 1 μg Mo/liter as $Na_2MoO_4 2H_2O$ (Burns et al. 1971). Nitrogen fixation potential is determined using either the method of Balandreau and Dommergues (1973) or that used for *Anabaena* as provided in section (C) above.

Recommended References

Burns, R. C., W. H. Fuchsman, and R. W. F. Hardy. 1971. Nitrogenase from vanadium-grown *Azotobacter:* Isolation, characteristics, and mechanistic implications. *Biochem. Biophys. Res. Comm.* 42:353–358.

Balandreau, J., and Y. Dommergues. 1973. Assaying nitrogenase (C_2H_2) activity in the field. *Bull. Ecol. Res. Comm.* 17:247–254. (Now: Ecol. Bull. Sweden Nat. Res. Council).

[FR Doc. 80-34113 Filed 10-31-80; 8:45 am]

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federal register

Monday
November 3, 1980

Part VII

Environmental Protection Agency

Nuclear Regulatory Commission

Regulation of Radionuclide Emissions From Sources and Facilities Licensed by NRC; Memorandum of Understanding

ENVIRONMENTAL PROTECTION AGENCY

NUCLEAR REGULATORY COMMISSION

[RH-FRL-1653-3]

Regulation of Radionuclide Emissions; Memorandum of Understanding

AGENCIES: Environmental Protection Agency, Nuclear Regulatory Commission.

ACTION: Notice of a Memorandum of Understanding.

SUMMARY: The Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) have entered into a Memorandum of Understanding as required by section 122(c)(2) of the Clean Air Act, as amended in 1977, with respect to the regulation of radionuclide emissions into air from sources and facilities licensed by NRC. This Memorandum defines in general terms the respective roles of the two agencies and establishes a framework of cooperation for avoiding unnecessary duplication of effort and for conserving resources in establishing, implementing, and enforcing standards for airborne radionuclide emissions from sources and facilities licensed by NRC. This Memorandum may be revised in the future as EPA develops Clean Air Act radionuclide standards applicable to NRC licensees.

ADDRESSES: Docket No. A-79-11, containing material relevant to this action, is located in the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, West Tower Lobby, Gallery One, 401 M Street, SW, Washington, DC. The Docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Paul J. Magno, Office of Radiation Programs (ANR-460), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (703) 557-7380, or John W. N. Hickey, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-5966.

SUPPLEMENTARY INFORMATION: Under various statutes both EPA and NRC have the authority to regulate radioactive emissions of source material, byproduct material, and special nuclear material into the air. Under the Atomic Energy Act of 1954 and Title II of the Energy Reorganization Act of 1974, NRC is authorized to license and regulate the manufacture, production, receipt, acquisition, possession, ownership, use, and transfer of source material, byproduct material, and special nuclear material.[1] Under the Clean Air Act, as amended in 1977, EPA was also given the authority to regulate air emissions of source material, byproduct material, and special nuclear material.[2]

Section 122(a) of the Clean Air Act, as amended in 1977, directed the Administrator of EPA to determine whether emissions of radioactive pollutants (including source material, byproduct material, and special nuclear material) into ambient air will cause or contribute to air pollution which may reasonably be anticipated to endanger public health. If the Administrator made an affirmative finding, he was required to list radioactive pollutants as substances to be regulated under the Clean Air Act.

On December 27, 1979, the Administrator of EPA made an affirmative finding and listed "radionuclides" as hazardous air pollutants under Section 112 of the Clean Air Act (44 FR 76738, December 27, 1979). The term "hazardous air pollutant," as defined by Section 112, means an air pollutant to which no ambient air quality standard is applicable and which causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness. After listing radionuclides as hazardous air pollutants under Section 112 of the Clean Air Act, the Administrator must promulgate regulations establishing standards for these pollutants, and where applicable, all sources and facilities emitting these pollutants, including NRC-licensed sources and facilities, must comply with these standards.

NRC-licensed sources and facilities include nuclear power plant operations and other activities in the nuclear fuel cycle, research and development laboratories, universities, research and test reactors, hospitals, radiopharmaceutical facilities, industrial users and various miscellaneous users of source material, byproduct material, and special nuclear material. Radionuclide air emissions from these licensed sources and facilities are already limited or controlled by a number of existing regulations and standards, including:

1. 10 CFR Part 20, "Standards for Protection Against Radiation," which among other things specifies limits for radionuclide releases into air from all NRC licensees and includes the provision that these releases should be "as low as reasonably achievable" (ALARA);

2. Appendix I of 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which specifies numerical design objectives to insure that radionuclide releases from light water nuclear power reactors are kept "as low as reasonably achievable" (this regulation is implemented by NRC through technical specifications on individual licensees which specify release limits); and

3. 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," which establishes generally applicable standards for radionuclide emissions from uranium fuel cycle facilities.[3]

Recognizing the overlapping jurisdictional authorities resulting from the Clean Air Act Amendments of 1977, Congress, under Section 122(c)(2) of the Clean Air Act, as amended in 1977, directed EPA and NRC, no later than six months after EPA lists any source material, byproduct material, or special nuclear material as a substance to be regulated under the Act, to enter into an interagency agreement with respect to those sources or facilities which are under NRC's jurisdiction. The Act states that this agreement shall minimize duplication of effort and conserve resources in establishing, implementing, and enforcing Clean Air Act radionuclide standards for sources or facilities licensed by NRC.

EPA and NRC have entered into such an agreement. Under this agreement EPA shall promulgate standards for airborne radionuclide emissions under its Clean Air Act authority and NRC shall have the primary role in implementing and enforcing these standards where applicable for sources and facilities licensed by NRC. EPA shall inform NRC of proposed actions for the development of Clean Air Act radionuclide standards for sources and facilities licensed by NRC and shall consult regularly with NRC during the standards development process. NRC shall assist EPA in standards development by: (a) providing information and recommendations, (b) participating in studies, and (c) reviewing and commenting on proposed standards.

As EPA standards are developed for NRC-licensed sources and facilities, EPA and NRC will work together in developing mutually acceptable procedures for implementing and enforcing these standards. These efforts are expected to lead to a revision of this agreement defining the specific roles of each agency in implementing and enforcing these standards. This revision should be completed before EPA proposes its first standards applicable to NRC-licensed sources and facilities.

The text of the Memorandum of Understanding is set forth below.

[1] Source material, byproduct material, and special nuclear material are radioactive materials as defined in the Atomic Energy Act of 1954 as amended.

[2] Under the Atomic Energy Act of 1954 and Reorganization Plan No. 3 of 1970, EPA also is authorized to establish generally applicable environmental standards for protection of the general environment from radioactive materials. These standards, which apply outside the boundaries of NRC-licensed facilities, are implemented by NRC through its licensing authority.

[3] This standard was issued by EPA under the Atomic Energy Act authority to establish generally applicable environmental radiation standards. Uranium fuel cycle facilities subject to 40 CFR 190 and regulated by NRC, include uranium mills, uranium conversion plants, uranium fuel fabrication plants, light-water-cooled nuclear power plants using uranium fuel, and spent uranium fuel reprocessing plants, as defined in 40 CFR 190 (42 F.R. 2858, January 13, 1977).

Memorandum of Understanding Between EPA and NRC Concerning the Clean Air Act, as Amended in 1977

In accordance with Section 122(c)(2) of the Clean Air Act, as amended in 1977, to minimize duplication of effort and conserve resources in the regulation of radionuclide emissions to air from sources or facilities licensed by NRC, EPA and NRC agree to the following:

I. Establishment of Standards

1. EPA shall promulgate standards for airborne radionuclide emissions under its Clean Air Act authority.

2. EPA shall inform NRC of proposed actions for the development of Clean Air Act radionuclide standards for sources and facilities licensed by NRC and shall consult regularly with NRC during standards development.

3. NRC shall assist EPA in standards development by:

a. Providing EPA with available data and information on NRC-licensed sources and facilities as needed, including information on radionuclide air emissions, the environmental impact of these emissions, and control technology for reducing these emissions;

b. Participating with EPA in carrying out any necessary special studies at NRC-licensed sources and facilities; and

c. Providing recommendations and reviewing and commenting on EPA's proposed standards.

II. Implementation and Enforcement of Standards

1. NRC, using its own regulatory program and statutory and regulatory authorities, shall have the primary role in implementing and enforcing EPA's Clean Air Act radionuclide standards for sources and facilities licensed by NRC.

2. During the development of Clean Air Act radionuclide standards for NRC-licensed sources and facilities, EPA and NRC shall work together to establish mutually acceptable procedures for implementing and enforcing these standards. These procedures will be consistent with the provisions of the Clean Air Act and will allow both EPA and NRC to fulfill their statutory responsibilities with a minimum of duplication of effort. These procedures and the specific roles of each agency in carrying out these procedures will be defined in a revision to this agreement which should be completed before EPA proposes its first standards applicable to sources and facilities licensed by NRC.

III. Effective Date, Revision, and Termination

This Memorandum shall be effective immediately, and shall continue in effect until revised by mutual agreement, unless terminated by either party upon 120 days notice in writing.

Dated: October 17, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation, U.S. Environmental Protection Agency.

Dated: October 24, 1980.

William J. Dircks,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

[FR Doc. 80-34108 Filed 10-31-80; 8:45 am]

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Monday
November 3, 1980

Part VIII

Environmental Protection Agency

State and Local Assistance; Grants for Construction of Treatment Works

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH FRL 1643-7]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rulemaking amends the regulations governing the cost-effectiveness analysis of Facility Plans prepared under grants for construction of treatment works under Title II of the Clean Water Act. The revisions replace the present 4% cost escalation factor for natural gas with tables of regional escalation rates over 10 and 20 year time periods for fossil fuels and electricity. The revisions also require grantee consideration of State energy plan provisions. These changes affect only 40 CFR 35 Subpart E, Appendix A, paragraph 6d.

DATES: Proposed effective date: The amendments are effective for Step 1 grants awarded 60 days after the publication date for the final rule. Earlier use by the grantee, is optional.

COMMENT DATE: Comments on this notice of proposed rulemaking must be submitted by January 2, 1981.

ADDRESS: Comments (in duplicate if possible) should be addressed to Central Docket Section (A-104), Docket Number: G-80-4, Environmental Protection Agency, 401 M Street SW, Washington, DC, 20460. Comments previously received on the proposed rules may be inspected at: Central Docket Section, Environmental Protection Agency, West Tower Lobby—Gallery 1, 401 M Street SW, Washington, DC, between 8 a.m. and 4:00 p.m., business days.

FOR FURTHER INFORMATION CONTACT: Wen Huang, Facility Requirements Division (WH-595), Environmental Protection Agency, 401 M Street SW, Washington DC, 20460, 202/426-4445.

SUPPLEMENTARY INFORMATION:

1. Background

Executive Order 12185, Conservation of Petroleum and Natural Gas, signed by the President on December 17, 1979, and published December 19, 1979, at 44 FR 75093 mandates that each Federal agency identify its financial assistance programs most likely to offer opportunitites for significant conservation of petroleum and natural gas.

It further directs that a list of these programs be published for public comment so that the public may provide suggestions for rules that would encourage energy conservation. This list was published in the **Federal Register** of February 7, 1980, at 45 FR 8534. It included several EPA programs including the Construction Grants Program (Section 201 of the Clean Water Act of 1977), which provides financial assistance to municipalities for the construction of publicly-owned treatment works (POTWS).

After examining program requirements, EPA determined in a notice of proposed rulemaking, published in the **Federal Register** of May 7, 1980 at 45 FR 30376, that a regulatory change is necessary to implement E.O. 12185, for the Construction Grants Program. EPA determined further that the proposed change should provide a cost-escalation schedule for pricing energy (petroleum, natural gas, and electricity) in calculating the most cost-effective wastewater treatment system or component part. The notice also stated that EPA, after it completed its review of the Department of Energy's schedule of energy prices, would publish in the **Federal Register** for public comments the proposed regional escalation factors for the cost-effectiveness analysis, and a proposed requirement that facility planning take into account applicable provisions of State energy plans.

2. Present and Proposed Uses of Energy Escalation Factors in Cost-Effectiveness Analysis

The Cost-Effectiveness Analysis Guidelines represent EPA's policies and procedures for determining the most cost-effective wastewater treatment system or component part. The guidelines apply to the planning of all wastewater treatment projects for which Federal grant assistance is being sought. The guidelines are published as Appendix A of the Construction Grants Regulations (40 CFR 35, Subpart E).

The Agency's cost-effectiveness analysis procedures presently call for use of constant dollar values to represent the worth of goods and services required for a project over time. This constant dollar approach, rather than implying no future inflation, assumes that the costs of all resources involved in treatment works construction and operation, will increase at about the same rate on a long-term basis. As exceptions, however, certain cost escalation allowances are provided for land natural gas, recognizing that the real values of these items are likely to increase faster over time than those of other goods and services required for construction and operation of wastewater treatment facilities.

The Department of Energy's Information Administration (EIA) has projected future price increases for certain energy inputs for wastewater treatment and other purposes relative to the general projected inflation rate. Accordingly, the Agency proposes to revise the guidelines to require escalation of these energy prices (difference between total projected energy costs and the general inflation rate) over the 20-year planning period for wastewater treatment works. This would encourage selection of facilities requiring less energy.

3. Coordination with State Energy Plans

Facility planning should take into account applicable provisions of existing State energy plans. Accordingly, the Agency proposes to revise the cost-effectiveness guidelines to require that grantees consider such State energy plans in future facility planning.

4. Comments Received to Date

The one comment we have received to date on the proposed revisions supports the escalation of energy prices in the analysis of alternative wastewater management systems; however, the comment suggests that EPA carefully review the factors before incorporating them into regulation. EPA has reviewed the EIA projections very carefully for use by the program, and although EPA recognizes that long-term projections entail uncertainty the projections seem reasonable at this time. The factors, and the effect of their use, are subject to review and possible update each year.

Paragraph 6d of Appendix A to Subpart E of 40 CFR 35 is proposed to be revised as follows:

Appendix A—Cost-Effectiveness Analysis Guidelines

* * * * *

d. *Prices.* (1) The applicant shall calculate the various components of costs on the basis of market prices prevailing at the time of the cost-effectiveness analysis. The analysis shall not allow for inflation of wages and prices, except those for land, as described in paragraph 6h(1) and for energy. This stipulation is based on the implied assumption that prices, other than the exceptions, for resources involved in treatment works construction and operation, will tend to change over time by approximately the same percentage. Changes in the general level of prices will not affect the results of the cost-effectiveness analysis. Energy prices shall be escalated at a compound rate for the appropriate fuel, region and time period as shown on the tables below unless the Regional Administrator determines that the grantee has justified use of a greater or lesser percentage based on the regional differentials between historical energy price escalation and construction cost escalation. Land prices shall be appreciated as provided in paragraph 6h(1). Both historical data and future projections support the energy and land price escalations relative to wastewater treatment. Price escalation rates may be updated periodically in accordance with Agency guidelines.

(2) Grantees must consider the applicable provisions of existing state energy plans during facility planning.

Example

Town A, N.J. decided to build an 8 MGD activated sludge process plant. The following data are provided:

Capital Cost	$18,000,000.
Electricity	$200,000/yr.
Gas (Natural Gas)	$150,000/yr. (mainly for sludge incineration).
Other O&M Cost	$700,000/yr.
Interest rate	7%.
Planning period	20 yrs. (1980-2000).

All the costs are at average 1980 price levels.

The procedure for present-worth analysis follows:

1. From Tables 1 and 2, the energy cost escalation factors for electricity and natural gas for the period of 1980–2000 were developed for Town A, N.J. from Region II data. The results are presented in Figures 1 and 2.

2. Present Worth Analysis:

Capital Cost.....$18,000,000
Salvage Value (assumed).....0
Other O&M Costs: $700,000 × 10.594(PWF) [1].....7,415,800

Electricity: From Figure 1, if 1980 price is 1.00, that of 1990 is 1.14 and that of 2000 is 1.19. The present worth can be calculated as follows:

$200,000 × 10.594(PWF) [1], + $200,000 × 0.014 × 27.716(PWFGS) [2], + $200,000 × 0.14 × 5.386(MPWF) [3], + $200,000 × 0.005 × 14.089(MPWFGS) [4].....$2,361,300

Natural Gas: From Figure 2, if price for 1980 is 1.00, that for 1990 is 1.35 and that for 2000 is 1.36. The present worth can be calculated as follows:

$150,000 × 10.594(PWF), + $150,000 × 0.035 × 27.716(PWFGS), + $150,000 × 0.35 × 5.386(MPWF), + $150,000 × 0.001 × 14.089(MPWFGS).....$2,019,500

Total Present Worth Value.... 29,796,000

[1] PWF = Present Worth Factor.
[2] PWFGS = Present Worth Factor of a Gradient Series.
[3] MPWF = Modified Present Worth Factor = PWF/(1 + i)^m.
[4] MPWFGS = Modified Present Worth Factor of a Gradient Series = PWFGS/(1 = i)^m.

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TABLE 1

ENERGY COST ESCALATION FACTORS IN PERCENT FOR THE TEN-YEAR PERIOD 1980 - 1990 BASED ON 1980 ENERGY PRICES AND 1980 COST BASE

	REGION I	REGION II	REGION III	REGION IV	REGION V	REGION VI	REGION VII	REGION VIII	REGION IX	REGION X	NATIONAL AVERAGE
Electricity	19	14	24	33	28	33	13	0	23	75	28
Distilled Oil	34	34	34	34	35	35	35	34	36	48	34
Residual Oil	33	33	33	35	34	35	35	34	36	38	34
Natural Gas Liquid	41	41	40	69	40	41	41	40	41	41	41
Natural Gas	33	35	62	80	68	68	115	61	38	38	66
Coal	26	27	29	29	28	27	29	19	26	0	28

Sources used for compilation of this table:

1. DOE: EIA "Short-Term Energy Outlook" May 1980
2. DOE: EIA "Annual Report to Congress" DOE/EIA - 0173 (79-3), May 1979
3. DOE: EIA "Preliminary 1985, 1990, and 1995 Energy Forecasts for the Annual Report to Congress, 1979" Service Report SR/IA/80-01 April 1980

TABLE 2

ENERGY COST ESCALATION FACTORS IN PERCENT FOR THE TEN-YEAR PERIOD 1990 - 2000 BASED on 1980 ENERGY PRICES AND 1980 COST BASE[1]

	REGION I	REGION II	REGION III	REGION IV	REGION V	REGION VI	REGION VII	REGION VIII	REGION IX	REGION X	
Electricity	0	5	9	15	6	7	10	0	0	28	6
Distilled Oil	22	21	21	21	22	23	22	21	22	24	21
Residual Oil	19	19	19	19	21	20	20	20	20	20	20
Natural Gas Liquid	20	20	18	22	18	20	18	18	20	20	20
Natural Gas	4	1	3	2	3	5	4	5	3	3	3
Coal	11	11	1	9	10	8	9	7	11	0	9

[1] Factors are to be added to those for 1980-1990 (Table 1) in calculting total Energy Cost Increase for 1990-2000 above the 1980 cost level.

Sources used for compilation of this table:

1. DOE: EIA "Short-Term Energy Outlook" May 1980
2. DOE: EIA "Annual Report to Congress" DOE/EIA - 0173 (79/3), May 1979
3. DOE: EIA "Preliminary 1985, 1990, and 1995 Energy Forecasts for the Annual Report to Congress, 1979" Service Report SR/IA/80-01 April 1980

FIGURE 1

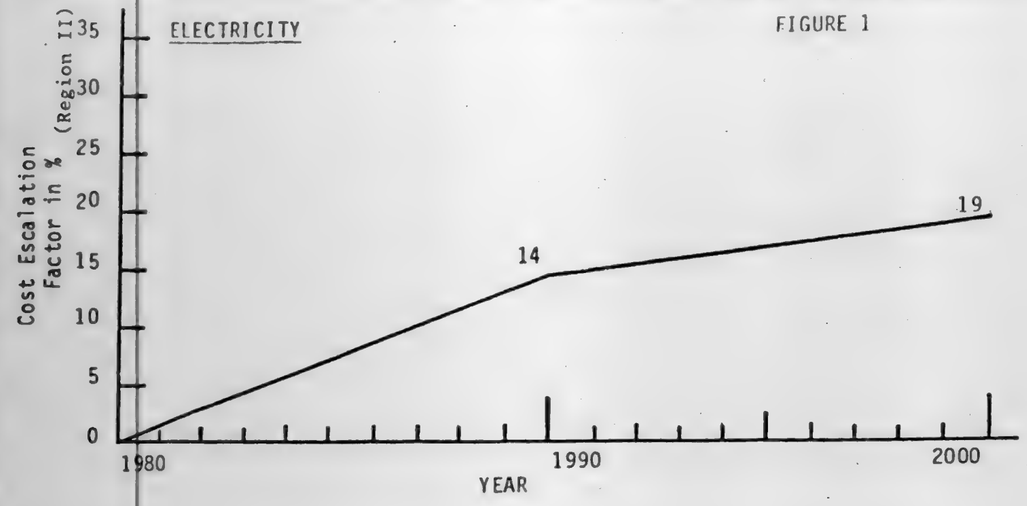
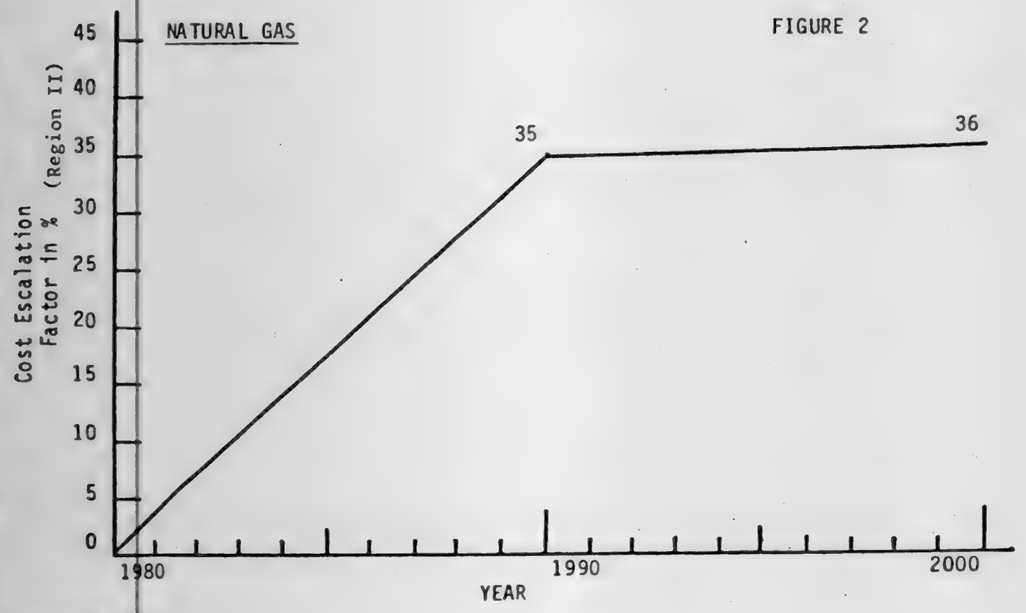


FIGURE 2



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Regulation Development Procedures

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels the latter as "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 28, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-34114 Filed 10-31-80; 8:45 am]

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federal register

Monday
November 3, 1980

Part IX

Small Business Administration

Final Consumer Program

SMALL BUSINESS ADMINISTRATION

Office of the Administrator

Final Consumer Program

AGENCY: U.S. Small Business Administration.

ACTION: Final response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs."

SUMMARY: The purpose of this document is to give notice of the Final Consumer Program of the Small Business Administration. As part of the Program, a senior level official has been appointed as Consumer Affairs Officer.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Paul A. Pumpian, Consumer Affairs Officer, U.S. Small Business Administration, 1441 L Street NW., Room 602F, Washington, D.C. 20415, (202) 653–6448.

Preamble

In response to Executive Order 12160, the Small Business Administration (SBA) published its Proposed Consumer Program in the **Federal Register** on February 6, 1980. This Proposed Program has now been revised on the basis of public comments received, SBA staff reviews and the evaluation of the Program by the staff of the White House Office of Consumer Affairs.

Review and Evaluation Process

The following steps have been taken by SBA subsequent to publication of the Proposed Program on February 6, 1980:

- The Associate Administrator for Management Assistance, the Assistant Administrator for Personnel Management and the Assistant Administrator for Public Communications were asked to comment on the evaluation of the Proposed Program by the White House Consumer Affairs Staff.
- SBA's Consumer representative participated with other Federal Consumer Affairs representatives in an open meeting sponsored by the White House Consumer Affairs Office on the Consumer Executive Order and Federal Department Consumer Plans.
- The SBA Consumer representative encouraged comments on the SBA Proposed Program from individuals and organizations through direct personal contacts.

Summary of Comments

We received seven (7) responses to SBA's request for comments of which three (3) were from consumers and four (4) from consumer/public interest organizations.

Three of the organization comments received were general in nature, commenting on the Executive Order rather than the SBA plan. It appears from the comments that they were also submitted to other Federal agencies which published plans.

One consumer organization submitted several comments on Executive Order 12160 and followed up with specific comments on the SBA Proposed Program.

These comments were considered in detail and used in SBA's revsion process which resulted in the plan now being published for comment.

Introduction

The Small Business Administration by statute and Executive Memoranda is charged with the responsibility of representing, advocating and furthering the interests of small business. Since the activities of many small businesses assisted by SBA impact directly upon consumers, SBA can discharge an important educational and counseling role in helping to keep small business men and women informed about rights conferred on consumers by existing and proposed legislation.

The three key elements of SBA's Consumer Affairs Program designed to achieve these educational and counseling objectives are:

1. Training SBA personnel on the rights and concerns of consumers.
2. Placing a greater emphasis on consumer rights and concerns in educational materials (essentially publications) distributed to small businesses under SBA's Management Assistance Program and in the curricula of SBA-sponsored Small Business Development Centers and Small Business Institutes.
3. Soliciting the advice and opinion of the White House Consumer Affairs council and various private organizations representing consumers on exactly what information and guidance should be included in SBA's educational and guidance programs.

Consumer Affairs Perspective

SBA will add a Consumer Affairs Office to work with existing organizational elements and staff to promote the consumer affairs perspective. For the present fiscal year this Office will be staffed by a Consumer Affairs Officer. As the activity of the Office increases, additional professional staff and needed support staff will be provided (it is contemplated that the first such addition will be provided for in the next budget cycle).

Training of SBA personnel on consumer affairs will proceed under the Assistant Administrator for Personnel Management. The education and counseling for business men and women will proceed under the Associate Administrator for Management Assistance. Communications between SBA and non-governmental organizations representing consumers will be the responsibility of the Assistant Administrator for Public Communications. Responsibility for liaison with the Federal Consumer Affairs Council will be discharged by the SBA Consumer Affairs Officer.

Additionally, the Consumer Affairs Officer will be responsible for coordinating SBA's "Consumer Awareness" programs and representing the Consumer's point of view at SBA's Advisory Committee meetings.

Close cooperation on consumer affairs between the above Associate and Assistant Administrators is assured by their membership on the SBA Management Board. The Management Board meets bi-weekly, and is presided over by the Administrator. The Board is SBA's principal instrument for the development and review of all Agency rules, policies, and programs. When closer coordination between the Office of the Administrator and the Associate/Assistant Administrators is required on a particular issue or action, the Special Assistant for Programs and Policy Analysis in the Office of the Administrator will provide assistance.

Additionally, the Consumer Affairs Officer will work with the above Associate and Assistant Administrators assisting the Assistant Administrator for Personnel Management in integrating appropriate information/materials relating to the Consumer Affairs Program into its training curricula, assisting the Associate Administrator for Management Assistance in developing publication, seminars, presentations (oral, video, etc.) for small business persons and assisting the Assistant Administrator for Public Communications on communications with non-governmental consumer organizations.

The Consumer Affairs Officer will serve as the Chairman of the SBA Consumer Council which shall be composed of the Advisory Council Staff Director and the principal deputies to each of the above named Associate and Assistant Administrators.

The Council shall consider matters presented to it by the SBA Consumer Affairs Officer. The matters considered to impact on the consumer shall be presented to the Administrator through the Special Assistant for Programs and Policy Analysis in the Office of the Administrator.

The Consumer Affairs Officer will be apprised of all policy decisions of the Management Board and all contemplated proposals prior to publication in the **Federal Register** for a determination of the existence of a potential adverse consumer impact. Should the Consumer Affairs Officer determine that such an adverse consumer impact exists, he/she shall convene a meeting of the SBA Consumer Council and report the recommendations of the Council to the Administrator.

Consumer Participation

SBA has not had extensive consumer participation in the development and review of its rules, policies and programs. However, consumer participation is invited by SBA's compliance with the Administrative Procedure Act requirements for public participation in rulemaking; and, Executive Order 12044 which requires, among other things, that agencies shall give the public an early and meaningful opportunity to participate in the development of regulations.

In accordance with the APA rulemaking provisions (5 U.S.C. 553), most SBA rulemaking actions involve the publication of a proposed rule in the **Federal Register** and an invitation to the public to participate through the submission of written data, views, or arguments on the proposal.

Steps which SBA will take to assure that consumers have early and meaningful opportunities to participate in the development and review of all Agency rules, policies and programs include:

1. Timely notice of proposed rules by utilizing the **Federal Register**, specialized publications likely to be read by those affected, direct notification of interested parties, and the media.
2. The use of hearings.
3. Communications through State and local government officials and agencies.
4. Use of Advisory committees.

When matters of potential impact to the consumer are being considered by the SBA, public notice of such consideration shall be submitted to the various national consumer groups on the day such notice is published in the **Federal Register**. The determination of the existence of a potential adverse consumer impact shall be the responsibility of the SBA Consumer Council.

Additionally, SBA's Advisory Councils will assist in providing a Consumer Perspective. SBA sponsors a number of Advisory Councils the membership of which represents the small business community, the banking industry, the academic world and the media. The National Advisory Council has approximately 1,600 private citizens who serve voluntarily as members of the various District Councils. The Council members represent the views of the public-at-large and have in the past also represented consumer views. To strengthen the consumer voice on the councils, we currently have as members persons who are active consumer advocates, members of consumer groups, organizations and associations.

Interested citizens may contact SBA District Directors for the names of Advisory Council Chairpersons or members for the purpose of making their views known and to offer their services.

Information Materials

SBA currently has a considerable range of publications on all its programs. SBA provides, free of charge, a long list of pamphlets and brochures on the Agency's Management Assistance Program. In addition, the Agency makes available dozens of handbooks and brochures on various aspects of small business organization, management and financing. These materials are available at all SBA offices and are distributed at hundreds of training and informational seminars conducted around the country each year. In addition, many informational materials are made available free of charge to persons wanting to start a small business (including consumers and consumer groups) and to small businesses interested in expanding or obtaining counseling. Write U.S. Small Business Administration, P.O. Box 15434, Fort Worth, Texas 76119; call toll free 800–433–7212 (Texas only call 800–792–8901).

The Office of Public Communications distributes press releases and other informational materials to about 2,500 newspapers, magazines, radio and TV outlets, trade associations, consumer organizations and civic organizations. Interested consumers or consumer organizations who would like to receive press releases should write directly to the Office of Public Communications, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

Education and Training

Through its Office of Management Assistance, SBA provides small business men and women a wide range of educational and counseling services through a network of Small Business Development Centers, Small Business Institutes and management assistance personnel located in SBA district offices. This assistance includes management counseling, contract and financial assistance, including counseling on how products and services can be improved thereby improving customer relations which, among other things, are aimed at minimizing customer/consumer complaints. In a very real sense, SBA has been and continues to protect the consumer by the nature of its services to the small business community.

SBA provides a variety of training in fields such as Marketing, Financial Analysis, Procurement, Construction Contracting, Interpersonal Skills, Program Orientation, Supervisory/Management, etc. to its employees in preparing them to administer these services to the small business client. SBA technical personnel charged with the responsibility of administering the major Agency programs (management, financial and procurement assistance) receive training on a continuing basis, from entry to senior levels, so that state-of-the-art skills are maintained in providing these services.

One major objective of all of SBA's training programs is to raise the level of awareness and sensitivity of the needs of small business and explore methods of providing even more effective services to our clients, thereby having a positive effect on the consumer.

Several approaches will be taken to further educate and make our staff more aware of consumer issues and problems. Some of the approaches we are considering are as follows:

1. We plan to integrate instruction/materials on consumer affairs into our current training curriculum. The Office of Personnel Management has proposed that a Governmentwide Task Analysis be conducted to determine the specific tasks involved that relate to the Consumer Affairs Program among agencies. When this research is completed, we will determine just what kinds of instruction/materials should be integrated into our training curriculum. We project that this training will get underway in FY–1981.
2. We will conduct two one-day workshops with appropriate managers and staff in SBA who will be involved in the Consumer Affairs Program. These workshops will focus on educating our managers about the Program, what we in SBA can do to further educate both the SBA employee and the small business person in consumer matters and strategies for carrying out this training.
3. The Consumer Affairs Officer will review informational materials currently

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available to determine the presence (or absence) of the consumer viewpoint on matters amenable to such a viewpoint. Where needed, the Consumer Affairs Officer will propose revisions to reflect the consumer viewpoint to the SBA Consumer Council and will report the Council's views to the Administrator.

The Consumer Affairs Officer will be consulted during the revision of all existing publications and the preparation of new publications.

The Consumer Affairs Officer will prepare materials for use in seminars, lectures, etc. for small business persons sponsored by the Small Business Administration setting forth for the small business person Federal laws (and an explanation thereof) which protect consumer rights (e.g., The Truth In Lending Act, The Equal Credit Opportunity Act, The Fair Credit Billing Act, The Magnuson-Moss Warranty Act).

Complaint Handling

Complaints from consumers will be handled by the Consumer Affairs Officer, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, telephone: (202) 653-6448. The Consumer Affairs Officer has established a system for monitoring the handling of consumer complaints which includes, but is not limited to, logging in the complaint indicating the date received, identifying the complaining consumer by name and address, the subject of the complaint and the name of the person (within SBA) or agency to whom the complaint is forwarded. The Consumer Affairs Officer will acknowledge receipt of the complaint in writing, will advise the complaining consumer of the identity of the person or Agency to whom the complaint has been forwarded and will monitor the handling of the complaint. In addition, the Consumer Affairs Officer will prepare monthly reports for the Office of the Administrator on the nature of consumer complaints received.

Additionally, the Consumer Affairs Officer will supervise the installation of a similar consumer complaint monitoring system in each SBA regional and district office requiring periodic reports to be submitted to the Office of the Administrator thru the Consumer Affairs Officer.

When consumer complaints raise issues which relate to Agency rules, policies or programs, these issues will be put on the agenda of the SBA Management Board, thereby assuring the timely consideration of such complaints in the development and review of Agency rules, policies, and programs.

Dated: September 4, 1980.

William H. Mauk, Jr.,

Acting Administrator.

The White House,
Washington, D.C. October 10, 1980.

Hon. A. Vernon Weaver,
Administrator, Small Business, Washington, D.C.

Dear Mr. Weaver: As Chairperson of the Consumer Affairs Council and on behalf of President Carter, I am pleased to approve conditionally the Small Business Administration's consumer program established under Executive Order 12160. The SBA consumer program will play a vital role in assuring that consumer interests are an integral part of agency decisionmaking within the Federal government.

In his role as the SBA Consumer Affairs Officer, Mr. Paul Pumpian will have the opportunity to make an important contribution to the promotion of understanding between consumers and small business men and women. The inclusion of a consumer awareness component in the SBA management assistance program should make a substantial contribution to reaching this goal.

I also appreciate the fact that Mr. Pumpian will participate in the SBA decisionmaking process, will be able to review agency decisions for potential adverse consumer impact, and will head an SBA Consumer Council. As Chairman of this Council, it is essential that Mr. Pumpian be able to maintain a clear and open line of communication with you and other top-level managers within the agency. It is also necessary that the agency take whatever steps are required to assure that the consumer perspective continues to be represented on its advisory councils.

The SBA consumer program is a new effort for the agency, and like any new enterprise, its real benefits will not be evident until it has been implemented and its results evaluated. For this reason, my approval of the program is conditioned upon the successful operation of the program during the next year and the degree to which consumer concerns are commnunicated directly to you as the head of the agency. After a one-year trial period, we will review the agency's program to determine whether it is meeting the objectives of the Order; if so, full approval will be given. During this time we will be eager to see how the plan is carried out and how the consumer perspective is blended into all agency policy decisions and program operations. In order to achieve this goal, it will be necessary that any review of potential consumer impact occur early in the decision process and that periodic reviews be made of the level of staffing afforded to the program.

My staff has contacted Mr. Pumpian in regard to some minor alterations in the wording of the program prior to final publication in the **Federal Register.** In the meantime, thank you for doing your part in this effort. I am confident that implementing this Executive Order will make an important contribution to consumer welfare in the United States.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[FR Doc. 80-34229 Filed 10-31-80; 8:45 am]

BILLING CODE 8025-01-M

Reader Aids

Federal Register
Vol. 45, No. 214
Monday, November 3, 1980

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations	
CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419
Federal Register	
Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187
Laws	
Indexes	523-5232
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030
Presidential Documents	
Executive orders and proclamations	523-5233
Public Papers of the Presidents	523-5235
Weekly Compilation of Presidential Documents	523-5235
Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders and problems (GPO)	783-3238
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

All January and February dates are in 1981.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
November 3	November 18	December 3	December 18	January 2	February 2
November 4	November 19	December 4	December 19	January 5	February 2
November 5	November 20	December 5	December 22	January 5	February 3
November 6	November 21	December 8	December 22	January 5	February 4
November 7	November 24	December 8	December 22	January 6	February 5
November 10	November 25	December 10	December 26	January 9	February 9
November 12	November 26	December 12	December 29	January 12	February 10
November 13	November 28	December 15	December 29	January 12	February 11
November 14	December 1	December 15	December 29	January 13	February 12
November 17	December 2	December 17	January 2	January 16	February 17
November 18	December 3	December 18	January 2	January 19	February 17
November 19	December 4	December 19	January 5	January 19	February 17
November 20	December 5	December 22	January 5	January 19	February 18
November 21	December 8	December 22	January 5	January 21	February 19
November 24	December 9	December 24	January 8	January 23	February 23
November 25	December 10	December 26	January 9	January 26	February 23
November 26	December 11	December 26	January 12	January 26	February 24
November 28	December 15	December 29	January 12	January 27	February 26

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
2 [Reserved]	
3	7.50
4	6.50
5	8.00
6	3.75
7 Parts:	
0–52	8.50
53–209	7.00
210–299	7.00
300–399	5.50
400–699	6.50
700–899	7.00
900–944	7.00
945–980	5.50
981–999	5.50
1000–1059	7.00
1060–1119	7.00
1120–1199	6.00
1200–1499	7.00
1500–1899	6.50
1900–2799	8.50
2852	8.50
2853–end	6.00
8	5.50
9 Parts:	
1–199	7.00
200–end	6.50
10 Parts:	
0–199	7.50
200–499	8.50
500–end	7.50
11 (Rev. 4/1/80)	4.75
12 Parts:	
1–199	6.00
200–299	9.00
300–end	11.00
13	7.00
14 Parts:	
1–59	8.50
60–199	8.50
200–1199	8.00
1200–end	6.00
15	9.00
16 Parts:	
0–149	7.00
150–999	6.00
1000–end	6.50

CFR Unit (Rev. as of Apr. 1, 1980):

17 Parts:	
0–239	7.50
240–end	7.50
18 Parts:	
1–149	7.50
20 Parts:	
01–399	5.50
400–499	7.50
500–end	7.50
21 Parts:	
01–99	6.00
100–169	7.00
170–199	6.00
200–299	4.50
300–499	8.00
500–599	7.50
600–799	5.00
800–1299	5.50
1300–end	4.50
22	8.00
23	7.00
24 Parts:	
0–499	11.00
500–1699	9.00
1700–end	6.00
25	8.00
26 Parts:	
1 (§§ 1.0–1.169)	8.50
1 (§§ 1.170–1.300)	6.50
1 (§§ 1.301–1.400)	6.00
1 (§§ 1.401–1.500)	7.00
1 (§§ 1.501–1.640)	6.50
1 (§§ 1.641–1.850)	7.50
1 (§§ 1.851–1.1200)	8.00
2–29	7.50
30–39	6.50
40–299	7.50
300–499	6.00
500–599	6.50
600–end	5.00
27 Parts:	
1–199	6.50
200–end	7.50

CFR Unit (Rev. as of July 1, 1980):

29 Parts:	
1911–1919	5.50
31 Parts:	
0–199	6.00
200–end	7.50
32 Parts:	
1–39 (Supplement)	6.00
34	6.00
37	6.00
40 Parts:	
0–51	7.50
52	9.00
81–99	8.50
100–399	13.00
400–424	7.50
425–end	7.50
41 Chapters:	
9 (Supplement)	3.00
18 (Vol. I)	7.50
18 (Vol. II)	9.00
18 (Vol. III)	7.50
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1–399	8.00
400–end	8.00
43 Parts:	
1–999	5.50
1000–end	9.00
44	5.50
45 Parts:	
1–99	6.50
100–149	7.00
150–199	7.00
200–499	5.00
500–1199	7.00
1200–end	6.50
46 Parts:	
1–29	4.25
30–40	4.50
41–69	6.50
70–89	4.75
90–109	4.75
110–139	4.25
140–155	5.50
156–165	5.50
166–199	5.25
200–end	8.50
47 Parts:	
0–19	6.50
20–69	8.00
70–79	7.00
80–end	8.00
48 [Reserved]	
49 Parts:	
1–99	4.75
100–177	7.00
178–199	7.00
200–399	7.00
400–999	7.00
1000–1199	7.00
1200–1299	9.00
1300–end	6.00
50	8.00

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AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
IGO Inspector General Office
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department

CROED Civil Rights Office, Education Department
MSI Museum Services Institute
NIE National Institute of Education

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHA Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS—Health and Human Services Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Centers for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
PHS Public Health Service
RRO Refugee Resettlement Office
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration

ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
GSA/TPUS Transportation and Public Utilities Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCH National Council for the Handicapped
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
SFC Synthetic Fuels Corporation
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
VA Veterans Administration
WRC Water Resources Council

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REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

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65594 10–3–80 / Noise emission standards; truck-mounted solid waste compactors; technical amendments

65942 10–3–80 / Water pollution control; ocean discharge criteria

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51564 8–4–80 / Provisions for stations operating in the Amateur-Satellite Service

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53452 8–12–80 / Loan valve for Mutual Fund Shares

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65976 10–3–80 / Construction contractors; affirmative action requirements; coverage clarification

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65916 10–3–80 / Inspections and investigations; obtaining warrants on an ex parte basis and prior to attempting entry

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55402 8–19–80 / Emergency planning

PERSONNEL MANAGEMENT OFFICE

65493 10–3–80 / Part time direct hire program; restrictions on movement to full-time status

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federal register

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72995 **Nondiscrimination Laws** Executive order

73272 **Housing** HUD proposes to amend Fair Market Rents for certain market areas for existing housing and for mobile home spaces; comments by 12–4–80 (Part II of this issue)

73054 **Energy** CSA releases a rule detailing how 1981 appropriated energy funds will be allocated under the Fiscal Year 1981 Energy Crisis Intervention Program; effective 11–4–80

73028 **Natural Gas** DOE/FERC issues incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act; effective 11–1–80

73027 **Natural Gas** DOE/FERC publishes maximum lawful prices prescribed under Title I of the Natural Gas Policy Act; effective 10–27–80

73440 **Environmental Protection** EPA proposes modifications to its guidelines for development and implementation of State solid waste management plans; comments by 12–4–80 (Part III of this issue)

72999 **Food Stamps** USDA/FNS establishes program operations in Alaska; effective 11–4–80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

73454 **Civil Rights** HUD proposes a regulation to carry out its responsibility under the Age Discrimination Act of 1975; comments by 1–5–81 (Part V of this issue)

73187 **Grant Programs—Law** Justice/NIJ announces competitive research grant program entitled Unsolicited Research Program; Cycle 1 funding-papers by 12–31–80; Cycle 2 funding-papers received between 12–31–80 and 6–30–81

73037 **Armed Forces—Consumer Protection** DOD/Army establishes policies and procedures for controlling commercial solicitation on Army installations; effective 11–4–80

73051 **Grant Programs—Education** HHS/PHS adopts interim rule which governs the award of grants for educational assistance to individuals from disadvantaged backgrounds; effective 11–4–80

73087 **Air Transportation** CAB proposes exemptions for small aircraft operations within certificated airlines which usually operate large aircraft; comments by 1–5–81

73182 **Freight** ICC addresses increased freight rates and charges nationwide for 1981

73106 **Railroads** ICC proposes guidelines concerning implementation of the Feeder Railroad Development program; comments by 12–4–80

73059 **Television** FCC adds VHF stations in the top 100 markets; effective 12–4–80

73049 **Emergency Telephone Calls** GSA issues regulations for agencies to provide residential phone service to certain staff members; effective 11–4–80

73100 **Privacy Act Document** DOD/Army

73217 **Sunshine Act Meeting**

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73440 **Part III, EPA**
73446 **Part IV, DOE**
73454 **Part V, HUD**

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The President

Executive Order 12250 of November 2, 1980

Leadership and Coordination of Nondiscrimination Laws

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), and Section 301 of Title 3 of the United States Code, and in order to provide, under the leadership of the Attorney General, for the consistent and effective implementation of various laws prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance, it is hereby ordered as follows:

1–1. *Delegation of Function.*

1–101. The function vested in the President by Section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–102. The function vested in the President by Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–2. *Coordination of Nondiscrimination Provisions.*

1–201. The Attorney General shall coordinate the implementation and enforcement by Executive agencies of various nondiscrimination provisions of the following laws:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

(d) Any other provision of Federal statutory law which provides, in whole or in part, that no person in the United States shall, on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

1–202. In furtherance of the Attorney General's responsibility for the coordination of the implementation and enforcement of the nondiscrimination provisions of laws covered by this Order, the Attorney General shall review the existing and proposed rules, regulations, and orders of general applicability of the Executive agencies in order to identify those which are inadequate, unclear or unnecessarily inconsistent.

1–203. The Attorney General shall develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.

1–204. The Attorney General shall issue guidelines for establishing reasonable time limits on efforts to secure voluntary compliance, on the initiation of sanctions, and for referral to the Department of Justice for enforcement where there is noncompliance.

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1–205. The Attorney General shall establish and implement a schedule for the review of the agencies' regulations which implement the various nondiscrimination laws covered by this Order.

1–206. The Attorney General shall establish guidelines and standards for the development of consistent and effective recordkeeping and reporting requirements by Executive agencies; for the sharing and exchange by agencies of compliance records, findings, and supporting documentation; for the development of comprehensive employee training programs; for the development of effective information programs; and for the development of cooperative programs with State and local agencies, including sharing of information, deferring of enforcement activities, and providing technical assistance.

1–207. The Attorney General shall initiate cooperative programs between and among agencies, including the development of sample memoranda of understanding, designed to improve the coordination of the laws covered by this Order.

1–3. *Implementation by the Attorney General.*

1–301. In consultation with the affected agencies, the Attorney General shall promptly prepare a plan for the implementation of this Order. This plan shall be submitted to the Director of the Office of Management and Budget.

1–302. The Attorney General shall periodically evaluate the implementation of the nondiscrimination provisions of the laws covered by this Order, and advise the heads of the agencies concerned on the results of such evaluations as to recommendations for needed improvement in implementation or enforcement.

1–303. The Attorney General shall carry out his functions under this Order, including the issuance of such regulations as he deems necessary, in consultation with affected agencies.

1–304. The Attorney General shall annually report to the President through the Director of the Office of Management and Budget on the progress in achieving the purposes of this Order. This report shall include any recommendations for changes in the implementation or enforcement of the nondiscrimination provisions of the laws covered by this Order.

1–305. The Attorney General shall chair the Interagency Coordinating Council established by Section 507 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794c).

1–4. *Agency Implementation.*

1–401. Each Executive agency shall cooperate with the Attorney General in the performance of the Attorney General's functions under this Order and shall, unless prohibited by law, furnish such reports and information as the Attorney General may request.

1–402. Each Executive agency responsible for implementing a nondiscrimination provision of a law covered by this Order shall issue appropriate implementing directives (whether in the nature of regulations or policy guidance). To the extent permitted by law, they shall be consistent with the requirements prescribed by the Attorney General pursuant to this Order and shall be subject to the approval of the Attorney General, who may require that some or all of them be submitted for approval before taking effect.

1–403. Within 60 days after a date set by the Attorney General, Executive agencies shall submit to the Attorney General their plans for implementing their responsibilities under this Order.

1–5. *General Provisions.*

1–501. Executive Order No. 11764 is revoked. The present regulations of the Attorney General relating to the coordination of enforcement of Title VI of the Civil Rights Act of 1964 shall continue in effect until revoked or modified (28 CFR 42.401 to 42.415).

1–502. Executive Order No. 11914 is revoked. The present regulations of the Secretary of Health and Human Services relating to the coordination of the implementation of Section 504 of the Rehabilitation Act of 1973, as amended, shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General.

1–503. Nothing in this Order shall vest the Attorney General with the authority to coordinate the implementation and enforcement by Executive agencies of statutory provisions relating to equal employment.

1–504. Existing agency regulations implementing the nondiscrimination provisions of laws covered by this Order shall continue in effect until revoked or modified.

Jimmy Carter

THE WHITE HOUSE,
November 2, 1980.

[FR Doc. 80-34551
Filed 11-3-80; 11:33 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 215
Tuesday, November 4, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the pay administration regulations to except employees serving under Senior Executive Service noncareer appointments from the severance pay provisions of the law. This is a conforming change consistent with established policy on eligibility for severance pay.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Margaret P. Goodell, (202) 632–4684.

SUPPLEMENTARY INFORMATION: Within the authority derived from section 5595(a)(2)(viii) of title 5, U.S.C., and Executive Order 11257, it has been the policy of the Office of Personnel Management to exclude by regulation from severance pay entitlement employees who accept appointments with a presumed understanding and acknowledgment that their tenure is less than career and that they are subject to removal from the service at any time. Under this criterion the Senior Executive Service noncareer appointments have been determined to be analogous to those types of appointments (Presidential, noncareer executive assignment, and Schedule C appointments) which have been excepted from the severance pay provisions under section 550.701(b)(8) of Title 5, CFR. In order to provide uniform application of severance pay entitlements, this amendment adds the Senior Executive Service noncareer appointment to those appointments excepted under this authority.

The Director of OPM finds good cause that the notice of proposed rulemaking and a delay of the effective date usually required by 5 U.S.C. 553 are unnecessary since this is a nonsubstantive amendment which conforms with statutory intent and existing regulations governing eligibility.

OPM has determined that this is a nonsignificant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is revising 5 CFR 550.701(b)(8) to read as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

§ 550.701 Coverage.

* * * * *

(b) *Employees.*

* * * * *

(8) This subpart does not apply to an employee in the excepted service serving under a Presidential appointment, under an appointment to a position filled by noncareer executive assignment under Part 305 of this chapter, under an appointment to a Schedule C position in Part 213 of this chapter, or under a Senior Executive Service noncareer appointment as provided in Part 214 of this chapter.

(5 U.S.C. 5595; E.O. 11257, 3 CFR 1964–1965 Comp., p. 357) 6325–01)

[FR Doc. 80-34278 Filed 11-3-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Admt. No. 162]

Food Stamp Program (Alaska)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking amends Part 272, Requirements for Participating State Agencies, to establish additional regulations for Food Stamp Program operations in Alaska. These regulations are specifically designed to accommodate the unique demographic and climatic characteristics found in Alaska while, at the same time, ensuring the efficiency and effectiveness of program operations. This rulemaking also amends Part 273, Certification of Eligible Households, concerning the work registration requirement for households that subsistence hunt and/or fish.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Alberta Frost, Deputy Administrator Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. Phone (202) 447–8982.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing the rule is available from Claire Lipsman, Director, Program Development Division, FNS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not significant.

Introduction.—Because of limited accessibility, dispersed population and extreme climatic conditions in rural areas of Alaska, on March 28, 1980 (45 FR 20704) the Department proposed regulations to modify some of the food stamp rules for these areas. These modifications concerned: merit personnel, training, application processing, resources, recertification procedures, agency conferences, fair and fraud hearings and coupon issuance. In addition, the Department proposed regulations on the hotline and points and hours requirements for the entire State and modified the work registration exemption for persons who subsistence hunt and fish. An explanation of the proposed changes was set forth in the March 28, 1980 publication.

Comment Analysis

Individual comments were received from the Alaska State agency and eight interested parties. Public meetings on the proposed regulations were held in four locations throughout the State. Comments from these meetings as well as the individual comments were considered by the Department in preparing the final regulations. Based on

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the comments, the Department has made changes in several sections of the regulations. The Commenters generally supported the regulation changes for Alaska.

Rural Areas.—One commenter stated that it was impossible to determine the full impact of the proposed regulations since the "rural areas" have not been designated.

The Department does not expect circumstances which would affect rural area designations to change very often. Therefore, the Department has deleted the requirement that rural area designations be made annually.

One commenter suggested that the work registration exclusion for subsistence hunting and fishing apply in all areas where "HF" (hunting and fishing) identification cards are authorized. The Department agrees; and since the Department has decided not to change the current regulations on where "HF" cards can be issued, it will not change the areas where a household can be exempt from work registration because of subsistence hunting and fishing.

One commenter questioned whether fee agents could be used in areas that are not designated "rural areas." The regulations only authorize the use of fee agents in rural areas. However, there may be some rural areas that are not served by fee agents.

One commenter asked whether the rural area references in the points and hours section are the same as those to be established for other sections of the regulations. That is correct; however, it should be noted that some of the points and hours provisions apply to "rural areas served by fee agents," not all rural areas.

Fee Agents.—Most commenters were in favor of the use of fee agents.

Some commenters at the public hearings wanted higher pay for fee agents and language specifying how the State agency should hire and pay fee agents in order to recruit and train better people. The Department does not have the authority to establish salary levels or recruiting procedures for the State agency. Therefore, this concern is not addressed in the final rules.

Commenters at the hearings also thought fee agents should play an active role in nutrition education. Section 272.6(b)(3)(iii) of the regulations provides that applicants shall be informed of the availability of pamphlets on nutrition at the time of application.

One commenter suggested that fee agents serving other villages should plan their trips when the men are in the village, not hunting, since they still make decisions concerning business and food stamps. The Department encourages fee agents to visit other villages when the trips would be the most effective but does not feel that this should be regulated.

Commenters at the hearings suggested that fee agents should be allowed to service nonrural areas as an economical means of providing responsive service. The Department believes households should have direct contact with the State agency except when this is not feasible because of rural isolation.

Two commenters suggested that every effort be made to recruit bilingual fee agents. The Department expects that the State agency will employ bilingual fee agents where they are needed if such individuals are available. Since bilingual individuals are not always available or willing to become fee agents, the Department does not feel that it would appropriate to mandate bilingual fee agents.

Training and Monitoring.—Commenters at the hearings and three individual commenters supported the training requirements for fee agents.

Two commenters suggested that a deadline for submission of the training plan be established. One commenter said a time period should be established for implementation of the training plan. The Department has added a requirement that the fee agent training plan be submitted within 45 days of publication of these regulations and that training be conducted prior to implementation.

One commenter suggested the regulations be specific on the type of training required. The regulations are specific on such points.

Another commenter suggested that fee agent supervision should be described in the training plan. The Department believes it would be more appropriate to include this information in the State Plan of Operation and has added this requirement.

Two commenters felt that training should be on-going and retraining carried out when deficiencies are found. The Department has added a requirement that, in addition to training at least once a year, additional training must be conducted as needed.

One commenter noted that complaints should be investigated. The responsibilities of State agencies for handling complaints will be addressed in future regulations (§ 271.6(a)).

A commenter recommended that a centralized record of training be maintained so compliance with the training requirement can be monitored. The Department has added a requirement that the fee agent training record of fee agent training.

One commenter suggested that the plan contain requirements for reporting on the progress and effectiveness of training. The Department does not believe the Alaska State agency reporting requirements need be this stringent. Training requirements have been established, and the State will have to maintain a record of training. The same commenter suggested that fee agents be carefully monitored. Another commenter felt the State should keep a record of fee agent performance because this is a significant deviation from practice elsewhere. The regulations require the State to monitor the performance of fee agents, and the eligibility worker will be reviewing each case a fee agent processes. In regard to recording the individual performance of fee agents, the Department believes this should be determined by internal State personnel procedures.

Hotlines.—One commenter pointed out that the proposed regulations indicate that the hotline provision only applies to "rural" areas. This provision applies Statewide and the regulations have been clarified.

Two commenters said that like all other States, Alaska should be able to obtain a waiver to the hotline requirement in one or more areas based on insufficient usage. These comments indicate a misunderstanding of the regulations.

The regulations require hotline type-services in every area. Ideally, this would be a hotline. However, the volume of calls or the expense involved may not justify such service in one or more areas. Thus, an alternative procedure is established in the regulations. That is, the State could provide hotline-type services in one or more areas through fee agents, State agency offices and the acceptance of collect calls. Since the alternative is established in the regulations, the State agency need not obtain individual exceptions from FNS.

One commenter questioned what was meant by each "area" of the State. This reference includes all geographical areas—those serviced by all State agency offices and fee agents.

One commenter suggested that the requirement for the acceptance of collect calls when hotline-type services are provided through fee agents be made clear. The regulations clearly require the State agency to accept collect calls in such circumstances.

One commenter suggested it be made clear that the State agency is required to keep a record of complaints filed. Another commenter suggested the State

agency be required to notify households by mail and through other specific methods. Another commenter suggested the regulations require the State agency to hire someone to answer the hotline. The State agency is required to comply with the staffing, record keeping and outreach requirements set forth in § 272.6(b)(8)(ii). If no hotline number is available in a particular area, the State agency will substitute a designated number to be called for program information. In addition to the requirements for other State agencies, the proposed regulations required the Alaska State agency to solicit the cooperation of authorized retailers in posting this information. Because of the comments the Department has specifically cross-referenced § 272.6(b)(8)(ii) in the final regulations.

Application Processing.—Most commenters recommended that neither the fee agent nor the State agency be liable for mailing time under the processing standards. Therefore, the Department has changed the provision to provide that fee agents will have five days to mail applications to the State agency office.

One commenter suggested that fee agents have ten days to deliver applications to the Postal Service. The Department believes five days should be sufficient.

Two commenters suggested applications be processed even if there are mail delays. The applications would continue to be processed; no change is required.

One commenter suggested fee agents be required to process expedited service cases within two days since volunteers are authorized to do expedited service prescreening. The procedures for determining net monthly income are complex, and the Department does not believe fee agents should be required to make preliminary determinations in these cases. If the fee agents did not judge these cases properly, certification would be delayed since the State agency would have to request different verification.

One commenter recommended that for expedited service cases, when a signed but incomplete application is submitted and an interview is conducted by telephone, the application not be returned to the household for signature. Because of the mailing time in rural areas of Alaska, the Department agrees and has made this change.

One commenter supported making benefits retroactive to the month the application is received by a fee agent.

One commenter felt that under SSI joint processing it would not be possible for Social Security Administration (SSA) itinerant workers to forward the application within one working day after receipt. The commenter felt that the applications should be forwarded within five days as shown by the postmark or the date of receipt if delivered. The SSA Regional Office said that when the SSA workers visit rural locations they are not out more than a week at a time. SSA noted that the applications would be processed faster if the SSA workers posted the applications on the return trip from intermediate locations such as Bethel. SSA noted they could not be held responsible for mailing time. The Department has adopted SSA's recommendation and has added a provision that SSA must mail food stamp applications from a larger village or more accessible postal service area within five days. The Department has also added language concerning the filing date and period of application for jointly processed cases which is consistent with that used for cases processed by fee agents.

One commenter suggested District Offices be required to make eligibility determinations for all households, not just expedited service cases. The Department feels that if the State agency meets the required processing time standards, the State agency should be allowed to determine its internal administrative structure. Therefore, the final rule is as proposed.

Interviews.—One commenter suggested that when interviews are postponed fee agents as well as eligibility workers be allowed to conduct follow-up interviews. The Department agrees and has modified the regulations accordingly.

Telephone Interviews and Hearings.—Commenters at the public hearings and three individual commenters suggested that phone interviews be made with the household's approval since phones are often not a private means of communication in bush areas. The only telephone in some villages may be located in the general store. Also, radio phones are only semi-private. Some of these commenters also suggested postponing interviews, mail hearings and settlement of claims without hearings. One commenter suggested that the State agency conduct a review by mail to reach a determination. The Department believes it is important for the State agency to communicate in person with the household during interviews and fair hearings. Thus, the Department does not believe that postponing interviews indefinitely when person-to-person communication cannot easily be established is in the best interest of the program, the State agency or the household. If a household objects to a telephone or radiophone interview on the grounds of privacy, however, the State agency will be required to contact the household via written correspondence or other private means. The Department has modified the proposed regulations accordingly. If fair hearing matters are not resolved timely, losses could continue to occur over a long period of time. The Department does not believe that claims should be compromised because of difficulties in conducting fair and fraud hearings since this could lead to program abuse. The Department has, however, modified the regulations to allow hearings to be conducted by mail if the household objects to the use of a telephone or radio phone on the grounds of a violation of privacy.

Determining Eligibility and Benefit Level

One commenter suggested this provision apply to households outside the direct service area of a State agency office rather than rural area residents. This provision applies to households in rural areas that are serviced by fee agents, and the language has been clarified.

Work Registration.—Commenters on this provision indicated it is difficult to translate subsistence hunting and fishing into hours. It was felt that the client's statement or the fee agent's knowledge would have to suffice in such instances. Some commenters thought registering for work would be much easier although no Employment Service activities are performed in some areas. Two commenters suggested household members be considered employed full-time based on a declaration that they satisfy a substantial portion of their dietary needs through subsistence. Section 6(d)(2) of the Food Stamp Act of 1977 is restrictive concerning the work registration exemptions. Therefore, the Department is adopting the proposed provision as written. The client's statement or fee agent knowledge would be sufficient in most cases. Verification is not required unless the information is considered questionable.

Resources.—One commenter concurred with the exemption of licensed or unlicensed boats or snowmobiles as proposed.

Three commenters suggested the wording "snowmobiles or boats" be changed to "snowmobiles *and* boats" to recognize the fact that both are needed and used seasonally. This change has been incorporated since use of these

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vehicles is mutually exclusive throughout the year in many rural areas.

One commenter indicated that the current regulations only exempt licensed vehicles used for self-employment although unlicensed boats and snowmobiles are often used. The commenter further recommended that such unlicensed vehicles be exempt from subsistence hunting and fishing on the basis they are necessary for self-employment. Unlicensed vehicles, including snowmobiles and boats, which are essential to the employment or self-employment of a household member are excluded by § 273.8(e) of the regulations. This exclusion also applies to unlicensed vehicles used for subsistence hunting and fishing self-employment.

One commenter suggested that all terrain and off-road vehicles be treated in the same manner as snowmobiles and boats. The Department believes this would be too comprehensive an approach. Therefore, this comment was not adopted.

One commenter advised that there are no State or local licensing requirements for snowmobiles and boats in many areas that may not be designated as rural areas. Because of this, the final regulations provide that in areas where there are no licensing requirements snowmobiles and boats that are used for basic household transportation shall be treated in the same manner as licensed vehicles.

Reporting Changes.—One commenter suggested that fee agents date change reports when they are received and the effective date for changes be clarified. The Department agrees, and the final regulations require fee agents to date the change report when it is received and forwarded. Additionally, the household's obligation will have been met if it submits the change to the fee agent within ten days. However, for purposes of increasing and decreasing benefits, the change will be considered to have been reported upon receipt at a State agency office.

Notices of Expiration.—One commenter suggested that the time frames for notices of expiration be Statewide in view of administrative limitations and the comprehensive nature of the requirement. The Department does not believe these procedures are necessary Statewide, particularly in the large towns and cities.

One commenter felt that only households living in the service area of fee agents should have the option of submitting applications to either fee agents or the State agency. This was the Department's intent and the language has been clarified.

Quarterly Allotments.—Most of the commenters suggested that quarterly or semiannual allotment issuances be related to food deliveries and the availability of food rather than regular mail service. The proposed regulations used regular mail service as an indication of accessibility of remote areas. However, based on the comments received the Department has changed the final regulations to provide that quarterly and semi-annual issuances will be allowed in certain rural areas when provisions are not available on a monthly basis.

Two commenters recommended that quarterly and semiannual allotments be issued to households in rural areas where households generally rely on quantity food purchases. Since the intent of this provision was not to enable households to benefit from the economies of scale but the availability of food, this recommendation was not adopted.

One commenter pointed out that overissuances and underissuances may occur because of changes in household circumstances. The commenter was also concerned that casefiles indicate the allotment provided by month if multiple allotments are mailed. The Department has modified the final regulations to provide that, if changes which are subsequently reported result in overissuances and underissuances, claims and restored benefits will be processed. The household's case file must indicate the allotments month-by-month when they vary under normal procedures. The Department does not feel that a special regulation provision is necessary for this.

One commenter suggested that households eligible for quarterly or semi-annual allotments be informed of this through Outreach efforts. The Department has added a provision to this effect.

Points and Hours.—One commenter suggested fee agent areas be included in the Regional and District service areas. The commenter noted that the direct service area would only include the community in which the office is located, and this would artificially reduce the number of households served thus resulting in a lower service standard. The commenter felt that this would result in a different standard for Alaska because in another State if certification services were provided by itinerant or mobile units these hours of service would not be counted toward the total hours of service required. The commenter was mistaken. Section 272.5(a) of the regulations allow the service hours to be met by different methods such as itinerant and mobile offices. The Department believes that distinguishing rural areas served by fee agents from direct service areas of State agency offices should result in adequate service. Because of the uniqueness of rural areas served by fee agents, they should not be included in the direct service area of State agency offices.

One commenter suggested the State have a public place in each village where applications could be picked up during business hours. The commenter felt this would be useful when fee agents are absent and would make the rules regarding mail-in applications from rural areas which have bypassed fee agents meaningful. The Department agrees and has added this requirement.

One commenter suggested that it would be better to set the maintenance of effort date at a reasonable past date to prevent the State agency from closing offices. The Department did not make the maintenance of effort provision retroactive for any other State and does not feel it would be equitable to do so for Alaska. Also, the State agency on its own initiative established these offices. It is unlikely they would close some of them solely because of this provision. One commenter suggested the maintenance of effort provision apply to all certification offices, whether currently operating or temporarily closed, since some offices are closed from time to time when there is a lack of staff in the area to run them. The Department has modified the regulations accordingly.

One commenter noted that flexibility may be needed in establishing the hours of certification service in some villages. The regulations establish minimum standards, and some exceptions are allowed.

Two commenters said the regulations should be more specific in defining direct service areas. The Department has added clarifying language to the effect that this means the area surrounding the office to which applicants are required to submit applications.

One commenter noted that direct mail issuance was good and the State should not be allowed to use the deviation. Although the specific reference was unclear, the Department assumes this comment was directed at the requirement for mail issuance in rural areas. Some deviations may be beneficial to households. For example, households may want to pick up their coupons when they buy their food. FNS will review any requests for deviations carefully, and the Department believes that some deviations may be warranted.

One commenter suggested the State agency employ fee agents in rural communities or villages "outside the direct service area of State agency offices" rather than in "rural communities and villages." The Department has not adopted this suggestion since the direct service area of State agency offices includes areas where fee agents may be needed but are not currently employed. The same commenter felt fee agents should establish regular service hours. The Department understands that life styles in rural areas are very informal, fee agents work out of their homes and some fee agents may only receive one or two applications a month. Therefore, the Department does not believe that regular service hours should be required.

One commenter suggested the State agency be required to mail the ATP or coupons within 25 days of receipt of the application to households outside the direct service area of State agency offices. The regulations require that coupons, not ATP's, be mailed to all rural areas, even those that are not served by fee agents, to ensure prompt delivery to isolated households. The Department believes the household should be given an opportunity to participate within 30 days to comply with section 11(e)(3) of the Food Stamp Act of 1977. The 25-day requirement proposed by the commenter is apparently based on 5 days mailing time, and the State agency should allow at least this much time for mailing. However, in some instances the State agency may need to mail the coupons earlier.

Visits to Villages in the Aleutian Chain.—One commenter suggested visits to villages in the Aleutian Chain were unnecessary if residents have hotline service. The Department believes such visits are necessary for the purpose of accepting applications and interviewing households.

"HF" Identification Cards.—Some commenters at the public hearings and one individual commenter noted that households residing outside of "rural" areas should also be issued ID cards marked "HF" if they depend to a substantial extent upon hunting and fishing for subsistence as is done under current regulations. Otherwise, a number of households would be adversely affected. The proposed rules assumed that the correlation of "HF" cards with rural areas would serve the needs of households in areas where it is extremely difficult to reach stores selling food. Since this is apparently not the case, the Department has decided not to change § 273.10(g)(4)(iv)(C) of the regulations.

Outreach.—One commenter advised that there should be more outreach workers, and they should advise people of the changes in these regulations. Also, outreach material should be bilingual. The Department believes that the outreach requirements set forth in § 272.6 which apply to all States are sufficient. The State agency will, of course, have to revise its outreach material to reflect the program changes required by these regulations.

Use of Coupons

One commenter wanted to prohibit households from purchasing candy and soda with food stamps. The Food Stamp Act of 1977 provides that any food or food product may be purchased with food stamps (Section 3(g)). Therefore, the Department does not have this discretion.

One commenter suggested that incentives be provided to encourage grocery sales outlets to accept food stamps in rural areas. An incentive is already provided in that food stamp sales usually result in an increase in the volume of food purchases. The Department does not believe additional incentives would be appropriate.

Varying Allotments

Two commenters strongly supported different size allotments for different areas of Alaska. Since allotment sizes are a major issue and they were not addressed in the proposed regulations, they cannot be addressed in these final regulations. The Department will consider these comments separately.

The final regulations are as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new subparagraph (13) is added to § 272.1(g) and reads as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation* * * *

* * * * *

(13) *Amendment 162.* Program changes required by Amendment 162 of the Food Stamp Program regulations shall be implemented as follows:

(i) The fee agent system for conducting interviews is currently in use and its continuing use is approved.

(ii) All other rules except paragraph (p) of § 272.8 shall be implemented as soon as practical but no later than 90 days following the date of final rulemaking. A fee agent training plan must be submitted within 45 days of the date of final rulemaking. Paragraph (p) of § 272.8 concerning points and hours shall be implemented following the time standards contained therein.

* * * * *

2. In § 272.6, Outreach, paragraph (b)(8), *Hotlines,* the third sentence is amended and the fourth sentence is deleted. The amended sentence reads as follows:

* * * * *

(b) * * *

(8) * * * The Alaska State agency shall, however, enable participants and potential participants to secure program information and applications, lodge complaints and make inquiries in accordance with § 272.8(f).

* * * * *

3. A new § 272.8 is added to Part 272 to read as follows:

§ 272.8 Procedures for program administration in Alaska.

(a) *Purpose.* To achieve the efficient and effective administration of the Food Stamp Program in certain rural areas of Alaska, FNS has determined that it is necessary to develop additional regulations which are specifically designed to accommodate the unique demographic and climatic characteristics which exist in these rural areas.

(b) *Applicability.* The regulations established in this section except for paragraphs (f) *Hotlines,* (j) *Resources* and (p) which pertains to points and hours shall apply only in those areas of Alaska which are designated by FNS as "rural". All regulations not specifically modified by this section shall remain in effect. The State agency, in consultation with FNS, shall establish the criteria for designating areas of the State as "rural" taking into consideration such factors as population concentrations, weather and road conditions, the risk to the health or safety of applicants in traveling, and the regularity of mail service. The State agency shall, in consultation with FNS, determine those areas that meet the rural criteria. The State agency shall publish the proposed criteria and designations for a public comment period of at least 30 days prior to submission to FNS for approval. The criteria for designating rural areas and the designated areas shall be identified in the Alaska State Plan of Operation as an addendum to the Program and Budget Summary Statement.

(c) *Definitions.* "Fee agent" means a paid agent who, on behalf of the State, is authorized to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide outreach and other services as required by the State agency. Such

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services shall not include making final decisions on household eligibility or benefit levels.

"State agency" for purposes of this section shall include Regional and District offices. It shall not include fee agents.

(d) *Merit Personnel.* In addition to the volunteer activities prescribed in § 272.4(a)(2), fee agents may be used by the State agency to conduct the certification interviews required by § 273.2(e).

(e) *Training.* The State agency shall design and implement a comprehensive training plan, including detailed instructional material, to ensure that fee agents are able to fulfill the responsibilities assigned to them under this section. The training shall include those items referenced in § 272.4(e)(1)(ii) with the exception of training on actual eligibility determinations. The State agency shall submit to FNS for approval the procedures for training fee agents and the instructional manual to be used by fee agents. The initial fee agent training plan shall be submitted to FNS within 45 days of publication of these rules. The State agency shall reflect subsequent changes in policy and procedures promptly. The State agency shall conduct training sessions for fee agents prior to implementation of these regulations and at least once a year and as needed thereafter. The State agency shall keep a record of fee agent training. In addition, the State agency shall provide close supervision to assist and monitor the performance of fee agents. The State agency shall describe fee agent supervision in the Alaska Plan of Operation as an addendum to the Organizational Chart.

(f) *Hotlines.* In each geographical area, the State agency shall provide either toll-free hotline services or hotline-type services through State agency offices and fee agents. Where hotline-type services are provided through State agency offices and fee agents, the State agency shall accept collect calls directly from participants and potential participants regarding the Food Stamp Program. These services shall enable participants and potential participants throughout the State to secure program information and applications, lodge complaints and make inquiries. The requirements in § 272.6(b)(8)(ii), regarding hotline service staffing, record keeping and publicizing the hotline number apply to the State of Alaska. If no hotline number is available in a particular area, the State agency shall substitute a designated number to be called. Additionally, the State agency shall solicit the cooperation of retailers in posting this information in retail stores which are authorized to accept food coupons.

(g) *Application Processing.* The application processing standards contained in § 273.2 are modified to the following extent:

(1) *Filing an application.* The date the application is first received by a fee agent, the date it is mailed to a State agency office and the date it is filed with a State agency office shall be documented by recording the dates on the application. An application is considered filed for purposes of this section when it is received by an office of the State agency.

(2) *Normal Processing Standards.* The State agency shall issue benefits to eligible households as soon as possible.

(i) If the signed application is first submitted by a household to a fee agent, the fee agent shall: (A) Record the date the application is received, (B) conduct the interview, (C) obtain the necessary verification, (D) record the date the application is mailed, and (E) mail the application to a State agency office within five days of the date the application was received by the fee agent. The household shall be given the maximum amount of time to provide verification requested by the fee agent as long as the five day processing period is met. The State agency office shall record the date that the application is filed, and insure that the application process is completed and eligible households are provided an opportunity to participate as soon as possible but no later than 30 day after the application is filed with the State agency.

(ii) If the signed application is submitted in person by a rural resident or its authorized representative directly to the State agency, bypassing the fee agent, the State agency shall complete the application process and provide eligible households an opportunity to participate as soon as possible but no later than 30 days after the application is filed.

(iii) If the signed application is submitted by mail by a rural resident directly to the State agency, bypassing the fee agent, the State agency shall either (A) contact the household directly, conduct the interview and secure necessary verification or (B) request the fee agent to complete the interview process and submit the required information to the State agency. Regardless of whether the State agency or the fee agent conducts the interview, the processing time to meet the 30 day standard shall commence with the date the application was initially received by the State agency. If the State agency cannot process a case within the required time period because it has to contact the household for additional information or verification, the procedures established in § 273.2(h) regarding delays in processing shall be followed except that the household shall submit the information or verification so that it will be received by the State agency by the 30th day after the State agency's initial letter or a verbal request for the information or verification.

(3) *Expedited Service.* Households determined eligible to receive expedited service shall be issued benefits as soon as possible.

(i) If the signed application is first received by a fee agent, the fee agent shall: (A) Record the date the application is received, (B) conduct the interview, (C) obtain the necessary verification, (D) record the date the application is mailed and (E) mail the application to a State agency office within 5 days of the date the application was received by the fee agent. The State agency office shall record the date the application was filed, complete the application process and, for households eligible for expedited service, mail the coupons no later than the close of business of the second working day following the date the application was filed at the State agency.

(ii) If the signed application is submitted in person by a rural resident or its authorized representative directly to the State agency, bypassing the fee agent, the State agency shall conduct the interview and issue coupons to households eligible for expedited service in accordance with the time standards contained in § 273.2(i)(3) of the regulations.

(iii) If the completed, signed application is submitted by mail by a rural resident directly to the State agency, bypassing the fee agent, the State agency shall conduct an interview with the household either directly or through the intermediary services of a fee agent. If an incomplete application is submitted directly to the State agency by mail, the State shall conduct the interview by the first working day following the date the application was received if the fee agent can contact the household or the household can be reached by telephone or radio phone and does not object to this method of interviewing on grounds of privacy. Based on information obtained during the interview, the State agency shall complete the application and process the case. Because of the mailing time in rural areas, the State agency shall not return the completed application to the household for signature. The processing standard shall be calculated from the date the application was filed. The household, if determined eligible, shall

be entitled to benefits retroactive to the first day of the month in which the application was first received by the State agency.

(4) *SSI Joint Processing.* SSA workers shall mail all jointly processed applications to the appropriate State agency office within five days of receipt of the application. The dates the application is received and mailed shall be recorded on the application. The application shall be mailed from a location as close to the State agency office as is feasible. Jointly processed applications shall be considered filed for purposes of timely processing when they are received by a State agency office. The household, if determined eligible, shall receive benefits retroactive to the first day of the month in which the jointly processed application was received by the SSA worker.

(h) *Interviews.* The State agency or fee agent shall conduct a face-to-face interview with the household at the State agency office or fee agent location prior to certification or recertification except in the following instances.

(1) The State agency or fee agent shall either conduct a home visit or conduct the interview by telephone or other means of communication when a household or its authorized representative is unable to come to the State agency office or fee agent for the reasons specified in § 273.2(e)(2) which include transportation difficulties and hardships such as prolonged severe weather. If a household objects to being interviewed by telephone or radio phone on grounds of privacy, the State agency shall conduct the interview using private means such as written, mailed correspondence to obtain and transmit necessary information.

(2) When a face-to-face interview cannot be conducted in time to meet the expedited service standards, the State agency or fee agent may conduct an interview using a telephone or other means of communication such as a radio phone unless the household objects on grounds of privacy.

(3) The State agency may postpone the interview until after the household is certified when: (i) A household lives in a remote area, (ii) no fee agent or eligibility worker is reasonably accessible, (iii) a telephone interview cannot be conducted, or the household objects on grounds of privacy, and (iv) the administrative costs of conducting the interview would be extremely high. The eligibility worker shall exercise prudent judgment when dealing with these cases and fully document the eligibility decision in the case file. Such households shall be interviewed and the eligibility decision and documentation shall be re-examined when an eligibility worker or fee agent visits the community in which the household resides.

(i) *Determining Household Eligibility and Benefit Level.* If a household in a rural area that is serviced by a fee agent first submits its application to the fee agent, the household shall, if determined eligible, receive benefits retroactive to the first day of the month in which the application was received by the fee agent. If a household in a rural area that is serviced by a fee agent submits its signed application directly to a State agency office, the household shall, if determined eligible, receive benefits retroactive to the first day of the month in which the application was received at that office.

(j) *Resources.* In areas of the State where there are no licensing requirements, snowmobiles and boats used by the household for basic transportation shall be evaluated in accordance with § 273.8(h) even though they are unlicensed.

(k) *Reporting Changes.* The State agency shall allow the household to choose to report changes either directly to the State agency or to the fee agent. If reported to the fee agent, the fee agent shall record the date the change was reported and the date the change is mailed to the State agency office on the change report and mail the change report to the State agency office within two working days of the date of receipt. The household's obligation to report the change will have been met if it submits the change to the fee agent within 10 days of the date the change becomes known to the household. However, for purposes of State agency action for increasing or decreasing benefits, the change will be considered to have been reported when it is received by a State agency office. To insure that the time standards for acting on changes are met, the State agency shall record the date the change is received on the change report.

(l) *Recertification.*—(1) *General Standards.* In rural areas, the State agency shall provide each household entitled to a Notice of Expiration such notice no earlier than one month prior to, nor later than the first day of, the household's last month of certification. Households in the service area of a fee agent shall be allowed to submit their applications for recertification either directly to the State agency or to the fee agent for forwarding to the State agency. Households which are certified for one month, and households which are initially certified for two months during the month following the month of application, shall be provided a Notice of Expiration at the time of certification. The State agency may provide a Notice of Expiration at the time of certification to households certified for two months in the month in which they apply.

(2) *Timely Reapplications.* (i) Households provided a Notice of Expiration at the time of certification, except those that are certified for two months during the month in which they apply, shall have 15 days from the date the notice is received to file a timely application for recertification with the State agency. Households that wish to submit their reapplications directly to the fee agent shall be advised to allow sufficient time for the fee agent to forward the application so that it will be received by the State agency within the 15 day period.

(ii) All other households, including those that are certified for two months during the month in which they apply, shall be considered to have timely reapplied if the application is received by the State agency by the 15th day of the last month of the certification period. Households that wish to submit their reapplications to the fee agent shall be advised to allow sufficient time for the fee agent to forward the application so that it will be received by the State agency by the 15th day of the last month of the certification period.

(m) *Agency Conferences.* In those instances where households wish to contest a denial of expedited service and a personal conference cannot be held within the two-day standard, the State agency may, at its option, conduct the expedited agency conference required by § 273.15(d) within two working days using a telephone or other similar means of communication provided that the household does not object on grounds of privacy. If the household objects to a phone conference, the State agency shall conduct the conference as soon as possible through a personal conference or other private means such as written, mailed correspondence.

(n) *Fair Hearings and Fraud Hearings.* The State agency may, at its option, conduct fair hearings and administrative fraud hearings using a telephone or other means of communication if the time standards contained in §§ 273.15 and 273.16 respectively cannot be met using the normal procedures for households that live in rural areas that are inaccessible due to weather conditions and/or distance. If the household objects to the use of a telephone or radio phone on grounds of privacy, the State agency shall use some means of private communication such as written, mailed correspondence to

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conduct the hearing within the specified time.

(o) *Coupon Issuance.* With the approval of FNS, coupons may be mailed on a quarterly or semiannual basis to certain rural areas of Alaska when provisions are not available on a monthly basis. The decision to allow the distribution of coupons in this manner will be made on an annual basis, separate from the determination as to which areas of Alaska are to be designated as rural areas. These areas shall be listed in the State's Plan of Operation in the same section as the rural area designations. Through its Outreach efforts, the State agency shall advise households that live in rural areas where quarterly or semiannual allotments are authorized of this provision. If, as the result of the issuance of quarterly or semiannual allotments, food coupons are overissued or underissued, the State agency shall process claim determinations and restore lost benefits.

(p) *Location and Hours of Operation of Certification and Issuance Services.*—(1) *Certification Services.* The State agency is responsible for determining the locations and hours of operation of the food stamp certification services made available in the State. These determinations shall be based on assessments of the certification service needs of the low-income population in the State and on the *minimum* requirements set forth herein. The State agency may choose among a variety of certification methods to fulfill the certification service needs of its low-income population. These methods include, but are not limited to, the use of full service certification offices, satellite and itinerant certification offices and mobile certification units.

(i) The minimum certification service requirements set forth below shall be applied to the direct service area of each State agency Regional and District certification office. The direct service area is the surrounding area in which applicants are required to submit applications to that office. This provision does not apply to rural areas that are serviced by fee agents.

(ii) Basic certification services consist of distributing and accepting applications, interviewing applicants, and accepting notices of change in household circumstances. The State agency shall provide these services as set forth below.

(A) In service areas with more than 250 households participating in the Program, the State agency shall provide at least 35 hours each week (in weeks without holidays) of basic certification services in at least one office in the service area. In offices with more than two eligibility workers, these services shall be scheduled so that there is no break in their availability during the lunch period. The State level office may approve a service plan for a service area that does not make service available during the lunch period if the plan is adequately documented to show that compliance cannot be achieved for statutory or security reasons.

(B) In service areas with 250 or fewer households participating in the Program, the State agency shall provide a minimum of 30 hours of basic certification services each month in at least one office in the service area. The 30 hours of basic certification services shall be scheduled so that there are at least some hours of service during each calendar week. To the greatest extent practicable, the schedule of hours shall be consistent from month to month. In addition to providing these basic certification services, the State agency shall make arrangements to afford people in these service areas access to the Program during all normal working hours. To accomplish this, the State agency shall arrange to have a place in each service area where applications can be picked up by applicants during all normal business hours each business day. The State agency shall provide addresses along with the applications so that applicants can mail them in. At the address provided, applications shall be accepted and considered filed on the same day they are received, except Saturdays. Additionally, the State agency should attempt to make arrangements to have a place in the service area where applications that are ready for filing can be dropped off. Where drop-off points are established, households shall have the option of either leaving their applications at the drop-off point or mailing them to the address provided on the applications. Where drop-off points are established, the State agency shall make instructions available that inform households of their filing options and explain the circumstances under which the mailing of applications will result in faster filing than the dropping-off of applications. FNS may approve an alternative level of service if the State agency adequately demonstrates that the caseload is so small that the 30-hour requirement would be excessive for the caseload being served, provided that an adequate number of hours of certification service are available for the size of the caseload. This may include having services available on an as needed basis in addition to the regularly scheduled hours.

(C) In service areas that normally have caseloads of 250 or fewer households, but which periodically have caseloads of more than 250 households, such as may result from influxes of seasonal workers, the minimum requirements in paragraph (p)(1)(ii)(B) of this subsection shall apply. However, the State agency shall implement additional hours of basic certification services when these influxes occur. The additional hours shall be in operation at the time the influx begins so that the needs of the new applicants and participants can be met. The State agency shall determine the number of additional hours of basic certification service needed under such circumstances in each service area.

(D) The State agency shall use the latest participation figures available each year a service plan is required in order to determine which requirements, either those in paragraph (p)(1)(ii)(A) or (B) of this section, apply to each service area. If a State agency can demonstrate that the latest participation figures available are not representative of normal participation, the State agency may use data from a different month to determine which requirements to use. Likewise, if FNS determines that the participation data used for a service area is not representative of the service area's normal participation, FNS shall require that different participation data be used. The State agency shall indicate in each service area's plan what participation data were used. Whenever the State agency does not use the latest available data for a service area, the subsitution, along with justification, shall be noted in the service plan.

(E) Applicant and participant households which are unable to obtain certification services established in accordance with the requirements of this section without missing time from work shall be given appointments for such services. The State agency is encouraged to arrange these appointments outside normal business hours or for times that would minimize the applicants' or participants' absence from work. The availability of this service shall be publicized by the State agency. In addition, people who contact the food stamp office and who indicate that they work all or nearly all of the scheduled hours of certification service shall be informed of the availability of appointments.

(iii) To make face-to-face interviews possible for participants and applicant households, the basic certification services provided in each service area shall be established so that all or all but a small number of these households

reside within 30 miles of a site that provides at least four hours of basic certification services every two weeks. If the offices established in compliance with the requirements of paragraph (p)(1)(ii) of this section provide basic certification services in accordance with this requirement, additional offices and hours of operation are not required. Any additional services that are required in order to comply with this provision may be provided through itinerant or satellite offices.

(A) Any applicant or participant household that does not reside within 30 miles of a site where four hours of basic certification services are available every two weeks shall be eligibile for the out-of-office certification procedures. The State agency shall publicize the availability of these procedures in those areas where applicant and participant households are eligible for them. In addition, people who contact food stamp offices inquiring about certification services, and who live more than 30 miles from sites where four hours of basic certification services are available every two weeks, shall be informed of their eligibility for out-of-office certification services.

(B) FNS may approve exceptions to the 30 mile requirement of this paragraph if the State agency demonstrates that participants normally travel more than 30 miles to places with various stores to conduct their personal business including the use of their coupons. To be granted an exception, the State agency shall demonstrate that certification services of at least four hours every two weeks are available in the location where the applicants and participants normally conduct their personal business and buy their food. The State agency may request FNS approval to provide certification services in this location rather than closer to the applicants and participants (i.e., within 30 miles). Exception may be granted for parts of the service area. The provisions of paragraph (p)(1)(iii)(A) of this section do not apply to residents of areas covered by this exception.

(iv) Changes in a service area's participation that are expected to continue on a long-term basis, or changes in local circumstances that would either require a rejustification of exceptions or lead to a need to request an exception, and which are discovered outside of the needs assessment provided for in paragraph (p)(5)(i) of this section, shall be processed as follows.

(A) Whenever a State agency becomes aware of a long-term increase in a service area's food stamp participation that lasts for at least four consecutive months and causes the service area to move into the category described in paragraph (p)(ii)(A) of this section, the State agency shall take prompt corrective action to bring the service area into compliance with the requirements of that paragraph.

(B) Whenever a State agency becomes aware of a long-term decrease in a service area's food stamp participation that lasts for at least four consecutive months and causes the service area to move into the category described in paragraph (p)(ii)(B) of this section, the State agency may change the certification services offered so that they are consistent with the requirements specified in that paragraph.

(C) Whenever a State agency becomes aware of a change in circumstances that would require deletion or rejustification of an allowable exception, the State agency shall take action to reevaluate the situation, update the documentation or the plan, and resubmit, if required, the request to FNS for approval. The State agency shall not delay action until the next scheduled service plan but shall promptly take the necessary action.

(D) Whenever a State agency becomes aware of a change in circumstances in a service area that would warrant the requesting of an allowable exception, the State agency may act on a request for an exception or submit it to FNS, if required. The State agency is not required to wait until the next scheduled service plan is due. FNS shall approve or deny requests for exceptions within 30 days of receiving them.

(v) The State agency shall employ fee agents as needed to the extent possible to provide certification services in rural communities or villages. The fee agent should be available to provide basic certification services on at least a weekly basis. In addition, the State agency shall arrange to have a place in each fee agent area where applications can be picked up during normal working hours. Households in these communities and villages shall be advised either through outreach efforts or another method determined by the State agency of the availability of these services, including the location of the fee agent and any established hours of availability. In the event a fee agent has been removed by the State agency or the position is otherwise vacant, the State agency shall use the interview procedures provided in paragraph (h)(i), (ii) or (iii) of this section. In such instances the State agency shall, if possible, have either State agency staff or a fee agent from another village visit those villages every 30 days until such time as another fee agent is appointed.

(vi) State agency certification staff or a fee agent shall visit the villages in the Aleutian Chain without appointed fee agents once every six months, or at intervals as close to once every six months as the weather permits for the purpose of providing basic certification services.

(2) *Issuance Services.* The State agency is responsible for determining the locations and hours of operation of the issuance services made available in the State. These determinations shall be based on assessments of the issuance service needs of the low-income population in the State and on the minimum requirements set forth below. The State agency may choose among a wide variety of issuance methods to fulfill the issuance service needs of the low-income people in the State. The methods include, but are not limited to, the use of contract issuance agents such as banks, post offices, credit unions, etc.; government issuance offices; itinerant issuance offices; mobile issuance units; and mail issuance. Mail issuance may be used to comply with any or all of the requirements specified below.

(i) The minimum issuance service requirements set forth below shall be applied to the direct service area of each State agency Regional and District office, exclusive of rural areas.

(ii) In accordance with § 273.2(g)(2), issuance services, including mail issuance, shall be planned and implemented so that all eligible applicant households are given an opportunity to obtain coupons within 30 days of filing their applications.

(iii) Issuance services shall be planned and implemented so that any applicant who receives expedited service and who receives an ATP card in accordance with the provisions of § 273.2(i) is given an opportunity to obtain coupons within one calendar day, excluding weekends and holidays, of receiving it.

(iv) Issuance services, with the exception of the mail issuance of coupons, shall be made available within each service area as provided for in this paragraph. Mail issuance services shall be provided so that, at a minimum, the delivery standards in paragraphs (p)(2)(ii) and (iii) of this section and in Parts 273 and 274 are met. The needs of two groups of participants are served through the hours of issuance services set by this provision: Those who are newly certified and those on a regular issuance cycle.

(A) In each service area six hours of issuance services each calendar week shall be available to all participants.

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(B) In each service area, at least six hours of issuance services shall be made available each month to all participants on regular issuance cycles within seven calendar days following receipt of ATP cards. Any hours of issuance services that are provided to comply with this requirement may be counted towards compliance with the requirement in paragraph (p)(2)(iv)(A) of this section.

(C) In service areas which assign participants to particular issuance sites, each site shall offer the six hours of service required in paragraphs (p)(2)(iv)(A) and (B) of this section, or arrangements shall be made to allow participants to obtain their coupons at another, unassigned site so that the combined number of hours at the sites equal six.

(D) When the hours of operation of issuance sites required in paragraphs (p)(2)(iv)(A), (B) and (C) of this section overlap at sites within the service area, the overlapping hours shall only count once toward meeting the minimum requirements of these sections. For example, if three sites in a service area were all open each Tuesday from 2 to 4 p.m., this service area would have two hours counted toward the six hours.

(v) The issuance service requirements in paragraph (p)(2)(iv)(B) of this section (for households on regular issuance cycles) shall be located at sites that are within 30 miles of the residence of all or all but a small number of participants in each service area. The issuance services required in paragraph (p)(2)(iv)(A) of this section are not subject to the 30 mile requirement.

(A) Service areas which have over-the-counter issuance and where only small numbers of participants live more than 30 miles away from sites where issuance services are available for the required number of hours shall give such households the option of either traveling more than 30 miles to receive their coupons or having them provided by mail. The State agency shall publicize the availability of these procedures in those areas of the service area where applicant and participant households are eligible for them. In addition, people who apply for food stamps and who are eligible for this option shall be informed of the availability of the option. This requirement does not apply to participants residing in areas excepted under paragraph (p)(2)(v)(B) of this section.

(B) FNS may approve exceptions to the distance requirement specified in this paragraph if the State agency demonstrates that participants normally travel more than 30 miles to a location in order to conduct personal business and use their coupons. Such exceptions are subject to the same conditions specified in paragraph (p)(1)(iii)(B) of this section.

(vi) The State agency shall mail coupon allotments to all households living in rural areas. FNS may, however, grant a deviation from this requirement for specific areas. Any requests for deviations which are submitted by the State agency shall describe the alternative issuance procedures that would be used and justification for their use.

(vii) Those households comprised of elderly or disabled members which have difficulty reaching an issuance office to obtain their regular monthly allotments shall be given assistance in obtaining their coupons. The State agency shall assist these households by arranging for the mail issuance of coupons to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.

(3) *Maintenance of Effort.* Except as provided for in paragraph (p)(3)(ii) of this section, the State agency shall not reduce the number of certification sites and hours or issuance hours in each service area or the number of fee agents below the number available as of the month of publication of these regulations. This provision applies to all certification offices, including those that are temporarily closed because of lack of staff.

(i) The initial service plans prepared for each service area shall include data showing the total numbers of certification sites and hours, issuance hours and fee agents available in each area as of the month of publication of these regulations. The number of hours shall be a total of all the hours available at all sites, even if the hours overlap.

(ii) The State agency shall request and obtain FNS approval before reducing the number of sites, hours or fee agents below those available as of the month of publication of these regulations. Approval of such exceptions may be granted only if the State agency can demonstrate that the caseload in a particular area has changed in size or location, thus warranting a change in services or if the State agency can demonstrate that the change in level of service will result in an improvement in service delivery. The State agency may shift services from one location to another or change the hours of service available at particular locations without having an exception approved by FNS, provided that the changes do not result in a reduction in the total number of sites and hours below the totals in effect as of the month of publication of these regulations.

(4) *Exceptions.* No exceptions to the service requirements except those specifically provided for in the above paragraphs shall be granted. Requests for exceptions shall be considered according to the following procedures.

(i) The State-level office shall grant or deny only those exceptions specified as being subject to State agency approval. Granted exceptions shall be described in the service plans for the areas to which they apply, and shall be accompanied by documented justification. In considering an allowable exception, a State agency shall first determine whether the exception complies with the requirements in these rules. Secondly, the State agency shall determine whether the service that would exist if the exception was granted would be adequate to meet the service needs of the people in the affected area. Exceptions shall be granted only if both of these determinations are positive.

(ii) FNS shall grant or deny only those exceptions specified as being subject to FNS approval. The State agency shall forward requests for exceptions to FNS for consideration along with any documentation needed to justify the exceptions. FNS shall consider the request against the same criteria the State agency must use as provided in paragraph (p)(4)(i) of this section. FNS shall grant or deny requests for exceptions within 30 days of receipt of the request and all necessary documentation. Those exceptions not acted upon within 30 days shall be considered to be approved.

(5) *Establishing Services.* The State agency shall establish certification and issuance services in accordance with the following provisions.

(i) The State agency shall assess the certification and issuance needs of the low-income population in the service area of each State agency office and in rural areas served by fee agents. At a minimum, these needs assessments shall include examinations of factors such as the number and geographic location of participants and potentially eligible populations in each area; the transportation costs people would incur to reach certification and issuance services; the availability of public transportation; and cyclical changes in participation due to the existence of seasonal employment in the area. The needs assessments shall also include the solicitation of public comment on the certification and issuance services in each area. The State agency shall announce at the beginning of each comment period that comments are being sought and will be accepted. In addition, the State agency shall solicit comments through public meetings; written comments; consultation with professional, client and advocacy groups; consultation with groups participating in each area's outreach efforts; or, through other means that would enable the public to have an adequate opportunity to comment before final decisions are made regarding the services that will be offered in each locality. Whatever method is used, the State agency shall allow a minimum of 30 days for the submission or collection of comments.

(ii) The State agency shall assess the current hours and locations of Regional and District offices and fee agents to determine if they are adequately meeting the needs of Alaska's low-income population.

(iii) The State agency shall establish additional offices and/or fee agent services in other areas identified through certification and issuance needs assessments.

(6) *Service Plans.* (i) The State agency shall prepare a service plan for each service area based on the results of the needs assessment and on the certification and issuance service requirements contained in paragraphs (p) (1), (2) and (3) of this section. These service plans shall contain descriptions of the certification and issuance services that will be offered in each service area. They shall also contain clear descriptions of the factors affecting certification and issuance that were examined during the needs assessments, the conclusion drawn from the examination of these factors and summaries of the comments that were received from the public.

(ii) The State agency shall schedule the service plans as follows:

(A) The initial service plan for each area shall be completed within 120 days of the publication of this rulemaking. For a service plan to be considered complete, the State level office shall have reviewed it for regulatory compliance; approved or denied all requests for exceptions that the State agency is authorized to act upon; and, have submitted to the appropriate FNS Regional Office all requests for exceptions that FNS is authorized to act upon. All service areas except those described in paragraph (p)(8) of this section shall have the services described in their local service plans in operation within sixty days of the completion date for the service plan as established above.

(B) The State agency shall complete the second "set" of service plans either by July 1, 1983 or July 1, 1984, whichever year results in the synchronization of the service planning cycle with the State's legislative cycle.

(C) The State agency shall complete the third "set" of service plans by July 1st of the fourth year following the second "set". Subsequent service plans shall be completed by July 1st of every fourth year.

(7) *State Agency Approval.* State-level offices shall approve local-level service plans after reviewing them for compliance with these rules. State-level offices are responsible for approving and denying all requests for exceptions that they are authorized to act upon. They are also responsible for forwarding to FNS those requests for exceptions, along with necessary justification, that FNS is authorized to act upon and all corrective action plans that are required by these regulations. State-level offices shall retain the results of needs assessments, service plans, justification for exceptions, public comment summaries and corrective action plans for review purposes.

(8) *Corrective Action.* (i) If a service area is out of compliance with the requirements of this section, the State agency shall prepare and implement corrective action. The corrective action that is to be undertaken shall be included in the corrective action plan required by Part 275 of these regulations.

(ii) The State agency shall prepare and submit corrective action plans in accordance with the following timetable. The corrective action plans shall be prepared for those service areas that will not be in compliance with the minimum service standards precribed in this subsection on the effective date of the service plans established in paragraph (p)(6)(ii) of this section.

(A) For service areas which have requests for exceptions denied by FNS, the corrective action plans shall be submitted within 30 days of the State agency's receipt of FNS' denial of the request for exception.

(B) For other service areas, the corrective action plans shall be submitted within 120 days of the publication of the regulations.

(iii) Corrective action plans that are prepared and submitted in accordance with the provisions of paragraph (p)(8)(ii) on this section shall contain the information required in Part 275 and indicate when corrective action will be completed. The completion date for corrective action shall be within six months of the effective date of the local service plan. FNS may grant an extention only if the State agency demonstrates that compliance with one or more standards cannot be lawfully achieved until action is taken by an adjourned State legislature; a change is made in a union contract; or a change is made in the service area's physical building, and that the legislative action or changes cannot be accomplished within the above mentioned six month period. FNS may grant such an extension only if the State agency demonstrates, in each individual case, that there are no other means of achieving compliance other than that proposed in the corrective action plan.

(9) *Monitoring.* Compliance with the requirements of this subsection shall be monitored through the Performance Reporting System in accordance with the provisions of § 275.8(h).

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PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.7 [Amended]

In § 273.7, Work registration requirements, the last sentence of (b)(8) is amended by adding the phrase "as determined by averaging such activity over the certification period" after the word "weekly" and before the word "shall."

* * * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: October 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-34388 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-30-M

Commodity Credit Corporation

7 CFR Part 1430

1980–81 Price Support Program for Milk

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Act of 1949, as amended, requires that the support price for milk be established at a level between 80 and 90 percent of its parity price. For the marketing year beginning October 1, 1980, the support level has been established at 80 percent of parity, the minimum level required by law. Accordingly, the support price has been increased from $12.07 to $12.80 per hundredweight, effective October 1, 1980. This price is for milk containing 3.5 percent milkfat and is equivalent to $13.10 per hundredweight for milk containing 3.67 percent milkfat, the national average.

EFFECTIVE DATE: October 1, 1980.

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ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service (ASCS), U.S.D.A., Room 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Donald E. Friedly, Agricultural Economist, Dairy Branch, Procurement and Sales Division, ASCS–USDA, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013, (202–447–3571). The Final Impact Statement describing the options considered in this final rule and the impact of implementing each option is also available on request from Mr. Friedly.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving Government Regulations" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR 1430.282 for need, accuracy, clarity, and effectiveness, that no additional changes be made at this time. A semiannual review will take into consideration problems, issues, etc., which are experienced in program administration during the next six months.

The title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases, Number 10.051 from the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of this action.

Section 201(c) of the Agricultural Act of 1949, as amended, requires that the price of milk be supported at such level not less than 80 percent nor more than 90 percent of the parity price as the Secretary determines necessary to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

Section 201(d) of the 1949 Act, as amended, requires that effective through September 30, 1981, the support price for milk be adjusted semiannually to reflect any estimated change in the parity index during the first six months of the marketing year.

On July 23, 1980, a notice was published in the **Federal Register** (45 FR 49085) inviting comments by August 18, 1980, concerning the 1980–81 price support program for milk. Similar notices were contained in USDA information releases.

Discussion of Comments

The Department received 187 written comments from 54 dairy farmers, 36 consumers, and 44 individuals who were not identifiable as either farmers or consumers. The remaining responses were from 16 dairy cooperatives and producer associations, 8 general farm organizations, 5 other (non-dairy) farmers, 6 private dairy firms, 5 trade associations, 2 State Departments of Agriculture, 1 consumer organization, and 10 other interested persons and organizations. Ninety respondents recommended an increase in the support price. Of these, 44 respondents recommended a level of support at 80 percent of parity; 3 favored a range of 80–90 percent of parity; 7 favored 90 percent of parity; 1 favored support at 100 percent of parity, and 34 respondents recommended an increase without specifying the amount. Thirty-four were against a support price increase, and 2 recommended that support be set at 75 percent of parity.

The recommendations of the 16 dairy cooperatives and their associations who responded are summarized as follows: Ten favored a level of support at 80 percent of parity and 1 favored 90 percent of parity; 11 were for increasing the manufacturing margins used in calculating CCC's purchase prices; 10 suggested that CCC increase the markup on the sales prices of dairy products (none recommended continuation of the existing 5 percent markup); 8 recommended that CCC's purchase prices be increased by equal amounts per hundredweight of milk for the butter-nonfat dry milk (NDM) combination and cheese; 8 recommended allocating half of the support price increase for milk to the purchase prices for butter and half to NDM; 5 suggested that CCC increase the maximum acceptable moisture content of NDM; 6 asked that CCC continue the zero value for whey in calculating the purchase price for cheese, and 2 recommended using a whey value (1 positive and 1 negative) in calculating the purchase price.

Of the 36 consumers responding, 21 opposed an increase in support while 4 felt such an increase is merited. Nine recommended that the milk price support program be terminated; 1 that it be continued under current legislation, and 1 that more flexibility is needed in the program.

Level of Support

After considering the comments received and reviewing the supply-demand situation, it has been determined that the support price for manufacturing milk be established at 80 percent of the parity equivalent price for manufacturing milk as reported in the September 30, 1980, issue of USDA's "Agricultural Prices."

The decision to establish the support price at this level results from a review of the dairy situation up to and including September 19, 1980. It has been determined that support at 80 percent of parity will assure an adequate supply of milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. The latest available statistics of the Federal Government were used in making determinations under this rule. The price support program for the 1980–81 marketing year was described in USDA press releases issued September 19 and 30.

During each month of the 1979–80 marketing year, milk production was above year-earlier levels. The latest monthly figures show that milk production was 3.3 percent above year-earlier levels. Market prices for all three dairy products have been below or near CCC's purchase prices except for February, March and September, the months prior to the April 1 and October 1, 1980, support price increases. Recent market price increases were sufficient to reduce the rate of CCC purchases of all dairy products. Relatively small quantities of butter and cheese have been sold back to the industry for unrestricted use. CCC's net price support purchases during marketing year 1979–80 were 233 million pounds of butter, 592 million pounds of NDM, and 336 million pounds of cheese. During the 1980–81 marketing year, it is expected that commercial supplies of butter and cheese will again exceed consumer demand, and sales of these products to CCC under the price support program will continue.

The support price will be adjusted April 1, 1981, to reflect any estimated change in the parity index during the first half of the marketing year.

Relative Increases in the CCC Purchase Prices For Butter and NDM

The support increase on October 1, 1980, was divided equally between butter and NDM. Since the two products are made from the same whole milk, manufacturers must receive enough revenue from the sale of both products to pay a given price for milk to producers. In the past several years, the price support increases have been divided equally per hundredweight of milk between butter and NDM, based on the yield of each product from 100 pounds of whole milk.

The action to divide the increase equally between butter and NDM is not expected to encourage abrupt changes in consumption, production, or CCC removal patterns for these products which could result in serious disposal and inventory problems for CCC. Since quantities of dairy products purchased by CCC in 1980–81 are expected to exceed the rate of dispositions, CCC will likely increase its inventories of dairy products during the coming marketing year.

Allocation of a greater share of the price support increase to the butter purchase price would result in substantial wholesale and retail price increases for butter and other high butterfat items such as ice cream. Thus, increased CCC price support purchases would result. CCC outlets for butter are limited. Butter purchased in excess of foreseeable sales and domestic donation requirements may eventually have to be converted at considerable expense into butteroil before it could be donated abroad under the Pub. L. 480 program. A more than proportionate increase in the NDM purchase price would be undesirable because increased CCC purchases of NDM would result. CCC's purchases and inventories are already extremely large.

Manufacturing Margins

The manufacturing margins used in calculating the CCC purchase prices for dairy products were last increased 10 cents per hundredweight on October 1, 1979. The margins used in the calculations are designed to reflect annual average costs for manufacturing cheese and butter/NDM. The level of the purchase prices should be such that manufacturers as a group will be able to pay producers the announced support price for milk. If average manufacturing costs exceed the manufacturing margins, dairy plants would not realize enough revenue over costs to pay the support price to farmers when market prices of dairy products are at or near CCC's purchase price levels.

The same margins announced on October 1, 1979, are continued for October 1980–March 1981 because, given the current supply-demand situation, there was no assurance that an increase in margins would increase producer prices. Prices received by producers since last April have been below support levels primarily because of the very heavy supplies of milk. Increasing the manufacturing margins would have an inflationary impact on consumer prices with no assurance that prices received by producers would reflect the increase as long as very heavy milk supplies persisted.

Sales Prices

Products acquired through support purchases will be offered for sale, when available, for unrestricted use at prices of 105 percent of CCC's purchase prices in effect at time of sale (allowing for rounding), but not less than market prices. Although market prices are projected generally to be below 105 percent of current purchase prices, continuation of the 105 percent sales price policy offers the greatest assurance against potential inflationary increases in market prices of all dairy products.

Whey Solids-Not-Fat (S.N.F.) Value

The whey s.n.f. value used in calculating CCC's purchase prices for cheese is an estimate of the returns above costs realized by cheese manufacturers for processing whey products. Processing costs have nearly always exceeded returns. The primary incentive for processors to continue processing whey in recent years has been to avoid environmental pollution problems associated with other means of disposal. Only for the 1974–75 and 1978–79 marketing years have estimates indicated a return above processing costs.

Although whey product prices were rising in August and September, the average price for the period October 1980 through March 1981 was projected to rise by about the same rate as costs to manufacturers. Therefore, it was estimated that for 1980–81, cheese manufacturers would not realize a return over costs on whey s.n.f. when CCC is purchasing cheese under the dairy price support program.

Increase the Maximum Acceptable Moisture Content of NDM Purchased by CCC

CCC limits the moisture content of U.S. Extra Grade NDM purchased under the price support program to 3.5 percent, although the U.S. Extra Grade Standard permits 4.0 percent moisture. It is not advisable for CCC to raise its moisture limit because the NDM absorbs moisture in storage, and excessive moisture causes a decline in quality. NDM sold in commercial channels is normally used immediately, while that purchased by CCC could possibly be stored for as much as three years. Increasing the acceptable moisture level would increase the risk of CCC losses since deterioration in storage would occur sooner.

Terminating the Program

The Secretary is required by Section 201(c) of the Agricultural Act of 1949, as amended (Title 7 of the United States Code, Section 1446), to support the price of milk and to adjust the support price semiannually to reflect changes in the parity index. The Secretary has no authority to terminate the milk price support program. Comments that the program be terminated were not considered for that reason.

Final Rule

Based on the $12.80 support price for milk containing 3.5 percent milkfat, the regulations at 7 CFR § 1430.282 are revised to read as follows:

§ 1430.282 Price support program for milk.

(a) (1) The general level of prices to producers for milk will be supported from October 1, 1980, through September 30, 1981, at $12.80 per hundredweight for manufacturing milk containing 3.5 percent milkfat. This is equivalent to $13.10 per hundredweight for milk with the U.S. annual average milkfat content of 3.67 percent.

(2) Price support for milk will be made available through purchases by Commodity Credit Corporation of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) Commodity Credit Corporation may, by special announcement, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from the United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Procurement and Sales Division, P.O. Box 2415, Washington, D.C. 20013, or the United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Kansas City ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208.

(b) (1) Commodity Credit Corporation will accept offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

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[Dollars per pound]

Commodity and location	Produced	
	Before Oct. 1, 1980	On or after Oct. 1, 1980
Cheddar cheese: Standard moisture, 37.8–39 %: [1]		
40-pound blocks, U.S. Grade A or higher	1.325	1.395
500 pounds in fiber barrels, U.S. Extra Grade [2]	1.295	1.365
Nonfat dry milk: Spray process, U.S. Extra Grade: [3]		
Nonfortified	0.895	0.94
Fortified (Vitamins A and D) [4]	.9075	.9525
Butter: U.S. Grade A or Higher New York, N.Y., and Jersey City, Newark and Secaucus, N.J.	1.4325	1.52

[1] The price for cheese which contains less than 37.8 percent moisture shall be as specified in Form ASCS–150. Copies are available in offices listed in subsection (a)(4).
[2] Also includes granular cheese.
[3] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of .50 cent (½ cent) per pound of nonfat dry milk.
[4] Nonfat dry milk manufactured and fortified with vitamins A and D on or after Jan. 1, 1981 is not eligible for offering to CCC.

(2) The price for butter at any location not specifically provided for in this section is the price set forth in this section for New York City, less 80 percent of the lowest published domestic railroad through freight rate for frozen butter in effect at the beginning of the 1980–81 marketing year (October 1), from such other point to New York City. The appropriate freight rate will be calculated on a per pound gross weight basis for a 60,000-pound carlot. However, the price at any location shall be not less than the purchase price at New York City minus 3.0 cents per pound. For any location in Wisconsin or Kentucky, the price shall not exceed the purchase price at Chicago, Illinois, which for butter produced on or after October 1, 1980, is $1.49 per pound. In the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, CCC will purchase bulk butter produced only in that area. Butter produced in other areas is ineligible for offering to CCC in those States.

(c) (1) The block cheese shall be U.S. Grade A or higher, except that the moisture content shall not exceed 38.5 percent; the barrel cheese shall be U.S. Extra Grade, except that the moisture content shall not exceed 36.5 percent.

(2) The nonfat dry milk shall be U.S. Extra Grade, except that the moisture content shall not exceed 3.5 percent.

(3) The butter shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grade and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Secs. 301, 401, Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054, as amended (7 U.S.C. 1448, 1421); Secs. 4 and 5, Pub. L. 806, 80th Cong., 62 Stat. 1070, 1072, as amended (15 U.S.C. 714b and c))

Signed at Washington, D.C. on: October 27, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80–34400 Filed 11–3–80; 8:45 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70 and 75

Safeguards on Nuclear Material; Implementation of US/IAEA Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to make it clear that licensees required to submit inventory change reports pursuant to the US/IAEA Agreement are not additionally required to submit nuclear material transfer reports under NRC domestic safeguards regulations.

EFFECTIVE DATE: Upon the US/IAEA Safeguards Agreement's entry into force and publication of notice thereof in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. L. C. Solem, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–443–5903).

SUPPLEMENTARY INFORMATION: On July 31, 1980 the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 50705) a new Part 75 to Title 10 of the Code of Federal Regulations and amendments to 10 CFR Parts 40, 50, 70, 150 and 170 to implement the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America.

The Commission is amending 10 CFR Parts 70 and 75 to specify that licensees subject to 10 CFR 75.34, "Inventory change reports," are not required to provide the same information under 10 CFR 70.54, "Nuclear material transfer reports." The amendments are for purposes of clarification, as it was not intended that duplicate reports should be submitted.

Inasmuch as the amendments set forth below are of a minor and nonsubstantive nature, good cause exists for omitting notice of proposed rulemaking and public procedure thereon as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Parts 70 and 75 of Title 10, Chapter I, Code of Federal Regulations, are published as a document subject to codification.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. Section 70.54 is revised to read as follows:

§ 70.54 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall complete and distribute a Nuclear Material Transaction Report on DOE/NRC Form–741, in accordance with printed instructions for completing the form, whenever he transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Each licensee who receives such material from a foreign source shall complete both the supplier's and receiver's portion of DOE/NRC Form–741; perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and indicate the results of these tests on the receivers portion of the form.

(b) Any licensee who is required to submit inventory change reports on DOE/NRC Form–741 pursuant to § 75.34 (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit such reports only as provided in that section (instead of as provided in paragraph (a) of this section).

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

2. Section 75.34 is amended by revising paragraph (a) to read as follows:

§ 75.34 Inventory change reports.

(a) Inventory change reports, to be submitted on DOE/NRC Form–741, Nuclear Material Transaction Report, and prepared in accordance with printed instructions for completing the form, shall specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate, (1) the originating IAEA material balance area or the shipper and (2) the receiving IAEA material balance area or the recipient. Each licensee who receives special nuclear material from a foreign source shall complete both the supplier's and receiver's portion of DOE/NRC Form–741; perform independent tests to assure the accurate identification and measurement of the material received including its weight and enrichment; and indicate the results of these tests on the receiver's portion of the form.

* * * * *

Authority: Secs. 161b. and o., Pub. L. 83–703, as amended, 68 Stat. 948; (42 U.S.C. 2201(b) and (o)); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).

Dated at Bethesda, Md., this 22nd day of October 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 80–34376 Filed 11–3–80; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket R–0331; Reg. D]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule and technical amendments.

SUMMARY: The Board of Governors has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to: (1) extend the special rule regarding quarterly reporting to apply to all depository institutions that have total deposits of less than $15 million (As originally adopted, quarterly reporting was limited to depository institutions with total deposits of less than $5 million); (2) defer until May 1981 the reporting and reserve maintenance requirements for nonmember depository institutions with less than $2 million in total deposits; and (3) simplify the method of calculation of reserve requirements where member and nonmember institutions are involved in mergers so that reserves of the surviving institutions are calculated by allocating its deposits according to the relative deposit size and structure of the institutions involved in the merger on a proportional basis without regard to whether the surviving institution is a member or a nonmember.

In addition, a technical amendment has been adopted to clarify that the definition of "Eurocurrency liabilities" (1) includes sales of assets by depository institutions in the United States to their overseas offices that occurred only after October 6, 1979, and (2) with respect to a U.S. branch or agency of a foreign bank, does not include assets sold by its affiliated Edge or Agreement Corporations to its foreign bank (including offices thereof located outside the United States) or its parent holding company, but does include assets sold by the U.S. branch or agency to the non-U.S. offices of an affiliated Edge or Agreement Corporation.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Paul S. Pilecki, Attorney (202/452–3281) or Paige Winebarger, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221) ("Act") authorizes the Federal Reserve to impose reserve requirements solely for the purpose of conducting monetary policy on all depository institutions that maintain transaction accounts or nonpersonal time deposits. Depository institutions subject to reserve requirements include any Federally-insured commercial or savings bank, or any such bank that is eligible to become insured by the Federal Deposit Insurance Corporation; any mutual or stock savings bank; any savings and loan association that is a member of a Federal Home Loan Bank, insured by, or eligible to apply for insurance with, the Federal Savings and Loan Insurance Corporation; and any credit union that is insured by, or eligible to apply for insurance with, the National Credit Union Administration Board. The reserve requirements of the Act also will apply to United States branches of foreign banks, to United States agencies of foreign banks with total worldwide consolidated bank assets in excess of $1 billion, and to Edge and Agreement Corporations.

On August 15, 1980, the Board announced a revised Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204; 45 FR 56009), to become effective on November 13, 1980, implementing the reserve requirement provisions of the Act. In order to facilitate the implementation of reserve requirements, the Board has amended the regulation in the areas of quarterly reporting by smaller depository institutions and reserve requirement treatment of depository institutions involved in mergers. In addition, the Board has announced a technical amendment clarifying the definition of "Eurocurrency liabilities" concerning sales of assets by depository institutions located in the United States to their overseas offices.

Quarterly Reporting for Certain Depository Institutions

In an effort to reduce the reporting and reserve management burden of very small depository institutions and to reduce the reserve requirement processing burden of the Reserve Banks, the Board established in August a procedure of quarterly reporting for depository institutions with total deposits of less than $5 million. In addition, the Board deferred reserve requirements of insitutions that have less than $1 million in total deposits as of December 31, 1979, until May 1981.

Since that time, the Federal Reserve, through numerous contacts with depository institutions and from analysis of more recent data, has determined that simplified reporting procedures could be adopted for a larger number of institutions without substantial effect on the System's ability to conduct monetary policy. Accordingly, the Board has expanded the quarterly reporting procedure to apply to all depository institutions with less than $15 million in total deposits and to defer all reserve maintenance and reporting requirements for nonmember depository institutions with less than $2 million in total deposits as of December 31, 1979. Nonmember institutions with less than $2 million in deposits will be exempt from quarterly reporting and reserve maintenance until May 1981, at which time the Board will determine whether a further delay is warranted.

Under the procedure of quarterly reporting, depository institutions with total deposits of less than $15 million as of December 31, 1979, will complete and file the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900) with the Federal Reserve for a 7-day computation period only once during each calendar quarter and maintain reserves over a subsequent three-month period based on the report filed. Quarterly reporting will be staggered so that each month one-third of all quarterly reporters will report data for one week. Reserves will be maintained during a period beginning

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two weeks after the start of the computation period and ending one week after the end of the institution's next computation period. Balances to be held at the Federal Reserve over the three-month maintenance period, either directly or indirectly on a pass-through basis, will equal required reserves based on the deposit report for one week less vault cash held during the seven-day reporting period. An institution will remain eligible for quarterly reporting until its total deposits are $15 million or more for two consecutive quarterly reports. Depository institutions eligible for quarterly reporting and reserve maintenance would retain the option of reporting and maintaining required reserves on a weekly rather than a quarterly basis.

The quarterly reporting system will commence in January 1981. Member banks with total deposits under $15 million will continue to report deposits and maintain reserves on a weekly basis until that time. Eligible nonmember institutions will not be required to report or maintain reserves until the quarterly procedure begins. It should be noted that Edge and Agreement Corporations and U.S. branches and agencies of foreign banks will not be eligible for quarterly reporting and reserve maintenance. Rather, all such institutions will—regardless of size—be required to report and to maintain reserves on a weekly basis.

Reserve Requirement Treatment of Institutions Involved in Mergers

Under section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. § 461(b)(8)(D)), as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96–221), any bank that was a member bank on or after July 1, 1979, but which subsequently withdraws from membership in the Federal Reserve System shall maintain reserves in the same manner as a member bank. On April 23, 1980, the Board announced an interpretation of the reserve requirement treatment of former member banks (12 CFR 204.120; 45 FR 28305) that included a policy concerning mergers involving former member banks. Under that interpretation, where a bank that withdraws from membership due to merger or consolidation with a nonmember bank on or after July 1, 1979, and the surviving bank is a nonmember bank, the surviving bank is required to maintain Federal reserves in the same manner as a member bank on the fixed proportion of its deposits attributable to the absorbed member bank. This fixed proportion is the ratio that daily average deposits of the absorbed member bank were to the daily average deposits of the combined banks during the reserve computation period immediately preceding the date of the merger. The proportion of deposits attributable to the nonmember survivor is entitled to an eight-year phase-in of reserve requirements. The Board also adopted a policy of allocating deposits between a member bank and a nonmember bank in cases where a member bank is the surviving bank of a merger or consolidation that takes place between a member and a nonmember bank on or after March 31, 1980. However, only the *amount* of deposits of the nonmember bank outstanding on a daily average basis during the computation period immediately preceding the date of the merger is eligible for an eight-year phase-in of reserves. These policies were incorporated into revised Regulation D that was announced by the Board on August 15, 1980 (45 FR 56009) and were applied to all depository institutions involved in mergers.

After further consideration of how reserve requirements should apply to mergers, the Board has determined to adopt a simplified procedure of computing reserve requirements in the event of mergers between institutions. The Board has amended Regulation D so that mergers and consolidations involving member and nonmember banks are treated on the same basis for reserve requirement purposes without regard to the membership status of the surviving bank. Accordingly, where (1) a nonmember bank merges or consolidates with a member bank on or after July 1, 1979, and the surviving bank is a nonmember bank, or (2) a member bank merges or consolidates on or after March 31, 1980, with a nonmember bank that was engaged in business on July 1, 1979, and the surviving bank is a member bank, the bank is required to maintain Federal reserves in the same manner as a member bank on the proportion of deposits attributable to the member bank party to the merger or consolidation. This proportion will be the ratio that daily average required reserves of the absorbed member bank were to the sum of daily average required reserves of the banks during the reserve computation period immediately preceding the date of the merger. The proportion of deposits attributable to a nonmember bank that was engaged in business on July 1, 1979, will be entitled to an eight-year phase-in of reserve requirements. In computing the proportion of required reserves for purposes of allocating deposits, calculations will be made before application of the phase-in provisions of Regulation D. For mergers that occur prior to November 6, 1980, the reserve requirement ratios that were in effect on August 31, 1980 (section 204.8(b)) will be used to compute the proportional allocation. For mergers occurring on or after November 6, 1980, the reserve ratios in effect under the Act (section 204.8(a)) will be used.

The rules concerning proportional allocation of deposits shall also apply to any merger occurring on or after September 1, 1980, that involves depository institutions that are subject to different reserve requirement phase-in provisions under Regulation D (section 204.4(a) through (f)). Where a merger involves institutions that are subject to the same phase-in provision, the surviving institution will continue to have its reserves calculated under such applicable rule. For all mergers, the surviving institution is entitled to a two-year transitional period to phase in its increase in reserve requirements that occurs due to the loss of low reserve tranches of an absorbed institution as a result of the merger or consolidation.

Definition of "Eurocurrency Liabilities"

Technical amendments have been made to the definition of "Eurocurrency liabilities" in Regulation D to clarify the definition with regard to sales of assets by a depository institution in the United States to its overseas offices or by a United States branch or agency of a foreign bank to its related offices abroad. In the case of a depository institution or an Edge or Agreement Corporation organized under the laws of the United States, "Eurocurrency liabilities" include assets held by its non-United States offices or by non-United States offices of an affliated Edge or Agreement Corporation that were acquired from its United States offices only after October 6, 1979. For United States branches and agencies of a foreign bank, such term includes assets held by its foreign bank, by its parent holding company, or by non-United States offices of an affliated Edge or Agreement Corporation that were acquired from the U.S. branch or agency only after October 6, 1979. However, "Eurocurrrency liabilities" of a U.S. branch or agency of a foreign bank does *not* include assets sold by its affiliated Edge or Agreement Corporation to the branch's or agency's foreign bank or its parent holding company.

The Board believes that these modifications will be more equitable to depository institutions and also will alleviate to some extent the burden associated with maintaining required reserves consistent with the needs of monetary policy. Consequently, the Board, for good cause finds that the notice, public procedure, and defferal of effective date provisions of 5 U.S.C. § 553(b) with regard to this action are impracticable and contrary to the public interest.

Effective November 13, 1980, pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), Regulation D (12 CFR Part 204) is amended as follows:

1. In § 204.2, paragraph (h) is amended by revising paragraphs (h)(1), (i)(B) and (h)(1)(ii)(B) to read as follows:

§ 204.2 Definitions.

* * * * *

(h) *"Eurocurrency liabilities"* means the sum of the following:

(1) *Transactions with related offices outside the United States.*

(i) * * *

(B) Assets (including participations) held by its non-United States offices or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired after October 6, 1979, from its United States offices.

(ii) * * *

(B) Assets (including participations) held by its foreign bank (including offices thereof located outside the United States), by its parent holding company, or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired after October 6, 1979, from the United States branch or agency (other than assets required to be sold by Federal or State supervisory authorities).

* * * * *

2. In § 204.3, paragraphs (d) (1) and (3) are revised to read as follows:

§ 204.3 Computation and maintenance.

* * * * *

(d) *Special rule for depository institutions that have total deposits of less than $15 million.* (1) A depository institution with total deposits of less than $15 million shall file a report of deposits once each calendar quarter for a seven-day computation period that begins on the third Thursday of a given month during the calendar qyarter. Each Reserve Bank shall divide the depository institutions in its District that qualify under this paragraph into three substantially equal groups and assign each group a different month to report during each calendar quarter.

* * * * *

(3) A depository institution that has less than $15 million in total deposits as of December 31, 1979, shall qualify under this paragraph until it reports total deposits of $15 million or more for two consecutive calendar quarters.

* * * * *

3. In § 204.4, paragraph (g) is revised to read as follows:

§ 204.4 Transitional adjustments.

* * * * *

(g) *Mergers and consolidations.* The following rules concerning transitional adjustments apply to mergers and consolidations of depository institutions.

(1) Where all depository institutions involved in a merger or consolidation are subject to the same paragraph of the transitional adjustment rules contained in paragraphs (a) through (f) of this section during the reserve computation period immediately preceding the merger, the surviving institution shall continue to compute its transitional adjustment of required reserves under such applicable paragraph, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance [1]	Percentage [2]
1	87.5
2	75.0
3	62.0
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

[1] Periods occurring during quarterly periods following merger.
[2] Applied to difference to compute amount to be subtracted.

(2)(i) Where the depository institutions involved in a merger or consolidation are not subject to the same paragraph of the transitional adjustment rules contained in paragraphs (a) through (f) of this section and such merger or consolidation occurs:

(A) On or after July 1, 1979, between a nonmember bank and a bank that was a member bank on or after July 1, 1979, and the survivor is a nonmember bank;

(B) On or after March 31, 1980, between a member bank and a nonmember bank and the survivor is a member bank; or

(C) On or after September 1, 1980, between any other depository institutions.

the required reserves of the surviving institution shall be computed by allocating its deposits, Eurocurrency liabilities, other reservable claims, balances due from other depository institutions and cash items in process of collection to each depository institution involved in the merger transaction and applying to such amounts the transitional adjustment rule of paragraphs (a) through (f) of this section to which each such depository institution was subject during the reserve computation period immediately prior to the merger or consolidation.

(ii) The deposits of the surviving institution shall be allocated according to the ratio that daily average total required reserves of each depository institution involved in the merger were to the sum of daily average total required reserves of all institutions involved in the merger or consolidation during the reserve computation period immediately preceding the date of the merger.

(A) If the merger occurs before November 6, 1980, such ratio of daily average total required reserves shall be computed using the reserve requirement ratios in section 204.8(b).

(B) If the merger occurs on or after November 6, 1980, such ratio of daily average total required reserves shall be computed using the reserve requirement ratios in section 204.8(a) without regard to the transitional adjustments of this section.

(iii) The low reserve tranche on transaction accounts (section 204.8(a)) shall be allocated to each institution involved in the merger or consolidation using the ratio computed in paragraph (g)(2)(ii) and the reserve requirement tranches on demand deposits (section 204.8(b)) shall be allocated to member bank deposits using such ratio of daily average total required reserves.

(iv) The vault cash of the surviving depository institution also will be allocated to each institution involved in the merger or consolidation according to the ratio that daily average vault cash of each depository institution involved in the merger was to the sum of daily average vault cash of all institutions involved in the merger or consolidation during the reserve computation period immediately preceding the date of the merger.

(v) The amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the

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merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance [1]	Percentage [2]
1	87.5
2	75.0
3	62.0
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

[1] Periods occurring during quarterly periods following merger.
[2] Applied to difference to compute amount to be subtracted.

By order of the Board of Governors, October 29, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-34344 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 217

[Reg. Q; Docket R-0306]

Interest on Deposit; Definitions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendment.

SUMMARY: The Board has adopted technical amendments to certain provisions of its Regulation Q—Interest on Deposits (12 CFR Part 217) to permit member banks to pay interest on time deposits with maturities or required notice periods of 14 days or more beginning October 30, 1980. These amendments implement actions taken by the Board announced on August 15, 1980 (45 FR 56009), reducing the minimum maturity of time deposits to 14 days and by the Depository Institutions Deregulation Committee on September 9, 1980, which adopted a final rule (12 CFR 1204.112), effective October 30, 1980, establishing a ceiling rate of interest payable of 5¼ per cent by member banks on time deposits of under $100,000 with original maturities or required notice periods of 14 to 90 days. This action will enable member banks to offer time deposits with original maturities (or required notice periods) of 14 days or more.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), or John Harry Jorgenson, Attorney (202/452–3778), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On August 15, 1980, the Board announced a revised Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204), implementing the reserve requirement provisions of the Monetary Control Act of 1980 (Title I of Pub. L. 96–221) (45 FR 56009). At that time the Board also shortened the minimum maturity of time deposits from 30 to 14 days for purposes of Regulations D and Q. (As a part of this action the Board also reduced the minimum notice period that may be required for the withdrawal of savings deposits from 30 to 14 days.) The Board believes that a shorter minimum maturity for time deposits would improve the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices. Prior to this action the Board's Regulation Q (12 CFR Part 217) required at least a 30-day maturity or required notice period for a deposit to qualify as a time deposit. (12 CFR 217.1(c) and (d)). In addition, the definition of a savings deposit under Regulation Q required that the deposit contract provide that the bank may require the depositor to give not less than 30 days notice before a withdrawal is made (12 CFR 217.1(e)). The following technical amendment of Regulation Q conforms it to the Board's action of August 15, 1980.

On September 9, 1980, the Depository Institutions Deregulation Committee ("DIDC") adopted a final rule (12 CFR 1204.112 (45 FR 68640)) establishing a ceiling rate of interest of 5¼ per cent payable by member banks on time deposits of under $100,000 with original maturities (or required notice periods) of 14 to 90 days. There will be no ceiling rate for time deposits of $100,000 or more with minimum maturities or notice periods of 14 days or more. Accordingly, the Board's amendment of Regulation Q also conforms it to the action adopted by the DIDC in establishing an interest rate ceiling on such deposits (12 CFR 1204.112).

These amendments have been adopted to implement the Board's action of August 15, 1980 to permit member banks to offer time deposits with maturities of 14 days or more. Public comment was solicited on this proposal on June 4, 1980 (45 FR 38388). The Board finds that the deferral of effective date provisions of 5 U.S.C. 553(b) to this action are unnecessary because this action relieves a regulatory restriction. Effective October 30, 1980, pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*), to define the term deposit Regulation Q (12 CFR Part 217) is amended as follows:

1. Sections 217.1(c)(1), (2) and (3), (d) and (e)(2); 217.5(c)(2); 217.7(b) and (h) of Regulation Q and footnotes 1, 2 and 3 (12 CFR 217.1(c)(1), (2) and (3), (d), (e)(2); 217.5(c)(2); 217.7(b) and (h)) are amended by striking "30" and inserting "14".

By order of the Board of Governors of the Federal Reserve System, October 29, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-34343 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Liquidity Reserves

AGENCY: National Credit Union Administration.

SUMMARY: The purpose of this rule is to amend § 742.2, Definitions, of the Liquidity Reserve Regulation to bring it into conformance with Section 19(c)(2) of the Federal Reserve Act (as amended by Section 104(a) of the Monetary Control Act of 1980, Title I of Public Law 96–221).

EFFECTIVE DATE: November 3, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Thomas A. Straslicka, Chief, Examination Section, Office of Examination and Insurance or Robert M. Fenner, Assistant General Counsel at the above address. Telephone: (202–357–1065) Mr. Straslicka, (202–357–1030) Mr. Fenner.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 mandates that any reserve balances maintained pursuant to that Act in a Federal Reserve District Bank may be used to satisfy any Federal or State liquidity requirements. The National Credit Union Administration is amending its liquidity reserve regulation accordingly.

The National Credit Union Administration Board (the Board) finds that notice and public comment procedure under 5 U.S.C. Section 553(b) are unnecessary, inasmuch as this amendment to the National Credit Union Administration Rules and Regulations is mandated by statute. Section 104(c)(2) of the Monetary Control Act states that "The balances maintained to meet the reserve requirements of [the Act] by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State Law."

Also, the Board has decided to make the rule effective immediately, suspending the 30-day notice period specified in 5 U.S.C. 553(d) for the reasons stated above. Similarly, the procedures set forth in the National Credit Union Administration's Final Report on Implementation of Executive Order 12044 were not followed. The official responsible for that determination is Robert M. Fenner, Assistant General Counsel.

Accordingly, the Board amends Part 742 of the NCUA Rules and Regulations (12 CFR Part 742) as set forth below.

Rosemary Brady,

Secretary of the Board.

October 28, 1980.

(Sec. 116 (12 U.S.C. 1762), Section 120 (12 U.S.C. 1766) and Section 209 (12 U.S.C. 1789))

Section 742.2(a) is amended by adding the following paragraph (7):

§742.2 [Amended]

(a) * * *

(7) Balances maintained by Federally insured credit unions in a Federal Reserve bank, or in a pass-through account to a Federal Reserve bank, pursuant to the requirements of Section 19(b) of the Federal Reserve Act (2 U.S.C. 461(b)).

* * * * * *

[FR Doc. 80-34383 Filed 11-3-80; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107]

[Amendment 21]

Small Business Investment Companies: Definition of "Associate of a Licensee" and Limited Partnership SBICs

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts and combines, with certain changes, two proposed rules that had been separately published on March 7, 1980 (45 FR 14868) and July 22, 1980 (45 FR 48916). This final rule excludes from the definition of "Associate of a Licensee" persons serving a Licensee in the capacity of attorneys at law unless they are on retainer. It also excludes from the definition of "Associate of a Licensee" persons whose only relationship to another Associate is that of a limited partner. Individuals will be permitted to serve as general partners of Unincorporated Licensees in addition to, or instead of, corporations. Paragraph (h) of the definition of "Associate of a Licensee" is amended to reflect the fact that Pub. L. 95–507 makes possible the licensing of Unincorporated Section 301(d) Licensees. Paragraph (c) of § 107.813 is amended to eliminate an apparent but legally ineffective inconsistency with Pub. L. 95–507. Finally, §§ 107.103 and 107.1103 are amended to reflect the fact that Unincorporated Licensees may have individual general partners.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. McNeish, Acting Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6848.

SUPPLEMENTARY INFORMATION: Paragraph (a) of the definition of "Associate of a Licensee" now expressly includes an employee of a Licensee. This does not represent a substantive change in the status of employees of a Licensee since they had previously been considered persons controlled by a Licensee within the meaning of paragraph (d) of the definition.

Paragraph (a) of the definition of "Associate of a Licensee" is amended to include explicitly any Control Person (which term is hereafter defined and explained) of an Unincorporated (Limited Partnership) Licensee; and any Person serving as Investment Adviser or Manager of, or with respect to, a Licensee under contract with a Control Person of the Licensee. In this latter case, although an Investment Adviser or Manager may have no direct contractual relationship with the Licensee, yet there is a direct practical relationship and, accordingly, such a Person is considered the Investment Adviser/Manager of the Licensee and an Associate thereof.

Paragraph (a) is further amended to include only a person regularly serving the Licensee on retainer in the capacity of attorney at law. Even though an attorney at law may regularly provide legal advice and other services to the Licensee, it is more appropriate to view such an attorney as an outside contractor rather than as an "insider" of the Licensee unless the attorney is under retainer to provide legal services to the Licensee.

Paragraph (c) of the definition of "Associate of a Licensee" is amended to eliminate from the definition certain persons who generally have no direct relationship with the Licensee, but who have a relationship with other Associates. The persons affected are those whose only relationship with an Associate is that of a limited partner. For example, if A is the president of the Licensee and a partner in the partnership of A and B, B would have been considered an Associate of the Licensee solely by reason of his or her relationship with A. As a result of this amendment, B will no longer be considered an Associate if his or her relationship with A is only that of a limited partner or fellow limited partner. If A and B are both general partners, B remains an Associate of the Licensee.

It is important to note that B remains an "Associate of the Licensee" by reason of paragraph (b) of the definition if he or she owns as much as 10 percent of the Licensee's partnership capital, even though his or her relationship to the Licensee is ostensibly only that of a limited partner. Experience has shown that a person who controls a significant percentage of a partnership's capital can influence the operations of the partnership, even though he or she may be technically only a limited partner. This broad definition is necessary to prevent dereliction of duty by persons who control the business of a Limited Partnership Licensee as a matter of fact, although they are not technically general partners.

A new definition, that of "Control Person" is added to § 107.3. Generally speaking, a "Control Person" is one who controls a Limited Partnership SBIC, whether as a general partner, or by virtue of being an officer, director, or stockholder of a corporate general partner, even though such person may not be a general partner under local law. A "Control Person" is an "Associate of a Licensee," as is any Investment Adviser/Manager who contracts with a Control Person of a Licensee to serve as Investment Adviser/Manager of, or with respect to, the Licensee.

The regulation specifically covering Limited Partnership SBIC's, § 107.4, has been amended to permit individual general partners. Only a limited partnership or the legal equivalent under the law of any Territory or possession of the United States can be an Unincorporated Licensee. SBA has determined that a partnership *in commendam* is a limited partnership for the purposes of the Small Business Investment Act.

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Two comments received by SBA requested that partnerships be permitted to serve as general partners of a Licensee. SBA agrees that it would be in the furtherance of the objectives underlying the change in the regulations to permit the general partners of a Licensee to enter into a general partnership agreement among themselves; but it should be understood that the general partners of a partnership that serves as a general partner of a Limited Partnership SBIC will, for all purposes, be considered by SBA to be general partners of the Licensee. Indeed, they are so defined in clause (1) of the definition of "Control Person" as set forth in § 107.4.

SBA will ignore any separate partnership relationship inter sese between or among the general partners of the Licensee and treat the general partners of the separate partnership as general partners of the Licensee. Consequently, since a corporate general partner of a Licensee must be one formed solely to serve as general partner of a Licensee, a separate partnership serving as a Licensee's general partner, that includes a corporation as a general partner, is effectively prevented from engaging in any business other than the management of the Licensee. No such restriction binds individual general partners of a Licensee.

Moreover, by ignoring separate partnership relationships between or among the general partners of a Licensee, the objective of administrative convenience is served insofar as it becomes unnecessary for SBA to draft regulations dealing separately with matters such as the Associate status of a general partner of a Limited Partnership SBIC.

As amended, § 107.4(b)(1) allows a Limited Partnership SBIC to have individual general partners in addition to, or instead of, the sole corporate general partner already permitted. If a Licensee does not have a corporate general partner, it must have at least two individual general partners at all times. Since the number of individual general partners may be reduced by such events as death or disability, the proposed regulation allows a Licensee a 60-day grace period during which it may function with only one individual general partner pending the appointment of new general partners and SBA's approval thereof. The requirement of at least two individual general partners is imposed to insure the continuity of the partnership's operation if one partner should become unable to manage the business and to insure that the partnership's property will be safeguarded by a "dual signature" restriction on the writing of checks and the withdrawal of securities, as contemplated by § 107.1103.

Applicants should be aware that there has been no change in the attitude of the Internal Revenue Service with respect to the partnership status (for tax purposes) of limited partnerships that have only a corporate general partner.

As amended, § 107.4(b)(2) applies only to corporate general partners. This amendment makes no change in the restrictions and obligations heretofore imposed on corporate general partners. It should be understood that a corporate general partner is for many purposes considered to be the Licensee, particularly with respect to any changes in its officers, directors, and stockholders; any change of control over a corporate general partner is, in effect, a change of control over the Licensee.

As amended, § 107.4(b)(3) is almost self explanatory. The requirement that the partnership have a duration of not less than 30 years is mandated by the language of Section 301(a) of the Act. The requirement that no general partner be subject to removal or replacement by the limited partners without SBA's prior written consent is intended to insure, first, that the general partners are not mere figureheads and, second, that any transfer of control over a Limited Partnership Licensee shall be subject to the same restrictions that SBA presently imposes on corporate Licenses.

Although § 107.4(c) is captioned "Obligations of a Control Person," the text of the regulation draws distinctions between those restrictions and obligations applicable to all Control Persons, and those applicable only to general partners. Restrictions and obligations applicable only to corporate general partners are set forth in paragraph (b)(2) for ease of reference, but any reference in § 107.4(c) to "all Control Persons" or "general partners" covers corporate general partners as well. All Control Persons are subject to the disciplinary provisions of sections 313 and 314 of the Act and are, by definition, "Associates of a Licensee" for all purposes, particularly including self-dealing under § 107.1004; and any Control Person commits an act of default on the Licensee's behalf by violating § 107.203(b)(4). All general partners are responsible for their Licensee's compliance with SBA regulations and the insolvency of any general partner constitutes an act of default on the Licensee's part. Only corporate general partners are required to keep records in the form prescribed by SBA and to make them available for routine examination.

As amended, § 107.103 is self-explanatory. The regulation extends to the Control Persons of a Limited Partnership SBIC the same disclosure requirements that presently apply to the officers, directors, and persons owning or controlling, directly or indirectly, 10 percent or more of the stock of a corporate SBIC.

As amended, § 107.1103 clarifies the "dual control" requirement as it applies to Limited Partnership SBICs.

The amendment of § 107.813(c) is of a technical, editorial nature. Pub. L. 95–507 raised the statutory minimum capitalization for a Licensee from $150,000 to $500,000 effective October 1, 1979.

Accordingly, pursuant to the authority of section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 687, Part 107 of Chapter I, Title 13 of the Code of Federal Regulations is amended to read as follows:

1. Paragraphs (a), (b), (c) and (h) of the definition of "Associate of a Licensee," as set forth in § 107.3 are amended to read as follows:

§ 107.3 Definition of terms.

* * * * *

Associate of a Licensee. "Associate of a Licensee" means:

(a)(1) An officer, director, employee or agent of a corporate Licensee; (2) a Control Person, employee or agent of an Unincorporated Licensee; (3) a manager or Investment Adviser of any Licensee, which terms (manager or Investment Adviser) include any Person contracting with a Control Person of an Unincorporated Licensee to serve as manager or Investment Adviser to such Licensee, or (4) any person regularly serving a Licensee on retainer in the capacity of attorney at law; or

(b) Any Person owning or controlling, directly or indirectly, ten percent or more of any class of stock of a corporate Licensee or of the partnership capital of an Unincorporated Licensee;

(c) Any officer, director, partner, manager, or employee of any associate described in paragraphs (a) or (b): *Provided, however,* that subject to (b) above, a Person with no other relationship to any Associate described in paragraphs (a) or (b) but that of a limited partner shall not be considered an Associate of such Associate.

* * * * *

(h) A section 301(d) Licensee and a participant Licensee owning stock thereof, or securities evidencing a contribution to the partnership capital thereof, pursuant to § 107.813 as well as Associates of such section 301(d) Licensee and such participant Licensee shall be deemed Associates of each other.

2. Section 107.3 is amended to add the following definition at the alphabetically appropriate place:

§ 107.3 Definition of terms.

* * * * *

Control Person. "Control Person" means (1) a general partner of an Unincorporated Licensee, including all general partners of a partnership serving as general partner of an Unincorporated Licensee; (2) any officer, director, agent or employee of a corporate general partner of an Unincorporated Licensee, including any corporation that is a general partner in a partnership serving as general partner of an Unincorporated Licensee; and (3) any Person owning 10 percent or more of the stock of a corporate general partner of an Unincorporated Licensee.

3. Sections 107.4 (b) and (c) are amended to read as follows:

§ 107.4 Limited Partnership SBICs.

* * * * *

(b) *Application.* The following requirements shall apply to an application submitted by or on behalf of a limited partnership:

(1) *Number of General Partners.* Unless the applicant has a corporate general partner, it shall not have fewer than two individual general partners initially and thereafter for not more than sixty days at any one time. Some or all of the general partners may be members of a separate partnership that serve as a general partner of such Licensee; but all general partners of such separate partnership shall be considered for all purposes to be general partners of the Unincorporated Licensee. A limited partnership may not serve as a general partner of an Unicorporated Licensee.

(2) *Corporate General Partner.* A corporate general partner shall be organized under State law solely for service as such and its Articles (which shall accompany the License Application) shall specify that no person shall serve as an officer or director without SBA's approval. No corporate general partner may serve as such for any other Licensee. The corporate capital of such general partner which is not invested in the Unincorporated Licensee shall be invested only as permitted by the last sentence of section 308(b) of the Act, pursuant to § 107.808, or in accordance with § 107.1004(c), or any of them. A corporate general partner is subject to the same examination and reporting requirements as a Licensee under section 310(b). The restrictions and obligations imposed upon a Licensee by §§ 107.203(b)(2) and (3)(iii) and by §§ 107.701, 107.703, 107.801, 107.802, 107.803, 107.806, 107.809, 107.901, 107.902, 107.903, 107.1101, 107.1102 and 107.1105 apply also to a corporate general partner of a Licensee.

(3) Articles of Partnership. The Articles shal be transmitted to SBA with the application and shall provide that (i) the partnership shall have a duration of not less than thirty years unless sooner dissolved by the partners; (ii) no general partner may be removed or replaced by the limited partners without prior written approval of SBA; and (iii) any transferee of, or successor in interest to, a general partner shall have only the rights and liabilities of a limited partner pending SBA's written approval of such transfer of succession.

(c) *Obligations of a Control Person.* All control persons are bound by the disciplinary provision of sections 313 and 314 of the Act and by the conflict-of-interest rules under section 312 of the Act. The term "Licensee," as used in §§ 107.702, 107.801, and 107.1105 includes a Control Person of a Licensee. The term "Licensee" as used in § 107.1203 includes only a general partner. The events of default specified in §§ 107.203(b)(1)(ii), (iii) and (iv) and in § 107.203(b)(2) shall apply to all general partners; the events of default specified in § 107.203(b)(4) shall apply to all Control Persons. The events of default enumerated in the preceding sentence shall be deemed to have been agreed to by the Unincorporated Licensee.

§ 107.4 [Amended]

4. Section 107.4 is further amended by the deletion of paragraph (d) thereof and the redesignation of present paragraphs (e) and (f) as (d) and (e), respectively of the amended regulation.

5. Section 107.103 is amended to read as follows:

§ 107.103 Public notice.

SBA shall publish notice of the license application in the **Federal Register**. It shall include such appropriate information as the name and location of the proposed Corporate Licensee, its areas of operation, the names and addresses of its officers, directors, and owners of or persons controlling 10 or more percent of its voting stock; and in the case of an Unincorporated Licensee, its name, location, and areas of operations, and the names and addresses of its Control Persons. If any Control Person is a corporation, the notice shall set forth the names and addresses of any officers, directors, and owners of, or persons controlling 10 percent or more of the stock of such corporate general partner. In the case of an Unincorporated Licensee, the notice shall also include the name and address of each owner of 10 percent or more of the Licensee's Private Capital. The public shall be afforded reasonable opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed area of operation, and shall furnish a certified copy to SBA within 10 days of the date of publication.

6. Section 107.1103(b) is amended to read as follows:

§ 107.1103 Internal control.

* * * * *

(b) *Dual control.* Licensees shall maintain dual control over disbursements of funds and withdrawal of securities. Disbursements shall be made only by checks requiring two or more signatures. In the case of a Corporate Licensee, the signature of two or more officers shall be required. In the case of an Unincorporated Licensee, checks shall require the signature of two or more general partners, or two or more officers of a corporate general partner. Notwithstanding the foregoing requirement, checks in the amount of $1,000 or less may be signed by one officer of a Corporate Licensee by one general partner of a Licensee. Two or more officers of a corporate Licensee, or one officer and one employee shall be required to open safe deposit boxes or withdraw securities from safekeeping. Two or more General Partners, or two or more officers, or one officer and one employee of a Corporate General Partner shall be required to open safe deposit boxes or withdraw securities from safekeeping: *Provided, however,* That an employee of the Licensee may be substituted for any of the persons described in this sentence. Licensees shall furnish to each depository bank and custodian a certified copy of its resolution or other formal act implementing the foregoing control procedures.

§ 107.813 [Amended]

7. Section 107.813(c) is amended by deleting "$150,000" in the phrase "the statutory minimum capital of $150,000" and substituting "$500,000."

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: October 27, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-34404 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 108

[Amendment 11]

Loans to State and Local Development Companies; Interest Rates for State Development Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The regulation, as revised, removes the interest rate ceiling of 8 percent on Section 501 loans to state development companies and establishes a rate structure that is consistent with SBA's other loan programs, and realistically reflects the cost of money as established by the U.S. Treasury. SBA's proposed rule was published May 13, 1980, and provided for a 60 day comment period. This final rule takes into consideration the responses to the proposed rule.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Alan B. Abraham, Financial Analyst, Neighborhood Business Revitalization, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6470.

SUPPLEMENTARY INFORMATION: SBA received only two (2) written comments to its proposed rule. One comment supported the change, the other opposed it due to the added cost to state development companies. These comments have been taken into consideration. However, we fell this change is appropriate in that it realistically reflects the changed economic conditions since the 8 percent ceiling for Section 501 loans was originally established in 1969, and provides for flexibility in the future.

Pursuant to authority contained in Section 308(c) of the Small Business Investment Act of 1958 (SBI ACT), 15 U.S.C. 687, it is proposed to amend Part 108 of Title 13, CFR, as follows (108.501–1 (f)).

§ 108.501–1 [Amended]

Paragraph (f) is amended to read as follows:

* * * * *

(f) Interest Rate. The rate of interest of Section 501 loans to state development corporations shall be a rate determined annually by the Administrator consistent with the rate set for business loans, 15 USC s 636(a).

(Catalog of Domestic Assistance Programs No. 59.013 State and Local Development Company Loans)

Dated: October 29, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-34403 Filed 11-03-80; 8:45 am]

BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 204

[Reg. ER-1202; Amdt. No. 2 to Part 204]

Data To Support Fitness Determinations

AGENCY: Civil Aeronautics Board.

ACTION: Interpretative amendment.

SUMMARY: The CAB is amending its fitness data requirements (Part 204) for commuters to exclude Alaskan mail carriers that are not engaged in scheduled passenger service or designated as essential air service carriers. This rulemaking is at the Board's own initiative.

DATES: Adopted: October 29, 1980. Effective: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5088.

SUPPLEMENTARY INFORMATION: The CAB, by ER–1180, 45 FR 42593, June 25, 1980, imposed on passenger air carriers new data submission requirements for fitness determinations (14 CFR Part 204). In addition to other carriers, Part 204 applies to all commuter air carriers (1) engaged in scheduled passenger service at an eligible point on either an essential and non-essential air service basis, and (2) engaged in the transportation of mail in Alaska. Our intent in including Alaska mail carriers in the fitness rule was to make it clear that all air taxis and commuters operating in Alaska had to be found fit if they were providing scheduled passenger service, or if they were designated by the Board as an "essential air service carrier" under section 419 of the Federal Aviation Act carrying either passengers or mail. Alaska is the only State in which essential air service includes mail as well as passenger operations.

Several Alaskan carriers carry mail exclusively but have not been designated essential air service carriers under section 419 of the Act. As it is now written, § 204.2(d)(2) would be construed to include these carriers. We did not intend that the fitness rule should apply to carriers not engaged in scheduled passenger service or essential air service for mail or passengers. We are therefore eliminating Alaskan mail carriers from the definition of "commuter air carrier".

Since this amendment is interpretative in nature and removes a restriction, we find that notice and comment are unnecessary, and that good cause exists for an immediate effective date.

Accordingly, the Board amends 14 CFR Part 204, *Data to Support Fitness Determinations*, as follows:

Authority citation [Amended]

1. The authority citation for Part 204 is:

Authority: Secs. 204, 401, 407, 419 of Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766; 92 Stat. 1732; (49 USC 1324, 1371, 1377 and 1389).

2. In § 204.2 paragraph (d) is revised to read:

§ 204.2 Definitions.

* * * * *

(d) "Commuter air carrier" means an air taxi operator which engages in the transportation of passengers and which performs at least five round trips per week between two or more points and publishes flight schedules which specify the times, days of the week and places between which the flights are performed.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34372 Filed 11-3-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 323

[Procedural Regs. Amdt. No. 3 to Part 323 Docket: 38197; Reg. PR–225]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB makes technical changes to its rule governing the notice airlines must file if they want to terminate, suspend, or reduce service at a point. This action is taken in response to a petition from Delta Air Lines.

DATES: Adopted: October 29, 1980. Effective: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5408.

SUPPLEMENTARY INFORMATION: 14 CFR Part 323 requires airlines to notify the Board and the community involved prior to terminating, suspending, or reducing service. Delta Air Lines filed a petition for rulemaking seeking several changes in the way the Board handles notices under that part. Answers in support of the petition were submitted by Ozark Air Lines, Braniff Airways, Eastern Air Lines, Republic Airlines, United Airlines, and USAir. These airlines sought to limit the circumstances when termination notices must be filed and to reduce the contents of those notices and the number of people who must be served with them. The focus of their concern was the burden of the 60-day notices required by section 401(j)(2) of the Act, which a carrier must file whenever it wants to terminate the last nonstop or single-plane service in a market.

The petitioner's primary request was that airlines terminating single-plane service be exempted from the 60-day notice filing requirement when the flight being terminated stopped at a "connecting hub" and the service from the two points affected to that hub would not be "changed substantially." It defined a connecting hub as an FAA-designated medium or large hub that is used by the carrier "as a connecting complex for flights from a number of cities by scheduling those flights to arrive at the connecting hub within a short span of time, permitting passengers to make connections and depart again within a short span of time." The petitioner did not define what qualified as a "short span of time" nor did it elaborate on how the Board was to judge whether service from the two points to the connecting hub would be "changed substantially." Delta portrayed such an exemption as a way to reduce carrier costs and the Board's administrative burden and a benefit to carriers that operate hub-and-spoke systems. It also pointed out that an exemption here would eliminate needless civic concern over schedule changes of little overall impact to the community. It considered the impact to be small because single-plane service stopping at a medium or large hub does not, in its view, affect a substantial number of passengers, and because it considered connecting service at these hubs to be more useful than the single-plane service being terminated.

In their answers, USAir and Ozark added that carriers should also not be required to file 60-day notices when they are suspending single-plane service that has two or more stops or suspending non-stop or single-plane service that is not essential air service.

The Board has decided not to amend Part 323 to further limit the circumstances when 60-day notices must be filed. We have already exempted carriers from the filing requirements of that part when the service to be discontinued is operated less than 4 days per week or with three or more stops (§ 323.8). To go further would risk undermining the statutory scheme. Section 401(j)(2) does not contemplate connecting service as an equivalent for non-stop or single-plane service. Neither is it meant to apply only when essential air service is affected, as Ozark suggested. Terminations that affect essential air service are governed by section 401(j)(1).

We do not consider Delta's suggestion to be a step toward easing the problems of compliance with Part 323. It would require subjective judgments about the degree to which service has changed and the quality of the connecting opportunities available. This would generate disputes between the parties as to when notices must be filed.

Delta and Braniff argued for the elimination of several items that now must be included in termination and suspension notices. These were: the list of other carriers serving the point (§ 323.4(a)(3)), the addresses of all parties served with the notice (§ 323.3(a)(7)), the statement in the 60-day notice whether the filing carrier is a certificated carrier (§ 323.4(a)(2) and (b)), and the statement in the 60-day notice whether there will be any nonstop or single-plane service left in the market (§ 323.4(a)(4)(iii) and (b)). They viewed these requirements as serving only to add unnecessary detail to the notices.

Several airlines also asked that the service requirements for these notices be reduced. Delta and Braniff stated that termination notices should not have to be served on all carriers at all points where service is to be suspended. In Delta's view, only carriers serving the smaller of the two communities need be served. United suggested that only carriers serving small hubs or non-hubs affected by a notice need be served with it. USAir disagreed and favored the current rule, because it found this service requirement to be a simple means of learning about discontinued flights of other carriers and available market opportunities.

In addition, Braniff suggested that termination notices need not be filed on the U.S. Postal Service or the field offices of the Board's Office of Community and Congressional Relations (OCCR). Ozark stated that carriers should be required to serve these notices on commuters only where the suspension will affect essential air service at a point. Delta asked that the requirement that the notice be served on the civic parties by registered or certified mail be eliminated. It considered this requirement to be unnecessary and expensive.

We are mindful of the effect of the requirements of Part 323 on carrier operations. We have therefore reviewed the requirements questioned by the petitioner and its supporters and modified or eliminated those that do not appear to be necessary. Nevertheless, we consider the remainder to be important in ensuring that the parties affected by service cutbacks are aware of the situation and have the information needed to respond. The parties affected include not only the communities concerned but also other carriers and government agencies involved. For that reason, we reaffirm the requirement that suspension notices be served on the Postal Service and the OCCR field office. We will also continue to require service on other carriers, both certificated and commuter carriers, but will adopt United's suggestion that this requirement be limited to those serving a small hub or non-hub that is affected by the notice. Designation of non-hubs and small hubs is based on FAA statistics on average annual enplanements. In most cases, this will also have the effect of eliminating the need for an air carrier that is suspending service to a foreign point to serve any other carrier. Service on the community and the U.S. Secretary of State would, however, still be required.

We are also retaining the provision that service on civic parties be by registered or certified mail. Since failure to object in time may cost a community its opportunity to stop the proposed service reduction, there must be absolute certainty that notices have reached *all* interested parties.

We are amending § 323.4 to make two technical changes that were suggested. The requirement that a carrier state in a 60-day notice whether it is certificated is being eliminated, since 60-day notices are filed only by certificated carriers. We are also dropping the requirement in § 323.4(a)(7) that carriers list the addresses of other carriers served with the notice. The addresses of the civic parties would, however, still have to be included by the carrier on its service list. Although the airport manager and local governmental units at a community will typically be aware of each others' addresses, they may not know where to contact their counterparts at the other point affected by the notice. The carrier serving both these points is in the best position to know, and it may be helpful to the civic parties for it to supply that information.

We are not granting the request to eliminate from the notice the list of other

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carriers serving the point. This list aids the communities in securing replacement service by informing them which carriers are most readily available to fill the service gap. We will also continue to require carriers to state in their 60-day notice whether the route will be left without nonstop or single-plane service. There are some cases where the last nonstop service is being suspended while single-plane services remain. We view the continuation of this statement as helpful to some parties.

All of the petitioner's requests that were not specifically granted here are denied. Most of the changes it and its supporters sought involved the 60-day notices. These will be eliminated at the end of 1981, little more than a year from now. Until that time, we find that the information these notices provide to us and the communities should be retained.

Since this rule is procedural in nature and relieves restrictions, the Board finds that notice and public procedure thereon are unnecessary and that it may take effect immediately.

Accordingly, the Board amends 14 CFR Part 323, *Terminations, Suspensions, and Reductions of Service*, as follows:

PART 323—TERMINATIONS, SUSPENSIONS, AND REDUCTIONS OF SERVICE

Authority Citation [Amended]

1. The authority citation for Part 323 reads as follows:

Authority: Secs. 204, 401, 416, 419 of Pub. L. 85–726, as amended, 72 Stat. 743, 92 Stat. 1710, 1731, 1732, (49 U.S.C. 1324, 1371, 1386, 1389).

2. In § 323.4, paragraph (a)(7) and (b) are revised to read:

§ 323.4 Contents of notice.

(a) * * *

(7) Proof of service upon all persons specified in § 323.7(a). The proof of service shall include the names of all carriers served and the names and addresses of all other persons served.

(b) The notice required under § 323.3(b) shall contain, for each of the directly affected points, the information specified in paragraph (a) of this section except that the statement whether the filing carrier is a certificated or an uncertificated carrier need not be submitted.

* * * * *

3. In § 323.7, paragraphs (a)(6) and (b)(5) are revised to read:

§ 323.7 Service of notices.

(a) * * *

(6) Each air carrier providing scheduled service to a non-hub or FAA-designated small hub that is directly affected by the notice.

* * * * *

(b) * * *

(5) Each air carrier providing scheduled air transportation at any non-hub or FAA-designated small hub that is directly affected by the notice.

* * * * *

4. Section 323.9(b)(7) is revised to read:

§ 323.9 Objections to notices.

* * * * *

(b) * * *

(7) Proof of service on the carrier filing the notice objected to, on all airport managers and State and local governments on whom the notice was filed, and any other person designated by the Board. The proof of service shall include the names of all carriers served and the names and addresses of all other persons served.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34373 Filed 11-3-80; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Use of Small Self-Contained Payloads

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule establishes conditions of use, reimbursement procedures, and flight scheduling mechanisms for small self-contained payloads (SSCP) flown on NASA's Space Transportation System (STS). The rule is needed to ensure equitable allocation of space in the SSCP program to three groups of users—educational, commercial and governmental.

EFFECTIVE DATE: November 4, 1980.

ADDRESS: Office of Space Transportation Operations, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Donna Miller, Telephone 202–755–2427.

SUPPLEMENTARY INFORMATION: On December 21, 1979, a document was published in the **Federal Register** (44 FR 75656–75659) proposing rules concerning the use of small self-contained payloads (SSCP's). Interested persons were given until February 19, 1980, to submit written comments, suggestions, or objections. In addition, two presentations were given by NASA to prospective users, from which further comments were noted.

Full and careful consideration was given to all comments received. In view of these comments, a number of substantive and editorial changes have been made in the proposed rules. A second comment period is not provided and this rule is the final rule.

The greatest number of comments concerned the price for standard services. The initial policy governing the SSCP program (Subpart 1214.1) established a maximum price for standard services of $10,000 in 1975 dollars. The price cited in the proposed rule, while consistent with the original statement, reflected a significant increase in real-year dollar amount. Furthermore, an additional price increment was proposed for flights of 7 or more days' duration. NASA agrees with the commenters that the proposed pricing rule could have a significant adverse impact on small experimenters. Accordingly, § 1214.904(b)(2) has been modified so that the maximum price for standard services in the first three full fiscal years of STS operation is now fixed at $10,000 in real-year dollars and the additional premium for longer duration flights has been deleted.

The availability of certain optional services concerned several commenters. Since the proposed rule was silent on specific services, the availability of deployment from the Shuttle, openable lids and/or windows on the container, or last-minute access to the experiment were identified as crucial for some users. While NASA recognizes that these are legitimate needs for some types of experiments, it must also consider the nature of the SSCP program and its relation to the safe and efficient operation of the Space Transportation System. Responding in part to comments, NASA has added § 1214.912 under which NASA is to develop and make available, at some future date, openable lids and optical windows for SSCP's. It is possible, at some later date, that NASA may provide last-minute access and a deployment capability. Such activities will not, however, be undertaken before substantial flight operating experience is obtained, and potential users should not plan experiments requiring these services until futher notice. Potential users of the openable lid or the optical windows are advised that the use of these optional services may involve substantial efforts

on the part of NASA at a price which may range up to many times the price for standard services. Further, use of these services may place much more severe restrictions on package design (e.g., safety, electromagnetic radiation, outgassing of materials) and on the availability of flights compatible with the user's need.

The proposed rule identified three classes of users (educational, commercial, and U.S. Government) and included a rotation sequence among these classes for scheduling purposes. Some commenters objected to the rotation sequence on the basis of conflict with the first-come, first-served implication in earlier discussions. NASA does not concur with this objection since the rotation sequence will assure access by diverse groups of users and is consistent with the intent of the SSCP program. The class designations and rotation sequence are retained (§ 1214.905(h)).

To prevent any particular user from reserving a substantial block of consecutive flight assignments to the detriment of others within a given class, the proposed rule contained a provision restricting such flight scheduling to one assignment in eleven (all classes combined) (§ 1214.905(i)(3)). Commenters suggested that this restriction could impose additional travel costs for some users and suggested the deletion of this provision. In NASA's opinion, the rationale of the one-in-eleven rule is valid; however, to lessen the impact on travel expenses for users, the rule has been modified (§ 1214.905(j)(2)) to permit two flight assignments for a given user in a given class in each block of 20 assignments. Although each payload must still satisfy the class rotation sequence for its tentative flight assignment, the rule now permits the user to specify that two payloads be flown on the same flight as a dual payload (§ 1214.905(d)(3)). If the user so specifies, NASA will fly the two payloads together, although this additional requirement may result in scheduling delays. No interconnection between the two payloads is permitted and NASA does not guarantee that they will be located close to each other in the Shuttle cargo bay. If the dual requirement is not specified, but two of a user's payloads are adjacent in the flight assignment queue, the payloads may still be assigned to a single flight but NASA has no obligation to assure that this happens.

Some commenters objected to the inclusion of U.S. Government users in the class rotation sequence of § 1214.905(h), pointing out that these users enjoy an unfair advantage over others who submitted earnest money payments at an earlier date. NASA disagrees, since U.S. Government users were not included in earlier proposals concerning the SSCP program and were therefore precluded from submitting letters of intent at that time. The rule is therefore not modified.

Several commenters were of the opinion that the proposed reimbursement schedule of § 1214.904(b) in the proposed rule required too much money at the signing of the launch services agreement. NASA concedes that the proposed schedule could be a hardship for the users whose payloads will not be ready for flight for several years. Consequently, the payment schedule has been revised substantially. Similarly, comments were received which pointed out the difficulty of providing certain payload information at the time of signing of the launch services agreement as required by § 1214.905(e). To alleviate this problem, NASA will require only a minimum of pertinent payload data at the time of signing. If the user so desires, the submission of the remaining information can now be deferred to 18 months before the user's earliest acceptable launch date. However, to assure prompt and reasonable action on the part of the user, a schedule for defining payload information has been established in § 1214.905(d), and failure to meet this schedule has been defined to be a postponement in § 1214.904(c)(1). Similarly, to protect NASA from protracted and unproductive negotiations in regard to the deferred information, § 1214.905(e) has been added. NASA may terminate further negotiation if, in NASA's opinion and after reasonable negotiation, the deferred payload information is still unacceptable and is likely to remain so. Such an event will be treated at a cancellation by the user and the cancellation fee of § 1214.904(d) shall be levied.

With regard to the reflight guarantee contained in § 1214.907 of the proposed rule, two objections were expressed by several commenters. The first objection took issue with the attainment of mission orbit as the sole criterion of a successful flight, while the second objection was voiced over the implication of only one reflight regardless of cause. With respect to the first of these objections, the rule remains unchanged to be consistent with the attached-payload provisions of § 1214.103(a)(2). On the other point, NASA agrees that the single reflight provision similar to that of § 1214.103(a) may be inappropriate for SSCP users because there is no provision for the user to purchase reflight insurance. Thus, in the unlikely event of consecutive unsuccessful launch attempts, the user would be completely removed from the flight assignment queue and would be forced to reenter the program at a very substantial time penalty in addition to monetary loss. Accordingly, the number of reflight attempts is not limited in the final rule.

A number of commenters desired expansion of this program in one form or another, e.g., lifting certain restrictions on use, or providing expanded standard and/or optional services, or providing more user control of scheduling. NASA rejects these suggestions on the grounds of incompatibility with the essence of the program, which is to provide low-cost access to space for scientific endeavors.

Changes were made in § 1214.905(b)(2) and § 1214.910, respectively, to clarify scheduling procedures and to provide for users who submitted letters of intent rather than paid earnest money.

Responding to commenter's concerns, NASA has modified § 1214.904(c)(1)(i) and § 1214.905(b)(4) to protect the user against undue administrative delay on the part of NASA in the contracting process, but these provisions are not intended to protect the user from delays caused by the parties' inability to agree to contract terms and conditions.

PART 1214—SPACE TRANSPORTATION SYSTEM

1. 14 CFR Part 1214 is amended by adding a new Subpart 1214.9 reading as follows:

Subpart 1214.9—Use of Small Self-Contained Payloads

Sec.

1214.900 Scope.
1214.901 Relation to Subparts 1214.1 and 1214.2.
1214.902 Definitions.
1214.903 Conditions of use.
1214.904 Reimbursement policy.
1214.905 Flight scheduling.
1214.906 Transfer of ownership, apportionment and assignment of services.
1214.907 Reflight guarantee.
1214.908 Patent and data rights.
1214.909 Damage to payloads.
1214.910 Special provisions for users who made earnest money deposits or submitted letters of intent prior to publication of this subpart.
1214.911 Small self-contained payload standard services.
1214.912 Small self-contained payload optional services.

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended (42 U.S.C 2473).

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Subpart 1214.9—Use of Small Self-Contained Payloads

§ 1214.900 Scope.

This Subpart sets forth the policy on Space Transportation System (STS) services which are provided by NASA to users of small self-contained payloads (SSCP's).

§ 1214.901 Relation to Subparts 1214.1 and 1214.2.

This Subpart governs the provision of STS services for SSCP's and Subparts 1214.1 and 1214.2 are not applicable.

§ 1214.902 Definitions.

(a) U.S. Government users are defined as all agencies of the U.S. Government, including NASA.

(b) SSCP's are small (200 pounds or less and 5 cubic feet or less) scientific research and development payloads flown on a space-available basis in a NASA-supplied standard container under the provisions of this Subpart. Such payloads may be composed of one or more experiments in the same container.

(c) Classes of SSCP's are defined as follows:

(1) Class I payloads are payloads flown for scientific educational purposes by a recognized educational institution or in support of a recognized broad-participation scientific educational process (e.g., science fairs). Users with Class I payloads are encouraged to publish results of their work in the open literature.

(2) Class II payloads are payloads that do not come under the Class I definition and are flown by users other than U.S. Government users. A multiclass payload containing a Class II experiment will be considered a Class II payload.

(3) Class III payloads are payloads flown by U.S. Government users that do not come under the Class I definition. A multiclass payload containing Class I and III experiments only will be considered a Class III payload.

(d) A small self-contained payload user is an individual or entity that has either signed a launch services agreement with NASA or is eligible to enter into negotiations to do so on the basis of payment (by the user or others) of earnest money to NASA (or, in the case of a U.S. Government user, has submitted a letter of intent). If more than one individual or entity enters into a joint venture or other arrangement to fly their experiments in one NASA container, one individual or entity shall be designated by them as their agent. This agent shall be the sole "user" for that payload, with full authority to represent every individual or entity which has an interest in that container.

(e) Standard services provided to all SSCP users are listed in § 1214.911.

(f) Optional services are additional services provided to individual users at the request of the user and at the discretion of NASA.

(g) Dual payloads are two SSCP's belonging to the same user for which the user has specified, in the launch services agreements, a requirement that they be flown on the same flight. Each of the payloads shall be completely autonomous and no interconnection of dual payloads shall be permitted.

(h) Undue administrative delay on the part of NASA is defined as a delay caused by NASA's failure to perform its administrative functions in the contracting process in a reasonable time, as determined by NASA. Delays caused by the parties' inability to agree to contract terms and conditions are specifically excluded from this definition.

§ 1214.903 Conditions of use.

(a) Users' payloads must be flown in a NASA-supplied standard container.

(b) SSCP's shall be used only to conduct experiments of a scientific research and development nature.

(c) All users shall be required to furnish NASA with sufficient information to ensure Shuttle safety. NASA shall reserve the right to inspect and/or test any and all materials, components, and elements of the payload at any time.

(d) All users shall be required to furnish NASA with sufficient information to verify peaceful purposes and NASA's and the U.S. Government's continued compliance with law and the Government's obligations.

(e) NASA shall reserve the right to reject any payload which, in the opinion of the NASA Administrator, would be contrary to the spirit of this program or NASA's mission.

(f) To assure humane treatment, all experiments using live animals must have the approval of the Life Sciences Division, Office of Space Science, NASA Headquarters.

§ 1214.904 Reimbursement policy.

(a) *Earnest money.* (1) Earnest money shall be paid to NASA by users (except U.S. Government users) with Class I or Class II payloads prior to launch services contract negotiations. The earnest money, which will be $500 per payload, shall be applied to the user's price or retained by NASA.

(2) U.S. Government users shall submit a letter of intent, signed by an authorized party, to initiate the process of contracting for an SSCP flight.

(b) *Reimbursement by non-NASA users.* (1) All users shall be charged on a fixed-price basis.

(2) The price shall remain fixed for all payloads covered by launch services agreements signed through the third full fiscal year of STS operations. During this period, the price for standard services shall be as designated below.

Maximum Payload for Standard Services

Weight, pounds	Volume, cubic feet	Price
200	5.0	$10,000
100	2.5	5,000
60	2.5	3,000

(3) Subsequent to the first three full fiscal years, NASA may annually adjust the prices for the flight of SSCP's. Such adjustments shall not affect launch services agreements already in force.

(4) NASA shall be reimbursed an amount which is the sum of the price for standard services and the price for optional services.

(5) A separate launch services agreement shall be signed for each payload. At the time a launch services agreement is signed, the user shall reimburse NASA 10% of the price for standard services. This reimbursement shall be in addition to any earnest money already paid.

(6) The user shall reimburse NASA an additional 40% of the price for standard services at the later of:

(i) The time of signing of the launch services agreement, or

(ii) Eighteen months before the earliest acceptable launch date for the payload.

(7) The balance of the reimbursement for standard services, less earnest money payments, shall be made on the date designated for delivery of the payload to the launch site.

(8) Payment for any optional services shall be due on receipt of NASA's billing and shall be made prior to NASA's provision of the service.

(c) *Postponement.* (1) A postponement by the user shall be defined to occur if the user:

(i) With no undue administrative delay on the part of NASA, fails to execute the addendum to the launch services agreement described in § 1214.905(d) either at the time of signing of the launch services agreement or by 18 months before the earliest acceptable launch date, whichever is later; or

(ii) Refuses to accept a tentative flight assignment which, in NASA's judgment, meets the user's stated needs; or

(iii) Fails to deliver the payload to the launch site by the designated time; or

(iv) Declines or is unable to fly the payload on a given flight after having accepted a tentative flight assignment; or

(v) Requests a delay in the earliest acceptable launch date for payload. (Only changes to later dates shall be permitted.)

(2) *Postponement fees for non-NASA users.* (i) Users who postpone the flight of a payload shall reimburse NASA a postponement fee which is the sum of the estimated cost of optional services to be repeated and a fee for standard services.

(ii) A user may postpone the flight of a payload once without incurring a fee for standard services.

(iii) If the second and subsequent SSCP user-initiated postponements occur before the date designated for payload delivery to the launch site, the fee for standard services shall be 5% of the price for standard services. If the second and subsequent user-initiated postponements occur on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 20% of the price for standard services.

(iv) Postponement fees shall be payable on receipt of NASA's billing.

(3) *Rescheduling after a postponement by the user.* Rescheduling of a payload after a user postponement shall be accomplished by establishing a new earliest acceptable launch date. A rescheduled payload shall retain its original position in the flight assignment queue awaiting tentative flight assignment.

(4) A user may not postpone after the container is installed in the Shuttle.

(d) *Cancellation fees for non-NASA users.* (1) Users who cancel the flight of a payload shall reimburse NASA a cancellation fee which is the sum of the estimated cost of optional services performed by NASA prior to the notification of cancellation, including any cancellation costs, and a fee for standard services. In addition, NASA shall retain the earnest money paid for the payload.

(i) If a user cancels after signing a launch services agreement but before the date designated for payload delivery to the launch site, the fee for standard services shall be 10% of the user's standard services price.

(ii) If a user cancels on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 50% of the user's standard services price.

(2) A user may not cancel after the container is installed in the Shuttle.

(3) If flight of a payload which has been previously postponed is cancelled, the cancellation fee shall be the larger of the cancellation fee which would have been applicable at the time of any prior postponement or the cancellation fee calculated at the time of cancellation.

(4) Cancellation fees shall be payable on receipt of NASA's billing.

§ 1214.905 Flight scheduling.

(a) NASA receipt of the user's earnest money or letter of intent for one or more payloads shall be the basis for defining the payload(s) position in a temporary queue designated as the earnest money queue.

(b) Signing of a launch services agreement shall enter the payload covered by the agreement into a flight assignment queue. The payload's position in this queue is determined as follows:

(1) If a launch services agreement is signed within 18 months after NASA receipt of earnest money or letter of intent, the payload shall remain ahead of all payloads that entered the earnest money queue later than it did.

(2) If the launch services agreement is not signed within 18 months after NASA receipt of earnest money or letter of intent, the earnest money date shall be redefined to be 18 months before the date of the launch services agreement signing.

(3) If the user changes a payload's user class designation after signing a launch services agreement, the earnest money payment date shall be redefined to be the date of the user class change.

(4) The 18-month periods defined in § 1214.905(b)(1) and § 1214.905(b)(2), shall be extended to the extent that the user's failure to sign the launch services agreement is a result of undue administrative delay on the part of NASA.

(c) At the time of signing, the launch services agreement shall designate:

(1) The user class of the payload.

(2) The general nature of the payload.

(3) The size and weight of the payload.

(4) The price for standard services to be provided.

(5) The earliest acceptable launch date as selected unilaterally by the user.

(d) Not less than 18 months before the user's earliest acceptable launch date or at the signing of the launch services agreement, whichever is later, an addendum to the launch services agreement shall be signed by NASA and the user. The addendum shall designate:

(1) Any apportionment or assignment of the payload.

(2) A description of the payload.

(3) Any restrictions on the type of Shuttle flight appropriate for flying the payload, including any firm requirement to fly on a single flight as a dual payload with one other of the user's payloads.

(4) The optional services to be provided by NASA and the price of those services.

(5) The means of compliance with the provisions of § 1214.908 regarding significant impact on public health, safety or welfare.

(e) If, after attempting to negotiate with the user, it is NASA's opinion that the parties will be unable to agree on the terms of the addendum, NASA may terminate further negotiations. This event will be considered a cancellation by the user and the provisions of § 1214.904(d) shall apply.

(f) NASA shall not be obligated to perform any standard or optional services, including flight scheduling, prior to the signing of the addendum to the launch services agreement.

(g) Approximately 1 year before a planned Shuttle launch, NASA shall estimate the number of spaces available for SSCP's, make tentative flight assignments, and establish dates for payload delivery to the launch site.

(h) Payload tentative flight assignment shall be made on a rotation basis by user class. The continuing rotation sequence by class shall be II, I, II, III. If no payloads of a given class are available at the time of tentative flight assignment, a payload of the next class in the rotation shall be assigned to the available space.

(i) When making tentative flight assignments, NASA shall consider only those payloads whose earliest acceptable launch dates are on or before the Shuttle "firm launch data" as defined in § 1214.102(c)(2). (Shuttle flights normally occur on the "firm launch date" or within 60 days thereafter.)

(j) Users' payloads shall be assigned on the basis of their positions in the flight assignment queue within each class with the following exceptions:

(1) If the available flight does not meet the user's requirements defined pursuant to § 1214.905(d)(3), the payload shall not be assigned to the flight but shall retain its position in the flight assignment queue until a sutiable flight becomes available.

(2) A single user may receive tentative flight assignments for no more than two payloads in the same class out of any group of 20 payloads assigned (all classes combined) if there are other payloads available for assignment. However, all the provisions of this Subpart shall apply individually to each payload.

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(3) Dual payloads shall become eligible for tentative flight assignment when the latter of the two payloads becomes eligible for tentative flight assignment in the class rotation sequence. If only one space is available on the flight under consideration, a payload of the next available class in the rotation sequence shall be assigned and the dual payloads shall both be assigned to the next compatible flight, provided that the requirements of § 1214.905(j)(2) and § 1214.905(m) are maintained.

(k) Once an SSCP has been given a tentative flight assignment, it shall not be bumped from a flight as a result of another SSCP user's subsequent signing of a launch services agreement or another SSCP user's postponement.

(1) An SSCP tentatively assigned to a flight may be bumped by NASA as a result of other Shuttle operational considerations. Should this be necessary, bumping shall be done on a last-on, first-bumped basis. If either of a pair of duel payloads is bumped, the remaining payload of the pair shall also be bumped.

(m) Payloads being reflown pursuant to § 1214.907 and payloads bumped by NASA after tentative flight assignment shall have flight assignment priority, in that order, on subsequent flights over all other SSCP's including those already assigned to other flights.

(n) The date for payload delivery to the launch site shall normally be 2 months before the Shuttle "firm launch date." However, NASA may designate a later date.

(o) Users shall not use third-party or joint venture arrangements to attempt to circumvent the intent of this paragraph.

§ 1214.906 Transfer of ownership, apportionment and assignment of services.

(a) Prior to the signing of a launch services agreement, users shall be permitted to transfer, to a third party, ownership of the eligibility to enter into negotiations with NASA for the flight of a small self-contained payload, subject to NASA approval of the transfer.

(b) Transfer of ownership shall not result in a change in position in the earnest money queue.

(c) Subject to NASA approval, SSCP users shall be permitted to apportion and assign services to others.

(d) U.S. Government users shall not transfer to others the eligibility to negotiate a launch services agreement.

(e) NASA shall negotiate with only one responsible person or entity for the use of each NASA container. At the time the launch services agreement is negotiated, the user shall identify a single payload manager for the entire payload to be flown in the container. At the time the addendum to the launch services agreement is signed, the user shall identify any apportionment or assignment of services. After the addendum to the launch services agreement is executed, no additional apportionment, assignment, or transfer of ownership shall be permitted without the written approval of NASA.

§ 1214.907 Reflight guarantee.

NASA guarantees a reflight of the user's payload at no additional charge for SSCP standard services if, through no fault of the user, the mission orbit is not attained and if the payload returns safely to Earth or a second essentially identical payload is provided by the user. Users entitled to a reflight shall be entitled, at no additional charge, to any planned but unused and undamaged optional SSCP services from the flight for which the reflight is provided.

§ 1214.908 Patent and data rights.

NASA will not acquire rights to inventions, patents, or proprietary data privately funded by a user, or arising out of activities for which a user has reimbursed NASA under the policies set forth herein. However, in certain instances in which the NASA Administrator has determined that activities may have a significant impact on the public health, safety, or welfare, NASA may obtain assurances from the user that the results will be made available to the public on terms and conditions reasonable under the circumstances.

§ 1214.909 Damage to payloads.

The user's price does not include a contingency or premium for damage that may be caused to a payload through the fault of the U.S. Government, its contractors, or other STS users. The U.S. Government, therefore, shall assume no risk for damage or loss to the user's payload. The user shall assume that risk or obtain insurance protection against that risk.

§ 1214.910 Special provisions for users who made earnest money deposits or submitted letters of intent prior to publication of this subpart.

(a) Within 30 days after final publication NASA shall supply a copy of this Subpart to all users who have made earnest money deposits or submitted letters of intent.

(b) Users may request in writing a refund of their earnest money provided the request is received by NASA within 90 days after final publication of this Subpart. There shall be no subsequent refund of earnest money.

(c) Payloads covered by a launch services agreement signed within 18 months after final publication of this Subpart shall retain the appropriate queue position established by payment of earnest money or submission of letter of intent.

(d) Payloads not covered by a launch services agreement signed within 18 months after final publication of this Subpart shall be governed by the provisions of § 1214.905(b)(2).

§ 1214.911 Small self-contained payload standard services.

The following are standard services provided for small self-contained payloads:

(a) Flight in a NASA flight-qualified standard container.

(b) Use of a NASA shipping container.

(c) One "on" and one "off" signal provided on each of three NASA-provided inputs to the container.

(d) Choice of one standard NASA container atmosphere (vacuum, breathing air, inert gas, inert gas vented in space).

(e) Limited consultation on space systems provided by NASA at designated NASA centers.

(f) NASA payload safety reviews at a designated NASA center. (Safety shall not be compromised. Unusually complex safety reviews or testing/analysis require additional funding.)

(g) Pre-integration storage of the payload at KSC.

(h) Limited access to the payload prior to integration.

(i) Installation of the payload in the container and removal of the payload from the container after flight.

(j) Installation of the container in the Shuttle and removal of the container from the Shuttle after flight.

(k) KSC launch.

(l) On-orbit payload operational time consistent with the primary STS mission.

(m) Brief postflight documentation of the STS mission profile and payload operational times.

(n) Return of payload to the user at the launch site.

§ 1214.912 Small self-contained payload optional services.

(a) The following optional services, under development at the time of publication of this rule, shall be made available using NASA-supplied hardware:

(1) Openable lid.

(2) Optical window in the lid.

(b) NASA shall develop and publish technical and price estimating information relative to the use of the above services.

(c) NASA may, at its discretion, provide other optional services to users. The price for such services shall be negotiated.

Robert A. Frosch,

Administrator.

[FR Doc. 80-34355 Filed 11-3-80; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270, 271

[Docket No. RM80-53]

Order of the Director, OPPR of Publication of Maximum Lawful Prices Under Title I of the NGPA

October 27, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the NGPA. Section 101(b)(6) of the NGPA requires that the Commission compute and publish maximum lawful prices under Title I at the beginning of each month for which such figures apply.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202)-357-8500.

Section 101(b)(6) of the NGPA requires that the Commission compute and make available maximum lawful prices prescribed in Title I and inflation adjustments before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November and December, 1980 and January 1981, are issued by the publication of price tables for the applicable quarter. Pricing tables may be found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to sections 102, 103, 106(b)(1)(B), 107(c)(1), 107(c)(5), 108 and 109 of the NGPA. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a); Table III of § 271.102(a) sets forth the inflation adjustment.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

§ 271.101 [Amended]

1. Section 271.101(a) is amended in paragraph (a) by inserting the maximum lawful prices for November and December, 1980, and January, 1981, in Tables I and II.

2. Section 271.101(a) is further amended in paragraph (a) by striking "(c) (1)-(4)" and "High-Cost Gas (produced from tight formations)" and inserting "(c)(1)" and "High-Cost Gas (deep gas)" and the insertion of the applicable prices on the same line as Subpart "G".

3. Section 271.101(a) is further amended in paragraph (a) by amending footnote number [2] in Table I on the line beginning Subpart "G", after "High-Cost Gas (deep gas)" to read as follows:

[2] "Commencing November 1, 1979, the price of natural gas finally determined to be eligible as deep high-cost gas under section 107(c)(1) of the NGPA is deregulated." (*See*, Part 272 of the Commission's Regulations.) Prior to that date, the maximum lawful price applicable to deep high-cost gas was the price specified in Subpart B of Part 271.

4. Section 271.101(a) is further amended in paragraph (a) by the insertion of subsection 107(c)(5), "Gas Produced from Tight Formations" on the line below the line beginning "G".

5. Section 271.101(a) is further amended in paragraph (a) by inserting the published prices of Table I, Subpart "G" on the line beginning "Gas Produced from Tight Formations."

6. Section 271.101(a) is further amended in paragraph (a) by the insertion of footnote [3] in Table I after "Gas Produced from Tight Formations". Footnote [3] reads as follows:

[3] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price of 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formations applies on or after July 16, 1979. (*See*, §§ 271.703 and 273.704).

§ 271.102 [Amended]

7. Section 271.102 is amended in paragraph (c) by the insertion of the inflation adjustment for the months of November and December, 1980, and January, 1981, in Table III.

Table III.—*Inflation Adjustment*

Month of delivery	Factor by which price in preceding month is multiplied
1977	
May	1.00636
June	1.00836
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979	
January	1.00581
February	1.00667
March	1.00667
April	1.00667
May	1.00713
June	1.00713
July	1.00713
August	1.00805
September	1.00805
October	1.00805
November	1.00690
December	1.00690
1980	
January	1.00690
February	1.00713
March	1.00713
April	1.00713
May	1.00774
June	1.00774
July	1.00774
August	1.00843
September	1.00843
October	1.00843
November	1.00744
December	1.00744
1981	
January	1.00744

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Table I - Natural Gas Ceiling Prices

(other than NGPA §§ 104 and 106(a))
Maximum lawful price per MMBtu for deliveries in:

Subpart of Part 271	NGPA Section	Category of Gas	Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sept. 1979
B	102	New, Natural Gas, Certain OCS Gas	$2.078	$2.096	$2.116	$2.136	$2.156	$2.177	$2.198	$2.220	$2.244	$2.268
C	103	New, Onshore Production Wells	1.969	1.980	1.993	2.006	2.019	2.033	2.047	2.062	2.079	2.096
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas 1/	1.121	1.128	1.136	1.144	1.152	1.160	1.168	1.176	1.185	1.195
G	107(c)(1)	High-Cost Gas (deep gas) 2/	2.078	2.096	2.116	2.136	2.156	2.177	2.198	2.220	2.244	2.268
	107(c)(5)	Gas Produced from Tight Formations 3/	...	...	...	...	...	...	...	4.124	4.158	4.192
H	108	Stripper Gas	2.224	2.243	2.264	2.285	2.306	2.329	2.352	2.375	2.400	2.426
I	109	Not Otherwise Covered	1.630	1.639	1.650	1.661	1.672	1.684	1.696	1.708	1.722	1.736

1/ Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I.

2/ Commencing November 1, 1979, the price of natural gas finally determined to be eligible as deep high-cost gas under section 107(c)(1) of the NGPA is deregulated. (See, Part 272 of the Commission's Regulations.) Prior to that date, the maximum lawful price applicable to deep high-cost gas was the price specified in Subpart B of Part 271.

3/ The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See, § 271.703 and § 273.204.)

Table I - Natural Gas Ceiling Prices
(continued)

(other than NGPA §§ 104 and 106(a))
Maximum lawful price per MMBtu for deliveries in:

Subpart of Part 271	NGPA Section	Category of Gas	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	March 1980	Apr. 1980	May 1980	June 1980	July 1980
B	102	New, Natural Gas, Certain OCS Gas	$2.292	$2.314	$2.336	$2.358	$2.381	$2.404	$2.428	$2.453	$2.478	$2.504
C	103	New, Onshore Production Wells	2.113	2.128	2.143	2.158	2.173	2.188	2.204	2.221	2.238	2.255
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas 1/	1.205	1.213	1.221	1.229	1.238	1.247	1.256	1.266	1.276	1.286
G	107(c)(1)	High-Cost Gas (deep gas) 2/	2.292	...	...	...	...	...	...	...	...	...
	107(c)(5)	Gas Produced from Tight Formations 3/	4.226	4.256	4.286	4.316	4.346	4.376	4.408	4.442	4.476	4.510
H	108	Stripper Gas	2.452	2.478	2.499	2.523	2.548	2.573	2.598	2.625	2.652	2.680
I	109	Not Otherwise Covered	1.750	1.762	1.774	1.786	1.799	1.812	1.825	1.839	1.853	1.867

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Table I - Natural Gas Ceiling Prices
(continued)

Subpart of Part 271	NGPA Section	Category of Gas	(other than NGPA §§ 104 and 106(a)) Maximum lawful price per MMBtu for deliveries in: Aug. 1980	Sept. 1980	Oct. 1980	Nov. 1980	Dec. 1980	Jan. 1981
B	102	New, Natural Gas, Certain OCS Gas	$2.532	$2.560	$2.588	$2.614	$2.640	$2.667
C	103	New, Onshore Production Wells	2.274	2.293	2.312	2.329	2.346	2.363
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas 1/	1.297	1.308	1.319	1.329	1.339	1.349
G	107(c)(5)	Gas Produced from Tight Formations 3/	4.548	4.586	4.624	4.658	4.692	4.726
H	108	Stripper Gas	2.710	2.740	2.770	2.798	2.826	2.855
I	109	Not Otherwise Covered	1.883	1.899	1.915	1.929	1.943	1.957

Table II - Natural Gas Ceiling Prices: NGPA §§ 104 and 106(a)(Subpart D, Part 271)

Category of Natural Gas	Type of Sale or Contract	Maximum lawful price per MMBtu for deliveries made in: Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sep. 1979	Oct. 1979	Nov. 1979	Dec. 1979
Post-1974 gas	All producers	$1.630	$1.639	$1.650	$1.661	$1.672	$1.684	$1.696	$1.708	$1.722	$1.736	$1.750	$1.762	$1.774
1973-1974 Biennium gas	Small producer	1.379	1.387	1.396	1.405	1.414	1.424	1.434	1.444	1.456	1.468	1.480	1.490	1.500
	Large producer	1.058	1.064	1.071	1.078	1.085	1.093	1.101	1.109	1.118	1.127	1.136	1.144	1.152
Interstate Rollover gas 1/	Small producer	.702	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715
	Large producer	.603	.607	.611	.615	.619	.623	.627	.631	.636	.641	.646	.650	.654
Replacement contract gas or recompletion gas	Small producer	.771	.775	.780	.785	.790	.796	.802	.808	.815	.822	.829	.835	.841
	Large producer	.593	.596	.600	.604	.608	.612	.616	.620	.625	.630	.635	.639	.643
Flowing gas	Small producer	.393	.395	.398	.401	.404	.407	.410	.413	.416	.419	.422	.425	.428
	Large producer	.332	.334	.336	.338	.340	.342	.344	.346	.349	.352	.355	.357	.359
Certain Permian Basin gas	Small producer	.462	.465	.468	.471	.474	.477	.480	.486	.487	.491	.495	.498	.501
	Large producer	.405	.407	.410	.413	.416	.419	.422	.425	.428	.431	.434	.437	.440
Certain Rocky Mountain gas	Small producer	.462	.465	.468	.471	.474	.477	.480	.483	.487	.491	.495	.498	.501
	Large producer	.393	.395	.398	.401	.404	.407	.410	.413	.416	.419	.422	.425	.428
Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	.368	.370	.372	.374	.376	.379	.382	.385	.388	.391	.394	.397	.400
	Other Contracts	.344	.346	.348	.350	.352	.355	.358	.361	.364	.367	.370	.373	.376
Minimum Rate Gas 2/	All Producers	.203	.204	.205	.206	.207	.208	.209	.210	.212	.214	.216	.217	.218

1/ The price for interstate rollover gas is the higher of the price listed in this table or the just and reasonable price under the expired contract as adjusted for inflation. (See § 271.402(c)(3)).

2/ Prices for minimum rate gas are expressed in terms of dollars per MCF, rather than MMBtu.

Table II - (continued)

Category of Natural Gas	Type of Sale or Contract	Maximum lawful price per MMBtu for deliveries made in: Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980	May 1980	June 1980	July 1980	Aug. 1980	Sept. 1980	Oct. 1980	Nov. 1980	Dec. 1980	Jan. 1981
Post-1974 gas	All producers	$1.786	$1.799	$1.812	$1.825	$1.839	$1.853	$1.867	1.883	1.899	1.915	$1.929	$1.943	$1.957
1973-1974 Biennium gas	Small producer	1.510	1.521	1.532	1.543	1.555	1.567	1.579	1.592	1.605	1.619	1.631	1.643	1.655
	Large producer	1.160	1.168	1.176	1.184	1.193	1.202	1.211	1.221	1.231	1.241	1.250	1.259	1.268
Interstate Rollover gas 1/	Small producer	.728	.728	.728	.728	.728	.728	.728	.728	.728	.728	.728	.728	.741
	Large producer	.659	.664	.669	.674	.679	.684	.689	.695	.701	.707	.712	.717	.722
Replacement contract gas or recomple-tion gas	Small producer	.847	.853	.859	.865	.872	.879	.886	.893	.901	.909	.916	.923	.930
	Large producer	.647	.652	.657	.662	.667	.672	.677	.683	.689	.695	.700	.705	.710
Flowing gas	Small producer	.431	.434	.437	.440	.443	.446	.449	.453	.457	.461	.464	.467	.470
	Large producer	.361	.364	.367	.370	.373	.376	.379	.382	.385	.388	.391	.394	.397
Certain Permian Basin gas	Small producer	.504	.508	.512	.516	.520	.524	.528	.532	.536	.541	.545	.549	.553
	Large producer	.443	.446	.449	.452	.455	.459	.463	.467	.471	.475	.479	.483	.487
Certain Rocky Mountain gas	Small producer	.504	.508	.512	.516	.520	.524	.528	.532	.536	.541	.545	.549	.553
	Large producer	.431	.434	.437	.440	.443	.446	.449	.453	.457	.461	.464	.467	.470
Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	.403	.406	.409	.412	.415	.418	.421	.425	.429	.433	.436	.439	.442
	Other Contracts	.379	.382	.385	.388	.391	.394	.397	.400	.403	.406	.409	.412	.415
Minimum Rate Gas 2/	All Producers	.220	.222	.224	.226	.228	.230	.232	.234	.236	.238	.240	.242	.244

[FR Doc. 80-34284 Filed 11-3-80; 8:45 am]

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18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

October 29, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold price for the month of November 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Table I.—*Incremental Pricing Acquisition Cost Threshold Prices*

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450

[FR Doc. 80-34285 Filed 11-3-80; 8:45 am]

BILLING CODE 6450-85-M

WATER RESOURCES COUNCIL

18 CFR Part 711

Principles and Standards for Water and Related Land Resources Planning—Level C; Final Rule; Correction

AGENCY: U.S. Water Resources Council.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on principles and standards for water and related land resources planning that appeared at page 64366 in the **Federal Register** of Monday, September 29, 1980 (45 FR 64366). The action is necessary to correct both typographical errors and minor errors in the text submitted for publication.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, U.S. Water Resources Council, 2120 L Street NW., Washington, D.C. 20037 (202-254-6453).

The following corrections are made in the principles and standards that appeared on page 64366 in the issue of September 29, 1980.

1. On page 64372, column three, the response to comment number 48 is corrected by inserting "not" between "were" and "based."

2. On page 64373, column three, the response to comment number 54, second sentence, is corrected by inserting "to pay" between "users" and "for."

3. On page 64378, column two, comment number 122 is corrected by deleting the "or" following "commitments" and inserting "of" in its place.

4. On page 64381, column three, the response to comment number 164 is corrected to read "Some of the detail in § 711.61 of the proposed rule has been eliminated, while § 711.62 has been made much more specific."

5. On page 64385, column one, the response to comment number 204 is corrected by replacing the first two sentences with "The earlier step has not been added because Level C studies are initiated in response to locally identified problems and opportunities. The initial step is to specify these local problems and opportunities in terms of the two National objectives."

6. On page 64386, column three, first paragraph under *Risk and Uncertainty—Sensitivity Analysis*, the third line is corrected by replacing "date" with "data".

7. On page 64387, column two, first paragraph under *Required Alternative Plans*, the last sentence is corrected by replacing "if" with "in."

8. On page 64391, column one, § 711.20(b) is corrected by inserting "be" between "to" and "given."

9. On page 64393, column three, § 711.61(a) is corrected by replacing "is" with "describes."

10. On page 64394, column two, the fourth line of § 711.61(b)(3) is corrected by replacing "of" with "if."

11. On page 64395, column one, § 711.62(a)(1) is corrected by replacing "is" with "describes."

12. On page 64395, column three, the third line is corrected by replacing "and" with "or". (This correction is in § 711.62(b)(3)(i).)

13. On page 64397, column one, the first line in § 711.64(a)(1) is corrected by replacing "is" with "describes."

Issued on: October 29, 1980.

Gerald D. Seinwill,

Acting Director.

[FR Doc. 80-34302 Filed 11-3-80; 8:45 am]

BILLING CODE 6410-01-M

18 CFR Parts 713 and 716

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs and Other Social Effects (OSE) in Water Resources Planning (Level C); Correction

AGENCY: U.S. Water Resources Council.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on procedures for evaluation of national economic development benefits and costs and other social effects that appeared at page 64448 in the **Federal Register** of Monday, September 29, 1980 (45 FR 64448). The action is necessary to correct both

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typographical errors and minor errors in the text submitted for publication.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, U.S. Water Resources Council, 2120 L Street N.W., Washington, D.C. 20037 (202–254–6453).

The following corrections are made in the procedures for evaluation of national economic development benefits and costs and other social effects that appeared on page 64448 in the issue of September 29, 1980.

1. On page 64450, column one, the third response is corrected by inserting "(1)" between "(i)" and "(iii)." The corrected citation reads "713.807(i)(1)(iii)".

2. Page 64456 is corrected by replacing Table 713.811–2 with the following Table 713.811–2.

Table 713.811–2—*Typical Vessel Dimension of Vessel Fleet by Type and Deadweight Tonnage*

Type	Vessel characteristics			
	DWT	Length	Beam	Draft, loaded

3. On page 64463, column one, in § 713.1011 the citation in paragraph (b) is corrected to read "§ 713.1005(a)(2)" and the citation in paragraph (c) is corrected to read "§ 713.1005(a)(4)."

4. On page 64463, column two, the last sentence in § 713.1017(a) is corrected by inserting "be" between "may appear to" and "a positive effect."

5. On page 64465, column one, the first sentence in § 716.303(e) is corrected by deleting the comma after "regardless of height."

6. On page 64465, column three, the section number for "Report and display procedures" is corrected to read "§ 716.309."

Issued on October 29, 1980.

Gerald D. Seinwill,

Acting Director.

[FR Doc. 80–34303 Filed 11–3–80; 8:45 am]

BILLING CODE 3410–01–M

18 CFR Part 714

Environmental Quality Evaluation Procedures for Level C Water Resources Planning; Correction

AGENCY: U.S. Water Resources Council.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on environmental quality evaluation procedures that appeared at page 64402 in the **Federal Register** of Monday, September 29, 1980 (45 FR 64402). The action is necessary to correct both typographical errors and minor errors in the text submitted for publication.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037 (202–254–6453).

The following corrections are made in the environmental quality evaluation procedures that appeared on page 64402 in the issue of September 29, 1980.

1. On page 64405, column three, the second comment is corrected by inserting "and" between "account" and "effects."

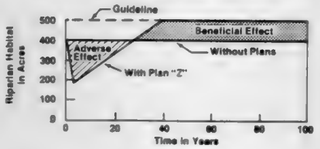
2. On page 64412, column three, the second response is corrected by replacing "(b)" with "(6)."

3. On page 64416, column one, § 714.200, the definition of EQ account is corrected by replacing "is" with "describes."

4. On page 64424, column one, § 714.411(c)(1)(iv) is corrected to read "Charters, bylaws, and formal policy statements of private groups. Examples are the National Audubon Society Blue List of Species, properties of the National Trust for Historic Preservation, and properties of the Nature Conservancy." A related correction is made in column two by deleting the three lines immediately following Table 714.411.

5. Page 64432 is corrected by replacing Figure 714.441–3 with the following Figure 714.441.3.

Figure 714.441-3
Example of Beneficial & Adverse Effects



6. On page 64433, column three, Appendix A, (a)(1)(vi) is corrected by replacing "Describe" with "Identify."

Issued on: October 29, 1980.

Gerald D. Seinwill,

Acting Director.

[FR Doc. 80–34304 Filed 11–3–80; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 80N–0187; DESI 8674]

Oligosaccharide Antibiotic Drugs; Antibiotic Otic Preparations; Confirmation of Effective Date and Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) confirms the effective date of October 29, 1974 of a final rule which revoked provisions for certification of a neomycin sulfate-sodium propionate-prednisolone acetate otic solution and updates the affected antibiotic monograph to reflect the revocation.

EFFECTIVE DATES: October 29, 1974 for the revocation and November 4, 1980, for this amendment.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 8674, Docket No. FDC–D–677; now Docket No. 80N–0187) published in the **Federal Register** of September 19, 1974 (39 FR 33665), FDA published an order to revoke 21 CFR 444.442a which provided for certification of neomycin sulfate-sodium propionate otic solution and neomycin sulfate-sodium propionate-prednisolone acetate otic solution. The revocation was to take effect on October 29, 1974, unless a hearing was requested on the revocation. The notice stated that if a hearing were requested, the effective date would be extended as necessary. Two products were certifiable under the regulation:

(1) NDA 50–364; Otobiotic Otic Solution; containing neomycin sulfate and sodium propionate; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, and

(2) NDA 50–363; Otobione Otic Drops; containing neomycin sulfate, sodium propionate, and prednisolone acetate; Schering Corp.

Schering Corp. requested a hearing on Otobiotic Otic Solution, but it did not request a hearing on Otobione Otic Drops. In a notice published in the **Federal Register** of March 14, 1975 (40 FR 11870), FDA stayed the revocation of § 444.442a pending completion of a review of the information Schering Corp. submitted to support its hearing request. That information is under review, and Otobiotic Otic Solution is not affected by this notice.

The March 14, 1975 notice inadvertently stayed the revocation of § 444.442a in its entirety. No hearing was requested for the neomycin sulfate-sodium propionate-prednisolone acetate product. A manufacturer's failure to request a hearing constitutes a waiver of its opportunity for a hearing. Therefore, the March 14, 1975 **Federal Register** notice should have stayed the effective date of only that portion of 21 CFR 444.442a which refers to neomycin sulfate-sodium propionate otic solution and updated the section to make it applicable only to products of that composition. Notice is given that no hearing was requested for any product certifiable under the portion of 21 CFR 444.442a which refers to neomycin sulfate-sodium propionate-prednisolone acetate otic solution. The effective date of that portion of the regulation is not extended, and the October 29, 1974 effective date is hereby confirmed.

FDA has approved Schering Corp.'s Form 6 for a reformulated Otobione Otic Suspension (NDA 61–816) containing neomycin sulfate, polymyxin B sulfate, and hydrocortisone which is certifiable under 21 CFR 444.442g. The reformulated product is not affected by this notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), Part 444 is amended by updating § 444.442a to read as follows:

§ 444.442a Neomycin sulfate-sodium propionate otic solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-sodium propionate otic solution is a solution containing, in each milliliter, 3.5 milligrams of neomycin and 50 milligrams of sodium propionate, in a suitable and harmless vehicle. It may also contain suitable and harmless dispersants, buffers, perfumes, and preservatives. It is sterile. Its pH is not less than 5.5 and not more than 7.0. The neomycin sulfate used conforms to the standards prescribed by § 444.442(a)(1)(i), (vi), and (vii).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, pH, and identity.

(*b*) The batch for potency, sterility and pH.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: a minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of asssay*— (1) *Potency.* Proceed as directed in § 444.442a (b)(1), except dilute an accurately measured representative portion in sufficient 0.1*M* potassium phosphate buffer, pH 8.0, to give a stock solution of convenient concentration. Further dilute an aliquot with 0.1*M* potassium phosphate buffer, pH 8.0, to the proper prescribed reference concentration. Its content of neomycin is satisfactory if it contains not less than 90 percent and not more than 126 percent of the number of milligrams of neomycin that it is represented to contain.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

Effective dates. The revocation of that portion of 21 CFR § 444.442a providing for certification of neomycin sulfate-sodium proprionate-prednisolone acetate became effective October 29, 1974, and this amendment is effective November 4, 1980 .

(Secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357))

Dated: October 24, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80–34057 Filed 11–03–80; 8:45 am]

BILLING CODE 4110–03–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: These regulations concern the Commission's dismissal and determinations of reasonable cause and the issuances of right to sue notices in dismissal of governmental respondents. These regulations are published without change from the interim revisions published at 45 FR 48614, July 21, 1980.

DATES: The regulations are effective November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony De Marco, Legal Counsel Division, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, 202–634–6595.

SUPPLEMENTARY INFORMATION: On July 21, 1980, the Equal Employment Opportunity Commission published revisions to its procedural regulations appearing at 29 CFR 1601.21 (b) and (d) and 1601.28(d). 45 FR 48614 (July 21, 1980). The revisions were effective immediately, but on an interim basis pending receipt of comments by the public.

Sections 1601.21 (b) and (d) set forth the procedures by which the Commission or its designated officer may reconsider a previously issued determination. The Commission amended its procedural regulations to provide for notice of the Commission's intent to reconsider previously issued determinations of reasonable cause or of dismissals of charges. The Commission amended § 1601.28(d) to reflect the interpretation of § 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, adopted in *Shea* v. *City of St. Paul,* 601 F. 2d 345 (8th Cir., 1979), and *DeMatteis* v. *Eastman Kodak Company,* 511 F. 2d 306, modified 520 F. 2d 409 (2d Cir., 1975), which hold that notice of the dismissal of charge constitutes notice of final administrative action and of the right to sue. Henceforth, in all cases of a dismissal pursuant to § 1601.19, including cases where the respondent is a government, governmental agency, or a political subdivision, the notice of dismissal issued by the Commission will include the notice of right to sue.

The Commission received comments from a corporation, a university, and a Hospital and Welfare Board. The main objection to the regulations was that they did not set forth a time limit in which the Commission could reconsider its determination. Their main concern

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was that the regulations did not specify when an EEOC determination is final. It was suggested that the Commission should not be able to reconsider its determination once a charging party has filed suit.

The Commission's decision is final when the letter of determination is issued. However, the Commission has the ability to reconsider its determination at any time in order to be able to correct any procedural or substantive errors in its determination. Administrative agencies have an inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider. *Albertson* v. *Federal Communications Commission*, 182 F. 2d 397 (D.C. Cir. 1950). The Commission has the right to reconsider its decision in order to carry out the Title VII policy that disputes should be resolved by the Commission without litigation whenever possible. *See Trujillo* v. *General Electric Co.*, —— F.2d ——, 22 FEP Cases 1575 (10th Cir. 1980).

The revisions to the procedural regulations do not prejudice the rights of a charging party or respondent. Regardless of when the Commission reconsiders its determination or its determination upon reconsideration, the charging party has a statutory right to file suit and receive a *de novo* right of review in Federal District Court.

One individual questioned whether the Commission has the authority to reconsider its determinations and, if it has, whether there are circumstances which would make reconsideration appropriate or advisable. It is clear from recent case law that the Commission, or its designated officer, has the authority to reconsider its own determination. *Gonzalez* v. *Firestone Tire and Rubber Co.* 610 F. 2d 141 (5th Cir. 1980); *Trujillo* v. *General Electric Co.*, —— F. 2d ——, 22 FEP Cases 1575 (10th Cir. 1980). It is also clear that reconsideration of a determination would be appropriate in any instance in which it is necessary for the Commission to correct a procedural or substantive error in its determination.

No comments were received regarding issuance of notices of right to sue by EEOC in dismissals against governmental entities.

After considering these comments, the Commission has determined not to make any revisions to the interim regulations which were previously published in the **Federal Register** at 45 FR 48614 (July 21, 1980). The only change to the interim regulations is the correction of a typographical error appearing in § 1601.21(d)(1). The reference in that section to § 1601.28(b) (1) or (2) has been corrected to read § 1601.28(a) (1) or (2). The revisions of 29 CFR § 1601.21 (b) and (d) and § 1601.28(d) appear below.

Signed at Washington, D.C. this 28th day of October 1980.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

1. Sections 1601.21(b) and (d) are revised to read as follows:

§ 1601.21 Reasonable cause determination.

Procedure and authority.

* * * * *

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commission in the third party certificate, if any, and the respondent. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination, *EXCEPT that the Commission will not reconsider determinations of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25.*

(1) In cases where the Commission decides to reconsider a dismissal or a determination finding reasonable cause to believe a charge is true, a notice of intent to reconsider will promptly issue. If such notice of intent to reconsider is issued within 90 days from receipt of a notice of right to sue and the charging party has not filed suit and did not receive a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination and revoke the notice of right to sue. If the 90 day period has expired, the charging party has filed suit, or the charging party had requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination, but will not revoke the notice of right to sue. After reconsideration the Commission will issue a determination anew. In those circumstances where the notice of right to sue has been revoked, the Commision will, in accordance with § 1601.28, issue a notice of right to sue anew which will provide the charging party with 90 days within which to bring suit.

(2) The Commission shall provide prompt notification of its intent to reconsider, which is effective upon issuance, and its final decision after reconsideration to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent.

* * * * *

(d) The Commission hereby delegates to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs the authority, in those cases in which previously issued Commission Decisions serve as precedent for the determination and in those cases in which the Commission's Guidelines provide a statement of policy which serves as authority for the determination, upon completion of an investigation, to dismiss a charge, make a determination, issue a Letter of Determination and serve a copy thereof upon the parties. Such determination is final when the Letter of Determination is issued. However, the Director of the Office of Field Services, the Director of the Office of Systemic Programs and each District Director, for determinations issued by his or her office, may on his or her own initiative reconsider determinations, *EXCEPT that such directors may not reconsider determinations of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25.*

(1) In cases where the issuing Director decides to reconsider a dismissal or a determination finding reasonable cause to believe a charge is true, a notice of intent to reconsider will promptly issue. If such notice of intent to reconsider is issued within 90 days from receipt of a notice of right to sue and the charging party has not filed suit and did not request a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination and revoke the notice of right to sue. If the 90 day period has expired, the charging party has filed suit, or the charging party had received a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination, but will not revoke the notice of right to sue. After reconsideration the issuing Director will issue a determination anew. In those circumstances where the notice of right to sue has been revoked, the issuing Director will, in accordance with § 1601.28, issue a notice of right to sue anew which will provide the charging party with 90 days within which to bring suit.

(2) When the issuing Director does reconsider, he or she shall provide prompt notification of his or her intent to reconsider, which is effective upon issuance, and final decision after reconsideration to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the charge or identified by the Commissioner in the third party certificate, if any, and the respondent.

2. Section 1601.28(d) is revised to read as follows:

§ 1601.28 Notice of right to sue: Procedure and authority.

* * * * *

(d) Notices of right-of-sue for charges against Governmental respondents. In all cases where the respondent is a government, governmental agency, or a political subivision, the Commission will issue the notice of right to sue when there has been a dismissal of a charge. The notice of right to sue will be issued in accordance with § 1601.28(e). In all other cases where the respondent is a government, governmental agency, or political subdivision, the Attorney General will issue the notice of right to sue, including the following cases: (1) when there has been a finding of reasonable cause by the Commission, there has been a failure of conciliation, and the Attorney General has decided not to file a civil action; and (2) where a charging party has requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2). In cases where a charge of discrimination results in a finding of cause in part and no cause in part, the case will be treated as a "cause" determination and will be referred to the Attorney General.

[FR Doc. 80-34399 Filed 11-3-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

[Army Reg. 210-7]

Commercial Solicitation on Army Installations

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This regulation implements DOD Directive 1344.1 and DOD Directive 1344.7. It establishes policies and procedures for controlling commercial solicitation on Army installations to safeguard the interests of military personnel, especially the young and inexperienced soliders, as consumers.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Thomas L. Verrier, Chief, Installation and Personnel Support Division, Community Support Directorate, Office of The Adjutant General, Headquarters, Department of the Army, Washington, DC 20310 (202-325-9591).

By authority of the Secretary of the Army.

Dated: October 6, 1980.

G. R. Iverson,

Colonel, GS, Director, Community Support.

Accordingly, 32 CFR Part 552 is amended by adding new §§ 552.50-552.83 and deleting § 552.18(j).

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

§ 552.18 [Amended]

* * * * *

Solicitation on Military Reservations

Sec.
552.50 Purpose.
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552.69 Application by companies to solicit on military installations in the United States, its territories, or the Commonwealth of Puerto Rico.
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552.71 Associations—general.
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552.73 Minimum requirements for automobile insurance policies.
552.74 Grounds for suspension.
552.75 Factors in suspending solicitation privileges.
552.76 Preliminary investigation.
552.77 Suspension approval.
552.78 "Show cause" hearing.
552.79 Suspension action.
552.80 Suspension period.
552.81 Agents or companies with suspended solicitation privileges.
552.82 Exercise of "off limits" authority.
552.83 Standards of fairness.

Authority: 15 U.S.C. 1601.

Solicitation on Military Reservations

§ 552.50 Purpose.

This regulation—

(a) Prescribes general policy on the solicitation and sale of all goods, services, and commodities, including all types of insurance, on military installations. These are sold or solicited by dealers, tradesmen, and their agents.

(b) Prescribes procedures for suspension of solicitation privileges.

(c) Prescribes policies and procedures for investigative and enforcement actions.

(d) Permits representatives of credit unions, banks, and approved non-profit associations to conduct national educational programs on—

(1) Insurance, estate planning, savings, and budgeting, and

(2) The protection and remedies afforded consumers under the Truth-in-Lending Act.

§ 552.51 Applicability.

(a) This regulation applies to—

(1) All Department of the Army military and civilian personnel, including Army National Guard and Army Reserve personnel on active duty or annual training.

(2) Individuals seeking to conduct commercial solicitation on military installations, including controlled housing areas. They will also be governed by regulations and controls of the local commander and, in overseas areas, by regulations of the unified or specified commander. They must also observe applicable laws, regulations, and agreements of the host country.

(b) The provisions of this regulation do not apply to—

(1) Commercial companies that furnish services to military installations (such as deliveries of milk, bread, and laundry) when they are authorized by the installation commander.

(2) An individual who sells his own personal property or privately owned dwelling.

§ 552.52 Explanation of terms.

(a) *Agent.* Anyone who solicits the ordering or purchasing of goods, services, or commodities in exchange for money. "Agent" includes an individual who receives remuneration as a salesman for an insurer or whose remuneration is dependent on volume of sales or the making of sales.

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(b) *Solicitation.* The conduct of any private business, including the offering and sale of insurance on a military installation, whether initiated by the seller or the buyer. (Solicitation on installations is a privilege as distinguished from a right, and its control is a responsibility vested in the installation commander, subject to compliance with applicable regulations.)

(c) *Door-to-door solicitation.* A sales method whereby an agent proceeds randomly or selectively from household to household without specific prior appointments or invitations. Door-to-door solicitation is not permitted on Army installations.

(d) *Specific appointment.* A prearranged appointment that has been agreed upon by both parties and is definite as to place and time.

(e) *Insurer.* Any company or association engaged in the business of selling insurance policies to Department of Defense (DOD) personnel.

(f) *Insurance carrier.* An insurance company issuing insurance through an association or reinsuring or coinsuring such insurance.

(g) *Insurance policy.* A policy or certificate of insurance issued by an insurer or evidence of insurance coverage issued by a self-insured association.

(h) *DOD personnel.* Unless stated otherwise, such personnel means all active duty officer and enlisted members, and civilian employees of the Armed Forces. This includes Government employees of all the offices, agencies, and departments carrying on functions on a Defense installation, including non-appropriated fund instrumentalities.

§ 552.53 Regulatory requirements.

Commanders may issue regulations governing solicitation within their commands and on their installations. These regulations will avoid discriminatory requirements which could eliminate or restrict competition. When there is a clear need to prescribe more restrictive requirements for solicitation than those in this regulation or the regulations of the major commander, these additional requirements or restrictions must first be reviewed and confirmed by The Adjutant General Center (DAAG–PSI), or by the overseas commander.

§ 552.54 Solicitation.

The installation commanders may permit solicitation and transaction of commercial business on military installations. These solicitations and transactions must conform to installation regulations (CONUS and overseas) and must not interfere with military activities. No person may enter an installation and transact commercial business as a matter of right.

§ 552.55 Restrictions.

To maintain discipline; protect property; and safeguard the health, morale, and welfare of his personnel, the installation commander may impose reasonable restrictions on the character and conduct of commercial activities. Members of the Armed Forces must not be subjected to fraudulent, usurious, or unethical business practices. Reasonable and consistent standards must be applied to each company and its agents in their conduct of commercial transactions on the installation.

§ 552.56 Licensing requirements.

To transact personal commercial business on military installations in the United States, its territories, and the Commonwealth of Puerto Rico, individuals must present, on demand, to the installation commander, or his designee, documentary evidence that the company and its agents meet the licensing requirements of the State in which the installation is located. They must also meet any other applicable regulatory requirements imposed by civil authorities (Federal, State, county, or municipality). For ease of administration, the installation commander will issue a temporary permit to agents who meet these requirements.

§ 552.57 Authorization to solicit.

(*a*) Solicitation must be authorized by the installation commander. A specific appointment must be made with the individual and must be conducted in family quarters or in other areas designated by the installation commander. Before issuing a permit to solicit, the commander will require and review a statement of past employment. The commander will also determine, if practicable, whether the agent is employed by a reputable firm.

(*b*) Certain companies seeking solicitation privileges on military installations may arrange personal demonstrations of their products at social gatherings and advise potential customers on their use. If these added services are provided, even though the merchandise sold by these companies is similar to that stocked by the post exchange, the installation commander may authorize solicitation privileges. Requests for this type of solicitation privilege will be coordinated with the local Army and Air Force Exchange Service representative. See paragraph 3–2, Army Regulation 60–10.

§ 552.58 Other transactions.

Commercial transactions with other than individuals (such as nonappropriated fund activities) are restricted to the office of the custodian of the specific fund activity. Business will be conducted during normal duty hours.

§ 552.59 Granting solicitation privileges.

(*a*) Authorizations (permits) to solicit on Army installations will be in writing and will be valid for periods of 1 year or less.

(*b*) Particular caution must be taken when granting solicitation permission. The impression that permission is official indorsement or that the Department of the Army favors, sponsors, or recommends the companies, agents, or the policies offered for sale must not be conveyed. As continuing policy, the Department of the Army does not indorse any seller or product.

§ 552.60 Supervision of on-post commercial activities.

(a) *General.* (1) Installation commanders will ensure that all agents are given equal opportunity for interviews, by appointment, at the designated areas.

(2) DOD personnel will not act in any official or business capacity, either directly or indirectly, as liaison with agents to arrange appointments.

(3) Home address of members of the command or unit will not be given to commercial enterprises or individuals engaged in commercial solicitation, except when required by Army Regulation 340–17 and Army Regulation 340–21. The written consent of the individual must be obtained first.

(b) *Hours and location for solicitation.* (1) Military personnel and their dependents will be solicited individually, by specific appointment, and at hours designated by the installation commander or his designee. Appointments will not interfere with any military duty. Door-to-door solicitation without a prior appointment, including solicitation by personnel whose ultimate purpose is to obtain sales (e.g., soliciting future appointments), is prohibited. Solicitors may contact prospective clients initially by methods such as advertising, direct mail, and telephone.

(2) Commanders will provide one or more appropriate locations on the installation where agents may interview prospective purchasers. If space and other factors dictate limiting the number of agents who may use designated interviewing areas, the installation commander may publish policy covering this matter.

(c) *Regulations to be read by solicitors.* A conspicuous notice of installation regulations will be posted in a form and a place easily accessible to all those conducting on-post commercial activities. Each agent authorized to solicit must read this notice and appropriate installation regulations. Copies will be made available on installations. When practicable, as determined by the installation commander, persons conducting on-base commercial activities will be furnished a copy of the applicable regulations. Each agent seeking a permit must acknowledge, in writing, that he has read the regulations, understands them, and further understands that any violation or noncompliance may result in suspension of the solicitation privilege for himself, his employer, or both.

(d) *Forbidden solicitation practices.* Installation commanders will prohibit the following:

(1) Solicitation during enlistment or induction processing or during basic combat training, and within the first half of the one station unit training cycle.

(2) Solicitation of "mass," group, or "captive" audiences.

(3) Making appointments with or soliciting of military personnel who are in an "on-duty" status.

(4) Soliciting without an appointment in areas used for housing or processing transient personnel, or soliciting in barracks areas used as quarters.

(5) Use of official identification cards by retired or Reserve members of the Armed Forces to gain access to military installations to solicit.

(6) Offering of false, unfair, improper, or deceptive inducements to purchase or trade.

(7) Offering rebates to promote transaction or to eliminate competition. (Credit union interest refunds to borrowers are not considered a prohibited rebate.)

(8) Use of any manipulative, deceptive, or fraudulent device, scheme, or artifice, including misleading advertising and sales literature.

(9) Any oral or written representations which suggest or appear that the Department of the Army sponsors or endorses the company or its agents, or the goods, services, and commodities offered for sale.

(10) Commercial solicitation by an active duty member of the Armed Forces of another member who is junior in rank or grade, at any time, on or off the military installation (Army Regulation 600–50).

(11) Entry into any unauthorized or restricted area.

(12) Assignment of desk space for interviews, except for specific prearranged appointments. During appointments, the agent must not display desk or other signs announcing the name of the company or product affiliation.

(13) Use of the "Daily Bulletin" or any other notice, official, or unofficial, announcing the presence of an agent and his availability.

(14) Distribution of literature other than to the person being interviewed.

(15) Wearing of name tags that include the name of the company or product that the agent represents.

(16) Offering of financial benefit or other valuable or desirable favors to military or civilian personnel to help or encourage sales transactions. This does not include advertising material for prospective purchasers (such as pens, pencils, wallets, and notebooks, normally with a value of $1 or less).

(17) Use of any portion of installation facilities, to include quarters, as a showroom or store for the sale of goods or services, except as specifically authorized by regulations governing the operations of exchanges, commissaries, non-appropriated fund instrumentalities, and private organizations. This is not intended to preclude normal home enterprises, providing State and local laws are complied with.

(18) Advertisements citing addresses or telephone numbers of commercial sales activities conducted on the installation.

(*e*) *Business reply system.* Agents who desire to use a business reply card system will include the information on the card which a military member can complete to indicate where and when the member can meet the agent to discuss the subject. The meeting place should be that established in accordance with § 552.60(*b*)(2), above, if the meeting is to be on the installation. This procedure should assist in removing any impression that the agent or his company are approved by the Department of the Army. It should further prevent an undesirable situation (e.g., military personnel paged on a public address system or called by a unit runner to report to the orderly room).

§ 552.61 Products and services offered in solicitation.

Products and services, including life insurance, offered and sold on Army installations must comply with the laws of the States (and other civil jurisdictions) in which the installations are located. If a dispute or complaint arises, the applicable State will make the determination (§ 552.56).

§ 552.62 Advertising rules and educational programs.

(*a*) The Department of the Army expects that commercial enterprises soliciting military personnel through advertisements appearing in unofficial military publications will voluntarily observe the highest business ethics in describing both the goods, services, and commodities and the terms of the sale (such as guarantees and warranties). If not, the publisher of the military publication will request the advertiser to observe them. The advertising of credit will conform to the provisions of the Truth-in-Lending Act, as implemented by Regulation Z, published by the Federal Reserve Board (12 Code of Federal Regulations 226).

(*b*) Commanders will provide appropriate information and educational programs to provide members of the Army with information pertaining to the conduct of their personal commercial affairs (e.g., the protections and remedies offered consumers under the Truth-in-Lending Act, insurance, Government benefits, savings, estate planning, and budgeting). The services or representatives of credit unions, banks, and nonprofit military associations approved by HQDA may be used for this purpose provided their programs are entirely educational. Under no circumstances will the services of commercial agents, including loan or finance companies and their associations, be used for this purpose. Educational materials prepared or used by outside organizations or experts in this field may be adapted or used with applicable permission, provided the material is entirely educational and does not contain applications or contract forms.

§ 552.63 "Cooling off" period for door-to-door sales.

The Federal Trade Commission Rule, 16 CFR Part 429, p. 233, effective 7 June 1974, pertains to a cooling off period for door-to-door sales. The rule applies to any sale, lease, or rental of consumer goods or services with a purchase price of $25 or more, whether under single or multiple contracts, in which the seller or business representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The purpose of the law is to allow the consumer the right to cancel a transaction at any time prior to midnight of the third business day after the date

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of the transaction. When any door-to-door sale or transaction takes place anywhere on or off the installation (other than the seller's place of business) the consumer must be provided with a full and complete receipt or copy of a contract pertaining to the sale at the time of its execution which shall include the "cancellation statements" as required by the FTC rule.

§ 552.64 Sound insurance underwriting and programing.

The Department of the Army encourages the acquisition of a sound insurance program that is suitably underwritten to meet the varying needs of the individual and is within his financial means. Accordingly, insurance agents may conduct personal business on an installation, when feasible, with disinterested third-party counseling provided, interviewing hours set aside, and facilities supplied. However, the privilege of insurance solicitation on installations is conditioned on full compliance with this regulation and on the clear understanding that permission is not indorsement of the company or the policies offered for sale.

§ 552.65 Command supervision.

(*a*) All insurance business conducted on Army installation will be by appointment. When setting up the appointment, insurance agents must identify themselves to the prospective purchaser as an agent for a specific insurance company.

(*b*) Department of Defense personnel are expressly prohibited from representing any insurance company or dealing either directly or indirectly with any insurance company or any recognized representative of an insurance company as an agent or in any official or business capacity for the solicitation of insurance to personnel on a military installation with or without compensation.

(*c*) In addition to the forbidden practices, installation commanders will prohibit the following:

(1) The use of a commercial insurance agent as a participant in any military-sponsored education or orientation program.

(2) The designation or announcement of any agent as "Battalion Insurance Advisor," "Unit Insurance Counselor," "SGLI Conversion Consultant," or similar quasi-official titles.

§ 552.66 Actions required by agents.

(*a*) The agent must know that—

(1) Soldiers to be solicited are in grades E–1, E–2, or E–3, and

(2) The solicitation of these members is restricted to specified times and locations designated by the installation commander.

(*b*) Agents must leave information on the policy applied for with each member in grades E–1, E–2, and E–3 who applies for insurance and the unit insurance officer or counselor. Agents must complete DA Form 2056 (Commercial Insurance Solicitation Record). Blank DA Forms 2056 (not allotment forms) will be available to insurance agents on request. In the "Remarks" section of DA Form 2056, agents will include all pertinent information and a clear statement that dividends are not guaranteed if the presentation refers to dividends.

§ 552.67 Life insurance policy content.

Insurance policies offered and sold on Army installations must—

(*a*) Comply with the insurance laws of the States or country in which the installations are located. The applicable State insurance commissioner will determine such compliance if there is a dispute or complaint.

(*b*) Contain no restrictions because of military service or military occupational specialty of the insured, unless restrictions are clearly indicated on the face of the policy.

(*c*) Plainly indicate any extra premium charges imposed because of military service or military occupational specialty.

(*d*) Not vary in the amount of death benefit or premium based on the length of time the policy has been in force, unless it is clearly described therein.

(*e*) For purposes of paragraphs (*b*) through (*d*) of this section, be stamped with an appropriate reference on the face of the policy to focus attention on any extra premium charges imposed and on any variations in the amount of death benefit or premium based on the length of time the policy has been in force.

(*f*) Variable life insurance policies may be offered provided they meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

(*g*) Show only the actual premiums payable for life insurance coverage.

§ 552.68 Minimum requirements for agents.

(*a*) In the United States, its territories, and the Commonwealth of Puerto Rico, agents may be authorized to solicit on an installation provided—

(1) Both the company and its agents are licensed in the State in which the installation is located. "State" as it pertains to political jurisdictions includes the 50 States, territories, and the Commonwealth of Puerto Rico.

(2) The application to solicit is made by an accredited company (§ 552.69).

(*b*) On Army military installation in foreign areas.

(1) An agent may solicit business on U.S. military installations in foreign areas if—

(i) The company he represents has been accredited by DOD;

(ii) His name is on the official list of accredited agents maintained by the applicable major command;

(iii) His employer, the company, has obtained clearance for him from the appropriate overseas commanders; and

(iv) The commanding officer of the military installation on which he desires to solicit has granted him permission.

(2) To be employed for overseas solicitation and designated as an accredited agent, agents must have at least 1 year of successful life insurance underwriting in the United States or its territories. Generally, this is within the 5 years preceding the date of application.

(3) General agents and agents will represent only one accredited commercial insurance company. The overseas commander may waive this requirement if multiple representation can be proven to be in the best interest of DOD personnel.

(4) An agent must possess a current State license. The overseas commander may waive this requirement on behalf of an accredited agent who has been continuously residing and successfully selling life insurance in foreign areas and forfeits his eligibility for a State license, through no fault of his own, due to the operation of State law or regulation governing domicile requirements, or requiring that the agent's company be licensed to do business in that State. The request for a waiver will contain the name of the State and jurisdiction, which would not renew the agent's license.

(5) An agent, once accredited in an overseas area, may not change his affiliation from the staff of one general agent to another, unless the losing company certifies, in writing, that the release is without justifiable prejudice. Unified commanders will have final authority to determine justifiable prejudice.

(6) Where the accredited insurer's policy permits, an overseas accredited life insurance agent, if duly qualified to engage in security activities either as a registered representative of a member of the National Association of Securities Dealers or an associated person of a broker/dealer registered with the Securities and Exchange Commission only, may offer life insurance and securities for sale simultaneously. In cases of commingled sales, the allotment of pay for the purchase of securities cannot be made to the insurer.

(7) Overseas commanders will exercise further agent control procedures as necessary.

§ 552.69 Application by companies to solicit on military installations in the United States, its territories, or the Commonwealth of Puerto Rico.

Before a company may be accredited to solicit on a military installation, the commander must receive a letter of application, signed by the company's president or vice president. It must be understood that a knowing and willful false statement is punishable by fine or imprisonment (18 USC 1001). The letter of application will—

(*a*) Report the States in which the company is qualified and licensed to sell insurance.

(*b*) Give the name, complete address, and telephone number of each agent who will solicit on the installation if approval is granted; the State in which licensed; the date of licensing and the expiration date; and a statement of agreement to report all future additions and separations of agents employed for solicitation on the installation.

(*c*) List all policies and their form numbers that are to be offered for purchase on the installation. Application will be offered for purchase and that these policies meet the requirements of § 552.67(*d*).

Attest that—

(1) The privilege of soliciting the purchase of life insurance is not currently suspended or withdrawn from the company by any of the military departments.

(2) The privilege of soliciting the purchase of life insurance is not currently suspended or withdrawn by any Armed Forces installations from any of the agents named.

(3) The company and the agent named have proper and currently validated licenses as required by § 552.68.

(4) The company assumes full responsibility for its agents complying with this regulation and with any regulations published by the installation commander.

§ 552.70 Applications by companies to solicit on installations in foreign countries.

(*a*) Each May and June only, DOD accepts applications from commercial life insurance companies for accreditation to solicit the purchase of commercial life insurance on installations in foreign countries for the fiscal year beginning the following October.

(*b*) Information about permission to solicit on installations outside the United States (exclusive of its territories and the Commonwealth of Puerto Rico) is contained in instructions issued by DOD. Applications and any correspondence relating thereto should be addressed to Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), ATTN: Directorate, Personnel Services, ODASD(MPP), WASH DC 20301.

(*c*) Advice of action taken by DOD is announced annually by letters sent to overseas commanders as soon as practicable after 15 September. The list of companies and agents may vary from year to year.

§ 552.71 Associations—general.

The recent growth of quasi-military associations offering various insurance plans to military personnel is recognized. Some associations are not organized within the supervision of insurance laws of either the Federal or State Government. While some are organized for profit, others function as nonprofit associations under Internal Revenue Service regulations. Regardless of how insurance plans are offered to members, the management of the association is responsible for assuring that all aspects of its insurance programs comply fully with the instructions of this regulation.

§ 552.72 Use of the allotment of pay system.

(*a*) Allotments of military pay will be made in accordance with Army Regulation 37–104–3. Allotments will not be made to an insurer for the purchase of a commingled sale (e.g., retirement plans, securities).

(*b*) Under no circumstances will agents have allotment forms in their possession or attempt to assist or coordinate the administrative processing of such forms.

(*c*) For personnel in grades E–1, E–2, and E–3, at least 7 days should elapse between the signing of a life insurance application or contract and the certification of an allotment. The purchaser's commanding officer may grant a waiver of this requirement for good cause, such as the purchaser's imminent permanent change of station.

§ 552.73 Minimum requirements for automobile insurance policies.

Policies sold on installations by both accepted and accredited insurers will meet all statutory and regulatory requirements of the State or host nation in which the installation is located. Policies will not be issued in amounts lower than the minimum limits prescribed by these authorities. In addition, policies will—

(*a*) Clearly identify the name of the insurer and the full address.

(1) Applications without the name and address of the insurer underwriting the insurance may be used; the names of sales or underwriting agents alone is not sufficient.

(2) Post office box addresses are not an acceptable address.

(*b*) Provide bodily injury and property damage liability coverage for all drivers authorized by the named insured to operate the vehicle. Military indorsements, excluding persons other than the named insured, whether in the military or not, are not acceptable.

(*c*) Not contain unusual limitations or restrictions, including, but not limited to, the following:

(1) Limitations specifying that coverage is afforded only when the insured vehicle is operated in the designated geographic areas in the United States (e.g., coverage applicable only on a military reservation). If the installation is located within the United States, the standard provision limiting coverage to the United States and Canada is acceptable.

(2) Coverage limited to exclude liability for bodily injury to passengers and guests if such a liability exists as a matter of law.

§ 552.74 Grounds for suspension.

The installation commander will deny or revoke permission of a company and its agents to conduct commercial activities on the installation if it is in the best interests of the command. The grounds for taking this action will include, but will not be limited to, the following:

(*a*) Failure of company to meet the licensing and other regulatory requirements prescribed in § 552.56.

(*b*) An agent or representative engaged in any of the solicitation practices prohibited by this regulation.

(*c*) Substantiated adverse complaints or reports about the quality of the goods, services, or commodities and the manner in which they are offered for sale.

(*d*) Personal misconduct by agents or representatives while on the military installation.

(*e*) The possession of or any attempt to obtain allotment forms, or to assist or coordinate the administrative processing of such forms.

(*f*) Knowing and willful violation of the Truth-in-Lending Act or Federal Regulation Z.

(*g*) Failure to incorporate and abide by the Standards of Fairness policies. (See § 552.83.)

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§ 552.75 Factors in suspending solicitation privileges.

In suspending privileges for cause, the installation commander will determine whether to limit suspension to the agent alone or to extent it to the company he represents. This decision will be based on the circumstances of the particular case. Included are—

(*a*) The nature of the violations and their frequencies;

(*b*) The extent to which other agents of the company have engaged in these practices;

(*c*) Previous warnings or suspensions; and

(*d*) Other matters that show the company's guilt or failure to take reasonable corrective or remedial action.

§ 552.76 Preliminary investigation.

When unauthorized solicitation practices have apparently occurred, an investigating officer will be appointed (Army Regulation 15–6). The investigating officer will gather sworn statements from all interested parties who have any knowledge of the alleged violations.

§ 552.77 Suspension approval.

The installation commander will personally approve all cases in which solicitation privileges have been denied or suspended for cause. This includes agents, companies, or other commercial enterprises. Authority to temporarily suspend solicitation privileges for 30 days or less while an investigation is conducted may be delegated by the commander to the installation solicitation officer or other designee. Exception to this time frame must be approved by The Adjutant General (DAAG–PSI) or by the overseas commander. The commander will make the final determination.

§ 552.78 "Show cause" hearing.

Before suspending the solicitation privilege, the company and the agent will have a chance to show cause why the action should not be taken. "Show cause" is an opportunity for the company, the agent, or both to present facts informally on their behalf. The company and agent will be notified, by letter, far in advance of the pending hearing. If unable to notify the agent directly or indirectly of the hearing, then the hearing may proceed.

§ 552.79 Suspension action.

(a) When suspended for cause, immediately notify the company and the agent, in writing, of the reason. When the installation commander determines that suspension should be extended throughout the Department of the Army (whether for the agent or his company), send the case to HQDA (DAAGPSI) WASH DC 20314. Provide all factors on which the commander based his decision concerning the agent or company (exempt report, para 7–2*o*, Army Regulation 335–15). This notification should include—

(1) Copies of the "show cause" hearing record or summary,

(2) The installation regulations or extract,

(3) The investigation report with sworn statements by all personnel affected by or having knowledge of the violations,

(4) The statement signed by the agent as required in § 552.60(c)

(5) Notification letters sent to the company and the agent advising of suspension of installation solicitation privileges, and

(6) If the agent failed to respond to notification of the hearing, a copy of the letters sent to him and the company offering them the opportunity to be heard.

(*b*) If the grounds for suspension bear significantly on the eligibility of the agent or company to hold a State license or to meet other regulatory requirements, notify the appropriate State or local civil authorities.

§ 552.80 Suspension period.

All solicitation privileges suspended by installation commanders will be for a specific time. Normally, it will not exceed 2 years. When the suspension period expires, the agent may reapply for permission to solicit at the installation authorizing the denial or suspension. Requests for suspension periods in excess of 2 years will be sent with the complete case to HQDA (DAAG–PSI) WASH DC 20314, for approval. Lesser suspension may be imposed pending decision.

§ 552.81 Agent or companies with suspended solicitation privileges.

Quarterly, HQDA will publish the names of agents and companies whose solicitation privileges have been suspended throughout the Department of the Army. If no change has occurred in the latest quarter, no list will be published.

§ 552.82 Exercise of "off limits" authority.

(*a*) In appropriate cases, installation commanders may have the Armed Forces Disciplinary Control Board investigate reports that cash or consumer credit transactions offered military personnel by a business establishment off post are usurious, fraudulent, misleading, or deceptive. If it is found that the commercial establishment engages in such practices; that it has not taken corrective action on being duly notified; and that the health, morale, and welfare of military personnel would be served, the Armed Forces Disciplinary Control Board may recommend that the offending business establishment be declared "off limits" to all military personnel. The procedures for making these determinations are in Army Regulation 190.24.

(*b*) On finding that a company transacting cash or consumer credit with members of the Armed Forces, nationwide or internationally, is engaged in widespread usurious, fraudulent, or deceptive practices, the Secretary of the Army may direct Armed Forces Disciplinary Control Boards in all geographical areas where this occurred to investigate the charges and take appropriate action.

§ 552.83 Standards of fairness.

(a) No finance charge contracted for, made, or received under any contract shall be in excess of the charge which could be made for such contract under the law of the place in which the contract is signed in the United States by the serviceman. In the event a contract is signed with a United States company in a foreign country, the lowest interest rate of the state or states in which the company is chartered or does business shall apply.

(b) No contract or loan agreement shall provide for an attorney's fee in the event of default unless suit is filed in which event the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney's fees shall be authorized if he is a salaried employee of the holder.

(c) In loan transactions, defenses which the debtor may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation provided that the holder had actual knowledge of the defense or under condition where reasonable inquiry would have apprised him of this fact.

(d) The debtor shall have the right to remove any security for the obligation beyond State or national boundaries if he or his family moves beyond such boundaries under military orders and notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.

5. No late charge shall be made in excess of 5 percent of the late payment, or $5 whichever is the lesser amount. Only one late charge may be made for any tardy installment. Late charges will not be levied where an allotment has been timely filed, but payment of the allotment has been delayed.

(e) The obligation may be paid in full at any time or through accelerated payments of any amount. There shall be no penalty for prepayment and in the event of prepayment, that portion of the finance charges which have insured to the benefit of the seller or creditor shall be prorated on the basis of the charges which would have been ratably payable had finance charges been calculated and payable as equal periodic payments over the term of the contract, and only the prorated amount to the date of prepayment shall be due. As an alternative, the "Rule of 78" may be applied, in which case its operation shall be explained in the contract.

(f) No charge shall be made for an insurance premium or for finance charges for such premium unless satisfactory evidence of a policy, or insurance certificate where State insurance laws or regulations permit such certificates to be issued in lieu of a policy, reflecting such coverage has been delivered to the debtor within 30 days after the specified date of delivery of the item purchased or the signing of a cash loan agreement.

(g) If the loan or contract agreement provides for payments in installments, each payment, other than the down payment, shall be in equal or substantially equal amounts, and installments shall be successive and of equal or substantially equal duration.

(h) If the security for the debt is repossessed and sold in order to satisfy or reduce the debt, the repossession and resale will meet the following conditions:

(1) The defaulting purchaser will be given advance written notice of the intention to repossess;

(2) Following repossession, the defaulting purchaser will be served a complete statement of his obligations and adequate advance notice of the sale;

(3) He will be permitted to redeem the item by payment of the amount due before the sale, or in lieu thereof submit a bid at the sale;

(4) There will be a solicitation for a minimum of three sealed bids unless sold at auction;

(5) The party holding the security, and all agents thereof are ineligible to bid;

(6) The defaulting purchaser will be charged only those charges which are reasonably necessary for storage, reconditioning, and resale; and

(7) He shall be provided a written detailed statement of his obligations, if any, following the resale and promptly refunded any credit balance due him, if any.

(i) A contract for personal goods and services may be terminated at any time before delivery of the goods or services without charge to the purchaser. However, if goods made to the special order of the purchaser result in preproduction costs, or require preparation for delivery, such additional costs will be listed in the order form or contract. No termination charge will be made in excess of this amount. Contracts for delivery at future intervals may be terminated as to the undelivered portion, and the purchaser shall be chargeable only for that proportion of the total cost which the goods or services delivered bear to the total goods called for by the contract. (This is in addition to the right to rescind certain credit transactions involving a security interest in real estate provided by section 125 of the Truth-in-Lending Act, Pub. L. 90–321 (15 U.S.C. 1601) and § 226.9 of Regulation Z (12 CFR Part 226).

[FR Doc. 80–34283 Filed 11–3–80; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1648-5]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the federally promulgated Ohio State Implementation Plan for sulfur dioxide for the United States Steel Corporation's Lorain Plant, Lorain County, Ohio. This revision is based upon documentation submitted by U.S. Steel pursuant to a Stipulated Agreement between U.S. Steel and the U.S. Environmental Protection Agency in two cases pending before the United States Court of Appeals for the Sixth Circuit. That Agreement recognized that data errors had been made in establishing the current limitations for the Lorain facility. In addition, U.S. Steel requests this revision to implement an alternative control strategy in which coke oven gas is displaced with natural gas in the dominant SO_2 sources and distributed to less significant sources. This revision corrects those errors, allows U.S. Steel to implement the alternative control strategy, and will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

EFFECTIVE DATE: December 4, 1980.

INFORMATION CONTACT:
Debra Marcantonio, Air Programs Branch, U.S. EPA, Region V, 230 S. Dearborn St., Chicago, Illinois 60604; Telephone (312) 886–6039.

SUPPLEMENTARY INFORMATION: This final rule is an amendment to the federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revision is specifically for the United States Steel Corporation's (U.S. Steel) Lorain Plant, Lorain County, Ohio.

On August 27, 1976, 41 FR 36324, the United States Environmental Protection Agency (U.S. EPA) promulgated regulations establishing the SIP for the control of SO_2 for the State of Ohio. On January 22, 1979, U.S. Steel submitted a Petition for Revision to the Ohio SIP. This Petition was submitted pursuant to a Stipulated Agreement between U.S. EPA and U.S. Steel in two cases (Nos. 76–2243 and 77–1358) pending before the United States Court of Appeals for the Sixth Circuit. Both parties acknowledged that certain data errors (e.g., source locations, fuel usage, receptor locations) had been made in U.S. EPA's modeling. U.S. EPA notified U.S. Steel of inadequacies in its Petition, and on September 12, 1979 U.S. Steel submitted an Amended Petition for Revision. Supplemental material was submitted on November 15, 1979, and in March, 1980. The subject of this notice is U.S. Steel's Amended Petition for Revision; it corrects the above-listed data errors, and includes an alternate control strategy which will be more cost effective than that currently permitted under existing U.S. EPA regulations. The basis for this alternate control strategy is the displacement of some coke oven gas from the dominant SO_2 sources (i.e. the number 4 seamless mill rotary furnace (P039) and the soaking pits (P006–018)) with natural gas; the coke oven gas will be distributed to other less significant sources. Any excess coke oven gas is to be flared. This control strategy requires the construction of an additional flare.

U.S. Steel has performed an air quality impact analysis to demonstrate that the proposed revision will achieve and maintain the National Ambient Air Quality Standards (NAAQS) for SO_2. U.S. Steel used the U.S. EPA RAM-Urban model, modified to treat volume sources, with 1964 Cleveland/Buffalo meteorological data. The volume source

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modification, consistent with U.S. EPA modeling guidelines, was necessary to better model emissions from such industrial process sources as the number 4 seamless mill rotary furnace (P039). This source is totally enclosed in a building with a roof vent and two side vents from which pollutant emissions are released.

As a part of the modeling methodology, U.S. Steel examined two scenarios: (1) all sources operating at maximum capacity with the additional flare down (i.e., no excess coke oven gas), and (2) the additional flare operating at maximum capacity without the coke oven gas-fired sources. For each scenario, one year of meteorological data was screened to select critical days for additional review. These critical day analyses indicated that the U.S. Steel control strategy is effective in achieving and maintaining the NAAQS. An additional analysis was performed to assess the use of alternate fuels in the boilers. In B001–012, the backup fuel produces less SO_2 emissions than the primary fuel. An emission limitation based upon the primary fuel is, therefore, more constraining. In B013, however, the alternate fuel, #2 distillate oil, produces more SO_2 emissions than the main fuel, blast furnace gas. Supplemental modeling of B013's firing #2 oil was performed to justify the proposed oil-firing emission limitation. With this limitation, the remaining sources can still burn coke oven gas at the 368 gr. H_2S level and achieve the NAAQS.

U.S. EPA, after a careful review of the proposed revision and the technical data submitted in support thereof, found the revision acceptable and effective in achieving and maintaining the NAAQS. Accordingly, on June 10, 1980, 45 FR 39310, U.S. EPA proposed approval of this revision, and provided a thirty (30) day public comment period. One comment was received which questioned the meteorological data base used in the modeling. The modeling relied on meteorological data from 1964. U.S. EPA and U.S. Steel agreed, among other things, on the use of 1964 Cleveland/Buffalo data for the reanalysis in the Stipulated Agreement. Although current U.S. EPA policy usually requires the use of multiyear meteorological data bases, at the time of the original modeling U.S. EPA policy did not require the use of a multiyear base. Further, U.S. EPA used 1964 data in developing the original emission limitations. The remodeling was intended to correct errors in U.S. EPA's original modeling. Therefore, U.S. EPA believes that the meteorological data base used in the remodeling was appropriate.

Since this revision to the Ohio SIP for SO_2 will not jeopardize the attainment and maintenance of the NAAQS, U.S. EPA is accordingly revising the emission limitations for the U.S. Steel Corporation's Lorain Plant, Lorain County, Ohio.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within [60 days of date of publication]. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged in later civil or criminal proceedings brought by U.S. EPA to enforce these requirements.

Under Executive Order 12044 (43 FR 12661), U.S. EPA is required to determine whether a regulation is "significant" and, therefore, subject to certain procedural requirements of that Order, or whether it may follow other specialized development procedures. U.S. EPA labels these other regulations "specialized." I have reviewed this regulation pursuant to the guidance in U.S. EPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979, by the Administrator, and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, Clean Air Act, as amended 42 USC § 7410)

Dated: October 23, 1980.

Douglas Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. § 52.1881 is amended by rivising paragraph (b)(38)(vi) (B) and (C); by adding as follows: paragraph (b)(38)(vi)(D); and by revising (b)(38)(vii).

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(38) In Lorain County, * * *

* * * * *

(vi) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at those facilities in excess of:

(A) * * *

(B) For fossil fuel-fired steam generating units number 010 through 012: 1.98 pounds of sulfur dioxide per million BTU of actual heat input.

(C) For fossil fuel-fired steam generating unit number 013: 0.31 pound of sulfur dioxide per million BTU of actual heat input.

(D) For all other fossil fuel-fired steam generating units, subparagraphs (b)(38)(i) or (b)(38)(ii) of this section shall apply, as applicable.

(vii) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities in Lorain County, Ohio, shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 368 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas and shall not cause or permit the emission of sulfur dioxide from any stack in excess of 1.98 pounds of sulfur dioxide per million BTU of actual heat input.

[FR Doc. 80-33928 Filed 11-03-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 65

[A-6-FRL-1637-1]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Approval in Part of an Administrative Order Issued by the New Mexico Environmental Improvement Board to Public Service Company of New Mexico

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is hereby approving in part and disapproving in part an Administrative Order issued by the New Mexico Environmental Improvement Board to Public Service Company of New Mexico. The Order requires the company to bring air pollution emissions from two coal burning electric utility generators into compliance with regulations contained in the New Mexico State Implementation Plan (SIP) or, in the case of New Mexico Air Quality Control Regulation 602, submitted to EPA for inclusion therein. Because the Order was issued to a major source and permits a delay in compliance with requirements of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act, 42 U.S.C. 7401 *et seq* (the Act). The part of the Order approved by EPA constitutes an addition to the SIP.

EFFECTIVE DATE: December 4, 1980.

Under Section 307(b)(1) of the Clean Air Act, judicial review of (this action) is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of date of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

FOR FURTHER INFORMATION CONTACT: Paige Murphy, Attorney, Legal Branch, Enforcement Division, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas, (214) 767–2760.

SUPPLEMENTARY INFORMATION: Public Service Company of New Mexico operates a coal burning electric utility generation plant located in San Juan County, New Mexico. The state-issued Order, which addresses emissions from San Juan Units Number 1 and 2, was received by EPA, Region 6, on December 7, 1979.

The Order required San Juan Unit Number 1, classified as a new source, to comply by December 31, 1979, with New Mexico Air Quality Control Regulation 602.A (NM 602.A), which limits emissions of sulfur dioxide from new coal burning generators, and New Mexico Air Quality Control Regulation 603.A (NM 603.A), which limits emission of nitrogen dioxide from new sources. Because the delay in compliance by San Juan Unit No. 1 was authorized only up to December 31, 1979, EPA approval or disapproval beyond that date would have been of no practical effort. Consequently, EPA has taken no action with respect to provisions of the state-issued Order addressing compliance by San Juan Unit No. 1. It should be added that the SIP requirements involved (NM 602.A and NM 603.A) required compliance as of May 31, 1972. Since compliance under the SIP was required more than three years before the date of compliance set forth in the Order, EPA approval would not have been authorized under Section 113(d)(1)(D) of the Act, 42 U.S.C. 7413(d)(1)(D).

The Order further addressed New Mexico Air Quality Control Regulation 504.C (NM 504.C) which limits particulate emissions from existing coal-burning equipment (those units fully constructed or under construction prior to September 1, 1971). San Juan Unit No. 2 is subject to NM 504.C. The Order required final compliance by San Juan Unit No. 2 with NM 504.C by April 18, 1980. Under Section 113(d)(1)(D) of the Act, orders may be issued extending the date for final compliance to a date no later than July 1, 1979, or three years after the date for final compliance specified in the applicable state implementation plan. Because July 1, 1979, has passed and NM 504.C (as approved by EPA on May 31, 1972) requires final compliance by December 31, 1974, EPA is without authority to approve that portion of the Order which would allow compliance with 504.C by April 18, 1980.

While the State has submitted an amended version of NM 504.C to EPA for approval, EPA has not approved the amended NM 504.C at this time. Until such approval is given, NM 504.C as approved on May 31, 1972, remains the applicable SIP requirement governing particulate emissions from existing coal-fired generators.

The Order additionally authorized delayed compliance at San Juan Unit No. 2 with New Mexico Air Quality Control Regulation 602.B (NM 602.B), which limits the emissions of sulfur dioxide from existing coal-burning equipment (fully constructed or under construction prior to September 1, 1971). In response to the New Mexico Court of Appeals decision in *Public Service Company* vs. *Environmental Improvement Board*, EPA withdrew the previously-approved regulation governing sulfur dioxide emissions from existing coal-burning equipment. Thus, no EPA-approved regulation addressing sulfur dioxide emissions from such sources existed at the time the Order was submitted to EPA (although NM 602.B was then being reviewed for approval). EPA proposed to conditionally approve that part of the Order allowing delayed compliance with NM 602.B, pending EPA's approval of the regulation itself. On April 10, 1980, EPA gave conditional approval to NM 602.B (45 FR 24460 *et seq*). Thus, that portion of the Order allowing San Juan Unit No. 2 to comply with NM 602.B by April 18, 1980 is approved. NM 602.B requires compliance as of July 9, 1978, and an order authorizing compliance by April 18, 1980, clearly falls within the three year limitation prescribed by Section 113(d)(1)(D) of the Act. Other applicable requirements of Section 113(d) of the Act are satisfied: the source has consented to the terms of the Order and has agreed to meet the requirements of the compliance schedule contained therein during the period of this informal rulemaking. To the extent that the Delayed Compliance Order has been approved, compliance with its terms precludes further EPA enforcement action under Section 113 of the Act against this source for violations of the state air pollution control regulation covered by the Order during its period of effectiveness. Action against the source under the citizen suit provisions of the Act (Section 304) would be similarly barred.

EPA's proposed actions with respect to the Order (to wit: approving in part and disapproving in part) were published in the **Federal Register** on April 4, 1980 (45 FR 22987). Public comments solicited in the Notice of Proposed Actions, were received from the State of New Mexico and Public Service Company of New Mexico.

Comment: EPA's nonaction with respect to provisions of the Order delaying compliance up to December 31, 1980, was questioned. The State expressed its assumption that agencies can make retroactive determinations and that EPA's nonaction in itself would provide protection from federal penalties. The company felt that approval was required to provide protection from citizen's suits.

Answer: Whether an agency can make retroactive determinations is not an issue here. Had an urgent need for EPA's approval existed, the state could have formally transmitted the Order (issued by the Environmental Improvement Board on August 10, 1979) earlier than it did. While EPA's declining to approve or disapprove these provisions retroactively does not provide automatic insulation from federal penalties, in this particular instance the effect is much the same. All federal enforcement actions for violations of the SIP must begin with a notice of violations. Penalties may not be assessed unless the violation has extended beyond the thirtieth day after the notice of violation. Since EPA has not issued a notice of violation for violation occurring during the period December 7 to 31, 1979, no penalties may be assessed for such violation. Because only those citizen's suits which seek injunctive relief are authorized by Section 304 of the Act, the company has never been vulnerable to penalties assessed as a result of such suits. Nor could injunctive relief be obtained through a Section 304 suit since it is a practical impossibility to enjoin actions which have occurred in the past.

Comment: Both the State of New Mexico and Public Service Company of New Mexico dispute EPA's disapproval of the portion of the Order allowing delayed compliance with NM 504.C. It

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was asserted that NM 504.C (as currently approved by EPA) was withdrawn by the State of New Mexico when an amended NM 504 was submitted for approval as part of the SIP in July of 1978. These comments reflect the assumption that under NM 504, as amended, compliance can be delayed until July 13, 1981 (three years from the amended regulation's effective date) even through the substantive SIP requirement (i.e., particulate emission limitations for existing coal-burning equipment) remains virtually unchanged from the currently-approved version of NM 504. The commenters further suggested that provisions delaying compliance with NM 602.B and with NM 504.C should be similarly approved insofar as NM 602.B and the amended NM 504 were submitted for EPA's approval at the same time.

Answer: State air quality regulations do not become provisions of an applicable state implementation plan until approved by the Administrator of EPA, nor can such regulations be unilaterally withdrawn from a state implemention plan without the Administrator's approval. NM 504.C, approved by the Administrator on May 31, 1972, constitutes the applicable SIP provision governing particulate emissions from existing coal-fired equipment and it will remain so until its withdrawal and the revised regulation are approved by the Administrator.

A different situation existed with respect to NM 602, which was approved by EPA on April 10, 1980. Before this approval, there existed no implementation plan provision or sulfur dioxide emissions from existing coal-fired sources, the previously approved and applicable regulation (NM 602.B(2) and (3)) having been withdrawn by the Administrator following the New Mexico Court of Appeals decision in *Public Service Company of New Mexico v. Environmental Improvement Board.* Therefore, the portion of the delayed compliance order addressing sulfur dioxide emissions from existing power plants could not be approved until an applicable implementation plan provision existed for such sources. Recognizing that EPA approval of such provision was forthcoming, conditional approval of the Order was appropriate at the time EPA's proposed actions concerning the order was published.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

In consideration of the foregoing, the Environmental Protection Agency approves in part the Delayed Compliance Order issued by the New Mexico Environmental Improvement Board to Public Service Company of New Mexico.

(Sec. 113(d) of the Clean Air Act, 42 U.S.C. 7413(d))

Dated: October 23, 1980.

Douglas M. Costle,

Administrator.

Part 65 of Chapter I, Title 40 of the Code of Federal Regulation is amended by adding the following entries to the tables in §§ 65.361 and 65.362.

§ 65.361 EPA approval of State delayed compliance orders issued to major stationary sources.

Source	Location	Order No.	Date of FR proposal	SIP regulation(s) involved	Final compliance date
Public Service Company of New Mexico.	San Juan County, N. Mex.	00432-021	Apr. 14, 1980	NM 602.B	Apr. 18, 1980.

§ 65.362 EPA disapproval of State delayed compliance orders.

Source	Location	Order No.	Date of FR proposal	SIP regulation(s) involved	Final compliance date
Public Service Company of New Mexico.	San Juan County, N. Mex.	00432-021	Apr. 14, 1980	NM 504.C	Apr. 18, 1980.

[FR Doc. 80-33927 Filed 11-3-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-7-FRL 1648-2]

Section 107—Revision to Attainment Status Designations for Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA proposed in the February 11, 1980 **Federal Register** (45 FR 9012) to redesignate certain areas in Kansas, as requested by the Kansas Department of Health and Environment, based upon supporting air quality data.

This notice describes the EPA's final action on the proposed redesignations. In taking final action the EPA has considered the comments on the March 3, 1978 rulemaking which identified attainment status designations, as well as the comments which were received after the proposal for the current rulemaking was published.

DATES: These designations are effective November 4, 1980.

ADDRESSES: Copies of the state submission, the comments received on the proposed rulemaking and an evaluation document are available at the following locations:

Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106;

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66620;

Kansas City—Wyandotte County Health Department, Air Pollution Control Division, 619 Ann Avenue, Kansas City, Kansas 66101;

Mid-America Regional Council, 20 West Ninth Street, Kansas City, Missouri 64105.

A copy of the state submission and this notice is available at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On April 6, 1979, the Kansas Department of Health and Environment (KDHE) submitted area redesignation requests for Sedgwick County, Topeka, and Kansas City, Kansas. The EPA proposed action on these requests in the February 11, 1980 **Federal Register** at 45 FR 9012.

(1) Sedgwick County—This area is presently designated as nonattainment for ozone. The ambient air quality measurements for the area during the years 1976 through 1978 indicate that the area meets the National Ambient Air Quality Standards (NAAQS) for ozone, as revised by the Administrator on February 8, 1979 (44 FR 8202). The state has recommended that Sedgwick County be redesignated as attainment for the ozone standard on this basis.

No comments were received on the proposal to redesignate Sedgwick County.

Action: Since no violations of the revised ozone standard have taken place in this area since 1976, the EPA approves the state recommendation that Sedgwick County be redesignated as attainment for ozone.

(2) Topeka—This area is presently designated as nonattainment for both the primary and secondary standards for total suspended particulates (TSP). This designation was based on data received during the period 1974 through 1976.

The KDHE has reported that no violations of the primary standard have occurred in the area since 1976 and contends that violations of the secondary standard are attributable to fugitive dust emissions. On this basis the KDHE has asked that Topeka be redesignated as attainment for the primary and secondary standards for particulates.

Under the EPA policy on accounting for fugitive dust (43 FR 8963, March 3, 1978) certain rural or non-urban areas could be designated attainment if the criteria for fugitive dust were met. These criteria are that the area have (1) a lack of major industrial development or an absence of significant industrial particulate emissions, and (2) a low urbanized population. The EPA uses the definition of "major stationary source" in Section 302(j) of the Clean Air Act as a guide in considering whether an area has an absence of significant industrial particulate emissions. The EPA fugitive dust policy paper (August 1, 1977) establishes a population range of 25,000 to 50,000 as a guideline for determining whether an area can be considered to have a low urbanized population.

In the proposal for the redesignation of Topeka (referenced above) it was stated that Topeka met the first criterion of the policy. However, the EPA proposed to retain the secondary nonattainment designation because the area did not meet the population criterion. Further examination reveals that of the eleven point sources impacting the nonattainment area, several would be defined as significant industrial sources of particulate emissions. Thus, Topeka does not meet the first criterion of the fugitive dust policy. Topeka also has a greater population than what the EPA considers a low urbanized population. The additional finding relating to presence of significant sources does not affect the February 11, 1980 proposal to retain the secondary TSP nonattainment designation. It does mean that the decision to retain the secondary TSP nonattainment designation now has a broader basis, i.e., that the Topeka nonattainment area does not meet either of the criteria for the application of the fugitive dust policy. Since this additional consideration does not alter the proposal to retain the secondary nonattainment designation, no additional public comment period is necessary.

In the February 11, 1980 **Federal Register** the EPA proposed to remove the primary particulate nonattainment designation for Topeka, since no violation of the primary TSP standard has occurred since 1976, and to retain the secondary particulate nonattainment designation for Topeka.

Five comments were received in regard to the proposal to change the Topeka designation. Two commentors stated that Topeka should be designated attainment rather than nonattainment for the secondary TSP standard. In their opinion, the dust problem in Topeka is a result of fugitive dust blown into Topeka rather than industrial dust from Topeka-based sources. No evidence was offered to support these opinions. Three commentors were concerned with the EPA's use of population figures to distinguish urban from rural areas. One of these commentors also stated that the use of low population cutoff figures for western states and high population cutoff figures for eastern states is prejudicial towards western states.

The fugitive dust policy recognizes the generally greater health impact due to fugitive dust in urban areas in contrast to rural areas. In urban areas, the windblown soil contains various manmade toxic pollutants, whereas rural windblown dust is usually not significantly contaminated by industrial pollutants. The population criterion was incorporated into the policy in order to focus attention on the larger urban centers, where air pollution problems and the number of people adversely affected are significant. The EPA believes that the use of lower population figures for western states represents a realistic approach for identifying urban/rural area in western states. The main objective of the policy is to protest the greatest number of people from the adverse health effects of air pollutants. The EPA believes the population criterion provides a reasonable basis for determining whether an area experiencing violations of the standards should be designated attainment, and does not believe that the criterion is met in this instance.

Action: The EPA removes the primary TSP nonattainment designation for Topeka but retains the secondary TSP nonattainment designation for Topeka.

(3) Kansas City—An area of Kansas City, Kansas, described in the February 11, 1980 proposed rulemaking (45 FR 9012) is currently designated as nonattainment for carbon monoxide (CO). In that proposal, the EPA proposed to change the area designation to unclassified.

The KDHE has requested that this area be redesignated as attainment for CO. This request is based on the fact that CO measurements in the area have indicated a steady decrease in the levels of CO over the past three years and no violations of the standard were recorded in 1978.

However, the EPA believes that the location of the CO monitor in the Kansas City, Kansas area is not in accordance with the EPA siting criteria for maximum concentration level CO monitoring.

The EPA and KDHE have agreed upon an alternative monitoring site which would meet the siting criteria. The KDHE has agreed to operate the monitors at both sites for one year to obtain more data upon which to base a more accurate area designation.

One comment was received from the KDHE regarding the location of a new CO monitor in Kansas City, Kansas. The KDHE questioned whether this site met the EPA siting requirements of 40 CFR 58, Appendix D 2.4. The KDHE also stated that it had made no prior commitment to continue to operate a sampler at this location.

The new Kansas City, Kansas carbon monoxide monitor at 7th and State Streets was established as a peak concentration location for CO and in the opinion of the EPA it meets the siting requirements for this purpose. It was the EPA's understanding that the KDHE had agreed to the new monitoring site. The details regarding the future operation of the site will be negotiated with the state at a later date. This will have no effect on the present decision to redesignate the Kansas City, Kansas carbon monoxide nonattainment area to unclassified.

Action: The CO nonattainment area in Kansas City, Kansas is redesignated to unclassified for the CO standard, until

data has been collected from both monitoring sites for one year. At that time the data will be evaluated, and further action may then be taken.

(4) Riverton—The EPA proposed in the **Federal Register** of February 11, 1980 (45 FR 9012) to redesignate the Riverton area from attainment to unclassified for the sulfur dioxide (SO_2) standard. The basis for the proposed redesignation of this area was that six violations of the primary standard and nine violations of the secondary standard for sulfur dioxide had been recorded between April 5, 1977 and June 30, 1978 during a special sampling study around the Empire District Electric Company (EDEC) power plant located in Riverton. Since that time the company has come into compliance with Kansas Regulation 28–19–31C dealing with sulfur emissions. The reader is referred to the proposal cited above for further information. Only eight months of monitored data showing no violations of the primary or secondary standard for SO_2 were available at the time of the proposal. The EPA did not believe it had sufficient data at that time on which to base a designation for the SO_2 standard in Riverton. Thus, it was proposed that Riverton be designated as unclassified for the SO_2 standard until four quarters of SO_2 monitoring data became available. The proposal indicated that only four quarters of data were necessary, rather than eight quarters as is generally required, because actual air quality improvements could be attributed to emission reductions required by a delayed compliance order issued to the EDEC. The proposal stated that when one year's worth of continuous sulfur dioxide monitoring data was obtained showing no violations of the SO_2 standard, the Riverton area could be designated as attainment.

At the present time there are 15 months of monitored data at the EDEC power plant in Riverton showing no violations of either the primary or secondary standard for SO_2. The EPA believes that this data indicates an actual improvement in air quality since the EDEC power plant is now complying with Kansas Regulation 28–19–31C, and adequately indicates attainment of the NAAQS for SO_2 in the Riverton area. Because of the demonstration that actual air quality improvements have resulted due to legally enforceable measures requiring reductions in actual emissions, only one year's worth of SO_2 monitoring data showing no violations was necessary for the area to retain its attainment designation.

One comment was received on the proposal to redesignate the Riverton area. This commentor questioned whether the proposed redesignation of Riverton to unclassified was being carried out in accordance with the provisions of Section 107(d) of the Clean Air Act as amended. As a result of the present notice, the attainment status designation for the Riverton area will not be altered from the original March 3, 1978 designation. Since there will be no redesignation, the comment requires no further response.

Action: The original proposal to redesignate Riverton to unclassified was made to allow the EPA to obtain at least four quarters of data before making a decision on the attainment/nonattainment designation of the Riverton area for SO_2.

The EPA has determined not to change the attainment status designation for the area since the state has demonstrated, on the basis of more than four quarters of monitoring data and actual air quality improvements, that the attainment designation is still appropriate. In response to the comment on the original designation of Riverton, discussed in the proposal, the EPA has concluded that the original March 3, 1978 designation was correct and remains in effect for the area. No reproposal is necessary because the EPA is not taking any action to change the March 3, 1978 designation, and because the requirements which the state must meet to demonstrate attainment were fully discussed in the proposal.

Under Executive Order 12044, the EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. The EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of [this action] is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of [Date of Publication in the FR]. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

These actions are being made effective immediately in order to lift restriction on construction of new or modified sources in areas for which the designation is revised to attainment or unclassified.

This notice of final rulemaking is issued under the authority of Section 107 of the Clean Air Act as amended.

Dated: October 21, 1980.

Note.—Incorporation by reference of the State Implementation Plan for the State of Kansas was approved by the Director of the Federal Register on July 1, 1980.

Douglas M. Costle,
Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended in § 81.317 as follows:

1. The chart on Kansas—TSP is amended by revising the entries on Wyandotte County, Topeka, Kansas, and Remainder of State;

2. The chart on Kansas—O_x is amended by revising the entries on Kansas City AQCR(094), South Central AQCR(099), Northwest AQCR(095), and Remainder of State; and

3. The chart on Kansas—CO is amended by revising the entries on Kansas City, Kansas, Wichita, Kansas, and Remainder of State.

SUBCHAPTER C—AIR PROGRAMS

Subpart B—Designation of Air Quality Control Regions

* * * * *

§ 81.317 Kansas.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kansas—TSP				
Wyandotte County:				
a. Most of the area between I–635 and the Missouri state line.	X			
b. An area extending about three miles west of the above area.		X		
Topeka, Kansas, area bounded by: Kansas River on the east and south, Vail Avenue on the west and Lyman Avenue on the north.		X		
Remainder of State				X

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Kansas—O$_x$		
Kansas City AQCR (094):		
Wyandotte County	*X	
Johnson County	*X	
South Central AQCR (099): Sedgwick County		X
Northwest AQCR (095): Douglas County	*X	
Remainder of State		X
Kansas—CO		
Kansas City, Kansas area, bounded by: 6th Street on the east, Washington Street on the north, 18th Street on the west, and Barnett Street on the south.		X
Wichita, Kansas area, bounded by: Grove Street on the east, 13th Street on the north, the Arkansas River on the west, and Kellogg Avenue on the south.	X	
Remainder of State		X

*EPA designation replaces State designation.

[FR Doc. 80–33926 Filed 11–3–80; 8:45 am]

BILLING CODE 6560–38–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3–3

Procurement Planning; Deletion of Subpart

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations to delete Subpart 3–3.50, Procurement Planning. This subpart is being deleted because it is outdated.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Office of Procurement Policy, OGP, OASMB, OS, Department of Health and Human Services, Room 536H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202–245–0481).

SUPPLEMENTARY INFORMATION: Subpart 3–3.50 is being deleted because it is outdated. A new subpart will not be substituted in Title 41 CFR Chapter 3 for the deleted subpart. However, a new subpart on procurement planning has been developed and incorporated into the Department's Procurement Staff Manual. This new subpart on procurement planning is not being added to 41 CFR Chapter 3 because the material contained in it is procedural in nature and concerns internal administrative guidance.

It is the policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendment concerns internal administrative procedures, the public rulemaking process was deemed unnecessary in this instance. The provision of this amendment is issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: October 27, 1980.

Murray N. Weinstein,
Acting Deputy Assistant Secretary for Grants and Procurement.

Subpart 3–3.50 (§§ 3.3.5000—3.3.5004) [Deleted]

Under Part 3–3, Procurement by Negotiation, Subpart 3–3.50, Procurement Planning, is deleted in its entirety. In addition, the table of contents for Part 3–3 is amended to delete reference to Subpart 3–3.50.

[FR Doc. 80–34368 Filed 11–3–80; 8:45 am]

BILLING CODE 4110–12–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–37

[FPMR Amdt. F–43]

Essential Residential Telephone Service During Emergencies

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates FPMR Subpart 101–37.6 to clarify the policies, delete expired references, and correct addresses. The intended effect is to provide a current regulation for the agencies to provide and administer residential phone service to staff members who have essential emergency related functions to perform.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. Johnson, Policy and Evaluation Division (202–566–0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

1. The table of contents for Part 101–37 is amended by revising the following entry:

Subpart 101–37.6—Essential Residential Telephone Service During Emergencies

2. Section 101–37.601(a) and (b) is revised to read as follows:

§ 101–37.601 Line load control.

(a) An arrangement called line load control is provided by the public telephone companies so that subscribers having essential emergency functions may encounter a minimum of delay in placing calls from their residences during emergencies. The number of telephones that can be included in this arrangement is limited. Any charges for the line load control arrangement will be borne by the requesting agency.

(b) If a number has been designated "essential," all outgoing calls are put through with minimum delay while retaining generally good service, with only slight and intermittent delay to the other general public users.

3. Section 101–37.602 is revised to read as follows:

§ 101–37.602 Availability of essential service.

The head of each Federal agency will be responsible for ensuring that this service will be provided only to those key individuals whose emergency assignments require the capability to discharge emergency responsibilities and functions from their residential telephones.

4. Section 101–37.603 is amended by revising paragraphs (a), (b), and (d) and by deleting paragraph (e) to read as follows:

§ 101–37.603 Criteria and procedures for obtaining essential service.

(a) The agency head is responsible for establishing internal procedures necessary to ensure that the selection of employees will be made in accordance with the guidelines in paragraph (b) of this section.

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(b) Normal residential telephone service will be adequate in most situations and will be subjected to the imposition of line load control only under the most critical circumstances. Therefore, each employee selected for essential service must have a responsibility or function requiring undelayed outgoing calling capability. Essentially, the person being considered must have an emergency assignment requiring the immediate discharge of responsibilities from that person's home telephone. Rank, grade, or position are not determining factors. Because of the limits of this service, selections should be held to an absolute minimum.

* * * * *

(d) The lists of selected employees will be approved and certified as meeting the guidelines established in § 101-37.603 of this FPMR. Certified lists then shall be forwarded to the appropriate General Services Administration (GSA) regional office, Attention: Director, Telecommunications Division. The GSA regional office will forward the lists to the appropriate telephone company for implementation.

(e) [Reserved]

5. Section 101-37.604 is revised to read as follows:

§ 101-37.604 Procedures for resolution of conflicts.

(a) When a local telephone company receives more requests for essential service than it can accommodate, the appropriate GSA regional office will be notified.

(b) The GSA regional office will resolve the matter with the local or regional offices of the agencies concerned. If the problem cannot be resolved at this level, the information will be submitted to the General Services Administration, Attention: Commissioner, Automated Data and Telecommunications Service (C) (hereafter referred to as GSA Central Office).

(c) GSA Central Office will contact the agencies' national offices to effect a solution. After resolution, GSA Central Office will notify the GSA regional office concerned, which will then advise the telephone company and the agency offices involved.

6. Section 101-37.605 is revised to read as follows:

§ 101-37.605 Changes in agency essential service listing.

It is the responsibility for the agency or agency field activity to update its lists of employees requiring essential service in accordance with instructions of the agency head. Changes in these lists should be forwarded promptly to the appropriate GSA regional office for further action to add or delete these employees from line load control.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: October 27, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-34380 Filed 11-3-80; 8:45 am]

BILLING CODE 6820-25-M

41CFR Ch. 101

[FPMR Temp. Reg. H-22]

Recovery of Cost of Care and Handling of Surplus Personal Property Under the Control of the Department of Defense

AGENCY: Federal Property Resources Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation supersedes FPMR Temporary Regulation H-21 and establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

DATES: Effective date: October 1, 1980. Expiration date: Upon termination of House Joint Resolution 610, 96th Congress, Second Session, unless revised or superseded sooner.

FOR FURTHER INFORMATION CONTACT: Francis B. Roche, Assistant Commissioner for Personal Property (703-557-3852).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Authority: The provisions of this regulation are issued under section 764 of Pub. L. 96-154 as continued by House Joint Resolution 610.

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter H to read as follows:

Federal Property Management Regulations

TO: Department of Defense

SUBJECT: Recovery of costs of care and handling of surplus personal property under the control of the Department of Defense

1. *Purpose.* This regulation establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

2. *Effective date.* This regulation became effective October 1, 1980.

3. *Expiration date.* This regulation expires upon the termination of House Joint Resolution 610, 96th Congress, Second Session, unless revised or superseded sooner.

4. *Applicability.* The provisions of this regulation apply to the Department of Defense.

5. *Background.*

a. Section 764 of Public Law 96-154, Department of Defense Appropriations Act of 1980, approved December 21, 1979, necessitated the General Services Administration to establish policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is transferred for donation under the provisions of section 203(j) of the Federal Property and Administrative Service Act of 1949, as amended. That is, none of the funds appropriated by the Department of Defense Appropriations Act of 1980 shall be available for paying to the Administrator of General Services the standard level user charge established under section 210(j) of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 490), for space and services for any month after January 1, 1980, unless, during that month, the Administrator has regulations in effect, provided for by section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)), that require the recovery of the costs of care and handling of surplus property under the control of the Department of Defense that is disposed of under the provisions of that section.

b. FPMR Temporary Regulation H-21 (45 FR 7260, Feb. 1, 1980) became effective on January 1, 1980, and provided the necessary implementation of section 764 of Public Law 96-154, which expired on September 30, 1980. Congress extended the provisions of Public Law 96-154 by House Joint resolution 610. This regulation supersedes FPMR Temporary Regulation H-21, which also expired on September 30, 1980, to continue to provide the necessary implementation of section 764.

6. *Costs incurred incident to donation.* The Department of Defense is required to recover the costs of care and handling of surplus personal property under its control that is disposed of under the provisions of section 203(j) of Federal Property and Administrative Services Act of 1949, as amended, provided that the costs are limited to the recovery of care and handling as defined in section 3(h) of the Federal Property and Administrative Services Act of 1949, as amended, and that these costs are specifically attributable and allocated to the items of property transferred for donation, but in no event shall any charge exceed one-half of one percent of the original acquisition cost. Where these costs are incurred, they shall be reimbursed promptly by the State agency, the designated donee, or service educational activity upon appropriate billing by the Department of Defense. The Department of Defense shall maintain information on all billings and collections of care and handling costs incident to this part.

7. *Effect on other directives.* When the provisions of other regulations and related directives are in conflict with the provisions of this regulation, the provisions of this regulation shall govern.

R. G. Freeman III,

Administrator of General Services.

October 27, 1980.

[FR Doc. 80-34379 Filed 11-3-80; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Educational Assistance to Individuals From Disadvantaged Backgrounds

AGENCY: Public Health Service, HHS.

ACTION: The Public Health Service is adopting as final, interim regulations which govern the award of grants for educational assistance to individuals from disadvantaged backgrounds. These rules were published as interim rules in September of 1978. They implement the provisions of sections 798 and 787 of the Public Health Service Act.

EFFECTIVE DATE: This rule is effective November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur Testoff, Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10-50, 3700 East-West Highway, Hyattsville, Maryland 20782, (301-436-7230).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 5, 1978 (43 FR 39380), the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, amended Subpart S, entitled "Educational Assistance to Individuals from Disadvantaged Backgrounds," to Part 57, Title 42 of the Code of Federal Regulations. These regulations implemented sections 787 and 798 of the Public Health Service Act (the Act).

Section 787 authorizes the Secretary to make grants to schools and other health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. Section 798 establishes a parallel program for training in allied health. The assistance authorized by these sections includes identification and recruitment, remedial education, counseling, and advice on financial aid.

The regulations defined "disadvantaged background" for the purposes of this program, provided specific program requirements, and included provisions concerning eligibility, applications, evaluation criteria, administration of grants, etc. They were published as interim-final regulations without benefit of proposed rulemaking procedures so that grantees could have adequate lead time to comply with the requirements of the program. Nonetheless, the public was invited to comment by November 6, 1978, and the Department was to revise the regulations as warranted by the comments. Nine persons responded. For clarity, the comments and responses are arranged according to the section numbers and titles of the interim-final regulations to which they refer.

§ 57.1802 Definitions.

Comment: One respondent requested that the Department include nursing either in the definition of "health professions" or in the definition of "allied health professions."

Response: The Department believes that it would be inappropriate to support programs for nursing education for disadvantaged students under the authority of sections 787 or 798. Schools of nursing are not among those schools specifically mentioned in these sections. Furthermore, sections 810 and 820 of Title VIII of the Act provide support for programs for disadvantaged students in nursing education which parallel the support in sections 787 and 798.

§ 57.1803 Eligibility.

Comment: One respondent expressed concern that the definition of "disadvantaged background" could exclude an individual who is disadvantaged due to environment although the annual family income is above the low income threshold.

Response: The regulations provide that a person may be disadvantaged either by environment or by income level. Therefore, the individual described by the respondent is not excluded from the definition.

Comment: Another respondent felt that the definition should include a racial minority classification on the grounds that there is a disadvantage related to race which is not necessarily related to prior educational or economic environment.

Response: The Department has not adopted this suggestion. Although this program was established to help individuals overcome background disadvantages which are often related to race, the Department does not believe that racial classifications should replace a selection process based on an individual's ability to obtain an education in a health or allied health profession. A criterion based on race alone could open the program to minority students who come from families with incomes above the threshold and whose environments do not inhibit them from successfully completing a health professions or allied health professions education. This would be inconsistent with the statutory purpose of assisting students with disadvantages which inhibit them from undertaking this education. The Department points out, however, that racial and ethnic representation in this program continues to be substantial.

Section 57.1803 listed the purposes from which projects may be funded, and required that a grantee's program must achieve at least two of them. The preamble indicated that entities with independent funding for one of the purposes may apply for support for another, or others.

Comment: One respondent felt that the preamble explanation was unclear because it apparently limited support to entities which already have independent funding for at least one of the purposes. Also, the respondent expressed uncertainty about the status of an applicant with programs which achieve two of the purposes, both of which are independently funded.

Response: The Department has reworded the final regulations to clarify these points. An independent source of funds for one or more purposes does not

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preclude Federal support for other purposes. An entity with independent funding for one purpose may apply for support for another, or others. An entity with independent funding for two purposes may apply for support for a third. An entity without independent funding must apply for support for at least two.

One of the purposes for a project involves providing "preliminary education" to assist disadvantaged individuals before they enter the regular course of education in a health professions school or in a program providing education in an allied health profession. The regulations stated that preliminary education may not be offered to students before they start the senior year of high school.

Comment: Two respondents requested a revision to permit preliminary education during the summer before the start of the senior year.

Response: The final regulations have been reworded to clarify this point. The Department allows preliminary education during this summer period, and expected that the "senior year of high school" would be interpreted as commencing immediately after a student has officially completed the junior year of high school.

§ 57.1807 Grant award.

Comment: One respondent asked that the regulations provide for payment of tuition and fees.

Response: The Department cannot adopt this suggestion because the authorizing statute does not specifically provide tuition and fees, or any other student financial aid. In limited circumstances, however, the Department permits per diem when an individual's participation would otherwise be impossible.

General

Comment: A respondent from Arizona recommended that at least 50 percent of the program funds should be earmarked for assistance to individuals in rural areas since they are likely to return to those areas.

Response: The Department did not accept this suggestion because earmarking funds between rural and urban areas is not appropriate for this program. Earmarking funds does not seem to be necessary as a means of ensuring rural participation. For example, two of Arizona's three grantees are rural. Also, in many states, disadvantaged individuals reside primarily in urban areas, and support there will naturally focus on them.

The final regulations have been restructured based on "Operation Common Sense," the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions have either been updated or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74), and all provisions have been reorganized into a standardized format for health professions grants regulations. Additionally, the Department has made several technical changes based on its own review.

Accordingly, Subpart S of 42 CFR Part 57 is adopted as final to read as set forth below.

Dated: June 5, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 28, 1980.

Patricia Roberts Harris,

Secretary.

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

Sec.

57.1801 To what grant program do these regulations apply?
57.1802 Definitions.
57.1803 Who is eligible to apply for a grant?
57.1804 Who is eligible for educational assistance?
57.1805 Program requirements.
57.1806 How will applications be evaluated?
57.1807 How long does grant support last?
57.1808 For what purposes may grant funds be spent?
57.1809 What additional Department regulations apply to grantees?
57.1810 What other audit and inspection requirements apply to grantees?
57.1811 Additional conditions

Authority: Sec. 215, Public health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 316); secs. 787 and 798 of the Public Health Service Act, 90 Stat. 2309, 2313 (42 U.S.C. 295g-7; 42 U.S.C. 295h-7).

Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds

§ 57.1801 To what grant program do these regulations apply?

These regulations apply to grants to eligible schools and entities under sections 787 and 798 of the Public Health Service Act to assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools or from programs providing education in the allied health professions.

§ 57.1802 Definitions

"Act" means the Public Health Service Act, as amended.

"Allied health professions" means professions which support, complement, or supplement the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or assist environmental engineers and other personnel in environmental health control and preventive medicine activities.

"Health professions" means the professions of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, and public health.

"Health professions schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, or public health as they are defined in section 701(4) of the Act.

"National of the United States" (as defined in 8 U.S.C. 1101(a)(22), the Immigration and Nationality Act) means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Nonprofit" as applied to any private entity means none of its net earnings may lawfully benefit any private shareholder or individual.

"School of allied health" means a school which provides training in the allied health professions as one of its major functions.

"Secretary" means the Secretary of Health and Human Services or any officer or employee of the Department to whom the authority involved has been delegated.

"State" means in addition to the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 57.1803 Who is eligible to apply for a grant?

(a) Health professions schools, schools of allied health, and public or nonprofit private health or educational entities which provide health or educational programs as one of their major functions may apply for grants under section 787 or 798 of the Act. The school or entity must be located in a State.

(b) Applicants which offer degree programs in the allied health professions must meet relevant standards and guidelines established by appropriate:

(1) Accrediting bodies recognized by the Secretary of Education, or

(2) Federal or State agencies.

§ 57.1804 Who is eligible for educational assistance?

To be eligible for educational assistance under this program, an individual must:

(a) Be a national of the United States or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands, or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam; and

(b) Come from a disadvantaged background. For this program, an individual from a disadvantaged background is one who:

(1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

(2) Comes from a family with an annual income below a level based on low income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. The Secretary will periodically publish these income levels in the **Federal Register**.

For grants under section 798 of the Act, veterans of the Armed Forces with military training or experience in the health field are considered individuals from disadvantaged backgrounds.

§ 57.1805 Program requirements.

(a) The Secretary will award grants to meet the cost of carrying out one or more of the following five purposes:

(1) To identify individuals from disadvantaged backgrounds for education in the health or allied health professions through the development and application of criteria for this purpose, and to recruit these individuals through motivational activities which may involve dissemination of information, exposure to role models and health facilities, and counseling.

(2) To provide individuals from disadvantaged backgrounds with preliminary education in a health professions school or school of allied health, or to refer them to institutions which provide it. Preliminary education in this context is education designed to assist individuals from disadvantaged backgrounds to complete the regular course of education in a health professions school or school of allied health. It may not include classes already taught as part of the regular course of education leading to a high school diploma or undergraduate degree. It may not be offered to students before they complete the junior year of high school.

(3) To provide information to individuals from disadvantaged backgrounds about financial aid available to students in health professions schools, or schools of allied health, or schools and entities which provide training necessary to qualify for enrollment in health professions schools or schools of allied health.

(4) To facilitate the entry of individuals from disadvantaged backgrounds into health professions schools or schools of allied health by engaging in activities which assist them to compete for admission, such as instruction designed to improve their performance on admission tests, and by assisting admission committees with the evaluation of disadvantaged applicants.

(5) To provide counseling or other retention services, such as tutorial assistance and assistance in adjusting to the environment of the school, which are designed to help individuals from disadvantaged backgrounds who are enrolled in health professions schools or schools of allied health to complete this education. Although it is allowable for a grantee to receive funding for only one of these purposes, its program must carry out at least two of them.

(b) The grantee must evaluate its program based on the plan provided in the grant application.

§ 57.1806 How will applications be evaluated?

After consulting with the National Advisory Council on Health Professions Education established under section 702 of the Act, the Secretary will decide which applications to approve by considering, among other factors:

(a) The degree to which the proposed project adequately provides for the requirements in § 57.1805;

(b) The number and types of individuals who can be expected to benefit from the project;

(c) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner;

(d) The adequacy of the staff and faculty;

(e) The soundness of the budget; and

(f) The potential of the project to continue without further support under this program.

Within the limits of funds available, the Secretary will award grants to approved applicants with projects that will best promote the purposes of sections 787 and 798 of the Act.

§ 57.1807 How long does grant support last?

(a) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed three years.

(b) Generally, the grant will initially be funded for one year, and subsequent continuation awards will also be funded for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of factors such as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.1808 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) The grantee may not spend grant funds to:

(1) Pay tuition or fees;

(2) Train program staff; or

(3) Retrain health professionals.

(c) The grantee may spend grant funds with the Secretary's prior approval to provide one round trip for each individual in the program between his or her residence and the training site if:

(1) The training site is beyond a reasonable commuting distance and

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requires the individual to establish a temporary new residence; and

(2) The educational assistance is not offered at a time when the individual would be at the training site anyway as a student in a regular course of education leading to a high school diploma, undergraduate degree, or degree in the health or allied health professions.

(d) The grantee may spend grant funds with the Secretary's prior approval to pay individuals in the program a per diem up to a maximum daily amount established by the Secretary when the grantee determines that:

(1) The conditions in both paragraphs (c) (1) and (2) of this section exist;

(2) No other Federal financial assistance program is authorized to provide this support; and

(3) The individual needs this support to participate in the program.

(e) The grantee may not spend grant funds for sectarian instruction or for any religious purpose.

§ 57.1809 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

45 CFR Part 50	PHS grant appeals process.
45 CFR Part 16	Department grant appeals process.
45 CFR Part 46	Protection of human subjects.
45 CFR Part 74	Administration of grants.
45 CFR Part 75	Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80	Nondiscrimination under program receiving Federal assistance from the Department—Implements Title VI of the Civil Rights Act of 1964.
45 CFR Part 81	Practice and procedure for hearings under Part 80.
45 CFR Part 83	Nondiscrimination on the basis of sex in the admission of individuals to training programs.
45 CFR Part 84	Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR Part 86	Nondiscrimination on the basis of sex in federally assisted education programs.
45 CFR Part 91 [1]	Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

[1] When issued.

§ 57.1810 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

§ 57.1811 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-34314 Filed 11-3-80; 8:45 am]

BILLING CODE 4110-83-M

COMMUNITY SERVICES ADMINISTRATION

45 FR Part 1061

Funding Requirements for FY 81 Energy Crisis Intervention Program

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule on the FY' 81 Energy Crisis Intervention Program (ECIP). This rule is required to implement the fiscal year 1981 appropriation. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Crawford, Mr. Thomas R. Burns, Community Services Administration, Energy Crisis Intervention Program, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 254–9833, Teletypewriter (202) 254–6218.

SUPPLEMENTARY INFORMATION: On September 4, 1980, CSA published in the **Federal Register** (44 FR 58534) a final rule for its FY' 81 Crisis Intervention Program with a notation that the rule was final and effective on October 6, 1980. On October 7, 1980, CSA published a stay of the final rule in the **Federal Register** (45 FR 66462), which noted that the final rule would not be effective on that date for the reasons specified therein. In the September 4, 1980, published regulations, CSA indicated that it would welcome comments through September 29, 1980, and that the rule could be amended to reflect the comments, if warranted.

A number of comments have been received from the public and prospective grantees, which CSA believes are important enough to warrant amending the rule. In addition, the final level of appropriations for this program has dictated certain changes and clarifications in the rule in order that the CSA program complement the allocations to States under the HHS's Low-Income Energy Assistance Program (LIEAP).

Subpart 1061.51 amended by revising § 1061.51–1 through § 1061.51—14 and its appendices is reprinted in its entirety for the convenience of the public and supercedes the September 4, 1980 regulations.

CSA received 33 written comments from many types of groups, including Community Action Agencies (16), Aging Groups (3), CAP Directors Associations (2), Legal Services Agencies (3), CSA Regional Offices (5), a Governor's office, a State Office of Economic Opportunity and several national organizations. Many of the comments referred to questions of clarification and some of those changes have been incorporated into the final regulation.

Many respondents expressed concern relative to the amount of each grant that could be used for purposes of the direct services provision and, in particular, emergency utility bill paying. It is CSA's position that it would not be consistent with Congressional intent to eliminate in total the direct service and the emergency fuel/utility bill paying capacity of grantees. However, CSA has clarified the criteria to be employed by a grantee prior to the provision of direct services, in general, and emergency fuel/utility bill paying, in particular.

Several respondents urged CSA to revise the definition of Seasonal and Migrant Farmworkers and Indians. CSA has adopted less restrictive definitions for Seasonal and Migrant Farmworkers in order to avoid confusion and provide greater access by these individuals to the program's services. Similarly, the Indian definition has been revised to avoid existing confusion.

Some respondents questioned the maximum level of assistance for alternate energy sources. CSA is concerned that grantees will have sufficient funds to provide adequately for the activities required in the regulations and fund alternate energy sources.

Some commentators expressed concern with regard to the multiple Federal program responsibilities of the ECIP Coordinator. The ECIP Coordinator is expected to mobilize the resources available from other federal, state, and local programs and cooperate fully with those programs. The Coordinator is not to assume programmatic or administrative responsibility for other programs.

Many respondents, specifically Community Action Agencies, expressed concern with the membership requirements of the Project Advisory Committees (PACs). CSA has removed certain restrictions on the PACs membership composition.

CSA has received a number of comments urging that the CSA raise income eligibility to 150% of poverty for the elderly. As a result of an Amendment to the appropriating legislation for the FY 1981 Low-Income Energy Assistance Program, which authorizes single person households at or below 125 percent of poverty to be eligible for HHS's LIEAP, CSA feels it is inappropriate to increase eligibility of the elderly under ECIP. Nevertheless, CSA urges grantees to emphasize program services to the elderly and the handicapped.

CSA is waiving any further comment period because any further delay would be impractical and contrary to the public interest. Additional delay would render it impossible to publish a final rule prior to the onset of winter weather, would not provide prospective grantees sufficient time to prepare applications (work programs and budgets) prior to the onset of winter weather, and would not be consistent with Congressional intent that this program be operated during the onset of the winter weather.

For these same reasons, an emergency exception to the regulatory analysis provision in Executive Order 12044, Improving Government Regulations, is appropriate.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942)

Richard J. Rios,

Director.

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

45 CFR 1061 is amended to add the following:

Sec.

1061.51–1 Applicability.
1061.51–2 References.
1061.51–3 Definitions.
1061.51–4 Background.
1061.51–5 Purpose.
1061.51–6 Policy
1061.51–7 Who can apply for funds?
1061.51–8 What can these funds be used for?
1061.51–9 Who can be served by this program?
1061.51–10 Level of assistance.
1061.51–11 How to obtain funds.
1061.51–12 Project requirements.
1061.51–13 Post funding requirements.
1061.51–14 Termination of program.
Appendix A to § 1061.51–7—Names and Addresses of Migrant Conduits.
Appendix B to § 1061.51–9—CSA Poverty Income Guidelines.
Appendix C to § 1061.51–11(a)—CSA Regional Offices.
Appendix D to § 1061.51–11(a)—CSA National Farmworker Desk Address.

§ 1061.51–1 Applicability.

This subpart is applicable to grants made under section 222(a)(5) of the Economic Opportunity Act 1964, as amended, for Energy Crisis Intervention activities if the assistance is administered by the Community Services Administration.

§ 1061.51–2 References.

(a) Section 222(a)(5) of the Economic Opportunity Act of 1964, as amended.

(b) 45 CFR Subpart 1067.40, Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the Economic Opportunity Act, of 1964, as amended.

(c) 45 CFR Subpart 1050.50, Cost Sharing and Matching.

(d) 45 CFR Subpart 1068.20, Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs.

(e) 45 CFR Subpart 1067.4, Standards for Evaluating the Effectiveness of CSA Administered Programs and Projects.

(f) 45 CFR Subpart 1067.7, Due Process Rights For Applicants Denied Benefits Under CSA Funded Programs.

(g) 45 CFR Subpart 1050.80, Monitoring and Reporting Performance.

(h) 45 CFR Subpart 1050.70, Financial Reporting Requirement.

(i) 45 CFR Subpart 1050.160, Procurement Standards.

(j) 45 CFR Part 260, Department of Health and Human Services Social Security Administration, Low Income Energy Assistance Program.

§ 1061.51–3 Definitions.

(a) "Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

(b) "Elderly" means persons who are sixty years of age or older.

(c) "Handicapped" means those individuals who meet the definition of "handicapped" individuals as defined in section 7(6) of the Rehabilitation Act of 1973, as amended, that is "any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment" or who are under a disability as defined in section 1614(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Act of 1970, as amended, or who are receiving benefits under Chapter 11 or 15 of Title 38, United States Code.

(d) "SSI Benefits" means Supplemental Security Income benefits under title XVI of the Social Security Act, including mandatory and optional payments that the Department of Health and Human Services administers for a State under Subpart T of 20 CFR Part 416 to supplement Federal benefits, but excluding benefits:

(1) Paid under 20 CFR 416.231 because the beneficiary is living in a Medicaid institution and Medicaid is paying more than 50 percent of the cost of care;

(2) Reduced by one-third under 20 CFR 416.1125(b) because the beneficiary is living in another person's household and is receiving both support and maintenance (food and shelter) from that person and is not paying his pro rata share of food and shelter expenses; or

(3) Paid to a beneficiary who is:

(a) A child for SSI purposes under 20 CFR 416.1050; and

(b) Living with a parent or with the spouse of a parent.

(e) "AFDC" means Aid to Families with Dependent Children payments made under title IV–A of the Social Security Act, but not including Foster Care payments under § 233.110 or Emergency Assistance payments to needy families with children under § 233.100.

(f) "Seasonal Farmworker" shall mean a farmworker who during the preceding twelve months has been employed less than 250 days in field or food processing work and who is not a migrant farmworker. This does not include supervisors of other farmworkers.

(g) "Migrant Farmworker" shall mean a person who left home (accepted place of residence) temporarily to do hired field or food processing work which requires travel such that the worker is unable to return home within the same day.

(h) "Indian" means any individual who is a recognized member of a federal or state recognized Indian tribe, Alaskan Native Village or corporation.

(i) "Tribe" or "Indian Tribe" means a distinct community of Indians that exercises powers of self-government and is so recognized by Federal and/or State statute.

§ 1061.51–4 Background.

(a) $87.5 million has been authorized to the Director of the Community Services Administration for carrying out energy crisis related activities under Section 222(a)(5) of the Economic Opportunity Act of 1964.

(b) $3 million of these funds will be set-aide for purposes of outreach activities designed to assure that eligible households with elderly members are aware of the assistance under LIEAP and ECIP.

(c) Eighty percent (80%) of the remaining funds received by CSA will be allocated among the States to eligible applicants as defined in this rule.

(d) The remaining twenty percent (20%) shall be used by CSA to provide such things as training and technical

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assistance to grantees; to evaluate the program; to support its administration of the program; and to provide grants for special emphasis projects relating to energy and the needs of the poor.

§ 1061.51–5 Purpose.

This rule details the procedures CSA will utilize to implement the FY 1981 Energy Crisis Intervention Program, and outlines the policies and funding criteria which will govern the expenditure of funds allocated under this program.

§ 1061.51–6 Policy.

(a) In keeping with Congressional intent, the CSA Energy Crisis Intervention Program (ECIP) is designed to *complement* HHS's Low Income Energy Assistance Program (LIEAP). The goals of the ECIP are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving community resources to deal with both short and long range energy issues affecting the poor in the specific community.

(b) This program is not an income transfer program. This program does not entitle any person or household to a certain amount or form of assistance. This program is not to be considered as an alternative to those households which have access to direct assistance through other networks and public and private entities. Although CSA has not established any particular priorities, grantees are encouraged to continue to emphasize program services for the elderly and the handicapped.

§ 1061.51–7 Who can apply for funds?

(a) All Community Action Agencies (CAA's) are eligible to apply for ECIP funds to undertake crisis intervention activities in their service areas.

(b) CSA Regional Directors will identify existing CSA grantees to undertake crisis intervention activities in those areas of a state not covered by an existing CAA.

(c) Indian Tribes are also eligible to apply for funds to undertake crisis intervention activities for their service areas. If a CSA Regional Director identifies a significant population of Indians that is not self-governed but which would not be able to receive services outlined in this rule due to geographical isolation or other significant factors, he/she may request a waiver from Headquarters to fund this Indian group directly. Waivers will be reviewed on a case by case basis.

(d) The Migrant and Seasonal Farmworker organizations designated as CSA conduits (see Appendix A for names and addresses of organizations) are eligible to apply for funds to undertake crisis intervention activities for Migrant and Seasonal Farmworkers.

(e) Grants made in regard to the remaining 20% [§ 1061.51–4(d)] will be to public and private non-profit organizations and agencies which meet CSA's general eligibility criteria.

§ 1061.51–8 What can these funds be used for?

(a) All work programs proposing to undertake energy crisis intervention activities, including emphasis on delivery of the activities to the elderly and handicapped, must include, at a minimum, activities (1) through (4):

(1) *Access.* Grantees must undertake activities to insure that all poor and near poor households are provided access to federal, state or other energy crisis assistance programs. Such activities might include, but are not limited, to the representation of the interests of the poor with utility/fuel vendors, with the program operators of the Low Income Energy Assistance Program (LIEAP), and with the program operators of the Department of Energy's weatherization program.

(2) *Community Mobilization Activities.* Mobilization and organization of community resources to respond to crisis needs within the community.

(i) Mobilization of Organizations—Such activities might include, but are not limited to coordination of religious, social service and other community based organizations to become aware and involved in the energy issues affecting the poor and soliciting their help in ameliorating their effects.

(ii) Mobilization of Goods and Services—Such activities might include but are not limited to securing goods, services, and temporary relocation centers from community based merchants, religious, social service and other organizations to respond to the energy needs of the poor during individual emergencies and periods of crises.

(3) *Direct services.* The provision of direct services in the form of goods or services are to be provided only when these direct services are not available from other sources. These services might include, but are not limited to, providing blankets, warm clothing, temporary shelter, energy-related repairs to housing such as patching a roof or replacing a broken window, furnace repairs and space heaters. Grantees are also permitted to make payments of utility/fuel bills as a one-time form of crisis assistance to a household and only after negotiations with utility/fuel vendors and other energy crisis assistance operators (e.g., LIEAP local program operators and other federal, state and local agencies) have failed to resolve the household's crisis and the determination that sufficient, timely and appropriate assistance is not available from any other source. Grantees must document in the applicant's file, the actions taken on behalf of the applicant before authorizing the payment of a utility/fuel bill. In undertaking this activity, grantees must assure that reconnection of utility service or delivery of fuel actually occurs. Funds under this program shall not be used to weatherize houses.

(4) *Community Planning and Education.* Such as, but not limited to comprehensive energy-related planning to benefit the low-income populace of the area, the dissemination of energy conservation information, the conduct of energy conservation education programs and the provision of information on existing energy programs in the community (e.g., information and referral to the LIEAP).

(5) *Alternate Energy Sources.* Constitutes the replacement of or the substantial supplement to a household's source of energy. This activity is being allowed since grantees may find, in some instances, that the best means of solving an individual household's energy problem is to utilize an alternate energy source.

§ 1061.51–9 Who can be served by this program?

(a) *Income Eligibility.* Notwithstanding the provision of 45 CFR 1060.2(a) found at 45 FR 51561 (8/4/80), for purposes of this program, eligibility shall be limited to households whose incomes total no more than 125% of the CSA Income Poverty Guidelines or whose major income earner receives SSI or AFDC payments. (See definition for SSI and AFDC at 1061.51–3 [d] and [e]). No grantee may change these income eligibility guidelines. (See Appendix "B" for CSA Income Poverty Guidelines.)

(b) *Program Eligibility.* Assistance under this program is to be provided only to households not having access to direct assistance of the same type through any other supportive networks, such as the Low-Income Energy Assistance Program (LIEAP), welfare, or other federally funded programs or who have exhausted such assistance, and the household is experiencing or is in danger of experiencing a life threatening or health-related emergency situation and that sufficient, timely and appropriate assistance is not available from any other source.

(c) *Certification of Income Eligibility Required of Grantees.* Proof of income eligibility shall be required of each applicant. The period for determining eligibility will not be more than 12 months or less than 90 days preceding the request for assistance. The determination of what constitutes income shall be based on the CSA Income Poverty Guidelines. In limited instances when proof of income is unavailable, an applicant must sign a declaration of income eligibility in order to receive assistance. In such cases, the local program operator must make a reasonable number of ongoing checks (no less than 10%) to verify income eligibility.

(d) *Income Disregard.* Benefits made available under this program shall not be considered as income or resources of such household (of any member thereof) for any purposes under any federal or state law, including any law relating to taxation, public assistance or welfare program.

§ 1061.51–10 Level of assistance.

(a) The sum of all forms of direct and alternate energy sources assistance under this program made to and/or on behalf of any eligible household under this program may not exceed $400.

(1) The provision of direct services may not exceed a total of $200 for any eligible household.

(2) No alternate energy source can exceed a total sum of $400.

§ 1061.51–11 How to obtain funds.

(a) Applications for funds under this program, except for applications submitted by Migrant & Seasonal Farmworker Conduits, must be submitted to the appropriate CSA Regional Office. (See Appendix "C".) Applications by the Migrant & Seasonal Farmworker Conduits must be submitted to the Headquarters Migrant & Seasonal Farmworker Office.

(b) Applications should be received within thirty (30) days from the date of publication of these regulations.

(c) *Contents of application.* (1) The following forms are required as part of the application package:

(i) CSA Form 419, Summary of Work Programs and Budget. This form must address all of the activities outlined under § 1061.51–8 which the applicant is going to undertake. Each activity should be addressed separately with a breakdown for the level of funding to support each activity.

(ii) CAP Form 25, Program Account Budget;

(iii) CAP Form 25a, Program Account Budget Support Sheet; and

(iv) SF 424, Federal Assistance.

(2) When delegating part or all of the work program, the applicant must also submit the following:

(i) CAP Form 85, Administering Agency Funding Estimate;

(ii) CAP Form 87, Delegate Agency Basic Information; and

(iii) CAP Form 11, Assurance of Compliance with Civil Rights.

(d) *Clearinghouse review procedures.* (1) OMB has granted a procedural variation of OMB Circular No. A–95 clearinghouse review procedures for the Energy Crisis Intervention Program for FY '81. Due to the emergency nature of the Program, suggested modifications to an application resulting from clearinghouse comments are to be addressed by a grantee or CSA on a post grant approval basis this fiscal year.

(i) Prospective grantees/applicants must submit a full application, including a summary of work programs, to appropriate state and areawide clearinghouses at the time of submission to CSA. Early contact with the clearinghouses prior to submittal of the application is encouraged to determine if the clearinghouses can be of assistance in identifying areas or individuals in need, current assistance being made available and community, areawide, or state networks available that might assist in responding to energy crisis needs.

(ii) State and areawide clearinghouses shall have a total of 60 days from receipt of an application to conduct notifications and reviews. They will be of assistance to the applicant and to CSA if their reviews address the policy considerations identified in § 1061.51–6 as well as appropriate subject matter of comments and recommendations in item 5, Part I, Attachment A of OMB Circular No. A–95, particularly regarding the coordination of energy planning which relates to the needs of the poor. Clearinghouse comments should be sent to the appropriate CSA Regional Office with a copy to the applicant.

CSA reserves the right to modify a grantee's program if it deems documented clearinghouse comments warrant such action. It is expected that grantees will act in good faith in resolving any issues identified by clearinghouses. In instances where issues cannot be resolved, they should be referred to the CSA Regional Office by the clearinghouse or the grantee.

§ 1061.51–12 Project requirements.

(a) *Project Advisory Committee.* (1) Each applicant shall establish a Project Advisory Committee (PAC). However, if the applicant has an existing PAC that is properly constituted, this PAC will satisfy this requirement.

(2) The role of the PAC should include, but not be limited to, the following activities:

(i) Participate in the development of an ongoing review of the proposed work program;

(ii) Recommend to the Grantee board agency policy for the approval or disapproval of requests for the installation of alternate energy sources. The criteria to be used in establishing the policy should include the determination that the installation of the alternate energy source will:

(A) Lessen the impact of the high cost of energy on the household;

(B) Have a significant impact on the household's energy usage pattern; and

(C) Lessen the potential for future energy assistance subsidies.

(iii) Address the energy issues affecting the community as a whole and how they impact upon the poor;

(iv) Make recommendations to the Grantee board on the routine operation of the grantee's crisis intervention program; and

(v) Participate in the development of applications for any future crisis intervention activities.

(3) Membership on the PAC should include at least 51% poor persons as well as representatives of the local governments. The remaining membership should be made up of other energy related resource agencies and organizations, such as energy advocacy organizations, representatives of local public uulities, aging organizations, and local fuel vendors.

(b) *Crisis Intervention Program Coordinator.* A grantee must have at least one energy crisis intervention program (ECIP) coordinator who will be responsible for assuring the implementation of the approved work program. ECIP program funds and other funds from CSA programs may be used to support this position. The ECIP coordinator is expected to mobilize the resources available from other Federal, State and local programs, and cooperate fully. The coordinator is not to assume programmatic or administrative responsibility for other programs.

(c) Non-Federal share requirements. Since this is a program with crisis intervention activities, a matching share is not required. However, grantees are encouraged to mobilize additional resources to supplement and support this program.

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(d) *Maintenance of effort.* Assistance provided with funds made available under this program shall be in addition to, and not in substitution for, services previously provided without federal assistance.

(e) *Procedures on denial of assistance.* Grantees are subject to the provisions of 45 CFR § 1067.7 which requires them to have written procedures for the review of the partial or complete denial of assistance to any household or individual.

§ 1061.51-13 Post funding requirements.

(a) *Financial reporting.* Grantees shall follow normal procedures for submission of the SF-269 and SF-272 outlined in 45 CFR Part 1050, Subpart H.

(b) *Project progress review reports.* Grantees shall also follow normal procedures for the submission of the Project Progress Review Report (CSA Form 440) outlined in 45 CFR Part 1050, Subpart I.

(c) *Audit requirement.* The program including its contracted-out components will be audited at the time of the grantee's regularly scheduled CSA audit.

(d) *Procurement.* The procurement standards outlined in 45 CFR § 1050.160 are applicable to this program.

(e) *Administrative costs.* The grantee may expend up to 10% of the total grant for administrative costs except the ECIP Coordinator's salary may be charged against the ECIP program, other CSA programs and non-CSA funds.

(f) *Prohibition against transfer to another grant.* Funds unobligated at the termination of the grant cannot be transferred by the grantee of record to another grant.

§ 1061.51-14 Termination of program.

No funds under this program may be obligated after September 30, 1981. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

Appendix A—Names and Addresses of Migrant Conduits

Migrant Conduits

New England Farmworkers Council (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 6 Frost Street, Springfield, Massachusetts 01105. ECIP Coordinator: Jane Malone, Phone: (413) 781-2145

Rural New York (Serving: New Jersey, New York), 339 East Avenue, Suite 305, Rochester, New York 14604. ECIP Coordinator: Kaven Carney, Phone: (716) 546-7180

Farmworkers Corporation of New Jersey (Serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia), 1400 West Landes Avenue, Vineland, New Jersey 08360. ECIP Coordinator: Tom Paque, Phone: (609) 691-7101

Mississippi Delta Housing Development Corporation (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Louisiana), 432 Highway 82 East, P.O. Box 847 Indianola, Mississippi 28751. ECIP Coordinator: Alvin Brown, Phone: (601) 887-4852

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, South Dakota), P.O. Box 1231, St. Cloud, Minnesota 56301. ECIP Coordinator: Irving (Rich) Echola, Phone: (612) 253-7010

Coloneas Del Valle (Serving: Arkansas, New Mexico, Oklahoma, Texas), P.O. Box 907, San Juan, Texas 78759. ECIP Coordinator: Tony Barco, Phone: (512) 781-9795

ORO Development Corporation (Serving: Iowa, Kansas, Missouri, Nebraska), 1208 Kansas Avenue, Kansas City, Kansas 66105. ECIP Coordinator: Marco Marcano, Phone: (913) 342-2121

North Dakota Migrant Council (Serving: Colorado, Montana, North Dakota, Utah, Wyoming), P.O. Box Drawer X, Grand Forks, North Dakota 58201. ECIP Coordinator: Jerry Nagel, Phone: (701) 746-6494

Campesinos Unidos (Serving: Arizona, California, Nevada), P.O. Box 203, Brawley, California 92227. ECIP Coordinator: Tony Cornejo, Phone: (714) 344-4500

Idaho Migrant Council (Serving: Idaho, Oregon, Washington), 7155 Capitol Boulevard, Suite 406, Boise, Idaho 83706. ECIP Coordinator: Roger deLeon, Phone: (208) 345-9761

APPENDIX B—CSA Poverty Income Guidelines

125 percent of the Poverty-Income Guidelines for All States Except Alaska and Hawaii

Size of family unit	Nonfarm family	Farm family
1	$4,738	$4,063
2	6,263	5,351
3	7,788	6,639
4	9,313	7,927
5	10,838	9,215
6	12,363	10,503

For family units with more than 6 members, add $1,525 for each additional member in a nonfarm family and $1,288 for each additional member in a farm family.

125 percent of the Poverty Guidelines for Alaska

Size of family unit	Nonfarm family	Farm family
1	$5,950	$5,113
2	7,850	6,713
3	9,750	8,313
4	11,650	9,913
5	13,550	11,513
6	15,450	13,113

For family units with more than 6 members, add $1,900 for each additional member in a nonfarm family and $1,600 for each additional member in a farm family.

125 percent of the Poverty Guidelines for Hawaii

Size of family unit	Nonfarm family	Farm family
1	$5,463	$4,700
2	7,213	6,175
3	8,963	7,650
4	10,713	9,125
5	12,463	10,600
6	14,213	12,075

For family units with more than 6 members, add $1,750 for each additional member in a nonfarm family and $1,475 for each additional member in a farm family.

Appendix C—CSA Regional Office Addresses

Mr. Ivan Ashley, Regional Director, CSA, Region I, E-400, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (817) 223-4080/FTS-8-223-4080. Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Ms. Josephine P. Nieves, Regional Director, CSA, Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: (212) 364-1900/FTS-8-364-1900. New York: New Jersey, New York, Puerto Rico, Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA, Region III, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: (215) 597-1139/FTS-8-597-1139. Philadelphia: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA, Region IV, 101 Marietta Street NW., Atlanta, Georgia 30303, Phone: (404) 221-2717/FTS-8-242-2717. Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA, Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606. Phone: (312) 252-5562/FTS-8-353—5562. Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA, Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767-6126/FTS-8-729-6126. Dallas: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA, Region VII, 911 Walnut Street, Kansas City, Missouri 64106, Phone: (816) 374-3761/FTS-8-758-3761. Kansas City: Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA, Region VIII, 1961 Stout Street, Federal Building, Denver, Colorado 80294, Phone: (303) 837-4767/FTS-8-327-4767. Denver: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Mr. Alphonse Rodriquez, Regional Director, CSA, Region IX, 450 Golden Gate Avenue, Box 36008, San Francisco, California 94102, Phone: (415) 556-5400/FTS-8-556-5400. San Francisco: Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA, Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442-4910/FTS-8-399-4910. Seattle: Alaska, Idaho, Oregon, Washington.

Appendix D

CSA National Farmworkers Desk Address

Office of Farmworkers Programs, Attn: Mr. Eduardo Gutierrez, 1200 19th Street, NW., Washington, D.C. 20506, Phone: (202) 254-5400.

[FR Doc. 80-34402 Filed 11-3-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1391

General Administration and State Plan Requirements; Correction

AGENCY: Office of Human Development Services (HDS), Department of Health and Human Services (HHS).

ACTION: Final regulations; correction.

SUMMARY: This document corrects the final rule for the social services programs in the 50 States, the District of Columbia and the Territories, published August 25, 1980 (45 FR 56687), by adding the Authority Statement to one Part.

FOR FURTHER INFORMATION, CONTACT: Mrs. Johnnie U. Brooks, Room 722-E, HHH Building, Department of HHS, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472-4415.

Approved: October 29, 1980.

Robert F. Sermier,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

Accordingly, the Department of Health and Human Services is adding the Authority Statement at the end of 45 CFR Part 1391 as follows:

PART 1391—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

Subpart A—General Administration

Sec.

1391.1 [Reserved]
1391.2 Methods of administration.
1391.3 Safeguarding information for the social services programs.
1391.4 Reports and maintenance of records.
1391.5 Availability of agency program manuals.
1391.6 Single state agency.
1391.7 Organization for administration.
1391.8 Statewide operation.
1391.9 State financial participation.
1391.10 [Reserved]
1391.11 State standards for office space, equipment, and facilities.
Subpart B—[Reserved]
Subpart C—Personnel Management
1391.50 Standards of personnel administration.
1391.51 Training and use of subprofessionals and volunteers.
Subpart D—Purchase of Services
1391.70 Purchase of services: State plan requirements.
1391.71 Purchase of services: Federal financial participation.

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

* * * * *

[FR Doc. 80-34389 Filed 11-3-80; 8:45 am]

BILLING CODE 4110-92-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20418; RM-2346; RM-2727; FCC 80-505]

Petition for Rulemaking To Amend Television Table of Assignments To Add New VHF Stations in the Top 100 Markets and To Assure That the New Stations Maximize Diversity of Ownership, Control and Programing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission terminated its rule making proceeding to amend television table of assignments to add VHF stations in the top 100 markets in Docket 20418, (FCC 77-169), printed in the **Federal Register** (42 FR 16782), and waived its television station allocation rule to permit the addition of new VHF-TV channels in Knoxville, Tennessee; Johnstown, Pennsylvania; Charleston, West Virginia; and Salt Lake City, Utah.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Jeffrey Malickson, Broadcast Bureau, 202-632-7551.

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming, Docket No. 20418, RM-2346, RM-2727, FCC 80-505 Report and order (proceeding terminated).

Adopted: September 9, 1980.
Released: October 20, 1980.

By the Commission: Commissioner Lee dissenting and issuing a statement; Commissioners Quello and Washburn dissenting.

1. The Commission has before it the comments and reply comments responding to the 1977 *Memorandum Opinion and Order and Notice of Proposed Rule Making (Notice)* herein (63 F.C.C. 2d 840) in which we proposed to allocate new VHF television assignments to Charleston, West Virginia; Knoxville, Tennessee; Salt Lake City, Utah; and either Johnstown, Pennsylvania or Altoona, Pennsylvania.[1] Adoption of these allocations, referred to as VHF drop-ins, requires waiver of certain Commission allocation rules. Television stations are allotted on the basis of the "Table of Allotments" (hereinafter "Table") [2] contained in § 73.606 of the Commission's Rules. There, specifed UHF and VHF channels are allotted to communities throughout the United States. Thus, before a drop-in can actually go on the air it must go through a two step proceeding, the first part of which consists of an allocation rule making proceeding in which the waiver is considered and the second part of which would involve a comparative hearing among applicants for a station on the dropped in channel. The Table is based on standard mileage separations contained in § 73.610 of the Commission's Rules.[3] Both the Table and the separations were adopted in the FCC's *Sixth Report and Order in Docket Nos. 8736, 8975, 9175 and 8976*, 41 F.C.C. 148 (1952). A "VHF drop-in," as the term has been used generally is a new channel allotment placed closer to one or more existing allotments than is provided for under the minimum distance separation specified in § 73.610. A short separation may also result from a "move-in" permitting an existing station to move to a location less than the minimum specified distance from another allotment. See paragraph 15, *infra*. Rule waivers for move-ins have been allowed in the past for reasons such as improved service to a population center or air safety

[1] This proceeding began with a *Notice of Inquiry and Memorandum Opinion and Order*, 52 F.C.C. 2d 618 (1975). That Notice was prompted by a petition of May 7, 1974 filed by the Office of Communication of United Church of Christ, Geoffrey Cowan, Monroe Price, Charles Channel and Walter Baer.

[2] At the 1979 World Administrative Radio Conference (WARC) new definitions were added to the International Radio Regulations. These new definitions, which are consistent with the internationally accepted terminology found in Resolution No. 6 of the 1959 WARC, provided specific terminology for distribution of radio frequencies to specific areas within a country ("allotment"), and the designation of a particular station to use that frequency or channel ("assignment"). We will use that terminology in this *Report and Order*.

[3] VHF separations are: co-channel, 170 miles in Zone I, 190 miles in Zone II, and 220 miles in Zone III, and 60 miles adjacent-channel in all zones. 47 C.F.R. § 73.610 (1979).

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considerations. In addition, the 1952 Table grandfathered some assignments and stations at less than the specified minimum spacings.

2. In this *Report and Order* the Commission is granting outstanding waiver requests to allow new short-spaced VHF assignments in Charleston, West Virginia (channel 11), Johnstown, Pennsylvania (selecting the Johnstown Channel 8 assignment rather than the Altoona Channel 12 alternative), Salt Lake City, Utah (channel 13), and Knoxville, Tennessee (Channel 8). The new allotment is subject to the condition that the new station provide equivalent protection to the existing station(s) to which it is short-spaced.[4]

3. In waiving the mileage separation rule and granting the four subject allotments, it should be understood clearly that our approach has been similar to that employed in processing requests for rule waivers generally. That is, we have evaluated carefully the arguments favoring waiver of the mileage separation rule to determine whether those arguments have overcome the high hurdle [5] faced by those persons seeking waiver of a Commission rule. We have given the waiver request a "hard look," [6] together with data we ourselves have accumulated. We have weighed costs and benefits involved, and conclude that a waiver is in the public interest.

4. We recognize that the four VHF drop-ins we adopt today represent a significant departure from the past and cannot be undertaken lightly. Thus, our action follows a careful weighing of all the relevant elements. The basic issue, though, is whether the benefits of added competition, diversity and service that would ensue from adopting these proposals, outweigh claims of potential harm to UHF television from greater VHF competition and to VHF television viewers from the prospect of some increase in interference. On balance we believe that the scales must tip in favor of promoting additional VHF service unless there is strong evidence to the contrary. For the reasons discussed below, we cannot find that strong evidence. On the other hand, there is substantial evidence of continued strong demand for both more television service and more diversity in service content.[7]

The action taken in this *Report and Order* should not be construed as a loss of confidence on our part for the prospects of UHF television. Our commitment to advancing UHF television to a position of equality with VHF remains firm. UHF television, however, has developed since its first faltering steps as a stepchild service to a viable maturity. Those UHF gains that remain to be made we feel can best be met by Commission and industry efforts to improve the technical quality of UHF television transmission and reception.

5. Finally, we recognize that today's approach could result in some degradation of the television signals received by some viewers. We believe, however, for the reasons discussed at paragraphs 53 through 58, *infra*, that any loss experienced will be minimal and will be more than compensated for by the benefits to be obtained.[8]

Background Concerning Television Channel Allocations

6. The history of television allotment principles since the late 1940's has been set forth many times, including a discussion in the 1977 *Notice* in this proceeding, and need not be repeated at length here.[9] Before discussing the specific proposals under consideration, however, recitation of that history's highlights with a view toward the action taken today would be appropriate.

7. Present fundamental television allotment principles, including the Table and the mileage separations on which it is based, date from the *Sixth Report and Order, supra*. In addition to adoption of a Table allotting specific VHF and UHF channels to communities throughout the United States—to be used by television stations licensed to serve those communities [10]—the decision set forth some other concepts especially pertinent here.

8. The Table adopted includes may instances where both VHF and UHF channels are alloted to a community—so-called "intermixture." Rejecting arguments by Allen B. DuMont Laboratories, Inc., and others that UHF would not develop under these circumstances, the Commission concluded that in time UHF would be able to compete effectively. Moreover, it was believed that an opposite approach would be costly, i.e., limiting some large cities to only the number of stations possible on the VHF television channels, and depriving "all-UHF" cities and surrounding areas of the wide-area coverage provided by VHF.[11] The suggestion of moving all television to UHF was also rejected, the Commission noting the absence of any specific showings or proposals that might justify the extensive reallocations and reassignments that would be required.[12]

9. The *Sixth Report* adopted rather large permissible maxima for both effective radiated power (100 kilowatts (kW) low VHF, 316 kW high VHF, 1 megawatt (MW) UHF) [13] and antenna height above average terrain (2,000 feet both VHF and UHF *except* that in the densely populated northeast VHF stations are limited to 1,000 feet) in order to afford opportunity for stations to achieve wide-area coverage.[14] Favoring wide-area coverage, the Commission adopted minimum mileage separations between stations designed to provide a large interference-free area assuming operation by all stations with maximum facilities. Since various proposals under consideration for limited power stations and shorter spacing vitiated the benefits the Commission saw accruing from its plan for wide-area coverage stations, it rejected such proposals, stating that it did "not believe that limited power stations should be provided for in The Table of Assignments *at this time* in order to squeeze in additional assignments" (41 F.C.C. 188 (1952)—emphasis added).[15]

10. In the *Sixth Report* the Commission also addressed comments that, in appropriate cases, the "shielding" between stations afforded by rough terrain be taken into account, permitting assignments at less than minimum separations. The Commission also considered suggestions that shorter separations should be permitted where one station would protect the other by a directional transmitting antenna. Despite the fact that both of these concepts were rejected, essentially on the ground that not enough was yet known about the full implications of such operation, their future use was clearly not ruled out where a more informative record was present.[16]

11. After some years experience with its 1952 allotment plan, and with many UHF stations having financial problems, the Commission considered several alternatives for speeding the institution of nationwide television service. In Docket No. 1532, 13 R.R. 11571 (1956), the Commission considered shifting all television to UHF, selective deintermixture, i.e., the addition or deletion of VHF channels in various cities so as to make them all-VHF or all-UHF, and short-spaced VHF drop-ins. These alternatives were rejected, not so much for their technical insufficiency, but basically for the same reasons as in the *Sixth Report, supra*. That is, the Commission was still convinced that its plan as set out in the *Sixth Report* held the best opportunity for a truly competitive nation-wide television service. With particular reference to additional VHF assignments utilizing low power and height and directional transmitter antennas, the Commission recognized some of the interference problems could be solved, but concluded that the creation of "numerous" small VHF stations with very limited service areas would not further two long-range objectives, i.e., wide-average coverage and UHF growth.

12. Five years later, however, with the continuing and increasing pressure for competitive commercial stations in cities of substantial size to serve as outlets for three networks, efforts were again initiated to speed the institution of new television service. In its 1961 *Report and Order* in Docket No. 13340,[17] the Commission recognized shortcomings in its allocation structure, and concluded that short-spaced VHF assignments should be proposed in eight markets that met certain conditions.[18] These were proposed in separate notices of proposed rule making (Docket Nos. 14231–14238). One of the important concepts in this drop-in proposal was "equivalent protection"—the principle that the new station using the short-spaced assignment will protect existing stations by reducing power or by using directional antennas to reduce radiated power toward them so that the interference created would be no more than that created by a station operating with maximum facilities at the standard minimum separation distance.

13. Seven of the short-spaced assignments proposed in the 1961 *Report and Order* were denied and one, Oklahoma City (more exactly a "move-in", see paragraph 15, *infra*) was granted. *Television Assignments—Third Service*, 41 F.C.C. 119 (1963). The decision to deny these new allotments was predicated on the enactment by Congress of the All-Channel Receiver law [19] in July 1962, empowering the Commission to adopt rules requiring that all TV receivers shipped in interstate commerce or imported receive all 82 TV channels. The Commission viewed this legislation as a Congressional ratification of the FCC's commitment to the promotion of UHF as an integral part of the nation's television system, requiring abandonment of its VHF drop-in activities until this new authority began to take effect or at least until its effect could be evaluated. It was concluded that the costs, primarily the adverse impact on UHF development, and interference to existing VHF service, at that time, outweighed the benefits. The Commission stated that its "judgment to reject short-spaced VHF assignments rests on optimism for the long range future of UHF . . ."[20] It should be noted, though, that the Commission's optimism was tempted with the commitment that "if events prove us wrong . . . we can always consider the "interim" or "short-range" actions such as these short-spaced assignments."[21] Having reached that conclusion, the Commission firmly stated its policy to scrutinize all VHF applications for their impact on UHF development, a policy which dominated the thinking in this area for over a decade. This "UHF Impact" policy is discussed in some detail beginning at paragraph 18, *infra*.

14. The only true VHF drop-in allotment after Docket No. 11532 was a short-spaced allotment made in 1970 in *Charlotte Amalie, V.I.*, 26 F.C.C. 2d 853 (1970) for educational use. Aside from the strong public benefit involved in the promotion of educational television, there were two distinctive factors: all of the interference area would be over water and therefore affect no population, and no UHF station or application was involved.

15. While there have been no short-spaced drop-in VHF allotments in the continental U.S., there have been a number of "move-in" authorizations, i.e., stations at standard spacings authorized to move closer to their city of license. These "move-ins" have generally been permitted for two reasons—to improve the station's service and thus its competitive situation vis-a-vis the others in the market, and to permit location in an "antenna farm" or otherwise meet air navigation safety considerations. Examples of such moves to improve service are *Peninsula Broadcasting Corp.*, 45 F.C.C. 1662 (1964), *Television Broadcasters, Inc.*, 45 F.C.C. 1897 (1965), and two Albany, New York stations, *Capital Cities Broadcasting Corp.*, 24 R.R. 1067 (1963) and *Van Curler Broadcasting Corp.*, 24 R.R. 1079 (1963).[22] The Commission's policy concerning antenna farms was set forth in *Antenna Farm Areas*, 8 F.C.C. 2d 559 (1967). Examples of authorizations granted on this basis are *Midcontinent Broadcasting Co.*, 45 F.C.C. 1798 (1964); *Coral Television Corp.*, 6 F.C.C. 2d 749 (1967); *WTCN Television, Inc.*, 14 F.C.C. 2d 870 (1968) and *The Outlet Company*, 11 F.C.C. 2d 528 (1968). These reallotments were accomplished without unacceptable interference by requiring the short-spaced station to provide "equivalent protection" to existing co-channel stations by making adjustments in its transmitter antenna pattern, power output and height.

16. In other cases in the late 1950's and early 1960's, VHF channels, called "squeeze-ins" were newly assigned to communities at separations quite close to the minimum, sometimes with changes in other VHF allotments being

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[4] For a definition of equivalent protection, see paragraph 12, *infra*.

[5] *Wait Radio v. F.C.C.*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969).

[6] *Ibid.*

[7] For a discussion of the current needs for increased numbers of broadcast outlets see our document adopted today, *Low Power Television, Notice of Proposed Rule Making*, Docket No. 78–253 FCC 80–503. —— Fed. Reg. (September 1980) (hereinafter "Low Power Proceeding").

[8] Under the best of circumstances, predictions about the quality of television service received by viewers are highly theoretical. There are no guarantees. Indeed, television stations' coverage areas are defined in terms of the likelihood of receiving a particular quality picture in a given area a given percentage of the time.

[9] 63 F.C.C. 2d 847–856. A recent comprehensive account is contained in *"The Effect of the Federal Communications Commission's Spectrum Management Policies Upon the Number of Television Networks,"* by Prof. Thomas L. Schuessler (pp. 1–88), "Preliminary Report on Prospects for Additional Networks" (February 1980).

[10] The Table of Assignments was adopted to provide more efficient channel usage than would a "demand" application system, as a way of providing channels for smaller places where demand might be slower to develop, and as a means of expediting the handling of the forthcoming flood of applications. 41 F.C.C. 151–153 (para. 13–17).

[11] 41 F.C.C. 205–209 (1952)

[12] 41 F.C.C. 155 (1952)

[13] Since raised to 5 MW. See *Report and Order* in Docket No. 11532, 13 R.R. 1571 (1956).

[14] Increases in antenna height are favored over increases in power as a way of extending coverage area. This is because an antenna height increase tends to increase service with less of an increase in interference than when power is increased. Therefore, the power limits mentioned are absolute; but stations may have antenna heights greater than the maximum shown if they reduce power accordingly.

[15] The Commission stated that use of relatively higher height and power require relatively wide mileage separations or the gains in service from large facilities are lost due to interference. 41 F.C.C. 182, para. 112 (1952).

[16] *See*, 41 F.C.C. 187, para. 133, (1952); 41 F.C.C. 213–215, paras. 215–221 (1952).

[17] *Interim Policy on VHF Television Assignments and Amendments of Part 3 of the Rules Concerning Television Engineering Standards*, 21 R.R. 1695, 1709 (1961 Supp.)

[18] The eight markets were Oklahoma City, Oklahoma; Johnstown, Pennsylvania; Baton Rouge, Louisiana; Dayton, Ohio; Jacksonville, Florida; Birmingham, Alabama; Knoxville, Tennessee; and Charlotte, North Carolina. Providence, Rhode Island and Syracuse, New York were originally included but the ways were found to provide additional VHF channels at standard spacings. The requirements were that the market be among the top 75 and have two VHF stations operating, that there be minimal dislocation to existing stations and no significant impact on UHF stations in other cities, that the potential service gains outweigh the losses, that international requirements were met, and that the separation would not be less than 120 miles for co-channel stations or 40 miles for adjacent channel stations.

[19] P.L. 87–529, 87th Cong. 2 Sess. (1962).

[20] 41 F.C.C. at 1124.

[21] *Id.* at 1124.

[22] In 1962 the New Bedford, Massachussetts Channel 6 station was permitted to move in closer to Providence, Rhode Island to a location which is short-spaced with respect to Schenectady-Albany Channel 6 (WRGB). As a result, all three Albany-Schenectady-Troy VHF stations are short-spaced with respect to co-channel stations.

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necessary to accommodate the new channel. Many of these proposals were for the third VHF commercial allotment in a market, designed to provide three competitive network outlets. Three such decisions in 1961 were *Grand Rapids, Michigan*, 21 R.R. 1737 (1961) (a second VHF channel for Grand Rapids and a third for the Grand Rapids–Kalamazoo market); *Rochester, New York*, 21 R.R. 1748a (1961), and Syracuse, New York, 21 R.R. 1754 (1961). The earlier Albany-Schenectady-Troy, New York, decision led to the assignment of two VHF channels at near-minimum standard spacings and, as mentioned, the stations were later permitted to move in.[23] A later action, *Mt. Vernon, Illinois*, 17 R.R. 2d 1620 (1969) exemplifies the engineering extremes employed to meet separations: the station's transmitter would have had to been located some 30 miles north of Mount Vernon, in a small triangular area with sides 1 to 2 miles long.

17. It is clear from this brief history that the Commission's past decisions and actions in instituting and pursuing a competitive nationwide television service have been guided by two overriding principles: (1) the establishment of wide-area coverage facilities, and (2) an intermixed, VHF-UHF, system. Limited power stations, while always technically feasible, were consistently rejected because they were inconsistent with both principles.

UHF Impact Policy

18. One of the fundamental questions faced in this proceeding is the extent to which the potential for harm to UHF television service justifies denial of short-spaced VHF television allotments. This issue is premised on the competitive disadvantage UHF television suffers as a result of inherent technical differences between UHF and VHF signal propagation.[24] Based on the record before us, we believe that the potential for such harm has been significantly reduced and should not bar the new VHF television service the four subject drop-ins would provide.

19. As noted above, the Commission has previously considered VHF–TV "drop-ins" as a means of creating new television service. This consideration was in general terms, *Docket 11523, supra*, as well as in specific contexts, *Docket 13340, supra*. For reasons already discussed, however, such action was never taken largely because of a concern for economic harm to existing or potential UHF–TV service. Consequently, the "UHF Impact" policy has primarily evolved through case-by-case adjudication of requests to improve existing VHF facilities. A discussion of the policy's development follows.[25]

20. When in the late 1950's, it became evident that UHF television was not developing at the rate expected at the time of the *Sixth Report*, the Commission instituted an affirmative policy of fostering such development. The core of this policy involved the denial of attempts to improve or increase VHF service that might have an adverse effect on UHF stations. In *Triangle Publications, Inc.*, 29 F.C.C. 315 (1960), the Commission denied an application by a New Haven, Connecticut VHF station to move its transmitter some 14 miles north in the direction of a Springfield, Massachusetts UHF station. The reasoning in this case became a standard followed for years thereafter—that economic injury to a UHF station is reason to deny a change in a VHF facility if the public interest would be affected by injury to the UHF service. The decision reached the "inescapable" conclusion that a UHF station will suffer losses in income when a new or improved signal is introduced into the UHF station's market.[26]

21. After enactment of the 1962 All-Channel Receiver law, note 19, *supra*, the Commission denied various rule making proposals for additional VHF channels, both short-spaced drop-ins and others at standard separations such as in *Columbia, South Carolina*, 25 R.R. 1714f (1963). It was concluded that the statutory enactment was a directive to the Commission to foster UHF development, requiring denial of opportunities for additional VHF service which might adversely affect such development. Although no substantive data were relied on, the conclusion was reached that an "inevitable" negative effect would result. In a second decision, *Triangle Publications, Inc.*, 37 F.C.C. 307 (1964), the Commission adhered to this policy, despite enactment of the All-Channel Law, noting that it would require a few years for that law to result in most homes being equipped to receive UHF television.[27]

22. Denial of VHF facility increases, however, was not automatic. In designating for hearing three Iowa VHF–TV station applications for increases in output power because of impact on a Ft. Dodge, Iowa UHF station, the Commission stated that it was appropriate to explore the extent to which other services would be available to populations served by the UHF station in the event of its demise. Two of the three applications were later granted because of the small extent of impact (VHF Grade B overlap of only 16% of the UHF coverage area), various measures jointly taken to guarantee the UHF station's survival, and the lack of potential for other UHF Stations in the small communities within the overlap area. *KTIV Television Co.*, 4 R.R. 2d 243 (1965). In *Atlantic Telecasting Co.*, 3 F.C.C. 2d 442 (1966), the Commission refused to designate for hearing a VHF–TV station's application for an increase in facilities on the basis of unsupported allegations of UHF impact.

23. During the 1960's and 1970's "UHF Impact" cases often became battles of experts, because of the difficulty of determining "injury adverse to the public interest." A multitude of criteria have been employed in various cases, including: stability of the market and maintaining a fair possibility for UHF development, *Midwest Television, Inc.*, 13 F.C.C. 2d 478, recon. denied, 15 F.C.C. 2d 84 (1968); decreased ability to attract advertising, *Cosmos Broadcasting Corp.*, 21 F.C.C. 2d 729 (1970); ability to secure or retain network affiliation, *Cosmos, supra; Selma Television, Inc.*, 12 F.C.C. 2d 781 (1967); *WLVA, Inc.*, 15 F.C.C. 2d 757 (1968); *South Carolina Educational Television Commission*, 39 F.C.C. 2d 180 (1972);[28] audience fragmentation, future UHF potential, *Selma Television, supra; Daily Telegraph Printing Co.*, 20 F.C.C. 2d 976 (1969); first time overlap and/or increased overlap of signals, *Daily Telegraph, supra;* first time service for

[24] 15 R.R. 1514a (1957).

[25] *Comparability for UHF Television: A Preliminary Analysis* (Staff Report), prepared as part of General Docket 78-369. This Report is available from the National Technical Information Service, Springfield, Virginia, NTS No. PB 301267-AS.

[25] Although the following history of the "UHF Impact" issue largely discusses attempts to increase the facilities of existing VHF stations, we believe it is valuable to this proceeding since it offers a good indication of the Commission's current direction in this area.

[26] The decision (at 29 F.C.C. 322) quoted as follows from the *Fresno Deintermixture* rule making decision (Docket No. 11759, 19 R.R. 1581, 1585 (1960)): "If there is one circumstance which has been established beyond doubt in the manifold experiences of UHF operators everywhere that they compete with VHF, it is that, for a complex of familiar reasons related to receiver conversion, advertiser support, program availabilities and other related factors, UHF operations, however serviceable to the public, are subjected to competitive adversities which impose seemingly inescapable and substantial burdens upon the chances for financially successful operation of a UHF Service in competition with an available VHF service."

[27] The second *Triangle* case involved the same facilities change as the first except that the antenna would be directionalized to afford a degree of protection to the UHF stations. This too was denied.

[28] The *South Carolina* case held that where there is a network "white area," i.e., an area with no usable signal containing a sizeable community (there Florence, South Carolina and the ABC network), there is a presumption that a UHF station would get a network affiliation.

audience *Cosmos, supra;* and past financial profitability of UHF station, *Capital Cities Communications, Inc.*, 59 F.C.C. 2d 435 (1976).

24. It was early recognized that in this area any conclusion would often be highly speculative, since seldom if ever would there be positive proof of impact or the absence of it. In *Midwest Television, Inc.*, 13 F.C.C. 2d 478 (1968), the Commission, applying for the first time the "UHF Impact" policy to the importation of distant signals on CATV, stated that no definite finding can be reached that UHF television will or will not succeed in the market (San Diego); the only way to find out is to maintain the market for a period free of distant signal competition, to give UHF television a chance to develop. If no UHF station materialized, the situation could be reexamined (13 F.C.C. 2d 502).

25. While "UHF Impact" has been applied in some other cases (e.g., *Jefferson-Pilot Broadcasting Co.*, 42 F.C.C. 2d 908 (1973)), it has not always stood as a bar to increased VHF service or improvements in facilities. In *Mount Vernon, Illinois*, 17 R.R. 2d 1620 (1969), the Commission added a VHF channel (at minimum separations) because of the substantial first service and local outlet benefits which would accrue. The very slight impact on existing or potential UHF development was found not to be grounds for denial.[29] The same result was reached in *Cosmos Broadcasting Co., supra*, concerning increased transmitter facilities. There the VHF station showed the likelihood of only minimal, rather than substantial, impact and there were substantial first and second service benefits to be gained.

26. *The Cosmos* case put the "UHF Impact" question in terms of a balance between two potentially conflicting objectives—encouraging VHF stations to expand to make the most efficient use of their channel assignments by serving more people, and fostering UHF development. In *South Carolina Educational Commission, supra*, it was held that where these policies come into real conflict—i.e., where the UHF impact is more than minimal—the UHF policy must prevail. If the impact would be only minimal the VHF application need not be denied, particularly if substantial public benefits would result. The same result was reached by the Commission in *Daily Telegraph Printing Co.*, 56 F.C.C. 2d 990 (1975), where it was held that, if there will be substantial adverse impact on existing or potential UHF development, the VHF application cannot be granted even if the benefits would outweigh any loss.

27. Shortly thereafter, however, the Commission changed its analysis of this principle. In *WFMY, Inc.*, 59 F.C.C. 2d 1010 (1976), it held that regardless of the character of the impact, "minimal" or "substantial," a comparison will be made between the possible adverse consequences of impact and the gains from the increase in VHF service. This change was premised upon the Commission's belief that "UHF broadcasting had advanced to the point where a much more 'substantial' impact can be tolerated without disservice, overall, to be public interest." The *WFMY, Inc.* case also tightened the requirements for establishing impact, requiring a showing of the likelihood of *specific* impact related to the advent of expanded VHF service. The Commission noted its disinclination to insulate UHF stations from competition and stated that what is important is "that the UHF station be afforded 'an opportunity to develop free from . . . substantially adverse competitive circumstances' (citation omitted)." If the opposition to the expansion of VHF service is based on a claim of impact on *potential* UHF development, *WFMY, Inc.* stated that the party urging UHF impact has the burden of establishing the likelihood that, absent the VHF expansion, an application for a new UHF station would be filed within two or three years. In adopting this standard, the Commission stated that it did not believe "that the public interest is served by forswearing indefinitely the benefit of additional VHF service while awaiting the germination of dormant interest in an idle UHF allocation."[30]

28. There have been three significant "UHF Impact" cases since *WFMY, Inc., Central Alabama Broadcasters, Inc.*, 68 F.C.C. 2d 1339 (1978) and *KOTV, Inc.*, FCC 79-607, 44 Fed. Reg. 60818 (October 22, 1979), are in hearing status. The third, *North Carolina Television, Inc.*, 42 R.R. 2d 1685 (1978), was a grant of a VHF application without hearing. It was concluded there that the benefits from the expanded VHF service (in terms of population receiving first and second services and first NBC service) outweighed the impact which could result from increased overlap with the UHF station, also NBC-affiliated. It was noted that the latter would have a stronger signal in the overlap area, and was in a larger market than the VHF station. It was also observed that the bulk of the overlap resulted from a recent transmitter move by the UHF station in the direction of the VHF station.

29. The history of the "UHF Impact" issue demonstrates that since the All Channel Receiver law, the Commission has increasingly moved away from any automatic assumption of harm in favor of UHF television. The trend has been towards balancing the diversity gained from additional VHF service against the potential harm to UHF television, with harm to UHF becoming less of a factor as time progressed and the service matured. Several factors today lead us to believe that UHF television is, generally, in a much stronger position than it was in 1976, enabling it to withstand an even greater amount of competition than at the time of the *WFMY, Inc.* decision. These factors are set out immediately below.

30. One factor strongly indicating UHF TV's present viability is the tremendous progress which it has made during recent years. This conclusion is supported by commenters arguing both for and against VHF drop-ins in this proceeding. This progress is indicated in several areas. In 1978, the revenues of UHF commercial stations were $514 million, including $255 million to stations which were network affiliates and $259 million to independent UHF stations. These represented increases of 26.2% and 30.2% respectively over 1977 figures.[31] UHF network-affiliated and independent stations had 1978 profits of $42 million and $52 million respectively, up 53.6% and 18.2% from the corresponding 1977 net income figures. In 1973, only 31% of UHF stations reported net income; in 1975, UHF stations as a group were profitable for the first time with 52% showing profits; and in 1978, 73.1% of those reporting showed net income (136 out of 186). See the FCC's *Revised TV Broadcast Financial Data—1978* (July 17, 1980), and corresponding reports for earlier years. Also, the number of UHF stations in operation has increased rather substantially, from 180 in 1970 to some 218 in early 1980. Even more striking is the increase in the demand for new UHF facilities evidenced by applications filed—between 8 and 15 per year during the 1971–1975 period, compared to 94 in 1978, with more than 240 pending as of

[29] In view of the passage of time since the All Channel Law, the *Mount Vernon* case stated that it is unnecessary to "insulate every UHF station or potential station from any possible small wind of VHF impact where there is a substantial service benefit involved in a different course. The time when such caution was appropriate has, in our judgment, passed." (17 R.R. 2d at 1630).

[30] These changes were adopted to reflect UHF progress in recent years, e.g., in receiver penetration (increased nationally from 55% in 1969 to 89% in 1974) and station profitability. See paragraph 30, *infra*, for more recent data of this nature.

[31] VHF figures for the same classes of stations were 19.2% and 20.9% respectively.

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July 31, 1980.[32] The growing demand is also shown by high selling prices for stations. ABC mentions in its comments the $11,600,000 figure paid for a Houston independent UHF station in 1976; since then a UHF station sold for $20,000,000 (WRET–TV, Charlotte, North Carolina in 1979) and there have been at least three other sales of $15,000,000 or more (stations in Ft. Smith, Arkansas, Washington, D.C., and a pending application for a Baltimore, Maryland station). Further, UHF penetration (percentage of TV sets able to receive UHF) has steadily increased until it is now 98% or higher. And finally, UHF shares of audience in intermixed markets, while not generally equal to VHF, are in some cases as great or greater.[33]

31. Beyond the advances UHF television has already made, there are continuing efforts, by the Commission and industry groups, to improve UHF from a technical standpoint. The All-Channel Receiver Law, and the Commission's all-channel rules implementing it, have now been in effect for more than 15 years. Rules designed to promote comparable ease of tuning receivers to VHF and UHF channels have been in effect, in gradual stages, since 1970. As long as the tuning process is mechanical, it may be necessary generally to have UHF tuning involve an extra step, albeit a simple one; but electronic tuning, now coming into widespread use, promises to remove even that difference. In 1978 the Commission formed a UHF Comparability Task Force to study measures for alleviating the remaining differences and, if possible, eliminating them completely. This group has issued a number of Notices of Inquiry and several reports, including one (September 1979) reviewing the whole area of VHF–UHF comparability.[34] Rules have been adopted to improve UHF receiver performance by lowering the permissible noise level, and other avenues of improvement to receiver performance, including receiving antenna performance, are under study in various inquiry and rulemaking proceedings.[35] These ongoing efforts at technical improvement are doubly relevant here since they provide reasonable assurance that the "UHF–VHF difference" will be less than it is now at the time in the future when stations in the four markets at issue here are likely to go on the air using the new VHF assignments, and that the Commission is firmly committed to continuing to ensure that viewers will be capable of receiving UHF signals.

32. Additionally, the Commission has taken or is considering other measures that could have a salutory effect on UFH development. For example, the *Low Power Proceeding*, adopted by the Commission today, proposes the authorization of low power UHF stations that in many instances, because of lower power and equipment costs could be a more cost effective manner of providing television service in the UHF band. Also, the Commission has taken substantial deregulatory steps with respect to the subscription television service (hereinafter "STV").[36] As a result, the number of STV authorizations issued has more than doubled in the recent past. Because UHF stations are the only ones seeking STV, it is very likely that this service may supplement advertising as a method of supporting UHF television stations.

33. The drop-in opponents recognize most of these factors, but reach the opposite conclusion as to their significance. Their claim is that UHF television service is now able to "do the job"—provide desirable additional service by numerous stations operating with full-scale facilities—so there is no need to look to additional VHF assignments to provide service increments, with both the "chilling effect" on UHF and the widespread interference to existing VHF which the new VHF operations, assertedly, would entail. It is also asserted that the increasing number of UHF applications, such as one for a Salt Lake City station submitted during the pendency of this proceeding, indicates that allotted UHF channels will soon be utilized to provide this additional service.

34. We do not find a conclusion that new VHF–TV service is unnecessary or inadvisable in light of recent UHF gains to be warranted from the factual data submitted in this proceeding. Rather, as we view the current situation, our duty is to open the way to more service by providing opportunities for it in the form of additional television channels, thus fulfilling the mandate of Section 303(g) of the Communications Act to further "the larger and more effective use of radio."

35. In this connection, it also must be borne in mind that the policy of "UHF Impact" protects against new VHF competition not only actual or potential UHF stations but also existing *VHF* stations—those in the same market where the actual or potential UHF station is or would be located. Thus, in *Jefferson Pilot Broadcasting Co.*, 42 F.C.C. 2d 908 (1973), the UHF impact was on potential use of the Greensboro, North Carolina UHF assignment (a station operating on it had recently gone dark), but the immediate beneficiaries of the policy's application were the three VHF stations in the market that includes Greensboro.[37] This aspect of this policy is undesirable in any event, since it limits the availability of alternative program sources and competition, and affords protection to entities that certainly do not need it.

36. In *Channel Assignment at Glendive, Montana*, FCC 69–183, 15 R.R. 2d 1559 (1966), the Commission stated as follows:

> When there is under consideration a proposed action which would permit the addition of an additional broadcast service to a community and area . . . we believe that there must necessarily be a presumption that the action should be taken. Otherwise we run the risk of thwarting the mandate of Section 303(g) of the Communications Act, which adjures the Commission to further the larger and more effective use of radio. This presumption is of course subject to rebuttal; but it is nonetheless a substantial one. . . . As we stated in the Dickinson, North Dakota decision, *supra*, we should be slow to act in a manner which would thwart the

[32] For a recital of figures in this connection, see the *Notice of Proposed Rule Making concerning Multiple Ownership of AM, FM and TV Broadcast Stations*, FCC 79–537, 44 FR 55603, September 1979.

[33] A staff analysis of Arbitron audience survey data for February 1980, for 27 markets having two VHF and one UHF affiliated stations, showed that in two cases (Abilene-Sweetwater, and Lubbock, Texas) the UHF had an all-day audience share as high as, or higher than, one of the VHF stations for the "Metro area", and in one f these cases in the entire ADI as well. In a third market, the UHF's Metro area share was higher than one of the VHF during prime time (Louisville, Kentucky). In four of ten markets where there are tow UHF and one VHF affiliates, one of the UHF stations had a share similarly high compared to the VHF (Austin, Texas (as to both metro and ADI share); Erie, Pennsylvania; Evansville, Indiana; Madison, Wisconsin and, as to prime time, Springfield-Champaign-Decatur, Illinois).

[34] *"Comparability for UHF Television: A Preliminary Analysis"*, *supra* note 24. The report found three main areas of difference—channel selection (tuning), picture quality, and programming. It noted the potential of electronic tuning in the first area, and, in the second, new developments in receiving antennas and also a more efficient UHF transmitter which could reduce the tremendous (and costly) amounts of power which UHF stations now use just to produce a signal comparable in geographic reach to VHF stations having much lower power. The report concluded that differences in programming (largely reflecting UHF unwillingness or inability to pay high prices) will tend to disappear when technical comparability is achieved.

[35] *See, for example, UHF Television Receiver Noise Figures*, 69 F.C.C. 2d 1866 (1978); *Improvements to UHF Television Reception*, 70 F.C.C. 2d 1720 (1978).

[36] *See, First Report and Order*, Docket—21302, FCC 79–535, adopted September 25, 1979, released October 12, 1979.

[37] Two of them were the objecting parties.

development of competition. 15 R.R. 2d at 1564, *supra*.

We believe the promotion of competition remains a primary Commission policy and warrants careful consideration in this proceeding.

37. Another, somewhat different, problem with the "UHF Impact" policy pointed out in the history is its highly speculative character. This has been recognized by the Commission (e.g., *Midwest Television, Inc., supra).* It is difficult, or simply impossible in many cases, to reliably determine whether significant impact will or will not occur. The number of different sets of facts that may have to be taken into account, and the varying tests used, add to the problem (see para. 23, *supra).* Moreover, it must be borne in mind that some highly important facts, for example the network affiliations of the affected station and the new or expanding station, are subject to change suddenly and without much notice (see e.g., the Knoxville, Tennessee situation discussed at paragraph 79). If the Commission denies the subject proposals wrongly because it concludes that the impact is more serious than it actually is or if the facts later change so as to lessen the impact, there will have been an unjustified denial of an opportunity for increased service and program diversity.

38. The difficulty in speculating on UHF TV development has been demonstrated even in this proceeding. For example, on the basis of three economic models, the 1977 *Notice* assumed it would be ten years before a UHF station would develop in Salt Lake City. But an application, by a well-established UHF operator, was filed in 1977 and the station went on the air in 1978. Hence, even our best predictions are unable to calculate marketplace behavior to the degree we would wish.

General Comments in Response to 1977 Notice

39. Besides letters and other informal filings, comments or other formal submissions were filed by more than 50 parties, including material filed through July 1979. There were five submissions supporting VHF drop-in allotments generally, from the United Church of Christ and the individuals joining it in the original petition (hereinafter "UCC"), U.S. Department of Justice (DOJ), New Jersey Coalition for Fair Broadcasting (N.J. Coalition), and two parties interested in additional educational or "public" TV allotments, National Association of Educational Broadcasters (NAEB) and Corporation for Public Broadcasting (CPB). Twelve parties filed in favor of the four specific proposals set forth in the *Notice* plus a proposal to add Channel *4 at Albany, New York, for educational use.[38] General opposition to the making of such assignments was expressed by four parties: the Association of Maximum Service Telecasters, Inc. (hereinafter "MST",) an organization of VHF and some UHF stations, American Broadcasting Companies, Inc. (hereinafter "ABC"), the National Association of Broadcasters (hereinafter "NAB"), and Spanish International Communications Corp. (hereinafter "SICC").[39] Specific proposals were opposed by the licensees of 16 VHF stations that would either be short-spaced with one of the new assignments or would, assertedly, otherwise suffer interference from its operation.[40] Specific opposition was also expressed by the licensees of UHF stations in Altoona, Knoxville and Salt Lake City on the basis of possible economic impact, and in a similar filing by the licensee of the Kingsport, Tennessee UHF station.[41] Five additional parties took positions on certain specific matters.[42] The Appendix hereto is a list of the commenting parties. Many comments contained detailed engineering showings.

The Proponents' Argument

40. The Department of Justice (DOJ) in its comments emphasizes what it claims to be the very undersirable and highly anti-competitive restrictions on entry into the "VHF television industry" flowing from the Table of Allotments based on rigid mileage separations. It urges the Commission at least to make the four drop-ins and to liberalize the Table to permit new VHF allotments when technically feasible (based on new technology), or, preferably, abolish the Table altogether in favor of a "demand" application system, with the question of interference to existing service left to the licensing assignment process with the burden on existing stations to establish it. It is claimed that the resulting "artificial shortage" has serious economic consequences leading to inordinately high station profits, distortions of the marketplace resulting in inefficient allocation of resources, a shortage of advertising opportunity (resulting in unduly high rates to advertisers) that both contributes to inflation and restricts opportunities for new and small business ventures (adding to economic concentration and decreasing the healthy competition of new entrants in the marketplace). Program diversity and the development of additional networks are also allegedly frustrated. DOJ also claims that the present system is grossly inefficient, based on adherence to mileage separations designed to accommodate great height and power that often may not be used (and even if used do not necessarily represent the most efficient form of spectrum use). Comparison is made with Japan, which in a much smaller area has a much larger number of TV transmitters.[43] As to "UHF" impact, DOJ claims it no longer is a legitimate concern, since UHF, while still not the equal of VHF, is certainly not failing and already receives, aside from this kind of protectionism, a number of public "subsidies," e.g., Federal and State grants to educational UHF–TV stations.

41. UCC and other proponents emphasize points such as additional program diversity, increased opportunity for minority ownership and the expression of minority viewpoints, local ownership, the breakup of an

[38] These include four potential applicants for Salt Lake City, two for Knoxville other than the present UHF station, four for Charleston-Huntington, one for Johnstown (there was no support for the Altoona proposal), and one for Ch. *4 at Albany. Numerous New York State ETV groups supported the Albany proposal in a brief pleading, as did numerous letters from governmental and educational officials and others. This Albany proposal, however, conflicts with a proposal in Salsbury Center, New York and will be addressed in a Notice of Proposed Rule Making to be issued in the near future.

[39] SICC is licensee of several UHF Spanish language stations and is under partial common ownership with Spanish International Network.

[40] The sixteen include three Salt Lake City commercial VHF stations claiming impact from interference to, or required changes in, their existing translator services, as a result of a channel 13 drop-in.

[41] The Kingsport Chamber of Commerce filed a similar opposition to a Knoxville drop-in (Kingsport is some 85 miles from Knoxville). The Knoxville UHF licensee, South Central Broadcasting Corp. has, long sought to have VHF channel 8 dropped into that city and its license modified to that channel. Its position in this proceeding originally was that these actions should be taken, but, if the Commission was not willing to grant the modification, it should not make the drop-in. Later, South Central became unconditionally opposed to the new assignment.

[42] Frederick W. Ford filed opposing any reservation of a Charleston-Huntington assignment for educational use. VHF Channel 11 stations at Louisville and Chicago did not completely oppose the Channel 11 drop-in as such but pointed out some problems in offset adjustments which assertedly should be dealt with. Shenandoah Valley Educational Television Council (SVETV) opposed the Ch. 11 drop-in because it would preclude a standard-spaced assignment in the Staunton-Waynesboro, Virginia area where SVETV operates a UHF public television station. Idaho State Board of Education noted the short separation between a Salt Lake City channel 13 drop-in and unused channel *13 at Twin Falls, Idaho, and expressed the view, based on existing arrangements between other stations, that a suitable arrangement could be worked out.

[43] In reply, MST asserts that the great majority of Japanese transmitters are low-power, translator-like facilities; assertedly, Japan emphasizes the re-transmission of programs from a few central sources rather than the widespread full-power station characterizing U.S. television.

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asserted newspaper-television monopoly in the Johnstown situation, and promotion of additional networks. It is urged that the Commission should be less protectionist in its approach: existing stations should receive "equivalent protection" but not more. Some of these parties also agreed with DOJ concerning the Commission's continued concern with "UHF" impact. It is also asserted that in the four instances under consideration UHF television has simply not been able to do the job, with no UHF stations at all in Salt Lake City (at the time of the initial comments), no commercial UHF station in Charleston-Huntington and only low-power UHF facilities, drawing small audience shares, in the other markets. It is also argued that where rough terrain is involved, as in some of these markets, UHF is and always will be somewhat inferior. The greater cost of electrical power needed to operate the higher power UHF stations is also mentioned. The West Virginia and Albany, New York, area public TV licensees urge the importance of additional public TV outlets, which would be in *addition* to their existing UHF service rather than in place of it.

The Opponents' Argument

42. MST, ABC and other drop-in opponents advance four main lines of argument: (1) the adverse impact on UHF service and development, both in the area of the proposed drop-ins because of potential loss of viewership, and generally because of the perception of a Commission loss of faith in UHF television; (2) the impossibility of limiting approval of VHF drop-ins to these four situations under consideration if they are granted; (3) the predicted loss or degradation of existing TV service through interference to (a) stations with which the newcomer would be short-spaced, (b) other co-channel and adjacent-channel stations, and (c) translator [44] and CATV audiences; and (4), the limited service that the dropped-in VHF station would provide, because of reduced power necessary to afford equivalent protection to other stations and also less than optimum service area—less than what would be provided by a "well-engineered UHF station."

43. With respect to UHF impact, MST and others vigorously urge that to make any of these drop-in allotments would be a complete reversal of the Commission's sound policy of protecting UHF development. It is claimed that this would be particularly unfortunate now that UHF is beginning to surge forward— "on the threshold of success", as ABC puts it, and with UHF set penetration in the U.S. now 94% or more and rules requiring tuning comparability nearly 10 years old.[45]

44. ABC, arguing that UHF is doing quite well (even though not yet fully the equal of VHF), states that it would consider the ownership of a UHF station in a very large market should a suitable opportunity arise, and would consider affiliating with a UHF station in an intermixed market where one of the VHF stations has problems such as an inferior transmitter location.[46] ABC cites instances in which some of its UHF affiliates have greater audience shares than do some of its VHF affiliates that have transmitter location or similar problems. It states a belief that with greater facilities (which they have begun to undertake) its Altoona and Knoxville affiliates can do a respectable job. ABC thus urges that the Commission, instead of considering VHF drop-ins, should attempt to make UHF truly equal by various measures designed to improve receiver tuning and antenna performance.

45. Several parties complained about the changes in offset that the *Notice* indicated would be required because such changes would assertedly increase interference and would cost money. For example, opponents of the Charleston proposal maintained that three stations would have to change offset at a cost of $10,000 each. Stations WTTW, Chicago and WHAS–TV, Louisville, claimed that if operating on a non-offset basis (as apparently contemplated by the Commisssion's proposal) they would lose areas within their noise limited Grade B contours that they claim amounts to about 230 square miles in each case (no population or alternative service information for this area was submitted). While "synchronous carrier" or "zero offset" operation has the potential for solving this problem, WHAS–TV claims that its reliability is not yet established and it is quite costly (around $50,000 or more, compared to some $10,000 for precision offset).

46. Many licensees also urged the Commission to consider as significant the increased interference created by the drop-ins in areas beyond their Grade B contours. And finally, several licensees asked that the Commission consider requiring the dropped-in stations to provide protection to their facilities should they decide to increase to higher power in the future.

47. MST and other opponents make certain other arugments against the drop-ins. It is claimed that the contemplated approach runs contrary to the Commission's sound actions of the early 1960's in AM and FM station allotments, where it abandoned case-by-case consideration of service area gained vis-a-vis service area lost due to interference in favor of stricter, more rigid standards.[47] It is claimed that we should adhere to this here and both avoid erosion of existing service through interference, and the costly processing and adjudicatory effort involved in case-by-case evaluation. MST also claims that, rather than being inefficient, the present TV station allotment system is highly efficient, bringing 4 or more services to 96% of U.S. population.

48. It is also argued that all of the drop-in proposals can and should be summarily denied because none has come close to meeting the "persuasive showing" burden set forth in the 1977 *Notice*. Some parties urge that some of the benefits claimed for drop-ins, such as minority-group expression and participation, more networks, etc., are clearly illusory because of the small number of additional assignments that can possibly result. As to minorities, it is argued that encouraging them to participate in television via a short-spaced, sub-standard VHF station might be only a "cruel hoax." Some parties question the Commission's selection of the four markets advanced in the 1977 *Notice*, urging that others discarded at earlier stages in this proceeding are at least as meritorious. The evaluation of population losses discussed in the 1977 *Notice* is also attacked. This attack on "loss" population concerns the propriety of deducting, from gross population within "loss" interference areas, the number which subscribe to cable TV, those living in counties where the affected station now has very little or no net weekly circulation (NWC) and those living in counties where the affected station has some circulation but another station or stations of the same type (same network affiliation, commercial independent or public) has a large or larger NWC. It is asserted that this procedure wrongly assumes a substitutability among stations of the same type, ignores their local programming, and fails to discount in the same manner service gain figures of the drop-in.

[44] For example, one of the main points urged in connection with the Salt Lake City drop-in is impact on the extensive translator network that the Salt Lake City commercial and educational stations have put in place throughout the State, and that is heavily relied on to serve sparsely populated rural areas (an estimated 220,000 persons, or 20% of the State's population). The *Notice* stated that 19 translators would have to change frequency as a result of the drop-in, nine of which could change to other VHF frequencies and ten of which would have to use UHF. The existing Salt Lake City VHF stations commented that this is a gross under-estimate, since translators beyond the Grade B contour, operating on Channel 12 or 13, would be affected also associated bringing the total to about 60. These commenters cite the high costs with these changeovers to emphasize the predicted impact. It is also noted that the changeover would affect the Salt Lake City stations unequally, since the station on the highest broadcasting channel, KSL–TV, is the one with the most translators on Channel 13. These parties claim that this is a public-interest detriment that the Commission must consider, even though according to Commission Rules translator service is secondary and subject to change or impairment by increased regular station service. In reply, proponents claim that this problem is vastly over-stated; translators are largely local, often isolated facilities, that serve communities in valleys where a direct signal from Salt Lake City does not penetrate.

[45] Proponents cite some of the same data, in support of contentions that UHF no longer needs protection, and that an actual or potential VHF drop-in allotment will not necessarily stunt UHF's growth.

[46] We note, however, that in Knoxville, and five other intermixed markets in recent years, ABC has abandoned its UHF affiliate for a VHF outlet, as part of a campaign to up-grade its affilations (it has also made some change in affiliation between VHF stations in a market).

[47] *See Interim Criteria to Govern Acceptance of Standard Broadcast Applications*, 23 R.R. 1545 (1962); and, in FM, the adoption of a Table of Assignments and mileage separations. *Third Report, and Memorandum Opinion and Order in Docket 14185*, 23 R.R. 1859 (1963).

General Conclusions

49. New VHF–TV channel allotments represent an opportunity for the provision of additional broadcast service. Assuming that the allotments are used, the additional service is a clear benefit. The service is there, available to substantial populations who wish to take advantage of it. By contrast, the losses that may be claimed to result from the provision of this additional service opportunity—through interference to existing services of other stations, or through economic impact on existing service—are, as noted above, to some extent speculative. The new allotments would represent, or at least give an opportunity for, greater diversity of programming and the presentation of divergent viewpoints. Any additional stations made possible may give minority-group members readier access to the broadcast media for presentation of their viewpoints and of programming particularly of interest to members of those groups. The additional outlets thus made possible may also represent a chance for minority-group members to obtain ownership in a more nearly proportionate share of broadcast facilities. Further, the new services would be local services, since the new station created would provide primary service to the community in which its facilities are located. Other important objectives, such as the presentation of programming of interest to substantial but less than mass audiences, the promotion of additional networks, and increased competition in advertising markets may also be served. We believe these service benefits the additional allotments could result in are substantial contributions to the public interest.

50. Some of the drop-in opponents argue that the number of situations finally proposed in the *Notice* for comment—four—is so small that even if all were granted, there would be no noticeable contribution to national goals such as increased minority participation in broadcasting, increased diversity of programming, divergent viewpoints, etc. We reject this contention. We believe that the creation of four new VHF–TV stations in these markets will in all likelihood make a contribution to the achievement of some or all of our goals. And, moreover, we do not propose to limit developments in this area to only four situations, but to consider other possibilities for the creation of new television service. In this regard we cite a Notice of Proposed Rule Making adopted today proposing a new *Low Power Television* service.[48] In greater numbers, these and, perhaps someday, other additional stations may well further these objectives even more substantially. It may be that they will even create an opportunity for the development of a full-scale "fourth network." [49]

51. There are a number of other considerations raised by the opponents that are applicable to some or all of the specific proposals before us and should, thus, be discussed generally.

UHF Impact

52. In view of UHF's current state of development and other factors cited above, we intend to evaluate the "UHF Impact" of these four proposals in a manner consistent with the principles of *WFMY, Inc., supra*, but taking recognition of the gains UHF has made since that decision. UHF television is in a much improved posture since 1976 and we believe an appreciation of that posture is warranted in considering the action we take today. Further, it must be recognized that the standards for attempting to determine the economic impact of additional VHF–TV service developed in *WFMY, Inc.* were made in the context of an application proceeding where the facts and circumstances related to potential impact were more specific and the institution of service closer at hand than in an allotment proceeding such as this. With no application presently before us and institution of actual service undoubtedly years away, judging the economic impact of these drop-ins becomes even more speculative and the showing of "specific impact" on UHF service more difficult for us to discern. Accordingly, in taking a "hard look" at the requested rule waiver for the four markets before us in terms of UHF impact, we will take into account the state of UHF–TV as we know it today, weigh the benefits of the potential new service against the potential adverse effect upon UHF–TV development, and exercise our best judgment as to where the public interest lies.[50] Our conclusions regarding the treatment of UHF impact claims regarding each of the specific drop-in proposals are set forth at paragraphs 67 to 80, *infra*.

Increased Interference

53. Many commenting parties object to the four subject proposals because of increased interference to viewers within, and beyond, the Grade B contours of existing stations affected by the drop-ins. We recognize that some such interference will exist. We have given this matter careful consideration and, for the reasons stated below, do not believe it warrants rejection of the proposals. Our reasons for this conclusion are set out in detail.

54. The ratio of the predicted Grade A and B contours of a VHF—TV station operating with maximum permitted facilities are obtained from the FCC propagation curves.[51] These contours are estimates of the outer limits within

[48] *Low Power Television, supra*, note 7.

[49] It is generally believed that one of the important factors limiting the number of national networks, although not necessarily the only one, has been that so many major markets have only three competitively comparable television allotments. *See, e.g., The Effect of the Federal Communications Commission's Spectrum Management Policies*, etc., note 9, *supra*, at 178–180 and *passim*.

[50] We note that in another action today, we delayed deciding upon a proposal to issue a notice of proposed rule making looking toward numerous additional (i.e., 75–100) VHF—TV drop-ins at unspecified locations. This delay was due in large part to the Commission's desire to have before it the results of its UHF Comparability Task Force prior to taking such a broad action which could have an impact on UHF–TV development. A similar need for such information prior to acting upon the four specific drop-in proposals now before us does not exist. We proposed these drop-ins over three years ago, have received a multitude of comments on the potential UHF impact in these specific markets, and have accumulated a wealth of information upon which to base a decision at this time.

[51] The fact that we refer to these curves as predictions is significant. The curves are statistical averages and so cannot be relied on to predict the actual presence or absence of service in a particular location at a given distance from a station. In addition, these field intensity contours are merely average statistical descriptions of parameters that are difficult to characterize, and extremely variable. By definition (*See* § 73.683) only the best 50% of the locations receive the prescribed signal level. This is further complicated by the included assumptions that 30 foot omnidirectional antennas are used and that all receivers have the same performance characteristics.

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which the population should receive a specified level of service, in the absence of interference from other stations. Service is "noise-limited" in that its useful range is determined only by atmospheric, man-made, and internal (receiver) noise. Among other factors the distance to a "noise-limited" contour depends on receiving antenna gain. (This "gain" is a measure of how well an antenna can extract energy from the electromagnetic field created by the transmitting antenna.)

55. If co-channel or adjacent-channel stations are located sufficiently close to a desired station there is a possibility that the undesired signals will interfere with the reception of the desired signal. When such an event occurs we say that the service is "interference-limited" in that its useful range is determined more by interference than by noise. The geographic boundary along which interference begins to be objectionable can be drawn as a contour. Among other factors, the location of this "interference-limited" contour depends on the directivity of typical receiving antennas. (This "directivity" is a measure of how well an antenna receives signals from a preferred direction as compared to other directions.)

56. An "interference-limited" contour creates a crescent shaped area between the Grade A and B contours within which the quality of service is reduced. The size of this area depends on the relative strengths of the desired and undesired signals, carrier offset and receiving antenna directivity. Assuming the desired and undesired signals are as strong as is permitted, that carrier offset is employed, and that reasonable rooftop antennas are used,[52] the loss [53] area should be no wider than (approximately) six miles. Across this area there will be a progressive reduction in quality of one TASO grade,[54] i.e. from TASO 3 (interference not objectionable) to TASO 4 (interference somewhat objectionable.) In view of this we are confident that the four subject VHF allotments will result in new local service of far greater value than the potential reduction in signal quality attributable to co-channel interference. Our confidence is enhanced when it is remembered that, because we are requiring the drop-ins to provide equivalent protection, the potential interference created is of the same magnitude that has been created each and every time the Commission has added a channel to the Table since the Table's creation in 1952. We are unaware of any significant outcry of interference complaints in these instances, and there have been scores, including some in populous areas.

57. We also believe it significant in determining the interference effect of these four drop-ins to consider whether persons receiving increased interference have access to a like-program source by looking at cable penetration and net weekly circulation figures. What we are primarily concerned with is actual loss of service created by the drop-in. If a like-program service is readily available or if the projected service loss through interference does not in fact exist, it makes no sense to draw negative inferences from the interference. The fact remains that by compiling such data, it can be determined fairly accurately how many people will actually be deprived of a particular service as compared to the number of persons who will have a choice of a new service. Whether or not the new service is taken advantage of by all possible persons is not critical. If the "lost" service is actually repetitive of alternative sources of service [e.g., another signal can be received with the same network programming, or is presently viewed via cable so that access to that service still exists] while the VHF drop-in provides or results in unique new service (especially if the latter provides local service), then a simple head count of individuals who have "lost" and gained service is misleading.[55] What is critical is access. In looking at data for the specific proposals under consideration, it is clear, as indicated below, that the vast majority of viewers of the affected stations have access to like-program sources. Any detriment created by the like-program source's failure to replace the interfered with station's non-network or local programs, we believe, is far outweighed by the new local service to be provided.

58. Additionally, we do not believe the issue of service "loss" is of overriding concern because today we are also proposing a source of substitute service that we believe will provide a more spectrally efficient means of serving the small population pockets that typically make up the audience in a station's Grade B contour. At the noise limited Grade B contour, where potential service loss is most likely to take place, most viewers live in small towns or cities that are a fraction of a mile in diameter. Currently, to provide service to these scattered population pockets, stations in the distant urban centers blanket hundreds of miles of scarcely populated land with high power signals. Today, in our *Low Power Television* proceeding, *supra*, we are proposing a new television service that will permit the creation of small local television outlets with signal patterns tailored exactly to cover such pockets of unsatisfied television demand.

Terrain Considerations

59. The record in this proceeding on the question of terrain shielding of undesired (co-channel) signals is not sufficient to provide a basis for drawing conclusions regarding the four specific drop-in proposals. Studies of automated terrain correction computer programs were submitted by parties to the proceeding, but these models are still developmental and need further field measurement.[56] Where actual signal levels were measured in the field in support of particular proposals, measurement procedures specified in the Rules (or an equivalent alternative) were not used and supporting test

[52] We believe this antenna assumption reasonable in view of the Commission's actual experience in the Johnstown market. That is, the Commission's Field Operations Bureau looked at a representative sample of rooftop antennas and found that of 254 observations: (1) 112 antennas were of the exact same type (suggesting strongly consistency in types of antennas within the area), and (2) 75% were of a type that could be expected to reduce significantly the effects of the potential increase in interference. That is, these antennas were capable of at least 8db front to back ratio. It was also noted in this study that many homes not having antenna ratio capabilities of this sort were connected to cable systems. See *Johnstown VHF Drop-In Study*, W.P. Huber, F.C.C., Pittsburgh Field Office (February 15, 1980).

[53] We use the term "loss" advisably for reasons outlined below.

[54] In the 1950's, the Television Allocations Study Organization (TASO) conducted studies on interference created by increasing the signal to noise ratio and established grades of service which are commonly used today in described picture quality.

[55] MST also claims that numerous CATV systems will suffer head-end interference from the drop-ins. Its figures for numbers of CATV systems, their subscribers, and translators affected are: Knoxville, 7 systems, 10,398 subscribers, 27 translators serving 229,325 persons; Altoona, 25 systems, 33,880 subscribers, 2 translators serving 1,150; Johnstown, 37 systems, 55,753 subscribers, 3 translators serving 5,066 persons; Charleston-Huntington, 23 systems with 47,823 subscribers, 2 translators serving 202,071 persons. The alleged problem of head-end interference, however, is not unique to these particular proposals. Other cable systems experiencing this problem, for whatever reason, have developed means to rectify the situation. One such solution, of course, is to transmit the desired signal to the head-end via microwave facilities. In any event, this is a general problem faced by CATV systems when new services are added to an area the solution to which, if widespread and serious enough, is better addressed in a separate proceeding. We do not believe that the possible existence in these four instances of a problem of this nature warrants denial of the proposed drop-ins.

[56] See e.g., *Techniques for the Evaluation of Proposed VHF TV Drop-Ins*, G. A. Hufford, OT Report 77.112 (July 1977).

condition documentation was missing.[57] Moreover, no attempt was made to verify the computed results of various test cases, and in some instances, computed results differed so greatly from the results of selected hand calculated results that it was obvious errors existed in the computed data. For these reasons, we find the procedures set out in our rules a more reliable allocation tool and will not, as has been our previous practice, consider terrain factors in predicting interference.

Offset

60. The Charleston, Knoxville and Johnstown drop-in proposals necessitate certain stations making carrier offset [58] changes. Carrier offset changes are generally utilized by the Commission as a method of minimizing the potential for interference when authorizing new or improved service. It has been our experience that requiring such changes results in limiting new interference that may result from the addition of co-channel stations to a relatively small amount. This applies to the situation in the present cases as well. Moreover, we note these offset changes would be required even if the allotments being authorized today were at standard spacing. In view of these considerations we are not persuaded that inconvenience created by offset changes warrants denial of the subject proposals.

Translator Disruption

61. Each of the proposed drop-ins will most likely result in some translators having, or desiring, to change their channel of operation. While we recognize the important role translators play, we do not believe that any impact on such service, particularly beyond Grade B contours, should preclude institution of new off-the-air service. Since translators provide essentially a "secondary" service and are required to accept harmful interference from primary users of spectrum, we find questionable validity in attempts to block the addition of such new allotments on the basis of "interference" to translators. Similarly, we hesitate to give equal weight to the theoretical viewer beyond a station's predicted interference limited contour vis-a-vis new service provided to viewers within a proposed drop-ins Grade A contour. This is so because, in the former case, any service lost is a weak signal from a distant station and was not in a service area expected to be served given the minimum separation distances adopted in the *Sixth Report and Order*, while on the other hand the viewer gaining new service will be within the primary service area of the new stations. Moreover, it is apparent that the effect of any possible disruption of translator service, in terms of people served, is more than offset by the gain in service realized by the drop-ins.

Cost of Changes

62. In its *Notice*, the Commission proposed that the entities eventually operating on the channel allotments considered in this proceeding would pay the costs of translator and offset changes. We continue to believe this approach appropriate today with respect to offset change cost but have reconsidered our original thoughts regarding translator change costs. As noted above, translators provide a secondary service required to accept interference from primary users of spectrum. We see no reason to alter this relationship at this time and impose additional costs upon those parties seeking to provide full service. Accordingly, we will continue our past practice of not imposing translator change costs upon those to whom the translators will interfere with.

Protection of Future Facilities

63. Several licensees urged that we require the new VHF drop-ins to provide protection if they [the licensees] decide to increase existing facilities at some future time. We believe such a requirement unwarranted. Placing unnecessary service-limiting conditions on the grant of these already short-spaced allotments based upon a purely speculative contingency is inconsistent with our desire to maximize the provision of new service and encourage spectrum efficiency. Moreover, the definition of equivalent protection assumes that licensees are utilizing the maximum permitted facilities. Thus, existing stations in and around these markets will already receive an amount of protection equivalent to what is provided to a station operating at maximum transmitter power and antenna height. Only in those situations where existing stations in these areas decide to move their antenna site in the direction of the new VHF station will protection problems arise. We think these circumstances will arise too infrequently to justify restricting these new stations. Accordingly, existing stations will be required to give equivalent protection to the new station if an antenna move by the existing station would decrease the distance between the two stations. Subsequent new stations will be required to give equivalent protection to the four new drop-in stations.

64. With these general considerations in mind, we now turn to a discussion of the four specific drop-in proposals before us.

Comments on and Analysis of the Specific Proposals

Opponents' Showings as to Interference

65. MST, ABC, *et al.*, state "massive interference" would result from the drop-in stations to existing television service. MST's series of showings, in terms of square miles of area rather than population, shows a total of 45,015 square miles of existing service affected by the three Eastern drop-ins, assuming equivalent protection.[59] The showing is for 5 types of interference MST claims will occur—Grade A service reduced to Grade B; "impaired" Grade B service; "intensified", or multiple interference from the existing and the new sources; Grade B service lost; and service lost beyond the Grade B contour out to the 50 dbu contour. The totals for the three Eastern drop-ins, divided into losses to short-spaced stations and to others, are as follows:[60]

[57] See, e.g., Engineering Exhibit attached to petition for rule making (RM-2727) filed July 9, 1976 by the Group for the Advancement of Television Service.

[58] Carrier offset is the operation of the carrier frequency 10,010 Hertz above or below the designated center frequency of the assigned channel. When two co-channel television stations are "offset" from each other (i.e. one is offset above and one below the channel center frequency) the desired to undesired ratios of their mutually interfering signal is reduced approximately 17dB.

[59] The figures given below assume a drop-in of Ch. 8 at Johnstown rather than Ch. 12 at Altoona. If the Altoona Channel 12 proposal is assumed, the total area interference figures would be slightly larger. MST's interference calculations assume the figures might be somewhat different assuming other locations. For example, some comments assert that an alternative site, farther south, would be preferable from the standpoint of service to Charleston-Huntington. If this site were selected, the short separation to the co-channel Pittsburgh station would be eliminated, but the shortage to the Johnson City, Tennessee station would be increased.

[60] We have not included in this table "service lost beyond the Grade B contour" because it has never been considered by the Commission as a significant allocation criteria.

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Interference Areas

[In square miles]

Market	Short-spaced stations	Grade A rec. to Gr. B	Impaired Gr. B	Intensified	Grade B lost	Total int. within Gr. B
Knoxville:						
(Ch. X)	Athens, Ga. (ed.) Nashville, Tn. (ed)	76	1,680	21	2,862	4,639
	Other sta.		1,023	872	1,841	3,736
	Charleston, W.V					
	High Point, N.C					
(Ch.7)	Sp'b'g, S.C					
(Ch. 9)	Chatt., Tn					
Market total		76	2,703	893	4,703	8,375
Charleston-Huntington:						
(Ch. 11)	Short-sp.[61] Stations	190	1,391	667	2,662	4,910
	Pittsburgh, Pa					
	J. City, Tn					
	Other Sta.	26	573	108	593	1,274
	Louisville, Ky					
	Chicago, Ill. (ed)					
	Toledo, Ohio					
(Ch. 12)	Clarksb'g, W.V					
(Ch. 10)	Columbus, Ohio					
Market total		216	1,964	775	3,255	6,184
Johnstown-Altoona:						
(Ch. 8)	Short-sp. Stations	21	1,349	839	1,919	4,128
	Cleveland, Ohio					
	Lancaster, Pa					
	Other Sta.		390	233	809	1,432
	Rochester, N.Y					
	Charleston, W.V					
	New Hav'n, Ct					
	Petersb', Va					
(Ch. 9)	St'ville, Ohio					
(Ch. 7)	Wheeling, W.V					
Market total		21	1,739	1,072	2,728	5,560

[61] MST's loss figures for the channel 11 drop-in were revised in its reply comments and the revision appears to contain some numerical discrepencies. The tabulation here represents MST's figures for individual affected stations and types of interference, rather than its figures for totals.

66. The technical showings of the drop-in proponents dispute this interference data, emphasizing the shielding and limiting effect of unusually rough terrain, arguing that receiving antennas in these outlying interference areas will normally provide at least 6 db discrimination between desired and undesired signal which is not taken into account in the opponents' calculations. While we find this "square mile" data interesting, its usefulness in this proceeding is extremely limited since we believe that it is numbers of persons losing service that is critical. This square mile data does not shed light on this subject. Specific data advanced by both sides concerning particular market situations is set forth in the next few paragraphs, arranged by market, along with pertinent data advanced in the 1977 *Notice* and that in the 1977 study entitled "Service and Interference Areas Related to Drop-Ins at Johnstown-Altoona", by Dr. George A. Hufford of the Institute for Telecommunications Sciences of the Department of Commerce (and an addendum thereto).[62]

67. *Charleston-Huntington, West Virginia.* The 1977 *Notice* put the interference-free Grade B population served by the Channel 11 proposal at 834,000. It gave total interference figures to the various affected stations as 249,865, of which 126,288 do not subscribe to cable. Of those persons not subscribing to cable, the *Notice* stated that 43,295 watch an interfered with station at least once a week; 28,596 reside in counties where an alternative, like-program source is available which has a net weekly circulation (NWC) [63] equal to or greater than that of the interfered-with station; 12,945 live in counties where an alternative like-program source has a lower NWC than the interfered with station; and 1,754 reside in counties where no alternative, like-program service is available. These figures indicate that of those persons receiving interference and not subscribing to cable, only 1,754 people live in areas where an alternative off-the-air source of like-program service is not available. Thus, 834,000 people will have access to a new service while 1,700–1,800 may be deprived of a service for which there may be no similar alternative. Moreover, Channel 11 could provide the market's first independent commercial service, whereas the service being interferred with is network service largely available from other sources. On balance, these figures clearly suggest that the benefits, in terms of new service available, outweigh the cost in terms of service possibly lost or interferred with.

68. The licensee of Station WJHL–TV, Johnson City, Tennessee, Ch. 11 (CBS-affiliated), claims considerably greater losses to it from the drop-in, including a population of 137,606 within its interference-free Grade B contour, of whom only 364 persons have other CBS service available (it is also claimed that 80,611 persons beyond the Grade B contour would lose service, of whom 44,860 have no other CBS service). However, examination of Arbitron county coverage data (1979) does not support this claim.[64]

69. With respect to UHF impact created by this proposal, it is claimed that a new UHF construction permit granted in December 1979 at Ashland, Kentucky will be useless since any such station will be stifled at birth. It is also claimed that the public UHF television station, WMUL–TV licensed to Huntington, will continue to suffer from the absence of any other UHF signal in the area (that is, there are no commercial UHF–TV stations operating in the market). We find these claims unpersuasive. The new UHF in Ashland will most likely be on-the-air long before any station using this new allotment and the new VHF station, if used in Charleston (55 miles from Ashland), might well not have a significant impact anyhow. Additionally, we note that Ashland has a population of 26,972 (as of July 1, 1978), and, thus, its own base upon which to build a viable operation. As for the UHF public station, claims of injury to its operation are totally unsupported and, on that basis,

[62] The Hufford study is available in the Docket of this proceeding.

[63] Net weekly circulation is defined as the number of different television households viewing a particular station at least once per week Monday-Sunday, Sign-on to Sign-off.

[64] WJHL–TV's population figures are derived from an interference-area map similar to that of MST, which shows interference from the drop-in as occurring in Kentucky, Virginia and West Virginia. Arbitron's audience data shows WJHL–TV as having non-cable viewing in 22 counties in these states (including two entirely beyond its Grade B contour) 6 of these counties, in Virginia, are close to the station and entirely outside of the depicted interference area. Of the remaining 16 counties, WJHL–TV is the most viewed CBS affiliate in only three, in Virginia (Buchanan, Dickenson and Wise), totalling 17,500 non-cable TV homes. However, since it appears that less than 50% of this three-county area is within the area of interference, the actual number of homes potentially affected appears to be in the order of 8,000. In the other 13 counties, WJHL–TV is usually the second highest CBS affiliate in audience (to either the Charleston, Roanoke or Knoxville station); in the one Kentucky county it is third. These figures do not include one Virginia county (Bland) which is within WJHL–TV's Grade B contour and the predicted interference contour, though not within its ADI, as to which no Arbitron audience data was available (it has 2,100 TV homes).

unworthy of further consideration. There are also two applications pending for Charleston UHF Channel 23, and two other Charleston UHF allotments unapplied for, one of which is reserved for educational use.

The applicants for channel 23 have not commented in this proceeding nor has evidence of specific adverse impact on their potential operation been filed. We are unwilling to assume that the drop-in will foreclose the opportunity for this potential station to develop "free from substantially adverse competitive circumstances," *WFMY, Inc., supra,* in the absence of record support. Finally, there has been no showing whatever that potential applications for the unapplied for UHF allotments may be submitted within two or three years if this allotment is not made.[65]

70. *Salt Lake City, Utah.* Channel 13, at Salt Lake City, would be short-spaced to three co-channel allotments—McGill, Nevada and Twin Falls, Idaho (both vacant) and Rock Springs, Wyoming, where Station KTUX–TV went on the air in 1978 with relatively small facilities. The KTUX–TV licensee filed comments opposing the drop-in, claiming that with its sparse population it could not afford to lose even one viewer because of interference. As long as KTUX–TV operates with its present facilities, however, it does not appear that there would be interference from the drop-in within its Grade B contour. The population served by the drop-in is stated in the *Notice* as 772,100 persons if all three of the co-channel allotments were occupied by stations with maximum facilities and up to more than 860,000 if none of them were so activated. Under current circumstances, with no interference to any existing Grade A or B service, the benefit of this proposal in terms of potential new service is apparent.

71. With regard to claimed UHF impact, comments were filed by Springfield Television of Utah, Inc., licensee of a new UHF station which went on the air in Salt Lake City in 1978. This station, while alleging some hardship from a VHF drop-in, primarily asserts only critical harm to future Salt Lake City UHF prospects. It has submitted no factual data of specific impact suggesting its demise or serious injury that would result in a loss of service. There is also one vacant UHF–TV allotment in Salt Lake City for which three applications are currently pending and one unapplied for UHF allocation reserved for educational use. Here again, no comments were submitted in this proceeding by the applicants for the vacant allotment alleging injury from the drop-in and those submitted by others regarding impact on future UHF development were general and conclusory. Moreover, no comments made a specific showing of near term activation of the educational channel in the absence of the drop-in. *WFMY, Inc.* at 1010. Accordingly, we do not find allegations of UHF impact serious enough to warrant denial of the drop-in proposal.

72. *Johnstown-Altoona, Pennsylvania.* With respect to Johnstown Channel 8, which, as noted above, is being alloted rather than Altoona Channel 12,[66] the *Notice* gave no data.[67] Using the same methods, however, for compiling similar figures stated by the Commission in the *Notice,* we found the interference-free Grade B contour population served by a Channel 8 Johnstown allotment to be 1,494,800. We found total interference to the various affected stations to be 738,262 distributed as follows: (a) co-channel station WGAL, Lancaster, Pennsylvania—111,653, (b) co-channel station WJKW–TV, Cleveland, Ohio—360,000 and, (c) adjacent channel stations WTRF and WSTV, Steubenville, Ohio—Wheeling, West Virginia—266,036.

73. The Hufford study depicts an interference-free Grade B population of 1,010,400, much of it in the populous areas east of Pittsburgh. Interference is depicted as totalling 1,696,000 persons, including 472,700 to WJKW–TV, Cleveland, Ohio and 180,000 to WGAL–TV, Lancaster, Pennsylvania; and adjacent-channel interference to both stations in the Steubenville-Wheeling market (on Channel 7 and 9) totalling more than 1,000,000 persons. The differences in service and interference data between the Commission and Hufford is largely attributable to Hufford's consideration of terrain factors that suggest a weaker signal than that predicted by the Commission's propagation curves. Since we have not considered terrain factors in drawing conclusions in this proceeding, we will rely on the Commission figures set forth in paragraph 72. WJKW–TV claims that interference would also occur to WCHS–TV, Charleston, West Virginia (Ch. 8) to the extent of about 100,000 persons.

74. GATS, the proponent of this assignment, estimates the interference as much less, 188,551 to Cleveland, and claims that adjacent channel interference is not relevant because it does not result from the short separation (there is no shortage involved). GATS relies heavily on the significance of its measurements as showing little or no interference to WGAL–TV, and claims rough terrain as minimizing interference to Cleveland. The Cleveland station claims that the assignment is deficient in that it will serve only a small proportion of the Johnstown-Altoona market, being skewed in the direction of Pittsburgh where it alleges there is no need for, nor interest in, additional service. GATS in reply claims that no single station can serve both halves of the Johnstown-Altoona market well, and its proposed operation would serve about as much of the Altoona portion as does the existing Johnstown VHF station.

75. Examination of the interference created by a Johnstown drop-in indicates that interference to the adjacent channel stations in the Steubenville-Wheeling market is located immediately to the east of Pittsburgh in an area which Arbition, significantly, places in the Pittsburgh "area of dominent influence (ADI)." [68] Commission figures indicate that of the 266,036 people in this area 187,280 do not subscribe to cable. Of those not subscribing to cable, however, only 28,889 watch an interfered with station at least once a week and all of those persons live in counties where an alternative-like program source is available that has a NWC equal to or greater than that of the interfered with stations. These figures clearly indicate that the vast majority of non-cable subscribers do not watch either of the affected adjacent channel stations. Furthermore, any interference that may be caused to the Steubenville-Wheeling market is not caused by short-spacing.

[65] We are not reserving this allotment for noncommercial educational use at this time. The question of the appropriateness of such a reservation will be addressed in a separate proceeding at a later date. Furthermore, the low power television service, also proposed today, will provide opportunities for the provision of educational programming at a lower cost if support for a full powered educational station is not available.

[66] We have decided on the Johnstown rather than the Altoona proposal because: (1) it would serve vastly more people, 1,494,800 compared to 593,500 and thus, despite somewhat greater potential interference, would have much greater net benefits; (2) the Altoona proposal would be short-spaced to four stations, in various directions, making it impossible to achieve "equivalent protection" by anything other than power reduction even if a directional-antenna approach should be approved in this respect generally; (3) the difficult offset problem with the Richmond Ch. 12 station, which might mean non-offset operation at slightly over 200 miles; and (4) there was no support for the proposal in the comments.

[67] The station would not provide a Grade B signal to Altoona.

[68] The ADI is a geographic market design that defines each television market exclusive of the others. Each market's ADI consists of all counties in which the home market stations receive a preponderance of viewing. Every county in the United States is assigned to only one ADI.

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While we would have no desire to see the creation of new local service in one market seriously interfere with local service in another nearby market, we are unpersuaded by claims of service losses due to a level of interference which is contemplated and permitted by existing rules and tolerated by so many other licensees without apparent serious detriment. The interference to the Steubenville-Wheeling stations is of even less concern since the subject signals in the interference area are viewed in large part on cable or not viewed at all. With respect to WJKW–TV Cleveland, and WGAL–TV Lancaster, whatever interference there may be is more than offset by the gains to Johnstown. We note, however, that with regard to Cleveland, all persons live in a county where there is an available off-the-air alternative-like program source and that with regard to Lancaster, only approximately 2,500 people live in counties where no off-the-air alternative-like program source exists. Additionally, it must be remembered that the drop-in in Johnstown could represent only the third local television service in that community.

76. Regarding UHF impact, the Altoona ABC-affiliated UHF station claims that the drop-in in either city would remove its ABC affiliation and cause its demise, as well as probably the end of the non-network Johnstown UHF station (WJNL). In our view, these predictions are far from likely to occur. Given the degree of overlap between the Johnstown drop-in station's contour and that of ABC's Pittsburgh affiliate (Ch. 4, located east of the other stations), it is not at all certain that ABC would ever affiliate with the new Johnstown VHF. Additionally, the new Johnstown station would be limited in its ability to serve Altoona. Therefore, it is not at all clear that the specific impact from a new VHF–TV station will result in substantial injury to, or the demise, of the Altoona UHF network affiliated station. As for WJNL, it supported the drop-in believing it would receive the assignment and only mentioned generally its difficulty in competing with VHF stations. We note, however, that it has been on-the-air for over twenty years and, even without clearing some CBS programming for the past couple of years as it had in the past, it has reported positive cash flows for the past two years. Finally, we note that the new drop-in will not begin operating most likely for at least several years, giving these UHF stations more time to reinforce their market strength. In view of these circumstances, we do not find in the record convincing arguments that a drop-in will result in substantially adverse competitive circumstances for these UHF stations. Finally, there has been no showing of near-term activation of a commercial UHF allocation now vacant in Altoona or educational allocations vacant in Johnstown and Altoona.

77. *Knoxville, Tennessee.* The *Notice* provided an estimate that a Knoxville Channel 8 station could provide interference-free Grade B service to approximately 1,000,400 people. It estimated total interference to 197,557 people, 170,821 of whom do not subscribe to cable and 60,238 who watch an affected station at least once a week, according to Arbitron NWC figures. It also appears that interference will be caused to 45,265 persons who have no access to an alternative-like program source. No alternate population figures were submitted in opposing comments. An additional issue was raised in supplemental comments submitted by several parties. In October, 1978, the licensee of WBIR–TV, Channel 10, Knoxville, filed an application to move the station's transmitter site from its House Mountain location, approximately 15 miles northeast of Knoxville to Sharps Ridge, within the Knoxville city limits. A construction permit was subsequently granted for that move and WBIR–TV is now licensed at the Sharps Ridge site. Since the site assumed for the Channel 8 drop-in proposal was the WBIR–TV House Mountain site, several opponents of this proposal argue that the WBIR–TV move is proof that the drop-in would not be viable there and, therefore, the proposal should be denied.

78. As for UHF impact, WTVK, a Knoxville UHF and former ABC network-affiliate, claims the drop-in would mean its immediate demise unless it were given the new VHF assignment. Its argument, made at the time it was affiliated with ABC, was that it would be forced to go dark by impact from the new Knoxville VHF station which ABC would surely affiliate with. Additionally, a fairly new station at Crossville, Tennessee, some 60 miles west of Knoxville, alleged adverse impact, while WTVK claimed this station would be forced off the air. Finally, WKPT–TV, Kingsport, Tennessee, a UHF ABC network affiliate, claimed substantial adverse impact since it too assumed that the drop-in would likely replace WTVK as the Knoxville ABC affiliate, thereby substantially decreasing its (WKPT–TV's) audience in view of the new VHF's better signal.[69]

79. Analysis of the figures depicting audience receiving new service versus that which will receive interference to existing service again indicates an overwhelming plus on the gain side. Further, we are not persuaded that the proposed site for this drop-in is any less viable than before simply because WBIR–TV has abandoned it. Nor, is the asserted UHF impact a serious impediment to the proposal. The agruments of WTVK and WKPT are based on a factual situation—ABC affiliation with WTVK—that will not occur, because ABC switched affiliates in Knoxville and WTVK as of September 1979, is now an NBC affiliate. Even if NBC switched its affiliation to the new drop-in, we are not convinced that the specific impact upon WTVK would place it in substantially adverse competitive circumstances resulting in its demise or serious financial injury. In this regard we note that there is at least one market smaller than Knoxville, i.e., Chattanooga, Tennessee, where a UHF station operates as an independent and competes with three VHF competitors. As for WKPT, the same effects it would receive from a co-affiliated VHF station, it already suffers from the new VHF ABC affiliate. Finally, the Crossville UHF station, located some 60 miles west of Knoxville, submitted a brief objection containing very little specific information concerning its allegation of adverse impact, and WTVK's comments were likewise unsupported by any specific data demonstrating adverse impact. We note that there is an application pending for a new noncommercial educational station on a reserved UHF channel in Knoxville, but this applicant has filed no comments in this proceeding and we do not believe that a drop-in would seriously, if at all, injure the prospects for activation and operation of this noncommercial station. Finally, there has been no showing that, absent this drop-in, the one remaining UHF commercial allocation in Knoxville would be activated in the near term.

80. It is clear from the foregoing comments and analysis that, in terms of new serivce received versus predicted service lost through interference, many more persons will benefit from the proposed drop-in in each community than *may* experience additional interference. The numbers speak for themselves. We emphasize "may" in recognition of the fact, noted above, that

[69] WKPT–TV calls attention to Grade B overlap population between it and the new drop-in of more than 200,000, including 30% of the population of the Bristol-Kingsport-Johnson City ADI and 85% of the city of Kingsport itself.

projections of service interference or loss are in many respects speculative. Moreover, even the predicted interference created by these drop-ins may be overstated when directionalized receiving antennas are considered. As for UHF impact, none of the opponents have submitted convincing data demonstrating a likelihood of debilitating specific impact related to the advent of new VHF television service. Nor have comments demonstrated that, absent these drop-ins, an application for existing vacant UHF allotments would be filed in two or three years. For these reasons, and in consideration of the public interest benefits flowing from potential activation of stations on these allotments, as well as all the foregoing, we find that waiver of our rules and grant of the above discussed four drop-in proposals is in the public interest.[70]

Procedural Matters

81. During the course of this proceeding, certain procedural matters have arisen which require decision. These, and our disposition of them, are discussed in the next few paragraphs.

Alleged Improper Ex Parte Contact Regarding Knoxville Drop-in

82. Holston Valley Broadcasting Corp., the Kingsport UHF station, WKPT, opposing the Knoxville drop-in, alleges that the Knoxville proposal is tainted by an *ex parte* contact. The allegation involves a meeting on December 29, 1975, between aides of Senator Howard W. Baker, Jr. of Tennessee and the Chairman and Broadcast Bureau Chief of the Commission at that time, respectively, Richard E. Wiley and Wallace E. Johnson.[71] At the time of this meeting, it is argued that Senator Baker, who supported a drop-in, and the Commission were on notice that WTVK, the Knoxville UHF station supporting a drop-in, and WKPT, opposing a drop-in, were opposing parties with "conflicting private claims to a valuable privilege" (*Sangamon Valley Television Corp.* v. *U.S.*, 269 F.2d 221 (1959)), making any *ex parte* contacts impermissible.[72] While recognizing that when the meeting occured the proceeding was only at the inquiry stage, WKPT claims that serious questions of fairness and due process have been raised and still exist. WKPT asserts that "whatever the proceeding may be called" (*Sangamon*, 269 F.2d 224), inquiry or rule making, it involved known "conflicting private claims to a valuable privilege," at the time of the December 1975 contact, improper under *Sangamon* and under *Home Box Office, Inc.* v. *FCC*, 567 F.2d 9 (D.C. Cir., 1977).[73] It is urged that the effect of the impropriety continues; "* * * the mere issuance of a Notice of Proposed Rule Making * * * cannot insulate the Commission from the 'political pressure' referred to in Commissioner Lee's dissent." WKPT requests that the Commission appoint a special hearing officer to investigate the nature and extent of *ex parte* contacts in an evidentiary hearing, as well as all other material concerning the Knoxville proposal, with an initial decision and opportunity for exceptions and argument before the full Commission.[74]

83. We cannot agree that the December 1975 contact, mentioned above, raises any substantial question of impropriety, warranting the extraordinary investigational effort mentioned or deferral of action on the Knoxville channel 8 drop-in assignment. A crucial element in our decision is that at the time of the alleged *ex parte* contact, this proceeding was not a rule making proceeding but only an Inquiry, instituted by Notice the previous April. While the "label" of the proceeding may not be determinative, as WKPT asserts, the substantive differences between a rule making, as in the *Sangamon* case, and an inquiry are critical to ruling on WKPT's allegation. WKPT places heavy reliance on its assertion that the *Sangamon* case and the instant one involved "conflicting private claims to a valuable privilege." Even assuming the instant case involved such a matter within the meaning of the *Sangamon* case, which we believe it did not, WKPT omits the critical language preceding these quoted words, namely "resolution of." That is, the Sangamon case involved "resolution of conflicting private claims to a valuable privilege," i.e., whether to transfer Channel 2 from Springfield, Illinois to St. Louis, Missouri. The Commission's *Inquiry* did not propose the "resolution of" anything.[75] The Inquiry sought comment on whether formally to consider a drop-in at Knoxville. It provided the Commission only another source of input into its decision on whether to consider the channel addition. Any conflicting claims as to whether to make the addition would be considered in a notice of proposed rule making proceeding if it was determined to go forward with such a proposal. Additionally, unlike the *Sangamon* case, the Commission clearly indicated in the Inquiry that it contemplated considering information other than that submitted in the comments in making its decision on whether to go forward with a proposal. Under these circumstances, it is clear that the instant case is far different from *Sangamon* and that WKPT's complaint is without merit.

84. We also believe it significant that Messrs. Wiley and Johnson, the persons to whom the contact was made, are no longer employed at the Commission. Thus, the persons possibly influenced by the contact have had no role in the Commission's final decision in this matter. Moreover, since the contact was made in 1975, four of the Commission's seven Commissioners have changed, as have all of the persons heading the Bureaus and Offices involved in this decision. These personnel changes clearly indicate that any contact made in 1975 would have no bearing at this time.

[70] It should be noted that we have not reached conclusions in this proceeding based upon service hypothetical UHF stations could provide or upon predictions concerning network affiliation contracts that were mentioned in the *Notice*. In view of the gains UHF has made in the last several years and the speculative nature of predictions of impact and network relationships, we are not now willing to assume, as the *Notice* suggested, that UHF stations could not co-exist with drop-ins in these four markets.

[71] The date of the meeting was long before the issuance of the March 1977 *Notice* herein; but it was after the April 1975 *Notice of Inquiry* beginning the proceeding, and also after November 10, 1975, the date of a letter from WKPT's counsel which set forth that party's formal opposition to the Knoxville drop-in.

[72] Senator Baker had previously expressed support for this drop-in, in 1974 and on November 11, 1975, at a Senate subcommittee oversight hearing. The Knoxville drop-in was one the original OTP and UCC proposals in 1973 and 1974; it was also the subject of a separate petition for rule making filed by WTVK in June 1974. In the April 1975 Notice of Inquiry, that petition was "merged into" the UCC petition.

[73] WKPT argues that the *Home Box Office* case applies even as limited by *Action for Children's Television* v. *FCC*, 564 F.2d 458 (D.C. Cir., 1977).

[74] The facts in this discussion are taken from WKPT's comments (the only ones discussing the subject), which in turn are based on some 30 documents, some previously part of the record herein and others obtained by WKPT and MST in Freedom of Information Act requests.

In a letter of February 3, 1976, to counsel for WKPT, Chairman Wiley described the December 29 meeting as one "to inform Mr. White and Mr. Banson [Senator Baker's aides], at their request, of the status of the Commission's proceeding in Docket 20481." According to the letter, there was discussion of the chronology of the proceeding, the major issues presented by material filed, and the possible timetable for Commission action. Mr. White mentioned Senator Baker's continuing interest and expressed views similar to those voiced by Senator Baker at the November 1975 hearing. Mr. Wiley's description concludes: No commitments concerning the ultimate result of the proceeding were asked for, and, I can assure you, none were made.

WKPT claims that this description leaves questions unanswered, for example whether there was discussion of a study of conditions in the Knoxville area, such as that done for the Commission by ITS in 1976, discussed below.

[75] For this reason, neither the *Home Box Office* case, which clearly involved rule making, nor the *Action for Children's Television* case, which involved policy formulation, require a different result.

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85. Besides the particular contact, WKPT claims injury from the same "political pressure" in two other respects. In the Spring of 1976 the Commission commissioned the Institute of Telecommunications Sciences (ITS) of the Department of Commerce to study generally the feasibility and desirability of VHF drop-ins; and to study in-depth a drop-in at Knoxville and another in Albany, N.Y. The study was later amended, however, to eliminate both the general study and Albany, leaving only Knoxville. WKPT claims that the commissioning of the study, or at least its focus on Knoxville, reflected political pressure. In a letter of August 1976, Chairman Wiley stated that the selection of Knoxville as the "primary study site" reflected various technical factors, and "[t]he staff was, of course, also aware of the intense interest in the Knoxville situation expressed at our recent oversight hearings."[76] The second matter is WKPT's assertion that the Knoxville drop-in proposal received unusually favorable treatment in the proceeding, being carried forward as a rule making proposal when it should not have been and when five situations actually more favorable were rejected.[77]

86. WKPT's claims of political pressure are without merit. WKPT has not established any impropriety or injury affecting it. Clearly, the Knoxville study mentioned was within the legitimate conduct of the Commission's affairs, and selection of Knoxville as the primary subject was justified by the characteristics of that market, particularly its rough terrain. It is possible that if the ITS study had not been made concerning Knoxville, that market might have been rejected along with the five others mentioned. But further consideration has now been given, as discussed at length above, and, even discounting the affects of terrain, we are persuaded that this and the other three allotments should be made.

Other Procedural Matters

87. *Requests for oral argument or panel discussion.* In March 1978, just after the official closing date for reply comments, MST filed a "Request for Oral Argument" in this proceeding. On January 5, 1979, after the public Commission meeting of December 1978 in which instructions were given to the staff to prepare a plan for studying the effects of terrain and receiving antennas, MST filed a "Request for Panel Discussion or Opportunity to Comment" concerning the plan to be adopted. In our judgment, neither of these requests should be granted. Oral argument in rule making matters is not, of course, a matter of right, and indeed is unusual. In view of the very extensive comments filed in this proceeding oral argument would serve no useful purpose. With respect to the second request, as noted above, we have not based the conclusions we reached today on the effects of terrain shielding and directional receiving antennas. Accordingly, while the possible future use of these factors remain of interest to the Commission, there is no need to consider a panel discussion concerning the methodology for studying such factors to resolve the questions before us today.

88. *"Request to Require Documentation."* At the December 19, 1978 Commission meeting on VHF drop-ins, there was reference to the sum of $175,000 that GATS was said to have spent on its engineering work concerning the Johnstown Channel 8 drop-in, including field intensity measurements.[78] After the question was raised in a January 1979 pleading filed by Storer Broadcasting Co. (WKJW–TV, Cleveland, Ch. 8), in August, MST filed a "Request to Require Documentation of Extra-Record Statements." Both Storer and MST ask that GATS be requested to state how much its engineering expenses were; an affidavit from Storer's consulting engineer states that it would charge $15,000 for the same work. This request is denied because the matter is irrelevant to our decision. As Storer's pleading states, the relevant aspect of the GATS engineering showing is its quality, not its costs.

89. *"Petition to Separate" the Salt Lake City Proposal.* On June 25, 1979, UTECO, a potential applicant for the Salt Lake City Channel 13 drop-in assignment, filed a "Petition to Separate the Proposed Salt Lake City VHF Drop-In", etc., asking that, because of assertedly fewer problems than the other proposals, the Salt Lake City Channel 13 drop-in be separated and expedited. This petition is dismissed as moot, since we are today adopting this allotment.

90. *Motions to accept late filing and motions to strike.* After the closing date for reply comments in March 1978, there have been numerous additional filings, often accompanied by motions to accept late pleadings, and also motions to strike some of this later material. A good deal of the material since March 1978, though not all of it, relates to new developments and its filing was justified. Therefore, and in the interest of completeness, the material filed since March 1978 is accepted, the motions to accept late filing are granted, and the motions to strike are denied.

91. Applications for construction permits to build stations on these new allotments may specify any desired site. Waiver of Section 73.610 of the Commission's Rules, the minimum distance separation requirements, must be requested, and a showing of equivalent protection should be included. Equivalent protection should be demonstrated in accordance with procedures adopted in *Report and Order*, 21 RR 1695, supplemented, *Supplement*, 21 RR 1709 *recon.*, 21 RR 1710a (1961), but using current field strength predicted curves appearing in Section 73.699 of the Commission's Rules, figures 9 and 10.

92. For the changes at communities within 250 miles of the U.S.-Canada border, Canadian concurrence has been obtained.

Conclusion

93. Accordingly, under the authority of Sections 4(i), 303(f, g, r) and 307(b) of the Communications Act of 1934, as amended, it is ordered, That, effective December 4, 1980, the Television Table of Assignments (Section 73.606(b) of the Commission's Rules and Regulations) is amended by revising the listings for the following communities:

City	Channel number
Selma, Alabama	8, 29–
Little Rock, Arkansas	*2–, 4, 7–, 11, 16–, *36
New Haven, Connecticut	8, 59+, 55
Athens, Georgia	*8–, 34

[76] The technical factors mentioned in the letter were the rough terrain in this area, that Knoxville had a UHF station, and that it was otherwise feasible as a drop-in location.

[77] The five markets referred to are Davenport, Iowa, Milwaukee, Wisconsin, Portland Spring, Maine, Sioux Falls, South Dakota, and Wichita-Hutchinson, Kansas. This argument is based on some rather involved calculations and assumptions, for example claiming as "service losses" chargeable to the Knoxville proposal the bulk of the population served by WKPT–TV, on the theory it would ultimately be forced off the air, and also claiming losses in population served by translators (62,000). The analysis ignores the data as to interference losses to populations having no other acceptable source of the same kind of service (same network, etc.), which was the reason given in the Notice for the 5 markets' exclusion, and in which respect they were much higher than the markets retained except Knoxville. Knoxville was also high in this respect in terms of conventional data (higher than two of the excluded markets); it was retained because the ITS study indicated the possibility that terrain shielding might considerably reduce the interference. See 1977 *Notice*, 63 F.C.C. 2d 872–873, 874–875, 876, 877–879, 880–882, 884–885, 886, 888, 889–890, 891–892.

WKPT also complains of the treatment in the Notice of the Jackson, Mississippi and Knoxville situations, not as to result but in the "starkly different tone" used in discussing economic impact on a station in a neighboring market (VHF in the Jackson case, UHF in the Knoxville situation).

[78] The basis of the statement apparently was a newspaper article of December 8, mentioning the sum of $150,000.

City	Channel number
Louisville, Kentucky	3–, 11, *15, 21–, 32–, 41+, *66+
New Orleans, Louisiana	4+, 6, 8–, *12, 20–, 26, *32+, 38+
Johnstown, Pennsylvania	6, 8–, 19+, *28+
Lancaster, Pennsylvania	8+, 15+
Knoxville, Tennessee	6, 8, 10+, *15–, 26–, 43+
Lexington, Tennessee	*11+
Salt Lake City, Utah	2–, 4–, 5+, *7–, 13+, 14–, 20+, *26–
Charleston, West Virginia	8+, 11+, 23, 29, *49–

*Note.—Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

94. It is further ordered, That, Section 73.610(b) of the Commission's Rules is waived to the extent necessary to implement the amendments to Section 73.606(b) of the Commission's Rules ordered above.

95. It is further ordered, That, this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.**

William J. Tricarico,

Secretary.

Appendix

Parties Filing Formal Comments, Reply Comments and/or Other Pleadings After the 1977 Notice[1]

Associations and other entities filing concerning drop-ins generally

American Broadcasting Companies, Inc. (ABC)
Association of Maximum Service Telecasters, Inc. (MST)
Joint Council on Educational Telecommunications
National Association of Broadcasters (NAB)
National Association of Educational Broadcasters (NAEB)
New Jersey Coalition for Fair Broadcasting
Office of Telecommunications, United States Department of Commerce
Spanish International Communications Corporation
United Church of Christ, Geoffrey Cowan, Monroe Price, Charles Channel and Walter Baer (jointly)
United States Department of Justice

Television licensees or permittees opposing or questioning one or more drop-in assignments[2]

Bonneville International Corp. (KSL–TV, Salt Lake City, Utah)
Chicago Educational Television Association (WTTW, Chicago, Illinois, Ch. 11)
Cox Broadcasting Corp. (WIIC, Pittsburgh, Pennsylvania, Ch. 11)
Forward Tele-Productions, Inc. (WTRF–TV, Wheeling, West Virginia, Ch. 7)
Great Lakes Communications, Inc. (WICU–TV, Erie, Pennsylvania, Ch. 12)
Holston Valley Broadcasting Corp. (WKPT–TV, Kingsport, Tennessee)
Jefferson-Pilot Broadcasting Co. of Virginia (WWBT, Richmond, Virginia, Ch. 12)
KUTV, Inc. (KUTV, Salt Lake City, Utah)
Roy H. Park Broadcasting of the Tri-Cities, Inc. (WJHL–TV, Johnson City, Tennessee, Ch. 11)
John R. Powley (WOPC, Altoona, Pennsylvania)
Rust Craft Broadcasting Co. (WROC–TV, Rochester, New York, Ch. 8 and WSTV–TV, Steubenville, Ohio, Ch. 9)
Shenandoah Valley Educational Television Corp. (WVPT, Staunton, Virginia)
South Central Broadcasting Corp. (WTVK, Knoxville, Tennessee)
Southern Broadcasting Co. (WGHP–TV, High Point, North Carolina, Ch. 8)
Spartan Radiocasting Co. (WSPA–TV, Spartansburg, South Carolina)
Springfield Television of Utah, Inc. (KSTU, Salt Lake City, Utah)
Storer Broadcasting Co. (WJKW–TV, Cleveland, Ohio, Ch. 8)
United Television, Inc. (KTVX, Salt Lake City, Utah)
WBOY–TV, Inc. (WBOY–TV, Clarksburg, West Virginia, Ch. 12)
Western Broadcasting, Inc. (KTUX, Rock Springs, Wyoming, Ch. 13)
WGAL Television, Inc. (WGAL–TV, Lancaster, Pennsylvania, Ch. 8)
WHAS, Inc. (WHAS–TV, Louisville, Kentucky, Ch. 11)

Potential Applicants (including two public TV licensees)

Alta Broadcasting, Inc. (Salt Lake City, Utah)
Channel 11 Broadcasting Co. (Charleston-Huntington, West Virginia)
Community Associates (Charleston-Huntington, West Virginia)
DJ of Lake Charles, Inc. (Knoxville, Tennessee)
Group for the Advancement of Television Service (GATS, Johnstown, Pennsylvania)
Midwest Corporation (Charleston-Huntington, West Virginia)
Mohawk-Hudson Council on Educational Telecommunications, Inc. (Albany, New York)
Organizing Committee for the Establishment of a Third VHF–TV Station in Knoxville
Arthur B. Ralph, et al. (Salt Lake City, Utah)
State of West Virginia and West Virginia Educational Broadcasting Authority
Utah Television Associates Limited Partnership (UTEO, Salt Lake City, Utah)
Wasatch Broadcasting, Inc. (Salt Lake City, Utah)

Other Parties

Butterfield Communications Group
Corporation for Public Broadcasting
Prof. Franklin M. Fisher (economic analysis on behalf of AMST and some licensees)
Frederick W. Ford, Esq. (concerning Charleston-Huntington educational reservation)
Greater Kingsport Area Chamber of Commerce, Inc. (concerning Knoxville, Tennessee)
Idaho State Board of Regents of the University of Idaho and Idaho State Board of Education
Kessler Associates (engineering analysis)
Alexander Korn (economic material in reply to Prof. Fisher)
Long Island Educational Television Council, Inc., et al. (concerning Albany, New York)
Rolla E. Park, Leland L. Johnson and Barry Fishman (Rand Corporation, projections of TV growth)
Public Television Council of Central New York (concerning Albany, New York)
Steel, Andrus & Adair, Consulting Engineers (concerning Charleston-Huntington, West Virginia)

** See attached statement of Commissioner Lee.

[1] This listing does not include material prepared by FCC staff members which is contained in the Docket.

[2] The licensees and station call letters listed are those current at the time the comments were filed. There have been a few changes since.

Dissenting Statement of Commissioner Robert E. Lee in Re: New VHF–TV Channels (Drop-Ins) for Knoxville, Tennessee; Johnstown, Pennsylvania; Charleston, West Virginia; and Salt Lake City, Utah

Islands of Service Amidst Seas of Interference

I strongly dissent to these waivers. With this decision, the Commission has done far more than simply waive a fundamental communications policy to push inferior television stations in four markets, it has begun the process of deteriorating television service for millions of people in this country. Because channels can be made available at standard spacing in the UHF band, these waivers are not necessary to provide additional television service in these communities.

At the risk of being considered an alarmist, I believe that this action will lead to:

1. A rash of petitions by existing UHF licensees for "bob-tailed" VHF channels;

2. A gradual deterioration of service as second-class VHF channels are placed in operation;

3. In due course, pressure from the "bob-tailed" VHF operators for equality with their competitors and further deterioration of broadcast service, particularly in rural areas, as the FCC allows additional interference to create such equality;

4. A gradual deterioration of the UHF parts of the TV receiving set as manufacturers rebel against spending money for little used UHF tuners; and

5. The reallotment of UHF channels to other services, which should be done if the FCC is going to emphasize VHF as the spectrum of choice for television.

This is the first time in the Commission's history that the Commission has waived its television standards to add inferior channels to the Table.[1] The precedent will be far reaching. Under the *Basic Media* standard,[2] the Commission will be hard pressed to hold the line in the future.

In order to grant these waivers, the Commission has dramatically changed the standards for reviewing waiver requests. The

[1] The only exception to this policy was a short-spaced channel for the Virgin Islands. There the interference occurred over the ocean rather in communities where people would try to watch television. Charlotte Amalie, V.I., 26 F.C.C. 2d 853 (1970).

[2] Basic Media, Inc. v. FCC, 559 F.2d 830 (D.C. Cir. 1977).

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equivalent protection standard being considered for a future rulemaking notice is adopted here. The necessary showing to support a waiver request is changed here to eliminate UHF impact considerations, preclusion studies, or any other demonstration of need other than a simple head count which, in this case, was done by the Commission. Indeed, because of the generalized finding that adding channels is in the public interest without regard to the quality of service which may result, the burden of proof is shifted from the waiver petitioners to any who would oppose the waiver. As is clear from the procedures followed in this case, a waiver proponent does not have to do any thing more than ask for a channel. The Commission will take it from there. If "equivalent protection" is provided, the Commission will grant the waiver.

I find it ironic that my colleagues who postponed a decision on the generic drop-in rulemaking because they lacked adequate information would, an hour or two later, take an action which achieves the purpose of that postponed rulemaking. The only real difference between that rulemaking proposal and this waiver action is the procedure for adding second-class channels. The changes in standards and policy to be considered in the rulemaking are adopted here.

The Commission has tried for more than a quarter of a century to promote UHF so that, in the long run, the public will get much more television service than ever will be possible from the VHF band, with or without bob-tailed stations providing islands of service to some people. The majority decision here repudiates that long range goal for a very short term expedient solution.

[FR Doc.80-34405 Filed 11-3-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Commission Organization; Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule (Administrative Rule Change).

SUMMARY: New rules and procedures affecting the Commission's internal organization became effective January 1, 1978, (42 FR 65181) and there have been several amendments. This document further amends the rules at 49 CFR Part 1011 to provide a rule for the implementation of Section 226 of the Staggers Rail Act of 1980. It describes the method of extending emergency service orders by the full Commission beyond the initial 30-day period, giving notice that a modified hearing procedure will be used for taking evidence. It requires the Railroad Service Board to establish and oversee specific procedures for each proceeding. Because this amendment involves the internal organization and procedures of the Commission, it is being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT: Joel E. Burns, (202) 275–7849, or Melvin F. Clemens, (202) 275–7840.

It is ordered:

49 CFR 1011.6 is amended by adding paragraph (c)(8) thereto which will read as follows:

§ 1011.6 Employee Boards.

(c) *Operations Boards.* * * *

(8) The Railroad Service Board will establish and oversee modified hearing procedures associated with the implementation of Section 226 of the Staggers Rail Act of 1980, Pub. L. 96–448. Section 226 revises Section 11123(a) of Title 49, United States Code, and provides for issuance of extensions of emergency service orders by the full Commission under that Section. Each order issued pursuant to the revised Section will contain a notice of the hearing procedures to be followed with respect to any extension of that order.

This decision does not affect significantly the quality of the human environment or energy consumption. The rules are issued under the authority of 49 U.S.C. 10305.

Dated: October 23, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum voted to disapprove the notice. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34291 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 396]

49 CFR Part 1033

Emergency Car Service Orders; Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Policy Statement.

SUMMARY: The Commission adopts a policy statement describing the standards governing railroad car service orders, 49 U.S.C. 11123(a) and their effect upon existing and future service orders issued under that section. The policy prescribes a more stringent condition for issuance of service orders and limits future orders to a 30-day initial period to be extended by the full Commission only.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Joel E. Burns, (202) 275–7849, or Melvin F. Clemens, (202) 275–7840.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the President signed into law the Staggers Rail Act of 1980, Pub. L. No. 96–448. Section 226 of that act amends 49 U.S.C. 11123(a) and limits substantially the Commission's authority to issue service orders under that section.

Under the new law, effective immediately, the Commission may issue a service order under Section 11123(a) only when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States.*" (emphasis supplied). The initial period for a service order may not exceed 30 days, and the agency may extend the order only if the full Commission, after a hearing, certifies that a transportation emergency exists. Each initial authorization issued by the Railroad Service Board pursuant to the revised section will contain a notice of the modified hearing procedures to be followed with respect to any extension of the order.

The Commission believes that the new, more stringent criteria for issuing such orders will result in situations that in the past would have justified a service order no longer being able to qualify. The Commission's powers under Section 11123(a) are extraordinary and may be exercised only in genuine emergencies.

Service orders issued under Section 11123(a) prior to the amendment and currently outstanding will remain in effect until expiration by their own terms. Those orders will not be reissued or extended, however, unless the kind of transportation emergency specified in amended Section 11123(a) is shown to exist.

Dated: October 24, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Commissioner Trantum concurring in the result.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34292 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1109

[Ex Parte No. 327]

Rate Incentives for Capital Investment

AGENCY: Interstate Commerce Commission.

ACTION: Repeal of regulations.

SUMMARY: The Interstate Commerce Act at 49 U.S.C. 10729 formerly provided special conditions under which a railroad could establish a rate, classification, rule, or practice requiring a total capital investment of a least $1,000,000. Those conditions were designed to encourage the filing of such rates and to provide an incentive for capital investment. The Staggers-Rail Act of 1980 has repealed the requirement for these regulations.

EFFECTIVE DATE: The rules are repealed effective on November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Act at 49 U.S.C. 10729 formerly provided special conditions under which a railroad could establish a rate, classification, rule, or practice requiring a total capital investment of at least $1,000,000. Those conditions were designed to encourage the filing of such rates and to provide an incentive for capital investment. In response to that provision of the Act, the Commission adopted regulations at 49 CFR 1109.20 containing requirements and special procedures governing the filing and implementation of capital incentive rates.

Section 210(a) of the Staggers Rail Act of 1980 has recently repealed 49 U.S.C. 10729.

Section 210 (b) of that Act provides for a phaseout of capital incentive rates established prior to October 1, 1980 under 49 U.S.C. 10729.

In response to Congress's repeal of 49 U.S.C. 10729, the Commission now repeals the regulations establishing requirements and special procedures relating to capital incentive rates under 49 U.S.C. 10729.

Accordingly, 49 CFR 1109.20 is deleted.

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

(Sec. 210, Staggers Rail Act of 1980.)

Decided: October 23, 1980.

By The Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34289 Filed 11-03-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1109

[Ex Parte No. 324]

Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak-Period Demand for Rail Service

AGENCY: Interstate Commerce Commission.

ACTION: Repeal of regulations.

SUMMARY: The Commission was formerly required by 49 U.S.C. 10727 to maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for rail transportation. At 49 C.F.R. 1109.10, the Commission established standards and expeditious procedures designed to promote demand-sensitive railroad rates. Congress has repealed the statutory mandate to maintain these standards and procedures with the Staggers Rail Act of 1980. Accordingly, the Commission is repealing its corresponding regulations.

EFFECTIVE DATE: The rules are repealed effective November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Commission was formerly required by 49 U.S.C. 10727 to maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for rail transportation. In response to this statutory mandate, the Commission adopted regulations at 49 CFR 1109.10 containing standards and expeditious procedures for establishing railroad rates based on seasonal, regional, or peak-period demand for line services.

Section 209 of the Staggers Rail Act of 1980 repealed 49 U.S.C. 10727.

In response to Congress' repeal of the Commission's statutory mandate to maintain standards and procedures for demand-sensitive rates, the Commission now repeals the regulations establishing those standards and procedures.

The regulations at 49 CFR 1109.10 are repealed effective on the date of publication of this notice in the **Federal Register.**

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: Section 209, Staggers Rail Act of 1980.

Decided: October 23, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34319 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Commercial Tanner Crab Fishery Off the Coast of Alaska; Amendment to Fishery Management Plan and Final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Department of Commerce.

ACTION: Final regulations.

SUMMARY: The Director, Alaska Region, ("Regional Director"), National Marine Fisheries Service (NMFS) issues a final regulation (Field Order) applicable to fishing by vessels of the United States in the Alaska Tanner crab fishery, in accordance with the Fishery Management Plan (FMP) for the Commerical Tanner Crab Fishery off the Coast of Alaska, and regulations implementing the FMP (50 CFR Part 671). This Field Order changes the season opening dates in certain districts of registration area "J".

EFFECTIVE DATE: 12:01 a.m. AST, November 1, 1980. Public comments are invited until January 1, 1981.

ADDRESS: Comments may be sent to: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone (907) 586–7221.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, same address as above.

SUPPLEMENTARY INFORMATION: The FMP which was extended by amendment through October 31, 1980, (45 FR 785) provided for inseason adjustments to season and area openings and closures. The implementing regulations in 50 CFR Part 671 specify in 671.27(b) that these decisions shall be made by the Regional Director in accordance with the criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, with the approval of the Administrator, NOAA, redelegated to the Regional Director authority to

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promulgate Field Orders making inseason adjustments.

This Field Order changes the opening dates of the Tanner crab season in the Fishery Conservation Zone (FCZ) in Area "J" to coincide with the opening dates established by the Alaska Board of Fisheries for State waters in Area "J". The changes in season opening dates for the districts in area "J" are as follows:

Kodiak—from January 5 to January 22

Bering Sea—from November 1 to January 15

Eastern and Western Aleutians—from November 1 to January 15

South Peninsula—from November 1 to December 1, except the area east of a line from the southernmost tip of Kupreanof Point to the easternmost point of Castle Rock, and east of a line extending southeast (135°T) from the easternmost point of Castle Rock and west of the longitude of Cape Kumlik, the opening date shall remain November 1.

The Field Order will:

(1) allow the harvest of crabs during a period that should yield the recovery of more meat of a better quality;

(2) alleviate enforcement problems encountered with an overlapping king crab fishery in the Kodiak Tanner crab district;

(3) allow orderly, uniform Tanner crab fisheries in contiguous State and FCZ waters.

The Regional Director finds that, in order to protect the resources, public comment prior to issuance of this Field Order is impracticable and contrary to the public interest. However, public comments on the necessity for, and extent of, these changes in season openings will be received by the Regional Director for a period of 60 days after the effective date of the Field Order. During this 60-day period the data and information upon which this decision is based will be available for inspection during business hours at the NMFS, Alaska Regional Office, Federal Building, Room 453, 709 West 9th Street, Juneau, Alaska. Should comments be received during the 60-day period, if appropriate, the Regional Director shall reconsider the necessity for the change in opening dates and, as soon as practicable after that reconsideration, shall publish in the **Federal Register** either: (A) a notice of continued effectiveness of the change in opening dates; or (B) a notice to modify or rescind the date changes.

An environmental impact statement was prepared for the Commercial Tanner Crab Fishery off the Coast of Alaska FMP and is on file with the Environmental Protection Agency. A regulatory analysis has been prepared in compliance with Executive Order 12044.

Signed at Washington, D.C., this 29th day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. § 1801, *et seq.*)

In accordance with 50 CFR 671.27(b), 50 CFR 671.28 (f) (3) (i), (ii), (iii), and (iv) are revised to read:

§ 671.28 [Amended]

(f) * * *

(i) * * *

(i) In the Kodiak district from January 22 through April 30 only, except that in that portion of the Kodiak district between the longitude of Kilokak Rocks (156°20′13″ W longitude) and the longitude of Cape Kumlik (157°35′ W longitude) Tanner crab may be taken from January 22 through May 15 only.

(ii) In the South Peninsula district from December 1 to 12:00 noon, May 15 only, except that in that area east of a line from Kupreanof Point (55°34′ N latitude, 159°37′ W longitude) to the easternmost point of Castle Rock (54°16′48″ N latitude, 159°29′ W longitude), and east of a line extending southeast (135°T) from the easternmost point of Castle Rock (54°16′48″ N latitude, 159°29′ W longitude) and west of the longitude of Cape Kumlik (157°35′ W longitude) Tanner crab may be taken from November 1 through 12:00 noon, May 15 only.

(iii) In the Aleutian district from January 15 to 12:00 noon, June 15 only; and

(iv) In the Bering Sea district from 12:00 noon January 15 to 12:00 noon June 15 only, except that Tanner crab other than *C. bairdi* may be taken or possessed from 12:00 noon January 15 to 12:00 noon September 3 only.

[FR Doc. 80-34245 Filed 11-03-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 215
Tuesday, November 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Revision of Tetanus Toxoid Potency Test

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the potency test presently contained in the standard requirement for Tetanus Toxoid by providing for a retest in certain situations. Because of the variable response that occurs in guinea pigs when injected with Tetanus Toxoid, an efficacious serial or product may occasionally be found unsatisfactory when tested using the present single potency test for this product. The proposed provision for a repeat test would compensate for this variable response and provide greater assurance that satisfactory products are not rejected from the market.

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

The present standard requirement for Tetanus Toxoid provides for each serial of product to be tested for potency in guinea pigs using one test only. In this test, at least 10 guinea pigs are injected with 0.4 of the dose recommended on the label for horses. For product to be considered satisfactory, a response of at least two Antitoxin Units per ml must be demonstrated in a pooled sample of serum collected from these guinea pigs 6 weeks after injection. Experience from the use of this test has revealed that individual guinea pigs vary greatly in their response to injection with Tetanus Toxoid. Occasionally, one or two guinea pigs injected in a test group will produce very low levels of antitoxin compared to the remainder of the group, or they may not respond at all.

The pooled sera from such a group of guinea pigs may not contain the required two units of antixoin per ml because of the dilution effect from the sera of the poor responders. When evaluated by the present standard requirement, the product being tested would be unsatisfactory and additional testing would not be permitted. This proposed rule would provide for a retest of those serials that produced a response of at least 1.5 Atitoxin Units per ml, but less than 2.0 Antitoxin Units per ml in the initial test. The retest would be conducted in the same manner as the initial test except that at least 20 guinea pigs would be required to be injected. A response of at least 2.5 Antitoxin Units per ml would be required for product to be satisfactory. The proposed provision for the retest provides for greater flexibility than the present standard, a more accurate assessment of the true potency of a questionable serial by the use of a larger number of test animals, and greater assurance that satisfactory product is not rejected because of an abnormally wide variation in the response of the first group of test animals.

Section 113.99 would be amended by revising paragraph (c) to read:

§ 113.99 Tetanus toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency. Each of at least 10 guinea pigs, weighing 500 grams ± 10 percent each, shall be injected subcutaneously with 0.4 of the dose recommended on the label for a horse.

(1) Six weeks after injection, all surviving guinea pigs shall be bled and equal portions of serum, but not less than 0.5 ml from each, shall be pooled. Serum from not less than eight animals shall be used.

(2) The pooled serum shall contain at least 2.0 Antitoxin Units (A.U.) per ml as determined by titrating it in the manner prescribed for Tetanus Antitoxin in 9 CFR 113.251. A 1:15 and a 1:20 dilution of the serum shall be made. The dilutions shall be held at 20° to 25° C for 30 minutes prior to combining with a test dose of toxin. The test dose of Standard Toxin shall be mixed in proper proportion with the diluted pooled serum, incubated at 20° to 25° C for 1 hour and injected subcutaneously into two guinea pigs.

(3) The test dose of the Standard Toxin shall be verified against 0.1 of a unit of Standard Antitoxin in two guinea pigs which serve as the control animals.

(4) Controls shall be observed until all are dead, or for 5 days, the time of death being recorded in hours. For a valid test, the controls must die with clinical signs of tetanus within 24 hours of each other and within an overall time of 60 to 120 hours. The clinical signs to be observed are increased muscle tonus, curvature of the spine, asymmetry of the body outline when the resting animal is viewed from above, generalized spastic paralysis, particularly of the extensor muscles, inability to rise from a smooth flat surface when the animal is placed on its side, or any combination of these signs. If the control guinea pigs do not respond in this manner, the test is invalid and shall be repeated. In a valid test, if the titer is at least 2.0 A.U. per ml, the serial is satisfactory. If the titer is at least 1.5, but less than 2.0 A.U. per ml, the retest provided for by paragraph (c)(5) of this section may be conducted. If the titer is less than 1.5 A.U. per ml, the serial is unsatisfactory and may not be retested.

(5) Serials with titers of at least 1.5 A.U. per ml, but less than 2.0 A.U. per ml in the initial test may be retested, but if the retest is not conducted the serial is unsatisfactory. The retest shall be conducted in the same manner as the initial test except that at least 20 guinea pigs shall be used as vaccinates and

serum from not less than 18 animals shall be pooled for the toxin-antitoxin titration. In the retest, the pooled serum from vaccinated guinea pigs is diluted 1:25. If the retest titer is less than 2.5 A.U. per ml. the serial is unsatisfactory.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 30th day of October 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-34401 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-29]

Electric Utilities; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of petition for rulemaking from electric utilities.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a petition for rulemaking filed before the Commission on September 16, 1980, by Electric Utilities. This petition, which has been assigned Docket No. PRM-50-29, requests that the Commission address the issue of Anticipated Transients Without Scram (ATWS). ATWS has been designated an Unresolved Safety Issue by the Commission. An Anticipated Transient Without Scram occurs at a nuclear power plant if an abnormal operating condition ("anticipated transient") that should cause the plant's reactor protection system to initiate a rapid shutdown ("scram") of the reactor fails to function.

DATE: Comment period expires January 5, 1981.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION:

Petitioner Electric Utilities (a group of companies which have over sixty nuclear power reactors currently in operation, under construction, or planned) requests that the Commission initiate rulemaking on the Anticipated Transient Without Scram (ATWS) issue through one of two approaches outlined in the petition.

Petitioner first requests that the Commission use a notice-and-comment rulemaking proceeding based on the publication of a proposed rule which the petitioner sets out in a proposed new § 50.47 to 10 CFR Part 50. Petitioner's proposed new § 50.47 reads as follows:

§ 50.47 Standards for Reduction of Risk from Anticipated Transients Without Scram (ATWS)

Each boiling or pressurized light-water nuclear power reactor for which a construction permit application was filed as of the effective date of the rule shall, as provided in paragraphs (a) through (c) of this section, reduce the risk from Anticipated Transients Without Scram (ATWS). The modifications required by this rule must be completed as expeditiously as is feasible, taking into account the time needed for design development and approval, equipment availability and the regional demand for power.

a. For boiling water reactors manufactured by the General Electric Company, provide (1) a means to trip the recirculation pumps upon receipt of a signal indicative of an ATWS event; (2) an independent, redundant and diverse electrical means to initiate a reactor scram upon receipt of a signal indicative of an ATWS event; and (3) a scram discharge volume system designed and installed such that it will have sufficient capacity to receive water exhausted by a full reactor scram.

b. For pressurized water reactors manufactured by Combustion Engineering, Inc. and the Babcock & Wilcox Company, provide (1) an alternate means to shut down the reactor that is diverse from and redundant to the electrical portion of the reactor protection system up to but not including the trip breakers, and (2) an automatic initiation of auxiliary feedwater independent of the reactor protection system.

c. For pressurized water reactors manufactured by the Westinghouse Electric Corporation, provide automatic initiation of turbine trip and auxiliary feedwater independent of the reactor protection system.

The petitioner states that "These proposed modifications are straightforward and well understood by the industry and the NRC Staff. Thus, they will not require great expenditures of resources for technical analysis, and they can be adopted in short order by a notice-and-comment rulemaking. Because a substantial portion of the industry is already willing to make these modifications *if* they will resolve the aTWS issue for existing plants, there is unlikely to be much regulatory effort required to imposed them. Most important of all, the proposed modifications clearly decrease the risk of ATWS without simultaneously increasing other, competing risks."

The petitioner states that, in regard to the development of a regulatory program to resolve the ATWS issue for new plants, "The [Electric] Utilities do not believe that an ATWS rule for new plants should be developed until the results of the degraded core rulemaking are known. Because the same issues and facts are crucial to each, ATWS is simply a subpart of the degraded core matter. * * * Accordingly, there seems to be no sound reason for seeking ATWS solutions for new plants in isolation from other degraded core events."

Petitioner also states that "The second prerequisite for an ATWS rule for new plants is the definition, either by policy statement or rulemaking, of a safety goal for nuclear power plant regulation * * * ATWS involves the reduction of risks that are already small. Since it is impossible to reduce risks to zero, the philosphical question always remains 'how safe is safe enough?' Although, of necessity, the lack of a safety goal has not precluded rulemaking in the past, it would be unwise to ignore safety goal guidance that should soon be available. Recent recognition that such guidance is essential suggests that it will be available in time to guide a new-plant ATWS rule."

Petitioner further states that "A third and final prerequisite for a new-plant [ATWS] rule is further work on probabilistic analysis. The extent to which safety analyses should rely on this technique, and the methodology to be used when it is applied, must be more clearly defined. * * * Efforts to these ends are already planned. * * *"

Finallly, in regard to its recommended ATWS rulemaking approach noted above, petitioner states that "The [Electric] Utilities recognize that, after the degraded core, safety goal and probabilistic analysis efforts have been completed, the Commission may see a need to augment the ATWS rule proposed for *existing* plants. * * * We do not belive that this will prove to be the case. But if the Commission lacks our confidence, it may prefer to adopt the Utilities' proposed rule as an "interim" measure, to be finalized in the wake of these efforts, quite possibly at the same time that ATWS requiements are set for new plants."

The petitioner requests that if the Commission decides not to proceed with the rulemaking approach outlined above, an ATWS rulemaking proceeding with formal evidentiary hearings be conducted using certain adjudicatory procedures the petitioner feels are required. The petitioner's recommended adjudicatory procedures are as follows:

1. A hearing board to be appointed from the ASLB and ASLAB panels, composed of technically qualified experts who can bring a fresh approach to the evidence.

2. All relevant documents available to the NRC Staff, including internal memoranda and working papers, to be placed in a technical data bank and made available in one or more public document rooms.

3. A statement of issues to be prepared by the hearing board after statements of contentions are filed by parties and one or more prehearing conferences are held.

4. Written statements of position to be filed by all parties.

5. Written cross-statements to be filed by any party who wishes to respond to other parties.

6. A public hearing to be held, with all parties having an opportunity to present sworn witnesses and documentary evidence in support of their statements and cross-statements.

7. Questioning of witnesses to be conducted by the hearing board, with the parties allowed to submit suggested questions for the board to ask; cross-examination to be conducted by the parties if they specify the issues on which they wish to cross-examine and satisfy the board that cross-examination is needed to explore these issues adequately.

8. A proposed rule to be recommended by the hearing board to the Commission, along with a supporting discussion that explains the evidentiary basis for the rule.

9. Oral argument by the parties before the Commission.

Dated at Washington, DC this 29th day of October 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-34377 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1530

Reimbursement of Costs

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed rules institute standards and procedures by which the Office of the Federal Inspector (OFI) will recover certain costs from the sponsoring companies for the Alaska Natural Gas Transportation System (ANGTS). The sponsoring companies of ANGTS are obligated to reimburse the United States for costs incurred by certain Federal agencies relative to rights-of-way across Federal lands.

While reimbursement, in some form or other, is mandatory, the mechanism for its administration is more flexible. Section 9 of the Alaska Natural Gas Transportation Act (ANGTA) requires, and Section 28(1) of the Mineral Leasing Act (MLA) allows, the OFI to employ a reimbursement mechanism different from that of the Department of the Interior (DOI). Accordingly, the OFI will seek appropriated funds for all activities in its budget, to be followed by the ANGTS sponsors making the necessary reimbursement directly to the U.S. Treasury on a quarterly, after-the-fact basis.

The OFI will not seek reimbursement for any of its permit-coordination activities related to the Department of the Interior (DOI) processing right-of-way and permit applications for use of Federal lands. Nevertheless, a portion of the OFI's enforcement activities will be reimbursable. Reimbursement is first limited to OFI enforcement actions related to ANGIS construction primarily on Federal lands. Reimbursement is further limited to the OFI enforcing Federal agencies specific authority under Section 28 of the MLA. There will be no reimbursement for enforcing the authority of Federal agencies not related to the Grant right-of-way and related permits. Reimbursement applies to the costs associated with OFI field personnel and appropriate headquarters support (engineering review, environmental review, permits and compliance, and related contractors and interagency support) associated with enforcing Section 28-related requirements.

DATES: Comments should be submitted by December 4, 1980.

ADDRESS: Comments should be in writing and sent to Mr. Ned Hengerer, Office of the Federal Inspector, Room 2413, Post Office Building, 1200 Pennsylvania Avenue. N.W., Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Ned Hengerer, General Counsel, Office of the Federal Inspector (ANGTS), Room 2413, Post Office Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044, (202) 275-1144.

SUPPLEMENTARY INFORMATION:

I. Background

The issue of reimbursement was raised by the ANGTS sponsors in the context of the Federal Inspector's July 1979 confirmation hearings. Since then the OFI has been studying the matter. Because of apparent disagreement between the sponsors and the Department of the Interior (the Federal agency primarily involved in reimbursement), the OFI found it advisable—after consultation with the sponsors and appropriate government officials—to establish a project-specific policy on reimbursement. This policy only governs operations of the OFI.

Recently, however, in a case dealing with Trans Alaska Pipeline System, the Court of Claims ruled that Section 28 (1) reimbursement could only be implemented pursuant to authorizing regulations, as required by the Independent Offices Appropriations Act. *Alyeska Pipeline Service Company v. U.S.*, No. 384-78 (CT. Cl. June 18, 1980), slip op. at 8-12. While the status of this decision is still uncertain, the OFI now, out of an abundance of action, establishes these proposed regulations. In this manner our cost reimbursement program could not subsequently be invalidated, were the *Alyeska* decision to become final and binding.

II. Discussion

A. Applicability of Reimbursement to ANGTS

ANGTS, as a natural gas pipeline project, is obligated to reimburse the U.S. for certain costs, incurred by Federal agencies, relative to rights-of-way across Federal lands. Specifically, Section 28(1) of the Mineral Leasing Act (MLA), Pub. L. 93.153, 30 U.S.C. 185, requires oil and gas pipeline applicants to reimburse the U.S. for (1)

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administrative and other costs incurred in processing a right-of-way or permit application and (2) costs for monitoring construction and operation of the approved facilities on the right-of-way or permit area.

The reimbursement requirement has not been waived relative to ANGTS. The Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. Section 719—while amending the Natural Gas Act and the National Environmental Policy Act, for example, in certain regards—did not alter Section 28(1) reimbursement. Nor has Section 28(1) been explicitly waived, under either Section 7(a)(4)(D) or 8(g) of ANGTA, by joint resolution of Congress. Furthermore, while Section 9(c) of ANGTA circumscribes the exercise of Federal agencies' discretionary authority, the reimbursement requirement itself is mandatory: Section 28(1) is written so that right-of-way applicants and holders "shall" reimburse the U.S. In addition, although Section 202(d) of Reorganization Plan No. 1 of 1979 (establishing the Office of the Federal Inspector) provides a "unified budget" for the Federal Inspector, that unified budget—meant to assist efficient management—does not obviate the reimbursement requirement. Finally, while it controls "direct charges by public authorities," Paragraph 11 of the Agreement Between The United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline (Agreement on Principles) in fact contemplates cost reimbursement to regulatory agencies, both in Canada and in the U.S.

Section 1530.1 details the companies which must reimburse OFI monitoring and enforcement costs. This Part covers not only companies sponsoring ANGTS but also companies sponsoring facilities found to be necessary or related to ANGTS.

B. Reimbursement Mechanism

While reimbursement, in some form or other, is mandatory, the mechanism for its administration is more flexible. Section 28(1) of the MLA qualifies reimbursement to be "as determined by the Secretary (of the Interior) or agency head." DOI bills for reimbursement in advance of cost incurrence, thereby funding current right-of-way operations with reimbursed funds. While this approach is permitted by law, the OFI is not legally bound to adopt it for its own reimbursable activities, which are substantially different from those of DOI, as related to ANGTS.

The OFI has a valid legal reason for not following DOI's approach. As will be explained below, most or all reimbursable OFI activities will occur in the enforcement—as opposed to the permitting—context. And under Section 202(c) of the Reorganization Plan, the OFI is charged with meeting the mandate of Section 9 of ANGTA as it carries our each Federal agency's enforcement policies and procedures, which in the case of DOI include reimbursement procedures. This means that the OFI must endeavor to avoid delays in project completion. In this vein DOI's advance billing approach to reimbursement—while perhaps feasible in terms of processing right-of-way applications—is incompatible with the more exigent ANGTS schedule during enforcement. Specifically, the OFI's ability to enforce expeditiously and effectively DOI's right-of-way stipulations would be jeopardized if it had to rely on reimbursement payments from the ANGTS sponsors before committing resources for such enforcement. By expressly making this determination now, the OFI is also acting pursuant to Section 1–106 of Executive Order 12142 (44 FR 36927).

Section 9 of ANGTA requires, and Section 28(1) of the MLA allows, the OFI to empoly a reimbursement mechanism different from that of DOI. Accordingly, the OFI will seek appropriated funds for all activities in its budget, to be followed by the ANGTS sponsors making the necessary reinbursement directly to the U.S. Treasury on a quarterly, after-the-fact basis. This method minimizes administrative complications and operational delays inherent when funding current activities with reimbursement funds. Likewise, this method maximizes the OFI's capability to take the initiative in anticipating and thereby avoiding major compliance problems and delays during enforcement, which of course is part of its statutory responsibility.

Billing, payment, and protest procedures appear in §§ 1530.4, 1530.5, and 1530.6 respectively. These procedures are basically self-explanatory. One point of clarification concerns the right-of-way grants upon which reimbursement is predicated. In particular while the Eastern and Western Leg "pre-build" grants merely require reimbursement, the proposed Alaska Leg grant adds that appeals of disputes will be to the Federal Inspector, under procedures set forth at 43 CFR Part 4, Subpart E. While those procedures allow for agency hearings (at the discretion of the agency), the OFI does not contemplate the need for hearings. Because these Part 1530 regulations are so explicit, questions of material fact will be minimized. And most legal questions should be resolved in the promulgation of these substantive regulations.

Thus, while § 1530.6 allows for protests and full documentation of billing complaints, there is no provision for an agency hearing: Should the company remain dissatisfied, it always has recourse to judicial process for monetary claims against the government. As mentioned earlier, the OFI has the necessary authority to make such modifications of the procedures of the Federal agencies whose requirements the OFI will enforce.

C. Reimbursable Activities

Only a portion of the OFI's activities will be reimbursable. As explained below and detailed in § 1530.2, there will be no reimbursement for the OFI's role in agency permitting. But a substantial portion of its enforcement budget will require reimbursement.

1. Permitting Activities.—In terms of issuing permits and other authorizations, DOI is mainly associated with reimbursement, because it alone processes right-of-way and permit applications for use of Federal lands. The OFI does not process these applications, and thus it incurs no reimbursable costs.

It is true that the OFI has and, will continue to, consult with DOI concerning the right-of-way grants and related stipulations. Nevertheless, such OFI input comes from its duty—as set forth in Section 9 of ANGTA and Section 202(b) of the Reorganization Plan—to expedite and coordinate Federal agency decisionmaking. As a result, the OFI will not seek reimbursement for any of its permit-coordination activities related to DOI processing right-of-way and permit applications for use of Federal lands.

2. Enforcement Activities.— In terms of enforcing permits and other authorizations, the OFI replaces DOI (and the Department of Agriculture for National Forests) relative to its grants of right-of-way and permits on Federal lands. Monitoring costs are, of course, reimbursable under Section 28(1), and Section 102 of the Reorganization Plan explicitly includes monitoring in the OFI's enforcement duties. Thus, a portion of the OFI's enforcement activities will be reimbursable. The specific percentage of reimbursable enforcement activities is dictated by legal limitations, as well as by assessment of the specific logistical and personnel needs of enforcement.

a. Limits to Reimbursement. Reimbursement is first limited to OFI enforcement actions related to ANGTS construction primarily on Federal lands. The whole right-of-way and permit program under Section 28 of the MLA is restricted to oil and gas pipelines crossing Federal lands.

Reimbursement is further limited to the OFI enforcing DOI-specific, and not merely DOI-derivative, authority under Section 28 of the MLA. In other words, while the stipulations accompanying the DOI grants of right-of-way reference grantee compliance with the laws of other Federal agencies, such reference does not make OFI enforcement of those other laws also reimbursable.

The right-of-way process under Section 28 is generally meant to protect the government's proprietary interest in Federal lands. Nevertheless, Section 28(f) clearly gives DOI broad regulatory authority over these rights-of-way. For example, Section 28(h) authorizes DOI to ensure environmental protection. Also, Section 28(g) mandates right-of-way terms and conditions to "protect the safety of workers and to protect the public from sudden ruptures and slow degradation of the pipeline."

b. Level of Reimbursement. As detailed in § 1530.3, this reimbursement will cover the appropriate share of the costs of the following OFI offices: Engineering Review, Environmental Review, Permits and Compliance, and the several field offices. The costs to be reimbursed include salaries (and cost of living adjustment in Alaska), benefits, travel, training, household moves, related contract and consultant support (to include interagency arrangements), office expenses (to include relocation, supplies, rent, utilities, communications, and machine rental), material and equipment purchases, vehicle and aircraft rental, and 15% to administer this Part.

In Alaska in particular, logistical support in the field will be provided by the sponsor companies under a detailed agreement by which the OFI will reimburse the sponsors for the costs incurred. This of course is needed because to the remoteness of the ANGTS route. A portion of the OFI payment to the sponsors will in turn be reimbursable by the sponsors, as related to enforcement of the DOI right-of-way grants and permits.

The specific dollar level of Section 28(1) reimbursement will vary year-to-year, depending on such factors as amount of Federal land being crossed, type of preconstruction or construction effort being undertaken, and extent of activity by the various OFI offices in the reimbursable enforcement effort. By way of illustration only, an early projection—voluntarily rendered by the OFI at Northwest Alaskan's request for preparation of its certificate cost estimate—showed reimbursement (in 1980 dollars) on the Alaska segment ranging from a little over $7 million to a little over $10 million per year from 1981 to 1985: The projected percentage of reimbursement to total enforcement budget would fluctuate over this same period as follows: 28%, 19%, 26%, 32%, and 39%.

In the lower 48-states, the amount of Federal land crossed by ANGTS will be much less. Thus, the amount of sponsor reimbursement will be substantially less.

The OFI's method for computing reimbursement is somewhat unique, and intentionally so. Instead of allocating every element of OFI cost between time spent on reimbursable versus non-reimbursable activities, Section 1530.4 will multiply the quarterly costs of the appropriate OFI offices by a specific percentage to determine the reimbursement due. The percentage will be determined annually by the OFI, after consulting with the sponsor companies on their work plans. The OFI recognizes that this approach does not achieve mathematical perfection, but it is fair to all concerned. The OFI cannot meet its statutory mandate to expedite ANGTS if its employees must file daily reports on their exact location and activity relative to Federal lands and DOI-related enforcement.

c. Reconciliation with DOI Practice. The OFI's reimbursement regulation is not fully consistent with DOI practice. This does not, however, represent legal error, whether on the part of the OFI or DOI. The two agencies do not rely on identical legal authority for their respective reimbursement policies. The OFI implements Section 28(1) of the MLA. So does DOI, but it also relies on Section 304 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. Section 1734. And in promulgating reimbursement regulations for oil and gas pipelines in 1975 (40 F.R. 17842), DOI relied substantively in part on Title V of the Independent Offices Appropriation Act (IOAA), 31 U.S.C. Section 483a. Reliance on these other authorities justifies any differences between present or past DOI practices and OFI reimbursement policy.

To begin with, Section 304 of FLPMA authorizes DOI to set fees and charges to recover "reasonable costs" for applications related to public lands. In Order No. 3011 (Sept. 29, 1977) the Secretary defined "reasonable costs" as actual costs under the Section 28(1) regulations. Section 304 also authorized DOI to fund current operations through a reimbursement account. While DOI has employed this approach, the statute does not mandate it. As explained earlier, the OFI is not invoking that authority, due to the countervailing mandate of Section 9 of ANGTA.

The IOAA, referenced in DOI's 1975 regulations, authorizes Federal agencies to issue regulations establishing fees or charges to cover various costs. The IOAA leaves administration to agency discretion: Cost recovery is limited "to the full extent possible." The OFI has found that, even if applicable, the supplemental use of the IOAA—beyond reimbursement already mandated by Section 28(1)—is not practicable. In the first place, the unique mission of the OFI is not conducive to the IOAA: The OFI is overseeing one single project, not regulating an entire sector of the economy, as most agencies do. In addition, past implementation of the IOAA has led to a multitude of disputes and lawsuits. Such an eventuality is anathema to OFI's statutory duty to facilitate the expeditious completion of ANGTS. Finally, the OFI's reimbursement regulation already provides for an adequate level of cost recovery for the U.S.

Of course, as explained earlier, the recent Court of Claims *Alyeska* decision has caused the OFI to promulgate reimbursement regulations, as required under the IOAA. This precautionary measure should not, however, be confused with substantive reliance on the IOAA. In *substantive* terms, OFI reimbursement is predicated solely on the legal authority of Section 28(1) of the MLA, even though the IOAA *procedural* requirement of implementing regulations is also employed.

III. Conclusion

The OFI is requesting public comments on any provisions of this proposed reimbursement regulation or related preamble. Because the OFI will be issuing the final rule on these reimbursement regulations (after reviewing the public comments) as a final agency action pursuant to Section 9 of ANGTA and/or as a "decision on enforcement matters" pursuant to Section 202(a) of the Reorganization Plan, all interested persons are urged to comment now.

This proposed reimbursement regulation does not constitute a significant rule, requiring analysis under Executive Order 12044. Nor do the requirements of 42 U.S.C. Section 4332(2)(c) apply.

Under authority of Section 9 of ANGTA, 15 U.S.C. Section 719g; Sections 102 and 202 of Reorganization Plan No. 1 of 1979; Section 28(1) of the MLA, 30 U.S.C. Section 185; and 31 U.S.C. Section 483a, the OFI is now proposing to amend Title 10 of the Code

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of Federal Regulations by adding a new Part 1530, as set forth below.

Dated: October 29, 1980.

John T. Rhett,

Federal Inspector.

PART 1530—REIMBURSEMENT OF COSTS

Sec.

1530.1 Coverage.
1530.2 Reimbursable activities.
1530.3 Costs to be reimbursed.
1530.4 Billing procedures.
1530.5 Payment procedures.
1530.6 Protest procedures.

Authority: Section 9 of the Alaska Natural Gas Transportation Act, 15 U.S.C. Section 719g; Sections 102 and 202 of Reorganization Plan No. 1 of 1979, 44 FR 33663 (made effective by Executive Order 12142 of June 21, 1979, 44 FR 36927); Section 28(1) of Title I of the Mineral Leasing Act, 30 U.S.C. Section 185; and 31 U.S.C. Section 483a.

§ 1530.1 Coverage.

(a) This Part applies to the companies sponsoring the segments of the Alaska Natural Gas Transportation System (ANGTS) in the United States, as listed in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* and as subsequently restructured, renamed, or otherwise changed. It also applies, where appropriate, to persons or companies acting as agents for these sponsoring companies.

(b) This Part also applies to companies sponsoring facilities which have been determined to be "necessary or related to" ANGTS, within the meaning of Section 9 of ANGTA, and thereby come within the OFI's enforcement authority.

(c) This Part governs how the OFI will obtain reimbursement from the sponsoring companies (described above in §§ 1530.1 (a) and (b)) for the costs incurred in certain of its ANGTS-related enforcement activities. It does not govern how any other Federal agency might seek similar reimbursement from the sponsoring companies for ANGTS-related nonenforcement activities.

§ 1530.2 Reimbursable activities.

(a) The sponsoring companies shall reimburse the United States for the OFI's costs incurred in enforcing ANGTS right-of-way and permit requirements on Federal lands, as directly required by Section 28 of the Mineral Leasing Act.

(b) Enforcement, the costs of which are reimbursable under § 1530.2(a) immediately above, entails monitoring and any other compliance or oversight activities reasonably related to the OFI enforcement process, as established by Section 102 of Reorganization Plan No. 1 of 1979.

§ 1530.3 Costs to be reimbursed.

(a) The OFI will require reimbursement for the activities, defined by § 1530.2 of this Part as reimbursable, of the following OFI offices:

(1) Engineering Review;
(2) Environmental Review;
(3) Permits and Compliance; and
(4) Field offices located in
(i) Anchorage, Alaska,
(ii) Fairbanks, Alaska,
(iii) San Francisco, California,
(iv) Irvine, California, and
(v) Omaha, Nebraska.

(b) The specific costs of reimbursable activities are limited to the following:

(1) Employee costs for
(i) Salaries,
(ii) Cost-of-living allowance (but only in Alaska),
(iii) Benefits,
(iv) Travel,
(v) Training, and
(vi) Household moves;
(2) Outside support costs for
(i) Contractors,
(ii) Consultants, and
(iii) Interagency arrangements, whether pursuant to a
(A) Delegation under Section 202(a) of Reorganization Plan No. 1 of 1979, or
(B) Formal cooperative work sharing agreement under the Economy Act;
(3) Office expenses for
(i) Relocation,
(ii) Supplies,
(iii) Rent,
(iv) Utilities,
(v) Communications, and
(vi) Machine rental;
(4) Material and equipment purchase or rental;
(5) Vehicle and aircraft purchase or rental;
(6) Any of the above or other support services provided by the sponsoring companies in the field on a cost recovery basis under logistical support agreements between the OFI and the sponsoring companies; and
(7) Costs to administer this Part equal to 15% of the total costs under § 1530.3(b) (1) thru (6).

§ 1530.4 Billing procedures.

(a) The OFI will present the sponsoring companies with a bill within 30 calendar days of the end of each calendar-year quarter for reimbursable costs incurred over that quarter for that segment of ANGTS or other facilities determined to be related to ANGTS.

(b) The bill will include the following:

(1) Total OFI expenditures incurred for the quarter, broken down by object class per OFI office;

(2) A brief description of reimbursable activities undertaken for the quarter, broken down by OFI office;

(3) The percentage of reimbursable to non-reimbursable activities for that segment of ANGTS, broken down by OFI office; and

(4) A calculation of the reimbursement due for that quarter, computed by multiplying the total OFI expenditures, as per § 1530.4(b)(1), by the reimbursable percentage, as per § 1530.4(b)(3).

(c) The reimbursable percentage used in § 1530.4(b)(3) above is determined as follows:

(1) Prior to the commencement of each calendar year, the OFI will consult with the sponsoring companies to ascertain their project activities for the coming year, with special identification of activities requiring reimbursable OFI enforcement activities.

(2) The OFI will then determine the reimbursable percentage for each OFI office by project segment.

(i) That percentage will apply for the entire upcoming calendar year. It will not be adjusted unless extraordinary and unanticipated events materially and dramatically alter the OFI's reimbursable enforcement activities.

(ii) The OFI will determine that percentage based upon the following factors:

(A) Amount of Federal land to be crossed;

(B) Types of pre-construction or construction activities to be undertaken during that year;

(C) Proportionate amount of time each OFI office will need to monitor those activities; and

(D) Level of intensity for monitoring on Federal lands as opposed to non-Federal lands.

(3) If a sponsor company intends to contest any of the reimbursable percentages, it may not do so until, but must do so when, it receives its first quarterly bill for the calendar year at issue. It must then follow the procedures set out below in §§ 1530.5 and 1530.6.

§ 1530.5 Payment procedures.

(a) Payment of reimbursable costs should be made, as billed, to the OFI specifically identified for U.S. Treasury Account Number 2469.

(b) Payment should be made within 30 calendar days of receipt of billing.

(c) The sponsoring company making payment under this Section should simultaneously notify the OFI Director of Financial Management of that payment.

(d) If the sponsoring company contests any part of the bill, rendered pursuant to § 1530.4, it must nonetheless pay the uncontested balance, and then proceed under § 1530.6 immediately below.

§ 1530.6 Protest procedures.

(a) If and when a sponsoring company contests any part of an OFI bill, as per § 1530.5(d) immediately above, it shall act pursuant to this section.

(b) The contesting company must append to its partial payment a petition fully justifying its action, including the following items:

(1) A clear description of the contested amount, with detailed reference, by cost category and office, to the OFI bill;

(2) A full explanation of the legal basis for contesting payment; and

(3) Where relevant, a counterstatement of the facts at issue.

(c) In its sole discretion the OFI may orally or in writing request further support for the petition contesting reimbursement, including convening an informal conference to explore the matter further.

(d) After reviewing the petition, along with any further information, the OFI, through its Director of Administration, will rule on the petition within thirty calendar days, notifying the petitioner in writing of the decision.

(1) If the Director accepts the contesting company's position and thus grants the petition, the partial payment previously rendered under § 1530.5(d) will be deemed to satisfy fully the quarterly bill rendered under § 1530.4.

(2) If the Director rejects the contesting company's position and thus rejects the petition, the petitioner:

(i) Shall make payment of the contested and previously withheld amount within ten calendar days, and

(ii) May within five calendar days after payment appeal the Director's adverse finding to the Federal Inspector, pursuant to § 1530.6(e) immediately below.

(e) The Federal Inspector or designee will render a final decision on any appeal of the Director's adverse finding within sixty calendar days of receipt, unless the appellant has failed to make full payment to the OFI, as per § 1530.6(d)(2)(i).

(1) If the Federal Inspector or designee grants the appeal, the OFI will either return to the appellant the contested payment within thirty calendar days or credit the appellant's next quarterly bill.

(2) If the Federal Inspector denies the appeal, the appellant may institute appropriate judicial action to recover the contested payment.

(f) If and when a contesting company refuses to make full payment following the Director's adverse finding on its petition (in contravention of § 1530.6(d)(2)(i)), the OFI may stop work on any applications for regulatory approval submitted by the company and pending before the OFI under Reorganization Plan No. 1 of 1979. The schedule and cost consequences will be attributed to the noncompliant company.

(g) Notwithstanding § 1530.6 (a) thru (f) immediately above, the company making full payment of reimbursable costs may undertake the following:

(1) Within seventy-five calendar days of receipt of the OFI quarterly bill, as per § 1530.4, the company may request to conduct an audit of the bill.

(2) The company will complete that audit within ninety calendar days of the request and at its own expense.

(3) If, based on that audit, the company contests any part of the bill already paid and not previously contested, it may petition for the return of the contested payments pursuant to the procedures set forth above in §§ 1530.6 (b) thru (e), where appropriate.

[FR Doc. 80-34325 Filed 11-3-80; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 204 and 291

[Economic Regulation Docket 38904; EDR-411]

Data to Support Fitness Determinations and Domestic Cargo Transportation; Limitation on Fitness Determination

Dated: October 29, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to impose a 2-year limit for starting service or continuing service after a fitness determination. Carriers that did not begin service or operate within that time period would be required to resubmit fitness data and obtain re-authorization before beginning service. This rulemaking is at the Board's own initiative.

DATES: Comments by: December 15, 1980.

Reply comments by: December 30, 1980.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: November 19, 1980.

The Docket Section prepares the Service List and sends it to persons listed, who then serve their comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38904, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Terri Smith, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5088.

SUPPLEMENTARY INFORMATION:

In this notice the Board is asking for public comment on a proposed rule to limit to 2 years the duration of a finding of fitness for nonoperating air carriers. Newly certificated passenger carriers, international cargo carriers, domestic all-cargo carriers, and commuter carriers proposing to serve an eligible point (as defined in section 419 of the Federal Aviation Act), that did not begin operations within 2 years after being found fit, willing and able by the Board, or that ceased operations for 2 years, would have to re-file, as applicable, the data in 14 CFR 204.5 (certificated carriers), 14 CFR 204.7 (Commuter carriers), or 14 CFR 291.11 (all-cargo carriers), before beginning or resuming service. The Board tentatively believes that this limitation is necessary to enable it to meet its obligations to assure continuing fitness of carriers under section 401(r) of the Act. The proposed rule would apply to those carriers that have not begun operation or have stopped operations at the time a final rule is made effective.

Under sections 401 and 418 of the Act, the Board is required to determine whether an applicant is fit, willing, and able to perform air transportation properly and to conform to the provisions of the Act, and to the rules, regulations, and requirements issued under it. The Board is also required to find a commuter carrier fit to provide service to an eligible point under section 419. The Board has adopted two rules that require these carrier applicants to submit data so that it can make determinations (14 CFR Parts 204 and 291). There are three areas that the Board examines to determine an applicant's fitness: 1) the applicant's managerial skills and technical ability, 2) its financial resources as related to its operating proposal, and 3) its compliance disposition. The data requirements in Parts 204 and 291 are based on the assumption that carriers will begin service relatively soon after

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authorization. This has not always been the case. Since passage of the Airline Deregulation Act, only one-half of the newly certificated carriers have started service.

Although a carrier's failure to provide authorized service is not inconsistent with the flexible management policies fostered under deregulation, it raises a question about how the Board can meet its obligation to assure the continuing fitness of carriers under its jurisdiction. When a carrier does not begin service for several years after a certificate or acquisition proceeding, it is reasonable to assume that the plans and facts on which the Board premised its fitness determination have changed considerably, particularly in the areas of management personnel and financing. The Board has no assurance that the applicant found fit is essentially the same applicant that begins service years later.

The Board is now working with the FAA to develop a system to monitor the continuing fitness of operating carriers. This program will rely upon information about the carriers' actual performance, financial condition, and compliance record. For non-operating carriers, however, there are no similar current data to put into such a system.

The Board must ensure both that an applicant is able to operate safely and without undue financial risk to consumers before it holds itself out to the public as an air carrier, and that it continues to be fit to perform as an air carrier. We believe that, where a fair amount of time has elapsed since an inactive carrier was found fit and was authorized to perform air transportation, or since a carrier has stopped operation, we should re-evaluate its fitness before it finally begins or restarts service. This re-evaluation would include a new inquiry to the FAA for a safety report on the dormant carrier. It is our tentative view that 2 years is the longest time that we can reasonably assume that a fitness finding remains valid. Midway Airlines, a newly certificated scheduled carrier, for example, commenced service within 1½ years of its certification. Beyond a 2-year period, however, we believe that there is sufficient reason to question whether the plans, as proposed initially, can be implemented, justifying further evaluation of the applicant before it is permitted to offer its services to the public. If necessary, the fitness of a carrier could be reassessed before the 2-year period had elapsed. The authority conferred under the original fitness finding would not be automatically revoked if service had ceased or had not been started for a 2-year period. Rather, the carrier could not implement the authority previously conferred until the Board had the opportunity to assess its current or continuing capability to provide service.

This proposed amendment to Parts 204 and 291 would require inactive certificated, commuter, and all-cargo carriers to re-file the data requested in their initial application. This information includes the carrier's proposed management, its historical and current financial position, the proposed financing plans to provide the service and obtain the necessary aircraft, the compliance history of the carrier and proposed management personnel, and a description of the proposed services. If the data had not changed, the carrier would have to send the Board a statement, signed by one of its officers, stating that fact. After evaluation of the current information provided by the carrier, the Board would notify the carrier whether it could start operations. The proposed re-filing requirement would apply to those carriers that have been found fit by the Board, but that have not started operations within 2 years, or ceased to operate for a period of 2 years. It would be applicable to any such situation that exists at the time a final rule is made effective, as well as to those that may arise thereafter. For example, if a carrier had not been operating for 6 months at the time the rule was made effective, and did not begin operations by 1½ years after that time, it would then have to resubmit data under this rule. The rule would apply, however, only when the carrier has not operated at all for the 2-year period. It would not apply if the carrier stops operations on a particular route of its system, but continues other operations.

Proposed Rule

For these reasons, the Board proposes to amend 14 CFR Chapter II as follows:

1. A new § 204.8 would be added to Subpart A of 14 CFR Part 204, *Data to Support Fitness Determinations*, to read:

Subpart A—General Provisions

* * * * *

§ 204.8 Delay in start of initial service.

A carrier that has not begun initial operations within 2 years of the date it was found fit, willing and able by the Board, or that has ceased operations for a period of 2 years, shall re-file data required by § 204.5 or § 204.7, as applicable, and shall not begin service until it is found fit, willing, and able by the Board. If there has been no change in the data previously submitted, the carrier shall submit a statement to that effect signed by one of its officers.

2. A new § 291.15 would be added to Subpart B of 14 CFR Part 291, *Domestic Cargo Transportation*, to read:

Subpart B—All-Cargo Air Service Certificates

* * * * *

§ 291.15 Delay in start of initial service.

A carrier that has not begun initial operations within 2 years of the date certificated by the Board or that has ceased operations for a 2-year period, shall resubmit data required by § 291.11, and shall not begin service until it is found fit, willing, and able by the Board. If there has been no change in the data previously submitted, the carrier shall submit a statement to that effect signed by one of its officers.

(Secs. 204, 401, 407, 416, 418, 419 of P.L. 85–726, as amended, 72 Stat. 743, 754, 766, 771; 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1377, 1386, 1388, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34370 Filed 11-3-80; 8:45 am]

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14 CFR Part 298

[Economic Reg. Docket 38907; EDR-413; Dated: October 29, 1980]

Classification and Exemption of Air Taxi Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its rules governing commuter air carriers to conform with its new data submission requirements for fitness determinations and with the requirements of the Federal Aviation Act. This rulemaking is at the Board's own initiative.

DATES: Comments by December 4, 1980.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: November 14, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38907, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5088.

SUPPLEMENTARY INFORMATION: The CAB, by ER–1180, 45 FR 42593, June 25, 1980, required that certain data be submitted (14 CFR Part 204) for use in determining the fitness of passenger air carriers. This rule also imposed new reporting requirements on commuter air carriers serving or proposing to serve a point eligible for subsidy, as defined in 14 CFR 325.3.

Under deregulation, commuter air carriers have substantially increased their passenger operations by expanding into small markets abandoned as unprofitable by trunk carriers. To help maintain essential service and adequate safety levels in these markets, Congress added a new section 419 to the Federal Aviation Act of 1958 (49 U.S.C. 1389). Paragraph (c)(2) of that section states that a commuter air carrier cannot serve an eligible point unless it is found fit, willing, and able by the Board. Part 204 enables us to make section 419(c)(2) fitness determinations by requiring commuter air carriers to submit the necessary data. The fitness requirement applies only to those commuters that provide scheduled passenger service to an eligible point.

The Board is proposing to amend its rules governing commuter air carriers in § 298.21 to conform to section 419's fitness determination requirement, and in § 298.61 to conform to the new reporting requirements in Part 204. To avoid disrupting current operations while the Board conducts these initial fitness determinations, this amendment would permit a currently registered commuter air carrier to continue present service or begin new service at a point eligible for subsidy pending the determination. However, a commuter air carrier that the Board finds unfit would have to stop service. The proposed rule would also amend Part 298 to clarify that, after this amendment becomes effective, no company would be allowed to register as a new passenger commuter air carrier unless the Board first finds that carrier fit. This would be consistent with the intent of Part 204 and section 419 to ensure that before a new carrier is allowed to hold itself out to the public as a common carrier, it is able to operate safely and without undue financial risk to its customers.

The CAB is allowing only 30 days to comment on this rulemaking after publication in the **Federal Register**, because the fitness rule, Part 204, is already in effect and it is important for new carriers to know as soon as possible the requirements for entry.

Accordingly, the Board proposes to amend 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, as follows:

1. In § 298.21, a new paragraph (d) would be added to read:

§ 298.21 Filing for registration by air taxi operators.

* * * * *

(d) No air carrier, except a commuter air carrier that registered with the Board on or before [the effective date of the final rule] shall provide scheduled service at an eligible point until it has been found fit, willing, and able to conduct such service by the Board. A commuter air carrier that registered with the Board on or before [the effective date of the final rule] and that is serving or proposing to provide scheduled passenger service may continue or commence service at an eligible point while the Board makes its fitness findings. If the Board finds a commuter air carrier not to be fit, willing, and able to serve an eligible point the carrier shall not conduct such service.

2. In § 298.61, a new paragraph (h) would be added to read:

§ 298.61 Reporting of scheduled operations by commuter air carriers.

* * * * *

(h) Commuter air carriers serving or proposing to serve an eligible point shall comply with the applicable requirements in Part 204 of this chapter.

(Secs. 204, 416, 419 of Pub. L. 85–726, as amended, 72 Stat. 743, 771, 92 Stat. 1732; 49 U.S.C. 1324, 1386, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34371 Filed 11-3-80; 8:45 am]

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14 CFR Part 298

[Economic Regs Docket: 38906; EDR-412; Dated: October 29, 1980]

Classification and Exemption of Air Taxi Operators; Dual Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Airlines that use only small aircraft are already exempt from many regulatory requirements of the Federal Aviation Act. The CAB proposes to grant similar exemptions to certificated airlines (which usually operate large aircraft) for their small aircraft operations, in order to promote competition. The CAB is also proposing to eliminate an obsolete restriction on competition with certificated helicopter service. These proposals are at the CAB's initiative.

DATES: Comments by: January 5, 1981.

Reply comments by: January 26, 1981.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: November 19, 1980.

Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38906, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 29428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 29428; (202) 673–5442.

SUPPLEMENTARY INFORMATION:

Background

In order to provide passenger air transportation or international cargo air transportation, airlines must ordinarily obtain certificates from the Board under section 401 of the Federal Aviation Act of 1958. They must also file tariffs under section 403 and comply with a variety of other provisions of the Act, subjecting them to the full scheme of route, rate, consumer, and antitrust regulation.

Airlines that use only small planes, however, can operate in the largely unregulated environment established by the Board's air taxi rule, 14 CFR Part 298. That rule defies "air taxi operator" essentially as an airline that uses only small aircraft, does not have a section 401 certificate, and meet certain other conditions. Part 298 exempts air taxi operators from section 401, section 403, and a variety of other provisions of the Act. The exemption is conditioned on compliance with registration, liability insurance, reporting, and other requirements.

Although the Part 298 air taxi exemption is by its terms unavailable to airlines holding section 401 certificates, the Board has in several cases granted

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exemptions from those terms to individual airlines to allow them to conduct dual operations. These airlines perform flights along their certificated routes with large or small airplanes, and fly elsewhere with small planes under Part 298. The first grant of dual authority was to Air New England, a certificated carrier that wished to operate as an air taxi in order to test service in new markets, with a view toward possible certification in the future (*Air New England, Inc.*, Order 78–8–63; August 14, 1978, Docket 31238). Since then, in addition to similar awards to other small certificated carriers that wanted to begin air taxi operations, the Board has also granted dual authority to some air taxis that would otherwise have lost their air taxi status upon obtaining as few as one certificated route under the Act's unused authority provision, section 401(d)(5).

In the Air New England order, the Board announced that it would consider the larger question of dual authority for all certificated carriers in a future rulemaking proceeding. This is that proceeding. We have tentatively decided that a general authorization of dual operations would be in the public interest, and now propose to broaden the exemptions in Part 298 accordingly. There are two main benefits that should result from this approach. First, dual authority would permit the certificated carriers, especially the small ones, to compete on a more equal basis with the largely unregulated air taxi operators. It would let the level and quality of service in many markets be determined by market forces rather than by the less relevant consideration of which among competing airlines happen to hold certificates. Second, it would standardize our treatment of air taxis that grow into certificated carriers.

Our earlier objections to dual authority were based on four concerns: the possibilities of diversion of management resources away from certificated operations, cross-subsidization, subsidy leakage, and public confusion caused by the two types of service. In *Air New England*, we dismissed those concerns in favor of the benefits of freer competition. Although our reasoning was based in part on the special character of that carrier's certificated service, we now believe that the conclusons are relevant to all certificated operations. We will address those conclusions one at a time.

Diversion of management resources. We were once concerned that allowing certificated carriers to engage in air taxi operations might divert managerial talent and resources away from the carrier's certificated operations. We felt that that would be contrary to the public interest. In a more closely regulated regime of entry and exist, carriers had a greater statutory responsibility for the provision of service in particular markets. This was especially true of markets served on a subsidized basis. In *Air New England*, however, we noted that the local service carriers had already expanded their operations to include extensive subsidy-ineligible service while continuing to devote enough managerial attention to their subsidized service. Since then, moreover, we have observed no problems of diversion with dual authority carriers. In the less regulated environment carriers are redeploying their resources, as might be expected. Under the Airline Deregulation Act of 1978, however, we now have important regulatory tools available to maintain levels of essential air service, and are no longer relying on restrictive exit policies. For small or isolated communities that require subsidized service, we rely principally on carriers that devote their entire efforts to the provision of small community service.

Cross-subsidization. This objection to dual authority was based on the idea that a carrier would use profits from its certificated routes to subsidize losses in its air taxi markets, in order to drive its competitors from those markets and ultimately realize excessive profits. This investment would only be worthwhile, however, if the carrier could be confident of long-term operations at higher prices after eliminating the competition. But since air taxis can enter and exist markets at will, that is extremely unlikely. Driving out competitors through cross-subsidization would therefore be uneconomic, and need not be feared.

Subsidy leakage. We described this phenomenon in *Air New England* as follows:

> There is a real danger that in the case of a carrier with both subsidy eligible and subsidy ineligible operations, the Board will be unable to separate the activities sufficiently to assure that subsidy is granted for only the former. No doubt, many common costs are difficult to allocate nonarbitrarily between eligible and ineligible operations, and this creates the potential for subsidy leakage.

Even then the issue was not new, since many local service carriers performed both types of operations. With properly tailored reporting requirements, we concluded that our subsidy staff could reasonably allocate costs and revenues. With the special reporting requirements for dual authority carriers discussed below, it appears that we can continue to avoid appreciable subsidy leakage.

Public confusion. The final objection to dual authority was that passengers might be confused about whether they were receiving certificated or uncertificated service. The legal basis of a carrier's authority to perform any particular flight, however, would in itself be of little interest to passengers. For example, it does not affect which Federal Aviation Administration safety standards apply. The only difference that appears to be important is in the degree of consumer protection provided. We propose to avoid the problem by making the rules in this area largely the same for both types of operations, as discussed in more detail in the following section.

Consumer Protection

The rules on denied boarding compensation (14 CFR Part 250), smoking aboard aircraft (Part 252) and baggage liability (Orders 77–2–9, 77–4–94 and 77–9–80) apply, by their terms, primarily to certificated carriers. In the individual dual authority cases, we have avoided problems of public confusion by requiring the carriers to comply with all three rules for all their air taxi operations as well as their certificated operations. In December 1979, we began to make exceptions for the denied boarding compensation rules. We propose the same solution here.

Until recently, passenger air taxi operations were limited to aircraft with 30 or fewer seats, while the consumer protection rules applied only to certificated carriers, which operated mostly larger aircraft. In the rulemaking proceeding on increasing the air taxi size limit to 60 seats, a major issue was the extent, if any, to which these protection should be applied to air taxi service with aircraft in the 31–60 seat range. In ER–1123 (44 FR 30080; May 24, 1979), we decided to extend the smoking rules to cover this service, but not the denied boarding and baggage liability rules. We are reexamining the entire question of consumer protection in small aircraft operations, regardless of type of air carrier, with a view to more uniform requirements. Further extension of the smoking rules is already an issue in Docket 29044 (EDR–377; 44 FR 29486; May 21, 1979). The applicability of the denied boarding rules is an issue in Docket 38108 (EDR–401; 45 31413; May 13, 1980). We are similarly reexamining the baggage liability rules. Until these proceedings are completed, the course that appears least likely to confuse passengers is to continue the existing policy.

Thus, the proposed rule would require dual authority carriers to extend the protections of the baggage liability, smoking, and with the exception discussed below, denied boarding rules to their Part 298 operations. The denied boarding and baggage liability rules, in addition to defining certificated carriers' obligations, require the carriers to file tariffs setting out the terms of those obliagations. Since air taxi operators ordinarily do not file tariffs, however, we have left out the tariff requirements when extending the consumer protection rules to the air taxi operations of dual authority carriers in the individual cases up to now. We propose to continue this approach. The carriers would still have to post signs and include statements on tickets, in accordance with 14 CFR 221.176 (baggage liability) and § 250.11 (denied boarding). The sign-posting requirement of § 298.30 would be redundant and would not apply.

The denied boarding rules present a special problem. Until December 1979, they were applied to all flights of all dual authority carriers. In Orders 79–12–161 and 80–5–9 we exempted certain dual authority carriers, for some or all of their small-aircraft flights, while our reexamination (Docket 38108) was in progress, and encouraged others to apply for similar exemptions. If the proceeding in Docket 38108 is completed before this one, we would simply incorporate the resulting denied boarding scheme in the final rule on dual authority. If this proceeding is completed first, the final rule would use the text proposed today—applying the denied boarding rules to all dual authority carriers—but we would continue our existing practice of exempting those carriers on a case-by-case basis. Depending on what our denied boarding approach turns out to be, we might eventually codify it in the rule.

Details

The current scheme of Part 298 is as follows: Air taxi operators' basic exemptions from the Federal Aviation Act are set out in Subpart B. These exemptions are conditioned on compliance with registration, reporting, and other requirements set out in Subparts C through H. The proposed rule would add a new Subpart I to govern air taxi operations by certificated carriers. "Certificated carrier" would be defined as one holding a section 401 certificate. A carrier holding only a section 418 all-cargo certificate would not be affected by the proposed rule. Dual operations by such a carrier are already permitted by § 298.5.

Certificated passenger carriers would not become air taxi operators, but Subpart I would give them the exemptions set out in Subpart B *as if they were* air taxi operators. The exemptions would be limited to operations with small aircraft. To prevent confusion and circumvention of tariff-filing and other requirements for certificated carriers, the exemptions would also be limited to operations that are outside the carrier's certificated route system.

As with true air taxi operators, the Subpart I exemption for certificated carriers would be conditioned on compliance with Subparts C through H. It would be conditioned further on the terms of Subpart I itself. Thus, for example, dual authority carriers would have to register under Subpart C for their Part 298 operations. On the other hand, Subpart I would provide that these carriers have no exemption from section 407 of the Act, relating to the disclosure of stock ownership, since there is not meaningful way to limit such an exemption to a carrier's Part 298 operations.

Through service options. Since tariff filing is required for a dual authority carrier's certificated operations but would not be for its Part 298 operations, a question concerning tariffs might arise in cases where a single journey includes both types of air transportation. We propose to give carriers two options: They could file a tariff for through service, or charge the sum of the applicable local fares. If the carrier did file a tariff for through service, it would not be exempt from section 403 of the Act (requiring observance of tariffs) or section 404(b) (prohibiting unjust discrimination) for that service.

Large aircraft reporting. Since Part 298 authorizes air transportation only with small aircraft, air taxi operators are required by § 298.32 to report to the Board any proprietary interests in and operations with, large aircraft, which would presumably be used by them only for contract or private carriage. This reporting requirement is of course inappropriate for certificated carriers, most of whose large aircraft operations are authorized by their certificates. Proposed § 298.96 therefore excludes from the requirement a certificates carrier's aircraft that are used only in its section 401 operations.

Mail. The carriage of mail by air taxi operators is governed by § 298.35. Since the standard of that section differs from the standards applicable to certificated service, proposed § 298.97 specifies that for dual authority carriers § 298.35 applies only to the carriage of mail in their Part 298 operations.

Names. Names of certificated carriers are already governed by 14 CFR Part 215. Proposed § 298.98 therefore excludes dual authority carriers from § 298.36, which governs air taxi operators' names.

Helicopters. Section 298.33 contains restrictions on air taxi service in competition with a certificated carrier that provides helicopter or similar service. As of now, there are no such carriers. For that reason, and in light of the statutory and Board policies favoring competition, we propose to eliminate the restrictions entirely.

Insurance. Liability insurance requirements for air taxi operators currently appear in Subpart E of Part 298. We have proposed to revoke Subpart E in connection with establishing a new Part 205 that would contain insurance requirements for all types of carriers (EDR 395; 45 FR 7566; Docket 37531; February 4, 1980). If Part 205 is adopted as proposed, the final rule on dual authority would not address insurance requirements. If this rulemaking on dual authority is completed first, we would apply the Subpart E insurance requirements as follows: Aircraft that are used in Part 298 operations, whether or not they are also used in certificated service, would have to be covered. Those used only in certificated or other non-Part-298 operations would not have to be covered.

Antitrust. Part 298 exempts air taxi operators from the prior approval requirements of section 408 of the Act, which governs mergers and acquisitions of control.[1] The exemption has been limited to situations where no party to the transaction operates large aircraft for compenasation or hire. It has also been limited to the air taxi operators themselves, because until the Deregulation Act was passed we did not have authority to grant exemptions to persons other than air carriers. To avoid unnecessary regulatory intrusion in the activities of small carriers and implement full the policy of letting certificated carriers conduct small aircraft operations, we propose to expand the exemption for air taxi operators and to make it available to all parties whenever it is available to one.[2] We also propose to apply the expanded exemption to air taxi operators that have become dual authority carriers by

[1] In general, section 408 provides that no air carrier, person controlling an air carrier, other common carrier, or person sustantially engaged in the business of aeronautics shall acquire control of an air carrier in any manner whatsoever without obtaining prior Board approval.

[2] The transaction would still be subject to Justice Department scrutiny under the antitrust laws.

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obtaining an unused authority or automatic entry certificate under the provisions of section 401(d)(5) or (7) of the Act. Thus, the proposed rule would allow air taxis, certificated carriers, and other persons (including persons in control of air carriers and those substantially engaged in the business of aeronautics) to enter into transactions with each other without obtaining prior Board approval, as long as the result does not include common control relationships among any of the following: air carriers holding certificate authority under section 401(d)(1), (2) or (3) of the Act, persons controlling such air carriers, non-air common carriers, or persons (other than air carriers) substantially engaged in the business of aeronautics. Stated more directly, if section 408 applies to the transaction only because of the involvement of air taxi, unused authority, or automatic market entry operations, all parties to the transaction would be exempted from section 408 and oprior approval would be unnecessary. If section 408 would apply even when those operations were ignored, however, the exemption would not be available and prior approval would be required. For example, an air taxi operator [or an air taxi operator that had become a dual authority carrier by obtaining an unused authority certificate) could acquire a certificated carrier, without prior Board approval, and vice versa. A section 401(d)(1) certificated carrier, however, would need Board approval under section 408 to acquire an air taxi operator that had already acquired another section 401(d)(1) carrier, because of the involvement of two section 401(d)(1) carrier, because of the involvement of two section 401(d)(1) carriers. Similarly, andy other person substantially engaged in the business of aeronautics could, without prior approval, acquire an air taxi operator, but not if that operator had already acquired a certificated carrier.

The proposed rule would similarly expand the exemption from section 409 (interlocking relationships), and would eliminate, as no longer necessary, the exemption from section 412 (contracts and agreements.) The filing of contracts and agreements under section 412 is already voluntary, under the Deregulation Act and the International Air Transportation Competition Act, Pub. L. 96 192. The grant of a blanket exemption from these filing provisions could be construed as precluding altogether the filing of contracts or agreements involving air taxis. Since it is not our intent to deprive parties of the opportunity to seek Board approval of such documents if they so choose, the exemption from section 412 (currently contained in section § 298.11(i)) would be removed. We would anticipate, especially with respect to agreements that were formerly exempted from section 412 requirements, that parties would only file for approval if they also sought antitrust immunity.

Reporting requirements. Reporting requirements for air taxi operators are in Subpart F of Part 298. That subpart (§ 298.60) requires commuter air carriers to file their flight schedules and statements of rates and fares. This proposal would apply that requirement to dual authority carriers, but only to their small-plane Part 298 operations. We propose not to apply the rest of the Subpart F reporting requirements (flight and traffic statistics) to dual-authority carriers, because as certificated carriers they must report this information on CAB Form 41 under Part 241, *Uniform System of Accounts for Certificated Air Carriers.*

Joint fares and 90-day notice of service suspensions. Section 37(c) of the Airline Deregulation Act (49 U.S.C. 1482a) entitles commuter air carriers—air taxi operators that perform at least five scheduled round trips per week between a pair of points—to participate in any uniform joint fare system established by the Board. It also requires that a participating commuter give 90 days' notice before terminating its service to a market in which point fares are offered. Failure to give the notice makes the commuter ineligible to participate in the joint fare system. A question arises about the applicability of this notice provision to dual authority carriers. A commuter should not be excused from the requirement merely because it has become a dual authority carrier by acquiring a certificated route. A certificated carrier, on the other hand, should not have to provide the notice for all its service suspensions merely because it has become a dual authority carrier by beginning some air taxi operations. We would therefore interpret the section 37(c) notice requirement, with respect to dual authority carriers, as applying only to air taxi operations. And if such a carrier failed to provide the notice, only its air taxi operations would be disqualified from participation in the joint fare system.

Miscellaneous. Since the proposed amendments would make the dual authority exemptions already given in individual cases unnecessary, those exemptions would be revoked upon adoption of the final rule. The denied boarding exemptions discussed above, however, would continue.

Invironment and Energy

We have tentatively decided that the proposed authority for certificated carriers to perform air taxi operations would not have a significant impact on the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). The primary result of this proposal would be to allow certificated carriers to provide service in markets outside their route systems, using small, propeller-driven planes. Our experience has shown that operations with propeller-driven aircraft, whether small planes or larger turbo-prop aircraft like the Convair 580, are not a major noise contributor and have a minimum environmental impact on surrounding communities. This subject is discussed further in *Application of Colonial Airlines, Inc.,* Order 78–6–183, June 27, 1978. Even an expansion of service with these planes should not have a significant environmental effect. It does not appear that use of these aircraft would result in any significant increase in air pollution or land congestion. These small planes are not heavy polluters. In some cases, the replacement of jet flights that have many empty seats should actually reduce pollution. In addition, the Airline Deregulation Act specifies that airport proprietors can adopt nondiscriminatory plans to mitigate environmental impacts at particularly sensitive airports.

We have also tentatively decided that this proposed new authority would not have a significant adverse impact on energy efficiency and consumption within the meaning of the Energy Policy and Conservation Act of 1975 (EPCA)(42 U.S.C. 6201 *et seq.*). The use of propeller-driven aircraft in markets with small traffic demand or in new markets to test demand would have a beneficial impact on fuel efficiency as a whole, both in existing and planned operations. The increased competition that this expanded authority should bring discourages the use of fuel—inefficient aircraft and results in increased productivity, since fuel costs make up a large part of carriers' costs. As with any expansion of authority, this proposed rule could possible result in an increase in air traffic. But it is not clear how much, if any, increase there would be. Although we have granted substantial new authority in implementing the Deregulation Act, the primary reason for overall traffic increases, when they have occurred, has been an increase in load factors. Even if this rule does result in more traffic, however, the increase in fuel consumption is likely to be less than proportional, because of improvements in the overall efficiency of aircraft operations and the savings in fuel that would otherwise be used for ground transportation. Even if there is a net increase in consumption, it does not appear likely to be significant.

Finally, the environmental and energy effects of this proposed rule could be mitigated by the carriers, the airport owners, and the Board. The carriers will take needed measures for economic and competitive reasons. Airport owners have the authority, in cooperation with the Federal Aviation Administration, to use nondiscriminatory measures to lessen the environmental consequences of aircraft operations, and have taken an active role in this area in many communities. The Board itself would continually watch this particular aspect of deregulation as it looks at deregulation as a whole for any changes or fine-tuning that may be needed. We would like to have specific comment on both the environmental and energy impacts of this proposal, however, in order to have as many facts as possible before making a final decision on dual authority.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators,* as follows:

1. In § 298.1, a sentence would be added at the end, to read:

§ 298.1 Applicability of party.

* * * This part also authorizes certificated carriers to provide service with small aircraft as if they were air taxi operators.

2. In § 298.2, a definition would be added, in alphabetical order, to read:

§ 298.2 Definitions.

* * * * *

"Certificated carrier" means an air carrier holding a certificate issued under section 401 of the Act.

* * * * *

3. In § 298.11, paragraph (g), (h), and (i) would be replaced by a revised paragraph (g) to read:

298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

* * * * *

(g) Sections 408(a) and 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act.

4. Section 298.12 would be amended to read:

§ 298.12 Effect of exemptions on antitrust laws.

The exemptions granted in §§ 298.11(g), 298.14, and 298.92 do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute except the Act.

5. Section 298.14 would be retitled and amended to read:

§ 298.14 Exemptions for persons other than air taxi operators.

The exemptions from sections 408(a) and 409 of the Act that are granted to air taxi operators by § 298.11(g) and to certificated carriers by § 298.92 are hereby granted to all other parties to the transaction or relationship.

6. Section 298.33, *Prohibition and limitations concerning regular service in markets served or authorized to be served by certificated helicopter carriers, and limitation on use of helicopert, STOL, or VTOL aircraft,* would be revoked and reserved as follows:

§ 298.33 [Revoked and reserved]

7. A new Subpart I would be added, to read:

Subpart I—Air Taxi Operations by Certificated Carriers

Sec.
298.90 Exemption for certificated carriers.
298.91 No exemption from section 407.
298.92 Antitrust exemptions.
298.93 Through service options.
298.94 Joint fares and 90-day notice of service modifications, suspensions or terminations.
298.95 Consumer protection.
298.96 Special reporting requirements relating to large aircraft.
298.97 Carriage of mail.
298.98 Use of name.
298.99 Scope of filing and reporting requirements.

Subpart I—Air Taxi Operations by Certificated Carriers

§ 298.90 Exemption for certificated carriers.

Each certificated carrier is exempted from the Act in the manner set forth in Subpart B, subject to the terms of this subpart and Subparts C through H, as if it were an air taxi operator, for operations that are:

(a) Not along a route authorized by the carrier's section 401 certificate; and

(b) Performed with aircraft other than large aircraft.

§ 298.91 No exemption from section 407.

Notwithstanding § 298.11(f), certificated carriers operating under this part are not exempted from section 407 of the Act.

§ 298.2 Antitrust exemptions.

Certificated carriers operating under this part are exempted from sections 408(a) and 409 of the Act for transactions and relationships to which those sections apply only because of the involvement of operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act.

§ 298.93 Through service options.

If a certificated carrier provides air transportation that includes a segment operated by it under its section 401 certificate and a segment operated by it under this part, the carrier has the option of filing a tariff for through service or charging the sum of the applicable local rates, fares, or charges. If the carrier files a tariff for through service, it is not exempt from section 403 or section 404(b) of the Act for that air transportation.

§ 298.94 Joint fares and 90-day notice of service modifications, suspensions or terminations.

The 90-day notice requirement in section 37(c) of the Airline Deregulation Act of 1978, 49 U.S.C. 1482a, applies to a certificated carrier's operations under this part that are covered by an agreement to provide interline service. Failure to provide the required notice will disqualify those operations from participation in any Board-prescribed uniform method of establishing and dividing joint fares.

§ 298.95 Consumer protection.

(a) Except for tariff-filing requirements, the Board's rules on denied boarding compensation (Part 250 of this chapter), smoking aboard aircraft (Part 252), and baggage liability apply to a certificated carrier's operations under this part as if those operations were performed under the carrier's section 401 certificate.

(b) Section 298.30, *Public disclosure of policy on consumer protection,* does not apply to certificated carriers that operate under this part.

§ 298.96 Special reporting requirements relating to large aircraft.

The reporting requirements of § 298.32 do not apply to a certificated carrier's interests in, or operations with, aircraft that are used only in operations authorized by that carrier's section 401 certificate.

§ 298.97 Carriage of mail.

The limitations on the carriage of mail set out in § 298.35 apply to the carriage

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of mail by a certificated carrier only for its operations under this part.

§ 298.98 Use of name.

Names of certificated carriers that engage in operations under this part are governed by Part 215 of this chapter and not by § 298.36.

§ 298.99 Scope of filing and reporting requirements.

(a) The requirements of § 298.60, *Filing of flight schedules by commuter air carriers*, apply only to a certificated carrier's operations under this part.

(b) Reporting of a certificated carrier's scheduled operations is governed by Part 241 of this chapter, not by §§ 298.61 through 298.65 of this part.

8. The Table of Contents would be amended accordingly.

(Secs. 204 and 416 of Pub. L. 85–726, as amended, 72 Stat. 743, 771; 49 U.S.C. 1324, 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34374 Filed 11-3-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 300

[Procedural Regulation. Docket: 38905; PDR-73; Dated: October 29, 1980]

Rules of Conduct In Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its rules of conduct to include a civil penalty for violation of those rules. It is also amending the authority line for its rules of conduct to include sections of Title IV omitted from the original issuance. This rulemaking is at the Board's own initiative.

DATES: Comments by: January 5, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: November 14, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38905, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: The rules of conduct governing Board proceedings (14 CFR Part 300) are designed to prevent improper influence and unethical behavior in the conduct of Board activities. Section 300.20 provides that the Board can deny to a party the privilege of appearing before it, or, if it is in the public interest, can deny a proposal of a party before it after finding (following notice and hearing) that the party violated the provisions of Part 300. The section makes no reference to evil penalties.

Section 901, the civil penalty authority, applies only to violations of certain sections of the Act [1] and associated regulations, including Title IV but not Tile II. When Part 300 was issued, the Title IV sections that are the basic authority for almost all of the Board's activities were omitted, probably inadvertently, from the "authority line," the list of statutory provisions that authorize the issuance of the part. It is, therefore, not clear that the section 901 civil penalty extends to violations of Part 300. The Board, however, promulgated the rules of conduct to ensure the proper conduct of Board proceedings that are required by various sections of Title IV. For example, section 401(e)(7)(B) of the Act directs the Board to conduct an oral evidentiary hearing or alternate simplified procedures to consider an air carrier's application to modify the terms of its certificate; section 40(p) of the Act directs the Board to issue rules for processing applications for certification, including those governing oral evidentiary hearings. Our Part 300 rules of conduct are an integral part of those proceedings.

The § 300.20 penalties mentioned above may be insufficient to prevent or deter improper conduct. We believe that our remedies should not be so limited. In some cases, we may prefer to impose a civil penalty rather than deny the violator's proposal or prohibit the violator from practicing before the Board. We therefore are proposing to add section 901 civil penalties to the available sanctions. We also propose to amend the authority line of Part 300 to include the applicable Title IV sections, 401–419. This proposed amendment is not intended to affect the current § 300.20 penalties.

Accordingly, the Board proposes to amend Part 300, *Rules of conduct in Board proceedings*, as follows:

1. In § 300.20, a new paragraph (d) would be added to read:

§ 300.20 Violations.

* * * * *

(d) In the case of any violation of the provisions of this part, the violator may be subject to civil penalties under the provisions of section 901 of the Act. The violator may also be subject to a proceeding brought under sections 1002 and 1007 of the act before the Board or a U.S. district court to compel compliance with civil penalties which have been imposed.

Authority Citation [Amended]

2. The authority line would be amended to read as follows:

Authority: Secs. 204, 401–419, 901, 1001 and 1002 of Pub. L. 85–726, as amended; 72 Stat. 743, 754–771, 76 Stat. 145; 91 Stat. 1284, 92 Stat. 1732; 72 Stat. 783, and 788, (49 U.S.C. 1324, 1371–1389, 1471, 1481, and 1482.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34375 Filed 11-3-80; 8:45 am]

BILLING CODE 6320-01-M

[1] ". . . title III, IV, V, VI, VII or XII, or section 1114, of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition or limitation of any permit or certificate issued under title I, or any rule or regulation issued by the Postmaster General under this Act. . . ."

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Food and Drug Administration

21 CFR Part 161

[Docket No. 80N-0384]

Canned Sardines and Sardine-Type Products; Intent To Establish Standards

AGENCY: Food and Drug Administration.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) offers to interested persons an opportunity to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Canned Sardines and Sardine-type Procucts" and to comment on the desirability and need for U.S. standards of identity, quality, and/or fill of container for these foods. The Codex standard was submitted to the Unite States for consideration for acceptance. If the comments received do not support the need for U.S. standards for these foods, FDA will not propose standards.

DATE: Comments by January 5, 1981.

ADDRESS: Written comments, data, or other information to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for canned sardines and sardine-type products.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distrbuted freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard appropriately to incorporate the provisions within the U.S. standard. At present, there are no U.S. standards for canned sardines and sardine-type products.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on the need for, and desirability of, standards for these foods, on the specific provisions of the Codex standard and additional or different requirements that should be included in U.S. standards, if established, and on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments received do not support the need for U.S. standards for these foods, no U.S. standards will be preposed. If this decision is reached, the Codex Commission will be informed that an imported food which complies with requirements of the Codex standard may move freely in interstate commerce in this country it complies with applicable U.S. laws and regulations.

It should be recognized that due to the large number of countries, often with diverse food regulations, which are associated with Codex, certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminents, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act; rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, certain provisions of this Codex standard are potentially confusing to U.S. consumers. For example, Codex (6.1.1(i)) states for canned sardines and sardine-type products, the unqualified term "sardines" is reserved for product prepared from *Sardina pilchardus*. Product derived from other species (2.1(a)) must be labeled as "x sardines", where "x" is the name of the country, geographic area, species, or the common name of the species in the country in which the product is to be sold. FDA does not consider the unqualified term "sardines" to be limited to product prepared from *Sardina pilchardus*. The agency advised interested individuals that it would not take objection to a product prepared from *Clupea harengus, Sardina pilchardus, Sardinella aurita, Sardinella longiceps, Sardinops melanosticta, Sardininops sagax melanosticta)*, or *Sprattus sprattus* (*Clupea sprattus*) being labeled as "sardines" for sale in the U.S., provided the product is of the appropriate size and canned in the customary manner. Other species having established common or usual names in the U.S. must be designated by their common or usual names and may not be labeled as "x sardines", as provided for in Codex (6.1.1(ii)). For example, the species *Engraulis mordax* is recognized in the U.S. as "anchovy" or "Northern anchovy" and must be so labeled; it may not be labeled as "Northern sardine" or any other designation utilizing the term "sardine" as the name of the food.

Interested individuals should be advised that similar inconsistencies between U.S. policies and regulations and Codex provisions may be found in Codex sections 2.2.1, 3.3.2, 4, 6.4, 6.5, and 7.3.

Under 21 CFR 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

The Codex standard under consideration is as follows:

CAC/RS 94–1978

Recommended International Standard for Canned Sardines and Sardine-Type Products

1. *Scope.* This standard applies to canned sardines and sardine-type products packed in water or oil or other suitable packing medium. It does not apply to speciality products where the fish products constitute less than 50% m/m of the net contents of the can.

2. *Description.*

2.1 *Product Definition.* Canned sardines and sardine-type products are the products:

(a) Prepared from small fish. The following species shall be used: *Engraulis mordax, Sardinella fimbriata, Sardinella gibbosa, Sardinella longiceps, Sardinella sirm*, were approved for inclusion in this standard at the 13th Session of the Codex Alimentarius Commission (Rome, December 3–14, 1979). *Sardina pilchardus* (Walbaum); *Sardinops melanosticta, neopilchardus, ocellate, sagax or caerules; Sardinella aurita, anchovia, brasiliensis, or maderensis; Clupea harengus; Clupea antipodum, bassensis, or fuegensis; Sprattus sprattus (Clupea sprattus); Hyerlophus vittatus; Nematalosa vlaminghi; Etrumeus microps; Ethmidium maculatus; Engraulis anchoita; Engraulis ringens.*

The pack may contain a mixture of species of the same genus which have similar organeleptic qualities;

(b) Packed in water or oil or other suitable packing media in hermetically sealed containers;

(c) Processed by heat so as to prevent spoilage.

2.2 *Presentation.*

2.2.1 Forms of Packed Fish. The fish pre-cooked or not, smoked or unsmoked shall be neatly arranges within the can. At least 2 fish shall be contained in each can.

2.2.2 Forms of Packing Media. The product shall be presented in one of the following packing media with or without permitted optional ingredients.

2.2.2.1 Own juice.
2.2.2.2 Brine or water.
2.2.2.3 Edible oil.
2.2.2.4 Edible oil with own juice.
2.2.2.5 Sauce.
2.2.2.6 Marinades with or without wine.

2.2.3 Other Presentations. Any other presentation of the product shall be permitted provided that it:

(i) is sufficiently distinctive from other forms of presentation laid down in this standard;

(ii) meets all the other requirements of this standard;

(iii) is adequately described on the label to avoid confusing or misleading the consumer.

3. *Essential Composition and Quality Factors.*

3.1 *Raw Material.* The product shall be prepared from clean, wholesome and sound fish belonging to one of the species listed under sub-section 2.1(a). The raw material may be either fresh, frozen or smoked and shall be of a quality suitable for human consumption.

3.2 *Packing Media.* Own juice, brine, water *, edible oil with or without own juice, sauce, marinades with or without wine, other packing media, and optional ingredients in accordance with the requirements of 2.2.2. and 2.2.3. The packing medium used shall be suitable for human consumption.

3.3 *Optional Ingredients.*

3.3.1 Salt.

3.3.2 Natural starches.

3.3.3 Spices, herbs, vegetable seasonings, vinegar and wine; vegetables and fruits for decorative and flavouring purposes only. The ingredients shall be suitable for human consumption and shall be free from abnormal taste, flavour or odour.

3.4 *Processing.* Head and gills shall be completely removed; scales and/or tail may be removed.

The fish may be gutted. If gutted, it shall be practically free from visceral parts other than roe, milt or kidney. If ungutted, it shall be practically free from undigested feed or vent feed.

The fish shall be well washed.

The fish may be cooked or smoked and shall be well packed in accordance with the form of pack desired.

After sealing the containers shall be heat processed and cooled.

3.5 *Final Product.*

3.5.1 Appearance.

3.5.1.1 The product in a can shall comprise fish:

(i) reasonably uniform in size;

(ii) of an appearance and colour characteristic of the species proceesed and packed in the manner indicated (2.2.1);

(iii) neatly cut to remove the head;

(iv) without excessive ventral breaks (unsightly rupture of the ventral area), or breaks and cracks in the flesh.

3.5.1.2 The packing medium shall be of normal colour and consistency for the type.

3.5.1.3 The can shall be well filled with fish.

3.5.1.4 The final product shall be free from foreign matter.

3.5.2 Odour and Flavour. The product shall have an odour and flavour characteristic of the species and type of packing medium, and be free from objectionable odours and flavours of any kind.

3.5.3 Texture and Colour. The fish shall be reasonably firm, free from mushiness, with soft bones. The colour of the flesh shall be characteristic of the species and type of pack (3.5.1.1(ii)).

3.5.4 Defects and Tolerances. The product shall comply with the definition and essential quality factors as set forth in this standard, subject to tolerance allowances as defined and set out in Annex A.

4. *Food Additives.*

Additive	Maximum level in the final product
Thickening or jellifying agents (for use in packing medium only):	
Sodium carboxymethy cellulose (CMC); pectin; pectin (amidated);* modified starches; agar agar; carrageenan; guar gum; carob bean gum; alginic acids and its calcium, potasium and sodium salts; xanthan gum 10 g/kg.	20 g/kg singly or in combination in the packing medium.
Acidifying agents:	
Acetic acid, citric acid, lactic acid.	Limited by good manufacturing practices.
Natural flavours, e.g.:	
Spice oils, spice extracts	Limited by good manufacturing practices.
Smoke flavours (natural smoke solutions and their extracts).	Limited by good manufacturing practices.

* Temporarily endorsed.

5. Hygiene and Handling.

5.1 It is recommended that the products covered by the provisions of this standard be prepared and handled in accordance with the following Codes:

(i) the appropriate sections of the *Recommended International Code of Practice—General Principles of Food Hygiene* (CAC/RCP 1–1969).

(ii) the *Recommended International Code of Practice for Canned Fish* (CAC/RCP 10–1976).

(iii) the *Code of Practice for Smoked Fish* (under elaboration);

(iv) the *Code of Hygienic Practice for Low Acid Canned Foods* (under elaboration).

5.2 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

a. shall be free from micro-organisms capable of development under normal conditions of storage; and

b. shall not contain any substances originating from micro-organisms in amounts which may represent a hazard to health.

5.4 Products with an equilibrium pH above 4.6 shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum*, unless growth of surviving spores is permanently prevented by product characteristics other than pH.

6. *Labeling.* In addition to Sections 1, 2, 4 and 6 of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) the following specific provisions apply:

6.1 *Name of the Food.*

6.1.1 The name of the product shall be:

(i) "Sardines" (to be reserved exclusively for *Sardina pilchardus* (Walbaum)); or

(ii) "X sardines", where "X" is the name of a country, a geographic area, the species, or the common name of the species in accordance with the law and custom of the country in which the product is sold, and in a manner so as not to mislead the consumer.

6.1.2 The name of the packing medium used shall form part of the name of the food.

6.1.3 If the fish has been smoked or smoke flavoured, this information shall appear on the label in close proximity to the name.

6.1.4 Where in a product containing oil the exuded water exceeds 12%, the product shall be declared as "X processed in own juice with oil added" ("X" shall be the name of the food).

6.1.5 If the product is produced in accordance with subsection 2.2.3, the label shall contain in close proximity to the name of the food such additional words or phrases that will avoid misleading or confusing the consumer.

6.2 *List of Ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion; subsections 3.2 (b) and (c) of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) are applicable.

6.3 *Net Contents.*

6.3.1 The total net contents shall be declared by weight in either the metric system ("Système international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.3.2 The drained weight of the fish and/or the range of the number of fish in the can may be declared.

6.4 *Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of Origin.* The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6 *Lot Identification.* Each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot.

7. *Methods of Analysis and Sampling.* The methods of analysis and sampling described hereunder are international referee methods.[1]

7.1 *Sampling for Destructive Examination.* Sampling of lots for examination of the product shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL 6.5) CAC/RM 42–1969).

7.2 *Organoleptic Assessment.* Organoleptic assessment of the product shall be made only by persons trained in such assessment.

7.3 *Determination of Net Contents.* Compliance with net contents declaration shall be determined by averaging the results from all containers of a sample representing a lot.

Procedure. (1) Weigh the unopened container.

(2) Open the container and remove the contents, wash the container and cover and dry with absorbent paper or cloth.

(3) Weigh the empty container, including the top.

(4) Subtract the mass of the empty container from the mass of the unopened container. The resultant figure shall be considered to the net content.

8. *Classification of "Defectives".* A container which fails to meet the final product requirements specified in subsection 3.5 shall be considered a "defective".

9. *Lot Acceptance.* A lot will be considered as meeting the final product and weight requirements of this standard when the total number of "defectives" as classified according to Annex A, does not exceed the acceptance number (c) of the appropriate sampling plan in the *Sampling Plans for Prepackeaged Foods* (AQL–6.5) (CAC/RM 42–1969), and when the average net contents of all containers examined is not less than the declared weight provided there is no unreasonable shortage in individual containers.

Annex A.—Defects Table for Sardines and Sardine-Type Products

Definition of defect	Classification		
	Serious	Major	Minor
Removal of head: Head incompletely removed:			
(a) A can containing more than 10 fish:			
More than 20% of fish		2	
Up to 20% of fish			1
(b) A can containing 10 or fewer fish:			
More than 2 fish		2	
2 fish			1
Ventral breaks:			
More than 40% of fish in a can having ventral breaks of half the length or more of the abdominal cavity		4	
30–40% of fish in a can with ventral breaks		2	
Broken or cracked flesh:			
>45% of the fish with broken or cracked flesh greater than ½ the width of the fish at the point of occurrence		4	
>25–45%		2	
15–25%			1
Colour of packing oil:			
Very brown (except smoked products)		2	
Slightly brown (except smoked products) or cloudy			1
Odour and flavour:			
Distinctly objectionable odour and flavour (e.g. metallic, rancid)		6	
Texture:			
Excessively mushy flesh (i.e. if the fish does not retain its shape after draining on a screen)		6	
Excessively tough or fibrous flesh		4	
Hard bones (not easily friable using thumb and forefinger)			1
Discoloration:			
Severe		2	
Slight or localized			1
Exuded water (oil packs only): Water content (expressed as % of net contents of can:			
>10–12% (if above 12% Section 6.1.4 applies)		4	
>8–10%		2	

Annex A.—Defects Table for Sardines and Sardine-Type Products—Continued

Definition of defect	Classification		
	Serious	Major	Minor
Defective Unit: A can shall be considered a defective if it has: (a) More than 4 points for defects classified as Serious; or (b) More than 8 points (oil packs) or 6 points (other packs) for defects classified as Major; or (c) More than a total of 10 points (oil packs) or 8 points (other packs) for defects in the combined classifications (including Minor)			

Interested persons may, on or before January 5, 1981, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies) regarding this notice. Each comment should identify the title of the Codex standard and the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-34280 Filed 11-3-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 161

[Docket No. 80N–0385]

Frozen Lobsters, Rock Lobsters, Spiny Lobsters, and Slipper Lobsters; Intent To Establish Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) offers to interested persons an opportunity to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Quick Frozen Lobsters" and to comment on the desirability and need for a U.S. standard of identity and/or quality for these foods. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for U.S. standards for these foods, FDA will not propose standards.

DATE: Comments by January 5, 1981.

ADDRESS: Written comments, data, or other information to the Hearing Clerk (HFA–305), Food and Drug

* Portable water of properties in accordance with the requirements contained in the WHO "International Standards for Drinking Water".

[1] See last paragraph of the section of this publication entitled "Introduction".

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Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for frozen raw or cooked lobsters, rock lobsters, spiny lobsters, and slipper lobsters.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard appropriately to incorporate the provisions within the U.S. standard. At present, there are no U.S. standards for frozen lobsters, rock lobsters, spiny lobsters, or slipper lobsters.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on the need for, and desirability of, standards for these foods, on the specific provisions of the Codex standard and additional or different requirements that should be included in U.S. standards, if established, and on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments received do not support the need for U.S. standards for these foods, no U.S. standards will be proposed. If this decision is reached, the Codex Commission will be informed that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

It should be recognized that due to the large number of countries, often with diverse food regulations, which are associated with Codex, that certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act; rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, certain provisions of this Codex standard are potentially confusing to U.S. consumers. For example, Codex (6.1.1(i)) states that product derived from the genus *Homarus* shall be designated as "Lobsters." In 6.1.1(ii), Codex permits the use of the term "Crawfish" for species of the family *Palinuridae*. Furthermore, Codex (6.1.1(iii)) provides for the use of the terms "Slipper Lobster", "Bay Lobster", or "Sand Lobster" for product derived from species of the family *Scyllaridae*. Through long usage in this country, the unqualified term "Lobster" has become associated with a single species, namely *Homarus americanus* (sometimes referred to as "Maine lobster"). Therefore, contrary to the provisions of the Codex standard, other species of the genus *Homarus*, such as *Homarus gammarus* (*Homarus vulgaris*), would not be permitted to be marketed in the U.S. as "lobster", but must be designated by its common or usual name in this country. In the case of *Homarus gammarus*, the common or usual name in the U.S. would be "European lobster." Similarly, the unqualified term "Crawfish" is associated in the U.S. with certain freshwater crustaceans and, therefore, would not be permitted in the U.S. for labeling species of the marine family Palinuridae. With regard to the use of the terms "Bay Lobster" and "Sand Lobster", the agency does not have any information that these common names would be correctly associated with species of the family Scyllaridae by U.S. consumers. The common or usual name in the U.S. for species of this family is "Slipper Lobster", and in accordance with section 403(i)(1) of the act (21 U.S.C. 343(i)(1)), the product must be so designated on its label.

Interested individuals should be advised that similar inconsistencies between U.S. policies and regulations and Codex provisions may be found in Codex sections 6.2.2, 6.5, 6.6.1, and Annex A.

Under 21 CFR 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

The Codex standard under consideration is as follows:

CAC/RS 95–1978

Recommended International Standard for Quick Frozen Lobsters *

1. *Scope.* This standard applies to quick frozen raw or cooked lobsters, rock lobsters, spiny lobsters and slipper lobsters and to tails, and meat therefrom offered for direct consumption. It does not apply to specialty packs where the flesh of the lobsters, rock lobsters, spiny lobsters or slipper lobsters constitutes only a portion of the edible contents.

2. *Description.*

2.1 *Product Definition.*

2.1.1 Quick frozen lobsters, rock lobsters, spiny lobsters and slipper lobsters are obtained from the genus *Homarus* of the family Nephropidae and from the families Palinuridae and Scyllaridae.

2.1.2 Lobsters, rock lobsters, spiny lobsters and slipper lobsters of different varieties and products thereof shall not be packed together.

2.2 *Process Definition.*

2.2.1 The products can be: (i) "Raw"—not exposed to temperatures sufficiently high to coagulate the protein at the surface.

(ii) "Cooked"—heated for a period of time such that the thermal centre of the product reaches a temperature adequate to coagulate the protein.

2.2.2 The product, after any suitable preparation, shall be subjected to a freezing process and shall comply with the conditions laid down hereafter. The freezing process shall be carried out in appropriate equipment in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18°C (0°F) at the thermal centre after thermal stabilization. The product shall be maintained under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale.

The recognized practice of repacking quick frozen products under controlled conditions followed by the reapplication of the quick freezing process as defined is permitted.

2.2.3 The product shall be quick frozen either in mass or in individual units. If individually quick frozen, the units shall be packed in such a way as to maintain their individual separation until the time of final sale.

2.3 *Presentation.* The products shall be presented in one of the following forms:

2.3.1 Whole.

2.3.2 Whole, split with head on. Split into two approximately equal halves down the centre line of the back. Clean with viscera removed.

2.3.3 Tail shell on. Intestinal tract removed and the cavity clean.

2.3.4 Tail meat. Shell off, intestinal tract removed. Each piece comprising:

(a) The whole of the tail; or

(b) A piece obtained by dividing the meat in a tail longitudinally into two pieces; or

(c) A piece obtained by dividing the meat in a tail transversely into not more than four pieces.

2.3.5 Meat. The meat, without shell, of any part of the lobster, rock lobster, spiny lobster or slipper lobster.

2.3.6 *Other Presentation.* Any other presentation of the product shall be permitted provided that it: (i) is sufficiently distinctive from other forms of presentation laid down in this standard;

(ii) meets all the other requirements of this standard;

(iii) is adequately described on the label to avoid confusing or misleading the consumer.

3. *Essential Composition and Quality Factors.*

3.1 *Raw Material.* Quick frozen lobsters, rock lobsters, spiny lobsters and slipper lobsters shall be prepared from clean, sound lobsters of species of the designated families (2.1.1) which are alive immediately prior to the commencement of processing and of a quality suitable for human consumption.

3.2 *Optional Ingredients.* Water utilized either for glazing, cooking or for freezing may contain:

(a) Salt.

(b) Lemon Juice.

(c) Spices and Herbs.

3.3 *Final Product.*

3.3.1 Appearance.

—Easily separated without thawing when labelled as individually quick frozen.

—Colour generally uniform and characteristic of the species and habitat or areas from which harvested.

—In the case of the raw product, the flesh shall be white or pink as appropriate and translucent rather than opaque.

—In the case of the cooked product, the flesh shall be white or pink as appropriate with no translucence indicating undercooking.

—In the case of products in the shell, the shell shall be firm and unbroken as appropriate for the style of presentation.

—Tail meat and meat shall be practically free from shell, intestinal tract, viscera, blood or other extraneous material.

—All forms of presentation shall be free from foreign material and practically free from dehydration (freezer-burn), blackening or other abnormal discoloration.

3.3.2 Odour and Flavour. After thawing and, where applicable, cooking by steaming or boiling as set out in sub-section 7.5, the products shall have a good characteristic odour and flavour and shall be free from objectionable odours or flavours of any kind.

3.3.3 Texture. The meat of lobsters, rock lobsters, spiny lobsters and slipper lobsters shall be relatively firm and not mushy or gelatinous. Texture will be assessed only after thawing in accordance with the procedure as set out in sub-section 7.4 or where appropriate after cooking as set out in sub-section 7.5.

3.3.4 Glazing. The products may be glazed either individually or in bulk. When glazed the coating of ice shall cover the lobster so as to minimize dehydration and oxidation. The water used in glazing shall be of potable quality. Standards for potability shall be not less than those contained in the "International Standards for Drinking Water", World Health Organization (latest edition) or shall be clean sea water with the same microbiological standards as potable water and free from objectionable substances. Any ingredient or additive as listed in sub-section 3.2 and section 4 respectively used for glazing shall fulfill the hygienic requirements of section 5.

3.3.5 Defects and Tolerances. The products in the various forms of presentation shall comply with the definition and essential quality factors as set forth in this standard, subject to tolerance allowances as defined in Annex B and set out in Annex C–I to III.

4. *Food Additives.*

	Maximum level in the final product
Salts (drip-loss prevention): Triphosphate, pentasodium or pentapotassium or calcium (Na, K or Ca tripolyphosphates) singly or in combination.	5 g/kg expressed as P_2O_5
Polyphosphate, sodium (Na hexametaphosphate) singly or in combination.	Do.
Preservatives: Sulphite, bisulphite or metabisulphite, sodium or potassium for use in the raw product only, singly or in combination.	100 mg SO_2/kg raw product; or 30 mg SO_2/kg cooked product.
Antioxidants: Ascorbates, sodium or potassium salts.	0.1% m/m expressed as ascorbic acid.

5. *Hygiene.*

5.1 It is recommended that the products covered by the provisions of this standards be prepared and handled in accordance with the following Codes: (i) the appropriate sections of the *Recommended International Code of Practice—General Principles of Food Hygiene* (CAC/RCP 1–1969);

(ii) the *Recommended International Code of Practice for Frozen Fish* (CAC/RCP 16–1978);

(iii) the *Code of Practice for Lobsters* (under elaboration).

5.2 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the *raw* product:

a. Shall be free from micro-organisms in amounts which may represent a hazard to health;

b. Shall be free from parasites which may represent a hazard to health; and

c. Shall not contain any substances originating from micro-organisms in amounts which may represent a hazard to health.

5.4 When tested by appropriate methods of sampling and examination, the *heat treated* product:

a. Shall not contain any pathogenic micro-organisms; and

b. Shall not contain any substances originating from micro-organisms in

* The title of this Standard in French and Spanish reads: "Langoutes, homards et cigales de mer surgelés" "Langostas, bogavantes y escilaros congelados rápidaments".

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amounts which may represent a hazard to health.

6. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) the following specific provisions apply:

6.1 *Name of the Food*

6.1.1 The product shall be designated: (i) Lobster if derived from the genus *Homarus*;

(ii) Rock Lobster, Spiny Lobster or Crawfish if derived from species of the family Palinuridae;

(iii) Slipper Lobster or Bay Lobster or Sand Lobster if derived from species of the family Scyllaridae.

6.1.2 The form of presentation shall be declared as follows:

(i) *whole:* lobster, rock lobster, spiny lobster, crawfish, slipper lobster, bay lobster, sand lobster;

(ii) *whole, split with head on:* split lobster, split rock lobster, split spiny lobster, split crawfish, split slipper lobster, split bay lobster or split sand lobster;

(iii) *tail:* lobster tail, rock lobster tail, spiny lobster tail, crawfish tail, slipper lobster tail, bay lobster tail, or sand lobster tail;

(iv) *tail meat:* lobster tail meat, rock lobster tail meat, spiny lobster tail meat, crawfish tail meat, slipper lobster tail meat, bay lobster tail meat, or sand lobster tail meat. (If tail in one piece, product may be designated lobster tail meat (whole), rock lobster tail meat (whole), spiny lobster tail meat (whole), crawfish tail meat (whole), slipper lobster tail meat (whole), bay lobster tail meat (whole), or sand lobster tail meat (whole));

(v) *meat:* lobster meat, rock lobster meat, spiny lobster meat, crawfish meat, slipper lobster meat, bay lobster meat, or sand lobster meat.

6.1.3 If cooked the word "cooked" shall appear on the label.

6.1.4 (i) In addition there shall appear on the label the term "quick frozen" or "frozen", whichever is customarily used in the country of sale to describe a product subjected to the freezing process as defined in sub-section 2.2.2.

(ii) Lobsters, rock lobsters, spiny lobsters and slipper lobsters in any form of presentation may be individually quick frozen, and in such case the labeling may be "individually quick frozen" or "individually frozen".[1]

6.1.5 In addition to the specified labelling designations above, the usual or common trade names of the variety may be used as an alternative so long as it is not misleading to the consumer in the country in which the product will be distributed.

6.1.6 If the product is produced in accordance with subsection 2.3.6 the label shall contain in close proximity to the name of the food such additional words or phrases that will avoid misleading or confusing the consumer.

6.2 *Weight and Count.*

6.2.1 If the product is labelled according to weight, all lobsters or tails in the container so designated must be within the declared weight range subject to the tolerance provided in the Annex C–II (page 14).

6.2.2 The product may be labelled by count provided that the actual count is in accordance with the number declared.

6.3 *List of Ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion; subsections 3.2(b) and (c) of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) are applicable. When the product is glazed no specific label declaration shall be required unless the cooking and/or glazing water contains additives.

6.4 *Net Contents.*

6.4.1 The net contents shall be declared by weight in either the metric system ("Système international" units) or avoirdupois or both systems as required by the country in which the product is sold.

6.4.2 Where products have been glazed the declaration of net contents of the product shall be exclusive of the glaze.

6.5 *Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

6.6 *Country of Origin.*

6.6.1 The country of origin of the food shall be declared if its omission would mislead or deceive the consumer.

6.6.2 When the product undergoes further processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

6.7 *Lot Identification.* Each container shall be permanently marked in code or in clear to identify the producing factory and the lot.

7 *Methods of Sampling, Analysis and Examination.* The methods of sampling and analysis described hereunder are international referee methods.[2]

7.1 *Sampling for Destructive Examination* (to be endorsed by the Codex Committee on Methods of Analysis and Sampling).

Sampling of lots for examination of the product shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL–6.5) (CAC/RM 42–1969).

(i) The sample unit for examination of the deglazed products in forms of presentation 6.1.2 (i), (ii) and (iii) for tolerances for physical defects in accordance with Annex C shall be one whole lobster or lobster tail.

In the case of forms of presentation 6.1.2 (i), (ii) and (iii), the lot size (N) on which the number of sample units (n) and the acceptance number (c) will be based, will comprise the total number of units, whether whole lobsters or tails, or in the case of splits, half lobsters, and shall be arrived at by multiplying the total number of containers in the lot by the average number of units in each container.

The number of containers from which these sample units will be taken will be established in accordance with the Sampling Plan, and shall equate to the recommended sample size which would apply to the actual number of containers comprising the lot, had the container been regarded as the sample unit.

(ii) The sample unit size for examination of tail meat, or meat in forms of presentation 6.1.2 (iv) and (v) shall be 500 g (1 lb) of meat or tail meat.

7.2 *Sampling for Non-Destructive Physical Examination.* (To be endorsed by the Codex Committee on Methods of Analysis and Sampling).

This alternative method of sampling, analysis and examination may be applicable to forms of presentation 6.1.2 (ii) and (iii) where physical defects as outlined in Defect Table III of Annex C can be determined without the need to examine destructively by thawing the product. The sample unit shall be one split lobster or lobster tail.

Sampling of lots for examination of the product shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL–6.5) (CAC/RM 42–1969).

The lot size (N) will comprise the total number of units, whether splits or tails, and shall be arrived at by multiplying the total number of containers in the lot by the average number of units in each container. The number of sample units (n) and the acceptance number (c) will be derived from the Sampling Plan but will relate to the numbers given for the next higher lot size. The number of containers from which these sample units will be taken will be established in accordance with the Sampling Plan, and shall equate to the recommended sample size which would apply to the next higher lot size above the actual number of containers comprising the lot, had the container been regarded as the sample unit.

In addition, one sample unit (subsection 7.1(i) above) from each container shall be subject to destructive analysis as set out in Defect Table I of Annex C. Furthermore, any sample unit being subjected to non-destructive physical examination as set out in Defect Table III not classed as a defective but which scores more than 2 points for defects classified as serious, major or minor, singly or combined, shall be subject to destructive analysis as set out in Defect Table I of Annex C.

Sample units classed as defectives after either examination will be so classified in determining whether the lot meets the final product requirements of this standard.

7.3 *Determination of Net Contents of Products Covered by Glaze.* As soon as a package is removed from low temperature storage open immediately and place the contents under a gentle spray of cold water. Agitate carefully so that the product is not broken. Spray until all ice glaze that can be seen or felt is removed. Remove adhering water by the use of a paper towel and weigh the product in a tared pan.

Note: Storage of the product may cause or contribute to a low net weight (whether or not the product has been glazed).

7.4 *Thawing of Meat* (CAC/RM 40–1971). A sample is thawed by enclosing it in a film type bag and immersing in an agitated water bath held at approximately 20°C (68°F). The complete thawing of the product is determined by gently squeezing the bag occasionally, so as not to damage the texture of the product, until no hard core or ice crystals are felt.

7.5 *Cooking Procedures.*

7.5.1 Steaming—Steam the sample in a closed dish of an appropriate size over boiling water until the internal temperature of the product reaches 70°C (160°F). The dish should be covered and should be kept in a water bath at 60°C (140°F) during testing.

7.5.2 Boiling in Bag—Place the sample into a boilable film-type pouch and seal. Immerse the pouch and its contents into boiling water and cook until the internal temperature of the product reaches 70°C (160°F). Remove the boiled product from the pouch and drain.

7.6 *Examination of Physical Defects.* Subject to the provisions of sub-section 7.1 each sample unit shall be examined for physical defects set out in Annex C.

7.7 *Sensory Examination.* Sensory assessment shall be made only by trained persons and shall take place after the sample has been thawed in accordance with sub-section 7.4 or where applicable cooked in accordance with sub-section 7.5.

8. *Classification of Infectives.* A sample unit which fails to meet one or more of the following requirements shall be considered a "defective":

(a) The quality requirements for the final product subject to the tolerance for physical defects per sample unit as shown in Annex C.

(b) Appearance (sub-section 3.3.1).

(c) Odour and flavour (sub-section 3.3.2).

(d) Texture (sub-section 3.3.3).

9. *Lot Acceptance.* A lot will be considered as meeting the final product requirements of this standard when the total number of "defectives" does not exceed the acceptance number (c) of the appropriate Sampling Plan (AQL–6.5) in the Sampling Plans for Prepackaged Foods (CAC/Rm 42–1969) when the average net contents of all sample units examined are not less than the specified minimum, and when the size of the lobsters complies with the declared count.

Annex A

The traditional practice followed in several countries of designating *Nephrops norvegicus* as Norway lobster and similarly qualified names is recognized and nothing in the standard shall prevent this practice continuing provided due precautions are taken in the labelling of the product to ensure that the consumer in those countries will not be misled.

Annex B

Definitions of Defects of Lobsters

Damaged—broken telson, cuts or scars penetrating the shell, crushed or cracked shell.

Dehydration—exposed surface areas of meat which have a whitish appearance or dryness affecting texture or palatibility.

Abnormal colouration—colouration of meat or of the menbrane on the underside of the tail that deviates from the natural colour.

Soft shell—the shell is easily flexed by hand.

Opacity—the raw meat is not characteristically translucent.

Incomplete removal of intestines—any portion of intestine or content remaining.

Shell fragments—perceptible pieces of shell.

Annex C-I—*Defect Table I—Whole, Split, Tail-shell on Destructive Analysis*

[A sample unit is 1 whole lobster, 1 half lobster, or 1 lobster tail]

Defect	Serious	Major	Minor
Damaged:			
(i) Crushed		2	
(ii) Other than crushed			1
Dehydration:			
10–20% of exposed surface area		2	
>20% of exposed surface area	4		
Abnormal colour (area affected):			
(i) Whole lobsters ≤900 g (2 lb), or tail units ≤300 g (10):			
(a) 1–2.25 cm²		2	
(b) Over 2.25 cm²	6		
(ii) Whole lobsters over 900 g (2 lb), or tail unit over 300 g (10 oz):			
(a) 1–2.25 cm²			1
(b) 2.25–5 cm²		2	
(c) Over 5 cm²	6		
Soft shell		2	
Opacity		2	
Incomplete removal of intestine	4		
Texture (cooked state):			
(i) Tough or fibrous	4		
(ii) Mushy or gelatinous	6		
Objectionable odour—raw	4		
Objectionable odour/flavour—cooked	6		

A sample unit shall be considered a defective if it has:

(a) More than 4 points for defects classified as serious; or

(b) More than a total of 6 points for defects in the combined classifications of serious and major; or

(c) More than a total of 8 points for defects in the combined classifications including minor.

Annex C-II.—*Defect Table II—Tail Meat and Meat Destructive Analysis*

[A sample unit is 500 g of meat or tail meat]

Defect	Serious	Major	Minor
Dehydration—cooked and raw meat (percent affected by weight):			
10–20		2	
>20	4		
Abnormal colour of meat (percent affected by weight):			
(i) Light discolouration:			
10			1
>10		2	
(ii) Dark discolouration 10% or more	4		
Incomplete removal of intestine, blood, and viscera (percent affected by weight):			
Tail meat only 10		2	
Tail meat only >10	4		
Shell fragments and extraneous material (No. of pieces/sample unit):			
1 piece			1
2–3 pieces		2	
>3 pieces	4		
Opacity—raw tail meat only (percent affected by weight):			
5		2	
>5	4		
Texture—cooked meat only (percent affected by weight):			
(i) Tough or fibrous—10		2	
Tough or fibrous >10	4		
(ii) Mushy or gelatinous meat 8	4		
Mush or gelatinous meat >5	6		

[1] "Frozen": This term is used as an alternative to "quick frozen" in some English speaking countries.

[2] See last paragraph of the section of this publication entitled "Introduction".

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Annex C-II.—*Defect Table II—Tail Meat and Meat Destructive Analysis*—Continued

[A sample unit is 500 g of meat or tail meat]

Defect	Serious	Major	Minor
Objectionable odour—raw meat only		4	
Objectionable flavour or odour—cooked meat only		6	

A sample unit shall be considered a defective if it has:

(a) More than 4 points for defects classified as serious; or

(b) More than a total of 6 points for defects in the combined classifications of serious and major; or

(c) More than a total of 8 points for defects in the combined classifications including minor.

Tolerance for Uniformity—Applicable to Forms of presentation 2.3.1, 2.3.2 and 2.3.3.

The average weight of lobsters in a container determined by dividing total weight of lobster by number, must be within designated weight range. No more than 10% of lobster by number may be outside the designated size range.

Annex C-III.—*Defect Table III—Split, Tail-Shell on Non-Destructive Physical Analysis*

[A sample unit is 1 half lobster or 1 lobster tail]

Defect	Serious	Major	Minor
Damaged:			
(i) Crushed		2	
(ii) Other than crushed			1
Dehydration:			
10–20% of exposed surface area		2	
20% of exposed surface area		4	
Abnormal colour (area affected):			
(i) Split lobsters < 450 g (1 lb), or tail units < 300 g (10 oz):			
(a) 1–2.25 cm^2		2	
(b) Over 2.25 cm^2		6	
(ii) Split lobsters over 450 g (1 lb), or tail units over 300 g (10 oz):			
(a) 1–2.25 cm^2			1
(b) 2.25–5 cm^2		2	
(c) Over 5 cm^2		2	

Opacity:

A sample unit shall be considered a defective if it has:

(a) More than 4 points for defects classified as serious; or

(b) More than a total of 6 points for defects in the combined classifications of serious and major; or

(c) More than a total of 8 points for defects in the combined classifications including minor.

Interested persons may, on or before January 5, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies) regarding this notice. Each comment should identify the title of the Codex standard and the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–34281 Filed 11–3–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF STATE

22 CFR Part 11

[Docket No. SD–157]

Appointment of Foreign Service Officers

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the regulations on appointment of Foreign Service Officers.

The current regulations, published at 22 CFR Chapter I, Part 11 have become obsolete in several respects. Because the next written examination for Foreign Service Officer Career Candidates will be given on December 6, 1980, the public comment period will be limited to 25 days from the date of publication in the **Federal Register.**

DATE: Comments must be received on or before November 27, 1980.

ADDRESS: Send written comments to: Richard G. Johnson, Deputy Examiner, Board of Examiners, Office of Recruitment, Examination and Employment, Bureau of Personnel, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Richard G. Johnson, (202) 235–9230.

SUPPLEMENTARY INFORMATION: The proposed amendments relate primarily to the eligibility of candidates to take the oral examination, and to procedures for background investigation and medical examination of candidates who pass both the written and oral examinations.

22 CFR § 11.3(b) now provides that if a candidate's weighted average on the written examination is 70 or higher, the candidate will be eligible, and will be given an opportunity, to take the oral examination within a specified time. This provision is unduly rigid as to both passing score and entitlement to oral examination. The resources of the Department may be inadequate to provide oral examinations to all who achieve a passing score on the written examination, or the number of candidates passing the written examination may so far exceed the needs of the Foreign Service that it would be fruitless to offer all of them oral examinations. The proposed amendment would eliminate this rigidity. No decision has been made at this time whether any distinction will be made as between the written examination scores of minority and non-minority candidates in establishing eligibility for the oral examination or the assessment center (hereinafter referred to as the oral examination). The amendment, however, would permit this to be done if that decision is made after consideration of public comment and consultation with the organization representing Foreign Service employees of the Department.

22 CFR § 11.3(c)(4) now provides that a background investigation shall be conducted of candidates who have been recommended for appointment by an oral examination panel to determine loyalty to the United States and attachment to the principles of the Constitution. Under current practice, the investigation also considers a candidate's suitability for appointment to the Foreign Service. Investigation of all recommended candidates may not be feasible within available resources, and there may be more recommended candidates than are necessary to meet the needs of the Foreign Service. The proposed amendment would describe the investigation more accurately and make clear that not all recommended candidates will necessarily be investigated.

22 CFR § 11.4(a) now provides that any candidate recommended as a result of oral examination will be eligible for a physical examination. Since not all recommended candidates will necessarily be given physical examinations because of resource limitations and possible excess of candidates over openings, the proposed amendment would make clear that eligibility for medical examination (the current term) is based upon the needs of the Foreign Service

Finally, sections 206(a) and 301(b) of the Foreign Service Act of 1980, enacted October 17, 1980, restate the authority for these regulations as presently contained in sections 302 and 517 of the Foreign Service Act of 1946. These new provisions of law will provide the authority for these regulations from and after February 15, 1981. Since anyone who takes the Foreign Service written examination after the effective date of these regulations will be appointed under the new Foreign Service Act, these regulations provide notice of the appointment process that will be applicable on and after February 15, 1981.

Accordingly, it is hereby proposed, under the authority of sections 302 and 517 of the Foreign Service Act of 1946, as amended (22 USC § 842 and § 911), and section 4 of the Act of May 26, 1949 (22 USC § 2658), to amend 22 CFR Part 11 to read as follows:

PART 11—APPOINTMENT OF FOREIGN SERVICE OFFICER CAREER CANDIDATES

Sec.

11.1. Eligibility for appointment as Junior Foreign Service Office Career Candidate.
11.2. Written examination for appointment to class 6, 5 or 4.
11.3. Oral examination for appointment to class 6, 5 or 4.
11.4. Medical examination for appointment to class 6, 5 or 4.
11.5. Final review panel.
11.6. Certification for appointment to class 6, 5 or 4.
11.7. Termination of eligibility.
11.8. Travel expenses.
11.11. Mid-Level Foreign Service Officer Career Candidate Program. (To be supplied later.)
11.12. Senior Foreign Service. (To be supplied later.)

Authority: Foreign Service Act of 1946, as amended, § 302, § 517 (22 U.S.C. § 842, § 911); Act of May 26, 1949, 4 (22 U.S.C. § 2658).

Note.—Effective February 15, 1981, the above-cited sections of the Foreign Service Act of 1946 will be superseded by sections 206(a) and 301(b) of the Foreign Service Act of 1980.

§ 11.1 Eligibility for appointment as Junior Foreign Service Officer Career Candidate.

(a) *General considerations.* Junior Foreign Service Officer Career Candidates must be citizens of the United States, and must pass such written, oral, physical, foreign language and other examinations as the Secretary may prescribe. The fact that an applicant is a veteran or a disabled veteran shall be given affirmative consideration. Appointments shall be made in accordance with merit principles as defined in section 102(8) of the Foreign Service Act of 1980. Applicants shall be free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, in accordance with section 2302(b)(1) of Title 5, United States Code. An appointee must complete a trial period of service, not to exceed five years, in Career Candidate status, and be found by a Commissioning and Tenure Board established under section 306(b) of the Foreign Service Act of 1980 to have the requisite fitness and aptitude for the work of the Foreign Service before being given a career appointment. Career Foreign Service Officer appointments are conferred by the President, by and with the advice and consent of the Senate.

(b) *Entry levels.* At the time of initial appointment, a Junior Foreign Service Officer Career Candidate will be assigned by the Secretary to an appropriate salary class. Assignments will be to class 6, 5 or 4 of the Foreign Service Schedule prescribed pursuant to section 403 of the Foreign Service Act of 1980.

§ 11.2. Written examination for appointment to class 6, 5 or 4.

(a) *When and where given.* The written examination will be given at least annually in designated cities in the United States and at Foreign Service posts on dates established by the Board of Examiners and publicly announced.

(b) *Designation to take written examination.* Prior to each written examination, the Board of Examiners will establish a closing date for the receipt of applications for designation to take the examination. No person will be designated for the examination who has not, as of that closing date, filed an application with the Board. To be designated for the written examination, an applicant, as of the date of the examination, must be a citizen of the United States and at least 20 years of age.

(c) *Content.* The written examination is designed to permit the Board of Examiners to test the applicant's intelligence, breadth and quality of knowledge, and understanding.

(d) *Grading.* The several parts of the written examination are weighted in accordance with the criteria established by the Board of Examiners.

§ 11.3. Oral examination for appointment to class 6, 5, or 4.

(a) *When and where given.* The oral examination cycle will be held each year in Washington, D.C., and in selected cities in the United States.

(b) *Eligibility.* (1) *Through Written Examination:* If the candidates's weighted average on the written examination is at or exceeds the passing level set by the Board of Examiners on the basis of the needs of the Foreign Service, including Affirmative Action requirements, and the number of anticipated openings, the candidate will be eligible for selection for the oral examination. Candidates who are found by the Board of Examiners to be eligible for the oral examination will be notified of the period of time after the date of the written examination, as determined by the Board of Examiners, within which the oral examination must be conducted. That period will normally be 1 year but may be extended or shortened in special circumstances. The candidacy of anyone whose candidacy has not been extended, and who has not again passed the written examination in the meantime, will be terminated 2 years after the end of the month in which the written examination was held. Time spent outside the United States and its territories, for reasons acceptable to the Board of Examiners, will not be counted against this 2-year period. The candidacy of anyone for whom the 2-year period is extended because of being abroad will be terminated automatically if the candidate fails to appear for the oral examination within 3 months after first returning to the United States. If a candidate fails to appear for the oral examination on an agreed date within the period of eligibility, the candidacy will automatically terminate.

(2) *Through Affirmative Action:* Members of the minority and groups specified by the Equal Employment Opportunity act of 1972, as ameded, may be selected by the Board of Examiners for admission to the oral examination without having taken the written examination, in accordance with the Department's Affirmative Action Program. Such candidates must be at least 21 years of age and citizens of the United States and must have earned at least a bachelor's degree from an accredited college or university.

(c) *Examining Panel.* The oral examination will be given by a panel of deputy examiners approved by the Board of Examiners from a roster of Foreign Service Officers, officers from the Department of State, and other Government agencies, and qualified private citizens who by prior service as members of selection boards or through other appropriate activities have demonstrated special qualifications for this work. Service as deputy examiners shall be limited to a maximum of 5 years, unless a further period is specifically authorized by the Board. Examination panels shall be chaired by a career officer of the Foreign Service.

(d) *Purpose.* The oral examination will be designed to determine the candidate's competence to perform the work of a Foreign Service Officer at home and abroad, potential for growth in the Foreign Service, and suitability to serve as a representative of the United States abroad. Determinations of duly constituted panels of deputy examiners

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are final, unless modified by specific action of the Board of Examiners.

(e) *Grading.* Candidates appearing for the oral examination will graded numerically according to standards established by the Board of Examiners. These grades will be advisory to the Final Review Panel in determining the candidate's standing on the rank-order register of eligibles. The candidacy of anyone who fails the oral examination is automatically terminated and may not be considered again until the candidate has passed a new written examination. An Affirmative Action candidate who fails the oral examination may not be considered again until 1 year after that date.

(d) *Background Investigation.* On the basis of the combined written examination and oral examination scores and the needs of the Foreign Service, including Affirmative Action requirements and the number of anticipated openings, the Board of Examiners will establish which candidates who have passed the earlier phases of the examination process will be selected for background investigation. The background investigation shall be conducted to determine suitability for appointment to the Foreign Service.

§ 11.4. Medical examination for appointment to class 6, 5 or 4.

(a) On the basis of the combined written examination and oral examination scores and the needs of the Foreign Service, including Affirmative Action requirements and the number of anticipated openings, the Board of Examiners will establish which candidates who have passed the earlier phases of the examination process will be selected for medical examination.

(b) The medical examination is designed to determine the candidate's physical fitness to perform the duties of a Foreign Service Officer on a worldwide basis and, for candidates and dependents, to determine the presence of any physical, nervous, or mental condition of such a nature as to make it unlikely that they would be able to function on a worldwide basis.

(c) The medical examination will be conducted by medical officers of the Armed Forces, the Public Health Service, the Department, accredited colleges and universities, or by private physicians.

(d) The Deputy Assistant Secretary for Medical Services will determine, on the basis of the report of the physician(s) who conducted the medical examination, whether the candidate and the candidate's dependents have met the standards set forth in paragraph (b) of this section.

(e) An Employment Review Committee, established under the Department's Affirmative Action Program for the handicapped, will review the case of any candidate or dependent who has been denied medical clearance for appointment and determine by majority vote whether or not the candidate should be appointed despite the medical disqualification.

§ 11.5. Final review panel.

After the results of the medical examination and background investigation are received, the candidate's entire file will be reviewed by a Final Review Panel, consisting of two or more deputy examiners of the Board of Examiners. Candidates who have passed the oral examination, have passed their medical examination, and who, on the basis of background investigation have been found to be suitable to represent the United States abroad, will have their names placed on a rank-order register for the functional specialty or specialties for which they have qualified. The candidacy of any candidate who is determined by the Final Review Panel to be unqualified for appointment shall be terminated and the candidate so informed.

§ 11.6. Certification for appointment to class 6, 5, or 4.

(a) A candidate will not be certified as eligible for appointment as a Foreign Service Officer Career Candidate of class 6 unless the candidate is at least 21 years of age, and a citizen of the United States. A candidate may be certified as eligible for direct appointment to class 5 or class 4 if the Board of Examiners determines that, in addition to meeting these requirements, the candidate has particular experience and education which demonstrate special ability and skills for which there is a need in the Foreign Service. Recommended candidates who meet these requirements will be certified for appointment, in accordance with the needs of the Foreign Service, in the order of their standing on their respective registers.

(b) The Board of Examiners may maintain separate rank-order registers for Career Candidates in administrative, consular, economic, and political affairs of the Department of State, as well as for Information Officer Career Candidates of ICA, Commercial Officer Career Candidates of the Department of Commerce and Career Foreign Service Officer Candidates of other agencies of the Federal Government. Appointments from each register will be made according to the needs of the Foreign Service.

(c) Qualified minority candidates who apply under the Affirmative Action Program may be placed on a separate rank-order register and offered appointments from that register to meet Affirmative Action hiring goals established by the Secretary.

(d) Postponement of entrance on duty for required active military service, or required alternative service, civilian Government service abroad (to a maximum of 2 years of such civilian service), or Peace Corps volunteer service, will be authorized.

(e) A candidate may be certified for appointment to class 6, 5 or 4 without first having passed an examination in a foreign language, but the appointment will be subject to the condition that the newly-appointed Career Candidate may not receive more than one promotion unless, within a specified period of time, adequate proficiency in a foreign language is achieved.

§ 11.7. Termination of eligibility.

(a) Candidates who have qualified but have not been appointed because of lack of openings will be dropped from the rank-order register 18 months after the date of placement on the rank-order register.

(b) Time spent in required active military service, or required alternative service, civilian Government service abroad (to a maximum of 2 years of such civilian service) or Peace Corps volunteer service, will not be counted as part of the 18-month eligibility period.

(c) The Board of Examiners may extend the eligibility period when such extension is, in its judgment, justified in the interests of the Foreign Service.

§ 11.8. Travel expenses.

The travel and other personal expenses of candidates incurred in connection with the written and oral examinations will not be borne by the Government, except that the Department may issue round-trip invitational travel orders to bring candidates to Washington, D.C. at Government expense when it is determined that this is necessary in ascertaining a candidate's qualifications for appointment.

October 27, 1980.

Clint A. Lauderdale,

Deputy Assistant Secretary for Personnel.

[FR Doc. 80-34378 Filed 11-3-80; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army.

ACTION: Notice of proposed rule making.

SUMMARY: The Army proposes to amend the exemption rule for system of records A0201.08aDACS, entitled: Central Files, Office of the Chief of Staff (DACS-DAS), to delete the general exemptions claimed under the provisions 5 U.S.C. 552a(j)(2).

EFFECTIVE DATE: Comments must be received by December 4, 1980.

ADDRESS: Comments should be sent to Headquarters, Department of the Army, The Adjutant General's Office, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Christian; telephone: (area code 202) 693-0973.

SUPPLEMENTARY INFORMATION: This proposed exemption rule will replace the existing rule for system of records A0201.08aDACS. The exemption rules for the Army are contained in 32 CFR 505.9.

Accordingly, it is proposed to amend § 505.9(b) of Title 32 of the Code of Federal Regulations by revising the exemption for system A0201.08aDACS to read as follows:

§ 505.9 Exemption rules for Army systems of records.

* * * * *

(b) * * *

EXEMPTED RECORD SYSTEMS

(Specific Exemptions)

ID—A0201.08aDACS.

SYSNAME—Central Files, Office of the Chief of Staff (DACS-DAS).

EXEMPTION—Portions of this system of records which fall within 5 U.S.C. 552a(k) are exempted from the following provisions of Title 5 U.S.C. Section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), (7).

REASONS—This system contains documents pertaining to any function or subject which may require involvement of the Department of the Army. Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this file and, since the introduction of documents included are largely unregulatable, the specific portions or documents in the system which may require an exemption cannot be predetermined. Therefore, and to the extent that such material is necessary to be maintained, selected individual documents may be exempted from disclosure under any of the provisions of subsection (k)(1) through (7), Title 5 U.S.C. 552a.

* * * * *

October 29, 1980.

M. S. Healy,

OSD Federal Register Liaison Office, Washington, Headquarters Services, Department of Defense.

[FR Doc. 80-34328 Filed 11-3-80; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to Argentina

AGENCY: Postal Service.

ACTION: Proposed international express mail rates to Argentina.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to begin International Express Mail Service with Argentina at rates indicated in the tables below. The proposed rates are scheduled to become effective on January 1, 1981.

DATE: Comments must be received on or before December 4, 1980.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, U.S. Postal Service, Washington, DC 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in Room 5913, 475 L'Enfant Plaza West, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: George W. Screws (202) 245-5624.

SUPPLEMENTARY INFORMATION: Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed rates of postage for International Express Mail set out in the following tables (designated 8-18 and 8-19 for inclusion in Publication 42, International Mail, incorporated by reference, 39 CFR 10.1).

(39 U.S.C. 401, 403, 404(2), 407, 410(a) Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8231, Art. 6)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

BILLING CODE 7710-12-M

ARGENTINA

INTERNATIONAL EXPRESS MAIL

Table 8-18

CUSTOM DESIGNED SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$29.04	$29.09	$29.14	$29.24	$29.34	$29.44	$29.54
2	31.88	31.98	32.05	32.19	32.33	32.48	32.63
3	34.72	34.83	34.96	35.14	35.32	35.52	35.72
4	37.56	37.70	37.87	38.09	38.31	38.56	38.81
5	40.40	40.57	40.78	41.04	41.30	41.60	41.90
6	43.24	43.44	43.69	43.99	44.29	44.64	44.99
7	46.08	46.31	46.60	46.94	47.28	47.68	48.08
8	48.92	49.18	49.51	49.89	50.27	50.72	51.17
9	51.76	52.05	52.42	52.84	53.26	53.76	54.26
10	54.60	54.92	55.33	55.79	56.25	56.80	57.35
11	57.44	57.79	58.24	58.74	59.24	59.84	60.44
12	60.28	60.66	61.15	61.69	62.23	62.88	63.53
13	63.12	63.53	64.06	64.64	65.22	65.92	66.62
14	65.96	66.40	66.97	67.59	68.21	68.96	69.71
15	68.80	69.27	69.88	70.54	71.20	72.00	72.80
16	71.64	72.14	72.79	73.49	74.19	75.04	75.89
17	74.48	75.01	75.70	76.44	77.18	78.08	78.98
18	77.32	77.88	78.61	79.39	80.17	81.12	82.07
19	80.16	80.75	81.52	82.34	83.16	84.16	85.16
20	83.00	83.62	84.43	85.29	86.15	87.20	88.25
21	85.84	86.49	87.34	88.24	89.14	90.24	91.34
22	88.68	89.36	90.25	91.19	92.13	93.28	94.43
23	91.52	92.23	93.16	94.14	95.12	96.32	97.52
24	94.36	95.10	96.07	97.09	98.11	99.36	100.61
25	97.20	97.97	98.98	100.04	101.10	102.40	103.70
26	100.04	100.84	101.89	102.99	104.09	105.44	106.79
27	102.88	103.71	104.80	105.94	107.08	108.48	109.88
28	105.72	106.58	107.71	108.89	110.07	111.52	112.97
29	108.56	109.45	110.62	111.84	113.06	114.56	116.06
30	111.40	112.32	113.53	114.79	116.05	117.60	119.15
31	114.24	115.19	116.44	117.74	119.04	120.64	122.24
32	117.08	118.06	119.35	120.69	122.03	123.68	125.33
33	119.92	120.93	122.26	123.64	125.02	126.72	128.42

NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
2) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
3) If tendered at origin airport mail facility, deduct $3.00 from these rates.

[FR Doc. 34279 Filed 11-3-80; 8:45 am]
BILLING CODE 7710-12-C

Table 8-19

ON DEMAND SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$18.74	$18.79	$18.89	$18.94	$19.04	$19.14	$19.24
2	21.58	21.66	21.80	21.89	22.03	22.18	22.33
3	24.42	24.53	24.71	24.84	25.02	25.22	25.42
4	27.26	27.40	27.62	27.79	28.01	28.26	28.51
5	30.10	30.27	30.53	30.74	31.00	31.30	31.60
6	32.94	33.14	33.44	33.69	33.99	34.34	34.69
7	35.78	36.01	36.35	36.64	36.98	37.38	37.78
8	38.62	38.88	39.26	39.59	39.97	40.42	40.87
9	41.46	41.75	42.17	42.54	42.96	43.46	43.96
10	44.30	44.62	45.08	45.49	45.95	46.50	47.05
11	47.14	47.49	47.99	48.44	48.94	49.54	50.14
12	49.98	50.36	50.90	51.39	51.93	52.58	53.23
13	52.82	53.23	53.81	54.34	54.92	55.62	56.32
14	55.66	56.10	56.72	57.29	57.91	58.66	59.41
15	58.50	58.97	59.63	60.24	60.90	61.70	62.50
16	61.34	61.84	62.54	63.19	63.89	64.74	65.59
17	64.18	64.71	65.45	66.14	66.88	67.78	68.68
18	67.02	67.58	68.36	69.09	69.87	70.82	71.77
19	69.86	70.45	71.27	72.04	72.86	73.86	74.86
20	72.70	73.32	74.18	74.99	75.85	76.90	77.95
21	75.54	76.19	77.09	77.94	78.84	79.94	81.04
22	78.38	79.06	80.00	80.89	81.83	82.98	84.13
23	81.22	81.93	82.91	83.84	84.82	86.02	87.22
24	84.06	84.80	85.82	86.79	87.81	89.06	90.31
25	86.90	87.67	88.73	89.74	90.80	92.10	93.40
26	89.74	90.54	91.64	92.69	93.79	95.14	96.49
27	92.58	93.41	94.55	95.64	96.78	98.18	99.58
28	95.42	96.28	97.46	98.59	99.77	101.22	102.67
29	98.26	99.15	100.37	101.54	102.76	104.26	105.76
30	101.10	102.02	103.28	104.49	105.75	107.30	108.85
31	103.94	104.89	106.19	107.44	108.74	110.34	111.94
32	106.78	107.76	109.10	110.39	111.73	113.38	115.03
33	109.62	110.63	112.01	113.34	114.72	116.42	118.12

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRC 1649-8]

Approval and Promulgation of State Implementation Plans: Nebraska

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability and Advance Notice of Rulemaking.

SUMMARY: The State of Nebraska submitted State Implementation Plan (SIP) revisions for the Omaha carbon monoxide (CO), and Douglas, Cass and Sarpy County total suspended particulate (TSP) nonattainment areas, as required by the Clean Air Act Amendments of 1977, on September 25, 1980. Interested persons are invited to examine the Nebraska SIP revisions and submit comments. Comments are also solicited on what EPA's final action should be.

EPA's proposed action on the submitted SIP revisions will appear in a Notice of Proposed Rulemaking, to be published at a later date.

DATES: The period for receiving comments on the state's submittal and what EPAs final action should be will extend from this date of publication until 30 days after publication of the proposed rulemaking.

ADDRESSES: Comments should be addressed to Eloise Reed, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

The Nebraska submittals may be examined during normal business hours at the above address and also at the following locations:

Environmental Protection Agency, Public Information and Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509

Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln, Nebraska 68502

Permits and Inspection Division, Housing and Community Development Department, 1819 Farnam, Room 402, Omaha, Nebraska 68102

Lincoln-Lancaster County Planning Commission, 55 South Tenth Street, Lincoln, Nebraska 68508

Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68106

FOR FURTHER INFORMATION CONTACT: Eloise Reed, (816) 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION: The SIP revisions were submmitted, as required by Section 172 of the Clean Air Act Amendments of 1977, to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which are currently nonattainment.

This notice supersedes the Notice of Availability on the original final SIP submission for Omaha CO which was published on August 15, 1979, (44 FR 47777). No comments were received. A withdrawal notice appears separately in the **Federal Register.** The Omaha CO plan was originally submitted on May 8, 1979, and supplemented with a schedule for further plan develoment and air quality dispersion modeling on July 9, 1979. On September 20, 1979, Governor Charles Thone informed EPA that the plan was being revised further and requested that EPA take no formal action on the original plan. The purpose of this notice is to announce that the revisions have been formally submitted and are available for public inspection. The public is encouraged to make written comments. A description of the revisions and the proposed EPA action on the revisions will appear in the **Federal Register** as a notice of proposed rulemaking at a later date.

Dated: October 22, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-34332 Filed 11-3-80; 8:45 am]

BILLING CODE 6560-38-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 358 (Sub-No. 1)]

Change of Policy, Railroad Contract Rates; Standards and Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed standards and termination of proceeding.

SUMMARY: On April 29, 1980 the Commission published for public comment (see 49 FR 28381) proposed standards and procedures for rail contract rates. Because recent legislation has rendered such standards unnecessary, they are being withdrawn and this proceeding is being terminated.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard Felder or Jane Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 358F, *Change of Policy, Railroad Contract Rates* (not printed), served November 9, 1978, and in a decision on reconsideration printed at 361 I.C.C. 205 (1979), the Commission adopted a policy of encouraging contract rates by rail carriers and shippers in appropriate circumstances. These decisions made clear that rail contract rates were not considered illegal *per se,* contrary to *dicta* in earlier proceedings.

By notice published in the **Federal Register** on April 29, 1980 the Commission invited comments on major contract rate issues. However, the Staggers Rail Act of 1980 provides for the filing of contract rates and provides appropriate guidelines. The legislation obviates the need for resolution of many of the issues raised in the notice. Accordingly, it is terminated and the request for comments published at 49 FR 28381 is withdrawn. The contract rates portion of the Act, Section 208, resolves many of the questions which have arisen concerning the filing of contracts. The Commission's rules at 49 C.F.R. §§ 1039.1–1039.4 concerning contract rates will be modified by separate notice.

This is not a significant action adversely affecting the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10321 and 10713, 5 U.S.C. 553)

Decided: October 23, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34321 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1109

[Ex Parte No. 324 (Sub-1)]

Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak-Period Demand for Rail Service

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Commission withdraws its earlier notice of proposed rulemaking at 45 Fed. Reg. 11142 (1980), which proposed changes in the Commission's rules at 49 C.F.R. 1109.10, which established standards and expenditious procedures designed to promote demand-sensitive railroad rates. The

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proposed rules encouraged demand-sensitive rates to be filed. The Staggers Rail Act of 1980 has repealed the requirements for these regulations.

EFFECTIVE DATE: The earlier notice of proposed rulemaking is withdrawn effective November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The commission was formerly required by 49 U.S.C. 10727 to maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for rail transportation. In response to this statutory mandate, the Commission adopted regulations at 49 CFR 1109.10 containing standards and expeditious procedures for establishing railroad rates based on seasonal, regional, or peak-period demand for rail service. However, these regulations did not encourage demand-sensitive rates to be filed. In recognition of that problem, the Commission issued a notice of proposed rulemaking at 45 Fed. Reg. 11142 (1980). The notice proposed several changes in the regulations at 49 CFR 1109.10.

Section 209 of the Staggers Rail Act of 1980 has recently repealed 49 U.S.C. 10727.

In response to Congress's repeal of the Commission's statutory mandate to maintain standards and procedures for demand-sensitive rates, the Commission now withdraws the earlier notice of proposed rulemaking which proposed changes in the regulations establishing these standards and procedures. The Commission is repealing the regulations themselves in a separate notice.

The notice of proposed rulemaking published at 45 Fed. Reg. 1142 (1980) is withdrawn effective November 4, 1980.

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: Section 209, Staggers Rail Act of 1980.

Decided: October 23, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34320 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1109

[Ex Parte No. 327 (Sub-No. 1)]

Capital Incentive Rate Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Commission withdraws its earlier revised notice of proposed rulemaking at 44 FR 48732 (1979), which proposed changes in the Commission's rules at 49 CFR 1109.20, which established requirements and special procedures relating to railroad rate incentives for capital investment. The withdrawal is due to a repeal of the statutory requirement for these rules.

EFFECTIVE DATE: The earlier revised notice of proposed rulemaking is withdrawn effective on November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 175–7656.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Act at 49 U.S.C. 10729 formerly provided special conditions under which a railroad could establish a rate, classification, rule, or practice requiring a total capital investment of at least $1,000,000. Those conditions were designed to encourage the filing of such rates and to provide an incentive for capital investment. In response to that provision of the Interstate Commerce Act, the Commission adopted regulations at 49 CFR 1109.20 containing requirements and special procedures governing the filing and implementation of capital incentive rates.

The Commission later proposed extensive changes in the regulations at 49 CFR 1109.20. The changes were proposed in a revised notice of proposed rulemaking at 44 FR 48732 (1979).

Section 210(a) of the Staggers Rail Act of 1980 has recently repealed 49 U.S.C. 10729.

Section 210(b) of that Act provides for a phaseout of capital incentive rates established prior to October 1, 1980 under 49 U.S.C. 10729.

In response to Congress repeal of 49 U.S.C. 10729, the Commission now withdraws the earlier revised notice of proposed changes in the regulations establishing requirements and special procedures relating to capital incentive rates under 49 U.S.C. 10729. The Commission is repealing the regulations themselves in a separate notice.

The revised notice of proposed rulemaking published at 44 FR 48732 (1979) is withdrawn effective on November 4, 1980.

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

(Sec. 210 of the Staggers Rail Act of 1980)

Decided: October 23, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34290 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1128

[Ex Parte No. 395]

Feeder Railroad Development Program

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with the provisions of Section 401 of the Staggers Rail Act of 1980, Pub. L. No. 96–448, October 14, 1980 (Rail Act), the Interstate Commerce Commission (Commission) is issuing these proposed regulations to establish guidelines concerning the implementation of the feeder railroad development program. This program requires railroads to sell certain rail lines under specific circumstances to a financially responsible person who applies for the acquisition of these lines. The purpose of this program is to provide shipper groups and communities with an alternative to inadequate rail service or abandonment and with an opportunity to preserve feeder lines prior to the total downgrading of such lines.

DATES: Comments on the proposed rules are due December 4, 1980. No extensions of time will be granted since the Act requires that regulations and procedures be promulgated within 60 days.

ADDRESS: An original and 15 copies of comments should be submitted to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard J. Schiefelbein, (202) 275–0826 or Ellen Hanson, (202) 275–7245.

SUPPLEMENTARY INFORMATION: These proposed rules establish procedures under which a financially responsible person may apply to the Commission to acquire certain rail lines pursuant to the requirements of section 401 of the Staggers Rail Act of 1980. This provision is restricted until October 1983 to lines that carried less than three million gross tons per mile the past year. The rules provide that when the Commission finds that either the public convenience and necessity permit or require the sale of the rail line, or the line appeared in Category 1 or 2 of a carrier's System Diagram Map, the Commission will require the owning railroad to sell that line to a financially responsible applicant for not less than the greater of its net liquidation value or its going concern value. However, this selling price may not include the costs of employee protective arrangements which will be borne by the selling carrier. Additionally, the Commission shall, at the request of the acquiring party, and subject to payment of reasonable compensation, require the selling carrier to provide trackage rights to the acquiring party to allow reasonable interchange, or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring party. For certain lighter density lines, the Commission will also, upon petition of the acquiring carrier, require the establishment of reasonable joint rates and divisions between the parties. While the Commission must require the selling carrier to protect the interests of employees, the acquiring party will be required to use, to the maximum extent practicable, the employees who normally worked on the line. The acquiring carrier may elect to be exempt from any of the provisions of Title 49 of the U.S. Code, except with respect to joint rates, but may not seek further exemptions once the sale has been ordered by the Commission. Further, this exemption election shall apply to any line abandoned during the 18 months prior to October 1, 1980 and subsequently acquired. If the purchasing carrier proposes to sell or abandon the line in the future, the original selling carrier shall have the right of first refusal to purchase the line. The owner of the acquired line may determine preconditions, such as subsidy payments, which the shippers must meet in order to obtain service. No additional preconditions to service may be imposed after the sale.

In accordance with the provisions of Section 401 of the Staggers Rail Act of 1980, Pub. L. No. 96–448, October 14, 1980 (Rail Act), the Interstate Commerce Commission (Commission) is issuing these proposed regulations to establish guidelines concerning the implementation of the feeder railroad development program. This program requires railroads to sell certain rail lines under specific circumstances to a financially responsible person who applies for the acquisition of these lines. The program covers: (1) any line of railroad for which the applicant can demonstrate that the special public convenience and necessity standards contained in section 401 permit or require the sale; or (2) any line of railroad that appears in category 1 or 2 of the carrier's System Diagram Map as potentially subject to abandonment but for which the carrier has not filed an application to abandon. For the first three years after the effective date of the Rail Act, however, the program is limited to those lines carrying less than 3 million gross ton miles of traffic per mile in the preceding calendar year. The purpose of this program is to provide shipper groups and communities with an alternative to inadequate rail service or abandonment and with an opportunity to preserve feeder lines prior to the total downgrading of such lines.

Notice

The financially responsible person proposing to acquire the railroad shall, at least 90 days prior to filing an application to acquire, notify the Commission, the Designated State Agency in the state(s) in which the line is located, the owning railroad, and the significant users of the line, of its intent to file an application. The term "significant users" means the 10 largest rail shippers on the line and any other rail users who shipped 50 or more carloads during the 12-month period preceding the notice. The notice must identify the applicant, summarize the essential terms to be contained in the application, state the reasons for proposing to acquire the line, and contain preliminary evidence of the financial responsibility of the applicant. The essential terms summary must include an estimate of the net liquidation value of the properties, including any appraisals. The applicant also must indicate that it is prepared to offer at least this amount to the owning railroad. The notice shall also state that interested parties may submit comments or recommendations to the Commission with respect to the notice and application, and further, that other interested and financially responsible parties may also propose to acquire the line. Finally, service of the notice shall be made by certified mail to the Commission, Designated State Agency, owning railroad, and significant users on the line, posted in each station on the line, and published in a local newspaper for 3 weeks. An affidavit must be filed with the notice certifying compliance with these notice procedures. The Commission will publish a summary of this notice in the **Federal Register**.

During the 90-day period between the notice and the application, the potential applicant and the carrier are required to meet and commence negotiations to acquire the subject property. It is the Commission's intention that both parties use this period to settle as many issues as possible between them, including willingness of the railroad to sell and the terms of the sale, or to reach any other resolution of the problems leading to the applicant's desire to purchase the line.

The notice period is also intended to alert potential participants to the proceeding about issues such as the quality of service on the line. This process assures that affected persons other than the one(s) seeking to buy the line are alerted to a possible change in the status of the line and have a voice in its disposition.

Finally, we anticipate that this program may affect the railroad's policy concerning how and when it places a line on its System Diagram Map. If a line is in category 1 or 2 on the map, but no application to abandon it has been filed, the Commission must require the railroad to sell the line to any financially responsible person wishing to buy it. We note that only a line that falls into categories 1 or 2 qualifies as a line placed on the System Diagram Map for purposes of this program. The Rail Act provides for this limitation by defining an eligible line as one which "has been placed on a system diagram map as required under section 10904 of this title". Section 10904 requires that a System Diagram Map include (1) a detailed descriptioin of those lines which are potentially subject to abandonment and (2) identification of those lines for which a carrier intends to file an abandonment application. Categories 1 and 2 are inclusive of these lines; lines for which a railroad intends to file an abandonment application fall under caterory 2. In addition, the Rail Act specifically excludes lines for which a railroad has filed an application to abandon. These lines fall under categories 3 and 4 of the railroad's System Diagram Map and accordingly are excluded.

Application

An application for acquisition of a railroad line shall include the name and address of the applicant and the proposed operator; the names and addresses of applicant's officers and directors; a list of any affiliations it has with a rail carrier; and information sufficient to establish applicant's financial responsibility. The application must also set out: the duration of proposed operation of the line; the transportation service to be provided, including a description of the line and all interline connections; the extent of applicant's and operator's liability insurance; and any precondition that shippers must meet to receive service.

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No further preconditions on service may be imposed after the sale has been ordered without Commission approval, since parties to the proceeding may well have relied on the application in this regard in deciding what position to take.

The name and address of any person who will subsidize the operation must also be included. Information demonstrating the applicant's financial responsibility must substantiate that the applicant is capable of paying the Constitutional minimum value of the line. Therefore, not only must the applicant demonstrate an ability to pay the net liquidation value (NLV) of the line, but evidence must also be presented estimating the going concern value of the line and proving applicant's ability to pay that amount if necessary. This may be documented by income statements, balance sheets, and any other supporting information. The second criterion for proving financial responsibility is for the applicant to be able to assure that adequate transportation will be provided over the line for not less than a 3-year period, as required by the Act. Thus, an operating plan must be submitted that demonstrates the applicant's ability to meet this requirement. In addition, the applicant must demonstrate an ability to cover anticipated expenses associated with the operation of the line for the first three years of the line's proposed operation. Such expenses include, but are not limited to, operating costs, rents, and taxes. The application must also show that the applicant has attempted to negotiate the purchase of the line with the owning railroad, and the results of those negotiations. The applicant must also summarize the essential terms of its proposed offer to acquire, which shall include assurance that the Constitutional minimum value will be paid.

In addition, the applicant must indicate whether the line is in category 1 or 2 of the System Diagram Map (in which case a copy of the relevant portion of the map must be attached), or whether it will ask the Commission to find that the public convenience and necessity (PC&N) permit or require the sale of the line. If a finding of PC&N will be sought, the applicant must submit sufficient documentation and evidence to permit the Commission to make the following determinations:

(1) The rail carrier operating the line refused within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line;

(2) The transportation over the line is inadequate for the majority of shippers who transport traffic over the line;

(3) The sale of the line will not have a significantly adverse financial effect on the rail carrier operating the line;

(4) The sale of the line will not have an adverse effect on the overall operational performance of the rail carrier operating the line; and

(5) The sale of the line will be likely to result in improved railroad transportation for shippers who transport traffic over the line.

We will also require applications to contain all the relief the applicant seeks from the Commission. Therefore, an application must contain, where desired, a request for trackage rights over the owning railroad that the acquiring party needs to allow reasonable interchange or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring party. The application must also request any joint rates or divisions the Commission needs to establish. The regulations further require the application to indicate the extent to which the applicant will utilize the employees who normally perform the work associated with the line.

Finally, since the Rail Act permits the applicant to elect to exempt itself from any rail regulations (except those governing joint rates), the application must state from which provisions of Title 49, United States Code, applicant contemplates electing exemption. If a railroad line was abandoned between April 1, 1979 and October 1, 1980, and is subsequently acquired by a financially responsible person, that person may also elect an exemption from any rail regulations, other than those governing joint rates.[1] In either case, the regulations state that the acquiring party may not, subsequent to acquisition, elect exemptions not contained in the application, since parties to the proceeding may well have relied on the application in this regrd in deciding their position.

It must be emphasized that the Rail Act clearly states that "the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line." Therefore, the procedures established in these rules will permit the railroad, at its discretion, to respond to the evidence submitted by the applicant, but do not require the railroad to do so. Additionally, the regulations permit the applicant to make use of the Commission's discovery procedures for data or information essential to the applicant's case and exclusively in the carrier's control. (The Commission's procedures for discovery are set out in its General Rules of Practice, 49 CFR 1100.55). We recognize that applicant's burden is a difficult one. That is one reason why we provide a 90-day negotiating period, and we hope that this time will be used by both parties to settle many or all of the issues. If the parties cannot agree, or the railroad will not voluntarily sell the line, then we believe it fair and appropriate to impose such a burden on the applicant. We, of course, seek comment on this matter.

Additionally, the Commission reserves jurisdiction to issue a show cause order as to why the application should not be summarily dismissed if it believes the application constitutes harassment of the carrier. While we would expect to use this power sparingly, some circumstances may suggest a pattern of litigation that clearly constitutes harassment. Carriers should not be forced to bear the expense of defending themselves against such actions. Finally, if more than one application is filed to acquire the same properties, the Commission reserves the right to consolidate the conflicting applications, and render a single decision.

ICC Finding and Order

The procedures followed to arrive at the Commission's findings will vary depending on the circumstances reflected by the application. A simplified procedure will be followed when the applicant demonstrates that the line was placed in ctegory 1 or 2 of the System Diagram Map and that it carried less than 3 million gross ton miles of traffic per mile in the preceding calendar year. The Commission's determination will rest on verifying that: (1) the line is in category 1 or 2 of the railroad's System Diagram Map; (2) its volume in the preceding calendar year was less than 3 MGTM per mile; (3) it has not been filed for abandonment; and (4) the applicant is a financially responsible person. The Commission will accept or reject the application (with respect to its completeness), in 15 days. Comments on such matters as applicant's financial responsibility or the amount of traffic carried on the line shall be submitted within 30 days. Replies shall be filed within 30 days. Competing applications, which must comply with the same information

[1] This provision affects the exemption granted in Finance Docket No. 28990, *Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions*, 363 I.C.C. 132 (1980). There, we exempted the operators of rail lines that had been abandoned (or approved for abandonment) and acquired by a State, from the statutory and regulatory requirements regarding start up and termination of operations. We will issue a separate notice explaining the impact of the Rail Act on that proceeding.

requirements as are imposed on the initial applicant, shall be filed within 30 days.

On the other hand, if the applicant seeks to acquire the line based on an assertion that PC&N require or permit the sale, the Commission will accept or reject the application for completeness within 30 days, and will conduct a hearing in order to substantiate, on the record, the facts in the case. The Commission believes that the hearing requirement of the statute may be satisfied by conducting either an oral or a "written hearing" (modified procedure). The proposed and interim rules reflect this flexibility. In order for the Commission to make a finding of PC&N, it must find first that each of the five statutory criteria have been proven. This burden of proof rests with the applicant.

Parties wishing to comment on the application must file a verified statement within 60 days after the application is filed. These verified statements must be served on the applicant, the railroad, the Commission, and any other parties of record. Verified replies to these statements must be filed no later than 75 days after the application date (that is, within 15 days of the close of the 60-day period for verified statements). After considering all the evidence, the Commission will either determine whether the applicant has successfully carried the burden of proving PC&N or, in the event that the statements do not contain sufficient evidence to allow a decision on the merits, set the proceeding for further oral or written hearing. If the Commission finds that PC&N require or permit the sale, or that the line fits the System Diagram Map requirements set out above, the Commission will order the line to be sold upon payment of the Constitutional minimum value. The Commission's order will also set forth the selling railroad's obligations regarding employee protection, and the purchaser's obligations concerning use of employees who would normally perform work associated with the line. The order will also contain decisions on any trackage rights, or related applications, including reasonable compensation, and on joint rates and divisions. The order will also reflect any preconditions that shippers must meet in order to be served by the acquiring carrier. If the Commission sets joint rates or division, we will follow the policy of setting such rates and divisions (as between the acquiring party and the owning railroad) at a level not lower than the level described in section 202 of the Rail Act that limits the Commission's jurisdiction to rates above certain cost/price ratios.

Whichever course is pursued—proof of PC&N or evidence that the line is on the System Diagram Map—the Commission may be asked to set the Constitutional minimum value of the line, which will be its selling price. This issue is discussed below.

Constitutional Minimum Value

The only guidance offered the Commisssion by the statute with respect to the purchase price of the line is that the price must be "not less than the Constitutional minimum value." The statute further says that that minimum value is presumed to be "not less than the net liquidation value [NLV] of such line or the going concern value [GCV] of such line whichever is greater." We invite comments on what methodology, if any, should be used to determine NLV and GCV, or whether parties should be free to submit whatever information they think persuasive in that regard.

As we have set up these regulations, we envision two different litigation paths by which the Commission may be required to set the selling price. If the line to be acquired has been placed on the carrier's System Diagram Map, then the only issue remaining is that of the selling price. If the parties cannot agree on the price, they may ask the Commission to set the price. If the line is not in category 1 or 2 on the System Diagram Map, then the acquiring party must bear the burden of proving that PC&N permit or require the sale. If the acquiring party successfully carries that burden, then the issue of the selling price again arises. Under this scenario, it is likely the Commission will be asked to set the price. We propose to fulfill this responsiblity in exactly the same way no matter which of the two paths is followed.

Specifically, we propose offering the parties a choice between two methods. As one option, either party may attempt to prove the net liquidation and going concern values of the line. The second option is for both parties to select "final offer arbitration." Each process is decribed below.

If the acquiring party chooses the route of proving the Constitutional minimum value, it must persuade the Commission of the accuracy and reliability of its data. The railroad may, but is not under the rules required to, reply to the assertions in this regard made by the applicant. However, the railroad would be required to respond to valid discovery requests designed to elicit information crucial to the applicant's case and not otherwise available to the applicant. We understand that this is a difficult burden for the applicant, but under the circustances we think it an appropriate one. Given the possiblity that this process may lead to the railroad being forced to sell a line it does not wish to sell, and given the further fact that the acquiring party has an option to pick the arbitration method instead, we think this difficult burden is fair. At the conclusion of the hearing process, the Commission's decision will, based on the evidence of record, set the Constitutional minimum value of the line and condition the sale on applicant's willingness and ability to pay that amount.

The other option—final offer arbitration—as we envision using it here, would, if selected, be binding on both parties. That means that the sale price selected by the Commission under the arbitration process must be accepted by both parties and, further, that the sale must be consummated at that price, unless both parties agree that the application should be withdrawn. The prospective buyer may not, without the consent of the owning railraod, back out of the process at this stage if the price set is higher than he hoped.

Before selecting the arbitration route, each party will be required to give the other a signed final offer. Only after the parties thus know the boundaries of the risk they assume by selecting binding arbitration do our rules require them to select arbitration or assume the burden of proving the Constitutional minimum value. Again, once the arbitration route is selected, the parties must consummate the sale at the amount picked by the Commission (who will act as the arbitrator). We think this is fair, given that unde the arbitration process both parties will know in advance of selecting the arbitration path what the other's final offer will be, and again, given that the applicant chose arbitration in lieu of assuming the burden of proving the Constitutional minimum value. If either party refuses to go to arbitration, the urden will, for the reasons discussed above, be on the applicant to prove the net liquidation and going concern values of the line.

The arbitration process itself is simple, and requires each party to submit one and only one final offer. That offer must be the same as the one exchanged prior to the arbitration process being selected, unless both parties agree to a change. In addition, each party must: (1) state its belief that the offer satisfies the statutory Constitutional minimum value requirements; (2) explain to what factors the difference in the amount of the two

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bids is attributable; and (3) explain why its figure better meets the statutory requirements. As arbitrators, the Commission will pick one of the two numbers submitted by the parties. It will not modify them or pick some number in between. This process creates strong incentives for both parties to settle between themselves as many differencies as possible prior to the arbitration stage. By doing so, they reduce the discrepancy between their respective offers as much as possible, and define the boundaries of the risk they assume by going to binding arbitration.

The Commission invites comments on all of the issues raised by these rules.

(49 U.S.C. 10910)

It does not appear that this decision will significantly affect the quality of the human environment, or the conservation of energy resources. Comments on this subject are, however, invited.

Issued at Washington, D.C., October 23, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

Proposed Rules

Chapter X of Title 49 of the Code of Federal Regulations would be amended by adding the following Part 1128:

PART 1128—FEEDER LINE DEVELOPMENT PROGRAM

Sec.

1128.1 Purpose and scope.
1128.2 Notice of intent to purchase.
1128.3 Application to purchase.
1128.4 Procedures for handling an application for a line contained in category 1 or 2 of the Owning Carrier's System Diagram Map.
1128.5 Procedures for handling an application seeking a finding of public convenience and necessity.
1128.6 Commission order.

Authority: 49 U.S.C. 10910.

§ 1128.1 Purpose and scope.

(a) Section 401 of the Staggers Rail Act of 1980 provides for the purchases by a financially responsible person of certain rail lines. The requirements are that either the line appear in category 1 or 2 of the owning railroad's System Diagram Map (but the railroad has not filed an application to abandon it), or the public convenience and necessity, as specifically defined in Section 401, permit or require the sale of the line. Until October 1, 1983 the applicability of Section 401 is limited to lines that carried less than 3 million gross ton miles per mile in the preceding calendar year.

(b) Section 401 directs the Commission to prescribe within 60 days of enactment such regulations and procedures as are necessary to carry out the provisions of this Section.

This part sets forth rules as required by Section 401.

§ 1128.2 Notice of intent to purchase.

(a) A financially responsible person, as defined in 49 U.S.C. 10910(a)(1), who wishes to acquire a rail line pursuant to these procedures shall, at least 90 days prior to applying to the Commission for such purpose, notify the following persons or entities of its intent to purchase a line of railroad: the Interstate Commerce Commission; the Designated State Agency in the state(s) in which the property is located; the owning railroad; and all significant users of rail services located on the line. "Significant user" means (1) each of the 10 rail patrons who originated and/or received the largest number of carloads on the line (or each patron if there are less than 10), and (2) any other rail patron who originated and/or received 50 or more carloads on the line proposed for acquisition during the 12-month period preceding the month in which the Notice is filed.

(b) The Notice shall contain the following information: identity of the applicant, identification of the properties that the applicant wishes to purchase; the applicant's reasons for wishing to acquire the properties; and preliminary evidence of the applicant's financial responsibility. Additionally, the Notice must contain a summary of the essential terms to be contained in the application, including an estimate of the net liquidation value of the property (with appraisal, if available), and an indication that the acquiring party is prepared to offer at least that amount to the owning railroad. The Notice shall also state that any interested party may submit comments or recommendations to the Commission with respect to the Notice and application, and that other interested and financially responsible persons may also propose to acquire the property.

(c) Service of the Notice shall be made by certified mail to each party identified in subparagraph (a) above, and shall be posted in each station on the line and published in a local newspaper for 3 weeks. An affidavit shall be filed with the Notice stating that the service requirements of this subparagraph have been met. The Commission will publish a summary of the Notice in the **Federal Register.**

§ 1128.3 Application to purchase.

(a) Not less than 90 days after filing the Notice required § 1128.2 of these regulations, the party wishing to acquire the line may file an application with the Commission for the purchase of the rail properties described in the Notice.

(b) The Application shall contain the following information:

(1) The name and address of the proposed purchaser.

(2) The names and addresses of its officers and directors.

(3) A description of any affiliation with any railroad.

(4) Information sufficient to establish that the applicant is a financially responsible person as defined in 49 U.S.C. 10910(a)(1). In this regard, the applicant must demonstrate its ability;

(i) To pay the higher of the net liquidation value or going concern value of the line; and

(ii) To cover expenses associated with providing service over the line such as, but not limited to, operating costs, rents, and taxes for the first three years after acquisition of the line.

With regard to item (i) above, estimates of net liquidation and going concern values, and complete descriptions of the methods by which such calculations were made, must be included. An appraisal by a qualified person of the net liquidation value of the line must also be included.

(5) A copy of the offer to purchase the line at the higher of the two estimates submitted pursuant to sub-paragraph (4).

(6) The dates for the proposed period of operation of the line covered by the application.

(7) An operating plan that identifies the proposed operator; attaches any contract that the applicant may have entered into with the proposed operator; describes in detail the service that is to be provided on the line, including all interline connections; and demonstrates that adequate transportation will be provided over the line for at least three years from the date of acquisition.

(8) The extent of the applicant's and the operator's liability insurance.

(9) Any preconditions, such as assuming a share of any subsidy payments, that will be placed on shippers in order for them to receive service, and a statement that if the application is approved, no further preconditions will be placed on shippers without Commission approval.

(10) The name and address of any person(s) that will subsidize the operation of the line.

(11) A statement that the applicant has negotiated with the owning railroad for the purchase of the properties and a report on the status of those negotiations.

(12) A statement that the applicant will seek a finding by the Commission that public convenience and necessity (PC&N) permit or require the acquisition or a statement that the line is currently in category 1 or 2 of the owning railroad's System Diagram Map. If the latter, a copy of the relevant portion of the map must be attached to the application. If the applicant seeks a finding of PC&N from the Commission, then the application must contain evidence sufficient to permit the Commission to find that:

(i) The rail carrier operating the line refused within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line;

(ii) The transportation over the line is inadequate for the majority of shippers who transport traffic over the line;

(iii) The sale of the lines will not have a significantly adverse financial effect on the rail carrier operating the line;

(iv) The sale of the line will not have an adverse effect on the overall operational performance of the rail carrier operating the line; and

(v) The sale of the line will be likely to result in improved railroad transportation for shippers who transport traffic over the line.

With regard to item (i) above, the applicant's evidence should detail the nature of the claimed service inadequacy, the specific complaints of shippers on the line, the type of service requested, the owning railroads' responses to those requests, and the time period involved.

With regard to item (ii) above, the applicant should include identification of all significant users of the line, with estimates of the tonnage and carloads shipped or received by each, and statements from a majority of the users explaining why the present service is inadequate.

(13) The extent to which the applicant intends to elect exemption from any of the provisions of Title 49, United States Code, and a statement that if the application is approved, no further exemptions will be elected.

(14) A description of any trackage rights required over the owning railroad that are needed to allow reasonable interchange or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the applicant, and an estimate of the reasonable compensation for such rights including a full explanation of how the estimate was reached.

(15) A description of any joint rates and divisions agreements that must be established, including a list of the railroads involved.

(16) The extent to which the owning railroad's employees who normally service the line will be used.

(17) If the application is filed before October 1, 1983, information sufficient to allow the Commission to determine that the line sought to be acquired carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year.

(c) The Commission may, if it finds that the circumstances of the application suggest a pattern of litigation that constitutes unfair harassment of the owning railroad, issue an order requiring applicant to show cause why that application should not be summarily dismissed.

§ 1128.4 Procedures for handling an application for a Line contained in category 1 or 2 of the Owning Carrier's System Diagram Map.

(a) Applications filed before October 1, 1983 seeking to acquire a line contained in category 1 or 2 of the owning carrier's System Diagram Map shall be subject to the following procedures:

(1) The Commission shall accept or reject an application with respect to its completeness within 15 days of its receipt.

(2) The railroad and other interested parties shall have 30 days to file comments on the application.

(3) Replies shall be filed within 15 days after comments are received.

(4) Competing applications, which must meet all the information requirements imposed on the initial applicant, shall be filed within 30 days of the application's receipt.

(5) When the Commission finds: (i) the information submitted demonstrates that the traffic level on the properties sought to be acquired was less than 3 million gross ton miles of traffic in the preceding calendar year; (ii) the line has been verified as currently classified in category 1 or 2 of the owning railroad's System Diagram Map; and (iii) the applicant is a "financially responsible person" as defined in 49 U.S.C. 10910(a)(1), it shall issue an order requiring that the rail properties in the application be sold to the applicant, upon payment by the applicant of the Constitutional minimum value of the properties, established in accordance with section 1128.7 of these regulations.

(b) For applications filed after October 1, 1983, the Commission shall follow the procedure described in (a) above, except that the requirement that the line have carried less than 3 million gross ton miles per mile in the preceding calendar year shall no longer apply.

§ 1128.5 Procedures for handling an application seeking a finding of public convenience and necessity.

(a) An application filed with the Commission seeking a public convenience and necessity finding shall be subject to the following procedures:

(1) The Commission shall accept or reject an application with respect to its completeness within 30 days of its receipt.

(2) The railroad and other interested parties wishing to comment shall file within 60 days of the filing date of the application their verified statements commenting on the application.

(3) Verified reply statements shall be filed no later than the 75th day after the filing date of the application.

(4) The applicant shall bear the burden of proving the following:

(i) the rail carrier operating the line covered by the application has refused within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line;

(ii) the transportation over the line is inadequate for the majority of shippers who transport traffic over the line;

(iii) the sale of the line will not have a significant adverse financial effect on the rail carrier operating the line;

(iv) the sale of the line will not have an adverse effect on the overall operational performance of the rail carrier operating the line; and

(v) the sale of the line will be likely to result in improved railroad transportation for shippers who transport traffic over such line.

(5) If the Commission determines that the statements and the reply statements do not contain sufficient evidence to permit a decision on the merits, the Commission will set the proceeding for further oral or written hearing.

(6) If the Commission finds that the applicant has not successfully carried the burden of proof with respect to one or more of the matters covered by (A) through (E) above, the Commission shall deny the application.

(7) If the Commission finds that the applicant has successfully carried the burden of proof with respect to each of the matters covered by (A) through (E) above, it shall order the properties covered by the application to be sold to the applicant upon payment by the applicant of the Constitutional minimum value of these properties, established in accordance with section 1128.7 of these regulations.

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§ 1128.6 Commission order.

(a) In any Commission decision that orders a line to be sold, the Commission will also address any related issues raised in the application.

(b) If trackage rights are sought in the application, the Commission shall, based on the evidence of record, set the adequate compensation for such rights, if the parties have not agreed to a price.

(c) If the application requires the Commission to set joint rates or divisions, the Commission shall do so, based on the evidence of record in the proceeding. Unless specifically requested to do so by the selling carrier, the Commission will not set the rate for the selling railroad's share of the joint rate at less than the level set by section 202 of the Staggers Rail Act of 1980 (for the year in which the acquisition is made) that limits Commission maximum ratemaking jurisdiction to rates above certain cost/price ratios.

§ 1123.7 Acquisition cost.

(a) If the applicant and the owning railroad agree between themselves on an acquisition price, that price shall be the final price and not subject to any of the requirements of this subpart.

(b) If the Commission has issued an order requiring the rail properties covered by an application to be sold to the applicant, and the owning railroad and the applicant cannot agree on a sale price, the Commission will, upon a request by the applicant, determine the value of the properties which shall not be less than the Constitutional minimum value, as that term is defined in 49 U.S.C. 10910(b)(1)(B).

(c) A request by the applicant that the Commission set the Constitutional minimum value of the properties to be sold shall be made within 60 days of the Commission's order requiring the properties to be sold, and must be accompanied by a statement by the applicant that it has attempted unsuccessfully to negotiate with the railroad during that period and describing the status of the negotiations.

(d) The Commission shall make available to the parties two separate procedures under which the Constitutional minimum value may be set. In its petition asking the Commission to set the Constitutional minimum value, the applicant must state its preferred method.

(1) If the applicant chooses to submit evidence sufficient to prove both the net liquidation value (NLV) and the going concern value (GCV) of the rail properties approved for sale, the following procedures shall apply:

(i) If this option is selected, applicant must submit information and evidence proving NLV and GCV with its petition asking the Commission to set the Constitutional minimum value.

(ii) The appraisal submitted with the application shall be a sufficient submission as to NLV, but must be broken into the constituent parts of NLV (for example, land, track, material, facilities and equipment).

(iii) Applicant shall be free to submit whatever evidence it deems persuasive of GCV, and may seek to use the Commission's discovery procedures for information that is vital to applicant's case and is exclusively in the control of the owning railroad.

(iv) The owning railroad may submit evidence within 30 days of applicant's petition regarding NLV and GCV. If it wishes to challenge applicant's evidence of NLV, the railroad must submit an appraisal by a qualified appraiser that meets the requirements of (ii) above. If it wishes to challenge applicant's evidence of GCV, the railroad shall submit whatever evidence it deems persuasive.

(v) Upon the failure of the applicant to prove the Constitutional minimum value, the Commission shall determine the acquisition cost based on the record of the proceeding, and such determination shall be final.

(vi) The applicant shall have 60 days (or whatever other period the parties agree to) from the date of the Commission's decision to consummate the sale at the price set by the Commission or, within 30 days, notify the owning railroad of its decision not to acquire the line.

(2) As an alternative to the procedure in subparagraph (1) above, the parties may choose final offer arbitration. This method, if selected, shall be binding on both parties, and the sale shall be consummated at that price, unless both agree to a withdrawal of the petition to acquire.

(i) Under this option, the applicant shall, in its petition asking the Commission to determine the Constitutional minimum value of the properties, state its preference for the arbitration option. Final selection of the arbitration option shall not occur until after the exchange of offers described in subparagraphs (iv) and (v) below.

(ii) The petition must attach a signed statement by the railroad agreeing to final offer arbitration as described in these regulations.

(iii) If the railroad does not agree to final offer arbitration, then the applicant must bear the burden of proving the Constitutional minimum value of the line in accordance with the procedures described in subparagraph (1) above.

(iv) Upon receiving such a petition, the Commission shall require the applicant and the owning railroad to exchange, within 15 days, offers for the purchase and sale of the properties.

(v) Within 15 days of the exchange, the applicant shall indicate to the Commission that it and the owning railroad have decided to accept final offer arbitration. If arbitration is not used, the procedures in section 1128.7(d)(1) above will be followed. If arbitration is used, the Commission will act as arbitrator.

(vi) As arbitrator, the Commission will require the applicant and the owning railroad to submit to it the same final offers they previously exchanged (unless they have both agreed to a modification), along with: (a) a statement by each that it believes the offer satisfies the Constitutional minimum value requirement of the Staggers Rail Act of 1980; (b) an explanation by each of the factors to which the difference between the two offers is attributable; and (c) an explanation by each of why its figure better meets the statutory requirements.

(vii) The Commission shall select whichever of the two offers better meets the statutory requirement of Constitutional minimum value. The Commission will pick one of the two offers, and will not select a different amount.

(viii) The applicant shall have 60 days (or whatever period the parties agree to) from the date of the Commission's decision to consummate the sale at the price set by the Commission, unless both parties agree to a withdrawal of the application.

[FR Doc. 80-34288 Filed 11-3-80; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 45, No. 215
Tuesday, November 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Hugh Watson Stockyard, Gainesville, Georgia, et al.; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., Name and Location of Stockyard, and Date of Posting

Georgia

GA-180, Hugh Watson Stockyard, Gainesville—November 14, 1979.

Iowa

IA-255, Mahaska Sale Co., Oskaloosa—July 3, 1980.

Kansas

KS-202, Parsons Livestock Auction, Inc., Parson—August 20, 1980.

Kentucky

KY-165, Taylor County Stock Yards, Campbellsville—August 13, 1980.

Minnesota

MN-174, Lee & John's Livestock, Inc., d.b.a. Harmony Livestock Sales, Harmony—August 12, 1980.

Missouri

MO-250, Farmers & Traders Commission Co., Inc., Hannibal—August 15, 1980.
MO-251, Skym Horse Auction, Humphreys—September 15, 1980.
MO-252, Grand River Auction, Jameson—September 19, 1980.

Montana

MT-120, Bear Paw Livestock Commission, Chinook— August 11, 1980.

Nebraska

NE-189, Southeast Nebraska Livestock Market, Palmyra—August 28, 1980.

New York

NY-159, Wallkill Livestock Market, Walden—August 8, 1980.

Ohio

OH-147, Mt. Hope Auction Company, Mount Hope—August 27, 1980.

Oklahoma

OK-199, Jones Livestock Auction, Inc., Jones—August 23, 1980.
OK-200, North East Oklahoma Feeder Pig and Livestock Market, Leach—August 21, 1980.

South Carolina

SC-129, Jim's Livestock, Inc., Kingstree—August 13, 1980.
SC-130, Pee Dee Livestock Association, Inc., Galivank Ferry—August 18, 1980.
SC-131, Piedmont Livestock Center, Laurens—August 18, 1980.
SC-132, Woods Livestock Commission, Edgefield—August 18, 1980.

South Dakota

SD-164, Centerville Livestock Sales, Centerville—August 14, 1980.

Done at Washington, D.C., this 29 day of October, 1980.

Jack W. Brinckmeyer,
Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80-34305 Filed 11-3-80; 8:45 am]
BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Three Affiliated Indian Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of these tribes will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through April 30, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on October 27, 1980.

John W. Goodwin,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-34307 Filed 11-3-80; 8:45 am]
BILLING CODE 3410-05-M

1981 Rice Program; Proposed Determinations Regarding the 1981-Crop Rice Price Support Program, Rice Set-Aside Program and Land Diversion Payment Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations and issue regulations relative to the 1981-crop rice: (a) the loan and purchase level; (b) the established (target) price; (c) whether there should be a set-aside program and if so, the extent of such program; (d) whether there should be provisions for land diversion and if so, the extent of such diversion and payment therefor; (e) whether to require producer compliance with the Normal Crop Acreage (NCA) for program benefit eligibility; and (f) other related provisions necessary to carry out the programs including commodity eligibility and storage requirements, as well as premiums and

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discounts for grades, classes, other qualities and location differentials. These determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977, as amended. This notice invites written comments on the proposed determinations.

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Program Analysis Branch, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, or call (202) 447–8480.

The Draft Impact Analysis describing the options considered in developing the proposed determinations and the impact of implemening each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: These proposed determinations have been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and have been classified "significant".

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR 730, 790–792, 794–795, 1421.1–.28, .300–.328 and .530–.572 for need, currency, clarity, and effectiveness, that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in development of the final determination.

The title and number of the federal assistance program that this notice applies to are: Title: Rice Production Stabilization; Number 10.065, as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of these actions.

The need for this notice is to satisfy the statutory requirements as provided for in Section 101(h) of the Agricultural Act of 1949, as amended, and Section 1001(a) and (b) of the Food and Agriculture Act of 1977, as amended.

The following proposed program determinations with respect to the 1981-crop rice are to be made by the Secretary:

Proposed Determinations

a. *Loan and purchase level:* Section 101(h)(2) of the Agricultural Act of 1949, as amended, provides that the Secretary shall make available to cooperators, loans and purchases for 1981-crop rice at such level as bears the same ratio to the 1980-crop rice loan and purchase rate as the 1981-crop rice established (target) price bears to the 1980-crop established (target) price. If the Secretary determines that such loan and purchase level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish a loan and purchase rate for the crop at such level, not less than $6.31 per hundredweight nor more than the rice party price, as the Secretary determines necessary to avoid such consequences. The 1980-crop rice loan and purchase rate is $7.12 per hundredweight. Based on preliminary cost data, the loan and purchase rate for 1981-crop rice would range from $7.73 per hundredweight to $8.55 per hundredweight. This is subject to change when final cost data and final yields are available.

Comments on the appropriate level of loans and purchases with respect to the 1981-crop rice are requested.

b. *Established (target) price:* Section 101(h)(1) of the Agricultural Act of 1949, as amended, provides that the established (target) price for 1981-crop rice will the established (target) price for the 1980-crop rice adjusted to reflect any change in the average adjusted cost of production for the 1979 and 1980 crop years from the average adjusted cost of production for the 1978 and 1979 crop years. The adjusted cost of production for each year shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (1) variable costs, (2) machinery ownership costs, and (3) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. Section 1001(b) of the Food and Agriculture Act of 1977, as amended, provides that if the Secretary requires compliance with the Normal Crop Acreage (NCA) as a condition of eligibility for rice loans, purchases, and payments for the 1981 crop of rice, the Secretary may increase the established (target) price for rice to compensate producers for planting within the NCA established for the farm and for their participation in any set-aside program. If the established (target) price is increased for wheat, feed grains, or upland cottom under this provision, the established (target) price may also be increased for rice in such amount as is determined necessary for effective operation of the program. Any increase in the established (target) price must be adjusted to reflect, in whole or in part, any land diversion payments that may be made. The amount of any increase must be determined after consideration of changes in the cost of production that may result from not exceeding the NCA and from participation in any set-aside program. The 1980-crop rice established (target) price is $9.49 per hundredweight. Based on the preliminary cost data, the estimated changes in the two-year moving average adjusted cost of rice production (variable costs, machinery ownership costs and general farm overhead costs), as described above, would provide an 1981 established (target) price ranging from $10.30 per hundredweight to $11.40 per hundredweight. This is subject to change when final cost data and final yields are available.

Comments are encouraged on whether the established (target) price should be increased if set-aside and/or NCA requirements are imposed and the extent of the increase.

c. *Whether there should be a set-aside program and if so, the extent of such program:* Section 101(h)(5) of the Agricultural Act of 1949, as amended, provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of a set-aside likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside is in effect, then as a condition of eligibility for loans, purchases and payments, cooperators on a farm must set-aside and devote to conservation uses an acreage allotment) plus, if required by the Secretary, the acreage of cropland equal to such percentage of the farm acreage allotment as may be specified by the Secretary (but not to exceed 30 percentum of the farm acreage of cropland devoted in preceding years to soil conserving uses, as determined by the Secretary.

The probable outlook for 1981-crop rice depends a great deal on the final 1980-crop rice outcome. Based on the current outlook, it is expected that rice plantings (under no set-aside and no land diversion program) will total 3,350,000 acres—virtually unchanged from 1980. However, final plantings will depend on the following: (1) farm prices for the various classes of rice (long, medium and short grain), compared with farm prices for alternative crops (particularly soybeans) at planting time; (2) the need to maintain proper cropland rotation practices; (3) changes in relative production costs for rice and alternative crops; (4) the amount of capital investments required by producers; and (5) landlord-tenant arrangments. The average yield is estimated to be around 4,500 pounds per acre—up approximately 230 pounds from the weather stricken level of the 1980 crop, but only 5 pounds per acre above the 3-year average annual yield for the 1977–1979 crops. The combination of near record plantings and normal yields is projected to result in record production and total supplies. Assuming no set-aside and no diversion program, production is estimated to total 149.6 million hundredweight—up 4.8 percent from the record 1980 crop. Total supply is projected to be 175.1 million hundredweight—up 3.9 percent. Domestic use and exports are also expected to reach record levels of 51.7 million and 91.4 million hundredweight, respectively. This supply-use scenario results in an ending stock estimate of 28.5 million hundredweight—3 million hundredweight above the beginning stocks of 25.5 million hundredweight.

The above outlook would suggest that a set-aside program is probably not needed for the 1981-crop rice. However, later crop developments throughout the world could change this outlook and options under consideration include no set-aside and a 30 percent set-aside.

Interested persons are encouraged to advise the Secretary on the need for a 1981-crop rice set-aside program and the appropriate percentage of acreage to be set-aside, if deemed necessary taking into consideration the above factors.

d. *Whether there should be provisions for land diversion and if so, the extent of such diversion and the payment therefor:* Section 101(h)(6) of the Agricultural Act of 1949, as amended, provides that the Secretary may make land diversion payments to cooperators whether or not a set-aside for rice is in effect, if he determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Land diversion payments shall be made to cooperators on a farm who devote to approved conservation uses an acreage of cropland on the farm on the basis of land diversion contracts. Amounts payable to cooperators under land diversion contracts may be determined through submission of bids for such contracts by cooperators in such manner as prescribed by the Secretary or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under contracts in any county or local community so as not to affect adversely the economy of the county or local community. The land diversion program option being examined is a 10 percent land diversion program combined with a 30 percent set-aside program.

Interested persons are encouraged to address the appropriate terms and conditions and the advantages and disadvantages of a land diversion program, either in lieu of or in combination with, a set-aside program for 1981.

e. *Whether to require compliance with the established farm Normal Crop Acreage (NCA) for program benefit eligibility.* The Secretary may require as a condition of eligibility for loans, purchases and payments, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary (the established farm NCA).

It is proposed that an NCA requirement be established for the 1981-crop rice whether or not set-aside or land diversion requirements are implemented.

Interested persons are encouraged to comment on the pros and cons of requiring compliance with the farm NCA with respect to the 1981-crop rice as a condition of eligibility to receive program benefits.

f. *Other related provisions:* The Act also requires a number of other determinations in order to carry out the 1981-crop rice loan and purchase program such as (1) commodity eligibility, (2) storage requirements, (3) premiums and discounts for grades, classes, and other qualities and location differentials, and (4) other related provisions necessary to carry out the program.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

All comments will be made available for public inspection in room 3619 of USDA's South Building during business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C. on October 29, 1980.

John W. Goodwin

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-34176 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-05-M

Economics and Statistics Service

Discontinuance of January Prospective Plantings Report

Notice is hereby given that the Economics and Statistics Service intends to discontinue the January prospective plantings report. This report has included expected acreages as of January 1 to be planted in 34 major producing states for corn, durum and other spring wheat, oats, barley, sorghum, soybeans, sunflowers, upland cotton, flaxseed, rice and sugarbeets. Input received to date from data users indicates that the adverse effects of the elimination of this report will be minimal while savings in costs and a reduction in public reporting burden will result. The prospective plantings report issued in April of each year will be continued.

Members of the public who wish to comment on this proposal may submit their comments, in writing, to the Director, Estimates Division, Economics and Statistics Service, USDA, Room 0204–S, Washington, D.C. 20250. To be considered, comments must be received by December 1, 1980.

Done at Washington, D.C., this 30th day of October, 1980.

Kenneth R. Farrell,

Administrator.

[FR Doc. 80-34306 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-18-M

Forest Service

Ashley Forest Land and Resource Management Plan; Ashley National Forest, Daggett, Duchesne, and Uintah Counties, Utah, Sweetwater County, Wyoming; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for a Land and Resource Management Plan for the Ashley National Forest. This Forest Plan will be developed in accordance with direction for land and resource management planning in the National Forest Management Act of 1976 as displayed in 36 CFR Part 219.

NO 4 80 0 UMI

The Forest Plan will provide management direction for all lands and resources in the Ashley National Forest and will replace all existing land management plans.

The Forest Plan will be coordinated with local, county, State, and other Federal agencies. Public involvement will be encouraged and actively sought throughout the planning process.

A list of preliminary public issues and management concerns will be developed and made available for public and agency review and comment in the early spring of 1981. The list of issues identified will be updated throughout the entire planning process through ongoing involvement with the general public, as well as organized groups and agencies.

Management alternatives will be developed to address identified issues and management concerns. These alternatives will be displayed in an environmental impact statement and will include at a minimum: (1) a no action alternative (current management); (2) one or more alternatives which will result in eliminating all backlogs of needed treatment for the restoration of renewable resources; (3) an alternative which approximates the levels of good and services assigned by the Regional Plan; and (4) one or more alternatives formulated to resolve the major public issues or concerns.

The Draft Environmental Impact Statement is scheduled to be filed with the Environmental Protection Agency and available for public review by March 1983. The Final Environmental Impact Statement is scheduled to be completed by September 1983.

Jeff M. Sirmon, Regional Forester, Intermountain Region, is the responsible official. Team leader for the Enviornmental Impact Statement will be Jack Watson, Forest Planner, Ashley National Forest (phone 801–789–1181).

Comments and suggestions concerning the Forest Plan should be sent to James N. Craig, Forest Supervisor, Ashley National Forest, 437 East Main, Vernal, Utah 84078.

Dated: October 24, 1980.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 80-34326 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-11-M

Pandora Moth Management Plan; Kaibab National Forest, Coconino County, Arizona; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement for management of a pandora moth, *Coloradia pandora* Blake, infestation in ponderosa pine on the North Kaibab Ranger District.

Alternatives to be considered include: (1) Take no direct action in response to the insect outbreak and continue with present management; (2) Take no direct action to suppress the outbreak in 1981, but evaluate promising insecticides for possible use in the future; (3) Suppress the insect outbreak with an aerial application of an insecticide; and (4) Prevent defoliation of high value pine stands near Jacob Lake, Arizona, with an aerial application of an insecticide.

The draft environmental statement is scheduled to be available for public review in January 1981. The final environmental impact statement is scheduled for completion in March 1981. Suppression activities would take place in May 1981.

Questions regarding the pandora moth and environmental impact statement should be directed to David Wahlfeld, Forest Silviculturist, 800 South 6th Street, Williams, Arizona, 86046, telephone number 602–635–2681.

Written comments concerning the pandora moth management plan should be sent to Leonard A. Lindquist, Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona, 86046.

M. J. Hassell, Regional Forester, Southwestern Region, is the responsible official.

M. J. Hassell,

Regional Forester.

October 27, 1980.

[FR Doc. 80-34327 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

North Carolina Electric Membership Corp. and Saluda River Electric Coop., Inc., Issued Final Supplemental Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has issued a Final Supplemental Environmental Impact Statement (FSEIS) in accordance with Section (2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance to North Carolina Electric Membership Corporation (NCEMC), P.O. Box 27306, Raleigh, North Carolina 27611, and to Saluda River Electric Cooperative, Inc. (Saluda River), 207 Sherwood Drive, Laurens, South Carolina 29360.

The Duke Power Company is presently constructing the Catawba Nuclear Station, consisting of two 1145 MW (net) units in York County, South Carolina. The proposed financing assistance will provide for an undivided ownershp interest by NCEMC of 56.25 percent (644 NW) and by Saluda River of 18.75 percent (215 MW) in the 1145 MW (net) Catawba Nuclear Station Unit 1. NCEMC and Saluda River also propose to own 28.125 percent and 9.375 percent, respectively, of the support facilities common to both units of the Catawba Nuclear Station.

The alternatives considered were No Action, Joint Venture, as described above, and Alternative Forms of Generation such as coal, wood, oil, peat, gas, solar, wind, and hydroelectric. REA has determined that the only viable alternatives available are No Action and Joint Venture. Since the Joint Venture offers potential economic advantages to the cooperatives, participation by the cooperatives in Catawba Unit 1 is the REA preferred alternative.

The U.S. Atomic Energy Commission (currently the Nuclear Regulatory Commission (NRC)) issued a Final Environmental State (FES) relating to the Catawba Nuclear Station Units 1 and 2 in December 1973. It is REA's decision to adopt the previously issued NRC–FES in its entirety and to issue a FSEIS to provide information on certain environmental aspects of the project which are normally addressed by REA but were not included in the NRC–FES. REA's FSEIS also provides information relating specifically to the proposed financing assistance to NCEMC and Saluda River for participation in Unit 1.

Copies of the FSEIS or additional information may be secured on request from Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The FSEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 5829 or at the offices of NCEMC and Saluda River. Copies are also available at the following Public Libraries:

Greenville County Library, 300 College Street, Greenville, South Carolina 29601

Laurens County Library, South Harper Street, Laurens, South Carolina 29360

Spartanburg County Library, Spartanburg, South Carolina 29304

Wake County Public Library, Olivia Rancy Library, 104 Fayetteville Street, Raleigh, North Carolina 27601

Final action may be taken by REA with respect to this matter after December 4, 1980.

Any financing assistance which may be made pursuant to this proposal will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda normally considered by REA.

This Federal Assistance Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C. this 24th day of October, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-34086 Filed 11-3-80; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences
Date: November 19, 1980
Time and place: 10:00 a.m.–4:30 p.m., Room Terrace B, Atlanta American Motor Hotel, Spring Street at Carnegie Way, Atlanta, Georgia 30301
Type of meeting: Open to the public. Persons may paricipate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: Review and discussion of the Research Facilities Study, the *Report of the Study Group for Technical Information Systems Planning and Coordination*, and the 1980 Annual Report of the Joint Council. Discussion of implementation of the report of the Joint Council Committee on Strategies.
Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C. this 22nd day of October, 1980.

John G. Stovall,

Acting Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-34396; Filed 11-3-80; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

International Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, November 18, 1980, at 1:30 p.m., in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. The meeting will continue November 19 in Room 3708, Main Commerce Building to its conclusion.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, August 28, 1978, and August 29, 1980, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(h)(1) of the Export Administration Act of 1979, 50 U.S.C.A. App. 2401 *et seq.* and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Subcommittee was approved for continuation pursuant to the charter of the Committee. On September 19, 1980, the Deputy Assistant Secretary for Export Administration approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of product and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to unilateral and multilateral controls which the United States establishes or in which it participates, including proposed revisions of any such controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652 or 12065. All subcommittee members have appropriate security clearances.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230 telephone: 202–377–4217.

For further information, contact Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, International Trade Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

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Dated: October 31, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-34453 Filed 11-3-80; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, November 18, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, August 28, 1978, and August 29, 1980, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(h) (1) of the Export Administration Act of 1979, 50 U.S.C.A. App. 2401 *et seq.* and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, and October 16, 1978, the Subcommittee was approved for continuation pursuant to the charter of the Committee. On September 19, 1980, the Deputy Assistant Secretary for Export Administration approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of product and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to unilateral and multilateral controls which the United States establishes or in which it participates, including proposed revisions of any such controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Pending items of business:

a. Permissive reexports under GLR.

b. Other miscellaneours items.

(4) Standard formatting of license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, U.S. Deartment of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: October 31, 1980.

Kent Knowles,

Director, Office of Export Adminstration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-34445 Filed 11-3-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Retrofitting of two MA Design C3-S-76a Cargo Vessels Each With one Bucyrus-Erie MK-60 Mariner Crane; Intent To Compute Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 502(b) of the Merchant Marine, 1936, as amended, to compute the estimated foreign cost to retrofit two MA design C3-S-76a cargo vessels each with one Bucyrus-Erie MK-60 marine crane.

Any person, firm or corporation having any interest (within the meaning of Section 502(b)) in such computations may file written statements by the close of business on November 18, 1980, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14 & E Streets, NW., Washington, D.C. 20230.

Dated: October 28, 1980.

By Order of the Maritime Subsidy Board, Maritime Administration.

Robert J. Patton,

Secretary.

[FR Doc. 80-34238 Filed 11-03-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Availability of Marine Mammal Annual Report

AGENCY: National Marine Fisheries Service.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: On July 22, 1980, the Secretary of Commerce approved and transmitted to the Congress the annual administration report on the marine mammals under the Department's jurisidiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.). This report covers the period April 1, 1979, to March 31, 1980. By this notice, the Assistant Administrator for Fisheries, National Marine Fisheries Service, informs the public that the report is available and that any interested individual may obtain a copy by requesting it from the Service.

ADDRESS: A copy may be obtained from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. Requests will be filled until the supply is exhausted.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634-7461.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 assigns responsibility for marine mammals of the Order Cetacea (whales and porpoises) and the Suborder Pinnipedia (seals and sea lions), except walrus, to the Department of Commerce. Under authority delegated to it, the National Marine Fisheries Service carries out those responsibilities. The annual report reviews the Service's marine mammals related activities during the reporting period. Administrative matters discussed include bowhead whale management, Hawaiian monk seal management, tuna-porpoise management, legal actions, enforcement activities, issuance of scientific research and public display permits, research, and international activities.

Dated: October 27, 1980.

Robert K. Crowell,

Deputy Executive Director National Marine Fisheries Service.

[FR Doc. 80-34356 Filed 11-3-80; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit

On September 12, 1980, Notice was published in the **Federal Register** (45 FR 60464), that an application had been filed with the National Marine Fisheries Service by G&G Enterprises, Ltd., 628 North Broadway Street, Milwaukee, Wisconsin, to take three (3) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on October 28, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to G&G Enterprises, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: October 28, 1980.

Mr. Richard B. Roe,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34357 Filed 11-3-80; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80-2]

Imperial Carpets, Inc.; Rescheduling of Prehearing Conference

Notice is hereby given that a prehearing conference in the above entitled matter originally scheduled for Friday, October 31, 1980, has been rescheduled to Friday, November 21, 1980, at 10 a.m. in hearing Room 2, Gelman Building, 2120 L St., NW, Washington, DC, before administrative law judge Morton Needleman. Complaint counsel had moved for continuance; counsel for respondents did not object to the motion.

The issues presented by the complaint in this proceeding are as follows:

1. Whether respondents have failed to meet the acceptance criterion of the Standard for the Surface Flammability of Carpets and Rugs, 16 CFR Part 1630, Subpart A.

2. Whether the alleged practices of respondents are unlawful and constitute unfair methods of competition and unfair deceptive acts and practices in commerce under the Federal Trade Commission Act.

The agenda for this prehearing conference includes a discussion of the following:

(1) Pending discovery requests.

(2) Consideration of the possibility of settling this case.

(3) Setting a schedule for the filing of all prehearing motions besides those going to discovery.

(4) Establishing a schedule for the exchange of witness lists, expected testimony, and documents.

(5) Setting a firm date for start of formal hearings.

Dated: October 30, 1980.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commission.

[FR Doc. 80-34398 Filed 11-3-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Coastal Engineering Research Board; Open Meeting, Correction

In FR Doc. Vol. 45, No. 208, appearing at pages 70538 and 70539 in the **Federal Register** of Friday, October 24, 1980, the following changes should be made:

On page 70539, paragraph 5, "Participation by the public is scheduled for 10:00 a.m. on 14 November." is corrected to read:

"The entire meeting is open to the public. Public comment is scheduled at 10:00 a.m. on 14 November. Members of the public may attend field inspection trips but must provide own transportation."

Dated: October 29, 1980.

Ted E. Bishop,

Colonel, Corps of Engineers Executive Secretary.

[FR Doc. 80-34256 Filed 11-3-80; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Board of Advisors to the Superintendent; Naval Postgraduate School; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. I), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, will meet on December 11 and 12, 1980, in the Mezzanine Conference Room of the Naval Postgraduate School, Monterey, California. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:30 p.m. each day.

Topics to be addressed at the meeting will include the U.S. Navy's Graduate Education input levels; progress in replacing the school's primary computer; discussion of academic and base operations support including manpower, facilities and equipment and a review of reaccreditation actions.

For further information concerning this meeting, contact: Commander Charles J. Cox, U.S. Navy, Executive Assistant, Code 007, Naval Postgraduate School, Monterey, California, Telephone No. (408) 646-2513.

Dated: October 30 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-34386 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-71-M

Navy Resale System Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on November 24, 1980, at the Savoy Room, The Plaza Hotel, 768 Fifth Avenue, New York, New York. The meeting will consist of two sessions; the first from 8:00 a.m. to 10:30 a.m., the second from 10:45 a.m. until 12:15 p.m. Topics to be discussed at the meeting will include orgnanization of the Resale System, planning, financial management, merchandizing, field support and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting, which will involve discussion of matters relating solely either to internal agency personnel rules and practices, or to trade secrets and confidential commercial or financial information, be closed to the public. These matters fall within the exemptions listed in subsections 552(b)(c)(2) and (c)(4) of title 5, *United States Code*. The first session of the

meeting, which will involve other nonpriviliged matters relating to the Navy Exchange Resale System, will be open to the public.

For further information concerning this meeting, contact: Commander J. R. Akers, SC, U.S. Navy, Naval Supply Systems Command, NAVSUP 09B, Room 801, Crystal Mall, Building No. 3 Arlington, VA 20376, Telephone number (202) 695–5457.

Dated: October 30, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-34367 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Task Force on EMP Hardening of Aircraft; Closed Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session 3–4 December 1980 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review the structural response of the B–52 to blast, thermal and gust effects and make recommendations concerning hardness verification and other associated programmatic actions.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 30, 1980.

[FR Doc. 80-34273 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 10 December 1980, at the Naval Air Systems Command, Jefferson Plaza No. 1, Room 1224, 1423 Jefferson Davis Highway, Arlington, Va.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

October 29, 1980.

[FR Doc. 80-34274 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 18 December 1980 at the Advisory Group on Electron Devices, 201 Varick Street, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

October 29, 1980.

[FR Doc. 80-34276 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on 10–11 December 1980 at the Palisades Institute for Research Services, AGED, 1925 N. Lynn St., Arlington, Virginia.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

October 29, 1980.

[FR Doc. 80-34275 Filed 11-3-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education, Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Meeting of Executive Committee.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: November 24, 1980.

ADDRESS: 425—13th Street, N.W., Suite 412, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425—13th Street, NW, Suite 412, Washington, DC (Tel: 202/376–8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Executive Committee is open to the public, and the proposed agenda includes:

1. Discussion of Work Plan and Budget for FY '81
2. Reauthorization of the VEA Process and Schedule
3. Proposed NCEP/NACVE Study on Vocational Education/CETA Linkages
4. Current Administrative Concerns:
   (a) Member travel
   (b) Staff travel
   (c) Council staffing
   (d) Other administrative procedures and concerns
5. Other matters as required.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 A.M. to 5:00 P.M. at 425—13th Street, N.W., Suite 412, Washington, DC 20004.

Signed at Washington, DC on October 30, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80-34248 Filed 11-03-80; 8:45 am]

BILLING CODE 4000-01-M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Council Meetings, November 24 and 25, 1980

October 29, 1980.

Pursuant to Section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold meetings on Monday and Tuesday, November 24 and 25, 1980 at the Claremont Hotel, Berkeley, California. The meetings are scheduled to begin at 10:00 A.M. PST and are open to the public.

The purpose of the meetings will be to discuss progress reports on Council activities and to outline future projects.

The National Advisory Council on Economic Opportunity is authorized by Section 605 of the Economic Opportunity Act of 1964, as amended, to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the offices of the National Advisory Council on Economic Opportunity.

For further information, contact the National Advisory Council on Economic Opportunity, 1725 K Street, N.W., Suite 405, Washington, D.C. 20006, (202) 254–3217.

Walter B. Quetsch,

Executive Director.

[FR Doc. 80-34249 Filed 11-3-80; 8:45 am]

BILLING CODE 6820-42-M

DEPARTMENT OF ENERGY

Office of Alcohol Fuels

DEPARTMENT OF AGRICULTURE

Office of Budget, Planning and Evaluation

Biomass Energy Projects; Determination of Exempt Categories

AGENCY: Department of Energy and Department of Agriculture.

ACTION: Notice.

SUMMARY: The Departments of Energy and Agriculture are identifying the potential categories of projects to which the requirement for coordination between the two Departments does not apply. This action is required by Title II of the Energy Security Act.

EFFECTIVE DATE: This notice is effective immediately.

FOR FURTHER INFORMATION CONTACT: Ted D. Tarr, Office of Alcohol Fuels, Department of Energy, Room 6A–211, 1000 Independence Avenue SW., Washington, D.C. 20585; (202) 252–9487.

Earle Gavett, Office of Budget, Planning and Evaluation, Department of Agriculture, Room 116–A, 14th and Independence Avenue SW., Washington, D.C. 20250; (202) 447–2634.

SUPPLEMENTARY INFORMATION: Title II of the Energy Security Act, Pub. L. 96–294, which was enacted June 30, 1980 ("ESA"), authorizes the Department of Energy and the Department of Agriculture to provide financial assistance to biomass and alcohol fuels projects. Section 212 divides the authorities and responsibilities of the two departments.

Section 212(c)(1) requires that the Secretary of Agriculture and the Secretary of Energy, after evaluation of an application and before awarding financial assistance based upon the application, shall provide the other Secretary with a copy of the application and appropriate supporting material, for a review period of not less than 15 days. Section 212(c)(2) further provides that if the reviewing Secretary provides a written notice specifying any issues subject to such Secretary's review prior to the end of the 15 days, then the Secretary concerned shall defer final decision on the application for an additional 30 days for both Secretaries to resolve the issues. At the end of such 30-day period, the Secretary concerned may make a final decision on the application.

Section 212(c)(3) specifies the type of review to be conducted by each Secretary. The Secretary of Agriculture shall review projets for the purpose of considering the national, regional and local agricultural policy impacts of a project on agricultural supply, production and use. The Secretary of Energy shall review projects for the purpose of considering national energy policy impacts and the technical feasibility of the project.

Section 212(c)(4) requires that within 90 days of enactment of the ESA, the Secretaries of Energy and Agriculture shall initially determine categories of

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projects to which the review and comment procedures shall not apply. This notice establishes those categories for which review by the other Secretary is not required.

The Secretary of Energy and the Secretary of Agriculture have jointly identified the categories of projects exempted from the requirements for review and comment by each Secretary before the other can award any financial assistance within his area of responsibility as determined by the Act. The exempted categories are:

1. All small-scale plants (i.e., plants having annual production capacity of not more than 1 million gallons of ethanol or its BTU energy equivalent of other forms of biomass energy);

2. All intermediate-scale projects (i.e., plants having annual production capacity of 1 to 15 million gallons of ethanol or its BTU energy equivalent of other forms of biomass energy) using standard conversion technology as described in the DOE–SERI/SP report 451–519, *Fuel From Farms—A Guide to Small Scale Ethanol Production,* February 1980, and the USDA report, *Small-Scale Fuel Alcohol Production,* March 1980.

There are no exempted categories above the 15 million gallons per year size plant. § 212(a)(2)(C) requires concurrence by both agencies before either can fund a plant of this size which uses wood or woodwaste as a feedstock or which is owned by a cooperative and uses feedstocks other than aquatic plants. However, both the Department of Agriculture and the Department of Energy have agreed to the need for expeditious review and processing of applications; and, upon the request of either Department, the reviewing Department shall endeavor to complete its review in a shorter period of time than the 15 days allowed under the ESA.

The Departments have agreed to provide to each other certain technical data on each project, to be specified in a memorandum of understanding, that will permit the Department of Energy to consider national energy policy impacts of all projects and permit the Department of Agriculture to consider the national, regional and local agricultural impacts of all projects on agricultural supply, production and use. Analysis of such data may provide the basis for modification of this initial determination of exempt categories of projects.

Dated: October 16, 1980.

Jim Williams,

Acting Secretary of Agriculture.

C. W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-34383 Filed 11-3-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-79-012; OFC Case Nos. 55119-9044-01-11, 55119-9044-02-11 and 55119-9044-03-11]

Powerplant and Industrial Fuel Use Act of 1978; Petition for Exemption, General Motors Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Termination of Proceeding on a Petition for Exemptions from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

On December 17, 1979, the General Motors Corporation (GM) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a temporary exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) for each of three new major fuel burning installations installed at GM's Assembly Division plant, Oklahoma City, Oklahoma. As provided for in Section 211(c) of FUA, GM requested a temporary public interest exemption for each new boiler, identified by GM as boilers 1, 2 and 3, in order to burn a mixture of natural gas and coal until ERA completed its analysis and issued a final determination and order on GM's petition, filed with ERA on October 29, 1979, for permanent fuels mixture exemptions for the same three new MFBI's.

ERA accepted GM's petition for temporary public interest exemptions on January 16, 1980 and notice of that acceptance was published in the **Federal Register** on January 24, 1980, at 45 FR 5794. On September 10, 1980, ERA published in the **Federal Register** (45 FR 59615) a Notice of Availability of a Tentative Staff Analysis which recommended that GM's petition for temporary public interest exemptions be denied. Subsequently, on September 18, 1980, ERA issued an order granting permanent fuels mixture exemptions to GM to permit the use of natural gas in a mixture with coal in boilers 1, 2 and 3 (45 FR 63330, September 24, 1980).

With the granting of the permanent fuels mixtures exemptions to GM for boilers 1, 2 and 3, its petition requesting temporary public interest exemptions for the same MFBI's until ERA issued a final determination and order on its petition for permanent fuels mixture exemptions is now moot. Accordingly, ERA's proceeding on GM's petition for temporary public interest exemptions, as announced in the **Federal Register** Notice published on January 24, 1980, is hereby terminated.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Edward Jiran, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

Kathleen Ewing, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128–M, Washington, D.C. 20461, Phone (202) 653–4258.

Public files containing a copy of all documents and supporting materials relative to the proceedings on GM's petition for temporary public interest exemptions (OFC Case Numbers 55119–9044–01–11, 55119–9044–02–11 and 55119–9044–03–11) and its petition for permanent fuels mixture exemptions (OFC Case Numbers 55119–9044–01–12, 55119–9044–02–12 and 55119–9044–03–12) are available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on October 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34382 Filed 11-3-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the retransfer from the Federal Republic of Germany of Sweden of 1.831 kilograms of uranium, enriched to 3.2% in U–235, in the form of 10 irradiated fuel elements for post-irradiation examination. It is intended that these fuel elements will then be retransferred to the Federal Republic of Germany for further examination and ultimate disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/SW(EU)–116, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 30, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-34381 Filed 11-3-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Advanced Conservation Technology Subpanel of the Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Advanced Conservation Technology Subpanel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: November 14, 1980—9:30 am to 4:00 pm.

Place: Department of Energy, Forrestal Building, Room 4A–104, 1000 Independence Avenue SW., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building—M.S. 3F–032, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone 202/252–8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

—Discuss findings, identify gaps, and develop recommendations

—Assign report writing tasks

Public participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E 190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on October 29, 1980.

J. Ronald Young,

Associate Director, Office of Energy Research.

[FR Doc. 80-34258 Filed 11-3-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL 1653-7]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Purpose:

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment during the period of August 1, 1980 and August 31, 1980.

Summary of Notice:

The information presented below describes the Federal agency responsible for the action, the type of document reviewed by EPA, the EPA review control number, and the title of the document reviewed. The classification of the nature of EPA's comments is listed for each draft EIS.

Availability of Information Contained in this Notice:

Documents Reviewed by EPA: The documents identified below are prepared by the Federal Agency identified in the listing. Copies may be obtained by requesting the document from the Federal agency responsible for its preparation. EPA does not maintain copies for distribution.

EPA Comments: Copies of EPA's comments identifed below are available upon request from the appropriate EPA Regional Library or you may contact the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall, S.W., Washington, D.C., 20460.

EPA's Procedures for Commenting: Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the contact identified below for further information.

For Further Information Contact: Ms. Kathi L. Wilson, Office of Environmental Review (A–104), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone: (202) 245–3006.

Period Covered: August 1, 1980 and August 31, 1980.

Corps of Engineers

Control No.: D–COE–A35046–IA; EPA Rating: ER2; Copies of Comments: EPA, Kansas City—Perry Creek Flood Control, Sioux City, Woodbury and Plymouth Counties, Iowa.

Control No.: DA–COE–D36010–VA; EPA Rating: ER2; Copies of Comments: EPA, Philadelphia—Virginia Beach Streams, Canal No. 2, Flood Protection Project, Virginia Beach, Virginia.

Control No.: D–COE–F36067–OH; EPA Rating: 3; Copies of Comments: EPA, Chicago—Water Resources Development, West Carrollton, Montgomery County, Ohio.

Control No.: D–COE–F36068–MI; EPA Rating: LO1; Copies of Comments: EPA, Chicago—Flood Control Project, Flint Township, Genesee County, Michigan.

Control No.: D–COE–K36042–AZ; EPA Rating: LO2; Copies of Comments: EPA, San Francisco—Little Colorado River Flood Control and Recreational Development, Holbrook, Navajo County, Arizona.

Control No.: D–COE–K85029–HI; EPA Rating: ER2; Copies of Comments: EPA, San Francisco—West Beach Resort Project, EWA District, Oahu Island, Honolulu County, Hawaii.

Control No.: D–COE–L36072–00; EPA Rating: *; Copies of Comments: EPA, Seattle—Mount Saint Helens Recovery Operations, Cowlitz County, Washington and Columbia Counties, Oregon.

Control No.: F–COE–L36061–OR; Copies of Comments: EPA, Seattle—Operations and Maintenance of the Willamette Reservoir System, Oregon.

Control No.: F–COE–L36069–WA; Copies of Comments: EPA, Seattle—Kenmore Navigation Channel Study, Kenmore, King County, Washington.

Control No.: F–COE–H07005–IA; Copies of Comments: EPA, Kansas City—Louisa Generating Station, Permit, Louisa and Muscatine Counties, Iowa.

Control No.: F–COE–K32021–TT; Copies of Comments: EPA, San Francisco—Rota Harbor Navigation Improvements, Rota Northern Mariana Islands, Trust Territories.

Control No.: F–COE–K36026–CA; Copies of Comments: EPA, San Francisco—Cache Creek Basin Water Resources Development, Flood Control, Lake and Yolo Counties, California.

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Control No.: A-COE-A32487-FL: Copies of Comments: EPA, Atlanta—Supplemental Information Report, Tampa Harbor Deepening Project, Hillsborough County, Florida.

Control No.: R-COE-A86170-00; Copies of Comments: EPA, Washington, DC—33 CFR Part 235, Water Resources Policies and Authorities: Implementation of Executive Order 11990—Protection of Wetlands (45 FR 39412).

Control No.: A-COE-D36034-00; Copies of Comments: EPA, Philadelphia—Susquehanna River Basin Flood Control Review Study, New York, Pennsylvania, Maryland.

Council on Environmental Quality

Control No.: A-CEQ-A84025-00; Copies of Comments: EPA, Washington, DC—Desertification of the United States, a Draft Report to the Council on Environmental Quality.

Department of Agriculture

Control No.: D-AFS-J61036-CO; EPA Rating: LO1; Copies of Comments: EPA, Denver—Spruce Creek Addition Wilderness Area, White River National Forest, Pitkin County, Colorado.

Control No.: DS-REA-A06102-SC; EPA Rating: LO1; Copies of Comments: EPA, Atlanta—Catawba Nuclear Station Unit 1, York County, South Carolina.

Control No.: D-REA-E07009-KY; EPA Rating: LO2; Copies of Comments: EPA, Atlanta—J. K. Smith Power Station Units 1 and 2, Clark County, Kentucky.

Control No.: D-REA-G08001-LA; EPA Rating: ER2; Copies of Comments: EPA, Dallas—Oxbow Lignite Surface Mine, Big Cajun No. 3, and Related Transmission Facilities, Louisiana.

Control No.: F-AFS-D65008-WV; Copies of Comments: EPA, Philadelphia—Upper Shavers Fork Sub-Unit, Monongahela National Forect, Randolph and Pocahontas Counties, West Virginia.

Control No.: F-FOS-E36061-NC; Copies of Comments: EPA, Atlanta—Limestone and Muddy Creek Watershed, Duplin County, North Carolina.

Department of Commerce

Control No.: RD-NOA-A90046-GA; EPA Rating: LO2; Copies of Comments: EPA, Washington, DC—Proposed Gray's Reef Marine Sanctuary, South Atlantic Continental Shelf and 34.2 KM East of Sapelo Island, Georgia.

Control No.: D-NOA-L64013-00; EPA Rating: LO1; Copies of Comments: EPA, Seattle—Pink Shrimp Fishery, (FMP) off the coast of Washington, Oregon and California.

Control No.: D-UMR-F39013-00; EPA Rating: LO1; Copies of Comments: EPA, Chicago—Upper Mississippi River Main Stem, Level B Study, Illinois, Iowa, Minnesota, Missouri, and Wisconsin.

Control No.: FS-NOA-L90010-00; Copies of Comments: EPA, Seattle—1978 Fishery Management Plan (FMP), Commercial and Recreational Salmon Fisheries, off the coasts of Washington, Oregon and California.

Department of Defense

Control No.: D-USA-J11001-CO: EPA Rating: ER 2; Copies of Comments: EPA, Denver—Fort Carson Training Land Acquisition, Colorado.

Department of Energy

Control No.: DS-BPA-L08038-WA; EPA Rating: LO1; Copies of Comments: EPA, Seattle—Proposed Fiscal Year 1979 Program Facility Location Program, San Juan Islands Area Service, 115 KV Submarine Transmission Cable, San Juan and Skagit Counties, Washington.

Control No.: RD-ERA-A04649-00; EPA Rating: LO1; Copies of Comments: EPA, Washington, DC—Regulatory Analysis for Review and Establishment of Natural Gas Curtailment Priorities (DOE/RG-0026/1).

Control No.: FS-BPA-L08037-OR; Copies of Comments: EPA, Seattle—Proposed Fiscal Year 1979 Program, Facility Planning Supplement, Southwest Oregon Area Service, Buckley-Summer Lake 500 KV Line, Oregon.

Control No.: A-DOE-D07004-DE; Copies of Comments: EPA, Philadelphia—Edge Moor Generating Station, Coal Conversion Program, New Castle County, Delaware.

Control No.: A-DOE-F07010-IL; Copies of Comments: EPA, Chicago—Assessment, Scoping Document for Proposed Fuel Conversion, Collins Generating Station, Morris, Illinois.

Department of the Interior

Control No.: D-BLM-J07012-00; EPA Rating: EU2; Copies of Comments: EPA, Denver—Allen/Warner Valley Energy System, Utah and Nevada.

Control No.: D-NPS-B61009-MA; EPA Rating: LO2; Copies of Comments: EPA, Boston—Lowell National Historical Park Management Plan, Lowell, Middlesex County, Massachusetts (DES-80/40).

Control No.: D-NPS-J61033-00; EPA Rating: LO1; Copies of Comments: EPA, Denver—Development Concept Plan, Horseshoe Bend Hough Creek, Bighorn Canyon, Montana and Wyoming.

Control No.: F-BLM-J99015-CO; Copies of Comments: EPA, Denver—Royal Gorge Domestic Livestock Resource Area, Grazing Management, Colorado.

Control No.: F-BLM-K65033-AZ; Copies of Comments: EPA, San Francisco—Shivwits Proposed Grazing Management, Arizona.

Control No.: F-IBR-J35005-00; Copies of Comments: EPA, Denver—Animas and Laplata Water Supply Project, Colorado and New Mexico.

Control No.: A-BLM-A02151-00; Copies of Comments: EPA, Washington, DC—Notice: Outer Continental Shelf Gulf of Mexico (OCS); Proposed Oil and Gas Lease Sale No. 62 (45 FR 45872).

Control No.: R-BLM-A60110-00; Copies of Comments: EPA, Washington, DC—43 CFR Part 2200, Public Lands; Exchanges; Proposed Procedures (45 FR 41860).

Control No.: A-NPS-K61046-CA; Copies of Comments: EPA, San Francisco—Environmental Assessment; Comprehensive Management Plan, Mineral King Area of Sequoia and Kings Canyon National Parks, Tulare County, California.

Department of Transportation

Control No.: RD-DOT-A55011-00; EPA Rating: LO1; Copies of Comments: EPA, Washington, DC—Pursuant to Section 102(2)(C), Pub. L. 91-190; Regulation Implementing Section 504 of the Rehabilitation Act of 1973.

Control No.: D-FHW-E40194-AL; EPA Rating: LO1; Copies of Comments: EPA, Atlanta—Replacement of Cochrane Bridge Over Mobile River, Mobile County, Alabama.

Control No.: D-FHW-H40097-IA; EPA Rating: ER2; Copies of Comments: EPA, Kansas City—IA-150 Improvements, Independence, Buchanan County, Iowa (FHWA-IOWA-EIS-80-02-D).

Control No.: D-FHW-K54008-CA: EPA Rating: LO1; Copies of Comments: EPA, San Francisco—San Bernardino Freeway Bus Extension, Los Angeles, California.

Control No.: D-FHW-L40099-OR; EPA Rating: LO2; Copies of Comments: EPA, Seattle—Sutton Lake to Florence and Oregon Coast Highway Improvement, U.S. 101, OR-9, Lane County, Oregon (FHWA-OR-EIS-80-04-D).

Control No.: D-FRA-B53006-RI; EPA Rating: LO2; Copies of Comments: EPA, Boston—Northeast Corridor Improvement Project, Providence Railroad and Highway Improvements, Providence County, Rhode Island (FRA-RNC-EIS-80-01-D).

Control No.: FS-FHW-A41862-OR; Copies of Comments: EPA, Seattle—OR-244 and Oregon Forest Highway Route 55, Clackamas Highway, Clackamas County, Oregon (FHWA-ORFP-EIS-72-02-FS).

Control No.: F-FHW-J40050-ND; Copies of Comments: EPA, Denver—Mott Rainbow Arch Bridge Replacement, Cannonball River, North Dakota.

Control No.: F-FHW-E40158-TN; Copies of Comments: EPA, Atlanta—TN-22, Martin Bypass to Old TN-22, Obion and Weakley Counties, Tennessee.

Control No.: F-FHW-F40113-IN; Copies of Comments: EPA, Chicago—U.S. 50, Location of Structures, White River, Washington City Bypass, Knox and Daviess Counties, Indiana.

Control No.: F-FHW-F40123-IN; Copies of Comments: EPA, Chicago—South L Street and Garwood Road, Richmond, Wayne County, Indiana.

Control No.: F-FHW-F40125-IN; Copies of Comments: EPA, Chicago—Third Street Corridor, IN-37 to IN-45/46 Bypass, Bloomington, Monroe County, Indiana.

Control No.: F-FHW-J40035-CO; Copies of Comments: EPA, Denver—City of Grand Junction Horizon Drive, Colorado Project, Mesa County, Colorado.

Control No.: F-FHW-K40044-HI; Copies of Comments: EPA, San Francisco—Hawaii Belt Road, Highway, Holualoa to Papa, North and South Kona, Island of Hawaii, Hawaii.

Control No.: F-FHW-K40051-HI; Copies of Comments: EPA, San Francisco—Kauai Belt Road, Kalihiwai to Haena, Fap Route 56, Kauai Island, Hawaii.

Control No.: N-FAA-F51023-MI; Copies of Comments: EPA, Chicago—FNSI, Improvements at the Branch County Memorial Airport, Coldwater, Branch County, Michigan.

Control No.: A-FHW-F40153-MI; Copies of Comments: EPA, Chicago—Scoping Document, Proposed Improvement of MI-53, Lapeer and Macomb Counties, Michigan.

Federal Energy Administration

Control No.: A-FEA-D05001-VA; Copies of Comments: EPA, Philadelphia—FNSI, Application for License for Constructed Holcomb Rock Dam, Bedford and Amherst Counties, Virginia.

Federal Energy Regulatory Commission

Control No.: RD-FRC-A09804-00; EPA Rating: ER2; Copies of Comments: EPA, Washington, DC—Rulemaking for: Small Power Production and Cogeneration Facilities—Qualifying Status/Rates and Exemptions; Docket Nos. RM79-54 and RM79-55 (FERC/EIS—0019/D).

Control No.: R-FRC-A05452-00; Copies of Comments: EPA, Washington, DC—18 CFR Parts 3 and 12; Regulations Governing Safety of Water Power Projects and Project Works; (Docket No. RM80-31) (45 FR 41608).

Control No.: A-FRC-F05002-MI; Copies of Comments: EPA, Chicago—Notices of Application for Preliminary Permits, Geddes Dam No. 3143, and Superior Dam No. 3152 for Hydroelectric Power, Ann Arbor, Michigan.

General Services Administration

Control No.: F-GSA-B81005-MA; Copies of Comments: EPA, Boston—Proposed New Federal Office Building, Boston, Suffolk County, Massachusetts (EMA-78002).

Department of Housing and Urban Development

Control No.: D-HUD-J85037-MT; EPA Rating: 3; Copies of Comments: EPA, Denver—Olympic Park, Harvest Housing Developments, Billings, Montana.

Control No.: F-HUD-J85036-ND; Copies of Comments: EPA, Denver—Homestead Planned Developments, Jamestown, Stutsman County, North Dakota.

Control No.: F-HUD-L38001-WA; Copies of Comments: EPA, Seattle—White Center Drainage Improvement Project, Washington.

Control No.: F-HUD-C89005-NY; Copies of Comments: EPA, New York—City of Rochester Cultural District Plan, Monroe County, New York.

Control No.: F-HUD-K80008-CA; Copies of Comments: EPA, San Francisco—City Centre Shopping Center Project, Burbank, Los Angeles County, California.

Missouri River Basin Commission

Control No.: D-MRB-H39002-00; EPA Rating: ER2; Copies of Comments: EPA, Kansas City—Missouri River Basin Water Resources Management Plan, Nebraska, Montana, South Dakota, Wyoming, Kansas, Missouri and North Dakota.

New England River Basin Commission

Control No.: D-NRB-B35009-00; EPA Rating: LO1; Copies of Comments: EPA, Boston—Long Island Sound, Disposal of Dredge Material, Connecticut and Rhode Island.

Nuclear Regulatory Commission

Control No.: F-NRC-J00006-WY; Copies of Comments: EPA, Denver—Morton Ranch Uranium Mill, Operation, Converse County, Wyoming.

U.S. Postal Service

Control No.: F-UPS-H61006-MO; Copies of Comments: EPA, Kansas City—Proposed Expansion of Building and Parking Facilities, Westport Station, 200 Westport Road, Kansas City, Jackson County, Missouri.

* "Because of the unusual nature of the Corps of Engineers' Mt. St. Helens recovery operations draft EIS, the EPA will not rate this draft statement. The emergency recovery operations have been underway since May 19, 1980, with most of the planned work to be completed by November 1, 1980. EPA requested additional details to document on-going activities. EPA has also suggested additional methods to enhance the public's opportunities for input into the Corps Decision-making process during the changing emergency situations. Further, EPA has requested that a thorough NEPA analysis and review of alternatives for both the short-term and long-term future planning efforts throughout the affected basins be scheduled. EPA region 10 looks forward to continuing cooperative efforts with the Corps of optimize the recovery operations from an environmental protection perspective."

Dated: October 29, 1980.

William N. Hedeman, Jr,

Director, Office of Environmental Review.

[FR Doc. 80-34295 Filed 11-3-80; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51158; TSH-FRL 1653-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemcial substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by November 25, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Robert Jones, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M St., SW, Washington, DC 20460 (202-426-8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the sumitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality of the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name of the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will

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publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before November 25, 1980 submit to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, RM. E–447, 401 M St. SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51158]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: October 24, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–265

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 25, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Manufacturing site—Mid-Atlantic, U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic use provided. Di (substituted alkyl) Carbomonocyclic dicarboxylate.

Use. Claimed confidential business information. The manufacturer states that the substance will be used in an open use that will release less than 50 kilograms (kg) per year of the substance into the environment.

Production Estimates

	(Kg/yr)	
	Minimum	Maximum
First year	22,800	36,400
Second year	45,500	73,000
Third year	136,000	145,000

Physical/Chemical Properties

Acid value	<2
Hydroxyl value	500–550
Per cent total solids	72–78%
Viscosity	Z_1–Z_5
Color	<5

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure Route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture (3 sites)	Skin, eye, inhalation.	44	3–4	20–100	0–1	1–10
Use	Skin, eye, inhalation.	12–24			1–10	1–10

Environmental Release/Disposal

Manufacture (3 sites combined) media	Amount of chemical release (Kg/yr)
Air	<30
Water	<30
Land	30–3,000

Solvent is used to clean the equipment as needed and is reclaimed by distillation. Sludge is incinerated.

PMN 80–266

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 25, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Manufacturing site—Mid-Atlantic, U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Polymer of alkanedioic acids, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol,2,2-dimethyl-1, 3-propanediol.

Use. Claimed confidential business information. Generic use provided: The submitter states that the substance will be used in an open use and will release less than 50 kilograms (kg) per year of the substance into the environment.

Production Estimates

	(Kg/yr)	
	Minimum	Maximum
First year	22,800	36,400
Second year	45,500	73,000
Third year	136,000	145,000

Physical/Chemical Properties

Acid value	1.5.
Hydroxyl value (on solids)	116.0
Per cent total solids	60.5
Viscosity	W-
Color	1.0
Density	8.54 lb/gal.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration	
			Hours/day	Days/year	Average	Peak
Manufacture (2 sites)	Skin, eye, inhalation.	32	3	20	0–1 ppm	0–1 ppm
Processing	Skin, eye, inhalation.	12	4	100	0–1 mg/m³	0–1 mg/m³
Use	Skin, eye, inhalation.	12–24			1–10 mg/m³	1–10 mg/m³

Environmental Release/Disposal

Manufacturing media release (kg/yr)	Amount of chemical
Air	<30
Water	<30
Land	30–3,000

Solvent is used to clean the equipment as needed and is reclaimed by distallation. Sludge is incinerated.

[FR Doc. 80–34296 Filed 11–3–80; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51157; TSH FRL 1654–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–256, November 17, 1980. PMN 80–264, November 25, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–210, 401 M St., SW., Washington, DC 20460 (202–426–3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory of June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51157]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 27, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–256

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 17, 1980.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Methylaziridinylcarbonylimino oleyl triimido diisophorone poly(propylene glycol).

Use. Textile finish.

Production Estimates

	(Kg/yr)	
	Minimum	Maximum
1981	35,000	40,000
1982	45,000	50,000
1983	55,000	60,000

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The company states that two workers would be dermally exposed to the substance for 8 hours per day for approximately 15 days per year.

Environmental Release/Disposal. The submitter states that there will be no environmental release of the new substance during the manufacturing process.

PMN 80–264

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 25, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—Between $100 million and $499,999,999.

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code—2891.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Benzenamine, [*N*-(1-methylhexylidene)-*N*'-(1-methyl butylidene)-4,4'-methylene bis]

Use. Curing agent or crosslinker.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. During manufacture: 1–2 workers per shift, 8 hours per shift, 3 shifts per day, 25–40 days per year.

During use: The submitter states that the product is destined exclusively to industrial markets; there will be no exposure to the general public or to the consumer; that worker estimates are not available.

Environmental Disposal. The submitter states that aqueous waste is combined with organics and disposed by incineration at an approved disposal facility.

[FR Doc. 80–34289 Filed 11–3–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51164; TSH–FRL 1654–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–272, December 2, 1980; PMN 80–273, December 2, 1980; PMN 80–279, December 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–210, 401 M St., SW., Washington, DC 20460 (202–426–3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the initial Inventory of June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy Published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will

place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51164]" and the specific PMN number. Comments received may be seen in the above office between 8 a.m. and 4 p.m., Monday through Friday, exeluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 28, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–272

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 1, 1981.

Manufacturer's identity. International Minerals and Chemical Corp., Mundelein, IL 60060.

Specific Chemical Identity. N-Methyl-*N*-glucitylstearoylamide.

Use. Stabilizer for formaldehyde solutions.

Production Estimates. About 1,000 pounds per year.

Physical/Chemical Properties

Melting point	104–105°C.
Solubility in methanol	5 g/l at 45°C.

Toxicity Data. No data on the PMN substance were submitted. The following are data on two starting materials.

N-Methylglucamine

Human toxicity	Mild irritant.
Therapeutic category	Antileishmanial.

Methyl Stearate

Toxic dose, subcutaneous (mouse) TDL_o	5,200 mg/kg/65 W-I.

Exposure. The manufacturer states that one person may be exposed for up to 5½ hours.

Disposal. Disposal of product, if any, will be by incineration or landfill. Methanol, a byproduct, will be recovered by distillation for reuse.

PMN 80–273

The following summary is taken from data submitted by the manufacturer in the PMN.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration	
			Hours/day	Days/year	Average	Peak
Manufacture	Dermal	10	2	35	>100	
Use	Dermal	NA	NA	NA	>100	

Environmental Release/Disposal

Manufacture media	Amount/duration of chemical release (kg/yr)
Water	100–1,000 24 hr/da; 365/yr.

The manufacturer states that the reaction tank will be washed with water and the residual product diluted to approximately 4.0% of normal strength before discharge to the waste treatment system.

PMN 80–279

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 5, 1981.

Manufacturer's Identity. Pioneer Plastics, Division of LOF Plastics Inc., Pionite Rd., Auburn, ME 04210.

Specific Chemical Identity. Polymer of: 2, 2-Dimethyl 1,3–propanediol; 2,2,4-trimethyl 1,3 pentanediol; isophthalic acid; and fumaric acid.

Use. For use in electrical appliance parts.

Production Estimates. The manufacturer states that initially 300,000 to 500,000 pounds of the substance will be manufactured with an estimated 10 percent increase annually.

Physical/Chemical Properties

Molecular weight	5000 weight.
Melting point	60°C.
Volatility	Low.
Acid number	25.
Solubility	Soluble in acetone and toluene.
Viscosity	12,000 cps at 135°C.

Toxicity Data. No data were submitted.

Exposure. Pioneer Plastics states that up to ten people will be directly exposed to the starting materials and finished resin for an eight-hour period and about

Close of Review Period. January 1, 1981.

Manufacturer's Identity. Sybron Chemical Division—Tanatex, P.O. Box 125, Wellford, SC 29385.

Specific Chemical Identity. Amines, C_{16-18} alkyldimethyl, phosphate salt.

Use. Textile dyeing assistant.

Production Estimates

	(Kg/yr)	
	Minimum	Maximum
First year	8,000	32,000
Second year	16,000	80,000
Third year	16,000	160,000

Physical/Chemical Properties

	Diluted	Concentrated
Appearance	Clear liquid	Clear liquid.
Color	Water white	Light yellow.
pH (10%)	5.5–6.5	5.5–6.5.
Specific gravity at 25°C.	1.02	1.07.
Refractive index at 25°C.	1.365–1.375	1.400–1.410.
Water	74–76%	48–52%.

Toxicity Data. No data were submitted.

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20 people who work at the same location may be exposed for short periods of the time.

Disposal. The submitter states that water soluble portion of the distillate will be fed to a biological treatment plant and that water insoluble layer will be incinerated.

[FR Doc. 80-34300 Filed 11-3-80; 8:45 am]
BILLING CODE 6560-03-M

[OPTS-51156; TSH FRL 1654-5]

Linseed Oil, Styrene, Glycerine, Toluene Diisocysnate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by November 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Rick Green, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, D.C. 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the indentity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before November 22, 1980, submit to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51156]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 27, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

80-263

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 22, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Linseed oil, styrene, glycerine, toluene diisocyanate.

Use. Baking and air dry enamels.

Production Estimates

	(Kg/yr)	
	Minimum	Maximum
First year	900,000	1,500,000
Second year	1,000,000	2,000,000
Third year	1,000,000	2,000,000

Physical/Chemical Properties

Non-volatile	60± 1.
Color	6 maximum.
Acid number	0.1.
Viscosity	Z1-Z2.
Weight/gallon	7.85 lb.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1-10
Processing	Inhalation	>10	4-8	251		1-10
Use	Inhalation	>3	4-8	251		1-10
Disposal	Inhalation	2	2	251		1-10

Environmental Release/Disposal. The manufacturer states that the manufacture of this material will be carried out in closed equipment with no release points during processing; that 40.100 kg of the substance may be released to the environment per year.

[FR Doc. 80-34301 Filed 11-3-80; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51167; TSH-FRL 1654-1]

Propylene Glycol, Neopentyl Glycol, Isophthalic Acid, Empol 1022 Dimeric Fatty Acid, Trimellitic Anhydride Polymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATES: Written comments by December 9, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy Published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification reudirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of

the data taken from the PMN is published herein.

Interested persons may, on or before December 9, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51167]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 28, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–281

The following summary is taken from data submitted by the manufacturer in the PMN.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration Hours/day	Maximum duration Days/year	Concentration (ppm) Average	Concentration (ppm) Peak
Manufacture	Inhalation	2	1	300		1–10
Processing	Inhalation	30	4	300		1–10
Use	Inhalation		6	300		1–10
Disposal	Inhalation	2	3	300		1–10

Environmental Release/Disposal

Manufacture media	Amount/duration of chemical release (Kg/yr)
Air	Less than 10. 1 hr/da; 300 da/yr.
Water	Less than 10.
Land	Less than 10.

The manufacturer states that: The filter operation is vented to the atmosphere but resin is non-volatile; that some solvent is lost through this venting; disposal of waste materials is by landfill.

[FR Doc. 80–34297 Filed 11–3–80; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51163; TSH–FRL 1654–7]

Tall Oil Fatty Acid, Isophthalic Acid, Trimethylol Propane, Trimellitic Anhydride, Methyl Methacrylate, Ethyl Acrylate, Methacrylic Acid, Hydroxy Ethyl Methacrylate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

Close of Review Period. January 8, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $10 million and $99 million.

Manufacturing site—East-north-central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Propylene glycol, neopentyl glycol, isophthalic acid, Empol 1022 dimeric fatty acid, trimellitic anhydride polymer.

Use. The manufacturer states that the material will be used in coatings.

Production Estimates

	(Kg/yr) Minimum	(Kg/yr) Maximum
First year	100,000	170,000
Second year	100,000	170,000
Third year	200,000	340,000

Physical/Chemical Properties. Average molecular weight—750–1500.

Toxicity Data. No data were submitted.

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by December 5, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Rick Green, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St., SW., Washington, D.C. 20460 (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.Interested persons may, on or before December 5, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51163]" and the PMN number. Comments received may be seen in the above office between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 28, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–275.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 4, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Tall oil fatty acid, isophthalic acid, trimethylol propane, trimellitic anhydride, methyl methacrylate, ethyl acrylate, methacrylic acid, hydroxy ethyl methacrylate.

Use. Air dry enamel (water reducible).

Production Estimates

	(Kg/yr) Minimum	(Kg/yr) Maximum
1st year	900,000	1,500,000
2d year	1,000,000	2,000,000
3d year	1,000,000	2,000,000

Physical/Chemical Properties

Non-volatile	75± 1.
Acid number	42± 2.
Color	9 max.
Viscosity	z6 Hy.
Weight/gallon	8.72 lb.
Solvent	N-Butanol-50%. Butyl cellosolve-50%.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration Hours/day	Maximum duration Days/year	Concentration (ppm) Average	Concentration (ppm) Peak
Manufacture	Inhalation	2	1	251		1–10
Processing	Inhalation	10	4	251		1–10
Use	Inhalation	>3	4–8	251		1–10
Disposal	Inhalation	2	2	251		1–10

Environmental Release/Disposal

Manufacture media	Amount/Duration of Chemical Release (kg/yr)
Air	Less than 20. 1–8 hr/da; 251/yr.
Water	10–100. 8 hr/da; 251/yr.
Land	Less than 20.

[FR Doc. 80–34296 Filed 11–3–80; 8:45 am]

BILLING CODE 6560–31–M

[AD–FRL 1653–6]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on December 2 and 3, 1980, at the Royal Villa Hotel, Royal King Hall I, 6339 Glenwood Avenue, Raleigh, North Carolina 27612. The commercial telephone number is (919) 782–4433.

The tentative agenda for the meeting is as follows:

December 2 (Tuesday)–9:00 a.m.

Rubber Tire Manufacturing Industry, New Source Performance Standards (Section 111), Volatile Organic Liquid Storage Vessels, New Source Performance Standards (Section 111)

December 3 (Wednesday)–8:30 a.m.

Continuation of December 2—As Required. Basic Oxygen Process Furnaces, Revision of Existing New Source Performance Standard to Include Fugitive Emissions (Section 111) Status Report on Previous Committee Recommendations

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by November 25, 1980. The commercial telephone number is (919) 541–5271, and the FTS number is 629–5271.

The dockets containing material relevant to the rubber tire manufacturing industry (A–80–9), volatile organic liquid storage vessels (A–80–51), and basic oxygen process furnaces (A–79–06) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

V 45 / 215 NOV 4 80 UMI

Dated: October 29, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-34294 Filed 11-3-80; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 24, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3930.

Filing Party: John C. Barnett, Assistant Chief, Leases & Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T-3930, between the Port Authority of New York and New Jersey (Port) and Universal Maritime Service Corp. (Universal), provides for Universal's 5-year lease (with extension options) of the Red Hook Container Terminal. Compensation is as provided for in detail in the agreement, and consists of a basic annual rental of $500,000 plus usage rentals computed on the basis of the cargo handled at the facility. Agreement No. T-3930 implements Agreement No. T-3099-B, between the Port, the City of New York and the State of New York, approved by the Commission on May 1, 1980, which provides for the facility's construction and operations.

Agreement No.: 8210-41.

Filing Party: Howard A. Levy, Attorney at Law, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 8210-41 amends Article 6 of the Continental North Atlantic Westbound Freight Conference Agreement by deleting in its entirety subparagraph (f) which pertains to the voting requirements concerning all provisions of any European Inland Tariff applicable to members.

Agreements Nos. 8760-9 and 9247-6.

Filing party: H. P. Blok, Secretary, West Coast United States & Canada/India, Pakistan, Ceylon & Burma Rate Agreement, India, Pakistan, Ceylon, Burma/West Coast, Rate Agreement, 417 Montgomery Street, San Francisco, California 94104.

Summary: Agreements Nos. 8760-9 and 9247-6 amend, respectively, Articles 2(a) and 2 of the West Coast United States & Canada/India, Pakistan, Ceylon & Burma Rate Agreement and the India, Pakistan, Ceylon, Burma/West Coast Rate Agreement in order to set forth, in greater detail, the time and opportunity allowed for consideration of an independent action proposal. The present forty-eight (48) hour notice proviso for exercising the right of independent action will remain in effect. However, a maximum period of ten (10) working days will be allowed for a member line to adopt its proposal following notification to the other parties.

Agreement No. 9296-3.

Filing Party: J. D. Straton, Jr., Director, Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Summary: Agreement No. 9296-3, a transshipment agreement between Robin Line and Navale Et Commerciale Havraise Peninsulaire (Navale), amends the basic agreement by deleting Compagnie Malgache de Navigation as a subsidiary of Navale under the agreement.

Agreements Nos.: 9648-A-15 and 9648-A-16.

Filing Party: Paul B. Thornquist, Executive Administrator, Inter-American Freight Conference, 17 Battery Place, Suite 801, New York, New York 10004.

Summary: Agreement No 9648-A-15 modifies Article 19 of the basic agreement of the Inter-American Freight Conference by reducing the allowance period for payment of members' assessed pro rata shares of Conference administration and maintenance expenses and providing for a scale of fines for delinquent payments received within a period of thirty to ninety days after receipt of assessment notice.

Agreement No. 9648-A-16 modifies Article 18 of the basic agreement by eliminating any reference as to the number of reports of shippers' requests and complaints that the Conference is required to file with respective government authorities.

Agreement Nos.: 10122-4 and 10122-5.

Filing Party: Luis Venancio Staghezza, Assistant Executive Administrator, CONFERENCIA INTERAMERICANA DE FLETES, (Inter-American Freight Conference), Lavalle 381—6°. Piso (1047), Buenos Aires, Argentina.

Summary: Agreement No. 10122-4 modifies Article 19 of the basic agreement of the Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate by reducing the allowance period for payment of members' assessed pro rata shares of conference administration and maintenance expenses and providing for a scale of fines for delinquent payments received within a period of thirty to ninety days after receipt of assessment.

Agreement No. 10122-5 modifies Article 18 of the basic agreement by eliminating any reference as to the number of reports of shippers' requests and complaints that the conference is required to file with respective government authorities.

By Order of the Federal Maritime Commission.

Dated: October 30, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34365 Filed 11-3-80; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by November 14, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and for their foriegn competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 9767-1.

Filing Party: John R. Mahoney, Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9767-1, among the members of the Associated Container Transportation (Austrailia), Ltd. Agreement adds intermodal movements through ports now served to the scope of the agreement, to the extent consistent with that sought by the Pacific America Container Express (9925-2) and the Atlantic and Gulf/Austrialia-New Zealand Conference (6200-20).

Agreement No. 9847-6.

Filing Party: John D. Straton, Jr., Director, Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Summary: Agreement No. 9847-6 modifies the basic U.S. Atlantic/Brazil Pool Agreement to: (1) extend its term through December 31, 1983; (2) modify the range of Brazilian Ports served; (3) reflect the current pool membership and its flag status; and, (4) add to the categories of items excepted from the pool.

Agreement No. 10027-10.

Filing Party: John D. Straton, Jr., Director, Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York 10004.

Summary: Agreement No. 10027-10 proposes to modify the basic Brazil/U.S. Atlantic Pool Agreement by: (1) extending its term for 3 years, through December 31, 1983; (2) breaking out the 80 percent national-flag share by allocating 40 percent to both U.S. and Brazilian-flag participants; (3) redefining the shares and minimum sailing requirements of nonnational-flag participants; (4) requiring the entry of any nonnational-flag participant to be filed with the Commission for approval; and, (5) adding a new provision requiring certain direct port calls in Brazil and reducing a party's pool share for failure to make its required calls.

By Order of the Federal Maritime Commission.

Dated: October 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34307 Filed 11-3-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3925

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. T-3925, between Crescent Wharf Company (Crescent) and Toko Kaiun Kaisha, Ltd. (Toko), is a 10-year agreement providing for the parties' entering into a joint venture to operate a terminal facility at the port of Long Beach, California. The parties will operate the facility pursuant to the terms and conditions of a terminal lease agreement between Crescent's wholly-owned subsidiary, Crescent Terminals, Inc., and the City of Long Beach (FMC Agreement No. T-3877, approved January 29, 1980). The parties will be compensated through a division of revenue formula as mutually agreed to and as set forth in the agreement. The Office of Environmental Analysis' (OEA) major environmental concern is whether this agreement will significantly affect energy usage and/or the quality of the air, water, noise and biological environment.

The OEA has determined that the Commission's final resolution of Agreement No. T-3925 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment on or before November 24, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34308 Filed 11-3-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 9973-7]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. 9973-7 authorizes Johnson ScanStar to utilize overland minibridge service through U.S. Atlantic, Gulf, or Great Lakes ports in the event of any emergency resulting in a general closure of U.S. Pacific Coast Ports. The OEA's major environmental concern was whether the agreement would significantly increase energy usage and/or affect the quality of the air, water, noise and biological environment.

The OEA has determined that the Commission's final resolution of Agreement No. 9973-7 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment on or before November 24, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34309 Filed 11-3-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Sasser Corp.; Formation of Bank Holding Company

The Sasser Corp., Carthage, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 48 percent of the voting shares of the Carthage Bank, Carthage, Mississippi. the Sasser Corp. has also applied for the Board's approval to acquire 60 percent of the shares of First Carthage Corporation, Carthage, Mississippi. The factors that are considered in acting on the application are set forth in secton 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Fedral Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 25,

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1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34269 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Thunderbird Bancshares, Inc.; Formation of Bank Holding Company

Thunderbird Bancshares, Inc., Shawnee, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Federal National Bank & Trust Company of Shawnee, Shawnee, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34270 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Cameron Investment Co., Inc.; Formation of Bank Holding Company

Cameron Investment Company, Inc., Park Falls, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84 per cent of the voting shares of Bank of Cameron, Cameron, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34261 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Clement Bancshares, Inc.; Formation of Bank Holding Company

Clement Bancshares, Inc., Plainview, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Plainview, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 29, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34262 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Emerson First National Co.; Formation of Bank Holding Company

Emerson First National Company, Emerson, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98 percent or more of the voting shares of The First National Bank, Emerson, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34263 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Erick Bancorporation, Inc.; Formation of Bank Holding Company

Erick Bancorporation, Inc., Erick, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First American Bank, Erick, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34264 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Erickson Investment Co.; Proposed Continuation of General Insurance Agency Activities

Erickson Investment Company, Edgemont, South Dakota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in Edgemont and Buffalo Gap, South Dakota.

Applicant states that it would continue to engage in the activity of acting as general insurance agent in a community not exceeding a population of 5,000 inhabitants. These activities would be performed from offices of Applicant's subsidiary in Edgemont and Buffalo Gap, South Dakota, and the geopraphic areas to be served are Edgemont and Buffalo Gap, South Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 26, 1980.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34280 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

First Carthage Corp.; Formation of Bank Holding Company

First Carthage Corporation, Carthage, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Carthage Bank, Carthage, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker

Assistant Secretary of the Board.

[FR Doc. 80-34265 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

First Davis Bancorporation, Inc.; Formation of Bank Holding Company

First Davis Bancorporation, Inc., Davis, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Davis, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34267 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

First Miami Bancshares, Inc.; Formation of Bank Holding Company

First Miami Bancshares, Inc., Miami, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.55 percent or more of the voting shares of First National Bank and Trust Company of Miami, Miami, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of kansas city. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34266 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Great Western Financial Services, Inc.; Formation of Bank Holding Company

Great Western Financial Services, Inc., Colorado Springs, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Western National Bank of Colorado Springs, Colorado Springs, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in

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writing to the Reserve Bank, to be received not later than November 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 29, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34268 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization For Domestic Open Market Operations

In accordance with the Committtee's rules regarding availability of information, notice is given that on October 21, 1980, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on November 18, 1980.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, October 28, 1980.

Murray Altman,

Secretary.

[FR Doc. 80-34259 Filed 11-3-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of November 1980.

The Federal Employee Alcoholism Programs Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, November 18; 9:30 a.m.—Open; National Clearinghouse for Alcohol Information, 1776 East Jefferson Street, Conference Room, Rockville, Maryland 20852.

Contact: Mr. Leslie C. Gray, Jr., Room 11A-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Federal Employee Alcoholism Programs Work Group (1) evaluates the adequacy and technical soundness of all internal programs dealing with employee alcoholism within all Federal military and civilian organizations of 1,000 employees or more; (2) provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities; (3) seeks to coordinate efforts among Federal agencies for internal employee alcoholism programs; and (4) submits reports and recommendations to the Interagency Committee as necessary in order to perform the above functions.

Agenda: The meeting will consist of a presentation on the Veterans Administration experiences related to occupational programs; an Office of Personnel Management report on the Atlanta, Boston, et al. consortia; and a report of the research findings concerning the Lincoln (Nebraska) Council Employee Assistance Program.

Substantive program information may be obtained from the contact person listed above. the NIAAA Committee Management Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Ms. Helen Garrett, Room 16C-21, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Dated: October 29, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-34255 Filed 11-03-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 80M-0391]

Blairex Laboratories, Inc.; Premarket Approval of the Blairex System, Salt Tablets for All Soft (Hydrophilic) Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Blairex System, Salt Tablets for All Soft (hydrophilic) Contact Lenses, sponsored by Blairex Laboratories, Inc., Evansville, IN. after reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 4, 1980.

ADDRESSES: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Blairex Laboratories, Inc., Evansville, IN, submitted an application for premarket approval of the Blairex System, Salt Tablets for All Soft (hydrophilic) Contact Lenses, to FDA on May 28, 1980. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 31, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583 (the amendments)), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the office of the Dockets Management Branch (address above), and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Blairex System states that the salt tablets are to be used only to make normal saline solutions for heat disinfecting of soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 4, 1980, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1980

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34250 Filed 11-3-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78P-0173]

Laser Images, Inc.; Approval of Variance for the Concert System Laser Projectors and Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Concert System laser projectors and the laser light shows assembled and produced by personnel of Laser Images, Inc. The shows incorporate both the Concert System and LASERIUM Laser Projectors. The projectors provide a laser display to produce a variety of special effects. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective August 22, 1980, and ends August 22, 1982.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Laser Images, Inc., 6907 Hayvenhurst Ave., Van Nuys, CA 91406, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Concert System laser projectors and laser light shows assembled and produced by Laser Images, Inc. personnel. The shows incorporate both the Concert System and the LASERIUM Laser Projectors with levels of accessible laser radiation in excess of class II levels but not exceeding those required to perform the intended function of the product. The LASERIUM laser projector was the subject of an earlier variance from the same requirement (43 FR 38626). Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for Laser Images, Inc. personnel.

The product shall bear the Variance Number 78P-0173. By letter of August 22, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on August 22, 1982. In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (formerly the Hearing Clerk's office) Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: October 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34252 Filed 11-3-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0196]

Six Flags Over Midamerica and Great Southwest Corporation; Approval of Variance for a Laser Projection System and Time Tunnel Laser Display

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Time Tunnel Laser Display including a laser projection system, assembled and produced by Six Flags Over Midamerica. The projector provides a laser display to produce a variety of special lighting effects in an indoor tunnel ride called the "Temple of Light." The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective August 20, 1980, and ends August 20, 1982.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food

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and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under §1010.4 (21 CFR 1010.4), Six Flags Over Midamerica, Great Southwest Corporation, P.O. Box 666, Eureka, MD 63025, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Time Tunnel Laser Display (Temple of Light) light shows assembled and produced by Six Flags Over Midamerica. The shows have levels of accessible laser radiation is excess of class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for Six Flags Over Midamerica personnel.

The product shall bear the Variance Number 80P–0198. By letter of August 20, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on August 20, 1982. In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Docket Management Branch (formerly the Hearing Clerk's office) Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: October 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

FR Doc. 80–34251 Filed 11–3–80; 8:45]

BILLING CODE 4110–03–M

[Docket No. 80P–0087]

2001 Entertainment Complex, Inc.; Approval of Variance for Orion II–A Laser Projector and Laser Light Show

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Orion II–A projector and the laser light shows assembled and produced by 2001 Entertainment Complex, Inc. The projector and light show are installed in a discotheque. The projector provides a laser display to produce a variety of special effects. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective July 24, 1980, and ends July 24, 1982.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), 2001 Entertainment Complex, Inc., 2650 Sunrise Highway, East Islip, NY 11730, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Orion II–A projector and the laser light shows assembled and produced by 2001 Entertainment Complex, Inc. with levels of accessible laser radiation in excess of class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for 2001 Entertainment Complex, Inc. personnel.

The product shall bear the Variance Number 80P–0087. By letter of July 24, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on July 24, 1982. In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (formerly the Hearing Clerk's office), Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: October 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–34253 Filed 11–3–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0271]

International Drug Scheduling Convention on Psychotropic Substances; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; Correction.

SUMMARY: In FR Doc. 80–33726 appearing at page 72291 in the **Federal Register** of Friday, October 31, 1980, the fourth paragraph under "Supplementary Information" is corrected to read:

"HHS has also learned that WHO has made no recommendations to the CND concerning charges in scheduling under the Convention on Psychotropic Substances with respect to the following five substances: (1) Amfepramine (known in the United States as diethylpropion) (currently in Schedule IV of the Convention); (2) chlorphentermine (currently not controlled under the Convention); (3) chlortermine (known in the United States as clortermine) (currently not controlled under the Convention); (4) fenfluramine (currently not controlled under the Convention); and (5) phenmetrazine (currently in Schedule II of the Convention). Thus, it is expected that the CND will not consider changes in the scheduling status of these five substances at its February 1981 meeting."

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–34536 Filed 11–3–80; 11:09 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. D–80–625]

Director, Office of Procurement and Contracts; Director, Procurement and Policy and Evaluation Division, et al.; and Regional Administrators and Directors, Office of Regional Administration; Designations and Redelegations of Authority

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Administration.

ACTION: Notice of Correction.

SUMMARY: The Designations and Redelegations of Authority, as published at 41 FR 2666, January 19, 1976 and amended at 41 FR 47279, October 28, 1976, omitted a Department official and contained titles of certain officials which have changed. This Notice corrects the Designations and Redelegations of Authority by including the correct titles of all Departmental officials involved.

EFFECTIVE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Whittleton, Office of Procurement and Contracts, (202) 724–0040 (Not a toll free number).

SUPPLEMENTARY INFORMATION: The Designation and Redelegation of Authority at 41 FR 2666 (January 19, 1976), as amended at 41 FR 47279 (October 28, 1976) omitted the Director, Office of Regional Administration, but included the Insuring Office Administrative Officer, a title which no longer exists.

Accordingly, Sections C and D of the Designation and Redelegation of Authority at 41 FR 2666, as amended at 41 FR 47279, are corrected to read as follows: Section C. Authority redelegated. Each Regional Administrator, Director, Office of Regional Administration, Regional Director of Administrative Services and Regional Purchasing Agent is authorized: (1) to enter into and administer purchases for property and services for the Department which are placed under the General Services Administration Federal Supply Contracts, Schedule Contracts of the National Industries for the Blind and Schedule Contracts of the Federal Prison Industries, Inc., up to the maximum ordering limitation for each such contract, and (2) to enter into and administer purchases and procurement contracts for property and services for the Department not to exceed $10,000 on an individual basis under Section 302(c)(3) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c)(3)).

Each Regional Administrator, each Director, Office of Regional Administration, and each Regional Contracting Officer (RCO) is designated as a Contracting Officer and Purchasing Agent and may, when directed to do so by the Assistant Secretary for Administration, enter into and administer specific purchases, procurement contracts, and Interagency Agreements with other Federal agencies for property and services required by the Department, and make related determinations thereto under Section 302(c) (1) through (15) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c) (1) through (15)), except the authority to make related determinations under Section 302(c) (11), (12) and (13) of the Federal Property and Administrative Services Act (41 U.S.C. 252(c) (11) and (13)).

The Authority in this Section C does not apply to purchases and contracts for Acquired Property Programs.

Section D. Authority redelegated. Each Area Manager and Area Office Administrative Management Division Director is designated as a Regional Purchasing Agent and is authorized: (1) to enter into and administer purchases of property and services for the Department not to exceed $500 on an individual basis under Section 302(c)(3) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c)(3)), and (2) to enter into and administer purchases which are placed under the General Services Administration Federal Supply Schedule Contracts, of the National Industries for the Blind and Schedule Contracts of the Federal Prison Industries, Inc., up to the maximum ordering limitation for each such contract, except:

a. Purchases of capitalized equipment or furniture other than from General Services Administration Federal Supply Schedule Contracts.

b. Purchases and contracts for Acquired Property Programs.

(Sec. 205(c) of the Federal Property and Administrative Services Act, as amended, 40 U.S.C. 486(c); FPR 1–1.008. Sec. 7(d), Department and HUD Act, 42 U.S.C. 3535(c))

Issued at Washington, D.C., October 24, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80–34366 Filed 11–3–80; 8:45 am]

BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. N–80–1038]

Acting Secretary of Housing and Urban Development; Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the Secretary of Housing and Urban Development is not available to exercise the powers and perform the duties of the Secretary, appointees to the positions listed below are authorized to act as Secretary and exercise all the powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. Under Secretary
2. General Counsel
3. Assistant Secretary for Community Planning and Development
4. Assistant Secretary for Housing-Federal Housing Commissioner
5. Assistant Secretary for Policy Development and Research
6. Assistant Secretary for Legislation and Intergovermental Relations
7. Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection
8. Assistant Secretary for Fair Housing and Equal Opportunity
9. Assistant Secretary for Administration.

In the event of a civil defense emergency declared or proclaimed by the President or by Concurrent Resolution of the Congress in accordance with Section 301 of the Federal Civil Defense Act of 1950 (64 Stat. 1251, 12 U.S.C. App. 2291) and none of the officials named above is able to act, appointees to the positions listed below are authorized to act as Secretary and exercise all powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. General Management, New Community Development Corporation
2. President, Government National Mortgage Association
3. President, Solar Energy and Energy Conservation Bank

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4. Deputy Under Secretary for Field Coordination
5. Deputy Assistant Secretary for Administration
6. Regional Administrator, Region VI (Fort Worth)
7. Regional Administrator, Region VII (Kansas City)
8. Regional Administrator, Region V (Chicago)
9. Regional Administrator, Region III (Philadelphia)
10. Regional Administrator, Region VII (Denver)
11. Regional Administrator, Region IX (San Francisco)
12. Regional Administrator, Region IV (Atlanta)
13. Regional Administrator, Region I (Boston)
14. Regional Administrator, Region X (Seattle)
15. Regional Administrator, Region II (New York)

This designation supersedes the designation effective May 19, 1980 (45 FR 38450 published June 9, 1980).

Authority: Executive Order 11274, 31 FR 5243, 3 CFR; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 11490, 34 FR 17567.

Effective Date: This order is effective October 24, 1980.

Moon Landrieu,

Secretary, Housing and Urban Development.

[FR Doc. 80-34367 Filed 11-3-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Interstate Land Sales Registration

[Docket No. N-80-1037]

Request for State Certification; California

AGENCY: Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of Application by the State of California for State Certification.

SUMMARY: The Secretary gives public notice that the State of California has applied for certification of its land sales program under 24 CFR 1710.502, published June 14, 1980. The purpose of giving this public notice is to give other states and interested parties the opportunity to review and comment on California's application.

DATE: Comments should be submitted no later than January 5, 1981.

ADDRESSES: Send comments to: Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: John F. Weaver, Director, Policy Development and Control Division, Department of HUD, Room 4106, Washington, D.C. 20410. Telephone: (202) 755-6314 (This is not a toll free number.)

SUPPLEMENTAL INFORMATION: The amendments to the Interstate Land Sales Full Disclosure act were signed into law by the President on December 21, 1979 (Pub. L. 96-153). On June 13, 1980, the Department published 24 CFR Parts 1710, 1715, 1720, and 1730 (Docket No. R-80-778) to implement the amendments. Section 1710.502 provides that a state may submit an application for certification of its land sales program to the Office of Interstate Land Sales Registration.

Once a State has been certified by the Secretary, developers may accomplish the Federal land registration requirements by filing with the Secretary materials designated by agreement with certified states in lieu of the Federal Statement of Record and Property Report.

The State of California has submitted an application.

Any person(s) interested in receiving the application materials prepared by the State of California may request copies of them from the Office of Interstate Land Sales Registration from the address above.

Issued at Washington, D.C., October 27, 1980.

Geno Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-34365 Filed 11-3-80 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Delegation of Authority

The following material is a portion of the Geological Survey Manual listing the delegation of certain authorities of the Director, Geological Survey, found in the Code of Federal Regulations at 30 CFR Part 251. The regulations at 30 CFR Part 251 govern geological and geophysical exploration of the Outer Continental Shelf. They were revised on January 25, 1980 (45 FR 6338), because of passage of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) and a decision by the Secretary of the Interior to allow the drilling of prelease constructure deep stratigraphic tests.

The delegation of authority printed below lists the Officials authorized to act for the Director under 30 CFR Part 251. The numbering system used for the delegation of authority is that of the Geological Survey Manual. Section SM 220.2.6. follows.

Dated: October 27, 1980.

H. William Menard,

Director.

.6 Authorities under regulations in 30 CFR Part 251; Geological and Geophysical Explorations of the Outer Continental Shelf. Except as provided below, all the authorities of the Director, Geological Survey, that are set forth in 30 CFR 251 are delegated through the Chief, Conservation Division; the Deputy Division Chief, Offshore Minerals Regulation; and the appropriate Conservation Manager to the appropriate Deputy Conservation Manager. Those authorities which are delegated herein to the Conservation Manager or to the Deputy Division Chief, Offshore Minerals Regulation, may be further redelegated with the approval of the Chief, Conservation Division.

A. Authority under the regulations in Section 251.4, "Geological and geophysical activities requiring notices or permits":

The authority to issue a permit for geological exploration for mineral resources involving the drilling of a deep stratigraphic test shall be exercised by the Deputy Conservation Manager for Offshore Field Operations having jurisdiction over the area in which the test drilling is proposed. The issuance of this permit shall be subject to review and approval by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area in which the test drilling is proposed. The authority to issue a permit for geophysical exploration for mineral resources and a permit for geological exploration for mineral resources (other than for a deep stratigraphic test) shall be exercised by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area in which the exploration activities are proposed (30 CFR 251.4-1).

The authority to issue a permit for geological scientific research involving the drilling of a deep stratigraphic test shall be exercised by the Deputy Conservation Manager for Offshore Field Operations having jurisdiction over the area in which the test drilling is proposed. The issuance of this permit shall be subject to review and approval by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area in which the test drilling is proposed. The authority to issue a permit for geophysical scientific research which involves the use of solid or liquid explosives, and to disapprove a notice for scientific research activities which involve shallow test drilling, shall be exercised by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area in which the activities are proposed (30 CFR 251.4-2).

B. Authority under the regulations in Section 251.5, "Applying for notices or permits":

The authority to approve the manner in which an application for a permit shall be submitted shall be exercised by the Deputy Division Chief, Offshore Minerals Regulation (30 CFR 251.5-1(a)).

C. Authority under the regulations in Section 251.6, "Test drilling activities":

1. The authority to approve a Drilling Plan or revisions to a Drilling Plan as well as other aspects of an application for a deep stratigraphic test shall be exercised by the appropriate Deputy Conservation Manager for Offshore Field Operations having jurisdiction over the area in which the exploration activities are proposed and such approval shall be subject to review and concurrence by the Deputy Division Chief, Offshore Minerals Regulation. The location of a deep stratigraphic test shall be subject to review and concurrence by the appropriate Deputy Conservation Manager for Offshore Resource Evaluation (30 CFR 251.6-2).

2. The authority to issue special guidelines for implementing the section dealing with the submittal of an Environmental Report shall be exercised by the Deputy Division Chief, Offshore Minerals Regulation (30 CFR 251.6-2(b)).

3. The authority to issue a Public Notice announcing a significant hydrocarbon occurrence is reserved by the Director (30 CFR 251.6-3(a)).

4. The authority to prescribe the manner in which shallow or deep test drilling activities proposed for group participation will be described in a summary statement shall be exercised by the appropriate Deputy Conservation Manager for Field Operations and shall be subject to review and concurrence by the Deputy Division Chief, Offshore Minerals Regulation (30 CFR 251.6-3(c)).

5. The authority to extend the expiration date of a permit for a deep stratigraphic test, if it is determined that such an extension is in the national interest, is reserved by the Director (30 CFR 251.6-5).

D. Authority under the regulations in 30 CFR 251.7, "Inspection and reporting of progress and results of activities conducted under permits":

The authority to prescribe the manner in which weekly progress reports on activities conducted under a permit will be submitted shall be exercised by the Deputy Division Chief, Offshore Minerals Regulation (30 CFR 251.7-2).

E. Authority under the regulation in 30 CFR 251.8, "Suspension and cancellation of authority to conduct activities under permits":

The authority to suspend or cancel the permittee's authority to conduct exploration or scientific research activites under a permit shall be exercised by the Deputy Division Chief, Offshore Minerals Regulation (30 CFR 251.8).

F. Authority under the regulations in 30 CFR 251.14, "Disclosure of information and data submitted under permit":

1. The authority to issue a public announcement when any significant hydrocarbon occurrences are detected or environmental hazards are encountered on unleased lands during drilling operations is reserved by the Director (30 CFR 251.14-1(c)(1)).

2. The authority to provide the Governors of affected States with information on lands proposed to be offered for leasing shall be exercised by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area adjacent to the affected State (30 CFR 251.14-3(a)).

3. The authority to consult with the Governor of an affected State concerning possible oil or gas reservoirs underlying both the Outer Continental Shelf (OCS) and lands subject to State jurisdiction shall be exercised by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area adjacent to the affected State (30 CFR 251.14-3(b)).

4. The authority to provide, upon request, to the Governor of an affected State, any information on the identification of oil or gas pools or fields underlying both the OCS and lands subject to State jurisdiction on tracts selected for leasing within 3 geographic miles of any such State shall be exercised by the Deputy Conservation Manager for Offshore Resource Evaluation having jurisdiction over the area adjacent to the affected State (30 CFR 251.14-3(c)).

The **Federal Register** Notice of March 14, 1980 (45 FR 16570), is corrected to show the delegation of authority pertaining to 30 CFR Part 252 as being covered in SM 220.2.7. This is done by adding ".7" before the first word in the second column, page 16572.

[FR Doc. 80-34331 Filed 11-3-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 24, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 19, 1980.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Continental Gin Company*, 4500 5th Ave. South

FLORIDA

Franklin County

Apalachicola, *Apalachicola Historic District*, Roughly bounded by Apalachicola River, Apalachicola Bay, 17th and Jefferson Sts.

GEORGIA

Cobb County

Smyrna, *Rice, John W., Summer Cottage*, 254 Concord Rd.
Smyrna, *Ruff, Martin L., Homeplace*, 86 Concord Rd.
Smyrna, *Ruff's Mill and Concord Covered Bridge*, 10 Concord Rd., SW.

Gwinnett County

Norcross, *Norcross Historic District*, Off U.S. 23 *Polk County*
Cedartown, *Hawkes Children's Library*, N. College St.

Wilkes County

Rayie vicinity, *Daniel, James and Cunningham, House*, S. of Rayle on Bartram Trace Rd.

IDAHO

Owyhee County

Oreana, *Our Lady, Queen of Heaven Church.*

ILLINOIS

AMERICAN WOMAN'S LEAGUE CHAPTER HOUSES THEMATIC RESOURCES.
Reference—see individual listings under Bureau, Henry, Lake, Macoupin, Madison and White Counties.

Bureau County

Princeton, *Princeton Chapter House (American Woman's League Chapter Houses Thematic Resources)* 1007 N. Main St.

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Carroll County

Mount Carroll, *Halderman, Nathaniel, House,* 728 E. Washington St.
Mount Carroll, *Mount Carroll Historic District,* IL 64 and IL 78

Clark County

Marshall, *Lewis, John W., House,* 503 Chestnut St.

Cook County

Chicago, *Dunlap Mansion,* 1012 N. Dearborn St.
Chicago, *Sheridan Plaza Hotel,* 4601–4613 Sheridan Rd. and 936–956 W. Wilson Ave.

DuPage County

Villa Park, *Ardmore Avenue Train Station,* 10 W. Park Ave.

Franklin County

Sesser, *Sesser Opera House,* 106 W. Franklin St.

Henry County

Andover, *Andover Chapter House (American Woman's League Chapter Houses Thematic Resources)* Locust St. NW.
Annawan, *Annawan Chapter House (American Woman's League Chapter Houses Thematic Resources)* 206 S. Depot St.

Kane County

Geneva, *North Geneva Historic District,* Roughly bounded by RR tracks, Fox River, Stevens and W. State Sts.
Wasco vicinity, *Campton Town Hall,* W of Wasco Town Hall Rd. and IL 64

Lake County

Highland Park, *Willits, Ward Winfield, House,* 1445 Sheridan Rd.
North Chicago, *North Chicago Chapter House (American Woman's League Chapter Houses Thematic Resources)* 17th St. and S. Park Ave.
Zion, *Zion Chapter House (American Woman's League Chapter Houses Thematic Resources)* 2715 Emmaus Ave.

Macoupin County

Carlinville, *Carlinville Chapter House (American Woman's League Chapter Houses Thematic Resources)* 111 S. Charles St.

Madison County

Alton, *Alton Chapter House (American Woman's League Chapter Houses Thematic Resources)* 509 Beacon St.
Edwardsville, *Edwardsville Chapter House (American Woman's League Chapter Houses Thematic Resources)* 515 W. High St.
Edwardsville vicinity, *Kuhn Station Site (MS–29)* SE of Edwardsville
Granite City vincinity, *Horseshoe Lake Mound and Village Site,* SR 1
Marine, *Marine Chapter House (American Woman's League Chapter Houses Thematic Resources)* Silver St.

Peoria County

Peoria, *Madison Theatre,* 502 Main St.

Richland County

Olney, *Elliott Street Historic District,* S. Elliott St. between Chestnut St. and South Ave.

Sangamon County

Rochester vicinity, *Miller, Joseph, House,* Buckhart Rd.
Springfield, *Central Springfield Historic District.* Roughly bounded by Jefferson, Monroe, 4th and 7th Sts. (boundary increase)

St. Clair County

Belleville, *Belleville Historic District,* Between E. S. Belt, Illinois, and Forest Sts. (boundary increase)

Union County

Jonesboro vicinity, *St. Paulus Evangelisch Lutherischen Gemeinde,* S of Jonesboro

White County

Carmi, *Carmi Chapter House (American Woman's League Chapter Houses Thematic Resources)* 604 W. Main St.

Will County

Lockport vicinity, *Stone Manor,* SE of Lockport

INDIANA

Marion County

Indianapolis, *Majestic Building,* 47 S. Pennsylvania St.

Ohio County

Rising Sun vicinity, *Brown, David, House,* N of Rising Sun on IN 56

LOUISIANA

Calcasieu Parish

Lake Charles, *Charleston Hotel,* Ryan St.

Caldwell Parish

Columbia vicinity, *Breston Plantation House,* N of Columbia

MISSISSIPPI

Adams County

Natchez vicinity, *Saragossa,* 5 mi. S of Natchez on Saragossa Rd.

Jefferson County

Fayette vicinity, *Laurietta,* S of Fayette off MS 33

Oktibbeha County

Starkville, *Lampkin-Owens House,* 117 N. Montgomery St.

MISSOURI

St. Louis (independent city)
Old Laclede Gas and Light Company Building, 1017 Olive St.

NEW JERSEY

Monmouth County

Holmdel vicinity, *North American Phalanx Archeological Site,* SE of Holmdel

NEW MEXICO

Bernalillo County

Albuquerque, *ALBUQUERQUE DOWNTOWN NEIGHBORHOODS MULTIPLE RESOURCE AREA.* This area includes: *Eighth Street-Forrester District,* Roughly bounded by Mountain Rd., Lomas Blvd., Forrester and 7th Sts.; *Fourth Ward District,* Roughly bounded by Central Ave., Lomas Blvd., 8th and 15th Sts.; *Watson District,* Roughly bounded by Old Town Rd., Lomas Blvd., 15th and 18th Sts., *Carnes, Chester, House,* 701 13th St., NW.; *Gonzales, Apolonio, House,* 1524 Granite Ave., NW., *Gonzales, Elias, House,* 821 12th St., NW.; *Gurule, Delfinia, House,* 306 16th St., NW.; *Harwood School,* 1114 7th St., NW.; *Hayden, A. W., House,* 609 Marble St., NW.; *La Glorieta,* 1801 Central Ave., NW.; *LeFeber, Charles, House,* 313 5th St.; *Lopez, Hilario, House,* 208 16th St., NW; *Mann, Henry, House,* 723 14th St., NW.
Albuquerque, *Chavez, Rumaldo, House,* 10023 Edith Blvd., NE.
Albuquerque, *Federal Building,* 421 Gold Ave., SW.
Albuquerque, *Lembke House,* 312 Laguna St., SW. *Albuquerque, Pearce, John, House,* 718 Central Ave., SW.
Albuquerque, *Skinner Building,* 722–724 Central Ave., SW. and 108 8th St., SW.

NEW YORK

Erie County

Buffalo, *Dorsheimer, William, House,* 434 Delaware Ave.

NORTH DAKOTA

McKenzie County

Grassy Butte, *Grassy Butte Post Office,* Off U.S. 85

OKLAHOMA

LeFlore County

Cowlington vicinity, *Overstreet House,* NE of Cowlington off U.S. 59

RHODE ISLAND

Providence County

East Providence, *East Providence Multiple Resource Area.* This area iancludes: *Rumford Chemical Works and Mill Houses Historic District,* N. Broadway, Newman and Greenwood Aves.; *Rumford Historic District,* Pleasant St., Greenwood and Pawtuket Aves.; *Bicknell-Armington Lightning Splitter House,* 3591 Pawtucket Ave., *Boston and Providence Railroad Bridge,* Spans Ten Mile River; *Bridgham Farm,* 120, 148, 150, and 160 Pleasant St.; *Carpenter, Lakeside, and Springvale Cemeteries,* Newman and Pawtucket Aves.; *Daggett, Nathaniel, House,* 74 Roger Williams Ave.; *Dennis, James, House,* 3120 Pawtucket Ave.; *District 6 Schoolhouse,* 347 Willett Ave.; *Little Neck Cemetery,* Off RI 103; *Newman Cemetery,* Newman and Pawtucket Aves.; *Newman Congregational Church,* 100 Newman Ave.; *Oddfellow's Hall,* 63—67 Warren Ave.; *Squantum Association,* 947 Veterans Memorial Pkwy.; *St. Mary's Episcopal Church,* 83 Warren Ave.; *Whitcomb Farm,* 36 Willett Ave.; *Williams, Roger, Spring,* 89 Roger Williams Ave.

SOUTH CAROLINA

Columbia Multiple Resource Area (Additions). Reference—see Lexington and Richland counties.

Florence County

Florence vicinity, *Stockade, The,* 1 mi. E of Florence on National Cemetery Rd.

Lexington County

West Columbia, *Gervais Street Bridge (Columbia Multiple Resource Area (Additions)).* Spans Congaree River. See also listing in Richland County.
West Columbia, *Mount Hebron Temperance Hall,* 3041 Leaphart Rd.

Newberry County

Newberry, *Newberry Multiple Resource Area.* This area includes: *Boundary Street-Newberry Cotton Mills Historic District,* Roughly bounded by Drayton, Boundary, Charles, Tarrant and Crosson Sts.; *Caldwell Street Historic District,* Caldwell St.; *College Street Historic District,* College St.; *Harrington Street Historic District,* Harrington St.; *Main Street Historic District,* Roughly bounded by Harper, Summer, Douglas, Johnstone, Holman, and McMorris Sts.; *Newberry Historic District (boundary increase)* Roughly bounded by Friend, McKibben, Harrington, Lindsay and Coates Sts.; *Vincent Street Historic District,* Vincent and Crosson Sts.; *West Boundary Street Historic District,* Boundary and Jessica Sts.; *Burton House; Cousins House,* Nance St.; *Higgins, Francis B., House,* 1520 Boundary St.; *Mower, George, House,* 1526 Boundary St.; *Reighley, Ike, House,* 2304 Main St.; *Stewart House,* 1001 Wilson St.; *Summer Brother Stores,* 900 Main St.; *Timberhouse,* 1427 Ebenezer Rd.; *Wells Japanese Garden,* Lindsay St.; *Wells, Osborne, House,* 1101 Fair St.

Richland County

Columbia, *Columbia Multiple Resource Area (Additions).* This area includes: *Arcade Building,* 1332 Main St.; *Brown Building,* 1730 Main St.; *Building at 1321—1325 Main Street; Building at 1722—1724 Main Street; Canal Dime Savings Bank,* 1530 Main St.; *First National Bank,* 1208 Washington St.; *Palmetto Building,* 1400 Main St.; *Taylor House,* 1505 Senate St.; (See also listing in Lexington County)

TEXAS

Medina County

Castroville vicinity, *de Montel, Charles, House,* NW of Castroville

UTAH

Cache County

Wellsville, *Wellsville Tabernacle,* 75 S. 100 East St.

VIRGINIA

Arlington County

Arlington, *Colonial Village,* Wilson and Key Blvds., Lee Hwy., N. 18th, Troy and Rhodes Sts.

Halifax County

Halifax vicinity, *Wiley's Tavern Archeological Site,* S of Halifax off U.S. 58.

WISCONSIN

Marathon County

Wausau vicinity, *Single, Benjamin, House,* W of Wausau at 4708 Stettin Dr.

Waukesha County

Brookfield vicinity, *Gredler-Gramins House,* 20190 Davidson Rd.
Oconomowoc vicinity, *Ahrens, Frederick C., House,* S of Oconomowoc at 1501 N. Golden Lake Rd.

Wyoming

Big Horn County

Hyattsville vicinity, *Paint Rock Canyon Archeological District*

Sweetwater County

Superior vicinity, *Cedar Canyon Petroglyphs,* NW of Superior.

[FR Doc. 80-33872 Filed 11-3-80; 8:45 am]

BILLING CODE 4310-03-M

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR)

Roundtables on Proposed Grants Policymaking by the Office of Management and Budget

AGENCY: Advisory Commission on Intergovernmental Relations (ACIR).

ACTION: Notice of roundtables (open meeting) on proposed grants policymaking by the Office of Management and Budget.

SUMMARY: This series of roundtables has been organized to (1) present the issues, problems, and alternative approaches associated with federal assistance policy in the areas of competition, dispute resolution, handicapped regulations, and crosscutting requirements; (2) to provide improved access to all major recipient groups in the policymaking process and to obtain comment from the affected parties.

DATE: November 20, 1980—9:00 a.m.–12:30 p.m.

Competition for Federal Assistance Awards

- Defining competition
- Nature and extent of competition for the award of grants and cooperative agreements
- Competition standards as applied to types of assistance and types of recipient
- Improvements in existing practices, alternative strategies (or models) and implications for different types of competition
- Judicial review

November 20th—1:30 p.m.–5:00 p.m.

Dispute Resolution for Federal Assistance

- Need for government-wide policy
- Basic principles for dispute resolution processes
- Need for procedural protection
- Use of informal dispute resolution approaches
- Duration of formal processes
- Giving the complainant a "final" decision
- Appeal and review processes
- How agencies should handle particular types of disputes
- The role of OMB

November 21, 1980—9:00 a.m.–12:30 p.m.

Handicapped Regulations Implementation and Impact

- Description of legislative history
- Status of implementation
- Current experiences of recipients
- Concerns of handicapped
- Pending legislation impacting on 504
- Transfer of guidance authority to DOJ
- Discussion of alternative administrative strategies

November 21st—1:30 p.m.–5:00 p.m.

Cross-cutting National Policy Requirements

- The Problem
  - —Growing number
  - —Cumulative costs—to recipients and agencies
  - —Inconsistent agency implementation
  - —Possibly conflicting policy objectives
- Legal vs. management aspects
- Standardization as a solution
  - —The case of standardization
  - —Process vs. performance standards
  - —Single standards vs. ranges of standards
  - —Ranges of recipient capacity
- The OMB approach
  - —Emphasis on coordination and cooperation
  - —The guidance life cycle
  - —Results of early attempts to make it work.

ADDRESS: Auditorium, 1530 P Street, N.W., Washington, D.C. (3 blocks northeast of Dupont Circle Metro station).

SUPPLEMENTARY INFORMATION: This meeting is open to the public on a space available basis; interested groups and individuals should contact Elizabeth Bunn with the number attending by COB November 17th at (202) 653–5536. The public is invited to submit questions, comments and statements in advance to ACIR, 1111 20th Street, N.W., Washington, D.C. 20575 c/o Mr. Michael

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Mitchell. Additional Roundtables will be held in San Francisco on December 16–17 and in Chicago on January 8–9. Details will be provided in a later Federal Register Notice.

Dated: October 29, 1980.

Franklin A. Steinko,

Budget and Management Officer.

[FR Doc. 80-34257 Filed 11-3-80; 8:45 am]

BILLING CODE 6115-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before December 4, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: October 23, 1980.

By the Commission, Review Board No. 5, members Krock, Taylor and Williams.

MC-F-14392, filed May 14, 1980. CARAVAN REFRIGERATED CARGO, INC. (CRC) (605 South Loop 12, Irving, TX 75060)—LEASE—TEXAS CONTINENTAL EXPRESS, INC., DEBTOR IN POSSESSION (TCE) (2603 West Euless Blvd., Euless, TX 76039). Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202; and J. K. Shillern, 800 Baker Building, Fort Worth, TX 76102. CRC seeks authority to lease all of the interstate operating right of TCE, a debtor in possession under Chapter XI of the Bankruptcy Act. Caravan Motor Cargo, Inc., which controls CRC and J. T. Moore who controls Caravan Motor Cargo, Inc., seeks authority to control the rights of TCE through the lease. CRC will lease all of the operating rights contained in certificate No. MC-133095 and subs thereto which authorize the transportation of various specified commodities from and to named points throughout the continental United States. The authority is more specifically set forth and available for examination in the files of the Interstate Commerce Commission located in Room 7102, 12th Street and Constitution Avenue, Washington, D.C. 20423. CRC is a motor common carrier of specified commodities over irregular routes in each of the 48 continental States, pursuant to certificate No. MC-119789.

Note.—Impediments exist to the summary grant of this application due (1) to the request that CRC be substituted as applicant in TCE's pending applications; (2) to the substantial duplication of lessor and lessee's authorities, and (3) to the financial ability of CRC to consummate the lease and operate the properties thereunder. Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34316 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this application. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed on or before December 19, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: October 23, 1980.

By the Commission, Review Board No. 5, members Krock, Taylor and Williams (Board member Taylor dissents and would publish subject to a further impediment that applicant has failed to show how the proposed transaction will improve Follmer's ability to provide service, or how Follmer will raise the funds required to carry out its obligations resulting from the transaction and still remain able to serve the public in an adequate fashion).

MC F 14488F, filed October 3, 1980. NPFT, INC. (NPFT) (Route 63 & 202, P.O. Box 230, Lansdale, PA 19446)—Control—FOLLMER TRUCKING COMPANY (Follmer) (Old Trail Road, Hummels Wharf, PA 17831). Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. NPFT seeks authority to acquire control of Follmer through the purchase by NPFT of 31,318 shares of the issued and outstanding shares of the capital stock of Follmer and the concurrent redemption by Follmer of the remaining 21,763 shares of the issued and outstanding shares of Follmer capital stock. North Penn Transfer, Inc., the sole stockholder of NPFT, and in turn, Anders Holding Co., the sole stockholder of North Penn Transfer, Inc., and in turn, Arthur F. Anders, III, and James P. Anders, majority stockholders of Anders Holding Co., seek authority to acquire control of Follmer through the transaction. Arthur F. Anders also is in control of Anders Holding Co., and will be required to join in this application. Follmer is authorized to operate as a motor common carrier pursuant to certificates issued in MC 33520 and sub-numbers thereunder, which authorize the transportation as follows: Over regular routes, (A) *general commodities* (with various exceptions), (1) between Lock Haven, PA, and Baltimore, MD, as follows: (a) from Lock Haven over U.S. Hwy 220 via Williamsport, PA, to Halls, PA, then over PA Hwy 14 to Northumberland, PA, then over U.S. Hwy 11 to Shamokin Dam, PA (also from Williamsport over U.S. Hwy 15 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Shamokin Dam), then over U.S. Hwy 11 via Amity Hall, PA, to Lemoyne, PA, then over U.S. Hwy 111 to Baltimore; (b) from Lock Haven to Halls, as specified above, then over PA Hwy 405 to junction PA Hwy 14, then over PA Hwy 14 to Northumberland, PA, then to Amity Hall as specified above, then over U.S. Hwy 22 to Harrisburg, PA, then across the Susquehanna River to Lemoyne, PA, and then to Baltimore, as specified above; (c) from Lock Haven to Lemoyne as specified above, then over U.S. Hwy 15 to York Springs, PA, then over PA Hwy 94 to PA-MD State line, then over MD Hwy 30 to Reisterstown, MD, then over U.S. Hwy 140 to Baltimore; and return in (a), (b), and (c) above over these routes to Lock Haven; (2) between Lock Haven and Philadelphia, PA, as follows: (a) from Lock Haven to Northumberland as specified above, then over PA Hwy 14 to Sunbury, PA, then over U.S. Hwy 122 to Hamburg, PA, then over U.S. Hwy 22 to Allentown, PA, then over U.S. Hwy 222 to Reading, PA (also from Hamburg over U.S. Hwy 122 to Reading), then over U.S. Hwy 122 to Philadelphia; (b) from Lock Haven to Sunbury as specified above, then over U.S. Hwy 11 to Amity Hall, PA, then to Harrisburg as specified above, then over U.S. Hwy 230 to Lancaster, PA, then over U.S. Hwy 30 to Philadelphia, and return in (a) and (b) above over these routes to Lock Haven; (3) between points and places in PA as follows: (a) from Northumberland over U.S. Hwy 11 to Berwick, PA, via Bloomsburg, PA (also from Bloomsburg over PA Hwy 339 to Orangeville, PA, then over PA Hwy 93 to Berwick); (b) from Orangeville over PA Hwy 339 to junction PA Hwy 115 near Benton, PA; (c) from Danville over PA Hwy 54 to Washingtonville, PA, then over PA Hwy 254 to Jerseytown, PA, then over PA Hwy 115 to Benton; (d) from Millville over PA Hwy 42 to Bloomsburg; (e) from Washingtonville over PA Hwy 54 to Turbotville, PA, then over PA Hwy 44 to junction PA Hwy 14; (f) from junction PA Hwys 54 and 875 over PA Hwy 875 to junction PA Hwy 44, then over PA Hwy 44 to Exchange; (g) from Milton over PA Hwy 154 to junction PA Hwy 45, then over PA Hwy 45 to junction PA Hwy 54; (h) from Montandon over PA Hwy 45 to Mifflinburg; (i) from Milton over PA Hwy 976 to West Milton; (j) from Muncy over PA Hwy 405 to Hughesville, PA, then over U.S. Hwy 220 to Muncy Valley, PA, then over PA Hwy 42 to Eagles Mere; (k) from Pottsville over U.S. Hwy 209 to junction PA Hwy 901, then over PA Hwy 901 to Minersville; (l) from Montgomery over unnumbered Hwy to junction U.S. Hwy 15; (m) from Dewart over PA Hwy 44 to Allenwood, and return in (a) through (m) above over these same routes to the above-specified origin points and

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serving all intermediate points and the off-route points of Beaver Springs, Beavertown, Bellefonte, Blossburg, Catawissa, Coaldale, Conshohocken, Duncannon, Freeburg, Gilberton, Gordon, Hartleton, Kelly Crossroads, Kreamer, Lansford, Mahonoy City, McClure, Marcus Hook, Middleburg, Nescopeck, Shenandoah, State College, Tamaqua, and Vicksburg, PA, Camden and Trenton, NJ, and subject to limitations that no shipments shall be transported as to which the entire transportation service involved is solely between Harrisburg, Baltimore, and points between Harrisburg and Baltimore; (B) *chemicals, acids, dyestuffs, paper and paper products,* between Lock Haven, PA and New York, NY, (a) from Lock Haven to Harrisburg as specified above, then over U.S. Hwy 22 to Newark, NJ, then across the Hudson River to New York; and (b) from Lock Haven to Northumberland as specified above, then over U.S. Hwy 122 to Ashland, PA, then over PA Hwy 45 to Hometown, PA, then over PA Hwy 29 to Schnecksville, PA, then over U.S. Hwy 309 to Allentown, then over U.S. Hwy 22 to Newark, and then across the Hudson River to New York, and return in (a) and (b) above over the same routes to Lock Haven, serving all intermediate points between Lock Haven and Harrisburg, and the off-route points of Hackettstown, Washington, Princeton, Trenton, and Morristown, NJ, and points in NJ within 35 miles of New York, NY; (C) *automobile bodies,* between Mifflinburg, PA, and New York, NY, from Mifflinburg over PA Hwy 45 to junction U.S. Hwy 15, then over Hwys specified above to New York, NY, and return over the same route, serving all intermediate points between Mifflinburg and Harrisburg, and the off-route points of Hackettstown, Washington, Princeton, Trenton, and Morristown, NJ, and points in NJ within 35 miles of New York, NY; (D) *boilers, furnaces, and parts thereof,* between Williamsport, PA, and New York, NY, from Williamsport over the above-specified routes to New York, NY, serving all intermediate points between Williamsport and Harrisburg, and the off-route points of Hackettstown, Washington, Princeton, Trenton, and Morristown, NJ, and points in NJ within 35 miles of New York, NY; (E) *movement of empty vehicles,* (1) between New York, NY, and Philadelphia, PA, over U.S. Hwy 1; and (2) between Philadelphia, PA, and Baltimore, MD, from Philadelphia over U.S. Hwy 13 to State Road, DE, then over U.S. Hwy 40 to Baltimore, MD, and return over the same route; (F) *general commodities* (with various exceptions), (1) between Berwick and Scranton, PA, over U.S. Hwy 11; (2) between Wilkes-Barre and Pittston, Dupont, Kingston, and Nanticoke, PA, as follows: (a) from Wilkes-Barre over unnumbered Hwy (formerly U.S. Hwy 309) to Pittston; (b) from Wilkes-Barre over PA Hwy 315 to Dupont; (c) from Wilkes-Barre over U.S. Hwy 309 to Kingston; and (d) from Wilkes-Barre over PA Hwy 72 to Nanticoke, and return in (a) through (d) above over the same routes to the above-specified origin points, serving all intermediate points;

(G) *iron castings,* serving Red Rock, PA, as an off-route point in connection with carrier's presently authorized regular-route operations between Philadelphia and Benton, PA; (H) *general commodities* (with various exceptions), (1) between Hazelton and Forty Fort, PA, from Hazleton over US Hwy 309 to Wilkes-Barre, PA, then over US Hwy 11 to Forty Fort, and return over the same route, serving all intermediate points; (2) serving Dingmans Ferry, Milford, and Matamoras, PA, located on US Hwy 209 between Stroudsburg, PA, and Port Jervis, NY, in connection with carrier's regular-route operations authorized between Scranton and Delaware Water Gap, PA, restricted to the transportation of shipments originating at or destined to points in Pike County, PA; (3) between Hazelton, PA, and Endicott, NY, from Hazelton over US Hwy 309 to Wilkes-Barre, PA, then across the Susquehanna River to Kingston, PA, then over US Hwy 11 to Binghamton, NY, then over NY Hwy 17–C to Endicott, and return over the same route, serving all intermediate points, and the off-route points of Luzerne, Nanticoke, and Swoyersville, PA; (4) between Scranton and Delaware Water Gap, PA, from Scranton over PA Hwy 435 (formerly portion US Hwy 611) to junction US Hwy 611, then over US Hwy 611 to Delaware Water Gap, and return over the same route, serving all intermediate points, and the off-route points of Pocono Manor, Pocono Summit, Pocono Pines, Shawnee, Bushkill, Marshalls Creek, Analomink, Henryville, Paradise Valley, Cresco, Mountainhome, Buck Hill Falls, Canandensis, Skytop, Gouldsboro, South Sterling, Newfoundland, and Greentown, PA; and (5) between Beech Creek and Lock Haven, PA, over PA Hwy 150 (formerly US Hwy 220), serving all intermediate points; and over irregular routes, *general commodities* (with various exceptions), from Allentown, PA, to points in Berks, Bucks, Carbon, Lackawanna, Luzerene, Mifflin, Monroe, Schuylkill, and Northampton Counties, PA. NPFT does not hold motor carrier authority. However, its parent, North Penn Transfer, Inc., is a motor common carrier pursuant to certificates issued in MC 52932 and sub-numbers thereunder. Condition: So far as can be ascertained from the evidence of record in this proceeding, Anders Holding Co. is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Anders Holding Co. will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will therefore be subject to the applicable provisions of 49 U.S.C. Subtitle IV, subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. Impediment: Authorization and approval of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by Arthur F. Anders, stating that he is also a person in control of NPFT through stock ownership of Anders Holding Co., and that he joins in this application.

Note.—Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34315 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers: Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 19, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–054

Decided October 16, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman.

MC 200 (Sub–502F), filed October 8, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Sparta, IL, as an off-route point in connection with carier's othewise authorized regular-route operations.

MC 1041 (Sub–3F), filed October 8, 1980. Applicant: B. N. CORKUM TRANSPORTATION COMPANY, a Corporation, 326 Ballardvale St., Wilmington, MA 01887. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from the facilities of Saylesville Warehouse, Inc., at Saylesville, RI, to points in ME, NH, VT, MA, and CT.

MC 2780 (Sub–8F), filed October 8, 1980. Applicant: HORN'S MOTOR EXPRESS, INC., 315 Spring Valley Road, Chambersburg, PA 17201. Representative: Edgar N. Jacobs (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in DE, MD, NJ, PA, VA, WV, and DC.

Note.—Applicant intends to tack the rights sought to its existing regular-route authority.

MC 2900 (Sub–439F), filed September 30, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd. Arlington, VA 22209. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Shreveport, LA, and San Diego, CA, over U.S. Hwy 80, (2) between Oklahoma City, OK, and Los Angeles, CA, over U.S. Hwy 66, (3) between Omaha, NE and Los Angeles, CA, from Omaha over U.S. Hwy 6 to junction U.S. Hwy 395 at or near Bishop, CA, then over U.S. Hwy 395 to junction CA Hwy 14, then over CA Hwy 14 to Los Angeles, and return over the same route, (4) between Laredo, TX, and San Francisco, CA, from Laredo over U.S. Hwy 81 to Ft. Worth, TX, then over U.S. Hwy 287 to Kit Carson, CO, then over U.S. Hwy 40 to junction Interstate Hwy 80 at or near Park City, UT, then over Interstate Hwy 80 to San Francisco, and return over the same route, (5) between Pocatello, ID, and Barstow, CA, over Interstate Hwy 15, (6) between Brownsville, TX, and Fremont, NE, over U.S. Hwy 77, (7) between San Antonio, TX, and Denver, CO, over U.S. Hwy 87, (8) between Wichita, KS, and Reno, NV, from Wichita over U.S. Hwy 81 to Newton, KS, then over U.S. Hwy 50 to Alternate U.S. Hwy 50, then over Alternate U.S. Hwy 50 to Interstate Hwy 80, then over Interstate Hwy 80 to Reno, and return over the same route, (9) between La Cruces, NM, and Denver, CO over U.S. Hwy 85, (10) between Green River, WY, and Nogales, AZ, from Green River over Interstate Hwy 80 to Salt Lake City, UT, then over U.S. Hwy 89 to Nogales, and return over the same route, (11) between Payette, ID, and Yuma, AZ, over U.S. Hwy 95, (12) between Brownsville, TX, and North Platte, NE, over U.S. Hwy 83, (13) between Durant, OK, and Globe, AZ, over U.S. Hwy 70, (14) between Houston, TX, and Denver, CO, from Houston over U.S. Hwy 90 to Sanderson, TX, then over U.S. Hwy 285 to Denver, and return over the same route, (15) between Grand Island, NE, and McAllen, TX, over U.S. Hwy 281, (16) between McKinney, TX, and Phoenix, AZ, from McKinney over U.S. Hwy 380 to San Antonio, NM, then over U.S. Hwy 85 to Socorro, NM, then over U.S. Hwy 60 to Phoenix, and return over the same route serving all intermediate points, and points in AZ, CO, NV, NM, OK, TX, and UT as off-route points in routes (1)–(16) above.

Note.—Applicant intends to tack the above requested authority with its existing regular-route operations.

MC 6031 (Sub-60F), filed October 10, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting *metal articles,* between points in the U.S., under continuing contract(s) with United States Steel Corporation, of Pittsburgh, PA.

MC 9071 (Sub-4F), filed October 6, 1980. Applicant: DAVID STEINMAN, d.b.a. N. STEINMAN TRUCKING COMPANY, S. Washington, Ave. & River St., Scranton, PA 18503. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Gouldsboro, PA, as an off-route point in connection with applicant's otherwise authorized regular-route operations, restricted against traffic originating at or destined to Gouldsboro, PA.

MC 28961 (Sub-31F), filed October 8, 1980. Applicant: McDUFFEE MOTOR FREIGHT, INC., 8505 West Warren Ave., P.O. Box 610, Dearborn, MI 48121. Representative: LaVergne L. Adsit (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Pikeville, TN, as an off-route point in connection with applicant's otherwise authorized regular-route operations between Nashville and Knoxville, TN.

MC 35320 (Sub-613F), filed October 6, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G.

Thomas (same address as applicant). Transporting *classes A and B explosives*, between the facilities of Naval Weapons Support Center, at Crane, IN, Red River Army Depot, at Texarkana, TX, Louisiana Army Ammunition Plant, at Shreveport, LA, Kansas Army Ammunition Plant, at Parsons, KS, Military Ocean Terminal, at Southport, NC, and Milan Army Ammunition Plant, at Milan, TN, on the one hand, and, on the other, points in the U.S. Condition: The certificate to be issued in this proceeding shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 38650 (Sub-7F), filed October 8, 1980. Applicant: SALTER'S EXPRESS COMPANY, INCORPORATED, 120 West St., Simsbury, CT 06070. Representative: James D. Salter (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, MA, and RI, and points in Bennington and Windham Counties, VT, and Hillsboro and Cheshire Counties, NH.

MC 44801 (Sub-17F), filed October 6, 1980. Applicant: DICK HARRIS AND SON TRUCKING CO., INC., P.O. Box 10277, 4000 Harris Lane, Lynchburg, VA 24506. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *containers, container closures, glassware, packaging products, container components, and scrap materials*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in the U.S. in and east of MS, TN, KY, IL, and WI.

MC 47171 (Sub-185F), filed October 8, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY, on the one hand, and, on the other, points in GA, SC, and those points in NC, on and west of U.S. Hwy 77.

MC 47171 (Sub-186F), filed October 6, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Abitibi-Price Corporation, its divisions and subsidiaries.

MC 52861 (Sub-88F), filed October 8, 1980. Applicant: WILLIS TRUCKING, INC., 3185 Columbia Road, Richfield, OH 44286. Representative: Andrew Jay Burkholder, 275 East State St., Columbia, OH 43215. Transporting (1) *lime, limestone products, dolomite, mortar, and magnesite*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in MI and OH, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, MI, NJ, NY, OH, PA, TN, VA, and WV.

MC 61440 (Sub-201F), filed October 7, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, 73157. Transporting *fabricated metal products*, (except ordnance), as described in Item 34 of the Standard Transportation Commodity Code, from points in St. Charles County, MO, to points in the U.S. (except AK and HI).

MC 86690 (Sub-6F), filed October 8, 1980. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting (1) *garment hangers*, and (2) *materials, equipment, and supplies* used in the distribution of garment hangers, between points in the U.S. under continuing contract(s) with The Cleaners Hanger Co., of Baltimore, MD.

MC 86690 (Sub-7F), filed October 7, 1980. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) (a) with The Great Atlantic & Pacific Tea Co., Inc., of Montvale, NJ, (b) with Giant Foods, Inc., of Washington, DC, (c) with C. F. Mueller of Jersey City, NJ, (d) with M. Polaner, Inc., of Roseland, NJ, and (e) with B. Green & Co., Doxsee Food Corporation, and Specialty Candy Co., Inc., all of Baltimore, MD. Condition: Issuance of a permit in this proceeding is conditioned upon the coincidental cancellation, at applicant's written request, of its permit in MC 86690 Sub 4F.

MC 108651 (Sub-30F), filed October 8, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and (2) *fertilizer*, in bulk, between points in PA, DE, MD, VA, NC, SC, WV, and DC, Bell, Harlan, and Letcher Counties, KY, those in GA in and north of Richmond, Jefferson, Washington, Baldwin, Jones, Monroe, Upson, Merewether, and Troup Counties, those in NY in and west of Oswego, Onondaga, Cortland, and Broome Counties, and those in TN in and east of Giles, Maury, Williamson, Davidson, and Robertson Counties.

MC 109490 (Sub-23F), filed October 10, 1980. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 117 S. Third Street, Watertown, WI 53094. Transporting (1) *steel rivets*, from points in Dodge County, WI, to points in the U.S., and (2) *materials, equipment and supplies* used in the manufacture and distribution of steel rivets, in the reverse direction. –

MC 111231 (Sub-316F), filed October 8, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *foodstuffs* (except commodities in bulk), from the facilities of Pet, Incorporated, Frozen Foods Division, at or near (a) Benton Harbor, Frankfort, and Hart, MI, and (b) Logansport and South Bend, IN, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MO, MS, NE, OH, OK, TN and TX. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 111231 (Sub-317F), filed October 8, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. Transporting (1) *roofing materials* (except commodities in bulk), and (2) *materials and supplies* used in the installation of the commodities in (1) above (except commodities in bulk),

between points in Shelby County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 117730 (Sub-42F), filed October 8, 1980. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent St., Madison, WI 53705. Transporting (1) *plumbers' goods, internal combustion engines, and electric generators*, (2) *health care products, plastic products, automotive parts, and wood products*, (3) *lawn and garden care equipment, log splitters, and snow throwers*, and (4) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (2) and (3) above, between points in Sheboygan County, WI, on the one hand, and, on the other, points in the U.S.

MC 124821 (Sub-106F), filed October 9, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2208 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting (1) *printed matter*, as described in Item 27 of the Standard Transportation Commodity Code, (2) *machinery* (except electrical), as described in Item 35 of the Standard Transportation Commodity Code, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in the U.S.

MC 128031 (Sub-9F), filed October 8, 1980. Applicant: GEORGE McFARLAND, d.b.a. McFARLAND TRUCKING, P.O. Box 1006, Austin, MN 55912. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *plastic products and concrete products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S.

MC 128290 (Sub-12F), filed October 6, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. Transporting (1) *plastic articles* and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of plastic articles, between points in Chippewa and Eau Claire Counties, WI, Aiken and Spartanburg Counties, SC, New Castle County, DE, Richmond County, GA, and Frederick County, VA, on the one hand, and, on the other, points in the U.S.

MC 134201 (Sub-16F), filed October 8, 1980. Applicant: JIM PALMER TRUCKING, a Corporation, 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 138741 (Sub-111F), filed October 6, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *lumber, lumber products, and particleboard*, between points in IL and MO, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MO, MS, NE, OH, OK, TN, TX, and WI.

Note.—Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its certificates in MC 138741 Sub-23, 49F, 51F, 72F, and 100F.

MC 142830 (Sub-11F), filed October 8, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1)(a) *steel and fiber cable, wire, rope, and cordage*, and (b) *accessories* for the commodities in (1)(a) above, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Bridon American Corporation, of Wilkes-Barre, PA.

MC 144030 (Sub-12F), filed October 8, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, U.S. 50 West, Lawrenceburg, IN 47025. Representative: Paul Jerry Snodgrass (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 145470 (Sub-5F), filed October 2, 1980. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore St., Kansas City, MO 64105. Transporting (1) *printed paper forms*, and *printed pads*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of printed checks, deposit tickets, and forms, between points in the U.S., under continuing contract(s) with Deluxe Check Printers, Inc., of St. Paul, MN.

MC 147161 (Sub-9F), filed October 8, 1980. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except those of unusual value, clacces A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with ABC Trans National Transport, Inc., of New York, NY, and Acme Fast Freight, Inc., of Los Angeles, CA.

MC 148930 (Sub-2F), filed October 2, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Dr., Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Stanley Home Products, Inc., of Des Plaines, IL. Condition: Issuance of a permit is conditioned upon the prior receipt from applicant of a statement indicating the manner in which it intends to satisfy the statutory criteria for a contract carrier, i.e., (1) by furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) by furnishing transportation services designed to meet the distinct needs of each individual customer, and, if the latter, describe briefly the distinct need for which transportation services have been designed, and approval of this statement by an appropriate review board.

MC 149580F, filed October 1, 1980. Applicant: JOHN M. ANDERSON COMPANY, a Corporation, One Bedson Road, Cranston, RI 02920. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *machinery, machinery parts, construction equipment, machine tools, self-propelled articles weighing 15,000 pounds or more*, and *commodities*, the transportation of which because of size or weight require the use of special equipment, between points in the U.S., under continuing contract(s) with Anderson Rigging & Erectors, Inc., of Cranston, RI.

MC 150301 (Sub-5F), filed October 8, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities*

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(except commodities in bulk), between points in the U.S., under continuing contract(s) with DeSoto, Inc., of Des Plaines, IL.

MC 150301 (Sub-6F), filed October 7, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting (1) *carpeting*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of carpeting between points in the U.S., under continuing contract(s) with Coronet Industries, Inc., of Dalton, GA.

MC 151981 (Sub-1F), filed October 6, 1980. Applicant: JERRY L. ROBINETTE, d.b.a. JERRY L. ROBINETTE & SON TRUCKING, Route 1, Box 200–A Whiteland, IN 46184. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *metal cans and metal can ends*, and *materials and supplies* used in the manufacture and distribution of metal cans, between points in the U.S., under continuing contract(s) with The Coca-Cola Company Food Division, of Valparaiso, IN.

MC 152031 (Sub-1F), filed October 6, 1980. Applicant: LEE RICHARD OHRMAN, d.b.a. LEE OHRMAN TRUCKING, 511 Southwest St., Benkelman, NE 69021. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *feed ingredients and fertilizer*, between points in NE, Yellowstone County, MT, Big Horn, Johnson, Natrona and Carbon Counties, WY, those in CO, in and east of Larimer, Boulder, Gilpin, Clear Creek, Jefferson, Douglas, Teller, Fremont, Custer, Huerfano, and Costilla Counties, CO, those in KS on and west of U.S. Hwy 75, those in NM on and east of U.S. Hwy 285, those in OK on and west of a line beginning at the KS–OK State line, and extending along U.S. Hwy 66 to junction U.S. Hwy 75, at or near Tulsa, OK, then along U.S. Hwy 75 to the OK–TX State line, and those in TX on and North of U.S. Hwy 66.

MC 152080F, filed October 2, 1980. Applicant: DEPENDABLE CARTAGE & TRANSPORTATION CO., INC., 2159 West Hastings St., Chicago, IL 60608. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Specialties by Winick, of Homewood, IL, and M. Block & Sons, Inc., and Sewing Machine Exchange, Inc., both of Chicago, IL.

MC 152110F, filed October 6, 1980. Applicant: WALLACE MAUK, Rt. 50 East, Romney, WV 26757. Representative: Wallace Mauk (same address as applicant). Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) *intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 152150F, filed October 8, 1980. Applicant: KIRK TRUCKING, INC., 3584 Bellwood Cove, Memphis, TN 38128. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *sand and gravel*, between points in Shelby, Fayette, McNairy, Hardin and Hardeman Counties, TN, on the one hand, and, on the other, those points in MS on and north of U.S. Hwy 82.

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Decided: October 24, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-503F), filed October 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Webster County, KY, on the one hand, and, on the other, points in CA, CO, CT, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, WV, and DC, restricted to shipments originating at or destined to facilities used by Anaconda Aluminum Co., its affiliates, suppliers, or vendors.

MC 200 (Sub-504F), filed October 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Grant County, KS, Montgomery County, TX, and Marshall County, WV, on the one hand, and, on the other, points in CA, CO, CT, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, WV, and DC, restricted to traffic originating at or destined to facilities used by Columbian Chemical Co., its suppliers, or vendors.

MC 11220 (Sub-223F), filed October 14, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MS, MN, MO, OH, OK, PA, TN, TX, and WI, restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 29910 (Sub-295F), filed October 10, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting (1) *tires* and (2) *material, equipment, and supplies* used in the manufacture and distribution of tires, between points in Shawnee County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI)

MC 29910 (Sub-296F), filed October 14, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers of computers, between Jacksonville and Denison, TX, on the one hand, and, on the other, Colorado Springs, CO.

MC 29910 (Sub-297F), filed October 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between Atlanta, GA, and New Orleans, LA, from Atlanta, GA, over U.S. Hwy 29 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to Mobile, AL, then over U.S. Hwy 90 to New Orleans, LA, and return over the same route, (2) between Atlanta, GA, and Dallas, TX, from Atlanta, GA, over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Dallas, TX, and return over the same route, (3) between Mobile, AL, and Houston, TX, from Mobile, AL, over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over U.S. Hwy 10 to Houston, TX, and return over the same route, serving all intermediate points in routes (1), (2), and (3) above.

MC 33641 (Sub-157F), filed October 10, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of freight forwarders as defined in 49 U.S.C. Section 10102(8), between points in the U.S.

MC 35320 (Sub-615F), filed October 15, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Over *regular routes, general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving New Orleans, LA, as an off-route point in connection with carrier's otherwise authorized regular route operations.

MC 35320 (Sub-616F), filed October 15, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Over *regular routes*, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Beaumont, TX as an off-route point in connection with carriers authorized regular route operations.

MC 52460 (Sub-290F), filed October 14, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: William L. Tipton (same address as applicant). Transporting *frozen and canned foodstuffs*, between the facilities of Stilwell Foods, at (a) Stilwell, OK, and (b) McAllen, TX, on the one hand, and, on the other, points in AL, AR, CA, FL, IL, IN, IA, KS, KY, LA, MS, MO, NE, OK, OH, TN, and TX, restricted to traffic originating at or destined to the named origins.

MC 52460 (Sub-291F), filed October 10, 1980. Application: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, in tank vehicles, household goods as defined by the Commission, those requiring the use of special equipment, and automotive, trucks, and buses as described in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766), between points in the U.S., restricted to traffic originating at or destined to the facilities of International Paper Company.

MC 63871 (Sub-8F), filed October 15, 1980. Applicant: ANDREWS & PIERCE, INC., 1431 Bedford St., North Abington, MA 02351. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting *Liquefied natural gas and liquefied petroleum gas*, in bulk, in shipper owned trailers, between points in ME, NH, MA, RI, CT, VT, and NY. Condition: The certificate to be used in this proceeding shall be limited, in point of time, to a period expiring 5 years from its date of issuance.

MC 82841 (Sub-295F), filed October 8, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: Donald L. Stern, 7171 Mercy Road, Suite 610, Omaha, NE 68106. Transporting (1) *lumber or wood products*, except furniture, (2) *clay, concrete, glass or stone products*, (3) *primary metal products*, including glavanized, except coating or other allied processing, (4) *fabricated metal products* except ordnance, machinery, or transportation equipment, and (5) *machinery*, except electrical, as described in Items 24, 32, 33, 34, and 35, respectively, of the Standard Transportation Commodity Code, between points in AZ, AR, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TX, UT, and WI.

MC 92371 (Sub-5F), filed October 15, 1980. Applicant: SHEARERS EXPRESS, INC., P.O. Box 189, Oneonta, NY 13820. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. Transporting *sand and gravel spreaders, machinery, and machinery parts, and petroleum products*, (a) from Oneonta, NY, to points in ME, NH, VT, CT, RI, MA, NY, PA, NJ, MD, VA, WV, OH, IL, IA, and DC, and (b) from Farmers Valley, PA, to Oneonta and Utica, NY.

MC 97841 (Sub-24F), filed October 14, 1980. Applicant: GENERAL HIGHWAY EXPRESS, INC., 2280 Industrial Dr., P.O. Box 727, Sidney, OH 45365. Representative: Jack R. Wells (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in IL, IN, KY, MI, OH, PA, and WV.

MC 99680 (Sub-10F), filed October 16, 1980. Applicant: NORTH SHORE & CENTRAL ILLINOIS FREIGHT CO., a Corporation, 7701 W. 95th Street, Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Champaign, IL, and Evansville, IN, from Champaign, IL over Interstate Hwy 74 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, IN, and return over the same route, serving all intermediate points; (2) between Effingham, IL, and Terre Haute, IN, over Interstate Hwy 70; (3) between Effingham, IL, and Evansville, IN, from Effingham, IL over IL Hwy 33 to Newton, IL, then over IL Hwy 130 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, IN, and return over the same route, serving all intermediate points; (4) between St. Louis, MO, and Evansville, IN, from St. Louis, MO over Interstate Hwy 64 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, IN, and return over the same route, serving all intermediate points; and (5) between Collinsville, and Effingham, IL, over U.S. Hwy 40.

Note.—Applicant intends to tack the rights sought to its existing regular-route authority.

MC 109490 (Sub-22F), filed October 9, 1980. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 117 S. Third St., Watertown, WI 53094. Transporting (1) *cheese and cheese products*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) between Hillsboro, WI, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities of Associated Milk Producers, Inc.

MC 109490 (Sub-24F), filed October 15, 1980. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 117 S. Third St., Watertown, WI 53094. Transporting (1) *food and food ingredients*, (2) *animal feed and feed ingredients*, and (3) *materials, equipment and supplies* used in the manufacture of the commodities in (1) and (2) above, between points in the U.S., restricted to traffic originating at or near destined to the facilities of Merrick Dry Milk, Inc.

MC 110410 (Sub-30F), filed October 10, 1980. Applicant: BENTON BROTHERS FILM EXPRESS, INC., P.O. Box 54327, Atlanta, GA 30302. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326.

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Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Cobb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in FL, and those in GA on and south of a line beginning at the GA–SC State line, and extending along U.S. Hwy 278 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 319 to the GA–FL State line.

MC 110420 (Sub-858F), filed October 14, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. Transporting *commodities in bulk*, between points in Lake County, IN, and Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will Counties, IL, on the one hand, and, on the other, points in the U.S.

MC 111401 (Sub-606F), filed October 16, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). Transporting *chemicals*, in bulk, (a) between points in Tarrant County, TX, on the one hand, and, on the other, points in AR, AZ, KS, LA, MO, NM, OK, and TX, and (b) between points in OK and MT.

MC 118831 (Sub-196F), filed October 8, 1980. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: E. Stephen Heisley, 666 Eleventh St., NW, No. 805, Washington, DC 20001. Transporting *commodities* in bulk, between points in TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119441 (Sub-52F), filed October 8, 1980. Applicant: BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Pkwy., Dover, OH 44622. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *aluminum building materials*, and *equipment, materials and supplies* used in the manufacture and distribution of aluminum building materials, between Sugar Creek and Gnadenhutten, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, and (2) *vinyl siding and equipment, materials and supplies* used in the manufacture and distribution of vinyl siding, between Bridgeport, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 119741 (Sub-279F), filed October 8, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *frozen foods*, between North Rose, Rochester, and Sodus, NY, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, OK, SD, TX, and WI, restricted to traffic originating at or destined to the facilities of Statewide Refrigerated Services, Inc.

MC 119741 (Sub-281F), filed October 15, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities* as are dealt in or used by retail department stores (except foodstuffs and commodities in bulk), between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC.

MC 121741 (Sub-2F), filed October 10, 1980. Applicant: WESTERN TEX-PACK, INC., 3200 W. Bolt St., Fort Worth, TX 76110. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas and Fort Worth, TX, (a) from Dallas over TX Hwy 114 to junction TX Hwy 121, then over TX Hwy 121 to Fort Worth, and return over the same route, serving no intermediate points, (b) over U.S. Hwy 80, serving no intermediate points, (c) over TX Hwy 183, serving no intermediate points, and (d) over Interstate Hwy 20, serving no intermediate points, (2) between Fort Worth and Jacksboro, TX, over TX Hwy 199, (3) between Jacksboro and Rule, TX, over U.S. Hwy 380, (4) between Wichita Falls and Abilene, TX, over U.S. Hwy 277, (5) between Munday and Knox City, TX, over TX Hwy 222, (6) between Benjamin and Rule, TX, over TX Hwy 283, (7) between Anson and Aspermont, TX, over U.S. Hwy 83, (8) between Anson and Roby, TX, over U.S. Hwy 180, (9) between Roby and Rotan, TX, over TX Hwy 70, (10) between Rotan, TX and junction U.S. Hwy 277 and TX Hwy 92, over TX Hwy 92, (11) between Aspermont and Girard, TX, from Aspermont over U.S. Hwy 380 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Girard, and return over the same route, (12) between Aspermont and Albany, TX, over TX Hwy 6, (13) between Fort Worth and Itasca, TX, over Interstate Hwy 35W and U.S. Hwy 81, (14) between Itasca and Osceola, TX, over F.M. Road 66 and F.M. Road 934, (15) between Osceola and Cleburne, TX, over TX Hwy 171, (16) between Burleson and Cleburne, TX, over TX Hwy 174, (17) between Cleburne and Hico, TX, from Cleburne over U.S. Hwy 67 to junction TX Hwy 220, then over TX Hwy 220 to Hico, and return over the same route, (18) between Hico and Hamilton, TX, over U.S. Hwy 281, (19) between Hamilton and Gatesville, TX, over TX Hwy 36, (20) between Gatesville and McGregor, TX, over U.S. Hwy 84, (21) between McGregor and Valley Mills, TX, over TX Hwy 317, (22) between Valley Mills and Meridian, TX, over TX Hwy 6, (23) between Meridian and Glen Rose, TX, over TX Hwy 144, (24) between Midlothian and Cleburne, TX, over U.S. Hwy 67, (25) between Cleburne and Meridian, TX, over TX Hwy 174, (26) between Whitney and Hamilton, TX, over TX Hwy 22, (27) between Jonesboro and Turnersville, TX, over F.M. Road 217, (28) between Turnerville, TX, and junction TX Hwy 36 and F.M. Road 182, over F.M. Road 182, (29) between Oglesby, TX, and junction U.S. Hwy 84 and F.M. Road 1996, over F.M. Road 1996, (30) between junction TX Hwy 174 and F.M. Road 56, and junction TX Hwy 22 and F.M. Road 56, over F.M. Road 56, (31) between Morgan and Lakeside Village, TX, over F.M. Road 927, (32) between Seymour and Benjamin, TX, over U.S. Hwy 82, (33) between junction U.S. Hwy 82 and F.M. Road 267 and junction TX Hwy 222 and F.M. Road 267, over F.M. Road 267, (34) between Peacock, TX, and junction U.S. Hwy 380 and F.M. Road 2211, over U.S. Hwy 380, (35) between Hamilton and Gatesville, TX, from Hamilton, over U.S. Hwy 281 to Evant, TX, then over U.S. Hwy 84 to Gatesville, and return over the same route, (36) between Mansfield and Joshua, TX, over F.M. Road 917, and (37) between Clifton and Cranfills Gap, TX, over F.M. Road 219, serving all intermediate points on all above routes except as specified, restricted (a) to shipments having no single articles, piece or package weighing in excess of 100 pounds and which have a total weight of 500 pounds or less per shipment, and (b) against any shipments originating at or destined to Wichita Falls, Fort Worth, Dallas, Albany, and Abilene, TX, and against serving any

intermediate point between Fort Worth and Throckmorton on TX Hwy 199 except Lake Worth, Azle, and Springtown, TX.

MC 124221 (Sub-69F), filed October 8, 1980. Applicant: HOWARD BAER, P.O. Box 27, Morton, IL 61550. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Kraft, Inc., of Chicago, IL.

MC 124251 (Sub-76F), filed October 16, 1980. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *chemicals*, (1) between points in GA, TN, Greenville County, SC, and Beaver and Philadelphia Counties, PA, on the one hand, and, on the other, points in the U.S., and (2) between points in AR, CT, IL, MI, MO and OH, on the one hand, and, on the other, points in AL, FL, NC and SC.

MC 125951 (Sub-69F), filed October 8, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Albert Lea, MN, and Cedar Rapids, Cherokee and Des Moines, IA, to points in CA.

MC 128951 (Sub-40F), filed October 10, 1980. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front St., New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). Transporting *salt and salt products*, (1) between Minneapolis and points in Brown, Blue Earth and Nicollet Counties, MN, on the one hand, and, on the other, points in WI, IA, KS, ND, SD, and NE, (2) between points in Manistee County, MI, on the one hand, and, on the other, points in IA, IN, MN, MO, and WI, (3) between points in Williams County, ND, on the one hand, and, on the other, points in IA, MN, NE, SD, and WI.

MC 128951 (Sub-41F), filed October 14, 1980. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front St., New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). Transporting *materials, equipment and supplies* used in the manufacture and distribution of refrigerators and freezers, between points in St. Cloud, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128951 (Sub-42F), filed October 14, 1980. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). Transporting *commodities in bulk*, between points in IL, GA, MD, CT, AL, PA, NJ, NY, MI, OH, TN, TX, CA, KY, IN, MO, FL, MN, MA, LA, WV, NC, SC, and VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 133270 (Sub-8F), filed October 9, 1980. Applicant: OREGON FOOD EXPRESS, INC., P.O. Box 17402, Portland, OR 97217. Representative: David C. White, 2400 S.W. Fourth Ave., Portland, OR 97201. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in Clackamas and Multnomah Counties, OR, on the one hand, and, on the other, points in Thurston, Pierce, King, Kitsap, Island, and Snohomish Counties, WA.

Note.—Applicant intends to tack the rights sought to its existing authority at Portland, OR to provide through service to points in Coos, Curry, Josephine, Jackson, Lane, Douglas and Klamath Counties, OR.

MC 134501 (Sub-88F), filed October 8, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting (1) *furniture*, from Columbus, OH, to points in the U.S. (except AK, AR, AZ, CA, HI, LA, MS, TX, and Shelby County, TN), and (2) *fixtures*, from Columbus, OH, to points in the U.S. (except AK and HI).

MC 135170 (Sub-53F), filed October 14, 1980. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of non-alcoholic beverages (except commodities in bulk), between points in the U.S., under continuing contract(s) with R. C. Bottling Co. of Salisbury, Inc. and Pepsi Cola Bottling Co., both of Salisbury, MD.

MC 136530 (Sub-3F), filed October 10, 1980. Applicant: NORBET TRUCKING CORP., 55 Passaic Ave., Kearny, NJ 07032. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *iron and steel articles and aluminum and aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Harris Steel International of Kearny, NJ.

MC 138100 (Sub-3F), filed October 6, 1980. Applicant: MELLOW TRUCK EXPRESS, INC., P.O. Box 23725, Tigard, OR 97223. Representative: Peter H. Glade, 1 SW Columbia, Suite 555, Portland, OR 97258. Transporting *feed, feed ingredients, and fertilizer* (except liquid commodities in bulk), from points in CA to points in OR and WA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its permit in MC 128285 Sub 5.

MC 138291 (Sub-1F), filed October 15, 1980. Applicant: BRANT TRANSPORTATION, INC., 38 Tower Ave., South Weymouth, MA 02190. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Transporting *structural steel shapes*, between points in the U.S., under continuing contract(s) with L. Antonelli Iron Works, Inc., of Quincy, MA.

MC 138390 (Sub-1F), filed October 15, 1980. Applicant: WM. J. RENNER CARTING CO., INC., 10 Deep Rock Road, Rochester, NY 14624. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in NY.

MC 138701 (Sub-6F), filed October 15, 1980. Applicant: G. D. & K., INC., 500 West Main St., Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *chemicals and cleaning compounds* (except commodities in bulk), between points in the U.S., under continuing contract(s) with The Hubbard-Hall Chemical Co. of Waterbury, CT.

MC 138741 (Sub-110F), filed October 15, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *pipe, pipe fittings, valves, hydrants, and castings*, (2) *accessories for pipe*, and (3) *materials, equipment, and supplies* used in the manufacture, distribution and installation of the commodities in (1) and (2), between points in Jefferson and

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Saint Clair Counties, AL, on the one hand, and, on the other, points in AR,GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, WI, and TX.

Note.—Upon issuance of a certificate in this proceeding, the certificate in MC 138741 Sub 60F will be canceled.

MC 138741 (Sub-112F), filed October 15, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *building materials*, and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of building materials, between points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NC, ND, NE, OH, OK, PA, SC, SD, TN, TX, VA, WI, and WV. Condition: Issuance of a certificate in this proceeding is subject to the cancellation, at applicant's written request, of Certificate MC 138741 Sub 104.

MC 139171 (Sub-11F), filed October 8, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, 17295 E. Railroad Ave., City of Commerce, CA 91749. Representative: Robert L. Cope, 1730 M St. NW., Suite 501, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Seaport Cooperative, Inc., of Portland, OR.

MC 143570 (Sub-19F), filed October 14, 1980. Applicant: D & G TRUCKING, INC., 4420 E. Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *such commodities* as are dealt in or used by office supply and office equipment companies, from points in CA, OR, and WA, to points in ID and UT.

MC 144510 (Sub-3F), filed October 15, 1980. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sgt. Bluff, IA 51054. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Plymouth and Woodbury Counties, IA, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

MC 145130 (Sub-3F), filed October 14, 1980. Applicant: ATICO TRANSPORT, INC., 6700 S. LeClaire Avenue, Chicago, IL 60638. Representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. Tranporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals, building materials, and floor coverings (except commodities in bulk), from Calvert City, KY and Linden, NJ, to points in GA, KY, NC, NJ, NY, PA, OH, IN and TX.

MC 145371 (Sub-5F), filed October 14, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting (1) *cathode ray tubes* and *cathode ray tube parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commondities in bulk), between points in Winnebago County, IL, on the one hand, and, on the other, points in the U.S.

MC 145441 (Sub-122F), filed October 15, 1980. Applicant: A.C.B.TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *surface coated paper and sensitized blue printing and reproduction paper*, between Medford, OR, on the one hand, and, on the other, points in CA, CO, GA, IL, NJ, TX, and VA.

MC 145441 (Sub-124F), filed October 15, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury. (same address as applicant) Transporting *nonexempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, (1) between points in Kent County, MI, on the one hand, and, on the other, points in San Joaquin County, CA, and (2) between points in Lucas and Sandusky Counties, OH, Allegheny County, PA, Muscatine and Johnson County, IA, and Ottawa County, MI, on the one hand, and, on the other, points in TX.

MC 148060 (Sub-5F), filed October 15, 1980. Applicant: STOVER LINES, INC., 5636 NW 17th St., Topeka, KS 66618. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *soybean meal, and feed and feed ingredients*, from the facilities of Ralston-Purina Co., in Kansas City, MO, to points in NE and TX.

MC 148190 (Sub-3F), filed October 15, 1980. Applicant: RAMSEY TRUCKING, INC., 604 Hudson Rd., Chattanooga, TN 37405. Representative: Billy R. Ramsey (same address as applicant). Transporting *glass, and materials and supplies* used in the manufacture and distribution of glass, between points in the U.S., under continuing contract(s) with Chattanooga Glass Company of Chattanooga, TN.

MC 148401 (Sub-2F), filed October 14, 1980. Applicant: HENRY F. JOHNSON, d.b.a. GREENLEAF TRANSPORTATION, 1150 Sunnyhills Ave., Brea, CA 92621. Representative: Henry F. Johnson (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail grocery, food business, discount and variety houses, between points in the U.S., under continuing contract(s) with Lever Brothers Company of Los Angeles, CA.

MC 148541 (Sub-3F), filed October 14, 1980. Applicant: M.P.I. CORPORATION, R.D. No. 6, Bridgeton, NJ 08302. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with Progresso Quality Foods, Division of Ogden Foods, Corp., of Vineland, NJ.

MC 148570 (Sub-6F), filed October 9, 1980. Applicant: N.A.T. TRANSPORTATION, INC., 229 N. Main St., Bradner, OH 43406. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. W., Bradenton, FL 33507. Transporting (1) *fabricated metal products*, (2) *parts* for metal products, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between Tiffin, OH, on the one hand, and, on the other, points in the U.S.

MC 150211 (Sub-3F), filed October 15, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato (same address as applicant). Transporting *household appliances*, between Herrin, IL, Jacksonville and Pensacola, FL, and points in NC, SC, TN, MS, AL, GA, LA, and AR.

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 150301 (Sub-7F), filed October 15, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S., under continuing contract(s) with Quality Stores, Inc. of Muskegon, MI.

MC 151070 (Sub-1F), filed October 14, 1980. Applicant: A. CLYDE LANCASTER, Star Route 1, Afton, WY 83110. Representative: James E. Phillips, P.O. Box 123, Evanston, WY 82930. Transporting *coal* between points in Lincoln County, WY.

MC 151080 (Sub-3F), filed October 14, 1980. Applicant: THE SENATE CARTAGE COMPANY, INC., 1010 Jorie Blvd., Oak Brook, IL 60521. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603. Transporting (1) *cleaning, scouring, washing, buffing and polishing compounds, germicides, solvents, and liquid coating materials*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and application of the commodities in (1), between the facilities of Masury-Columbia Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151151 (Sub-2F), filed October 14, 1980. Applicant: LAVONNE R. JAHN, 417 So. Hokah St., Caledonia, MN 55921. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1566, La Crosse, WI 54601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in La Crossee County, WI, on the one hand, and, on the other, points in Allamakee, Winneshiek, and Howard Counties, IA.

MC 151360 (Sub-1F), filed October 14, 1980. Applicant: MARK MILLER TRUCKING, INC., Cottonwood Falls, KS 66845. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Transporting *beer*, in containers, from the facilities of Adolph Coors Co., at points in Jefferson County, CO, to Emporia, KS.

MC 152101 (Sub-1F), filed October 15, 1980. Applicant: MID MONTANA, INC., 1010 North Rouse, Bozeman, MT 59715. Representative: Jerome Anderson, 100 Transwestern Bldg., Billings, MT 59101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Parker Montana Co., of Billings, MT and Parker Dakota Company, of Minot, ND.

MC 152111F, filed October 6, 1980. Applicant: RUBIN CUSTOMER SERVICE, INC., 84–14 Cuthbert Road, Kew Gardens, NY 114115. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374. Transporting (1) *lamps and lighting fixtures*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in NY, NJ, PA, MA, CT, RI, DE, MD, and DC.

MC 152141F, filed October 7, 1980. Applicant: YOUNG TRANSPORTATION, INC., 2526 North Western Ave., Plymouth, IN 46562. Representative: David G. Abraham, 6400 Goldsboro Road, Suite 304, Washington, DC 20034. Transporting (1) *lumber or wood products;* except furniture, (2) *pulp, paper, or allied products*, (3) *chemicals or allied products*, (4) *rubber or miscellaneous plastics products*, (5) *clay concrete, glass or stone products*, (5) *fabricated metal products;* except ordnance, machinery, or transportation equipment, as described in Items 24, 25, 28, 30, and 34, respectively, of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with (1) Young Door Company, Midwest Division, of Plymouth, IN, (2) Young Door Company, South Centraol Division, of Hartselle, AL, (3) Young Door Company, Eastern Division, of Sunbury, PA, and (4) Challenge Metal Products, Inc., of Ligonier, IN.

W–1330F, filed October 10, 1980. Applicant: COAST LINE ASSOCIATES, 6 Hilltop Drive, Wenham, MA 01924. Representative: John J. McNamara (same address as applicant). To operate as a common carrier, by water, in the transportation of *general commodities*, between ports and points along the Atlantic Coast and inland tributary waterways (not including the New York State Canal) from Eastport, ME, to Miami, FL, inclusive. Condition: This is a major regulatory action and requires preparation of a statement of energy impact under the provisions of 49 CFR 1106.5(a)(8).

Volume No. OP2–076

Decided: October 21, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill. Member Hill not participating.

MC 57992 (Sub-10F), filed October 8, 1980. Applicant: SEWELL MOTOR EXPRESS, INC., 149 South Mulberry St., Wilmington, OH 45177. Representative: Joe F. Asher, 88 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value and classes A and B explosives), between points in OH, IL, IN, KY, MI, NY, PA, TN, VA, WV, and WI, restricted to traffic having a prior or subsequent movement by rail.

MC 112223 (Sub-134F), filed October 14, 1980. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant). Transporting *fly ash*, from Alma, WI, to points in IA and MN. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 113843 (Sub-287F), filed October 14, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., 5th Floor, Boston, MA 02210. Representative: Lawrence T. Shells (same address as applicant). Transporting (1) *foodstuffs*, and (2) *such commodities* as are dealt in or used by grocery and food business houses, (except foodstuffs), between those points in the U.S. in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilities used by John Sexton & Co.

MC 115093 (Sub-25F), filed October 14, 1980. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 North Grady Ave., P.O. Box 23406, Tampa, FL 33607. Representative: Joseph W. Watson (same address as applicant). Transporting (1) *foodstuffs* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in Shelby County, TN, on the one hand, and, on the other, those points in the U.S. in and east of OH, KY, TN, and AL.

MC 118803 (Sub-21F), filed October 9, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting (1) *chemicals, and cleaning and sanitation materials, equipment, and supplies* (except in bulk), and (2) *materials, equipment, and supplies* (except in bulk), used in the manufacture and distribution of the commodities in (1) above, between the facilities of ZEP Manufacturing division of National Service Industries, Inc., at Atlanta, GA, on the one hand, and, on the other, points in the U.S.

MC 126542 (Sub-13F), filed September 23, 1980. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, 634 Woodward Bldg., Birmingham, AL 35203. Transporting (1) *traffic reflectors*, (2) *accessories* for traffic reflectors, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above,

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between points in the U.S., under continuing contract(s) with Amerace Corporation, Signal Products Division, of Niles, IL.

MC 126542 (Sub-15F), filed October 2, 1980. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, 634 Woodward Bldg., Birmingham, AL 35203. Transporting (1) *forgings and castings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with FMC Corporation, Steel Products Division, of Anniston, AL.

MC 129923 (Sub-20F), filed October 3, 1980. Applicant: SHIPPERS TRANSPORTS, INC., 5005 Commerce St., West Memphis, AR 72301. Representative: Edward G. Grogan, Suite 2020, First Tennessee Bldg., Memphis, TN 38103. Transporting *such commodities* as are dealt in by manufacturers and distributors of rice and rice products, from Stuttgart, AR, Memphis, TN, and Houston, TX, to points in the U.S. (except AK and HI).

MC 131062F, filed October 6, 1980. Applicant: COACH TRAVEL BUREAU, INC., 900 Wilshire Blvd., Suite 612, Los Angeles, CA 90017. Representative: Paul Fuyuki Yamaguchi (same address as applicant). As a *broker* at Los Angeles, CA, to arrange for the transportation of *passenger and their baggage*, between points in CA, on the one hand, and, on the other, points in the U.S.

MC 135052 (Sub-33F), filed October 9, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting (1) *pulp, paper, or allied products*, (2) *chemicals or allied products*, (3) *rubber or miscellaneous plastic products*, and (4) *clay, concrete, glass or stone products*, as described in Items 26, 28, 30, and 32, respectively, of the Standard Transportation Commodity Code Tariff, between points in Jefferson County, KY, Clark, Monroe, Marion, Vanderburgh, and Shelby Counties, IN, Morgan County, AL, Cook, Boone, DeKalb, DuPage, Kane, and McHenry Counties, IL, Milwaukee County, WI, and Wake County, NC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 135782 (Sub-15F), filed October 10, 1980. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting (1) *new furniture*, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of new furniture (except commodities in bulk), between points in the U.S., under continuing contract(s) with Ayers Furniture Industries, Inc., of Fort Smith, AR.

MC 136363 (Sub-21F), filed October 8, 1980. Applicant: J & P PROPERTIES, INC., P.O. Box 1146, Apopka, FL 32703. Representative: James E. Warton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *foodstuffs*, from Clifton, NJ, to points in AL, AR, GA, SC, OH, IL, NC, MS, IN, KY, PA, TX, WI, and CA.

MC 136363 (Sub-22F), filed October 14, 1980. Applicant: J & P PROPERTIES, INC., P.O. Box 1146, Apopka, FL 32703. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *such commodities* as are dealt in or used by retail department and variety stores, (except commodities in bulk), between the facilities of Richway, a division of Federated Department Stores, Inc., in AL, FL, GA, NC, SC, and TN, on the one hand, and, on the other, points in AR, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, OK, PA, RI, TX, VT, WV, and WI.

MC 139482 (Sub-182F), filed October 8, 1980. Applicant: NEW ULM FREIGHT LINES, INC., New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant). Transportaing *automotive supplies and accessories* (except commodities in bulk), from points in AR, IL, IN, IA, KS, MS, MO, NY, OH, PA, and WI, to Minneapolis and St. Paul, MN.

MC 139482 (Sub-183F), filed October 10, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant). Transporting *automotive fluids and cleaning compounds* (except commodities in bulk), between points in AR, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NY, OH, OK, PA, TN, TX, and WI.

MC 139923 (Sub-79F), filed October 8, 1980. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer "D", Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *Meats, meat products, meat by products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descritions In Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Cherokee and Des Moines, IA, Logansport, IN, Marshall, MO, Monmouth and Peoria, IL and Omaha, NE, to points in CA.

MC 140902 (Sub-15F), filed October 15, 1980. Applicant: DPD, INC., 3600 N.W. 82nd Ave., Miami, FL 33166 Representative: Dale A. Tibbets (same address as applicant). Transporting *such commodities* as are dealt in by wholesale, retail, chain grocery houses and drugstores, between points in the U.S., under continuing contract(s) with Super X Drugs Corporation, of Cincinnati, OH.

MC 141443 (Sub-66F), filed October 8, 1980. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *Foodstuffs*, from Houston, TX to those points in the U.S. in and west of MN, IA, MO, AR and LA.

MC 142703 (Sub-30F), filed October 14, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third St., P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting *scrap metal* (except in dump vehicles), between Cincinnati, OH, on the one hand, and, on the other, points in AL, IN, IL, KY, MI, MD, PA, SC, and TN.

MC 143002 (Sub-22F), filed October 15, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S.; under continuing contract(s) with Amway Corporation, of Ada, MI.

MC 144503 (Sub-31F), filed October 8, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *such commodities* as are dealt in by the manufacture and distributors of containers, from the facilities of Container Corp. of America, at (a) Stone Mountain, Atlanta, and Lithonia, GA, (b) Fernandina Beach, FL, (c) Greensboro, NC, (d) Nashville, Knoxville, and Chattanooga, TN, and (e) Carroll Stream, IL, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* (except in bulk), used in the manufacture and distribution of commodities in (1) above, in the reverse direction.

MC 145583 (Sub-4F), filed October 8, 1980. Applicant: XPRESS TRUCK LINES, INC., 2500 E. Butler St., Philadelphia, PA 19137. Representative: Anthony A. Cerone, 3348 Morrell Ave., Philadelphia, PA 19114. Transporting *alcohol and alcoholic beverages*, between points in PA, DE, CT, NY, NJ, MD, RI, MA, NH, VA, VT, and DC, restricted to traffic having a prior or subsequent movement by rail or water.

MC 145773 (Sub-5F), filed October 8, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *electric motors and parts* for electric motors, and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with A. O. Smith Corp. of Milwaukee, I.

MC 146423 (Sub-12F), filed October 10, 1980. Applicant: STEPHEN HROBUCHAK TRANS-CONTINENTAL, REFRIGERATED LINES, INC., Route 502, P.O. Box 1456, Scranton, PA 18501. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Transporting (1) *artificial trees*, (2) *wreath decorations and ornaments*, (3) *venetian blinds*, (4) *metal lawn and garden articles and plastic lawn and garden articles*, and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2), (3), and (4) above (except commodities in bulk, and those requiring special equipment), between the facilities of Marathon Carey-McFall, in GA, MA, PA, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148313 (Sub-2F), filed October 8, 1980. Applicant: PHIL CLINE TRUCKING, INC., 310 Ichabod Circle, Concord, NC 28025. Representative: Phil Cline (same address as applicant). Transporting *fabrics*, from points in NC, SC, GA, AL, MD, and NJ, to points in TX and CA.

MC 149302 (Sub-2F), filed October 10, 1980. Applicant: EXPRESS TRANSPORT, INC., 247 Moorland St., Fall River, MA 02724. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment) (a) between those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (b) between points in MA, RI, NJ, Philadelphia, PA, and New York, NY, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR, and LA. Condition: Issuance of this certificate is conditioned on cancellation of applicant's MC 149302 (Sub-No. 1F), proceeding.

MC 149522F, filed October 6, 1980. Applicant: LARRY MUNGER, d.b.a. LARRY MUNGER ENTERPRISES, P.O. Box 25831, Salt Lake City, UT 84125. Representative: Larry Munger (same address as applicant). Transporting *contractors and construction materials, equipment, and supplies*, between points in UT, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, WY, MT, CO, NM, OK, TX, LA, AR, MO, IL, ID, ND, SD, IA, NE, and KS.

MC 150102 (Sub-3F), filed October 15, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slibell, LA 70458. Representative: Albert T. Riddle (same address as applicant). Transporting *rubber tires, tubes, flaps, and related articles*, between points in the U.S., under continuing contract(s) with The BF Goodrich Company, of Akron, OH.

MC 150573 (Sub-2F), filed October 9, 1980. Applicant: BENJAMIN J. KENNEDY, d.b.a. BEN KENNEDY TRUCKING COMPANY, Weston Rd., P.O. Box 13, Preston, GA 31824. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. Transporting *agricultural lime, lime materials, lime granulars and landplaster*, in bulk, in dump vehicles, (1) from points in Taylor, Hamilton and Jackson Counties, FL, and Lee County, AL, to points in GA, on and south of Interstate Hwy 85, between the AL-GA State Line and Atlanta, GA, and, on and south of Interstate Hwy 20, between Atlanta and Augusta, GA; and (2) from points in Taylor, Hamilton and Jackson Counties, FL, to points in AL, on and east of Interstate Hwy 65, between Mobile and Montgomery, AL, and, on and south of Interstate Hwy 85 between Montgomery and the AL-GA, State line, at Lanett, AL.

MC 152182F, filed October 10, 1980. Applicant: M. L. YOUNG MOTOR EXPRESS, INC., 908 Niagara Falls Blvd., North Tonawanda, NY 14120. Representative: Robert L. Boxer, 900 Midtown Tower, Rochester, NY 14604. Transporting *foundry supplies, abrasive grating*, and *abrasive crude* (except commodities in bulk, in dump vehicles), between points in the U.S., under continuing contract(s) with (a) Hickman, Williams & Company, of Cincinnati, OH, and (b) General Abrasives, Division of Dresser Industries, of Niagara Falls, NY.

Volume No. OP2-078

Decided: October 23, 1980.
By the Commission, Review Board Number 3, Members, Parker, Fortier and Hill.

MC 45363 (Sub-10F), filed October 9, 1980. Applicant: STONE'S EXPRESS, INC., 1099 Hendricks Causeway, Ridgefield, NJ 07657. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with (a) Aqua Gulf Whse. Corp., of Bayonne, NJ, (b) National Shoes, Inc., of Ridgefield, NJ, and (c) Service Warehouse Co., Inc., of Wilmington, MA.

MC 45363 (Sub-11F), filed October 9, 1980. Applicant: STONE'S EXPRESS, INC., 1099 Hendricks Causeway, Ridgefield, NJ 07657. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in CT, DE, MA, MD, NJ, NY, PA, and RI.

MC 92633 (Sub-33F), filed October 15, 1980. Applicant: ZIRBEL TRANSPORT, INC., P.O. Box 933, Lewiston, ID 83501. Representative: William Seehafer (same address as applicant). Transporting *building materials*, between points in ID, OR, and WA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary.

MC 107012 (Sub-591F), filed October 15, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Transporting *television sets, stereos, and home entertainment centers*, from Athens, TX to points in the U.S. (except AK and HI).

MC 107012 (Sub-592F), filed October 15, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (address same as applicant). Transporting (1) *Duct work, pipe and fittings for pipe and air ducts*, from Kansas City, MO to points in the U.S. (except AK and HI); and (2) *coil steel*, from Chicago, IL to Kansas City, MO.

MC 107012 (Sub- 593F), filed October 14, 1980. Applicant: NORTH

AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (address same as applicant). Transporting *television picture tubes,* from Melrose Park and Northlake, IL, to Greeneville, TN.

MC 107012 (Sub-594F), filed October 16, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting (1) *television chassis,* and (2) *parts* for televisions, from Brownsville and McAllen, TX, to Chicago, IL and Springfield, MO.

MC 108453 (Sub-41F), filed October 16, 1980. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *paper, paper products, and scrap paper, and materials and supplies* used in the manufacture and distribution of paper, paper products and scrap paper (except in bulk), between points in the U.S., under continuing contract(s) with Continental Forest Industries, of Rivers, MI

MC 109823 (Sub-8F), filed October 15, 1980. Applicant: McGAUGHEY BROS., INC., Third and Center Sts., Leetsdale, PA 15056. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting (1) *construction materials, supplies, and equipment,* (except iron and still articles and commodities in bulk), (2) *refractories,* (3) *iron and steel articles,* and (4) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, between points in OH, WV, VA, IL, IN, MI, KY, TN, MD, DE, NY, NJ, PA, and DC.

MC 112893 (Sub-63F), filed October 15, 1980. Applicant: BULK TRANSPORT COMPANY, a corporation, 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting (1) *asphalt and asphalt products,* and (2) *fuel oil,* in bulk, in tank vehicles, from points in Dakota and Ramsey Counties, MN, to points in WI.

MC 114273 (Sub-769F), filed October 9, 1980. Applicant: CRST, INC., 3930 16th Ave. SW., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Tranporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S.

MC 116063 (Sub-168F), filed October 15, 1980. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). Tranporting (1) *nonmetallic minerals;* (except fuels), (2) *food or kindred products,* (3) *pulp, paper, or allied products,* (4) *chemicals or allied products,* and (5) *petroleum or coal products,* as described in Items 14, 20, 26, 28, and 29, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, IL, IA, KS, LA, MO, OK, TX, and those in Shelby County, TN, on the one hand, and, on the other, points in the U.S.

MC 119302 (Sub-25F), filed October 15, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Tranporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with the Joy Manufacturing Company, of Pittsburgh, PA.

MC 124212 (Sub-110F), filed October 16, 1980. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Tranporting *dry commodities,* in bulk, (except coal, limestone and sand), between points in the U.S., restricted to transportation of traffic originating at or destined to facilities of Alpha Portland Cement Company.

MC 125023 (Sub-85F), filed October 15, 1980. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Tranporting (1) *malt beverages,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, between points in Wayne County, MI, and Wood County, OH, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 129903 (Sub-15F), filed October 15, 1980. Applicant: EMPORIA MOTOR FREIGHT, INC., P.O. Box 1103, Emporia, KS 66801. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *meats, meat products, and meat byproducts and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in WA, OR, CA, ID, NV, MT, WY, UT, AZ, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, KY, OH, IL, IN, MI, and WI.

MC 141532 (Sub-103F), filed October 14, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *machinery and supplies,* as described in Item 35 of the Standard Transportation Commodity Code Tariff, *transportation equipment,* as described in Item 37 of the Standard Transportation Commodity Code Tariff, and *construction, logging, and agricultural equipment and implements,* between points in IL and CA.

MC 143103 (Sub-10F), filed October 14, 1980. Applicant: CHEROKEE LINES, INC., 1113 North Little St., Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in the U.S. (except AK and HI), under continuing contract(s) with M &M/Mars, Division of Mars, Inc., of Hackettstown, NJ.

MC 143702 (Sub-18F), filed October 15, 1980. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore St., Kansas City, MO 64105. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Norfolk, NE, on the one hand, and, on the other, points in KS, MO, and OK, restricted to traffic originating at or destined to the facilities of Nebraska Land Meat Products.

MC 144303 (Sub-23F), filed October 10, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center

Bldg., 918.16th St., NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Ex-Cello-O Corporation, of Walled Lake, NJ, its subsidiaries and affiliates.

MC 144622 (Sub-191F), filed October 15, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting (1) *chemicals,* (2) *animal feed supplements,* and (3) *such commodities* as are dealt in by department stores, supermarkets, hardware and rug stores, (a) from West Springfield, MA, Clifton, and May's Landing, NJ, Memphis, TN, and Ft. Madison, IA, to Sparks, NV, (b) from West Springfield, MA, Clifton and May's Landing, NJ, to Memphis, TN, and (c) from Pearl River, NY to Los Angeles, CA, Portland, OR, Dallas, TX, Atlanta, GA, and Chicago, IL.

MC 145072 (Sub-48F), filed October 15, 1980. Applicant: M.S. CARRIERS, INC., 1797 Florida St., Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of agricultural chemicals (except commodities in bulk), between points in AL, AR, GA, IA, IL, IN, KS, KY, LA, MD, MI, MO, MS, NC, NJ, OH, OK, PA, SC, TN, TX, VA, and WV.

MC 145402 (Sub-10F), filed October 15, 1980. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 1021, Appleton, WI. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in WI, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 145623 (Sub-9F), filed October 10, 1980. Applicant: O. K. MESSENGER SERVICE, INC., 9107 Telegraph Road, Taylor, MI 48180. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *iron and steel articles,* between points in the U.S., under continuing contract(s) with Carter Steel Fabricating Co., of Bellefontaine, OH.

MC 148822 (Sub-6F), filed October 14, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35024. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *forest products, lumber products, wood products, gypsum board, pressed board and wallboard,* between points in the U.S., under continuing contract(s) with Russell Stadleman & Co., of Memphis, TN.

MC 149253 (Sub-2F), filed October 15, 1980. Applicant: THE HONEY CREEK EXPRESS CO., a corporation, Blakesburg, IA 52536. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *meats, meat products and meat byproducts,* as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, except commodities in bulk, between the facilities of Honey Creek Provisions Co., at or near Nevada, OH, on the one hand, and, on the other, those points in the U.S. in and west of MI, IN, KY, TN, and MS.

MC 150102 (Sub-4F), filed October 15, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slidell, LA 70458. Representative: Albert T. Riddle (same address as applicant). Transporting *tires, tubes, wheels, wheel nuts, wheel weights, tire valves, and hub wheel clips,* between points in the U.S., under continuing contract(s) with Sears Roebuck and Company, of Dallas, TX.

MC 150432 (Sub-6F), filed October 14, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St. NW., Suite 1111, Washington, DC 20036. Transporting *frozen foods,* between points in the U.S., under continuing contract(s) with Quality Bakery Company, Inc., of Columbus, OH, and New York Frozen Foods, Inc., of Bedford Heights, OH.

MC 150633 (Sub-2F), filed October 15, 1980. Applicant: MERTENS TRUCKING CO., INC., 4215 Terminal Dr., McFarland, WI 53558. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *petroleum products,* in bulk, in tank vehicles, from Dubuque, IA, to those points in WI on, south, and west of a line beginning at the MN–WI State line and extending along Interstate Hwy 90 to the IL–WI State line.

MC 150783 (Sub-2F), filed October 15, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). Transporting (1) *paper and paper products,* (2) *plastic and plastic articles,* (3) *woodpulp,* and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of International Paper Company.

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Decided: October 22, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 29643 (Sub-17F), filed October 15, 1980. Applicant: WALSH TRUCKING SERVICE, INC., 50 Burney Ave., Massena, NY 13662. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers of paint and paint products (except commodities in bulk), between the facilities of Glidden Coating & Resin, Division of SCM Corporation, in Reading, PA, on the one hand, and, on the other, points in NY.

MC 98952 (Sub-79F), filed October 14, 1980. Applicant: GENERAL TRANSFER COMPANY, a Delaware corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Phillip W. Edmiston (same address as applicant). Transporting *confectionery and confectionery products,* in mechanically refrigerated equipment (except in bulk), from M&M/Mars, a division of Mars, Incorporated, at or near Cincinnati, OH, to points in IN and KY, restricted to traffic originating at or destined to the named destinations.

MC 108453 (Sub-40F), filed October 16, 1980. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pulpboard and boxboard, between points in the U.S., under continuing contract(s) with White Pigeon Paper Company, of White Pigeon, MI.

MC 110923 (Sub-11F), filed October 14, 1980. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison St., Kewanee, IL 61433. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703. Transporting (1) *fertilizer and anhydrous ammonia,* in bulk, in tank vehicles, from those points in IA east of U.S. Hwy 69, and (2) *gypsum rock,* from Sperry, IA, to LaSalle, IL.

MC 111812 (Sub-741F), filed October 14, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233,

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Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting (1) *glass and glass products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of glass and glass products, between points in the U.S., restricted to traffic originating at or destined to the facilities used by Viracon, Inc. Condition: Issuance of this certificate is subject to prior or coincidental cancellation (1) of applicant's written request of Certificate MC 111812 (Sub-538), issued June 30, 1978, and (2) applicant's cancellation of MC 111812 (Sub-724).

MC 112713 (Sub-314F), filed October 3, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Fort Smith, AR, and Memphis, TN: from Fort Smith over U.S. Hwy 71 to Texarkana, TX, then over U.S. Hwy 82 to El Dorado, AR, then over U.S. Hwy 167 to junction U.S. Hwy 79, then over U.S. Hwy 79 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, (2) between Savannah, GA, and Mobile, AL: from Savannah over U.S. Hwy 17 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 84, then over U.S. Hwy 84 to junction U.S. Hwy 221, then over U.S. Hwy 221 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Mobile, and return over the same route, (3) between junction U.S. Hwys 167 and 79 and Minden, LA, over U.S. Hwy 79, (4) between Round Rock, TX, and Shreveport, LA, over U.S. Hwy 79, (5) between Santa Rosa and Crescent City, CA, over U.S. Hwy 101, serving Smith River, CA, as an off-route point, (6) between Sacramento and Red Bluff, CA, over CA Hwy 99, (7) between Sacramento and Truckee, CA, over Interstate Hwy 80, serving Grass Valley and Nevada City, CA, as off-route points, (8) between Sacramento and South Lake Tahoe, CA, over U.S. Hwy 50, (9) between Albuquerque, NM, and El Paso, TX, over U.S. Hwy 85, serving Alamogordo, NM, as an off-route point, (10) between Benson, AZ, and junction U.S. Hwy 80 and Interstate Hwy 10, over U.S. Hwy 80, (11) between Indio and Beaumont, CA: from Indio over CA Hwy 111 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Beaumont, and return over the same route, (12) between Salisbury, MD, and junction U.S. Hwys 40 and 13: from Salisbury over U.S. Hwy 50 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 301S, then over U.S. Hwy 301S to junction U.S. Hwy 13, then over U.S. Hwy 13 to junction U.S. Hwy 40, and return over the same route, serving St. Michaels, Centerville, and Chestertown, MD, as off-route points, (13) between Lebanon and Rutland, VT, over U.S. Hwy 4, (14) between Altoona and Lewistown, PA: from Altoona over U.S. Hwy 220 to junction U.S. Hwy 322, then over U.S. Hwy 322 to Lewistown and return over the same route, (15) between Annapolis, MD, and junction U.S. Hwys 50 and 301, over U.S. Hwy 50, (16) between Sparta and Waynesboro, GA: from Sparta over GA Hwy 15 to Sandersville, then over GA Hwy 24 to Waynesboro, and return over the same route, (17) between Augusta and Brunswick, GA, over U.S. Hwy 25, (18) between Macon, GA, and Allendale, SC: from Macon over U.S. Hwy 80 to Statesboro, GA, then over U.S. Hwy 301 to Allendale, and return over the same route, (19) between Macon and Swainsboro, GA over GA Hwy 57, serving McIntyre, GA, as an off-route point, (20) between Macon and Jesup, GA: from Macon over U.S. Hwy 23 to junction U.S. Hwy 341, then over U.S. Hwy 341 to Jesup, and return over the same route, (21) between Dothan, AL, and Thomasville, GA, over U.S. Hwy 84, (22) between Augusta, GA, and Greenville, SC, over U.S. Hwy 25, serving points in Edgefield County, SC, as off-route points, (23) between McBee, SC, and Monroe, NC: from McBee over SC Hwy 151 to Pageland, SC, then over U.S. Hwy 601 to Monroe, and return over the same route, serving points in Chesterfield County, SC, as off-route points, (24) between Calhoun and Chatsworth, GA: from Calhoun over GA Hwy 225 to junction GA Hwy 52, then over GA Hwy 52 to Chatsworth, and return over the same route, (25) between Dalton and Chatsworth, GA, over U.S. Hwy 76, (26) between Cornelia and Hollywood, GA, over U.S. Hwy 441, (27) between Toccoa and Hollywood, GA, over GA Hwy 17, (28) between Leland and Winona, MS, over U.S. Hwy 82, serving Yazoo City, MS, as an off-route point, (29) between Wytheville, VA, and Charleston, WV, over Interstate Hwy 77, serving Bluefield, WV, as an off-route point, (30) between junction U.S. Hwys 41 and 64 and Nashville, TN: from junction U.S. Hwys 41 and 64 and Nashville, TN: from junction U.S. Hwys 41 and 64, near Monteagle, TN, over U.S. Hwy 64 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Nashville, and return over the same route, serving Tullahoma, Shelbyville, and Lewisburg, TN, as off-route points, (31) between Milwaukee, WI, and Rockford, IL: from Milwaukee over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Rockford, and return over the same route, (32) between Wausau and Eau Claire, WI: from Wausau over WI Hwy 29 to junction U.S. Hwy 53, then over U.S. Hwy 53 to Eau Claire, and return over the same route, serving Merrill and Antigo, WI, as off-route points, (33) between Wausau and Appleton, WI: from Wausau over U.S. Hwy 51 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Appleton, and return over the same route, serving Wisconsin Rapids and Marshfield, WI, as off-route points, (34) between Grand Rapids and Traverse City, MI: from Grand Rapids over U.S. Hwy 131 to junction MI Hwy 113, then over MI Hwy 113 to junction MI Hwy 37, then over MI Hwy 37 to Traverse City, and return over the same route, (35) between Grand Forks and Belfield, ND: from Grand Forks over U.S. Hwy 2 to Williston, then over U.S. Hwy 85 to Belfield, and return over the same route, (36) between Decatur and Springfield, IL, over U.S. Hwy 36, (37) between Ames, IA, and junction U.S. Hwys 30 and 69: from Ames over U.S. Hwy 30 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 69, and return over the same route, (38) between McPherson and Russell, KS: from McPherson over U.S. Hwy 56 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Russell, and return over the same route, (39) between Pittsburgh and Altoona, PA: from Pittsburgh over U.S. Hwy 22 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Altoona, and return over the same route, serving Johnstown, PA, as an off-route point, (40) between Casper and Sheridan, WY, over U.S. Hwy 87, serving Gillette, WY, as an off-route point, (41) between Jamestown and Portal, ND: from Jamestown over U.S. Hwy 52 to junction ND Hwy 200, then over ND Hwy 200 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Portal, and return over the same route, (42) between Denver, CO, and Casper, WY, over U.S. Hwy 87, (43) between Sidney, NE, and Salt Lake City, UT: from Sidney over U.S. Hwy 30 to junction U.S. Hwy 189, then over U.S. Hwy 189 to Interstate Hwy 80, then over Interstate Hwy 80 to Salt Lake City, and return over the same route, (44) between Wichita Falls and Texarkana, TX: from Wichita Falls over U.S. Hwy 287 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Texarkana, and return over the same route, (45) between Corsicana and Tyler, TX: from Corsicana over U.S. Hwy 287 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Jacksonville, then over U.S. Hwy 69 to Tyler, and return over the same route, (46) between Kilgore and Jacksonville, TX: from Kilgore over U.S. Hwy 259 to Lufkin, TX, then over U.S. Hwy 69 to Jacksonville, and return over the same route, (47) between Dallas and Texarkana, TX, over U.S. Hwy 67, (48) between Pittsbugh, PA, and Clarksburg, WV, over U.S. Hwy 19, serving Weston and Buckhannon, WV, as off-route points, (49) between Dallas and Jacksonville, TX, over U.S. Hwy 175, (50) between Tyler, TX, and junction U.S. Hwy 175 and TX Hwy 31, over TX Hwy 31, (51) between Beaumont, TX, and Shreveport, LA: from Beaumont over U.S. Hwy 69 to junction U.S. Hwy 96, then over U.S. Hwy 96 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Carthage, TX, then over U.S. Hwy 79 to Shreveport, and return over the same route, (52) between Keokuk, IA, and junction U.S. Hwy 136 and IL Hwy 1, over U.S. Hwy 136, (53) between Sioux City, IA, and the international boundary line between the U.S. and Canada, at or near Noyes, MN: from Sioux City over U.S. Hwy 77 to Estelline, SD, then over SD Hwy 28 to junction U.S. Hwy 81, then over U.S. Hwy 81 to the international boundary line between the U.S. and Canada, and return over the same route, serving Madison, Huron, Aberdeen, Yankton, and Redfield, SD, as offroute points, (54) between Sioux Falls, SD, and Sheridan, WY: from Sioux Falls over U.S. Hwy 16 to junction U.S. Hwy 14, then over U.S. Hwy 14 to Sheridan, and return over the same route, (55) between San Marcos and Maxwell, TX: from San Marcos over TX Hwy 80 to junction TX Hwy 142, then over TX Hwy 142 to Maxwell, and return over the same route, (56) between junction U.S. Hwy 223 and MI Hwy 156 and Morenci, MI, over MI Hwy 156, (57) between junction U.S. Hwy 431 and TN Hwy 110 and junction Interstate Hwy 65 and TN Hwy 7: from junction U.S. Hwy 431 and TN Hwy 110, near Fayetteville, TN, over TN Hwy 110 to junction TN Hwy 7, near Ardmore, TN, then over TN Hwy 7 to junction Interstate Hwy 65, and return over the same route, (58) between Williamsport, PA, and junction U.S. Hwys 220 and 322, over U.S. Hwy 220, serving Woolrich, PA, as an off-route point, (59) between Wichita and Norwich, KS, over KS Hwy 42, serving points in Kingman County, KS, as off-route points, in connection with carrier's otherwise authorized operations, (60) between New Orleans and Baton Rouge, LA: from New Orleans over LA Hwy 18 to junction LA Hwy 1, then over LA Hwy 1 to Baton Rouge, and return over the same route, (61) between Baltimore, MD, and Harrisburg, PA: from Baltimore over U.S. Hwy 40 to junction U.S. Hwy 15, then over U.S. Hwy 15 to Harrisburg, and return over the same route, serving points in Adams and Franklin Counties, PA, as off-routes points, (62) between Adrian and Homer, MI: from Adrian over MI Hwy 34 to junction MI Hwy 99, then over MI Hwy 99 to Homer, and return over the same route, (63) between Des Moines, IA, and St. Paul, MN: from Des Moines over U.S. Hwy 69 to junction U.S. Hwy 65, then over U.S. Hwy 65 to St. Paul, and return over the same route, (64) between junction U.S. Hwys 69 and 30, and junction U.S. Hwys 65 and 30, over U.S. Hwy 30, (65) between Kinston and Atlantic, NC, over U.S. Hwy 70, (66) between Jacksonville, NC, and junction NC Hwy 24 and U.S. Hwy 70, over NC Hwy 24, (67) between Williamston and Elizabeth City, NC: from Williamston over U.S. Hwy 64 to junction U.S. Hwy 158, then over U.S. Hwy 158 to Elizabeth City, and return over the same route, (68) between Kinston, NC, and junction U.S. Hwy 17 and NC Hwy 58, over NC Hwy 58, serving Kuhns and Peletier, NC, as off-route points, (69) between Fargo and Beach, ND, over U.S. Hwy 10, (70) between Santa Fe and Pojoaque, NM, over U.S. Hwy 84, (71) between Jackson and Dyersburg, TN: from Jackson over TN Hwy 20 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route, (72) between Humbolt and Rutherford, TN, over U.S. Hwy 45W, (73) between junction U.S. Hwy 45W and TN Hwy 77 and Dyersburg, TN: from junction U.S. Hwy 45W and TN Hwy 77, at or near Dyer, TN, over TN Hwy 77 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route, (74) between Corsicana and Athens, TX, over TX Hwy 31, (75) between Hannibal, MO, and Springfield, IL, over U.S. Hwy 36, (76) between Litchfield and Bloomington, IL: from Litchfield over IL Hwy 16 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Bloomington, and return over the same route, (77) between Taylorville and Springfield, IL, over IL Hwy 29, (78) between Rochester and St. Paul, MN, over U.S. Hwy 52, (79) between La Crosse, WI, and St. Paul, MN, over U.S. Hwy 61, (80) between Wichita and Arkansas City, KS: from Wichita over U.S. Hwy 81 to junction U.S. Hwy 160, then over U.S. Hwy 160 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Arkansas City, and return over the same route, (81) serving all intermediate points in routes (1) through (80) above.

MC 115322 (Sub-201F), filed October 15, 1980. Applicant: REDWING REFRIGERATED, INC, P.O. Box 10177, Taft, GA FL 32809. representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in FL, restricted to traffic having a prior or subsequent movement by rail.

MC 126822 (Sub-105F), filed September 29, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Hwy., Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). Transporting (1) *telephone and electrical equipment*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between points in the U.S.

MC 129903 (Sub-16F), filed October 15, 1980. Applicant: EMPORIA MOTOR FREIGHT, INC., P.O. Box 1103, Emporia, KS 66801. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *alcoholic beverages*, from points in the U.S., to the facilities of A B Sales, Inc., at or near Wichita and Hutchinson, KS.

MC 146402 (Sub-26F), filed October 14, 1980. Applicant: CONALCO CONTRACT CARRIER, INC, P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske, (same address as applicant). Transporting (1) *primary metal products;* inc. galvanized; except coating or other allied processing, *fabricated metal products;* except ordnance; *machinery;* except Electrical; *electrical machinery or equipment;* aao. *supplies;* and *transportation equipment* as described in Items 33, 34, 35, 36, and 37 respectively, of the *Standard Transportation Commodity Code Tariff, and* (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in TN in and west of Dickson, Giles, Hickman, Montgomery, and Maury Counties, on the one hand, and, on the other, points in the U.S.

MC 149483F filed October 8, 1980. Applicant: C & H TRUCK BROKERS, INC., P.O. Box 236, Harrington, DE 19952. Representative: John A. Guernsey 2001 The Fidelity Bldg., Philadelphia, PA 19109. Transporting *foodstuffs*, between points in Caroline, Dorchester, Queen Annes, Talbot, Wicomico, Worcester, Baltimore, and Somerset Counties, MD,

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Sussex, Kent, and New Castle Counties, DE, Northampton and Accomack Counties, VA, Chester, Philadelphia, Lancaster, and York Counties, PA, Camden County, NJ, and Queens County, NY, on the one hand, and on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC.

MC 149583F, filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Hammermill Paper Company, of Erie, PA.

MC 149583 (Sub-1F), filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Borden, Inc., of Columbus, OH.

MC 149583 (Sub-2F), filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Nabisco, Inc., of East Hanover, NJ.

MC 149583 (Sub-3F), filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with The Nestle Company, Inc., of White Plains, NY.

MC 149583 (Sub-4F), filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities,* (except household goods as defined by the Commission and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Owens-Illinois, Inc., of Toledo, OH.

MC 151223 (Sub-1F), filed October 14, 1980. Applicant: SMITHWAY COACHES, LTD., P.O. Box Drawer V, Fort Dodge, IA 50501. Representative: Russell J. Hiken (same address as applicant). Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip special operations, beginning and ending at points in Clay County, IA, and extending to points in the U.S. (except AK and HI).

MC 152223F, filed October 14, 1980. Applicant: WALTER WICKERT DELIVERY SERVICE CO., a corporation, P.O. Box 2206, E. Peoria, IL 61611. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting: *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between points in Cook, Knox, McLean, Peoria, and Tazewell, Counties, IL.

Volume No. OP2–081

Decided: October 28, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 144803F, filed October 16, 1980. Applicant: LASSITER BUS SERVICE, INC., 3400 Nansemond Parkway, Suffolk, VA 23435. Representative: Blair P. Wakefield, Suite 1001 First and Merchants National Bank Building, Norfolk, VA 23510. Transporting *passengers and their baggage, in the same vehicle with passengers,* in special and charter operations, beginning and ending at points in Accomack and Northampton Counties, VA, and those in VA on, and east and south of a line beginning at the NC–VA State line and extending along U.S. Hwy 360 to junction VA Hwy 33, then along VA Hwy 33 to the Chesapeak Bay, and those in NC on, east and north of a line beginning at the NC–VA State line and extending along U.S. Hwy 29 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the Atlantic Ocean, and extending to points in the U.S. (except AK and HI).

Volume No. OP3–054

Decided: October 21, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2934 (Sub-83F), filed October 8, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *furniture,* from Jackson, MS, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 30504 (Sub–22F), filed October 8, 1980. Applicant: TUCKER FREIGHT LINES, INC., 1415 South Olive St., South Bend, IN 46619. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Toledo, OH and Peru, IN: From Toledo over U.S. Hwy 24 to junction IN Hwy 19, then over IN Hwy 19 to Peru, and return over the same route; (2) Between coldwater, MI, and Indianapolis, IN, over Interstate Hwy 69; (3) Between Elkhart, IN and Cincinnati, OH: from Elkhart over U.S. Hwy 33 to junction U.S. Hwy 27, then over U.S. Hwy to Cincinnati, and return over the same route; (4) Between Gary, IN and Indianapolis, IN, over Interstate Hwy 65; (5) Between Hammond, IN and Evansville, IN, over U.S. Hwy 41; (6) Between Toledo, OH and Cincinnati, OH, over Interstate Hwy 75; (7) Between Dayton, OH and Veedersburg, IN: From Dayton over Interstate Hwy 70 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Veedersburg, and return over the same route; (8) Between junction IN Hwys 29 and 26 and Lafayette, IN, over IN Hwy 26; (9) Between Hammond, IN and Ft. Wayne, IN, over U.S. Hwy 30; and (10) Between Findley, OH and Ft. Wayne, IN: From Findley over U.S. Hwy 224 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Ft. Wayne, and return over the same route; in (1) through (10) above, serving all intermediate points and serving as off-route points all in IN and those in OH on and west of Interstate Hwy 75 as off-route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 52614 (Sub-14F), filed October 9, 1980. Applicant: R. S. POWELL, INCORPORATED, P.O. Box 338, Madison Heights, VA 24572. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cast iron products (except commodities in bulk, in tank vehicles), between points in the U.S.,

under continuing contract(s) with Griffin Pipe Products Co., Oak Brook, IL.

Note.—Issuance of a certificate in this proceeding is conditioned upon coincidental cancellations of permits Nos. MC–52614 Sub 5, MC–52614 Sub 6, and MC–52614 Sub 8, at applicant's written request.

MC 60014 (Sub-192F), filed October 8, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 19106. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, and (2) between points in (1) above, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 61825 (Sub-136F), filed October 8, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *building materials,* from points in NJ and MA, to those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 94265 (Sub-367F), filed October 10, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs* (except in bulk), from points in IN to points in VA.

MC 108074 (Sub-160F), filed October 10, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221, S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *liquid resin solution* (except in bulk), from points in Mayes County, OK to points in CO, FL, GA, and IA, and (2) *materials* used in the manufacture of liquid resin solutions, from points in AL, TX, and IL to points in Mayes County, OK.

MC 117765 (Sub-300F), filed October 8, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting (1) *plastic pipe, aluminum pipe, fittings and accessories* for plastic pipe and aluminum pipe, (2) *irrigation systems,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of (1) and (2) above, between points in Finney County, KS, and York County, NE, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, ND, NE, NM, OK, SD, TN, TX, WI, and WY.

MC 117765 (Sub-301F), filed October 8, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting (1) *insulating materials,* and (2) *materials and equipment* used in the manufacture and installation of insulating materials, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Rockwool Industries, Inc.

MC 117765 (Sub-302F), filed October 8, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting (1) *salt, salt products, and mineral feed mixtures,* and (2) *materials and supplies* used in agricultural, water treatment, food processing, wholesale grocery, and in institutional supply industries; (except those in (1) above) between points in KS, LA and OK, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OH, OK, TN, and TX. Condition: Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No MC 117765 Subs 34, 57, 61, 63, 92, 100, 159, 181 and 275, at applicant's written request.

MC 124054 (Sub-5F), filed October 8, 1980. Applicant: MERLIN HERRMANN, 510 E. Dodge, Luverne, MN 56156. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *livestock keeping and feeding systems,* and (2) *materials, supplies, and equipment* used in the manufacture of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with A. R. Wood Manufacturing Company, of Luverne, MN.

MC 138144 (Sub-59F), filed October 10, 1980. Applicant: FRED OLSON CO., INC., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting (1) *such commodities* as are manufactured or distributed by manufacturers of buildings, building sections and panels, and (2) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. Conditiom Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC 138144 Sub 7 at applicant's written request.

MC 133805 (Sub-61F), filed October 8, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Post Office Box 1065, Fayetteville, AR 72701. Transporting, *chemicals* (except in bulk) between Los Angeles, CA and Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141774 (Sub-36F), filed October 8, 1980. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1) *carbon steel vessels, storage racks, hand trucks, carts, wagons, textile mill equipment, chemical processing equipment, and containers,* (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Opelika, AL, Altoona, PA, Deep Water, NJ, Baton Rouge, LA, Brevard, NC, and Atlanta, GA.

MC 142715 (Sub-113F), filed October 10, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between those points in the U.S. in and east of ND, SD, WY, CO, and NM.

Note.—Issuance of a certificate is conditioned upon coincidental cancellation of certificate No. MC 142715 Sub 44F, served September 10, 1980, at applicant's written request.

MC 144605 (Sub-11F), filed October 8, 1980. Applicant: HOPPY LINES, INC., P.O. Box 368, Brea, CA 92621. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. Transporting *brass articles,* between points in the U.S., restricted to traffic originating at or destined to the facilities of Bridgeport Brass Company, of Indianapolis, IN.

MC 146754 (Sub-5F), filed October 9, 1980. Applicant: TENNANT TRUCK LINES, INC., R.R. 1, P.O. Box 233, Orion, IL 61273. Representative: Joseph Winter, 29 S. La Salle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of agricultural machinery, equipment and implements, between points in IL and IA, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, NE, OH, PA, and WI.

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MC 147214 (Sub-3F), filed October 10, 1980. Applicant: DETERMANN INDUSTRIES, INC., 1425 N. Washington Blvd., Camanche, IA 52730. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Transporting *dry corn products,* in bulk, from Cedar Rapids, IA, to points in IL.

MC 148414 (Sub-3F), filed October 10, 1980. Applicant: UNIDYNE CORPORATION, 3835 East Princess Anne Rd., Norfolk, VA 23502. Representative: H. L. Davenport (same address as applicant). Transporting (1) *glass fibre products,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under a continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 152144F, filed October 9, 1980. Applicant: COMBINED TRANSPORT, INC., P.O. Box 3815, Central Point, OR 97502. Representative: David C. White, 2400 SW. Fourth Ave., Portland, OR 97201. Tranporting *lumber, wood products, and building materials,* (except in bulk, in tank or hopper-type vehicles), between points in CA, OR, and WA.

MC 152145F, filed October 9, 1980. Applicant: MPO TRANSPORT, INC., P.O. Box 72, Butler, NJ 07405. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Tranporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Warren County, NJ.

MC 152154F, filed October 8, 1980. Applicant: J.L.W., INC., d.b.a. AQUARIUS FAST FREIGHT, 3–7 West First St., Clifton, NJ 07011. Representative: Edward L. Nehez, P.O. Box 1409, Fairfield Rd., Fairfield, NJ 07006. Tranporting *such commodities* as are dealt in or used by manufacturers of chemicals and dyestuffs (except commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Crompton & Knowles Corporation, of Fair Lawn, NJ, (2) Sodyeco Division, Martin Marietta Chemicals, of Charlotte, NC, (3) Hydrolabs, Inc., of Paterson, NJ, (4) American Color & Chemical Corporation, of Wyomissing, PA, and (5) Sandoz Colors & Chemicals, Division of Sandoz, Inc., of East Hanover, NJ.

Volume No. OP3–056

Decided: October 21, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones.

Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (Same address as applicant). Over regular routes, transporting *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, (1) between junction CA Hwy 22 and Interstate Hwy 405 at or near Westminster, CA and junction Interstate Hwy 405 and Interstate Hwy 5 near Irvine, CA over Interstate Hwy 405; (2) between junction Interstate Hwy 405 and unnumbered Hwy (Magnolia Ave.) and Santa Ana, over unnumbered Hwy (Magnolia Ave.) and Santa Ana, over unnumbered Hwy, in (1) and (2) above, serving all intermediate points.

MC 2934 (Sub-84F), filed October 10, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *metal office furniture,* from Youngstown, OH, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, MJ, NY, NC, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 22675 (Sub-9F), filed October 10, 1980. Applicant: ALLSTATES VAN LINES CORP., 53–13 97th place, Corona, NY 11368. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Washington, DC 20036. Transporting *household goods,* as defined by the Commission, (1) between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, VA, NC, SC, GA, AL, FL, WV, and DC, (2) between points in (1) above, on the one hand, and, on the other, points in OH, IN, MI, IL, WI, IA, NE, KS, MO, KY, TN, MS, AR, and OK, and (3) between points in NY, NJ, CT, DE, FL, GA, IL, IA, MD, MA, NH, NC, OH, PA, RI, SC, VT, VA, WV, KS, OK, AR, TX, MO, and DC, on the one hand, and, on the other, points in AZ, CA, NV, TX, NM, CO, LA, AL, MI, and TN.

MC 73165 (Sub-528F), filed October 8, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *general commodities* (except household goods—as defined by the Commission and classes A and B explosives), between points in AL on the one hand, and, on the other, points in the U.S., (except AK and HI).

Note: Issuance of a certificate is subject to prior or coincidental cancellation of certificate No. MC–73165 and Subs 153, 156, 179, 184, 197, 203, 213, 236, 241, 257, 270, 274, 275, 288, 308, 314, 315, 316, 318, 327, 330, 333, 338, 373, and 429, at applicant's written request.

MC 89084 (Sub-7F), filed October 10, 1980. Applicant: INTERSTATE HEAVY HAULING, INC., P.O. Box 20536, Portland, OR 97220. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210. Transporting *machinery* (except electrical), and *supplies,* as described in Item 35 of the Standard Transportation Commodity Code (STCC), between points in OR and WA, on the one hand, and, on the other, points in ID, MT, WY, UT, NM, CO, NV, and AZ.

MC 113855 (Sub-515F), filed October 8, 1980. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting explosives, weapons and articles designated sensitive by the United States Government, between points in the U.S. (including AK, but excluding HI), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the Government contractor (consignee or consignor) is directly reimbursed by the Government for the transportation cost.

Note.—The certificate granted in this proceeding shall expire 5 years from the date of issuance.

MC 118535 (Sub-160F), filed October 10, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr., (same address as applicant). Transporting (a) *canned preserved foodstuffs* and (b) *frozen foodstuffs* (except those in (a)) from points in Hidalgo and Cameron Counties, TX, to points in AR, AZ, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, NM, ND, OH, OK, SD, TN, WI, WY, ID, MT, and UT.

MC 119315 (Sub-33F), filed October 10, 1980. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *alcoholic beverages,* between points in Milwaukee County, WI, Ramsey and Henepin Counties, MN, Campbell County, KY, Allegheny County, PA, and Peoria County, IL, on the one hand, and, on the other, points in Lucas and Defiance Counties, OH.

MC 123255 (Sub-222F), filed October 10, 1980. Applicant: B & F MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr., (same address as applicant). Transporting *wine,* in containers, from Westfield, NY, to those points in the U.S., in and east of MT, WY, CO, OK, and TX.

MC 144645 (Sub-6F), filed October 10, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt, 2 Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting (1) *liquid cleaning compounds,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of liquid cleaning compounds, between points in the U.S., under continuing contract(s) with Magee Industries, Inc., of Des Plaines, IL.

MC 144645 (Sub-7F), filed October 10, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting (1) *fruit juices, fruit drinks, and drinking water,* and (2) *materials, equipment* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Ohio Pure Foods, Inc., Akron, OH.

MC 151685 (Sub-1F), filed October 10, 1980. Applicant: W D P TRANSPORTATION, INC., 453 Versailles Rd., Frankfort, KY 40601. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), under continuing contract(s) with Curtis Industries, Inc., of East Lake, OH, and Johnson Controls, Inc., of Milwaukee, WI.

MC 151224F, filed October 9, 1980. Applicant: NORTHERN STEEL TRANSPORT CO., a Corporation, 6041 Benore Rd., Toledo, Oh 43612. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. Transporting (1) *primary metal products, including galvanized,* (except coating or other allied processing), and *fabricated metal products,* (except ordnance), as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, KY, Lower Peninsula of MI, OH, TN, PA (on and west of U.S. 219) St. Louis, Jefferson, Franklin, Warren, Osage, Cole, Callaway, Audrain, Montgomery, Lincoln, St. Charles, Pike, Gasconade, Ste. Genevieve, St. Francois, Washington, Crawford, Phelps, Maries, Perry, Cape Girardeau, Bollinger, Madison, Iron, Reynolds, Dent, Monroe, Marion, and Ralls Counties, MO, and Chautauqua, Niagara, Cattaraugus, Orleans, Monroe, Genesee, Wyoming, Allegany, Steuben, Chemung, Schuyler, Tioga, Broome, Tompkins, Cortland, Cayuga, Yates, Livingston, Ontario, Seneca, Onondaga, and Oswego Counties, NY.

MC 152185F filed October 10, 1980. Applicant: MAKO MARINE, INC., 4355 NW., 128th St., Miami, FL 33054. Representative: Gerard J. Donovan, 4791 SW., 82nd Ave., Davie, FL 33328. Transporting *boats,* between points in AL, CT, DE, FL, GA, IN, LA, ME, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TX, and WI.

Volume No. OP3–057

Decided: October 23, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 102295 (Sub-44F), filed October 15, 1980. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting *sand, stone, and gravel,* from points in Lehigh and Northampton Counties, PA, to points in NJ, DE, and MD.

MC 105045 (Sub-156F), filed October 15, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines including the stringing and picking up of pipe, between points in the U.S., restricted to traffic originating at or destined to the facilities of Delta Drilling Company, or its customers or suppliers.

MC 108194 (Sub-15F), filed October 15, 1980. Applicant: WILLIAM B. MEYER INCORPORATED, Long Beach Blvd., Stratford, CT 06497. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036. Transporting *households goods,* as defined by the Commission, between points in NY, CT, RI, and MA, on the one hand, and, on the other, points in ME, NH, VT, NJ, PA, DE, MD, OH, VA, NC, SC, GA, FL, NY, CT, RI, MA, IN, IL, MI, and DC.

Note.—Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certificate. MC 108194, at applicant's written request.

MC 110325 (Sub-162F), filed October 15, 1980. Applicant: TRANSCON LINES, a Corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Dallas, TX and Shreveport, LA, (a) over U.S. Hwy 80, and (b) over Interstate Hwy 20; (2) Between Longview, TX and Waco, TX, from Longview over U.S. Hwy 259 to junction TX Hwy 31, then over TX Hwy 31 to Waco, and return over the same route; (3) between Longview, TX, and Hearne, TX, from Longview over U.S. Hwy 259 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Hearne, and return over the same route; (4) Between Longview, TX, and Houston, TX, from Longview over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, and return over the same route; (5) Between Nacogdoches, TX and Memphis, TN, from Nacogdoches over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; and (6), serving in (1) through (6) above all intermediate points and off-route points in Rockwall, Kaufman, Hunt, Van Zandt, Hopkins, Wood, Raine, Henderson, Smith, Upshur, Gregg, Rusk, Cass, Marion, Harrison, and Panola Counties, TX.

Note.—Applicant intends to tack this authority with its existing authority.

MC 134775 (Sub-18F), filed October 15, 1980. Applicant: GUNTER BROTHERS, INC., 19060 Frager Rd., Kent, WA 98031. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Transporting *animal and poultry feed, animal and poultry feed ingredients, and seed,* between points in the U.S., under continuing contract(s) with A. R. Smith & Co., Inc., of Redmond, WA.

MC 145734 (Sub-13F), filed October 15, 1980. Applicant: B D TRUCKING CO., a Corporation, P.O. Box 817, Ripon, CA 95366. Representative: E. J. Hegarty, Loughran & Hegarty, 100 Bush St.—21st Fl., San Francisco, CA 94104. Transporting (1) *construction materials, equipment and supplies,* (2) *iron and steel articles,* (3) *pipe and pipe fittings,* (4)(a) *commodities* which because of

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size or weight require the use of special equipment, and (b) *commodities* which do not require the use of special equipment, in mixed loads with commodities described in (4)(a) above, (5) *lumber, lumber mill products, particleboard, and fiberboard,* and (6) *non-ferrous metal articles,* between points in CA, OR, WA, AZ, NV, ID, UT, CO, MT and WY.

MC 149155 (Sub-6F), filed October 15, 1980. Applicant: JOHN PEPPER d.b.a. MIDWEST CARTAGE COMPANY, P.O. Box 318, Atchison, KS 66002. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *general commodities* (except household goods as defined by the Commission, and explosives), between points in CO, IA, IL, KS, MN, MO and NE.

MC 149514F, filed October 10, 1980. Applicant: PACER TRANSIT CORP., 2031 East Sherman Blvd., Muskegon, MI 49444. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *anhydrous ammonia,* from points in Huntington County, IN, to points in MI and OH.

MC 150385F, filed October 15, 1980. Applicant: VISALIA EXPRESS LINES, INC., P.O. Box 3692, 3750 Nicholas Drive, Visalia, CA 93278. Representative: Marshall A. Smith, Jr., 2322 North Maroa Ave., Fresno, CA 93704. Transporting (1) *paper and paper products,* and (2) *plastic trays,* between points in the U.S., under continuing contract(s) with Malanco of California, Inc.

MC 151394F, filed October 15, 1980. Applicant: BERNHARDT FURNITURE COMPANY, a corporation, 1839 Morganton Blvd., P.O. Box 740, Lenoir, NC 28645. Representative: Fred R. Piercy (same address as applicant). Transporting *molded pulp forms,* from points in Lake County, IN, to points in NC, VA, and TN.

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Decided: October 21, 1980.

By the commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 107295 (Sub-998F), filed October 14, 1980. Applicant: PRE-FAB TRANSIT CO., a Corporation P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *general commodities* (except commodities in bulk and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by The Burke Company.

MC 115924 (Sub-37F), filed October 14, 1980. Applicant: SUGAR TRANSPORT, INC., P.O. Box 4063, Port Wentworth, GA 31407. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with Savannah Foods & Industries, Inc., and its subsidiaries, of Savannah, GA.

Note.—To the extent that this Permit authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 123744 (Sub-89F), filed October 14, 1980. Applicant: BUTLER TRUCKING CO., a Corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in Augusta County, VA, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 123744 (Sub-90F), filed October 14, 1980. Applicant: BUTLER TRUCKING CO., a Corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting *iron and steel articles,* between Youngstown, OH, and Pittsburgh, PA, on the one hand, and, on the other, points in NJ, DE, MD, VA, MO, NY, and those points in IL within the St. Louis, MO, commerical zone. Condition: Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC–123744 Sub 52F, served July 21, 1980, at applicant's written request.

MC 124984 (Sub-67F), filed October 14, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265 Tavares, FL 32778. Representative: E. Stephen Heisley, 805 MCLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *foodstuffs,* between points in the U.S., under a continuing contract(s) with Borden Inc., of Columus, OH.

MC 125505 (Sub-1F), filed October 10, 1980. Applicant: MATTSON TRANSPORTATION COMPANY, INC., P.O. Box 6399, Charleston Heights, SD 29405. Representative: Demal I. Mattson, Jr., P.O. Box 1240, Charleston, SD 29402. Transporting *petroleum products,* from Charlotte, NC, to points in SC.

MC 129444 (Sub-8F), filed October 10, 1980. Applicant: KNOBLOCH TRUCKING CO., INC., Yaphank Ave., Brookhaven, NY 11719. Representative: Morton E. Kiel, Suite 1632, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under a continuing contract with Kraft, Inc., of Chicago, IL.

MC 143394 (Sub-11F), filed October 14, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). Transporting *such commodities,* as are dealt in or used by chain grocery and food business houses (except alcoholic beverages), between points in the U.S., under a continuing contract(s) with Autry Greer & Sons, Inc., of Mobile, AL.

MC 143394 (Sub-12F), filed October 14, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). Transporting *general commodities* (except commodities in bulk, in tank vehicles, used household furniture, those requiring special equipment, automobiles, trucks, and buses, and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Piggy Back Shippers Association of Florida, Inc., of Hialeah, FL.

MC 150445 (Sub-1F), filed October 14, 1980. Applicant: ALFONSO V. MANGIONE, 510 S. Main St., Pittston, PA 18640. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *coal,* (1) from Ashley, Hazleton and Shenandoah, PA, to points in CT, MA, and RI, and (2) from points in Lackawanna and Luzerne Counties, PA, to Binghamton, NY.

MC 150724 (Sub-3F), filed October 14, 1980. Applicant: DONALD SANTISI TRUCKING CO., a Corporation, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *such commodities* as are dealt in by wholesale, and retail stores (except commodities in bulk), between points in Franklin County, OH, St. Joseph County, MI, and Campbell County, VA, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 151504 (Sub-2F), filed October 14, 1980. Applicant: PHELCO, INC., 11841 Missouri Bottom Rd., St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting *such commodities* as are dealt in or used by retail chain grocery and food business houses, (except commodities in bulk),

between CA, CO, FL, GA, LA, MD, MI, MN, MO, NJ, NC, OH, OR, RI, and TX.

MC 151504 (Sub-3F), filed October 14, 1980. Applicant: PHELCO, INC., 11842 Missouri Bottom Rd., St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting *pulp, paper, and paper products,* between points in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NM, NY, NC, ND, OH, OK, SD, TN, TX, UT, VA, WI, and WY.

MC 152184F, filed October 9, 1980. Applicant: DOWNS MOVING & STORAGE CO., a corporation, 10460 Hyne, Brighton, MI 48116. Representative: Aubrey W. Downs (same address as applicant). Transporting (1) *household goods* and (2) *furniture or fixtures,* as described in item 25 of the Standard Transportation Commodity Code, between points in MI on the one hand, and, on the other, points in OH, IN, IL, PA, and KY.

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Decided: October 24, 1980.

By the Commission Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Chandler not participating.

MC 2934 (Sub-85F, filed October 14, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting (1) *new office furniture and fixtures,* and (2) *parts* used in the manufacture of new office furniture and fixtures, from Muscatine, IA, and Cedartown, GA, to points in AL, AR, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 2934 (Sub-86F), filed October 14, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *modular office systems,* from Atlanta, GA, Grand Rapids, Grandville, Holland, and Zeeland, MI, and Dallas, TX, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 2934 (Sub-87F), filed October 14, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *institutional and hotel furniture,* from Sheboygan, WI, to points in AR, AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC.

MC 22425 (Sub-8F), filed October 15, 1980. Applicant: MALFIN EXPRESS, INC., 155 Lenox Street, Norwood, MA 02060. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Transporting (1) *piece goods, adhesives, cleaning compounds, synthetic fibers, and tricot,* and (2) *equipment, materials, and supplies* used in the manufacture, processing, and distribution of the commodities in (1) above, between points in MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52704 (Sub-288F), filed October 15, 1980. Applicant: GLENN NcCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H" LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *salt and salt products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of salt and salt products, between points in Harris and Ft. Bend Counties, TX, on the one hand, and, on the other, points in AR, LA, and TX.

MC 102295 (Sub-43F), filed October 15, 1980. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting *coal,* from points in Carbon, Luzerne, Schuylkill, Lackawanna, and Northumberland Counties, PA, to points in DE, MD, MA, NJ, NY, PA, and VA.

MC 113624 (Sub-88F), filed October 15, 1980. Applicant: WARD TRANSPORT, INC., P.O. Box 753, Pueblo, CO 81002. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *chemicals, petroleum, and petroleum products,* in bulk, between points in AZ, CA, CO, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 114604 (Sub-117F), filed October 15, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Box I, State Farmers Market #33, Forest Park, GA 30050. Representative: Jean E. Kesinger (same address as applicant). Transporting *meats, meat products and meat byproducts,* and *articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Palestine, TX to those points in the U.S. in and east of ND, SD, NE, KS, OK, AR, and LA.

MC 117304 (Sub-42F), filed October 15, 1980. Applicant: DON PAFFILE, d.b.a. PAFFILE TRUCK LINE, 5735 North & South Highway, Lewiston, ID 83501. Representative: Michael J. O'Neil, 2345 N.W. Nicolai, Portland, OR 97210. Transporting (1) *lumber, lumber products, wood products, paper products;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Benewah, Clearwater, Kootenai, Latah, Lewis, and Nez Perce Counties, ID, on the one hand, and, on the other, points in CA, MT, OR, and WA.

MC 133975 (Sub-11F), filed October 15, 1980. Applicant: FLAMINGO TRANSPORTATION, INC., 11405 NW 36th Ave., Miami, FL 33167. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and mobile homes), moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) between the facilities of Florida-Texas Freight, Inc., in CT, MD, MA, NJ, NY, PA, and RI, on the one hand, and, on the other, points in FL.

MC 140665 (Sub-115F), filed October 15, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson (same address as applicant). Transporting *such commodities* as are used in the erection or operation of electric generating facilities (except commodities in bulk and those requiring special equipment), between points in WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141785 (Sub-1F), filed October 15, 1980. Applicant: HENNES ERECTING COMPANY, INC., 1600 W. Haskell St., Appleton, WI 54911. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *commodities* the transportation of which, by reason of size or weight, require the use of special equipment, and *contractors' equipment,* between points in Winnebago, Brown, and Fond du Lac Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 143394 (Sub-13F), filed October 14, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). Transporting *beer,* between points in the U.S., under continuing contract(s) with

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Budweiser Busch Distribution Company, Inc., of Mobile, AL.

MC 144344 (Sub-4F), filed October 15, 1980. Applicant: DE ANZA DELIVERY SYSTEM, INC., P.O. Box 1848, Fremont, CA 94538. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Transporting *such commodities* as are dealt in by department stores and mail order houses, between points in Alameda and Los Angeles Counties, CA, and Washoe, Storey, Lyon, Douglas, Churchill, and Carson City Counties, NV.

MC 149364 (Sub-1F), filed October 15, 1980. Applicant: DOUDELL TRUCKING COMPANY, a corporation, 555 E. Capitol Ave., Milpitas, CA 95305. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting *evaporative air coolers and components* of evaporative air coolers, between points in the U.S., under continuing contract(s) with Phoenix Manufacturing, Inc., of Phoenix, AZ. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage by furnishing transportation services designed to meet the distinct need of the supporting shipper. In particular, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 149075 (Sub-6F), filed October 15, 1980. Applicant: OVER LAND, INC., 4121 Augusta Road, Garden City, GA 31408. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Transporting *liquid chemicals*, in bulk, in tank vehicles, between points in Chatham County, GA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP4-099

Decided: October 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Hill not participating.

MC 21866 (Sub-182F), filed October 15, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, Transporting (1) *iron and steel articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles (except commodities in bulk), between points in Cuyahoga County, OH, on the one hand, and, on the other, points in the United States in and east of NY, PA, WV, VA, NC, GA, and FL.

MC 41347 (Sub-12F), filed October 15, 1980. Applicant: DE BACK CARTAGE CO., INC., 4841 W. Burnham St., Milwaukee, WI 53219. Representative: William P. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting *such commodities as are dealt in or used by a manufacturer of hydraulic tools*, between points in the U.S. under continuing contract(s) with Applied Power, Inc., of Milwaukee, WI.

MC 110656 (Sub-17F), filed July 28, 1980, and previously notice in the **Federal Register** issue of August 26, 1980. Applicant: PARKER MOTOR FREIGHT, INC., 5692 South U.S. Hwy 131, Petoskey, MI 49770. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226. Over regular routes, transporting *general commodities*, (A) Service Routes: (1) Between Grand Rapids, MI, and Detroit, MI, over I–96, (2) Between Cadillac, MI, and Detroit, MI, from Cadillac over US Hwy 131 to junction MI Hwy 115, then over MI Hwy 115 to junction US Hwy 10 and then over US Hwy 10 to Detroit, and return over the same route, (3) Between junction US Hwy 10 and US Hwy 23 and junction US Hwy 23 and I–96 over US Hwy 23, (4) Between junction I–75 and US Hwy 10 (near Pontiac, MI) and Detroit, MI over I–75, (5) Between Grand Rapids, MI, and Cadillac, MI, over US Hwy 131, and (6) Serving all intermediate points on the routes described in Paragraphs A (1) through (4) above, all points in Kalkaska County, MI and those within three miles of the routes described in Paragraphs A (1) through (4) above as off-route points and the commercial zones of all authorized points. Restriction: Service at points on the routes described in Paragraphs A (1) through (4) above is restricted to the transportation of traffic which carrier either receives at or delivers to its authorized points north of Cadillac, MI (not including Cadillac) and excluding service to such points lying north of Cadillac, MI as are on and east of I–75. B. Alternate Routes for Operating Convenience Only: (1) Between Lansing, MI, and junction US Hwy 27 and US Hwy 10 over US Hwy 27, (2) Between Lansing, MI, and junction US Hwy 27 and I–75 over US Hwy 27, (3) Between junction MI Hwy 37 and MI Hwy 113 and junction MI Hwy 55 and MI Hwy 115, from junction MI Hwy 37 and MI Hwy 113 over MI Hwy 37 to junction MI Hwy 115 and then over MI Hwy 115 to junction MI Hwy 55, and return over the same route, (4) Between junction US Hwy 27 and US Hwy 10 and East Jordan, MI, from junction US Hwy 27 and US Hwy 10 over US Hwy 27 to junction I–75, then over I–75 to junction MI Hwy 32 and then over MI Hwy 32 to East Jordan, and return over the same route, (5) Between junction US Hwy 27 and I–75 and East Jordan, MI, from junction US Hwy 27 and I–75 over I–75 to junction MI Hwy 32 and then over MI Hwy 32 to East Jordan, and return over the same route, (6) Between junction I–75 and MI Hwy 72 and junction MI Hwy 72 and US Hwy 131 over MI Hwy 72, (7) Between Lansing, MI, and Flint, MI, from Lansing over I–69 to junction MI Hwy 21 and then over MI Hwy 21 to Flint, and return over the same route, (8) Between junction I–96 and MI Hwy 59 and Pontiac, MI over MI Hwy 59, (9) Between Saginaw, MI, and junction MI Hwy 46 and US Hwy 131 over MI Hwy 46, (10) Between Flint, MI, and Grand Rapids, MI, over MI Hwy 21, (11) Between Flint, MI, and Grand Rapids, MI, from Flint over MI Hwy 56 to junction MI Hwy 21 and then over MI Hwy 21 to Grand Rapids, and return over the same route, (12) Between junction of County Road 42 and US Hwy 131 at Alba, MI and Mackinaw City, MI, from Junction County Road 42 and US Hwy 131 over County Road 42 to junction MI Hwy 32, then over MI Hwy 32 to junction I–75 and then over I–75 to Mackinaw City, and return over the same route, and (13) Between junction I–75 and US Hwy 10 (near Bay City, MI) and junction I–75 and US Hwy 27 (south of Grayling, MI) over I–75. Service over the routes and at points on the routes described in Paragraph B above shall include the right to join such routes, including any point on such routes, with otherwise authorized route(s). Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

Note.—This republication is to correct the commodity description and to impose the 5 year limitation. This is an application to convert certificates of registration to a certificate of public convenience and necessity.

MC 120316 (Sub-5F), filed October 14, 1980. Applicant: WALTON TRANSPORTATION COMPANY, a corporation, 13020 Sarah Lane, Houston, TX 77015. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024. Transporting *primary metal products* including galvanized as described in Item 33 of the Standard Transportation Commodity Code Tariff, between points in Harris, Ft. Bend, Brazoria, Galveston, Chambers, Liberty, Montgomery, Waller and Austin Counties, TX, on the one hand, and, on the other, points in LA, AR, OK, and NM.

MC 121667 (Sub-9F), filed October 16, 1980. Applicant: SMALLEY TRANSPORTATION COMPANY, a corporation, P.O. Box 5175, Tampa, FL 33675. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, those requiring special equipment, commodities in vehicles equipped with mechanical refrigeration, household goods as defined by the Commission, and building and construction materials in truckload lots on flatbed trailers) (1) between Tampa and St. Petersburg, FL, over U.S. Hwy 92, serving all intermediate points; (2) between Tampa and Clearwater, FL, over FL Hwy 60, serving all intermediate points; (3) between St. Petersburg and Clearwater, FL, over U.S. Hwy 19; (4) between Tampa and Brooksville, FL, over U.S. Hwy 41, serving all intermediate points; (5) between Tampa and Homosassa Springs, FL, from Tampa over Interstate Hwy 275 to St. Petersburg, then over U.S. Hwy 19 to Homosassa Springs, and return over the same route, serving all intermediate points; (6) between Tampa and Ocala, FL, over U.S. Hwy 301, serving all intermediate points; (7) between Tampa and Ocala, FL, over Interstate Hwy 75; (8) between Tampa and Orlando, FL, over Interstate Hwy 4, serving all intermediate points; (9) between Tampa and Sarasota, FL, over U.S. Hwy 301, serving all intermediate points; (10) between St. Petersburg and Sarasota, FL, over U.S. Hwy 19, serving all intermediate points; (11) between Lakeland and Haines, FL, over U.S. Hwy 92, serving all intermediate points; (12) between the junction of Interstate Hwy 4 and U.S. Hwy 192 (FL Hwy 530) near Lake Buena Vista, FL, and junction U.S. Hwys 27 and 192, over U.S. Hwy 192, serving all intermediate points, (13) between Ocala and Yankeetown, FL, over FL Hwy 40, serving all intermediate points; (14) between Ocala and Hernando, FL, over FL Hwy 200, serving all intermediate points; (15) between Dunnellon and Brooksville, FL, over U.S. Hwy 41, serving all intermediate points; (16) between Dunnellon, FL, and junction FL Hwys 200 and 484, over FL Hwy 484, serving all intermediate points; (17) between Miami and Orlando, FL; from Miami over U.S. Hwy 1 and/or FL Hwy A1A to Titusville, then over FL Hwy 405 to its junction with FL Hwy 50, then over FL Hwy 50 to Orlando, and return over the same routes, serving all intermediate points; (18) between Miami and Orlando, FL; from Miami over U.S. Hwy 27 to South Bay, then over FL Hwy 80 to Belle Glade, then over U.S. Hwy 441, to Orlando, and return over the same routes, serving all intermediate points; (19) between South Bay and Orlando, FL; from South Bay over U.S. Hwys 27 and 27A to Haines City, then over U.S. Hwy 17 to Orlando, and return over the same routes, serving all intermediate points; (20) between Miami and Tampa, FL: From Miami over U.S. Hwy 41 to Punta Gorda, then over U.S. Hwy 17 to Bartow, then over U.S. Hwy 98 to Lakeland, then over U.S. Hwy 92 to Tampa, and return over the same routes, serving all intermediate points; (21) between Punta Gorda and Tampa, FL, over U.S. Hwy 41, serving all intermediate points; (22) between the junction of U.S. Hwy 41 and FL Hwy 29, near Everglades, FL, and Fort Myers, FL, over FL Hwy 29 to its junction with FL Hwy 82, then over FL Hwy 82 to Fort Myers, serving all intermediate points; (23) between Miami, FL, and the junction of the Sunshine State Parkway and U.S. Hwy 17, over the Sunshine State Parkway, as an alternate route for operating convenience only; (24) between West Palm Beach and Arcadia, FL: From West Palm Beach over FL Hwy 710 to Okeechobee, then over FL Hwy 70 to Arcadia, and return over the same routes, serving all intermediate points; (25) between Miami and West Palm Beach, FL, over U.S. Hwy 441, serving all intermediate points; (26) between West Palm Beach and Fort Myers, FL, over FL Hwy 80, serving all intermediate points; (27) between Parrish, FL, and the junction of FL Hwy 62 and U.S. Hwy 17, over FL Hwy 62, serving all intermediate points; (28) between Fort Myers, FL, and Fort Myers Beach, FL, over FL Hwys 865 and 867, serving all intermediate points; (29) between the junction of U.S. Hwy 41 and FL Hwy 78, north of Fort Myers, and Bokeelia and St. James City, FL, over FL Hywa 78 and 767, serving all intermediate points, (30) between Okeechobee and West Palm Beach, FL, via Canal Point, over U.S. Hwy 98 and 441, serving all intermediate points, (31) between Miami, FL, and the junction of U.S. Hwy 1 with S.W. 216th St., south of Miami, serving all intermediate points; (32) between Jacksonville and Titusville, FL, over U.S. Hwy 1 and/or FL Hwy A1A, serving all intermediate points, (33) between Jacksonvile and Ocala, FL, over U.S. Hwy 301, serving all intermediate points, and serving Gainesville, FL, as an off-route point; (34) between Sanford and Daytona Beach, FL, over U.S. Hwys 17/92 and 92, serving no intermediate points; (35) between Orlando and Sanford, FL, over U.S. Hwy 17/92, serving all intermediate points; (36) between Jacksonville and Sanford, FL, over U.S. Hwy 17, serving no intermediate points; (37) between Orlando and Ocala, FL, over FL Hwy 50 and U.S. Hwy 27 and 441, serving all intermediate points, and (38) serving (A) all points in Hillsborough, Pinellas, Pasco, Hernando, Polk, Citrus and Sumter Counties, FL, (B) all points within a ten-mile radius of Orlando, FL, (C) all points within a five mile radius of Ocala, FL, and (D) all other points in FL (except points in Monroe County and those points in Dade County lying south of SW., 216th St.) on or south of a line beginning at the western termimus of FL Hwy 60, then easterly along FL Hwy 60 to its junction with Interstate Hwy 4, then easterly along Interstate Hwy 4 to its junction with FL Hwy 50, then easterly along FL Hwy 50 to its junction with FL Hwy 405, then northeasterly along FL Hwy 405 to its junction with FL Hwy 402, to its eastern terminus, not served on a regular route, as off-route points. All regular routes sought to be served are to be joined or tacked to other routes to be served, at common points, to provide through service. Alternate Routes for operating convenience only: (A) between Fort Lauderdale, FL, and Naples, FL, over FL Hwy 84; (B) between Jacksonville, FL, and Miami, FL, over Interstate Hwy 95, from Jacksonville to its junction with FL Hwy 614, then over FL Hwy 614 to its junction with FL Hwy 713, then over FL Hwy 713 to its junction with the Sunshine State Parkway, then over the Sunshine State Parkway to Miami (upon completion of Interstate Hwy 95: between Jacksonville, FL, and Miami, FL, over Interstate Hwy 95); (C) between Okeechobee, FL, and junction U.S. Hwys 27 and 98, over U.S. Hwy 98; (D) between Okeechobee, FL, and Fort Pierce, FL, over FL Hwy 70; (E) between Bartow, FL and Haines City, FL, over U.S. Hwy 17; (F) between Miami, FL, and West Palm Beach, FL, over Interstate Hwy 95; (G) between junction U.S. Hwy 301 and FL Hwy 675, south of Parrish, FL, and Fort Myers, FL, over FL Hwy 675 to its junction with FL Hwy 70, then over FL Hwy 70 to Arcadia, then over FL Hwy 31 to its junction with FL Hwy 80, then over FL Hwy 80 to Fort Myers; and (H) between Orlando, FL, and the junction of Interstate Hwys 4 and 95, near Daytona Beach, FL, over Interstate 4.

Note.—The purpose of this application is to convert seven certificates of registration presently held by applicant under MC–121667 and subs, to a certificate of public convenience and necessity and, in connection therewith: (1) to extend approximately 32

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blocks southward the southern terminus of applicant's present regular route on U.S. Hwy 1 south of Miami, FL; (2) to extend approximately 32 blocks southward the southern boundary of applicant's present off-route point authority in Dade County, FL; (3) to remove the restriction contained in applicant's Certificate of Registration MC–121667 Sub–No. 7 against interlining with motor common carriers so as to render service on traffic originating at, or destined to, points in Monroe County, FL, and those points in Dade County, FL, lying south of S.W. 184th St., and (4) to make uniform the "exceptions" from general commodities contained in applicant's present certificates of registration.

MC 142646 (Sub-3F), filed October 15, 1980. Applicant: ALVIN O. PETERSON, d.b.a., K & TRUCKING, Box 209A, Route 4, Eau Claire, WI 54701. Representative: James Ward, P.O. Box 358, Eau Claire, WI 54701. Transporting *greases and hides*, between points in the U.S., under continuing contracts(s) with Eau Claire Rendering Co., Inc., of Eau Claire, WI.

MC 144667 (Sub-20F), filed October 15, 1980. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *food* or *kindred products*, as described in Item 20 of the Standard Transportation Commodity Code, between the facilities of Geo. A. Hormel & Co. at Scottsbluff and Fremont, NE, on the one hand, and, on the other, points in CO, SD and WY.

MC 149067 (Sub-1F), filed October 15, 1980. Applicant: WILLIAM BARRY AND FRANK VASSALLO, d.b.a. SUN VALLEY TRUCKING, 231 Franklin Street, Oakland, CA 94067. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under continuing contract(s) with Delft Blue-Provimi Provimi, Incorporated, of Pleasanton, CA.

MC 151036 (Sub-1F), filed October 15, 1980. Applicant: Decatur Transit, Inc., 161 First Ave. NE., Decatur, AL 35601. Representative: Eric G. Hancock (same address as applicant). Transporting *petroleum products*, in bulk, in tank vehicles, from Sheffield, AL, (a) to points in Tennessee in and west of the counties of Sumner, Wilson, Rutherford, Bedford, Moore, and Lincoln, and (b) points in Mississippi in and north of the counties of Lauderdale, Neshoba, Attala, Holmes, Humphreys, Washington.

MC 151217 (Sub-1F), filed October 15, 1980. Applicant: JOHN WILLIAM HART, d.b.a. HART TRUCKING, 1920 Kathryn Court, Bakersfield, CA 93308. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. Transporting (1) *pump parts*, and (2) *pipe and pipe fittings*, between points in the U.S., under continuing contract(s) with Holz Rubber Company, of Lodi, CA.

Volume No. OP4–101

Decided: October 22, 1980.

By the Commission, Review Board Number 2.
Members Chandler, Eaton and Liberman. Member Chandler not participating.

MC 28307 (Sub-30F), filed October 8, 1980. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, 3400 No. Graham St., Charlotte, NC 28206. Representative: Robert D. Hoagland, 1204 Cameron Brown Bldg., 301 S. McDowell St., Charlotte, NC 28204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) Between Knoxville, TN, and junction NC Hwy 28 and U.S. Hwy 129: From Knoxville over U.S. Hwy 129 to junction NC Hwy 28, and return over the same route, serving all intermediate points; (b) between Knoxville, TN and Cherokee, NC, over U.S. Hwy 441, serving all intermediate points; (c) Between the NC–TN State line west of Hot Springs, NC, and Knoxville, TN over U.S. Hwy 70, serving all intermediate points; (d) Between the NC–TN State line and junction U.S. Hwys 19W and 23: From the NC–TN State line over U.S. Hwy 23 to junction U.S. Hwy 19W south of Erwin, TN, and return over the same route, serving all intermediate points; Between Knoxville, and Johnson City, TN, in connection carrier's presently authorized and regular-route operations, between Knoxville and Johnson City, serving all intermediate points: From Knoxville over U.S. Hwy 11E to Johnson City, and return over the same route.

Note: The purpose of this application is to change the restriction "serving *no* intermediate points" to "serving all intermediate points" in a portion of Sub 12 [routes (a) through (d) above] and Sub 15 [route (e) above] in its entirety.

MC 59666 (Sub-2F), filed October 15, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting *general commodities*, (1) between points in CT, RI and MA, and (2) between points in CT, RI and MA, on the one hand, and, on the other, those points in the U.S. on and east of Interstate Hwy 55. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 91306 (Sub-31F), filed October 15, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave. NE., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting (1) *wire and pipe*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between New York, NY and points in Nassau County, NY on the one hand, and, on the other, points in NC, SC, TN, GA, VA, and KY.

MC 99096 (Sub-3F), filed October 14, 1980. Applicant: FILLMORE FREIGHT LINES, INC., 14502 Liverpool Rd., E. Loverpool, OH 43920. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *fabricated metal products* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between those points in the U.S. in and east of MN, WI, IL, KY, TN, MS, and LA.

MC 102567 (Sub-253F), filed October 15, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. Transporting *commodities*, in bulk, between points in the U.S., restricted to traffic originating at or destined to the facilities used by Ciba-Geigy Corporation.

MC 108247 (Sub-8F), filed October 15, 1980. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Rd., New Haven, CT 06504. Representative: Ronald G. Esposito (same address as applicant). Transporting (1) *beverages*, and (2) *materials* used in the manufacture and distribution of beverages, between points in MD, PA, NJ, NY, CT, RI, MA, VT, and ME.

MC 117686 (Sub-293F), filed October 16, 1980. Applicant: HIRSCHBACK MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code, between points in IA, on the one hand, and, on the other, points in AL, CA, GA, LA, MS, and TX.

MC 117786 (Sub-113F), filed October 15, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of Griffin Corporation of Valdosta, GA, at (a) Valdosta and Bainbridge, GA, and (b) Mexico, MO, on the one hand, and, on the other, points in the U.S.

MC 143956 (Sub-20F), filed October 15, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. Transporting (1) *such commodities* as are dealt in or used by automotive service stations or automotive supply dealers (except commodities in bulk, in tank vehicles), and (2) *petroleum products*, in containers, between points in GA, MA, and PA.

MC 144117 (Sub-68F), filed October 15, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting (1) *metal products*, from points in St. Clair County, IL, to points in NM, CO, WY, MT, ID, UT, AZ, CA, NV, OR, WA, TX, and FL, and (2) *equipment, materials, and supplies* used in the manufacture of metal products, in the reverse direction.

MC 144577 (Sub-2F), filed October 15, 1980. Applicant: SUNSET TRANSPORTATION COMPANY, a partnership, P.O. Box 126, Kanosh, UT 84637. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. Transporting *gypsum board and gypsum board products*, between points in the U.S., under continuing contract(s) with L & W Supply Corp. of Denver, CO.

MC 144977 (Sub-2F), filed October 14, 1980. Applicant: BOBBY McDANIEL, d.b.a. SERVICE TRUCKING COMPANY, 2050 Beaver Rd., Rossville, GA 30741. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Charleston and Chattanooga, TN on the one hand, and, on the other, points in FL and GA, restricted to traffic originating at or destined to the facilities of Olin Corporation.

MC 143607 (Sub-28F), filed October 14, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706. Representative: Arthur W. Grimes (same address as applicant). Transporting *chemicals*, between points in the U.S., under continuing contract(s) with A. W. Arnold & Associates, of Houston, TX.

MC 145636 (Sub-18F), filed October 14, 1980. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128½ Plaza East, P.O. Box 676, Winona, MN 55987. Transporting (1) *confectionery*, and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of confectionery, between Winona, MN, on the one hand, and, on the other, Chattanooga, TN and Rock Hill, SC.

MC 150567 (Sub-5F), filed October 14, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1)(a) *welding equipment and welding supplies*, and (b) *accessories* for the commodities in (1)(a), and (2) *compressed air and gas cylinders*, between points in the U.S., under continuing contract(s) with Brown Welding Supply, Inc., of Portland, OR.

MC 150567 (Sub-6F), filed October 14, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *liner board*, between points in the U.S., under continuing contract(s) with International Paper Company, of Portland, OR.

MC 150626 (Sub-2F), filed October 15, 1980. Applicant: HAROLD IVES TRUCKING CO., a corporation, P.O. Box 885, Hwy 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *chemicals or allied products*, as described in Item 28 of the Standard Transportation Commodity Code, in containers, between points in AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150806 (Sub-1F), filed October 15, 1980. Applicant: WECO, INC., 500 Scott St., P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Transporting (1) *buffing and polishing compounds*, (2) *soap, soap powders, cleaning, scouring and washing compounds, sizing, and starch*, and (3) *materials* used in the manufacture of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Faultless Starch/Bon Ami Company, of Kansas City, MO.

Volume No. OP4–103

Decided: October 20, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 54567 (Sub-15F), filed September 16, 1980, and previously published in the **Federal Register** issue of October 3, 1980, and republished this issue. Applicant: RELIANCE TRUCK CO., a corporation, 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85104. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in CA, AZ, NV, TX, UT, CO, and NM.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 119777 (Sub-503F), filed October 9, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Steptoe, WA, Ethlyn and S. Troy, MO, and Ray, IL, on the one hand, and, on the other, points in the U.S. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issue.

Note.—The purpose of this application is to substitute motor service for abandoned rail service.

Volume No. OP4–104

Decided: October 24, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill. Member Hill not participating.

MC 21866 (Sub-179F), filed September 11, 1980, previously noticed in the FR issue of September 24, 1980, and republished this issue. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of McGraw Edison Company, Power Systems Group.

Note.—The purpose of this republication is to correctly reflect the name of the shippers' facility.

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MC 21866 (Sub-183F), filed October 17, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of Knoll International, its dealers and distributors.

MC 133566 (Sub-168F), filed October 15, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by printers and printing companies (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of W. F. Hall Printing Company, Inc.

MC 136407 (Sub-34F), filed October 17, 1980. Applicant: COORS TRANSPORTATION COMPANY, a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *clay, concrete, glass or stone products,* as described in Item 32 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Libbey Glass Division of Owens Illinois, Inc., of Shreveport, LA.

MC 139906 (Sub-132F), filed October 21, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *headboards and frames and new furniture,* and (2) *materials and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, between points in Maricopa County, AZ, on the one hand, and, on the other, points in the U.S.

MC 143776 (Sub-9F), filed October 15, 1980. Applicant: C.D.B. INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Herman Miller, Inc., of Zeeland, MI.

MC 146616 (Sub-14F), filed October 14, 1980. Applicant: B & H MOTOR FREIGHT, INC., 4024 West 21st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., 9 East Fourth St., Tulsa, OK 74103. Transporting *iron and steel articles,* and *materials, equipment* and *supplies* used in the manufacture and distribution of the *iron and steel articles,* between points in the U.S., under continuing contract(s) with Robberson Steel Company, of Oklahoma City, OK and Zelrich Steel Company, of Dallas, TX.

MC 146627 (Sub-2F), filed October 1, 1980, previously noticed in the FR issue of October 15, 1980, and republished this issue. Applicant: E. A. WILSON CO., 700 Broadway, Lowell, MA 01854. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *cement* in bulk, from points in Hampshire County, MA, and Providence County, RI, to points in CT, MA, ME, NH, RI, VT, and NY.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 150807 (Sub-1F), filed September 10, 1980, previously noticed in the FR issue of September 23, 1980, and republished this issue. Applicant: DONALD WILKINSON d.b.a. WILCO BUS SERVICE, 2035 Delaware St., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Over regular routes, transporting *passengers,* in commuter service, (1) between Galena, IL and Dubuque, IA, over U.S. Hwy 20, serving all intermediate points, (2) between Benton, WI and Dubuque, IA, over WI Hwy 11, serving all intermediate points, and (3) serving the facilities of John Deere Dubuque Works, in connection with the authority in (1) and (2) above.

Note.—The purpose of this republication is to correctly reflect Dubuque, IA in lieu of Dubuque, IL in (3) above.

Volume No. OP5–040

Decided: October 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 24379 (Sub-65F), filed October 10, 1980. Applicant: LONG TRANSPORTATION COMPANY, a corporation, 14650 West Mile Road, Oak Park, MI 48237. Representative: Donald G. Hichman, R. D. #1, Box 7, Union Springs, NY 13160. Transporting *insulating materials,* from Lockport, NY, to those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 110878 (Sub-46F), filed October 15, 1980. Applicant: ARGO TRUCKING COMPANY, INC., P.O. Box 95, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *salt and salt products* (except in bulk), from points in Fort Bend and Harris Counties, TX, to points in FL.

MC 123218 (Sub-1F), filed October 15, 1980. Applicant: EDWARD A. KERWIN, R.R. #1, Milyko Dr., Washington Crossing, PA 18977. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *petroleum products, chemicals, and fertilizer,* in bulk, between points in the U.S., under continuing contract(s) with The Kingsford Company, of Louisville, KY.

MC 124679 (Sub-128F), filed October 8, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as above). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV.

MC 133119 (Sub-186F), filed October 15, 1980. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 1103, 226 n. Phillips Ave., Sioux Falls, SD 57101. Transporting *food and kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff between points in IL, IA, KS, MN, MO, NE, ND, SD, and WI, on the one hand, and, on the other, points in the U.S.

MC 135419 (Sub-3F), filed October 15, 1980. Applicant: CONTAINER CARRIER CORPORATION, P.O. Box 48, Fort Smith, AR 72902. Representative: William D. Hendrix (same as above). Transporting *motor vehicles,* in truckaway service, in secondary movements, between Houston and Dallas, TX, restricted to traffic have a prior or subsequent movement by water.

MC 135419 (Sub-4F), filed October 15, 1980. Applicant: CONTAINER CARRIER CORPORATION, 301 South Eleventh St., Fort Smith, AR 72901. Representative: William D. Hendrix, P.O. Box 48, Fort Smith, AR 72902. Transporting *charcoal briquettes* and *materials, equipment, and supplies* used in the manufacture and distribution of charcoal briquettes, between Cotter, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135598 (Sub-48F), filed October 14, 1980. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *urethane foam panels,* and *materials, equipment, and supplies* used in the manufacture of urethane foam panels, between Dallas, TX, and Salt Lake City, UT, on the one hand, and, on the other, points in the U.S.

MC 138438 (Sub-94F), filed October 15, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transporting *animal litter,* from Kansas City, MO, to Boston, MA, Jersey City, NJ, and Frederick and Hagerstown, MD.

MC 138469 (Sub-251F), filed October 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers of adhesives and edible gelatin products (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Peter Cooper Corporations.

MC 138469 (Sub-252F), filed October 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in by hardware dealers, between Vernon, CA, Middlesex, NJ, and Farmingdale, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143059 (Sub-138F), filed October 14, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main St., P.O. Box 35610, Louisville, KY 40232. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S.

MC 152089F, filed October 8, 1980. Applicant: BEATRICE FREIGHT LINE, INC., 1935 Park Blvd., Lincoln, NE 68502. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *foodstuffs,* and *printed* matter, from points in Lancaster County, NE, to points in CA, CO, GA, IL, IN, KS, LA, MN, MO, OH, OK, TN, TX, WI, and WY, and (2) *materials, equipment and supplies* used in the manufacture and sale of the commodities in (1) above, in the reverse direction.

MC 152179F, filed October 14, 1980. Applicant: MARCUS MO, d.b.a. MARCUS TRUCKING CO., 240 N. Berendo St., Los Angeles, CA 90004. Representative: Greg P. Stefflre, 261 S. Figueroa St., Los Angeles, CA 90017. Transporting *waste products* for recycling or reuse, from Los Angeles, CA, to points in the US.

Volume No. OP5–041

Decided: October 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2229 (Sub-246F), filed October 14, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Joseph S. Ruscetta (same as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Denver, CO, and McCook NE: From Denver over U.S. Hwy 6 to junction U.S. Hwy 34, then over U.S. Hwy 34 to McCook, and return over the same route, serving no intermediate points.

Note.—Applicant intends to tack with its existing regular-route authority.

MC 2229 (Sub-247F), filed October 14, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Joseph S. Ruscetta (same as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in Navarro County, TX, on the one hand, and, on the other, points in the U.S.

MC 48948 (Sub-21F), filed October 14, 1980. Applicant: THE HOCKING CARTAGE COMPANY, a corporation, 28424 Chieftain Dr., Logan, OH 43138. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *auto body parts,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Hocking County, OH, on the one hand, and, on the other, points in the U.S.

MC 99149 (Sub-16F), filed October 10, 1980. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 8400 New Benton Highway, Little Rock, AR 72219. Representative: Charles J. Lincoln, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *rubber tires and tubes,* and *equipment, materials, and supplies* used in the manufacture and distribution of rubber tires and tubes, (except commodities in bulk), between points in Miller County, AR, on the one hand, and, on the other, points in TX, LA, and OK.

Note.—Applicant intends to tack this authority with existing regular-route authority at Texarkana, AR/TX.

MC 113158 (Sub-47F), filed October 14, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *foodstuffs* (except frozen and in bulk), (a) from points in Lincoln County, NC, to points in AL, AR, FL, GA, LA, MS, OK, SC, TN, and TX, and (b) from points in Frederick and Rockingham Counties, VA, and Berkeley County, WV, to points in AL, AR, LA, MS, OK, TN, and TX.

MC 117589 (Sub-74), filed September 16, 1980, previously noticed in **Federal Register** issue of October 2, 1980. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave., South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Transporting *meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in NE, on the one hand, and, on the other, points in WA, ID, UT, and MT.

Note.—This republication changes the commodity description to include dairy products as described in Appendix I to the *Descriptions* case report.

MC 118468 (Sub-66F), filed October 8, 1980. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities* as are dealt in by manufacturers and distributors of cast iron products, between points in the U.S., Under continuing contract(s) with Griffin Pipe Products Co., of Oak Brook, IL. Condition: Any permit issued in this proceeding is subject to prior or coincidental dismissal, at applicant's written request, of the application in MC 124813 (Sub-225F), or, if a permit has been issued in that proceeding, prior or coincidental revocation, at applicant's written request, or Permit No. MC 114813 (Sub-225F).

MC 121568 (Sub-57F), filed October 15, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell, (same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined

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by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Allis-Chalmers Corporation.

MC 121568 (Sub-58F), filed October 15, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same as applicant). Transporting (1) *athletic goods and equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., restricted to traffic originating at or destined to the facilities of Wilson Sporting Goods.

MC 124679 (Sub-129F), filed October 16, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same address as applicant). Transporting *oil filters, gas filters, and air filters*, and *smog control devices*, between points in UT, on the one hand, and, on the other, points in OR, WA, CA, AR, and MO.

MC 128709 (Sub-10F), filed October 15, 1980. Applicant: PARRIS MOTOR FREIGHT, INC., P.O. Box 1787, Ft. Smith, AR 72901. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Transporting (1) *household appliances* and *parts* for household appliances, (2) *television sets, recorders*, and *tape and wires*, and (3) *accessories* for the commodities in (2) above, from Little Rock, AR, to points in OK.

MC 138308 (Sub-128F), filed October 15, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *such commodities* as are dealt in or used by grocery and food business (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 143029 (Sub-6F), filed October 10, 1980. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Kraft, Inc. of Chicago, IL.

MC 150019 (Sub-1F), filed October 15, 1980. Applicant: EDWARD E. GARBER, d.b.a. CUSTOM TRANSPORT, 6600 Sweet Air Lane, Sykesville, MD 21784. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Streamline Shippers Association.

MC 151439 (Sub-1F), filed October 14, 1980. Applicant: DONALD E. BUSSERT, ROUTE #2, Amanda, OH 43102. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting (1) *malt beverages* and *bottled mineral waters*, from Pabst, GA, Evansville, IN, Peoria, IL, Newport, KY, Detroit and Frankenmuth, MI, St. Louis, MO, Eden, NC, Fulton, NY, Allentown and Latrobe, PA, and LaCrosse and Milwaukee, WI, to points in Athens, Lorain, Muskingum, Scioto and Ross Counties, OH, and (2) *glass and metal containers*, in the reverse direction.

Volume No. OP0-042

Decided: October 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

FF 128 (Sub-6F), filed October 15, 1980. Applicant: CLIPPER EXXPRESS COMPANY, a corporation, 3401 West Pershing Rd., Chicago, IL 60632. Representative: Charles A. Webb, suite 1111, 1828 L St., NW., Washington, DC 20036. To operate as a *freight forwarder*, in interstate commerce, of *general commodities*, between points in AR, LA, MS, AL, GA, FL, and SC, on the one hand, and, on the other, points in WA, OR, CA, ID, NV, UT, and AZ.

MC 57808 (Sub-4F), filed October 16, 1980. Applicant: JABSCO, INC., P.O. Box 488, White Oak, TX 79066. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701. Transporting (1) *equipment, materials, and supplies* used, in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up therof, and (2) *earth drilling equipment, and equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transporation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes and wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes and wells, between points in AZ, AR, CO, KS, LA, KS, MT, NV, NM, OK, TX, UT, and WY.

MC 64808 (Sub-47F), filed October 9, 1980. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *Glass*, between points in Cumberland County, PA, and Allegany County, MD, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 76449 (Sub-33F), filed October 15, 1980. Applicant: NELSON'S EXPRESS, INC., 675 Market St., Millersburg, PA 17061. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Harrisburg, PA and Washington, DC, from Harrisburg over Interstate Hwy 83 to Baltimore, MD, then over U.S. Hwy 1 to Washington and return ove the same route; (2) between Baltimore, MD and Washington, DC, over Interstate Hwy 95; (3) between Harrisburgh, PA and New Kingstown, PA, over PA Hwy 11; (4) between Hogestown, PA and Mechanicsburg, PA, over PA Hwy 114; (5) between Mechanicsburg, PA and Camp Hill, PA, over PA Hwy 641; (6) between Harrisburg, PA and Lancaster, PA, from Harrisburg over U.S. Hwy 230 to junction Interstate Hwy 283, then over Interstate Hwy 283 to Lancaster, and return over the same route; (7) between Harrisburg, PA and Hershey, PA, from Harrisburg over U.S. Hwy 322 to junction U.S. Hwy 422, then over U.S. Hwy 422 to Hershey, and return over the same route; (8) between Hershey, PA and Elizabethtown, PA, over PA Hwy 743; (9) between Gettysburg, PA and Lancaster, PA, over U.S. Hwy 30; (10) between Harrisburg, PA and Gettysburg, PA, over U.S. Hwy 15; and (11) serving all intermediate points in connection with routes (1) through (10) above, and off-route points in MD and PA within 35 miles of York, PA. NOTE: Applicant intends to tack the above authority with its other rights. Condition: Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request, of Certificate MC 76449 (Sub-26), issued June 16, 1978 and MC 76449 (Sub-27), issued September 1, 1978.

MC 118899 (Sub-16F), filed October 14, 1980. Applicant: BALTIMORE TANK LINES, INC., 180 Eighth Ave., Glen Burnie, MD 21061. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St., NW., Washington, DC. 20004. Transporting *petroleum and petroleum products*, in bulk, in vehicles, from points in DC, to Alexandria, VA, points in Arlington, Fairfax, Prince William, Loudoun, Fauquier, Stafford, Shenandoah, Rockingham, Culpeper, Clarke, Frederick, Warren, Page, Madison, Greene, Orange, Spotsylvania, Caroline, Rappahannock, and King George Counties, VA, and points in MD.

MC 121699 (Sub-12F), filed October 14, 1980. Applicant: VOLUNTEER EXPRESS, INC., 404 Arlington Ave., P.O. Box 100886, Nashville, TN 37210. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Transporting *books, magazines, phonograph records, tapes, and musical instruments*, between points in the U.S., restricted to traffic originating at or destined to the facilities of CBS, Inc. or its suppliers.

MC 127299 (Sub-4F), filed October 10, 1980. Applicant: PENNY EXPRESS, INC., 716 W. Birchtree Lane, Claymont, DE 19703. Representative: Norman N. Chernekoff (same address as applicant). Transporting *automotive parts, building materials, metal products, and chemical products* (except commodities in bulk), between points in New Castle County, DE, and Philadelphia County, PA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 139958 (Sub-15F), filed October 14, 1980. Applicant: R. T. TRUCK SERVICE, INC., 2334 Millers Lane, Louisville, KY 40216. Representative: Rudy Yessin, 113 W. Main St., Frankfort, KY 40601. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Hobart Corporation, at or near Seymour, IN, as an off-route point in connection with applicant's otherwise authorized regular route operations.

MC 142559 (Sub-15BF), filed October 9, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) between points in the US (except AK and HI), restricted to traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8).

MC 142559 (Sub-159F), filed October 14, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of welding equipment and welding supplies (except commodities in bulk), between points in Miami County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144069 (Sub-23F), filed October 8, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). Transporting *iron and steel articles*, between points in Darlington County, SC, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 145738 (Sub-22F), filed October 15, 1980. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Selmer, TN 38375. Representative: Sonny C. Curtner (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from Oakland, CA, to points in the U.S. (except AK and HI).

MC 145838 (Sub-2F), filed October 10, 1980. Applicant: OHIO CONTAINER SERVICE, INC., 2701 Lakeside Ave., Cleveland, OH 44114. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), (a) between points in OH, on the one hand, and, on the other, Port Everglades, FL, Philadelphia, PA, and Norfolk, VA, (b) between Baltimore, MD, New York, NY, Philadelphia, PA, Norfolk, VA, and Port Everglades, FL, on the one hand, and, on the other, points in IL, IN, MI, PA, and WI, and (c) between points in Cook County, IL, on the one hand, and, on the other, points in OH, restricted in (a), (b), and (c) above to traffic having a prior or subsequent movement by water or rail.

MC 148188 (Sub-17F), filed October 15, 1980. Applicant: RETAIL LEASING CORPORATION, d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., Suite 400, Washington, DC 20036. Transporting *addressed forms*, between points in the U.S. under continuing contract(s) with Fulfillment Corporation of America, of Marion, OH. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of and permit.

MC 149208 (Sub-1F), filed October 8, 1980. Applicant: FEMWORK, INC., P.O. Box 188, Millville, WV 25432. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting *crushed stone, asphalt, and concrete mix*, between points in Loudoun, Clarke, and Frederick Counties, VA, Jefferson and Berkeley Counties, WV, and Frederick, Washington, and Montgomery Counties, MD, and points in DC.

MC 150229 (Sub-2F), filed October 8, 1980. Applicant: CENTRAL PETROLEUM TRANSPORT, INC., P.O. Box 622, Sergeant Bluff, IA 51054. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *fertilizer* (1) from those points in IA on and west of Interstate Hwy 35, to points in MN, SD, and NE, and (2) from Blair, NE, to points in MN, SD, and IA.

MC 150849F, filed October 10, 1980. Applicant: NEIL CURTIS, P.O. Box 97, Blandinsville, IL 61420. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *petroleum, petroleum products, fertilizer, alcohol, feed, feed ingredients, soybean meal and anhydrous ammonia*, between points in IN, IA, and MO, on the one hand, and, on the other, points in IL.

MC 150934 (Sub-2F), filed October 9, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Grady, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Borg-Warner Chemicals, of Parkersburg, WV.

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MC 150958 (Sub-1F), filed October 8, 1980. Applicant: GRANNY'S EXPRESS, INC., 2101 Ross Ave., Norwood, OH 45212. Representative: E. H. van Deusen, 220 W. Bridge St., Dublin, OH 43017. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Levi Strauss & Co., of Cincinnati, OH, The Williamson Company, of Cincinnati, OH, DuBois Chemical Division of Chemed, of Sharonville, OH, International Paper Company, of Cincinnati, OH, The Zumbiel Box Company, of Norwood, OH, Sabin Robbins Paper Company, of Cincinnati, OH, and Heads and Threads Company, of Cincinnati, OH.

MC 152178F, filed October 14, 1980. Applicant: LEVY T. POWELL d.b.a. POWELL'S DELIVERY SERVICE, 14916 Stuebner Airline, P.O. Box 11374, Houston, TX 77016. Representative: Sharon E. Fobbs, 2024 Richmond Ave., Houston, TX 77098. Transporting *diesel engine parts and oil field equipment*, between points in Harris County, TX, on the one hand, and, on the other, points in MS, LA, OK, CA, NV, UT, NM, WY, KS, ND, SD, and MT.

MC 152188F, filed October 10, 1980. Applicant: EDWIN K. WHITTAKER d.b.a. E. K. WHITTAKER, 1024 Massachusetts Ave., Lexington, MA 02173. Representative: Edwin K. Whittaker (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, MA, ME, NH, RI, and VT.

Volume No. OP5-043

Decided: October 23, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman.

MC 129908 (Sub-58F), filed October 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8123 S.W. 15th, Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting (1) *aluminum sheet, aluminum foil, and packaging materials*, from points in Forsyth County, NC, to points in AR, AZ, CA, CO, IL, IN, KS, KY, LA, MO, OK, OR, TN, TX, and WA, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), in the reverse direction.

MC 129908 (Sub-59F), filed October 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8123 S.W. 15th, Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting (1) *finished textile products*, and (2) *furniture and fixtures*, between points in Chatham and Granville Counties, NC, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, IL, IN, KS, KY, LA, MO, NE, NM, NV, OH, OK, TX, and UT.

MC 129908 (Sub-60F), filed October 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. Transporting *glass, and materials, equipment, and supplies* used in the manufacture and distribution of glass, (1) between points in Jefferson County, MO, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM, and (2) between points in Wichita County, TX, Cumberland County, PA, Allegany County, MD, and Macon County, IL, on the one hand, and, on the other, points in the U.S.

MC 143059 (Sub-139F), filed October 10, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *lumber, lumber products*, and *forest products*, between those points in the U.S. in and east of ND, SD, OK, KS, NE, and TX.

MC 143179 (Sub-22F), filed October 15, 1980. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 686101. Representative: Foster L. Kent (same address as applicant). Transporting *packaging materials, and cushioning* materials, between points in the U.S., under continuing contract(s) with American Converters, Inc., and Lydall, Inc./Federal Package Division, of Minneapolis, MN.

MC 146209 (Sub-3F), filed October 14, 1980. Applicant: EARL L. HENDERSON TRUCKING COMPANY, a corporation, 1439B Westgate, Salem, IL 62881. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *printed matter*, between points in the U.S., under continuing contract(s) with World Color Press, Inc., of Effingham, IL.

MC 148188 (Sub-15F), filed October 14, 1980. Applicant: RETAIL LEASING CORPORATION, d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Suite 400, Washington, D.C 20036. Transporting (1) *boots, shoes, soles*, and *heels*, and (2) materials used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with R. G. Barry Corp., of Pickerington, OH. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 148188 (Sub-16F), filed October 15, 1980. Applicant: RETAIL LEASING CORPORATION, d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., Suite 400, Washington, D.C. 20036. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with Mast Industries, Inc., of Woburn, MA. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 149199 (Sub-3F), filed October 9, 1980. Applicant: O. R. MILLER, d.b.a. FRONTIER EXPRESS, 932 Southwest Second, Oklahoma City, OK 73102. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Over regular routes, transporting (1) *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Newkirk, OK and Winfield, KS, over U.S. Hwy 77, serving all intermediate points.

MC 150378 (Sub-2F), filed October 15, 1980. Applicant: CHASE EXPRESS, INC., 22410 72nd Ave. South, Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities* (except classes A and B explosives), between points in WA and OR, restricted to traffic having

and immediately prior or subsequent movement by water.

MC 150979F, filed October 8, 1980. Applicant: CEMCO HEAVY HAULERS, INC., Box 101, Riverton, IL 62561. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *dump trucks, truck bodies, rotary tractors, snow plows, and pickup trucks*, between points in Green County, WI, and points in MO, on the one hand, and, on the other, points in IL.

MC 151028 (Sub-1F), filed October 15, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Hercules Incorporated, of Wilmington, DE. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 151118 (Sub-5F), filed October 15, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *Plastic articles* (except in bulk), and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk and those requiring special equipment), between the facilities of The Vollrath Company, at Arlington and Gallaway, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151129F, filed October 15, 1980. Applicant: BRONC ENTERPRISES, INC., 14315 West Hardy, P.O. Box 38583, Houston, TX 77088. Representative: C. W. Ferebee, 720 N. Post Oak Rd., Suite 230, Houston, TX 77024. Transporting *Pipe, pipe fittings, and pipe accessories, between points in Harris, Tarrant and Wichita Counties, TX, and Tulsa and Oklahoma Counties, OK, on the one hand, and, on the other, points in AR, KS, LA, MS, NM, OK, and TX.*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34324 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Transfer Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find.

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before November 24, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before December 4, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Williams and Taylor.

MC-FC-78703. By decision of August 13, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 5 approved the transfer to Delta Transport Corp. of Springfield, MA subject to publication in the **Federal Register** generally of the interstate operating rights of Feldman's Express, Inc. that are contained in MC-96986 Sub 3, 5, and 6, which authorizes the following: *MC-96986 Sub 3-General Commodities*, usual exceptions, irregular routes, between Boston, MA, and, points in MA; *MC-96986 Sub 5*-regular route, *Steel, Paper, Furniture, Liquors, Candy, Groceries, and Fruit and Produce*, between Boston, MA, and Providence, RI. Irregular Routes: *Fruit and Produce*, from Boston, Charlestown, and South Boston, MA, to Moosup, CT, with no transportation for compensation on return except as otherwise authorized. *MC-96986 Sub 6-General Commodities*, usual exceptions, regular routes, between Boston, MA and Providence, RI. Between Boston, MA, and Lowell, MA. *Groceries, Canned Goods, Cotton, Warp, Lubricating Oils and Greases, and Cotton Yarn*, between Boston, MA, and New Bedford, MA. *Textile Products, Machinery, Wool, Burlap Bags, Yarn, Groceries, Soaps, Dyes, Chemicals, and Machine and Lubricating Oils and Greases*, between Boston, MA, and Harrisville, RI. *Canned Goods and Groceries*, between Smithtown, NH, and Lowell, MA. Irregular Routes: *Wool, Greases*, in Drums and Barrels, from Providence, Woonsocket, and Harrisville, RI, to Lawrence, MA, with no transportation for compensation on return, except as otherwise authorized. *Textile Machinery*, from Hopedale, MA, to Harrisville, and Washington, RI, with no transportation for compensation on return, except as otherwise authorized. From Harrisville and Mapleville, RI, to Graniteville and Andover, MA, with no transportation for compensation on return, except as otherwise authorized. *Corrugated Paper Boxes*, from Boston, MA, to Nashua and Lincoln, NH, and points in RI, with no transportation for compensation on return, except as otherwise authorized. *Turpines*, between Lynn, MA, and Harrisville, RI. *Corrugated paper boxes* and *corrugated strawboard*, from Watertown, MA to points in RI with no transportation for compensation on return as otherwise authorized.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34312 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision—Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247.

Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 19, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–055

Decided: October 16, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 140101 (Sub-9F), filed October 7, 1980. Applicant: I.T.A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting *general commodities* (except used household goods, hazardous or secretive materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 144041 (Sub-48F), filed October 7, 1980. Applicant: DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Husky Industries, Inc.

MC 147281 (Sub-4F), filed October 7, 1980. Applicant: ROBERT G. WILLMENT AND EDWARD J. BLYZWICK, JR. d.b.a. KEYSTONE AIR FREIGHT EXPEDITING, 119 McLaughlin Rd., Coraopolis, PA 15108. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 152081F, filed September 29, 1980. Applicant: GREAT AMERICAN VAN LINES, INC., 4600 Eisenhower Ave., Alexandria, VA 22304. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

Volume No. OP1–059

Decided: October 24, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 134501(Sub-89F), filed October 15, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: Dan R. Thomas (same address as applicant). Tranporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151660 (Sub-1F), filed October 8, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 1601 E. Irving Blvd., P.O. Box 678, Irving TX 75060. Representative: Larry P. Cardin (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2–077

Decided: October 23, 1980.

By the Commission, Review Board Number 3, Member Parker, Fortier and Hill.

MC 20273 (Sub-5F), filed October 15, 1980. Applicant: NED E. BARD, P.O. Box 6, Leola, PA 17540. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 150602 (Sub-1F), filed October 15, 1980. Applicant: CHARLES A. McCAULEY, INC., 100 Industrial Way, Hawthorn, PA 16230. Representative: Larry D. McCauley (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between Belfast, Black Creek, Rockville and Shongo, NY, Larksville, PA, Baxter, Caro, Crandall, Cuney, Cushing, Eustace, Gallatin, Gastonia, Goscett, Kaufman, Kemp, LaRue, Mabank, Mahl, Ponta, Poynor, Reese, Reklay, Sacul, Seagoville, Trawick, and Turney, TX, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for complete abandoned rail carrier service.

Volume No. OP2–079

Decided: October 22, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 108053 (Sub-181F), filed October 15, 1980. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601.Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 143522 (Sub-5F), filed October 15, 1980. Applicant: CONSOLIDATED CARRIERS, INC., 123 Sunrise Drive, P.O. Box D, Irwin, PA 15642. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 152183F, filed October 9, 1980. Applicant: FLAMINGO TRANSPORT, INC., P.O. Box 890, Highway 140 East, Adairsville, GA 30103. Representative: Frank Linn (same address as applicant). Transporting *general commodities,* between Ramseur, NC, Mayes, New Lisbon, Sexton and Spiceland, IN, and Anchor, Barnes, Buckingham, Cabery, Cereal, Charlotte, Chatsworth, Colfax, Cooksville, Cropsey, Cullom, Fletcher, Herscher, Kempton, Merna, Risk and Saxony, IL, on the one hand, and, on the other, points in the U.S. Condition: Any certificate granted herein, to the extent it authorizes the transportation of dangerous commodities, shall be limited to a period of five (5) years from its date of issue.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 152233F, filed October 15, 1980. Applicant: COURIER SERVICES INTERNATIONAL, INC., P.O. Box 25016, Tampa, FL 33622. Representative: Martin S. Friedman, Suite 103, 1020 E. Lafayette St., Tallahassee, FL 32301. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–055

Decided: Oct. 21, 1980.

By the Commission, Review Board. Number 1, Members Carleton, Joyce and Jones.

MC 14215 (Sub-3F), filed October 8, 1980. Applicant: HICKS CORNERS TRUCKING, INC., Rural Route 1, Shullsburg, WI 53586. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *general commodities,* between Blue Mounds, Barneveld, Ridgeway, Dodgeville, Edmund, Cobb, Montford, Fennimore, Stitzer, Lancaster, Livingston, Rewey, Leslie, Cuba City, and Platteville, WI, on the one hand, and, on the other, points in the U.S.

Notes.—(1) To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance; and (2) the purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 45764 (Sub-37F), filed October 9, 1980. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 38, Essington, PA 19029. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 131064F, filed October 8, 1980. Applicant: Paul B. Waitze, d.b.a. LJD ENTERPRISES, 20 Mohawk St., Sharon, MA 02067. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Broker,* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152155F, filed October 8, 1980. Applicant: BOBBY R. COLE, d.b.a. COLE TRUCKING, 9660 Birchdale Ave., Downey, CA 90240. Representative: Bobby C. Cole (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP3–058

Decided: Oct. 24, 1980

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Chandler not participating.

MC 143884 (Sub-4F), filed October 15, 1980. Applicant: PERSONALIZED AGENT SERVICE, INC., P.O. Box 45111, Atlanta, GA 30330. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 143884 (Sub-3F), filed October 15, 1980. Applicant: PERSONALIZED AGENT SERVICE, INC., P.O. Box 45111, Atlanta, GA 30330. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 22675 (Sub-10F), filed October 15, 1980. Applicant: ALLSTATES VAN LINES CORPORATION, 53–13 97th Place, Corona, NY 11368. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions, for the United States Government, between points in the U.S.

Volume No. OP4–100

Decided: October 22, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier and Hill. Member Hill not participating.

MC 135797 (Sub-338F), filed October 15, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

Volume No. OP4–102

Decided: October 22, 1980.

By the Commission, Review Board Number 2, members Chandler, Eaton and Liberman. Member Chandler not participating.

MC 115557 (Sub-32F), filed October 15, 1980. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Larry D. McCauley (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between Anchor, Buckingham, Cabery, Cereal, Charlotte, Colfax, Cooksville, Cropsey, Cullom Fletcher, Kempton, Merna, Orangeville, Red Oak, Scioto Mills, and Vista, IL; Archer, Calumet, Edna, Gaza, George, Larrabee, Matlock, and Primghar, IA; Steen, MN; Belfast, Black Creek, Rockville, and Shongo, NY; Larksville, PA; Benclare, East Sioux Falls; and Rowena, SD; Baxter, Caro, Crandall, Cuney, Cushing, Eustace, Gallatine, Gastona, Goscett, Kaufman, Kemp, LaRue, Mabank, Mahl, Ponta, Poynor, Reese, Reklaw, Sacul, Trawick, and Turney, TX; Balleville, Basco, Clarno, Fitchburg, Sterns, and Summit, WI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Volume No. OP4–105

Decided: October 24, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier and Hill. Member Hill not participating.

MC 118446 (Sub-5F), filed October 16, 1980. Applicant: PARCEL DELIVERY & TRANSFER, INC., 1301 Whitney Rd.,

V 45 / 215 NO 4 80 0 UMI

Anchorage, AK 99501. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP5-044

Decided: Oct. 23, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 31879 (Sub-42F), filed October 15, 1980. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Avenue, North Kansas City, MO 64116. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 119988 (Sub-267F), filed October 15, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same address as applicant). Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 119988 (Sub-268F), filed October 15, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same address as above). To engage in operations as a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 133939 (Sub-5F), filed October 15, 1980. Applicant: IMPERIAL AIR FREIGHT SERVICE, INC., 57 Freeman Street, Newark, NJ 07105. Representative: Michael R. Ryan (same address as applicant). Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 142059 (Sub-143F), filed October 9, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *general commodities*, between Herscher, Buckingham, Cabery, Kempton, Saxony, Cullom, Charlotte, Chatsworth, Cereal, Risk, Cropsey, Anchor, Colfax, Cooksville, Fletcher, Merna, and Barnes, IL, Mays, New Lisbon, Sexton and Spiceland, IN, and Ramseur, NC, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

MC 150588 (Sub-1F), filed October 9, 1980. Applicant: OWINGS & SONS, INC., Box 297, Millington, MD 21651. Representative: Joseph I. Huesman, 504 Maryland Trust Bldg., Baltimore, MD 21202. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided by the owner of the motor vehicle in such vehicle (except in emergency situations) between points in the U.S.

MC 152148F, filed October 8, 1980. Applicant: CROWEL TRUCKING, INC., 4671 North Van Dyke, Almont, MI 48003. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34310 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 386]

Increased Freight Rates and Charges—Nationwide—1981; Authority To File Master Tariff

Decided: October 3, 1980.

By petition and verified statement [1] filed September 30, 1980, United States railroads seek authority to increase freight rates and charges by 5 percent nationwide. The railroads state that their costs, including wages but excluding fuel, (except in the East), have increased by $1,440 million since the last general increase in Ex Parte No. 375 (Sub-No. 1). They estimate that if the sought 5 percent increase is granted in its entirety, they will realize about $1,197 million, $243 million short of the cost increased relied upon.

Petitioners seek permission to make the proposed increase effective December 31, 1980, upon not less than 60 nor more than 90 days' notice subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of a decision modifying all outstanding Commission decisions to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. We are also requested to allow the entry of appropriate decisions under former sections 4 and 6 of the Interstate Commerce Act. (49 USC 10728 and 10761–65).

Petitioners seek authority to publish connecting-link supplements to connect the rate tariffs to the master tariff. Petitioners also seek to amend the master tariff without specific authority and to show a general statement concerning the sequence in which the proposed increase is to be applied.

The petitioners have filed and served verified statements constituting their evidential case pursuant to the requirements set forth in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, 49 CFR 1102. [2] Petitioners have also submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), *Procedures-Rail Car. General Increase Proceedings*, 349 I.C.C. 22 (1974), namely, detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase.

The petitioners have given notice of our petition and have furnished data to the public in compliance with Ex Parte No. 286, *Notice of Increases in Frt. Rates and Pass. Fares*, 349 I.C.C. 741 (1975), and with former section 5b of the Interstate Commerce Act (49 USC 10706).

The petitioners have also submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), *Revised Guidelines for the implementation of the National Environmental Policy Act of 1969*, 352 I.C.C. 451 (1976) and 49 CFR 1108, namely a supplemental evaluation of environmental consideration with regard to the petitioners' increased rate proposal. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any persons believing that the requested increases, if

[1] A copy of the petition and verified statement may be obtained from the Committee of Counsel for Railroads, Room 527, 1920 L Street, NW, Washington, D.C. 20036.

[2] Relief from filing Schedules B (Part II) G, I, J, K and M was granted September 24, 1980. The provisions of 49 CFR 1102.4(c) pertaining to the base periods were stayed by this Commission's Ex Parte No. 290 order served June 27, 1979, and the request by petitioners here to use up-dated data in evidentiary schedules B and C is granted.

authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this decision. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered by this Commission in any subsequent action on the merits of the requested general increases.

Petitioners have submitted information to satisfy the reporting requirements incidental to the preparation of a statement of energy impact, as set forth in 49 CFR 1106.5(a)(10) and (c) and 1106.7(a).

It is not clear whether the proposed increases violate President Carter's voluntary wage and price guidelines. We regard this as an important issue in this proceeding. Parties are invited to comment upon this matter in their verified statements, and we will consider it in our subsequent decision on the merits of the requested increases.

The petitioners request permission to file the master tariff upon not less than 60 nor more than 90 days' notice. It is essential that the master tariff be on file sufficiently long enough before the due date for protests in order to give interested parties an opportunity to lodge timely filed protests against the tariff. Notice of 75 days is justified. This will allow sufficient time after our decision for shippers to adjust their pricing systems to the Commission's action, should the increase be approved.

We also will not authorize the amendment of the master tariff with specific authority. The amendment of master increase tariffs are important enough for this Commission to consider each amendment on a case-by-case basis. This will continue our present practice.

We find that the railroads have justified an authorization to file their tariff upon not less than 75 days' notice and an expedited procedural schedule for considering the proposed increase.

The petitioners have requested that certain of the evidence submitted by them be treated as confidential by the Commission and not be released to the general public. We deny this request. The railroads have filed a petition in Ex Parte No. 290 requesting similar confidential treatment of evidence. We will deal with the issue of confidentiality in our decision on that petition.

We note that the railroad's petition for the proposed general increase was filed prior to passage of the Rail Act of 1980, which contains certain provisions applicable to rates for recycables. Comments are requested in the protests and the reply, on: (1) whether the provision of this Act as applied to recyclables should be applied in this proceeding, and (2) if so, how should they be applied to the general increase sought for recycables.

It is ordered:

1. All common carriers by railroad are made respondents to this proceeding.

2. Under the special permission authority granted in conjunction with this decision, the tariff schedules shall be published and filed upon not less than 75 days' notice effective December 31, 1980, *subject to protest and possible suspension*. These schedules are to contain an appropriate refund provision.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before November 7, 1980. [3]

(a) The verified statements shall contain all relevant evidence which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submissions on asserted environmental and energy impacts shall be segregated under an appropriate subheading.

(b) Verified statements may include arguments in support of an affiant's position, but arguments shall be segregated in a separate section of the document containing the verified statement or contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 48 and Form No. 6 of the Commission's Rules of Practice (See 49 CFR 1100.48 and Appendix B, Form No. 6, to 49 CFR 1000). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows: The original and 24 copies of each document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423, except that a lesser number of copies may be filed upon a showing of good cause. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 386. One copy shall be served upon the Committee of Counsel for the Railroads, Room 527 American Railroads Building, 1920 L Street, NW., Washington, DC 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties.

(f) Verified statements and arguments by persons opposed to the proposed increase in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

(4) On or before November 19, 1980, the respondents shall file with the Commission and service upon opposing parties their replies to protests or other pleadings and rebuttal evidence. Rebuttal evidence shall be filed in accordance with the regulations published in 49 CFR 1102, governing opening statements, except that replies and rebuttal evidence need to be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statement shall be furnished to interested parties upon request

5. The Commission will endeavor to issue its decision by December 15, 1980, so that the shipping public will have adequate time to adjust its pricing system to the Commission's action.

6. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By special Permission Order No. 81–0001 served in conjunction with this decision, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 75 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 386.

The petition is denied in all respects not specifically granted.

Special Permission No. 81–0001

It is ordered:

1. All railroads of the United States, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing

[3] Section 10707(c) of the Interstate Commerce Act specifically requires the filing of *verified complaints* seeking suspension of proposed rate changes.

V45I215N0480 UMI

agents are authorized to depart from the Commission's tariff publishing rules in Part 1300 of Title 49 of the Code of Federal Regulations when publishing and filing tariffs and tariff amendments to become effective December 31, 1980, upon not less than 75 days' notice to the Commission and to the public providing for increased rates and charges as set forth in the petition.

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with percent interest.[4]

In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with percent interest.[5]

The master tariff shall be conditioned to expire with December 31, 1982, and all relief granted in this decision expires with that date, which may not be extended or canceled except upon specific authorization of this Commission. Respondents are placed on notice that they must comply with the regulations in 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions necessary to permit application of every aspect of this proposal. Subsequently, provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this decision shall not provide for non-application on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements or other amendments to the tariffs.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariff and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publications are identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized here shall bear the notation:

Form of publication authorized, I.C.C. permission No. 81–0001.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges shall provide a notation reading:

Publication made in accordance with I.C.C. permission No. 80–0001.

4. Connecting-link supplements authorized here shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

5. The master tariff filed under this decision shall not be amended, except to correct errors and to comply with findings and orders of the Commission, without specific authorization. The terms of 40 CFR 1300.9(e) are not waived as to supplements to the master tariff.

6. Tariff publishing agents must furnish a copy of the master tariff to subscribers of all tariffs which are governed by the master tariff. This must be done not later than the date that copies are sent to the Commission. When there is more than one tariff of a subscriber governed by the master tariff, only one copy of the master tariff need be furnished to the subscriber unless additional copies are requested.

7. Outstanding decisions of the Commission are modified only to the extent necessary to permit the filing of tariff publications containing the proposed increase, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 188.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 375 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, DC, and by filing a copy with the Director, Office of The Federal Register for publication in the **Federal Register.**

8. This Special Permission will expire with December 31, 1982.

9. Volume coal rates which already include a factor for future labor wage increases shall not be subject to this increase. The proposed tariff will be amended to exempt all such tariffs if they have not already been excluded from this increase.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum dissenting with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum, dissenting:

In their petition, the railroads have not demonstrated that another general rate increase is the only means of relief available. Their brief discussion of the status of Ex Parte No. 290 (Sub-No. 2), which would establish an automatic cost recovery program, falls far short of what the Commission contemplated one year ago in Ex Parte No. 368.

Across-the-board indexing is not the only tool available. Protests and replies in this proceeding should address the full range of alternatives. For example, rail contract filings at the Commission are increasing constantly. In addition, innovative independent tariffs have been approved and gone into effect (see Special Permission No. 80–4771, in which the Illinois Central Gulf established a zone of flexibility on freight-all-kinds boxcar traffic, within which rates can move between 55 and 120 percent of previous levels on 2-day's notice).

The imminent signing of the Staggers Rail Act of 1980 may well affect this proposal. It is not clear, however, that getting one last general rate increase in under the wire is what the Congress had in mind.

[FR Doc. 80-34313 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[4] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 10707(d) of the Interstate Commerce Act.

[5] See footnote 4.

[Ex Parte No. MC–45 (Sub-No. 1)]

Interpretation of Commodity Classification: Wood Chips

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Commodity Interpretation.

SUMMARY: The Interstate Commerce Commission is proposing to interpret the commodity classification wood chips. This proceeding involves the question of whether wood waste, residue, slabs, trimmings, shavings and edgings should be embraced within the commodity classification wood chips. Representations are solicited concerning industry, or public, usage and practice as to the nature of wood chips, for transportation purposes.

DATE: Written comments should be filed on or before December 4, 1980.

ADDRESS: Send comments (an original and 15 copies, if possible) to: Ex Parte No. MC–45 (Sub-No. 1), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Judy Ann Barnes (202) 275–7962 or Edward E. Guthrie, (202) 275–7691.

SUPPLEMENTARY INFORMATION: The Motor Carrier Act of 1980, Public Law 96–296, July 1, 1980, Sec. 7.(C) amended Section 10526(a) of Title 49, United States Code, by exempting from regulation, by the Interstate Commerce Commission, the transportation of wood chips. We believe the new legislation requires the proposed interpretation of the scope of this exemption. While the intent to exempt wood chips is clear, the scope of the exempted commodity is not defined within the new Act. Therefore, we propose to define the exempted commodity. In so doing, we wish to consider industry or trade uses and practices, common understandings within the transportation industry, as well as prior administrative interpretations. We note that this Commission has found that "wood chips" embraces the commodity "wood shavings," see *Pudget Sound Truck Lines—Investigation & Revocation*, 114 M.C.C. 25, 29, (1971).

Our proposed interpretation would include wood residue, waste, slabs, trimmings, shavings and edgings within the definition of wood chips. However, others may be able to present reasons which would warrant a finding that other articles should be included within the definition, or that one or all of the articles specified would be beyond the scope of the wood chips definition. We believe that interested members of the public should be afforded an opportunity to present their views on this interpretation question.

Oral hearings do not appear necessary at this time, and none are contemplated. Anyone wishing to participate in the development of the record may do so by the submission of written data, views, or arguments. Written material submitted will be avialable for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC, during regular business hours.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

This notice is issued under the authority contained in 49 U.S.C. § 10321 and 5 U.S.C. § 553.

Date: October 10, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34322 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[No. 37474]

Kentucky Intrastate Freight Rates and Charges on Coal

Decided: October 21, 1980.

By a motion filed September 22, 1980, the Chesapeake and Ohio Railway Company (C&O or petitioner) requests leave to file an amended petition and submits its amended petition for filing. In a decision dated August 21, 1980, we granted C&O's original petition, filed July 7, 1980, to institute an investigation under 49 U.S.C. § 11501 into whether the intrastate rail freight rates and charges for coal, limestone, liquefied petroleum gas and common lime cause unreasonable discrimination against or impose an unreasonable burden upon interstate or foreign commerce due to the failure to apply to intrastate traffic the increases authorized for interstate traffic in Ex Parte Nos. 357–A and 368–A.

Petitioner now requests that the Commission include in its investigation a Kentucky Railroad Commission (KRC) rate decision not covered by C&O's original petition. C&O filed an application with the KRC on February 28, 1980, to apply the 4 percent general rate increase authorized by the Commission in Ex Parte No. 375 to the Kentucky intrastate rates. In an order issued September 10, 1980, the Kentucky Railroad Commission authorized an intrastate general rate increase of only 3.3 percent, lower than the interstate increase authorized in Ex Parte No. 375. We agree that this KRC order should be included in our investigation under the modified procedure order served September 30, 1980. We note that no parties have indicated their opposition.

It is ordered:

Petitioner's motion for leave to file an amended petition is granted and its amended petition is accepted for filing in this proceeding. In this investigation under 49 U.S.C. § 11501 we will consider whether the Kentucky intrastate rail freight rates for the above named commodities cause unreasonable discrimination against or impose an unreasonable burden upon interstate or foreign commerce due to the failure to apply to intrastate traffic the increases authorized by the Commission in Ex Parte Nos. 357–A, 368–A and 375. In the investigation we shall also determine if any rates or charges maintained by petitioner should be prescribed to remove any unreasonable discrimination, undue burden, or other violation of law found to exist.

A copy of this decision shall be served upon the petitioner, and copies shall be sent by certified mail to the Kentucky Railroad Commission and the Governor of Kentucky. Further public notice shall be made by depositing a copy of this decision in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and with the Director, Office of the Federal Register, for publication therein.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34318 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Amendt. No. 5 to I.C.C. Order No. 65 Under Service Order No. 1344]

Railroads; Rerouting Traffic

To: All Railroads. Upon further consideration of I.C.C. Order No. 65, and good cause appearing therefor:

It is ordered,

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I.C.C. Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., December 15, 1980, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., October 31, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 23, 1980.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 80-34311 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 1 to I.C.C. Order No. 71 Under Service Order No. 1344]

Railroads; Rerouting Traffic

To: Fort Worth and Denver Railway Company. Upon further consideration of I.C.C. Order No. 71, and good cause appearing therefor:

It is ordered,

I.C.C. Service Order No. 71 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated.

Effective date. This amendment shall become effective at 11:59 p.m., October 15, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 14, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-34323 Filed 11-3-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.115]

Principal Aid Officer, Oman; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal AID Officer, Oman, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent;

2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and

3. Approvals authorizing the making of advance payments to other than profit-making organizations not collecting a fee.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal AID Officer at his discretion to the person or persons designated by the Principal AID Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal AID Officer whichever shall first occur. The authority so redelegated by the Principal AID Officer may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal AID Officer in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective on October 17, 1980.

Dated: October 27, 1980.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 80-34409 Filed 11-3-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention and its Subcommittees will meet Wednesday, November 19 through Saturday, November 22, 1980, at Del Webb's Townhouse in Phoenix, Arizona. The meeting is open to the public.

Beginning Wednesday morning at 8:30 a.m., the Advisory Committee members will attend an orientation session in preparation for site visits to three Indian reservations. The visits to the Hopi Tribe in Keans Canyon, Arizona; the Gila River Tribe in Sacaton, Arizona; and the Papago Tribe in Sells, Arizona, will last until early evening.

The Advisory Committee will be called to order at 9 a.m., Thursday, November 20. After the welcome and keynote addresses, Mr. Ira Schwartz, Associate Administrtor of the Office of Juvenile Justice and Juvenile Prevention, will deliver his report to the Advisory Committee. Following a brief recess, a panel discussion on "Native American Youth and the Juvenile Justice System" will be held.

From Noon until 1:30 p.m., a luncheon will be held for Advisory Committee members and guests. After lunch, the presentation on Native American Youth will continue. Public commentary will be held from 3:30 p.m. until the 5 p.m. recess.

The Advisory Committee's Executive Committee will meet with Mr. Schwartz on Thursday evening from 6 p.m. to 8 p.m. His report will include discussion on the status of Reauthorization of the Juvenile Justice and Delinquency Prevention Act, Native American Juvenile Justice issues relevant to OJJDP, and issues for the Advisory Committee to discuss in the future.

Other topics to be considered by the Executive Committee include the White House Conference on Children and Youth and the Advisory Committee Work Plan for fiscal year 1981.

On Friday, November 21, 1980, the Advisory Committee's four subcommittees will convene at 9 a.m. and continue until 5 p.m. In addition to addressing Native American issues and Subcommittee Work Plans, the Subcommittee to Advise the Administrator of OJJDP will discuss the Third Annual State Advisory Group Conference, recommendations made by the Technical Assistance Task Force, and Prevention as a major focus of OJJDP Programs; the Subcommittee on Concentration of Federal Effort will discuss Federal cordination efforts, including Federal Coordinating Council activities, the status, treatment and placement of Cuban refugee children, and follow-up to the Third Annual AG Conference; the Subcommittee to Advise the National Institute plans to consider follow-up on the re-analysis of the research in *Beyond Probation* at the Special meeting of the Institute Subcommittee on November 7, the National Juvenile Justice Assessment Centers, and NIJJDP's fiscal year 1981 Program Plan; and the Subcommittee on Standards will discuss the upcoming public hearings on the NAC Standards, and a comparative analysis of juvenile justice standards.

The full Advisory Committee will reconvene Saturday, November 22, at 9 a.m. and present their Subcommittee reports. Future agenda, the NAC policies and procedures, and the annual report will also be discussed at this time. Following adjournment of the meeting at 12:30 p.m., the Executive Committee will meet until 1:30 p.m.

For further information, contact Dr. James Howell, NAC Coordinator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, DC 20531.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prefention.

[FR Doc. 80-34330 Filed 11-3-80; 8:45 am]

BILLING CODE 4410-80-M

National Institute of Justice

Unsolicited Research Program, Announcement of Competitive Research Grant Program; Solicitation

The National Institute of Justice (NIJ) announces a competitive research grant program, the Unsolicited Research Program (URP). Through this program, NIJ sponsors a limited number of projects that address significant issues pertaining to adult criminal justice, that are of sound methodological design, and have potentially important implications for criminal justice policy, practice, research and/or theory.

During fiscal year 1981, two (2) funding cycles will be initiated. All papers postmarked before midnight December 31, 1980 will be considered for funding during Cycle 1. All papers postmarked after midnight December 31, 1980 and before June 30, 1981 will be considered for funding during Cycle 2.

All this time the NIJ appropriation for fiscal year 1981 has not been finalized. If the proposed request is adopted, the Institute will allocate approximately $1,000,000 for the URP, with approximately $500,000 available for each funding cycle. If a figure less than the amount requested is appropriated, this funding level will be modified and Cycle 2 funding may be eliminated. In either case, the total amount of awards will depend upon receipt of high quality proposals that meet all criteria. Approximately one-third of the amount available during each cycle will be allocated for grants of $60,000 or under. The range of funding for each grant will be from $10,000 to $120,000 for research of up to two years duration.

Copies of this solicitation may be obtained by sending a mailing label to: Solicitation Requests—Unsolicited Research Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: October 24, 1980.

Harry M. Bratt,

Acting Director, National Institute of Justice.

[FR Doc. 80-34329 Filed 11-3-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-10,901]

Davenport Pontiac, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a worker petition received on September 11, 1980 which was filed by the International Association of Machinists and Aerospace Worker on behalf of workers at Davenport Pontiac, Incorporated, St. Louis, Missouri. The workers sold and serviced Pontiac automobiles and trucks.

On August 4, 1980, an investigation (TA-W-9724) was initiated on behalf of the same group of workers as TA-W-10,901.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9724, a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 24th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34359 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,668]

Florsheim Shoe Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on September 2, 1980 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers at Florsheim Shoe Company, West End Boulevard plant, Cape Girardeau, Missouri. The workers produce men's shoes.

The investigation revealed that another petition (TA-W-4528) resulted in a certification of eligibility to apply for trade adjustment assistance for the same group of workers. That certification was issued on February 28, 1979 and remains in effect until February 28, 1981. Workers at Florsheim Shoe Company, West End Boulevard plant, Cape Girardeau, Missouri are, therefore, eligible to apply for adjustment assistance under the existing certification (TA-W-4528). Consequently, the investigation has been terminated.

Signed in Washington, D.C., this 23d day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34358 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,582]

Thunderline Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on August 26, 1980 which was filed on behalf of workers and former workers producing spark plug boots and related rubber and silicone parts for automobiles and trucks at the Thunderline Corporation, Wayne, Michigan (TA-W-10,582).

On August 15, 1980, a petition was filed on behalf of the same group of workers (TA-W-10,368).

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,368, a new investigation

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would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 24th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34380 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,682]

United Technologies Corp., Automotive Group, Components Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was instituted on September 8, 1980 in response to a worker petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at United Technologies Corporation, Automotive Group, Components Division, Columbia City, Indiana. The workers produce hydraulic lines and fittings (TA-W-10,682).

On July 7, 1980 an investigation was initiated in response to a petition received on June 23, 1980 which was filed by the United Brotherhood of Carpenters and Joiners of America on behalf of workers at Essex Metals and Plastics Division, Coldwater, Michigan. The investigation revealed the correct name of the company to be United Technologies Corporation, Automotive Group, Components Division, Coldwater, Michigan. The workers produce hydraulic lines and fittings (TA-W-9180).

The above investigation (TA-W-9180) was expanded to include workers producing similar products at United Technologies' plants at Columbia City, Indiana (TA-W-9180A), and Andrews, Indiana (TA-W-9180B).

Since the identical group of workers is the subject of the ongoing investigation (TA-W-9180A), a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 27th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34361 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-28-M

Occupational Safety and Health Administration

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the Federal Register (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "Where any alternation in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated April 1, 1980 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Robert A. Wendell, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal standards:
§ 1910.217 Mechanical Power Presses, Corrections dated February 8, 1980;
§ 1910.177 Servicing Multi-Piece Rim Wheels, dated January 29, 1980;
§ 1910.1025 Lead, Corrections to the Appendices, dated November 30, 1979;
§ 1910.1025 Lead, Appendices dated October 23, 1979.

These standards were promulgated after public hearings held on March 31, 1980, and filed with the South Carolina Secretary of State March 31, 1980, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30367; and Director of Federal Compliance and State Programs, Room 3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4 *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 4, 1980.

(Sec. 18, Pub. L. 91-396, 84 Stat. 1608 (29 U.S.C 667))

Signed at Atlanta, Georgia, this 28th day of May, 1980.

R. A. Wendell,

Regional Administrator.

[FR Doc. 80-34382 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Thursday, November 13, 1980, in Room S4215C, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report
2. Retirees and Terminated Vested Employees
   (a) Plan information disclosure
   (b) Lump sum distribution
3. Women's Pension and Social Security Issues
4. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before November 12, 1980, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue, N.W., Washington, D.C.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523-8753.

Signed at Washington, D.C. this 27th day of October, 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 80-34333 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-83]

Class Exemption for Certain Transactions Involving Purchase of Securities Where Issuer May Use Proceeds To Reduce or Retire Indebtedness To Parties in Interest

AGENCY: Department of Labor.

ACTION: Grant of Class Exemption.

SUMMARY: This class exemption permits, under certain conditions, purchases of securities by employee benefit plans when the proceeds from the sale of such securities may be used by the issuer to reduce or retire indebtedness to persons who are parties in interest with respect to such plans. In the absence of the retroactive and prospective relief provided by this exemption, these transactions might be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code).

EFFECTIVE DATE: Section I(B) of this exemption is effective December 1, 1980. The remainder of this exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-7925. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On July 27, 1979, notice was published in the Federal Register (44 FR 44286) of the pendency before the Department of Labor (the Department) of a proposal for a class exemption from the restrictions of section 406(a)(1) (A) through (D) and section 406(b) (1) and (2) of the Act, and from the taxes imposed by section 4975 (a) and (b) of the reason of section 4975(c)(1) (A) through (E) of the Code for transactions described in an application filed by the American Bankers Association (ABA).[1] The notice set forth a summary of facts and representations contained in the application, and referred interested persons to the application for a complete statement of facts and representations. The application has been available for public inspection at the Department in Washington, D.C.

Public comments and requests for a hearing with regard to the proposed class exemption were received pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Notice of a public hearing on the proposed exemption was published on December 21, 1979 (44 FR 75756), and the public hearing was held on January 24, 1980. The record of such hearing remained open until February 15, 1980, and additional comments were received.

Upon consideration of all of the comments submitted and testimony received, the Department has determined to grant the proposed class exemption, subject to certain modifications. These modifications and the major comments are discussed below.

Description of the Proposal

The proposed class exemption contained in the notice of pendency provided conditional relief prospectively and retroactively to January 1, 1975 for transactions involving purchases of securities in a public offering by an employee benefit plan when the proceeds from such sale of securities may be used to reduce or retire indebtedness to a party in interest [2] with respect to such plan. Section I(A) of the proposed exemption would provide relief from sections 406(a)(1) (A) through (D) of the Act and section 4975(c)(1) (A) through (D) of the Code retroactively from January 1, 1975 to the date 30 days after the publication of the final exemption. Such retroactive relief would be available for transactions in which the proceeds of the sale of securities to a plan may be used to reduce or retire indebtedness owed to a party in interest other than the plan fiduciary which made the decision to purchase such securities. Such relief would be available provided that the price paid by the plan for the securities did not exceed adequate consideration.

Section I(B) of the proposed exemption would provide prospective relief, effective 30 days after the publication of the final exemption, from the prohibitions of section 406(a)(1) (A) through (D) of the Act and section 4975(c)(1) (A) through (D) of the Code for transactions in which indebtedness owed to a party in interest other than the plan fiduciary which made the decision to purchase the securities may be reduced or retired. This prospective relief would be available provided that the conditions contained in section II(A) of the proposed exemption were met. Proposed section II(A) would require that: (1) the price paid by the plan fiduciary for the securities does not exceed the original offering price; and (2) the fiduciary, on behalf of the plan, maintains, for a period of six years, records which are sufficient to allow a determination of whether the conditions of the exemption have been met, and which are unconditionally available for examination during normal business hours by the persons listed in section II(A)(2)(b) of the proposed exemption.

For transactions in which the proceeds of the sale of securities in a public offering may be used to reduce or retire indebtedness owed to the plan fiduciary which made the decision to purchase such securities, section I(C) of the proposed exemption would provide retroactive and prospective conditional relief only when such fiduciary is a bank. Such relief from the restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (E) of the Code would be subject to the conditions in section II(A) discussed above. Such relief would also be subject to additional conditions when the fiduciary bank knows, as defined in section I(C), that the proceeds will be used to benefit such fiduciary.[3] These conditions would

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[1] Exemption Application No. D-660. This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue this type of exemption to the Secretary of Labor.

[2] When the term "party in interest" is used in this notice, it should be read to include the term "disqualified person" as defined in section 4975(e)(2) of the Code.

[3] The applicant represents that a fiduciary bank's employees who are responsible for investing plan assets will not ordinarily know that a prior loan by the fiduciary bank will be reduced or retired with proceeds from an issuance of securities. The applicant indicates that the commercial and trust functions of banks are kept separate to a certain extent in order to comply with regulations adopted by the Office of the Comptroller of the Currency, 12 CFR 9.7(d), and the Policy Statement of the Board of Governors of the Federal Reserve System (43 FR 2755, March 27, 1978), which set forth guidelines to prevent the misuse of material inside information by bank trust departments in connection with the

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include a three percent limitation on the amount of securities in an offering purchased on behalf of a plan; a three percent limitation on the amount of assets of a plan used to make such purchases, except that the limitation is one percent if the consideration to be paid exceeds $1 million; and a ten percent limitation on the amount of securities purchased in an offering on behalf of all plans as to which the fiduciary bank has investment discretion. These conditions would also limit the type of securities which may be purchased and the type of issues which may be involved in such transactions.

Section I(C) of the proposed exemption also contained a three part definition of knowledge. First, a fiduciary bank would be deemed to know that the proceeds will be used for its benefit if the officers or employees of such fiduciary who are authorized to be involved, or who are in fact involved, in carrying out such fiduciary's investment obligations receive actual knowledge of the use of the proceeds. Second, the fiduciary bank would be deemed to have such knowledge if such officers or employees possess information reasonably sufficient to cause them to believe that the proceeds will be used to benefit such fiduciary. Third, the fiduciary bank would be deemed to know that the proceeds would be used for its benefit if such knowledge or information is received by employees or agents of the fiduciary and such knowledge or information should, in the normal course of business, be communicated to the fiduciary bank's officers or employees who are authorized to be involved, or who are in fact involved, in carrying out the fiduciary's investment duties.

Section I(D) of the proposed exemption provided retroactive and prospective relief from the prohibitions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act, and the taxes imposed by reason of section 4975(c)(1) (A) through (E) of the Code for the receipt by a party in interest of any of the proceeds from the sale of securities when such proceeds may be used to reduce or retire indebetedness owed to that party in interest.

Discussion of Comments

A. Sections I(A) and I(B)

The Department received one comment regarding section I(A) of the exemption. The commentator addressed the requirement that, in order to qualify for retroactive relief when the proceeds of a sale of securities to a plan are used to benefit a party in interest other than the plan fiduciary, the price paid by the plan for such securities does not exceed adequate consideration. The term "adequate consideration" was not defined in the exemption as proposed and the commentator suggests that the Department adopt the definition of this term provided in section 3(18)(B) of the Act. The Department has decided to adopt this suggestion, and has modified the exemption accordingly. No comments were received on section I(B).

B. Section I(C)

The largest number of comments received by the Department dealt with the provisions of section I(C) of the proposed exemption. The specific issues raised by the comments with regards to the relief proposed in section I(C) are discussed below.

1. *Limitation to Bank Fiduciaries.* Two commentators suggested that the relief in section I(C) be expanded to include transactions in which the proceeds of the sale of securities are used to reduce or retire indebtedness owed not only to the fiduciary bank but also to corporate affiliates of such bank or of the bank holding company controlling such fiduciary bank. As the Department noted in the preamble to the proposed exemption (44 FR 44286, 44288), the relief in section I(C) was limited to bank fiduciaries because the record before the Department at that time was insufficient to support the proposal of relief for fiduciaries which are not banks. The commentators have indicated that bank affiliates are similar to banks both in their involvement in the types of transactions covered by the proposed exemption, and in the application of "Chinese Wall" procedures to their internal operations. Therefore, when a bank affiliate is a fiduciary with respect to a plan, the employees of the affiliate who are responsible for investing plan assets may not know that a prior extension of credit from the bank or from the affiliate will be reduced or retired with the proceeds from an issuance of securities.

In light of this, the Department has determined that it is appropriate to expand the relief provided in section I(C) as the commentators have requested. Accordingly, section I(C) is modified to apply to situations in which the proceeds from the purchase of securities on behalf of a plan by a plan fiduciary which is a bank or a bank affiliate may be used to reduce or retire indebtedness owed to such fiduciary bank or an affiliate thereof.

In addition, the Department is modifying section II(B) by the addition of a definition of the term "affiliate." Under this definition, "affiliate" of a bank means any entity directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the bank.

2. *Condition I(C)(3).* Condition I(C)(3) of the exemption as proposed required that when the fiduciary knows, as defined in section I(C), that the proceeds of a sale of securities may be used to benefit such fiduciary, relief will be available for such a transaction only if the issuer of the securities has been in continuous operation for at least three years, unless the securities are highly rated, nonconvertible debt securities. One commentator has suggested the deletion of this condition. The commentator states that this condition has no substantial relationship to the exemption's purpose of protecting plans from abuse due to fiduciary self-dealing. The commentator argues that the only effect of this condition would be to burden capital markets for newly formed companies.

The Department's intention in including this condition in the proposed exemption was to protect plans from situations in which bank fiduciaries, having loaned funds used to establish a company, then used plan monies to allow the new company to pay off its initial indebtedness. The commentator has not indicated why such a situation would be free from the possibility for abuse. Therefore, the Department is not persuaded to delete this requirement and retains this condition in the final class exemption.

3. *Percentage Limitations.* In the exemption as proposed, the conditions contained in paragraphs I(C)(4), I(C)(5) and I(C)(6) limited the extent to which plans may purchase securities in an issue when a fiduciary bank knows, as defined in section I(C), that the proceeds from such sales may be used for its benefit. Paragraph I(C)(4) of the proposal provided that the amount of such securities purchased by the fiduciary bank on behalf of any individual plan may not exceed three percent of the total issue. Paragraph I(C)(5) of the proposal provided that the consideration paid by any plan to purchase such securities may not exceed three percent of the value of the assets of such plan as of the last day of the most recent fiscal quarter of the plan prior to such transaction, except when such consideration exceeds $1 million, in which case such consideration may not exceed one percent of the value of plan assets. Paragraph I(C)(6) as proposed provided that the total amount of securities purchased by a fiduciary bank on behalf of all plans as to which such bank acts as a fiduciary may not exceed ten percent of the issue.

The Department has received a number of comments criticizing these percentage limitations and suggesting either a general revision or specific modifications of these conditions. The commentators suggesting a general revision of these provisions state their belief that, by these paragraphs, the Department is attempting to establish a *de minimis* standard. While these commentators agree on the desirability of such a standard, they assert that the limitations proposed by the Department would unduly restrict fiduciaries in the exercise of their investment discretion. As an alternative to the conditions proposed by the Department, the commentators suggest that the Department exempt transactions where the fiduciary knows, as defined in paragraph I(C), that the proceeds of a sale of securities will be used for its benefit so long as no more than twenty percent of the gross proceeds of the issue are used to reduce or retire indebtedness to such fiduciary bank.

Upon consideration of these comments, the Department is not convinced that the suggested substitutte provision would be sufficiently protective to permit the Department to make the findings required by section 408(a) of the Act and section 4975(c)(2) of the Code. The conditions proposed by the Department were intended to limit the use of plan assets to purchase securities when the fiduciary bank knew that the proceeds from such purchases would accrue to its benefit. The suggested substitute provision would supply a supposed *de minimis* standard for the extent to which the proceeds of a securities issue could be used to reduce or retire indebtedness owed to a fiduciary bank. The suggested substitue fails to account for the degree to which plan assets may be committed to achieve this supposed *de minimis* level of repayment. The applicants' argument that a fiduciary receiving less than 20 percent of the proceeds of an issue would have an interest in that issue insufficient to create the possibility of abuse is not persuasive, since (1) a fiduciary bank might use a substantial amount of plan assets in such a transaction and (2) a substantial amount of the bank's indebtedness might be retired in connection with the purchase of such securities. Therefore, the Department does not adopt this suggested substitute and has determined to retain the structure of these paragraphs as proposed.

Several commentators made suggestions regarding specific revisions of the proposed percentage limitations. Two commentators argue that all of the percentages are too low and would unduly restrict fiduciary investment discretion. However, these commentators have not suggested higher levels they would consider acceptable, nor have they presented evidence or arguments in support of such changes or the need therefor. In the absence of such a basis, the Department has decided not to raise the percentage limitations generally.

With regard to the provisions of paragraphs I(C)(5), which limit the percentage of plan assets which may be used to purchase securities, one commentator suggests that the percentage should apply only to the assets under management of the fiduciary bank. This same commentator suggests that plan assets should be valued as of the most recent valuation date preceding the transaction. The Department has decided to adopt these comments and has modified this paragraph accordingly.

Also regarding this paragraph, this commentator suggests the elimination of the one percent limitation on plan assets used to purchase securities when the consideration for such purchase exceeds $1 million. The commentator notes that a plan with assets valued between $33 million and $100 million cannot utilize the three percent limitation contained in this paragraph without exceeding the $1 million limit, and at the same time would be forced to commit less than $1 million when held to the one percent limitation. Therefore, this commentator argues that the one percent limitation discriminates against plans with assets valued between $33 million and $100 million, and should be eliminated. Upon consideration of this comment and the purposes served by the limitation, the Department has decided to delete the one percent limitation.

With regard to the provisions of paragraph I(C)(6), one commentator states that the limitation of purchases by any fiduciary bank on behalf of all plans as to which it is a fiduciary to ten percent of an offering discriminates against large fiduciary banks. The commentator states that the effect of this condition is to prevent a bank acting as a fiduciary to more than three plans from purchasing for each plan to maximum amount of securities allowed under former paragraph I(C)(4), which limits a plan's purchase to three percent of an issue. The Department notes, however, that the ten percent limitation assures that no fiduciary can gain repayment of its loans or those of an affiliate by using the assets of the plans as to which it is a fiduciary to purchase all, or a substantial portion of, the securities in an issue. The commentator also has presented nothing to indicate how the proposed ten percent limitation would be disruptive of or require changes in existing sound bank investment practices. Accordingly, the Department does not adopt this comment.

Finally, several commentators have requested that, if the Department decided to retain the percentage limits as proposed, the Department should take the position that securities purchased by commingled or collective trusts in which a plan participates should be attributed to that plan proportionally on the basis of its participation in the fund. The Department has decided to adopt this comment, and has therefore added a new subsection II(B)(3), which provides that each plan participating in a collective or commingled fund shall, for the purpose of this exemption, be considered to own the same proportionate undivided interest in each asset of the collective investment fund as its proportionate interest in the total assets of the collective investment fund as calculated on the most recent preceding valuation date of the fund.

4. *Knowledge.* Paragraph I(C)(7) of the exemption as proposed defined the three instances in which a fiduciary bank will be deemed to know that the proceeds of a sale of securities will be used to reduce or retire indebtedness owed to such fiduciary bank or any affiliate thereof. The commentators generally agree with the provisions of subparagraph (a) of this paragraph, which stated that a fiduciary will be deemed to possess the requisite knowledge if such knowledge is actually communicated to the fiduciary bank's officers and employees who are involved in making investment decisions. With regard to subparagraph (b), which deemed a fiduciary to possess the requisite knowledge if the fiduciary bank's officers and employees involved in the investment process possess information reasonably sufficient to cause belief that the proceeds will be used to benefit the fiduciary bank, one commentator stated that this standard is so vague that banks would be forced to comply, in all cases, with the restrictive conditions set forth in section I(C). However, this commentator offered no constructive suggestions for modifying subparagraph (b). The Department has

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purchase or sale of securities. The applicant stated that the measures taken to prevent the flow of such material inside information are referred to within the banking industry as the construction of a "Chinese Wall" between the commercial and trust departments.

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re-examined this subparagraph in light of this comment, and has determined that the provision is not so vague as to produce the results described by this commentator. The Department, therefore, does not accept this comment.

The same commentator criticized subparagraph (c) of the proposal, which deemed a fiduciary bank to know that the proceeds will be used for its benefit if such knowledge or information is received by employees or agents of such fiduciary, and such knowledge or information should, in the normal course of business, be communicated to the bank's officers and employees involved in the investment process. This commentator indicated that the provisions of that paragraph would require banks to undertake detailed investigations which might breach the so-called "Chinese Wall" established pursuant to federal guidelines designed to prevent the flow of material information between the corporate loan and trust departments of banks.

In addition, this commentator joined with others in criticizing the provisions of proposed subparagraphs I(C)(7) (b) and (c) as establishing a "constructive knowledge" test which would be difficult to administer. As a substitute, these commentators suggest that, in the absence of actual knowledge, the terms of the prospectus pursuant to which the securities are offered should be determinative. In other words, the commentators state that if the prospectus is silent as to the use of proceeds, or if the prospectus states that the proceeds will be used to reduce or retire indebtedness but does not identify the persons to whom such indebtedness is owed, the fiduciary bank, in the absence of actual knowledge, should be deemed not to possess the requisite knowledge and should therefore avoid the application of the restrictive conditions contained in section I(C) of the exemption.

With regard to this proposed substitute, the Department notes that testimony given at the public hearing concerning the proposed exemption indicates that it is not customary for a prospectus to identify specific lenders who would be repaid from the proceeds of the sale of securities. It would, therefore, appear that the proposed substitute would be applicable only in an extremely limited number of cases. In light of this, and upon consideration of the other arguments advanced in support of this proposed substitute, the Department has decided not to adopt these comments and has retained the proposed structure of this paragraph.

The Department has, however, decided to delete subparagarph (c). The Department recognizes, as the comments have indicated, the difficulty confronting banks in conducting an inquiry to determine whether the terms of that subparagraph have been met. The Department also notes that this provision as proposed fails to take into account situations in which an employee, though possessing the requisite information, does not communicate such information to persons involved in the bank's investment process. Although the Department has decided to eliminate this provision, it is the Department's view that the possession of such knowledge or information by a fiduciary bank's employee or agent who would, in the normal course of business, communicate this knowledge or information to persons involved in the bank's investment process is a factor to be considered when determining whether a fiduciary bank knows, within the meaning of this section, that the proceeds of the sale will be used to reduce or retire indebtedness owed to that bank fiduciary.

5. *Retroactivity.* Section I(C) of the exemption as proposed would provide retroactive and prospective conditional relief. Two commentators, while stating that retroactive relief is necessary, object to the fact that the conditions contained in section I(C) would also apply retroactively. These commentators state that fiduciaries could not have reasonably anticipated the expansive definition of "knowledge" contained in the proposed exemption, or the conditions that apply when a fiduciary bank possesses such knowledge. One commentator suggests that past abuses in transactions covered by section I(C) are unlikely due to the widespread use of "Chinese Wall" procedures, and that, therefore, the Department should provide retroactive relief under section I(C) so long as the plan paid no more than adequate consideration for the securities.

As indicated above, the Department has modified the definition of "knowledge" in this exemption. This modified definition is more limited in scope than the definition in the proposal. The only situations in which the restrictions in section I(C) would have retroactive effect are those cases in which fiduciary bank personnel involved in the bank's investment process either received actual knowledge that the proceeds from the sale of securities would be used to reduce or retire indebtedness owed to the fiduciary bank, or possessed information reasonably sufficient to cause such a belief. If, as the commentators have stated, "Chinese Wall" procedures are widely followed in the banking community, it appears unlikely that banks would often meet the modified knowledge standard. When a fiduciary bank possessed such knowledge and still entered the transaction, the Department does not believe that the broad retroactive relief requested by the commentators would be warranted for such self-dealing. However, because the exemption allows some investment of plan funds even when a fiduciary bank actually knew, or possessed knowledge reasonably sufficient to cause the belief, that the proceeds from a sale of securities will be used to reduce or retire indebtedness owed to such ficuciary bank, the Department does not believe that retroactive application of the conditional relief in section I(C) would be onerous. In addition, as noted by the Department in the preamble to the proposed exemption (44 FR 44286, 44288 n.2), a transaction not qualifying for the conditional retroactive relief provided by this class exemption could be considered for an individual exemption upon submission of an aplication for exemption in accordance with ERISA Proc. 75–1 (40 FR 18471, April 28, 1975). Therefore, the Department does not accept these comments.

C. Section I(D)

As proposed, section I(D) would provide retroactive and prospective relief for the receipt by a party in interest of proceeds from a sale of securities when such proceeds are used by the issuer to reduce or retire indebtedness owed to the party in interest. The Department stated in the preamble to the proposal that this relief would not be limited to transactions involving banks, and would exempt transactions involving fiduciaries.

The Department recognizes that confusion may have resulted from the manner in which this proposed section and the parts of the preamble relating thereto are presented. It is possible to read proposed section I(D) as undermining or supplanting the conditional relief provided in sections I (A) through (C) of the exemption. In order to avoid this unintended possibility, the Department has decided to make certain changes clarifying the scope of relief provided by section I(D). Accordingly, section I(D) as modified states that, effective January 1, 1975, the restrictions of section 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the receipt by a party in interest of any of the proceeds resulting from the issuance, in a public offering (as defined in section II(B) of the exemption), of securities merely because such proceeds are used by the issuer to reduce or retire indebtedness owed to the party in interest, provided that, when such party in interest is a fiduciary acquiring such securities on behalf of a plan, such fiduciary must be a bank or an affiliate thereof (as defined in section II(B) of the exemption) which meets the provisions of section I(C) of the exemption.

D. Section II(A)

Section II(A) contains general conditions applicable to the transactions described in section I(B) and I(C) of the exemption. The Department has received one comment regarding section II(A)(2)(b), which states that records necessary for a determination of whether the conditions of the exemption have been met must be made "unconditionally available" to certain designated persons. This commentator stated that it would be financially burdensome to make such records unconditionally available. The commentator also notes that banks are required to keep many records of this type confidential. This commentator suggests that these problems would be solved by changing the section to require that such records be "reasonably available." The purpose of the requirement contained in the proposal, which as been included in other exemptions containing recordkeeping requirements, is to prevent the imposition of conditions on the availability of the records that would preclude an interested person from examining such records. However, the Department does not interpret this condition as necessarily requiring the instantaneous production of all such records upon demand under all circumstances. In addition, in light of the concerns expressed in the comments, the Department has modified this condition to provide that the examination rights do not extend (other than in the case of a duly authorized representative of the Department or the Internal Revenue Service) to a bank's trade secrets, or to commerical or financial information which is privileged or required to be kept confidential.

E. Directed Trustees and Custodians

In footnote 5 of the preamble to the proposed exemption (44 FR 44286, 44288 n. 5), the Department invited comments as to the need for special relief for banks which serve as custodians or directed trustees of assets of employee benefit plans, with responsibility to carry out proper investment instructions given by a named fiduciary. The Department noted that it assumed such custodians and directed trustees generally would not possess a level of knowledge sufficient to subject them to the restrictive provisions of section I(C) of the proposed exemption.

All of the comments received by the Department regarding this issue request that the exemption be modified to make clear that, for the purpose of this exemption, directed trustees and custodians will not be treated as fiduciaries. These commentators have described generally the functions and responsibilities of custodians and directed trustees in order to illustrate that these entities should not be considered fiduciaries. At the same time, however, testimony at the hearing indicated that the duties and responsibilities of a custodian or a directed trustee are governed primarily by the terms of its agreement with the named fiduciary of a plan, and that the terms of such agreements vary.

In soliciting comments in this area, the Department had hoped that the commentators would provide sufficient information upon which to base generalized treatment of custodians and directed trustees under this exemption. However, such information was not forthcoming. As a result, the Department has determined not to adopt any special relief for custodians and directed trustees in this exemption. Accordingly, a determination of whether a particular custodian or directed trustee is a fiduciary, as defined in section 3(21) of the Act and regulations adopted pursuant thereto, must be made in each individual case. However, as noted in the preamble to the proposed exemption, custodians and directed trustees may still possess insufficient knowledge concerning the transactions involved to subject them to the restrictive conditions in section I(C) of the exemption even where they are deemed to be fiduciaries.

F. Technical Changes

The Department has made certain technical modifications suggested by the commentators and certain non-substantive changes designed to avoid confusion. First, in order to clarify the scope of the "knowledge" standard, and to reflect more exactly the scope of the exemption, the Department has deleted the term "to benefit" and replaced it with the phrase "by the issuer of the securities to reduce or retire indebtedness owed to" in section I(C). Second, the reference in subparagraph II(B)(2)(b) to a "common or contract" carrier and section 20(a) of the Interstate Commerce Act has been changed to "motor" carrier and section 214 of the Interstate Commerce Act. Third, paragraph I(C)(1) has been changed to refer to the first business day after securities are offered rather than the first business day after the final terms of securities are fixed and announced. Fourth, paragraph I(C)(2) has been modified. This paragraph as proposed seemed to indicate that there were three separate and distinct ways in which securities could be offered or purchased under condition I(C)(2). The modification is designed to make it clear that the provisions in subparagraphs (b) and (c) are exceptions to the general firm commitment underwriting procedure which also satisfy the condition stated in that paragraph.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of participants and beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record including the written comments submitted in response to the notice of July 27, 1979, and the testimony given at the public hearing of January 24, 1980,

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the Department makes the following determinations:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

Transactions

A. Effective January 1, 1975 the restrictions of section 406(a)(1) (A) through (D) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase or other acquisition prior to December 1, 1980 in a public offering (defined in Section II(B)) of securities by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale were or were to be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest with respect to the plan other than the fiduciary, *provided that* the price paid by the plan for the securities does not exceed adequate consideration as defined in section 3(18) of the Act.

B. Subject to the conditions described in section II(A), effective December 1, 1980, the restrictions of sections 406(a)(1) (A) through (D) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase or other acquisition in a public offering (defined in section II(B)) of securities by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest other than the fiduciary.

C. Subject to the conditions described in section II(A), effective January 1, 1975, the restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase or other acquisition in a public offering (defined in section II(B)) of securities by a fiduciary, which is a bank or an affiliate thereof, on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indepteduess owed to such fiduciary or any affiliate thereof, *provided that*, if such fiduciary of the plan knows (as defined in paragraph 7) that the proceeds of this issue will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to such fiducairy or affiliate thereof, the transaction shall have complied with the conditions set forth in paragraph 1 through 6 below:

1. Such securities are purchased prior to the end of the first full business day after the securities have been offered to the public, except that—

a. If such securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

b. If such securities are debt securities, they may be purchased on a day subsequent to the end of such first full business day, if the effective interest rates on comparable debt securities offered to the public subsequent to such first full business day and prior to the purchase are less than effective interest rate of the debt securities being purchased;

2. Such securities are offered by the issuer pursuant to an underwriting agreement under which the members of the underwriting syndicate are committed to purchase all of the securities being offered, except if the securities

a. Are purchased by others pursuant to a rights offering, or

b. Are offered pursuant to an overallotment option;

3. The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless such securities are non-convertible debt securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization;

4. The amount of securities purchased or otherwise acquired on behalf of the plan by the fiduciary does not exceed three percent of the total amount of the securities being offered;

5. The consideration to be paid by any plan in purchasing or otherwise acquiring such securities does not exceed three percent of the fair market value, as of the most recent valuation date of the plan prior to such transacton, of the plan assets which are subject to the management and control of such fiduciary;

6. The total amount of securities in any single offering purchased by the fiduciary on behalf of the plan together with the total amount of such securities purchased by such fiduciary acting as a fiduciary on behalf of any other employee benefit plan subject to Title I of the Act does not exceed 10 percent of the amount of the offering;

7. As used in this section I(C), a fiduciary will be deemed to know that the proceeds of an issuance of securities will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owned to such fiduciary or an affiliate thereof, if

a. Such knowledge is actually communicated to, or

b. Information reasonably sufficient to cause belief that the proceeds will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owned to the fiduciary, or an affiliate thereof, is possessed by,

the officers or employees of the fiduciary, who are authorized to be involved in carrying out the investment responsibilities, obligations, or duties of the fiduciary, or who in fact are involved in carrying out such responsibilities, obligations, or duties, regarding the purchase or other acquisition.

D. Effective January 1, 1975, the restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the receipt by a party in interest of any of the proceeds resulting from the issuance, in a public offering (as defined in section II(B)), of securities merely because such proceeds are used by the issuer of the securities to retire or reduce indebtedness owed to the party in interest *provided that*, when such party in interest is a fiduciary acquiring such securities on behalf of a plan, such fiduciary is a bank or an affiliate thereof (as defind in section II(B)) which meets the provisions of section I(C) of this exemption.

II. General Conditions

A. The following conditions apply to the transactions described in section I(B) and (C) above:

1. The price paid by the plan fiduciary for the securities shall not be in excess of the offering price described in an effective registration statement under the Securities Act of 1933 covering such securities, or in the case of securities described in section II(B)(1)(b), in the offering circular required under applicable federal law;

2. (a) The fiduciary, on behalf of the plan, maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in section II(A)(2)(b) below to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciary, the records are lost or destroyed prior to the end of the six-year period;

(b) Nothwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in section II(A)(2)(a) above are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(ii) Any fiduciary of a plan who has authority to manage and control the assests of the plan, or to allocate to another fiduciary the authority to manage and control the assets of the plan, or any duly authorized employee or representative of such fiduciary,

(iii) Any contributing employer to the plan or representative of such employer,

(iv) Any participant or beneficiary of the plan or any duly authorized employee or representative of such participant or beneficiary.

(v) None of the persons described in subparagraph (ii) through (iv) of this paragraph shall be authorized to examine any fiduciary's trade secrets or required to be kept commercial or financial information which is privileged or required to be kept confidential.

B. For the purposes of the exemptions contained in Part I,

1. The term "public offering" means

a. The offering of securities registered under the Securities Act of 1933 (Securities Act), or

b. The offering of securities exempt from registration under the Securities Act which are

(i) Issued by a bank,

(ii) Issued by a motor carrier if such issuance is subject to the provisions of section 214 of the Interstate Commerce Act, as amended,

(iii) Exempt from the registration requirements of the Securities Act pursuant to a federal statute other than the Securities Act, or

(iv) The subject of a distribution and of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of section 13 of that Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceeding the sale of securities and has filed all reports required to be filed thereunder with the Securities and Exchange Commission during the preceeding 12 months.

2. An "affiliate" of a bank means any entity directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such bank.

For the purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

3. Each plan participating in a collective or commingled fund shall be considered to own the same proportionate undivided interest in each asset of the collective investment fund as its proportionate interest in the total assets of the collective investment fund as calculated on the most recent preceding valuation date of the fund.

Signed at Washington, D.C., this 30th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34364 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-81; Exemption Application No. D-2036]

Exemption From the Prohibitions for Certain Transactions Involving the Arizona Machinery Co., Inc., Employees Profit-Sharing Retirement Plan Located in Avondale, Arizona

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt a loan by the Arizona Machinery Company, Inc. Employees' Profit-Sharing Retirement Plan (the Plan) to Arizona Machinery Company, Inc. (the Employer), a party in interest with respect to the Plan, for the lesser of $516,000 or 40 percent of the Plan's assets.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 9, 1980 notice was published in the **Federal Register** (45 FR 59440) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest

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of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a loan by the Plan to the Employer for the lesser of $516,000 or 40 percent of the Plan's assets, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consumption of the transaction.

The availablity of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34338 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–84; Exemption Application No. D–1753]

Exemption From the Prohibitions for Certain Transactions Involving the Blue Ridge Urological Associates, P.A., Plan Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the cash sale of a 15% limited partnership interest by the Blue Ridge Urological Associates, P.A. Plan (the Plan) to Guy Abbate, M.D., a party in interest.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 9, 1980, notice was published in the **Federal Register** (45 FR 59448) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a limited partnership interest by the Plan to Dr. Abbate. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying memorandum has been provided to all interested persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the act and the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the 15% limited partnership interest in Professional Land Developers from the Plan to Guy Abbate, M.D., for $20,280 (15 percent of the appraised value of $135,200) less its pro rata share of the partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contaned in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34336 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–82; Exemption Application No. D–753]

Exemption From the Prohibitions for Certain Transactions Involving Detroit Mortgage and Realty Company Employee Pension Plan Located in Detroit, Michigan

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of third party mortgage loans to the Detroit Mortgage and Realty Company Employee Pension Plan (the Plan) by Detroit Mortgage and Realty Company (DMR), the Plan sponsor. It also permits the guarantee of the mortgage loans by DMR.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 1, 1980, notice was published in the **Federal Register** (45 FR 51316) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set out in the notice. No requests for a hearing were received by the Department.

One public comment was received by the Department which was submitted by the Plan trustees (Trustees). The Trustees requested that the limitation on Plan investment in DMR-originated mortgages be raised from 50% to 75% because they believe the mortgages would be preferable to other investments. The Department has reviewed this request and has determined that it would not be in the interests of the Plan participants and beneficiaries to have 75% of Plan assets invested in the mortgages. Therefore, the limitation on the Plan's investment in mortgages shall remain at 50% of the Plan's assets.

Furthermore, the Trustees state that William R. Yates and James I. McClintock, respectively, ceased serving as Trustees on September 30, 1978 and October 22, 1979. Their positions were assumed by Paul A. Dougovito, vice president and treasurer of DMR who was elected on October 24, 1978 and Earl I. Heenan III, assistant vice president of DMR, who was elected on January 16, 1980.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

(1) the cash purchase by the Plan from DMR of conventional, FHA and VA mortgage loans for a purchase price representing the lesser of DMR's cost or current market value; and

(2) the guarantee by DMR to repurchase mortgage loans that are in default, and the repurchase by DMR of such loans from the Plan.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34337 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-80; Exemption Application No. D-1593]

Exemption From the Prohibitions for Certain Transactions Involving McMahan Shoes, Inc., Profit Sharing Plan, Located in Atlanta, Georgia

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the proposed cash sale by the McMahan Shoes, Inc. Profit Sharing Plan (the Plan) of its one-half interest in certain real property to Mr. John McMahan (McMahan), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the **Federal Register** (45 FR 61410) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the proposed cash sale by the Plan of its one-half interest in certain real property to McMahan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transactional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(a)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1) (A) thorugh (E) of the Code, shall not apply to the proposed case sale by the Plan ot its one-half interest in a building and an adjacent lot to McMahan for $153,250, provided that this amount is at least one-half fair market value of the building and the adjacent lot at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian, D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34339 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-79; Exemption Application No. D-1954]

Exemption From the Prohibitions for Certain Transactions Involving the National Bank of Fairfax Employees' Trust Fund Located in Burke, Virginia

AGENCY: Department of Labor.

ACTION: Grant of Individual exemption.

SUMMARY: This exemption permits the cash sale of certain morgages and a participation interest in a mortgage note (the Mortgages) by the National Bank of Fairfax Employees' Trust Fund (the Plan) to the National Bank of Fairfax (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the **Federal Register** (45 FR 61411) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, for the above transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to all persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not disposition of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of the Mortgages by the Plan to the Employer at a price equal to the total of the higher of the outstanding principal balance of each Mortgage or the fair market value of each Mortgage as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34340 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-78; Exemption Application No. D-1210]

Exemption From the Prohibitions for Certain Transactions Involving the Wichita Falls Clinic Employees Trust Located in Wichita Falls, Texas

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits (1) a purchase of a medical clinic (the Clinic Facility) from the Wichita Falls Clinic Building Partnership (the Building Partnership) by the Wichita Falls Clinic Employees Trust (the Trust), (2) and extension of credit by the Building Partnership to the Trust, and (3) a lease of the Clinic Facility from the Trust to the Wichita Falls Clinic (the Employer).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Small of the Office of Fiduciary Standards, Pensions and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 15, 1980 notice was published in the **Federal Register** (45 FR 2921) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for (1) the purchase of the Clinic Facility by the

Trust from the Building Partnership, (2) and extensiuon of credit by the Building Partnership to the Trust, and (3) a lease of the Clinic Facility from the Trust to the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

The applicants represent that the difference between the fair market value of the Clinic Facility and the sales price of the Clinic Facility in the subject transaction will be treated as a contribution to the Plan and that the contribution to the Plan will conform to the applicable provisions of the Internal Revenue Code sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly the restrictions of section 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase of the Clinic Facility located at 501 Midwestern Parkway East, Wichita Falls, Texas by the Trust from the Building Partnership for $1,900,000 provided that the price is not more than the fair market value of the Clinic Facility at the time of the sale, (2) the extension of credit by the Building Partnership to the Trust provided that the terms of the loan are at least as favorable to the Trust as those which the Trust could obtain in an arms's length transaction with an unrelated party, and (3) the lease of the Clinic Facility for 15 years by the Trust to the Employer provided the terms of the lease are not less than the fair market rental value of the Clinic Facility.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34341 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-87; Exemption Application No. D-1754]

Exemption From the Prohibitions for Certain Transactions Involving The Ralph N. Feichter, M.D., P.A., Profit Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This exemption exempts the cash sale of a 10 percent limited partnership interest by the Ralph N. Feichter, M.D., P.A. Profit Sharing Plan (the Plan) to Ralph N. Feichter, M.D., a party in interest.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 9, 1980, notice was published in the **Federal Register** (45 FR 59449) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a limited partnership interest by the Plan to Dr. Feichter. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying memorandum has been provided to all interested persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the act and the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the 10 percent limited partnership interest in Professional Land Developers from the Plan to Ralph N. Feichter, M.D., for $13,520 (10 percent of the appraised value of $135,200) less its pro rata share of the partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contaned in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed: at Washington, D.C., this 29th day of October 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34384 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-77; Exemption Application No. L-1600]

Exemption From the Prohibitions for Certain Transactions Involving the 1978 Retired Construction Workers Benefit Plan and Trust Located in Rockville, Maryland

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits an arrangement whereby the trustees of the 1978 Retired Construction Workers Benefit Plan and Trust (the Trust) would offer their opinion so as to assist in resolution of certain questions arising in connection with the provision of health and welfare benefits through the Coal Mine Construction Workers Benefit Plan (the Plan).

EFFECTIVE DATE: This exemption is effective from April 6, 1978, through the duration of the National Coal Mine Construction Agreement of 1978 (the Agreement).

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52959) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act), for transactions described in an application filed by the trustees of the Trust. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the requirements to notify interested persons as set forth in the notice of pendency of the proposed exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the

exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b)(2) and (b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly the restrictions of section 406(a) and 406(b)(1) of the Act shall not apply, effective April 6, 1978 and throughout the duration of the Agreement, to resolution by the trustees of the 1978 Retired Construction Workers Benefit Plan and Trust of disputes involving the nature of benefits to be provided through the Plan established pursuant to Article XIX of the Agreement, generic questions of eligibility under such Plan, and individual questions of eligibility under such Plan, provided that the trustees maintain and make available to the Department upon request those records adequate to ascertain both the cost of rendering such services and the portion of such costs which may be attributed to the resolution of each of the types of disputes which the trustees may consider.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 29th day of October 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34342 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-85; Exemption Application No. D-1756]

Exemption From the Prohibitions for Certain Transactions Involving the William Michael Watterson, M.D., P.A., Profit Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This exemption exempts the cash sale of a 10 percent limited partnership interest by the William Michael Watterson, M.D., P.A. Profit Sharing Trust (the Plan) to William Michael Watterson, M.D., a party in interest.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 9, 1980, notice was published in the **Federal Register** (45 FR 59444) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a limited partnership interest by the Plan to Dr. Watterson. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying memorandum has been provided to all interested persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the 10 percent limited partnership interest in Professional Land Developers from the Plan to William Michael Watterson, M.D., for $13,520 (10 percent of the appraised value of $135,200) less its pro rata share of the partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contaned in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed: at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34335 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-86; Exemption Application No. D-1755]

Exemption From the Prohibitions for Certain Transactions Involving the Federick G. Wenzel, M.D., P.A., Profit Sharing Trust Located in Waynesville, N.C.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the cash sale of a 25% limited partnership interest by the Frederick G. Wenzel, M.D., P.A. Profit Sharing Trust (the Plan) to Frederick G. Wenzel, M.D., a party in interest.

FOR FURTHER INFORMATION CONTACT: Daniel A. Brown of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C 20216. (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 9, 1980, notice was published in the **Federal Register** (45 FR 59445) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a limited partnership interest by the Plan to Dr. Wenzel. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying memorandum has been provided to all interested persons to comply with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the 25% limited partnership interest in Professional Land Developers from the Plan to Frederick G. Wenzel, M.D., for $33,380 (25% of the appraised value of $135,200) less its pro rata share of the partnership liabilities provided that the price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations

contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-34334 Filed 11-3-80; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music (Opera-Musical Theater Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music (Opera-Musical Theater Section) to the National Council on the Arts will be held on November 17-20, 1980, from 9:00 a.m.-6:00 p.m. in room 1422 in the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on November 17, 1980, from 9:00 a.m.-6:00 p.m., November 18, 1980, from 9:00 a.m.-1:00 p.m., and 3:00 p.m.-6:00 p.m., November 19, 1980, from 9:00 a.m.-6:00 p.m., and November 20, 1980 from 9:00 a.m.-6:00 p.m. for the discussion of On Site & Touring, Guidelines, and Future Directions of Musical Theatre.

The remaining sessions of this meeting on November 18, 1980, from 1:00 p.m.-3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

October 22, 1980.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 80-34254 Filed 11-3-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-10]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit No. 1); Withdrawal of September 19, 1980, Order Regarding Environmental Qualification

The Director, Division of Licensing, issued an Order to the Commonwealth Edison Company (the licensee) on August 29, 1980, as revised on September 19, 1980, requiring certain environmental qualification information pertaining to electrical equipment at the Dresden Nuclear Power Station, Unit 1, be submitted to the Commission no later than November 1, 1980. In view of the fact that restart of the facility is not expected prior to 1986, it is the Staff's judgment that in the present circumstances, it is unnecessary for the licensee to submit the required information by the November 1, 1980, deadline. The licensee will be required to provide appropriate information to assure the environmental qualification of safety-related electrical equipment prior to restart of the facility.

Accordingly, the Order of August 29, 1980, as revised on September 19, 1980, is hereby withdrawn.

For the Nuclear Regulatory Commission.

Effective Date: October 29, 1980, Bethesda, Maryland.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-34346 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389-A]

Florida Power & Light Co. (St. Lucie Plant, Unit No. 2); Reconstitution of Board

Valentine B. Deale, Esq., was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mr. Deale is unable to continue his service on this Board.

Accordingly, Michael A. Duggan, whose address is College of Business Administration, University of Texas, Austin, Texas 78712, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 28th day of October, 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-34347 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Supporting Amdt. No. 6 to CPPR-118 and CPPR-119; Docket Nos. 50-416 and 50-417]

Relating to Change in Ownership Interests, Grand Gulf Nuclear Station, Units 1 and 2; Negative Declaration Relating to Change in Ownership Interests

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the request for amendment to Construction Permits CPPR-118 and CPPR-119 relating to changes in ownership interests in the Grand Gulf Nuclear Station, Units 1 and 2, located in Claiborne County, Mississippi. The construction permits were issued to Mississippi Power & Light Company and Middle South Energy, Inc. on September 4, 1974. The amendments would add South Mississippi Electric Power Association as co-owner of Grand Gulf Nuclear Station, Units 1 and 2 with the present owners.

In accordance with 10 CFR Part 51, the Commission's Division of Licensing has prepared an environmental impact appraisal (EIA) for the amendment. The Commission has concluded that an environmental impact statement for this action is not warranted, because there will be no adverse environmental impacts affecting the quality of the human environment attributable to the proposed action that would be in addition to those impacts evaluated in the Commission's Final Environmental Statement related to construction of Grand Gulf Nuclear Station, Units 1 and 2, issued in August 1973. A negative declaration is, therefore, appropriate.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., 20555 and at the local public document room located at the Office of the Claiborne County Chancery Clerk, Claiborne County Courthouse, Port Gibson, Mississippi. A copy of the EIA may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 29th day of October, 1980.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-34353 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-58, and Amendment No. 24 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments add locked or secured valves to the surveillance requirements of valves in the Auxiliary Feedwater System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 22, 1980, (2) Amendment Nos. 42 and 24 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 80-34348 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-416 and 50-417]

Mississippi Power & Light Co., Middle South Energy, Inc., South Mississippi Electric Power Association; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Construction Permits Nos. CPPR-118 and CPPR-119. The amendment reflects the addition of South Mississippi Electric Power Association as a new co-owner of the Grand Gulf Nuclear Station, Units 1 and 2 (the facility). Mississippi Power & Light Company has sole responsibility for the design and construction of the facility, which is located in Claiborne County, Mississippi.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated April 3, 1980, and supplemental information dated June 30, 1980, (2) Amendment No. 6 to Construction Permit No. CPPR-118, (3) Amendment No. 6 to Construction Permit No. CPPR-119, (4) the Commission's related Safety Evaluation, (5) the Environmental Impact Appraisal, and (6) the Negative Declaration supporting the amendments to the construction permits. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Office of the Claiborne County Chancery Clerk, Claiborne County Courthouse, Port Gibson, Mississippi. In addition, a copy of the above items (2), (3), (4), (5), and (6) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland the 29th day of October, 1980.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-34349 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275-OL and 50-323-OL]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Reconstitution of Board

Dr. William E. Martin was a member of the Atomic Safety and Licensing Board for the above proceeding. Dr. Martin is unable to continue his service on this Board.

Accordingly, Dr. Jerry R. Kline, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 28th day of October, 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-34350 Filed 10-3-80; 8:45 am]

BILLING CODE 7590-01-M

[License No. DPR-59 EA-80-44]

Power Authority of the State of New York; Order Imposing Civil Monetary Penalties

I. Power Authority of the State of New York, 10 Columbus Circle, New York, New York ("the licensee") is the holder of Operating License No. DPR-59 ("the license") issued by the Nuclear Regulatory Commission ("the Commission"). The license authorizes the operation of the James A. FitzPatrick Nuclear Power Plant at steady state reactor core power levels not in excess of 2436 megawatts thermal (rated power). The facility consists of a boiling light water moderated and cooled reactor (BWR) located at the licensee's site at Scriba, New York.

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II. An inspection of activities performed under the license was conducted on April 14–18 and April 23–25, 1980 at the James A. FitzPatrick Nuclear Power Plant at Scriba, New York. As a result of this inspection, it appears that the licensee had not conducted its activities in full compliance with the conditions of its license and the requirements of the Commission relative to implementation of the licensee's Physical Security Plan. A written Notice of Violation was served upon the licensee by letter dated August 18, 1980 specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, incorporating by reference the Notice of Violation which stated the nature of the items of noncompliance and the provisions of NRC regulations and license conditions.

A response to the Notice of Violation dated Steptember 12, 1980 was received from the licensee. The licensee did not file an answer to the Notice of Proposed Imposition of Civil Penalties.

III. In its Response, the licensee admits each item of noncompliance. The licensee made no answer to and hence no argument in mitigation of the civil penalties proposed. Consequently, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the items of noncompliance designated in the Notice of Violation should be imposed.

IV. In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, *it is hereby ordered that:* The licensee pay civil penalties in the total amount of Forty-eight Thousand Dollars ($48,000) within twenty-five (25) days of the date of this order, by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Director of the Office of Inspection and Enforcement.

V. The licensee may, within twenty-five (25) days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five (25) days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in noncompliance with the Commission's regulations as designated in the Notice of Violation referenced in Section II above; and,

(b) Whether, on the basis of such items of noncompliance, this Order should be sustained.

Dated this 29th day of October, 1980 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-34351 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443 and 50-444]

Public Service Co. of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson

Dated: October 27, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-34352 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FP 716-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content for the Health and Safety Sections of Renewal Applications for Uranium Fuel Fabrication Plants" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to identify the information needed by the staff for its evaluation of the Health and Safety Sections of renewal applications for uranium fuel fabrication plants and to suggest a format for its presentation.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 2, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 27th day of October 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80-34345 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 6–8, 1980, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published in the **Federal Register** on September 24, 1980.

The agenda for the subject meeting will be as follows:

Thursday, November 6, 1980

8:30 a.m.–10 a.m.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman including matters to be considered during a meeting with the Chairman, Nuclear Safety Oversight Committee and miscellaneous matters relating to ACRS activities.

10 a.m.–12 Noon: Meeting with Chairman, Nuclear Safety Oversight Committee (Open)—The Committee and the Chairman, Nuclear Safety Oversight Committee will discuss the role of the ACRS in the nuclear regulatory process and proposed changes to strengthen its role.

1 p.m.–2 p.m.: Discuss ACRS Position Regarding Safety Related Matters (Open)—The Committee members will discuss items in preparation for meeting with the NRC Chairman and other Commissioners related to use of risk assessment in the regulatory process, proposed changes in the format/conclusions of ACRS reports and safety features for nuclear power plants.

2 p.m.–3 p.m.: Meeting with the NRC Chairman and other Commissioners (Open)—The Committee will discuss items noted above with the NRC Chairman and other Commissioners who may have an interest.

3 p.m.–6:30 p.m.: General Electric Test Reactor (Open)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed seismic modifications and continued operations of the GETR.

The Committee will also hear and discuss reports from the NRC Staff and representatives of the licensee regarding proposed seismic modifications and continued operation of the GETR.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Friday, November 7, 1980

8:30 a.m.–9:15 a.m.: Meeting with NRC Staff (Open)—The Committee will hear and discuss a report from the NRC Staff regarding the status of and plans for recovery of the Three Mile Island Plant Unit 2.

9:15 a.m.–11:15 a.m.: Diablo Canyon Nuclear Plant (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed changes at the Diablo Canyon Nuclear Power Station resulting from a review for seismic interactions.

The Committee will also hear and discuss reports from the NRC Staff and the licensee regarding proposed changes resulting from a review for seismic interactions between safety grade and nonsafety grade systems.

Portions of this session will be closed as required to discuss Proprietary Information applicable to this matter.

11:15 a.m.–12:15 p.m.: BWR Hydraulic Scram System (Open)—The Committee members will discuss a proposed report to NRC regarding the performance of boiling water reactor hydraulic scram systems.

1:15 p.m.–3:15 p.m.: NRC Regulatory Guide 1.97, Revision 2, Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding the proposed revision of this regulatory guide. The Committee will also hear reports and comments from members of the NRC Staff and representatives of the nuclear industry who may be present regarding the proposed revision of Regulatory Guide 1.97.

3:15 p.m.–3:30 p.m.: Future ACRS Activities (Open)—The Committee will discuss the proposed schedule for future ACRS full Committee and subcommittee activities.

3:30 p.m.–4 p.m.: Regulatory Activities (Open)—The Committee will hear and discuss the report of its Subcommittee regarding proposed revision (Revision 2) of NRC Regulatory Guide 1.12, Instrumentation for Earthquakes.

4 p.m.–6:30 p.m.: Preparation of ACRS Reports to NRC—The Committee members will discuss proposed reports to NRC regarding the Nuclear Data Link, new safety concepts for new nuclear plant designs, and items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to these matters.

Saturday, November 8, 1980

8:30 a.m.–10 a.m.: Proposed ACRS Reports to NRC (Open)—The Committee members will discuss proposed reports to NRC regarding items discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to these matters.

10 a.m.–12 Noon: Proposed NRC Rule (10 CFR Part 50) on Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations (Open)—The Committee will also hear and discuss the report of its Subcommittee and consultants who may be present regarding this proposed interim rule.

The Committee will hear and discuss reports and comments from members of the NRC Staff and representatives of the nuclear industry who may be present regarding this proposed rule.

12 Noon–12:45 p.m.: Meeting with NRC Staff (Open)—The Committee will hear and discuss a report from representatives of the NRC Staff regarding the status of and plans for development of a system for control of combustible gases to be used in the Sequoyah Nuclear Power Plant Units 1 and 2.

1:45 p.m.–3:15 p.m.: Generic Items Applicable to Light-Water Reactors (Open)—The Committee members will hear and discuss the reports of designated ACRS Subcommittee Chairmen regarding the status of generic items applicable to light-water cooled and moderated nuclear reactors.

3:15 p.m.–4 p.m.: Concluding Session (Open/Closed)—The Committee will hear and discuss information provided by foreign governments regarding proposed safety policies/practices. Activities of ACRS members will also be discussed.

Portions of this session will be closed as necessary to discuss information identified and provided by a foreign government as confidential.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS

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Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) and to discuss information identified and supplied by a foreign government as confidential (5 U.S.C. 552b(c)(1)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5 p.m. EST.

Dated: October 29, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-34272 Filed 11-3-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21765; 70-6506]

Columbia Gas System, Inc.; Proposal To Issue and Sell Debentures at Competitive Bidding

October 29, 1980.

NOTICE IS HEREBY GIVEN that The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $100,000,000 principal amount of ——% Debentures, Series Due December 2000 (New Debentures). The interest rate is to be specified in the bids for the purchase of the New Debentures. The New Debentures will be issued under a Twenty-ninth Supplemental Indenture to the 1961 Indenture between Columbia and Morgan Guaranty Trust Company of the New York, Trustee. The proposed Twenty-ninth Supplemental Indenture is to be dated as of December 1, 1980.

It is contemplated that the formula for the calculation of the regular redemption prices of the New Debentures will provide that the regular redemption price for the twelve-month period commencing December 1, 1980 will be the initial public offering price of the New Debentures (exclusive of accrued interest) plus a premium equal to the interest rate of the New Debentures. For each twelve-month period thereafter, the regular redemption price shall be scaled down by 1/19th of the amount by which the regular redemption price for the twelve-month period commencing December 1, 1980 exceeds the principal amount of the New Debentures, except that on and after December 1, 1999 the regular redemption price shall be the principal amount of the New Debentures, without premium. In instances where the regular redemption prices would be applicable, Columbia shall not have the right to redeem any of the New Debentures prior to December 1, 1985 directly or indirectly, with borrowed funds, or in anticipation of funds to be borrowed, having an effective annual interest cost to Columbia of less than the effective annual interest cost to Columbia of the New Debentures.

A mandatory sinking fund for the New Debentures will be provided to retire $93,750,000 principal amount (representing 93.75%) prior to maturity through annual retirements of $6,250,000 principal amount beginning in 1985. In addition to such mandatory sinking fund obligation, Columbia shall have the non-cumulative option to redeem on any sinking fund date, at the then current sinking fund redemption price, up to an additional $9,375,000 principal amount of the New Debentures, but no redemption made pursuant to such option shall reduce any sinking fund requirement.

It is stated that the net proceeds from the sale of the New Debentures will be used for general corporate purposes including the 1980 capital expenditure program of Columbia's subsidiaries, which is presently estimated at $450,000,000. Of the total program, approximately $240,000,000 is associated with additions and improvements necessary for the system to receive, transport, store and distribute quantities of gas from established sources in connection with the requirements of the system's customers. The remaining $210,000,000 involves primarily projects for improving the system's gas supply. From time to time, Columbia has cash in excess of its requirements for short periods. It is anticipated that such will be the case in 1980 following the issuance of the New Debentures. During such periods, it is Columbia's practice to invest such cash in high quality short-term debt securities.

It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees, commissions, and expenses related to the proposed transaction is to be filed by amendment.

NOTICE IS FURTHER GIVEN that any interested person may, not later than November 25, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washigton, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34246 Filed 11-3-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21762; 70-6504]

Potomac Edison Co.; Proposal To Issue and Sell Preferred Stock at Competitive Bidding

October 28, 1980.

Notice is hereby given that the Potomac Edison Company ("Potomac"), Downsville Pike, Hagerstown, MD 21740, an electric utility subsidiary company of Allegheny Power System, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Potomac proposes to issue and sell an aggregate amount of its preferred stock ("Stock") not to exceed $25 million in par value, in one or more series, each such series to have a par value of $100 per share. Potomac proposes to sell the Stock pursuant to competitive bidding unless market conditions, because of the size of any series or other conditions, make competitive bidding impractical or undesirable, in which event Potomac proposes, subject to authorization by the Commission by further order, to either privately place the Stock with institutional investors or to negotiate with underwriters for the sale of the Stock.

Each series of the Stock will be redeemable at any time at the option of Potomac, except that prior to five years after the first day of the month in which the Stock is issued (or such other date as the Commission may authorize), each series of the Stock shall not be redeemable directly or indirectly with, or in anticipation of, monies borrowed or the proceeds of the sale of the Stock at a cost of money less than the cost of money in respect of such series. The annual dividend rate (which will be a multiple of $0.04) to be borne by each series and the price to be paid to Potomac (which shall not be less than 100% and not more than 102¾% of par), or, in the event Potomac determines that the price to it for the Stock and the initial price to the public shall be 100% of par, the compensation per share to be paid to the underwriters will be determined by (1) competitive bidding, (2) by negotiations between Potomac and private investors, or (3) by negotiations with underwriters for the sale of such series. It is expected that the successful bidders or, in the event of a negotiated transaction the underwriters, will make a public offering of the Stock, unless the size of any series offered makes such public offering impracticable.

Potomac states that under present market conditions for preferred stock it is difficult to determine what sinking fund provisions, if any, would result in the most advantageous terms and conditions for the sale of the Stock to Potomac. Potomac desires to have available sufficient flexibility to adjust such provisions to developments in the market for such securities, when and as they occur, in order to obtain the best possible price and dividend rate for the Stock. Similarly, it is difficult to determine what the most advantageous timing of the sale of the Stock would be. It is therefore proposed that Potomac will decide on the sinking fund provisions to be applicable to any series at a later time which may be before or after the date on which an invitation for bids, in the event of competitive bidding, is issued, or the date on which negotiations for a private placement or a negotiated sale to underwriters are commenced. If the Stock is sold in more than one series, no condition is to be contained in the purchase contract for one series of the Stock requiring the issuance and sale of any other series of the Stock.

The proceeds from the sale of the Stock are expected to be used, together with other funds which may become available to Potomac, to pay or prepay to the extent desirable Potomac's short-term debt, to finance its construction program and for other corporate purposes.

On September 15, 1980 Potomac had $6 million of short-term debt outstanding. Potomac expects that approximately $31 million of such short-term debt will be outstanding as of the time the Stock is proposed to be issued and $31 million on December 31, 1980 if the Stock has not been sold in December. Potomac's gross construction expenditures for 1980 are estimated to be $64 million and for 1981 and 1982 to aggregate between $117 and $128 million.

If for any reason (including market conditions) the Stock or any series thereof is not sold on or about December 11, 1980, Potomac will so notify this Commission and will seek, subject to further order of this Commission, to sell the Stock on or before March 31, 1981.

The fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that the Public Serivce Commission of Maryland and the State Corporation Commission of Virginia must authorize the proposed transaction and that no other state commission or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 25, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is orderd will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-34247 Filed 11-3-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0407]

Equities Capital Co., Inc.; Issuance of License To Operate as a Small Business Investment Company

On September 2, 1980, a notice was published in the **Federal Register** (45 FR 58281) stating that Equities Capital Co., Inc., 2175 Lemoine Avenue, Fort Lee,

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New Jersey 07024 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business Investment company.

Interested parties were given until the close of business on September 17, 1980, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02–0407 on October 22, 1980, to Equities Capital Co., Inc., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34395 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0406]

Interstate Capital Co., Inc.; Issuance of License To Operate as a Small Business Investment Company

On September 2, 1980, a notice was published in the **Federal Register** (45 FR 58281) stating that Interstate Capital Co., Inc., 77 State Highway 5, Edgewater, New Jersey 07020 had filed an Application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on September 17, 1980, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02–0408 on October 22, 1980, to Interstate Capital Co., Inc., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34393 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5197]

Sunbelt Funding Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as an SBIC under the provisions of Section 301(d) of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.) has been filed by Sunbelt Funding Corporation, 2720 Riverside Drive, P.O. Box 7006, Macon, GA 31298, with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1980).

The officers and directors of the applicant are as follows:

Charles H. Jones, President, Director, 2720 Riverside Dr., Macon, Georgia 31298.
Paul P. Ward, Vice President, Director, 2720 Riverside Dr., Macon, Georgia 31298.
H. Stephen Hay, Vice President, Secretary, Treasurer, Director, 2720 Riverside Dr., Macon, Georgia 31298.
Acmulgee Fields, Inc., 2720 Riverside Dr., Macon, Georgia 31298.

Mr. Jones is the sole stockholder of the parent.

The applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The applicant will conduct its operations principally in the State of Alabama.

As an SBIC under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Acting Associate Administration for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Macon, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34394 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

Westamerican Capital Corp.; Application for a License To Operate as a Small Business Investment Company

[Proposed License No. 09/09-0277]

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by Westamerican Capital Corporation, 249 Main Street, San Mateo, California 94063 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and stockholders are:

Name and address	Title	Percent of ownership
Hubert A. Brugger, 249 Main Street, Redwood City, CA 94063.	Chairman, Chief Financial Officer.	(1)
Thomas O. Gephart, 15233 Ventura Boulevard, Sherman Oaks, CA 91403.	President, Director	—
H. Kent Mitchell, 308 South Clark Avenue, Los Altos, CA 94022.	Secretary	—
David W. Mariani, 15221 Piedmont Road, Saratoga, CA 94070.	Director	—
Brugger Corporation, 249 Main Street, Redwood City, CA 94063.		100
Unimart Finanz Anstalt, Vaduz, Liechtenstein.		(2)

[1]Mr. Brugger owns 51 percent of Brugger Corporation, a California corporation which, through various subsidiaries, operates a Mercedes Benz dealership, leasing companies and an automotive shopping center development.
[2]A financial institution owning 43 percent of the Brugger Corporation.

The Applicant, a California corporation, plans to begin operations with a capitalization of $2,000,000 and intends to follow a diversified investment policy with emphasis on "venture capital" investments.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in San Mateo, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companys)

Dated: October 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34392 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5261]

YFY Capital Corp.; Issuance of a License to Operate as a Small Business Investment Company

On June 17, 1980, a notice was published in the **Federal Register** (45 F.R. 41110), stating that YFY Capital Corporation, located at 533 Jackson Street, San Francisco, California 94133, has filed an application with the Small Business Administration pursuant to 13 C.F.R. 107.102 (1980), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 2, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09–5261 to YFY Capital Corporation, on October 15, 1980.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies.)

Dated: October 29, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34391 Filed 11-3-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series No. 32-80]

Treasury Notes of May 15, 1984, Series G–1984

October 30, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,750,000,000 of United States securities, designated Treasury Notes of May 15, 1984, Series G–1984 (CUSIP No. 912827 LE 0). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated November 17, 1980, and will bear interest from that date, payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15, until the principle becomes payable. They will mature May 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 5, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 4, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in the borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking

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institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompained by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks) or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, November 17, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-34437 Filed 11-3-80; 8:45 am]
BILLING CODE 4810-40-M

[Public Debt Series No. 33-80]

Treasury Notes of November 15, 1990, Series B-1990

October 30, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of November 15, 1990, Series B-1990 (CUSIP No. 912827 LF 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated November 17, 1980, and will bear interest from that date, payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1990, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, November 6, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 5, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accmpanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final.

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If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, November 17, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agent of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-34436 Filed 11-3-80; 8:45 am]

BILLING CODE 4810-40-M

[Public Debt Series No. 34-80]

Treasury Bonds of 2005-2010

October 30, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities, designated Treasury Bonds of 2005-2010 (CUSIP No. 912810 CS 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated November 17, 1980, and will bear interest from that date, payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 2010, but may be redeemed at the option of the United States on and after November 15, 2005, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Friday, November 7, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Thursday, November 6, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offerred. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, November 17, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general

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regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscription or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

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5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-34439 Filed 11-3-80; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES RAILWAY ASSOCIATION

[Docket 211-26]

Consolidated Rail Corporation; Application for a Loan; Correction

In the notice published in the **Federal Register** of October 30, 1980, page 71885, FR Doc. 33838 Filed 10-29-80; 8:45 A.M., the penultimate paragraph should have read as follows:

Conrail submitted a Borrowing Application dated October 17, 1980 requesting new borrowings of $2,931,000.00. Conrail states that it will use the funds to pay the following obligations: (1) of the Penn Central Transporation Company; Federal Employer's Liability Act (FELA) claims of $2,000,000.00, and wage claims of $200,000.00; (2) of the Central Railroad of New Jersey, FELA claims of $231,000.00; and (3) of the Erie Lackawanna Railway Company; FELA claims of $500,000.00. The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

The Association will accept written comments relevant to the application on or before November 14, 1980.

Dated at Washington, D.C. this 3d day of November, 1980.

David Kleyps,

Assistant Secretary, United States Railway Association.

[FR Doc. 80-34519 Filed 11-3-80; 9:38 am]

BILLING CODE 8240-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 215
Tuesday, November 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, November 10, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointment.

Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-2019-80 Filed 10-31-80; 3:23 pm]

BILLING CODE 6210-01-M

2

[USITC SE-80-54]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, November 19, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Bank card data holders (Docket No. 690).
5. Briefing by Mr. Hart on the Multilateral Trade Negotiations (MTN).
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2015-80 Filed 10-31-80; 2:07 pm]

BILLING CODE 7020-02-M

3

[USITC SE-80-52]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, November 13, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints.
a. Mass flow devices (Docket No. 686).
b. Wood stoves (Docket No. 688).
5. Investigation 731-TA-35 [Preliminary] (Portable Electric Nibblers from Switzerland)—briefing and vote.
6. Investigation 337-TA-74 (Rotatable Photograph and Card Display Units)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2016-80 Filed 10-31-80; 2:08 am]

BILLING CODE 7020-02-M

4

[USITC SE-80-53]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, November 17, 1980.

PLACE: Hearing room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Investigation TA-201-44 (Automobiles)—briefing and vote on remedy, if necessary.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2017-80 Filed 10-31-80; 2:09 pm]

BILLING CODE 7020-02-M

5

[USITC SE-80-51]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, November 10, 1980.

PLACE: Hearing room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation TA-201-44 (Automobiles)—briefing and vote on injury.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2018-80 Filed 10-31-80; 2:10 pm]

BILLING CODE 7020-02-M

6

LEGAL SERVICES CORPORATION.

TIME AND DATE: 9 a.m.-5 p.m., Thursday, November 13, 1980.

PLACE: Puerto Rico Bar Association, Board of Governors Meeting Room, Second Floor, 808 Ponce de Leon Avenue, Miramar, San Juan, Puerto Rico.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of July 21, 1980 Meeting.
3. Report on Congressional Reauthorization, 1981 Appropriation and Board Nominations.
4. Consideration of October 24, 1980 Draft of "A Plan for the Future."
5. Report on the Evaluation of the Reginald Heber Smith Community Lawyer Fellowship Program.
6. President's Report.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, (202) 272-4040.

Issued: October 30, 1980.

Dan J. Bradley,

President.

[S-2013-80 Filed 10-31-80; 11:17 am]

BILLING CODE 6820-35-M

7

[NM-80-37]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, November 12, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first five items will be open to the public; the sixth item will be closed to the public under exemption 10 of the Government in the Sunshine Act.

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MATTERS TO BE CONSIDERED:

1. *Special Investigation Report*—Phosphorus Trichloride Release in Boston and Maine Railroad Yard 8 During Switching Operations, Somerville, Massachusetts, April 3, 1980.
2. *Special Study Proposal*—Rail-Highway Grade-Crossing Accidents Involving Transportation of Hazardous Materials by Truck.
3. *Discussion* of Board policy relating to oral arguments.
4. *Letter* to the Federal Aviation Administration re notice of proposed rulemaking "FAA Access to Flight Data Recorder and Cockpit Voice Recorder Tapes," Dkt. 20661, Notice No. 80-14.
5. *Recommendation* to the Federal Aviation Administration requesting student pilots to identify themselves as students while in contact with FAA facilities.
6. *Opinion and Order*—Petition of Arechavala, Dkt. SM-2492, disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

October 31, 1980.

[S-2020-80 Filed 10-31-80; 3:22 pm]

BILLING CODE 4910-58-M

8

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 211, 71701, Wednesday, October 29, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

CHANGE IN THE MEETING: Additional item to be considered at the portion of the meeting which will be open to the public:

(10) Walter Caraway appeal (eligibility—years of service).

CONTACT PERSON FOR MORE INFORMATION:
R. F. Butler, Secretary of the Board, COM No. 312-751-4920; FTS No. 387-4920.

[S-2014-80 Filed 10-31-80; 11:53 am]

BILLING CODE 7905-01-M

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Vol. 45, No. 215
Tuesday, November 4, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws:

Note: The current listing of October 24, 1980 of public bills which have become law was the last until Congress reconvenes November 12, 1980. For a complete up to date cumulative listing see **Reader Aids** in the issue of Wednesday, November 5, 1980.

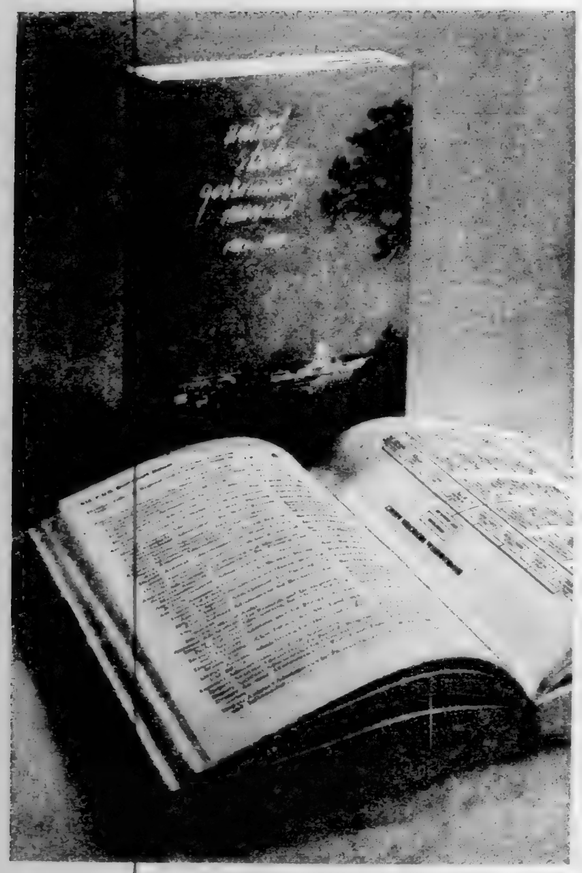
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For those citizens interested in where to go and who to see about a subject of particular concern, the *Manual* provides the "Guide to Government Information" section, a reference to an agency's statement of organization in the *Federal Register* or *Code of Federal Regulations,* and comprehensive name, subject, and agency indexes. Particularly helpful is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

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11-4-80
Vol. 45—No. 215
BOOK 2:
Pages
73269-73464

federal register

Book 2 of 2 Books
Tuesday, November 4, 1980

73272 **Part II—HUD:**
Section 8 and Section 23 Housing Assistance Payments Program

73440 **Part III—EPA:**
Guidelines for Development and Implementation of State Solid Waste Management Plans

73446 **Part IV—DOE:**
Patent Licensing Regulations

73454 **Part V—HUD:**
Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From HUD

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federal register

Tuesday
November 4, 1980

Part II

Department of Housing and Urban Develpment

Office of the Secretary

Section 8 and Section 23 Housing Assistance Payments Program; Amendment of Fair Market Rent Schedules, Existing Housing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 803 and 888

[Docket No. R-80-872]

Section 8 and Section 23 Housing Assistance Payments Program—Amendment of Fair Market Rent Schedules, Existing Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend the Fair Market Rents for all market areas under the Section 8 and Section 23 Housing Assistance Payments Programs for Existing Housing and for Mobile Home Spaces to reflect anticipated median rent levels as of October 1, 1981.

DATE: Comments due: December 3, 1980.

ADDRESSES: All comments from interested persons should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. A copy of each comment will be available for public inspection at this address during regular business hours. Copies of comments by Public Housing Agencies (PHAs) should be concurrently submitted to the Economic and Market Analysis Division in the appropriate HUD Field Office.

FOR FURTHER INFORMATION CONTACT: Ellis V. St. Clair, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, 202-755-5816. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

1. Background

Section 8(c)(1) of the U.S. Housing Act of 1937, as amended, requires annual publication of Fair Market Rents in the Federal Register. The last nationwide revision of Fair Market Rents (FMRs) for the Section 8 and Section 23 Housing Asistance Payments Programs was published in the **Federal Register** (45 FR 19868) on March 26, 1980. That revision reflected estimated changes in median rent levels calculated for an additional period of one year projected forward to October 1, 1980, and included adjustments made in response to data and information provided in public comments received during 1979 and early 1980.

All of the FMR determinations in the March 26, 1980 publication were calculated in accordance with the new methodology introduced in the Federal Register publication of June 22, 1979, which utilizes the most recent Annual Housing Survey (AHS) data of units meeting Section 8 program standards rented by recent movers, and the latest available Consumer Price Index (CPI) data pertaining to rents, fuel and utility costs. However, sone of the FMRs reflect public comments as well.

2. Revised Existing Rent Schedules for 1981

The Department has determined that the public interest would be served by publishing this Proposed Rule for a 30-day comment period. Fair Market Rents are required to be published annually, and provision of a longer period for comment would result in the publication of final approved FMRs being delayed beyond the next anniversary date of March 29, 1981. Since many owners and landlords may not renew leases nor execute new contracts unless FMRs are published on or before the established anniversary date, it is felt that provision of a 30-day comment period is in the public interest. The procedure for calculating the appropriate Fair Market Rents for Existing Housing (Schedule B) continued to be based on the use of two separate inflation factors, one for rent and one for fuel and utilities, which are developed from the Consumer Price Index. Factors are developed for 34 Standard Metropolitan Statistical Area (SMSAs) and four Census regions, the only areas for which CPI data is available. The revised schedule of Fair Market Rents for Mobile Home Spaces (Schedule D) has been derived through the use of single rent inflation factor developed from Consumer Price Index data in a manner similar to that used for the regular existing housing program, but excluding data pertaining to fuel and utilities since assistance for mobile home owners receiving assistance in renting their space does not cover fuel and utilities.

3. FMR Hold Harmless

In addition to anticipating the changes in rents and utilities for a period of one more year and increasing FMRs where appropriate, the Department is proposing to limit or forgo any increase in the FMRs for selected SMSAs and nonmetropolitan Counties, where recently completed analysis indicates that the use of Census County Group data, regional CPI data, AHS or other base data has resulted in establishment of currently approved FMRs that are equal to or higher than the rent levels that would be considered appropriate as of October 1, 1981. There are two categories of these "hold harmless areas."

In the first category, there are approximately 50 market areas where FMRs approved prior to the introduction of the AHS methodology are equal to or higher than the AHS-based rents updated to October 1, 1981. The rents in these market areas will be retained at their existing levels until new AHS and CPI data or appropriate local market data indicate that increases are warranted. The AHS "hold harmless areas" are identifed in the proposed rent schedule by inclusion of the dollar difference between the proposed "hold harmless" FMR and the updated October 1981 AHS-based rent. This dollar difference is printed on the line immediately under the proposed rent where applicable.

In the second category, there are approximately 475 market areas where the use of County Group data, regional CPI data, or other base data inherent in the AHS methodology has resulted in establishment of Existing FMRs for one or more size units (number of bedrooms) that are close to the FMRs for the Section 8 New Construction program when trended to the same data. This relationship may be attributable to difference in the definitions of the FMR areas, the methodology and data sources used for the respective rent determination, and to unusual market circumstances in some areas. The FMRs in this category are proposed to be retained at their current levels or given limited increases in order to adjust these FMR levels to approximate more closely appropriate rent levels by bedroom size. The "hold harmless" rents in this category are identified in the proposed rent schedule by an asterisk printed next to each applicable rent by bedroom size.

4. Submission of Comments in Regard to Amendment of Schedule B or Schedule D

Comments which document the types and degree of changes which have occurred in specific local rental markets during the past year will be carefully considered in the development of final approved rent schedules for both Existing Housing and for Mobile Home Spaces. We are especially interested in comments on the accuracy of FMRs for market areas where the FMRs are proposed to be "held harmless" as discussed in #3 above. The inclusion of recent housing market studies, rental market surveys, or other comprehensive rental market data indicating current median rent levels for standard quality rental units or median rents for mobile home spaces would be especially helpful. Comments proposing additional revisions in the FMR schedules should include specific recommendations in regard to the appropiate dollar amounts by unit size. Recommendations and supporting data must cover the entire market area: i.e., Standard Metropolitan Statistical Area or nonmetropolitan county. All comments should take into consideration the procedures by which the AHS-based median rents have been derived, and the date and nature of any revisions previously approved based on local comments and housing market data.

5. NEPA

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a Finding of Inapplicability as to Environmental Impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the address specified above. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

It is therefore proposed that Title 24, Part 803, Schedule B, and Part 888, Schedule B and Schedule D, be revised as set forth below.

This notice of proposed rulemaking is issued under the authority of (Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 19, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

V 45 / 215 NO 480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA LEWISTON-AUBURN, ME					
SMSA PART ANDROSCOGGIN	202	233	279	324	360
STATE ME					
SMSA PORTLAND, ME					
SMSA PART CUMBERLAND	223	275	326	384	457
STATE ME					
SMSA PART YORK	223	275	326	384	457
STATE ME					
NON SMSA					
NONSMSA PART ANDROSCOGGIN	202	233	279	324	360
STATE ME					
COUNTY AROOSTOOK	213	259	305	352	398
STATE ME					
NONSMSA PART CUMBERLAND	199	243	288	335	379
STATE ME					
COUNTY FRANKLIN	192	221	265	298	329
STATE ME					
COUNTY HANCOCK	192	230	272	316	359
STATE ME					
COUNTY KENNEBEC	202	233	279	324	360
STATE ME					
COUNTY KNOX	209	240	287	324	357
STATE ME					
COUNTY LINCOLN	209	240	287	324	357
STATE ME					
NON SMSA					
COUNTY OXFORD	192	221	265	298	329
STATE ME					
COUNTY PENOBSCOT	199	243	288	335	379
STATE ME					
COUNTY PISCATAQUIS	192	221	265	298	329
STATE ME					
COUNTY SAGADAHOC	199	243	288	335	379
STATE ME					
COUNTY SOMERSET	209	240	287	324	357
STATE ME					
COUNTY WALDO	192	221	265	298	329
STATE ME					
COUNTY WASHINGTON	192	221	265	298	329
STATE ME					
NONSMSA PART YORK	199	243	288	335	379
STATE ME					
SMSA BOSTON, MA					
SMSA PART ESSEX	289	329	394	458	519
STATE MA					
SMSA PART MIDDLESEX	289	329	394	458	519
STATE MA					
SMSA PART NORFOLK	289	329	394	458	519
STATE MA					
SMSA PART PLYMOUTH	289	329	394	458	519
STATE MA					

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

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BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: BOSTON, MA					
COUNTY:SUFFOLK	289	329	394	458	519
STATE:MA					
SMSA: BROCKTON, MA					
SMSA PART:BRISTOL	219	270	324	380	431
STATE:MA					
SMSA PART:NORFOLK	219	270	324	380	431
STATE:MA					
SMSA PART:PLYMOUTH	219	270	324	380	431
STATE:MA					
SMSA: FALL RIVER, MA-RI					
SMSA PART:BRISTOL	227	264	315	369	405
STATE:MA					
SMSA: FITCHBURG-LEOMINSTER, MA					
SMSA PART:MIDDLESEX	208	257	307	359	408
STATE:MA					
SMSA PART:WORCESTER	208	257	307	359	408
STATE:MA					
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART:ESSEX	251	294	347	425	481
STATE:MA					
SMSA: LOWELL, MA NH					
SMSA PART:MIDDLESEX	216	246	289	334	375
STATE:MA	22	6	15	5	
SMSA: NEW BEDFORD, MA					
SMSA PART:BRISTOL	221	257	307	358	394
STATE:MA					
SMSA: NEW BEDFORD, MA					
SMSA PART:PLYMOUTH	221	257	307	358	394
STATE:MA					
SMSA: PITTSFIELD, MA					
SMSA PART:BERKSHIRE	180	221	262	304	345
STATE:MA					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART:BRISTOL	227	264	315	369	405
STATE:MA					
SMSA PART:NORFOLK	227	264	315	369	405
STATE:MA					
SMSA PART:WORCESTER	227	264	315	369	405
STATE:MA					
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT					
SMSA PART:HAMPDEN	216	267	321	375	425
STATE:MA					
SMSA PART:HAMPSHIRE	216	267	321	375	425
STATE:MA					
SMSA PART:WORCESTER	216	267	321	375	425
STATE:MA					
SMSA: WORCESTER, MA					
SMSA PART:WORCESTER	255	294	347	406	447
STATE:MA					
NON SMSA					
COUNTY:BARNSTABLE	275	315	379	444	497
STATE:MA					

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PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

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REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART:BERKSHIRE STATE:MA	209	259	308	358	390
NONSMSA PART:BRISTOL STATE:MA	223	259	308	360	396
COUNTY:DUKES STATE:MA	275	315	379	444	497
NONSMSA PART:ESSEX STATE:MA	242	283	346	404	468
COUNTY:FRANKLIN STATE:MA	235	281	335	377	417
NONSMSA PART:HAMPDEN STATE:MA	218	255	305	356	393
NONSMSA PART:HAMPSHIRE STATE:MA	218	255	305	356	393
NONSMSA PART:MIDDLESEX STATE:MA	235	271	318	370	407
COUNTY:NANTUCKET STATE:MA	269	308	369	433	485
NONSMSA PART:NORFOLK STATE:MA	194	241	288	338	385
NONSMSA PART:PLYMOUTH STATE:MA	230	268	323	381	435
NONSMSA PART:WORCESTER STATE:MA	208	257	307	359	408
NON SMSA					
COUNTY:ADDISON STATE:VT	223	269	318	387	443
COUNTY:BENNINGTON STATE:VT	223	269	318	387	443
COUNTY:CALEDONIA STATE:VT	213	253	302	368	427
COUNTY:CHITTENDEN STATE:VT	223	269	318	387	443
COUNTY:ESSEX STATE:VT	213	253	300	333	375
COUNTY:FRANKLIN STATE:VT	213	253	302	368	427
COUNTY:GRAND ISLE STATE:VT	213	253	302	368	427
COUNTY:LAMOILLE STATE:VT	213	253	300	333	375
COUNTY:ORANGE STATE:VT	213	253	302	368	427
COUNTY:ORLEANS STATE:VT	213	253	302	368	427
COUNTY:RUTLAND STATE:VT	223	269	318	387	443
COUNTY:WASHINGTON STATE:VT	213	253	302	368	427

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSIN URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASS...ANCE PAYMENTS PROGRAMS

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REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY:WINDHAM STATE:VT	223	269	318	387	443
COUNTY:WINDSOR STATE:VT	223	269	318	387	443
SMSA: LAWRENCE-HAVERHILL, MA-NH SMSA PART:ROCKINGHAM STATE:NH	251	294	347	425	481
SMSA: LOWELL, MA NH SMSA PART:HILLSBOROUGH STATE:NH	216 22	246 6	289	334 5	375
SMSA: MANCHESTER, NH SMSA PART:HILLSBOROUGH STATE:NH	222	268	321*	371	420
SMSA PART:MERRIMACK STATE:NH	222	268	321*	371	420
SMSA PART:ROCKINGHAM STATE:NH	222	268	321*	371	420
SMSA: NASHUA, NH SMSA PART:HILLSBOROUGH STATE:NH	222	268	321*	371	420
NON SMSA					
COUNTY:BELKNAP STATE:NH	216	252	302	342	377
COUNTY:CARROLL STATE:NH	201	236	281	317	352
NON SMSA					
COUNTY:CHESHIRE STATE:NH	226	264	316	359	399
COUNTY:COOS STATE:NH	201	236	281	317	352
COUNTY:GRAFTON STATE:NH	205	243	289	333	374
NONSMSA PART:HILLSBOROUGH STATE:NH	198	228	273*	317	349
NONSMSA PART:MERRIMACK STATE:NH	198	228	273*	317	349
NONSMSA PART:ROCKINGHAM STATE:NH	206	236	283*	327	359
COUNTY:STRAFFORD STATE:NH	216	252	302	342	377
COUNTY:SULLIVAN STATE:NH	216	252	302	342	377
SMSA: FALL RIVER, MA-RI SMSA PART:NEWPORT STATE:RI	227	264	315	369	405
SMSA: NEW LONDON-NORWICH, CT-RI SMSA PART:WASHINGTON STATE:RI	211	259	308	359	408
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA SMSA PART:BRISTOL STATE:RI	227	264	315	369	405

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PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215 NO 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

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BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART:KENT STATE:RI	227	264	315	369	405
SMSA PART:NEWPORT STATE:RI	227	264	315	369	405
SMSA PART:PROVIDENCE STATE:RI	227	264	315	369	405
SMSA PART:WASHINGTON STATE:RI	227	264	315	369	405
NON SMSA					
NONSMSA PART:KENT STATE:RI	222	259	309	363	399
NONSMSA PART:NEWPORT STATE:RI	240	272	329	369	410
NONSMSA PART:PROVIDENCE STATE:RI	222	259	309	363	399
NONSMSA PART:WASHINGTON STATE:RI	222	259	309	363	399
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: BRIDGEPORT, CT					
SMSA PART:FAIRFIELD STATE:CT	238	291	346	402	457
SMSA PART:NEW HAVEN STATE:CT	238	291	346	402	457
SMSA: BRISTOL, CT					
SMSA PART:HARTFORD STATE:CT	209	260	311	365	414
SMSA PART:LITCHFIELD STATE:CT	209	260	311	365	414
SMSA: DANBURY, CT					
SMSA PART:FAIRFIELD STATE:CT	267	328	389	452	512
SMSA PART:LITCHFIELD STATE:CT	267	328	389	452	512
SMSA: HARTFORD, CT					
SMSA PART:HARTFORD STATE:CT	246	303	363	422	479
SMSA PART:LITCHFIELD STATE:CT	246	303	363	422	479
SMSA PART:MIDDLESEX STATE:CT	246	303	363	422	479
SMSA PART:NEW LONDON STATE:CT	246	303	363	422	479
SMSA PART:TOLLAND STATE:CT	246	303	363	422	479

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PREPARED BY HUD - EMAD (BOS), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: MERIDEN, CT					
SMSA PART:NEW HAVEN STATE:CT	199	247	297	348	393
SMSA: NEW BRITAIN, CT					
SMSA PART:HARTFORD STATE:CT	209	260	311	365	414
SMSA: NEW HAVEN-WEST HAVEN, CT					
SMSA PART:MIDDLESEX STATE:CT	244	298	355	413	468
SMSA PART:NEW HAVEN STATE:CT	244	298	355	413	468
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART:MIDDLESEX STATE:CT	211	259	308	359	408
SMSA PART:NEW LONDON STATE:CT	211	259	308	359	408
SMSA: NORWALK, CT					
SMSA PART:FAIRFIELD STATE:CT	274	336	399	464	526
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT					
SMSA PART:TOLLAND STATE:CT	216	267	321	375	425
SMSA: STAMFORD, CT					
SMSA PART:FAIRFIELD STATE:CT	289	353	419	488	552
SMSA: WATERBURY, CT					
SMSA PART:LITCHFIELD STATE:CT	199	247	297	348	393
SMSA: WATERBURY, CT					
SMSA PART:NEW HAVEN STATE:CT	199	247	297	348	393
NON SMSA					
NONSMSA PART:FAIRFIELD STATE:CT	200	247	297	348	393
NONSMSA PART:HARTFORD STATE:CT	209	260	311	365	414
NONSMSA PART:LITCHFIELD STATE:CT	188	232	278	327	371
NONSMSA PART:MIDDLESEX STATE:CT	211	259	308	359	408
NONSMSA PART:NEW HAVEN STATE:CT	199	247	297	348	393
NONSMSA PART:NEW LONDON STATE:CT	176	217	258	299	340*
NONSMSA PART:TOLLAND STATE:CT	244	299	355	413	468
COUNTY:WINDHAM STATE:CT	192	239	286	335	381

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
SMSA ALBANY-SCHENECTADY-TROY, NY					
COUNTY:ALBANY STATE:NY	206	252	300	350	398
COUNTY:MONTGOMERY STATE:NY	206	252	300	350	398
COUNTY:RENSSELAER STATE:NY	206	252	300	350	398
COUNTY:SARATOGA STATE:NY	206	252	300	350	398
COUNTY:SCHENECTADY STATE:NY	206	252	300	350	398
SMSA BINGHAMTON, NY-PA					
COUNTY:BROOME STATE:NY	180	210	251	305	352
COUNTY:TIOGA STATE:NY	180	210	251	305	352
SMSA SYRACUSE, NY					
COUNTY:MADISON STATE:NY	186	231	274	322	365
COUNTY:ONONDAGA STATE:NY	186	231	274	322	365
COUNTY:OSWEGO STATE:NY	186	231	274	322	365
SMSA UTICA-ROME, NY					
COUNTY:HERKIMER STATE:NY	151 2	186	222	261	296
SMSA UTICA-ROME, NY					
COUNTY:ONEIDA STATE:NY	151 2	186	222	261	296
NON SMSA					
COUNTY:CAYUGA STATE:NY	180	223	266	311	353
COUNTY:CHENANGO STATE:NY	194	218	273	310	345
COUNTY:CLINTON STATE:NY	184	216	257	292	324
COUNTY:COLUMBIA STATE:NY	148	184	220	258	294
COUNTY:CORTLAND STATE:NY	180	223	266	311	353
COUNTY:DELAWARE STATE:NY	155	190	228	266	303
COUNTY:ESSEX STATE:NY	182	212	250	291	322
COUNTY:FRANKLIN STATE:NY	161	193	225	256	284
COUNTY:FULTON STATE:NY	145	179	215	254	288
COUNTY:GREENE STATE:NY	148	184	220	258	294
COUNTY:HAMILTON STATE:NY	145	179	215	254	288

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:JEFFERSON STATE:NY	169	199	240	266	297
COUNTY:LEWIS STATE:NY	161	193	225	256	284
COUNTY:OTSEGO STATE:NY	155	190	228	266	303
COUNTY:ST LAWRENCE STATE:NY	172	204	247	279	312
COUNTY:SCHOHARIE STATE:NY	180	210	254	288	319
COUNTY:TOMPKINS STATE:NY	186	237	280	336	381
COUNTY:WARREN STATE:NY	145	179	215	254	288
COUNTY:WASHINGTON STATE:NY	145	179	215	254	288
SMSA BUFFALO, NY					
COUNTY:ERIE STATE:NY	182	246	277	306	361
COUNTY:NIAGARA STATE:NY	182	246	277	306	361
SMSA ELMIRA, NY					
COUNTY:CHEMUNG STATE:NY	191	223	281	327	371
SMSA ROCHESTER, NY					
COUNTY:LIVINGSTON STATE:NY	214	262	310*	358*	406*
COUNTY:MONROE STATE:NY	214	262	310*	358*	406*
COUNTY:ONTARIO STATE:NY	214	262	310*	358*	406*
COUNTY:ORLEANS STATE:NY	214	262	310*	358*	406*
COUNTY:WAYNE STATE:NY	214	262	310*	358*	406*
NON SMSA					
COUNTY:ALLEGANY STATE:NY	135	169	202	238	271
COUNTY:CATTARAUGUS STATE:NY	135	169	202	238	271
COUNTY:CHAUTAUQUA STATE:NY	139 4	174 5	206 4	238	271
COUNTY:GENESEE STATE:NY	149 14	171 2	204 2	238	271
COUNTY:SCHUYLER STATE:NY	177	215	262	282	334
COUNTY:SENECA STATE:NY	212	250	297	336	374
COUNTY:STEUBEN STATE:NY	177	207	252	294	333

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING ..D URBAN DEVELOPMENT•
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:WYOMING STATE:NY	135	169	202	238	271
COUNTY:YATES STATE:NY	180	223	266	311	353
NEW YORK, NEW YORK AREA OFFICE					
SMSA NASSAU-SUFFOLK, NY					
COUNTY:NASSAU STATE:NY	313	388	455	528	599
COUNTY:SUFFOLK STATE:NY	313	388	455	528	599
SMSA NEW YORK CITY, NY-NJ					
COUNTY:BRONX STATE:NY	280	341	407	471	535
COUNTY:KINGS STATE:NY	280	341	407	471	535
COUNTY:NEW YORK STATE:NY	280	341	407	471	535
COUNTY:PUTNAM STATE:NY	280	341	407	471	535
COUNTY:QUEENS STATE:NY	280	341	407	471	535
COUNTY:RICHMOND STATE:NY	280	341	407	471	535
COUNTY:ROCKLAND STATE:NY	280	341	407	471	535
COUNTY:WESTCHESTER STATE:NY	280	341	407	471	535
SMSA POUGHKEEPSIE, NY					
COUNTY DUTCHESS STATE NY	226	262	301	353	400

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT

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U.S. DEPARTMENT OF HOUSING ..ND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW YORK, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:ORANGE STATE:NY	215	262	315	355	393
COUNTY:SULLIVAN STATE:NY	197	241	288	337	382
COUNTY:ULSTER STATE:NY	197	241	288	337	382
NEWARK, NEW JERSEY AREA OFFICE					
SMSA: ATLANTIC CITY, NJ					
COUNTY:ATLANTIC STATE:NJ	190	234	279	325	369
SMSA PHILADELPHIA, PA-NJ					
COUNTY:BURLINGTON STATE:NJ	241	295	352	412	467
COUNTY:CAMDEN STATE:NJ	241	295	352	412	467
COUNTY:GLOUCESTER STATE:NJ	241	295	352	412	467
SMSA: TRENTON, NJ					
COUNTY:MERCER STATE:NJ	212	260	309	360	410
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ					
COUNTY:CUMBERLAND STATE:NJ	212	261	311	362	411
SMSA: WILMINGTON, DE-NJ-MD					
COUNTY:SALEM STATE:NJ	243	295	348	403	455
NON SMSA					
COUNTY:CAPE MAY STATE:NJ	191	236	281	328	372
COUNTY:OCEAN STATE:NJ	260	319	379	440	500
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY:WARREN STATE:NJ	231	277	324	367	407

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWARK, NEW JERSEY AREA OFFICE					
SMSA JERSEY CITY, NJ					
COUNTY HUDSON					
STATE NJ	208	256	306	357	405
SMSA LONG BRANCH-ASBURY PARK, NJ					
COUNTY MONMOUTH					
STATE NJ	248	306	364	423	480
SMSA NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ					
COUNTY MIDDLESEX					
STATE NJ	261	320	378	437	495
SMSA NEW YORK CITY, NY-NJ					
COUNTY BERGEN					
STATE NJ	280	341	407	471	535
SMSA NEWARK, NJ					
COUNTY ESSEX					
STATE NJ	272	305	366	409	452
COUNTY MORRIS,					
STATE NJ	279	305	366	409	452
COUNTY SOMERSET					
STATE NJ	272	305	366	409	452
COUNTY UNION					
STATE NJ	272	305	366	409	452
SMSA PATERSON-CLIFTON-PASSAIC, NJ					
COUNTY PASSAIC					
STATE NJ	263	322	382	444	504
NON SMSA					
COUNTY HUNTERDON					
STATE NJ	260	319	379	440	500
NEWARK, NEW JERSEY AREA OFFICE					
NON SMSA					
COUNTY SUSSEX					
STATE NJ	267	327	389	454	515

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CARIBBEAN AREA OFFICE					
SMSA CAGUAS					
MUNICIPIO ALL					
STATE PR	173	210	250	288	325
SMSA MAYAGUEZ					
MUNICIPIO ALL					
STATE PR	195	237	280*	323*	364*
SMSA PONCE					
MUNICIPIO ALL					
STATE PR	240	292	344*	396*	447*
SMSA SAN JUAN					
MUNICIPIO ALL					
STATE PR	237	289	341*	392*	444*
NON SMSA					
MUNICIPIO ALL OTHER					
STATE PR	164	201	238	274	310
-CHAR.AMALIE					
STATE VI	266	323	381*	439*	497*
ST. CROIX					
STATE VI	238	289	343	395	446
ST. THOMAS					
STATE VI	270	329	390	448	506
REGION 3					
BALTIMORE, MARYLAND AREA OFFICE					
SMSA BALTIMORE, MD					
COUNTY ANNE ARUNDEL					
STATE MD	229	287	331	416	459
COUNTY BALTIMORE					
STATE MD	229	287	331	416	459
COUNTY CARROLL					
STATE MD	229	287	331	416	459
COUNTY HARFORD					
STATE MD	229	287	331	416	459
COUNTY HOWARD					
STATE MD	229	287	331	416	459
-COLUMBIA(U)					
STATE MD	272	341	392	473	512
INDEP CITY BALTIMORE					
STATE MD	229	287	331	416	459
SMSA WASHINGTON, DC-MD-VA					
COUNTY CHARLES					
STATE MD	254	309	365	422	476
SMSA WILMINGTON, DE-NJ-MD					
COUNTY CECIL					
STATE MD	243	295	348	403	455
NON SMSA					
COUNTY ALLEGANY					
STATE MD	154	188	223	257	291
COUNTY CALVERT					
STATE MD	232	284	335	387	436

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MARYLAND AREA OFFICE					
NON SMSA					
COUNTY:CAROLINE STATE:MD	208	253	299	345	392
COUNTY:DORCHESTER STATE:MD	208	253	299	345	392
COUNTY:FREDERICK STATE:MD	215	264	311	359	406
COUNTY:GARRETT STATE:MD	154	188	223	257	291
COUNTY:KENT STATE:MD	208	253	299	345	392
COUNTY:QUEEN ANNES STATE:MD	208	253	299	345	392
COUNTY:ST MARYS STATE:MD	201	247	292	337	381
COUNTY:SOMERSET STATE:MD	208	253	299	345	392
COUNTY:TALBOT STATE:MD	208	253	299	345	392
COUNTY:WASHINGTON STATE:MD	201	247	292	337	381
COUNTY:WICOMICO STATE:MD	208	253	299	345	392
COUNTY:WORCESTER STATE:MD	208	253	299	345	392
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY:CARBON STATE:PA	231	277	324	367	407
COUNTY:LEHIGH STATE:PA	231	277	324	367	407
COUNTY:NORTHAMPTON STATE:PA	231	277	324	367	407
SMSA: BINGHAMTON, NY-PA					
COUNTY:SUSQUEHANNA STATE:PA	180	210	251	305	352
SMSA: HARRISBURG, PA					
COUNTY:CUMBERLAND STATE:PA	229	267	322	378	417
COUNTY:DAUPHIN STATE:PA	229	267	322	378	417
COUNTY:PERRY STATE:PA	229	267	322	378	417
SMSA: LANCASTER, PA					
COUNTY:LANCASTER STATE:PA	191	234	289	346	381
SMSA: NORTHEAST, PA					
COUNTY:LACKAWANNA STATE:PA	152	175	220	255	290
COUNTY:LUZERNE STATE:PA	152	175	220	255	290
COUNTY:MONROE STATE:PA	152	175	220	255	290

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: PHILADELPHIA, PA-NJ					
COUNTY:BUCKS STATE:PA	241	295	352	412	467
COUNTY:CHESTER STATE:PA	241	295	352	412	467
COUNTY:DELAWARE STATE:PA	241	295	352	412	467
COUNTY:MONTGOMERY STATE:PA	241	295	352	412	467
COUNTY:PHILADELPHIA STATE:PA	241	295	352	412	467
SMSA: READING, PA					
COUNTY:BERKS STATE:PA	186	215	270	313	356
SMSA: WILLIAMSPORT, PA					
COUNTY:LYCOMING STATE:PA	144	178	214	251	286
SMSA: YORK, PA					
COUNTY:ADAMS STATE:PA	197	240	287	362	411
COUNTY:YORK STATE:PA	197	240	287	362	411
NON SMSA					
COUNTY:BRADFORD STATE:PA	185	219	256	311	348
COUNTY:CENTRE STATE:PA	173	210	253	287	321
NON SMSA					
COUNTY:CLINTON STATE:PA	173	210	253	287	321
COUNTY:COLUMBIA STATE:PA	191	225	272	307	344
COUNTY:FRANKLIN STATE:PA	173	210	253	287	321
COUNTY:JUNIATA STATE:PA	150	193	233	264	298
COUNTY:LEBANON STATE:PA	176	206	248	292	326
COUNTY:MIFFLIN STATE:PA	150	193	233	264	298
COUNTY:MONTOUR STATE:PA	117	146	176	208	236
COUNTY:NORTHUMBRLND STATE:PA	173	204	245	278	312
COUNTY:PIKE STATE:PA	199	234	283	316	355
COUNTY:SCHUYLKILL STATE:PA	192	228	281	316	353
COUNTY:SNYDER STATE:PA	150	193	233	264	298
COUNTY:SULLIVAN STATE:PA	155	193	244	279	303

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT

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SCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 0	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: TIOGA	185	219	256	311	348
STATE: PA					
COUNTY: UNION	150	193	233	264	298
STATE: PA					
COUNTY: WAYNE	168	194	232	255	284
STATE: PA	33	25	30	17	13
COUNTY: WYOMING	168	199	240	312	348
STATE: PA					
SMSA WILMINGTON, DE-NJ-MD					
COUNTY: NEW CASTLE	243	295	348	403	455
STATE: DE					
NON SMSA					
COUNTY: KENT	190	231	272*	314	356
STATE: DE					
COUNTY: SUSSEX	190	231	272*	314	356
STATE: DE					
SMSA CHARLESTON, WV					
COUNTY: KANAWHA	183	224	266	306	347
STATE: WV					
COUNTY: PUTNAM	183	224	266	306	347
STATE: WV					
SMSA HUNTINGTON ASHLAND, WV-KY-OH					
COUNTY: CABELL	172	210	248	287	325
STATE: WV					
COUNTY: WAYNE	172	210	248	287	325
STATE: WV					
SMSA PARKERSBURG MARIETTA, WV-OH					
COUNTY: WIRT	188	231	212	314	355
STATE: WV					
COUNTY: WOOD	188	231	212	314	355
STATE: WV					
SMSA STEUBENVILLE-WEIRTON, OH-WV					
COUNTY: BROOKE	165	201	240	278	314
STATE: WV					
COUNTY: HANCOCK	165	201	240	278	314
STATE: WV					
SMSA WHEELING, WV-OH					
COUNTY: MARSHALL	177	204	250	294	324
STATE: WV					
COUNTY: OHIO	177	204	250	294	324
STATE: WV					
NON SMSA					
COUNTY: BARBOUR	176	215	254	294	333
STATE: WV					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4 BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY:BERKELEY STATE:WV	176	215	254	294	333
COUNTY:BOONE STATE:WV	140	172	203	235	266
COUNTY:BRAXTON STATE:WV	140	172	203	235	266
COUNTY:CALHOUN STATE:WV	140	172	203	235	266
COUNTY:CLAY STATE:WV	140	172	203	235	266
COUNTY:DODDRIDGE STATE:WV	176	215	254	294	333
COUNTY:FAYETTE STATE:WV	140	172	203	235	266
COUNTY:GILMER STATE:WV	140	172	203	235	266
COUNTY:GRANT STATE:WV	176	215	254	294	333
COUNTY:GREENBRIER STATE:WV	140	172	203	235	266
COUNTY:HAMPSHIRE STATE:WV	176	215	254	294	333
COUNTY:HARDY STATE:WV	176	215	254	294	333
NON SMSA					
COUNTY:HARRISON STATE:WV	176	215	254	294	333
COUNTY:JACKSON STATE:WV	140	172	203	235	266
COUNTY:JEFFERSON STATE:WV	176	215	254	294	333
COUNTY:LEWIS STATE:WV	176	215	254	294	333
COUNTY:LINCOLN STATE:WV	140	172	203	235	266
COUNTY:LOGAN STATE:WV	140	172	203	235	266
COUNTY:MCDOWELL STATE:WV	145	179	212	244	277
COUNTY:MARION STATE:WV	176	215	254	294	333
COUNTY:MASON STATE:WV	140	172	203	235	266
COUNTY:MERCER STATE:WV	145	179	212	244	277
COUNTY:MINERAL STATE:WV	154	188	223	257	291
COUNTY:MINGO STATE:WV	140	172	203	235	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4 BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: MONONGALIA STATE: WV	176	215	254	294	333
COUNTY: MONROE STATE: WV	140	172	203	235	266
COUNTY: MORGAN STATE: WV	176	215	254	294	333
COUNTY: NICHOLAS STATE: WV	140	172	203	235	266
COUNTY: PENDLETON STATE: WV	176	215	254	294	333
COUNTY: PLEASANTS STATE: WV	188	231	272	314	355
COUNTY: POCAHONTAS STATE: WV	140	172	203	235	266
COUNTY: PRESTON STATE: WV	176	215	254	294	333
COUNTY: RALEIGH STATE: WV	140	172	203	235	266
COUNTY: RANDOLPH STATE: WV	176	215	254	294	333
COUNTY: RITCHIE STATE: WV	188	231	272	314	355
COUNTY: ROANE STATE: WV	140	172	203	235	266
COUNTY: SUMMERS STATE: WV	140	172	203	235	266
COUNTY: TAYLOR STATE: WV	176	215	254	294	333
COUNTY: TUCKER STATE: WV	176	215	254	294	333
COUNTY: TYLER STATE: WV	154	188	223	257	291
COUNTY: UPSHUR STATE: WV	176	215	254	294	333
COUNTY: WEBSTER STATE: WV	140	172	203	235	266
COUNTY: WETZEL STATE: WV	154	188	223	257	291
COUNTY: WYOMING STATE: WV	140	172	203	235	266
SMSA: ALTOONA, PA					
COUNTY: BLAIR STATE: PA	173	211	251	292	331
SMSA: ERIE, PA					
COUNTY: ERIE STATE: PA	186	213	259	304	334
SMSA: JOHNSTOWN, PA					
COUNTY: CAMBRIA STATE: PA	172	205	250	294	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: JOHNSTOWN, PA					
COUNTY: SOMERSET STATE: PA	172	205	250	284	317
SMSA: PITTSBURGH, PA					
COUNTY: ALLEGHANY STATE: PA	214	260	307	355	403
COUNTY: BEAVER STATE: PA	214	260	307	355	403
COUNTY: WASHINGTON STATE: PA	214	260	307	355	403
COUNTY: WESTMORELAND STATE: PA	214	260	307	355	403
NON SMSA					
COUNTY: ARMSTRONG STATE: PA	132	165	198	233	265
COUNTY: BEDFORD STATE: PA	149	173	209	244	274
COUNTY: BUTLER STATE: PA	178	211	251	283	313
COUNTY: CAMERON STATE: PA	144	178	214	251	286
COUNTY: CLARION STATE: PA	132	165	198	233	265
COUNTY: CLEARFIELD STATE: PA	167	202	241	271	304
COUNTY: CRAWFORD STATE: PA	139	172	205	241	275
COUNTY: ELK STATE: PA	144	178	214	251	286
COUNTY: FAYETTE STATE: PA	167	201	247	282	316
COUNTY: FOREST STATE: PA	139	172	205	241	275
COUNTY: FULTON STATE: PA	129	160	192	226	258
COUNTY: GREENE STATE: PA	118	148	177	209	238
COUNTY: HUNTINGDON STATE: PA	129—	160	192	226	258
COUNTY: INDIANA STATE: PA	156	192	229	267	301
COUNTY: JEFFERSON STATE: PA	144	178	214	251	286
COUNTY: LAWRENCE STATE: PA	139	172	205	241	275
COUNTY: MCKEAN STATE: PA	158	194	220	257	297
COUNTY: MERCER STATE: PA	139	172	205	241	275

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY:POTTER STATE:PA	158	197	234	272	312
COUNTY:VENANGO STATE:PA	139	172	205	241	275
COUNTY:WARREN STATE:PA	139	172	205	241	275
RICHMOND, VIRGINIA AREA OFFICE					
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY:SCOTT STATE:VA	180	221	261	302	341
COUNTY:WASHINGTON STATE:VA	180	221	261	302	341
INDEP. CITY:BRISTOL STATE:VA	180	221	261	302	341
SMSA: LYNCHBURG, VA					
COUNTY:AMHERST STATE:VA	203	246•	291•	334•	379•
COUNTY:APPOMATTOX STATE:VA	203	246•	291•	334•	379•
COUNTY:CAMPBELL STATE:VA	203	246•	291•	334•	379•
INDEP. CITY:LYNCHBURG STATE:VA	203	246•	291•	334•	379•
SMSA: NEWPORT NEWS-HAMPTON, VA					
COUNTY:GLOUCESTER STATE:VA	195	237	280•	323	365
COUNTY:JAMES CITY STATE:VA	195	237•	280•	323•	365•
COUNTY:YORK STATE:VA	195	237•	280•	323•	365•
INDEP. CITY:HAMPTON STATE:VA	195	237•	280•	323•	365•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
SMSA: NEWPORT NEWS-HAMPTON, VA					
INDEP. CITY:NEWPORT NEWS STATE:VA	195	237•	280•	323•	365•
INDEP. CITY:POQUOSON STATE:VA	213	260	308	355	402
INDEP. CITY:WILLIAMSBURG STATE:VA	195	237•	280•	323•	365•
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
INDEP. CITY:CHESAPEAKE STATE:VA	205	249•	294•	339•	383•
INDEP. CITY:NORFOLK STATE:VA	205	249•	294•	339•	383•
INDEP. CITY:PORTSMOUTH STATE:VA	205	249•	294•	339•	383•
INDEP. CITY:SUFFOLK STATE:VA	205	249•	294•	339•	383•
INDEP. CITY:VIRGINIA BEA STATE:VA	205	249•	294•	339•	383•
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA					
COUNTY:DINWIDDIE STATE:VA	215	263•	310•	357•	405•
COUNTY:PRINCEGEORGE STATE:VA	215	263•	310•	357•	405•
INDEP. CITY:COLONIAL HEI STATE:VA	215	263•	310•	357•	405•
INDEP. CITY:HOPEWELL STATE:VA	215	263•	310•	357•	405•
INDEP. CITY:PETERSBURG STATE:VA	215	263•	310•	357•	405•
SMSA: RICHMOND, VA					
COUNTY:CHARLES CITY STATE:VA	208	252•	298•	344•	389•
COUNTY:CHESTERFIELD STATE:VA	208	252•	298•	344•	389•
COUNTY:GOOCHLAND STATE:VA	208	252•	298•	344•	389•
COUNTY:HANOVER STATE:VA	208	252•	298•	344•	389•
COUNTY:HENRICO STATE:VA	208	252•	298•	344•	389•
COUNTY:NEW KENT STATE:VA	208	252•	298•	344•	389•
COUNTY:POWHATAN STATE:VA	208	252•	298•	344•	389•
INDEP. CITY:RICHMOND STATE:VA	208	252•	298•	344•	389•
SMSA: ROANOKE, VA					
COUNTY:BOTETOURT STATE:VA	184	225•	265•	306•	346•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
SMSA ROANOKE, VA					
COUNTY:CRAIG STATE:VA	184	225*	265*	306*	346*
COUNTY:ROANOKE STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:ROANOKE STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:SALEM STATE:VA	184	225*	265*	306*	346*
NON SMSA					
COUNTY:ACCOMACK STATE:VA	190	231*	272*	314*	356*
COUNTY:ALBEMARLE STATE:VA	215	263*	310*	357*	405*
COUNTY:ALLEGHANY STATE:VA	184	225*	265*	306*	346*
COUNTY:AMELIA STATE:VA	215	263*	310*	357*	405*
COUNTY:AUGUSTA STATE:VA	176	215	254	294	333
COUNTY:BATH STATE:VA	176	215	254	294	333
COUNTY:BEDFORD STATE:VA	203	246*	291*	334*	379*
COUNTY:BLAND STATE:VA	145	179	212	244	277
COUNTY:BRUNSWICK STATE:VA	215	263*	310*	357*	405*
COUNTY:BUCHANAN STATE:VA	145	179	212	244	277
COUNTY:BUCKINGHAM STATE:VA	215	263*	310*	357*	405*
COUNTY:CAROLINE STATE:VA	215	263*	310*	357*	405*
COUNTY:CARROLL STATE:VA	162	199	236	272	308
COUNTY:CHARLOTTE STATE:VA	203	246*	291*	334*	379*
COUNTY:CLARKE STATE:VA	176	215	254	294	333
COUNTY:CULPEPER STATE:VA	184	227*	275*	310*	347*
COUNTY:CUMBERLAND STATE:VA	215	263*	310*	357*	405*
COUNTY:DICKENSON STATE:VA	178	196	235	260	328
COUNTY:ESSEX STATE:VA	215	263*	310*	357*	405*
COUNTY:FAUQUIER STATE:VA	184	225*	269*	318*	373*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:FLOYD STATE:VA	184	225*	265*	306*	346*
COUNTY:FLUVANNA STATE:VA	215	263*	310*	357*	405*
COUNTY:FRANKLIN STATE:VA	160	196	230	268	302
COUNTY:FREDERICK STATE:VA	176	215	254	294	333
COUNTY:GILES STATE:VA	184	225*	265*	306*	346*
COUNTY:GRAYSON STATE:VA	162	199	236	272	308
COUNTY:GREENE STATE:VA	215	263*	310*	357*	405*
COUNTY:GREENSVILLE STATE:VA	215	263*	310*	357*	405*
COUNTY:HALIFAX STATE:VA	203	246*	291*	334*	379*
COUNTY:HENRY STATE:VA	184	225*	265*	306*	346*
COUNTY:HIGHLAND STATE:VA	176	215	254	294	333
COUNTY:ISLE OFWIGHT STATE:VA	160	196	230	268	302
COUNTY:KING + QUEEN STATE:VA	215	263*	310*	357*	405*
COUNTY:KING GEORGE STATE:VA	184	225	265*	306	346
COUNTY:KING WILLIAM STATE:VA	215	263*	310*	357*	405*
COUNTY:LANCASTER STATE:VA	215	263*	310*	357*	405*
COUNTY:LEE STATE:VA	149 4	179	212	244	277
COUNTY:LOUISA STATE:VA	215	263*	310*	357*	405*
COUNTY:LUNENBURG STATE:VA	215	263*	310*	357*	405*
COUNTY:MADISON STATE:VA	215	263*	310*	357*	405*
COUNTY:MATHEWS STATE:VA	160	196	230	268	302
COUNTY:MECKLENBURG STATE:VA	215	263*	310*	357*	405*
COUNTY:MIDDLESEX STATE:VA	160	196	230	268	302
COUNTY:MONTGOMERY STATE:VA	184	225*	265*	306*	346*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:NELSON STATE:VA	203	246*	291*	334*	379*
COUNTY:NORTHAMPTON STATE:VA	190	231*	272*	314*	356*
COUNTY:NORTHUMBERLD STATE:VA	215	263*	310*	357*	405*
COUNTY:NOTTOWAY STATE:VA	215	263*	310*	357*	405*
COUNTY:ORANGE STATE:VA	215	263*	310*	357*	405*
COUNTY:PAGE STATE:VA	176	215	254	294	333
COUNTY:PATRICK STATE:VA	184	225*	265*	306*	346*
COUNTY:PITTSYLVANIA STATE:VA	203	246*	291*	334*	379*
COUNTY:PRINCEEDWARD STATE:VA	215	263*	310*	357*	405*
COUNTY:PULASKI STATE:VA	184	225*	265*	306*	346*
COUNTY:RAPPAHANNOCK STATE:VA	184	225*	265*	306*	346*
COUNTY:RICHMOND STATE:VA	208	252	298	344	389
COUNTY:ROCKBRIDGE STATE:VA	176	216	254	294	333
COUNTY:ROCKINGHAM STATE:VA	176	215	254	294	333
COUNTY:RUSSELL STATE:VA	176	197	249*	271	322*
COUNTY:SHENANDOAH STATE:VA	176	215	254	294	333
COUNTY:SMYTH STATE:VA	149 4	179	212	244	277
COUNTY:SOUTHAMPTON STATE:VA	160	196	230	268	302
COUNTY:SPOTSLYVANIA STATE:VA	184	225	265*	306	346
COUNTY:STAFFORD STATE:VA	184	225	265*	306	346
COUNTY:SURRY STATE:VA	160	196	230	268	302
COUNTY:SUSSEX STATE:VA	215	263*	310*	357*	405*
COUNTY:TAZEWELL STATE:VA	176	197	249*	271	322*
COUNTY:WARREN STATE:VA	176	215	254	294	333

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:WESTMORELAND STATE:VA	215	263*	310*	357*	405*
COUNTY:WISE STATE:VA	176	197	249*	271	322*
COUNTY:WYTHE STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:BEDFORD STATE:VA	203	246*	291*	334*	379*
INDEP. CITY:BUENA VISTA STATE:VA	176	215	254	294	333
INDEP. CITY:CHARLOTTESVI STATE:VA	215	263*	310*	357*	405*
INDEP. CITY:CLIFTON FORG STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:COVINGTON STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:DANVILLE STATE:VA	203	246*	291*	334*	379*
INDEP. CITY:EMPORIA STATE:VA	215	263*	310*	357*	405*
INDEP. CITY:FRANKLIN STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:FREDERICKBUR STATE:VA	184	225	265*	306	346
INDEP. CITY:GALAX STATE:VA	162	199	236	272	308
INDEP. CITY:HARRISONBURG STATE:VA	176	215	254	294	333
INDEP. CITY:LEXINGTON STATE:VA	176	215	254	294	333
INDEP. CITY:MARTINSVILLE STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:NORTON STATE:VA	176	197	249*	271	322*
INDEP. CITY:RADFORD STATE:VA	184	225*	265*	306*	346*
INDEP. CITY:SOUTH BOSTON STATE:VA	203	246*	291*	334*	379*
INDEP. CITY:STAUNTON STATE:VA	183	218*	261*	331*	388*
INDEP. CITY:WAYNESBORO STATE:VA	176	215	254	294	333
INDEP. CITY:WINCHESTER STATE:VA	176	215	254	294	333

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING and URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WASHINGTON, D.C. AREA OFFICE					
SMSA: WASHINGTON, DC-MD-VA					
COUNTY: MONTGOMERY STATE: MD	254	309	365	422	476
COUNTY: PRINCE GEORG STATE: MD	254	309	365	422	476
COUNTY: WASHINGTON STATE: DC	254	309	365	422	476
COUNTY: ARLINGTON STATE: VA	254	309	365	422	476
COUNTY: FAIRFAX STATE: VA	254	309	365	422	476
COUNTY: LOUDOUN STATE: VA	254	309	365	422	476
COUNTY: PRINCEWILLIA STATE: VA	254	309	365	422	476
INDEP CITY: ALEXANDRIA STATE: VA	254	309	365	422	476
INDEP CITY: FAIRFAX STATE: VA	254	309	365	422	476
INDEP CITY: FALLS CHURCH STATE: VA	254	309	365	422	476
INDEP CITY: MANASSAS STATE: VA	254	309	365	422	476
INDEP CITY: MANASSAS PRK STATE: VA	254	309	365	422	476
REGION 4					
ATLANTA, GEORGIA AREA OFFICE					
SMSA: ALBANY, GA					
COUNTY: DOUGHERTY STATE: GA	160	196	230	268	302
COUNTY: LEE STATE: GA	160	196	230	268	302
SMSA: ATLANTA, GA					
COUNTY: BUTTS STATE: GA	221	270	318	366	415
COUNTY: CHEROKEE STATE: GA	221	270	318	366	415
COUNTY: CLAYTON STATE: GA	221	270	318	366	415
COUNTY: COBB STATE: GA	221	270	318	366	415
COUNTY: DE KALB STATE: GA	221	270	318	366	415
COUNTY: DOUGLAS STATE: GA	221	270	318	366	415
COUNTY: FAYETTE STATE: GA	221	270	318	366	415
COUNTY: FORSYTH STATE: GA	221	270	318	366	415
COUNTY: FULTON STATE: GA	221	270	318	366	415
COUNTY: GWINNETT STATE: GA	221	270	318	366	415

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
SMSA: ATLANTA, GA					
COUNTY: HENRY STATE: GA	221	270	318	366	415
COUNTY: NEWTON STATE: GA	221	270	318	366	415
COUNTY: PAULDING STATE: GA	221	270	318	366	415
COUNTY: ROCKDALE STATE: GA	221	270	318	366	415
COUNTY: WALTON STATE: GA	221	270	318	366	415
SMSA: AUGUSTA, GA-SC					
COUNTY: COLUMBIA STATE: GA	208	253	299	345	392
COUNTY: RICHMOND STATE: GA	208	253	299	345	392
SMSA: CHATTANOOGA, TN-GA					
COUNTY: CATOOSA STATE: GA	183	224	266	306	347
COUNTY: DADE STATE: GA	183	224	266	306	347
COUNTY: WALKER STATE: GA	183	224	266	306	347
SMSA: COLUMBUS, GA-AL					
COUNTY: CHATTAHOOCHE STATE: GA	177	217	257	296	335
COUNTY: COLUMBUS STATE: GA	177	217	257	296	335
SMSA: MACON, GA					
COUNTY: BIBB STATE: GA	160	196	230	268	302
COUNTY: HOUSTON STATE: GA	160	196	230	268	302
COUNTY: JONES STATE: GA	160	196	230	268	302
COUNTY: TWIGGS STATE: GA	160	196	230	268	302
SMSA: SAVANNAH, GA					
COUNTY: BRYAN STATE: GA	229	247	282	326	367
COUNTY: CHATHAM STATE: GA	229	247	282	326	367
COUNTY: EFFINGHAM STATE: GA	229	247	282	326	367
NON SMSA					
COUNTY: APPLING STATE: GA	162	199	236	272	308
COUNTY: ATKINSON STATE: GA	148	181	214*	247	279
COUNTY: BACON STATE: GA	162	199	236	272	308

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:BAKER STATE:GA	160	196	230	268	302
COUNTY:BALDWIN STATE:GA	160	196	230	268	302
COUNTY:BANKS STATE:GA	181	222	263	304	345
COUNTY:BARROW STATE:GA	181	222	263	304	345
COUNTY:BARTON STATE:GA	150	185	218	253	285
COUNTY:BEN HILL STATE:GA	160	196	230	268	302
COUNTY:BERRIEN STATE:GA	146	178	209*	243	274
COUNTY:BLECKLEY STATE:GA	160	196	230	268	302
COUNTY:BRANTLEY STATE:GA	175	214	253	292	331
COUNTY:BROOKS STATE:GA	146	178	209*	243	274
COUNTY:BULLOCH STATE:GA	162	199	236	272	308
COUNTY:BURKE STATE:GA	167	204	242*	278*	315*
COUNTY:CALHOUN STATE:GA	160	196	230	268	302
COUNTY:CAMDEN STATE:GA	175	214	253	292	331
COUNTY:CANDLER STATE:GA	162	199	236	272	308
COUNTY:CARROLL STATE:GA	172	210	248	287	325
COUNTY:CHARLTON STATE:GA	160	195*	230*	265*	300*
COUNTY:CHATTOOGA STATE:GA	156	191	227	261	297
COUNTY:CLARKE STATE:GA	181	222	263	304	345
COUNTY:CLAY STATE:GA	160	196	230	268	302
COUNTY:CLINCH STATE:GA	146	178	209*	243	274
COUNTY:COFFEE STATE:GA	162	199	236	272	308
COUNTY:COLQUITT STATE:GA	146	178	209*	243	274
COUNTY:COOK STATE:GA	146	178	209*	243	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:COWETA STATE:GA	172	210	248	287	325
COUNTY:CRAWFORD STATE:GA	160	196	230	268	302
COUNTY:CRISP STATE:GA	160	196	230	268	302
COUNTY:DAWSON STATE:GA	150	185	218	253	285
COUNTY:DECATUR STATE:GA	160	196	230	268	302
COUNTY:DODGE STATE:GA	160	196	230	268	302
COUNTY:DOOLY STATE:GA	160	196	230	268	302
COUNTY:EARLY STATE:GA	160	196	230	268	302
COUNTY:ECHOLS STATE:GA	146	178	209*	243	274
COUNTY:ELBERT STATE:GA	181	222	263	304	345
COUNTY EMANUEL STATE:GA	167	204	242*	278*	315*
COUNTY:EVANS STATE:GA	162	199	236	272	308
COUNTY:FANNIN STATE:GA	150	185	218	253	285
COUNTY:FLOYD STATE:GA	150	185	218	253	285
COUNTY:FRANKLIN STATE:GA	166	202	239*	276	313*
COUNTY:GILMER STATE:GA	150	185	218	253	285
COUNTY:GLASCOCK STATE:GA	167	204	242*	278*	315*
COUNTY:GLYNN STATE:GA	192	235	277	321	363
COUNTY:GORDON STATE:GA	156	191	227	261	297
COUNTY:GRADY STATE:GA	160	196	230	268	302
COUNTY:GREENE STATE:GA	166	202	239*	276*	313*
COUNTY:HABERSHAM STATE:GA	150	185	218	253	285
COUNTY:HALL STATE:GA	181	222	263	304	345
COUNTY:HANCOCK STATE:GA	160	196	230	268	302

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:HARALSON STATE:GA	150	185	218	253	285
COUNTY:HARRIS STATE:GA	162	198*	233*	269*	304*
COUNTY:HART STATE:GA	174	212	263	290	329
COUNTY:HEARD STATE:GA	177	217	257	296	335
COUNTY:IRWIN STATE:GA	160	196	230	268	302
COUNTY:JACKSON STATE:GA	181	222	263	304	345
COUNTY:JASPER STATE:GA	160	196	230	268	302
COUNTY:JEFF DAVIS STATE:GA	162	199	236	272	308
COUNTY:JEFFERSON STATE:GA	183	224	266	306	347
COUNTY:JENKINS STATE:GA	167	204	242*	278*	315*
COUNTY:JOHNSON STATE:GA	160	196	230	268	302
COUNTY:LAMAR STATE:GA	172	210	248	287	325
COUNTY:LANIER STATE:GA	146	178	209*	243	274
COUNTY:LAURENS STATE:GA	160	196	230	268	302
COUNTY:LIBERTY STATE:GA	162	199	236	272	308
COUNTY:LINCOLN STATE:GA	167	204	242*	278*	315*
COUNTY:LONG STATE:GA	162	199	236	272	308
COUNTY:LOWNDES STATE:GA	160	196	230	268	302
COUNTY:LUMPKIN STATE:GA	150	185	218	253	285
COUNTY:MCDUFFIE STATE:GA	183	224	266	306	347
COUNTY:MCINTOSH STATE:GA	175	214	253	292	331
COUNTY:MACON STATE:GA	160	196	230	268	302
COUNTY:MADISON STATE:GA	166	202	239*	276	313*
COUNTY:MARION STATE:GA	162	198*	233*	269*	304*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:MERIWETHER STATE:GA	162	198*	233*	269*	304*
COUNTY:MILLER STATE:GA	160	196	230	268	302
COUNTY:MITCHELL STATE:GA	160	196	230	268	302
COUNTY:MONROE STATE:GA	160	196	230	268	302
COUNTY:MONTGOMERY STATE:GA	162	199	236	272	308
COUNTY:MORGAN STATE:GA	166	202	239*	276*	313*
COUNTY:MURRAY STATE:GA	156	191	227	261	297
COUNTY:OCONEE STATE:GA	181	222	263	304	345
COUNTY:OGLETHORPE STATE:GA	166	202	239*	276	313*
COUNTY:PEACH STATE:GA	160	196	230	268	302
COUNTY:PICKENS STATE:GA	150	185	218	253	285
COUNTY:PIERCE STATE:GA	175	214	253	292	331
COUNTY:PIKE STATE:GA	172	210	248	287	325
COUNTY:POLK STATE:GA	150	185	218	253	285
COUNTY:PULASKI STATE:GA	160	196	230	268	302
COUNTY:PUTNAM STATE:GA	160	196	230	268	302
COUNTY:QUITMAN STATE:GA	177	217	257	296	335
COUNTY:RABUN STATE:GA	150	185	218	253	285
COUNTY:RANDOLPH STATE:GA	160	196	230	268	302
COUNTY:SCHLEY STATE:GA	162	198*	233*	269*	304*
COUNTY:SCREVEN STATE:GA	162	199	236	272	308
COUNTY:SEMINOLE STATE:GA	160	196	230	268	302
COUNTY:SPALDING STATE:GA	172	210	248	287	325
COUNTY:STEPHENS STATE:GA	166	202	239*	276	313*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:STEWART STATE:GA	162	198•	233•	269•	304•
COUNTY:SUMTER STATE:GA	195	238	282	326	368
COUNTY:TALBOT STATE:GA	177	217	257	296	335
COUNTY:TALIAFERRO STATE:GA	167	204	242•	278•	315•
COUNTY:TATTNALL STATE:GA	162	199	236	272	308
COUNTY:TAYLOR STATE:GA	160	196	230	268	302
COUNTY:TELFAIR STATE:GA	160	196	230	268	302
COUNTY:TERRELL STATE:GA	160	196	230	268	302
COUNTY:THOMAS STATE:GA	160	196	230	268	302
COUNTY:TIFT STATE:GA	160	196	230	268	302
COUNTY:TOOMBS STATE:GA	162	199	236	272	308
COUNTY:TOWNS STATE:GA	150	185	218	253	285
COUNTY:TREUTLEN STATE:GA	160	196	230	268	302
COUNTY:TROUP STATE:GA	177	217	257	296	335
COUNTY:TURNER STATE:GA	160	196	230	268	302
COUNTY:UNION STATE:GA	150	185	218	253	285
COUNTY:UPSON STATE:GA	157	191	225	260	295•
COUNTY:WARE STATE:GA	175	214	253	292	331
COUNTY:WARREN STATE:GA	167	204	242•	278•	315•
COUNTY:WASHINGTON STATE:GA	160	196	230	268	302
COUNTY:WAYNE STATE:GA	162	199	236	272	308
COUNTY:WEBSTER STATE:GA	162	198•	233•	269•	304•
COUNTY:WHEELER STATE:GA	160	196	230	268	302
COUNTY:WHITE STATE:GA	150	185	218	253	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:WHITFIELD STATE:GA	156	191	227	261	297
COUNTY:WILCOX STATE:GA	160	196	230	268	302
COUNTY:WILKES STATE:GA	167	204	242•	278•	315•
COUNTY:WILKINSON STATE:GA	160	196	230	268	302
COUNTY:WORTH STATE:GA	160	196	230	268	302
BIRMINGHAM, ALABAMA AREA OFFICE					
SMSA: ANNISTON, AL COUNTY:CALHOUN STATE:AL	140	172	203	235	266
SMSA: BIRMINGHAM, AL COUNTY:JEFFERSON STATE:AL	193	237	280	323	365
COUNTY:ST CLAIR STATE:AL	193	237	280	323	365
COUNTY:SHELBY STATE:AL	193	237	280	323	365
COUNTY:WALKER STATE:AL	193	237	280	323	365
SMSA: COLUMBUS, GA-AL COUNTY:RUSSELL STATE:AL	177	217	257	296	335
SMSA: FLORENCE, AL COUNTY:COLBERT STATE:AL	184	226	271	309	350
COUNTY:LAUDERDALE STATE:AL	184	226	271	309	350
SMSA: GADSDEN, AL COUNTY:ETOWAH STATE:AL	140	172	203	235	266
SMSA: HUNTSVILLE, AL COUNTY:LIMESTONE STATE:AL	192	235	278	321	363

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
SMSA HUNTSVILLE, AL					
COUNTY:MADISON STATE:AL	192	235	278	321	363
COUNTY:MARSHALL STATE:AL	192	235	278	321	363
SMSA MOBILE, AL					
COUNTY:BALDWIN STATE:AL	155	189	225	259	295
COUNTY:MOBILE STATE:AL	155	189	225	259	295
SMSA MONTGOMERY, AL					
COUNTY:AUTAUGA STATE:AL	154	188	223	257	291
COUNTY:ELMORE STATE:AL	154	188	223	257	291
COUNTY:MONTGOMERY STATE:AL	154	188	223	257	291
SMSA TUSCALOOSA, AL					
COUNTY:TUSCALOOSA STATE:AL	181	222	263	304	345
NON SMSA					
COUNTY:BARBOUR STATE:AL	175	214	253	292	331
COUNTY:BIBB STATE:AL	181	222	263	304	345
COUNTY:BLOUNT STATE:AL	140	172	203	235	266
COUNTY:BULLOCK STATE:AL	154	188	223	257	291
COUNTY:BUTLER STATE:AL	175	214	253	292	331
COUNTY:CHAMBERS STATE:AL	177	217	257	296	335
COUNTY:CHEROKEE STATE:AL	140	172	203	235	266
COUNTY:CHILTON STATE:AL	181	222	263	304	345
COUNTY:CHOCTAW STATE:AL	177	217	257	296	335
COUNTY:CLARKE STATE:AL	166	204	241	279	316
COUNTY:CLAY STATE:AL	140	172	203	235	266
COUNTY:CLEBURNE STATE:AL	150	185	218	253	285
COUNTY:COFFEE STATE:AL	175	214	253	292	331
COUNTY:CONECUH STATE:AL	166	204	241	279	316
COUNTY:COOSA STATE:AL	154	188	223	257	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY:COVINGTON STATE:AL	175	214	253	292	331
COUNTY:CRENSHAW STATE:AL	175	214	253	292	331
COUNTY:CULLMAN STATE:AL	140	172	203	235	266
COUNTY:DALE STATE:AL	175	214	253	292	331
COUNTY:DALLAS STATE:AL	154	188	223	257	291
COUNTY:DE KALB STATE:AL	156	191	227	261	297
COUNTY:ESCAMBIA STATE:AL	185	226	267*	308*	348*
COUNTY:FAYETTE STATE:AL	181	222	263	304	345
COUNTY:FRANKLIN STATE:AL	151	186	221	255	289
COUNTY:GENEVA STATE:AL	175	214	253	292	331
COUNTY:GREENE STATE:AL	181	222	263	304	345
COUNTY:HALE STATE:AL	181	222	263	304	345
COUNTY:HENRY STATE:AL	175	214	253	292	331
COUNTY:HOUSTON STATE:AL	175	214	253	292	331
COUNTY:JACKSON STATE:AL	156	191	227	261	297
COUNTY:LAMAR STATE:AL	181	222	263	304	345
COUNTY:LAWRENCE STATE:AL	151	186	221	255	289
COUNTY:LEE STATE:AL	177	217	257	296	335
COUNTY:LOWNDES STATE:AL	154	188	223	257	291
COUNTY:MACON STATE:AL	154	188	223	257	291
COUNTY:MARENGO STATE:AL	177	217	257	296	335
COUNTY:MARION STATE:AL	181	222	263	304	345
COUNTY:MONROE STATE:AL	166	204	241	279	316
COUNTY:MORGAN STATE:AL	176	214	253	292	330*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY:PERRY STATE:AL	154	188	223	257	291
COUNTY:PICKENS STATE:AL	181	222	263	304	345
COUNTY:PIKE STATE:AL	175	214	253	292	331
COUNTY:RANDOLPH STATE:AL	177	217	257	296	335
COUNTY:SUMTER STATE:AL	177	217	257	296	335
COUNTY:TALLADEGA STATE:AL	162	199	235	271	309
COUNTY:TALLAPOOSA STATE:AL	154	188	223	257	291
COUNTY:WASHINGTON STATE:AL	166	204	241	279	316
COUNTY:WILCOX STATE:AL	166	204	241	279	316
COUNTY:WINSTON STATE:AL	181	222	263	304	345
COLUMBIA, SOUTH CAROLINA AREA AFFICE					
SMSA AUGUSTA, GA-SC					
COUNTY:AIKEN STATE:SC	208	253	299	345	392
SMSA CHARLESTON, SC					
COUNTY:BERKELEY STATE:SC	214	263	310	359	405
COUNTY:CHARLESTON STATE:SC	214	263	310	359	405
COUNTY:DORCHESTER STATE:SC	214	263	310	359	405
SMSA COLUMBIA, SC					
COUNTY:LEXINGTON STATE:SC	208	253	299	345	392
COUNTY:RICHLAND STATE:SC	208	253	299	345	392
SMSA GREENVILLE-SPARTANBURG, SC					
COUNTY:GREENVILLE STATE:SC	176	215	254	294	333
COUNTY:PICKENS STATE:SC	176	215	254	294	333
COUNTY:SPARTANBURG STATE:SC	176	215	254	294	333
NON SMSA					
COUNTY:ABBEVILLE STATE:SC	154	188	223	257	291
COUNTY:ALLENDALE STATE:SC	183	224	266	306	347

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA AFFICE					
NON SMSA					
COUNTY:ANDERSON STATE:SC	154	188	223	257	291
COUNTY:BAMBERG STATE:SC	183	224	266	306	347
COUNTY:BARNWELL STATE:SC	183	224	266	306	347
COUNTY:BEAUFORT STATE:SC	183	224	266	306	347
COUNTY:CALHOUN STATE:SC	165	202	240	277	313
COUNTY:CHEROKEE STATE:SC	175	213	251	291	328
COUNTY:CHESTER STATE:SC	166	204	241	279	316
COUNTY:CHESTERFIELD STATE:SC	164	201	238	274	311
COUNTY:CLARENDON STATE:SC	165	202	240	277	313
COUNTY:COLLETON STATE:SC	183	224	266	306	347
COUNTY:DARLINGTON STATE:SC	164	201	238	274	311
COUNTY:DILLON STATE:SC	164	201	238	274	311
COUNTY:EDGEFIELD STATE:SC	183	224	266	306	347
COUNTY:FAIRFIELD STATE:SC	165	202	240	277	313
COUNTY:FLORENCE STATE:SC	164	201	238	274	311
COUNTY:GEORGETOWN STATE:SC	164	201	238	274	311
COUNTY:GREENWOOD STATE:SC	154	188	223	257	291
COUNTY:HAMPTON STATE:SC	183	224	266	306	347
COUNTY:HORRY STATE:SC	183	223	263	302	343
COUNTY:JASPER STATE:SC	162	199	236	272	308
COUNTY:KERSHAW STATE:SC	165	202	240	277	313
COUNTY:LANCASTER STATE:SC	166	204	241	279	316
COUNTY:LAURENS STATE:SC	154	188	223	257	291
COUNTY:LEE STATE:SC	165	202	240	277	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA AFFICE					
NON SMSA					
COUNTY :MCCORMICK					
STATE :SC	183	224	266	306	347
COUNTY :MARION					
STATE :SC	164	201	238	274	311
COUNTY :MARLBORO					
STATE :SC	164	201	238	274	311
COUNTY :NEWBERRY					
STATE :SC	165	202	240	277	313
COUNTY :OCONEE					
STATE :SC	175	213	251	291	328
COUNTY :ORANGEBURG					
STATE :SC	183	223	263	302	343
COUNTY :SALUDA					
STATE :SC	183	224	266	306	347
COUNTY :SUMTER					
STATE :SC	165	202	240	277	313
COUNTY :UNION					
STATE :SC	154	188	223	257	291
COUNTY :WILLIAMSBURG					
STATE :SC	164	201	238	274	311
COUNTY :YORK					
STATE :SC	166	204	241	279	316
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: ASHEVILLE, NC					
COUNTY :BUNCOMBE					
STATE :NC	165	202	240	277	313
COUNTY :MADISON					
STATE :NC	165	202	240	277	313
SMSA: BURLINGTON, NC					
COUNTY :ALAMANCE					
STATE :NC	191	234	276	319	361
SMSA: CHARLOTTE-GASTONIA, NC					
COUNTY :GASTON					
STATE :NC	232	283	333	386	435
COUNTY :MECKLENBURG					
STATE :NC	232	283	333	386	435
COUNTY :UNION					
STATE :NC	232	283	333	386	435
SMSA: FAYETTEVILLE, NC					
COUNTY :CUMBERLAND					
STATE :NC	194	236*	279*	321*	363*
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC					
COUNTY :DAVIDSON					
STATE :NC	191	234	276	319	361
COUNTY :FORSYTH					
STATE :NC	191	234	276	319	361
COUNTY :GUILFORD					
STATE :NC	191	234	276	319	361
COUNTY :RANDOLPH					
STATE :NC	191	234	276	319	361

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC					
COUNTY :STOKES					
STATE :NC	191	234	276	319	361
COUNTY :YADKIN					
STATE :NC	191	234	276	319	361
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
COUNTY :CURRITUCK					
STATE :NC	205	249*	294*	339*	383*
SMSA: RALEIGH-DURHAM, NC					
COUNTY :DURHAM					
STATE :NC	204	250	295	340	385
COUNTY :ORANGE					
STATE :NC	204	250	295	340	385
COUNTY :WAKE					
STATE :NC	204	250	295	340	385
SMSA: WILMINGTON, NC					
COUNTY :BRUNSWICK					
STATE :NC	177	217	257	296	335
COUNTY :NEW HANOVER					
STATE :NC	177	217	257	296	335
NON SMSA					
COUNTY :ALEXANDER					
STATE :NC	173	212	251	290	327
COUNTY :ALLEGHANY					
STATE :NC	173	212	251	290	327
COUNTY :ANSON					
STATE :NC	175	213	251*	290*	328*
COUNTY :ASHE					
STATE :NC	173	212	251	290	327
COUNTY :AVERY					
STATE :NC	173	212	251	290	327
COUNTY :BEAUFORT					
STATE :NC	187	228*	268*	310*	350*
COUNTY :BERTIE					
STATE :NC	160	196	230	268	302
COUNTY :BLADEN					
STATE :NC	194	236*	279*	321*	363*
COUNTY :BURKE					
STATE :NC	173	212	251	290	327
COUNTY :CABARRUS					
STATE :NC	155	189	225	259	295
COUNTY :CALDWELL					
STATE :NC	173	212	251	290	327
COUNTY :CAMDEN					
STATE :NC	187	228*	268*	310*	350*
COUNTY :CARTERET					
STATE :NC	162	198	233	269*	304
COUNTY :CASWELL					
STATE :NC	203	246*	291*	334*	379*
COUNTY :CATAWBA					
STATE :NC	173	212	251	290	327

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY CHATHAM STATE NC	194	236	279*	321	363
COUNTY CHEROKEE STATE NC	165	202	240	277	313
COUNTY CHOWAN STATE NC	187	228*	268*	310*	350*
COUNTY CLAY STATE NC	165	202	240	277	313
COUNTY CLEVELAND STATE NC	173	212	251	290	327
COUNTY COLUMBUS STATE NC	177	217	257	296	335
COUNTY CRAVEN STATE NC	162	198	233	269*	304
COUNTY DARE STATE NC	187	228*	268*	310*	350*
COUNTY DAVIE STATE NC	191	234	276	319	361
COUNTY DUPLIN STATE NC	177	217	257	296	335
COUNTY EDGECOMBE STATE NC	160	196	230	268	302
COUNTY FRANKLIN STATE NC	160	196	230	268	302
COUNTY GATES STATE NC	187	228*	268*	310*	350*
COUNTY GRAHAM STATE NC	165	202	240	277	313
COUNTY GRANVILLE STATE NC	160	196	230	268	302
COUNTY GREENE STATE NC	187	228*	268*	310*	350*
COUNTY HALIFAX STATE NC	160	196	230	268	302
COUNTY HARNETT STATE NC	194	236*	279*	321*	363*
COUNTY HAYWOOD STATE NC	165	202	240	277	313
COUNTY HENDERSON STATE NC	165	202	240	277	313
COUNTY HERTFORD STATE NC	160	196	230	268	302
COUNTY HOKE STATE NC	194	236*	279*	321*	363*
COUNTY HYDE STATE NC	187	228*	268*	310*	350*
COUNTY IREDELL STATE NC	155	189	225	259	295

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY:JACKSON STATE:NC	165	202	240	277	313
COUNTY:JOHNSTON STATE:NC	204	250	295	341	385
COUNTY:JONES STATE:NC	162	198	233	269*	304
COUNTY:LEE STATE:NC	194	236	279*	321	363
COUNTY:LENOIR STATE:NC	162	198	233	269*	304
COUNTY:LINCOLN STATE:NC	166	204	241	279	316
COUNTY:MCDOWELL STATE:NC	173	212	251	290	327
COUNTY:MACON STATE:NC	165	202	240	277	313
COUNTY:MARTIN STATE:NC	187	228*	268*	310*	350*
COUNTY:MITCHELL STATE:NC	173	212	251	290	327
COUNTY:MONTGOMERY STATE:NC	175	213	251*	290*	328*
COUNTY:MOORE STATE:NC	175	213	251*	290*	328*
COUNTY:NASH STATE:NC	160	196	230	268	302
COUNTY:NORTHAMPTON STATE:NC	160	196	230	268	302
COUNTY:ONSLOW STATE:NC	177	217	257	296	335
COUNTY:PAMLICO STATE:NC	162	198	233	269*	304
COUNTY:PASQUOTANK STATE:NC	187	228*	268*	310*	350*
COUNTY:PENDER STATE:NC	177	217	257	296	335
COUNTY:PERQUIMANS STATE:NC	187	228*	268*	310*	350*
COUNTY:PERSON STATE:NC	194	236	279*	321	363
COUNTY:PITT STATE:NC	187	228*	268*	310*	350*
COUNTY:POLK STATE:NC	173	212	251	290	327
COUNTY:RICHMOND STATE:NC	175	213	251*	290*	328*
COUNTY:ROBESON STATE:NC	194	236*	279*	321*	363*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY:ROCKINGHAM STATE:NC	162	199	236	272	308
COUNTY:ROWAN STATE:NC	155	189	225	259	295
COUNTY:RUTHERFORD STATE:NC	173	212	251	290	327
COUNTY:SAMPSON STATE:NC	194	236*	279*	321*	363*
COUNTY:SCOTLAND STATE:NC	155	189	225	259	295
COUNTY:STANLY STATE:NC	155	189	225	259	295
COUNTY:SURRY STATE:NC	191	234	276	319	361
COUNTY:SWAIN STATE:NC	165	202	240	277	313
COUNTY:TRANSYLVANIA STATE:NC	165	202	240	277	313
COUNTY:TYRRELL STATE:NC	187	228*	268*	310*	350*
COUNTY:VANCE STATE:NC	160	196	230	268	302
COUNTY:WARREN STATE:NC	212	259	307	353	399
COUNTY:WASHINGTON STATE:NC	187	228*	268*	310*	350*
COUNTY:WATAUGA STATE:NC	173	212	251	290	327
COUNTY:WAYNE STATE:NC	187	228*	268*	310*	350*
COUNTY:WILKES STATE:NC	173	212	251	290	327
COUNTY:WILSON STATE:NC	160	196	230	268	302
COUNTY:YANCEY STATE:NC	173	212	251	290	327

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
SMSA: BILOXI-GULFPORT, MS					
COUNTY:HANCOCK STATE:MS	182	224	265	323	354
COUNTY:HARRISON STATE:MS	182	224	265	323	354
COUNTY:STONE STATE:MS	182	224	265	323	354
SMSA: JACKSON, MS					
COUNTY:HINDS STATE:MS	202	248	293	338	382
COUNTY:RANKIN STATE:MS	202	248	293	338	382
SMSA: MEMPHIS, TN-AR-MS					
COUNTY:DE SOTO STATE:MS	188	231	272	313	355
SMSA: PASCAGOULA-MOSS POINT, MS					
COUNTY:JACKSON STATE:MS	182	224	265	323	354
NON SMSA					
COUNTY:ADAMS STATE:MS	162	190	225	279	309
COUNTY:ALCORN STATE:MS	175	201	239	276	312
COUNTY:AMITE STATE:MS	162	190	225	279	309
COUNTY:ATTALA STATE:MS	176	197	236	287	314
COUNTY:BENTON STATE:MS	161	194	227*	260	295
COUNTY:BOLIVAR STATE:MS	177	182	237	280	311
COUNTY:CALHOUN STATE:MS	177	217	255	294	335
COUNTY:CARROLL STATE:MS	176	197	236	287	314
COUNTY:CHICKASAW STATE:MS	175	201	239	276	312
COUNTY:CHOCTAW STATE:MS	154	188	223	257	291
COUNTY:CLAIBORNE STATE:MS	176	197	236	287	314
COUNTY:CLARKE STATE:MS	177	217	257	296	335
COUNTY:CLAY STATE:MS	166	204	241	278	315
COUNTY:COAHOMA STATE:MS	179	220	260	301	338
COUNTY:COPIAH STATE:MS	176	197	236	287	314
COUNTY:COVINGTON STATE:MS	177	217	257	296	335

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY: FORREST STATE: MS	177	217	257	296	335
COUNTY: FRANKLIN STATE: MS	162	190	225	279	309
COUNTY: GEORGE STATE: MS	174	213	250	289	329
COUNTY: GREENE STATE: MS	174	213	250	289	329
COUNTY: GRENADA STATE: MS	176	197	236	287	314
COUNTY: HOLMES STATE: MS	176	197	236	287	314
COUNTY: HUMPHREYS STATE: MS	177	192	237	280	311
COUNTY: ISSAQUENA STATE: MS	177	192	237	280	311
COUNTY: ITAWAMBA STATE: MS	175	201	239	276	312
COUNTY: JASPER STATE: MS	177	217	257	296	335
COUNTY: JEFFERSON STATE: MS	162	190	225	279	309
COUNTY: JEFFERSON DA STATE: MS	162	190	225	279	309
COUNTY: JONES STATE: MS	177	217	257	296	335
COUNTY: KEMPER STATE: MS	177	217	257	296	335
COUNTY: LAFAYETTE STATE: MS	176	213	250	287	325
COUNTY: LAMAR STATE: MS	177	217	257	296	335
COUNTY: LAUDERDALE STATE: MS	177	217	257	296	335
COUNTY: LAWRENCE STATE: MS	162	190	225	279	309
COUNTY: LEAKE STATE: MS	153	187	223	257	291
COUNTY: LEE STATE: MS	166	204	241	278	315
COUNTY: LEFLORE STATE: MS	176	197	236	287	314
COUNTY: LINCOLN STATE: MS	162	190	225	279	309
COUNTY: LOWNDES STATE: MS	176	203	242	278	315
COUNTY: MADISON STATE: MS	176	197	236	287	314

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY: MARION STATE: MS	153	186	221	255	290
COUNTY: MARSHALL STATE: MS	176	213	250	287	325
COUNTY: MONROE STATE: MS	175	201	239	276	322
COUNTY: MONTGOMERY STATE: MS	153	187	223	257	291
COUNTY: NESHOBA STATE: MS	177	217	257	296	335
COUNTY: NEWTON STATE: MS	177	217	257	296	335
COUNTY: NOXUBEE STATE: MS	166	204	241	278	315
COUNTY: OKTIBBEHA STATE: MS	175	214	252*	291*	329*
COUNTY: PANOLA STATE: MS	176	213	250	287	325
COUNTY: PEARL RIVER STATE: MS	156	189	229	294	347
COUNTY: PERRY STATE: MS	177	217	257	296	335
COUNTY: PIKE STATE: MS	162	190	225	279	309
COUNTY: PONTOTOC STATE: MS	175	201	239	276	312
COUNTY: PRENTISS STATE: MS	175	201	239	276	312
COUNTY: QUITMAN STATE: MS	176	213	250	287	325
COUNTY: SCOTT STATE: MS	153	187	223	257	291
COUNTY: SHARKEY STATE: MS	177	192	237	280	311
COUNTY: SIMPSON STATE: MS	176	197	236	287	314
COUNTY: SMITH STATE: MS	153	187	223	257	291
COUNTY: SUNFLOWER STATE: MS	177	192	237	280	311
COUNTY: TALLAHATCHIE STATE: MS	153	187	223	257	291
COUNTY: TATE STATE: MS	176	213	250	287	325
COUNTY: TIPPAH STATE: MS	175	201	239	276	312
COUNTY: TISHOMIGO STATE: MS	175	201	239	276	312

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY:TUNICA STATE:MS	176	213	250	287	325
COUNTY:UNION STATE:MS	175	201	239	276	322
COUNTY:WALTHALL STATE:MS	162	190	225	279	309
COUNTY:WARREN STATE:MS	176	197	236	287	314
COUNTY:WASHINGTON STATE:MS	177	192	237	280	311
COUNTY:WAYNE STATE:MS	177	217	257	296	335
COUNTY:WEBSTER STATE:MS	166	204	241	278	315
COUNTY:WILKINSON STATE:MS	155	190	225	259	293
COUNTY:WINSTON STATE:MS	176	203	242	278	315
COUNTY:YALOBUSHA STATE:MS	153	187	223	257	291
COUNTY:YAZOO STATE:MS	176	197	236	287	314
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: FORT LAUDERDALE-HOLLYWOOD, FL					
COUNTY:BROWARD STATE:FL	308	369	437	504	570
SMSA: FORT MYERS-CAPE CORAL, FL					
COUNTY:LEE STATE:FL	245	299	354	408	462
SMSA: MIAMI, FL					
COUNTY:DADE STATE:FL	310	378	448	511	577
SMSA: WEST PALM BEACH-BOCA RATON, FL					
COUNTY:PALM BEACH STATE:FL	274	334	394	455	514
NON SMSA					
COUNTY:CHARLOTTE STATE:FL	245	299	354	408	462
COUNTY:COLLIER STATE:FL	231	283	333	384	435
COUNTY:GLADES STATE:FL	193	237	281	324	367
COUNTY:HENDRY STATE:FL	193	237	281	324	367
COUNTY:MARTIN STATE:FL	193	237	281	324	367
COUNTY:MONROE STATE:FL	193	237	281	324	367
SMSA: GAINESVILLE, FL					
COUNTY:ALACHUA STATE:FL	193	237	281	324	367

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: JACKSONVILLE, FL					
COUNTY:BAKER STATE:FL	204	250	295	341	385
COUNTY:CLAY STATE:FL	204	250	295	341	385
COUNTY:DUVAL STATE:FL	204	250	295	341	385
COUNTY:NASSAU STATE:FL	204	250	295	341	385
COUNTY:ST JOHNS STATE:FL	204	250	295	341	385
SMSA: PANAMA CITY, FL					
COUNTY:BAY STATE:FL	193	237	281	324	367
SMSA: PENSACOLA, FL					
COUNTY:ESCAMBIA STATE:FL	202	248	294	339	383
COUNTY:SANTA ROSA STATE:FL	202	248	294	339	383
SMSA: TALLAHASSEE, FL					
COUNTY:LEON STATE:FL	193	237	281	324	367
COUNTY:WAKULLA STATE:FL	193	237	281	324	367
NON SMSA					
COUNTY:BRADFORD STATE:FL	175	214	253	292	331
COUNTY:CALHOUN STATE:FL	193	237	281	324	367
COUNTY:COLUMBIA STATE:FL	175	214	253	292	331
COUNTY:DIXIE STATE:FL	193	237	281	324	367
COUNTY:FLAGLER STATE:FL	185	226	269	308	*349
COUNTY:FRANKLIN STATE:FL	193	237	281	324	367
COUNTY:GADSDEN STATE:FL	193	237	281	324	367
COUNTY:GILCHRIST STATE:FL	193	237	281	324	367
COUNTY:GULF STATE:FL	193	237	281	324	367
COUNTY:HAMILTON STATE:FL	175	214	253	292	331
COUNTY:HOLMES STATE:FL	193	237	281	324	367
COUNTY:JACKSON STATE:FL	193	237	281	324	367
COUNTY:JEFFERSON STATE:FL	193	237	281	324	367

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NOV 4 1980 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY:LAFAYETTE STATE:FL	175	214	253	292	331
COUNTY:LEVY STATE:FL	193	237	281	324	367
COUNTY:LIBERTY STATE:FL	193	237	281	324	367
COUNTY:MADISON STATE:FL	193	237	281	324	367
COUNTY:MARION STATE:FL	193	237	281	324	367
COUNTY:OKALOOSA STATE:FL	202	248	294	339	383
COUNTY:PUTNAM STATE:FL	193	237	281	324	367
COUNTY:SUWANNEE STATE:FL	175	214	253	292	331
COUNTY:TAYLOR STATE:FL	193	237	281	324	367
COUNTY:UNION STATE:FL	175	214	253	292	331
COUNTY:WALTON STATE:FL	202	248	294	339	383
COUNTY:WASHINGTON STATE:FL	193	237	281	324	367
SMSA: DAYTONA BEACH, FL					
COUNTY:VOLUSIA STATE:FL	185	226	269	308	349
SMSA: MELBOURN-TITUSVILLE-COCOA, FL					
COUNTY:BREVARD STATE:FL	243	295	348	403	455
SMSA: ORLANDO, FL					
COUNTY:ORANGE STATE:FL	236	288	341	392	444
COUNTY:OSCEOLA STATE:FL	236	288	341	392	444
COUNTY:SEMINOLE STATE:FL	236	288	341	392	444
NON SMSA					
COUNTY:INDIAN RIVER STATE:FL	193	237	281	324	367
COUNTY:LAKE STATE:FL	185	226	269	308	349
COUNTY:OKEECHOBEE STATE:FL	193	237	281	324	367
COUNTY:ST LUCIE STATE:FL	193	237	281	324	367
SMSA: BRADENTON, FL					
COUNTY:MANATEE STATE:FL	245	299	354	408	462
SMSA: LAKELAND-WINTER HAVEN, FL					
COUNTY:POLK STATE:FL	201	247	292	337	381

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: SARASOTA, FL					
COUNTY:SARASOTA STATE:FL	245	299	354	408	462
SMSA: TAMPA-ST PETERSBURG, FL					
COUNTY:HILLSBOROUGH STATE:FL	207	252	316	395	439
COUNTY:PASCO STATE:FL	207	252	316	395	439
COUNTY:PINELLAS STATE:FL	207	252	316	395	439
NON SMSA					
COUNTY:CITRUS STATE:FL	201	247	292	337	381
COUNTY:DE SOTO STATE:FL	224	273	322*	371*	420*
COUNTY:HARDEE STATE:FL	224	273	322*	371*	420*
COUNTY:HERNANDO STATE:FL	201	247	292	337	381
COUNTY:HIGHLANDS STATE:FL	193	237	281	324	367
COUNTY:SUMTER STATE:FL	185	226	269	308	349
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA: CINCINNATI, OH-KY-IN					
COUNTY:BOONE STATE:KY	205	250	293	338	382
COUNTY:CAMPBELL STATE:KY	205	250	293	338	382
COUNTY:KENTON STATE:KY	205	250	293	338	382
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY:CHRISTIAN STATE:KY	183	224	266	306	347
SMSA: EVANSVILLE, IN-KY					
COUNTY:HENDERSON STATE:KY	210	235	284	315	352
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY:BOYD STATE:KY	172	210	248	287	325
COUNTY:GREENUP STATE:KY	172	210	248	287	325
SMSA: LEXINGTON-FAYETTE , KY					
COUNTY:BOURBON STATE:KY	196	239	295	349	405
COUNTY:CLARK STATE:KY	196	239	295	349	405
COUNTY:FAYETTE STATE:KY	196	239	295	349	405
COUNTY:JESSAMINE STATE:KY	196	239	295	349	405

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO4/80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA: LEXINGTON-FAYETTE , KY					
COUNTY:SCOTT STATE:KY	196	239	295	349	405
COUNTY:WOODFORD STATE:KY	196	239	295	349	405
SMSA: LOUISVILLE, KY-IN					
COUNTY:BULLITT STATE:KY	181	222	262	303	343
COUNTY:JEFFERSON STATE:KY	181	222	262	303	343
COUNTY:OLDHAM STATE:KY	181	222	262	303	343
SMSA: OWENSBORO, KY					
COUNTY:DAVIESS STATE:KY	207	251	297	343	388
NON SMSA					
COUNTY:ADAIR STATE:KY	164	201	235	268	297
COUNTY:ALLEN STATE:KY	164	201	235	268	297
COUNTY:ANDERSON STATE:KY	196	239	282	326	369
COUNTY:BALLARD STATE:KY	155	189	225	259	295
COUNTY:BARREN STATE:KY	164	201	235	268	297
COUNTY:BATH STATE:KY	196	239	282	326	369
COUNTY:BELL STATE:KY	164	201	235	268	297
COUNTY:BOYLE STATE:KY	188	213	259	309	319
COUNTY:BRACKEN STATE:KY	207	251	297	343	388
COUNTY:BREATHITT STATE:KY	164	201	235	268	297
COUNTY:BRECKINRIDGE STATE:KY	200	244	289	335	378
COUNTY:BUTLER STATE:KY	164	201	235	268	297
COUNTY:CALDWELL STATE:KY	168	206	245	283	320
COUNTY:CALLOWAY STATE:KY	155	189	225	259	295
COUNTY:CARLISLE STATE:KY	155	189	225	259	295
COUNTY:CARROLL STATE:KY	207	251	297	343	388
COUNTY:CARTER STATE:KY	188	213	259	309	319

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:CASEY STATE:KY	133 8	160 7	187 5	217 7	239
COUNTY:CLAY STATE:KY	164	201	235	268	297
COUNTY:CLINTON STATE:KY	164	201	235	268	297
COUNTY:CRITTENDON STATE:KY	168	206	245	283	320
COUNTY:CUMBERLAND STATE:KY	164	201	235	268	297
COUNTY:EDMONSON STATE:KY	164	201	235	268	297
COUNTY:ELLIOTT STATE:KY	156	189	228	309	334
COUNTY:ESTILL STATE:KY	196	239	282	326	369
COUNTY:FLEMING STATE:KY	207	251	297	343	388
COUNTY:FLOYD STATE:KY	140	172	203	235	266
COUNTY:FRANKLIN STATE:KY	196	239	282	326	369
COUNTY:FULTON STATE:KY	155	189	225	259	295
COUNTY:GALLATIN STATE:KY	207	251	297	343	388
COUNTY:GARRARD STATE:KY	133 8	160 7	187 5	217 7	239
COUNTY:GRANT STATE:KY	207	251	297	343	388
COUNTY:GRAVES STATE:KY	155	189	225	259	295
COUNTY:GRAYSON STATE:KY	200	244	289	335	378
COUNTY:GREEN STATE:KY	164	201	235	268	297
COUNTY:HANCOCK STATE:KY	161	198	245	283	320
COUNTY:HARDIN STATE:KY	200	244	289	335	378
COUNTY:HARLAN STATE:KY	164	201	235	268	297
COUNTY:HARRISON STATE:KY	196	239	296	342	386
COUNTY:HART STATE:KY	200	244	289	335	378
COUNTY:HENRY STATE:KY	200	244	289	335	378

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:HICKMAN STATE:KY	155	189	225	259	295
COUNTY:HOPKINS STATE:KY	161	198	245	283	320
COUNTY:JACKSON STATE:KY	164	201	235	268	297
COUNTY:JOHNSON STATE:KY	140	172	203	235	266
COUNTY:KNOTT STATE:KY	164	201	235	268	297
COUNTY:KNOX STATE:KY	164	201	235	268	297
COUNTY:LARUE STATE:KY	200	244	289	335	378
COUNTY:LAUREL STATE:KY	164	201	235	268	297
COUNTY:LAWRENCE STATE:KY	156	189	228	309	334
COUNTY:LEE STATE:KY	164	201	235	268	297
COUNTY:LESLIE STATE:KY	164	201	235	268	297
COUNTY:LETCHER STATE:KY	164	201	235	268	297
COUNTY:LEWIS STATE:KY	207	251	297	343	388
COUNTY:LINCOLN STATE:KY	133 8	160 7	187 5	217 7	239
COUNTY:LIVINGSTON STATE:KY	155	189	225	259	295
COUNTY:LOGAN STATE:KY	168	206	245	283	320
COUNTY:LYON STATE:KY	168	206	245	283	320
COUNTY:MCCRACKEN STATE:KY	175	208	246	284	323
COUNTY:MCCREARY STATE:KY	164	201	235	268	297
COUNTY:MCLEAN STATE:KY	161	198	245	283	320
COUNTY:MADISON STATE:KY	196	239	296	342	386
COUNTY:MAGOFFIN STATE:KY	164	201	235	268	297
COUNTY:MARION STATE:KY	200	244	289	335	378
COUNTY:MARSHALL STATE:KY	175	208	246	284	323

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:MARTIN STATE:KY	140	172	203	235	266
COUNTY:MASON STATE:KY	207	251	297	343	388
COUNTY:MEADE STATE:KY	200	244	289	335	378
COUNTY:MENIFEE STATE:KY	164	201	235	268	297
COUNTY:MERCER STATE:KY	196	239	282	326	369
COUNTY:METCALFE STATE:KY	164	201	235	268	297
COUNTY:MONROE STATE:KY	164	201	235	268	297
COUNTY:MONTGOMERY STATE:KY	196	239	296	342	386
COUNTY:MORGAN STATE:KY	164	201	235	268	297
COUNTY:MUHLENBERG STATE:KY	161	198	245	283	320
COUNTY:NELSON STATE:KY	200	244	289	335	378
COUNTY:NICHOLAS STATE:KY	196	239	282	326	369
COUNTY:OHIO STATE:KY	161	198	234	270	305
COUNTY:OWEN STATE:KY	207	251	297	343	388
COUNTY:OWSLEY STATE:KY	164	201	235	268	297
COUNTY:PENDLETON STATE:KY	207	251	297	343	388
COUNTY:PERRY STATE:KY	164	201	235	268	297
COUNTY:PIKE STATE:KY	164	201	235	268	297
COUNTY:POWELL STATE:KY	164	201	235	279	297
COUNTY:PULASKI STATE:KY	164	201	235	268	297
COUNTY:ROBERTSON STATE:KY	207	251	297	343	388
COUNTY:ROCKCASTLE STATE:KY	164	201	235	268	297
COUNTY:ROWAN STATE:KY	140	172	203	235	266
COUNTY:RUSSELL STATE:KY	133 8	160 7	187 5	217 7	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:SHELBY STATE:KY	200	244	289	335	378
COUNTY:SIMPSON STATE:KY	164	201	235	268	297
COUNTY:SPENCER STATE:KY	200	244	289	335	378
COUNTY:TAYLOR STATE:KY	164	201	235	268	297
COUNTY:TODD STATE:KY	183	224	266	306	347
COUNTY:TRIGG STATE:KY	183	224	266	306	347
COUNTY:TRIMBLE STATE:KY	200	244	289	335	378
COUNTY:UNION STATE:KY	161	198	245	283	320
COUNTY:WARREN STATE:KY	164	201	235	268	297
COUNTY:WASHINGTON STATE:KY	200	244	289	335	378
COUNTY:WAYNE STATE:KY	164	201	235	268	297
COUNTY:WEBSTER STATE:KY	161	198	245	283	320
COUNTY:WHITLEY STATE:KY	164	201	235	279	297
COUNTY:WOLFE STATE:KY	133 8	160 7	187 5	217 7	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: CHATTANOOGA, TN-GA					
COUNTY:HAMILTON STATE:TN	183	224	266	306	347
COUNTY:MARION STATE:TN	183	224	266	306	347
COUNTY:SEQUATCHIE STATE:TN	183	224	266	306	347
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY:CARTER STATE:TN	180	221	261	302	341
COUNTY:HAWKINS STATE:TN	180	221	261	302	341
COUNTY:SULLIVAN STATE:TN	180	221	261	302	341
COUNTY:UNICOI STATE:TN	180	221	261	302	341
COUNTY:WASHINGTON STATE:TN	180	221	261	302	341
SMSA: KNOXVILLE, TN					
COUNTY:ANDERSON STATE:TN	183	224	266	348	381
COUNTY:BLOUNT STATE:TN	183	224	266	348	381
COUNTY:KNOX STATE:TN	183	224	266	348	381
COUNTY:UNION STATE:TN	183	224	266	348	381
NON SMSA					
COUNTY:BLEDSOE STATE:TN	156	191	227	261	297
COUNTY:BRADLEY STATE:TN	156	191	227	261	297
COUNTY:CAMPBELL STATE:TN	145	179	212	244	277
COUNTY:CLAIBORNE STATE:TN	145	179	212	244	277
COUNTY:COCKE STATE:TN	145	179	212	244	277
COUNTY:CUMBERLAND STATE:TN	145	179	212	244	277
COUNTY:FENTRESS STATE:TN	145	179	212	244	277
COUNTY:GRAINGER STATE:TN	145	179	212	244	277
COUNTY:GREENE STATE:TN	180	221	261	302	341
COUNTY:GRUNDY STATE:TN	156	191	227	261	297
COUNTY:HAMBLEN STATE:TN	145	179	212	244	277

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:HANCOCK STATE:TN	180	221	261	302	341
COUNTY:JEFFERSON STATE:TN	145	179	212	244	277
COUNTY:JOHNSON STATE:TN	180	221	261	302	341
COUNTY:LOUDON STATE:TN	145	179	212	244	277
COUNTY:MCMINN STATE:TN	156	191	227	261	297
COUNTY:MEIGS STATE:TN	156	191	227	261	297
COUNTY:MONROE STATE:TN	145	179	212	244	277
COUNTY:MORGAN STATE:TN	145	179	212	244	277
COUNTY:PICKETT STATE:TN	139	169	202	233	263
COUNTY:POLK STATE:TN	156	191	227	261	297
COUNTY:RHEA STATE:TN	156	191	227	261	297
COUNTY:ROANE STATE:TN	145	179	212	244	277
COUNTY:SCOTT STATE:TN	145	179	212	244	277
COUNTY:SEVIER STATE:TN	145	179	212	244	277
SMSA: MEMPHIS, TN-AR-MS					
COUNTY:SHELBY STATE:TN	188	231	272	313	355
COUNTY:TIPTON STATE:TN	188	231	272	313	355
NON SMSA					
COUNTY:BENTON STATE:TN	167	204	242•	278•	315•
COUNTY:CARROLL STATE:TN	150	185	218	253	285
COUNTY:CHESTER STATE:TN	150	185	218	253	285
COUNTY:CROCKETT STATE:TN	150	185	218	253	285
COUNTY:DECATUR STATE:TN	150	185	218	253	285
COUNTY:DYER STATE:TN	150	185	218	253	285
COUNTY:FAYETTE STATE:TN	151	184	218•	251	284

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:GIBSON STATE:TN	150	186	218	253	285
COUNTY:HARDEMAN STATE:TN	151	184	218•	251	284
COUNTY:HARDIN STATE:TN	151	186	221	255	289
COUNTY:HAYWOOD STATE:TN	150	185	218	253	285
COUNTY:HENDERSON STATE:TN	150	185	218	253	285
COUNTY:HENRY STATE:TN	150	185	218	253	285
COUNTY:LAKE STATE:TN	155	189	225	259	295
COUNTY:LAUDERDALE STATE:TN	150	185	218	253	285
COUNTY:MCNAIRY STATE:TN	151	186	221	255	289
COUNTY:MADISON STATE:TN	150	184	217•	251	283
COUNTY:OBION STATE:TN	155	189	225	259	295
COUNTY:WEAKLEY STATE:TN	150	185	218	253	285
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY:MONTGOMERY STATE:TN	183	224	266	306	347
SMSA: NASHVILLE-DAVIDSON, TN					
COUNTY:CHEATHAM STATE:TN	203	246•	291•	334•	379•
COUNTY:DAVIDSON STATE:TN	203	246•	291•	334•	379•
COUNTY:DICKSON STATE:TN	203	246•	291•	334•	379•
COUNTY:ROBERTSON STATE:TN	203	246•	291•	334•	379•
COUNTY:RUTHERFORD STATE:TN	203	246•	291•	334•	379•
COUNTY:SUMNER STATE:TN	203	246•	291•	334•	379•
COUNTY:WILLIAMSON STATE:TN	203	246•	291•	334•	379•
COUNTY:WILSON STATE:TN	203	246•	291•	334•	379•
NON SMSA					
COUNTY:BEDFORD STATE:TN	156	191	227	261	297
COUNTY:CANNON STATE:TN	139	169	202	233	263

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:CLAY STATE:TN	139	169	202	233	263
COUNTY:COFFEE STATE:TN	156	191	227	261	297
COUNTY:DE KALB STATE:TN	139	169	202	233	263
COUNTY:FRANKLIN STATE:TN	176	214*	253*	292*	330*
COUNTY:GILES STATE:TN	156	191	227	261	297
COUNTY:HICKMAN STATE:TN	156	191	227	261	297
COUNTY:HOUSTON STATE:TN	167	204	242*	278	315*
COUNTY:HUMPHREYS STATE:TN	183	224	266	306	347
COUNTY:JACKSON STATE:TN	139	169	202	233	263
COUNTY:LAWRENCE STATE:TN	156	191	227	261	297
COUNTY:LEWIS STATE:TN	156	191	227	261	297
COUNTY:LINCOLN STATE:TN	176	214*	253*	292*	330*
COUNTY:MACON STATE:TN	139	169	202	233	263
COUNTY:MARSHALL STATE:TN	156	191	227	261	297
COUNTY:MAURY STATE:TN	156	191	227	261	297
COUNTY:MOORE STATE:TN	156	191	227	261	297
COUNTY:OVERTON STATE:TN	139	169	202	233	263
COUNTY:PERRY STATE:TN	139	169	202	233	263
COUNTY:PUTNAM STATE:TN	139	169	202	233	263
COUNTY:SMITH STATE:TN	139	169	202	233	263
COUNTY:STEWART STATE:TN	167	204	242*	278	315*
COUNTY:TROUSDALE STATE:TN	139	169	202	233	263
COUNTY:VAN BUREN STATE:TN	139	169	202	233	263
COUNTY:WARREN STATE:TN	139	169	202	233	263

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:WAYNE STATE:TN	151	186	221	255	289
COUNTY:WHITE STATE:TN	139	169	202	233	263

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: CHICAGO, IL					
COUNTY: COOK STATE: IL	280	318	378	441	497
COUNTY: DU PAGE STATE: IL	280	318	378	441	497
COUNTY: KANE STATE: IL	280	318	378	441	497
COUNTY: LAKE STATE: IL	280	318	378	441	497
COUNTY: MCHENRY STATE: IL	280	318	378	441	497
COUNTY: WILL STATE: IL	280	318	378	441	497
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: ROCK ISLAND STATE: IL	214	262	310	359	406
SMSA: KANKAKEE, ILLINOIS					
COUNTY: KANKAKEE STATE: IL	180	220	262	303	343
SMSA: ROCKFORD, IL					
COUNTY: BOONE STATE: IL	205	258	316	356	413
COUNTY: WINNEBAGO STATE: IL	205	258	316	356	413
NON SMSA					
COUNTY: CARROLL STATE: IL	180	220	262	303	343
COUNTY: DE KALB STATE: IL	205	249	296	342	388
COUNTY: GRUNDY STATE: IL	205	249	296	342	388
COUNTY: JO DAVIESS STATE: IL	163	199	236	274	311
COUNTY: KENDALL STATE: IL	205	249	296	342	388
COUNTY: LEE STATE: IL	187	228	270	313	355
COUNTY: OGLE STATE: IL	187	228	270	313	355
COUNTY: STEPHENSON STATE: IL	187	228	270	313	355
COUNTY: WHITESIDE STATE: IL	180	220	262	303	343
SMSA: BLOOMINGTON-NORMAL, IL					
COUNTY: MCLEAN STATE: IL	187	228	270	313	355
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL					
COUNTY: CHAMPAIGN STATE: IL	207	252	299	346	392
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: HENRY STATE: IL	214	262	310	359	406

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: DECATUR, IL					
COUNTY:MACON STATE:IL	195	238	283	327	371
SMSA: PEORIA, IL					
COUNTY:PEORIA STATE:IL	214	262	310	359	406
COUNTY:TAZEWELL STATE:IL	214	262	310	359	406
COUNTY:WOODFORD STATE:IL	214	262	310	359	406
SMSA: ST LOUIS, MO-IL					
COUNTY:CLINTON STATE:IL	219	267	313	361	411
COUNTY:MADISON STATE:IL	219	267	313	361	411
COUNTY:MONROE STATE:IL	219	267	313	361	411
COUNTY:ST CLAIR STATE:IL	219	267	313	361	*411
SMSA: SPRINGFIELD, IL					
COUNTY:MENARD STATE:IL	195	238	283	327	371
COUNTY:SANGAMON STATE:IL	195	238	283	327	371
NON SMSA					
COUNTY:ADAMS STATE:IL	164	200	237	276	313
COUNTY:ALEXANDER STATE:IL	134	164	195	227	257
COUNTY:BOND STATE:IL	149	183	217	251	285
COUNTY:BROWN STATE:IL	164	200	237	276	313
COUNTY:BUREAU STATE:IL	180	220	262	303	343
COUNTY:CALHOUN STATE:IL	149	183	217	251	285
COUNTY:CASS STATE:IL	195	238	283	327	371
COUNTY:CHRISTIAN STATE:IL	195	238	283	327	371
COUNTY:CLARK STATE:IL	187	228	270	313	355
COUNTY:CLAY STATE:IL	149	183	217	251	285
COUNTY:COLES STATE:IL	207	252	299	346	392
COUNTY:CRAWFORD STATE:IL	187	228	270	313	355
COUNTY:CUMBERLAND STATE:IL	207	252	299	346	392

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY: DE WITT STATE: IL	195	238	283	327	371
COUNTY: DOUGLAS STATE: IL	207	252	299	346	392
COUNTY: EDGAR STATE: IL	207	252	299	346	392
COUNTY: EDWARDS STATE: IL	137	169	201	232	265
COUNTY: EFFINGHAM STATE: IL	149	183	217	251	285
COUNTY: FAYETTE STATE: IL	149	183	217	251	285
COUNTY: FORD STATE: IL	207	252	299	346	392
COUNTY: FRANKLIN STATE: IL	156	189	227	261	297
COUNTY: FULTON STATE: IL	187	228	270	313	355
COUNTY: GALLATIN STATE: IL	137	169	201	232	265
COUNTY: GREENE STATE: IL	149	183	217	251	285
COUNTY: HAMILTON STATE: IL	137	169	201	232	265
COUNTY: HANCOCK STATE: IL	164	200	237	276	313
COUNTY: HARDIN STATE: IL	134	164	195	227	257
COUNTY: HENDERSON STATE: IL	164	200	237	276	313
COUNTY: IROQUOIS STATE: IL	180	220	262	303	343
COUNTY: JACKSON STATE: IL	181	235	300	344	416
COUNTY: JASPER STATE: IL	149	183	217	251	285
COUNTY: JEFFERSON STATE: IL	156	189	227	261	297
COUNTY: JERSEY STATE: IL	149	183	217	251	285
COUNTY: JOHNSON STATE: IL	134	164	195	227	257
COUNTY: KNOX STATE: IL	187	228	270	313	355
COUNTY: LA SALLE STATE: IL	205	249	296	342	388
COUNTY: LAWRENCE STATE: IL	137	169	201	232	265

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY: LIVINGSTON STATE: IL	205	249	296	342	388
COUNTY: LOGAN STATE: IL	195	238	283	327	371
COUNTY: MCDONOUGH STATE: IL	187	228	270	313	355
COUNTY: MACOUPIN STATE: IL	149	183	217	251	285
COUNTY: MARION STATE: IL	149	183	217	251	285
COUNTY: MARSHALL STATE: IL	187	228	270	313	355
COUNTY: MASON STATE: IL	195	238	283	327	371
COUNTY: MASSAC STATE: IL	134	164	195	227	257
COUNTY: MERCER STATE: IL	180	220	262	303	343
COUNTY: MONTGOMERY STATE: IL	149	183	217	251	285
COUNTY: MORGAN STATE: IL	195	238	283	327	371
COUNTY: MOULTRIE STATE: IL	195	238	283	327	371
COUNTY: PERRY STATE: IL	156	189	227	261	297
COUNTY: PIATT STATE: IL	207	252	299	346	392
COUNTY: PIKE STATE: IL	164	200	237	276	313
COUNTY: POPE STATE: IL	134	164	195	227	257
COUNTY: PULASKI STATE: IL	134	164	195	227	257
COUNTY: PUTNAM STATE: IL	205	249	296	342	388
COUNTY: RANDOLPH STATE: IL	156	189	227	261	297
COUNTY: RICHLAND STATE: IL	149	183	217	251	285
COUNTY: SALINE STATE: IL	137	169	201	232	265
COUNTY: SCHUYLER STATE: IL	164	200	237	276	313
COUNTY: SCOTT STATE: IL	195	238	283	327	371
COUNTY: SHELBY STATE: IL	195	238	283	327	371

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:STARK STATE:IL	187	228	270	313	355
COUNTY:UNION STATE:IL	134	164	195	227	257
COUNTY:VERMILION STATE:IL	207	252	299	346	392
COUNTY:WABASH STATE:IL	137	169	201	232	265
COUNTY:WARREN STATE:IL	187	228	270	313	355
COUNTY:WASHINGTON STATE:IL	156	189	227	261	297
COUNTY:WAYNE STATE:IL	149	183	217	251	285
COUNTY:WHITE STATE:IL	137	169	201	232	265
COUNTY:WILLIAMSON STATE:IL	156	189	227	261	297
COLUMBUS, OHIO AREA OFFICE					
SMSA CINCINNATI, OH-KY-IN					
COUNTY:CLERMONT STATE:OH	205	250	293	338	382
COUNTY:HAMILTON STATE:OH	205	250	293	338	382
COUNTY:WARREN STATE:OH	205	250	293	338	382
SMSA DAYTON, OH					
COUNTY:GREENE STATE:OH	205	249	296	342	388
COUNTY:MONTGOMERY STATE:OH	205	249	296	342	388
COUNTY:PREBLE STATE:OH	205	249	296	342	388
SMSA HAMILTON-MIDDLETOWN, OH					
COUNTY BUTLER STATE:OH	178	217	258	298	339
NON SMSA					
COUNTY ADAMS STATE:OH	178	217	258	298	339
COUNTY BROWN STATE:OH	178	217	258	298	339
COUNTY CLINTON STATE:OH	178	217	258	298	339
COUNTY HIGHLAND STATE:OH	178	217	258	298	339

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
SMSA: AKRON, OH					
COUNTY:PORTAGE STATE:OH	211	258	306	354	400
COUNTY:SUMMIT STATE:OH	211	258	306	354	400
SMSA: CANTON, OH					
COUNTY:CARROLL STATE:OH	190	230	273	314	356
COUNTY:STARK STATE:OH	190	230	273	314	356
SMSA: CLEVELAND, OH					
COUNTY:CUYAHOGA STATE:OH	199	242	288	335	378
COUNTY:GEAUGA STATE:OH	199	242	288	335	378
COUNTY:LAKE STATE:OH	199	242	288	335	378
COUNTY:MEDINA STATE:OH	199	242	288	335	378
SMSA: LIMA, OH					
COUNTY:PUTNAM STATE:OH	195	227	275	317	362
SMSA: LORAIN-ELYRIA, OH					
COUNTY:LORAIN STATE:OH	206	251	298	343	390
SMSA: MANSFIELD, OH					
COUNTY:RICHLAND STATE:OH	179	223	262	301	340
SMSA: STEUBENVILLE-WEIRTON, OH-WV					
COUNTY:JEFFERSON STATE:OH	165	201	240	278	314
SMSA: TOLEDO, OH-MI					
COUNTY:FULTON STATE:OH	189	229	272	314	357
COUNTY:LUCAS STATE:OH	189	229	272	314	357
COUNTY:OTTAWA STATE:OH	189	229	272	314	357
COUNTY:WOOD STATE:OH	189	229	272	314	357
SMSA: YOUNGSTOWN-WARREN, OH					
COUNTY:MAHONING STATE:OH	180	220	262	303	343
COUNTY:TRUMBULL STATE:OH	180	220	262	303	343
NON SMSA					
COUNTY:ASHLAND STATE:OH	170	209	247	287	325
COUNTY:ASHTABULA STATE:OH	170	209	247	287	325
COUNTY:COLUMBIANA STATE:OH	150	184	218	253	287
COUNTY:CRAWFORD STATE:OH	174	212	250	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY:DEFIANCE STATE:OH	163	199	236	274	311
COUNTY:ERIE STATE:OH	170	209	247	287	325
COUNTY:HANCOCK STATE:OH	170	209	247	287	325
COUNTY:HARRISON STATE:OH	133	162	194	225	256
COUNTY:HENRY STATE:OH	170	209	247	287	325
COUNTY:HOLMES STATE:OH	150	184	218	253	287
COUNTY:HURON STATE:OH	170	209	247	287	325
COUNTY:PAULDING STATE:OH	163	199	236	274	311
COUNTY:SANDUSKY STATE:OH	170	209	247	287	325
COUNTY:SENECA STATE:OH	170	209	247	287	325
COUNTY:TUSCARAWAS STATE:OH	150	184	218	253	287
COUNTY:WAYNE STATE:OH	170	209	247	287	325
COUNTY:WILLIAMS STATE:OH	163	199	236	274	311
COUNTY:WYANDOT STATE:OH	174	212	250	291	329
SMSA COLUMBUS, OH					
COUNTY:DELAWARE STATE:OH	201	244	290	336	379
COUNTY:FAIRFIELD STATE:OH	201	244	290	336	379
COUNTY:FRANKLIN STATE:OH	201	244	290	336	379
COUNTY:MADISON STATE:OH	201	244	290	336	379
COUNTY:PICKAWAY STATE:OH	201	244	290	336	379
SMSA DAYTON, OH					
COUNTY:MIAMI STATE:OH	205	249	296	342	388
SMSA HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY:LAWRENCE STATE:OH	172	210	248	287	325
SMSA LIMA, OH					
COUNTY:ALLEN STATE:OH	195	227	275	317	352
COUNTY:AUGLAIZE STATE:OH	195	227	275	317	352

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
SMSA: LIMA, OH					
COUNTY:VAN WERT STATE:OH	195	227	275	317	352
SMSA: PARKERSBURG-MARIETTA, WV-OH					
COUNTY:WASHINGTON STATE:OH	168	231	212	314	355
SMSA: SPRINGFIELD, OH					
COUNTY:CHAMPAIGN STATE:OH	168	204	241	280	316
COUNTY:CLARK STATE:OH	168	204	241	280	316
SMSA: WHEELING, WV-OH					
COUNTY:BELMONT STATE:OH	177	204	250	294	324
NON SMSA					
COUNTY:ATHENS STATE:OH	173	223	284	322	364
COUNTY:COSHOCTON STATE:OH	167	205	244	281	318
COUNTY:DARKE STATE:OH	160	195	231	268	303
COUNTY:FAYETTE STATE:OH	145	175	210	243	276
COUNTY:GALLIA STATE:OH	120	147	175	203	231
COUNTY:GUERNSEY STATE:OH	179	215	259	297	336
COUNTY:HARDIN STATE:OH	163	199	236	274	311
COUNTY:HOCKING STATE:OH	163	199	236	274	311
COUNTY:JACKSON STATE:OH	145	175	210	243	276
COUNTY:KNOX STATE:OH	174	212	250	291	329
COUNTY:LICKING STATE:OH	170	209	247	287	325
COUNTY:LOGAN STATE:OH	160	195	231	268	303
COUNTY:MARION STATE:OH	145	175	210	243	276
COUNTY:MEIGS STATE:OH	120	147	175	203	231
COUNTY:MERCER STATE:OH	163	199	236	274	311
COUNTY:MONROE STATE:OH	133	162	194	225	255
COUNTY:MORGAN STATE:OH	163	199	236	274	311
COUNTY:MORROW STATE:OH	174	212	250	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY MUSKINGUM STATE:OH	172	209	246	285	323
COUNTY NOBLE STATE:OH	163	199	236	274	311
COUNTY PERRY STATE:OH	159	194	230	266	301
COUNTY PIKE STATE:OH	166	195	237	266	296
COUNTY ROSS STATE:OH	145	175	210	243	276
COUNTY SCIOTO STATE:OH	165	193	235	262	291
COUNTY SHELBY STATE:OH	170	200	244	287	314
COUNTY UNION STATE:OH	145	175	210	243	276
COUNTY VINTON STATE:OH	145	175	210	243	276
DETROIT, MICHIGAN AREA OFFICE					
SMSA ANN ARBOR, MI					
COUNTY:WASHTENAW STATE:MI	263	321	380	438	497
SMSA DETROIT, MI					
COUNTY:LIVINGSTON STATE:MI	246	301	355	410	463
COUNTY:MACOMB STATE:MI	246	301	356	410	463
COUNTY:OAKLAND STATE:MI	246	301	355	410	463
COUNTY:ST CLAIR STATE:MI	246	301	355	410	463
COUNTY:WAYNE STATE:MI	246	301	355	410	463
SMSA TOLEDO, OH-MI					
COUNTY:MONROE STATE:MI	189	229	272	314	357
NON SMSA					
COUNTY:LENAWEE STATE:MI	189	229	272	314	357
SMSA BAY CITY, MI					
COUNTY:BAY STATE:MI	207	252	299	346	392
SMSA DETROIT, MI					
COUNTY:LAPEER STATE:MI	246	301	355	410	463

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA FLINT, MI					
COUNTY:GENESEE STATE:MI	217	265	313	362	410
COUNTY:SHIAWASSEE STATE:MI	217	265	313	362	410
SMSA SAGINAW, MI					
COUNTY:SAGINAW STATE:MI	207	252	299	346	392
NON SMSA					
COUNTY ALCONA STATE:MI	187	228	270	313	355
COUNTY ALPENA STATE:MI	187	228	270	313	355
COUNTY:ARENAC STATE:MI	187	228	270	313	355
COUNTY:GLADWIN STATE:MI	187	228	270	313	355
COUNTY HURON STATE:MI	187	228	270	313	355
COUNTY IOSCO STATE:MI	187	228	270	313	355
COUNTY:MIDLAND STATE:MI	207	252	299	346	392
COUNTY:MONTMORENCY STATE:MI	187	228	270	313	355
COUNTY:OGEMAW STATE:MI	187	228	287	313	355
COUNTY:OSCODA STATE:MI	187	228	270	313	355
COUNTY:PRESQUE ISLE STATE:MI	187	228	270	313	355
COUNTY SANILAC STATE:MI	187	228	270	313	355
COUNTY:TUSCOLA STATE:MI	187	228	270	313	355
SMSA: BATTLE CREEK, MI					
COUNTY:BARRY STATE:MI	186	227	269	311	352
COUNTY:CALHOUN STATE:MI	186	227	269	311	352
SMSA: GRAND RAPIDS, MI					
COUNTY:KENT STATE:MI	182	223	264	306	347
COUNTY:OTTAWA STATE:MI	182	223	264	306	347
SMSA. JACKSON, MI					
COUNTY:JACKSON STATE:MI	186	227	269	311	352
SMSA KALAMAZOO-PORTAGE , MI					
COUNTY:KALAMAZOO STATE:MI	222	270	322	370	420

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA KALAMAZOO-PORTAGE , MI					
COUNTY: VAN BUREN STATE: MI	222	270	322	370	420
SMSA LANSING-EAST LANSING , MI					
COUNTY: CLINTON STATE: MI	236	286	341	393	445
COUNTY: EATON STATE: MI	236	286	341	393	445
COUNTY: INGHAM STATE: MI	236	286	341	393	445
COUNTY: IONIA STATE: MI	236	286	341	393	445
SMSA MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI					
COUNTY: MUSKEGON STATE: MI	165	202	240	278	315
COUNTY: OCEANA STATE: MI	165	202	240	278	315
NON SMSA					
COUNTY: ALGER STATE: MI	165	202	240	278	315
COUNTY: ALLEGAN STATE: MI	165	202	240	278	315
COUNTY: ANTRIM STATE: MI	165	202	240	278	315
COUNTY: BARAGA STATE: MI	165	202	240	278	315
COUNTY: BENZIE STATE: MI	165	202	240	278	315
COUNTY: BERRIEN STATE: MI	190	231	274	316	359
COUNTY: BRANCH STATE: MI	186	227	269	311	352
COUNTY: CASS STATE: MI	190	231	274	316	359
COUNTY: CHARLEVOIX STATE: MI	165	202	240	278	315
COUNTY: CHEBOYGAN STATE: MI	187	228	270	313	355
COUNTY: CHIPPEWA STATE: MI	187	228	287	313	355
COUNTY: CLARE STATE: MI	187	228	287	313	355
COUNTY: CRAWFORD STATE: MI	187	228	287	313	355
COUNTY: DELTA STATE: MI	181	214	277	306	345
COUNTY: DICKINSON STATE: MI	181	214	277	306	345
COUNTY: EMMET STATE: MI	165	202	240	278	315

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY: GOGEBIC STATE: MI	187	230	258	291	328
COUNTY: GRD TRAVERSE STATE: MI	227	262	298	347	429
COUNTY: GRATIOT STATE: MI	187	228	270	313	355
COUNTY: HILLSDALE STATE: MI	186	227	269	311	352
COUNTY: HOUGHTON STATE: MI	181	214	277	306	345
COUNTY: IRON STATE: MI	181	214	277	306	345
COUNTY: ISABELLA STATE: MI	187	228	270	313	355
COUNTY: KALKASKA STATE: MI	165	202	240	278	315
COUNTY: KEWEENAW STATE: MI	165	202	240	278	315
COUNTY: LAKE STATE: MI	181	214	277	306	345
COUNTY: LEELANAU STATE: MI	165	202	240	278	315
COUNTY: LUCE STATE: MI	187	228	270	313	355
COUNTY: MACKINAC STATE: MI	187	228	287	313	355
COUNTY: MANISTEE STATE: MI	181	214	277	306	345
COUNTY: MARQUETTE STATE: MI	181	214	277	306	345
COUNTY: MASON STATE: MI	181	214	277	306	345
COUNTY: MECOSTA STATE: MI	165	202	240	278	315
COUNTY: MENOMINEE STATE: MI	165	202	240	278	315
COUNTY: MISSAUKEE STATE: MI	181	214	277	306	345
COUNTY: MONTCALM STATE: MI	165	202	240	278	315
COUNTY NEWAYGO STATE MI	165	202	240	278	315
COUNTY: ONTONAGON STATE: MI	187	230	258	291	328
COUNTY: OSCEOLA STATE: MI	181	214	277	306	345
COUNTY: OTSEWO STATE: MI	187	228	287	313	355

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY:ROSCOMMON STATE:MI	187	228	287	313	355
COUNTY:ST JOSEPH STATE:MI	190	231	274	316	359
COUNTY:SCHOOLCRAFT STATE:MI	165	202	240	278	315
COUNTY:WEXFORD STATE:MI	181	214	277	306	345
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA ANDERSON, IN					
COUNTY:MADISON STATE:IN	179	218	260	300	341
SMSA BLOOMINGTON, IN					
COUNTY:MONROE STATE:IN	194	237	282	325	368
SMSA CINCINNATI, OH-KY-IN					
COUNTY:DEARBORN STATE:IN	205	250	293	338	382
SMSA ELKHART, IN					
COUNTY:ELKHART STATE:IN	197	240	284	327	371
SMSA EVANSVILLE, IN-KY					
COUNTY:GIBSON STATE:IN	210	235	284	315	352
COUNTY:POSEY STATE:IN	210	235	284	315	352
COUNTY:VANDERBURGH STATE:IN	210	235	284	315	352
COUNTY:WARRICK STATE:IN	210	235	284	315	352
SMSA FORT WAYNE, IN					
COUNTY:ADAMS STATE:IN	209	255	302	351	396
COUNTY:ALLEN STATE:IN	209	255	302	351	396

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA FORT WAYNE, IN					
COUNTY:DE KALB STATE:IN	209	255	302	351	396
COUNTY:WELLS STATE:IN	209	255	302	351	396
SMSA GARY-HAMMOND-EAST CHICAGO, IN					
COUNTY:LAKE STATE:IN	195	238	282	327	371
COUNTY:PORTER STATE:IN	195	238	282	327	371
SMSA INDIANAPOLIS, IN					
COUNTY:BOONE STATE:IN	200	243	288	334	378
COUNTY:HAMILTON STATE:IN	200	243	288	334	378
COUNTY:HANCOCK STATE:IN	200	243	288	334	378
COUNTY:HENDRICKS STATE:IN	200	243	288	334	378
COUNTY:JOHNSON STATE:IN	200	243	288	334	378
COUNTY:MARION STATE:IN	200	243	288	334	378
COUNTY:MORGAN STATE:IN	200	243	288	334	378
COUNTY:SHELBY STATE:IN	200	243	288	334	378
SMSA KOKOMO, IN					
COUNTY:HOWARD STATE:IN	194	237	282	325	368
COUNTY:TIPTON STATE:IN	194	237	282	325	368
SMSA LAFAYETTE-WEST LAFAYETTE, IN					
COUNTY:TIPPECANOE STATE:IN	205	249	296	342	388
SMSA LOUISVILLE, KY-IN					
COUNTY:CLARK STATE:IN	181	222	262	303	343
COUNTY:FLOYD STATE:IN	181	222	262	303	343
SMSA MUNCIE, IN					
COUNTY:DELAWARE STATE:IN	179	218	260	300	341
SMSA SOUTH BEND, IN					
COUNTY:MARSHALL STATE:IN	205	249	296	342	388
COUNTY:ST JOSEPH STATE:IN	205	249	296	342	388
SMSA TERRE HAUTE, IN					
COUNTY:CLAY STATE:IN	187	228	270	313	355

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA TERRE HAUTE, IN					
COUNTY: SULLIVAN STATE IN	187	228	270	313	355
COUNTY VERMILLION STATE IN	187	228	270	313	355
COUNTY VIGO STATE IN	187	228	270	313	355
NON SMSA					
COUNTY: BARTHOLOMEW STATE IN	194	237	282	325	368
COUNTY BENTON STATE IN	205	249	296	342	388
COUNTY BLACKFORD STATE IN	179	218	260	300	341
COUNTY BROWN STATE IN	194	237	282	325	368
COUNTY CARROLL STATE IN	205	249	296	342	388
COUNTY CASS STATE IN	194	237	282	325	368
COUNTY CLINTON STATE IN	205	249	296	342	388
COUNTY CRAWFORD STATE IN	173	210	249	288	327
COUNTY DAVIESS STATE IN	210	235	284	315	352
COUNTY DECATUR STATE IN	194	237	282	325	368
COUNTY DUBOIS STATE IN	210	235	284	315	352
COUNTY FAYETTE STATE IN	178	217	258	298	339
COUNTY FOUNTAIN STATE IN	205	249	296	342	388
COUNTY FRANKLIN STATE IN	178	217	258	298	339
COUNTY FULTON STATE IN	190	231	274	316	359
COUNTY GRANT STATE IN	179	218	260	300	341
COUNTY GREENE STATE IN	187	228	270	313	355
COUNTY HARRISON STATE IN	173	210	249	288	327
COUNTY HENRY STATE IN	179	218	260	300	341
COUNTY HUNTINGTON STATE IN	163	199	236	274	311
COUNTY JACKSON STATE IN	194	237	282	325	368

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY: JASPER STATE IN	180	220	262	303	343
COUNTY JAY STATE IN	179	218	260	300	341
COUNTY: JEFFERSON STATE IN	173	210	249	288	327
COUNTY: JENNINGS STATE IN	194	237	282	325	368
COUNTY: KNOX STATE IN	143 6	169	201	232	265
COUNTY KOSCIUSKO STATE IN	190	231	274	316	359
COUNTY: LAGRANGE STATE IN	190	231	274	316	359
COUNTY: LA PORTE STATE IN	180	220	262	303	343
COUNTY LAWRENCE STATE IN	194	237	282	325	368
COUNTY: MARTIN STATE IN	210	235	284	315	352
COUNTY: MIAMI STATE IN	194	237	282	325	368
COUNTY: MONTGOMERY STATE IN	205	249	296	342	388
COUNTY: NEWTON STATE IN	180	220	262	303	343
COUNTY: NOBLE STATE IN	163	199	236	274	311
COUNTY: OHIO STATE IN	178	217	258	298	339
COUNTY: ORANGE STATE IN	173	210	249	288	327
COUNTY: OWEN STATE IN	194	237	282	325	368
COUNTY PARKE STATE IN	187	228	270	313	355
COUNTY: PERRY STATE IN	210	235	284	315	352
COUNTY PIKE STATE IN	210	235	284	315	352
COUNTY: PULASKI STATE IN	180	220	262	303	343
COUNTY: PUTNAM STATE IN	194	237	282	325	368
COUNTY: RANDOLPH STATE IN	179	218	260	300	341
COUNTY: RIPLEY STATE IN	178	217	258	298	339

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY RUSH STATE IN	194	237	282	325	368
COUNTY SCOTT STATE IN	173	210	249	288	327
COUNTY SPENCER STATE IN	210	235	284	315	352
COUNTY STARKE STATE IN	180	220	262	303	343
COUNTY STEUBEN STATE IN	163	199	236	274	311
COUNTY SWITZERLAND STATE IN	178	217	258	298	339
COUNTY UNION STATE IN	178	217	258	298	339
COUNTY WABASH STATE IN	163	199	236	274	311
COUNTY WARREN STATE IN	205	249	296	342	388
COUNTY WASHINGTON STATE IN	173	210	249	288	327
COUNTY WAYNE STATE IN	179	218	260	300	341
COUNTY WHITE STATE IN	205	249	296	342	388
COUNTY WHITLEY STATE IN	163	199	236	274	311

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS. 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA APPLETON-OSHKOSH, WI					
COUNTY:CALUMET STATE:WI	196	241	285	329	373
COUNTY:OUTAGAMIE STATE:WI	196	241	285	329	373
COUNTY:WINNEBAGO STATE:WI	196	241	285	329	373
SMSA DULUTH-SUPERIOR, MN-WI					
COUNTY DOUGLAS STATE:WI	217	250	304	339	376
SMSA EAU CLAIRE, WI					
COUNTY CHIPPEWA STATE:WI	150	184	218	253	287
COUNTY:EAU CLAIRE STATE:WI	150	184	218	253	287
SMSA GREEN BAY, WI					
COUNTY BROWN STATE:WI	179	218	260	300	341
SMSA JANESVILLE-BELOIT,WI					
COUNTY:ROCK STATE:WI	187	228	270	313	355
SMSA KENOSHA, WI					
COUNTY:KENOSHA STATE:WI	206	251	298	343	390
SMSA LA CROSSE, WI					
COUNTY:LA CROSSE STATE:WI	164	200	237	276	312
SMSA MADISON, WI					
COUNTY:DANE STATE:WI	214	261	309	356	404
SMSA MILWAUKEE, WI					
COUNTY:MILWAUKEE STATE:WI	231	281	335	388	441
COUNTY:OZAUKEE STATE:WI	231	281	335	388	441
COUNTY:WASHINGTON STATE:WI	231	281	335	388	441
COUNTY:WAUKESHA STATE:WI	231	281	335	388	441
SMSA MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY:ST CROIX STATE:WI	232	281*	330*	380*	428*
SMSA RACINE, WI					
COUNTY:RACINE STATE:WI	206	251	298	343	390
NON SMSA					
COUNTY:ADAMS STATE:WI	174	212	250	291	329
COUNTY:ASHLAND STATE:WI	150	184	218	253	287
COUNTY:BARRON STATE:WI	150	184	218	253	287
COUNTY:BAYFIELD STATE:WI	150	184	218	253	287

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY: BUFFALO STATE: WI	164	200	237	276	313
COUNTY: BURNETT STATE: WI	175	213	253	293	331
COUNTY: CLARK STATE: WI	182	223	265	307	348
COUNTY: COLUMBIA STATE: WI	174	212	250	291	329
COUNTY: CRAWFORD STATE: WI	163	199	236	274	311
COUNTY: DODGE STATE: WI	174	212	250	291	329
COUNTY: DOOR STATE: WI	179	218	260	300	341
COUNTY: DUNN STATE: WI	150	184	218	253	287
COUNTY: FLORENCE STATE: WI	165	202	240	278	315
COUNTY: FOND DU LAC STATE: WI	174	212	250	291	329
COUNTY: FOREST STATE: WI	165	202	240	278	315
COUNTY: GRANT STATE: WI	163	199	236	274	311
COUNTY: GREEN STATE: WI	187	228	270	313	355
COUNTY: GREEN LAKE STATE: WI	174	212	250	291	329
COUNTY: IOWA STATE: WI	174	212	250	291	329
COUNTY: IRON STATE: WI	150	184	218	253	287
COUNTY: JACKSON STATE: WI	164	200	237	276	313
COUNTY: JEFFERSON STATE: WI	174	212	250	291	329
COUNTY: JUNEAU STATE: WI	164	200	237	276	313
COUNTY: KEWAUNEE STATE: WI	179	218	260	300	341
COUNTY: LAFAYETTE STATE: WI	163	199	236	271	311
COUNTY: LANGLADE STATE: WI	182	223	265	307	348
COUNTY: LINCOLN STATE: WI	182	223	265	307	348
COUNTY MANITOWOC STATE: WI	179	218	260	300	341

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY: MARATHON STATE: WI	182	223	265	307	348
COUNTY: MARINETTE STATE: WI	165	202	240	278	315
COUNTY: MARQUETTE STATE: WI	174	212	250	291	329
COUNTY: MENOMINEE STATE: WI	165	202	240	278	315
COUNTY: MONROE STATE: WI	164	200	237	276	313
COUNTY: OCONTO STATE: WI	165	202	240	278	315
COUNTY: ONEIDA STATE: WI	182	223	265	307	348
COUNTY: PEPIN STATE: WI	150	184	218	253	287
COUNTY: PIERCE STATE: WI	175	213	253	293	331
COUNTY: POLK STATE: WI	175	213	253	293	331
COUNTY: PORTAGE STATE: WI	182	223	265	307	348
COUNTY: PRICE STATE: WI	182	223	265	307	348
COUNTY: RICHLAND STATE: WI	174	212	250	291	329
COUNTY: RUSK STATE: WI	150	184	218	253	287
COUNTY: SAUK STATE: WI	174	212	250	291	329
COUNTY: SAWYER STATE: WI	150	184	218	253	287
COUNTY: SHAWANO STATE: WI	165	202	240	278	315
COUNTY: SHEBOYGAN STATE: WI	174	212	250	291	329
COUNTY: TAYLOR STATE: WI	182	223	265	307	348
COUNTY: TREMPEALEAU STATE: WI	164	200	237	276	313
COUNTY: VERNON STATE: WI	164	200	237	276	313
COUNTY: VILAS STATE: WI	182	223	265	307	348
COUNTY: WALWORTH STATE: WI	174	212	250	291	329
COUNTY: WASHBURN STATE: WI	150	184	218	253	287

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:WAUPACA STATE:WI	165	202	240	278	315
COUNTY:WAUSHARA STATE:WI	174	212	250	291	329
COUNTY:WOOD STATE:WI	182	223	265	307	348
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
SMSA: DULUTH-SUPERIOR, MN-WI					
COUNTY:ST LOUIS STATE:MN	217	250	304	339	376
SMSA: FARGO-MOORHEAD, ND-MN					
COUNTY:CLAY STATE:MN	205	235	308	356	381
SMSA: GRAND FORKS, N.D.-MN					
COUNTY:POLK STATE:MN	205	246	296	344	376
SMSA: MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY:ANOKA STATE:MN	232	281*	330*	380*	428*
COUNTY:CARVER STATE:MN	232	281*	330*	380*	428*
COUNTY:CHISAGO STATE:MN	232	281*	330*	380*	428*
COUNTY:DAKOTA STATE:MN	232	281*	330*	380*	428*
COUNTY:HENNEPIN STATE:MN	232	281*	330*	380*	428*
COUNTY:RAMSEY STATE:MN	232	281*	330*	380*	428*
COUNTY:SCOTT STATE:MN	232	281*	330*	380*	428*
COUNTY:WASHINGTON STATE:MN	232	281*	330*	380*	428*

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
SMSA: MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY:WRIGHT STATE:MN	232	281*	330*	380*	428*
SMSA: ROCHESTER, MN					
COUNTY:OLMSTED STATE:MN	210	255	300*	345	410*
SMSA ST. CLOUD, MN					
COUNTY:BENTON STATE:MN	201	245	289*	333	377
COUNTY:SHERBURNE STATE:MN	201	245	289*	333	377
COUNTY:STEARNS STATE:MN	201	245	289*	333	377
NON SMSA					
COUNTY:AITKIN STATE:MN	168	204	243	280	318
COUNTY:BECKER STATE:MN	175	213	253	293	331
COUNTY:BELTRAMI STATE:MN	168	204	243	280	318
COUNTY:BIG STONE STATE:MN	168	204	243	280	318
COUNTY:BLUE EARTH STATE:MN	201	245	289*	333	377
COUNTY:BROWN STATE:MN	197	242	286	330	376
COUNTY:CARLTON STATE:MN	197	242	236	330	376
COUNTY:CASS STATE:MN	168	204	243	280	318
COUNTY:CHIPPEWA STATE:MN	168	204	243	280	318
COUNTY:CLEARWATER STATE:MN	175	213	253	293	331
COUNTY:COOK STATE:MN	163	199	236	273	310
COUNTY:COTTONWOOD STATE:MN	168	204	243	280	318
COUNTY:CROW WING STATE:MN	182	223	262*	302	343
COUNTY:DODGE STATE:MN	197	242	286	330	376
COUNTY:DOUGLAS STATE:MN	168	204	243	280	318
COUNTY:FARIBAULT STATE:MN	197	242	286	330	376
COUNTY:FILLMORE STATE:MN	197	242	286	330	376
COUNTY:FREEBORN STATE:MN	197	242	286	330	376

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: GOODHUE STATE: MN	175	213	253	293	331
COUNTY: GRANT STATE: MN	154	187	223	259	295
COUNTY: HOUSTON STATE: MN	164	200	237	276	313
COUNTY: HUBBARD STATE: MN	168	204	243	280	318
COUNTY: ISANTI STATE: MN	175	213	253	293	331
COUNTY: ITASCA STATE: MN	197	242	286	330	376
COUNTY: JACKSON STATE: MN	178	217	258	298	339
COUNTY: KANABEC STATE: MN	175	213	253	293	331
COUNTY: KANDIYOHI STATE: MN	182	223	262*	302	343
COUNTY: KITTSON STATE: MN	175	213	253	293	331
COUNTY: KOOCHICHING STATE: MN	163	199	236	273	310
COUNTY: LAC QUI PARL STATE: MN	168	204	243	280	318
COUNTY: LAKE STATE: MN	163	199	236	273	310
COUNTY: LAKE OF WOOD STATE: MN	168	204	243	280	318
COUNTY: LE SUEUR STATE: MN	197	242	286	330	376
COUNTY: LINCOLN STATE: MN	178	217	258	298	339
COUNTY: LYON STATE: MN	178	217	258	298	339
COUNTY: MCLEOD STATE: MN	197	242	286	330	376
COUNTY: MAHNOMEN STATE: MN	175	213	253	293	331
COUNTY: MARSHALL STATE: MN	175	213	253	293	331
COUNTY: MARTIN STATE: MN	182	223	262*	302	343
COUNTY: MEEKER STATE: MN	182	223	262*	302	343
COUNTY: MILLE LACS STATE: MN	175	213	253	293	331
COUNTY: MORRISON STATE: MN	182	223	262*	302	343

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: MOWER STATE: MN	197	242	286	330	376
COUNTY: MURRAY STATE: MN	178	217	258	298	339
COUNTY: NICOLLET STATE: MN	197	242	286	330	376
COUNTY: NOBLES STATE: MN	178	217	258	298	339
COUNTY: NORMAN STATE: MN	175	213	253	293	331
COUNTY: OTTER TAIL STATE: MN	175	213	253	293	331
COUNTY: PENNINGTON STATE: MN	175	213	253	293	331
COUNTY: PINE STATE: MN	175	213	253	293	331
COUNTY: PIPESTONE STATE: MN	178	217	258	298	339
COUNTY: POPE STATE: MN	168	204	243	280	318
COUNTY: RED LAKE STATE: MN	175	213	253	293	331
COUNTY: REDWOOD STATE: MN	168	204	243	280	318
COUNTY: RENVILLE STATE: MN	168	204	243	280	318
COUNTY: RICE STATE: MN	175	213	253	293	331
COUNTY: ROCK STATE: MN	178	217	258	298	339
COUNTY: ROSEAU STATE: MN	175	213	253	293	331
COUNTY: SIBLEY STATE: MN	197	242	286	330	376
COUNTY: STEELE STATE: MN	197	242	286	330	376
COUNTY: STEVENS STATE: MN	168	204	243	280	318
COUNTY: SWIFT STATE: MN	168	204	243	280	318
COUNTY: TODD STATE: MN	168	204	243	280	318
COUNTY: TRAVERSE STATE: MN	154	187	223	259	295
COUNTY: WABASHA STATE: MN	197	242	286	330	376
COUNTY: WADENA STATE: MN	168	204	243	280	318

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY:WASECA STATE:MN	197	242	286	330	376
COUNTY:WATONWAN STATE:MN	182	223	262*	302	343
COUNTY:WILKIN STATE:MN	175	213	253	293	331
COUNTY:WINONA STATE:MN	180	220	261	303	343
COUNTY:YELLOW MEDIC STATE:MN	168	204	243	280	318
REGION 6					
DALLAS, TEXAS AREA OFFICE					
SMSA: ALBUQUERQUE, NM					
COUNTY:BERNALILLO STATE:NM	187	230	271	314	0
COUNTY:SANDOVAL STATE:NM	187	230	271	314	0
SMSA: LAS CRUCES, NM					
COUNTY:DONA ANA STATE:NM	158	193	228	264	300
NON SMSA					
COUNTY:CATRON STATE:NM	158	193	228	264	300
COUNTY:CHAVES STATE:NM	158	193	228	264	300
COUNTY:COLFAX STATE:NM	168	205*	241*	278	314
COUNTY:CURRY STATE:NM	151	184	218	252	287
COUNTY:DE BACA STATE:NM	151	184	218	252	287
COUNTY:EDDY STATE:NM	158	193	228	264	300
COUNTY:GRANT STATE:NM	158	193	228	264	300
COUNTY:GUADALUPE STATE:NM	151	184	218	252	287

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:HARDING STATE:NM	151	184	218	252	287
COUNTY:HIDALGO STATE:NM	158	193	228	264	300
COUNTY:LEA STATE:NM	158	193	228	264	300
COUNTY:LINCOLN STATE:NM	158	193	228	264	300
COUNTY:LOS ALAMOS STATE:NM	168	205*	241*	278	314
COUNTY:LUNA STATE:NM	168	205*	241*	278*	314
COUNTY:MCKINLEY STATE:NM	168	205	241*	278	314
COUNTY:MORA STATE:NM	168	205*	241*	278	314
COUNTY:OTERO STATE:NM	158	193	228	264	300
COUNTY:QUAY STATE:NM	151	184	218	252	287
COUNTY:RIO ARRIBA STATE:NM	168	205	241*	278	314
COUNTY:ROOSEVELT STATE:NM	151	184	218	252	287
COUNTY:SAN JUAN STATE:NM	187	230	271	314	356
COUNTY:SAN MIGUEL STATE:NM	168	205*	241*	278	314
COUNTY:SANTE FE STATE:NM	187	230	271	314	356
COUNTY:SIERRA STATE:NM	158	193	228	264	300
COUNTY:SOCORRO STATE:NM	158	193	228	264	300
COUNTY:TAOS STATE:NM	168	205*	241*	278	314
COUNTY:TORRANCE STATE:NM	168	205*	241*	278	314
COUNTY:UNION STATE:NM	151	184	218	252	287
COUNTY:VALENCIA STATE:NM	168	205	241*	278	314
SMSA: DALLAS-FORT WORTH , TX					
COUNTY:COLLIN STATE:TX	223	269	316	363	408
COUNTY:DALLAS STATE:TX	223	269	316	363	408
COUNTY:DENTON STATE:TX	223	269	316	363	408

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA: DALLAS-FORT WORTH , TX					
COUNTY:ELLIS STATE:TX	223	269	316	363	408
COUNTY:KAUFMAN STATE:TX	223	269	316	363	408
COUNTY:ROCKWALL STATE:TX	223	269	316	363	408
SMSA: KILLEEN-TEMPLE, TX					
COUNTY:BELL STATE:TX	187	227	270	312	352
COUNTY:CORYELL STATE:TX	187	227	270	312	352
SMSA: LONGVIEW-MARSHALL, TX					
COUNTY:GREGG STATE:TX	151	186	221	255	289
SMSA: SHERMAN-DENISON, TX					
COUNTY:GRAYSON STATE:TX	161	198	234	270	305
SMSA: TEXARKANA, TX-AR					
COUNTY:BOWIE STATE:TX	151	186	221	255	289
SMSA: TYLER, TX					
COUNTY:SMITH STATE:TX	151	186	221	255	289
SMSA: WACO, TX					
COUNTY:MCLENNAN STATE:TX	187	227	270	312	352
NON SMSA					
COUNTY:ANDERSON STATE:TX	151	186	221	255	289
COUNTY:CAMP STATE:TX	132	163	192	222	252
COUNTY:CHEROKEE STATE:TX	151	186	221	255	289
COUNTY:COOKE STATE:TX	161	198	234	270	305
COUNTY:DELTA STATE:TX	132	163	192	222	252
COUNTY:FALLS STATE:TX	187	227	270	312	352
COUNTY:FANNIN STATE:TX	161	198	234	270	305
COUNTY:FRANKLIN STATE:TX	132	163	192	222	252
COUNTY:FREESTONE STATE:TX	187	227	270	312	352
COUNTY:HENDERSON STATE:TX	151	186	221	255	289
COUNTY:HILL STATE:TX	187	227	270	312	352
COUNTY:HOPKINS STATE:TX	161	198	234	270	305

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:HUNT STATE:TX	165	202	238	274	309
COUNTY:LAMAR STATE:TX	151	186	221	255	289
COUNTY:LIMESTONE STATE:TX	187	227	270	312	352
COUNTY:MILAM STATE:TX	173	212	251	290	327
COUNTY:NAVARRO STATE:TX	161	198	234	270	305
COUNTY:RAINS STATE:TX	161	198	234	270	305
COUNTY:RED RIVER STATE:TX	132	163	192	222	252
COUNTY:RUSK STATE:TX	151	186	221	255	289
COUNTY:TITUS STATE:TX	140	172	203	235	265
COUNTY:UPSHUR STATE:TX	151	186	221	255	289
COUNTY:VAN ZANDT STATE:TX	161	198	234	270	305
COUNTY:WOOD STATE:TX	151	186	221	255	289
SMSA: ABILENE, TX					
COUNTY:CALLAHAN STATE:TX	166	204	241	279	316
COUNTY:JONES STATE:TX	166	204	241	279	316
COUNTY:TAYLOR STATE:TX	166	204	241	279	316
SMSA: DALLAS-FORT WORTH , TX					
COUNTY:HOOD STATE:TX	223	269	316	363	408
COUNTY:JOHNSON STATE:TX	223	269	316	363	408
COUNTY:PARKER STATE:TX	223	269	316	363	408
COUNTY:TARRANT STATE:TX	223	269	316	363	408
COUNTY:WISE STATE:TX	223	269	316	363	408
SMSA: SAN ANGELO, TX					
COUNTY:TOM GREEN STATE:TX	166	204	241	279	316
SMSA: WICHITA FALLS, TX					
COUNTY:CLAY STATE:TX	183	224	266	306	347
COUNTY:WICHITA STATE:TX	183	224	266	306	347

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215 NO 480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:ARCHER STATE:TX	183	224	266	306	347
COUNTY:BAYLOR STATE:TX	183	224	266	306	347
COUNTY:BOSQUE STATE:TX	187	227	270	312	352
COUNTY:BROWN STATE:TX	166	204	241	279	316
COUNTY:COKE STATE:TX	166	204	241	279	316
COUNTY:COLEMAN STATE:TX	166	204	241	279	316
COUNTY:COMANCHE STATE:TX	166	204	241	279	316
COUNTY:CONCHO STATE:TX	166	204	241	279	316
COUNTY:CROCKETT STATE:TX	176	215	254	294	333
COUNTY:EASTLAND STATE:TX	166	204	241	279	316
COUNTY:ERATH STATE:TX	161	198	234	270	305
COUNTY:FOARD STATE:TX	183	224	266	306	347
COUNTY:HAMILTON STATE:TX	187	227	270	312	352
COUNTY:HARDEMAN STATE:TX	188	224	266	306	347
COUNTY:HASKELL STATE:TX	166	204	241	279	316
COUNTY:IRION STATE:TX	166	204	241	279	316
COUNTY:JACK STATE:TX	183	224	266	306	347
COUNTY:KIMBLE STATE:TX	166	204	241	279	316
COUNTY:KNOX STATE:TX	166	204	241	279	316
COUNTY:LAMPASAS STATE:TX	187	227	270	312	352
COUNTY:MCCULLOCH STATE:TX	166	204	241	279	316
COUNTY:MASON STATE:TX	166	204	241	279	316
COUNTY:MENARD STATE:TX	166	204	241	279	316
COUNTY:MILLS STATE:TX	166	204	241	279	316

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:MONTAGUE STATE:TX	161	198	234	270	305
COUNTY:PALO PINTO STATE:TX	161	198	234	270	305
COUNTY:REAGAN STATE:TX	176	215	254	294	333
COUNTY:RUNNELS STATE:TX	166	204	241	279	316
COUNTY:SAN SABA STATE:TX	166	204	241	279	316
COUNTY:SCHLEICHER STATE:TX	166	204	241	279	316
COUNTY:SHACKLEFORD STATE:TX	166	204	241	279	316
COUNTY:SOMERVELL STATE:TX	161	198	234	270	305
COUNTY:STEPHENS STATE:TX	166	204	241	279	316
COUNTY:STERLING STATE:TX	166	204	241	279	316
COUNTY:SUTTON STATE:TX	166	204	241	279	316
COUNTY:THROCKMORTON STATE:TX	183	224	266	306	347
COUNTY:WILBARGER STATE:TX	183	224	266	306	347
COUNTY:YOUNG STATE:TX	183	224	266	306	347
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX					
COUNTY:HARDIN STATE:TX	175	214	253	292	331
COUNTY:JEFFERSON STATE:TX	175	214	253	292	331
COUNTY:ORANGE STATE:TX	175	214	253	292	331
SMSA: BRYAN-COLLEGE STATION, TX					
COUNTY:BRAZOS STATE:TX	173	212	251	290	327
SMSA: GALVESTON-TEXAS CITY, TX					
COUNTY:GALVESTON STATE:TX	205	250	296	342	386
SMSA: HOUSTON, TX					
COUNTY:BRAZORIA STATE:TX	214	262	312	362	410
COUNTY:FORT BEND STATE:TX	214	262	312	362	410
COUNTY:HARRIS STATE:TX	214	262	312	362	410
COUNTY:LIBERTY STATE:TX	214	262	312	362	410

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO4/80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA: HOUSTON, TX					
COUNTY:MONTGOMERY STATE:TX	214	262	312	362	410
COUNTY:WALLER STATE:TX	214	262	312	362	410
NON SMSA					
COUNTY:ANGELINA STATE:TX	151	186	221	255	289
COUNTY:AUSTIN STATE:TX	172	210	248	287	325
COUNTY:BURLESON STATE:TX	173	212	251	290	327
COUNTY:CHAMBERS STATE:TX	172	210	248	287	325
COUNTY:COLORADO STATE:TX	172	210	248	287	325
COUNTY:GRIMES STATE:TX	173	212	251	290	327
COUNTY:HOUSTON STATE:TX	151	186	221	255	289
COUNTY:JASPER STATE:TX	172	210	248	287	325
COUNTY:LEON STATE:TX	173	212	251	290	327
COUNTY:MADISON STATE:TX	173	212	251	290	327
COUNTY:MATAGORDA STATE:TX	172	210	248	287	325
COUNTY:NACOGDOCHES STATE:TX	151	186	221	255	289
COUNTY:NEWTON STATE:TX	172	210	248	287	325
COUNTY:POLK STATE:TX	172	210	248	287	325
COUNTY:ROBERTSON STATE:TX	173	212	251	290	327
COUNTY:SABINE STATE:TX	144 3	173	205	237	268
COUNTY:SAN AUGUSTIN STATE:TX	144 3	173	205	237	268
COUNTY:SAN JACINTO STATE:TX	172	210	248	287	325
COUNTY:SHELBY STATE:TX	144 3	173	205	237	268
COUNTY:TRINITY STATE:TX	151	186	221	255	289
COUNTY:TYLER STATE:TX	172	210	248	287	325
COUNTY:WALKER STATE:TX	172	210	248	287	325

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:WASHINGTON STATE:TX	172	210	248	287	325
COUNTY:WHARTON STATE:TX	172	210	248	287	325
SMSA: AMARILLO, TX					
COUNTY:POTTER STATE:TX	160	196	230	268	302
COUNTY:RANDALL STATE:TX	160	196	230	268	302
SMSA: EL PASO, TX					
COUNTY:EL PASO STATE:TX	196	240*	282*	326*	368*
SMSA: LUBBOCK, TX					
COUNTY:LUBBOCK STATE:TX	166	204	241	279	316
SMSA: MIDLAND, TX					
COUNTY:MIDLAND STATE:TX	176	215	254	294	333
SMSA: ODESSA, TX					
COUNTY:ECTOR STATE:TX	176	215	254	294	333
NON SMSA					
COUNTY:ANDREWS STATE:TX	176	215	254	294	333
COUNTY:ARMSTRONG STATE:TX	160	196	230	268	302
COUNTY:BAILEY STATE:TX	166	204	241	279	316
COUNTY:BORDEN STATE:TX	176	215	254	294	333
COUNTY:BREWSTER STATE:TX	176	215	254	294	333
COUNTY:BRISCOE STATE:TX	160	196	230	268	302
COUNTY:CARSON STATE:TX	160	196	230	268	302
COUNTY:CASTRO STATE:TX	160	196	230	268	302
COUNTY:CHILDRESS STATE:TX	183	224	266	306	347
COUNTY:COCHRAN STATE:TX	166	204	241	279	316
COUNTY:COLLINGSWORT STATE:TX	160	196	230	268	302
COUNTY:COTTLE STATE:TX	183	224	266	306	347
COUNTY:CRANE STATE:TX	176	215	254	294	333
COUNTY:CROSBY STATE:TX	166	204	241	279	316

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AMS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: CULBERSON STATE: TX	165	202	240	277	313
COUNTY: DALLAM STATE: TX	160	196	230	268	302
COUNTY: DAWSON STATE: TX	176	215	254	294	333
COUNTY: DEAF SMITH STATE: TX	160	196	230	268	302
COUNTY: DICKENS STATE: TX	166	204	241	279	316
COUNTY: DONLEY STATE: TX	160	196	230	268	302
COUNTY: FISHER STATE: TX	166	204	241	279	316
COUNTY: FLOYD STATE: TX	166	204	241	279	316
COUNTY: GAINES STATE: TX	176	215	254	294	333
COUNTY: GARZA STATE: TX	166	204	241	279	316
COUNTY: GLASSCOCK STATE: TX	176	215	254	294	333
COUNTY: GRAY STATE: TX	160	196	230	268	302
COUNTY: HALE STATE: TX	166	204	241	279	316
COUNTY: HALL STATE: TX	160	196	230	268	302
COUNTY: HANSFORD STATE: TX	160	196	230	268	302
COUNTY: HARTLEY STATE: TX	160	196	230	268	302
COUNTY: HEMPHILL STATE: TX	160	196	230	268	302
COUNTY: HOCKLEY STATE: TX	151	186	221	255	289
COUNTY: HOWARD STATE: TX	176	215	254	294	333
COUNTY: HUDSPETH STATE: TX	165	202	240	277	313
COUNTY: HUTCHINSON STATE: TX	160	196	230	268	302
COUNTY: JEFF DAVIS STATE: TX	165	202	240	277	313
COUNTY: KENT STATE: TX	166	204	241	279	316
COUNTY: KING STATE: TX	166	204	241	279	316

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: LAMB STATE: TX	166	204	241	279	316
COUNTY: LIPSCOMB STATE: TX	160	196	230	268	302
COUNTY: LOVING STATE: TX	176	215	254	294	333
COUNTY: LYNN STATE: TX	166	204	241	279	316
COUNTY: MARTIN STATE: TX	176	215	254	294	333
COUNTY: MITCHELL STATE: TX	155	189	225	259	295
COUNTY: MOORE STATE: TX	160	196	230	268	302
COUNTY: MOTLEY STATE: TX	166	204	241	279	316
COUNTY: NOLAN STATE: TX	166	204	241	279	316
COUNTY: OCHILTREE STATE: TX	160	196	230	268	302
COUNTY: OLDHAM STATE: TX	160	196	230	268	302
COUNTY: PARMER STATE: TX	160	196	230	268	302
COUNTY: PECOS STATE: TX	176	215	254	294	333
COUNTY: PRESIDIO STATE: TX	165	202	240	277	313
COUNTY: REEVES STATE: TX	176	215	254	294	333
COUNTY: ROBERTS STATE: TX	160	196	230	268	302
COUNTY: SCURRY STATE: TX	166	204	241	279	316
COUNTY: SHERMAN STATE: TX	160	196	230	268	302
COUNTY: STONEWALL STATE: TX	166	204	241	279	316
COUNTY: SWISHER STATE: TX	160	196	230	268	302
COUNTY: TERRELL STATE: TX	176	215	254	294	333
COUNTY: TERRY STATE: TX	166	204	241	279	316
COUNTY: UPTON STATE: TX	176	215	254	294	333
COUNTY: WARD STATE: TX	176	215	254	294	333

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:WHEELER STATE:TX	160	196	230	268	302
COUNTY:WINKLER STATE:TX	176	215	254	294	333
COUNTY:YOAKUM STATE:TX	166	204	241	279	316
SMSA LONGVIEW-MARSHALL, TX					
COUNTY:HARRISON STATE:TX	151	186	221	255	289
NON SMSA					
COUNTY:CASS STATE:TX	132	163	192	222	252
COUNTY:MARION STATE:TX	141	173	205	237	268
COUNTY:MORRIS STATE:TX	132	163	192	222	252
COUNTY:PANOLA STATE:TX	141	173	205	237	268
LITTLE ROCK, ARKANSAS AREA OFFICE					
SMSA FAYETTEVILLE-SPRINGDALE, AR					
COUNTY:BENTON STATE:AR	161	198	234	270	305
COUNTY:WASHINGTON STATE:AR	161	198	234	270	305
SMSA FORT SMITH, AR-OK					
COUNTY:CRAWFORD STATE:AR	154	188	223	257	291
COUNTY:SEBASTIAN STATE:AR	154	188	223	257	291
SMSA LITTLE ROCK-NORTH LITTLE ROCK, AR					
COUNTY:PULASKI STATE:AR	176	214	253*	292	330
COUNTY:SALINE STATE:AR	176	214	253*	292	330
SMSA MEMPHIS, TN-AR-MS					
COUNTY:CRITTENDEN STATE:AR	172	210	247*	284*	322
SMSA PINE BLUFF, AR					
COUNTY:JEFFERSON STATE:AR	156	191	227	261	297
SMSA TEXARKANA, TX-AR					
COUNTY:LITTLE RIVER STATE:AR	151	186	221	255	289
COUNTY:MILLER STATE:AR	151	186	221	255	289

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY:ARKANSAS STATE:AR	156	191	227	261	297
COUNTY:ASHLEY STATE:AR	141	173	205	237	268
COUNTY:BAXTER STATE:AR	165	202	240	277	313
COUNTY:BOONE STATE:AR	165	202	240	277	313
COUNTY:BRADLEY STATE:AR	141	173	205	237	268
COUNTY:CALHOUN STATE:AR	141	173	205	237	268
COUNTY:CARROLL STATE:AR	165	202	240	277	313
COUNTY:CHICOT STATE:AR	141	173	205	237	268
COUNTY:CLARK STATE:AR	139	169	202	233	263
COUNTY:CLAY STATE:AR	155	189	225	259	295
COUNTY:CLEBURNE STATE:AR	139	169	202	233	263
COUNTY:CLEVELAND STATE:AR	156	191	227	261	297
COUNTY:COLUMBIA STATE:AR	141	173	205	237	268
COUNTY:CONWAY STATE:AR	139	169	202	233	263
COUNTY:CRAIGHEAD STATE:AR	155	189	225	259	295
COUNTY:CROSS STATE:AR	155	189	225	259	295
COUNTY:DALLAS STATE:AR	141	173	205	237	268
COUNTY:DESHA STATE:AR	141	173	205	237	268
COUNTY:DREW STATE:AR	141	173	205	237	268
COUNTY:FAULKNER STATE:AR	139	169	202	233	263
COUNTY:FRANKLIN STATE:AR	140	172	203	235	266
COUNTY:FULTON STATE:AR	139	169	202	233	263
COUNTY:GARLAND STATE:AR	139	169	202	233	263
COUNTY:GRANT STATE:AR	156	191	227	261	297

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY:GREENE STATE:AR	155	189	225	259	295
COUNTY:HEMPSTEAD STATE:AR	132	163	192	222	252
COUNTY:HOTSPRING STATE:AR	139	169	202	233	263
COUNTY:HOWARD STATE:AR	132	163	192	222	252
COUNTY:INDEPENDENCE STATE:AR	139	169	202	233	263
COUNTY:IZARD STATE:AR	139	169	202	233	263
COUNTY:JACKSON STATE:AR	156	191	227	261	297
COUNTY:JOHNSON STATE:AR	139	169	202	233	263
COUNTY:LAFAYETTE STATE:AR	132	163	192	222	252
COUNTY:LAWRENCE STATE:AR	155	189	225	259	295
COUNTY:LEE STATE:AR	155	189	225	259	295
COUNTY:LINCOLN STATE:AR	156	191	227	261	297
COUNTY:LOGAN STATE:AR	140	172	203	235	266
COUNTY:LONOKE STATE:AR	156	191	227	261	297
COUNTY:MADISON STATE:AR	161	198	234	270	305
COUNTY:MARION STATE:AR	165	202	240	277	313
COUNTY:MISSISSIPPI STATE:AR	155	189	225	259	295
COUNTY:MONROE STATE:AR	156	191	227	261	297
COUNTY:MONTGOMERY STATE:AR	139	169	202	233	263
COUNTY:NEVADA STATE:AR	132	163	192	222	252
COUNTY:NEWTON STATE:AR	165	202	240	277	313
COUNTY:OUACHITA STATE:AR	141	173	205	237	268
COUNTY:PERRY STATE:AR	139	169	202	233	263
COUNTY:PHILLIPS STATE:AR	155	189	225	259	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY:PIKE STATE:AR	139	169	202	233	263
COUNTY:POINSETT STATE:AR	155	189	225	259	295
COUNTY:POLK STATE:AR	140	172	203	235	266
COUNTY:POPE STATE:AR	139	169	202	233	263
COUNTY:PRAIRIE STATE:AR	156	191	227	261	297
COUNTY:RANDOLPH STATE:AR	155	189	225	259	295
COUNTY:ST FRANCIS STATE:AR	155	189	225	259	295
COUNTY:SCOTT STATE:AR	140	172	203	235	*266
COUNTY:SEARCY STATE:AR	165	202	240	277	313
COUNTY:SEVIER STATE:AR	132	163	192	222	252
COUNTY:SHARP STATE:AR	139	169	202	233	263
COUNTY:STONE STATE:AR	139	169	202	233	263
COUNTY:UNION STATE:AR	141	173	205	237	268
COUNTY:VAN BUREN STATE:AR	139	169	202	233	263
COUNTY:WHITE STATE:AR	156	191	227	261	297
COUNTY:WOODRUFF STATE:AR	156	191	227	261	297
COUNTY:YELL STATE:AR	140	172	203	235	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: BATON ROUGE, LA					
PARISH:ASCENSION STATE:LA	218	264•	312•	359	407
PARISH:E BATON ROUG STATE:LA	218	264•	312•	359	407
PARISH:LIVINGSTON STATE:LA	218	264•	312•	359	407
PARISH:W BATON ROUG STATE:LA	218	264•	312•	359	407
SMSA: LAFAYETTE, LA					
PARISH:LAFAYETTE STATE:LA	180	221	261	302	341
SMSA: LAKE CHARLES, LA					
PARISH:CALCASIEU STATE:LA	180	221	261	302	341
SMSA: NEW ORLEANS, LA					
PARISH:JEFFERSON STATE:LA	202	246•	290•	333	377
PARISH:ORLEANS STATE:LA	202	246•	290•	333	377
PARISH:ST BERNARD STATE:LA	202	246•	290•	333	377
PARISH:ST TAMMANY STATE:LA	202	246•	290•	333	377
NON SMSA					
PARISH:ACADIA STATE:LA	143	175	207	240	272
PARISH:ALLEN STATE:LA	180	221	261	302	341
PARISH:ASSUMPTION STATE:LA	160	196	230	268	302
PARISH:BEAUREGARD STATE:LA	180	221	261	302	341
PARISH:CAMERON STATE:LA	180	221	261	302	341
PARISH:E FELICIANA STATE:LA	143	175	207	240	272
PARISH:EVANGELINE STATE:LA	143	175	207	240	272
PARISH:IBERIA STATE:LA	143	175	207	240	272
PARISH:IBERVILLE STATE:LA	143	175	207	240	272
PARISH:JEFFERSON DA STATE:LA	180	221	261	302	341
PARISH:LAFOURCHE STATE:LA	160	196	230	268	302
PARISH:PLAQUEMINES STATE:LA	160	196	230	268	302
PARISH:POINTE COUPE STATE:LA	143	175	207	240	272

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH:ST CHARLES STATE:LA	160	196	230	268	302
PARISH:ST HELENA STATE:LA	143	175	207	240	272
PARISH:ST JAMES STATE:LA	160	196	230	268	302
PARISH:ST JOHN THE STATE:LA	160	196	230	268	302
PARISH:ST LANDRY STATE:LA	143	175	207	240	272
PARISH:ST MARTIN STATE:LA	143	175	207	240	272
PARISH:ST MARY STATE:LA	143	175	207	240	272
PARISH:TANGIPAHOA STATE:LA	160	196	230	268	302
PARISH:TERREBONNE STATE:LA	160	196	230	268	302
PARISH:VERMILION STATE:LA	143	175	207	240	272
PARISH:WASHINGTON STATE:LA	160	196	230	268	302
PARISH:W FELICIANA STATE:LA	143	175	207	240	272
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: ALEXANDRIA, LA					
PARISH:GRANT STATE:LA	151	186	221	255	289
PARISH:RAPIDES STATE:LA	151	186	221	255	289
SMSA: MONROE, LA					
PARISH:OUACHITA STATE:LA	151	186	221	255	289
SMSA: SHREVEPORT, LA					
PARISH:BOSSIER STATE:LA	171	207•	245•	283	320
PARISH:CADDO STATE:LA	171	207•	245•	283	320
PARISH:WEBSTER STATE:LA	171	207•	245•	283	320
NON SMSA					
PARISH:AVOYELLES STATE:LA	151	186	221	255	289
PARISH:BIENVILLE STATE:LA	141	173	205	237	268
PARISH:CALDWELL STATE:LA	151	186	221	255	289
PARISH:CATAHOULA STATE:LA	151	186	221	255	289
PARISH:CLAIBORNE STATE:LA	141	173	205	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH:CONCORDIA STATE:LA	143	175	207	240	272
PARISH:DE SOTO STATE:LA	141	173	205	237	268
PARISH:EAST CARROLL STATE:LA	151	186	221	256	289
PARISH:FRANKLIN STATE:LA	151	186	221	255	289
PARISH:JACKSON STATE:LA	151	186	221	255	289
PARISH:LA SALLE STATE:LA	151	186	221	255	289
PARISH:LINCOLN STATE:LA	151	186	221	255	289
PARISH:MADISON STATE:LA	151	186	221	255	289
PARISH:MOREHOUSE STATE:LA	151	186	221	255	289
PARISH:NATCHITOCHES STATE:LA	151	186	221	255	289
PARISH:RED RIVER STATE:LA	141	173	205	237	268
PARISH:RICHLAND STATE:LA	151	186	221	255	289
PARISH:SABINE STATE:LA	141	173	206	237	268
PARISH:TENSAS STATE:LA	151	186	221	255	289
PARISH:UNION STATE:LA	151	186	221	255	289
PARISH:VERNON STATE:LA	165	201*	237*	274	310
PARISH:WEST CARROLL STATE:LA	151	186	221	255	289
PARISH:WINN STATE:LA	151	186	221	255	289

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: ENID, OK.					
COUNTY:GARFIELD STATE:OK	161	198	234	270	305
SMSA: LAWTON, OK					
COUNTY:COMANCHE STATE:OK	183	224	266	306	347
SMSA: OKLAHOMA CITY, OK					
COUNTY:CANADIAN STATE:OK	188	229	271	312	352
COUNTY:CLEVELAND STATE:OK	188	229	271	312	352
COUNTY:MCCLAIN STATE:OK	188	229	271	312	352
COUNTY:OKLAHOMA STATE:OK	188	229	271	312	352
COUNTY:POTTAWATOMIE STATE:OK	188	229	271	312	352
NON SMSA					
COUNTY:ALFALFA STATE:OK	154	188	223	257	291
COUNTY:BEAVER STATE:OK	161	198	234	270	305
COUNTY:BECKHAM STATE:OK	161	198	234	270	305
COUNTY:BLAINE STATE:OK	154	188	223	257	291
COUNTY:CADDO STATE:OK	183	224	266	306	347
COUNTY:CARTER STATE:OK	144	176	210	242	275
COUNTY:CIMARRON STATE:OK	161	198	234	270	305
COUNTY:COTTON STATE:OK	183	224	266	306	347
COUNTY:CUSTER STATE:OK	161	198	234	270	305
COUNTY:DEWEY STATE:OK	154	188	223	257	291
COUNTY:ELLIS STATE:OK	154	188	223	257	291
COUNTY:GARVIN STATE:OK	144	176	210	242	275
COUNTY:GRADY STATE:OK	144	176	210	242	275
COUNTY:GRANT STATE:OK	154	188	223	257	291
COUNTY:GREER STATE:OK	183	224	266	306	347
COUNTY:HARMON STATE:OK	183	224	266	306	347

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY: HARPER STATE: OK	154	188	223	257	291
COUNTY: JACKSON STATE: OK	183	224	266	306	347
COUNTY: JEFFERSON STATE: OK	183	224	266	306	347
COUNTY: JOHNSTON STATE: OK	132	163	192	222	252
COUNTY: KAY STATE: OK	154	188	223	257	291
COUNTY: KINGFISHER STATE: OK	154	188	223	257	291
COUNTY: KIOWA STATE: OK	183	224	266	306	347
COUNTY: LINCOLN STATE: OK	154	188	223	257	291
COUNTY: LOGAN STATE: OK	154	188	223	257	291
COUNTY: LOVE STATE: OK	132	163	192	222	252
COUNTY: MAJOR STATE: OK	154	188	223	257	291
COUNTY: MARSHALL STATE: OK	161	198	234	270	305
COUNTY: MURRAY STATE: OK	132	163	192	222	252
COUNTY: NOBLE STATE: OK	154	188	223	257	291
COUNTY: PAYNE STATE: OK	167	204•	242•	278	315
COUNTY: PONTOTOC STATE: OK	144	176	210	242	275
COUNTY: ROGER MILLS STATE: OK	154	188	223	257	291
COUNTY: SEMINOLE STATE: OK	144	176	210	242	275
COUNTY: STEPHENS STATE: OK	183	224	266	306	347
COUNTY: TEXAS STATE: OK	161	198	234	270	305
COUNTY: TILLMAN STATE: OK	183	224	266	306	347
COUNTY: WASHITA STATE: OK	154	188	223	257	291
COUNTY: WOODS STATE: OK	154	188	223	257	291
COUNTY: WOODWARD STATE: OK	161	198	234	270	305

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSI[illegible] URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING AS[illegible]TANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: FORT SMITH, AR-OK					
COUNTY: LE FLORE STATE: OK	154	188	223	257	291
COUNTY: SEQUOYAH STATE: OK	154	188	223	257	291
SMSA: TULSA, OK					
COUNTY: CREEK STATE: OK	197	240	285	328	371
COUNTY: MAYES STATE: OK	197	240	285	328	371
COUNTY: OSAGE STATE: OK	197	240	285	328	371
COUNTY: ROGERS STATE: OK	197	240	285	328	371
COUNTY: TULSA STATE: OK	197	240	285	328	371
COUNTY: WAGONER STATE: OK	197	240	285	328	371
NON SMSA					
COUNTY: ADAIR STATE: OK	147	180•	212•	245	277
COUNTY: ATOKA STATE: OK	132	163	192	222	252
COUNTY: BRYAN STATE: OK	147	180•	212•	245	277
COUNTY: CHEROKEE STATE: OK	147	180•	212•	245	277
COUNTY: CHOCTAW STATE: OK	132	163	192	222	252
COUNTY: COAL STATE: OK	132	163	192	222	252
COUNTY: CRAIG STATE: OK	144	176	210	242	275
COUNTY: DELAWARE STATE: OK	161	198	234	270	305
COUNTY: HASKELL STATE: OK	132	160•	190	219	249
COUNTY: HUGHES STATE: OK	132	163	192	222	252
COUNTY: LATIMER STATE: OK	132	160•	190	219	249
COUNTY: MCCURTAIN STATE: OK	132	160•	190	219	249
COUNTY: MCINTOSH STATE: OK	141	171	202•	233	264
COUNTY: MUSKOGEE STATE: OK	147	180•	212•	245	277
COUNTY: NOWATA STATE: OK	154	188	223	257	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY :OKFUSKEE STATE :OK	141	171	202*	233	264
COUNTY :OKMULGEE STATE :OK	141	171	202*	233	264
COUNTY :OTTAWA STATE :OK	144	176	210	242	275
COUNTY :PAWNEE STATE :OK	154	188	223	257	291
COUNTY :PITTSBURG STATE :OK	132	160*	190	219	249
COUNTY :PUSHMATAHA STATE :OK	132	160*	190	219	249
COUNTY :WASHINGTON STATE :OK	161	198	234	270	305
SAN ANTONIO, TEXAS AREA OFFICE					
SMSA AUSTIN, TX					
COUNTY :HAYS STATE :TX	261	315	368	423	478
COUNTY :TRAVIS STATE :TX	261	315	368	423	478
COUNTY :WILLIAMSON STATE :TX	261	315	368	423	478
SMSA BROWNSVILLE-HARLINGEN-SAN BENITO, TX					
COUNTY :CAMERON STATE :TX	197	240	285	328	371
SMSA CORPUS CHRISTI, TX					
COUNTY :NUECES STATE :TX	192	235	278	321	363
COUNTY :SAN PATRICIO STATE :TX	192	235	278	321	363
SMSA LAREDO, TX					
COUNTY :WEBB STATE :TX	202	248	294	339	383
SMSA MC ALLEN-PHARR-EDINBURG, TX					
COUNTY :HIDALGO STATE :TX	197	240	285	328	371
SMSA SAN ANTONIO, TX					
COUNTY :BEXAR STATE :TX	217	267	314	363	411
COUNTY :COMAL STATE :TX	217	267	314	363	411

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
SMSA: SAN ANTONIO, TX					
COUNTY:GUADALUPE STATE:TX	217	267	314	363	411
NON SMSA					
COUNTY:ARANSAS STATE:TX	202	248	294	339	383
COUNTY:ATASCOSA STATE:TX	162	199	236	272	308
COUNTY:BANDERA STATE:TX	185	226	269	308	349
COUNTY:BASTROP STATE:TX	173	212	251	290	327
COUNTY:BEE STATE:TX	202	248	294	339	383
COUNTY:BLANCO STATE:TX	173	212	251	290	327
COUNTY:BROOKS STATE:TX	202	248	294	339	383
COUNTY:BURNET STATE:TX	173	212	251	290	327
COUNTY:CALDWELL STATE:TX	173	212	251	290	327
COUNTY:CALHOUN STATE:TX	162	199	236	272	308
COUNTY:DE WITT STATE:TX	162	199	236	272	308
COUNTY:DIMMIT STATE:TX	202	248	294	339	383
COUNTY:DUVAL STATE:TX	202	248	294	339	383
COUNTY:EDWARDS STATE:TX	162	199	236	272	308
COUNTY:FAYETTE STATE:TX	172	210	248	287	325
COUNTY:FRIO STATE:TX	162	199	236	272	308
COUNTY:GILLESPIE STATE:TX	162	199	236	272	308
COUNTY:GOLIAD STATE:TX	162	199	236	272	308
COUNTY:GONZALES STATE:TX	162	199	236	272	308
COUNTY:JACKSON STATE:TX	162	199	236	272	308
COUNTY:JIM HOGG STATE:TX	202	248	294	339	383
COUNTY:JIM WELLS STATE:TX	202	248	294	339	383
COUNTY:KARNES STATE:TX	162	199	236	272	308

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:KENDALL STATE:TX	182	199	236	272	308
COUNTY:KENEDY STATE:TX	202	248	294	339	383
COUNTY:KERR STATE:TX	182	199	236	272	308
COUNTY:KINNEY STATE:TX	182	199	236	272	308
COUNTY:KLEBERG STATE:TX	202	248	294	339	383
COUNTY:LA SALLE STATE:TX	202	248	294	339	383
COUNTY:LAVACA STATE:TX	182	199	236	272	308
COUNTY:LEE STATE:TX	173	212	251	290	327
COUNTY:LIVE OAK STATE:TX	202	248	294	339	383
COUNTY:LLANO STATE:TX	173	212	251	290	327
COUNTY:MCMULLEN STATE:TX	202	248	294	339	383
COUNTY:MAVERICK STATE:TX	182	199	236	272	308
COUNTY:MEDINA STATE:TX	182	199	236	272	308
COUNTY:REAL STATE:TX	182	199	236	272	308
COUNTY:REFUGIO STATE:TX	202	248	294	339	383
COUNTY:STARR STATE:TX	202	248	294	339	383
COUNTY:UVALDE STATE:TX	182	199	236	272	308
COUNTY:VAL VERDE STATE:TX	182	199	236	272	308
COUNTY:VICTORIA STATE:TX	205	250	296	341	386
COUNTY:WHARTON STATE:TX	202	248	294	339	383
COUNTY:WILSON STATE:TX	182	199	236	272	308
COUNTY:ZAPATA STATE:TX	202	248	294	339	383
COUNTY:ZAVALA STATE:TX	182	199	236	272	308

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: KANSAS CITY, MO-KS					
COUNTY:CASS STATE:MO	195	238	280	323	365
COUNTY:CLAY STATE:MO	195	238	280	323	365
COUNTY:JACKSON STATE:MO	195	238	280	323	365
COUNTY:PLATTE STATE:MO	195	238	280	323	365
COUNTY:RAY STATE:MO	195	238	280	323	365
COUNTY:JOHNSON STATE:KS	195	238	280	323	365
COUNTY:WYANDOTTE STATE:KS	195	238	280	323	365
SMSA: ST JOSEPH, MO					
COUNTY:ANDREW STATE:MO	146	179	212	245	279
COUNTY:BUCHANEN STATE:MO	146	179	212	245	279
SMSA: SPRINGFIELD, MO					
COUNTY:CHRISTIAN STATE:MO	159	188	227	264	300
COUNTY:GREENE STATE:MO	159	188	227	264	300
NON SMSA					
COUNTY:ATCHISON STATE:MO	146	179	212	245	279
COUNTY:BARRY STATE:MO	144	174	207	241	273
COUNTY:BARTON STATE:MO	126	154	183	213	240
COUNTY:BATES STATE:MO	146	179	212	245	279
COUNTY:BENTON STATE:MO	146	179	212	245	279
COUNTY:CALDWELL STATE:MO	156	190	227	262	299
COUNTY:CAMDEN STATE:MO	176	214	254	295	334
COUNTY:CARROLL STATE:MO	146	179	212	245	279
COUNTY:CEDAR STATE:MO	126	154	183	213	240
COUNTY:CHARITON STATE:MO	176	214	254	295	334
COUNTY:CLINTON STATE:MO	146	179	212	245	279
COUNTY:DADE STATE:MO	144	174	207	241	273

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:DALLAS STATE:MO	144	174	207	241	273
COUNTY:DAVIESS STATE:MO	156	190	227	262	299
COUNTY:DE KALB STATE:MO	146	179	212	245	279
COUNTY:GENTRY STATE:MO	146	179	212	245	279
COUNTY:GRUNDY STATE:MO	156	190	227	262	299
COUNTY:HARRISON STATE:MO	156	190	227	262	299
COUNTY:HENRY STATE:MO	146	179	212	245	279
COUNTY:HICKORY STATE:MO	144	174	207	241	273
COUNTY:HOLT STATE:MO	146	179	212	245	279
COUNTY:JASPER STATE:MO	141	162	197	224	248
COUNTY:JOHNSON STATE:MO	163	189	235	259	288
COUNTY:LACLEDE STATE:MO	156	189	227	261	297
COUNTY:LAFAYETTE STATE:MO	146	179	212	245	279
COUNTY:LAWRENCE STATE:MO	144	174	207	241	273
COUNTY:LINN STATE:MO	156	190	227	262	299
COUNTY:LIVINGSTON STATE:MO	156	190	227	262	299
COUNTY:MCDONALD STATE:MO	126	154	183	213	240
COUNTY:MERCER STATE:MO	156	190	227	262	299
COUNTY:MILLER STATE:MO	176	214	254	295	334
COUNTY:MORGAN STATE:MO	176	214	254	295	334
COUNTY:NEWTON STATE:MO	141	162	197	224	248
COUNTY:NODAWAY STATE:MO	163	189	235	259	288
COUNTY:PETTIS STATE:MO	146	179	212	245	279
COUNTY:POLK STATE:MO	144	174	207	241	273

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:PULASKI STATE:MO	156	189	227	261	297
COUNTY:PUTNAM STATE:MO	156	190	227	262	299
COUNTY:ST CLAIR STATE:MO	126	154	183	213	240
COUNTY:SALINE STATE:MO	146	179	212	245	279
COUNTY:STONE STATE:MO	144	174	207	241	273
COUNTY:SULLIVAN STATE:MO	156	190	227	262	299
COUNTY:TANEY STATE:MO	144	174	207	241	273
COUNTY:VERNON STATE:MO	126	154	183	213	240
COUNTY:WEBSTER STATE:MO	144	174	207	241	273
COUNTY:WORTH STATE:MO	146	179	212	245	279
SMSA: LAWRENCE, KS					
COUNTY:DOUGLAS STATE:KS	214	251	302	354	386
SMSA: TOPEKA, KS					
COUNTY:JEFFERSON STATE:KS	189	229	272	314	357
COUNTY:OSAGE STATE:KS	189	229	272	314	357
COUNTY:SHAWNEE STATE:KS	189	229	272	314	357
SMSA: WICHITA, KS					
COUNTY:BUTLER STATE:KS	199	234	274	324	358
COUNTY:SEDGWICK STATE:KS	199	234	274	324	358
NON SMSA					
COUNTY:ALLEN STATE:KS	126	154	183	213	240
COUNTY:ANDERSON STATE:KS	151	185	220	256	290
COUNTY:ATCHISON STATE:KS	151	185	220	256	290
COUNTY:BARBER STATE:KS	134	164	195	227	257
COUNTY:BARTON STATE:KS	145	175	210	243	276
COUNTY:BOURBON STATE:KS	126	154	183	213	240
COUNTY:BROWN STATE:KS	151	185	220	256	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:CHASE STATE:KS	134	164	195	227	257
COUNTY:CHAUTAUQUA STATE:KS	134	164	195	227	257
COUNTY:CHEROKEE STATE:KS	126	154	183	213	240
COUNTY:CHEYENNE STATE:KS	145	175	210	243	276
COUNTY:CLARK STATE:KS	134	164	195	227	257
COUNTY:CLAY STATE:KS	145	175	210	243	276
COUNTY:CLOUD STATE:KS	145	175	210	243	276
COUNTY:COFFEY STATE:KS	151	185	220	256	290
COUNTY:COMANCHE STATE:KS	134	164	195	227	257
COUNTY:COWLEY STATE:KS	134	164	195	227	257
COUNTY:CRAWFORD STATE:KS	126	154	183	213	240
COUNTY:DECATUR STATE:KS	145	175	210	243	276
COUNTY:DICKINSON STATE:KS	145	175	210	243	276
COUNTY:DONIPHAN STATE:KS	151	185	220	256	290
COUNTY:EDWARDS STATE:KS	134	164	195	227	257
COUNTY:ELK STATE:KS	134	164	195	227	257
COUNTY:ELLIS STATE:KS	145	175	210	243	276
COUNTY:ELLSWORTH STATE:KS	145	175	210	243	276
COUNTY:FINNEY STATE:KS	134	164	195	227	257
COUNTY:FORD STATE:KS	134	164	195	227	257
COUNTY:FRANKLIN STATE:KS	151	185	220	256	290
COUNTY:GEARY STATE:KS	151	185	220	256	290
COUNTY:GOVE STATE:KS	145	175	210	243	276
COUNTY:GRAHAM STATE:KS	145	175	210	243	276

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:GRANT STATE:KS	134	164	195	227	257
COUNTY:GRAY STATE:KS	134	164	195	227	257
COUNTY:GREELEY STATE:KS	145	175	210	243	276
COUNTY:GREENWOOD STATE:KS	134	164	195	227	257
COUNTY:HAMILTON STATE:KS	134	164	195	227	257
COUNTY:HARPER STATE:KS	134	164	195	227	257
COUNTY:HARVEY STATE:KS	147	177	208	252	266
COUNTY:HASKELL STATE:KS	134	164	195	227	257
COUNTY:HODGEMAN STATE:KS	134	164	195	227	257
COUNTY:JACKSON STATE:KS	151	185	220	256	290
COUNTY:JEWELL STATE:KS	145	175	210	243	276
COUNTY:KEARNY STATE:KS	134	164	195	227	257
COUNTY:KINGMAN STATE:KS	134	164	195	227	257
COUNTY:KIOWA STATE:KS	134	164	195	227	257
COUNTY:LABETTE STATE:KS	126	154	183	213	240
COUNTY:LANE STATE:KS	145	175	210	243	276
COUNTY:LEAVENWORTH STATE:KS	189	229	272	314	357
COUNTY:LINCOLN STATE:KS	145	175	210	243	276
COUNTY:LINN STATE:KS	151	185	220	256	290
COUNTY:LOGAN STATE:KS	145	175	210	243	276
COUNTY:LYON STATE:KS	151	185	220	256	290
COUNTY:MCPHERSON STATE:KS	145	175	210	243	276
COUNTY:MARION STATE:KS	134	164	195	227	257
COUNTY:MARSHALL STATE:KS	151	185	220	256	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:MEADE STATE:KS	134	164	195	227	257
COUNTY:MIAMI STATE:KS	151	185	220	256	290
COUNTY:MITCHELL STATE:KS	145	175	210	243	276
COUNTY:MONTGOMERY STATE:KS	126	154	183	213	240
COUNTY:MORRIS STATE:KS	145	175	210	243	276
COUNTY:MORTON STATE:KS	134	164	195	227	257
COUNTY:NEMAHA STATE:KS	151	185	220	256	290
COUNTY:NEOSHO STATE:KS	126	154	183	213	240
COUNTY:NESS STATE:KS	145	175	210	243	276
COUNTY:NORTON STATE:KS	145	175	210	243	276
COUNTY:OSBORNE STATE:KS	145	175	210	243	276
COUNTY:OTTAWA STATE:KS	145	175	210	243	276
COUNTY:PAWNEE STATE:KS	134	164	195	227	257
COUNTY:PHILLIPS STATE:KS	145	175	210	243	276
COUNTY:POTTAWATOMIE STATE:KS	151	185	220	256	290
COUNTY:PRATT STATE:KS	134	164	195	227	257
COUNTY:RAWLINS STATE:KS	145	175	210	243	276
COUNTY:RENO STATE:KS	134	164	195	227	257
COUNTY:REPUBLIC STATE:KS	145	175	210	243	276
COUNTY:RICE STATE:KS	145	175	210	243	276
COUNTY:RILEY STATE:KS	176	217	255	298	335
COUNTY:ROOKS STATE:KS	145	175	210	243	276
COUNTY:RUSH STATE:KS	145	175	210	243	276
COUNTY:RUSSELL STATE:KS	145	175	210	243	276

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:SALINE STATE:KS	145	175	210	243	276
COUNTY:SCOTT STATE:KS	145	175	210	243	276
COUNTY:SEWARD STATE:KS	134	164	195	227	257
COUNTY:SHERIDAN STATE:KS	145	175	210	243	276
COUNTY:SHERMAN STATE:KS	145	175	210	243	276
COUNTY:SMITH STATE:KS	145	175	210	243	276
COUNTY:STAFFORD STATE:KS	134	164	195	227	257
COUNTY:STANTON STATE:KS	134	164	195	227	257
COUNTY:STEVENS STATE:KS	134	164	195	227	257
COUNTY:SUMNER STATE:KS	134	164	195	227	257
COUNTY:THOMAS STATE:KS	145	175	210	243	276
COUNTY:TREGO STATE:KS	145	175	210	243	276
COUNTY:WABAUNSEE STATE:KS	151	185	220	256	290
COUNTY:WALLACE STATE:KS	145	175	210	243	276
COUNTY:WASHINGTON STATE:KS	151	185	220	256	290
COUNTY:WICHITA STATE:KS	145	175	210	243	276
COUNTY:WILSON STATE:KS	126	154	183	213	240
COUNTY:WOODSON STATE:KS	126	154	183	213	240

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
SMSA: CEDAR RAPIDS, IA					
COUNTY: LINN					
STATE: IA	210	255	300	345	390
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: SCOTT					
STATE: IA	214	262	310	359	406
SMSA: DES MOINES, IA					
COUNTY: POLK					
STATE: IA	208	254	299•	345	390
COUNTY: WARREN					
STATE: IA	208	254	299•	345	390
SMSA: DUBUQUE, IA					
COUNTY: DUBUQUE					
STATE: IA	179	235	309	369	405
SMSA: IOWA CITY, IA.					
COUNTY: JOHNSON					
STATE: IA	210	255	300	345	390
SMSA: OMAHA, NE-IA					
COUNTY: POTTAWATTAMI					
STATE: IA	206	250	297	343	389
SMSA: SIOUX CITY, IA-NE					
COUNTY: WOODBURY					
STATE: IA	187	242	301	352	391
SMSA: WATERLOO-CEDAR FALLS, IA					
COUNTY: BLACK HAWK					
STATE: IA	178	217	258	298	339
NON SMSA					
COUNTY: ADAIR					
STATE: IA	166	203	243	280	317
COUNTY: ADAMS					
STATE: IA	166	203	243	280	317
COUNTY: ALLAMAKEE					
STATE: IA	163	199	236	274	311
COUNTY: APPANOOSE					
STATE: IA	166	203	243	280	317
COUNTY: AUDUBON					
STATE: IA	161	196	233	269	307
COUNTY: BENTON					
STATE: IA	196	240	283•	326	369
COUNTY: BOONE					
STATE: IA	166	203	243	280	317
COUNTY: BREMER					
STATE: IA	178	217	258	298	339
COUNTY: BUCHANAN					
STATE: IA	178	217	258	298	339
COUNTY: BUENA VISTA					
STATE: IA	160	195	231	268	303
COUNTY: BUTLER					
STATE: IA	178	217	258	298	339
COUNTY: CALHOUN					
STATE: IA	160	195	231	268	303
COUNTY: CARROLL					
STATE: IA	161	196	233	269	307

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: CASS					
STATE: IA	160	195	231	268	303
COUNTY: CEDAR					
STATE: IA	196	240	283•	326	369
COUNTY: CERRO GORDO					
STATE: IA	178	217	258	298	339
COUNTY: CHEROKEE					
STATE: IA	161	196	233	269	307
COUNTY: CHICKASAW					
STATE: IA	178	217	258	298	339
COUNTY: CLARKE					
STATE: IA	166	203	243	280	317
COUNTY: CLAY					
STATE: IA	160	195	231	268	303
COUNTY: CLAYTON					
STATE: IA	163	199	236	274	311
COUNTY: CLINTON					
STATE: IA	180	220	262	303	343
COUNTY: CRAWFORD					
STATE: IA	161	196	233	269	307
COUNTY: DALLAS					
STATE: IA	166	203	243	280	317
COUNTY: DAVIS					
STATE: IA	166	203	243	280	317
COUNTY: DECATUR					
STATE: IA	166	203	243	280	317
COUNTY: DELAWARE					
STATE: IA	163	199	236	274	311
COUNTY: DES MOINES					
STATE: IA	164	200	237	276	313
COUNTY: DICKINSON					
STATE: IA	160	195	231	268	303
COUNTY: EMMET					
STATE: IA	160	195	231	268	303
COUNTY: FAYETTE					
STATE: IA	178	217	258	298	339
COUNTY: FLOYD					
STATE: IA	178	217	258	298	339
COUNTY: FRANKLIN					
STATE: IA	178	217	258	298	339
COUNTY: FREMONT					
STATE: IA	160	195	231	268	303
COUNTY: GREENE					
STATE: IA	161	196	233	269	307
COUNTY: GRUNDY					
STATE: IA	178	217	258	298	339
COUNTY: GUTHRIE					
STATE: IA	161	196	233	269	307

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V45/215/NO4/80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY:HAMILTON STATE:IA	160	195	231	268	303
COUNTY:HANCOCK STATE:IA	178	217	258	298	339
COUNTY:HARDIN STATE:IA	178	217	258	298	339
COUNTY:HARRISON STATE:IA	160	195	231	268	303
COUNTY:HENRY STATE:IA	164	200	237	276	313
COUNTY:HOWARD STATE:IA	163	199	236	274	311
COUNTY:HUMBOLDT STATE:IA	160	195	231	268	303
COUNTY:IDA STATE:IA	161	198	233	269	307
COUNTY:IOWA STATE:IA	196	240	283*	326	369
COUNTY:JACKSON STATE:IA	163	199	236	274	311
COUNTY:JASPER STATE:IA	166	203	243	280	317
COUNTY:JEFFERSON STATE:IA	166	203	243	280	317
COUNTY:JONES STATE:IA	196	240	283*	326	369
COUNTY:KEOKUK STATE:IA	166	203	243	280	317
COUNTY:KOSSUTH STATE:IA	178	217	258	298	339
COUNTY:LEE STATE:IA	164	200	237	276	313
COUNTY:LOUISA STATE:IA	180	220	262	303	343
COUNTY:LUCAS STATE:IA	166	203	243	280	317
COUNTY:LYON STATE:IA	178	217	258	298	339
COUNTY:MADISON STATE:IA	166	203	243	280	317
COUNTY:MAHASKA STATE:IA	166	203	243	280	317
COUNTY:MARION STATE:IA	166	203	243	280	317
COUNTY:MARSHALL STATE:IA	166	203	243	280	317
COUNTY:MILLS STATE:IA	160	195	231	268	303

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - RMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY:MITCHELL STATE:IA	178	217	258	298	339
COUNTY:MONONA STATE:IA	161	196	230	269	307
COUNTY:MONROE STATE:IA	166	203	243	280	317
COUNTY:MONTGOMERY STATE:IA	160	195	231	268	303
COUNTY:MUSCATINE STATE:IA	180	220	262	303	343
COUNTY:O BRIEN STATE:IA	161	196	233	269	307
COUNTY:OSCEOLA STATE:IA	178	217	258	298	339
COUNTY:PAGE STATE:IA	160	195	231	268	303
COUNTY:PALO ALTO STATE:IA	160	195	231	268	303
COUNTY:PLYMOUTH STATE:IA	161	196	233	269	307
COUNTY:POCAHONTAS STATE:IA	160	195	231	268	303
COUNTY:POWESHIEK STATE:IA	166	203	243	280	317
COUNTY:RINGGOLD STATE:IA	166	203	243	280	317
COUNTY:SAC STATE:IA	161	196	233	269	307
COUNTY:SHELBY STATE:IA	160	195	231	268	303
COUNTY:SIOUX STATE:IA	161	196	233	269	307
COUNTY:STORY STATE:IA	181	211	256	289	317
COUNTY:TAMA STATE:IA	166	203	243	280	317
COUNTY:TAYLOR STATE:IA	166	203	243	280	317
COUNTY:UNION STATE:IA	166	203	243	280	317
COUNTY:VAN BUREN STATE:IA	166	203	243	280	317
COUNTY:WAPELLO STATE:IA	166	203	243	280	317
COUNTY:WASHINGTON STATE:IA	180	220	262	303	343
COUNTY:WAYNE STATE:IA	166	203	243	280	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - RMAD (CO), MARCH 29, 1981

V45/215 NO 4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: WEBSTER STATE: IA	160	195	231	268	303
COUNTY: WINNEBAGO STATE: IA	178	217	258	298	339
COUNTY: WINNESHIEK STATE: IA	163	199	236	274	311
COUNTY: WORTH STATE: IA	178	217	258	298	339
COUNTY: WRIGHT STATE: IA	160	195	231	268	303
SMSA: LINCOLN, NE					
COUNTY: LANCASTER STATE: NE	213	259	308	355	403
SMSA: OMAHA, NE-IA					
COUNTY: DOUGLAS STATE: NE	206	250	297	343	389
COUNTY: SARPY STATE: NE	206	250	297	343	389
SMSA: SIOUX CITY, IA-NE					
COUNTY: DAKOTA, STATE: NE	187	242	301	352	391
NON SMSA					
COUNTY: ADAMS STATE: NE	152	205	269	340	376
COUNTY: ANTELOPE STATE: NE	152	187	222	258	293
COUNTY: ARTHUR STATE: NE	152	187	222	258	293
COUNTY: BANNER STATE: NE	150	184	218	253	287
COUNTY: BLAINE STATE: NE	152	187	222	258	293
COUNTY: BOONE STATE: NE	152	187	222	258	293
COUNTY: BOX BUTTE STATE: NE	182	222	263	306	345
COUNTY: BOYD STATE: NE	152	187	222	258	293
COUNTY: BROWN STATE: NE	152	187	222	258	293
COUNTY: BUFFALO STATE: NE	152	187	222	258	293
COUNTY: BURT STATE: NE	160	195	231	268	303
COUNTY: BUTLER STATE: NE	160	195	231	268	303
COUNTY: CASS STATE: NE	160	195	231	268	303
COUNTY: CEDAR STATE: NE	161	196	233	269	307

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: CHASE STATE: NE	175	213	253	293	331
COUNTY: CHERRY STATE: NE	152	187	222	258	293
COUNTY: CHEYENNE STATE: NE	150	184	218	253	287
COUNTY: CLAY STATE: NE	152	187	222	258	293
COUNTY: COLFAX STATE: NE	160	195	231	268	303
COUNTY: CUMING STATE: NE	161	196	233	269	307
COUNTY: CUSTER STATE: NE	152	187	222	258	293
COUNTY: DAWES STATE: NE	150	184	218	253	287
COUNTY: DAWSON STATE: NE	152	187	222	258	293
COUNTY: DEUEL STATE: NE	150	184	218	253	287
COUNTY: DIXON STATE: NE	161	196	233	269	307
COUNTY: DODGE STATE: NE	160	195	231	268	303
COUNTY: DUNDY STATE: NE	175	213	253	293	331
COUNTY: FILLMORE STATE: NE	160	195	231	268	303
COUNTY: FRANKLIN STATE: NE	152	187	222	258	293
COUNTY: FRONTIER STATE: NE	152	187	222	258	293
COUNTY: FURNAS STATE: NE	152	187	222	258	293
COUNTY: GAGE STATE: NE	187	228	270	312	353
COUNTY: GARDEN STATE: NE	150	184	218	253	287
COUNTY: GARFIELD STATE: NE	152	187	222	258	293
COUNTY: GOSPER STATE: NE	152	187	222	258	293
COUNTY: GRANT STATE: NE	152	187	222	258	293
COUNTY: GREELEY STATE: NE	152	187	222	258	293
COUNTY: HALL STATE: NE	152	187	222	269 11	297 4

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: HAMILTON STATE: NE	152	187	222	258	298
COUNTY: HARLAN STATE: NE	152	187	222	258	293
COUNTY: HAYES STATE: NE	152	187	222	258	293
COUNTY: HITCHCOCK STATE: NE	152	187	222	258	293
COUNTY: HOLT STATE: NE	161	196	233	269	307
COUNTY: HOOKER STATE: NE	152	187	222	258	293
COUNTY: HOWARD STATE: NE	152	187	222	258	293
COUNTY: JEFFERSON STATE: NE	160	195	231	268	303
COUNTY: JOHNSON STATE: NE	160	195	231	268	303
COUNTY: KEARNEY STATE: NE	152	187	222	258	293
COUNTY: KEITH STATE: NE	152	187	222	258	293
COUNTY: KEYA PAHA STATE: NE	161	196	233	269	307
COUNTY: KIMBALL STATE: NE	150	184	218	253	287
COUNTY: KNOX STATE: NE	161	196	233	269	307
COUNTY: LINCOLN STATE: NE	152	187	222	258	293
COUNTY: LOGAN STATE: NE	152	187	222	258	293
COUNTY: LOUP STATE: NE	152	187	222	258	293
COUNTY: MCPHERSON STATE: NE	152	187	222	258	293
COUNTY: MADISON STATE: NE	161	196	233	269	307
COUNTY: MERRICK STATE: NE	152	187	222	258	293
COUNTY: MORRILL STATE: NE	150	184	218	253	287
COUNTY: NANCE STATE: NE	152	187	222	258	293
COUNTY: NEMAHA STATE: NE	160	195	231	268	303
COUNTY: NUCKOLLS STATE: NE	152	187	222	258	293

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: OTOE STATE: NE	160	195	231	268	303
COUNTY: PAWNEE STATE: NE	160	195	231	268	303
COUNTY: PERKINS STATE: NE	175	213	253	293	331
COUNTY: PHELPS STATE: NE	152	187	222	258	293
COUNTY: PIERCE STATE: NE	161	196	233	269	307
COUNTY: PLATTE STATE: NE	160	195	231	268	303
COUNTY: POLK STATE: NE	160	195	231	268	303
COUNTY: RED WILLOW STATE: NE	152	187	222	258	293
COUNTY: RICHARDSON STATE: NE	160	195	231	268	303
COUNTY: ROCK STATE: NE	161	196	233	269	307
COUNTY: SALINE STATE: NE	160	195	231	268	303
COUNTY: SAUNDERS STATE: NE	160	195	231	268	303
COUNTY: SCOTTS BLUFF STATE: NE	183	223	263	303	343
COUNTY: SEWARD STATE: NE	160	195	231	268	303
COUNTY: SHERIDAN STATE: NE	150	184	218	253	287
COUNTY: SHERMAN STATE: NE	152	187	222	258	293
COUNTY: SIOUX STATE: NE	150	184	218	253	287
COUNTY: STANTON STATE: NE	161	196	233	269	307
COUNTY: THAYER STATE: NE	160	195	231	268	303
COUNTY: THOMAS STATE: NE	152	187	222	258	293
COUNTY: THURSTON STATE: NE	161	196	233	269	307
COUNTY: VALLEY STATE: NE	152	187	222	258	293
COUNTY: WASHINGTON STATE: NE	160	195	231	268	303
COUNTY: WAYNE STATE: NE	161	196	233	269	307

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 4 80 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY:WEBSTER STATE:NE	152	187	222	258	293
COUNTY:WHEELER STATE:NE	152	187	222	258	293
COUNTY:YORK STATE:NE	180	195	231	268	303
ST. LOUIS, MISSOURI AREA OFFICE					
SMSA: COLUMBIA, MO					
COUNTY:BOONE STATE:MO	187	228	270	312	353
SMSA: ST LOUIS, MO-IL					
COUNTY:FRANKLIN STATE:MO	219	267	313	361	411
COUNTY:JEFFERSON STATE:MO	219	267	313	361	411
COUNTY:ST CHARLES STATE:MO	219	267	313	361	411
COUNTY:ST LOUIS STATE:MO	219	267	313	361	411
INDEP. CITY:ST. LOUIS STATE:MO	219	267	313	361	411
NON SMSA					
COUNTY:ADAIR STATE:MO	176	214	254	295	334
COUNTY:AUDRAIN STATE:MO	176	214	254	295	334
COUNTY:BOLLINGER STATE:MO	137	169	201	232	265
COUNTY:BUTLER STATE:MO	137	169	201	232	265
COUNTY:CALLAWAY STATE:MO	176	214	254	295	334

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:CAPE GIRARDE STATE:MO	164	200	237	275	312
COUNTY:CARTER STATE:MO	137	169	201	232	265
COUNTY:CLARK STATE:MO	164	200	237	276	313
COUNTY:COLE STATE:MO	176	214	254	295	334
COUNTY:COOPER STATE:MO	176	214	254	295	334
COUNTY:CRAWFORD STATE:MO	156	189	227	261	297
COUNTY:DENT STATE:MO	156	189	227	261	297
COUNTY:DOUGLAS STATE:MO	144	174	207	241	273
COUNTY:DUNKLIN STATE:MO	137	169	201	232	265
COUNTY:GASCONADE STATE:MO	156	189	227	261	297
COUNTY:HOWARD STATE:MO	176	214	254	295	334
COUNTY:HOWELL STATE:MO	144	174	207	241	273
COUNTY:IRON STATE:MO	156	189	227	261	297
COUNTY:KNOX STATE:MO	176	214	254	295	334
COUNTY:LEWIS STATE:MO	164	200	237	276	313
COUNTY:LINCOLN STATE:MO	156	189	227	261	297
COUNTY:MACON STATE:MO	176	214	254	295	334
COUNTY:MADISON STATE:MO	156	189	227	261	297
COUNTY:MARIES STATE:MO	156	189	227	261	297
COUNTY:MARION STATE:MO	164	200	237	276	313
COUNTY:MISSISSIPPI STATE:MO	137	169	201	232	265
COUNTY:MONITEAU STATE:MO	176	214	254	295	334
COUNTY:MONROE STATE:MO	176	214	254	295	334
COUNTY:MONTGOMERY STATE:MO	156	189	227	261	297

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: NEW MADRID STATE: MO	137	169	201	232	265
COUNTY: OREGON STATE: MO	144	174	207	241	273
COUNTY: OSAGE STATE: MO	176	214	254	295	334
COUNTY: OZARK STATE: MO	144	174	207	241	273
COUNTY: PEMISCOT STATE: MO	137	169	201	232	265
COUNTY: PERRY STATE: MO	156	189	227	261	297
COUNTY: PHELPS STATE: MO	156	189	227	261	297
COUNTY: PIKE STATE: MO	156	189	227	261	297
COUNTY: RALLS STATE: MO	164	200	237	276	313
COUNTY: RANDOLPH STATE: MO	176	214	254	295	334
COUNTY: REYNOLDS STATE: MO	156	189	227	261	297
COUNTY: RIPLEY STATE: MO	137	169	201	232	265
COUNTY: ST FRANCOIS STATE: MO	156	189	227	261	297
COUNTY: STE GENEVIEV STATE: MO	156	189	227	261	297
COUNTY: SCHUYLER STATE: MO	176	214	254	295	334
COUNTY: SCOTLAND STATE: MO	176	214	254	295	334
COUNTY: SCOTT STATE: MO	164	200	237	275	312
COUNTY: SHANNON STATE: MO	144	174	207	241	273
COUNTY: SHELBY STATE: MO	176	214	254	295	334
COUNTY: STODDARD STATE: MO	137	169	201	232	265
COUNTY: TEXAS STATE: MO	156	189	227	261	297
COUNTY: WARREN STATE: MO	156	189	227	261	297
COUNTY: WASHINGTON STATE: MO	156	189	227	261	297
COUNTY: WAYNE STATE: MO	137	169	201	232	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: WRIGHT STATE: MO	144	174	207	241	273

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: ALBANY STATE: WY	165	203	240	277	315
COUNTY: BIG HORN STATE: WY	173	212	250	289	328
COUNTY: CAMPBELL STATE: WY	165	203	240	277	315
COUNTY: CARBON STATE: WY	165	203	240	277	315
COUNTY: CONVERSE STATE: WY	165	203	240	277	315
COUNTY: CROOK STATE: WY	173	212	250	289	328
COUNTY: FREMONT STATE: WY	165	203	240	277	315
COUNTY: GOSHEN STATE: WY	165	203	240	277	315
COUNTY: HOT SPRINGS STATE: WY	173	212	250	289	328
COUNTY: JOHNSON STATE: WY	165	203	240	277	315
COUNTY: LARAMIE STATE: WY	230	272	321	370	420
COUNTY: LINCOLN STATE: WY	165	203	240	277	315

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: NATRONA STATE: WY	242	295	349	402	455
COUNTY: NIOBRARA STATE: WY	165	203	240	277	315
COUNTY: PARK STATE: WY	173	212	250	289	328
COUNTY: PLATTE STATE: WY	165	203	240	277	315
COUNTY: SHERIDAN STATE: WY	165	203	240	277	315
COUNTY: SUBLETTE STATE: WY	165	203	240	277	315
COUNTY: SWEETWATER STATE: WY	165	203	240	277	315
COUNTY: TETON STATE: WY	226	276	327	376	426
COUNTY: UINTA STATE: WY	165	203	240	277	315
COUNTY: WASHAKIE STATE: WY	173	212	250	289	328
COUNTY: WESTON STATE: WY	173	212	250	289	328
SMSA: COLORADO SPRINGS, CO					
COUNTY: EL PASO STATE: CO	197	242	286	329	373
COUNTY: TELLER STATE: CO	197	242	286	329	373
SMSA: DENVER-BOULDER , CO					
COUNTY: ADAMS STATE: CO	254	308	365	422	477
COUNTY: ARAPAHOE STATE: CO	254	308	365	422	477
COUNTY: BOULDER STATE: CO	254	308	365	422	477
COUNTY: DENVER STATE: CO	254	308	365	422	477
COUNTY: DOUGLAS STATE: CO	254	308	365	422	477
COUNTY: GILPIN STATE: CO	254	308	365	422	477
COUNTY: JEFFERSON STATE: CO	254	308	365	422	477
SMSA: FORT COLLINS, CO					
COUNTY: LARIMER STATE: CO	209	255	301	348	394
SMSA: GREELEY, CO					
COUNTY: WELD STATE: CO	194	236	280	322	367
SMSA: PUEBLO, CO					
COUNTY: PUEBLO STATE: CO	204	248	293	339	384

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: ALAMOSA STATE: CO	204	248	293	339	384
COUNTY: ARCHULETA STATE: CO	165	203	240	277	315
COUNTY: BACA STATE: CO	183	222*	261*	301	340*
COUNTY: BENT STATE: CO	183	222*	261*	301	340*
COUNTY: CHAFFEE STATE: CO	183	222*	261*	301*	340*
COUNTY: CHEYENNE STATE: CO	174	211	249*	286	324
COUNTY: CLEAR CREEK STATE: CO	194	236	280	322	367
COUNTY: CONEJOS STATE: CO	204	248	293	339	384
COUNTY: COSTILLA STATE: CO	204	248	293	339	384
COUNTY: CROWLEY STATE: CO	183	222*	261*	301	340*
COUNTY: CUSTER STATE: CO	183	222*	261*	301*	340*
COUNTY: DELTA STATE: CO	165	203	240	277	315
COUNTY: DELORES STATE: CO	165	203	240	277	315
COUNTY: EAGLE STATE: CO	165	203	240	277	315
COUNTY: ELBERT STATE: CO	174	211	249*	286	324
COUNTY: FREMONT STATE: CO	183	222*	261*	301*	340*
COUNTY: GARFIELD STATE: CO	165	203	240	277	315
COUNTY: GRAND STATE: CO	194	236	280	322	367
COUNTY: GUNNISON STATE: CO	165	203	240	277	315
COUNTY: HINSDALE STATE: CO	165	203	240	277	315
COUNTY: HUERFANO STATE: CO	183	222*	261*	301	340*
COUNTY: JACKSON STATE: CO	165	203	240	277	315
COUNTY: KIOWA STATE: CO	183	222*	261*	301	340*
COUNTY: KIT CARSON STATE: CO	174	211	249*	286	324

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
NON SMSA					
COUNTY:LAKE STATE:CO	174	211	249*	286	324
COUNTY:LA PLATA STATE:CO	165	203	240	277	315
COUNTY:LAS ANIMAS STATE:CO	183	222*	261*	301	340*
COUNTY:LINCOLN STATE:CO	183	222*	261*	301*	340*
COUNTY:LOGAN STATE:CO	194	236	280	322	367
COUNTY:MESA STATE:CO	245	299	353	406	462
SMSA: BISMARCK, N.D.					
COUNTY:BURLEIGH STATE:ND	210	246	296	344	376
COUNTY:MORTON STATE:ND	210	246	296	344	376
NON SMSA					
COUNTY:MINERAL STATE:CO	204	248	293	339	384
COUNTY:MOFFAT STATE:CO	165	203	240	277	315
COUNTY:MONTEZUMA STATE:CO	165	203	240	277	315
COUNTY:MONTROSE STATE:CO	165	203	240	277	315
COUNTY:MORGAN STATE:CO	194	236	280	322	367
COUNTY:OTERO STATE:CO	183	222*	261*	301	340*
COUNTY:OURAY STATE:CO	165	203	240	277	315
COUNTY:PARK STATE:CO	174	211	249*	286	324
COUNTY:PHILLIPS STATE:CO	194	236	280	322	367
COUNTY:PITKIN STATE:CO	165	203	240	277	315
COUNTY:PROWERS STATE:CO	183	222*	261*	301	340*
COUNTY:RIO BLANCO STATE:CO	165	203	240	277	315
COUNTY:RIO GRANDE STATE:CO	204	248	293	339	384
COUNTY:ROUTT STATE:CO	165	203	240	277	315
COUNTY:SAGUACHE STATE:CO	204	248	293	339	384

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
NON SMSA					
COUNTY:SAN JUAN STATE:CO	165	203	240	277	315
COUNTY:SAN MIGUEL STATE:CO	165	203	240	277	315
COUNTY:SEDGWICK STATE:CO	194	236	280	322	367
COUNTY:SUMMIT STATE:CO	194	236	280	322	367
COUNTY:WASHINGTON STATE:CO	194	236	280	322	367
COUNTY:YUMA STATE:CO	194	236	280	322	367
SMSA: FARGO-MOORHEAD, ND-MN					
COUNTY:CASS STATE:ND	205	235	308	356	381
SMSA: GRAND FORKS, N.D.-MN					
COUNTY:GRAND FORKS STATE:ND	205	246	296	344	376
NON SMSA					
COUNTY:ADAMS STATE:ND	164	195	249	281	307
COUNTY:BARNES STATE:ND	164	195	249	281	307
COUNTY:BENSON STATE:ND	164	195	249	281	307
COUNTY:BILLINGS STATE:ND	164	195	249	281	307
COUNTY:BOTTINEAU STATE:ND	164	195	249	281	307
COUNTY:BOWMAN STATE:ND	164	195	249	281	307
COUNTY:BURKE STATE:ND	164	195	249	281	307
COUNTY:CAVALIER STATE:ND	164	195	249	281	307
COUNTY:DICKEY STATE:ND	164	195	249	281	307
COUNTY:DIVIDE STATE:ND	164	195	249	281	307
COUNTY:DUNN STATE:ND	164	195	249	281	307
COUNTY:EDDY STATE:ND	164	195	249	281	307
COUNTY:EMMONS STATE:ND	164	195	249	281	307
COUNTY:FOSTER STATE:ND	164	195	249	281	307
COUNTY:GOLDEN VALLY STATE:ND	164	195	249	281	307

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY:GRANT STATE:ND	164	195	249	281	307
COUNTY:GRIGGS STATE:ND	164	195	249	281	307
COUNTY:HETTINGER STATE:ND	164	195	249	281	307
COUNTY:KIDDER STATE:ND	164	195	249	281	307
COUNTY:LA MOORE STATE:ND	164	195	249	281	307
COUNTY:LOGAN STATE:ND	164	195	249	281	307
COUNTY:MCHENRY STATE:ND	164	195	249	281	307
COUNTY:MCINTOSH STATE:ND	164	195	249	281	307
COUNTY:MCKENZIE STATE:ND	164	195	249	281	307
COUNTY:MCLEAN STATE:ND	181	205	267	293	324
COUNTY:MERCER STATE:ND	181	205	267	293	324
COUNTY:MOUNTRAIL STATE:ND	164	195	249	281	307
COUNTY:NELSON STATE:ND	164	195	249	281	307
COUNTY:OLIVER STATE:ND	181	205	267	293	324
COUNTY:PEMBINA STATE:ND	164	195	249	281	307
COUNTY:PIERCE STATE:ND	164	195	249	281	307
COUNTY:RAMSEY STATE:ND	164	195	249	281	307
COUNTY:RANSOM STATE:ND	164	195	249	281	307
COUNTY:RENVILLE STATE:ND	164	195	249	281	307
COUNTY:RICHLAND STATE:ND	164	195	249	281	307
COUNTY:ROLETTE STATE:ND	164	195	249	281	307
COUNTY:SARGENT STATE:ND	164	195	249	281	307
COUNTY:SHERIDAN STATE:ND	164	195	249	281	307
COUNTY:SIOUX STATE:ND	164	195	249	281	307

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY:SLOPE STATE:ND	164	195	249	281	307
COUNTY:STARK STATE:ND	181	205	267	293	324
COUNTY:STEELE STATE:ND	164	195	249	281	307
COUNTY:STUTSMAN STATE:ND	164	195	249	281	307
COUNTY:TOWNER STATE:ND	164	195	249	281	307
COUNTY:TRAILL STATE:ND	164	195	249	281	307
COUNTY:WALSH STATE:ND	164	195	249	281	307
COUNTY:WARD STATE:ND	176	205	267	339	376
COUNTY:WELLS STATE:ND	164	195	249	281	307
COUNTY:WILLIAMS STATE:ND	180	204	264	288	318
SMSA: BILLINGS, MT					
COUNTY:YELLOWSTONE STATE:MT	233	286	338	388	441
SMSA: GREAT FALLS, MT					
COUNTY:CASCADE STATE:MT	212	265	312	373	407
NON SMSA					
COUNTY:BEAVERHEAD STATE:MT	183	223	265	306	346
COUNTY:BIG HORN STATE:MT	173	212	250	289	328
COUNTY:BLAINE STATE:MT	173	212	250	289	328
COUNTY:BROADWATER STATE:MT	173	212	250	289	328
COUNTY:CARBON STATE:MT	173	212	250	289	328
COUNTY:CARTER STATE:MT	173	212	250	289	328
COUNTY:CHOUTEAU STATE:MT	173	212	250	289	328
COUNTY:CUSTER STATE:MT	173	212	250	289	328
COUNTY:DANIELS STATE:MT	184	225	267	307	349
COUNTY:DAWSON STATE:MT	173	212	250	289	328
COUNTY:DEER LODGE STATE:MT	183	223	265	306	346
COUNTY:FALLON STATE:MT	173	212	250	289	328

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

V 45 / 215 NO 480 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: FERGUS STATE: MT	173	212	250	289	328
COUNTY: FLATHEAD STATE: MT	201	245	290	335	379
COUNTY: GALLATIN STATE: MT	237	289	342	394	447
COUNTY: GARFIELD STATE: MT	173	212	250	289	328
COUNTY: GLACIER STATE: MT	173	212	250	289	328
COUNTY: GOLDEN VALLE STATE: MT	173	212	250	289	328
COUNTY: GRANITE STATE: MT	183	223	265	306	346
COUNTY: HILL STATE: MT	173	212	250	289	328
COUNTY: JEFFERSON STATE: MT	173	212	250	289	328
COUNTY: JUDITH BASIN STATE: MT	173	212	250	289	328
COUNTY: LAKE STATE: MT	183	223	265	306	346
COUNTY: LEWIS+ CLARK STATE: MT	245	299	352	406	459
COUNTY: LIBERTY STATE: MT	173	212	250	289	328
COUNTY: LINCOLN STATE: MT	183	223	265	306	346
COUNTY: MCCONE STATE: MT	173	212	250	289	328
COUNTY: MADISON STATE: MT	183	223	265	306	346
COUNTY: MEAGHER STATE: MT	173	212	250	289	328
COUNTY: MINERAL STATE: MT	183	223	265	306	346
COUNTY: MISSOULA STATE: MT	211	258	305	351	399
COUNTY: MUSSELSHELL STATE: MT	173	212	250	289	328
COUNTY: PARK STATE: MT	228	279	330	380	431
COUNTY: PETROLEUM STATE: MT	173	212	250	289	328
COUNTY: PHILLIPS STATE: MT	173	212	250	289	328
COUNTY: PONDERA STATE: MT	173	212	250	289	328

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: POWDER RIVER STATE: MT	173	212	250	289	328
COUNTY: POWELL STATE: MT	183	223	265	306	346
COUNTY: PRAIRIE STATE: MT	173	212	250	289	328
COUNTY: RAVALLI STATE: MT	183	223	265	306	346
COUNTY: RICHLAND STATE: MT	205	249	297	341	387
COUNTY: ROOSEVELT STATE: MT	184	225	267	307	349
COUNTY: ROSEBUD STATE: MT	173	212	250	289	328
COUNTY: SANDERS STATE: MT	183	223	265	306	346
COUNTY: SHERIDAN STATE: MT	184	225	267	307	349
COUNTY: SILVER BOW STATE: MT	183	223	265	306	346
COUNTY: STILLWATER STATE: MT	173	212	250	289	328
COUNTY: SWEET GRASS STATE: MT	173	212	250	289	328
COUNTY: TETON STATE: MT	173	212	250	289	328
COUNTY: TOOLE STATE: MT	173	212	250	289	328
COUNTY: TREASURE STATE: MT	173	212	250	289	328
COUNTY: VALLEY STATE: MT	173	212	250	289	328
COUNTY: WHEATLAND STATE: MT	173	212	250	289	328
COUNTY: WIBAUX STATE: MT	184	225	267	307	349
COUNTY: YL-ST-NT-PK STATE: MT	173	212	250	289	328
SMSA: PROVO-OREM, UT					
COUNTY: UTAH STATE: UT	194	236	280	322	367
SMSA: SALT LAKE CITY-OGDEN, UT					
COUNTY: DAVIS STATE: UT	209	255	301	348	394
COUNTY: SALT LAKE STATE: UT	209	255	301	348	394
COUNTY: TOOELE STATE: UT	209	255	301	348	394

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
SMSA: SALT LAKE CITY-OGDEN, UT					
COUNTY:WEBER STATE:UT	209	255	301	348	394
NON SMSA					
COUNTY:BEAVER STATE:UT	233	284•	333•	384•	434•
COUNTY:BOX ELDER STATE:UT	165	203	240	277	315
COUNTY:CACHE STATE:UT	165	203	240	277	315
COUNTY:CARBON STATE:UT	226	276	327	376	426
COUNTY:DAGGETT STATE:UT	165	203	240	277	315
COUNTY:DUCHESNE STATE:UT	165	203	240	277	315
COUNTY:EMERY STATE:UT	209	255	301	348	394
COUNTY:GARFIELD STATE:UT	233	284•	333•	384•	434•
COUNTY:GRAND STATE:UT	148	181	213	245	277•
COUNTY:IRON STATE:UT	233	284•	333•	384•	434•
COUNTY:JUAB STATE:UT	148	181	213	245	277•
COUNTY:KANE STATE:UT	233	284•	333•	384•	434•
COUNTY:MILLARD STATE:UT	148	181	213	245	277•
COUNTY:MORGAN STATE:UT	165	203	240	277	315
COUNTY:PIUTE STATE:UT	148	181	213	245	277•
COUNTY:RICH STATE:UT	165	203	240	277	315
COUNTY:SAN JUAN STATE:UT	148	181	213	245	277•
COUNTY:SANPETE STATE:UT	148	181	213	245	277•
COUNTY:SEVIER STATE:UT	148	181	213	245	277•
COUNTY:SUMMIT STATE:UT	165	203	240	277	315
COUNTY:UINTAH STATE:UT	165	203	240	277	315
COUNTY:WASATCH STATE:UT	165	203	240	277	315
COUNTY:WASHINGTON STATE:UT	233	284•	333•	384•	434•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
NON SMSA					
COUNTY:WAYNE STATE:UT	148	181	213	245	277•
SMSA: RAPID CITY,S.D.					
COUNTY:MEADE STATE:SD	199	243	287	332	377
COUNTY:PENNINGTON STATE:SD	199	243	287	332	377
SMSA: SIOUX FALLS, SD					
COUNTY:MINNEHAHA STATE:SD	209	254	302	349	395
NON SMSA					
COUNTY:AURORA STATE:SD	178	217	258	298	339
COUNTY:BEADLE STATE:SD	178	217	258	298	339
COUNTY:BENNETT STATE:SD	158	190	228	264	299
COUNTY:BON HOMME STATE:SD	161	196	233	269	307
COUNTY:BROOKINGS STATE:SD	178	217	258	298	339
COUNTY:BROWN STATE:SD	165	201	238	274	311•
COUNTY:BRULE STATE:SD	158	190	228	264	299
COUNTY:BUFFALO STATE:SD	158	190	228	264	299
COUNTY:BUTTE STATE:SD	177	216	256	296	336
COUNTY:CAMPBELL STATE:SD	158	190	228	264	299
COUNTY:CHARLES MIX STATE:SD	161	196	233	269	307
COUNTY:CLARK STATE:SD,	158	190	228	264	299
COUNTY:CLAY STATE:SD	187	228	270	312	355
COUNTY:CODINGTON STATE:SD	158	190	228	264	299
COUNTY:CORSON STATE:SD	158	190	228	264	299
COUNTY:CUSTER STATE:SD	190	230	274	316	358
COUNTY:DAVISON STATE:SD	178	217	258	298	339
COUNTY:DAY STATE:SD	158	190	228	264	299
COUNTY:DEUEL STATE:SD	158	190	228	264	299

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
NON SMSA					
COUNTY:DEWEY STATE:SD	158	190	228	264	299
COUNTY:DOUGLAS STATE:SD	161	196	233	269	307
COUNTY:EDMUNDS STATE:SD	158	190	228	264	299
COUNTY:FALL RIVER STATE:SD	190	230	274	316	358
COUNTY:FAULK STATE:SD	158	190	228	264	299
COUNTY:GRANT STATE:SD	186	228	270	312	353
COUNTY:GREGORY STATE:SD	158	190	228	264	299
COUNTY:HAAKON STATE:SD	158	190	228	264	299
COUNTY:HAMLIN STATE:SD	158	190	228	264	299
COUNTY:HAND STATE:SD	178	217	258	298	339
COUNTY:HANSON STATE:SD	178	217	258	298	339
COUNTY:HARDING STATE:SD	158	190	228	264	299
COUNTY:HUGHES STATE:SD	211	258	306	354	400
COUNTY:HUTCHINSON STATE:SD	161	196	233	269	307
COUNTY:HYDE STATE:SD	158	190	228	264	299
COUNTY:JACKSON STATE:SD	158	190	228	264	299
COUNTY:JERAULD STATE:SD	178	217	258	298	339
COUNTY:JONES STATE:SD	158	190	228	264	299
COUNTY:KINGSBURY STATE:SD	178	217	258	298	339
COUNTY:LAKE STATE:SD	178	217	258	298	339
COUNTY:LAWRENCE STATE:SD	164	200	237	275	312
COUNTY:LINCOLN STATE:SD	178	217	258	298	339
COUNTY:LYMAN STATE:SD	158	190	228	264	299
COUNTY:MCCOOK STATE:SD	178	217	258	298	339

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL:AREA OFFICE					
NON SMSA					
COUNTY:MCPHERSON STATE:SD	158	190	228	264	299
COUNTY:MARSHALL STATE:SD	158	190	228	264	299
COUNTY:MELLETTE STATE:SD	158	190	228	264	299
COUNTY:MINER STATE:SD	178	217	258	298	339
COUNTY:MOODY STATE:SD	178	217	258	298	339
COUNTY:PERKINS STATE:SD	158	190	228	264	299
COUNTY:POTTER STATE:SD	158	190	228	264	299
COUNTY:ROBERTS STATE:SD	158	190	228	264	299
COUNTY:SANBORN STATE:SD	178	217	258	298	339
COUNTY:SHANNON STATE:SD	158	190	228	264	299
COUNTY:SPINK STATE:SD	158	190	228	264	299
COUNTY:STANLEY STATE:SD	211	258	306	354	400
COUNTY:SULLY STATE:SD	158	190	228	264	299
COUNTY:TODD STATE:SD	158	190	228	264	299
COUNTY:TRIPP STATE:SD	158	190	228	264	299
COUNTY:TURNER STATE:SD	178	217	258	298	339
COUNTY:UNION STATE:SD	161	196	233	269	307
COUNTY:WALWORTH STATE:SD	174	211	250	291	328
COUNTY:WASHABAUGH STATE:SD	158	190	228	264	299
COUNTY:YANKTON STATE:SD	161	196	233	269	307
COUNTY:ZIEBACH STATE:SD	158	190	228	264	299

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HAWAII AREA OFFICE					
SMSA: HONOLULU, HI					
COUNTY:HONOLULU					
STATE:HI	291	350*	417*	491*	547*
NON SMSA					
COUNTY:HAWAII					
STATE:HI	335	407*	478*	551*	623*
COUNTY:KAUAI					
STATE:HI	335	407*	478*	551*	623*
COUNTY:MAUI					
STATE:HI	335	407*	478*	551*	623*
COUNTY:GUAM					
STATE:	294	356	419*	482*	546*
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: BAKERSFIELD, CA					
COUNTY:KERN					
STATE:CA	218	275	311	414	485
SMSA: LOS ANGELES-LONG BEACH, CA					
COUNTY:LOS ANGELES					
STATE:CA	269	327	386	482	574
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA					
COUNTY:VENTURA					
STATE:CA	252	309	372	459	520
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA					
COUNTY:SANTA BARBAR					
STATE:CA	263	321	416	481	544
NON SMSA					
COUNTY:SAN LUIS OBI					
STATE:CA	246	298	376	432	489
SMSA: PHOENIX, AZ					
COUNTY:MARICOPA					
STATE:AZ	247	300	355	411	465
NON SMSA					
COUNTY:APACHE					
STATE:AZ	181	222	261	303	343
COUNTY:COCONINO					
STATE:AZ	189	224	314	382	434
COUNTY:GILA					
STATE:AZ	181	222	261	303	343
COUNTY:MOHAVE					
STATE:AZ	181	222	261	303	343

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY:NAUAJO					
STATE:AZ	181	222	261	303	343
COUNTY:PINAL					
STATE:AZ	181	222	261	303	343
COUNTY:YAVAPAI					
STATE:AZ	181	222	261	303	343
COUNTY:YUMA					
STATE:AZ	181	222	261	303	343
SMSA: TUCSON, AZ					
COUNTY:PIMA					
STATE:AZ	227	277	328	379	429
NON SMSA					
COUNTY:COCHISE					
STATE:AZ	181	222	261	303	343
COUNTY:GRAHAM					
STATE:AZ	181	222	261	303	343
COUNTY:GREENLEE					
STATE:AZ	181	222	261	303	343
COUNTY:SANTA CRUZ					
STATE:AZ	181	222	261	303	343
SMSA: SAN DIEGO, CA					
COUNTY:SAN DIEGO					
STATE:CA	267	327	386	448	507
NON SMSA					
COUNTY:IMPERIAL					
STATE:CA	210	255	331*	380	410
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA					
COUNTY:ORANGE					
STATE:CA	287	345	406	556	632
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA					
COUNTY:RIVERSIDE					
STATE:CA	255	304	358	456	533
COUNTY:SAN BERNADIN					
STATE:CA	255	304	358	456	533
NON SMSA					
COUNTY:INYO					
STATE:CA	187	230	271	314	356
COUNTY:MONO					
STATE:CA	187	230	271	314	356

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA FRESNO, CA					
COUNTY:FRESNO STATE:CA	211	258	307	402	441
SMSA MODESTO, CA					
COUNTY:STANISLAUS STATE:CA	230	256	313	426	466
NON SMSA					
COUNTY:KINGS STATE:CA	187	230	271	314	356
COUNTY:MADERA STATE:CA	187	230	271	377	417
COUNTY:MARIPOSA STATE:CA	197	242	308	395	462
COUNTY:MERCED STATE:CA	201	226	318	408	477
COUNTY:TULARE STATE:CA	221	253	327	429	477
SMSA RENO, NV					
COUNTY:WASHOE STATE:NV	279	335	408*	492*	531*
NON SMSA					
COUNTY:CHURCHILL STATE:NV	259	317	373	431	488
COUNTY:DOUGLAS STATE:NV	259	317	373	431	488
COUNTY:ELKO STATE:NV	259	317	373	431	488
NON SMSA					
COUNTY:ESMERALDA STATE:NV	236	287	351	414	460
COUNTY:EUREKA STATE:NV	236	287	351	414	460
COUNTY:HUMBOLDT STATE:NV	259	317	373	431	488
COUNTY:LANDER STATE:NV	259	317	373	431	488
COUNTY:LYON STATE:NV	259	317	373	431	488
COUNTY:MINERAL STATE:NV	259	317	373	431	488
COUNTY:NYE STATE:NV	236	287	351	414	460
COUNTY:ORMSLEY STATE:NV	259	317	373	431	488
COUNTY:PERSHING STATE:NV	259	317	373	431	488
COUNTY:STOREY STATE:NV	259	317	373	431	488
COUNTY:WHITE PINE STATE:NV	236	287	351	414	460
INDEP. CITY:CARSON CITY STATE:NV	259	317	373	431	488

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: SACRAMENTO, CA					
COUNTY:PLACER STATE:CA	199	241	284*	326	369
COUNTY:SACRAMENTO STATE:CA	199	241	284*	326	369
COUNTY:YOLO STATE:CA	199	241	284*	326	369
SMSA: STOCKTON, CA					
COUNTY:SAN JOAQUIN STATE:CA	192	232	274	347*	386*
NON SMSA					
COUNTY:ALPINE STATE:CA	197	242	287	330	374
COUNTY:AMADOR STATE:CA	197	242	287	330	374
COUNTY:BUTTE STATE:CA	188	228	268	352*	387
COUNTY:CALAUERAS STATE:CA	197	242	287	330	374
COUNTY:COLUSA STATE:CA	209	255	301	349	395
COUNTY:EL DORADO STATE:CA	209	255	301	349	395
COUNTY:GLENN STATE:CA	209	255	301	349	395
NON SMSA					
COUNTY:LASSEN STATE:CA	184	225	267	307	349
COUNTY:MODOC STATE:CA	184	225	267	307	349
COUNTY:NEVADA STATE:CA	209	255	301	349	395
COUNTY:PLUMAS STATE:CA	201	235	291	358	442*
COUNTY:SHASTA STATE:CA	201	229	279*	347	419*
COUNTY:SIERRA STATE:CA	184	225	267	307	349
COUNTY:SISKIYOU STATE:CA	184	225	267	307	349
COUNTY:SUTTER STATE:CA	188	228	268	347	419*
COUNTY:TEHAMA STATE:CA	184	225	267	307	349
COUNTY:TRINITY STATE:CA	184	225	267	307	349
COUNTY:TUOLUMNE STATE:CA	197	242	287	330	374
COUNTY:YUBA STATE:CA	209	255	301	349	395

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: SALINAS-SEASIDE-MONTEREY, CA					
COUNTY:MONTEREY					
STATE:CA	239	307	364	485	529
SMSA: SAN FRANCISCO-OAKLAND, CA					
COUNTY:ALAMEDA					
STATE:CA	270	330	388	540	590
COUNTY:CONTRA COSTA					
STATE:CA	270	330	388	540	590
COUNTY:MARIN					
STATE:CA	270	330	388	540	590
COUNTY:SAN FRANCISC					
STATE:CA	270	330	388	540	590
COUNTY:SAN MATEO					
STATE:CA	270	330	388	540	590
SMSA: SAN JOSE, CA					
COUNTY:SANTA CLARA					
STATE:CA	295	360	425	538	590
SMSA: SANTA CRUZ, CA					
COUNTY:SANTA CRUZ					
STATE:CA	227	275	351	489	565
SMSA: SANTA ROSA, CA					
COUNTY:SONOMA					
STATE:CA	236	275	369	476	540
SMSA: VALLEJO-FAIRFIELD-NAPA, CA					
COUNTY:NAPA					
STATE:CA	233	286	338	476	526
SMSA: VALLEJO-FAIRFIELD-NAPA, CA					
COUNTY:SOLANO					
STATE:CA	233	286	338	476	526
NON SMSA					
COUNTY:DEL NORTE					
STATE:CA	184	225	267	307	349
COUNTY:HUMBOLDT					
STATE:CA	230	275	327	426	472
COUNTY:LAKE					
STATE:CA	233	286	338	390	441
COUNTY:MENDOCINO					
STATE:CA	224	287	357	452	503
COUNTY:SAN BENITO					
STATE:CA	215	263	310	358	406
SMSA: LAS VEGAS, NV					
COUNTY:CLARK					
STATE:NV	239	289	341•	392	443
NON SMSA					
COUNTY:LINCOLN					
STATE:NV	236	287	351	414	460

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
SMSA: ANCHORAGE, AK					
DISTRICT:ANCHORAGE					
STATE:AK	332	404	475•	546•	618•
NON SMSA					
DISTRICT:ALEUTIAN I.					
STATE:AK	360	438	515	592	670•
DISTRICT:ANGOON					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:BARROW	557	614	696	776	847•
STATE:AK	145	111	104	94	
DISTRICT:BETHEL					
STATE:AK	332	404	515	592	670•
DISTRICT:BRISTOL B.B.					
STATE:AK	332	404	515	592	670•
DISTRICT:BRISTOL BAY					
STATE:AK	332	404	515	592	670•
DISTRICT:CORDOVA-MCCA					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:FAIRBANKS					
STATE:AK	332	404	515•	592•	670•
DISTRICT:HAINES					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:JUNEAU					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:KENAI-COOK					
STATE:AK	332	404•	515•	592•	670•
NON SMSA					
DISTRICT:KETCHIKAN					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:KOBUK					
STATE:AK	332	404	515	592	670•
DISTRICT:KODIAK					
STATE:AK	360	438•	515•	592•	670•
DISTRICT:KUSKOKWIM					
STATE:AK	332	404	515	592	670•
DISTRICT:MATANUSKA-SU					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:NOME					
STATE:AK	332	404	515	592	670•
DISTRICT:OUTER KETCHK					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:PR. OF WALES					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:SEWARD					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:SITKA					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:SKGWY-YKTT					
STATE:AK	332	404•	515•	592•	670•
DISTRICT:SE FAIRBANKS					
STATE:AK	332	404	515•	592•	670•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
NON SMSA					
DISTRICT:UPPER YUKON STATE:AK	332	404	515	592	670•
DISTRICT:VLDZ-CHTN-WH STATE:AK	360	438•	515•	592•	670•
DISTRICT:WADE HAMPTON STATE:AK	332	404	515	592	670•
DISTRICT:WRNGLL-PTRSB STATE:AK	332	404•	515•	592•	670•
DISTRICT:YKN-KOYKK STATE:AK	332	404	515	592	670•
PORTLAND, OREGON AREA OFFICE					
SMSA: BOISE CITY, ID					
COUNTY:ADA STATE:ID	202	229	287•	315•	347•
NON SMSA					
COUNTY:ADAMS STATE:ID	183	222	261•	301•	340•
COUNTY:BANNOCK STATE:ID	203	247•	291•	334•	378•
COUNTY:BEAR LAKE STATE:ID	165	203	240	277	315
COUNTY:BENEWAH STATE:ID	181	219	258•	297•	335•
COUNTY:BINGHAM STATE:ID	203	247•	291•	334•	378•
COUNTY:BLAINE STATE:ID	203	247•	291•	334•	378•
COUNTY:BOISE STATE:ID	183	222	261•	301•	340•
COUNTY:BONNER STATE:ID	181	219	258•	297•	335•
COUNTY:BONNEVILLE STATE:ID	203	247•	291•	334•	378•
COUNTY:BOUNDARY STATE:ID	181	219	258•	297•	335•
COUNTY:BUTTE STATE:ID	203	247•	291•	334•	378•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:CAMAS STATE:ID	203	247•	291•	334•	378•
COUNTY:CANYON STATE:ID	183	222	261•	301•	340•
COUNTY:CARIBOU STATE:ID	203	247•	291•	334•	378•
COUNTY:CASSIA STATE:ID	203	247•	291•	334•	378•
COUNTY:CLARK STATE:ID	203	247•	291•	334•	378•
COUNTY:CLEARWATER STATE:ID	181	219	258•	297•	335•
COUNTY:CUSTER STATE:ID	203	247•	291•	334•	378•
COUNTY:ELMORE STATE:ID	183	222	261•	301•	340•
COUNTY:FRANKLIN STATE:ID	165	203	240	277	315
COUNTY:FREMONT STATE:ID	203	247•	291•	334•	378•
COUNTY:GEM STATE:ID	183	222	261•	301•	340•
COUNTY:GOODING STATE:ID	203	247•	291•	334•	378•
COUNTY:IDAHO STATE:ID	181	219	258•	297•	335•
COUNTY:JEFFERSON STATE:ID	203	247•	291•	334•	378•
COUNTY:JEROME STATE:ID	203	247•	291•	334•	378•
COUNTY:KOOTENAI STATE:ID	181	219	258•	297•	335•
COUNTY:LATAH STATE:ID	191	219	259•	271	305•
COUNTY:LEMHI STATE:ID	203	247•	291•	334•	378•
COUNTY:LEWIS STATE:ID	181	219	258•	297•	335•
COUNTY:LINCOLN STATE:ID	203	247•	291•	334•	378•
COUNTY:MADISON STATE:ID	203	247•	291•	334•	378•
COUNTY:MINIDOKA STATE:ID	203	247•	291•	334•	378•
COUNTY:NEZ PERCE STATE:ID	191	219	259•	271	305•
COUNTY:ONEIDA STATE:ID	165	203	240	277	315

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:OWYHEE STATE:ID	183	222	261•	301•	340•
COUNTY:PAYETTE STATE:ID	183	222	261•	301•	340•
COUNTY:POWER STATE:ID	203	247•	291•	334•	378•
COUNTY:SHOSHONE STATE:ID	181	219	258•	297•	335•
COUNTY:TETON STATE:ID	203	247•	291•	334•	378•
COUNTY:TWIN FALLS STATE:ID	203	247•	291•	334•	378•
COUNTY:VALLEY STATE:ID	183	222	261•	301•	340•
COUNTY:WASHINGTON STATE:ID	183	222	261•	301•	340•
SMSA: EUGENE-SPRINGFIELD, OR					
COUNTY:LANE STATE:OR	194	220	264•	335•	398•
SMSA: PORTLAND, OR-WA					
COUNTY:CLARK STATE:WA	210	260	295•	370•	405•
COUNTY:CLACKAMAS STATE:OR	210	260	295•	370•	405•
SMSA: PORTLAND, OR-WA					
COUNTY:MULTNOMAH STATE:OR	210	260	295•	370•	405•
COUNTY:WASHINGTON STATE:OR	210	260	295•	370•	405•
SMSA: SALEM, OR					
COUNTY:MARION STATE:OR	212	257•	303•	349•	394•
COUNTY:POLK STATE:OR	212	257•	303•	349•	394•
NON SMSA					
COUNTY:KLICKITAT STATE:WA	165	201	237•	272	308
COUNTY:SKAMANIA STATE:WA	165	201	237•	272	308
COUNTY:BAKER STATE:OR	154	186	220•	254•	286•
COUNTY:BENTON STATE:OR	212	257•	303•	349•	394•
COUNTY:CLATSOP STATE:OR	192	221	260•	299•	339•
COUNTY:COLUMBIA STATE:OR	192	221	260•	299•	339•
COUNTY:COOS STATE:OR	177	229	293•	329•	357•

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1981

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:CROOK STATE:OR	182	221	260•	298•	339•
COUNTY:CURRY STATE:OR	194	233	270•	361•	393•
COUNTY:DESCHUTES STATE:OR	185	225	285•	310•	340•
COUNTY:DOUGLAS STATE:OR	174	211	249•	286•	324•
COUNTY:GILLIAM STATE:OR	172	209	248	287	325
COUNTY:GRANT STATE:OR	172	209	248	287	325
COUNTY:HARNEY STATE:OR	183	222	261•	301•	340•
COUNTY:HOOD RIVER STATE:OR	165	201	237•	272	308
COUNTY:JACKSON STATE:OR	174	211	249•	286•	324•
COUNTY:JEFFERSON STATE:OR	185	225	285•	310•	340•
COUNTY:JOSEPHINE STATE:OR	192	218	259•	295•	335•
COUNTY:KLAMATH STATE:OR	174	211	249•	286	324•
COUNTY:LAKE STATE:OR	174	211	249•	286	324•
COUNTY:LINCOLN STATE:OR	212	257•	303•	349•	394•
COUNTY:LINN STATE:OR	212	257•	303•	349•	394•
COUNTY:MALHEUR STATE:OR	183	222•	261•	301•	340•
COUNTY:MORROW STATE:OR	172	209	248	287	325
COUNTY:SHERMAN STATE:OR	165	201	237•	272	308
COUNTY:TILLAMOOK STATE:OR	192	221	260•	299•	339•
COUNTY:UMATILLA STATE:OR	154	186	220•	254•	286•
COUNTY:UNION STATE:OR	154	186	220•	254•	286•
COUNTY:WALLOWA STATE:OR	154	186	220•	254•	286•
COUNTY:WASCO STATE:OR	165	201	237•	272	308
COUNTY:WHEELER STATE:OR	172	209	248	287	325

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:YAMHILL STATE:OR	179	223	279*	338*	410*
SEATTLE, WASHINGTON AREA OFFICE					
SMSA: SEATTLE-EVERETT, WA					
COUNTY:KING STATE:WA	274	334	394	493	539
COUNTY:SNOHOMISH STATE:WA	274	334	394	493	539
SMSA: TACOMA, WA					
COUNTY:PIERCE STATE:WA	216	253	313	405	446
SMSA: YAKIMA, WA					
COUNTY:YAKIMA STATE:WA	172	209	248	287	325
NON SMSA					
COUNTY:CHELAN STATE:WA	184	242*	306*	389*	441*
COUNTY:CLALLAM STATE:WA	188	228	268*	310	350
COUNTY:COWLITZ STATE:WA	209	277	313	431	466
COUNTY:DOUGLAS STATE:WA	184	242*	306*	389*	441*
COUNTY:GRAYS HARBOR STATE:WA	209	255	301	349	395
COUNTY:ISLAND STATE:WA	209	255	301	349	395
COUNTY:JEFFERSON STATE:WA	188	228	268*	310	350

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
NON SMSA					
COUNTY:KITSAP STATE:WA	230	275	332	465	552
COUNTY:KITTITAS STATE:WA	172	209	248	287	325
COUNTY:LEWIS STATE:WA	188	228	268*	310	350
COUNTY:MASON STATE:WA	209	255	301	349	395
COUNTY:OKANOGAN STATE:WA	183	223	265	306	346
COUNTY:PACIFIC STATE:WA	209	255	301	349	395
COUNTY:SAN JUAN STATE:WA	209	255	301	349	395
COUNTY:SKAGIT STATE:WA	209	255	301	349	395
COUNTY:THURSTON STATE:WA	188	228	268*	310	350
COUNTY:WAHKIAKUM STATE:WA	165	201	237*	272	308
COUNTY:WHATCOM STATE:WA	217	248	301	433	486
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY:BENTON STATE:WA	225	276	338	433	489
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY:FRANKLIN STATE:WA	225	276	338	433	489
SMSA: SPOKANE, WA					
COUNTY:SPOKANE STATE:WA	227	264	329	402	466
NON SMSA					
COUNTY:ADAMS STATE:WA	183	223	265	306	346
COUNTY:ASOTIN STATE:WA	195	232	331	398	441
COUNTY:COLUMBIA STATE:WA	183	223	265	306	346
COUNTY:FERRY STATE:WA	158	217	269	320	371
COUNTY:GARFIELD STATE:WA	183	223	265	306	346
COUNTY:GRANT STATE:WA	183	223	265	306	346
COUNTY:LINCOLN STATE:WA	183	223	265	306	346
COUNTY:PEND OREILLE STATE:WA	158	217	269	320	371
COUNTY:STEVENS STATE:WA	180	249	308	364	423

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AHS AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT. OTHER HOLD HARMLESS AREAS ARE IDENTIFIED BY AN ASTERISK NEXT TO EACH RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
NON SMSA					
COUNTY: WALLA WALLA STATE: WA	180	249	351	445	478
COUNTY: WHITMAN STATE: WA	199	249	320	464	540

SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
BOSTON, MASSACHUSETTS AREA OFFICE		
NON METRO STATE: MAINE	85	98
SMSA: LEWISTON-AUBURN, ME	66	66
SMSA: PORTLAND, ME	105	120
NON METRO STATE: NEW HAMPSHIRE	78	85
SMSA: LAWRENCE-HAVERHILL, MA-NH	92	98
SMSA: LOWELL, MA NH	92	98
SMSA: MANCHESTER, NH	88	96
SMSA: NASHUA, NH	104	104
NON METRO STATE: VERMONT	80	92
NON METRO STATE: MASSACHUESETTS	104	104
SMSA: BOSTON, MA	97	104
SMSA: BROCKTON, MA	97	97
SMSA: FALL RIVER, MA-RI	66	66
SMSA: FITCHBURG-LEOMINSTER, MA	79	79
SMSA: LAWRENCE-HAVERHILL, MA-NH	92	98
SMSA: LOWELL, MA NH	92	98
SMSA: NEW BEDFORD, MA	90	90
SMSA: PITTSFIELD, MA	97	97
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA	89	89
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT	77	77
SMSA: WORCESTER, MA	68	68
NON METRO STATE: RHODE ISLAND	85	85
SMSA: FALL RIVER, MA-RI	66	66
SMSA: NEW LONDON-NORWICH, CT-RI	89	89

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
BOSTON, MASSACHUSETTS AREA OFFICE		
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA	89	89
HARTFORD, CONNECTICUT AREA OFFICE		
NON METRO STATE: CONNECTICUT	96	96
SMSA: BRIDGEPORT, CT	120	120
SMSA: BRISTOL, CT	96	96
SMSA: DANBURY, CT	92	92
SMSA: HARTFORD, CT	104	104
SMSA: MERIDEN, CT	89	89
SMSA: NEW BRITAIN, CT	104	104
SMSA: NEW HAVEN-WEST HAVEN, CT	94	94
SMSA: NEW LONDON-NORWICH, CT-RI	89	89
SMSA: NORWALK, CT	112	112
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT	77	77
SMSA: STAMFORD, CT	112	112
SMSA: WATERBURY, CT	96	96

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
BUFFALO, NEW YORK AREA OFFICE		
NON METRO STATE: NEW YORK	92	92
SMSA: ALBANY-SCHENECTADY-TROY, NY	104	104
SMSA: BINGHAMTON, NY-PA	70	70
SMSA: BUFFALO, NY	92	92
SMSA: ELMIRA, NY	74	74
SMSA: ROCHESTER, NY	104	104
SMSA: SYRACUSE, NY	85	85
SMSA: UTICA-ROME, NY	79	79
NEW YORK, NEW YORK AREA OFFICE		
NON METRO STATE: NEW YORK	92	92
SMSA: NASSAU-SUFFOLK, NY	124	158
SMSA: NEW YORK CITY, NY-NJ	128	128
SMSA: POUGHKEEPSIE, NY	118	118
NEWARK, NEW JERSEY AREA OFFICE		
NON METRO STATE: NEW JERSEY	80	80
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ	79	79
SMSA: ATLANTIC CITY, NJ	122	122
SMSA: JERSEY CITY, NJ	155	155
SMSA: LONG BRANCH-ASBURY PARK, NJ	146	147
SMSA: NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ	189	190
SMSA: NEW YORK CITY, NY-NJ	128	128
SMSA: NEWARK, NJ	150	155
SMSA: PATERSON-CLIFTON-PASSAIC, NJ	167	168
SMSA: PHILADELPHIA, PA-NJ	139	139
SMSA: TRENTON, NJ	124	124
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ	109	109
SMSA: WILMINGTON, DE-NJ-MD	92	92

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
BALTIMORE, MARYLAND AREA OFFICE		
NON METRO STATE: DELAWARE	57	57
NON METRO STATE: MARYLAND	99	99
SMSA: BALTIMORE, MD	140	140
SMSA: WILMINGTON, DE-NJ-MD	91	91
PHILADELPHIA, PENNSYLVANIA AREA OFFICE		
NON METRO STATE: PENNSYLVANIA	57	57
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ	79	79
SMSA: BINGHAMTON, NY-PA	70	70
SMSA: HARRISBURG, PA	81	81
SMSA: LANCASTER, PA	75	75
SMSA: NORTHEAST, PA	63	63
SMSA: PHILADELPHIA, PA-NJ	139	139
SMSA: READING, PA	75	75
SMSA: WILLIAMSPORT, PA	57	57
SMSA: YORK, PA	75	75
SMSA: WILMINGTON, DE-NJ-MD	91	91
PITTSBURGH, PENNSYLVANIA AREA OFFICE		
NON METRO STATE: PENNSYLVANIA	57	57
SMSA: ALTOONA, PA	72	72
SMSA: ERIE, PA	72	72
SMSA: JOHNSTOWN, PA	72	72
SMSA: PITTSBURGH, PA	69	69
NON METRO STATE: WEST VIRGINIA	69	69
SMSA: CHARLESTON, WV	75	75
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH	69	69
SMSA: PARKERSBURG-MARIETTA, WV-OH	69	69
SMSA: STEUBENVILLE-WEIRTON, OH-WV	60	60
SMSA: WHEELING, WV-OH	63	63

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
RICHMOND, VIRGINIA AREA OFFICE		
NON METRO STATE: VIRGINIA	72	72
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	69	69
SMSA: LYNCHBURG, VA	63	63
SMSA: NEWPORT NEWS-HAMPTON, VA	84	84
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC	100	100
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA	76	76
SMSA: RICHMOND, VA	98	98
SMSA: ROANOKE, VA	69	69
WASHINGTON, D.C. AREA OFFICE		
SMSA: WASHINGTON, DC-MD-VA	127	127
ATLANTA, GEORGIA AREA OFFICE		
NON METRO STATE: GEORGIA	52	52
SMSA: ALBANY, GA	45	48
SMSA: ATLANTA, GA	73	78
SMSA: AUGUSTA, GA-SC	67	69
SMSA: CHATTANOOGA, TN-GA	45	63
SMSA: COLUMBUS, GA-AL	74	80
SMSA: MACON, GA	46	51
SMSA: SAVANNAH, GA	57	63

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
BIRMINGHAM, ALABAMA AREA OFFICE		
NON METRO STATE: ALABAMA	56	62
SMSA: ANNISTON, AL	58	63
SMSA: BIRMINGHAM, AL	80	88
SMSA: COLUMBUS, GA-AL	74	80
SMSA: FLORENCE, AL	63	69
SMSA: GADSDEN, AL	58	63
SMSA: HUNTSVILLE, AL	80	88
SMSA: MOBILE, AL	64	70
SMSA: MONTGOMERY, AL	64	69
SMSA: TUSCALOOSA, AL	76	84
COLUMBIA, SOUTH CAROLINA AREA AFFICE		
NON METRO STATE: SOUTH CAROLINA	52	52
SMSA: AUGUSTA, GA-SC	67	69
SMSA: CHARLESTON, SC	63	63
SMSA: COLUMBIA, SC	57	63
SMSA: GREENVILLE-SPARTANBURG, SC	57	57
GREENSBORO, NORTH CAROLINA AREA OFFICE		
NON METRO STATE: NORTH CAROLINA	46	57
SMSA: ASHEVILLE, NC	63	75
SMSA: BURLINGTON, NC	63	75
SMSA: CHARLOTTE-GASTONIA, NC	63	75
SMSA: FAYETTEVILLE, NC	63	75
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC	63	75
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC	100	100
SMSA: RALEIGH-DURHAM, NC	63	75
SMSA: WILMINGTON, NC	63	75

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
JACKSON, MISSISSIPPI AREA OFFICE		
NON METRO STATE: MISSISSIPPI	64	76
SMSA: BILOXI-GULFPORT, MS	75	87
SMSA: JACKSON, MS	80	98
SMSA: MEMPHIS, TN-AR-MS	75	75
SMSA: PASCAGOULA-MOSS POINT, MS	63	75
JACKSONVILLE, FLORIDA AREA OFFICE		
NON METRO STATE: FLORIDA	69	69
SMSA: BRADENTON, FL	98	98
SMSA: DAYTONA BEACH, FL	87	87
SMSA: FORT LAUDERDALE-HOLLYWOOD, FL	145	145
SMSA: FORT MYERS-CAPE CORAL, FL	92	92
SMSA: GAINESVILLE, FL	69	69
SMSA: JACKSONVILLE, FL	63	75
SMSA: LAKELAND-WINTER HAVEN, FL	69	69
SMSA: MELBOURN-TITUSVILLE-COCOA, FL	80	80
SMSA: MIAMI, FL	115	115
SMSA: ORLANDO, FL	80	80
SMSA: PANAMA CITY, FL	69	69
SMSA: PENSACOLA, FL	69	69
SMSA: SARASOTA, FL	92	92
SMSA: TALLAHASSEE, FL	63	63
SMSA: TAMPA-ST PETERSBURG, FL	92	92
SMSA: WEST PALM BEACH-BOCA RATON, FL	115	115
LOUISVILLE, KENTUCKY AREA OFFICE		
NON METRO STATE: KENTUCKY	60	66
SMSA: CINCINNATI, OH-KY-IN	87	90
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	63	69
SMSA: EVANSVILLE, IN-KY	57	62
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH	69	69
SMSA: LEXINGTON-FAYETTE , KY	76	85
SMSA: LOUISVILLE, KY-IN	65	72-
SMSA: OWENSBORO, KY	70	81

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
KNOXVILLE, TENNESSEE AREA OFFICE		
NON METRO STATE: TENNESSEE	52	52
SMSA: CHATTANOOGA, TN-GA	45	63
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	63	69
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	69	69
SMSA: KNOXVILLE, TN	57	57
SMSA: MEMPHIS, TN-AR-MS	75	75
SMSA: NASHVILLE-DAVIDSON, TN	75	87
CHICAGO, ILLINOIS AREA OFFICE		
NON METRO STATE: ILLINOIS	82	87
SMSA: BLOOMINGTON-NORMAL, IL	90	90
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL	74	74
SMSA: CHICAGO, IL	162	174
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	99	104
SMSA: DECATUR, IL	99	99
SMSA: KANKAKEE, ILLINOIS	72	72
SMSA: PEORIA, IL	133	145
SMSA: ROCKFORD, IL	131	140
SMSA: ST LOUIS, MO-IL	75	87
SMSA: SPRINGFIELD, IL	87	92
COLUMBUS, OHIO AREA OFFICE		
NON METRO STATE: OHIO	58	58
SMSA: AKRON, OH	87	87
SMSA: CANTON, OH	63	63
SMSA: CINCINNATI, OH-KY-IN	86	89
SMSA: CLEVELAND, OH	92	92
SMSA: COLUMBUS, OH	80	92
SMSA: DAYTON, OH	63	63
SMSA: HAMILTON-MIDDLETOWN, OH	70	72
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH	69	69
SMSA: LIMA, OH	80	80
SMSA: LORAIN-ELYRIA, OH	99	99
SMSA: MANSFIELD, OH	75	75
SMSA: PARKERSBURG-MARIETTA, WV-OH	69	69
SMSA: SPRINGFIELD, OH	65	77
SMSA: STEUBENVILLE-WEIRTON, OH-WV	59	59
SMSA: TOLEDO, OH-MI	99	133
SMSA: WHEELING, WV-OH	62	62
SMSA: YOUNGSTOWN-WARREN, OH	75	75

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
DETROIT, MICHIGAN AREA OFFICE		
NON METRO STATE: MICHIGAN	87	97
SMSA: ANN ARBOR, MI	117	126
SMSA: BATTLE CREEK, MI	75	87
SMSA: BAY CITY, MI	88	91
SMSA: DETROIT, MI	114	123
SMSA: FLINT, MI	106	106
SMSA: GRAND RAPIDS, MI	80	86
SMSA: JACKSON, MI	87	87
SMSA: KALAMAZOO-PORTAGE , MI	91	94
SMSA: LANSING-EAST LANSING , MI	102	117
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI	80	82
SMSA: SAGINAW, MI	92	92
SMSA: TOLEDO, OH-MI	99	133
INDIANAPOLIS, INDIANA AREA OFFICE		
NON METRO STATE: INDIANA	45	59
EXCEPTION COUNTY: BLACKFORD	52	59
EXCEPTION COUNTY: GRANT	52	59
EXCEPTION COUNTY: HENRY	52	59
EXCEPTION COUNTY: JAY	52	59
EXCEPTION COUNTY: RANDOLPH	52	59
EXCEPTION COUNTY: WAYNE	52	59
SMSA: ANDERSON, IN	51	51
SMSA: BLOOMINGTON, IN	48	48
SMSA: CINCINNATI, OH-KY-IN	86	89
SMSA: ELKHART, IN.	66	66
SMSA: EVANSVILLE, IN-KY	60	64
SMSA: FORT WAYNE, IN	57	74
SMSA: GARY-HAMMOND-EAST CHICAGO, IN	79	91
SMSA: INDIANAPOLIS, IN	70	80
SMSA: KOKOMO, IN	66	73
SMSA: LAFAYETTE-WEST LAFAYETTE, IN	61	88
SMSA: LOUISVILLE, KY-IN	64	71
SMSA: MUNCIE, IN	49	55
SMSA: SOUTH BEND, IN	73	77
SMSA: TERRE HAUTE, IN	48	59
MILWAUKEE, WISCONSIN AREA OFFICE		
NON METRO STATE: WISCONSIN	70	75
SMSA: APPLETON-OSHKOSH, WI	87	92
SMSA: DULUTH-SUPERIOR, MN-WI	66	72
SMSA: EAU CLAIRE, WI	82	88
SMSA: GREEN BAY, WI	85	90
SMSA: JANESVILLE-BELOIT,WI	85	90
SMSA: KENOSHA, WI	90	96
SMSA: LA CROSSE, WI	77	84
SMSA: MADISON, WI	127	132
SMSA: MILWAUKEE, WI	99	104
SMSA: MINNEAPOLIS-ST PAUL, MN-WI	104	104
SMSA: RACINE, WI	91	98

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE		
NON METRO STATE: MINNESOTA	64	64
SMSA: DULUTH-SUPERIOR, MN-WI	66	72
SMSA: FARGO-MOORHEAD, ND-MN	92	104
SMSA: GRAND FORKS, N.D.-MN	80	99
SMSA: MINNEAPOLIS-ST PAUL, MN-WI	104	104
SMSA: ROCHESTER, MN	89	89
SMSA: ST. CLOUD, MN	80	80
DALLAS, TEXAS AREA OFFICE		
NON METRO STATE: TEXAS	55	67
SMSA: ABILENE, TX	48	54
SMSA: AMARILLO, TX	85	90
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX	80	92
SMSA: BRYAN-COLLEGE STATION, TX	78	87
SMSA: DALLAS-FORT WORTH , TX	69	87
SMSA: EL PASO, TX	89	101
SMSA: GALVESTON-TEXAS CITY, TX	92	104
SMSA: HOUSTON, TX	98	114
SMSA: KILLEEN-TEMPLE, TX	80	87
SMSA: LONGVIEW-MARSHALL, TX	75	84
SMSA: LUBBOCK, TX	84	87
SMSA: MIDLAND, TX	87	92
SMSA: ODESSA, TX	87	92
SMSA: SAN ANGELO, TX	75	80
SMSA: SHERMAN-DENISON, TX	69	80
SMSA: TEXARKANA, TX-AR	87	98
SMSA: TYLER, TX	69	73
SMSA: WACO, TX	72	80
SMSA: WICHITA FALLS, TX	52	57
NON METRO STATE: NEW MEXICO	72	81
SMSA: ALBUQUERQUE, NM	80	92
LITTLE ROCK, ARKANSAS AREA OFFICE		
NON METRO STATE: ARKANSAS	33	37
SMSA: FAYETTEVILLE-SPRINGDALE, AR	53	55
SMSA: FORT SMITH, AR-OK	30	33
SMSA: LITTLE ROCK-NORTH LITTLE ROCK, AR	44	46
SMSA: MEMPHIS, TN-AR-MS	75	75
SMSA: PINE BLUFF, AR	25	27
SMSA: TEXARKANA, TX-AR	87	98

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NEW ORLEANS, LOUISIANA AREA OFFICE		
NON METRO STATE: LOUISIANA	64	76
SMSA: ALEXANDRIA, LA	63	75
SMSA: BATON ROUGE, LA	75	87
SMSA: LAFAYETTE, LA	69	80
SMSA: LAKE CHARLES, LA	74	85
SMSA: MONROE, LA	63	75
SMSA: NEW ORLEANS, LA	78	90
SMSA: SHREVEPORT, LA	69	80
OKLAHOMA CITY, OKLAHOMA AREA OFFICE		
NON METRO STATE: OKLAHOMA	61	67
SMSA: FORT SMITH, AR-OK	30	33
SMSA: LAWTON, OK	62	69
SMSA: OKLAHOMA CITY, OK	64	72
SMSA: TULSA, OK	69	75
SAN ANTONIO, TEXAS AREA OFFICE		
NON METRO STATE: TEXAS	55	67
SMSA: AUSTIN, TX	78	92
SMSA: BROWNSVILLE-HARLINGEN-SAN BENITO, TX	63	75
SMSA: CORPUS CHRISTI, TX	67	87
SMSA: LAREDO, TX	57	69
SMSA: MC ALLEN-PHARR-EDINBURG, TX	74	87
SMSA: SAN ANTONIO, TX	63	75
KANSAS CITY, MISSOURI AREA OFFICE		
NON METRO STATE KANSAS	63	70
SMSA: KANSAS CITY, MO-KS	76	92
SMSA LAWRENCE, KS	64	71
SMSA TOPEKA, KS	63	70
SMSA WICHITA, KS	71	76

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
OMAHA, NEBRASKA AREA OFFICE		
NON METRO STATE: IOWA	70	75
SMSA: CEDAR RAPIDS, IA	80	92
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	99	104
SMSA: DES MOINES, IA	85	90
SMSA: DUBUQUE, IA	80	92
SMSA: OMAHA, NE-IA	75	87
SMSA: SIOUX CITY, IA-NE	77	77
SMSA: WATERLOO-CEDAR FALLS, IA	80	92
NON METRO STATE: NEBRASKA	65	78
SMSA: LINCOLN, NE	86	90
SMSA: OMAHA, NE-IA	75	87
SMSA: SIOUX CITY, IA-NE	77	77
ST LOUIS, MISSOURI AREA OFFICE		
NON METRO STATE: MISSOURI	50	56
SMSA: COLUMBIA, MO	70	75
SMSA: KANSAS CITY, MO-KS	76	92
SMSA: ST JOSEPH, MO	71	77
SMSA: ST LOUIS, MO-IL	75	87
SMSA: SPRINGFIELD, MO	52	57
DENVER, COLORADO REGIONAL:AREA OFFICE		
NON METRO STATE: NORTH DAKOTA	79	90
SMSA: BISMARCK, N.D.	111	124
SMSA: FARGO-MOORHEAD, ND-MN	98	110
SMSA: GRAND FORKS, N.D.-MN	85	105
NON METRO STATE: SOUTH DAKOTA	67	79
SMSA RAPID CITY,S.D.	94	106
SMSA SIOUX FALLS, SD	94	106

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

DENVER, COLORADO REGIONAL AREA OFFICE	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: MONTANA	N/A	N/A
EXCEPTION COUNTY: BEAVERHEAD	94	106
EXCEPTION COUNTY: BIG HORN	94	106
EXCEPTION COUNTY: BLAINE	68	80
EXCEPTION COUNTY: BROADWATER	94	106
EXCEPTION COUNTY: CARBON	94	106
EXCEPTION COUNTY: CARTER	68	80
EXCEPTION COUNTY: CHOUTEAU	68	80
EXCEPTION COUNTY: CUSTER	94	106
EXCEPTION COUNTY: DANIELS	68	80
EXCEPTION COUNTY: DAWSON	94	106
EXCEPTION COUNTY: DEER LODGE	94	106
EXCEPTION COUNTY: FALLON	68	80
EXCEPTION COUNTY: FERGUS	68	80
EXCEPTION COUNTY: FLATHEAD	94	106
EXCEPTION COUNTY: GALLATIN	94	106
EXCEPTION COUNTY: GARFIELD	68	80
EXCEPTION COUNTY: GLACIER	68	80
EXCEPTION COUNTY: GOLDEN VALLE	68	80
EXCEPTION COUNTY: GRANITE	94	106
EXCEPTION COUNTY: HILL	68	80
EXCEPTION COUNTY: JEFFERSON	94	106
EXCEPTION COUNTY: JUDITH BASIN	68	80
EXCEPTION COUNTY: LAKE	94	106
EXCEPTION COUNTY: LEWIS+ CLARK	94	106
EXCEPTION COUNTY: LIBERTY	68	80
EXCEPTION COUNTY: LINCOLN	94	106
EXCEPTION COUNTY: MCCONE	68	80
EXCEPTION COUNTY: MADISON	94	106
EXCEPTION COUNTY: MEAGHER	94	106
EXCEPTION COUNTY: MINERAL	94	106
EXCEPTION COUNTY: MISSOULA	94	106
EXCEPTION COUNTY: MUSSELSHELL	94	106
EXCEPTION COUNTY: PARK	94	106
EXCEPTION COUNTY: PETROLEUM	68	80
EXCEPTION COUNTY: PHILLIPS	68	80
EXCEPTION COUNTY: PONDERA	68	80
EXCEPTION COUNTY: POWDER RIVER	94	106
EXCEPTION COUNTY: POWELL	94	106
EXCEPTION COUNTY: PRAIRIE	68	80
EXCEPTION COUNTY: RAVALLI	94	106
EXCEPTION COUNTY: RICHLAND	68	80
EXCEPTION COUNTY: ROOSEVELT	68	80
EXCEPTION COUNTY: ROSEBUD	94	106
EXCEPTION COUNTY: SANDERS	94	106
EXCEPTION COUNTY: SHERIDAN	68	80
EXCEPTION COUNTY: SILVER BOW	94	106
EXCEPTION COUNTY: STILLWATER	68	80
EXCEPTION COUNTY: SWEET GRASS	68	80
EXCEPTION COUNTY: TETON	68	80
EXCEPTION COUNTY: TOOLE	68	80
EXCEPTION COUNTY: TREASURE	94	106
EXCEPTION COUNTY: VALLEY	68	80
EXCEPTION COUNTY: WHEATLAND	68	80
EXCEPTION COUNTY: WIBAUX	68	80
EXCEPTION COUNTY: YL-ST-NT-PK	94	106
SMSA: BILLINGS, MT	118	131
SMSA: GREAT FALLS, MT	99	111

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

DENVER, COLORADO REGIONAL AREA OFFICE	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: WYOMING	N/A	N/A
EXCEPTION COUNTY: ALBANY	94	112
EXCEPTION COUNTY: BIG HORN	94	112
EXCEPTION COUNTY: CAMPBELL	157	169
EXCEPTION COUNTY: CARBON	157	169
EXCEPTION COUNTY: CONVERSE	157	169
EXCEPTION COUNTY: CROOK	94	112
EXCEPTION COUNTY: FREMONT	157	169
EXCEPTION COUNTY: GOSHEN	94	112
EXCEPTION COUNTY: HOT SPRINGS	94	112
EXCEPTION COUNTY: JOHNSON	94	112
EXCEPTION COUNTY: LARAMIE	94	112
EXCEPTION COUNTY: LINCOLN	94	112
EXCEPTION COUNTY: NATRONA	157	169
EXCEPTION COUNTY: NIOBRARA	94	112
EXCEPTION COUNTY: PARK	94	112
EXCEPTION COUNTY: PLATTE	94	112
EXCEPTION COUNTY: SHERIDAN	157	169
EXCEPTION COUNTY: SUBLETTE	94	112
EXCEPTION COUNTY: SWEETWATER	157	169
EXCEPTION COUNTY: TETON	94	112
EXCEPTION COUNTY: UINTA	94	112
EXCEPTION COUNTY: WASHAKIE	94	112
EXCEPTION COUNTY: WESTON	94	112
NON METRO STATE: COLORADO		
EXCEPTION COUNTY: ALAMOSA	80	94
EXCEPTION COUNTY: ARCHULETA	94	106
EXCEPTION COUNTY: BACA	80	94
EXCEPTION COUNTY: BENT	80	94
EXCEPTION COUNTY: CHAFFEE	94	106
EXCEPTION COUNTY: CHEYENNE	80	94
EXCEPTION COUNTY: CLEAR CREEK	94	106
EXCEPTION COUNTY: CONEJOS	80	94
EXCEPTION COUNTY: COSTILLA	80	94
EXCEPTION COUNTY: CROWLEY	80	94
EXCEPTION COUNTY: CUSTER	94	106
EXCEPTION COUNTY: DELTA	94	106
EXCEPTION COUNTY: DELORES	94	106
EXCEPTION COUNTY: EAGLE	150	169
EXCEPTION COUNTY: ELBERT	80	94
EXCEPTION COUNTY: FREMONT	94	106
EXCEPTION COUNTY: GARFIELD	150	169
EXCEPTION COUNTY: GRAND	94	106
EXCEPTION COUNTY: GUNNISON	94	106
EXCEPTION COUNTY: HINSDALE	94	106
EXCEPTION COUNTY: HUERFANO	80	94
EXCEPTION COUNTY: JACKSON	94	106
EXCEPTION COUNTY: KIOWA	80	94
EXCEPTION COUNTY: KIT CARSON	80	94
EXCEPTION COUNTY: LAKE	94	106
EXCEPTION COUNTY: LA PLATA	94	106
EXCEPTION COUNTY: LAS ANIMAS	80	94
EXCEPTION COUNTY: LINCOLN	80	94
EXCEPTION COUNTY: LOGAN	80	94
EXCEPTION COUNTY: MESA	94	106
EXCEPTION COUNTY: MINERAL	80	94
EXCEPTION COUNTY: MOFFAT	150	169
EXCEPTION COUNTY: MONTEZUMA	94	106
EXCEPTION COUNTY: MONTROSE	94	106
EXCEPTION COUNTY: MORGAN	80	94

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
DENVER, COLORADO REGIONAL AREA OFFICE		
NON METRO STATE: COLORADO	N/A	N/A
EXCEPTION COUNTY: OTERO	80	94
EXCEPTION COUNTY: OURAY	94	106
EXCEPTION COUNTY: PARK	94	106
EXCEPTION COUNTY: PHILLIPS	80	94
EXCEPTION COUNTY: PITKIN	150	169
EXCEPTION COUNTY: PROWERS	80	94
EXCEPTION COUNTY: RIO BLANCO	150	169
EXCEPTION COUNTY: RIO GRANDE	80	94
EXCEPTION COUNTY: ROUTT	150	169
EXCEPTION COUNTY: SAGUACHE	80	94
EXCEPTION COUNTY: SAN JUAN	94	106
EXCEPTION COUNTY: SAN MIGUEL	94	106
EXCEPTION COUNTY: SEDGWICK	80	94
EXCEPTION COUNTY: SUMMIT	150	169
EXCEPTION COUNTY: WASHINGTON	80	94
EXCEPTION COUNTY: YUMA	80	94
SMSA: COLORADO SPRINGS, CO	99	111
SMSA: DENVER-BOULDER , CO	137	157
SMSA: FORT COLLINS, CO	94	106
SMSA: GREELEY, CO	94	106
SMSA: PUEBLO, CO	94	106
NON METRO STATE: UTAH		
EXCEPTION COUNTY: BEAVER	68	80
EXCEPTION COUNTY: BOX ELDER	68	80
EXCEPTION COUNTY: CACHE	68	80
EXCEPTION COUNTY: CARBON	94	106
EXCEPTION COUNTY: DAGGETT	68	80
EXCEPTION COUNTY: DUCHESNE	68	80
EXCEPTION COUNTY: EMERY	94	106
EXCEPTION COUNTY: GARFIELD	68	80
EXCEPTION COUNTY: GRAND	94	106
EXCEPTION COUNTY: IRON	68	80
EXCEPTION COUNTY: JUAB	68	80
EXCEPTION COUNTY: KANE	68	80
EXCEPTION COUNTY: MILLARD	68	80
EXCEPTION COUNTY: MORGAN	68	80
EXCEPTION COUNTY: PIUTE	68	80
EXCEPTION COUNTY: RICH	68	80
EXCEPTION COUNTY: SAN JUAN	68	80
EXCEPTION COUNTY: SANPETE	68	80
EXCEPTION COUNTY: SEVIER	68	80
EXCEPTION COUNTY: SUMMIT	68	80
EXCEPTION COUNTY: UINTAH	94	106
EXCEPTION COUNTY: WASATCH	68	80
EXCEPTION COUNTY: WASHINGTON	68	80
EXCEPTION COUNTY: WAYNE	68	80
SMSA: PROVO-OREM, UT	94	106
SMSA: SALT LAKE CITY-OGDEN, UT	106	118

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
HONOLULU, HAWAII AREA OFFICE		
SMSA: HONOLULU, HI	N/A	N/A
LOS ANGELES, CALIFORNIA AREA OFFICE		
NON METRO STATE: ARIZONA	68	87
SMSA: PHOENIX, AZ	94	111
SMSA: TUCSON, AZ	68	94
NON METRO STATE: CALIFORNIA	106	138
EXCEPTION COUNTY: SAN LUIS OBI	120	150
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA	205	205
SMSA: BAKERSFIELD, CA	99	149
SMSA: LOS ANGELES-LONG BEACH, CA	118	194
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA	131	225
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA	99	157
SMSA: SAN DIEGO, CA	149	188
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA	124	188
SAN FRANCISCO, CALIFORNIA AREA OFFICE		
NON METRO STATE: NEVADA	75	87
SMSA: LAS VEGAS, NV	157	174
SMSA: RENO, NV	143	169
NON METRO STATE: CALIFORNIA	106	138
SMSA: FRESNO, CA	149	169
SMSA: MODESTO, CA	157	169
SMSA: SACRAMENTO, CA	121	145
SMSA: SALINAS-SEASIDE-MONTEREY, CA	149	188
SMSA: SAN FRANCISCO-OAKLAND, CA	157	225
SMSA: SAN JOSE, CA	157	232
SMSA: SANTA CRUZ, CA	149	188
SMSA: SANTA ROSA, CA	149	181
SMSA: STOCKTON, CA	157	169
SMSA: VALLEJO-FAIRFIELD-NAPA, CA	143	162

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SCHEDULE D- FAIR MARKET RENTS FOR MOBILE HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
ANCHORAGE, ALASKA AREA OFFICE		
NON METRO STATE: ALASKA	163	163
SMSA: ANCHORAGE, AK	160	160
PORTLAND, OREGON AREA OFFICE		
NON METRO STATE: IDAHO	80	80
SMSA: BOISE CITY, ID	86	98
NON METRO STATE: OREGON	100	106
SMSA: EUGENE-SPRINGFIELD, OR	118	120
SMSA: PORTLAND, OR-WA	137	151
SMSA: SALEM, OR	118	120
SEATTLE, WASHINGTON AREA OFFICE		
NON METRO STATE: WASHINGTON	87	100
SMSA: RICHLAND-KENNEWICK-PASCO, WA	118	118
SMSA: SEATTLE-EVERETT, WA	111	157
SMSA: SPOKANE, WA	94	106
SMSA: TACOMA, WA	99	118
SMSA: YAKIMA, WA	94	99

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[FR Doc. 80-34085 Filed 11-3-80; 8:45 am]
BILLING CODE 4210-01-C

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federal register

Tuesday
November 4, 1980

Part III

Environmental Protection Agency

Guidelines for Development and Implementation of State Solid Waste Management Plans

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 256

[FRL 1619-4]

Guidelines for Development and Implementation of State Solid Waste Management Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing modifications to its guidelines for the development and implementation of State solid waste management plans. The proposed modifications would expand public participation opportunities in the planning process and would provide for expedited approval of certain portions of the State plans. These modifications are being proposed as part of a settlement agreement reached with industrial groups which have challenged the guidelines in Federal Court.

DATES: EPA will accept public comments on the proposed modifications until December 4, 1980.

ADDRESSES: Comments should be addressed to John Skinner, Director, State Programs and Resource Recovery Division, Office of Solid Waste [WH 563], U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 4002."

The public docket for this proposed rulemaking is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Susan Absher, Office of Solid Waste (WH 563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755-9145.

SUPPLEMENTARY INFORMATION: On July 31, 1979, EPA published the Guidelines for Development and Implementation of State Solid Waste Management Plans (44 FR 45066) under Section 4002(b) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA or Act), 42 U.S.C. 6942(b). These guidelines contain requirements and recommendations for State planning programs that will be approved and funded under Sections 4007 and 4008 of RCRA. The State plans are to address a range of solid waste management activities, including resource recovery, resource conservation and solid waste disposal.

Among other things, the State plan must provide for the closing or upgrading of existing open dumps. On September 13, 1979, EPA issued Criteria for Classification of Solid Waste Disposal Facilities and Practices (44 FR 53438) under Section 4004(a) of RCRA which, among other things, provide a general definition of "open dump" for purposes of RCRA. As part of the planning process, the States will use these criteria to determine which facilities within their borders are "open dumps." EPA will publish the results of these State determinations in an open dump inventory as required by Section 4005(b) of the Act. The States will use this list in setting planning priorities.

The Chemical Manufacturers Association and certain of its member companies, the American Paper Institute and the National Forest Products Association, the U.S. Chamber of Commerce and the American Mining Congress and certain of its member companies have all sought judicial review of EPA's Section 4002 guidelines. Their concerns focus upon the preparation of an meaning to be given the inventory of open dumps required by Section 4005(b) of the Act.

All of the industy petitioners have argued that EPA has not met alleged legal obligations to ensure that States give owners and operators of such facilities notice and an opportunity for comment before their facilities are classified as open dumps under the State planning program. The petitioners assert that such an opportunity is required by the Constitution, which protects individuals from deprivation of property without due process of law, and Section 7004 of RCRA, which provides for public participation in RCRA programs. In addition, they have expressed concern about the timing of the inventory publication in relation to the issuance of compliance schedules which protect entities from suits for open dumping under Section 4005(c). They have indicated that a time "window" exists because the listing of a facility on the open dump inventory could take place prior to approval of a State plan for the State in which the facility is located. Since they believe that such a listing could subject a facility's owner or operator to a substantial risk of citizen suit for open dumping, they have argued that the opportunity to receive a State-issued compliance schedule as contemplated by Section 4005(c) should be available at the time the inventory is published.

The issues raised by petitioners were, for the most part, carefully considered in the rulemaking proceeding that led to the adoption of the Section 4002 guidelines. The notice and comment issue was given special scrutiny in response to a petition by the National Solid Waste Management Association (NSWMA). The Agency published NSWMA's petition in the **Federal Register** and received comments on the issues involved (44 FR 28344, May 15, 1979). The NSWMA's petition and the comments submitted on the petition were extensively discussed in the preamble to EPA's final regulations containing the Section 4002 guidelines. (See 44 FR 45066, 45071-75).

I. EPA's Position

Subtitle D of RCRA creates two principal mechanisms for addressing the problems of solid waste management. First, Sections 4002-4008 esablish a State planning program which is to address a wide range of management activities. While EPA establishes general guidelines and provides financial assistance for the program, the States are responsible for developing and implementing the solid waste plans under State law. The inventory of open dumps is an adjunct to this State planning program.

Second, Section 4005 prohibits, as a matter of Federal law, any practice which constitutes the open dumping of solid or hazardous waste. Under Section 1008(a)(3) EPA issues criteria to define open dumping. Section 7002 provides an opportunity for citizen suits to enforce requirements of RCRA. These provisions, read together, provide a cause of action in Federal court for citizens who seek to enjoin acts of open dumping, wherever they may occur.

Section 4005(c) does, however, provide a mechanism for insulating from citizen suits those parties who are taking steps to coply with the open dumping prohibition. Under an approved pln the State may issue to "any entity" a compliance schedule leading to compliance with the open dumping prohibition. To obtain this compliance schedule, a party must demonstrate that he has "considered other public or private alternatives for solid waste management" and "is unable to utilize such alternatives" as a means for compliance. Parties who have received such compliance schedules and are meeting the terms of their schedules are not in violation of the open dumping prohibition.

The inventory, which is part of the State planning program, does not implement the open dumping prohibition. For the reasons set forth in the preamble to the final Section 4002 guidelines, EPA views the inventory as a purely "informational tool." Its publication by the Federal government does not represent a determination that disposal of waste in a facility listed in the iventory costitutes "open dumping." See 44 FR 45071-72. EPA has stressed, *id.*, that a finding by a State that a particular waste disposal facility is an "open dump" does not constitute a determination that a particular individual or firm has engaged in "open dumping." The ultimate issue of whether particular parties have engaged in "open dumping" is, EPA believes, subject to *de novo* review by courts in each case.

The trade associations challenging the Section 4002 regulations have raised the issue whether a determination by a court that a given party was disposing of waste in a facility that had been included on the "open dump" inventory would suffice to suport a finding of "open dumping." No such presumption exists under the Act. Open dumping may occur at locations not properly characterized as solid waste management facilities for purposes of the inventory. For example, the spilling of solid waste along a highway may be open dumping, yet the highway is not properly characterized as a solid waste management facility to be evaluated for purposes of the open dump inventory. Likewise the placement of waste into a facility classified as an open dump does not necessarily entail open dumping. For example, a facility may be classified as an open dump because it contains putrescible wastes that present a bird hazard to aircraft. At the same time, a party who places non-putrescible waste into that facility may not be open dumping because such a practice may not violate the criteria.

A determination for purposes of the open dump inventory need not precede an open dumping suit. However, before the results of the inventory may be used to support a legal determination that open dumping has occurred, the court woud have to determine that the classification was a correct application of the criteria and that the defendant was responsible for actions violating the criteria. The court would be obliged to review the sufficiency of the State's classification of a facility and not simly defer to the State's decision. EPA intends to make these points clear at the time of publication of any open dump inventory.

Since the inventory is only an informational tool and does not reflect a determination that Federal law has been violated, EPA does not believe that the Constitution requires a formal notice and opportunity for comment for owner and operators of facilities listed in the inventory. EPA also believes that the goals of Section 7004 may be achieved through full public participation in the development of the State plan, the annual State work program, the State regulatory development and facility permits as currently requred under the guidelines.

In response to industry concern that there may be a time gap betwen the publication of the inventory and the development of compliance schedules by the State, EPA is willing to take steps to reduce that possibility as long as the requirements of Section 4005(c) are met. EPA does not believe, however, that a delay in the publication of the inventory is the proper means for addressing that problem. The date for publication of the inventory is not linked to the availability of such compliance schedules under the statute. Moreover, it is inconsistent with EPA's obligation to publish the inventory to delay publication until the States adopt procedures for issuing compliance schedules.

II. The Proposed Modifications

This proposal would make two basic changes to the guidelines. First, the public participation requirements would be expanded to assure that the owner or operator of a facility classified as an open dump would have an opportunity to participate in the State planning process. Second, EPA would expedite the approval process for that portion of the State plan that would provide for schedules leading to compliance with the open dumping prohibition.

In expanding the public participation requirements to specifically include the owner or operator of a facility classified as an open dump, EPA is not suggesting that those parties will necessarily be legally liable for any violations occurring at the facility or that owners or operators have a legal right to receive notice and to comment on the inventory. Instead EPA is merely recognizing that the present owner or operator of a facility will probably be able to provide valuable information about the facility (e.g. the type of waste in the facility) and that the cooperation of the owner or operator will be essential to any effort to close or upgrade a facility. EPA, therefore, proposes to include such owners or operators on the mailing list of parties affected by or interested in the State plan, which the State must mainitain under ¶ 256.60(a)(1) of the existing guidelines. Under ¶ 256.60(b) of the existing guidelines, the State must send key pieces of information concerning the plan to all on the mailing list.

The proposed modifications would assure that some minimum public participation precedes the State's submission of any classifications of facilities as open dumps to the Federal government. EPA believes that most States are already planning to extend some opportunity for participation in the inventory process to the regulated community. EPA encourages this effort and does not intend to prescribe rigid procedures for how public participation should be structured. The proposed modifications, therefore, present one mechanism for allowing adequate public participation but allow each State to use any other set of State administrative procedures that provide equivalent public participation. A State may satisfy this requirement with procedures (e.g. public hearings, public meetings) that are more extensive than those provided in the proposed regulation.

The proposed minimum procedure for public participation would require written notice of the availability of inventory results to all parties identified on the mailing list required by ¶ 256.60(a)(1). It is theoretically possible that a party on that list who is an owner or operator of a facility classified as an open dump may not otherwise be aware of the State planning program or of the fact that his facility has been evaluated for purposes of the inventory. Therefore, the notice given to either the owner or operator of a facility classified as an open dump must indicate that his facility has been so classified.

The form of the notice would be a matter of State discretion. EPA expects that the notice would indicate that the information supporting the classifications is generally available and allow any interested parties to make specific inquiries about particular facilities. EPA does not anticipate, however, that the State would actually be distributing a list of facilities tentatively determined to be "open dumps" in this initial notice.

In addition, EPA does not anticipate that the State would wait until all facilities are evaluated to provide a single round of notices. The State may, at its discretion, time the notice so as to coordinate with its plan for submitting names of facilities to the Federal government. The only requirement is that the notice be sent out at least thirty days before a list of facilities is submitted to the Federal government. This provides an opportunity for the owner or operator of a potentially affected facility, and any other interested party, to go to one of the depositories of public information on the plan or to the responsible State office

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and determine the basis for the preliminary State list of open dumps. These parties could then provide comment to State authorities, through written submissions or otherwise, on the classifications.

The petitioners challenging the guidelines have expressed concern that the 30-day time frame may not suffice to allow all parties a reasonable opportunity to comment on the State's classifications. In this regard, it is useful to describe the procedures that EPA intends to follow in preparation of the open dump inventory. States will submit their classifications to the United States Bureau of Census approximately 90 days before the date for publication of the inventory in the **Federal Register**. The Census Bureau will code the information and return a printout to each State after approximately 60 days. The State will then review this data for completeness and accuracy during the approximately 30 days remaining before the publication date. Thus, all parties will be able to discuss with the State the validity of the calssification during this entire period of time. EPA believes that this 90–120 day period should provide an ample opportunity for an interested party to demonstrate that the facility should or should not be classified as an "open dump."

In proposing this basic public participation provision, EPA does not intend to invoke State administrative procedures that would require formal, quasi-judicial procedures under State law. Some State officials have expressed concern that any notice requirement in the guidelines might require them to use formal notice and comment procedures under State law. Certainly EPA does not intend that result. The inventory is a planning tool, and EPA believes that any public participation associated with it (including notice to interested parties) need not include the formal procedures used for other forms of agency action. The Agency would like to have public comment on this issue and would be particularly interested in the comments from appropriate State offices (i.e. attorney general offcie, agency legal departments) about this concern.

The Agency is proposing to eliminate § 256.64(c) of the guidelines. This recommendation suggested that the State inform all affected parties when a facility is classified as an open dump. Since the proposed modifications include requirements concerning this issue, the recommendation is unneccessary.

In response to the petitioners' concern about the so-called "window" problem, EPA is willing to take reasonable steps to attempt to limit the time between publication of an inventory of facilities classified as "open dumps" and the approval of State plans that will enable facility owners or operators to obtain State-issued compliance schedules leading to compliance with the open dumping prohibition. This responds to the petitioners' concern in that limiting this time period, or "window," will minimize the chances of a facility's owner or operator being subject to a citizen suit for "open dumping" before there is available the statutorily recognized defense of a State compliance schedule.

EPA will attempt to accomplish this objective by expedited approvals of portions of State plans that provide for the issuance of compliance schedules as contemplated by Section 4005(c), States are encouraged to seek such expedited partial approvals as a method of ensuring full and orderly implementation of Subtitle D program, including the establishment of appropriate compliance schedules.

A number of States may already have the general statutory or common law authority to issue the kind of compliance schedules anticipated under Section 4005(c). In these States it may be possible and it is desirable to make such compliance schedules available at the time a facility is classified as an open dump. For a State to seek and receive expedited partial approval of a State plan, it need not have in place detailed regulations and administrative systems for the issuance and enforcement of compliance deadlines. Failure of a State, however, to establish such regulations within a reasonable period of time could be a basis for later withdrawal of Federal approval for all or a portion of a State plan. See 44 FR 45066, 45070 (July 31, 1979). EPA may require an opinion of a State's attorney general regarding the State's general statutory or common law authority to issue compliance schedules leading to compliance with the Criteria before issuing partial plan approvals.

The proposed modifications would require the Administrator to approve the portion of the plan relating to compliance schedules procedures if he made three findings. First, the State compliance schedule procedures must satisfy the requirements of § 256.26, the portion of the guidelines that set forth statutorily-required components of such schedules. Second, the State must have general authority (statutory or common law) to issue and enforce compliance schedules. Third, the State must be developing the other portions of the plan in conformity with the guidelines.

EPA recommends that States, to the maximum degree possible, integrate the inventory and compliance planning processes. EPA urges States, at the time they classify a facility as an "open dump," to make a decision regarding an appropriate timetable or schedule to bring responsible parties into compliance with the open dumping prohibition. In doing so the State should take into account public and private alternatives for solid waste management available to the owner or operator of such a facility. Even States that do not, at the time of conduct of the inventory, have the requisite legal authority to establish and enforce such compliance schedules, are encouraged to make planning judgments regarding appropriate schedules on a facility-by-facility basis when preparing the inventory. These planning judgments could readily be converted to enforceable conditions when the requisite legal authority is put in place and the State's plan receives approval.

In proposing these modifications, EPA is not changing its position that the proper role of the Federal government with respect to the inventory should be limited to publication of information developed by State authorities pursuant to Federal guidelines and criteria. Likewise EPA maintains its position that neither RCRA, the Administrative Procedure Act nor the Constitution requires that a formal notice and opportunity for comment accompany the preparation of a planning tool such as the inventory. EPA has decided, however, that it is in the best interests of the Subtitle D program to consider making certain modifications to the guidelines which will accommodate the concerns of the industry petitioners who have challenged the regulations, without compromising the basic structure of the program.

These modifications are being proposed as part of a settlement agreement with those petitioners. While EPA anticipates that the finalization of these proposed modifications will provide a basis for settlement of the litigation affecting these guidelines, EPA will consider carefully all public comments on this proposal before making its final decision.

EPA is considering these proposed modifications in order to make the Subtitle D program more effective in its stated purposes. Certainly, in removing the prospect of protracted litigation over the guidelines, these modifications would conserve Agency resources and eliminate uncertainty about the program for the States. In addition these changes should reassure the regulated community that the States and EPA intend to implement the program in a responsible manner, which will foster public support for the program. Such a goal is consistent with Section 4001 of the Act which states that Subtitle D guidelines should be designed to foster "cooperation among Fedeal, State and local governments and private industry," and it will assist States in obtaining data regarding such facilities.

At the same time EPA recognizes that the goals of the Subtitle D program would not be advanced by procedures which place an undue administrative burden on the States. Complicated procedural requirements may impede the State planning process and delay development and publication of the inventory. In order to alleviate that concern, the proposed modifications have been integrated with the components of the public participation program that are already part of the guidelines. The modifications employ, for example, the depositories of information and the mailing list required under § 256.60(a) of the existing guidelines.

EPA has provided for 30 days of comment on this proposed rule, a period of time which is necessary under these circumstances. The States have been and will be conducting the inventory in the next few months. They will be sending the names of facilities to EPA this fall. It is, therefore, important to quickly resolve the issues surrounding this proposal in order to clarify State responsibility in the conduct of the inventory. Since the proposed changes are few, and procedural in nature, EPA does not expect that commenters will need substantial time to develop and present technical data. The 30-day time period should be adequate.

Dated: September 24, 1980.

Douglas M. Costle,

Administrator.

Accordingly it is proposed to amend Title 40 CFR, Part 256 by revising 40 CFR, Part 256 as follows:

1. In § 256.03, add the following paragraph:

§ 256.03 State plan submission, adoption, and revision

* * * * *

(f) States which are developing a complete State plan may submit the portion of the plan designed to satisfy the requirements of § 256.26 prior to submission of the complete plan.

2. In § 256.04, add the following paragraph:

§ 256.04 State plan approval, financial assistance.

* * * * *

(f) If a State submits to EPA the portion of the plan by which entities may, pursuant to § 256.26, obtain timetables or schedules of compliance for complying with the open dumping prohibition, the Administrator shall approve such portion of the plan if he determines that:

(1) The portion submitted satisfies the requirements of § 256.26;

(2) The State has the general legal authority to issue and enforce compliance schedules; and

(3) The remainder of the plan is being developed in conformity with these guidelines.

3. Revise § 256.60(a)(1) as follows:

§ 256.60 Requirements for public participation in State and substate plans.

(a) * * *

(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan, which shall include any parties that request to be on the list, the owner or operator of each facility classified as an open dump and any other parties which the State determines to be affected by or interested in the plan;

* * * * *

4. In § 256.24, add the following paragraph:

§ 256.24 Recommendations for closing or upgrading open dumps.

* * * * *

(d) At the time of classification of existing solid waste disposal facilities pursuant to § 256.23, the State should consider developing appropriate timetables or schedules by which any responsible party can be brought into compliance with the open dumping prohibition pursuant to §§ 256.26 and 27.

§ 256.64 [Amended]

5. Delete § 256.64(c).

6. Add the following section:

§ 256.65 Requirements for public participation in the open dump inventory.

(a) The State shall provide an opportunity for public participation prior to submission of any classifications of facilities as open dumps to the Federal government. The State shall accomplish this be providing notice as specified in paragraph (b) of this section or by using other State administrative procedures which provide equivalent public participation.

(b) The State may satisfy the requirement of paragraph (a) of this section by providing written notice of the availability of the results of its classifications to all parties on the list required under § 256.60(a)(1) at least 30 days before initial submission of these classifications to the Federal government. For those parties on the list required under § 256.60(a)(1) who are owners or operators of facilities classified as open dumps, such notice shall indicate that the facility has been so classified.

[FR Doc. 80-34286 Filed 11-3-80; 8:45 am]
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Part IV

Department of Energy

Patent Licensing Regulations

DEPARTMENT OF ENERGY

10 CFR Part 781

Patent Licensing Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is revising its regulations concerning licensing of patents or patent applications owned by DOE. These regulations set forth the procedures, terms, and conditions in accordance with which licenses may be granted in DOE-owned patents or patent applications. The regulations supersede the patent licensing regulations issued in 1973 by the Atomic Energy Commission and subsequently adopted by DOE.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Marchick, Office of the Assistant General Counsel for Patents, U.S. Department of Energy, Washington, D.C. 20545, (301) 353–4970.

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of Comments
III. Response to Comments
IV. Procedural Matters

I. Background

On July 11, 1980, DOE issued a notice of proposed rulemaking to give notice of and obtain public comment on proposed revised patent licensing regulations (45 FR 46911, July 23, 1980). The proposed regulations are substantially the same as the patent licensing regulations currently used by DOE with these significant revisions: (1) the formal adoption of the statutory terms and conditions mandated by the Federal Nonnuclear Energy Research and Development Act (42 U.S.C. 5908(g)), including procedures for third-party termination of exclusive or partially exclusive licenses; (2) clarification of procedures for appeal of patent licensing decisions; (3) elimination of the presumption against the charging of royalties for nonexclusive licenses under DOE-owned U.S. patents; and (4) addition of the ability to grant a limited number of licenses under a particular invention in appropriate circumstances. All written comments have been considered in preparation of this rule.

II. Summary of Comments

As of August 22, 1980, the announced closing date for submitting public comments on the proposed regulations, we had received three written comments.

One of the commentors fully supported the regulations, stating that the proposed revised regulations will contribute to fulfilling the national objective of advancing to commercial availability proven energy technologies as rapidly as possible.

Two of the commentors expressed objections to certain provisions of the proposed regulations. One objected to the adoption of regulations that "encourage the collection of revenues for nonexclusive patent licenses." The other questioned the advisability of licensing Government-owned technology for royalties, and requested that DOE hold hearings prior to promulgation of these regulations. In addition, this commentor made a number of suggestions which, in his opinion, would clarify certain specific provisions of the regulations, and also raised a number of questions with respect to Government Patent Policy that are not germane to these regulations.

III. Response to Comments

With respect to the request that DOE hold hearings prior to promulgation of these regulations, the Department has taken, and continues to take, the position that these regulations present no substantial issue of fact or law and are unlikely to have a substantial impact on the economy or large numbers of individuals or businesses. Thus, public hearings are not necessary, although, of course, consideration is being given to written comments on the regulations.

The principal issue raised by the two commentors who objected to the proposed regulations was whether the presumption against charging royalties for a nonexclusive license should be reversed.

The concept of charging royalties for use of Government-owned inventions is not new. DOE and other Federal agencies currently are operating under regulations that permit the charging of royalties for exclusive patent licenses. DOE's current regulations also permit the charging of royalties for nonexculsive licenses under Department-owned foreign patents. Indeed, DOE's current regulations do not preclude charging of royalties for nonexclusive licenses under domestic patents, but state instead that *normally* such licenses shall be royalty-free. Thus, current regulations used by DOE and other Federal agencies contemplate charging royalties in certain circumstances. These revised regulations do not mandate charging such royalties, but rather clarify existing policy by providing criteria in the regulations for determining circumstances in which it would be appropriate to charge royalties.

The policy of charging royalties for use of Government-owned patents is consistent with overall recoupment policies being implemented by DOE and other Federal agencies. In 1973, the White House Council on International Economic Policy initiated a study of Government policies on research and development (R&D) recoupment and issued, in 1974, a Decision Memorandum recommending that "* * * recoupment be sought on Government-owned and financed technologies and products when these are proposed for sale to non-U.S. Government buyers." Thus, in light of the manner in which R&D recoupment policies are being administered by a number of Federal agencies and the current Department of Energy regulations which contemplate charging royalties for use of Government-owned patents in appropriate circumstances, the royalty provisions in these regulations do not constitute a change in Government policy. Accordingly, these regulations present no significant issues of fact or law, and, therefore, public hearings are not necessary prior to issuance of these regulations.

One commentor made a suggestion with respect to the effective date of a license termination. In response to that suggestion, the proposed regulations have been modified, at Sec. 781.64(c), to provide that a license termination is not effective, if timely appealed, until a final administrative decision is rendered with respect to the appeal. In addition, minor editorial changes were made; for example, the numbering system of the regulations was revised.

IV. Procedural Matters

Since this document is unlikely to have any significant effect on the environment, DOE has determined that the regulations do not require the preparation of an Environmental Impact Statement pursuant to the requirements of the National Environmental Policy Act of 1969.

DOE has determined that these regulations are nonsignificant regulations, in that the regulations present no substantial issue of fact or law, and are unlikely to have a substantial impact on the economy or large numbers of individuals or businesses. Accordingly, public hearings were not held.

The data gathering requirements in this final rule must be submitted to the Office of Management and Budget for clearance under the provisions of the Federal Reports Act of 1942 (44 U.S.C. 3501). The sections dealing with data collection may require revision or addition as a result of OMB review.

(Department of Energy Organization Act, Section 301, 42 U.S.C. 7301; Federal Nonnuclear Energy Research and Development Act of 1974, Section 9(g), 42 U.S.C. 5908(g); Atomic Energy Act of 1954, as amended, Sections 156 and 161g, 42 U.S.C. 2186 and 2201g; Presidential Statement of Government Patent Policy, 36 FR 16887, August 26, 1971)

In consideration of the foregoing, Part 781 of Title 10 of the Code of Federal Regulations, is revised as set forth below.

Issued in Washington, D.C., October 29, 1980.

Eric J. Fygi,

Acting General Counsel, U.S. Department of Energy.

1. Part 781 is revised to read as follows:

PART 781—DOE PATENT LICENSING REGULATIONS

General Provisions

Sec.
781.1 Scope.
781.2 Policy.
781.3 Definitions.
781.4 Communications.

Types of Licenses and Conditions for Licensing

781.51 Nonexclusive Licenses.
781.52 Exclusive and Partially Exclusive Licenses.
781.53 Additional Licenses.

Procedures

781.61 Publication of DOE Inventions Available for License.
781.62 Contents of a License Application.
781.63 Published Notices.
781.64 Termination.
781.65 Appeals.
781.66 Third-Party Termination Proceedings.

Special Provisions

781.71 Litigation.
781.81 Transfer of Custody.

Authority: Department of Energy Organization Act, § 301, Pub. L. 95–91, 42 U.S.C. 7301; Federal Nonnuclear Energy Research and Development Act of 1974, § 9(g), Pub. L. 93–577, 42 U.S.C. 5908(g); Atomic Energy Act of 1954, as amended, §§ 156, 161g, Pub. L. 83–703, 42 U.S.C. 2186, 2201g; Presidential Statement of Government Patent Policy, 36 FR 16887, August 26, 1971.

General Provisions

§ 781.1 Scope.

The regulations of this part establish the procedures, terms, and conditions upon which licenses may be granted in inventions covered by patents or patent applications, both domestic and foreign, vested in the United States of America, as represented by or in the custody of the Department of Energy.

§ 781.2 Policy.

(a) The inventions covered by the patents and patent applications, both foreign and domestic, vested in the Government of the United States of America, as represented by or in the custody of the Department, normally will best serve the public interest when they are developed to the point of practical or commercial application and made available to the public in the shortest possible time. This may be accomplished by the granting of express nonexclusive, exclusive, or partially exclusive licenses for the practice of these inventions. However, it is recognized that there may be inventions as to which the Department deems dedication to the public by publication the preferable method of accomplishing these objectives.

(b) Although DOE encourages the nonexclusive licensing of its inventions to promote competition and to achieve their widest possible utilization, the commercial development of certain inventions may require a substantial capital investment that private manufacturers may be unwilling to risk under a nonexclusive license. Thus, DOE may grant exclusive or partially exclusive licenses where the granting of such exclusive or partially exclusive licenses is consistent with § 781.52.

(c) Decisions as to grants or denials of any license application will, in the discretion of the Secretary, be based on the Department's view of what is in the best interests of the United States and the general public under the provisions of these regulations. Decisions of the Department under these regulations may be made on the Secretary's behalf by the General Counsel or the General Counsel's delegate, except where otherwise delegated to the Invention Licensing Appeal Board. When the Department determines that it is appropriate to grant a license, the license will be negotiated on terms and conditions most favorable to the interests of the United States and the general public.

(d) No license shall be granted or implied under a DOE invention except as provided for in these regulations, in patent rights articles under Department procurement regulations (41 CFR Part 9–9), in agreements between DOE and other Government bodies, or in any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization.

(e) No grant of a license under this part shall be construed to confer upon any licensee any immunity from the antitrust laws or from liability for patent misuse, and the acquisition and use of rights pursuant to this part shall not be immunized from the operation of state or federal law by reason of the source of the grant.

§ 781.3 Definitions.

(a) "Board" means the Invention Licensing Appeal Board.

(b) "Department of Energy", "Department", or "DOE" mean the Department of Energy, established by the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101).

(c) "DOE invention" means an invention covered by a U.S. or foreign patent or patent application that is vested in the Government of the United States, as represented by or in the custody of the Department or any of its predecessors, and which is designated by the Department as appropriate for the grant of an express nonexclusive, exclusive, or partially exclusive license.

(d) "Exclusive license" means a license in which the licensee has the exclusive right under the patent for a part or the full term of the patent, subject only to the retention by the U.S. Government of a license and rights in the invention, as specified herein.

(e) "Partially exclusive license" means (1) an exclusive license where the exclusive right granted is limited to making or using or selling the invention, or is limited to specified fields of use or use in specified geographic locations; or (2) a license where the number of licenses under the particular invention is limited.

(f) "Person" means any individual, partnership, corporation, association, or institution, or other entity.

(g) "Predecessor" means the Energy Research and Development Administration, the Atomic Energy Commission, and any of the Government entities or parts thereof whose functions were transferred to the Department of Energy pursuant to Title III of the Department of Energy Organization Act.

(h) "Responsible applicant" means an applicant who, in the discretion of the Department, has the intention, plans, and ability expeditiously to bring the invention to the point of practical or commercial application.

(i) "Secretary" means the Secretary of Energy or the delegate of the Secretary of Energy.

(j) "To the point of practical or commercial application" means to manufacture in the case of composition or product, to practice in the case of a process, or to operate in the case of a machine, under such conditions as to establish that the invention is being

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worked and that its benefits are reasonably accessible to the public.

(k) "United States and the general public" means the United States Government, United States citizens, and United States organizations.

(l) "United States Organization" means any partnership, corporation, association, or institution where 75 percent or more of the voting interest is owned by United States citizens.

§ 781.4 Communications.

All communications concerning the regulations in this part, including applications for licenses, should be addressed or delivered to the General Counsel, Attention: Assistant General Counsel for Patents, U.S. Department of Energy, Washington, D.C. 20545.

Types of Licenses and Conditions for Licensing

§ 781.51 Nonexclusive licenses.

(a) *Availability of licenses.* Except as provided in § 781.52, DOE inventions will be made available for the grant of nonexclusive, revocable licenses to responsible applicants. However, when in the best interests of the United States and the general public, licenses may be restricted to manufacture in the United States. Factors which the Department will consider in so restricting a license include, but are not limited to, the following: (1) the nature of the invention; (2) the effect of the license upon the policies of the United States Government; (3) the effect of the license upon domestic and international commerce and competition; (4) the effect of the license upon the balance of payments of the United States; and (5) the effect of the license upon the overall posture of the United States in world markets.

(b) *Terms of grant.* Nonexclusive licenses shall contain such terms and conditions as the Department may determine appropriate for the protection of the interests of the United States and the general public, including but not limited to the following:

(1) The duration of the license will be negotiated and may be extended upon application therefor, provided the licensee complies with all the terms of the license and shows that substantial utilization has been, or within a reasonable time will be, achieved.

(2) The license shall require the licensee to bring the invention to the point of practical or commercial application in the geographic area of the license, within a period of time specified in the license or such period as may be extended by the Department, upon request in writing to the General Counsel, for good cause shown. The license shall further require the licensee to continue to make the benefits of the invention reasonable accessible in the geographic area of the license.

(3) The license may be granted for all or less than all fields of use of the invention and in any one or all of the countries, or any lesser geographic area thereof, in which the invention is covered by a patent or a patent application.

(4) Reasonable royalties may be charged for nonexclusive licenses on DOE inventions. Factors to be considered in determining whether to charge royalties, or the amount thereof, include but are not limited to, the following: (i) the nature of the invention; (ii) applicant's status as a small business, minority business, or business in an economically depressed, low-income or labor surplus area; (iii) the extent of U.S. Government contribution to the development of the invention; (iv) the degree of development of the invention; (v) the extent of effort necessary for the licensee to bring the invention to the point of practical or commercial application; (vi) the extent of effort necessary to create or penetrate the market for the invention; (vii) whether the licensee is a U.S. citizen or U.S. organization; and (viii) whether the invention is to be licensed in the U.S. or in a foreign country.

(5) In the jurisdiction of the license, the license may extend to the licensee's subsidiaries and to affiliates within the corporate structure of which licensee is a part, if any. However, the license shall not be assignable or include the right to grant sublicenses without the approval of the Department in writing.

(6) The licensee shall be required to submit written reports annually, and when specifically requested by the Department, on its efforts to bring the invention to a point of practical or commercial application and the extent to which the licensee continues to make the benefits of the invention reasonably accessible to the public. The reports shall contain information within the licensee's knowledge, or which the licensee may acquire under normal business practices, pertaining to the commercial use being made of the invention.

(7) The Department may restrict the license to the fields of use or geographic areas in which the licensee has brought the invention to the point of practical or commercial application and continues to make the benefits of the invention reasonably accessible to the public.

§ 781.52 Exclusive and partially exclusive licenses.

(a) *Availability of licenses.* The Department may grant exclusive or partially exclusive licenses in any invention only if:

(1) The invention has been published as available for licensing pursuant to § 781.61 for a period of at least six (6) months;

(2) It does not appear that the desired practical or commercial application has been or will be achieved on a nonexclusive basis, and that exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the risk capital and expenses necessary to bring the invention to the point of practical or commercial application;

(3) A sixty (60) day notice of a proposed exclusive or partially exclusive licensee has been provided, pursuant to § 781.63(a), advising of an opportunity for a hearing; and

(4) After termination of the sixty (60) day notice period, the Secretary has determined that:

(i) the interests of the United States and the general public will best be served by the proposed license, in view of the license applicant's intention, plans, and ability to bring the invention to the point of practical or commercial application;

(ii) the desired practical or commercial application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(iii) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the risk capital and expenses necessary to bring the invention to the point of practical or commercial application; and

(iv) the proposed terms and scope of exclusivity are not substantially greater than necessary to provide the incentive for bringing the invention to the point of practical or commercial application and to permit the licensee to recoup its costs and a reasonable profit thereon;

(5) Any determination pursuant to paragraph (a)(4) of this section regarding the practical or commercial application of an invention may be limited to the making, using or selling of an invention, a specific field of use, or a geographic location, provided that the grant of such license will not tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates.

(b) *Limited number of partially exclusive licenses.* In appropriate circumstances, and only after compliance with the requirements of subsection § 781.52(a), the Department may offer a limited number of partially exclusive licenses under a particular invention, when limitation of the number of licenses is found to be in the public interest and consistent with the purpose of these regulations. Factors to be considered in a determination to offer a limited number of licenses under a particular invention include, but are not limited to, the following: (1) the nature of the invention; (2) the projected market size; (3) the need for limitation of licenses to attract risk capital; and (4) the need for limitation of licenses to achieve expeditious commercialization of the invention. When such a determination is made, a Notice of Intent to limit the number of licenses shall be published in the **Federal Register**, identifying the invention and advising that the Department will entertain no further applications for license under the subject invention unless, within 60 days of the publication of the notice, the General Counsel receives, in writing, responses in accordance with § 781.63.

(c) *Selection of exclusive licensee or partially exclusive licensee among multiple applicants.* When a determination is made by the Department that grant of an exclusive license or partially exclusive license under a particular invention is a reasonable and necessary incentive, in accordance with paragraphs (a) and (b) of this section, to call forth the risk capital and expenses required to bring the invention to the point of practical or commercial application, and there is more than one applicant in a particular jurisdiction seeking an exclusive license, and no applicant will accept either a nonexclusive or a partially exclusive license, the Department shall make a written determination selecting an exclusive licensee. Similarly, when a determination is made to grant a limited number of partially exclusive licenses under a particular invention and there are more applicants for such licenses than acceptable, the Department shall make a written determination selecting a limited number of partially exclusive licenses. Factors to be considered in making these determinations include, but are not limited to, the following: (1) the relative intentions, plans, and abilities of the applicants to further the technical and market development of the invention and to bring the invention to the point of practical or commercial application; (2) the projected impact on competition in the U.S.; (3) projected market size; (4) the benefit to the U.S. Government, U.S. organizations, and the U.S. public; (5) assistance to small business and minority business enterprises and economically depressed, low-income, and labor-surplus areas; and (6) whether the applicant is a U.S. citizen or U.S. organization.

(d) *Terms of grant.* Exclusive or partially exclusive licenses shall contain such terms and conditions as the Secretary may determine to be appropriate for the protection of the interests of the United States and the general public, including but not limited to the following:

(1) The duration of the license will be negotiated, and the terms and scope of exclusivity shall not be substantially greater than necessary to provide the incentive for bringing the invention to the point of practical or commercial application and to permit the licensee to recoup its costs and a reasonable profit thereon. Extensions are permissible only through reapplication for an exclusive or partially exclusive license under procedures established in these regulations. The license shall be subject to any compulsory license provision required by law in a particular jurisdiction.

(2) The license shall require the licensee to bring the invention to the point of practical or commercial application in the geographic area of the license, within a period of time specified in the license or such period as may be extended by the Department, upon request in writing to the General Counsel, for good cause shown. The license shall further require the licensee to continue to make the benefits of the invention reasonably accessible in the geographic area of the license. In specifying the period for bringing the invention to the point of practical or commercial application, the license shall specify the minimum sum to be expended by the licensee and/or other specific actions to be taken by it within the time periods indicated in the license.

(3) The license may be granted for all or less than all fields of use of the invention and in any one or all of the countries, or any lesser geographic area thereof, in which the invention is covered by a patent or a patent application.

(4) Reasonable royalties shall be charged by the Department unless the Department determines that charging of royalties would not be in the best interests of the United States and the general public.

(5) In the jurisdiction of the license, the license may extend to the licensee's subsidiaries and to affiliates within the corporate structure of which the licensee is a part, if any. However, the license shall not be assignable or include the right to grant sublicenses without the approval of the Department in writing.

(6) The licensee shall be required to submit written reports annually, and when specifically requested by the Department, on its efforts to bring the invention to the point of practical or commercial application and the extent to which the licensee continues to make the benefits of the invention reasonably accessible to the public. The reports shall contain information within the licensee's knowledge, or which the licensee may acquire under normal business practices, pertaining to the commercial use being made of the invention.

(7) The license shall reserve at least an irrevocable, nonexclusive, paid-up license to make, use and sell the invention throughout the world by or on behalf of the United States (including any Government agency), the states, and domestic municipal governments, unless the Secretary determines that it would not be in the public interest to reserve such a license for the states and domestic municipal governments.

(8) The license shall reserve in the United States the right to sublicense the licensed invention to any foreign government pursuant to any existing or future treaty or agreement, if the Secretary determines it would be in the national interest to acquire this right.

(9) The license shall reserve in the Secretary the right to require the granting of a nonexclusive or partially exclusive sublicense to a responsible applicant or applicants, upon terms reasonable under the circumstances, (i) to the extent that the invention is required for public use by governmental regulations, (ii) as may be necessary to fulfill health, safety, or energy needs, or (iii) for such other purposes as may be stipulated in the license.

(10) The license shall reserve in the Secretary the right to terminate such license, in whole or in part, subject to the notice and appeal provisions of §§ 781.64 and 781.65, unless the licensee demonstrates to the satisfaction of the Secretary that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(11) The license shall reserve in the Secretary the right, commencing three years after the grant of the license, to terminate the license, in whole or in part, subject to the provisions of § 781.66 and following a publicly-noticed hearing, initiated pursuant to a petition by an interested person justifying such hearing—

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(i) if the Secretary determines, upon review of such material as he deems relevant and after the licensee or other interested person has had the opportunity to provide such relevant and material information as the Secretary may require, that such license has tended substantially to lessen competition or to result in undue concentration in any section of the United States in any line of commerce to which the technology relates; or

(ii) if the licensee fails to demonstrate to the satisfaction of the Secretary at such hearing that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

§ 781.53 Additional licenses.

Subject to any outstanding licenses, nothing in this part shall preclude the Department from granting additional nonexclusive, or exclusive, or partially exclusive licenses for inventions covered by this part when the Department determines that to do so would provide for an equitable exchange of patent rights. The following circumstances are examples in which such licenses may be granted:

(a) in consideration of the settlement of interferences;

(b) in consideration of a release of any claims;

(c) in exchange for or as a part of the consideration for a license under adversely held patents; or

(d) in consideration for the settlement or resolution of any proceeding under the Department of Energy Organization Act or other law.

Procedures

§ 781.61 Publication of DOE Inventions Available For License.

(a) The Department will publish periodically in the **Federal Register** a list of the DOE inventions available for licensing under this part. In addition, a list of those DOE inventions that are protected in the United States will be published in the U.S. Patent and Trademark Office Official Gazette and in the National Technical Information Service (NTIS) publication "Government Inventions for Licensing."

(b) Interested persons may obtain copies of such lists by contacting the General Counsel, Attention: Assistant General Counsel for Patents, U.S. Department of Energy, Washington, D.C. 20545. Copies of U.S. patents may be obtained from the U.S. Patent and Trademark Office, Washington, D.C. 20231. Copies of U.S. patent applications, specifications, or microfiche reproductions thereof may be secured at reasonable cost from the National Technical Information Service (NTIS), Springfield, Virginia 22151.

§ 781.62 Contents of a license application.

An application for a license under a DOE invention must be accompanied by a processing fee of $25 for each patent or patent application under which a license is desired, which shall be credited towards royalty if royalties are charged, and must include the following information:

(a) Identification of the invention for which the license is desired, including the title of the invention and the patent application serial number or the patent number of the invention;

(b) Name and address of the person applying for a license and whether the applicant is a U.S. citizen or U.S. organization;

(c) Name and address of a representative of the applicant to whom correspondence should be sent and any notices served;

(d) Nature and type of the applicant's business;

(e) Applicant's status, if any, as a small business firm, minority business firm, or business firm located in a labor surplus area, low-income area, or economically depressed area.

(f) Identification of the source of the applicant's information concerning the availability of a license on the invention;

(g) A statement of the field or fields of use in which the applicant intends to practice the invention;

(h) A statement of the geographic area or areas in which the applicant proposes to practice the invention, including a statement of any foreign countries in which the applicant proposes to practice the invention;

(i) A description of the applicant's technical and financial capability and plan for bringing the invention to a point of practical or commercial application, and the applicant's offer to implement that plan, if the license is granted.

(j) The amount of royalty fees or other consideration, if any, that the applicant would be willing to pay the Government for the license;

(k) Applicant's knowledge of the extent to which the invention is being practiced by private industry and the Government; and

(l) In the case of an exclusive or partially exclusive license application, any facts which the applicant believes will show that it is in the public interest for the Department to grant such a license rather than a nonexclusive license and that such exclusive or partially exclusive license should be granted to the applicant.

§ 781.63 Published notices.

(a) A notice of a proposed exclusive license or partially exclusive licenses shall be published in the **Federal Register**, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

(1) Identification of the invention;

(2) Identification of the proposed exclusive licensee or partially exclusive licensees;

(3) Duration and scope of the proposed license;

(4) A statement that the license will be granted unless:

(i) an application for a nonexclusive license, submitted by a responsible applicant pursuant to § 781.62, is received by the Department within sixty (60) days from the publication of the notice in the **Federal Register**, and the Department determines that the applicant has established that it has already achieved, or is likely expeditiously to achieve, practical or commercial application under a nonexclusive license; or

(ii) the Department determines, based upon evidence and argument submitted in writing by a third party, that it would not be in the interest of the United States and the general public to grant the exclusive or partially exclusive licenses; and

(5) A statement advising that applicants or third parties participating in response to the **Federal Register** notice shall have the right to appeal any adverse decision, including the right to request an oral hearing, in accordance with § 781.65.

(b) In situations where the Department intends to limit the number of partially exclusive licenses under a particular invention pursuant to § 781.52(b), the notice in paragraph (a) of this section will be modified to reflect that intent and to invite applicants to apply for such partially exclusive licenses by a date specified in the notice.

(c) If an exclusive or partially exclusive license has been granted or, in whole or in part, terminated pursuant to this regulation, notice thereof shall be published in the **Federal Register**. Such notice shall include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) If a license grant, the duration and scope of the license; or

(4) If a termination in whole or in part, the effective date of the termination and whether it is in whole or in part.

§ 781.64 Termination.

(a) The Department may terminate, in whole or in part, a license: (1) for failure, within the time specified in the license, to take steps necessary to accomplish substantial utilization of the invention; (2) for failure of the licensee, upon bringing the invention to the point of practical or commercial application, to continue to make the benefits of the invention reasonably accessible to the public; (3) if an exclusive or partially exclusive license, for failure of the licensee to expend the minimum sum or to take any other action specified in the license agreement; (4) for failure of the licensee to make any payments or periodic reports required by the license; (5) for a false statement or omission of a material fact in the license application submitted pursuant to § 781.62 or in any required report; (6) for failure to grant a nonexclusive or partially exclusive license when required by the Secretary in accordance with this regulation; or (7) for breach of any other term or condition on which the license was issued.

(b) Before terminating, in whole or in part, any license granted pursuant to this part, the Department shall mail to the licensee and any sublicensee of record, at the last address filed with the Department, a written notice of the Department's intention to terminate, in whole or in part, the license, with reasons therefor, and the licensee and any sublicensee shall be allowed thirty (30) days from the date of the mailing of such notice, or within such further period as may be granted by the Department for good cause shown in writing, to remedy any breach of any term or condition referred to in the notice or to show cause why the license should not be terminated in whole or in part.

(c) Termination shall be effective upon final written notice thereof to the licensee, after consideration of the response, if any, to the notice of intent to terminate, unless an appeal is taken in accordance with § 781.65, in which case the effective date of the termination is stayed, pending a final administrative decision on the appeal.

§ 781.65 Appeals.

(a) The following parties have the right to appeal under this part:

(1) A person whose application for a license has been denied;

(2) A licensee or sublicensee whose license has been terminated, in whole or in part, pursuant to § 781.64; and

(3) A third party who has participated under § 781.63 of this regulation.

(b) Appeal under subsection (a) of this section shall be initiated by filing a Notice of Appeal with the Secretary, ATTN: Invention Licensing Appeal Board, with a copy to the General Counsel ATTN: Assistant General Counsel for Patents, within thirty (30) days from the date of receipt of a written notice by the Department. The Notice of Appeal shall specify the portion of the decision from which the appeal is taken. A statement of fact and argument in the form of a brief in support of the appeal shall be submitted with the notice of appeal or within thirty (30) days thereafter. Upon receipt of a Notice of Appeal, the General Counsel shall have thirty (30) days to transmit a copy of the administrative record of the decision to the Board with a copy to appellant. The General Counsel shall respond to appellant within 30 days from receipt of appellant's brief.

(c) The appellant shall have the burden of proving by a preponderance of evidence, based upon the administrative record as supplemented by evidence and argument submitted by the parties to the appeal, that the decision appealed from should be reversed or modified.

(d) The Board shall offer to the applicant, or to any other party who has participated under § 781.63, an opportunity to join as a party to the appeal.

(e) A hearing may be requested by any party to the appeal within a time period set by the Board.

(f) Except as set forth in this part, all Board proceedings shall be conducted pursuant to the Rules of Practice of the Department of Energy Board of Contract Appeals, 10 CFR 1023, modified as the Board may determine to be necessary or appropriate.

(g) The decision of the Board shall constitute the final action of the Department on the matter.

§ 781.66 Third-party termination proceedings.

(a) Any interested person may petition the Secretary to terminate, in whole or in part, an exclusive or partially exclusive license three years after such license was granted.

The petition shall be sent to the Secretary, ATTN: Invention Licensing Appeal Board, and shall be verified and accompanied by any supporting documents or affidavits that the petitioner believes demonstrates that either—

(1) the license has tended substantially to lessen competition or to result in undue concentration; or

(2) the licensee has not taken effective steps, or within a reasonable time thereafter is not expected to take such steps, necessary to accomplish substantial utilization of the invention.

(b) Upon receipt of such a petition, the Board shall forward a copy of the petition and supporting documents to the General Counsel, ATTN: Assistant General Counsel for Patents. The General Counsel shall then forward a copy of the petition and supporting documents to the licensee, who shall have thirty (30) days from receipt of the petition to submit a response thereto together with any supporting documents and affidavits. The General Counsel shall then make a preliminary review of the petition, response, and any supporting documents or affidavits to determine whether a hearing on the matter is justified. If the General Counsel finds that a hearing on the matter has been justified, he shall so advise the Board in writing.

(c) If the General Counsel finds that a hearing has not been justified by petitioner, he shall so find in writing. The General Counsel shall promptly notify the Board and the petitioner of the finding. The petitioner may appeal this finding by filing a Notice of Appeal with the Board within thirty (30) days of the date of the mailing of the finding by the General Counsel. The Board shall review the finding concerning petitioner's justification for a hearing, and shall uphold the finding of the General Counsel unless petitioner can demonstrate that the finding was arbitrary, capricious, or an abuse of discretion. If the Board reverses the finding as to the justification for a hearing, the petition shall be heard by the Board in accordance with the procedures outlined in subsection (d) below.

(d) When it has been determined, in accordance with subsection (b) of this section, that a hearing is justified, the Board shall so notify the petitioner and the licensee, and the Board shall publish a Notice in the **Federal Register** advising the public that a hearing is to be scheduled. The Notice shall describe the subject matter of the hearing and shall advise of the right of any interested person to file a petition with the Board, within thirty (30) days of the Notice, showing cause why he should be added as a party to the hearing. The Board shall, in its discretion, determine who should be added as a party.

(e) Any party shall have the right to request a full evidentiary hearing on the matter. In lieu thereof, if the parties agree, the matter may be decided at an "informal" hearing in which no party has the right to call and cross-examine witnesses, but in which the parties have the right to present oral argument to the Board to supplement briefs, affidavits, and other documentary evidence that may have been submitted. Any hearing and related procedures shall be conducted pursuant to the Rules of Practice of the Department of Energy

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Board of Contract Appeals, Title 10 CFR Part 1023, modified as the Board may determine to be necessary or appropriate.

(f) If petitioner alleges that the exclusive or partially exclusive license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates, the petitioner shall have the burden to prove the allegation by a preponderance of evidence.

(g) If petitioner alleges that licensee has failed to accomplish substantial utilization of the invention and has presented sufficent proof, in accordance with subsection (b) of this section, to justify a hearing on the matter, the licensee shall have the burden to prove, by a preponderance of evidence, that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(h) The Board shall make findings of fact and render a conclusion of law with respect to the challenged license. The conclusion of the Board shall constitute the final action of the Department on the matter.

Special Provisions

§ 781.71 Litigation.

(a) An exclusive or partially exclusive licensee may be granted the right to sue at his own expense any party who infringes the rights set forth in his license and covered by the licensed patent. Upon a determination that the Government is a necessary party, the licensee may join the Government of the United States, upon consent of the Attorney General, as a party complainant in such suit. The licensee shall pay costs and any final judgment or decree that may be rendered against the Government in such suit. The Government shall have the absolute right to intervene in any such suit at its own expense.

(b) The licensee shall be obligated to furnish promptly to the Government, upon request, copies of all pleadings and other papers filed in any such suit and of evidence adduced in proceedings relating to the licensed patent, including but not limited to, negotiations, agreements settling claims by a licensee based on a licensed patent, and all other books, documents, papers and records pertaining to such suit. If, as a result of any such litigation, the patent shall be declared invalid, the licensee shall have the right to surrender his license and be relieved from any further obligation thereunder.

§ 781.81 Transfer of custody.

The Department may enter into an agreement to transfer custody of any patent to another Government agency for purposes of administration, including the granting of licenses pursuant to this Part.

[FR Doc. 80-34390 Filed 11-3-80; 8:45 am]
BILLING CODE 6450-01-M

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federal register

Tuesday
November 4, 1980

Part V

Department of Housing and Urban Development

Office of the Secretary

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From HUD

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 146

[Docket No. R-80-876]

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From HUD

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: The Department of Housing and Urban Development (HUD) proposes a regulation to carry out its responsibilities under the Age Discrimination Act of 1975 in accordance with the general, governmentwide regulation published in the **Federal Register** on June 12, 1979 by the Department of Health, Education and Welfare (HEW).

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions that permit, under limited circumstances, continued use of age distinctions or factors other than age that may have a disproportionate effect on persons on the basis of age. The Act applies to persons of all ages. This proposed regulation concerns programs and activities which receive Federal financial assistance from HUD.

DATES: Comments are invited from the public and other Federal agencies. They must be received on or before January 5, 1981 in the office of the Rules Docket Clerk.

ADDRESS: Send written comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each comment should include the commenter's name and address, and must refer to the docket number indicated in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mrs. Myra Kennedy, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 451 7th Street, S.W., Room 5230, Washington, D.C. 20410, (202) 755-5904. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The Age Discrimination Act of 1975 (ADA) requires HEW to develop a governmentwide regulation to guide the development of specific regulations by each Federal agency that administers programs of financial assistance. HEW published a final governmentwide regulation on June 21, 1979 [45 CFR Part 90, published at 44 FR 33768]. The Act and the governmentwide regulation require HUD to: (1) publish a proposed "agency-specific" regulation (that is, a regulation covering HUD programs and activities consistent with the governmentwide regulation) no later than 90 days after publication of the governmentwide regulation; and (2) to prepare a final agency-specific regulation for publication no later than 120 days after publication of the proposed specific regulation. This is HUD's proposed specific regulation.

The effect of this porposed regulation on program provisions and definitions which use age distinctions has not yet been determined and the Department specifically seeks public comment in this area. Prior to the issuance of a final age discrimination regulation, all HUD program regulations will be examined for applicability of the age discrimination regulation. The final regulation will include a listing of all age related provisions and definitions in HUD program regulations and a statement regarding whether or not they have been determined to be exempt from the Age Discrimination Act and this regulation.

Summary of the Governmentwide Regulation (45 CFR Part 90)

The governmentwide regulation specifies definitions and the standards for determining what is age discrimination and what HUD (and other Federal agencies) must include in their specific regulations. HUD may not change the definitions, standards, and basic procedures in the governmentwide regulation. HUD therefore asks reviewers not to comment on those definitions, standards, and basic procedures in this proposed rule, but to direct comments to the new material which is italicized in the summary of the subparts. HUD will not respond to comments on requirements in the final, governmentwide regulation. For the information of commenters, portions of subparts A, B and D of the governmentwide regulation are included in Appendix A of this proposed rule.

Proposed HUD Regulation (24 CFR Part 146)

HUD's proposed regulation is divided into four subparts: Subpart A—General; Subpart B—Standards for Determining Age Distinctions; Subpart C—Duties of HUD Recipients; and Subpart D—Investigations, Conciliation, and Enforcement Procedures. There are also five appendices. A summary of each of the subparts and appendices follow:

Subpart A—General

Subpart A explains the purpose of HUD's age discrimination regulation, which is to set out HUD's policies and procedures under the Act and the governmentwide regulation. The regulation applies to any program or activity receiving Federal financial assistance from HUD.

Subpart B—Standards for Determining Age Distinctions

The standards HUD will use for determining which acts constitute age discrimination are set out in great detail in the governmentwide regulation. However, a short summary of those standards follows:

(1) The Age Discrimination Act of 1975, as amended, contains a prohibition against age discrimination. However, this prohibition is limited by age distinctions which are "established under authority of any law", which are not covered by the Act and hence do not fall within the prohibition against age discrimination;

(2) The use of an age distinction is permitted if it is necessary to the normal operation of a program or activity, or if it is necessary to achieve any statutory objective of a program or activity;

(3) The use of a reasonable factor other than age is an exception to the prohibition against age discrimination if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective;

(4) The Department proposes to use the following four part test, established in the HEW governmentwide regulation, to determine whether age distinctions which are not incorporated in statute are allowable.

A HUD recipient is permitted to use age discriminations in a program or activity if the age distinction is necessary for the normal operation of the program and if:

(1) Age is used as a measure of approximation of one or more other characteristics;

(2) the other characteristics must be measured or approximated in order for the normal operation of the program to continue, or to achieve any statutory objective of the program.

(3) The other characteristics can be reasonably measured or approximated by the use of age; and

(4) The other characteristics are impractical to measure directly on an individual basis.

The public is requested to examine this four-part test carefully and to consider the following questions:

Is the four part test understandable? Can a recipient apply the test to programs or activities to determine whether age distinctions are allowable? If not, why? Are there age distinctions which are justifiable but which might not pass the four part test? If so, identify them.

(5) The Act and its implementing regulation do not cover employment practices for any HUD-assisted program or activity. The Age Discrimination Employment Act, administered by the Equal Employment Opportunity Commission, protects persons between the ages of 40 and 70 from most types of employment discrimination based on age.

The governmentwide regulation places on the HUD recipient the burden of proving that an action qualifies for an exception.

Subpart C—Duties of HUD Recipients

HUD recipients have primary responsibility to ensure that their programs and activities are in compliance with the Act, the governmentwide regulation and this proposed regulation.

Where a HUD recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the proposed HUD regulation.

Subpart D—Investigation, Conciliation, and Enforcement

Subpart D of the proposed regulation establishes the procedures HUD will use in its investigation, conciliation, and enforcement activities. These procedures are closely tied to requirements in the governmentwide regulation, primarily in Subpart D. Italicized language indicates additions in this regulation not contained in the governmentwide regulation.

HUD may conduct compliance and pre-award application review of recipients, even in the absence of a complaint against the recipient. *The review may be as comprehensive as necessary to determine whether a violation has occurred.*

Complaints of age discrimination may be filed with HUD *by an individual or a class or by a third party.* A complainant must file a complaint within 180 days from the date the complainant first knew of the alleged act of discrimination although HUD may extend this time for good cause. *A complaint must identify the parties involved, describe generally the practice complained of, and be signed by the complainant.* HUD will distribute information regarding the obligations of recipients and complainants under the complaint procedure. *HUD will permit a complainant to add information to a complaint when necessary to meet the requirements of a sufficient complaint. HUD will return to the complainant any complaint that does not fall within the jurisdiction of the Act and its regulation.*

HUD will refer all complaints that fall within the coverage of the Act to mediation. On June 12, 1979, the Secretary of the Department of Health, Education, and Welfare designated the Federal Mediation and Conciliation Service (FMCS) to manage the mediation process established in the governmentwide regulation.

Complaints and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint, although they need not meet with the mediator at the same time. Mediation may last no more than 60 days from the date HUD first receives the complaint. The mediator will have the authority to terminate the mediation at any time before the end of the 60-day period, if the process appears to have broken down. The terms of a settlement that are satisfactory to both parties will be put in writing and sent to HUD. HUD will take no further action on a complaint that has been successfully mediated.

HUD will investigate complaints that are unresolved after mediation or alleged violation of a mediation agreement. In the investigation of complaints, HUD will establish facts through such methods as discussions with the complainant and recipient and the review of documents in the possession of either party. HUD may also seek the assistance of any State agency. Where possible, HUD will settle the complaint on terms that are mutually agreeable to the parties.

A recipient may not intimidate or retaliate against any person who attempts to exercise a right protected by the Act or who participates in any aspect of the proceedings used to resolve allegations of age discrimination.

The procedures for securing compliance with the Act and this regulation are taken from the governmentwide regulation, including fund termination after an opportunity for a hearing on the record or referral to the Department of Justice or the use of any Federal, State or local government agency requirements which have the effect of correcting a violation.

This regulation includes a provision for the limited deferral of processing applicatons for new financial assistance from HUD when termination proceedings are initiated.

HUD proposes to use procedural provisions contained in the regulations for Title VI of the Civil Rights Act of 1964 to enforce this proposed HUD regultion. These provisions are at 24 CFR Parts 1 and 2 (See Appendix E).

Where the Secretary finds that a recipient has discriminated on the basis of age, he or she may require the recipient to take necessary remedial action to overcome the effects of discrimination.

When HUD withholds funds from a recipient, the Secretary may disburse those funds to an alternate recipient. The alternate recipient must demonstrate the ability to comply with this regulation and to achieve the goals of the Federal status which authorizes the financial assistance.

Complainants may file a civil action when administrative remedies are exhausted. Administrative remedies are exhausted if either 180 days have elapsed since the complainant filed the complaint and HUD has issued no finding, or if HUD issues a finding in favor of the recipient. The proposed regulation repeats the requirements of the Act concerning the private right of action.

Appendices

There are five appendices to these proposed rules. Appendix A repeats some definitions and standards from the governmentwide regulation for the convenience of commenters. (This Appendix will appear with the final regulation in the **Federal Register**, but HUD does not intend to codify it).

Appendix B summarizes, for the information of recipients and other readers, the activities HUD will take administratively to implement the Act, the governmentwide regulation and this regulation. The activities are required by the governmentwide regulation. (This Appendix will appear with the final regulation in the **Federal Register**, but HUD does not intend to codity it).

Appendix C lists the programs for Federal financial assistance of the Department of Housing and Urban Development to which this part applies. (This Appendix will appear and be codified with the final regulation in the **Federal Register**).

Appendix D cites the application of standards for determining age discrimination and contains a discussion of certain important points about the standards. (This appendix will appear and be codified with the final regulation in **Federal Register**).

Appendix E cites the procedural provisions contained in the regulation of

Title VI of the Civil Rights Act of 1964 to be used to enforce this proposed HUD regulation. (This Appendix will appear in the final regulation in the **Federal Register**, but HUD does not intend to codify it).

The Requirement for Recipient Self-Evaluation

The Office of Management and Budget (OMB) because of a perceived projected paperwork burden, refused to approve the self-evaluation pursuant to its Authority under the Federal Reports Act. Since the issue remains unresolved, it is believed to be more beneficial to publish HUD's regulation without the self-evaluation provision. When the final regulation is issued it will contain whatever will be required on this aspect.

Alternate Approaches to Regulation

HUD considered and rejected alternative approaches for its regulation in which HUD would have proposed additional requirements. *HUD invites comments on the following questions:*

- *Should the regulation address practices of specific HUD recipients, such as Housing Authorities, CDBG recipients or planning agencies?* HUD has no reason to believe (in the absence of experience enforcing the Act) that recipients' practices with respect to age differ to the extent that separate provisions are necessary.
- *Should the regulation clarify the standards for determining what is age discrimination set out in the governmentwide regulation?* Hud has not expanded in the standards in this proposed regulation, *and has not provided examples of how the standards may be applied to HUD recipients. Therefore, HUD is soliciting examples of age distinctions which should be addressed in the final regulation.*
- *Should the regulation set out more detailed requirements about what technical assistance HUD provides its recipients?* HUD believes it should set out details of these administrative actions in handbooks or other issuances rather than regulations.
- *Should the regulation include more detailed provisions for disbursing funds to alternate recipients when there has been a fund termination under this proposed regulation?* HUD considered specifying in more detal what requirements it would waive in choosing an alternative recipient (for example, non-substantive procedural requirements), but determined that a case-by-case determination would be necessary. HUD is unlikely to use the procedures for some time because of the requirements for seeking voluntary compliance and the detailed due process rights to recipients.
- *Should HUD use hearing procedures other than those used for other discrimination matters?* This regulation proposes to use the same procedures set out in 24 CFR Parts 1 and 2 (See Appendix E). These are the procedures for hearings, decisions, and post-termination proceedings used in conjunction with Title VI of the Civil Rights Act of 1964. Are these procedures fully adequate for this regulation?

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk from 8:45 a.m. to 5:15 p.m. at the U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 5218, Washington, D.C. 20410. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate House of Representatives have waived the prepublication review of this rule provided for in Section 7 (o)(2) of the Department of Housing and Urban Development Act. This rule is listed as FH&EO–1–79 in the Department's Semiannual agenda regulation issued pursuant to Executive Order 12044.

The Department of Housing and Urban Development proposes to add Part 146 to Title 24 of the Code of Federal Regulations as set forth below:

PART 146—NONDISCRIMINATION ON THE BASIS OF AGE IN HUD PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

146.1 What is the purpose of the Age Discrimination Act of 1975?
146.2 What is the purpose of HUD's age discrimination regulation?
146.3 To what programs does this regulation apply?
146.4 Definitions.

Subpart B—Standards for Determining Age Discrimination

146.11 Standards.

Subpart C—Duties of HUD Recipients

146.21 General responsibilities.
146.22 Notice to subrecipients.
146.23 Self-evaluation.
146.24 Information requirements.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

146.31 Compliance reviews.
146.32 Complaints.
146.33 Mediation.
146.34 Investigation.
146.35 Compliance procedures.
146.36 Prohibition against intimidation or retaliation.
146.37 Hearings, decisions, post-termination proceedings.
146.38 Exhaustion of administrative remedies.
146.39 Remedial and affirmative action by recipients.
146.40 Alternate funds disbursal procedure.

Authority: Age Discrimination Act of 1975, amended, 42 U.S.C. 6101 *et seq.*; 45 CFR 90.

Subpart A—General

§ 146.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act however permits federally-assisted programs and activities and recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this regulation.

§ 146.2 What is the purpose of HUD's age discrimination regulation?

The purpose of this regulation is to set out HUD's policies and procedures under the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*, in conjunction with the governmentwide age descrimination regulation at 45 CFR 90.

§ 146.3 To what programs does this regulation apply?

This regulation applies to each HUD recipient receiving Federal financial assistance from any program listed at Appendix C, and to each program or activity operated by such recipient.

§ 146.4 Definitions.

As used in this regulation, the term:

"Act" means the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94–135).

"Action" means any act, activity, policy rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal personnel; or

(c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"HUD" means the United States Department of Housing and Urban Development.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of HUD or designee.

"Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in this regulation.

"United States" means the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

Standards

The standards HUD uses to determine whether an age distinction or a factor other than age that may have a disproportionate effect on persons of different ages is prohibited are set out under § 146.11 (a), (b), (c), (d), and (e) of this regulation.

§ 146.11 Rules against age discrimination.

(a) The rules stated in this section are limited by the exceptions contained in (b) and (c) of this section.

(1) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(2) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age of:

(i) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(ii) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(3) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(b) *Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.* A recipient is permitted to take an action, otherwise prohibited by section 11(a), if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure or approximation of one or more other characteristics;

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(c) *Exceptions to the rules against age discrimination. Reasonable factors other than age.* A recipient is permitted to take an action otherwise prohibited by section 11(a) which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or the achievement of a statutory objective.

(d) *Burden of Proof.* The burden of proving that an age distinction or other action falls within the exceptions outlined in section 11(b) and 11(c) is on the recipient of Federal financial assistance.

(e) *Remedial and affirmative action by recipients.* Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the agency may require to overcome the effects of discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

Subpart C—Duties of HUD Recipients

§ 146.21 General responsibilities.

Each recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act, the governmentwide regulation and this regulation.

§ 146.22 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from HUD to subrecipients, the recipient shall provide the subrecipient with written notice of its obligations under this regulation.

§ 146.23 Self evaluation.

[The Office of Management and Budget (OMB) because of a perceived projected paperwork burden, refused to approve the self-evaluation pursuant to its authority under the Federal Reports Act. Since the issue remains unresolved, it is believed to be more beneficial to publish HUD's regulation without the self-evaluation provision. When the final regulation is issued it will contain whatever will be required on this aspect.]

§ 146.24 Information requirements.

Each recipient shall:

(a) Make available to HUD upon request information necessary to determine whether the recipient is complying with this regulation.

(b) Permit reasonable access by HUD to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with this regulation.

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Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 146.31 Compliance reviews.

(a) HUD may conduct pre-award application reviews to determine whether programs or activities proposed by the applicant for HUD assistance are consistent with the age distinctions set forth at 146.11(b) of this part.

(b) If a pre-award application review indicates that the proposed programs or activities are not consistent with the age distinctions set forth at 146.11(b) of this part, the appliction will be returned to the applicant for additional information or clarification or for correction consistent with this regulation.

(c) HUD may conduct compliance reviews of recipients that will enable it to investigate and correct violations of this regulation. HUD may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of this regulation has occurred.

(d) If a compliance review indicates a violation of this regulation, HUD will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, HUD will arrange for enforcement as described in § 146.35.

§ 146.32 Complaint

(a) Any person, individually or as a member of a class, or on behalf of others, may file a complaint with HUD alleging discrimination prohibited by this regulation based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, HUD may extend this time limit.

(b) HUD will attempt to facilitate the filing of complaints whenever possible, including taking the following measures:

(1) Accepting as a sufficient complaint any written statement which identifies the parties involved, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and this regulation.

(4) Notifying the complainant and the recipient of their rights under the complaint process, including the right to have a representative at all stages of the complaint process.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact HUD for information and assistance regarding the complaint resolution process.

(c) HUD will return to the complainant any complaint outside the jurisdiction of this regulation, and will state the reason(s) why it is outside the jurisdiction of this regulation.

§ 146.33 Mediation.

(a) *Referral of complaints for mediation.* HUD will refer to a mediation agency designated by the Secretary of the former Department of Health, Education and Welfare, all complaints that:

(1) Fall within the jurisdiction of this regulation; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informal judgment that an agreement is not possible. There must be at least one meeting with the mediator before HUD will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to HUD. HUD shall take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) HUD will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time HUD receives the complaint; or

(2) Prior to the end of the 60 day period, an agreement is reached; or

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to HUD for investigation.

§ 146.34 Investigation.

(a) *Following mediation.* (1) HUD will investigate complaints that are unresolved after mediation or are reopened because of an alleged violation of a mediation agreement.

(2) In the investigation of complaints under this Part, HUD will establish facts through such methods as discussion with the complainant and recipient and the review of documents in the possession of either party. HUD may also seek the assistance of any applicable State agency. Where possible, HUD will conciliate the complaint on terms that are mutually agreeable to the parties.

(3) HUD will put any agreement in writing and have it signed by the parties and an authorized official at HUD.

(4) The conciliation agreement shall not affect the operation of any other enforcement effort of HUD, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The conciliation agreement reached pursuant to § 146.34 (a)(2) is not a finding of discrimination against a recipient.

(b) *Following Conciliation.* If HUD cannot resolve the complaint through conciliation it will make a formal determination of apparent noncompliance. HUD will inform the recipient and complainant in writing that the matter cannot be resolved through conciliation. If HUD cannot conciliate the matter it will begin enforcement as described in § 146.35.

§ 146.35 Compliance procedures.

(a) HUD may enforce the Act and this regulation through:

(1) Termination of a recipient's Federal financial assistance from HUD under the program or activity involved where the recipient has violated the Act and this regulation. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an Administrative Law Judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from HUD.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this regulation.

(ii) Use of any requirement of or referral to any Federal, State or local government agency that will have the effect of correcting a violation of the Act or this regulation.

(b) HUD will limit any termination under § 146.35 to the particular recipient and particular program or activity HUD finds in violation of this regulation. HUD will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from HUD.

(c) HUD will take no action under paragraph (a) of this section until:

(1) The Secretary has advised the recipient of its failure to comply with the Act and this regulation and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has submitted a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.

(d) The Secretary also may defer processing applications for new Federal financial assistance from HUD to a recipient when a hearing under § 146.35 is initiated.

(1) New financial assistance from HUD includes all assistance for which HUD requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New financial assistance from HUD does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 146.35

(2) HUD will not impose a deferral until the recipient has received a notice of an opportunity for a hearing under § 146.35. HUD will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. HUD will not continue a deferral for more than 30 days after the close of the hearing, unless it results in an initial finding of noncompliance against the recipient.

§ 146.36 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by this regulation; or

(b) Cooperates in any mediation, investigation, hearing, or other part of HUD's investigation, conciliation, and enforcement process.

§ 146.37 Hearings, decisions, post-termination proceedings.

Certain HUD procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to HUD enforcement of this regulation. They are 24 CFR 1.9 through 1.12 and 24 CFR 2.1 through 2.13 (See Appendix E).

§ 146.38 Exhaustion of administrative remedies

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and HUD has made no finding with regard to the complaint; or

(2) HUD issues any finding in favor of the recipient.

(b) If HUD fails to make a finding within 180 days or issues a finding in favor of the recipient, HUD will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief, and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested, the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

§ 146.39 Remedial and affirmative action by recipients.

(a) Where the Secretary finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the Secretary may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the Secretary may require both recipients to take remidial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 146.40 Alternate funds disbursal procedure.

(a) When HUD withholds funds from a recipient under this regulation, the Secretary may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with this regulation; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

Appendix A

The following sections from the governmentwide regulations are repeated for the convenience of commenters.

Coverage and Definitions

Section 90.3 *What programs and activities does the Age Discrimination Act of 1975 cover?*

(a) The Age Discrimination Act of 1975 applies to any program or activity receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972. [31 U.S.C. 1221 *et seq.*]

(b) The Age Discrimination Act of 1975 does not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), (29 U.S.C. 801 *et seq.*).

Section 90.4 *How are the terms in these regulations defined?*

As used in these regulations, the ferm: "Act" means the Age Discrimination

Act of 1975, as amended, (Public Law 95–478).

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwide makes available assistance in the form of:

(a) Funds;

(b) Services of Federal personnel; or

(c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of the Department of Housing and Urban Development.

"United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Standards for Determining Age Discrimination

Section 90.12 *Rules against age discrimination.*

The rules stated in this section are limited by the exceptions contained in sections 90.14, and 90.15 of these regulations.

(a) *General rule:*

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules:*

A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

Section 90.13 *Definitions of "normal operation" and "statutory objective".*

For purposes of sections 90.14 and 90.15, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

Section 90.14 *Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.*

A recipient is permitted to take an action, otherwise prohibited by section 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics;

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

Section 90.15 *Exceptions to the rules against age discrimination. Reasonable factors other than age.*

A recipient is permitted to take an action otherwise prohibited by Section 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

Remedial and Affirmative Action

Burden of Proof

Section 90.16 *Burden of Proof.*

The burden of proving that an age distinction or other action falls within the exceptions outlined in Sections 90.14 and 90.15 is on the recipient of Federal financial assistant.

Section 90.49 *Remedial and affirmative action by recipients.*

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the agency may require to overcome the effects of the discrimination. If another recipient exercises control over the receipient that has discriminated, both recipients may be required to take remedial action.

Appendix B—HUD Activities

For the information of recipients and other reviewers, the folowing is a summary of activities that the governmentwide regulation requires of HUD. The citation in brackets is to the section of the governmentwide regulation which HUD is summarizing.

(1) Review age distinctions HUD imposes on its recipients to determine whether they are permissible under the Act. HUD will publish the results of that review for public comment 12 months after HUD publishes its final regulation (Section 90.32).

(2) Cooperate with other Federal agencies which provide Federal financial assistance to the same recipient or class of recipients for all compliance and enforcement purposes (Section 90.33).

(3) Submit annual reports to HEW describing HUD's efforts to carry out the Act (Section 90.34).

(4) Attempt to ensure that HUD recipients comply voluntarily with the Act (Section 90.42).

(5) Provide notice of objectives under the Act, and technical assistance to HUD recipients and make available educational materials (Section 90.43).

(6) Review the effectiveness of this regulation 30 months after it becomes effective (Section 90.62).

Appendix C—Federal Financial Assistance of the Department of Housing and Urban Development to Which This Part 146 Applies

1. Advance acquisition of Land. Section 704, Housing and Urban Development Act of 1965, 42 U.S.C. 3104.

2. Advice and Assistance with respect to Housing for Low and Moderate Income Families. Section 106, Housing and Urban Development Act of 1968, as amended by Section 903(a) Housing and Urban Development Act of 1970, 12 U.S.C. 1701x.

3. Alaska Housing Assistance. Section 1004. Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3371.

4. College Housing Program. Title IV, Housing Act of 1950, 12 U.S.C. 1749.

5. Community Deposition Program. Atomic Energy Community Act of 1955, Sections 11–13, 21, 31–36, 41–43, 51–57, 61–66, 101–103, 111–119, 42 U.S.C. 2301; E.O. 11105, 28 F.R. 3909.

6. Comprehensive Planning Assistance and Comprehensive Planning Research and Demonstration Programs. Section 701, Housing Act of 1954, 40 U.S.C. 461.

7. Counselling Services to Mortgagors and Prospective Mortgagors. Section 237(e), National Housing Act, 12 U.S.C. 1715z–2.

8. Federal-State Training, and City Planning and Urban Studies Fellowship Programs. Title VIII, Housing Act of 1964, 30 U.S.C. 801–807.

9. Grants for Housing Management Training. Section 803, Housing Act of 1964, 83 Stat. 393 (1969). 84 Stat. 1809 (1970), 20 U.S.C. 803.

10. Home Ownership for Lower Income Families. Section 235, National Housing Act 12 U.S.C. 1715z.

11. Housing for Elderly or Handicapped. Section 202, Housing Act of 1959, 12 U.S.C. 1701q.

12. Loan and Grant Assistance for Planning Housing Projects in Appalachia. Section 207, Appalachian Regional Development Act of 1965, as amended, 81 Stat. 257, 40 U.S.C. App. 207.

13. Low-Income Housing Demonstration Grant Program. Section 207, Housing Act of 1961, 42 U.S.C. 1436.

14. Low-Rent Public Housing Program (including housing in private accommodations). United States Housing Act of 1937, 42 U.S.C. 1401.

15. Model Cities Program. Title I, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301.

16. Neighborhood Facilities Grants. Section 703 Housing and Urban Development Act of 1965, 42 U.S.C. 3103.

17. New Communities. Title IV, Housing and Urban Development Act of 1968, 42 U.S.C. 3901.

18. Loans and Grants for New Community Development Programs. Sections 701 to 729, Housing and Urban Development Act of 1970, 42 U.S.C. 4511.

19. New Technologies in the Development of Housing for Lower Income Families. Section 108, Housing and Urban Development Act of 1968, 12 U.S.C. 1701z.

20. Open-Space Land Programs. Title VII, Housing Act of 1961, 42 U.S.C. 1500. Note.

21. Public Facilities Liquidating Programs. See, generally, Title II of Independent Offices Appropriation Act of 1955, Public Law 83–428, 12 U.S.C. 1701g–5.

22. Public Facility Loan Program. Title II, Housing Amendments of 1955, 42 U.S.C. 1491–1497 except 1942(a)(2) Assistance for Mass Transportation Facilities and Equipment (transferred to Secretary of Transportation by Reorganization Plan No. 2 of 1968, 33 F.R. 6965).

23. Public Works Acceleration Act Program. Public Works Acceleration Act, 42 U.S.C. 2641.

24. Public Works Planning Advances. Section 702, Housing Act of 1954, 40 U.S.C. 462.

25. Rehabilitation Loan Program, Section 312, Housing Act of 1964, 42 U.S.C. 1452b.

26. Rent Supplement Program. Section 101, Housing and Urban Development Act of 1965, 12 U.S.C. 1701s.

27. Rental and Cooperative Housing for Lower Income Families. Section 236, National Housing Act, 12 U.S.C. 1715z–1.

28. Research and Technology. Title V, Housing and Urban Development Act of 1970, U.S.C. 1701z–1–170 z–4.

29. Sale of Surplus Federal Land for Housing. Section 414, Housing and Urban Development Act of 1969, 40 U.S.C. 484b.

30. Special Assistance Functions. Section 305, National Housing Act, 12 U.S.C. 1720, including purchase of below market interest rate mortgages insured by FHA under Section 221(d)(3). National Housing Act, 12 U.S.C. 1715/(d)(3).

31. Technical Assistance to Contractors or Subcontractors. Section 911(b), Housing and Urban Development Act of 1970, 15 U.S.C. 694(a). Note.

32. Urban Information and Technical Assistance Services. Title IX, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3351 3356.

33. Urban Mass Transportation Programs (Research, Development and Demonstration Projects; Grants for Technical Studies; Grants for Research and Training). Sections 6(a), 9 and 11 of the "Urban Mass Transportation Act of 1964, as amended"; Reorganization Plan No. 2 of 1968, 33 F.R. 6965; 49 U.S.C. 1605(a), 1607(a), 1609(c).

34. Urban Renewal Demonstration Grant Program. Section 314, Housing Act of 1954, 42 U.S.C. 1452a.

35. Urban Renewal Program (Urban Renewal Projects and Neighborhood Development Programs, Code Enforcement Programs, Demolition Programs, Rehabilitation Grants, Interim Assistance Grants, and Community Renewal Programs). Title I, Housing Act of 1949, 42 U.S.C. 1450.

36. Urban Research and Technology. Title III, Housing Act of 1948, 12 U.S.C. 1701a, 1701f; Section 602, Housing Act of 1956, 12 U.S.C. 1701d–3; and Sections 1010 and 1011, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3372 and 3373.

37. Water and Sewer Facilities Grants. Section 702, Housing and Urban Development Act of 1965, 42 U.S.C. 3102.

38. Neighborhood Self-Help Development Act of 1978, 42 U.S.C. 81–23.

39. Community Development Block Grant Program. Title I of the Housing and Community Development Act of 1964, as amended; 42 U.S.C. 5301.

Appendix D—Application of Standards For Determining Age Discrimination

Subpart B of the proposed regulation cites the standards for determining what is age discrimination from the governmentwide regulation (which is set out in Appendix A). The application of these standards is critical to effective enforcement of the Age Discrimination Act. Set out below is the text of each standard, and a discussion of certain important points about the standards.

A. *Rules Against Age Discrimination*

Text of the governmentwide regulations:

General rule:

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

Specific rules:

A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

Discussion:

The prohibition against age discrimination does not include an absolute prohibition against separate or different treatment on the basis of age.

As a general rule, separate or different treatment which denies or limits services from, or participation in, a program receiving Federal financial assistance would be prohibited by this regulation. On the other hand, this regulation does not automatically invalidate the provision of services through separate or different treatment on the basis of age. Separate or different

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treatment necessary to normal operation or to the achievement of a statutory objective would qualify for an exception under this regulation. 44 F.R. 33772.

B. *Age Distinctions "Established Under Authority of Any Law"*

Text of the governmentwide regulation:

The Age Discrimination Act of 1975 does not apply to:

(1) The age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

Discussion:

The Age Discrimination Act covers all programs and activities that receive assistance from HUD. However, it does not apply to age distinctions "established under authority of any law" that provides benefits or establishes criteria for participation on the basis of age or in age-related terms. The governmentwide regulation has defined the term "any law" to mean age distinctions which are contained in a Federal statute, a State statute, or a local statute or ordinance adopted by an elected, general purpose legislative body. This provision exempts only age distinctions which provide benefits, establish criteria for participation or describe intended beneficiaries. This provision does not provide an automatic exemption to age distinctions that are contained in regulations or in ordinances enacted by bodies which are not elected or are special purpose even though elected, such as Commissioners or members of Housing Authority Boards. The final HUD regulation will contain an appendix listing the age distinctions that are found in Federal statutes administered by HUD in Appendix C.

C. *Age Distinctions that are Necessary to Normal Operation or to the Achievement of a Statutory Objective.*

Text of the general, governmentwide regulation:

Definitions of "normal operation" & "statutory objectives."

• • • The terms "normal operation" and "statutory objective" shall have the following meanings:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action otherwise prohibited if the action reasonably takes into account age as a factor necessary to the normal operation of the achievement of any statutory objective or a progam or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure of approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activitiy; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

Discussion

These sections of the governmentwide regulation establish a four-part test for explicit age distinctions which are claimed to be necessary to the normal operation of a program or activity, or to the achievement of a statutory objective. HUD will use the HEW four-part test to scrutinize age distinctions.

If the age distinction in question fails any part of the four-part test, the recipient of Federal funds may not continue to use that age distinction.

The four-part test is designed to require careful scrutiny of age distinctions in programs receiving Federal financial assistance. The four-part test is designed to weed out age distinctions that are neither directly related to an essential characteristic of a program nor are based on explicitly stated objectives of a law. It is not intended to serve as a basis for permitting continued use of age distinctions for the sake of administrative convenience, if this results in denial or limitation of services on the basis of age.

HUD encourages its recipients to apply every age distinction flexibly, that is, to permit a person, upon a proper showing of the necessary characteristic, to participate in the activity or program even though he or she would otherwise be barred by the age distinction. Other things being equal, an age distinction is more likely to qualify under any of the statutory exceptions if it does not automatically bar all those who do not meet the age requirements.

D. *The Use of Factors Other Than Age*

Text of the general, governmentwide regulation:

"A recipient is permitted to take an action otherwise prohibited . . . which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective."

Discussion

The Age Discrimination Act permits a recipient of Federal funds to take an action otherwise prohibited by the act, if the action is based on "reasonable factors other than age," even though that action may have a more severe effect on one age group than on another. To justify rules or operating procedures which disadvantage any age group when age is not explicitly mentioned, HUD recipients must demonstrate that these procedures have a "direct and substantial" relationship to specific program objectives.

E. *The Use of Special Benefits for Children and the Elderly*

Text of the governmentwide regulation:

"If a recipient operating a program which serves the elderly or children in addition to persons of other ages, provides special benefits to the elderly or to children the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program."

Discussion:

The governmentwide regulation permits a recipient operating a program which serves the elderly or children in addition to persons of other ages to provide special benefits for children or the elderly if, by doing so, the recipient does not exclude others who are eligible from participating in the federally-assisted program.

The special benefits provision resulted from HEW's belief that Congress did not intend to disturb the practices of recipients which provide special benefits to children or the elderly in programs that are also available to a wider age range of the population. These special benefits often take the form of special discounts, or special seating arrangements.

The governmentwide regulation leaves to the recipient the definition of who qualifies as "children" or the "elderly" for purposes of receiving a special benefit. However, HUD does not intend this provision to be used to justify a program which provides services *only* to children or to the elderly.

Appendix E—Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 1—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

§ 1.9 Hearings

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph (a) or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1.8(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsbile Department official or, at his discretion, before a hearing examiner designated in accordance with sections 3105 and 3344 of title 5, United States Code.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 and in accordance with the Practice and Procedure for Hearings issues by the Department and published in Part 2 of this subtitle relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part 1, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department and the applicant or recipient, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this Part 1 with respect to two or more programs or activities to which this Part 1 applies, or noncompliance with this Part 1 and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint heartings, and for the application to such hearings of rules of procedure not inconsistent with this Part 1. Final decisions in such cases insofar as this Part 1 is concerned, shall be made in accordance with § 1.10.

§ 1.10 Decisions and Notices

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner, the applicant or recipient may, within the period provided for in the rules of Practice and Procedure for Hearings issued by the Department (Part 2 of this subtitle), file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official, in which event a copy shall also be sent to the complainant.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1.9(a) a decision a hearing examiner or responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(d) *Rulings required.* Each decision of a hearing examiner or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Part 1 with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program or activity involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this Part 1, including provisions designed to assure that no Federal financial assistance will thereafter be extended for such program or activity to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this Part 1, or to have otherwise failed to comply with this Part 1, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this Part 1.

(f) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by

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an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this Part 1 and provides reasonable assurance that it will fully comply with this Part 1.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with the Practice and Procedure for Hearings issued by the Department (Part 2 of this subtitle). The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§ 1.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1.12 Effect on other regulations: forms and instructions.

(a) *Effect on other regulations.* All regulations orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against persons on the ground of race, color, or national origin under any program or activity to which this Part 1 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant or recipient for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this Part 1, except that nothing in this Part 1 shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to January 3, 1965. Nothing in this Part 1, however, shall be deemed to supersede any of the following (including future amendments thereof):

(1) Executive Orders 11246 and 11375 and regulations issued thereunder, or

(2) Executive Order 11063 and regulations issued thereunder, or any other order, regulations or instructions, insofar as such order, regulations, or instructions, prohibit discrimination on the ground of race, color, or national origin in any program or activity or situation to which this Part 1 is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* The responsible Department official shall assure that forms and detailed instructions and procedures for effectuating this Part 1 are issued and promptly made available to interested persons.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this Part 1 (other than responsibility for final decision as provided in § 1.10), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI and this Part 1 to similar programs or activities and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

Effective date. This part shall be effective July 5, 1973.

James T. Lynn,
Secretary of Housing and Urban Development.

PART 2—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 1 OF THIS SUBTITLE

Subpart A—General Information

§ 2.1 Scope of rules.

The rules of procedure in this Part 2 supplement Part 1 of this title and govern the practice for hearings, decisions, and administrative review conducted by the Department of Housing and Urban Development, including each of its organizational units, pursuant to Title VI of the Civil Rights Act of 1964 (sec. 602, 42 U.S.C. 2000d-1) and Part 1 of this title.

§ 2.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights docket clerk during regular business hours. Inquiries may be addressed to the Civil Rights docket clerk, Department of Housing and Urban Development, Washington, D.C. 20410.

§ 2.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 2.4 Suspension of rules.

The responsible Department official with respect to pending matters may modify or waive any rule in this part upon his determination that no party will be unduly prejudiced and the ends of justice will thereby be served, and upon notice to all parties.

Subpart B—Appearance and Practice

§ 2.11 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf. Counsel must be members in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 2.12 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 2.13 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

(Age Discrimination Act of 1975 (Pub. L. 95-478), Department of Housing and Urban Development, 42 U.S.C. 6101, et. seq.)

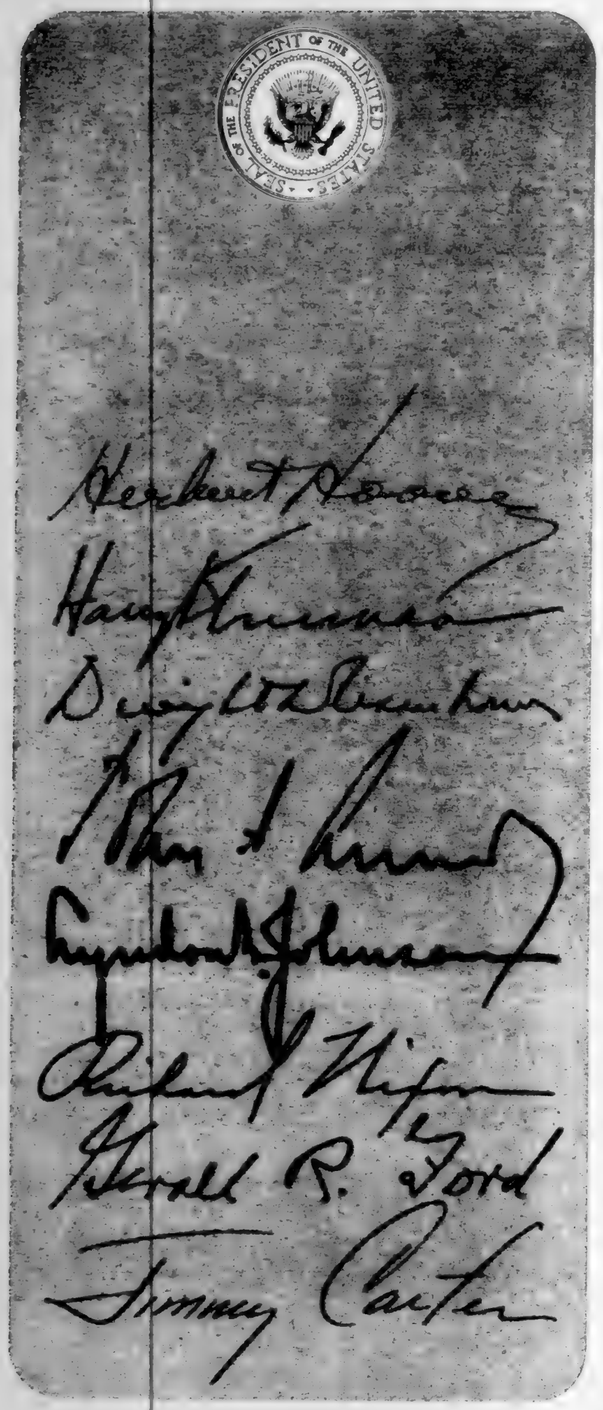
Issued at Washington, D.C., September 19, 1980.

Moon Landrieu,
Secretary, U.S. Department of Housing and Urban Development.

[FR Doc. 80-34369 Filed 11-3-80; 8:45 am]
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11-5-80
Vol. 45 No. 216
Pages 73465-73628

federal register

Wednesday
November 5, 1980

Highlights

Cumulative List of Public Laws—The third cumulative list of public laws for the second session of the 96th Congress is published in the **Reader Aids** section of this issue.

AN EXPLANATION ABOUT WEDNESDAY "REMINDERS"

Are there any upcoming meetings or hearings you should know about? Did you forget about that proposed rule you wanted to comment on? For items like these, plus information on new rules, recently signed public laws, and grants related documents, see the "reminders" in today's **Reader Aids** section.

73610-73623 **Community Development Block Grants** HUD/CPD clarifies policies used in action grant program and modifies rules to accommodate communities containing pockets of poverty; effective 11-5-80 (2 documents) (Part III of this issue)

73467 **Excise Taxes** Treasury/IRS amends temporary tax regulations relating to windfall profit tax on domestic crude oil; effective 2-29-80

73467 **Estate Taxes** Treasury/IRS provides temporary regulations for taxpayers who elected to treat their interest in certain jointly held property as a "qualified joint interest"

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

73518 **Postal Service** PS proposes amending Domestic Mail Manual to establish definitions of terms "newspaper" and "periodical publication" as those terms are used with regard to second-class mail eligibility; comments by 12–4–80

73514 **Grant Programs—Education** ED/Sec'y proposes regulations to implement the Minority Institutions Science Improvement Program which provides support to institutions of higher education to effect an increase of underrepresented ethnic minorities into scientific careers; comments by 12–5–80

73602 **Pesticides** EPA issues preliminary notice of determination concluding rebuttable presumption against registration of pesticide products; comments by 12–5–80 (Part II of this issue)

73541 **Housing** HUD/NVACP extends comment period on single family real estate settlement practices; comments by 11–17–80

73504 **Securities** CFTC proposes to clarify requirements boards of trade must comply with for initial and continued designation as contract markets; comments by 2–1–81

73479 **Veterans** VA issues regulations that allow for measurement of medical and dental internships and residencies on a less than full-time basis when determining educational assistance to be paid; effective 10–29–80

73509 **Taxes** SEC publishes proposed rules regarding allocation of consolidated Federal income tax liability by registered holding companies and their subsidiaries; comments by 12–31–80

73473 **Environmental Quality** DOD/Army clarifies policies, responsibilities, and procedures for conducting pest management programs on Army installations; effective 11–5–80

73567 **Taxes** Treasury/IRS provides background information with respect to a study relating to automatic extension of certain election periods; comments by 3–31–81

73499 **Energy** DOE/ERA extends comment period regarding cogeneration exemption; comments by 12–15–80

73572 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 45, No. 216
Wednesday, November 5, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization of the Animal and Plant Health Inspection Service by adding five regional offices in the field organization of APHIS under the supervision of the Deputy Administrator, Veterinary Services. Regional supervision previously was provided through five regional directors located at 6505 Belcrest Road, Hyattsville, MD 20782.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–5335 or 301–436–6466).

SUPPLEMENTARY INFORMATION: At the time the statement of organization, functions, and delegations of authority for APHIS was first codified into 7 CFR 371, (45 FR 8564), regional offices were not established for Veterinary Services. Supervision of field activities was provided by five regional directors located in Hyattsville, MD. Now, regional officies have been established as set forth in this document.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12044 Improving Government Relations, and thus, does not require the preparation of a regulatory impact analysis.

Accordingly, 7 CFR Part 371 is amended as follows:

1. Section 371.1 is amended by revising paragraph (c)(2), to read as follows:

§ 371.1 General statement.

* * * * *

(c)* * *

(2) Veterinary Services

Laboratories

National Veterinary Services Laboratories, P.O. Box 884, Ames, IA 50010

Regions

North Central: 2490 W. 26th Avenue, Rm 236, Denver, CO 80211
Northern: Bldg. 12, GSA Depot, Scotia, NY 12302
Southeastern: 700 Twiggs St., Rm 821, Tampa, FL 33602
South Central: Texas and Pacific Bldg., Suite 310, 221 W. Lancaster Avenue, Ft. Worth, TX 76102
Western: 245 E. Liberty St., Rm 300, Reno, NV 89501

* * * * *

Authority: 5 U.S.C. 301.

Issued at Washington, D.C., this 28th day of October 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80–34434 Filed 11–4–80; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to conform the time permitted under 10 CFR 2.206(c) and 2.786(a) with its revised internal operating procedures which provide that the Commissioners have ten (10) working days to review the decision of the appropriate Office Director or of the Appeal Board and the advice of the General Counsel.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mark E. Chopko, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 202/634–3224.

SUPPLEMENTARY INFORMATION: NRC regulations provide that the Commission may decide to review, on its own motion, a decision of the Appeal Board within thirty (30) days of the decision or after a petition for review is filed, whichever is later. 10 CFR 2.786(a), *as amended* 45 FR 45890 (July 8, 1980). In addition, § 2.206(c) provides that the Commission may decide to review a Director's decision within twenty (20) days of the decision. In both instances the time had been divided between review of the matter by the Office of the General Counsel in order to advise the Commissioners on a proposed course of action and consideration of the matter by the Commission. The Commission has recently adopted a revised set of internal operating procedures that now would provide ten (10) working days for Commissioner action. In order both to provide for adequate review in the Office of the General Counsel and to provide sufficient time for Commission consideration in conformance with the new operating procedures, the Commission has decided to amend its rules to add additional time for consideration of such decisions.

Section 2.786(a) will be amended to provide forty (40), instead of the existing thirty (30), days for Commission consideration of Appeal Board decisions on its own motion. This change does not affect the rest of § 2.786(a) including the recent amendment. 45 FR 45890. In addition, § 2.206(c)(1) will be amended to provide twenty-five (25), instead of the existing twenty (20), days for Commission consideration of a Director's decision.

Because this amendment relates solely to matters of agency procedure, notice of proposed rulemaking and public procedure thereon are not required by section 553 of Title 5 of the United States Code and shall be omitted from this proceeding. As rules applying only to internal agency procedure, these

final rules will be effective November 5, 1980.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 2, is published as a document subject to codification:

1. Section 2.206(c)(1) is revised to read as follows:

§ 2.206 Requests for action under this subpart.

* * * * *

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

* * * * *

2. Section 2.786(a) is revised to read as follows:

§ 2.786 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.

(a) Within forty (40) days after the date of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785, or within thirty (30) days after a petition for review of such decision or action has been filed under paragraph (b) of this section, the Commission may, in cases of exceptional legal or policy importance, review the decision or action on its own motion.

* * * * *

(Sec. 161p., Pub. L. No. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. No. 93–438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, DC, this 29th day of October 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-34299 Filed 11-4-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 80-656]

Technical Amendment Regarding NOW Accounts

October 23, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: Pursuant to titles III and IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Federal Home Loan Bank Board adopted on September 30, 1980 regulations authorizing Federal associations to issue negotiable order of withdrawal ("NOW") accounts. This resolution adopts a technical amendment to those regulations that conforms requirements for Federal and other FSLIC-insured institutions with regard to NOW account forms.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley (202–377–6444), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: At present, only Federal associations in New England, New York and New Jersey are permitted to offer negotiable order of withdrawal ("NOW") accounts to depositors. Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96–221; 94 Stat. 132 (1980)) extends this authority to Federal associations nationwide as of December 31, 1980. By Resolution No. 80–613 of September 30, 1980 (45 FR 66781, October 8, 1980), the Federal Home Loan Bank Board adopted final regulations that implement this NOW account authority.

As part of Resolution No. 80–613, the Board amended 12 CFR 545.2(b) so that Federal associations will not be required to issue passbooks or certificates as evidence of ownership of NOW accounts. The purpose underlying this amendment was to place Federal associations on an equal footing in this regard with other depository institutions issuing draft-type instrument accounts.

The amendment to § 545.2(b) inadvertently resulted in inequitable treatment of Federal and State associations with regard to prior approval of account forms. Section 545.2(b) requires that Federal associations issue certificate forms that are prescribed by the Board; the exemption of NOW accounts from these provisions abolished the only requirement of prior approval of NOW account forms issued by Federal associations. However, the provisions of 12 CFR 563.1 requiring the Federal Savings and Loan Insurance Corporation's prior approval of account forms issued by insured State institutions remain in effect and are applicable to NOW accounts.

The Board has therefore resolved to amend § 563.1 to exempt forms for NOW accounts issued by insured State institutions from the requirement of prior approval by the Federal Savings and Loan Insurance Corporation. This will result in equal treatment of Federal and insured State institutions under the regulations, and will conform the Board's rule on NOW account form requirements to those of the Board of Governors of the Federal Reserve and the Federal Deposit Insurance Corporation.

While Federal and insured State institutions will not be required to submit NOW account forms for prior approval or adopt forms prescribed by the Board, it is expected that NOW account terms (such as interest rate, minimum balance requirements, and service fees) will be fully disclosed to depositors as a matter of prudent business practice. It is also noted that an institution offering electronic fund tranfer services in conjunction with NOW accounts is subject to the disclosure requirements of Regulation E (12 CFR 205.7).

The Board finds that observance of the proposal procedure and notice period of 12 CFR 508.12 and 5 U.S.C. § 553 would be impracticable due to the December 31, 1980 effective date of NOW account authority and is unnecessary because the amendments are technical in nature. The amendment is therefore adopted as a final regulation, and will become effective on December 31, 1980, in conjunction with the nationwide NOW account authority of Resolution No. 80–613.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

PART 563—OPERATIONS

1. Revise the second sentence of § 563.1 to read:

§ 563.1 [Amended]

* * *"No insured institution (except a Federal savings and loan association) shall issue any form of checking or savings accounts, share, stock, membership or deposit certificates, passbooks, or other investment contract which has not been submitted to the Corporation for approval; but this approval requirement shall not apply with regard to forms for NOW accounts.

* * * * *

(Sec. 303. Pub. L. No. 96–221; Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-34507 Filed 11-4-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 23

[T.D. 7731]

Temporary Estate Tax Regulations Under the Act of 1978; Procedure for Correction of an Incomplete Election To Treat an Interest in Certain Joint Tenancies as a Qualified Joint Interest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations for taxpayers who elected to treat their interest in certain jointly held property as a "qualified joint interest" under section 2040(d) of the Internal Revenue Code of 1954 (Code) but failed to comply with the requirements of section 23.1 of the Temporary Estate Tax Regulations.

DATE: The regulations apply to elections for certain property held jointly on December 31, 1976.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1980, section 23.1 of the Temporary Estate Tax Regulations was published in the **Federal Register** (45 FR 17983) concerning the procedure for the election to treat an interest in certain joint tenancies as a qualified joint interest for estate tax purposes. The election is available under sec. 2040 (d) of the Code.

Those regulations provided, generally, that the spouse who furnished more than one-half the initial consideration for the property must make the election by including the amount of the gift in a timely filed gift tax return and must pay any tax due. The regulations provided a formula for computing the amount of the gift. Under sec. 6075 (b) of the Code, the due date for the gift tax return was April 15, 1980, unless the taxpayer received an extension under sec. 6081.

Sec. 23.1 (a) (3) of the regulations required that a statement of consent be attached to the gift tax return, signed by the donee spouse and indicating that the donee spouse consents to the election. It has come to the attention of the Treasury Department that in many cases prior to the issuance of the regulations, taxpayers attempted to make the election by timely filing a gift tax return but failed to include a statement of consent.

Provisions of the Regulations

This amendment to the regulations provides that in the case of a timely filed election that did not comply with sec. 23.1 of the Temporary Estate Tax Regulations under the Revenue Act of 1978, treatment of the interest as a qualified joint interest from the date of the original filing will be permitted only if a corrected gift tax return is filed that is in compliance with sec. 23.1. The regulations require that the corrected gift tax return must be filed by April 15, 1981.

Waiver of Certain Procedural Requirements of Treasury Directive

A determination has been made by Jerome Kurtz, Commissioner of Internal Revenue, that there is an immediate need for these regulations under section 2040 (d) to provide guidance to taxpayers. Compliance with the procedural requirements of paragraphs 8 through 14 of the Treasury directive relating to improved regulations (43 FR 52120) would therefore be impractical and, accordingly, the requirements have been waived.

Drafting Information

The principal author of this regulation was Stephen J. Small of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both in matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 23 is amended as follows:

1. Section 23.1 is amended as follows:

§ 23.1 [Amended]

1. Paragraph (f) is redesignated as paragraph (g).

2. A new paragraph (f) is inserted to read as set forth below.

§ 23.1 Election and eligibility to treat interests in property held jointly on December 31, 1976, as qualified joint interests.

* * * * *

(f) *Incomplete election*—(1) *Corrected return required.* Where an otherwise valid election, on a timely filed gift tax return for any calendar quarter ending in 1977, 1978, or 1979, failed to satisfy the procedural requirements of this section, the election will be considered effective from the date of the original filing upon the filing of a corrected gift tax return, with the statement of consent attached, at the Internal Revenue Service Office where the original return was filed.

(2) *Due Date.* The corrected gift tax return must be filed by April 15, 1981. The executor or administrator of a spouse who dies (or the guardian or committee of a spouse who becomes legally incompetent) before the corrected gift tax return is filed may file the return or may sign the consent as the case may be.

This Treasury decision adds temporary regulations to enable taxpayers to comply with the new law on the election to treat an interest in property as a qualified joint interest. Because this regulation is necessary to provide immediate guidance to taxpayers, it is impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of this section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805))

Jerome Kurtz,

Commission of Internal Revenue.

Approved: October 17, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-34520 Filed 11-4-80; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 150

[T.D. 7732]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Tax Deposits and Refunds Based on the Net Income Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations relating to the windfall profit tax on domestic crude oil imposed by title I of the Crude Oil Windfall Profit Tax Act of 1980. The new temporary regulations provide rules to be followed by producers of domestic crude oil. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These temporary regulations are effective with respect to oil removed after February 29, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1980, the **Federal Register** published temporary regulations (45 FR 23384) under sections 4986, 4987, 4988, 4989, 4991, 4992, 4993, 4994, 4995, 4996, 4997, 6050C, 6076, and 6402 of the Internal Revenue Code of 1954. The temporary regulations were required to implement various sections of the Crude Oil Windfall Profit Tax Act of 1980. Certain amendments to the temporary regulations were published on April 25, 1980 (45 FR 27929). This document contains amendments to §§ 150.4995–3, 150.4997–1, and 150.6402–1 of those temporary regulations (relating to windfall profit tax deposits, returns, and refunds).

Explanation of Provisions

Numerous commentators on the proposed windfall profit tax regulations published on April 4, 1980 expressed concern over the operation of the tax deposit and refund rules in situations involving the application of the net income limitation on windfall profit provided in section 4988(b). Several commentators suggested that in order to avoid overpayments of tax, the deposit rules should be amended to clarify that producers may take the net income limitation into account in depositing their own tax under § 150.4995–3 (a) or (f) when the first purchaser is not required to withhold. This suggestion has been adopted, and § 150.4995–3 (a) and (f) is amended to specifically provide that the net income limitation may be taken into account by producers depositing their own tax liability. The amendment is effective with respect to oil removed after February 29, 1980. Therefore, producers may reduce future deposits if more than the tax imposed by section 4986, computed with regard to the net income limitation, has been deposited for past periods. However, refund claims may not be filed until after the end of the producer's taxable year (for Federal income tax purposes).

Most of the commentators recognized that section 4995(a)(2)(B) precludes the first purchaser from taking the net income limitation into account in determining the amount to be withheld from producers. However, it was requested that the regulations be amended to expedite refunds to producers from whom tax has been overwithheld due to the net income limitation.

These regulations amend § 150.6402–1 to permit refund claims to be filed as soon as the statute permits and the amount of the overpayment can be determined. Producers whose taxable year (for Federal income tax purposes) is the calendar year may file a claim for credit or refund any time after the last day of February following the year of removal (the date that section 4995(a)(4)(B) deems the tax to have been paid). Producers whose taxable year is not the calendar year may file two claims for credit or refund each year. First, after the last day of February following the calendar year of removal, the producer may file a claim for credit or refund of overpayments attributable to the portion of the calendar year that is within the taxable year that ended during that calendar year. Second, after the end of the following taxable year, the producer may file a claim for credit or refund of overpayments attributable to the remainder of the calendar year.

Waiver of Procedural Requirements of Treasury Directive

The expeditious adoption of the provisions contained in this document is necessary because of the need for immediate guidance to taxpayers liable for the windfall profit tax on domestic crude oil. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations is David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, part 150, Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980, is amended as follows:

Paragraph 1. Section 150.4995–3 is amended by revising so much of paragraph (a)(1) as precedes subdivision (i), by revising so much of paragraph (f)(1) as precedes subdivision (i), and by redesignating paragraphs (g) and (h) as (h) and (i) and inserting new paragraph (g) immediately after paragraph (f). These revised, redesignated, and added provisions read as follows:

§ 150.4995–3 Depositary requirements.

(a) *Deposits by integrated oil companies other than independent refiners*—(1) *In general.* Every integrated oil company (as defined in § 150.4996–1(g)) other than an independent refiner (as defined in § 150.4996–1(h)) that is either liable as a producer for the tax imposed by section 4986 (unless such tax is required by § 150.4995–1 to be deducted and withheld by the purchaser) or is required as a purchaser to deduct and withhold tax pursuant to § 150.4995–1 shall make deposits with respect to semimonthly periods (as defined in subparagraph (3)(i) of this paragraph). The amount to be deposited for each semimonthly period is the amount of tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b), if applicable) that is not required to be withheld under § 150.4995–1 on oil removed from the premises during that semimonthly period for which the company is liable as a producer, plus the amount required to be withheld by the company as a purchaser pursuant to § 150.4995–1 from payments that have been or will be made for oil removed from the premises during that semimonthly period. The deposits shall be made on or before the depositary date (as defined in subparagraph (3)(ii) of this paragraph) for the semimonthly period in which the oil is removed. These depositary requirements will be considered to have been met for a semimonthly period with respect to estimated deposits, including deposits based upon the producer's estimate of the effect of the net income limitation provided in section 4988(b), only if—

* * * * *

(f) *Deposits by producers of tax due on oil not subject to withholding*—(1) *In general.* Except as provided in paragraph (a) (relating to certain integrated oil companies), every producer shall deposit for each calendar month the tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b), if applicable) on the removal in that month of oil that is not subject to withholding under § 150.4995–1. The deposits shall be made not later than 45 days after the close of the month in which the oil was removed (or deemed removed under section 4988(c)(4)) from the premises. These deposit requirements will be considered to have been met for a month with respect to estimated deposits, including deposits based upon the producer's estimate of the effect of the net income limitation provided in section 4988(b), only if—

* * * * *

(g) *Special rules applicable if the net income limitation is taken into account in depositing tax*—(1) *Reporting requirements.* For the requirement that the producer file quarterly and annual statements if windfall profit tax deposits have been based on an application of the net income limitation provided in section 4988(b), see § 150.4997–1.

(2) *Treatment of deposits by a producer in excess of liability due to the net income limitation*—(i) *In general.* Under § 150.6402–1 a producer who deposits for a taxable period an amount that exceeds the tax imposed by section 4986 but does not exceed the tax imposed by section 4986 computed without regard to the net income limitation provided by section 4988(b) may not claim a credit or refund of the excess until the end of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed. However, the excess (if any) of a producer's deposits for a semimonthly period (calendar month in the case of producers depositing under paragraph (f) of this section) over the tax imposed by section 4986 (computed with regard to the net income limitation) for that period (or month) shall be applied in order of time to each of the producer's succeeding semimonthly periods (or months), to the extent that the amount by which the taxes for that period (or month) exceed the deposit for such subsequent period (or month), until such excess is exhausted. The preceding sentence shall not aply to any amount for which the producers files a claim for credit or refund pursuant to § 150.6402–1. Furthermore, no amount shall be applied to a deposit for a subsequent semimonthly period (or month) that occurs in a taxable period beginning in a different taxable year (for Federal income tax purposes).

(ii) *Examples.* The rules of this paragraph and their relationship to the rules of § 150.6402–1 may be illustrated by the following examples:

Example (1). A, whose taxable year(for Federal income tax purposes) ends September 30, is the producer of oil from property X. For each taxable period (calendar quarter) within his taxable year ending September 30, 1981, A's windfall profit tax liability, determined without taking the net income limitation into account, is $1,000. The purchaser of A's oil is not required to withhold any windfall profit tax, and for the last taxable period of 1980 A has deposited $1,000. At the beginning of the first taxable period of 1981, A determines that the net income limitation will reduce the windfall profit tax with respect to the oil removed from property X during the taxable year ending September 30, 1981, by approximately 10 percent. Therefore, A concludes that the tax paid for the preceding taxable period (calendar quarter) exceeds his liability for tax for that period, although the exact amount of the excess cannot be determined until the taxable year ends. Under § 150.6402–1, A may not claim a refund for the amount of any such excess until the taxable year ends on September 30, 1981. However, paragraphs (a) and (f) of § 150.4995–3 do not require deposit of more than the tax imposed by section 4986. Therefore, A may estimate the effect of the net income limitation in determining the amount of windfall profit tax to be deposited for each taxable period. Furthermore, the amount by which the tax deposited by A for a preceding deposit period exceeds the actual liability for that period is treated as deposited for the next period. Accordingly, A deposits a total of $800 for the first taxable periods of 1981 and $900 for each of the next two taxable periods. Thus, at the end of the four taxable periods ending within A's taxable year, A has made the following deposits:

Oct.–Dec. 1980	Jan.–Mar. 1981	Apr.–June 1981	July–Sept. 1981
$1,000	$800	$900	$900

After September 30, 1981, A computes his net income limitation for property X and determines that his actual tax liability was $850 for each taxable period. A has satisifed the deposit requirements and is entitled to file a claim for credit or refund of $200.

Example (2). Assume the same facts as in example (1), execpt that A overestimates the effect of the net income limitation and deposits a total of $600 for the first taxable period of 1981 and $800 for each of the next two taxable periods. After September 30, 1981, A's deposits are as follows:

Oct.–Dec. 1980	Jan.–Mar. 1981	Apr.–June 1981	July–Sept. 1981
$1,000	$600	$800	$800

$150 of the deposits for October, November, and December 1980 is treated as carried over to and deposited in the next taxable period, bringing the total deposited required for Jan-Mar 1981 to $700 (the amount equal to the $850 actual liability less $150 carried from the preceding period). However, due to the overestimation of the effect of the net income limitation, A has not deposited the total liability for that period or the next two taxable periods. Therefore, A is liable for $200 in undeposited tax (the amount equal to $3,400 total liability less $3,200 total deposits) plus interest and penalties (unless A's error was due to reasonable cause).

(h) *Government depositories.* * * *

(i) *Depositary forms.* * * *

Par. 2. Section 150.4997–1 is amended by revising the portion of paragraph (a) that follows subparagraph (2) to read as follows:

§ 150.4997–1 Returns and recordkeeping.

(a) *Returns.* * * *

Every producer taking the net income limitation provided by section 4988(b) into account in making windfall profit tax deposits shall file quarterly and annual statements in accordance with forms and instructions provided for the purpose. See § 150.6076–1 for the rules relating to the time for filing the returns required by this section.

* * * * *

Par. 3. Section 150.6402–1 is amended by revising paragraphs (b) and (c) and by adding new paragraphs (e) and (f) immediately after paragraph (d). These added and revised paragraphs read as follows:

§ 150.6402–1 Credit or refund of overpayment of windfall profit tax.

* * * * *

(b) *Overpayments not attributable to amounts deducted and withheld*—(1) *In general.* If, for any taxable period, a producer has paid more than the amount

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of tax imposed by section 4986 (computed without regard to the net income limitation on windfall profit provided in section 4988(b)) that is attributable solely to tax paid on crude oil not subject to withholding, the producer may file a claim for refund of that overpayment on or after the date for filing the return of such tax for such taxable period under section 6076 or may claim credit for such overpayment against any liability for a tax imposed by Chapter 1 or 45 in accordance with the forms and instructions provided for that purpose.

(2) *Net income limitation.* Except as provided in paragraph (b)(1), if, for any taxable period, a producer has paid more than the amount of tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b)) that is attributable solely to tax paid on crude oil not subject to withholding, the producer may file a claim for credit or refund of that overpayment only after the end of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed. At that time, the producer may claim a credit or refund of the overpayment as provided in paragraph (b)(1) of this section.

(c) *Overpayments attributable to amounts deducted and withheld*—(1) *In general.* Under section 4995(a)(4), the producer of oil is treated as having paid any amount withheld on the last day of the first February after the calendar year in which the oil was removed from the premises. Therefore, if the sum of the producer's liability for the tax imposed by section 4986 (computed without regard to the net income limitation provided in section 4988(b)) on oil subject to withholding under § 150.4995–1 for all taxable periods of a calendar year is less than the amount deducted and withheld from the producer under § 150.4995–1 with respect to oil removed during the calendar year, an overpayment of tax exists after such last day of February. The producer may file a claim for refund of the overpayment or may claim credit for the overpayment against any liability for a tax imposed by chapter 1 or 45 in accordance with the forms and instructions provided for that purpose. The producer shall attach to the claim a copy of all Forms 6248 furnished to the producer pursuant to § 150.4997–2.

(2) *Net income limitation.* Except as provided in paragraph (c)(1), if the sum of the producer's liability for the tax imposed by section 4986 (computed with regard to the net income limitation provided in section 4988(b)) on oil subject to withholding under § 150.4995–1 for any taxable period is less than the sum of the amounts deducted and withheld from the producer under § 150.4995–1 with respect to oil removed in that taxable period, the excess may be claimed as a credit or refund only after the later of—

(A) The last day of the first February after the end of the taxable period, or

(B) The last day of the producer's taxable year (for Federal income tax purposes) with respect to which the limitation is computed.

Thereafter, the producer may file a claim for credit or refund of the overpayment as provided in paragraph (c)(1) of this section.

* * * * *

(e) *Examples.* The rules of this section may be illustrated by the following examples:

Example (1). Under § 150.4995–1, the purchaser of oil from producer A is not required to deduct and withhold any tax from payments made to A. Consequently, A deposited a total of $1,100 for a certain taxable period. After the end of the taxable period, it is determined that the tax imposed by section 4986, computed without regard to the net income limitation, is $1,000. A estimates that, due to the net income limitation, the actual liability is only $900. Under paragraph (b)(1) of this section, A may file a claim for credit or refund of $100 (the amount by which the $1,100 deposit exceeds the $1,000 tax imposed by section 4986, computed without regard to the net income limitation). Under paragraph (b)(2) of this section, A may claim credit or refund of any overpayment due to the application of the net income limitation only after A's taxable year (for Federal income tax purposes) has ended. However, see § 150.4995–3(g)(2) for rules relating to estimated tax deposits.

Example (2). Producer B's taxable year for income tax purposes is the calendar year. Due to the application of the net income limitation, the amount of windfall profit tax withheld from B exceeds B's liability for each of the four taxable periods of the calendar year. B may file a claim for credit or refund of the overwithheld tax after the last day of February following the end of the calendar year.

Example (3). Producer C's taxable year for income tax purposes ends on June 30. Due to the application of the net income limitation, C's windfall profit tax has been overwithheld for each of the four taxable periods within C's taxable year ending June 30, 1981. C may claim credit or refund after June 30, 1981, for the overpayment attributable to oil removed during the last two taxable periods of calendar year 1980 (July-September and October-December 1980), because by that time C has been deemed, under section 4995(a)(4), to have paid the tax with respect to those taxable periods, and the taxable year in which the oil was removed has ended. However, C must wait until after February 28, 1982, to claim credit or refund for the overpayment attributable to oil removed during the first two taxable periods of calendar year 1981 (January–March and April–June 1981).

Example (4). Assume the same facts as in example (3), except that the purchaser of C's oil made an error and overwithheld tax during the last taxable period of calendar year 1980. The error remained unadjusted when the purchaser furnished C the annual information statement under § 150.4997–2. After February 28, 1981, C may file a claim for credit or refund of the amount overwithheld due to the withholding error. However, C may not claim a credit or refund for the overpayment due to the application of the net income limitation until the dates specified in example (3).

Example (5). Assume the same facts as in example (3), except that C's taxable year ends on August 31, and the overpayment due to the net income limitation relates to C's taxable year ending August 31, 1981. C may claim a credit or refund after August 31, 1981, for the overpayment attributable to oil removed during the last two taxable periods of calendar year 1980. After February 28, 1982, C may claim credit or refund for the overpayment attributable to oil removed during the first three taxable periods of calendar year 1981. However, that claim may only reflect overpayments due to the application of the net income limitation for oil removed through August 1981 because the last month of the third taxable period of 1981 (September 1981) is in C's next income tax year.

(f) *Cross-reference.* For examples illustrating the interrelationship of § 150.4995–3 (relating to depositary requirements) and this section, see § 150.4995–3(g)(2)(ii).

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 4997 and 7805 of title 26 of the United States Code (94 Stat. 249 and 68A Stat. 917; 26 U.S.C. 4997 and 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 31, 1980.

Robert Carswell,

Deputy Secretary of the Treasury.

[FR Doc. 80-34427 Filed 10-31-81; 11:59 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 518

[AR 340–17]

Release of Information and Records from Army Files

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its regulations on initial authority to release certain information and is adding three new regulations to 32 CFR Part 518 to ensure that release of information under the Freedom of Information Act (FOIS) is consistent with the Act and the need to maintain operations security (OPSEC). These additions and amendments outline procedures for obtaining classification evaluation under Army Regulation 380–5, Information Security Program, when sensitive documents are requested under the FOIA and require triannual reporting of the OPSEC implication of FOIA requests. In addition, these amendments and additions expand the number of Initial Denial Authorities (IDA) and provide for the designation of FOIA/OPSEC advisers to assit FOIA officials regarding the OPSEC aspects of FOIA activities.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. R. S. Christian, Privacy Branch, Records Management Division, Administrative Management Directorate, the Adjutant General's Office, Washington, DC 20310, Telephone (202) 693–0973.

Dated: October 29, 1980.

Guy B. Oldaker,

Chief, Records Management Division, The Adjutant General's Office.

Accordingly, 32 CFR Part 518 is amended by revising § 518.9(b) to read as follows:

§ 518.9 Initial Denial Authorities (IDA).

* * * * *

(b) *Assigned areas of responsibility:* The IDA are responsible for acting on requests for records within their areas of functional specialization and responsibility. This includes records created or otherwise maintained within the IDA's area of functional responsibility as indicated in (1) through (20), below, as well as records retired by, or referred to the IDA's headquarters or office. It also includes the records of predecessor organizations. IDA will act on requests sent directly to them as well as on referrals from officials under section 518.8 which deal with their areas of specialization or responsibility, as outlined in Army regulations in the 10 series. If a request for records falls within the area of responsibility of more than one IDA, the IDA to whom the request was originally addressed will normally be responsible for acting on it, unless otherwise agreed after consultation between the affected IDA. The IDA are fully responsible for completing all necessary coordinating actions at the initial denial level. IDA may delegate their authority, in whole or in part, to an office chief or subordinate commander, consistent with efficient administration of the Freedom of Information Act program. However, if a delegate denies a Freedom of Information Act request, he/she will make it clear that he/she is acting on behalf of the IDA. IDA will coordinate all matters which have public affairs aspects with the Chief of Public Affairs, or with the appropriate Public Affairs Officer in Accordance with AR 10–5 and AR 360–5. In cases in which the information requested is related to actual or potential litigation against the United States, its release will be coordinated with The Judge Advocate General (Litigation Division, HQDA (DAJA–LT), AUTOVON 22–51644 or Area Code 202/695–1644; see § 518.13). The following members of Headquarters Departments and Army commands are assigned IDA responsibility:

(1) The Administrative Assistant, Office of the Secretary of the Army is authorized to act for the Secretary of the Army on all requests for records relating to administrative matters at the Secretariat level as well as those requests requiring the personal attention of the Secretary of the Army.

(2) The Auditor General is authorized to act on requests for records relating to audits and internal reviews.

(3) The Deputy Chief of Staff for Operations and Plans is authorized to act on requests for records relating to strategy formulation, force development, individual and unit training policy, strategic and tactical command and control systems, nuclear and chemical matters, and employment of Army forces.

(4) The Deputy Chief of Staff for Personnel is authorized to act on requests for case summaries, letters of instruction to boards, civilian personnel records, behavioral science records, safety records, and military police reports.

(5) The Deputy Chief of Staff for Logistics is authorized to act on requests for records relating to Army logistical requirements, determinations, and policy concerning materiel maintenance and utilization, equipment standards, and logistical readiness.

(6) The Comptroller of the Army is authorized to act on requests for finance and accounting records.

(7) The Assistant Chief of Staff for Intelligence is authorized to act on requests for foreign scientific and technological information, intelligence training, mapping and geodesy, and ground surveillance records.

(8) The Assistant Chief of Staff for Automation and Communications is authorized to act on requests for records relating to Army policy for automation and communications.

(9) The Adjutant General is authorized to act on requests for personnel and medical records of retired, separated, and reserve component military personnel; records relating to Army administrative programs other than those pertaining to the Secretariat or those requiring the personal attention of the Secretary of the Army; records relating to casualty, memorialization, and retired activities; records relating to recreation, bands, club management, Army Community Service, Army Emergency Relief, general education, voting, and identification cards; records relating to naturalization, citizenship, consumer protection, survivor benefits, and commercial solicitation policies; and records dealing with Army relationships with social security, veterans' affairs, United Service Organization, United States Soldiers' and Airmen's Home, American Red Cross, and Armed Forces Exchange Service.

(10) The Chief of Engineers is authorized to act on requests for records involving civil works, military construction matters, engineer procurement and ecology matters, and the records of United States Army Engineer divisions, districts, laboratories, and field operating agencies.

(11) The Surgeon General is authorized to act on requests for medical research and development records, and the medical records of active duty military personnel,

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dependents, and persons given physical examinations or treatment at Army medical facilities.

(12) The Chief of Chaplains is authorized to act on requests for records involving ecclesiastical rites performed by Army chaplains, and privileged communications relating to the clergy.

(13) The Judge Advocate General (TJAG) is authorized to act on requests for records relating to claims, courts-martial, legal services, and similar legal-type records. TJAG is also authorized to act on requests for records described elsewhere in this regulation, if those records relate to litigation in which the United States has an interest. In addition, TJAG is authorized to act on request for records that are not within the functional areas of responsibility of any other IDA.

(14) The Chief, National Guard Bureau is authorized to act on requests for all Army National Guard records (unless such records clearly fall within the scope of another IDA's responsibility) including National Guard organization and training files; National Guard plans, operations, and readiness files; National Guard policy files; National Guard historical files; and files relating to National Guard military support and civil disturbance activities.

(15) The Chief, Army Reserve is authorized to act on requests for all United States Army Reserve (USAR) records (unless such records clearly fall within the scope of another IDA's responsibility) including records relating to USAR plans, policies, and operations; changes in the organizational status of USAR units; mobilization and demobilization policies; USAR training policies and programs; and policies relating to active duty tours and the Mobilization Designation Program.

(16) The Inspector General is authorized to act on request for all Inspector General Records in accordance with AR 20.1.

(17) The Commander, United States Army Materiel Development and Readiness Command (DARCOM) is authorized to act on requests for the records of DARCOM headquarters and its subordinate commands, units, and activities which relate to procurement, logistics, research and development, and supply and maintenance operations.

(18) The Commander, United States Army Criminal Investigation Command (USACIDC) is authorized to act on requests for criminal investigative records of USACIDC headquarters and its subordinate activities including criminal investigation records, investigation-in-progress records, and military police reports which result in criminal investigation reports.

(19) The Commander, United States Military Personnel Center is authorized to act on requests for military personnel files relating to active duty military personnel matters, and other military personnel administration records (other than those of reserve and retired personnel).

(20) The Deputy Commander, Intelligence, United States Army Intelligence and Security Command is authorized to act on requests for intelligence investigation and security records.

Accordingly, 32 CFR Part 518 is amended by adding §§ 518.20 through 518.23 to read as follows:

§ 518.20 Operations security (OPSEC).

The release of information from Department of the Army records must be accomplished in accordance with the Freedom of Information Act (FOIA) and in a manner that protects military operations and activities from hostile intelligence services and their agents. See AR 530–1, relating to OPSEC. Section 518.21 outlines the steps to be taken by FOIA personnel and Initial Denial Authorities (IDA) when it appears that a FOIA request involves OPSEC considerations.

§ 518.21 Operations security policy.

Release of information under the Freedom of Information Act (FOIA) can have an adverse impact on OPSEC. OPSEC policies and procedures as set forth in AR 530–1 must be implemented in a manner that is consistent with the provisions of FOIA as implemented by this regulation. The following will help ensure that OPSEC matters are adequately considered:

(a) Care must be taken to protect documents or portions of documents that have been properly classified in the interest of national security. Classified documents may be released in response to a FOIA request only in accordance with the declassification and downgrading provisions of Chapter III of AR 380–5. If it is determined that continued classification is required for only a portion of a requested document, those portions of the document that require continued protection will be specifically identified and any remaining portions that can reasonably be segregated may be released in accordance with AR 380–5.

(b) If it appears that the release of unclassified documents would cause damage to the national security, FOIA personnel should request a classification evaluation under paragraphs 2–204, 2–600, 2–800, and 2–801, AR 380–5. In such cases, consideration should also be given to the possible applicability to the requested documents of other FOIA exemptions set forth in sections 552(b)(2) through (9) of the Act. See § 518.14(b) through (i).

(c) If it appears that a compilation of unclassified documents, or portions thereof, results in a combination of information the release of which might cause damage to national security, consideration shall be given to classification of the compilation under the provisions of paragraph 2–211 of AR 380–5.

(d) If a document or information is not properly or currently classified when a FOIA request for it is received, the request may not be denied on the grounds that the document or information is classified, except with the prior coordination of the Army General Counsel.

§ 518.22 FOIA/OPSEC advisors.

(a) AR 530–1 requires OPSEC points of contact be designated within all HQDA Staff agencies and within all commands. This designated individual should be considered as a FOIA/OPSEC advisor with the following functions:

(1) To advise persons processing FOIA requests regarding the application of OPSEC requirements to specific requests for documents.

(2) To assist FOIA personnel in preparing requests for classification evaluations, and in specifically identifying those portions of documents that must remain classified under section 518.21 and AR 380–5.

(3) To assist FOIA personnel in preparing the triannual report required by section 518.23, regarding those FOIA requests received during the reporting period that have OPSEC implications.

(b) The existence of the FOIA/OPSEC advisor in no way relieves FOIA personnel and proponents of material being requested from protecting classified or exempted material.

§ 518.23 Triannual reporting requirements.

(a) The cost of administering the Freedom of Information Act program, and certain other information pertaining to the program, must be reported triannually to the Director of Freedom of Information and Security Review, OASD(PA). This report is also assigned RCS: DD-PA(TRA&A)1365.

(b) Feeder reports for this report will be submitted by initial Denial Authorities, and all other Army commands, agencies, and activities which process Freedom of Information Act requests. Commanders of major commands will consolidate reports of subordinate activities.

(c) These feeder reports will be submitted to HQDA(DAAG-AMR-S) WASH DC 20314. They must arrive at that office not later than—

(1) *20 May* (for the report period ending 30 April)

(2) *20 September* (for the report period ending 30 August)

(3) *20 January* (for the report period ending 31 December)

Extensions to these required dates will not be granted.

(d) DA Form 4835–R will be used to report triannual and annual program costs.

[FR Doc. 80-34490 Filed 11-4-80; 8:45 am]
BILLING CODE 3710-08-M

32 CFR Part 657

[AR 420–76]

Environmental Quality; Facilities Engineering, Pest Management Program

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending 32 CFR Part 657 to clarify policies, responsibilities, and procedures for conducting pest management programs on all Army installations and to incorporate recent changes and additions in guidance provided by the Department of Defense.

DATE: Effective date: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: James F. Smith, Buildings and Grounds Branch, Military Programs Directorate, Office, Chief of Engineers, Washington, DC 20314, (202) 272–0592.

SUPPLEMENTARY INFORMATION: On 18 October 1977, the Secretary of the Army, acting through the Chief of Engineers, published a final rule prescribing policies, responsibilities, and procedures for conducting pest control services on all Army installations and activities (32 CFR 657). Subsequently, the Department of Defense issued on 6 November 1978 a revision to DOD Directive 4150.7, "Department of Defense Pest Management Program," and issued on 5 January 1979 Defense Environmental Quality Program Policy Memorandum No. 79–2, "Department of Defense Pest Management Program." These documents provided additional and revised guidance on pest control applicator policy, integrated pest management, and program reviews. Additional amendments are made to provide clarification and simplification. Because the amendments merely clarify existing Army policy and implement recently established Department of Defense policy and guidance, it is unnecessary to propose these amendments for public comment. Since the amendments made are found throughout the document, the entire regulation is republished.

The Office of the Chief of Engineers has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under EO 11821 and OMB Circular A–107. In addition, it has been determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under EO 12044, Improving Government Regulation (43 FR 12661, March 24, 1978), or an environmental impact statement under the National Environmental Policy Act.

Accordingly, 32 CFR Part 657 is revised to read as follows:

1. The title of 32 CFR Part 657 is amended to read as follows:

PART 657—FACILITIES ENGINEERING, PEST MANAGEMENT PROGRAM

2. The balance of 32 CFR Part 657 is amended to read as follows:

Subpart A—General

Sec.
657.1 Purpose.
657.2 Applicability.
657.3 Explanation of terms.
657.4 Objectives.

Subpart B—Policies

657.11 Supervision.
657.12 Operations.
657.13 Materials and equipment.
657.14 Training and certification.
657.15 Environmental quality.
657.16 Nonappropriated fund activities.
657.17 Property leased to the Government.
657.18 Cooperation with other agencies.
657.19 Quarantine.
657.20 Aerial application of pesticides.
657.21 Outleased property.
657.22 Contractual pest management.

Subpart C—Responsibilities

657.31 MACOM Commanders.
657.32 Installation commanders.
657.33 Facilities engineers.
657.34 Surgeon general.
657.35 Building occupants.
657.36 Pest management coordinator.

Subpart D—Procedures

657.41 Pesticide handling.
657.42 Pesticide disposal.
657.43 Augmentation contracts.
657.44 Records and reporting requirements.

Subpart E—Appendix

657.51 Guidelines for reviewing pest management program.
657.52 Format for special planned pesticide usage report.

Subpart F—Glossary

657.61 Glossary.

Authority: 10 U.S.C. 3012.

Subpart A—General

§ 657.1 Purpose.

This regulation provides policies, standards, and certain procedures for pest control activities at US Army installations. It sets minimum levels of pest control operations in real property maintenance activities (RPMA). These operations are compatible with national mandates and for protecting the environment.

§ 657.2 Applicability.

(a) This regulation applies to the Army Reserve, the Army National Guard, and to all installations and activities worldwide under control of the DA. Control is by ownership, lease, or similar ways under the following conditions of use:

(1) Installations and activities—

(i) In active use by the Army.

(ii) Held in an inactive or standby condition for future active use by the Army.

(iii) In an excess category. (See AR 405–90, Disposal of Real Estate, for further guidance on excess properties.)

(2) Federally operated installations and activities, or portions thereof, which the National Guard uses full time or part time; or DA is holding them for use by the National Guard.

(3) Installations and activities, or portions thereof, which the Army Reserve or ROTC use full time or part time.

(b) This regulation does not apply to—

(1) Civil Works functions of the Corps of Engineers.

(2) Facilities occupied by Army activities as tenants when real property control is under another military department or Government agency, such as the General Services Administration.

(c) Installations outside the United States will comply with this regulation, except if—

(1) Specifically exempt.

(2) In conflict with laws, customs, conditions, or practices of the host country.

§ 657.3 Explanation of terms.

The terms used in this regulation are explained in the Glossary.

§ 657.4 Objectives.

This regulation's objectives are to—

(a) Develop, start, and maintain safe and effective programs for pest control at each Army installation.

(b) Maintain and protect the health, environmental quality, esthetic values, and ecological balance of the military community by—

(1) Protecting real estate investments from depreciation due to pests.

(2) Complying with environmental protection and improvement policies per AR 200–1, Environmental Protection and Enhancement.

(3) Controlling potential disease vectors when needed.

(4) Preventing damage of natural resources by insects or other pests.

(c) Keep and improve operating personnel competence and skill through periodic training and testing.

(d) Prevent medical or economic pests from being introduced or spread into or throughout the United States, its territories, or possessions by Army operations.

Subpart B—Policies

§ 657.11 Supervision.

Except as specifically exempted below and in § 657.21, § 657.22 and § 657.43, only DOD trained and certified personnel will apply the pesticides, or it will be done by others under their direct supervision.

(a) At each Army installation worldwide there should be at least two DOD certified pesticide applicators performing pest control. Sometimes this requirement may be relaxed, e.g., tenant activities, overseas, contractual arrangements, and base closures. Send requests for exception with justification to HQDA (DAEN–MPO–B), Washington, D.C. 20314.

(b) All personnel will be trained and certified in accordance with the DOD Plan for Certification of Pesticide applicators who—

(1) Perform pest management activities at least 25% of their on-duty time;

(2) Apply restricted-use pesticide.

(c) Part-time pesticide applicators (less than 25% on-duty time) who do not use restricted-use pesticides will be trained in—

(1) The safe, efficient, and environmentally sound use of pesticides.

(2) Other integrated pest management (IPM) methods

§ 657.12 Operations.

(a) Installations will use IPM techniques in their pest management programs as much as possible.

(b) Installation pest management activities will be scheduled to—

(1) Assure effective preventive and corrective measures.

(2) Ensure that surveillance and control activities prevent excessive pest populations from developing.

(3) Minimize the impact on the environment.

(c) Installations will make preventive pesticide applications only when pests are expected or a practical schedule for IPM cannot be made.

§ 657.13 Materials and equipment.

(a) Pesticides and equipment in the Federal Supply Catalogs, DOD section, will normally be used. Microfiche of catalogs C6800IL and 3740/50IL are available from Cdr, US Army Adjutant General Publications Center, 1655 Woodson Road, St. Louis, MO 63114. Use of a pesticide other than those registered by the Environmental Protection Agency (EPA) or states and approved for specific application per the label is not authorized. Direct requests to use pesticides according to specific public health and quarantine exemptions or experimental use permits through the MACOM professional pest management personnel (MPPMP) to HQDA(DAEN–MPO–B) for review and appropriate action. Pesticides that have been suspended or cancelled by EPA will only be used per the suspension or cancellation order and will not be used after the date indicated on the order. To avoid having cancelled or suspended materials on hand, limit purchases to that which can be used within 90 days.

(b) Appropriate MPPMP will review and approve proposed projects before acquiring or applying—

(1) Nonstandard pesticides and pest control equipment.

(2) State-registered pesticides.

(c) Alternate pesticides (standard or nonstandard) which do not meet contract specifications must be approved by MPPMP.

(d) Send requisitions for all nonstandard and state-registered pesticides to the MACOM for review and written approval. Agencies or commands without access to MPPMP support may obtain requisition review service from HQDA(DAEN–MPO–B), WASH, DC 20314.

(1) Pesticide requisitions must—

(i) Have data about the target pest.

(ii) Describe the area to be treated.

(iii) Give the extent of the area to be treated.

(iv) Give the rate of application.

(v) Give the name and certification number of the applicator.

(vi) Justify the pesticide's use.

(2) On the requisition's written approval by the proper MPPMP, nonstandard pesticides may be purchased locally.

(e) Equipment listings are contained in TM 5–632. Procurement criteria are in AR 420–17. Information about new developments in equipment is available from the MPPMP.

§ 657.14 Training and certification.

(a) All pesticide applicators who determine the effectiveness or selection and application of pest control on Army real property must be periodically trained and examined. Training for first certification and recertification will be done under the DOD Plan for Certification of Pesticide Applicators.

(1) Prerequisites for attending the training courses include—

(i) A term (MPPMP approved) of successful on-the-job training.

(ii) Successful completion of the correspondence course, Basic Pest Control Technology, NTTC Course 150. This course is conducted by the Navy Public Works Center, Norfolk, VA 23511. The MPPMP must approve the applications for this course.

(2) CONUS installation (includes Hawaii and Alaska) pesticide applicators will be trained in specific courses given at—

(i) US Army Health Services Command, Ft Sam Houston, TX.

(ii) US Air Force at Sheppard Air Force Base, TX.

(iii) US Navy at Jacksonville Naval Air Station, FL.

(iv) Naval Air Station, Alameda, CA.

(3) All pesticide applicators who are candidates for their first certification must successfully complete the core phase and the special categories of training desired at one of the training facilities indicated above.

(4) Obtain quotas for the US Army Health Services Command training from the US Army Medical Department Personnel Support Agency, ATTN: SGPE–ED, WASH, DC 20324. Contact this office by calling AUTOVON 223–5358 or 223–5559. Personnel using pesticides should keep abreast of developments by attending local and state training sessions and trade and professional meetings.

(5) Training of pesticide applicators at oversea installations will follow the DOD Plan for Certification of Pesticide Applicators, except as follows:

(i) The Medical Command (MEDCOM) or MACOM professional pest control personnel will do the training.

(ii) Personnel must be trained to apply pesticides according to the host country's laws when they differ from United States laws. The more restrictive law for use and disposition of pesticides will be followed.

(b) Training will be available in the following categories:

(1) Agricultural pest control (animal).

(2) Forest pest control.

(3) Ornamental and turf.

(4) Aquatic.

(5) Rights-of-way.

(6) Industrial, institutional, structural, and health related.

(7) Public health.

(8) Demonstration and research.

(c) A DD Form 1826 (Certificate of Competency) will be issued to those who meet the required competency levels, and, as recommended by MPPMP, for the appropriate categories. Certificate of Competency will be valid for not more than 3 years. Recertification will require refresher training, written test, and reassessing on-the-job competency. DD Form 1826 is available from the OCE Publications Depot, 890 South Pickett Street, Alexandria, VA 22301.

(d) Supervisors and certified applicators will train new hires on the job. MPPMP may assist in training during technical visits and in special MACOM-sponsored training sessions.

§ 657.15 Environmental quality.

Pest control will be planned and conducted to minimize or eliminate adverse environmental effects. If required, prepare and process draft documents and final environmental impact statements on time per AR 200–1.

§ 657.16 Nonappropriated fund activities.

Only trained and certified personnel or those under their direct supervision will apply pesticides at nonappropriated fund activities. (See § 657.11.) Contracts for pest control at nonappropriated fund activities will be governed by this regulation.

§ 657.17 Property leased to the Government.

(a) CONUS and overseas.

(1) Lease instruments will be negotiated to note the responsibilities of the lessor and of the lessee (Government) for accomplishing pest control. In foreign countries, these responsibilities will be predicated on custom, condition, and practices of the country concerned.

(2) Occupants will keep the leased premises clean and sanitary.

(b) *CONUS* (includes Alaska and Hawaii). Where feasible, the lessor will—

(1) Furnish and keep the leased housing free of pest infestation (AR 420–71 leased premises).

(2) Use controls and pesticides that conform to Federal, state, and local regulations for facilities under DA control.

§ 657.18 Cooperation with other agencies.

(a) *General.* Specialists of other Federal agencies assist with problems of medical, agricultural, and environmental importance (e.g., disease and pest control, quarantine control, customs inspection, fish and wildlife protection, water protection) as requested. The installation commander will ask the appropriate MACOM commander for these services. These agencies include the—

(1) US Department of Health and Human Services (Public Health Service).

(2) US Department of Agriculture (plant protection, quarantine, and veterinary services of the animal and plant health inspection services).

(3) US Department of the Interior (Fish and Wildlife Service).

(4) US Treasury Department (Bureau of Customs).

(5) Environmental Protection Agency (Office of Pesticide Programs).

(b) *Coordination.* Installations will coordinate environmental assessments of outdoor applications of pesticides with departments and agencies in (a) above. This coordination will be requested through the MACOM to the appropriate agency. Requirements for Environmental Impact Assessments (EIA) or Environmental Impact Statements (EIS) for certain application of pesticides are provided in AR 200–1.

(c) *Notification.* Installations will notify MACOM's of proposed visits or surveys by representatives of organizations in (a) above when these visits or surveys relate to quarantine or to past or proposed pesticide use.

§ 657.19 Quarantine.

(a) In accordance with AR 700–93 Prossessing and Shipping DOD Sponsored Retrograde Materiel Destined for Shipment to the United States, its Territories, Trusts, and Possessions, and AR 40–12, Medical and Agricultural Foreign and Domestic Quarantine Regulations for vessels, aircraft, and other transports of the Armed Forces, all command levels will cooperate fully with Government agencies responsible for quarantines of agricultural and public health significance.

(b) MACOM commanders will ensure that areas to receive pesticide treatment are limited to the minimum needed to meet quarantine requirements.

(c) Installations will procure pesticides, equipment, and other materials needed to comply with quarantine requirements.

§ 657.20 Aerial application of pesticides.

Applying pesticides by air will be done per AR 40–574, calibration procedure for multimeters AN/PSM–6, AN/PSM–6A, Pesticides. Prepare an EIA before aerial application, followed by an EIS, if needed.

§ 657.21 Outleased property.

Outgrant holders must comply with all pesticide and animal damage control laws, ordinances, specifications, and rules in land use regulations that are part of the outgrant document. Before starting any compliance program that deviates from the land use regulations, get the MACOM to review and approve details of the program. Where possible, supplemental agreement to existing outgrants, renewed or amended, will make provisions for compliance requirements stated above. (See AR 420–74, Natural Resources; Land, Forest, and Wildlife Management).

§ 657.22 Contractual pest management.

(a) Decisions made on in-house versus contract must agree with current DA Commercial and Industrial Type Activities (CITA) directives. (See § 657.43 for augmentation contracts.)

(b) Installations in states that give pesticide training, regulation, and certification programs having final approval by EPA will decide on contract or in-house method per effective CITA directives. State certification is accepted for competency. DOD certification is not needed.

(c) MPPMP will review and approve technical provisions of all proposed contracts. Commander-in-Chief, US Army Europe, US Army Japan, and Eighth US Army may delegate this approval.

(d) Personnel with a current DD Form 1826 covering categories in the contract will review all pest control contracts. The review must assure contractual work is in accord with contract specifications. Review will include, but not be limited to—

(1) On-site inspection of unopened pesticide containers to verify that the chemical listed on the label—

(i) Meet contract specifications.

(ii) Can be applied in accordance with the registered use.

(2) Watching—

(i) Mixing and equipment operations.

(ii) Rate of application (volume versus area).

(iii) To detect environmental hazards.

(iv) Safety precautions.

(e) Copies of each contract awarded and the cost comparison pertaining to the contract will be given the MPPMP.

Subpart C—Responsibilities

§ 657.31 MACOM Commanders.

MACOM commanders will provide command and technical supervision of the pest management program at installations under their command. They will have enough PPMP to assure that all areas of pest management have

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professional direction. Small MACOM's without justification for MPPMP will obtain an intraservice support agreement with a MACOM that is appropriately staffed. MPPMP serving on the engineer staff will—

(a) Advise on all aspects of pest management operations. Included are—

(1) Manpower requirements.

(2) Operational needs.

(3) Minimizing pesticidal environmental impact.

(4) Training and certifying pest control personnel.

(5) Procedural needs to assure efficient pest control programs.

(b) Coordinate with other agencies to implement environmentally safe and efficient pest control programs.

(c) Coordinate with Army medical authorities to implement their responsibilities as given in AR 40–5.

(d) Review and provide written approval to user of—

(1) Nonstandard pesticides.

(2) State-registered pesticides.

(3) All equipment prior to procurement, as indicated in § 657.13.

(e) Ensure that—

(1) Annual on-site reviews of installation pest management and surveillance activities are done by PPMP.

(2) Recommendations that would result in safer, more economical, and more effective operations are made to facilities engineers.

(3) MACOM requirements for Army Medical Department (AMEDD) PPMP help in providing on-site reviews of installation pest management and surveillance programs will be coordinated with US Army Health Services Command. Guidance for conducting program reviews is provided in Appendix § 657.51.

(f) Maintain professional proficiency by—

(1) Attending professional meetings.

(2) Keeping abreast of new developments reported in professional publications.

(g) Assist in providing on-the-job training for installation pest control personnel to—

(1) Select, use, and maintain pest control equipment.

(2) Select, prepare, and apply pesticides.

(3) Report accurately the usage of these materials.

(h) Maintain record of training and certification status of pesticide applicators and check their activities to determine competence.

(i) Certify pest management personnel in accordance with the DOD Training and Certification Plan.

(j) Review and approve technical provisions of all pest management contracts prior to solicitation of bids.

(k) Provide technical review of all military construction, modification, and repair projects to assure structural pest control requirements are included.

§ 657.32 Installation commanders.

Installation commanders will—

(a) Determine an installation's position and responsibilities in community-wide pest control regarding quarantine and epidemics.

(b) Maintain liaison with MACOM's about pest surveys and investigations proposed by other agencies.

(c) Establish lessee responsibility for using pesticides on outgrants of military real property.

(d) Initiate requests for aerial spraying of pesticides as prescribed in AR 40–574.

(e) Designate a pest management coordinator for all installation pest management activities.

(f) Approve and support the installation's pest management program formulated by the facilities engineer and the installation surgeon and approved by the MPPMP.

§ 657.33 Facilities engineers.

Installation facilities engineers will—

(a) Develop a comprehensive written pest management plan for the installation following the guidance in TM 5–632, chapter 2, section 3, and this regulation.

(b) Supervise and direct pest management operations.

(c) Conduct preventive maintenance and surveillance inspections at timely intervals.

(d) Ensure that operating personnel receive adequate training to achieve required certification.

(e) Provide on-the-job training of new operating personnel.

(f) Obtain and maintain adequate supplies of materials and equipment.

(g) Assure all pest management operations are done safely.

(h) Decide the phases of pest control to be done by contract, based on existing policies. Included are—

(1) Preparing needed specifications and technical provisions for the contract.

(2) Arranging for the purchasing and contracting (P&C) officer to obtain contract services.

(3) Assuring that contract operations are done per specifications through continuous inspection by personnel holding a valid Certificate of Competency.

(i) Perform all recordkeeping and reporting requirements of this regulation.

(j) Inform heads of nonappropriated fund activities—

(1) That applying restricted-use pesticides at these activities will be done by, or under the direct supervision of, trained and certified personnel.

(2) Where certification training is given.

(k) Assure that pest control services are conducted so as to minimize any adverse effects on the environment.

(l) Cooperate with the installation medical authority by—

(1) Furnishing and maintaining mosquito light traps.

(2) Performing essential pest control operations indicated by results of surveillance of medical and quarantine pests.

(3) Providing all needs to meet health safety criteria, including shops, equipment, and protective gear.

(m) Maintain records of operations (e.g., investigations, inspections, manpower use, funds, and pesticides) for analyzing efficiency and economy and evaluating pest control.

§ 657.34 Surgeon general.

The medical authority (State Adjutant General for the National Guard Bureau) serving the installation will—

(a) Conduct surveillance of pest populations involved in the health of the command and those involved in US Department of Agriculture quarantine regulations. The medical authority will give the facilities engineer the results of the survey activities.

(b) Conduct the installation pesticide monitoring program.

(c) Obtain timely identification and susceptibility status of pests to pesticides as necessary. Furnish this information to facilities engineers to be incorporated into pest control operations.

(d) Establish health and personnel safety criteria for pesticide operations.

(e) Assist the engineer MPPMP to conduct annual on-site installation pest management program reviews. (See Appendix 657.51.)

(f) Provide the certification training of pesticide applicators in accordance with the DOD plan.

§ 657.35 Building occupants.

Occupants of buildings, including Army family housing, will—

(a) Apply good sanitation practices to prevent pest infestations.

(b) Apply only those pesticides approved for use by building occupants.

(c) Cooperate fully with installation pest control personnel in scheduling major operations, to include preparing the areas to be treated.

(d) Obtain, through command channels, MPPMP approval before using any contract pest control services.

§ 657.36 Pest managment coordinator.

The coordinator will be aware of all pesticide applications on the installation and will assure that—

(a) All pesticide applications are recorded and reported according to this regulation.

(b) All personnel responsible for accomplishing pest management activities know the policies and procedures in this regulation.

Subpart D—Procedures

§ 657.41 Pesticide handling.

(a) *General.* (1) Handle pesticides in accordance with AR 200–1 and appropriate Federal regulations (29 CFR 1910 and 40 CDR 165.10). Assign vehicles with lockable storage suitable for safe transportation of pesticides, personnel, and supplies for control operations. Do not use these vehicles for other purposes. Do not transport pesticides in the cabs of vehicles.

(2) Maintain an accident prevention and environmental protection program within the installation pest management program area.

(b) *Safety.* Current recommendations for design and construction criteria for pesticide mixing or storage facilities and the use of protective devices and clothing is available from the MPPMP and the US Army Environmental Hygiene Agency (USAEHA). Masks, respirators, gloves, and protective clothing will be provided, as required (AR 385–32 and TB Med 223). Pesticide-contaminated clothing will not be home laundered; it will be laundered at Government expense. Dispose of clothing contaminated so severly as to produce an imminent health hazard. For pesticide poisoning, see the installation's surgeon or nearest available doctor. Get added information by calling the local poison control center or USAEHA Pesticide Hotline (AUTOVON 584–3773).

(c) *Pesticide spills.* Report all pesticide spills in accordance with the installation's National Oil and Hazardous Pollution Contingency Plan. If not covered in the plan, notify the installation surgeon, safety officer, fire marshal, state and local authorities, and the appropriate MPPMP. Get added help by calling USAEHA Hazardous Substance Spill Response Team during USAEHA duty hours: Commercial (301) 671–3816 or AUTOVON 584–3816. During USAEHA non-duty hours, Commercial (301) 671–4375 or AUTOVON 584–4375.

(d) *Pesticide storage.* Inspect stored pesticides monthly to determine condition of containers and if shelf life is near or has passed. Maintain inventory of stored pesticides continuously. Certified personnel and safety and fire prevention officers will inspect and record findings.

§ 657.42 Pesticide disposal.

(a) *General.* The installation will not store or dispose of pesticides collected by the civilian community.

(b) *Disposal.* Use serviceable excess pesticides locally for the purpose originally intended, if permitted; report them to the local Defense Property Disposal Office (DPDO); or dispose of them as appropriate. Allowed disposal methods will vary from one place to another, based on available approved pesticide incinerators and designated landfills. Consult the MPPMP on proper disposal procedures. Ask the USAEHA Solid Waste Division for guidance. In oversea areas, follow local laws and Status of Forces Agreements regarding pesticide disposal. Maintain records locally on any pesticide disposal. Rare exceptions to the following prohibited procedures may be granted by the regional administrator of EPA

(1) Do not dispose of any pesticide, its waste, its container, or residue from its container in a way as to cause or allow—

(i) Open dumping.

(ii) Water dumping.

(iii) Well injection.

(iv) Direct exposure that may cause contamination of food or feed supplies, or a manner inconsistent with its label or labeling.

(2) Do not dispose of any pesticide, its waste, its container, or residue from its container in a way inconsistent with its label as to cause or allow open burning. However, in an open field, the applicator may burn small amounts of combustible containers, not more than 50 pounds or the amount used in a single work day, whichever is less (except those formerly containing organic berylium, selenium, mercury, lead, cadmium, or arsenic compounds). Before burning, consider the following:

(i) Wind direction in relation to receptors such as population centers, field workers, domestic animals, and surface water supplies.

(ii) Burn in accord with Federal, state, or local ordinances.

(iii) Avoid contamination of surface and ground water to levels in excess of Public Health Service standards, US Department of Health and Human Services, for potable water.

(c) *Repacking.* Transfer pesticides in deteriorated containers to approved clean containers that are lined to protect against chemical reaction. Do not place different formulations of the same pesticide in the same container.

(1) Label replacement containers to include—

(i) The name and strength of the pesticide formulation.

(ii) The registration number.

(iii) Other pertinent manufacturing data (e.g., log number, date of manufacture, and expiration date) from the original label (40 CFR 162.4–162.7).

(2) Serviceable repackaged pesticides should be managed as described for serviceable excess pesticides. (See (b) above.) Details on repackaging are found in AR 200–1.

§ 657.43 Augmentation contracts.

(a) Contracts for supplementing in-house pest management activities will be executed, when required, according to existing procurement regulations and the following guidelines:

(1) The services are economically beneficial to the Government and certified contractors are available.

(2) Application by trained and certified facilities engineering personnel is not feasible because of remote location, project size, or manpower, time, and equipment limitations.

(b) Examples of augmentation pest management contracts include—

(1) Single applications of fumigants for entire building or other large enclosure.

(2) Aerial or special equipment applications over large areas such as mosquito breeding areas.

(3) Wood treatment projects, such as groundline treatment of utility poles.

(4) Extensive termite control.

(5) Other operations which facilities engineering personnel cannot do with in-house resources.

(c) The facilities engineering office, in cooperation with the installation medical authority, will prepare technical requirements for all pest management contracts. The facilities engineer will send project plans and specifications to the appropriate MACOM for review and approval. This approval must be obtained before a request is made for getting the service from commercial sources. Include information on the status of EPA's approval of state plans for training and certifying commercial applicators.

(d) Technical provisions will specify only the pesticides approved by the MPPMP and registered by EPA. Identify the items used by the contractor by quality and quantity.

(e) The contractor must submit proof that the supervisory and applicator personnel to be employed on the contract will—

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(1) Meet the state certification standards set in response to EPA's implementation of FIFRA or competency requirements set by HQDA (DAEN–MPO–B) in those States that do not meet FIFRA certification requirements.

(2) Provide safe working conditions for personnel and installation occupants.

(f) Inspect the contract per § 657.22 (d).

§ 657.44 Records and reporting requirements.

(a) Maintain adequate records of all pest control operations. The records will be a reference for monitoring and managing pest control operations.

(b) All installations will maintain daily records of pest management activities on DD Form 1532 (Pest Control Report) or other similar formats. Included are the data required by the MACOM for the pest control report. These records will be retained at least 2 years.

(c) Use DD Form 1532 to report all pesticide and pest control information required by part I of the form. Part II will not be reported. The recordkeeping and reporting requirements have been assigned Report Control Symbol DD–M (A&AR) 1080. DD Form 1532 may be requisitioned through normal publications supply channels.

(1) Each installation and subinstallation performing pest management will submit the reports monthly or in accordance with MACOM requirements. Copies will be distributed according to instructions on the back of DD Form 1532 and to—

(i) The appropriate MPPMP.

(ii) The installation doctor.

(iii) The USAEHA, Aberdeen Proving Ground, MD 21010.

(iv) The appropriate medical entomologist at USAEHA Regional Divisions, within 15 days after the report period.

(2) These reports will include all pest control operations conducted by—

(i) The facilities engineer.

(ii) Contractors.

(iii) Government-owned, contractor-operated (GOCO) activities.

(iv) Nonappropriated fund activities.

(v) All outgrant lease holders.

(d) Installations will prepare a report annually of anticipated installation pest management programs or projects that—

(1) Use a restricted-use pesticide.

(2) Use any pesticide that could reasonably be expected to significantly contaminate surface or ground water.

(3) Involve 640 or more contiguous acres (1 square mile) being treated as one application.

(4) Involve applying a pesticide by aircraft.

(5) Affect endangered species.

(e) The annual report will describe all anticipated appropriate programs for 1 April through 31 March. Report Control Symbol DD–M(A&AR)1080 has also been assigned to this reporting requirement. Submit reports to HQDA (DAEN–MPO), Washington, DC, 20314 by 1 December preceding the period of planned use. The format at Appendix B will be used in making this report. Include details about the—

(1) Objective of the program.

(2) Target pest.

(3) Pesticide.

(4) Application procedures.

(5) Description of the area.

(6) Sensitive areas or issues.

(7) Any remarks helpful in reviewing the program.

Subpart E—Appendix

§657.51 Guidelines for reviewing pest management program.

(a) The following guidelines will—

(1) Aid PPMP's with the annual on-site program review at all major Army installations.

(2) Get maximum use of all PPMP's (MACOM and USAEHA) working on program reviews.

(3) Obtain maximum benefits from program reviews.

(b) The following will be accomplished:

(1) Before the start of each fiscal year, the MACOM will decide priorities for installation programs needing review.

(2) This priority listing will be coordinated with pest management program reviews planned by USAEHA.

(3) As determined by specific problems or activities at the installation, program reviews by both the MACOM and USAEHA during the same 12-month period will be avoided.

(4) Before reviewing a program, the agency conducting the review (MACOM or USAEHA) will contact the other agency to determine any problem areas to be covered.

(5) When the annual on-site review is performed by personnel from a single professional interest (e.g., entomology), coordinate with other MACOM/USAEHA professionals (e.g., agronomists, foresters, biologists) to assure all aspects of the total program are reviewed. Prepare a checklist before each review of known problem areas and special interest items.

(6) The agency (MACOM/USAEHA) reviewing a program will provide a copy of its report to the other agency for information and action.

(7) When deficiencies in a pest management program are noted, the agency responsible (MACOM engineer/surgeon) will correct the deficiency and provide a followup report within 120 days to other concerned agencies (MACOM/USAEHA).

§657.52 Format for special planned pesticide usage report.

(a) Location (include state and county).

(b) Project number (if applicable).

(c) Objective.

(1) Target pest.

(2) Purpose (examples: health and morale, wood protection, water management, weed control, protection of ornamental and turf, quarantine).

(d) Pesticide.

(1) Common name.

(2) Formulation.

(3) Concentrations of active ingredient (percent by weight or volume, or lbs/gal).

(4) Standard/nonstandard (include a sample label).

(5) EPA Registration No.

(e) Application.

(1) Form applied (dust, emulsion, gas, etc.).

(2) Use strength (percent) or dilution rate.

(3) Diluent.

(4) Rate (lbs per acre, etc.).

(5) Method (aerial, ground, manual, etc.).

(6) Area.

(i) Acres or other unit to be treated.

(ii) Number of applications.

(iii) Frequency of application to same sites.

(iv) Number of sites/application to occur.

(v) Specific identity of each site.

(7) Months of year pesticide application to occur.

(f) Sensitive areas.

(1) Areas to be avoided (crop lands, lakes, streams, endangered species habitat, etc.).

(2) Areas to be treated with caution (specific identity of each site to include state and county).

(g) Remarks (includes, but not limited to, precautions to be taken, non-chemical alternatives considered, state and local coordination, other pesticides being applied to same sites, and whether treatment is to be done with in-house resources or by contract).

Subpart F—Glossary

§ 657.61 Glossary.

(a) *Certification.* A pesticide applicator's competency must be certified by designated MACOM professionals and installation officials under the DOD Plan for Certification of Pesticide Applicators. The designated professional recommends a Certification of Competency (DD Form 1826) be issued to qualified candidates. Upon approval by the installation commander, certification is complete.

(b) *Certification Categories.* Ten primary categories of certification training have been set by mandate (40 CFR 171.3) as special training requirements in addition to basic training. Eight of these categories are in the DOD certification plan. They apply to the variable conditions encountered in DA pest control operations. These include—

(1) Agricultural Pest Control (Animals).

(2) Forest Pest Control.

(3) Ornamental and Turf.

(4) Aquatic.

(5) Rights-of-Way.

(6) Industrial, Institutional, Structural, and Health Related.

(7) Public Health.

(8) Demonstration and Research.

(c) *Integrated Pest Management (IPM).* Combining control techniques to prevent, eliminate, and suppress pests.

(d) *MACOM Professional Pest Management Personnel (MPPMP).* Professional pest management personnel working in RPMA on the major Army command (MACOM) staff of the engineer and medical entomologist assigned to the engineer or surgeon.

(e) *Nonstandard Pesticides and Equipment.* Includes all pesticides and equipment not listed in the DLA catalog as standard items. These items can be purchased locally after the MPPMP has given written approval.

(f) *Operating Personnel.*

(1) Certified personnel who have been trained under the DOD Plan for Certification of Pesticide Applicators and have been issued a DD Form 1826.

(2) Trainee personnel who operate under the direct supervision of a certified person.

(3) Part-time pesticide applicators as defined in § 657.11(c).

(g) *Pest Management.* Pest control or prevention considering—

(1) Suppression techniques.

(2) The pests' habitat.

(3) Interrelationships between the pests and the ecosystem.

(h) *Pesticide Classification.* Pesticide categories based on toxicity and use patterns for general or restricted use by the US Environmental Protection Agency (EPA) under PL 92–516.

(i) *Pesticides.* Substances and combinations of substances to prevent, destroy, repel, or mitigate pests. Also, substances and mixtures used as plant regulators, defoliants, or desiccants.

(j) *Pests.*

(1) Those land or aquatic organisms that—

(i) Adversely affect the health and welfare of man and animals;

(ii) Attack military real property, stored supplies, or equipment; or

(iii) Are otherwise undesirable by their presence.

(2) These pests include, but are not limited to arthropods, birds, rodents, nematodes, fungi, bacteria, viruses, algae, snails, marine borers, snakes, and weeds.

(3) Excluded are viruses, bacteria, and fungi normally living on or in human or other living animals.

(k) *Professional Pest Management Personnel (PPMP).*

(1) Military officers or civilian employees of DOD or its components—

(i) With a college degree in a biological or agricultural science, such as agronomy, entomology, forestry, or wildlife biology.

(ii) In a current assignment that includes pest management responsibilities on a regular basis.

(2) Civilian personnel also must meet the minimum requirements of governing Office of Personnel Management qualification standards.

(3) PPMP should have at least 2 years' professional experience.

(l) *Registered Pesticide.* A pesticide that the EPA administrator or EPA-approved states have registered per 7 USC 135.

(m) *Restricted-Use Pesticide.* A pesticide that the EPA administrator determines per 7 USC 135 that, when applied according to directions, without added restrictions, it may cause unreasonable adverse effects on the environment or injure the applicator.

(n) *Standard Pesticides and Equipment.* Pesticides and equipment, standardized, purchased, and stocked as items proven best for use at defense installations. Includes only EPA-registered pesticides and equipment which—

(1) Are rated and approved for standardization by the Armed Forces Pest Management Board.

(2) Have a national stock number (NSN).

(3) Are listed in the Defense Logistics Agency (DLA) catalog.

Dated: October 30, 1980.

Forrest T. Gay III,

Colonel, Corps of Engineers Executive Directive Engineer Staff.

[FR Doc. 80–34475 Filed 11–4–80; 8:45 am]

BILLING CODE 3710–08–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Measurement of Internship and Residency Courses

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations allow for measurement of medical and dental internships and residencies on a less than full-time basis when determining the amount of educational assistance to be paid to a veteran or eligible person. Recently, instances have arisen where veterans have pursued on a less than full-time basis internships and residencies accredited by the Council on Dental Education of the American Dental Association. Since there was no provision in the regulations to measure such courses, the veterans could not be paid educational assistance. The amendment corrects this, and allows these veterans and eligible persons to be paid educational assistance.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 50369–50373 of the **Federal Register** of July 29, 1980, there were published proposed regulations to permit payment of educational assistance allowance to veterans and eligible persons pursuing medical or dental internships or residencies part-time.

Interested persons were given until August 28, 1980 to submit comments, suggestions or objections. We received no comments, suggestions or objections. The proposed amendments to §§ 21.4270 and 21.4275 are adopted without change. The final amendments are set forth below.

Approved: October 29, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 21.4270, paragraph (b) is revised to read as follows:

§ 21.4270 Measurement of courses.

* * * * *

(b) Collegiate, professional and on-the-job training courses shall be measured as stated in this table. Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

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Kind of school	Courses: Kind of course	Full time	¾ time	½ time	Less than ½ more than ¼ time	¼ time or less
Collegiate undergraduate.	Standard collegiate courses including cooperative and external degree programs [1].	14 semester hours or equivalent [2].	10 through 13 semester hours or equivalent.	7 through 9 semester hours or equivalent.	4 through 6 semester hours or equivalent.	1 through 3 semester hours or equivalent.
Collegiate graduate.	Standard collegiate graduate courses including law and external degree programs [1].	14 semester hours or equivalent or as certified by a responsible official of the school [2].	10 through 13 semester hours or as certified by a responsible official of the school.	7 through 9 semester hours as certified by a responsible official of the school.	4 through 6 semester hours or as certified by a responsible official of the school.	1 through 3 semester hours or as certified by a responsible official of the school.
Professional nonaccredited.	Law only [3]	12 class sessions per week	9 through 11 class sessions per week.	6 through 8 class sessions per week.	4 through 5 class sessions per week.	1 through 3 class sessions per week.
Professional accredited and equivalent.	Internships and residences: Medical, Dental, Osteopathic.	As established by accrediting association.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.	As established by accrediting association or entity offering the internship or residency.
	Nursing, X-ray, medical technology, medical records librarian, physical therapy [4].	18 clock hours or 14 semester hours, as appropriate.	13 through 17 clock hours or 10 through 13 semester hours, as appropriate.	9 through 12 clock hours or 7 through 9 semester hours, as appropriate.	5 through 8 clock hours or 4 through 6 semester hours, as appropriate.	1 through 4 clock hours or less than 4 semester hours, as appropriate.
Training establishment.	Apprentice or other on-the-job [5].	Standard workweek		Full time only		
Agricultural	Farm cooperative [6]	10 clock hours net instruction [7]	7 clock hours net instruction	5 clock hours net instruction.		No provision.

[1] Independent study programs will be measured as provided in § 21.4280. Cooperative courses may be measured on a full-time basis only.

[2] Where the institution certifies that all undergraduate students enrolled for a minimum of 12 or 13 semester hours or the equivalent are (1) charged full-time tuition, or (2) considered full-time for other administrative purposes, such minimum hours will establish the criteria for full-time measurement.

When 12 hours is properly certified as full-time, 9 through 11 hours will be measured as ¾ time, 6 through 8 hours will be measured as ½ time, 4 through 5 hours will be measured as less than ½ time and more than ¼ time, and 1 through 3 hours will be measured as ¼ time or less. All other undergraduate courses will be measured as indicated in the table for undergraduate or professional courses as appropriate, but where 13 credit hours or the equivalent is certified as full time, ¾ time will be 10 through 12 hours. When in accordance with § 21.4273(a), a responsible official of a school certifies that a lesser number of hours constitute full time, ¾ time, ½ time, less than ½ time and more than ¼ time, or ¼ time, the certification will be accepted for measurement purposes.

Upon request of a beneficiary, an increase in rates warranted under this criteria may be authorized to him or her effective March 26, 1970, if he or she was enrolled on or after March 26, 1970. The request of the beneficiary will not be required for other payments under this criteria.

To meet criteria for full-time measurement under 38 U.S.C. chapters 34 and 35 in standard collegiate courses which include required noncredit deficiency courses, in the absence of a certification under § 21.4272(f) the noncredit deficiency courses will be converted on the basis of the applicable measurement criteria, that is, 18, 25 or 30 clock hours, 4 "Carnegie Units", or 12, 13 or 14 (as appropriate) semester hours equal full time. The credit-hours equivalent of such noncredit courses may constitute any portion of the required hours for full-time measurement.

[3] Class sessions measured on basis of not less than 50 minutes of classroom instruction. Supervised study periods, class breaks and rest periods are excluded.

[4] Supervised study must be excluded.

[5] Full-time training will consist of the number of hours which constitute the standard workweek of the training establishment, but not less than 30 hours unless a lesser number of hours is established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

[6] In measuring net instruction there will be included customary intervals not to exceed 10 minutes between classes. Shop practice and rest periods are excluded. Supervised instruction periods in school's shops in farm cooperative programs and the time involved in field trips and individual and group instruction may be included in computing the clock hour requirements.

[7] For full-time training the 440 clock hours a year may be prescheduled to provide not less than 80 clock hours in any 3-month period.

(38 U.S.C. 1682, 1732, 1777, 1787, 1788)

2. In § 21.4275, paragraph (a) is revised to read as follows:

§ 21.4275 Practical training courses; measurement.

(a) *Medical, osteopathic and dental internships and residencies.* Medical, osteopathic, and dental internship and residency courses will be measured as provided in § 21.4270(b) if accredited and approved in accordance with § 21.4265(a) (38 U.S.C. 1788(b))

* * * * *

[FR Doc. 80-34436 Filed 11-4-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5769

[M-38061]

Montana; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 80 acres of national forest lands for use by the Forest Service as an administrative site. The Forest Service intends to dispose of the lands through an exchange in the furtherance of its programs.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of February 23, 1909, which withdrew the following described national forest lands as an administrative site is hereby revoked:

Principal Meridian

Gallatin National Forest

T. 2 N., R. 6 E.,
Sec. 12, W½NE¼.
Containing 80 acres in Gallatin County.

2. Effective immediately, the above described lands shall be open to applications for the disposal of lands under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws.

Guy R. Martin,
Assistant Secretary of the Interior.
October 29, 1980.

[FR Doc. 80-34488 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-84

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: Section 208 of the Staggers Rail Act of 1980 (Rail Act) (Pub. Law 96–448) permits rail carriers and purchasers of rail service to enter into contracts for rail service. These contracts must be filed with the Commission, with a summary of non-confidential information related to the contract provisions, and with the essential terms presented in tariff format for public inspection. The Commission is establishing interim rules to implement these provisions of the Rail Act, which will be effective immediately, with respect to contracts filed after the effective date of the Rail Act.*

DATES: The interim rules are effective November 5, 1980. Comments will be accepted on or before December 22, 1980.

ADDRESS: An original and twenty copies of any comments should be mailed to: Interstate Commerce Commission, Room 5340, Washington, DC 20423, Attention: Ex Parte No. 387.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275–7693, or Richard Schiefelbein, (202) 275–0826.

SUPPLEMENTAL INFORMATION: On October 14, 1980, the President signed the Staggers Rail Act of 1980 (Rail Act). Section 10713 of the Rail Act expressly permits rail carriers to enter into contracts for rail service with purchasers of rail service. These contracts must be filed with the Commission, with a summary of non-confidential information related to the contract provisions, and with the essential terms presented in tariff format for public inspection. The importance of this provision cannot be overemphasized. This fact, plus our belief that our interim rules are consistent with the Rail Act, has led us to impose these rules on an interim basis pursuant to 5 U.S.C. 553. The application of these rules is limited to contracts which are filed after the effective date of the Rail Act.

Challenges to Contracts

The grounds on which a contract can be challenged are limited. The Commission may initiate a proceeding to review a contract either on its own initiative or in response to a complaint. Complaints may be filed only by a shipper or a port. In either case, the grounds for initiating a proceeding are limited to those described below.

In general, contracts can be challenged only on an allegation that the specific contract will harm the complaining shipper individually by unduly imparing the rail carrier's ability to provide common carrier service to that shipper. Two exceptions are contained in the Rail Act that permit challenges on additional grounds. First, a port may file a complaint on the grounds of "unreasonable discrimination" (but not on impairment of common carrier service ability grounds). Second, a shipper may file a complaint on a contract for transportation of agricultural commodities (including forest products and paper) on the grounds of "unreasonable discrimination" if it can allege that the rail carrier refused to enter into a similar contract with the shipper, or that the contract will unduly impair the rail carrier's ability to provide common carrier service to the shipper, or that the contract constitutes a destructive competitive practice. Other than challenges by ports and complaints regarding agricultural commodity contracts, no other person or entity may challenge a contract on "unreasonable discrimination" grounds.

We note that "unreasonable discrimination" as used in the Rail Act is limited, in the case of agricultural shippers, by the provisions of section 10713(d)(2)(B)(i), to only the situation in which the railroad has refused to enter into a contract with the shipper "for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered."

Approval/Disapproval of Contracts

With the exception of a finding of "unreasonable discrimination" in an agricultural contract, a Commission finding supporting the shipper's or the port's complaint will cause disapproval of the contract. If the Commission finds that a contract for transportation of agricultural products "unreasonably discriminated" against the complaining shipper, the Commission will order the rail carrier to provide rates and service substantially similar to the contract at issue to the complaining shipper.

If the Commission does not initiate an investigation within 30 days the contract will stand approved. If the Commission does not disapprove the contract by the 60th day after it is filed, then the contract is automatically approved and becomes effective in accordance with its terms.

Filing Requirements

Section 10713(b) requires that contracts be filed with the Commission together with a summary of the nonconfidential contract information specified by the Commission, and directs the Commission to establish special tariff rules to assure that the essential elements of the contract are available to the general public in tariff form.

We interpret this provision to mean that the summary must be available to the public, but that the actual contract filed with the Commission need not be made available and should be treated as confidential. This interpretation is consistent with the intent of the Rail Act to rely on ordinary market mechanisms. Rail contracts, like most other contracts, should be the result of private negotiations and should not, without an exceptional showing of need, be made

*The Commission will issue a separate notice on the impact of the Rail Act on Ex Parte No. 358 (Sub-No. 1), *Change of Policy, Railroad Contract Rates* (served April 25, 1980) [45 FR 28381, April 29, 1980], which involved proposed standards for railroad contract rates.

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available to the parties' competitors or the general public. Our rules provide that such a showing of need would have to demonstrate that the petitioner is likely to succeed on the merits of its complaint and that the matter complained of could not be proven without access to the complete contract.

In assessing which contract terms are "essential" and should be made available to the general public, we based our decision on the need or use which the public would have for the data. Going back to the grounds on which a contract can be challenged, we have tailored the special tariff rules to provide sufficient public information so that a party who has standing to challenge a contract will have sufficient information to determine whether there are grounds on which to base the challenge.

Thus, the special tariff rules for contracts specify a limited list of contract elements to be made public. Most types of contracts can be challenged only on the basis that the contract unduly impairs the railroad's ability to provide common carrier service to the shipper. We see this as being principally a question of car supply, particularly the supply of cars of the type to handle a specific shipper's commodity. The length of haul, and thus the turnaround time, affects the number of cars required to provide the contract service. Other "essential terms" are the names of the railroad(s) involved, the base rate, the duration of the contract, and any special features, such as transit privileges, service commitments, escalation clauses, annual volume requirements, etc. We think that specific origins and destinations need not generally be required since persons wishing to protest on the limited grounds available can base their protests on the information about rate, commodity, and distance that is required. Specific origins and destinations reveal information about specific contractor's marketing strategies that is proprietary. Requiring it to be revealed, would, when combined with the other requirements, reveal more proprietary data than is available under other tariffs, and would reduce the attractiveness of contracts in contravention of clear Congressional intent.

For most contracts, then, we will require this information to be available, but allow the remainder of the contract terms to remain confidential. In the general case, our special tariff rules require the railroads to file the following information, which will be available for public inspection:

(1) A short narrative summary of the terms described in items (2)–(8) below for inclusion on the cover page of the tariff.

(2) The names of the railroad(s) involved.

(3) The commodity or commodities involved.

(4) The duration of the contract.

(5) The mileage of the movement involved.

(6) The number of railroad-owned or leased cars, by major type, utilized in the contract.

(7) The base rate.

(8) Special features included in the contract; this identifies the existence of, but not the terms of, the special features.

Because a port has standing to challenge a contract on the grounds of "unreasonable discrimination," we have required that additional information be made public when the service covered by the contract involves a port. In order for a port to be able to determine whether it has suffered unreasonable discrimination, it must know which port is involved in the contract. With the port name and mileage of the movement identified, the port can determine whether it has grounds on which to challenge the contract. Thus, in contracts covering transportation to or from a port, we have required that, in addition to the general requirements above, the tariff must include identification of the port.

Contracts involving the transportation of agricultural commodities (including forest products or paper) can be challenged on the additional grounds of (1) "destructive competitive practice," and (2) "unreasonable discrimination" because the railroad has refused to enter into a similar contract with the challenging shipper. Thus, sufficient information to assess whether such violations have occurred must be available with respect to contracts involving agricultural commodities (including forest products and paper). We have, therefore, required, in addition to the general requirements above, that the tariff describing contracts for agricultural commodities include identification of the origin station and the destination station. This information will not only allow a shipper to assess whether unreasonable discrimination, as defined in § 10713, has occurred, but also, when combined with information about the base rate, would allow a potential complainant to assess whether the contract is a "destructive competitive practice." Our regulations define agricultural commodities as unmanufactured agricultural products. We think this is appropriate given Congress' explicit inclusion of "paper," as well as "forest products," reflecting their belief that manufactured by-products would not normally be included in definitions of primary commodities.

Finally, to facilitate the filing of and public access to contract tariffs, we have specified a contract tariff identification numbering system that will identify the fact that the tariff is a contract tariff, will identify the issuing railroad, and will assign a sequential number to each railroad's contract filings.

We invite comments on the approach we have taken and particularly on the limited information we propose to make available for public inspection in the contract tariffs. In the interim, we adopt the interim rules.

Exemptions

We have considered the necessity of exempting (pursuant to the terms of section 10505 of Interstate Commerce Act, as amended by section 213 of the Rail Act) contracts from certain provisions of the Interstate Commerce Act (*e.g.*, minimum and maximum regulation provisions, the long and short haul provision, and others). We have concluded, however, that such exemptions are unnecessary. Section 208(c) of the Rail Act states: "A contract filed under this section shall be approved by the Commission, as provided in subsection (e) * * * unless the Commission determines * * * that such contract is in violation of *this section*" (emphasis supplied). We believe that Congress has thus made it quite clear that contracts may be challenged *only* on the limited grounds set out in section 208 and discussed above, and, therefore, that exempting contracts from other regulatory requirements is unnecessary. If challenges to contracts are brought on grounds other than those set out in section 208, we will dismiss them summarily. Exemptions from procedural provisions of the Interstate Commerce Act (such as notice) are similarly unnecessary. The terms of section 208, not the other provisions of the Interstate Commerce Act that normally govern such matters, will govern our procedural handling of contracts.

Status of Contracts

The language of the Rail Act clearly states that contracts are a separate and distinct class of service differentiating contract transportation from common carriage. Equipment utilized in contract services cannot be subjected to Commission car service orders and the Commission can require a railroad to violate the terms of a contract only under the Commission's special powers in time of war. Our interim rules, reflect these statutory provisions.

Enforcement of the terms of the contract, once effective, is under the jurisdiction of the courts and not the Commission, unless the parties otherwise agree in the contract. Our rules reflect this provision.

Limitations on Future Contracts

Section 10713(f) provides that the Commission may limit the right of a rail carrier to enter into future contracts if it determines that additional contracts would impair the carrier's ability to fullfill its common carrier obligations. Our interim rules permit a shipper who can demonstrate individual harm to himself resulting from the aggregate effects of existing contracts to petition the Commission to make such a determination. We invite comments on the standards and measures we should incorporate in this determination. In the interim, we adopt the interim rule, realizing that it is highly unlikely that such a situation could develop during the short period of time before final rules are adopted.

Limitations on Equipment in Agricultural Contracts

Section 10713(k) limits to 40 percent of the capacity of a railroad's owned or leased equipment by major car type, the quantity of equipment that can be utilized in contracts covering transportation of agricultural commodities. This provision further limits contracts covering agricultural commodities by providing that in the case of a contract between a railroad and large agricultural shipper, not more than 40 percent of the carrier owned or leased equipment used by that shipper, on average, during the previous three years can be used for that contract, without prior Commission approval. The statute permits the Commission to grant relief from these limitations if it appears that utilizing additional equipment in contracts will not impair the railroad's common carrier responsibility. We have incorporated these provisions into the interim rules. We invite comments on the standards and criteria we should employ in making these determinations.

Conclusion

It does not appear that this decision will significantly affect the quality of the human environment, or the conservation of energy resources. Comments on this subject are, however, invited.

The rules contained in Appendix A replace existing rules 1039.1–1039.4.

Decided: October 23, 1980.

(49 U.S.C. 10321, 10713, 5 U.S.C. 553)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp dissenting with a separate expression.

Agatha L. Mergenovich

Secretary.

Commissioner Clapp, dissenting:

In the Staggers Rail Act of 1980, Congress recognized that the ability to contract for transportation service is a necessary, important aspect of the railroad revitalization effort. After extensive hearings, it expressed a clear intent to permit the railroads to move toward a greater mixture of common and contract carriage. At the same time, however, it chose not to destroy the common carrier obligation. The final version of Section 208 balances the public interests involved and provides injured shippers and ports carefully drawn and narrow remedies under limited circumstances. Only the Commission can provide these remedies. If we do not act within 60 days the contract is deemed approved and cannot be challenged by a third party. Thus, potentially injured parties must have sufficient information to allow a decision whether or not to challenge a particular contract. The majority's decision seems designed to ensure that the needed information will not be obtainable in the apparent belief that this will discourage protests. Contracting shippers will not be identified. There will be no way for the public or the Commission to discover the number of cars used during the prior 3 years to permit identification and any needed remedy for a transaction within the purview of 49 U.S.C. § 10713(k). Other information that might indicate the presence or absence of prohibited unreasonable discrimination may not be publicly available. Rather than discouraging unfounded protests, the result may be a dramatic increase in litigation as shippers will be encouraged to protest each and every contract in which they might possibly have any interest. This may not occur, however, since the Commission has proposed no effective way of publicizing contract tariff filings.

Incredibly, proposed § 1300.310 provides that the Commission will not permit access to the contract unless a petition demonstrating a likelihood of success on the merits of a protest is filed and the protested matter could not be proven without access to the complete contract. This is the quintessential Catch–22 for at least two reasons. First, the time frames for filing, protest, and Commission decision are so short as to make any discovery effort impractical. Secondly, how can any party show a likelihood of succeeding without knowledge of all pertinent information? The majority seems to be saying that it will look at any information submitted in a protest, compare that with other secret material in the contract, and determine the likelihood of success on that basis. I believe that this approach would be unlawful and contrary to principles of fundamental fairness. What is needed is a full summary of the contract that excludes only truly confidential information.

I am most disturbed by the majority's decision to implement the proposed rules on an interim basis without opportunity for notice and comment. While one hopes that no significant problems would occur in the near future, this Commission has no way to predict what will actually happen. If we (or a court) ultimately decide that the proposed rules are unlawful or unwise there will be no redress for those who are injured in the interim. I believe that we should limit our interim rules to a literal reading of the statute and essential procedural implementation, and consider any requests for confidentiality (which could be made prior to filing a contract) on a case by case basis until we have had the benefit of public comments.

Appendix A

Interim Rules

Part 1039 of Title 49 CFR is amended as follows:

1. The part heading and table of contents of Part 1039 is revised as follows:

PART 1039—CONTRACTS

1039.1 Definition.
1039.2 [Reserved].
1039.3 Filing and approval.
1039.4 Common carrier responsibility.
1039.5 Enforcement.
1039.6 Limitation on agricultural equipment; and relief.

* * * * *

2. §§ 1039.1–1039.4 are replaced by §§ 1039.1–1039.6 below:

§ 1039.1 Definition.

A contract is an agreement entered into by one or more rail carriers with one or more purchasers of rail service to provide specified services under specified rates and conditions.

§ 1039.2 [Reserved]

§ 1039.3 Filing and approval.

(a) Rail carriers providing transportation subject to Subchapter I of Chapter 105 of Title 49, United States

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Code, shall file with the Commission an original and one copy of all contracts entered into with one or more purchasers of rail services. These contracts shall be accompanied by a contract tariff that contains a summary of the nonconfidential elements of the contract in the format specified in 49 CFR 1300.300–1300.315.

(b) *Grounds for review of contract.* Within 30 days of the filing date of a contract, the Commission may, on its own motion or on complaint, begin a proceeding to review it. Such review can be based only on allegation of violations as described in subsection (c) below.

(c) *Grounds for complaints.* A contract may be reviewed by the Commission on its own motion, or upon complaint, only on the following grounds:

(1) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper):

(i) A shipper can file a complaint only on the grounds that the shipper individually will be harmed because the contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under 49 U.S.C. 11101 to the shipper; or

(ii) A port can file a complaint only on the grounds that the port will be harmed because the proposed contract will result in unreasonable discrimination against the port.

(2) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), a shipper can file a complaint only on the grounds that the shipper individually will be harmed because:

(i) The contract unduly impairs the ability of the contracting carrier(s) to meet their common carrier obligations under 49 U.S.C. 11101 to the shipper;

(ii) The rail carrier(s) unreasonably discriminated by refusing to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue and the shipper was ready, willing and able to enter into such a contract at a time essentially contemporaneous with the period such contract was offered; or

(iii) The contract constitutes a destructive competitive practice.

(d) *Filing and Service of Complaints.* (1) A complaint shall be filed with the Commission by the 18th day after the filing date of the contract.

(2) An original and 2 copies of the complaint shall be filed with the Commission.

(3) A copy of the complaint shall be served on each railroad listed as a railroad participating in the contract.

(e) *Commission decision upon review of contract.* Within 30 days after the date a proceeding is commenced to review a contract upon the grounds specified in subsection (c), the Commission shall decide whether the contract violates the provisions of 49 U.S.C. 10713. If the Commission finds that the contract violates the provisions of 49 U.S.C. 10713, it will:

(1) Disapprove the contract; or

(2) In the case of agricultural contracts where the Commission finds unreasonable discrimination by a carrier in accordance with subsection (c)(2)(B), order the carrier to provide rates and services substantially similar to the contract at issue with such differences in terms and conditions as are justified by the evidence.

(f) *Approval date of contract.* A contract shall be approved:

(1) On the 30th day after the filing date of a contract, if the Commission does not institute a proceeding to review the contract. Such contract shall be considered "expressly approved" by the Commission.

(2) If the Commission institutes a proceeding to review a contract:

(i) On the date the ICC approves the contract if the date of approval is 30 or more days after the filing date of the contract;

(ii) On the 30th day after the filing date of the contract if the ICC approves the contract prior to the 30th day after the filing date of the contract; or

(iii) On the 60th day after the filing date of a contract, if the Commission fails to disapprove the contract.

(g) Limitation of rights of a rail carrier to enter future contracts. The Commission may limit the right of a rail carrier to enter into future contracts if it determines that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under 49 U.S.C. 11101. The Commission will handle such determinations on a case-by-case basis and may investigate either on its own initiative or upon the filing of a verified complaint by a shipper which demonstrates that it individually had been harmed by a carrier's inability to fulfill its common carrier obligations as a result of existing contracts.

§ 1039.4 Common carrier responsibility.

(a) The terms of a contract approved by the Commission determine completely the duties and service obligations of the parties to the contract with respect to the services provided under the contract. The contract does not affect the parties' responsibilities for any services which are not included in the contract.

(b) Service under a contract approved by the Commission is deemed a separate and distinct class of service and the equipment used to fulfill the contract shall not be subject to car service decisions under 49 USC 11123.

§ 1039.5 Enforcement.

(a) The exclusive remedy for an alleged breach of a contract approved by the Commission shall be an action in an appropriate State Court or United States District Court, unless the parties otherwise agree in the contract.

(b) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under § 1039.3(e), except to the extent necessary to comply with section 11128 of Title 49 of the United States Code.

§ 1039.6 Limitation on agricultural equipment; and relief.

(a) A rail carrier may enter into contracts for the transportation of agricultural commodities (including forest products and paper) that involve the use of carrier owned or leased equipment not in excess of 40 percent of the total number of the carrier's owned or leased equipment, by major car type, except as provided in (b) below.

(b) In the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment used on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

(c) The Commission may grant relief from the limitations of subparagraphs (a) and (b) of this section if:

(1) A rail carrier or other party requests such relief; or

(2) The Commission on its own initiative considers granting such relief, and

(3) The Commission determines that making additional equipment available does not appear to impair the rail carrier's ability to meet its common carrier obligations under 49 U.S.C. 11101.

§ 1039.10 [remains unchanged]

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

2. Part 1300 of Title 49 of the Code of Federal Regulations is amended by adding the following sections:

* * * * *

1300.300 Special tariff rules for contracts entered into by one or more rail carriers with one or more purchasers of rail service—General provisions: Definitions.
1300.310 Filing of contract and contract tariff.
1300.311 Contract tariff title page.
1300.312 Contract tariff numbering system.
1300.313 Content of contract tariff.
1300.314 Availability of summary.
1300.315 Statutory notice.

§ 1300.300 Special tariff rules for contracts entered into by one or more rail carriers with one or more purchasers of rail service—General provisions; Definitions.

(a) This section, and the ensuing sections, numbered between 1300.300 and 1300.399, govern the filing of contracts for railroad transportation services entered into by one or more rail carriers with one or more purchasers of rail service.

(b) Contracts for railroad transportation services and contract tariffs must be filed with the Commission in accordance with the Special Tariff Rules for Contracts prescribed in these sections.

(c) "Agricultural commodities", as used in these rules, means unmanufactured agricultural products, and includes forest products and paper.

(d) "Unreasonable discrimination, as used in these rules, means, when applied to agricultural shippers, that the railroad has refused to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that the shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; and, when applied to a port, has the same meaning as the term has under section 10741 of Title 49 of the United States Code, and as fully discussed in Docket No. 36625, *H. Samuels Co. Inc.* v. *The Atchison, Topeka and Santa Fe R.R. Co., et al.*, decided October 10, 1980.

(e) All contract tariffs and supplements must conform with the Commission's general requirements for form, size, and arrangement; these requirements are found at §§ 1300.1 (as to tariffs) and 1300.9 (as to supplements), of this part. The contract itself is not subject to the requirements of § 1300.1, but must be clear, legible, and on durable paper and must be signed by the parties executing the contract.

§ 1300.310 Filing of contract and contract tariff.

(a) A railroad entering into a contract for railroad transportation services (or the originating railroad for a contract involving movement over more than one railroad) with one or more purchasers of rail service must file with the Commission the original and one copy of the contract and two copies of the contract tariff.

(b) The contract filed under these rules will not be available for inspection by persons other than the parties to the contract and authorized Commission personnel, except by petition demonstrating that petitioner is likely to succeed on the merits of its complaint and that the matter complained of could not be proven without access to the complete contract.

(c) The contract tariff filed under these rules shall include the information specified in § 1300.313 of this part. The contract tariff will be made available for inspection by the general public.

(d) The contract tariff filed under these rules shall not be required to be posted in any stations.

§ 1300.311 Contract tariff title page.

The title page of every contract tariff and of every supplement shall show the following in the order named:

(a) In the upper right-hand corner, the contract tariff identification number, as specified in section 1300.312 of this part.

(b) The corporate name of the issuing carrier and, listed alphabetically, the corporate names of any other rail carriers participating in the contract tariff.

(c) The words "Contract Tariff."

(d) Whether the contract tariff includes a through movement over more than one railroad and whether the contract tariff covers transportation to or from a port.

(e) Commodity or Commodities to be transported under the terms of the contract.

(f) Date of issue and date effective.

(g) Duration of the contract.

(h) At the bottom of the page, the name, title, and mailing address of the individual responsible for compiling and filing the contract tariff.

§ 1300.312 Contract tariff numbering system.

Each issuing carrier shall sequentially number the contract tariffs it issues. These sequential numbers shall be included in the contract tariff identification number printed on the Contract Tariff Title Page and on the first page of the contract itself. The contract tariff identification number shall include the word "ICC", the industry standard alphabet code for the issuing railroad (limited to four letters), the letter "C", and the sequential number, with each separated by a hyphen, as illustrated in the following example: the 357th contract filed by the Milwaukee Road would have the following contract tariff identification number: "ICC–MILW–C–0357."

§ 1300.313 Content of contract tariff.

Contract tariffs shall contain in the order named:

(a) A short narrative summary of the nonconfidential, essential terms of the contract. The items described in the following subsections (1300.313(b)–(j)) are nonconfidential terms. The narrative summary is not required to include contract terms not required by subsections 1300.313 (b)–(j).

(b) Name(s) of participating carrier(s). A list, alphabetically arranged, of the corporate names of all carriers that are parties to the contract.

(c) The commodity or commodities to be transported under the contract.

(d) If the commodity identified in (c) above is an agricultural commodity (including forest products and paper), the origin station(s) and the destination station(s); otherwise, the words, "Origin/Destruction Stations—Not Applicable."

(e) If the contract covers transportation to or from a port, the name of the port; otherwise, the words, "Port Name—Not Applicable."

(f) The duration of the contract.

(g) The mileage of the movement covered by the contract, or, in the event the contract covers multiple movements or routings, the mileages of each of the routings; mileage shall be rounded to the nearest 50 miles.

(h) The number of cars, by major car type, owned or leased by the carrier(s) listed in (b) above, used in providing the transportation covered by the contract or by options to the contract. Also, the maximum number of cars to be used during any single (peak) month must be specified. In addition, if the commodity identified in sub-section (c) above is an agricultural commodity (including forest products and paper) then the participating rail carrier(s) shall certify:

(1) that the equipment used does not exceed 40 percent of the capacity of the rail carrier's owned or leased cars by major car type, and

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(2) in the case of an agricultural shipper who originated an average of 1,000 cars or more per year during the prior 3-year period by major car type, that the equipment used does not exceed 40 percent of the rail carrier's owned or leased cars used on the average by that shipper during the previous 3 years.

(i) The base rate for the services provided, presented in the same units (tons, hundredweight, ton-mile, carload, trainload, etc.) as used in the contract. (If the contract utilizes existing tariff rates, appropriate tariff reference will be sufficient).

(j) Special features included in the contract. This item shall identify the existence of, but not the terms of, special features such as, but not limited to, rate escalation clauses, transit privileges, services or transit time commitments, guaranteed car supply, annual volume requirements, minimum percentage of traffic requirements, etc.

If the commodity is identified as agricultural, the details of the escalation clause (if any) shall be provided.

The summaries shall include Commission tabulations of the percentage of cars under lease by major type for each participating carrier.

§ 1300.314 Availability of summary.

Copies of contract summaries shall be available from the Commission's Contract Advisory Service (202) 275–0831 and Bureau of Traffic (202) 275–7739.

§ 1300.315 Statutory notice.

All contracts and contract tariffs shall be filed with the Commission at least 30 days, and not more than 60 days, before the date on which they are to become effective, except as otherwise authorized by the Commission.

[FR Doc. 80-34498 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations—Permits, etc.; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final decision and final rule: correction.

SUMMARY: This document corrects a final rule document relating to the taking of marine mammals incidental to commercial fishing operations published at 45 FR 72178, October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Telephone: 202–634–7287. Office Location: Room 410, Page Building 2, 3300 Whitehaven Street, NW., Washington, D.C.

In FR Doc 80–33529, published at 45 FR 72178, October 31, 1980, certain information in the "DATES" caption appearing in the preamble was incorrect. After the "DATES" caption, the first sentence should read as follows: "DATES: The decision and revised § 216.24 become final December 1, 1980 and become effective January 1, 1981. * * *"

Dated: November 3, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc 80-34649 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-12-M

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: These regulations implement all but one subpart of amendment #8 (amendment) to the Fishery Management Plan for the Gulf of Alaska (FMP).

The amendment to the FMP:

(1) Changes the fishery year to a calendar year and eliminates any predetermined plan expiration date;

(2) Establishes Gulf-wide optimum yields (OYs) for squid; thornyhead rockfish, other rockfish, and other species;

(3) Defines four categories of species: "unallocated", "target", "other", and "nonspecified" species;

(4) Divides the Eastern Regulatory Area of the Gulf of Alaska into three regulatory districts for the purpose of sablefish fishing;

(5) Changes the reserve release procedures to improve flexibility and to allow more reserves to be released earlier in the season; and

(6) Requires that all sablefish pots be equipped with biodegradable escape panels.

All regulations governing domestic and foreign fishing for groundfish are contained in 50 CFR Parts 672 & 611 and are being repromulgated to incorporate these changes.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone (907) 586–7221.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1978, the Assistant Administrator for Fisheries, NOAA, (Assistant Administrator), approved the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), which was prepared by the North Pacific Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended (the FCMA). The FMP was published on April 21, 1978, (43 FR 17242). Since that time, the Assistant Administrator has approved eight amendments to the FMP; 43 FR 34825; 43 FR 47222; 43 FR 46349; 44 FR 40099; 44 FR 42738; 44 FR 46904; 44 FR 64410; and 45 FR 59914. Looseleaf copies of the FMP, as amended, may be obtained upon request from the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, telephone (907) 274–4563.

Amendment #8 consisted of 7 subparts, 6 of which are implemented by these final regulations, and one which is still undergoing Secretarial review. The amendment, notice of proposed rulemaking, and request for comments were published in the **Federal Register** on September 11, 1980 (45 FR 59114).

Public Comments

Two letters were received commenting on the proposed regulations. A summary of these comments and NOAA's response appear below.

Commenters suggested that:

1. The reserve release procedure should be amended so that the reserve releases (and apportionment from domestic annual harvest (DAH) to the total allowable level of foreign fishing (TALFF)) occur about a month earlier in order to facilitate operational planning of foreign fishing;

2. The sablefish TALFF in the Southeast Outside District is too small to allow attainment of OY of other species in that district;

3. Sufficient time be allowed to record all catches of unallocated species;

4. The reserve for sablefish in the Yakutat District of the Eastern Regulatory Area is excessive; the amount should be 680 mt, with the balance of 740 mt being assigned to the Southeast Outside District; and

5. The quantity of sablefish being withheld in reserve together with the sablefish in DAH in the Yakutat District may prevent full utilization of that resource.

Responses to comments

The following responses are keyed to the five points made in the comments received:

1. The reserve release is timed to balance two factors. One factor is the time remaining in the season—so that any increase in TALFF can be effectively utilized by foreign fishermen. The opposing factor is the uncertainity concerning domestic requirements. The new regulations allow for a 5-month period between the last reserve release and the end of the fishing year; the previous regulations allowed for only a 4-month period. There is a further advantage to foreign fishermen in this new system. Since only three reserve releases are scheduled, the quantities released will be larger. Thus, the net result of these amendments will be more fish, sooner, at no disadvantage to U.S. fishermen.

2. The sablefish TALFF in the Southeastern Outside District may limit the amount of other groundfish taken in the Southeastern Outside District but will not preclude foreign fishermen from taking their full allocations. If a country catches its sablefish allocation in any of the enumerated districts then that district, but not the entire regulatory area is closed to all fishing by vessels of that country.

3. NOAA agrees that recording catches of some unallocated species is burdensome. These regulations do not require that records be kept of unallocated species, except incidental catches of salmon and halibut (see § 611.94(d)(4)).

4. The Council established districts within the Eastern Regulatory Area. The sablefish OY has been apportioned to these districts in order to provide better management of localized stocks. These districts are: Southeast Outside, Yakutat, and Southeast inside. There is no TALFF for the Southeast Inside District because it is wholly within territorial waters.

For the 1980 fishing year the FMP established reserves in each regulatory area for thornyhead rockfish, which has a Gulf-wide OY. These reserves were equal to 20 percent of the OY's in each area.

The Council did not change the 1,420 mt sablefish reserve (twelve month basis) for the Eastern Regulatory Area in 1981. All the sablefish OY, except 90 mt in the Southeast Outside District, is designated as DAH. The 90 mt exception is designated as TALFF in order to provide for a sablefish by-catch in the foreign trawl fishery in that district. The entire sablefish reserve in the Eastern Regulatory Area occurs in the Yakutat District.

5. The FMP provides mechanisms for apportioning reserves and DAH amounts to TALFF if they are not needed by U.S. fishermen. These mechanisms provide the opportunity to fully utilize fishery resources.

Modifications from proposed regulations

In addition to changing the final regulations to clarify the recording of unallocated species and to clarify closure provisions as related to districts, several technical changes to the proposed regulations were made, as follows:

1. § 611.92(a)(3) has been revised to indicate that TALFF's, reserves, and other specifications continue in force past December 31, 1981, on a pro rata calendar year basis, unless amended.

2. Timing of the notifications of the opening and closing dates of the halibut season has been made consistent so that a 7-day notification is given.

3. Several "November 1" dates have been changed to "December 31" to reflect the change in the fishing year.

4. Thornyhead rockfish has been added to the species specified in the foreign fisheries annual report—Section 611.92(g)(1)(ii).

5. Figures 1 and 2 have been combined into one figure and the reference in Appendix 1 to section 611.20 changed appropriately.

6. The regulations have been published in their entirety to facilitate their use.

7. Technical, typographical and grammatical corrections have been made, as necessary.

FMP Approval

The Assistant Administrator for Fisheries, NOAA, has reviewed the comments received on Amendment #8 to the FMP and finds that the amendment conforms to the national standards, other provisions of the Act, and other applicable law.

Environmental Impact

The Assistant Administrator has determined that promulgation of the amendment and the implementation of these regulations does not constitute a major Federal action requiring the preparation of an environmental impact statement under provisions of the National Environmental Policy Act of 1969.

Executive Order 12044

Implementation of these regulations is not deemed a significant regulatory action under provisions of NOAA Directives Manual, Chapters 21–24, which implements Executive Order 12044 (Improving Government Regulations). Consequently, a regulatory analysis was not prepared.

Administrative Procedures Act

The Assistant Administrator has determined that the 30-day "cooling off" period required under the Administrative Procedures Act should be waived so that these regulations may become effective on November 1, 1980. A delay in implementation would result in a regulatory hiatus adversely affecting both joint ventures and foreign fishing.

Signed at Washington, D.C. this 31st day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

1. 50 CFR Part 672 is revised to read as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Subpart A—General

Sec.
672.1 Purpose and scope.
672.2 Definitions.
672.3 Relation to other laws.
672.4 Permits.
672.5 Reporting requirements.
672.6 [Reserved].
672.7 General prohibitions.
672.8 Enforcement.
672.9 Penalties.

Subpart B—Management Measures

672.20 General limitations.
672.21 [Reserved].
672.22 Time and area closures.
672.23 [Reserved].
672.24 Gear limitations.
672.25 [Reserved].
672.26 [Reserved].
672.27 Observers.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General

§ 672.1 Purpose and scope.

(a) Regulations in this part govern fishing for groundfish by vessels of the United States within that portion of the Gulf of Alaska over which the United States exercises exclusive fishery management authority.

(b) For regulations governing fishing in the Gulf of Alaska groundfish fishery

by fishing vessels other than vessels of the United States, see 50 CFR 611.91.

(c) These regulations implement the Gulf of Alaska groundfish fishery management plan developed by the North Pacific Fishery Management Council.

§ 672.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882, as amended.

ADF&G means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, or an individual to whom appropriate authority has been delegated.

Authorized officer means: (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any certified enforcement or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in subparagraphs (1), (2), or (3) above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) fishing, or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means pollock, cod, any species of flounder and sole, Pacific ocean perch, thornyhead rockfish, other rockfish, sable fish, Atka mackerel, squid, and other finfish, except salmon, steelhead trout, and Pacific halibut. The scientific names of these species are as follows:

Pollock means *Theragra chalcogrammus.*

Cod means *Gadus macrocephalus.*

Arrowtooth flounder means *Atheresthes stomias.*

Other flounder means *Pleuronectiformes* (order) not specifically defined.

Rock sole means *Lepidopsetta bilineata.*

Flathead sole means *Hippoglossoides elassodon.*

Pacific ocean perch means *Sebastes alutus.*

Atka mackerel means *Pleurogrammus monopterygius.*

Sablefish means *Anoplopoma fimbria.*

Squid means *sepioid* and *teuthoid* squid.

Salmon means of the family *Salmonidae.*

Pacific halibut means *Hippoglossus styenolepis.*

Steelhead trout means *Salmo gairdneri.*

Rattail means *Coryphaenoides* not specifically defined.

Thornyhead rockfish, not specifically defined, means rockfish of the genus *Sebastolobus.*

Other rockfish means all fish of the genus *Sebastes* except Pacific ocean perch and *S. polyspinus, S. aleutianus, S. borealis,* and *S. zacentrus.*

Gulf of Alaska means that portion of the fishery conservation zone in the North Pacific Ocean exclusive of the Bering Sea, between 132°40′ W. longitude and 170°00′ W. longitude seaward of the State of Alaska.

Landing means off-loading fish.

Longline means a stationary, buoyed, and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

Off-bottom trawl means a trawl in which the otter boards may be in contact with the seabed but the ground rope of the net remains above the seabed.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by any person in subparagraph (1), (2), or (3).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, or an individual to whom appropriate authority has been delegated.

Regulatory area means any of three areas of the FCZ of the Gulf of Alaska seaward of the State of Alaska. The three regulatory areas are described as follows:

Area and Location

Eastern, between 132°40′ and 147°00′ W. longitude. Central, between 147°00′ and 159°00′ W. longitude. Western, between 159°00′ and 170°00′ W. longitude.

Regulatory district means any of three districts of the Eastern regulatory area as follows: Southeast Outside district: All waters of the FCZ east of 137°00′ West longitude. Southeast Inside district: All waters of the territorial sea (within three miles) east of 137°00′ West longitude and north of 54°30′ North latitude. Yakutat district: All other portions of the Eastern regulatory area.

Vessel of the United States means: (1) A vessel documented or numbered by the Coast Guard under U.S. law; or

(2) A vessel, under 5 net tons, which is registered under the laws of any State.

§ 672.3 Relation to other laws.

(a) *Federal law.* For other regulations concerning the conservation of halibut see the regulations of the International Pacific Halibut Commission, or any regulations implementing any halibut fishery management plan approved under the Act. For other regulations

concerning fishing for Tanner crab and salmon see 50 CFR Part 671 and 50 CFR 674 respectively.

(b) *State law.* Certain data collection and enforcement activities under this part will be performed by personnel of the State of Alaska under the terms of an agreement with NOAA/NMFS and the U.S. Coast Guard.

(c) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to § 672.22 of this Part, and to apportion reserves pursuant to § 672.20(c) of this Part.

§ 672.4 Permits.

(a) *General.* No vessel of the United States may fish for groundfish in the Gulf of Alaska without first obtaining a permit issued under this Part. Permits shall be issued without charge.

(b) *Application.* An applicant may obtain a permit by submitting to the Regional Director a written request containing the following information:

(1) The applicant's name, mailing address, and telephone number;

(2) The name of the vessel;

(3) The vessel's U.S. Coast Guard documentation number or State registration number;

(4) The home port of the vessel;

(5) The type of fishing gear to be used; and

(6) The signature of the applicant.

(c) *Issuance.* (1) Upon receipt of a properly completed application, the Regional Director shall issue a permit.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section shall given written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit shall continue in full force and effect for one year or, until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

(f) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(h) *Inspection.* Any permit issued under this Part must be carried abroad the vessel whenever the vessel is fishing for groundfish. The permit shall be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR 621 (Civil procedures) shall govern the imposition of permit sactions against a permit issued under this part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations; or if a civil penalty or criminal fine imposed under the Act and pertaining to a permitted vessel is not paid.

§ 672.5 Reporting requirements.

(a) *Fishing vessel reporting requirements*—(1) *Port of Landing in Alaska.* The operator of any fishing vessel regulated under this Part whose port of landing is in the State of Alaska shall, for each sale or delivery on land of groundfish caught in any Gulf of Alaska regulatory area, be responsible for the submission to ADF&G of an accurately completed State of Alaska fish ticket.

(i) At the election of the vessel operator, the fish ticket required under this paragraph (a)(1) shall be either:

(A) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or (B) prepared, at the request of the operator, by the purchaser and submitted by the purchaser to ADF&G within one week after such fish are received by the purchaser. For the purposes of this paragraph (a), a "purchaser" is any person who receives on land, from a fishing vessel regulated under this Part, groundfish caught in any Gulf of Alaska regulatory area.

(ii) In addition to the requirements of paragraph (a)(1) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (a)(1)(i)(B) of this section) shall accurately state on each fish ticket:

(A) The quantity and types of gear used;

(B) The total time fished with each gear type; and

(C) The total number of hauls for each gear.

(2) *Port of Landing Outside Alaska.* The operator of any fishing vessel regulated under this Part whose port of landing is outside the State of Alaska shall, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(ii) of the section, to the ADF&G within one week after the date of each such sale or delivery. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801.

(b) *Processor and purchaser reporting requirements*—(1) Any U.S. fish processor or purchaser (i.e., any person who receives fish for a commerical purpose from a fishing vessel subject to this Part), except: (i) Any fisherman purchasing fish for his own use as bait or (ii) any foreign fishing vessel permitted to receive U.S. harvested fish at sea, shall accurately complete each written survey authorized by this section and received by the processor or purchaser from the Regional Director.

(2) Surveys shall be conducted at those times considered necessary by the Regional Director, but at least twice, and no more than four times, during the fishing year.

(3) Each survey shall be designed to gather the following information:

(i) Changes in processing plant capacity;

(ii) Changes in the availability of groundfish by species;

(iii) Changes in market demand;

(iv) Changes in expected utilization of processing capacity or expected purchases of groundfish species for the subsequent 12-month period; and

(v) Changes in other factors which the purchaser or processor believes relevant to the accurate determination of the amounts of domestic annual processing (DAP) and domestic nonprocessed fish (DNP).

(4) Completed surveys shall be returned to the Regional Director at the address and by the date specified on the survey.

(c) *U.S. vessels delivering to foreign processing vessels.*

(1) The owner or operator of any fishing vessel regulated by this section who has delivered, or intends to deliver, groundfish caught in any Gulf of Alaska regulatory area to a foreign fishing vessel at sea shall accurately complete each written survey authorized by this section and received by the owner or operator from the Regional Director.

(2) Surveys shall be conducted at those times considered necessary by the Regional Director, but at least twice, and no more than four times during the fishing year.

(3) Each survey shall be designed to gather the following information:

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(i) Changes in the number and capacity of U.S. vessels which harvest groundfish to be delivered to foreign fishing vessels at sea;

(ii) Changes in regulatory areas of operation;

(iii) Changes in capacity or operations of the foreign fishing vessel to which deliveries are being, or will be, made;

(iv) Changes in quantities and species of groundfish expected to be delivered in the subsequent 12-month period;

(v) Changes in alternative fishery opportunities available to the U.S. vessels; and

(vi) Changes in other factors the owner or operator believes relevant to the accurate determination of the amount of joint venture processing (JVP).

(4) Completed surveys shall be returned to the Regional Director at the address and by the date specified on the survey.

§ 672.6 [Reserved]

§ 672.7 General prohibitions.

It shall be unlawful for any person to:

(a) Fish for groundfish with a vessel of the United States which does not have aboard a valid permit issued pursuant to this Part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any fish taken or retained in violation of the Act, this part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this Part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part;

(g) Forcibly assault, resist, impede, intimidate, or interfere with an observer placed aboard a fishing vessel pursuant to this Part;

(h) Violate any other provision of this Part, the Act, or any regulation or permit issued under the Act.

§ 672.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) If requested, provide a safe ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for any ladder; and

(4) Take such other actions as necessary to insure the safety of the authorized officer and his party and to facilitate the boarding.

§ 672.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 672.20 Optimum yield.

(a) The specifications of optimum yield (OY), reserves, estimates of domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for species regulated under this Part are set forth in Table I. These specifications are effective from November 1, 1980 through December 31, 1981, unless amended. After December 31, 1981, the specifications shall continue on a calendar year basis at 13/14 of the levels specified for the period November 1, 1980 to December 31, 1981, unless amended. When the combined catch by foreign and United States vessels reaches the OY amount for a species or species category, further fishing for all species shall be prohibited in the applicable regulatory area or district for the remainder of the fishing year, except that fishing for sablefish by fishing vessels of the United States using longline gear shall not be prohibited unless the OY for sablefish in that fishing area or district has been reached.

Table I.—*OY, DAH, DAP, DNP, JVP, Reserve, and TALFF by Regulatory Area* [1]

Species and species code	Areas	OY	DAH	DAP	JVP = (DAH − DAP)	DNP	Reserve	TALFF
Pollock—701	Western	66,500	6,737	29	6,708		13,300	46,463
	Central	111,066	15,540	6,277	9,263		22,213	73,313
	Eastern	19,367	2,584	811	1,773		3,874	12,909
	Total	196,933	24,861				39,387	132,685
Pacific Cod—702	Western	19,320	2,193	280	1,213	700	3,864	13,263
	Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246
	Eastern	11,550	2,415	327	688	1,400	2,310	6,825
	Total	70,000	11,666				14,000	44,334
Flounders—129	Western	12,133	816	116	700		2,427	8,890
	Central	17,150	1,307	350	957		3,430	12,413
	Eastern	9,800	1,587	1,050	537		1,960	6,253
	Total	39,083	3,710				7,817	27,556

Species and species code	Areas	OY	DAH	DAP	JVP = (DAH − DAP)	DNP	Reserve	TALFF
Pacific Ocean Perch [2]—780	Western	3,150	402	29	373		630	2,118
	Central	9,217	1,465	344	1,121		1,843	5,909
	Eastern	16,800	1,534	93	1,441		3,360	11,906
	Total	29,167	3,401				5,833	19,933
Other Rockfish [3]—849	Total	8,867	1,050				1,773	6,044
Sablefish—703	Western	2,450	315	117	198		490	1,645
	Central	4,433	1,423	1,167	256		887	2,123
	Yakutat District [4]	3,966	1,610	1,377	233		1,656	700
	Southeast Outside [4]	3,500	3,395	3,290	105		0	105
	Total	14,349	6,743				3,033	4,573
Atka mackerel—207	Western	5,458	338	0	338		1,092	4,028
	Central	24,309	1,260	0	1,260		4,862	18,187
	Eastern	3,717	817	0	817		743	2,157
	Total	33,484	2,415				6,697	24,372
Squid—509	Total	5,833	175				1,167	4,491
Other Species [5]—499	Total	18,900	2,007				3,780	13,113
Thornyhead rockfish—749	Total	4,375	7				875	3,493

[1] See 672.2 for a description of Regulatory Areas and Districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above and "Thornyhead Rockfish," *Sebastolobus.*
[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

(b) *Field orders.* (1) If the Regional Director determines that the OY for any species in any regulatory area or district in Table I of paragraph (a) will be reached, he shall issue a field order pursuant to § 672.22(a) prohibiting fishing for all species in that fishing area, except that the Regional Director shall not prohibit, under this section, fishing for sablefish by fishing vessels using longline gear unless he determines that the OY for sablefish in that fishing area will be reached.

(2) Fishing for species of groundfish by vessels of the United States in the applicable regulatory area contrary to any field order issued under this paragraph is prohibited from the effective date of such field order except that fishing for sablefish with longline gear is not prohibited until the effective date of a field order prohibiting longline fishing for sablefish in that fishing area.

(c) *Apportionment of Reserves and Initial DAH.*—(1) *Apportionment of Reserves.* (i) As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(3) of this section, all or part of the following amounts of each reserve: April—40 percent; June—40 percent; August—20 percent.

(ii) As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may apportion to DAH, in accordance with paragraph (c)(3) of this section, any amounts of any reserve that he determines to be needed to supplement DAH: April, June, and August.

(2) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the fishing year.

(3) *Standards and Procedure for Apportionment—(i) General.* The Regional Director shall apportion to TALFF under paragraphs (c)(1) and (c)(2) of this section only those amounts which he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, either be apportioned to the estimate of domestic annual harvest (DAH), or retained in the reserve as eligible for later apportionment under pargraph (c) of this section.

(ii) *Factors.* In determining whether or not amounts proposed to be apportioned under paragraphs (c)(1) and (c)(2) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(A) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(B) Projected United States catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(D) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(E) Amounts of United States harvested fish already received or processed by foreign fishing vessels, compared to previously projected levels of such receipt or processing; and

(F) The need to maintain orderly fisheries despite any misspecifications of by-catch species amounts in mixed species fisheries.

(iii) *Allocation of Increases and Decreases in DAH Among DAP, JVP, and DNP.* The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (c)(1) and (c)(2) of this section among the three components of DAH: The estimates of domestic annual processing (DAP); joint

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venture processing (JVP); and domestic non-processed fish (DNP).

(iv) *Public comment.* (A) Comments may be submitted to the Regional Director concerning:

(*1*) Whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(*2*) Whether, and the extent to which, United States harvested groundfish can or will be processed by United States fish processors or received at sea by foreign fishing vessels.

(*3*) Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 15 days before the relevant date specified in paragraph (c)(1) or (c)(2) of this section. When the Regional Director determines that apportionment is required on dates other than those specified in paragraph (c)(1) of this section, he shall issue a **Federal Register** notice on the proposed apportionment which shall state the period during which comments may be submitted.

(B) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether, and to what extent, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (c)(1) and (c)(2) of this section.

(C) The Regional Director shall compile, in aggregate form, the most recent available reports on (*1*) level of catch and effort by vessels of the United States fishing for groundfish in the Gulf of Alaska; and (*2*) amounts of United States harvested groundfish taken in the Gulf of Alaska and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.–4:30 p.m., Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 25 days of each comment period.

(v) *Procedure.* As soon as practicable after each of the dates specified in, and each additional date selected under paragraph (c)(1) or (c)(2) of this section, the Regional Director shall publish in the **Federal Register**:

(A) Any reserve amounts to be apportioned to TALFF or DAH;

(B) Any DAH amounts to be apportioned to TALFF;

(C) The distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(D) The reasons for any apportionments and their distribution; and

(E) Responses to any comments received.

(d) *Prohibited species.* (1) Prohibited species, for the purpose of this Part, means any species of fish caught while fishing for groundfish, the retention of which is prohibited by other applicable law, including regulations implementing any fishery management plan for that species.

(i) Any catch of halibut by fishing vessels regulated by this Part is catch of a prohibited species, unless retention is authorized by the regulations of the International Pacific Halibut Commission.

(ii) Any catch of Tanner crab (*C. bairdi* or *C. opilio*) by fishing vessels regulated by this Part is catch of a prohibited species as a result of regulations implementing the Fishery Management Plan for Tanner crab of Alaska (see 50 CFR 671).

(iii) Any catch of salmon by fishing vessels regulated by this Part is catch of a prohibited species as a result of regulations implementing the Fishery Management Plan for High Seas Salmon off the Coast of Alaska, east of 175° 00′ East longitude (see 50 CFR 674).

(2) Each vessel shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (if any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(3) There shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated by this Part was caught and retained in violation of this Part.

(4) In any regulatory area where the OY in Table I of paragraph (a) for any species is "0" (zero), any catch of that species by a vessel regulated by this part in that fishing area shall be considered catch of a "prohibited species" and shall be treated in accordance with this paragraph.

(e) *Halibut.* (1) If, during the period between December 1 and May 31, the Regional Director determines that the estimated total catch of halibut in any regulatory area by vessels regulated by this Part will reach the amount listed below, he shall issue a field order pursuant to § 672.22(a) prohibiting, until June 1, groundfish fishing with trawl gear in that regulatory area by vessels regulated by this Part. Regulatory Area and Catch Amount.

Western—29 metric tons (m.t.)
Central—52 m.t.
Eastern—31 m.t.

(2) Fishing for groundfish with trawl gear by vessels regulated by this Part in the applicable regulatory area is prohibited from the effective date of any field order issued pursuant to this paragraph, until June 1.

§ 672.21 [Reserved]

§ 672.22 Time and area closures.

(a) *Field orders.* (1) Field orders issued by the Regional Director under this Part shall include the following information: (i) A description of the area to be opened or closed; (ii) the effective date and any termination date of such opening or closure; and (iii) the reason for the opening or closure.

(2) No field order issued under this paragraph shall be effective until:

(i) It is filed for publication in the **Federal Register**;

(ii) It has been posted and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for the posting and publicizing of similar notices of closure, for 48 hours prior to its effective date; and

(iii) It has been broadcast at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure, for 48 hours prior to its effective date.

(3) Field orders issued pursuant to this section shall remain in effect until the earlier of the following dates:

(i) Any expiration date stated in the field order; or

(ii) The effective date of any field order which modifies, rescinds, or supersedes the initial field order.

(b) *Inseason adjustments* (1) *General.* The Regional Director may, following consultation with the ADF&G, prohibit fishing by vessels regulated by this Part, for any species of groundfish in any portion of the Gulf of Alaska during the fishing year.

(2) *Determinations.* Any adjustment under this paragraph shall be based on a determination by the Regional Director that: (i) The condition of any groundfish or halibut stock in any portion of the Gulf of Alaska is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for inseason conservation measures to protect groundfish or halibut stocks.

(3) *Data.* Fishery and observer data reported inseason which relates to one or more of the following factors may be considered in making this determination:

(i) The effect of overall fishing effort within a regulatory area;

(ii) Catch per unit of effort and rate of harvest;

(iii) Relative abundance of stocks within the area;

(iv) Amount of halibut being caught;

(v) Condition of stocks within the area; and

(vi) Any other factors relevant to the conservation and management of the groundfish or halibut resource.

(4) *Procedure.* (i) The Regional Director shall publish proposed adjustments in the **Federal Register** for public comment before they are made final, unless the Regional Director finds for good cause that such notice and public procedure is impracticable, unnecessary, or contrary to the public interest.

(ii) If the Regional Director decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment shall be received by the Regional Director for a period of 15 days after the effective date of the field order. (Address: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.)

(iii) During any such 15-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which an adjustment was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802.)

(iv) If comments are received during the 15-day period, the Regional Director shall reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, shall either: (A) publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received; or (B) modify or rescind the adjustment.

(5) *Notice of adjustments.* The Regional Director shall give notice of inseason adjustments by issuance of a field order in accordance with the procedures in paragraph (a) of this section.

(6) *Optimum yield.* No action which has the effect of raising the optimum yield for any species as specified in Table I of § 672.20(a) is authorized under this paragraph.

(c) *Prohibition.* Any fishing contrary to a field order issued under this section is prohibited.

§ 672.23 [Reserved]

§ 672.24 Gear limitations.

Biodegradable escape panels required for all sablefish pots. Each sablefish pot used in fishing under these regulations shall have a biodegradable panel. This panel shall consist of an opening in the webbing of the pot which has been laced, sewn, or secured by untreated cotton twine or other natural fiber no larger than 120 thread which, upon deterioration, produces an opening in the web with a perimeter equal to the perimeter of the tunnel eye opening.

§ 672.25 [Reserved]

§ 672.26 [Reserved]

§ 672.27 Observers.

All fishing vessels subject to this Part must, when so requested by the Regional Director, take aboard an observer.

§ 611.20, Appendix [Amended]

2. 50 CFR Part 611.20 is amended by revising Appendix 1, Section 4.E., Gulf of Alaska Groundfish Fishery, to read as follows:

Appendix 1, Section 611.20

Species and species code	Areas	OY	DAH	DAP	JVP= (DAH – DAP)	DNP	Reserve	TALFF
4. Alaska fisheries:								
E. Gulf of Alaska groundfish fishery:								
Pollock—701	Western [5]	66,500	6,737	29	6,708		13,300	46,463
	Central [5]	111,066	15,540	6,277	9,263		22,213	73,313
	Eastern [5]	19,367	2,584	811	1,773		3,874	12,909
	Total	196,933	24,861				39,387	132,685
Pacific Cod—702	Western	19,320	2,193	280	1,213	700	3,864	13,263
	Central	39,130	7,058	4,060	1,598	1,400	7,826	24,246
	Eastern	11,550	2,415	327	688	1,400	2,310	6,825
	Total	70,000	11,666				14,000	44,334
Flounders—129	Western	12,133	816	116	700		2,427	8,890
	Central	17,150	1,307	350	957		3,430	12,413
	Eastern	9,800	1,587	1,050	537		1,960	6,253
	Total	39,083	3,710				7,817	27,556
Pacific Ocean Perch [4]—780.	Western	3,150	402	29	373		630	2,118
	Central	9,217	1,465	344	1,121		1,843	5,909
	Eastern	16,800	1,534	93	1,441		3,360	11,906
	Total	29,167	3,401				5,833	19,933
Other Rockfish [6]—849	Total	8,867	1,050				1,773	6,044
Sablefish [7]—703	Western	2,450	315	117	198		490	1,645
	Central	4,433	1,423	1,167	256		887	2,123
	Yakutat District [8]	3,966	1,610	1,377	233		1,656	700
	Southeast Outside [8]	3,500	3,395	3,290	105		0	105
	Total	14,349	6,743				3,033	4,573

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Appendix 1, Section 611.20 —Continued

Species and species code	Areas	OY	DAH	DAP	JVP= (DAH–DAP)	DNP	Reserve	TALFF
Atka mackerel—207	Western	5,456	336	0	336		1,092	4,028
	Central	24,309	1,260	0	1,260		4,862	18,187
	Eastern	3,717	817	0	817		743	2,157
	Total	33,484	2,415				6,697	24,372
Squid—509	Total	5,833	175				1,167	4,491
Other species [5]—499	Total	16,900	2,007				3,780	13,113
Thornyhead rockfish—749.	Total	4,375	7				875	3,493

[4] The category "Pacific Ocean Perch" includes *Sebastes* species *S. alutus* (Pacific Ocean Perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[5] See figure 1 of section 611.92(a) for description of regulatory areas and districts.
[6] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific Ocean Perch" as defined in footnote 4 above and *Sebastolobus* (thornyhead rockfish).
[7] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[8] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

3. 50 CFR Part 611.92 is revised to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

(a) *Purpose and scope.* (1) this section regulates foreign fishing for groundfish in the fishery conservation zone of the Gulf of Alaska, which includes that portion of the North Pacific Ocean beyond three nautical miles from the baseline used to measure the U.S. territorial sea, exclusive of the Bering Sea, between 132°40′ W. longitude and 170°00′ W. longitude. The regulatory areas and districts of the Gulf of Alaska are in Figure 1.

(2) For regulations governing fishing for groundfish in the Gulf of Alaska by vessels of the United States, see 50 CFR Part 672.

(3) The specifications of total allowable levels of foreign fishing (TALFF's), Reserves, Domestic Annual Harvest (DAH), Joint Venture Processing (JVP), Optimum Yield (OY), and Domestic Non-Processing (DNP) in Appendix 1 to Section 611.20 are effective from November 1, 1980 through December 31, 1981, unless amended. After December 31, 1981, the specifications of TALFF's and Reserves shall continue on a calendar year basis at 13/14 of the levels specified for the period November 1, 1980 to December 31, 1981, unless amended.

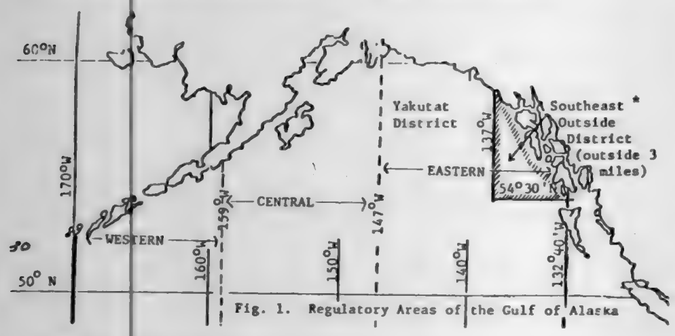


Fig. 1. Regulatory Areas of the Gulf of Alaska

* Southeast Inside District is not shown but is that area inshore from the Southeast Outside District, and is wholly within the territorial waters north of 54° 30′ N. lat and east of 137° W. long.

(b) *Categories of Species.* Four categories of species are recognized for regulatory purposes in this fishery.

(1) "Unallocated species" include shrimps, scallops, snails, Pacific herring, Pacific halibut, salmonids, King crab, Tanner crab, Dungeness crab, corals, surf clam, horsehair crab, and lyre crab. Except to the extent that their harvest is authorized under other regulations, the taking of these species must be avoided. When they are taken, they must be returned to the sea immediately, in accordance with 50 CFR section 611.13. Taking of salmonids and halibut must be recorded and reported, in accordance with 50 CFR section 611.9.

(2) "Target species" are the species that are commercially important and are generally targeted upon by the groundfish fishery. They include pollock, Pacific cod, flounders, Pacific Ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept.

(3) "Other species" are species that currently have only slight economic value and are not generally targeted upon, but which are significant components of the ecosystem or have economic potential. These species include sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The optimum yield for these species as a category is set at 5 percent of the combined optimum yields of the target species. Records of the catch of other species must be kept.

(4) "Nonspecified species" include all fish other than those specifically listed in paragraphs (b)(1), (2), and (3) of this section. It is thus a residual category of species of no current or foreseeable economic value or ecological importance which are taken by the groundfish fishery as an accidental bycatch and are in no apparent danger of depletion. Nonspecified species may be either retained or discarded, and only records of the total amount retained, if any, must be kept.

These species categories and the species groups of which they are composed are set forth in Table I.

Table I.—*Categories of Species Involved in the Gulf of Alaska Groundfish Fishery*

Unallocated species [1]	Target species [2]	"Other" species [3]	Nonspecified species [4]
Salmonids, Halibut, Herring, King Crab, Tanner Crab, Coral, Shrimp, Clams, Horsehair Crab, Lyre Crab, Scallops, Snails, Dungeness Crab, and Surf Clams.	Pollock, Cod, Flounders, Atka Mackerel, Sablefish, Sculpins, Pacific Ocean Perch, Thornyhead Rockfish, Other Rockfish, and Squid.	Sharks, Skates, Eulachon, Smelts, Capelin, and Octopus.	All species not included in other three categories.

[1] Must be returned to the sea; records must be maintained as required by § 611.9.
[2] Commercially important; sufficient data base to allow management based on biological, social, economic and ecological characteristics; specific OY applies to each species; records must be maintained.
[3] Slight economic value, greater economic potential or important ecosystem component, but insufficient data to allow discrete species management; records must be maintained of the aggregate catches.
[4] No current economic value, may be discarded or retained, but if retained records must be maintained of the aggregate retained catches.

(c) *Authorized fishery*

(1) *OY's TALFF's and reserves.* (i) The specifications of optimum yield (OY), estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and TALFF's and Reserves are set forth in Appendix 1 to Section 611.20. Species listed in paragraph (b)(1) and Table I of this section as "unallocated species," or species for which the TALFF listed in Appendix I to Section 611.20 is zero, shall be treated as prohibited species in accordance with 50 CFR section 611.13.

(ii)(A) *Apportionment of Reserves. (1)* As soon as practicable after the first day of the following months, and after consultation with the Council, the Regional Director may apportion to TALFF, in accordance with paragraph (c)(1)(ii)(C) of this section, all or part of the following amounts of each Reserve: April—40 percent; June—40 percent; August—20 percent. *(2)* As soon as practicable after the first day of the following months, and on such other dates as he determines necessary, the Regional Director may apportion to DAH, in accordance with paragraph (c)(1)(ii)(C) of this section, any amounts of any Reserve that he determines to be needed to supplement DAH: April, June, and August.

(B) *Apportionment of Initial DAH.* As soon as practicable after the first day of August, the Regional Director shall apportion to TALFF that part of the DAH which he determines will not be harvested by United States fishermen during the remainder of the year.

(ii) (C) *Standards and Procedure for Apportionment—(1) General.* The Regional Director shall apportion to TALFF under paragraphs (c)(1)(ii) (A) and (B) of this section only those amounts which he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director, determines will be harvested by vessels of the United States may, at the discretion of the Regional Director, either be apportioned to the estimate of DAH, or retained in the reserve as eligible for later apportionment under paragraph (c)(1)(ii) of this section.

(2) Factors. In determining whether or not amounts proposed to be apportioned under paragraphs (c)(1)(ii) (A) and (B) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although the Regional Director shall not be limited to these factors:

(i) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(ii) Projected United States catch and effort by species and area for the remainder of the fishing year;

(iii) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of U.S. processors;

(iv) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(v) Amounts of United States harvested fish already purchased or received by foreign fishing vessels, compared to previously projected levels of such purchase or receipt; and

(vi) The need to maintain orderly fisheries despite any misspecification of by-catch species amounts in mixed species fisheries.

(3) Allocation of Increases and Decrease in DAH, Among DAP, JVP, and DNP. The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (c)(1)(ii) (A) and (B) of this section among the three components of DAH: the estimates of DAP; JVP; and DNP.

(4) Public Comment. (i) Comments may be submitted to the Regional Director concerning: whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and whether, and the extent to which, United States harvested groundfish can or will be processed by United States fish processors or by foreign fishing vessels. Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 15 days before the relevant date specified in paragraph (c)(1)(ii)(A) of this section. When the Regional Director determines that apportionment is required on dates other than those specified in paragraph (c)(1)(ii) (A) or (B), the Regional Director shall issue a **Federal Register** notice on the proposed apportionment. The notice shall state the period during which comments may be submitted.

(ii) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (c)(1)(ii) (A) and (B) of this section.

(iii) The Regional Director shall compile in aggregate form the most recent available reports on: level of catch and effort by vessels of United States fishing for groundfish taken in the Gulf of Alaska; and amounts of United States harvested groundfish taken in the Gulf of Alaska and processed by United

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States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.–4:30 p.m. Monday–Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(*5*) *Procedure.* As soon as practicable after each of the dates specified in, and each additional apportionment date selected under paragraph (c)(1)(ii) (A) or (B) of this section, the Regional Director shall publish in the **Federal Register:**

(*i*) Reserve amounts to be apportioned to the TALFF or DAH; (*ii*) any DAH amounts to be apportioned to TALFF; (*iii*) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP; (*iv*) the reasons for any apportionments and their distributions and (*v*) responses to any comments received.

(2) *Fishing permitted.* (i) The catching in the Gulf of Alaska and retention of the amount of any groundfish for which a nation has an allocation is permitted, except in the following circumstances:

(A) When vessels of a nation have caught the amount of the allocation of that nation for any groundfish species (or species group, e.g. "other rockfish") in any regulatory area, fishing for groundfish in that regulatory area by vessels of that nation is prohibited, even if (*1*) allocations of other species for that nation in that regulatory area have not been reached, or (*2*) the nation has not received a notice issued pursuant to § 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area; or

(B) On the effective date of a notice of closure issued by the Regional Director pursuant to the procedures of § 611.15(c), fishing by vessels of that nation is prohibited for the groundfish species (or species groups), in the regulatory areas and during the periods stated in the notice; or

(C) As otherwise prohibited by this section.

(D) The provisions of paragraph (c)(2)(i)(A) of this section do not apply to foreign vessels fishing with longline gear unless the allocation reached is for Pacific cod or sablefish. However, when the area allocation of any groundfish species, or species group other than Pacific cod, or sablefish is reached, any subsequent catch of that species in that area by vessels fishing with longline gear shall be considered catch of a "prohibited species" and treated in accordance with the provisions of § 611.13. Catches of those species or species group in the target and other species categories that become prohibited species must be recorded and reported as required by 50 CFR 611.9.

(E) A notice of closure issued pursuant to paragraph (c)(2) of this section shall not apply to any receipt or processing by foreign vessels of United States harvested fish authorized by a permit issued by the Department of Commerce under the Act. Receipt of U.S. harvested fish and the condct of other operations in support of U.S. vessels by foreign fishing vessels in the management area may continue until specifically prohibited under the procedures prescribed in the applicable permit.

(ii) Each year, the Regional Director shall issue a notice of closure pursuant to the procedures of § 611.15(c), prohibiting fishing with specified gear types for any groundfish species, species group, or species category in the applicable regulatory area or district by vessels subject to this section, when the Regional Director determines that one or more of the following catch limitations will be reached:

(A) OY for any groundfish species, species group, or species category, in a regulatory area or district: the Regional Director shall issue a notice prohibiting, through December 31, fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section, except that if the optimum yield for sablefish or Pacific cod in a regulatory area or district will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31;

(B) TALFF for any groundfish species, species group, or species category, in a regulatory area or district: the Regional Director shall issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district, except that if the TALFF for sablefish or Pacific cod in a regulatory area or district will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section.

(C) The allocation of a nation for any groundfish species, species group, or species category in a regulatory area or district: the Regional Director shall issue a notice prohibiting through December 31 in that regulatory area or district, fishing using trawl gear for groundfish by vessels of that nation; and retention of that species, species group, or species category by vessels of that nation using longline gear. However, if a national allocation for sablefish or Pacific cod in a regulatory area or district will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area or district by all vessels of that nation through December 31.

(iii) When a notice has been issued pursuant to this subsection prohibiting fishing, vessels of a nation subject to this section may resume fishing in a regulatory area or district: (A) on the effective date of a notice issued pursuant to § 611.15(c) rescinding the notice of closure previously issued; or (B) when the time period stated in the notice of closure expires.

(d) *Open areas.* (1) Except as prohibited in paragraph (e) of this section, foreign fishing for groundfish is permitted in the Gulf of Alaska beyond twelve nautical miles from the baseline used to measure the U.S. territorial sea, and between three and twelve nautical miles from the base line used to measure the U.S. territorial sea between 169°00′ and 170°00′ W longitude.

(2) In addition to the areas in which foreign fishing is permitted under paragraphs (d) and (e) of this section, foreign vessels holding Department of Commerce permits to receive United States harvested fish at sea may also receive only United States harvested fish and conduct other operations in support of U.S. vessels in areas where foreign fishing is prohibited if: (i) that area is beyond three nautical miles from the baseline used to measure the U.S. territorial sea; (ii) receipt of the U.S. harvested fish or conduct of such support operations by the foreign vessel is in an area and during a time when fishing by U.S. vessels being supported is permitted under 50 CFR Part 672; and (iii) receipt by the foreign vessel or conduct of such support operation in that area is not prohibited by the terms and conditions of that vessel's permit to receive U.S. harvested fish.

(e) *Closed areas.*

(1) *All fishing.* Foreign fishing for groundfish is prohibited in the following portions of the management area:

(i) *Cape Edgecumbe-Salisbury Sound:* between 56°53′ N. latitude and 57°24′ N. latitude east of 137°00′ W. latitude.

(ii) *Cross Sound Gully:* between 57°50′ N. latitude and 58°12′ N. latitude east of 137°25′ W. longitude.

(iii) *Fairweather Gully:* the area bounded by rhumb lines connecting the following coordinates in the order listed:

North latitude	West longitude
58°28′	140°00′
58°48′	138°50′
58°10′	139°11′
58°28′	140°00′

(iv) *"Davidson Bank":* between 163°04′ W. longitude and 166°00′ W. longitude north of 53°00′ N. latitude.

(2) *Fishing with trawl gear.* Trawling for groundfish by vessels subject to this section is prohibited in the following areas during the periods specified:

(i) 140° W. longitude to 147° W. longitude, from November 1 to February 16.

(ii) 147° W. longitude to 157° W. longitude from February 16 to June 1.

(iii) *Six "Kodiak gear areas,"* from August 10 to June 1. These areas, bounded respectively by rhumb lines connecting in each of the following groups the coordinates in the order listed, are described as follows:

(C) North latitude	West longitude
57°15′	154°51′
56°57′	154°34′
56°21′	155°40′
56°26′	155°55′
57°15′	154°51′
(B)	
56°27′	154°06′
55°46′	155°27′
55°40′	155°17′
55°48′	155°00′
55°54′	154°55′
56°03′	154°36′
56°03′	153°45′
56°30′	153°45′
56°30′	153°49′
56°27′	154°06′
(C)	
56°30′	153°49′
56°30′	153°00′
56°44′	153°00′
56°57′	153°15′
56°45′	153°45′
56°30′	153°49′
(D)	
57°05′	152°52′
56°54′	152°52′
56°46′	152°37′
56°46′	152°20′
57°19′	152°20′
57°05′	152°52′
(E)	
57°35′	152°03′
57°11′	151°14′
57°19′	150°57′
57°48′	152°00′
57°35′	152°03′
(F)	
58°00′	152°00′
58°00′	150°00′
58°12′	150°00′
58°19′	151°29′
58°00′	152°00′

(iv) *Three "Kodiak halibut areas,"* from 5 days before until 5 days after the first opening of the U.S. halibut fishing season, if the first opening of that fishing season occurs after May 26 (as established by regulations of the International Pacific Halibut Commission).

(A) The three "Kodiak halibut areas", bounded respectively by rhumb lines, are described as follows:

(*1*) 58°30′ N. lat. to 59°30′ N. lat., between 147°40′ W. long. and 150°20′ W. long.

(*2*) 57°40′ N. lat. to 58°05′ N. lat., between 148°50′ W. long. and 150°30′ W. long.

(*3*) 55°30′ N. lat. to 56°25′ N. lat., between 155°45′ W. long. and 156°30′ W. long.

(B) The Regional Director shall give notification of the first opening date of the U.S. halibut fishing season to the designated representative of each foreign nation at least 7 days before the U.S. halibut fishing season first opens.

(3) *Fishing with longline gear.*

(i) *General.* Longline fishing for groundfish by vessels subject to this section is prohibited east of 140° W. longitude at all times. For the purpose of this § 611.92, longline means a stationary, buoyed and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

(ii) *Longline fishing for sablefish.* Longline fishing for sablefish by vessels subject to this section between 140° and 169° W. longitude is prohibited: (A) Landward of the 400 meter depth contour, from 0800 GMT May 1 to 0800 October 1; and (B) landward of the 500 meter depth contour, from 0800 GMT October 1 to 0800 GMT May 1.

(iii) *Longline fishing for Pacific cod.* Longline fishing for Pacific cod by vessels subject to this section between 140° and 169° W. longitude is prohibited landward of the 400 meter depth contour during the halibut fishing seasons as established by regulations of the International Pacific Halibut Commission. The Regional Director shall give notification of the opening and closing dates of the U.S. halibut fishing seasons to the designated representative of each foreign nation, at least 7 days before the opening and closing dates of the U.S. halibut fishing seasons.

(f) *Gear restrictions.*

(1) *Vessels using trawl gear.* During the period from December 1 to June 1, vessels subject to this section shall not use trawls other than pelagic trawls (trawls in which neither the net nor the otter boards operate in contact with the seabed) equipped with recording net-sonde devices functioning properly during each tow.

(i) The footrope of the net shall not be in contact with the seabed for more than 10 percent of any tow, as indicated by the net-sonde readout.

(ii) Vessels subject to this section shall not attach to a pelagic trawl any protective device (such as chafing gear, rollers or bobbins) which would make it possible to fish on the seabed.

(2) *Vessels using longline gear.* Vessels subject to this section shall not use gear other than longline gear when conducting a directed fishery for:

(i) Sablefish; or

(ii) Pacific cod in the area which is both west of 157° west longitude and landward of the 500 meter depth contour.

(g) *Additional statistical report—Annual.* In addition to the requirements of § 611.9, each nation whose fishing vessels fish subject to this section shall submit a written annual report to the Regional Director setting forth catch and effort statistics regarding fishing activities conducted under this section during the annual period from January 1 through December 31 by May 31 of the following year. A two-month report will be required by May 31, 1981, for the period November 1 through December 31, 1980.

(1) Foreign vessels fishing with trawl gear shall report:

(i) *Effort* in hours trawled and number of days fished, by vessels class, by gear type, by month, by 1.2° (lat.) x 1° (long.) fishing area;

(ii) *Catch* in metric tons, by vessel class by gear type, by month, by ½° (lat.) x 1° (long.) fishing area, by the following species categories: yellowfin sole, rock sole, flathead sole, arrowtooth flounder, other flounders, Pacific ocean perch, other rockfish, thorneyhead rockfish, Pacific cod, sablefish (blackcod), walleye (Alaska) pollock, Atka Mackerel, squid, any other species taken in excess of 1,000 metric tons, and other fishes.

(2) Foreign fishing vessels fishing with longline gear shall report:

(i) *Effort* in number of longline units (300 fathoms of longline or groundline per unit) and number of hooks per unit, number of pots, duration of soaking time for longlines and pots, and number of days fished, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) fishing area; and

(ii) *Catch* in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) fishing area, by the species categories listed in paragraph (g)(1)(ii) of this section.

[FR Doc. 80-34506 Filed 10-31-80; 5:02 pm]

BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 45, No. 216
Wednesday, November 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would impose container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices would improve marketing efficiency, promote orderly marketing of such lettuce, and help provide better quality lettuce at reasonable prices to consumers.

DATE: Comments due November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This proposal is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on October 21, 1980.

The proposed container and pack requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore "packaging holidays" on Sundays would promote more efficient and orderly marketing. However, handlers would be permitted, with the approval of the committee, to package lettuce on Sunday and on Christmas day whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore, each person would be exempt from such requirements for up to two cartons—or the equivalent—of lettuce per day.

Provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted if certain safeguard requirements are met.

It is proposed that § 971.320 (44 FR 65964, November 16, 1979; 45 FR 10, January 2, 1980) be deleted and a new § 971.321 be added as follows:

§ 971.321 Handling regulation.

During the period December 1, 1980, through March 31, 1981, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday, or on Christmas Day, unless approved in accordance with paragraph (f) of this section.

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21⅝ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16⅛ inches x 21½ inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in containers No. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the inspection service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the equivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120–971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing lettuce on Christmas or on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 31, 1980.

Malvin E. McGaha,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-34500 Filed 11-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 503, 504, 505, and 506

[Docket No. ERA-R-80-24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Extension of time for public comment on proposed rulemaking.

SUMMARY: On August 1, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking implementing Sections 212(d) and 312(c) of the Powerplant and Industrial Fuel Use Act (FUA or the Act) regarding cogeneration (45 FR 53368 August 11, 1980). These two sections authorize the permanent exemption of certain cogeneration facilities from the requirements of the Act. The public comment period expires November 7, 1980. However, requests have been received from several interested parties for additional time to comment more fully on the proposed rule. In recognition of the importance and complexity of the proposed rule, ERA is extending the public comment period to December 15, 1980.

DATE: Comments should be received by 4:30 p.m. on December 15, 1980.

ADDRESSES: All written comments should be sent to: Department of Energy, Public Hearing Management, Docket No. ERA–R–80–24, Room B–210, 2000 M Street, NW., Washington, D.C. 20461, and identified on the outside envelope and on each document with the designation "Powerplant and industrial Fuel Use Act of 1978; Cogeneration Exemption." Fifteen copies should be submitted. All comments received will be available for public inspection in the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:20 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055.

Dorothy M. Hamid (Public Hearings Division), Economic Regulatory Administration, Department of Energy, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3974.

Stephen M. Stern (Office of Regulatory Policy), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3217.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3649.

G. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6–G–087, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252–2967.

Issued in Washington, D.C., October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34569 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 8940]

Control Data Corp., et al.; Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 80–32783 appearing on page 69470 in the issue of Tuesday, October 21, 1980, on page 69471, third column, first paragraph under "*Definitions*," line 4, "be defined as an" should be corrected to read "be defined as any."

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Dormant and Low Volume Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing two rules to aid it in monitoring continued compliance by designated contract markets with the requirements of the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (1976 and Supp. III 1979) ("Act"). One of these rules provides that additional delivery months may be listed for dormant contracts only pursuant to passage by a contract market of an implementing bylaw, rule, regulation or resolution and approval by the Commission under Section 5a(12) of the Act and Rule 1.41(b). The second rule establishes contract market reporting requirements for low volume contracts. In the event a contract obtains low volume status, a contract market must notify the Commission and supply: (1) data concerning the contract's daily trading volume and number of open contracts during the low volume trading period, (2) summary data concerning the nature of trading by floor brokers or traders during that period, (3) indications that the contract is being used by commercial participants, and (4) those

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surveillance procedures instituted by the contract market to monitor trade practices in the low volume contract.

DATE: Comments must be received on or before February 1, 1981.

FOR FURTHER INFORMATION CONTACT: John P. Connolly, Chief Counsel, Division of Economics and Education, (202) 254–3821, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581

SUPPLEMENTARY INFORMATION: Boards of trade seeking designation as contract markets under the Commodity Exchange Act have initial and continuing responsibilities under the Act, including, in particular, Sections 5 and 5a, 7 U.S.C. 7 (1976), and 7a (1976 and Supp. III 1979). Accordingly, both the exchanges as self-regulatory organizations and the Commission must monitor currently designated contract markets in order to ensure that contract markets remain in compliance with the requirements of the Act. The Commission believes that both dormant and low volume contracts raise particular questions concerning the requirements of continued designation of contract markets under the Act.

The Commission expects that these proposed rules on dormant and low volume contracts, if adopted, will further ensure that exchanges are discharging their self-regulatory responsibilities to monitor designated contract markets. The proposed Commission rule on dormant contracts is intended to make clear that contract markets have no obligation to ensure that all delivery months listed for trading serve an economic purpose and that the terms and conditions of such delivery months are in conformity with current cash market conditions. To ensure that this obligation if fulfilled by contract markets, the Commission is proposing to establish by regulation its authority to review dormant contracts before additional months can be listed for trading for purposes of ascertaining that: (1) it can reasonably be expected that trading in additional (newly listed) delivery months will serve an economic purpose, and (2) the contract terms and conditions of the additional (newly listed) delivery months will reflect current trade practices and the underlying cash market.

The proposed reporting requirements for low volume contracts are intended to provide that both contract markets and the Commission obtain information which will be beneficial in evaluating the contract market's continued compliance with Sections 5 and 5a of the Act. This information pertains to the composition of trading volume, the nature of open positions in low volume contracts, and those additional surveillance procedures, if any, instituted by the contract market to monitor trade practices in the low volume market.

The Commission currently permits some contract markets to list separately for concurrent trading, contracts which differ in respects other than the month of delivery. For example, the Coffee, Sugar and Cocoa Exchange has been designated by the Commission as a contract market in sugar, but lists separate contracts for sugar #11 and sugar #12. The former is also known as the world contract and calls for delivery in foreign ports of major sugar producing countries. The latter is known as the domestic contract and calls for delivery in domestic ports. The Commission intends the proposed rules on dormant and low volume contracts to apply individually to such separate contracts, irrespective of whether or not such contracts are traded pursuant to a single contract market designation. However, the Commission does not intend that the rules would apply individually to trading in contracts which differ only due to amendments which have been recently introduced for newly listed delivery months, but which will apply uniformly at some future date.

Dormant Contracts

The Commission is of the view that the listing of additional months in a dormant contract—those contracts which have not traded in any future listed for trading in any one calendar month—raise particular issues relating to the contract's continued compliance with the Act.

Specifically, under Section 5(g) of the Commodity Exchange Act and pursuant to Commission Guideline No. 1,[1] the Commission may designate a board of trade as a contract market for futures trading when and only when it demonstrates that transactions for future delivery in the commodity will not be contrary to the public interest. Among other things, Commission Guideline No. 1 makes clear that the Section 5(g) public interest test includes an "economic purpose" test [2] and "to meet the 'economic purpose' test, a board of trade is expected to establish that something more than occasional use of the contract for hedging or price basing exists, or can reasonably be expected to exist." [3] Further, the requirement that a futures contract serve an economic purpose is a continuing condition of contract market designation.[4] Thus, a basic element of the public interest reflected in the Act is that transactions for the future delivery of a commodity must serve an economic purpose in order to be permitted. The fact that a contract has ceased trading could indicate that such a contract is not presently serving and perhaps is incapable of serving such an economic purpose—particularly in view of the fact that such contracts generally exhibit very low levels of trading volume for some period in advance of the time they become dormant.

In addition to a failure to serve an economic purpose, a dormant contract raises potential problems concerning other requirements contained in Sections 5 and 5a of the Act, which require the conformity of contract terms and conditions to current cash market conditions.[5] For active contracts the Commission depends, to a certain extent, upon its surveillance of the trading activity and delivery experience, as an early indicator that the terms and conditions of particular contracts may require alteration if they are to remain in compliance with the Act. In fact, the Commission's surveillance of futures trading activity in particular contracts has been an important basis for requests under Rule 1.50 of the regulations.[6]

In the case of dormant contracts, of course, surveillance experience cannot serve as an indicator of possible contract deficiencies. Moreover, in the event that contracts trade at a low level for some time in advance of the time they become dormant, the Commission's surveillance experience during this earlier time period may not provide a

[1] CCH Comm. Fut. L. Rep. ¶6145.

[2] The legislative history of the Act makes clear that Section 5(g) of the Act includes the concept of an "economic purpose" test subject to the final test of the public interest. Thus, it is not sufficient under the Act that a proposed contract for future delivery represent merely an attractive vehicle for speculative activity. *See*, S. Rep. No. 93–1194, 93d Cong., 2d Sess. 36 (1974); H. Rep. No. 93–975, 93d Cong. 2d Sess. 29 (1974).

[3] CCH. Comm. Fut. L. Rep. ¶6145, at p. 6045. The Commission is proposing (elsewhere in this issue) to adopt Rule 5.1 to replace its current Guideline No. 1.

[4] *See*, Sections 5b and 6(a) of the Act, 7 U.S.C. §§ 7(b) and 8(a)(1976). Congress has authorized the Commission, under Sections 5b and 6(a) of the Act, to suspend or revoke the designation of any board of trade as a contract market when the board of trade fails to comply with the Act, or any of the rules, regulations, or orders of the Commission thereunder, or upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in Section 5 of the Act, or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of the Act or any of the rules, regulations, or orders of the Commission thereunder.

[5] *See*, e.g., Sections 5(a), 5(d), and 5a(10) of the Act, 7 U.S.C. §§ 7(a), 7(d), and 7a(10) (1976).

[6] 17 CFR § 1.50 (1980). The Commission, may, under Rule 1.50, request that a contract market demonstrate that it is complying with the conditions and requirements of Sections 5 and 5a of the Act.

meaningful indication of the conformity of contract terms and conditions to current cash market practices.[7] Therefore, the Commission believes it appropriate that before additional months may be listed for the trading of a dormant contract, the Commission should be afforded the opportunity to review the prospective economic purpose of trading in those additional delivery months proposed for listing and, in this context, any new terms and conditions of the contract which the contract market may submit under Rule 1.41(b). Without such a review, the Commission cannot determine the current adequacy of the terms and conditions of such futures contracts or whether such contracts continue or can be expected to serve an economic purpose.[8]

The Commission believes that a significant portion of contracts which would be defined as dormant under the proposed rule are not currently listed for trading. However, the Commission wishes to make clear that the proposed rule concerning dormant contracts applies exclusively to the listing of additional months for trading and would not impose any restrictions on the trading of or positions in delivery months which were listed for trading before trading in all futures ceased for a period of one calendar month.

Under the proposed rule, for example, if the next five delivery months had already been listed for trading in a contract prior to the absence of trading for one calendar month, trading of the positions in these months would be unaffected by the rule. The Commission understands that a contract could become subject to the proposed rule at a time when there are outstanding positions in the contract. However, in view of the fact that the rule does not affect trading in those months previously listed for trading, it will not interfere with existing contractual obligations.

[7] The Commission realizes that a contract market, subject to Commission approval, may effect amendments to the terms and conditions in an effort to revive trading interest in a contract which trades at low volume or is dormant. If these attempts are unsuccessful, however, the Commission's experience indicates that it is likely that the contract will not be regularly updated and amended to reflect changes in the cash market for the underlying commodity.

[8] The Commission staff has estimated that had this proposed rule been effective for the calendar month of August 1980, 49 contracts would have fallen within the definition of dormant contract. A classification of these contracts into class and number is as follows: grains and oilseeds—13, livestock and livestock products—10, other agricultural—3, metals—4, other nonmetallic industrial products—6, foreign currencies—11, United States debt securities—2.

The Commission considered, as one alternative approach to the problems raised by dormant contracts, a requirement that contract markets on which there is no trading activity, routinely demonstrate continued compliance with the Act through the periodic filing of appropriate materials pursuant to Rule 1.50 of the Commission's regulations. This approach would have provided some assurance, in lieu of actual trading experience, that the contracts could be expected to serve an economic purpose and the the contract markets had made any appropriate amendments to the terms and conditions of the contract in response to changing cash market conditions. However, the Commission rejected this approach for the following reasons: (1) the Commission does not believe it advisable to expend its limited resources on the review of materials submitted under Rule 1.50 for contracts for which there is no current trading interest, and (2) it appears to the Commission that routinely requiring Rule 1.50 submissions and possible contract amendments for contracts for which contract markets have no current interest would impose an unreasonable burden on the industry.

Therefore, the Commission is proposing a rule to require that the listing of additional months for trading in dormant contracts may take place only pursuant to a bylaw, rule, regulation or resolution of the contract market and expressly to provide that the contract market is required to submit for Commission review and approval under Section 5a(12) and Rule 1.41(b), any such bylaw, rule, regulation or resolution. A bylaw, rule, regulation or resolution which implements a contract market's decision to list for trading additional months in dormant contracts, must be submitted and approved by the Commission prior to being placed into effect by the contract market under Section 5a(12) of the Act [9] and under Commission Rule 1.41(b).[10]

The proposed rule provides that the Commission shall within thirty days of receipt of a bylaw, rule, regulation or resolution of a contract market to list additional months for the trading of a dormant contract, advise that contract market whether any further information will be required to complete the Section 5a(12) review process. If, within the thirty day period, the Commission does not provide such notification or notification that the Commission's review may take longer than thirty days, or publish for public comment in the **Federal Register** such bylaw, rule, regulation or resolution as one of major economic significance within the meaning of Section 5a(12), the bylaw, rule, regulation or resolution of the contract market to list additional months for trading will be approved by the Commission pursuant to Section 5a(12) and Rule 1.41(b) and formal notification of such approval shall be provided to the contract market. Of course, the proposed rule would not preclude the Commission from instituting a Section 5a(12) disapproval proceeding with respect to any such bylaw, rule, regulation or resolution.

The Commission does not anticipate that more than thirty days will be required to review those contracts which recently and abruptly became dormant due to changing economic circumstances. However, a more complete review, similar to that accorded applications for new contract market designations may be necessary for those contracts which have been dormant for a longer period of time. Further, the Commission wishes to make clear that it intends to expedite consideration of contract market submissions concerning dormant contracts.

Proposed Rule 5.2

Proposed Commission rule 5.2 defines "dormant contract" to be a commodity futures contract in which not trading has occurred in any future listed for trading in any one calendar month, which follows the earlier of the twelfth calendar month subsequent to the date of the initial trading of the contract, or the eighteenth calendar month after designation. Contract markets would not be permitted to list additional trading months in a contract once it becomes a dormant contract. Rule 5.2 further provides that trading in additional (newly listed) delivery months of such contracts would be unlawful unless resumed pursuant to a bylaw, rule, regulation or resolution of a contract market that had been submitted to and approved by the Commission under Section 5a(12) of the Act and rule 1.41(b). Rule 5.2 further provides that the contract market shall certify to the Commission that the contract is dormant, and provide the Commission with an economic justification for the listing of additional months in the dormant contract. Such an economic justification shall address those economic conditions which have changed subsequent to the time the

[9] 7 U.S.C. § 7a(12) (Supp. III 1979).

[10] 17 CFR § 1.41(b) (1980). *See* also, 45 FR 51520, 51524, 51526, n. 46 (August 1, 1980). Such a bylaw, rule, regulation or resolution to resume trading does not fall within the operational and administrative exemption from Section 5a(12) and Rule 1.41(b), contained in Rule 1.41(c).

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contract became dormant and an explanation of how the new terms and conditions, if any, will make it reasonable to expect that the contract will be used on more than an occasional basis for hedging or price basing.

Low Volume Contracts

Questions concerning economic purpose also arise in the case of contracts which exhibit a low level of trading activity. The Commission has observed that for several existing low volume markets, futures prices may not fulfill a significant price basing function because they are not generally disseminated or are disseminated on an infrequent basis. In addition, the Commission has further observed that in several low volume markets, evidence of significant hedging use is absent.[11] Accordingly, the Commission believes that when a contract becomes a low volume contract it may be necessary for the contract market to file periodic reports which will provide some evidence concerning whether that contract continues to serve an economic purpose, as required by section 5(g) of the Act.

In addition, there have been allegations with respect to several low volume contract markets, that certain trade practice abuses have arisen from the lack of liquidity. The Commission believes that because of the potential lack of liquidity in low volume markets, noncompetitive and prearranged trades are more likely to occur than in active markets. In view of this enhanced potential for trade practice abuses, the possibility also exists that those prices which are disseminated may be inaccurate.

Accordingly, the Commission has proposed a rule which would require a contract market to file periodic reports with the Commission concerning low volume contracts. Those reports shall include a record of daily volume and open positions for each day during the low volume trading period and the proportions of trading during the last three calendar months of the low volume trading period which represent the trading of floor brokers and floor traders for various types of accounts. In addition, the report must include for the last three month end dates (last business day of the month) indications concerning whether the contract is being utilized by commercial participants and a description of additional surveillance procedures which the contract market has instituted to monitor trade practices in the trading of the low volume contract.

The Commission has considered, as an alternative to proposing this particular requirement, that it routinely issue requests under Rule 1.50 of its regulations to require those contract markets which trade low volume contracts to demonstrate continued compliance with Sections 5 and 5a of the Act. However, in view of its limited resources, the Commission does not believe this alternative is desirable. For example, the Commission does not believe that low volume by itself would necessarily require a Rule 1.50 review of the contract. However, the Commission believes that in many cases, summary data concerning the nature of trading activity and commercial participation in the contract may serve as an indicator concerning whether the conract is being used on more than an occasional basis for hedging or price basing. Further, the Commission believes that summary information concerning the nature of trading volume may provide some indication as to whether the contract market is maintaining compliance with other provisions of Sections 5 and 5a of the Act.

Accordingly, the Commission proposes to institute these reporting requirements to assist it in evaluating whether a Rule 1.50 request is warranted, and believes that in many cases the reports filed may serve in lieu of more extensive information which would be required under that provision. In addition, the Commission believes that information which contract markets are required to collect and summarize under this alternative will be useful in aiding contract markets to fulfill their self-regulatory responsibilities concerning low volume markets.

Proposed Rule 5.3

Proposed Commission Rule 5.3 defines "low-volume contract" as any commodity futures contract in which the trading volume in all futures listed for trading falls below 4000 contracts per calendar month during at least four of any six successive calendar months. Unless otherwise provided by the Commission, by notice to the contract market, the low volume trading period shall not include any of the months within a prior low volume trading period. Thus, unless otherwise provided for by the Commission, a contract market would not be required to file reports concerning low volume contracts with the Commission more than twice a year.[12] Because new contracts may require a period during which the trading public becomes acquainted with the nature and the terms and conditions of the new contract, the Commission has proposed that this rule will not apply to the first full twelve months following the date of the initial trading of the contract after designation.

Proposed Rule 5.3 also provides that a contract market shall provide the Commission with a report within thirty days of the time a contract becomes a low volume contract. That report shall include: (1) a listing of the number of contracts traded and open at the end of trading for each individual future and all futures combined during each business day of the low volume period; (2) the proportion of trading, for each of the last three calendar months of the low volume trading period by floor traders and brokers, classified in terms of trading for (a) their own accounts or accounts which they control, (b) their clearing members' house accounts, (c) other members present on the floor of the exchange or accounts controlled by such members, and (d) other types of customers; (3) the identification of commercial participants holding open positions in the last three month-end dates of the low volume trading period, together with a listing of each such participant's positions in individual futures during those dates and a description of the commodity commitments or other risks, if any, which are being hedged; and (4) a statement explaining additional surveillance procedures, if any, which the contract market has instituted to monitor trade practices in the low volume contract. In the event a contract market believes that statistics from the Commission's Monthly Commitments of Traders booklet indicate that the contract is being utilized more than occasionally by commercials, it may substitute those statistics for the three month end dates in lieu of providing the identification and positions of all commercial participants. A contract market need not submit this report concerning those contracts which fall within the definition of a dormant contract contained in proposed Rule 5.2(a).

Accordingly, pursuant to the authority in Sections 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 7, 7a, 8 and 12a(5) (1976 and Supp. III 1979), the Commission proposes to add new Sections 5.2 and 5.3 to Part 5 of its regulations as follows:

[11] Parts 15, 17 and 18 of the Commission's regulations require reports for all "reportable positions" of futures commission merchants, foreign brokers and individual traders concerning (among other things) the identification of accounts, size of futures positions, and information pertaining to commercial affiliation. Because this information is required only in connection with positions which exceed a certain level, however, the Commission may receive little or no information concerning the nature of accounts in low volume contracts.

[12] In order to estimate the prospective reporting burden associated with proposed Rule 5.3 concerning low volume contracts, Commission staff analyzed the monthly trading of all futures contracts which traded during two six month periods, October 1978 through March 1979 and October 1979 through March 1980. Based on this analysis, the staff determined that had the proposed rule been effective immediately prior to either six month period, contact markets would have been required to file reports on 11 and 12 contracts, respectively, with respect to low volume contracts for each six month period. These figures do not include contracts which had traded less than twelve calendar months subsequent to initial trading nor those contracts which would have been classified as dormant under proposed Rule 5.2, either prior to or during the six month period.

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

* * * * *

§ 5.2 Dormant contracts.

(a) *Definitions.* For the purposes of this section the term "dormant contract" means any commodity futures contract in which no trading has occurred, in any future listed for trading in any one calendar month which follows the earlier of the twelfth calendar month subsequent to the date of the initial trading of the contract or the eighteenth calendar month after designation.

(b) Once a futures contract becomes a "dormant contract," no contract market may list such a dormant contract for additional trading months, until such time as the Commission approves, pursuant to Section 5a(12) and Rule 1.41(b), the bylaw, rule, regulation or resolution of the contract market submitted to the Commission pursuant to paragraph (c).

(c) *Bylaw, rule, regulation or resolution to list additional trading months.* Any bylaw, rule, regulation or resolution of a contract market to list additional trading months in a dormant contract shall be submitted to the Commission under Section 5a(12) of the Act and Rule 1.41(b). The Commission shall, within thirty days of receipt of such a bylaw, rule, regulation or resolution, advise the contract market of what, if any, further information is required in order to complete its Section 5a(12) review, notify the contract market that the Commission's review may take longer than thirty days, or publish for public comment in the **Federal Register** such bylaw, rule, regulation or resolution as one of major economic significance pursuant to Section 5a(12) of the Act. If the Commission does not provide any such notification to the contract market within the thirty-day period, any such bylaw, rule, regulation or resolution of a contract market to list additional trading months in a dormant contract shall be approved by the Commission under Section 5a(12) of the Act and Commission Rule 1.41(b) and formal notification of such approval shall be provided to the contract market.

Three copies of each such submission shall be furnished to the Commission at its Washington, D.C. headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. In addition to the information required to be submitted pursuant to Rule 1.41(b), such submission shall:

(1) Contain a certification from the contract market to the Commission that the contract in which trading for additional months is to be listed is a dormant contract within the meaning of paragraph (a) of this section.

(2) Contain an economic justification for the listing of additional months in the dormant contract, which shall include an explanation of those economic conditions which have changed subsequent to the time the contract became dormant and an explanation of how any new terms and conditions which are now being proposed by the contract market would make it reasonable to expect that the contract will be used on more than an occasional basis for hedging or price basing.

§ 5.3 Low volume contracts.

(a) *Definitions.* For purposes of this section:

(1) The term "low volume contract" means any commodity futures contract in which the trading volume in all futures listed for trading falls below 4000 contracts per calendar month during at least four of any six successive calendar months.

(2) The term "low volume trading period" means any period of six consecutive calendar months during which time the monthly contract volume in all futures listed for trading does not exceed 4000 contracts during at least four of such calendar months. Unless otherwise provided by the Commission, by notice to the contract market, the "low volume trading period" shall not include any of the calendar months within a prior low volume trading period. In no event, however, shall a low-volume trading period include the first twelve calendar months following the initial trading of the contract after designation.

(b) *Submission of report on low volume contract to the commission.* A contract market shall file with the Commission within thirty days of the end of a low volume trading period a report concerning that particular period unless during that period a contract has become a dormant contract as defined in Rule 5.2(a). Three copies of this report shall be furnished to the Commission at its Washington, D.C. headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. Each report shall include the following:

(1) A listing of the number of contracts traded and positions open at the end of trading for each individual future and all futures combined for each business day during the low volume period.

(2) For the last three consecutive months during the low volume trading period, the proportion of trading during the low-volume trading period which represents the trading of floor brokers and traders as follows:

(i) trading for their own account or accounts which they control.

(ii) trading for their clearing members' house accounts.

(iii) trading for other members present on the exchange floor, or accounts controlled by such other member.

(iv) trading for any other type of account.

(3) For each of the last three month end business days during the low volume period: (a) the identification of commercial participants holding open positions and a description of the commodity commitment or other price risk, if any, those participants are hedging and (b) a listing of each such participant's positions in individual futures on those dates. Provided that, where a contract market determines that statistics concerning the positions of reportable traders as published in the Commission's Monthly Commitments of Traders booklet for the last three month end dates during the low volume period, indicate that the contract is being utilized on more than an occasional basis by commercials, it may submit those statistics in lieu of providing the identification and positions of all commercial participants as provided in paragraph (b)(3).

(4) A brief statement explaining additional surveillance procedures, if any, which the contract market has instituted to monitor trade practices in the low volume contract.

Issued in Washington, D.C., on October 23, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-34407 Filed 11-4-80; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") proposes to clarify the requirements boards of trade must comply with for initial and continued designation as contract markets, under Sections 5 and 5a of the Commodity Exchange Act, 7 U.S.C. §§ 7 and 7a (1976 and Supp. III 1979) ("Act"). The proposed rule specifies four areas of responsibility for boards of trade seeking designation as contract markets, and after designation for purposes of continued compliance with the Act. First, in support of their justification of individual contract terms and conditions and their demonstration of economic purpose, boards of trade must provide profiles of the underlying cash markets. Second, boards of trade must demonstrate that the individual terms and conditions of the proposed contract can be expected to promote hedging or price basing while minimizing the potential of manipulation or other market distortions such as congestion. Third, boards of trade must demonstrate that the proposed contract complies with the public interest requirements of Section 5(g) of the Act which specifically includes an "economic purpose" test. Fourth, boards of trade are required to submit evidence which will satisfy additional public interest considerations under the Commodity Exchange Act, which shall include information pertaining to the efficacy of their rule enforcement programs and procedures to monitor price and quantity of potential deliverable supply as well as the positions of large traders. This section further provides that those boards of trade seeking designation as contract markets based on an aggregate of securities or an index thereon shall provide evidence that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. This section of the proposed rule also requires boards of trade seeking contract market designation for futures based on securities issued or guaranteed by the United States Government or any agency thereof, to submit evidence showing the effect, if any, such designations would have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

The Commission wishes to emphasize that the proposed rule does not impose additional requirements with respect to initial and continuing designation under the Act but rather is a codification and clarification of present requirements under the Act. Accordingly, the Commission intends that Rule 5.1, if adopted, would appply to all presently pending applications for contract market designation.

DATE: Comments must be received on or before February 1, 1981.

FOR FURTHER INFORMATION CONTACT: John P. Connolly, Chief Counsel, (202) 254–3821, or Blake Imel, Deputy Director, (202) 254–3203, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: Present Commission Guideline No. 1,[1] provides criteria which the Commission applies to determine whether a board of trade has complied with the economic and public interest requirements for contract market designation. In order for a board of trade to obtain designation as a contract market pursuant to Section 6 of the Act, it must meet those standards contained in Section 5 of the Act. See 7 U.S.C. §§ 8 (Supp. III 1979) and 7 (1976). After designation has been granted, a contract market must continue to satisfy those initial criteria and must also comply with additional requirements set forth in Section 5a of the Act. 7 U.S.C. § 7a (1976 and Supp. III 1979).

The Commission's experience in reviewing applications for initial contract market designation has demonstrated that boards of trade have not uniformly carried the evidentiary burden placed upon them by Section 5(g) of the Act to demonstrate that the proposed contract markets may reasonably be expected to serve an economic purpose and are not contrary to the public interest. Further, applications received by the Commission have not consistently demonstrated compliance of individual contract terms and conditions with the requirements of Sections 5 and 5a of the Act. Review of such applications has required substantial Commission resources for purposes of soliciting additional information from the boards of trade and other sources, with concomitant delays in review.

In addition, since the Guideline was originally promulgated in June 1975, the Commission has received applications for contract market designations based on government debt securities, private debt securities, and equity indices. The requirements of the Guideline do not adequately reflect certain unique characteristics of futures contracts based on these instruments. Further, the enactment of Section 2(a)(8)(B) of the Commodity Exchange Act in 1978, requires the Commission to consider the effects the designation of futures contracts based on government securities will have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

The Commission proposes to replace its present Guideline No. 1 with this proposed rule in order to (1) provide boards of trade with more specific criteria for initial and continued compliance with Sections 5 and 5a of the Act for applications for contract market designation and for all currently designated contract markets, and (2) reflect specific requirements relating to proposed futures contracts based on financial instruments and aggregates or indices of securities. In addition, the Commission believes that this proposed rule will provide a uniform procedural framework within which boards of trade shall be required to meet their burden of demonstrating, both initially and for purposes of continued designation, compliance with the Act.[2] Applications for contract market designation which fail to meet the requirements of the rule will be returned to the board of trade as incomplete.

Proposed Rule 5.1(a)

Section 5(g) of the Act, 7 U.S.C. § 7(g)(1976), makes it a condition of initial and continuing designation that transactions for future delivery will not be contrary to the public interest. Congress intended this requirement to include the concept of an "economic purpose" test (See pp. 9–12, *infra*). This requires that contract terms and condictions must reflect patterns of exchange terms and conditions must reflect patterns of exchange of the commodity in the underlying cash market. The Commission believes that failure to make contract terms and conditions of a futures contract conform with established patterns of trading in the underlying cash market may reduce the utility of the contract for hedging or price basing, while increasing the

[1] CCH, Comm. Fut. L. Rep. ¶6145; 40 FR 25849 (June 19, 1975).

[2] The Commission may, under Rule 1.50, 17 CFR 1.50 (1980), request that a contract market demonstrate that is it complying with the conditions and requirements of Sections 5 and 5a of the Act.

potential for manipulation, market congestion, and the abnormal movement of the commodity in interestate commerce.

In view of its responsibility under Section 5 of the Act and its experience in reviewing contract market designation applications, the Commission wishes to specify the information requirements pertaining to the underlying cash market for the proposed futures contract. These requirements, contained in proposed Rule 5.1(a), include information on production and consumtion of the underlying commodity, modified as appropriate for financial instruments. This section of the proposed rule also requires: (1) a description of the cash marketing channels, including the manner in which price is determined at various stages and (2) a description of supporting sectors for the commodity, including, where appropriate, descriptions of underlying transport, communication and storage facilities and related financial institutions. Further, in the event that the cash market which will serve as the source of deliverable supplies differs from the entire cash market which underlies the contract's economic purpose, the board of trade shall supply information concerning both the broader and more narrow cash markets.

Proposed Rule 5.1(b)

The process of contract market designation which the Act contemplates requires the Commission to examine the individual terms and conditions of the proposed contract, particularly in light of the underlying cash market. The Act requires a board of trade to justify the individual terms and conditions of the contract in the context of the price basing and hedging function which the contract serves or can be expected to serve. A board of trade must also demonstrate that each such term and condition is designed to avoid price manipulation or distortion, market congestion, or the abnormal movement of the commodity in commerce.[3] Accordingly, the Commission proposes to specify in some detail, that information which is required concerning individual contract terms and conditions.

Pursuant to proposed Rule 5.1(b), a board of trade must describe each term and condition of the proposed contract and explain why the term or condition was selected for a contract which shall be utilized for price basing or hedging and justify any departures from normal commercial practices in the cash market for the commodity. Settlement terms and conditions, whether providing for cash settlement or delivery of the commodity, must be designed to minimize the potential for manipulation and price artificiality. A complete profile of the variants of the commodity deliverable against the contract is to be justified with respect to commercial practice and needs. This includes grades of the deliverable commodity, adjustments for non-par grades, and permitted deviations in packaging and composition of the delivery unit. Other aspects of the contract which must be justified include those pertaining to contract size, geographic delivery points, specified locational differentials, regular delivery facilities, delivery cost allocation, certification procedures, delivery instruments, delivery months, and price ranges for daily trading.[4]

Proposed Rule 5.1(c)

The legislative history of the Act makes clear that Section 5(g) of the Act includes the concept of an "economic purpose" test subject to the final test of the public interest. Thus, it is not sufficient under the Act that a proposed contract for future delivery represent merely an attractive vehicle for speculative activity.[5]

The Commission has interpreted the economic purpose test as follows:

(1) The prices involved in transactions for future delivery in the commodity for which such designation is sought are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, processors, merchants, or consumers of such commodity or the products or byproducts thereof, or

(2) Such transactions are, or reasonably can be expected to be, utilized by producers, processors, merchants, or consumers engaged in handling such commodity (including the products, byproducts, or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.[6]

Under present Guideline No. 1, in order to meet the "economic purpose test" at the time of initial designation, a board of trade must establish "that something more than occasional use of the contract for hedging or price basing exists, or can reasonably be expected to exist."[7] Under the proposed rule, in describing prospective pricing and hedging uses of the proposed contract, the board of trade must consider the salient characteristics of the cash market (including its institutions and participants) as described in Rule 5.1(a), and the influence on the pricing and hedging use of the contract of the specific contract terms and conditions described in Rule 5.1(b). The Commission believes that these additional requirements are necessary to ensure that boards of trade, in submitting information pertaining to economic purpose, specifically address the nature of the underlying cash market and its institutions, as well as the manner in which the terms and conditions of the contract relate to the pricing and hedging needs of that particular industry.

Proposed Rule 5.1(c) also requires that in submitting materials on economic purpose, a board of trade must consider currently designated contract markets with similar commodity specifications. Under this provision, an exchange would be required to describe those particular terms or conditions of the proposed contract or the exchange's institutional features which make it reasonable to expect that the proposed contract will meet the standards of the economic purpose test. In reviewing these materials submitted for contracts similar to those currently designated, the Commission will also consider its responsibility under Section 15 of the Act.[8]

The Commission also considered as a requirement with respect to new contract market designation applications, that boards of trade provide quantitative standards which would provide the future basis for assessing whether the contract served an economic purpose. These standards concerning economic purpose would have applied only after an initial introductory period of trading and would have subsumed both volume of trading activity and the extent of the contract's use for pricing or hedging. However, in view of its concurrent proposal concerning requirements for dormant and low volume contracts,

[3] See Sections 5(d) and 5a(10) of the Act, 7 U.S.C. §§ 7(d) and 7a(10) (1976).

[4] See 45 FR 55469, (August 20, 1980).

[5] See S. Rep. No. 93–1194, 93rd Cong., 2d Sess. 36 (1974); H. Rep. No. 93–975, 93rd Cong., 2d Sess. 29 (1974).

[6] See, CCH Comm. Fut. L. Rep. ¶6145, Guideline on Economic and Public Interest Requirements for Contract Market Designation. With respect to these requirements as they concern hedging, boards of trade should use the definition of bona fide hedging contained in paragraph 1 of Section 1.3(z) of the Commission's rules.

[7] CCH Comm. Fut. L. Rep. ¶6145, at p. 8075.

[8] Section 15 of the Act provides in pertinent part that: "The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order . . ."

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(published elsewhere in this issue), the Commission has determined not to propose, at this time, that boards of trade provide quantitative measures concerning a prospective contract's fulfillment of the economic purpose requirements.

Further, when a contract market begins to accumulate experience with a futures contract, it has a continuing responsibility to ensure that the contract retains its economic purpose. With respect to this requirement for continuing designation, the current Guideline No. 1 requires (in summary) that a board of trade establish that "something more than occasional use of the contract for pricing or hedging exists. . . ." [9] Proposed Rule 5.1 makes this requirement more specific by requiring that as a matter of justifying its continued designation, a contract market shall evaluate the trading of the contract, and document that the contract is used for price basing. In addition, a contract market would be required to evaluate the extent to which commerical participation in the contract constitutes hedging. These requirements, of course, would be applicable to a Commission request that a contract market demonstrate its continuing compliance with Section 5(g) of the Act pursuant to Rule 1.50. 17 C.F.R. 1.50 (1980).

Proposed Rule 5.1(d)

Part C of present Guideline No. 1 states that a board of trade may submit information relevent to those aspects of the public interest standard of Section 5(g) not explicitly covered in the Guideline and affirm that futures transactions in the commodity for which designation is sought are not, or are not reasonably expected to be, contrary to the public interest. The Commission proposes in this section to provide explicit criteria which a board of trade must comply with in order to affirm that the contract, as a matter of initial and continuing designation, will not be contrary to the public interest.

With respect to proposed Rule 5.1(d)(1), a board of trade would be required to demonstrate, with relevant evidence, the adequacy of its affirmative rule enforcement program—particularly its surveillance capability—for the contracts for which it is currently designated as a contract market. Such evidence shall include a description of any changes in its affirmative rule enforcement program introduced since the last Commission rule enforcement review. The Commission shall consider, as one aspect of board of trade's good faith attempt to comply with the public interest test, its demonstration of compliance with Commission Rule 1.51 [10] and Guideline No. 2. [11] The Commission is of the view that it would be contrary to the public interest to designate boards of trade as additional contract markets, where information available to the Commission, including findings of the staff during the course of its periodic rule enforcement reviews, demonstrates significant deficiencies in such enforcement programs for currently designated contract markets. Therefore, the Commission wishes to make clear that it will designate additional contract markets for an existing board of trade only where it determines that a board of trade is adhering to the requirement that it maintain an affirmative rule enforcement program for its currently designated contract markets.

With respect to proposed Rule 5.1(d)(2), the Commission is proposing that a board of trade be required to demonstrate the flexibility of its rule enforcement program—particularly its surveillance capability—to respond to unique characteristics of commodities which are the subject of proposed futures contracts. To achieve this goal, a board of trade shall demonstrate that it has designed its rule enforcement and surveillance program to monitor adequately the specific proposed futures contract.

Proposed Rule 5.1(d)(3) relates to applications for contract market designation based on an aggregate of securities or an index thereon. Section 2(a)(8)(B)(i) of the Act, 7 U.S.C. § 4a(g)(2)(i) (Supp. III 1979), requires the Commission to maintain communications with the Department of the Treasury the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission for the purposes of keeping those agencies advised of activities relating to their areas of responsibilities and for considering the relationship between the volume and nature of investment and trading on contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies. Accordingly, the Commission will request comments from the Securities and Exchange Commission on any proposed contracts based on an aggregate or index of securities which are regulated by the Securities and Exchange Commission, and consider any comments received. Therefore, a board of trade applying for designation of a futures contract based on such an aggregate of index shall provide evidence that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. [12]

With respect to proposed Rule 5.1(d)(4), Section 2(a)(8)(B)(ii) of the Act, 7 U.S.C. 4a(g)(2)(ii) (Supp. III 1979), requires that when a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission must deliver a copy of the application to the Department of Treasury and the Board of Governors of the Federal Reserves System. Further, the Commission may not designate a board of trade as a contract market based on such an application until 45 days after the date the Commission delivers the application to those agencies or until such time as the Commission receives the comments from each of the agencies on the application, whichever period is shorter. In addition, the Commission is required

[9] CCH, Comm. Fut. L. Rep. ¶6145, at p. 6075.

[10] Commission Rule 1.51, 17 CFR § 1.51 (1980), provides for a contract market program for enforcement. That rule states in part that: "(a) each contract market shall use due diligence in maintaining a continuing affirmative action program to secure compliance with all the provisions of Sections 5, 5a, 5b, 6(a), 6b, 8a(7), 8a(9), and 8(c) of the Act (7 U.S.C. 7, 7a, 7b, 8, 13a, 12a(7), 12a(9), and 12(c)), and with all the contract markets' bylaws, rules, regulations and resolutions which such contract market is required by the Act to enforce." The rule then provides for specific requirements for such a contract market rule enforcement program. Note that under Section 5a(8) of the Act, each board of trade is required to enforce all bylaws, rules, regulations, and resolutions, relating to terms and conditions of contracts of sale to be executed on a contract market or relate to other trading requirements which have been approved by the Commission pursuant to Section 5a(12) of the Act. Moreover, Commission Rule 1.53 requires each contract market to enforce each bylaw, rule, regulation and resolution made or issued by it which was in effect as of July 18, 1975 and which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements, unless such bylaw, rule, regulation and resolution has been disapproved by the Commission pursuant to Section 5a(12) of the Act.

[11] Commission Guideline No. 2 (CCH Comm. Fut. L. Rep. ¶6430) expands upon the requirements of Rule 1.51.

[12] As the House of Representatives stated during the Commission's 1978 reauthorization: "* * * It appears at least theoretically possible that futures contracts may be developed concerning an aggregate of securities or an index thereon that may reasonably be expected to serve a valid economic function. The Committee expects, however, that the Commission will proceed with extreme caution in its consideration and designation of any contract market to trade a futures contract involving securities and that it will satisfy itself that an economic purpose can be expected to be served by the contract consistent with the proper functioning of the market for the underlying securities. The Commission has assured the Committee that it will proceed with caution in considering any such designation application and will solicit the views of the Securities and Exchange Commission and carefully consider its views before proceeding." H.R. Rep. No. 95.1181, 95th Cong., 2d Sess. 14 (1978).

to consider all comments from those agencies and include them in the public record of designation proceedings and further consider the effect any decision on a designation application may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities.

This statutory provision makes clear that the effects of a contract market designation on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities must be considered by the Commission prior to designation of any such contract. Accordingly, the Commission is proposing that any board of trade seeking designation as a contract market based on any security issued or guaranteed by the United States Government, or any agency thereof, shall provide the Commission, *inter alia*, with specific evidence concerning the effects, if any, that the proposed contract will have on the "debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for Government securities."

Accordingly, pursuant to the authority in Sections 2(a), 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 2(a), 7, 7a, 8 and 12a(5) (1976 and Supp. III 1979), the Commission proposes to add a new Part 5 to Chapter I of Title 17 of the CFR as follows:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

* * * * *

§ 5.1 Economic and public interest requirements for contract market designation.

For purposes of a board of trade seeking designation as a contract market and thereafter for the purpose of demonstrating continued compliance with the requirements of Sections 5 and 5a of the Act, the following shall be provided to the Commission.

(a) *Analysis of the Cash Market.* A board of trade shall submit with its application an analysis of the cash market for the commodity on which the futures contract is based. For purposes of this section, the term cash market includes all aspects of the spot and forward markets in which the commodity underlying the futures contract is merchandised and for which the futures contract serves a hedging or price basing function. The following information shall be furnished for both the cash market in its entirety and (if different from the entire cash market) that segment of the cash market which is or will be the source of supplies for future delivery:

(1) Production of the underlying commodity, including, as appropriate, geographical locations and seasonal patterns in the case of tangible commodities and scheduled issuances in the case of financial instruments.

(2) Consumption of the underlying commodity, including as appropriate, geographic locations and seasonal patterns of intermediate and ultimate consumption in the case of tangible commodities.

(3) The nature and structure of the cash marketing channels, including the nature and number of marketing institutions, the nature of the forward contracting market, and the manner in which the price of the commodity is determined at various stages in its marketing. This information shall also include a description of the degree and nature of both vertical and horizontal integration within the industries in which the commodity is produced and consumed.

(4) As appropriate, the nature and structure of the transport, communication, storage, and financing sectors which support the commodity underlying the proposed contract for future delivery.

(5) Information provided by the board of trade pursuant to paragraph (a) shall include statistical data where applicable and available. Such data shall cover a period of time sufficient to show accurately historical patterns of production, consumption and exchange of the commodity. In the absence of a justification for providing data from a shorter period, at least five (5) years of such data should be provided. If the board of trade cannot, through reasonable effort, obtain sufficient data, interviews with or statements by persons knowledgeable concerning the cash market may be used to supplement or, if necessary, substitute for quantitative information.

(b) *Justification of Individual Contract Terms and Conditions.* A board of trade shall submit an analysis and justification of the individual terms and conditions of the futures contract. In providing the justification for each term and condition, the board of trade should supply statistical data wherever applicable. Such data should normally cover a period of time sufficient to show accurately the historical pattern of conditions in the cash market. At least 5 years of data should be provided, unless a reasonable explanation can be given for using a shorter period. If quantitative information is not readily available to support the justification for a contract term or condition, the board of trade is expected to attempt to obtain or develop such data rather than submit a justification not supported by facts. Interviews with persons knowledgeable concerning the particular term or condition may be used to supplement or, if necessary, substitute for statistical data. The justification submitted by a board of trade concerning each contract term or condition shall include:

(1) The reasons the term or condition was selected for the contract and how that term or condition supports utilization of the contract for price-basing or hedging.

(2) Evidence of conformity with current commercial practices for the underlying cash commodity; if the term or condition is not in conformity, the reason for the variance and why the contact term or condition is necessary or appropriate in the futures contract.

(3) Evidence that the contract terms or conditions will provide for a deliverable supply which will not be conducive to price manipulation or distortion and that such a supply can reasonably be expected to be available to the short trader and saleable by the long trader at its market value in normal cash marketing channels.

(4) The justification of each contract term or condition shall also include, where applicable, the following:

(i) Complete specification of commodity characteristics for par delivery, such as grade, class, weight, coupon rate, maturity, rating, and issuer. If par delivery includes a range of grades and classes, the effects of such differences in the deliverable supply on the contract's hedging and price-basing functions must be described.

(ii) A description of the non-par commodities, if any, deliverable on the proposed contract. The board of trade shall also provide the economic basis for the premiums and discounts on such deliveries. For futures contracts based on debt securities, this shall include an economic justification of the formula to be used for the evaluation of non par instruments.

(iii) Size of contract unit. The board of trade shall include, where relevant, information concerning the typical commercial unit and the rationale for any proposed deviation therefrom. The usual means of transportation for the commodity, the size of loads normally carried by such means, and if a storeable commodity, the size of the unit normally handled by commercial storage facilities, where applicable, shall be addressed by the board of trade.

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(iv) Permissible delivery pack or composition of delivery units (e.g., 30 dozen cases of eggs, bonds of the same issue, GNMA certificates from the same pool). Any restrictions on the composition of the delivery unit should be described by the board of trade.

(v) Inspection and certification procedures for the verification of delivery eligibility. For perishable commodities, a board of trade shall state the duration of the inspection certificate and any discounts applied to deliveries of a given age.

(vi) Delivery points, which shall include, where applicable, for each point: (A) the level of deliverable supplies normally available, including, the seasonal distribution of such supplies, (B) the nature of the cash market at the delivery point (e.g., auction market, buying station or export terminal), (C) the number of major buyers and sellers, (D) normal commercial practices in establishing cash commodity values, and (E) the availability of published cash prices reflecting the value of the deliverable commodity.

(vii) Type of delivery facility, such as warehouse or elevator for agricultural commodities, bank or vault depository for precious metals, and wire transfer for financial instruments. Information submitted by the board of trade shall include for each delivery point, where relevant, a description of: (A) the number and total capacity of facilities meeting contract requirements, (B) the proportion of such capacity expected to be available for short traders who may wish to make delivery against futures contracts and seasonal changes in such proportions, and (C) the extent to which ownership and control of such facilities is dispersed or concentrated.

(viii) Locational differentials for delivery points, where applicable. A board of trade shall include its reasons for selecting the par point or points and the rationale for discounts or premiums applying to non-par delivery points, including any departure from commercial locational differentials prevailing in the cash commodity market.

(ix) Delivery instrument, such as a warehouse receipt, bill of lading, shipping certificate, demand certificate, or collateralized depository receipt, and the conditions under which such instrument is negotiable.

(x) Transportation terms at point of delivery, such as FOB, CIF, proportional rail billing and freight paid to another destination.

(xi) Contract delivery months. The board of trade shall specify the delivery months and in the case of seasonal commodities, shall describe the relationship of each future delivery month to seasonal variations in deliverable supplies, availability of warehouse space, transportation facilities, cash market activity, and any other factors which may affect the viability of each such future. The board of trade's justification shall also consider the delivery months for existing futures contracts which draw on the same deliverable supply.

(xii) Provisions for payment of costs in making and taking delivery, as they apply to the longs and the shorts. The board of trade shall include a detailed description of costs, such as inspection, assay, certification, warehouse charges and rail charges.

(xiii) Minimum price fluctuations. A board of trade should describe the manner in which the commodity underlying a proposed contract is normally quoted in order to demonstrate that the minimum contract price change proposed is not inconsistent with accepted cash-market practices.

(xiv) Maximum price fluctuations. A board of trade imposing restrictions on contract price movements shall address whether such restrictions will significantly impair the contract's hedging or price-basing functions.

(5) In the case of contracts where cash settlements may serve as an alternative to physical delivery, information submitted by the board of trade pursuant to this section must include evidence that the cash settlement provisions will assure settlement of the contract at an economic value and will not be subject to manipulation, and also include:

(i) an analysis of the price series upon which such settlement will be based, including the series' reliability, acceptability, public availability and timeliness.

(ii) an analysis of the potential for manipulation of the cash-price series.

(c) *Economic Purpose Test.* As a condition of initial and continued designation, a board of trade must demonstrate that the contract meets the economic purpose test. In order to meet the economic purpose test a board of trade shall demonstrate that:

(1) The prices involved in transactions for future delivery in the commodity are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, processors, merchants, or consumers of such commodity or the products or byproducts thereof, or

(2) Such transactions are, or reasonably can be expected to be, utilized by producers, processors, merchants, or consumers engaged in handling such commodity (including the products, byproducts or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.

(3) For purposes of paragraph (c), the term hedging shall mean bona fide hedging transactions and positions as defined in § 1.3(z)(1) of this chapter.

(4) *Initial Designation.* To meet the economic purpose test at the time of initial designation, a board of trade must demonstrate that it is reasonable to expect the contract, as specified, to be used for hedging and/or price basing by providing an analysis of the potential price basing and hedging uses of the contract which shall include consideration of:

(i) The salient characteristics of the cash market, including its institutions as participants, as described pursuant to paragraph (a) of this section.

(ii) The intended price basing or hedging characteristics of the specific contract terms and conditions, as described pursuant to paragraphs (b) of this section. If a principal commercial use of the contract is expected to be hedging of commodities other than that for which designation is sought (cross hedging) the board of trade shall supply data which indicates that such use of the contract would constitute appreciable risk reduction.

(iii) The existence and trading activity of any currently designated contract market with similar commodity specifications. A board of trade shall described those particular terms or conditions of the proposed contract or the board of trade's institutional features which make it reasonable to expect that the proposed contract will achieve the standards of the economic purpose test.

(iv) Statements from, or reports of interviews with potential users of the contract which convey specifically the manner and circumstances under which these persons may be expected to utilize the contract for pricing or hedging.

(5) *Continuing Designation.* To justify its continuing designation under the economic purpose requirement, a board of trade designated as a contract market must demonstrate that trading in the contract for which it is designated has, in fact, served a hedging or price basing function on more than an occasional basis. Such a demonstration shall include:

(i) An evaluation of the actual trading experience in the contract in terms of commercial usage and its use for price basing.

(ii) An evaluation of the extent to which commercial participation in the contract constitutes hedging.

(d) *Affirmation of Public Interest.* A board of trade shall submit evidence pertaining to the public interest standard contained in Section 5(g) of the Act, which shall affirm that futures transactions in the commodity for which designation is sought will not be contrary to the public interest. The following, although not inclusive of all relevant evidence which a board of trade may submit to affirm the public interest requirements, shall be provided by each board of trade to the Commission:

(1) Each board of trade must demonstrate compliance with Commission Rule 1.51 and Guideline No. 2, with respect to those contract markets for which it has been designated. Accordingly, a board of trade shall demonstrate the efficacy of its rule enforcement program with respect to contracts for which it is currently designated and describe any changes in its affirmative rule enforcement program introduced since the last rule enforcement review conducted by the Commission.

(2) Each board of trade shall described those specific rule enforcement programs adopted to address unique problems raised by the particular futures contract. Accordingly, a board of trade shall demonstrate that a flexible surveillance program is in place to deal effectively with the unique aspects of those commodities which are the subject of the futures contracts. Such information shall include:

(i) The manner in which the board of trade presently monitors or proposes to monitor significant surveillance factors pertaining to the underlying commodity, such as cash prices, deliverable supplies, and the positions of large traders. Such information shall include:

(A) The sources the board of trade uses to determine cash prices of the underlying commodity.

(B) The methodology employed by the board of trade to monitor the availability of deliverable supply.

(C) The extent of coordination with other contract markets offering futures contracts which draw on the same deliverable supplies.

(D) The specific modifications, if any, the board of trade has effected to its market surveillance and rule enforcement programs to ensure the effective enforcement of its existing rules and those proposed under the application for contract market designation.

(3) With respect to futures contracts based on an aggregate of securities or an index thereon, each board of trade shall demonstrate that an economic purpose can be expected to be served by the proposed contract consistent with the proper functioning of the market for the underlying securities. Each such submission shall include: an analysis of the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities under the jurisdiction of the Securities and Exchange Commission.

(4) With respect to futures contracts based on any security issued or guaranteed by the United States or any agency thereof, a board of trade shall provide evidence concerning those public interest considerations described in Section 2(a)(8)(B) of the Commodity Exchange Act. Such a demonstration that the contract is not contrary to the public interest shall include, among other things, evidence of the expected effect of the proposed contract on:

(i) The debt financing requirements of the United States Government.

(ii) The continued efficiency and integrity of the underlying market for government securities.

Issued in Washington, D.C., on October 23, 1980, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 80-34408 Filed 11-04-80; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35-21767; File No. S7-862]

Allocation of Consolidated Federal Income Tax Liability by Registered Holding Companies and Their Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission is publishing for comment an amendment to Rule 45 pertaining to the methods by which registered holding companies and their subsidiaries may allocate consolidated federal income taxes. The amendment deletes paragraph (b)(6) of Rule 45, which now provides an exception from the application requirements of Rule 45(a) in case of income tax allocations which are made by any one of three approved methods, and adds paragraph (c), which supersedes paragraph (b)(6) and which permits additional methods for allocating the consolidated income tax liability.

DATE: Comments must be received on or before December 31, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-862.

All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie, Associate Director, (202) 523-5156, Division of Corporate Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 45(b)(6) is a conditional general authorization by rule for the members of a holding company system to join in a consolidated federal income tax return without applying each year, under Rule 45(a), for a specific order authorizing such action. The authorization is required by Section 12(b) of the Act. The rule's substantive function is to specify the manner of allocating the joint tax liability among the members of the system, in accordance with our responsibility under Section 12(b) to ensure that such intercompany agreements be on terms which "the Commission deems necessary or appropriate in the public interest or the protection of investors or consumers."

Exploitation of utility companies by holding companies through asserted misallocation of consolidated tax return benefits was among the abuses examined in the investigations underlying the enactment of the Act (Senate Doc. 92, Part 72A, 70th Congress, 1st Sess., 1930 (pp. 477-482)). Since the initial evidence of the practices was followed almost immediately in 1932 by abolition of the consolidated return privilege altogether, this subject did not arise until that privilege was restored in 1941. Rule 45(b)(6) was adopted forthwith (HCAR No. 2902, July 23, 1941). It was last revised (HCAR No. 12776, January 12, 1955) after the enactment of the Internal Revenue Code of 1954.

The Rule, as revised in 1955, has proven, in recent years, to be incomplete in one area. The case in which one or more operating companies in a system suffers a loss is not explicitly dealt with. The general terms of the rule are consistent with divergent treatments of this contingency.

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The most significant and recurrent source of such losses, as computed under the tax laws, are subsidiaries organized for oil and gas exploration, since that activity is characterized by large initial and immediately deductible costs, while the production of oil and gas, and taxable income, occurs significantly later. And fuel supply problems have led to quite material investments in this area in recent years. The difficulty is not, however, limited to that situation. Operating utility companies are not wholly immune to loss years. Cf. *Alabama Power Company* (HCAR No. 21023, April 30, 1979).

We have dealt with this deficiency through declarations and orders authorizing specific allocations under Rule 45(a), the alternative to Rule 45(b)(6). Although such orders, in a sense, involved deviations from the standard conditions prescribed by the general rule, it would be more accurate to say that they resolved the ambiguity of Rule 45(b)(6) as applied to factual situations not anticipated when it was promulgated. Since these deviations have been granted regularly and consistently in cases involving fundamentally identical facts which appear likely to recur, it is time to incorporate the principles developed into the rule itself.

The proposed revised rule will be renumbered Rule 45(c), in recognition of its discrete subject and length. The proposed rule will delete the incorporation by reference of two subsections of the Internal Revenue Code of 1954. It is unnecessary for our rule to specify that a tax allocation agreement must be permitted by the underlying tax laws. While the simple formulae specified by Section 1552(a) of the Internal Revenue Code are quite suitable for purposes of the Act, they serve different functions under the two statutes. The present rule, like the revision proposed, restricts the substantive discretion permitted by the tax law. Accordingly, we have incorporated the useful portions of these subsections in the text of the proposed rule, facilitating statement of the limitations imposed under the Act.

The rule deals with the allocation of the actual aggregate tax liability of the consolidated group for each tax year among the members of the consolidated group. The tax initially determined by the consolidated tax return may subsequently be revised, through Internal Revenue Service audit or otherwise. Such changes must also be allocated when determined, in the same manner as though the adjustments on which they are based had formed part of the original consolidated return.

Since there are significant divergencies between methods of computing income for financial reporting purposes and those employed in the tax laws, it must be emphasized that the rule applies only to allocation of the actual current tax liability. Application of such modifications as deferred taxes, required by financial reporting standards, is independent of the rule, although the accounting should be consistent with the results of the underlying tax allocation.

The basic deficiency observed in the present rule was that both of the allocation methods incorporated from the 1954 Internal Revenue Code have been interpreted as limiting the allocation of the consolidated tax liability to those members of the group having taxable income for the year, excluding those having a negative income for tax purposes. This means that the consolidated taxable income will always be less than the combined taxable income of those members of the group participating in the allocation and that the group members whose excess deductions create the reduction in the consolidated tax are barred from sharing in the saving.

The corporate relationships required by the Act assure that the deductible corporate expenses of the holding company itself will always create a consolidated tax saving, since Section 13(a) of the Act precludes such expenses being passed on to the subsidiaries, through service charge or contract, so as to transform them into corporate deductions of the subsidiaries. In light of the legislative history referred to, an expense reimbursement of the holding company, in the guise of a tax allocation, would seem inconsistent with Section 13(a). The exclusion in our earlier rule of the holding company from sharing in consolidated return savings was intentional and will continue. These considerations do not apply to other companies in the group that incur losses.

Our 1955 rule did address one aspect of the consolidated return problem, the tax loss carryover, by the proviso

> (i) That the tax allocated to each subsidiary company shall not exceed the amount of tax of such company based on a separate return computed as if such company had *always* filed its tax returns on a separate return basis. (emphasis supplied)

For tax purposes, of course, the use of the loss of a member of the consolidated group currently in the consolidated return leaves no loss to be applied to other years. Without the proviso, each subsidiary would be charged on the basis of its current income, if any, each year, and a company incurring a loss would receive no tax benefits, either currently or in the future. The proviso preserved a possibility of future recoupment.

When the Internal Revenue Service dealth with this subject in 1966, Regulation § 1.1502–33(d), it adopted two alternative standard methods.[1] The first, (i), is essentially that specified by the proviso of our rule. The second, (ii), would in substance permit a current settlement by crediting the loss company with a share of the tax benefits it provided in the current year, rather than deferring such settlement through the internal carry forward computation. This second alternative is essentially the method we also have adopted in the series of Rule 45(a) orders referred to above.

The investment tax credit, an important addition to the tax law subsequent to the adoption of our present rule, is similar in significant respects to the tax loss. It is clearly identifiable to a particular member of the group, its incidence has no necessary relativeship to current income, and its use in the consolidated return precludes a carryover by the company entitled to it. Other matters requiring clarification include the allocation of items, such as capital gains or losses, involving differences in tax rates or other special limitations.

Under the Act, each company in a registered system is, in important respects, expected and required to be a separate economic entity. While the Act effectively precludes the existence of minority common stock interests in the subsidiary companies, and thus eliminates potential conflict of interest, it deals principally with utility companies, whose rates are separately regulated under procedures which assign material weight to taxes as part of the cost of service. Uncompensated use of tax benefits intended for one utility company, to reduce the costs of another utility company, permanently assigns those benefits to an entirely different group of consumers, based solely on the fortuity of the common ownership of the utility companies and the relative timing of their respective periods of prosperity or distress.

The integration requirements of Section 11(b) of the Act limit registered systems to a single integrated utility system and businesses incidental thereto. The consolidated tax returns of such systems, accordingly, will not include, to any significant degree, the fruits of diverse and unrelated enterprises.[2] The service at cost requirement of Section 13(b) means that the related businesses in the system are not independent profit centers. They are regulated, under Sections 13 and 15 of the Act, as sources of services and goods required by the associate public utility companies. Their taxes, positive or negative, are elements of the cost at which their services are rendered.

In this context, it is necessary that a current, reasonable and unequivocal annual determination of each member company's tax be established. The proposed rule makes explicit the need for the written agreement contemplated by the tax laws. In view of the common control of all members of the consolidation group, the rule will continue to specify, as conditions, the principal terms of the allocation. It does not preclude the inclusion of further or more detailed terms, within the scope of the conditions prescribed.

While tax agreements inconsistent with the rule may, in principle, still be applied for under Rule 45(a), such action is not expected. It would be justified only in truly unforeseen and exceptional circumstances.

The proposed rule has been drawn to preserve the alternative specific allocation methods available under the present rule, or under Section 1552 of the Internal Revenue Code and the regulations thereunder. The registered systems and other interested parties are particularly invited to comment on which of these methods they, in fact, use or wish to use, the relevant practical differences among them in the context of the kind of companies subject to the Act, and whether the number of alternatives should be curtailed.

[1] Regulation 1.1502–33(d)(iii) provides, as a third alternative, any other method approved by the Commissioner of Internal Revenue.

[2] The possibility of some unrelated income or expenses cannot be rigorously excluded since changes in circumstances and other fortuities can result in such income. For example, a utility company's research and development may produce discoveries of commercial value. Surplus property may have other uses. And mineral reserves can include by-products. But such factors are also incidental and usually modest.

Text of the Proposed Rule

It is proposed to amend 17 CFR Part 250 by deleting paragraph (b)(6) of § 250.45 and adding thereto a new paragraph (c), as follows:

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1950

§ 250.45 Loans, extensions of credit, donations and capital contributions to associate companies.

* * * * *

(b) * * *

(6) [Removed]

(c) The declaration requirement of paragraph (a) of this section shall not apply to the filing of a consolidated tax return by the eligible associate companies in a registered holding company system, or to the execution or performance of the agreement referred to herein, if such consolidated tax return is filed pursuant to a tax agreement, in writing, among the associate companies participating therein for a term of one or more full tax years, and the agreement provides for allocation among such associate companies of the liabilities and benefits arising from such consolidated tax return for each full tax year in a manner not inconsistent with the following conditions:

(1) Definitions: "Consolidated tax" is the aggregate tax liability for a tax year, being the tax shown on the consolidated return and any adjustments thereto thereafter determined.

"Corporate taxable income" is the income or loss of an associate company for a tax year, computed as though such company had filed a separate return on the same basis as used in the consolidated return, except that dividend income from associate companies shall be disregarded, and other intercompany transactions, eliminated in consolidation, shall be given appropriate effect.

"Separate return tax" is the hypothetical tax of an associate company on its corporate taxable income for a tax year, adjusted to allow for any carryovers or carrybacks from other tax years if their unavailability is due to their inconsistent use in a consolidated return for another year. Carryovers or carrybacks shall not be so taken into account if the associate company has received a corporate tax credit therefor. "Corporate tax credit" is a hypothetical negative tax of an associate company for a tax year, equal to the amount by which the consolidated tax is reduced through inclusion of a corporate taxable loss, or other tax benefit of such associate company in the consolidated tax return.

(2) The consolidated tax shall be apportioned to the several members of the group in proportion to (i) the corporate taxable income of each such member, or (ii) the separate return tax of each such member, but the tax apportioned to any subsidiary shall not exceed the separate return tax of such subsidiary.

(3) The tax agreement shall provide for appropriate and equitable adjustment of the allocation specified under paragraph (c)(2)(i) of this section if the sum of the corporate taxable incomes of all members of the group in any taxable year differs from the consolidated taxable income because of intercompany transactions excluded from the consolidated return. It shall provide for appropriate and equitable adjustment of the allocation specified under paragraph (c)(2)(ii) of this section to the extent that the consolidated tax and separate return tax for any year include material items taxed at different rates or involving other special benefits or limitations. Such adjustment provisions will be directed to allocating to the individual members of the group the material effects of any particular features of the tax law applicable to them.

(4) The tax agreement may exclude from the allocation under paragraph (c)(2)(i) of this section subsidiary companies not having a corporate taxable income for the year being allocated, or under paragraph (c)(2)(ii) of this section subsidiary companies not having a separate return tax for the year being allocated. If the agreement so elects, it shall make appropriate and equitable provision for preservation to each of the subsidiary companies so excluded of the equivalent of any rights which such subsidiary company would have had, under the applicable tax law, had it filed a separate return, to use in other years any loss or credit availed of by the group through the consolidated return. With respect to carryover rights, such provisions will normally consist of recognition of the carryover in future allocations by reducing the consolidated tax allocation for the subsequent year to the subsidiary entitled to the benefit, and by charging the excess to the companies which had benefited by the prior deduction or credit. In case of carrybacks, the subsidiary excluded would normally be entitled to immediate payment from the members receiving a tax reduction through its use, in the consolidated return, (of the refund foregone).

(5) The agreement may, instead of excluding members as provided in paragraph (c)(4) of this section, include all members of the group in the tax allocation, recognizing negative corporate income or negative corporate tax, according to the allocation method chosen. If the agreement so provides, those companies with a positive allocation will pay the amount allocated and those subsidiary companies with a negative allocation will receive current payment from this fund. Such payments for tax benefits contributed to the

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consolidated return shall be accounted for in the same manner as tax refunds, provided that any such payment received by a subsidiary company which is not a public utility company shall be applied to reduce the costs incurred by such company for purposes of determining the costs of goods or services supplied by such company to associate companies under section 13(b) of the Act in the manner prescribed by the Commission by rule or order under that section.

(6) The tax agreement for each taxable year shall be filed as an exhibit to the system's annual report on Form U5S (§ 259.5s of this chapter) for the previous taxable year. The initial filing upon the effective date of this amendment shall be made as an amendment to the last Form U5S filed. If an existing tax agreement is merely renewed or amended, prior filings may be incorporated by reference.

Statutory Authority

The Commission hereby publishes for comment proposed amendments to Rule 45 pursuant to the provision of Sections 12(b) and 20(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)

By the Commission.

October 29, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34502 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-884]

Proposed Use of Materials Bulletin No. 70a Particleboard Interior Stair Treads and Certification Program

Correction

In FR Doc 80-33331, appearing at page 72688 in the issue of Monday, November 3, 1980, make the following correction:

On page 72688, third column, under **DATES,** the Comment due date should read "January 2, 1981."

BILLING CODE 1505-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-870]

Community Development Block Grants: Subpart F—Small Cities Program

In FR Doc. 80-34152, appearing at page 72691, in the issue of Monday, November 3, 1980, make the following correction:

On page 72691, first column the **COMMENTS DUE DATE** should read "January 2, 1981."

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-48-80]

Tax Deposits and Refunds Based on the Net Income Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of proposed rulemaking by cross-reference to amended temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register,** the Internal Revenue Service is issuing temporary excise tax regulations relating to title I of the Crude Oil Windfall Profit Tax Act of 1980. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 5, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-48-80), Washington, DC 20224.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING. Before adoption of the final regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend part 150 of title 26 of the Code of Federal Regulations. The final regulations, which are proposed to be based on the temporary regulations, would amend 26 CFR Part 51.

For the text of the temporary regulations, see FR Doc. 80-34427 (T.D. 7732) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-34426 Filed 10-31-80; 11:50 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 884 and 948

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of intent and proposed rule.

SUMMARY: On October 29, 1980, the State of West Virginia submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State plan.

DATES: Written comments on the plan must be received on or before 5:00 p.m., January 3, 1981. Written comments on whether OSM should hold a public hearing on the plan must be received by 5:00 p.m., November 10, 1980. A public hearing will be held on December 4, 1980 at 10:00 a.m. and will continue until all discussions have been completed. The hearing may be canceled, as discussed under Supplementary Information, below.

ADDRESSES: Written comments should be sent to: Patrick B. Boggs, Regional Director, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301. The public hearing, if held, will be in Room D, Capitol Complex Conference Center, Washington Street, East, Charleston, West Virginia.

The hearing may be canceled, as discussed under Supplementary Information, below. Copies of the full text of the proposed West Virginia plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region I, 603 Morris Street, Charleston, West Virginia 25301.

West Virginia Department of Natural Resources, 1800 Washington Street, Charleston, West Virginia 25301.

The Administrative Record will be available for public review at the OSM Region I office above, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Earl Cunningham, Assistant Regional Director, AML, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 342-8125.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the provisions of the approved program.

On October 29, 1980, OSM received a proposed abandoned mine reclamation plan from the State of West Virginia. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Lands (AML) Reclamation Program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) on October 25, 1978, 43 FR 49932-49952.

This notice describes the proposed program and sets forth information concerning public participation in the Director's determination of whether or not the submitted plan may be approved. The public participation requirements for the consideration of a State AML Reclamation Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OMS's AML Reclamation Program Final Rules (43 FR 49932-49940 (1978)).

The receipt of the West Virginia Reclamation Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in West Virginia.

By submitting a proposed plan, West Virginia has indicated that it wishes to be primarily responsible for this program. If the submission as hereafter modified, is approved by the Director of OSM, the State will have primary responsibility for the reclamation of abandoned mine lands in West Virginia. If the program is disapproved and the State does not choose to revise the plan, a Federal AML program will be implemented and OSM will have primary responsibility for these activities.

All written comments must be mailed or hand carried to the Regional Director's Office above or may be hand carried to the public hearing, if a public hearing is found to be necessary, and submitted as exhibits to the proceedings.

If the Regional Director finds that the State has given the public adequate notice and opportunity to comment in public hearings, and that the record of such hearing does not reflect major unresolved controversies and there are not a significant number of requests during the comment period on the need for a hearing, the hearing may be canceled by a notice published in the **Federal Register** canceling the scheduled hearing.

Written comments on the issue of waiver of the public hearing must be received by 5:00 p.m., November 10, 1980.

Pursuant to 30 CFR 884.13, OSM will continue the period of review of the proposed West Virginia Reclamation Plan at least until a final decision is made by the Secretary of the Interior on the West Virginia permanent regulatory program.

The comment period will close at 5:00 p.m., on January 3, 1981. Comments received after that time will not be considered. Representatives of the Regional Director's Office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AML reclamation program.

Person's wishing to meet with representatives of the Regional Director's Office during this time period may place such request with Richard Leonard, Public Information Officer, telephone 304/342-8125 at the Regional Director's Office above.

Meetings may be scheduled between 8 a.m. and 4:00 p.m. Monday through Friday excluding holidays at the Regional Director's Office.

The Department intends to continue to discuss the State's plan with representatives of the State throughout the review process. All contacts beween Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed program. The approval of State AML reclamation plans does not have significant environmental impact, but is only a procedural change in terms of the governmental entity that will be performing the work.

The Director has determined that this is not a significant rule within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the West Virginia Reclamation Plan for Abandoned Mine Lands.

The West Virginia Reclamation Plan for Abandoned Mine Lands can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the plan.

4. The plan meets all the requirements of the OSM, AML Reclamation Program Provisions.

5. The State has an approved Regulatory Program, and

6. It is determined that the plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the West Virginia State Reclamation Plan submission:

The West Virginia Department of Natural Resources has been designated by the Governor of the State of West Virginia to implement and enforce the Abandoned Mine Lands Program in

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accordance with SMCRA (Pub. L. 95–87). The Department of Natural Resources has developed State regulations to carry out State mandate. Contents of the State Plan submission include:

(a) Designation of authorized State agency to administer the program.

(b) State's Chief Legal Officers opinion of designated Agency to operate the program.

(c) Description of the policies and procedures to be followed in conducting the program including:

(1) Goals and objectives.

(2) Project ranking and selection procedures.

(3) Coordination with other reclamation programs.

(4) Land acquisition, management and disposal.

(5) Reclamation on private land.

(6) Rights of Entry.

(7) Public participation in the program.

(d) Description of the Administrative and Management structure to be used in the program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the program.

(2) Personnel staffing policies.

(3) Purchasing and procurement systems and policies.

(4) Description of the accounting system including specific procedures for operation of the reclamation fund.

(e) Description of the public's participation in preparation of the plan.

(f) A general description of activities to be conducted under the reclamation plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map.

(2) General description of the problems identified and how the plan proposes to deal with them.

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses.

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the plan.

(5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) The economic base.

(ii) Sociological and demographic characteristics.

(iii) Significant aesthetic, historic or cultural, and recreational values.

(iv) Hydrology including water quality and quantity problems associated with past mining.

(v) Flora and fauna including endangered or threatened species and their habitat.

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction.

(vii) Anticipated benefits from reclamation.

Dated: October 30, 1980.

Dave L. Reeves,

Acting Director.

[FR Doc. 80-34479 Filed 11-4-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 735

Minority Institutions Science Improvement Program (MISIP)

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations to implement the Minority Institutions Science Improvement Program. The proposed regulations will allow accredited two- and four-year institutions of higher education whose enrollments are predominantly (more than 50 percent) American Indian, Alaskan Native, Black American, Mexican American, Puerto Rican or any combination of these or other disadvantaged ethnic minorities who are underrepresented in science to become eligible to participate in the program. The program provides support to these minority institutions and certain other nonprofit groups to effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities into scientific careers.

DATES: Comments must be received on or before December 5, 1980.

ADDRESSES: Comments should be addressed to Dr. Argelia Velez-Rodriquez, U.S. Department of Education, Division of Science Education Resources Improvement, Minority Institutions Science Improvement Program, Room W–436, 1800 G St., N.W., Washington, D.C. 20550, Telephone No. (202) 282–7760.

SUPPLEMENTARY INFORMATION: The Minority Institutions Science Improvement Program was transferred to the Department of Education from the National Science Foundation by the Department of Education Organization Act of 1979, Pub. L. 96–88, Section 304.

Types of Support

Support is provided to eligible institutions in four ways: (1) Design grants to minority institutions that do not have formal planning capabilities on campus to provide assistance in developing long-range science improvement plans; (2) grants to individual minority institutions in support of comprehensive science improvement plans; (3) grants to nonprofit accredited colleges and universities in support of cooperative science improvement projects; and (4) grants to eligible institutions or organizations in support of special projects designed to implement Program goals.

Expanding the Scope of Special Projects

In the past, Special Projects have been limited primarily to undergraduate level activities. Beginning in Fiscal Year 1981, the special projects category has been expanded to support program activities at the pre-college level. The opportunity for pre-college students to interact early in their educational experience with practicing scientists and engineers provides the necessary models for students to choose careers in science.

Increasing the Limit of Special Projects

Formerly, Special Projects awards have been restricted to eligible minority institutions as recipients and limited to a maximum award of $50,000 over a two year period. Beginning FY 1981, Special Projects that (a) render a needed service to a group of eligible minority institutions, or (b) offer training for project directors, scientists, and engineers from eligible minority institutions, or (c) both, are supported to a maximum level of $150,000 over a two year period. Under the proposed regulations eligible applicants for Special Projects may include science-oriented nonprofit organizations, professional scientific societies, and all nonprofit colleges and universities without regard to minority enrollment.

Preapplications

In the past, preapplications have not been accepted. However, since there are currently many eligible two and four-year institutions that have never received a MISIP grant, the program will accept and respond to preliminary proposals from these institutions only, beginning in Fiscal Year 1982. This change in the program procedures was made to increase participation in the program and encourage institutions with established programs in science to submit proposals.

Additional Requirements for Projects

These proposed regulations do not contain certain types of administrative requirements because they are covered in the Education Division's General Administrative Regulations (EDGAR) which were published as final regulations on April 3, 1980 (45 FR 22494).

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before December 5, 1980, will be considered in the development of the final regulations. If substantive revisions to the regulations are necessary as a result of public comment, applicants will be given the opportunity to amend their applications. Should this be necessary, a 30 day public comment period on the proposed regulations will expedite the amendment process and minimize delays in the award of projects because all comments on the proposed regulations will have been received prior to the closing date for applications.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at the Department of Education, Division of Science Education Resources Improvement, Minority Institutions Science Improvement Program, 5225 Wisconsin Ave., NW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance No. 13.120, Minority Institutions Science Improvement Program. Part I of OMB Circular A–95 does not apply to this program)

Dated: October 31, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary of Education proposes to add a new Part 735 to Title 34 of the Code of Federal Regulations to read as follows:

PART 735—THE MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM

Subpart A—General

Sec.

735.1 What is the Minority Institutions Science Improvement Program (MISIP)?
735.2 Who is eligible to receive a grant?
735.3 How does a minority institution establish eligibility?
735.4 What regulations apply to the Minority Institutions Science Improvement Program?
735.5 What definitions apply to the Minority Institutions Science Improvement Program?

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

735.10 What kinds of projects are supported by this program?
735.11 What are institutional projects?
735.12 What are design projects?
735.13 What are special projects?
735.14 What are cooperative projects?

Subpart C—How Does One Apply for a Grant? [Reserved]

Subpart D—How Does the Secretary Make a Grant?

735.30 How does the Secretary evaluate an application?
735.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must a Grantee Meet?

735.40 What are the restrictions on the types of costs a grant may support?

Authority: Sec. 3(a), National Science Foundation Act of 1950 as enacted by Pub. L. 81–507, 64 Stat. 149 as amended, (42 U.S.C. 1862).

Subpart A—General

§ 735.1 What is the Minority Institutions Science Improvement Program (MISIP)?

The Minority Institutions Science Improvement Program is designed to effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities into scientific careers.

(42 U.S.C. 1862)

§ 735.2 Who is eligible to receive a grant?

The following parties are eligible to receive grants:

(a) Public and private, nonprofit minority institutions as defined in § 735.5(b).

(b) Nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which render a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(42 U.S.C. 1862)

§ 735.3 How does a minority institution establish eligibility?

An individual institution is required to provide the information necessary to establish eligibility to participate in the program. The data on enrollment furnished by the institution to the Office for Civil Rights, Education Department, to satisfy requirements for the "Fall Enrollment and Compliance Report of Institutions of Higher Education, 1978" (Higher Education General Information Survey HEGIS XIII: OE Form 2300–2.3) are required for review toward satisfying eligibility requirements.

(42 U.S.C. 1862)

§ 735.4 What regulations apply to the Minority Institutions Science Improvement Program?

The following regulations apply to the Minority Institutions Science Improvement Program:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (General).

(b) The regulations in this Part 735.

(42 U.S.C. 1862, 20 U.S.C. 3444)

§ 735.5 What definitions apply to the Minority Institutions Science Improvement Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR Part 100c.

Applicant
Application
Department
Grants
Grantee
Nonprofit
Private
Project
Project period
Resources
Secretary

(20 U.S.C. 1221e–3(a)(1))

(b) *Definitions that apply to this part.* "Accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"Minority" means American Indian, Alaskan Native, Black American, Mexican American, Puerto Rican or other disadvantaged ethnic group underrepresented in science and engineering.

"Minority Institution" means an accredited college or university whose enrollment of a single minority group or a combinaton of minority groups as

defined in § 735.5(b) exceeds fifty percent of the total enrollment.

"Pre-College level" means middle or secondary school.

"Science" means, for the purposes of this program, the biological, engineering, mathematical, physical and social sciences, and the history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"Underrepresented in science and engineering" means a minority group in which the number of scientists and engineers per 10,000 populaton of that group is substantially below the comparable figure for non-minority scientists and engineers.

(42 U.S.C. 1862)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 735.10 What kinds of projects are supported by this program?

The Secretary awards grants under this program for all or some of the following categories of projects:

(a) Institutional projects for implementing a comprehensive science improvement plan as described in § 735.11.

(b) Design projects for developing a long-range science improvement plan as described in § 735.12.

(c) Special projects to support a single activity as described in § 735.13.

(d) Cooperative projects to share facilities and personnel and disseminate information as described in § 735.14.

(42 U.S.C. 1862)

§ 735.11 What are Institutional projects?

(a) Institutional project grants support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(b) The length of the project period is a maximum of 36 months.

(c) Activities that the Secretary may assist under an institutional project include but are not limited to the following:

(i) Faculty development programs; or

(ii) Development of curriculum materials.

(d) Eligible applicants for institutional projects are minority institutions.

(42 U.S.C. 1862)

§ 735.12 What are Design projects?

(a) Design project grants assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(b) The length of the project period is a maximum of 12 months.

(c) Activities that the Secretary may assist under a design project include but are not limited to the following:

(1) Development of planning, management, and evaluations systems; and

(2) Improvement of institutional research or development offices.

(d) Eligible applicants for a design project are minority institutions that have not received support under this program in prior years.

(42 U.S.C. 1862)

§ 735.13 What are Special projects?

(a) Special project grants support a single activity to—

(1) Improve quality training in science and engineering at minority institutions;

(2) Enhance the minority institution's general scientific research capabilities;

(3) Provide a needed service to a group of eligible minority institutions; or

(4) Provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(b) The length of the project period is a maximum of 24 months.

(c) Activities that the Secretary may assist under a special project include, but are not limited to, the following:

(1) Advanced science seminars;

(2) Science faculty workshops;

(3) Faculty training to develop specific science research or education skills;

(4) Research in science education;

(5) Programs for visiting scientists;

(6) Preparation of films or audio-visual materials in science;

(7) Development of learning experiences in science beyond those normally available to minority undergraduate students;

(8) Development of pre-college enrichment activities in science; and

(9) Any other activities designed to address specific barriers to the entry of minorities into science.

(d) Eligible applicants for special projects of the type listed in paragraphs (a)(1) and (2) of this section are minority institutions. Eligible applicants for special projects of the type listed in paragraphs (a)(3) and (4) of this section are all applicants eligible for assistance under this program.

(42 U.S.C. 1862)

§ 735.14 What are Cooperative projects?

(a) Cooperative project grants assist groups of nonprofit accredited colleges and universities with common problems to work together to conduct a science improvement project.

(b) The length of the project period is a maximum of 36 months.

(c) Activities that the Secretary may fund under cooperative projects include, but are not limited to, the following:

(1) Assist institutions in sharing facilities and personnel;

(2) Disseminate information about established programs in science and engineering;

(3) Support cooperative efforts to strengthen the institutions' science and engineering programs; and

(4) Carry out a combination of any of the activities in paragraphs (d)(1)–(3) of this section.

(d) Eligible applicants for cooperative projects are groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution as defined in § 735.5(b).

(42 U.S.C. 1862)

Subpart C—How Does One Apply for a Grant—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 735.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 735.31.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For applications of substantially equal quality, the Secretary gives priority to projects that contribute to achieving balance among projects funded by this program within each of the following categories:

(1) Past history of participation in the program;

(2) Geographic location;

(3) Academic discipline; and

(4) Project type.

§ 735.31 What selection criteria does the Secretary use?

The Secretary evaluates applications using the following criteria:

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) Methods of coordination. (See EDGAR 45 CFR 100a.581)

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project.

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of a racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See EDGAR 45 CFR 100a.590—Evaluation by the grantee; where applicable)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1221(e)–3(a)(1))

(f) *Identification of need for the project.* (10 points)

(1) The Secretary looks for information that shows the identification of need for the project.

(2) The Secretary looks for information that shows—

(i) An adequate needs assessment;

(ii) An identification of specific needs in science; and

(iii) An involvement of appropriate individuals, especially science faculty, in identifying the institutional needs.

(g) *Potential institutional impact of the project.* (15 points)

(1) The Secretary reviews each application to determine the extent to which the proposed project gives evidence of potential for enhancing the institution's capacity for improving and maintaining quality science education for its minority students.

(2) The Secretary looks for information that shows—

(i) For an institutional or cooperative project, the extent to which both the established science education program(s) and the proposed project will expand or strengthen the established program(s) in relation to the identified needs; or

(ii) For a design project, the extent to which realistic long-range science education improvement plans will be developed with the technical assistance provided under the project; or

(iii) For a special project, the extent to which it addresses needs that have not been adequately addressed by any existing institutional science program or takes a particularly new and exemplary approach that has not been taken by any existing institutional science program.

(h) *Institutional commitment to the project.* (15 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to continue the project activities when funding ceases.

(2) The Secretary looks for information that shows—

(i) Adequate institutional commitment to absorb any after-the-grant burden initiated by the project;

(ii) Adequate plan for continuation of project activities when funding ceases;

(iii) Clear evidence of past institutional commitment to the provision of quality science programs for its minority students; and

(iv) A local review statement signed by the chief executive officer of the institution endorsing the project and indicating how the project will accelerate the attainment of the institutional goals in science.

(i) *Expected outcomes.* (10 points)

(1) The Secretary reviews each application to determine the extent to which minority students will benefit from the project.

(2) The Secretary looks for information that shows—

(i) Expected outcomes likely to result in the accomplishment of the program goals;

(ii) Educational value for science students; and

(iii) Possibility of long-term benefits to minority students, faculty, or the institution.

(j) *Scientific and educational value of the proposed project.* (10 points)

(1) The Secretary reviews each application for information that shows its potential for contributions to science education.

(2) The Secretary looks for information that shows—

(i) The relationship of the proposed project to the present state of science education

(ii) The use or development of effective techniques and approaches in science education; and

(iii) Potential use of some aspects of the project at other institutions.

(42 U.S.C. 1862)

Subpart E—What Conditions Must a Grantee Meet?

§ 735.40 What are the restrictions on the types of costs a grant may support?

Funds may not be used for—

(a) Undergraduate scholarships;

(b) Augmenting the salary rate for faculty members pursuing regularly assigned duties;

(c) Full support of faculty members currently employed by the institutions;

(d) Support for a project director or for faculty members beyond the extent of their participation in project activities. For design grants no more than fifty percent of the academic year salaries may be paid.

(e) Support for faculty members engaged in project activities during summer in excess of two-months of a

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faculty member's current academic year salary for full-time involvement for an 8-week period;

(f) Fees and expenses for consultants in excess of the established applicant's rate;

(g) Support for student assistant's not involved in project activities or in excess of the approved work-study rates in operation at the institution;

(h) Support of any other on-going, regular activity at the institution;

(i) Staff benefits, if they are treated as an item of indirect cost in the negotiation of the institution's Indirect Cost Rate; and

(j) Major renovations of existing physical facilities.

(42 U.S.C. 1862)

[FR Doc. 80-34407 Filed 11-4-80; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Valley Forge National Historical Park, Pennsylvania; Alcoholic Beverages

AGENCY: National Part Service.

ACTION: Proposed rules.

SUMMARY: The purpose of this proposed regulation is to establish restrictions on the consumption of alcoholic beverages within Valley Forge National Historical Park to reduce the adverse impact on the park resources and to ensure the safety of park visitors.

DATES: Written comments, suggestions or objections will be accepted until December 5, 1980.

ADDRESS: Comments should be directed to: Superintendent, Valley Forge National Historical Park, Valley Forge, Pennsylvania 19481.

FOR FURTHER INFORMATION CONTACT: H. Gilbert Lusk, Superintendent, Valley Forge National Historical Park, Telephone: (215) 783-7700.

SUPPLEMENTARY INFORMATION:

Background

Valley Forge National Historical Park was established to preserve the site of the encampment of the American army during the winter of 1777-1778. Visitors from many parts of the U.S. and abroad travel to the site to view the historic grounds, buildings and fortifications associated with that period. With increasing regularity, persons who visit the park seeking to reflect on the events that occurred there during the Revolution find that many of the available parking spaces provided are occupied by persons pursuing other than historic interests.

An activity having an adverse impact on the use and enjoyment of the park as an important historic site is the consumption of alcoholic beverages. The apparent increase in this activity seems to be due primarily to Commonwealth of Pennsylvania prohibitions against consuming alcoholic beverages in State and local parks and the strict enforcement of these prohibitions by local law enforcement agencies. Under these circumstances Valley Forge National Historical Park has become an attraction to many people simply because it is a park where drinking is not prohibited. Additionally, the use of alcohol leads, in many cases, to disruptive behavior which conflicts with other uses of the park. Vandalism, motor vehicle violations, unsafe acts, and obstreperous behavior are all associated with the consumption of alcoholic beverages in the park to the detriment of the visitor who would benefit from the park's legislated purpose.

The implementation of a regulation prohibiting this activity will significantly reduce problems associated with heavy use of Valley Forge National Historical Park. This will have the effect of making the park more readily usable by visitors who want to study its history and will produce a more peaceful atmosphere in keeping with an area of great historical significance.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The author of this regulation is Thomas J. Fewlass, Chief Park Ranger, Valley Forge National Historical Park.

Impact Analysis

The National Park Service has made a determination that the regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority.

(Secs. 1 and 3, Chap. 408, the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. §§ 1, 3); Sec. 101(b), Pub. L. 95-250, 92 Stat. 166 (16 U.S.C. § 1a-1); Sec. 3, Pub. L. 94-377, 90 Stat. 797 (16 U.S.C. § 410 aa-2); and National Park Service Order No. 77 (38 FR 7478), as amended)

F. R. Holland, Jr.,

Acting Associate Director, Management and Operations.

In consideration of the foregoing, Part 7 of Title 36, Code of Federal Regulations is amended by the establishment of a new section 7.37 to read as follows:

§ 7.37 Valley Forge National Historical Park.

(a) Alcoholic beverages.

Prohibition. The possession or drinking of alcoholic beverages in any public place or in any motor vehicle is prohibited, except with the written permission of the Superintendent. This regulation shall not apply to persons transporting alcoholic beverages through the park in sealed or unopened containers.

(b) Definition.

As used in this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Valley Forge National Historical Park to which the public has access.

[FR Doc. 80-34424 Filed 11-4-80; 8:45 am]
BILLING CODE 4310-70-M

POSTAL SERVICE

39 CFR Part 111

Definition of Periodical Publication

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend section 421.1 of the Domestic Mail Manual to establish administrative definitions of the terms "newspaper" and "periodical publication" as those terms are used with regard to second-class mail eligibility. These definitions substitute for the previous use of a definition of "periodical" from a 1902 Supreme Court decision, which the courts have now held should not be applied as a rule of law.

DATE: Comments must be received on or before December 4, 1980.

ADDRESS: Written comments should be addressed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1640, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Martin Cohen, Office of Mail Classification, (202) 245-4569.

SUPPLEMENTARY INFORMATION:

Historically, only "newspapers and other periodical publications" have been eligible for mailing at the second-class rates of postage. Former 39 U.S.C. § 4351 (1964 ed.), Domestic Mail Classification Schedule § 200.010. In applying a similar statutory requirement, the U.S. Supreme Court stated, in *Houghton* v. *Payne*, 194 U.S. 88, 97 (1904):

"A periodical, as ordinarily understood, is a publication appearing at stated intervals, each number of which contains a variety of original articles by different authors, devoted either to general literature of some special branch of learning or to a special class of subjects. Ordinarily each number is incomplete in itself, and indicates a relation with prior or subsequent numbers of the same series. It implies a continuity of literary character, a connection between the different numbers of the series in the nature of the articles appearing in them, whether they be successive chapters of the same story or novel or essays upon subjects pertaining to general literature. If, for instance, one number were devoted to law, another to medicine, another to religion, another to music, another to painting, etc., the publication could not be considered as a periodical, as there is no connection between the subjects and no literary continuity. It could scarcely be supposed that ordinary readers would subscribe to a publication devoted to such an extensive range of subjects."

Until recently, the Postal Service has applied the *Houghton* definition in determinations of second-class eligibility. However, this use of the *Houghton* definition was invalidated on the gounds that the Postal Service had not freely chosen to apply the definition as an administrative standard, but had improperly treated it as a rule of law. *Standard Rate and Data Service, Inc.* v. *USPS*, 584 F.2d 473 (D.C. Cir. 1978); *see also National Auto Research Publications, Inc.* v. *USPS*, 584 F.2d 483 (D.C. Cir. 1978); *H. W. Wilson Co.* v. *USPS*, 580 F.2d 33 (2nd Cir. 1978); *Institute for Scientific Information, Inc.* v. *USPS*, 555 F.2d 128 (3rd Cir. 1977). In response to these decisions, the Postal Service has developed the administrative definitions of the terms "newspaper" and "periodical publication" which are the subject of this proposed rule.

The proposed definition of a "periodical" does not include the *Houghton* requirement of a variety of original articles but does require that a periodical must:

(1) be published at a stated frequency with the intent to continue publication indefinitely,

(2) have the transmission of information as its primary purpose,

(3) exhibit continuity from issue to issue, and

(4) have the primary distribution of each issue completed before that of each succeeding issue.

The last requirement means that more than fifty percent of all the copies of an issue that will be distributed by any means must be distributed to their recipients before any copies of a succeeding issue may be distributed. The purpose of this restriction is to deny second-class entry to publications which are not truly periodicals. An example would be a series of catalogs which may technically be issued at a stated frequency but which is actually prepared in advance of the dates of issuance and distributed primarily upon request.

Proposed § 421.1b contains three categories of publications whose classification as "periodical publications" is statutorily based. They are higher-education catalogs (39 U.S.C. § 3626(b)), looseleaf reports concerning developments in the law or public policy (39 U.S.C. § 3626(b)), and transportation guides (former 39 U.S.C. § 4352(c) (1964 ed.)).

Proposed § 421.1c specifically provides that material which constitutes a book cannot be converted into an issue of a "periodical publication" by superficial means. This policy was upheld by the Supreme Court in the *Houghton* case where the court ruled that a series of reprinted books was not eligible for second-class mail as a periodical even though the books were issued at a stated frequency, under a common name, and to paid subscribers. That ruling was unaffected by the recent courts of appeals decisions on the issue of the proper definition of a periodical.

Proposed § 421.1d provides a definition of "newspaper" and stressed the timely, nonpermanent character normally associated with this type of publication.

The Postal Service believes that the proposed definitions of "newspaper" and "periodical" reflect the common understanding of both the Postal Service and mailers of what constitutes second-class publications. These definitions are intended to provide additional guidance to postal employees and the public on the requirements for eligibility for second-class mail privileges.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register.** See 39 CFR 111.1.

PART 421—REQUIREMENTS FOR ALL SECOND-CLASS PUBLICATIONS

In part 421, 421.1 is revised to read as follows:

421.1 Periodical publications.

Only newspapers and other periodical publications which meet the mailability conditions stated in 123 and the requirements of this chapter may be mailed at the second-class rates. For second-class mail purposes, a periodical publication is defined as follows:

a. A periodical is a publication which is published at a stated frequency with the intent to continue publication indefinitely. The primary distribution of each issue must be made before that of each succeeding issue. The primary purpose of a periodical must be the transmission of information. A periodical may consist of original or reprinted articles on a single topic or variety of topics, listings, photographs, illustrations, graphs, a combination of advertising and nonadvertising matter, comic strips, legal notices, editorial material, cartoons, or other subject matter. A periodical must also exhibit continuity from issue to issue. Continuity may be evidenced by serialization of articles or by successive issues carrying the same style, format, theme, or subject matter.

b. The following particular types of publications are also considered to be periodical publications:

(1) Any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education, issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

(2) Any looseleaf page or report (including any index, instruction for filing, table or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(3) Any transportation guide containing transportation schedules, fares, and related information.

c. Material which has been, or is intended to be, distributed primarily as a book cannot be converted into an issue of a periodical by merely placing a periodical's name upon it, placing it within a periodical's cover, or using

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similar superficial methods. This restriction does not prohibit excerpts or condensations of books from being proper subject matter for periodicals.

d. A newspaper is a periodical which is designed primarily to be a source of timely information on current events connected with public affairs, international activities, politics, art, or other subjects. A newspaper must be unbound, printed on newsprint and issued weekly or more frequently.

An amendment to 39 CFR 111.3 will be published if this proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 80-34436 Filed 11-4-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR 52

[A-3-FRL 1654-6]

Proposed Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted a proposed revision of its State Implementation Plan (SIP) consisting of amendments to existing air pollution control regulations requiring monitoring of emissions from certain sources as required by the **Federal Register** Notice of October 6, 1975 entitled "Requirements for Submittal of Implementation Plans Standards for New Stationary Sources—Emission Monitoring", 40 FR 46240. These sources are sulfuric acid plants greater than 300 tons per day, fluid bed catalytic cracking unit catalyst regenerators of greater than 20,000 barrels per day fresh feed capacity at petroleum refineries, and fuel burning equipment which is not exempted within the regulations. These regulations are included as amendments to Regulation No. XVII, "Source Monitoring, Record Keeping and Reporting", of the State of Delaware's "Regulations Governing the Control of Air Pollution", and will apply to any source in the State of Delaware which conforms with the categories listed within the regulations.

DATE: Comments must be submitted on or before December 5, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan

State of Delaware, Department of Natural Resources, and Environmental Control, Edward Tatnall Building, Dover, Delaware 19901, ATTN: Mr. Robert French

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted on or before December 5, 1980 will be considered and should be directed to: Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH10), Air, Toxics and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106, attn: (AH 006DE).

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory D. Ham, U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106, (215) 597-2745.

SUPPLEMENTARY INFORMATION

Introduction

The proposed amendments to the Delaware regulations were submitted by Governor Pierre S. du Pont on September 7, 1977, accompanied by a certification that the public hearing requirements were fulfilled prior to adoption of these regulations.

Description of the Amendments

The amendments consist of the addition of Sections 2 thru 6 to Regulation No. XVII, "Source Monitoring, Record Keeping and Reporting", of the Regulations Governing the Control of Air Pollution.

The regulations require installation, calibration, operation, and maintenance of all monitoring equipment necessary for the continuous monitoring of the pollutants specified for the applicable source category. The monitoring and recording must begin within eighteen months of the date of plan approval of promulgation.

Section 2.1 contains the specifications for monitoring of fuel burning equipment with an annual average capacity factor for calendar year 1974 of greater than 30 percent (as reported to the Federal Power Commission).

A continuous monitoring system for measurement of opacity must be installed, calibrated, operated, and maintained to comply with performance specifications of sub-Section 3.1.1 of this regulation for any source greater than 250 million Btu per hour heat input except where the fuel used is gaseous fuel only, oil or a mixture of oil and gas where the source is able to comply with particulate matter and opacity regulations without the use of particulate matter collection equipment, or for waste heat boilers unless they derive greater than 250 million Btu per hour heat input from the firing of auxiliary fuel.

Sulfur dioxide must be monitored continuously to comply with performance specifications of paragraph 3.1.3 of this regulation on any fuel burning equipment of greater than 250 million Btu per hour heat input where sulfur dioxide control equipment has been installed.

A continuous monitoring system for measurement of nitrogen oxides is required on any fuel-burning equipment discharging effluents through a common stack of greater than 1000 million Btu per hour heat input when that source is located in an Air Quality Control Region classified as Priority I for NO_2. Any source owner or operator who demonstrates during source compliance tests emission levels of 30 percent or more below the New Source Performance Standard is exempted from this requirement.

Where conversion of measurements of oxygen or carbon dioxide in the flue gas are needed for sulfur dioxide or nitrogen oxides continuous emission monitoring data, continuous monitoring systems for the measurement of the percent oxygen or carbon dioxide in the flue gas are required. These systems must meet the performance specifications of subsections 3.1.4 or 3.1.5.

Section 2.3 requires continuous monitoring systems for sulfur dioxide for all sulfuric acid plants of greater than 300 tons per day production capacity. Performance specifications for each sulfuric acid facility within such plants are listed in Subsection 3.1.3.

Section 2.4 requires continuous monitoring systems for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries of greater than 20,000 barrels per day fresh feed capacity. Performance specifications are established in subsection 3.1.1.

Performance specifications for five emission categories are contained in Section 3.1. This section references specifications set forth in Appendix B of the **Federal Register**, Volume 40, Number 194, dated Monday, October 6, 1975. Specifications for calibration gases and cycling time, zero and span drift, analytical reference methods, and procedures for approval of alternative procedures and requirements are contained by reference in Section 3.2, 3.3, 3.4, and 3.5 respectively.

Section 3.5 allows a five-year exemption from meeting test procedures prescribed in this regulation from the date of plan approval or promulgation for sources that have purchased emission monitoring systems prior to September 11, 1974. Sources regulated under Regulation No. XX, New Source Performance Standards, are also exempted from this regulation.

Monitors must be located such that representative measurements of emissions or process parameters are obtained (Section 3.7). Where effluents from two or more similar facilities are combined, the combined effluent must be monitored, as determined by the Department. Where the facilities are dissimilar or where effluents from one facility are released at more than one point, alternative procedures may be established, and approved by the Department, to comply with these regulations.

Minimum data requirements are prescribed in Section 4.0. These requirements include:

(a) Submittal of a written report of excess emissions for each calendar quarter, and the nature and cause of the excess emissions. The averaging period must be the same as that specified in the test method used to determine compliance (Section 4.1).

(b) Specifications for opacity measurements (Section 4.2).

(c) Specifications for gaseous measurements (Section 4.3).

(d) Reporting of the dates and times when the monitoring system is inoperative, and the nature of repairs or adjustments (Section 4.4).

(e) Reporting of information showing that no excess emissions have occurred and that the continuous emission monitoring system has been operating properly (Section 4.5).

(f) Maintenance of a file on all information in the quarterly summaries, and all other data collected by the monitoring system on data necessary for a minimum of two years from the date of collection of this data or submission of the summaries (Section 4.6).

Data reduction requirements are contained in Section 5.0.

The public is invited to submit, to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision to the Delaware State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Section 110 (a)(2) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Submittal of the State Implementation Plans."

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-642)

Dated: October 23, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-34504 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

[Docket No. OAQPS-79-12; AH-FRL 1655-6]

Standards of Performance for New Stationary Sources; Organic Solvent Cleaners; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On June 11, 1980, the Environmental Protection Agency proposed in the **Federal Register** (45 FR 39766) standards of performance for new, modified or reconstructed organic solvent cleaners. On August 25, 1980 (45 FR 56373), the public comment period was extended for the proposed rule from August 25, 1980, to October 24, 1980. Today's action further extends the comment period.

DATE: Written submissions on this proposal will be received until close to business on December 8, 1980.

ADDRESS: Information should be submitted (in duplicate, if possible) to: Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, D.C. 20460. Attention: Docket No. OAQPS-78-12.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Schell, Pollutant Assessment Branch, Strategies and Air Standards Division (MD-12), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5345.

SUPPLEMENTARY INFORMATION: Several requests have been received to extend the comment period to allow submittal of additional technical and health related information. Although the Agency had not originally intended to further extend the comment period, some confusion exists as to whether in fact these requests would be granted or not. Because of this confusion and its potential impact on the submittal of relevant information, the comment period is hereby extended to December 8, 1980.

Dated: October 30, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-34485 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 123

[SW-1-FRL 1655-1]

Vermont Application for Interim Authorization, Phase I; Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Vermont application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATES: Comments on the Vermont interim authorization application must be received by December 10, 1980.

Public Hearing: EPA will conduct a public hearing on the Vermont interim authorization application at 9:00 a.m. on December 5, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed.

ADDRESSES: The public hearing will be held at: The Pavillion Auditorium, State Street, Montpelier, Vermont 05602. Copies of the Vermont interim

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authorization application are available at the following addresses for inspection and copying by the public:

Agency of Environmental Conservation, Division of Water Resources and Environmental Engineering, Air and Solid Waste Program, Heritage II, 79 River Street, Montpelier, Vermont 05602 (telephone (802) 828–3395).

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5791/4017).

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C.

Written comments and requests to speak at the hearing should be sent to: Barbara L. Walsh, Vermont State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

FOR FURTHER INFORMATION CONTACT: Barbara L. Walsh, Vermont State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste progam must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479).

The State of Vermont has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, as also noted above. The State of Vermont will participate in the public hearing.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Vermont interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify.

Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Barbara L. Walsh, Vermont State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775), approximately three days after the hearing at cost.

Major Issues of Interest to EPA

In order for a State program to receive interim authorization, it must be substantially equivalent to the Federal program. EPA is soliciting comments on all aspects of the substantial equivalence of the Vermont program to the Federal hazardous waste management program.

The Agency is particularly interested in public comment on the following issues which have been identified as significant areas in which Vermont's program differs from the Federal program:

(1) Vermont's program may not include regulation of waste economic poisons (defined at 10 V.S.A. Section 6602) in a manner substantially equivalent to the Federal program under RCRA; (2) The term "person" under the Vermont definition at 1 V.S.A. Section 128 does not by its terms include the State. This definition affects the applicability of the Vermont Hazardous Waste Regulations to hazardous waste generators, transporters and facilities.

Dated: October 30, 1980.

Williams R. Adams, Jr.

Regional Administrator, Region I.

[FR Doc. 80-34495 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-7-FRL 1655-3]

Iowa Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region VII.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Iowa application for phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Iowa interim authorization application must be received by December 4, 1980.

PUBLIC HEARING: EPA will conduct a public hearing on the Iowa interim authorization application at 10:00 a.m., on December 4, 1980. EPA reserves the right to cancel the public hearing if signficant public interest in a hearing is not expressed. If you are interested in participating in a public hearing please notify Mr. Robert L. Morby of EPA at the address below no later than Monday, December 1, 1980. The State of Iowa will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Iowa interim authorization application are available during business hours at the following addresses for inspection and copying by the public:

Iowa Department of Environmental Quality, 900 East Grand, Des Moines, Iowa 50319, 515/281–8692, Business hours: 8:00–4:30

U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534, Business hours: 7:30–4:30

Written comments should be sent to: U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534.

The public hearing will be held at: Fifth Floor Conference Room, Iowa Department of Environmental Quality, 900 East Grand, Des Moines, Iowa 50319, December 4, 1980, 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for phase I interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: October 30, 1980.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 80-34503 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 162 and 164

[OPP 60004B; PH FRL 1659-6]

Rules Governing the Rebuttable Presumption Against Registration Process and Rules of Practice Governing Hearings Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; extension of comment period.

SUMMARY: EPA has extended the period for submission of comments on the proposed revisions of the procedural regulations governing the Rebuttable Presumption Against Registration (RPAR) process and the conduct of hearings under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATE: Comments must be received on or before December 22, 1980.

ADDRESS: Send comments to: Document Control Officer (TS–793), Room E–447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Edward C. Gray, Deputy Associate General Counsel for Pesticides, Office of General Counsel (A–132), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 755–0638.

SUPPLEMENTARY INFORMATION: EPA's proposed revisions of the procedural regulations governing the Rebuttable Presumption Against Registration process and the conduct of hearings under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act were published in the **Federal Register** of August 7, 1980 (45 FR 52628). Although the Agency is not required to promulgate procedural regulations through notice and comment rulemaking, EPA decided in its discretion to publish the proposed rules and to solicit comments. The close of the original comment period was November 5, 1980.

EPA has received requests for an extension of this comment period from the National Agricultural Chemicals Association, the Chemical Specialties Manufacturers Association, and the Environmental Defense Fund. The Agency concludes that additional time would be beneficial to ensure the submission of complete and thoughtful comments on the proposed revisions. Therefore, the close of the comment period has been extended to December 22, 1980.

All comments should be sent to the Document Control Officer at the above address and should bear the identifying notation "OPP 60004." All written comments will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: October 31, 1980.

Edwin H. Clark, II,

Acting Assistant Administrator for Pesticide and Toxic Substances.

[FR Doc. 80-34611 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Ch. 3

Establishment of Departmental Audit Resolution Policy

AGENCY: Health and Human Services, Office of the Secretary.

ACTION: Notice of departmental policy.

SUMMARY: On July 31, 1980, the Department of Health and Human Services established an internal Department-wide policy on the resoluton of audit findings affecting the

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Department's grants, contracts, and cooperative agreements.

The policy provides basic standards and comprehensive instructions for resolving audit findings from the receipt of an audit report to final resolution.

The policy will soon be published as Chapter 1.105 of the Department's Grants Administration Manual and will also be incorporated into the HHS Procurement Regulations.

FOR FURTHER INFORMATION CONTACT: Henry G. Kirschemnamm, (202) 245–8771.

ADDRESS: Interested parties can obtain a copy of the Chapter from: Henry G. Kirschemnamm, Director, Office of Grant and Contract Financial Management, Room 505–D, Hubert Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: Included in the policy are the following features which may be of particular interest to the Department's grantees, contractors, and recipients of cooperative agreements.

- Standards and procedures for resolving monetary audit findings, which include:
  - —the use of statistical sampling or other reasonable estimating techniques to determine the amount of unallowable costs when it is impractical to determine the precise amount of such costs on each award; and
  - —a requirement for audit resolution officials to consider alternative analyses performed by audited organizations in an effort to develop more precise estimates of unallowable costs than those developed by the Department.
- Guidelines for resolving management and systems deficiencies, including requirements for follow-up reviews to insure that significant deficiencies are adequately corrected.
- Guidelines for establishing safeguards to protect the Department's interests when audited organizations refuse or fail to adequately correct deficiencies.
- A requirement that interest be charged on disallowances which are not repaid within 30 days of the notification of the disallowance.

Dated: October 23, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 80-33911 Filed 11-4-80; 8:45 am]

BILLING CODE 4110-12-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 334 (Sub-No. 5)]

49 CFR Ch. X

Zone of Reasonableness for Car Hire Charges

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to consider introduction of additional flexibility for car hire charges beyond that proposed in Ex Parte 334 (Sub-No. 4). This flexibility is expected to offer greater protection for the equity interests of car owners, to ensure an adequate national fleet of railroad freight cars, and to improve the short-term allocation of railroad freight cars. A zone of reasonableness ranging above and below the present level of basic per diem charges is one form of flexibility that will be considered. Comments and alternative proposals are sought from interested members of the public.

DATES: Comments must be received on or before December 22, 1980. No extensions of time will be granted.

ADDRESS: An original and 15 copies of any comments should be sent to: Room 5340, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Commission's general approach to regulatory reform has been to remove unnecessary governmental restraints in all cases where competitive markets or other private arrangements can better serve the purposes of the national transportation policy. We believe a similar approach may help solve problems of railroad freight car service, and we have already made some partial steps toward reduced regulation in this area. Our recent initiatives have included the rescission of mandatory enforcement of car service rules,[1] the termination of incentive per diem,[2] and the introduction of downward flexibility in car hire charges.[3]

In this proceeding, we will consider means for introducing additional flexibility in car hire charges. The need for such additonal flexibility was emphasized in Exploration of the Conference Committee Report the Staggers Rail Act of 1980, which said:

> If the Commission allows per diem rates below basic per diem during periods of surplus car supply, the Commission should allow rates above basic per diem during periods of shortage. (Cong. Rec., Sept. 29, 1980, p. H9925.)

We will take a somewhat broader approach than was possible in Ex Parte 334 (Sub No. 4), which focussed narrowly on the emergency car surplus situation created by the 1980 recession. Although in recent years the Commission has exercised its authority under 49 U.S.C. 11122 by prescribing an inflexible car hire charge rate, we do not believe that a prescribed inflexible car hire charge is the only way, or necessarily the best way, to fulfill our statutory obligation to encourage the purchase, acquisition, and efficient use of freight cars.

In considering a zone of reasonableness for car hire charges, we will take into account the requirement of 49 U.S.C. 11122 (b)(1) that per diem should reflect "the expense of owning and maintaining (each) type of freight car, including a fair return on its cost." Given this basic premise, however, we wish to consider whether the other factors listed in that section of the act, namely, considerations of the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply, can better be served by allowing flexibility within a zone. We contemplate that the zone would be centered on a rate that would permit full cost recovery, including a reasonable return on equity, if users were willing to pay that rate at all times over the life of the car.

We invite all interested parties to offer analyses of any and all aspects of the present car service system, and to advance any suggestions for improvements to the present system or any reasons for retaining the system in its present form. In addition, we request answers to a number of specific questions developed below.

Shortcomings of the Present System

As of 1979, U.S. railroads had some $36 billion invested in freight cars—more than 38 percent of their total investment. This potentially is a major source of productivity gains needed by the railroads to improve their financial position. Yet, as the Association of American Railroads has noted, car utilization has been deteriorating for three decades. The increase in the average car cycle time appears to be only partly offset by such factors as increased length of haul. At the same time, railroad equipment prices have risen faster than revenue per carload or rail wage rates, making improvements in freight car productivity even more urgent.

Improved freight car productivity is, in the first instance, a responsibility of railroad management, but management cannot be expected to do its job well without the right kind of regulatory environment. Before detailing our proposed regulatory changes, it will be worth briefly reviewing the evolution and shortcomings of the present system.

Evolution of the U.S. Car Service System

A brief review of the evolution of car service institutions will help explain why a true car service market has never developed.[4] Free interchange of freight cars began with the standardization of railroad gauges, a process which was essentially complete by 1890. It proved much less easy to work out a satisfactory system of payments for the off-line use of cars than to standardize physical plant, however. Railroads entered into many bilateral and multilateral agreements, but none worked smoothly. Initially most agreements were based on mileage payments, giving little incentive to return idle cars to their owners. Furthermore, the difficulty of knowing where a car was when off line made agreements very difficult to police, even though some railroads reportedly hired armies of agents to track down missing cars.

In 1888, a group of railroads attempted to introduce a time and mileage system—½ cent per mile plus 15 cents per day. With the introduction of a time-related element, car hire charges came to be known as "per diem" payments, a term that is still in use today. This initial attempt to establish a time and mileage formula proved a failure, however, apparently because the information system of the time was too primitive to support the necessary reporting and recording.[5] Only in 1902 did the American Railway Association finally manage to get agreement on a uniform per diem charge covering some 90 percent of all freight cars in use.

Meanwhile, Congress had passed the Interstate Commerce Act. The intent of the act, in part, was to promote the development of an integrated national rail system out of the hundreds of individual private lines. To this end, the act required that rail carriers establish through routes with one another.[6] This provision soon came to be interpreted as requiring compulsory interchange of cars: a railroad could neither refuse to pass along its loaded cars to a connecting carrier for delivery off line, nor refuse to accept the loaded cars of other carriers.

Under compulsory interchange, per diem charges came to be established by industry-wide consensus, rather than by bilateral bargaining. The rates that emerged necessarily represented political compromise among those roads that owned more cars than they tended to have on line at any one time, and those that tended to have more cars on line than they owned. As things turned out, there developed a persistent tendency for per diem charges to fall short of full ownership costs.[7] The low per diem charges contributed to chronic freight car shortages by providing inadequate incentives for originating roads to acquire cars and for terminating roads to return empties promptly to their owners.

Lacking an adequate system of market incentives to insure prompt return of freight cars to their owners, the railroads soon developed a set of administrative rules. The first car service rules were established in 1902. The current rules occupy several pages, but the essential principles are that a road that terminates a foreign car can load it to a destination on or closer to the owning road, or can return it empty to the owner by the reverse of the route by which it came. Loading to a destination farther from the owning road, or delivering the car empty to another carrier for loading are normally percluded by the rules. In effect, the rules act as a ratchet that eventually forces cars back to their owners.[8]

For many years the Commission left the regulation of freight car interchange largely to the railroads. During the 1960's, however, the consensus-based system of per diem charges broke down. Beginning in 1968, the Commission undertook to prescribe a level of per diem charges, and in the next year, it acted to make the AAR's code of car service rules mandatory.

Determination of car hire charges following 1968 was almost entirely concerned with returning ownership costs to car owners rather than with optimizing the size of the car fleet and promoting efficient short-term car utilization. The result is a system of basic per diem charges that may or may not be unfair to car owners, but that clearly has had unwanted side effects that have had to be attacked by other means.

One undesirable effect of a basic per diem level that only barely covered ownership costs was the lack of an incentive to encourage purchase of car types in overall short supply. The incentive per diem (IPD) program was intended to remedy this shortcoming of basic per diem. However, IPD proved to be an exceeding clumsy tool. One major problem with IPD was the difficulty of targeting it on just the types of cars that railroads most needed to acquire. Thus we had the anomaly of IPD on obsolete 40 foot narrow door boxcars and no IPD on the covered hoppers with which railroads were rapidly replacing them. A second problem with IPD was its inflexibility. During periods of seasonal or cyclical slack demand, IPD cars became "hot potatoes," running up wasteful empty miles as each carrier tried to move them off line as fast as possible. Third, the earmarking requirements placed on IPD funds distorted investment incentives, and contributed to the growth of an artificial distinction between "car supply" railroads and railroads whose primary business was transportation. Finally, all of our IPD decisions were flawed by the impossibility of distinguishing between car service problems arising from inadequate ownership levels, and those arising from poor utilization of the existing fleet.

A second major problem with our regulations was that in decision after decision, considerations of effective car utilization were not properly balanced with considerations of protecting the equity of car owners and manipulating the size of the national fleet. Even our prescription of car service rules reflected this attitude, despite the very substantial impact of car service rules on day-to-day utilization decisions. In our 1969 proceeding *Investigation of Adequacy of Freight Car Ownership*, we wrote that the mandatory observance of car service rules was:

> Not designed to improve the utilization of freight cars, except insofar as return loading is compatible with the primary objective of increasing availability of cars to the owner. Thus improved utilization will be largely in

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[1] *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules, and Practices*, 362 ICC 844 (1980).

[2] *Elimination of Incentive Per Diem*, Ex Parte 252 (Sub No. 5), served Aug 26, 1980. (45 FR 56849, Aug 26, 1980). Authority for the IPD program has now been repealed by Section 224 of the Staggers Rail Act of 1980 (Pub. L. No. 96–448).

[3] *Order Permitting Railroads Flexibility in Setting Per Diem*, Ex Parte 334 (Sub No. 4), served October 16, 1980. (45 FR 71446, October 28, 1980).

[4] A more detailed discussion can be found in John R. Felton, The Economics of Freight Car Supply, University of Nebraska Press (1978), Ch. 2, on which the following discussion draws in part.

[5] Felton, pp. 16–17.

[6] This requirement survives as U.S.C. 49 Sec. 10703(a)(1).

[7] See Yehuda Grunfeld, "The Effects of the Per Diem Rate on the Efficiency and Size of the American Railroad Freight Car Fleet," *Journal of Business*, January, 1959.

[8] See our decision at 362 ICC 844 (1980) (fn 1, supra) for a detailed discussion of car service rules.

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control of the owner who can then provide for the needs of his shippers for whom the equipment was acquired. The greater availability of owned cars rather than haphazard reliance on the supply of foreign cars will provide the owner with an opportunity to measure more accurately its ownership requirements. (335 ICC 284 at 294).

In recent years, the failure of the existing system of car hire charges and car service rules has become increasingly obvious. In 1974, the Association of American Railroads (AAR) established its ongoing Freight Car Utilization Research and Demonstration Program to examine what was characterized as the "increasingly burdensome problems of freight car utilization." At least two major industry initiatives, Railbox and the Clearinghouse, have gone beyond the discussion stage to achieve substantial practical success. Both these experiments have been based on the concept of the "free running" car—a car whose movements are not constrained by car service rules requiring it to be sent loaded or empty only to or toward the owning road.

One major industry initiative has been Railbox, a railroad-owned corporation that has purchased and maintains a large fleet of free-running box cars. These cars, which have no "home" road, are allocated on the principle of "next load—any road." A terminating carrier can reload a railbox car to any destination it chooses. If it has no load for the car, it notifies the Railbox central office, which directs the terminating carrier to send the car empty to the nearest available load, whatever line it happens to be on. Railbox cars are exempt from ICC-mandated per diem charges. Railbox policy is to charge just enough to recover ownership costs; for a variety of reasons, these costs have averaged less than official per diem charges comparable equipment in recent years.

A second important industry initiative has been the Clearinghouse project. The Clearinghouse, like Railbox, is a pool of free-running cars unconstrained by car service rules. It differs from Railbox, however, in that individual member railroads continue to own the cars that they contribute to the pool, and continue to collect ICC-mandated per diem charges. In order to insure that each member carrier gets the use of a number of cars equivalent to those it contributes to the pool, the Clearinghouse maintains a central balancing mechanism. Each month the number of Clearinghouse cars each member has received is compared with the number it has sent off line. If it has received too few cars, it becomes a creditor road, and if it has received too many, it becomes a debtor. The Clearinghouse then works out a system of compensatory car movements under which debtor roads send cars to creditor roads with the least total movement of empty equipment.

Both Railbox and the Clearinghouse have achieved substantially higher freight car productivity than the average for railroad-owned cars subject to mandatory car service rules. Nonetheless, neither functions flawlessly. In times of over all car shortage, neither system guarantees that a car will be used to move the most highly valued of alternative available loads. In times of car surplus, neither system entirely cures the problem of excess movements of empty cars. We now think that the operation of these and other industry efforts to improve car utilization may be enhanced by permitting additional flexibility in setting car hire charges.

The need for flexibility. In explaining why we think increased flexibility of car hire charges may be beneficial, it is helpful to distinguish two principal functions that those charges must perform.

The first function of car hire charges, which we will call the *accounting* function, is concerned with returning to an owning road, over the life of a car, a yield equal to the full costs of car ownership, including a fair return on equity. If car hire charges are performing their accounting function properly, an owning road will be indifferent to whether a newly acquired car is used on line in service generating freight revenue or off line in service generating car hire revenue.

The second function of car hire charges, which we will call the *allocational* function, has both a short-run and a long-run aspect.

The short-run allocational function is concerned with putting existing cars to their best use. To perform this short-run allocational function properly, car hire charges should reflect not only the long-run costs of car ownership, but also short-run opportunity costs. For example, in periods of car shortage, using a car to move some load x may delay movement of some other load y on the same or another road. An appropriately high level of per diem would reduce the likelihood that scarce cars would be used to move low priority loads ahead of high priority loads under such circumstances, because shippers with high priority loads would outbid those with low priority loads. Similarly, in periods of car surplus, it is important to keep transportation costs low for the system as a whole by minimizing movements of empty equipment. Under such circumstances, low per diem charges can reduce the incentive to engage in unnecessary cross-hauling of empty cars.

The long-run allocational function of car hire charges is concerned with maintaining an optimally sized national fleet of each car type. If the national fleet of a certain type of car is at the optimal level, then the long-run allocational function is properly performed by car hire charges that exactly return ownership costs over the life of the cars. If, however, the fleet of a certain car type is smaller than the optimal size, car hire charges should more than barely cover ownership costs so that there will be an incentive to acquire more of that type of car. (As an example of such a situation, consider the case of a new car type, such as jumbo covered hoppers, before sufficient numbers have been produced.) On the other hand, if the national fleet of a certain type is too large, car hire charges can be allowed to fall below the level that would be necessary to cover full ownership costs of replacement equipment. (As an example, consider the case of 40 foot narrow door box cars, some of which remain in service but none of which have been purchased in recent years.)

A well-functioning system of car hire charges must have enough flexibility to adjust to both long-and short-run changes in supply and demand conditions. In the long-run, car hire charges must rise and fall as the expected long-run demand for various car types changes in relation to the existing car fleet. In the short-run, during periods of peak, or cyclical demand, car hire charges should be allowed to rise. This will help give carriers the proper incentive to fill the most urgent shipper needs first when equipment is not available to fill all needs equally promptly. During periods of low demand, car hire charges should fall. This will give carriers an incentive to store surplus equipment, minimize empty car miles, and keep only the minimum necessary car fleet in motion.

The short-and long-run movements of car hire charges necessary to perform these allocational functions are complementary. Short-run levels of charges will sometimes be above and sometimes below the level necessary in the long-run to cover ownership costs exactly, hence the need for flexibility within a zone of reasonableness. When the national fleet of a given car type is at its optimal level, short-run shortages and surpluses should just balance out on the average. When the national fleet is too small, shortages will be more common than surpluses, and the stream of short-run car hire charges will on the average be high enough to make it profitable to acquire more cars. When the national fleet of a car type is too large, surpluses will be more common than shortages, and unnecessary purchases of replacement equipment will be discouraged.

Barriers to flexibility. Any consideration of flexible per diem must take into account certain institutional and technological barriers that prevented the emergence of a car hire market with flexible rates in the past, before regulation began. In our view, the two major barriers have been the lack of an adequate freight car information system, and the compulsory interchange of cars among railroads. We will discuss each of these in turn.

Clearly flexible per diem rates, determined by supply and demand, impose far greater informational requirements than per diem rates that are uniform across all roads and changed only every year or so. At a minimum, such a system would require all roads to have up-to-date information as to where its own cars are at any movement and who is using them, and as to what foreign cars are on line and what per diem rates are being charged on them. In addition, those responsible for setting per diem charges will presumably want to have access to general information about supply and demand conditions in the car service market.

In the early days of railroading, such information was not available. Even armies of car service agents could not track down all of a road's missing cars, or detect fraudulent misreporting of off line use. Today's railroad information systems are far more sophisticated. In fact, the most dramatic advances in railroad information technology have been made in the last decade. We seek comment on this issue.

The other major barrier to the emergence of a market mechanism for setting per diem rates is compulsory interchange required by law. On the face of it, compulsory interchange appears to make car hire transactions quite unlike ordinary market transactions. The key to an ordinary market transaction is that there must be a meeting of minds both as to price and as to the nature of the service to be performed. The buyer's ultimate protection against an unreasonably high price is simply to walk away from the deal. If the "buyer" of freight car services (in this case is a railroad receiving a loaded car from one of its connections) cannot refuse to accept the tendered car, it clearly must look elsewhere for protection against unreasonable pricing by the owner. On the other hand, we recognize that compulsory interchange reduces other costs that would otherwise result.

For many years, railroads sought protection from excessive car hire charges in collective action. Per diem charges were determined by consensus of members of the industry. This did afford some protection, but the system had drawbacks of its own. For one thing, the consensus system was not conducive to the flexibility necessary to good short-run allocation. In addition, because car hire rates were a compromise between net car owning and net car using roads, they did not always fully protect the equity interests of owners.

Since 1968, railroads have sought protection from excessive car hire charges in ICC regulation. This too, may have, resulted in inflexibility and allocational distortions.

A major question to be examined in this proceeding is how best to protect using roads against pricing abuses, given compulsory interchange, and at the same time permit sufficient flexibility to improve both short-run and long-run allocation.[9] We think at least three possibilities are worth serious consideration.

First, we think that the right of railroads to cancel joint rates while keeping through routes open under proportional rates can potentially provide railroads with the bargaining power they need to resist abuses of flexible per diem. We recognized this right recently in deciding *Conrail Surcharge on Pulpboard.*[10] We see no reason why a carrier receiving cars that carry what it perceives to be unreasonably high per diem charges should not seek to raise its transportation revenues by enough to recapture the costs it must bear. It can do so by cancelling an existing joing rate and replacing it with a local rate higher than its division under the joint rate, or by renegotiating the division or joint rate under threat of cancellation. Section 217 of the Staggers Act provides still another mechanism for resolving problems with divisions and joint rates. We seek comment on the workability of this mechanism as a bargaining tool in resolving disputes among carriers under a regime of flexible per diem. As an alternative to the use of cancellation as a bargaining tool, participants may also want to consider a rule allowing carriers to impose surcharges on traffic moving in high per diem cars.

Second, we wish to consider the possible use of premium charges on traffic carried in cars bearing high per diem rates. Section 225 of the Staggers Rail Act of 1980 provides that

> In order to encourage more efficient use of freight cars, notwithstanding any other provisions of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.

We ask for comment as to whether the use of premium charges in connection with flexible per diem would encourage the efficient use of freight cars.

The third mechanism we think to be worth considering is the use of a zone of reasonableness for per diem charges. This zone would be centered on a basic per diem rate calculated to serve the accounting function of returning ownership costs to car owners. The actual rate charged by an individual carrier would rise above or fall below the basic level (within the limits of the zone) in response to changing supply and demand conditions. The zone ceiling would offer protection against extreme price gouging during periods of car shortage. We consider it probable that the forces of supply and demand would normally prevent car owners from leaving per diem rates at the ceiling permanently, except when ownership of that car type was inadequate over all. For car types with inadequate ownership levels, the tendency of per diem to stay at or near the ceiling would act as an incentive to make additions to the fleet. We ask parties to comment on the usefulness of such a zone, on the proper limits for a zone, and on possible methods of implementing it.

Shipper-owned cars. In addition to the railroad-owned cars on which this notice has primarily focussed, railroads interchange many shipper owned cars. Payment for the use of these cars is now governed by a system of mileage payments that works rather differently from the per diem system for railroad-owned cars. We would like to consider the desirability of bringing private and railroad-owned cars under a uniform system of car hire charges at the same time that we move toward flexible charges for railroad-owned cars. We see

[9] The Conference Committee Report on the Staggers Rail Act of 1980 noted that "the conferees do anticipate, however, that the Commission shall continue to examine means (such as flexible car hire) of making basic car hire more responsive to market forces where this is possible without subjecting carriers which are forced to use cars received in interchange to unreasonable rates." (Cong. Rec., Sept. 29, 1980, p. H9925.)

[10] I&S 9222, decided April 21, 1980.

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potential benefits to both shippers and railroads to doing so; shippers would have a greater opportunity to meet their equipment needs, while railroads would be freed of a greater share of the increasingly high expenses of car ownership. Interested participants should comment on the feasibility of bringing shipper- and railroad-owned cars under a uniform car hire system, and on the costs and benefits to both shippers and carriers of doing so.

Antitrust immunity. In Ex Parte 334 (Sub-No. 4), we held that antitrust immunity would not be granted for collective determination of reduced car hire charges during the emergency car surplus. It is our tentative belief that collective use of the proposals set forth in this notice is inappropriate. Our proposals are premised on rapid carrier reaction to changing market circumstances and the collective ratemaking process does not appear well geared to this end. We ask for comments on this point. We also seek comments as to the effect of Section 224(b) of the Staggers Act on this point. If we are able to devise a system that would govern shipper-owned cars, would the purposes of this section be consistent with a limitation on collective ratemaking? How might a feasible system consistent with the various aims of the new legislation best be designed?

Conclusions

In order to assist the Commission in the preparation of proposed rules, we request interested parties to respond to the following specific questions:

1. To what extent is the level of per diem charges a factor in car acquisition decisions? Would it be a greater factor if per diem charges were flexible? Could the need to adjust the national fleet of particular car types to changes in long-run demand conditions better be served by a level of per diem charges that is free to vary within a zone of reasonableness?

2. In what ways does the level of per diem charges affect car utilization decisions in the short run? Could short-run car utilization better be served by a level of per diem charges that are free to vary within a zone of reasonableness? Would the use of Section 225 premium charges further facilitate car utilization in conjunction with flexible car hire charges?

3. If flexible per diem were allowed, how could carriers best be protected from unfair pricing practices, given compulsory interchange of cars? To what extent do the policies enunciated in Section 217 of the Staggers Rail Act and our decision in I&S 9222, supra, allow railroads to protect themselves against unfair pricing practices of other roads? To what extent can an upward limit on a zone of reasonableness provide the necessary protection?

4. If a zone of reasonableness is adopted, how should the basic per diem on which the zone is centered be set? Are the Commission's current basic per diem procedures appropriate for this purpose? What should be the proper limits of a zone? Should this be set on a cost of capital plus replacement cost basis or by some other calculation?

5. Are current railroad information systems capable of adapting to zone of reasonableness per diem charges or to any of the other alternative approaches? If not, how can they best be adapted? How would per diem charges set under and of the approaches discussed herein best be communicated among carriers?

6. If carriers are given greater freedom to set per diem rates, under any of the approaches discussed herein, what role if any should be permitted for collective decision-making within the zone? Is it administratively feasible for individual carriers to set their own charges without concurrence from other carriers? Can pricing be divorced from non-pricing considerations (coding, information exchange systems, etc.) for purposes of eliminating or restricting grants of antitrust immunity?

7. How can undesirable effects on shippers and non-carrier lessors be eliminated or reduced under a flexible per diem system? Is it feasible or desirable to replace the current mileage allowance system with the same or a similar pricing mechanism as we propose for non-shipper owned cars?

This action does not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321, 10706, 10734, and 11122, and 5 U.S.C. 553)

Decided: October 22, 1980.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34501 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

New England Fishery Management Council Information Meeting

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of informational meetings.

SUMMARY: The New England Fishery Management Council (Council) announces three public informational meetings to discuss: (1) Locations and procedures for possible area closures in the Southwest Gulf of Maine to protect spawning concentrations of Atlantic herring; and (2) potential effects of such area closures on the conduct of the herring fishery and the groundfish fishery.

Management of the Atlantic herring fishery in the fishery conservation zone of the Northwest Atlantic Ocean is based on a fishery management plan (FMP) prepared by the Council and implemented by the National Oceanic and Atmospheric Administration (NOAA). The FMP was published at 45 FR 15955 and the implementing regulations were published at 45 FR 52810. The Council will use the information received at these meetings in the preparation of a proposed amendment to its FMP for Atlantic herring.

DATES: The three meetings will be held simultaneously on November 13, 1980.

ADDRESSES: The locations are as follows:

(1) Gloucester City Hall, Dale Avenue, Gloucester, Massachusetts.

(2) Holiday Inn West, 81 Riverside Street, Portland, Maine.

(3) Samoset Resort, Rockport, Maine.

Each meeting will begin promptly at 7 p.m. and adjourn at approximately 10 p.m.; however, they may be lengthened or shortened depending on the progress of the meeting. The Council will distribute informational materials at the beginning of each meeting and will make a record of all comments and statements made by the public.

FOR FURTHER INFORMATION CONTACT: Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906 (619) 231-0422.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34505 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 45 No. 216

Wednesday, November 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Amendment to Assignment of Geographic Area to the Cairo Grain Inspection Agency, Cairo, Illinois, and to the Memphis Grain and Hay Association, Memphis, Tennessee

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This document announces amendment of previous assignment of geographic area to the Cairo Grain Inspection Agency (Cairo), Cairo, Illinois, for the performance of official grain inspection under authority of the United States Grain Standards Act, as amended. The geographic area assigned to Cairo on September 5, 1980 (45 FR 59123), as corrected on October 6, 1980 (45 FR 66182), will remain unchanged, except for three facilities in Lake County, Tennessee, cited in this Notice. With regard thereto, this document announces amendment of previous assignment of geographic area to the Memphis Grain and Hay Association (Memphis), Memphis, Tennessee, and provides that official grain inspection at the three excepted facilities in Lake County will be performed by Memphis, as part of the geographic area assigned to it on July 22, 1980 (45 FR 49075).

EFFECTIVE DATE: The decision announced in this Notice becomes effective on November 5, 1980; the previously established effective date of November 21, 1980, is rescinded accordingly.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250; (202) 447-8262.

SUPPLEMENTARY INFORMATION: By Notice published on September 5, 1980, the Federal Grain Inspection Service (Service) took action to assign a geographic area to Cairo, effective October 6, 1980. By subsequent Notice, published on October 6, the Service extended the effective date to November 21, 1980, and corrected the assignment of geographic area to include Obion County, Tennessee, which had been inadvertently omitted in the Notice of September 5.

The extension of the effective date to November 21 was needed to afford the Service adequate opportunity to review and evaluate additional information regarding the recent history and present status of official grain inspection both in Obion County and in Lake County, Tennessee. Each of these two counties was included in the geographic area assigned to Cairo.

As a result of the review and evaluation, the assignment of geographic area to Cairo is amended to exclude the following three facilities in Lake County, Tennessee: Sullivan Grain, Inc., at Tiptonville; West Tennessee Soya at Tiptonville; and Planters Gin at Ridgely. Concurrently, the assignment of geographic area to Memphis is amended to provide that Memphis will service these three facilities as part of the geographic area assigned to it by Notice published on July 22, 1980.

The review and evaluation of the recent history and present status of official grain inspection in Obion County and Lake County, Tennessee, has been completed, and the Service finds no need to delay the effective date of final assignment to Cairo. For this reason, the amendments referenced in this Notice to the geographic areas assigned to Cairo and Memphis are effective November 5, 1980. The amendments, as set forth in this Notice, have been mutually assented to by Cairo and Memphis.

(Sec. 8, Pub. L. 94.582, 90 Stat. 2884 (7 U.S.C. 79))

Done in Washington, D.C., on October 31, 1980.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 80-34499 Filed 11-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hochseefischerei Nordstern AG, Issuance of a General Permit to Incidentally Take Marine Mammals

On October 23, 1980, a general permit was issued to Hochseefischerei Nordstern AG, Bremerhaven, West Germany, in Category 1: Towed and Dragged Gear, permitting them to incidentally take 2 cetaceans, 5 phocid seals and 5 otarid seals during commercial fishing operations within the United States fishery conservation zone, pursuant to 50 CFR 216.24. This general permit is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34494 Filed 11-4-80; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Sea Herring Fishery Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Sea Herring Fishery Subpanel, which will meet to discuss possible spawning closure measures in order to formulate recommendations to the Herring Oversight Committee, regarding the adoption of such measures as part of a proposed amendment to the herring fishery management plan (FMP). Management of the Atlantic herring fishery in the fishery conservation zone of the Northwest Atlantic Ocean is based upon the FMP which was published at 45 FR 15955, with implementing regulations published at 45 FR 52810.

An advisory recommendation on the appropriate minimum size for fish caught under the FMP quota is also sought by the Oversight Committee, and

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this question will be discussed in the meeting.

DATES: The meeting, which is open to the public, will convene on Tuesday, November 25, 1980, at approximately 9:30 a.m., and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Council Offices, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Building, Five Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: October 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34491 Filed 11-04-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineering, Department of the Army

Intent to Prepare Draft Environmental Impact Statement for Proposed Chief Joseph Dam Units Beyond 27 Project

AGENCY: U.S. Army Corps of Engineers, Department of Defense, Seattle District.

ACTION: Notice of Intent to prepare a draft environmental impact statement (EIS) for a proposed additional units project to Chief Joseph Dam on the Columbia River in eastern Washington. The project is known as Chief Joseph Dam Units Beyond 27.

SUMMARY:

a. *Proposed Action.* The Seattle District's tentatively selected plan of action involves adding two 350 megawatt power generating units (nameplate rating) to the existing 27 units at Chief Joseph Dam. This project would require addition to and modification of the dam for the construction of these new units. The selected plan is designed to supply additional hydroelectric capacity for peaking power purposes. This plan would result in a reduction of future water level fluctuations in Rufus Woods Lake (the reservoir created by Chief Joseph Dam), and an increase in water level fluctuations in upper Wells Dam Reservoir, the body of water immediately downstream of Chief Joseph Dam. As Corps studies progress, the selected plan may change.

b. *Alternatives.* Alternatives under consideration are other methods which could be used to achieve peaking power, or methods to reduce the demand for electricity. The most likely alternatives (other than the tentatively selected plan) which will be considered in detail in the draft EIS are: combustion turbines; pumped storage; the addition of power units at some other existing dam; a combination of cumbustion turbines, combined cycle plants, coal plants, and nuclear plants; load management; conservation; and the no Federal action plan. As studies progress, some of these alternatives may be dropped from consideration and others added.

c. *Public Involvement and Review.* In August 1972, public meetings were held for the *Columbia River and Tributaries Review Study.* This afforded citizens the opportunity to express ideas on water management in the Columbia River System. Public workshops to obtain views on areas of concern were continued during the spring and summer of 1973. Generally, the public expressed a preference for expansion of existing hydropower projects where possible, rather than construction of new projects. However, there were some public concerns over the expansion of existing Columbia River dams. The public expressed concerns over future increased water level fluctuations at Columbia River reservoirs (with subsequent adverse impacts to recreation and fish and wildlife) and adverse construction related impacts on local communities such as increased demand for utilities and schools brought about by influx of construction workers. A later stage public meeting for Chief Joseph Dam Units Beyond 27 Study was held in May 1976. A public brochure was issued in 1976, presenting the Chief Joseph Dam Units Beyond 27 Study. A public meeting is schedule for 1981 concurrent with release of the draft EIS for public review.

d. *Significant Issues.* The following will be among the issues evaluated during planning and will be presented in the draft EIS: (1) How much peaking capacity is needed in the Northwest and when will it be needed? (2) Is the Corps of Engineers' selected plan the best method for producing peaking power? (3) What impact will be the selected plan and the other alternatives have on fish, fisheries, and fisherman safety? (4) What are the possible socioeconomic impacts on the local communities during construction? These and other issues will be addressed in the draft EIS.

e. *Other Environmental Review and Consultation Requirements.* Should the recommended plan involve the disposal of dredged or fill material in waters of the United States and/or their adjacent wetlands, the draft EIS will contain a Section 404(b) evaluation.

f. *Availability of Draft EIS:* The draft EIS is presently scheduled to become available to the public in mid to late 1981.

g. *Address:* Information about the proposed action and draft EIS can be obtained by contacting: Mr. Paul Cooke, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C–3755, Seattle, Washington 98124, Telephone: (206) 764–3626.

Leon K. Moraski,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-34484 Filed 11-4-80; 8:45 am]

BILLING CODE 3710-GB-M

DEPARTMENT OF ENERGY

Procurement and Financial Assistance Directorate; Alternative Fuels Production Financial Assistance; Program Solicitations Availability

October 30, 1980.

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: This notice is to advise you of a solicitation to be issued shortly by the Department of Energy providing a total of up to $30 million for feasibility studies and cooperative agreements for innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production.

Pub. L. 96–369, the Joint Resolution making continuing appropriations for fiscal year 1981, which was recently signed by the President, expands the definition of alternative fuels for purposes of Pub. L. 96–126 and Pub. L. 96–304 to cover this technology area. The $30 million is directed to be taken from the $300 million appropriated under Pub. L. 96–304 for feasibility studies and cooperative agreements.

Innovative direct combustion technologies are those which represent a better way to burn minerals and organic materials than do conventional combustion systems which are in widespread use today. They are better in the sense that:

a. While meeting current environmental standards, they achieve potentially lower life cycle costs than conventional systems because of the choice of feedstock and/or combustion system designed to handle the feedstock, and/or,

b. They achieve better environmental performance at a given cost.

Direct combustion of urban waste is not covered under this solicitation.

Proposals for Feasibility Studies and Cooperative Agreements for the direct combustion of urban waste are eligible under the Program Solicitations No. DE–PS01–80RA50412 and DE–PS01–80RA50413 which was issued on August 1, 1980, and closed on September 30, 1980.

It is DOE policy to assure that small, socially and economically disadvantaged business, women owned business and Indian Tribes are afforded a reasonable opportunity to become equitably involved in its financial assistance programs, including those involving the growing alternative fuels industries. Accordingly, the Department *encourages* proposals from such groups and urges that other proposers make a special effort to substantively involve such businesses in projects offered for support under this solicitation. Teaming arrangements, joint ventures, or subcontracting are methods of such involvement.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Howard Feibus, Alternative Fuels Task Force, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 Telephone 202/633–8365.

SUPPLEMENTAL INFORMATION: The Program Solicitation for grant application for feasibility studies, Number DE–PS01–81RA50535, and the Program Solicitation for cooperative agreement proposals, Number DE–PSCA01–81RA50536, will become available on or about November 5, 1980. Organizations desiring a copy of these solicitations should submit a request in writing to: U.S. Department of Energy, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Joseph P. Cappello,

Director, Office of Procurement Operations.

[FR Doc. 80-34515 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Marketing Policy Formulation; Procedure for Public Participation

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Revision of Procedure for Public Participation in Marketing Policy Formulation.

SUMMARY: On December 14, 1977, the Bonneville Power Administration (BPA or Bonneville) published in the **Federal Register** its "Procedure for Public Participation in Marketing Policy Formulation" (42 FR 62950). Bonneville is now revising its Procedure to reflect the benefit of its experience in public participation.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–234–3361, extension 4261. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

SUPPLEMENTARY INFORMATION: BPA is revising its procedures to reflect the benefit of its experience with its Public Involvement Program. In general, BPA believes that the revised procedure offers greater flexibility and clarity and that it incorporates the Administrative Procedure Act (APA) to the extent required by law. Although there are some substantive changes, the revision reflects numerous organizational changes which we believe will simplify both the administration and the public understanding of the procedure. The most significant changes are summarized below, arranged by section of the Procedure:

1. *Purpose and Scope.* We have clarified the applicaiblity of the Procedure and specified exceptions.

2. *Definitions.* We have attempted to separate definitional material from procedural material throughout the document. We have alphabetized the procedural definitions and included definitions of BPA officials commonly involved in the public participation program. We have reworded the definition of Marketing Policy to conform more closely to the APA. In the definition of Evaluation of Official Record, we have specified items appropriate for inclusion. We have added a definition of Existing Marketing Policy, to clarify the applicability of this procedure to BPA policies currently in effect or being considered.

We have changed the definition of Notice to include notification by means other than the **Federal Register,** for those situations in which, due to the limited impact or local interest of a proposed policy, local notice is sufficient.

3. *Procedure for Establishing a Power Marketing Policy.* We have consolidated in this section all material relevant to procedural matters and the Administrator's decisionmaking. This section also clarifies for interested persons the usual steps in policy development and the intervals when public participation may be most helpful.

4. *Promulgation of the Marketing Policy.* We have specified documentation in the Record of Decision and have allowed publication of the Notice elsewhere than in the **Federal Register.**

5. *Public Meeting Procedures.* We have added a section addressing the use of part or all of this Procedure in conducting public meetings held outside this process. This section gives implicit recognition to BPA's public involvement activities not subject to this published procedure.

6. *Emergency Marketing Policy Implementation.* This section was recently changed to bring it to conformity with the emergency provisions of the Department of Energy Organization Act of 1977. No further changes are made.

7. *Relationship to National Environmental Policy Act (NEPA) Requirements.* We have added a statement of BPA's intent to coordinate this Procedure with the public participation required under NEPA, whenever possible.

The text of the revised Procedure is as follows:

Procedure for Public Participation in Marketing Policy Formulation

1. *Purpose and Scope.* The purpose of this procedure is to enable interested persons to participate in the development of the Bonneville Power Administration's (Bonneville or BPA) marketing policies. The procedure is limited to Marketing Policy formulation.

This procedure shall govern the formulation of significant BPA marketing policies, except that the procedure shall not apply to:

a. those policies where other procedures are expressly provided by law;

b. those policies determined by Bonneville to be interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice, and which do not otherwise satisfy the definitions of Marketing Policy contained herein; or

c. those policies which the Administrator decides are appropriate for the public meeting procedures described in Section 5 of this procedure.

2. *Definitions.*

a. *Administrator.* The Bonneville Power Administrator.

b. *Area Managers/District Managers.* BPA line officials responsibile for BPA activities in designated geographical

areas, including but not limited to Power Management, Engineering and Construction, Operation and Maintenance, and policy implementation and administration. The Area and District Managers are local contact points for persons interested in BPA matters.

c. *Bonneville Power Administration* (Bonneville or BPA) The power marketing administration of the Department of Energy established by the Bonneville Project Act of 1937.

d. *Customer.* A person or entity having a direct relationship with Bonneville as the result of contractual arrangements for the purchase, exchange, transfer, assignment, or sale of electric power and energy, related services, or transmission capability to, with, or from BPA.

e. *Evaluation of Official Record.* A written evaluation of the Official Record by the Responsible Official to include part or all of the following: (1) The Proposed Marketing Policy and such alternatives as may be identified; (2) the Responsible Official's recommendation as to the preferred Policy or alternative and reasons therefor; (3) a summary of the principal research, analyses, and other available information discussing the need for, indicating support of, and illustrating the probable effect of such policy; and (4) a summary of the major comments, criticisms, support, and alternatives offered to the Proposed Policy or Revised Proposed Policy and an explanation of their acceptance or rejection. The evaluation may be expanded to include an assessment of revisions to the proposed Policy following the public comment period.

f. *Existing Marketing Policy.* A policy in effect as of the date of the publication of this procedure. This term also includes policies under consideration at the time of adoption of this procedure.

g. *Interested Person.* Any person, group, or entity with an interest in marketing policies.

h. *Marketing Policy.* The whole or a part of a significant agency statement of general or particular applicability and future effect designed to implement, explain, or prescribe power marketing law or policy, which would raise substantial issues of fact or law or which is likely to have substantial impact on the Nation's economy or large numbers of individuals or businesses. Marketing Policies are those policies which involve the manner but not the particular instances in which BPA sells, exchanges, or otherwise disposes of or acquires electric power and energy.

i. *Notice.* A notification required by this procedure and published in the **Federal Register** or elsewhere where actual and timely notice of the proposed policy can be assured. Most Notices will be published in the **Federal Register.** However, Notices of a restricted nature or Notices of a limited or local applicability may be published elsewhere if (1) directed by the Administrator, and (2) if reasonably calculated to give actual and timely notice. By **Federal Register** Notice, or as otherwise herein provided, BPA will give notice of its intent to (1) develop a new Marketing Policy or to revise an Existing Marketing Policy; (2) present a Proposed Marketing Policy or a Revised Proposed Marketing Policy; (3) announce opportunities for interested persons to comment on the Proposed Marketing Policy; and (4) promulgate the Marketing Policy as adopted by the Administrator.

Notices shall be effective on date of publication unless otherwise stated. Wherever a time period is provided, the date of publication shall determine the commencement of the time period unless otherwise stated.

j. *Official Record.* Except as otherwise may be expressly provided by law, the compiled and indexed records which document the development of the new or revised Marketing Policy. The Official Record is the responsibility of the Public Involvement Coordinator and shall contain the following: (1) All **Federal Register** or other Notices provided for by these procedures; (2) the principal research, analyses, and other available information or a summary thereof used in developing the Policy; (3) the transcribed record of any Public Information or Public Comment Forums, including documents and exhibits presented at the Forums, written comments and questions from interested persons, and BPA's replies; (4) records or minutes of workshops or other meetings on the Policy; (5) Evaluation of the Official Record; (6) the Record of Decision; and (7) any other information the Responsible Official determines is relevant. The Official Record shall be available for inspection or copying.

k. *Proposed Marketing Policy.* A new Marketing Policy or revision of an Existing Marketing Policy under consideration for adoption.

l. *Public Involvement Coordinator.* The BPA employee responsible for monitoring the development of new Marketing Policies or revisions to Existing Marketing Policies to assure the opportunity for an documenting the involvement of interested persons in policy development. The Public Involvement Coordinator receives public comment, maintains the Official Record, and supplies pertinent information to interested persons.

m. *Record of Decision.* A summary of the decision. It may include: findings of fact, statements of applicable law, major areas of controversy, options considered with their respective evaluations, principal objections to and statements in support of the proposed new or revised Policy submitted by interested persons with summaries of BPA's consideration, the recommendation, and the reasons for the Administrator's decision.

n. *Responsible Official.* The BPA employee designated by the Administrator as responsible for the development of a proposed new or revised Marketing Policy.

o. *Revised Proposed Marketing Policy.* A Proposed Marketing Policy which is changed so significantly as to constitute, in the opinion of the Administrator, a new Proposed Marketing Policy.

3. *Procedure for Establishing a Power Marketing Policy.*

a. *Decision to Formulate a Power Marketing Policy and Notice of Intent.* When the Administrator determines the need for a new or revised Marketing Policy, BPA shall publish in the **Federal Register,** or elsewhere if so decided by the Administrator, a Notice of its intent to formulate or revise the policy. The purpose of the Notice of Intent is to offer to interested persons the opportunity to make recommendations on the policy to be developed. Notice shall include the following: (1) The subject of the proposed Policy; (2) the legal authority under which the Policy is proposed; (3) a statement of the principal research, analyses, and other available information discussing the need for and the probable effect of the Policy; (4) an indication of the extent to which other existing policies might be affected by the development of a new Policy; (5) a request for written recommendations for BPA's use in formulating or revising the Policy, and the time limit for the receipt of such recommendations; and (6) the name, address, and telephone number of the Bonneville official who will receive them.

The Administrator or the designated Responsible Official may send a written announcement to persons who have previously expressed an interest in the general subject area of consideration, or to persons who, in the opinion of the Responsible Official, could reasonably be expected to have such an interest. The Responsible Official may also direct that an announcement be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

b. *Notice of Proposed Marketing Policy.* No less than 30 days after the publication of the Notice of Intent, BPA shall publish in the **Federal Register,** or elsewhere if so decided by the Administrator, a Notice of the Proposed Marketing Policy. The Notice shall include (1) the text of the Proposed Marketing Policy; (2) the legal authority under which the Policy is proposed; (3) an indication of the extent to which other existing policies will be affected by the proposed Policy; (4) the dates, times, and locations of scheduled Public Information Forums or Public Comment Forums; (5) procedures by which interested persons may participate in the Forums; (6) a request for written comments on the Policy and the time limit for the receipt of such comments; (7) the name, address, and telephone number of the BPA official(s) to contact for further information; and (8) any other information considered necessary by the Responsible Official.

Announcement may also be made by mail to those persons who have requested in writing that they receive written material on the Proposed Marketing Policy. Further announcement may also be made in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

c. *Combination of Notices.* Notwithstanding the 30-day limitation set forth in 3(b) above, the Administrator or the Responsible Official may elect to combine the above Notices. If so, the reason shall be reflected in the Notice.

d. *Public Information Forum.* Public Information Forums are optional. The Responsible Official will determine the need for and scope of such meetings based on factors such as an assessment of actual or expected public interest in the policy, the complexity of the subject, the anticipated degree of impact, or the necessity.

The purpose of a Public Information Forum is to present information about a Proposed Marketing Policy to persons interested in that Policy. Bonneville will consider the use of two types of meetings: (1) Technical meetings for customers and other persons who would like the benefit of detailed staff briefings, and (2) more general meetings for other interested persons. One or more of both types of Public Information Forums may be scheduled based on the criteria stated above.

Meeting dates, times, and locations shall be announced in the **Federal Register** or elsewhere if so decided by the Administrator, and may be announced in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable. Meeting notices shall include a statement of the subject and purpose, dates, times, places, and procedures for the forum. A 15-day notice will be provided whenever possible.

The Responsible Official shall act as or appoint the forum chairman. A transcribed account shall be kept of each forum, and the transcript shall be part of the Official Record. Questions raised at the forum may be answered at the forum or later, either (1) prior to publication of the final policy, or (2) as a part of the Official Record. Transcripts of Public Information Forums shall be available for review at the Area or District Office in the locality where the Forum is held. Copies of the transcripts of all Public Information Forums shall be available for review in the office of the Public Involvement Coordinator.

e. *Public Comment Forum.* One or more Public Comment Forums shall be scheduled on the Proposed Policy for the purpose of enabling interested persons to present their views on the Proposed Marketing Policy. The Responsible Official shall determine the number, dates, locations, and time of day of such forums. Announcement of the Forums shall be published in the **Federal Register** or elsewhere, as the Administrator so directs, either in the Notice of Proposed Marketing Policy or in a separate Notice. The announcement shall include the name, subject, and purpose of the Policy; the dates, times, places, and procedures for the forum, and a list of the principal research, analyses, and other available information discussing the need for, in support of, and illustrating the probable effect of the Policy. The announcement shall also indicate the time period for receipt of comments, and the names, addresses, and telephone numbers of BPA officials from whom additional information can be obtained. The Notice may contain additional material considered necessary by the Responsible Official. Additional notice may be given in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

The Responsible Official shall act as or appoint the forum chairman. At the beginning of a forum, the chairman shall explain the procedures governing the proceedings.

BPA shall offer interested persons the opportunity for oral presentation of views, data, and arguments. Persons wishing to speak should notify the BPA Public Involvement Coordinator or the Area or District Manager of the locality in which the forum will be held at least 3 days before a forum to permit preparation of a tentative schedule of participants. The chairman may establish time limitations for oral presentations to assure that all interested persons who desire to speak shall have an opportunity to do so. Forum proceedings shall be transcribed. Transcripts of Public Comment Forums shall be available for review at the Area or District Office in the locality where the forum is held. Copies of the transcripts of all Public Comment Forums shall be available for review in the Office of the Public Involvement Coordinator.

f. *Additional Opportunity for Comment.* Opportunity for interested persons to participate in Marketing Policy formulation through submission of written data, views, or arguments shall be provided. Written comments on the Proposed Policy will be received from the date of publication of the Notice of Proposed Policy for a minimum of 30 days.

g. *Evaluation of the Official Record.* Following the comment period, the Responsible Official shall prepare an Evaluation of the Official Record, which shall be submitted to the Administrator. The Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Marketing Policy.

h. *Revised Proposed Marketing Policy and Review Period for Revised Proposed Marketing Policy.* After the Evaluation of the Official Record, the Administrator may determine that there have been changes in the Proposed Marketing Policy of such significance as to constitute a new proposal. If that occurs, the Administrator will direct that a Notice be published, in the **Federal Register** or elsewhere, which will include the following: (1) The text of the revision; (2) a list of the principal research, analyses, or other available information discussing the need for, indicating support of, and illustrating the probable effect of the Revised Proposed Marketing Policy to the extent that such information was not earlier available; (3) the dates, times, locations, and procedures for any additional Public Information and/or Public Comment Forums, if any; (4) a request for written comment and the time limit for receipt of such comments; and (5) the names, addresses, and telephone numbers of the BPA officials from whom additional information is available.

Interested persons shall be given a minimum of 30 days following such publication to comment on the Revised Marketing Policy. An Addendum to the Evaluation of the Official Record shall be prepared by the Responsible Official,

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reflecting the Revised Proposed Marketing Policy and the consideration given additional comments received by BPA. This material shall be a part of the Official Record.

4. *Promulgation of the Marketing Policy.* The Responsible Official shall submit the Evaluation of the Official Record with any addenda to the Administrator for promulgation of a final Policy. The Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Marketing Policy or the Revised Proposed Marketing Policy.

The decision shall be documented in a Record of Decision which shall be signed by the Administrator and which will be a part of the Official Record.

BPA shall publish, in the **Federal Register**, or elsewhere if so decided by the Administrator, Notice of the adoption of a final Marketing Policy. The Policy shall become effective on the date of publication of the Notice unless otherwise specified.

5. *Public Meeting Procedures.* The Administrator may determine, in those circumstances where (1) formulation of a nonsignificant marketing policy is under consideration, or (2) in such other circumstances as determined by the Administrator to be beneficial, to utilize part or all of these procedures in conducting a public meeting to obtain the views of interested persons on a proposed BPA action. Notice of a public meeting need not be published in the **Federal Register**, but the Administrator shall use other effective means of publicity as are reasonable or desirable to notify concerned or affected persons of the nature and probable effect of BPA's proposed action.

6. *Emergency Marketing Policy Implementation.* The requirements of publication of Notice, minimum comment period, opportunity for presentation of views, and formal promulgation of Marketing Policies, as established by this Procedure and as may otherwise be required by law, shall be waived where those policies are (a) adopted on an interim basis and (b) after a finding by the Administrator that strict compliance is likely to cause serious harm or injury to the public health, safety, or welfare, or for good cause shown, that such procedure is impractical, unnecessary, or contrary to the public interest. Such finding will be set out in detail in the interim policy. In the event that the procedure is waived, the requirements shall be satisfied within a reasonable period of time subsequent to the promulgation of the interim Policy by utilization of the procedure then in effect.

7. *Relationship to National Environmental Policy Act (NEPA) Requirements.* In those instances in which a power marketing policy under consideration requires an Environmental Impact Statement, the Public Participation procedure will be coordinated to the fullest extent possible with those required under NEPA. Joint Notices will be issued and meetings combined when possible.

Dated: October 28, 1980.

Rai Foleen,

Acting Administrator.

[FR Doc. 80-34512 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case Nos. 51685-2511-01-82, 51685-2511-02-82]

Long Island Lighting Co., Mineola, N.Y.; Extension of Public Comment Period on Proposed Prohibition Orders Issued Pursuant To Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice, pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.51(b)(3), that the initial three month public comment period relating to two Proposed Prohibition Orders published July 31, 1980, (45 FR 50866), is extended to November 28, 1980.

Basis for Extending the Public Comment Period

The notice of Proposed Prohibition Orders issued to two powerplant units (E. F. Barrett 1 and 2) owned by Long Island Lighting Company (Utility), provided a public comment period of at least three months. By a letter dated October 17, 1980, the Utility has requested an extension of the comment period for the following reason:

The Utility needs additional time to accumulate and prepare financial data using the latest capital cost estimates required to address the statutory findings under FUA financial feasibility.

Schedule Submitted by the Utility

The Utility has proposed to respond to evidentiary requirements (relating to the statutory findings under FUA) by November 28, 1980.

Extension of Comment Period

For the reasons set forth above, ERA hereby extends the initial comment period with respect to the Proposed Prohibition Orders for Barrett Units 1 and 2 until November 28, 1980.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3000, Washington, D.C. 20461, (202) 653-3649.

Douglas F. Mitchell (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., October 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34511 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case Nos. 52007-1626-01-82, 52007-1626-02-82, 52007-1626-03-82]

New England Electric System Westborough, Massachusetts; an Extension of Public Comment Period on Proposed Prohibition Orders Issued Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice, pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR 501.31, that the initial public comment period relating to three Proposed Prohibition Orders, published April 3, 1980, (45 FR 22183), previously extended to November 1, 1980, is further extended to May 1, 1981.

Basis for Extending the Public Comment Period

The notice of Proposed Prohibition Orders issued to three powerplant units (Salem Harbor 1, 2 and 3) owned by New England Power Company, of the New England Electric System (Utility), provided an initial public comment period of at least three months from publication in the **Federal Register** on April 3, 1980. By letters dated May 9 and May 27, 1980, the Utility requested and set forth reasons for extending the public comment period. One of the reasons was to allow the Utility sufficient time to conduct computer modeling of air quality for the proposed coal burning at the Salem Harbor Generating Station and to discuss the results of that modeling with the appropriate environmental agencies. ERA, by order published in the **Federal Register** on July 1, 1980 (45 FR 44370) granted an extension of the initial comment period to November 1, 1980.

In its letter, dated September 15, 1980, the Utility indicated that it has complied with its schedule and has completed the computer modeling of air quality. Modeling results, according to the Utility, are under review with the Massachusetts Department of Environmental Quality Engineering (DEQE) and Region I of EPA. Discussions with these agencies indicate that a more detailed investigation of air quality effects will be required, including additional monitoring or fluid model testing before the impacts of predicted emissions from coal burning can be properly evaluated.

The Utility preliminarily estimates that the additional analysis could require at least six months to complete and evaluate and, accordingly, has requested a further extension of the initial comment period from November 1, 1980, to May 1, 1981.

Extension of Comment Period

For the reasons set forth above, ERA, hereby extends the initial comment period until May 1, 1981.

For Further Information Contact

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Steven A. Frank (Office of fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20585, (202) 653-4187.

James Renjilian (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., October 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34513 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Warren Holding Co.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On September 12, 1980, ERA published a Proposed Consent Order which was executed between Warren Holding Company and the ERA (45 Fed. Reg. 60470-179, September 12, 1980). With this notice, and in accordance with 10 CFR 205.199J, ERA invited interested persons to comment on the proposed Consent Order. No one submitted comments on the terms and conditions of the Consent Order. The ERA has concluded that the Consent Order as executed between ERA and Warren Holding Company is an appropriate resolution of the compliance proceedings described in the Notice published September 12, 1980, and hereby gives notice that the Consent Order shall become effective as proposed on September 12, 1980.

Issued in Philadelphia, Pa., this 20th day of October, 1980.

Edward F. Momorella,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80-34429 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders; Central District

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, D.C. 20461, phone 202/653-3569. On or before December 5, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 30th day of October 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders—Central District

Station	Address	Date	Violation amount	Cents per gallon in violation
Saylorville Marina	Box 207, Polk City, IA 50226	10-8-80	$490.26	4.4
Red Rock Marina	R.R. #1, Pella, IA 50219	10-8-80	360.90	17.4
South Fork Marina	Route 1, Mystic, IA 52574	10-22-80	1,806.06	15.8
Glen Elder Marina & Store	514 East 6th, Beloit, KS 67420	10-21-80	1,796.31	11.3
Lighthouse Harbor Marina	P.O. Box 23, Hermitage, MO 65668	10-8-80	600.00	8.1
Nemo Landing Marina	Star Route, Box 104, Pittsburg, MO 65724	10-20-80	1,085.04	23.8

[FR Doc. 80-34423 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Union Oil Company of California's Application for Permission to Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petition and Request for Comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that, on October 20, 1980, Union Oil Company of California (Union), in accordance with the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b), filed an application for permission to use multiple allocation fractions. The relief, if granted, would enable Union to use a separation allocation fraction for its marketing of '76 Racing Gasoline, the distribution of which is asserted to be separate from and independent of that which is used for Union's commercial gasoline distribution.

A copy of Union's application, with proprietary material deleted, may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street NW., Washington, D.C. 20461.

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DATE: Interested firms may submit comments on Union's application to the address listed below until the close of business ten (10) working days after the appearance of this notice in the **Federal Register** (November 17, 1980).

ADDRESS: Send comments to:

Economic Regulatory Administration, Office of Petroleum Operations, Room 2104, 2000 M Street, NW., Washington, D.C. 20461, Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Caryle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104–I, 2000 M Street NW., Washington, D.C. 20461, Telephone: (202) 653–3751.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 29th day of October 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-34471 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP81-27-000]

Columbia Gas Transmission Corp.; Application

October 31, 1980.

Take notice that on October 21, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81–27–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 68 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 3 taps for residential service; 4 taps for commercial service.
Estimated annual usage of 11,550 Mcf.
(2) Columbia Gas of Ohio, Inc.: 31 taps for residential service; 1 tap for commercial service.
Estimated annual usage of 5,775 Mcf.
(3) Columbia Gas of Pennsylvania, Inc.: 2 taps for residential service; 1 tap for commercial service.
Estimated annual usage of 10,100 Mcf.
(4) Columbia Gas of West Virginia Inc.: 18 taps for residential service; 1 tap for intrastate wholesale sale.
Estimated annual usage of 2,700 Mcf.
(5) The Dayton Power and Light Company: 2 taps for residential service; 2 taps for combined residential and industrial service; 2 taps for industrial service.
Estimated annual usage of 7,365 Mcf.
(6) West Ohio Gas Company: 1 tap for residential service.
Estimated annual usage of 140 Mcf.

Applicant states that 57 of the proposed taps would be for residential service and 11 taps would be for commercial end uses. Applicant states that authorization is necessary to provide service for the 1980–81 heating season.

Applicant states that 67 of the requested taps for delivery would have an average cost of $300 each and the re-establishment of commercial service for Wayne Gas would have an estimated cost of $2,200. It is stated that the estimated total cost of $22,395 would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34472 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-15-000]

Kansas-Nebraska Natural Gas Co., Inc.; Application

October 31, 1980.

Take notice that on October 14, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP81–15–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas pursuant to a gas sales, transportation and gathering agreement dated June 3, 1980, between Applicant and Panhandle. It is stated that said agreement provides for the optional purchase of a portion of the natural gas delivered by Applicant to Panhandle for transportation in Ellis County, Oklahoma, and the gathering, transportation and redelivery of up to 10,000 Mcf per day by Panhandle to Applicant at an existing interconnection of the two companies' facilities in Reno County, Kansas. Applicant states that both companies have active gas acquisition programs in Ellis County, Oklahoma, and that this agreement avoids the unnecessary duplication of facilities.

It is stated that in partial consideration for the transportation service, Panhandle would have the right to purchase 25 percent of the gas delivered by Applicant other than gas attributable to any working interest owned by Applicant. Applicant states that Panhandle would pay the weighted average price Applicant paid for said gas. It is stated that Applicant would also pay Panhandle a gathering fee of 26.83 cents per Mcf and a transportation charge of 6.95 cents per Mcf and would reimburse Panhandle in kind for compressor fuel in an amount equal to 0.5 percent of the volumes delivered to Panhandle per month.

Applicant states that the arrangement does not require Applicant to construct any new facilities. It is stated that the redelivery point facilities are in existence and that Panhandle has applied for authorization for the transportation service and the facilities necessary therefor.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34473 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-111-000]

Northwestern Public Service Co.; Application for Adjustment and for Interim Relief

October 30, 1980.

Take notice that on October 6, 1980, Northwestern Public Service Company, Northwestern National Bank Building, South Dakota 57350 (Northwestern) filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*), and § 1.41 of the Commission's regulations. Northwestern seeks relief from certain alternative fuel price ceilings set forth in 18 CFR 282.404.

Specifically, Northwestern states that it is a distribution utility serving 24 communities in the State of South Dakota with natural gas supplied by Northern Natural Gas Company (Northern). The South Dakota Public Utilities Commission requires Northwestern to charge its incrementally priced gas users a surcharge up to the price of the Btu equivalent fuel as determined under this Commission's incremental pricing program. Northwestern states that the actual price of No. 6 fuel oil available to its incrementally priced users is substantially lower than the prices posted by the Energy Information Administration (EIA) of the U.S. Department of Energy, under this Commission's program. For this reason, Northwestern states, it has continued to lose a significant amount of load to No. 6 fuel oil. Moreover, Northwestern states that the EIA's posted prices have been substantially higher for South Dakota than for the surrounding states, indicating that the EIA's data are inaccurate. In addition, Northwestern asserts that market factors indicate that the disparity between EIA ceiling prices and actual prices will continue.

Northwestern states that it will suffer special hardship, inequity, and unfair distribution of burdens because the continued loss of sales to incrementally priced users will result in additional fixed costs being absorbed by Northwestern's other customers.

Northwestern requests that it be allowed to adjust the incremental pricing surcharge for each transaction in which it is necesary to meet a price lower than the EIA posted ceiling price for No. 6 fuel oil.

Northwestern further requests interim relief pursuant to § 1.41(m) of the Commission's regulations and any other additional relief the Commission deems appropriate under the circumstances.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provision of § 1.41. All petitions to intervene must be filed on or before November 20, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34474 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-85-M

Southeastern Power Administration

Cumberland System; Intent to Formulate Power Marketing Policy

AGENCY: Southeastern Power Administration (SEPA), Department of Energy.

ACTION: Intent to formulate policy for Cumberland System of Projects.

SUMMARY: Pursuant to Procedure for Public Participation in the Formulation of Marketing Policy published in the **Federal Register** of July 6, 1978, 43 FR 29186, SEPA intends to develop new written marketing policy for future disposition of power from its Cumberland System of Projects, including the Laurel Project.

Existing power marketing policy for SEPA's Cumberland System is reflected in contracts involving such system power maintained in its headquarters offices and in an application to the Federal Energy Regulatory Commission (FERC) for a wheeling order, FERC Docket No. EL80–7. A complete review of such policy will be made.

SEPA will formulate a policy for the nine project system effective with the expiration of existing contracts or reasonable extensions thereof. The policy will address to the extent feasible those policy elements necessary to carry out the provisions of Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s. Proposals and recommendations for consideration in formulating the proposed new written marketing policy are solicited as are requests for further information or consultation.

DATES: All submissions or requests should be made as soon as possible but not later then January 19, 1981.

ADDRESSES: Five copies of written proposals or recommendations should be submitted to the Administrator, Southeastern Power Administration, Elberton, Georgia 30635, (404) 283–3261. Further inquiries and requests should be made to the same official.

SUPPLEMENTARY INFORMATION: The Cumberland System presently consists of Barkley, Center Hill, Cheatham, Cordell Hull, Dale Hollow, Old Hickory, J. Percy Priest and Wolf Creek Projects which are interconnected with and integrated through the Tennessee Valley Authority (TVA) System. SEPA expects to add the Laurel Project to the

integrated system, the output of which is now marketed to the East Kentucky Power Cooperative.

SEPA presently markets power from the Cumberland System to the Big Rivers Electric Corporation, Indiana Statewide Rural Electric Cooperative, Hoosier Energy Division, Southern Illinois Power Cooperative, East Kentucky Power Cooperative and TVA. Numerous other preferred agencies not now purchasing power from SEPA have expressed interest in purchasing power from the Cumberland System.

Issues which SEPA expects to consider in developing policy for the Cumberland System include, but are not limited to, the following: (1) determination of marketing area, (2) allocation of power among customers within the marketing area, (3) extent of sales to TVA or within the TVA service area, (4) utilization of area utility systems for power integration, firming, wheeling, and other essential relationships, (5) handling of resale rates, and (6) conservation measures. Following development of SEPA's proposed marketing policy for the Cumberland System, further public participation as provided in the Procedure referenced in the Summary section of this Notice will be invited and resulting comments will be fully considered prior to issuance of the final marketing policy.

Issued in Elberton, Georgia, October 24, 1980.

Harry F. Wright,

Administrator.

[FR Doc. 80-34514 Filed 11-4-80; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

Action on Consent Order with Tenneco Oil Co.

AGENCY: Department of Energy (DOE).

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the consent order with Tenneco Oil Company (Tenneco), executed on August 21, 1980 and published for comment in 45 FR 60001 on September 11, 1980. The consent order resolves all issues of compliance with the DOE Petroleum Price Regulations for the period August 19, 1973 through February 29, 1980, as applied to Tenneco's calculation of its May 1973 per gallon cost of purchasd motor gasoline. To remedy any overcharges that may have occurred during the period, Tenneco agrees to $22.26 million in remedies.

As required by the regulation cited above, OSC has received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. No comments were received. Accordingly, OSC determined tht the consent order should be made final without modification. The consent order is effective as an order of the Department of Energy (DOE) on November 5, 1980.

FOR FURTHER INFORMATION CONTACT:

George Kielman, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 4111, Washington, D.C. 20461, 202-633-9557.

Copies of the consent order may be received free of charge by written request to:

Tenneco Oil Company, Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 4111, Washington, D.C. 20461.

Copies may also be obtained in person in Room 3109 of the same street address noted above or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room 5B-180, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION:

The Consent Order

On September 11, 1980, OSC published notice in Volume 45 of the **Federal Register** at page 60001, announcing the execution of the consent order between Tenneco Oil Company and OSC. In compliance with DOE regulations, that notice and a press release issued on September 5, 1980, briefly summarized the consent order and the facts behind it. Instructions were also provided for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order resolves all issues related to Tenneco's compliance with the DOE Petroleum Price Regulations for the period August 19, 1973 through February 29, 1980, arising out of Tenneco's calculation of its May 1973 per gallon cost of purchased motor gasoline. An audit initiated by DOE's predecessors lead to allegations that Tenneco had not calculated its cost of purchased motor gasoline in accordance with applicable statutes and regulations. While Tenneco maintains that its calculations were pursuant to the applicable statutes and regulations, both parties being desirous of resolving the issues without resort to complex, lengthy and expensive litigation, entered into the consent order as a satisfactory resolution of disputed issues.

2. Tenneco has agreed to remedies for possible overcharges totalling $22.26 million in settlement of this dispute. This amount consists of three major components.

3. Tenneco shall prepare a list of wholesale customers who purchased from it in June 1974, along with the amount of refund due to each. A total of $1,244,100 shall be refunded to such customers by check or credit memorandum. Any portion of this amount not actually refunded shall be added to the cash payment discussed below.

4. A total of $1,017,900 shall be made payable to the United States Department of Energy, for deposit into the United States Treasury.

5. Tenneco, as of the effective date of this consent order, shall reduce its then-current bank of unrecovered increassed costs attributable to motor gasoline by the sum of $20,000,000.00.

Comments Received

OSC has received no comments from any source concerning this consent order. Having received no comments, OSC has not found any reason to modify or rescind the proposed consent order. Accordingly, OSC has determined that the proposed consent order with Tenneco should be made final, effective November 5, 1980.

Issued in Washington, D.C., this the 23d day of October 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-34422 Filed 11-1-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AS-FRL 1654-7]

Performance Review Board; Change in Membership

AGENCY: Environmental Protection Agency.

ACTION: Notice of change in membership of the Performance Review Board.

SUMMARY: This Notice announces revision of the membership of the Agency's Performance Review Board (PRB) to reflect the departure of two original members and the appointment of two new individuals as members of the body. The Administrator of the Environmental Protection Agency (EPA) established the Performance Review Board under provision of Section 4314 of Title 5, United States Code, and the Agency published, in the **Federal Register** of May 20, 1980, a Notice announcing its establishment and the appointment of the twelve original members.

The purpose of the Performance Review Board is to review initial senior executive appraisals and to make recommendations to the Administrator concerning performance of senior executives in the Agency and performance awards.

ADDRESSES: The names, titles, and addresses of the individuals now appointed to the EPA Performance Review Board follow, with new appointees marked by an asterisk (*) preceding their name.

Mr. David O. Bickart, Deputy General Counsel, Office of General Counsel, Environmental Protection Agency, Washington, D.C. 20460.

Dr. Marilyn C. Bracken, Deputy Assistant Administrator for Program Integration and Information, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Charles L. Elkins, Deputy Assistant Administrator for Noise Abatement and Control, Office of Air, Noise and Radiation, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Louise Giersch, Director, Air and Hazardous Materials Division, Region IX, Environmental Protection Agency, San Francisco, California 94105.

Mr. Clarence Hardy, Director of Personnel, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460 (Executive Secretary, PRB).

Mr. Robert J. Knox, Acting Director, Office of Civil Rights, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Marian Mlay, Associate Deputy Assistant Administrator for Drinking Water, Office of Water and Waste Management, Environmental Protection Agency, Washington, D.C. 20460.

*Mr. Christopher N. Palmer, Executive Assistant to the Deputy Administrator, Environmental Protection Agency, Washington, D.C. 20460.

Ms. Frances E. Phillips, Deputy Regional Administrator, Region VI, Environmental Protection Agency, Dallas, Texas 75270.

*Mr. Edward E. Reich, Director, Division of Stationary Source Enforcement, Office of Enforcement, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Samuel Rondberg, Director, Office of Research Program Management, Office of Research and Development, Environmental Protection Agency, Washington, D.C. 20460.

Mr. Saul R. Rosoff, Associate to the Assistant Administrator for Management Reform, Office of Planning and Management, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Environmental Protection Agency Performance Review Board may contact Mr. Clarence Hardy, Director of Personnel, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 755-2922.

Douglas M. Costle,

Administrator.

October 29, 1980.

[FR Doc. 80-34432 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-38-M

[SA-FRL 1655-4]

Science Advisory Board, Technology Assessment and Pollution Control Committee; Closed meeting

Notice is hereby given, pursuant to Public Law 92-463, that a meeting of an ad-hoc committee of the Science Advisory Board will be held in Washington, D.C. on December 2, 1980, to determine the recipients of the Agency's 1980 Scientific and Technological Achievement Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities.

Pursuant to Section 10(d) of 5 U.S.C. Appendix 1 and 5 U.S.C. Section 552b(c), I hereby determine that this meeting is concerned with information exempt form disclosure and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. In selecting the recipients for awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will, inevitably, involve personal as well as professional judgments, could cause unnecessary embarrassment, particularly for those EPA employees not selected to receive awards, and disclosure would constitute a clearly unwarranted invasion of personal privacy.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of 5 U.S.C. Appendix 1, Section 10(d).

Douglas M. Costle,

Administrator.

October 29, 1980.

[FR Doc.80-34433 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-34-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing and Notification of Cut-Off List; Correction

FM and TV Translator Applications Ready and available for processing and notification of Cut-Off List, to be release November 28, 1980, has been extended to December 5, 1980

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on December 5, 1980.

The following entry appeared on the Public Notice (Mimeo 00607) released November 28, 1980, listing translator applications which would be considered as ready and available for processing on November 25, 1980.

BPFT-800912IS—NEW—Traverse City, Michigan: Jack G. Martin d.b.a. Martin TV Sales & Service also, Northern Tower Erection Company. Req: Channel 232, 94.3 MHz, 1000 watts. Primary: WITW-FM, Cadillac, Michigan.

The entry is corrected to ready as follows:

BPFT-800912IS—NEW—Traverse City, Michigan: Jack G. Martin d.b.a. Martin TV Sales & Service also, Northern Tower Erection Company. Req: Channel 232, 94.3 MHz, 1 watts. Primary: WITW-FM, Cadillac, Michigan.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-34417 Filed 11-4-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1255]

Petitions for Reconsideration of Actions in Rule Making Proceedings

October 30, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR § 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before November 20, 1980. Replies to an opposition must be filed within 10 days

after the time for filing oppositions has expired.

Subject: Amendment of Parts 1, 2 and 90 of the Commission's Rules and Regulations to implement a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service in the 450–470 MHz band. (PR Docket No. 79–338, RM–3470)

Filed by: Joseph M. Kittner, Lawrence J. Movshin & A. Thomas Witherington, Attorneys for General Electric Company on 10–14–80.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–34416 Filed 11–4–80; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services (RTCM); Meeting Change

The meeting of RTCM Special Committee No. 76, "Maritime Advisory Committee in Preparation for the 1982 Mobile WARC," previously announced for Wednesday, 12 November 1980, has been changed to Monday, 10 November 1980. The time, site, and agenda remain unchanged.

This revision is due to a scheduling conflict with a joint U.S.-Canadian conference concerning the 1982 Mobile WARC. The date is advanced to allow members of S.C. 76 to attend the conference and still complete a timely response to a Notice of Inquiry by the Federal Communications Commission.

This change is approved by the FCC Advisory Committee Management Officer. For more information, contact the RTCM Secretariat: phone (202) 632–6490.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–34418 Filed 11–4–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–633–DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of California (FEMA–633–DR), dated October 2, 1980, and related determinations.

DATED: October 23, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634–7848.

NOTICE: The Notice of a major disaster for the State of California, dated October 2, 1980, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 2, 1980.

Upper Jones Tract in the San Joaquin Delta of San Joaquin County for Public Assistance to local governments.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718–02.)

[FR Doc. 80–34429 Filed 11–4–80; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1316]

Movers Port Service, Inc.; Order of Revocation

Pursuant to a September 9, 1980 Settlement Agreement between Four Winds Forwarding, Inc., Four Winds International, Inc., Movers Port Service, Inc., Four Winds Enterprises, Inc., and the Federal Maritime Commission, Movers Port Service, Inc. agreed *inter alia* that it would voluntarily surrender its independent ocean freight forwarder license No. 1316, and that it would not for a period of one year after surrender make application for a new or reinstated license.

Movers Port Service, Inc. has surrendered a photocopy of its license for voluntary revocation, effective December 1, 1980.

Therefore, pursuant to the Settlement Agreement, and by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1316 issued to Movers Port Service, Inc., be and is hereby revoked effective December 1, 1980.

It is further ordered, That the original license certificate, when found, be returned to the Federal Maritime Commission.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Movers Port Service, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–34407 Filed 11–4–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 26, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

Industrial National Corporation, Providence, Rhode Island (finance and insurance activities; Tennessee): to engage through its indirect subsidiary, Southern Discount Company of Tennessee, in the activities of making extensions of credit such as would be made by a consumer finance company, and acting as agent for the sale of credit life and credit accident and health insurance directly related to its extensions of credit, which insurance would be reinsured by an affiliate, Consumer Life Insurance Company. These activities would be conducted from an office in Jasper, Tennessee, serving all of Marion County, Tennessee.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Iowa): to continue to engage, through its indirect subsidiary FinanceAmerica Corporation, a Delaware corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and the offering of credit related life and credit related accident and health and credit related property insurance. Such activities would include, but not be limited to, making loans and other extensions of credit to consumers as well as small businesses, purchasing installment sales finance contracts, making loans secured by real and personal property, and offering life, accident and health, and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation, a Delaware corporation.

These activities would be conducted from an existing office in Rock Falls, Illinois, serving the state of Iowa.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 29, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80–34430 Filed 11–4–80; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N–80–1024]

Request for Public Comment on Single Family Real Estate Settlement Practices

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Extension of Public Comment Period.

SUMMARY: On Thursday, October 2, 1980, the Department published a request for public comment on single family real estate settlement practices. (45 FR 65320) In order to afford the public more time to comment on this subject, the deadline for submitting written comments is being extended until November 17, 1980.

COMMENT DUE DATE: November 17, 1980 is the deadline for receipt of comments.

ADDRESS: Interested persons are invited to submit written comments or data regarding the subject area to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Communications should refer to the above docket number and title. All relevant material received on or before November 17, 1980 will be considered in preparation of the Department's report to Congress. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard Patterson, Real Estate Practices Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Room 3234, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6524. (This is not a toll free number.)

(Real Estate Settlement Procedures Act of 1974, Pub. L. 93–533, 12 U.S.C. 2601 et. seq.; Real Estate Settlement Procedures Act Amendment of 1975, Pub. L. 94–205).

Issued at Washington, D.C., October 31, 1980.

William O. Anderson,

Acting Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80–34560 Filed 11–4–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0438, Block 175 Eugene Island Area, offshore Louisiana.

The purpose of this notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 28, 1980.

E. A. Marsh,

Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80–34412 Filed 11–4–80; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

Carson City District Multiple Use Advisory Council; Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming

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meeting of the Carson City District Multiple Use Advisory Council.

DATE: December 10, 1980—10:00 a.m.

ADDRESS: Palomino Valley Corrals, 17800 Pyramid Lake Highway, approximately 18 miles north of Sparks, Nevada.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, Carson City District, Bureau of Land Management, 1050 East William Street, Suite 335, Carson City, Nevada 89701, (702) 882–1631.

SUPPLEMENTARY INFORMATION: The Council is chartered to provide citizen counsel and advice to the Carson City District Manager regarding planning and management of the public lands and resources within the District. The agenda for this meeting will include consideration of land sales and the wild horse and burro management program and a tour of the Palomino Valley Corrals and Adoption Center.

The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Board at 3:00 p.m. (Persons wishing to attend are advised to call in advance for directions to the location of the meeting.)

Thomas J. Owen,
District Manager.
October 27, 1980.
[FR Doc. 80-34413 Filed 11-04-80; 8:45 am]
BILLING CODE 4310-84-M

Colorado; Designation of the Little Book Cliffs Wild Horse Range

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of area.

SUMMARY: This action designates approximately 28,000 acres of public land in Mesa County Colorado, as the Little Book Cliffs Wild Horse Range.

DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Andy Senti, Colorado State Office, 303–837–3393, or Sam McReynolds, Grand Junction District Office 303–243–6552.

1. Pursuant to Section 3 of the Pub. L. 92–195 of December 15, 1971, I hereby designate the lands in the following described areas as the Little Book Cliffs Wild Horse Range.

Sixth Principal Meridian

T. 9 S., R. 99 W.,
- Sec. 18, that portion lying below the north rim of Main Canyon and west of the Little Book Cliffs Horse Area fence;
- Sec. 19, that portion lying below the east rim of Lane Gulch;
- Sec. 28, that portion lying west of the Little Book Cliffs Horse Area fence;
- Sec. 29, that portion lying below the north rim of the north fork of Cosgrove Canyon;
- Sec. 30, that portion lying below the north rim of the north fork of Cosgrove Canyon, the east rim of Lane Gulch, and west of the Little Book Cliffs Horse Area fence;
- Sec. 31, all;
- Sec. 32, that portion lying above the west rim of Cosgrove Canyon and the Little Book Cliffs Horse Area fence;
- Sec. 33, that portion lying west of the Little Book Cliffs Horse Area fence.

T. 9 S., R. 100 W.,
- Sec. 13, that portion lying below north rim of Main Canyon;
- Sec. 14, that portion of public lands lying below the north rim of Main Canyon;
- Sec. 15, that portion lying below the north rim of Main Canyon, south of the Little Book Cliffs Horse Area fence and above the Little Book Cliffs rim;
- Sec. 21, that portion lying above the Little Book Cliffs rim;
- Sec. 22, that portion lying above the Little Book Cliffs rim;
- Sec. 23, that portion of public lands lying above the Little Book Cliffs rim;
- Secs. 24 and 25, all;
- Sec. 26, that portion lying above the Little Book Cliffs rim;
- Sec. 35, that portion lying above the Little Book Cliffs rim;
- Sec. 36, that portion lying above the Little Book Cliffs rim;

T. 10 S., R. 98 W.,
- Sec. 7, that portion lying below the north rim of Main Canyon;
- Sec. 18, that portion lying below the north rim of Main Canyon;
- Sec. 19, all;
- Sec. 20, that portion lying below the north rim of Main Canyon;
- Sec. 21, W½SW¼;
- Sec. 28, W½NW¼, NW¼SW¼;
- Sec. 29, N½, SW¼, SE¼, that portion lying below the south rim of Coal Canyon;
- Secs. 30 and 31, all;
- Sec. 32, that portion lying below the south rim of Coal Canyon.

T. 10 S., R. 99 W.,
- Sec. 1, that portion lying below the north rims of Main and Cottonwood Canyons and south of the Little Book Cliffs Horse Area fence;
- Sec. 2, that portion lying below the north rim of Cottonwood Canyon;
- Sec. 3, that portion lying below the north rim of Cottonwood Canyon;
- Sec. 4, that portion lying below the north of rim of Cottonwood Canyon and south of the Little Book Cliffs Horse Area fence;
- Sec. 5, all;
- Sec. 6, that portion lying above the Little Book Cliffs rim;
- Sec. 7, that portion of public land lying above the Little Book Cliffs rim;
- Sec. 8, that portion of public land lying above the Little Book Cliffs rim;
- Secs. 9, 10, 11, all;
- Sec. 12, that portion lying below the north rim of Main Canyon;
- Secs. 13, 14, 15, 16, all;
- Sec. 17, that portion lying above the Little Book Cliffs rim;
- Secs. 22, 23, 24, 25, 26, 27, all;
- Sec. 34, that portion lying above the Little Book Cliffs rim;
- Secs. 35 and 36, all.

T. 10 S., R. 100 W.,
- Sec. 1, that portion lying above the Little Book Cliffs rim.

T. 11 S., R. 98 W.,
- Sec. 4, that portion lying west of the Little Book Cliffs Horse Area fence;
- Sec. 5, that portion of public land lying west of the Little Book Cliffs Horse Area fence and above the Little Book Cliffs rim;
- Sec. 6, that portion of public land lying above the Little Book Cliffs rim.

T. 11 S., R. 99 W.,
- Sec. 1, that portion lying above the Little Book Cliffs rim.

Ute Principal Meridian

T. 1 N., R. 1 E.,
- Secs. 1 and 2, all;
- Sec. 3, that portion lying above the Little Book Cliffs rim;
- Sec. 10, that portion lying above the Little Book Cliffs rim;
- Secs. 11, 12, 13, all;
- Sec. 14, that portion lying above the Little Book Cliffs rim;
- Sec. 24, that portion lying above the Little Book Cliffs rim.

The area described above aggregates approximately 27,065 acres of public land in Mesa County, Colorado.

Sixth Principal Meridian

T. 9 S., R. 100 W.,
- Sec. 14, N½SE¼, SE¼SE¼;
- Sec. 23, NE¼,NE¼;
- Sec. 36, E½NE¼.

T. 9 S., R. 99 W.,
- Sec. 31, N½NW¼, SW¼NW¼, N½SW¼, SE¼SW¼.

T. 10 S., R. 99 W.,
- Sec. 6, W½SE¼, SW¼.

T. 11 S., R. 99 W.,
- Sec. 6, NE¼SE¼.

T. 11 S., R. 98 W.,
- Sec. 5, NW¼SW¼.

The area described above aggregates 707 acres of private land which may be made a part of the designated horse range should the lands be acquired by the Federal Government. The total public and private lands aggregates 27,772 acres.

2. Subject to valid existing rights, the range will be primarily administered for the protection and management of wild horses, coordinating this use with wildlife, recreation, forestry, minerals, watershed, and fire management programs of the Bureau of Land Management.

3. Administration of the range will be in accordance with the regulations found in 43 CFR Part 4700.

4. For the purposes of management of the wild horses, the boundaries thereof consist of natural barriers and fencing delineating the area described in paragraph 1. The lands are more particularly identified on plats and maps filed in the Bureau of Land Management Colorado State Office and the Grand Junction District Office.

Frank Gregg,
Director.
October 31, 1980.
[FR Doc. 80-34478 Filed 11-4-80; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Application

Important Notice: The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–69

The following applications were filed in Region 2. Send protests to: ICC, FEDERAL RESERVE BANK BLDG., 101 N. 7th ST., ROOM 620, PHILADLPHIA, PA 19106.

Republication

MC 151706 (Sub-II–2TA), filed September 24, 1980. Originally published in the **Federal Register** October 16, 1980. Applicant: JAN-AL SALES, INC., 5321 Southwyck Blvd., Toledo, OH 43614. Representative: Joseph E. Ludden 324 Exchange Bldg., La Crosse, WI 54601. *Chemicals or allied products and materials, equipment and supplies used in the manufacture and distribution of the above commodities,* (except commodities in bulk) between points in CT, GA, IL, IN, IA, MA, MI, MN, MO, NJ, NY, OH, PA, TN, and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lehn & Fink Products, Div. of Sterling Drug, Inc., 255 Summit Ave., Montvale, NJ 07645. The purpose of this republication is to show the State of MO which was omitted.

MC 67646 (Sub-II–3TA), filed October 23, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Authority sought: *General commodities,* except those of unsual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points in Adams, Allen, Elkhart, La Porte, St. Joseph, and Wayne Counties, IN; Berrien, Cass, Lenawee, Monore, and St. Joseph Counties, MI; Hillsborough, Rockingham and Strafford Counties, NH; and Ashland, Butler, Clark, Clermont, Crawford, Delaware, Erie, Fairfield, Fayette, Franklin, Greene, Hamilton, Hancock, Huron, Knox, Licking, Lucas, Madison, Marion, Miami, Montgomery, Morrow, Muskingham, Ottawa, Pickaway, Preble, Richland, Ross, Sandusky, Seneca, Union, Warren, Wood, and Wyandot Counites, OH; as intermediate or off-route points in connection with the carrier's authorized regular-route operations, for 270 days. Applicant intends to tack and interline. Supporting shippers: There are 93 supporting shippers. Their statements may be viewed at the ICC Regional Office, Philadelphia, PA.

MC 125335 (Sub-2–20TA), filed October 23, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in or used by wholesale and retail grocery stores and food business houses,* from all points in the US in and east of CO, MT, NM, and WY to Allegheny and Butler Counties, PA. Supporting shipper: Giant Eagle Markets, Inc., 101 Kappa Drive, Pittsburg, PA.

MC 150939 (Sub-II–8TA), filed October 23, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 152219. *Copper wire products and materials, equipment and supplies used in the manufacture and distribution thereof* between the facilities of Essex Group, Division of United Technologies Corp. in the US in and east of MN, IA, MO, AR and LA, on the one hand, and, on the other, points in the US, under a contract(s) with Essex Group, Division of United Technologies Corp. of Fort Wayne, IN. Supporting shipper: Essex Group, Division of United Technologies Corp., P.O. Box 1216, Fort Wayne, IN 46801.

MC 140889 (Sub-II–3TA), filed October 14, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Contract, irregular—*plastic films, sheeting, bags and rigid plastic articles, machinery, equipment and supplies used in the manufacture and distribution of the above* from the facilities of Mobil Chemical Co. located at Pottawatomie County, OK; Bell County, TX; Cook and Sangamon Counties, IL; Ontario and Wayne Counties, NY; Kern and Yolo Counties, CA; Newton County, GA; Middlesex County, ME; Fairfield County, CT and Warren County, NJ to points in the U.S. (except AK and HI), for 270 days. Supporting shipper(s): Mobile Chemical Co., Plastics Division, Macedon, NY 14502.

MC 147681 (Sub-II–13TA), filed October 21, 1980. Applicant: HOYA EXPRESS, INC., Rt. 18, West Middlesex, PA 16159. Representative: Michael P. Pitterich, P.O. Box 543, West Middlesex, PA 16159. *Chocolate candy,* from West Reading and Wyomissing, PA to points in PA, OH, WV, KY, IN, IL and MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): R. M. Palmer Co., 77 Second Ave., West Reading, PA 19611.

MC 143394 (Sub-II–16TA), filed October 22, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between points in the U.S. under

continuing contract(s) with West Coast Shippers Association, Philadelphia, PA 19142, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): West Coast Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142.

MC 138000 (Sub-II–22TA), filed October 20, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Health and beauty aids* between all points in the United States in and east of WI, IL, MO, AR and LA. Restricted to the transportation of shipments originating at or destined to the facilities of or utilized by Megas Manufacturing, Inc., for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Megas Manufacturing Inc., 4800 Van Epps Road, Cleveland, OH 44131.

MC 78118 (Sub-II–2TA), filed October 20, 1980. Applicant: W. H. JOHNS, INC., 35 Witmer Rd., Lancaster, PA 17602. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Such commodities as are manufactured, dealt in or used by a manufacturer or distributor of glass containers* (except commodities in bulk), between points in the U.S. east of the western boundaries of WI, IL, KY, TN and MS, limited to transportation to or from the facilities of Glass Containers Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Glass Containers Corporation, Knox, PA 16232.

MC 144780 (Sub-II–1TA), filed October 20, 1980. Applicant: PAUL EVANS & SONS TRUCKING, INC., P.O. Box 185, Wilmington, OH 45177. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract:* Irregular: *General Commodities, (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses,* as described in the Report Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives) between points in the U.S. except AK, and HI. Restricted to traffic originating at or destined to the facilities used by International Paper Co. Supporting shipper: International Paper Company, 220 E. 42nd Street, New York, New York 10017.

MC 150432 (Sub-II–7TA), filed October 20, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *Contract:* Irregular: *Frozen Foods,* between Columbus and Bedford Heights, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contracts with Quality Bakery, Inc., and New York Frozen Foods, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Quality Bakery Company, Inc., 50 North Glenwood, Columbus, OH 43222. New York Frozen Foods, Inc., 25900 Fargo Ave., Bedford Heights, OH 44164.

MC 148459 (Sub-II–1TA), filed October 24, 1980. Applicant: ACME VAN SERVICE, INC., 1340 Chesapeake Ave., Baltimore, MD 21226. Representative: William D. Dailey (same address as applicant). *Used household goods restricted to transportation of traffic having prior or subsequent movement, in container beyond the points authorized and further restricted to the performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, inventory and decontainerization of such traffic,* between Baltimore City, Anne Arundel County, Howard County, Prince Georges County, Baltimore County, Carroll County, Montgomery County, Harford County, Cecil County, Kent County, all within the State of MD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: DIO Contracting Div., Ft. Meade, MD 20755.

MC 139464 (Sub-II–2TA), filed October 24, 1980. Applicant: BASS TRANSPORT, INC., Rt. 2, Box 64A, Altavista, VA 24517. Representative: Frank B. Hand, Jr., 521 S. Cameron St., Winchester, VA 22601. *New Furniture and Fixtures,* from Altavista and Rocky Mount, VA to points in IL, WI, ME, MA and RI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Lane Co., Inc., East Franklin St., Atavista, VA 24517.

MC 110525 (Sub-II–18TA), filed October 23, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). *Chemicals, in bulk, in tank vehicles* from Memphis, TN to points in AL, AR, MS, KY, MO, and IL for 270 days. Supporting shipper: Dow Chemical USA, Suite 2005, 20 Perimeter Center E, Atlanta, GA 30346.

MC 110659 (Sub-II–4TA), filed October 24, 1980. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia St. W., Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Transmissions, transmission parts, engines, engine parts and materials and supplies used in the rebuilding and wholesale-retail distribution thereof,* between points in MI, on the one hand, and, on the other, points in Guernsey City, OH and Kanawha City, WV for 270 days. Underlying ETA for 120 days. Supporting shipper: Ray C. Call, Inc., P.O. Box 8245, S. Charleston, WV 25303.

MC 112304 (Sub-II–21TA), filed October 27, 1980. Applicant: ACE DORAN HAULING & RIGGING CO.; 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Agricultural fertilizer spikes, and raw materials* used in the manufacture thereof, from Lexington, KY, on the one hand, and, on the other, all pts. in the US (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): International Spike Co., 817 East Third St., Lexington, KY 40503.

MC 115694 (Sub-II–2TA), filed October 27, 1980. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew, (same as applicant). Contract, irregular: *paints, materials, supplies and equipment, used in the manufacture thereof* between pts. in the US, under continuing contracts with Evans Paint Division, Roanoke, VA. Supporting shipper: Evans Paint Division, P.O. Box 4098, Roanoke, VA 24015.

MC 72069 (Sub-II–9TA), filed October 27, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *(1) Such commodities as are dealt in by grocery and food business houses and (2) Materials, supplies, and equipment used in connection with or incidental to the manufacturing of such commodities,* from points in Rockingham, Shenandoah and Frederick Counties, VA and Berkeley County, WV to all points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): Bowman Apple Products Company, Inc., Mount Jackson, VA 22842; Shenandoah Apple Co-Operative, Inc., Winchester, VA.

MC 149230 (Sub-II–2TA), filed October 27, 1980. Applicant: BRAMCO TRANSPORT, INCORPORATED, 5600 Lewis Rd., Sandston, VA 23150. Representative: P. Owen Dean (same as applicant). Contract, irregular: *Bakery goods, supplies, equipment, materials and merchandise used in the manufacture, sales and distribution of bakery products,* between Richmond, VA, Battlecreek, MI, Tacoma and Sioux City, SD; and pts. and places within the US (except AL and HI) for the account of Interbake Foods., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261.

MC 142559 (Sub-II–20TA), filed October 27, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E Broad St., Columbus, OH 43215. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) moving on bills of lading of shippers' associations as defined in 49 U.S.C. 10526(5)(a)* between Dallas and Ft. Worth, TX, on the one hand, and, on the other, pts in the US (except AK and HI) for 270 days. Supporting shipper: New England Shipping Association Cooperative, 1029 Pearl St., Brockton, MA 02403.

MC 143267 (Sub-II–3TA), filed October 27, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., NW., Wash., DC 20005. *(1) Agricultural equipment and implements and (2) materials used in the manufacture thereof,* between the facilities of International Harvester Co. at Canton and E. Moline, IL, on the one hand, and on the other, pts. in the US in and east of WI, IL, KY, TN, and MS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611.

MC 152020 (Sub-II–1TA), filed October 27, 1980. Applicant: ALBERT G. DRIEBE, R.D. No. 1, Box 1229, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *(1) Masonry Cement; (2) Machinery to be used for display or show purposes; (3) Such commodities as are usually dealt in by retail and wholesale grocery, hotel & restaurant establishments;* (1) from Stroud Township, PA to points in the U.S. (except AK & HI); (2) between East Stroudsburg, PA on the one hand, and, on the other, points in the US (except AK & HI); (3) between Monroe County, PA on the one hand, and, on the other, points in the US (except AK & HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pocono Fabricators, Div. of Patterson-Kelley Co., E. Stroudsburg, PA 18301; Pocono Produce Co., Inc., 777 N. 5th St., Stroudsburg, PA 18360.

MC 107012 (Sub-II–99TA), filed October 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Kitchen cabinets, sink tops, molding, filler strips, and parts and accessories* from the facilities of Boro Wood Products Co., Inc., at or near Bennettsville, SC to points in CT, DE, MA, MD, NH, NJ, NY, PA, RI, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Boro Wood Products Co., Inc., Box 636, Maple St., Bennettsville, SC 29512.

Note.—Common control may be involved.

MC 152316 (Sub-II–1TA), filed October 23, 1980. Applicant: NORTHEASTERN HAULERS, INC., P.O. Box 5225, Wilmington, DE 19808. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *General commodities, except Classes A & B explosives, commodities in bulk and household goods as defined by the Commission* between points in NJ, PA and MD, on the one hand, and, on the other, the du Pont plant in Newport, DE for 270 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898.

MC 152125 (Sub-II–2TA), filed October 23, 1980. Applicant: MIDWEST CONTAINER SERVICES, INC., 5717 Hamlet Ave., Cleveland, OH 44115. Representative: Douglas R. Denny, 1050 Union Commerce Bldg., Cleveland, OH 44115. *General commodities in containers and empty intermodal equipment (except household goods as defined by the Commission, hazardous materials, and commodities in bulk)* between points in MI, OH, and KY on the one hand and on the other, points in MD, NJ, NY, PA, and VA for 270 days. *Restricted to the transportation of cargo having prior or subsequent movement by water.* Supporting shipper(s): There are five (5) supporting shippers. Their statement may be examined at the ICC office in Philadelphia, PA.

MC 119821 (Sub-II–5TA), filed October 27, 1980. Applicant: OCHROCH TRANSPORTATION CO., INC., 2nd St. and Erie Ave., Philadelphia, PA 19140. Representative: Francis W. Doyle, 323 Maple Ave., Southhampton, PA 18966. *Lighting fixtures,* between the facilities of Progress Lighting, Philadelphia, PA and Baltimore, Forrestville and Hagerstown, MD; Boston and Lawrence, MA; New York, NY; Columbus, OH; Providence, RI; Cowpens, SC; Washington, DC and the International Boundary Line between the U.S. and Canada in NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Progress Lighting, G St. and Erie Ave., Philadelphia, PA 19134.

MC 107012 (Sub-II–100TA), filed October 27, 1980. Applicant: NORTH AMERICN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Loud speakers, and parts and accessories for the manufacture, maintenance and distribution of loud speakers* from Los Angeles, CA to points in GA and FL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ultralinear, Division of Solar Audio Products, Inc., 3228 East 50th St., Los Angeles, CA 90058.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 115654 (Sub-3–29TA), filed October 21, 1980. Applicant: TENNESSEE CARTAGE CO, INC., P.O. Box 23193, Nashville, Tennessee 37202. Representative: Jackie Hastings (same address as applicant). *Foodstuffs and chemicals, except in bulk,* from the facilities of Morco Food Distributors at Atlanta, GA and it's commercial zone to Nashville, TN and it's commercial zone. Supporting Shipper: Morco Food Distributors, P.O. Box 10627, 4240 Industrial Dr., Jackson, MS 39209.

MC 124117 (Sub-3–3TA), filed October 22, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID–TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Containers,* from the facilities of Northwest Bottle Company at or near St. Louis, MO to points in Moore County, TN. Supporting Shipper: Northwestern Bottle Company, 2222 N. Second Street, St. Louis, MO 63147.

MC 139006 (Sub-3–2TA), filed October 23, 1980. Applicant: RAPIER SMITH, R.R. 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Alcoholic beverages,* from points in KY, MI, IL, NY, and MO to Indianapolis, IN and its commercial zone. Applicant has filed underlying ETA seeking 120 days of operating authority. Supporting shipper: National Liquor Corp., 1102 East 16th Street, Indianapolis, IN 46202.

MC 149575 (Sub-3–1TA), filed October 23, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Road, P.O. Box 3043, Macon, GA 30345. Representatives: Archie B. Culbreth,

John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Polyvinyl chloride pipe, fittings and accessories* from the facilities of KYKA U.S.A., INC. in Bibb County, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX and VA; and (2) *Materials, equipment and supplies used in the manufacture and distribution of polyvinyl choloride pipe, fittings and accessories* from points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX and VA to the facilities of KYKA U.S.A., INC. in Bibb County, GA. Supporting shipper: Kyka U.S.A., Inc., 7614 Industrial Highway, P.O. Box 10246, Macon, GA 31297.

MC 124887 (Sub-3–12TA), filed October 22, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Asphalt and Roofing,* between Tuscaloosa County, AL, on the one hand, and, on the other, points in AR, FL, GA, KY, LA, MS, NC, SC, TN, TX and VA. Supporting shipper: Warrior Roofing Manufacturing Company, P.O. Box 3161, Tuscaloosa, AL 35404.

MC 141652 (Sub-3–4TA), filed October 23, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 29308. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *Automotive parts and accessories* between the facilities of Bendix Automotive Aftermarket Division of the Fram Corporation located at or near Jackson, TN and Santa Fe Springs, CA. Supporting shipper: Bendix Automotive Aftermarket Division of the Fram Corporation, 1094 Bendix Dr., Jackson, TN 38301.

MC 151395 (Sub-3–4TA), filed October 21, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Containers, container ends and closures and tin plate, and materials, equipment and supplies used in the manufacture or distribution of containers, container ends and closures,* between points in the U.S., restricted to traffic originating at or destined to a facility of Crown Cork and Seal Company, Inc. Supporting shipper: Crown Cork and Seal Company, Inc., 9300 Ashton Road, Philadelphia, PA 19136.

MC 75192 (Sub-3–2TA), filed October 21, 1980. Applicant: CHARLES T. BROWN TRUCK LINES, INC., 1208 Buff Street, Greensboro, NC 27406. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Iron and Steel Articles and Aluminum Articles,* between points in NC, SC, and VA, on the one hand, and, on the other points in DE and MD. Supporting shippers: Carolina Steel Corporation, P.O. Box 20888, Greensboro, NC 27420, Greensboro Pipe Co., Inc., 3102 Randleman Road, Greensboro, NC, Contract Steel Sales, Inc., P.O. Box 3305, Greensboro, NC 27402, Debnam-Hughes Corp., P.O. Box 9677, Greensboro, NC 27408.

MC 143691 (Sub-3–3TA), filed October 23, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). *Contract carrier,* irregular routes; *Such commercial papers, documents and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions* between Highland, NC and Commerce, GA. Supporting shipper: Carolina Mountain Bank, Highland, NC 28741.

MC 116254 (Sub-3–20TA), filed October 23, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Iron oxide, in tank vehicles,* from Gadsden, AL to Washington, IN. Supporting shipper: Repulic Steel Corporation, P.O. Box 6778, Cleveland, OH 44101.

MC 142181 (Sub-3–3TA), filed October 23, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, Tennessee 37202. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, Tennessee 37219. *Contract carrier,* irregular routes: *Merchandise, equipment, and supplies sold, used or distributed by a manufacturer of cosmetics* between points in the U.S. under a continuing contract with Avon Products, Inc. of Atlanta, GA. Supporting shipper: Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302.

MC 144827 (Sub-3–17TA), filed October 23, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Clothing* from Chattanooga, TN to points in CA. Supporting shipper: The Van Heusen Company, P.O. Box 307, Schuylkill Haven, PA 19792.

MC 151551 (Sub-3–2TA), filed October 22, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (same address as applicant). *Primary metal products, fabricated metal products, and machinery* between the facilities of Passavant Corp., R & T Steel, Midway Equipment Co. and Natchez Steel & Pipe, Inc. in Jefferson County, AL and points in AL, GA, FL, SC, NC, KY, TN, AR, MS, LA and TX. Supporting shippers: Passavant Corp., 125 Carson Road, Birmingham, AL 35201; R & T Steel, 3148 Cobblestone Drive, Birmingham, AL 35215; Midway Equipment Co., 1315 15th Avenue North, Bessemer, AL 35020; Natchez Steel & Pipe, Inc., 1355 Industrial Blvd., Bessemer, AL 35201.

MC 139006 (Sub-3–3TA), filed October 23, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commdities in bulk, and those requiring special equipment)* between all points in the U.S. (except AL and HI), restricted to traffic originating at or destined to facilities used by Essex Group, Inc. and its subsidiaries. Supporting shipper: Essex Group, Inc., P.O. Box 1216, Fort Wayne, IN 46801.

MC 148903 (Sub-3–1TA), filed October 20, 1980. Applicant: J & M TANK LINES, INC., P.O. Box 544, Americus, Ga 31709. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. *Fly ash in bags* from Atlanta, GA to points in the states of AL, FL, MS, LA, TX, AR, TN, KY, NC, SC and VA. Supporting shippers: Peavy Inc. d.b.a. Peavy Materials, 1130 Chattahoochee Avenue, Atlanta, GA 30318; Williams Bros. Lumber Company, P.O. Box 17566, East Atlanta Station, Atlanta, GA 30316.

MC 113528 (Sub-3–1TA), filed September 18, 1980. Republication—Originally Published in Federal Register of October 6, 1980, page , volume 45, No. 195. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36633. Representative: Joy Stephenson (same address as applicant). *Common carrier,* regular routes: *General commodities (with the usual exceptions),* serving all points in Oconee County, GA as off route points in connection with carrier's otherwise authorized regular route operation. Supporting shipper: Anaconda-Ericsson, Inc., 1121—108th St., Arlington, TX 76011. Carrier intends to tack in MC 113528 and Subs.

MC 98478 (Sub-3–2TA), filed October 20, 1980. Applicant: ROBBINS TRUCK LINE, INC, Route #1, Hardinsburg, KY 40143. Representative: Rudy Yessin, 113 W. Main Street, Frankfort, KY 40601. *Common carrier, regular, general commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):* From Union County, KY to Hamilton County, OH, serving all points and places in the counties of Union, Webster, Henderson, McLean, Daviess, Hancock, Breckinridge, Meade, Hardin, Bullitt, Jefferson, Oldham, Trimble, Henry, Carroll, Gallatin, Boone, Kenton, and Campbell Counties, KY and Hamilton County, OH as off-routes points: Over KY Hwy 56 in Union County, KY to U.S. Hwy 60; then over U.S. Hwy 60 to 31W; then over 31W to I–65 at Elizabethtown, KY; then over I–71 to I–75 to Cincinnati, OH, and return over the same route. Applicant will tack and will interline at Louisville, KY and Cincinnati, OH. There are 10 statements of support attached to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 152267 (Sub-3–1TA), filed October 14, 1980. Applicant: JET–REST TRANSPORTATION COMPANY, INC., SC Hwy. 145, Greer, SC 29651.Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contrat: Irregular:* (1) *Furniture, material and supplies used in the manufacture and distribution of furniture,* between Greenville County, SC on the one hand, and, on the other, all pts. in the US (except AK and HI); and, (2) *New containers and drums,* from Lockport, IL; Camden, NJ; Atlanta, GA and Bladenboro, NC to Florence, SC. Supporting shippers: Outlaw Industries, Inc., SC Hwy. 14 S. Greer, SC 29651; Rapco Foam, Inc., 3231 Bryson Dr., Florence, SC 29501; Brooks Transfer and Storage, 1309 Laurens Rd., Greenville, SC 29607.

MC 121664 (Sub-3–26TA), filed October 16, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st. Ave. S., Birmingham, AL 25233. *Wooden poles.* Between all points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to the transportation of shipments originating at or destined to facilities owned, operated, utilized by Escambia Treating Company. Supporting shipper: Escambia Treating Company, P.O. Box 17108 Pensacola, FL 32522.

MC 148822 (Sub-3–5TA), filed October 20, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Avenue, Fairfield, AL 35024. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular: Forest products, lumber or wood products, gypsum board, pressed board and other wall-boards, between points* in the US in and east of KS, NE, ND, OK, SD, and TX. Supporting shipper: Russell Stadleman & Co., P.O. Box 17039, Memphis, TN 38117.

MC 146467 (Sub-3–1TA), filed October 17, 1980. Applicant: TRIO MOTOR LINES, INC., Route 8, Box 374, Burlington, NC 27215. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers,* in charter service, beginning and ending at points in Alamance County, NC, and extending to points in AL, FL, GA, IN, KY, LA, MD, MS, NY, OH, PA, SC, TN, VA, WV, and DC. Supporting shipper: There are 15 appendix of support attached which may be reviewed at the Atlanta Regional Office.

MC 152253 (Sub-3–1TA), filed October 20, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Contract;* irregular; *general commodities (except in bulk and Classes A and B Explosives),* between points in the United States (except AK and HI), under contract with Robintech, Incorporated. Supporting shipper: Robintech, Incorporated, P.O. Box 2342, Ft. Worth, TX 76113.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 148623 (Sub-4–1), filed October 27, 1980. Applicant: RON BUNGER TRUCKING AND FERTILIZER, LTD., Box 156, Davis Junction, IL 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Railway car Parts and Components* between points in the U.S. on traffic originating and destined for Miner Enterprises, Inc. An underlying ETA seek 120 days authority. Supporting shipper: Miner Enterprises, Inc., 1200 E. State Street, Geneva, IL 60134.

MC 145337 (Sub-4–2TA), filed October 24, 1980. Applicant: P.M.E., LTD., 1557 Brookside Boulevard, Winnipeg, Manitoba Canada R2R 1V6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Citrus by-products,* from points in FL to the ports of entry on the International Boundary Line between the U.S. and Canada located in MI, MN, MT, NY, ND, and WA. An underlying ETA seeks 120 days authority. Supporting shipper: Citrus Central, P.O. Box 17774, Orlando, FL 32860.

MC 106603 (Sub-4–3TA), filed October 24, 1980. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, S.W., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Gypsm wallboard* from Fort Dodge, IA to points in WI and IL; and from Port Clinton, OH to points in MI, KY, and PA. Supporting shipper: Grand Rapids Gypsum Co., P.O. Box 2475, Grand Rapids, MI 49501.

MC 133189 (Sub-4–7TA), filed October 24, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Iron and steel articles,* from points in the Milwaukee commercial zone and Kenosha, Racine and Beloit, WI; and points in the Chicago commercial zone and Barrington and Crystal Lake, IL to Cedar Rapids, IA. Supporting shipper: FMC Corp., Cedar Rapids, IA.

MC 151899 (Sub-4–2TA), filed October 24, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main, Ft. Atkinson, WI 53538. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract, irregular: Such commodities as are used or dealt in by manufacturers and distributors of felt* from Millbury, MA; Jackson, MI; and Manchester, NH to points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: The Felters Company, 22 West St., Millbury, MA.

MC 2962 (Sub-4–2TA), filed October 21, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. *Common* regular *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* serving Forrest City, AR and its commercial zone as off-route points in connection with carrier's authorized regular routes. Tacking and interlining is requested. Supporting shippers: Windsor Plastics, Inc., 601 North Congress Avenue, Evansville, IN 47715 and Jasper American Mfg. Co., P.O. Box 378, 305–315 Priest Street, Henderson, KY 42420.

MC 135152 (Sub-4–16TA), filed October 24, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030.

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Commodities dealt with by grocery chain and non-food department stores, from St. Louis, MO to all points east of the Mississippi River. Supporting shipper: Purex Corporation, 6401 McKissock Avenue, St. Louis, MO 63147.

MC 19311 (Sub-4-6TA), filed October 27, 1980. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, Suite 1200, 755 West Big Beaver, Troy, MI 48084. *Carbon Black,* between Port Huron, MI and Cadillac, MI. A corresponding E.T.A. seeks 120 days authority. Common control may be involved. Supporting shipper: Cabot Carbon of Canada, Ltd. Sarnia, Ontario.

MC 133689 (Sub-4-39TA), filed October 24, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples, St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Canned goods, and materials, supplies and equipment used in the manufacture of canned goods,* between Pickett, WI, on the one hand, and on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Nass Foods, Inc., Box 1029, Portland, IN 47371.

MC 146403 (Sub-R4-1TA), filed October 24, 1980. Applicant: ROGER LOVE, d.b.a., ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave, Minneapolis, MN 55401. *Non-exempt animal and poultry feed and animal and poultry feed ingredients,* from Fort Dodge, IA to the facilities of Peterson-Biddick Co., located at Thief River Falls, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Peterson-Biddick Co., 4th and Atlantic, Thief River Falls, MN 56701.

MC 124078 (Sub-4-42TA), filed October 27, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Ground limestone,* in bulk, in tank vehicles, from Cartersville, GA to New Castle, DE. An underlying ETA seeks 120 days authority. Supporting shipper: Thompson, Weinman & Company, P.O. Box 130, Cartersville, GA 30120.

MC 121236 (Sub-4-2TA), filed October 27, 1980. Applicant: SERVICE TRANSPORTATION LINES, INC., 729 34th Ave., Rock Island, IL 61201. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Dyersville, IA, as an off-route point in connection with carrier's authorized regular-route operations. Applicant intends to tack and interline. Supporting shipper: The Ertl Company, 805 13th Ave., S.E., Dyersville, IA 52040.

MC 152338 (Sub-4-1TA), filed October 27, 1980. Applicant: DONALD L. HORNER, d.b.a. HORNER GRAIN & TRUCKING, P.O. Box 506, Hudson, SD 57034. Representative: D. Douglas Titus, Titus and Storm, Suite 510 Benson Building. *Fertilizer, Dry,* Between points in IA,MN, NE, and SD. Supporting Shippers: Sioux Fertilizer, Inc., Hawarden, IA 51023; Huntting Elevator Co., P.O. Box 8, Canton, SD 57013; Hudson Feed & Grain, Hudson, SD 57034.

MC 152353 (Sub-4-1TA), filed October 27, 1980. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. (a) *steel bars, coils, plates and sheets* from points in the Chicago, IL Commercial Zone to points in Outagamie and Winnebago Counties, WI; and (b) *metal building products* from Appleton, WI to points in IL, IA, KS, MO, MN, NE, ND and SD. Restricted to shipments originating or terminating at the facilities of Appleton Supply company or triangle Manufacturing Company. An underlying ETA seeks 120 days authority. Supporting shippers: Appleton Supply, Box 327, Appleton,WI 54912; and Triangle Manufacturing Company, 150 Libby Avenue, Oshkosh, WI 54902.

MC 152349 (Sub-4-1TA), filed October 27, 1980. Applicant: WALTER S. DRZEWIECKI, d.b.a. GAYLORD FEED & GRAIN COMPANY, 403 West Mitchell Street, Gaylord, MI 49735. Representative: William B. Elmer, 21635. East Nine Mile Road, St. Clair Shores, MI 48080. *Contract* irregular: *General commodities* between points in the U.S. under a continuing contract or contracts with H & H Tube and Manufacturing Co. of Southfield, MI. Supporting shipper: H & H Tube and Manufacturing Co., Suite 490, 4000 Town Center, Southfield, MI 48075.

MC 152347 (Sub-4-1TA), filed October 27, 1980. Applicant: TRANS-POWER TRUCK LINES, INC., 8685 Canterbury, Newport, MI 48166. Representative: Victor A. Rosenberger Jr., 2711 W. Central Ave., Toledo, OH 43606. *General Commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between all points in the states of: CT, DE, GA, IL, IN, KS, KY, MD, MA, MI, MN, MO, NJ, NY, OH, PA, TN and WI. Supporting shippers: Colonial Merchantile & Mfg. Co., 3144 Bellevue Rd., Toledo, Oh 43606; Plascon Products Inc., 2829 Glendale Ave., Toledo, Oh 43614; DeVilbiss Co., Division of Champion Spark Plug, Inc., 300 Phillips Ave., Toledo, Oh 43612. Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, Oh 43695.

MC 152337 (Sub-4-1TA), filed October 27, 1980. Applicant: CENTRAL STATES TRUCKING CO., 1311 South First Ave., Maywood, IL 60153. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, IN, IA, KY, MI, OH, and WI, and St. Louis, MO, and points in its commercial zone, on the one hand, and, on the other, Chicago, IL, and points in its commercial zone, restricted to traffic having a prior or subsequent movement by rail. Supporting shippers: ITOFCA, Inc., Two Walker Ave., Clarendon Hills, IL 60514; Pacific Northwest Perishable Shippers Association, 200 W. Thomas St., Seattle, WA 98119; Hub City Terminals, Inc., 140 Burlington Ave., Clarendon Hills, IL 60514; and Illinois Central Gulf Railroad Co., 233 North Michigan Ave., Chicago, IL 60601.

MC 29753 (Sub-4-1TA), filed October 27, 1980. Applicant: BOB AIKINS LINES, INC., P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass, P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment between IN, OH, KY. There are five supporting shippers.

MC 118202 (Sub-4-11TA), filed October 22, 1980. Applicant: SCHULTZ TRANSIT, INC., 232 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Plastic flower pots,* from points on the U.S.-Canada Border in MN and ND to Baltimore, MD; Chicago, IL, and Minneapolis, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Canadian Gardens Products, 132 James Ave. East, Winnipeg, Manitoba, Canada $3B 0N8.

MC 118696 (Sub-4-29), filed October 27, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *New furniture and materials, equipment, and supplies* used in the manufacture and distribution thereof, between Ouachita Parish, LA, on the one hand, and, on the other, points in MO, IA, MN, WI, IL, IN, OH, and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Selig Manufacturing Co., Inc., 54 Green Street, Leominster, MA 01453.

MC 138826 (Sub-4-2TA), filed October 27, 1980. Applicant: JERALD HEDRICK, d.b.a. HEDRICK & SON TRUCKING, Rural Route #1, Warren, IN 46792. Representative: Robert A. Kriscunas, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Dry fertilizer and fertilizer ingredients,* from points in OH to points in IN and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Vistron Corporation, 1510 Rockefeller Building, 614 Superior Avenue, Cleveland, OH 44113.

MC 151966 (Sub-4-2TA), filed October 24, 1980. Applicant: KARAS AND SONS, INC., 707 South 6th Street, Princeton, MN 55371. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract* Irregular: *(1) Tonics and cosmetics and (2) materials, equipment and supplies used in the manufacture and distribution of (1) above,* between Dallas, TX on the one hand, and, on the other, Lawton, OK, Minneapolis, MN, Chicago, IL, Detroit, MI, Atlanta, GA, Phoenix, AZ, Los Angeles, CA and Otturnwa, IA. Suporting shipper: Sasco, 8700 Stemmons Freeway, Suite 425, Dallas, TX 75247.

MC 147259 (Sub-4-7TA), filed October 27, 1980. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same as applicant). *Primary metal products; including galvanized;* except coating or other allied processing, between points in OH on the one hand, and, on the other hand points in the U.S. (except AK and HI). Shipper: Aluminum Smelting and Certified Alloys, Inc., 5463 Durham, Maple Heights, OH 44137.

MC 146071 (Sub-4-54TA), filed October 28, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Meats, meat products, meat by-products and articles distributed by meat packinghouses (as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificate, 61 M.C.C. 209 and 766),* from Liberal, KS and its commercial zone to points in AR, IA, IL, MN and WI. An underlying ETA seeks 120 days authority. Supporting shipper: National Beef Company, 1501 East 8th, Liberal, KS 67901.

MC 152350 (Sub-4-1TA), filed October 27, 1980. Applicant: GALAXY TRANSPORT, INC., P.O. Box 613, Belleville, MI. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, used motor vehicles, commodities in bulk, and those requiring special equipment) between points in Lenawee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI, on the one hand, and, on the other, points in IL, IN, OH, and PA, and Louisville, KY, and St. Louis, MO; restricted to traffic originating at or destined to the facilities of The Ford Motor Company, One Parklane Blvd., Suite 200 East, Dearborn, MI 48126.

MC 118202 (Sub-4-11TA), filed October 22, 1980. Applicant: SHULTZ TRANSIT, INC., 232 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Plastic flower pots,* from points on the U.S.-Canada Border in MN and ND to Baltimore, MD; Chicago, IL, and Minneapolis, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Canadian Gardens Products, 132 James Ave. East, Winnipeg, Manitoba, Canada S3B 0N8.

MC 15975 (Sub-4-15TA), filed October 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Wire shelving and parts,* from Farmington, MI, to Pierceton, Greenfield and Lafayette, IN, and from Pierceton, Greenfield and Lafayette, IN, to Bridgeton, MO. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chesley Industries, 20775 Chesley Drive, Farmington, MI 48024.

MC 15975 (Sub-4-16TA), filed October 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Cleaning washing compounds, cleaning washing liquids, soap and soap products, textile softener, margarine, syrup, vegetable oils, toilet preparations, mouthwash,* and materials, supplies and equipment used in the manufacture or distribution of the foregoing commodities, between St. Louis, MO, on the one hand, and, on the other, points in OH, NC, TX, CO, MI, MN, LA, NJ, RI, IN, GA and MD. Restricted to traffic originating at or destined to the facilities of Lever Brothers Company. An underlying ETA seeks 120 days authority. Supporting shippers: Lever Brothers Company, 1400 N. Pennsylvania Ave., St. Louis, MO 63133.

MC 150535 (Sub-4-6TA), filed October 27, 1980. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn St., Chicago, IL 60602. Representative: Anthony E. Young, 29 S. LaSalle St., Chicago, IL 60603. *Foodstuffs and commodities used in the processing, distribution, and manfacture of foodstuffs,* between Archbold, OH on the one hand, and, on the other points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Beatrice Frozen Specialty Foods 601 McArthur P.O. Box 180 Archbold, OH.

MC 148314 (Sub-4-TA), filed October 27, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Cannel coal logs,* from Warren, OH, to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 270 days. Supporting shipper: Concept One Marketing, Inc., 8440 Market St., Youngstown, OH 44507.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, P.O. Box 7413, San Francisco, CA 94120.

MC 152338 (Sub-6-1TA), filed October 24, 1980. Applicant: A & R LUMBER SALES, INC., P.O.B. 47, Junction City, OR 97448. Representative: Robert B. Taylor, 882 Van Buren Street, Eugene, OR 97402. *Contract,* Irregular, *Gypsum wallboard and commodities used in the application thereof,* from Contra Costa County, CA to OR and WA for 270 days. Supporting shipper: Domtar Gypsum America, Inc., 1221 Broadway Seventh Floor, Oakland, CA 94612.

MC 151132 (Sub-6-2TA), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Building, 1030—15th St., N.W., Washington, D.C. 20005. *Such materials as are dealt in and distributed by manufacturers of fasteners, and materials and supplies used in the manufacturing and distribution of the aforementioned commodities,* between Salt Lake City, UT, on the one hand,

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and, on the other, points in WY, CO, AR, ID, MT, NV, OR, WV and CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Fasteners Engineering and Sales Corp., Salt Lake City, UT 84101.

MC 151132 (Sub-6–3TA), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Building, 1030—15th St., N.W., Washington, D.C. 20005. *Sporting goods and athletic equipment and such goods that are dealt in the retail trade of sporting goods and athletic equipment,* from points in the U.S. (except AK, HI, and UT), to Salt Lake City, UT, and points in its commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: UDISCO, Salt Lake City, UT 84119.

MC 144208 (Sub-6–2TA), filed October 23, 1980. Applicant: ART NORDANG TRUCKING, INC., P.O. Box 507, Methow, WA 98834. Representative: Boyd Hartment, P.O. B. 3641, Bellevue, WA 98009. (1) *Prefabricated Iron and Steel Articles,* from Wenatchee, WA to points in ID. (2) *Petroleum Products,* in packages, drums and cartons, and *Antifreeze* between the Portland, OR, commercial zone and points in King, Chelan, Douglas and Okanogan Counties WA for 270 days. Supporting shippers: Budget Fuel and Service Co., P.O. B. 1299, Wenatchee, WA, and Pybus Steel, 8 E. Orondo, Wenatchee, WA 98801.

MC 149118 (Sub-6–2TA), filed October 24, 1980. Applicant: BEST WAY TRANSPORT, INC., d.b.a. BEST TRANSPORT, INC., 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204. (1) *Contractors equipment, materials and supplies, and* (2) *commodities which because of their size or weight require the use of special equipment (except those in (1) above)* from points in Multnomah County OR to points in Jefferson County OR. An underlying ETA seeks 120 days authority. Supporting shipper: Arthur J. Fritz & Company, 3601 N. W. Yeon, Portland, OR.

MC 152328 (Sub-6–1TA), filed October 24, 1980. Applicant: CANWIN ENTERPRISES, INC., P.O. Box 9854, Yakima, WA 98903. Representative: S. C. Adams, Jr., 3413 Carriage Hill Drive, Yakima, WA 98908. (1) *Common Carrier,* regular route, transporting: *General Commodities,* except commodities in bulk, those requiring special equipment, commodities of unusual value, Classes A and B Explosives, and household goods as defined by the commission, for 270 days. Between Wenatchee, WA, and ports of entry on the United States-Canadian international boundary line near Oroville, WA. From Wenatchee, WA, over Wenatchee Avenue to its junction with U.S. Hwy 97, then over U.S. Hwy 97 to the U.S.-Canadian international boundary line and return over the same route. Supporting shippers: There are 8 supporting shippers. Their statements may be examined at the regional office listed.

MC 115523 (Sub-6–2TA), filed October 24, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). *Borax,* from U.S. Borax plant, Boron, CA to Sandy and Draper, Salt Lake County, UT and Lehi, Utah County, UT for 270 days. Supporting shipper: Insul—Chem, Inc., Salt Lake City, UT 84070.

MC 151230 (Sub-6–1TA), filed October 14, 1980. Applicant: GORDON H. COLE, P.O.B. 445, Pioche, NV 89043. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV. 89701. *Iron or steel grinding balls,* from Tempe and Chandler, AZ to Mountain Pass, CA and to points in Lincoln County, NV, for 270 days. Supporting shippers: Union Moly Corp., Inc., Mountain Pass, CA 92366, and Standard Slag (Atlanta Mine), P.O. Box 538, Pioche, NV 89043.

MC 152307 (Sub-6–1TA), filed October 23, 1980. Applicant: COLUMBIA TRUCKING CO., INC., 1911 No. Wenatchee Ave., P.O. Box 2142, Wenatchee, WA 98101. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. (1) *Produce and Food Products;* (2) *Wine and Beer;* in (1) from points in WA to points in CA; in (2) from points in CA, OR, WA to points in WA and ID, for 270 days. Supporting shipper: There are 5 supporting shippers. Their statements may be examined at the regional office listed.

MC 42487 (Sub-6–43TA), filed October 27, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities, (except household goods as defined by the Commission, and Classes A and B explosives),* (1) Between Memphis, TN and Union City, TN, serving the intermediate points of Covington and Newbern, TN and serving the junction U.S. Hwy 51 and Interstate Hwy 155 for purpose of joinder only: From Memphis over U.S. Hwy 51 to Union City, and return over the same route. (2) Between Memphis, TN and Paris, TN serving the intermediate points of Brownsville, Humboldt, Milan and McKenzie, TN: From Memphis over U.S. Hwy 79 to Paris, and return over the same route. (3) Between Union City, TN and Paris, TN, serving the intermediate points of Martin and Dresden, TN: From Union City over TN Hwy 22 to junction TN Hwy 54, then over TN Hwy 54 to Paris, and return over the same route. (4) Between Union City, TN and Humboldt, TN, serving the intermediate points of Kenton and Trenton, TN: From Union City, TN over U.S. Hwy 45W to Humboldt, and return over the same route. (5) Between Humboldt, TN and Corinth, MS, serving the intermediate points of Jackson, Bemis and Henderson, TN and serving the junction U.S. Hwy 45 and U.S. Hwy 64 for purpose of joinder only: From Humboldt over U.S. Hwy 45W to junction U.S. Hwy 45, then over U.S. Hwy 45 to Corinth, and return over the same route. (6) Between Brownsville, TN and Jackson, TN, serving no intermediate points: From Brownsville over U.S. Hwy 70 to Jackson, and return over the same route. (7) Between Memphis, TN and junction U.S. Hwy 45 and U.S. Hwy 64, serving the intermediate point of Bolivar, TN: From Memphis over U.S. Hwy 64 to junction U.S. Hwy 45 and U.S. Hwy 64, and return over the same route. (8) Between St. Louis, MO and junction U.S. Hwy 51 and Interstate Hwy 155, serving no intermediate points: From St. Louis over U.S. Hwy 61 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy 51 and Interstate Hwy 155, and return over the same route, for 270 days. Applicant intends to tack and interline. Supporting shipper(s): There twenty-three (23) supporting shippers. Their Statements may be examined at the Regional Office listed.

MC 42487 (Sub-6–44TA), filed October 27, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* (1) Between Memphis, TN and Baton Rouge, LA, serving the intermediate points of Cleveland, Vicksburg and Natchez, MS, and serving the junction U.S. Hwy 61 and U.S. Hwy 82 and the junction U.S. Hwy 82 and MS Hwy 5, for purpose of joinder only: From Memphis over U.S. Hwy 61 to Baton Rouge, and return over the same route. (2) Between Memphis, TN and Laplace, LA, serving the intermediate points of Batesville, Grenada, Winona, Canton, Jackson, Crystal Springs, Hazelhurst, Brookhaven and McComb, MS and Hammond, LA: From Memphis over U.S. Hwy 51 to Laplace, and return over the same route. (3) Between Corinth, MS and New Orleans, LA, serving the intermediate points of Booneville, Baldwyn, Tupelo, Columbus, Meridian, Laurel, Hattiesburg and Poplarville, MS and serving Shannon and Brooksville, MS for purpose of joinder only: From Corinth over U.S. Hwy 45 to Meridian, then over U.S. Hwy 11 to New Orleans, and return over the same route. (4) Between Shannon, MS and Brooksville, MS, serving the intermediate point of West Point, MS, and serving the termini of Shannon and Brooksville, MS for purpose of joinder only and the junction Alt. Hwy 45 and U.S. Hwy 82 for purpose of joinder only: From Shannon over Alt. U.S. Hwy 45 to Brooksville, and return over the same route. (5) Between Memphis, TN and Tuscumbia, AL, serving the intermediate points of Corinth, Burnsville and Iuka, MS: From Memphis over U.S. Hwy 72 to Tuscumbia, and return over the same route. (6) Between Clarksdale, MS and Birmingham, AL, serving the intermediate points of Batesville, Oxford, Pontotoc and Tupelo, MS and Hamilton, AL, and serving the junction U.S. Hwy 82 and MS Hwy 6 for purpose of joinder only: From Clarksdale over MS Hwy 6 to Tupelo, then over U.S. Hwy 78 to Birmingham, and return over the same route. (7) Between Breenville, MS and Birmingham, AL, serving the intermediate points of Greenwood, Winona, Starkville and Columbus, MS and serving the junction U.S. Hwy 61 and U.S. Hwy 82 and the junction Alt. Hwy 45 and U.S. Hwy 82 for purpose of joinder only: From Greenville over U.S. Hwy 82 to Tuscaloosa, AL, then over U.S. Hwy 11 to Birmingham, and return over the same route. (8) Between Vicksburg, MS and Birmingham, AL, serving the intermediate points of Clinton, Jackson, Pearl, Brandon, Newton and Meridian, MS, and York and Livingston, AL: From Vicksbrug over U.S. Hwy 80 to Meridian, then over U.S. Hwy 11 to Birmingham, and return over the same route. (9) Between Memphis, TN and Tupelo, MS, serving the intermediate point of Holly Springs, MS: From Memphis over U.S. Hwy 78 to Tupelo, and return over the same route. (10) Between Jackson, MS and Hattiesburg, MS, serving no intermediate points: From Jackson over U.S. Hwy 49 to Hattiesburg, and return over the same route. (11) Between Natchez, MS and Hattiesburg, MS, serving the intermediate point of Mc Comb, MS: From Natchez over U.S. Hwy 84 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Hattiesburg, and return over the same route. (12) Between Hattiesburg, MS and Mobile, AL, serving no intermediate points: From Hattiesburg over U.S. Hwy 98 to Mobile, and return over the same route. (13) Between Meridian, MS and Mobile, AL, serving the intermediate points of Shubuta and Wayneaboro, MS: From Meridian, over U.S. Hwy 45 to Mobile, and return over the same route, for 270 days. Authority will be tacked and interlined. Supporting shipper(s): There are fifty-two (52) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 151059 (Sub-6–2TA), filed October 23, 1980. Applicant: COWBOY OIL COMPANY, Box 47, Woods Cross, UT 84087. Representative: F. Robert Reeder, P.O.B. 11898, Salt Lake City, UT 84147. *Contract carrier,* irregular routes: *crude petroleum* from points in Sweetwater, Sublette, Lincoln and Uinta Counties, WY, to Davis County, UT, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Listo Petroleum, Inc., 2200 S.W. Freeway, Suite 500, Houston, TX 77098.

MC 136605 (Sub-6–20TA), filed October 24, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 549807. Representative: Allen P. Felton (same as applicant). *Foods stuffs and pet foods,* from the facilities of Ralston Purina Company at or near Denver, CO to points in ID, MT and WA, for 270 days. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 133478 (Sub-6–2TA), filed October 24, 1980. Applicant: DG TRANSPORT, INC., P.O. Box 23727, Portland, OR 97223. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258. *Contract carrier,* irregular routes: *Building Materials* between points in the U.S. for the account of Sentree Forest Products, Inc. for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Suntree Forest Products, Inc., P.O.B. 564, Lake Oswego, OR 97034.

MC 147018 (Sub-6–1TA), filed October 23, 1980. Applicant: DK TRUCKING, 3121 E. La Palma Unit T, Anaheim, CA 92806. Representative: Douglas K. Nakamura (same address as applicant). *Mobile Homes and Modular Units* from points in Orange, Los Angeles, Riverside and San Bernardino Counties, to points in AZ and NV, for 270 days. Supporting shipper: Fuqua Homs Inc., 14286 E. Sixth St., Corona, CA 91720.

MC 118038 (Sub-6–2TA), filed October 24, 1980. Applicant: EASLEY HAULING SERVICE, INC., P.O. Box 10, Yakima, WA 98907. Representative: Flower & Andreotti, P.S., 303 East "D" Street, Suite 2, Yakima, WA 98901. *Canned and Bottled fruit juices,* from points in Yakima County, WA, to points in OR, for 270 days. Supporting shipper: Hi-Country Foods Corporation, No. 1 Railroad Ave., P.O. Box 338, Selah, WA 98942.

MC 152330 (Sub-6–1TA), filed October 24, 1980. Applicant: GLACIER CARRIERS, Box 1438, Kalispell, MT 59901. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Contract carrier,* irregular routes: (a) *Lumber and wood products,* and (b) *materials, equipment and supplies* used in the production and distribution of the commodities set forth in part (a), between Fortine, Ronan, Kalispell and Columbia Falls, MT and Arden, WA on the one hand, and, on the other, points in and west of the States of MI, OH, IN, IL, MO, OK and TX, under a continuing contract(s) with Plum Creek Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Plum Creek Lumber Company, P.O. Box 160, Columbia Falls, MT 59912.

MC 152311 (Sub-6–1TA), filed October 23, 1980. Applicant: IMR TRANSPORTATION, INC., P.O. Box 573, Casa Grande, AZ 85222. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Cottonseed oil,* from the facilities of Casa Grande Oil Mill in Casa Grande, AZ to Los Angeles County, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Casa Grande Oil Mill, a Division of Chickasha Cotton Oil Co., P.O. Box 959, Casa Grande, AZ.

MC 139906 (Sub-6–45TA), filed October 22, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in or used by manufacturers of kidney dialysis equipment between* Miami, FL and Concord, CA for 270 days. Supporting shipper: Cordis-Dow Corp., P.O. Box 450990, Miami, FL 33145.

MC 146272 (Sub-6–1TA), filed October 23, 1980. Applicant: J & H TRUCKING, LTD., Box 255, Lillooet, B.C., Canada VOK 1VO. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Contract Carrier,* Irregular routes: *Lumber, lumber products, veneer, building board and materials, equipment and supplies used in the manufacture, supply and distribution of lumber, lumber products,*

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veneer and building board, between ports of entry on the international boundary line between the U.S. and Canada located at or near Blaine and Sumas, WA on the one hand, and, on the other, Longview, WA for the account of Evans Products, Ltd., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Evans Products, Ltd., Box 880, Lillooet, B.C., Canada.

MC 148848 (Sub-6–2TA), filed October 24, 1980. Applicant: JETWAL, INC., P.O. Box 512, Sterling, CO 80751. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Liquid feed ingredients (in tank vehicles),* from Omaha, NE, Atchison, KS and Kansas City, MO and their commercial zones to the facilities of Cargill, Inc., at or near Sterling, CO, Garden City, KS and Stratford, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN, 55440.

MC 152310, (Sub-6–1TA), filed October 23, 1980. Applicant: M & M EQUIPMENT COMPANY, INC., 24400 E. Alameda Ave., Aurora, CO 80011. Representative: Marvin M. Edelman (same address as applicant). *Meats, meat products and meat by-products, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from Dawson, County, NE to points in KS, IA, TX, MS, AL, GA, TN, IL, OH, LA and CO for 270 days. Underlying ETA filed seeking 120 days authority. Supporting shipper: Doug Dale Packing Company, Cozad, NE.

MC 152210 (Sub-6–1TA), filed October 22, 1980. Applicant: WESTERN TANK SERVICE, INC., d.b.a. Northwest Tank Service, P.O. Box 3641, Seattle, WA 98124. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Industrial waste* between points in OR, WA, ID, MT, UT for 270 days. Underlying ETA request, 120 days. Supporting shippers: Chem Security System, Inc., P.O. Box 1866, Bellevue, WA 98009.

MC 117589 (Sub-6–4TA), filed October 24, 1980. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Alcoholic beverages (except in bulk),* between points in the commercial zone of Portland, OR on the one hand, and on the other, points in the commercial zone of Denver, CO, for 270 days. Supporting shipper: Mile Hi Liquor Distributors, 1719 Denargo Market, Denver, CO 80216.

MC 152357 (Sub-6–1TA), filed October 27, 1980. Applicant: RONALD GENE STINE, d.b.a. R. G. STINE TRUCKING, 801 South Santa Fe, Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. *Contract carrier,* irregular routes: *Canned and preserved foodstuff,* between points in CA on the one hand, and, on the other, points in OR, WA and UT, for the account of Early California Foods, for 270 days. Supporting shipper: Early California Foods, 10960 Wilshire Blvd., Los Angeles, CA.

MC 146822 (Sub-6–5TA), filed October 15, 1980. Applicant: EUGENE L. FRAZIER, d.b.a. SUNSET TRANSPORT SYSTEMS, 2200 N. Parmalee, Compton, CA 90222. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Electrical equipment and instruments, printed matter and lumber or wood products* between points in the United States, restricted to traffic originating at or destined to the facilities of Atari, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Atari, Inc., 1215 Borregas Ave., Sunnyvale, CA 94086.

MC 133097 (Sub-6–2TA), filed October 24, 1980. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Contract:* irregular: *Engines, transmissions, axles, automotive parts and accessories, carriers, pallets and skids,* (1) Between Bridgewater, NJ and its commercial zone, and, Chicago, IL and its commercial zone; (2) between Chicago, IL and its commercial zone, and, Hayward, CA and its commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mack Trucks, Inc., P.O. Box 6311, Bridgewater, NJ 08807.

MC 26396 (Sub-6–51TA), filed October 27, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (1) *Non-ferrous metals,* and (2) *Materials, equipment and supplies utilized in the manufacture and distribution of non-ferrous metals,* between the facilities of ASARCO, Inc., at or near Hayden, AZ; East Helena, MT; Omaha, NE; El Paso, TX; and Tacoma, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: ASARCO, Inc., 611 Olive Street, St. Louis, MO 63101.

MC 126327 (Sub-6–4TA), filed October 23, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same address as applicant). *Paper and paper products,* (1) From Flagstaff, AZ, and St. Helens, OR, to points in CA, and (2) from Cerritos and La Palma, CA, to points in AZ, NV, OR and WA, for 270 days. Supporting shipper: Orchids Paper Products, 5911 Fresca Drive, La Palma, CA 90623.

MC 148791 (Sub-6–5TA), filed October 21, 1980. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Road, Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Commodities dealt in or used by retail grocery outlets,* between points in CA and AZ, for the account of Associated Grocers for 270 days. Supporting shipper: Associated Grocers, 624 South 25th Avenue, Phoeniz, AZ 85035.

MC 152329 (Sub-6–1TA), filed October 24, 1980. Applicant: ROBERT F. WALL, d.b.a. ROBERT F. WALL TRUCKING, 933 Fredensborg Canyon Road, Solvang, CA 93463. Representative: Patricia M. Schnegg, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Packing house products* from Amarillo, TX and Wichita, KS to Los Angeles County, CA for 270 days. Supporting shipper: Kal-Kan Foods, Inc., 3386 E. 44th St., Vernon, CA 90058.

MC 151611 (Sub-6–4TA), filed October 20, 1980. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Way, Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *Iron sand, shot or grit, except ammunition,* between Adrian, MI and Butler, PA, on the one hand, and AZ, CA, CO, OR and WA on the other hand, under continuing contracts with Ervin Industries for 270 days. Supporting shipper: Ervin Industries, 121 South Division St., Ann Arbor, MI 48106.

MC 112989 (Sub-6–11TA), filed October 23, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 S., Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Paper and paper products,* from Flagstaff, AZ to points in CA. Supporting shipper: Orchid Paper Products, 5911 Fresca Dr., La Palma, CA 90623.

MC 112989 (Sub-6–12TA), filed October 23, 1980. Applicant: WEST

COAST TRUCK LINES, INC., 85647 Highway 99 S., Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Paper and paper products, and woodpulp,* from Port Townsend, WA to points in OR, NV, CA, AZ, ID, and UT, for 270 days. Supporting shipper: Crown Zellerbach, 1500 S.W. First Ave., Portland, OR 97405.

MC 141804 (Sub-6–85TA), filed October 22, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Chemicals in drums and packages; proprietary antifreeze preparations in drums and packages,* from Harris County, TX, Jefferson County, TX, Montgomery County, TX and Travis County, TX to all points in the United States (except AK & HI), for 270 days. Supporting shipper: Texaco Chemical Company, a Division of Texaco, Inc., 4800 Fournace, Bellaire, TX 77401.

MC 152294 (Sub-6–1TA), filed October 22, 1980. Applicant: WOLF TANK LINES, INC., d.b.a. WOLF TRUCKING COMPANY, 2100 Curry Street, Long Beach, CA 90805. Representative: William Wolf (same as applicant). *Contract carrier:* irregular routes: *Carbon Black in Bags,* from Norrick, TX to points and places in CA, for 270 days. Supporting shipper: Ashland Chemical Company, P.O. Box 2219, Columbus, OH 43216.

MC 152308 (Sub-6–1TA), filed October 23, 1980. Applicant: KENNETH WOODWARD, d.b.a. KEN WOODWARD TRUCKING, 4239 N. E. Simpson, Portland, OR 97218. Representative: Louis A. Santiago, 1200 S. W. Main Building, Portland, OR 97205. *General commodities (except class A and B explosives and household goods as defined by the Commission),* between points in OR and WA, for 270 days. Supporting shipper(s): Western States Shippers Association, Inc. 4940 N. E. 122d Avenue, Portland, OR 97230.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34509 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices with 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Williams and Taylor.

By decision of September 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to Triple R. Forwarding, Inc. of Freight Forwarder Permit No. FF–260, issued January 12, 1973, to Triple R. Trucking Company, Inc. authorizing the transportation, in interstate or foreign commerce, as a freight fowarder of baggage and personal effects of campers, (1) between points in Nassua, Suffolk, Queens, Kings, Bronx, New York, Richmond, Westchester and Rockland Counties, NY, and Bergen, Essex, Passaic, Union and Hudson Counties, NJ, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Schoharie, Albany, Rensselaer, Putnam, Columbia, Greene, Broome, and Delaware Counties, NY; Litchfield, Fairfield, Hartford and New Haven Counties, CT; Hampden, Hampshire and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne, Monroe, Wyoming and Philadelphia Counties, PA; (2) between points in Philadelphia, Bucks and Chester Counties, PA, and Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Delaware, Schoharie, Albany, Rensselaer, Putnam, Columbia, Greene and Broom Counties, NY and Delaware, NY; Fairfield, Hartford, Litchfield and New Haven Counties, CT; Hampden, Hampshire, Franklin and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne, Monroe and Wyoming Counties, PA; (3) between Fairfield, New Haven and Hartford Counties, CT; Baltimore County, MD; Washington, DC; New Castle and Kent Counties, DE, and Fairfax County, VA, on the one hand, and, on the other, points in Orange, Dutchess, Ulster, Sullivan, Delaware, Schoharie, Albany, Rensselaer, Putnam, Greene, Broome, Washington, Warren, Hamilton, Essex, Herkimer, Chenango and Franklin Counties, NY; Fairfeld, Hartford and New Haven Counties, CT; Hampden, Hampshire, Franklin and Berkshire Counties, MA, and Bradford, Susquehanna, Wayne, Pike, Northampton, Carbon, Luzerne, Monroe and Wyoming Counies, PA; (4) between Points in Nassau, Suffolk, Queens, Kings, Bronx, New York, Richmond, Westchester and Rockland Counties, NY; Philadelphia, Bucks, Chester and Montgomery Counties, PA, and Pergen, Essex, Passaic, Union, Hudson, Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ, on the one hand, and, on the other, points in Washington, Warren, Hamilton, Essex, Herkimer, Chenango and Franklin Counties, NY, and (5), between New York, NY, points in Nassau, Suffolk, Westchester and Rockland Counties, NY; Bergen, Essex, Passaic, Union, Hudson, Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem and Atlantic Counties, NJ; Bucks, Chester, Montgomery and Philadelphia Counties, PA; Fairfield, New Haven and Hartford Counties, CT; Baltimore County, MD; New Castle and Kent Counties, DE, and Fairfax County, VA, and Washington, DC, on the one hand, and, on the other, points in ME, NH and VT.

Applicant's representative is: Bruce J. Robbins, Esq., 115–21 Queens Boulevard, Forest Hill, NV 11375.

Note.—The operating authority transferred will be assigned under transferee's name, in the FF–260 docket number series. Upon consummation applicants are encouraged to draft certificates or permits reflecting the

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authority authorized to be transferred. The draft certificate or permit should be addressed to the appropriate Teams according to the certificate number.

No. MC–FC–78717. Republication. By decision of August 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Flying L Trucking Co., a corporation, of Thousand Oakes, CA, of Permit No. MC–141071 (Sub-Nos. 2, 3, 4, 7, 8, 9, and 10 issued April 15, 1977, January 13, 1977, July 12, 1977, June 29, 1978, February 3, 1979, April 13, 1978, and July 13, 1979, respectively, to Laraneta Trucking Company, Inc., of Terminal Island, CA, authorizing the transportation of (1) pet food and canned tuna, from Terminal Island, CA, to points in Oregon and Washington, under a continuing contract, or contracts, with Star-Kist Foods, Inc., of Terminal Island, CA. (2) pet food, from Perham, MN, and Muscatine, IA, to Terminal Island, CA, under a continuing contract, or contracts, with Star-Kist Foods, Inc. of Terminal Island, CA. (3)(a) material, equipment, and supplies used in the productions, packaging, or distribution of frozen foods (except frozen foods, commodities in bulk, and commodities which because of sugar weight require the use of special equipment from points in California, Oregon, and Washington, to Burley, ID and from points in California and Washington to Ontario, OR and (b) frozen foods (except commodities in bulk), from Ontario, OR and points in Idaho, to Las Vegas, NV, under a continuing contract, or contracts, with One-Ida Foods, Inc., of Boise, ID, (4) pet food and canned tuna, from Terminal, CA, to points in Idaho and Utah under a continuing contract, or contracts, with Star-Kist Foods, Inc. (5) pet foods, from Perham, MN and Muscatine, IA, to San Jose, CA, under a continuing contract, or contracts, with Star-Kist Foods, Inc. (6) canned and preserved foodstuffs, from the plantsites and storage facilities of Heinz-U.S.A., Division of H. J. Heinz Company, located at or near Tracy and Stockton, CA, to points in Idaho, Oregon, Utah, and Washington, under a continuing contract, or contracts, with Heinz-U.S.A., Division of H. J. Heinz Company, and (7) canned and preserved foodstuffs, between the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Tracy and Stockton, CA, on the one hand, and, on the other, the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, under a continuing contract, or contracts, with Heinz-U.S.A., Division of H. J. Heinz Company. Applicant's representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609.

Notes.—(1) An application for temporary authority was granted on August 15, 1980. (2) The purpose of this republication is to correct typographical errors in the notice of this proceeding published at 45 Federal Register 59012 and 59013.

MC–FC–78736. By decision of September 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Crown Transportation, Inc. of Colorado Springs, CO of Certificate No. 105327 issued to The Leadville Transit Company, Inc. authorizing the transportation over regular routes of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, between Delores, CO and Shiprock, NM, serving all intermediate points: From Delores over Colorado Highway 145 to junction U.S. Highway 160, thence over U.S. Highway 160 to Cortez, CO (also from Delores over Colorado Highway 147 to junction U.S. Highway 160, thence over U.S. Highway 160 to Cortez), and thence over U.S. Highway 666 to Shiprock, and return over the same route. Serving the point of Towaoc, CO, over unnumbered highways from U.S. Highway 666, and return. Between junction U.S. Highway 160 and Colorado Highway 140, and junction New Mexico Highway 17 and U.S. Highway 550, serving all intermediate points: From junction U.S. Highway 160 and Colorado Highway 140, over Colorado Highway 140 to the Colorado-New Mexico State line, thence over New Mexico Highway 17 to junction U.S. Highway 550, and return over the same route. Applicants' representative is: Susan B. Price, Esq., 1700 Western Federal Building, Denver, CO 80202.

MC–FC–78737. By decision of September 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Central Banana Carriers, Inc. of Ashland, VA of Certificate No. MC–117743 issued November 24, 1961 to Peter R. Jacobs, d/b/a Central Banana Carriers of Richmond, VA authorizing the transportation of *Bananas*, From Norfolk, VA, to Boston, MA, Chicago, IL, Indianapolis, IN, Louisville, KY, Huntington and Wheeling, WV, Richmond, VA, the District of Columbia, and points in Michigan, Ohio, and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. From Baltimore, MD, and Charleston, SC, to Norfolk and Richmond, VA, with no transportation for compensation on return except as otherwise authorized. From Philadelphia, PA, to Norfolk, VA, with no transportation for compensation on return except as otherwise authorized. From New York, NY, to Richmond, VA, with no transportation for compensation on return except as otherwise authorized. Applicants' representative is: Stanley I. Goldman, Esq., Denning & Wohlstetter, 1700 K Street, NW., Washington, DC 20096. Transferee presently holds no authority from the Commission.

MC–FC–78747. By decision of September 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to George L. Hooker, Inc., of Uhrichsville, OH, of Permit No. MC–111560 and MC–111560 (Sub-No. 6) issued September 1, 1959, and September 26, 1974, respectively to Albert DeBraccio (Albert DeBraccio, Jr., Administrator) of Uhrichsville, OH, authorizing the transportation in MC–111560 of *aluminum storm windows and doors,* and, in connection therewith, *moldings and parts, glass, screen wire, and plastic and rubber items* used or useful in the assembly of aluminum doors and windows, From Gnadenhutten, Ohio, to points in Alabama, Colorado, Florida, Georgia, Kansas, New Jersey, Tennessee, and Wisconsin; From Sugar Creek, Ohio to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and *Scrap aluminum,* From the above-specified destination points to their respective points of origin. *Aluminum siding,* and *accessories and related articles* used in the application of aluminum siding, From Gnadenhutten, Ohio, to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and *Scrap aluminum,* From the destination points specified immediately above to Gnadenhutten, Ohio. Restriction: The operations authorized herein above are limited to a transportation service to be performed under a continuing contract, or contracts, with Alsco, Inc., Akron, Ohio. *Aluminum storm windows and doors,* and in connection therewith, *moldings and parts, glass, screen wire, and plastic and rubber items* used or useful in the assembly of aluminum doors and windows, From Akron, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; From Gnadenhutten, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and *Scrap aluminum,* From the destination points specified immediately above to their respective points of origin, or to points in Connecticut; and *Returned shipments* of the above-specified commodities and *empty containers* used in transporting such commodities, and *scrap aluminum,* From points in Connecticut to Gnadenhutten and Sugar Creek, Ohio. *Aluminum storm windows and doors* and *materials* used in the assembly thereof, *aluminum siding, aluminum roofing, aluminum spouting, aluminum awnings, aluminum shutters,* and *materials* used in the installation thereof, From points in Franklin Township, Portage County, Ohio, to points in Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and *Scrap aluminum,* From points in the destination States named above to points in Franklin Township, Portage County, Ohio. *Materials, equipment, and supplies* used in the manufacture, assembly, installation, packing and shipping of: aluminum storm windows and doors, and materials used in the assembly thereof, aluminum siding, aluminum roofing, aluminum spouting, aluminum awnings, aluminum shutters, and materials used in the installation thereof, From points in Pennsylvania, Lakeview, Clifton, and Newark, NJ, and New York, Lakeview, and Fayetteville, NY, Hartford, CT, Boston, MA, Wheeling and Ravenswood, WV, Richmond, VA, Louisville, KY, Tate, GA, Miami, FL, South Bend and Elkhart, IN, Chicago, Addison and Elk Grove, IL, Detroit, MI, Des Moines, IA, Omaha, NE, and Denver, CO, to points in Franklin Township, Portage County, Ohio, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Alsco Anaconda, Inc., of Akron, Ohio. Applicant's Representative is: Richard H. Brandon, Attorney-at-Law, Post Office Box 97, 220 West Bridge Street, Dublin, OH 43017. Application for TA has been filed. Transferee holds authority under No. MC–26120.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34440 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 28, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.2-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 4.9-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. October 31, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax), January 1, 1979, 63.5 cents.

Date of Current Price Measurement and Price Per Gallon (Including Tax) October 27, 1980, 113.3 cents.

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1)	(2)	(3)	(4)
From transportation performed by owner-operators (apply to all truckload rated traffic)	Other (including less-than-truckload traffic)	Bus carriers	UPS
16.9	2.9	6.3	3.3
Percent Surcharge Developed			
13.2	2.3	4.9	[1] 2.1
Percent Surcharge Allowed			
13.0	2.3	4.9	[2] 1.3

[1] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-34441 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decision; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 F.R. 45539.

Person wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of title 49, Subtitle IV, United States Code, and the

Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment not a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed with 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI–062

Decided: Oct. 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 29910 (Sub-4–298F), filed October 17, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Waxdale, WI, on the one hand, and, on the other, points in AR and MO.

MC 33641 (Sub-152F), filed October 23 1980. Applicant: IML FREIGHT, INC., 10 Exchange Place, Salt Lake City, UT 84111. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Elkhart County, IN as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 35320 (Sub-618F), filed October 22, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Grand Rapids, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 57311 (Sub-15F), filed October 16, 1980. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1705 Moxahala Ave., Zanesville, OH 43701. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commision and classes A and B explosives), between points in OH and points in Boone, Campbell and Kenton Counties, KY, on the one hand, and, on the other, St. Louis, MO, and points in IL, IN, KY, MD, MI, PA, TN, VA, and WV.

MC 75320 (Sub-233F), filed October 16, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza; P.O. Box 22567, Jackson, MS 39205. Transporting *snow throwers, tillers, lawn equipment,* and *metal articles,* between points in Cuyahoga, Richland, and Huron Counties, OH, and Sunflower County, MS, on the one hand, and, on the other, points in AL, AR, GA, IA, IL, IN, KS, KY, LA, MO, MS, NE, NY, OH, OK, PA, TN, TX, and WI.

MC 75840 (Sub-139F), filed October 17, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Royce Glass, 3400 Third Ave. South, Birmingham, AL 35222. Transporting (1) *foodstuffs, and (2) materials, equipment, and supplies* used in the manufacture of foodstuffs, between points in Jefferson County, AL, on the one hand, and, on the other, points in TX.

MC 104421 (Sub-35F), filed October 15, 1980. Applicant: ECONOLINES, INC., P.O. Box 623 D.T.S., Omaha, NE 68101. Representative: Roger W. Norris (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, hides, and foodstuffs), between points in Dodge and Washington Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NE).

MC 114211 (Sub-478F), filed October 23, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., (same address as applicant). Transporting *iron and steel articles,* between points in AR, CO, IA, IL, IN, KS, MI, MN, MO, NE, OH, OK, SD, TX, and WI.

MC 115311 (Sub-401F), filed October 15, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *foodstuffs,* and *materials and supplies* used in the manufacture and distribution of foodstuffs, between points in Mecklenburg County, NC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, UT and AZ.

MC 116101 (Sub-12F), filed October 15, 1980. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Columbus International Airport, Columbus, OH 43219. Representative: Russell S. Bernhard, 1625 K St. NW., Washington, DC 20006. Transporting *general commodities moving in express service* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in OH, on the one hand, and, on the other, points in IL, IN, MI (except those in the Upper Peninsula), NY, and PA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its certificate in MC 116101 (Sub-2).

MC 116510 (Sub-2F), filed October 22, 1980. Applicant: KEENAN TRANSIT CO., a corporation, 3600 North Ave., Melrose Park, IL 60161. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) Clow Corporation, of Oak Brook, IL, and (2) Plexco, Division of Amsted Industries, Inc., of Franklin Park, IL.

MC 121470 (Sub-69F), filed October 17, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan St., Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *heat exchangers and heat equalizers,* (2) *heating, cooling, conditioning, humidifying,*

dehumidifying, and gas and liquid moving equipment, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), from points in Fayette County, KY, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 127921 (Sub-4F), filed October 16, 1980. Applicant: COOLEY TRANSPORT, INC., Route 8, Box 225, Inman, SC 29349. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *salt,* between Wilmington, NC, on the one hand, and, on the other, points in NC, SC, TN, AL, and GA.

MC 134761 (Sub-2F), filed October 16, 1980. Applicant: GRASSICK TRANSPORT LTD., 220 Esquimalt Road, Victoria, B.C. Canada V9A 3K9. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. In foreign commerce only, transporting *newsprint* from points on the international boundary line between the U.S. and Canada in WA to points in CA.

MC 150810 (Sub-1F), filed October 20, 1980. Applicant: SUPERLINES CO., a corporation, P.O. Box 706, Crookston, MN 56716. Representative: Ralph Otto Eickhof, 23 South Main, Crookston, MN 56716. Transporting *citrus pellets,* between points in FL.

MC 152321F filed October 21, 1980. Applicant: BOB WHITE, d.b.a. TRI LAKES EXPRESS, 728 North Washington, Springfield, MO 65802. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Springfield, MO, on the one hand, and, on the other, points in Boone and Carroll Counties, AR.

Volume No. OP4–106

Decided: Oct. 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 105566 (Sub-234F), filed October 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22309. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 105566 (Sub-235F), filed October 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22309. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 145396 (Sub-7F), filed October 16, 1980. Applicant: BOYCE HOWARD, d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *chemicals or allied products,* as described in Item 28 of the Standard Transportation Commodity Code, between points in AL, AR, GA, KS, KY, LA, MS, MO, OK, TN, and TX.

MC 152297F, filed October 22, 1980. Applicant: EUNICE McDANIEL RODGERS, d.b.a. RODGERS HOT SHOT, 7902 Braesdale, Houston, TX 77071. Representative: C.W. Ferebee, 720 No. Post Oak, Suite 230, Houston, TX 77024. Transporting *machinery, materials, equipment, and supplies* used in or in connection with the discovery, development, storage, transmission and distribution of natural gas and petroleum and their products and by products, (1) between points in Brazoria and Harris Counties, TX, on the one hand, and, on the other, points in LA and OK, and (2) between points in Terrebonne Parish, LA, on the one hand, and, on the other, points in TX and OK.

Volume No. OP4–108

Decided: Oct. 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 124296 (Sub-4F), filed September 29, 1980, previously noticed in the FR of October 15, 1980. Applicant: GEORGE L. BIGELOW TRUCKING, INC., 135 Wright St., Delavan, WI 53115. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *metal products,* and *Materials, equipment, and supplies* used in the manufacture and distribution of metal products, between points in the U.S., under continuing contract(s) with Wastainer, Inc., of Mukwonago, WI. NOTE: The purpose of this republication is to show the spelling of the name of the shipper as Wastainer, Inc., instead of as Westainer, Inc.

MC 124887 (Sub-121F), filed October 21, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., ROUTE 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor 1101 Blackstone Bldg, Jacksonville, FL 32202. Transporting *chemicals, and equipment, materials and supplies* used in the manufacture and distribution of chemicals (except in bulk), between points in Forrest County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138157 (Sub-256F), filed October 17, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *business forms, printed matter, office supplies, paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture, production, and distribution of commodities in (1) above, between points in Los Angeles, Orange, San Diego, and Santa Clara Counties, CA; Bossier County, LA; Milwaukee and Waukeska Counties, WI; Cook and Dupage Counties, IL; Dallas, Harris, and Bexar Counties, TX; Rockingham County, NC; Randolph Township, NJ; Salt Lake County, UT; Tulsa and Osage Counties, OK; and Guinnett County, GA.

MC 139006 (Sub-18F), filed October 21, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Essex Group, Inc., and its subsidiaries.

MC 139906 (Sub-133F), filed October 22, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *magazines, periodicals, printed matter,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Broward County, FL, on the one hand, and, on the other, points in U.S.

MC 143866 (Sub-1F), filed October 16, 1980. Applicant: B. Z. ENTERPRISES,

INC., 1867 E. Pole Rd., Everson, WA 98247. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. Transporting (1) *farm machinery, equipment, and supplies,* (2) *lumber products and pre-manufactured truss joints,* (3) *building materials and supplies,* and (4) *pre-fab metal buildings and metal products and milking parlor units,* from points in CA, CO, ID, NV, OR and UT to points in Whatcom County, WA.

MC 144186 (Sub-7F), filed October 21, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 Vista Dr., Independence, MO 64056. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 Transporting newsprint in *rolls and paper products,* between points in the U.S., under a continuing contract(s) with Clark Printing Co., of North Kansas City, MO.

MC 149026 (Sub-17F), filed October 21, 1980. Applicant: TRANS-STATES LINES, INC., P.O. Box 1486, Van Buren, AR 72956. Representative: Larry C. Price (same address as applicant). Transporting *telephone equipment, parts and supplies,* between Kearny, NJ, on the one hand, and, on the other, points in CA.

MC 150567 (Sub-64F), filed October 21, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *such commodities* as are dealt in by department stores, drug stores and supermarkets, between points in the U.S., under continuing contract(s) with A & D Transco, of Seattle, WA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34442 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

October 31, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: International Farm Lines.
Principal Mailing Address (Street No., City, State, and Zip Code): 5325 South Orange Blossom Trail, Orlando, FL 32809.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 5325 South Orange Blossom Trail, Orlando, FL 32809.
Person to Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Carroll Fulmer, 5325 S. Orange Blossom Trail, Orlando, FL 32809.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Rainbow Rarm Lines, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 14006–A, Orlando, FL 32857.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2200 Forsyth Road, Orlando, FL 32807.
Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Stoney Mullins, P.O. Box 14006–A, Orlando, FL 32857.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34508 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–061

Decided: October 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones

MC 142040 (Sub-7F), Filed October 16, 1980. Applicant: AMBER DELIVERY SERVICE, INC., P.O. Box 361, Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4–107

Decided: October 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 119777 (Sub-502F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities,* between Minter City, MS; Albion and Tilihina, OK; Warrensburg, NY; Neillsville and Granton, WI; Grimes, IA; Setonville, IL; Alamitos, CA; Ellis, Spencer and Riverside, SD, Cheviot and Covedale, OH; Rio Grande City and Hidalgo, TX, Fruitville and Sunniland, FL; and Mount Airy, MD, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 119777 (Sub-501F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities,* between Franklinton, Warnerton, Longbridge, Hamburg and Simmesport, LA; Cosby, King City, Grant City, Gentry, Bethany, and Albany, MO, Balaton, MN, Lamoni and Leon, IA; Mays and Mt. Auburn, IN; and Medary and Midway, WI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor service for abandoned rail service.

Volume No. OP4–109

Decided: October 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 126896 (Sub-2F), filed October 21, 1980. Applicant: EVERETT DELIVERY SERVICE, INC., 17625 Filer, Detroit, MI 48212. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 143916 (Sub-1F), filed October 22, 1980. Applicant: McQUADE HEAVY HAULING, INC., RR No. 1, Sgt. Bluff, IA 51054. Representative: Edward A. O'Donnel, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4–107

Decided: October 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 119777 (Sub-502F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities,* between Minter City, MS; Albion and Tilihina, OK; Warrensburg, NY; Neillsville and Granton, WI; Grimes, IA; Setonville, IL; Alamitos, CA; Ellis, Spencer and Riverside, SD, Cheviot and Covedale, OH; Rio Grande City and Hidalgo, TX, Fruitville and Sunniland, FL; and Mount Airy, MD, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 119777 (Sub-501F), filed October 17, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities,* between Franklinton, Warnerton, Longbridge, Hamburg and Simmesport, LA; Cosby, King City, Grant City, Gentry, Bethany, and Albany, MO, Balaton, MN, Lamoni and Leon, IA; Mays and Mt. Auburn, IN; and Medary and Midway, WI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor service for abandoned rail service.

Volume No. OP4–109

Decided: October 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 126896 (Sub-2F), filed October 21, 1980. Applicant: EVERETT DELIVERY SERVICE, INC., 17625 Filer, Detroit, MI 48212. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 143916 (Sub-1F), filed October 22, 1980. Applicant: McQUADE HEAVY HAULING, INC., RR No. 1, Sgt. Bluff, IA 51054. Representative: Edward A. O'Donnel, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34443 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 33]

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 2900 (Sub-154 (M1F), (Notice of Filing of Petition to Modify Certificate), filed May 9, 1980. Petitioner: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Petitioner holds a motor *common carrier* certificate in MC 2900 Sub 154, issued February 18, 1972, authorizing transportation, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Charlotte, NC, and Knoxville, TN, serving no intermediate points, from Charlotte over Interstate Hwy 85 to junction NC Hwy 16, then over NC Hwy 16 to junction NC Hwy 10, then over NC Hwy 10 to junction US Hwy 321, then over US Hwy 321 to junction US Hwys 64 and 70, then over US Hwy 64 (also over US Hwy 70) to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction US Hwy 70 at or near Asheville, NC, then over US Hwy 70 to Knoxville, and return over the same route. Condition: That at the close of each full year for a period of 3 years after the date of issuance of the certificate herein, carrier shall file with this Commission's Bureau of Economics a "Performance Report" with respect to the operations conducted under the portions of the certificates issued herein; that this "Performance Report" shall, among other things, identify and describe the shipments handled under such certificate that moved between points in the authority granted herein. Such further terms, conditions, and limitations as the Commission in the future may find necessary to impose in order to insure that carrier's operations comport with the type of service the supporting shippers are shown to require on this record.

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By the instant petition, petition seeks to modify the certificate by deleting the two conditions imposed on the authority.

MC 2900 Sub 378 (M1F) (Notice of Filing of Petition to Modify Certificate), filed June 20, 1980. Petitioner: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Bldg., Arlington, VA 22209. Petitioner holds a motor *common carrier* certificate in MC 2900 Sub 378 issued December 3, 1979, authorizing transportation, over regular routes, as pertinent, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between specified points in GA, SC, and NC, over specified routes, service in connection with the routes specified above (routes (1) through (24) in the certificate) is authorized at all points in GA, NC, and SC, as off-route points in connection with carrier's regular-route authority. RESTRICTION: The operations authorized herein above are restricted to the transportation of traffic serving (a) between points in NC, on the one hand, and, on the other, those points in that part of SC on and north of a line beginning at Charleston and extending along US Hwy 78 to junction US Hwy 178, then along US Hwy 178 to Anderson, and then along US Hwy 29 to the SC-GA State line, (b) from Charleston, SC to points in that part of SC as specified in (a) above, (c) between Wilmington, NC, on the one hand, and, on the other, points in NC, (d) between Columbia, SC, on the one hand, and, on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (e) between Charlotte, NC, on the one hand, and, on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (f) between Augusta and Savannah, GA, on the one hand, and, on the other, points in GA and SC, or (g) between Augusta and Savannah, GA, Richmond, VA and points in NC, on the one hand, and, on the other, points in Richland, Lexington, and Calhoun Counties, SC.

By the instant petition, petitioner seeks to delete the above restriction.

MC 134599 (Sub-163F) (notice of petition to modify permit), filed June 26, 1980. Petitioner: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *contract carrier* Permit in MC 134599 (Sub-163F) issued June 26, 1979, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Compton, CA, Herrin and Rock Island, IL, Eldora, IA, Springfield, MO, Alliance and McCook, NE, Dover, NJ, Kingstree, Walterboro, and Williston, SC, Dyersburg, TN, Olney, TX, Richmond, VA, and points in Haywood County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Dayco Corporation, of Dayton, OH. By the instant petition, petitioner seeks to add Welcome, NC to the above territorial description as an additional base point.

MC 147402 (Sub-5) (notice of filing of petition to modify), filed March 20, 1980. Petitioner: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: John P. Tucker, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. A decision of the Commission, Division 1, Acting as an Appellate Division, Commissioners, Clapp, Alexis, and Gilliam, decided September 24, 1980 and served October 3, 1980, finds that petitioner holds motor *contract carrier* authority in MC 147402 (to be issued under Sub-5), pursuant to MCFC 78180 decided December 14, 1979, and served February 29, 1980, authorizes transportation by motor vehicle, over irregualr routes, transporting *such merchandise* as is dealt in by home products distributors, from the facilities of Amway Corporation in Gwinnett County, GA, to points in Kentucky, North Carolina, South Carolina, Virginia, West Virginia, and that portion of Tennessee located east of the western transversal of the Tennessee River and Kentucky Lake, under contract(s) with Amway Corporation. By the instant petition, petitioner seeks to modify the authority by showing the origin point as the facilities of Amway Corporation in Gwinnett County, GA, in lieu of Fulton County, GA.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before December 5, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail in precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 61977 (Sub-14F) (republication), filed September 26, 1978, published in the **Federal Register** issue of December 14, 1978, and republished this issue. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Freidman, 2930 Putnam Avenue, Huricane, WV 25526. A decision of the Commission, Division 2, acting as an Appellate Division, decided September 4, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *glass containers and closures for glass containers*, (1) from Vienna, WV, to Huntington, WV, and (2) from Vienna and Huntington, WV, to points in Illinois, Indiana, Kentucky, Massachusetts, Maryland, New Jersey, New York, Pennsylvania and Rhode Island.

MC 114273 (Sub-590F) (republication), filed April 18, 1979, published in the **Federal Register** issue of August 9, 1979, and republished this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). A decision of the Commission, *Review Board 2*, decided March 5, 1980, and served March 26, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregualr routes, as a *common carrier*, by motor vehicle, transporting *agricultural and industrial implements, and parts* for agricultural and industrial implements, from Grinnell, IA, to Chesapeake, VA, Louisville, KY, points in New York, Pennsylvania, Indiana, Ohio, Wisconsin, the Lower Peninsula of Michigan, and those in Illinois on and north of U.S. Hwy 36; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

MC 115826 (Sub-496F) (republication), filed June 14, 1979, published in the **Federal Register** issue of February 26, 1980, and republished this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). A decision of the Commission, Review Board Number 3, Acting as an Appellate Division, decided September 2, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *alcoholic liquors and wine*, in containers, (1) from New York, NY, and Linden, NJ, to Chicago, IL, Denver, CO, and points in Arizona, Minnesota, Iowa, and California, (2) from Plainfield, IL, to points in Colorado, Texas, California, Tennessee, Michigan, and Ohio, and (3) from Lawrenceville, NJ, to points in California, Oregon, and Washington, restricted in (1) (2), and (3) to the transportation of traffic originating at the named origins and destined to the indicated destinations.

MC 120456 (Sub-5F), (Republication), filed May 4, 1979, published in the FR issue of October 16, 1979, and republished this issue. Applicant: BOUMA CARTAGE CO. (a Corporation), 146 Pleasant Street SW., Grand Rapids, MI 49503. Representative: Carl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided July 2, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, over *irregular routes*, transporting (1) *furniture*, between Grand Rapids, MI, on the one hand, and, on the other, points in Michigan (except Grand Rapids), (2) *furniture*, between Detroit, MI, on the one hand, and, on the other, points in Michigan (except Detroit), and (3) *household goods, store fixtures, and office furniture*, between points in Kent, Ottawa, Allegan, Barry, and Ionia Counties, MI, on the one hand, and, on the other, points in Michigan.

Note.—The authority granted above may be tacked with the authority granted in No. MC–FC–78123 in order to enable applicant to provide a through service.

MC 141187 (Sub-10F), (Republication), filed January 10, 1980, published in the FR issue of April 1, 1980, and republished this issue. Applicant: BLUFF CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: James N. Clay, III 2700 Sterick Bldg., Memphis, TN 38103. A Decision of the Commission, Division 2, Acting as an Apellate Division, decided October 1, 1980 and finds that the present and future public convenience and necessity require operations by the applicant as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1)(a) *plastic film, plastic bags, boneguard cloth and aluminum packaging clips*, and (b) *materials, equipment and supplies* used in their manufacture and distribution, between Iowa Park, TX, on the one hand, and on the other, points in the United States (except Alaska and Hawaii), under continuing contract(s) with Cryovac Division of W. R. Grace & Co., of Duncan, SC, (2) *chemicals*, and *materials, equipment and supplies* used in their manufacture and distribution (except in bulk), between the facilities of Texaco Chemical Co., at Austin, Port Neches and Youens, TX, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under continuing contract(s) with Texaco Chemical Co., of Bellaire, TX, and (3) *proprietary antifreeze preparation*, and *materials, equipment and supplies* used in its manufacture and distribution (except in bulk), between Houston, TX, Memphis, TN, and Wilmington, NC, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under continuing contract(s) with Texaco Chemical Co., of Bellaire, TX.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 30605 (Deviation No. 37), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 E. Waterman, P.O. Box 56, Wichita, KS 67201, filed September 29, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, TX over Interstate Hwy 20 to junction Interstate Hwy 10, then over Interstate Hwy 10 to El Paso, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, TX over US Hwy 80 to junction US Hwy 377 near Ft. Worth, then over US Hwy 377 to junction US Hwy 67 near Stephenville, TX, then over US Hwy 67 to junction US Hwy 84 near Brownwood, TX, then over US Hwy 84 to Farwell, TX, then over US Hwy 60 to junction NM Hwy 6, then over NM Hwy 6 to Belen, NM, then over US Hwy 85 to Las Cruces, NM, then over US Hwy 80 to El Paso, TX and return over the same route.

Permanent Authority Decisions; Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: June 27, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The

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appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed duel operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 120761 (Sub-64F) (Republication), filed June 3, 1980, previously noticed in the FR issue of July 31, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1) *machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products; (2) *machinery, materials, equipment and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (3) *articles* which because of size and weight require the use of special equipment for the unloading, loading or transportation thereof, between points in KS, NM, OK and TX, on the one hand, and, on the other, points in AZ, AR, CA, ID, IL, KY, MO, MT, NV, OH, OR, UT, and WY.

Note.—The sole purpose of this application is to substitute single-line for jointline operations that have been conducted with F–B Truck Line Company, Salt Lake City, UT and Machinery Transports, Inc., East Peoria, IL. The purpose of this republication is to indicate the correct section of the FR and the correct preface.

Permanent Authority Notices

Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as proposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. the nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 113908 (Sub-507F), filed June 2, 1980, previously noticed in FR issue of September 11, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Rd., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* in bulk, from points in IL to points in AR, AZ, CA, CO, MO, MT, NM, NV, OK, OR, TX, and UT. The sole purpose of this application is to substitute single line for joint line operations.

Note.—This republication adds NM to the destination territory which was inadvertently omitted from the previous publication.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34444 Filed 11-4-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Notice of Commission Request for Comments Concerning Settlement Agreement

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on proposed settlement agreement.

SUMMARY: This settlement agreement would result in termination of this investigation. This notice requests public comment on the agreement within thirty (30) days.

DATES: Comments will be considered if received within thirty (30) days of this notice. Comments should conform with § 201.8 of the Commission's rules of practice and procedure (19 C.F.R. 201.8) and should be address to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

SUPPLEMENTAL INFORMATION: In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) of alleged unfair methods of competition and unfair acts in the importation or sale of certain turning machines and components thereof in the United States, respondents Yamazaki Machinery Corporation and Yamazaki Machinery Works Ltd. ("Yamazaki") and complainant Warner & Swasey Company jointly requested the Commission on October 22, 1980, to terminate the investigation on the basis of a license agreement between Yamazaki and Warner & Swasey. The Commission investigative attorney joined in the request to terminate. The license agreement between Warner & Swasey and Yamazaki contains confidential business information which may not be publicly disclosed. However, the essence of the agreement, which is described in the motion to terminate, is that Yamazaki may continue to service turning machines already in the United States and to import a limited additional number of machines; in return, Warner & Swasey is to receive a specified sum of money from Yamazaki. Copies of the motion to terminate are available for inspection by interested persons in the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

WRITTEN COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest, the Commission requests written comments from interested persons and agencies concerning the effect of the termination of this investigation based on the license agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. Notice of this investigation was published in the **Federal Register** of October 24, 1979 (44 FR 61271).

ADDITIONAL INFORMATION: The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436; Telephone 202–523–0480.

Issued: November 3, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of an Executive Meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), OJARS.

The National Minority Advisory Council on Criminal Justice will hold its Executive Committee Meeting on Saturday, November 15 in the John Adams Room of the Atlanta Hilton Hotel, located at Cortland and Harris Streets, Atlanta, Georgia. The meeting is scheduled to run from 9:00 a.m. to 5:00 p.m.

Discussion at the meeting will focus on: the National Results Conference Wrap-up; completion of report on *The Inequality of Justice: A Report on Crime and the Administration of Justice in the Minority Community;* and a discussion on the 1981 Workplan and Budget.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA–NMACCJ Coordinator at 633 Indiana Avenue, Northwest, Washington, D.C. 20531 (202) 724–5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, Northwest, Suite 200, Washington, D.C. 20036 (202) 862–9327.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 80-34466 Filed 11-4-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-725]

NASA Advisory Council, Aeronautics Advisory Committee (AAC); Meeting

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of Committee: NASA Advisory Council, Aeronautics Advisory Committee, Informal Subcommittee on Aerodynamics.

Date and time: November 24, 1980, 9:00 a.m.–4:30 p.m., November 25, 1980, 9:00 a.m.–4:30 p.m.

Address: Ames Research Center, Committee Room, Building 200, Moffett Field, California.
Type of Meeting: Open.
Agenda

November 24, 1980

9:00 a.m. Introduction;
9:15 a.m. Status of AAC Informal Subcommittees;
9:30 a.m. Low Speed Aerodynamics;
1:00 p.m. Aero Propulsion and Vertical/Short Takeoff and Landing Research;
2:00 p.m. Transonic Aerodynamics;
3:00 p.m. Turbulence and Separated Flow Dynamics;
4:30 p.m. Adjourn.

November 25, 1980

8:30 a.m. Overview of Computational Fluid Dynamics;
9:30 a.m. Applied Computational Aerodynamics;
10:00 a.m. The Numerical Aerodynamic Simulator;
11:00 a.m. Experimental Fluid Dynamics;
1:00 p.m. Committee Discussion;
4:30 p.m. Adjourn.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton E. Brown, Executive Secretary, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–3280).

SUPPLEMENTARY INFORMATION: The Informal Subcommittee on Aerodynamics of the NASA Advisory Council, Aeronautics Advisory Committee, was established to assist the NASA in identifying specific needs and objectives for improving aircraft aerodynamics and to advise the NASA on the appropriateness and adequacy of its current and planned research and technology programs in this area. The Chairperson is Dr. Joseph J. Cornish. There are currently nine members.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

October 30, 1980.

[FR Doc. 80-34419 Filed 11-4-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music Panel (Centers Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Centers Section) to the National Council on the Arts will be held on November 21, 1980 from 9:00 a.m.—5:30 p.m. and November 22, 1980, from 9:00 a.m.—1:00 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E. St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on November 21, 1980, from 9:00 a.m.—10:30 a.m. to discuss policy.

The remaining sessions of this meeting on November 21, 1980, from 10:30 a.m.—5:30 p.m. and November 22, 1980 from 9:00 a.m.—1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

October 30, 1980.

[FR Doc. 80-34483 Filed 11-4-80; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will he held on Friday, November 21, 1980 from 9:00 a.m.–5:30 p.m.; and Saturday, November 22, 1980 from 9:00 a.m.–5:30 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on Friday, November 21, 1980 from 9:00 a.m.–5:30 p.m. and Saturday, November 22, 1980 from 9:00 a.m.–12:00 noon. Topics for discussion will be Program Review and Guidelines for Music, Media Arts, Visual Arts and Expanison Arts and general policy discussions.

The remaining sessions of this meeting on Saturday, November 22, 1980 from 12:00 noon–5:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 31, 1980.

[FR Doc. 80-34476 Filed 11-4-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts (Crafts Exhibition); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts (crafts exhibition) to the National Council on the Arts will be held on November 24–25, 1980, in room 1426, from 9:00 a.m.–5:30 p.m. in the Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 28, 1980.

[FR Doc. 80-34477 Filed 11-04-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Physics Advisory Committee, Subcommittee for the Review of the NSF Theoretical Physics Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Theoretical Physics Program.
Date and Time: November 20–21; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Laura P. Bautz, Deputy Director, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7611.
Purpose of Subcommittee: To provide oversight concerning NSF support for research in theoretical physics.
Agenda: To review NSF Theoretical Physics Program documentation as part of the program oversight function.
Reason for Closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.
Reason for Late Notice: Because of schedules of Subcommittee members, the date of this meeting was changed from a tentatively scheduled later date.

M. Rebecca Winkler,

Committee Management Coordinator.

October 31, 1980.

[FR Doc. 80-34462 Filed 11-4-80; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF PERSONNEL MANAGEMENT

The President's Management Improvement Council; Meeting

AGENCY: The President's Management Improvement Council.

ACTION: Notice of Meeting.

SUMMARY: The purpose of this notice is to announce a meeting of the President's Management Improvement Council, as required by the Federal Advisory Committee Act.

DATE, TIME, AND PLACE: November 19, 1980, 11:00 a.m., 6th Floor Board Room, Federal Home Loan Bank Board, 17th and G. Streets, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This meeting will be devoted to a review of Council projects, and to a discussion of the issuance of a Council report and of the continuation of the Council.

ADDRESS: Members of the public are invited to submit material in writing to the Executive Director of the Council concerning specific management improvement matters felt to be deserving of the Council's attention. Material should be addressed to: Executive Director, the President's Management Improvement council, Room 5315, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Jon Bellis, 202–632–6104.

The President's Management Improvement Council.

Charles F. Bingman,

Executive Director.

October 30, 1980.

[FR Doc. 80-34486 Filed 11-4-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11419; 811-2697]

Girard Federal Tax Exempt Fund; Filing of Application Pursuant To Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That Applicant Has Ceased to be an Investment Company

October 30, 1980.

Notice is hereby given that Girard Federal Tax Exempt Fund ("Applicant", 10960 Wilshire Boulevard Suite 336 Los Angeles, CA 90024 registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company filed an application on August 25, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a California corporation, registered under the Act on October 26, 1976. On or about the same date it filed a registration statement on Form S-5 under the Securities Act of 1933 covering 100,000 shares of its common stock in connection with a proposed public offering of its shares. On August 1, 1977, Applicant filed a request to withdraw this registration statement, and on September 28, 1977, the Commission issued an order permitting Applicant to withdraw its registration statement pursuant to Rule 477 under the 1933 Act, 17 CFR 230.477. Thus, Applicant has never engaged in a public offering of shares of its common stock.

Applicant states that it has no securityholders. The application states that Applicant does not have any assets or liabilities currently outstanding, and that it is not a party to any litigation or administrative proceeding. The application further states that Applicant is presently an inactive corporation under California law, and is not engaged in and does not propose to engage in any business activities other than those necessary for the winding up of its affairs. Finally, Applicant states that it has not within the last eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's

own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34471 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11419; 811-2702]

Girard High Yield Corporate Fund; Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That Applicant Has Ceased To Be an Investment Company

October 30, 1980.

Notice is hereby given that Girard High Yield Corporate Fund ("Applicant"), 10960 Wilshire Boulevard, Suite 336, Los Angeles, California 90024, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company filed an application on August 25, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a California corporation, registered under the Act on November 10, 1976. On or about that same date it filed a registration statement (File No. 2-57616) on Form S-5 under the Securities Act of 1933 covering 100,000 shares of its common stock in connection with a proposed public offering of its shares. On August 1, 1977, Applicant filed a request to withdraw this registration statement, and on September 28, 1977, the Commission issued an order permitting Applicant to withdraw its registration statement pursuant to Rule 477 under the 1933 Act, 17 CFR 230.477. Thus, Applicant has never engaged in a public offering of shares of its common stock.

Applicant states that it has no securityholders. The application states that Applicant does not have any assets or liabilities currently outstanding, and that it is not a party to any litigation or administrative proceeding. The application further states that Applicant is presently an inactive corporation under California law, and is not engaged in and does not propose to engage in any business activities other than these necessary for the winding up of its affairs. Finally, Applicant states that it has not within the last eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such comunication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is orderd, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34470 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 30, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Amstar Corp., Common Stock, $1 Par Value (File No. 7-5769).
Federal Express Corp., Common Stock, $.10 Par Value (File No. 7-5770).
Management Assistance, Inc., Common Stock, $.40 Par Value (File No. 7-5774).

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34468 Filed 11-4-80; 8:45 am]

BILLING CODE 8010-01-M

Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

AGENCY: Securities and Exchange Commission.

ACTION: Listing of Personnel Serving as Members of this Agency's Senior Executive Service Performance Review Board and Announcement of Schedule for Awarding Bonuses.

SUMMARY: Pub. L. 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. Benjamin Milk, Executive Director, PRB Chairman;
2. Ralph Ferrara, General Counsel;
3. Daniel Goelzer, Executive Assistant to the Chairman;
4. Stephen L. Hammerman, Administrator, New York Regional Office;
5. Lee B. Spencer, Deputy Director, Division of Corporation Finance.

The Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Kellermann, Office of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2512).

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34469 Filed 11-04-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR-123-78]

Study relating to Automatic Extension of Certain Election Periods; Invitation for Public Comments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Invitation for Public Comments.

SUMMARY: This document provides background information with respect to an Internal Revenue Service study relating to automatic extensions of the time periods for making certain elections relating to income taxes. The Service requests comments on the election periods for which an automatic extension would be appropriate and the limitations and safeguards that should be included in the automatic extension procedure.

DATE: Comments should be delivered or mailed by March 31, 1981.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-123-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paul A. Francis (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

Under existing procedures contained in § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1) and Rev. Proc. 79-63, 1979-2 C.B. 578, the Commissioner of Internal Revenue may grant a reasonable extension of time to taxpayers to make an election or file an application for relief with respect to income taxes. This authority, which requires a showing of good cause by the taxpayer, is limited to those situations where the time for the election or application is fixed by regulation.

The Internal Revenue Service is reviewing election periods provided by regulation to determine whether there are situations in which extensions may be allowed automatically, without a showing of good cause and without prior approval of the Commissioner.

The Service believes that automatic extensions would be appropriate in those situations where an extension would be consistent with the legislative purpose of the underlying statute and would neigher jeopardize the revenue nor seriously interfere with the orderly administration of the tax laws.

This document contains a list of election periods identified by the Service as now subject ot § 1.9100-1; the list also notes Code or regulatory provisions with respect to the time of election or revocability. The Service welcomes comments concerning any additions, deletions or corrections to the list.

The Service, by this notice, is also soliciting comments as to which election periods should be subject to an automatic extension procedure as well as suggestions as to the form and conditions for an automatic extension procedure.

Such a procedure presents a number of potential problems that should be addressed. The following discussion is intended to identify some of these problems and suggest possible solutions. The Service welcomes comments on these or any other aspects of an automatic extension procedure.

1. *Extension of Assessment Period.* Unless the automatic extension procedure contained some safeguard, taxpayers could intentionally defer elections until shortly before the assessment period expires in order to reduce or eliminate the possibility of audit.

One solution to this problem would be to require taxpayers to extend the assessment period for any taxable year for which, at the time of the election or revocation, the assessment period would expire within two years. Any such extension would apply generally to the taxable year; it would not be limited to items directly affected by the election or revocation. This condition would assure that the Service would have an appropriate opportunity to make assessments and that elections or revocations late in the assessment period would generally be limited to important issues.

2. *Effect of Audit.* An election or revocation of an election during an audit would in many cases interfere with the efficient conduct of an audit and result in added expenditures of audit resources. In addition, permitting changes upon audit might encourage some taxpayers to take inappropriate positions on their returns. See Rev. Rul 79-414, 1979-2 C.B. 21, in which the Service denied a request for an extension of time to permit the election to pass through the investment credit upon disallowance of the credit to the taxpayer. Because of the difficulty in identifying elections or revocations that are appropriate notwithstanding the existence of an audit, the Service is inclined to require taxpayers under audit for a taxable year affected by an election to request relief in accordance with Rev. Proc. 79-63.

3. *Elections or Revocations by Corporations.* Corporate elections frequently affect earnings and profits which in turn may affect the character of distributions to shareholders or the application of rules relating to redemptions, liquidations, or reorganizations. Because the Service might be unable to coordinate all shareholder returns, there is potential for adverse revenue effects when a corporation makes a late election or a late revocation of an election. Thus, it may be necessary to require as a condition to any corporate election or revocation under the automatic extension procedure that the taxable years of all shareholders affected by the election or revocation are open and that these shareholders consent to the extension of the assessment period if it would otherwise be less than two years. Rules applicable to corporations would also appear appropriate for trusts and estates because of the effect of elections by such entities on their beneficiaries.

4. *Elections by Conduit Entities.* Elections by conduit entities such as partnerships or Subchapter S corporations present problems similar to those raised by elections by corporations and thus may require similar conditions. In addition, conduit entities often involve complex arrangements such as tiered partnerships where the task of coordinating returns under an automatic

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extension procedure would be burdensome.

It may therefore be necessary to limit the automatic extension procedure to those conduit entities where all beneficial owners for all taxable years affected by the action are individuals or corporations (other than Subchapter S corporations). The Service believes that it may be more appropriate for entities that are part of complex arrangements to apply for extensions in accordance with Rev. Proc. 79–63.

5. *Election or Revocation Affecting Basis.* Elections affecting the basis of property transferred other than in a fully taxable transaction present a special problem. In such a case, the transferee, with a carryover basis, may not make an adjustment to the basis in a manner consistent with the election or revocation. This problem could be prevented by permitting elections or revocations affecting the basis of property under the automatic extension procedure only if the taxpayer still holds the property or has disposed or it in a fully taxable transaction.

Jerome Kurtz,
Commissioner of Internal Revenue.

Time Limitations Subject to § 1.9100–1 of the Income Tax Regulations (26 CFR Part 1)

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.46–1(f)	Apportionment of $25,000 limitation among members of controlled group.	Due date (with extension) of return for member whose year ends first (regulation: irrevocable).
1.46–8(c)(2)	Additional 1% investment credit for TRASOP	With timely return for first applicable year (regulation: revocable within same period).
1.47–4(b)	Agreement by corporation newly electing subch. S status and shareholders to be liable for ITC recapture.	Due date (with extension) of corporate return for year preceding first year as subch. S (District Director may extend).
1.48–4 (f) and (g)	To treat lessee as having acquired leased sec. 38 property (statement filed by lessor with lessee).	Due date (with extension) of lessee's return for year of acquisition (regulation: irrevocable).
1.48–8(c)	To apply 90% rule for investment credit for motion picture films.	With original (or timely amended) return for first year claimed.
1.72–4(d)(3)	To redetermine amounts to be received as annuity income.	With return for first year effected.
1.77–1	Application to change method of accounting after election to treat commodity credit loans as income.	Within 90 days after beginning of year for which change is desired.
1.83–2(f)	Request to revoke election to include property in income in year of transfer.	60 days after discovery of mistake of fact.
1.103–10(b)	To use $10,000,000 limit for exempt small issue of IDB's.	Prior to issuance of IDB's.
1.108(a)–2	Consent to basis adjustments under sec. 1017 in connection with discharge of indebtedness.	With return for year of discharge.
1.165–11(e)	To deduct disaster losses in year preceding disaster...	Before later of: (1) due date (without extension) of return for disaster year; (2) due date (with extension) of return for preceding year (regulation: revocation within 90 days).
1.167(a)–11(f)	To use class lives system in determining depreciation (and other related elections).	With original (or timely amended) return for year in which property first placed in service (regulation revocable within same period).
1.167(a)–12	To apply class lives system to pre-1971 assets	With original (or timely amended) return (regulation: revocation=change in method of accounting).
1.167(k)–4	To amortize certain rehabilitation expenditures over 60 months.	With original (or timely amended) return for year property placed in service (regulation: revocable prospectively only).
1.169–4	To amortize pollution control facility over 60 months ...	With return for year in which amortization period begins (Code: revocable prospectively only).
1.170A–8(d)(2)(iii)	To reduce all contributions of capital gain property by 40% of unrealized gain.	With return.
1.171–3	To amortize bond premium	On return for first year to which election applies (Code: revocable only with consent).
1.172–11(c)	To use 10-year carryover period for NOL attributable to foreign expropriation loss.	With timely return for year of foreign expropriation loss (regulation: revocable within same period).
1.173–1(c)	To capitalize circulation expenditures	With return for first year to which election applies (Code: revocation only with consent).
1.179–4(b)	Request to revoke election of additional first-year depreciation.	6 months after due date (without extension) of return for year for which allowance claimed (Code: revocable only with consent; regulation: request within 6 months after due date (without extension) of return for year of allowance).
1.185–3	To amortize basis of railroad grading and tunnel bores.	With original (or timely amended) return for first year to which election applies (Code: revocable only with consent; regulation: request within 90 days prior to due date (without extension) of return for year to be covered).
1.188–1(b)	To amortize expenditures for child-care facilities	With original (or timely amended) return for first year of amortization (regulation: irrevocable).
1.190–3	To deduct expenditures for removal of architectural and transportation barriers.	Due date (with extension) of return for year to which election applies (regulation: irrevocable after due date).
1.191–3(a)	To amortize rehabilitation expenditures for certain historic structures.	With return for year in which amortization period begins (Code: terminable prospectively).
1.217–2(d)(2)	To deduct moving expenses before completion of minimum work period at new job.	With return for year in which moving expenses incurred.
1.243–4(c)	To take 100% dividends-received deduction for dividents from affiliates.	One year before end of assessment period for affiliates (regulation: termination by group—one year before end of assessment period; termination by new affiliate—with return of affiliate for year including last day of parent's year).
1.263(e)–1	To deduct cost of rehabilitation of railroad rolling stock.	With timely return.
1.266–1(c)	To capitalize certain taxes and carrying charges	With original return.
1.305–3(d)	To defer adjustment in conversion ratio of securities after certain distributions.	With return for year in which distribution occurs.
1.316–1(b)(5)	To designate certain PHC liquidating distributions as dividends.	On return for year in respect of which distribution is made.
1.381(b)–1(b)	To use earlier date as date of distribution or transfer in reorganization.	With timely return for year including date of transfer.
1.381(c)(4)–1(d)	Application for determination as to method of accounting for § 381 transfer.	90 days after § 381 transfer.
1.381(c)(5)–1(d)	Application for determination as to method of accounting for § 381 transfer.	90 days after § 381 transfer.
1.401(b)–1(d)	Filing dates for ERISA opinion and determination letters.	Various dates prescribed for each type of plan.

Time Limitations Subject to § 1.9100–1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.410(a)–2(d)	To accelerate effective dates of certain ERISA provisions.	With return for first plan year affected or request for determination letter (ERISA: irrevocable).
1.410(d)–1	Election by church to have ordinary qualification standards apply.	With return for first plan year affected or request for determination letter (Code: irrevocable).
1.441–2(c) (1) and (2)	To adopt, or change to or from, 52–53 week year	With return for first year to which election applies.
1.442–1(b)	Application to change annual accounting period	15th day of second month after end of short period.
1.446–1(e)(3)(ii)	Application to change method of accounting	180 days after start of year for which change is sought.
1.451–6(b)(1)	To include crop insurance proceeds in income for year following crop destruction.	Refund period for year of destruction (regulation: revocable if District Director consents).
1.451–7 (g) and (h)	To defer for one year gain on sale of livestock due to drought.	Due date (with extension) of return for year of destruction (regulation: revocable with consent).
1.453–8(a)(1)	to adopt installment method (for dealers in personal property).	With timely return (Code: revocable within three years after due date of return for year of change).
1.453–8(b)	To adopt installment method (for sales of realty or casual sales of personal property).	With return.
1.455–6(b)	Request to defer inclusion of prepaid subscription income.	90 days after start of first year to which election applies (Code: revocation=change in method of accounting).
1.456–6(b)	Request to defer inclusion in income of prepaid dues from members.	90 days after start of first year to which election applies (Code: revocation=change in method of accounting).
1.461–1(c)(3)(ii)	Request to accrue real property taxes ratably	90 days after start of first year to which election applies (regulation: revocation=change in method of accounting).
1.472–3	To use LIFO inventory method	With return for first year in which method is used (§ 1.472–5: revocation=change in method of accounting).
1.482–1(d)(6)	To defer reporting of income in certain blocked currency cases.	Various limits related to audit or settlement.
1.503(c)–1(a)	Application to resume exempt status after its loss because of prohibited transactions.	Year preceding year in which exemption is to resume.
1.508–1(a)(2)	Notification of application for exemption under section 501(c)(3).	15 months from end of month of organization.
1.512(a)–4(b)(3)	To treat certain income set aside in one year as having been set aside in preceding year.	Due date (with extension) of return for year to which set aside is attributed.
1.514(b)–1(d)(1)(iii)	Request for ruling to treat certain land as other than debt-financed property.	90 days before end of fifth year after acquisition.
1.526–8	To be treated as a homeowner's association (annual election).	Due date (with extension) of return for year covered (regulation: revocable only with consent).
1.545–3(e)	Election to treat as nondeductible amounts otherwise deductible under § 545(c)(1) (PHC).	(Regulation: irrevocable.)
1.556–2(a)	To deduct taxes accrued rather than taxes paid (foreign PHC determination).	With return (Code: irrevocable).
1.612–3(b)(3)	To select treatment of advanced royalties on mineral property.	With return for first year in which advanced royalties paid.
1.612–4 (d) and (e)	To charge intangible drilling and development costs to expense.	With return for first year in which costs paid (regulation: irrevocable).
1.613A–5	To take percentage depletion with respect to certain natural gas.	Refund period (regulation revocable in same period).
1.616–2	To deduct mineral development expenditures ratably	Due date (with extension) of return (Code: irrevocable annual election).
1.642(c)–1(b)(2)	To treat charitable contributions paid in one year as paid in preceding year.	Due date (with extension) of return for year in which charitable contribution made (regulation: revocable within same period).
1.663(b)–2(a)	To treat distribution from a trust or estate during first 65 days of year as made in preceding year.	Due date (with extension) of return for year in which distribution made (regulation: revocation within same period).
1.706–1(b)(4)	To change partnership year	15th day of second calendar month following short period.
1.706–1(b)(4)	To adopt special partnership year	Last day of first month after close of year to be adopted.
1.732–1(d)(2)	To adjust partnership basis in distributed property (election by transferee partner).	With return for first year for which adjustment has tax effect.
1.736–1(b)(6)	To report gain on partnership property in installments (election by retiring partner).	With return for first year in which partner receives payment.
1.754–1(b) and (c)	To make optional adjustments to basis of partnership property (election by partnership).	With timely return for year in which first affected transfer occurs (regulation: request to revoke to Distnct Drector within 30 days after close of year to be affected).
1.755–1(a)	To make disproportionate adjustments to partnership bases in various assets.	30 days after end of year in which proposed adjustment to be made.
1.761–2(b)	To be excluded from all provisions of subchapter K	Return within period within which first partnership return would be due (regulation: request to revoke within 30 days after beginning of year to be affected).
1.761–2(c)	To be excluded from part of subchapter K	90 days after beginning of first year for which partial exclusion requested.
1.818–4(a)	To revalue reserves originally computed on a preliminary term basis.	With timely return for first year to which election applies (regulation: revocable with consent).
1.819–2(c)(4)	Selection of percentage to be used in determining distribution to shareholders.	With timely return (regulation: irrevocable annual election).
1.820–2(b)	To treat modified coinsurance contract as a policy reinsured under a conventional contract.	With timely return for first year to which treatment applies (Code: revocable with consent).
1.821–4(f)(3)	Selection of manner of taxation by mutual insurance companies.	With timely return for first year to which election applies (Code: revocable with consent).
1.824–1(a)(3)	Selection of geographical area for purposes of determining concentrated windstorm, etc., premium percentage.	With return for year to which selection is to apply (regulation: selection may be changed within same period).
1.826–1(c)	Election by reciprocal underwriter to limit certain deductions in order to obtain credit.	With timely return for first year to which election applies (Code: revocable with consent).
1.851–2(a)	Election to be RIC	(Regulation: irrevocable.)
1.853–4	To flow foreign taxes paid by RIC through to shareholders.	With timely return (regulation: irrevocable).
1.861–9	To treat income from certain aircraft and vessels leased to U.S. persons as income from sources within U.S..	Refund period (revocable within same period).
1.871–10 and 1.882–2	Initial election to treat income from U.S. real property as connected with U.S. business.	Refund period for first year (regulation: revocable within same period without consent).
	Request to revoke after close of refund period for first year or to make new election within 5 years of revocation.	Regulation: 75 days after end of first year for which change is sought.

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Time Limitations Subject to § 1.9100–1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
1.902–1(g)	To determine earnings and profits of CFC under § 1.964–1 rules (by domestic shareholder).	180 days after CFC's year.
1.936–1	To take credit for tax attributable to income from a trade or business in a possession.	Due date (with extension) of return for first year to be covered (Code: revocable during first 10 years only with consent).
1.955A–4	To defer date for determining qualified investment in foreign base company shipping (by U.S. shareholder).	Without consent:—with return for year corresponding to CFC's first year in which conditions satisfied.
	Application for consent to later election or to revocation.	Regulation: before close of first CFC year for which desired.
1.962–2	To be subject to tax at corporate rates on imputed subpart F income (by individual).	With return (Code: revocable with consent).
1.964–1	Adoption of method of accounting, etc., for CFC	180 days after end of CFC year (regulation: certain elections provided under this section are irrevocable).
1.970–2	Method for determining increase or decrease in export trade assets (by U.S. shareholder).	Without consent:—with return for year corresponding to first CFC year in which conditions satisfied.
	Application for consent to later election or to revocation.	Regulation: close of CFC year for which sought.
1.992–2(a)(2)	To be treated as DISC	If corporation's first year, within first 90 days; otherwise, prior to beginning of year to which election applies (Code: revocable after first year).
1.995–5(a)(5)	To take into account certain foreign investment amounts attributable to producer's loans.	With first return of DISC.
1.995–5(g)(2)	To make certain computations as though all DISC's in group used the same tax year.	First return of electing DISC. CFR Part 1)
1.1012–1(e)	To use "average basis" for mutual fund stock	With original (or timely amended) return for first year to which election applies (regulation: revocable with consent).
1.1033(a)–2(c)(2)	Not to recognize gain from involuntary conversion	Refund period.
1.1033(a)–2(c)(3)	To apply for extension for replacing converted property.	Within two-year replacement period
1.1034–1(h)	To have § 1034 apply to certain involuntary conversions of residence.	With return for year in which disposition occurs (regulation: irrevocable).
1.1039–1(b)(4)	Not to recognize gain on rollover of qualified low-income housing project.	Refund period.
1.1039–1(c)(4)	To extend reinvestment period for rollover treatment	Before expiration of reinvestment period.
1.1081–4(g)	Consent to adjust basis of other property after transfer under order from SEC.	With return for year in which transfer occurs.
1.1247–2(b)	To treat distribution made within 2 months, 15 days after close of year as distribution made during such year.	(Regulation: irrevocable after time for filing return.)
1.1247–4(d)	To flow foreign taxes paid by foreign investment company through to shareholders.	Due date for information return (regulation: irrevocable).
1.1375–4(c)	To treat certain distributions as distributions out of accumulated earnings and profits.	With timely return.
1.1402(a)–16	To compute self-employment income from agriculture under optional method.	Any time within period of assessment (regulation: revocation within same period).
1.1502–13(c)(3)	Not to defer gain or loss on intercompany transactions.	Due date (without extension) of consolidated return (regulation: revocation with consent).
1.1502–33(d)	To allocate tax liability	Due date of consolidated return for first year to which election to apply (regulation: irrevocable unless Commissioner authorizes change prior to due date of return for year in which change to be effective).
1.1502–75(c)	To request permission to discontinue filing consolidated returns (by common parent).	90 days before due date (with extension) of consolidated return.
1.1502–76(a)	To request consent for subsidiary to use 52–53 week year.	30 days before due date (without extension) of consolidated return.
1.1563–3(d)	To determine controlled group of which corporation is member.	Due date (with extension) for return (regulation: irrevocable until change in circumstances requires redetermination).
1.6013–6(a)(4)	To treat nonresident alien spouse as resident alien	Refund period (code prescribes rules for termination).
1.6014–2(b)	To have IRS compute tax liability	Due date (without extension) of return.
1.6161–1(c)	Application for extension of time for paying tax	Due date for payment.
5a.612–1	To charge intangible drilling and development costs for geothermal wells to expense.	Refund period (regulation: revocable within same period).
5b.911–6	Not to exclude earned income from sources without U.S.	Refund period (regulation: revocable within same period).
6.3 (Code sec. 6158 and 1103)	To make installment payments of Federal income tax attributable to sale of property (by qualified bank holding corporation).	With return for year of sale.
7.0(b)(1) (Code sec. 167(o))	To compute depreciation deduction attributable to rehabilitated historic property.	Due date (with extension) of return for first year to which election applies (temp. regulation: irrevocable except as provided in final regulation).
7.0(b)(1) (Code sec. 402(e))	To treat pre-1974 participation in pension plan as post-1973 participation.	Due date (with extension) of return for first year to which election applies (temporary regulation: irrevocable except as provided in final regulation).
7.0(b)(2) (Code sec. 185(d))	To amortize pre-1969 railroad grading and tunnel bores.	With timely return for first year to which election applies (temporary regulation: irrevocable except as provided in final regulation).
7.0(b)(2) (Code secs. 1491 and 1057)	To treat transfer to foreign corporation, etc., as taxable exchange.	With timely return for year of transfer (temporary regulation: irrevocable except as provided in final regulation).
7.0(c)(1)(ii) (Code sec. 162)	To treat residence in legislative district as tax home (by state legislators).	Refund period (temporary regulation: irrevocable except as provided in final regulation).
7.0(c)(2) (Code sec. 37(e)(2))	To compute credit for elderly under old rules for retirement income credit.	Refund period (regulation: revocable within same period).
7.0(c)(4) (Code sec. 501(h))	To determine substantiality of lobbying expenditures by certain percentage tests.	Close of first year for which election effective (temporary regulation: irrevocable except as provided in final regulation)
7.0(c)(6) (Code sec. 1033(g)(3))	To treat outdoor advertising displays as replacement property for realty.	With timely return (Code: revocable with consent; temporary regulation: irrevocable except as provided in final regulation).
7.57(d)–1(b)(1)	To use cost depletion in computing straight-line recovery of intangibles.	Due date (with extension) of return for year in which intangible drilling cost paid.
10.2 (Code sec. 463)	To accrue vacation pay	Due date (with extension) of return for first year for which election made.
10.3 (Code sec. 856)	Extension of 2 year grace period w/respect to foreclosure property held by a REIT.	60 days before expiration of 2-year period.
11.402(e)(4)(B)–1	To treat amounts received from an employees' trust as lumpsum distribution.	Refund period (regulation: revocable within same period).

Time Limitations Subject to § 1.9100–1 of the Income Tax Regulations (26 CFR Part 1)—Continued

Regulation section	Brief description of election, application, etc.	Current limitation for electing, applying, etc.
11.412(e)(1)–2(i)(1)	To determine the charges to the funding standard account under the shortfall funding method.	With annual report for first plan year affected, in general (regulation: method may be discontinued only with permission).
11.412(c)–7	To treat plan amendment as made on first day of plan year.	Due date of return (relating to minimum funding standards) for year to which election relates.
11.412(c)–11	To value bonds on an amortized basis (by plan administrator).	With return (Code: revocable with consent).
11.415(c)(4)–1	Election by participant to apply alternative limitation to contributions for annuity.	With return.
12.8(d) (sec. 163(d)(6))	Treatment of net leases for purposes of minimum tax and investment interest limitation.	Due date (with extension) of return for year for which applicable (regulation: revocable within same period).
12.9 (sec. 183(e))	To defer determination with respect to presumption that activity is profit-seeking.	3 years after due date (without extension) of return for first year of activity.

[FR Doc. 80–34354 Filed 11–4–80; 8:45 am]
BILLING CODE 4830–01–M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 216
Wednesday, November 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 14, 1980.

PLACE: 2033 K Street, NW, Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2024-80 Filed 11-3-80; 12:24 pm]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" citation of previous announcement: S-2000-80.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (eastern time), Tuesday, November 4, 1980.

CHANGE IN THE MEETING: The meeting originally scheduled for November 4, 1980 has been cancelled. The next Commission Meeting will be held Wednesday, November 12, 1980 at 9:30 a.m.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued October 31, 1980.

[S-2027-80 Filed 11-3-80; 2:08 pm]

BILLING CODE 6570-06-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Special Open Meeting, on the subjects listed below on Thursday, November 6, 1980 at 9:30 a.m., in Room 865, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

Private Radio—1—*Title:* Report and Order to allocate 50 channels in the 800 MHz frequency band for slow-growth land mobile radio systems of governmental entities in the Public Safety Radio Services. PR Docket 79-191, RM-3380. *Summary:* The FCC is considering amendment of Part 90 of its Rules to set aside 50 radio channels in the 800 MHz private land mobile radio bands for applicants in the Public Safety Radio Services. These frequencies would be available to governmental entities for systems having long-term planning-to-implementation cycles.

Private Radio—2—*Title:* Report and Order to amend Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communication systems on frequencies allocated for trunked systems. *Summary:* The Commission will consider whether to amend its rules generally to permit wide-area mobile radio communication systems to operate on frequencies designated for use by trunked land mobile communications systems.

Private Radio—3—*Title:* Release of Private Land Mobile Channels in the 800 MHz Band. *Summary:* In this proceeding, the Federal Communications Commission will consider proposing the release of 200 land mobile channels in the 800 MHz band currently held in reserve and will consider a structure for regulating licensing and operation on these channels. This structure will allow licensees greater flexibility in using these new channels than is now allowed in using other private land mobile channels. The Commission will also consider inquiring into further modifications of the regulatory structure for these new channels. The purpose of this proceeding is to solicit public comment on the release of these 200 channels and on the structure for regulating these channels.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 30, 1980.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2029-80 Filed 11-3-80; 3:48 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subject listed below following both the Special and Regular Open Meeting scheduled for Thursday, November 6, 1980, in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for Special Relief in the Haverhill, Massachusetts, broadcast (Station WHAV-AM-FM) renewal proceeding (BC Docket No. 79-172).

Hearing—2—Petition for Special relief (distress sale) filed by DeWitt Broadcasting Company, Inc., in the Dewitt, Arkansas radio stations KDEW-AM-FM renewal proceeding (Docket Nos. BC 79-247, BC 79-248).

Hearing—3—Petitions for reconsideration and request for stay in the Tucson, Arizona comparative FM proceeding (Docket Nos. BC 79-56 through 79-60).

Hearing—4—Petitions for stay and reconsideration in the Harold A. Jahnke, Hampton, Iowa, extension of an FM construction permit proceeding (Docket No. 2142C).

Hearing—5—Application for review, filed by Poet's Broadcasting Inc., in the Greenfield, Massachusetts, comparative FM-broadcast station proceeding (Docket Nos. BC 79-54 BC 79-55).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 30, 1980.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2028-80 Filed 11-03-80; 3:47 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 6, 1980, following the Special Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW, Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Review of Initial Decision in the Virginia Beach, Virginia new FM station proceeding (Docket Nos. 19095 and 19096).

General—1—*Title:* Report and Order (General Docket 80-135; RM-3378) in response to petition by Del Norte Technology, Inc. to amend Parts 2 and 90 of the FCC's rules. *Summary:* Del Norte Technology, Inc. has filed a petition requesting deletion of the January 1, 1981, cut-off date in Parts 2 and 90 of the Rules to allow continued usage of the 420-450 MHz band for non-Government radiolocation along the shorelines of Alaska and the contiguous 48 states. The item before the Commission discusses the responses to the NPRM on the subject.

General—2—*Title:* Number of copies of pleadings in non-rulemaking and non-hearing matters before the Commission. *Summary:* The Commission amends Section 1.51(c) of the Rules reducing from 9 to 4 the number of copies of pleadings that must be filed in non-hearing and non-rulemaking matters before the Commission.

General—3—*Title:* In re petition by Lee M. Holmes (RM-3467) for amendment of Parts 2, 22, and 73 of the FCC's Rules and Regulations. *Summary:* Lee M. Holmes has filed a petition with the FCC requesting the reallocation of VHF-TV Channel 5 or 6 for TV broadcasting in the State of Hawaii. The Commission is also considering reallocating the band 98-108 MHz to FM broadcasting in Hawaii. Both bands are presently allocated exclusively to the common carrier fixed service for inter-island use. The item before the Commission discusses the merits of these actions.

Private Radio—1—*Title:* Petition for Review filed by Academy of Model Aeronautics requesting Commission to reverse staff rule interpretation holding that an unlicensed person may not operate Amateur radio station to control model aircraft. *Summary:* The Commission will consider whether to affirm or reverse the staff's interpretation of Amateur rule section 97.79(d).

Private Radio—2—*Title:* Notice of Proposed Rulemaking to delete or amend Part 81 at § 81.312(a)(6) of the Commission's Rules relative to public coast stations answering general calls on Channel 16. *Summary:* Presently, public coast stations may not answer calls which are not addressed to it by call sign; and, because many ship operators don't know or remember particular call signs of all public coast stations, many general calls are not answered. The FCC will consider whether to adopt a Notice of Proposed Rulemaking to delete or amend Part 81 at § 81.312(a)(6) relative to public coast stations answering general calls on Channel 16.

Private Radio—3—*Title:* Use of type F1 emission by amateur radio operators in the 1.8-2.0 MHz band. *Summary:* The Commission will consider whether or not to allow amateur radio operators to transmit type F1 emissions for radioteleprinter communications on the 1.8-2.0 MHz band.

Private Radio—4—*Title:* Report and Order regarding the operation of digital communications systems in the aeronautical enroute service. *Summary:* The FCC will consider whether to adopt a Report and Order amending Rule Sections 87.75, 87.99, 87.115 and 87.139. These sections relate to transmitter control requirements, station log requirements, station identification and operator license requirements. The amendments would facilitate the use of automatic digital communications in the aeronautical enroute service. the enroute service provides air-ground communications for the operational control of aircraft by the aircraft owners or operating companies.

Common Carrier—1—*Title:* Satellite Business Systems' application for authority to launch its first domestic satellite. *Summary:* The Commission will consider SBS' application for authority to launch its first satellite and position it at 106° W.L. in the geostationary orbit.

Common Carrier—2—*Title:* Modification of Depreciation Rates for Domestic Telephone Companies. *Summary:* The Commission has under consideration proposed changes in depreciation rates for eleven domestic telephone companies. The proposed depreciation rates are based upon studies of service life and net salvage factors which were prepared by the companies and the staffs of the respective state commissions and the FCC. This item is a part of the Commission's continuing program to prescribe depreciation rates for subject companies, as provided for in the Communications Act of 1934, as amended.

Common Carrier—3—*Title:* Docket No. 20188—Amendment of Part 31 of the Rules to permit the use of Equal Life Group depreciation. *Summary:* The Commission will consider the staff's recommendations on the Bell System proposal to permit the use of the equal life group procedure in calculating depreciation charges. Other issues to be considered are the use of alternative procedures (including capital recovery schedules), depreciation of station connection investment, and changes to Parts 31, 34 and 35 to bring the depreciation rules into conformity with one another.

Common Carrier—4—*Title:* CC Docket 79-105—Amendment of Part 31 of the Commission's Rules concerning the accounting for Station Connection Costs and other Related Issues. *Summary:* The Commission will consider proposed modifications to Part 31 of its Rules to allow for expensing of station connection costs which are currently capitalized in account 232. The Commission will also consider related issues for two-tier and other optional payment plans as well as for the sale and repair of customer premise equipment and inside wiring. Accounting changes for removal of telephone company provided station equipment and for the replacement of aerial drop wires will also be considered.

Common Carrier—5—*Title:* In re Bell System Procurement Practices, Docket 80-53; In re Bell Operating Company Procurement of Telecommunications Equipment, RM No. 3381. *Summary:* The Commission will consider a Bell proposal submitted in response to its Final Decision in Docket 19129 regarding the procurement practices of the Bell Operating Companies. In addition, the Commission will consider a petition from ITT requesting it to order the Bell Companies to acquire one-third of their telecommunications equipment from General Trade suppliers.

Common Carrier—6—*Title:* License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems. *Summary:* The Commission will consider whether to initiate an inquiry and proposed rulemaking regarding license contracts and other intrasystem arrangements of the major telephone systems.

Common Carrier—7—*Title:* Applications of Communications Satellite Corporation to participate in construction and launch of Intelsat-V satellites, File Nos. 18-CSS-P-76, *et al. Summary:* The Commission will consider whether to grant applications filed by Comstat for authority (1) to participate in construction of nine Intelsat-V satellites, five of which will have maritime communications subsystems, and (2) to participate in the launch of the first Intelsat-V satellite in December 1980.

Common Carrier—8—*Title:* Inquiry into the Policies to be followed in the Authorization of Common Carrier Facilities to meet North Atlantic Telecommunications needs during the 1985-1995 period. *Summary:* Notice of Proposed Rulemaking in the Commission's Inquiry into development of the policies it shall apply in acting upon applications for the construction and use of new cable and satellite facilities in the North Atlantic during the 1985-1995 period.

Renewal—1—*Title:* Updated EEO program with hiring goals submitted by Sandia 76, Incorporated, licensee of Station KXAR, Hope, Arkansas. *Summary:* The Commission considers the updated EEO program including hiring goals for Blacks submitted by the licensee of Station KXAR.

Renewal—2—*Title:* Hiring goals and Timetables submitted by radio Station WHBB, Selma, Alabama. *Summary:* The Commission considers the updated EEO program which includes minority (Black) hiring goals and timetables submitted by radio Station WHBB, Selma, Alabama.

Renewal—3—*Title:* Updated EEO program with hiring goals submitted by Kaye-Smith Enterprises, licensee of Stations WUBE and WUBE-FM, Cincinnati, Ohio. *Summary:* The Commission considers the updated EEO program including hiring goals for Blacks submitted by the licensee of Stations WUBE and WUBE-FM.

Renewal—4—*Title:* Mutually Exclusive Applications of the City of New York for Renewal of License of Station WNYC-TV and True Witness Ministries for a Construction Permit for a New Television Station. *Summary:* The Commission considers the mutually exclusive applications of the City of New York for the renewal of WNYC-TV's license and True Witness Ministries for permission to construct a new television station.

Renewal—5—*Title:* Petition of the Mississippi Authority for Educational

Television for Partial Reconsideration of the Commission's July 24, 1980 Order granting license renewals. *Subject:* The Commission reviews a petition for partial reconsideration filed by the Mississippi Authority for Educational Television in which it challenges the requirement that it submit employment data with its next renewal applications.

Renewal—6—*Title:* License renewal application of American Broadcasting Companies, Inc. for Station KGO–TV, San Francisco, California. *Summary:* Community Coalition for Media Change filed a petition to deny the license renewal application for Station KGO–TV. The petition to deny charges that licensee's programming was deficient in several respects and that licensee did not comply with the Commission's EEO rules. The Commission considers petitioner's allegations.

Aural—1—*Subject:* Memorandum Opinion and Order in re the following applications for new AM stations: Alan K. Levin (BP–20, 581) and Dillon Broadcasting Co. (BP–780728A0), Dillon, Colorado; Summit Radio, Inc. (BP–780728AN), Dillon-Frisco-Silverthorne, Colorado; Eagle Radio, Inc. (BP–20,626) and Mountain Wireless Limited (BP–20,882), Vail, Colorado; Grand Radio, Inc. (BP–21,129), Fraser, Colorado; and Jefferson Wireless Co. (BP–781205AH), Golden, Colorado; and a perition to dismiss the Summit Radio, Inc. application, filed by Mr. Levin. *Summary:* The FCC considers the petition's allegation that the Summit Radio application violates the Commission's ownership rules, and designates the mutually exclusive applications for hearing.

Aural—2—*Subject:* A proposal by Hernstadt Broadcasting Corporation, licensee of AM station WKAT, Miami Beach Florida, to relocate its transmitter site and increase the height of its antenna. *Summary:* The Commission considers the WKAT proposal to increase facilities since it involves interference caused to and received from a Cuban station that operates in violation of the North American Regional Broadcasting Agreement (NARBA).

Broadcast—1—*Title:* Clarification of Commission policy regarding installation and use of Composite Baseband Clippers at FM stations. *Subject:* The Commission will consider a response to a request from Metromedia, Inc. for clarification of policy on the use of composite baseband clippers by FM broadcast stations. Some FM stations use these devices within the transmitter or make other transmitter modification to increase the loudness of the program at listener's receivers above the loudness of the program signal of stations not using clippers.

Broadcast—2—*Title:* Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations, Medford and Grants Pass, Oregon. *Summary:* The Commission will consider Oregon Broadcasting Company's application for review of the Broadcast Bureau's denial of two petitions for reconsideration of the assignment of VHF Channel 12 to Medford, Oregon.

Broadcast—3—*Title:* Further Notice of Inquiry in Preparation for the Region 2 Administrative Conference for AM Broadcasting (BC Docket No. 79—166). *Subject:* The Commission will consider a Report adopted the First Session of the Region 2 Administration Conference and matters necessary for preparation for the Second Session of that Conference.

Broadcast—4—*Title:* Petition to reassign VHF–TV Channel 9 from New York City to a northern New Jersey community. *Subject:* The Commission will consider a petition from Senators Bradley and Williams of New Jersey to reassign VHF–TV Channel 9 from New York to a northern New Jersey community. Channel 9 is currently subject to an outstanding license (Station WOR–TV, RKO General, Inc.) which has not been renewed (appeal pending) and an application for a new station from Multi-State Communications.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: October 30, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S–2030–80 Filed 11–3–80; 3:49 pm]

BILLING CODE 6712–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:40 a.m. on Thursday, October 30, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in Room 6023 on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C., to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), required its consideration on less than seven days' notice to the public.

The Board met in open session to consider a Uniform Commercial Bank Performance Report.

The Board then met in closed session to consider a recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York; The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee; American Bank & Trust Company, New York, New York; and Farmers Bank of the State of Delaware, Dover, Delaware (Case No. 44,521–l). In considering the matter in a closed session, the Board determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation and that the matter could be considered in a closed meeting pursuant to subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

The Board further determined, by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: October 30, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2022–80 Filed 10–31–80; 4:39 pm]

BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:55 a.m. on Friday, October 31, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a recommendation regarding the liquidation of assets acquired by the Corporation from American Bank & Trust Company, New York, New York (Case No. 44,546–SR).

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(B)).

Dated: October 31, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2023–80 Filed 10–31–80; 4:39 pm]

BILLING CODE 6714–01–M

8

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., November 7, 1980.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agency's participation in a civil action and the initiation of formal agency adjudication.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[S–2032–80 Filed 11–3–80; 4:10 pm]

BILLING CODE 6450–83–M

9

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 31, 1980.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) The agency's participation in a civil action.
(2) The agency's disposition of formal agency adjudication.
(3) The agency's participation in a civil action.
(4) The agency's participation in a civil action and the initiation of formal agency adjudication.
(5) An investigation and agency participation in a civil action.
(6) The investigation of a jurisdictional company.
(7) The agency's participation in a civil action.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[S–2031 Filed 11–3–80; 3:50 pm]

BILLING CODE 6450–85–M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 70624, October 24, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., October 29, 1980.

CHANGE IN THE MEETING: Addition of the following item to the open session:

8. Informal Docket No. 716(I)—Warner Lamber Company v. Flota Mercante Grancolombiana S.A.—Review of decision of the Settlement Officer.

[S–2021–80 Filed 10–31–80; 4:33 pm]

BILLING CODE 6730–01–M

11

NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 3, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Monday, November 3:

2:30 p.m.

Briefing by Executive Branch (Closed—Exemption 1).

Tuesday, November 4:

2 p.m.

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2 and 6) (as announced).

Thursday, November 6:

10 a.m.

Affirmation Session (public meeting).
a. EDO Delegation of Authority.
b. Advanced Notice of Proposed Rulemaking Concerning Design and Other Changes after CI Issuance.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

[S–2025–80 Filed 11–3–80; 2:03 pm]

BILLING CODE 7590–01–M

12

NUCLEAR REGULATORY COMMISSION.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

DATE: October 30 (changes).

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, October 30:

10 a.m.

Affirmation Session (Additional) (approximately 5 minutes, public meeting).
Relief from Pat Down Searches at Power Reactors.

3 p.m.

Briefing on Criteria for Emergency Offsite Facilities (continuation of October 28 Briefing on Clarification of TMI Action Plan Requirements) (additional item) (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION: By a vote of 3–0 on October 30, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the additional Affirmation Session, held that day, be held on less than one week's notice to the Public.

On October 21, the Discussion on Fire Protection Program was continued from October 16, 1980.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

[S–2026–80 Filed 11–3–80; 2:04 pm]

BILLING CODE 7590–01–M

V. 45/216 NOV 5 1980 UMI

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federal register

Wednesday
November 5, 1980

Part II

Environmental Protection Agency

Strychnine; Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products; Notice of Availability of Position Document

V 45 / 216 NOV 5 1980 UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/7B; (PH-FRC 1655-7]

Strychnine; Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products; Notice of Availability of Position Document 2/3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preliminary notice of determination; availability of position.

SUMMARY: The Agency proposes to initiate actions to cancel registrations or deny applications for the following uses: the control of prairie dogs, deer mice, meadow mice, chipmunks and marmots/woodchucks on rangeland, pasture and cropland and the control of all rodents and lagomorphs on nonagricultural sites, with the exception of ground squirrels on ditch banks, levess, earthen dams and canals and porcupines in forests. The Agency also proposes to cancel registrations or deny applications unless the terms and conditions of registration are modified for the following uses: ground squirrels, jackrabbits, kangaroo rats, and cotton rats on rangeland, pasture, and cropland; ground squirrels on ditch banks, levees, earthen dams, and canals and porcupines in forests; birds on cropland; and pigeons and house sparrows on nonagricultural sites.

DATE: Written comments must be received on or before December 5, 1980.

ADDRESS: Comments should be sent to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Rm. E–447, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Three copies of comments should be sent to the Document Control Office at the EPA Headquarters address given above. The comments should bear the identifying notation OPP–30000/7B.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, Section Head, Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Rm. 711, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, 703–557–7400.

SUPPLEMENTARY INFORMATION: The Preliminary Notice of Determination and the strychnine Position Document set forth in detail the reasons for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, copies of this Preliminary Notice of Determination and the Position Document are being transmitted to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected registrants and applicants for registration. Other interested persons may receive a copy of the Position Document by contacting Timothy A. Gardner, Section Head, at the address given.

I. Introduction

On December 1, 1976, the Environmental Protection Agency (EPA) issued a notice of rebuttable presumption against registration and continued registration (RPAR) of the outdoor, above ground use of pesticide products containing strychnine, thereby initiating the Agency's public review of the risks and benefits of strychnine. The rebuttable presumption was issued on the basis of (1) acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms, and (3) fatalities to members of endangered species. After Reviewing all available information, the Agency has determined that the presumptions for acute toxicity to mammals and birds, significant reduction in populations of nontarget organisms, and fatilities to members of endangered species has not been rebutted.

This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5). This determination is preliminary at this point pending external review through submission to, and review by, the United States Department of Agriculture and the Scientific Advisory Panel. pursuant to sections 6(b) and 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. The action does not become final until the Agency has reviewed the comments of these reviewers and issued a final notice. Registrants and other interested persons have the period to submit comments that the statute provides for comments from the Secretary of Agriculture and the Science Advisory Panel.

In broad summary, the Agency has determined that the uses of strychnine meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species.

The risks that strychnine poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the United States Department of Agriculture and has analyzed the economic, social, and environmental benefits of the uses of strychnine. The Agency has weighed risks and benefits together, in order to determine whether the risks of each strychnine use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of certain outdoor, above ground uses of strychnine are greater than the social, economic, and environmental benefits of these uses, and that risk reduction measures cannot reduce the risk to an acceptable level. Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for the use of strychnine to control prairie dogs, deer mice, meadow mice, chipmunks, and marmots/woodchucks on rangeland, pasture and cropland, and for the use of strychnine to control all rodents and lagomorphs on nonagricultural sites with the exception of ground squirrels on ditch banks, levees, earthen dams and canals and porcupines in forests.

The Agency has determined that the cancellation of these uses of strychnine will not have a significant impact on the production and prices of agricultural commodities, retail food prices and otherwise on the agricultural economy. For the remaining uses, namely ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams, and canals, porcupines in forests, and birds on crops and non-agricultural sites, the Agency has determined that the risks of strychnine uses are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration. Accordingly, the Agency is proposing to initiate action to cancel or deny registration for the control of ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, and canals, porcupines in forests, and birds on crops and nonagricultural sites unless the terms and conditions of registration are modified.

These modifications include standardization of bait concentrations and baiting procedures, and the prohibition of use where the continued existence of endangered species may be jeopardized. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These modifications in the terms and conditions of registration for the above uses will not have a significant impact on the agricultural economy.

The remainder of this notice and the accompanying Position Document set forth in detail the Agency analysis of comments submitted during the rebuttal phase of the strychnine RPAR, and the Agency's reasons and factual basis for the regulatory actions it is initiating. The Notice is organized into four units: I. Introduction, II. Legal Bankground. which sets forth a general discussion of the regulatory framework within which this action is taken, III. Determination and Initiation of Regulatory Action, which sets forth the Agency's determinations concluding the strychnine RPAR and initiating the regulatory actions which flow from these determinations (III. and the Position Document set forth the basis for these determinations), and IV. Procedural Matters, provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intend function without causing "unreasonable adverse effects on the environment" under section 3(c)(5). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" under section 2(bb) of FIFRA. In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognizd practices. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations.

The Agency generally announces that an RPAR has arisen by issuing a notice to be published in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA section 6(b)(1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA section 3(d).

FIFRA requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy under section 6(b). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture under section 25(d).

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the basis for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the **Federal Register** or by other means. Registrants and other interested persons will be allowed the same 30 day period of time to comment that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completing these external review procedures and making any changes in the proposed action which are deemed appropriate as a result of the comments received, the Agency will proceed to implement the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and by the Agency's rules.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of strychnine including information submitted by registrants and other interested persons in rebuttal

to the strychnine RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of strychnine subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Departments of Agriculture and Interior.

The Agency's assessment of the risks and benefits of the uses of strychnine subject to this RPAR, its conclusions and determinations whether any uses of strychnine pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the position document. This position document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to strychnine are as follows:

A. *Determination of risk.* The strychnine RPAR was based on information indicating that strychnine posed the following risks to wildlife: (1) acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms, and (3) fatalities to members of endangered species. As developed fully in the position document (PD 3/3), the Agency has determined that the information submitted to rebut the risk critieria was insufficient to overcome the presumption against strychnine for these effects.

In addition to the studies discussed in the position document accompanying the RPAR notice, the Agency reviewed other information regarding the toxicity of strychnine. In particular, an extensive review was made of the potential exposure of endangered species to strychnine bait. The United States Department of the Interior, Fish and Wildlife Service (FWS), in response to a consultation request by EPA, evaluated the endangered species most likely to be exposed to strychnine according to use information provided by EPA, and rendered their opinion as to which species were likely to be jeopardized by the use of strychnine. The report by FWS, together with other studies reviewed on possible risks to endangered species, formed the basis for the decision to prohibit use in the area of certain endangered species.

Toxicity data, both from laboratory and field studies, on the registered alternatives to strychnine, were evaluated and compared with toxicity data for strychnine to determine the relative risks of the rodenticides.

Based on the review of the risk information, the Agency determined that the risks of strychnine use were of sufficient magnitude to require the Agency to determine whether offsetting social, environmental, or economic benefits result from the use of strychnine.

B. *Determination on benefits.* The Agency faced severe data limitations in this analysis and had to use considerable judgement in evaluating the potential economic consequences of cancelling the outdoor, above-ground uses of strychnine. The analysis often provided qualitative estimates of discussions of impacts due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although estimates in the position document are reported as point estimates, they represent rough predictions of strychnine bait distribution and economic impact. The Agency used reasonable assumptions in its estimates to reflect the general economic consequences of cancelling strychnine usage.

In general, the economic impacts of cancelling the outdoor, above-ground uses of strychnine would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in western states. Regional or local impacts to users were indicated where no registered alternatives exist or where registered alternatives are more costly, impractical, or ineffective.

The uses of strychnine which are subject to this RPAR were grouped into five categories: (1) rodents and lagomorphs on rangelands and pasture, (2) rodents and lagomorphs on croplands, (3) rodents and lagomorphs on non-agricultural sites, (4) birds on croplands, and (5) birds on non-agricultural sites.

(1) *Rodents and lagomorphs on rangelands and pasture.* Strychnine is federally registered for use in the control of such rangeland mammals as ground squirrels, prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, and jackrabbits. Federally registered alternatives for ground squirrels include gas cartridges, carbon disulfide, paradichlorobenzene and carbon tetrachloride. Anticoagulants, methyl bromide, zinc phosphide and compound 1080 (currently under RPAR review) are registered in some states for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. For the control of jackrabbits, the repellent Thiram is federally registered, and anticoagulants are state registered in California.

Based on 1977–1978 estimates, the use of strychnine bait to control rodents and lagomorphs on rangeland accounts for approximately 46 percent of the annual use of strychnine.

Cancellation of strychnine for the control of rodents and lagomorphs on rangeland could increase the costs for ground squirrel control by $900,000 to $1.5 million annually, depending on the alternative used and the continued registration of compound 1080. The cost of prairie dog control could decrease by $24,000 annually due to the availability of zinc phosphide. No estimates are available for other rodents and lagomorphs as these account for less than 1 percent of the total strychnine use.

(2) *Rodents and lagomorphs on cropland.* Strychnine is federally registered for the same pests on cropland as on rangeland and pasture. Registered alternatives for this category are the same as those for rangeland use with the exception of zinc phosphide, which is not registered for cropland use. Based on 1977–1978 estimates, the use of strychnine to control rodents and lagomorphs on cropland accounts for approximately 42 percent of the annual use of strychnine, with the 91 percent majority used for the control of ground squirrels.

Cancellation of strychnine for the control of ground squirrels on cropland could result in an increase in annual control costs of $1.4 million to $1.6 million, depending on the alternative used and the continued registration of compound 1080. Cancellation for prairie dog control could result in an increase in annual control costs of $206,300 to $270,900. No estimates are available for other rodents and lagomorphs on cropland, since this accounts for approximately 2 percent of the bait used.

(3) *Rodents and lagomorphs on nonagricultural sites.* Strychnine is federally registered for the control of ground squirrels, prairie dogs, cotton rats, kangaroo rats, deer mice, meadow mice, jackrabbits, chipmunks, marmots/woodchucks, house mice, porcupines, and rabbits on nonagricultural sites. For this analysis, nonagricultural sites are defined as areas which are not involved in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for mice include compound 1080, zinc phosphide, anticoagulants, gas cartridges, and carbon disulfide. Zinc phosphide is federally registered for control of prairie dogs, cotton rats and kangaroo rats. For ground squirrel control, gas cartridges and carbon disulfide are federally registered. Compound 1080, zinc phosphide, anticoagulants, and methyl bromide are registered in some states for ground squirrel control.

The use of strychnine for this category accounts for less than 3 percent of the annual strychnine use, based on 1977–1978 estimates. Thus, very little data are available to estimate benefits. Cancellation of strychnine, assuming alternatives are not used, would result in an increase in embankment failures. Each incidence can cost in excess of $10,000 to repair. Also, although the benefits of controlling porcupines in forest areas cannot be estimated, strychnine is the only registered rodenticide available.

(4) *Birds on cropland.* Strychnine is not federally registered for the control of birds on cropland, although it is registered in California for a variety of birds and in Nevada and Wyoming for magpie control. The analysis of benefits for this use category is limited to California since sufficient data were not available for the other two states. Based on 1977–1978 estimates, the use of strychnine to control birds on California cropland accounted for less than 4 percent of the annual use of strychnine.

No alternative toxicants are federally registered for bird control in cropland. If strychnine were cancelled for this use, repellents, mechanical and electronic devices, trapping, shooting, and habitat manipulation would most likely be used. Estimated losses on croplands in California resulting from the cancellation of strychnine, assuming no alternatives are used, could reach $1.5 million annually. Compared with the total California crop production of $5.5 to $6.0 billion annually, the U.S. supply of California crops would be largely unaffected by the cancellation of strychnine, although individual producers may be seriously affected.

(5) *Birds on nonagricultural sites.* Strychnine is federally registered for outdoor use in the control of pigeons and house sparrows on structures, vacant lots, and roosting places. This use accounts for approximately 6 percent of the annual strychnine use, based on 1977–1978 estimates, with over 98 percent used to control pigeons.

A variety of alternatives are federally registered, including repellents, frightening agents, and a chemosterilant. In addition, a number of mechanical devices are available. The major impact resulting from the cancellation of strychnine for outdoor control of pigeons and house sparrows would be the elimination of a quick-acting tool when public health is an issue.

In the aggregate, no significant consumer impacts would be expected from cancellation since alternatives are available.

C. *Determination of unreasonable adverse effects.* For the reasons set forth in detail in the accompanying position document, the Agency has made the following unreasonable adverse effect determinations with respect to the outdoor, above-ground uses of strychnine:

(1) The Agency has determined that the risks arising from the use of strychnine are greater than the social, economic, and environmental benefits when used to control prairie dogs, deer mice, meadow mice, chipmunks, and marmots/woodchucks as rangeland, pasture, cropland, and to control prairie dogs, jackrabbits, chipmunks, marmots/woodchucks, kangaroo rats, cotton rats, deer mice, meadow mice, mountain beavers, opossums, and rabbits on nonagricultural sites, and that risk reduction measures cannot reduce the risks to an acceptable level for these uses. Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for all the above enumerated uses.

The Agency has determined that the cancellation or denial of registration of these uses of strychnine will not have a significant impact on the production and prices of agricultural economy.

(2) The Agency has further determined that the risks arising from the use of strychnine are greater than the social, economic, and environmental benefits when used to control ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams, and canals, porcupines in forests, and birds on crops, structures, vacant lots, and roosting places, unless risk reductions are accomplished by modifications in the terms and conditions of registration.

Accordingly, the Agency is proposing to initiate action to cancel or deny registrations for all the above enumerated uses unless the terms and conditions of registration are modified. These conditions include a prohibition of use where the continued existence of endangered species may be jeopardized, standardization of bait concentration, and standardization of baiting and post-baiting procedures.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits on the uses. These stricter label requirements will not have a significant impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy. The Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of strychnine to control ground squirrels, cotton rats, kangaroo rats, and jackrabbits on rangeland, pasture, and cropland, ground squirrels on ditch banks, levees, earthen dams and canals, porcupines in forests and birds on crops, structures, vacant lots, and roosting places will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of strychnine pesticide products will not comply with the provisions of FIFRA.

D. *Initiation of regulatory actions.* Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is proposing to initiate the following regulatory actions:

(1) Cancellation and denial of registrations of strychnine products for use in controlling prairie dogs, deer mice, meadow mice, chipmunks and marmots/woodchucks on rangeland, pasture, and cropland.

(2) Cancellation and denial of registrations of strychnine products for use in controlling prairie dogs, deer mice, meadow mice, chipmunks, marmots/woodchucks, jackrabbits, kangaroo rats, cotton rats, mountain beavers, opossums, and rabbits on nonagricultural sites.

(3) Cancellation and denial of registrations for strychnine products for use in controlling ground squirrels on rangeland, pasture, cropland, ditch banks, levees, earthen dams and canals unless the registrants or applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to

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the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control ground squirrels on rangeland, pasture, cropland, ditch banks, levees, earthen dams and canals:

Active Ingredient: Strychnine (expressed as alkaloid). 0.20%
Inactive Ingredient. 99.80%
Use one level tablespoon per burrow.
Do not expose bait where pets, poultry, or livestock are present.
Do not place bait in piles.
Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties:

State	Counties
Utah	Garfield, Iron, Kane, Piute, Sevier, Wayne.
California	Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Ventura.

Do not use in the following counties during the months of October through March:

State	Counties
California	Butte, Colusa, Del Norte, Glen, Humboldt, Mendocino, Solano, Sutter, Yolo, Yuba.

Do not use in known gray wolf or grizzly bear areas.

Do not use within one mile of a prairie dog town or an active prairie dog burrow.

(4) Cancellation and denial of registration for strychnine products for use in controlling kangaroo rats on rangeland, pasture, and cropland unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact of federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control kangaroo rats on rangeland, pasture, and cropland:

Active Ingredient. Strychnine (expressed as alkaloid). 0.16%
Inactive Ingredient. 99.84%
Use 3 to 4 tablespoons for hand application or ½ to ¾ pound per swath-acre for mechanical application.
Do not expose bait where pets, poultry or livestock are present.
Do not place bait in piles.
Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties:

State	Counties
Utah	Garfield, Iron, Kane, Piute Sevier, Wayne.

(5) Cancellation and denial of registration for strychnine products for use in controlling cotton rats on rangeland, pasture, and cropland unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control cotton rats on rangeland, pasture, and cropland:

Active Ingredient: Strychnine (expressed as alkaloid). 0.16%
Inactive Ingredient. 99.84%
Use 3 to 4 tablespoons for hand application or ½ to ¾ pound per swath-acre for mechanical application.
Do not expose bait where pets, poultry or livestock are present.
Do not place bait in piles.
Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties or parishes:

State	Counties
Utah	Garfield, Iron, Kane, Piute, Sevier, Wayne.
California	Alameda, Contra Costa, Fresno, Kern, Kings, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare.
Arizonza	Pima, Santa Cruz.
Texas	Aransas, Austin, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fort Bend, Galveston, Goliad, Harris, Jackson, Jefferson, Lavaca, Matagorda, Orange, Refugio, Victoria, Waller, Wharton.
Louisiana	Cameron, Calcasieu.

(6) Cancellation and denial of registration for strychnine products for use in controlling jackrabbits on rageland, pasture, and cropland, unless the registrants and applicants for registration modify the labeling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use ony to control jackrabbits on rangeland, pasture and cropland.

Active Ingredient (Grain Bait): Strychnine (expressed as alkaloid). 0.10%
Inactive Ingredient. 99.90%
Use the equivalent of 4 to 5 alfalfa shoots.
Do not expose bait where pets, poultry, or livestock are present.
Do not place bait in piles.
Bait dyed in accordance with recommendations of the U.S. Fish and Wildlife Service.

For the protection of endangered species, do not use in the following counties or parishes:

State	Counties
Utah	Garfield, Iron, Kane, Piute, Sevier, Wayne.
California	Alameda, Contra Costa, Fresno, Kern, Kings, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare.
Arizonza	Pima, Santa Cruz.
Texas	Aransas, Austin, Brazoria, Calhoun, Chambers, Oranges, Jefferson.
Louisiana	Cameron, Calcasieu.
Florida	Brevard, Collier, Dade, Monroe.
Mississippi	Jackson.

(7) Cancellation and denial of registration for strychnine products for use in controlling porcupines in forests, reforestation areas, and tree plantations, unless the registrants and applicants for registration modify the labeling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office for specific information on endangered species.

For the protection of endangered species, do not use in known gray wolf or grizzly bear areas.

(8) Cancellation and denial of registration for strychnine products for use in controlling blackbirds, cowbirds, horned larks, starlings, linnets, white-crowned sparrows, golden-crowned sparrows, magpies, meadowlark, crows, and bluejays on cropland, unless the registrants and applicants for registration modify the labeling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

For use only to control blackbirds, cowbirds, horned larks, starlings, linnets, white-crowned sparrows, golden-crowned sparrows, magpies, meadowlark, crows, and bluejays on cropland.

Active Ingredient: Strychnine (expressed as alkaloid). 0.20%
Inactive Ingredient. 99.80%
For control of birds in orchards and vineyards:
i. bait must be placed in troughs no less than 3 inches deep (v-shaped with ends blocked to avoid spillage).
ii. troughs must be made removable so that they can be cleaned out after each change of bait.
iii. troughs must be at least 4 feet from ground level.
iv. placement of troughs must be made near the edge of the affected field near the areas where the birds perch and rest, not directly under these perching places. Placement of troughs inside the fields must be avoided.
v. expose poisoned bait sparingly—1 inch deep in each trough.
vi. pick up all remaining bait at end of day; burn any bait spillage.
vii. pick up and burn or bury all dead birds at the end of each day.
For control of horned larks on crops:
i. expose bait sparsely in a depression between bedded crops.
ii. pick up all remaining bait at end of each day; burn any bait spillage.
iii. pick up and burn or bury all dead birds at the end of each day.

(9) Cancellation and denial of registration for strychnine products for use in controlling pigeons on structures, vacant lots, and roosting places, unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

Active Ingredient: Strychnine (expressed as alkaloid). 0.60%
Inactive Ingredient. 99.40%
Pick up and burn all uneaten bait at the end of each day.
Pick up and burn or bury all dead birds daily.

For the protection of endangered species, do not use in the following areas:

States and regions	Restrictions
Puerto Rico	Entire island.
Eastern United States	Within five miles of peregrine falcon aeries.
Rocky Mountain Region	Do not use from November through March.
California, Oregon, Washington.	Within five miles of critical habitats.
48 contiguous states	Do not use during the months from mid-September through October, and mid-March through April.

(10) Cancellation and denial of registration for strychnine products for use in controlling house sparrows on structures, vacant lots, and roosting places, unless the registrants and applicants for registration modify the labelling of strychnine products to include the following:

This product must not be used in areas where adverse impact on federally designated endangered or threatened species is likely. Prior to making applications of this product, the user must determine that such species are not located in or immediately adjacent to the area to be treated. Consult your Regional U.S. Fish and Wildlife Service Office (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species.

Active Ingredient: Strychnine (expressed as alkaloid). 0.25%.
Inactive ingredient: 99.75%.
Pick up and burn all uneaten bait at the end of each day.
Where uneaten bait is not easily retrievable, place bait in trays or V-shaped troughs.
Pick up and burn or bury all dead birds daily.

IV. Procedural Matters

This Preliminary Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, and other interested parties of the Agency's preliminary determinations relating to the risks and benefits of the uses of strychnine and provides these entities and individuals with the opportunity to comment on these determinations.

As discussed in II. of this Notice, the Agency's decision to initiate the regulatory action described in III. must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The EPA Position Document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency proposes and this Notice of Determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comments. The Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the position document available upon request. Interested persons may receive copies of the documents by communicating their request to:

Timothy A. Gardner, Section Head, Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Rm. 711, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, 703–557–7400.

Registrants and other interested persons have the same period of 30 days to submit comments that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

All comments on the proposed actions should be sent to: Document Control Office, Management Support Division

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(TS-793), Rm. E-447, 401 M Street SW., Washington, D.C. 20460.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/7B and should be submitted on or before November 5, 1980. All comments are available for public inspection in the Document Control Office, address above, from 8:00 AM to 4:00 PM, Monday through Friday, except legal holidays.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory action resulting from the conclusion of this RPAR.

Dated: October 20, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-34431 Filed 11-4-80; 8:45 am]

BILLING CODE 6560-32-M

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federal register

Wednesday
November 5, 1980

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Community Development Block Grants; Clarifications and Changes to Urban Development Action Grant Rules

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-792]

Community Development Block Grants; Clarifications and Changes to Urban Development Action Grant Rules

AGENCY: Office of Urban Development Action Grants, HUD.

ACTION: Final rule.

SUMMARY: This rule revises the requirements governing urban development action grants. The publication of this final rule is intended to clarify policies and procedures used in the action grant program in order to better inform potential applicants of program requirements.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4–(202/755–7362), Stanley Newman, Region 2–(202–755–6193), Harvey Zeiger, Regions 3 and 10–(202–755–0268), William Hammer, Region 5–(Illinois, Indiana, and Minnesota–(202–755–6035), and Senior Development Officer (Michigan, Ohio, and Wisconsin–202/755–6284), Charles Kendrick, Regions 6 and 8–(202/755–5620), Wally May, Regions 7 and 9–(202/755–8227) (These are not toll free numbers). Address: Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1980, the Department published in the **Federal Register** (45 FR 31262) proposed rules governing the Urban Development Action Grant program.

Interested parties were given until July 11, 1980 to comment. All comments with respect to the proposed rule were given careful consideration. As a result of 24 responses filed, the following changes are being made:

Section 570.450 Purpose.

Three respondents to the regulation suggested that HUD amend this section to incorporate objectives in addition to those of strengthening the employment, economic, and tax base of distressed communities. Specifically, they suggested that we include language to encourage the growth and formation of small businesses and historic preservation and that we define deteriorating housing as housing constructed prior to 1940. We believe, however, that the language of the purpose section clearly delimits the objectives of the legislation implementing urban development action grants and that further additions weaken the expressed intent of the law.

Section 570.451 Definitions.

The section of definitions has been expanded to include an appropriate reference to a Pocket of Poverty community as an eligible community. Several changes have been made in the text to specify technical needs which were not clearly stated in the proposed rules. In addition, we have revised the hypothetical example for the calculation of the firm private commitment to exclude working capital. We have also included a more workable definition of activities and excluded all references to action grant funded and non-action grant funded activities in conformance with the grant agreement.

Section 570.452 Distressed communities.

One commentor suggested that a non-distressed community located between 2 distressed communities be allowed to apply for Action Grants. We refer that reader to § 570.455 for information on how a project may be located outside the applicant jurisdiction's boundaries. Lastly, the writer suggested that in addition to allowing a waiver on the closely settled test, we follow suit on the population density factor. HUD points out that the closely settled waiver was legislatively mandated by the 1979 Amendments to the Housing and Community Development Act of 1977.

A number of readers suggested that we change the eligibility criteria. However, we believe that the present criteria adequately carry out the intent of the legislation.

Section 570.453 Eligible applicants.

We have now added appropriate references to Pockets of Poverty communities in order to consolidate the regulations. A couple of respondents urged HUD to consider the applicant's record on equal opportunity for women in determining program eligibility. However, as we explained in the proposed rules, the statute requires that HUD specifically examine the applicant's provision of equal opportunity for minorities.

Section 570.454 Other actions which must be taken prior to submission of a full application.

Several persons suggested that citizens should actually be involved in the development of the written citizen participation plan which details the procedures for citizen participation. A couple of other comments expressed the view that negative statements from neighborhood groups must be written and responded to by the local government. While we encourage citizen participation at all points in the Action Grant program, we believe that this is a local government responsibility and that it should, therefore, make the determination about the written citizen participation plan and any requirements it may impose on local citizen groups.

As a result of one comment, the regulations now state that applicants requesting joint federal assistance must be aware that environmental requirements may differ by agency. HUD encourages those applicants to include such other agencies when distributing their notice of assessment.

Section 570.457 Relocation and land acquisition.

A couple of respondents commented that application of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 should not be mandatory. The law, however, is very clear in making it applicable in instances where a State agency acquires real property for a project assisted under this subpart and displacement results from such acquisition.

Several persons thought that the application of the Uniform Act guidelines to all parts of an action grant project where the law did not mandate its application was either too broad or that those parts of the project which were not using action grant funds should be excluded. It is our policy that any activity for which a "but for" statement has been made should be considered an action directly contingent upon the receipt of public, and in this case, federal funds. For this reason, HUD adopted the policy to apply to all aspects of an action grant project—whether or not an activity directly receives federal assistance.

Some of the changes made to the rule were to conform the language to that of the 312 regulations.

On the issuance of notice to residential tenants, two comments indicated displeasure with the time frame. With HUD approval, the issuance of notice may be made later than the 30 days after the preliminary approval announcement.

We received only 5 comments on the specific issue of provision of relocation benefits for nonresidential tenants even though we specifically solicited them. Generally, the comments supported the provision but stressed that the coverage was too broad or not explicit enough. As a result of HUD's concern for equity in dealing with nonresidential tenants, we have changed the rule to allow for the provision of a notice of displacement to nonresidential tenants when the applicant in its sole discretion believes that it would be equitable to do so.

Section 570.458 Full applications.

A number of technical changes have been made to the requirements for full applications as a result of public comments. The requirements for historic preservation are more clearly spelled out both in the application requirements and the certifications. A couple of comments suggested that HUD not place the responsibility of the National Environmental Policy Act directly on the applicant; however, we refer those readers to Section 104(h) of the Housing and Community Development Act. In addition, we have added some provisions relating to discrimination on the basis of age or handicap and added a clause for compliance with Executive Order 12138.

Section 570.459 Criteria for selection.

A few respondents thought that the minimum leverage ratio of 2.5 to 1.0 was arbitrary. The historical operation of the action grant program, however, demonstrates that the ratio is not arbitrary and in fact, given the competitive nature of the program, is the minimum for funded projects with the average ratio actually being close to 6:1. A couple of comments suggested that retained jobs should be given equivalent consideration to net new permanent jobs. Although we consider retained jobs in selecting projects for funding, the intent of the program is the creation of new investment and new job generating activities. For this reason, we give more weight to the creation of net new permanent jobs.

Section 570.460 HUD review and action on applications.

As a result of public comment, we have now added language stating that public announcements of preliminary funding approvals will be made shortly after the decision date.

Section 570.462 Incurring costs for project activities after preliminary approval.

A new section has been added to cover procedures for incurring action grant funded costs and to give further guidance to communities prior to receiving preliminary funding approval. For this reason, § 570.462 Project Amendments and Revisions is now numbered § 570.463.

Other Changes

A number of other minor technical changes are included throughout the revision of this rule.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The changes embodied in the regulation have been evaluated and have been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the findings are available for inspection and copying in the Office of the Rules Docket Clerk at the above address. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee of Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

Accordingly, 24 CFR Part 570 is amended as follows:

1. Subpart G to Part 570 is revised to read as follows:

Subpart G—Urban Development Action Grants

570.450 Purpose.
570.451 Definitions.
570.452 Distressed communities.
570.453 Eligible applicants.
570.454 Other actions which must be taken prior to submission of a full application.
570.455 Eligible activities.
570.456 Ineligible activities and limitations on eligible activities.
570.457 Relocation and land acquistion.
570.458 Full applications.
570.459 Criteria for selection.
570.460 HUD review and action on applications.
570.461 Post preliminary approval requirements.
570.462 Incurring costs for project activities after preliminary approval.
570.463 Project amendments and revisions.
570.464 Applicability of rules and regulations.

Authority: Title I, Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq.; Title I, Housing and Community Development Act of 1977, Pub. L. 95–128; Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart G—Urban Development Action Grants

§ 570.450 Purpose.

(a) The purpose of urban development action grants is to assist distressed cities and urban counties which require increased public and private investment in order to strengthen their economic, employment, and tax base. The program is intended to help revitalize cities and urban counties experiencing a combination of the following characteristics: loss of population and jobs, stagnating or declining tax bases, high percentages of poverty, low per capita income change, high unemployment, and deteriorating housing.

(b) HUD will allocate grant funds throughout the year to ensure that assistance is available for each calendar quarter. Not less than twenty-five percent of the funds made available under this subpart shall be used for small cities.

(c) Specific provisions for cities and urban counties containing Pockets of Poverty are found in § 570.466.

§ 570.451 Definitions.

The following definitions apply only to this subpart:

(a) A "large city" means any metropolitan city pursuant to § 570.3(r) and any city with a population of 50,000 or more.

(b) A "small city" means any city under fifty thousand which is not a central city of a metropolitan area.

(c) A "distressed community" is a city or urban county which meets the criteria in § 570.452.

(d) A "Pocket of Poverty" means a severely distressed area meeting the requirements of § 570.466(a) which is located in a city or urban county which does not meet the distress criteria of § 570.452. As used in this subpart, a "Pockets of Poverty Community" is a city or urban county which contains a pocket of poverty.

(e) An "eligible applicant" is a city or urban county which meets the eligibility requirements of § 570.453 and either the requirements of § 570.452 on distress or the requirements of § 570.466(a) for Pockets of Poverty.

(f) "Activities" mean all activities of the project, unless otherwise specified.

(g) A "project" means the group of integrally related public and private activities described in the grant agreement which are to be carried out to meet the objectives of the action grant program and it consists of all Recipient and non-Recipient activities as described in the grant agreement.There are three types of action grant projects:

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(1) "Commercial projects" are those which are predominantly retail, office or commercial in nature and which are located in primarily commercial areas such as a central business district.

(2) "Industrial projects" are those which are predominantly warehousing, manufacturing or industrial in nature and which are located in primarily industrial areas such as an industrial park or a central business district.

(3) "Neighborhood projects" are those which: (i) Include industrial, commercial, and/or residential activities located in a residential area or (ii) are predominantly residential in nature such as the construction of new housing units or the rehabilitation of existing units or (iii) primarily benefit a residential neighborhood or its residents.

(h) A "participating party" is any person, firm, corporation, or entity so identified in the grant agreement which has agreed to perform activities.

(i) A "firm private commitment" means the agreement by which the private participating party in the action grant program agrees to perform an activity specified in the application and demonstrates the financial capacity to deliver the resources necessary to carry out the activity, and commits the resources to the project. No project will be considered for funding unless it contains a firm private commitment. Although a firm private commitment need not be legally binding at the time preliminary funding decisions are made, it must be legally binding before action grant funds may be expended. In documenting a firm private commitment, the private participating party must:

(1) specify the authority by which the commitment is made, the amount of the commitment and the use of the funds. If the committed activity or a portion of it is to be self-financed, the private participating party must evidence its financial capability through a corporate or personal financial statement or through other appropriate means. If any portion of it is to be financed through a lending institution, the participant must submit evidence of the institution's commitment to fund the loan;

(2) state the amount and use of the action grant, and the relationship of the action grant to the proposed investment, and the number of net new permanent and construction jobs to be created by the activity;

(3) affirm that its investment is contingent upon receipt of the total action grant or other public money (or a specified portion thereof), include a statement that but for the receipt of the public funds requested, this project would not be built, and state a willingness on the part of the signatory to sign a legally binding commitment upon preliminary approval of the action grant.

(j) A "firm public commitment" means the agreement by which a public participating party in the action grant program agrees to perform the activity specified in the application and commits the necessary resources to the project. No project containing a requirement for other public financing will be considered for funding unless it contains a firm public commitment. Documentation of a firm public commitment will generally take the form of a city or county council resolution or a letter from a federal or state agency stating the amount and purpose of the funding available, and that the funds are committed to the project.

(k) A "legally binding commitment" means a legally enforceable written obligation made by a private or public participating party to complete a specified activity or set of activities which is approved as part of the action grant project.

(l) The "leveraging ratio" is defined as the total amount of firm private commitment generated by the project divided by the amount of action grant funds awarded to the project.

(1) In calculating the amount of firm private commitment, HUD will only consider new investments which are contingent upon the receipt of action grant funds and which are necessary to make a new permanent capital improvement. For example, expenditures for land assembly, new construction or rehabilitation will be included in the calculation of the private commitment for a project. Working capital and inventory will not be included.

(2) A hypothetical example illustrates how the leveraging ratio is derived. A private industry agrees to build a widget factory. The company agrees to put $2 million in equity into the plan ($1 million into the construction of the plant and $1 million into working capital), borrows $5 million in a first mortgage from a bank, and says that but for the receipt of Action Grant funds in the amount of $1 million to be used as a second mortgage, the company will not be able to build this project. The applicant agrees to use $500,000 in community development block grant funds to provide offsite improvements. The leveraging ratio would be obtained by adding the $1 million in capital equity, the $5 million first mortgage, plus the discounted value of the action grant second mortgage which (for the purpose of this example) equals $700,000. The total amount of firm private commitments equals $6.7 million for a 6.7 to 1.0 leveraging ratio. The $1 million of working capital is not counted for purposes of calculating the leveraging ratio. Inventory would likewise be excluded from calculation in the ratio.

§ 570.452 Distressed communities.

(a) *General.* Distressed communities are those cities and urban counties which meet the appropriate criteria of physical and economic distress as specified in this section. Cities participating in the Community Development Block grant program in cooperation with an urban county, as provided in § 570.105 (b)(1)(iii)(C), are potential applicants under this subpart if they meet the requirements of this section. Such cities may at the same time continue as cooperating units of government in the urban county's entitlement grant application. Towns and Townships, pursuant to § 570.3(e), may apply. Towns and townships which do not qualify under the closely settled requirement of that section may request that the Secretary waive this requirement.

(b) *Minimum standards of physical and economic distress.* (1) From time to time, HUD will publish in Notice form the specific minimum standards of physical and economic distress used in determining which cities and urban counties are potentially eligible applicants for action grant funds. These standards will be derived by using the best and most recent available data for the community as a whole, allowing for comparisons between cities and urban counties of the same size class in the following categories: (i) percentage of housing constructed prior to 1940, (ii) per capita income change, (iii) percentage of poverty, (iv) population growth lag/decline, (v) job lag/decline, and (vi) unemployment.

(2) Any city or urban county which no longer qualifies on the basis of distress due to a change in applicable data will have up to two calendar quarters to submit full applications following the anouncement of that change. HUD will establish a date by which such applications will no longer be accepted and will publish the date in the Notice.

(c) *Large cities and urban counties.* (1) In order to qualify as distressed communities, large cities and urban counties must meet three of the six currently applicable minimum standards of physical and economic distress specified in paragraph (b) (1) of this section.

(2) If the city or urban county's percentage of poverty is less than one-half of the HUD established standard, then it must meet four of the six minimum standards.

(d) *Small Cities.* In order to qualify as distressed communities, small cities must meet the minimum standards of physical and economic distress for the categories appropriate to their size class as outlined below. Two size classes are used, based on the most recent population data estimated by the Bureau of the Census. One is for cities whose population is estimated to be at least 25,000 but not more than 50,000. The other is for cities whose estimated population is less then 25,000.

(1) Cities of less than 25,000 population.

(i) If the percentage of poverty is at least one-half of the HUD established standard the city must meet standards in three of the following four areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(ii) If the percentage of poverty is twice the HUD established standard, the city must meet only one other minimum standard.

(iii) If the percentage of year-round housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

(2) Cities of 25,000 population, but not greater than 50,000 population.

(i) Must meet the minimum standards in three of the following five areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(E) Job lag/decline.

(ii) If the percentage of poverty is less than one-half of the HUD established standard, the city must meet all four other minimum standards.

(iii) If the percentage of poverty is twice the HUD established standard, the City must meet only one other minimum standard.

(iv) If the percentage of year round-housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

§ 570.453 Eligible applicants.

(a) *Eligibility.* Cities and urban counties which qualify as distressed communities, pursuant to § 570.452 or Pocket of Poverty communities pursuant to § 570.466, by meeting the appropriate distress criteria must be determined eligible in order to submit a full application which will be considered for funding under the action grant program.

(1) *Pre-application request for a determination of eligibility.* Distressed communities and Pocket of Poverty communities must request a determination of eligibility prior to submission of their first full application. The request for a determination of eligibility must be submitted to the appropriate HUD Area Office on Standard Form 424, as modified by HUD, at least 60 days prior to the deadline for submission of the full application (or at a later time as authorized by the Secretary pursuant to § 570.4). To qualify as an eligible applicant, a city or urban county must meet the requirements of paragraphs (a), (b) and (c) of this section.

(2) *Duration of Eligibility.* Once an applicant has been determined eligible, a preapplication need not be filed again; however, in order to remain eligible, the city or urban county must continue to demonstrate results in providing low- and moderate-income housing and equal opportunity in housing and employment as described in this section. Large cities and urban counties shall submit their most recent EEO–4 form by November 30 each year to the HUD Area Office. Small cities shall submit their most recent EEO–4 forms or recent comparable data by November 30 each year to the HUD Area Office. The Area Office will review this information along with other data concerning results in providing housing and equal opportunity described in paragraphs (b) and (c) of this section received by the Area Office.

(3) *Withdrawal of Eligibility.* Eligibility status may be withdrawn at any time if the distressed community or Pocket of Poverty community fails to continue to demonstrate results in providing housing or equal opportunity.

(b) *Results in Providing Housing.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing housing for persons of low- and moderate-income. Among the factors HUD will consider are the number of federally or other assisted housing units provided for low- and moderate-income households especially since 1974. Specifically, HUD will evaluate the distressed community's actions in implementing the proportional goals established in any HUD-approved Housing Assistance Plan as well as actions to provide such housing taken previous to the establishment of a Housing Assistance Plan. This evaluation would include a review of such local actions as the removal of impediments in local ordinances and land use requirements to the development of assisted housing, the formation of a local housing authority when necessary to carry out the Housing Assistance Plan, the provision of sites for assisted housing when resources are available, and other actions appropriate for implementation of the Housing Assistance Plan. The actions of a city which previously participated in the community development block grant program as part of an urban county shall be considered with regard to the provision of assisted housing in accordance with the HUD-approved Housing Assistance Plan for the urban county. If the distressed community has never had a HUD approved Housing Assistance Plan, it must demonstrate that it previously has provided or assisted in the provision of housing for low- and moderate-income persons and families.

(c) *Results in Providing Equal Opportunity.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Among the factors which HUD will consider are: (1) The location and occupancy characteristics of federally or other assisted housing units provided for families, and the extent to which the use of these programs promotes and shows progress in promoting a greater choice of housing opportunity for low- and moderate-income persons in areas outside of low income and minority concentration; (2) whether the distressed community or Pocket of Poverty community is actively engaged in promoting housing choice in all of its neighborhoods through participation in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing actions designed to eliminate and prevent discrimination in the private housing market throughout the distressed community's or Pocket of Poverty community's jurisdiction; (3) whether relocation as a result of federally assisted programs has resulted in expanded housing opportunities for minorities outside areas of minority or low-income concentration; (4) whether the distressed community or Pocket of Poverty community is a participating jurisdiction in an approved Housing Opportunity Plan, where such plan includes the community's jurisdiction; (5) whether the distressed community's or Pocket of Poverty community's performance reports to HUD and/or the Equal Employment Opportunity Commission indicate significant progress in hiring, training, and promoting minorities and lower-income persons.

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§ 570.454 Other actions which must be taken prior to submission of a full application.

(a) *Citizen Participation.* Prior to submission of a full application, the applicant must:

(1) prepare and follow a written citizen participation plan, which plan provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low- and moderate-income persons, minorities, and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens including the handicapped.

(2) provide citizens with adequate information concerning the amount of funds available for proposed activities, the range of activities that may be undertaken, and other important program requirements.

(3) hold public hearings to obtain the views of citizens, of which at least one hearing concerns needs which may be dealt with under this subpart, and at least one hearing concerns the application prior to official action authorizing submission of the application.

(4) publish prior to each public hearing a notice in easily readable type in the non-legal section of newspapers of general circulation including minority and non-English language newspapers where they exist. Such notices shall indicate the time, date, place and procedures of the hearings and the topics to be considered. The notice of the urban development action grant hearing concerning needs under this subpart must be published as a separate agenda item if the meeting is also to consider needs for the Community Development Block Grant program.

(5) Nothing in these requirements however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of the urban development action grant program.

(b) *Environmental Assessment.*

(1) Cities and urban counties must have a level of clearance finding in accordance with § 58.15(d) of 24 CFR Part 58. Applications will not be accepted for funding consideration, unless a level of environmental clearance finding is made by the time of submission of the application. HUD encourages applicants requesting joint Federal funding to include the other involved agencies when distributing their notice of assessment.

(2) Cities and urban counties must comply with historic preservation identification and review procedures in accordance with § 58.24 of 24 CFR Part 58. Applicants are encouraged to consult with the State Historic Preservation Officer early in the planning process when a property of historical, archeological, or architectural significance may be involved.

(c) *Flood and Drainage Facilities.* If the project involves flood and drainage facilities, the application must include evidence that the requirements of § 570.607 have been satisfied. That is, the applicant must have submitted a request to an appropriate public agency for funds, received notification of rejection from that agency or notification that the funds are not available for at least 90 days, and the applicant must notify HUD of the results of this request.

(d) *Modified OMB Circular A–95 procedure for applications.* Applicants must comply with all procedures set forth in Part I of OMB Circular No. A–95 except as modified below. Those procedures also require that significant program changes or amendments submitted to HUD in accordance with § 570.460 shall be submitted to clearinghouses.

(1) *Notification.* Applicants shall submit a copy of the request for determination of eligibility to all appropriate State and areawide clearinghouses at the time the request is submitted to HUD. This shall serve as the Notification of Intent for the applicant's first application. HUD will provide clearinghouses with a copy of its notification to the applicant of its eligibility status. For all subsequent application submissions, applicants must follow the normal notification procedures set forth in Part I of OMB Circular No. A–95, with a copy forwarded simultaneously to the appropriate HUD Area Office.

(2) *Clearinghouse Review Period.* Unless the requirement is waived by a clearinghouse, applicants shall provide the clearinghouse a period of thirty-days to review the completed application and to transmit to the applicant any comments or recommendations, prior to submission of the application to HUD.

(3) *Comments.* The applicant shall transmit all comments with the application to HUD. In instances where comments are not received by the applicant within the thirty day period, the applicant shall include a statement indicating that the State and areawide clearinghouses were notified and no comments were received. Any comments received late shall be submitted to HUD immediately upon receipt. The A–95 comments will be considered with the application through the review and selection process. If the A–95 review comments contain any findings of inconsistency with State, areawide, or local plans or noncompliance with environmental or civil rights laws, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the project despite the findings developed through the A–95 review process.

§ 570.455 Eligible activities.

(a) Except as specified in § 570.456, grant assistance will be made available for any eligible activity specified in Subpart C which supports a commercial, industrial, or neighborhood project. If permissible under State and local law, the applicant may undertake activities outside of the applicant's jurisdiction where the benefits of the project accrue to the applicant.

(b) If an applicant requests assistance for an activity not eligible under Subpart C, then the applicant must demonstrate that the activity proposed is consistent with the objectives of revitalizing the applicant's economic base or reclaiming neighborhoods having excessive housing abandonment or deterioration. Among the factors HUD will consider in determining whether or not an activity ineligible, under Subpart C, will be funded are the following: The necessity of the activity in stimulating private investment in the proposed project; the amount of long-term employment accessible to low- and moderate-income persons and minorities generated by the proposed project; the degree of impact of the proposed project on the economic condition of the community; and the effectiveness of the proposed project as a stimulus to area revitalization.

New housing construction may be assisted if the applicant demonstrates, in addition to the factors specified above, that the proposed new housing is consistent with the applicant's community development and housing strategy and that other resources are not adequate.

§ 570.456 Ineligible activities and limitations on eligible activities.

(a) Large cities and urban counties may not use assistance under this subpart for planning the project or developing the application. However, they may use entitlement community development block grant funds for this purpose. Any small city which submits a project application which is selected for preliminary approval and for which legally binding commitments have been approved consistent with the terms of the grant agreement and for which a release of funds pursuant to 24 CFR Part 58 has been issued may devote up to three (3) percent of the approved amount of its action grant to defray its actual costs in planning the project and preparing its application.

(b) Assistance under this subpart may not be used for public services as described in § 570.201(e).

(c) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a metropolitan area shall not be subject to this provision.

§ 570.457 Relocation and land acquisition.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by any State agency (as defined at 24 CFR 42.85) for a project assisted under this subpart and to any displacement that results from such acquisition. More specific instructions about the applicability of the Uniform Act are contained in § 570.602(a).

(b) *Displacement not subject to the Uniform Act.* The provisions of this paragraph apply to activities not subject to the Uniform Act. HUD has determined that requirements identical to those set forth at 24 CFR Part 42, as modified by the following provisions of this paragraph, shall apply to each tenant (not an owner-occupant) who occupies the site of an activity.

(1) *Issuance of notice to residential tenant.*

(i) Within 30 days after preliminary funding approval is announced or at such later date agreed to by HUD, the applicant shall issue each residential tenant either a notice of displacement (described at § 42.205) that is effective immediately or a notice of right to continue in occupancy (described at § 42.207). If the tenant is not issued either of these notices within the prescribed time, he or she shall automatically be eligible for relocation assistance as described at 24 CFR 42.205(b).

(ii) Any tenant required by the owner to move from the property before issuance of a notice as described under paragraph (b)(1)(i) of this section, but after submission of the action grant application to HUD, shall also be issued a notice of displacement, unless he or she was required to move because of his/her breach of an obligation under the terms and conditions of the tenancy. The notice shall be effective on the date the tenant vacated the property. If the tenant chooses to relocate again, the one-year period (see § 42.451(c)) within which the tenant must purchase/rent and occupy a replacement dwelling (if he or she chooses to relocate again) and the 18-month period for filing relocation payment claim(s) shall not begin until after the tenant has been provided a reasonable choice of opportunities to relocate to a comparable replacement dwelling. If the tenant does not choose to relocate again, he/she shall be given at least six months in which to file relocation payment claim(s).

(2) *Issuance of notice to nonresidential tenants.* Wherever the applicant, at its sole discretion, determines it would be equitable to provide relocation assistance to a non-residential tenant, it may issue the tenant a notice of displacement (described at § 42.205).

(3) *"Initiation of negotiations."* For purposes of determining eligibility for a replacement housing payment under Subpart G of 24 CFR Part 42, the effective date of the notice of displacement shall be considered to be the "initiation of negotiations."

(4) *Replacement housing payment.* A displaced residential tenant who meets the eligibility conditions at § 42.451 is entitled to a replacement housing payment to help him or her rent or buy a replacement dwelling. Any such tenant who chooses to buy a replacement dwelling is entitled to receive a downpayment assistance payment computed under § 42.455. Any such tenant who elects to rent a replacement dwelling is entitled to a rental assistance payment computed in accordance with § 42.453, unless a Public Housing Agency administering the Section 8 Existing Housing Program (24 CFR Part 882) determines, in accordance with the Section 8 eligibility criteria in 24 CFR Part 889 and selection criteria described in its Administrative Plan approved by HUD, that the displaced tenant can be issued a Certificate of Family Participation under that program. Assistance under the Certificate can only occur when (i) the tenant has voluntarily selected a replacement dwelling which meets the housing quality standards and other requirements of that program and (ii) the landlord of the replacement dwelling unit is willing to participate in the program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the Section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at § 42.453. (If an eligible tenant voluntarily selects a rental unit that meets the Section 8 requirements and the owner is willing to participate in the Existing Housing Program but the tenant refuses the Section 8 assistance, the tenant is not entitled to a rental assistance payment. However, the tenant remains eligible for a moving expense payment computed as described at § 42.303 or § 42.353).

(5) *Maximum rent under notice of right to continue in occupancy.* A residential tenant who receives a notice of right to continue in occupancy (described at § 42.207) is assured, among other things, that he or she will have the right to occupy the property for a period of at least four years after the activity is completed. The terms and conditions of continued occupancy must be set forth in a lease which is offered to the tenant. The lease, including renewal options, if any, shall run for a continuous period of at least four (4) years. The rent under such lease shall be in accordance with this paragraph, and the other terms and conditions of the lease shall be as customary in the jurisdiction. In addition, the lease shall give the tenant the unilateral right to cancel the lease on thirty (30) days advance written notice if he or she wishes to vacate, unless State or local law requires a longer period. In order to benefit from the protections of this rule, the tenant must agree to enter into the lease within a reasonable period after completion of the activity. The procedures for an automatic notice of displacement described at § 42.205(b)(2) and § 42.207(a)(4) shall not apply. In addition, the provisions at § 42.207(a)(2) governing the tenant's maximum monthly housing cost (rent and estimated utility charges) during the four-year period are modified to read as follows:

(i) During the first year of the four-year period, the tenant's monthly housing cost shall be established at a level that does not exceed the greater of:

(A) Twenty-five percent (25%) of the gross income of all adult members of the household, or

(B) 105% of the tenant's monthly housing cost for the unit six months prior to issuance of the notice of right to continue in occupancy. However, this provision does not preclude the owner of the building from requiring the tenant to pay directly to the utility company the cost of utilities which are separately

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metered after completion of the activity. The cost of any such separately metered, tenant-paid utilities shall be excluded from the 105% computation.

(ii) At the end of the first, second and third years, the monthly housing cost may be increased. The monthly increase, however, shall not exceed the sum of (A) the average monthly increase in the owner's costs for utility charges and property taxes over the previous year, plus (B) five percent (5%) of the monthly contract rent (exclusive of utility costs) charged during the prior year.

(6) *Waiver of right to continue in occupancy.* Nothing in these regulations shall prevent a fully informed tenant, who will not be required to relocate permanently, from waiving his/her right to be issued a notice of right to continue in occupancy. The waiver shall be in a format prescribed by HUD.

(7) *Ineligible tenants.* Under the following circumstances, the tenant is neither entitled to a notice of displacement nor a notice of right to continue in occupancy, nor will he or she receive relocation assistance.

(i) The action grant funded or non-action grant funded activity is limited to residential rehabilitation work for which the cost allocable to the tenant's unit does not exceed $2,500 and the recipient determines that the tenant will not be required to move because of the rehabilitation. In a building of two or more units, the cost allocable to the tenant's unit included the pro rata share of the cost of work done to common elements of the property.

(ii) The tenant moves to the property after submission of the action grant application and is notified prior to occupancy about the proposal and its effect on him/her.

(c) *Responsibility of the Applicant.* The applicant is responsible for assuring compliance with the requirements of paragraph (b) of this section. To pay the cost of relocation assistance, including rental assistance payments, the applicant may use local public funds, action grant or entitlement community development block grant funds (24 CFR Part 570) or the applicant may secure a commitment from any participating party in the action grant program to provide the necessary funds. In order to use block grant funds, the applicant must adopt a written policy in accordance with 24 CFR 570.602(c). Where a notice of right to continue in occupancy is to be provided (see paragraph (b)(4) of this section), the applicant is responsible for making the participating party aware of its obligations.

§ 570.458 Full applications.

(a) *Application scope.* Applicants must submit a separate application for each proposed project as defined in § 570.451(f).

(b) *Scope of the proposed project.* Action grant projects are intended to attract new private investment for neighborhood, commercial or industrial developments that alleviate physical and economic distress. The proposed project must be able to be carried out in a timely fashion, which HUD generally expects not to exceed four years from the date of the announcement of preliminary approval. The applicant shall apply for action grant funds in an amount which, together with other public and private resources, will be adequate to complete the project without additional action grant funds. While a recipient may remain eligible for action grant funding for other projects, no additional funding will be available in the future to complete a project already approved. Should additional funding be required to complete a previously approved project, the applicant must provide such funding from another source such as entitlement funds (if the activities are eligible under Subpart C and meet the program benefit requirement under Subpart D), local general purposes funds, or other public or private resources.

(c) *Submission requirements.* Applications must be submitted on HUD forms and must consist of the following:

(1) Standard Form 424, prescribed by OMB Circular No. A–102 and the urban development action grant application.

(2) A community development plan and a Housing Assistance Plan, as specified in Subpart D of this chapter. An applicant's approved Community Development Program which is in effect is deemed incorporated in the application by reference. Small cities which do not have a Housing Assistance Plan in effect must submit a small cities single purpose Housing Assistance Plan and Community Development Program pursuant to Subpart F.

(3) A brief description of the applicant's urban development action grant program, which shall specify an action plan and strategy, summarizing how the proposed project meets the objectives of the strategy to alleviate physical and economic distress. This program—

(i) must be consistent with the HUD approved Community Development Program and the Housing Assistance Plan described in Subpart D or F as appropriate;

(ii) must be consistent with the Overall Economic Development Program and Plans (OEDP) required by the Public Works and Economic Development Act of 1965, as amended, if the OEDP is applicant to the project area;

(iii) must be consistent with the Economic Development Strategy (EDS) when used by communities to meet planning requirements of the OEDP program of EDA and HUD; and

(iv) must describe unique opportunities to attract private investment to alleviate physical and economic distress within the applicable community.

(4) A description of the project to be undertaken, how the property involved is controlled, the nature of the project, the number and types of jobs to be created by the private participating parties, and the taxes to be generated. The applicant must substantiate the market and economic feasibility of each aspect of the proposed project and must assess the impact of the project in relation to similar existing industrial, commercial and residential uses within the applicant's jurisdiction. The applicant must identify the public and private participating parties in the proposed project and must clarify the relationship of each to the request for action grant funds. Information provided shall include proposed cost and methods of financing.

(5) A clear description of the use of the action grant funds and a justification for the amount.

(6) The status of environmental review of the proposed project, the steps taken to notify other involved federal agencies if joint funding is requested, and a proposed timetable for the completion of any required environmental actions as described in 24 CFR Part 58.

(7) Documentation of private and public commitments which are necessary for completing the project as outlined in § 570.451 may be in the form of a firm private, firm public or legally binding commitment between the applicant and the public and private entities. No application will be considered feasible and effective unless there is evidence of at least a firm private commitment and if necessary, a firm public commitment.

(8) A statement analyzing the impact of the proposed urban development action grant program on the residents of any affected residential neighborhood, particularly those containing low- and moderate-income persons and members of minority groups, and on the affected neighborhood.

(9) A summary of all proposed expenditures to be undertaken to complete the project and a breakdown of the individual public and private expenditures.

(10) A detailed schedule for accomplishing each part of the proposed project.

(11) Maps, aerial photos, site plans or other graphic descriptions of the applicant's jurisdiction, the location of the project, access to the project, surrounding land uses, and related property information. Site plans must show: (i) present conditions, land uses, and ownership, (ii) proposed private and public development including clear identification of where the action grant funds are proposed to be spent.

(12) Data on anticipated involuntary displacement and relocation of residents by household type, income level, and minority status and/or businesses displaced and jobs lost due to displacement. The following must be included: a description of the efforts made to minimize involuntary displacement, including an analysis of the feasibility of undertaking any rehabilitation of occupied properties in stages in order to minimize displacement; a description of the efforts which will be made to provide opportunities to low- and moderate-income and minority persons to relocate outside areas of low income and minority concentration; and of the opportunities to be provided to displaced persons and businesses to relocate within the project area.

(13) An analysis of the impact of the project on the special problems of low- and moderate-income persons and minorities.

(14) An employment plan to assure that the jobs created by the proposed project will be available to the long-term unemployed and underemployed. The use of job training programs and consultations with the CETA provider should be detailed.

(15) The record of the applicant in carrying out similar projects. If the applicant has no related experience, it should provide information concerning its abilities to successfully complete the project.

(16) Certifications. The applicant shall submit certifications, in such form as HUD may prescribe, providing assurances that:

(i) Prior to submission of its application, it has followed the citizen participation process explained in § 570.454(a).

(ii) The proposed project is consistent with the Community Development program, the Housing Assistance Plan, and, if applicable, the Overall Economic Development Program and Economic Development Strategy administered by the Department of Commerce (see paragraph (c)(3)(iii) of this section).

(iii) The applicant's chief executive officer and the private participating party must certify that in his or her opinion, the private development would not occur unless the public funding on which the development is based becomes available.

(iv) The applicant's chief executive officer must certify that the action grant funds will not substitute for local public funds which are available and which are committed by line item specified in the applicant's local budget to the project described in the action grant application.

(v) It possesses legal authority to apply for the grant and to execute the proposed program.

(vi) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(vii) It has complied with all the requirements of OMB Circular A–95 as modified by 24 CFR 570.310 and that either:

(A) Any comments and recommendations made by or through clearinghouses are attached and have been considered prior to submission of the application; or

(B) The required procedures have been followed and no comments or recommendations have been received.

(viii) Its chief executive officer or other officer of the applicant approved by HUD:

(A) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, insofar as the provisions of such Act apply to 24 CFR Part 570;

(B) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such official.

(ix) It will comply with the regulations, policies, guidelines, and requirements of OMB Circular No. A–102, Revised, and Federal Management Circular 74–4 as they relate to the application, acceptance, and use of Federal funds under 24 CFR Part 570.

(x) It will administer and enforce the labor standards requirements set forth in 24 CFR 570.605 and HUD regulations issued to implement such requirements.

(xi) It will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A–102, Revised.

(xii) It will comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards, Executive Order 11990 relating to wetlands, and Executive Order 11288 relating to the prevention, control, and abatement of water pollution in accord with HUD regulation 24 CFR 55, when in effect.

(xiii) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under 24 CFR Part 570 to comply with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A–117.1–1961 (R1971), subject to the exceptions contained in 41 CFR 101–19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(xiv) It will comply with:

(A) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(B) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90–284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provisions of brokerage services.

(C) Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant

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thereto (24 CFR 570.601), which provide that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under 24 CFR Part 570.

(D) Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance.

(E) Executive Order 11246, and the regulations issued pursuant thereto (41 CFR Chapter 60), which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors on Federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training and apprenticeship. Such contracts, and subcontracts thereunder, shall include the required equal opportunity clause as set forth at 41 CFR § 60–1.4.

(F) Section 504 of the Rehabilitation Act of 1973, as amended, and any related rules and regulations. Section 504 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(G) The Age Discrimination Act of 1975 and any related rules and regulations.

(xv) It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, and the HUD regulations issued pursuant thereto at 24 CFR Part 135, requiring that to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

(xvi) It will:

(A) To the greatest extent practicable under State law, comply with Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and will comply with Sections 303 and 304 of Title III, and HUD implementing instructions at 24 CFR Part 42; and

(B) Inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(b).

(xvii) It will:

(A) Comply with Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD implementing regulations at 24 CFR Part 42 and § 570.602(a);

(B) Provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity. Such payments and assistance shall be provided in a fair and consistent and equitable manner that insures that the relocation process does not result in different or separate treatment of such persons on account of race, color, religion, national origin, sex, or source of income;

(C) Assure that, within a reasonable period of time prior to displacement, comparable decent, safe and sanitary replacement dwellings will be available to displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, or source of income; and

(D) Inform affected persons of the relocation assistance, policies, and procedures set forth in the regulations at 24 CFR Part 42 and 24 CFR § 570.602(a).

(xviii) It will comply with the special provisions of § 570.457 concerning the relocation of residential tenants not covered by the Uniform Act.

(xix) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(xx) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(xxi) It will give HUD and the Comptroller General through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

(xxii) It will insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(xxiii) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973. Pub. L. 93–234, 87 Stat. 975, approved December 31, 1973. Section 103(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(xxiv) It will comply with the requirements for historic preservation identification and review set forth in Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historical Data Act of 1966 (16 U.S.C. 469a–1, et seq.) by:

(A) Consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places and to determine the effect of a proposed activity on such property (see 36 CFR 800.8) by the proposed action activity; and

(B) Complying with all requirements established by statute, existing regulations (36 CFR 800), or HUD implementing regulations which will take into account the effects upon such properties.

(xxv) It certifies that it has not knowingly and willfully made or used a document or writing containing any false, fictitious, or fraudulent statement or entry. 18 U.S.C. 1001 provides that whoever does so within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(xxvi) It will follow the cost-effective energy efficiency (conservation) standards for rehabilitation of residential properties contained in the Appendix to the regulations issued under 24 CFR Part 39 for action grant funded and non-action grant funded activities.

(A) Thermal improvement of construction elements which would not be made accessible or become exposed during rehabilitation is not required.

(B) Energy conservation improvements not practical considering economic feasibility, program needs, and the materials and type of construction, may be eliminated.

(C) For mid-rise, high-rise and many low-rise multifamily projects, an energy audit must be carried out to identify and specify the energy and cost savings which are estimated to result from installing energy conservation measures.

(D) All measures determined to be cost effective, given loan term and interest rate, shall be accomplished, especially weatherstripping and caulking.

(xxvii) It will not, in carrying out the project, discriminate against any employee because of race, color, religion, sex, handicap, or national origin. It will take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The applicant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this non-discrimination clause. The applicant will in all solicitations or advertisements for employees placed by or on behalf of the applicant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, handicap or national origin. The applicant will incorporate the foregoing requirements of this paragraph in all of its contracts for project work, except contracts for standard commercial supplies or raw materials or contracts covered under subsection (c)(16)(xiv)(E) of this section, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for work done with funds provided under 24 CFR Part 570.

(xxviii) It will comply with Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112).

(xxix) In carrying out the project, the recipient shall take affirmative action as described in Executive Order 12138 in support of women's business enterprise and shall prohibit actions or policies which discriminate against women's business enterprise on the grounds of sex.

§ 570.459 Criteria for selection.

(a) *General.* Grant assistance will be made available in order to achieve a reasonable balance for the program as a whole among feasible and effective neighborhood, industrial and commercial projects. To be considered for project selection, a proposal must have a firm private commitment and a leveraging ratio of at least 2.5 to 1.0. If public funding is required by the project, then a firm public commitment is necessary to be considered for project selection.

(1) Each calendar quarter, HUD shall review all new proposals received and all proposals pending consideration and shall determine which among such proposals are both feasible and effective. Feasible and effective projects will be compared using the selection criteria of this section although neighborhood projects will only be compared with neighborhood projects.

(2) The nature and purpose of the proposed project will determine the extent to which each of the selection criteria in paragraphs (e) through (t) of this section will apply.

(b) *Requirements which must be met to be considered for project selection.* (1) *A firm private commitment.* No projects will be funded under this subpart unless there is a firm private commitment to finance and carry out the proposed project. The private commitment must have a clear, direct relationship to the activities for which funding is being requested.

(2) *Leveraging ratio.* Each project considered for selection for funding must have a leveraging ratio of at least 2.5 to 1.0.

(3) *A firm commitment of public resources.* If a project requires a commitment of other public resources, then it must be a firm public commitment.

(c) *Selection of Projects for Preliminary Funding Approval: Large cities and urban counties.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of physical and economic distress among applicants, as measured by the differences in the factors set forth below, which shall be assigned the following relative weights: (i) The percentage of their total housing stock that was built prior to 1940: 0.5; (ii) The percentage of their total current population that was in poverty in 1970: 0.3; and (iii) The degree to which their population growth rate lags behind that of all metropolitan cities: 0.2.

(2) The comparative degree of physical and economic distress as measured by per capita income, unemployment, and job lag/decline, and

(3) The factors contained in paragraphs (e) through (u) of this section.

(d) *Selection of Projects for Preliminary Funding Approval: Small cities.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of physical and economic distress as measured by the distress standards in § 570.452(b)(2);

(2) the factors contained in paragraphs (e) through (u) of this section.

(e) *The impact of the proposed project on the employment base of the community.* In evaluating the employment impact of a proposed project, HUD will consider such factors as the net number of new permanent or temporary jobs to be created within the distressed community.

(1) Specifically HUD will consider whether the project includes a greater number of net new permanent jobs than other similar type projects. For example, a project creating 1,000 new permanent jobs requiring a million dollar investment of action grant funds will have an action grant cost of $1,000 per job. A similar project having an action grant cost of $10,000 per job will compare less favorably on this factor than the project having a $1,000 cost per job. Job retention and construction jobs will receive some consideration but will be given less weight in selection than the creation of new permanent jobs.

(2) HUD will consider whether the project includes a greater percentage of low- and moderate-jobs than other similar projects.

(3) HUD will consider whether the project contains a greater number of jobs on a percentage basis for CETA eligible persons (the structurally unemployed, underemployed or for persons from low- and moderate-income households) than other similar projects.

(f) *The amount of the leveraging ratio.* In selecting projects for funding, HUD will consider whether the amount of private leverage to be generated by a given project is greater than that of other projects of the same type. In other words, the higher the leveraging ratio, the more likely it is that the project will be selected for preliminary approval. Recapture of Action Grant funds for a second use increases the private leverage thereby making a project more competitive.

(g) *The impact of the proposed project on the fiscal base of the community.* The fiscal impact of the proposed project

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will be measured by the annualized increase in real estate and other taxes such as corporate, sales or income taxes accruing to the applicant's jurisdiction which the applicant will receive due to the proposed project.

In selecting projects for funding, HUD will consider whether a given project will generate a greater amount of net new annual tax revenues in relationship to the requested action grant amount than other projects. A project generating a $500,000 annual increase in property taxes for a million dollar action grant investment will fare better on this factor than a project generating a $100,000 increase in property taxes plus a $50,000 increase in city sales tax for a $2 million action grant investment. The respective ratios will be 50 cents per action grant dollar compared to 7.5 cents per action grant dollar. In addition, other revenues which the applicant will receive will be considered.

(h) *The impact of the proposed project on the physical conditions of the community.* (1) HUD will review each project to determine its effectiveness in alleviating physical distress within the community. HUD will also assess the impact of each project in relation to similar existing industrial, commercial and residential uses within the applicant's jurisdiction.

(2) In selecting projects for funding, HUD will consider whether the proposed project will restore and enhance the quality of the human environment and/or avoid and minimize adverse effects on the environment and on historic properties. HUD will also consider whether or not the private developments in a given proposal include, where possible, a minimum one percent of total development costs for expenditures on the arts, such as sculptures, murals, etc.

(3) The physical impact of the project will be measured by comparing the present physical development of the project area and other areas with the future improvements proposed in the action grant project. For example, the standard of the existing housing stock will be compared to what the housing stock should be upon completion of the action grant project. If the project is to make those public improvements necessary to attract private industry to the site, then HUD will review the project in terms of the current land use and the potential created by the location of the particular industry at this particular site. HUD will also review the proposal to ascertain that other necessary services are available to support the project. Applicants are expected to consider the quality of the design of the project.

(i) *The impact of the proposed project on the economic conditions of the community.* HUD will consider the effect of the project on the economic base of the community by evaulating such factors as the mitigation of the impact of a major military base closing and the degree to which the proposal will assist areas experiencing a loss of businesses, jobs, and population.

(j) *The likelihood of accomplishing the project in a timely fashion within the total resources which will be provided.* HUD will consider such factors as the status of land assembly, zoning, building permits, and preparation of any necessary historic preservation clearances, as well as the applicants administrative and legal capability for accomplishing the project. HUD will also consider the private participating parties' capability of completing the project within the proposed time schedule. Proposals will be considered to have a lesser degree of feasibility if they involve substantial additional planning, lengthy start-up time, or may be subject to major obstacles due to environmental or legal concerns. HUD expects projects to be completed within a four year period from the date of the announcement of preliminary funding approval.

(k) *The demonstrated performance of the applicant in carrying out housing and community development programs.* Performance shall be evaluated using such considerations as past compliance with HUD regulations and statutory requirements, progress in carrying out programs as planned, and the ability to complete programs in a timely fashion.

(l) *Extent of relocation caused by the project.* (1) Projects which will cause minimal involuntary displacement and disruption of occupants and jobs will be considered more favorably than those involving a substantial amount of involuntary displacement and disruption.

(2) If the project includes activities which generate relocation, HUD will consider how the applicant's relocation plans and processes, including any proposed relocation advisory services, are to operate and whether they provide the opportunity for those displacees to relocate outside areas of low-income or minority concentration.

(3) A project which involves the relocation of industrial and commercial facilities within the applicant's jurisdiction will be reviewed to determine the impact of the relocation on low- and moderate-income and minority persons.

(4) The extent to which displaced businesses and low- and moderate-income residents and minorities will be given the opportunity to relocate to the project area upon completion will be considered.

(m) *Extent of citizen participation.* HUD will also consider the extent of citizen participation in the development and review of the application, as well as the provision of technical assistance to citizens' groups if such assistance has been requested and is appropriate.

(n) *Extent of minority business participation.* HUD will more favorably consider projects in which minorities are participants in the project. For example, they may be prime or subcontractors during development, major suppliers of construction goods, or equity investors, or they may participate in the project through leasing, ownership, or rehabilitation of property, on-going vendors and suppliers of goods and services, or as private participating parties.

(o) *Extent of assistance to be made available by the State.* HUD encourages the firm financial participation of the State in the project.

(p) *Extent of participation by other public entities.* HUD encourages other firm Federal financial participation such as SBA, EDA, and Farmers Home and will consider that participation in the selection of projects for funding.

(q) *Special or Unique Opportunity.* HUD will evaluate the extent to which the action grant program represents a special or unique opportunity to meet local priority needs which are consistent with the objectives of economic revitalization or reclamation of neighborhoods.

(r) *Extent of neighborhood impact.* HUD will more favorably consider those projects having a positive impact on the residents, particularly low- and moderate-income and minorities of the residential neighborhood in which the project is located, and on the neighborhood itself.

(s) *The impact of the proposed project on the special problems of low- and moderate-income persons and minorities.* The extent to which the proposed project eliminates or reduces the magnitude of the special problems of low- and moderate-income persons and minorities (e.g., the relative levels of unemployment and underemployment, discrimination in housing and employment, locational impaction, and lack of sufficient supportive services and facilities) will be considered. In making this determination, HUD will consider the benefits of the project to low- and moderate-income persons and minorities, such as the provision of employment or entrepreneurial opportunities, housing opportunities, or public or private facilities and improvements. Location of the proposed project, when it is clearly relevant to the question of what groups benefit, will be considered as one of the factors in evaluating the effectiveness of the project in benefitting low- and moderate-income persons and minorities.

(t) *The impact of the proposed project in increasing energy efficiency or conserving scarce fuels.* HUD will more favorably consider those projects which will increase energy efficiency or conserve scarce fuels (measured in barrels of crude oil saved or the equivalent). All other factors being equal, however, an energy conservation or alternative energy project from a community which is making a serious effort to identify and reduce energy waste on a community-wide basis will be more favorably considered than a project from a community which is making no effort in this regard.

(u) *Secretary's determination that the project requires action grant funds.* Preliminary funding approvals will only be made if the Secretary determines

(1) that the assurances made by the chief executive officer of the applicant that the action grant funds will not substitute for local funds which are available and committed to the project by line item specified in the applicant's local budget pursuant to § 570.458(16)(iv);

(2) that in his/her opinion, the private development would not occur unless the public funding becomes available pursuant to § 570.458(16)(iii);

(3) that the statements made by the private participating parties, that but for the receipt of the public funds requested, this project would not be built;

are satisfactory.

§ 570.460 HUD review and action on applications.

(a) *Submission and Review Schedule.* The following chart indicates dates for submission of pre-application requests for determination of eligibility, the full application, HUD review and consultation with the applicant, and the date by which the decision for preliminary approval will be made. Public announcements of preliminary funding approvals will be made shortly after the decision date.

Determination of eligibility (pre-application; SF-424) to be submitted by	Application period	Review period	Decision date
Metro cities:			
Nov. 30	Jan. 1–31	Feb. 1–Mar. 31.	Mar. 31.
Feb. 28	Apr. 1–30	May 1–June 30.	June 30.
May 31	July 1–31	Aug. 1–Sept. 30.	Sept. 30.
Aug. 31	Oct. 1–31	Nov. 1–Dec. 31.	Dec. 31.
Small cities:			
Dec. 31	Feb. 1–28	Mar. 1–Apr. 30.	Apr. 30.
Mar. 31	May 1–31	June 1–July 31.	July 31.
June 30	Aug. 1–31	Sept. 1–Oct. 31.	Oct. 31.
Sept. 30	Nov. 1–30	Dec. 1–Jan. 31.	Jan. 31.

(1) HUD will accept applications from large cities and urban counties postmarked no later than the last day of the month during January, April, July, and October.

(2) HUD will accept applications from small cities postmarked no later than the last day of the month during February, May, August, and November.

(3) However, HUD encourages all cities and urban counties to submit their applications no later than the tenth day of the month in order to allow sufficient time for the community to enact suggestions made by HUD in preliminary reviews.

(4) Applications postmarked after the last day of the month in which they are to be submitted will not be considered until the following quarter.

(5) The original and one copy of the application must be submitted to the appropriate HUD Area Office and one copy submitted to HUD's Office of Urban Development Action Grants.

(b) *HUD Area Office Review.* Area Offices shall forward a copy of each application meeting the criteria of § 570.458 together with a position paper setting forth the Area Office comments and the Area Manager's recommendation to HUD Central Office. HUD Central Office shall evaluate applications on a comparative basis in accordance with the criteria for selection specified in § 570.459.

(c) *Central Office Action on Applications.* (1) Preliminary approval decisions will be made by HUD Central Office within two months after the deadline for submission of applications as shown in paragraph (a) of this section.

(2) Preliminary approval constitutes the first step in a process which may result in a signed grant agreement between the recipient and HUD and legally binding commitments between the recipient and the private sector. The terms of the preliminary approval are not finalized until the recipient and HUD have executed a grant agreement setting forth the terms and conditions of the approved project and the responsibilities of all participating parties. Preliminary approval does not become final until legally binding commitments between the recipient and the private and public participating parties have been submitted and approved by HUD. Release of grant funds is contingent upon the recipient's meeting each and every condition set forth in the grant agreement.

(3) Any application not receiving preliminary funding approval in the first round in which it is accepted for consideration may be reconsidered for funding in the subsequent quarter, if HUD determines there is a likelihood that the project will be funded in the next funding quarter.

(4) Any application not receiving preliminary funding approval after the second round will not receive further consideration, unless HUD and the applicant are actively negotiating the terms of the project. HUD shall use its discretion in making a determination whether to consider the application in a later funding round.

(5) Shortly after the decision date for preliminary approval, the Secretary will notify the applicant in writing of the action taken on its application and if not approved, the conditions under which the application may be reconsidered.

§ 570.461 Post preliminary approval requirements.

(a) *Execution of a grant agreement.* HUD and the recipient must sign a legally binding grant agreement (contract) which finalizes the terms and conditions of the action grant preliminary approval.

(b) *Submission of legally binding private commitments.* Recipients must submit for approval to HUD Central Office evidence of legally binding commitments from participating parties identified in the grant agreement. Copies must also be submitted to the Area Office. Recipients must also submit an opinion of counsel that the commitments are legally binding under State and local law and conform to the grant agreement executed by HUD and the recipient. The drawdown of grant funds is conditions upon the written acceptance by HUD of the legally binding commitments as specified in the grant agreement.

(c) *Release of funds pursuant to HUD Environmental Review Procedures.* Recipients must comply with the provisions of § 570.603 concerning the release of funds for projects requiring environmental review. Except for administrative costs, environmental studies and certain relocation costs, no

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costs which are to be reimbursed or paid with grant funds may be incurred until the environmental requirements have been met. However, the applicant should note that such costs will not be reimbursed if the legally binding commitments are not approved.

(d) *Performance according to schedule.* Action grant funding shall be conditioned upon the performance of the recipient in meeting the schedule set forth in its grant agreement. Failure to meet such schedule may result in the termination of the grant agreement or other remedial action.

(e) *Program Income.* Notwithstanding any other provisions of this part and unless otherwise provided in the grant agreement, program income received by the Recipient under this Subpart prior to completion of construction of all action grant funded activities shall be used to reimburse costs incurred for the Recipient activities. Such income shall be used instead of any draw under the letter of credit to the extent adequate to reimburse costs so incurred. Upon completion of the activities, program income shall be retained by the recipient and governed by the grant agreement. Program income received subsequent to the completion of the action grant funded activities shall be used for the purposes specified in the grant agreement, and as such is considered miscellaneous revenue, the use of which is not governed by the provisions of this part.

(f) *Reporting requirements.* Commencing upon the date the applicant's preliminary funding approval is announced by HUD, applicants shall submit quarterly progress reports as specified by the Secretary of HUD. Failure to file such reports may be a basis for termination of previously approved action grants and shall be considered in the selection of future projects submitted by the applicant under demonstrated performance under § 570.459(k). Copies of the reports shall be submitted to the HUD area office and simultaneously to the Office of Action Grants in HUD Central Office no more than 10 days following the end of each calendar quarter. Effective immediately, and until such time as further detailed reporting requirements are specified, the following information is to be provided:

(1) *Prior to approval of legally binding commitments and removal of contract conditions.* If project activities have begun, describe in detail each step the applicant has taken to secure the documentation needed to satisfy the conditions contained in the grant agreement. Also, describe those steps which remain to be taken and provide a schedule for their accomplishment. If problems have been encountered and the project is falling behind the schedules included in the application and the grant agreement, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(2) *After approval of legally binding commitments and removal of contract conditions.* Describe in detail the implementation of the project including the status of construction contracts, plans and specifications, actual construction, temporary and permanent jobs, relocation of residents and tenants, etc. Also, include the amount of funding which has been obligated and the amount drawn down. If problems have been encountered and the project is falling behind the schedules included in the application and the grant agreement, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(3) *Project completion.* Reports will be required following the completion of construction of a project. They shall consist of information to be specified at a later date concerning the project's construction costs, its use of program income, tax revenues generated, etc. They shall also include data by job category and pay level, the number of jobs filled by unemployed and low income persons and by minorities.

§ 570.462 Incurring costs for project activities after preliminary approval.

(a) The use of grant funds is conditioned upon the Recipient incurring costs to be paid in accordance with the grant agreement or as otherwise approved by the Secretary in writing. The incurring of costs to be paid out of grant funds shall be governed by the following:

(1) Except for the cost of application preparation for small cities as specified in § 570.456(a), no costs incurred prior to the preliminary approval date may be paid out of grant funds.

(2) After the preliminary approval date, eligible administrative costs, including but not limited to costs of environmental studies, may be incurred before or after the effective date of the grant agreement (the date it is executed by the Recipient), and the satisfaction of environmental conditions.

(3) Except as permitted by 24 CFR Part 58, no other costs to be paid out of grant funds may be incurred by the recipient or any participating party until after the effective date of the grant agreement, all environmental conditions of 24 CFR Part 58 have been fully satisfied and the Secretary has issued the environmental releases required by 24 CFR Part 58.

(4) After the recipient has satisfied all of the environmental conditions and the Secretary has issued the required environmental releases, then at any time after the preliminary approval date for the project, the recipient and the participating parties may incur eligible costs to be paid out of grant funds.

(b) The authorization to incur costs in subsection (a) above is not an authorization to reimburse those costs and does not mean or imply that such costs will be reimbursed out of grant funds. The recipient and participating parties may voluntarily, at their own risk, and upon their own credit and expense, incur costs as authorized in subsection (a) above, but their authority to reimburse or to be reimbursed out of grant funds shall be governed by the provisions of the grant agreement applicable to the payment of costs and the release of funds by the Secretary.

(c) Neither the Recipient nor any Participating Party shall incur any costs in connection with any activity to be paid for, in whole or in part, with grant funds, even though such costs will not be reimbursed out of grant funds, unless such costs could be incurred pursuant to subsection (a) of this Section if such costs were to be paid out of grant funds.

(d) Prior to the issuance by the Secretary of the environmental releases required by 24 CFR Part 58, the Recipient may not use any funds, including local funds, to take any action with respect to the Project where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such a fashion that the validity of the conclusions to be reached would be affected.

(e) Any time after the Preliminary Approval Date, a Participating Party may incur costs for any activity which is not to be paid for, in whole or in part, with grant funds.

§ 570.463 Project amendments and revisions.

(a) *Pre-approval revisions to the application.* Applicants must submit to the HUD Area Office and to Central Office all revisions to the application. If the revisions are significant, i.e., if they alter the scope, location, or scale of the project or change the beneficiaries' population, the following procedures must be followed:

(1) The applicant must resubmit the application to state and areawide clearinghouses. Such agencies will have 30 days to review significant revisions. If there is a question of significance, the applicant should consult directly with its clearinghouses.

(2) The applicant must hold at least one public hearing prior to making a significant revision to the application according to the procedures of § 570.454(a).

(b) *Post Preliminary Approval Amendments.* Applicants receiving preliminary approval must submit to the HUD Central Office, a request for approval of any significant amendment. A copy of the request must also be submitted to the Area Office. A significant amendment involves new activities or alterations thereof which will change the scope, location, scale, or beneficiaries of such activities or which, as a result of a number of smaller changes, add up to an amount that exceeds ten percent of the grant. HUD approval of amendments may be granted to those requests which meet all of the following criteria:

(1) New or significantly altered activities must meet the criteria for selection applicable at the time of receipt of the program amendment.

(2) The recipient must have complied with all requirements of this subpart including A–95 and citizen participation as specified in paragraph (a) of this section and the provisions of 24 CFR Part 58 concerning environmental reviews.

(3) The recipient may make amendments other than those requiring prior HUD approval as defined in paragraph (b) of this section but each recipient must notify both the Area and Central Offices of such changes.

§ 570.464 Applicability of rules and regulations.

The provisions of Subparts A, B, C, J, K, and O of this Part 570 shall apply to this subpart except to the extent that they are modified or augmented by this subpart.

2. § 570.910 is amended by adding at the end thereof a new paragraph (b)(11) to read as follows:

§ 570.910 Corrective and remedial actions.

* * * * *

(b) * * *

(11) In the case of action grants made under Subpart G, adjust, reduce or withdraw the grant, or take other action as appropriate in accordance with findings of reviews and audits made to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables except that funds already expended on otherwise eligible activities shall not be recaptured or deducted from future grants.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); and Sec. 7(d), Department of House and Urban Development Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., October 9, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80–34492 Filed 11–4–80; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 570

[Docket No. R–80–759]

Community Development Block Grants; Modifications to Urban Development Action Grant Rules To Accommodate Communities Containing Pockets of Poverty

AGENCY: Office of Urban Development Action Grants, HUD.

ACTION: Final rule.

SUMMARY: This rule amends Part 570, Subpart G (urban development action grants) by adding a new § 570.466 which finalizes the requirements governing Urban Development Action Grants available to assist communities in revitalizing the economic base of their Pockets of Proverty.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4–(202/755–7362), Stanley Newman, Region 2–(202–755–6193), Harvey Zeiger, Regions 3 and 10–(202–755–0268), William Hammer, Region 5–(Illinois, Indiana, and Minnesota–(202–755–6035), and (Senior Development Officer, Michigan, Ohio, and Wisconsin–202/755–6284), Charles Kendrick, Regions 6 and 8–(202–755–5620), Wally May, Regions 7 and 9–(202–755–8227), (These are not toll free numbers. Address: Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 1980, the Department published in the **Federal Register** (45 FR 10740) an interim rule governing the Urban Development Action Grant program for communities eligible as Pockets of Poverty. The rule implemented the 1979 amendments made to Section 119 of the Housing and Community Development Act Amendments of 1974.

Interested parties were given until April 15, 1980 to comment. All comments with respect to the interim rule were given careful consideration. As a result of 21 responses filed, the following changes are being made:

Section 570.466 Specific Provisions

Determining eligibility for communities containing pockets of poverty received the greatest number of comments. This paragraph specifies the requirements which must be met in order to qualify as an eligible Pocket of Poverty. One commentor wished HUD to incorporate into the rules a review and notification process for the pre-applications. As this is covered in another section of the Action Grant program rules, we refer readers to § 570.453.

Income and Poverty

A number of respondents focused on the income and poverty requirements for Pockets of Poverty. Following one suggestion, HUD is changing the language of paragraph (a)(2)(ii) to state that in order to meet the income requirements, at least 70 percent of the "families and unrelated individuals" residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median. By specifying families and unrelated individuals, rather than residents, we believe that applicants will have a clearer perception of the type of data and analysis necessary to determine a community's eligibility. Three commentors suggested that HUD amend the income and proverty requirements by allowing the use of regional and subregional cost of living indices. While we believe that cost of living variations are important, HUD is constrained by the fact that such data is available for only a limited number of communities across the country. HUD is therefore unable to implement the practice for all communities without giving unfair advantage to those parts of the country for which such data is available.

One commentor believed that the poverty level threshold should be raised to 45 percent, while another believed that the percentage of persons required to meet the income test was too high. HUD notes that these percentages are established in the legislation. One commentor recommended that the exclusion of enumeration districts and block groups with income levels greater than 120 percent of the median was too restrictive. We, however, point out that this exclusion tightens the targeting of the direct benefits of a project to low and moderate income people as directed by the law.

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Population

For cities of greater than 50,000, language was suggested which would better define the minimum population of a Pocket. HUD has amended paragraph (a)(2) to reflect these comments and to clarify a Pocket's size requirements. It should also be mentioned that the legislation establishing the criteria for population in urban counties made no distinction between urban and non-urban portions.

In the same vein, readers should note that the legislation established the minimal population size of a Pocket of Poverty within a city of under 50,000 population. One reader found that the use of census tracts was better in defining a Pocket although another suggested that the use of census tracts harm smaller cities as opposed to large. Pockets of Poverty can be defined by either census tracts, enumeration districts or block groups. However, all commnities must exclude any enumeration district or block group which exceeds 120 percent of the jurisdiction's median income. All cities must use the Fifth Count Summary Tape to determine their Pocket of Poverty.

Use of Census Data

Several respondents said that 1970 Census data is out of date and that some method of verification of more recent and/or local data should be established, preferably where HUD makes the determination. The law specifies that data, other than Census data, must be verified by the U.S. Bureau of the Census. Although the Census Bureau is verifying only census produced data, the law is strict in determining that this is a Census Bureau responsibility. However, in order to aid communties in establishing a Pocket of Poverty, HUD has established new and more specific procedures to obtain the necessary documentation for a Pocket in paragraph (a)(4). The HUD Area Office will provide data to the cities upon request. Because of this new provision, Footnote 1 has been deleted from the rules.

Comparable Services

Although three readers recommended change or elimination of the comparable services requirement and procedure, four highly supported the provision as it stands. This requirement cannot be eliminated as it is required by statute.

Location of the Project.

One representative suggested that it would be helpful if a project located adjacent to the Pocket of Poverty could be within another jurisdiction. There is nothing in the regulations which would prohibit the project being located on a site adjacent to the Pocket but within another jurisdiction so long as the Pocket of Poverty receives the direct benefits of the project. We refer the reader to § 570.455(a) and to paragraph (b) of this section.

Four respondents recommended that the rule be changed to allow the project to be located "near" rather than adjacent to the Pocket. We reference the statute, however, which states that the project may be located on a site "directly adjacent" to the Pocket. Finally, one letter takes issue with the requirement that the project may be allowed outside of the Pocket only if the project is economically infeasible or is harmful to the low and moderate income residents of the Pocket. It suggests that factors such as crime, the environment, access to public transportation, etc., should be considered. In certain appropriate instances, HUD may allow such factors to be considered in its analysis of the project's feasibilty.

Provision of Local Matching Funds.

HUD is changing the language of paragraph (c)(2) in order to clarify the concept and the procedure for calculating the local match. One comment suggested that the local match was unnecessary as Pockets of Poverty communities have more stringent project requirements to meet than other Action Grant communities. Another recommended that the local match be included in the calculation of the project's leverage ratio. HUD responds that the requirement of a local match is a public commitment required as a threshold criteria by law and that it can in no way be considered a "firm private commitment" (See § 570.451(k) for the definition of the leverage ratio). Another respondent suggested that the applicant be allowed to use revenue bonds to fund the local match. HUD replies that a revenue bond is based on an income-producing property and that, as such, it is not strictly regarded as a public commitment. In response to this, however, we have included language in paragraph (c)(2) which clarifies that revenue bonds will not be acceptable as the local match.

Employment Opportunities.

Four respondents made a special point of supporting all of the employment criteria in paragraph (c)(3)(i) while a fifth singled out the requirement that 51 percent of the jobs be provided to low and moderate income residents of the pocket. Three comments recommended that the 75 and 51 percent factors for low and moderate income people be changed to goals rather than requirements. Other points made on this paragraph ranged from the belief that a different mix of employment would prevent concentration of low and moderate income jobs to the belief that the requirements might discourage potential investors. We believe that the job criteria insures that the intent of the legislation—to directly benefit the low and moderate income residents of the Pocket—is fully implemented by these requirements. In keeping with this intent, new language has also been added to the regulation which further explains how HUD expects the requirements to be met in a project.

Tax increment.

Opinions on our policy on the use of the tax increment generated by a project ranged from the statement that the policy of encouraging its use in the Pocket went beyond the legislative intent to the statement that HUD should require, rather than simply encourage, the use of the tax increment in the Pocket. The stipulation is consistent with the statute particularly with respect to providing benefits to low and moderate income persons.

Criteria for Project Selection for Communities Containing a Pocket of Poverty.

Two commentors made the point that small city applications should compete only with small cities and large cities against only large. As that is the system which HUD has effected, we refer readers to § 570.460.

Among the factors which HUD will consider in selecting a project for funding is the extent to which low and moderate income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty. One comment disagreed with this approach and suggested that cities should certify their intent to actively pursue minority employment without citing data. Our position, however, is that the Action Grant program is competitive and such self-certification would not provide the necessary information to evaluate one project against another. Furthermore, HUD believes that this language is not strong enough to encourage minority employment.

With respect to the selection factor on minority entrepreneurship and neighborhood support, all but one respondent supported the policy. Several suggested that HUD should provide a mechanism for strengthening the consideration of these factors. We, however, are relying on competitive nature of the program to assure maximum minority entrepreneurship and neighborhood support.

Other Changes

A number of other technical changes have been made in the regulations. For example, we have revised all of the references to Subpart G to reflect the finalization of the proposed rules to the Action Grant program.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The changes embodied in the regulation have been evaluated and have been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the findings are available for inspection and copy during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

This rule is not listed in the Department's semi-annual agenda of significant rules published pursuant to Executive Order 12221.

Accordingly, 24 CFR 570, Subpart G is amended by adding a new Section 570.466 to read as follows:

§ 570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Action Grants may also provide funding for economic development and neighborhood revitalization projects targeted to severely distressed areas called Pockets of Poverty in communities which do not meet Action Grant Program distress criteria. Cities and urban counties eligible under this provision will not meet the minimum standards of physical and economic distress defined in § 570.452, but must meet the eligibility criteria of paragraph (a) of this section in this context. Action Grants for Pockets of Poverty projects are intended to provide increased public and private assistance principally and directly to aid the geographically defined Pocket of Poverty and its low- and moderate-income inhabitants through the provision of jobs, and a revitalized physical environment. Up to but no more than, 20 percent of all Action Grant assistance made available after October 1, 1979 may be used for Pockets of Poverty. The following paragraphs set forth rules applying only to communities containing pockets of poverty. All other provisions of subpart G apply to these communities except as modified herein.

(a) *Determining Eligibility for Communities Containing Pockets of Poverty.*

(1) *Preapplication Request for a Determination of Eligibility.* Each applicant for Pockets of Poverty assistance must submit a request for a determination of eligibility to the appropriate HUD area office as specified in 570.453 and 570.454 and as modified here. In addition to meeting the criteria of this section, each applicant must have demonstrated reasonable results in providing housing for persons of low- and moderate-income explained in 570.453(b) must have achieved reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups as in 570.453(c) and each applicant must provide comparable services to and for Pockets of Poverty residents (see Paragraph (6) of this section).

(2) *Cities of above 50,000 Population or more and Urban Counties.* A city with a population over 50,000 or urban county which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a "pocket" consisting of a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area composed of contiguous census tracts, enumeration districts or block groups. The defined geographic area must contain at least 10,000 persons or 10 percent of the jurisdiction's population. In other words, a city with a population of 100,000 or more must have a Pocket of at least 10,000. A city of less than 100,000 population must have a Pocket of at least 10 percent of its population. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket Poverty.

(ii) *Income.* At least 70 percent of the families and unrelated individuals residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median income.

(iii) *Poverty.* At least 30 percent of the residents residing in the Pocket of Poverty must have incomes below the national poverty level pursuant to criteria provided by the Office of Management and Budget.

(3) *Small Cities below 50,000 Population.* A small city with a population below 50,000 which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area defined by contiguous census tracts, enumeration districts, block groups, or other areas defined by the U.S. Bureau of the Census or for which data certified by the U.S. Bureau of the Census is available. The defined geographic area must contain at least 2,500 persons or 10 percent of the jurisdiction's population, whichever is more. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket of Poverty.

(ii) *Income and Poverty.* Small cities must meet the criteria specified in (2)(ii) and (iii)

(4) *Use of Census Data in Documenting a Pocket of Poverty.* Applicants should use the 1970 Fifth Count Block Group/Enumeration District computer tape file available from Census summary tape processing centers and from the HUD Area Office, special Census surveys or data verified by the Census and should use comparable data from the 1980 Census as soon as it is available, to establish population, income and poverty levels.

(5) *Certification of the Preapplication Eligibility Data.* The applicant's chief executive officer must certify that to the best of his knowledge the Pocket of Poverty defined in the application meets the population, income and poverty criteria described in this paragraph (a) and that the data provided in the application to establish eligibility are true and correct.

(6) *Comparable Services.* The applicant's chief executive officer must certify in the preapplication request for a determination of eligibility that the applicant is now providing basic services (police, fire, road repair and sanitation) over which it has control to the designated Pocket of Poverty which are at least equivalent to the basic services which it provides to more affluent residential areas of its jurisdiction (areas similar in population numbers to the pocket but with median incomes above the jurisdiction's median income). The certification must indicate

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that services in the pocket reflect adjustments based on needs resulting from the physical characteristics of the area (e.g., land use pattern, density, housing type).

(i) The preapplication should indicate that the applicant has on file data and analyses comparing basic services, over which it has control, provided to more affluent areas of the jurisdiction to the level and type of basic services which are provided to the Pocket of Poverty. To the extent practicable, the applicant must document that per capita expenditures are at least equivalent in the Pocket of Poverty when compared to the more affluent area. If comparisons of per capita expenditures of basic services are not practicable, the data and analyses on file should use similar units of measurement, which approximate per capita costs, to compare the level and type of basic services provided in the pocket to those provided in more affluent residential areas. For example, if the police department's standard for response to calls requesting assistance in the more affluent areas is "x" minutes, then the applicant must have documentation in its files that it provides the Pocket of Poverty at least this level of service. Similarly, if the standard for sanitation is "x" trash pickups in the more affluent areas, the applicant must have data and analyses in its file that demonstrate that it provides the Pocket of Poverty at least this level of service, etc.

(ii) The data and analyses on file must also indicate that the compared basic services reflect adjustments to the needs resulting from the physical characteristics of the Pocket of Poverty; they must reflect reasonable local efforts to adjust to the service needs resulting from such physical factors as density, housing types, and land use patterns. For example, a relatively high level of density in the pocket would be expected to generate more frequent trash pickups or shorter scheduled trips for trash pickups than in a lower density area.

(b) *Location of the Project and Related Requirements for Communities Containing Pockets of Poverty.*

The proposed project must be located within the severely distressed area defined in the eligibility criteria of paragraphs (a) (2) and (3). However, in limited instances, HUD will approve a project on a site directly adjacent to the Pocket of Poverty if the applicant demonstrates in the application that there is no other suitable site for the project in the Pocket of Poverty. To do this, the applicant must provide in the application data and analyses that indicate that the project would not be economically feasible if located on a site in the pocket or that its location on a site in the pocket would cause harm to low- and moderate-income residents of the pocket and the area's overall physical and economic development. All assisted projects directly adjacent to the pocket must substantially contribute to the physical and economic development of the pocket, and must meet the minimum requirements described in (c).

(c) *Application Submission Factors in Addition to Those of 570.458*

(1) *General.* Applicants for Action Grants under the Pockets of Poverty provision must meet the requirements of this section in addition to those described in 570.458.

(2) *Provision of Local Matching Funds.* Applicants applying for Action Grants under Pockets of Poverty must make available a cash contribution, equal to 20 percent of the amount of the grant requested, to be used as a local match. The amount of the grant requested equals the amount of money which the private participating party states is necessary in order to build the project. The statement that "but for the receipt of the public funds requested . . ." is further described under "firm private commitment" in § 570.451(h). The local share is then calculated by taking 20 percent of the "but for" amount. Such funds may be derived from local funding sources, State funds or from any Federal program which permits the use of financial assistance to meet the non-Federal share requirement of Federal grant-in-aid programs. Revenue bonds, however, may not be used as the source of the local match.

(i) *Use of the Local Match.* The 20 percent share must be in cash and must be spent on direct costs resulting from the project and occurring because of the project. For example, the match may be used to provide sewer and water facilities required by the project or roads specifically needed by the project.

(ii) *Provision of a Firm Commitment of the Local Matching Funds.* If the source of the funds to be used as the match is from own source revenues or locally derived revenues, the chief executive officer must submit evidence with the application that a city or county council resolution or other appropriate action has been taken approving the allocation of these funds. If the source of such funds is a State or Federal agency which must approve their utilization, then a letter of commitment from that agency must be submitted with the application.

(3) *Direct Benefits to the Low- and Moderate-Income Inhabitants of the Pocket of Poverty.* Applicants must demonstrate that the proposed project will provide direct benefits to the low- and moderate-income residents of the Pocket of Poverty and substantially contribute to the physical and economic development of the Pocket of Poverty, particularly those areas occupied by low- and moderate-income residents of the pocket of poverty. Applications must address the following categories of benefits and impacts.

(i) *Employment Opportunities.* The application must describe the number and, to the extent possible, the types of new jobs (construction and permanent) which will be provided to the low- and moderate-income residents of the Pocket of Poverty as a direct result of the proposed project. If the application calls for job training programs (such as those related to the CETA program) or job recruiting services for the pocket's residents, then such proposed activities must be clearly and fully explained.

HUD requires applicants to ensure that at least 75 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income persons and that at least 51 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income residents from the pocket. HUD encourages applicants to ensure that at least 20 percent of all permanent jobs are filled by persons from the pocket qualified to participate in the CETA program on a continuous basis.

HUD requires all applicants to continuously use best efforts to ensure that at least 75 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income persons and that at least 51 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income residents from the pocket. The application should clearly describe how the applicant intends to meet initial and continuous job requirements.

Applicants are referred to § 570.461(b) concerning legally binding commitments. Private participating parties must meet these employment requirements in the aggregate. To enable the private participants to do so, lease agreements executed by a private participating party shall include: (i) provisions requiring lessees to follow hiring practices which the private participating party has determined will enable it to meet these requirements in the aggregate and (ii) provisions which will enable the private participating party to declare a default under the lease agreement if the lessees do not follow such practices.

(ii) *Services and Physical Improvements.* If relevant, the application should describe the services and physical improvements to be provided by the project and their specific relationship to the needs of the low- and moderate-income inhabitants of the Pocket of Poverty.

(iii) *Repayment by Private Sector.* HUD requires the applicant to utlize proceeds from any repayment of Action Grant funds or local match funds by the private sector for the direct benefit of low- and moderate-income residents of the pocket's area.

(iv) *Tax Increment.* HUD encourages the applicant to allocate local revenues equal to a significant portion of the applicant's tax increment (net increase in property tax revenues over current revenues) resulting from the project to the Pocket of Poverty for economic or community development purposes within the pocket, particularly the areas occupied by low- and moderate-income residents of the Pocket of Poverty. The activities for which the funds may be used must directly benefit the low- and moderate-income residents of the Pocket of Poverty. The funds may not be used to meet comparable service requirements defined in (a)(7) or to substitute for applicant resources normally made available to the pocket's area or their residents.

(v) *Minority Entrepreneurs.* HUD encourages the applicant to provide opportunities for minority entrepreneurs, including minority entrepreneurs from the pockets, in all aspects of the project (planning, design, construction and operation of the project).

(vi) *Minority Jobs.* HUD encourages the applicant to provide job opportunity to low- and moderate-income minorities equivalent, at a minimum, to their proportion of the population in the pocket.

(d) *Criteria for Project Selection for Communities Containing Pockets of Poverty.*

(1) *General.* Applications from eligible Pockets of Poverty communities will be considered separately from those of distressed communities. However, each project submitted by jurisdictions eligible on the basis of its Pockets of Poverty must compare favorably on its own merits with any other Action Grant project to be selected for funding. Criteria for the selection of projects for preliminary funding approval are set forth in the first paragraph of § 570.459 as well as paragraphs (b) through (u) of § 570.459 with the additions and modifications set forth in paragraph (2) of this section.

(2) *Additional Factors for the Selection of Projects for Funding.* HUD shall in each calendar quarter review all proposals received and pending consideration and shall determine which among such proposals shall receive preliminary funding approval on the following bases:

(i) The comparative degree of distress in the Pocket of Poverty as measured by the percent of residents below the national poverty level and the percent of residents with incomes below 80 percent of the median income.

(ii) The comparative degree of benefits to be provided to low- and moderate-income persons residing in the area. For example, given two equally feasible and effective proposals, HUD will select that proposal which provides the greatest overall benefits to low- and moderate-income persons living in the pocket of poverty.

(iii) HUD shall also consider;

(A) The extent to which the project provides jobs to CETA-eligible residents of the Pocket of Poverty;

(B) the extent to which a significant portion of the tax increment, or an equivalent thereof, is allocated for economic or community development purposes within the pocket for activities which directly benefit low- and moderate-income residents of the pocket;

(C) the extent to which low- and moderate-income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty;

(D) the extent to which minority entrepreneurs, including minority entrepreneurs from the pocket, are provided opportunities to participate in all phases of the project; and

(E) the extent of support for the project from bona fide groups representing low- and moderate-income residents of the pocket and from pocket's residents themselves.

Authority:—Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. on October 9, 1980.

Walter G. Farr, Jr.,

General Deputy Assistant Secretary, Office of Community Planning and Development.

[FR Doc. 80-34493 Filed 11-4-80; 8:45 am]

BILLING CODE 4210-01-M

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

64950 10-1-80 / FM broadcast station in Bridgeport, Nebr.; changes in table of assignments

64950 10-1-80 / FM broadcast station in Middletown, Md.; changes in table of assignments

64951 10-1-80 / FM broadcast station in Petersburg, W. Va.; changes in table of assignments

Deadlines for Comments On Proposed Rules for the Week of November 9 through November 15, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

71571 10-29-80 / Cherries grown in Mich., N.Y., Wisc., Pa., Ohio, Va., W. Va., and Md.; proposed revision of interest rate; comments by 11-13-80

Animal and Plant Health Inspection Service—

67669 10-14-80 / Harry S. Truman Import Center, Procedures to be used for the allotment of quarantine space for cattle to be imported; comments by 11-13-80

60402 9-12-80 / Plant pests; Mediterranean fruit fly expansion of regulated area in Calif.; comments by 11-12-80

Federal Grain Inspection Service—

60407 9-12-80 / Barley standards inquiry to determine effectiveness and responsiveness to current marketing needs; comments by 11-12-80

60448 9-12-80 / Humane handling of livestock, witholding of water from animals for not more than 24 hours; comments by 11-12-80

[Republished with corrections at 45 FR 62477, 9-19-80]

COMMERCE DEPARTMENT

International Trade Administration—

59302 9-9-80 / Short supply controls; extension of deadline for applications to participate in the allocation of the export quota for unprocessed Western Red Cedar for FY 1981 and thereafter; comments by 11-10-80

National Oceanic and Atmospheric Administration—

72525 10-24-80 / Amendment to Fishery Management plans for Atlantic mackerel and butterfish; comments by 11-10-80

68412 10-15-80 / Atlantic tuna fisheries; conservation recommendations; comments by 11-14-80

71836 10-30-80 / Precious corals fishery management plan; comments extended to 11-15-80

[Originally published at 45 FR 60957, 9-15-80]

COMMODITY FUTURES TRADING COMMISSION

69248 10-20-80 / Commodity pool operator and trading advisor regulations; comment period extended to 11-14-80

[*See also* 45 FR 51600 8-4-80 and 45 FR 65257, 10-2-80]

COMMUNITY SERVICES ADMINISTRATION

60954 9-15-80 / Civil Rights Program Requirements of CSA grantees; civil rights regulations; comments by 11-14-80

EDUCATION DEPARTMENT

59349 9-9-80 / Education Division General Administrative Regulations (EDGAR); Grant programs without specific regulations; comments by 11-10-80

ENERGY DEPARTMENT

71254 10-27-80 / Organization and functions of the Department of Energy; comments by 11-14-80

Economic Regulatory Administration—

59818 9-10-80 / Modification of the entitlement benefit accorded naphtha imported into Puerto Rico and used as a petrochemical feedstock; comments by 11-10-80

61268 9-15-80 / Treatment of Alaska North Slope Crude Oil under the entitlement program; comments by 11-12-80

[*See also* 45 FR 46752, 7-10-80 and 45 FR 31682, 5-13-80]

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Federal Energy Regulatory Commission—

69929 10–22–80 / Ceiling prices: high-cost gas produced from tight formations; comments by 11–10–80

69930 10–22–80 / Ceiling prices: high-cost gas produced from tight formations; comments by 11–14–80

68389 10–15–80 / Incremental pricing; revised alternative fuel price ceilings for Rhode Island (interim rule); comments by 11–10–80

70476 10–24–80 / Inquiry relating to affirmative action in accordance with section 604 of the Outer Continental Shelf Lands Act of 1978; comments period extended to 11–15–80

[*See also* 45 FR 49122, 7–23–80]

ENVIRONMENTAL PROTECTION AGENCY

68406 10–15–80 / Administrative Order to VEPCO's Chesterfield Generating Station requiring its Unit 4 Chesterfield Co., Va., to achieve compliance with air pollution requirements under Virginia State Implementation Plan by 6–1–82; comments by 11–14–80

67683 10–14–80 / Approval and Promulgation of Indiana State Implementation Plan; comments by 11–13–80

67397 10–10–80 / Arkansas Air Quality Implementation Plan; malfunctions upsets and continuous emission monitoring; comments by 11–10–80

65263 10–2–80 / Availability of Kentucky application for phase I interim authorization; comments by 11–10–80

68979 10–17–80 / Availability for review of Utah's application for interim authorization, phase I, hazardous waste management program; comments by 11–14–80

68980 10–17–80 / Availability for review of North Dakota's application for interim authorization, plan I, hazardous waste management program; comments by 11–14–80

60941 9–15–80 / Designation of areas for air quality planning purposes; Section 107 attainment status designations; comments by 11–14–80

65632 10–3–80 / Hazardous waste management; Mississippi application for interim authorization; comments by 11–11–80

67396 10–10–80 / Historical and cultural resources implementation of procedures for identification, protection and maintenance; comments by 11–10–80

67397 10–10–80 / Massachusetts Air Quality Implementation Plan; increase in sulfur-in-fuel content; comments by 11–10–80

64876 9–30–80 / Noise emission standards for transportation equipment interstate rail carriers; comments by 11–14–80

67686 10–14–80 / Oregon, Implementation Plan; comments by 11–13–80

67399 10–10–80 / Pesticide chemicals; malathion, proposed tolerance on flax seed and flax straw; comments by 11–10–80

60942 9–15–80 / Proposed removal of bis(chloromethyl) ether (BCME) from the Toxic Pollutant List; comments by 11–14–80

55066 8–18–80 / Proposed revisions to the National Ambient Air quality standards for carbon monoxide; comments by 11–10–80

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68405 10–15–80 / Revision to the New York State Implementation Plan; comment period extended to 11–14–80

[*See also* 45 FR 54372; 8–15–80]

60930 9–15–80 / Submittal to satisfy condition on approval of the New York State implementation plans; comments by 11–14–80

FEDERAL COMMUNICATIONS COMMISSION

54786 8–18–80 / Amendment of Form 324, Annual Financial Report of Broadcast Stations; reply comments period extended to 11–14–80

35370 5–27–80 / FCC Form 324 Annual Financial Report of Broadcast Stations; reply comments by 11–14–80

58620 9–4–84 / FM Broadcast Stations in Columbia and Monroe City, Mo.; proposed changes in table of assignments; reply comments by 11–10–80

59908 9–11–80 / FM Broadcast Stations in Kennewick and Richland, Wash.; changes in table of assignments; reply comments by 11–13–80

58617 9–4–84 / FM Broadcast Station in Owingsville, Ky.; proposed changes in table of assignments; reply comments by 11–10–80

58626 9–4–80 / FM Broadcast Station in Orem, Utah; proposed changes in table of assignments; reply comments by 11–10–80

58615 9–4–80 / FM Broadcast Station in Rifle, Colo.; proposed changes in table of assignments; reply comments by 11–10–80

59361 9–9–80 / FM Broadcast Station in Walker, Minn.; table of assignments; reply comments by 11–13–80

55491 8–20–80 / FM quadraphonic broadcasting; comments by 11–10–80

54778 8–18–80 / Inquiring relating to radio operator licensing program; comments by 11–14–80

[*See also* 41 FR 22981, June 7, 1976; 42 FR 40939, Aug. 4, 1977]

64981 10–1–80 / TV Broadcast Station in Santa Barbara, Calif.; changes in table of assignments; comments by 11–14–80

69504 10–21–80 / Use of 12.5 kHz offset assignments in the 450–470 mHz band in the private land mobile radio services; reply comments by 11–15–80

FEDERAL MARITIME COMMISSION

67711 10–14–80 / Status of Bulk Commodities; comments by 11–13–80

FEDERAL RESERVE SYSTEM

66349 10–8–80 / Electronic fund transfers; proposed Official Staff Commentary; comments by 11–14–80

GENERAL SERVICES ADMINISTRATION

71628 10–29–80 / Government-wide automatic data processing management and procurement; comments by 11–14–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

67320 10–10–80 / Food additives; emulsifiers and/or surface active agents; objections by 11–10–80

60449 9–12–80 / Public hearings before advisory committees; annual report requirements; comments by 11–12–80

Health Care Financing Administration—

59734 9–10–80 / Prospective payment method for Medicare and Medicaid reimbursement of independent rural health clinics; comments by 11–10–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

59496 9–9–80 / Community development block grants; Innovative grants programs; clarification of program objectives and requirements for unsolicited proposals, solicited preapplications; interim rule; comments by 11–10–80

59306 9–9–80 / Community Development Block Grants and Urban Development Action Grants; comments by 11–10–80

Federal Housing Commission—Office of Assistant Secretary for Housing and Office of Assistant Secretary for Policy Development and Research—

60390 9–11–80 / Condominium ownership mortgage insurance—existing multifamily housing demonstration; interim rule; comments by 11–10–80

59561 9–10–80 / Mutual mortgage insurance and insured home improvement loans; delivery of one-to-four family properties occupied by tenants or former mortgagors; revised criteria; interim rule; comments by 11–10–80

59589 9–10–80 / Prohibition of prepayment of mortgage which are assisted by way of Housing Asssistance Payments Contracts during the term of the mortgage without the prior consent of the Commissioner; comments by 11–10–80

59502 9–9–80 / PHA-owned projects; uniform standards and procedures for determining the amounts of utility allowances and surcharges applicable to tenants of dwellings owned; interim rule; comments by 11–10–80

59309 9–9–80 / Section 8 Housing Assistance Payments Program, computation of gross family contribution; comments by 11–10–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

59909 9–11–80 / Endangered and threatened wildlife and plants; proposal to determine "isotria medeoloides" (small whorled pogonia) to be an endangered species; comments by 11–10–80

54682 8–15–80 / Determining hedeoma apicalatum (McKittrick pennyroyal) to be a threatened species with critical habitat; comments by 11–13–80

54685 8–15–80 / Review of 18 species of foreign reptiles for proposed listing as endangered or threatened; comments by 11–13–80

Indian Affairs Bureau—

60923 9–15–80 / Heritage preservation; comments by 11–14–80

JUSTICE DEPARTMENT

Parole Commission—

60427 9–12–80 / Federal prisoners, parole supervision termination guidelines; comments by 11–14–80

SMALL BUSINESS ADMINISTRATION

68399 10–15–80 / Economic opportunity loans; interest rate; comments by 11–14–80

68398 10–15–80 / Handicapped assistance loans; interest rate; comments by 11–14–80

TRANSPORTATION DEPARTMENT

Coast Guard—

54095 8–14–80 / Great Lakes Bulk Dry Cargo Vessels, damage stability standards; comments by 11–12–80

Federal Aviation Administration—

59897 9–11–80 / Petitions for rulemaking; National and Dulles International Airports; solicitation and leafletting procedures; comments by 11–10–80

Federal Railroad Administration—

64191 9–29–80 / National Railroad Passenger Corporation (Amtrak); Informal rules of practice for passenger service; comments by 11–13–80

TREASURY DEPARTMENT

Internal Revenue Service—

60450 9–12–80 / Income taxes; nonresident aliens; election to be treated as a resident and U.S. income tax treaties; comments by 11–11–80

Office of the Secretary—

68686 10–16–80 / Regulations governing practice before the Internal Revenue Service to set standards for providing of opinions used in promotion of tax shelters; comment period extended to 11–14–80

[*See also* 45 FR 58594, 9–4–80]

VETERANS ADMINISTRATION

68403 10–15–80 / Disaffirmation of election of improved pension by certain medicaid recipients; comments by 11–14–80

WAGE AND PRICE STABILITY COUNCIL

69207 10–20–80 / Anti-inflationary pay standards; questions and answers on extrapolation of the second-year standard; comments by 11–10–80

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

69245 10–20–80 / Tomatoes grown in Fla.; handling regulations; comments by 11–19–80

Farmers Home Administration—

62432 9–19–80 / Rural Housing Loans and Grants; low-and moderate income limits adjustment, (Section 502); Comments by 11–18–80

Federal Grain Inspection Service—

61637 9–17–80 / Review of regulations concerning inspection and certification of certain agricultural commodities and products thereof under the Agricultural Marketing Act of 1946; comments by 11–17–80

Food and Nutrition Service—

66463 10–7–80 / Food stamp program; demonstration, research, and evaluation projects; comments by 11–17–80

Office of the Secretary—

61309 9–16–80 / Nondiscrimination on basis of age in programs or activities rceiving Federal financial assistance; comments by 11–17–80

Rural Electrification Administration—

62431 9–19–80 / Telephone borrowers; coaxial drop and service entrance cable; (Bulletin 345–80); comments by 11–18–80

CIVIL AERONAUTICS BOARD

66473 10–7–80 / Air carriers; removal of certificate restrictions; comments by 11–17–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

63286 9–24–80 / High seas salmon emergency regulations; comments 11–20–80

64995 10–1–80 / Permit application fees; comments by 11–17–80;

70523 10–24–80 / Modification of amendments to preliminary fishery management plan for Bering Sea and Alention Islands Groundfish Fishery; comments by 11–21–80

COMMODITY FUTURES TRADING COMMISSION

55469 8–20–80 / Contract market rules and practices for imposition and maintenance of price limits; comments by 11–18–80

DEFENSE DEPARTMENT

National Security Agency—

68686 10–16–80 / Policies and procedures for obtaining information from financial institutions; comments by 11–17–80

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

68641 10–16–80 / Proposed phaseout of finders fees; comments by 11–17–80

EDUCATION DEPARTMENT

62856 9–22–80 / Arts in education program; comments by 11–21–80

62859 9–22–80 / Law-related education program; comments by 11–21–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

69929 10–22–80 / Ceiling prices: high-cost gas produced from tight formations; comments by 11–10–80

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FEDERAL RESERVE SYSTEM

66349 10–8–80 / Electronic fund transfers; proposed Official Staff Commentary; comments by 11–14–80

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59734 9–10–80 / Prospective payment method for Medicare and Medicaid reimbursement of independent rural health clinics; comments by 11–10–80

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Community Planning and Development, Office of the Assistant Secretary—

59496 9–9–80 / Community development block grants; Innovative grants programs; clarification of program objectives and requirements for unsolicited proposals, solicited preapplications; interim rule; comments by 11–10–80

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60390 9–11–80 / Condominium ownership mortgage insurance—existing multifamily housing demonstration; interim rule; comments by 11–10–80

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59589 9–10–80 / Prohibition of prepayment of mortgage which are assisted by way of Housing Asssistance Payments Contracts during the term of the mortgage without the prior consent of the Commissioner; comments by 11–10–80

59502 9–9–80 / PHA-owned projects; uniform standards and procedures for determining the amounts of utility allowances and surcharges applicable to tenants of dwellings owned; interim rule; comments by 11–10–80

59309 9–9–80 / Section 8 Housing Assistance Payments Program, computation of gross family contribution; comments by 11–10–80

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Fish and Wildlife Service—

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Indian Affairs Bureau—

60923 9–15–80 / Heritage preservation; comments by 11–14–80

JUSTICE DEPARTMENT

Parole Commission—

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SMALL BUSINESS ADMINISTRATION

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68398 10–15–80 / Handicapped assistance loans; interest rate; comments by 11–14–80

TRANSPORTATION DEPARTMENT

Coast Guard—

54095 8–14–80 / Great Lakes Bulk Dry Cargo Vessels, damage stability standards; comments by 11–12–80

Federal Aviation Administration—

59897 9–11–80 / Petitions for rulemaking; National and Dulles International Airports; solicitation and leafletting procedures; comments by 11–10–80

Federal Railroad Administration—

64191 9–29–80 / National Railroad Passenger Corporation (Amtrak); Informal rules of practice for passenger service; comments by 11–13–80

TREASURY DEPARTMENT

Internal Revenue Service—

60450 9–12–80 / Income taxes; nonresident aliens; election to be treated as a resident and U.S. income tax treaties; comments by 11–11–80

Office of the Secretary—

68686 10–16–80 / Regulations governing practice before the Internal Revenue Service to set standards for providing of opinions used in promotion of tax shelters; comment period extended to 11–14–80

[*See also* 45 FR 58594, 9–4–80]

VETERANS ADMINISTRATION

68403 10–15–80 / Disaffirmation of election of improved pension by certain medicaid recipients; comments by 11–14–80

WAGE AND PRICE STABILITY COUNCIL

69207 10–20–80 / Anti-inflationary pay standards; questions and answers on extrapolation of the second-year standard; comments by 11–10–80

Deadlines for Comments On Proposed Rules for the week of November 16 through November 22, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

69245 10–20–80 / Tomatoes grown in Fla.; handling regulations; comments by 11–19–80

Farmers Home Administration—

62432 9–19–80 / Rural Housing Loans and Grants; low-and moderate income limits adjustment, (Section 502); Comments by 11–18–80

Federal Grain Inspection Service—

61637 9–17–80 / Review of regulations concerning inspection and certification of certain agricultural commodities and products thereof under the Agricultural Marketing Act of 1946; comments by 11–17–80

Food and Nutrition Service—

66463 10–7–80 / Food stamp program; demonstration, research, and evaluation projects; comments by 11–17–80

Office of the Secretary—

61309 9–16–80 / Nondiscrimination on basis of age in programs or activities rceiving Federal financial assistance; comments by 11–17–80

Rural Electrification Administration—

62431 9–19–80 / Telephone borrowers; coaxial drop and service entrance cable; (Bulletin 345–80); comments by 11–18–80

CIVIL AERONAUTICS BOARD

66473 10–7–80 / Air carriers; removal of certificate restrictions; comments by 11–17–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

63286 9–24–80 / High seas salmon emergency regulations; comments 11–20–80

64995 10–1–80 / Permit application fees; comments by 11–17–80;

70523 10–24–80 / Modification of amendments to preliminary fishery management plan for Bering Sea and Alention Islands Groundfish Fishery; comments by 11–21–80

COMMODITY FUTURES TRADING COMMISSION

55469 8–20–80 / Contract market rules and practices for imposition and maintenance of price limits; comments by 11–18–80

DEFENSE DEPARTMENT

National Security Agency—

68686 10–16–80 / Policies and procedures for obtaining information from financial institutions; comments by 11–17–80

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

68641 10–16–80 / Proposed phaseout of finders fees; comments by 11–17–80

EDUCATION DEPARTMENT

62856 9–22–80 / Arts in education program; comments by 11–21–80

62859 9–22–80 / Law-related education program; comments by 11–21–80

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ENERGY DEPARTMENT

Economic Regulatory Commission—

62478 9–19–80 / East Coast Residual Fuel Oil Entitlements, extension of domestic crude oil allocation program; comments by 11–18–80

ENVIRONMENTAL PROTECTION AGENCY

68978 10–17–80 / Air quality attainment status redesignation, Ohio; comments by 11–17–80

69482 10–21–80 / Approval and promulgation of implementation plans; State of Vermont; lead State implementation plan; comments by 11–20–80

70000 10–22–80 / Approval and promulgation of implementation plans, Ga.; Alternative compliance schedules for Volatile Organic Compound (VOC) sources; comments by 11–21–80

7004 10–22–80 / Approval and promulgation of implementation plans; Maricopa County Urban Planning Area Nonattainment Area Plan and Regulations in the State of Arizona; comments by 11–21–80

70006 10–22–80 / Designation of areas for air quality planning purposes; Alabama; proposed redesignation for Morgan County; comments by 11–21–80

68692 10–16–80 / National Ambient Air Quality Standard; attainment status redesignation for Fitchburg, Mass.; comments by 11–17–80

62172 9–18–80 / Proposed disapproval of portion of New York State implementation plan; comment period extended to 11–17–80

68979 10–17–80 / Submission for approval of Interim Authorization Plan Phase I, Louisiana; comments by 11–17–80

[*See also* 45 FR 33063, 5–19–80]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

62728 9–19–80 / Revision of Guidelines on Discrimination Because of National Origin; comments by 11–18–80

FEDERAL DEPOSIT INSURANCE CORPORATION

62480 9–19–80 / Securities of insured nonmember State banks; comments by 11–18–80

FEDERAL COMMUNICATIONS COMMISSION

55777 8–21–80 / Common carrier services; MTS and WATS market structure; interstate telecommunications services entry policy, and Alaska submarket inquiry; reply comments by 11–17–80

63516 9–25–80 / Conversion of radiation patterns for AM broadcast stations; comments by 11–17–80

64991 10–1–80 / FM broadcast stations in Bath and Hammondsport, N.Y.; changes in table of assignments; comments by 11–20–80

64993 10–1–80 / FM broadcast station in Blairsville, Pa.; changes in table of assignments; comments by 11–20–80

64984 10–1–80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; comments by 11–20–80

63533 9–25–80 / FM broadcast station in Casper, Wyo.; changes in table of assignments; comments by 11–17–80

64994 10–1–80 / FM broadcast station in Denison, Tex.; changes in table of assignments; comments by 11–20–80

63532 9–25–80 / FM broadcast stations in Farmville and Appomattox, Va.; changes in table of assignments; comments by 11–17–80

64988 10–1–80 / FM broadcast station in Hastings, Nebr.; changes in table of assignments; comments by 11–20–80

64985 10–1–80 / FM broadcast station in Hays, Kans.; changes in table of assignments; comments by 11–20–80

63531 9–25–80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; comments by 11–17–80

64990 10–1–80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; comments by 11–20–80

63530 9–25–80 / FM broadcast station in Munising, Mich.; changes in table of assignments; comments by 11–17–80

70922 10–27–80 / FM broadcast stations in Puerto Rico, reply comment period extended to 11–20–80

[*See also* 45 FR 58624, 9–4–80]

64981 10–1–80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; comments by 11–20–80

70920 10–27–80 / Radio broadcasting financial reporting requirements; comment period extended to 11–17–80

[*See also* 45 FR 35370, 5–27–80 and 45 FR 54786, 8–18–80]

65637 10–3–80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; comments by 11–17–80

64983 10–1–80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; comments by 11–20–80

64987 10–1–80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; comments by 11–20–80

FEDERAL HOME LOAN BANK BOARD

63498 9–25–80 / Procedure for insured institutions to make available neutral lists of providers of settlement services; comments by 11–18–80

FEDERAL TRADE COMMISSION

68920 10–17–80 / Home insulation, labeling and advertising; staff compliance guidelines; comments by 11–17–80

[Corrected at 45 FR 71354, 10–28–80]

6300 9–23–80 / "Mobil 1"; consent agreement with analysis to aid public comment; comments by 11–21–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

62316 9–18–80 / Change to minimum property standards (MPS) for one- and two-family dwellings; comments by 11–17–80

62149 9–18–80 / Establishment of maximum limit on total Development Cost of low-income public housing and Indian housing projects; comments by 11–17–80

Federal Housing Commissioner—Office of Assistant Secretary of Housing—

62795 9–22–80 / Preference for displaced families; eligibility of cooperative housing units and existing condominium units; comments by 11–21–80

Neighborhoods, Voluntary Associations and Consumer Protection, Office of the Assistant Secretary—

61572 9–16–80 / Housing Counseling Program; comments by 11–17–80

INTERIOR DEPARTMENT

Hearings and Appeals Office—

61322 9–16–80 / Indian Appeals Board probate proceedings; comments by 11–17–80

Office of the Secretary—

66370 10–6–80 / Employee responsibilities and conduct; comments by 11–20–80

Surface Mining Reclamation and Enforcement Office—

61120 9–15–80 / Surface coal mining and reclamation under Federal Program for Georgia; comments by 11–21–80

INTERSTATE COMMERCE COMMISSION

68973 10–17–80 / Revision of waybill analysis of transportation of property—railroads; comments by 11–17–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

65625 10–3–80 / Virginia State Plan; petitions for withdrawal of approval; comments by 11–17–80

NUCLEAR REGULATORY COMMISSION

65247 10–2–80 / Licensing requirements for pending construction permit and manufacturing license applications; comments by 11–17–80

SECURITIES AND EXCHANGE COMMISSION

68965 10–17–80 / Proposed availability of simplified registration form to certain mining companies; comments by 11–21–80

TRANSPORTATION DEPARTMENT

Coast Guard—

65480 10–2–80 / Administration of Deepwater Port Liability Fund; comments by 11–17–80

TREASURY DEPARTMENT

Internal Revenue Service—

62848 9–22–80 / Income tax, common trust funds; comments by 11–21–80

62496 9–19–80 / Income taxes; energy property investment credit; comments by 11–18–80

National Highway Traffic Safety Administration—

68694 10–16–80 / New performance requirements for padding and buckles used in child restraint system; comments by 11–17–80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

67115 10–9–80 / Black Hills National Forest Grazing Advisory Board, Custer, South Dakota, (open) 11–12–80

63539 9–25–80 / Los Padres National Forest Grazing Advisory Board, Santa Maria, Calif. (open), 11–14–80

70290 10–23–80 / Modoc National Forest Grazing Advisory Board, Alturas, Calif. (open), 11–13–80

71405 10–28–80 / National Forest System Advisory Committee, Santa Fe, N.M. (open), 11–12 through 11–14–80

ARMS CONTROL AND DISARMAMENT AGENCY

65266 10–2–80 / General Advisory Committee, Washington, D.C. (closed), 11–13 and 11–14–80

ARTS AND HUMANITIES NATIONAL FOUNDATION

71450 10–28–80 / Humanities Advisory Committee, National Council, Washington, D.C., (partially open), 11–13 and 11–14–80

71868 10–30–80 / Museum Panel (General Services to the Field, Museum Training), Washington, D.C. (closed), 11–14–80

CIVIL RIGHTS COMMISSION

66827 10–8–80 / Hawaii Advisory Committee, Honolulu, HI. (open), 11–15–80

70037 10–22–80 / New Jersey Advisory Committee, New Brunswick, N.J. (open), 11–13–80

67713 10–14–80 / New York Advisory Committee, New York, N.Y. (open) 11–14–80

70037 10–22–80 / Wyoming Advisory Committee, Casper, Wyoming (open), 11–15–80

COMMERCE DEPARTMENT

International Trade Administration—

69526 10–21–80 / President's Export Council, Washington, D.C. (open), 11–12–80

69277 10–20–80 / Mid-Atlantic Fishery Management Council, Long Island, N.Y. (open), 11–12 through 11–14–80

69277 10–20–80 / Pacific Fishery Management Council, Scoping Meeting, Portland, Oreg. (open), 11–13–80

65646 10–3–80 / Western Pacific Fishery Management Council, Honolulu, Hawaii (partially open), 11–12 and 11–13–80

DEFENSE DEPARTMENT

Air Force Department—

70297 10–23–80 / USAF Scientific Advisory Board, Eglin Air Force Base, Fla. (closed), 11–12 and 11–13–80

Army Department—

69536 10–21–80 / Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medical Chemistry, Washington, D.C. (partially open), 11–14–80

69536 10–21–80 / Army Science Board, Fort Leavenworth, Kans. (open), 11–13 and 11–14–80

Engineer Corps Army Department—

70539 10–24–80 / National Waterway Study, Arlington, Va. (open), 11–13–80

Navy Department—

70039 10–22–80 / National Research Advisory Committee, Washington, D.C. (closed), 11–13 and 11–14–80

Office of the Secretary—

65019 10–1–80 / Defense Intelligency Agency Advisory Committee, Rosslyn, Va. (closed), 11–13 and 11–14–80

69537 10–21–80 / Defense Science Board Task Force on ECM, Washington, D.C. (closed), 11–12 and 11–13–80

62177 9–18–80 / DOD Wage Committee, Washington, D.C. (closed) 11–12–80

EDUCATION DEPARTMENT

70303 10–23–80 / Asbestos Hazards School Safety Task Force, Washington, D.C. (open), 11–12–80

70966 10–27–80 / Community Education Advisory Council, Louisville, Ky. (open), 11–12 and 11–13–80

70967 10–27–80 / Intergovernmental Advisory Council on Education Denver, Col. (open), 11–12 and 11–13–80

70967 10–27–80 / Intergovernmental Advisory Council on Education; Administration Rules and Budget; Council Priorities and Work Agenda; and Search Subcommittees, Denver, Colo., (open) 11–12–80

70040 10–22–80 / National Advisory Council on Women's Educational Programs, Washington, D.C. (open), 11–11–80 and 11–12–80

[Changed at 45 FR 71842, 10–30–80]

ENERGY DEPARTMENT

69288 10–20–80 / Local Government Energy Policy Advisory Committee and Subcommittee, Washington, D.C. (open), 11–13 and 11–14–80

69287 10–20–80 / National Energy Extension Service Advisory Board, Washington, D.C. (open), 11–12 and 11–13—80

65392 10–21–80 / National Energy Transportation Study, Seattle, Wash., 11–14–80

[Changed at 45 FR 70370, 10–23–80]

Bonneville Power Administration—

70043 10–22–80 / Dickey-Lincoln School Lakes Transmission Project (open) Littleton, N.H., 11–12 and Plymouth, N.H. 11–13–80

Conservation and Solar Energy Office—

68749 10–16–80 / Automotive Technology Development Contractor Coordination, Dearborn, Mich., (open), 11–11 through 11–14–80

Energy Research Office—

69286 10–20–80 / High Energy Physics Advisory Panel, Washington, D.C. (open), 11–9 through 11–11–80

ENVIRONMENTAL PROTECTION AGENCY

71415 10–28–80 / Clean Air Scientific Advisory Committee of the Science Advisory Board, Washington, D.C. (open), 11–13 and 11–14–80

68463 10–15–80 / Management Advisory Group to the Municipal Construction Division, St. Louis, Mo. (open), 11–12, 11–13, and 11–14–80

FEDERAL COMMUNICATIONS COMMISSION

70976 10–27–80 / Radio Broadcasting Advisory Committee, Technical and Allocations Subgroups, Washington, D.C. (open), 11–13–80

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70315 10–23–80 / Radio Technical Commission for Marine Services, Special Committee No. 75, Linthicum Heights, Md. (open), 11–12–80

70315 10–23–80 / Radio Technical Commission for Marine Services, Speical Committee No. 76, Washington, D.C. (open), 11–12–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

70568 10–24–80 / Washington, D.C. (open), 11–13–80

HANDICAPPED NATIONAL COUNCIL

70624 10–24–80 / Washington, D.C. (open), 11–13 and 11–14–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Center for Disease Control—

70133 10–22–80 / Safety and Occupational Health Study Section, Rockville, Md. (open and closed), 11–12 through 11–14–80

Food and Drug Administration—

67466 10–10–80 / Antimicrobial Panel: Rockville, Md., 11–14–80; Bethesda, Md. 11–15–80, (both sessions open)

[*See also* 45 FR 62557, 9–19–80]

69556 10–21–80 / Miscellaneous Internal Drug Products Panel, Silver Spring, Md. (open), 11–15 and 11–16–80

70572 10–24–80 / Obstetrics—Gynecology Device Section of the Obstetrics—Gynecology and Radiologic Devices Panel, Washington, D.C. (open), 11–10–80

Health Services Administration—

68465 10–15–80 / Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 11–11 and 11–12–80

68464 10–15–80 / Maternal and Child Health Research Grants Review Committee, Rockville, Md. (open), 11–12 through 11–14–80

National Institutes of Health—

63145 9–23–80 / Animal Resources Review Committee, Boston, Mass. (open and closed), 11–14–80

62561 9–19–80 / Clinical Cancer Program Project and Cancer Center Support Review Committee, Cancer, Center Support Review Subcommittee, Bethesda, Md. (partially open), 11–13–80, (closed) 11–14–80

62561 9–19–80 / Cytology Automation Committee Bethesda, Md. (partially open), 11–13–80, (closed) 11–14–80

68466 10–15–80 / General Research Support Review Committee, Bethesda, Md. (partially open), 11–13 and 11–14–80

59205 9–8–80 / Metallobiochemistry Study Section, Rosslyn, Va. (partially open), 11–13 through 11–15–80

62562 9–19–80 / National Heart, Lung, and Blood Institute, Board of Scientific Counselors, Bethesda, Md. (partially open) 11–13 and 11–14–80

64270 9–29–80 / Neurological Disorders Program—Project Review A Committee, Bethesda, Md. (partially open), 11–9 through 11–11–80

58207 9–2–80 / Population Research Committee, Bethesda, Md. (partially open), 11–13 and 11–14–80

65319 10–2–80 / President's Cancer Panel, Bethesda, Md. (open), 11–12–80

71864 10–30–80 / Sickle Cell Disease Advisory Committee, Bethesda, Md. (open), 11–14–80

68467 10–15–80 / Vision Research Program Committee, Bethesda, Md. (open and closed), 11–13–80

59205 9–8–80 / Visual Sciences B Study Section, Washington, D.C. (partially open), 11–15 through 11–18–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

69563 10–21–80 / Phoenix/Lower Gila Resource Areas Grazing Advisory Board, Phoenix, Ariz. (open), 11–12–80

Land Management Bureau—

69051 10–17–80 / Anchorage District Advisory Council, Anchorage, Alaska (open), 11–13–80

63559 9–25–80 / Ely District Multiple Use Advisory Council, Ely, Nev. (open), 11–13–80

69053 10–17–80 / Medford District Advisory Council, Medford, Oreg. (open), 11–14–80

63554 9–25–80 / Miles City District Grazing Advisory Board, Miles City, Mont. (open), 11–12–80

70323 10–23–80 / Multiple Use Advisory Council, Butte, Mont. (open), 11–12 and 11–13–80

69053 10–17–80 / Spokane District Advisory Council, Spokane, Wash. (open), 11–12–80

National Park Service—

70985 10–27–80 / Cape Cod National Seashore Advisory Commission, Wellfleet, Mass. (open), 11–14–80

70985 10–27–80 / Ozark National Scenic Riverways, environmental assessment for general management plan; Eminence, Mo., 11–10–80; Van Buren, Mo., 11–11–80; St. Louis, Mo., 11–12–80; Columbia, Mo., 11–13–80; Independence, Mo., 11–14–80 (all sessions open)

69567 10–21–80 / Santa Monica Mountains National Recreation Area Advisory Commission, Woodland Hills, Calif. (open), 11–13–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

58266 9–2–80 / AID Research Advisory Committee, Washington, D.C. (open), 11–13 and 11–14–80

INTERSTATE COMMERCE COMMISSION

67272 10–9–80 / Public forum on interstate motor carrier study, Boston, Mass. (open), 11–12–80

JUSTICE DEPARTMENT

Prisons Bureau—

68812 10–16–80 / National Institute of Corrections Advisory Board, Boulder, Colo., 11–9–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

63883 9–26–80 / Health and safety standards, general and construction industries; machines and equipment, locking out and tagging; requirements, standards, and procedures; Chicago, Ill. (open), 11–12 through 11–14–80

[Corrected at 45 FR 67361, 10–10–80]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

69602 10–21–80 / NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee, Pasadena, Calif. (open), 11–10–80

71021 10–27–80 / NASA Advisory Council, Informal Executive Subcommittee, La Jolla, Calif. (partially open), 11–13 and 11–14–80

NATIONAL SCIENCE FOUNDATION

63400 9–24–80 / Behavioral and Neural Sciences Advisory Committee, Subcommittee for Anthropology, Washington, D.C. (closed), 11–12 through 11–14–80

69318 10–20–80 / Mathmatical and Computer Sciences Advisory Committee, Mathmatical Sciences Subcommittee, Washington, D.C., (open), 11–14 and 11–15–80

70354 10–23–80 / Ocean Sciences Advisory Committee, Executive Committee, Washington, D.C. (open), 11–13 and 11–14–80

68487 10–15–80 / Ocean Sciences Advisory Committee, Subcommittee for Ocean Sciences Research, Washington, D.C. (closed), 11–10 and 11–11–80

68487 10–15–80 / Social and Economic Science Advisory Committee, Subcommittee for Law and Social Sciences, Washington, D.C. (closed), 11–13 and 11–14–80

63400 9–24–80 / Social and Economic Science Advisory Committee, Subcommittee for Measurement Methods and Data Resources, Washington, D.C. (partially open), 11–14 and 11–15–80

NUCLEAR REGULATORY COMMISSION

71691 10–29–80 / Advisory Committee on Reactor Safeguards Subcommittee on Fluid Dynamics, Burlingame, Calif. (open), 11–13–80

71691 10–29–80 / Advisory Committee on Reactor Safeguards Subcommittee on Waste Management, Washington, D.C. (open), 11–13 and 11–14–80

PENSION POLICY, PRESIDENT'S COMMISSION

61058 9–15–80 / Federal administration of pension programs, Washington, D.C. (open), 11–14–80

SMALL BUSINESS ADMINISTRATION

65101 10–1–80 / Region II Advisory Council, San Juan, Puerto Rico (open), 11–14–80

66281 10–6–80 / Region VI Advisory Council, New Orleans, La. (open), 11–14–80

STATE DEPARTMENT

68496 10–15–80 / Advisory Committee on Historical Diplomactic Documentation, Washington, D.C. (partially open), 11–13 and 11–14–80

71462 10–28–80 / International Investment, Technology, and Development Advisory Committee, Washington, D.C. (open), 11–13–80

71463 10–28–80 / Law of the Sea Advisory Committee, Washington, D.C. (partially open), 11–13 and 11–14–80

Office of the Secretary—

69621 10–21–80 / Shipping Coordinating Committee, Safety of Life at Sea, Washington, D.C. (open), 11–12–80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

67272 10–9–80 / Public forum on interstate motor carrier study, Boston, Mass. (open), 11–12–80

Office of the Secretary—

65392 10–2–80 / National Energy Transportation Study, Seattle, Wash., 11–14–80

[Changed at 45 FR 70370, 10–23–80]

UPPER MISSISSIPPI RIVER BASIN COMMISSION

71464 10–28–80 / 36th Quarterly Commission Meeting; St. Paul, Minn., 11–12 and 11–13–80

VETERANS ADMINISTRATION

67189 10–9–80 / Educational Allowances Station Committee, Hato Rey, Puerto, Rico, 11–13–80

61845 9–17–80 / Medical Research Service Merit Review Board, Cincinnati, Ohio (partially open), 11–13 and 11–14–80

59470 9–9–80 / Wage Committee, Washington, D.C. (closed), 11–13–80

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

70525 10–24–80 / Mid-Atlantic Fishery Management Council; mackerel and butterfish management plans:
Salisbury, Md., 11–10–80
Toms River, N.J., 11–10–80
Narragansett, R.I., 11–11–80
Montauk, N.Y., 11–13–80

70525 10–24–80 / North Pacific Fishery Management Council, High Seas Salmon Fishery Management Plan:
Anchorage; Alaska, 11–9–80
Juneau; Alaska, 11–13–80
Sitka, Alaska, 11–13–80
Ketchikan, Alaska, 11–14–80

ENERGY DEPARTMENT

Bonneville Power Administration—

66837 10–8–80 / Public Utility Regulatory Policies Act; implementation of lifeline rates, Portland, Oreg., 11–13–80

63909 9–26–80 / Economic Regulatory Administration—
Designing methods for distributing petroleum during a shortage and selecting standby distribution mechanisms, Washington, D.C., 11–13–80

67355 10–10–80 / Motor gasoline; retailer price rule and fixed cents per gallon markups, Washington, D.C., 11–12–80

58760 9–4–80 / Voluntary Guideline for the Cost of Service Standard under the Public Utility Regulatory Policies Act of 1978, San Francisco, Calif. (open), 11–13–80

ENVIRONMENTAL PROTECTION AGENCY

68980 10–17–80 / Consideration of North Dakota's interim authorization application, Phase I hazardous waste management program, Bismark, N. Dak. 11–14–80

68979 10–17–80 / Consideration of interim authorization application, Phase I hazardous waste management program, Salt Lake City, Utah, 11–14–80

FEDERAL TRADE COMMISSION

59588 9–10–80 / Rules for energy cost and consumption information used in labeling and advertising of consumer appliances under the Energy Policy and Conservation Act, Washington, D.C. 11–12–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

68886 10–16–80 / Proposal to determine the Borax Lake Chub to be an endangered species and Borax Lake, Harvey County, Ore., to be its Critical Habitat, Burns, Oreg., 11–13–80

INTERNATIONAL TRADE COMMISSION

63579 9–25–80 / Television Receiving sets from Japan, Washington, D.C. 11–12–80

TENNESSEE VALLEY AUTHORITY

63410 9–24–80 / Ratemaking standards, Chattanooga, Tenn., 11–10–80

[*See also* 45 FR 51975, 8–5–80]

TRADE REPRESENTATIVE, OFFICE OF UNITED STATES

57636 8–28–80 / Generalized System of Preferences; articles considered in trade negotiations or eligible for duty-free treatment; Washington, D.C., 11–10–80

TREASURY DEPARTMENT

Internal Revenue Service—

65625 10–3–80 / Actuarial reporting by benefit plan administrators, Washington, D.C., 11–12–80

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

71565 10–29–80 / HHS/PHS—Payment for tuition and other educational costs; effective 10–29–80

71714 10–29–80 / Interior/HCRS—Urban Park and Recreation Recovery Program; effective 11–28–80

70736 10–27–80 / USDA/FmHA—Multiple family housing borrowers and grant recipients; management and supervision; effective 10–27–80

70777 10–27–80 / USDA/FmHA—Rural rental housing loan policies; self-help technical assistance grants and farm labor housing grants; editorial amendments; effective 10–27–80

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DEADLINES FOR COMMENTS ON PROPOSED RULES

71746 10–29–80 / DOE/Solar—Price support loans for municipal waste energy projects; comments by 1–5–81

71990 10–30–80 / DOT/FHwA—Urban transportation planning; comments by 12–29–80

71990 10–30–80 / DOT/UMTA—Urban transportation planning; comments by 12–29–80

APPLICATIONS DEADLINES

71432 10–28–80 / HHS/HSA—Availability of grants for material and child health and crippled children's services; apply by 1–16–81

71432 10–28–80 / HHS/HSA—Availability of project grants for general family planning training; apply by 4–1–81

MEETINGS

71498 10–29–80 / DOE—Consolidated State Grant Program; comments by 12–29–80; hearings in San Francisco, Calif., 12–3 and 12–4–80 and in Washington, D.C., 12–9 and 12–10–80

71746 10–29–80 / DOE/Solar—Price support loans for municipal waste energy projects, hearing in Washington, D.C., 12–11–80

71841 10–30–80 / ED—Education Appeal Board, Washington, D.C. (open), 11–6, 11–13 and 11–21–80

71450 10–28–80 / NFAH—Humanities Advisory Committee National Council, Washington, D.C. (partially open), 11–13 and 11–14–80

71868 10–30–80 / NFAH—Humanities Panel, Washington, D.C. (closed), 11–17, 11–20, 11–21 and 11–24–80

71868 10–30–80 / NFAH—Museum Panel (General Services to the field, Museum Training), Washington, D.C. (closed), 11–14–80

71868 10–30–80 / NFAH—Music Panel (Recording Section), Washington, D.C. (partially open), 11–13 and 11–14–80

OTHER ITEMS OF INTEREST

72248 10–31–80 / CSA—Migrant and seasonal farmworkers; decision to fund Emergency Energy Assistance Programs; republication

71938 10–30–80 / DOT/Sec'y—Citizen participation in local transportation planning, final policy and proposed guidelines; comments by 12–29–80

71867 10–30–80 / IDCA/AID—Mission Director, USAID/Egypt; Redelegation of authority regarding contracting functions

71867 10–30–80 / IDCA/AID—Principal Aid Officers, Africa; Redelegation of authority regarding operational program grants

72312 10–31–80 / Justice/OJARS—Announcement of publication of the new Financial and Administrative Guide for Grants

72374 10–31–80 / Synthetic Fuels Corporation—Request for comments by 11–14–80 on draft solicitation for applications from concerns interested in construction or operation of synthetic fuel projects by end of calendar year

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Public Laws

This is the third cumulative list of public laws for the second session of the 96th Congress. A fourth and final complete list will be published soon after the end of the second session of the 96th Congress. The continuing listing of public laws published after enactment in the "Reader Aids" section of the **Federal Register** will be maintained on a current basis. Any comments may be addressed to the Director, Office of the Federal Register, Washington, D.C. 20408.

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 28	H.J.Res. 478	96-188	94:3	To extend by sixty days the expiration date of the Defense Production Act of 1950.	$1.00
Feb. 8	H.R. 4320	96-189	94:4	To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.	1.25
Feb. 12	S. 423	96-190	94:17	Dispute Resolution Act.	1.25
Feb. 15	H.R. 5176	96-191	94:27	General Accounting Office Personnel Act of 1980.	1.00
	S. 1300	96-192	94:35	International Air Transportation Competition Act of 1979.	1.25
Feb. 18	H.R. 2440	96-193	94:50	Aviation Safety and Noise Abatement Act of 1979.	1.25
Feb. 21	S.J.Res. 108	96-194	94:61	To validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.	1.00
Feb. 25	S. 1452	96-195	94:63	To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.	1.00
Feb. 28	H.J.Res. 469	96-196	94:64	Designating February 19, 1980, as "Iwo Jima Commemoration Day."	1.00
	H.J.Res. 477	96-197	94:65	To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.	1.00
Mar. 5	H.J.Res. 267	96-198	94:66	To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America".	1.00
	H.R. 3757	96-199	94:67	To establish the Channel Islands National Park, and for other purposes.	1.25
Mar. 6	S.J.Res. 109	96-200	94:78	To provide for the designation of October 3, 1980, as "American Enterprise Day".	1.00
	H.R. 6374	96-201	94:79	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.	1.00
Mar. 8	S.J.Res. 43	96-202	94:80	To proclaim March 21, 1980, "National Energy Education Day".	1.00
Mar. 10	S. 1850	96-203	94:81	To authorize the conveyance of lands in the city of Hot Springs, Arkansas.	1.00
Mar. 11	H.J.Res. 434	96-204	94:83	To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week".	1.00
Mar. 12	H.R. 3756	96-205	94:84	To authorize appropriations for certain insular areas of the United States, and for other purposes.	1.25
Mar. 13	S.J.Res. 149	96-206	94:93	To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980.	1.00
	H.J.Res. 493	96-207	94:94	Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	H.J.Res. 494	96-208	94:95	Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
Mar. 14	H.R. 4337	96-209	94:96	To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to suppiy to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Mar. 17	H.R. 5913	96-210	94:100	To amend section 502(a) of the Merchant Marine Act, 1936.	$1.00
	S. 1792	96-211	94:101	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.	1.00
	S. 643	96-212	94:102	Refugee Act of 1980.	1.50
Mar. 18	H.R. 3398	96-213	94:119	Agricultural Adjustment Act of 1980.	1.00
Mar. 24	S. 2225	96-214	94:122	To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.	1.00
Mar. 25	S. 1454	96-215	94:123	To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces.	1.00
Mar. 27	S. 1682	96-216	94:125	To amend the Act of August 9, 1955 (69 Stat. 539)(25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington.	1.00
	S. 2222	96-217	94:126	To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.	1.00
Mar. 28	H.J.Res. 414	96-218	94:127	Authorizing the President to proclaim May 1, 1980, "National Bicycling Day".	1.00
	H.J.Res. 514	96-219	94:128	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
Mar. 30	S. 2269	96-220	94:129	To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.	1.00
Mar. 31	H.R. 4986	96-221	94:132	Depository Institutions Deregulation and Monetary Control Act of 1980.	3.00
Apr. 1	H.R. 2797	96-222	94:194	Technical Corrections Act of 1979.	2.00
Apr. 2	H.R. 3919	96-223	94:229	Crude Oil Windfall Profit Tax Act of 1980.	3.25
	H.J.Res. 463	96-224	94:309	Designating the week of October 5 through October 11, 1980, as "National Diabetes Week".	1.00
Apr. 3	H.J.Res. 520	96-225	94:310	To extend by sixty days the expiration date of the Defense Production Act of 1950.	1.00
	H.R. 24	96-226	94:311	General Accounting Office Act of 1980.	1.00
	H.R. 4996	96-227	94:317	Paiute Indian Tribe of Utah Restoration Act.	1.00
	S. 1515	96-228	94:323	To authorize the striking of Bicentennial medals.	1.00
Apr. 7	H.R. 2676	96-229	94:325	Environmental Research, Development, and Demonstration Authorization Act of 1980.	1.00
Apr. 8	H.R. 6585	96-230	94:329	To extend the reorganization authority of the President under chapter 9 of title 5.	1.00
	S.J.Res. 131	96-231	94:330	Designating April 10, 1980, as "ORT Centennial Day".	1.00
Apr. 10	H.R. 5794	96-232	94:331	To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".	1.00
	S.J.Res. 97	96-233	94:332	Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust".	1.00
Apr. 11	S. 2427	96-234	94:333	To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Apr. 12	H.R. 3824	96-235	94:335	To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.	$1.00
Apr. 22	H.R. 6029	96-236	94:336	Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes.	1.00
Apr. 24	H.J.Res. 474	96-237	94:338	To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week".	1.00
	H.R. 6464	96-238	94:339	To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan.	1.00
Apr. 30	H.R. 7140	96-239	94:341	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.	1.00
May 1	H.J.Res. 541	96-240	94:342	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
May 3	S. 2637	96-241	94:343	To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977.	1.00
May 5	H.R. 4197	96-242	94:344	To amend the Wool Products Labeling Act of 1939 with respect to recycled wool.	1.00
May 16	H.J.Res. 545	96-243	94:345	Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.	1.00
May 19	H.R. 126	96-244	94:346	To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.	1.00
May 21	H.R. 5673	96-245	94:347	To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.	1.00
May 23	H.R. 6839	96-246	94:348	To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.	1.00
	H.R. 10	96-247	94:349	Civil Rights of Institutionalized Persons Act.	1.00
	H.R. 3928	96-248	94:355	To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico.	1.00
May 26	S. 1309	96-249	94:357	Food Stamp Act Amendments of 1980.	1.25
	S.J.Res. 175	96-250	94:371	To extend the expiration date of the Defense Production Act of 1950.	1.00
	S. 668	96-251	94:372	To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).	1.00
May 28	H.R. 2313	96-252	94:374	Federal Trade Commission Improvements Act of 1980.	1.50
May 29	S. 2648	96-253	94:398	To authorize appropriations for the Federal Election Commission for fiscal year 1981.	1.00
May 30	S. 2253	96-254	94:399	To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.	1.50

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6615	96-255	94:420	To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.	$1.00
	H.R. 7471	96-256	94:421	To extend the present public debt limit through June 5, 1980.	1.00
May 31	H.R. 6081	96-257	94:422	Special Central American Assistance Act of 1979.	1.00
June 3	H.R. 3807	96-258	94:425	To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.	1.00
	S. 662	96-259	94:429	To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.	1.00
	H.R. 4088	96-260	94:435	To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.	1.00
June 4	H.J.Res. 554	96-261	94:436	Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980.	1.00
June 5	H.R. 4890	96-262	94:437	To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.	1.00
June 6	H.R. 3789	96-263	94:438	To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.	1.00
	H.R. 7428	96-264	94:439	To extend the present public debt limit through June 30, 1980.	1.00
June 9	H.R. 3236	96-265	94:441	Social Security Disability Amendments of 1980.	2.25
	H.J.Res. 445	96-266	94:482	To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week".	1.00
	H.R. 6727	96-267	94:483	To establish the Bon Secour National Wildlife Refuge.	1.00
June 13	S. 1786	96-268	94:485	To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.	1.00
	S. 2517	96-269	94:486	To rename certain buildings of the Library of Congress.	1.00
June 14	S. 1658	96-270	94:487	Asbestos School Hazard Detection and Control Act of 1980.	1.25
June 16	S. 2666	96-271	94:499	To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.	1.00
June 17	H.R. 3434	96-272	94:500	Adoption Assistance and Child Welfare Act of 1980.	2.00
	H.R. 4453	96-273	94:536	To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.	1.00
	H.R. 2102	96-274	94:537	Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.	1.00
	H.R. 6842	96-275	94:539	To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.	1.00
	H.R. 6285	96-276	94:541	Egg Research and Consumer Information Act Amendments of 1980.	1.00
	H.R. 3979	96-277	94:544	To repeal and amend certain laws regulating trade between Indians and certain Federal employees.	1.00
	S.J.Res. 127	96-278	94:547	To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".	1.00
June 18	H.J.Res. 442	96-279	94:549	Designating the week beginning June 22, 1980, as "National Athletic Boosters Week".	1.00
	S.J.Res. 89	96-280	94:550	Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.	1.00
June 19	S.J.Res. 183	96-281	94:551	Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".	1.00
June 27	H.J.Res. 521	96-282	94:552	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.	1.00
June 28	H.R. 2759	96-283	94:553	Deep Seabed Hard Mineral Resources Act.	2.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2460	96-284	94:587	Uniformed Services Health Professionals Special Pay Act of 1980.	$1.00
	H.R. 6022	96-285	94:595	To establish the Tensas River National Wildlife Refuge.	1.00
	H.J.Res. 569	96-286	94:598	To provide for a temporary increase in the public debt limit.	1.00
	H.R. 5926	96-287	94:599	To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.	1.00
	H.R. 6169	96-288	94:603	To establish the Bogue Chitto National Wildlife Refuge	1.00
	H.R. 6614	96-289	94:605	To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.	1.00
	H.R. 4887	96-290	94:607	To authorize appropriations for the San Francisco Bay National Wildlife Refuge. and for other purposes.	1.00
	H.R. 4889	96-291	94:608	To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.	1.00
	H.R. 5259	96-292	94:609	To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse".	1.00
June 30	H.R. 7685	96-293	94:610	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.	1.00
	S. 932	96-294	94:611	Energy Security Act.	4.25
	S. 562	96-295	94:780	To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.	1.25
July 1	S. 2245	96-296	94:793	Motor Carrier Act of 1980.	2.00
	S.J.Res. 119	96-297	94:827	To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.	1.00
	H.R. 7477	96-298	94:829	To amend the Internal Revenue Code of 1954 to provide a three-month extension of taxes which are transferred to the Airport and Airway Trust Fund.	1.00
July 2	S.J.Res. 115	96-299	94:830	Designating July 1980 as "National Porcelain Art Month".	1.00
	S.J.Res. 188	96-300	94:831	Extending the reporting date of the National Commission on Air Quality.	1.00
	H.R. 5751	96-301	94:832	To more adequately protect archeological resources in southwestern Colorado.	1.00
	S. 2698	96-302	94:833	To provide authorizations for the Small Business Administration, and for other purposes.	1.50
July 3	H.R. 5997	96-303	94:855	To provide for the display of the Code of Ethics for Government Service.	1.00
July 8	H.R. 7542	96-304	94:857	Supplemental Appropriations and Rescission Act, 1980.	3.25
	S. 751	96-305	94:929	Navajo and Hopi Indian Relocation Amendments Act of 1980.	1.00
	H.R. 7482	96-306	94:937	To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.	1.00
	S.J.Res. 168	96-307	94:938	Designating July 18, 1980, as "National POW-MIA Recognition Day".	1.00
July 9	S. 598	96-308	94:939	Soft Drink Interbrand Competition Act.	1.00
	S. 2546	96-309	94:940	To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.	1.00
July 17	H.R. 7474	96-310	94:941	Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.	1.00
	H.R. 7573	96-311	94:947	To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.	1.00
July 23	S. 2009	96-312	94:948	Central Idaho Wilderness Act of 1980.	1.00
July 25	S.J.Res. 180	96-313	94:955	To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	S.J.Res. 181	96-314	94:956	To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2382	96-315	94:957	To provide for additional authorization for appropriations for the Tinicum National Environmental Center.	$1.00
July 30	S. 2240	96-316	94:960	National Aeronautics and Space Administration Authorization Act, 1981.	1.00
July 31	S. 1647	96-317	94:964	Commission on Wartime Relocation and Internment of Civilians Act.	1.00
Aug. 1	S. 1466	96-318	94:968	To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes.	1.00
	S. 2508	96-319	94:972	To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.	1.00
Aug. 3	S. 2492	96-320	94:974	Ocean Thermal Energy Conversion Act of 1980.	1.75
Aug. 4	S. 2995	96-321	94:1001	To allow the transfer of certain funds to fund the heat crisis program.	1.00
	H.R. 6666	96-322	94:1002	To revise the laws relating to the Coast Guard Reserve.	1.25
	H.R. 5580	96-323	94:1016	North Atlantic Treaty Organization Mutual Support Act of 1979.	1.00
Aug. 8	H.R. 1198	96-324	94:1020	To clarify the authority to establish lines of demarcation dividing the high seas and inland waters.	1.00
	H.R. 6613	96-325	94:1021	Maritime Labor Agreements Act of 1980.	1.00
	H.R. 827	96-326	94:1023	To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.	1.00
	S. 1916	96-327	94:1026	To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.	1.00
	H.R. 5748	96-328	94:1027	To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.	1.00
Aug. 11	H.R. 7786	96-329	94:1029	To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.	1.00
Aug. 26	H.R. 7102	96-330	94:1030	Veterans' Administration Health-Care Amendments of 1980.	1.50
Aug. 28	S. 1863	96-331	94:1055	To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina.	1.00
Aug. 29	S. 1140	96-332	94:1057	To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.	1.00
	S. 1730	96-333	94:1060	To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.	1.00
	H.J. Res. 589	96-334	94:1061	Providing additional program authority for the Export-Import Bank.	1.00
Sept. 4	H.R. 507	96-335	94:1062	To authorize Federal participation in stream rectification, Trinity River Division Central Valley project, California, and for other purposes.	1.00
	S. 496	96-336	94:1063	To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.	1.00
	S.J. Res. 83	96-337	94:1066	To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.	1.00
	S. 1998	96-338	94:1067	To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.	1.00
	S. 2549	96-339	94:1069	To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.	1.00
	S. 2055	96-340	94:1072	To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.	1.00
Sept. 5	H.R. 8010	96-341	94:1076	To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6974	96-342	94:1077	Department of Defense Authorization Act, 1981.	$2.25
	H.R. 5168	96-343	94:1123	Military Personnel and Compensation Amendments of 1980.	1.25
	S. 2680	96-344	94:1133	To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).	1.00
	H.R. 5892	96-345	94:1139	Wind Energy Systems Act of 1980.	1.25
Sept. 10	H.R. 7072	96-346	94:1148	To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.	1.00
Sept. 12	H.R. 1781	96-347	94:1150	To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.	1.00
	H.R. 1967	96-348	94:1152	To modify the boundary of the White River National Forest in the State of Colorado.	1.00
	S. 390	96-349	94:1154	Antitrust Procedural Improvements Act of 1980.	1.00
Sept. 15	H.R. 2538	96-350	94:1159	To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.	1.00
	H.R. 4627	96-351	94:1161	To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.	1.00
Sept. 17	H.J.Res. 607	96-352	94:1162	Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980.	1.00
Sept. 19	H.J.Res. 594	96-353	94:1163	To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".	1.00
	S. 299	96-354	94:1164	Regulatory Flexibility Act.	1.00
Sept. 24	S. 670	96-355	94:1171	Rural Development Policy Act of 1980.	1.00
	S. 1625	96-356	94:1177	To amend the Act of December 20, 1944, as amended.	1.00
	H.R. 5766	96-357	94:1178	To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.	1.00
Sept. 25	S. 261	96-358	94:1184	Agricultural Subterminal Facilities Act of 1980.	1.00
Sept. 26	H.R. 6940	96-359	94:1190	Infant Formula Act of 1980.	1.00
	H.R. 3210	96-360	94:1196	To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954.	1.00
	H.R. 6511	96-361	94:1197	To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".	1.00
	S. 1650	96-362	94:1198	National Aquaculture Act of 1980.	1.25
	S. 2223	96-363	94:1207	To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.	1.00
	H.R. 3904	96-364	94:1208	Multiemployer Pension Plan Amendments Act of 1980.	3.75
	S. 1125	96-365	94:1312	Federal Crop Insurance Act of 1980.	1.25
Sept. 29	H.R. 3292	96-366	94:1322	Fish and Wildlife Conservation Act of 1980.	1.25
Oct. 1	H.R. 7590	96-367	94:1331	Energy and Water Development Appropriation Act, 1981.	1.25
	S. 2443	96-368	94:1347	West Valley Demonstration Project Act.	1.00
	H.J.Res. 610	96-369	94:1351	Making continuing appropriations for the fiscal year 1981, and for other purposes.	1.25
Oct. 3	H.R. 7825	96-370	94:1360	To establish the Ice Age National Scenic Trail, and for other purposes.	1.00

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.J.Res. 551	96-371	94:1361	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes.	$1.00
	S.J.Res. 209	96-372	94:1363	Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.	1.00
	H.R. 6395	96-373	94:1366	To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission.	1.00
	H.R. 5192	96-374	94:1367	Education Amendments of 1980.	4.00
	H.R. 5278	96-375	94:1505	To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.	1.00
	S. 2489	96-376	94:1509	To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.	1.00
	H.R. 7478	96-377	94:1512	To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4 1/4 per centum which may be outstanding.	1.00
Oct. 6	H.R. 5164	96-378	94:1513	To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.	1.00
	S. 1895	96-379	94:1520	To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake".	1.00
	H.R. 6242	96-380	94:1521	To establish a Towing Safety Advisory Committee in the Department of Transportation.	1.00
	S. 1123	96-381	94:1523	To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980.	1.00
	H.R. 3748	96-382	94:1525	To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.	1.00
	H.R. 8018	96-383	94:1526	To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam".	1.00
	H.R. 8024	96-384	94:1527	To change the name of Aubrey Lake, Texas, to Ray Roberts Lake.	1.00
Oct. 7	H.R. 7511	96-385	94:1528	Veterans' Disability Compensation and Housing Benefits Amendments of 1980.	1.25
	H.R. 6308	96-386	94:1539	Magnetic Fusion Energy Act of 1980.	1.00
	S. 1442	96-387	94:1545	To authorize the documentation of certain vessels as vessels of the United States, and for other purposes.	1.00
	H.R. 8081	96-388	94:1547	To establish the United States Holocaust Memorial Council.	1.00
	S. 2271	96-389	94:1551	To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.	1.00
	H.R. 4792	96-390	94:1556	To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building--U.S. Courthouse.	1.00
	H.R. 5410	96-391	94:1557	To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.	1.00
	H.R. 5732	96-392	94:1558	To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building".	1.00
	H.R. 6531	96-393	94:1559	To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building.	1.00
	H.R. 7414	96-394	94:1560	To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building".	1.00
	H.R. 7450	96-395	94:1561	To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 7782	96-396	94:1562	To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule.	$1.00
	H.R. 8202	96-397	94:1563	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period.	1.00
	S. 1177	96-398	94:1564	Mental Health Systems Act.	3.00
Oct. 8	S. 2719	96-399	94:1614	Housing and Community Development Act of 1980.	3.50
Oct. 9	H.R. 7831	96-400	94:1681	Department of Transportation and Related Agencies Appropriation Act, 1981.	1.50
	S. 2126	96-401	94:1701	Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation.	1.00
	S. 91	96-402	94:1705	Uniformed Services Survivor Benefits Amendments of 1980.	1.00
	H.R. 7670	96-403	94:1709	To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.	1.00
	S. 341	96-404	94:1711	To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 1795	96-405	94:1713	To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 2398	96-406	94:1715	To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forest, and for other purposes.	1.00
	H.R. 3956	96-407	94:1717	Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras.	1.00
	H.R. 7130	96-408	94:1718	To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building".	1.00
	H.R. 7309	96-409	94:1719	To designate the Federal building in Portland, Oregon the "Edith Green Federal Building".	1.00
	H.R. 7544	96-410	94:1720	To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building".	1.00
	H.R. 7588	96-411	94:1721	To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building".	1.00
	H.R. 7770	96-412	94:1722	To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center".	1.00
	H.R. 8161	96-413	94:1723	To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building".	1.00
	H.J.Res. 472	96-414	94:1724	Designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia".	1.00
	S. 2801	96-415	94:1725	To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility".	1.00
	H.J.Res. 560	96-416	94:1726	To proclaim March 19, 1981, as "National Agriculture Day".	1.00
Oct. 10	S. 1654	96-417	94:1727	Customs Courts Act of 1980.	1.50
	H.R. 7301	96-418	94:1749	Military Construction Authorization Act, 1981.	2.00
	S.J.Res. 201	96-419	94:1784	To provide for the designation of a week as "National Lupus Week".	1.00
	H.R. 7919	96-420	94:1785	Maine Indian Claims Settlement Act of 1980.	1.25
	S.J.Res. 82	96-421	94:1798	To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".	1.00
	H.R. 7859	96-422	94:1799	Refugee Education Assistance Act of 1980.	1.25
	S. 2730	96-423	94:1811	Federal Railroad Safety Authorization Act of 1980.	1.25

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 3180	96-424	94:1820	To repeal a provision of the Refugee Education Assistance Act of 1980.	$1.00
	S. 2475	96-425	94:1821	Automobile Fuel Efficiency Act of 1980.	1.25
	S. 3148	96-426	94:1830	To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building".	1.00
	H.R. 7666	96-427	94:1831	Federal Employees' Group Life Insurance Act of 1980.	1.00
	H.R. 7218	96-428	94:1839	To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes.	1.00
	S. 3044	96-429	94:1844	To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building".	1.00
	H.R. 7434	96-430	94:1845	To provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes.	1.00
	H.R. 6065	96-431	94:1850	To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.	1.00
	H.R. 6331	96-432	94:1851	To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes.	1.00
	H.R. 7939	96-433	94:1855	To amend the Securitites Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.	1.00
	S. 1796	96-434	94:1859	To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	H.R. 7411	96-435	94:1861	Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.	1.00
Oct. 13	H.R. 7592	96-436	94:1863	Military Construction Appropriation Act, 1981.	1.00
	H.R. 5546	96-437	94:1870	To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.	1.00
	S. 985	96-438	94:1871	To amend the Consolidated Farm and Rural Development Act.	1.00
	H.R. 7779	96-439	94:1878	To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court.	1.00
	S. 1790	96-440	94:1879	Privacy Protection Act of 1980.	1.00
	H.R. 8103	96-441	94:1884	To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively.	1.00
	H.R. 5048	96-442	94:1885	Manassas National Battlefield Park Amendments of 1980.	1.00
	H.J.Res. 568	96-443	94:1888	To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week".	1.00
	S. 2936	96-444	94:1889	To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate.	1.00
	H.R. 6440	96-445	94:1891	To establish priorities in the payment of claims against the People's Republic of China.	1.00
	S. 2185	96-446	94:1893	To authorize the acceptance and use of bequests and gifts for disaster relief.	1.00
	S. 2511	96-447	94:1894	Civil Rights Commission Authorization Act of 1980.	1.00
Oct. 14	S. 1946	96-448	94:1895	Staggers Rail Act of 1980.	3.50
	H.R. 7085	96-449	94:1967	Hostage Relief Act of 1980.	1.00
	S. 2597	96-450	94:1975	Intelligence Authorization Act for Fiscal Year 1981.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 4310	96-451	94:1983	To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes.	$1.25
	H.R. 7665	96-452	94:1994	Fifth Circuit Court of Appeals Reorganization Act of 1980.	1.00
Oct. 15	H.R. 5451	96-453	94:1997	Maritime Education and Training Act of 1980.	1.25
	S. 1798	96-454	94:2011	Household Goods Transportation Act of 1980.	1.25
	H.R. 4273	96-455	94:2024	To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes".	1.00
	S. 1482	96-456	94:2025	Classified Information Procedures Act.	1.00
	S. 1640	96-457	94:2032	To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.	1.00
	S. 1873	96-458	94:2035	Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.	1.00
	H.R. 6554	96-459	94:2042	Maritime Appropriation Authorization Act for Fiscal Year 1981.	1.00
	H.R. 4417	96-460	94:2044	Chesapeake Bay Research Coordination Act of 1980.	1.00
	S. 2320	96-461	94:2049	National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.	1.00
	H.R. 8178	96-462	94:2053	Federal District Court Organization Act of 1980.	1.00
	S. 2412	96-463	94:2055	Used Oil Recycling Act of 1980.	1.00
Oct. 17	S. 2622	96-464	94:2060	Coastal Zone Management Improvement Act of 1980.	1.25
	H.R. 6790	96-465	94:2071	Foreign Service Act of 1980.	3.75
	H.R. 5288	96-466	94:2171	Veterans' Rehabilitation and Education Amendments of 1980.	3.00
	H.R. 3122	96-467	94:2220	Relating to the tariff treatment of certain articles.	1.25
	H.R. 6593	96-468	94:2229	Swine Health Protection Act.	1.00
	S. 2043	96-469	94:2235	Animal Cancer Research Act.	1.00
Oct. 19	H.R. 6686	96-470	94:2237	Congressional Reports Elimination Act of 1980.	1.25
	H.R. 6883	96-471	94:2247	Installment Sales Revision Act of 1980.	1.25
	S. 1393	96-472	94:2257	To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.	1.00
	H.R. 5295	96-473	94:2263	To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes.	1.00
	H.R. 5326	96-474	94:2267	To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana.	1.00
	H.R. 6816	96-475	94:2269	To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State.	1.00
	S. 3072	96-476	94:2271	Rattlesnake National Recreation Area and Wilderness Act of 1980.	1.00
Oct. 21	H.R. 7554	96-477	94:2275	Small Business Investment Incentive Act of 1980.	1.50
	H.R. 6665	96-478	94:2297	Act to Prevent Pollution from Ships.	1.00
	H.R. 2743	96-479	94:2305	National Materials and Minerals Policy, Research and Development Act of 1980.	1.00
	S. 1250	96-480	94:2311	Stevenson-Wydler Technology Innovation Act of 1980.	1.25
	H.R. 5612	96-481	94:2321	To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes.	1.25
	S. 1156	96-482	94:2334	Solid Waste Disposal Act Amendments of 1980.	1.75
	S. 2725	96-483	94:2360	To extend certain authorizations in the Clean Water Act, and for other purposes.	1.00

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Highlights

73884 **Safety** CPSC publishes statement of policy regarding flammability standards for children's sleepwear; effective 12-8-80 (Part IV of this issue)

73890 **Energy** CSA releases a rule detailing how 1981 appropriated energy funds will be allocated under the FY '81 Energy Crisis Intervention Program; effective 11-4-80 (Part V of this issue)

73660 **Grant Programs—Health** HHS/PHS publishes regulations regarding grants for public health traineeships for students in schools of public health and in other graduate public health programs, effective 11-6-80

73658 **Grant Programs—Health** HHS/PHS sets forth requirements for programs for grants for traineeships in health administration, hospital administration, or health policy analysis and planning at public or nonprofit private educational institutions other than schools of public health; effective 11-6-80

73731 **Petroleum** DOE/ERA proposes designing methods for distributing petroleum during a shortage and selecting standby distribution mechanisms; extends comments to 12-15-80

73709 **Improving Government Regulations** CSA publishes semiannual agenda of regulations

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Highlights

73664 **Grant Programs—Health** HHS/PHS publishes requirements for programs for grants to public or private nonprofit institutions to meet the costs of traineeships for the advanced training of allied health personnel; effective 11–6–80

73684 **Petroleum** DOE/SOLAR proposes amendments to procedures proposed to be used in calculating equivalent petroleum-based fuel economy of electric vehicles, comments by 1–5–81

73692 **Alcohol and Alcoholic Beverages** Treasury/ATF proposes gathering additional information on the extension of credit by producers and wholesalers of alcoholic beverages to retail dealers who are in arrears of payment to their suppliers; comments by 1–5–81

73646 **Loan Programs** USDA/FmHA amends regulations pertaining to administration of Business and Industrial Loan Program; effective 11–6–80

73636 **Grant Programs** USDA/FmHA amends and redesignates regulations pertaining to Industrial Development Grants; effective 11–6–80

73694 **Wine** Treasury/ATF proposes establishing first viticultural area in the State of New York; comments by 1–5–81

73692 **Natural Gas** DOE/FERC extends comment period to 12–1–80 on exemption from incremental pricing for certain boiler fuel uses of natural gas

73847 **Transportation** DOT/Sec'y extends comment period to 11–26–80 on long-term study of the Automobile Industry

73846 **Natural Gas** DOT/Sec'y notice of concurrence to comply with Interior's civil rights regulations for the Alaska Natural Gas Transportation System; effective 11–6–80

Privacy Act Documents

73728 DOD/Army

73796 HHS/HCFA

73836 OMB

73848 **Sunshine Act Meetings**

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73876 **Part III, Interior/FWS**
73884 **Part IV, CPSC**
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Rules and Regulations

Federal Register
Vol. 45, No. 217
Thursday, November 6, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 439

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule prescribes procedures for insuring almonds effective with the 1981 crop year. This final rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended, providing such almond crop insurance for the first time.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

The Federal Crop Insurance Corportion (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Tuesday, July 29, 1980 (45 FR 50341–50347), prescribing proposed regulations for insuring almonds effective with the 1981 crop year. In the notice, FCIC proposed that there be established a new Part 439 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 439 Almond Crop Insurance Regulations.

This part prescribes procedures for insuring almonds effective with the 1961 crop year.

The almond crop insurance regulations, 7 CFR Part 439, have been developed in the same manner as all other regulations of FCIC: A short, simple, clear document that is easy for the policyholder to read and understand while at the same time being administratively effective. The regulations as contained in 7 CFR Part 439 provide (1) that the causes of loss insured against will be unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, or fire occurring within the insurance period, (2) that insurance will attach only to acreage (a) which is irrigated and (b) upon which the trees have reached the seventh growing season after being set out, and insurance may attach only by written agreement with the Corporation on any acreage with less than 90 percent of a stand, based on the original planting pattern, (3) that premium rates per acre will be determined by multiplying the production guarantee per acre by the applicable price election and multiplying the result by the percentage rate shown on the actuarial table for the applicable area and coverage level, (4) that the actuarial table will provide the level which will be applicable to contracts unless a different level is elected by the insured, (5) for a premium adjustment table that provides maximum discounts of up to 50 percent for good insuring experience, as well as premium increases for unfavorable insuring experience on an individual contract basis, (6) that any premium not paid by the termination date will increase 9 percent and a 9 percent interest charge will apply to any unpaid premium balance at the end of each 12-month period thereafter, and (7) that the contract dates shall be as follows:

Insurance Period—December 11 to November 30.
Cancellation Date—September 30.
Termination Date—November 30.
Sales Closing Date—December 10.

FCIC proposed to offer almond crop insurance for the first time in Butte, Merced, San Joaquin, and Stanislaus Counties, California, located in the center of the almond producing area of that State. In the notice of proposed rulemaking it was determined that an emergency situation existed which warranted less than a 60-day comment period on the proposed rule because there would not be sufficient time to make contact with potential insureds in the first-time program of almond insurance. A period of 30 days was provided for public comment. This was determined to be appropriate since FCIC had held meetings with many almond producers and with such organizations as the California Almond Growers Exchange and the California Almond Board for the purpose of determining the procedures for insuring almond crops. These meetings were held following numerous requests for such insurance from individual growers and the organizations mentioned above. The Corporation wishes to thank those growers and organizations who participated in the meetings and who provided considerable data studied by FCIC in establishing the sound actuarial basis for this new program of insurance for almonds.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations. The only comment received was from the California Almond Growers Exchange in Sacramento, California. The comment, submitted on behalf of the nearly 5,000 members, representing approximately 72 percent of the State's almond producers, supplemented their earlier efforts in assisting the Corporation to formulate the almond crop insurance program and reaffirmed their strong support of the program.

No substantive comment on the proposed rule was made which would amend or change the regulations; therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1981 crop year.

In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 439, for need, currency, clarity, and effectiveness, must be completed prior to the sunset date of September 2, 1985.

Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby issues a new Part 439 in Chapter IV of Title 7 of the Code of Federal Regulations for the 1981 and Succeeding Crop Years, to read as follows:

PART 439—ALMOND CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

439.1 Availability of Almond Insurance.
439.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
439.3 Public notice of indemnities paid.
439.4 Creditors.
439.5 Good faith reliance on misrepresentation.
439.6 The contract.
439.7 The application and policy.
Appendix A Additional Terms and Conditions.
Appendix B Counties Designated for Almond Crop Insurance.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 439.1 Availability of almond insurance.

Insurance shall be offered under the provisions of this subpart on almonds in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by Appendix B to this part the names of the counties in which almond insurance will be offered.

§ 439.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for almonds which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 439.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 439.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 439.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the almond insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been compiled with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 439.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the almond crop as provided in the policy. The contract shall consist of the application, the policy, the attached Appendix A, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

439.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the almond crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) the Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) The provisions of the application and Almond Insurance Policy for the 1981 and succeeding crop years, and the Appendix A to the Almond Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application For 19—and Succeeding Crop Years

Almond Crop Insurance Contract

(Contract Number) _____
(Identification Number) _____
(Name and Address) _____
Zip Code) _____
(County) _____
(State) _____
Type of Entity _____
APPLICANT IS OVER 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the almonds produced on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.
LEVEL ELECTION _____
PRICE ELECTION _____

Example: For the 19— crop year only (100% Share)

Location/farm No.	Guarantee per acre*	Percentage premium rate**	Practice

*Your guarantee will be on a unit basis (acres x per acre guarantee x share).
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following almond insurance policy, the attached Appendix A, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Signature of Applicant _____
Date _____
19—
Code No./Witness To Signature _____
Address of Office For County: _____

_____
Phone _____
Location of Farm Headquarters: _____

_____
Phone _____

Almond Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached Appendix A:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be almonds which are grown on insured acreage, and for which the actuarial table shows a guarantee and percentage premium rate.

(b) The acreage insured for each crop year shall be that acreage of almonds grown on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall attach or be considered to have attached, as determined by the Corporation, only to acreage (1) which is irrigated and (2) upon which the trees, after being set out, have reached the seventh growing season.

(c) Insurance may attach only by written agreement with the Corporation on any acreage with less than 90 percent of a stand, based on the original planting pattern.

3. *Responsibility of Insured to Report Acreage, Share and Yield.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of almonds in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share, (b) the insured's share therein at the time insurance attached, and (c) the total production from the preceding crop year's insurable acreage on each unit. Such report shall be submitted each year not later than December 31.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

5. *Annual Premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the production guarantee per acre, times the price election per pound, times the percentage premium rate, times the insured's share on the date insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

Percent Adjustments for Favorable Continuous Insurance Experience

Loss ratio [1] through previous crop year	Number of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
0.00 to 0.20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
0.21 to 0.40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
0.41 to 0.60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
0.61 to 0.80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
0.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Percent Adjustments for Unfavorable Insurance Experience

Loss ratio [1] through previous crop year	Number of years loss through previous year [2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300

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Percent Adjustments for Unfavorable Insurance Experience—Continued

Loss ratio[1] through previous crop year	Number of years loss through previous year[2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[2] Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach each crop year on December 11 and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest of the insured almonds, (c) November 30 of the calendar year in which the almonds are normally harvested, or (d) total destruction of the insured almond crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the almonds on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it.

(c) If an indemnity is to be claimed on a unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire almond crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of almonds on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of almonds on the unit by the applicable guarantee per acre, which product shall be the guarantee for the unit, (2) subtracting therefrom the total production of almonds to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Appraised production to be counted shall include: (i) Any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices and (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause.

(2) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (i) is not put to another use before harvest of almonds becomes general in the county, (ii) is harvested, or (iii) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of the Right to Idemnity on the Insured Share.* If the insured transfers any part of the insured share during the crop year, the insured may transfer the right to an indemnity on an approved form. The insured shall be liable for the premium if such form is or is not executed. If such form is executed the transferee shall have the same rights and responsibilities as the original insured for the current crop year.

11. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all almonds produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
All counties	Sep. 30	Nov. 30

Appendix A—(Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of almond crop insurance: (a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, percentage premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding almond insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period beginning with the date insurance attaches to the almond crop and extending through normal harvest time, and shall be designated by the calendar year in which the almonds are normally harvested.

(e) "Harvest" means removal of the almonds from the orchard.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured almond crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(k) "Tenant" means a person who rents land from another person for a share of the almond crop or proceeds therefrom.

(l) "Total meat pounds" means the total good almond meats (kernels) and rejects in pounds and shall include both loose (whole and chipped) and inshell meats. Unshelled almonds shall be converted to meat pounds as determined by the Corporation.

(m) "Unit" means all insurable acreage of almonds in the county which is located on contiguous land, and, at the time insurance attaches for the crop year, (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the almond crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of almonds to any acreage limitations established under any Act of Congress: *Provided,* The insured is so notified in writing prior to the date insurance attaches.

(b) If the insured does not submit an acreage report on or before December 31, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time insurance attaches.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the insurance attaches, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the almond operation, or (3) the contract of the same insured who stops operating an almond orchard in one county and starts operating an almond orchard in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured almond acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c) as amended: *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The insured thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

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(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B

Counties Designated for Almond Crop Insurance—7 CFR Part 439

In accordance with the provisions of 7 CFR Part 439.1, the following counties are designated for almond crop insurance:

California

Butte	San Joaquin
Merced	Stanislaus

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant impact specifically on area and community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Issued in Washington, D.C., on September 2, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Roland Wentzel.

Dated: October 28, 1980.

[FR Doc. 80-34568 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Parts 982 and 999

Filbert Imports and Filberts Grown in Oregon and Washington; Stay of Effective Date of Amendment of Import Regulation and of a Change in the Marketing Order Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Stay order.

SUMMARY: This document stays the following: (a) the effective date of an amendment to the filbert import regulation (published at 45 FR 63479, September 25, 1980); and (b) a change in the grade requirements under the filbert marketing order. The Department has received additional information in a petition which warrants such actions.

EFFECTIVE DATE: This document shall become effective upon signing (October 31, 1980).

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Speciality Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: A regulation was published in the September 25, 1980, issue of the **Federal Register** (45 FR 63479) revising the grade requirements for imported shelled filberts (§ 999.400), effective November 1, 1980, pursuant to Section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Section 8e of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture, pursuant to section 8c of the act (7 U.S.C. 608c), contains any terms or conditions regulating the grade, size, quality, or maturity of filberts produced in the United States, the importation of filberts into the United States shall be prohibited unless the commodity complies with the grade, size, quality, and maturity provisions of the order or comparable restrictions promulgated under Section 8e. Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, hereinafter referred to as the "order", contains terms and conditions regulating the grade and size of filberts. Pursuant to § 982.101 of the order, domestic shelled filberts must meet the requirements of Oregon Grade Standards for Filbert (Hazelnut) Kernels, Oregon No. 1 Whole and Broken Grade, and until August 1, 1980, the order and the import regulation contained the same grade requirements for shelled filberts.

Effective August 1, 1980, the Oregon standards were amended so that the total tolerance for kernels or portions of kernels which are moldy, rancid, decayed, or insect injured, is one percent. Previously, that tolerance applied only to kernels or portions of kernels which were moldly, rancid, or insect injured. Hitherto, "Decay"—meaning any portion of the kernel is decomposed—was considered one of a number of defects for which there was a tolerance of five percent. As amended effective November 1, 1980, the filbert regulation contained a tolerance of one and one-half percent for the above named four defects (including decay).

The Department, however, has received information in a petition submitted to it by The Association of Food Distributors, Inc., representing filbert importers which warrants staying the effective date of the amendment of the import regulation until further notice. The requirements of § 999.400 effective prior to November 1, 1980, should apply pending further consideration of domestic and import quality requirements. In as much as the petition questions the method of incorporating the amendment effective August 1, 1980, of the applicable Oregon Standards into the requirements of § 982.101 of the order, the change in the requirements of § 982.101 resulting from the amendment (effective August 1, 1980), of the applicable Oregon Grade Standards for Filbert (Hazelnut) Kernels also should be stayed. The grade requirements of § 982.101 in effect prior to August 1, 1980, should apply pending reconsideration.

It is anticipated that informal rulemaking action will be initiated to reconsider the decay requirements for both domestic and imported filberts.

Mr. Miller determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action. This action relieves restrictions on importers and handlers. Since importers currently are receiving new crop imported filberts, and, handlers currently are shelling filberts in volume, this action must be taken promptly.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this emergency action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**.

Stay Order:

The amendment to § 999.400 effective November 1, 1980, (published at 45 FR 63479, September 25, 1980) and with respect to § 982.101, the changes in the requirements of that section which resulted from the amendment (effective August 1, 1980) of the Oregon No. 1 Whole and Broken Grade of the Oregon Grade Standards for Filbert (Hazelnuts) Kernels are hereby stayed.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–67)

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 7 of the Appendix A, the contract shall continue in force for each succeeding crop year.

Dated: October 31, 1980.

Malvin E. McGaha,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-34573 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension removes the limit on such movements of milk for October through December 1980. The suspension was requested by two cooperative associations to assure the efficient disposition of milk not needed for fluid use and to maintain producer status under the order for their dairy farmer members regularly associated with the market.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250 (202–447–7183)

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued October 10, 1980; published October 16, 1980 (45 FR 68660).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (45 FR 68660) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment in writing on the proposed suspension. The proponents of the suspension and another cooperative association filed comments supporting the proposed action. No opposing comments were received.

After considering all relevant material, including the proposal in the notice, the comments received and other available information, it is hereby found and determined that for the months of October through December 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the third sentence of paragraphs (a) and (b) of § 1124.11 the word "not".

Statement of Consideration

This action removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of October through December 1980. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

The suspension was requested by two cooperative associations that supply the market with a substantial part of its fluid needs and handles much of the market's reserve milk supplies. The basis for the request is that current marketing conditions require the proponent cooperatives to handle an increasing quantity of reserve milk supplies during October through December 1980 because of substantial increased milk production by producers regularly associated with the market. The cooperatives indicated that milk production of their members has increased by approximately two percent while Class I sales in the market have declined by approximately six percent. Also, the cooperatives stated that in September, they had to move about 600,000 pounds of member milk first to pool plants and then to nonpool manufacturing plants in order to retain producer status for this milk.

Because of current marketing conditions, the cooperatives expect their reserve milk supplies during October through December 1980 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, the cooperatives believe that some of the milk of their member producers who have regularly supplied the fluid market would have to be moved uneconomically, first to pool plants and then to nonpool manufacturing plants in order to still maintain producer status for such milk during October through December 1980.

On the basis of the data, views and arguments filed, it is concluded that reserve milk supplies in the market during the next several months are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer milk status. Accordingly, the suspension is necessary because it will facilitate the efficient disposition of reserve milk supplies and thus avoid the need for the cooperatives to make uneconomic movements of milk for the purpose of maintaining pool status for their member producers involved.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling reserve milk supplies is by direct movement from producers' farms to manufacturing outlets. This suspension allows such economical movement of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. There were no comments filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

It is therefore ordered that the aforesaid provisions of the order are hereby suspended for October through December 1980.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Effective date: November 6, 1980.

Signed at Washington, D.C., on: October 31, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 80-34699 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-02-M

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Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980-Crop Barley Supplement]

Grains and Similarly Handled Commodities; 1980-Crop Barley Loan and Purchase Program

Correction

In FR Doc. 80-32791, published on page 69409 in the issue of Tuesday, October 21, 1980, make the following corrections to § 1421.76:

1. In the table for § 1421.76(a), the listing for Minnesota, on page 69411, the 26th entry in the second column, now reading "Wantonwan * * *" should read "Watonwan * * *".

2. In § 1421.76(b)(4) and (5), in the third column of page 69412, the phrase "cents or pound" should read "cents per bushel".

BILLING CODE 1505-01-M

Farmers Home Administration

7 CFR Parts 1823, 1901 and 1942

Industrial Development Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends and redesignates its regulations pertaining to Industrial Development (ID) Grants. This action is intended to simplify the administration of this program, clarify program regulations, and provide increased guidance to field personnel in program administration. This action results from a desire by program officials to provide simple clear program regulations and to provide maximum guidance to field personnel on program administration.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: John Madding, Deputy Director, Community Facilities Loan Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6304, Washington, D.C. 20250, telephone 202-447-7667. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available upon request from Mr. Joseph Linsley, Chief, Directives Management Branch, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4057.

SUPPLEMENTARY INFORMATION: FmHA published this amendment as a proposed rule at page 21801 of the Federal Register for Thursday April 12, 1979, and requested comment. Comments were received from several sources. One comment suggested that the audit requirements for ID grants be clarified. This has been done in Section 1942.318. One comment suggested the applicability of the National Historic Preservation Act of 1966 be stated. Another comment suggested a clearer definition of the Regional Commissions. Both these suggestions have been incorporated in the amendment. Another comment suggested that Local Development Corporations be considered eligible applicants for ID grants; that population priority be divided into several categories below 25,000; and that the use of ID grant funds be permitted to pay the salaries of certain key persons that a rural industry may need to become profitable but cannot afford initially. None of these suggestions were adopted because the enabling legislation (the Consolidated Farm and Rural Development Act) for the ID grant program limits eligibility to public bodies; specifies population priority to communities of 25,000 or less and limits use of grant funds to development and construction of projects.

In response to other comments received since publication of the proposed rule a new priority has been added to conform to agency policy emphasizing assistance to low income communities. Also, the grant agreement has been changed for clarification and to comply with statutory and OMB requirments.

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Applications are subject to State and areawide clearinghouse review pursuant to procedures in Part I, attachment A of OMB Circular No. A-95 [Revised].

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Therefore, FmHA amends its regulations by adding a new Subpart G to Part 1942, Chapter XVIII, Title 7 in the Code of Federal Regulations. This new Subpart replaces Subpart O of Part 1823, Chapter XVIII, Title 7 in the, Code of Federal Regulations which is deleted. In addition, portions of this regulation have been amended to more clearly communicate FmHA grant processing policies to our field offices and to reflect a reassignment of responsibilities within the Agency.

As amended, the major changes reflected in Subpart G of Part 1942 are:

1. Except for preapplication review and transmittal, all references to County Supervisor are changed to District Director. This is done to reflect the transfer of responsibility for grant making and servicing from the County to the District Office.

2. § 1942.304 is added to more fully define rural area, urbanized area, and urbanizing area. These terms are used in making a rural area determination for eligibility.

3. § 1942.305(a)(1) is modified to provide more guidance in the procedure to follow in making a rural area determination.

4. § 1942.305(a)(2) is modified to clearly state that, for FmHA to administer a Federal Regional Commission grant under the authorities in this Subpart, the proposed recipient of the grant must be eligible for an FmHA ID grant.

5. § 1942.305(b) is added to outline the priorities to be followed when selecting applications for funding.

6. § 1942.308 clarifies the administrative requirements to be adhered to when administering a Federal Regional Commission grant.

7. § 1942.310(a) is amended to allow the Federal Regional Commission to make civil rights compliance review for projects in which FmHA is administering the Regional Commission grant but no FmHA ID grant funds are involved.

8. § 1942.310(c) clarifies under what circumstances a Department of Labor (DOL) certification will be required and what procedures will be followed to obtain the DOL certification.

9. § 1942.310(c)(4) is added to permit a waiver of the need for DOL certifications for Federal Regional Commission grant projects when the Regional Commission requests the waiver.

10. § 1942.317(b)(2) is added to provide for the use of multiple advances of funds.

11. § 1942.317(b)(3) is added to comply with OMB Circular A-102 Attachment P.

12. Guides 1 and 2 are added to incorporate a guide agreement for use in administering Federal Regional Commission grants other than ARC grants and a guide for use by grant recipients when DOL certifications are required.

(FCDA No. 10.424 Industrial Development Grants)

Therefore, 7 CFR Chapter XVIII is amended as follows:

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart O—Grants for Facilitating Development of Private Business Enterprises [Deleted]

1. Subpart O of Part 1823 is hereby deleted from the CFR.

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart O—Jointly Funded Grant Assistance to State and Local Governments and Nonprofit Organizations

§ 1901.702 Policy. [Amended]

2. In § 1901.702, line 11, change the reference from "Subpart O of Part 1823" to "Subpart G of Part 1942."

3. In § 1901.702, line 13, delete the reference to "FmHA Instruction 442.12."

§ 1901.707 Applicant eligibility. [Amended]

4. In § 1901.707(b), lines 7 and 8, change the reference from "Part 1823 Subpart O of this chapter (FmHA Instruction 442.12, Appendix A)" to "Subpart G of Part 1942 of this chapter."

§ 1901.708 Use of Grant Funds. [Amended]

5. In § 1901.708(b), lines 5, 6, and 7, change "Part 1823 Subpart P of this chapter (FmHA Instruction 442.12, Appendix A)" to "Subpart G of Part 1942 of this chapter."

§ 1901.719 State supplements. [Amended]

6. In § 1901.719(a), lines 9, 10, and 11, change "Part 1823 Subpart O (FmHA Instruction 442.12)" to Subpart G of Part 1942 of this chapter."

PART 1942—ASSOCIATIONS

Subpart G—Industrial Development Grants

7. Subpart G of Part 1942 is added and reads as follows:

Subpart G—Industrial Development Grants

Sec.

1942.301 Purpose.
1942.302 Policy.
1942.303 Authorities, delegation, and redelegation.
1942.304 Definitions.
1942.305 Eligibility and priority.
1942.306 Purposes of grants.
1942.307 Limitations on use of grant funds.
1942.308 Regional Commission grants.
1942.309 [Reserved]
1942.310 Other considerations.
1942.311 Application processing.
1942.312 Appraisals.
1942.313 Planning and performing development.
1942.314 [Reserved]
1942.315 Docket preparation and Letter of Conditions.
1942.316 Grant approval, fund obligation, approval announcement, and cancellation.
1942.317 Grant closing and delivery of funds.
1942.318 Audit Reports.
1942.319 Actions subsequent to grant closing.
1942.320 Grant servicing.
1942.321 Subsequent grants.
1942.322 State supplements and guides.
1942.323-1942.349 [Reserved]
1942.350 Forms, Guides and Exhibits.

Attachments:

Guide 1—Project Management Agreement Between the ———— Regional Commission and the Farmer's Home Administration, Department of Agriculture pertaining to (grantee) ———— county ————.

Guide 2—Resolution

Exhibit A Grant Agreement (Public Bodies) for Facilitating Private Business Enterprises in Rural areas

Exhibit B OMB Circular A-102 Attachment P—Audit Requirements

Subpart G—Industrial Development Grants

§ 1942.301 Purpose.

This Subpart outlines Farmers Home Administration (FmHA) policies and authorizations and sets forth procedures for making grants to public bodies to facilitate development of private business enterprises.

§ 1942.302 Policy.

(a) The grant program will be used to support the development of private business enterprises in rural areas.

(b) FmHA officials will maintain liaison with officials of other federal, state, regional and local planning and development agencies including State and substate planning agencies to coordinate related programs to achieve rural development objectives.

(c) FmHA officials shall cooperate with appropriate state agencies in making grants that support state strategies for rural area development.

(d) Funds allocated for use in accordance with this Subpart are also to be considered for use of Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs. This includes equal application of outreach activities of FmHA County and District Offices.

§ 1942.303 Authorities, delegation, and redelegation.

The State Director is responsible for implementing the authorities contained in this Subpart and to issue State supplements redelegating these authorities to appropriate FmHA employees. Grant approval authorities are contained in Subpart A of Part 1901 of this Chapter.

§ 1942.304 Definitions.

(a) Industrial Development (ID) grants—Grants made to facilitate development of private business enterprises in rural areas. They are made from FmHA funds under authority of the Consolidated Farm and Rural Development Act, as amended, Section 310B (7 U.S.C. 1932).

(b) Regional Commission grants—Grants made from funds made available to FmHA by the Appalachian Regional Commission (ARC) or other Federal Regional Commissions designated under Title V of the Public Works and Economic Development Act of 1965.

(c) Rural and Rural Area—Includes all territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, or the Commonwealth of the Mariana Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(d) Urbanized Area—An area immediately adjacent to a city having a population of 50,000 or more which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and extends from the contiguous boundary(ies) to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city and are recognized as a separate community and are not otherwise considered a part of an

urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

(e) Urbanizing Area—A community which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered "independent of" when its social and economic structure (e.g., government; educational, health, and recreational facilities; and business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

§ 1942.305 Eligibility and priority.

(a) *Eligility.* (1) ID grants may be made to public bodies serving rural areas such as states, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas. The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanized or urbanizing, the State Director must then determine the population density per square mile. If the area appears to be eligible, the State Director will require the National Office to provide the correct density figure. All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes will be excluded.

(2) Regional Commission Grant applicants must meet eligibility requirements of the Regional Commission and also of FmHA, in accordance with paragraph (a)(1) of this section, for FmHA to administer the Regional Commission Grant under this Subpart.

(b) *Priority.* Priority for ID grants shall be given to communities having a population of less than twenty-five thousand. Projects selected for funding should, as much as practical, adhere to the following priorities:

(1) Projects which will be located in communities having a large portion of their population with low-incomes.

(2) Projects which will save existing jobs.

(3) Projects which will create jobs.

(4) Projects which will create job opportunites.

(5) Projects which will contribute to overall economic stability of the area but generate few or no jobs.

§ 1942.306 Purposes of grants.

(a) ID grant funds may be used to finance industrial sites in rural areas including the acquisition and development of land and the construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, transportation serving the site, utility extensions, necessary water supply and waste disposal facilities, pollution control and abatement incidental to site development, fees, interest cost for interim financing, and to refinance debts incurred by or on behalf of an association before an application for a grant when all of the following conditions exist:

(1) The debts were incurred for the facility or part thereof or service to be installed or improved with the grant, and

(2) Arrangements cannot be made with the creditors to extend or modify the terms of the existing debt.

(b) ID grants may be made only when there is a reasonable prospect that they will result in development of private business enterprises.

(c) FmHA grant funds may be used jointly with funds furnished by the grantee or from other sources including FmHA loan funds. Pursuant to P.L. 95–334, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with FmHA. The amount of participation by the other department, agency, or executive establishment shall only be limited by its authorities other than authorities which impose restrictions on joint financing.

§ 1942.307 Limitations on use of grant funds.

(a) Funds will not be used to:

(1) Pay salaries for office or clerical assistance, administrative, transportation, or publication costs and expenses.

(2) Finance comprehensive areawide type planning. This does not preclude the use of grant funds for planning for a given project.

(b) Funds will not be used to finance or aid the development of shopping centers, motels, restaurants or other retail establishments.

§ 1942.308 Regional Commission grants.

(a) Grants are sometimes made by Federal Regional Commissions for projects eligible for FmHA assistance. FmHA has agreed to administer such funds in accordance with FmHA regulations and the requirements of the commission.

(b) The transfer of funds from a Regional Commission to FmHA will be based on specific applications determined to be eligible for an authorized purpose in accordance with the requirements of FmHA and the Regional Commission.

(c) ARC is authorized under the Appalachian Regional Development Act of 1965, as amended, to serve the Appalachian region. ARC grants are handled in accordance with the FmHA–ARC Agreement (Exhibit A Subpart H of this Part) which applies to all ARC grants administered by FmHA. Therefore, a separate Project Management Agreement between FmHA and ARC is not needed for each ARC grant.

(d) Other Federal Regional Commissions are those authorized under Title V of the Public Works and Economic Development Act of 1965. Grants by these commissions are handled in accordance with a separate Project Management Agreement between the respective Regional Commission and FmHA for each Commission grant administered by FmHA (Guide 1 of this Subpart). The agreement should be prepared by the FmHA State Director and the appropriate Commission official when the State Director receives a notice from the Commission of the amount of the grant to be made.

§ 1942.309 [Reserved]

§ 1942.310 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this Subpart are subject to Title VI of the Civil Rights Act of 1964 as outlined in Subpart E of Part 1901 of this Chapter. All construction contracts of $10,000 or more must be in compliance with the requirements of Subpart E of Part 1901 of this chapter. When FmHA is administering a Federal Regional Commission grant and no FmHA ID grant funds are involved, the Federal Regional Commission may make its own determination of compliance with the

Civil Rights Act of 1964. In these instances, FmHA will not conduct a review for compliance with the Act unless specifically requested to do so by the Commission.

(b) *Environmental Impact Assessment and Statement.* Environmental Impact Assessments and Statements will be prepared in accordance with Subpart G of Part 1901 of this Chapter.

(c) *Excess capacity or transfer of employment.* (1) If the proposed ID grant is for more than $1,000,000 and will increase direct employment by more than 50 employees, the applicant will be requested to provide a written indication to FmHA which will enable FmHA to determine that the proposal will not result in a project which is calculated to or likely to result in:

(i) The transfer of any employment or business activity from one area to another (this limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations), or

(ii) An increase in the production of goods, materials, or commodities or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. The applicant's written indication will consist of a resolution from the applicant and Form FmHA 449–22, "Certificate of Non-Relocation and Market and Capacity Information Report," from each existing and future occupant of the site. The applicant may use Guide 2 of this Subpart as an example in preparing the resolution. Future occupants of the site must be certified by Department of Labor (DOL) as outlined in paragraph (c)(3) of this section for a period of 3 years after the initial certification by DOL.

(2) The State Director will check each document for completeness and accuracy and, submit nine copies of each to the National Office for forwarding to DOL. The submittal to the National Office should be accompanied by a cover memorandum giving the amount and purpose of the grant. Information should *not* be submitted directly to DOL from the applicant or the State Office.

(3) Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted by the Secretary of Agriculture that the provisions of § 1942.310(c)(1) of this Subpart have not been complied with. Information for obtaining this certification will be submitted in writing by the applicant to FmHA. The information will be submitted to DOL by the FmHA National Office. Grant approval may be given and funds may be obligated subject to the DOL certification being received provided FmHA has made its own separate determinations of (c)(1)(i) and (ii) of this section when the project is in excess of $1 million and affects over 50 employees.

(4) When a grant is being administered for a Federal Regional Commission and no FmHA ID grant funds are being used, the requirements for DOL determinations may be waived upon written request from the Commission. If the Commission so desires, the request will be included in the letter from the Commission to FmHA that gives notice of transfer of funds and conditions under which the funds are to be made available to the grantee. In such cases the letter of conditions from FmHA to the grantee will not include the requirement for DOL determinations.

(d) *Management assistance.* Grant recipients will be supervised as necessary to assure construction of facilities in accordance with approved plans and specifications and expenditure of funds for approved purposes.

(e) *Grant-in-aid information.* Action will be taken in accordance with Subpart J of Part 1901 of this Chapter.

(f) *Architectural Barriers Act of 1968.* All facilities financed with FmHA loans and grants and which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this act.

(g) *National Historic Preservation Act of 1966.* All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with Subpart F of Part 1901 of this Chapter.

(h) *Uniform Relocation and Real Property Acquisition Policies Act.* All projects must comply with the requirements set forth in Title 7, Subtitle A, Part 21 of the Code of Federal Regulation.

(i) *Floodplains and wetlands.* All projects must comply with Executive Order 11988 "Floodplain Management" and Executive Order 11990 "Protection of Wetlands."

§ 1942.311 Application processing.

(a) *Preapplications and applications.* (1) The application review and approval procedures outlined in § 1942.2 of Subpart A of Part 1942 of this Chapter will be followed. When an ID grant is being processed, only those provisions apply which are necessary to assure (i) that the proposed development is completed in accordance with approved plans and specifications, (ii) that grant funds are used for authorized purposes, and (iii) that the recipient complies with terms of the grant agreement, Form FmHA 442–50, "Grant Agreement (Public Bodies) for Facilitating Private Business Enterprises in Rural Areas."

(2) For all ID grants a copy of Form FmHA 442–50 along with a copy of the Letter of Conditions, Form FmHA 442–43, "Project Summary Community Facilities (other than Utility Type Projects)," and Form FmHA 442–14, "Association Project Fund Analysis," will be submitted to the National Office when the Letter of Conditions is issued.

(b) *Office of General Counsel (OGC) review.* For ID grants, when FmHA is not making a loan, the FmHA State Director will request an opinion from the Regional Attorney, OGC, that the applicant is an eligible applicant with authority to carry out the purposes of the proposed grant. The applicant will be requested to provide the necessary information to FmHA for submission to the Regional Attorney by the State Director.

(c) *Review of decision.* When the District Director is informed that favorable action will not be taken on a preapplication or application, the applicant will be notified in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant in accordance with Subpart B of Part 1900 of this Chapter.

§ 1942.312 Appraisals.

When land is to be purchased in accordance with § 1942.306(a) of this Subpart, the State Director, to establish "fair market value," may require the applicant to provide an appraisal report prepared by an independent qualified appraiser.

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§ 1942.313 Planning and performing development.

The applicable provisions of § 1942.18 of Subpart A of Part 1942 of this Chapter related to planning and performing development are to be adhered to for construction of ID grant projects. This includes requirements for actions pertaining to:

(a) Professional services, design policies, preliminary engineering and architectural reports and construction bids, contract awards, and construction inspections.

(b) Concurrence in agreements between grantees and third parties.

(c) Preconstruction conferences.

§ 1942.314 [Reserved]

§ 1942.315 Docket preparation and Letter of Conditions.

(a) The applicable provisions of § 1942.5 of Subpart A of Part 1942 of this Chapter relating to preparation of loan dockets will be followed in preparing grant dockets.

(b) The State Director or the State Director's designated representative will prepare a Letter of Conditions outlining the conditions under which the grant will be made. It will include those matters necessary to assure that the proposed development is completed in accordance with approved plans and specifications, that grant funds are expended for authorized purposes, and that the terms of the grant agreement are complied with. The Letter of Conditions will be addressed to the applicant, signed by the State Director or other designated FmHA representative, and mailed or handed to appropriate applicant officials. Each Letter of Conditions will contain the following paragraphs.

"This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application."

"This letter is not to be considered as grant approval nor as a representation as to the availability of funds. The docket may be completed on the basis of a grant not to exceed $———."

"Please complete and return the attached Form FmHA 442–46, 'Letter of Intent to Meet Conditions,' if you desire further consideration be given your application."

"At the time of grant closing you shall execute the attached Form FmHA 442–50, "Grant Agreement (Public Bodies) for Facilitating Private Business Enterprises in Rural Areas."

Other items in the Letter of Conditions should include those relative to: maximum amount of grant, contributions, interim financing, final plans and specifications, construction contract documents and bidding, required project audit, evidence of compliance with all applicable Federal, State, and local requirements, closing instructions, DOL certifications, and other requirements including those of Regional Commissions when a grant is being made by a Regional Commission.

§ 1942.316 Grant approval, fund obligation, approval announcement, and cancellation.

(a) *Grant approval.* FmHA State Directors are authorized to approve grants made in accordance with this Subpart and Subpart A of Part 1901 of this Chapter.

(b) *Fund obligation and approval announcement.* Funds will be obligated and approval announcement made in accordance with the provisions of § 1942.5(d) of Subpart A of Part 1942 of this Chapter.

(c) *Cancellation.* Grants may be cancelled by the grant approval official by use of Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation". The State Director will notify the applicant by letter that the grant has been cancelled. A copy of the letter will be sent to the applicant's attorney and engineer and to the Regional Attorney, OGC, if the Regional Attorney has been involved.

§ 1942.317 Grant closing and delivery of funds.

(a) *Grant closing.* Closing is the process by which FmHA determines that administrative actions and requirements of the grantee have been completed and grant funds may be delivered.

(1) Grants will be closed in accordance with this Subpart, applicable parts of Subpart A of Part 1942 of this Chapter including § 1942.7 and § 1942.17 (o) and any closing instructions from the Regional Attorney, OGC.

(2) Grant will be considered closed when the grant agreement, Form FmHA 442–50 is executed.

(3) The State Director or District Director will execute an original and one copy of the grant agreement at grant closing. The original will be kept in the grantee's case file. The copy will be given to the grantee. The reimbursement provisions of the grant agreement should be thoroughly explained to the applicant to assure compliance if the property or facilities are no longer needed for the original grant purpose.

(b) *Delivery of funds.* When grants are closed, funds will be delivered in accordance with the following:

(1) Grant funds from other agency(s) transferred to FmHA will be disbursed in proportion to funds indicated in the grant agreement with the agency(s) for funding the project. Any funds not used for completing the project will be refunded by FmHA to the granting agency(s) in the same proportionate manner.

(2) Multiple advances may be made to the grantee to construct facilities or complete developments for which grant funds are provided. Multiple advances will be made in accordance with Subpart A of Part 1902 of this Chapter. Advances will be made only as needed to cover disbursements required by the borrower over a 30 day period. Advances will be requested for the next 30 day period by the grantee on Form FmHA 440–11, "Estimate of Funds Needed for 30 Day Period Commencing ———." Form SF–272, "Federal Cash Transactions Report," will be submitted with each Form FmHA 440–11 after the initial advance has been made. Payments for construction will be made in amounts approved on Form FmHA 424–18, "Partial Payment Estimate," or equivalent and Form SF–271, "Outlay Report and Request for Reimbursement for Construction Programs." Each payment estimate must be approved by the grantee. A final Form SF–272 will be submitted to FmHA to include the final advance not later than 90 days after the final advance.

(3) Grantees shall not be reimbursed for amounts that are to be withheld from contractors to assure satisfactory completion of the work. The funds will be advanced when the grantees make final payments including amounts withheld.

§ 1942.318 Audit reports.

Audit Requirement

(a) Grantees will be required to submit an audit report prepared in sufficient detail to allow FmHA to determine that grant funds have been used in compliance with the proposal, any applicable laws, regulations and the grant agreement. Audit reports shall be prepared in accordance with OMB Circular A–102 Attachment P–"Audit Requirement," (Published in the **Federal Register** at page 60959 for October 22, 1979), attached as Exhibit B of this Subpart.

(b) *Audit Guide.* Audits shall be made in accordance with the General Accounting Office "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" and "Guidelines for Financial and Compliance Audits of Federally Assisted Programs." Copies of these manuals may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1942.319 Actions subsequent to grant closing.

(a) *Refunds.* When final costs have been determined through the use of Form SF–272, the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the grantor as provided for in the grant agreement.

(b) *Recovery of funds:* FmHA retains the right to recover any funds which are found to have been improperly used by the grantee.

§ 1942.320 Grant servicing.

Grants will be serviced in accordance with Subpart F of Part 1861 of this Chapter (FmHA Instruction 451.5) and Form FmHA 442–50.

§ 1942.321 Subsequent grants.

Subsequent grants will be processed in accordance with this Subpart.

§ 1942.322 State supplements and guides.

(a) *State supplements.* State Directors may supplement this Subpart as appropriate to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to bids, contract awards, and materials more restrictive than those in § 1942.18 of Subpart A of this Part.

(b) *State guides.* State Directors may develop guides for use by applicants if guides in § 1942.20 of Subpart A of Part 1942 of this Chapter are not adequate. State Directors may prepare guides for items needed for the application, items necessary for the docket, and items required before loan closing or construction starts.

§§ 1942.323–1942.349 [Reserved]

§ 1942.350 Forms, Guides and Exhibits.

Exhibit A of Subpart H of Part 1942 of this chapter and Guides 1 and 2 of this Subpart are for use in administering ID grants. Form FmHA 442–50 is incorporated in this Subpart, made a part hereof, and appears as Exhibit A to this Subpart in the **Federal Register**.

Guide 1

Page No. ——

Project Mangement Agreement Between the ——— Regional Commission and the Farmers Home Administration, Department of Agriculture Pertaining to

(grantee) ———
County, ———

I. Introduction

A. The ——— Regional Commission is providing a (basic or supplemental) grant for (purpose) ——— to (grantee) ———, and the U.S. Department of Agriculture, Farmers Home Administration (FmHA) has approved and will administer that grant. The FmHA has determined that funds (can or cannot) be made available under its funding program for this fiscal year for the project. The project does meet all the requisites for assistance under Section 310(B) of the Consolidated Farm and Rural Development Act, as amended (7 USC 1926). In order to accomplish these purposes, the ——— Regional Commission's Federal Cochairman and the FmHA State Director hereby enter into this Memorandum of Understanding which is in accordance with the 31 USC 686.

B. This agreement is intended to cover the application phase, construction phase, and final audit.

II. General

A. *Project Cost*

The project costs for the purposes of this agreement shall include the costs of construction, technical services, legal services, land acquisition, permits and rights-of-way, interest during construction and contingencies.

B. *Grant*

The ——— Regional Commission shall make a (basic or supplemental) grant of $——— up to but not exceeding ——% of the total cost of the project. These funds will be transferred to the Treasury Account of the Farmers Home Administration by Standard Form 1151, "Nonexpenditure Transfer Authorization."

C. The undersigned FmHA State Director on behalf of FmHA, in concurring to this Project Management Agreement, hereby assures the Federal Cochairman that:

1. The estimated cost of the project is reasonable and the (basic or supplemental) grant, with the funds to be supplied by the applicant, are, in its judgment, sufficient to complete the project.
2. The funds to be supplied by the applicant are available or FmHA is reasonably satisfied that the applicant has the capability of supplying such funds.
3. FmHA is reasonably satisfied that the facility will be properly and efficiently administered, operated, and maintained and that the applicant will provide sufficient funds to assure the successful and continuing operation of the facility.

D. The (grantee) ——— is subject to Executive Order 11246 and will be required to evidence compliance by execution of the following:

1. Equal Opportunity Agreement—Form FmHA 400–1
2. Nondiscrimination Agreement—Form FmHA 400–4

E. The (grantee) ——— shall execute assurances of nonrelocation. (If applicable.)

III. Construction Management

A. The forms and format for the documents shall conform to the requirements in Subpart A of Part 1942 of this Chapter. Generally, the following items shall be included:

1. Contract Documents
2. Specifications
3. Plans

B. FmHA will approve the plans and specifications.

C. FmHA will obtain a certification of adequacy from the Federal Environmental Protection Agency (include only when applicable).

D. FmHA will obtain a non-pollution certificate from the (state) ——— (agency) ——— (include only when applicable).

E. FmHA will make monthly inspections.

F. Contract change orders will not become effective until approved by FmHA.

G. Final inspection will be conducted by FmHA.

IV. Financial Management

A. Financial management of the project shall be according to Subpart A of Part 1942 of this Chapter.

B. FmHA will provide the ——— Regional Commission with a copy of the audit report.

C. If actual costs fall below the costs on which the grant was calculated, the Federal and non-Federal shares will be reduced proportionately.

D. FmHA will conform to the financial reporting requirements for transferred funds as required by the attached copy of "Reporting of Funds Transfer by Participating Agencies."

V. Compensation

Services rendered by FmHA for the processing and administration of Commission grants in cases where neither FmHA loan nor grant funds are involved shall be on a reimbursable basis. Reimbursement will be based on five percent of the amount of the grant up to $50,000 and an additional one percent of any amount over the first $50,000 of the Commission grant. The full amount of the reimbursement will be transferred to FmHA at the time the grant funds are transferred to FmHA.

VI. No provision in this agreement shall abrogate the legal requirements of administrative responsibilities as set forth in the Consolidated Farm and Rural Development Act or Section 509 of the Public Works and Economic Development Act of 1965, as amended.

For the ——— Regional Commission
(name) ———
Federal Cochairman ———
———, 197—

For the Farmers Home Administration, USDA
(name) ———
State Director ———
———, 197—

Resolution

Whereas the ——— (hereinafter called public body) desires to obtain financial assistance from the Farmers Home Administration, United States Department of Agriculture, pursuant to Section 310 B of the Consolidated Farm and Rural Development Act, for the purpose of providing ——— (describe briefly the nature of the project) ——— (herein referred to as the facility) and as a condition to and in consideration of receiving financial assistance from the

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Farmers Home Administration this resolution is being adopted.

Therefore, in consideration of the premises the public body agrees as follows:

1. No private business enterprises shall be allowed to use or occupy the facility if such use or occupancy would be calculated to, or is likely to, result in the transfer from one area to another of any employment or business activity provided by operations of the private business enterprises. This limitation shall not be construed to prohibit use and enjoyment of the facility by such private business entity through the establishment of a new branch, affiliate, or subsidiary if the establishment of such branch, affiliate, or subsidiary will not result in the increase in unemployment in the area of original location (or in any other area where such entity conducts business operations), unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location (or in any other area where it conducts such operation).

2. No private business enterprises shall be allowed to use or occupy the facilities if such use or occupancy would be calculated to, or is likely to, result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, where there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the sufficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse affect upon existing competitive enterprises in the area.

3. Prior to allowing the use or occupancy of the facilities by any private business enterprise, the public body shall clear such use or occupancy with the Manpower Administration, Department of Labor, Washington, DC. by submitting information required by the Department of Labor for certification under the Act. This information shall be submitted to Farmers Home Administration for transmittal to the Department of Labor. The public body agrees to make no final commitment with any private business enterprise regarding such use or occupancy if the Department of Labor issues a negative certification under the Act. The public body shall obtain prior clearance in this matter for a period of three years after the date of an affirmative certification by the Department of Labor on the application for financial assistance now pending before the Farmers Home Administration.

This resolution shall be in force and effect immediately.

The voting was yeas ——, nays ——, absent ——.

(Name of public body) ——————

by (Name and Title) ——————

Certification

I the undersigned as (Secretary) (Town Clerk) of the —— do hereby certify that the foregoing resolution was duly adopted at a meeting of —— duly called and held on the —— day of —— 19—, and that such resolution has not been rescinded or amended in any way. Dated this —— day of ——, 19—.

(Seal)

(Town Clerk) (Secretary) of

Exhibit A—Grant Agreement (Public Bodies) For Facilitating Private Business Enterprises in Rural Areas

Position 2.—Grant Agreement (Public Bodies) for Facilitating Private Business Enterprises in Rural Areas [1]

USDA–FmHA, Form FmHA 442–50 (Rev. 9–23–80)

Form approved—OMB No. 40–R5005

This Agreement dated ——, 19—, between —— a public body corporate organized and operating under (Authorizing State Statute) —— Herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," Witnesseth:

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of facilities to serve the area under its jurisdiction at an estimated cost of $——, and has duly authorized the undertaking of such project;

Grantee is able to finance not more than $—— of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee. Said sum has been committed to and by Grantee for such project development costs.

The Grantor agrees to grant to Grantee a sum not to exceed $—— subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

In consideration of said grant by Grantor to Grantee, to be made pursuant to section 310 B (c) of the Consolidated Farm and Rural Development Act (7 USC 1932 (c)) for the purpose only of defraying a part of the development costs, as defined by applicable Farmers Home Administration regulations:

Grantee agrees that Grantee will:

1. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any necessary modifications thereof prepared by Grantee and approved by Grantor.

2. Permit periodic inspection of construction by a representative of Grantor during construction.

3. Make the facility available to all persons in Grantee's service area without regard to race, color, or national origin, religion, sex, marital status, age, physical or mental handicap.

4. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

a. The Grantee shall obtain approval of the Grantor before using the real property for other purposes when the Grantee determines that the property is no longer needed for the original grant purposes.

b. When the real property is no longer needed as provided above, return all real property furnished or purchased wholly with Federal grant funds to the Grantor. In the case of property purchased in part with Federal grant funds, the Grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

5. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with Grant Funds.

a. The Grantee shall retain such property as long as there is a need for the property to accomplish the purpose of the grant. When there is no longer a need for the property to accomplish the purpose of the grant, the Grantee shall use the property in connection with other Federal grants it has received in the following order of priority:

(1) Other grants of the Grantor needing the property.

(2) Grants of other Federal agencies needing the property.

b. When the Grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:

(1) Nonexpendable property with an acquisition cost of less than $1.000. The Grantee may use the property for its own official activities without reimbursement of the Federal Government or sell the property and retain the proceeds.

(2) All other nonexpendable property. The Grantee may retain the property for its own use provided that a fair compensation is made to the Grantor. The amount of compensation shall be computed by applying the percentage of the Grantor participation in the grant program to the current fair market value of the property as determined by the Grantor.

c. If the Grantee has no need for the property, disposition shall be made as follows:

(1) Nonexpendable property with an acquisition cost of $1.000 or less. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable property with an acquisition cost of over $1,000. The Grantee shall request disposition instructions from Grantor.

(3) If disposition instructions are not issued within 120 days after reporting, the Grantee shall sell the property and reimburse the Grantor an amount which is computed by applying the percentage of the Grantor participation in the grant program to the sales proceeds. Further, the Grantee shall be permitted to retain $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

d. The Grantee's property management standards for nonexpendable personal property shall also include:

(1) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property shall be investigated and fully documented.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Property sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (*use continuation sheets as necessary*).

6. Provide Financial Management Systems which will include:

a. Accurate, current, and complete disclosure of the financial results of each grant. Financial Reporting will be on an accrual basis.

b. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

c. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

d. Accounting records supported by source documentation.

7. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee governments which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts and transcripts.

8. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

9. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this agreement.

10. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

11. Not encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item 5 above.

12. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a designated representative of the Grantor.

13. Execute Form FmHA 440–1, "Equal Opportunity Agreement," to execute Form FmHA 400–4, "Nondiscrimination Agreement;" and to execute any other agreements required by Grantor to implement the civil rights requirements. If any such Form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another Form of the same type need not be executed in connection with this grant.

14. Include in all contracts for construction or repairs a provision for compliance with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

15. In Construction Contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

16. To include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Grantor and the Regional Office of the Environmental Protection Agency.

17. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will, to the extent legally permissible, repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with interest at the rate of five percentum per annum from the date of the default. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

18. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

19. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

20. That the Grantee shall abide by the policies promulgated in OMB Circular A–102, Attachment O, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

21. To the following termination provisions:

(a) Termination for cause. The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

Grantor agrees that it will:

1. Assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

2. In its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the

[1] This form is a contract between the applicant and FmHA. This agreement sets forth the terms and conditions under which Industrial Development grant funds will be made available.

No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by existing regulation (7 CFR 1942–G).

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limitations of the statutory authority under which it is made.

Grantee on the date first above written has caused this agreement to be executed by its duly authorized ———— and attested and its corporate seal affixed by its duly authorized ————.

Attest:

(Seal)

By ————————

(Title) ————————

Grantee ————————

By ————————

(Title) ————————

Grantor

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By ————————

(Title) ————————

Office of Management and Budget

Circular A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"

Agency: Office of Management and Budget.

Action: Final Policy.

Summary: This notice revises OMB Circular A–102 by replacing paragraph 2h, Attachment G, with a new Attachment P entitled, "Audit Requirements." The revision originated from a Presidential initiative to streamline Federal aid, and is another part of OMB's system of guidance for federally assisted programs.

One area the President highlighted as having a substantial need for improvement was audit of federally assisted programs. He directed Federal departments and agencies to improve audit coordination, and to increase their reliance on audits made by State or local governments. This revision sets forth the audit requirements for State and local governments and Indian tribal governments receiving Federal assistance. It provides for independent audits of financial operations including compliance with certain provisions of Federal law and regulation. The requirements are established to insure that audits are made on an organization-wide basis rather than a grant-by-grant basis.

Effective date: This revision becomes effective October 22, 1979.

For further information contact: John J. Lordan, Chief, Financial Management Branch, Office of Management of Budget, Washington, D.C. 20503, (202) 395–6823.

Supplementary information: On July 11, 1979, a notice was published in the Federal Register (44 FR 40624–25) to amend Circular A–102. Interested persons were invited to submit written comments by September 11, 1979. About fifty comments were received from Federal agencies, State and local governments, professional associations, and others. The comments were considered in developing these final regulations. Although almost all commenters agreed with the concept of a single audit, some raised questions or made suggestions for clarifying changes. The more significant comments received, and OMB's responses to them are discussed below.

Changes in Final Regulation

Set forth below are changes that have been adopted in the final regulations. The paragraphs are keyed to the proposed regulations published on July 11, 1979.

1. Paragraph 1 has been amended to make the Attachment applicable to Indian tribal governments. This paragraph was also changed to make it clear that one of the objectives of the audit was to determine if financial reports to the Federal Government contain accurate and reliable data.

2. Paragraph 2. The definition of "cognizant agency" was added to this paragraph, and is now used uniformly throughout the Attachment.

3. Paragraph 3 was amended to provide that contracts awarded by recipients for audit services shall include a reference to this Attachment. Also, the paragraph was further divided into two separate paragraphs for clarity.

4. Paragraph 5. A clause was added to make it clear that the auditor should make a determination that the financial statements are presented fairly and in accordance with generally accepted accounting principles.

5. Paragraph 7. The phrase "at scheduled intervals" was deleted for clarity.

6. Paragraph 8 was changed to make it clear that, in the event irregularities are found, management officials above the level of involvement should be notified.

7. Paragraph 9 was restructured and reworded to clarify its intent. Also, a change was made to make it clear that auditors need express a positive assurance only with respect to items tested.

8. Paragraph 10 was amended to require cognizant agencies to notify auditors in writing when the three-year retention period for workpapers needs to be extended.

9. Paragraph 13. A sentence was added to make it clear that auditors are responsible for distributing audit reports to their program officials.

10. Paragraph 14. Changes were made to make it clear that this paragraph covered only State and local governments and Indian tribal governments. Also, the recipient's responsibilities with respect to subrecipient audits are more clearly delineated.

Suggested Changes Not Considered Necessary

Comment. Several commenters felt that there were conflicts between Attachment P and audit guidelines issued by the General Accounting Office.

Response. The GAO guidelines are currently being reviewed to assure consistence of policy.

Comment. Several commenters were concerned with the provisions of the Attachment requiring comments on the accuracy of financial reports. This requirement, they said, would require the examination of every transaction processed by a governmental entity.

Response. It was never intended that a hundred per cent examination would be routinely required. We believe this is clear from other provisions of the Attachment.

Comment. One commenter said it was not clear whether an auditor should automatically expand the scope of audit and secure additional data to support the disclosure of irregularities in the audit report.

Response. The Attachment does not provide for automatically expanding the scope of audit work. This is a matter that would have to be worked out between the auditor, the cognizant agency, and the recipient.

Comment. Several commenters recommended that the Attachment contain a definition of the term "independent."

Response. The Attachment incorporates by reference the *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions* published by the General Accounting Office. Chapter 3 of these standards discusses the standard of independence in some detail.

Comment. Several commenters said that additional audit costs would be incurred to achieve full compliance with the Circular. They suggested that the mechanism for funding these audits be addressed in the Attachment.

Response. Circular 74–4, "Cost principles for grants to State and local governments," establishes rules for determining allowable costs. This Circular provides that the cost of audits is allowable.

Comment. One commenter suggested that each grant application should contain a certification that arrangements will be made for the audits prescribed by the Circular. Failure to furnish an acceptable audit as determined by the cognizant agency could be a basis for denial of Federal funds.

Response. The grant application forms prescribed by Circular A–102 now contain an assurance that the applicant will comply with all the provisions of the Circular. We do not believe it is necessary to single out the audit requirements for a separate certification.

Comment. One commenter said the Attachment requires an audit every two years, and asked whether that meant that only every other year's transactions should be audited.

Response. It is the intent of the Circular that audits cover the period since the previous audit. If this is a two-year period, the audit should cover both years.

James T. McIntyre, Jr.,

Director.

Circular A–102

Attachment P—Audit Requirements

1. This Attachment establishes audit requirements for State and local governments, and Indian tribal governments that receive Federal assistance. It provides for independent audits of financial operations, including compliance with certain provisions of Federal law and regulation. The requirements are established to insue that audits are made on an organizationwide basis, rather than on a grant-by-grant basis. Such audits are to determine whether (a) finanoial operations are conducted properly, (b) the financial statements are presented fairly, (c) the organization has complied with laws and regulations affecting the expenditure of Federal funds, (d) internal procedures have been established to meet the objectives of federally assisted programs, and (e) financial reports to the Federal Government contain accurate and reliable information. Except where specifically required by law, no additional requirements for audit will be imposed unless approved by the Office of Management and Budget.

2. Definitions: "Cognizant agency" means the Federal agency that is assigned audit responsibility for a particular recipient organization by the Office of Management and Budget.

"Recipient organization" means a State department, a local government, an Indian tribal government, or a subdivision of such entities, that receives Federal assistance. It does not include State and local institutions of higher education or hospitals, which are covered by Circular A–110.

3. State and local governments and Indian tribal governments shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits, provided that the audits comply with the requirements set forth below. Where contracts are awarded for audit services, the contracts shall include a reference to this Attachment.

4. The provisions of this Attachment do not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent audits arranged for by recipients meet the requirements prescribed below, all Federal agencies shall rely on them, and any additional audit work shall build upon the work already done.

5. Audits shall be made in accordance with the General Accounting Office *Standards for Audit of Governmental Organizations, Programs, Activities & Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs,* any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

6. Audits will include, at a minimum, an examination of the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of recipient organizations.

These examinations are to determine whether:

a. There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities.

b. The financial statements are presented fairly in accordance with generally accepted accounting principles.

c. The Federal financial reports (including Financial Status Reports, Cash Reports, and claims for advances and reimbursements) contain accurate and reliable financial data; and are presented in accordance with the terms of applicable agreements, and in accordance with Attachment H of this Circular.

d. Federal funds are being expended in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

7. In order to accomplish the purposes set forth above, a representative number of charges to Federal awards shall be tested. The test shall be representative of (1) the universe of Federal awards received, and (2) all cost categories that materially affect the award. The test is to determine whether the charges:

a. Are necessary and reasonable for the proper administration of the program.

b. Conform to any limitations or exclusions in the award.

c. Were given consistent accounting treatment and applied uniformly to both federally assisted and other activities of the recipient.

d. Were net of applicable credits.

e. Did not include costs properly chargeable to other federally assisted programs.

f. Were properly recorded (i.e., correct amount, data) and supported by source documentation.

g. Were approved in advance, if subject to prior approval in accordance with Circular 74–4.

h. Were incurred in accordance with competitive purchasing procedures, if covered by Attachment O of this Circular.

i. Were allocated equitably to benefiting activities, including non-Federal activities.

8. Audits usually will be made annually, but not less frequently than every two years.

9. If the auditor becomes aware of irregularities in the recipient organization, the auditor shall promptly notify the cognizant agency and recipient management officials above the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

10. The audit report shall include:

a. Financial statements, including footnotes, of the recipient organization.

b. The auditors' comments on the financial statements which should:

(1) Identify the statements examined, and the period covered.

(2) Identify the various programs under which the organization received Federal funds, and the amount of the awards received.

(3) State that the audit was done in accordance with the standards in paragraph 5.

(4) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.

c. The auditors' comments on compliance and internal control which should:

(1) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.

(2) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports.

(3) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.

d. Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement to Federal agencies.

e. Comments on corrective action taken or planned by the recipient.

11. Work papers and reports shall be retained for a minimum of three years from the date of the audit respect unless the auditor is notified in writing by the cognizant agency of the need to extend the retention period. The audit workpapers shall be made available upon request to the cognizant agency or its designees and the General Accounting Office or its designees.

12. The Office of Management and Budget will work with Federal agencies and State and local governments to assure that recipient audits are made in accordance with the standards set forth in paragraph 5.

13. The Office of Management and Budget will designate cognizant agencies for major recipient organizations.

14. The cognizant agency shall have the following responsibilities:

a. Obtain or make quality assessment reviews of the work of non-Federal audit organization, and provide the results to other interested audit agencies. (If a non-Federal audit organizations is responsible for audits of recipients that have different cognizant audit agencies, a single quality assessment review should be arranged.)

b. Assure that all audit reports of recipients that affect federally assisted programs are received, reviewed, and distributed to appropriate Federal audit officials. These officials will be responsible for distributing audit reports to their program officials.

c. Whenever significant inadequacies in an audit are disclosed, the recipient organization will be advised and the auditor will be called upon to take corrective action. If corrective action is not taken the cognizant agency shall notify the recipient organization and Federal awarding agencies of the facts and its recommendation. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies.

d. Assure that satisfactory audit coverage is provided in a timely manner and in accordance with the provisions of this attachment.

e. Provide technical advice and act as a liaison between Federal agencies, independent auditors, and recipient organizations.

f. Maintain a followup system on audit findings and investigative matters to assure that audit findings are resolved.

g. Inform other affected audit agencies of irregularities uncovered. The audit agencies, in turn, shall inform all appropriate officials in their agencies. State or local government law enforcement and prosecuting authorities shall also be informed of irregularities within their jurisdiction.

15. Recipients shall require subrecipients that are State and local governments or Indian tribal governments to adopt the requirements in paragraph 1. through 11. above. The recipient shall ensure that the subrecipient audit reports are received as required, and shall submit the reports to the cognizant agency. The cognizant agency will have the responsibility for these reports as described in paragraph 14.

This document has been reviewed in accordance with FmHA Instruction 1901–C, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of

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the human environment and in accordance with the National Environmental Impact Policy Act of 1969, Pub. L. 91-190 an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: October 17, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-34696 Filed 11-05-80; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1980

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the administration of the Business and Industrial (B&I) Loan Program. The changes involve defining allowable fees and charges as eligible loan purposes and giving additional guidance on permissible interest rates for guaranteed B&I loans. The intended effect of these changes is to strengthen the program and clarify FmHA's position on these matters. These actions are being taken in response to FmHA recommendations to correct deficiencies in the regulations as suggested by the Department's Office of Inspector General.

EFFECTIVE DATE: Effective on November 6, 1980, however, these amendments shall not apply to any loan(s) where a conditional commitment for guarantee was issued by FmHA and accepted by the lender before the date of publication.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, USDA, FmHA, Washington, DC Telephone: (202) 447-4150. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Mr. Joseph Linsely, Chief, Directives Management Branch, USDA, FmHA, Washington, DC 20250, telephone: (202) 447-4057.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedure established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant".

Section 1980.411(a) (13) and (14) and 1980.423(a) of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations are amended. These changes are made by FmHA to strengthen the B&I program. On December 10, 1979, FmHA published in the **Federal Register** (44 FR 70741) a notice of proposed rulemaking setting forth the proposed changes in the regulations. Interested parties were given the opportunity to submit, not later than February 8, 1980, any comments, views, or recommendations regarding the proposed changes.

Discussion of Comments

A total of 38 individuals and associations responded to the proposed rule within the allowed comment period. Each FmHA issue was not necessarily addressed in each of the respondents comments.

One issue dealt with transactions which FmHA will not guarantee. The proposal was to prohibit guaranteeing loans when the financing arrangements include tax-free bond issues. FmHA has not made a final decision on this issue at this time.

The second issue dealt with revising § 1980.411(a) (13) and (14) to include acceptable parameters for fees and charges. It was FmHA's position that fees and charges were getting out of line, the term "reasonableness" was being misconstrued, and the program needed to be strengthened in this area. FmHA listed three basic categories that needed to be addressed (a) Loan origination or packaging fees, (b) Professional fees, and (c) Lender's fees. As could be expected public comment was varied on the issues.

(a) *Loan origination or packaging fees*

Thirteen comments were made on this item, 5 favorable with some requesting a different fee schedule than proposed and 8 comments that were unfavorable or recommended no changes to existing regulations.

One respondent indicated that FmHA should distinquish between the services of a packager and those of an Investment Banker. FmHA agrees that there is a difference in the roles played by these two entities. Investment Bankers should be allowed additional fees for their functions when they perform services in addition to those performed by a packager. It was also a fact that the proposed rule would have eliminated the lender from changing a packaging fee. The alternative fee schedules proposed by respondents for packaging fees varied considerably.

One respondent stated that while the fees proposed appear to be fair they could result in the borrower paying more than necessary for funds and services and in certain instances and that the fees could be too low to provide incentives for originators or lenders to work on the loan. After considering all comments, it is FmHA's position that while packagers may in some instances provide a valuable service, they are neither encouraged by FmHA or necessary under FmHA regulations for a guaranteed loan. Further, packaging fees should also be allowed to be collected by the lender. The final rule will permit a packaging fee up to a maximum 2% on the principal amount of the loan up to $1 million and ¼% on all amounts over $1 million with a total maximum fee allowable of $50,000. Such fees are subject to FmHA review and approval and cannot be paid from the FmHA guaranteed loan proceeds. Therefore, such fees will be the responsibility of the applicants and will be paid out of the applicant's equity. This provision will be set forth in a new § 1980.414 of the B&I regulations entitled "Fees and Charges by Lender and Others".

(b) *Professional fees.* FmHA indicated that professional fees were for services rendered by Engineers, Architects, Lawyers, Accountants, and Appraisers. Allowable fees would be what is customary in a particular community. This item was not controversial and most respondents agreed with FmHA's position that such professional fees should be reasonable, fully documented, and be subject to FmHA approval. Therefore, FmHA will permit these professional fees to be paid out of guaranteed loan proceeds.

(c) *Lender's fees.* This item was the most controversial of the three proposed by FmHA. FmHA had proposed that all services performed by the lender were to be covered by the interest rate charged by the lender and restricted to 1½% or 150 basis points over the highest published yield on Government National Mortgage Association (GNMA) securities at the date of loan closing. Of the 22 specific comments received addressing this issue, the majority of respondents felt FmHA should continue its current practice of policing the applications on their individual merits. The Public Securities Association (PSA) who represents 300 brokers, dealers, and dealer banks which underwrite, trade, and sell U.S. Government and Agency securities comments were typical. They indicated that it would not be prudent for FmHA to establish limits on the fees for services performed in connection with FmHA loans. It was indicated that competitive forces and active review by FmHA would be the most effective type of regulations for the program. The PSA and others supported FmHA's position requiring full disclosure of fees and

charges in loan applications. Many respondents felt that maximum rates generally become the minimums. Most felt that the GNMA base was not appropriate for B&I applications and that the Prime rate plus a limited number of basis points added was more in line with the money markets. Others still expressed the concern that FmHA would lose its program's flexibility if it got into regulating rates. One respondent indicated that by placing a limit on the points that would be allowed on a variable interest rate would place a cap on such rates. One respondent felt that the lender needs the flexibility to charge additional or different rates when justified and when they provide additional services for the borrower.

FmHA has considered all comments on this issue and will accept the premise that the free money market for FmHA guaranteed loans should not be directly regulated. However, FmHA is concerned that the ultimate burden of excessive fees and charges will rest with the borrower. Therefore, FmHA will not directly regulate either the fixed or variable interest rates negotiated between the lender and borrower. Reasonable lender's fees and charges which may include a packaging fee must be fully disclosed on the application form and will be subject to review and approval by FmHA early in the processing cycle. Only the FmHA guarantee fee may be funded out of guaranteed loan proceeds. All other fees and charges will be the responsibility of the applicant and will have to be paid out of the applicant's equity. This provision will be set forth in a new § 1980.414 of the B&I regulations. Guidelines will be developed to assist FmHA to identify the type and reasonableness of fees and charges.

FmHA believes these changes result in a reasonable approach to the problem of excessive fees and charges and will rely upon all parties interested in the B&I program to take a responsible position to assure abuses do not occur in loan applications.

Accordingly, Subpart E of Part 1980 is amended as follows:

1. The Table of Sections is amended to reflect the addition of a new § 1980.414 and §§ 1980.415-1980.418 are reserved as follows:

Table of Sections

* * * * *

§ 1980.414 Fees and charges by lender and others.

§§ 1980.415-1980.418 [Reserved]

* * * * *

2. Section 1980.411(a) (13) and (14) are revised to read as follows:

§ 1980.411 Loan purposes.

(a) *Private entrepreneurs.* * * *

* * * * *

(13) Reasonable fees and charges only if specifically listed below and disclosed on Form FmHA 449-1, "Application for Loan and Guarantee," or on an addendum to the application at the time the request is submitted to FmHA for processing. Authorized fees include, professional fees rendered by professionals generally licensed by individual State or accreditation associations, such as Engineers, Architects, Lawyers, Accountants, and Appraisers. The amount of the fee will be what is reasonable and customary in the community or region where the project is located. For example, Architects and Engineers customarily charge fees based on a percentage of estimated project costs. Lawyers, accountants, and appraisers customarily charge for services on an hourly basis. Any fees for professional or expert services are to be fully documented and justified on the Form FmHA 449-1 and are subject to FmHA review and approval before the application is presented to the FmHA State Loan Review Board for action. The above approval fees and charges may be funded out of loan proceeds.

(14) *FmHA guarantee fee.*

* * * * *

3. A new § 1980.414 is added and reserved §§ 1980.414-1980.418 are revised to §§ 1980.415-1980.418 and read as follows:

§ 1980.414 Fees and charges by lender and others.

[See Subpart A, § 1980.22]

(a) All fees and charges must be specifically documented and justified on the Form FmHA 449-1 or on an addendum to the application at the time the loan request is submitted to FmHA for processing. Allowable fees will be those reasonably and customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA review and approval.

(b) Packaging fees include services rendered by the lender or others in connection with preparation of the application and seeing the project through to final decision. These services may or may not be performed by an investment banker. If an investment banker provides needed assistance in addition to the packaging of the loan, additional charges may be added to the packaging fee. The maximum allowable packaging fees are two percent of the total principal amount of the loan up to $1 million and on all amounts over $1 million an additional one-fourth percent up to a total maximum fee of $50,000. Packaging fees, investment banker fees, and any other fees and charges not specifically provided for in this section are permitted subject to FmHA review and approval. Loan proceeds may be used to pay fees as specifically authorized under § 1980.411(a) (13) and (14). Packaging fees, investment bankers fees, and any other fees or charges shall not be paid from loan proceeds.

§§ 1980.415-1980.418 [Reserved]

4. Section 1980.423(a) is revised to read as follows:

§ 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower. They may be either fixed or variable as long as they are legal. Interest rates will be those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA review and approval. Should any part of the loan(s) be sold by the lender, FmHA, in its analysis, will take into consideration in approving the lender's interest rate, the rate at which guaranteed loans are being sold or traded in the secondary market.

* * * * *

(7 U.S.C. 1989; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70)

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190; an Environmental Impact Statement is not required.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: May 30, 1980.

Alex P. Mercure,

Assistant Secretary for Rural Development.

[FR Doc. 80-34698 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-07-M

V 45 / 217 NO 6 80 UMI

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Bergen County in New Jersey because of the existence of exotic Newcastle disease and to release a portion of Marion County in Florida and a portion of Douglas County in Nebraska from the areas quarantined because of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Bergen County, New Jersey, on October 9, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected area. Further surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Bergen County in New Jersey, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

These amendments also release a portion of Marion County in Florida and a portion of Douglas County in Nebraska from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(5)(i), is added to read:

§ 82.3 Areas quarantined.

(a) * * *

* * * * *

(5) *New Jersey.* (i) The premises of Tropical Bird Imports (Dave Gawronski), 9 E. Pleasant Avenue, Maywood, Bergen County.

* * * * *

2. In § 82.3(a)(1), relating to the State of Florida, paragraph (i) relating to the premises of Ocala Pet Center (Gary Fielder), 161 Northwest 59th Court, Ocala, Marion County, is deleted.

* * * * *

3. In § 82.3(a)(10), relating to the State of Nebraska, paragraph (i) relating to the premises of The Bird Cage, 5972 North 30th Street, Omaha, Douglas County, is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined areas relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

Note.—This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 3rd day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-34700 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-34-M

FARM CREDIT ADMINISTRATION

12 CFR Part 612

Personnel Administration; Policies

Correction

In the FR Doc. 80-32912 appearing at page 69881 in the issue of Wednesday, October 22, 1980, on page 69882, second column, first paragraph under "Responsibility", line 5, "§ 611–1010(f)" should be corrected to read "§ 611.1010(f)".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-37-AD; Amendment 39-3967]

Airworthiness Directives; Beech Model 77 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 80–21–10, applicable to certain Beech Model 77 airplanes. The AD requires, prior to further flight, inspection and rework of the engine mount-to-firewall attachment. This action is necessary to ensure the ability of the engine mount fasteners to carry design loads. Failure of these fasteners may result in separation of the engine from the airplane.

EFFECTIVE DATE: November 13, 1980, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated October 10, 1980. Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Airplane Service Instruction No. 1153, applicable to this AD, may be obtained from Beech Aircraft Corporation, Liberal Division, Liberal, Kansas 67901; telephone number (316) 624–1613. A copy of the Service Instruction is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Don L. Williams, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION: Several damaged or stripped engine mount-to-firewall bolts and nuts were found on Beech Model 77 airplanes. It was subsequently determined that the thread damage to these fasteners occurred during bolt installation due to undersized attachment holes through the firewall and forward fuselage. This condition affects tha ability of the engine mount fasteners to carry design loads. Failure of these fasteners could result in separation of the engine from the airplane. The airplane manufacturer issued service instructions calling for inspection of the engine mount attaching fasteners and enlargement of the attachment holes through the firewall and forward fuselage on affected airplanes prior to further flight.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby requiring the issuance of an AD. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by letter dated October 10, 1980. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 80–21–10.

The AD, which is applicable to Beech Model 77 airplanes, requires, prior to further flight, enlargement of the attachment holes and inspection of the engine mount bolts and nuts for damaged threads. Any damaged bolts and nuts must be replaced. Since the unsafe condition described herein may still exist on other Beech Model 77 airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Beech: Applies to Model 77 (serial numbers WA–1 through WA–156, WA–158 through WA–161, WA–163 through WA–171, WA–173, WA–174, WA–177 and WA–178) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To ensure the structural integrity of the engine mount attachment to the airplane, accomplish the following:

(A) Prior to further flight accomplish the following:

1. Remove the engine cowling, support the tail of the airplane and hoist the engine as required to remove weight from the engine mount attachment.

2. Remove and visually inspect for thread damage the four bolts and nuts attaching the engine mount to the firewall. Retain washers and nut retaining clips for reuse. The nut is held in place by a spring clip which may be removed with a magnet or wire hook.

Note.—Remove and inspect the engine mount attach bolts and nuts one at a time.

3. Align the holes in the engine mount, firewall and fuselage frame. Ream the attachment holes in the firewall and fuselage frame to .375/.379 inch diameter.

Note.—A strap may be used between the engine mount tubes to pull the engine mount holes into alignment. If necessary to facilitate reaming of the firewall and attach fitting holes, support the engine and remove the remaining three bolts.

4. Replace damaged bolts and nuts with a new part of a P/N shown by table I. Any thread damage on either a bolt or nut requires replacement of both the bolt and nut.

Table I

Bolt	Nut
130909B71 or.....	2452–064 (use existing retainer) or;
AN6–21A/M/(magnaflux inspected).	LH8065–064 (use existing retainer) or; NAS577–6A (use NAS578–6 retainer).

5. Ensure the bolts, washers, nuts and holes are clean and free of grease and oil. Align parts, install bolts, washers and nuts, and torque to 325 + 0 − 20 inch-pounds. Do not use a power wrench to install the bolts.

6. remove the engine hoist and tail support and reinstall the engine cowling.

(B) Within 5 days report damaged bolts or other defects found as a result of any inspection required herein to the FAA via an M or D Report (FAA Form 8330–2) or a letter to the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209. Describe the defect found, location of bolt on firewall, total time-in-service on the airplane or part at time of discovery, and the aircraft serial number. (Reporting approved by the Office of Management and Budget under OMB No. 04–R0174).

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4285. Beechcraft Service Instructions No. 1153 and Beech Mailgram Number 80–452–940 pertain to the subject matter of this AD.

This amendment becomes effective on November 13, 1980, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated October 10, 1980, and is identified as AD 80–21–10.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 27, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-34561 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-GL-21]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this federal action is to alter controlled airspace near Coshocton, Ohio. The alteration is required to delete airspace which was previously designated to encompass an instrument approach procedure into the

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Tri-City Airport, West Lafayette, Ohio. The procedure has been cancelled.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to return this controlled airspace to a non-instrument status, for the use of aircraft operating under visual conditions. The floor of the controlled airspace will be raised from 700 feet above ground to 1200 feet above ground for a distance of five statute miles northeast through southwest of the Tri-City Airport. In addition, aeronautical maps and charts will be corrected to remove the 700 foot transition area airspace now described, to accommodate instrument operations into Tri-City Airport, at West Lafayette, Ohio.

Discussion of Comments

On page 58140 of the **Federal Register** dated September 2, 1980, Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Coshocton, Ohio. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 25, 1980, as follows:

In § 71.181 (45 FR 445) the following transition area is amended to read:

Coshocton, Ohio

That airspace extended upward from 700 above the surface within an 8.5-mile radius of the Richard Downing Airport (latitude 40°18'37"N, longitude 81°51'17"W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-21, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on October 23, 1980.

Wm. S. Dalton,

Director, Great Lakes Region.

[FR Doc. 80-34459 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-31]

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Fosston, Minnesota, to accommodate a new instrument approach into Fosston Municipal Airport, established on the basis of a request from the local airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 63500 of the **Federal Register** dated September 25, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fosston, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 25, 1980, as follows:

In § 71.181 (45 FR 445), the following transition area is added:

Fosston, Minnesota

That airspace extending upward from 700' above the surface within a 5 statute mile radius of the Fosston Municipal Airport and extending 3 statute miles either side of the 175° bearing from the Fosston NDB to 8 statute miles south of the Fosston NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-31, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on October 23, 1980.

Wm. S. Dalton,

Director, Great Lakes Region.

[FR Doc. 34460 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-14]

Alteration of Control Zone and Transition Area Milton, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Milton, Florida, control zone and transition area by designating additional controlled airspace and revoking an unnecessary portion. These changes are necessary to protect existing flight procedures at NAS Whiting Field (North) and new procedures at NAS Whiting Field (South).

EFFECTIVE DATE: 0901 G.m.t., December 25, 1980

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on Thursday, June 12, 1980 (45 FR 39857), which proposed the alteration of the Milton, Florida, Control Zone and Transition Area. The changes were as follows: (1) Designate additional control zone area, centered on NAS Whiting Field (South); (2) revoke an unnecessary control zone extension at NAS Whiting Field (North); (3) redesignate a transition area extension at Whiting (North); (4) designate a larger transition area radius, centered on Whiting (North); and (5) correct the geographic position of Whiting (North). These changes are necessary to provide the required protection for existing instrument flight procedures at Whiting (North) and new instrument flight procedures at Whiting (South).

The Florida Department of Transportation (DOT) and Aircraft Owners and Pilots Association (AOPA) objected because the additional control zone area would encompass Milton T Field, a public use airport, and would eliminate the airport's capability of conducting VFR (one mile visibility) flight operations during IFR weather conditions in the control zone. On September 22, 1980, Florida DOT, FAA, AOPA and the Department of the Navy agreed to adjustments to instrument flight procedures at Whiting (South) which permitted exclusion of Milton T Field from the control zone.

There were no other responses to the notice.

Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (45 FR 356) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 25, 1980, as follows:

Milton, Florida (NAS Whiting Field (North) and (South))

The present description is deleted and "* * * Within a 5-mile radius of NAS Whiting Field (North) (lat. 30°43'21"N., long. 87°01'29"W.); within a 5-mile radius of NAS Whiting Field (South) (lat. 30°41'58"N., long. 87°00'47"W.); excluding the area below 701 feet AMSL within a 1-mile radius of Milton T Field (lat. 30°38'15"N., long. 86°59'37"W.) * * *" is substituted therefor.

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 25, 1980, as follows:

Milton, Florida

The present description is deleted and "* * * That airspace extending upward from 700 feet above the surface within an 8-mile radius of NAS Whiting Field (North) (lat. 30°43'21"N., long. 87°01'29 "W.); within 5 miles each side of the 313° bearing from the Navy Whiting Field RBN, extending from the 8-mile radius area to 11.5 miles northwest of the RBN; within a 5-mile radius of the OLF Santa Rosa (Navy) Airport (lat. 30°36'00"N., long. 86°56'00"W.) * * * " is substituted therefore.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Adminstration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on October 27, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-34461 Filed 11-5-80; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 80-ARM-16]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700' transition area at Helena, Montana, to provide additional controlled airspace for aircraft executing the new Nondirectional Radio Beacon (NDB) standard instrument approach procedure developed for the Helena Airport, Helena, Montana. This proposal will also allow lower altitudes to be established on portions of the initial and intermediate segments (13 DME and 15 DME ARCS) on the Instrument Landing System (ILS) runway 26, Localizer Distance Measuring Equipment Back Course (LOC/DME BC) and VHF Omnidirectional Range Distance Measuring Equipment (VOR/DME) standard instrument approach procedures at Helena, Montana. There will be no alteration to the Helena, Montana 1,200' transition area.

EFFECTIVE DATE: 0901 G.m.t., December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, September 2, 1980, the FAA published for comment, a proposal to alter the 700' transition area at Helena, Montana. The only comments received as a result of this circular expressed no objections.

Drafting Information

The principal authors of this document are Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., December 25, 1980, as follows:

By amending Subpart G, § 71.181 (45 FR 445) so as to alter the following transition area to read:

Helena, Montana

"That airspace extending upward from 700' above the surface within a 22-mile radius of the Helena VORTAC (latitude 46°36'25" N., longitude 111°57'09" W.) * * *"

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally

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current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colo., on October 22, 1980.

Arthur Varnado,

Director.

[FR Doc. 80-34466 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 93

[Docket No. 18311; Amdt. No. 93-39]

Portland International Airport Traffic Area; Special Air Traffic Rules and Airport Traffic Patterns

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the special air traffic rules for operating aircraft to and from the Pearson Airpark which lies within the airport traffic area for Portland International Airport. This amendment specifically excludes helicopters from the current requirement that they fly the same pattern as fixed-wing aircraft. Safety may be derogated by placing aircraft of widely varying flight characteristics in the same traffic pattern and no commensurate safety or economical benefit results from requiring helicopters to fly the same pattern as fixed-wing aircraft.

EFFECTIVE DATE: December 8, 1980.

FOR FURTHER INFORMATION CONTACT: James Burns, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 426-3656.

SUPPLEMENTARY INFORMATION:

History and Background

This amendment is based upon a notice of proposed rulemaking (Notice No. 78-13) published in the **Federal Register** on September 28, 1978 (43 FR 44549). Interested persons have been afforded the opportunity to participate in the making of the amendment, and due consideration has been given to all relevant matter presented.

Section 93.103 currently requires Pearson Airpark traffic to maintain radio communications with Portland Tower while operating within the Portland Airport traffic area. The FAA proposed to create specific airspace north of Pearson Airpark wherein traffic at 1,000 feet MSL and below operating to and from Pearson Airpark would have no regulatory or operational requirement to communicate with Portland Tower. Pilots in this area would monitor Pearson UNICOM.

Section 93.105 currently requires helicopters operating at Pearson Airpark to follow the same traffic flow as fixed-wing aircraft. The FAA proposed to exclude helicopters from the current requirement because of the helicopter's special operating characteristics.

Comments and the Rule

The purpose of this amendment of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is to prevent the unwarranted traffic pattern mix of rotorcraft and fixed-wing aircraft. In so doing, § 93.105 is made more consistent with safety precepts of § 91.89 which specifically requires Part 91 helicopter operations to avoid the flow of fixed-wing aircraft at airports without a control tower. Five comments were received in response to the notice. Except as discussed below, the public response supported the proposal.

The proposed amendment to § 93.103 is not being adopted because—(1) the problem areas leading to issuance of the proposal have been reduced through significant improvements in air traffic services provided by Portland Tower and improved pilot understanding and awareness of the applicable special airport traffic area rule; (2) liaison between Portland Tower and Pearson Airpark management and users has generated a continuing problem-solving and awareness atmosphere to the point where participants are in agreement that the existing rule offers a degree of safety beyond that achievable by the proposed amendment; and, (3) three of the five public comments received on the notice supported retention of the present rule and, based on its review of the proposals, the FAA generally agrees with those commenters.

The notice also proposed that § 93.105 be amended to allow helicopters to fly a traffic pattern which avoids the flow of fixed-wing aircraft. As stated in the notice and supported by commenters, helicopters operating at an airport are not generally required to fly the same traffic pattern as fixed-wing aircraft. Under §§ 91.87(e)(2) and 91.89(a)(2), helicopters are permitted to fly traffic patterns that avoid the flow of fixed-wing aircraft. However, § 93.105 requires all aircraft, including helicopters operating at Pearson Airpark, to follow the traffic pattern described in that section.

Due to the helicopter's special operating characteristics, it should not be required to conform to the flow of fixed-wing aircraft. Consequently, § 93.105 of the Federal Aviation Regulations is being amended to specifically exclude helicopters from the current requirement that all aircraft fly the pattern described in § 93.105(a).

The manager of Pearson Airpark airport objected to the proposed amendment to § 93.103 of the Federal Aviation Regulations regarding radio communications. He stated that he would have favored the proposal several years ago but now believes the cooperative attitude of the Portland Tower Controllers and Pearson pilots has eliminated the need for a rule change. He did, however, agree that § 93.105 should be amended to exclude helicopters.

Lamb-Weston, Inc., objected to the proposed amendment regarding radio communications. This corporation believes that monitoring the Portland Tower frequency encourages a better understanding of the overall traffic picture and suggest stronger enforcement of the existing regulation to further ensure common traffic knowledge and awareness. In addition, the proposed § 93.103(b) defined area would further compress the VFR traffic flow to Pearson and perhaps complicate application of the see-and-be-seen concept. Lamb-Weston did, however, agree that § 93.105 should be amended to exclude helicopters.

The National Business Aircraft Association, Inc., comment agrees in substance with the views submitted by Lamb-Weston, Inc.

While the notice proposed to amend §§ 93.103 and 93.105 of the Federal Aviation Regulations, based on its review of all relevant considerations, the FAA agrees that an amendment to § 93.103 is unnecessary.

The FAA agrees that liaison between Portland Tower and Pearson Airpark management and users has generated a healthy environment for cooperative problem solving and mutual awareness. As a result, coupled with other factors, FAA's review indicates the existing § 93.103 offers a degree of safety beyond that achievable by the proposed amendment. The proposed amendment to § 93.103 of the Federal Aviation Regulations is, therefore, withdrawn.

The proposed amendment to § 93.105 of the Federal Aviation Regulations has received public support and is found to be consistent with safety precepts of § 91.89 which specifically requires normal Part 91 helicopter operations to avoid the flow of fixed-wing aircraft at airports without a control tower.

Adoption of the Amendment

Accordingly, § 93.105 of Subpart H of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is amended, effective December 8, 1980, to read as follows:

Subpart H—Portland International Airport Traffic Area

§ 93.105 Pearson Airpark traffic.

(a) *Arriving.* Except when the VFR clearance-from-cloud rules of Part 91 of this chapter require otherwise, each person operating an aircraft, excluding a helicopter, arriving at the Pearson Airpark shall enter the traffic pattern north of the airport at or above 1,000 feet MSL and execute a left traffic pattern for a landing to the east or a right traffic pattern for a landing to the west.

(b) *Departing.* Each person operating an aircraft, excluding a helicopter, departing from Pearson Airpark shall leave the airport traffic pattern to the north.

(c) *Helicopter.* Each person operating a helicopter at Pearson Airpark shall enter and leave the traffic pattern north of the airport and shall avoid the flow of fixed-wing aircraft operating in the traffic pattern.

(Secs. 307 and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Washington, DC, on October 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-34563 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 828

Rewards for Recovery of Lost Air Force Property

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its regulations on Rewards for Recovery of Lost Air Force Property. The revision adds the requirement that all offers or payments of rewards for recovery of property from the Navigable Waters of the United States or from the high seas will first be coordinated with the Staff Judge Advocate having jurisdiction over the installation from which the offer or payment is to be made. A review of the rule also revealed the need to update the text.

EFFECTIVE DATE: July 3, 1975.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Bagg, phone: (202) 697-2431.

Accordingly, Title 32 of the Code of Federal Regulations is amended by revising Part 828 to read as follows:

PART 828—REWARDS FOR RECOVERY OF LOST AIR FORCE PROPERTY

Sec.
828.1 Purpose.
828.2 Who may offer awards.
828.3 Persons and cases not eligible for rewards.
828.4 When and to whom rewards will be paid.
828.5 Amounts of rewards.

Authority: Sec. 8012, 70 A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 67-5, July 3, 1975.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 828.1 Purpose.

This part authorizes monetary rewards to individuals and organizations for the recovery of, or information leading to the recovery of, lost Air Force property. It does not apply to stolen property.

§ 828.2 Who may offer rewards.

(a) All commanders are authorized to offer rewards for the recovery of, or information leading to the recovery of, lost Air Force property. They must:

(1) Study carefuly each case for which a reward might be offered.

(2) Consider the importance of the recovery of the item to the Air Force as well as the dollar value of the property.

(b) All offers of, or payments of, rewards for recovery of property from the navigable waters of the United States or from the high seas must first be coordinated with the Staff Judge Advocate having jurisdiction over the installation from which the offer or payment is to be made. A general release will be obtained, if possible.

§ 828.3 Persons and cases not eligible for rewards.

(a) Military or civilian personnel of the Armed Forces of the United States or any other officer or employee of the US Government.

(b) Agencies of the US Government.

(c) If payment would be inconsistent with local laws, prevailing customs or practices, governing treaties, or international agreements.

§ 828.4 When and to whom rewards will be paid.

When lost Air Force property or information leading to its recovery is submitted by a person or organization who:

(a) Has knowledge that a reward is being offered for the return of the property.

(b) Has knowledge that there is a general practice of offering rewards.

§ 828.5 Amounts of rewards.

The following table governs the monetary amounts of rewards offered.

Item	Standard amount	Maximum amount
Aircraft	$100	$500
Missiles	100	500
Communications and electronic equipment	50	200
Any airborne item lost in flight or from crashed aircraft not located by search and rescue	25	100
Flying clothing & equipment	25	50
Other items	25	50

(a) Base commanders are authorized to offer rewards of standard amounts.

(b) Major commands are authorized to approve offers of rewards up to maximum amounts.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-34707 Filed 11-5-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-173]

Drawbridge Operation Regulations; Newark Bay, Passaic, and Hackensack River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations for certain railroad drawbridges across the Passaic River and Hackensack River to set definite closed periods during peak rail

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commuter hours. Amendments are necessary because of the growing importance and frequency of rail passenger service during rush hours, mariners' complaints of long delays before a drawbridge is opened, and a need to update existing regulations. These regulations represent a compromise between competing rail and marine interests that may accommodate their current needs pending development of longer range nonregulatory alternatives. The closed periods adopted for the Portal, and Dock Bridges are 7:20 to 9:20 a.m. and 4:30 to 6:50 p.m.

EFFECTIVE DATE: This amendment becomes effective on December 8, 1980.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–NBR/14), Room 1414, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–0942.

SUPPLEMENTARY INFORMATION: On March 13, 1980, the Coast Guard published a notice of proposed rulemaking (45 FR 16203) concerning these regulations. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated March 18, 1980. Public hearings were held at Newark, New Jersey, in the afternoon, and Rutherford, New Jersey, in the evening of April 23, 1980. In addition to the public hearings, interested persons were also given an opportunity to submit written comments.

The notice of proposed rulemaking (NPRM) provides an explanation of the background and need for these regulations, the competing rail and marine interests involved, and the consultations with the Federal Railroad Administration (FRA), the Urban Mass Transportation Administration (UMTA), and interested members of the public.

This document has been prepared and reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). These regulations are considered significant because of the substantial public interest concerning them and because they involve coordination with other agencies within the Department. However, they do not meet the criteria requiring a regulatory analysis. A final evaluation has been prepared and is included in the public docket.

Drafting Information

The principal persons involved in drafting these regulations are Frank L. Teuton, Jr., Office of Navigation, and William R. Register and Coleman Sachs, Office of the Chief Counsel.

Discussion of Comments

1. A total of 34 comments were received on this rulemaking. The bulk of these were submitted by representatives of State and local governments, railroad commuter groups, and businesses that either ship cargoes on the affected waterways or are dependent on these shipments. A number of comments were concerned primarily with specific problems that have been encountered by members of these groups owing to the failure of bridges to open or close promptly in the past, or specific problems that are anticipated if closed periods are imposed. The Coast Guard has given consideration to these comments in formulating this final rule. They are discussed generally in the following paragraphs, with particular emphasis on recommendations which they contained.

2. Sixteen commenters opposed or had substantial reservations over any changes being made in the existing regulations. This opposition was based generally on three factors:

a. The present regulations are not being enforced. The maximum delay in opening a drawspan permitted under the current regulations is 10 minutes. Delays of vessels from several minutes to several hours and longer have been common in the past. These delays have resulted from mechanical and electrical failures on the bridges, as well as normal railroad operations. While this situation has improved somewhat in 1980, delays still occur. These delays sometimes present safety hazards to vessels and increase the cost of operation to the vessel operators, to wholesalers of products transported by water, and ultimately to the consumer. Trucking of oil from major facilities to local terminals is not a practical alternative because of the increased transportation costs involved and the lack of terminal facilities to handle such deliveries.

b. Many vessels have hulls that extend so far beneath the water's surface that they can only transit these waterways during periods of high tide. The time of high tide varies day by day, occurring approximately 30 minutes later each day. Thus, at time, the high tide coincides with peak commuting hours. A lengthy delay at one bridge may result in a layover of up to 12 hours before a vessel can complete the voyage on the next high tide. In addition to being costly, delays pose other consequences. As mooring facilities are not provided in the vicinity of these bridges, it is hazardous to hold vessels when strong current or bad weather conditions prevail. There is also a possibility that deep draft vesels could be grounded between bridges on an outgoing tide, with the attendant risk of hull ruptures.

c. The channel of the Hackensack River is heavily silted. This reduces the effective depth within which a vessel can operate, thus increasing the number of transits at high tide, and aggravating the problems discussed in paragraph b.

3. Comments from the marine industry in this area contain recommendations for certain alternative actions that could be taken to improve the existing situation. These include strict enforcement of the present regulations, dredging of the channels of both rivers, and raising the vertical clearance of certain bridges. If any of these actions are not taken, it is suggested that costs will be increased to all concerned, including consumers, and that further delays will be experienced at bridges. Comments predicted that this will lead to the refusal of some marine transporters to provide service because of prohibitive costs, and resulting loss of business by both marine industry and those industries serviced.

4. The proposed rules presented two options for periods when the bridges need not open. Option #1 called for closed periods of 7:18–8:40 a.m. and 4:23–6:12 p.m. for Dock Bridge and 7:22–8:46 a.m. and 4:23–5:57 p.m. for Portal Bridge. Option #2 called for closed periods of 7:18–9:52 a.m. and 4:35–7:30 p.m. for Dock Bridge and 7:22–10 a.m. and 4:30–7:25 p.m. for Portal Bridge. Several comments recommended that the closed periods for the Dock and Portal bridges proposed as option #2 in the NPRM be adopted. In support of their recommendations they cited the existing and increasing rail traffic during rush hours with very close schedules resulting in very short intervals between trains at times. They emphasized that failure to provide continuous even flow of rail traffic over these bridges during heavy commuter periods results in significant rail traffic back-ups and hardship to commuters. In addition, these comments cited the fact that rail transportation is being encouraged as a matter of national policy because it is more energy efficient and less ecologically harmful than automobile transportation. Two comments also suggested slight expansion of the closed periods in option #2 to accommodate currently scheduled rail service, and one commenter stated that the closed periods proposed in option #1 would not provide sufficient time for rail traffic during peak commuter periods.

5. The New Jersey Department of Transportation (NJDOT) submitted an extensive comment containing a recommended compromise between the options discussed in the NPRM. The Port Authority of New York and New Jersey also endorsed a compromise but did not recommend specific times. The NJDOT comments emphasized that the volume of rail and marine traffic in the area surrounding the Portal and Dock Bridges is increasing and suggested that important interests such as the transportation of home heating oil and the demand for additional commuter rail service are likely to heighten the conflicts between these modes. The comment noted that recurring delays in drawbridge openings pose increased costs for marine operators but that commuter hardship can result from train delays due to bridge openings. As a long term alternative for Portal Bridge, the comment recommended building a high level fixed span. To meet current rail and marine needs at the Portal and Dock Bridges, a compromise was proposed between the closed periods set out in options #1 and 2.

The comment suggested that the proposed periods in option #1 clearly do not cover the entire morning and evening peak commuter periods but that the option #2 periods go well beyond peak periods. The proposed alternative recommendations were closed periods of 7:22–9:20 a.m. and 4:30–6:40 p.m. for Portal Bridge and 7:18–9:15 a.m. and 4:23–6:45 p.m. for Dock Bridge. The large number of trains scheduled during these periods was cited in support of these recommendations. The NJDOT also recommended the presence of a mechanic on Portal Bridge pending the planned upgrading of the bridge. In addition, it suggested that the closed periods for both bridges could be later expanded if experience shows that bridge openings in off-peak periods are timely and that opening during the periods immediately proximate to peak period times are causing problems for railroad operation.

6. NJDOT made one additional recommendation concerning Morristown Line Bridge on the Passaic River. Closed periods from 7:17–8:55 a.m. and 4:23–5:54 p.m. were originally proposed for this bridge. The recommendation was to extend the end of the evening closed period from 5:54 to 6:45 p.m. This extension would allow an additional 10 trains with 3,700 passengers to pass over the bridge without delay. In support of the recommendation, the comment indicated that the bridge opened only 3 times in the last year during the period between 5:54 and 6:45 p.m. It should be noted, however, that mariners have voluntarily avoided requesting openings during rush hours.

7. A number of individuals submitted recommendations for closed periods that varied from those proposed. However, the NJDOT recommendations, with minor modifications, have been adopted in these final rules. The closed periods adopted for both Portal and Dock Bridges are 7:20 to 9:20 a.m. and 4:30 to 6:50 p.m. The Morristown Line Bridge will remain closed for the same period in the evening; however, the morning period will end at 9 a.m. This shorter period was deemed necessary because the Morristown Line Bridge is eight feet lower than the other two bridges, and is therefore a greater impediment to navigation.

8. As explained in the NPRM, the Coast Guard has the continuing responsibility for issuing drawbridge regulations that are in the public interest. In this rulemaking, the exercise of that responsibility has been exceedingly difficult because of the vital but competing transportation interests and the impact that disruptions and delays have on those interests. The closed periods adopted in this rule making are an attempt to balance competing rail and marine interests. These closed periods should be workable as long as mariners can be assured of reliable openings when they approach a bridge outside the rush hours. Prompt bridge openings outside rush hours will be essential to prevent delays in marine traffic and resulting increases in transportation and consumer costs. Likewise, assurance of closed periods during rush hour periods will aid substantially in preventing delays is rail traffic and resulting hardships to commuters.

9. A review of the comments indicates that experience under the final rule may show a need to pursue additional alternatives. The Department of Transportation will conduct a study to evaluate other options should marine and rail growth necessitate further changes.

10. At the public hearings that were held on this rulemaking, comments were solicited on a companion project that concerned the Union Avenue, Jackson Street, Bridge Street, and Clay Street drawbridges across the Passaic River. An advanced notice of proposed rulemaking was issued for this project on April 14, 1980, (45 FR 25082). The advanced notice published requests from the owners of the bridges that three of the bridges be closed from 11 p.m. to 7 a.m. and that the fourth be opened from midnight to 7 a.m. only if eight hours advance notice is provided. Opposition to these requests was expressed by a number of mariners, who were concerned that the closure of the Dock and Morristown Line Bridges on this waterway during peak commuter hours would necessitate night-time navigation through the Union Avenue, Jackson Street, Bridge Street and Clay Street Bridges. Because of this opposition this companion rulemaking is to be terminated.

11. The first sentence of paragraph (c) of the proposed rule has been deleted from these final rules to avoid inconsistency with other provisions allowing limited delays.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By revising § 117.200 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) The draws of each bridge shall open promptly on signal except that:

(1) The draws of Amtrak's Dock bridge, mile 5.0, Passaic River; and Amtrak's Portal Bridge, mile 5.0, Hackensack River, need not open from 7:20 a.m. to 9:20 a.m. and 4:30 p.m. to 6:50 p.m., Monday through Friday, except Federal holidays.

(2) The draws of Conrail's Morristown Line Bridge, mile 5.8, Passaic River, need not open from 7:23 to 9 a.m. and 4:30 to 6:50 p.m., Monday through Friday, except Federal holidays.

(3) In addition to the closed periods permitted under paragraph (a)(1) of this section, an opening of Amtrak's Portal and Dock Bridges may be delayed no more than 10 minutes unless the drawtender and the vessel, communicating by radiotelephone, agree to a longer delay.

(4) The opening of the draws of the following bridges may be delayed as specified:

(i) Route 280 (Sticke! Memorial) Bridge, miles 5.8, Passaic River. The draw shall open on signal if at least 8 hours notice is given. In an emergency the draw shall open as soon as possible but not more than 2 hours after the opening request.

(ii) Conrail Bridge (West Arlington), mile 8.0, Passaic River. From 7 a.m. to 11 p.m., the draw shall open on signal if at least 8 hours notice is given. From 11 p.m. to 7 a.m., the draw need not open.

(iii) Conrail Bridge (Lyndhurst), mile 11.7, Passaic River. From 8 a.m. to midnight, the draw shall open on signal. From midnight to 8 a.m., the draw shall

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open on signal if at least 6 hours notice is given.

(iv) Route 3 bridge, Rutherford, mile 11.8, Passaic River. The draws shall open on signal if at least 6 hours notice is given.

(v) State Route 46 bridge, Little Ferry, mile 14.0, Hackensack River. The draw shall open on signal if at least 6 hours notice is given.

(vi) Court Street Bridge, Hackensack, mile 16.2, Hackensack River. From 8 a.m. to midnight, the draw shall open on signal if at least 2 hours notice is given. From midnight to 8 a.m., the draw shall open on signal if at least 6 hours notice is given.

(vii) Conrail and New York, Susquehanna and Western Railroad Company drawbridges, mile 0.0, Overpeck Creek. The draws of each bridge shall open on signal if at least 24 hours notice is given.

(5) The draws of the following bridges need not open for the passage of vessels:

(i) Gregory Avenue Bridge, Passaic, mile 14.0, Passaic River.

(ii) Second Street Bridge, Passaic, mile 14.7, Passaic River.

(iii) West Eighth Street Bridge, Passaic, mile 15.3, Passaic River.

(iv) New York, Susquehanna and Eastern Railroad Company Bridge (Bogota), Hackensack, mile 10.3, Hackensack River.

(v) Midtown Bridge, Hackensack, mile 10.5, Hackensack River.

(b) Public vessels of the United States and vessels owned or operated by State, county or local governments when being used for public safety purposes and vessels in distress shall be passed through the draw without delay. The opening signal from these vessels is four or more short blasts of a whistle or horn or a radio request

(c) Vessels shall not be maneuvered so as to hinder or delay the closure of the drawspan. All passages over, through or under the bridges, shall be accomplished as rapidly as practicable to minimize delays to both land and water traffic. Except as provided in paragraph (a) of this section, trains and locomotives shall be controlled so that any delay in opening the drawspan shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal of the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge before stopping.

(d) Bridges that have radiotelephone installations shall monitor and communicate with vessels on the radiotelephone frequency of 156.650 megahertz VHF–FM (Channel 13) or such other channels as the FCC may designate. Each radiotelephone shall be operated from the bridge or in close proximity to it. Sound signals to request a bridge opening may be omitted when radiotelephones are used and communications between the approaching vessel and the drawtender have been made and acknowledged. If radiotelephone communications are used to request an opening, radiotelephone communications shall be maintained until the vessel has completed passage through the draw. If radiotelephone communications cannot be maintained, sound signals shall be used. Early coordination by radiotelephone is encouraged to minimize delays to vessels, trains, and other vehicles.

(e) The opening signal is one prolonged blast of four to six seconds followed immediately by one short blast of one to two seconds. The drawtender shall immediately acknowledge the opening signal by one long and one short blast if the drawspan is to open immediately, and four or more short blasts if the drawspan will not open or is open and must close for an emergency. As soon as the drawspan can be opened, the drawtender shall sound the opening signal and open the drawspan for any vessel waiting to pass.

(f) The owner of or agency controlling each bridge shall provide and keep in good, legible condition clearance gauges consisting of at least two board gauges painted white with black figures not less than 12 inches high, indicating the vertical clearance under the closed span at all stages of the tide. The gauges shall be illuminated at night and during fog, rain and snow. These gauges shall be plainly visible to a vessel approaching the bridge from either direction.

(g) The drawbridges shall not be required to open to provide clearance for a vessel carrying appurtenances unessential to navigation or appurtenances essential to navigation which may be lowered by hinging, telescoping, collapsing, or by some other means, so that the vessel requires clearances only for its highest fixed and essentially unalterable point. Appurtenances unessential to navigation include, but are not limited to canvas tops, fishing outriggers, radio or television antennae, false stacks, cargo handling booms and masts purely for ornamental purposes; they do not include radar antennae, flying bridges, sailboat masts, piledriver leads, spud frames or hydraulic dredges, drilling derricks, derrick substructures, cranes on drilling or construction vessels, or other items of permanent and fixed equipment clearly necessary to the intended use of the vessel. Before a drawtender may refuse to open, the following procedures must be followed:

(1) The owner of or agency controlling the drawbridge shall report to the District Commander the names of any vessels habitually requesting bridge openings to clear appurtenances unessential to navigation or ones that could be lowered.

(2) The District Commander may inspect a vessel so reported to decide whether or not the appurtenances are essential to navigation or are ones that could be lowered. If the District Commander decides that a vessel has appurtenances unessential to navigation or that essential appurtenances could be lowered, the District Commander notifies the vessel owner of the decision, specifying a reasonable time for making the necessary alteration.

(3) The vessel owner may, within 30 days after receipt of the request to perform alterations, appeal the decision in writing to the Commandant, U.S. Coast Guard, Washington, D.C. 20593. If the Commandant rules that the appurtenances are unessential to navigation or could be lowered, the District Commander again specifies to the vessel owner a reasonable time for making the alterations.

(4) If the alterations have not been made after the expiration of the time specified, the owner of or agency controlling the drawbridge is advised by the District Commander that the bridge need not open for the passage of the vessel unless it is in distress, has in tow a vessel unable to pass under the closed draw, or by reasons of stress of weather it is unsafe to lower the appurtenances.

(h) The owners of or agencies controlling these bridges shall provide the necessary tenders and mechanical, electrical, and signal equipment for the safe, prompt, and efficient opening of the draws.

(i) The District Commander may require that signs giving notice of specified provisions of this section be posted on both the upstream and downstream sides of a bridge so that they can be easily read at any time.

§ 117.225 [Amended]

2. By deleting § 117.225(f)(1), (1–b), (1–c), (1–d), (1–3), (2), (2–a), (2–b), and (2–c).

(33 U.S.C. 400, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: October 29, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-34710 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Office of Patent and Trademark

37 CFR Part 1

Implementation of the Patent Cooperation Treaty; Rule Promulgation

Correction

In FR Doc. 78–12832 appearing at page 20458 in the issue of Thursday, May 11, 1978, on page 20464, third column, the last sentence of paragraph (f) of § 1.84 should read as follows:

"Reference signs not mentioned in the description shall not appear in the drawing, and vice versa."

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

41 CFR Part 24-1

[Docket No. R-80-753]

Special Types and Methods of Procurement

AGENCY: Department of Housing and Urban Development, Office of Administration.

ACTION: Final rule.

SUMMARY: HUD is issuing a final regulation which revises the existing policy and guidelines for appointment of Contracting Officers. It provides detailed criteria and clarifies the selection requirements for the appointment. This action will result in appointees being more qualified by virtue of experience, training, business acumen and other related qualifications to serve as Contracting Officers.

EFFECTIVE DATE: February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Craig Durkin, Director, Policy and Evaluation Division, Department of Housing and Urban Development, 451 7th Street, S.W., Room B–133, (711 Bldg.), Washington, D.C., 20410, (202) 724–0038. This is not a toll free number.

SUPPLEMENTARY INFORMATION: By this action, the Department is revising 41 CFR 25–1.404 to provide a description of the basic qualifications for a Contracting Officer. Provisions have been made to permit incumbents to attend training courses to acquire the desired level of competency when minimum standards have not been attained prior to their appointment. The Department published a proposed rule to revise the existing policy and guidelines for the Contracting Officers in the **Federal Register** on January 4, 1980 (45 FR 1109). Public comments were solicited at that time, and those comments are applicable to Section 24–1.404–1. The Department received three responses on the proposed rule. The major comments were as follows:

1. *Comment:* Consideration must be given to requirements for legal education for Contracting Officers.

Response: The minimum educational, experience and training requirements factors set forth in this revised regulation (24–1.404–1 (b) and (c)) include adequate assurance that selectees will possess or obtain adequate knowledge of procurement law to perform as officers. Sufficient legal advice is available to Contracting Officers in the Department's legal offices to allow them to discharge their responsibilities.

2. *Comment:* The sentence that permits the waiving of training requirements for Acquired Property Program Contracting Officers (24–1.404–1 (c)) should be deleted.

Response: Internal procedures will be issued to assure that all waivers of training requirements shall be made in writing and shall only be made when the Area Manager or Service Office Supervisor can certify that the Contracting Officer in question possesses such sufficient experience and knowledge that the training is unnecessary.

3. *Comment:* The experience factor in the Contracting Officer qualifications should be increased from two (2) to five (5) years.

Response: The Department is certain that two years of experience performing contracting procurement or purchasing operations in a government or commercial procurement office combined with the required training and educational requirements are adequate to assure that selected Contracting Officers are qualified to perform their assigned responsibilities.

4. *Comment:* HUD should consider requiring the passage of the Certified Professional Contracts Manager (CPCM) examination offered by the National Contract Management Association, or its equivalent.

Response: The Department is considering the use of examinations as part of, or in conjunction with, its training program for Contracting Officers and procurement personnel.

The Department has determined that an Evironmental Impact Statement is not required with regard to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of The Rules Docket Clerk, Office of The General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12221. Accordingly, 41 CFR 24–1.404–1 and 24–1.404–2 are amended to read as follows:

§ 24–1.404–1 Selection.

In selecting Contracting Officers, the appointing authorities shall consider experience, education, training, business acumen, judgment, character, reputation and ethics. In the area of experience, education and training, the following shall be required unless contracting authority is limited to the simplified small purchase procedures.

(a) Experience, for appointment of an individual to a position having Contracting Officer authority, shall consist of a minimum of two years experience performing contracting procurement or purchasing operations in a government or commercial procurement office. Alternatively, where appointment of a Contracting Officer involves a specialized procurement field, experience in the field may be considered as a criteria for the appointment.

(b) Educational requirements for an individual in a position having Contracting Officer authority shall be, as a minimum, the equivalent of a Bachelor's Degree from an accredited college or institution preferably with major studies in Business Administration, Law, Accounting or related fields. Experience related to the field of procurement involved (e.g., supply construction, etc.), gained in a government or nongovernment procurement office, may be substituted for educational requirements when it is determined in writing and made a part of the appointment files (as stipulated in Subpart 24–1.404–2) that a potential appointee is otherwise qualified by virtue of extensive contract-related experience or training.

(c) Training requirements of an individual Contracting Officer or an individual appointed to a position having contracting authority shall include successful completion of training

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courses in Government Basic Procurement, of not less than 80 class hours, and Government Contract Administration of not less than 80 hours. These requirements may be waived by the Area Manager or Service Office Supervisor for Contracting Officers serving the Acquired Property Program. Appointees or incumbents not meeting the special training requirements shall be given 24 months to acquire the minimum qualification standards.

(d) The selection requirements specified in (a) through (c) above are applicable to all permanent full-time (PFT) personnel whose primary duties are performed as a Contracting Officer as opposed to the individuals who supervise Contracting Officers, or to individuals who normally spend less than 10% of their time in the capacity of a Contracting Officer.

§ 24-1.404-2 Designation.

(a) Appointment of Contracting Officers within the Department is normally accomplished by position in lieu of individual appointment. Whether appointment is by position or by individual, appointments below the level of Assistant Secretary shall be made in writing. Limitations on the scope of the authority to be exercised by the Contracting Officer, other than those contained in applicable laws and regulations (e.g., Code of Federal Regulations), shall be entered on the face of the appointment notification.

(b) Area Managers or Service Office Supervisors will execute a written affirmative statement that the individual, placed in the position to commit the Government as Contracting Officer, meets the selection criteria of the Federal Procurement Regulations and HUD Procurement Regulations. This statement shall be made part of the official personnel file of the Contracting Officer or the individual so selected or designated. The designation and statement shall be based on the size and complexity of contracts the individual will be required to execute and administer, and also shall consider any limitations on the scope of the authority to be exercised.

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., October 24, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-34518 Filed 11-5-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 58

Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule sets forth requirements for programs for Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health under Section 749 of the Public Health Service Act (42 U.S.C. 294s).

EFFECTIVE DATE: This rule is effective November 6, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Hoover, Acting Director, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782 (301-436-6838).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 5, 1978, the Acting Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, added a new Subpart D to Part 58 of Title 42 of the Code of Federal Regulations, entitled "Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health."

Interested persons were invited to submit comments on or before November 6, 1978. The only comment received argued that the required assurance under § 58.224(c)(3) "that at least 80 percent of the grant funds received will be awarded to individuals who have previously received a postbaccalaureate degree or have 3 years work experience in health services" was excessively restrictive, and suggested the elimination or reduction of the percentage requirement. Since the requirement and the percentage are taken directly from the statute, the recommendation was not accepted. (See § 58.228(a) of the final regulations.)

In addition, the requirement that trainees respond to communications from the Secretary regarding their professional activities has been deleted in keeping with the effort to reduce mandatory reporting requirements.

We have restructured the final regulations and rewritten portions based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The provisions have also been reorganized consistent with a standardized format for health personnel grant regulations. The grants administration and nondiscrimination provisions (Interim-final §§ 58.228-235) have either been revised to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74).

Accordingly, Subpart D of 42 CFR Part 58 is revised and adopted as set forth below.

Dated: June 9, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

* * * * *

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health

Sec.

58.221 To what grant program do these regulations apply?
58.222 Definitions.
58.223 Who is eligible to apply for a grant?
58.224 How will applications be evaluated?
58.225 How is the amount of the award determined?
58.226 How long does grant support last?
58.227 For what purposes may grant funds be spent?
58.228 What are the requirements for traineeships and the appointment of trainees?
58.229 Who is eligible for financial assistance as a trainee?
58.230 What financial support is available to trainees?
58.231 Duration of traineeships.
58.232 Termination of traineeships.
58.233 What additional Department regulations apply to grantees?
58.234 What other audit and inspection requirements apply to grantees?
58.235 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 749 of the Public Health Service Act, 90 Stat. 2280 (42 U.S.C. 294s).

§ 58.221 To what grant program do these regulations apply?

These regulations apply to the award of grants to eligible educational entities under section 749 of the Public Health Service Act to provide funds for traineeships for students enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning.

§ 58.222 Definitions.

"Act" means the Public Health Service Act, as amended.

"Educational entity" means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Secretary of Education.

"Fiscal year" means the Federal fiscal year, beginning October 1 and ending the following September 30.

"Full-time student" means a student who is enrolled on a full-time basis in a graduate program in health administration, hospital administration, or health policy analysis and planning, and who is enrolled for a sufficient number of credit hours in any semester or other academic term to enable him or her to complete the course of study within not more than the number of semesters or other academic terms normally required to complete that course of study at the school in which the student is enrolled.

"Graduate program" means a program of education leading to a master's degree or equivalent or a doctoral degree or equivalent.

"National of the United States" (as defined in 8 U.S.C. 110(a)(22), the Immigration and Nationality Act) means: (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Nonprofit," as applied to any entity, means one which is a corporation or association, or is owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of the Department of Health and Human Services or any officer or employee of the Department to whom the authority involved has been delegated.

"School of public health" means a school which provides training leading to a graduate degree in public health or equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving traineeship funds from a grant made under these regulations.

§ 58.223 Who is eligible to apply for a grant?

Any public or nonprofit private educational entity (excluding schools of public health), located in a State, is eligible to apply for a grant to support traineeships in its graduate program in health administration, hospital administration, or health policy analysis and planning which has been accredited by a body or bodies approved for this purpose by the Secretary of Education.

§ 58.224 How will applications be evaluated?

The Secretary will award a grant to each eligible entity which submits all the information and assurances requested in the required form and time.

§ 58.225 How is the amount of the award determined?

The Secretary will use a formula to determine the amount of the grant award for each entity with an approved application. This formula is:

$$G = \frac{SS}{TS} \times AF$$

G is the amount of the grant award; SS is the number of students enrolled in approved graduate programs in health administration, hospital administration, or health policy analysis and planning at the school; TS is the total number of students in these programs at all schools with approved applications, and AF is the amount of available funds authorized under section 749 for traineeships in a given fiscal year. The Secretary will determine the number of students enrolled in these programs at the school (SS) with the formula:

$$SS = FTS + \frac{PTC}{9}$$

FTS is the number of full-time students enrolled in these programs and PTC is the total number of credit hours in which part-time students are enrolled. If necessary, the figure for PTC/9 will be rounded to the next highest number. Students will be counted as of October 15 of the fiscal year in which application is made. The amount of a grant will never exceed the amount requested by the applicant.

§ 58.226 How long does grant support last?

(a) The notice of grant award specifies the period during which funds are available for obligation by the grantee. This period will not exceed one year. If at any time during the period of the grant it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, exceeds the grantee's needs for that period, the Secretary may adjust the amounts awarded by withdrawing the excess.

(b) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

§ 58.227 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles in Subpart Q of 45 CFR Part 74, and these regulations. Use of traineeship funds to meet the direct or indirect administrative costs of the training institution is not authorized.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

§ 58.228 What are the requirements for traineeships and the appointment of trainees?

(a) The grantee must award at least 80 percent of its grant funds to individuals who have previously received a

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postbaccalaureate degree or have three years work experience in health services.

(b) Graduate training programs may not include more than four months of field training unless expressly approved by the Secretary.

(c) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period, or as soon as possible if the trainee receives notice of his or her traineeship appointment after the training period has begun. The program director must sign the statement on behalf of the grantee and the original copy of the statement must be retained by the grantee to be available for program review and financial audit. The grantee must also send a copy of the statement to the Secretary upon request.

(d) The grantee must require full-time trainees to sign a statement that they will not undertake employment during their traineeships which would interfere with their ability to satisfactorily complete the training program in a timely fashion.

(e) The grantee may not require trainees to perform any work which is not an integral part of their training program and required of all students in the program, or to perform services which detract from or prolong their training.

(f) The grantee must advise each trainee who is enrolled in a course or study which requires more than twelve months to complete that continued support from funds awarded under this program is contingent upon the continued availability of grant funds.

§ 58.229 Who is eligible for financial assistance as a trainee?

To be eligible for a traineeship, an individual must meet the following conditions:

(a) The individual must be a national of the United States, a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam, or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) The individual must be accepted for enrollment, or be enrolled in a grantee's accredited graduate program in health administration, hospital administration, or health policy analysis and planning;

(c) The individual may not be receiving concurrent support for the same training from another Federal source except education benefits under the Veteran's Readjustment Benefits Act.

§ 58.230 What financial support is available to trainees?

(a) The grantee may use grant funds to pay for:

(1) Tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary;

(2) Stipends, for full time trainees in whatever amount the grantee determines that each trainee needs to pursue the training program, as long as that amount does not exceed the limits established by the Secretary;

(3) Transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) In cases of extreme need, the grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to field training if the site is beyond a reasonable commuting distance and requires the trainee to establish a temporary new residence. However, the grantee may not pay an allowance for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay a trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(b) The grantee may not give a stipend or allowance to a part-time trainee, but may give a traineeship award to pay a part-time trainee's tuition and fees.

§ 58.231 Duration of traineeships.

A traineeship must be for a full academic year except that an appointment for less than a full academic year may be made to a student who will complete his or her program of study in a lesser time or when joint-degree programs require enrollment at another unit of the grantee institution for part of the academic year. A traineeship may not exceed 12 months in duration. However a grantee may make consecutive or subsequent traineeship appointments to students whose required program of study exceeds 12 months. The training for which a student receives a traineeship must begin during the period for which funds are made available, but may extend beyond that period.

§ 58.232 Termination of traineeships.

The grantee must terminate a traineeship:

(a) Upon request of the trainee;

(b) If the trainee withdraws from the grantee institution; or

(c) If the grantee determines that:

(1) The trainee is no longer an enrolled student; or

(2) The trainee is not eligible or able to continue in attendance in accordance with its standards and practices.

§ 58.233 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50	PHS grant appeals process.
45 CFR Part 16	Department grant appeals process.
45 CFR Part 46	Protection of human subjects.
45 CFR Part 74	Administration of grants.
45 CFR Part 80	Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Implements Title VI of the Civil Rights Act of 1964.
45 CFR Part 81	Practice and procedure for hearings under Part 80.
45 CFR Part 83	Nondiscrimination on the basis of sex in the admission of individuals to training programs.
45 CFR Part 84	Nondiscrimination on the basis of handicap in Federally assisted programs.
45 CFR Part 86	Nondiscrimination on the basis of sex in Federally assisted education programs.
45 CFR Part 91 [1]	Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

[1] When issued.

§ 58.234 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

§ 58.235 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-34703 Filed 11-5-80; 8:45 am]
BILLING CODE 4110-83-M

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42 CFR Part 58

Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule sets forth the requirements of the program of Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs under section 748 of the Public Health Service Act, (42 U.S.C 294r), as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

EFFECTIVE DATE: This rule is effective November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Hoover, Acting Director, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 29782 (301-436-6838).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 13, 1978, the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Acting Secretary of Health, Education, and Welfare, added a new Subpart C to Part 58 of Title 42 of the Code of Federal Regulations, entitled "Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs."

With respect to both § 58.208 and § 58.209, the list of programs in which trainees must be enrolled was expanded to include maternal and child health programs, consistent with the amendment of paragraph 748(b)(3)(B) of the Public Health Service Act, 42 U.S.C. 294r(b)(3)(B), by Pub. L. 96-76 following the publication of the Interim-Final regulations.

Interested persons were invited to submit comments on or before November 13, 1978. Four responses were received. A discussion of the comments and the Secretary's response to the comments is set forth below. For clarity the comments and responses have been arranged according to the section titles and number of the Interim-Final regulations to which they pertain.

§ 58.202 Definitions.

One comment addressed the incorrect reference to "relevant specialty boards" as approval agencies in the preamble to the Interim-Final regulations. The definition of "Specialized training in public health" under § 58.202 specifies the proper approval authority, and the inconsistent reference is no longer included in the preamble.

§ 58.203 Who is eligible to apply for a grant for traineeships for graduate or specialized training in public health?

One respondent was concerned that residency training in public health conducted by a municipal department of health would not be eligible for traineeship support. As stated in § 58.203 and the accompanying footnote, public "educational entities", defined broadly in § 58.202, are eligible to apply for grants under section 748 of the Public Health Service Act so long as they provide graduate or specialized training in public health as defined in § 58.202. Thus a municipal department of health providing an approved residency training program may apply for a grant under section 748, subject to the limitation of § 58.203.

§ 58.205 What are the requirements for traineeships and for appointment of trainees?

Two respondents were concerned that the four month field training limitation specified under § 58.205(f) was inappropriate to the current configuration of educational programs in these fields. The regulation does not totally limit field training to less than four months but does specify expressed written approval for longer periods such as may be the case for preventive medicine and dentistry residencies. Therefore, the four month provision has been retained in the regulations.

One respondent addressed the requirement under § 58.205(g) that appointment statements for students must be submitted by the beginning of the training period. The commenter was concerned that this requirement would not permit the reallocation of traineeship awards when students do not begin the training. The Secretary acknowledges the validity of this concern and has revised this section accordingly (§ 58.208(f) of the final regulations).

The requirement that trainees respond to communications from the Secretary regarding their professional activities has been deleted in keeping with the effort to reduce mandatory reporting requirements.

§ 58.207 Duration and termination of traineeships.

One respondent addressed the provision under § 58.207(a) that traineeships must be for a full academic year, except an appointment for less than a full academic year may be made when the student will complete the program of study at the termination of the appointment. The commentor suggested that the exception be extended to take into consideration the fact that trainees are often pursuing joint-degree programs requiring enrollment at another school or unit of the parent institution for part of the academic year. To accommodate such programs, this provision has been amended to permit appointments of less than a full academic year as recommended (§ 58.211 of the final regulations).

The final regulations have been restructured based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions (Interim-final §§ 58.213-58.215) have either been updated to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). All provisions have been reorganized into a standardized format for health manpower grants regulations, and many provisions have been rewritten for clarity.

Accordingly, the existing Subpart C of 42 CFR Part 58 is revised and adopted as set forth below.

Dated: June 11, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

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Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

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Authority.—Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 748 of the Public Health Service Act, 90 Stat. 2279, as amended by 91 Stat. 1505 (42 U.S.C. 294r).

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Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

§ 58.201 To what grant program do these regulations apply?

These regulations apply to the award of grants to eligible educational entities under section 748 of the Public Health Service Act (42 U.S.C. 294e) to provide funds for traineeships for students enrolled in graduate or specialized training in public health.

§ 58.202 Definitions.

"Act" means the Public Health Service Act, as amended.

"Educational entity" means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Secretary of Education or an institution which provides specialized training in public health or specialized training in preventive medicine or dentistry.

"Fiscal year" means the Federal fiscal year, beginning October 1 and ending the following September 30.

"Full-time student" means a student who is either (1) in a residency program in preventive medicine or dentistry or (2) is enrolled on a full-time basis in a graduate program in public health and who is enrolled for a sufficient number of credit hours in a semester or other academic term to enable the student to complete the course of study within not more than the number of semesters of other academic terms normally required to complete that course of study on a full-time basis at the school in which the student is enrolled.

"Graduate program" or "graduate training" means a program of education leading to a master's degree or equivalent or doctoral degree or equivalent.

"National of the United States" means (as defined in the Immigration and Nationality Act at 8 U.S.C. 1101(a)(22)) (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Nonprofit," as applied to any entity, means one in which no part of the net earnings inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of the Department of Health and Human Services or any officer or employee of the Department to whom the authority involved has been delegated.

"School of public health" means a school which provides training leading to a graduate degree in public health or equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

"Specialized training in public health" or "specialized training in preventive medicine or denistry" means a residency training program approved by the Liaison Committee on Graduate Medical Education or by the Commission on Dental Accreditation leading to board eligibility in a specialty in preventive medicine or dental public health respectively.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving traineeship funds from a grant made under these regulations.

§ 58.203 Who is eligible to apply for a grant?

The following are eligible for grants:

(a) Any accredited school of public health which is located in a State; and

(b) Any other public or nonprofit private eduational entity which is located in a State and provides graduate or specialized training in public health. However, no entity of this type may obtain an award under this subpart to support traineeships in health administration, hospital administration, or health policy analysis and planning.[1]

§ 58.204 How will applications be evaluated?

(a) The Secretary will award a grant to each eligible school of public health which submits an application containing all the information and assurances requested in the required form and time.

(b) For public and nonprofit educational entities other than schools of public health, the Secretary will decide which applications to approve by considering, among other factors:

(1) the administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner;

(2) the degree of need for the professionals to be trained; and

(3) the adequacy of the staff and faculty; and

(4) Whether the applicant's graduate programs in environmental or occupational health or dietetics and nutrition, or both, meet the requirements in paragraphs § 58.208(c) and (d).

Within the limits of funds available for competing awards the Secretary will award grants to those approved applicants whose traineeship programs will best promote the purposes of section 748 of the Act.

§ 58.205 How is the amount of the award determined?

(a) *Grants to schools of public health.* (1) Each year, the Secretary will designate a percentage of the traineeship funds appropriated to implement section 748 of the Act for awards to schools of public health, and will announce the amount of funds to be allocated in the **Federal Register**, as soon as possible after making the designation.

(2) The Secretary will use a formula to determine the amount of the grant to be awarded to each school of public health with an approved application. This formula is

$$G = \frac{SS}{TS} \times AF.$$

G is the amount of the grant award; SS is the number of students enrolled in graduate and specialized training in public health at the school; TS is the total number of students enrolled in graduate and specialized training in all schools of public health with approved applications; and AF is the amount of traineeship funds under this program that the Secretary has designated for award to schools of public health for that fiscal year. The Secretary will determine the number of students enrolled in graduate and specialized training in public health at the school (SS) with the formula

$$SS = FTS + \frac{PTC}{9}.$$

FTS is the number of full-time students, and PTC is the total number of credit hours in which part-time students are enrolled. If necessary, the figure for

$$\frac{PTC}{9}$$

will be rounded to the next highest number. Students will be counted as of October 15 of the fiscal year in which application is made. The amount of a grant will never exceed the amount requested by the applicant.

(b) *Grants to public and nonprofit private educational entities.* The remaining funds will be available to meet continuation commitments and to award on a competitive basis to eligible public or nonprofit private educational entities other than schools of public health. The Secretary will determine the amount of these awards by estimating the sum necessary during the budget period to cover the tuition, fees, stipends, and allowances (including travel costs approved by the Secretary) for full-time students, and the tuition and fees for part-time students which the applicant proposes to provide to its trainees.

§ 58.206 How long does grant support last?

(a) The written notice of grant award specifies the period during which formula grant funds are available for obligation by the grantee, or the period during which the recipient of a competitive grant award need not recompete for funds. This period will not exceed one year for formula grants and 3 years for competitve grants. The period during which recompetition is not necessary is called the project period.

(b) Generally a competitive grant will initially be funded for one year, and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of Federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withholding the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 58.207 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations. Use of grant funds to meet the direct or indirect administrative costs of the training institution is not authorized.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

§ 58.208 What are the requirements for traineeships and the appointment of trainees?

(a) Schools of Public Health must award at least 45 percent of the grant funds received for the fiscal year ending September 30, 1978, at least 55 percent of the grant funds received in the fiscal year ending September 30, 1979, and at least 65 percent of the grant funds received in the fiscal year ending September 30, 1980, and in succeeding fiscal years, to individuals who:

(1) Have previously received a postbaccalaureate degree, or have 3 years of work experience in health services, and

(2) Are pursuing graduate training in (i) biostatistics or epidemiology, (ii) health administration, health planning, or health policy analysis and planning, (iii) environmental or occupational health, (iv) dietetics or nutrition, (v) maternal and child health, or (vi) are pursuing specialized training in preventive medicine or dentistry.

(b) Public or nonprofit private educational entities other than schools of public health must award at least 45 percent of the grant funds received for the fiscal year ending September 30, 1978, at least 55 percent of the grant funds received for the fiscal year ending September 30, 1979, and at least 65 percent of the grant funds received in the fiscal year ending September 30, 1980, and in succeeding fiscal years, to individuals who:

(1) Have previously received a postbaccalaureate degree, or have 3 years of work experience in health services, and

(2) Are pursuing graduate training in (i) biostatistics or epidemiology, (ii) environmental or occupational health, (iii) dietetics or nutrition, (iv) maternal and child health; or (v) are pursuing specialized training in preventive medicine or dentistry.

(c) Graduate training in environmental or occupational health must provide training to prepare individuals for policy development roles in the definition and solution of environmental or occupational health problems and the management of environmental systems in which humans live and work. Although it does not include the technical training of industrial hygienists, it does include training of environmental health technologists at the graduate level.

(d) Graduate training in dietetics and nutrition must provide training as preparation for leadership roles in community nutrition, and must include training in human nutritional requirements and in the application of specialized knowledge to the analysis and solution of community or population group nutritional problems. Graduate training in dietetics may not provide basic professional training required for entry level employment as a registered dietitian nor technical training in clinical dietetics.

(e) Graduate training programs may not include more than four months of field training unless expressly approved by the Secretary.

(f) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period, or as soon as possible if the trainee receives notice of his or her traineeship appointment after the training period has begun. The program director must sign the statement on behalf of the grantee and the original copy of the statement must be retained by the grantee to be available for program review and financial audit. The grantee must also send a copy of the statement to the Secretary upon request.

(g) The grantee must require full-time trainees to sign a statement that they will not undertake employment during their traineeships which would interfere with their ability to satisfactorily complete the training program in a timely fashion.

(h) The grantee may not require trainees to perform any work which is not an integral part of their training

[1] For traineeships in health administration, hospital administration, or health policy analysis and planning, educational entities which are *not* accredited schools of public health may only apply under Section 748 of the Act.

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program and required of all students in the program, or to perform services which detract from or prolong their training.

(i) The grantee must advise each trainee who is enrolled in a course of study which requires more than twelve months that continued support under this program is contingent upon the continued availability of grant funds.

§ 58.209 Who is eligible for financial assistance as a trainee?

To be eligible for a traineeship, an individual must meet the following conditions:

(a) The individual must be a national of the United States, a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam; or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) The individual may not be receiving concurrent support for the same training from another Federal source except education benefits under the Veterans Readjustment Benefits Act;

(c) The individual must be accepted for enrollment, or be enrolled in graduate training at a school of Public Health in (1) biostatistics or epidemiology, (2) health administration, health planning, or health policy analysis and planning, (3) environmental or occupational health, (4) dietetics or nutrition, (5) maternal and child health, (6) other graduate training in public health; or specialized training in preventive medicine or dentistry; or

(d) Be accepted for enrollment, or be enrolled in graduate training at another public or nonprofit private educational entity in (1) biostatistics or epidemiology, (2) environmental or occupational health, (3) dietetics or nutrition, (4) maternal and child health, (5) other graduate training in public health (excluding graduate training in health administration, health planning, or health policy analysis and planning), or specialized training in preventive medicine or dentistry.

§ 58.210 What financial support is available to trainees?

(a) Expenditures are limited to:

(1) Tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary.

(2) Stipends, for full time students, in whatever amount the grantee determines that each trainee needs to pursue the training program, as long as that amount does not exceed the limits established by the Secretary.

(3) Transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) In cases of extreme need, the grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to field training if the site is beyond a reasonable commuting distance and requires the trainee to establish a temporary new residence. However, the grantee may not pay an allowance for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay a trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(b) The grantee may not give a stipend or allowance to a part-time trainee, but may give a traineeship award to pay a part-time trainee's tuition and fees.

§ 58.211 Duration of traineeships.

Traineeships must be for a full academic year, except an appointment for less than a full academic year may be made when the student will complete the program of study at the termination of the appointment, or when joint-degree programs require enrollment at another unit of the grantee institution for part of the academic year. A traineeship may not exceed 12 months in duration. However, consecutive or subsequent traineeship appointments may be made if a student's required program of study exceeds 12 months. Training for which the student receives a traineeship must begin during the period for which funds are made available, but may extend beyond the end of this period.

§ 58.212 Termination of traineeship.

The grantee must terminate a traineeship:

(a) Upon request of the trainee;

(b) If the trainee withdraws from the grantee institution; or

(c) If the grantee determines that

(1) The trainee is no longer an enrolled student; or

(2) The trainee is not eligible or able to continue in attendance in accordance with its standards and practices.

§ 58.213 What additional Department regulations apply to grantees?

Several other regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50—PHS grant appeals process.
45 CFR Part 16—Department grant appeals process.
45 CFR Part 46—Protection of human subjects.
45 CFR Part 74—Administration of grants.
45 CFR Part 80—Nondiscrimination under programs receiving Federal Assistance—Implements Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and procedure for hearings under Part 80.
45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs.
45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally assisted programs.
45 CFR Part 86—Nondiscrimination on the basis of sex in Federally assisted education programs.
45 CFR Part 91 [1]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 58.214 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

§ 58.215 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-34704 Filed 11-5-80; 8:45 am]
BILLING CODE 4110-83-M

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42 CFR Part 58

Grants for Traineeships for the Advanced Training of Allied Health Personnel

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth requirements for programs for grants to public or private nonprofit institutions to meet the costs of traineeships for the advanced training of allied health personnel to (a) teach in allied health training programs, or (b) serve in administrative or supervisory capacities.

EFFECTIVE DATE: The rule is effective November 6, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Hoover, Acting Director, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (301-436-6838).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 11, 1978, the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, established a new Subpart F of Part 58 of Title 42 of the Code of Federal Regulations entitled, "Grants for Traineeships for the Advanced Training of Allied Health Personnel."

These regulations implemented section 797 of the Public Health Service Act, added by the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484.

These regulations were issued as interim-final regulations, without benefit of proposed rulemaking procedures, to give applicants adequate lead-time to comply with the requirements of the statute, as implemented by this subpart. Interested persons were, nevertheless, invited to submit comments not later than September 11, 1978. Following the close of the comment period, the regulations were to be revised as warranted by these comments. A discussion of the comments, the Department's response to them, and the revisions to the regulations is set forth below. For clarity, the comments and responses are arranged according to the section of the interim-final regulations to which they pertain.

§ 58.501 To what projects do these regulations apply?

One respondent suggested that traineeships should be made available for specialty training. Since the statute states that the traineeships are for "the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions," this suggestion has not been adopted.

§ 58.502 Definitions.

One comment recommended changing the required duration of the Allied Health Training Institute program from two and one half days to seven hours. This suggestion has not been adopted because the Department believes that two and one half days is the minimum time required to effectively accomplish the educational intent of the statute.

§ 58.507 Who is eligible for financial assistance as a trainee in programs under this subpart?

One respondent recommended that the term medical technologist in the list of professions eligible for traineeships be clarified to indicate that it is limited to persons qualified as medical technologists, whether or not employed in a specialty area, and excludes those persons qualified *only* in a clinical laboratory specialty. The Department has adopted this suggestion.

Another respondent proposed that § 58.507(b)(2), which requires that trainees have a baccalaureate degree, be changed to require only an associate degree. The Department did not accept this suggestion because the allied health traineeships are, by statute, for advanced training. The Department does not consider traineeships at less than the masters level to be advanced training.

Several comments suggested additions to the list of eligible allied health professions. One proposed that the list include health or hospital administration. This suggestion was not accepted because sections 748 and 749 of the Public Health Service Act provide traineeship authority and funding for graduate programs in this field.

The Department also did not include the disciplines proposed by three other respondents, microbiology, alcoholism training, and social work, because they are inappropriate under this authority. The field of microbiology is a distinct scientific discipline and not an allied health profession in itself. Although the study of microbiology may constitute training for a medical technologist, which is an eligible allied health profession, the Department views microbiology as basic science training rather than allied health professional training.

The other fields proposed, training in alcoholism and social work, are also not considered to be allied health professions, thus the Department did not accept these suggestions.

In the development of § 58.507(b)(1) and (c)(1) of the interim-final regulations, several allied health disciplines were omitted. The Department has added these disciplines to the final regulations (§ 58.510).

The final regulations have been restructured based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions have either been updated to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). All provisions have been reorganized into a standardized format for health professions grants regulations, and many provisions have been rewritten for clarity.

Accordingly, the existing Subpart F of 42 CFR Part 58 is revised and adopted as set forth below.

Dated: May 29, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

Subpart F—Grants for Traineeships for the Advanced Training of Allied Health Personnel

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58.511 What are the requirements for traineeships and the appointment of trainees?
58.512 Termination of traineeship.
58.513 What additional Department regulations apply to grantees?
58.514 What other audit and inspection requirements apply to grantees?
58.515 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 797 of the Public Health Service Act, 90 Stat. 2308 (42 U.S.C. 295h-6).

Subpart F—Grants for Traineeships for the Advanced Training of Allied Health Personnel

§ 58.501 To what programs do these regulations apply?

These regulations apply to grants to colleges, universities, and other public or private nonprofit entities under section 797 of the Public Health Service Act (42 U.S.C. 295h-6) to provide funds for traineeships for the advanced training of allied health personnel to:

(a) Teach in allied health training programs, or

(b) Serve in administrative or supervisory capacities.

§ 58.502 Definitions.

"Act" means the Public Health Service Act.

"Allied Health Advanced Traineeship program" means a program of advanced training of at least one academic year in length providing a master's or other higher degree which qualifies the trainee to serve as a teacher, administrator, or supervisor in allied health fields.

"Allied health personnel" means individuals with at least one academic year of post-secondary training.

[1] When issued.

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including clinical training, in a field which qualifies them to:

(a) Support, complement, or supplement physicians, dentists, and other health professionals in the delivery of health care to patients, or

(b) Assist environmental engineers in environmental health control and preventive medicine activities.

"Allied Health Training Institute program" means a program of advanced training, to improve the capability of allied health personnel to serve in teaching, administrative, or supervisory capacities, which is at least two and one-half days but less than one academic year in length.

"College or university" means a public or private nonprofit educational institution which is accredited by a recognized body or bodies approved for this purpose by the Secretary of Education.

"National of the United States" means: (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in 8 U.S.C. 1101(a)(22), the Immigration and Nationality Act).

"Nonprofit private entity" means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of the Department of Health and Human Services or any officer or employee of the Department to whom the authority involved has been delegated.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving a traineeship from a grant under these regulations.

§ 58.503 Who is eligible to apply for a grant?

(a) *Allied Health Advanced Traineeship.* Any accredited college or university is eligible to apply if it is located in a State and provides or is able to provide a graduate level Allied Health Advanced Training program.

(b) *Allied Health Training Institute.* Any public or nonprofit private entity is eligible to apply for a grant if it is located in a State and provides or is able to provide an Allied Health Training Institute program.

§ 58.504 [Reserved]

§ 58.505 How will applications be evaluated?

The Secretary will decide which applications to approve by considering, among other factors:

(a) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner;

(b) The relative need for the program; and

(c) The adequacy of the staff and faculty.

The Secretary will award grants within the limits of funds available to those approved applicants whose projects will best promote the purposes of section 797 of the Act.

§ 58.506 How long does grant support last?

(a) The notice of grant award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, may not exceed three years for an Allied Health Advanced Traineeship grant, and may not exceed one year for an Allied Health Training Institute grant.

(b) For Allied Health Advanced Traineeship grants, generally the grant will initially be funded for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of factors such as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forwared to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 58.507 How is the amount of the award determined?

The amount of the award to the grantee will be based on the Secretary's estimate of the sum necessary during the budget period to cover the costs of the trainees' tuition, fees, stipends, and allowances (including travel and subsistence).

§ 58.508 For what purposes may grant funds be spend?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instructions or for any religious purpose.

§ 58.509 What financial support is available to trainees?

(a) The grantee may pay to the trainee:

(1) Tuition and fees in accordance with the established rates of the institution, except as limited by the Secretary.

(2) Stipends, in whatever amount the grantee determines that each trainee needs to pursue the training program, as long as that amount does not exceed the limits established by the Secretary.

(3) Transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the circumstances described in paragraph (b) of this section.

(b) For Allied Health Advanced Traineeship grants:

(1) In cases of extreme need, the grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site.

(2) The grantee may pay a trainee an allowance from grant funds for travel to field training if the site is beyond a reasonable commuting distance and requires the trainee to establish a temporary new residence. However, the grantee may not pay an allowance for daily commuting from the new place of residence to the field training headquarters.

(3) The grantee may pay a trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(c) For Allied Health Training Institute programs:

(1) The grantee may pay stipends from grant funds only to trainees who must temporarily change their place of residence to attend the training program.

(2) The grantee may pay stipends from grant funds only for days of instruction during which the trainee receives a minimum of six hours of formal instruction, except that during the first and last days of the training session the trainee must receive a minimum of three hours during the day.

(3) The grantee may not pay stipends from grant funds to a trainee receiving concurrent support for the same training from another Federal source, except education benefits under the Veterans Readjustment Benefits Act.

§ 58.510 Who is eligible for financial assistance as a trainee?

(a) To be eligible for a traineeship, an individual must:

(1) Be a national of the United States or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, Guam or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands;

(2) Be accepted for enrollment, or be enrolled, as a full-time student in a training program for which these traineeships are available;

(3) Not be the program director, financial officer, or the official authorized to represent the grantee institution for the grant application;

(4) Not be receiving lecture fees, salary, travel, expenses, or any other form of payment as a member of the grantee training program staff or faculty.

(b) For the Allied Health Advanced Traineeship program:

(1) Be qualified to practice as one of the following:

Clinical Psychologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Dietitian [1]
Medical Assistant
Medical Record Administrator
Medical Technologist [2]
Nuclear Medicine Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant

[1] Limited to graduates of a coordinated undergraduate program and those persons having completed a clinical dietetic internship or other clinical practicum training acceptable to the Secretary.

[2] Limited to persons qualified as medical technologists whether or not employed in a specialty area and does not include persons qualified only in a clinical laboratory specialty.

Radiation Therapy Technologist
Radiographer
Respiratory Therapist
Sanitarian [3]
Speech Pathologist/Audiologist
Vision Care Technician [4]

(2) Have a baccalaureate degree;

(3) Not be receiving concurrent support for the same training from another Federal source except education benefits under the Veterans Readjustment Benefits Act;

(4) Not be a full-time Federal employee unless on leave without pay.

(c) For the Allied Health Training Institute program:

(1) Be qualified to practice as one of the following:

Clinical Psychologist
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Dietitian [5]
Medical Assistant
Medical Laboratory Technician
Medical Record Administrator
Medical Record Technician
Medical Technologist [6]
Nuclear Medicine Technologist
Occupational Therapist
Occupational Therapy Assistant
Orthotic/Prosthetic Technician
Physical Therapist
Physical Therapist Assistant
Primary Care Physician Assistant
Radiation Therapy Technologist
Radiographer
Respiratory Therapy Technician/Therapist
Sanitarian [7]
Speech Pathologist/Audiologist
Vision Care Technician [8]

§ 58.511 What are the requirements for traineeships and the appointment of trainees?

(a) For the Allied Health Advanced Traineeship program:

(1) The grantee must appoint each trainee for a full academic year (not to exceed twelve months) except that a shorter appointment may be made where necessary to enable the trainee to complete the training program.

(2) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period or as soon as possible if the trainee receives notice after the training period has begun. The program director must sign it, and the grantee must retain it for audit purposes. The grantee must also send a copy to the Secretary upon request.

(3) The grantee must advise each trainee who is enrolled in a course of study requiring more than twelve months to complete that continued support under this program is contingent upon the continued availability of grant funds.

(b) For the Allied Health Training Institute program, the grantee's appointment for each trainee must be effective the first day of required attendance and must terminate on the last day of each offering or session of the institute.

(c) The grantee may not require trainees to perform any work which is not an integral part of their training program and required of all students in the program, or to perform services which detract from or prolong the training.

§ 58.512 Termination of traineeship.

(a) The grantee will terminate a traineeship upon request of the trainee.

(b) The grantee must terminate the traineeship if the trainee is no longer enrolled full-time in the training program for which the traineeship was awarded, or fails to maintain the level of academic standing required by the institution's standards and practices for full-time enrollment.

§ 58.513 What additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

42 CFR Part 50	PHS grant appeals process
45 CFR Part 16	Department grant appeals process
45 CFR Part 46	Protection of human subjects
45 CFR Part 74	Administration of grants
45 CFR Part 80	Nondiscrimination under programs receiving Federal assistance through the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR Part 81	Practice and procedure for hearings under Part 80
45 CFR Part 83	Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84	Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86	Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91 [9]	Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

[3] Limited to graduates of baccalaureate level educational programs or to those who are State registered sanitarians or possess the professional qualifications necessary for registration under any of the State registration acts.

[4] Includes persons prepared as an opthalmic medical assistant, optometric technician, low vision technician, orthoptist, contact lens technician.

[5] Same as [1].

[6] Same as [2].

[7] Same as [3].

[8] Includes persons prepared as an opthalmic assistant, ophthalmic dispenser, opthalmic optician, optometic technician, low vision technician, orthoptist, and contact lens technician.

[9] When issued.

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§ 58.514 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

§ 58.515 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of an award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-34702 Filed 11-5-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5768

[I-13108]

Idaho; Partial Revocation of Military Withdrawal

Correction

In FR Doc. 80-31454 appearing on page 67094 in the issue of Thursday, October 9, 1980, first column, the land description should read as follows:

Boise Meridian

T. 3 N., R. 2 E.,

Sec. 2: (Tract 39) described by metes and bounds as follows:

Beginning at the NE. cor. of the Veterans Administration grounds on the northerly boundary of the Boise Barracks Military Reservation, which is the terminal fence post of a chain link fence, 6 ft. high, extending S. 25° 28' E., from which the cor. of secs. 2, 3, 10, and 11, T. 3 N., R. 2 E., Boise Meridian, bears S. 35° 17' W., 2,590.49 ft. dist., monumented with an iron post and brass cap set flush with surface of pavement, mkd. as described in the field notes of the dependent resurvey executed by Walter H. Good in 1952, accepted August 5, 1954.

Thence from said initial point, by metes and bounds,

S. 69° 47' W., 933.24 feet, to an iron post with brass cap mkd. AP1.

S. 26° 24' E., 544.50 feet, to an iron post with brass cap mkd. AP2.

S. 57° 26' E., 240.24 feet, to an iron post with brass cap mkd. AP3.

N. 64° 32' E., 795.30 feet, to an iron post with brass cap mkd. AP4 in fence extending N. 25° 28' W. and S. 25° 28' E.

N. 25° 28' W., 660.00 feet, along fence to the place of beginning.

Containing 14.644 acres in Ada County.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5799]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Leeds, Jefferson County, Alabama, previously published 45 FR 51797 on August 5, 1980.

EFFECTIVE DATE: August 5, 1980 (date document was originally published in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Leeds, Jefferson County, Alabama, previously published at 45 FR 51797 on August 5, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter, 10, Part 1917.4(a)).

For the location of "Just downstream of Jones Street" under the source of flooding of Little Cahaba River, the elevation of 601 feet NGVD is incorrect. The elevation should be 632 feet NGVD.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Leeds, Jefferson County	Little Cahaba River	Just downstream of Jones Street	*631

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority of Federal Insurance Administrator)

Issued: October 15, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80-34452 Filed 11-5-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii Call Toll Free (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Town of Homewood, Jefferson County (FEMA-5841).	Shades Creek	Just upstream of Greenspring Highway	*630
			Just upstream of Devon Drive	*649
		Griffen Brook	Just upstream of Saulter Road	*640
			Just upstream of Edgewood Boulevard	*655
			Just upstream of Kentworth Drive	*666
	Maps available for inspection at City Hall, 1903 29th Avenue, Homewood, Alabama 35201.			
Arkansas	City of Alma, Crawford County (FEMA-5841).	Little Frog Bayou	Just upstream of U.S. Highway 64 (Business)	*422
			Just upstream of Interstate Highway 40 (West Bound Lane)	*430
		Little Frog Bayou Tributary	Just downstream of U.S. Highway 71	*428
		Frog Bayou Tributary	Just upstream of Collum Lane	*440
			Just downstream of Maple Shade Road	*494
	Maps available at City Hall, Fayetteville and Maine Street, Alma, Arkansas 72921.			
Arkansas	City of Amagon, Jackson County (FEMA-5843).	Cache River	Just downstream of Allen Street	*223
			At northern corporate limits	*224
	Maps available at City Hall, Amagon, Arkansas 72005.			
Arkansas	City of Grubbs, Jackson County (FEMA-5843).	Cache River	Intersection of Elm and Helen Streets	*231
	Maps available at City Hall, Main Street, Grubbs, Arkansas 72431.			
Arkansas	City of Mulberry, Crawford County (FEMA-5841).	Mulberry River	Just upstream of U.S. Highway 64	*398
		Little Mulberry Creek	Just upstream of U.S. Highway 64	*398
		Vine Prairie Creek Tributary	Just upstream of U.S. Highway 64	*412
		Morris Branch Tributary	Just downstream of U.S. Highway 64	*430
			Just upstream of Interstate Highway 40 On ramp (westbound lane)	*452
	Maps available at City Hall, Ninth Street, Mulberry, Arkansas 72947.			
Arkansas	City of Strong, Union county (FEMA-5825).	Lapile Creek	Approximately 20 feet downstream of New London Road	*105
	Maps available at City Hall, Pine Strong, Arkansas 71765.			
Connecticut	Ledyard, Town New London County (Docket No. FEMA-5845).	Joe Clark Brook	Confluence with Poquetanuck Cove	*13
			400' upstream of Avery Hill Road	*17
			1,633' upstream of Avery Hill Road	*26
			100' downstream of footbridge	*36
			100' upstream of footbridge	*37
			1,240' upstream of footbridge	*41
			1,450' downstream of State Route 117	*49
			150' downstream of State Route 117	*59
		Shewville Brook	1,100' downstream of Shewville Road	*112
			60' downstream of Shewville Road	*113
			60' upstream of Shewville Road	*117
			760' upstream of Shewville Road	*117
		Williams Brook	1,540' downstream of Shewville Road	*58
			100' downstream of Shewville Road	*59
			50' upstream of Shewville Road	*60
			Upstream of Townfarm Road	*65
			2,000' upstream of private road	*68
			2,400' upstream of private road	*73
			4,250' upstream of private road	*78
		Whitford Brook	1,775' downstream of Lantern Hill Road	*80
			475' downstream of Lantern Hill Road	*85
			50' upstream of Lantern Hill Road	*93
			370' upstream of Lantern Hill Road	*98
		Flat Brook	Confluence with Mill Cove	*12
			775' upstream of private road	*20
			985' upstream of private road	*26
			1,175' upstream of private road	*31
			40' downstream of Grade Drive	*35
			300' upstream of Grade Drive	*45
			Upstream side of the dam	*47
			State Route 12	*51
			135' upstream of State Route 12	*53
			375' upstream of State Route 12	*56
		Pine Swamp Brook	Military Highway	*12

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Woodland Drive	*24
			Upstream of Harvard Terrace	*29
			1,830' upstream of Harvard Terrace	*29
		Thames River	Downstream of Corporate Limits	*11
			Confluence with Poquetanuck Cove	*13
		Poquetanuck Cove	Entire Shoreline	*13
	Maps available at the Building, Zoning and Planning Offices, and at the office of the Town Clerk, Town Hall, Ledyard, Connecticut.			
Indiana	Franklin (City), Johnson County (FEMA–5845).	Youngs Creek	50 feet upstream of intersection of creek and Home Avenue	*722
			200 feet upstream of intersection of creek and Morton Street (U.S. Highway 31).	*727
		Hurricane Creek	100 feet upstream of intersection of creek and East Monroe Street	*725
		Canary Ditch	100 feet downstream of intersection of ditch and Morton Street (U.S. Highway 31).	*748
			75 feet upstream of intersection of ditch and County Road 300 North (Earlywoods Drive).	*765
	Maps available for inspection at City Hall, Planning Department, Franklin, Indiana 46131.			
Maine	Augusta, City, Kennebec County (Docket No. FI–5547).	Kennebec River	Downstream Corporate Limits	*32
			Memorial Bridge	*34
			Upstream Maine Central Railroad Bridge	*36
			Confluence of Riggs Brook	*39
			Upstream Corporate Limits	*44
		Bond Brook	Confluence with Kennebec River	*36
			Mount Vernon Avenue	*38
			Dunn's Pit Road	*81
			U.S. Route 95	*109
			Leighton Road	*114
	Maps available at the office of the City Engineer, City Hall, Augusta, Maine.			
Maine	(T) Brownfield, Oxford County (Docket No. FEMA 5825).	Sheperd's River	At game management area boundary	*376
			Approximately 300 feet upstream from State Route 113	*381
			Approximately 800 feet downstream from Perry Mountain Road	*412
			Just upstream from Perry Mountain Road	*431
			Just downstream from River Road	*440
			Just upstream from River Road	*448
			Just upstream from Old County Road plank bridge	*482
			Approximately 12,200 feet upstream from Old County Road plank bridge.	*516
		Saco River	At southeastern corporate limits	*366
			Approximately 400 feet downstream of the confluence of Tenmile River.	*371
			Approximately 1 mile upstream of State Route 160	*376
			At confluence with Pleasant Pond	*378
	Maps available for inspection at Town Selectmen's Office, Town Office, Brownfield, Maine 04010.			
Maine	Sebago, Town, Cumberland County (Docket No. FMA–5845).	Sebago Lake	Entire Shoreline within community	*268
	Maps available at the Office of the Selectmen, Route 107, Sebago, Maine.			
Michigan	(V) Deerfield, Lenawee County (Docket No. FEMA–5853).	Camp Brenott Drain	Just downstream of River Street	*672
			Just upstream of River Street	*676
			Just downstream of Keegan Street	*676
		River Raisin	About 2,500 feet downstream of Bucholtz Road	*670
			About 2.1 miles upstream of Bucholtz Road	*674
	Maps available for inspection at the Village Hall, 101 West River Street, Deerfield, Michigan 49238.			
Michigan	(Twp) Whiteford, Monroe County (Docket NO. FEMA–5853).	North Ten Mile Creek	At southern corporate limits	*648
			Just downstream of driveway bridge located 4,000 feet upstream of corporate limits.	*658
			Just upstream of driveway bridge located 4,000 feet upstream of corporate limits.	*660
			About 75 feet upstream of Northbound U.S. Highway 23	*661
		Halfway Creek	At eastern corporate limits	*633
			Just upstream of concrete weir 1,350 feet upstream of corporate limits.	*643
			Just upstream of concrete bridge 1,500 feet upstream of corporate limits.	*645
			Just downstream of Sterns Road	*650
			Just upstream of Sterns Road	*656
			About 450 feet upstream of Sterns Road	*656
	Maps available for inspection at Whiteford Township Hall, P.O. Box 216, Ottawa Lake, Michigan 49247.			
Minnesota	(Unincr.), Dakota County, (Docket No. FEMA–5845).	Mississippi River	About 2.8 miles downstream of Goodhue County boundary	*688
			At City of Rosemount eastern corporate limits	*697
		Vermillion River	About one mile downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*689
			Just downstream from the eastern Hastings corporate limits	*692
			Just upstream from the western Hastings corporate limits	*803
			About 300 feet upstream from 170th Street	*815

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream from Goodwin Avenue	*828
			Just downstream from the northern Vermillion corporate limits	*830
			Just upstream from the western Vermillion corporate limits	*837
			Just downstream from U.S. Route 52	*846
			Just upstream from U.S. Route 52	*848
			Just upstreaqm from Clayton Avenue	*855
			Just downstream from Blaine Avenue	*863
			About 500 feet downstream of State Route 3	*892
			Just downstream from Farmington corporate limits	*896
			Just upstream from Farmington corporate limits	*913
			Just upstream of 225th Street	*916
			About 1.3 miles upstream from 225th Street	*926
			About 1.23 miles downstream from Cedar Avenue	*935
			About 0.25 mile downstream from Cedar Avenue	*945
			Just upstream from Hamnburg Avenue	*958
			Just downstream from Highview Avenue	*969
			Just upstream from 235th Street	*981
			Just downstream from Dodd Boulevard	*999
			About 0.33 mile downstream of 245th Street	*1000
			About 0.17 mile downstream of 250th Street	*1001
			At upstream county boundary	*1009
		Cannon River	Downstream county boundary	*801
			Just downstream from U.S. Route 52	*802
			About 400 feet upstream from U.S. Route 52	*804
			Just downstream from Byllesby Dam	*813
			Just upstream from Byllesby Dam	*861
			At State Route 56	*861
			Just upstream from County Road 83	*865
			About 1.5 miles upstream from Chicago and North Western railroad	*876
			Just downstream from Alta Avenue	*887
			At City of Northfield corporate limits	*899
		Unnamed Creek	At intersection of 200th Street East and Ravenna Trail	#2.0
	Maps available for inspection at Planning Services, Dakota County Government Center, 1560 West Highway 55, Hastings, Minnesota 55033.			
Minnesota	(C) Shoreview, Ramsey County (Docket No. FEMA–5843).	Lake Emily	Shoreline	*919
		Lake Owasso	Shoreline	889
		Lake Wabasso	Shoreline	*889
		Grass Lake	Shoreline	*863
		Turtle Lake	Shoreline	*893
		Lake Wabasso-Grass Lake Connection Mouth at Grass Lake.		863
			Just downstream of the Soo Line Railroad	*886
			Just downstream of County Road E	*888
			Just downstream of outlet structure	*889
	Maps available for inspection at the Office of the City Engineer, City Hall, 4665 North Victoria Street, Shoreview, Minnesota 55112.			
Missouri	(C) Town and Country St. Louis County (Docket No. FEMA–5845).	Grand Glaize West Creek	Downstream corporate limits	*471
			About 100 feet upstream of Thornhill Drive	*480
			Upstream corporate limits	*493
		Grand Glaize East Creek	About 380 feet downstream of the downstream corporate limits	*486
			About 60 feet downstream Topping Road	*507
			About 40 feet upstream of Topping Road	*511
	Maps available for inspection at City Hall, 12225 Clayton Road, Town and County, Missouri 63131.			
Montana	Lewis & Clark County, (Unincorporated Areas) (FEMA–5845).	Blackfoot River	Intersection of river and Poorman Creek Road	*4,536
			25 feet upstream of intersection of river and Private Drive	*4,681
		Elk Creek	Northwest corner of the intersection of Main Street and Hogan Street	*4,075
			Northwest corner of the intersection of Laura Street and Beech Street	*4,082
		Prickly Pear Creek	75 feet downstream of intersection of creek and Sierra Road	*3,680
			10 feet upstream of intersection of creek and Valley Road (State highway 435).	*3,844
		Silver Creek	Intersection of creek and Montana Avenue	*3,711
			30 feet upstream of intersection of creek and John G. Mine Road	*3,792
		Tenmile Creek	75 feet downstream of intersection of creek and Montana Avenue	*3,761
			10 feet upstream of intersection of creek and McHugh Drive	*3,784
			60 feet upstream of intersection of creek and Green Meadow Drive	*3,813
			100 feet upstream of the intersection of creek and Williams Street	*3,956
	Maps available for inspection at City/County Building, 316 N. Park, Helena, Montana.			
New Hampshire	Antrim, Town, Hillsborough County (Docket No. FEMA–5815).	Contoocook River	Downstream Corporate Limits	*595
			Upstream Second New Hampshire Turnpike	*598
			Downstream North Bennington Bridge	*604
			Downstream Depot Street	*606
			Upstream Corporate Limits	*608
		North Branch Contoocook River	Upstream Steels Pond Dam	*850
			Approximately 1,900 feet upstream of State Rout 9	*854
			Upstream College Upstream College Road	*862

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 3,500 feet upstream of College Road	*816
			Upstream Liberty Farm Road	*981
			Approximately 900 feet upstream of Liberty Farm Road	*1,007
			Downstream Private road	*1,018
			Approximately 630 feet upstream of Private Road	*1,056
			Approximately 7,250 feet upstream of Private Road	*1,079
			Upstream Corporate Limits	*1,119
		Great Brook	Confluence with Contoocook River	*608
			Approximately 175 feet upstream of Water Street	*614
			Approximately 125 feet upstream of Main Street	*643
			Upstream Private Dam	*653
			Approximately 400 feet upstream of High Street	*662
			Approximately 50 feet upstream of Pedestrian Bridge	*673
			Upstream Summer Street	*701
			Upstream Footbridge	*703
			Approximately 50 feet upstream of West Street	*706
			Approximately 25 feet upstream of Dam	*709
			Approximately 580 feet upstream of Dam	*714
	Maps available at the Town Office, Antrim, New Hampshire.			
New Hampshire	Gorham, Town, Coos County (Docket No. FEMA-5798).	Androscoggin River	Downstream Corporate Limits	*757
			100' downstream of Cascade Power Station Dam	*768
			Cascade Power Station Dam	*774
			Confluence of the Moose River	*787
			Boston and Maine Railroad	*795
			Downstream, of Gorham Hydrostation Dam	*800
			Upstream of Gorham Hydrostation Dam	*815
			4,300' upstream of Gorham Hydrostation Dam #1	*818
			U.S.G.S. Gaging Station No. 01054000	*842
			Downstream of Cascade Hydrostation Dam	*864
			Upstream Corporate Limits	*904
		Peabody River	Downstream Corporate Limits	*757
			480' upstream of Corporate Limits	*763
			Grand Trunk Railroad Bridge	*778
			Footbridge	*794
			1,280' upstream of Footbridge	*812
			1,900' downstream of White Mountain National Forest	*864
			White Mountain National Forest	*890
		Moose Brook	Confluence with the Androscoggin River	*794
			Downstream of Grand Trunk Railroad Bridge	*805
			Upstream of Grand Trunk Railroad Bridge	*811
			Downstream of Private Road	*827
			Upstream of Private Road	*831
			425' upstream of Private Road	*832
			745' upstream of Private Road	*841
			Grand Trunk Railroad	*862
			1,990' upstream of Grand Trunk Railroad	*898
			Moose Brook State Park	*915
		Moose River	Confluence with the Androscoggin River	*787
			U.S. Route 2 and State Route 16	*802
			Upstream of Grand Trunk Railroad	*810
			2,310' upstream of Grand Trunk Railroad	*832
			5,350' upstream of Grand Trunk Railroad	*887
			6,870' upstream of Grand Trunk Railroad	*910
	Maps available at the Town Office, Gorham, New Hampshire.			
New Jersey	Alexandria, Township, Hunterdon County (Docket No. FEMA-5843).	Delaware River	Downstream Corporate Limits	*129
			Approximately 2,150' upstream of downstream Corporate Limits	*132
			Upstream Corporate Limits	*136
		Harihokake Creek	Confluence with Delaware River	*133
			Approximately 2,040' upstream of Milford Frenchtown Road	*134
			Approximately 5,120' upstream of Milford Frenchtown Road	*157
			Downstream Gallmeier Road	*191
			Approximately 3,550' upstream of Gallmeier Road	*213
			Approximately 2,069' downstream of County Route 519	*245
			Upstream County Route 519	*272
			Approximately 3,120' upstream of County Route 519	*302
	Maps available at the Lester Wilson School Meeting Room, Everittstown, New Jersey.			
New Jersey	Lambertville, City, Hunterdon County (Docket No. FEMA-5843).	Delaware River	Downstream Corporate Limits	*68
			Downstream side of Bridge Street	*69
			Upstream Corporate Limits and confluence of Alexauken Creek	*73
		Swan Creek	Confluence with Delaware River	*69
			Upstream side of Brunswick Avenue	*81
			Upstream side of Skillman Street	*90
			580' upstream of Skillman Street	*100
			960' upstream of Skillman Street	*110
			1,180' upstream of Skillman Street	*117
			1,540' upstream of Skillman Street	*128
			1,760' upstream of Skillman Street	*133
		Swan Creek Tributary	Confluence with Swan Creek	*103
			Downstream side of Rock Road	*114
			Upstream Corporate Limits	*124

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Alexauken Creek	Confluence with Delaware River	*73
			Upstream Corporate Limits	*74
	Maps available at the City Hall, 18 York Street, Lambertville, New Jersey.			
New Jersey	Montgomery, Township, Somerset County (Docket No. FEMA-5845).	Millstone River	Upstream Griggstown Causeway	*49
			Upstream Washington Street (Route 518) (Corporate Limits)	*52
		Van Horn Brook	Upstream River Road	*57
			845' upstream of River Road	*66
			1,895' upstream of River Road	*77
			2,695' upstream of River Road	*86
			3,645' upstream of River Road	*96
			Upstream Princeton Avenue	*102
			Downstream U.S. Route 206	*114
		Beden Brook	300' upstream of confluence of Pike Run	*52
			Upstream of U.S. Route 206	*57
			400' upstream of Oppossum Road	*62
			50' upstream of confluence of Rock Brook	*66
			Upstream of U.S. Route 518	*70
			320' upstream of Cherry Hill Road	*74
			Downstream Mountain View Road	*80
			Upstream Great Road	*88
			2,700' upstream of Gread Road	*93
			Upstream Third Golf Course Bridge	*106
			Downstream Province Line Road	*113
		Rock Brook	Confluence with Beden Brook	*66
			Upstream Burnt Hill Road	*74
			Downstream Sylvan Lake Dam	*84
			Upstream Sylvan Lake Dam	*92
			Upstream Gread Road	*94
			100' downstream of Abandoned Railroad	*103
			Downstream Conrail	*116
			Upstream Conrail	*120
			Downstream Camp Meeting Avenue	*134
		Pike Run	Upstream River Road	*52
			Downstream Bridgepoint Road	*55
			Downstream Mill Pond Road (Harlingen Road)	*57
			Upstream Belle Mead-Griggstown Road	*65
			1,000' upstream of Abandoned Railroad	*67
			Downstream Township Line Road	*71
		Cruser Brook	100' upstream of Abandoned Railroad	*67
			Upstream U.S. Route 206	*71
			2,250' upstream of U.S. Route 206	*74
			245' upstream of Conrail	*80
			3,145' upstream of Conrail	*83
			Downstream Pleasant Valley Road	*85
	Maps available at the City Clerk's Office, Montgomery, New Jersey.			
New Jersey	West Amwell, Township, Hunterdon County (Docket No. FEMA-5843).	Delaware River	Downstream Corporate Limits	*64
			Upstream Corporate Limits	*68
		Alexauken Creek	Downstream Corporate Limits	*73
			1,300' downstream of 2nd Conrail Bridge	*78
			Upstream Conrail Bridge	*100
			Upstream side of Hamp Road	*108
			650' downstream of Creek Road	*118
			The on-ramp of U.S. Route 202	*126
			Upstream side of U.S. Route 202	*131
			875' upstream of Queen Road	*141
			Downstream side of State Route 179	*149
	Maps available at the Clerk's Office, West Amwell, New Jersey.			
New York	Canandaigua, City, Ontario County (Docket No. FEMA-5853).	Canandaigua Lake	Entire shoreline	*692
		Canandiagua Outlet	Downstream Corporate Limits	*691
			Inlet from Canandaigua Lake	*692
		Feeder Canal	Downstream Corporate Limits	*690
			Inlet from Canandaigua Lake	*692
		Sucker Brook	Confluence with Canandaigua Lake	*692
			Bristol Street (Upstream)	*704
			80 feet upstream of Private Drive	*713
	Maps available at the Office of Code Enforcement Officer, Hurley Building, 205 Saltonstall Street, Canandaigua, New York.			
New York	Montour Falls, Village, Schuyler County (Docket No. FEMA-5738).	Barge Canal	Downstream Corporate Limits	*449
			Confluence of Diversion Channel	*449
		Diversion Channel	Confluence of Catharine Creek	*449
			Confluence with Barge Canal	*449
			Upstream Access Bridge	*451
			Upstream Clawson Boulevard, Route 224	*457
			Confluence of Catlin Mill Creek	*459
			Ayres Street, Route 14	*468
			Confluence of Catharine Creek	*469

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Catlin Mill Creek	Confluence with Diversion Channel	*459
			500' upstream of confluence with Diversion Channel	*465
			420' downstream, Skyline Drive	*470
			Skyline Drive	*476
			490' upstream, Skyline Drive	*485
			930' upstream, Skyline Drive	*493
		Havana Glen Creek	Confluence with Diversion Channel	*469
			Ayres Street, Route 14	*469
			695' upstream Ayres Street, Route 14	*475
			1,270' upstream, Ayres Street, Route 14	*482
		Catharine Creek	Confluence with Barge Canal	*449
			Ayres Street	*450
			Confluence of Shequaga Creek	*451
			Upstream Corporate Limits	*470
		Shequaga Creek	Confluence with Catharine Creek	*451
			Downstream Genesee Street	*454
			Approximately 520' upstream of Steuben Creek	*462
Maps available at the Municipal Building, Montour Falls, New York.				
North Carolina	City of Burlington, Alamance County (FEMA–5841).	Haw River	Confluence of Haw River and Servis Creek	*515
			Just upstream of State Road 1712	*531
		Servis Creek	Just upstream of Lower Hopedale Road (S.R. 1700)	*540
			Just upstream of State Highway 62	*575
		Servis Creek Tributary A	Just upstream of Morningside Drive	*545
			Just upstream of Homewood Avenue	*562
		Staley Creek	Just downstream of Ross Street	*571
		Little Alamance Creek	Just upstream of State Highway 49	*533
			Just upstream of I–85 Service Road	*563
			Just upstream of N.C. 54	*576
			Just downstream of U.S. 70	*586
			Just upstream of Woodland Avenue	*621
		Boyd Branch	Just upstream of S.R. 2304	*515
			Just upstream of I–85	*548
		Willowbrook Creek	Just upstream of Mebane Street	*587
		Cobblebrook Creek	Just downstream of Engleman Avenue	*613
		Gunn Creek	Just upstream of Anthony Road (State Road 1148)	*522
			Just upstream of State Highway 62	*570
			Just upstream of I–85	*605
			Just upstream of Berwick Drive	*634
Maps available at City Engineering Department and City Planning Department, Municipal Building, 425 South Lexington Avenue, Burlington, North Carolina 27215.				
North Carolina	Weldon (Town) Halifax County, FEMA–5853.	Roanoke River	Confluence with The Gut	*55
			Intersection of river and U.S. Highway 301	*56
			Confluence with Chockoyotte Creek	*57
		Chockoyotte Creek	50 feet upstream from center of Old Navigation Channel	*74
			Intersection of Grant Drive and Holmes Street	*80
			250 feet upstream from center of State Raod 1641	*81
			Confluence with Chockoyotte Creek Tributary	*84
		Chockoyotte Creek Tributary	50 feet upstream from center of State Road	*90
		The Gut	50 feet upstream from center of U.S. Highway 301	*64
		Graulery Branch	50 feet upstream from center of U.S. Highway 301	*72
Maps available for inspection at P.O. Box 551, Weldon, North Carolina 27890.				
Ohio	(Uninc.), Greene County (Docket No. FEMA–5875).	Little Miami River	About 1.4 miles downstream of Roxanna Road	*740
			About 0.5 mile upstream of Roxanna Road	*750
			About 0.2 mile upstream of U.S. Route 42	*757
			About 0.4 mile downstream of State Route 725	*763
			Just downstream Upper Bellbrook Road	*783
			About 1.4 miles downstream of Indian Ripple Road	*789
			Just upstream of Indian Ripple Road	*795
			Just upstream of Conrail	*800
			Just upstream of Fairgrounds Road	*816
			About 0.2 mile upstream of State Route 235	*826
			About 0.5 mile upstream of Grinnell Road	*864
			Just downstream of Wilberforce-Clifton Road	*987
			Just upstream of Wilberforce-Clifton Road	*991
			Just downstream of Dam	*994
			Just upstream of Dam	*1,002
			About 1.6 miles upstream of Dam	*1,008
		Glady Run	About 0.5 mile downstream of State Route 725	*758
			Just upstream of Schnebly Road (first of two crossings)	*773
			About 200 feet upstream of Richland Road	*788
			Just downstream of Schnebly Road (second of two crossings)	*801
			About 0.1 mile downstream of Conrail (first of three crossings)	*808
			About 0.5 mile upstream of Conrail (first to three crossings)	*820
			Just upstream of Conrail (second of three crossings)	*838
			Just upstream of Conrail (third of three crossings)	*850
			Just upstream of Hedges Road	*857
			About 0.7 mile upstream of Hedges Road	*879
			About 0.9 mile upstream of Hedges Road	*885
			At City of Xenia Bypass	*897
		Sperling Lane Brook	About 0.1 mile upstream of confluence with Little Miami River	*789

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 0.15 mile upstream of confluence with Little Miami River	*798
			Just upstream of private road	*805
			About 0.25 mile upstream of private road	*821
			About 0.5 mile upstream of Private Road	*841
		Ripple Road Brook	About 0.7 mile upstream of confluence with Little Miami River	*796
			Just upstream of Ripple Road	*825
			About 0.4 mile upstream of Indian Ripple Road	*847
		Beaver Creek	About 0.6 mile upstream of confluence with Little Miami River	*796
			Just downstream of U.S. Route 35	*802
			Just upstream of Dayton-Xenia Road	*806
			Just upstream of Fairgrounds Road	*817
			About 0.6 mile upstream of Trebein Road	*835
			Just upstream of Yellow Springs Road	*839
			Just downstream of Interstate 675	*840
		Shawnee Creek	About 0.3 mile upstream of mouth	*809
			Just upstream of Hawkins Road	*820
			About 0.8 mile upstream of Hawkins Road	*842
			About 1.3 miles upstream of Hawkins Road	*868
			About 1.7 miles upstream of Hawkins Road	*880
			About 0.2 mile downstream of Orphanage Road	*935
			Just downstream of Dam	*942
			Just upstream of Dam	*950
			Just upstream of South Columbus Street	*954
			Just upstream of Chessie System (about 0.8 mile upstream of Columbus Street).	*970
			Just upstream of South Bickett Road	*998
			About 0.25 mile upstream of South Bickett Road	*1,002
		Ludlow Creek	About 0.2 mile upstream of Hilltop Road	*811
			Just upstream of Fairgrounds Road	*834
			Just upstream of Ludlow Road	*849
			Just upstream of Linebeugh Road	*859
			About 1.1 mile upstream of Linebaugh Road	*874
		Oldtown Creek	About 0.2 mile downstream of Brush Row Road	*826
			Just upstream of Brush Row Road	*831
			About 0.5 mile downstream of Kinsey Road	*854
			Just upstream of Kinsey Road	*880
			About 0.1 mile upstream of Stevenson Road	*937
			Just downstream of U.S. Route 42	*970
			Just upstream of U.S. Route 42	*973
			About 700 feet upstream of U.S. Route 42	*980
			Just upstream of University Park Road	*988
			Just upstream of South Bickett Road	*998
			Just downstream of Conrail	*1,009
			Just upstream of Conrail	*1,013
			Just downstream of U.S. Route 35	*1,026
		Massies Creek	At confluence with Little Miami River	*824
			Just upstream of Conrail	*826
			Just upstream of Stevenson Road	*861
			Just upstream of Wilberforce-Clifton Road	*879
			Just upstream of Charleton Mill Road	*896
			Just upstream of Tarbox Cemetary Road	*935
			Just upstream of private road	*944
			About 0.2 mile upstream of private road	*947
			About 0.8 mile downstream of Cedarville Bridge Street	*960
			About 0.4 mile downstream of Cedarville Bridge Street	*999
			About 0.1 mile downstream of Cedarville Bridge Street	*1,014
		North Fork Massies Creek	At corporate limits with Cedarville	*1,035
			Just downstream of Barber Road	*1,037
		North Wiberforce Brook	About 0.1 mile upstream of confluence with Massies Creek	*892
			Just upstream of Charleton-Mill Road	*946
		Yellow Springs Creek	About 500 feet upstream of Grinnell Road	*859
			About 0.4 mile upstream of Grinnell Road	*867
			About 0.9 mile upstream of Grinnell Road	*892
			Just upstream of Fairfield Road	*947
			Just upstream of Dam	*953
			Just upstream of Conrail	*957
			About 0.3 mile upstream of Ellis Park Dam	*961
		New Germany Branch	About 600 feet downstream of New Germany-Trebein Road (downstream crossing).	*829
			Just upstream of east-bound Interstate 675 (downstream crossing)	*849
			About 150 feet upstream of eastbound Interstate 675 (upstream crossing).	
		West Jr. High Fork	Just downstream of conrail	*880
			About 0.6 mile upstream of Conrail	*888
		Caesar Creek	Just downstream of New Jasper-Paintersville Road	*871
			Just downstream of Jasper Road	*970
			Just downstream of dam	*992
			Just upstream of dam	*1,005
			Just upstream of Shawnee Hills Trail	*1,025
			Just upstream of Chessie System	*1,027
			Just upstream of State Route 72	*1,036
			About 1.5 miles upstream of State Route 72	*1,055
		South Branch Caesar Creek	Just upstream of Jasper Road	*1,068
			Just upstream of Parker Road	*1,021
			Just downstream of Chessie System	*1,031
				*1,048

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Township High Tributary	About 1.0 mile upstream of Chessie System	*1,059
			About 0.2 mile upstream of mouth	*1,058
		Estate Brook	About 1.0 mile upstream of mouth	*1,072
			Mouth at Caesar Creek	*1,044
		Hebble Creek	About 0.65 mile upstream of mouth	*1,061
			About 0.6 mile downstream of Black Lane	*850
		South Fork Massies Creek	At Armstrong Road	*864
			Just upstream of Conrail	*1,034
			About 0.2 mile upstream of Conrail	*1,037
			About 1.0 mile upstream of Conrail	*1,047
		Fairgrounds Road Tributary	Just downstream of Weimer Road	*1,052
			Mouth at Beaver Creek	*813
			Just upstream of Fairgrounds Road	*817
		Painters Creek	Just downstream of Beaver Valley Road	*834
			About 1.0 mile downstream of Bone Road	*963
			Just upstream of Bone Road	*998
		Shawnee Creek Right Bank Tributary.	Just downstream of Hussey Road	*1,007
			About 0.3 mile downstream of Hoop Road	*951
		Shawnee Park Tributary	Just downstream of Hoop Road	*969
			About 0.70 mile downstream of U.S. Route 42	*920
		Little Miami River By-Pass	About 0.5 mile downstream of U.S. Route 42	*922
			Just downstream of U.S. Route 42	*943
		Sugar Creek	Confluence with Sugar Creek	*773
			Divergence with Little Miami River	*776
			Confluence with Little Miami River	*765
		Little Sugar Creek	Just upstream of Waynesville Road	*774
			About 1.6 miles upstream Waynesville Road	*791
			Confluence with Sugar Creek	*773
			About 130 feet upstream Waynesville Road	*775
		Possum Run	About 1.1 miles upstream Waynesville Road	*812
			Just downstream of Little Sugar Creek Road	*845
			Just downstream Feed Wire Road	*870
			Just upstream Swigart Road	*907
		Brewsters Run	About 0.25 mile upstream Real Road	*956
			Downstream corporate limits	*913
			Just downstream Wilmington Pike	*942
			About 200 feet downstream of downstream corporate limits	*845
			About 150 feet upstream of upstream corporate limits	*850

Maps available for inspection at Greene County Courthouse, 89 Greene Street, Xenia, Ohio 45385.

Oklahoma	Town of North Enid, Garfield County (FEMA–5825).	Skeleton Creek	Approximately 50 feet downstream of Purdue Avenue	*1,237
			Just upstream of Purdue Avenue	*1,244
			Just upstream of Chicago Rock Island and Pacific Railroad	*1,245

Map available for inspection at Mayor Jim Powell's home, Route 6, Box 71, Enid, Oklahoma 73701.

Oklahoma	City of Vinita, Craig County (FEMA–5843).	Big Cabin Creek	Just downstream of Highway 66 and Euclid Avenue	*681
			Westwood Avenue Extended	*682
		Bull Creek	At Excelsior Avenue	*681
			Just upstream of Tahlequah Avenue	*682
			Just upstream of Eastern State Hospital Road	*695

Maps available at City Hall, 101 East Illinois, Vinita, Oklahoma 74301.

Oregon	Heppner (City), Morrow County, FEMA–5843.	Willow Creek	100 feet upstream from center of Morgan Street	*1914
			150 feet upstream from center of Main Street	*1936
			125 feet upstream from center of East May Street	*1957
		Hinton Creek	100 feet upstream from center of Alfalfa Street	*1990
			Intersection of creek and center of Elder Street	*1946
		Shobe Creek	100 feet upstream from center of Gilmore Street	*1962
			125 feet upstream from center of Main Street	*1984

Maps available for inspection at City Hall, P.O. Box 756, Heppner, Oregon.

Oregon	Ione (City), Morrow County, FEMA–5845.	Willow Creek	100 feet upstream from center of Gooseberry Road	*1,077
			Intersection of 2nd Street and H Street	*1,093
		Lorraine Canyon	100 feet upstream from center of State Highway 74	*1,098
		Rietmann Creek	On H Street approximately 200 feet south from its intersection with State Highway 74.	#2
			100 feet upstream from center of State Highway 74	*1,103

Maps available for inspection at City Hall, P.O 361, Ione, Oregon 97843.

Oregon	Lexington (Town), Morrow County, FEMA–5845.	Willow Creek	100 feet upstream from center of Union Pacific Railroad	*1,439
			100 feet upstream from center of B Street	*1,451
		Blackhorse Canyon	100 feet upstream from center of Arcade Street	*1,447
			Intersection of C Street and East Street	*1,454

Maps available for inspection at City Hall, P.O. Box 587, Lexington, Oregon.

Oregon	Morrow County (Unincorporated Areas), FEMA–5846.	Willow Creek	100 feet upstream from center of Mountain Road (near Lexington)	*1,414
			100 feet upstream from center of Union Pacific Railroad (near Lexington).	*1,460
		Little Blackhorse Canyon	150 feet upstream from center of Fuller Canyon road (near Heppner)	*1,892
		Hinton Creek	100 feet upstream from center of State Highway 207 and 74	*1,885
			Intersection of creek and center of fairground bridge	*1,971

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shobe Creek	100 feet upstream from center of State Highway 74	*2,039
			100 feet upstream from center of State Highway 206 and 207	*2,115
		Balm Fork	100 feet upstream from confluence with Willow Creek	*1,997

Maps available for inspection at Morrow County Courthouse, Heppner, Oregon.

Pennsylvania	Alsace, Township, Berks County (Docket No. FEMA–5768).	Antietam Creek	Approximately 1,450' downstream from Seidel Road	*580
			Approximately 1,050' downstream from Seidel Road	*595
			Approximately 750' downstream from Seidel Road	*602
			Approximately 300' downstream from Seidel Road	*610

Maps available at the Alsace Township Offices.

Pennsylvania	Brecknock, Township, Lancaster County (Docket No. FEMA–5815).	Tributary 2	Upstream of Beam Road Bridge	*373
			Approximately 2,000' upstream of Beam Road Bridge	*383
			Approximately 3,000' upstream of Beam Road Bridge	*391

Maps available at the Brecknock Township Building.

Pennsylvania	Ephrata, Borough, Lancaster County (Docket No. FEMA–5828).	Cocalico Creek	Downstream Corporate Limits	*326
			250' downstream of State Route 272	*329
			Old Mill Road Upstream	*330
			South Oak Street Upstream	*338
			West Main Street Upstream	*341
			3rd Street (Extended)	*344
			Upstream Corporate Limits	*351

Maps available at the Borough Hall, Ephrata, Pennsylvania.

Pennsylvania	Fairmount, Township, Luzerne County (Docket No. FEMA–5828).	Huntington Creek	Downstream Corporate Limits	*815
			Legislative Route 40067 (Upstream side)	*824
			Confluence at Rittenhouse approximately 4,000' upstream of Legislative Route 40067.	*839
			Approximately 7,2000' upstream of of Legislative Route 40067	*858
			Confluence of Phillips Creek	*886
			Upstream Corporate Limits	*895
		Kitchen Creek	Downstream Corporate Limits	*818
			Legislative Route 40057	*844
			Approximately 2,000' upstream of Legislative Route 40057	*864
		Phillips Creek	Confluence with Huntington Creek	*886
			T–620 (Upstream side)	*889
			Approximately 1,500' upstream of T–620	*920

Maps available at the residence of Lois J. Bolwka, Fairmount Township Secretary, R.D. 1., Benton, Pennsylvania.

Pennsylvania	Fawn, Township, York County (Docket No. FEMA–5828).	Muddy Creek	Upstream side of State Route 425 Bridge	*303
			3,000' upstream of State Route 425 Bridge	*308
			Upstream side of Bridgeton Road Bridge	*314
		South Branch Muddy Creek Road	100' upstream of confluence with Muddy Creek	*370
			1,500' upstream of confluence with Muddy Creek	*375
			2,500' upstream of confluence with Muddy Creek	*380
			Upstream side of Muddy Creek (Township Route 630) Bridge	*386
			2,000' upstream of Muddy Creek Road (Township Route 630) Bridge	*391
			4,000' upstream of Muddy Creek Road (Township Route 630) Bridge	*396
			7,5000' upstream of Muddy Creek Road (Township Route 630) Bridge	*411
			Upstream side of Muddy Creek Road (Township Route 633) Bridge	*418
		Bald Eagle Creek	Upstream side of State Route 425 Bridge	*306
			1,500' upstream of State Route 425 Bridge	*313
			2,500' upstream of State Route 425 Bridge	*319
			3,500' upstream of State Route 425 Bridge	*324
			1,000' downstream of Gamble Road Bridge	*331
			250' downstream of Gamble Road Bridge	*336
			Upstream side of Gamble Road Bridge	*340
			1,500'upstream of gamble Road Bridge	*348
			1,500' downstream of Jones Road Bridge	*355
			500' downstream of Jones Road Bridge	*362
			Upstream side of Jones Road Bridge	*366
			800' upstream of Jones Road Bridge	*373
			1,600' upstream of Jones Road Bridge	*381

Maps available at the Cedar Valley Grocery Store, Gatchelville, Pennsylvania.

Pennsylvania	Felton Borough, York County (Docket No. FEMA–5828).	North Branch Muddy Creek	Upstream Corporate Limits	*544
			Downstream side of Church Street Bridge	*536
			Downstream side of Water Street Bridge	*533
			Downstream Corporate Limits	*530
		Pine Run	Upstream Corporate Limits	*552
			Upstream side Moul Avenue Bridge	*540
		Tributary to North Branch Muddy Creek.	Upstream Corporate Limits	*548
			Upstream of L.R. 66100 Bridge	*543

Maps available at the residence of Kathryn S. Shultz, Borough Secretary, Corner of Main and Church Streets, Felton, Pennsylvania.

Pennsylvania	Foster, Township, Luzerne	Sandy Run	Approximately 1.25 miles upstream from confluence with Lehigh River	*1,159

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	County (Docket No. FEMA-5824).		Legislative Route 40118	*1,204
			Upstream Private Road Upstream	*7,245
		Pond Creek	Lake Drive (extended) Downstream	*1,357
			Hickory Hill Drive Upstream	*1,371
			Upstream of Gravel Road (extended)	*1,406
			Woodhaven Road Downstream	*1,427
			State Route 940 Downstream	*1,436
Maps available at the Foster Township Building, 1000 Wyoming Avenue, Freeland, Pennsylvania.				
Pennsylvania	Hazle, Township, Luzerne County (Docket No. FEMA-5824).	Black Creek	Downstream State Route 93	*1,458
			Confluence of Tributary to Black Creek	*1,463
			Confluence of Lattimer Creek	*1,491
			Upstream State Route 309	*1,496
			Upstream State Route 940	*1,504
		Lattimer Creek	Confluence with Black Creek	*1,491
			Upstream 28th Street	*1,502
			Upstream State Route 309	*1,530
			Upstream 32nd Street	*1,553
			Downstream Township Route 326	*1,560
			Upstream Township Route 326	*1,587
Maps available at the Hazle Municipal Building, 23rd and Peace Streets, Hazleton.				
Pennsylvania	North Hopewell, Township, York County (Docket No. FEMA-5843).	Tributary No. 2 to North Branch Muddy Creek.	Corporate Limits	*548
			Approximately 960' upstream of Corporate Limits	*558
		North Branch Muddy Creek	Downstream Corporate Limits	*487
			Approximately 3,000' upstream of downstream Corporate Limits	*499
			Approximately 7,500' upstream of downstream Corporate Limits	*529
			Approximately 13,000' upstream of downstream Corporate Limits	*554
			Confluence of Tributary No. 1 to North Branch Muddy Creek	*560
			Downstream side of Township Route 802 Bridge	*564
			Approximately 1,000' upstream of Township Route 802 Bridge	*574
			Approximately 2,750' upstream of Township Route 802 Bridge	*581
			Upstream side of Township Route 656 Bridge	*603
			Upstream side of Legislative Route 66166 Bridge	*625
			Approximately 450' upstream of Legislative Route 66166 Bridge	*629
		East Branch Codorus	Downstream Corporate Limits	*516
			Upstream side of Ridgeview Road Bridge	*531
			Approximately 5,500' upstream of Corporate Limits	*537
			Upstream side of Graydon Road Bridge	*548
			Upstream of Seaks Run Road Bridge	*564
		Tributary No. 1 to North Branch Muddy Creek.	Confluence of North Branch Muddy Creek	*560
			Approximately 1,400' upstream of confluence with North Branch Muddy Creek.	*570
			Downstream side of downstream crossing of Township Route 696	*578
			Upstream side of Township Route 655 Bridge	*593
			Upstream side of Legislative Route 66055 Bridge	*616
			Approximately 7,000' upstream of Corporate Limits	*629
			Upstream side of Grim Road Bridge	*640
Maps available at the North Hopewell Municipal Building, R. D. 1, High Point Road, Felton, Pennsylvania.				
Pennsylvania	North Towanda, Township, Bradford County (Docket No. FEMA-5828).	Susquehanna River	Downstream Corporate Limits	*723
			Upstream Corporate Limits	*729
		Sugar Creek	Confluence with Susquehanna River	*727
			Upstream side of U.S. Route 220	*741
			Corporate Limits (Township of Towanda)	*764
			Downstream side Township Route 545	*796
			Downstream side of U.S. Route 6	*833
			Upstream Corporate Limits	*837
Maps available at the North Towanda Township Building, R. D. 1, Towanda, Pennsylvania.				
Pennsylvania	North Versailles, Township, Allegheny County (Docket No. FI-5440).	Monongahela River	Port Perry Bridge	*741
			Upstream Corporate Limits	*743
		Turtle Creek	Confluence with Monongahela River	*741
			Floodgate at 200' downstream side of Westinghouse Bridge	*741
			Confluence of Thompson Run	*733
			Greensburg Avenue	*734
			Upstream side of Wall Borough Bridge	*750
			2nd Upstream crossing of Corporate Limits	*776
		Crooked Run	Downstream Corporate Limits	*816
			Upstream side of Arcannia Street	*830
			1,300' downstream of Fifth Avenue	*865
		Thompson Run	Confluence with Turtle Creek	*733
Maps available at the North Versailles Township Building, 1401 Greensburg Avenue, North Versailles, Pennsylvania.				
Pennsylvania	Springfield, Township, York County (Docket No. FEMA-5828).	East Branch Codorus Creek	500' downstream of Ore Road	*518
			100' upstream of Ore Road	*520
			100' downstream of Ridge View Road	*527
			70' upstream of Graydon Road	*548

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			75' downstream of Seaks Run Road	*559
			75' upstream of Seaks Run Road	*564
Maps available at the Springfield Township Building, Seven Valleys, Pennsylvania.				
South Carolina	Town of Ravenel, Charleston County (FEMA-5825).	Middle Branch	Just upstream of Miley Hill Road	*15
			Just downstream of U.S. Highway 165	*27
			Just upstream of U.S. Highway 165	*30
		Atlantic Ocean (Backwater flooding along Middle Branch and Tributary to Wallace.	On Tributary to Wallace River just downstream of U.S. Highway 17	*7
			On Tributary to Middle Branch just upstream of U.S. Highway 17	*8
Maps available at Town Hall, P.O. Box 88, Route 1, Ravenel, South Carolina 29470.				
South Carolina	Rock Hill (City), York County, FEMA-5845.	Little Dutchman Creek	At confluence with Little Dutchman Creek Tributary No. 1	*525
		Little Dutchman Creek Tributary No. 1.	100 feet upstream from center of South Carolina Highway 161 (Celanese Road).	*531
			100 feet downstream from center of Ebinport Road	*549
			100 feet upstream from center of Ebinport Road	*562
			100 feet upstream from center of India Hook Road	*590
		Little Dutchman Creek Tributary No. 1–A.	At confluence with Little Dutchman Creek Tributary 1	*533
			100 feet downstream from center of Ebinport Road	*570
		Catawba River Tributary	100 feet upstream from center of Riverview Road	*566
		Manchester Creek	100 feet upstream from center of U.S. Highway 21 Bypass	*568
			100 feet upstream from center of South Carolina Highway 22	*585
			100 feet downstream from center of Southern Railway	*602
		Manchester Creek Tributary No. 2	100 feet upstream from center of U.S. Highway 21 Bypass	*571
		Manchester Creek Tributary No. 3	At confluence with Manchester Creek	*570
			100 feet downstream from center of Eastwood Drive	*605
		Taylors Creek Tributary No. 1	Intersection of creek and center of Glenarden Avenue	*570
			150 feet downstream from center of Albright Road	*593
		Taylors Creek Tributary No. 2	At confluence with Taylors Creek Tributary No. 2–A	*559
			100 feet upstream from center of Blackman Street	*596
		Wildcat Creek Tributary No. 1	At confluence with Wildcat Creek Tributary No. 1–A (near the end of Pine Terrace Drive).	*575
			100 feet upstream from center of Reynolds Street	*593
		Wildcat Creek Tributary No. 2	100 feet northwest from the northwest end of Calhoun Street	*587
		Stoney Branch	Intersection of King Drive and Aaron Avenue	*587
			Intersection of Boulware Street and Lomax Street	*570
Maps available for inspection at P.O. Box 11706, Rock Hill, South Carolina 29730.				
Tennessee	Town of Ashland City, Cheatham County (FEMA-5825).	Cumberland River	At Frey Street extended	*402
Maps available for inspection at City Hall, Court Street, Ashland City, Tennessee 37015.				
Tennessee	Unincorporate Areas of Williamson County (FEMA-5841).	Harpeth River	Just upstream of Union Bridge Road	*578
			Just upstream of Morgan Road	*584
			Just upstream of Hillsboro Pike	*601
			Just upstream of U.S. Highway 431	*628
			Just upstream of Douglas Street	*646
			Just upstream of I–65	*650
			Just upstream of Arno Road	*663
			Just upstream of Peytonsville Road	*669
			Just upstream of McDaniel Road	*688
			Just upstream of U.S. Highway 31A	*705
		Little Harpeth River	Just upstream of Stockit Jaoghns Gap Road	*582
			Just upstream of U.S. Highway 431	*609
			Just upstream of Wildwood Valley Drive	*614
		West Harpeth River	Just upstream of Del Rio Pike	*613
			Just upstream of State Highway 96	*630
			Just upstream of Boyd Mill Pike	*641
		South Harpeth River	Just upstream of Old Harding Pike (downstream crossing)	*579
			Just upstream of Oil Harding Pike (Upstream crossing)	*595
			Just upstream of Old Highway 96	*613
		Mill Creek	Just upstream of Concord Road	*555
			Just upstream of Sunset Drive	*598
Maps available at Williamson County Planning Commission, County Courthouse, Public Square, Franklin, Tennessee 37064.				
Texas	City of Cedar Hill, Dallas and Ellis Counties (FEMA-5841).	Stewart Branch	Just upstream of Duncanville Road	*640
			Just downstream of Dam	*677
			Just upstream of Dam	*690
		Bentle Branch	Just upstream of Shady Brook	*699
			Just upstream of Dam	*740
		Red Oak Creek	Little Creek Drive extended	*729
		Stream 3B1	Just upstream of Little Creek Drive	*733
		Cedar Hill Branch	Just upstream of Parkerville Road	*766
		Tenmile Creek	Approximately 170 feet downstream of Clark Road	*701
Maps available at City Hall, 502 Cedar Street, Cedar Hill, Texas 75104.				

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Coleman, Coleman County (FEMA–5843).	Little Concho	Just upstream of Guadalupe Street	*1,678
			Just upstream of Commercial Avenue	*1,690
			Just upstream of the most upstream crossing of Fifth Street	*1,713
		Unnamed Tributary of Little Concho Creek.	Approximately 120 feet upstream of Second Street	*1,685
			Just downstream of Fifth Street	*1,691
		Hords Creek	Just upstream of State Highway 206	*1,682
			Just upstream of U.S. Highways 283 and 84	*1,696
		Unnamed South Tributary of Hords Creek.	Just upstream of Colorado Street	*1,683
			Approximately 140 feet upstream of Gross Street	*1,686
		Unnamed North Tibutary of Hords Creek.	Approximately 150 feet upstream of U.S. Highway 84	*1,726
Maps available at City Hall, 117 North Concho, Coleman, Texas 76834.				
Texas	City of North Richland Hills, Tarrant County (FEMA–5825).	Little Bear Creek	Approximately 175 feet upstream of Kirk Lane	*620
			Just upstream of F.M. 1938	*635
		Little Bear Creek Tributary No. 1	Just upstream of F.M. 1938	*635
			Just downstream of Shady Grove Road	*662
		Little Bear Creek Tributary No 2	Just upstream of North Field Street	*638
			Just downstream of F.M. 1938	*647
		Walker Branch	Just upstream of Cardinal Lane	*607
			Approximately 150 feet downstream of Brookridge Drive	*643
		Walker Branch Tributary No. 3	Just upstream of Cardinal Lane	*620
		Calloway Branch	Just upstream of Booth Calloway Drive	*558
			Just upstream of St. Louis-Southwestern Railroad	*612
			Approximately 100 feet downstream of Hightower Drive	*639
		Calloway Branch Tributary No. 4	Just upstream of Chapman Drive	*626
			Just upstream of Hightower Drive	*644
		Calloway Branch Tributary N0. 5	Just upstream of Watauga Drive	*627
			Just upstream of St. Louis-Southwestern Railroad	*633
		Mackey Creek	Just upstream of Richland Plaza Drive	*540
			Just downstream of Harmonson Road	*560
			Just downstream of Pipeline Road	*580
		Big Fossil Creek	Approximately 200 feet downstream of Onyx Drive	*521
		Big Fossil Creek Tributary No. 6	Just upstream of State Highway 820	*550
		Big Fossil Creek Tributary No. 7	Just upstream of dam	*579
			Just upstream of Roaring Creek Drive	*582
Maps available at Sub-Courthouse, 8000 Bedfordeuless Road, North Richland Hills, Texas 76118.				
Texas	City of Pleasanton, Atascosa County (FEMA–5841).	Atascosa River	Just upstream of Missouri-Pacific Railroad	*351
			Just downstream of of U.S. Highway 281	*355
			Just upstream of FM 242 and 476 (Commerce Street)	*362
		Bonita Creek	Just upstream of Mansfield Street	*357
			Just downstream of Winship Road	*368
Maps available at City Hall, 108 Boardway Place, Pleasanton, Texas 78064.				
Vermont	Bolton, Town, Chittenden County (Docket No. FEMA–5845).	Winooski River	Downstream corporate limits	*325
			Approximately 17,420 feet upstream of downstream corporate limits	*337
			Upstream corporate limits	*352
Maps available at the Office of the Town Clerk, Route 2, Bolton, Vermont.				
Vermont	Sheldon, Town, Franklin County (Docket No. FEMA–5845).	Missisquoi River	6,000' downstream of Sheldon Springs Dam	*222
			4,800' downstream of Sheldon Springs Dam	*229
			2,500' downstream of Sheldon Springs Dam	*262
			1,050' downstream of Sheldon Springs Dam	*287
			Downstream side of Sheldon Springs Dam	*307
			Upstream side of Sheldon Springs Dam	*336
			Downstream side of State Route 105	*340
			Central Vermont Railway Bridge	*348
			Upstream side of Saint Johnsbury and LaMoille Railroad Bridge	*353
			Downstream side of County Route 3	*364
			27,000' upstream of County Route 3	*373
Maps available at the Office of the Town Clerk, Sheldon, Vermont.				
Washington	Kent (City), King County, FEMA–5845.	Green River	350 feet upstream from center of State Route 516 (Kent-Des Moines Road).	*36
		Springbrook Creek	50 feet upstream from center of South 188th Street	*23
			Intersection of Springbrook Creek and center of South 228th Street	*31
		Mill Creek	50 feet downstream from center of South 196th Street	*21
			50 feet upstream from center of East Titus Street	*45
		Shallow Flooding	250 feet southeast of intersection of South 192nd Street and 80th Avenue South.	*22
			200 feet north of intersection of Russell Road (53rd Avenue South) and South 228th Street.	*29
			300 feet southeast of intersection of State Route 167 (Valley Freeway) and Chicago, Milwaukee, St. Paul and Pacific Railroad.	*33
		Shallow Flooding	250 feet east of intersection of East George Street and North Woodford Avenue.	#2
Maps available for inspection at 220 South 4th, Kent, Washington.				
Wisconsin	(V) Ettrick, Trempealeau County (Docket No. FEMA–5845).	North Fork Beaver Creek	Approximately 200 feet upstream South corporate limits	*757
			Just downstream Bridge Street	*762

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 150 feet upstream Bridge Street	*765
			North corporate limits	*769
		South Fork Beaver Creek	Approximately 1,000 feet downstream from South Main Street	*758
			Approximately 80 feet downstream of South Main Street	*761
			About 2,400 feet upstream South Main Street	*769
Maps available for inspection at the Village Office, 117 North Main Street, Ettrick, Wisconsin 54627.				
Wisconsin	(V) Random Lake, Sheboygan County (Docket No. FEMA–5843).	Random Lake	Shoreline	*871
		Silver Creek	At mouth	*871
			Southern corporate limits	*872
Maps available for inspection at the Office of the Village Clerk, Village Hall, 110 Butler Street, Random Lake, Wisconsin 53075.				
Wisconsin	(C) Watertown, Dodge and Jefferson Counties (Docket No. FEMA–5843).	Rock River	Downstream corporate limits	*793
			Just upstream of State Highway 26	*797
			About 250 feet downstream of the Lower Watertown Dam	*803
			Just upstream of the Upper Watertown Dam	*825
			Upstream corporate limits	*826
		Silver Creek	Mouth at Rock River	*812
			At upstream corporate limits	*813
			Approximately 800 feet upstream of the upstream corporate limits	*814
Maps available for inspection at the Office of the City Engineer, City Hall, 106 Jones Street, Watertown, Wisconsin 53094.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–41280; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-34451 Filed 11-5-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

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Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Washingtonville, Village, Orange County (Docket No. FI-5179).	Moodna Creek	Downstream Corporate Limits	*304
			Downstream Locust Street Bridge	*306
			Upstream of Conrail Bridge	*309
			Upstream of Route 208 Bridge	*312
			Upstream Corporate Limits	*317
	Maps available at the Village Hall, Washingtonville, New York.			
Virginia	Martinsville, City (Docket No. FI-5147).	Jones Creek	Downstream Corporate Limits	*742
			State Route 108	*764
			Prison Farm Road	*777
			Private Bridge 2,400 feet upstream of Prison Farm Road	*803
		Jones Creek Tributary No. 1	Confluence with Jones Creek	*765
			0.4 mile upstream from the confluence with Jones Creek	*801
		Jones Creek Tributary No. 2	Confluence with Jones Creek	*777
			State Route 662	*784
		Tributary of Mulberry Creek	Downstream Corporate Limits	*837
			U.S. Route 58	*879
		Doe Run	Downstream Corporate Limits	*708
			Overland Avenue extended	*800
		Rugg Creek	Confluence of Tanyard Branch and Aarons Branch	*831
			Confluence of Tributary No. 1	*756
			Smithlake Road	*763
			Open Air Pavilion Entrance	*777
			Private Bridge at River Mile 1.7	*802
			Scufflehill Road	*833
			Rives Road	*849
			Mulberry Road	*867
			Gates Street	*878
		Aarons Branch	Confluence of Tanyard Branch	*831
			U.S. Highway 220	*877
			Bridge Street	*887
		Smith River	Downstream Corporate Limits	*656
			Upstream Corporate Limits	*712
	Maps available at City Hall, 55 West Church Street, Martinsville.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 23, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-34450 Filed 11-5-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. HM-36A; Amdt. No. 171-56]

Elimination of Certain Reporting Requirements

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Hazardous Materials Regulations is to eliminate the requirement for written reports of transportation incidents involving certain low risk hazardous materials. The Materials Transportation Bureau (MTB) believes that this action will result in a significant savings to the public without adversely affecting public safety or health.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Irving R. Abis, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, phone 202–472–2726.

SUPPLEMENTARY INFORMATION: On June 16, 1980, the MTB published a notice of proposed rulemaking, Docket HM–36A; Notice No. 80–5 (45 FR 40628) which proposed the elimination of certain requirements for the submission of hazardous materials incident reports presently required by § 171.16 of the Hazardous Materials Regulations. Subject to this action are materials being transported under the following proper shipping names "Consumer Commodity," "Battery, electric storage, wet", or "Paint, Enamel Lacquer, Stain, Shellac *or* Varnish; Aluminum, Bronze, Gold, Wood filler liquid *or* Lacquer base, liquid." With respect to paint and related materials, this exception applies only when shipped in packagings of five gallons or less. The reasons for this action were stated in Notice 80–5.

The MTB received twenty-four comments in response to the proposed regulation and twenty-three of them, including one from the National Transportation Safety Board, were substantive in nature. All comments were in favor of the proposal.

Two commenters requested that all paperwork requirements be eliminated relative to the materials covered by this action. These comments are clearly outside the scope of this action. One commenter suggested that all reporting requirements for hazardous materials incidents other than those required under § 171.15(a) be eliminated. The MTB believes that written incident reports are valuable in determining problem areas which should be addressed by rulemaking. However, as stated in the notice of proposed rulemaking, the MTB believes that sufficient data has been obtained on the specified hazardous materials to justify eliminating the reporting requirements for these materials. The preamble to Docket No. HM–36; Amendments Nos. 171–7, 173–39, 174–7, 175–5, 176–3, 177–14, (35 FR 16836), published October 31, 1970, addressed the question of whether the incident reports would be of value. The preamble stated that as experience was gained under the incident report system, it would be easier to analyze which reports were of significant value and which were not. The MTB believes this rulemaking takes a step in determining those reports of significant value.

Several commenters suggested that the MTB consider eliminating reporting requirements for additional commodities. Further analysis will determine whether additional exceptions to the reporting requirements would be warranted and if so, additional notices of proposed rulemaking will be published.

Two commenters requested that wording of the proposed amendment in § 171.16(c)(3) be changed from "... when shipped in quantities of five gallons or less", to include multiple packagings of five gallon or less. The MTB agrees with this comment since the analysis upon which the notice was based involved incident reports of package failures, most of which were multiple packagings. This comment has been incorporated in § 171.16(c)(3).

Although not mentioned in the notice, § 171.16(b) is being revised to reflect a change in operational procedures in processing incident reports. Because this action, does not impose any burden on the general public, public proceedings are unnecessary.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows:

In § 171.16 paragraph (b) is revised and paragraphs (c) and (d) are added to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(b) Each carrier making a report under this section shall send that report to the Chief, Statistical Information Reporting Branch (DTS–233), Transportation Systems Center, U.S. Department of Transportation, Kendall Square, Cambridge, MA 02142.

(c) Except as provided in paragraph (d) of this section, the requirements of paragraph (a) of this section do not apply to incidents involving the unintentional release of hazardous materials being transported under the following proper shipping names:

(1) Consumer commodity

(2) Battery, electric storage, wet

(3) Paint, Enamel, Lacquer, Stain, Shellac *or* Varnish Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base liquid when shipped in packagings of five gallons or less.

(d) The exceptions to incident reporting provided in paragraph (c) of this section do not apply to:

(1) Incidents required to be reported under § 171.15(a);

(2) Incidents involving transportation aboard aircraft; nor

(3) Incidents involving the transportation of hazardous waste.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12221 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on October 24, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-34282 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub.-No. 43)]

Rules Governing Applications for Operating Authority; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to interim rules and request for comments.

SUMMARY: On July 3, 1980, at 45 FR 45534, the Commission published rules to reflect changes in statutory provisions as required by the Motor Carrier Act of 1980. The changes required include expedited procedures, changing the entry standards for motor carriers of property, and redefining contract carriage of property by motor vehicle.

This notice corrects those interim rules by deleting a sentence which was included in error in that notice.

FOR FURTHER INFORMATION CONTACT: Peter Metrinko (primary contact), (202) 275–7805, Van Bosco (forms information), (202) 275–0193, Donald J. Shaw, Jr. (202) 275–7292.

SUPPLEMENTARY INFORMATION: In § 1100.247(A), which was redesignated as § 1100.251 at 45 FR 64958, October 1, 1980, delete the last sentence of paragraph (b). That sentence reads: "The rules at § 1100.247(E) pertain only to cases set for oral hearing."

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34574 Filed 11-5-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 217
Thursday, November 6, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 474

[Docket No. CAS-RM-80-202]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Equivalent Petroleum-Based Fuel Economy Calculation; Notice of Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) is proposing amendments to the procedures proposed to be used in calculating the equivalent petroleum-based fuel economy of electric vehicles. DOE originally proposed such procedures in a Notice of Proposed Rulemaking on May 12, 1980 (45 FR 34008; May 21, 1980), pursuant to section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, as added by section 18 of the Chrysler Corporation Loan Guarantee Act of 1979. The equivalent petroleum-based fuel economy value is intended to be used in calculating corporate average fuel economy pursuant to interim regulations recently issued by the Environmental Protection Agency (40 CFR Part 600; 45 FR 49256; July 24, 1980). The amendments proposed today are values for the petroleum equivalency factor used in the calculation procedure.

DATES: Written comments must be received by 5:30 p.m., e.s.t. on or before January 5, 1981. The hearing will be held on November 25, 1980 at 9:00 a.m. e.s.t. Requests to speak at the hearing must be received by 5:30 e.s.t. on November 14, 1980, and speakers will be notified by November 19, 1980.

ADDRESSES: Send written comments to Carol Snipes, Office of Hearings and Dockets, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The public hearing will be held in Room 3000A, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert S. Kirk, Electric and Hybrid Vehicles Divison, Mail Stop 5H-063, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-8032.

Pamela Pelcovits, GC-33, FOR, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9516.

Carol Snipes, Office of Dockets and Hearings, Mail Stop 6B025, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9319.

SUPPLEMENTARY INFORMATION:

I. Background
II. Development of the Proposed Amendments
III. Discussion of the Proposed Amendments
IV. Opportunities for Written Comment
V. Other Matters

1. Background

A. Legislation

In an effort to conserve energy through the improved efficiency of motor vehicles, Congress, in 1975, passed the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163. Title III of EPCA amended the Motor Vehicle Information and Cost Savings Act (15 USC 1901 *et. seq.*) (the Motor Vehicle Act) by mandating fuel economy standards for automobiles produced in, or imported into, the United States. This legislation, as amended, requires that every manufacturer or importer meet a specific corporate average fuel economy (CAFE) standard for the fleet of vehicles that the manufacturer produces or imports in any model year. Administrative responsibilities for the CAFE program are assigned to the Department of Transportation and the Environmental Protection Agency (EPA) under the Motor Vehicle Act. The Secretary of Transportation is responsible for prescribing the CAFE standard through model year 1984 (the CAFE standard for model year 1985 and subsequent model years is prescribed in the Motor Vehicle Act) and enforcing the penalties for failure to meet these standards. The Administrator of EPA is responsible for calculating a manufacturer's CAFE value.

Because electric vehicles do not consume fuel (as defined in section 501(5) of the Motor Vehicle Act) for propulsive power, they are not included in the Motor Vehicle Act definition of an automobile and, accordingly, are not included in the calculation of a manufacturer's CAFE value.

On January 7, 1980, the President signed the Chrysler Corporation Loan Guarantee Act of 1979 (Pub. L. 96-185) (the Act). Section 18 of the Act amended section 13(c) of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (Pub. L. 94-413) (the EHV Act) and directed the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of EPA, to conduct a 7-year evaluation program of the inclusion of electric vehicles in the calculation of average fuel economy to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. Section 13(c) of the EHV Act, as amended, directs the Administrator of EPA to implement the evaluation program by amending EPA regulations to include the electric vehicles in calculating a manufacturer's CAFE value.

Section 18 of the Act also amends section 503(a) of the Motor Vehicle Act and directs the Secretary of Energy to determine equivalent petroleum-based fuel economy values for various classes of electric vehicles. The intent of this legislation is to provide an incentive for vehicle manufacturers to produce electric vehicles by including the expected high equivalent fuel economy of these vehicles in the CAFE calculation and thereby to accelerate the early commercialization of electric vehicles, pursuant to the requirements of section 503(a)(3) of the Motor Vehicle Act.

Section 503(a)(3) of the Motor Vehicle Act requires DOE to determine the equivalent petroleum-based fuel economy values for various classes of electric vehicles taking into account the following parameters:

(i) The approximate electric energy efficiency of the vehicles considering the vehicle type, mission, and weight;

(ii) The national average electricity generation and transmission efficiencies;

(iii) The need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity; and

(iv) The specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles.

B. Implementation

DOE proposed regulations at 10 CFR Part 474 that provide a method of calculating equivalent petroleum-based fuel economy values for electric vehicles on May 12, 1980 (45 FR 34008, May 21, 1980). As stated in the preamble to the proposed regulations, DOE did not include proposed values for the petroleum equivalency factors (see section II, below) at that time, due to the need for additional data from the DOE Energy Information Administration (EIA) 1979 Annual Report to Congress which has only recently been published. DOE is now proposing the additional values. As required by section 18 of the Act, DOE intends to publish the final regulations by the end of 1980, within 6 months of the issuance of the original proposal.

As required by section 13(c) of the EHV Act, as amended, the Administrator of EPA has recently issued interim regulations to include electric vehicles in calculating a manufacturer's CAFE value (400 CFR Part 600; 45 FR 49256; July 24, 1980).

C. Calculation Procedure

The following is a summary of the procedures for calculating the equivalent petroleum-based fuel economy values (in units of miles per gallon) of electric vehicles which DOE proposed on May 12, 1980. The use of these procedures will provide fuel economy values for the various electric vehicle types that manufacturers may produce. This calculation involves converting the actual electrical energy consumption of an electric vehicle (kilowatt-hours per mile) to miles per gallon and adjusting that figure to account for the legislative parameters ii through iv stated in I.A above. For a more detailed development and discussion of the calculation procedure, the reader should refer to the discussion in the preamble to the May proposal.

The methodology for determining the equivalent petroleum-based fuel economy of electric vehicles specified a series of arithmetic steps. The mathematical form of the calculation is the following equation: $FE = FE_{ee} \times PEF$

where

FE = the equivalent petroleum-based fuel economy,

FE_{ee} = the energy-equivalent fuel economy value (miles per gallon), and

PEF = the petroleum equivalency factor.

The petroleum equivalency factor (PEF) is defined as follows:

$$PEF = DPF \times \eta_t \times AF \times \frac{E_{total}}{\sum_i I_i V_i}$$

where:

DPF = driving pattern factor

η_t = average national electricity transmission efficiency

E_{total} = total amount of electricity generated from all fuel sources for the model year (quads)

I_i = input energy of fuel used to generate electricity from fuel source i (quads)

V_i = relative value factor of fuel source i

In the May proposal, values for the driving pattern factors (DPF), average national electricity transmission efficiency (η_t),and accessory factor (AF) were provided in the preamble. The values for E_{total}, I_i, and V_i were given as sample values only because data for these values were still under development by EIA at that time. Consequently, the aggregated values for the petroleum equivalency factors were not proposed. Today's proposed rulemaking amends the May proposal by proposing values for the petroleum equivalency factors at 10 CFR section 474.4(d). The values for E_{total}, I_i, and V_i, that are used in computing the PEF, are provided for public comment in this preamble.

II. Development of the Proposed Amendment

A. Values of Factors to be Used in Calculation of Equivalent Petroleum-Based Fuel Economy

In the following paragraphs, there are references to various DOE publications. Copies of these publications will be available in the Freedom of Information Reading Room, Room 5B 180, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 255-6020.

The values being proposed in this rulemaking are based on projected data for the prices and quantities of fuels used to generate electricity during the time period 1981 through 1987. These projections are derived from data developed by the EIA and published recently in the Annual Report to Congress 1979, Volume Three: Projections, U.S. Department of Energy, Energy Information Administration, DOE/EIA-0173(79)/3. These projections were developed through economic models and are based on various assumptions including the future price of imported oil as discussed in the Annual Report.

All of the mid-term projections used in this rulemaking (1958 and 1990) are developed by EIA for three separate scenarios: low, mid, and high. These scenarios are based on three different assumed price paths for the price of imported oil. The assumed price per barrel of imported oil in the low scenario is $27 in 1985 and $27 in 1990 (all values in constant 1979 dollars); in the mid scenario, it is $32 in 1985 and $37 in 1990; and in the high scenario, it is $39 in 1985 and $44 for 1990. EIA makes no judgment as to which scenario is more likely to occur; this enables the user of these projections the flexibility of using the most appropriate values.

For the purposes of this rulemaking, all values for the projections are taken from the high scenario. In the high scenario, there is a continued increase in the real price of imported oil during this decade. Previously, world oil prices have increased at a rate exceeding even the assumed high scenario projections. DOE believes it is best, therefore, to proceed under the high scenario assumptions. Comments on the use of the high scenario projections are requested.

While it is recognized that different analyses and assumptions are possible, DOE believes that the EIA data is currently the most appropriate for the purposes of this rulemaking. Minor variations in the values used will not significantly affect a particular equivalent petroleum-based fuel economy calculation. DOE is required to review the regulations annually, pursuant to section 503(a)(3)(c) of the Motor Vehicle Act. Therefore, if these projections change significantly of if better data becomes available, these values can be revised at a later date. DOE is interested in comments on the suitability of these projections.

The proposed values of E_{total} and I_i appear in Table I. The values for the year 1981 were obtained directly from the EIA 1979 Annual Report to Congress (Table 3.9, pages 52-53). The values for the years 1985 and 1990 appear in Table 4.3, page 108 of that report. The values for the intervening years (1982 through 1984, 1986 and 1987) were calculated from the values for the years specified by linear interpolation. All values in Table I have been rounded to the nearest 0.1 quad to maintain consistency of significant figures. The fuel source category labelled "Hydroelectric" in the May proposal has been revised to "Hydroelectric and New Technologies," because the latest EIA projections indicate that new technologies (which consist of renewable fuel resources such as geothermal and solar) will constitute just over 1 percent of the total fuel energy consumed to generate electricity by 1985.

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Table I.—*Projections for Electric Energy Generation (Quads)*

Year	Input energy of fuels used to generate electricity					Total electricity generated (E_{total})
	Fuel oil	Natural gas	Coal	Nuclear	Hydro-electric and new technologies	
1981	2.9	3.4	12.5	3.4	3.1	8.1
1982	2.5	3.3	13.3	3.4	3.2	8.4
1983	2.2	3.1	14.1	4.5	3.3	8.7
1984	1.6	3.0	14.9	5.1	3.3	8.9
1985	1.2	2.9	15.7	5.6	3.4	9.2
1986	1.2	3.0	16.3	6.1	3.4	9.6
1987	1.2	3.0	18.9	6.6	3.5	10.0

Table II.—*Projections for Relative Value Factors*

Year	Fuel	Marginal price (dollars per million Btu)	Relative value factors
1981	Automotive Gasoline	10.27	
	Fuel Oil	4.67	0.45
	Natural Gas	2.05	.20
	Coal	1.37	.13
	Nuclear Energy	.54	.05
	Hydroelectric and New Technologies	0.	0.
1982	Automotive Gasoline	10.75	
	Fuel Oil	5.03	.47
	Natural Gas	2.24	.21
	Coal	1.46	.14
	Nuclear Energy	.56	.05
	Hydroelectric and New Technologies	0.	0.
1983	Automotive Gasoline	11.24	
	Fuel Oil	5.40	0.48
	Natural Gas	2.44	.22
	Coal	1.55	0.14
	Nuclear	.56	.05
	Hydroelectric and New Technologies	0.	0.
1984	Automotive Gasoline	11.72	
	Fuel Oil	5.76	.49
	Natural Gas	2.63	.23
	Coal	1.64	.14
	Nuclear	.57	.05
	Hydroelectric and New Technologies	0.	0.
1985	Automotive Gasoline	12.21	
	Fuel Oil	6.13	.50
	Natural Gas	2.83	.23
	Coal	1.73	.14
	Nuclear	.58	.05
	Hydroelectric and New Technologies	0.	0.
1986	Automotive Gasoline	12.40	
	Fuel Oil	6.30	0.51
	Natural Gas	2.98	.24
	Coal	1.78	.14
	Nuclear Energy	.60	.05
	Hydroelectric and New Technologies	0.	0.
1987	Automotive Gasoline	12.59	
	Fuel Oil	6.47	.51
	Natural Gas	3.12	.25
	Coal	1.83	.15
	Nuclear Energy	.62	.05
	Hydroelectric and New Technologies	0.	0.

Table III.—*Petroleum Equivalency Factor Calculation*

Year	Driving pattern factor (DPF)	Electrical transmission efficiency (η_t)	Accessory factor (AF)	Total electric energy generated (quads) (E_{total})	Sum of weighted primary energy source ($\Sigma_i I_i V_i$)	Petroleum equivalency factor
1981	0.85	0.91	0.90	8.1	3.8	1.5
1982	.85	.91	.90	8.4	3.9	1.5
1983	.85	.91	.90	8.7	3.9	1.6
1984	.85	.91	.90	8.9	3.8	1.6
1985	.85	.91	.90	9.2	3.7	1.7
1986	.85	.91	.90	9.6	3.9	1.7
1987	85	.91	.90	10.0	4.2	1.7

The proposed relative value factors (V_i) appear in Table II; they are based on projected marginal prices of fuels delivered to utilities. These projections were developed by EIA and appear in Supplement I to the EIA 1979 Annual Report to Congress, September 1980, DOE/EIA–0173(79)/3–S, pages 534 and 760. The relative value factor, as defined in the rule, represents the marginal energy cost of the individual fuel used to generate electricity divided by the marginal (retail) price of gasoline. The May proposal contained sample values for the relative value factors which were based on average rather than marginal prices because the projections for marginal prices were not fully developed at that time. EIA defines marginal energy cost as "the costs to provide an additional unit of a given energy type to the end-user, including: (1) extraction, conversion, transportation, and distribution costs; and (2) energy taxes and subsidies" (*Estimates of Energy Non-Resource Costs: Energy Taxes and Subsidies*, Analysis Report, Energy Information Administration, Assistant Administrator for Applied Analysis, U.S. Department of Energy, November 1979, DOE/EIA–0184/27).

The marginal energy cost is used because it represents the true cost to the utility of an incremental unit of fuel used to produce an additional unit of electricity. The marginal (retail) price of motor gasoline represents the true savings of an incremental decrease in gasoline usage. All of the fuel prices in Table II are rounded to the nearest 0.01 $/million Btu and the relative value factors are calculated to the nearest 0.01 to maintain consistency of significant figures. The marginal price of coal in Table II is based on medium-sulfur Bituminous coal, which is the best representative national average for coal used to generate electricity.

B. Petroleum Equivalency Factor

The mathematical formula for the petroleum equivalency factor was described in Section I.C. Values for all of the factors in the equation, in addition to the calculated petroleum equivalency factors for each model year covered by the program, are listed in Table III. The values for driving pattern factor, electrical transmission efficiency, and accessory factor are unchanged from the values contained in the May 1980 proposal except that they are now rounded off to two decimal places to maintain consistent significant figures.

The sum of weighted primary energy sources consists of the sum of each input energy (I_i) of fuels used to generate electricity from Table I, multiplied by its respective relative value factor (V_i) from Table II, for each model year of the program. The values for total electricity generated (E_{total}) are taken directly from Table I.

III. Discussion of the Proposed Amendments

A. Petroleum Equivalency Factors

Section 474.4(d) contains the values for the petroleum equivalency factors for the years covered by the 7-year evaluation program of the inclusion of electric vehicles in corporate average fuel economy (model years 1981 through 1987). The May 1980 proposal did not include these values but did list sample values in the preamble which were based on preliminary projections. The values proposed in this rulemaking have been revised from those sample values as discussed above by incorporating the updated projections and by rounding off to two significant digits.

B. Comments Requested

The Department of Energy solicits only those comments that are specifically related to the numerical values in this proposal. Comments submitted in response to the May 1980 proposal that pertain to the values in this proposal need not be resubmitted. Comments on the May 1980 proposal, as well as comments on this proposal, will be considered to determine the final regulation to be issued in December 1980.

IV. Opportunities for Public Comment

A. Written Comments

Persons interested in the proposed regulation are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments are to be submitted to the DOE address indicated in the address section of this preamble. Identify documents and the outside of the envelope with the designation "Inclusion of Electric Vehicles in CAFE Calculation—Proposed Regulations" (Docket No. CAS–RM–80–202). Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue., SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. All comments received before 5:30 p.m., e.s.t. (60 days from date of publication) and other relevant information will be considered by DOE before final action is taken on the proposed regulations.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information that he or she believes to be confidential, and that may be exempt by law from public disclosures, should submit 1 complete copy and 15 copies from which information claimed to be confidential has been deleted. In accordance with the procedures established by 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted submitted be exempt from public disclosure.

B. Public Hearing

1. Request Procedures. The time and place of the public hearing are indicated in the dates and address sections of this preamble. DOE invites any person who has an interest in the proposed rulemaking or who is a representative of a group or class of persons that has an interest in the proposed rulemaking to make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address indicated in the address section of this preamble and must be received before 5:30 p.m. November 14, 1980. A request may be hand delivered between the hours of 9 a.m. and 5:30 p.m., Monday through Friday. Requests should be labeled, both on the document and on the envelope, "Inclusion of Electric Vehicles in CAFE Calculation—Public Hearing (Docket No. CAS–RM–80–202)."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where the requester may be contacted through the day before the hearing. Each person selected to be heard will be notified by DOE before 4:30 p.m., November 10, 1980. Fifteen copies of a speaker's statement should be brought to the hearing. In the event that any person wishing to testify cannot provide fifteen copies, alternative arrangements can be made in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Carol Snipes at (202) 252–9319.

2. Conduct of the Hearing. DOE reserves the right to select the persons

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to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any person wishing to make an oral presentation at the hearing, but who does not file a timely request as specified above, may notify Carol Snipes before the hearing or the presiding officer during the hearing of his or her desire to make a presentation. Such person will be admitted as a "limited" participant and will be heard at such time and for such duration as the presiding officer may permit.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, Forestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

V. Other Matters

A. Environmental Review

Upon review of the Environmental Assessment ("Environmental Assessment—Inclusion of Electric and Hybrid Vehicles in CAFE Calculations"), it was determined that the program does not constitute a major Federal action significantly affecting the quality of the human environment and that, therefore, no Environmental Impact Statement need be prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

B. Regulatory Review

It has been determined that the proposed regulation is significant, as that term is used in Executive Order 12044 and amplified in DOE Order 2030. This determination is based on the importance of the overall electric and hybrid vehicle program in encouraging the development of alternative means of transportation. It has been further determined that this regulatory action is not likely to have a major impact, as defined by Executive Order 12044 and DOE Order 2030; consequently, no regulatory analysis will be prepared in this instance.

C. Urban Impact Analysis

This proposed regulation has been reviewed in accordance with OMB Circular A–116 to assess the impact on urban centers and communities. In accordance with the DOE finding that the regulation is not likely to have a major impact, DOE has determined that no community and urban impact analysis of the rulemaking is necessary, pursuant to Section 3(a) of Circular A–116.

D. Coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency

In developing this proposed rulemaking, DOE has consulted with the Secretary of Transportation and the Administrator of EPA, pursuant to section 13(c)(1) of the EHV Act.

(Motor Vehicle Information and Cost Savings Act, Pub. L. 94–163, as amended by the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, Pub. L. 94–413, as amended by the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Department of Energy Organization Act, Pub. L. 95–91)

In consideration of the foregoing, DOE hereby proposes to amend Part 474 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., October 30, 1980.

Frank DeGeorge,

Principal Deputy Assistant Secretary, Conservation and Solar Energy.

Section 474.4(d) of Chapter II of Title 10, Code of Federal Regulations is revised to read as follows:

§ 474.4 Equivalent petroleum-based fuel economy calculation.

* * * * *

(d) Calculate the equivalent petroleum-based fuel economy value in miles per gallon by multiplying the energy equivalent fuel economy value by the petroleum equivalency factor for the model year in which the electric vehicle is manufactured.

(1) For model year 1981, the petroleum equivalency factor is 1.5;

(2) For model year 1982, the petroleum equivalency factor is 1.5;

(3) For model year 1983, the petroleum equivalency factor is 1.6;

(4) For model year 1984, the petroleum equivalency factor is 1.6;

(5) For model year 1985, the petroleum equivalency factor is 1.7;

(6) For model year 1986, the petroleum equivalency factor is 1.7; and

(7) For model year 1987, the petroleum equivalency factor is 1.7;

[FR Doc. 80–34701 Filed 11–5–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR–80–16]

Petitions for Rule Making; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rule making and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rule making (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rule making procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on peitions received must identify the petition docket number involved and be received on or before: January 6, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraph (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 28, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Docket No. and petitioner	Description of the rule requested
Petitions for Rulemaking	
20589—Evans North	*Description of Petition:* Elimination of a history of myocardial infarction ("heart attack") as a specified disqualification for airman medical certification. A "designated medical test" would be used to determine if an airman could resume pilot responsibilities after a heart attack. *Regulations Affected:* 14 CFR 67.13(e)(1)(i), 67.15(e)(1)(i), and 67.17(e)(1)(i). *Petitioner's Reasons for Rule:* Petitioner believes that individuals who have sustained myocardial infarctions should not be "disqualified for life" from performing aircraft pilot duties and that the regulations should specify standards used for determining fitness for subsequent airman medical certification.
Petitions for Rulemaking: Denied	
19169—Mr. Kaz Thomas	*Description of Petition:* Petitioned for amendment to FAR 1.1 and FAR 43, Appendix A, to change the definition of preventive maintenance and to make the list of preventive maintenance items in FAR 43, Appendix A, compatible with the new definition. Specifically, it was proposed that FAR 1.1 be altered to read: "Preventive maintenance" means simple or minor preservation operations and the replacement of small standard parts weighing less than five pounds, where such replacement does not involve complex assembly operations. *Denied 10/28/80.*

[FR Doc. 80–34410 Filed 11–5–80; 8:45 am]

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14 CFR Part 39

[Docket No. 80–EA–53]

Fairchild Industrial Products; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive applicable to Fairchild Cockpit Voice Recorders A–100 Series, which do not meet Technical Standard Order C–84 requirements. The rule requires an inspection to determine whether the thermal insulation assembly is installed. The manufacturer has alerted FAA to the fact that the assembly may not have been installed at the time of manufacture. Lack of the insulation could result in destruction of the tape in a fire.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Engineering and Manufacturing Branch, AEA–210, Eastern Region, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, New York.

FOR FURTHER INFORMATION CONTACT: M. Mavricos, Systems & Equipment Section, AEA–213, Flight Standards Division, Engineering and Manufacturing Branch, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–3372.

SUPPLEMENTARY INFORMATION: Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before December 22, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substances of the proposed AD will be filed in the docket. Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Engineering and Manufacturing Branch, AEA–210, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or be calling (212) 995–2842.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 39.13 of Part 13 of the Federal Aviation Regulation (14 CFR Part 39) as follow:

Applies to Fairchild Industries Products: Cockpit Voice Recorder Model A100 series, having serial numbers 4733 through 5260 inclusive.

To prevent the possibility of destruction of the recording tape in an aircraft accident involving fire, due to the omission of the thermal insulation assembly, P/N 9300–A18, accomplish the following:

(a) Within 180 days after the effective date of this AD, unless previously accomplished, inspect the cockpit voice recorders in accordance with the accomplishment instructions of Fairchild Industrial Products Alert Field Service Bulletin No. CVR A140, dated December 10, 1979, paragraph 2B Installation of Thermal Insulation 1 through 3. Missing insulation assemblies shall be installed in accordance with the above installation instructions, or approved equivalent instructions.

(b) Equivalent installation instructions must be approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(c) Compliance times may be increased by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data submitted through an FAA inspector.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

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Issued in Jamaica, New York, on October 28, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-34457 Filed 11-5-80; 8:45 am]

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14 CFR Part 39

[Docket No. 80-EA-9]

DeHavilland DHC-2; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive, applicable to DeHavilland DHC-2 type airplanes. It requires repetitive inspections of the left and right elevator butt ribs and doublers for cracks. This results from findings of such cracks during inspections. The cracks could, if undetected, cause failure of the parts and loss of the airplane.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York.

FOR FURTHER INFORMATION CONTACT:

A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION:

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before December 22, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substances of the proposed AD will be filed in the docket. Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting to the Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-2842. There have been reports of cracks in the elevator butt rib and doubler resulting from fatigue. This rule will require inspections in the area of the rib and doubler.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 39.13 of Part 13 of the Federal Aviation Regulations (14 CFR part 39) as follows:

DeHavilland: Applies to all DeHavilland DHC-2 series airplanes, certificated in all categories.

Compliance required as indicated.

Affects the elevator butt ribs (inboard), P/N C2TE-29ND (RH and LH), and doublers, P/N C2TE-9ND (RH and LH).

a. Within the next 75 hours in service after the effective date of this AD, unless already accomplished within the last 325 hours in service, and thereafter at intervals not to exceed 400 hours in service from the last inspection, inspect visually with a 10-power glass, the left and right elevator butt ribs and doublers, for cracks.

b. Replace or repair cracked parts, before further flight, in accordance with DeHavilland Service Bulletin (S/B) No. 2/30, or equivalent.

c. Equivalent parts or repairs must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

d. Upon submission of substantiating data by an owner or operator, through an FAA maintenance inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on October 27, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-34458 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-CE-23]

Transition Area—Ames, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Ames, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Ames, Iowa, Muncipal Airport utilizing a localizer and outer marker as navigational aids.

DATES: Comments must be received on or before December 13, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City Missouri 64106. All communications received on or before December 13, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NRPM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition areas at Ames, Iowa. To enhance airport usage, an additional instrument approach procedure to the Ames, Iowa, Municipal Airport is being established utilizing a localizer and outer marker which are being installed by the FAA at the airport as navigational aids. The establishment of this instrument approach procedure based on thse navigational aids entails alteration of the transition area at Ames, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposed to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445) by altering the following transition area:

Ames, Iowa

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of Ames Muncipal Airport (Latitude 41°59'25" N Longitude 93°37'05" W) and within 3 miles each side of the 127° bearing from Ames Muncipal Airport, extending from the 5½ mile radius area to 7 miles southeast of the airport, and within 3 miles either side of the 330° bearing from Ames Municipal Airport extending from the 5½ radius to 8½ miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act of (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulation evaluation.

Issued in Kansas City, Missouri, on October 27, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-34456 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AWA-19]

Revocation of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke Federal Airways V-13W between Des Moines, Iowa, and Lamoni, Iowa, and V-6S between Des Moines, Iowa, and Omaha, Nebr. Use of these airways has steadily declined since the commissioning of Des Moines radar in 1961. Before the radar environment, they were used for separating inbound and outbound aircraft. This action will simplify charting and lessen storage requirements for the ATC automation data base.

DATES: Comments must be received on or before December 8, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWA-19, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before December 8, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would revoke Federal Airways, V-13W between Des Moines, Iowa, and Lamoni, Iowa, and V-6S between Des Moines, Iowa, and Omaha, Nebr. These alternate airways had application when Des Moines was in a nonradar environment. They were used for the purpose of separating inbound and outbound aircraft. These airways have not been substantially utilized since commissioning the Des Moines radar in 1961. This action will simplify charting and lessen storage requirements for the air traffic automation data base. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

1. Under V-13, after the words "Lamoni, Iowa, Des Moines, Iowa," delete the words ", including a W alternate"

2. Under V-6, after the words "Omaha, Nebr.; Des Moines, Iowa," delete the words ", including a S alternate"

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(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on October 30, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-34563 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-18]

Treatment Under the Incremental Pricing Program of Natural Gas Used as Boiler Fuel to Raise Steam Which Forms an Integral Step in the Manufacturing Process for Fertilizer, Agricultural Chemicals, Animal Feed, and Food; Extending Written Comment Period

October 31, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice extending written comment period.

SUMMARY: On February 21, 1980 (45 FR 13122, February 28, 1980) the Federal Energy Regulatory Commission (Commission) issued a notice in Docket No. RM80-18 with respect to an exemption from incremental pricing for certain boiler fuel uses of natural gas. The deadline for submission of written comments was March 31, 1980. On October 28, 1980, the Commission held a public hearing to consider oral presentations on this matter. At the hearing it was requested that the period for written comment in this docket be extended. Upon consideration, notice is hereby given that the written comment period in Docket No. RM80-18 is extended until December 1, 1980.

DATE: Comments due December 1, 1980.

ADDRESS: Comments to be filed with: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Barbara Christin, Staff Attorney, 202-357-8033.

SUPPLEMENTARY INFORMATION: In Docket No. RM80-18 the Commission is considering whether, if the interim rule issued October 6, 1980, in Docket No. RM80-75 (45 FR 67276, October 9, 1980) remains in effect, the Commission should adopt, for purposes of Title II of the Natural Gas Policy Act of 1978 (NGPA), the definition of the term "process fuel" promulgated by the Secretary of Agriculture pursuant to Title IV of the NGPA. The Commission is also considering in this docket whether it should grant an exemption under section 206(d) of the NGPA to facilities which use natural gas in the manner described in the docket title.

Interested persons are invited to submit written comments, data, views or arguments with respect to the issues described above. Comments should be limited to new information or information which is relevant in light of the Commission's actions in Docket No. RM80-75. An original and 14 copies should be filed. All comments received on or before December 1, 1980, will be considered by the Commission. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., 20426 during regular business hours.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34400 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 6

[Notice No. 355]

"Tied-House" Regulations Credit to Retailers in Arrears

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms, (ATF) is issuing this notice of proposed rulemaking to gather additional information on the extension of credit by producers and wholesalers of alcoholic beverages to retail dealers who are in arrears of payments to their suppliers. This issue was addressed in Notice No. 327 issued August 1, 1979. That notice (in proposed § 6.67) would have required retailers in arrears of payments to reduce the balance owed to a supplier to the "average purchase" from that supplier, and to pay cash for additional deliveries of alcoholic beverages from that supplier. On the basis of extensive public comments, ATF concluded that other approaches to this problem should be explored. ATF now solicits additional comments on the extension of credit to retailers in arrears.

DATE: Written comments or requests to hold a public hearing must be received on or before January 5, 1981.

ADDRESS: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1979, ATF proposed a comprehensive set of regulations to implement the unlawful trade practice sections of the Federal Alcohol Administration Act, 27 U.S.C. 205(a)-(d).

ATF received many written comments and held five public hearings in September and October 1979 to consider the proposals. The outcome was the adoption of final rules on unlawful trade practices. Title 27 Code of Federal Regulations contains the following new parts: Part 6, "Tied-House"; Part 8, Exclusive Outlet; Part 10, Commercial Bribery; and Part 11, Consignment Sales. These final regulations were published in the Federal Register on September 23, 1980 (45 FR 63242).

Sales to Retailers in Arrears

Section 5(b)(6) of the FAA Act prohibits wholesalers or producers (industry members) from inducing a retial dealer to purchase alcoholic beverages from the industry member to the exclusion of alcoholic beverages sold by other industry members, in interstate or foreign commerce, through the extension of credit in excess of the credit period usual and customary to the industry as ascertained by the Secretary of the Treasury. Title 27 CFR 6.65 sets forth 30 days as the usual and customary credit period in the alcoholic beverage industry.

Past ATF policy is embodied in Revenue Ruling 54-162 (1954-1, C.B. 340). That ruling states that a retailer who is in arrears in payment to a wholesaler for longer than the usual and customary credit period must pay an amount equal to or more than the value of the current purchase from the wholesaler in order for the wholesaler not to be considered in violation of the FAA Act for unlawful extension of credit to the retailer.

Although this policy requires a retailer in arrears to pay cash for current orders of alcoholic beverages from that wholesaler, it does not provide for repayment of the outstanding debt. Theoretically, a retailer in arrears to a wholesaler could pay cash for current deliveries of alcoholic beverages but never reduce or eliminate the outstanding debt. One example would be where a wholesaler furnishes a large part of a new retailer's inventory on credit, but only requires cash payment for current orders. ATF believes this practice has the potential to result in a tied-house relationship between a wholesaler and retailer.

In an attempt to deal with this practice, ATF proposed § 6.67. This section would have required a retailer in arrears to a wholesaler to reduce the amount owed to the "average purchase" from that wholesaler, and to pay cash for current orders of alcoholic beverages. This proposed regulation was attacked by some respondents to Notice No. 327. It was pointed out that a retailer behind in payments would be required to pay a large percentage of the amount owed to the wholesaler; for example, if the retailer owed $10,000 and made "average purchase" of $1,000 from that wholesaler, the retailer would be required to repay $9,000 of the balance owed plus pay cash for the current order from the wholesaler. This requirement might force the retailer to purchase from a wholesaler to whom money was not owed. As a result, this proposed regulation would penalize the wholesaler who extended credit to the retailer. Several wholesalers also pointed out that it would be difficult to determine the "average purchase" of a retailer, a problem more acute for wholesalers without computer systems.

ATF did not adopt §6.67 as proposed and instead retained Revenue Ruling 54-162.

Proposed Regulation on Credit

This notice of proposed rulemaking proposes to require the repayment of that debt to the wholesaler or producer who extended the credit. No regulatory language for § 6.67 is being proposed at this time. However, on the basis of written comments received to this notice, ATF will issue a final rule on the extension of credit to retailers in arrears.

Alternative Proposals

ATF is seeking comments and advice from all interested parties, wholesalers, producers, retailers, the public, and State governments, on suggested methods of repayment of the outstanding debt of a retailer in arrears. In connection with proposed § 6.67 in Notice No. 327, ATF received several suggestions. These are included among the following proposed alternatives for § 6.67.

1. a. Require the retailer to repay a percentage of the outstanding debt owed plus pay cash for current orders of alcoholic beverages with each order (regardless of size) from the wholesaler.

b. *Example:* Assume a retailer owes a particular wholesaler $10,000 and the percentage for repayment with each order is set at 10%. The wholesaler would not be in violation of section 5(b)(6) of the FAA Act if the retailer paid cash for current purchases of alcoholic beverages plus paid $1,000 (10% of original outstanding debt) with each order from the wholesaler to whom the money was owed.

2. a. Require the retailer to repay the wholesaler a percentage of the original outstanding debt in each succeeding month after the retailer goes into arrears with that wholesaler, plus pay cash for current orders of alcoholic beverages.

b. *Example:* Assume a retailer goes into arrears of payments to a wholesaler by $16,000 on April 30, and that the monthly percentage for repayment is set at 25%. The wholesaler would not be in violation of section 5(b)(6) of the FAA Act if the retailer repaid the wholesaler $4,000 by May 31, plus paid cash for current purchases of alcoholic beverages.

c. *Option.* As an option, the percentage of the outstanding debt to be repaid could be increased with each additional month.

3. Require the retailer to repay the outstanding debt to the wholesaler within a fixed period of time, for example, six months. The retailer would also be required to pay cash for all current purchases of alcoholic beverages from the wholesaler.

4. Require the retailer to pay cash for current orders of alcoholic beverages from that wholesaler. This would merely incorporate Revenue Ruling 54.162 into § 6.67. State law would regulate the repayment of debts by retailers in arrears.

5. Adopt § 6.67 as proposed in Notice No. 327.

ATF welcomes suggestions on which of these alternatives is the most suitable for addressing this issue as well as complying with the statutory criteria for the extension of creidt. ATF also welcomes comments regarding the usual and customary practice in the alcoholic beverage industry regarding the extension of credit to retailers in arrears. ATF would like suggested percentages which might be applied to alternatives 1 and 2, or the appropriate time period to be used in alternative 3. ATF also welcomes suggestions on other suitable methods of repayment of the outstanding debt by the retailer which could be incorporated into § 6.67.

Disclosure of Comments

All comments on this notice of proposed rulemaking may be inspected in the ATF Reading Room, Room 4407, Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC, during normal business hours. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request in writing to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Charles N. Bacon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This notice of proposed rulemaking is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205)

Signed: September 25, 1980.

G. R. Dickerson

Director.

Approved: October 20, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-34656 Filed 11-5-80; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 358]

The Finger Lakes Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of the first viticultural area in the State of New York; the area would be known as "Finger Lakes." This proposal is the result of a petition submitted by a wine growers association.

DATES: Written comments must be received on or before January 5, 1981.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) entitled American Viticultural Areas, which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR, defines a viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received the first petition to establish a viticultural area within the State of New York; the petition seeks the approval of the "Finger Lakes" viticultural area. The proposed area is located in the west central part of New York and encompasses the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga, and Cortland. This portion of New York has long been known for its wine industry, the focal point of which is the long narrow finger-like lakes located in the center of the proposed area. The proposed area consists of over 9,000 square miles and contains 18 bonded wineries permitted to operate. The proposed area is the second largest grape-growing area in New York State and consists of over 14,000 acres of labrusca, French hybrids and vinifera grapes.

The petition states that the proposed name is historically and internationally known as referring to the area specified. It if further claimed that the climate of the area is distinguished from the surrounding area due to the influence of and proximity to the "finger lakes." These claims are based on the following:

(a) The same 14 counties as those named in the petition were officially designated by the State of New York in 1967 as the "Finger Lakes Region."

(b) The primary grape-growing area in and around the Finger Lakes has an average 143-day growing season. In excess of 14,000 acres of grapes are grown in this area.

(c) The soils of the proposed area vary widely, as is always the case when land is formed by glacial action and deposits. Within a relatively small area clay, sandy loam, churned rocks and even bedrock can be found. Primarily, the soil consists of a combination of limestone, shale, and sandstone, which form the mantle covering.

(d) The boundaries of the proposed area are based on political boundaries on three sides and Lakes Ontario on the fourth side. The petitioner points out that prominent geological features so closely approximate these political boundaries that these boundaries better define the area to the public.

The boundaries of the proposed viticultural area encompass, in their entirety, the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga and Cortland.

Public Participation

ATF requests comments from all interested persons concerning this proposed viticultural area. While ATF is proposing possible boundaries for the Finger Lakes viticultural areas, comments concerning other alternative boundaries are invited based on:

(a) The 143-day average grape-growing season around the Finger Lakes, in contrast to the 110-day season along the New York-Pennsylvania border and the 183-day season along Lake Ontario;

(b) Physical and geographic features or characteristics which more definitively identify the actual grape-growing region; and

(c) Other issues which may aid ATF in defining an appropriate viticultural area.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting comments is not exempt from disclosure.

Drafting Information

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR part 9, Subpart C, is amended to add the title of § 9.34. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.34 Finger Lakes.

Par. 2. Subpart C is amended by adding § 9.34. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.34 Finger Lakes.

(a) *Name.* The name of the viticultural area described in this section is "Finger Lakes."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the finger Lakes viticultural area are five U.S.G.S. maps scaled 1:250,000. They are entitled:

(1) "ROCHESTER", Location Diagram NK 18-1;

(2) "UTICA", Location Diagram NK 18-2;

(3) "ELMIRA", Location Diagram NK 18-4;

(4) "BINGHAMTON", Location Diagram NK 18-5; and

(5) "BUFFALO", Location Diagram NK 17-6 (30-L).

(c) *Boundaries.* The Finger Lakes viticultural area is located in the west central part of New York State and encompasses, in their entirety, the 14 adjoining counties of Monroe, Wayne, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Schuyler, Chemung, Tompkins, Tioga, and Cortland.

Signed: October 15, 1980.

G. R. Dickerson,

Director.

Approved: October 30, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-34658 Filed 11-5-80; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 66

[CGD 80-132]

Designation of Navigable Waters as State Waters for Private Aids to Navigation

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to revise 33 CFR 66.05-100(g-1), which lists the waters of South Carolina that are designated as State waters for private aids to navigation. The revision will add the waters of Lakes Marion, Moultrie, and Murray to this list, at the request of the South Carolina Wildlife and Marine Resources Department. Designation of these navigable waters of the United States as State waters for private aids to navigation will enable the State government to regulate marine aids to navigation owned by state or local governments or private parties in such waters.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Comments may be submitted to Commandant (G-CMC/24), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/24), (CGD 80-132), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, between 7 AM and 5 PM Monday through Thursday, except holidays.

FOR FURTHER INFORMATION CONTACT: LT Walter L. JOHNSON, Office of Navigation, Short Range Aids to Navigation Division (G-NSR/14), Room 1422, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, (202) 426-1974, between 7 AM and 5 PM Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 80-132) and the specific section of the proposal to which the comment applies, and give the reasons for the comments. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the Federal Register if it is requested in writing by an interested person who is raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are LT Walter L. JOHNSON, Project Manager, Office of Navigation, and LT Kenneth E. JOHNSON, Project Attorney, Office of the Chief Counsel.

Background

Under the provisions of 33 CFR 66.05, State Aids to Navigation, a state desiring to regulate marine aids to navigation in areas of the navigable waters of the United States not marked by the Federal Government, may request the Commandant of the Coast Guard to designate specific bodies of water as State waters for private aids to navigation. The effect of such a designation is to empower the State to regulate all private marine aids to navigation, whether owned by the state, political subdivisions thereof, or by private parties, in those waters. No person, public body or other instrumentality not under the control of the Commandant or the designated State Administrator may establish, erect, or maintain in such designated waters any aid to navigation without first obtaining permission to do so from the State Administrator. The Armed Forces of the United States are excluded from this prohibition.

A request for designation of specific bodies of water as State waters for private aids to navigation is evaluated to determine if the conditions set out in Subpart 66.05 are met and if the designation is in the public interest. A designation may be revoked or revised upon request or on the initiative of the Coast Guard.

Discussion

On 19 March 1980 the South Carolina Wildlife and Marine Resources Department (SCWMRD) requested that we designate the waters of Lakes Marion, Moultrie, and Murray as State waters for private aids to navigation. The marine traffic on these Lakes is primarily pleasure craft with little, if any, commercial traffic. The Coast Guard does not maintain any aids to navigation on these Lakes. Designating these waters as State waters for private aids to navigation delegates the authority to regulate the establishment, operation, and maintenance of marine aids to navigation to the SCWMRD, who is most familiar with these inland waters and needs of the user. In addition, this gives the State greater

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control over its own affairs, while holding federal involvement to a minimum. For these reasons the Coast Guard has determined that it appears to be in the best interest of the public that these three lakes be designated as State waters for private aids to navigation. The proposed rule would amend the existing regulations accordingly.

Draft Evaluation

The proposed regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated 22 May 1980, and have been determined to be nonsignificant. They do not place any new requirements or burdens on the public, but merely transfer the administration of private aids from the Coast Guard to the SCWMRD. Because the expected impact of the proposed regulation is so minimal, no evaluation has been prepared.

In consideration of the foregoing, it is proposed that 33 CFR 66.05-100(g-1) be revised to read as follows:

§ 66.05-100 [Amended]

* * * * *

(g-1) *South Carolina.* (1) The portion of Lake Wylie within the State; (2) Lake Marion; (3) Lake Moultrie; and (4) Lake Murray.

* * * * *

(14 U.S.C. 81, 86, 92, 633, 33 U.S.C. 403, 409, 49 U.S.C. 165(b), 49 CFR 1.46(b))

Dated: November 3, 1980.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 80-34709 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL 1655-5]

State Implementation Plans; Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension

AGENCY: Environmental Protection Agency.

ACTION: Notice of guideline availability.

SUMMARY: The Environmental Protection Agency (EPA) on September 30, 1980 (45 FR 64856) proposed criteria for approval of State Implementation Plan (SIP) revisions for ozone or carbon monoxide which must be submitted in 1982. In that notice, EPA proposed to recommend using the City-Specific Empirical Kinetic Modeling Approach (EKMA) for ozone modeling. This notice announces the availability of and solicits comments on EPA's draft document "Guideline for use of City-Specific EKMA in preparing Ozone SIPs."

DATE: Comments must be received by the Central Docket Section by January 5, 1981.

ADDRESSES: Written comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-79-43. The docket may be inspected at Gallery 1, West Tower, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for photocopying. Individual copies of the guideline are available upon request from the Air Management Technology Branch, Environmental Protection Agency (MD-14), Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin L. Meyer, Air Management Technology Branch, Environmental Protection Agency (MD-14), Research Triangle Park, North Carolina 27711, telephone (919) 541-5488.

SUPPLEMENTARY INFORMATION:

A. Background and Comment Period

The 1977 Clean Air Act Amendments [Section 129(c) of Pub. L. 95-95] require States that have received an extension beyond 1982 for attaining the National Ambient Air Quality Standard for ozone to adopt and submit SIP revisions to the Administrator by July 1, 1982. On September 30, 1980 EPA proposed (45 FR 64856) criteria which the Agency will use to review these 1982 SIP submittals. Included with this proposal were recommendations for ozone modeling. This notice announces the availability and opportunity to comment on the draft ozone modeling document "Guideline for use of City-Specific EKMA in Preparing Ozone SIPs." A copy is in Docket No. A-79-43 at EPA's Central Docket Section.

B. The Draft Guideline

EPA's draft modeling document "Guideline for use of City-Specific EKMA in Preparing Ozone SIPs" is intended to serve three primary purposes. First, this document describes the application of a relatively simple modeling procedure, which is useful for estimating the effectiveness of reducing urban volatile organic compounds and/or oxides of nitrogen in reducing peak ozone downwind or within a city. Second, it indicates how available emissions, air quality and meterological data are used in the modeling procedure. Lastly, the document provides a checklist for air pollution control agencies to use in evaluating the completeness and suitability of analyses performed with the model.

C. Solicitation of Comments

General comments with respect to the appropriateness of the document in relation to the proposed policy and specific comments on the completeness and adequacy of the document are solicited. All comments recieved by January 5, 1981 will be considered in the development of final ozone modeling guidelines.

D. Authority

This notice and proposed guidelines are issued under authority granted in Sections 110, 171-174, 301 of the Clean Air Act, 42 U.S.C. 7410, 7501-7504 and 7601.

Dated: October 30, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air Noise, and Radiation.

[FR Doc. 80-37416 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-26-M

[A-9-FRL 1656-7]

40 CFR Part 52

California State Implementation Plan Revision; Amador, El Dorado, Nevada, Placer, and Tuolumne Counties

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Amador, El Dorado, Nevada, Placer and Tuolumne County Air Pollution Control Districts' (APCDs) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comment on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to January 5, 1981.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated evaluation reports are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington D.C. 20460.

In addition copies of the revisions and EPA's evaluation are available at the respective APCDs with the following addresses:

Amador County Air Pollution Control Board, 108 Court Street, Jackson, CA 95642.
El Dorado County Air Pollution Control Board, 330 Fair Lane, Placerville, CA 95667.
Nevada County Air Pollution Control District, H.E.W. Complex, Nevada City, CA 95959.
Placer County Air Pollution Control Board, 175 Fulweiler Avenue, Auburn, CA 95603/
Tuolumne County Air Pollution Control Board, Tuolumne County Courthouse, Sonora, CA 95370.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board, the Governor's designee, submitted the following rules and regulations on the indicated dates, as revisions to the California SIP:

Amador

October 15, 1979

Rule 102 Definitions
Rule 103 Enforcement
Rule 107 Effective Date
Rule 203 Exceptions to Rule 202
Rule 206B Pathological Incinerator
Rule 207 Particulate Matter
Rule 209 Fossil Fuel-Steam Generator Facilities
Rule 210 Specific Contaminants
Rule 211 Progress Weight per Hour
Rule 213 Storage of Petroleum Products
Rule 215 Abrasive Blasting
Rule 216 Compliance Tests
Rule 301 Open Outdoor Fires
Rule 302 Exceptions to Rule 301
Rule 303 Burning Permits
Rule 304 Exceptions to Rule 303
Rule 305 Permit Validity
Rule 306 No-Burn Days
Rule 307 Exemptions to Rule 306
Rule 308 Agricultural Burning Reports
Rule 309 Amount Burned Daily
Rule 310 Approved Ignition Devices
Rule 311 Restricted Burning Days
Rule 312 Wind Direction
Rule 313 Minimum Drying Times
Rule 315 Preparation of Materials to be Burned
Rule 316 Burning of Agricultural Waste
Rule 317 Range Improvement Burning
Rule 318 Forest Management Burning
Rule 319 Open Burning of Wood Waste on Property Where Grown
Rule 320 Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning
Rule 321 Hazard Reduction Burning
Rule 322 Mechanized Burners
Rule 323 Enforcement Responsibility
Rule 324 Penalty
Rule 401 Responsibility
Rule 402 Authority to Construct
Rule 404 Upset Condition, Breakdown and Scheduled Maintenance
Rule 407 Circumvention
Rule 409 Public Records
Regulation VI Fees
Rule 700 Applicable Articles of the Health and Safety Code
Rule 701 General
Rule 702 Filing Petitions
Rule 703 Content of Petitions
Rule 704 Petitions for Variances
Rule 710 Notice of Public Hearing
Rule 711 Evidence

El Dorado

May 23, 1979

Rule 101 Title
Rule 102 Definitions
Rule 103 Validity
Rule 104 Effective Date
Rule 201 Coverage
Rule 202 Visible Emissions
Rule 203 Exceptions
Rule 206A Incinerator Burning
Rule 206B Pathological Incineration
Rule 207 Particulate Matter
Rule 208 Fugitive Dust
Rule 209 Sulfur Content of Fuels
Rule 210 Specific Contaminants
Rule 211 Process Weight
Rule 212 Abrasive Blasting
Rule 217 Compliance Tests
Rule 301 Prohibitions on Open Burning
Rule 302 Exceptions to Rule 301
Rule 303 Burning Permits
Rule 304 Permit Validity
Rule 305 No Burn Days
Rule 307 Agricultural Burning Reports
Rule 308 Amount Burned Daily
Rule 309 Approved Ignition Devices
Rule 310 Restricted Burning Days
Rule 311 Wind Direction
Rule 312 Minimum Drying Times
Rule 313 Exceptions to Rule 312
Rule 314 Preparation of Material to be Burned
Rule 315 Burning of Agricultural Waste
Rule 316 Range Improvement Burning
Rule 317 Forest Management Burning
Rule 318 Open Burning of Wood Waste on Property Where Grown
Rule 319 Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning
Rule 320 Hazard Reduction Burning
Rule 321 Mechanical Burning
Rule 404 Upset Conditions, Breakdown or Scheduled Maintenance
Rule 702 Filing Petitions
Rule 703 Contents of Petitions
Rule 704 Petitions for Variances
Rule 706 Failure to Comply with Rules
Rule 707 Answers
Rule 708 Dismissal of Petition
Rule 709 Place of Hearing
Rule 710 Notice of Public Hearing
Rule 801 Enforcement
Rule 802 Authority to Arrest
Rule 803 Penalties
Rule 804 Order For Abatement

(Deletions)

Rule 59(g)(1) Fire Permit Agencies
Rule 102 I Atmosphere
Rule 102 S Emission Date
Rule 102 BB Institutional Facility
Rule 102 FF Operation
Rule 102 GG Orchard or Citrus Heaters
Rule 102 LL PPM
Rule 102 RR Source Operation
Rule 208 Orchard or Citrus Grove Heaters
Rule 214 Reduction of Animal Matter
Rule 601 Analysis Fees
Rule 602 Technical Reports—Charges For
Rule 700 Applicable Articles of the Health and Safety Code

February 11, 1980

Rule 507 Notice Requirement for Proposed Exemptions
Rule 511 Additional Applicant Requirements
Rule 512 Applications
Rule 513 Cancellation of Authority to Construct
Rule 514 Action on Applications
Rule 515 Permit to Operate
Rule 519 Further Information
Rule 520 Application Deemed Denied
Rule 521 Denial of Application
Rule 522 Revocation of a Permit
Rule 523 Appeals
Rule 524 Reinstatement
Rule 525 Transfer
Rule 526 Altering of Permit
Rule 527 Posting of Permit to Operate
Rule 528 Provision of Sampling and Testing Facilities

Nevada

October 15, 1979

Rule 207 Particulate Matter

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Rule 210 Specific Contaminants
Rule 211 Process Weight per Hour
Rule 218 Compliance Tests
Rule 306 No-Burn Days
Rule 307 Exceptions to Rule 306
Rule 404 Upset Condition, Breakdown and Scheduled Maintenance

Placer—Lake Tahoe Air Basin Portion

August 21, 1979

Rule 101 Title
Rule 102 Definitions
Rule 103 Validity
Rule 104 Effective Date
Rule 201 Coverage
Rule 202 Visible Emissions
Rule 203 Exceptions
Rule 204 Wet Plumes
Rule 206A Incinerator burning
Rule 206B Pathological Incinerator
Rule 207 Particulate Matter
Rule 208 Fugitive Dust
Rule 209 Sulfur Contents of Fuels
Rule 210 Specific Contaminants
Rule 211 Process Weight
Rule 215 Abrasive Blasting
Rule 217 Compliance Tests
Rule 301 Prohibitions on Open Burning
Rule 302 Burning Permits
Rule 303 Permit Validity
Rule 304 No-Burn Days
Rule 305 Agricultural Burning Reports
Rule 306 Amount Burned Daily
Rule 307 Approved Ignition Devices
Rule 308 Restricted Burning Days
Rule 310 Minimum Drying Times
Rule 311 Exceptions to Rule 310
Rule 312 Preparation of Materials To Be Burned
Rule 313 Burning of Agricultural Waste
Rule 314 Range Improvement Burning
Rule 315 Forest Management Burning
Rule 316 Land Development Open Burning
Rule 317 Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning
Rule 318 Open Burning Conducted by Public Officers
Rule 319 Hazard Reduction Burning

Placer—Mountain Counties Air Basin Portion

May 23, 1979

Rule 404 Upset Conditions, Breakdown or Scheduled Maintenance
Rule 602 Hearing Board Fees
Rule 603 Analysis Fees

October 15, 1979

Rule 101 Title
Rule 102 Definitions
Rule 104 Effective Date
Rule 201 Coverage
Rule 202 Visible Emissions
Rule 207 Particulate Matter
Rule 210 Specific Contaminants
Rule 211 Process Weight
Rule 220 Abrasive Blasting
Rule 221 Compliance Tests
Rule 222 Reduction of Animal Matter
Rule 301 Prohibitions on Opening Burning
Rule 302 Burning Permits
Rule 303 Exceptions to Rule 302
Rule 304 Permit Validity
Rule 305 No-Burn Days
Rule 306 Exceptions to Rule 305
Rule 307 Agricultural Burning Reports
Rule 308 Amount Burned Daily
Rule 309 Approved Ignition Devices
Rule 310 Restricted Burning Days
Rule 312 Minimum Drying Times
Rule 313 Exceptions to Rule 312
Rule 314 Preparation of Material To Be Burned
Rule 315 Burning of Agricultural Waste
Rule 316 Range Improvement Burning
Rule 317 Forest Management Burning
Rule 318 Land Development Open Burning
Rule 319 Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning
Rule 320 Opening Burning Conducted by Public Officers
Rule 321 Hazard Reduction Burning
Rule 322 Mechanized Burners
Rule 323 Opening Burning of Nonindustrial Wood Waste at Designated Disposal Sites

Tuolumne

October 15, 1979

Rule 207 Particulate Matter
Rule 210 Specific Contaminants
Rule 218 Compliance Tests
Rule 404 Upset Conditions, Breakdown and Scheduled Maintenance

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and determined to be in accordance with the Clean Air Act, 40 CFR Part 51 and EPA policy, with certain exceptions. Therefore, it is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP, with the exception of the rules discussed below.

Amador

Nuisance rules are not appropriate for inclusion in the SIP since they are not specifically directed at the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, no action is being taken on Rule 205, *Nuisance.*

New Source Performance Standards (NSPS) related rules are not appropriate for inclusion in the SIP under section 110 of the Clean Air Act. Therefore, no action is being taken on Sections (A)(1–5) and (B) of Rule 211, *Process Weight Per Hour.*

In addition, no action is being taken on section A–1 of Rule 307, *Exemptions to Rule 306,* and Rule 314, *Exceptions to Rule 313.* These rules will be acted upon in a later **Federal Register** notice.

Section G, of Rule 203, *Exceptions,* as well as section G of Rule 205, *Exceptions,* (approved 6/30/72) are both proposed to be disapproved because the term "other equipment" is not defined in these rules, resulting in a potentially unenforceable requirement.

The applicability of Rule 209, *Fossil Fuel—Steam Generator Facility,* is restricted to facilities burning fossil fuel. This exempts wood-fired boilers, a potentially significant source of pollution. Because no control strategy demonstration has been submitted to show that this revision will not interfere with the maintenance of the NAAQS, the rule is proposed to be disapproved. The previously approved Rule 19, submitted on June 30, 1972, would remain in effect.

Section (B)(1) of Rule 210, *Specific Contaminants,* weakens the SIP by reducing emission standards for wood-fired boilers and incinerators. No demonstration has been submitted to show that this will not interfere with the maintenance of the NAAQS. Therefore, the rule is proposed to be disapproved and Rules 11 and 210, submitted on June 30, 1972 and April 21, 1976 respectively, would be retained.

Section G of Rule 302, *Exceptions to Rule 301,* allows open fires for the operation of a solid waste dump under an extension. Rule 322, *Mechanized Burners,* exempts open burning by mechanized burners from the "no burn day" requirements. As no control strategy demonstration was submitted to show that these revisions will not interfere with the maintenance of the NAAQS, the rules are proposed to be disapproved.

Rule 409, *Public Records,* is consistent with 40 CFR 51.10(e). Therefore Amador is proposed to be rescinded from the similar requirements of 40 CFR 52.224(b).

El Dorado

No action is proposed on the "Best Available Control Technology" section of Rule 102, *Definitions.* This section will be acted upon in a future **Federal Register** notice.

Rule 216, *New Source Performance Standards,* implements requirements of § 111 of the Clean Air Act and thus is not appropriate for inclusion in the SIP under section 110 of the Act. Thus no action is proposed to be taken on Rule 216.

Rule 205, *Nuisance* and Rule 311, *Wind Direction* concern nuisance. Since nuisance provisions are not appropriate for inclusion in the SIP, no action is proposed to be taken on these rules.

Rule 104, *Effective Date,* is proposed to be disapproved because it does not set forth the effective date of the rules and regulations of El Dorado. For purposes of Federal enforcement, the effective date will be the date of EPA's final rulemaking notice.

Paragraph C of Rule 302, *Exceptions to Rule 301,* is proposed to be disapproved because it allows an emissions increase from wood waste burning and no control strategy has been submitted to show that this revision will not interfere with the attainment and maintenance of the NAAQS.

Rule 306, *Exceptions to Rule 305,* will be acted upon in a later **Federal Register** notice.

Rule 318, *Open Burning of Wood Waste on Property Where Grown,* and Rule 321, *Mechanized Burners* are proposed to be disapproved due to the lack of a control strategy demonstration that the potential increases in emissions will not interfere with the attainment and maintenance of the NAAQS.

The deletion of Rule 102 LL, which defines the term *"PPM",* is proposed to be disapproved because its deletion could result in more emissions due to measurement of emissions by volume instead of by weight.

Nevada

Rule 211, *Process Weight per Hour,* Sections A(1–5) and B, implement New Source Performance Standards (NSPS) requirements of § 111 of the Clean Air Act and thus are not appropriate for inclusion in the SIP under section 110 of the Act. Thus, no action is proposed to be taken on Rule 211.

Rule 307, *Exceptions to Rule 306,* allows exemptions from "no-burn day" requirements. No control strategy has been submitted to show that the resulting emissions will not interfere with attainment and maintenance of the NAAQS. Thus, the rule is proposed to be disapproved.

Placer—Lake Tahoe Basin

Rule 205, *Nuisance,* and Rule 309, *Wind Direction,* are not appropriate for inclusion in the SIP because they are not specifically related to the attainment or maintenance of the NAAQS. No action is proposed to be taken on these rules.

Rule 316, *Land Development Open Burning,* allows increased emissions. Open burning for disposal of material for development of commercial and residential properties would no longer be banned. No control strategy demonstration was submitted showing that this revision will not prevent maintenance of the NAAQS. Therefore, the rule is proposed to be disapproved.

Placer—Mountain Counties Air Basin Portion

Rule 311, *Wind Direction,* is not appropriate for inclusion in the SIP because it is not specifically related to the attainment or maintenance of the NAAQS. No action is proposed to be taken on this rule.

The following rules are proposed to be disapproved because they allow an increase in emissions and no control strategy demonstration has been submitted to show that these revisions will not interfere with the attainment and maintenance of the NAAQS:

Rules 202, *Visible Emissions;* 207, *Particulate Matter;* 210, *Specific Contaminants;* 211, *Process Weight;* 303, *Exceptions;* 306, *Exceptions to Rule 305;* 318, *Land Development Burning;* 322, *Mechanized Burners;* and 323, *Open Burning of Nonindustrial Wood Waste at Designated Disposal Sites.*

The previously approved rules 202 (submitted: 1–10–75), 207 (10–13–77), 210 (10–13–77) and Section 61 (6–30–72), respectively, would remain in effect for the first four listed disapprovals.

While EPA is proposing to approve certain rules for portions of Placer County, it should be noted that the currently enforceable rules, applicable throughout Placer County, are proposed to remain enforceable throughout the County, with certain exceptions. Where a newly submitted rule clearly is intended to supersede an analogous, currently enforceable rule (as identified in the Evaluation Report) the "current" rule would be rescinded from the SIP and replaced by the new rule.

Tuolumne

Rule 211 *Process Weight Per Hour* implements NSPS requirements of § 111 of the Clean Air Act and thus is not appropriate for inclusion in the SIP under section 110 of the Clean Air Act. No action is proposed to be taken on this rule.

Rule 210, *Specific Contaminants,* is proposed to be disapproved because it allows an increase in emissions for wood-fired boilers and incinerators and no control strategy demonstration has been submitted to show that this revision will not interfere with the attainment and maintenance of the NAAQS. The previously approved Rule 407, submitted on June 30, 1972, would remain in effect.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disaprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Note.—EPA has reviewed the revisions being acted upon in this notice and has determined that they are "specialized" revisions not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: October 21, 1980.

Sheila M. Prindiville;

Acting Regional Administrator.

[FR Doc. 80–34859 Filed 11–5–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 55

[EN–2 FRL 1656–6]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Proposed Delayed Compliance Order for Atlantic City Electric Company's Deepwater Unit 8

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to issue an administrative order to Atlantic City Electric Company's Deepwater Electrical Generating Station allowing Atlantic Electric to burn coal in its Unit Number 8 in Pennsville, New Jersey and requiring compliance with air pollution requirements under the New Jersey State Implementation Plan by October 1, 1983.

DATE: Written comments and requests for a public hearing (and reasons therefore) must be received on or before December 8, 1980.

ADDRESS: All comments and requests for a public hearing should be submitted

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to: U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, Attention: Director, Enforcement Division.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Esq., Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–1196.

SUPPLEMENTARY INFORMATION: EPA has developed an administrative order it proposes to issue under Section 113(d)(5) of the Clean Air Act ("the Act") 42 U.S.C. 7401 *et seq.*, to the Atlantic City Electric Company ("Atlantic Electric") requiring its Deepwater Unit 8 in Pennsville, New Jersey to achieve compliance with N.J.A.C. 7:27–3.1 *et seq.*, 7:27–4.1 *et seq.*, and 7:27–8.1 *et seq.* by October 1, 1983. These regulations are a part of the New Jersey State Implementation Plan. The order would require Atlantic Electric to install control equipment according to the schedule set forth below. The order contains interim emission reduction requirements, specifies emission limitations and coal pollutant characteristics, and requires monitoring and reporting of air quality and air pollutant emissions data. The proposed order satisfies the requirements of Section 113(d)(5) of the Act.

EPA has reviewed an air quality impact analysis of projected emissions from Deepwater Unit 8 and has determined that any increases in emissions will not cause or contribute to a violation of primary national ambient air quality standards in the air quality control region in which Deepwater Unit 8 is located.

If the order is issued, compliance with its terms will preclude any further EPA enforcement action under Section 113 of the Act and any citizens' suits under Section 304 of the Act against the source for violations of the New Jersey Implementation Plan provisions covered by the order. The purpose of this notice is to invite public comments on whether or not EPA should issue this order under Section 113(d)(5) and to offer an opportunity for public hearing, if significant public interest exists, to discuss this issue.

The actual terms of the order, as set forth below, may be modified prior to final EPA issuance. Background information applicable to the Atlantic Electric's Deepwater Generating Station may be viewed during normal business hours at the address provided above.

All interested persons are invited to submit written comments on the proposed order. Comments, submitted in person or by mail on or before December 8, 1980, will be considered in determining whether EPA should issue the order.

Any person may request a public hearing on the subject order by submitting a request in writing and reasons therefore to the above Regional Office within 30 days of this publication. If there is significant public interest in holding such a hearing, it will be conducted by the Region II office following 30 days prior notice of the time and place of the hearing.

Therefore, if the subject order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual term of Order No. 00109 appearing below.

Dated: September 30, 1980.

Charles S. Warren,

Regional Administrator.

United States Environmental Protection Agency, Region II

[Order No. 00109]

In the matter of Atlantic City Electric Company (Deepwater Unit 8).

Delayed Compliance Order

This order is issued pursuant to Subsection 113(d)(5) of the Clean Air Act (the "Act"), as amended, 42 U.S.C. § 7413(d). The order contains a schedule for compliance, interim requirements, monitoring and reporting requirements, and satisfies the other requirements of this Subsection of the Act. Public notice has been provided in accordance with Subsection 113(d)(1) of the Act, and a copy of this order has been provided to the Governor of the State of New Jersey.

Findings

The Atlantic City Electric Company ("the Company") owns and operates an electrical generating station, known as the Deepwater Station, located in Pennsville, New Jersey. The Station contains six generating units. On December 21, 1979, the Economic Regulatory Administration of the United States Department of Energy issued to the Company a proposed prohibition order affecting Unit 8 at the Deepwater Station ("Deepwater Unit 8"). See 45 FR 72–73 (January 2, 1980). This proposed prohibition order was issued pursuant to authority granted the Secretary of Energy under Subsection 301(b) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8341(b), and regulations promulgated thereunder. When made final, this prohibition order will prohibit the Company from burning natural gas or petroleum as a primary energy source in Deepwater Unit 8.

If Deepwater Unit 8 were converted to burn coal before additional pollution abatement equipment is installed, it would no longer be in compliance with the following requirements in Chapter 27 of Title 7 of the New Jersey Administrative Code ("N.J.A.C."): (1) Subchapter 3, Control and Prohibition of Smoke from Combustion of Fuel, (N.J.A.C. 7:27–3.1 *et seq.*), and (2) Subchapter 4, Control and Prohibition of Solid Particles from Combustion of Fuel, (N.J.A.C. 7:27–4.1 *et seq.*), both as last amended on October 12, 1977. These requirements are part of the federally approved New Jersey State Implementation Plan (the "New Jersey SIP").

On March 17, 1980, the Company formally requested that EPA issued an order permitting delayed compliance with the above-cited New Jersey SIP requirements by Deepwater Unit 8. Such an order would permit the Company to burn coal in Deepwater Unit 8 during the period in which new pollution control equipment is being installed on that unit without being subject to civil or criminal enforcement proceedings under the Act. Deepwater Unit 8 is located in the Metropolitan Philadelphia Interstate Air Quality Control Region. This air quality control region includes portions of the States of Delaware and New Jersey and portions of the Commonwealth of Pennsylvania. The national primary ambient air quality standard for particulate matter is not being exceeded in this air quality control region.

After a thorough investigation of the information obtained from all sources, including public comment, the Administrator of EPA has determined that the emission limitations, coal characteristics, and other enforceable measures contained in the order below satisfy the requirements of Subsection 113(d)(5)(B) of the Act. Further pursuant to Subsection 113(d)(5)(B), the Administrator has determined that compliance with the requirements of this order will assure that during the period of the order before final compliance is achieved, the burning of coal in Deepwater Unit 8 will not result in emissions that will cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

Pursuant to Subsection 113(d)(6) of the Act, the Administrator has determined that the schedule for compliance set forth below is as expeditious as practicable.

Finally, pursuant to Subsection 113(d)(7) of the Act, the order provides that Deepwater Unit 8 shall use the best practicable system of continuous emissions reduction as determined by the Administrator taking into account the requirements with which the unit must ultimately comply, during the period of said order. In addition, the order provides that Deepwater Unit 8 shall comply with such interim requirements as the Administrator has determined are reasonable and practicable, including (1) such measures as are necessary for the unit to comply with the requirements of the New Jersey SIP insofar as it is able to do so, and (2) such measures as are necessary for the avoidance of imminent and substantial endangerment of health of persons. The Administrator has determined that Deepwater Unit 8 cannot achieve final compliance with the requirements of N.J.A.C. 7:27–3.1 *et seq.* and 7:27–4.1 *et seq.* prior to December 31, 1980 and consequently, pursuant to Subsection 113(d)(5)(A) of the Act, issues this order, which provides an additional period as specified by the terms of this order for the Company to come into compliance.

Order

Therefore, it is hereby order that:

I. The Company shall comply with the following schedule in order to bring emissions from Deepwater Unit 8 into compliance with N.J.A.C. 7:27–3.1 *et seq.* and 7:27–4.1 *et seq.*:

A. Not later than September 1, 1980 the Company shall enter into a contract with an architect and/or engineer for the design and installation of a new continuous particulate emission control system;

B. Not later than March 1, 1981 the Company shall enter into a contract for the acquisition of a new particulate control device;

C. Not later than November 1, 1981 the Company shall begin on-site construction or installation of such continuous particulate emission control system;

D. Not later than July 1, 1983 the Company shall complete on-site construction or installation of such system;

E. Not later than October 1, 1983 emissions from Deepwater Unit 8 shall be in full compliance with N.J.A.C. 7:27–3.1 *et seq.*, 7:27–4.1 *et seq.*, and 7:27–8.1 *et seq.*; and

F. Not later than October 1, 1983 the Company shall perform emission tests in accordance with the applicable testing method set forth in N.J.A.C. 7:27B.1.1 *et seq.* (Air Test Method I), and submit reports of said tests to EPA.

II. With respect to the schedule increments set out in paragraph I, hereinabove, the Company shall notify the Director, Enforcement Division, EPA Region II within ten (10) days after each incremental requirement has been satisfied, or within ten (10) days after the final date set for achieving each such requirement if such requirement has not been achieved.

III. During the time period the order is in effect, the Company's Deepwater Unit 8 shall comply with the following interim requirements:

A. The Company shall not commence burning of coal at Deepwater Unit 8 until such time as the existing dust collector on Deepwater Unit 8 is refurbished as designed to meet the interim particulate emission limitation as set forth in subparagraph C, *infra*, and such equipment, as refurbished, is operational;

B. Deepwater Unit 8 shall not burn coal with a monthly average ash content exceeding five and six-tenths (5.6) pounds of ash per million British Thermal Units (BTU);

C. Deepwater Unit 8 shall not emit in excess of 0.96 pounds of particulate matter per one million BTU gross heat input; compliance with this interim emission limitation will be determined by emissions tests conducted in accordance with Appendix A to 40 CFR Part 60 (1979);

D. The Company shall comply with the limitation on the sulfur content of coal set forth in N.J.A.C. 7:27.10.2(c)(2) and shall not seek or obtain any variance, authorization, or other approval to burn coal with a higher sulfur content.

E. The Company shall comply with the following requirement concerning the opacity of emissions from Department Unit 8.

Except for a period of six minutes in any consecutive thirty-minute period, the opacity of emissions from Deepwater Unit 8 shall not exceed 40%; provided, however, that this interim opacity limitation shall not become effective during the first seventy (70) days (exclusive of those days in which the unit is out of operation or does not burn coal) after Deepwater Unit 8 is coverted to coal and returned to full power operation. If the Company determines that the Deepwater Unit 8 is unable to comply with this interim opacity limitation while burning coal, the Company may request EPA Region II to approve an interim opacity limitation greater than that provided herein.

Notwithstanding this requirement if EPA Region II determines that meteorological conditions are such that the opacity of emissions from Deepwater Unit 8 interferes with vehicular traffic on the Delaware Memorial Bridge, or causes or contributes to a safety hazard on said bridge, and EPA so notifies the Company, the Company shall reduce the opacity of emissions from Deepwater Unit 8 for so long as necessary to alleviate the interference or hazard.

F. The Company shall implement the following maintenance plan:

1. At least once per eight-hour shift, the Company shall (1) inspect the ash valves and valve actuators on the dust collector to see if they function properly and (2) inspect the fly ash hoppers for leakage. Should any such malfunction or leakage significantly impair the effectiveness of the air pollution control device, action to correct such malfunction or leakage shall be initiated within twenty-four (24) hours. The Company shall maintain records of inspections and of any corrective action taken.

2. During each boiler outage extending more than six (6) days, the Company shall inspect all cyclones, inlet vanes, tricones, and ash vaccum lines for structural integrity. Those components which exhibit excessive wear shall be replaced during the same boiler outage, if spare parts are available. If spare parts are not available, said components which exhibit excessive wear shall be replaced as soon thereafter as is practicable. In the event that spare components are not available, a report shall be filed with EPA Region II identifying those components which will be replaced and the scheduled replacement date. The Company shall maintain records of inspections and of any corrective action taken.

IV. The Company is not relieved by the Order from compliance with any requirement imposed by EPA, and/or the courts pursuant to Section 303 of the Act.

V. The period of effectiveness of this Order shall not include any period of time in which (1) a national ambient air quality standard for particulate matter is being exceeded in the Metropolitan Philadelphia Air Quality Control Region and (2) the EPA finds that the requirements of Section 113(d)(5)(D)(i) through (iii) are not satisfied. During such periods of time, if any, full compliance with standards and limitations of the New Jersey SIP (excluding this Order) shall be required by the Company and violations of said SIP shall be subject to enforcement action under Section 113 of the Act.

VI. The Company shall comply with the following monitoring, recordkeeping, and reporting requirements on or before the dates specified below.

A. Ambient Air Quality Monitoring

1. Within thirty (30) days after the effective date of the Order, the Company shall submit to EPA Region II a proposal which is satisfactory to EPA Region II for an ambient air quality monitoring network in the vicinity of Deepwater Unit 8 from which the Company will collect ambient air quality data. Said network shall include monitors capable of measuring total suspended particulate concentrations. The monitors must meet all EPA siting criteria and reference methods. The proposal shall specify sampling procedures.

2. Within one-hundred and twenty (120) days after the effective date of the Order or thirty (30) days after Deepwater Unit 8 commences coal-fired operation, whichever date is later, the Company shall begin collecting data from the EPA approved network.

B. Emissions Testing

1. Within sixty (60) days (exclusive of those days during which Deepwater Unit 8 is out of operation or does not burn coal) after Deepwater Unit 8 is converted to coal and returned to full power operation, the Company shall perform tests of particulate emissions from Deepwater Unit 8. The Company shall provide written notice to EPA Region II at least twenty-five (25) days prior to the scheduled test date. The Company shall schedule a meeting to discuss testing protocol to be held at least thirty (30) days prior to the test. The Company shall provide EPA Region II with a summary of the test results within thirty (30) days after completion of such tests and a complete test report containing all information pertinent to the performance and results of said tests within sixty (60) days after completion of such tests.

2. No later than April 1, 1982 the Company shall perform additional tests of particulate emissions from Deepwater Unit 8. The Company shall provide EPA Region II with a summary of the test results within thirty (30) days after completion of such tests and a complete test report containing all information pertinent to the performance and results of such tests within sixty (60) days after completion of such tests.

3. EPA may require additional particulate emissions tests at such other times as it deems appropriate.

4. Interim emission tests and emission rate calculations required to be performed pursuant to this subparagraph shall be performed in accordance with Appendix A to 40 CFR Part 60.

C. Opacity Monitor

Within ninety (90) days after the effective date of this Order the Company shall install and commence operation of an instrument which conforms with Performance Specification I in Appendix B to 40 CFR Part 60 (1979) and which continuously monitors the opacity of emissions from Deepwater Unit 8. Said monitor shall be operated during the period in which this Order remains in effect.

D. Record Keeping and Reporting

1. The Company shall keep monthly records both of air quality monitoring data from the EPA-approved monitoring network and of particulate emissions from Deepwater Unit 8. The Company shall submit copies of

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these records to EPA Region II within twenty (20) days of the end of each calendar month.

2. The records of emissions shall detail daily emissions from Deepwater Unit 8 and shall at a minimum include:

a. An estimate of the amount of fuel consumed for each day of the preceding month;

b. An analysis of representative shipments of fuel to include sulfur content, high heating valve and ash content;

c. Calculated daily particulate emissions from Deepwater Unit 8 derived by use of emission test results adjusted for variations in fuel consumption and fuel analysis.

3. The strip chart recordings of the opacity readings from the monitor described in subparagraph VI.C., *supra*, shall be kept on file at the Deepwater Generating Station during the period of this Order is in effect and shall be available for inspection by EPA Region II during this period.

4. If the air quality monitoring data collected by the Company pursuant to subparagraph VI.A., *supra*, indicate that a national primary ambient air quality standard for particulates is being exceeded in the area, the Company shall notify the Director, Enforcement Division, EPA, Region II of such occurrence by telephone or letter or other means, within five (5) working days of the collection of such data.

5. Within ninety (90) days of the effective date of this Order, the Company shall submit to EPA Region II for approval the methods, procedures, and devices by which the Company intends to obtain, record, and report the information required by subparagraph VI.D.2, *supra*.

VII. Force Majeure

A. If any event occurs which causes or may cause delays in the achievement of any provision of this Order, the Company shall within twenty (20) days of the occurrence of such event, notify EPA Region II in writing of the delay or anticipated delay, as appropriate, describing the anticipated length of the delay, the precise cause or causes of the delay, the measures taken or to be taken to prevent or minimize the delay. The Company shall adopt all reasonable measures to prevent or minimize any such delay. Failure by the Company to comply with the notice requirements of this subparagraph shall render this paragraph void and of no effect as to the particular event involved.

B. If the Company is unable to comply with any deadline or time limit set forth in Paragraph I or Subparagraphs VI.A, VI.B, or VI.C, *supra*, and such failure has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of the Company, then said deadline or time limit shall be extended for a period no longer than the delay resulting from such circumstances.

C. The burden of proving that any delay is caused by circumstances beyond the control of the Company and the length of the delay attributable to such circumstances shall rest with the Company. Increased costs or expenses associated with the implementation of actions called for by this Order shall not be considered circumstances beyond the control of the Company for purposes of this Paragraph. Delay in achievement of one deadline or time limit under this Order shall not necessarily justify or excuse delay in achievement of subsequent deadlines or time limits under this Order.

VIII. Nothing herein shall affect the responsibility of the Company to comply with state, local, or other federal law or regulations.

IX. The Company is hereby notified that its failure to achieve final compliance at Deepwater Unit 8 with N.J.A.C. 7:27–3.1 *et seq.*, 7:27–4.1 *et seq.*, *and* 7:27–8.1 *et seq.* by October 1, 1983, may result in a requirement to pay a noncompliance penalty under Section 120 of the Act. Such requirement may be imposed at an earlier date, as provided by Subsection 113(d) and Section 120 of the Act, either in the event that this Order is terminated as provided in Paragraph X, *infra*, or in the event that any requirement of this Order is violated as provided in Paragraph XI, *infra*. In any event, the Company will be formally notified of its noncompliance pursuant to subsection 120(b)(3) and any regulations promulgated thereunder.

X. This Order shall be terminated in accordance with Subsection 113(d)(8) of the Act if the Administrator or his designee determines on the record, after notice and hearing, that an inability of Deepwater Unit 8 to burn coal and comply with the N.J.A.C. 7:27–3.1 *et seq.*, and 7:27–4.1 *et seq.* no longer exists.

XI. Violation of any requirement of this Order may result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Subsection 113 (a), (b), or (c) of the Act;

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of the New Jersey SIP in accordance with the preceding subparagraph; or

C. Notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

XII. This Order is effective upon publication of final approval in the Federal Register.

Date: _____

Administrator, U.S. Environmental Protection Agency

Consent

The undersigned, having full authority to represent the Atlantic City Electric Company, has read the foregoing Order, and consents to both its issuance and its terms.

Name: _____

Date: _____

Position: _____

For Atlantic City Electric Company

[FR Doc. 80-34694 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-7 FRL 1656-5]

Designation of Areas for Air Quality Planning Purposes; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This document proposes redesignation of Ames, Iowa from unclassifiable to attainment with respect to the Total Suspended Particulate ambient air quality standards. It also proposes reclassification of six counties from unclassifiable to attainment with respect to the ozone air quality standard.

A nonattainment designation means that air pollution levels in a certain area are above the ambient air quality standards and that the area is required to develop a plan to attain the standards under Part D of the Clean Air Act. An attainment designation means that air pollution levels are better than the standards while an unclassifiable designation means that sufficient information does not exist to make a determination. As a result of either of the latter designations, a plan under Part D is not required.

DATES: Public comments should be received by January 5, 1981.

ADDRESS: Public comments should be sent to Daniel J. Wheeler, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available at the above address and the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street S.W., Washington, D.C., and the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, at 816–374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act as amended in 1977 requires all areas of the nation to be designated as having attained the National Ambient Air Quality Standard (NAAQS), as having not attained the NAAQS or as being unclassifiable with respect to attainment for each pollutant for which there is a standard. Attainment/nonattainment designations are recommended by the state and approved or revised as necessary by EPA.

The original designations for the State of Iowa were published in the Federal Register of March 3, 1978 (43 FR 8962), and were codified in the Code of Federal Regulations at 40 CFR 81.316. On June 22, 1979, the State of Iowa submitted a number of redesignation requests as part of the State Implementation Plan revision required by the 1977 Clean Air Act Amendments. When final action was taken by the EPA on these redesignation requests some of the requested redesignations were approved and others were modified. For a full discussion of these actions the reader should refer to the Federal Register of March 6, 1980 (45 FR 14569).

EPA did not take action at that time on several redesignations of unclassifiable areas recommended by the state. EPA now proposes to redesignate these unclassifiable areas as attainment.

The first proposed redesignation concerns the City of Ames, in Story County. At the time of the original designations, information available in Ames did not present a clear picture of the existing particulate levels. Since that time air quality sampling by the State has shown no excesses of the 24-hour secondary particulate standard for over two years. This monitoring data meets EPA's requirements as a demonstration of attainment for the City of Ames.

Nine counties were designated unclassifiable for ozone due to their lack of ozone monitoring and the fact that they were downwind from ozone nonattainment areas. In the March 6, 1980, rulemaking, EPA revised the designation of three of the nonattainment areas based on the change in the ozone standard (see 44 FR 8220, February 8, 1979). Since the upwind counties that were designated nonattainment have not been redesignated to attainment, the State requests that the downwind counties also be designated attainment. EPA proposes to change the designation from unclassifiable to attainment, with respect to the ozone standard, for Boone, Clinton, Harrison, Jasper, Marshall, and Story counties. The State did not recommend any change in the unclassifiable designation for Buchanan, Delaware, and Jones counties.

The Administrator's decision to approve or revise these proposed designations will be based on comments received and on a determination of whether or not the proposal meets the requirements of the Clean Air Act and satisfies the requirements stated in the March 3, 1978 rulemaking. This notice of proposed rulemaking is issued to advise the public of EPA's intent in this matter.

Under Executive Order 12044, EPA is required to judge whether the regulation is "significant" and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 107 of the Clean Air Act as Amended (42 U.S.C. 7407).

Dated: October 27, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-34658 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5873]

Revision of Proposed Flood Elevation Determinations for City of Vancouver, Clark County, Washington; Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Vancouver, Washington.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 52422 on August 7, 1980 and in *The Columbian*, published on or about July 23, 1980, and July 30, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 210 E. 13th Street, Vancouver, Washington.

Send comments to: Honorable Jim Justin, 210 E. 13th Street, Vancouver, Washington 98660.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872. In Alaska or Hawaii, call Toll Free Line (800–424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Vancouver, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Columbia River	Centerline of Burlington Northern Railroad 3000 feet northwest along Tracks from Northwest 26th Street Extension.	*27
	Intersection of river and center of Interstate Highway 5.	*28
Burnt Bridge Creek	Intersection of Creek and center of Levench Parkway.	*56
	Intersection of creek and center of Define Road.	*165

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: October 23, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80-34447 Filed 11-5-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5843]

Revision of Proposed Flood Elevation Determinations for Village of Jackson, Wisconsin Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Jackson, Wisconsin.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 42705 on June 25, 1980 and in the *West Bend News*, published on or about June 6, 1980, and June 13, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Office of Village Clerk, Village Hall, P.O. Box 147, Jackson, Wisconsin.

Send comments to: Honorable Earl Kruepke, P.O. Box 147, Jackson, Wisconsin 53037.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872. In Alaska or Hawaii, call Toll Free Line (800-424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Poposed base (100-year) flood elevations are listed below for selected locations in the Village of Jackson, Wisconsin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of Flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Jackson Creek	Downstream side of the intersection of Jackson Drive with the channel.	*876
	Approximately 500 feet upstream of the intersection of Jackson Drive with the channel.	*882
Hasmer Creek	Downstream side of the intersection of State Trunk Highway 60 (Main Street) with the channel.	*868
	Intersection of Trailor Park Road with the channel.	*871
Hasmer Lake	Confluence with Hasmer Creek.	*872
Cedar Creek	Intersection of the eastern most corporate limits with the channel.	*844
	1200 feet downstream of the intersection of Sherman Road with the channel.	*845

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: October 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-34448 Filed 11-5-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5944]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
California	Costa Mesa (City), Orange County.	Santa Ana River	Swan Drive between Sandpiper Drive and Albatross Drive	*16
			Intersection of Albatross Drive and Adams Avenue	*19
			Intersection of South Coast Drive and Harbor Boulevard	*32
			Begonia Avenue	*32
	Maps available for inspection at Planning Department, City Hall, Costa Mesa, California.			
	Send comments to Honorable Arlene Schaffer, P.O. Box 1200, Costa Mesa, California 92626.			
California	Garden Grove (City), Orange County.	Santa Ana River	Intersection of Westminster Avenue and Taft Street	#3
			Intersection of Trask Avenue and Lilly street	#104
			Intersection of Garden Grove Boulevard and Fairview Street	#2
			Intersection of Oertly Drive and Willowood Avenue	#121
			Intersection of Trask Avenue and Havenwood Drive	#2
			Intersection of Harbor Boulevard and Flagstone Avenue	#3
	Maps available for inspection at Public Works, 11391 Arcacia Parkway, Garden Grove, California.			
	Send comments to Honorable Jonathan H. Cannon, 11391 Arcacia Parkway, Garden Grove, California 92640.			
Florida	Dade City (City), Pasco County	Withlacoochee River	Intersection of Tucker Avenue and Canal Street	*78
	Maps available for inspection at City Hall, Dade City, Florida.			
	Send comments to Honorable Lawrence Puckett, P.O. Box 1355, Dade City, Florida.			
Florida	New Port Richey (City), Pasco County.	Gulf of Mexico (Pithlachascotee River).	Intersection of Sunset Boulevard (U.S. Highway 19, State Highway 55) and Avery Road.	*12
			Intersection of Main Street and South River Road	*11
	Maps available for inspection at City Hall, New Port Richey, Florida.			
	Send comments to Honorable George Henry, 320 East Main Street, New Port Richey, Florida 33552.			
Florida	Port Richey (City), Pasco County	Gulf of Mexico (Pithlachascotee River).	Intersection of River Gulf Road and Sunset Boulevard (U.S. Highway 19, State Highway 55).	*12
	Maps available for inspection at City Hall, Port Richey, Florida.			
	Send comments to Honorable Harold Loser, 1000 U.S. 19 North, Port Richey, Florida 33568.			
Florida	Springfield (City), Bay County	Lake Martin	Intersection of Flight Avenue and Martin Court	*10
			50 feet north of intersection of Creek with 14th Street	*26
		Lake Martin Tributary	Intersection of Bayou Avenue and 5th Street	*11
		Watson Bayou Tributary	Intersection of creek and center of Springfield Avenue	*9
	Maps available for inspection at City Hall, 3529 East 3rd Street, Springfield, Florida.			
	Send comments to Honorable Buddy McLemore, P.O. Drawer 3717, Springfield, Florida 32401.			
Illinois	(V) Browning, Schuyler County	Illinois River	At the downstream corporate limits	*452
			At the upstream corporate limits	*452
	Maps available for inspection at the Public Works Office, Village Hall, Browning, Illinois.			
	Send comments to Honorable Burl Boyd, Village President, Village of Browning, Village Hall, Browning, Illinois 62624.			
Illinois	(C) Geneva, Kane County	Fox River	At the downstream corporate limit	*669
			Just downstream of the Geneva Dam	*676
			Just upstream of the Geneva Dam	*679
			At the upstream corporate limit	*682
		Geneva Creek	At the confluence with Fox River	*673
			Just upstream of Pedestrian bridge located 300 feet downstream of State Route 31.	*689
			Just upstream of State Route 31	*694
			About 100 feet upstream of Cheever Avenue	*699
			Just upstream of the Chicago and North Western Railroad	*707
			Just downstream of South Street	*714
			Just upstream of South Street	*722
	Maps available for inspection at the Building Commissioner's Office, City Hall, 22 South First Street, Geneva, Illinois.			
	Send comments to Honorable William B. Wood, Mayor, City of Geneva, City Hall, 22 South First Street, Geneva, Illinois 60134.			
Illinois	(V) Naples, Scott County	Illinois River	At the downstream corporate limit	*448
			At the upstream corporate limit	*448
	Maps available for inspection at the Village Hall, P.O. Box 2023, Naples, Illinois.			
	Send comments to Honorable Robert Miller, Village President, Village Hall, P.O. Box 2023, Naples, Illinois 62669.			
Indiana	(C) Michigan City, La Porte County.	Trail Creek	At mouth at Lake Michigan	*584
			Just upstream of Springland Avenue	*595
			Just upstream of Michigan Avenue	*603
		Deer Creek	At mouth at Trail Creek	*598
			Just downstream of Golf Course Road	*609
			Just upstream of Golf Course Road	*616
			Just downstream of Meer Road	*634

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Proposed base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Otter Creek	At mouth at Trail Creek	*592
			Just downstream of Karwick Road	*606
			Just upstream of Karwick Road	*614
		Beck Ditch	At mouth at Otter Creek	*596
			Just upstream of Karwick Road	*608
		Lake Michigan	Entire length of community along Lake Michigan	*584
		North Branch Deer Creek	About 600 feet upstream Warnke Road	*616
			Just downstream of private road (about 1,900 feet upstream Warnke Road).	*622
			Just upstream of private road (about 1,900 feet upstream Warnke Road).	*628
			About 1,800 feet upstream of Chicago South Shore and South Bend Railroad.	*634
		White Ditch	About 1,100 feet downstream of confluence of Kimball Ditch	*607
			Just downstream of Grand Beach Road	*613
			Just upstream of U.S. Route 12	*622
		Kimball Ditch	At confluence with White Ditch	*608
			Just upstream of Duneland Beach Drive	*608
		Kintzele Ditch	Just upstream of County Line Road	*617
			At confluence with Striebel Arm	*618
		Striebel Arm	Just upstream of Hitchcock Road	*619
			Just upstream of Earl Road	*628
			Just upstream of Louisville and Nashville Railroad (southern crossing).	*642

Maps available for inspection at the Planning Department, City Hall, 100 E. Michigan Boulevard, Michigan City, Indiana.

Send comments to Honorable Clifford Arnold, Mayor, City of Michigan City, City Hall, 100 E. Michigan Boulevard, Michigan City, Indiana 46360.

Michigan	(V) Almont, Lapeer County	North Branch Clinton River	About 230 feet downstream Kidder Road	*822
			Just upstream of Kidder Road	*824
			Just downstream of Main Street	*833
			About 2,650 feet upstream Main Street	*840
		Farnum Drain	At confluence with North Branch Clinton River	*834
			Just downstream of St. Clair Street	*836

Maps available for inspection at the Village Hall, 817 North Main Street, Almont, Michigan.

Send comments to Honorable Charles Orr, Village President, Village of Almont, Village Hall, 817 North Main Street, Almont, Michigan 48001.

Mississippi	Clinton (City), Hinds County	Bakers Creek	Intersection of Bakers Creek and Illinois Central Gulf Railroad	*262
		Henry Creek	75 feet upstream from center of Field Road	*275
		French Creek	25 feet upstream from center of Interstate Highway 20 westbound lane.	*295
		Allen Creek	50 feet upstream from center of Interstate Highway 20 westbound lane.	*310
		Allen Creek Tributary	550 feet east of intersection of Interstate Highway 20 westbound exit ramp and Springridge Road.	*318
		French Creek Tributary 1	50 feet upstream from center of Interstate Highway 20 westbound lane.	*295
		Lindsey Creek	100 feet upstream from center of Interstate Highway 20 westbound lane.	*297
			Intersection of Lindsey Creek and center of Illinois Central Gulf Railroad.	*312

Maps available for inspection at the City Hall, Clinton, Mississippi.

Send comments to Honorable Charles Blass, P.O. Box 156, Clinton, Mississippi 39056.

Missouri	(T) Catron, New Madrid County	Shallow Flooding (Ditch No. 1)	Within corporate limits	*281

Maps available for inspection at the Office of the Mayor, P.O. Box 24, Catron, Missouri.

Send comments to Honorable D. F. Allen, Mayor, Town of Catron, P.O. Box 24, Catron, Missouri 63833.

Missouri	(C) Lilbourn, New Madrid County	Shallow Flooding (Overflow From Unnamed Ditch Parallel to County Highway D).	At northwest corporate limits	*281
		Shallow Flooding (From Rainfall) East of Seventh Street between Ewing Street and St. Louis Southwestern Railway.		*281
			Southeast of intersection of Baear Road and Roberts Avenue	#1
			Intersection of Broughton Avenue and Fourth Street	#1
			Intersection of Phillips Avenue and Third Street	#1
			Intersection of Ress Street and Sixth Street	#1
			Phillips Avenue just east of St. Louis-San Francisco Railway	#1
			Baden Street just west of Main Street	#1
			Northwest of intersection of Charlotte Avenue and First Street	#1
			About 800 feet east of intersection of Phillips Avenue and Seventh Street.	#1
			Intersection of Seventh Street and Mooney Street	#1

Maps available for inspection at the City Hall, Lilbourn, Missouri.

Send comments to Honorable Richard Twitty, Mayor, City of Lilbourn, City Hall, P.O. Box 643, Lilbourn, Missouri 63862.

Proposed base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Missouri	(V) North Lilbourn New Madrid County.	Shallow Flooding (from Little River).	Within the corporate limits	*281

Maps available for inspection at the Village Hall, P.O. Box 139, Lilbourn, Missouri.

Send comments to Honorable T. L. Clark, Mayor, Village of North Lilbourn, Village Hall, P.O. Box 139, Lilbourn, Missouri 63862.

Missouri	(C) Risco, New Madrid County	Shallow Flooding (Ditch No. 8)	Between the western corporate limit and the St. Louis-San Francisco Railroad.	*277
		Shallow Flooding (Ditch No. 44)	Between the eastern corporate limit and the St. Louis-San Francisco Railroad.	*276

Maps available for inspection at the City Hall, Risco, Missouri.

Send comments to Honorable William E. Gordon, Mayor, City of Risco, City Hall, Risco, Missouri 63874.

Missouri	(C) Tallapoosa, New Madrid County.	Shallow Flooding (Ponding from Unnamed Ditch).	Between the eastern corporate limits and 1st Street	*273
		Shallow Flooding (Ponding from Ditch No. 8).	Within the corporate limits	*273

Maps available for inspection at the Office of the City Clerk, City Hall, Tallapoosa, Missouri.

Send comments to Honorable Leo DeProw, Mayor, City of Tallapoosa, City Hall, P.O. Box 139, Tallapoosa, Missouri 63878.

Nebraska	(C) Madison, Madison County	Union Creek	About 7000 feet downstream of U.S. Highway 81	*1,566
			Just downstream of Main Street	*1,574
			Just upstream of Jackson Street	*1,579
			About 10,000 feet upstream of 3rd Street	*1,589
		Taylor Creek	Confluence with Union Creek	*1,575
			Just upstream of North 6th Street	*1,579
			About 1300 feet upstream of Union Pacific Railroad	*1,586

Maps available for inspection at the City Hall, Madison, Nebraska.

Send comments to Honorable Ray Pellikaan, Mayor, City of Madison, City Hall, Madison, Nebraska 68748.

Nebraska	(V) Raymond, Lancaster County	Oak Creek	About 1.1 miles downstream West Mill Road (at extraterritorial limits)	*1,203
			Confluence of North Oak Creek	*1,212
			Just downstream State Highway 79	*1,213
		North Oak Creek	About 200 feet upstream West Raymond Road	*1,216
			Just downstream West Branched Oak Road	*1,226

Maps available for inspection at the Village Hall, Raymond, Nebraska.

Send comments to Honorable Wesley Hornung, Mayor, Village of Raymond, Village Hall, Raymond, Nebraska 68428.

New York	Big Flats, Town, Chemung County.	Chemung River	Downstream Corporate Limits	*869
			Approximately 18,000 feet above downstream Corporate Limits	*882
			Upstream of South Corning Road	*895
			Upstream Corporate Limits	*898
		Sing Sing Creek	Confluence with Chemung River	*882
			Approximately 500 feet upstream of confluence with Cuthrie Run	*892
			Upstream of Suburban Drive	*902
			Downstream of Main Street	*914
			Upstream of Conrail	*920
			Upstream of Farm Road	*931
			Upstream of Haul Road Bridge	*937
			Approximately 300 feet upstream of Schweitzer Road	*949
			Downstream of Sing Sing Road	*966
			Downstream of Beers Hill Road	*1,006
			Upstream Corporate Limits	*1,024
		Cuthrie Run	Confluence with Sing Sing Creek	*891
			Downstream of Conrail	*900
			Approximately 1,700 feet upstream of State Route 17	*928
			Approximately 3,600 feet upstream of State Route 17	*943
			Approximately 800 feet downstream of Sing Sing Road	*960
			Upstream of Sing Sing Road	*978
			Approximately 1,250 feet downstream of Hubbard Road	*993
			Downstream of Hubbard Road	*1,008
			Upstream of Hubbard Road	*1,015
		Gardner Creek	Confluence with Chemung river	*891
			State Route 17	*895
		Markle Hollow	Approximately 1,800 feet downstream of Corporate Limits	*915
			Approximately 1,200 feet downstream of Corporate Limits	*930
			Approximately 660 feet downstream of Corporate Limits	*946
			Approximate 60 feet downstream of Corporate Limits	*962
			Corporate Limits	*965
		Owen Hollow Creek	Confluence with Gardner Creek	*893
			Upstream of State Route 17	*899
			Approximately 400 feet upstream of Hillview Drive	*905
			Approximately 2,725 feet upstream of Hillview Drive	*919
			Approximately 850 feet downstream of Chestnut Street	*930
			Downstream of Chestnut Street	*941
			Approximately 550 feet upstream of Chestnut Street	*959
			Approximately 950 feet upstream of Chestnut Street	*970
			Approximately 1,400 feet upstream of Chestnut Street	*983

Maps available at the Town Clerk's Office, Big Flats, New York.

Send comments to Honorable Beverly Miner, Town Supervisor of Big Flats, 476 Maple Street, Big Flats, New York.

New York	Tonawanda, Town, Erie County	Niagara River, Tonawanda Channel.	Downstream Corporate Limits	*571
			Approximately 11,500 feet upstream Interstate Route190	*571

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Proposed base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Ellicott Creek	Downstream Corporate Limits	*572
			Approximately 1,000 feet upstream Colvin Boulevard	*573
			Ponding area extending from downstream corporate limits east to Parker Boulevard.	*573
		Tonawanda Creek	Downstream corporate limits	*572
			Approximately 1,600 feet upstream of downstream corporate limits	*572
	Maps available at the Tonawanda Municipal Building, 2919 Delaware Avenue, Kenmore, New York.			
	Send comments to Honorable James V. Ryan, Town Supervisor of Tonawanda, Municipal Building, 2919 Delaware Avenue, Kenmore, New York 14217.			
Pennsylvania	Bonneauville, Borough, Adams County.	Chicken Run	Downstream Corporate Limits	*506
			350' downstream of PA Route 116	*514
			Downstream side of PA Route 116	*518
			60' upstream of Oak Lane	*532
			120' downstream of Private Road	*539
			Sunset Drive	*545
	Maps available at the Bonneauville Borough Building, R.D. 5, Gettysburg, Pennsylvania.			
	Send comments to Honorable Bernard Shanebrook, Council President of Bonneauville, R.D. 5, Gettysburg, Pennsylvania 17325.			
Pennsylvania	Hamilton, Township, Adams County.	West Conewago Creek	Downstream Corporate Limits	*411
			Downstream Legislative Route 01037	*420
			Upstream confluence of Pine Run	*425
			Upstream Green Ridge Road	*433
			Upstream State Route 94	*448
			Upstream Corporate Limits	*456
		South Branch Conewago Creek	Confluence with West Conewago Creek	*456
			Upstream Corporate Limits	*460
		Beaver Creek	Downstream Corporate Limits	*402
			Downstream side of Beaver Creek Road at first crossing	*413
			Downstream side of Jacobs Mill Road	*422
			Upstream Saint Mary's Road	*438
			Upstream side of Home Road	*448
			Upstream Corporate Limits	*478
		Seven Hundred School Run	Confluence with South Branch Conewago Creek	*458
			Downstream Third Private Road	*479
			Upstream Gun Club Road	*493
			Upstream Corporate Limits	*507
		Pine Run	Confluence with West Conewago Creek	*425
			Upstream Mill Road	*442
			Approximately 130 feet upstream of Pine Run Road	*464
		Tributary A	Confluence with Pine Run	*490
			Confluence of Tributary B	*505
			Upstream Corporate Limits	*519
		Tributary B	Confluence with Tributary A	*505
			Upstream side 1st private Road	*521
			Upstream Corporate Limits	*534
	Maps available at the residence of Ms. Ethel Roche, Township Secretary, R.D. 1, Forest Drive, New Oxford, Pennsylvania.			
	Send comments to Honorable Eugene E. Smith, Chairman of the Hamilton Board of Supervisors, R.D. 1, Box 423, New Oxford, Pennsylvania 17350.			
Tennessee	Gallatin (City), Sumner County	East Camp Creek	100 feet upstream from center of U.S. Highway 31E	*455
			100 feet upstream from center of Louisville and Nashville Railroad	*512
		East Camp Creek West Tributary	At confluence with East Camp Creek Northwest Tributary	*491
		East Camp Creek Northwest Tributary.	300 feet downstream from center of Red River Road	*505
		Town Creek	100 feet upstream from center of Lock Four Road	*455
			100 feet upstream from center of West Main Street	*514
			200 feet upstream from center of U.S. Highway 31E	*552
		Town Creek Left Bank Tributary 1	100 feet upstream from center of Britton Street	*492
		Town Creek Left Bank Tributary 2	100 feet upstream from center of Westland Avenue	*538
		Town Creek Left Bank Tributary 3	275 feet upstream from confluence with Town Creek	*560
		Bulls Creek	100 feet upstream from center of State Highway 109	*491
		Sink Hole Creek	150 feet upstream from center of Newton Lane	*476
		Sink Hole Creek Tributary	350 feet upstream from confluence with Sink Hole Creek	*499
		Albright Creek	100 feet upstream from center of Willmore Road	*454
			100 feet upstream from center of County Road 6130 (Cairo Road)	*554
		Station Camp Creek	100 feet upstream from center of Louisville and Nashville Railroad	*463
			100 feet upstream from center of Long Hollow Pike	*489
		Old Hickory Lake	Intersection of Lake and State Highway 109	*452
	Maps available for inspection at the Engineer's Office, 132 W. Main St., Gallatin, Tennessee.			
	Send comments to Honorable A. B. Charlton, Jr., 132 W. Main Street, Gallatin, Tennessee 37066.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001.4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-34449 Filed 11/5/80; 8:45 am]

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COMMUNITY SERVICES ADMINISTRATION

45 CFR Ch. X

Improving Government Regulations; Semiannual Agenda

AGENCY: Community Services Administration.

ACTION: Semiannual publication of regulations under review or development at this time.

SUMMARY: The Community Services Administration in accordance with Executive Order 12044 hereby publishes the agenda of regulations which are under review or development at this time.

FOR FURTHER INFORMATION CONTACT: Jack Stoehr, 202-254-5300.

Richard J. Rios,

Director.

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SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

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TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED; WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
		OFFICE OF COMMUNITY ACTION						
	X	Part 1062 Subpart A thru I CAAs: Eligibility and Establishment	In order to implement Sec 201(c) of the EOA as amended by the Economic Opportunity Amendments of 1978	Title II Sec 210(c) and Title VI of the EOA		1-29-80 FR 5802; Semi-annual Agenda	Proposed rule under development. Notice of intent filed in FR 8-16-79	Jackie Lamire 202-254-5047
	X	Subpart 1067.70 Applying for a CAP Grant	Need to reduce and simplify the paper-work process by which grantees apply for Local Initiative funding under Sec 221 and in the process to strengthen the capabilities and focus more sharply the efforts of both CSA and grantees on achieving the purpose of the EOA	Title II EOA		Proposed Rule published FR 8-30-79 Comment period closed 11-28-79	Final rule being drafted, target date 11-1-80	Larry Lillies 202-254-5670
	X	Subpart 1075.1 CSA Instruction 7501-1, Role of the State Office of Economic Opportunity	To make substantive changes based on legislative requirements, and budget projections	Title II, Sec 231 EOA	1-29-79 FR 5805, Semi-annual Agenda		Proposed rule published 5-27-80. Final rule under development.	Faye Rattner 202-254-5280
X		CAA Board responsibilities for fiscal matters	Existing regulations do not provide for establishment of CAA board responsibility for non-CSA funds.	Sec 213(a) & 602(n) of the EOA	X		Under development	Jackie Lamire 202-254-5047
	X	Grantee Contracts With Delegate Agencies	To consolidate and update existing CSA policy statements.	Sec 602(N) EOA	X		Under development	Timothy McTighe 202-254-5047

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X		Applying for a CAP Grant OEO Inst 6710-1 Limited Purpose Agencies	Need to reduce and simplify the paper work process by which organizations, other than Community Action Agencies apply for funding under the EOA and in the process to strengthen the capabilities and focus more sharply the efforts of both CSA and grantees on achieving the purposes of the EOA Need to codify requirements for funding of limited purpose agencies.	Title II	X		Under development	W.J. Strickland 202-254-6410
	X	Subparts 1061.30 and 1061.31: Emergency Energy Conservation Program	Inresponse to Executive Order 12044, Improving Government Regulations, CSA is planning to review these policy statements on Emergency Energy Conservation Programs	EO 12044	X		Under development	Richard Saul 202-632-6503
X		Funding of CSA Grantee (Governing the use of rural housing: demonstrations, training and technical assistance). Application process for funds under Title II Sec 222(a) 4; 226; Sec 214.	The Housing Office and CSA need a definitive notice covering all aspects of funding housing and community development programs; similar to 6143-1a for Energy Programs.	Sec 214; 222(a)4; 226	X		Under development	James Hearn 202-254-6390

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	X	Subparts: 1069.9 Policies & Procedures on $18,000 Per Yr Limitation; 1069.20 Payment for Overtime & Authorization for Compensatory Time; 1069.21 Personnel Policies & Procedures (Under Title II, Sec 231); 1069.22 Personnel Policies & Procedures (Under Title II, Sec 221,222(a), & Titles IV & VII); 1069.24 Employment of Persons with Criminal Records; 1069.25 Assistance to Vietnam Era Veterans; 1069.26 Social Security Coverage for Employees Under CAP Grants; 1069.27 Outside Employment of Grantee & Delegate Agency Personnel; 1069.28 Prohibition Against Acceptance of Gifts & Gratuities; 1069.29 Conflicts of Interest in Community Action Contracts; 1069.30 Personnel Policies & Procedures (Applies to State Economic Opportunity Offices under Title II, Sec 231)	In response to Executive Order 12044, Improving Government Regulations, CSA is planning to review its entire series of policy statements on grantee personnel management	Sec 602(n) EOA		11/16/78	Proposed rule published 5-12-80. Final rule under development.	Timothy McTighe 202-254-5047

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TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
X		National Enviromental Protection Act (NEPA). Floodplain and Wetlands Management Procedures.	NEPA requires that all agencies of the Federal Government develop procedures, in conjunction with CEQ, implementing its provision.	Sec 102 of National Enviromental Policy Act of 1969, as amended.	X		Proposed rule under development.	Jackie Lemire 202-254-5047
		OFFICE OF GENERAL COUNSEL						
X		Nondiscrimination on the basis of Handicap in programs and activities receiving financial assistance from CSA	To comply with Executive Order 11914	29USC 794		6-30-78	Not yet finalized	Jill Robinson 202-653-5675
	X	45 CFR 1015 Standards of Conduct	Recent legislation has mandated revision of post-employment restrictions	CSC Reform Act. PL 95-454 & Ethics in Gov't. Act of 1978, PL 96-19 & 96-28		5-1-80	CSA's standards are in the processes of being amended.	Bea Valdez 202-254-5423
X		Nondiscrimination on the basis of age in Federally assisted programs.	To comply with HEW's government-wide regulations implementing the Age Discrimination Act of 1975.	42USC 6101		5-1-80	Awaiting HEW guidance	Dennis Diamond 202-653-5675
X		Nondiscrimination on the basis of HEW in education programs receiving Federal financial assistance	To implement Title IX of Education Amendments of 1972	20USC 1681		5-1-80	Proposed rule published 9-15-80	Dennis Diamond 202-653-5675

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COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED; WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
		OFFICE OF ECONOMIC DEVELOPMENT						
	X	CSA Instruction 6710-6 Applying for a Grant Under Title VII of the Community Services Act	To bring instruction up to reflect new procedures	Title VII		FR 11-13-79	planning stage	J. Randolph Carr 202-254-6181
	X	CSA Instruction 6710-7 Amending a Grant Under Title VII of the Community Services Act	To update instruction to reflect new procedures	Title VII		FR 11-13-70	planning stage	J. Randolph Carr 202-254-6181
	X	CSA Instruction 6710-8 Preparing a Budget For a Title VII Grant Under the Community Services Act	To update instruction to reflect new cost center budgeting approach	Title VII		FR 11-13-79	planning stage	J. Randolph Carr 202-254-6181
	X	CSA Instruction 6402-2 Composition and Selection of CDC Boards of Directors	To modify board structure requirements	Title VII			planning stage	Pat Bennett 202-254-5320
X		Guidelines for preparing a Title VII planning grant application	To formalize application requirements.	Title VII	X		planning stage	Jim Digilio 202-254-5320
X		Policy statement on the need for Title VII CDCs to prepare overall economic development plans	To clarify OED position	Title VII	X		planning stage	Jim McCartney 202-254-5910
X		Allowances and Reimbursements for CDC Board Members	To liberalize policy on compensation for Board Members	Title VII	X		planning stage	J. Randolph Carr 202-254-6181

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FOR

COMMUNITY SERVICES ADMINISTRATION

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		OFFICE OF POLICY, PLANS AND EVALUATION						
	X	CSA Income Poverty Guidelines	Annual update to reflect 1980 changes in the cost of living.	624(a) EOA Statutory Requirement	X		Under development	Mary. R. Ellyn 202-632-6630
		OFFICE OF GENERAL COUNSEL						
	X	Grantee Lobbying Prohibitions	To implement lobbying prohibitions in Agency's FY 1981 Continuing Resolutions (PL 96-396)	PL 96-396 & HR 7998	X		Under development	Roger Schwartz 202-653-7520

[FR Doc. 80-34835 Filed 11-5-80; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[CGD 76-193a]

Radar Observer Endorsement—Demonstration of Skills

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is proposing to amend the regulations governing the issuance and renewal of radar observer endorsements on merchant marine officers licenses. Currently, more emphasis is being placed on requiring deck officers to demonstrate important skills, such as radar operation and interpretation instead of relying on written examinations. This proposal would clarify the requirements for a radar observer's endorsement, including the type of proficiency which would be required.

DATES: 1. Comments must be received on or before: December 31, 1980. 2. Public Hearing: The Coast Guard will hold a public hearing on December 11, 1980, beginning at 9 a.m. in Room 2232, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/24), (CGD 76-193a), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for examination at the Marine Safety Council (G-CMC/24), room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 between 7 a.m. and 5 p.m., Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Commander W. R. Arnet Jr., Office of Merchant Marine Safety (G-MVP-3/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593 (202-426-2251).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 76-193a), the name and address of the persons submitting the comments, and the specific section of the proposal to which each comment is addressed. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify the Executive Secretary, Marine Safety Council, (G-CMC/24), U.S. Coast Guard, Washington, D.C. 20593 (202-426-1477), at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

Drafting Information

The principal persons involved in drafting this proposal are: Commander Richard T. Hess, Project Manager, Office of Merchant Marine Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

In the January 17, 1977, issue of the **Federal Register** (42 FR 3186), the Coast Guard published proposed amendments governing the renewal of a merchant marine officer's license with a radar observer endorsement. The proposed change was intended to clarify the requirements for demonstration of radar observer skills during license renewal. The amendments provided that an applicant could renew an existing license without the radar observer endorsement; however, if the license being renewed was for service as a master, mate, or pilot on inspected vessels of 300 gross tons or over, the individual would be required to have a radar observer's endorsement in order to serve in any capacity under the authority of the license.

Twenty-one comments were received on the proposal.

It was pointed out, by numerous comments, that many licensed masters, mates, or pilots serve under the authority of their license on vessels which do not require a complement of deck officers, including the master, who have qualified as radar observers, as specified in § 157.20-32 of Title 46 of the Code of Federal Regulations. After considering the adverse comments received, and the inconsistencies between the qualification standards in 46 CFR 10.05-46 and the manning standards in 46 CFR 157.20-32, the Coast Guard is withdrawing the original proposal.

In March 1977, President Carter announced to Congress his initiatives to reduce the risks associated with marine transportation of oil. Among the actions to reduce maritime oil pollution was a recommendation that "More emphasis * * * be placed on requiring deck officers to demonstrate important skills, such as radar operation and interpretation, instead of relying on written examinations".

The Coast Guard feels it is necessary that merchant marine officers who have a radar observer endorsement, or who are applying for a radar observer endorsement, have radar simulator training. By being required to complete radar training courses prior to being issued the endorsement, individuals will receive the necessary radar simulator training.

The proposed change would clarify the requirements for a radar observer endorsement, including the type of proficiency which would be required. The proposal also provides that an officer can serve under the authority of a license, without a radar observer endorsement, if the type of service or tonnage of vessel does not require a deck officer, including the master or pilot, to be a qualified radar observer.

The description of the curriculum for the radar observer courses is being revised. The curriculum will now actually list the subjects to be taught, rather than cross-reference the subjects in the old examinations.

This proposal has been reviewed and is not considered a significant rulemaking under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A draft evaluation has been prepared and has been included in the public docket. A copy of the draft evaluation may be obtained from: Commandant (G-CMC/24), (CGD 76-193a) U.S. Coast Guard, Washington, D.C. 20593.

In consideration of the foregoing, it is proposed that Parts 10 and 157 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

1. By deleting § 10.02-9(e)(4) through (6) and revising § 10.02-9(e)(3) to read as follows:

§ 10.02-9 Requirements for renewal of license.

* * * * *

(e) * * *

(3) The qualification requirements for radar observer are in § 10.05-46.

* * * * *

2. By revising § 10.05-46 to read as follows:

§ 10.05-46 Radar observer.

(a) This section contains the requirements that must be met to qualify as radar observer. Section 157.20-32 of this chapter specifies the persons who must be qualified as radar observer.

(b) If an applicant meets the requirements in this section, one of the following radar observer endorsements is added to a deck officer's license:

(1) Radar observer (Unlimited).

(2) Radar observer (Inland Waters).

(c) Endorsement as Radar Observer (Inland Waters) is valid only for those waters covered by the Inland Rules of the Road, the Western Rivers Rules of the Road and the waters of the State of Alaska inside the base line from which the territorial sea is measured.

(d) Each applicant for a radar observer endorsement or for renewal of an endorsement must complete the appropriate course for the endorsement desired and receive the appropriate certificate of training from an approved radar training school listed in § 10.30-7.

(e) Each applicant for a radar observer endorsement or for renewal of an endorsement must present the certificate required by paragraph (d) of this section dated within 1 year of the date of application.

(f) An endorsement as radar observer issued under this section is valid for 5 years after the month of issuance. The radar observer endorsement remains valid during this 5 year period even if a new license is issued.

(g) The month and year of the expiration of the radar observer endorsement is placed on the license.

(h) A radar observer endorsement may be renewed at any time during the period of its validity.

(i) A radar observer endorsement issued prior to (effective date of regulations) remains valid until (two years after the effective date of the regulations), or until the license expires, whichever occurs later.

(j) An applicant for renewal of a license that has a radar observer endorsement may renew the license without the radar observer endorsement.

(k) An applicant for renewal of a license that does not have a radar observer endorsement may renew the license without meeting the requirements for a radar observer endorsement.

(l) An applicant who does not have a radar observer endorsement may have a license raised to a higher grade without meeting the requirements for a radar observer endorsement.

3. By revising § 10.30-5 to read as follows:

§ 10.30-5 Radar observer qualifying courses.

(a) A student who takes an approved course of training and who meets the requirements of this section is entitled to an appropriate radar observer certificate.

(b) If the student successfully completes the course, including both examinations and practical demonstration on a simulator, the student is entitled to an appropriate radar observer certificate—

(1) In a form prescribed by the school that is acceptable to the Coast Guard; and

(2) Signed by both the head of the school and the local Officer in Charge, Marine Inspection or a responsible officer under the jurisdiction of each, who shall be designated in writing.

(c) The following radar observer certificates shall be issued under this section:

(1) Radar Observer (no limitations as to area of operation).

(2) Radar Observer (restricted to inland waters).

(3) Radar Observer (unrestricted renewal).

(4) Radar Observer (inland waters/renewal).

(d) A school with an approved radar observer course may not issue a certificate listed in § 10.30-5(c) to a student unless the student has completed the curriculum as follows:

(1) Radar Observer (no limitation as to area of operation). A total of 64 classroom hours or more in the following subjects:

(i) Fundamentals of radar:

(A) How radar works.

(B) Factors affecting the performance and accuracy of marine radar.

(C) Description of the purpose and functions of the main components that comprise a typical marine radar installation.

(ii) Operation and use of radar:

(A) The purpose and adjustment of controls.

(B) The detection of malfunctioning, false and indirect echoes, and other radar phenomena.

(C) The effect of sea return and weather.

(D) The limitation of radar resulting from design factors.

(E) Precautions to be observed in performing simple maintenance of radar equipment.

(F) Range and bearing measurement.

(G) Effect of size, shape, and composition of ship targets on echo.

(iii) Interpretation and analysis of radar information:

(A) Determining the course and speed of another vessel.

(B) Determining the time and distance of closest point of approach of a crossing, meeting, overtaking, or overtaken vessel.

(C) Detecting changes of course and/or speed of another vessel after its initial course and speed have been established.

(D) Factors to consider when determining change in course and/or speed of a vessel to prevent collision on the basis of radar observation of another vessel or vessels.

(iv) Plotting (any method that is graphically correct may be used):

(A) The principles and methods of plotting relative and true motion.

(B) Practical plotting problems.

(2) Radar Observer (restricted to inland waters). A total of 40 classroom hours or more in the subjects listed in paragraph (d)(1) of this section.

(3) Radar Observer renewal, no limitations as to area of operations and inland waters. A total of 4 classroom hours or more in the subjects listed in paragraph (d)(1)(iii) and (iv) of this section.

(e) Each instructor of an approved radar observer course must hold a valid license endorsed as "radar observer", or possess other appropriate qualifications acceptable to the Coast Guard.

4. By adding a new § 10.30-7 to read as follows:

§ 10.30—7 Training schools with approved radar observer courses.

The following training schools have approved radar observer courses:

(a) Maritime Administration Radar Observer School, Seamen's Church Institute, 15 State Street, New York, New York 10004. (Mailing address: Atlantic Coast Director, Federal Building, 26 Federal Plaza, 37th Floor, New York, New York 10007).

(b) Maritime Administration Radar Observer School, Fort Mason, San Francisco Army Terminal (Mailing address: Pacific Coast Director, U.S. Department of Commerce, Maritime Administration, 450 Golden Gate Avenue, Box 36073, San Francisco, California 94102).

(c) Maritime Administration Radar Observer School, Room 14040, New Federal Building, 701 Loyola Avenue, New Orleans, Louisiana 70150.

(d) Maritime Administration Great Lakes Radar Training Center, 925 Summit Street, Toledo, Ohio 43604.

(e) Maritime Administration Radar Training School, 2228 Elliott Avenue, Seattle, Washington 98121.

(f) U.S. Merchant Marine Academy, Kings Point, New York 11754.

(g) U.S. Army Transportation School, Fort Eustis, Virginia 24437.

(h) State University of New York, Maritime College, Fort Schuyler, New York 10065.

(i) Maine Maritime Academy, Castine, Maine 04421.

(j) Texas Maritime Academy, Galveston, Texas 77552.

(k) California Maritime Academy, Vallejo, California 94590.

(l) Maritime Institute of Technology and Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, Maryland 21090.

PART 157—MANNING REQUIREMENTS

5. By revising § 157.20–32 to read as follows:

§ 157.20–32 Radar observer.

(a) Each person in the required complement of deck officers, including the master, for radar-equipped vessels of 300 gross tons or over which are issued Certificates of Inspection, must hold a valid endorsement as radar observer appropriate to the route of the vessel.

(b) Each person who is employed or serves as pilot in accordance with federal law on board radar-equipped vessels of 300 tons or over which are issued Certificates of Inspection, must hold a valid endorsement as radar observer appropriate to the route of the vessel.

(c) The requirements for a radar observer endorsement are in § 10.05–46 of this chapter.

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 6(b)(1), 80 Stat. 937 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: October 29, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-34708 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–666; RM–3594]

TV Broadcast Station in Sierra Vista, Ariz.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign UHF television Channel 58 to Sierra Vista, Arizona, as that community's first television assignment, in response to a petition filed by Sierra Vista Television, Inc.

DATES: Comments must be filed on or before December 22, 1980, and reply comments on or before January 12, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rosa Iris Ovaitt, Broadcast Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Sierra Vista, Arizona), BC Docket No. 80–666, RM–3594.

Adopted: October 21, 1980.

Released: November 4, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Sierra Vista Television, Inc. ("petitioner"), proposing the assignment of UHF television Channel 58 to Sierra Vista, Arizona, as that community's first television channel assignment.

(b) Channel 58 could be assigned to Sierra Vista in compliance with all mileage separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Sierra Vista is located in Cochise County, approximately 100 kilometers (60 miles) southeast of Tucson, Arizona.

(b) *Population.* Sierra Vista—6,689;[2] Cochise County—61,918.

(c) *Local Aural Broadcast Service.* Sierra Vista is served locally by one AM station (KTAN), and one FM station (KTAZ).

3. *Economic Considerations.*—Petitioner states that Sierra Vista has developed a significant trade and service sector due to the expansion of Fort Huachuca, an army installation. The development of subdivisions, and the growth of tourism have created a sufficient demand for new services to support continued growth in this sector.

4. Mexican concurrence in the proposal must be obtained.

5. In view of the fact that the proposed UHF television channel assignment would provide for a first local television service to Sierra Vista, Arizona, the Commission believes it appropriate to propose amending the Table of Television Assignments, § 73.606(b) of the Commission's Rules, with regard to the following city:

City	Channel No. Present	Channel No. Proposed
Sierra Vista, Arizona		58

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before December 22, 1980, and reply comments on or before January 12, 1981.

8. For further information concerning this proceeding, contact Ross I. Ovaitt, Broadcast Bureau, (202) 632–6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as the one, which involve channel assignment. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–666; RM–3594]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeing will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D. C.

[FR Doc. 80-34652 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80–701; RM–3616 and RM–3681]

FM Broadcast Station in Andrews and Pawley's Island, South Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to either Andrews or Pawley's Island, South Carolina, in response to petitions filed by Andrews Broadcasting Company, Inc., and Linda Knop, respectively. The proposals would provide a first local service to either community.

DATES: Comments must be filed on or before December 29, 1980 and reply comments must be filed on or before January 19, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments,* FM Broadcast Stations, (Andrews and Pawley's Island, South Carolina), BC Docket No. 80–701, RM–3616, RM–3681.

Adopted: October 30, 1980.

Released: November 5, 1980.

1. The Commission herein considers two separate petitions for rule making. The first filed by Andrews Broadcasting Company, Inc. ("petitioner"), proposes the assignment of FM Channel 265A to Andrews, South Carolina, as that community's first FM assignment.[1] The second was filed by Linda Knop ("petitioner"), which proposes the assignment of FM Channel 265A to Pawley's Island, South Carolina.[2] Since the distance between Andrews and Pawley's Island is approximately 40 kilometers (25 miles), and the required separation for co-channel Class A assigments is 104 kilometers (65 miles), these proposals are mutually exclusive. No other channels are available for assignment to either community. Comments on the "Knop" proposal were filed by James V. Dunbar, Jr. in which he expressed an interest in applying for the channel if assigned and by Tower Grand Strand Broadcasting, Inc., licensee of Station WYAK–FM, Surfside Beach-Garden City, South Carolina.

2. Andrews (population 2,879) is located in Georgetown County (population 10,449) [3], 78 kilometers (50 miles) northeast of Charleston, South Carolina. Pawley's Island (population 700) [4], is located in Georgetown County on the coast, 40 kilometers (25 miles) east of Andrews. Both communities are without local aural broadcast service.

3. Petitioners have submitted demographic and economic information to demonstrate the need for a first FM assignment to their respective communities. Each proposal would provide a first local service to the community. Andrews Broadcasting Company, Inc. asserts that the present population of Andrews is 3,300 based on the information provided from the Waccamaw Regional Planning and Development Council. Since Andrews is the larger of the two communities and Pawley's Island receives 1 mV/m service from Station WYAK–FM (10.7 miles away) [5] and by two stations in Georgetown, S.C., approximately 10 miles away, our tentative conclusion is to propose the channel assignment to Andrews. However, we shall provide the Pawley's Island proponent an opportunity to demonstrate in comments why Pawley's Island should receive the assignment.

4. In view of the foregoing, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the following cities:

City	Channel No. Present	Channel No. Proposed
Andrews, S.C.		265A
Pawley's Island, S.C.		265A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 29, 1980, and reply comments on or before January 19, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on March 31, 1980, Report No. 1221.

[2] Public Notice of the petition was given on June 11, 1980, Report No. 1234.

[3] Population figures are taken from the 1970 U.S. Census.

[4] Population figure is taken from the 1970 Rand McNally Atlas according to Ms. Knop.

[5] The comments of Tower Grand Strand Broadcasting indicate that Station WYAK–FM provides 1 mV/m service including weather information to Pawley's Island.

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Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-701; RM-3616 and RM-3681]

1. Pursuant to authority found in Sections 4(i), 5(d)(l), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposals(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will given the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-34653 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-700; RM-3634]

FM Broadcast Station in North Las Vegas, Nevada; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class C channel to either North Las Vegas or Las Vegas, Nevada, in response to a petition filed by North Vegas Radio Company. In the alternative, a Class A channel is proposed for North Las Vegas. The proposed channel could provide a first full-time aural broadcast service to North Las Vegas.

DATES: Comments must be filed on or before December 29, 1980, and reply comments on or before January 19, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Assignments, FM Broadcast Stations, (North Las Vegas, Nevada), BC Docket No. 80-700, RM-3634.

Adopted: October 30, 1980.

Released: November 5, 1980.

1. The Commission has before it a petition for rule making,[1] filed by North Vegas Radio Company ("petitioner"), which seeks the assignment of Channel 281 to North Las Vegas, Nevada, as that community's first FM assignment. Petitioner expressed an interest in applying for the channel, if assigned.

2. North Las Vegas (population 36,271),[2] in Clark County (population 273,288) is located adjacent to Las Vegas, near the southern tip of Nevada. It is served locally by full-time AM Station KVEG.

3. Petitioner states that North Las Vegas, although adjacent to Las Vegas, has its own independent existence. The community's local government is said to be its largest employer. It further states that the proposed assignment would bring North Las Vegas its first FM station and outlet for local expression.

4. *Preclusion considerations.* The proposed assignment would cause preclusion to communities as follows: Channel 278 within 65 miles, Channel 279 within 65 miles, Channel 280A within 105 miles, Channel 281 within 180 miles (170 miles in California), Channel 283 within 65 miles and Channel 284 within 65 miles in Nevada and Arizona. Petitioner states that many other channels are available for assignment in the precluded areas.

5. Our established policy is to reserve Class C channels for large urban areas. However, a departure from this policy is warranted when the Class C proposal could provide a significant amount of first and second service to surrounding area and population or when the assignment of a Class C channel would enable a large sparsely populated area to be served. Given the proximity of North Las Vegas to Las Vegas, we must question which city the proposed Class C facility would actually serve. In consideration of these aspects of the proposal, all of which petitioner should address in its comments, a Class C assignment may be appropriate at North Las Vegas. If it can be determined that another Class C channel is warranted for this area, we believe the larger and more important city of Las Vegas (population 125,787) may be the more appropriate location for the assignment. In addition, the 15-mile rule, § 73.203(b) could be utilized to permit the filing of an application to serve North Las Vegas, if desired. Finally, we are also proposing, as an alternative, a Class A channel assignment for North Las Vegas which we believe to be generally more appropriate for assignment to a surburban community. Channel 292A can be assigned to North Las Vegas, provided the transmitter is located 8.6 kilometers (5.4 miles) northwest of the city.

6. Accordingly, we propose the following alternative revisions in the FM Table of Assignments (§ 73.202(b) of the rules) with respect to the communities listed below:

Channel No.	City	
	Present	Proposed
Alternative I		
North Las Vegas, Nev.		281
Alternative II		
North Las Vegas, Nev.		292A

[1] Public Notice of the Petition was given on April 11, 1980, Report No. 1223.

[2] Population figures are taken from the 1970 U.S. Census.

Channel No.	City	
	Present	Proposed
Alternative III		
Las Vegas, Nev.	222, 226, 242, 246, 253, 270	222, 226, 242, 246, 253, 270, 281

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before December 29, 1980, and reply comments on or before January 19, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-700; RM-3634]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to the applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-34054 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

V 45 / 217 NO 6 80 0 UMI

Notices

Federal Register
Vol. 45, No. 217
Thursday, November 6, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Blue Gouge Mine Operating Plan, Eldorado National Forest, El Dorado County, California; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an Environmental Impact Statement for the Plan of Operations, Blue Gouge Mine, dated June 2, 1980.

This operating plan has been submitted in accordance with Federal Regulations, Title 36—Parks, Forests, and Public Property, Chapter 11, Forest Service Department of Agriculture, Part 252—Minerals. As provided for in 252.4f, an Environmental Impact Statement will be required prior to approval of the Plan of Operations.

The Plan of Operations, dated June 2, 1980, amends an earlier plan dated January 22, 1979, which was approved under an Environmental Assessment, dated April 2, 1979. These plans discuss the operator, location, duration, access, type of operation, anticipated measures to protect the environment, reclamation and coordination with Federal and State agencies.

The nature of the operation which this Environmental Impact Statement will cover is described briefly as follows:

1. Approximately 19 acres of timber land will be cleared for open pit ore extraction and processing the first year.

2. An additional three acres of timber land would be cleared in years 2–5 for open pit ore extraction.

3. The ore body is on a slope 80–100 percent adjacent to Camp Creek.

4. Approximately 300,000 tons of ore annually will be processed under this plan.

5. The recovery process will use a weak caustic cyanide solution on the site.

The Environmental Impact Statement will be the vehicle by which the Plan of Operations is evaluated.

As any early step in this process, Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by, the approved Plan of Operations, will be invited to participate in the:

(a) Identification of the issues to be addressed;

(b) Identification of those issues to be analyzed in depth; and

(c) Elimination from detailed study of those issues which are not significant or which have been covered by prior environmental review, or are not within the scope of the Plan of Operations.

To accomplish this, public meetings will be held at:

Forest Supervisor's Office, 100 Forni Road, Placerville, CA 95667.
Friday, November 7, 1980.
Morning: 9:00 a.m. to 12:00 Noon.
(A formal briefing will begin at 9:00 with discussion to follow.)
Field Review of Site (Weather permitting).
November 7, 1980 1:30–4:30 p.m.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the District Ranger before December 15, 1980. Additional public participation opportunities may be provided as a result of responses to issues identified in the scoping sessions listed above.

The estimated due date for distribution of the Draft Environmental Impact Statement is March 1981. Following a three month public review period, a Final Environmental Impact Statement will be prepared and distributed in approximately July 1981.

For further information about this project, or availability of the environmental impact statements or other documents relevant to this process, contact: Brent H. McBeth, Resource Officer, Placerville Ranger District, Eldorado NF, 3491 Carson Court, Placerville, CA 95667 (916) 644–2324.

Dated: October 2, 1980.

Robert R. Lusk,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 80-34637 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Wailuku-Alenaio Watershed, Hawaii; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jack P. Kanalz, State Conservationist, Soil Conservation Service, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850, telephone number (808) 546–3165.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the proposed extension of Diversion No. 4, Wailuku-Alenaio Watershed, Hilo, Hawaii.

The environmental assessment of this federally assisted action indicates that the extension of Diversion No. 4 will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jack P. Kanalz, State Conservationist, has determined that the preparation and review of a supplemental environmental impact statement is not needed for this action.

The proposed action is to extend Diversion No. 4 to intercept overland flows of storm water. The extension would begin at the terminus of the existing diversion channel and would run 1,150 feet south along the upstream side of Akolea Road. The channel invert, which will be in rock, will be 12 feet wide with invert slope varying from 0.01 to 0.10 and side slopes of 1:4. The channel depth below existing grade will vary with ground contours.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data develped during the environmental assessment are on file and may be reviewed by contacting Mr. Jack P. Kanalz. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until December 8, 1980.

Dated: October 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Buell M. Fergeson,

Director, Project Development and Maintenance.

[FR Doc. 80-34621 Filed 11-5-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 37751; Order 80-10-173]

Petition of Nor East Commuter Airlines, Inc., for Advance Compensation for Losses; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of October 1980.

By Order 80–3–125, March 20, 1980 we set an interim rate of compensation for Nor East Commuter Airlines, Inc. for the provision of essential air service between New Bedford, Massachusetts and Martha's Vineyard and Nantucket, Massachusetts. The rate of $14,681 is based on Nor East's estimated operating loss plus interest expense for the period February 21, 1980 through May 1980.

Nor East has submitted data which show that for periods subsequent to May 1980 the interim rate exceeds its losses resulting in overcompensation. On the basis of this revised data we will adjust Nor East's interim rate to $4,557 for the period August 19, 1980 through September 17, 1980, and to $12,441 for each subsequent 30-day period.[1]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204, 419, and 1002(b), and the regulations promulgated in 14 CFR Parts 302 and 324:

1. We adjust the interim level of compensation set by Order 80–3–125 to $4,557 for the period August 19, 1980 through September 17, 1980, and for each subsequent 30-day period to $12,441 less $86 for each scheduled flight not completed;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate set here; and

3. We shall serve this on all parties to this proceeding.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[2]

Secretary.

[FR Doc. 80-34616 Filed 11-5-80; 8:45 am]

BILLING CODE 6320-01-M

[1] We would have adjusted the rate at the beginning of the peak summer period but for a premature engine failure in June which necessitated an unscheduled engine overhaul.

[2] All members concurred.

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Electric Motors from Japan; Antidumping: Final Determination of Sales of Large Motors at Less Than Fair Value and Suspension of Investigation for Small Motors

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Final determination of sales of large motors at less than fair value and suspension of investigation for small motors.

SUMMARY: In this antidumping investigation the Department of Commerce has suspended the investigation with respect to certain small electric motors from Japan and has determined that certain large electric motors from Japan are being sold in the United States at less than fair value. We are referring the investigation concerning large motors to the United States International Trade Commission for a determination whether the sales of large motors at less than fair value have caused or are likely to cause material injury to a domestic industry.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–1777).

SUPPLEMENTARY INFORMATION:

Procedural Background

On October 3, 1979, the Treasury Department began this investigation with publication of an "Antidumping Proceeding Notice" in the **Federal Register** (44 FR 57001). Treasury started the investigation after receipt of a petition in proper form filed on behalf of the Motor and Generator Section of the National Electrical Manufacturer's Association (NEMA).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 151, 19 U.S.C. 1671 *et seq.)* took effect. The 1979 Act repealed the Antidumping Act, 1921, and replaced it with Subtitle B of Title VII of the Tariff Act of 1930, as amended (the Act). Under the transition rules of the 1979 Act, the investigation of electric motors continued in accordance with the provisions of Title VII of the Act as if it had been initiated on January 1, 1980 (93 Stat. 189, 19 U.S.C. 1671 note).

On February 19, 1980, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the imports of certain electric motors from Japan allegedly sold or likely to be sold at less than fair value (45 FR 11[illegible]9).

On May 5, 1980, a Notice of Postponement of Preliminary Determination was published by the Department of Commerce (the Department) in the **Federal Register** (45 FR 29619). We determined that this case was "extraordinarily complicated" because of the complexity of the transactions investigated and the novelty of the issues presented.

On June 20, 1980, the Department published a notice of "Preliminary Determination of Sales at Less Than Fair Value" (45 FR 41687). This notice advised the public that, with the exception of submersible well pump motors which had been excluded from the investigation, there was reason to believe or suspect that certain industrial electric motors are being, or are likely to be, sold in the United States at less than fair value.

On June 26, 1980, at the request of counsel for respondent, a Notice of Extension of Period for Final Determination was published by the Department in the **Federal Register** (45 FR 43241). Counsel for petitioner supported the request. Accordingly, the final determination was extended for sixty days, until not later than October 28, 1980.

Scope of the Investigation

For purposes of the investigation, certain industrial electric motors means polyphase, AC, electric motors greater than 5 horsepower but not greater than 500 horsepower, provided for under TSUSA item numbers 682.4130, 682.4200, 682.4545, 682.4600, 682.5010 and 682.5030.

Since approximately 90 percent of the motors exported to the United States during the period of investigation were manufactured by Tokyo Shibaura Electric Company (Toshiba), we limited the investigation to Toshiba. Other manufacturers were given the opportunity to provide information

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concerning their sales during the investigatory period but did not do so.

Toshiba's sales division is divided into the industrial, consumer, and heavy duty electrical groups. Sales of industrial electric motors fall under the Heavy Apparatus Standard Products (HASP) division of the heavy duty electric group. The HASP division also manufacturers transformers, reactors, controls, and other electrical products.

Pricing information and cost of production information for Toshiba were obtained and examined for shipments to the United States, in the home market, and to Canada during the period April 1, 1979 through September 30, 1979 (the period of investigation).

Our investigation revealed that Toshiba's electric motors of greater than 5 hp and not greater than 500 hp fall into two distinct classes of merchandise—small motors (below 150 hp) and large motors (150 hp and above). The production and distribution patterns are different for each class. Motors below 150 hp are generally stocked and sold in large quantities in both the export and in the Japanese home market. On the other hand, in the home market, large motors are often made to consumer specifications are are frequently sold as part of "turnkey" plants with one lump-sum price.

All export sales to the United States are to Toshiba International Corporation (TIC) of Houston, Texas, a wholly owned subsidiary of Toshiba. During the period of investigation, Toshiba exported 201 different low voltage motor models and a much smaller number of high voltage motor models to the United States. Customs officials selected 53 of the 201 low voltage models and two of the high voltage models as a representative sample. The models selected represented about 70 percent of the dollar volume of the exported motors and included both large motors (23 models) and small motors (32 models). Toshiba's total U.S. sales during the investigation period for all electric motors subject to the investigation were about 22,000 motors with an aggregate value of about $11 million. Toshiba's U.S. sales for the 55 selected models were about 17,000 motors with an aggregate value of about $6.8 million. In the U.S. market, sales of both large and small motors were substantial.

TIC sells about 90 percent of its motors to distributors and the remaining 10 percent to end users, original equipment manufacturers, and one motor manufacturer. Since TIC issues several thousand invoices each month, sales were reported by class of purchaser rather than by individual sale. Sales prices to distributors and the motor manufacturer remained constant during the investigatory period until July 1, 1979, when a 5 percent increase in prices went into effect. Sales to end users and original equipment manufacturers were based on negotiated prices.

In the home market, Toshiba sells to three different classes of purchasers—distributors, one original equipment manufacturer (OEM), and miscellaneous purchasers. Toshiba negotiates a basic price with each distributor to be paid by the distributor for each standard motor. The basic price may vary depending on factors such as the distributor's geographical location, ultimate purchaser, and competition needs. These special prices between Toshiba and the distributors are negotiated at various times. Because of this wide range of price, where possible Toshiba also provided weighted-average prices for each customer. During the period of investigation, Toshiba's home market sales of motors with power ratings corresponding to those of the 55 models selected for comparison totaled about 27,000 with a value of approximately 1.3 billion yen ($6.3 million). Almost all home market sales were small motors.

Toshiba also exports motors to third countries. Except for a few sales to Far Eastern countries other than Japan, all third country sales during the period of investigation were to Canada. These sales to Canada were direct shipments to distributors except for one motor sold outside the normal course of business from TIC's stock.

Suspension of Investigation of Small Motors

Pursuant to the provisions of section 734 of the Tariff Act of 1930 (19 U.S.C. 1673c) and § 353.42 of the Regulations (19 CFR 353.42, 45 FR 8201), the Department has accepted an agreement from Toshiba and TIC, set forth as Annex I to this notice, to cease within six months exports of AC, polyphase electric motors of greater than 5 hp and less than 150 hp, except for oil well pump and explosion-proof motors, and to revise prices to eliminate completely any sales at less than fair value of imported oil well pump and explosion proof motors greater than 5 hp and less than 150 hp.

Toshiba accounts for more than 85% of the imports to the U.S. of all electric motors greater than 5 hp and less than 150 hp. Thus, Toshiba accounts for "substantially all" of the imports of small motors, as defined in § 353.42(c) of the Regulations (19 CFR 353.42(c), 45 FR 8201).

In accordance with Section 734(d) of the Act, the Department is satisfied that the Agreement is in the public interest, can be monitored effectively, and provides adequate means of controlling the quantity of small motors (exported to the United States during the six month period for cessation of exports. The monitoring terms for the Suspension Agreement are set forth as Annex II of this Notice.

Pursuant to section 734(e) of the Act, the petitioner was informed of, and consulted with concerning, the proposed Agreement, was provided a copy of the proposed Agreement, was provided an explanation of how the Agreement will be carried out and enforced and how it meets the criteria for suspension, and was given an opportunity to comment. Other parties to the investigation and the ITC were notified of the proposed Agreement and were permitted to submit comments.

Fair Value Determination for Large Motors

United States Price

Exporter's sales price (ESP), as defined in section 772(c) of the Act (93 Stat. 181, 19 U.S.C. 1677a(c)), was used for determining the "United States price" because of the relationship between Toshiba and TIC.

In the preliminary determination, since approximately 90 percent of sales in the U.S. were to distributors and since the sales to users and OEMs were grouped together, the sales to users and OEMs were disregarded, and the level of trade was considered at the distributor level for both Canadian and United States sales. TIC has since provided a breakout of its U.S. sales to OEMs. Thus, we have been able to make price comparison at two levels of trade: the sales to OEMs, and sales to distributors.

In calculating ESP, we made deductions for costs incurred in Japan—i.e., forwarder's charges, inland freight, insurance, and warehousing. In regard to warehousing, counsel for respondents submitted revised warehousing costs which were verified and accepted. A weighted average cash discount given by TIC to its U.S. purchasers, was also deducted. Finally, we made deductions for certain costs incident to bringing the merchandise into, and selling it in, the United States—i.e., ocean freight, import duty, brokerage, U.S. freight, marine insurance, delivery, commission, warranty, advertising, and general and administrative expenses. (93 Stat. 181–182, 19 U.S.C. 1677a (d) and (e)).

Counsel for petitioner argued that some of the prices used in the ESP calculations were not the actual prices paid by customers but were prices net of any additional labor for manufacture or assembly performed in the United States. We accepted the prices, net of any additional labor for manufacture or assembly, as submitted by Toshiba because the deductions involved were minimal (less than 1 percent of total sales), and the information upon which the deductions were based has been verified.

Foreign Market Value

We decided for purposes of the preliminary determination that home market sales did not provide an adequate basis for determining foreign market value of large motors. Our decision reflected differences in the types of motors sold in the U.S. and Japanese markets, the conditions under which the sales were made, and the quantity of large motor sales in Japan.

Unless a JIS-standard (Japanese Industrial Standard) motor sold in Japan has a power rating which is similar to a NEMA-standard motor, any comparison between the two would require cost adjustments for virtually every component except the motor frame and thus, for all practical purposes, would amount to a constructed value. In addition to other considerations (i.e., the type of motor), we determined that motors with more than a 10 hp power differential were not similar. Thus, we decided that a JIS-standard motor rated at 200 kilowatts (268 hp) could *not* be compared to a 250 hp NEMA-standard motor. Furthermore, we found that, while the large motors exported to the United States generally were built to standard specifications, only 5 percent of the large motors sold in the Japanese market were built to standard specifications. The rest were specially designed to individual customer specifications. Less than half of the large motors sold in the home market were sold as separate units, with separate prices; most were sold as component parts of entire plants, referred to as "turnkey" projects, with one lump-sum price for the project.

Upon consideration of these qualitative differences between the large motors sold in the home market and those sold in the U.S., we concluded that an insufficient number of similar large motors had been sold in Japan during the investigatory period to provide an adequate basis for comparison. We had found that only 11 units from 7 large motor, low voltage model types, sold in the home market during the period of investigation, were comparable to 1061 units from the 21 large motor, low voltage model types which were exported to the United States and selected for comparison.

For these reasons, we had found home market sales of large motors to be inadequate. We used third country sales (Canada) for 6 models (which were comparable to sale to the U.S. and were sold in sufficient quantities in the Canadian market) and constructed value for 17 models (where Canadian sales were either inadequate or, in one case, apparently made below the cost of production) for purposes of determining foreign market value.

Counsel for the petitioner has argued forcefully that Toshiba's sales of comparable large motors in Japan are, in fact, sufficient to allow a comparison of such sales with sales to the U.S. Counsel stresses that, since our preliminary determination, an important question has been raised with respect to the number of Toshiba's home market sales of large motors. Further investigation revealed roughly 200 large motors sold by Toshiba in Japan which had not been officially reported to the Department because Toshiba believed them not "such or similar" to those motors sold by Toshiba in the United States.[1] These motors included wound rotor, explosion proof, low-noise, vertical mount, outdoor, hermetic and thyristor motors. Petitioner contends that if these additional large motor sales are taken into account, Toshiba's home market sales provide an adequate basis for fair value comparisons.

The determination of whether home market and U.S. merchandise is such or similar is a decision for the Department to make. In the preliminary determination, we had not excluded imported specialty motors from the scope of the investigation because we found them to be within the "class or kind" of merchandise subject to the investigation. However, whether the speciality motors sold by Toshiba in the home market are "such or similar" to those sold by Toshiba in the U.S., i.e., comparable for purposes of calculating fair value, is a different question (19 U.S.C. 1677b). In determining whether merchandise is being, or is likely to be, sold in the United States at less than fair value, comparisons are made, to the maximum extent possible, between sales of identical merchandise. Where such merchandise is not available for comparison purposes, merchandise similar to the merchandise sold in the U.S. is use.

Upon review of comments submitted in the last two weeks by counsel for petitioner and counsel for respondent, we have concluded that adjustments can be made to certain types of specialty motors (vertical mount, low noise, outdoor and other motors) which would permit comparison to the TEFC and ODP type motors sold by Toshiba in the U.S. As to the remaining types—explosion proof, hermetic, thyristor and wound rotor—so many adjustments would be necessary for an adequate comparison with TEFC and ODP types that the calculation effectively would amount to a constructed value. Therefore, we do not consider these types to be "such or similar" within the meaning of Section 771(16) of the Act. (19 U.S.C. 1677(16)). Further, of the vertical mount, low noise, outdoor and other motors, only 6 units sold for comparison in the home market had the same number of poles and were of similar power ratings (within 10 hp differential) as the 21 models originally selected for comparison and of these 6, only 3 of the units were sold individually. The remaining 3 were sold as parts of entire plants. Since Toshiba, in pricing its plants, adds the cost of the components (e.g., all motors, rollers and presses) and adds a lump-sum profit, there is no "price" in the usual sense for any particular motor sold as part of a plant.

We find that these 3 units, which are sold singly and which are comparable to the motors sold in the U.S., are not sufficient to change our previous determination that home market sales of large motors were not adequate for purposes of computing fair market value. However, we believe that the issue of whether specialty motors are comparable, with appropriate adjustments, to ODP and TEFC motors should have been addressed much earlier in the investigation in order to afford all parties ample time to brief the comparability issue. Therefore, we will allow counsel for petitioner and counsel for respondent time to submit further technical information and to confer with Department representatives on this matter. If appropriate as a result of our review, we shall publish an amended final determination in time to allow the ITC to make its final determination.

Because of the inadequacy of home market sales of large motors, for the preliminary determination we used third country sales (Canada) for 6 models which were comparable to sales in the U.S. and sold in sufficient quantities in the Canadian market. In connection

[1] The Import Administration specialists who verified Toshiba's submission in March 1980 were told of these additional motor sales and had agreed with Toshiba that they were not "such or similar." However, these sales were not mentioned in the verification reports and petitioner was not aware of them until three weeks before the final determination.

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with our use of Canadian sales, we had concluded, in response to allegations raised by petitioner, that a Canadian dumping finding "in respect to integral induction motors from 1–200 horsepower, inclusive, originating in, or exported from, the United States" did not preclude the use of Canadian sales prices during our investigatory period. We have not changed our views on this issue.

In our preliminary determination, we used constructed value for 17 models where Canadian sales were either inadequate or, in one case, apparently made below the cost of production. We calculated constructed value by adding the cost of raw materials and fabrication of the imported merchandise, general expenses and profit—but not less than the minimum amount required by section 773(e) of the Act (93 Stat. 182, 19 U.S.C. 1677b(e))—and the cost of all containers and coverings used to pack the merchandise for shipment to the United States.

Counsel for petitioner made several arguments in support of the position that constructed value, as defined by Section 773(e)(1)(B) of the Act, must include general expenses and profit calculated on the basis of sales by Toshiba of *other* motors or, alternatively, on teh basis of sales by other manufacturers of similar merchandise, in the home market. The uniform practice of the Treasury and Commerce Departments has been to calculate general expenses and profit included in constructed value on the basis of the sales under investigation by the manufacturers subject to the investigation.

In our preliminary determination, we used the statutory minimum of eight percent of the sum of general expenses and the direct cost of manufacture for the profit component of constructed value. Counsel for petitioner argued that an actual amount for profit must be developed and included unless the profit is below the eight percent statutory minimum. We agree. In the absence of actual profit figures for sales of the exported merchandise in the home market, we calculated profit by subtracting the cost of production (material, labor, general expenses and export packing) from the exporter's sales price. That amount was applied to the cost of production figure to produce a percentage for actual profit. We multiplied the profit percentage for each model by the number of units of that model sold. A straight average profit was then calculated based on the total motors sold. This weighted average rate of profit was applied to the sum of material, labor, and general expenses for each motor to obtain the profit used in the constructed value computation. In calculating the weighted average profit, we took into account ESP at both levels of trade, sales to end users and the five percent adjustment in prices to distributors during the investigatory period.

Counsel for petitioner argued that Toshiba's intra-company transfers to TIC should be disregarded when developing general expenses and profit for constructed value. The related party transactions between Toshiba and TIC were, in fact, disregarded. The amount for general expenses was determined on the basis of the *actual* general expenses incurred by Toshiba without regard to the transaction price between Toshiba and TIC. With regard to profit, the actual profit was calculated on the basis of ESP, that is, TIC's sales to its customers.

Counsel for petitioner argued that, when developing the constructed value of specific models, Toshiba's allocation of its factory general expenses on the basis of the labor hours necessary for manufacturing that model produced distorted results. Since factory general expenses include the costs of labor-saving machinery and depreciation, the motor models with a higher labor content would appear to be the models with a low general expense element; Toshiba, however, had allocated a higher proportion of factory overhead to high labor-content motors. Counsel for respondent explained that all motors were manufactured on a single production line and therefore the proportion of labor and labor-saving machinery in the production of each model is similar. On this basis, we accepted Toshiba's allocation as reasonable.

Other Issues

In the preliminary determination, the Department included TIC's sales to its one motor manufacturer at the same level of trade as TIC's sales to its distributors. Counsel for respondent has argued that sales to the motor manufacturer have no equivalent in Japan and therefore either should be excluded because the sales are at a different level of trade or, if necessary, should be included with a level of trade adjustment. Counsel for respondent stated that the motor manufacturer purchases from TIC only to fill out its line, puts its own nameplate on Toshiba motors, uses its own sales literature and personnel, and assumes a greater share of warranty expenses than other distributors. Upon examination of the issue, we have concluded that regardless of the motor manufacturer's status or title in the market, vis-a-vis TIC it is a distributor distributing Toshiba motors, however labeled, to its customers. For this reason, these sales were considered to be at the distributor level of trade and we made appropriate adjustments, when computing ESP, for any of the usual selling expenses and warranty expenses which were not incurred by TIC for the account of the motor manufacturer.

Verification

In accordance with section 776(a) of the Act (19 U.S.C. 1677e(a)), information submitted and relied upon in this determination was verified by on-site examination of the manufacturing and accounting records of Toshiba and TIC. We used traditional verification procedures, including on-site inspections of the operations of Toshiba and TIC, with examination of randomly selected documents containing information pertinent to this investigation.

Results of Fair Value Comparisons Large Motors

Based on a comparison between United States price and third country prices or constructed value, as appropriate, we have determined that certain large electric motors (i.e., electric motors not less than 150 hp but not greater than 500 hp), other than submersible well pump motors, are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act. The dumping margins found for such large motors range from 1.6 percent to 29.2 percent, with a weighted average margin of 6.7 percent.

Final Determination and Suspension of Investigation

Having considered the comments submitted with respect to the proposed suspension agreement and having determined that the criteria for suspension of an investigation have been satisfied, we hereby announce the suspension, pursuant to Section 734(f)(1) of the Act (93 Stat. 167, 19 U.S.C. 1673c(f)(1)), of the antidumping investigation as to small electric motors from Japan. The terms and conditions of the suspension are set forth in the attached Agreement, signed by Toshiba and the Department on October 29, 1980.

On the basis of the information developed in the investigation and for the reasons stated above, I hereby determine, pursuant to section 735(a) of the Act (93 Stat. 169, 19 U.S.C. 1673d(a)) that certain large electric motors from Japan are being, or are likely to be, sold at less than fair value. In accordance with section 735(c)(1)(A) of the Act (19 U.S.C. 1673d(c)(1)(A), we are making available to the ITC the information upon which this determination is based. The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department.

Pursuant to section 734(f)(2)(A)), the liquidation of entries of small motors, suspended effective June 20, 1980, as directed in the Preliminary Determination of Sales at Less Than Fair Value (45 FR 41687), is terminated. Any cash deposits, bonds or other security deposited on entries of small motors pursuant to that suspension of liquidation shall be refunded. As to large motors, the suspension of liquidation shall continue until further notice.

This notice is published pursuant to Sections 734(f)(1)(A) and 735(d) of the Act (93 Stat. 167, 172, 19 U.S.C. 1673c(f)(1)(A), 1673d(d)).

Donald A. Furtado,

Deputy Under Secretary for International Trade.

October 30, 1980.

Annex I

Agreement

Pursuant to the provisions of section 734 of the Tariff Act of 1930 (19 U.S.C. 1673c) (the Act) and section 353.42 of the Commerce Regulations (19 CFR 353.42), the Department of Commerce (the Department) enters into the following agreement with Toshiba Corporation (Toshiba) and Toshiba International Corporation (TIC) on the basis of which the Department shall suspend its antidumping investigation with respect to certain electric motors from Japan to the extent and on the terms and provisions set forth below.

A. Product Coverage

The investigation shall be suspended as to that class of AC, polyphase electric motors of greater than 5 horsepower and less than 150 horsepower, that have been included in the investigation and are provided for in item numbers 682.4130, 682.4200, 682.4545, and 682.4600 Tariff Schedules of the United States Annotated. Entries properly classifiable as "parts of motors" under item 682.6059 of the Tariff Schedules of the United States Annotated were not within the scope of the antidumping investigation and thus are not within the scope of this Agreement. Entries of components and subassemblies not properly classifiable as "parts of motors" but rather an complete motors are within the scope of the Agreement if they are of the same "class or kind" as the small motors identified in the first sentence of this paragraph. It is understood that this Agreement does not include motors produced by Toshiba which are imported as parts of other merchandise and are not properly classifiable as motors.

B. Basis for the Agreement

1. Toshiba undertakes to cease exports from Japan to the United States of all motors described in paragraph A above, except as provided for in paragraph B 5. These exports shall cease no later than six months after the effective date of the suspension of the investigation.

2. In accordance with the provisions of the statute and applicable regulations this agreement applies to motors produced by Toshiba which are exported to the United States either directly or through intermediaries and which are exported either directly from Japan or are transshipped through third countries.

3. Toshiba agrees that during the six-month period following the effective date of the suspension of the investigation the quantity of motors described under paragraph B 1 above exported by Toshiba to the United States from Japan will not exceed the quantity of Toshiba's exports of such motors during the six-month period February 1—July 31, 1979.

4. The Department will monitor all such exports during the six-month period in question, and, pursuant to section 734(d)(2) of the Act (19 U.S.C. 1673c(d)(2)), issue instructions to deny entry, or withdrawal from warehouse, for consumption of any such motors exported in excess of the quantity described in the preceding paragraph. Toshiba will provide information requested by the Department to permit effective monitoring of such exports.

5. Toshiba and TIC undertake promptly to make any necessary price adjustments to eliminate completely any sales at less than fair value of oil well pump and explosion-proof motors within the product definition in pargraph A above by ensuring that:

a. Such oil well pump motors are not sold in the United States at less than the higher of (i) prices on sales of such motors in Canada, or (ii) the constructed value for such motors.

b. Such explosion-proof motors are not sold in the United States at less than prices on sales of such motors in Canda.

Prices on oil well pump motors will initially be adjusted on the basis of the constructed value for such motors, as calculated by the Department. As soon as possible, but not later than the effective date of the suspension of the investigation, the Department shall advise Toshiba and TIC of its fair value calculations for oil well pump and explosion-proof motors, on the basis of which price adjustments will be made. Toshiba and TIC will make the price adjustments for both oil well pump and explosion-proof motors as soon as possible and, in any event, on all sales of such motors made after 30 days from the effective date of the suspension of the investigation. Subsequent price adjustments based upon the methodology determined by the Department in the course of its annual reviews under section 751 of the Act (19 U.S.C. 1675) will be made by Toshiba or TIC as necessary to ensure that future sales of such motors will not be made at less than foreign market value.

C. Monitoring

Upon the request of the Department, Toshiba and TIC will supply to the Department such information as the Department deems necessary to ensure that Toshiba and TIC are in compliance with the terms of this Agreement. The Department shall request such information periodically pursuant to annual reviews conducted under section 751 of the Act.

D. Reopening of Investigation

The Department shall reopen the investigation with respect to the motors exported by Toshiba that are the subject of this Agreement if the Department determines that Toshiba or TIC have not honored their obligations under this Agreement. The Department of Commerce, on its own initiative or at the request of the petitioners, shall reopen the investigation as to Japanese exporters who are not parties to this Agreement if an increase in motor exports from Japan to the United States by those companies, low-priced sales of their motors in the United States, or other factors warrant such reopening of the investigation. Additionally, the Department will reopen the investigation if it determines that the suspension is no longer in the public interest or that effective monitoring is no longer practicable.

E. Other Provisions

In entering into this Agreement Toshiba and TIC do not thereby admit that any sales of motors which are the subject of the Agreement have been made at less than fair value.

Agreed to on this the 29th day of October, 1980:

Toshiba Corporation and Toshiba International Corporation.

By Patrick F. J. Macrory.

I have determined that the provisions of paragraph B eliminate the possibility of any unfair trade practices which were the subject of this investigation, and that the provisions of paragraph C ensure that this Agreement can be monitored effectively. Therefore, I have determined that this Agreement to suspend this investigation meets the requirements of section 734(b) of the Act and is in the public interest as required in section 734(d) of the Act.

United States Department of Commerce

By John Greenwald.

Annex II

Monitoring Terms for Agreement to Suspend Investigation of Certain Small Electric Motors From Japan

I. Cessation of exports within 6 months; exports not to increase.

A. Toshiba will report to the Department all exports shipped during the preceding month. This information will include the number and type of each unit shipped, and the date of shipment.

B. The Department will direct the ports of entry to forward an Antidumping Report of Importations for each entry during the period of cessation of exports. The Department will direct the ports to inform the Department of

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any entries shipped after the date upon which exports are to cease.

C. The Department will monitor these shipments to ensure that the pattern of exports, i.e., the number of each type of motor shipped, does not differ significantly from the pattern to exports during the representative period. For the purpose of monitoring the pattern of exports, the Department will split the covered motors into two groups—(1) greater than 5 hp but less than 75 hp and (2) 75 hp or more, but less than 150 hp. Within each group we will monitor whether the number and pattern of exports differs significantly from the number and pattern for that group during the representative period.

II. Elimination of sales at less than fair value.

A. Toshiba shall supply on a monthly basis information showing all production and sales of oil well pump motors, explosion-proof motors, and flame-proof motors in the home market, the United States and third countries.

B. If there are no sales of any type of motor (a type meaning, e.g., oil well pump motors) or if the Department determines that such sales in Japan or third countries are insufficient to permit price to price comparisons with the sales of the respective types in the United States, then Toshiba shall supply information which the Department may use to calculate the constructed value of the motor type(s) in question. Information providing the basis for constructed value shall normally be provided at 6-month intervals.

C. The Department shall calculate the foreign market value of each motor model (i.e., type and power rating) exported to the United States.

D. The Department shall recalculate the fair market value of each motor model at the time of its administrative review conducted under section 751, which will occur annually or at such shorter intervals as the Department deems necessary to ensure that there are and will be no sales at less than fair value.

E. The Department shall verify information upon which these calculations are based.

F. The Department shall direct the ports of entry to forward an Antidumping Report of Importations for all entries of such motors while this agreement is in effect.

[FR Doc. 80-34533 Filed 11-5-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 28, 1980.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on December 8, 1980 from 8:30 a.m. to 5:00 p.m. and on December 9, 1980 from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs. The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof and accordingly are closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-34622 Filed 11-5-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974; Amendment to Systems of Records; Correction

Due to administrative oversight, system notice A0102.04aDAPE, Supervisor/Manager Employee Records, published in FR Doc. 80-32480 (45 FR 68998) of October 17, 1980 contained the word "handicap" in the "Categories of Records in the System"; this word should be omitted.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

October 31, 1980.

[FR Doc. 80-34705 Filed 11-5-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: December 9, 1980, 1:30 to 3:30 p.m., Public Hearings, State Departments of Education: Montgomery, Alabama, Adult Education Program, contact: Bob W. Walden; Little Rock, Arkansas, Adult Education Section, contact: Luther H. Black; Baton Rouge, Louisiana, Adult Education Program, contact: Glenn Gossett; Jackson, Mississippi, Adult Education Program, contact: William Box; Raleigh, North Carolina, Adult Services Program, contact: Thomas R. Dudley; Nashville, Tennessee, Adult and Continuing Education, contact: Luke Easter.

December 8-9, 1980, State Visitations.

December 10-11, 1980, 9:00 a.m. to 5:00 p.m.; December 12, 1980, 9:00 a.m. to 1:00 p.m., Council Meeting.

ADDRESS: Hyatt Regency Nashville, 623 Union Street, Nashville, Tenn.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendtions.

The meeting of the Council is open to the public. The proposed agenda includes:

Discussion of state public hearings. Executive Committee report. Council publications. Standing and ad hoc committee meetings. NACAE budget and congressional continuing resolution. Long Range planning. Future Council meetings.

Records are kept of all Council proceedings; and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on October 31, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-34521 Filed 11-5-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Development Policy Options, Naval Oil Shale Reserves, Garfield County, Colo.; Public Hearings

AGENCY: Department of Energy.

ACTION: Scheduling of public hearings.

SUMMARY: All interested parties are invited to attend public meetings in connection with the Draft Programmatic Environmental Impact Statement (DEIS), "Development Policy Options, Naval Oil Shale Reserves, Garfield County, Colorado," September 1980 (DOE EIS-0068). Public meetings are scheduled for Tuesday, November 18, 1980, from 2:00-5:00 PM at the Ramada Inn in Grand Junction, Colorado, and for Thursday, November 20, 1980, from 2:00-5:00 PM and 7:00-10:00 PM at the Federal Building, 19th and Stout Street, Denver, Colorado.

SUPPLEMENTAL INFORMATION: This DEIS deals with several decisions which the Department of Energy currently intends to make with respect to helping attain the President's oil shale production goal of 400,000 barrels per day by 1990. These decisions are: (1) whether to promote development of oil shale on Federal land (beyond that presently subject to lease); (2) if the decision is to develop additional Federal land, whether to develop the Naval Oil Shale Reserves; and (3) if the decision is to develop these Reserves, what institutional and financial mechanisms should be selected.

The purpose of the public meetings convened by the Department of Energy is to receive public comments on the draft EIS and assure maximum public participation in the preparation of a final EIS. The draft EIS was distributed for public comment and announced in the **Federal Register** on September 19, 1980 (45 FR 62539).

The meeting will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers.

In order to facilitate arrangements for the public meeting, those wishing to participate orally or in writing are requested to contact the following by November 10, 1980: Donald Silawsky, Environmental Project Manager, Naval Petroleum and Oil Shale Reserves, 12th and Pennsylvania Avenue, NW., Mail Stop 3344, Washington, D.C. 20461, Phone (202) 633-8641.

Written comments or suggestions may also be submitted prior to the public meeting. Written and oral comments will be given equal weight. Speakers are requested to provide a telephone and mailing location so that they can be contacted prior to the meeting regarding scheduling information.

Persons who have not submitted a request in advance may register to speak at the public meeting. The Department reserves the right to arrange the schedule of presentations to be heard and to establish procedures governing the conduct of the meeting. Our desire is to maximize the number of participants and assure a broad spectrum of viewpoints. However, the actual allocation of time for speakers will depend upon the number of persons requesting to be heard. The Department may allow more time for representatives of organizations.

Those persons wishing to speak on behalf of an organization should identify their organizational affiliation in their request.

Should any speaker desire to provide further information for the record subsequent to the meeting, it may be submitted in writing by November 28, 1980.

A transcript of the public hearing will be made available for inspection at the Public Reading Room, Room 1E 190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 8:00 AM. and 4:30 PM Monday through Friday and the Grand Junction and Denver (Central) public libraries.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

October 31, 1980.

[FR Doc. 80-34537 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council

Environmental Protection Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Environmental Protection Task Group of the Committee on Arctic Oil and Gas Resources will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Environmental Protection Task Group meeting follows:

The second meeting of the Environmental Protection Task Group will be held on Wednesday, December 3, 1980, starting at 9:00 a.m., in Room Seventy-Six, Union Oil Center, 461 South Boylston Street, Los Angeles, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Discuss Task Group study approach and individual assignments.

3. Discuss schedule of the Task Group.

4. Discuss any other matters pertinent to the overall assignment of the Environmental Protection Task Group.

The meeting is open to the public. The Chairman of the Environmental Protection Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Environmental Protection Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resources Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 31, 1980.

Robert H. Lawton,

Acting Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

October 31, 1980.

[FR Doc. 80-34539 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Transportation Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Transportation Task Group of the Committee on Arctic Oil and Gas Resources will meet in November 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the

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Transportation Task Group meeting follows:

The second meeting of the Transportation Task Group will be held on Wednesday, November 19, 1980, starting at 9:00 a.m., in Phoenix E Room, Hyatt House Hotel, 17001 Pacific Highway, Seattle, Washington.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discuss Task Group study approach and individual assignments.
3. Discuss schedule of the Task Group.
4. Discuss any other matters pertinent to the overall assignment of the Transportation Task Group.

The meeting is open to the public. The Chairman of the Transportation Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Transportation Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 31, 1980.

Robert H. Lawton,

Acting Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

October 31, 1980.

[FR Doc. 80-34538 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-033A]

Dow Chemical Co.; Changed Circumstances and Application for Amendment to a Certification of the use of Natural Gas To Displace Fuel Oil

On September 30, 1980, the Economic regulatory Administration (ERA) issued to the Louisiana Division of the Dow Chemical Company (DOW) a certification (80–CERT–033, 45 FR 66191, October 6, 1980) of an eligible use of natural gas to displace fuel oil at Dow's Plaquemine Plant located in Plaquemine, Louisiana, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). Due to the limited availability of the gas as represented by Dow in the original application, the certificate was only isued for a short term and expired on October 31, 1980.

On October 16, 1980, Dow filed a request with ERA to amend its certification and extend the expiration date until May 31, 1981, the current termination date of this fuel oil displacement program. Dow also notified ERA of changed circumstances concerning the delivery and use of the gas volumes certified for fuel oil displacement. More detailed information is contained in the application and the request for amendment which indicates the changed circumstances, both of which are on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The application and certificate indicate that the eligible seller of the gas is the Alabama Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631 and the gas will be transported through intrastate pipelines by the Louisiana Resources Company (Louisiana Resources), the Louisiana Intrastate Gas Corporation, and the pipeline department of Dow, and by the Tennessee Gas Pipeline Company, and interstate pipeline.

Dow requests that its certification be extended form October 31, 1980 until May 31, 1981, because it cannot utilize the volumes of gas purchased for fuel oil displacement by October 31. Dow indicates that the seller (Alabama-Tennessee) will deliver gas to Louisiana Resources via the Tennessee Gas Transmission Company in daily quantities greater than Dow can utilize to displace fuel oil before October 31, 1980. Louisiana Resources has agreed to redeliver the natural gas to Dow at lower daily rates over a several month period. Dow has assured ERA that if the certificate is extended, all of the gas certified and purchased from Alabama-Tennessee prior to October 31, 1980 will be used to displace fuel oil during the term of the certificate.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this request for an extension to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before November 17, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this extension may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why on oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Dow and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34541 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-037]

National Steel Corp.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On June 21, 1979, National Steel Corporation (National Steel), Weirton Steel Division, Three Springs Drive, Weirton, West Virginia 26062, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79–CERT–003). The certification involved the purchase of natural gas from the David S. Towner Enterprises for use by National Steel at its facility in Weirton, West Virginia. The ERA certificate expired on June 20, 1980, but no request for recertification was filed until recently.

On October 21, 1980, National Steel filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Weirton Steel Division prusuant to 10 CFR 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, National Steel states that the volume of natural gas for which it requests recertification is 3,000 Mcf per day. It is estimated that approximately 600,000 gallons (14,286 barrels) of No. 6 fuel oil (1.4 percent sulfur) will be displaced at the Weirton Steel Division each month that natural gas covered by this application is used.

The eligible seller of the natural gas is the David S. Towner Enterprises, P.O. Box 402, 5537 Beavercrest Drive, Lorain, Ohio 44052. The gas will be transported by the Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461 Attention: Albert F. Bass, on or before November 17, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to National Steel and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34540 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-80-33]

Report to the Department of Energy on "Designing Methods for Distributing Petroleum During a Shortage and Selecting Standby Distribution Mechanisms"

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby give notice that the closing date for receipt of written comments on the Report to the Department of Energy on "Designing Methods for Distributing Petroleum During a Shortage and Selecting Standby Distribution Mechanisms" (45 F.R. 63909, September 26, 1980) has been changed from 4:30 p.m., November 21, 1980, to 4:30 p.m., December 15, 1980.

DATE: Comments are now due on or before December 15, 1980.

FOR FURTHER INFORMATION CONTACT:

Lorrain Hall (Office of Public Hearing Management), Economic Regulatory Administration, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3971;

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055;

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3256;

Joel Yudson (Office of General Counsel), Department of Energy, Room 6A–126, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252–6744.

Issued at Washington, D.C. on October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34510 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. RM79-29 etc.]

Allegheny Power System, et al.; Order Accepting Rates for Filing, Suspending Rates, and Consolidating Proceedings

October 29, 1980.

The Amendment of Part 35 of the Regulations Under the Federal Power Act; Limits For Percentage Adders in Electric Rates for Transmission Service, Docket No. RM 79–29, Allegheny Power System, *et al.*, Docket Nos. ER80–592, *et al.*, Commonwealth Edison Company, *et al.*, Docket Nos. ER80–782, *et al.*[1]

The Commission, on May 7, 1980, issued Order No. 84, in Docket No. RM79–29, requiring electric utilities to place revenue limits on percentage adders in rate schedules used for transmission or third party resales of electric power, (45 FR 31294, May 13, 1980.

In response to Order No. 84, 83 rate filings were received as of September 1, 1980, proposing to change various percentage adders currently included in interchange rate schedules affecting transmission or the purchase and resale of energy. The Commission, by order issued October 3, 1980 in this docket (45 FR 68421, October 15, 1980), accepted a number of the proposed filings effective as of September 1, 1980, suspended other filings for one day to become effective September 2, 1980 and set the suspended dockets for hearing in a consolidated proceeding.

Since September 1, 1980, additional Order No. 84 compliance filings have been received. Many of the additional dockets submitted for filing are not in full compliance with Order No. 84.

The additional tendered filings have been classified into five general categories:

(1) Percentage adders capped at a limit in excess of 1 mill/Kwh;

(2) Fixed adders of 1 mill/Kwh in submittals which otherwise do not comply with Order No. 84;

(3) Fixed adders of more than 1 mill/Kwh;

(4) Fixed adders of more than 1 mill per Kwh plus 1 mill/Kwh for difficult-to-quantify costs; and

(5) Other rate schedule modifications.

Each of these categories will be discussed separately.

Rate Filings Which Include Limitations of More Than 1 Mill/Kwh on Percentage Adders

Southern Indiana Gas & Electric Company, in Docket No. ER80–733, tendered a rate filing which includes a percentage adder limitation exceeding 1 mill/Kwh. Inasmuch as the adder in excess of 1 mill was not cost supported, this filing shall be accepted, suspended and set for hearing as further provided in this order.

Rate Filings Having No Percentage Adder But Including A Fixed Adder of 1 Mill/Kwh

Several companies have tendered rate filings which comply with Order No. 84 in part. Such filings comply to the extent that they propose to replace percentage adders and certain service schedules with a fixed 1 mill/Kwh adder. Cost support for the 1 mill/Kwh adder was not filed by any party. Although Order No. 84 did not provide for the replacement of percentage adders with fixed adders, the Commission noted in its October 3, 1980 order in this docket that a fixed 1 mill/Kwh adder would only produce more revenues than a percentage adder capped at 1 mill/Kwh if the cost of purchased energy is less than 10 mills. After noting that there was no indication that the cost of

[1] See Attachment A for complete list of dockets.

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purchased energy in those dockets was less than 10 mills, the Commission accepted the submittals for filing effective as of September 1, 1980. Consistent with its prior finding, the Commission will therefore accept for filing effective as of September 1, 1980 fixed adders of 1 mill/Kwh as tendered in the following filings: Commonwealth Edison Company and Wisconsin Power & Light Company, Docket No. ER80–782; Dayton Power & Light Company, Docket Nos. ER80–720, ER80–721, ER80–722; Columbus & Southern Ohio Electric Company/Dayton Power & Light Company, Docket No. ER80–726; Ohio Edison Company, Docket No. ER80–662; and Ohio Power Company; Cleveland Electric Illuminating Company, Docket No. ER80–640; Indiana & Michigan Electric Company/Central Illinois Public Service Company, Docket No. ER 80–646; and Wisconsin Electric Power Company/Commonwealth Edison Company, Docket No. ER80–732.

Limitations on Percentage Adders Which Include Fixed Adders of More Than 1 Mill/Kwh

Commonwealth Edison Company, Docket Nos. ER80–779 and 782; and Public Service Company of Indiana, Inc., Docket No. ER80–750 and Commonwealth Edison Company, Docket No. ER80–732, have tendered for filing rate schedules including fixed adders which exceed 1 mill/Kwh to replace percentage adders in transmission or third party resale rates. These fixed adders exceeding 1 mill/Kwh have not been shown to be just and reasonable and will therefore be suspended as hereinafter ordered, and set for hearing.

Rate Schedules Including Fixed Adders of More Than 1 mill/Kwh Plus 1 mill/Kwh For Difficult-to-Quantify Costs

A number of companies have submitted proposed rates to recover: (1) The cost of the purchase, (2) a fixed adder and (3) 1 mill/Kwh for unquantifiable costs. Order No. 84 allows a maximum of 1 mill for difficult-to-quantify costs when the filing party is capping its percentage adder. These filings proposed to recover 1 mill per Kwh for unquantifiable costs in addition to the recovery of fully distributed costs. These proposed rates have not been shown to be just and reasonable and therefore will be accepted for filing, suspended and set for hearing as provided in this order. Dockets in this category include: Wisconsin Power & Light Company, Docket No. ER80–782; Central Illinois Public Service, Docket No. ER80–779; Indiana & Michigan Electric Company/Central Illinois Public Service Company, Docket No. ER80–646; Wisconsin Electric Power Company, Docket No. ER80–732; Central Illinois Public Service Company, Docket Nos. ER80–747, ER80–748, and ER80–754, Wisconsin Public Service Corporation/Wisconsin Power & Light Company/Madison Gas & Electric Company, Docket No. ER80–618; Wisconsin Public Service Corporation/Wisconsin Power & Light Company, Docket No. ER80–616; Wisconsin Power & Light Company/Northern States Power Company (Minn.)/Northern States Power Company (Wisc.), Docket No. ER80–667, Wisconsin Power & Light Company, Docket No. ER80–666; Illinois Power Company, Docket No. ER80–749; Dayton Power & Light Company, Docket Nos. ER80–720, ER80–721, and ER80–722; Ohio Edison Company, Docket No. ER80–662; Columbus & Southern Ohio Electric Company/Dayton Power & Light Company, Docket No. ER80–726; and Ohio Power Company/Cleveland Electric Illuminating Company, Docket No. ER80–640.

On September 26, 1980, the Municipal Wholesale Power Group (MWPG) and the Wisconsin Public Power, Inc. (WPPI) filed a petition to intervene requesting consolidated hearings to determine whether the transmission rates filed are just and reasonable. On October 6, 1980, Wisconsin Power & Light Company (WP&L) filed an answer objecting to the granting of intervention and request for consolidation on the grounds that MWPG and WPPI are not parties to the rate schedules of Docket No. ER80–667 and would not be bound by such rate schedules. The Commission has determined that the petitions to intervene by MWPG and WPPI should be granted and will so order.

Other Rate Schedule Modifications

Columbus & Southern Ohio Electric Company and Dayton Power & Light Company, Docket No. ER80–726, have tendered for filing a rate schedule proposing to increase the minimum charge for emergency energy from 17.5 mills/Kwh to 30 mills/Kwh. The 30 mill/Kwh is presently on file and accepted in other dockets and the Commission will therefore order that this rate schedule be accepted for filing.

Ohio Edison Company in Docket No. ER80–662 submitted Modification Nos. 2 and 3. Modification No. 2 would increase the short term and limited term power demand charges to the same level as currently on file in other Ohio Edison rate schedules. The Commission will therefore order acceptance of Modification No. 2 effective August 1, 1980.

In addition to the categories of filings discussed above several filings were tendered which do not fit within any specific category.

In Docket No. ER80–678, Union Electric Company (UE) filed amendments to its various interchange agreements with 14 other parties. The filing proposes to modify the provisions of the interchange service schedules under which the parties may provide transmission or resale of third party purchase power to replace the currently specified 10 percent adders to purchase price, by adders specified as the greater of: (1) A fixed adder (UE–3.36 mills/Kwh; Missouri Public Service Company (MPS)—3.88 mills/Kwh; St. Joseph Light & Power Company (SJLP)—1.0 mills/Kwh) plus an adjustment for transmission losses, or (2) 10 percent of the transmitting parties' "internal incremental cost." UE, MPS and SJLP have not provided cost support or rationale for charging more than the specified fixed adder (based on full transmission costs, plus losses whenever 10 percent of internal incremental costs exceeds such adder plus losses). Those rates will therefore be accepted for filing, suspended and set for hearing, as further provided by this order.

On September 16, 1980, one day after the expiration of specified notice period, the City of Columbia, Missouri filed a protest and petition to intervene in Docket No. ER80–678, contending that UE's filing of the instant amendment to their interchange agreement provides rates that are neither cost supported nor consistent with Order No. 84. The City of Columbia will be allowed to intervene.

The Commission orders

(A) The identified portions of the following dockets are hereby accepted for filing effective September 1, 1980: Commonwealth Edison Company and Wisconsin Power & Light Company's filing of fixed 1 mill/Kwh adders for interchange service in Docket No. ER80–782; Dayton Power & Light Company's filing of fixed 1 mill/Kwh adder in Docket Nos. ER80–720, ER80–721, and ER80–722; Ohio Edison Company's filing of fixed 1 mill/Kwh adders in Docket No. ER80–662; Columbus & Southern Ohio Electric Company's and Dayton Power & Light Company's filing of fixed 1 mill/Kwh adders and 30 mill/Kwh Minimum charge for Emergency Energy in Docket No. ER80–726; and Ohio Power Company and Cleveland Electric Illuminating Company's filing of fixed 1 mill/Kwh adders in Docket No. ER80–640.

(B) Ohio Edison Company's filing of Modification No. 2 in Docket No. ER80–662 shall be accepted for filing and waiver will be granted allowing the rate to become effective as of August 1, 1980 as requested.

(C) All provisions of the rate schedules identified in ordering paragraphs A and B which have not been specifically accepted for filing by this order are hereby suspended for one day to become effective September 2, 1980, subject to refund.

(D) Docket Nos. ER80–733, ER80–750 and ER80–779 are hereby suspended for one day to become effective September 2, 1980, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR, Chapter I), all dockets suspended by this order shall be consolidated with the dockets previously suspended by the Commission's October 3, 1980 order in this docket and set for public hearing as previously ordered.

(F) The Municipal Wholesale Power Group, and the Wisconsin Public Power, Inc. and the City of Columbia, Missouri, are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act: *provided, however,* That participation by the intervenors shall be limited to matters set forth in their petition to intervene; *And provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that there might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(G) Attachment B of this order shall set forth the rate schedule designations and effective dates affected by this order.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Company and Docket Numbers

Commonwealth Edison Company—ER80–782 and ER80–779
Central Illinois Public Service Company—ER80–779, ER80–749
Public Service Company of Indiana, Inc.—ER80–750
Southern Indiana Gas & Electric Company—ER80–733
Wisconsin Power & Light Company—ER80–782
Dayton Power & Light Company—ER80–720, ER80–721, ER80–722
Cincinnati Gas & Electric Company—ER80–721
Columbus & Southern Ohio Electric Company—ER80–726 ,
Dayton Power & Light Company—ER80–726
Ohio Edison Company—ER80–662
Indiana & Michigan Electric Company—ER80–646
Central Illinois Public Service Company—ER80–646
Wisconsin Electric Power Company—ER80–732
Commonwealth Edison Company—ER80–732
Central Illinois Public Service Company—ER80–747, ER80–748, ER80–754
Illinois Power Company—ER80–731
Union Electric Company—ER80–678
Missouri Public Service Company—ER80–678
St. Joseph Light and Power Company—ER80–678
Wisconsin Power and Light Company—ER80–616, ER80–618, ER80–667, ER80–668
Wisconsin Public Service Corp.—ER80–616, ER80–618
Madison Gas & Electric Company—ER80–618
Northern States Pwr. Co. (Minn.)—ER80–667
Northern States Pwr. Co.—ER80–667
Ohio Power Company—ER80–640
Cleveland Electric Illuminating Company—ER80–640

Attachment B

Docket No. ER80–779

Filing Party: Commonwealth Edison Company
Other Party: Central Illinois Public Service Company
Effective: (1) & (2)—September 2, 1980, subject to refund.

Designation:

Commonwealth Edison Company

(1) Supplement No. 10 to Rate Schedule FPC No. 10

Central Illinois Public Service Company

(2) Supplement No. 9 to Rate Schedule FPC No. 61

Docket No. ER80–733

Filing Party: Southern Indiana Gas & Electric Company
Other Party:
(1) Big Rivers Electric Corporation
(2) Public Service Company of Indiana
(3) Louisville Gas & Electric Company
(4) Indianapolis Power & Light Company
(5) Alcoa Generating Corporation
Effective: (1)–(5) September 2, 1980, subject to refund

Designation:

Southern Indiana Gas & Electric Company

(1) Supplement No. 11 to Rate Schedule FPC No. 33
(2) Supplement No. 4 to Rate Schedule FPC No. 21
(3) Supplement No. 5 to Rate Schedule FPC No. 24
(4) Supplement No. 8 to Rate Schedule FPC No. 25
(5) Supplement No. 4 to Rate Schedule FPC No. 29

Docket No. ER80–750

Filing Party: Public Service Company of Indiana
Other Party:
(1) Indiana & Michigan Electric Company
(2) Central Illinois Public Service Company
(3) Southern Indiana Gas & Electric Company
(4) City of Peru, Indiana
(5) Cincinnati Gas & Electric Company
(6) Hoosier Energy Division of Indiana Statewide
(7) City of Logansport, Indiana
(8) Kentucky—Indiana Pool Agreement
(9) Northern Indiana Public Service Company
(10) City of Crawfordsville, Indiana
Effective: (1)–(10)—September 2, 1980, subject to refund

Designation

Public Service Company of Indiana

(1) Supplement No. 8 to Rate Schedule FPC No. 49
(2) Supplement No. 13 to Rate Schedule FPC No. 205
(3) Supplement No. 9 to Rate Schedule FPC No. 207
(4) Supplement No. 9 to Rate Schedule FPC No. 212
(5) Supplement No. 2 to Rate Schedule FPC No. 218
(6) Supplement No. 18 to Rate Schedule FPC No. 222
(7) Supplement No. 7 to Rate Schedule FPC No. 223
(8) Supplement No. 13 to Rate Schedule FPC No. 225
(9) Supplement No. 5 to Rate Schedule FPC No. 227
(10) Supplement No. 9 to Rate Schedule FPC No. 229

Docket No. ER80–640

Filing Party: Ohio Power Company
Other Party: Cleveland Electric Illuminating Company
Effective: (1), (2), (4), (5) & (6)—September 1, 1980; (3)—September 2, 1980, subject to refund.

Designation

Ohio Power Company

(1) Supplement No. 11 to Rate Schedule FPC No. 31 (Short Term Power)
(2) Supplement No. 12 to Rate Schedule FPC No. 31 (Supersedes Supplement No. 9 (Limited Term Power))
(3) Supplement No. 13 to Rate Schedule FPC No. 31 (Emergency Service)

Cleveland Electric Illuminating Company

(4) Supplement No. 10 to Rate Schedule FPC No. 1 (Short Term Power)
(5) Supplement No. 11 to Rate Schedule FPC No. 1 (Limited Term Power)
(6) Supplement No. 12 to Rate Schedule FPC No. 1 (Emergency Service)

Docket No. ER80–721

Filing Party: Dayton Power & Light Company
Other Party: Cincinnati Gas & Electric Company

V 45 / 217 NOV 80 UMI

Effective: (1) September 1, 1980—Sections III & IV; September 2, 1980, subject to refund—Sections I & II; (2) Same as (1) above.

Designation

Dayton Power & Light Company

(1) Supplement No. 6 to Rate Schedule FERC No. 38 (Modification No. 2)

Cincinnati Gas & Electric Company

(2) Supplement No. 2 to Rate Schedule FERC No. 39 (Concurs in (1) above)

Docket No. ER80–722

Filing Party: Dayton Power & Light Company
Other Party: Ohio Power Company
Effective: September 2, 1980 subject to refund—Service Schedules B & E; September 1, 1980—all other service schedules.

Designation

Dayton Power & Light Company

(1) Supplement No. 10 to Rate Schedule FPC No. 31

Docket No. ER80–726

Filing Party: Columbus & Southern Ohio Electric Company
Other Party: Dayton Power & Light Company
Effective: (1) September 2, 1980, subject to refund—Section 3.12 of Service Schedule A, 3.2.2 of Service Schedule D; September 1, 1980—for all other sections of Modification No. 2; (2) Same as (1) above

Designation

Columbus & Southern Ohio Electric Company

(1) Supplement No. 2 to Rate Schedule FERC No. 29 (Modification No. 2)

Dayton Power & Light Company

(2) Supplement No. 2 to Rate Schedule FERC No. 37 (Concurs in (1) above)

Docket No. ER80–616

Filing Party: Wisconsin Public Service Corporation
Other Party: Wisconsin Power & Light Company
Effective: (1)–(6) September 2, 1980, subject to refund

Designation

Wisconsin Public Service Corporation

(1) Supplement No. 28 to Rate Schedule FPC No. 17 (Supersedes Supplement Nos. 22 & 27) (Participation Capacity)
(2) Supplement No. 29 to Rate Schedule FPC No. 17 (Emergency Energy)
(3) Supplement No. 30 to Rate Schedule FPC No. 17 (Short Term Power)
(4) Supplement No. 31 to Rate Schedule FPC No. 17 (Maintenance Energy)
(5) Supplement No. 32 to Rate Schedule FPC No. 17 (General Purpose Energy)

Wisconsin Power & Light Company

(6) Supplement No. 24 to Rate Schedule FPC No. 14 (Supersedes Supplement Nos. 15–18, 23)
(Concurs in (1)–(5) above)

Docket No. ER80–618

Filing Party: Wisconsin Public Service Corporation
Other Party: Wisconsin Power & Light Company, Madison Gas & Electric Company
Effective: (1)–(7) September 2, 1980, subject to refund

Designation

Wisconsin Power Service Corporation

(1) Supplement No. 6 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 5) (Participation Power)
(2) Supplement No. 7 to Rate Schedule FPC No. 33 (Emergency Energy)
(3) Supplement No. 8 to Rate Schedule FPC No. 33 (Short Term Power)
(4) Supplement No. 9 to Rate Schedule FPC No. 33 (Maintenance Energy)
(5) Supplement No. 10 to Rate Schedule FPC No. 33 (General Purpose Energy)

Wisconsin Power & Light Company

(6) Supplement No. 4 to Rate Schedule FPC No. 99 (Supersedes Supplement Nos. 2, 4–7, 12) (Concurs in (1)–(5) above)

Madison Gas & Electric Company

(7) Supplement No. 6 to Rate Schedule FPC No. 5 (Supersedes Supplement No. 5) (Concurs in (1)–(5) above)

Docket No. ER80–747

Filing Party: Central Illinois Public Service Company
Other Party: Southern Illinois Power Cooperative, Inc.
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company

Supplement No. 17 to Rate Schedule FPC No. 74

Docket No. ER80–748

Filing Party: Central Illinois Public Service Company
Other Party: Public Service Company of Indiana
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company

Supplement No. 8 to Rate Schedule FPC No. 45

Docket No. ER80–754

Filing Party: Central Illinois Public Service Company
Other Party: Kentucky Utilities Company
Effective: (1) September 2, 1980, subject to refund, (2) September 1, 1980

Designation

Central Illinois Public Service Company

(1) Supplement No. 8 to Rate Schedule FPC No. 59

Kentucky Utilities Company

(2) Supplement No. 10 to Rate Schedule FPC No. 81 (Concurs in (1) above)

Docket No. ER80–782

Filing Party: Commonwealth Edison Company
Other Party: Wisconsin Power & Light Company
Effective: (1) September 1, 1980, (2)–(6) September 2, 1980, Subject to refund

Designation

Commonwealth Edison Company

(1) Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 16 (Limited Term Service)
(2) Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 16 (Emergency Energy)
(3) Supplement No. 2 to Supplement No. 8 to Rate Schedule FPC No. 16 (Short Term Power)
(4) Supplement No. 1 to Supplement No. 5 to Rate Schedule FPC No. 16 (Maintenance Energy)
(5) Supplement No. 1 to Supplement No. 6 to Rate Schedule FPC No. 16 (General Purpose Energy)

Wisconsin Power & Light Company

(6) Supplement No. 3 to Rate Schedule FPC No. 106 (Concurs in (1)–(5) above)

Docket No. ER80–667

Filing Party: Wisconsin Power & Light Company
Other Party: Northern States Power Company (Minn.), Northern States Power Company (Wisc.)
Effective: (1)–(7) September 2, 1980, subject to refund

Designation

Wisconsin Power & Light Company

(1) Supplement No. 1 to Rate Schedule FERC No. 124 (Emergency Energy)
(2) Supplement No. 2 to Rate Schedule FERC No. 124 (Maintenance Energy)
(3) Supplement No. 3 to Rate Schedule FERC No. 124 (General Purpose Energy)
(4) Supplement No. 4 to Rate Schedule FERC No. 124 (Short Term Power)
(5) Supplement No. 5 to Rate Schedule FERC No. 124 (Limited Term Power)

Northern States Power Company (Minn.)

(6) Supplement No. 10 to Rate Schedule FERC No. 410 (Supersedes Supplement Nos. 2, 4–7) (Concurs in (1)–(5) above)

Northern States Power Company (Wisc.)

(7) Support No. 1 to Rate Schedule FERC No. 65 (Concurs in (1)–(5) above)

Docket No. ER80–868

Filing Party: Wisconsin Power & Light Company
Other Party: Dairyland Power Cooperative
Effective: (1)–(4) September 2, 1980, subject to refund

Designation

Wisconsin Power & Light Company

(1) Supplement No. 9 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 2) (Emergency Energy)
(2) Supplement No. 10 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 4) (Short Term Power)
(3) Supplement No. 11 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 5) (Maintenance Power)
(4) Supplement No. 12 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 6) (General Purpose Energy)

Docket No. ER80–731

Filing Party: Illinois Power Company
Other Party: Central Illinois Public Service Company, Union Electric Company, Tennessee Valley Authority
Effective: September 2, 1980, subject to refund

Designation

Illinois Power Company

Supplement No. 10 to Rate Schedule FPC No. 48

Docket No. ER80–749

Filing Party: Central Illinois Public Service Company
Other Parties: Illinois Power Company, Union Electric Company, Tennessee Valley Authority
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company

Supplement No. 10 to Rate Schedule FPC No. 66

Docket No. ER80–662

Filing Party: Ohio Edison Company
Other Party: Columbus & Southern Ohio Company
Effective: (1) August 1, 1980, (2) Section 3.1.2 of Service Schedule A, Section 3.2.2 of Service Schedule B—September 2, 1980, subject to refund; Remaining portion of Modification No. 3—September 1, 1980

Designation

Ohio Edison Company

(1) Supplement No. 6 to Rate Schedule FERC No. 143 (Modification No. 2)
(2) Supplement No. 7 to Rate Schedule FERC No. 143 (Modification No. 3)

Docket No. ER80–720

Filing Party: Dayton Power & Light Company
Other Party: City of Piqua, Ohio
Effective: September 1, 1980—First Revised Schedule B; September 2, 1980, subject to refund—First Revised Schedule C

Designation

Dayton Power & Light Company

Supplement No. 1 to Supplement No. 8 to Rate Schedule FERC No. 34

Docket No. ER80–646

Filing Party: Indiana & Michigan Electric Company
Other Party: Central Illinois Public Service Company (CIPS)
Effective: (1) September 1, 1980, (2) & (3) September 2, 1980, subject to refund

Designation

Indiana and Michigan Electric Company

(1) Supplement No. 18 to Rate Schedule FPC No. 67 (Supersedes Supplement No. 17) (Short Term & Limited Term Power)
(2) Supplemental No. 19 to Rate Schedule FPC No. 67 (Supersedes Supplement No. 11) (Emergency Energy)

Central Illinois Public Service Company

(3) Supplement No. 11 to Rate Schedule FPC No. 62 (Concurs in (2) above)

Docket No. ER80–732

Filing Party: Wisconsin Electric Power Company
Other Party: Commonwealth Edison Company
Effective: (1) September 1, 1980; (2–6) September 2, 1980, subject to refund

Designation

Wisconsin Electric Power Company

(1) Supplement No. 11 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 4) (Limited Term Power)
(2) Supplement No. 12 to Rate Schedule FPC No. 33 (Supersedes Supplement Nos. 5 and 10) (Emergency Energy)
(3) Supplement No. 13 to Rate Schedule FPC No. 33 (Supersedes Supplement Nos. 7 and 10) (Short Term Power)
(4) Supplement No. 14 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 8) (Maintenance Energy)
(5) Supplement No. 15 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 9) (General Purpose Energy)

Commonwealth Edison Company

(6) Supplement No. 4 Rate Schedule FPC No. 14 (Supersedes Supplements Nos. 2 and 3) (Concurs in (1)–(5) above)

Docket No. ER80–678

Filing Party: Union Electric Company
Other Parties: Arkansas-Missouri Power Company (AMPC), Associated Electric Cooperative, Inc. (AEC); (2) AMPC; (3) AEC; (4) City of Columbia, Missouri; (5) Iowa Power and Light Company; (6) Iowa Southern Utilities Company; (7) Kansas City Power and Light Company; (8) Kentucky Utilities Company; (9) AEC, Kansas Gas and Electric Company, Public Service Company of Oklahoma; (10) Missouri Public Service Company, (11) St. Joseph Light and Power Company; (12) Central Illinois Public Service Company, Illinois Power Company, Tennessee Valley Authority; (13), (14), and (15) Union Electric Company
Effective: (13) September 1, 1980; Others—September 2, 1980, subject to refund

Union Electric Company

(1) Supplement No. 13 to Rate Schedule FPC No. 94
(2) Supplement No. 9 to Rate Schedule FPC No. 68
(3) Supplement No. 11 to Rate Schedule FERC No. 95
(4) Supplement No. 7 to Rate Schedule FERC No. 96
(5) Supplement No. 14 to Rate Schedule FPC No. 74
(6) Supplement No. 6 to Rate Schedule FPC No. 63
(7) Supplement No. 10 to Rate Schedule FPC No. 66
(8) Supplement No. 15 to Rate Schedule FPC No. 90 (Executed Second Amendment)
(9) Supplement No. 10 to Rate Schedule FPC No. 79
(10) Supplement No. 12 to Rate Schedule FPC No. 67 (Executed Third Amendment)
(11) Supplement No. 6 to Rate Schedule FPC No. 75 (Executed Second Amendment)
(12) Supplement No. 12 to Rate Schedule FPC No. 76

Kentucky Utilities Company

(13) Supplement No. 3 to Rate Schedule FPC No. 100 (Concurs in (8) above)
(14) *Missouri Public Service Company*
Supplement No. 5 to Rate Schedule FPC No. 24 (Concurs in (10) above)
(15) *St. Joseph Light and Power Company*
Supplement No. 2 to Rate Schedule FPC No. 14 (Concurs in (11) above)

[FR Doc. 80-34575 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80–506]

Boston Edison Co.; Order Denying Rehearing; Electric Rates

October 29, 1980.

On September 26, 1980, Boston Edison Company (Edison) filed an Application for Rehearing and Reconsideration of the Commission's order issued on August 29, 1980, in this docket. In that order, the Commission, *inter alia*, suspended Edison's proposed rates for five months and explained the Commission's practice with regard to suspension of rate filings which appear to be unjust and unreasonable or conflict with other statutory requirements.

In its present application, Edison asserts that the Commission has entered into a new policy which substitutes five-month suspensions of virtually all contested rate increases for the former practice of selecting suspension periods on a case-by-case basis and that this new policy is incorrect and contrary to the Court's holding in *Connecticut Light and Power Company* (No. 78–2312) (D.C. Circuit, May 30, 1980). Edison claims that the Court did not deny the Commission the flexibility to tailor suspension orders to the specific facts of each rate filing, but merely seeks from the Commission a brief recitation of the factors relevant to particular suspension determinations. Furthermore, Edison states that the Commission has erred in that it has failed to explain the change from the old suspension policy to the new.

Edison gives as one reason for reducing the five-month suspension the fact that it is experiencing adverse financial conditions and that the proposed new rates are designed to alleviate such conditions.

The Commission has responded to assertions similar to Edison's in recently issued orders [1] and in an order approved on October 22, 1980, in the *Connecticut Light and Power Company* remand proceeding in Docket No. ER78–517.

In *Public Service Company of Colorado*, Docket No. ER80–447 (issued September 15, 1980), we clearly stated our new policy with respect to suspensions and the reasons why we would not generally consider adverse financial conditions as an independent

[1] See *e.g., Carolina Power and Light Company*, Docket No. ER80–447, issued September 15, 1980.

ground for a shorter suspension. *Id,* slip op. at 2. See also *Connecticut Light and Power Company, infra,* slip op. at 4.

It is the Commission's responsibility under the Federal Power Act to determine a rate of return, as well as other rate features, appropriate to recover the legitimate costs incurred by a utility. This determination is a complex one to make, one that cannot normally be made with the requisite precision with the appropriate due process to all parties in the short time in which the Commission must make its decision whether and for how long to suspend a filed rate. We note that to the degree available financial information affects the rate of return portion of our preliminary review of tendered rates, we have already considered Edison's financial condition in our initial decision to suspend the filed rates, and have found that those rates may be unlawful even taking such financial conditions into account. In the absence of a clear financial emergency, further consideration of the allegations of financial hardship as an independent basis for determining the appropriate suspension period is not warranted.

Boston Edison asserts, *inter alia,* that even on the basis enunciated by the Commission in *Public Service of Colorado,* that its financial difficulties meet the test of clear financial emergency and therefore a shorter suspension period is justified. Boston Edison cites downgrading of the Company's bonds to triple B status, a loss of adequate interest coverage protection, an inability to market securities on reasonable terms, poor earnings and a common equity market-to-book ratio "which has been among the worst of the Class A and B electric utilities."

On the basis of our preliminary analysis, we cannot find that a clear financial emergency exists in Edison's case, although the information cited by the company indicates that Edison has been experiencing substantial financial difficulties. Evidence of its financial condition is a matter which is relevant to the rate of return to be allowed Edison, and such evidence will be evaluated at the hearing we have ordered. Extraordinary rate relief by means of the suspension power should be granted only when it appears that immediate action is needed to avert a financial crisis. We cannot conclude on the basis of the filings before us that our suspension of the rate for the full statutory period would itself significantly worsen the Company's financial condition or imperil its solvency.

The Commission orders: (A) The Boston Edison Company's Application for Rehearing and Reconsideration in this instant proceeding is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34578 filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-41-000]

Central Telephone & Utilities Corp.; Filing

October 30, 1980.

Take notice that Central Telephone & Utilities Corporation on October 20, 1980, tendered for filing revised Sheets Nos. 3, 4 and 5 of Central Telephone's Rate Schedule 80 Cwh–2, revised Sheets Nos. 2, 3 and 4 of Central Telephone's Rate Schedule Mwh–5, and Revised Service Schedules 80–A and 80–A1.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34599 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-39-000]

Commonwealth Edison Co.; Filing

October 30, 1980.

The filing company submits the following:

Take notice that Commonwealth Edison Company on October 20, 1980, tendered for filing Amendment No. 1, dated August 26, 1980, to the Interconnection Agreement, dated March 15, 1979 between Commonwealth Edison Company and Central Illinois Light Company.

Commonwealth Edison Company indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79–29, "which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power." In compliance with Order No. 84–B, an effective date of September 1, 1980 is requested.

Copies of the filing were served upon the Illinois Commerce Commission, Springfield, Illinois and the Illinois Commerce Commission, Springfield, Illinois and Central Illinois Light Company, Peoria, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34600 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-38-000]

Commonwealth Edison Co.; Filing

October 30, 1980.

The filing company submits the following:

Take notice that Commonwealth Edison Company on October 20, 1980, tendered for filing Amendment No. 3, dated August 28, 1980, to the Interconnection Agreement, dated May 1, 1964 between Commonwealth Edison Company and Interstate Power Company.

Commonwealth Edison Company indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79–29, "which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power." In compliance with Order No. 84–B, an effective date of September 1, 1980 is requested.

Copies of the filing were served upon the Illinois Commerce Commission, Springfield, Illinois and Interstate Power Company, Dubuque, Iowa.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34601 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-44-000]

Commonwealth Edison Co.; Proposed Tariff Change

October 30, 1980.

The filing Company submits the following:

Take notice that Commonwealth Edison company, on October 23, 1980, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric Service Contract between Commonwealth Edison Company and the City of Naperville, Illinois, to provide for a temporary point of electric supply to the city by the Company, and to provide for an increase in contract demand.

A copy of the filing has been served upon the City of Naperville, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34602 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

Project No. 3442

City of Nashua, New Hampshire; Application for Preliminary Permit

October 30, 1980.

Take notice that the City of Nashua (Applicant) filed on September 7, 1980, an application for preliminary permit [pursuant to the Federal Power Act 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3442 to be known as the Mine Falls Project located on the Nashua River in the City of Nashua, Hillsboro County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Richard L. Cane, Director, Community Development Division, 229 Main Street, Nashua, New Hampshire 03060.

Project Description—The proposed project would consist of : (1) An existing 325-foot long, 24-foot high stone masonry dam; (2) a 55 acre reservoir; (3) either a new 500-foot long, 9-foot diameter penstock, or a one-mile long portion of the existing canal and mill pond along the east bank of the river with a 150-foot long outlet canal; (4) a new powerhouse containing two turbine-generators with a total rated capacity of 1,180 KW or 1,360 KW; (5) a transmission line; and (6) appurtenant facilities. The proposed project would be capable of generating up to 7,222,000 KWH annually saving the equivalent of 11,900 barrels of oil or 3,350 tons of coal.

Purpose of Project—Energy produced at the project would likely be sold to the Public Service Company of New Hampshire for distribution to its customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantitve issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 12, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34577 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER 81-40-000]

Connecticut Light & Power Co.; Transmission Agreement

October 30, 1980.

The filing company submits the following:

Take notice that on October 22, 1980, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated June 24, 1980 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) New Bedford Gas and Edison Light Company (NBG&E).

CL&P states that the Transmission Agreement provides for a transmission service to NBG&E for the wheeling of NBG&E's entitlement in the Vermont Yankee nuclear generating facility during the period from July 1, 1980 to April 30, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities System determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which NBG&E is entitled to receive during such month. The monthly transmission charge will be reduced to give due recognition for payments made by NBG&E to Public Service Company of New Hampshire.

CL&P requests that the Commission waive the sixty-day notice period and permit the rate schedule filed to become effective July 1, 1980.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and NBG&E, Cambridge, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34589 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-717]

Connecticut Yankee Atomic Power Co.; Order Accepting for Filing and Suspending Proposed Rates, Waiving Filing Requirements, and Establishing Procedures

October 28, 1980.

On August 29, 1980, Connecticut Yankee Atomic Power Company (Connecticut Yankee) tendered for filing an Agreement Amending Supplementary Power Contract, dated August 22, 1980, between Connecticut Yankee and its eleven sponsor-purchaser electric utilities for the sale of the net output of Connecticut Yankee's nuclear generating plant at Haddam, Connecticut.[1] The proposed revisions to the power contract would increase rates to all purchasing companies by approximately $7.0 million for the 12 months ending December 31, 1979 (Period I).[2]

Under the present unit sale agreement, each purchasing utility is assessed its proportionate share of monthly operating expenses, including a return of 10.0% on net investment base. Depreciation expense is computed on a straight line basis reflecting an allowance for decommissioning based on partial dismantlement of the unit at the end of its service life. The present rates are currently being collected subject to refund in Docket No. ER78-360.

The proposed agreement would provide for a variable rate of return computed monthly to reflect outstanding weighted debt cost and a return on equity of 17%.[3] Depreciation expense would be computed to reflect the estimated cost of plant decommissioning on an immediate dismantlement basis.[4]

Connecticut Yankee has filed the instant submittal pursuant to the amended § 35.13 filing requirements adopted by Order No. 91, issued June 27, 1980, in Docket No. RM79-64. Consequently, Connecticut Yankee requests waiver of the present § 35.13 filing requirements. In accordance with revised §§ 35.13(d)(2)(ii)(B) and 35.13(d)(3)(i), Connecticut Yankee has utilized a calendar 1979 Period I and has elected not to submit a Period II study. Connecticut Yankee proposes an effective date of November 1, 1980, for the revised agreement.

Notice of the filing was issued on September 5, 1980, with comments due on or before September 26, 1980. No responses were received.

Discussion

Our review of Connecticut Yankee's submittal indicates that it substantially complies with the Commission's revised § 35.13 filing requirements. We shall therefore grant the request for waiver of the currently effective filing requirements. As stated in Order No. 91, the Commission has encouraged public utilities to file under the revised regulations during the 180-day period between the issuance of Order No. 91 and the effective date of the final regulations. By its compliance with the revised regulations, Connecticut Yankee has enabled us to expedite the top sheet date in this proceeding.

Our analysis indicates that Connecticut Yankee's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Issues of particular concern involve the proposed rate of return, the cash working capital calculation, and the costs associated with decommissioning of the Yankee nuclear facility. Accordingly, we shall accept the proposed rates for filing, suspend them as ordered below, and order a hearing to be convened.

[1] Connecticut Yankee operates the 600 MW nuclear power plant, the output of which is sold to eleven sponsor utilities in proportion to each utility's ownership percentage. The eleven sponsor-purchaser utilities are: New England Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Montaup Electric Company, The United Illuminating Company, Cambridge Electric Company, Central Vermont Public Service Corporation, Central Maine Power Company, The Connecticut Light and Power Company, and Boston Edison Company.

[2] The rate schedule designation is as follows: *Connecticut Yankee Atomic Power Company*, Supplement No. 1 to Rate Schedule FPC No. 1.

[3] For the test year, the return equates to 12.62% overall with an equity ratio of 44%.

[4] Connecticut Yankee does not propose to accrue the associated decommissioning reserve in a separate escrow account. Thus, the funds would be available for general corporate use.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on April 1, 1981.

The Commission orders: (A) Connecticut Yankee's request for waiver of the present § 35.13 filing requirments is hereby granted.

(B) Connecticut Yankee's submittal is hereby accepted for filing and suspended for five months from November 1, 1980, to become effective on April 1, 1981, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chaper I), a public hearing shall be held concerning the rates proposed in this docket.

(D) The Commission staff shall serve top sheets in this proceeding on or before November 5, 1980.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a formal conference in this proceeding to be held within ten (10) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34590 Filed 11-5-80; 8:45 am]

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[5] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[Docket No. GP80-117]

Exxon Corp.; Petition for Declaratory Order

October 30, 1980.

Take notice that on September 30, 1980, Exxon Corporation, P.O. Box 2180, Houston, Texas 77001 (Exxon), pursuant to §§ 1.7 and 1.43 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (Commission Rules), petitioned the Commission to issue an order declaring that the maximum lawful price for certain natural gas sold to Pacific Gas & Electric Company (PG & E) is the price under the terms of a contract with PG & E as those terms were in effect on the day before the date enactment of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301 et seq. (NGPA).

In support of its petition, Exxon states that it sells natural gas to PG & E from the Wild Goose Field, Butte County, California under an interstate gas sales contract dated January 1, 1966, as amended. (PG & E Contract) Exxon states that it also sold gas prior to April 1, 1980, from the Dutch Slough Field, Contra Costa County, California to Dow Chemical Company and Shell Oil Company pursuant to a contract dated October 12, 1964, as amended. (Dow/Shell Contract). The Dow/Shell Contract terminated in accordance with its terms on April 1, 1980. Exxon states that the PG & E Contract was amended on October 11, 1978, to include the Dutch Slough production effective April 1, 1980, when the Dow/Shell Contract terminated. Exxon adds that the price specified in the October 11, 1978, PG & E Contract amendment is $1.51 per Mcf as of July 1, 1980, with the price to be redetermined thereafter. The price under the Dow/Shell Contract when it terminated was $1.03 per Mcf.

Exxon asserts that the applicable NGPA ceiling rate is to be determined under section 105(b)(1)(A) pursuant to the terms of the October 11, 1978, PG & E Contract amendment.

Any person desiring to be heard or to make any protest in this docket should on or before November 20, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein but will not serve to make the protestants parties to this proceeding. Any person wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34591 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-5-000]

Felmont Oil Corp.; Application of Staff Adjustment

October 30, 1980.

Take notice that on October 17, 1980, the Felmont Oil Corporation (Felmont), 6 East 43rd Street, New York, New York, 10017, filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act (NGPA) and section 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment.[1] Applicant seeks relief from § 154.94(h)(2)(iii) of the Commission's regulations.

Specifically, Applicant states that it is a non-operator owner of a 4.8 percent interest in eleven wells located in the Eugene Island Block 273 Unit, Offshore Louisiana (Block 273 Unit). Contained in the Block 273 Unit are the A-3 and the A-9 wells, and the sales therefrom are the subject of this request. These sales were made by Felmont to Michigan-Wisconsin Pipe Line Company (Michigan-Wisconsin) pursuant to the Gas Purchase Contract, dated 1, 1980, which was filed with the Commission. The contract contained an area rate clause which provided that Felmont could charge any higher area rate prescribed by the Commission. While the area rate clause was in effect, the operator of the Block 273 Unit, Forrest Oil Corporation, recompleted the A-3 and the A-9 wells and production from the recompleted wells began February 4, 1974 and March 2, 1977 respectively. Felmont did not file a notice of rate

[1] Concurrently with this Request, Felmont has filed a Petition for Declaratory Order or, in the Alternative, for Waiver of § 154.94. If Felmont's Petition is granted, Felmont will have no need for relief under this Request for Adjustment.

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change immediately following each recompletion. Accordingly, Felmont requests a one-time waiver of the notice requirements of section 154.94 with respect to Felmont's Gas Rate Schedule No. 18 for periods from February 4, 1974 to September 18, 1980 (A–3 Well), and from March 2, 1977, to September 18, 1980 (A–9 Well), to permit the retroactive collection of the area rate under the terms of the contract which was on file with the Commission throughout the period in question. Felmont asserts that strict application of § 154.94 will subject it to special and substantial hardship and gross inequity.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41(e). All petitions to intervene must be filed on or before November 21, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34562 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-9-000]

Illinois Power Co.; Filing

October 30, 1980.

The filing Company submits the following:

Take notice that on October 6, 1980, Illinois Power Company ("Illinois Power") tendered for filing proposed Modification No. 9, dated July 8, 1980, to the Interconnection Agreement, dated March 30, 1973, between Central Illinois Light Company and Illinois Power Company.

Illinois Power indicates that this filing is made for an increase in coordination of Scheduled Maintenance of Generating Facilities, Short-Term Firm Power and Short-Term Non-Firm Power reservation charges. Also included in this filing is the agreement between Illinois Power and Central Illinois Light Company for a relocation of the point of interconnection at Spring Bay.

Illinois Power states that a copy of the filing was served upon Central Illinois Light Company and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or befor November 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34604 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-46-000]

Indiana & Michigan Electric Co.; Proposed Tariff Change

October 30, 1980.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company on October 24, 1980, tendered for filing proposed changes in its FERC Tariff No. 25, applicable to service to Michigan Power Company. The proposed changes would increase revenues from jurisdictional sales and service by approximately $72,903, based on the 12-month period ending December 31, 1979. Indiana & Michigan Electric Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective November 1, 1980.

Copies of the filing were served upon the affected customer, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34605 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-48-000]

Indiana & Michigan Electric Co.; Proposed Tariff Change

October 30, 1980.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company on October 24, 1980, tendered for filing proposed changes in its FERC Tariff No. 70, applicable to service to Richmond Power & Light Company. The proposed changes would increase revenues from jurisdictional sales and service by approximately $38,845, based on the 12-month period ending December 31, 1979. Indiana & Michigan Electric Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective November 1, 1980.

Copies of the filing were served upon the affected customer, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34606 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-47-000]

Indiana & Michigan Electric Co.; Proposed Tariff Change

October 30, 1980.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company on October 24, 1980, tendered for filing proposed changes in its FERC Electric Tariff REC–1, applicable to service to rural electric cooperative wholesale for resale customers only. The proposed changes would increase revenues from jurisdictional sales and service by approximately $74,195, based on the 12-month period ending December 31, 1979. Indiana & Michigan Electric Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective November 1, 1980.

Copies of the filing were served upon affected customer, the Michigan Public Service Commission and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34600 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-36-000]

Iowa Public Service Co.; Filing

October 30, 1980.

Take notice that on October 20, 1980, Iowa Public Service Company (IPSC) tendered for filing various documents for the purpose of complying with the Commission's Order No. 84. Included among those documents were unexecuted Agreements by which the existing Rate Schedules containing percentage adders would be amended. IPSC states that at the time of the submittal, that executed Agreements would be filed as soon as they were available.

Enclosed for filing were copies of the following:

(1) Agreement dated September 15, 1980 by and between Board of Trustees of Municipal Electric Utility of Cedar Falls, Iowa, and Iowa Public Service Company amending Service Schedule "D", Emergency Energy under the Electric Interchange Agreement between Iowa Public Service Company and the Board of Trustees of Municipal Electric Utility of Cedar Falls, Iowa, dated January 8, 1971 as supplemented.

(2) Agreement dated September 4, 1980 by and between City of West Bend, Iowa, and Iowa Public Service Company amending Service Schedule "H", Peaking Power Interchange Service under the Interconnection Agreement between City of West Bend, Iowa, and Iowa Public Service Company dated March 24, 1978 as supplemented.

(3) Agreement dated September 4, 1980 by and between City of West Bend, Iowa, and Iowa Public Service Company amending Service amending Service Schedule "C", Emergency and Scheduled Outage Energy Interchange Service under the Interconnection Agreement between City of West Bend, Iowa, and Iowa Public Service Company dated March 24, 1978 as supplemented.

(4) Agreement dated September 4, 1980 by and between City of West Bend, Iowa, and Iowa Public Service Company amending Service Schedule "B", Seasonal Participation Power Interchange Service under the Interconnection Agreement between City of West Bend, Iowa, and Iowa Public Service Company dated March 24, 1978 as supplemented.

(5) Agreement dated September 4, 1980 by and between City of West Bend, Iowa, and Iowa Public Service Company amending Service Schedule "I", Short Term Power Interchange Service under the Interconnection Agreement between City of West Bend, Iowa, and Iowa Public Service Company dated March 24, 1978 as supplemented.

(6) Agreement dated September 10, 1980 by and between Corn Belt Power Cooperative and Iowa Public Service Company amending Second Revised Service Schedule "B", Seasonal Participation Power Interchange Service under the Interconnection and Operating Agreement between Corn Belt Power Cooperative and Iowa Public Service Company dated October 28, 1976 as supplemented.

(7) Agreement dated September 10, 1980 by and between Corn Belt Power Cooperative and Iowa Public Service Company amending Service Schedule "C", Emergency and Scheduled Outage Interchange Service under the Interconnection and Operating Agreement between Corn Belt Power Cooperative and Iowa Public Service Company dated October 28, 1976 as supplemented.

(8) Agreement dated September 10, 1980 by and between Corn Belt Power Cooperative and Iowa Public Service Company amending First Revised Service Schedule "H", Peaking Power Interchange Service under the Interconnection and Operating Agreement between Corn Belt Power Cooperative and Iowa Public Service Company dated October 28, 1976 as supplemented.

(9) Agreement dated September 10, 1980 by and between Corn Belt Power Cooperative and Iowa Public Service Company amending First Revised Service Schedule "I", Short Term Power Interchange Service under the Interconnection and Operating Agreement between Corn Belt Power Cooperative and Iowa Public Service Company dated October 28, 1976 as supplemented.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34594 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RA79-11, RA80-121]

Jack Halbert; Order Consolidating Proceedings

October 28, 1980.

On September 26, 1980 Jack Halbert (Halbert) filed a motion for consolidation of Docket Nos. RA79–11 and RA80–121, involving review of two decisions and orders by the Department of Energy (DOE) denying adjustment relief. DOE concurs with the motion.

Docket No. RA79–11 involves review of a DOE order that denied retroactive exception to Halbert from refunds of alleged overcharges in sales of crude oil from the R. H. Moore and W. T. Ware Leases. Halbert requested relief on several grounds, including severe financial hardship. On July 13, 1979 the Commission proceeding was stayed at the request of the participants in order to provide DOE an opportunity to reconsider whether relief was warranted on grounds of financial hardship. On August 27, 1980 DOE issued an order granting in part and denying in part exception from refunds of overcharges in crude oil sales from several properties, including the R. H. Moore and W. T. Ware Leases. Halbert appealed this second order in Docket No. RA80–121.

Under § 1.20(b) of the Commission's rules of Practices and Procedure, the Commission may order proceedings involving common questions of law or fact to be consolidated for hearing of any or all matters at issue. Docket Nos. RA79–11 and RA80–121 both involve issues of law and fact relating to

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Halbert's financial status and his ability to make refunds. Since the issues raised in the two dockets would be more efficiently addressed in a single proceeding, the dockets should be consolidated for purposes of hearing and decision.

The Commission orders: (A) Pursuant to § 1.20(b) of the Commission's Rules of Practice and Procedure, the proceedings in Docket Nos. RA79–11 and RA80–121 are consolidated for hearing and decision on all matters at issue.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34566 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-43-000]

Montana Light & Power Co.; Rate Schedule Change

October 30, 1980.

The filing Company submits the following:

Take notice that Montana Light & Power Company (ML&P) on October 22, 1980, tendered for filing proposed changes in its Rate Schedule FERC No. 2 by adding Supplement No. 5 to said Rate Schedule for non-firm thermal power to Pacific Power & Light (PP&L) effective March 19, 1980. The rates will not increase revenues from jurisdictional sales and service based on the 12 month period ending March 31, 1981 because of a decrease in projected sales to PP&L.

ML&P indicates that pursuant to Paragraph 4 of the Service Agreement dated May 1, 1977, between ML&P & PP&L, the rate is determined solely by the buyer, PP&L, and may be altered by it unilaterally seven days after written notice to ML&P.

ML&P further requests that this Commission grant it a Waiver of Notice Requirement pursuant to § 35.11 of its Rules and Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34608 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER77-75, ER77-97, ER78-78, ER78-79]

New England Power Co.; Filing

October 30, 1980.

The filing Company submits the following:

Take notice that on September 30, 1980, New England Power Company submitted for filing a revised refund compliance report in the above referenced proceeding. The revised report is being filed since the report filed on September 12, 1980, pursuant to a Commission order in this proceeding, contained various typographical errors.

A copy of this filing has been sent to the parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34606 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3265]

New Hampshire Water Resources Board; Application for Preliminary Permit

October 30, 1980.

Take notice that the New Hampshire Water Resources Board (Applicant) filed on July 25, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Project No. 3265 to be known as Steele's Pond Project located on the North Branch of the Contoocook River, at the Town of Antrim, in Hillsboro County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. George H. McGee, Sr., New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301.

Project Description—The proposed project would consist of existing project works including: (1) A reinforced concrete dam about 173 feet long and 20 feet high, with a central spillway, 75 feet long; (2) an intake structure at the south (right) abutment of the dam; (3) a reservoir with a surface area of about 36 acres and storage capacity of 540 acre-feet at surface elevation 843 feet m.s.l.; and new project works consisting of (4) a penstock; (5) a powerhouse; (6) electrical facilities; and (7) other appurtenances. The Applicant proposes to study three alternative developments. *Alternative (1)* would include construction of a penstock and powerhouse at the dam, with two 120 kW turbine-generators producing 558,500 kWh per year. *Alternative (2)* would include a penstock about 800 feet long, and a powerhouse about 800 feet downstream of the dam with a total installed capacity of 340 kW (2 units) generating 1.5 million kWh per year. *Alternative (3)* would include a penstock 1,800 feet long and a powerhouse about 1,800 feet downstream from the dam at the site of an old existing powerhouse foundation, with a total installed capacity of 570 kW (two 285 kW turbine-generators) producing 2.5 million kWh per year.

Purpose of Project—Energy developed at Project No. 3265 would be sold to the Public Service Company of New Hampshire for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. The work to be performed under this preliminary permit will consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Federal Energy Regulatory Commission's licensing requirements. Applicant estimates that the cost of work to be performed under the permit will not exceed $15,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Steele's Pond Associates' application filed on March 4, 1980, for the Steele's Pond Project No. 3087 on the Contoocook River, in Hillsboro County, New Hampshire, under 18 CFR 4.33 *as amended*, 44 FR 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34578 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 81-45-000]

Pacific Gas & Electric Co.; Filing

October 30, 1980.

The filing Company submits the following:

Take notice that on October 24, 1980, Pacific Gas and Electric Company (PGandE) rendered for filing a contract dated September 30, 1980, entitled "Agreement for Sale of Electric Power and Energy by Pacific Gas and Electric Company to City of Santa Clara" (Agreement). The Agreement cancels and supersedes the Agreement for Sale of Electric Power and Energy by Pacific Gas and Electric Company to City of Santa Clara dated March 18, 1969, as amended. The Agreement provides for supplemental power deliveries from PGandE to the City of Santa Clara (City) when City's power requirements exceed supply available from City's other supplier, the Western Area Power Administration (WAPA) of the United States Department of Energy. In addition, the Agreement provides for stand-by service to a new City-owned cogeneration project.

Rates applicable to that portion of the City's power requirements provided by PGandE will continue to be those rates contained in Rate Schedule R–1 of PGandE's FPC Electric Tariff, Original Volume No. 2. PGandE has requested waiver of the notice requirements pursuant to § 35.11 of the Commission's regulations to permit an effective date of November 1, 1980.

Copies of the filing were served upon City, WAPA, and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34596 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-42-000]

Potomac Edison Co.; Proposed Tariff Change

October 30, 1980.

The filing Company submits the following:

Take notice that The Potomac Edison Company, on October 22, 1980, tendered for filing the First Revision to Original Page No. 21 and a Supplement to its FERC Electric Service Tariff, Volume No. 3 consisting of an Electric Service Agreement with the Town of Front Royal, Virginia. The Agreement supersedes a previous Agreement between The Potomac Edison Company and the Town. The Potomac Edison Company has requested that the Agreement be deemed effective as of June 30, 1980, in order that the date of the Agreement and its applicability coincide. The proposed changes will have no effect upon purchases under other rate schedules and no change in rates is proposed in the Agreement.

The reasons for the proposed changes are to include the Town as a purchaser under a standard rate schedule, to eliminate the Federal Power Act Section 206 provisions, to update the format and language of the Agreement, and to provide for an increase in the capacity which Potomac Edison will provide to the Town.

A copy of the filing has been served upon the Town of Front Royal and upon the Virginia State Corporation Commission by The Potomac Edison Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34603 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

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[Project No. 3179]

Suncook Power Corp., Application for Short-Form License (Minor)

October 30, 1980.

Take notice that Suncook Power Corporation (Applicant) filed on July 9, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Webster-Pembroke Project No. 3179. The project would be located on the Suncook River in the Towns of Pembroke and Allenstown, Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Peter C. Kasch, Suncook Power Corporation, 1330 Boylston Street, Suite 512, Chestnut Hill, Massachusetts 02167.

Project Description—The proposed run-of-the-river project would consist of existing project works including: (1) Webster Dam, a concrete structure 250 feet long and 18 feet high, with an ogee spillway 154 feet long with crest elevation of 278.11 feet m.s.l.; (2) a reservoir with a surface area of 34 acres and negligible storage; (3) a headgate structure, canal, and intake structure; (4) waste gate and wasteway at the lower end of the canal; (5) a powerhouse (at the Pembroke Dam site, 920 feet downstream from the Webster Dam) containing two inoperative turbines having a total rated capacity of 610 horsepower, formerly used to drive a 480 kW generator (no longer existing); (6) a short discharge sluiceway; and new project works to include (7) a concrete box penstock from the existing intake structure to the Pembroke powerhouse; (8) two new turbine-generators to be installed in the powerhouse with a total rated capacity of 1,450 kW, and provisions for additional capacity as future economic conditions would warrant; and (9) other appurtenances. The Applicant estimates the annual generation would average 7.7 million kWh.

Purpose of Project—Project energy developed at this project will be sold to the Public Service Company of New Hampshire.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 2, 1981, either the competing applicaiton itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing appication no later than May 4, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 2, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–34579 Filed 11–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP81–14–000]

Tennessee Gas Pipeline Co., Division of Tenneco Inc. and Southern Natural Gas Co.; Application

October 29, 1980.

Take notice that on October 14, 1980, Tennessee Gas Pipeline Company, Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35203, filed in Docket No. CP81–14–000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf of natural gas per month in southern Louisiana for Aminoil of Louisiana (Aminoil), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to implement the terms of an agreement among Applicants and Aminoil dated September 10, 1980, whereby Applicants have agreed to transport up to 15,000 Mcf of gas per month for Aminoil.

Applicants state that pursuant to the terms of an agreement between Aminoil and Southern, dated September 29, 1967, Aminoil has the right to reserve certain quantities of natural gas from the gas produced in the North Lake Washington Field and the Bay St. Elaine Field for gas lift operations.

It is asserted that the quantities of gas reserved by Aminoil from production in the Lake Washington Field would be transported from Lake Washington Field in Plaquemines Parish, Louisiana, to the Bay St. Elaine Field in Terrebonne Parish, Louisiana, for gas lift operations.

It is stated that Aminoil would deliver up to 15,000 Mcf of natural gas per month to Tennessee's existing meter station No. 1–0599 in Plaquemines Parish, Louisiana, and that Tennessee would deliver such volumes, less fuel and use volumes, to Southern at or near Main Line Valve 523 in Terrebonne Parish, Louisiana. It is further proposed that Southern would deliver an equal volume to Aminoil at the interconnection of Southern's and Aminoil's lines in Aminoil's State Lease 2995 in Terrebonne Parish, Louisiana. Applicants assert that their obligation to render such service would be conditioned upon the operating conditions of their respective pipeline systems.

Applicants submit that Aminoil has agreed to pay Tennessee a volume charge of 3.80 cents per Mcf received by Tennessee less a fuel and use assessment equal to 1.2 percent of the volume received from Aminoil in any month. Additionally, Applicants assert that inasmuch as Southern would transport Aminoil's gas only a short distance of less than two miles, Southern would not charge Aminoil a transportation fee.

Applicants state that Aminoil believes that gas for gas lift purposes is required in order to maintain oil production in the Aminoil leases in the Bay St. Elaine Field, that it has exhausted all other potential sources of gas supply for gas lift operations in these leases and that the leases are beyond their primary term and are in jeopardy unless production is restored promptly.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–34597 Filed 11–5–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP81–4–000]

Texas Eastern Transmission Corp.; Application

October 21, 1980.

Take notice that on October 1, 1980, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket no. CP81–4–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to provide a firm storage withdrawal service for certain of its Rate Schedule SS–II customers and to construct and operate additional pipeline facilities required to render such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to:

1. Provide a firm storage withdrawal service for the following Rate Schedule SS–II customers at the following firm daily withdrawal quantities:

	Firm daily withdrawal quantity dekatherm equivalent per day
The Brooklyn Union Gas Co	12,500
Elizabethtown Gas Co	11,672
New Jersey Natural Gas Co	25,000
Public Service Electric and Gas Co	40,000
Total	89,172

2. To construct and operate the following facilities required to render such service:

(a) 28.75 miles of 30-inch pipeline looping Applicant's existing 24-inch Line No. 12 and 30-inch Line No. 19 (Penn-Jersey System) at six locations between Delmont and Bechtelsville compressor stations in Pennsylvania;

(b) 2.0 miles of 36-inch pipeline looping Applicant's existing 24-inch Line No. 12 and 30-inch Line No. 19 between Bechtelsville and Lambertville (No. 26) compressor stations in Pennsylvania;

(c) A compressor addition not to exceed 20,000 horsepower and appurtenant facilities at Applicant's Delmont compressor station in Pennsylvania; and

(d) Expansion of three measuring and regulating stations in New Jersey.

Applicant states that by order issued June 16, 1980, in Docket No. CP80–170 it received authorization to render a long term storage service under its Rate Schedule SS–II for twelve of its existing resale customers and that to render such service, it obtained storage capacity from Consolidated Gas Supply Corporation (Consolidated) which was authorized in Docket No. CP80–220 to provide a firm long term storage service to Applicant under its Rate Schedule GSS.

With recent increases in the availability of gas supplies to the interstate market and Applicant's improved gas supply plus the increased withdrawal quantities offered by the SS–II Service, Applicant submits that its SS–II customers cannot continue to depend upon the availability of pipeline capacity to receive uninterrupted storage withdrawals.

In response to requests from the four SS–II customers scheduled above and after inquiry of all SS–II customers, Applicant has determined that it was economically feasible to render the firm withdrawal service by means of the facilities proposed herein and precedent agreements have been executed with the four SS–II customers which have requested firm daily withdrawal quantities, it is said.

Applicant states that as provided by its Rate Schedule SS–II, the annual costs associated with all facilities which must be added to Applicant's system to render the firm withdrawal deliveries would be borne only by the SS–II customers which requested such service by means of a firm demand charge. Based upon the annual cost of service for the facilities proposed herein Applicant estimates a firm demand charge of $8.44 per dt equivalent of firm daily withdrawal quantity per month for their additional capacity increment.

The estimated total capital cost of the facilities porposed herein is $43,070,000 which cost Applicant would initially finance from funds on hand and/or from borrowings under its revolving credit agreement which may later be replaced with long-term financing, it is said.

Applicant asserts that installation of the proposed facilities on its Penn-Jersey system downstream of the Consolidated delivery point at Oakford would provide 87,620 Mcf per day of increased capacity. Applicant further asserts that the value of its SS–II storage service to its customers in meeting their winter season demand would be further enhanced by the proposal herein and that the increased capacity on its Penn-Jersey system would assure uninterrupted deliveries of the firm withdrawal quantities thus enabling Applicant's SS–II customers to schedule their winter withdrawals with absolute certainty as to the elected firm quantities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

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intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34580 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-41]

United Gas Pipe Line Co.; Notice To Sellers of Natural Gas of Further Proceedings With Respect to NGPA Section 108 Contracts

October 22, 1980.

The above-captioned case involves the question of whether gas purchase contracts between the sellers of natural gas, to whom this notice is sent, and the United Gas Pipeline Company (United) constitute the authorization to charge and collect the maximum lawful prices of the Natural Gas Policy Act of 1978 (NGPA).

On August 28, 1980, the Federal Energy Regulatory Commission's (Commission's) Chief Administrative Law Judge, Curtis L. Wagner, Jr., issued an initial decision on this contract question. With two important exceptions, Chief Judge Wagner found that the contracts constitute the requisite authorization to charge and collect the NGPA rates. He summarily dismissed the protests filed against these contracts by various third-parties. The first exception covers the contracts that do not contain an area rate clause. Chief Judge Wagner found that these contracts do not contain the authorization to charge and collect the NGPA rates. He summarily granted the protests filed against these contracts. The second exception covers the contracts under which the sellers of natural gas are seeking to charge and collect the stripper well price of section 108 of the NGPA. As to these contracts, Chief Judge Wagner found that based on "reliable and probative extrinsic evidence" in the record, a further question exists concerning the intent of the parties to the contracts. Accordingly, in an order issued on August 28, 1980 (which is enclosed), the Chief Judge established further proceedings with respect to the stripper well contracts. Chief Judge Wagner's initial decision is currently pending before the Commission on review.

The purpose of this notice is to apprise those selling gas to United that Chief Judge Wagner has ordered further proceedings regarding the stripper well (section 108) contracts.

Administrative Law Judge Leventhal has been designated to preside at any conferences and hearings deemed necessary to resolve the issues involving the stripper well contracts. Judge Leventhal has called a prehearing conference on November 12, 1980, to establish further appropriate procedures and resolve initial procedural problems regarding the stripper well contract phase of the above-captioned case. The conference will be convened at 10:00 A.M., Wednesday, November 12, 1980, in a Commission hearing room at 825 N. Capitol St., N.E., Washington, D.C.

Take note that all sellers of natural gas who have contracts with United under which they are presently seeking to collect the NGPA section 108 price, will automatically be considered subject to the proceedings held with respect to the stripper well contracts. These sellers, of course, may participate actively in such proceedings. They will receive copies of whatever pleadings and other documents are submitted during the course of such proceedings.

Take note, however, that the sellers of natural gas, who have contracts with United, but who do not seek to collect the NGPA section 108 price, will not be considered part of the stripper well contract phase of the above-captioned case, unless they expressly wish to participate in the proceedings. Accordingly, if any of these sellers desire to participate in the stripper well phase of the above-captioned case, the seller must either (1) appear in person or by representation at the November 12, 1980, pre-hearing conference mentioned above, or (2) file a formal written notice of appearance to the undersigned by Friday, November 7, 1980.

Kenneth F. Plumb,

Secretary of the Commission.

[Docket No. GP80-41 (Stripper Well)]

United Gas Pipe Line Co.; Order Establishing Procedures, Designating Presiding Administrative Law Judge, and Scheduling Prehearing Conference

August 28, 1980.

The Chief Administrative Law Judge this date issued an initial decision in Docket No. GP80-41 which involves filings by over 365 natural gas producers seeking to increase their rates under approximately 775 sales contracts with United Gas Pipe Line Company to the levels established by the Natural Gas Policy Act of 1978. In that decision the Chief Judge found that with regard to United Gas Pipe Line Company's stripper well contracts the protestors had submitted extrinsic evidence signed by United Gas Pipe Line Company which directly contradicts the Company's position that its contracts authorize the Natural Gas Policy Act rate collection. Consequently, the Chief Judge ruled in the said initial decision that the contracts covered by United Gas Pipe Line Company's Notice to Sellers dated April 23, 1980, a copy of which is attached to the initial decision as Appendix C, concerning stripper well ceiling prices would be set for hearing to probe the intent of the contracting parties with respect to stripper well ceiling prices. Accordingly, such contracts are hereby set for hearing and determination as to the intent of the parties. A prehearing conference will be held in this proceeding beginning at 10 a.m., on September 24, 1980, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Pursuant to Section 11 of the Administrative Procedure Act and the authority duly delegated by the Chairman of this Commission, Administrative Law Judge Jacob Leventhal is hereby designated to preside at the prehearing conference on September 24, 1980, and at such other conferences and hearings as may be scheduled herein by the Presiding Judge, and to issue an initial decision. Should Judge Leventhal determine that a hearing is not necessary in order to determine the intent of the parties herein, he is hereby authorized to summarily dispose of the involved protests, blanket affidavits, and evidentiary submissions.

Dated at Washington, D.C., this 28th day of August, 1980.

Curtis L. Wagner, Jr.,

Chief Administrative Law Judge.

[FR Doc. 80-34581 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-49-000]

Upper Peninsula Power Co.; Filing

October 30, 1980.

The filing Company submits the following:

Take notice that on October 24, 1980, Upper Peninsula Power Company filed a change in the Interchange Energy rate of the 1978 Basic Agreement. The other parties to that agreement, Upper Peninsula Generating Company and Cliffs Electric Service Company filed certificates of concurrence. The effect of the change will be to increase the rate from 28.8 to 29.8 mills/kwh.

An effective date of January 1, 1981 is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34608 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-26]

Argonne National Laboratory; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 31, 1980.

On September 11, 1980, Argonne National Laboratory filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is located at the Argonne National Laboratory-West site of the Idaho National Engineering Laboratory near Idaho Falls, Idaho. Argonne National Laboratory operates this facility as well as other facilities at the Argonne-West site for the U.S. Department of Energy. Argonne National Laboratory states that the facility is a complete nuclear power plant with a rated power level of 62.5 megawatts of thermal energy.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34638 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER77-485, ER77-551, and E-9606]

Carolina Power and Light Co. et al.; Order Consolidating and Remanding Procedures

Issued October 30, 1980.

In the matter of Carolina Power & Light Company (Docket Nos. ER77-485, and ER77-551): North Carolina Electric Membership Corporation, Four County Electric Membership Corporation, ElectriCities of North Carolina, and Cities of Bennettsville and Camden, South Carolina v. Carolina Power and Light Company (Docket No. E-9606); Order Consolidating and Remanding Proceedings (Issued October 30, 1980).

The Commission has had pending before it for some time an initial decision in the first-captioned proceedings. Final administrative determination has been withheld at the express request of the parties in order to permit them an opportunity to conduct settlement negotiations looking to a resolution of many of the disputed issues. These negotiations have been continuing but, to our knowledge, no formal settlement has yet been achieved.

By Order No. 90, issued June 23, 1980, we amended the Rules of Practice and Procedure to provide for the appointment of a settlement judge to assist in settlement negotiations as a means for expeditiously resolving cases. It appears that this is a proper case for implementation of the procedure provided in Order No. 90. Accordingly, the proceeding will be remanded to the Chief Administrative Law Judge with direction to appoint a settlement judge.

One of the issues in the first-captioned proceedings involves the treatment of spent nuclear fuel. On January 10, 1980, a motion was filed by intervenors requesting that Docket No. E-9606 be consolidated therewith for decision. The latter docket is a complaint proceeding by certain of CP&L's customers in which they allege that the company improperly has included a cost for the storage and disposal of spent nuclear fuel as an element of its fuel adjustment clause. In view of the similarity of the issue in the various proceedings, we find that consolidation of the several dockets for decision is appropriate.

The Commission Orders

(A) This proceeding is remanded to the Chief Administrative Law Judge for the appointment of a settlement judge.

(B) The settlement judge is authorized to take all actions consistent with Order No. 90 and Section 1.18 of the Rules of Practice and Procedure.

(C) The proceeding in Docket No. E-9606 is consolidated with Docket Nos. ER77-485 and ER77-551 for decision.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34639 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP80-145 and RP80-146]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Order Accepting For Filing and Suspending Proposed Rate Increases, Subject To Refund and Subject to Conditions, Consolidating Proceedings, Initiating Hearings, and Granting Interventions

Issued October 30, 1980.

On September 30, 1980, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing in Docket No. RP80-

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145 proposed changes to its FERC Gas Tariff which would increase its jurisdictional revenues by approximately $44.1 million annually. The cost increase is based upon a comparison between a cost of service for the test period ended May 31, 1980, as adjusted and the settlement cost of service in Docket No. RP78–19. Columbia Gulf requests that the proposed increase become effective on November 1, 1980.

Also, on September 30, 1980, Columbia Gas Transmission Corporation (Columbia Gas) tendered for filing in Docket No. RP80–146, proposed changes to its FERC Gas Tariff which would increase its jurisdictional revenues by approximately $85.7 million annually based on costs and volumes for the 12 months ended May 31, 1980, as adjusted. The increase represents 3.02% of Columbia Gas' total system revenues and 17.13% of its total system revenues excluding purchased gas costs. Columbia Gas requests that the proposed increase become effective on November 1, 1980.

Columbia Gulf and Columbia Gas claim that the rate increases are due to an increase in labor and supplies; a need for an overall rate of return of 11.29% which yields a 14.50% return on 46.45% common equity; an increase in rate base; an increase in depreciation expense; an increase in federal and state income taxes associated with the rate of return and rate base; and an increase in taxes other than income taxes. Additionally, the companies also claim that the increase is due to an increase in the cost of transportation of gas by others.

Columbia Gulf and Columbia Gas have relied on the same data to support identical rates of return. The transportation services rendered by Columbia Gulf and Columbia Gas are on a cost of service basis and Columbia Gulf's annualized costs are essential factors in Columbia Gas's filing. Since the subject dockets have common issues, the Commission finds that it is appropriate to consolidate the dockets for purposes of hearing and decision.

Public notices of the filings were issued on October 2, 1980, providing for filing of protests or interventions by October 24, 1980. Petitions for intervention were filed by the parties listed in Appendix B. For good cause shown, petitioners are granted intervention in this proceeding.Based upon a review of Columbia Gulf and Columbia Gas' filings, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept filing, suspend the effective date of the proposed revised tariff sheets, and make them subject to refund and the conditions set forth below, and set the matter for hearing.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[2]

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby . . . declared unlawful." [3] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Columbia Gas represents that under present circumstances, any suspension of its tendered rates for the maximum five month period will lead to the very "harsh and inequitable" results which dictate a shorter suspension period. Columbia claims that over the last year it has suffered an extensive erosion in earnings. Columbia Gas claims this erosion is demonstrated by the $86.0 million revenue deficiency indicated in the subject filing and the $24.0 million revenue deficiency presented in the jurisdictional cost of service and revenue data filed on September 19, 1980, in compliance with the Stipulation and Agreement in Docket No. RP78–20, *et al.* Article VI–D of the agreement required Columbia Gas to submit jurisdictional cost of service and revenue data for purposes of determining whether additional refunds should be made (Revenue Study). Columbia Gulf's request is based on the fact that its filing is an integral part of the cost of service underlying that of Columbia Gas. Therefore, both companies request that any suspension be limited to allow the rates to become effective subject to refund as of November 1, 1980.

It is the Commission's responsibility under the Natural Gas Act to determine a rate of return, as well as other rate relief, appropriate to recover the legitimate costs incurred by a utility. This determination is a complex one to make, one that cannot normally be made with absolute precision in the short time in which the Commission must make its decision whether and for how long to suspend a filed rate. However, our preliminary review of Columbia's filings does not indicate that there are any particular circumstances presented which warrant a deviation from our general policy of suspending general Section 4 rate change filings for the maximum five month period once the decision to suspend the filing has been made. Accordingly, these filings shall be suspended for the maximum five month period.[4]

Both companies request waiver of the requirements of Section 154.63(e)(2)(ii) of the Regulations to permit the inclusion in their respective proposed rates cost of facilities not yet certificated with the condition that the companies will adjust their respective proposed rates to eliminate costs of facilities not certificated and in service prior to the effective date of such rates.

We will grant waiver of Section 154.63(e)(2)(ii) of the Commission's regulations subject to the condition that Columbia Gulf and Columbia Gas file revised tariff sheets 30 days prior to the end of the test period eliminating facilities not in service on or before February 28, 1981. These waivers are granted upon the condition that Columbia Gulf and Columbia Gas shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order and those required by other Commission orders.

In addition, Columbia Gas shall file revised tariff sheets reflecting the elimination of those costs associated with facilities not in service, the current cost of purchased gas reflected in its most recent PGA filing prior to the effective date of the proposed rates, revised cost associated with any revision made by Columbia Gulf in compliance with this order, the GRI Funding Unit in effect on the effective date of the increased rates, and finally shall reflect the actual balances of advance payments in Account 166 at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates.

The Commission Orders

(A) Proceedings in the subject dockets relating to the tariff filings of Columbia Gulf and Columbia Gas are consolidated for the purposes of hearing and decision.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the proposed increased rates by Columbia Gulf and Columbia Gas.

(C) Pending hearing and decision, and subject to the conditions in the body of this order and these ordering paragraphs, the effectiveness of Columbia Gulf and Columbia Gas' tariff sheets shown in Appendix A is suspended for five months, until April 1, 1981, when they may become effective, subject to refund, in the manner provided by Section 4 of the Natural Gas Act, and subject to the conditions enumerated in the body of this order and the ordering paragraphs below.

(D) Columbia Gulf shall file revised tariff sheets on or before March 31, 1981 to reflect elimination of all costs associated with facilities which will not be in service by February 28, 1981.

(E) Columbia Gas shall file on or before March 31, 1981 revised tariff sheets to reflect:

(1) the elimination of those costs associated with facilities not in service on or before February 28, 1981;

(2) the current cost of purchased gas reflected in Columbia Gas's most recent PGA filing prior to the effective date of the proposed rates;

(3) the revised cost associated with any revision made by Columbia Gulf in compliance with (D) above;

(4) the GRI Funding Unit in effect on the effective date of the increased rates; and

(5) the actual balance of the advance payments outstanding as of February 28, 1981.

(F) The Commission grants waiver of Section 154.63(e)(2)(ii) to permit the inclusion of uncertificated facilities in the subject dockets to the extent necessary to permit compliance with paragraphs (D) and (E) above. This waiver is granted upon the condition that Columbia Gulf and Columbia Gas shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(G) The Commission denies the requests of Columbia Gulf and Columbia Gas from waiver of the notice requirements and the requests for a shortened suspension period to permit the proposed rates to be effective November 1, 1980, subject to refund.

(H) The Commission Staff shall prepare and serve top sheets on all parties on or before March 4, 1981.

(I) The petitioners noted in Appendix B are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(J) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A—Revised Tariff Sheets

Columbia Gulf Transmission Company

[Docket No. RP80–145]

Original Volume No. 1

Twenty-sixth Revised Sheet No. 7

Original Volume No. 2

Seventh Revised Sheet No. 72
Seventh Revised Sheet No. 73
Fourth Revised Sheet No. 92
Fourth Revised Sheet No. 93
Fourth Revised Sheet No. 126
Fifth Revised Sheet No. 145
Fifth Revised Sheet No. 146
Fourth Revised Sheet No. 263
Third Revised Sheet No. 320
Third Revised Sheet No. 337
Third Revised Sheet No. 386
Third Revised Sheet No. 387
Second Revised Sheet No. 416
Second Revised Sheet No. 417
Third Revised Sheet No. 440
Third Revised Sheet No. 484
Third Revised Sheet No. 493
Third Revised Sheet No. 567
Third Revised Sheet No. 596
Second Revised Sheet No. 628
First Revised Sheet No. 663
First Revised Sheet No. 677
First Revised Sheet No. 702
Second Revised Sheet No. 750
Second Revised Sheet No. 820
Second Revised Sheet No. 821
Second Revised Sheet No. 848
Second Revised Sheet No. 849
First Revised Sheet No. 937
First Revised Sheet No. 1052
First Revised Sheet No. 1097

Columbia Gas Transmission Corporation

[Docket No. RP80–146]

Original Volume No. 1

Sixty-Third Revised Sheet No. 16
Eleventh Revised Sheet No. 16A
Second Revised Sheet No. 16B

Original Volume No. 2

First Revised Sheet No. 693

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[2] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* —— F.2d —— (D.C. Cir. May 30, 1980).

[3] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[4] See also: *Public Service Company of Colorado* order issued September 15, 1980, in Docket No. ER80–447.

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Appendix B

Columbia Gulf Transmission Company

[Docket No. RP80-145]

Columbia Gas Transmission Corporation

[Docket No. RP80-146]

Petitions to intervene have been filed by:
(1) Elizabethtown Gas Company
(2) UGI Corporation
(3) Virginia Electric and Power Company
(4) Columbia Gas Distribution Companies
(5) Central Hudson Gas and Electric Corporation
(6) Baltimore Gas and Electric Company
(7) The Dayton Power and Light Company
(8) New York State Electric and Gas Corporation
(9) Pennsylvania Gas and Water Company
(10) The Cincinnati Gas and Electric Company
(11) National Fuel Gas Supply Corporation
(12) Washington Gas Light Company
(13) Texas Gas Transmission Company

[FR Doc. 80-34640 Filed 11-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Volume No. 307]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 3, 1980.

JD NO	API NO	SEC / TOWNSHIP / RANGE	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION					
•CONTINENTAL ENERGY			RECEIVED: 10/14/80	JAI KS	182.0 NORTHERN NATURAL GAS
0101760 K-80-0394	1508100000	103 D STANLEY #1	PANOMA-COUNCIL GROVE GAS		
•OLYMPIC PETROLEUM COMPANY		RECEIVED: 10/14/80	JAI KS		0.0 CITIES SERVICE GAS C
0101761 K-79-0436	1505520059	108 F G JABARA #1			
MONTANA BUARD OF OIL & GAS CONSERVATION					
			RECEIVED: 10/14/80	JAI MT	
•WEST GAS INC			WEST GAS KEATING #13-25		180.0 MONTANA DAKOTA UTILI
0101763 12-79-309	2509521121	103	WEST GAS KEATING #16-26		75.0 MONTANA DAKOTA UTILI
0101766 12-79-307	2509521126	103	WEST GAS KEATING #4-35		40.0 MONTANA DAKOTA UTILI
0101765 12-79-308	2509521123	103	WEST GAS LEUTHOLD #12-24		80.0 MONTANA DAKOTA UTILI
0101762 12-79-305	2509521125	103	WEST GAS NURDAHL #13-13		60.0 MONTANA DAKOTA UTILI
0101764 12-79-306	2509500000	103			
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS					
•EL PASO NATURAL GAS COMPANY		RECEIVED: 10/10/80	JAI NM		20.0 EL PASO NATURAL GAS
0101777	3003900148	108 CANYON LARGO UNIT #101	BLANCO SOUTH - PICTURED		
•ODESSA NATURAL CORPORATION		RECEIVED: 10/10/80	JAI NM		0.0 EL PASO NATURAL GAS
0101776	3000523660	103 BURROUGHS - STATE 1-E	BASIN DAKOTA		
OHIO DEPARTMENT OF NATURAL RESOURCES					
			RECEIVED: 10/09/80	JAI OH	
•ALTHEIMS OIL INC			JACKSON TWP		0.0 NATIONAL OIL & GAS C
0101831	3401925195	103 L WISE #3	HANOVER TWP		5.0 NATIONAL GAS AND OIL
0101940	3400923881	103 RALPH MANBY #1			
•AMTEX OIL AND GAS INC			RECEIVED: 10/09/80	JAI OH	300.0
0101687	3416922176	103 ERVIN A WEAVER WELL NO 1	SUGARCREEK		
0101888	3416922177	103 SNYDER WELL NO 1	SUGARCREEK		300.0
•APPALACHIAN PETHOLEUM CORP		RECEIVED: 10/09/80	JAI OH		
0101885	3416725667	103 A & D BIEHL #2	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101844	3412122290	103 F LOTHES #1	JACKSON		3.5 COLUMBIA GAS TRANSMI
0101842	3412122280	103 F LOTHES #2	JACKSON		3.5 COLUMBIA GAS TRANSMI
0101843	3412122281	103 F LOTHES #3	JACKSON		3.5 COLUMBIA GAS TRANSMI
0101876	3416725408	103 M E JARRELL #2	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101884	3416725647	103 M E JARRELL #4A	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101883	3416725645	103 J LEWIS #1	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101877	3416725563	103 M STENGEL #1	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101878	3416725564	103 M STENGEL #2	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101879	3416725567	103 M STENGEL #5	ADAMS		3.5 COLUMBIA GAS TRANSMI
0101880	3416725641	103 G ADDLESBURGER #1	ADAMS		3.5 COLUMBIA GAS TRANSMI

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JD NO	JA DAT	API	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8101881		3416725642	103	R ADDLESBURGER #2	ADAMS	3,5	COLUMBIA GAS TRANSMI
8101882		3416725643	103	R ADDLESBURGER #3	ADAMS	3,5	COLUMBIA GAS TRANSMI
8101880		3416725737	103	S WICKENS #1	ADAMS	3,5	COLUMBIA GAS TRANSMI
*ATLAS ENERGY GROUP INC				RECEIVED: 10/09/80 JA: OH			
8101869		3415521405	103	SLOAS NO 2 = #0308	MORLAND	28,0	COLUMBIA GAS TRANSMI
*BELDEN & BLAKE & CO				RECEIVED: 10/09/80 JA: OH			
8101910		3415123289	103	E & G REEVES #2-982	MARLBORO	36,5	
8101864		3415123285	103	FRANKLIN REAL ESTATE COMM #3-971	CANTON	36,5	
8101909		3415123287	103	J & L MAARSCHALK 2-984	MARLBORO	36,5	
8101863		3415123113	103	J SCHUMACHER #1-935	MARLBORO	36,5	
8101911		3415123292	103	K & M ZELLERS COMM 5-986	MARLBORO	36,5	
8101865		3415123290	103	M & C MOYER 6-980	MARLBORO	36,5	
8101908		3415123286	103	T & D MUMPHREY COMM 1-985	MARLBORO	36,5	
*BILL BLAIR INCORPORATED				RECEIVED: 10/09/80 JA: OH			
8101791		3402920799	103	GRIM #1	HOMEWORTH FIELD	30,0	EAST OHIO GAS CO
*BROWN PETROLEUM CORP				RECEIVED: 10/09/80 JA: OH			
8101818		3407522532	103	CARPENTER #1	KILLBUCK	21,0	COLUMBIA GAS TRANSMI
*BUCKEYE OIL PRODUCING CO				RECEIVED: 10/09/80 JA: OH			
8101856		3413322219	103	LAYNE #2	DEERFIELD	15,0	EAST OHIO GAS CO
8101827		3411121996	103	OLIVE & CLARENCE ROE #1	SENECA	9,0	COLUMBIA GAS TRANSMI
*BUCKHORN OIL COMPANY INC				RECEIVED: 10/09/80 JA: OH			
8101820		3407522614	103	RUSSELL #7	KILLBUCK	20,0	COLUMBIA GAS TRANSMI
8101936		3407522615	103	TAYLOR #1	KILLBUCK	20,0	COLUMBIA GAS TRANSMI
*CAMERON BROS				RECEIVED: 10/09/80 JA: OH			
8101833		3411925281	103	J M MCCLELLAND #1	NEWTON	15,0	
*CAPLAN HARRY M				RECEIVED: 10/09/80 JA: OH			
8101794		3403520958	103	BAUMANN #2G	MALTON MILLS	30,0	
8101793		3403520957	103	JACK BAUMANN #1G	MALTON MILLS	0,0	
*CHARLES L WOOD				RECEIVED: 10/09/80 JA: OH			
8101934		3405922746	103	MICKENBUTTOM #1	MONROE	0,0	COLUMBIA GAS CO
*CLAY COUNTY PRODUCTION CO INC				RECEIVED: 10/09/80 JA: OH			
8101846		3412724630	103	RICHARD EVANS #3	READING	17,0	COLUMBIA GAS TRANSMI
*COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED: 10/09/80 JA: OH			
8101939		3406923873	103	HARRY HUSKINSON #1	HOPEWELL 11-12	3,6	NEWZANE GAS CO
*DONNELLY GAS & OIL CORP				RECEIVED: 10/09/80 JA: OH			
8101828		3411519210	103	COULSON #=1	MAN	25,0	AMERICAN ENERGY SERV
8101956		3411925325	103	D FRENCH #1	BLUE ROCK SEC 28	30,0	EAST OHIO GAS CO
*DURAN & ASSOCIATES INC				RECEIVED: 10/09/80 JA: OH			
8101894		3412724814	103	BILLY CARTER #1	MADISON	12,0	NATIONAL GAS & OIL C
8101893		3412724813	103	DONALD STERRETT #1	MADISON	12,0	NATIONAL GAS & OIL C
8101960		3412723788	103	LAWRENCE FUNGRAVE #1	READING SEC 3	12,0	NATIONAL GAS & OIL C
*DRILLERS PETROLEUM CORP				RECEIVED: 10/09/80 JA: OH			
8101841		3412122258	103	DUANE & SUE MANTEL WELL #1	JEFFERSON	75,0	
*DUSTY DRILLING COMPANY INC				RECEIVED: 10/09/80 JA: OH			
8101951		3411522041	103	C DUDRILL #2	MALTA 24	1,0	COLUMBIA GAS TRANSMI
*EDCO DRILLING & PRODUCING INC				RECEIVED: 10/09/80 JA: OH			
8101792		3405123767	103	28 DUNLAP	BETHLEHEM	18,0	
*ENERGY DEVELOPMENT CORP				RECEIVED: 10/09/80 JA: OH			
8101923		3400721414	103	MORRISON WELL #2	NEW LYME	20,0	EAST OHIO GAS CO
8101922		3400721364	103	WALTER PIETHASZ #1	ORWELL 5	20,0	EAST OHIO GAS CO
*ESTATE OF BARTON A HOLL				RECEIVED: 10/09/80 JA: OH			
8101815		3407322302	103	HAROLD M MYSKIVER #1-A	STARK	40,2	COLUMBIA GAS

JD NO	JA DAT	API	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*FINCK JAMES M				RECEIVED: 10/09/80 JA: OH			
8101847		3412724738	103	ELIZABETH FINCK #1	JACKSON	0,4	NATIONAL GAS & OIL C
*GASEARCH INC				RECEIVED: 10/09/80 JA: OH			
8101862		3413322307	103	ANNA FINTIK #4	WINDHAM	30,0	
8101861		3413322306	103	ANNA FINTIK #5	WINDHAM	30,0	
*GENERAL ELECTRIC CO				RECEIVED: 10/09/80 JA: OH			
8101899		3413322250	103	CRANE-LYSYJ #2	SMALERSVILLE	20,0	EAST OHIO GAS CO
8101895		3413321449	103	D CRANE #2	SMALERSVILLE	20,0	EAST OHIO GAS CO
8101900		3413322256	103	FRANKS UNIT #1	RAVENNA	90,0	EAST OHIO GAS CO
8101896		3413321961	103	HAHN #3	RAVENNA	20,0	EAST OHIO GAS CO
8101903		3413322289	103	HAHN #4	RAVENNA	20,0	EAST OHIO GAS CO
8101904		3413322293	103	KOHL-MAHAN #2	RAVENNA	20,0	EAST OHIO GAS CO
8101905		3413322097	103	LEMASTERS UNIT #1	RAVENNA	64,0	EAST OHIO GAS CO
8101898		3413322242	103	PULAND #2	RAVENNA	55,0	EAST OHIO GAS CO
8101901		3413322257	103	SAVIERS-KNAPP #1	RAVENNA	92,0	EAST OHIO GAS CO
8101902		3413322259	103	YOUNG B UNIT #1	RAVENNA	20,0	EAST OHIO GAS CO
*GORMLEY & JOHNSON				RECEIVED: 10/09/80 JA: OH			
8101948		3405219?3	103	HAROLD RAMSBURG #3	RUTLAND 245	12,0	
8101932		3405320554	103	PAULINE RIFE #3	CHESHIRE 23	12,0	
*GREEN GAS COMPANY				RECEIVED: 10/09/80 JA: OH			
8101778 03827		3411922687	108	CULP #1		20,0	COLUMBIA GAS TRANS C
8101779 03828		3411922704	108	CULP #2		20,0	COLUMBIA GAS TRANS C
8101780 03829		3411922794	108	CULP #3		20,0	COLUMBIA GAS TRANS C
*HARRIS ENGINEERING CO				RECEIVED: 10/09/80 JA: OH			
8101891		3412724780	103	ROSELLA ADMAIN NO 1	CLAYTON	36,0	
*HARRY A HOLTOM				RECEIVED: 10/09/80 JA: OH			
8101782 05622		3411922943	108	#1 JOHN VANSICKLE	VANSICKLE = CLINTON	5,0	COLUMBIA GAS TRANSMI
8101783 05623		3411922930	108	#1 RALPH VANSICKLE	VANSICKLE-CLINTON	5,0	COLUMBIA GAS TRANSMI
8101781 05621		3411923107	108	#2 JOHN VANSICKLE	VANSICKLE CLITON	2,0	COLUMBIA GAS TRANSMI
8101784 05624		3411925106	108	#2 RALPH VANSICKLE	VANSICKLE-CLINTON	3,0	COLUMBIA GAS TRANSMI
*HARRY CAPLAN VALLEY DRILLING				RECEIVED: 10/09/80 JA: OH			
8101926		3403520965	103	HORVITZ #1	VALLEY VIEW	30,0	
*HARRY I GILBERT				RECEIVED: 10/09/80 JA: OH			
8101912		3415320379	108	HARRY I & ALFREDA M GILBERT #1	HARRY I & ALFREDA M GILB	1,5	EAST OHIO GAS CO
8101913		3415320401	108	HARRY I & ALFREDA M GILBERT #2		3,3	EAST OHIO GAS CO
8101914		3415320410	108	HARRY I & ALFREDA M GILBERT #3	STARK	10,5	EAST OHIO GAS CO
8101915		3415320428	108	HARRY I & ALFREDA M GILBERT #5	STARK	1,1	EAST OHIO GAS CO
*HOPEWELL OIL & GAS				RECEIVED: 10/09/80 JA: OH			
8101955		3411925144	103	HOLSKEY #1	BRUSH CREEK	12,0	COLUMBIA GAS TRANSMI
8101954		3411925114	103	JOHN SHAW #1	CASS	12,0	COLUMBIA GAS TRANSMI
*HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 10/09/80 JA: OH			
8101949		3411121954	103	MCGARRY #1	WAYNE SEC 27	10,0	COLUMBIA GAS TRANS C
*HORTIN & HUFFMAN				RECEIVED: 10/09/80 JA: OH			
8101953		3411723337	103	MATEEN-KUNZE NO 1	HANMONY 9 (SE 14)	6,0	COLUMBIA GAS TRANSMI
*INTEGRATED PETROLEUM COMPANY INC				RECEIVED: 10/09/80 JA: OH			
8101868		3415521514	103	MCCAFFERTY #2	SOUTHINGTON	60,0	AMERICAN ENERGY SERV
8101870		3415521513	103	PALINKAS #1	SOUTHINGTON	40,0	AMERICAN ENERGY SERV
8101848		3413521784	103	REYNOLDS #1	MINAR	30,0	AMERICAN ENERGY SERV
*IRVIN PRODUCING COMPANY				RECEIVED: 10/09/80 JA: OH			
8101834		3411925500	103	BERNICE BAIRD #1	HOPEWELL	8,0	NATIONAL GAS & OIL C
*J D DRILLING CO				RECEIVED: 10/09/80 JA: OH			
8101825		3410521954	103	CLYDE STEWART #2	SALISBURY	3,0	COLUMBIA GAS TRANSMI
8101824		3410521953	103	LARRY THOMAS #2	SALISBURY	3,0	COLUMBIA GAS TRANSMI

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JD NO	JA DKT	API NO	SEC	WELL NAME
•J•R DEVELOPMENT CO				RECEIVED: 10/09/80 JA: OH
8101892		3412724807	103	ARTZ #1
•JANCO WELL OPERATIONS LTD 80-4				RECEIVED: 10/09/80 JA: OH
8101867		3415521215	103	#1 E R BROOK
8101866		3415521214	103	#2 E R BROOK
•JANCO WELL OPERATIONS LTD 80-5				RECEIVED: 10/09/80 JA: OH
8101872		3415521547	103	#2 ROSEANNA HOFSTETTEN
8101871		3415521546	103	ROSEANNA HOFSTETTER #1
•JERRY C OLDS				RECEIVED: 10/09/80 JA: OH
8101925		3403123931	103	OSBORN #2
•JOE L SCHRINSHER				RECEIVED: 10/09/80 JA: OH
8101889		3416922577	103	HILLCREST CLUB INC #3
•JOHN C MASON				RECEIVED: 10/09/80 JA: OH
8101816		3407522501	103	CHARLES HART #1
•JUD NOBLE AND ASSOCIATES INC				RECEIVED: 10/09/80 JA: OH
8101849		3413322147	103	B KUBEC #1
8101857		3413322272	103	COUCH #1
8101859		3413322291	103	HUTCHISON UNIT #1
8101860		3413322292	103	HUTCHISON UNIT #2
8101850		3413322152	103	POTESTA #1
8101851		3413322153	103	POTESTA #3
8101858		3413322273	103	VENTURE WELL NO 1
•LEADER EQUITIES INC				RECEIVED: 10/09/80 JA: OH
8101832		3411925228	103	JAMES HUMMELL #2
•LESLIE OIL & GAS CO INC				RECEIVED: 10/09/80 JA: OH
8101947		3410322234	103	WAKEFIELD WELL #1
•MORGAN-PENNINGTON INC				RECEIVED: 10/09/80 JA: OH
8101819		3407522536	103	NOBLE NO 2
•NEW FRONTIER EXPLORATION INC				RECEIVED: 10/09/80 JA: OH
8101907		3415123264	103	ROBERT PENO UNIT #4
•NORTHEASTERN ENERGY DEV CORP				RECEIVED: 10/09/80 JA: OH
8101823		3410322227	103	GRAFF WELL NO 2
•OMARE OIL CO				RECEIVED: 10/09/80 JA: OH
8101961		3412720000	103	JERRY EMMERT #1
•OHIO OIL & GAS CO				RECEIVED: 10/09/80 JA: OH
8101917		3415521495	103	E L M #2
8101918		3415521519	103	TAMA #1
•ONEAL PRODUCTIONS INC				RECEIVED: 10/09/80 JA: OH
8101959		3412120300	108	HAINES #1
8101840		3412121832	108	PORTER #1
8101958		3412101945	108	RADCLIFF #2
8101839		3412121812	108	WOODFORD #1
•ORION ENERGY CORP				RECEIVED: 10/09/80 JA: OH
8101952		3411522086	103	A DAVIS #1
8101950		3411521940	103	STRAHLER #2
•ORWIG OIL COMPANY				RECEIVED: 10/09/80 JA: OH
8101814		3407322294	103	WILLIAM VANSICKLE #1
•PARTNERS OIL COMPANY				RECEIVED: 10/09/80 JA: OH
8101933		3405922741	103	#1-80A B DICKINSON
8101938		3408923863	103	H MCKEE #1-80A
8101937		3408923861	103	L MANCK #2-80A

FIELD NAME	PROD	PURCHASER
JUNCTION CITY POOL NO 64	36,0	ENTERPRISE GAS & OIL
FARMINGTON	650,0	EAST OHIO GAS
FARMINGTON	600,0	EAST OHIO GAS CO
FARMINGTON	800,0	EAST OHIO GAS CO
FARMINGTON	700,0	EAST OHIO GAS CO
PERRY 25	9,0	NATIONAL GAS & OIL C
WOOSTER	30,0	EAST OHIO GAS CO
HARDY	10,0	CINCINNATI GAS & ELE
MANTU	20,0	EAST OHIO GAS CO
MIRAM	20,0	EAST OHIO GAS CO
EDINBURG	20,0	GENERAL ELECTRIC CU
EDINBURG	20,0	GENERAL ELECTRIC CO
PALMYRA	20,0	GENERAL ELECTRIC CO
PALMYRA	2,0	GENERAL ELECTRIC CU
MIRAM	20,0	EAST OHIO GAS CO
MONROE	15,0	COLUMBIA GAS TRANSMI
SPENCER SEC 3	10,0	COLUMBIA GAS TRANSMI
RICHLAND	7,3	COLUMBIA GAS TRANSMI
OSNABURG	32,0	
WADSWORTH	21,0	EAST OHIO GAS CO
READING II	0,0	COLUMBIA GAS TRANSMI
BAZETTA	25,0	COLUMBIA GAS TRANSMI
BAZETTA	25,0	COLUMBIA GAS TRANSMI
MUSKINGUM	1,4	EAST OHIO GAS CO
	0,0	EAST OHIO GAS CO
MUSKINGUM	2,5	EAST OHIO GAS CO
	0,0	EAST OHIO GAS CO
WINDSOR	75,0	
WINDSOR	40,0	
GREEN	5,0	PARAMOUNT TRANS CORP
KNOX	20,0	COLUMBIA GAS TRANSMI
BOWLING GREEN	20,0	COLUMBIA GAS TRANSMI
BOWLING GREEN	20,0	COLUMBIA GAS TRANSMI

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JD NO	JA DKT	API NO	SEC	WELL NAME
•PATRICK T DONNELLY DBA LANDPROVEST				RECEIVED: 10/09/80 JA: OH
8101836		3411925320	103	I REED #2-80
8101835		3411925312	103	N HALL #1-80
8101837		3411925338	103	V WILSON #1-80
8101838		3411925341	103	WILSON & MCINTIRE #1-80
•PENN-OHIO ENERGY CORP				RECEIVED: 10/09/80 JA: OH
8101817		3407522530	103	ROY O REIM #3
•POI ENERGY INC				RECEIVED: 10/09/80 JA: OH
8101785		3400721201	103	KAMPF #2
8101788		3400721253	103	MCNISH #1
8101787		3400721227	103	MCNISH #2
8101786		3400721212	103	STRINGFELLOW #5
8101789		3400721276	103	STRINGFELLOW #8
8101790		3400721278	103	VINS #1
8101852		3413322204	103	WILCOX-ADAMS #1
8101853		3413322207	103	WILCOX-ADAMS #4
8101854		3413322208	103	WILCUX-ADAMS #5
8101855		3413322216	103	WILCOX-STEVENS #1
•QUAKER STATE OIL REFINING CORP				RECEIVED: 10/09/80 JA: OH
8101875		3416725388	103	DAVID HENSLER #1
•R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED: 10/09/80 JA: OH
8101795		3405320317	103	DONALD HAREMIME #1
8101927		3405320392	103	HOBART M DARST #2
8101929		3405320442	103	HOBART M DARST #3
8101931		3405320444	103	HOBART M DARST #4
8101930		3405320443	103	JOSEPH M LEACH #5
8101928		3405320440	103	PAUL SEARLES #1
•ROWLEY & BROWN PETROLEUM CORP				RECEIVED: 10/09/80 JA: OH
8101822		3409921243	103	BEARDSLEY #3
•SAND HILL ENERGY CO				RECEIVED: 10/09/80 JA: OH
8101919		3416725284	103	F M FREDERICK #1
•SHAW RICHARD J				RECEIVED: 10/09/80 JA: OH
8101906		3413322316	103	WUHM WELL #2
•SICKAFOOSE & WELLMAN				RECEIVED: 10/09/80 JA: OH
8101941		3409921216	103	BRUDERLY/PAVLOVIC WELL #1
8101942		3409921248	103	D J & J MALMBERRY #1
•SMITH SHAFER SMITH (A PARTNERSHIP)				RECEIVED: 10/09/80 JA: OH
8101921		3416922364	103	CHERRY UNIT #1
•SUPERIOR PETROLEUM SERVICES INC				RECEIVED: 10/09/80 JA: OH
8101916		3415521139	103	JOSEPH #1
•TEMPLE OIL & GAS CO				RECEIVED: 10/09/80 JA: OH
8101829		3411522087	103	CARL FUNK #1
8101830		3411522089	103	MELVIN MILLER #1
•THE BENATTY CORPORATION				RECEIVED: 10/09/80 JA: OH
8101957		3411925363	103	SCOTT ESTATE #2
•THE CLINTON OIL CO				RECEIVED: 10/09/80 JA: OH
8101897		3413322009	103	STREETSBORO UNIT #1
•THE OXFORD OIL CO				RECEIVED: 10/09/80 JA: OH
8101924		3403123837	103	CHARLES SELDERS #1
8101821		3408923859	103	GARDNER UNIT #1
8101890		3412724754	103	PAUL THOMPSON #2
8101826		3411121925	103	THOMAS CAPPADONNIA #1
•THUNDERBIRD PETROLEUM CORP				RECEIVED: 10/09/80 JA: OH

FIELD NAME	PROD	PURCHASER
MEIGS TOWNSHIP	0,0	
MEIGS TOWNSHIP	25,0	
HIGH HILL	0,0	
HIGH HILL	25,0	
MECHANIC	64,0	COLUMBIA GAS TRANSMI
ROME	35,0	
COLEBROOK	15,0	
COLEBROOK	15,0	
NEW LYME	90,0	
NEW LYME	50,0	
COLEBROOK	15,0	
STREETSBORO	60,0	
STREETSBORO	50,0	
STREETSBORO	75,0	
STREETSBORO	60,0	
NEWPORT	109,5	RIVER GAS CO
ADDISON	15,0	COLUMBIA GAS TRANSMI
CHESHIRE 10	1,5	COLUMBIA GAS TRANSMI
CHESHIRE 10	2,0	COLUMBIA GAS TRANSMI
CHESHIRE 10	1,0	COLUMBIA GAS TRANSMI
CHESHIRE 9-11	1,5	COLUMBIA GAS TRANSMI
CHESHIRE 5	1,5	COLUMBIA GAS TRANSMI
CANFIELD	20,0	EAST OHIO GAS
LAWRENCE 12	200,0	
AURORA	20,0	EAST OHIO GAS CO
BELOIT	0,0	EAST OHIO GAS CO
BELOIT	0,0	EAST OHIO GAS CO
CONGRESS 36E	25,0	COLUMBIA GAS TRANSMI
FARMINGTON	20,0	EAST OHIO GAS CO
YORK	10,0	
YORK	10,0	
MEIGS 22	20,0	EAST OHIO GAS CO
STREETSBORO	600,0	TIMKEN CO
BEDFORD	10,0	
PERRY	10,0	
HARRISON	10,0	
FRANKLIN	10,0	

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8101878		3416725367 103	JONES #1	LUDLOW	59,0	
=TIGER OIL INC			RECEIVED: 10/09/80 JA: OH			
8101845		3412122375 103	GILBERT BECKER #1 WELL	ELK	0,0	COLUMBIA GAS TRANSMI
=TOWNER PETROLEUM CO			RECEIVED: 10/09/80 JA: OH			
8101803		3405922176 108	BOY SCOUTS #=24		7,5	JONES & LAUGHLIN STE
8101798		3405922120 108	DUNLAP #5 J-60		4,0	JONES & LAUGHLIN STE
8101799		3405922124 108	DUNLAP 1 J-56		13,0	JONES & LAUGHLIN STE
8101811		3405922255 108	FUGLE #=15		3,5	WIERTON STEEL
8101800		3405922148 108	FUGLE 2 #=25		8,0	JONES & LAUGHLIN STE
8101801		3405922149 108	HYDE #=22		12,0	JONES & LAUGHLIN STE
8101812		3405922257 108	JOHNSTON #=16		12,0	WIERTON STEEL
8101809		3405922247 108	LAPP #=38		7,0	WEIRTON STEEL CO
8101805		3405922178 108	LARRICK #=32		14,7	WIERTON STEEL CO
8101810		3405922246 108	LYONS #=39		2,0	WEIRTON STEEL
8101806		3405922181 108	MACKENSON J-61		5,4	JONES & LAUGHLIN STE
8101804		3405922177 108	NICHOLS #=20		6,0	JONES & LAUGHLIN STE
8101797		3405922117 108	OLIVER #1 J-52		12,8	JONES & LAUGHLIN STE
8101807		3405922186 108	SMITH J-62		9,5	JONES & LAUGHLIN STE
8101808		3405922188 108	SMITH J-66		20,0	JONES & LAUGHLIN STE
8101813		3405922275 108	SMITH #=45		2,6	WEIRTON STEEL CO
8101796		3405922103 108	TENNANT PPG=20		5,0	PPG INDUSTRIES INC
8101802		3405922150 108	VINCENT #=27		6,0	WIERTON STEEL CO
=UNIVERSAL MINERALS INC			RECEIVED: 10/09/80 JA: OH			
8101920		3416725731 103	POTTS #1	WARREN 32	18,0	
=VIKING RESOURCES CORP			RECEIVED: 10/09/80 JA: OH			
8101945		3409921253 103	RABUZZI UNIT #1	SMITH SEC 30	30,0	
8101946		3409921254 103	RABUZZI UNIT #2	SMITH SEC 30	30,0	
8101943		3409921251 103	REPKO UNIT #1	SMITH SEC 30	30,0	
8101944		3409921252 103	REPKO UNIT #2	SMITH SEC 19	3,0	
=WILLIAM F MILL			RECEIVED: 10/09/80 JA: OH			
8101935		3407522555 103	MAL FRANKS #1	KNOX	6,0	
=WILLIAM N TIPKA			RECEIVED: 10/09/80 JA: OH			
8101873		3415723348 105	GEORGE BERKSHIRE #3	WASHINGTON	36,0	COLUMBIA GAS TRANSMI
**********						
TEXAS RAILROAD COMMISSION						
**********						
=ALFRED J SMITH			RECEIVED: 10/14/80 JA: TX			
8101742 12363		4217900000 108	M M DAVIS 00429	PANHANDLE GRAY COUNTY FI	1,6	PHILLIPS PETROLEUM C
=AMOCO PRODUCTION CO			RECEIVED: 10/14/80 JA: TX			
8101756 07985		4242100000 108	BARKER GAS UNIT #1	TEXAS HUGOTON	0,0	PHILLIPS PETROLEUM C
=ARCO OIL AND GAS COMPANY			RECEIVED: 10/14/80 JA: TX			
8101738 13604		4235531220 103	MUSTANG IS SND 7-A UNT WELL#3103=X	MUSTANG ISLAND STATE TRA	0,0	UNITED GAS PIPELINE
=BRIDWELL OIL CO			RECEIVED: 10/14/80 JA: TX			
8101757 08636		4249731124 103	MAGGIE MATTS #5	BOONSVILLE (BEND CONGL)	48,0	LONE STAR GAS CO
=BURNETT CORPORATION			RECEIVED: 10/14/80 JA: TX			
8101744 04726		4206530626 103	PULING 3A=22 WELL	WEST PANHANDLE (DOLOMITE	453,0	PANHANDLE EASTERN PI
=C F BRAUN & CO			RECEIVED: 10/14/80 JA: TX			
8101750 05548		4228531282 103	SOPHIA JONES NO 1	SOUTHWEST SHERIDAN J R E	100,0	HOUSTON PIPE LINE CO
=CAL-TEX OIL CO			RECEIVED: 10/14/80 JA: TX			
8101754 07400		4223300000 108	HARRINGTON (00976) WELL NO 5	PANHANDLE HUTCHINSON COU	12,3	PHILLIPS PETROLEUM C
8101755 07401		4223300000 108	HARRINGTON (00976) WELL NO 6	PANHANDLE HUTCHINSON COU	2,2	PHILLIPS PETROLEUM C
=CHEVRON U S A INC			RECEIVED: 10/14/80 JA: TX			

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8101753 06354		4249505140 108	BAIRD #1332 EM	KERMIT	3,7	TRANSWESTERN PIPELIN
=GULF OIL CORPORATION			RECEIVED: 10/14/80 JA: TX			
8101734 12466		4217900000 108	ALEX SMITH #6	PANHANDLE GRAY	5,0	GETTY OIL CO
8101729 12424		4217900000 108	CULLER #2	PANHANDLE GRAY	8,0	GETTY OIL CO
8101730 12425		4217900000 108	CULLER #3	PANHANDLE GRAY	8,0	GETTY OIL CO
8101731 12426		4217900000 108	CULLER #5	PANHANDLE GRAY	8,0	GETTY OIL CO
8101732 12428		4217900000 108	CULLER #7	PANHANDLE GRAY	8,0	GETTY OIL CO
8101733 12429		4217900000 108	CULLER #8	PANHANDLE GRAY	8,0	GETTY OIL CO
8101740 012080		4204130375 103	HUMPHRIES UNIT II WELL NO 1	KURTEN (WOODBINE)	1,0	PRODUCERS GAS CO
8101741 012107		4204130073 103	TATUM UNIT I WELL NO 1	KURTEN (WOODBINE)	9,0	PRODUCERS GAS CO
=INDEPENDENT EXPLORATION CO			RECEIVED: 10/14/80 JA: TX			
8101758 11223		4236731259 102	J B JORDAN #1 79606	BUCKNER (STRAWN)	47,3	JAMES P DUNIGAN INC
=J M HUBER CORPORATION			RECEIVED: 10/14/80 JA: TX			
8101743 02407		4223330316 103	PERRY #10	PANHANDLE WEST	36,0	COLORADO INTERSTATE
=JOHN M ADGER			RECEIVED: 10/14/80 JA: TX			
8101748 10764		4248300000 108	O GORMAN EDDIE	PANHANDLE EAST	6,0	WARREN PETROLEUM COR
8101747 10763		4248300000 108	O GORMAN JAMES	PANHANDLE FIELD EAST	3,0	WARREN PETROLEUM COR
=MOBIL PROD TEXAS & NEW MEXICO INC			RECEIVED: 10/14/80 JA: TX			
8101739 11796		4219931288 102	KIRBY LUMBER CORPORATION NO 2	SOUR LAKE E (YEGUA MIDDL	725,0	TRANSCONTINENTAL GAS
=PENNZOIL PRODUCING COMPANY			RECEIVED: 10/14/80 JA: TX			
8101759 09322		4236530736 103	HALL NO 1-C	CARTHAGE/TRAVIS PEAK/	400,0	UNITED GAS PIPE LINE
=SCHKADE BROS DRILLING CO			RECEIVED: 10/14/80 JA: TX			
8101749 10770		4209330603 103	ROBERT P BROWDER WELL #1	DUSTER NE (MARBLE FALLS	18,3	LONE STAR GAS CO
=SUN OIL COMPANY (DELAWARE)			RECEIVED: 10/14/80 JA: TX			
8101737 13470		4249731190 103	HENRY KELLY UNIT WELL NO 2	BOONESVILLE (BEND CONGL	243,0	NATURAL GAS PIPELINE
=SUTTON PRODUCING CORP			RECEIVED: 10/14/80 JA: TX			
8101752 06334		4231130566 103	ALLYE HENRY NO 2 00164	DILWORTH SOUTHEAST (EDWA	400,0	TRANSCONTINENTAL GAS
=TRINITY OIL & GAS CORP			RECEIVED: 10/14/80 JA: TX			
8101745 10696		4213300000 108	BYNUM #2 RRC 13842	FOSTER	8,4	ODESSA NATURAL CORP
8101746 10699		4213300000 108	WEISER #2 RRC 13653	FOSTER (MARBLE FALLS)	6,0	ODESSA NATURAL CORP
=UNION OIL COMPANY OF CALIF			RECEIVED: 10/14/80 JA: TX			
8101751 06110		4246730401 103	O L SWAIN 11 #10	VAN	73,0	UNITED GAS PIPELINE
=WORLD PRODUCERS INC			RECEIVED: 10/14/80 JA: TX			
8101736 13444		4243532103 103	MAYER RANCH A NO 3	MAYER RANCH (CANYON)	200,0	NORTHERN NATURAL GAS
8101735 13443		4243532104 103	MAYER RANCH A NO 4	MAYER RANCH (CANYON)	240,0	NORTHERN NATURAL GAS
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
=CABOT CORPORATION			RECEIVED: 10/14/80 JA: WV			
8101770		4710900294 108	D POCAHONTAS-FORD 8-1294		20,0	
=DAMSON OIL CORPORATION			RECEIVED: 10/14/80 JA: WV			
8101768		4701501135 108	D ELK RIVER #723		10,2	EQUITABLE GAS CO
8101769		4701501137 108	D ELK RIVER #727		9,5	EQUITABLE GAS CO
=EMERALD ENERGY CO			RECEIVED: 10/14/80 JA: WV			
8101771		4702103511 108	D E MILLER #1(47-021-3511)	NORMANTOWN NORTHEAST	9,7	CARNEGIE NATURAL GAS
=FOSSIL PETROLEUM CORPORATION			RECEIVED: 10/14/80 JA: WV			
8101774		4702102337 108	D A E CULLINS NO 1 FOSSIL NO 2001	SAND FORK	0,7	CARNEGIE NATURAL GAS
=GLOVER GAS CO			RECEIVED: 10/14/80 JA: WV			
8101767		4703923601 108	MOLLY YOUNG #1	ELK DISTRICT	1,5	COLUMBIA GAS TRANSMI
=QUAKER STATE OIL REFINING CORP			RECEIVED: 10/14/80 JA: WV			
8101775		4703922529 108	D MARLOWE #2 62075=2	ELK DISTRICT	2,3	COLUMBIA GAS TRANSMI
8101773		4703922402 108	D SALISBURY #1 62200=1	ELK DISTRICT	1,8	COLUMBIA GAS TRANSMI

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FIELD NAME PROD PURCHASER
ELK DISTRICT 1,0 COLUMBIA GAS TRANSMI

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD NO	JA UNIT	API NO SEQ D WELL NAME
0101772		4703922406 100 D SALISBURY #2 62200-2

JD No.	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Jurisdictional Agency C: Correction to prior Fed. Reg. notice
80-58931	ND	Joseph J. C. Paine & Assoc	RINGSTAD #1	297	10-17-80	C: Deferred determination; Control Number deleted
79-12534	OH	Bethel Resources Inc	JAMES ALLISON #2	57	08-02-79	C: Well Name
79-13365	OH	Harry A. Holtom	#2 JOHN VAN SICKLE	62	08-20-79	C: Well Name
80-30575	OH	RAK Development Co	RALPH BETTINGER #4	201	05-20-80	C: Well Name
80-59044	OK	Andover Oil Co	ROTHER #2-1	298	10-17-80	C: 102 103 Approved
80-59023	OK	K P Exploration Inc	WHISENHANT NO 1-3	298	10-17-80	C: 102 103 Approved
80-59024	OK	K P Exploration Inc	WRIGHT #1-33 (CHESTER)	298	10-17-80	C: 102 103 Approved
80-59025	OK	K P Exploration Inc	WRIGHT #1-33 (UPPER MORROW)	298	10-17-80	C: 102 103 Approved
80-15755	USGS(NM)	Yates Petroleum Corp	HOISA LG FEDERAL #1	160	04-02-80	C: 103 Approved

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 21, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34845 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

V 45 / 217 NOV 06 1980 UMI

UMI 308 60N 7125V

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PNDU	PURCHASER
ALABAMA OIL & GAS BOARD							
*BRACE PETROLEUM CORPORATION				RECEIVED: 10/16/80 JA: AL			
810@156	A=0=801PD=A	01095320148	107	GORDON 16=1	BIG ESCAMBIA CREEK	1960.0	SOUTHERN NATURAL GAS
*SOUTHLAND ROYALTY CO				RECEIVED: 10/16/80 JA: AL			
810@158	JO=S=808PD=A	01075320279	102	D W STRAWBRIDGE 33=13 #2	BEAVERTON	100.0	NORTHWEST ALABAMA GA
810@156	JO=S=803PD	01075320260	102	OLIVER GIBSON 29=13 #1	MCGEE LAKE	98.0	TENNESSEE GAS PIPELI
810@157	JO=S=807PD=A	01075320264	102	SARAH C SPROUSE 30=10 #1	MCGEE LAKE	100.0	TENNESSEE GAS PIPELI
*TEXACO INC				RECEIVED: 10/16/80 JA: AL			
810@159	JO=S=801PD	01099320031	103	D R COLEY JR ESTATE (35=4) 1	VOCATION	90.0	UNITED GAS PIPE LINE
LOUISIANA OFFICE OF CONSERVATION							
*ABCO PETROLEUM CORP				RECEIVED: 10/16/80 JA: LA			
810@116	AO=3550	1711122446	103	EXXON FEE D #2	MONROE GAS FIELD	17.8	IMC PIPELINE CO INC
810@119	AO=3551	1711122447	103	EXXON FEE D #3	MONROE GAS FIELD	18.3	IMC PIPELINE CO INC
*ALICE=BIDNEY OIL COMPANY				RECEIVED: 10/16/80 JA: LA			
810@098	AO=3532	1711920233	103	BURDON HEIRS A=1	ADA	365.5	ARKANSAS LOUISIANA G
*AMERADA HESS CORPORATION				RECEIVED: 10/16/80 JA: LA			
810@149	AO=3489	1705700973	108	J P MOORE #10=D	RACELAND	9.7	TRANSCONTINENTAL GAS
*AMOCO PRODUCTION CO				RECEIVED: 10/16/80 JA: LA			
810@080	AO=3496	1705721877	103	MACK ACOSTA NO 4	VALENTINE	4380.0	COLUMBIA GAS TRANSMI
*GEMA GAS CORP				RECEIVED: 10/16/80 JA: LA			
810@143	AO=3494	1711121806	108	EXXON ARCO 84 NO 1	MONROE	81.0	INTERNATIONAL MINERA
810@142	AO=3495	1711121778	108	HBC NO 1	MONROE	5.7	INTERNATIONAL MINERA
*CHEVRON U S A INC				RECEIVED: 10/16/80 JA: LA			
810@083	AO=3479	1771420062	102	SMR 8300 RA SU 8L 2724 #17	BAY MARCHAND BLOCK 2	74.0	TENNESSEE GAS PIPELI
810@122	AO=3544	1706320083	107	VUA CROWN ZELLERBACH 7 ET AL #1	LIVINGSTON	847.0	
*EDWIN L COX				RECEIVED: 10/16/80 JA: LA			
810@097	AO=3533	1700120780	102	UMT 2 RB SUA MENSQUENB NO 2	ELLIS	180.0	CONOCO INC
*EQUIPMENT INC				RECEIVED: 10/16/80 JA: LA			
810@095	AO=3467	1709720561	103	BOTANY BAY CORP #2	PORT BARRE	365.0	MONTEREY PIPELINE CO
*FRANK SPOONER				RECEIVED: 10/16/80 JA: LA			
810@146	AO=3487	1702120669	102	GREER NO 3 (166394)	CANE MILL	300.0	LOUISIANA INTRASTATE
810@145	AO=3488	1702120634	102	VUA WARNER A NO 1 (166514)	CANE MILL	100.0	LOUISIANA INTRASTATE
*FRANKS PETROLEUM INC ETAL				RECEIVED: 10/16/80 JA: LA			
810@084	AO=3476	1701320381	103	MOBB B SUKK C M CARTER #1	WEST BRYCELAND	99.0	LOUISIANA GAS INTRAS
*GAS TRANSPORTATION CORPORATION				RECEIVED: 10/16/80 JA: LA			
810@107	AO=3539	1711122207	108	GTC=HOLLOWAY NO 1	MONROE	3.8	PETRO=LEWIS FUNDS IN
810@108	AO=3536	1711122208	108	GTC=HOLLOWAY NO 2	MONROE	3.8	PETRO=LEWIS FUNDS IN
810@106	AO=3540	1711122179	108	GTC=L NOLAN NO 4	MONROE	4.6	PETRO=LEWIS FUNDS IN
810@109	AO=3537	1711122209	108	GTC=R W ROAN NO 1	MONROE	1.9	PETRO=LEWIS FUNDS IN

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PNDU	PURCHASER
*BATOR HANK GAS CO				RECEIVED: 10/16/80 JA: LA			
810@137	AO=3514	1707321428	103	BARDIN #3	MONROE	27.7	UNITED GAS PIPELINE
810@136	AO=3515	1707321429	103	BARDIN #4	MONROE	27.7	UNITED GAS PIPELINE
810@135	AO=3516	1707321440	103	BARDIN #7	MONROE	28.7	UNITED GAS PIPELINE
810@134	AO=3517	1707321441	103	BARDIN #8	MONROE	28.7	UNITED GAS PIPELINE
810@138	AO=3513	1707321439	103	BORDIN #2	MONROE	34.9	UNITED GAS PIPELINE
*HADDOX PETROLEUM CORP				RECEIVED: 10/16/80 JA: LA			
810@123	AO=3508	1711122526	103	LAWTON THOMAS #1	MONROE	0.0	IMC PIPELINE CO INC
810@124	AO=3507	1711122527	103	MERLIN THOMAS #1	MONROE GAS	0.0	IMC PIPELINE CO INC
*HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED: 10/16/80 JA: LA			
810@150	AO=3483	1705721693	103	11300 RA SUA LILLIAN R BRADFORD #1	SOUTHWEST LAKE BOEUF	365.0	TEXAS EASTERN TRANSM
*IMC EXPLORATION COMPANY				RECEIVED: 10/16/80 JA: LA			
810@079	AO=3497	1704720583	103	KEBBLER NO 3	LAUREL RIDGE	811.7	GEORGIA=PACIFIC CORP
*JAMES A WHYBON JR				RECEIVED: 10/16/80 JA: LA			
810@131	AO=3500	1705721682	103	PELTO NO 3	NORTH THIBODEAUX	856.1	SUGAR BOWL GAS CORP
*JIM V MADDOX				RECEIVED: 10/16/80 JA: LA			
810@121	AO=3545	1711121986	108	OLINKRAFT 686 B #1	MONROE	13.5	MID LOUISIANA GAS CO
*JIMCO DRILLING ET AL				RECEIVED: 10/16/80 JA: LA			
810@105	AO=3541	1703121249	103	FBB RA SU22 OR SMITH #1	LOGANSPORT	100.0	LOUISIANA INTRASTATE
810@104	AO=3542	1703121335	103	FBB RA SU47 DR SMITH #2	LOGANSPORT	100.0	LOUISIANA INTRASTATE
*JUBILEE=MPARO OIL CO INC				RECEIVED: 10/16/80 JA: LA			
810@120	AO=3546	1712720854	103	MERRING A NO 1	NORTH HICKORY VALLEY	100.0	UNITED GAS PIPE LINE
*MAY PETROLEUM INC				RECEIVED: 10/16/80 JA: LA			
810@088	AO=3481	1703120733	103	MOBB RA SUII RIVER #1 (157692)	BETHANY=LONGSTREET	420.0	ARKANSAS LOUISIANA G
810@103	AO=3543	1703121322	102	ROD RA SUR ACHEE #1 (160331)	BETHANY LONGSTREET	363.0	ARKANSAS LOUISIANA G
*MID LOUISIANA GAS COMPANY				RECEIVED: 10/16/80 JA: LA			
810@093	AO=3469	1711122326	103	MLGC FEE GAS NO 870	MONROE FIELD	36.0	
810@092	AO=3470	1711122329	103	MLGC FEE GAS NO 873	MONROE FIELD	34.2	
810@091	AO=3471	1711122330	103	MLGC FEE GAS NO 874	MONROE FIELD	10.8	
810@090	AO=3472	1711122331	103	MLGC FEE GAS NO 875	MONROE FIELD	18.4	
810@089	AO=3473	1711122449	103	MLGC FEE GAS NO 890	MONROE FIELD	23.1	
810@088	AO=3474	1711122450	103	MLGC FEE GAS NO 891	MONROE FIELD	9.7	
810@119	AO=3547	1711122513	103	MLGC FEE GAS NO 901	MONROE	46.8	
810@087	AO=3475	1711122514	103	MLGC FEE GAS NO 902	MONROE FIELD	36.0	
810@086	AO=3476	1711122515	103	MLGC FEE GAS NO 903	MONROE FIELD	43.2	
810@118	AO=3548	1711122536	103	MLGC FEE GAS NO 908	MONROE	42.1	
810@085	AO=3477	1711122539	103	MLGC FEE GAS NO 911	MONROE FIELD	45.0	
810@117	AO=3549	1711122546	103	MLGC FEE GAS NO 914	MONROE	46.8	
*PETROFUNDS INC				RECEIVED: 10/16/80 JA: LA			
810@147	AO=3486	1701320281	102	FLA RA SU A LACY NO 1=D	CASTOR FIELD	0.0	UNITED GAS PIPELINE
*PICKENS CO INC				RECEIVED: 10/16/80 JA: LA			
810@081	AO=3482	1709720593	103	WILSON = COCHRAN NO 3	PORT BARRE	584.0	MONTEREY PIPELINE CO
*PRINCE PRODUCTION CO				RECEIVED: 10/16/80 JA: LA			
810@151	AO=3520	1711122556	103	PETRO LEWIS FROST LUMBER #15	MONROE	15.4	PETRO LEWIS FUNDS IN
810@076	AO=3521	1711122557	103	PETRO LEWIS FROST LUMBER #16	MONROE	10.3	PETRO LEWIS FUNDS IN
810@077	AO=3522	1711122558	103	PETRO LEWIS FROST LUMBER #17	MONROE	8.2	PETRO LEWIS FUNDS IN
810@076	AO=3523	1711122559	103	PETRO LEWIS FROST LUMBER #18	MONROE	9.2	PETRO LEWIS FUNDS IN
810@132	AO=3519	1711122569	103	PETRO LEWIS PENNZOIL FEE 119 #4	MONROE	15.4	PETRO=LEWIS FUNDS IN
810@075	AO=3524	1711122605	103	PETRO=LEWIS FROST LUMBER #19	MONROE	30.8	PETRO=LEWIS FUNDS IN
810@133	AO=3518	1711122586	103	PETRO=LEWIS PENNZOIL FEE 119 #1	MONROE	20.5	PETRO=LEWIS FUNDS IN
*PRUET OIL COMPANY				RECEIVED: 10/16/80 JA: LA			
810@148	AO=3484	1705721610	103	J B LEVERT LAND CO NO 1	THIBODEAUX	440.0	TRANSCONTINENTAL GAS

UMI 60N 7-12-54V

JD NO	TA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
=ROY M YEEL			RECEIVED: 10/14/80 JA: LA			
8102110	AO-3536	1706720159 108	FREELAND-DDOM #2 & #2D	MONROE GAS ROCK FIELD	0.0	GEORGIA-PACIFIC
8102094	AO-3468	1706721222 103	KENO #1	MONROE GAS ROCK FIELD	11.0	IMC PIPELINE CO INC
=YEEL YE A			RECEIVED: 10/14/80 JA: LA			
8102112	AO-3534	1706721398 108	SANDIDGE A #3	MONROE GAS ROCK FIELD	9.9	UNITED GAS PIPELINE
=YEEL YE A			RECEIVED: 10/14/80 JA: LA			
8102111	AO-3535	1707321264 108	COLE MEIRS A #7	MONROE GAS ROCK	11.7	IMC PIPELINE CO INC
=TEXACO INC			RECEIVED: 10/16/80 JA: LA			
*8102126	AO-3505	1770720076 103	S/L 340 MOUND POINT NO 48	MOUND POINT	730.0	KAISER ALUMINUM & CH
*8102125	AO-3506	1770720076 103	S/L 340 MOUND POINT NO 48-D	MOUND POINT	2190.0	KAISER ALUMINUM & CH
*8102127	AO-3504	1770720078 103	S/L 340 MOUND POINT NO 55	MOUND POINT	3181.0	KAISER ALUMINUM & CH
*8102128	AO-3503	1770720078 103	S/L 340 MOUND POINT NO 55-D	MOUND POINT	3187.0	KAISER ALUMINUM & CH
*8102153	AO-3328	1770720080 103	S/L 340 MOUND POINT NO 59	MOUND POINT	4380.0	KAISER ALUMINUM & CH
*8102152	AO-3329	1770720080 103	S/L 340 MOUND POINT NO 59-D	MOUND POINT	2576.0	KAISER ALUMINUM & CH
*8102100	AO-3330	1770720084 103	S/L 340 MOUND POINT NO 63	MOUND POINT	9125.0	KAISER ALUMINUM & CH
*8102073	AO-3327	1770720088 103	S/L 340 MOUND POINT NO 66	MOUND POINT	4380.0	KAISER ALUMINUM & CH
*8102074	AO-3326	1770720092 103	S/L 340 MOUND POINT NO 71	MOUND POINT	2555.0	KAISER ALUMINUM & CH
*8102129	AO-3302	1770720093 103	S/L 340 MOUND POINT NO 72-D	MOUND POINT	1600.0	KAISER ALUMINUM & CH
*8102130	AO-3301	1770720094 103	S/L 340 MOUND POINT NO 73	MOUND POINT	3723.0	KAISER ALUMINUM & CH
*8102099	AO-3331	1770920210 103	S/L 340 RABBIT ISLAND NO 171	RABBIT ISLAND	2302.0	KAISER ALUMINUM & CH
=THE LOUISIANA LAND & EXPLORATION CO			RECEIVED: 10/16/80 JA: LA			
8102114	AO-3498	1710922283 103	LL&E FEE NO 3 (168459)	BAYOU JEAN LA CROIX	920.0	COLUMBIA GAS TRANSMI
=VIKING RESOURCES			RECEIVED: 10/16/80 JA: LA			
8102102	AO-3552	1711122563 103	OLIN NO 3	MONROE	36.0	PETRO-LEWIS FUNDS IN
8102101	AO-3553	1711122566 103	OLIN NO 4	MONROE	40.0	PETRO-LEWIS FUNDS IN
8102141	AO-3510	1711122473 103	UNION POWER C NO 1	MONROE	0.0	PETRO-LEWIS FUNDS IN
8102096	AO-3509	1711122474 103	UNION POWER C NO 2	MONROE	32.0	PETRO-LEWIS FUNDS IN
8102140	AO-3511	1711122670 103	UNION PRODUCING C #1	MONROE	32.0	PETRO-LEWIS FUNDS IN
8102139	AO-3512	1707321369 108	W T LEE #1	MONROE	15.0	MID LOUISIANA GAS CO
=WALSH AND WATTS INC			RECEIVED: 10/16/80 JA: LA			
8102144	AO-3489	1706120134 103	LEWIS ESTATE NO 1 (167969)	TERRYVILLE	150.0	LOUISIANA GAS PURCHA
=WEB-TEX DRILLING COMPANY			RECEIVED: 10/16/80 JA: LA			
8102113	AO-3499	1710911199 103	C W OKEY NO 1	NORTH MONTEGUT	164.3	UNITED GAS PIPELINE

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

=AMOCO PRODUCTION CO			RECEIVED: 10/15/80 JA: MI			
8102068		2104333400 102	GETTER A-17	EATON RAPIDS 17-B-2N-3W	73.0	CONSUMERS POWER CO
8102071		2107933648 102	MEIER UNIT 1-14	KALKASKA 14-27N-7W	369.0	CONSUMERS POWER CO
8102067		2107932141 103	SIMPSON T 3-22	COLDSPRING 22-28N-6W	4.0	MICHIGAN CONSOLIDATE
8102069		2113738563 102	ST CHESTER L UNIT 2-36	CHESTER 36-30N-2W	110.0	CONSUMERS POWER CO
8102072		2107932989 102	STATE BLUE LAKE /S/ 5-17	BLUELAKE 16A-26N-5W	250.0	CONSUMERS POWER CO
8102070		2107932476 102	WEST BIG TWIN LAKE UNIT 5-18	BLUE LAKE 18A-28N-8W	1800.0	CONSUMERS POWER CO

MONTANA BOARD OF OIL & GAS CONSERVATION

=TRICENTROL UNITED STATES INC			RECEIVED: 10/16/80 JA: MT			
8102066	A-80-87	2504121146 108	SJOVOLD 26-2-T32N-R14E	TIGER RIDGE	16.0	NORTHERN NATURAL GAS

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

=ADOBE OIL & GAS CORPORATION			RECEIVED: 10/16/80 JA: PA			
8101990	4458	3701320001 102	STATE GAME COMMISSION #26-A	EBENSBURG	411.0	TEXAS EASTERN GAS TR

JD NO	TA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
=AMOCO PRODUCTION CO			RECEIVED: 10/16/80 JA: PA			
8101998	4650	3711120093 102	THEODORE SIPE SU 2 NO 1	WEST ROCKWOOD	30.0	TEXAS EASTERN TRANSM
=APPALACHIAN ENERGY INC			RECEIVED: 10/16/80 JA: PA			
8102013	4667	3704921009 102	A BISHOP #1 A-E-66	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8102010	4664	3704921003 102	K LOVELAND #1 A-E-151	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8102012	4666	3704921008 102	R K FARVER #1 A-E-56	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8102011	4665	3704920978 102	R HARSH #1 A-E-83	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRANSMI
=ATLAS RESOURCES INC			RECEIVED: 10/16/80 JA: PA			
8101994	4646	3706325976 103	HENRY NO 1 - #0908	GRANT	91.0	COLUMBIA GAS TRANSMI
*8102001	4655	3706325617 103	KNAPP NO 1-#0914		51.0	COLUMBIA GAS TRANSMI
8101992	4644	3706325573 103	LAWER NO 3 - #0911	GRANT	17.0	COLUMBIA GAS TRANSMI
8101993	4645	3706325574 103	MCCRACKEN NO 1 - #0913	GRANT	16.0	COLUMBIA GAS TRANSMI
8101991	4643	3706325583 103	WOODS NO 1 - #0915	GREEN	44.0	COLUMBIA GAS TRANSMI
=B B BARTLEY			RECEIVED: 10/16/80 JA: PA			
8101962	3484	3700920382 108	RUTH L KIMMEL #1	ELDERS RIDGE	1.0	PEOPLES NATUMAL GAS
8101963	3483	3700920410 108	RUTH L KIMMEL #2	ELDERS RIDGE	1.0	PEOPLES NATUMAL GAS
=CASTLE GAS CO INC			RECEIVED: 10/16/80 JA: PA			
8101967	4500	3706324691 103	R & P COAL CO(TEARING RUN CO)C-533	CENTER TOWNSHIP	55.0	COLUMBIA GAS TRANSMI
8101966	4496	3706325299 103	WILLIAM M WALLS #2 C-597 IND-25299	GRANT TOWNSHIP	70.0	COLUMBIA GAS TRANSMI
=COCHRAN MILLS DRILLING PROGRAM			RECEIVED: 10/16/80 JA: PA			
8101989	4403	3712921596 103	JOHN A BEZICH #1	LOYALHANNA	30.0	
=CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 10/16/80 JA: PA			
8101987	4568	3703320595 108	FRANK A KNARR NN-1482	SALEM 625030	6.0	GENERAL SYSTEM PURCH
8101986	4559	3706321612 108	JACKSON M SHEPLER NN-1378	BIG RUN 063423	4.0	GENERAL SYSTEM PURCH
8101985	4554	3703320665 108	JAMES A BONANTE NN 1638	SALEM 625030	10.0	GENERAL SYSTEM PURCH
=D A DORWARD			RECEIVED: 10/16/80 JA: PA			
8101986	4806	3706521475 108	LEWIS-ADAMS 1	YOUNG TOWNSHIP	9.8	CONSOLIDATED GAS SUP
=ENVIROGAS INC			RECEIVED: 10/16/80 JA: PA			
8101972	4679	3704921045 103	#1 G ARNOLD	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS SU
8101973	4680	3704921036 103	#4 C BURNHAM	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS SU
8101964	4775	3704920784 102	PASTORE INC #1	ERIE DEEP	18.0	NATIONAL FUEL GAS DI
=FOX O & G INC			RECEIVED: 10/16/80 JA: PA			
8101969	4572	3712921158 108	MERLE V KALP #1	HEMPFIELD	13.6	LOUDEN PROPERTIES CO
8101968	4571	3712920777 108	RONALD TROOT #2	HEMPFIELD	3.6	LOUDEN PROPERTIES CO
=FRED J RUSSELL DBA LOUDEN PROPERTIE			RECEIVED: 10/16/80 JA: PA			
8102022	4676	3700522468 103	NUMINE DIST SPORTSMEN ASSN 354-1	COWANSHANNOCK	30.0	CRUCIBLE INC
=HARRY M BRINT OPERATOR			RECEIVED: 10/16/80 JA: PA			
8102009	4662	3703320176 108	DUBOIS BANK WELL #1	PUNXSUTAWNEY - DRIFTWOOD	6.0	CONSOLIDATED GAS SUP
8102007	4660	3703320035 108	P R BAILEY #1	PUNXSUTAWNEY - DRIFTWOOD	1.0	CONSOLIDATED GAS SUP
8102008	4661	3703320075 108	WINFIELD MILLER WELL #1	PUNXSUTAWNEY - DRIFTWOOD	19.0	CONSOLIDATED GAS SUP
=J & J ENTERPRISES INC			RECEIVED: 10/16/80 JA: PA			
8101997	4649	3706522087 103	ALBERT SPENCER #1	PUNXSUTAWNEY BORO	200.0	CONSOLIDATED GAS SUP
8101995	4647	3706325306 103	FRED A MUSSER #3 (129A)	WHITE	200.0	COLUMBIA GAS TRANSMI
8101996	4648	3706325528 103	FRED A MUSSER #4 (129A)	WHITE	200.0	COLUMBIA GAS TRANSMI
=J ROBERT NELSON ENTERPRISES			RECEIVED: 10/16/80 JA: PA			
8101970	4631	3705100000 108	NELSON - PERKO 1 602307	SMITHFIELD QUAD GERMAN	1.3	COLUMBIA GAS TRANSMI
=KEYSTONE ENERGY RESOURCES			RECEIVED: 10/16/80 JA: PA			
8101983	4637	3706325302 103	D COLOSI #3	INEZ COLOSI	51.0	
8101984	4691	3706325220 103	DOUDS #1	E SCOTT DOUDS	93.3	INDUSTRIAL ENERGY SE
8102006	4639	3706325218 103	ELKIN #1	ARTHUR ELKIN	282.0	COLUMBIA GAS TRANSMI
8102005	4638	3706325228 103	ELKIN #2	ARTHUR ELKIN	148.7	COLUMBIA GAS TRANSMI
8102004	4657	3706325231 103	ELKIN #4	ARTHUR ELKIN	115.8	COLUMBIA GAS TRANSMI

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JD NO	TA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102003	4696	3706325252	103		ELKIN #5	ARTHUR ELKIN	79.4	COLUMBIA GAS TRANSMI
8101974	4681	3706325253	103		GASTON #1	RUDOLPH GASTON	24.9	T W PHILLIPS GAS & O
8101975	4682	3706325254	103		GASTON #2	RUDOLPH GASTON	24.4	T W PHILLIPS GAS & O
8101976	4683	3706325255	103		GASTON #3	RUDOLPH GASTON	23.9	T W PHILLIPS GAS & O
8101977	4684	3706325256	103		GASTON #4	RUDOLPH GASTON	19.9	T W PHILLIPS GAS & O
8101978	4685	3706325257	103		GASTON #5	RUDOLPH GASTON	23.7	T W PHILLIPS GAS & O
8101979	4686	3706325353	103		LOHR #1-A	E M LOHR	28.2	INDUSTRIAL ENERGY SE
8101980	4687	3706325354	103		LOHR #2-A	E M LOHR	26.0	INDUSTRIAL ENERGY SE
8101981	4698	3706325363	103		LOHR #3-A	E M LOHR	31.9	INDUSTRIAL ENERGY SE
8101982	4689	3706325827	103		PELLEGRENE #1	JOSEPH PELLEGRENE	32.0	INDUSTRIAL ENERGY SE
8101983	4690	3706325288	103		PELLEGRENE #2	JOSEPH PELLEGRENE	48.1	INDUSTRIAL ENERGY SE
8102002	4694	3706325202	103		SCHROTH #2	W A SCHROTH	13.9	COLUMBIA GAS TRANSMI
8101999	4692	3706325196	103		SCHROTH #4-A	W A SCHROTH	69.6	COLUMBIA GAS TRANSMI
8102000	4693	3706325169	103		SCHROTH 3-A	W A SCHROTH	48.1	COLUMBIA GAS TRANSMI
8102021	4675	3706325230	103		WOODS #1	PATRICIA WOODS	84.9	INDUSTRIAL ENERGY SE
8102020	4674	3706325231	103		WOODS #2	PATRICIA WOODS	20.0	INDUSTRIAL ENERGY SE
-PHILLIPS PRODUCTION CO					RECEIVED: 10/16/80 JA: PA			
8102016	4670	3706325334	103		JOHN E COLONELLO ET UX ET AL #1	N MAHONING	35.0	CONSOLIDATED GAS SUP
-SUGAR GROVE LTD					RECEIVED: 10/16/80 JA: PA			
8101971	4678	3712328013	102		J MALLERY #1	SUGAR GROVE	60.0	COLUMBIA GAS TRANSMI
8102015	4669	3712328209	102		LEVI SHETLER #2A	SUGAR GROVE	60.0	COLUMBIA GAS TRANSMI
8102014	4668	3712328014	102		WALTER LANGFORD #1	SUGAR GROVE	60.0	COLUMBIA GAS TRANSMI
-MAINOCO OIL & GAS COMPANY					RECEIVED: 10/16/80 JA: PA			
8102019	4673	3703920374	103		GEO W & LOIS L BANCROFT NO 1 (W-8)	ATHENS	40.0	COLUMBIA GAS TRANSMI
8102017	4671	3703920396	103		MICHAEL & GLORIA J KELLY #1 (W-37)	ATHENS	40.0	COLUMBIA GAS TRANSMI
8102018	4672	3703920372	103		RAY M & EVA BUCHANAN NO 1 (W-10)	ATHENS	40.0	COLUMBIA GAS TRANSMI
**********								
WEST VIRGINIA DEPARTMENT OF MINES								
**********								
-B & L OIL CO					RECEIVED: 10/16/80 JA: WV			
8102038		4708503175	108		C L OVERTON RIT 3175 110A	MCFARLAN	3.5	CONSOLIDATED GAS SUP
8102043		4702102053	108		DEWAYNE GREENE OIL 2053 31A	TROY	0.5	EQUITABLE GAS
8102060		4708503081	108		EARL D RINEHART #1 RIT 3081 800A	CABIN RUN	0.5	CONSOLIDATED GAS SUP
8102046		4708503094	108		EARL D RINEHART #3 RIT 3094	CABIN RUN	0.5	CONSOLIDATED GAS SUP
8102045		4708503098	108		EARL D RINEHART #5 RIT3098 800A	CABIN RUN	0.5	CONSOLIDATED GAS SUP
8102036		4708503099	108		EARL D RINEHART #6 RIT 3099 800A	CABIN RUN	0.5	CONSOLIDATED GAS SUP
8102035		4708503100	108		EARL D RINEHART #7 RIT 3100 800A	CABIN RUN	0.5	CONSOLIDATED GAS SUP
8102042		4708500814	108		EDWARD W RAMSEY RIT 814 69A	OX BOW	2.5	CONSOLIDATED GAS SUP
8102024		4710700564	108		M E SPEARS WOO 564 9A	VIENNA	2.7	GAS TRANSPORT
-CABOT CORPORATION					RECEIVED: 10/16/80 JA: WV			
8102029		4708100027	108		BEAVER COAL 14-1090	SLAB FORK	14.3	
8102028		4703902879	108		HUNTINGTON 5-218	CABIN CREEK	2.2	
8102027		4703902880	108		HUNTINGTON 8-229	CABIN CREEK	1.8	
8102025		4703902904	108		KANAWHA HOCKING 1-431	CABIN CREEK	5.5	
8102031		4703900048	108		QUINCY COAL 16-683	CABIN CREEK	2.9	
8102030		4703902932	108		QUINCY COAL 6-674	WEIR	0.1	
8102026		4703903977	108		RIVERTON-C&O 1-401	CABIN CREEK	3.1	SOUTHERN PUBLIC SERV
-DAMSON OIL CORPORATION					RECEIVED: 10/16/80 JA: WV			
8102059		4701501124	108		ELK RIVER #28	HENRY	2.8	EQUITABLE GAS CO
8102058		4701501252	108		ELK RIVER #44	HENRY	8.0	EQUITABLE GAS CO
8102057		4701501253	108		ELK RIVER #45	HENRY	19.7	EQUITABLE GAS CO
8102052		4701501254	108		ELK RIVER #46	HENRY	11.0	EQUITABLE GAS CO

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JD NO	TA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-DEVON CORPORATION					RECEIVED: 10/16/80 JA: WV			
8102032		4703501175	108		#785 SUE PROCTOR MILLER #2	RAVENSWOOD	3.0	COLUMBIA GAS TRANSMI
8102033		4703501181	108		#789 JOHN & URBIE MCCOY #1	NORTH RIPLEY	1.5	COLUMBIA GAS TRANSMI
8102054		4703501197	108		#793 JOHN & URBIE MCCOY #2	NORTH RIPLEY	0.3	COLUMBIA GAS TRANSMI
8102053		4704500152	108		536 DINGESS RUM COAL CO #32	LOGAN	0.5	COLUMBIA GAS TRANS C
-GULF OIL CORPORATION					RECEIVED: 10/16/80 JA: WV			
8102055		4708102921	108		LEWIS C #1	GLENVILLE-SENSON	1.5	EQUITABLE GAS CO
8102041		4708100670	108		MOORE - MESSENGER #3	GLENVILLE	3.7	CONSOLIDATED GAS SUP
8102040		4708100652	108		MOORE-MESSENGER #1	GLENVILLE	3.7	CONSOLIDATED GAS SUP
-QUAKER STATE OIL REFINING CORP					RECEIVED: 10/16/80 JA: WV			
8102047		4703902157	108		B WALKER #1 62150-1	ELK DIST	0.5	COLUMBIA GAS TRANSMI
8102049		4703902153	108		CULPEPPER #1 62115-1	BIG SANDY DISTRICT	2.3	COLUMBIA GAS TRANSMI
8102048		4703902170	108		DRAKE #1 62150-1	ELK DISTRICT	1.7	COLUMBIA GAS TRANSMI
8102050		4703902152	108		JENNINGS #1 62150-1	ELK DISTRICT	1.2	COLUMBIA GAS TRANSMI
8102051		4703902149	108		W W HOLDEN #1	ELK DISTRICT	0.4	COLUMBIA GAS TRANSMI
-RIDDLE & FLANAGAN					RECEIVED: 10/16/80 JA: WV			
8102023		4708504676	108		MAUDE WILSON #3	CLAY	3.0	CONSUMERS GAS UTILIT
8102056		4708504674	108		MOORE #2	CLAY	0.0	CONSUMERS GAS UTILIT
-RUTH L BURDETTE					RECEIVED: 10/16/80 JA: WV			
8102034		4703520966	108		#1 WM & SADIE POLK	GRANT DISTRICT	1.0	GAS TRANSPORT INC
-SUMMIT OIL & GAS CO					RECEIVED: 10/16/80 JA: WV			
8102039		4708502033	108		L E MORTON #1	BIG INJUN	3.6	CONSOLIDATED GAS SUP
-VICTOR BRANNON OPERATOR					RECEIVED: 10/16/80 JA: WV			
8102037		4701321495	108		DUNCAN GAS CO	WASHINGTON	5.0	CONSOLIDATED GAS SUP
-WARREN R HAUGHT AGENT					RECEIVED: 10/16/80 JA: WV			
8102044		4708520038	108		C A SCOTT WH-610	MURPHY DISTRICT	1.0	CONSOLIDATED GAS SUP
**********								
** U.S. GEOLOGICAL SURVEY - CASPER,WY								
**********								
-MIDLANDS GAS CORPORATION					RECEIVED: 10/16/80 JA: MT S			
*8102063	M 46-0	2507121525	108		1433 FEDERAL #1	BONDOIN	19.0	KANSAS-NEBRASKA NATU
*8102065	M 49-0	2507121313	108		2142 FEDERAL 2142-1	BONDOIN	19.0	KANSAS-NEBRASKA NATU
*8102064	M 48-0	2507121473	108		3252 323932	BONDOIN	20.0	KANSAS-NEBRASKA NATU
-COTTON PETROLEUM CORPORATION					RECEIVED: 10/16/80 JA: WY S			
*8102061	W7-0	4903721464	102		SHALLOW CREEK UNIT #1	WILDCAT	140.0	COLORADO INTERSTATE
-GRACE PETROLEUM CORPORATION					RECEIVED: 10/16/80 JA: WY S			
8102062	W36-0	4630720341	108		FEDERAL MELTON NO 1	MELTON	10.0	NORTHERN GAS CO

OTHER PURCHASERS VOLUME 40 #308

8102001 T - PHILLIPS
8102061 UNITED GAS PIPE LINE CO
8102063 MONTANA-DAKOTA UTILITIES CO
8102064 MONTANA-DAKOTA UTILITIES CO
8102065 MONTANA-DAKOTA UTILITIES CO
8102073 AMERICAN AGRICHEM CORP
8102074 AMERICAN CYANAMID CO
8102099 AMERICAN CYANAMID CO
8102100 AMERICAN CYANAMID CO
8102125 AMERICAN CYANAMID CO
8102126 AMERICAN CYANAMID CO
8102127 AMERICAN CYANAMID CO
8102128 AMERICAN CYANAMID CO
8102129 AMERICAN CYANAMID CO
8102150 AMERICAN CYANAMID CO
8102152 AMERICAN CYANAMID CO
8102153 AMERICAN CYANAMID CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 21, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34646 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume No. 309]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 3, 1980.

JD NO.	JA INT	API NO	SEC D FILL MARK	PROD	PURCHASER
			FIELD NAME		
KANSAS CORPORATION COMMISSION					
*GOULD OIL INC			RECEIVED: 10/20/80		JAI KS
0102165	K-80-0082	1514520330 100	SUITER #1-A (T=INJ)	13,0	KANSAS-NEBRASKA NATU
MICHIGAN DEPARTMENT OF NATURAL RESOURCES					
*BULLIVAN AND CO			RECEIVED: 10/16/80		JAI MI
0102164		2104533530 103	MILLER DAIRY FARMS INC 1-28	74,0	EATON RAPIDS 28
OKLAHOMA CORPORATION COMMISSION					
*ANADON CORPORATION			RECEIVED: 10/20/80		JAI OK
0102201	05325	3501520854 102	CLEAR #1-26	180,0	DELMI GAS PIPELINE C
*ANDOVER OIL COMPANY			RECEIVED: 10/20/80		JAI OK
0102199	05700	3501721431 103	GLOBE LIFE L #35-2	185,0	DELMI GAS PIPELINE C
*ARCO OIL AND GAS COMPANY			RECEIVED: 10/20/80		JAI OK
0102176	05437	3504721997 102	EDWARD G ALLEN #1	36,5	
0102175	05438	3504721972 102	WILLIE G KNAUBE #1	73,0	
*B R POLK INC			RECEIVED: 10/20/80		JAI OK
0102210	05733	3508300000 103	MITCHELL #1	71,0	EASON OIL CO
0102211	05734	3508321220 103	POSTON #2A	91,3	EASON OIL CO
*BARUCH-FOSTER CORP			RECEIVED: 10/20/80		JAI OK
0102220	04927	3506120870 102	LARRY WULFF #1	18,0	CITIES SERVICE GAS C
0102219	04926	3506120863 102	MILTON WULFF #-1	500,0	CITIES SERVICE GAS C
*BEARD OIL COMPANY			RECEIVED: 10/20/80		JAI OK
0102205	04428	3510920351 102	BULLA #1	100,0	OKLAHOMA NATURAL GAS
*C & B RESOURCES INC			RECEIVED: 10/20/80		JAI OK
0102169	05780	3507300000 103	CLINE #1	450,0	PHILLIPS PETROLEUM C
*CBA OIL COMPANY			RECEIVED: 10/20/80		JAI OK
0102190	05782	3510522631 103	M GILL #1	200,0	AEG SYSTEMS LTD
*CALVERT DRILLING CO			RECEIVED: 10/20/80		JAI OK
0102192	05784	3510920339 103	JORSKI #1	150,0	CHAMPLIN PETROLEUM C
*CORE OIL & GAS CORP			RECEIVED: 10/20/80		JAI OK
0102193	05785	3501721224 103	JUSTIN #25-2	200,0	PHILLIPS PETROLEUM C
*COTTON PETROLEUM CORPORATION			RECEIVED: 10/20/80		JAI OK
0102221	04883	3512920334 102	BLACK KETTLE 1-A	300,0	LACLEDE GAS CO
0102171	05571	3513921142 103	STATE 1-36	18,0	PHILLIPS PETROLEUM C
*CROWN CENTRAL PETROLEUM CORP			RECEIVED: 10/20/80		JAI OK
0102191	05783	3509300000 103	FRANTZ #2	21,9	AMINOIL USA INC
*DALCO PETROLEUM INC			RECEIVED: 10/20/80		JAI OK
0102231	05788	3507322292 103	A J #1	91,3	CITIES SERVICE GAS C
0102229	05786	3507322374 103	CHALKER #1	91,3	CITIES SERVICE GAS C

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
*DAN E DARLING			RECEIVED: 10/20/80 JA: OK			
8102209	05489	3508521213 103	TUMLE #1 CNwSw 18-18N-2W	WEST MULHALL	0,0	EASON OIL CO
*DONALD C SLAWSON			RECEIVED: 10/20/80 JA: OK			
8102259	05414	3517213740 103	CARLILE #1-20	WATONGA TREND AREA	500,0	CITIES SERVICE GAS C
*DYCO PETROLEUM CORPORATION			RECEIVED: 10/20/80 JA: OK			
8102230	05787	3501520874 103	LOULA #1-A	LOOKEBA WEST	250,0	PIONEER TRANSMISSION
*ECC OIL CO			RECEIVED: 10/20/80 JA: OK			
8102183	05817	3514721268 103	FORREST PIERCE #1 Nw NE 17	OGLESBY GAS FIELD	34079,0	OKAN GAS CO
8102182	05818	3514721284 103	NEUSTADT #2-2 SE SW 32-25N-14E	OGLESBY GAS FIELD	2931,4	OKAN GAS CO
8102185	05812	3514721273 103	PEARSON #1-1 SW NW 20-25	OGLESBY GAS FIELD	179021,0	OKAN GAS CO
8102186	05811	3514721051 103	PIERCE #2-2A NE SE 17-25N	OGLESBY GAS FIELD	241715,0	OKAN GAS CO
8102181	05819	3514721269 103	PIERCE #3 - 3 NE SW 17-25N-14E	OGLESBY GAS FIELD	244,0	OKAN GAS CO
*F C D LTD			RECEIVED: 10/20/80 JA: OK			
8102187	05810	3504722108 103	BEMRAD #1	SOUNER TREND	0,0	UNION TEXAS PETROLEU
*GEORGE RODMAN INC			RECEIVED: 10/20/80 JA: OK			
8102257	05809	3507321935 103	GARVIN 11 NO 1	SOUNER TREND	2,9	PHILLIPS PETROLEUM C
*GMC OIL AND GAS CORP			RECEIVED: 10/20/80 JA: OK			
8102184	05814	3507322274 103	DAVIS NO 2	SOUNER TREND	50,0	EASON OIL CO
*GRAHAM-MICHAELIS CORP			RECEIVED: 10/20/80 JA: OK			
8102173	05509	3500700000 108	ORINGDERFF #1-22	CAMRICK	1,5	NORTHERN NATURAL GAS
8102207	00948	3513900000 108	STATE OF OKLAHOMA #1	GUYMON-HUGOTON	20,5	PHILLIPS PETROLEUM C
*HAMILTON BROTHERS OIL CO			RECEIVED: 10/20/80 JA: OK			
8102217	05808	3512120632 102	SWEETIN NO 1-12	WILDCAT	365,0	ARKANSAS LOUISIANA G
*HANOVER MANAGEMENT CO			RECEIVED: 10/20/80 JA: OK			
8102168	05805	3505120846 103	BOWEN #1-5		102,5	NATURAL GAS PIPELINE
*HARPER OIL COMPANY			RECEIVED: 10/20/80 JA: OK			
8102197	05686	3507322535 103	ALBERT #1	SOUNER TREND	22,0	PHILLIPS PETROLEUM C
*HEARTLAND EXPLORATION			RECEIVED: 10/20/80 JA: OK			
8102255	05807	3508321247 103	TERRY NO 1	LOCKRIDGE	120,0	PHILLIPS PETROLEUM C
*HELMERICH & PAYNE INC			RECEIVED: 10/20/80 JA: OK			
8102174	05439	3504326978 102	GORE NO 1-36	SOUTH SEILLING	730,0	MICHIGAN WISCONSIN P
*HILLSHAFER-GOODWAY CORP			RECEIVED: 10/20/80 JA: OK			
8102196	05686	3508321162 103	JOHNSON #1	S ELKHORN	4,0	EASON OIL CO
*HOOVER & BRACKEN ENERGIES			RECEIVED: 10/20/80 JA: OK			
8102180	05684	3501721265 103	PAYNE #1-21	S W MUSTANG	3,6	
8102167	05806	3504321036 103	WILLIS #1-9	N OAKWOOD FIELD	182,0	
*HULEN M LEMON			RECEIVED: 10/20/80 JA: OK			
8102204	05682	3501721598 103	MUSTANG #1	SOUTH YUKON	270,0	MOBIL OIL CORP
*KAISER-FRANCIS OIL COMPANY			RECEIVED: 10/20/80 JA: OK			
8102198	05689	3501520764 103	HAAS #1	EAST BINGER	182,0	ARKANSAS LOUISIANA
8102179	05688	3505120903 102	HARROD #1	N W CHICKASHA	90000,0	ARKANSAS LOUISIANA G
*KRUMME OIL CO			RECEIVED: 10/20/80 JA: OK			
8102200	05252	3511121754 102	NIMMO NO 1	BEGGS	35,0	PHILLIPS PETROLEUM C
*L & N EXPLORATION INC			RECEIVED: 10/20/80 JA: OK			
8102169	05803	3508321298 103	MIKE AUSTIN #1-10	WEST MULHALL	225,0	EASON OIL CO
8102203	05681	3508321208 103	MILLER #3-20	N E RUSSELLVILLE	40,0	EASON OIL CO
*LADD PETROLEUM CORPORATION			RECEIVED: 10/20/80 JA: OK			
8102239	04983	3505120827 102	EISENHOUR NO 1	WEST MINCO	684,4	
8102194	05794	3509321715 103	SMIDDELL NO 2	RINGWOOD	0,0	
*LEEDE OIL & GAS INC			RECEIVED: 10/20/80 JA: OK			
8102195	05795	3515120758 103	DEVINE NO 1	NW FREEDOM	365,0	PANHANDLE EASTERN PI
*LILES OIL & GAS CO			RECEIVED: 10/20/80 JA: OK			

JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8102202	05680	3501721235 103	PORTER NO 1	S EL RENO	200,0	PHILLIPS PETROLEUM C
*LINCOLN ROCK CORP			RECEIVED: 10/20/80 JA: OK			
8102266	05796	3508520259 103	DUNCAN-GARDNER #2	NORTHEAST MARIETTA	65,0	CIMARRON TRANSMISSIO
8102251	05799	3508520336 103	LAMONA #1	NORTHEAST MARIETTA	40,0	CIMARRON TRANSMISSIO
8102250	05800	3508520337 103	STATE OIL #1	NORTHEAST MARIETTA	35,0	CIMARRON TRANSMISSIO
8102256	05798	3508520333 103	TRAVIS #2	NORTHEAST MARIETTA	4,0	CIMARRON TRANSMISSIO
8102265	05797	3508520355 103	WILLIAMS #1	NORTHEAST MARIETTA	12,0	CIMARRON TRANSMISSIO
*LUBELL OIL CO			RECEIVED: 10/20/80 JA: OK			
8102252	05677	3512120601 103	LUBELL OIL CO NO 2-9 SMITH	CHOATE PRAIRIE	50,0	
8102253	05676	3512120600 103	LUBELL OIL NO 1-9 SMITH	CHOATE PRAIRIE	75,0	
*MAY PETROLEUM INC			RECEIVED: 10/20/80 JA: OK			
8102232	05838	3501720461 108	MEINES #1 (017-49258)	NILES EAST	13,5	OKLAHOMA GAS & ELECT
*NATURAL GAS ANADARKO INC			RECEIVED: 10/20/80 JA: OK			
8102261	05341	3500721710 102	BAYLIFF HEIRS #2-17	MOCANE MURROW	250,0	NORTHERN NATURAL GAS
*8102210	04252	3500721593 102	NAYLOR #1-11		110,0	NORTHERN NATURAL GAS
*PENN PACIFIC CORP			RECEIVED: 10/20/80 JA: OK			
8102166	04821	3505500000 108	D BAKER 1 055-51236	BLOOMINGTON	15,9	WILLOW PIPELINE CO
8102245	04826	3505500000 108	BOWMAN 1-35 055-51242	BLOOMINGTON	2,0	WILLOW PIPE LINE CO
8102246	04828	3505500000 108	BREEZE 1-23 055-50887	BLOOMINGTON	10,4	WILLOW PIPE LINE CO
8102234	04823	3505500000 108	CLARK 1-26 055-50888	BLOOMINGTON	0,4	WILLOW PIPELINE CO
8102244	04825	3505500000 108	CURLEY 1-25 055-50491	BLOOMINGTON	10,7	WILLOW PIPE LINE CO
8102241	04831	3505500000 108	DAVIS 1-24	BLOOMINGTON	9,2	WILLOW PIPE LINE CO
*8102223	04827	3505500000 108	FITE 1-17 055-50893	BLOOMINGTON	7,8	WILLOW PIPE LINE CO
8102248	04838	3505500000 108	FITE 1-24 055-50486	BLOOMINGTON	3,4	WILLOW PIPE LINE CO
8102233	04820	3505500000 108	LECKIE 1-19 055-50894	BLOOMINGTON	1,0	WILLOW PIPELINE CO
8102235	04824	3505500000 108	MAYFIELD 1-23 055-50492	BLOOMINGTON	9,8	WILLOW PIPELINE CO
8102242	04832	3505500000 108	SEWELL 1-15 055-50488	BLOOMINGTON	8,3	WILLOW PIPE LINE CO
8102247	04837	3505500000 108	STATE A-13 055-51688	BLOOMINGTON	4,2	WILLOW PIPE LINE CO
8102215	04836	3505500000 108	STATE B-13 055-51240	BLOOMINGTON	9,5	WILLOW PIPE LINE CO
*8102214	04835	3505500000 108	STATE C-13 055-51667	BLOOMINGTON	0,4	WILLOW PIPE LINE CO
8102249	04839	3505500000 108	STATE 1-13 055-51073	BLOOMINGTON	2,5	WILLOW PIPE LINE CO
8102240	04830	3505500000 108	SUMRALL 1-22 055-52024	BLOOMINGTON	0,6	WILLOW PIPE LINE CO
8102243	04833	3505500000 108	TAPP 1-14 055-51074	BLOOMINGTON	0,9	WILLOW PIPE LINE CO
*PHILLIPS PETROLEUM COMPANY			RECEIVED: 10/20/80 JA: OK			
8102212	05742	3501721054 103	BUTCHER A #1	YUKON	0,0	PANHANDLE EASTERN PI
*RAMEY OIL CORP			RECEIVED: 10/20/80 JA: OK			
8102222	05844	3503721741 108	LONG LEASE PROJECT #1	MOUNDS	3,9	PHILLIPS PETROLEUM C
*READING & BATES PETROLEUM CO			RECEIVED: 10/20/80 JA: OK			
8102237	05349	3509300000 108	LONG #2	NORTHWEST RINGWOOD	2,2	OKLAHOMA NATURAL GAS
8102226	05350	3509300000 108	MITCHEL #1	NORTHWEST RINGWOOD FIELD	4,8	OKLAHOMA NATURAL GAS
8102178	05747	3501900000 108	NOBLE B LEASE - WELL #5	CADDO	7,6	UNION OIL CO OF CALI
8102236	05338	3509300000 108	OAKLEY	NORTHWEST RINGWOOD	2,4	OKLAHOMA NATURAL GAS
*RICKS EXPLORATION CO			RECEIVED: 10/20/80 JA: OK			
8102170	05589	3515321000 103	BROOKE 23A	NORTHEAST MOORELAND	120,0	PANHANDLE EASTERN PI
8102258	05356	3501520820 102	MILLS #1	N SICKLES	100,0	ARKANSAS LOUISIANA G
8102213	05753	3515120947 103	SHAYNE 26A	WEST ALINE	400,0	AMINOIL USA INC
8102216	05754	3515321075 103	TOMMY 31A	WEST SHARON	10,0	PHILLIPS PETROLEUM C
*SAMEDAN OIL CORPORATION			RECEIVED: 10/20/80 JA: OK			
8102225	05626	3501120971 103	BASE NO 1	NORTH GEARY	1400,0	DELMI GAS PIPELINE C
*SEARCH DRILLING CO			RECEIVED: 10/20/80 JA: OK			
8102224	05147	3500721634 102	BEARD #1	MOCANE LAVERNE	250,0	PANHANDLE EASTERN PI
*SERVICE DRILLING CO			RECEIVED: 10/20/80 JA: OK			

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VOLUME 309 PAGE 004

JD NO.	JD DATE	API #	SEC-TWN-RGE	FIELD NAME	PROD	PURCHASER	VOLUME
*8102172	10/20/80	05523	3506120303 102	WEST STIGLER		TENNESSEE GAS PIPELI	125.0
*BAR-ALAN OIL CO							
8102208	10/20/80	JAI OK	05435	3504721978 103	S DRUMMOND		ANNA M WULFE #1
*SOUTHERN UNION EXPLORATION COMPANY							RECEIVED: 10/20/80
8102200	10/20/80	JAI OK	05342	3513520081 102	WILDCAT		CATES #1(CECIL)
8102200	10/20/80	JAI OK	05322	3513520081 102	WILDCAT		CATES #1(ALMA)
*TENNECO OIL COMPANY							RECEIVED: 10/20/80
8102263	10/20/80	JAI OK	05249	3500721671 103	MOCANE-LAVERNE		CARLISLE 14-16 (CHE
8102262	10/20/80	JAI OK	05245	3500721690 103	MOCANE-LAVERNE		CARLISLE 16-22 (MU
8102238	10/20/80	JAI OK	04896	3509321585 102	BAGU SOUTH		MCCONNELL 2-19
*THE WILSHIRE OIL CORP							RECEIVED: 10/20/80
8102254	10/20/80	JAI OK	03004	3505320522 103	S W NAKITA		WHITZEL #1
*VIERSEN DRILLING CO							RECEIVED: 10/20/80
8102264	10/20/80	JAI OK	04940	3511100000 108			ACTON NO 1
*WESSELY ENERGY CORPORATION							RECEIVED: 10/20/80
8102226	10/20/80	JAI OK	05706	3504321042 103	N KEBO		30.0 PANHANDLE EASTERN PI
8102227	10/20/80	JAI OK	05704	3504921034 103	PUTNAM		50.0 PANHANDLE EASTERN PI
*WILLIAM M DAVIS							
8102188	10/20/80	JAI OK	05779	3506321245 103	N RUSSELL		15.0 EASON OIL CO
*WOODS PETROLEUM CORPORATION							RECEIVED: 10/20/80
8102177	10/20/80	JAI OK	05771	3503920274 103	INDIANAPOLIS		511.0 NATURAL GAS PIPELINE
** U.S. GEOLOGICAL SURVEY - CASPER,WY							
*BRUNNLIE WALLACE ARMSTRONG & BANDER							RECEIVED: 10/14/80
8102160	10/14/80	JAI ND 5	NO-56-0	3305300918 102	MONDAK		FEDERAL #23-12
8102159	10/14/80	JAI ND 5	NO59-0	3305300834 102	MONDAK		FEDERAL #23-43
8102161	10/14/80	JAI ND 5	N057-0	3305300832 102	MONDAK		FEDERAL #24-33
8102162	10/14/80	JAI ND 5	NO-56-0	3305300917 102	MONDAK		FEDERAL 14-44X
*PETROLEUM INC							RECEIVED: 10/14/80
8102163	10/14/80	JAI NY 5	W55-0	4900921537 103	MIKES DRAW (TEAPOT)		CITIES FEDERAL #1

UTHER PURCHASERS	VOLUME NO 1509
8102172 COLUMBIA GAS TRANS-ISSION CORP	
8102214 ARKANSAS LOUISIANA GAS CO	
8102214 CONTINENTAL GAS COMPANY	
8102223 ARKANSAS LOUISIANA GAS CO	

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 21, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34647 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

UMI 008 60N 7-12-15 4V

JD NO.	DATE	API NO.	SEC T RGE	WELL NAME	FIELD NAME	PROD	PURCHASER
********** NEW MEXICO DEPARTMENT OF ENERGY & MINERALS **********							
*SOUTHLAND ROYALTY CO				RECEIVED: 10/20/80 JAS NM			
8102292	NM=0965=80	3004583970	108	MANE #9	AZTEC	7,6	SOUTHERN UNION GATHE
********** OKLAHOMA CORPORATION COMMISSION **********							
*ARCO OIL AND GAS COMPANY				RECEIVED: 10/22/80 JAS OK			
8102366	05262	3500721952	102	J W MAXEY #1	SOUTH DOUGLAS	19,0	ARCO
*CLASSEN OIL AND GAS COMPANY				RECEIVED: 10/22/80 JAS OK			
8102365	05781	3508321230	103	ROSE EMMENICH = 083=59566	SOONER TREND	102,3	CONOCO INC
*ELDER & VAUGHN				RECEIVED: 10/22/80 JAS OK			
8102368	05821	3505920816	103	STINSON=STATE #1	MUCANE = LAVERNE	180,0	NORTHERN NATURAL GAS
*GULFSTREAM PETROLEUM CORP				RECEIVED: 10/22/80 JAS OK			
8102369	05848	3512120595	103	DUMAN NO 1	UNALLOCATED POOL	365,0	ARKANSAS LOUISIANA G
*NORTHERN NATURAL GAS CO				RECEIVED: 10/22/80 JAS OK			
8102367	05492	3500721662	102	CHESTER	EAST LORENA	120,0	NORTHERN NATURAL GAS
8102364	05721	3500721333	102	PETERS #1=11	EAST LORENA	185,0	NORTHERN NATURAL GAS
8102359	05720	3500721027	102	WINDSUN NO 1=3	EAST LORENA	330,0	NORTHERN NATURAL GAS
*NORTHWESTERN PRODUCTION INC				RECEIVED: 10/22/80 JAS OK			
8102360	05724	3507322247	103	SHIRLEY 32 NO 1	SOONER TREND	0,0	PHILLIPS PETROLEUM C
*RICKS EXPLORATION CO				RECEIVED: 10/22/80 JAS OK			
8102357	05591	3515321000	102	D BROOKE 23A	NORTHEAST MOORELAND	120,0	PANHANDLE EASTERN PI
8102358	05594	3501721356	102	FAY ABBOTT #1	WATONGA TREND	290,0	MICHIGAN WISCONSIN P
*THE GHK COMPANY				RECEIVED: 10/22/80 JAS OK			
8102363	08761	3512920477	107	#1=12 JACKSON	ELK CITY	73,0	
*W C PAYNE				RECEIVED: 10/22/80 JAS OK			
8102361	05732	3507322322	103	STHEIT #2	SOONER TREND	35,0	CONOCO INC
*WAINOCO OIL & GAS COMPANY				RECEIVED: 10/22/80 JAS OK			
8102362	08461	3505120716	107	DAVIS NO 1=18	WILDCAT	1800,0	EL PASO NATURAL GAS
********** PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES **********							
*ARROWHEAD GAS PRODUCERS INC				RECEIVED: 10/23/80 JAS PA			
8102424	5802	3712328252	102	JOHNSON #1	SUGAR GROVE	60,0	COLUMBIA GAS TRANSMI
*ATLAS RESOURCES INC				RECEIVED: 10/23/80 JAS PA			
8102412	5790	3706325581	103	KANOM 1=46 A = #0917	GRANT	19,0	COLUMBIA GAS TRANSMI
*BETA 79=3 T JOINT VENTURE				RECEIVED: 10/23/80 JAS PA			
8102425	5803	3706521975	103	BLOSE #1	HENDERSON	25,0	NATIONAL FUEL GAS SU
*KEYSTONE ENERGY RESOURCES				RECEIVED: 10/23/80 JAS PA			
8102371	5695	3706325333	103	CUDDY #1	DAVID L & RUTH CUDDY	73,0	T W PHILLIPS GAS & O
8102372	5694	3706325337	103	CUDDY #2	DAVID L & RUTH CUDDY	75,0	T W PHILLIPS GAS & O

JD NO.	DATE	API NO.	SEC T RGE	WELL NAME	FIELD NAME	PROD	PURCHASER
8102382	5704	3703920677	102	SCOTT J PRESTON NO 3 (W=61)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102379	5701	3703920706	102	WAYNE V PARKER NO 1 (W=64)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102387	5709	3703920678	102	WILLIS D & NANCY A TROYER #1 (W=56)	ATHENS	40,0	COLUMBIA GAS TRANSMI
** U,S, GEOLOGICAL SURVEY = ALBUQUERQUE,NM **********							
*AMOCO PRODUCTION CO				RECEIVED: 10/20/80 JAS NM 4			
8102269	NM=1013=80	3002526438	103	ANDRIKOPOULOS FEDERAL #1	WILDCAT MORROW	329,5	EL PASO NATURAL GAS
8102277	NM=1012=80A	3002526598	103	SOUTH MATTIX UNIT FED #39	FOWLER /DRINKARD/	78,5	EL PASO NATURAL GAS
*ARCO OIL AND GAS COMPANY				RECEIVED: 10/20/80 JAS NM 4			
8102330	NM=0811=80	3004524122	103	KRAUSE NM FEDERAL #2E	BASIN DAKOTA	91,0	NORTHWEST PIPELINE C
8102318	NM0840=80	3004524119	103	SCHLOSSER NM FEDERAL 8E	BASIN DAKOTA	165,0	NORTHWEST PIPELINE C
*BOLIN OIL COMPANY				RECEIVED: 10/20/80 JAS NM 4			
8102347	NM=5046=79B	3003921667	103	CANDADU #21 (BLANCO MV)	OTERO CHACRA BLANCO MV	360,0	EL PASO NATURAL GAS
8102337	NM=5046=79A	3003921667	103	CANDADU #21 (OTERO CHACRA)	OTERO CHACRA BLANCO MV	583,0	EL PASO NATURAL GAS
8102343	NM=5047=79B	3003921668	103	CANDADU #21A (BLANCO MV)	OTERO CHACRO BLANCO MV	334,0	EL PASO NATURAL GAS
8102344	NM=5047=79A	3003921668	103	CANDADU #21A (OTERO CHACRA)	OTERO CHACRA BLANCO MV	136,0	EL PASO NATURAL GAS
8102345	NM=5048=79B	3003921739	103	CANDADU #22 (BLANCO MV)	SOUTH BLANCO PICTURED CL	321,0	EL PASO NATURAL GAS
8102346	NM=5048=79A	3003921739	103	CANDADU #22 (OTERO CHACRA)	OTERO CHACRA BLANCO MV	988,0	EL PASO NATURAL GAS
8102353	NM=5049=79B	3003921738	103	CANDADU #22A (BLANCO MV)	OTERO CHACRA BLANCO MV	311,0	EL PASO NATURAL GAS
8102342	NM=5049=79A	3003921738	103	CANDADU #22A (OTERO CHACRA)	OTERO CHACRA BLANCO MV	858,0	EL PASO NATURAL GAS
8102350	NM=5050=79B	3003922131	103	CANDADU #23 (BLANCO MV)	BLANCO MV	0,0	EL PASO NATURAL GAS
8102351	NM 5050=79=A	3003922131	103	CANDADU #23 (OTERO CHACRA)	OTERO CHACRA BLANCO MV	0,0	EL PASO NATURAL GAS
8102348	NM=5053=79B	3003922132	103	CANDADU #24A (BLANCO MV)	OTERO CHACRA BLANCO MV	0,0	EL PASO NATURAL GAS
8102349	NM=5053=79A	3003922132	103	CANDADU #24A (OTERO CHACRA)	OTERO CHACRA BLANCO MV	0,0	EL PASO NATURAL GAS
*CONOCO INC				RECEIVED: 10/20/80 JAS NM 4			
8102352	NM=5202=79	3003921347	108	AXI APACHE D NU 4	AXI APACHE AREA	16,0	SOUTHERN UNION GATHE
8102341	NM=0100=79SA	3003920179	108	AXI APACHE J #14	AXI APACHE AREA	18,4	GAS CO OF NEW MEXICO
8102340	NM0101=79=SA	3004120178	108	AXI APACHE J #15	AXI APACHE AREA	15,3	GAS CO OF NEW MEXICO
8102336	NM=0105=79SA	3003900000	108	AXI APACHE J #2	AXI APACHE AREA	12,0	GAS CO OF NEW MEXICO
8102339	NM=104=79=SA	3003900000	108	AXI APACHE J #3	AXI APACHE AREA	12,7	GAS CO OF NEW MEXICO
8102356	NM=5203=79	3003920665	108	AXI APACHE D NU 3	AXI APACHE AREA	21,9	GAS CO OF NEW MEXICO
8102355	NM=5259=79	3002526246	108	WARREN UNIT NU 58	NMFU = BLINEBRY OIL & GA	4,2	GETTY OIL CO
*CONSOLIDATED OIL & GAS INC				RECEIVED: 10/20/80 JAS NM 4			
8102333	NM=0214=80	3003921608	108	TRIBAL C 7=R	TAPACITO=PICTURED CLIFFS	4,0	NORTHWEST PIPELINE C
*DAVE M THOMAS JR				RECEIVED: 10/20/80 JAS NM 4			
8102314	NM=0886=80	3003922319	103	AMERADA JICARILLA #1	CHACON JICARILLA	26,5	EL PASO NATURAL GAS
*EL PASO NATURAL GAS COMPANY				RECEIVED: 10/20/80 JAS NM 4			
8102268	NM=1016=80	3003920756	108	CANYON LARGO UNIT #203	BLANCO SOUTH=PICTURED CL	19,8	EL PASO NATURAL GAS
8102267	NM=1017=80	3004506724	108	DAY B #5	BLANCO = MESAVERDE	21,1	EL PASO NATURAL GAS
8102317	NM=0890=80	3004523556	103	FILAN #3Y	BLANCO SOUTH PICTURED CL	80,0	EL PASO NATURAL GAS
*8102287	NM=1022=80	3004520308	108	HUERFANO UNIT #181	BASIN=DAKOTA	18,0	EL PASO NATURAL GAS
8102335	NM=0036=80	3003921718	108	RINCON UNIT #81A	BLANCO=MESAVERDE GAS	4,0	EL PASO NATURAL GAS
8102296	NM=0973=80=B	3003920833	103	SAN JUAN 27=4 UNIT #102 (DAKOTA)	BASIN DAKOTA	90,0	EL PASO NATURAL GAS
8102288	NM=0973=80=A	3003920833	103	SAN JUAN 27=4 UNIT #102 (MV)	BLANCO MESAVERDE	150,0	EL PASO NATURAL GAS
8102334	NM=0106=80	3003920484	108	SAN JUAN 27=4 UNIT #60	BASIN=DAKOTA GAS	18,0	EL PASO NATURAL GAS
8102336	NM=0537=80	3003900000	108	SAN JUAN 28=5 UNIT #18	BLANCO=MESAVERDE GAS	21,0	EL PASO NATURAL GAS
8102286	NM=1024=80	3003907368	108	SAN JUAN 28=5 UNIT #37	BLANCO=MESAVERDE	18,0	EL PASO NATURAL GAS
8102305	NM=0957=80	3003922235	103	SAN JUAN 28=6 UNIT #46A	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8102332	NM=389=80	3003907488	108	SAN JUAN 29=4 UNIT #2	CHOZA MESA=PICTURED CLIF	21,5	EL PASO NATURAL GAS
8102289	NM=0972=80	3003921937	103	SAN JUAN 30=6 UNIT #45A	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8102354	NM=0007=80	3004506948	108	STUREY #2	BLANCO=MESAVERDE GAS	21,0	EL PASO NATURAL GAS

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JD NO.	JA DAT	API	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*ELLIOTT OIL CO				RECEIVED: 10/20/80 JA: NM 4			
8102329	NM=0813=80	3004523867	103	MAGOOO 1=E	BASIN DAKOTA	100,0	EL PASO NATURAL GAS
*ENERGY RESERVES GROUP INC				RECEIVED: 10/20/80 JA: NM 4			
8102325	NM=0996=80	3004523781	103	E M PIPKIN #10=E	BASIN DAKOTA	216,0	SOUTHERN UNION GATHE
8102324	NM=0997=80	3004523783	103	E M PIPKIN #12=E	BASIN DAKOTA	126,0	SOUTHERN UNION GATHE
8102327	NM=0994=80	3004523782	103	E M PIPKIN #8=E	BASIN DAKOTA	23,4	SOUTHERN UNION GATHE
8102326	NM=0995=80	3004523784	103	E M PIPKIN #9=E	BASIN DAKOTA	61,0	SOUTHERN UNION GATHE
8102328	NM=0993=80	3004522097	103	JICARILLA 35 #13	BASIN DAKOTA	45,0	NORTHWEST PIPELINE C
8102270	NM=0992=80	3003922096	103	JICARILLA 35 #8	BASIN DAKOTA	58,0	NORTHWEST PIPELINE C
8102323	NM=0998=80	3004524165	103	U M WANDEL #1=E	BASIN DAKOTA	54,0	EL PASO NATURAL GAS
8102322	NM=0999=80	3004525985	103	U M WANDEL #2=E	BASIN DAKOTA	61,0	EL PASO NATURAL GAS
8102321	NM=1000=80	3004523798	103	U M WANDEL #6	BASIN DAKOTA	117,0	EL PASO NATURAL GAS
*GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED: 10/20/80 JA: NM 4			
8102300	NM=0926=80	3001522571	103	DEXTER E NO 3	GRAYBURG JACKSON	95,8	PHILLIPS PETROLEUM C
8102290	NM=0971=80	3001522977	103	ONEILL NO 1	WEST HENSHAW	37,0	CONOCO INC
*GEORGE E COLEMAN				RECEIVED: 10/20/80 JA: NM 4			
8102313	NM=0888=80	3004523666	103	DRY CREEK #3	BISTI GALLUP	100,0	EL PASO NATURAL GAS
8102312	NM=0889=80	3004523667	103	DRY CREEK #4	BISTI GALLUP	100,0	EL PASO NATURAL GAS
*GETTY OIL COMPANY				RECEIVED: 10/20/80 JA: NM 4			
8102274	NM=0985=80	3004510897	103	MEXICO FEDERAL M #1A	BLANCO MESAVERDE	100,0	EL PASO NATURAL GAS
*HILLIN PRODUCTION CO				RECEIVED: 10/20/80 JA: NM 4			
8102331	NM=0718=80	3001570324	103	DWU #4	WINCHESTER = MORROW	182,5	EL PASO NATURAL GAS
*J GREGORY MERRION & ROBT L BAYLESS				RECEIVED: 10/20/80 JA: NM 4			
8102304	NM=0954=80	3003922317	103	FEDERAL A 3=E	BASIN DAKOTA	150,0	EL PASO NATURAL GAS
*JEROME P MCHUGH				RECEIVED: 10/20/80 JA: NM 4			
8102273	NM=0989=80	3004522156	103	CHACO PLANT #28	SOUTH GALLEGOS FRUITLAND	25,0	EL PASO NATURAL GAS
8102272	NM=0990=80	3004524186	103	PINON #1E	BASIN DAKOTA	257,0	EL PASO NATURAL GAS
*MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED: 10/20/80 JA: NM 4			
8102295	NM=0978=80	3003906967	108	JICARILLA F WELL NO 7	BLANCO MESA VERDE	17,5	NORTHWEST PIPE LINE
*NORTHWEST PIPELINE CORPORATION				RECEIVED: 10/20/80 JA: NM 4			
8102278	NM=1010=80	3003922159	103	SAN JUAN 30=5 #38	BASIN DAKOTA	194,0	NORTHWEST PIPELINE C
8102280	NM=1008=80	3003922110	103	SAN JUAN 31=6 #31	BASIN DAKOTA	48,0	NORTHWEST PIPELINE C
8102294	NM=1003=80	3003922108	103	SAN JUAN 31=6 #33DK	BASIN DAKOTA	48,0	NORTHWEST PIPELINE C
8102279	NM=1009=80	3003922109	103	SAN JUAN 31=6 #35	BASIN DAKOTA	256,0	NORTHWEST PIPELINE C
8102320	NM=1001=80	3004523621	103	SAN JUAN 32=7 #51	SOUTH LOS PINOS FRUITLAN	84,0	NORTHWEST PIPELINE C
8102282	NM=1006=80	3004523164	103	SAN JUAN 32=7 #53	SOUTH LOS PINOS FRUITLAN	135,0	NORTHWEST PIPELINE C
8102283	NM=1005=80	3004523614	103	SAN JUAN 32=7 #54	SOUTH LOS PINOS FRUITLAN	135,0	NORTHWEST PIPELINE C
8102319	NM=1002=80	3004523686	103	SAN JUAN 32=7 #56	BASIN DAKOTA	48,0	EL PASO NATURAL GAS
8102284	NM=1004=80	3004523687	103	SAN JUAN 32=7 #57	BASIN DAKOTA	48,0	EL PASO NATURAL GAS
8102281	NM=1007=80	3004523688	103	SAN JUAN 32=7 #60	BASIN DAKOTA	48,0	EL PASO NATURAL GAS
*PETROLEUM DEVELOPMENT CORP				RECEIVED: 10/20/80 JA: NM 4			
8102316	NM=0919=80	3001522915	103	ARROYO FEDERAL #2	WEST INDIAN BASIN MORROW	130,0	EL PASO NATURAL GAS
*SOUTHLAND ROYALTY CO				RECEIVED: 10/20/80 JA: NM 4			
8102302	NM=0961=80	3003905699	108	ARIZONA JICARILLA #6	SOUTH BLANCO	14,0	GAS COMPANY OF NEW M
8102299	NM=0962=80	3004507728	108	CAIN #17	AZTEC	17,9	SOUTHERN UNION GATHE
8102298	NM=0963=80	3004521347	108	CAIN #20	AZTEC	16,0	SOUTHERN UNION GATHE
8102285	NM=0982=80	3004507492	108	CAIN #6	AZTEC	18,0	SOUTHERN UNION GATHE
8102276	NM=0983=80	3004520524	108	COOPER #7	FULCHER KUTZ	18,0	SOUTHERN UNION GATHE
8102297	NM=0964=80	3004508787	108	HAWE #1	AZTEC	19,0	EL PASO NATURAL GAS
8102301	NM=0966=80	3004507431	108	MCCLANAHAN #11	AZTEC	20,0	SOUTHERN UNION GATHE
8102307	NM 941=80H	3004524107	103	MCCLANAHAN #19E (MV)	BLANCO	80,0	SOUTHERN UNION GATHE
8102300	NM=0967=80	3004507363	108	NEWMAN A #7	FULCHER KUTZ	16,0	SOUTHERN UNION GATHE
8102293	NM=0968=80	3004521502	108	PAGE #2=Y	BLANCO	11,0	SOUTHERN UNION GATHE

JD NO.	JA DAT	API	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8102373	5695	3706325178	103	DILTS=TRAUGER #1	DILTS = TRAUGER	61,5	T M PHILLIPS GAS & O
8102374	5696	3706325179	103	DILTS=TRAUGER #2	DILTS=TRAUGER	50,1	T M PHILLIPS GAS & O
8102375	5697	3706325364	103	GRICH #1	ANDY GRICH	48,3	
8102414	5792	3716325076	103	PIVIDORI #1	JOHN PIVIDORI	57,9	T M PHILLIPS GAS & O
8102415	5793	3716325229	103	RIGGLE #2	ARTHUR RIGGLE	63,8	INDUSTRIAL ENERGY SE
8102413	5791	3716324627	103	SIMPSON #1	EARL SIMPSON	123,0	T M PHILLIPS GAS & O
*KEYSTONE GAS CO				RECEIVED: 10/23/80 JA: PA			
8102411	5735	3712500000	108	CHARLEMOI SUPPLY COMPANY	CHARTIERS	18,4	COLUMBIA GAS TRANSMI
8102404	5726	3712500000	108	COUCH	MT PLEASANT	1,1	COLUMBIA GAS TRANSMI
8102403	5725	3712500000	108	FARRAH	MICKERY	0,3	COLUMBIA GAS TRANSMI
8102391	5713	3712500000	108	FAUSET (1)	CHARTIERS	1,5	COLUMBIA GAS TRANSMI
8102392	5714	3712500000	108	FAUSET (2)	CHARTIERS	1,8	COLUMBIA GAS TRANSMI
8102393	5715	3712500000	108	FAUSET (3)	CHARTIERS	3,0	COLUMBIA GAS TRANSMI
8102400	5722	3712500000	108	FULTON	MT PLEASANT	0,4	COLUMBIA GAS TRANSMI
8102407	5729	3712500000	108	HARBISON (1)	MT PLEASANT	0,8	COLUMBIA GAS TRANSMI
8102401	5723	3712500000	108	HARBISON (2)	MT PLEASANT	2,4	COLUMBIA GAS TRANSMI
8102408	5730	3712500000	108	HERMAN	MT PLEASANT	1,0	COLUMBIA GAS TRANSMI
8102402	5724	3712500000	108	MCCALMONT	MT PLEASANT	3,0	COLUMBIA GAS TRANSMI
8102410	5732	3712500000	108	MCVAY	CHARTIERS	0,3	COLUMBIA GAS TRANSMI
8102394	5716	3712500000	108	PAXTON (4)	CHARTIERS	1,7	COLUMBIA GAS TRANSMI
8102405	5727	3712500000	108	TUWARD	MT PLEASANT	0,8	COLUMBIA GAS TRANSMI
8102409	5731	3712500000	108	WELSH	CHARTIERS	6,2	COLUMBIA GAS TRANSMI
8102389	5711	3712500000	108	WOODS	CHARTIERS	0,9	COLUMBIA GAS TRANSMI
8102395	5717	3712500000	108	WYLIE (1)	CHARTIERS	0,3	COLUMBIA GAS TRANSMI
8102396	5718	3712500000	108	WYLIE (2)	CHARTIERS	0,7	COLUMBIA GAS TRANSMI
8102397	5719	3712500000	108	WYLIE (3)	CHARTIERS	0,3	COLUMBIA GAS TRANSMI
8102398	5720	3712500000	108	WYLIE (4)	CHARTIERS	0,4	COLUMBIA GAS TRANSMI
8102399	5721	3712500000	108	WYLIE (5)	CHARTIERS	0,9	COLUMBIA GAS TRANSMI
8102406	5728	3712500000	108	WYLIE (6)	MT PLEASANT	0,5	COLUMBIA GAS TRANSMI
*MERIDIAN OIL & GAS ENT INC				RECEIVED: 10/23/80 JA: PA			
8102370	3614	3703940512	108	HELEN WEBB WELL #4	SUMMERHILL	4,5	NATIONAL FUEL GAS DI
8102390	5712	3703920425	108	LLOYD M BEAN WELL #1	SPRING	9,0	NATIONAL FUEL GAS DI
*S G THOMPSON AND S T JOINT VENTURE				RECEIVED: 10/23/80 JA: PA			
8102416	5794	3706521544	108	T=1	KNOX	10,0	COLUMBIA GAS TRANSMI
8102417	5795	3706521570	108	T=2	KNOX	10,0	COLUMBIA GAS TRANSMI
8102418	5796	3706521571	108	T=3	KNOX	10,0	COLUMBIA GAS TRANSMI
8102419	5797	3706521572	108	T=4	KNOX	10,0	COLUMBIA GAS TRANSMI
8102420	5798	3706521588	108	T=5	WINSLOW	17,0	COLUMBIA GAS TRANSMI
8102421	5799	3706521573	108	T=6	WINSLOW	17,0	COLUMBIA GAS TRANSMI
8102422	5800	3706521589	108	T=7	WINSLOW	17,0	COLUMBIA GAS TRANSMI
8102423	5801	3706521590	108	T=8	WINSLOW	17,0	COLUMBIA GAS TRANSMI
*WAINOCO OIL & GAS COMPANY				RECEIVED: 10/23/80 JA: PA			
8102383	5705	3703920676	102	CLINTON VANCISE NO 1 (M=60)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102384	5706	3703920681	102	D E CRUM NO 1 (M=59)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102378	5700	3703920703	102	ELEANOR ST JOHN NO 1 (M=65)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102388	5710	3703920687	102	ELMER G SNOW NO 1 (M=52)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102386	5708	3703920679	102	JOSEPH & ARLENE AVERSA NO 1 (M=57)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102376	5698	3703920682	103	MANDALL M MARKLESS NO 1 (M=62)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102381	5703	3703920682	102	MANDALL M MARKLESS NO 1 (M=62)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102377	5699	3703920705	102	ROBERT T WALKER NO 1 (M=66)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102385	5707	3703920680	102	ROBERT M FULTZ NO 1 (M=58)	ATHENS	40,0	COLUMBIA GAS TRANSMI
8102380	5702	3703920686	102	SCOTT J PRESTON NO 2 (M=63)	ATHENS	40,0	COLUMBIA GAS TRANSMI

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JD NO	API NO	SEC-TWP-RGE	WELL NAME	FIELD NAME	PROD	PURCHASER
******	******	*******	**********	**********	****	*********
0102275	NM-0990-80	3004520090	108	RUBINSON #12		2.5 SOUTHERN UNION GATHE
0102271	NM-0991-80	3004507266	108	RUBINSON #2		15.0 EL PASO NATURAL GAS
0102291	NM-0966-80	3004511742	108	THOMPSON #12		15.7 SOUTHERN UNION GATHE
*THE SUPERIOR OIL COMPANY				RECEIVED: 10/20/80 JAI		
0102315	NM-0920-80	3002500000	105	BUNDURANT FEDERAL NU 1		0.0
*YATES PETROLEUM CORPORATION				RECEIVED: 10/20/80 JAI		
0102309	NM-0923-80D	3001523210	103	FEDERAL EF NU 2 (ATOKA		0.0
0102310	NM-0923-80A	3001523210	103	FEDERAL EF NU 2 (PENNO		0.0
0102306	NM-0952-80	3000560682	102	HAHN NM FEDERAL NU 1		0.0 TRANSWESTERN PIPELIN
0102305	NM-0953-80	3000522903	103	NU CROOKED CREEK KG FE		0.0 EL PASO NATURAL GAS
0102311	NM 0921-80	3001522061	102	SPEARMAN KG		0.0 TRANSWESTERN PIPELIN

UTHER PURCHASERS VOLUME NO 8310

0102241 NORTHWEST PIPELINE CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 21, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-34648 Filed 11-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. G-7004-005, *et al.*]

Natural Gas Companies; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

October 31, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more full described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
G-7004-005, D, Oct. 17, 1980	Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	Consolidated Gas Supply Corporation, Meade District, Tyler County, West Virginia, and Union District, Pleasants County, West Virginia.	Seller leased to Carl E. Smith, Inc., certain interests as more fully set out in the lease agreement dated 3-21-79.	
CI62-1506, D, Sept. 20, 1980	Conoco Inc., P.O. Box 2197, Houston, Texas 77001.	Arkansas Louisiana Gas Company, East Haynsville Field, Clairborne Parish, Louisiana.	(1)	
CI66-814, A, Feb. 28, 1966	C. B. Schwartz, P.O. Box 5, Medford, Oklahoma	Mississippi River Transmission Corporation, Hico Field, Lincoln Parish, Louisiana.	(2)	15.025
CI77-145-001, C, Oct. 16, 1980	Freeport Oil Company (Succ. to Freeport Minerals Company), P.O. Box 61922, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corporation, OCS G-3119 Well No. 1, located in Vermilion Block 21, Offshore Louisiana.	(3)	15.025
CI77-148-001, C, Oct. 16, 1980	do	Florida Gas Transmission Company, OCS G-3119 Well No. 1 located in Vermilion Block 21, Offshore Louisiana.	(4)	15.025
CI81-15-000, D, Oct. 7, 1980	Michel T. Halbouty (Operator *et al.*, The Halbouty Center, 5100 Westheimer Road, Houston, Texas 77056.	United Gas Pipeline Company, Foster Lumber Co. "B" Gas Unit (only), Fostona Field, Montgomery County, Texas.	Depleted	
CI81-16-000, A, Oct. 10, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Ca. 90051.	United Gas Pipe Line Company, Block A-443, High Island Area, Offshore Texas.	(5)	14.65
CI81-17-000, A, Oct. 14, 1980	Texas Inc., P.O. Box 60252, New Orleans, La. 70160.	Natural Gas Pipeline Company of America, Eugene Island Block 294 Field, Offshore Louisiana.	(6)	15.025
CI81-18-000, B, Oct. 15, 1980	H & L Operating Company, P.O. Box 7401, Amarillo, Texas 79109.	Colorado Interstate Gas Company, No. 1 Mingenback, Sec. 33-T6N-R9ECM, Keyes Field, Cimarron County, Oklahoma.	Well watered out	
CI81-19-000, A, Oct. 16, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Transwestern Pipeline Company, Empire Abo Unit Tracts 59, 68 and 97, located in Sec. 2-T18S-R27E, Eddy County, New Mexico.	(7)	14.65
CI81-20-000, A, Oct. 17, 1980	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, West Cameron Block 65 Field, Offshore Louisiana.	(8)	15.025
CI81-21-000, A, Oct. 17, 1980	Florida Exploration Company, 1900 W. Loop South, Suite 1200, Houston, Texas 77027.	Florida Gas Transmission Company, West Cameron Block 65, Offshore Louisiana.	(9)	15.025
CI81-23-000 (CI77-349), B, Oct. 15, 1980.	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	United Gas Pipe Line Company, Burton's Creek Field, Covington County, Mississippi.	(10)	
CI81-24-000, A, Oct. 15, 1980	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Northwest Pipeline Corporation, Certain acreage in the Basin Dakota Field, Rio Arriba County, New Mexico.	(11)	14.65
CI81-25-000, A, Oct. 20, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Ca. 90051.	Michigan Wisconsin Pipe Line Company, Block A-341, High Island Area, Offshore Texas.	(5)	14.65

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
CI91-26-000, A, Oct. 20, 1980	Mobil Producing Texas & New Mexico Inc. (Succ. in interest to Mobil Oil Corporation), Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, High Island Block A-341 Field, East Addition, South Extension, Federal Offshore Texas.	([15])	14.73
CI81-27-000, A, Oct. 20, 1980	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Florida Gas Transmission Company, West Cameron Block 65 Field, Offshore Louisiana.	([6])	15.025
CI81-28-000, A, Oct. 22, 1980	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Ca. 94120.	Natural Gas Pipeline Company of America, High Island Blocks A-269 and A-270, Offshore Texas.	([6])	14.65

[1] Depletion of gas reserves. Well(s) plugged and abandoned and/or lease(s) reverted. Acreage assigned to Royce A. Scott (⅓) and Allegheny American Corporation (⅔), effective 9-30-77, for salvage purposes.
[3] Applicant is filing under Contract dated 12-18-50.
[5] Applicant is filing under Gas Sale and Purchase Contract dated 9-1-76, amended by Amendment dated 9-17-80.
[6] Applicant is filing under Gas Sale and Purchase Contract dated 9-15-76, amended by Amendment dated 7-1-80.
[8] Applicant is willing to accept a certificate at an initial rate of the maximum lawful price as prescribed in subsection 104(b) of the NGPA of 1978.
[9] Applicant is filing under Gas Purchase Contract dated 6-20-80.
[7] Applicant is filing under Gas Purchase Agreement dated 9-4-80.
[8] Applicant is willing to accept a Certificate establishing the initial rate as the maximum lawful rate authorized by the NGPA of 1978.
[9] Applicant is filing under Gas Sale and Purchase Contract dated 9-15-80.
[10] The lease covered by the basic contract, as amended, was surrendered in February, 1979 by non-payment of rentals since the well completed on the lease was plugged and abandoned on 6-1-78.
[11] Applicant is filing under Gas Purchase Contract dated 8-28-80.
[12] Applicant is willing to accept an initial rate determined in accordance with the NGPA of 1978, Part 271, Subpart B, Section 102(d) and Part 271, Subpart D, Section 104 (Post 1974 Gas).
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-34641 Filed 11-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP81-3-000]

Southwest Gas Corp.; Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Refund and Instituting Hearing

Issued October 31, 1980.

On October 6, 1980, Southwest Gas Corporation (Southwest) filed Tenth Revised Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1. The filing reflects a proposed annual increase in jurisdictional revenues of $1,247,525, which is a 2.7 percent increase above revenues at the presently effective rates. The increase compared to costs other than purchased gas is 48.9 percent. The proposed rates are based upon a cost of service for the twelve months ending July 31, 1980, as adjusted for known and measurable changes through April 30, 1981. Southwest has proposed a November 2, 1980 effective date, which would require waiver of Section 154.22 of the Commission's Regulations under the Natural Gas Act. Southwest has not however, submitted justification for its request, and waiver shall therefore be denied.

Southwest states that the proposed increase is required because of cost increases associated with a liquid petroleum gas facility near Reno, Nevada, in addition to increased costs of capital, labor, materials and supplies, and taxes. The company has requested an overall rate of return of 13.35 percent. Southwest also proposes a propane cost rate adjustment provision.

Based upon a review of this filing, the Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust and unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Southwest's filing, suspend the effectiveness of that filing and make it subject to the conditions set forth herein.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby * * * declared unlawful."[2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here. Accordingly, we believe we should exercise our discretion to suspend the rate for 5 months permitting the rate to take effect on April 6, 1981.

On October 24, 1979 in Docket No. CP79-286 a Stipulation and Agreement was filed which allowed Southwest to recover in this general rate filing the jurisdictional cost of service for proposed facilities on Southwest's Northern Nevada transmission system. That settlement agreement required Southwest to reflect such costs on a system-wide basis and allowed tracking of the cost of propane incurred in the operation of the proposed facilities. The tracking provision was permitted to continue until the time that rates became effective in this docket. In this filing, Southwest is proposing a tariff provision to allow Southwest to continue to track the cost of propane. Section 154.38(d)(3) of the Regulations does not permit such rate adjustment provision to be included in a pipeline's tariff. Accordingly, we shall require Southwest to file revised tariff sheets reflecting elimination of this provision from its tariff. However, this action is without prejudice to Southwest's right to present evidence in support of such a tariff provision for possible prospective application.

Waiver of Section 154.63(e)(6) of the Commission's Regulations has been requested by Southwest. That section of the regulations requires that the opinion of an independent public accountant to be filed with the proposed rate increase. Southwest states that the filing represents a small portion of the utility operations, and that the cost of such an independent opinion would be burdensome in light of the size of the proposed rate increase. The company has, however, included a statement from the principal accounting officer in accordance with Section 154.63(e)(5) of the Commission's Regulations, to the effect that the filing represents the cost statements and supporting data as reflected on the company's books. In light of the foregoing, the Commission shall grant waiver of Section 154.63(e)(6) of the Commission's Regulations.

Furthermore, we shall require Southwest to reflect in the revised tariff sheets to be filed: (a) the current cost of gas in the company's latest PGA rate filing, (b) the current cost of propane in the latest tracking filing and (c) the latest GRI Funding Unit.

The Commission Orders

(A) Tenth Revised Sheet No. 10 to the FERC Gas Tariff, Original Volume No. 1 of Southwest Gas Corporation shall be accepted for filing and the effectiveness thereof suspended for five months until April 6, 1981, when it may become effective subject to refund in the manner prescribed in the Natural Gas Act subject to the conditions enumerated below.

(B) Section 154.63(e)(6) of the Commission's Regulations shall be waived as requested by Southwest.

(C) Southwest shall file revised tariff sheets with the Commission reflecting both the current cost of propane and purchased gas as reflected in the company's most recent PGA filing, and the deletion of language which would permit Southwest to track in its rates changes in the cost of propane. This deletion is without prejudice to the company's right to present evidence in support of such a tracking provision in this proceeding for possible prospective application. Such revised tariff sheets shall be filed on or before April 6, 1981. Southwest shall be required to file revised tariff sheets reflecting the most recent GRI Funding Unit.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before February 2, 1981.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 as he deems appropriate. The Presiding Administrative Law Judge is authorized to establish such procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34642 Filed 11-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-283]

Texas Eastern Transmission Corp.; Petition To Amend

October 31, 1980.

Take notice that on October 24, 1980, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-283 a petition to amend the Commission's order issued July 30, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Commission's Regulations so as to authorize an extension until May 31, 1981, of the transportation service presently being provided to Public Service Electric and Gas Company (Public Service), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that there is a currently effective transportation agreement with Public Service dated March 11, 1980, which provides for the transportation of natural gas purchased by Public Service from Equitable Gas Company (Equitable). It is stated that Equitable sells to Public Service up to 51,394 dekatherms equivalent of natural gas per day for electric generation. Petitioner states that the present authorization would terminate on October 31, 1980, in accordance with the agreement.

Petitioner requests an amendment to the July 31, 1980, order to authorize an extension of the transportation service through May 31, 1981. It is stated that Public Service and Equitable have extened their gas purchase agreement until May 31, 1981. By an agreement dated October 22, 1980, Petitioner states, it has agreed with Public Service to extend the transportation service to May 31, 1981. It is stated that the proposed extended service is necessary to reduce Public Service's reliance on imported oil for electrical generation.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34643 Filed 11-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-305-002]

Texas Eastern Transmission Corp.; Petition To Amend

October 31, 1980.

Take notice that on October 21, 1980, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-305-002 a petitioner to amend the order issued July 30, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the term of the transportation service provided for Long Island Lighting Company (Long Island), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is currently authorized to transport up to 50,000 dekatherms (dt) equivalent of natural gas per day for Long Island pursuant to the order issued July 30, 1980. The subject gas, it is asserted, is purchased from Equitable Gas Company for the purpose of electric generation. Such transportation is scheduled to terminate on October 31, 1980, it is said.

Petitioner proposes to extend the term of the transportation service provided for Long Island until May 31, 1981, pursuant to an agreement between the parties dated October 16, 1980.

Petitioner submits that this proposed extension of service to Long Island would reduce the utility's reliance on foreign oil for electric generation and asserts that such extension is in accordance with the Commission's Order 30-D issued August 15, 1980, in Docket No. RM79-34.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

[1] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, ——— F.2d ——— (D. C. Cir. May 30, 1980).
[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

V 45 / 217 NOV 6 80 UMI

Procdure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10).

All protests filed with the Commission will be considered by it in determining the approproate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34644 Filed 11-5-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[A-3-FRL 1659-4]

A. I. du Pont Institute; Approval of PSD Permit

Notice is hereby given that on September 18, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to A. I. du Pont Institute for approval to construct and operate three (3) 37.5 MBTU/hr. steam generators (boilers) at the Institute in Wilmington, Delaware.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the steam generators (boilers) subject to certain conditions, including:

1. Only two of the three boilers shall ever operate simultaneously.

2. Sulfur content of the residual fuel oil to be burned in the boilers shall not exceed .85% by weight. Emissions of sulfur dioxide shall not exceed .88 lbs./MBTU, 66.7 lbs./hr., and 291 tons per year.

3. The existing boilers which are being replaced shall be permanently shut down.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10),
Environmental Protection Agency—Region III,
6th & Walnut Streets,
Philadelphia, PA 19106.
Attention: Mr. Robert J. Blaszczak (215 597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator EPA—Region III.

[FR Doc. 80-34692 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3 FRL 1659-3]

Airco Speer Carbon-Graphite, Inc.; Approval of PSD Permit Modification

Notice is hereby given that on August 15, 1980, the Environmental Protection Agency issued a modification to the previously approved Prevention of Significant Deterioration (PSD) permit dated May 8, 1979 to Airco Speer Carbon-Graphite, Inc., St. Mary's, Pennsylvania for approval to construct and operate two additional carbottom kilns and various other modifications.

This permit modification has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the carbottom kilns and modifications subject to certain conditions, including:

1. Building No. stack No.	Source description	Emission Rate (lbs./hr.) (per stack)
800	Internal	16.3 particulate matter
Monitor	Resistance	30.51 sulfur dioxide (SO_2)
	Graphitizer	544.8 carbon monoxide (CO)
800 Graphitizer Stack	60.3 (SO_2)	
	Hoods	544.8 carbon monoxide (CO)
800–1	Coke screening	0.17 (PM)
800–2	Coke drying	0.10 (PM)
900–1	Carbottom kiln (2 kilns)	1.74 (PM)
		0.44 (SO_2)
		0.08 (CO)
900–1	Carbottom kiln (2 kilns)	1.74 (PM)
		0.44 (SO_2)
		0.08 (CO)

2. Carbottom Kilns (900–1 & 900–2):

A. The incinerator must maintain a minimum temperature of 2000° F, and a continuous recording of the incinerator's inlet and outlet gas temperatures must be taken and records retained for at least two years.

B. Incinerator failures of maintaining a 2000° F minimum temperature must be reported. The report shall be submitted monthly within 10 working days of the end of the month and shall include the date and time period of the failure, reason for the failure, and corrective action taken.

3. For the internal resistance graphitizer (800 monitor) and graphitizer hoods (800 stack) the following is required:

A. SO_2 emissions must also be limited through the use of metallurgical coke containing 2% or less sulfur. The analyses shall meet the requirements of ASTM.

B. The company shall install and operate a continusous SO_2 monitor in the stack (800 stack) and note the beginning and end of each hood cycle on the SO_2 recording chart. The monitor shall meet the conditions listed in 40 CFR Part 60, Appendix B, Performance Specification 2.

C. The company shall report every one hour average reading which exceeds 110 ppm of SO_2.

The continuous emission monitor shall perform within the limits specified in the performance specifications at all times.

There shall be no visible fugitive emissions discharged from the roof monitors.

4. Within the time limits specified in General Condition 4 of this permit, stack emission testing shall be conducted, at those times of maximum emissions generation, for the pollutants listed, on the following sources:

A. Coke Screening (800–1)—particulate matter

B. Coke Drying (800–2)—particulate matter

C. Graphitizer Hoods Stack (800 stack)—carbon monoxide and sulfur dioxide

This stack testing shall be done in accordance with approved EPA methods as described in 40 CFR Part 60, Appendix A.

Miscellaneous emission rates and conditions, not shown in this notice, are included in the permit. These conditions refer to facilities permitted previously and have not changed.

The PSD permit and modification are reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (8AH10),
Environmental Protection Agency—Region III,
6th & Walnut Streets,
Philadelphia, PA 19106.
Attention: Mr. Robert J. Blaszczak (215 597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34691 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-8]

Anheuser-Busch Inc.; Approval of PSD Permit

Notice is hereby given that on June 16, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Anheuser-Busch for approval to construct a standby steam boiler in Williamsburg, Virginia.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to Anheuser-Busch Company subject to certain conditions, including the following emission limitations:

1. The emissions from the new boiler shall be limited to 15.5 pounds per hour of particulates and 105.6 pounds per hour of sulfur dioxide.

2. The company shall limit the operation of its boilers to no more than four units at any time.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10),
Environmental Protection Agency—Region III,
6th & Walnut Streets,
Philadelphia, PA 19106.
Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administration, EPA—Region III.

[FR Doc. 80-34688 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-8]

Armco Steel Corp.; Approval of PSD Permit

Notice is hereby given that on December 12, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Armco Steel Corporation for approval to construct a 50 ton electric arc furnace in Baltimore, Maryland.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the electric arc furnace subject to certain conditions, including:

Emission Limitations: Emissions shall not exceed the following limits:

Baghouse emissions.

Particulate matter: 0.0052 gr/dscf (38 lb/day).

Fugitive Emissions shall not exceed the opacity limits set by 40 CFR Part 60.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10),
Environmental Protection Agency—Region III,
6th & Walnut Streets,
Philadelphia, PA 19106.
Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administration, EPA—Region III.

[FR Doc. 80-34675 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-4]

Arco Pipe Line Co.; Approval of PSD Permit

Notice is hereby given that on January 18, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Arco Pipe Line Company for approval to construct ten (10) petroleum storage tanks in Fort Mifflin, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the storage tanks subject to certain conditions, including:

1. *Emission Limitations:* Emissions shall not exceed the following limits:

Storage Tanks	Hydrocarbons, lb/hr
No. 1	0.27
Nos. 2, 13, 15	1.65
Nos. 4, 12	2.16
Nos. 9, 10	1.32
Nos. 11, 14	1.61

2. All tanks listed above shall be fixed roof tanks with internal floating covers with single seals.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10) Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106 Attention: Mr. Robert J. Blaszczak (215–597–8186).

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10),
Environmental Protection Agency—Region III,
6th & Walnut Streets,
Philadelphia, PA 19106.
Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administration, EPA—Region III.

[FR Doc. 80-34676 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[EN-6-FRL 1656-1]

Badische Corp.; Approval of PSD Permit

Notice is hereby given that on August 14, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–284, to Badische Corporation for approval to construct an acrylic acid plant at their chemical plant located at Freeport, Brazoria County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–TX–284 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency,
Region 6, Air Enforcement Branch,
1201 Elm Street, First International Building, Dallas, Texas 75270.
Office of City Secretary, City Hall, 128 East Fourth Street, Freeport, Texas 77540.

Dated: October 23, 1980.

Frances Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-34668 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-7]

City of Baltimore; Approval of PSD Permit

Notice is hereby given that on January 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the City of Baltimore for approval to construct a solid waste reduction center in Baltimore, Maryland.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21)

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regulations applicable to the solid waste reduction center subject to certain conditions, including:

Emission Limitations: Emissions shall not exceed the following limits:

Particulate Matter, 81.6 TPY 18.6 PPH and 0.03 Gr/SCFD.
Sulfur Dioxide, 154.0 TPY 35.1 PPH.
Carbon Monoxide, 127.0 TPY 30.0 PPH.
Hydrocarbons, 5.5 TPY 1.3 PPH.
Nitrogen Oxide, 11.4 TPY 2.6 PPH.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34679 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1659-3]

Delaware Solid Waste Authority; Approval of PSD Permit

Notice is hereby given that on March 14, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Delaware Solid Waste Authority for approval to construct a resource recovery facility at Pidgeon Point, Wilmington, Delaware.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the resource recovery facility subject to certain conditions, including:

1. Emissions shall not exceed those limits for the fifteen (15) facilities as contained in the permit.
2. Operating hours shall be limited to 10 hours per day and 5 days per week.
3. Those sources combusting fuels shall use fuel not exceeding 0.3% sulfur by weight.
4. Control equipment pressure drops shall be monitored and recorded.
5. Emissions shall not exceed 5 percent (%) opacity as measured by EPA Method 9, 40 CFR, Part 60, Appendix A.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34683 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-180512; PH-FRL 1660-3]

Georgia; Crisis Exemption for Chlorpyrifos on Peanuts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Georgia Department of Agriculture (hereafter referred to as "Georgia") has availed itself of a crisis exemption for the use of chlorpyrifos on approximately 105,000 acres of peanuts in Georgia for control of the fall armyworm, the granulate cutworm, and other foliage-feeding insects including mites. Since the program is expected to continue for more than 15 days, Georgia has submitted a request for a specific exemption for continuation of this use.

DATE: Georgia anticipates that the program will be needed until October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: Georgia reported to EPA that it had initiated a crisis exemption on September 4, 1980, for the use of Lorsban 4E, EPA Reg. No. 464–448, which contains the active ingredient ((a.i.) chlorpyrifos, for use on peanuts. According to Georgia, the fall armyworm, the granulate cutworm, and other foliage-feeding insects, including mites, have caused increasing serious damage to peanuts in Georgia over the last several years. Georgia reports that due to extended dry weather, extremely heavy infestations are now present and if not controlled, will cause extensive loss of foliage. Georgia states that foliage loss at this critical stage would result in severe reduction in yield and poor quality.

Georgia reports that methomyl, which has been the pesticide of choice, and Azodrin, the product recommended by the Georgia Cooperative Extension Service, are not giving adequate control. Georgia states that the registered products are also in very short supply in some areas, and that there are no other cultural practices currently available to control these pests. Georgia estimates that losses, without the use of Lorsban 4E, could reach more than $70 million.

Application of Lorsban 4E is being made at a rate of 0.5–1.0 pound active ingredient per acre either aerially or by ground equipment. A maximum of 2 applications are to be made at a 6- to 10-day interval. A 14-day pre-harvest interval has been imposed. Livestock are not to be grazed in treated areas and treated peanut hay or forage may not be fed to meat or dairy animals. Georgia has submitted a request for a specific exemption for a continuation of this program.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34685 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-32-M

[A-3-FRL 1657-2]

Coal Industry Services Co., Inc.; Approval of PSD Permit

Notice is hereby given that on December 6, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Coal Industry Services Company, Inc. for approval to construct a rotary aggregate dryer in Tazewell County, Virginia.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the rotary aggregate dryer subject to certain conditions, including the following emission limitations:

1. Particulate emissions shall be limited to 2.6 pounds per hour.
2. Visible emissions are limited to a maximum of 20% opacity.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA–Region III.

[FR Doc. 80-34674 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-2]

GAF Corp.; Approval of PSD Permit

Notice is hereby given that on February 21, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the GAF Corporation for approval to modify the stone processing plant in Chairmian, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the stone processing plant subject to certain conditions, including:

1. Particulate matter emission limitations shall not exceed:
   a. No. 1 Mill—.025 gr/DSCF, 1.09 lb./hr.
   b. No. 2 Mill—.025 gr./DSCF, 2.11 lb./hr.
   c. No. 3 Mill—.012 gr./DSCF, 1.92 lb./hr.
   d. TCM/Filler Storage—.025 gr./DSCF, .62 lb./hr.
   e. Intermediate Crushing—.012 gr./DSCF, 2.1 lb./hr.
2. The above source shall comply with the Visible Emission standard of the Commonwealth of Pennsylvania.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186.

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EAPA—Region III.

[FR Doc. 80-34682 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[EN-6-FRL 1655-8]

Kirby Forest Industries; Approval of PSD Permit

Notice is hereby given that on August 14, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–231, to Kirby Forest Industries for approval to construct a 1,000 ton per day bleach Kraft market pulp mill located approximately 1.5 miles west of Bon Wier, Newton County, Texas, and one mile south of Highway 360. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–TX–231 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.
Office of the County Judge, Newton County Courthouse, Rusk and Main Streets, Newton, Texas 75966.

Dated: October 23, 1980.

Frances Phillips,

for **Adlene Harrison,**

Acting Regional Administrator, Region 6.

[FR Doc. 80-34667 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-30177A; PH FRL 1660-4]

Mobay Chemical Corp.; Approval of Application To Register Pesticide Product Containing New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Mobay Chemical Corp. has received approval of application to register a pesticide product containing new active ingredient not previously registered in pesticide products.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–343, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202–426–9458).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 14, 1980 (45 FR 25125) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120 had submitted an application to register the following pesticide product containing a new active ingredient not previously registered in pesticide product: AMAZE Technical—Active ingredient: 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy]-b
enzoate 90% for insecticide formulations only.

This application was approved on August 26, 1980 and the product was assigned EPA registration number EPA Reg. 3125–326.

A copy of the label and list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Rm. EB–35, EPA, 202–425–8850 in accordance with section 3(c)(2) of FIFRA. Request for the data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA at the above address. Such requests should: (1) identify the product by name and the registration number and (2) specify the data or information desired.

(Sec. 3(c)(5), 92 Stat. 824, (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34666 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-32-M

[A-3-FRL 1658-4]

Molycorp, Inc.; Approval of PSD Permit

Notice is hereby given that on March 21, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Molycorp, Inc. for approval to construct a molybdenum sulfide roaster in Washington, PA.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the molybdenum sulfide roaster subject to certain conditions, including:

1. Particulate matter emission limitation shall not exceed 0.04 gr/dscf (5.1 lbs/hr).
2. Sulfur dioxide emission limitation shall not exceed 500 ppm (vol.) (75 lbs/hr).

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3. Install air pollution control equipment as specified in application.

4. Sulfur dioxide emissions shall be continuously monitored.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34684 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-1]

Morgantown Asphalt Co.; Approval of PSD Permit

Notice is hereby given that on January 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Morgantown Asphalt Company for approval to construct an asphalt batch plant.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the asphalt batch plant subject to certain conditions, including:

Particulate matter emission limitations shall not exceed 0.04 gr/dscf (13.63 lbs/hr).

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th and Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34681 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-8]

Morgantown Energy Research Center; Approval of PSD Permit

Notice is hereby given that on September 20, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Morgantown Energy Research Center for approval to construct an atmospheric fluidized bed component test and integration unit (AFB/CTIU) at the West Virginia University campus in Morgantown, West Virginia.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the AFB/CTIU subject to certain conditions, including the following emission limitations:

1. Particulate Matter—5.4 lbs./hr. (18.9 TPY).

2. Sulfur Dioxide—86 lbs./hr. (167 TPY).

3. Nitrogen Dioxide—34 lbs./hr. (58 TPY).

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location:

Air Prog ams Branch (3AH10), Environmental Protection Agency—Region III, 6th and Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34672 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-180514; PH-FRL 1659-7]

New Jersey Department of Environmental Protection; Issuance of Specific Exemption To Use Captafol on Peppers

AGENCY: Environment Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use 56,250 pounds of captafol (difolatan 4F) to control pepper blight on 7,500 acres of peppers throughout New Jersey. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St. SW., Washington, D.C. 20460 (202–426–0223).

SUPPLEMENTARY INFORMATION: Pepper blight is caused by a fungus that lives in the soil from year to year and may be carried on the seed. The infected plant commonly is girdled at the soil line, causing a sudden wilting and death of the plant. Branches and fruit may also be infected. Infected fruits first show dark water-soaked patches. These patches become coated with a white growth of the fungus, and the fruit finally withers but remains attached to the plant. According to the Applicant, the pepper industry could lose an estimated $4.5 million if the pepper blight is not controlled.

Preparations containing zineb or nabam (used with zinc sulfate) are generally recommended to control the disease. Zineb and copper oxychloride sulfate (COCS) are registered for this use. The Applicant states that zineb and COCS proved generally ineffective in tests and commerical fields. Submitted data indicate that captafol provides excellent control.

The Applicant proposed to treat 7,500 acres of peppers in New Jersey. The requested use is for a maximum of five aerial or ground applications at a rate of 1.5 pounds active ingredient (a.i.) per acre on a 10-day schedule.

Difolatan 4F is currently registered for both ground and air application to a large variety of crops at rates greater than those requested for this use. Residues of captafol in or on peppers are not expected to exceed 10 parts per million (ppm) as a result of the proposed use, providing a 14-day pre-harvest interval is observed. This level has been judged adequate to protect the public health.

The proposed use should not have an unreasonable adverse effect on birds, mammals, or aquatic organisms; nor should it pose a hazard to endangered species and/or their habitats.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 31, 1980, to the extent and in the manner set forth in the application. The secific exemption is also subject to the following conditions:

1. The product Difolatan 4F (EPA Reg. No. 239–2211), manufactured by Chevron Chemical Company, may be applied. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. Captafol may be applied at a rate of 1.5 pounds a.i. per acre.

3. A maximum of five applications may be made with a pre-harvest interval of fourteen days.

4. A maximum of 7,500 acres may be treated.

5. A maximum of 56,250 pounds of captafol may be applied.

6. Applications will be made with air or ground equipment on a 10-day schedule.

7. Spray mixture volumes of five gallons of water per acre may be applied by air equipment.

8. Application will not begin until conditions are favorable for the disease to become established.

9. All applicable directions, restrictions, and precautions on the EPA-registered product label must be followed.

10. Peppers treated according to the above provisions should not have residues of captafol in excess of 10 ppm. Peppers with residues of captafol which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

11. The EPA must be immediately informed of any adverse effects resulting from the use of captafol in connection with this exemption.

12. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the result of this program by April 1, 1981.

(Sec. 18, as amended, 92 Stat. 819; (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assitant Administrator for Pesticide Programs.

[FR Doc. 80-34661 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180515; PH-FRL 1659-8]

New Jersey; Issuance of Specific Exemption for Captafol on Summer Squash

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") for the use of captafol (Difolatan 4F) to control fruit rot and Phytophthora blight on 1,000 acres of summer squash throughout the State. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: Phytophthora blight is caused by a fungus that lives in the soil from year to year and may be carried on the seed. The infected plant commonly is girdled at the soil line, causing a sudden wilting and death of the plant. Branches and fruit may also be infected. Infected fruits first show dark water-soaked patches. These patches become coated with a white growth of the fungus, and the fruit finally withers but remains attached to the plant. Fruit rot causes the squash to rot. According to the Applicant, the squash industry could lose an estimated $600,000 due to uncontrolled infestations of these diseases.

Data submitted by the Applicant indicate that there is high disease incidence in untreated fields and that captafol provides excellent control while registered alternatives did not satisfactorily control the diseases.

The Applicant proposed to treat 1,000 acres of summer squash with Difolatan 4F, at a rate of 1.5 pounds active ingredient (a.i.) per acre on a 10-day schedule using ground or air equipment. The requested use is for a maximum of 4 applications with a pre-harvest interval of 1 day.

Difolatan 4F is currently registered for both ground and air application to a large variety of crops at rates greater than that requested for this use. Residues of captafol in or on summer squash are not expected to exceed 3 parts per million (ppm) from the proposed use. This level has been judged adequate to protect the public health. The proposed use should not have an unreasonable adverse effect on birds, mammals, or aquatic organisms; nor should it pose a hazard to endangered species and/or their habitats.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted permission to use the pesticide noted above until October 31, 1980, in the manner and to the extent set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Difolatan 4F (EPA Reg. No. 239–2211), manufactured by Chevron Chemical Co., may be applied. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Captafol may be applied at a rate of 1.5 pounds a.i. per acre;

3. A maximum of 4 applications may be made with a preharvest interval of 1 day;

4. A maximum of 1,000 acres may be treated;

5. A maximum of 6,000 pounds of captafol may be applied;

6. Applications will be made with air or ground equipment on a 10-day schedule;

7. A minimum spray mixture volume of 5 gallons of water per acre may be applied by air equipment;

8. Application will not begin until conditions are favorable for the disease to become established.

9. All applicable directions, restrictions, and precautions on the EPA-registered product label must be followed.

10. Treatment of summer squash according to the above provisions should not result in residues of captafol in excess of 3 ppm. Summer squash with residues of captafol which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

11. The EPA must be immediately informed of any adverse effect resulting from the use of captafol in connection with this exemption.

12. The Applicant is responsible for assuring that all provisions of this specific exemption are met and must submit a report summarizing the results of this program by April 1, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34662 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1659-2]

Norfolk & Western Railway Co.; Approval of PSD Permit

Notice is hereby given that on July 14, 1980, the Environmental Protection Agency issued a Prevention of

V 45/217 NOV 6 80 UMI

Significant Deterioration (PSD) permit to the Norfolk & Western Railway Company for approval to construct and operate an 82.6×10^6 Btu/hr. coal fired boiler at its Roanoke, Virginia boiler house.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the boiler subject to certain conditions, including:

1. Emissions shall not exceed the limitations specified below:

Boiler House:
Particulate Matter—0.228 lbs./10^6 Btu (56.5 lbs./hr.).
Sulfur Dioxide—2.11 lbs./10^6 Btu (523.1 lbs./hr.).

2. Within the time limits specified in General Condition 4 of this permit, stack emission tests for *particulate matter* and *sulfur dioxide* shall be conducted at the boiler house stacks in accordance with approved EPA methods as described in 40 CFR Part 60, Section 60.46. The stack emission tests shall be conducted with the boiler house operating at maximum capacity. The tests shall be conducted while combusting coal representative of that to be used during normal operation.

3. One grab sample shall be taken for each boiler once per day immediately preceding the boiler feed points. These samples shall be combined and stored and an analysis performed once per week. Each month the four (4) preceding weekly analyses shall be averaged.

The sulfur content of this average shall not exceed 1.25%. The sulfur content of any individual grab sample or composite of samples shall not exceed 1.5%. The sames gathered one month shall not be combined with samples taken for other months.

The analyses shall meet the requirements of ASTM–D3177 (sulfur content). Prior to operating the boiler, Norfolk and Western shall submit to EPA for approval a procedure for collecting the samples. The procedure shall list all pertinent information regarding sample size, where sample is taken, etc.

4. The boiler house may at no time be operated at a level above 210,000 lbs./hr. steam output. This level is consistent with the maximum design capacity of the boiler house (247.8×10^6 Btu/hr.) at time of permit application and is the basis of the conditions listed in this permit.

5. Records shall be maintained indicating the steam output of the boiler house (and the results of the fuel analysis).

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215) 597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34690 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-1]

PPG Industries, Inc.; Approval of PSD Permit

Notice is hereby given that on November 7, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to PPG Industries, Inc. for approval to construct a glass melting furnace in Cumberland, Maryland.

The permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to PPG Industries, Inc. subject to certain conditions, including the following emission limitations:

1. Emission of nitrogen oxides from the proposed glass furnace will be limited to 1.445 pounds per million BTU of actual heat input.

2. Emission of particulate matter will be limited to 11.5 pounds per hour.

3. Emissions of sulfur dioxide from the proposed glass furnace will be limited to 8.0 pounds per hour.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34673 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRC 1659-5]

PSD Nonapplicability Determinations—Region III

On February 5, 1980, EPA published an administrative order (45 FR 7800) staying the application of the 1978 PSD regulations (40 CFR 51.24 and 52.21) to certain new stationary sources and modifications. This notice stayed the application of the 1978 PSD regulations as to any major source or major modification as defined in that regulation which would not be considered a major source or major modification as defined in proposed amendments to the PSD regulations (44 FR 51924), or which would be located in an area designated under Section 107 of the Clean Air Act (42 U.S.C. 7407) as nonattainment for each pollutant for which the source or modification would be major under the proposed amendents.

During the period February 5, 1980 through July 28, 1980, the U.S. EPA, Region III made the following PSD nonapplicability determinations.

1. Sources that were located in a designated nonattainment area:

Applicant	Source	Location	Date of final action
Bellefield Boiler Plant	Replacement Boiler	Pittsburgh, PA	2/25/80
Erie Malleable Iron Co	Sand Handling System	Erie, PA	4/8/80
Babcock & Wilcox Co	Electric Arc Furnace & Vacuum Argon Degasser.	Beaver Falls, PA	5/19/80

2. Sources not considered major or major modification:

Applicant	Source	Location	Date of final action
Fredric A. Potts & Co	Coal Transfer Station	Wilmington, DE	2/22/80
Newton Asphalt Co	Asphalt Plant	Alexandria, VA	2/22/80
Dover Equipment & Machine Co	Asphalt Plant	Wilmington, DE	2/26/80
Heinz U.S.A.	Can Coating Facility	Weirton, WV	3/6/80
Shamokin Area Industrial Corp	Fluidized Bed Culm Boiler	Paxinos, PA	4/2/80
White Stone Co	Sand Plant	St. Paul, VA	4/2/80
PPG Industries, Inc	Spray-coating Operation	Cumberland, MD	4/7/80
Primet, Inc	Electric Arc Furnace	Ridgway, PA	4/8/80
Commonwealth Resources, Inc	Coal Cleaning Plant	Grundy, VA	5/6/80
Whitehall Cement Manufacturing Co.	Preheater Cement Kiln	Whitehall, PA	5/20/80

2. Sources not considered major or major modification:

Applicant	Source	Location	Date of final action
New Jersey Zinc Co	Fume Treatment Plant	Palmerton, PA	5/30/80
New Enterprise Stone & Lime Co	Stone & Lime Crushing Facility	Roaring Spring Plant—Taylor Township, PA.	6/6/80
Birdsboro Corp	Armorcast Plant	Birdsboro, PA	6/13/80
James Julian, Inc	Drum Mix Asphalt Plant	Salisbury, MD	6/24/80
Allied Chemical—Fibers Division	Chemical Plant	Hopewell, VA	7/25/80

3. The following nonapplicability determinations were reviewed under the PSD regulations, as amended, August 7, 1980.

Applicant	Source	Location	Date of final action
Russell Industries, Inc	Asphalt Plant	McKees Rock, PA	8/26/80
Eastern Stainless Steel Co	Electric Arc Furnace	Baltimore, Md	8/28/80
Equitable Gas co	Natural Gas Compressing Station	Weston, WV	9/5/80
Willard Quarry Inc	Limestone Quarry	Atlins, VA	9/11/80
Jewell Coal & Coke Co	Coal Processing Facility	Vansant, VA	9/23/80
Cargill, Inc	Terminal Elevator	Chesapeake, VA	9/25/80
Jewell Ridge Coal Corp	Coal Fired Thermal Dryer	Jewell Ridge, VA	9/30/80

A PSD nonapplicability determination was also granted to American Home Foods, Milton, PA on April 1, 1980 for the reactivation of four coal-fired boilers. EPA determined that discontinuance of boiler operations was not permanent and therefore PSD would not apply to this source.

These nonapplicability determinations do not relieve the reviewed sources of the responsibility for complying with all local, State and Federal regulations which are part of the State Implementation Plan. A determination will be void if the information submitted and used as a basis for the PSD nonapplicability decision proves to be incorrect or is modified.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 5, 1981.

Copies of these determinations are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34693 Filed 1-15-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-5]

Radford Army Ammunition Plant; Approval of PSD Permit

Notice is hereby given that on March 27, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Radford Army Ammunition Plant for approval to construct an automated propellant manufacturing line at its facility in Radford, Virginia.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the propellant manufacturing line subject to certain conditions, including: The emissions of volatile organic compounds shall be controlled by limiting the production of multi-based propellants to a total of 2.0 million pounds per month from the combination of both the existing batch and new automated manufacturing lines.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34685 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1658-6]

Roanoke Electric Steel Corp., Approval of PSD Permit

Notice is hereby given that on March 27, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Roanoke Electric Steel Corporation for approval to construct an electric arc furnace at their Roanoke, Virginia facility.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the electric arc furnace. The following emission limitations as applicable to the proposed electric arc furnace are required by 40 CFR 60.272:

1. Particulate emissions from the baghouse shall be limited to 0.0052 grains/SCF dry.

2. Visible emissions from the baghouse shall be limited to less than 3% opacity.

3. Shop opacity is limited to a maximum of 20% during the charging cycle and a maximum of 40% during tapping operations.

4. Shop emissions are limited to 0% opacity during all other operating phases.

5. Visible emissions from dust handling equipment are limited to a maximum of 10% opacity.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215–597–8186)

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34688 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-6]

Smith Kline Corp.; Approval of PSD Permit

Notice is hereby given that on January 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Smith Kline Corporation for approval to construct a pharmaceutical plant in Upper Merion, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the pharmaceutical plant subject to certain conditions, including the following emission limitations:

V 45 / 217 NOV 6 1980 UMI

A. *Boilers:*

(1) The fuel usage for the combined boilers shall be limited to 1.68 million gallons of fuel oil per year.

(2) The boilers will utilize only low sulfur #2 fuel oil. The maximum sulfur content shall be limited to 0.2% sulfur by weight.

B. *Incinerator:*

(1) Only one incinerator will be in operation at any time. The alternate unit will serve as a back-up only.

(2) The particulate emissions from the incinerator are limited to 2.0 pounds per hour.

(3) The emissions of sulfur dioxide from the incinerator are limited to 3.0 pounds per hour.

C. *Grinder:*

Visible emissions from the baghouse are limited to a maximum of 20% opacity.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak.

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34678 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A3-FRL 1658-7]

Southeastern Public Service Authority of Virginia (SPSA); Approval of PSD Permit Modification

Notice is hereby given that on May 8, 1980, the Environmental Protection Agency issued a modification to the previously approved Prevention of Significant Deterioration (PSD) permit dated July 31, 1979 to SPSA for conditions regarding emission limitations of the Southeastern Tidewater Energy Program (resource recovery plant), Portsmouth, Virginia.

This permit modification has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the resource recovery plant. The permit conditions regarding emission limitations are changed and shall not exceed the following:

1. Emission Limitations:

Particulate Matter	11.1 lbs./hr.	(48.7 TPY)
Sulfur Dioxide	473.0 lbs./hr.	(2072 TPY)
Nitrogen Oxides	225 lbs./hr.	(975 TPY)
Hydrocarbons	14.4 lbs./hr.	(63.1 TPY)
Carbon Monoxide	1624 lbs./hr.	(7133 TPY)

2. Requirement for no more than two (2) boilers being operated by SPSA at one time and the sulfur content of the coal being burned not exceeding .85% at any time, remain still in effect.

The PSD permit and modification are reviewable under Section 307(b)(1) of the Clean Air Act only in the Fourth Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit and modification are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Attention: Mr. Robert J. Blaszczak (215 597-8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34687 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[EW-6-FRL 1656-3]

Texaco, Inc.; Approval of PSD Permit

Notice is hereby given that on August 29, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-301, to Texaco, Inc. for approval to modify the Mound Point "B" platform compressor station located in the Gulf of Mexico in Iberia Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-301 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, P.O. Box 11, New Iberia, Louisiana 70560.

Dated: October 23, 1980.

Adlene Harrison,

Regional Administrator, Region 6.

[FR Doc. 80-34670 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[EN-6-FRL 1656-2]

Texaco, Inc.; Approval of PSD Permit

Notice is hereby given that on August 29, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-300, to Texaco, Inc. for approval to modify the Mound Point "A" platform compressor station located in the Gulf of Mexico in Iberia Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-300 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, P.O. Box 11, New Iberia, Louisiana 70560.

Dated: October 23, 1980.

Frances Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-34669 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-180511; PH FRL 1660-01]

Texas; Crisis Exemption for Fenvalerate on Lettuce

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Texas Department of Agriculture (hereafter referred to as "Texas") has availed itself of a crisis exemption for the use of Pydrin (fenvalerate) on approximately 500 acres of head lettuce for the control of loopers and *Heliothis* species in Texas. Since the treatment is expected to continue for more than 15 days, Texas has submitted a request for a specific exemption for continuation of this program.

DATE: Texas anticipates that the need will continue until harvest.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: Texas notified EPA on September 3, 1980, that it was initiating a crisis exemption for the use of Pydrin on approximately 500 acres of head lettuce to control cabbage loopers and *Heliothis* species. According to Texas, of the registered alternatives, methamidophos, methomyl, and acephate are the most effective; however, maximum rates of these pesticides provide only 65 to 80 percent control. Texas states that this level of control is not sufficient to prevent damage and provide a marketable product. Texas reports that the crisis will continue until the crop is harvested.

All applications are being made by, or under the direct supervision of, a State-certified applicator when infestations reach economic threshold levels. A maximum of 7 treatments will be made at a rate of 0.1 pound active ingredient (a.i.) per acre for looper control and 0.2 pound a.i. per acre for *Heliothis* species control. Residues of fenvalerate in or on lettuce are not expected to exceed 1 part per million from this program. A 7-day pre-harvest interval is to be observed. Wrapper leaves are to remain in the field and are not to be used for feed. Texas will make observations for any adverse effect to the environment.

Texas has requested a specific exemption for the continuation of this program.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34663 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[EN-6-FRL 1656-4]

Uniroyal Chemical, Division of Uniroyal, Inc.; Approval of PSD Permit

Notice is hereby given that on September 26, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-250, to Uniroyal Chemical for approval to construct a waste incinerator at their chemical production plant located at Geismar, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-250 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Ascension Parish Engineer, Ascension Parish Courthouse, 828 S. Irma Boulevard, Gonzales, Louisiana 70737.

Dated: October 23, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-34671 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A3-FRL 1657-8]

United Refining Co.; Approval of PSD Permit

Notice is hereby given that on January 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to United Refining Company for approval to modify its refinery at Warren, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the refinery subject to certain conditions, including:

1. *Maximum Allowable Emission Rates:*

Source code	Emission point	SO_2 #/hr.	SO_2 T/Y
202	Boiler House	100	416
306-B	Reformer Heater (New)	[1]65	273
306-C	Reformer Heater #2	67	279
306-D	Alcorn (Vacuum Heater)	35	146
306-E	Struthers Unit	3	12
306-F	Prefractionator	14	58
306-G	Pretreater	28	117
306-H	Crude Heater	124	516
306-I	Propane Deasphalt	7	29
306-J	FCC Charge Heater	[2]15	62
306-K	FCC Regenerator/CO Boiler	350	1456
306-L	Unifiner Heater	3	13
306-M	Claus Sulfur Plant (New) (Emissions vented to existing boiler house stack).	[3]128	533
306-N	Debutanizer Reboiler (New) (Emissions vented to existing crude heater stack).	[1]24	100

[1] Emission rate based on 1.0 WT%S content in fuel oil.
[2] Emission rate based on 0.65 WT%S content in fuel oil.
[3] Emission rate for Claus sulfur plant (Source 306-M) based on 96.5% sulfur recovery at full load. Emission rate for Source Nos. 306-C through 306-I inclusive, and Source Nos. 202 is based on a combination of fuel gas and fuel oil producing an emission rate of .68 lb. SO_2 per million BTU's heat input (.68 lb./MMBTU) respectively. The standards of performance for new stationary sources (NSPS) for particulate matter and carbon monoxide are applicable to the new fluid catalytic cracking unit. The NSPS for sulfur dioxide do not apply to the new combustion units (Sources 306-B and 306-N) using 1.0 WT%S fuel oil.

2. *Monitoring Requirements:*

Sulfur Dioxide

A. Hydrogen sulfide concentration in fuel gas from the claus plant, 306-M, shall be monitored continuously in accordance with 40 CFR Part 60.105.

B. SO_2 from the FCC Regenerator/CO Boiler shall be monitored continuously in accordance with 40 CFR Part 60 Appendix B Performance Specification 2.

C. WT%S from the following locations within the refinery will be calculated three (3) days per week (except Sundays and Holidays) from grab samples:

1. Crude oil in pipeline to the refinery
2. FCC charge heater (306-S)
3. Reformer heaters (306-B and 306-C)
4. Debutanizer Reboiler (306-N)

D. *Particulate Matter*

Particulate matter shall be monitored in accordance with 40 CFR Part 60.105 and Appendix B.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency-Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215-597-8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA, Region III.

[FR Doc. 80-34680 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-18050; PH-FRL 1660-2]

Virginia; Crisis Exemption for Botran on Peanuts

AGENCY: Environmental Protection Agency (EPA).

V45/217 NOV 6 1980 UMI

ACTION: Notice.

SUMMARY: EPA gives notice that the Virginia Department of Agriculture and Commerce (hereafter referred to as "Virginia") has availed itself of a crisis exemption for the use of Botran 75W to control Sclerotinia blight on peanuts in nine counties in Virginia. Virginia had earlier requested a specific exemption for this use of Botran.

DATE: Virginia anticipates that the program will need to continue until September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to Virginia, the seriousness and extent of Sclerotinia blight on the peanut crop this year was so great that immediate control measures had to be taken. The product Botran 75W, EPA Reg. No. 1023–36, which contains the active ingredient 2,6-dichloro-4-nitroaniline, is being used at a rate of 3.75 pounds of active ingredient in 25–50 gallons of water per acre on a maximum of 52,000 acres in the counties of Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Sussex. According to Virginia, there are no registered pesticides or other methods to control Sclerotinia blight on peanuts. State-certified applicators or persons directly under their supervision are making the applications. Virginia estimates that crop yields in 1980 would average 2,760 lbs. per acre rather than 3,100 lbs. per acre on 50 percent of the Virginia peanut acreage, if Botran 75W is not used. Virginia has imposed a 30-day per-harvest interval on treated peanuts. Virginia has requested a specific exemption for a continuation of this use of Botran 75W.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-34664 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-32-M

[A-3-FRL 1659-1]

City of Wilkes-Barre, Pennsylvania; Approval of PSD Permit

Notice is hereby given that on July 1, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the City of Wilkes-Barre for approval to construct an anthracite culm combustion boiler in Wilkes-Barre, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the combustion boiler subject to certain conditions, including:

1. Particulate matter emission limitation shall not exceed 0.06 lbs per million BTU.

2. Sulfur dioxide emission limitation shall not exceed 1.5 lbs per million BTU.

3. Install air pollution control equipment as specified in application.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34689 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[A-3-FRL 1657-5]

Zarlengo Brothers, Inc.; Approval of PSD Permit

Notice is hereby given that on January 21, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Zarlengo Brothers, Inc. for approval to construct an asphalt batch plant in North Beaver Township, Lawrence County, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the asphalt plant subject to certain conditions, including:

1. Particulate matter emission limitation shall not exceed .039 gr/dscf (4.5 lbs/hr).

2. Install air pollution control equipment as specified in application.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Third Circuit Court of Appeals. A petition for review must be filed on or before January 5, 1981.

Copies of the permit are available for public inspection upon request at the following location: Air Programs Branch (3AH10), Environmental Protection Agency—Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Mr. Robert J. Blaszczak (215–597–8186).

Dated: October 28, 1980.

Jack J. Schramm,

Regional Administrator, EPA—Region III.

[FR Doc. 80-34677 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-38-M

[SA-FRL 1661-5]

Science Advisory Board, Clean Air Scientific Advisory Committee; Amended Meeting

Notice is hereby given in accordance with Pub. L. 92–463 of a change in the agenda of the Clean Air Scientific Advisory Committee meeting to be held November 13–14, 1980. Publication of the original agenda appeared in the Federal Register on October 28, 1980, 45 FR 71415. The amended notice is to inform the public that in addition to the issues listed in the October 28 Federal Register Notice, the Subcommittee on Carbon Monoxide of the Clean Air Scientific Advisory Committee will meet beginning at 1:30 p.m. November 14, 1980 in Room 3906, Mall, EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460. The Subcommittee will provide advice and comment on EPA's proposed ambient air quality standard for carbon monoxide. For further information, contact Terry F. Yosie, Science Advisory Board Staff Officer at (202) 755–6634 before close of business November 7, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

October 31, 1980.

[FR Doc. 80-34780 Filed 11-5-80; 8:45 am]

BILLING CODE 6560-34-M

[EN FRL 1662-1]

Motor Vehicle Pollution Control; Waiver of Oxides of Nitrogen Emission Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing to consider applications for waivers.

SUMMARY: This notice announces a public hearing to consider applications for waiver of the 1981 and 1982 oxides of nitrogen (NO_x) emission standard applicable to diesel-powered light-duty vehicles.

Isuzu Motors Ltd. (Isuzu), Volkswagen AG (VW), and General Motors Corp. (GM) have informed EPA of their intention to request waivers of the 1981–1982 NO_x emission standard for certain light-duty diesel vehicle models pursuant to section 202(b)(6)(B) of the Clean Air Act (Act). EPA plans to hold a public hearing on these waiver requests and any others which EPA may receive in time for consideration at the hearing.

DATES: This notice announces that EPA will hold a public hearing beginning at 10:30 a.m. on November 17, 1980, on any NO_x waiver applications it receives by November 10, 1980. Interested parties should submit proposed testimony for the hearing to the Director of EPA's Manufacturers Operations Division (EN–340), 401 M Street, SW., Washington, D.C. 20460 by November 14, 1980. Interested parties should also submit any relevant written comments by December 1, 1980, to ensure that the Administrator can consider those comments in deciding on the waiver applications.

ADDRESSES: EPA will hold the consolidated public hearing at the EPA Conference Room, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Room 3906. All public portions of waiver applications and other relevant information will be available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery I, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (Docket Number EN–80–21).

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Schwartz, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION:

I. Background

Section 202(b)(6)(B) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(6)(B) (1977), allows any manufacturer to petition the Administrator of EPA for waiver of the 1981–1984 model year NO_x standard of 1.0 gpm. The Administrator, after notice and opportunity for public hearing, may waive the standard for any class or category of light-duty vehicles manufactured during the four model year period, beginning in model year 1981, up to a maximum level of 1.5 gpm, if the manufacturer can show that the waiver is necessary to permit diesel engine technology to be used on the subject vehicles. The waiver may be granted if the Administrator determines:

(i) That the waiver will not endanger public health;

(ii) That the waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act, and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

Guidelines for diesel NO_x waiver applications were published in the Federal Register at 43 FR 30341, July 14, 1978, in order to apprise manufacturers of the information deemed necessary to demonstrate that a waiver should be granted.

II. Waiver Applications

A. Isuzu

In a decision published on October 2, 1980,[1] the Administrator denied Isuzu's request for waiver of the 1981 and 1982 statutory NO_x standard of 1.0 gpm for its 1.8L diesel engine family. Subsequently, on October 3, 1980, Isuzu notified the Administrator of its intent to reapply for a waiver for this engine family, stating that it would submit additional data to substantiate its petition in the near future.[2] Isuzu filed its reapplication with EPA on October 24, 1980.

B. VW

In a decision published on May 22, 1980,[3] the Administrator granted waivers of the statutory NO_x standard for all the light-duty diesel engine families and model years that VW had requested in its waiver application. Subsequently, on October 9, 1980, VW notified EPA that because of recent changes in its production and marketing plans, VW intended to apply for additional NO_x waivers applicable to certain light-duty diesel vehicle models for model years 1981 or 1982.[4]

Specifically, VW requested waivers to 1.4 gpm for the following engine families in the 1982 model year: 1.6L—naturally aspirated (N.A.)—2500 lb. inertia weight (I.W.)., 1.6L—NA—2750 I.W., and 1.6L—turbocharged (T.C.)—2750 I.W. For the 1981 model year, it requested a waiver to 1.5 gpm for its 2.0L—T.C.—3000 IW engine family. VW stated that at the time it submitted its reapplication that EPA considered in its May 22 waiver decision, its marketing plans for vehicles in these engine families did not include the model years mentioned above. Therefore, even though vehicles in these engine families have already received waivers, VW did not apply for nor receive waivers for these particular model years, thus making VW's current application necessary.

C. GM

On October 24, 1980, GM notified EPA of its intent to apply for a waiver of the statutory NO_x standard for its 1.8L diesel engine family for model years 1981 and 1982. GM stated that it would submit its application by November 7, 1980.

D. Other Information

EPA encourages any manufacturers still planning to request NO_x waivers to file their applications by the deadline so that the Administrator can review as many outstanding waiver applications as possible in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceeding will greatly facilitate the Administrator in making timely decisions.

In order to grant a waiver, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. The Administrator is not required to make his determination solely on the record of the hearing, and may consider any additional information as well. All information considered by the Administrator for this waiver decision will be included in public docket EN–80–21.

III. Hearing Procedures

The public hearing will provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the waiver requests at issue. Any party desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material with the Director of EPA's Manufacturers Operations Division at the address listed above not later than November 10, 1980. If feasible, these parties also should submit at least 25 copies of their statements or material for the hearing record for general circulation to the Presiding Officer at the time of the hearing. In addition, any person may submit written questions at any time during the hearing, which the hearing panel may propound to witnesses to the extent practicable.

[1] 45 FR 65490.

[2] Letter from Ichiro Kaneshige, Isuzu, to Douglas M. Costle, EPA, dated October 3, 1980.

[3] 45 FR 34178.

[4] See Letter from Kenneth Adams, VW, to Charles N. Freed, EPA, dated October 9, 1980.

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Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until December 1, 1980, to ensure their consideration as part of the waiver decision.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentations, directing participants to submit corroborative material in writing and, to the extent possible, notifying participants of the time at which they may appear.

Presentations by the participants should address the considerations set forth in detail by the guidelines for submission of waiver requests published in the **Federal Register**, 43 FR 30341, July 14, 1978. Participants should be prepared to respond to questions from the Hearing Panel on the following issues:

1. Whether a waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which an applicant requests a waiver;

2. Whether the waiver would endanger the public health;

3. Whether the waiver would result in significant fuel savings at least equal to the fuel economy standard applicable under the Energy Policy and Conservation Act ("EPCA");

4. Whether the technology utilized in the class or category for which a waiver is sought: (a) has a potential for long-term air quality benefit, and (b) has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver, and;

5. The level of NO_x emissions, not to exceed 1.5 gpm, which an applicant's diesel vehicle class or category could meet in each of the model years for which an applicant requests a waiver.

A verbatim record of the proceedings will be available for public inspection in public docket EN–80–21. Any interested party may request a copy of the transcript from the hearing reporter during the hearing at that party's own expense. Interested parties also may obtain copies of other documents in the public docket as provided in 40 CFR Part 2.

Dated: November 4, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-34905 Filed 11-5-80; 10:03 am]

BILLING CODE 6560-33-M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 80–184; Report No. 15988]

Action in Docket Case; Agenda Items Outlined, Comments Sought for 1982 World Radio Conference on Safety, Distress, Maritime, Aeronautical and Other Mobile Radio Uses

October 22, 1980.

The Commission has outlined three tentative U.S. proposals for consideration at a 1982 World Administrative Radio Conference (WARC) on mobile telecommunications which will deal primarily with safety and distress radio matters.

The Mobile Services WARC, under the auspices of the International Telecommunication Union (ITU), of which the United States is a member, will be held in Geneva, Switzerland, March 2–25, 1982.

A mobile services conference was recommended by the 1979 general WARC and anticipated by the Commission in a Notice of Inquiry, adopted April 24 and released May 15, calling for comments on proposed changes to the international mobile radio service regulations. Since then the ITU Administrative Council has scheduled the conference. The ITU resolution containing the agenda is attached.

The Commission asked for comments on the agenda items by November 24 and replies by December 15. It said a brief comment period was necessary because of the limited time available to draft the U.S. proposals.

After receipt and analysis of comments, the Commission will develop its recommendations, and the U.S. proposals will be coordinated with the other federal agencies involved. The Commission said other international conferences between now and March 1982 may bear on the U.S. proposals.

The Commission asked for a wide range of comments from all interested groups and individuals. Comments should be directed to the agenda items and not to FCC regulations, even though the results of the conference may necessitate rule changes, it said.

It urged those commenting to confine themselves to matters on the agenda. While expressing appreciation to those submitting comments on other matters, in response to the earlier inquiry notice, it did not consider those in drafting the proposals in the new Notice of Inquiry. It noted that a broader Mobile Services WARC is scheduled for 1986.

Action by the Commission October 21, 1980, by Second Notice of Inquiry * (FCC 80–605). Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

*Note.—This document consists of thirty-nine (39) pages. Because of the effort to reduce the cost of printing, it will not be printed in the **Federal Register**. However, the FCC has prepared a limited number of copies that are available upon request at its Public Information Office, Room 202, 1919 M St., N.W., Washington, D.C. 20554.

For further information contact Lawrence Palmer, (202) 653–8102.

Resolution No. 853

World Administrative Radio Conference for Mobile Telecommunications

The ITU Administrative Council,

considering

(a) That Resolution No. 202(DH) of the World Administrative Radio Conference, Geneva, 1979, invited the Administrative Council to take the necessary steps to arrange a World Administrative Radio Conference for the mobile services to revise the provisions of the Radio Regulations which relate specifically to these services;

(b) The results of the consultation conducted by Circular-telegram A270 of 22 May 1980; *resolves* that a World Administrative Radio Conference for mobile telecommunications shall be convened in Geneva on March 2, 1982 for a period of 3 weeks and 3 days with the following agenda:

1. To review, and revise as necessary, the provisions of the Radio Regulations for the mobile and mobile-satellite services within the limits specified in the items below;

1.1 Adding to Article 1(N1/1) only new definitions relating to these services which are not already provided for and without in any way altering the existing definitions;

1.2 Adding to Article 8(N7/5) only new footnotes or to revise existing footnotes relating to these services and which are consequential to decisions taken by this Conference in pursuance of the decisions reflected in the pertinent Resolutions or Recommendations of the World Administrative Radio Conference, 1979, provided they do not change any existing provision in such a way to affect adversely the provisions relating to any other non-mobile service;

1.3 The notification and registration procedures contained in sub-section IIB and IIC of Article 12(N12/9);

1.4 The parts of Appendix 16(17 Rev.) related to the channelling of the existing maritime mobile radiotelephone service in the bands between 4000 and 23000 kHz and to add new channelling plans for the maritime mobile radiotelephone service in the new shared bands at 4000—4063 and 8100—8195 kHz;

1.5 Chapter IX(NIX), Distress and Safety Communications;

1.6 Article 62(N59), Selective Calling Procedure in the Maritime Mobile Service.

2. To review and take appropriate action as necessary on the following Resolutions and Recommendations of the World Administrative Radio Conference, 1979, solely from the viewpoint of the mobile and mobile-satellite services involved without adverse impact on other radiocommunication services:

Resolution 38(BR) Relating to the Reassignment of Frequencies of Stations in the Fixed and Mobile Services in the Bands Allocated to Radiolocation and Amateur Services in Region 1;

Resolution 310(CN) Relating to Frequency Provisions for Development and Future Implementation of Ship Movement Telemetry, Telecommand and Data Exchange Systems;

Resolution 11(CY) Relating to the Use of Radiocommunications for Ensuring the Safety of Ships and Aircraft of States not Parties to an Armed Conflict;

Resolution 313(DD) Relating to the Introduction of a New System for Identifying Stations in the Maritime Mobile and Maritime Mobile-Satellite Services (Maritime Mobile Service Identities);

3. To make such minimum consequential changes to the associated Articles and Appendices related to the foregoing Resolutions and Recommendations; *invites*

1. The CCIR to prepare the technical and operational bases for the Conference;

2. The IFRB to give its technical assistance for the preparation and organization of the Conference; and

3. The Secretary-General to communicate the contents of this Resolution to IMCO and ICAO and to take the necessary steps for convening this Conference.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-34612 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80–691—80–696; File Nos. BPCT–790629KG etc.]

Omaha TV 15, Inc., et al.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 24, 1980.

Released: November 5, 1980.

In re applications of Omaha TV 15, Inc., Omaha, Nebraska, BC Docket No. 80–691; File No. BPCT–790629KG; Katz Broadcasting Corporation of Omaha, Omaha, Nebraska, BC Docket No. 80–692; File No. BPCT–790910KE; Sun Broadcasting Company, Omaha, Nebraska, BC Docket No. 80–693; File No. BPCT–790409KE; Mid-America Broadcasting, Inc., Omaha, Nebraska, BC Docket No. 80–694; File No. BPCT–791026KN; 220 Television, Inc., Omaha, Nebraska, BC Docket No. 80–695; File No. BPCT–790703KF; Family Television, Inc., Omaha, Nebraska, BC Docket No. 80–696; File No. BPCT–790627KE; for a construction permit for a new television station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above captioned mutually exclusive applications filed by Omaha TV 15, Inc., Katz Broadcasting Corporation of Omaha (Katz),[1] Sun Broadcasting Company (Sun), Mid-America Broadcasting, Inc. (Mid-America), 220 Television Inc. (220 TV), and Family Television, Inc., for a construction permit for a new commercial television station to operate on Channel 15, Omaha, Nebraska.

2. *Omaha TV 15, Inc.* Section IV–B, Part 1, of FCC Form 301 requires the applicant to list "* * * typical and illustrative programs or program series (*excluding Entertainment and News*) that applicant plans to broadcast during the coming license period to meet those needs and interests." (Emphasis supplied.) Two of the three programs applicant proffers to meet the problems and need of its community of license are news programs. Accordingly, an issue will be specified to determine whether applicant has proposed programming designed to meet the problems and needs of its community of license.

3. *Mid-America Broadcasting, Inc.* Analysis of the financial data submitted by Mid-America reveals that $1,062,800 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$200,470
Equipment payments with interest	144,340
Land	12,000
Building	25,000
Miscellaneous	225,160
Interest on bank loan (three months)	72,500
Loan repayments (three months)	83,330
Operating costs (three months)	300,000
Total	1,062,800

Mid-America plans to finance construction and operation with the following funds: $2,000,000 loan from TeleCommunications, Inc., and $16,000 in equity capital. However, the balance sheet provided by TeleCommunications, Inc., does not segregate its current liabilities from its long-term liabilities. It is therefore impossible to determine whether TeleCommunications, Inc., has the net liquid assets required to fulfill its loan commitment. An issue will therefore be specified to determine whether Mid-America has sufficient funds to construct and operate its proposed station.

4. *Katz Broadcasting Corporation of Omaha.* Form 301, Section II, page 5, question 20(d), requires the applicant to divulge whether it has entered into any "* * * contracts or understandings relating to ownership, management, use or control of the station or facilities." If such contracts or understandings exist, and they relate to ownership, control or use of the proposed station or facility, the applicant is instructed to attach copies of such documents and state the substance of the oral contracts or understandings. In its application, Katz states that it has an understanding with 220 Television, Inc., concerning a tower site. In its amendment of May 28, 1980, Katz acknowledges the existence of an oral agreement with Sun Broadcasting Company. However, in both instances Katz neglected to state the substance of its oral contract or understanding. Neither 220 TV nor Sun disclosed the agreement in its application. Accordingly, applicants are directed to furnish the Commission, within 20 days from release of this order, copies of the oral contracts or understandings as required by Form 301, Section II, page 5, question 20(d).

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine whether Omaha TV 15, Inc., has proposed programming designed to be responsive to the needs and interests of its community of license; and if not, whether it is qualified.

2. To determine whether Mid-America Broadcasting, Inc., has the additional $1,046,800 necessary to construct and operate its proposed station; and if not, whether applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

[1] Katz Broadcasting Corporation of Omaha is awaiting FAA clearance for its antenna proposal. If during the hearing, the FAA advises that this proposal constitutes an air hazard, the Administrative Law Judge is authorized to specify an air hazard issue with respect to Katz. In the unlikely event that the FAA study is not completed by the end of the hearing process, and it should be determined that Katz's application would best serve the public interest, the construction permit shall be conditioned to require FAA approval prior to construction.

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7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-34613 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-36, 80-668; File Nos. BPCT-4833, BPCT-800229KH]

Texas Broadcasting Company, Inc. and Dogwood Broadcasting Corp.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 24, 1980.

Released: November 4, 1980.

In re applications of: Texan Broadcasting Company, Inc., Nacogdoches, Texas, BC Docket No. 80-36, File No. BPCT-4833; Dogwood Broadcasting Corporation, Nacogdoches, Texas, BC Docket No. 80-668, File No. BPCT-800229KH; for a television construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Texan Broadcasting Company, Inc. [Texas] and Dogwood Broadcasting Corporation (Dogwood) for a new commercial television station to operate on Channel 19, Nacogdoches, Texas. Texan's application was designated for hearing on January 30, 1980. *Texan Broadcasting Company, Inc.*, BC Docket No. 80-36 (FCC 80-53, released February 7, 1980). Dogwood's application had earlier been returned as unacceptable for filing, but, on July 17, 1980, the Commission granted Dogwood's petition for reconsideration of that action, stayed the hearing in BC Docket No. 80-36, and ordered the processing of Dogwood's application and its eventual consolidation in the hearing with Texan's application. *Dogwood Broadcasting Corporation*, 47 RR 2d 1352 (1980).

2. It appears that Dogwood would required more than $1,200,000 to construct its proposed facility and to operate it for three months:

Equipment (downpayment)	$621,051
Equipment (three months)	153,710
Building	90,000
Other	160,000
Operating Costs (three months)	243,357
Total	1,268,118

To meet these expenses, Dogwood intends to rely on $1,000 in existing capital and $1,583,000 in new capital from stock subscriptions, as follows:

Raymond Schindler	$1,327,000
Paris Schindler	80,000
Timothy R. Brown	80,000
Jo Edgell Blaskowsky	32,000
Bill Carter	64,000
Total	1,583,000

Although all the subscribers have submitted limited financial statements, none of them has demonstrated net liquid assets to meet the subscriptions.[1] [2] Consequently, we cannot determine that Dogwood would have sufficient capital to meet its proposed expenses. Accordingly, an appropriate financial issue will be specified.

3. Since the applications of Dogwood and Texan are mutually exclusive, the Commission is unable to make the statutory finding that grant of them will serve the public interest, convenience, and necessity. Since Texan's application has already been designated for hearing, it is necessary to designate Dogwood's application for hearing and consolidate it for hearing in the proceeding now in progress in BC Docket No. 80-36 on the issues set out below. In addition, issues 1-3 of Texan's initial designation order will be renumbered as set out below, and in lieu of the ultimate issue in that Order, a general comparative issue and new ultimate issue will be specified.

4. Accordingly, it is ordered, That the stay of the hearing in BC Docket No. 80-36 is dissolved.

5. It is further ordered, that issue 4 in *Texan Broadcasting Company, Inc., supra*, is deleted and that issues 1-3 in that Order are superseded and renumbered below.

6. It is further ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Dogwood Broadcasting Corporation is designated for hearing and consolidated in the proceeding now in progress in BC Docket No. 80-36, at a time and place to be specified in a subsequent Order, upon the following issues:[3]

1. To determine with respect to Texan's application:

(a) Whether common ownership, operation, or control of stations KSFA and KTBC-FM and Texan's proposed television station would be in the public interest.

(b) Whether Texan's proposal is in substantial compliance with Questions and Answers 13(a), 22, and 29 of the *Ascertainment Primer* and, if not, the effects thereof upon Texan's qualifications.

(c) The vertical plane radiation pattern of Texan's antenna radiation center's height above average terrain and whether Texan is technically qualified to operate as proposed.

2. To determine with respect to Dogwood's financial showing:

(a) Whether Dogwood has the net liquid assets to meet its construction and three month operation costs.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that in the event of a grant of Dogwood's application, the construction permit shall contain the following condition:

Type acceptance of the proposed transmitter shall be obtained prior to the commencement of program tests.

8. It is further ordered, that to avail itself of the opportunity to be heard, Dogwood shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing

[1] Paris Schindler's, Brown's, Blaskowsky's, and Carter's automobiles, cattle, and jewelry cannot be considered current assets absent specific showings that such assets can be relied upon to provide a readily available source of funds to meet the proposed commitments. In addition, Raymond and Paris Schindler's and Brown's stocks and securities cannot be considered liquid, absent identification of the types of securities, the names of the issuers, the names of the markets or exchanges on which traded, and their current market value.

[2] Net liquid assets is the lesser amount of the net current assets or of the liquid assets shown on a party's balance sheet, with net current assets being the excess of current assets over current liabilities. *Central Texas Broadcasting Co.*, 74 F.C.C. 2d 393, 402 (1979).

[3] Dogwood has been a party intervenor in the proceeding in BC Docket No. 80-36, so any evidence already adduced there shall apply to this consolidated proceeding.

of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that Dogwood shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-34614 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-15]

TV Cut-Off List; Correction

Released: November 5, 1980.

On the Public Notice released October 3, 1980, captioned *TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date* (Mimeo #36573, Report No. B-13), published in the **Federal Register** on October 3, 1980 (45 FR 65673), the following applications were listed as subject to the November 14, 1980 cut-off date for petitions to deny and the filing of minor amendments as a matter of right:

BPCT-800718KJ, New Major Amendment, Albany, New York, G & M Broadcasting Corporation, Channel 45, ERP: Vis. 1321 kW; HAAT: 1010 feet

BPCT-800721KJ, New, Schenectady, New York, Union Street Video, Inc., Channel 45, ERP: Vis. 5000 kW; HAAT: 875 feet

Through inadvertence, the same applications were again listed in the Public Notice (Mimeo #00786, Report No. B-15) released October 30, 1980, announcing television applications as being subject to a December 12, 1980, cut-off date. The latter listing was in error.

Accordingly, notice is hereby given that the above entries are deleted from Report No. B-15, released October 30, 1980 (Mimeo #00786).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-34615 Filed 11-5-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Meeting

Pursuant to Section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the Meeting of the Federal Savings and Loan Advisory Council on Monday, December 1, Tuesday, December 2, and Wednesday, December 3, 1980. The meeting will commence at 9:00 a.m. each day, and will be held at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C.

Monday, December 1, 1980

9:00 a.m.—General Discussion, Service Corporations, Update of the Status of Mortgage Instruments, Relationship with Federal Reserve System.
12:00 Noon—Lunch.
1:00 p.m.—Mergers, Acquisitions and Branching Agenda for the 80's Savings Incentives, Relationship with Federal Reserve System.

Tuesday, December 2, 1980

9:00 a.m.—Continue Discussion of Monday Afternoon Session.
12:00 Noon—Lunch.
1:00 p.m.—General Discussion.
5:00 p.m.—Adjourn.

Wednesday, December 3, 1980

9:00 a.m.—General Discussion.
12:00 Noon—Adjourn.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

Jay Janis,

Chairman.

[FR Doc. 80-34636 Filed 11-5-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

The First National Bank of Palm Beach Inc.; Formation of Bank Holding Company

The First National Bank of Palm Beach Incorporated, Palm Beach, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Palm Beach, Palm Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 30, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34556 Filed 11-5-80; 8:45 am]

BILLING CODE 6210-01-M

Randall-Story Bancshares, Inc.; Formation of Bank Holding Company

Randall-Story Bancshares, Inc., Story City, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 58 percent or more of the voting shares of Randall-Story State Bank, Story City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 30, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34557 Filed 11-5-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Development of Teratogenesis Screening Methods and Prevalence of Chronic Wrist Disorders in the Workplace; Open Meetings

The following meetings will be convened by the National Institute for

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Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Development of Teratogenesis Screening Methods

Date: November 17, 1980.
Time: 1:00 p.m. to 3:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B–38, Cincinnati, Ohio 45226.

Purpose: To discuss the protocols concerning (a) a postnatal mouse teratology screening test and (b) dermal teratogenicity testing.

Additional information may be obtained from: Gary P. Bond, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–8357.

Prevalence of Chronic Wrist Disorders in the Workplace

Date: December 4, 1980.
Time: 10:00 a.m. to 4:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room 117, Cincinnati, Ohio 45226.

Purpose: To discuss the objectives and the protocol of a research investigation concerning the prevalence of chronic wrist disorders found in the workplace.

Additional information may be obtained from: Daniel J. Habes, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–8286.

Dated: October 30, 1980.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 80–34534 Filed 11–5–80; 8:45 am]
BILLING CODE 4110–87–M

Health Care Financing Administration Privacy Act of 1974; Report of New Routine Use

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Report of new routine use.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are issuing public notice of our intent to establish a new routine use. The proposed routine use will provide for disclosure to contracting financial institutions. This disclosure will permit the financial institutions to process Medicare beneficiary remittance data for HCFA.

We invite public comments on this proposal.

DATES: The proposed routine use will become effective, as proposed, without further notice December 8, 1980, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to the HCFA Privacy Officer, Health Care Financing Administration, Bay A–3, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Castomal Alexander, Chief, Premium Systems Branch, Bureau of Program Operations, Health Care Financing Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–9882.

SUPPLEMENTARY INFORMATION: The responsibility for managing system notice 09–60–0093, Billing and Collection Master Record System, has been transferred from the Social Security Administration (SSA) to HCFA. The notice appeared in the **Federal Register** on October 9, 1979 (44 FR 58449). The system notice has been renumbered 09–70–0522. The system was established to maintain a billing and collection record for all retirement, survivors, disability, and health insurance beneficiaries entitled to hospital insurance and/or supplementary medical insurance who are, or have been, subject to direct billing for Medicare insurance premiums. An extract of this file (name, address, claim number, premium liability, period of liability, and termination date) will be provided to a contracting financial institution in order to have the contractor (1) print and mail Medicare premium bills, (2) process returned remittances, and (3) prepare a monthly transaction tape for HCFA for updating the master file. Therefore, we are proposing to add a new routine use that is compatible with the purpose for which the information is collected and is necessary to permit contracting for processing operations previously conducted by SSA. The proposed routine use is as follows:

"Disclosure may be made to a 'lock box' contractor. An extract of this file (name, address, claim numbers, premium liability, period of liability, and termination date, when necessary) will be provided in order to (a) print and release the Medicare premium bills, (b) process the returned remittance in a secure 'lock box' operation, and (c) prepare a transaction tape for transmission to HCFA. ('Lock box' is a remittance process performed under security to assure non-access to remittance information by unauthorized personnel or the public.)"

The notice below contains the new system notice number and the new routine use indicated above.

Dated: October 28, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

09–70–0522

SYSTEM NAME:

Billing and Collection Master Record System HHS/HCFA/BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Program Operations, HCFA, 6401 Security Boulevard, Baltimore, Maryland 21253
Bureau of Support Services, HCFA, 6401 Security Boulevard, Baltimore, Maryland 21235
Office of User Requirements and Validations, 6401 Security Boulevard, Baltimore, Maryland 21235
Social Security Administration Program Service Centers, Division of International Operations (see Appendices A and B)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of all retirement, survivors, disability, or health insurance beneficiaries entitled to hospital insurance and/or supplementary medical insurance who are, or have been, subject to direct billing for insurance premiums. This includes individuals who: (1) are currently being billed directly for insurance premiums: and (2) are not currently in direct billing status but have either a premium arrearage (or overpayment) of record or were at one time in direct billing status. It does not contain a record or any hospital or supplementary medical insurance enrollee who has had premiums deducted from monthly benefits or paid through a third party payer arrangement continuously from the initial month of entitlement.

CATEGORIES OF RECORDS IN THE SYSTEM:

It contains identifying information as well as information regarding entitlement to hospital or supplementary medical insurance, current address information, individual records of premium payments, premium adjustments, refunds of excess payments, and current amount due.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1650(e) and 1871 of the Social Security Act.

PURPOSE(S):

To provide a master record of billing and collection for all retirement, survivors, disability, and health insurance beneficiaries entitled to hospital insurance and/or supplementary medical insurance who are, or have been, subject to direct billing for Medicare insurance premiums. Monthly record updates are provided to the Social Security Administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Disclosure may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense provided such disclosure is compatible with the purpose for which the records were collected.

3. To a "lock box" contractor. An extract of this file (name, address, claim numbers, premium liability, period of liability, and termination date, when necessary) will be provided in order to (a) print and release the Medicare premium bills, (b) process the returned remittance in a secure "lock box" operation, and (c) prepare a transaction tape for transmission to HCFA. ("Lock box" is a remittance process performed under security to assure non-access to remittance information by unauthorized personnel or the public.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Primary record storage is by magnetic tape and disk. Monthly updates of the record are also provided to the Social Security Administration program service centers, the Division of International Operations, Bureau of Retirement and Survivors Insurance, and the Division of Benefit Payments, Bureau of Disability Insurance in microform records.

RETRIEVABILITY:

Magnetic tape, disk and microform records are indexed by social security number, or claim account number. It is used to: (1) generate monthly and quarterly premium billing notices; (2) record and process premium payments and adjustments; (3) refund excess premium payments; (4) terminate hospital and/or supplementary medical insurance coverage for non-payment of premiums; (5) reverse termination actions; (6) maintain a history of premium payments, adjustments, or other events which alter the billing status; and (7) provide up-to-date premium and billing information to Health Care Financing Administration and Social Security Administration clerical and electronic operations. Information is used to respond to specific beneficiary inquiries or to facilitate the proper adjustment of social security benefit payments. Information is also accessed electronically by social security benefit programs for the proper adjustment of payment amounts.

SAFEGUARDS:

Magnetic tape, and disk records are protected through standard security measures used for all of Social Security Administration's computer records: microform records are subject to the same rules and security as all other information in Social Security Administration relating to claims and beneficiary records: limited access to Social Security Administration offices: limited employee access to need to know.

RETENTION AND DISPOSAL:

Microfilm and tape records can routinely be sent to the Federal Records Center after 2 years. However, since this record is updated monthly, even though the physical records are released to the Federal Records Center, current record will contain full history of all transactions. An inactive tape file, i.e., a file containing the records of cases where the enrollee has died, been in payment status for 2 or more years, etc., is maintained in each program service center. This file currently has no disposal schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Directors, Bureau of Program Operations, HCFA, 6401 Security Boulevard, Baltimore, Maryland 21235

NOTIFICATION PROCEDURE:

In order to ascertain whether or not this system contains information about him/her, an individual should contact the most convenient social security office and provide health insurance claim number as shown on Medicare health insurance card.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with DHHS Regulations, 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notificiation procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with DHHS Regulations, 45 CFR 5b.

RECORD SOURCE CATEGORIES:

The identification and entitlement/termination information for this system is extracted from Social Security Administration's Master Beneficiary Record. All other information is compiled from the individual's premium billing and payment histories.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A Retirement and Survivors Insurance Claims

1. Determining Appropriate Office to Contact

Records relating to retirement and survivor insurance claims are maintained primarily in six program service centers across the country. The responsibility for the payment of benefits and the maintenance of records is assigned to each office according to the first three digits of the social security number.

However, if the only individual entitled to survivor's monthly benefits on one claim number is also entitled to a retirement benefit on another claim number, the office which is assigned the responsibility for the retirement benefit claim also handles the survivor claim. If the only individual on the record is entitled to a survivor benefit which has been reduced because the survivor is under age 65, and the individual is also entitled to disability benefit (which is higher), on another record, the Bureau of Disability Insurance certifies the payments and maintains both records (see Appendix B). The Bureau of Disability Insurance is also responsible

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for payment certification and record maintenance if the only survivor on a record is entitled as a childhood disability beneficiary and the survivor is also entitled to a disability benefit on anther record.

In addition, when one of the individuals in the record resides outside the United States or its possessions, the responsibility for payment certification and record maintenance is assigned to the Division of International Operations without reference to the social security claim number or the type of benefit.

With the exceptions noted above, the appropriate program service center to contact can be determined by checking the first three (left side) digits of the social security number and comparing to the chart below. For example, if the first three digits are 076, the appropriate program service center to contact will be the Northeastern Program Service Center, similiarly, if the first three digits were 437, the appropriate office would be Mid-America Program Service Center, and if they are 728, the appropriate office would be the Great Lakes Program Service Center.

If the first three digits fall within the range of:

001–134 contact the Northeastern Program Service Center;
135–222 the Mid-Atlantic Program Service Center;
223–231 the Southeastern Program Service Center;
232–236 the Mid-Atlantic Program Service Center;
237–267 the Southeastern Program Service Center;
268–302 the Great Lakes Program Service Center;
303–315 the Mid-America Program Service Center;
316–399 the Great Lakes Program Service Center;
400–428 the Southeastern Program Service Center;
429–500 the Mid-America Program Service Center;
501–504 the Western Program Service Center;
505–515 the Mid-America Program Service Center;
516–524 the Western Program Service Center;
525 the Mid-America Program Service Center;
526–576 the Western Program Service Center;
577–584 the Mid-Atlantic Program Service Center;
585 the Mid-America Program Service Center;
586 the Western Program Service Center;
587 the Southeastern Program Service Center; or
700–729 the Great Lakes Program Service Center.

2. Office Addresses

Director, Northeastern Program Service Center, 96–05 Horace Harding Expressway, Flushing, New York 11368
Director, Mid-Atlantic Program Service Center, 300 Spring Garden Street, Philadelphia, Pennsylvania 19123
Director, Southeastern Program Service Center, 2001 Twelfth Avenue, North Birmingham, Alabama 35285
Director, Great Lakes Program Service Center, 600 West Madison, Chicago, Illinois 60606
Director, Mid-America Program Service Center, 601 East Twelfth Street, Kansas City, Missouri 64106
Director, Western Program Service Center, 1221 Nevin Avenue, Richmond, California 94802
Director, Office of Central Operations, P.O. Box 1756, Baltimore, Maryland 21203

3. Office Hours

Northeastern Program Service Center—7:00–5:30
Mid-Atlantic Program Service Center—7:00–5:30
Southeastern Program Service Center—7:00–5:00
Great Lakes Program Service Center—7:00–5:30
Mid-America Program Service Center—7:00–5:00
Western Program Service Center—6:45–4:30
Office of Central Operations—7:00–5:30

Appendix B Disability Insurance Claims

1. Central Reviewing Office Address

Records relating to claims for disability insurance are maintained primarily by the: Office of Disability Operations, Baltimore, Maryland 21241, Office Hours are: 8:20–4:50.

When one of the individuals in the claim resides outside of the United States, or its possessions, the record is maintained by the Office of Central Operations, P.O. Box 1756, Baltimore, Maryland 21203.

2. Disability Insurance Regional Commissioner Addresses and Office Hours

Assistant Regional Commissioner, DI, DHHS, SSA, Room 1200, JFK Federal Building, Boston, Massachusetts 02203—Office Hours 8:30–5:00
Assistant Regional Commissioner, DI, DHHS, SSA, Federal Bldg., Room 4008, 26 Federal Plaza, New York, New York 10007—Office Hours 8:30–4:30.
Assistant Regional Commissioner, DI, DHHS, SSA, P.O. Box 8788, Philadelphia, Pennsylvania 19108—Office Hours 8:30–5:00.
Assistant Regional Commissioner, DI, DHHS, SSA, 101 Marietta Tower, Suite 2001, Atlanta, Georgia 30323—Office Hours 8:30–4:30.
Assistant Regional Commissioner, DI, DHHS, SSA, Room 712, New Post Office Building, 300 South Wacker Drive, 12th Floor, Chicago, Illinois 60606—Office Hours 8:15–4:45.
Assistant Regional Commissioner, DI, DHHS, SSA, Room 436, Federal Bldg., 601 East 12th Street, Kansas City, Missouri 64106—Office Hours 8:00–4:45.
Assistant Regional Commissioner, DI, DHHS, SSA, 1200 Main Tower Bldg., 1114 Commerce Street, Dallas, Texas 75202—Office Hours 8:00–4:30.
Assistant Regional Commissioner, DI, DHHS, SSA, 100 Van Ness Ave., San Francisco, California 94102—Office Hours 8:00–4:30.
Assistant Regional Commissioner, DI, DHHS, SSA, Federal Building, Room 11037, 19th and Stout Street, Denver, Colorado 80202—Office Hours 8:30–4:30.
Assistant Regional Commissioner, DI, DHHS, SSA, Arcade Plaza Building, M/S M–1, 1321 Second Avenue, Seattle, Washington 98101—Office Hours 8:00–4:30.

3. Related State Office Addresses

The disability claims files may be temporarily transferred to State Disability Determination Services for initial or continuing disability determinations to be made. Vocational Rehabilition Agencies in the States may also be involved with a disability claim from the training aspects. The State agency addresses are as follows:

Alabama

State Department of Education, Division of Disability Determinations, Clairmont Office Plaza, 2800 8th Avenue, South, Birmingham, Alabama 35233

Alaska

Disability Determination Unit, Office of Vocational Rehabilitation, 4100 Spenard Road, Suite A, Anchorage, Alaska 99503

Arizona

Disability Certification Office, Rehabilitation Services Bureau, Department of Economic Security, P.O. Box 11980, Phoenix, Arizona 85061

Arkansas

Disability Determination for Social Security Administration, 700 S Pulaski Street, 2nd Floor, Little Rock, Arkansas 72201

California

Oakland Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 24225, Oakland, California 94623

Los Angeles North Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 3819, Terminal Annex, Los Angeles, California 90051

San Diego Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 81326, San Diego, California 92138

Sacramento Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 1827, Sacramento, California 95809
Department of Social Services, Disability Evaluation Branch, 601 J Street, Suite 200, Sacramento, California 95823

Fresno Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 1072, Fresno, California 93714

Los Angeles South Region

Department of Social Services, Disability Evaluation Branch, P.O. Box 60999, Terminal Annex, Los Angeles, California 90060

Colorado

Department of Social Services, Division of Rehabilitation, Disability Determination Unit, 2015 S. Pontiac Way, Denver, Colorado 80222

Connecticut

Division of Vocational Rehabilitation, Bureau of Disability Determination, 600 Asylum Avenue, 2nd floor, Hartford, Connecticut 06105

Delaware

Disability Determination Service, State Office Building, 820 North French Street, Wilmington, Delaware 19801

District of Columbia

Disability Determination Division, Vocational Rehabilitation Administration, Department of Human Resources, 1411 K Street, N.W., 13th Floor, Washington, D.C. 20005

Florida

Office of Disability Determination, Dept. of Health and Rehabilitation Services, 2600 Blair Stone Road, Room 350–B, Tallahassee, Florida 32301

Georiga

Disability Determination Unit, Division of Vocational Rehabilitation, One West Court Square, Suite 300, Decatur, Georgia 30030

Guam

Division of Vocational Rehabilitation, P.O. Box 10–C, Agana, Guam 96910

Hawaii

Disability Determination Branch, Vocational Rehabilitation and Service for the Blind Division, Kapiolani Commercial Center, Suite 660, 1580 Makaloa Street, Honolulu, Hawaii 96814

Idaho

Disability Determination, 1505 McKinney, Boise, Idaho 83704

Illinois

Division of Vocational Rehabilitation, Disability Determination Service, P.O. Box 3842, Springfield, Illinois 62708

Indiana

Disability Determination Division, P.O. Box 7069, 17 West Market Street, Indianapolis, Indiana 46207

Iowa

Rehabilitation Education and Services Branch, Disability Determination Division, 507 10th St., 4th Floor, Des Moines, Iowa 50309

Kansas

Disability Determination Service, Division of Vocational Rehabilitation, 2036 S.E. 30th Street, Topeka, Kansas 66605

Kentucky

Department of Human Resources, Bureau of Social Insurance, Division for Disability Determinations, P.O. Box 1001, Frankfort, Kentucky 40602

Louisiana

Disability Determinations, Health and Human Resources, Office of Rehabilitation Services, P.O. Box 3212, Baton Rouge, Louisiana 70821

Maine

Bureau of Vocational Rehabilitation, Division of Disability Determination, P.O. Box 949, Augusta, Maine 04330

Maryland

Disability Determination Services, Division of Vocational Rehabilitation, Post Office Box 17011, Baltimore, Maryland 21203

Massachusetts

Massachusetts Rehabilitation Commission, Disability Determination Service, 60 Batterymarch Street, Boston, Massachusetts 02110

Michigan

Disability Determination Service, P.O. Box 30011, Lansing, Michigan 48909
Disability Determination Service, Post Office Box 37730, Oak Park, Michigan 48237
Division Determination Service, P.O. Box 1200, Traverse City, Michigan 49684

Minnesota

Disability Determinations Unit, Division of Vocational Rehabilitation, Metro Square Building, Suite 460, Seventh and Roberts Streets, St. Paul, Minnesota 55101

Mississippi

Disability Determination Unit, State Dept. of Education, P.O. Box 1271, Jackson, Mississippi 39205

Missouri

Department of Elementary and Secondary Education, DVR, 3523 North 10 Mile Drive, 125 West Dunklin, Jefferson City, Missouri 65101

Montana

Disability Determination Bureau, Rehabilitative Services Division, P.O. Box 4189, Helena, Montana 59601

Nebraska

Division of Rehabilitation Services, Disability Determination Section State Office Bldg., 6th Floor, 301 Centennial Mall, South, South Lincoln, Nebraska 69508

Nevada

Bureau of Disability Adjudication, Rehabilitation Division, Department of Human Resources, 505 East King St., Capital Complex, Carson City, Nevada 89710

New Hampshire

Disability Determination Unit, Vocational Rehabilitation Division, P.O. Box 452, Concord, New Hampshire 03301

New Jersey

Division of Disability Determinations, Department of Labor and Industry, P.O. Box 649, Newark, New Jersey 07101

New Mexico

Disability Determination Unit, P.O. Box 4588, Albuquerque, New Mexico 87106

New York

Bureau of Disability Determination, State Department of Social Services, 2

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World Trade Center, New York, New York 10047

North Carolina

Disability Determination Section, Division of Social Services, Post Office Box 243, Raleigh, North Carolina 27602

North Dakota

Disability Determination Section, Division of Vocational Rehabilitation, Russel Building, RR#1, Highway 83 North, Bismarck, North Dakota 58505

Ohio

Bureau of Disability Determination, Rehabilitation Services Commission, 4574 Heaton Road, Columbus, Ohio 43229

Bureau of Disability Determination, Rehabilitation Services Commission, 9403 Kenwood Rd., Cincinnati, Ohio 45442

Oklahoma

Department of Institutions, Social and Rehabilitative Services, Attention: Disability Insurance Unit, P.O. Box 25352, Oklahoma City, Oklahoma 73125

Oregon

Vocational Rehabilitation Division, Disability Determination Services, 2045 Silverton Road, N.E., Salem, Oregon 97310

Pennsylvania

Bureau of Vocational Rehabilitation, Disability Determination Division, 1310–12 North 7th Street, Harrisburg, Pennsylvania 17120

Bureau of Vocational Rehabilitation, Disability Determination Division, 225 Jones Street, Wilkes-Barre, Pennsylvania 18702

Bureau of Vocational Rehabilitation, Disability Determination Division, P.O. Box 2500, Greensburg, Pennsylvania 15605

Puerto Rico

Disability Determination Program, Call Box 71301, San Juan, Puerto Rico 00936

Rhode Island

Vocational Rehabilitation, Services, Disability Determination Unit, 24 Mason Street, Providence, Rhode Island 02903

South Carolina

Disability Determination Division, S.C. Vocational Rehabilitation, Department, P.O. Box 4945, Columbia, South Carolina 29240

South Carolina Commission for the Blind 1430 Confederate Avenue Columbia, South Carolina 29201

South Dakota

Disability Determination Service, Division of Vocational Rehabilitation, P.O. Box 912, Sioux Falls, South Dakota 57101

Tennessee

Disability Determination Section, Division of Vocational Rehabilitation, 1808 West End Avenue, 9th Floor, Nashville, Tennessee 37203

Texas

Texas Rehabilitation, Commission, Division of Disability Determination, P.O. Box 2913, Austin, Texas 78769

Utah

Disability Determination Services, Division of Rehabilitation Service, Utah State Board of Education, P.O. Box 550, Salt Lake City, Utah 84110

Vermont

Disability Determination Agency, P.O. Box 557, Waterbury, Vermont 05676

Virgin Islands

Disability Representative, Bureau of Disability Insurance, DHEW, SSA Federal Building, St. Thomas, St. Thomas, Virgin Islands 00801

Virginia

Disability Determination Division, Virginia Department of Vocational Rehabilitation, 200 West Grace Street, Richmond, Virginia 23220

Disability Determination Division, Virginia Department of Vocational Rehabilitation, 5205 Leesburg Pike, Suite 1000, Falls Church, Virginia 22041

Disability Determination Division, Virginia Department of Vocational Rehabilitation, 5700 Thurston Avenue, Suite 300, Virginia Beach, Virginia 23455

Disability Determination Division, Virginia Department of Vocational Rehabilitation, 4504 Starkey Road, S.W., Suite 100, Roanoke, Virginia 24014

Washington, Disability Insurance Section, 9303 M.S. LN–11, Olympia, Washington 98504

West Virginia

Disability Determination Services, Vocational Rehabilitation Division, Mason Building, Second Floor, 1206 Quarrier Street, Charleston, West Virginia 25301

Disability Determination Section, Division of Vocational Rehabilitation, P.O. Box 908, Bridgeport, West Virginia 26330

Wisconsin

Bureau of Social Security Disability Insurance, P.O. Box 7623, Madison, Wisconsin 53707

Wyoming

Disability Determination Service, Division of Vocational Rehabilitation, 320 West 25th Street, Cheyenne, Wyoming 82001

[FR Doc. 80-34480 Filed 11-5-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

White House Conference on Aging Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in Developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 95–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Physical and Social Environment and Quality of Life is scheduled to meet on Friday, November 21, 1980 from 9:00 a.m. to 5:00 p.m. in Rooms 337A and 339A of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

At this meeting the committee will review and discuss material generated by subcomittee members and consultants in preparation for their final report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: October 31, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-34558 Filed 11-5-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 95–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Health Services will hold a meeting on December 10 and 11, 1980 from 9:30 to 5:00 p.m. on both days. This meeting will be held in Room 403A and 425A in the Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

At this meeting the committee will discuss sub-committee and task force reports in order to arrive at a final concensus for the outline of the draft on the Technical Committee report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: October 31, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-34559 Filed 11-5-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana and North Dakota; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management, Deptment of the Interior.

ACTION: Notice Calling for Expressions of Leasing Interest in Federal Coal (Fort Union).

SUMMARY: BLM is seeking information from the public, industry, small business, public bodies, and state and local governments to identify areas where interest in federal leasing exists. This call for expressions of coal leasing interest is to integrate potential lessees' data and needs into the coal activity planning phase of the Ft. Union Federal coal management program in the Dickinson District of North Dakota. The data received from this call, along with the data from the Bureau of land Management (BLM), will be used to delineate preliminary tracts that will be considered for possible leasing within the *West-Central North Dakota Management Framework Plan (MFP)* area of the Dickinson District.

Areas indicated in the MFP as acceptable for further leasing consideration have undergone the partial application of unsuitability criteria based upon existing information. In some cases, additional or more detailed inventory and evaluation will be required before leasing is possible. The gathering of this information will continue during the activity planning process.

As a result of the land use planning (MFP) about 155,015 acres and approximately 4,022,937,000 tons of coal have been identified as acceptable for further consideration in the *West-Central North Dakota MFP* area.

Expressions of leasing interest have already been called for and received for the Redwater area of Montana and for the Golden Valley area of North Dakota.

Response to this notice will be accepted until January 7, 1981. The earlier the expressions of interest are received by BLM, the better the Coal Team will be able to address tract delineation guidance.

Information obtained as a result of this invitation, along with BLM information, will be used by the Regional Coal Team to advise the United States Geological Survey on delineating lease tracts that could be selected for possible competitive sale under the Department of Interior's coal management program.

All information submitted in response to this call shall be available upon request for public inspection and copying.

Expressions of interest must be sent to two addresses:

Mr. Michael Penfold, State Director, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, and

District Supervisor for Resource Evaluation, Geological Survey, P.O. Box 2550, Billings, Montana 59103.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Frey, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, Telephone: (406) 657–6632.

SUPPLEMENTARY INFORMATION: This notice is to advise the public that the official call for expressions of leasing interest is now in effect in the areas identified as acceptable for further consideration for coal leasing in the *West-Central North Dakota MFP.* Maps and supplementary information on the areas found acceptable for further consideration may be obtained from the BLM Montana State Office or the Geological Survey at the addresses given above and from the BLM Dickinson District Office at the address given below. Respondents to this call should make use of these materials to the extent possible in completing their submissions.

Mr. Charles Steele, Dickinson District Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58601.

This call for expressions of interest is the first step in activity planning in the *West-Central North Dakota MFP* area under the Federal coal management program (43 CFR 3420.4–2). It is being made before any tract boundaries are delineated. The results of this call will provide information that will be used along with other data to delineate preliminary tracts within the MFP area.

Expressions of interest from small businesses and public bodies are invited in accordance with the provisions of 43 CFR 3420.1–4, which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses.

Entities submitting expressions of interest under the small business or public body provisions should state that the submissions are for possible small business or public body set-asides and should also supply proof of small business or public body status. An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

The information submitted in this expression of interest is not an application for coal leasing. Instead, the information received from this call along with other information from BLM and GS will be used to delineate preliminary tracts that are being considered for possible leasing in the *West-Central North Dakota Management Framework Plan* area.

These expressions of leasing interest should include the following data (when applicable):

1. Location

a. Information showing proposed mining project boundaries on a BLM Fort Union coal interest map (available in packets from BLM).

b. If no location is indicated but other specific information is provided, the expression will still be considered. In such cases the joint GS/BLM tract delineation team may locate the tract.

2. Type of mine:

a. Surface or underground.

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b. Technique of mining (i.e., longwall, room and pillar, dragline).

3. Quantity and quality of coal needs including total tonnage, life of mine, average annual production rates, and the year mining production would begin.

4. Proposed use of coal.

Identify the likely market and location, or potential alternative locations for coal use including type and size of power plant and synthetic fuel plant, or other use both within and outside the Fort Union coal region.

5. Transportation needs and proposed routes to existing and proposed facilities (i.e., railroads, pipelines, power lines, and highways.)

6. Information on existing consents:

a. Name and address of consenters.

b. Legal description of lands.

c. Termination date of consent.

d. Evidence of transferability.

7. Contacts. List the name, address, and phone number of the person who may be contacted for clarification or additional information on the expression of interest.

Information considered proprietary should not be submitted as part of this expression of leasing interest. If proprietary information is submitted, please include a signed release stating that the information can be made available on request for public inspection and copying.

Dated: October 24, 1980.

Kannon Richards,

Acting State Director.

Federal Coal Acceptable for Further Consideration in West-Central North Dakota MFP

	Acres	Tons
North Garrison	4,280	69,034,000
Garrison	3,200	26,940,000
Underwood	1,150	22,137,000
Washburn	1,035	14,450,000
South Beulah	7,669	174,489,750
Dickinson	59,950	1,574,387,520
North Beulah	2,838	59,598,000
Zap	2,084	32,823,000
Renner's Cove	15,939	460,236,625
Hazen	3,395	58,413,000
Center Stanton	13,415	375,620,000
Dunn Center	40,060	1,053,826,200
	155,015	4,022,937,095

[FR Doc. 80-34522 Filed 11-5-80; 8:45 am]

BILLING CODE 4310-84-M

Roswell District Advisory Council Meeting

AGENCY: U.S. Bureau of Land Management, Roswell District.

ACTION: Notice of Advisory Council meeting.

SUMMARY: In accordance with Pub. L. 94-579 this notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Advisory Council.

DATE: December 2, 1980, beginning at 10:00 a.m. A public comment period will begin at 11:00 a.m.

ADDRESS: U.S. Bureau of Land Management, Roswell District Office, 1717 West Second Street, Roswell, New Mexico.

FOR FURTHER INFORMATION CONTACT: James H. O'Connor, District Manager, or Tom Kiddoo, Public Information Specialist, U.S. Bureau of Land Management, P.O. Box 1397, Roswell, N.M. 88201 (505-622-7670).

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes: (1) election of officers; (2) discussion of Advisory Council participation in the District planning process; (3) a review of wilderness study area designations; (4) an update report on the waste isolation pilot plant (W.I.P.P.) site near Carlsbad, New Mexico; (5) discussion on rangeland research at Fort Stanton, New Mexico; and (6) a report on an experimental District brush control program.

The meeting is open to the public. Interested persons may make oral statements to the Council during the public comment period or may file written statements. Anyone wishing to make an oral statement must notify the District Manager by December 1, 1980. Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: October 30, 1980.

James H. O'Connor,

District Manager.

[FR Doc. 80-34527 Filed 11-5-80; 8:45 am]

BILLING CODE 4310-84-M

Final Decisions on the Intensive Wilderness Inventory in Oregon and Washington

I hereby announce my final intensive inventory decisions for 266 inventory units in Oregon containing 5,727,963 acres, for 44 units in Washington containing 13,956 acres, and for one unit in both Oregon and Washington containing 2,935 acres. The final decisions for three inventory units in Oregon containing 280,170 acres have been deferred. These decisions are issued under the authority of Section 603 of the Federal Land Policy and Management Act of 1976 and in accordance with the guidelines in BLM's *Wilderness Inventory Handbook* (issued September 27, 1978) and Organic Act Directive Number 78-61, Change 3.

By publication in the **Federal Register** on March 27, 1980, pages 20167 through 20170, this office announced the beginning of a 90-day period for public review and comment on the proposed decisions concerning these inventory units. The public comment period ended on June 25, 1980. During the public comment period, 16 public meetings were held in Oregon and three in Washington. All comments, whether received by mail or at a public meeting, as well as late comments received in time to be reviewed before the final decisions were made, were treated equally. They were read, recorded, analyzed and, when appropriate, the information provided in the comments was checked in the field. The original comments are available for inspection at the offices to which they were originally sent. Copies of all comments received by the district offices are also on file at the state office. The report including maps, on the final intensive inventory decisions is available on request from the Oregon State Office, BLM, P.O. Box 1965, Portland, OR 97208.

Wilderness Study Areas

The following inventory units or portions of inventory units are identified as wilderness study areas (WSAs).

a. Lands proposed as WSAs in the March 27, 1980 **Federal Register** notice and now identified as WSAs:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-2	Devils Garden Lava Bed	29,640
1-3	Squaw Ridge Lava Bed	28,320
1-22	Four Craters Lava Bed	12,120
1-58	Diablo Mountain	113,120
1-117B	Monument Flat	18,720
1-139B	Spaulding Reservoir	65,720
1-146A	Hawksie Walksie	68,360
1-146B	Hawksie Walksie	8,520
	Subtotal Lakeview District	344,320
	Burns District	
2-72C	Sheepshead Mountains	50,300
2-72I	Sheepshead Mountains	38,855
2-73A	Winter Range	21,395
2-73H	Winter Range	14,640
2-77B	Mahogany Ridge	23,780
2-78D	Red Mountain	2,720
2-78F	Red Mountain	14,730
2-83A	Alvord Peak	14,655
2-85F	South Steens	65,940
2-86E	Blitzen River	52,060
2-86F	Blitzen River	9,380
2-98A	Strawberry Mountain	180
2-98C	Strawberry Mountain	720
2-98D	Strawberry Mountain	208
	Subtotal Burns District	309,563
	Vale District	
3-27 [1]	Beaver Dam Creek	18,900
3-31 [1]	Camp Creek	19,100
3-32 [1]	Cottonwood Creek	7,900
3-33A [1]	Gold Creek	13,400
3-35 [1]	Sperry Creek	5,300

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
3-47 [1]	Cedar Mountain	46,300
3-53 [1]	Dry Creek	22,800
3-56 [1]	Dry Creek Buttes	51,000
3-59A	Owyhee Breaks	12,800
3-73 [1]	Blue Canyon	12,800
3-74A [1]	Upper Leslie Gulch	3,000
3-75 [1]	Slocum Creek	7,600
3-77A [1]	Honeycombs	38,200
3-77B [1]	Honeycombs	12,500
3-110 [1]	Lower Owyhee Canyon	73,200
3-111 [1]	Saddle Butte	87,500
3- 118A [1]	Bowden Hills	59,000
3-120 [1]	Clarks Butte	31,500
3- 128A [1]	Jordan Craters	28,700
3-152 [1]	Willow Creek	29,800
3-153 [1]	Disaster Peak	13,300
3-157 [1]	Oregon Canyon	41,900
3- 162A [1]	Twelvemile	27,100
3- 173A [1]	Upper West Little Owyhee	87,200
	Subtotal Vale District	750,800
	Prineville District	
5-8	Lower John Day	19,370
5-8	North Pole Ridge	6,062
5-9	Spring Basin	5,982
5-21	Badlands	32,053
5-31	North Fork	10,701
5-33	South Fork	19,631
5-34	Sand Hollow	8,791
5-35 [1]	Gerry Mountain	20,700
5-42A	Hampton Butte	10,480
5-43	Cougar Well	17,026
	Subtotal Prineville District	150,796
	Baker District	
6-1	McGraw Creek	1,610
6-2	Homestead	10,700
6-3	Sheep Mountain	6,350
6-10 [2]	Cache Creek Ranch	1,960
	Subtotal Baker District	20,620
	Medford District	
11-1	Mountain Lakes	320
11-17	Soda Mountain	5,640
	Subtotal Medford District	5,960
	Coos Bay District	
12-8A	North Sisters Rocks	3
12- 14A [1]	Zwagg Island	5
	Subtotal Coos Bay District	8
	Grand total Oregon	1,582,067

[1] The sizes of these units were re-calculated following the announcement of the proposed decisions.

[2] Of the total 2,935 acres in this unit, 975 acres are in Washington.

Washington—*Inventory Unit*

Number	Name	Acres
	Spokane District	
13-24	Little Patos Island	15
	Baker District	
6-10 [1]	Cache Creek Ranch	975
	Grand total Washington	990

[1] Of the total 2,935 acres in this unit, 1,960 are in Oregon.

b. Lands proposed to be eliminated from further wilderness review in the March 27, 1980 **Federal Register** notice; but now identified as WSAs after further evaluation in response to public comments:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-24 [1]	San Dunes	15,520
1-101	Albert Rim	22,240
1-132	Guano Creek	10,560
	Subtotal Lakeview District	48,320
	Burns District	
2-72C	Sheepshead Mountains	3,890
2-72D	Sheepshead Mountains	35,000
2-72F	Sheepshead Mountains	20,330
2-72J	Sheepshead Mountains	7,755
2-74F [2]	Alvord Desert	63,080
2-77	Mahogany Ridge	3,070
2-84	Basque Hills	138,420
2-85G	South Steens	35,850
2-85H	South Steens	24,990
2-87I	Bridge Creek	14,060
2-103	Aldrich Mountain	9,395
	Subtotal Burns District	355,840
	Vale District	
3-18	Castle Rock	7,100
3-114	Palomino Hills	54,700
	Subtotal Vale District	61,800
	Prineville District	
5-31A	North Fork	44
5-42A	Hampton Butte	120
5-43	Cougar Well	289
	Subtotal Prineville District	453
	Grand total Oregon	466,413

[1] Includes a portion of the Lost Forest Instant Study Area.

[2] In the March 1980 proposed decisions, these lands were included in Unit 3-119. That unit has been combined with the existing WSA, Subunit 2-74F.

Washington—Inventory Unit

Spokane District, Number, Name, and acres

13-2 Chopaka Mountain, 5,520

c. Lands not included in the proposed decisions but now identified as part of a WSA following correction of an error in mapping the location of an inventory unit boundary:

Oregon—Burns District Inventory Unit

Number, Name, and Acres

2-77B Mahogany Ridge, 520

Total Oregon acres identified as wilderness study areas in these decisions, 2,049,000

Total Washington acres identified as wilderness study areas in these decisions, 6,510

Lands Eliminated From Further Wilderness Review

The following inventory units or portions of inventory units have been eliminated from further wilderness review because they lack wilderness characteristics.

a. Lands proposed to be eliminated from further wilderness review in the March 27, 1980 Federal Notice and now eliminated from further review:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-4	Walker Cabin	34,080
1-6	Little Benjamin Lake	13,080
1-9 [1]	Bull Lake	32,360
1-10	Benjamin Lake	16,200
1-11	Chicago Valley	7,080
1-12 [1]	Lost Forest	6,240
1-21	South Green Mountain	14,720
1-38	Cox Butte	41,200
1-52	Mack Cabin	24,000
1-53	Rawhide Creek	21,600
1-54	Monahan Lake	9,280
1-55	Pickett Spring	10,760
1-57	Robinson Lake	42,400
1-59	Whiskey Mountain	7,800
1-60	Coffee Lake	6,440
1-62	Whiskey Lake	48,560
1-64	Twin Buttes	22,080
1-65	Saunders Rim	17,000
1-67	Nub	6,520
1-71	Gray's Butte	25,040
1-72	Juniper Mountain	11,760
1-73	Pack Saddle Draw	18,680
1-74	Juniper Creek	23,280
1-75	Egan Cabin	6,240
1-79	Balls Lake	6,000
1-80	Twin Lakes	17,920
1-82	North Euchre Butte	22,600
1-85	Eagle Butte	13,220
1-86	Natural Corral Draw	12,500
1-87	Horseshoe Rim	21,000
1-88	Sunstone Mine North	29,360
1-89	Bacon Camp	5,560
1-90	Sunrise Canyon	4,880
1-93	Spine Cob Butte	11,000
1-94	Poker Jim Flat	14,360
1-95	ZX Ranch	21,120
1-96	Coglan Buttes	32,000
1-98	Abert Burn South	18,200
1-101	Abert Rim	640
1-102	Binkie Lake	13,440
1-106	Flint Hills	23,840
1-108	Rabbit Hills	15,360
1-114	Warner Lakes	33,680
1-115	Guano Slough	106,480
1-117	Monument Flat	16,240
1-118	Wakefield Cabin	28,880
1-120	Coleman Rim	11,280
1-124	Fish Canyon South	8,160
1-125	Horsehead Lake	12,000
1-126	Coleman Valley	23,640
1-127	Wool Lake	5,360
1-128	Long Lake	9,000
1-129	Jack Lake	10,000
1-130	Little Reservoir	24,280
1-131	Clover Swale	7,640
1-133	Guano Lake West	13,840
1-134	Lone Grave Butte	25,440
1-135	Guano Lake	11,680
1-136	Beatys Butte	5,580
1-137	Mahogany Mountain	8,000
1-138	Buckaroo Pass	12,640
1-139	Spaulding Reservoir	4,640
1-140	Sagehen Spring	13,440
1-142	Wilson Spring	16,040
1-143	Ryegrass Valley	31,880
1-144	Bald Mountain	14,040
1-145	Sagehen Flat	15,715
1-146A	Hawksie Walksie	3,800
1-146C	Hawksie Walksie	760
1-148	Miller Creek	6,480
1-149	Bumpheads	18,560
1-155	Swan Lake Rim	8,760
1-157	Coleman Valley West	10,000
1-158	Breezy	6,240
1-159	Catlow Valley	58,000
1-164	Snuff	1,440
	Subtotal Lakeview District	1,332,655
	Burns District	
2-18	Skull Creek	8,796
2-19	Silvies River	7,520
2-30	Palomino Buttes	13,075
2-43	Wagontire Mountain	48,875
2-44	Tired Horse	8,275
2-47	Surprise Lake	21,940
2-48	Hay Lake	18,350
2-49	Sheep Lake	36,985
2-50	Claw Creek	8,600
2-52	Miller Canyon	5,806

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Oregon—*Inventory Unit*—Continued

Number	Name	Acres
2-53	Gum Boot Canyon	8,475
2-54	Saddle Butte	9,120
2-55	Frenchglen	65,925
2-56	Black Rock	13,555
2-57	Jackass Creek	19,255
2-58	Keg Springs	22,200
2-59	Taylor Cabin	14,850
2-60	Weed Lake	19,520
2-61	Foster Flat	42,760
2-62	Nothing There	10,620
2-63	Chicken Head Lake	12,800
2-64	Buzzard Creek	34,495
2-65	Deep Canyon	8,215
2-67	Iron Mountain	19,580
2-68	Smokey Hollow	8,225
2-69	Devils Canyon	14,015
2-70	Wilson Butte	9,745
2-71	Goose Egg	15,930
2-72	Sheepshead Mountains	31,485
2-73	Winter Range	35,715
2-74F	Alvord Desert [2]	40
2-75	Black Point	51,300
2-77	Mahogany Ridge	15,518
2-78	Red Mountain	10,420
2-78F	Red Mountain	3,740
2-80	Sand Hills	14,990
2-83	Alvord Peak	8,280
2-83A	Alvord Peak	16,665
2-84	Basque Hills	9,870
2-85	South Steens	15,965
2-85F	South Steens	3,690
2-86	Blitzen River	8,560
2-86E	Blitzen River	6,500
2-87	Bridge Creek	14,410
2-88	Moon Hill	9,900
2-91	Guano Slough	22,165
2-92	Dead Horse	36,970
2-93	South Bolenbaugh	20,545
2-94	Walls Lake	51,130
2-98	Strawberry Mountain	2,400
2-98A	Strawberry Mountain	20
2-98D	Strawberry Mountain	2
2-110	Cottonwood Creek	5,145
2-111	Hay Creek	7,610
2-114	Syrup Canyon	7,570
2-115	Alkali Flat	14,285
	Subtotal Burns District	936,355
	Vale District	
3-6	DeArmond Mountain	45,510
3-9	Westfall Highlands	15,600
3-12	Hog Creek	20,480
3-16	Lower Bully Creek	18,060
3-18	Castle Rock	50
3-19	North Fork Malheur River	3,160
3-20	Mustang Basin	13,120
3-22	Cottonwood Creek	11,560
3-24	Buckbrush Creek	7,800
3-30	Slaughter Gulch	15,400
3-33 [3]	Gold Creek	1,400
3-34	Squaw Creek	3,040
3-35	Sperry Creek	10
3-41	Keaney Creek	1,540
3-41A	Keaney Creek	1,960
3-47	Cedar Mountain	10
3-50	Freezeout Ridge	13,140
3-51	Broken Rim	10,800
3-52	Rock Canyon	8,460
3-53	Dry Creek	9,520
3-54	Burnt Mountain	9,600
3-56	Dry Creek Buttes	2,720
3-57	Quartz Mountain	4,340
3-59	Owyhee Breaks	100
3-59A	Owyhee Breaks	200
3-68	McIntyre Ridge	14,540
3-70	Spring Mountain	23,960
3-73	Blue Canyon	1,170
3-74	Upper Leslie Gulch	460
3-74A	Upper Leslie Gulch	8,740
3-77	Honeycombs	920
3-77A	Honeycombs	5,500
3-79	Mahogany Mountain	10,600
3-80	Mud Flat	5,760
3-82	Washboard Reservoir	7,040
3-100	Duck Pond	19,780
3-105	Pluto	9,400
3-107	Obenchain	6,700
3-108	Turnbull Peak	13,240
3-110	Lower Owyhee Canyon	12,900
3-112	Scott's Butte	46,130
3-113	Rye Grass	21,300

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
3-116	Flat Top Mountain	16,100
3-118	Bowden Hills	260
3-118A	Bowden Hills	4,100
3-120	Clarks Butte	8,300
3-124	Bogus Rim	5,680
3-127	Little Crater	20,300
3-128	Jordan Craters	1,930
3-128A	Jordan Craters	500
3-130	Whitehorse Butte	25,420
3-132	Parsnip Peak	11,200
3-144	Hardin	21,200
3-145	Winter Range	86,000
3-146	Combined with Unit 3-148	
3-148	Big Grassy Mountain	55,200
3-149	Hanson Canyon	15,960
3-152	Willow Creek	14,970
3-157	Oregon Canyon	16,200
3-160	High Peak	14,040
3-162	Twelvemile	3,760
3-162A	Twelvemile	8,840
3-163	Blue Mountain	61,980
3-164	Alcorta Rim	15,560
3-171	Pole Creek	19,200
3-172	Deer Flat	11,200
3-173	Upper West Little Owyhee	1,560
3-173A	Upper West Little Owyhee	1,160
3-178	Rattlesnake Creek	58,400
3-179	Rawhide	21,740
3-180	High Ridge	15,500
3-181	Antelope Creek	21,380
3-182	Red Rocks	22,400
3-183	Deadhorse	16,300
3-186	Field Creek	11,580
3-188	Star Valley	10,320
3-191	Cairn "C"	7,960
	Subtotal Vale District	1,055,920
	Prineville District	
5-5 [4]	Horse Ridge	4,855
5-6	Lower John Day	2,575
5-8	North Pole Ridge	6,120
5-9	Spring Basin	301
5-10	Mt. Misery	5,055
5-11	Fossil Beds	7,623
5-16	Rocky Canyon	8,466
5-19	Chimney Rock	5,120
5-20	Alkali Flat	7,035
5-21	Badlands	1,119
5-22	Dry River	6,221
5-23	West Butte	16,440
5-31	North Fork	335
5-33	South Fork	29
5-34	Sand Hollow	29
5-35 [3]	Gerry Mountain	1,140
5-36	Redman Rim	12,823
5-40	Sears Creek	11,980
5-42	Hampton Butte	1,740
5-46	Hampton	8,650
5-47	Stockpile	8,300
5-49	Hemstad	15,553
5-50	Whiskey Springs	6,792
5-51	Twin Pines	12,600
5-52	Dickerson Well	9,040
5-53	Two Post Lake	11,545
5-55	Lone Pine	17,175
5-56	Frederick Butte	8,380
5-59	Grassy Lake	24,337
5-63	Stud Horse Butte	16,504
5-64	Glass Butte	10,911
5-65	Round Mountain	20,080
5-66	Steamboat Island	1
5-69	Eagle Butte Island	1
5-76	Kimberly Island	1
5-82	Nomanisa	1
5-83	Fantasy Island	2
	Subtotal Prineville District	268,879
	Baker District	
6-1	McGraw Creek	290
6-2	Homestead	1,100
6-3	Sheep Mountain	1,850
6-11	Teepee Ridge	240
6-13	—Island	5
6-14	—Island	4
6-15	—Island	6
6-38	—Island	4
6-39	—Island	2
6-40	Hooker Gulch	6,100
	Subtotal Baker District	9,601

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
	Medford District	
11-16	Zane Grey	18,460
	Coos Bay District	
12-10A	Pistol River-Myers Creek Rocks	5
12-12A	Lone Ranch Rocks	4
12-13A	Harris Island	2
12-14A	Table Rock	1
12-15	Fish Rock	1
	Subtotal Coos Bay District	13
	Grand total Oregon	3,621,883

[1] Includes a portion of the Lost Forest Instant Study Area.
[2] In the March 1980 proposed decisions these 40 acres were included in Unit 3-119. That unit has been combined with the existing WSA, Subunit 2-74F.
[3] The sizes of these units were re-calculated following the announcement of the proposed decisions.
[4] Includes the Western Juniper Instant Study Area.

Washington—*Inventory Unit*

Number	Name	Acres
	Spokane District	
13-1	Juniper Forest	7,806
13-2	Chopaka Mountain	40
13-3	Lummi Rocks	8
13-4	Blind Island	2
13-5	Chuckanut Rocks	1
13-6	Fauntleroy Rock	1
13-7	Dot Rock	1
13-9	Read's Bay Island	3
13-10	Twin Rocks	2
13-11	Barnes Rocks	1
13-12	Clark Rocks	1
13-14	Matia Rock	2
13-15	Davis Bay Island and Rocks	2
13-16	Richardson Rock	2
13-17	Skull Island	3
13-18	Harbor Rocks	1
13-19	Trinka Rock	1
13-20	Oak Island and Rock	1
13-21	Victim Island	3
13-22	Jap Island	1
13-23	Freeman Island and Reach Haven Rock	2
13-27	King Islands	1
13-28	Kanaka Bay Islands	3
13-29	Park Bay Island	2
13-30	North Pass and McConnell Rocks	2
13-31	Broken Point Island	1
13-32	Posey Island	1
13-33	Mitchells Bay Rocks and Guss Island	4
13-34	Pudding Island	1
13-35	John's Pass Rock and Rock Island	1
13-36	Prevost Harbor Rocks	2
13-37	Reid Harbor Rock	1
13-38	John's Island Rock	1
13-39	Reservation Bay Rocks	1
13-40	Little Deadman and Deadman Islands	6
13-41	Narrow Rocks	2
13-44	Rockport Island	20
13-50	Clallam County Islands	20
13-59	Indian Island	2
13-60	Prindle Island	185
13-62	Lawrence Lake Island	1
13-63	Eagle Island	10
13-67	Columbia River Islands	270
	Grand total Washington	8,421

b. Lands proposed as WSAs or parts of WSAs in the March 27, 1980 **Federal Register** notice, but now eliminated from further wilderness review after re-evaluation in response to public comments.

Oregon—*Inventory Unit*

Number	Name	Acres
	Burns District	
2-85F	South Steens	1,380
	Vale District	
3-41	Keaney Creek	12,780
3-44	Star Mountain	14,360
3-57	Quartz Mountain	11,080
3-74A	Upper Leslie Gulch	200
3-121	Deadman Creek	8,440
3-132	Parsnip Peak	10,800
	Subtotal Vale District	57,660
	Grand total Oregon	59,040

Total Oregon acres eliminated from further wilderness review in these decisions, 3,680,923
Total Washington acres eliminated from further wilderness review in these decisions, 8,421

Deferred Decisions

Though proposed decisions for the following inventory units were announced in the March 27, 1980 **Federal Register** notice, the final decisions have been deferred pending resolution of initial inventory appeals affecting contiguous lands in Idaho.

Oregon—*Vale District*—*Inventory Unit*

Number	Name	Acres
3-143	Combined with Unit 3-195	
3-159	Tent Creek	32,440
3-194	Lookout Butte	65,640
3-195	Owyhee Canyon	182,090
	Total acres for which final decisions are deferred	280,170

Interstate Units

Eleven of the inventory units included in this announcement are contiguous to public lands in inventory units in adjacent states. The district offices which administer lands in each interstate unit coordinated their wilderness inventories. The Idaho and Nevada State Directors received public comments on the proposed intensive inventory decisions for public lands in those states during approximately the same period as Oregon. A public comment period for proposed decisions on public lands in California outside of the California Desert was conducted during the summer of 1979. The California State Director reannounced the proposed decisions on the interstate units in 1980 so the public would have an opportunity to comment on proposed decisions on lands in both states at the same time.

Units Adjacent to Idaho Units Under Appeal

A number of initial inventory decisions in the Boise District in Idaho are under appeal to the Interior Board of Land Appeals. Therefore, the Idaho State Director has not issued proposed intensive inventory decisions for those units. Three of those units are contiguous with inventory units in the Vale District. The affected units in Vale are 3–159, 3–194 and 3–195. Unit 3–159 is also contiguous with an inventory unit in Nevada. Though the proposed decisions for these three units were announced in March 1980, final decisions will not be made until the Idaho appeal is resolved and the Idaho State Director is able to proceed with the intensive inventory of the units now under appeal.

When the Idaho State Director announces proposed intensive inventory decisions on the three Idaho units, the Oregon State Office will reopen the public comment period for the three Oregon units so the public will have the opportunity to review and comment on the interstate units as complete entities. Final decisions will be announced concurrently by the two states (also Nevada in the case of Unit 3–159).

Interstate Units.—*Public Land Roadless Areas Administered by More Than One State*

Unit No.	Unit name	Final decision: Wilderness study areas (WSA) — Acres in Oregon	Final decision: Wilderness study areas (WSA) — Acres in adjoining State	Final decision: Lacking wilderness characteristics — Acres in Oregon	Final decision: Lacking wilderness characteristics — Acres in adjoining State	Acres all public lands
OR-1-126	Coleman Valley			23,640		23,640
CA-020-1010 [1]	Macy Flat				13,060	13,060
Total						36,700
OR-1-157	Coleman Valley West			10,000		10,000
CA-020-1005 [1]	Coleman Ranch				13,005	13,005
Total						23,005
OR-1-164	Snuff			1,440		1,440
CA-020-1004 [1]	Twelve Mile Creek				14,690	14,690
Total						16,130
OR-2-78D	Red Mountain	2,720				2,720
OR-3-153	Disaster Peak	13,300				13,300
NV-020-859	Disaster Peak		11,622			11,622
Total						27,642
OR-2-78E	Red Mountain			5,460		5,460
NV-020-859J	Disaster Peak				540	540
Total						6,000
OR-2-80	Sand Hills			14,990		14,990
NV-020-609	Maggie Creek				20,594	20,594
Total						35,584
OR-3-159	Tent Creek					32,440
ID-106-70E	Tent Creek		(2)			3,400
NV-020-811	Tent Creek					10,680
Total						46,520
OR-3-172	Deer Flat			11,200		11,200
NV-020-809	Deer Flat				500	500
Total						11,700
OR-3-191	Cairn "C"			7,960		7,960
NV-020-210	Cairn "C"				3,700	3,700
Total						11,660

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Interstate Units.—*Public Land Roadless Areas Administered by More Than One State*—Continued

Unit No.	Unit name	Final decision				
		Wilderness study areas (WSA)		Lacking wilderness characteristics		
		Acres in Oregon	Acres in adjoining State	Acres in Oregon	Acres in adjoining State	Acres all public lands
OR-3-194	Lookout Butte					65,640
ID-106-48A	Lookout Butte		(1)			39,200
Total						104,840
OR-3-195	Owyhee Canyon					182,090
ID-106-48B	Owyhee Canyon		(1)			33,710
Total						215,800

[1] All of CA-020-1010 and CA-020-1006, and the eastern portion of CA-020-1004 are lands located in Nevada but administered by the Susanville District, California.
[2] Decision deferred.

Summary of the Wilderness Inventory in Oregon

1. Total public lands administered by BLM—15,724,455 acres.
   a. Oregon and California Grant Lands exempt from wilderness review—1,759,200 acres.
2. Total area subject to wilderness review—13,965,255 acres.
3. Total area found to lack wilderness characteristics prior to the intensive inventory—6,677,669 acres.
4. Total area included in the intensive inventory—7,287,586 acres
   a. Previously eliminated from further wilderness review—835,154 acres.
   b. Eliminated from further wilderness review by decisions announced in this notice—3,680,923 acres.
   c. Previously identified as Wilderness Study Areas—442,339 acres.
   d. Identified as Wilderness Study Areas by decisions announced in this notice—2,049,000 acres.
   e. Total area for which decisions have been deferred—280,170 acres.

Summary of the Wilderness Inventory in Washington

1. Total public lands administered by BLM—310,239 acres.
2. Total area found to lack wilderness characteristics prior to the intensive inventory—295,308 acres.
3. Total area included in the intensive inventory—14,931 acres.
   a. Eliminated from further wilderness review by decisions announced in this notice—8,421 acres.
   b. Identified as Wilderness Study Areas by decisions announced in this notice—6,510 acres.

Inventory Units Under Formal Appeal

Inventory Unit 11–6, Greyback Glades, in the Medford District, Oregon, is under appeal to the Interior Board of Land Appeals (IBLA) as a result of the initial inventory decision announced on August 29, 1979.

Inventory Subunits 2–81L, Pueblo Mountains, and 2–82H, Rincon, in the Burns District, Oregon, are under appeal to the IBLA as a result of the Oregon State Director's responses to protests of final intensive inventory decisions announced on March 27, 1980. The responses to the protests were announced on August 5, 1980, in the **Federal Register**, pages 51925–51926.

These three inventory units will be subject to the Interim Management Policy and Guidelines until the IBLA issues a decision and as long as the units remain under wilderness review.

Effective Date

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. The final decisions announced in this notice will become effective on December 15, 1980, unless timely protests are received by the Oregon State Director.

Protest and Appeal Procedures

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, by or before 4:15 p.m., December 15, 1980. Only those protests received at the Oregon State Office by the date and time specified will be accepted.

A protest must specify the inventory unit or units to which it is directed, it must include a clear and concise statement of the reasons for the protest, and it must include data to support the reasons.

Following the close of the protest period, I will publish in the **Federal Register** a notice of those decisions that were not protested and, therefore, have become effective, and those which are under formal protest. Decisions under formal protest will not become effective until decisions are made on the protest and any resulting appeal.

I will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by my written decision on a formal protest may appeal such decision under the provisions of 43 CFR Part 4.

Herbert L. Haglund,
State Director.

[FR Doc. 80-34552 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. I-841]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands; Correction

October 31, 1980.

In FR Doc. 80–2242, filed January 23, 1980 and appearing on page 5841 of the issue for January 24, 1980, the following correction should be made.

The legal description read W½SE¼SW¼SE¼ of Sec. 11, T. 12 S., R. 16 E., B.M. and should read W½SW¼SW¼SE¼.

Vincent S. Strobel,
Chief, Branch of L&M Operations.

[FR Doc. 80-34624 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Eugene District Advisory Council will be held on December 9, 1980.

The meeting will be held from 9:00 a.m. to 12:00 noon in the Lane County Extension Service Conference Room at 950 West 13th Street in Eugene, Oregon.

The topic for the meeting is "The Tentative Land Use Planning Criteria for the 317,00 Acres of BLM-administered Land in the Eugene District."

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon on December 9, 1980 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1255 Pearl Street in Eugene, Oregon 97401, telephone 503–687–6651 by December 2, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction.

Dated: October 27, 1980.

Dwight L. Patton,
District Manager.

[FR Doc. 80-34625 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Grand Junction District; Multiple Use Advisory Council Meeting

Notice is hereby given that the Bureau of Land Management Grand Junction District Multiple Use Advisory Council will conduct its first meeting December 15 and 16, 1980, in the 3rd floor conference room of the district office, 764 Horizon Drive, Grand Junction, Colorado. The meeting begins at 9:00 a.m. on the 15th and 8:00 a.m. on the 16th.

The agenda will be devoted to welcoming and becoming acquainted with new members; reviewing the purpose and functions of the Council; and familiarizing members with BLM programs, procedures, and organization. The agenda will include:

December 15

Introductions.
Role and structure of the Advisory Council.
Orientation to BLM, including organization and procedures.
Overview and discussion of the Grand Junction District and its programs by Resource Area.

December 16

Emerging Issues and Programs.
Election of Officers.
Discussion of Administrative Matters.
Scheduling future meetings and topics to be addressed at the next meeting.
Comments or statements from the public and discussion.

The meeting is open to the public and time is alloted on December 16 at 11:00 a.m. for brief statements by members of the public; such statements should be limited to matters set forth in the agenda. Those wishing to make oral statements should notify the District Manager at the address above. Written statements should be filed for the Council's consideration by submitting them at the meeting or mailing in advance to the Bureau of Land Management.

Further information concerning the meeting may be obtained from the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado (3rd floor), telephone number 243–6552.

Summary minutes of the meeting will be available at the Grand Junction District Office for public inspection and copying for 30 days following the meeting.

David A. Jones,
District Manager.

[FR Doc. 80-34626 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Las Cruces District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94–579, that a meeting of the Las Cruces District Advisory Council will be held on Thursday, December 4, 1980.

The meeting will begin at 9:00 a.m. in the Conference Room of the Santa Teresa Building, Second Level, at 317 North Main, Las Cruces, New Mexico.

The agenda for the meeting will include:

1. Old business and approval of minutes.
2. Update on the Southern Rio Grande Environmental Impact Statement.
3. Work session on Southern Rio Grande Management Framework Plan:
   a. Overview of the Planning Process.
   b. Resource Specialists' Recommendations (MFP I).
   c. Managers' Multiple Use Recommendations (MFP II).
   d. Discussion period: Expression of opinion and concerns about conflicting resource uses.
4. Summary of Council's major recommendations.

The meeting will be open to the public and interested persons may make oral statements to the Council during an allotted time period beginning at 2 p.m. and lasting for at least one half hour. The District Manager may establish a time limit for oral statements depending on the number of persons wishing to make statements. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1705 North Valley Drive (P.O. Box 1420), Las Cruces, New Mexico 88001 by November 27, 1980.

Summary minutes of the council meeting will be maintained in the Las Cruces Bureau of Land Management District Office and will be available for public inspection and reproduction (during regular business hours) for 30 days following the meeting.

Donnie R. Sparks,
Acting District Manager.

[FR Doc. 80-34627 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Multiple Use Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; Meeting.

Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Yuma District Multiple Use Advisory Council will be held Thursday and Friday, December 11 and 12, 1980, beginning at 8 a.m. M.S.T. at the Royal Quality Inn, 2941 South Fourth Avenue, Yuma, Arizona.

The first day of the meeting will be a field tour of the Laguna/Martinez Recreation Lands and portions of the La Paz Planning Unit in the vicinity of the town of Quartzsite. The tour's purpose is to review the management of winter visitors, the management of the floodplain below Imperial Dam, and the associated problems.

The second day of the meeting will begin at 8 a.m. M.S.T. at the above named location. The specific purpose is to develop recommendations as to the management of winter visitors on the Yuma District.

The agenda will include:

1. A presentation on the schedule for implementation of the Parker Strip Recreation Management Plan.
2. A presentation and discussion by the Water and Power Resources Service about water management on the lower Colorado River.
3. A presentation on the schedule for implementation of the Laguna/Martinez Recreation Management Plan.
4. Winter visitor management on the Laguna/Martinez Recreation Lands and the public lands near Quartzsite.
5. A discussion of winter visitor management problems and options, and development of recommendations for winter visitor management and related public affairs.
6. Close out and plans for future council activity.

The meeting and field tours are open to the public. Interested persons may make oral statements to the Council or file written statements for the Council's consideration. Anyone wishing to make an oral presentation must notify the District Manager at the Bureau of Land Management Office, 2450 South Fourth Avenue, Yuma, Arizona by December 1, 1980. Depending on the number of people wishing to make an oral statement, a time limit may be

established. Since limited transportation is available, members of the public must provide their own transportation for the field tour.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

H. M. Bruce,
District Manager.

[FR Doc. 80-34628 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on December 4-5, 1980, beginning at 9 a.m. in the Oceanside Conference Room, Alaska OCS Office, 620 East 10th Avenue, Anchorage, Alaska.

The meeting will cover the following principal subjects:

Resource portrayals, Kodiak Sale 61.
Presentation by the Alaska Fisheries Development Foundation.
Scoping results and development scenarios—Beaufort Sea Sale 71.
Phase I status report, Eastern Gulf Sale 55.

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying 3 weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276-2955.

Dated: October 29, 1980.

Robert J. Brock,
Acting Manager, Alaska OCS Office.

[FR Doc. 80-34630 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Socorro District Multiple Use Advisory Council (New Mexico); Meeting

A meeting of the Bureau of Land Management (BLM), Socorro District Multiple Use Advisory Council will be held December 3 and 4. The business meeting will commence at 8 a.m. in the First State Bank Hospitality Room at 103 Manzanares Avenue N.E. The agenda will include election of officers, a briefing on the new mining claim regulations and (from 10:00-10:30) comments or questions from the public.

Participants will leave at 10:30 a.m. from the Bank on a field trip of the District. The purpose of the trip will be to familiarize the new board members with various programs in BLM. Participants should bring a sack lunch and plan to stay overnight at a motel.

Arlen P. Kennedy,
District Manager.

October 27, 1980.

[FR Doc. 80-34629 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Moab District Grazing Advisory Board, Meeting

October 29, 1980.

AGENCY: Bureau of Land Management—Utah.

ACTION: Notice of Meeting, Moab District Grazing Advisory Board.

Notice is hereby given, in accordance with Pub. L. 92-463, that a meeting of the Moab District Grazing Advisory Board will be held on December 12, 1980 at 10 a.m. in the Moab District Office conference room, located at 125 West 200 South in Moab, Utah. The meeting is open to the public.

The agenda for the meeting will include:

1. Discussion on Range Improvements (RI)
   a. Proposed Construction of New RI of FY 1981
   b. Maintenance of Existing RI for FY 1981
   c. Use of Grazing Advisory Board Funds for Maintenance of Cooperative Agreement RI vs. Section 4 RI Permits
2. Range Monitoring
   a. BLM responsibility
   b. Allottee responsibility
3. Allotment Evaluation
   a. Methods of Use
   b. Results of Evaluation
4. Status of Soil-Vegetation Inventory Method (SVIM)
   a. Price River Environmental Statement
   b. Grand Environmental Statement
5. Review of New Grazing Regulations

Interested persons may make oral statements to the Board between 2 and 3 p.m., or may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532 by December 10, 1980.

S. Gene Day,
District Manager.

[FR Doc. 80-34725 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of Handbook for Preparing Documents Required by the National Environmental Policy Act (NEPA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has prepared a handbook for the preparation of environmental assessments, impact statements, and related documents required by NEPA. The handbook will be used by officials throughout the Service for all activities covered by NEPA. This notice advises the public of the availability of this NEPA planning and documentation handbook.

DATES: The handbook was issued on August 20, 1980.

ADDRESS: The handbook is available for review in the Office of Environmental Coordination, 1375 K Street, N.W., Washington, D.C.

Copies may be obtained by writing to: Chief, Office of Environmental Coordination, Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Schulz, Office of Environmental Coordination, Fish and Wildlife Service, Washington, D.C. 20240 (202) 343-5685.

Dated: October 21, 1980.

Robert S. Cook,
Deputy Director, Fish and Wildlife Service.

[FR Doc. 80-34631 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3013, Block A-21, Mustang Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 30, 1980.

E. A. Marsh,
Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-34528 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texoma Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3189, Block 119, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 30, 1980.

E. A. Marsh,
Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-34529 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Kerr-McGee Corporation, Unit Operator of the Ship Shoal Block 28 Federal Unit Agreement No. 14-08-001-2942, submitted on October 28, 1980, a proposed annual plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 172 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m. 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 30, 1980.

E. A. Marsh,
Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-34530 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2390, Block A-570, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 31, 1980.

E. A. Marsh,
Staff Asst. for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-34620 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease Nos. 020989-038770 and M-35734]

Western Energy Co. for the Rosebud Mine Rosebud County, Montana; Availability for Public Review of a Major Modification to a Mining and Reclamation Plan for a Proposed Surface Coal Mine

AGENCY: Office of Surface Mining, Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for Public Review of Proposed Major Modification to a Coal Mining and Reclamation Plan and Permit Application.

SUMMARY: Pursuant to §§ 741.17(b) and 786.11 of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM) has received an application from Western Energy to continue mining Federal coal at the Rosebud Mine.

A brief description of the location follows:

Applicant: Western Energy Company
Mine Name: Rosebud Mine
State: Montana
County: Rosebud
Section, Township, Range: Portions of Sections 4, 5, 9, 10 and 11, Township 1 North, Range 41 East.
Office of Surface Mining Reference No. MT 0002
Name and Address of Applicant: Western Energy Company, 404 N. 31st, Billings, MT 59101.

The mine is located in southern Rosebud County, Montana, about one mile south of the town of Colstrip. The mine is currently operating under State permit and a mine plan approval from the department of the Interior under the Coal Mining Operating Regulations (30 CFR 211). The Western Energy Company is presently mining on Federal coal leases 020989-038770, and M-35734 and State Operation Permit No. 74003-A002.

Rosebud's proposed 5-year mine application for Area B includes 1,366 acres, of which 711 acres have been previously permitted by the Montana Department of State Lands. The proposed production rate through 1985 is approximately three million tons of coal per year.

The mining and reclamation plan has been determined to be sufficiently complete for public review. This notice is issued to inform the public of the availability of the plan for review in the offices of the regulatory authority. The Office of Surface Mining and the State of Montana will prepare a technical and environmental analysis (TEA) to determine whether the proposed plan meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior and the Montana Department of State Lands may take on the plan. During the analytical review, it is possible that the regulatory authority will request additional information from the company. Any further information received would also be available for public review.

No action on the modified plan will be taken by the Regional Director for a period of 30 days after publication of this notice in the **Federal Register.** The Western Energy Company published a notice of filing the proposed modification to the mining and reclamation plan in the "Forsyth Independent" on June 5, June 12, June 19, and June 26. Prior to making a final decision on this proposed modification, OSM will issue a Notice of Availability of the TEA and EA pursuant to Section 1506.6 of Title 40, Code of Federal Regulations.

This plan is available for public review at the Office of Surface Mining, Region V Brooks Towers, 1020 15th St., Denver, Colorado 80202, the Montana Department of State Lands, Capitol Station, Helena, Montana 59601, and at the Western Energy Company, Billings, Montana 59101. Comments on the proposed mine plan application may be addressed to the Regional Director, Office of Surface Mining, at the above Denver address, to the State Lands Commission at the Montana Department of State Lands at the indicated Helena address, or to both.

FOR FURTHER INFORMATION CONTACT: Shirley Lindsay or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th St., Denver, Colorado 80202, or Dennis Hemmer, Montana Department of State Lands, Capitol Station, Helena, Montana 59601.

R. H. Hagen,
Acting Regional Director.

[FR Doc. 80-34532 Filed 11-5-80; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-3 (Sub-No. 23F)]

Missouri Pacific Railroad Co.—Abandonment—at Allenville, Near White Water, in Cape Girardeau County, Mo; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 29, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of a portion of the line of railroad known as the Charleston Subdivision, extending from milepost 147.5 at Allenville, to milepost 141.9 near White Water, MO, a distance of 5.6 miles, in Cape Girardeau County, MO. A certificate of public convenience and necessity permitting the abandonment was issued to the Missouri Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than November 17, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34570 Filed 11-5-80; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-082]

Motor Carriers; Decision-Notice

Decided: October 29, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 22, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 107162 (Sub-75F), filed October 23, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the United States.

[FR Doc. 80-34571 Filed 11-5-80; 8:45am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 22, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2.083

Decided: October 29, 1980.

By the Commission, Review Board Numbers 2, Members Chandler, Eaton and Liberman.

MC 59292 (Sub-41F), filed October 21, 1980. Applicant: THE MARYLAND TRANSPORTATION CO., 111 Frankfurst Ave., Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same as applicant). Transporting *iron and steel articles* between points in Butler and Jefferson County, OH, on the one hand, and, on the other, Baltimore, MD.

MC 10872 (Sub-49F), filed October 21, 1980. Applicant: BE-MAC TRANSPORT COMPANY, INC., 7400 North Broadway, St. Louis, MO 63147. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *General Commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in St. Charles County, MO on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 115242 (Sub-19F), filed October 6, 1980. Applicant: DONALD MOORE, 601 North Prairie St., Prairie du Chein, WI 53821. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. Transporting *lumber, construction board, and insulation,* from points in AL, AR, GA, LA, MS, and Jefferson County, MO, to those points in WI, on the south of WI Hwy 64, those points in MN, on, east, and south of a line beginning at the MN-IA State line and extending over Interstate Hwy 35 to junction with Interstate Hwy 94, and then over Intestate Hwy. 94 to the MN-WI State line; those points in IA, on, east and north of a line beginning at the IA-MN State line and extending over Interstate Hwy. 35 to junction with Interstate Hwy. 80, and then over Interstate Hwy. 80 to the IA-IL State line; and points in Jo Daviess, Stephenson, and Winnebago, Counties, IL.

MC 117692 (Sub-5F), filed October 16, 1980. Applicant: MAURICE TRANSPORT CO., a Corporation, P.O. Box 365, Morton, IL 61550. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *alcohol and alcoholic liquors,* between points in

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Tazewell County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124692 (Sub-343F), filed September 29, 1980. Applicant: SAMMONS TRUCKING, a corporation; P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting (1) *soda ash*, from points in Sweetwater County, WY, to points in ND and SD; and (2) *industrial chemicals*, from Chicago and Peoria, IL, and Minneapolis, MN, to points in ND and SD.

MC 151023 (Sub-1F), filed October 9, 1980. Applicant: TRANS-AMERICAN TRUCKING SERVICE, INC., Box 1247, Nixon Station, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by a distributor and dealer of insulating materials (except commodities in bulk), between points in the U.S., under continuing contract(s) with Barra Corporation of America, Inc., of Fairfield, NJ.

MC 152322F, filed October 20, 1980. Applicant: B & D TRUCKING CORPORATION, 8730 Chesaning Road, Chesaning, MI 48616. Representative: David Earl Tinker, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036. Transporting *meats, packinghouse products and commodities* used by packinghouse as described in Appendix I to the Report in *Description in Motor Carrier Certificates*, 61 MCC 209 and 766, between points in the U.S., under continuing contract(s) with Peet Packing Company of Chesaning, MI.

Volume No. OP4-110

Decided: October 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.

MC 110656 (Sub-18F), filed October 10, 1980. Applicant: PARKER MOTOR FREIGHT, INC., 5692 So. U.S. Hwy. 131, Petoskey, MI 49770. Representative: Roland J. Mastej, 900 Guardian Bldg., Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Grand Rapids and Cadillac, MI, over U.S. Hwy. 131, serving no intermediate points, (2)(a) between Grand Rapids and Detroit, MI over Interstate Hwy. 96, (b) between Cadillac and Detroit, MI, from Cadillac over U.S. Hwy. 131 to its junction with MI Hwy. 115, then over MI Hwy. 115 to its junction with U.S. Hwy. 10, then over U.S. Hwy. 10 to Detroit, and return over the same route, (c) between the junction of U.S. Hwys. 10 and 23 and the junction of U.S. Hwy. 23 and Interstate Hwy. 96 over U.S. Hwy. 23, and (d) between the junction of Interstate Hwy. 75 and U.S. Hwy. 10 and Detroit over Interstate Hwy. 75, service over the above routes in (2) above is authorized to all intermediate points and off-route points within 3 miles thereof and including the commercial zones of such points and the termini points, restricted to traffic which carrier either orginates at or delivers to its authorized points north of Clare (not including Clare) and excluding service to such points as are on or east of Interstate Hwy. 75. Condition: Issuance of a Certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of MC 110656 (Sub-16), issued October 24, 1980.

MC 115826 (Sub-596F), filed October 21, 1980. Applicant: W. J. DIGBY, INC., 6015 E. 58th Ave., Commerce City, CO 80022. Representative: Jack B. Wolfe, 1600 Sherman St., Denver, CO 80203. Transporting (1) *such commodities* as are dealt in by retail shoe and clothing stores and (2) *materials, equipment and supplies* used in the distribution of commodities named in (1), from the facilities of Kinney Service Corporation and its divisions and affiliates, at Chatsworth, CA to points in the U.S. (except AK and HI).

MC 120257 (Sub-52F), filed October 22, 1980. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1) *cooling equipment and parts, materials, equipment and supplies* (except in bulk), and (2) *materials, equipment and supplies* (except in bulk) used in the manufacture or distribution of commodities named in (1), between points in the U.S., (except AK and HI), restricted to traffic in (1) originating at the facilities of The Marley Cooling Tower Company, and in (2) destined to the facilities of The Marley Cooling Tower Company.

MC 141867 (Sub-23F), filed October 23, 1980. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *commodities that are dealt in or used by manufacturers of doors and building materials*, between points in Chelan County, WA and points in AZ, CA, NV, NM, OR, UT, WA, CO, KS, TX, MO, OK, and ID.

MC 143916 (Sub-2F), filed October 22, 1980. Applicant: McQUADE HEAVY HAULING, INC., R.R. No. 1, Sergeant Bluff, IA 51054. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting (1) *machinery and supplies*, (2) *storage and transportation equipment and supplies*, (3) *metal products*, and (4) *building and construction materials and supplies*, between points in CO, IA, IL, KS, MN, MO, MT, ND, NE, OK, SD, TX, WI, and WY. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of duplicating certificate issued under MC 143916.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34572 Filed 11-5-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-31-33 (Preliminary)]

Barium Carbonate from the Federal Republic of Germany; Strontium Carbonate from the Federal Republic of Germany; Strontium Nitrate from Italy

Determination

On the basis of the record [1] developed in investigation No. 731-TA-31 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[2] by reason of imports of barium carbonate from the Federal Republic of Germany, provided for in item 472.06 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value. (LTFV).

On the basis of the record [1] developed in investigation No. 731-TA-31 (Preliminary), the Commission determines [3] that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury [4] by reason of imports of strontium

[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedures (19 CFR 207.2(j)).

[2] Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

[3] Commissioners Moore and Bedel dissenting.

[4] Material retardation of the establishment of an industry is not an issue in this investigation.

carbonate from the Federal Republic of Germany, provided for in item 421.72 of the TSUS, which are allegedly being sold in the United States at LTFV.

On the basis of the record [5] developed in investigation No. 731-TA-31 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[6] by reason of imports of strontium nitrate from Italy, provided for in item 421.74 of the TSUS, which are allegedly being sold in the United States at LTFV.

Background

On September 9, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce each received three petitions alleging sales in the United States at LTFV. The products identified in the petitions were precipitated barium carbonate imported from the Federal Republic of Germany,[7] precipitated strontium carbonate imported from the Federal Republic of Germany,[8] and strontium nitrate imported from Italy.[9] Accordingly, the Commission instituted preliminary antidumping investigations under section 733 of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the specified products into the United States. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in the case by October 24, 1980.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the **Federal Register** on September 24, 1980 (45 FR 63388). The public conference was held in Washington D.C., on October 3, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Statement of Reasons for the Affirmative Determination of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioners George M. Moore and Catherine Bedell in Investigation No. 731-TA-31 (Preliminary) and in Investigation No. 731-TA-33 (Preliminary)

Determinations

On the basis of the record in investigation No. 731-TA-31 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured [10] or is threatened with material injury,[11] by reason of imports from the Federal Republic of Germany of barium carbonate, provided for in item 472.06 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value (LTFV).

On the basis of the record in investigation No. 731-TA-33 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured,[10] or is threatened with material injury,[11] by reason of imports from Italy of strontium nitrate, provided for in item 421.74 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value.

The following findings and conclusions, based on the record in these investigations, support these determinations.

The Products

Each of the products subject to these investigations has distinct uses and characteristics, and each is therefore sold in a distinct market. Barium carbonate is used in a variety of ways, principally to prevent scumming in the manufacture of bricks and discoloration in the production of ceramics, and to increase the brilliance and refractive index of glass. It is also used in lesser amounts in the manufacture of permanent-magnet ferrites and photographic paper, and in the manufacture of other chemicals.[12] Strontium nitrate is used primarily in the manufacture of pyrotechnic devices, with small amounts being used in chromate coatings and as chemical reagents. There appear to be no available commercial substitutes for barium carbonate and strontium nitrate.

Because domestically produced barium carbonate and strontium nitrate are virtually identical to the respective products being imported, we conclude that for investigation 731-TA-31 (Preliminary) the like product is barium carbonate and for investigation 731-TA-33 (Preliminary) the like product is strontium nitrate within the meaning of section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1677(10)).

The Domestic Industry

In these investigations, we have concluded that there are separate appropriate domestic industries against which the impact of the alleged LTFV sales of the imports should be measured, each consisting of the producers of the respective like products.[13]

Each of these chemicals is produced continuously on either a separate production line or for several months at a time on a production line which may also be used for other chemical products. Further, each of the products is very different in characteristics and uses, and each is sold in a different market. Therefore, we conclude that there is a separate industry corresponding to each chemical, and that the data permit the assessment of injury in each industry.

The Question of Reasonable Indication of Material Injury or Threat Thereof

Section 733(a) of the Tariff Act directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination * * *." Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." Section 771(7)(B) directs that in making its injury determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decisions on the findings of fact and conclusions of law discussed below.

Barium Carbonate

Volume of imports.—U.S. imports of precipitated barium carbonate from

[5] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[6] Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

[7] Petition filed on behalf of FMC Corp., Chemical Products Corp., and the Sherwin-Williams Co.

[8] Petition filed on behalf of FMC Corp. and Chemical Products Corp.

[9] Petition filed on behalf of the FMC Corp.

[10] Chairman Alberger finds only that there is a reasonable indication that an industry is materially injured.

[11] Material retardation of the establishment of an industry is not in issue in these cases since there are producers of each product under consideration. Thus this issue is not discussed further.

[12] Chemical Profile on barium carbonate, Sept. 8, 1980.

[13] See views of Chairman Alberger and Vice Chairman Calhoun in investigation No. 731-TA-32 for the relationship among these products.

West Germany, by far the major foreign supplier, have increased substantially in recent years, rising from 11.4 million pounds in 1977 to 15.6 million pounds in 1979, or by 37 percent. The market penetration of imports from West Germany has similarly increased, rising from 13.6 percent in 1977 to 18.6 percent in 1979.[14]

Effects of imports on prices.—During 1977–79, a period of sharply increased imports of West German barium carbonate, the imported product consistently undersold its domestic counterpart by substantial margins. These margins of underselling, which were at their highest level during 1979, continued into January–June 1980. In all instances, the margins of underselling were more than accounted for by the alleged margins of sales at less than fair value.[15]

Impact of imports on the domestic producers.—The record shows that domestic production, capacity utilization, sales, and profit realized from U.S. producers' barium carbonate operations fell during 1977–79 and January–June 1980. During this period—one in which imports increased substantially—inventories held by domestic producers displayed sharp and continuing increases.[16]

U.S. production of barium carbonate declined from 69 million pounds in 1977 to 63 million pounds in 1979, and capacity utilization declined from 92 percent to 83 percent.[17] Producers' domestic sales fell from 70 million pounds to 61 million pounds, or by 13 percent, and declined an additional 18 percent in January–June 1980 compared with sales in the corresponding period of 1979.[18] Producers' inventories of barium carbonate increased from 5 million pounds as of yearend 1977 to about 7 million pounds by yearend 1979, and then almost doubled to 14 million pounds as of June 30, 1980.[19]

U.S. producers realized low profit from their operations in producing barium carbonate during 1977–79, and virtually no profit during January–June 1980. The ratio of net operating profit to net sales of barium carbonate by domestic producers increased from 1.6 percent in 1977 to 5.2 percent in 1979, but then fell to about 0.05 percent in January–June 1980.[20]

[14] Report, at pp. A–33 through A–35.
[15] Report, at pp. A–6, and A–40 through A–44.
[16] Report, at p. A–23 through A–25.
[17] Report, at p. A–17.
[18] Report, at pp. A–19 through A–20.
[19] Report, at pp. A–23 through A–25.
[20] Report, at pp. A–28 through A–30.

Strontium Nitrate

Volume of imports.—Imports of strontium nitrate from Italy began only in mid-1978; since that time, however, Italy has been virtually the only foreign supplier of this product to the United States. Imports from Italy increased from zero in 1977 to 0.5 million pounds in 1978, and then jumped to 3.1 million pounds in 1979. The market penetration of imports from Italy similarly increased, rising more than fourfold from 1978 to 1979.[21]

Effects of imports on prices.—During 1977–79, a period of very sharply increased imports of Italian strontium nitrate, the imported product generally undersold its domestic counterpart by substantial margins. The margins of underselling increased markedly during 1979. In all instances, the margins of underselling were more than accounted for by the alleged margins of sales at less than fiar value.[22]

Impact of imports on the domestic producers.—U.S. production of strontium nitrate increased from 1977 to 1978, but fell substantially thereafter. Production declined by more than one-fourth in January–June 1980 in comparison with production during the corresponding period of 1979. Trends in capacity utilization were similar.[23]

End-of-period inventories of strontium nitrate held by the domestic producer increased without interruption during the period January 1977–June 1980. Inventories as of June 30, 1980, were more than double those held a year earlier, and were equivalent to a very large percentage of the producer's annual sales of this product.[24]

The number of man-hours worked by production and related workers in producing strontium nitrate in the United States, as well as wages paid to such employees, declined from 1978 to 1979. These declines continued into January–June 1980.[25]

The domestic producer's sales of strontium nitrate increased from 1977 to 1978, and then fell substantially in 1979. The decline in such sales continued into January–June 1980, as compared with sales during the corresponding period of 1979.[26]

The U.S. producer's profit realized from operations in producing strontium nitrate deteriorated sharply after 1978, the year in which imports of strontium nitrate from Italy first entered the U.S. market. The ratio of net operating profit to net sales in 1979 was less than half that in 1978, and the ratio continued to fall during January–June 1980.[27]

Conclusions

On the basis of the large margin of underselling coupled with rising U.S. producers' inventories and the declining trends in their production, capacity utilization, sales, and profit during 1977–79 and January–June 1980, we conclude that there is a reasonable indication that the domestic industry producing barium carbonate is materially injured,[28] or is threatened with material injury, by reason of imports from West Germany allegedly sold, or likely to be sold, at less than fair value.

On the basis of the margin of underselling coupled with the high inventories held by the U.S. producer and declining trends in domestic production, capacity utilization, sales, employment, and profit during 1977–79 and January–June 1980, we conclude that there is a reasonable indication that the domestic industry producing strontium nitrate is materially injured,[28] or is threatened with material injury, by reason of imports from Italy allegedly sold, or likely to be sold, at less than fair value.

Views of Commissioner Paula Stern

Introduction

On the basis of the best available information in these preliminary antidumping investigations, I voted in the affirmative in both investigations 731–TA–31 (Barium Carbonate from the Federal Republic of Germany) and 731–TA–33 (Strontium Nitrate from Italy). In Investigation 731–TA–32 (Stronium Carbonate from the Federal Republic of Germany), my determination was negative.

I concur with my colleagues regarding the definition of industry in each investigation.*

[21] Report, at pp. A–34 through A–36.
[22] Report, at pp. A–6, A–47 and A–49.
[23] Report, at pp. A–17 through A–19.
[24] Report, at pp. A–24 through A–26.
[25] Report, at pp. A–27 through A–28.
[26] Report, at pp. A–20 through A–23.

[27] Report, at pp. A–29 through A–31.
[28] Chairman Alberger's finding is limited to material injury.

* Further, I point out that the available data permit analysis of the effects of the alleged LTFV imports on production of the respective like products. In contrast to *Pipes and Tubes of Iron and Steel from Japan* (Inv. No. 731–TA–15 (Preliminary), April 1980), it is not necessary to aggregate. In these cases, data clearly provide a separate identity for each product. Each of the chemicals is produced either on a separate production line or on an individual production line for several months at a time. As a result, the task of allocating was less complex than in *Pipes and Tubes*. There is a virtually unique demand for each chemical, and all of the companies provided allocated profit-and-loss data. For these reasons, a product-by-product analysis is possible.

Material Injury by Reason of Alleged LTFV Imports

Investigation 731–TA–31. Barium Carbonate from the Federal Republic of Germany

The most striking indications of the economic difficulties being experienced by the U.S. barium carbonate industry are the data related to sales and profitability. Sales of barium carbonate have fallen steadily since 1977. In 1977 sales amounted to 69.9 million pounds. By 1979 they had fallen thirteen percent to 60.8 million pounds, and from January–June 1980 they declined roughly eighteen percent over the January-June 1979 level. Profitability has been low since the beginning of the period under consideration. Profits did increase from 1977 to 1979; however, from January–June 1980 they fell to less than 0.5 percent of sales.[29]

The industry is comprised of three domestic producers—FMC Corp. (FMC), Chemicals Products Corp. (CPC), and Sherwin-Williams Co. The unusual production procedure utilized by FMC, where barium and strontium carbonate are produced on the same production line on a "campaign" basis,[30] requires looking beyond the aggregated figures on production, capacity and inventories to determine whether FMC's product mix shifts are camouflaging economic difficulties facing the industry as a whole. Production, capacity and inventory figures on a company-by-company basis reveal adverse signs that cannot be attributed to the "campaign" production of FMC. Production has been declining since 1978. Though capacity utilization has generally been high, analysis suggests some weakness in the figures. There has also been a significant build-up of inventories in 1980.

The question that needs to be answered is whether these indications of injury can be attributed to the alleged LTFV imports. A number of causes other than imports were put forward in this preliminary investigation, including the recession-related drop in consumption, the shift from barium to strontium carbonate for use in controlling TV X-ray emissions, and internal problems of the domestic producers. Further analysis of the record also raises another possible cause. The drop in domestic sales from January–June 1980 is largely accounted for by a drop in sales of chemical grade barium carbonate. However, it is not clear if West Germany ships chemical grade barium carbonate to the United States.[31]

In antidumping cases the Commission does not weigh the causes of injury to a domestic industry. Other factors are to be considered, however, and the essential point is that the Commission "must satisfy itself that in light of all the information presented, there is sufficient causal link between the less-than-fair-value imports and the requisite injury."[32]

In this preliminary investigation, I found a reasonable indication that the injury discussed above is by reason of alleged LTFV imports. The staff report in this investigation shows sizeable margins of underselling for both glass and ceramic grade barium carbonate.[33] Underselling by the alleged LTFV imports of the glass grade barium carbonate averaged fourteen percent for the period under consideration. Ceramic grade carbonate imports from West Germany undersold the similar U.S. product by an average of twenty percent over the same period.

Imports increased from 1977 to 1979 from 11.4 million pounds to 15.6 million pounds. Though imports have been dropping since 1978 concomitant with the decline in consumption, market penetration from January–June 1980 was still above the 1977 level. Market penetration increased from 13.6 percent in 1977 to 18.3 percent in 1978. This increase in part results from the fact that the "supply gap" (the shortfall between domestic capacity and demand) increased from 8 million pounds in 1977 to 14 million pounds in 1978. However, in 1979 when the "supply gap" narrowed to 9 million pounds, the share of the market held by imports did not decline. In fact, in 1979, it continued to increase minimally. At that time the margin of underselling was at the highest levels for the whole period under consideration. While market penetration dropped from 19.3 percent in January–June 1979 to 15.4 percent in the same period in 1980, the latest level is still significant.

Prices of both U.S.-produced and imported barium carbonate have been increasing substantially. During the period under consideration, U.S. prices of ceramic grade barium carbonate rose 57 percent, while prices of imports increased fifty percent. Over the same period, U.S. prices of glass grade barium carbonate rose fifty percent, while import prices rose 55 percent. Despite the substantial U.S. price increases, the petitioners allege that prices have been suppressed because they have not been able to cover rising costs with sufficiently large price increases. Should the case return for a final determination, this issue needs to be explored further.

Based on the information developed in this investigation concerning the level of imports, the margin of underselling, and the economic condition of the U.S. industry, I have found that there has been a showing of a reasonable indication of material injury by reason of the alleged LTFV imports.[34]

Investigation 731–TA–32. Strontium Carbonate from the Federal Republic of Germany

In this investigation price data gathered by the Commission staff reveal that underselling has increased significantly from 1977 to the present. In January–June 1977 the price of imported strontium carbonate was only slightly less than the U.S. price. The margin of underselling from mid-1977 through the first quarter of 1979 averaged about five percent. At that time the differential between the prices of U.S. and strontium carbonate imported from West Germany jumped to approximately fifteen percent. By October 1979, however, the margin began to narrow, and in June 1980 stood at about ten percent.[35] [36] While underselling might suggest a causal link to alleged LTFV imports, I have not found any reasonable indication of material injury by reason of such imports.

A number of factors might indicate that the health of the U.S. industry is deteriorating. Though increasing over the 1977–79 period, the figures for production, sales, and capacity utilization are down from January to June 1980. Production dropped more than fifteen percent from the January–June 1979 level. Sales fell nearly five percent over the same period, and

[29] Profitability has varied substantially by company. Should this case return for a final investigation, profit data will need to be reviewed carefully to ensure that allocations have been made in a uniform manner by all companies.
[30] In production by "campaign," common equipment is used to alternately produce barium carbonate and strontium carbonate. Between changeovers, the equipment is purged and cleaned. The plant "turns around" between the production of the two chemicals two to four times per year.
[31] The Staff Report identifies various grades of both barium and strontium carbonate. There are, however, no published industry-wide specifications concerning grades, and staff advises that the end-user can normally adapt to the use of any of the available grades. All the grades of each product are chemically identical.
[32] S. Rep. No. 96–249, 96th Cong., 1st Sess. 75 (1979).
[33] A brief submitted late in the investigation by the importer raises questions about the veracity of the margins. The staff did not have time to verify data submitted in this brief.
[34] Important data necessary to analyze threat were not available in this investigation. This issue requires thorough exploration should this case return for a final determination.
[35] The term "underselling" or "undercutting" as in Section 771(7)(c)(ii)(I) of the Tariff Act of 1930, refers to the circumstances where the price of the alleged LTFV imports is below the price of the domestic like product in the U.S. market.
[36] *Supra* note 5 at page 14.

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capacity utilization declined accordingly. Inventories in June 1980 were higher than in June 1979, another possible indication of ill health.

However, a careful analysis reveals that these "negative" data are not indicative of material injury by alleged LTFV imports. There are two domestic producers of strontium carbonate, FMC and CPC. FMC uses the same production line for both strontium carbonate and barium carbonate production. From January to June 1980, FMC increased barium carbonate production. This shift fully accounts for the declines in strontium carbonate production, sales, and capacity utilization.[37] Also, due to FMC's "campaign" plant operations, inventory levels reported for the period under consideration are not necessarily indicative of economic difficulties. FMC maintains high inventories of strontium carbonate while the barium carbonate "campaign" is on; this is a rational business practice and not a negative factor. Strontium carbonate production, sales, and capacity utilization have not declined at any time during the period under consideration for the other domestic producer, which maintains separate production lines for each carbonate.

Profitability data in the aggregate shows serious declines between 1977 and 1979, but a rebound in 1980 (though not to 1977 levels). It is essential to disaggregate these data in order to reach a judgement on attributing material injury to LTFV imports. On a disaggregeted basis the data reveal that one company has been making handsome profits and that these profits increased over the January–June 1980 period. The other company has been facing increasing profitability problems, although the net-profit-to-sales ratio improved in January–June 1980 compared to the same period in 1979. The problems of the latter company cannot be attributed to imports. Though there may be some allocation problems with the financial data, it is clear that this company's costs—both "costs of goods" sold and particularly "general, selling and administrative costs"—are responsible for its financial dilemma. These high costs relate to expenditures necessary to meet environmental regulations and expenditures of freight equalization. These "internal" causes of declining profitability cannot be attributed to the alleged LTFV imports. The other company facing the same alleged LTFV imports but without these handicaps is clearly not suffering material injury.

There have been substantial price increases by U.S. producers of strontium carbonate over the past few years. Domestic producers' average prices of glass grade strontium carbonate—the principal grade being traded—rose about fifty percent from January–March 1977 to April–June 1980. Despite these price increases, the petitioners allege price suppression. Given the enormous costs of production of one producer, this allegation is not surprising. It is clear that price increases have not compensated for these heavy costs, but this producer also faces domestic competition and its inability to raise prices further has not been demonstrably linked to imports. Morever, a look at profits for the other company reveals it is not experiencing price suppression.

The overall health of the domestic strontium carbonate industry is clearly reflected in sales that have steadily increased since 1977. Even as consumption dropped in 1980, slaes continued to grow. U.S. sales increased almost ten percent from 1977 to 1979. From January–June 1980—although apparent U.S. consumption dropped about ten percent—domestic sales increasd over January–June 1979 levels.

On the other hand, imports, which had risen substantially from 1977 to 1979, plummeted from January–June 1980. The alleged LTFV imports grew from 2.3 million pounds in 1977 to 7.7 million pounds in 1979. In January–June 1980, imports amounted to only 397,000 pounds. Import penetration rose substantially from 1977 to 1979. In January–June 1980, however, import penetration fell significantly below the 1977 level. The drop in import penetration in 1980 far surpasses the recession-related drop in consumption during that period. Further, the current low level of import penetration combined with all the other information discussed above dispels the idea that the U.S. industry may be "threatened" by the alleged LTFV imports.

Investigation 731–TA–33.

Strontium Nitrate from Italy

FMC is the sole domestic producer of strontium nitrate, and all of its problems began when the alleged LTFV imports from Italy arrived in this country in 1978. The actual declines in the company's economic indicators were submitted to the Commission on a confidential basis and can only be referred to in general terms. Declines in production, shipments, capacity utilization, and manhours worked have been sizable. The decline in profitability has been even more striking, although the data do not show actual losses on the strontium nitrate line.[38] Inventories have risen steadily and significantly. However, given the "campaign" nature of FMC's production of strontium carbonate, the raw material from which strontium nitrate is produced, inventory data is not particularly useful as an indicator of economic well-being.

These indications of material injury relate directly to the imports of strontium nitrate from Italy. In 1978, the Olin Corporation, an important FMC customer, shifted all of its strontium nitrate purchases for its Peru, Indiana plant to SABED, the Italian producer. As a result, the alleged LTFV imports rose nearly 500 percent from 1978 to 1979, and the import consumption ratio increased accordingly to approximately twenty percent. The level of imports dropped in January–June 1980—with the concomitant decline in consumption related to the recession—but the market penetration of the alleged LTFV imports increased slightly in comparison to January–June 1979.

On an FOB factory/ex dock basis [39] the alleged LTFV imports did not undersell U.S. strontium nitrate at the time they first began to trickle into the United States. Nor did they undersell U.S.-produced strontium nitrate in June of this year on this accounting basis. However, at the time when imports were highest (1979), the margin of underselling was greatest. Morever, on a delivered-price basis—given the distance from FMC's strontium nitrate plant in California to Olin's plant in Indiana—imports have undersold the domestic product throughout the period under review.

Allegations of price suppression have also been made in this investigation. The petitioner claims that he has not been able to increase his prices enough to recover his costs due to the alleged LTFV imports. This allegation will need to be further explored should this case return for a final investigation. More research needs to be done on the petitioner's costs relative to production.

[37] It is likely that declines in manhours worked in 1980 are also predominantly related to shifts in the barium strontium mix on the FMC production line.

[38] The profitability data needs to be reviewed carefully in the final investigation. Profitability data provided to the Commission in this investigation raises a question whether FMC has allocated its costs between strontium carbonate and strontium nitrate. Strontium carbonate is an input in the production of strontium nitrate.

[39] The domestic producer provided the Commission with f.o.b. factory prices (i.e., net prices received excluding expenses incident to delivering the merchandise to the purchaser). The principal importer of strontium nitrate from Italy provided the Commission with ex dock prices (i.e., purchase price delivered to the first U.S. port of importation, including import duty and clearance charges) paid for such merchandise.

As mentioned in the strontium carbonate discussion above, it is not clear how much the alleged LTFV imports can be held responsible for FMC's pricing policies.

The importer, Olin, has asked the Commission to dismiss this case because Olin's decision to switch suppliers for its Indiana plant was based on a need for an alterntive, reliable source of supply. An Olin representative stated at the conference: "The supply considerations were our sole reason for purchasing from SABED, not price, and not because we wished to cease dealing with FMC." [40]

The legislative history of the Trade Agreements Act of 1979 provides the Commission with considerable discretion in analyzing the relative importance of various factors related to this investigation. The House Report on the Trade Agreements Act states: "The significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to an injury determination." [41]

It would be highly unusual for an evaluation of lost sales information to be pivotal rather than supplementary in reaching a determination in either antidumping or countervailing duty cases. Clearly, lost sales information is among the most subjective data gathered in these investigations since it is prone to interpretation in terms of the self-interest of the party responding to the questionnaire.

In this case Olin staunchly claims that its decision to switch supplier is not "motivated" by price considerations and thus the problems of the U.S. industry should not be attributed to any alleged LTFV practices of SABED. It is clear, however, from other testimony and from Exhibit D of Exhibit 2, a letter sent from Olin to FMC at the time Olin decided to shift supplier, that price did and does factor into Olin's decision to supply the Indiana plant from Italy.

Exhibit D of Exhibit 2 states: "Our right to develop a second source has become of paramount importance with *your continued aggressive pricing policy* and the surprise revelation that you have serious environmental problems at Modesto." (Emphasis added.) At the conference, in reponse to questioning by the ITC staff as to whether "Olin would pay a substantially higher price in order to have a second source of supply in Italy than the price that was currently quoted by FMC, the sole supplier," counsel for Olin stated:

"Obviously there are parameters there, but they (Olin) are willing to pay a higher price and did do so."

A second Olin representative added:

"We have paid a higher price. We have to evaluate the term substantial. The market place in the East for our end product is very competitive. It would be difficult for us to sustain a substantial price increase at the Peru facility." [42]

At another point in the Conference, he stated further:

"Not only have our supply problems with FMC been extremely serious, but we also are concerned about the rate of FMC's price increases." [43]

The Olin representative also indicated that the decision to use imports at its Peru, Indiana plant and not its Morgan Hill, California plant, was the result of an evaluation of the relative costs of the U.S. and imported products, including the freight cases, to each plant.[44]

The desire of any customer to avoid relying on a sole supplier is inherently related to price considerations. But the central dispute in antidumping cases involves the "fairness" of the price being offered by the alternative, foreign supplier. In this case, there are allegations of substantial dumping margins. If these margins are indeed found to exist by the Department of Commerce and if the Commission in turn votes in the affirmative in a final investigation, the price of Italian strontium nitrate would increase substantially as a result of the application of antidumping duties. Given the testimony in this investigation, it is questionable whether Olin under these circumstances would continue to purchase Italian strontium nitrate.

It is clear that at this stage there is a reasonable indication that there is material injury by reason of the alleged LTFV imports.[45]

Conclusion

Each of these investigations presented a unique configuration of economic data. In the strontium carbonate case, the variation of the performance of the two domestic producers is striking and the role of the alleged LTFV imports in the U.S. market has declined dramatically. In the barium carbonate industry, in contrast, the role of imports has remained significant and there are reasonable indications of economic difficulties attributable to the subject imports. The strontium nitrate case is highly unusual; in the face of present adverse economic trends, I judged it inappropriate to dismiss the case at this time on the basis of lost sales information undermined by the contradictory record.

Statement of Reasons for the Negative Determination of Chairman Bill Alberger and Vice Chairman Michael J. Calhoun in Investigation 731–TA–32 (Preliminary)

Determination and Conclusion of Law

On the basis of the record in investigation No. 731–TA–32 (Preliminary), we determine that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports from the Federal Republic of Germany of strontium carbonate,[46] provided for in item 421.72 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value.

Pursuant to Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (hereinafter the Tariff Act), in order to reach a determination in this investigation, we are required to define the domestic industry and review the best information available for a reasonable indication of material injury or threat of material injury by reason of the imports of strontium carbonate.

Domestic Industry

The term "industry" is defined in section 771(4)(A) of the Tariff Act (19 U.S.C. 1677(4)(A)) as "the domestic producers as a whole of a like product, or those producers whose collective output of the like porduct constitutes a major proportion of the total domestic production of that product." The term "like product" is further defined in section 771(10) of the Tariff Act (19 U.S.C. 1677(10)) as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation. . . ."

Under the statute, the identification of the domestic industry in each investigation is based upon the proper identification of the "like product," which, in turn, is a function of the article whice is the subject of the investigation by the Department of Commerce. The Department of Commerce initiated an

[40] Conference Transcript, p. 160.

[41] H. Rep. No. 96–317, 96th Cong., 1st Sess. 46 (1979).

[42] Conference Transcript, p. 154.

[43] *Id.*, p. 159.

[44] *Id.*, pp. 166–167.

[45] In this preliminary investigation important information related to "threat of material injury" was not available. Data on Italian capacity and the likelihood of increased exports being directed to the United States will need to be explored if the case returns for a final investigation.

[46] Material retardation of the establishment of an industry is not in issue in this investigation, since there are producers of strontium carbonate. Thus, this issue is not discussed further.

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investigation concerning imports of strontium carbonate.[47] Furthermore, there is domestically produced strontium carbonate, which is virtually identical to the strontium carbonate being imported. Thus, for the reasons discussee below, we find that in Investigation 731–TA–32 (Preliminary) the like product is strontium carbonate and the domestic industry is the producers of that product.

All strontium carbonate, whether imported or produced in the United States, has thesame chemical formula.[48] It is sold for use primarily in the manufacture of picture for tubes for color television receivers (80 percent) because of its superior ability ot prevent x-rar emissions. It is also used for the production of ferrite magnets, ceramics, and other used, including the manufacture of strontium nitrate. There appears to be no pracitcal substitute for the major use of strontium carbonate.

The petitioners in this investigation and in Investigations 731–TA–31 and 731–TA–33 (relating to barium carbonate and strontium nitrate, respectively) acknowlege that there is some relationship among the production of various of the three products being investigated. However, we believe that these are distinct products which serve distinct markets. Each of these chemicals is produced by a few companies: Three firms manufacture about 98 percent of U.S. barium carbonate, two firms manufacture 100 percent of the U.S. strontium carbonate, and one firm produces 100 percent of the U.S. strontium nitrate. Each product is produced in either a separate production line or is produced for several months at a time on an individual production line. Further, each of the products is very different in characteristics and uses, and each of the chemicals is sold in a different market. Therefore, we conclude that there is a separate industry corresponding to each chemical and that the data permit the assessment of injury in each industry.

The question of reasonable indication of material injury or threat thereof

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b) directs the Commission to make a determination, based upon the best information available to it at the time of the determination, whether there is a reasonable indication that an industry is being materially injured or threatened with material injury by reason of the imported merchandise. Section 771(7)(A)(19 U.S.C. 1677(7)) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." In making its determination, the Commission must consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products (19 U.S.C. 1677(7))(B)).

A careful preliminary analysis of the health of the domestic industry has led us to the conclusion that there is no reasonable indication that its condition has sufficient connection to imports to support an affirmative preliminary determination. We were first struck by the drastic decline—almost disappearance—of imports in January-June 1980 after three years of increase. Further analysis led us to the conclusion that the decline in the profitability of the industry is related to the high transportation and other general costs incurred by one of the two domestic producers of strontium carbonate. Another domestic factor affecting the industry, particularly inventories, may have been a buildup in inventories to prepare for the shift of the production of one producer from strontium carbonate to barium carbonate. Yet, in the face of the increase in imports from 1977–1979 and a recent decline in demand, domestic producers have increased prices and sales. Moreover, we found no sales lost by reason of price. Based on these and other considerations, we find no reasonable indication of material injury or the threat thereof by reason of imports of strontium carbonate.

We base our decision on the findings of fact and conclusions of law discussed below.

Volume of Imports

The alleged LTFV imports in this investigation were from Kali-Chemie, A.G., of West Germany, which has accounted for virtually all imports of strontium carbonate since 1977. The volume of imports did increase significantly between 1977 and 1978, and increased slightly in the next year as well. However, the volume of imports in the first six months of 1980 was 85 percent below the amount for the same period of 1979.

In fact, imports in this most recent period were virtually nil, and the market shared enjoyed by West German imports declined substantially from 1979 to the first half of 1980. Moreover, the significant increase in the imports' market share from 1977 to 1978 coincided with a shortfall in supply available from domestic producers in the face of rapidly expanding domestic demand. Thus, purchasers who initially turned to imports because of availability problems may now be seeking to maintain an alternative source of supply.

Effect of LTFV Imports on Prices

The best information available to the Commission at this time does indicate significant price undercutting by the West German imports of glass grade strontium carbonate. This is the grade which accounts for a large majority of domestic production. However, in the period 1977–78, when the import share experienced its bigget gain, the margin of underselling was relatively small, ranging from almost zero to less than 5 percent. The most significant price undercutting occurred in 1979, but during this period, the imports did not increase by nearly as much, even though the margin of underselling grew. The margin of underselling appears to be narrowing in 1980.

Price suppression does not appear to be a factor either. In fact, domestic prices for the glass grade products have increased almost 50 percent since 1977, a rate of increase well above that experienced by the entire chemical industry.

Impact on the Affected Industry

Domestic production of strontium carbonate grew substantially from 1977 to 1979. While production in the first half of 1980 is down slightly, our investigation reveals that one firm has shifted production significantly to barium carbonate. Since this firm makes both articles on the same production facility, its production of each is on a "campaign" basis, meaning that to produce barium carbonate it must temporarily cease production of strontium carbonate. This may explain the downturn in 1980.

Domestic sales were also up during the period under investigation, increasing approximately 10 percent from 1977 to 1979 and then remaining steady in 1979. Aggregate profits have experienced a contrary trend to production and sales. From 1977 to 1979, for example, net operating profits for the two domestic producers declined by more than 50 percent.

At first blush this may appear to provide a reasonable indication of injury. However, one of the two producers reported a steadily improving profit situation and, in fact, has substantial profits. The producer whose losses account for the aggregate decline in profitability experienced huge

[47] 45 F.R. 66186 (October 6, 1980).

[48] The chemical formula for strontium carbonate is $SrCO_3$.

increases in transportation and other selling costs. It is unlikely that competition between and profitability of the two producers would be any different without imports. In addition, this firm shifted much of its production to barium carbonate in 1980, thus accounting for declines in production, shipments, and capacity utilization. Previous to this change, capacity utilization had remained at nearly 100 percent industry wide.

Inventories decreased in 1978, then jumped substantially in 1979. Moreover, inventories are up in the first six months of 1980 over the prior comparable period. Much of this may be because the producer who shifted to barium carbonate sought to build-up its strontium carbonate supplies in anticipation of its changeover. The other producer did not report increasing inventory levels.

Although there were allegations of sales lost to alleged less than fair value imports because of price, we find the evidence on the record does not support the allegations.

Statement of Reasons for the Affirmative Determination of Commissioners George M. Moore and Catherine Bedell in Investigation No. 731–TA–32 (Preliminary)

Determination

On the basis of the record in investigation No. 731–TA–32 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[49] by reason of imports from the Federal Republic of Germany of strontium carbonate, provided for in item 421.72 of the Tariff Schedules of the United States, allegedly sold or likely to be sold at less than fair value (LTFV).

The following findings and conclusions, based on the record in this investigation, support this determination.

The Product

Strontium carbonate is used primarily in the production of television picture tubes, as well as in the production of ferrite magnets, ceramics, and other uses, including the manufacture of strontium nitrate.[50] There appear to be no available commercial substitute for strontium carbonate.

Because domestically produced strontium carbonate is virtually identical to the imported product, we conclude that the "like product" in this investigation, within the meaning of section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1677(10)) is strontium carbonate.

The Domestic Industry

We have concluded that the relevant domestic industry consists of the domestic producers as a whole of strontium carbonate, within the meaning of section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)).

The Question of Reasonable Indication of Material Injury or Threat Thereof

Section 733(a) of the Tariff Act directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination * * *." Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." Section 771(7)(B) directs that in making its determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decision on the findings of fact and conclusions of law discussed below.

Volume of imports

Imports of precipitated strontium carbonate from West Germany have accounted for virtually all U.S. imports of this product since 1977. Imports from West Germany have increased very sharply in recent years, more than trebling from 2.3 million pounds in 1977 to 7.7 million pounds in 1979. The market penetration of imports from West Germany has similarly increased, almost trebling from 1977 to 1979.[51]

Effects of imports on prices

During 1977–79, a period of greatly increased imports of West German strontium carbonate, the imported product consistently undersold its domestic counterpart by substantial and generally increasing margins. The margins of underselling increased markedly during 1979 and continued into January–June 1980. In all instances, the margins of underselling were more than accounted for by the alleged margins of sales at less than fair value.[52]

Impact of imports on the domestic producers

Stimulated by increasing domestic consumption, U.S. production of strontium carbonate increased from 1977 to 1979; however, production declined by more than 15 percent in January–June 1980 in comparison with production during the corresponding period of 1979. Trends in capacity utilization were similar.[53]

Yearend inventories of strontium carbonate held by domestic producers more than doubled from 1978 to 1979. Inventories had been reduced somewhat by mid-1980, but they remained at substantially greater levels than those in other recent years.[54]

Producers' domestic sales of strontium carbonate increased from 1977 to 1978, then remained stable in 1979. The increase in such sales from 1977 to 1979 was far less than the increase in apparent domestic consumption, as imports from West Germany captured a much larger share of the market.[55]

U.S. producers' profit realized from operations in producing strontium carbonate deteriorated sharply from 1977 to 1979; the ratio of net operating profit to net sales in 1979 was less than half that 2 years earlier. The ratio of net profit to sales increased somewhat during January–June 1980, in comparison with that in the corresponding period of 1979, but remained at a much lower level than that achieved in 1977, the year immediately preceding the large increase in imports from West Germany.[56]

Conclusion

On the basis of the large margin of underselling coupled with the relatively high inventories held by U.S. producers and the stagnant or declining trends in production, capacity utilization, sales, and profit during 1977–79 and January–June 1980, we conclude that there is a reasonable indication that the domestic industry producing strontium carbonate is materially injured, or is threatened with material injury, by reason of imports from West Germany allegedly sold, or likely to be sold, at less than fair value.

Issued: October 24, 1980.

[49] Since petitioners do not allege that imports of strontium carbonate materially retard the establishment of an industry in the United States, this issue will not be discussed further.

[50] Chemical Profile on strontium carbonate, Oct. 1, 1979.

[51] Report, at pp. A–33, A–34, and A–36.

[52] Report, at pp. A–6, A–40, and A–46 through A–48.

[53] Report, at pp. A–17 through A–18.

[54] Report, at pp. A–24 through A–25.

[55] Report, at pp. A–20 through A–21.

[56] Report, at pp. A–29 through A–31.

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By Order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 80-34547 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-87]

Certain Coin-Operated Audio Visual Games and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on November 18, 1980, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the Federal Register.

Issued: October 24, 1980.
Janet D. Saxon,
Administrative Law Judge.
[FR Doc. 80-34543 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-77]

Certain Computer Forms Feeding Tractors and Components Thereof; Commission Request for Comments Regarding Settlement Agreement

AGENCY: United States International Trade Commission.

ACTION: Request for comments from the public regarding proposed settlement agreement.

SUMMARY: The proposed settlement agreement would result in termination of Investigation No. 337-TA-77. This notice requests comments from the public on the proposed settlement agreement on or before December 8, 1980.

DATES: Comments will be considered if received on or before December 8, 1980. Comments should conform with Commission rule 201.8 (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esquire, Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436; telephone (202) 523-0143.

SUPPLEMENTARY INFORMATION: On August 19, 1980, complainant Precision Handling Devices, Inc., respondents Shinshu Seiki Co. and Epson America, Inc., and the Commission investigative attorney filed a joint motion to terminate the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain computer forms feeding tractors and components. The Administrative Law Judge (ALJ) recommended on September 2, 1980, that the Commission grant the motion to terminate.

This investigation commenced on December 19, 1979, when Precision Handling Devices, Inc. filed a complaint with the Commission, alleging that respondents Shinshu Seiki Co., Ltd., and Epson America, Inc. had violated section 337 of the Tariff Act of 1930. Precision specifically alleged that Shinshu Seiki and Epson America had imported and sold in the United States certain computer forms feeding tractors which infringed claim 5 of U.S. Letters Patent 3,825,162, resulting in substantial injury to an efficiently and economically operated U.S. industry.

On January 15, 1980, the Commission instituted Investigation No. 337-TA-77 for the purpose of determining whether section 337 had been violated. Notice of the institution of the investigation was published in the Federal Register on January 30, 1980 (45 FR 6867).

Complainant, respondents and the Commission investigative attorney have jointly moved to terminate the investigation, on the grounds that the parties have resolved the dispute by entering into a settlement agreement.

Written Comments Requested

Because all parties, including the Commission investigative attorney, have joined the motion to terminate, and because the ALJ has recommended the motion be granted, there will be no oral argument regarding the proposed termination of the investigation. However, in order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating this investigation on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary of the Commission no later than 30 days after publication of this notice in the Federal Register. In addition, pursuant to 19 CFR section 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service, on the effects of the proposed settlement agreement.

The Settlement Agreement

Complainant Precision Handling Devices and respondents Shinshu Seiki and Epson America entered into the Settlement Agreement on June 30, 1980. The agreement disposes of all issues pertaining to the alleged infringement of U.S. Letters Patent 3,825,162 by the importation of certain computer forms feeding tractors and components manufactured by Shinshu Seiki and sold in the United States through Epson America. Under the terms of the agreement, respondents, while not admitting the patent's validity or infringement, have agreed to change the design of the disputed tractors to one conceded by complainant to be outside the claims of the patent. Respondents also agreed to pay a sum of money to complainant. The agreement permits respondents to import and sell a limited number of previously manufactured tractors of the type presently under investigation. The precise amount of money paid in the settlement and the maximum number of previously manufactured tractors permitted to be imported are confidential information subject to a protective order, and are not available to the public.

Additional Information

The original and 19 true copies of all written submissions must be filed with the Secretary of the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161. All comments must be filed no later than December 8, 1980. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Issued: October 27, 1980.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 80-34544 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-54A]

Certain Multicellular Plastic Film; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation to determine whether the process used by Huang Well Industrial Co. Ltd. to manufacture multicellular plastic film abroad would, if practiced in the United States, infringe claims 1 or 2 of U.S. Letters Patent 3,416,984.

AUTHORITY: This investigation is instituted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), 19 U.S.C. 1337a, and paragraph 3 of the Commission Order issued on June 29, 1979, in connection with investigation No. 337-TA-54, Certain Multicellular Plastic Film (USITC Pub. 987, June 1979).

SUPPLEMENTAL INFORMATION: At the conclusion of investigation No. 337-TA-54, the Commission, on June 29, 1979, ordered exclusion of multicellular film manufactured abroad in accordance with the process disclosed by claims 1 and 2 of U.S. Letters Patent 3,416,984 owned by Sealed Air Corporation of Saddle Brook, New Jersey. Paragraph 3 of the Commission's order provided that persons desiring to import multicellular plastic film into the United States could petition the Commission to institute such further proceedings as would be appropriate in order to determine whether the multicellular plastic film sought to be imported should be allowed entry into the United States.

On October 14, 1980, a petition was filed with the Commission on behalf of Huang Well Industrial Co. Ltd., of Taipei, Taiwan, requesting the Commission to institute further proceedings for the purpose of determining whether the process used by that firm to manufacture multicellular plastic film abroad would, if practiced in the United States, infringe claims 1 or 2 of Sealed Air Corporation's '984 patent.

Having considered the petition before it, the Commission on October 29, 1980, instituted an investigation to determine whether the process used to manufacture multicellular plastic film abroad by Huang Well Industrial Co. Ltd. would, if practiced in the United States, infringe claims 1 or 2 of U.S. Letters Patents 3,416,984.

Parties: For the purpose of the Commission's investigation, the following are named parties upon which this notice of investigation shall be served:

(1) The petitioner is Huang Well Industrial Co. Ltd., 3 Lane 131, Sec. 1 Hang Chow S. Road, Taipei, Taiwan.

(2) Sealed Air Corporation, Park 80 Plaza East, Saddle Brook, New Jersey 07662, owner of U.S. Letters Patent 3,416,984 and complainant in the Commission's earlier investigation, is named an interested party upon which the petition and the affidavits attached thereto are to be served.

(3) A Commission's investigative attorney shall be appointed by Mr. Talbot S. Lindstrom, Chief, Unfair Import Investigations Division, U.S. International Trade Commission.

Presiding Officer and Recommended Determination: Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate a presiding officer who is directed to issue a recommended determination as soon as feasible, but no later than January 30, 1981. The recommended determination shall be limited to the question of whether the process employed by Huang Well industrial Co. Ltd. to manufacture multicellular plastic film abroad would, if practiced in the United States, infringe claims 1 or 2 of Sealed Air Corporation's '984 patent. The burden of proof shall be upon petitioner to show that its process would not, if practiced in the United States, infringe the patent in question.

Investigation to be Expedited: The Commission intends that this investigation be expedited. The Commission plans to issue a final determination in this matter by the close of business on February 27, 1981.

Petition Available for Public Inspection: The petition filed on behalf of Huang Well Industrial Co. Ltd. and the two affidavits filed in support thereof are available for inspection by interested persons during official hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Christine Bliss, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0375.

Issued: October 30, 1980.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 80-34545 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Extension of Deadline

AGENCY: U.S. International Trade Commission.

ACTION: Extension of the deadline for the Commission's final determination in this investigation from October 24, 1980, to 45 days after the filing of an executed settlement agreement; if such agreement is not filed by the parties by November 3, 1980, the Commission will issue its final determination shortly thereafter.

SUMMARY: The Commission granted the parties unanimous request that the 12-month rule under 19 U.S.C. 1337(b)(1) and that the Commission's final determination be postponed to 45 days after the filing of an executed settlement agreement. The parties made this request to provide them with more time in which to finalize a settlement agreement.

Public Access to Record: Copies of the Commission's Action and Order, and any other public document in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0480.

Issued: October 30, 1980.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 80-34546 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 731-TA-30 (Preliminary)]

Montan Wax From East Germany

Determination

On the basis of the record [1] develop in investigation No. 731-TA-30 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[2] by reason of imports of montan wax from East Germany, provided for in item 494.20 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On September 8, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce each received a petition from American Lignite Products Co., Ione, Calif., alleging that montan wax from East Germany is being, or is likely to be, sold in the United States at LTFV.

[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedures (19 CFR 207.2(j)).

[2] Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

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Accordingly, the Commission instituted a preliminary antidumping investigation under section 733 of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the imports of such merchanise into the United States. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case by October 23, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the Federal Register on September 24, 1980 (45 FR 63390). The public conference was held in Washington, D.C., on October 1, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Statement of Reasons for the Affirmative Determination of Vice Chairman Michael J. Calhoun and Commissioners George M. Moore and Catherine Bedell

On the basis of the record developed in investigation No. 731–TA–30 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from East Germany of montan wax allegedly sold, or likely to be sold, in the United States at less than fair value (LTFV).

Discussion

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) directs that, within 45 days after a petition is filed under section 732(b), the Commission—

shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that—

(1) An industry in the United States—

(A) Is materially injured, or

(B) Is threatened with material injury, or

(2) The establishment of an industry in the United States is materially retarded,[1]

by reason of imports of the merchandise which is the subject of the investigation by the administering authority.

[1] Establishment of an industry is not an issue in this investigation and will not be further discussed.

In order to reach a decision we are required to define the domestic industry, review available information for reasonable indications of material injury or threat of material injury, and find a nexus between these reasonable indications and the subject imports.

Domestic industry

In the present case we find the like product to be montan wax and the industry to consist of the one firm producing montan wax in the United States, American Lignite Products Co. (Alpco). This firm accounts for the total known domestic production of montan wax, which, based on the evidence before us, is the only product which is either like or most similar in characteristics and uses with the montan wax from East Germany.

The question of reasonable indication of material injury

Subsection 771(7)(A) of the Tariff Act (19 U.S.C. 1677(7)(A)) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." In making a determination of material injury or threat of material injury, subsections 771(7) (B) and (C) direct the Commission to consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such products on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products. We base our decision in this case on an evaluation of the facts as they relate to these indicia of injury.

Volume of imports.—All U.S. imports of montan wax come from East Germany and all are imported by Strohmeyer and Arpe Co., Inc. Such imports increased from 1977 through 1979 by more than 30 percent. A comparison of the imports for January–June 1980 with those for the corresponding period of 1979 shows an increase of almost 60 percent.[4] Strohmeyer's inventories of montan wax more than doubled in January–June 1980,[5] and its U.S. shipments of the East German product were higher by 11 percent in January–June 1980 than in January–June 1979.[6] The substantial volume of imports placed into inventory has created a large overhang on the market which could seriously affect the sales of the domestic producer in the near future. This is a serious threat to the domestic industry since in the first three quarters of 1980 the price of the imports was at least 22 percent below that of the domestic product.[7]

While the U.S. market for montan wax increased steadily from 1977 through June 1980, the importer's share of this market remained fairly stable through 1979. However, in the period January–June 1980, the importer's market share rose by 2 percentage points.[8] This increase in market penetration occurred concurrently with declines in the U.S. producer's production, employment, and profitability.

Effect of imports on prices.—In 1976, the prices of U.S. and East German montan wax were approximately equal. Since that time, the price of domestically produced montan wax has risen at a much faster rate than that of the East German product. As a result, by the end of 1979 the imported wax was priced 21 percent below the domestic product. This margin of underselling increased to a high of 26 percent in July 1980, and then fell to 23 percent in August, when the domestic producer lowered his price, citing competition from the East German product as the reason.[9]

Although the margins of underselling have been increasing for more than a year, the full impact of the price differences may be just beginning to manifest itself in the performance indicators of the domestic producer because most customers cannot switch from one type of montan wax to another quickly.[10] The large and increasing price advantage enjoyed by the East German wax provides an incentive for Alpco's customers to consider changing suppliers, thus posing an imminent threat to Alpco's performance.

While Alpco's prices rose in 1979 and 1980, they did not rise as rapidly as the company's production costs (particularly costs for energy and chemical solvents),[11] indicating that the suppressing effect of the significantly lower-priced East German product has aggravated Alpco's cost-price squeeze.

Impact of imports on the domestic producer.—The record shows that Alpco's production declined by 2 percent in January–June 1980 compared with the corresponding period of 1979. Production figures for July and August 1980, however, indicate sharp drops of 42 and 35 percent, respectively, from July and August 1979 levels.[12] Alpco's capacity utilization also declined in January–June 1980, in part because of the decline in production.[13]

Alpco's domestic shipments increased by about 6 percent in 1979 and by 2 percent in January–June 1980 compared with the corresponding period of 1979. However, data for July and August 1980 show that shipments were 38 percent and 39 percent, respectively, below those in the corresponding months of 1979. There are indications that this decline is part of a trend which actually began in May 1980, when shipments were 22 percent below those in May 1979.[14] In addition, Alpco reported significantly higher end-of-period inventories in June, July, and August 1980, than in the corresponding months of 1979 or in any month during January–May 1980.[15]

Alpco's employment remained at about the same level from 1978 until early 1980, when it dropped by 10 percent. However, by July 1980, employment dropped another 35 percent.[16] This corresponds to a period of sharp declines in production and shipments.

The domestic producer's ratio of gross profits to net sales declined from 1978 to 1979 and dropped again in the January–June 1980 period as compared with the January–June 1979 period.[17] This ratio in 1980 is somewhat lower than the ratio generally maintained by other chemical manufacturers.

Conclusion

On the basis of increasing imports and their large margin of underselling, coupled with the declining trends in production, shipments, employment, and profits experienced by the domestic industry in 1980 (particularly since June of this year), we conclude that there is a reasonable indication that the domestic industry producing montan wax is materially injured, or is threatened with material injury, by reason of imports from East Germany allegedly sold at less than fair value.

Views of Chairman Bill Alberger

Determination and Conclusion of Law

On the basis of the record developed in investigation No. 731–TA–30 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from East Germany of montan wax allegedly sold, or likely to be sold, in the United States at less than fair value (LTFV).

Discussion

The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)) as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is further defined in section 771(10) of the Tariff Act as meaning "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *" In this case the industry consists of one firm producing montan wax in the United States, American Lignite Products Co. (Alpco).

All U.S. imports of montan wax come from East Germany. Such imports increased from 1977 through the first half of 1980. The increase in 1980 may hae been in expectation of a dock strike, as inventories increased substantially in January–June of 1980. Shipments of the East German product also increased significantly in 1980. The large volume of inventories could seriously affect the sales of the domestic producer, especially when the price of the imports was at least 22 percent below the domestic product in each of the first 3 quarters of 1980.

In 1976, prices of the domestic and imported montan wax were competitive but in 1977, a price spread developed, with the imports underselling by increasing margins. By the end of 1979, there was a price difference of 21 percent, increasing to 26 percent in July of 1980. A switch to or from the domestic to the imported product can take from several months to a year due to differences in the chemical makeup of the products and the necessity to change formulations for use on different types of paper. The margins have reached levels that certainly encourage such switching.

Alpco's production increased from 1978 to 1979, but declined in January–June of 1980. Much sharper drops occurred in July and August of 1980. Capacity has increased but capacity utilization is down. Domestic shipments dropped sharply in July and August of 1980. Employment increased from 1977 to 1978, then remained at the same level until early 1980 when it declined, corresponding with a slight decline in production as well as increased efficiency. However, in July of 1980 employment dropped by 35 percent. This corresponds to a period of sharp declines in production and shipments. Profits are generally good throughout the period. Lost sales information is really inconclusive as to whether switches occurred based on lower prices.

On the basis of the large margin of underselling of increasing imports coupled with sharply declining domestic production, shipments, and employment particularly in the most recent months of 1980, there is a *reasonable* indication that the domestic industry producing montan wax is suffering material injury by reason of imports from East Germany allegedly sold at less than fair value.

Findings of Fact

The following findings of fact are relevant to our determination in this investigation. Data discussion is limited to confidentality, with only one domestic producer and one importer.

A. Volume of imports

1. Imports of montan wax from East Germany have increased steadily from 1977 to 1979, and in January–June 1980, such imports show an increase of almost 60 percent compared with the corresponding period of 1979 (Report, p. A–17).

2. Montan wax from East Germany maintained a large share of the U.S. market from 1977 thorugh 1979 with an increase shown for the first 6 months of 1980 (Report, p. A–18).

B. The effect of imports on prices

3. The price of montan wax from East Germany was approximately 15 percent lower than that of the Alpco product in 1978. in 1979 this price differential decreased to as low as 10 percent, then increased to 21 percent by the end of the year. In 1980, the price of the imported product was as much as 26 percent lower than the Alpco product (Report, p. A–23).

4. The price of the domestic product rose by 38 percent from 1978 to August 1980 with most of the increase coming in late 1979 and early 1980 (Report, p. A–23). Alpco's price increases generally reflected increases in its production costs as the company's ratio of cost of goods sold to net sales remained fairly stable throughout the period with a slight increase in the first 6 months of 1980 (Report, p. A–14).

5. Prices of the montan wax from East Germany rose by approximately 20 percent from January 1978 to September 1980 (Report, p. A–23).

C. The impact of imports on the U.S. industry

6. U.S. production of montan wax rose by 10 percent from 1978 to 1979. Production in January–June 1980, however, was 2 percent below that of January–June 1979, and in July and August 1980, production was sharply

[4] Report, p. A–17.
[5] Report, p. A–19
[6] Report, p. A–19.
[7] Report, p. A–22.
[8] Report, p. A–18.
[9] Report, p. A–22.
[10] Report, p. A–3.
[11] Report, p. A–15.
[12] Report, pp. A–5 and A–6.
[13] Report, p. A–7.
[14] Report, pp. A–7 and A–8.
[15] Report, pp. A–10 and A–11.
[16] Report, pp. A–13 and A–14.
[17] Report, p. A–14.

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lower than in the corresponding months of 1979 (Report, pp. A–5 and A–6).

7. The ratio of production to capacity dropped from 94 percent in 1978 to 90 percent in 1979. In the first 6 months of 1980, this declining trend worsened with a drop in capacity utilization of 15 percentage points (Report, p. A–7).

8. Alpco's domestic shipments of montan wax increased from 1978 to 1979 by 6 percent. In 1980, such shipments were higher in each month from January through April as compared with the corresponding months of 1979, but during May–August 1980, domestic shipments were lower in each month than they were in May–August 1979. Total domestic shipments during January–August 1980 were about 10 percent below those for the corresponding period of 1979 (Report, p. A–8). Alpco's exports of montan wax rose in 1979, but declined during January–June 1980 compared with January–June 1979 (Report, p. A–9).

9. Alpco maintained very small inventories of montan wax throughout the period examined by the Commission although a build-up in inventories was shown in June 1980 (Report, pp. A–10 and A–11).

10. Alpco's employment increased by 10 percent from 1977 to 1978, remained constant in 1979, and then declined in the first 6 months of 1980. It continued to decline in July and August 1980, with a drop of 35 percent reported in the latter month (Report, p. A–13).

11. The producer's gross profits increased from 1978 to 1979, but declined slightly in the first 6 months of 1980 as compared with the corresponding period in 1979 (Report, p. A–14).

12. Alpco cited 10 instances in which it allegedly lost sales to East German montan wax. It is not clear what impact lower prices had on these accounts (Report, p. A–25).

13. There was insufficient data available to the Commission to enable us to analyze cash flow, wages, ability to raise capital, and investments.[19]

Recommendation and Supporting Statement of the Director of Operations for an Affirmative Preliminary Determination in Investigation No. 731–TA–30 (Preliminary), Montan Wax From East Germany

Recommendation

On the basis of the record developed in this investigation, I recommend that the Commission determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of montan wax from East Germany, provided for in item 494.20 of the Tariff Schedules of the United States, which the petitioner alleges are being, or are likely to be, sold in the United States at less than fair value.

Supporting Statement

Procedural background

The Commission instituted this investigation on September 8, 1980, following receipt of a petition filed by the sole U.S. producer of montan wax, American Lignite Products Co. (Alpco). A public conference was held in Washington, D.C., on October 1, 1980, at which parties in support of the petition and those opposed to it presented testimony. The Commission's determination in the investigation is due to be transmitted to the Department of Commerce on October 23, 1980.

The U.S. market

Montan wax is a fossilized vegetable wax that is extracted from lignite using various solvents. Suitable lignite deposits are found in very few locations, and the only major ones are in East Germany and California. Only the petitioner produces montan wax in the United States, and only one company, Strohmeyer & Arpe Co., imports the product from East Germany. Sales made by these two companies account for all known consumption of montan wax in the United States.

Montan wax is principally used as a flow agent in the manufacture of one-time carbon paper, although minor amounts are used in other applications such as shoe polishes. The U.S. and East German products are not identical in characteristics, but are generally substitutable with relatively minor changes in wax formulations. In addition, carnauba wax (a vegetable wax obtained from the Carnauba palm, which grows only in northeastern Brazil), and at least two types of synthetic petroleum-based waxes can be used in most montan wax applications. All these products compete in the market, usually on the basis of price, although producers of one-time carbon paper resist changing products once an effective wax formulations has been developed. In 1979 and 1980, the price of the synthetic waxes rose significantly along with increases in crude oil prices, so that these products may not currently be price competitive with montan wax. Should this investigation be returned to the Commission for a final injury determination, a thorough analysis of these competitive products and their price relationships will be made. Information developed in this preliminary investigation indicates that U.S. consumption of montan wax has not declined because of sales lost to other waxes, although increases in montan wax use may have been slowed by such competition.

Findings with respect to "a reasonable indication of material injury, or threat thereof", by reason of imports subject to the investigation

Information obtained in this investigation from questionnaires completed by Alpco and Strohmeyer is confidential since only two firms are involved. Thus, the findings released in this public document cite only general trends or, in some instances, statistics presented by parties at the Commission's conference. The reasonable indication of material injury or threat of material injury in this investigation is most clearly demonstrated by the changes in Alpco's performance during January–June 1980, a period in which both the margin by which the East German product undersold the U.S. product and the market share held by the East German product reached new highs for the period examined. Concurrently, Alpco experienced declines in production, capacity utilization, employment, and profitability and increases in inventories. Inventories of the imported product also rose sharply and contribute to the threat of continued injury in the near future. Specific findings follow:

1. Since the present owners of Alpco purchased the company in mid-1977, production costs have risen substantially, necessitating an increase in the price for montan wax from 46 cents per pound during 1978 to 63.5 cents per pound in July 1980. A price reduction of 2.5 cents per pound was made in August 1980. Prices for the East German product, however, increased by a much smaller amount and were significantly lower than the Alpco prices throughout the period. The margins of underselling increased during each quarter in 1979 and reached a high for the period examined during July–September 1980 (Report, pp. A–21–A–23).

Alpco's production of montan wax rose in 1979 but fell during January–June 1980 compared with production in January–June 1979 (Report, p. A–5). The company's inventories on June 30, 1980, were more than double the amount held on June 30, 1979 (Report, p. A–10). Capacity utilization fell from 94 percent in 1978 to 90 percent in 1979 and to 75 percent in January–June 1980 (Report, p. A–7).[20]

3. The average number of production and related workers engaged in the production of montan wax fell from 21 in 1979 to 19 during January–June 1980, 17 in July 1980, and 11 in August 1980 (Report, pp. A–13–A–14).

4. Alpco's gross profit on montan wax operations fell slightly during January–June 1980 (Report, p. A–14), and a net operating loss was incurred during the company's June–August 1980 fiscal quarter (transcript of the conference, p. 8).

5. Imports of the East German product rose by significant amounts in 1978 and 1979, and were more than 50 percent higher in January–June 1980 than in January–June 1979 (Report, p. A–17). End-of-period inventories of East German montan wax held by Strohmeyer rose in 1979 and nearly tripled in January–June 1980, compared with inventories in January–June 1979 (Report, p. A–19).

6. U.S. market penetration by East German montan wax remained relatively constant during 1977–79, but rose during January–June 1980 to its highest level during the period examined (Report, p. A–18).

Conclusion

On the basis of the information developed in the investigation, I recommend that the Commission find that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of montan wax from East Germany which are allegedly sold in the United States at less than fair value.

Views of Commissioner Paula Stern

Introduction

On the basis of the record developed in Investigation No. 731–TA–30 (Preliminary), I have determined that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from East Gernany of montan wax allegedly sold, or likely to be sold, in the United States at less than fair value (LTFV).

Industry

Section 771(4)(A) of the Tariff Act of 1930 defines "industry" for the purposes of these investigations as "the domestic producers as a whole, of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production." "Like product" is in turn defined in section 771(10) of the Tariff Act as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to the investigation * * *." In this investigation the like product is montan wax, and the U.S. industry is comprised of the American Lignite Products Co. (ALPCO), the only domestic company manufacturing montan wax.

Material Injury by Reason of Alleged LTFV Imports

From June 1977, when ALPCO began operating under new ownership, until the end of 1979, the record of this preliminary investigation indicates healthy growth for the U.S. montan wax industry. With the market for montan wax expanding between 1978 and 1979,[21] U.S. production increased ten percent, shipments grew six percent, and exports rose significantly. Capacity expanded and sizeable investments were made in machinery and equipment.

During this period, however, the competitive position of the alleged LTFV imports in the U.S. market was strengthening. Underselling of the domestic product by the alleged LTFV imports, which had been minimal prior to 1977, amounted to fifteen percent by the end of 1978 and after December 1979 increased markedly. Specifically, in January 1980 the margin of underselling was 22 percent, and by July-September it reached a range of 23–26 percent.

This underselling was a result of U.S. prices increasing more rapidly than those of the alleged LTFV imports. During the period under consideration the average price of East German montan wax increased about twenty percent. Meanwhile, U.S.-produced montan wax prices held steady in 1978, but jumped eleven percent form 1978 to 1979 and another 26.3 percent from Janaury-July 1980. Despite these price increases the petitioner alleged that his prices had not kept up with rapidly escalating costs, notably for energy, chemicals and raw materials. The competition from the alleged LTFV imports constrained the petitioner from raising prices, and in August 1980 ALPCO lowered prices two-and-a half cents reportedly in an effort to compete with the East German product.[22] Thus, there were indications of both price suppression and price depression.

The volume of alleged LTFV imports has also been growing. Imports of East German montan wax rose thirteen percent from 1977 to 1978. They increased again by nineteen percent from 1978 to 1979. In January-June 1980, when the margin of underselling was greatest, imports rose roughly 56 percent above the same period in 1979. The increased imports in 1980 went predominantly into importers' inventories which were at levels well above those for 1979.[23] Shipments of imports were eleven percent higher in the first six months of 1980 than in the corresponding period in 1979. Import penetration was somewhat greater in June-August 1980, although the montan wax market had shrunk considerably from the corresponding period in 1979.[24]

Just as these economic factors which link the imports to the domestic market became most prominent, ALPCO began experiencing economic difficulties. From January to June 1980 production, shipments, employment and profits all declined slightly. Exports fell of 25 percent and inventories increased.[25] In the period June-August 1980 the situation deteriorated.[26] Employment dropped by 42 percent during this period, and production, shipments and capacity utilization decreased substantially from 1979 levels. Production fell 33 percent, shipments dropped 56.9 percent and capacity utilization fell from 96.4 percent to 54.8 percent.[27] The ratio gross profits to sales also declined from the 1979 level for this quarter.

On the basis of the above, I have found that a reasonable indication of material injury by reason of the alleged LTFV imports has been demonstrated. I am aware, however, that the declining position of the U.S. industry from April 1980 to the present did occur at the same time that consumption of montan wax,

[19] The recommendation of the Director of Operations is attached for informational purposes below.

[20] Some, but not all, of the decline in capacity utilization in 1980 was the result of increased capacity.

[21] Data is not available for the entire year for 1977.

[22] It is possible that competitive products such as carnauba wax and petrochemical substitutes for montan wax also play a role in price suppression. This should be explored futher in the final investigation.

[23] The importer indicated that it was necessary to increase inventories as a result of a threatened dock strike expected in September 1980.

[24] Data gathered on lost sales in this investigation was inconclusive.

[25] Capital expenditures, increased capacity and productivity improvement by ALPCO may suggest economic well-being. These signs should be further explored in any final investigation.

[26] The questionnaires in this investigation requested data for the months of January-August 1980. ALPCO operates on a fiscal year basis with the June-August period as the first quarter of the fiscal year. The case for a reasonable indication of material injury is clearly demonstrated in the January-August 1980 period, and especially druing June-August 1980. A final investigation should provide a better perspective on the latest period.

[27] All data come from the Staff Report, except capacity utilization for July-August which comes from petitioner's post-conference brief, p. 1.

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which had been increasing continuously since 1977, dropped. In antidumping cases the Commission does not weigh the causes of injury to a domestic industry. However, if the case should return for a final determination, I would expect that additional information will help clarify the casual link existing between LTFV imports and material injury.

Threat

The intention of the Congress concerning affirmative findings of threat is clear. An affirmative finding "must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture."[28] Since 1947, when ALPCO—the only American producer of montan wax—was established, the potential for imports of East German montan wax to eradicate U.S. production of this product has existed. The scale of East German montan wax operations was and is striking in comparison to the ALPCO operations. Nevertheless, ALPCO has continued to play an important role in the U.S. montan wax market. Thus, while the domestic industry has been "threatened" in the vernacular sense since its inception, what we need to determine in this investigation is whether the industry is now "threatened" in the more restricted sense of the antidumping statute.

There are seveal factors which distinguish the "threat" now facing the domestic industry from that which it has faced since 1947. The substantial margin of underselling now existing between the prices of U.S. and East German montan wax coupled with the current inability of the industry to cover its costs have created a situation in which the U.S. industry is particularly vulnerable to import-related injury. Moreover, the importer now has substantial inventories to supply additional demand for imports at current low prices.[29] As we presumably move out of recession, there will be a good market for increased imports considering the margin of underselling and the inventory overhang. These factors are the basis for my affirmative determination on "threat" at this preliminary stage.

The degree to which the industry is threatened depends heavily on the degree to which underselling results in sales lost to the alleged LTFV imports. More research is needed in the final investigation concerning the actual price sensitivity of this product and the lead time that normally takes place before a customer changes supplier.

Conclusion[30]

The standard of "reasonable indication" has been met in this case as regards both material injury and threat. Underselling is striking and the domestic industry is encountering increasing economic difficulties.

Issued: October 23, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-34548 Filed 11-5-80; 8:45 am]

BILLING CODE 7020-02-M

[28] Senate Report No. 96-249, 96th Cong., 1st Sess. (88-89) 1979.

[29] *See* Conference Transcript, p. 86.

[30] I concur in the Findings of Fact stated in the "Views of Chairman Bill Alberger."

[TA-503(a)-8 and 332-118]

President's List of Articles Which May Be Designated as Eligible Articles for Purposes of the Generalized System of Preferences

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 503(a) and 131(b) of the Trade Act of 1974 (hereinafter referred to as "the Act") and section 332(g) of the Tariff Act of 1930, as amended, the Commission has instituted investigations Nos. TA-503(a)-8 and 332-118 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the U.S. Trade Representative (USTR) with respect to certain listed articles as to the probable economic effects on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the United States Generalized System of Preferences (GSP), set forth in Title V of the Act.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT:

(1) Agricultural products, Mr. Edward Furlow (202-523-0234), Office of Industries;

(2) Textile products, Mr. Reuben Schwartz, (202-523-0114), Office of Industries;

(3) Chemical products, Dr. Aimison Jonnard (202-523-0423), Office of Industries;

(4) Minerals and metals, Mr. Larry Brookhart (202-523-0275), Office of Industries;

(5) Machinery and equipment, Mr. Aaron Chesser (202-523-0353), Office of Industries;

(6) Miscellaneous manufactures, Mr. Walter Trezevant (202-724-1719), Office of Industries;

(7) Legal aspects, Mr. William Gearhart, (202-523-0487), Office of General Counsel.

All of the above persons are located at the U.S. International Trade Commission, 701 E Street NW, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On October 10, 1980, in accordance with section 503(a) and 131(a) of the Act and pursuant to the authority of the President delegated to the USTR by Executive Order 14846, as amended by Executive Order 11947, the USTR furnished the United States International Trade Commission a list of items which may be designated as eligible articles for purposes of the GSP (see Annex I).

In providing its advice, the USTR requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive need" limitations specified in section 504(c) of the Act.

For TSUS item 687.58, the USTR specifically requested that advice be provided on each statistical annotation of that item.

Section 504(d) of the Act exempts from one of the competitive-need limits in section 504(c) articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Act. Accordingly, pursuant to the authority of section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), and in conformity with the delegation of authority from the President to him of Executive Order 11846 as amended by Executive Order 11947, the USTR requested that the Commission also provide advice with respect to whether products like or directly competitive with any articles contained in the TSUS(A) items in Annexes I and II were being produced in the United States on January 3, 1975. A list giving detailed descriptions of the articles contained in the TSUS(A) items identified in Annexes I and II is available upon request from the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (202-523-5178).

The USTR announced the items which have been sent to the Commission for probable effects advice in the October 14, 1980 **Federal Register** (45 FR 67810). The USTR notice includes items in Annex I of this notice as well as the following TSUS items being investigated for GSP designation in the Commission's ongoing investigation Nos. TA-131(b)-5, TA-503(a)-7 and 332-113 (announced in **Federal Register** of August 27, 1980 (45 FR 57221)); 112.34, 112.86, 141.78, 148.52, 148.54, 150.05, 161.07, 184.53, 650.47, 687.58, and 727.11. These latter items will not be reexamined in investigations Nos. TA-503(a)-8 and 332-118, the subject of this notice.

Public hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on January 13, 1981, to be continued on January 14, 1981, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, January 8, 1981.

Written submission

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. All written statements, including prepared statements filed by witnesses at the public hearing, should include a summary of material included in the statement. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than January 28, 1981. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: October 30, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Annex I.—*Articles Being Considered for Designation as Eligible Articles for Purposes of the GSP*

112.22(pt)	121.50(pt)
117.6875	121.64
135.61	472.12
136.20	490.12
136.22	533.22
137.10	533.64
137.8782(pt)	533.76
138.4510	533.78
138.4570	546.64
138.4570(pt) (sliced bamboo shoots)	546.68
	650.4920
138.4570(pt) (sliced water chestnuts)	687.5810
	687.5811
140.70	687.5813
145.50	687.5815
145.58(pt)	687.5817
146.58	687.5819
146.60	687.5821
148.24	687.5823
169.13(pt)	687.5825
170.63	687.5827
182.49	687.5831
184.51	687.5933
240.17	687.5835
240.17(pt)	687.5838
353.5012	687.5840
360.05	687.5841
361.2210	687.5842
361.2245	687.5844
363.75	687.5845
363.75(pt)	687.5847
367.3025	687.5848
386.0430	687.5853
386.0430(pt)	687.5854
386.5040	687.5856
386.5040(pt)	687.5859
387.34	687.5861 687.5862
387.34(pt)	687.5866 687.5867
411.60(pt)	687.5868 687.5870
412.22	687.5881 687.5883
412.22(pt)	687.5886 705.8540
412.70(pt)	705.8540(pt) 706.2380
425.9940	706.2460 706.30(pt)
425.9940(pt)	708.6045 715.53(pt)

Annex II—Articles Being Considered for Designation as Not Like or Directly Competitive With Any Article Produced in the United States on January 3, 1975

121.55			
121.62			
141.70			
734.2040(pt)			

[FR Doc. 80-34549 Filed 11-5-80; 8:45 am]

BILLING CODE 7020-02-M

[TA-131(b)-5, TA-503(a)-7, and 332-113]

Probable Economic Effects of Possible Tariff Reductions Under Section 124 of the Trade Act of 1974 and Designation of Certain Articles as Eligible Articles for Purposes of the Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: As a result of a request from the U.S. Trade Representative (USTR) received on September 24, 1980, the Commission has expanded the scope of Investigation Nos. TA-131(b)-5, TA-503(a)-7, and 332-113 by the addition of articles classified in the following 15 items of the Tariff Schedules of the United States.

117.65	176.29	514.65	606.64
117.70	176.30	514.81	687.58
140.38	437.30	515.24	741.15
165.30	514.61	545.11	

With respect to the above items, the USTR has requested advice on the probable economic effects on U.S. industries producing like or directly competitive articles and on consumers of the reduction of United States duties on these articles by the maximum amount permissible under the authority granted to the President under section 124 of the Trade Act of 1974.

SUPPLEMENTARY INFORMATION: The Commission's initial notice of Investigation Nos. TA-131(b)-5, TA-503(a)-7, and 332-113, containing information on investigation coverage, the public hearing, and related information, was published in the **Federal Register** of August 27, 1980 (45 FR 57221).

Supplemental public hearing.—A public hearing in connection with the above 15 additional items being considered in the investigation will be held in the Commisison Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on November 18, 1980. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washinton, D.C. 20436, not later than noon, November 13, 1980.

Written submissions.—In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statement concerning the investigation. All written statements, including prepared statements filed by witnesses at the public hearing, should include a summary of material included in the statement. Commercial or financial information which a submitter desired the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All sumbissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than November 26, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: October 29, 1980.

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By order of the Commission:
Kenneth R. Mason,
Secretary.
[FR Doc. 80-34542 Filed 11-5-80; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bonus Awards Schedule for Senior Executive Service (SES)

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: In accordance with the general recommendations of the Office of Personnel Management, notice is hereby given of the schedule and numbers of bonuses to be awarded senior executives in the Department of Justice. These awards will be made on or about November 14, 1980.

No. of bonuses awarded	Percentage of base pay
1	7
3	8
6	9
25	10
9	15
3	20

FOR FURTHER INFORMATION CONTACT:
Mr. Warren Oser, Director, Personnel and Training Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633-3221.

Harry H. Flickinger,
Executive Secretary, Senior Executive Resources Board.
[FR Doc. 80-34528 Filed 11-5-80; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-45]

Reports, Recommendations and Responses: Availability

Aviation Safety Special Study

Air Taxi Safety in Alaska (NTSB-AAS-80-3).—In a report released October 29, the National Transportation Safety Board details the result of its study of air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska and met with officials of the Federal Aviation Administration, the National Weather Service, the Alaska Department of Transportation and Public Facilities, the Alaska Air Carriers Association, and 17 air taxi operators. The data revealed that the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher, and the fatal rate more than double, the air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids.

Based on the results of this study, the Safety Board Released three recommendation letters on September 25, each letter noting that the State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages. The Board also noted that during the 5-year period 1974–1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal, compared with 753 air taxi accidents in the rest of the United States, of which 562 were nonfatal and 191 were fatal. The Safety Board's recommendations for corrective action were:

–to the *State of Alaska:*

Coordinate with the Federal Aviation Administration and the National Weather Service to facilitate the rapid implementation of the air transporation projects contained in Chapter 50, SLA (State Legislature of Alaska) 1980. (A–80–96)

Improve the level of maintenance of the runway facilities at the rural villages within the State airport system. (A–80–97)

Centralize Authority and responsibility for planning, operating, and maintaining the States' aviation facilities. (A–80–98)

Develop, in cooperation with the Federal Aviation Administration and the system users, a comprehensive aviation system plan and a program for the implementation of the plan. (A–80–99)

Establish, in cooperation with the Federal Aviation Administration and the air taxi operators, a program to impress upon the public, particularly those living in rural villages, the importance of respecting and properly maintaining airfield facilities. (A–80–100)

—to the *Federal Aviation Administration:*

Evaluate, in cooperation with the State of Alaska and the National Weather Service, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. (A–80–101)

Locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional aviation hubs as possible. (A–80–102)

Continued to develop, in cooperation with the National Weather Service, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska. (A–80–103)

Continue to develop and improve, in cooperation with the National Weather Service, the technology of the television weather observation system in Alaska. (A–80–104)

—to the *Alaska Air Carriers Association:*

Extend its safety program to reiterate the hazards of air taxi operations in Alaska and to overcome, in particular, the "bush pilot syndrome." (A–80–105)

Each of the above recommendations, with the exception of A–80–96, is designated "Class II, Priority Action." Recommendation A–80–96 is targeted "Class I, Urgent Action."

Aircraft Accident Data

Annual Review, U.S. Air Carrier Operations, 1978 (NTSB–ARC–80–1).—This publication, released by the Safety Board on October 23, presents the record of aviation accidents in all operations of the U.S. air carriers for calendar year 1978. It includes an analysis by class of carrier and type of service in which the 1978 performances are compared with 5-year base-period averages. A 10-year review, 1969 through 1978, of the certificated route carriers is presented for accident rates by aircraft make and model, types of accidents, phases of operation, causes or related factors, and a comparison between scheduled and nonscheduled revenue service. Statistical tables which summarize the accidents, fatalities, and accident rates; causal tables; and briefs of accidents are presented in the appendixes.

Aircraft Accident Reports

Brief Format, U.S. Civil Aviation, Issue Number 9 of 1979 Accidents (NTSB–BA–80–6).—This publication, released October 23, is one of 15 such compilations issued by the Safety Board each year and contains selected aircraft accident reports, in brief format, occurring in U.S. civil aviation operations during calendar year 1979. The 300 General Aviation accidents contained in Issue Number 9 represents a random selection. The brief format presents the facts, conditions, circumstances, and probable cause(s) for each accident. Additional statistical information is tabulated by injury index, injuries, and causal factors. Copies of the publication may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 20 cents per page for printed matter, 65 cents per page for black-and-white photographs, and $4.37 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Marine Accident Report

Sinking of the M/V HOLOHOLO in the Pacific Ocean Near the Hawaiian Islands, December 1978 (NTSB–MAR–80–15).—The Safety Board's formal investigation report, released October 24, indicates that about 1437 on December 9, 1978, the motor vessel HOLOHOLO departed Honolulu Harbor, Island of Oahu, on the second of six planned 6-day voyages involving an Ocean Thermal Energy Conversion research project that the University of Hawaii had contracted to perform over a 1-year period at a site centered about 17 nmi west of Kawaihae, Island of Hawaii. The 10 persons on board were the owner, a licensed master of research vessels, a hydraulic mechanic, and 7 scientists associated with the research to be conducted. The voyage itinerary included plans to rendezvous with two scientists who were to board the vessel in Kawaihae Harbor at daybreak on December 11, 1978, but the HOLOHOLO did not arrive as planned. Despite an extensive air-sea search by the Coast Guard, the Navy, the Air Force, the University, and others, the HOLOHOLO was not found.

The Safety Board determined that the probable cause of this accident was the operation of the HOLOHOLO in an unseaworthy condition as directed by the owner and accepted by the Research Corporation of the University of Hawaii. Contributing to the vessel's unseaworthiness were a 2-ft by 4-ft opening in the after main deck and a large opening in the aftermost deckhouse bulkhead which would allow rapid internal flooding, unsealed below-deck bulkhead penetrations which would allow progressive flooding, inadequate freeing ports which would allow shipped water to be trapped on deck, and the insufficient number of qualified operating personnel to provide a 24-hour navigation watch. The lack of a distress signal or radio message might have contributed to the loss of life.

This accident was investigated jointly by the Safety Board and the U.S. Coast Guard. A Coast Guard Marine Board of Investigation was convened in Honolulu, Hawaii, on January 9, 1979. More than 40 persons testified during the 12 days of public hearings. Also, two witnesses were deposed in Seattle, Wash., on January 16, 1980, and one witness was deposed in Washington, D.C. on February 26, 1980. More than 100 exhibits were accepted into the record.

As a result of the investigation, the Safety Board on September 6, 1979, issued a series of eight recommendations seeking improved safety in such leased-vessel marine research operations. Recommendations M–79–81 through –87 were issued to the University of Hawaii and M–79–80 to the University-National Oceanographic Laboratory System (UNOLS), which proposed minimum marine research safety requirements in a communication to its members dated September 25, 1979. UNOLS responded to the Safety Board on September 4, 1980 (45 FR 67177, October 9, 1980), and on September 29 the Board advised UNOLS that recommendation M–79–80 has now been classified "Closed—Acceptable Action." The University of Hawaii's response to recommendations M–79–81 through –87 was dated September 24, 1979 (44 FR 60185, October 18, 1979). The Safety Board replied to the University of Hawaii's letter on November 7, 1979, but to date the University has made no further response.

Aviation Safety Recommendation Letter

A–80–110 to the Federal Aviation Administration, October 24, 1980.—The Safety Board is investigating an incident involving a Cessna Model 421B, N82169, which occurred at Terre Haute, Ind., last March 20. Although the investigation is not complete, the Board has identified a problem affecting occupant escape and survival in this incident which it believes merits remedial action by FAA.

Examination of the wreckage revealed that the forward end of the writing table and the paneling associated with the table installation overlapped the lower rear corner of the emergency escape hatch frame. The overlap restricted the removal of the emergency escape hatch. In addition, the cup holder on the forward end of the writing table further impeded the removal of the emergency escape hatch. This table configuration was optional equipment for about 240 model 414 aircraft (S/N 414–0357 through 414–0800) and 508 model 421 aircraft (S/N 421B–0301 through 421B–0970), which were manufactured between 1973 and 1975. A design installation change was made with respect to the optional table installation on these models for aircraft manufactured subsequent to 1975; therefore this problem does not exist on the later aircraft.

The Safety Board notes that numerous recommendations and proposals to improve occupant escape have been made over the years by Government and industry organizations, and significant improvements have been made. However, access to the escape hatch on these aircraft is still marginal. This incident might have resulted in fatalities if a postcrash fire had erupted, and it illustrates the need to review and monitor cabin design to insure that interior installations do not obstruct the removal and use of emergency escape hatches. Accordingly, the Board recommends that FAA:

Require a modification to the table configuration on Cessna Model 414 aircraft (S/N 414–0357 through 414–0800) and Cessna Model 421 aircraft (S/N 421B–0301 through 421B–0970) to eliminate interference of the table installation with the escape hatch. (Class II, Priority Action) (A–80–110)

Responses to Safety Recommendations

Aviation

A–80–11 and A–80–26, from the Federal Aviation Administration, October 14, 1980.—Letter is in further response to recommendation A–80–11, issued last February 5, and responds to Safety Board letter of July 30 which commented on FAA's response of last May 5 (45 FR 32149, May 15, 1980). The recommendation resulted from the crash of a Cessna Model 120 near Vicksburg, Miss., September 29, 1979. The accident investigation disclosed that the wing separated after the forward wing strut upper rod-end spherical fitting had failed. Both persons aboard, an instructor pilot and his student, were killed. The recommendation asked FAA to issue an Airworthiness Directive applicable to the Cessna Model 120 and 140 airplanes, requiring an immediate inspection of wing strut upper rod-end spherical fittings for corrosion, racking, or elongation; if any of these conditions are detected, the fittings should be replaced before further flight.

The Safety Board's July 30 letter expresses concern about the structural integrity of several thousand other Cessna 120/140 aircraft now remaining in service. Critical questions are raised about the airworthiness of the aircraft and about the wing strut fittings. The

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Board notes that FAA attributes the failure of the fittings to inattentive maintenance over an extended period of time and states that an Airworthiness Alert will assure adequate inspection in the future. The Board also notes that an Airworthiness Alert, however, is advisory only and, as such, will not have the mandatory impact of an Airworthiness Directive. The Board believes that, in this instance, mandatory action will prove more effective in assuring adequate inspection and directing proper and immediate attention to the hazard.

Further, the Board's July 30 letter notes that last April 9 recommendation A–80–26 was issued to FAA. The recommendation related similarly to a hazardous wing-lift strut fitting condition found among various high-wing model Piper aircraft. FAA responded by immediately issuing an emergency Airworthiness Directive to Piper aircraft owners. (See 45 FR 26185, April 17, 1980; and 45 FR 51008, July 31, 1980, respectively.) Because the same urgency exists, and because the airworthiness of Cessna Model 120 and 140 aircraft is likewise suspect, the Board requested that FAA reevaluated recommendation A–80–11 and take the same expeditious action as that taken with regard to recommendation A–80–26.

FAA's October 14 response indicates that a reevaluation has been completed. FAA's comparative review of recommendations A–80–26 and A–80–11 reveals a related problem with unrelated causes. The problem is failure in a wing lift strut. FAA notes, but the causes are different. In the case of the affected Piper airplanes, it was fatigue, and in the case of the Cessna 120/140 airplanes it was maintenance inattentiveness over an extended period of time. Since the fatigue was design influenced, FAA agrees with the Directive action for that situation. FAA states that fatigue was not involved in the Cessna case; therefore, the action of nonconcurrence with recommendation A–80–11, outlined in FAA's letter of May 5, 1980, "is still appropriate."

FAA notes that the Airworthiness Alert mentioned in that letter was issued on July 1. This alert requested that a Malfunction or Defect Report, FAA Form 8010–4, be submitted when corrosion, pitting, and related service conditions are found. To date, no reports have been received. However, FAA says it will continue to screen these reports for the above-mentioned conditions and take further action as justified. Authorized inspectors, repair stations, General Aviation District Offices, Flight Standards District Offices, and certain aviation-oriented organizations are on automatic distribution for Airworthiness Alerts. "Therefore, those individuals who would be expected to uncover the conditions mentioned above have been alerted," FAA states.

A–80–61 through –63, from the Federal Aviation Administration, October 17, 1980.—Response is to recommendations issued by the Safety Board on July 21 as a result of investigation of two similar accidents which involved explosion and fire in an aircraft wing during engine start. Both occurred in similar Beech airplanes, a Model B58 and a Model B95. One accident occurred last April 8 at Tulsa, Okla., the other on May 16 at Casper, Wyo. (See 45 FR 51007, July 31, 1980.)

Recommendation A–80–61 asked FAA to require a one-time inspection of those aircraft that have been inspected in accordance with the requirements of Airworthiness Directive 78–05–06, to ensure the integrity of the fuel vent system. Recommendation A–80–62 asked FAA to amend immediately Airworthiness Directive 78–05–06 to include a procedure that will assure vent system integrity following the inspection required by the Airworthiness Directive.

In response to these two recommendations, FAA says it does not believe an Airworthiness Directive (AD) for a one-time maintenance inspection is necessary to assure that a mechanic has adequately completed an inspection that is already required by an AD. AD 78–05–06 does not relate to the integrity of the vent system, and any vent system integrity check would be a maintenance inspection item. Assuming the mechanic complies with the procedures set forth in the AD, there should be no problems with the repair procedures as outlined. However, since vent lines may have been improperly disconnected in demonstrating compliance with AD 78–05–06, FAA intends to issue the following maintenance alert advising mechanics who are responsible for compliance with AD 78–05–06 to use caution and follow instructions as set forth in the AD:

GOODYEAR AEROSPACE CORPORATION

Fuels Cells, BTC–39 series construction type.

AD 78–05–06 requires inspections of those fuel cells to determine integrity. There is evidence that some maintenance facilities accomplishing this AD may have improperly disconnected vent lines within the wings and failed to reconnect them. This of course can easily lead to fuel leakage within the wings and potential hazards. Maintenance facilities are urged to assure the integrity and continuity of all fuel systems at any time work on inspections are performed. They may wish to reevaluate their procedures on any aircraft on which they have accomplished this AD.

Recommendation A–80–63 asked FAA to require that the Beech Aircraft Corporation amend Service Instruction No. 0895 to advise all operators of these airplanes of the possible unsafe condition, and to specify a procedure which will assure that the vent system integrity is restored following fuel tank inspection. In response, FAA reports that the Beech Service Instruction was issued by Beech at FAA's request and incorporated in the AD as an alternate means of compliance. FAA does not have authority to require the Beech Aircraft Corporation to amend their Service Instructions. FAA states, "Of course, if a safety hazard is determined to arise out of compliance with a manufacturer's Service Instructions, FAA will issue an Airworthiness Directive. However, we see no need for the Beech Aircraft Corporation to amend Service Instruction No. 0895 to specify a procedure which will assure that the vent system integrity is restored following fuel tank inspection." In FAA AD 77–05–06, FAA states, ". . . reconnect fuel cell and fuel system, and access covers, and functionally pressure check fuel system in accordance with aircraft manufacturer's service data or item (c). . . ." FAA says it feels this statement satisfies the Board's recommendation.

Marine

M–79–76 through –78, from the United States Coast Guard, October 7, 1980.—Letter is in response to Safety Board comments of last March 7 concerning Coast Guard's initial response of December 6 (44 FR 76606, December 27, 1979). The recommendations were issued as a result of investigation of the collision of the Greek M/V STARLIGHT and the USS FRANCIS MARION at the entrance to the Chesapeake Bay, March 4, 1979.

With respect to recommendation M–79–76, which asked Coast Guard to record VHF radiotelephone transmissions on all channels used for transmitting navigational information in the vicinity of the entrance of the Chesapeake Bay and keep recordings concerning marine casualties for at least 1 year, the Safety Board's March 7 letter indicates disagreement with Coast Guard's statement that a radio transmission recording system as recommended would not play a role in accident prevention. The Board states that information preserved through a recording system would provide a precision that could not be obtained otherwise. The more precise the information related to why and how the accident occurred, the more effective will be the preventive actions which may be developed. The Board notes that transcripts of Coast Guard VTS communication tape recordings and other communications have become an important aid in the investigation of marine accidents and an expanded system would greatly enhance the investigative function. Information preserved on this system would only be analyzed in the event of an accident investigation and not on a routine basis.

The Board further noted in its March 7 letter the issuance of previous recommendations (M–78–2 and M–76–8) concerning recording of navigation data and voice communication on vessels. The Board has received a commitment from Coast Guard to study the possible benefits of such devices. The Board believes that both shipboard recording devices and a Coast Guard system to record radio transmissions on pertinent VHF channels from vessels operating on or near waters covered by a VTS and any additional locations where recording equipment is currently installed are necessary. The Board proposed that this issue be discussed at the next Coast Guard/Safety Board recommendations review meeting.

Coast Guard in its October 7 response states, "Allowing that recordings of VHF–FM communications involving casualties may aid in the investigation of marine accidents, the Coast Guard intends to formally begin recording VHF navigational transmissions where resources are presently in place and available." Coast Guard also states that VTS areas comprise the majority of locations where navigational communications are monitored. Coast Guard will record all messages on Channel 13 and the appropriate VTS frequency in these areas. Casualty related recordings will be kept at least 1 year.

With respect to recommendation M–79–77, which asked Coast Guard to relocate the demarcation line separating the inland and international rules of the road to some point away from the precautionary area at the entrance of the Chesapeake Bay, the Safety Board in its March 7 letter restates its position that the placing of the line of demarcation for international rules and inland rules at the convergence of dense vessel traffic and through the middle of a pilotage area increases the risk of collision. The Board also states that a demarcation line is a real obstacle to vessels on either side of the line when attempting to reach a passing agreement using whistle signals as these signals have different meanings under the Inland and International rules of the road. By placing the line of demarcation in an area of convergence where ships are slowing to pickup or drop off pilots, and where a high density of vessels exit, the probability of ship encounters requiring the use of differing rules is increased. A shift of the demarcation line to a less dense shipping area will decrease the probability of such conflicting encounters and also of collisions.

In response to the Board's comments regarding recommendation M–79–77, Coast Guard reaffirms that fixed lighted aids to navigation such as Cape Henry Light and Cape Charles Light are a primary criterion used to locate COLREGS Demarcation Lines. Coast Guard states that the proximity of the COLREGS line to the Traffic Separation Scheme precautionary area and the pilot area was not deemed to be a disadvantage because this was an area where extreme caution was already required of mariners. In response to urging from the Safety Board, Coast Guard states that it is examining the possible alternative location for the Demarcation Line which would follow the path of the Chesapeake Bay Bridge-Tunnel. This would provide the mariner with an easily identifiable visual and radar reference and would insure that converging vessels would be meeting rather than crossing when operating under different rules. Coast Guard will further examine this alternative to determine whether the necessary regulatory action can be justified.

Recommendation M–79–78 recommended that Coast Guard establish an additional designated pilotage area at some point east of the precautionary area at the entrance of the Chesapeake Bay, where pilots would embark and disembark vessels during favorable weather conditions. The Safety Board's March 7 letter notes that in the "Port and Tanker Safety Act of 1978," the Congress declared that ". . . increased supervision of vessel and port operations is necessary in order to—(1) reduce the possibility of vessel or cargo loss, or damage to life or property, or the marine environment . . . ."The Board believes that this broad assignment of jurisdiction includes the operations performed by pilots. The Board urges Coast Guard to approach the States involved in operations at the entrance to the Chesapeake Bay to discuss the location of the pilotage area. It was not the intent of the Board's recommendation to cause the redesignation of the pilotage area each time the weather changed, but to encourage the development of an additional area a few miles east of the existing area that could be used on a seasonal basis. The local weather should not display a great variance, and the pilotage area should be located on the ocean side of the precautionary area. The Board believes that practical experience with a new pilot embark/debark area could lead to the establishment of a permanent new location.

In its October 7 response, Coast Guard says it has reconsidered this recommendation in light of the clarification provided by the Board's March 7 letter and suggestion that an additional pilotage area might be possible on a seasonal basis. Due to abrupt weather changes, however, this solution appears to be unworkable, Coast Guard states. The Coast Pilot for the area of concern states that "Weather deterioration in the lower bay is quite often sudden and violent and constitutes an extreme hazard to vessels operating or anchoring in this area." There is no indication that these abrupt weather changes are seasonally dependent. Experience indicates that the sudden weather shifts are more common in the summer months. Further, Coast Guard states, the primary purpose of a pilot is to provide a source of local knowledge considered necessary to safely navigate a vessel in a given area. In the internationally recognized Precautionary Area under question and the approaches thereto, Coast Guard is unable to conclude that a local pilot would provide any greater degree of knowledge than that already possessed by an internationally licensed crew. In summary, it is Coast Guard's opinion that even if an additional pilotage area were established east of the Precautionary Area it would not enhance safety of navigation at the entrance to Chesapeake Bay.

In connecton with recommendation M–79–79, the Safety Board was pleased to note in its March 7 letter that the Commander, 5th Coast Guard District, is now reevaluating the Vessel Traffic Service needs for the Chesapeake Bay. The Board looks forward to a report on the reevaluation in October 1980 as indicated in Coast Guard's letter of last December 9. Coast Guard's letter of October 7 did not address this recommendation.

M–79–116, from the Office of the Chief of Engineers, Department of the Army, October 14, 1980.—Response is to a recommendation issued last December 7 asking that the Corps of Engineers establish written procedures to require

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all dredges contracted by the U.S. Army Corps of Engineers to meet U.S. Coast Guard design regulations for fuel oil transfer operations. The recommendation was issued following investigation of the fire which occurred June 2, 1978, aboard the uninspected dredge LOUISIANA in Tiger Pass, La. (See 44 FR 75537, December 20, 1979.)

The Corps reports that its contract and inspection procedures have been examined relative to the need for establishment of the Board's recommendation and states there is a need to be more explicit in this area. Accordingly, procedures have been initiated to insure that dredges under contract to the Corps will meet U.S. Coast Guard standards for the safe transfer of fuel.

Railroad

R-80-21, from the Federal Railroad Administration, September 30, 1980.— Response is to a recommendation issued last May 27 whereby the Safety Board asked FRA to amend the 49 CFR Part 215 to prohibit any car which does not comply with the Railroad Freight Car Safety Standards from being operated in a revenue train unless adequate restrictions are provided for its safe operation. (See 45 FR 37918, June 5, 1980.)

In response FRA reports that as announced in the Notice of Proposed Freight Car Safety Standards, FRA conducted a public hearing on March 7, 1979, to provide opportunity for interested persons and organizations to testify concerning the proposed standards. Testimony was presented by 10 railroads, the Assocation of American Railroads, the Railway Labor Executives Association, one private car owner, one car repair company and two manufacturers of freight car components. In addition, written comments were submitted by railroads, private car owners, car repair companies, railroad unions, manufacturers of freight car components, a Federal agency, State and local agencies, members of Congress, and private persons. Under proposed § 215.3(c), maintenance-of-way cars, except those used exclusively in work train service, would be subject to the proposed standards. FRA reports that many railroads claimed that there were no accidents caused by maintenance-of-way cars. Therefore, they contended that the cost of bringing those cars into compliance with Part 216, or restricting their movement to work trains could not be justified.

FRA further notes that many commenters stated that this would impose a severe financial burden on the railroads. They also pointed out that these cars are structurally sound and are limited to slow speeds and local trains. They noted that limiting the movement of these cars to work trains would be very expensive. FRA recognized that maintenance-of-way cars are not freely interchanged among railroads, and that railroads are aware of the condition of these cars and impose restrictions on their operation to assure safe operation.

In light of the comments and testimony, FRA reconsidered its proposal, considering the cost of bringing these cars into compliance with Part 215 against the safety benefit to be derived. FRA concluded that the substantial cost of bringing these cars into compliance with the standards and either replacing those that did not comply or restricting their movement to work trains, could not be justified at this time. Accordingly, FRA did not amend § 215.3(c)(3) and will contine to exempt maintenance-of-way cars from compliance with the new Railroad Freight Car Safety Standards insofar as these cars are not used in revenue service. However, FRA states, there is no intent to allow maintenance-of-way cars to be used as revenue cars at timetable speeds in free interchange service. FRA notes that a review of accident data for the last 5 years (1975–1979) discloses that 9,744 freight car accidents were attributed to mechanical and equipment failures, and of this total, only 23 or .2 percent of these accidents were caused by the failure of a defective maintenance-of-way freight car.

Note.— Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 3, 1980.

[FR Doc. 80-34633 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-58-M

[Docket No. DCA-81-AP-001]

Pipeline Accident Investigation Hearing: Edgewood, Kentucky

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time), December 2, 1980, in the Auditorium of Dixie Heights High School, U.S. Route 25, Edgewood, Kentucky. The public hearing will be held in connection with the Safety Board's investigation of a natural gas explosion and fire at the Simon Kenton High School in Independence, Kentucky, on October 9, 1980, involving the facilities of the Union Light Heat and Power Company.

Henry M. Shepherd,

Hearing Officer.

October 31, 1980.

[FR Doc. 80-34634 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-58-M

Privacy Act of 1974; Annual Publication of Systems of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The National Transportation Safety Board (NTSB) last published the full text of its systems of records at 42 FR 47441, September 20, 1977. The NTSB also published annual notices at 43 FR 39941, September 7, 1978; at 44 FR 39941, September 7, 1978; and at 44 FR 58819, October 11, 1979. No further changes have occurred. Therefore, the systems of records remain in effect as published.

The full text of the NTSB systems of records also appears in *Privacy Act Issuances*, 1979 Compilation, Volume IV, page 3046. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of this volume is $10.00.

John M. Stuhldreher,

General Counsel.

November 3, 1980.

[FR Doc. 80-34635 filed 11-5-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Three Mile Island Unit 2 Advisory Panel; Establishment

Correction

In **Federal Register** Doc. 80-33701, in the issue of Wednesday, October 29, 1980, on page 71692, in the third column, the first paragraph is corrected to read as follows:

(2) Three members shall be appointed from among persons representing local government authorities in the vicinity of Three Mile Island nuclear reactor;

BILLING CODE 1505-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Consideration of Class-9 Accidents; Notice of Meeting

The ACRS Subcommittee on Consideration of Class-9 Accidents will hold a meeting on November 21, 1980 in Room 1046, 1717 H St., NW, Washington, DC. The Subcommittee will review the NRC Safety Research Budget for FY-82 Decision Unit on Severe Accident Phenomena and Mitigation Research. Also, it will discuss the Advance Notice of Rulemaking on Degraded Core Accidents, and will continue its review of hydrogen control methods during accidents in nuclear power plants. Notice of this meeting was published October 24.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Budget. One or more closed sessions may be necessary to discuss such information. (Sunshine Act exemption (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, November 21, 1980

8:30 a.m. until the conclusion of business each day.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: October 31, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-34583 Filed 11-5-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Evaluation of Licensee event Reports; Notice of Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold a meeting on Nov. 20, 1980 in room 1046, 1717 H St. NW., Washington, D.C. to discuss with representatives of the NRC Staff possible modifications to the NRC collection and storage of operational data from nuclear powerplants. Notice of this meeting was published Oct. 24.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, November 20, 1980

8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634-3267) between 8:15 and 5:00 p.m., EST.

Dated: October 31, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-34584 Filed 11-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-321 and 50-366]

Georgia Power Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 79 and 18 to Facility Operating Licenses Nos. DPR-57 and NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 (the facility) located in Appling County, Georgia. The amendments are effective as of the date of issuance.

These changes to the Technical Specifications involve incorporation of certain of the TMI-2 Lessons Learned Category "A" requirements. These requirements concern 1) Emergency Power Supply/Inadequate Core Cooling, 2) Valve Position Indication, 3)

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Containment Isolation, 4) Shift Technical Advisor Augmentation, 5) Integrity of Systems Outside Containment and 6) Iodine Monitoring.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 15, 1980, (2) Amendments Nos. 79 and 18 to Licenses Nos. DPR–57 and NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-34587 Filed 11-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–277 and 50–278]

Philadelphia Electric Co., et al.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 74 and 73 to Facility Operating Licenses Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments to the Technical Specifications involve incorporation of certain of the TMI–2 Lessons Learned Category "A" requirements. These requirements concern (1) Emergency Power Supply/Inadequate Core Cooling, (2) Valve Position Indication, (3) Containment Isolation, (4) Shift Technical Advisor Augmentation, (5) Integrity of Systems Outside Containment, and (6) Iodine Monitoring.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 15, 1980, (2) Amendments Nos. 74 and 73 to Licenses Nos. DPR–44 and DPR–56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-34585 Filed 11-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–311]

Public Service Electric and Gas Co., et al. (Salem Nuclear Generating Station Unit No. 2); Order for Modification of License

I

Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees) are holders of License No. DPR 75, which authorizes the operation of the Salem Nuclear Generating Station, Unit No. 2 for testing at reactor core power levels not in excess of 171 megawatts thermal (five percent of rated power). The facility consists of a pressurized water reactor located at the licensees' site in Salem County, New Jersey.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconstruction on May 2, 1978. By Memorandum and Order dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy

those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the provisions of the license condition set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS ORDERED THAT EFFECTIVE IMMEDIATELY License No. DPR–75 is hereby amended to add the following license conditions 2.C.(7) and 2.C.(8) and Appendix A Technical Specification 6.10.2.1.:

License Conditions

2.C.(7) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–75 dated October 30, 1980.

2.C.(8) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

Appendix A Technical Specifications

6.10.2.1 Records for Environmental Qualification which are covered under the provisions of paragraph 2.C.(8) of License DPR–75."

To effectuate the foregoing, appropriate pages for incorporation into the License and the Appendix A Technical Specifications are attached to this Order.

V

The licensees or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mark Wetterhahn, Esq., Conner, Moore & Cober, 1747 Pennsylvania Avenue NW., Suite 1050, Washington, D.C. 20006 and Richard Fryling, Jr., Esq., Assistant General Counsel, Public Service Electric and Gas Company, 80 Park Place, Newark, New Jersey 07100, attorneys for the licensees.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 30, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments*

1. License and Technical Specification Pages for this Order.
2. Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors.

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[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

*Copies available in NRC Public Document Room 1717 H Street NW., Washington, D.c.

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3. NUREG–0588, Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment.

[FR Doc. 80-34588 Filed 11-5-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-395 OL]

South Carolina Electric & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1); Notice of Third Prehearing Conference

Please take notice that a third prehearing conference will be convened at 9:30 a.m. on December 11, 1980 in the Richland County Judicial Center, Courtroom 3B, 1701 Main Street, Columbia, South Carolina 29202, to discuss all pending matters and further scheduling in the proceeding.

All parties or their counsel are directed to attend. The public is invited, but no limited appearances will be permitted at this conference.

Dated at Bethesda, Maryland this 31st day of October, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,
Esquire, Chairman.

[FR Doc. 34586 Filed 11-4-80; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposals on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between September 28, 1980 and October 27, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice periods begins on the report date indicated.

Federal Labor Relations Authority

System Names:

Employee Occupational Health Program Records, Appeal and Administative Review Records, Complaints and Inquiries Records, Applications for Employment Records, Preemployment Inquiry Records, Grievance Records, Employee Incentive Award and Recognition Files, Employee Assistance Program Records, Federal Executive Development Program Records, Employee Locator Card Files, Training Records, Performance Evaluation/Rating Records, Intern Program and Upward Mobility Program Records, Motor Vehicle Operators Records and Motor Vehicle Accident Report Cards, Pay, Leave and Travel Records, Occupational Injury and Illness Records.

Report Date:

September 29, 1980.

Point of Contact:

Robert J. Freehling, Federal Labor Relations Authority, 1900 E Street N.W., Washington, D.C. 20424.

Summaries:

The Federal Labor Relations Authority, including the General Counsel of the Authority and the Federal Service Impasses Panel replaced the Federal Labor Relations Council and the Federal Service Impasses Panel. The proposed new systems of records supplement those previously maintained by the Council and the Panel, and constitute all systems maintained by the authority which contain information retrieved by a personal identifier.

Employee Occupational Health Program Records:

Contains information relating to the Federal Labor Relations Authority's employees who have received health services under the Federal Employees Group Health Program.

Appeal and Administrative Review Records:

Contains information relating to various appeal or administrative review procedures available to FLRA employees.

Complaints and Inquiries Records:

Contains information or correspondence concerning an individual's employment status or conduct while employed by the FLRA.

Applicants for Employment Records:

Contains information relating to applicants for employment with the FLRA such as education and training records, employment history, military service, convictions for offenses against the law, etc.

Preemployment Inquiry Records:

Contains a variety of records relating to an applicant's qualifications for employment including letters of reference, qualifications and character information, etc.

Grievance Records:

Contains records of grievances filed by agency employees. This system includes files and records of internal grievances, and of arbitration systems that may be established through negotiation with the union representing agency employees.

Employee Incentive Award and Recognition Files:

Contains employee suggestions, FLRA disposition records, amounts of awards for adopted suggestions, evaluations of suggestions, amounts of government benefits.

Employee Assistance Program Records:

Contains records of employee visits to the Personnel Office for the purpose of receiving counselling for drug abuse, alcoholism, or behavioral or emotional problems.

Federal Executive Development Program Records:

Contains demographic data on experience, background, education and awards of applicants, as well as their agencies' recommendations for the program.

Employee Locator Card Files:

Contains information about the FLRA location and telephone extension of agency employees as well as home address and telephone number and emergency contact data.

Training Records:

Contains copies of official authorization for training for FLRA employees as well as information about the courses taken.

Performance Evaluation/Rating Records:

Contains records relating to the periodic supervisory assessments of the work performance of each FLRA employee. Records are official copies of performance appraisals conducted on a regularly scheduled basis.

Internal Program and Upward Mobility Program Records:

Contains records of FLRA employees who participated in these programs, including the SF 171 (Personal Qualifications Statement).

Motor Vehicle Operators Records and Motor Vehicle Accident Report Cards:

Contains documents relating to the issuance of a U.S. Government motor vehicle operator's identification card. Also contains reports of motor vehicle accidents involving government vehicles.

Pay, Leave, and Travel Records:

Contains records relating to employee pay, leave and travel, including—name, date of birth, SSN, home address, salary, hours worked, FICA withholdings, charitable deductions, etc.

Occupational Injury and Illness Records:

Contains information about current and former FLRA employees who have reported a work-related injury or illness, including doctor's or investigative reports, and claims disposition.

Department of Housing and Urban Development

System Name:

Consumer Register Mailing List.

Report Date:

September 29, 1980.

Point of Contact:

Robert English, Departmental Privacy Act Officer, c/o Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, N.W., Washington, D.C. 20410.

Summary:

The Department of Housing and Urban Development proposes to establish a new system of records containing the names of consumers who have expressed an interest in the Department's programs, individuals who wish to comment on various aspects of the Department's policymaking issues, and users of HUD programs. Members of the Register will be invited periodically to participate in policy related local and National Consumer Forums. Summaries of these forums will often be provided to the Register in the form of a consumer notice or bulletin.

System Name:

Ideas Program Case Files.

Report Date:

September 16, 1980.

Point of Contact:

Robert English, Departmental Privacy Act Officer, c/o Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, N.W., Washington, D.C. 20410.

Summary:

The Department of Housing and Urban Development proposes to establish a new system of records consisting of records used to process HUD employee suggestions under the HUD Ideas Program for improving the efficiency and effectiveness of the Department's operations. In the case of approved suggestions, the name of the suggester may be released to news media to publicize any award or special recognition. Information from the record may also be released to other government agencies for evaluation and possible adoption of the suggestion.

United States Postal Service

System Name:

Injury Compensation Payment Validation Records.

Report Date:

September 30, 1980.

Point of Contact:

A. Scott Hamel, United States Postal Service Records Officer, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260.

Summary:

The United States Postal Service proposes to establish a new system of records containing the records of current and former Postal Service employees who have gotten or who are now getting injury compensation program payments. The information will be used to identify instances in which improper double payments have been or are being made to such employees who have filed injury/sickness compensation claims and to maintain records as a basis for detecting fraud; seeking repayments; taking legal action; reporting the extent of double payments nationwide; and for proposing corrective legislation. Information for these records will be obtained from Postal Service injury compensation files; Social Security Administration death files; and pertinent Federal health benefit carriers' claim/payment files.

Department of Transportation

System Name:

Railroad Safety—Noncompliance by Individuals.

Report Date:

September 12, 1980.

Point of Contact:

John J. Windsor, Privacy Act Coordinator, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

Summary:

A component of the Department of Transportation, the Federal Railway Administration proposes to establish a new system of records to contain evidence of noncompliance by individuals with certain railroad safety statutes and regulations that permit the imposition of civil and criminal penalties for such violations. The bulk of these records will concern noncompliance by individuals with the requirements of the Hazardous Materials Transportation Act and its implementing regulations. Information concerning noncompliance will be collected by FRA railroad safety inspectors located throughout the United States and will be incorporated into violation reports that will be periodically forwarded to the Enforcement Division in FRA's Office of Chief Counsel. This division will review the violation reports and determine whether enforcement action should be taken against the individual(s) involved. If enforcement action is initiated, a case file will be established for the proceeding. Records may be released to the Justice Department.

General Services Administration

System Name:

Investigation Case Files.

Report Date:

October 2, 1980.

Point of Contact:

William W. Hiebert, Director of Administrative Services, General Services Administration (HR), Washington, D.C. 20405.

Summary:

The General Services Administration proposes to amend an existing system of records to add a new computerized storage medium and retrievability capability to the system. The Investigative Case Files of the Office of Inspector General will henceforth contain both paper and computer media records to improve efficiency and

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reduce staff time required to maintain the records. The amendment will also provide immediate access to investigation information.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-34708 Filed 11-5-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

November 3, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201.

New

- Food and Nutrition Service
Extra points and hours demonstration evaluation
Quarterly
Individuals or households/State or local governments
Households and demonstration project staff
SIC: 943
Public assistance and other income supplements, 28,775 responses, 895 hours; $411,276 Federal cost, 8 forms
Charles A. Ellett, 395-7340

This demonstration evaluation will assess the demand for extra hours of service among various participant groups. Administrative obstacles and solutions associated with extra service provision, as well as program costs.

Revisions

- Economics, Statistics, and Cooperatives Service
Monthly cold storage survey
Monthly
Businesses or other institutions
Cold storage operators
SIC: 422
Small businesses or organizations
Agricultural research and services, 12,240 responses, 6,120 hours; $120,000 Federal cost, 3 forms
Charles A. Ellett, 395-7340

Provides data to estimate amount of food in Nation's refrigerated storage facilities. Warehouse industry uses data to learn of quantities; of food items in storage and the occupancy level of cooler and freezer rooms. Others use data to appraise seasonal changes in volume of food products reported in storage.

- Agricultural Marketing Service
Application for cotton classification and market news services
CN-210
Semiannually
Businesses or other institutions
Respon. wide farmers grp. organ. to promote cot impro
SIC: 013
Small businesses or organizations
Agricultural research and services, 17 responses, 3 hours; $10 Federal cost, 1 form
Charles A. Ellett, 395-7340

Smith-Doxey Act Amendment (7 U.S.C. 473 A, B, C) to the Cotton Statistics and Estimates Act of 1927 provides free classification and market news services to organized groups of cotton producers. Application is used to apply for these services and obtains information on cotton improvement program.

- Agricultural Marketing Service
Application for practical classing examination and certificate, CN-247 and application for license (cottonseed chemist or cottonseed sampler) CN-248
CN-247 CN-248
On occasion
Individuals and households
Indiv who wish to qual. as cottonseeds samp.—oil mills
Small businesses or organizations
Agricultural research and services, 200 responses, 34 hours; $50 Federal cost, 2 forms
Charles A. Ellett, 395-7340

Cotton Standards Act (7 U.S.C. 53) provides for the licensing of classifiers; Agricultural Marketing Act of 1946 provides for the licensing of chemists or samplers. Form is used to determine eligibility in practical cotton and linter classification; used also as a record of pertinent information on persons applying for and completing the examination.

Reinstatements

- Food and Nutrition Service
Integrated quality review schedule
HHS 380
On occasion
State or local governments
Households presently or formerly participating in food
SIC: 943
Public assistance and other income suplements, 41,267 responses, 328,868 hours; $5,000 Federal cost, 1 form
Charles A. Ellett, 395-7340

Public Law 95-113, sections 16 (D) and (E) (Food Stamp Act of 1977), requires QC reviews to determine national rates of ineligibility and incorrect allotments to develop solutions to problems in program policies, etc. Based on the similarity between food stamp and AFDC QC review procedures, this integrated review schedule was designed to serve the needs of both programs.

- Food and Nutrition Service
Claim for reimbursement
FNS-806
Monthly
State and local government
Non-prof private schools and instit. in various States
SIC: 943
Public assistance and other income suplements, 15,000 responses, 21,900 hours; $12,512 Federal cost, 1 form
Charles A. Ellett, 395-7340

To fulfill the earned reimbursement requirements set forth in National school lunch, breakfast and special milk regulations issued by the Secretary of Agriculture (parts 210.11, 220.9 and 215.8) The meal cost and cost data must be collected on FNS 806 to determine the reimbursement entitlement.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627.

NEW

- Bureau of the Census
1982 farm and ranch identification survey pretest
80-A4(A) 80-A4(B)
Nonrecurring
farms
Farmers and agriculture related respondents
SIC: multiple
Other advancement and regulation of commerce, 2,100 responses, 600 hours, $30,000 Federal cost, 2 forms
William T. Adams, 395-4814

This pretest will provide a basis for reviewing the feasibility of using various versions of a questionnaire aimed at specific sectors of the farm community. The final product will be used for screening preliminary mailing lists. The pretest will also provide a basis for improving the wording of the questions and evaluating the data collection procedures.

- Bureau of the Census
Puerto Rico Labor Force Survey—Census Match Followup Form 8063
Nonrecurring
Individuals or households, households in Puerto Rico
Other advancement and regulation of commerce, 1,000 responses, 333 hours, $56,700 Federal cost, 1 form
William T. Adams, 395-4814

Each of the estimated 1,000 households in Puerto Rico designated for followup will contain one or more "nonmatched" persons. These "nonmatched" persons are people who appeared in the Puerto Rican labor survey rosters and did not appear on the 1980 census rosters. In order to better estimate census coverage these people need to be followed up to assure their "nonmatched" status.

Revisions

- Economic Development Administration
Application for Public Works
ED-101A
On occasion
State or local governments, State and local governments, sic: 911 913 small businesses or organizations
Area and regional development, 400 responses, 46,000 hours, $1,200,000 Federal cost, 1 form
William T. Adams, 395-4814

Purpose is to make Federal economic development programs work better by linking them with employment and training programs. The addendum will produce an employment plan that assures EDA-created jobs are made available to the long-term unemployed.

- Bureau of the Census
Interviewer Record/Interviewer Followup/Monthly Noncertainty
B-645, B-646, B-647
Monthly
Businesses or other institutions, retail and service business firms, sic: Multiple small businesses or organizations
Other advancement and regulation of commerce, 35,280 responses, 4,440 hours, $746,000 Federal cost, 3 forms
William T. Adams, 395-4814

The forms are used in the monthly enumeration of retail and service firms. Data collected are used to develop monthly retail and service trade estimates.

- Bureau of the Census
Survey of Assessed Values
GP-33
Annually
State or local governments, State government agencies that tabulate assessed value data
Other advancement and regulation of commerce, 51 responses, 153 hours, $30,000 Federal cost, 1 form
Office of Federal Statistical Policy and Standard, 673-7974

Sample selection for taxable property values survey to be conducted as part of 1982 census of governments. (2) Advisory Commission on Intergovernmental Relations employs data in calculating its measures of fiscal capacity of State and local governments, (3) census publication, property values subject to local general property taxation in the United States.

- Bureau of the Census
Quarterly Household Survey Control Card
QHS 700
Quarterly
Individuals or households, households in the United States
Other advancement and regulation of commerce, 4,500 responses, 643 hours, $878,000 Federal cost, 1 form
Office of Federal Statistical Policy and Standard, 673-7974

Serves as basic household record for sample units included in the survey of residential alterations and repairs (SORAR). This form is used primarily as a screener to select owner-occupied houseing units from which data on expenditures for home upkeep and repairs are obtained.

- International Trade Administration
Application for Foreign Excess Property Import Determination

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ITA.302P
Other—see SP83
Businesses or other institutions, wholesale and retail surplus dealers, vehicular spare parts, sic: Multiple small businesses of organizations
Other advancement and regulation of commerce, 250 responses, 125 hours, $16,000 Federal cost, 1 form
William T. Adams, 395–4814

Required by Pub. L. 81–152. Used to substantiate FEP status of property, applicant's ownership of same, and to provide property description adequate for making of economic determination required of agency by statute.

• International Trade Administration
Radial Ball Bearing 30 MM. OD and Under
ITA–985
Semiannually
Businesses or other institutions, manufacturers of precision radial ball bearings 30MM. OD, sic: 356
Other advancement and regulation of commerce, 30 responses, 30 hours, $1,155 Federal cost, 1 form
William T. Adams, 395–4814

Data are used for monitoring import agreement compliance as requested by the President under the authority of 19 U.S.C. 1862 (Sec. 232, Trade Expansion Act of 1964).

Extensions (No Change)

• Bureau of the Census
March 12 Payperiod Employment for Tax Exempt Organizations, Pension and Annuities Only
IRS 941 E
Annually
Businesses or other institutions, tax exempt organizations and pension and annuities, sic: All small businesses or organizations
Other advancement and regulation of commerce, 100,000 responses, 10,000 hours, $736,000 Federal cost, 1 form
William T. Adams, 395–4814

Tax exempt organizations and pension and annuities. To expand data coverage for tax exempt entities, State and local governments, and to clarify the status of certain payers of pensions and annuities to properly measure the business universe.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—633–9464.

Extensions (No Change)

• Conservation and Solar Energy
Monthly Report of Cost and Quality of Fuels for Electric Plants
FPC–423
Monthly
Businesses or other institutions, electric utility companies, sic: 491
Energy information, policy, and regulation, 10,800 responses, 21,600 hours, $37,000 Federal cost, 1 form
Jefferson B. Hill, 395–7340

Data are used by the Federal Energy Regulatory Commission to fulfill statutory responsibilities for keeping the Congress and the public informed on changing costs in utility operations that may be reflected in changing rates to the consumer. Also used by EPA and Office of Emergency Preparedness.

• Conservation and Solar Energy
Monthly Power Plant Report
FPC–4
Weekly
Businesses or other institutions, electric utilities and industrial generating plants
Energy information, policy, and regulation, 15,444 responses, 50,965 hours, $60,000 Federal cost, 1 form
Jefferson B. Hill, 395–7340

To enable the Federal Energy Regulatory Commission to fulfill its responsibilities to secure, compile, publish and otherwise make available reports submitted by electric utility generating plants and major industrial plants in the United States pursuant to the Federal Power Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—245–7488.

New

• Human Development Services
Title XX Comprehensive Annual Services Program Plan (CASP)
Other—See SF83
State or local governments, State Title XX agencies, sic: 832
Social services, 102 responses, 4,850,000 hours, $5,100 Federal cost, 1 form
Barbara F. Young, 395–6880

Pub. L. 93–647 requires that the CASP is developed by the State Title XX agencies to inform the public of the social services programs of the State. The State plan is used jointly by the State and the Office of Program Coordination and Review, HDS, to obtain assurances and commitments that the State will administer the program activities in accordance with the law and the Federal regulations.

• National Institutes of Health
Health Action Survey—United Firefighters of Los Angeles
Nonrecurring
Individuals or households, firefighters in Los Angeles City
Health, 240 responses, 100 hours, $24,000 Federal cost, 1 form
Richard Eisinger, 395–6880

This survey parallels closely the "Union Health Action Survey" now in advanced stage of OMB review. The two surveys are designed to obtain data on worker attitudes towards, and knowledge of, hazardous substances in the workplace.

Revisions

• Departmental Management
Panel Study of Income Dynamics (Michigan Longitudinal Survey)
OS–24–80
Annually
Individuals or households, heads of households that participate in the Michigan Longitudinal Survey
Public assistance and other income supplements, 6,600 responses, 3,300 hours, $1,200,000 Federal cost, 1 form
Barbara F. Young, 395–6880

This project is the 14th year of an ongoing data collection and research effort that focuses on the amount of variability and reasons for change in the economic well-being of American families, particularly those with relatively low income.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

New

• Policy Development and Research
Evaluation of the Congregate Housing Services Program[1]
Process evaluation
Nonrecurring
Individuals or households, CHSP and selected non-CHSP public housing and section 202 project management
Community development, 300 responses, 231 hours, $98,274 Federal cost, 1 form
Richard Sheppard, 395–6880

Data will be used in preliminary process evaluation for the second annual report to Congress due January 1, 1981. It will provide information on CHSP start-up functioning and levels of service provision in CHSP and non-CHSP projects. A subsequent OMB, submission will include the remainder of instruments for process, performance, and impact components of the evaluation.

[1] Action may be taken on this survey request before the ten-day waiting period expires because of the need for timely data for an annual report to the Congress.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

New

• Office of Justice Assistance, Research and Statistics
Criminal Defense Trainer Needs Assessment and Training
Resource Inventory (Ser. 3350) (8–80)
IEAA
Nonrecurring
State or local government, criminal defense trainers, sic: 922
Criminal justice assistance, 600 responses, 300 hours, $24,492 Federal cost, 1 form
Andy Uscher, 395–4814

The defense sector is the fastest growing part of the criminal justice system, and local and State training has mushroomed since 1970 albeit in an ad hoc manner. No accurate comparative information concerning defense trainers' needs and existing resources exists that would permit effective sharing of techniques and resources, the examination of innovative training approaches, and the development of a rational strategy or plan to support local activities nationwide.

• Office of Justice Assistance, Research and Statistics
Aggregate Probation Data Survey
BJS (Series 6200): NPRI
Annually
State or local governments, probation/corrections agencies: Federal, State, Territorial, sic: 922
Criminal justice assistance, 58 responses, 102 hours, $109,484 Federal cost, 1 form
Andy Uscher, 395–4814

Collection of summary probation data for a national, aggregate, probation data collection and reporting system. Data will appear in the annual report in the new publication series, probation in the United States, which will present national, regional and individual State data on population movement and agency workload/characteristics. The report will be distributed to probation/corrections administrator, data providers, supervision staff, public officials, and other interested parties.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

New

• Employment and Training Administration
Application for Award of Exemplary Rehabilitation Certificate
ETA 752, ETA 753
On occasion
Individuals for households, individuals with other than honorable military discharge
Training and employment, 250 responses, 188 hours, $0 Federal cost, 2 forms
Arnold Strasser, 395–6880

Needed to determine if the ERC should be awarded. Certificates are awarded to veterans with general or other than honorable discharges who have demonstrated exemplary conduct during the 3 years prior to application. The certificate does not affect, supersede, or change the person's discharge in any way.

Revisions

Departmental Management
Standard Questionnaire for Manufacturing Firms
ILAB A–B–C
On occasion
Businesses or other institutions, manufacturers, sic: Multiple small businesses or organizations
Other labor services, 600 responses, 6,000 hours, $1,500 Federal cost, 3 forms
Arnold Strasser, 395–6880

Data and information needed to prepare report to President under Sections 202 and 224 of the Trade Act of 1974 which used in determining type of import relief granted import impacted industries.

• Bureau of Labor Statistics
Log and Summary of Occupational Injuries and Illnesses, Supplementary Record of Occupational Injuries and Illnesses
OSHA 200 OSHA 101
Other—See SF83
State or local governments/farms/businesses or other institutions, employers with employees who experience recordable occupations injuries, sic: All small businesses or organizations
Other labor services, 5,940,000 responses, 540,000 hours, $55,000 Federal cost, 2 forms
Arnold Strasser, 673–7974

The OSH Act requires employers to prepare and maintain records of occupational injuries and illnesses. These records are necessary for carrying out the purposes of the act. They assist OSHA in making inspections and investigations, provide the basis for a statistical program, and raise awareness of employees and employers to workplace hazards.

Extensions (Burden Change)

• Employment and Training Administration
Application Card: Applicant/Job Order Transaction
ES–511, ES–511C, ES–516
On occasion
Individuals or households, job seekers applying at State ES offices
Training and employment, 15,026,000 responses, 3,875,600 hours, $34,700,000 Federal cost, 3 forms
Arnold Strasser, 395–6880

The application card is the basic document used in the USES local offices for all new applications, including partial applications, for individuals seeking assistance in finding employment or seeking employability development services. The ES–516 is the automated equivalent of the record of service section of the ES–511, application card.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Winsor, Acting—426–1887

Revisions

• Federal Aviation Administration
Certification: Pilots and Flight Instructors—FAR 61
FAA 8410–2, FAA 8710–1
On occasion
Individuals or households, individuals, pilots, and ground and flight instructors
Air transportation, 1,784,300 responses, 5,541,050 hours, $590,000 Federal cost, 2 forms
Corrinne Hayward, 395–7340

Federal Aviation Act of 1958. Section 602 (49 U.S.C. 1422) authorizes issuance of airman certificates. 14 CFR 61 prescribes requirements for airman certification. Information collected is used to determine compliance and applicant eligibility.

Reinstatements

• Federal Aviation Administration
Notice of Proposed (or Actual) Construction or Alteration—FAR 77
FAA 7460–1, 7460–2
On occasion
Businesses or other institutions, contractors in Private enterprises, sic: 152, 153, 154, 161, 162, 173, 174, 179 small businesses or organizations
Air transportation, 13,600 responses, 10,720 hours, $500,000 Federal cost, 2 forms
Corrinne Hayward, 395–7340

Federal Aviation Act of 1958, Section 1101 (49 U.S.C. 1501) requires all persons to report proposed or actual construction or alteration of structures affecting air safety. 14 CFR 77 prescribes reporting requirements. Information is collected to give adequate public notice.

• Coast Guard

V 45 / 217 NOV 6 80 UMI

Private Aids to Navigation Application
CG–4143
On occasion
Businesses or other institutions, business firms
Water transportation, 500 responses, 250 hours, $0 Federal cost, 1 form
Corrinne Hayward, 395–7340

Congress requires the Coast Guard (14 U.S.C. 83) to authorize private aids to navigation in waters subject to the jurisdiction of the United States. This application is used by the Coast Guard to determine if authority to establish a private aid should be granted to the respondent.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–8515

Revisions

• Request for Grant-in-Lieu
FEMA 90–55
On occasion
State or local governments, local governments in disaster areas
Disaster relief and insurance, 500 responses, 500 hours, $1,000 Federal cost, 1 form
Robert Veeder, 395–4814

Form is needed to standardize the information requirements for an applicant who elects to receive a grant-in-lieu for damages. Facilities processing of such requests by the applicant and separately identifies projects supported by such grants.

NATIONAL FOUNDATION ON THE ARTS

Agency Clearance Officer—Paul G. Zarbock—634–6160

New

• Visual Artist Fellowship Recipient Questionnaire
Nonrecurring
Individuals or households, visual artist fellowship recipients
Research and general education aids, 600 responses, 300 hours, $30,000 Federal cost, 1 form
Laverne V. Collins, 395–6880

Data will be used to evaluate the effect of fellowships on recipient artists, to determine if changes are required in program design and to identify issues needing additional study.

Arnold Strasses,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80-34601 Filed 11-5-80; 8:45 am]

BILLING CODE 3110-01-M

OHIO RIVER BASIN COMMISSION

Availability of Adopted Regional Water and Land Resources Plan for Big Sandy/Guyandotte River Basins

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89–80), the Ohio River Basin Commission has revised and adopted the Big Sandy/Guyandotte River Basins Regional Water and Land Resources Plan (April 1980) for transmittal to the President and the Congress through the Water Resources Council.

Copies of the comprehensive coordinated joint plan are available upon request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

Fred J. Krumholtz,

Chairman.

[FR Doc. 80-34623 Filed 11-5-80; 8:45 am]

BILLING CODE 6410-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11422; 811-1574]

Investment Guidance Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for an Order of the Commission Declaring That the Applicant has Ceased To Be an Investment Company

October 31, 1980.

Notice is hereby given that Investment Guidance Fund, Inc. ("Applicant"), 4000 Chester Avenue, Cleveland, Ohio 44103, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 25, 1980, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under laws of the State of Ohio, registered under the Act on December 11, 1967, and filed a registration statement on Form S–5 under the Securities Act of 1933 for the public offer and sale of shares of its common stock on February 15, 1968. Applicant's 1933 Act registration statement was declared effective by the Commission on June 16, 1968, and an initial public offering of its securities commenced on June 17, 1968.

Applicant further states that on January 22, 1980, the Board of Directors of Applicant approved an Agreement and Plan of Reorganization of the Applicant ("Plan"), whereby Applicant would transfer substantially all of its assets to Weingarten Equity Fund, Inc. ("WEF") in exchange for shares of WEF. According to the Plan, the number of shares of WEF which would be issued to Applicant would be determined on the basis of the relative net asset values of WEF and Applicant, subject to certain adjustments, at the close of business on the day preceding the effective date of the Plan. Applicant represents that on April 17, 1980, the shareholders of Applicant approved the Plan and that the effective date for the Plan was April 30, 1980. Pursuant to the Plan, Applicant states that it received 102,831.582 shares of WEF and that all shares of WEF have been distributed to the shareholders of Applicant. Expenses incurred in implementing the Plan were borne by Weingarten Management Corporation, the investment adviser to WEF, and Roulston & Company, Inc., the investment adviser to Applicant.

Applicant represents that it currently has no assets except for $200 in a checking account which will be distributed to WEF pursuant to the Plan and will not be invested in securities. Applicant further represents that it has no outstanding debts or other liabilities, has no securityholders, is not a party to any pending litigation or administrative proceeding, and has ceased all business activities other than activities necessary for the final winding up of its affairs. Applicant further states that it was formally dissolved under the laws of the State of Ohio on August 1, 1980. Finally, Applicant represents that within the last 18 months it has not transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34523 Filed 11-5-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5363]

Capital Investors and Management Corp.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Capital Investors and Management Corporation (Capital), 3 Pell Street, New York, New York 10013, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration pursuant to Section 312 of the Act and covered by § 107.3(g) and § 107.1004(b)(1) of the Regulations governing Small Business Investment Companies (SBIC/Licensee) (13 FR 107.1004 (1980)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

Capital proposes to provide financing to Equities Associate, 468 Park Avenue, South, New York, New York 10016.

The proposed financing is brought within the purview of § 107.1004(b)(1), in that Mr. George Fan, who is President of Equities Associates, is the brother-in-law of Capital's Director, Mr. Robert Chen, and, therefore, is an Associate of Capital as defined by § 107.3(g) of the Regulations.

Notice is hereby given that any interested person may, not later than November 17, 1980, submit written comments on the proposed transaction to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34517 Filed 11-5-80; 8:45am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1949]

Kentucky; Declaration of Disaster Loan Area

The following 28 counties and adjacent counties within the State of Kentucky constitute a disaster area as a result of the following natural disasters that occurred during the spring and summer of 1980:

County	Natural disaster	Date
1. Allen	Drought and extreme heat	6/1–9/12/80
2. Ballard	Drought and extreme heat	7/1–8/21/80
3. Caldwell	Drought	7/1–9/3/80
4. Carlisle	Drought and extreme heat	6/1–9/3/80
5. Christian	Drought and extreme heat	6/1–8/11/80
6. Clay	Drought and extreme heat	6/1–9/2/80
7. Clinton	Drought and extreme heat	4/1–8/12/80
8. Crittenden	Drought and extreme heat	6/15–8/14/80
9. Cumberland	Drought and extreme heat	5/20–8/6/80
10. Garrard	Drought	4/1–9/22/80
11. Graves	Drought and extreme heat	6/15–8/27/80
12. Laurel	Drought and extreme heat and hot dry winds.	6/1–10/20/80
13. Lincoln	Drought	6/10–9/17/80
14. Livingston	Drought and extreme heat	7/1–8/19/80
15. Lyon	Drought and extreme heat	5/1–9/2/80
16. McCracken	Drought and extreme heat	6/1–8/20/80
17. McCreary	Drought and extreme heat	6/1–7/31/80
18. Marshall	Drought and extreme heat	6/26–8/12/80
19. Monroe	Drought and extreme heat	6/3–8/28/80
20. Pulaski	Drought and extreme heat	6/1–8/29/80
21. Rockcastle	Drought and extreme heat	1/1–9/10/80
22. Russell	Drought	6/1–9/24/80
23. Todd	Drought and extreme heat	6/1–10/24/80
24. Trigg	Drought and extreme heat	5/15–9/25/80
25. Wayne	Drought and extreme heat	5/1–9/2/80
26. Whitley	Drought	4/1–9/30/80
27. Fulton	Drought and extreme heat	7/2–8/15/80
28 Hickman	Drought and extreme heat	7/2–7/27/80

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 30, 1981, and for economic injury until July 30, 1981, at: Small Business Administration, District Office, 600 Federal Place, Room 188, P.O. Box 3517, Louisville, Kentucky 40201 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 30, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-34516 Filed 11-5-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM–8/341]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 1:30 p.m. on November 20, 1980, Room 8440 of the Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 23rd Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, April 1981. In particular, the working group will discuss the following topics:

—survival craft radio equipment;
—operational requirements for future EPIRBS;
—operational standards for shipboard radio equipment;
—maritime distress system.

For further information contact Lt. R.F. Carlson, US Coast Guard (G–OTM–3/32), Washington, D.C. 20593. Telephone (202) 426–1345.

Dated: October 30, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-34609 Filed 11-5-80; 8:45 am]

BILLING CODE 4701-07-M

[Public Notice CM–8/342]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Ship Design and Equipment Working Group of the Subcommittee on Safety of Life at Sea will conduct an open meeting on Thursday, November 20, 1980, at 9:30 a.m. in Room 1303 of U.S. Coast Guard Headquarters, 2100 2nd St., S.W., Wash., D.C. 20593.

The purpose of the meeting will be to make preparations for the 23rd Session of the Ship Design and Equipment Subcommittee of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for January 12–16, 1981 in London. The agenda includes the following:

V 45 / 217 / NO 6 80 UMI

—Machinery and electrical requirements for special purpose ships:
—Improvements of the 1974 machinery and electrical SOLAS provisions;
—Safety measures for special purpose ships;
—Maneuverability of ships;
—Safety measures for driving systems;
—Finalization of the Code of Noise Levels in Ships;
—Ships designed to carry spent nuclear fuel; and
—Statistical data on:
a. failures of steering systems
b. propulsion plant and/or electrical plant
c. reliability and duplication of ship components

For further information contact Captain R. L. Brown, US Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. Telephone (202) 426–2167.

Dated: October 30, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-34610 Filed 11-5-80; 8:45 am]

BILLING CODE 4701-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-130]

OMEGA Radionavigation System Change

The purpose of this notice is to announce the termination of OMEGA Station Trinidad and the subsequent commencement of operation of OMEGA Station Australia.

Temporary OMEGA Transmitting Station Trinidad was a developmental station constructed on land leased from the government of Trinidad and Tobago. This station, which began operation in 1967, transmits on only three navigation frequencies and at a relatively low transmitting power of one kilowatt. OMEGA Station Trinidad will cease operation on December 31, 1980.

OMEGA Station Australia will begin operation in the middle of 1981. It will operate in the G Station slot of the OMEGA Radionavigation system signal transmission format. OMEGA Station Trinidad is presently transmitting in that slot. OMEGA Station Australia is the eighth and final station to be completed in the permanent configuration. The Australian Station will transmit four navigational frequencies, 10.2kHz, 11.05kHz, 11.33kHz and 13.6kHz and a unique frequency, each at a minimum effective radiated power of ten kilowatts. This station will improve OMEGA signal coverage in the North and South Pacific and the Indian Oceans. Australia will join Norway, Liberia, the United States, France, Argentina and Japan as participants in the OMEGA Radionavigation System.

Dated: October 29, 1980.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 80-34619 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-14-M

[CGD 80-137]

Towing Safety Advisory Committee; Applicants for Membership

The Coast Guard is seeking applicants who are interested in being appointed members or alternate members of the Towing Safety Advisory Committee (TSAC).

TSAC advises the Commandant on rulemaking matters related to shallow draft inland and coastal waterway navigation and towing safety.

The committee will consist of sixteen (16) members appointed as follows: seven members from the barge and towing industry, reflecting a geographical balance; one member from the offshore mineral and oil supply vessel industry; two members from port districts, authorities, or terminal operators; two members from maritime labor; two members from shippers, at least one of whom will be engaged in the shipment of oil or hazardous materials by barge; and two members of the general public, preferably those with environmental backgrounds.

In order to insure balance of membership required by the Federal Advisory Committee Act, the Coast Guard is particularly interested in receiving applications from minorities, women, and public interest representatives. Selection will be based upon expertise in the subjects under consideration.

The committee will meet at least once a year at a location selected by the sponsor. Committee members will not be compensated for their services but, upon their request, will be reimbursed for travel expenses, subsistence, and accommodations.

Interested persons should apply to: Commandant (G–CMC/24), U.S. Coast Guard, Washington, D.C. 20593, before December 1, 1980. Supplemental information will then be forwarded. For further information contact CDR UTARA, the Executive Secretary of the Marine Safety Council, at the above address or call (202) 426–1477.

Dated: November 3, 1980.

A. D. Utara,

CDR, U.S. Coast Guard Executive Secretary, Marine Safety Council.

[FR Doc. 80-34695 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Consumer Program

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Announcement of the publication date for FAA's final Consumer Program.

SUMMARY: On June 9, 1980, the FAA published in the **Federal Register** (45 FR 39165) its draft Consumer Program for public review and comment. The DOT final Consumer Program, also published on June 9, 1980 (45 FR 39144), indicated that each DOT operating administration, including the FAA, would publish a final Consumer Program by October 30, 1980. On October 30, 1980, the FAA published a Notice of delay in the publication of its final Consumer Program (45 FR 71934). The Notice indicated that, due to agency work burdens, the FAA expected to issue its final Consumer Program by November 6, 1980. Due to continuing work burdens, the FAA will publish its final Consumer Program in the **Federal Register** on November 20, 1980. Persons desiring to have a copy of the FAA final Consumer Program should contact Fred Pelzman at the address or telephone number listed below.

FOR FURTHER INFORMATION CONTACT: Fred Pelzman, Chief, Community and Consumer Liaison Division, APA–400, Room 906–A, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. 20591, 202/426–1960.

Issued in Washington, D.C. on November 3, 1980.

Jerome F. Doolittle,

Assistant Administrator, Public Affairs.

[FR Doc. 80-34582 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE–80–30]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 26, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 31, 1980.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20641	United Airlines	14 CFR 65.53(a)	Petitioner requests that Mr. John C. Mallory may be issued an aircraft dispatcher's certificate prior to reaching the age of 23.
20604	Aleutian Airways	14 CFR 121.311(h)	To provide relief from the requirement that the flight engineer of a L-188 Lockheed Electra Aircraft wear a shoulder harness during takeoff and landing.
20610	Federal Express Corp	14 CFR 121.578	To permit petitioner to operate its cargo aircraft even though the ozone concentration that may be present in the aircraft may exceed the specified limits.
20422	Sun Land Airlines	14 CFR 121.291	Amendment to Exemption No. 3008 to permit petitioner to commence service in a DC–8–31 aircraft in a 183 passenger seat configuration without conducting a full-seating capacity ditching demonstration.
20662	Stuart P. Sarasin	14 CFR 135.243(a)	To permit petitioner to serve as a pilot in command prior to his 23rd birthday and without holding an Airline Transport Pilot Certificate.
20299	Fishing Unlimited	14 CFR 135.243(b)(3)	To permit petitioner, and pilots employed by him, to serve as a pilot in command under VFR conditions without holding an instrument rating.
20602	New York Air Lines	14 CFR 121.291 and Appendix D of Part 121.	To permit petitioner to commence initial service in DC–9–30 aircraft in a 115 passenger seat configuration without first conducting a full-seating capacity emergency evacuation demonstration.
20617	United States Parachute Association	14 CFR 105.43	To allow foreign participants to utilize and repack parachutes which do not comply with the equipment and packing requirements during the period of October 25, 1980, to January 10, 1981, at Zephyrhills Municipal Airport.

Dispositions for Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19593	Vieques Air Link, Inc	14 CFR 135.243	To permit petitioner to use pilots in command who do not hold an Airline Transport Pilot Certificate (ATPC). *Withdrawn 10/21/80.*
20506	Appalachian Flying Service	14 CFR 135.261(b)	To allow Appalachian Flying Service, to the extent necessary, to use a minimum flightcrew rest period of less then 10 hours in a 24-hour period. *Denied 10/24/80.*
20198	Langham Petroleum Exploration Corp	14 CFR 91.169 and Part 135	To permit petitioner to operate its small nonturbojet-powered airplane, in time-sharing agreements under the operating rules in Section 91.183 through Section 91.215 and the inspection provisions in Sections 91.217 and 91.219. *Partial grant 10/22/80.*
20374	Lake Wales Air Services, Inc	14 CFR 141.27(c)(2)	To permit petitioner to obtain a provisional pilot school certificate in less than 180 days after the date of their previously expired certificate. *Petition vacated 10/16/80.*

[FR Doc. 80-34584 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Orange and Osceola Counties, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project on Osceola and Orange Counties, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahasee, Florida 32302, Telephone: (904) 224–8111.

V 45 / 217 NOV 6 1980 UMI

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an environmental impact statement (EIS) for a proposal to construct the John Young Parkway (State Road 423) in Osceola and Orange Counties, Florida. The proposal would provide for the construction of the John Young Parkway from U.S. Route 192 in Kissimmee, Osceola County, through the city of Orlando to the intersection of County Road 431 (Forest City Road) and County Road 438A in Orange County for a distance of approximately 23.5 miles. Approximately 88% of the proposed project would consist of new construction on new alignment and 12% would require upgrading the exising State Road 423 alignment. Improvements to this corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include: (1) Taking no action, (2) using alternate travel modes, and (3) various alignments for the construction of a multi-lane, limited access highway primarily on new location. Design variations of grade and alignment will be incorporated into and studied with the build alternative.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who had previously expressed interest in this proposal. A series of public meeting will be held in the project area. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment. A formal scoping meeting is planned for this proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: October 27, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 80-34111 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Consolidated Rail Corporation (Amtrak); Cancellation and Notice of Hearing

The public hearing in this matter scheduled for November 6, 1980 is hereby canceled to allow time for further discussions between the Consolidated Rail Corporation (Conrail) and the National Passenger Railroad Corporation (Amtrak). A new hearing is set for December 2, 1980.

Conrail has filed an application with the Federal Railroad Administration (FRA) under section 406 of the Rail Passenger Service Act, 45 U.S.C. 566, for approval to dispose of certain railroad facilities between Miami, Indiana and Indianapolis. Section 406 provides that a railroad may not downgrade or dispose of any facilities that were in use in connection with the operation of rail passenger services by Amtrak on February 1, 1979 without obtaining the approval of the Secretary of Transportation. Because Amtrak has filed an objection to this application, the Federal Railroad Administrator, through delegation from the Secretary, is required to make a determination of the costs Conrail could avoid if it were not required to retain the facilities. If Amtrak does not agree to pay such avoidable costs, the Administrator is required to approve Conrail's application.

Pursuant to 49 CFR 200.9, the Administrator has appointed a panel to make the avoidable cost determination. The panel has decided to hold a public, fact-finding hearing before making that determination, and, accordingly, a public hearing is hereby set for 10 a.m. on December 2, 1980 in Room 8240 of the Nassif Building located at 400 7th Street, SW, Washington, D.C. 20590.

The hearing will be informal and will be conducted in accordance with the provisions of § 200.9 of the Federal Railroad Administration Informal Rules of Practice for Passenger Service (49 CFR Part 200). The chairman of the panel will conduct this hearing, and the issues will be limited to the quantification of the avoidable costs. The panel expressly waives the thirty day advance receipt of written direct evidence, but continues to require that copies of such evidence be furnished to all parties concurrently with the submission to the Docket Clerk.

The hearing will permit oral presentations but will not be an adversary proceeding, and, therefore, except for the panel, no cross-examination of persons presenting statements will be permitted. The chairman of the panel will make an opening statement outlining the scope of the hearing and will provide interested persons with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the start of the hearing.

This notice is issued under authority of section 406 of the Rail Passenger Service Act, 45 U.S.C. 566, and § 1.49(1) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(1).

Issued in Washington, D.C., on October 31, 1980.

Robert S. Vermut,

Chairman, 406 Panel.

[FR Doc. 80-34617 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-06-M

Office of the Secretary

[Notice No. 80-15]

EEO/MBE Regulations for the Alaska Natural Gas Transportation System

AGENCY: Office of the Secretary.

ACTION: Notice of concurrence in and intent to comply with the Department of Interior's civil rights regulations for the Alaska Natural Gas Transportation System (ANGTS).

SUMMARY: This notice sets forth the Department of Transportation's intent to follow Department of Interior rules concerning civil rights matters related to the ANGTS.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Coates, Chief, Public Programs Division, Departmental Office of Civil Rights, 400 7th Street, SW, Room 9201, Washington, DC 20590, Phone: (202) 426-4754.

SUPPLEMENTARY INFORMATION: On May 12, 1980, the Department of the Interior published in the **Federal Register** (45 FR 31095) the regulation "Requirements for Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System." This regulation, administered by the Office of the Federal Inspector (OFI), ANGTS, requires Federal agencies to take affirmative action to ensure that no person will be excluded from or discriminated against on the grounds of race, color, creed, national origin, or sex from participating in any activity connected with the construction and operation of the ANGTS. The rule applies both to equal employment opportunity and minority business enterprise matters. The Department gives notice of its concurrence in and intent to comply with the regulation for DOT ANGTS activities subject to its provisions.

The Department does not anticipate promulgating any substantive or procedural rule to implemental the OFI administered EEO/MBE regulations. Issued in Washington, D.C. on October 28, 1980.

Ellen Feingold,

Director of Civil Rights.

[FR Doc. 80-34485 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-62-M

[Notice No 80-12a]

Long-Term Study of the Automobile Industry; Extension of Comment Period

AGENCY: Department of Transportation.

ACTION: Notice of Extension of Comment Period.

SUMMARY: This notice extends the period for submission of public comments relating to Notice 80-12. This action is in response to requests from the public which have indicated that additional time is needed to prepare and submit their comments.

DATES: Comments period extended to November 26, 1980.

ADDRESS: Send comments to the U.S. Department of Transportation, Notice No. 80-12, Office of Industry Policy, P-10, Room 9222, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mildred Bluestein, U.S. Department of Transportation, Office of Industry Policy, 400 Seventh Street, S.W., Washington, D.C. 20590. (202/426-2916).

Issued in Washington, D.C. on November 3, 1980.

William B. Johnston,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 80-34712 Filed 11-5-80; 8:45 am]

BILLING CODE 4910-62-M

TREASURY DEPARTMENT

Customs Service

[T.D. 80-268]

Effective Date of Revocation of Customhouse Cartman's License No. 168 Issued to Di Jub Leasing Corp.

By Treasury Decision 80-252, dated October 7, 1980, (45 FR 69337, October 20, 1980) the Commissioner of Customs revoked Customhouse Cartman's License No. 168. The effective date of the revocation should have read "October 28, 1980". Pursuant to a request on behalf of the Di Jub Leasing Corporation, the effective date is amended to November 12, 1980.

William T. Archey,

Deputy, Commissioner of Customs.

October 28, 1980.

[FR Doc. 80-34650 Filed 11-5-80; 8:45 am]

BILLING CODE 4810-22-M

V 45 / 217 NOV 6 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 217
Thursday, November 6, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:45 a.m. on Friday, October 24, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to the initiation of administrative enforcement proceedings against a director of an insured bank. The name of the person and the name and location of the bank are authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: October 24, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2033-80 Filed 11-3-80; 5:32 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, November 3, 1980, the Corporation's Board of Directors determined, on motion of William M. Isaac, Director (Appointive), seconded by John G. Heimann, Director (Comptroller of the Currency) and Acting Chairman of the Board of Directors, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Sterling Bank, a proposed new bank, to be located at 3285 Wilshire Boulevard, Los Angeles, California, for Federal deposit insurance.

Application of Charlestown Savings Bank, Boston, Massachusetts, an insured mutual savings bank, for consent to purchase the assets of and assume the liability to pay deposits made in Hellenic Credit Union, Peabody, Massachusetts, and for consent to establish the sole office of Hellenic Credit Union as a branch of the resultant bank.

Application of Colonial Bank, Waterbury, Connecticut, for consent to acquire stock of Colonial International, S.A., a corporation organized in Panama.

Notice of Acquisition of Control: Mid America State Bank of Highland Park, St. Paul, Minnesota.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,440-L—State Bank of Clearing, Chicago, Illinois.

Case No. 44,493-L—Banco Economias, San German, Puerto Rico.

Case No. 44,501-L—The Drover's National Bank of Chicago, Chicago, Illinois.

Case No. 44,506-L—Wilcox County Bank, Camden, Alabama.

Case No. 44,454-L—Franklin National Bank, New York, New York.

Case No. 44,454-L—Franklin National Bank should be Case No. 44,545-L.

Case No. 44,562-SR—The Metro Bank of Huntington, Inc., Huntington, West Virginia.

Memorandum and Resolution re: American Bank & Trust Company, New York, New York.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: November 3, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2034-80 Filed 11-4-80; 10:56 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, November 3, 1980, the Corporation's Board of Directors determined, on motion of William M. Isaac, Director (Appointive), seconded by John G. Heimann, Director (Comptroller of the Currency) and Acting Chairman of the Board of Directors, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico (Legal Division memorandum dated October 24, 1980).

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: November 3, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2035-80 Filed 11-4-80; 10:56 am]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., November 10, 1980.

PLACE: 1700 G Street NW., Washington, D.C., board room, sixth floor.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings & Loan Association of Canton, Canton, Ohio.

Application for Bank Membership—Fitchburg Savings Bank, Fitchburg, Massachusetts.

Application for Bank Membership—Central Co-operative Bank, Somerville, Massachusetts.

Application for Bank Membership—Peterborough Savings Bank, Peterborough, N.H.

Preliminary Application for Conversion to a Federal Mutual Charter—Jeff-Lewis Savings & Loan Association, Watertown, New York.

Insurance of Accounts—Ranchers Savings Association, Johnson City, Texas.

Change of Location Application—First Federal Savings & Loan Association of Waterloo, Waterloo, Iowa.

Branch Office Application—Security Federal Savings & Loan Association of Mayfield, Mayfield, Kentucky.

Branch Office Application—First Federal Savings & Loan Association of Paintsville, Paintsville, Kentucky.

Amendment of Resolution No. 79-552 Dated November 8, 1979, Conditionally Approve the Commitment to Insure Accounts Application of—First City Savings & Loan Association, Baton Rouge, Louisiana.

Designation of—Dennis Havener as Supervisory Agent Federal Home Loan Bank of Des Moines.

Branch Office Application—First Federal Savings & Loan Association of Waterloo, Waterloo, Iowa.

Request For A Commitment to Insure Accounts—(Proposed) Anchor Savings & Loan Association, St. Petersburg, Florida.

Application to Participate in Shared Remote Service United Network—First Federal Savings & Loan Association of Erie, Erie, Pennsylvania.

No. 414, November 4, 1980.

[S-2037-80 Filed 11-4-80; 12:02 pm]

BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN BANK BOARD:

PREVIOUSLY ANNOUNCED DATE OF MEETING: November 10, 1980.

PLACE: 1700 G Street NW., Washington, D.C. Sixth floor.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the open meeting:

Amendment of Charter Change of Name—Ohio Federal Savings & Loan Association of Columbus, Columbus, Ohio.

[S-2041-80 Filed 11-4-80; 2:22 pm]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., November 6, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Definition of Net Worth.
Net Worth Amendments.

[S-2043-80 Filed 11-4-80; 3:10 pm]

BILLING CODE 6720-01-M

7

METRIC BOARD.

Public Awareness and Education Committee.

TIME AND DATE: 10 a.m. to 4 p.m., Thursday, November 13, 1980.

PLACE: United States Metric Board Headquarters, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

STATUS: Open to the public except from 11:30 a.m. to 4:00 p.m. during which time the Board will meet to discuss internal budget and personnel matters. This portion of the meeting is closed under exemption 5 U.S.C. 552b(c)(9)(B).

MATTERS TO BE CONSIDERED: Open session:

Meeting format for New Orleans Board Meeting, December 11-12, 1980
Committee Procedure under the Sunshine Act:
a. Open Meetings.
b. Agendas.
c. Notices in the **Federal Register**.
d. Minutes.

Agency Annual Report.

Closed session:

Personnel Matters.
Operating and Financial Plan Review.

CONTACT PERSON FOR FURTHER INFORMATION: Lu Verne V. Hall, 703/235-1933.

Louis F. Polk,

Chairman, United States Metric Board.

[S-2038-80 Filed 11-4-80; 12:52 pm]

BILLING CODE 6820-94-M

8

METRIC BOARD.

Executive Committee meeting.

TIME AND DATE: 1:30 p.m., Tuesday, November 11, 1980.

PLACE: Marriott Key Bridge Hotel, Georgetown Salon—C, 1401 Lee Highway, Arlington, Virginia; telephone: 703/524-6400.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Approval of Columbus Board Meeting Minutes
Policy on High-Visibility Events
National Metric Week Activities
Media Interview Policy
Publications Approval Procedure
Suburban Press Contract Update
New TV Public Service Announcements
Newspaper Advertising
Analysis of Forum Publicity
Press Release Statement

CONTACT PERSON FOR MORE INFORMATION: John Donnelly, 703/235-2820.

Louis F. Polk,

Chairman, United States Metric Board.

[S-2040-80 Filed 11-4-80; 2:01 pm]

BILLING CODE 6820-94-M

9

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Tuesday, November 4, 1980.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel-related matters.

CONTACT PERSON FOR MORE INFORMATION:
Robert Volger, Acting Executive Secretary, Washington, D.C. 20570; telephone: (202) 254-9430.

Dated: Washington, D.C., November 4, 1980.

By direction of the Board.

Robert Volger,

Acting Executive Secretary, National Labor Relations Board.

[S-2036-80 Filed 11-4-80; 11:55 am]

BILLING CODE 7545-01-M

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10

SECURITIES AND EXCHANGE COMMISSION.

FFEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 28, 1980.

CHANGES IN THE MEETING: Deletion/additional items. The following item will not be considered at a closed meeting scheduled for Tuesday, November 4, 1980, at 10 a.m.:

Institution of injunctive action.

The following additional items will be considered at a closed meeting scheduled for Wednesday, November 5, 1980, following the 10 a.m. open meeting:

Institution of injunctive actions
Institution of injunctive action and formal order of investigation.
Subpoena enforcement action.

Commissioners Loomis, Evans, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

November 3, 1980.

[S–2039–80 Filed 11–4–80; 12:57 pm]

BILLING CODE 8010–01–M

11

U.S. SYNTHETIC CORPORATION.

Meeting of the Board of Directors and Advisory Committee of the Corporation.

ACTION: Notice of joint meeting.

SUMMARY: This notice announces a joint meeting of the Board of Directors and the Advisory Committee of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. The Chairman of the Board may entertain a motion during the meeting to close a portion thereof insofar as it relates to matters specified in Section 116(f)(A through C) of the United States Synthetic Fuels Corporation Act of 1980, Pub. L. 96–294.

TIME AND DATE: 2 p.m. on November 17, 1980.

PLACE: Arlington Room, Madison Hotel, 15th and "M" Streets NW., Washington, D.C.

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Larry Ruff, U.S. Synthetic Fuels Corporation, 1200 New Hampshire Avenue, NW., Washington, D.C. 20036 (202) 653–4400.

United States Synthetic Fuels Corporation.

October 31, 1980.

John C. Sawhill,

Chairman of the Board.

[S–2042–80 Filed 11–4–80; 2:51 pm]

BILLING CODE 6450–01–M

V 45 / 217 NO 6 80 UMI

federal register

Thursday
November 6, 1980

Part II

Environmental Protection Agency

Assistance for Pesticide Enforcement and Applicator Certification Programs

V 45 / 217 NOV 6 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[EN-FRL 1589-4]

Assistance for Pesticide Enforcement and Applicator Certification Programs

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule sets forth regulations to implement a program of assistance for pesticide enforcement and applicator certification to States and Indian tribes which are interested in entering into cooperative agreements with EPA. These programs are intended to supplement federal resources in these areas.

EFFECTIVE DATE: This subpart is effective on November 6, 1980.

ADDRESS: Comments should be sent to: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0850.

FOR FURTHER INFORMATION CONTACT: David Stangel, Policy and Strategy Branch, Pesticides and Toxic Substances Enforcement Division (EN-342), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9404.

SUPPLEMENTARY INFORMATION: On October 19, 1979, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** (44 FR 60335) a proposed rule introducing regulations for the administration of a program of assistance for pesticide enforcement and applicator training and certification for States and Indian tribes wishing to enter into cooperative agreements with EPA. The changes in this document reflect the public comments received as well as changes made by the offices in charge of administering portions of the program.

Background

Since the inception in 1974 of pilot programs for pesticide enforcement and for applicator training and certification, EPA has funded and administered both programs separately through different offices. This regulation consolidates the administration of these two grant programs under a single uniform set of financial assistance rules. The administration of these consolidated programs will become the responsibility of EPA's Office of Enforcement beginning in fiscal year 1981. To date, fifty-two States and territories participate in the certification program and forty-nine such entities participate in the enforcement program. A number of Indian tribes have certification programs and are developing enforcement programs.

Discussion of Major Comments and Changes

Applicator Training

Thirty-six of thirty-nine commenters expressed their concern over the possible impact of the proposed regulations on the applicator training program. The applicator training program is conducted by the U.S. Department of Agriculture (USDA), and the State Cooperative Extension Services under a Memorandum of Understanding and Interagency Cooperative Issuance with EPA. EPA funds this program by transferring funds to USDA which then allocates the funds to individual State Cooperative Extension Services. The proposed regulations were interpreted by these thirty-six commenters to mean that the applicator training funds would be transferred from EPA directly to the designated State agency in each State. Under this interpretation, the designated State agency would then allocate funds to the State Cooperative Extension Service.

The commenters objected to channelling such funds through the designated State agency, pointing out that the administrative costs deducted by various parties could consume up to sixty percent of the program's funding. This would seriously hamper a program which is already operating under very tight budgetary constraints. The State Cooperative Extension Services also feared that if funding were channeled through the designated State agency, which is in most cases a regulatory agency, the training program would be forced to stress regulation rather than education and voluntary compliance. This change in emphasis would jeopardize their position as a neutral educational service, thus reducing their effectiveness in performing their primary educational functions.

The proposed regulations were not intended to change the method of funding for the applicator training program. It is the intent of EPA to continue implementation of the present applicator training program pursuant to the June 14, 1972 Memorandum of Understanding and the December 4, 1974, Interagency Cooperative Issuance between EPA and USDA that provide for using the State Cooperative Extension Services to inform and educate pesticide users about safe and proper handling of pesticides, accepted uses, and regulations under FIFRA.

The final regulations have been amended to remove the training conducted by the State Cooperative Extension Services from the jurisdiction of the regulations. EPA will continue to administer the program through the Memorandum of Understanding with USDA. The regulations apply only to applicator certification and pesticide enforcement programs. The regulations retain a limited training element under the certification program pursuant to which EPA may fund training to supplement the training conducted by the State Cooperative Extension Services.

While EPA will not ask the State Cooperative Extension Services to take a regulatory rather than an educational posture in the training they administer to pesticide users, the Agency does expect such training to include a discussion of the possible enforcement consequences, mandated by the statute, which may result from the improper use of pesticides. A discussion of this type is a valid educational concern for all pesticide users.

Federal Share for Certification and Training Activities

One commenter recommended that the Federal share for certification and training activities be increased from not more than 50% to 85% which is the maximum Federal share for enforcement activities. The 50% Federal share for certification and training activities has been mandated by Congress under section 23 of the FIFRA. EPA does not have the authority to change it.

Eligibility

In response to comments received, § 35.752 of the regulations has been amended to require each State agency which agrees to perform tasks under a financial assistance agreement to sign an interagency agreement stating the agency's commitments. This change is designed to create a greater awareness of program commitments and to foster cooperation among the sometimes diverse groups which must carry out the terms of the financial assistance agreement.

Application Submission

Too frequently, grantees are submitting late applications. In response, § 35.755 has been amended to permit the reduction of a grantee's allotment by one-twelfth for each month the application is late.

Applicator Certification Funds

Section 35.763 has been amended to reflect the current procedures used to distribute funds to applicants. These changes implement the amendments to section 23 of the FIFRA which limited the Federal share for applicator training and certification activities. These amendments have forced EPA to award funds by means of a formula.

Indian tribe participation in the applicator certification program to date has not been substantial, making formula allocation for Indian tribes infeasible. Funds will be set aside each year for allocation to qualified certification programs on Indian lands at the full fifty percent level of Federal support. When the extent of their participation stabilizes in future years, Indian tribes will have funds allocated to them by the same formula applied to the States.

Reallocation of Funds

As requested by one commenter, § 35.764(b) has been amended to allow the Administrator to use funds allocated to a State to implement a Federal enforcement program in that State if the State fails to appropriately exercise primary enforcement responsibility for pesticide use violations. This concept is used in other program grant regulations which allow for States' assumption of primary enforcement responsibility.

At the request one commenter, § 35.764(b)(1) has been amended to allow the Regional Administrator six months to reallocate enforcement funds. This amendment was made after the Agency determined that three months was not an adequate period of time to renegotiate supplementary awards with interested States.

Effect of the Cooperative Enforcement Agreement

At the request of some States, the Agency wishes to clarify the statutory mandate that any State which enters into a cooperative enforcement agreement which includes a pesticide use restriction element assumes primary enforcement responsibility for pesticide use violations under section 26(b).

A State may enter into a cooperative enforcement agreement which does not call for the enforcement of pesticide use restrictions, and therefore does not delegate to the State primary use enforcement responsibility. Likewise, a State which loses primary enforcement responsibility for pesticide use violations as a result of EPA action to rescind State primacy may nonetheless retain or enter into cooperative enforcement agreements for the enforcement of other program elements including the enforcement of restrictions associated with the production or sale of pesticides.

Public Participation and Information

The Agency is committted to developing a strong public participation policy in all program areas. In response to this initiative, § 35.778 has been amended to add a public participation program element which would require each applicant for assistance to develop a plan for informing the public of its actions and providing a forum for public interaction.

Additional Requirements

Sections 35.400 through 35.425 provide umbrella clauses for all program grants, including the pesticide enforcement and applicator certification programs. We have amended these sections to reference the pesticide programs. Also, we have deleted the references to the water pollution control program grants. The water pollution control programs are now incorporated in Subpart G-Grants for Water Quality Planning, Management and Implementation (published May 23, 1979, 44 FR 30015). We have reprinted these sections in their entirety, rather than just the amendments, for the convenience of the user and to eliminate confusion or possible oversight of these provisions. These amendments do not substantively change these requirements with respect to the other program grants.

The Agency has determined that these regulations will have no additional effect on production and prices of agricultural commodites, retail food prices, and the agricultural economy since these regulations merely codify programs already in effect.

Effective date

This subpart will be effective on the day of publication. Good cause exists for an effective date prior to 30 days after publication in the **Federal Register** because we need to have consistent regulations for all cooperative agreements awarded for FY 81, and because the requirements of this rule were incorporated in April 30, 1980 guidance previously provided to all potential applicants.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedureal requirements of Executive Order 12044.

(This program is listed in the Catalog of Federal Domestic Assistance as number 66.700, Pesticides Enforcement Program Grants. Applicants for assistance must comply with all applicable requirements of the Office of Management and Budget (OMB) Circular A-95)

Dated: October 28, 1980.

Douglas M. Costle,

Administrator.

PART 35—STATE AND LOCAL ASSISTANCE

40 CFR Part 35, Subpart B, is amended as follows:

1. By adding new § 35.750 through 35.786 to read as follows:

Assistance for Pesticide Enforcement and Applicator Certification Programs

Sec.
35.750 Scope and purpose.
35.751 Definitions.
35.752 Eligibility.
35.753 A-95 clearinghouse review.
35.755 Application submission.
35.758 Application evaluation.
35.761 Allotments and distribution of funds.
35.762 Enforcement funds.
35.763 Applicator certification funds.
35.764 Amount of assistance and reallocation.
35.767 Rate of Federal assistance.
35.769 Reduction of amount.
35.771 Budget period.
35.775 Program plan.
35.778 Program elements.
35.782 Program evaluation.
35.786 Reporting.

Authority: Secs. 4 and 23, Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Pub. L. 95-396, 92 Stat. 819 (7 U.S.C. 136b and 136u).

Assistance for Pesticide Enforcement and Applicator Certification Programs

§ 35.750 Scope and purpose.

Sections 35.750 through 35.786 establish policies and prodedures for providing financial assistance to States and Indian Tribes for the establishment, development, improvement, and maintenance of pesticide enforcement programs, and for certification of pesticide applicators, as authorized by Section 23 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. This program is listed in the Catalog of Federal Domestic Assistance as program number 66.700, Pesticide Enforcement Program Grants. These regulations supplement EPA General Grant Regulations and Procedures in Part 30 of this chapter, §§ 35.400 through 35.425 of this chapter, which apply to all EPA program grants, and regulations governing the certification of pesticide applicators in Part 171 of this chapter.

§ 35.751 Definitions.

As used in the Assistance for Pesticide Enforcement and Application Certification Program Regulations:

(a) "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et sec.*)

(b) "Applicant" means a State or Indian Tribe which has filed an application for financial assistance.

(c) "Indian Tribe" means any Indian Tribe, band, pueblo or community, including Native villages and Native groups as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Recipient" means a State or Indian Tribe which has been awarded financial assistance under the Act.

(e) "State" means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 35.752 Eligibility.

(a) *State agencies.* EPA will award assistance to the State agency designated by the Governor under section 4(a) of the Act and implementing EPA regulations or such other State agency as the Governor may designate and the Regional Administrator may approve. Where the designated State agency does not have adequate authority or capability to carry out all requirements of this subpart, the designated State agency shall pass EPA funds on to one or more other State agencies through the mechanism of interagency agreements, with approval of the Regional Administrator, for the performance of enforcement or other responsibilities of the State under the program plan. EPA will not award assistance to the designated State agency unless authorized representatives of all the State agencies obligated to perform tasks under the terms of the financial assistance agreement have entered into a State interagency agreement stating the responsibilities of each State agency.

(b) *Indian Tribes.* EPA will award assistance to Indian Tribes which the Regional Administrator determines have adequate authority and capability to carry out the requirements of this subpart.

§ 35.753 A-95 clearinghouse review.

Applicants for financial assistance shall comply with all applicable requirements of the Office of Management and Budget (OMB) Circular A-95 in accordance with § 30.305 of this chapter.

§ 35.755 Application submission.

An applicant for assistance shall submit an application containing the program plan required by § 35.775 to the appropriate EPA Regional Office in accordance with § 30.315 of this chapter, no later than July 1 of each year. If the grantee does not submit the proposed grant application and program plan by 90 days preceding the budget period for which the program application is prepared, the Regional Administrator may reduce the tentative allotment by one-twelfth for each month delay.

§ 35.758 Application evaluation.

The Regional Administrator will evaluate each application in accordance with criteria provided in the EPA annual guidance (see § 35.404). The Regional Administrator will respond to each applicant within 30 calendar days of EPA receipt of the application. EPA will use the following criteria in application evaluation, as supplemented by the EPA annual guidance:

(a) the extent of an applicant's demonstrated need for establishing, developing, improving, or maintaining a comprehensive pesticide enforcement and applicator certification program within the applicant's jurisdiction;

(b) the extent to which the applicant's proposed program demonstrates a potential for long-term beneficial impact upon human health and the environment within the applicant's jurisdiction;

(c) the extent, the past level of effectiveness, and the likelihood of future success of the applicant's pesticides program.

§ 35.761 Allotments and distribution of funds.

(a) The Administrator will issue to each Regional Administrator, as a part of the EPA annual guidance, tentative regional allowances for the fiscal year. The tentative regional allowance will be based on the appropriation requested by the President. As soon as practicable after funds are appropriated, the Administrator will issue to each Regional Administrator a final regional allowance.

(b) The annual guidance will specify program approval criteria which the Regional Administrator will use in distributing funds among the eligible applicants in each region consistent with § 35.764(a).

(c) The Administrator may provide in the annual guidance that specified portions of available funding will be available only for one or more program elements, as, for example, applicator certification or producer establishment inspections, or pesticide misuse investigations and enforcement.

§ 35.762 Enforcement funds.

Enforcement funds which the Administrator determines will be available in each Fiscal Year for allotments among the regions for financial assistance under section 23(a)(1) of the Act will be allotted on the basis of factors, and appropriate relative weightings, which will be identified each year in the annual guidance. These factors include population; number of farms; number of pesticide producers; number of commercial and private applicators; and incentive factors designed to assure that the Regional Administrator has the ability to encourage and reward highly successful programs.

§ 35.763 Applicator certification funds.

(a) The Administrator will determine the annual distribution of applicator certification funds by means of a formula. The formula will provide for an equal base amount for each State with the remainder of the funds distributed primarily on the basis of such factors as the number of private and commercial applicators, the number of farms, recertification activities and other workload factors identified in the annual guidance. Funds will be transferred to the Regions with specific State allocations derived from the formula. Upon receipt of the funds, the Region will inform the States of the amount of funds allocated to them by the formula. States will then be given an opportunity to submit applications for the amount allocated. Grant applications received from the States will be reviewed by the Regional Office in accordance with each State's plan for certification required by Part 171 of this chapter. Those applications which meet the criteria found in the State plan and provide for appropriate State matching funds shall be approved.

(b) When the extent of Indian Tribes participation in the certification program stabilizes, Indian Tribes will have funds allocated to them by the same formula which is applied to the States.

§ 35.764 Amount of assistance and reallocation.

(a) *Amount of assistance.* The Regional Administrator shall review each application prior to award of assistance to determine whether it may be approved under the requirements of §§ 35.750 through 35.786, and to determine the reasonableness of the estimated costs of carrying out the approved elements of the program. If the Regional Administrator's evaluation of the applicant's program submission reveals that an output commitment is not consistent with the funding anticipated under § 35.761 or national priorities contained in the EPA annual guidance, the Regional Administrator shall negotiate with the applicant to change the output commitment or to adjust the funding amount. If, however, an applicant proposes a different set of outputs from those suggested by the EPA annual guidance due to unique pesticide problems, the Regional Administrator may approve the program provided the Regional Administrator determines that the outputs can and should be achieved and that the proposed funding for the unique pesticide problems is justified. In no event may the Regional Administrator exceed the regional allowance.

(b) *Reallocation.* (1) *Enforcement.* Unobligated funds remaining after negotiations with the recipients within a region may be used for supplementary awards to other recipients within that region. Funds not obligated by the Regional Administrator within six months following the date of the final advice of allowance for that region will revert to the Administrator for reallocation to regions which can demonstrate a need for funds in excess of their final regional allowance.

(2) *Applicator certification.* Unobligated funds for certification programs remaining after negotiations with recipients within a region, and deobligated funds, will revert to the Administrator. The Administrator will use such funds for reallotment to accomplish objectives of the applicator certification program.

(3) *Limitations.* Subject to the limitations contained in the Appropriations Act, allocations to States that fail or decline to assume primary enforcement responsibility for pesticide use violations may be used in whole, or in part, by the Administrator to implement a pesticide enforcement program in those States.

§ 35.767 Rate of Federal assistance.

(a) *Enforcement activities.* The Federal share of enforcement activities shall not exceed 85 percent of the total allowable program plan costs.

(b) *Applicator certification activities.* The Federal share of applicator certification activities will not exceed 50 percent of the anticipated allowable cost of the program plan.

§ 35.769 Reduction of amount.

(a) If the Regional Administrator's program evaluation reveals that the recipient will not achieve or has not achieved the outputs specified in the approved program, an effort should be made to renegotiate outputs through mutual agreement. If agreement is not reached, the Regional Administrator may reduce the amount of assistance in proportion to the estimated program cost to produce such outputs, consistent with § 30.920 of this chapter. This provision does not limit the Regional Administrator's right to take other appropriate actions authorized by §§ 30.915 and 30.920.

(b) A State shall be notified prior to any reduction in the amount of Federal support. This notification shall include the reasons for reduction and, if appropriate, what steps the State must take to regain funding.

§ 35.771 Budget period.

The budget period shall be the Federal fiscal year.

§ 35.775 Program plan.

An applicant shall submit to the Regional Administrator an application containing a program plan which satisfies the requirements of this Regulation and contains planned accomplishments. The program plan shall include the program elements listed in § 35.778, unless the Regional Administrator, with the concurrence of the Assistant Administrator for Enforcement, otherwise agrees. The purpose of the program plan is to relate the use of available resources (both Federal and non-Federal) to the achievement of planned accomplishments. The program plan shall describe how the planned accomplishments address the pesticide problems in the applicant's jurisdiction and how the planned accomplishments are consistent with the objectives of the Act. Information on the program elements contained in each submission shall be presented in summary form and shall include:

(a) The planned accomplishments;

(b) The resources to be expended to produce the planned accomplishments, including anticipated Federal and non-Federal financial and technical assistance; and

(c) A timetable for the performance of outputs.

§ 35.778 Program elements.

Guidance concerning output requirements of the program elements below will be included in EPA's annual guidance under § 35.404. Under § 35.764(a) the Regional Administrator may approve an applicant's proposal to alter or add to the list of program elements below. The applicant's program plan must be developed so that the program elements are free from redundant or inconsistent outputs. The program plan shall identify specific outputs (i.e., the planned accomplishments) to be achieved during the year within the following major program elements (common outputs may be developed for overlapping program areas).

(a) *Administration and program development.* This program element will provide for planning, development and coordination of activities for program management, including general program direction and supervision; development of staffing and budget needs; development and evaluation of basic State legislation, regulations, and policies; and public participation.

(b) *Enforcement.* An enforcement program should include the following elements:

(1) *Surveillance.* Collection of samples and other evidence regarding pesticides which have been packaged, labeled, and released for shipment; collection of samples and other evidence regarding pesticides which are being used or are held for use; and producer establishment, marketplace, import, export and pesticide use inspections.

(2) *Laboratory capability.* Provision for the analysis of all samples collected during surveillance activities using Association of Official Analytical Chemists methods or other test methods approved by EPA. In accordance with Federal Management Circular FMC 74-4, provision may be made for rearrangement and alteration of facilities as specifically required for the program. The cost of constructing new buildings will not be allowable.

(3) *Training.* Training of inspectors, laboratory personnel or case preparation officers regarding EPA establishment, marketplace and use inspection and sample collection procedures, EPA analytical methods and chain of custody standards, and case-development procedures.

(4) *Enforcement.* Establishment and implementation of procedures for administrative and judicial enforcement of Federal and non-Federal pesticide regulations, including revocation of certification and provision for supplying evidence gathered by the recipient to EPA to support prosecution in cooperation with or by Federal authorities.

(c) *Applicator certification.* An applicator certifiction program must provide for certification of private and commercial applicators as set forth in the approved State plan to use and supervise the use of restricted use pesticides, for training in the use of new

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techniques in pest control, and for their introduction through the certification process. The program element may provide training intended to complement and supplement the training conducted under the Memorandum of Understanding and the Interagency Cooperative Issuance between EPA and USDA and through cooperative agreements between USDA and the State Cooperative Extension Services as provided by section 23(c) of FIFRA, 7 U.S.C. 136u(c).

(d) *Public Participation and Information.* Each program plan must include an element for public participation. This element must include a program to inform and educate the public as to the actions the applicant plans to take in regard to pesticide enforcement and applicator certification. Provision will be made for consultation with the public in significant decisions in program plan implementation. Following significant decisions in the course of program plan implementation, the recipient shall prepare a summary of its responses to public comment and shall make these available to the public. The recipient's public participation activities shall be summarized in its end-of-year review. EPA's public participation policy should be consulted for specific requirements.

§ 35.782 Program evaluation.

(a) *Mid-year evaluation.* Each Regional Administrator and the recipient shall jointly conduct a mid-year on-site evaluation meeting to review and evaluate the program accomplishments of the current budget period under § 35.410.

(b) *End-of-year evaluation.* Generally within 30 days after the end of the budget period, each Regional Administrator and recipient shall jointly conduct an evaluation meeting to review and evaluate the accomplishments for the year.

(c) *Evaluation report.* The Regional Administrator shall prepare a written report of each evaluation generally within 15 working days of the meeting. The recipient shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.786 Reporting.

The recipient shall submit reports to the Regional Administrator showing work performed under an assistance agreement.

(a) The following information shall be submitted quarterly:

(1) Establishment inspections;

(2) Marketplace inspections;

(3) Use observations;

(4) Import sampling;

(5) Experimental use permit inspections;

(6) Sample collections;

(7) Chemical analysis of samples;

(8) Enforcement actions;

(9) Accomplishment of any other outputs.

(b) Reports for the second and fourth quarters shall include the total number of applicators, private and commercial, by category, currently certified; number of applicators, private and commercial, by category, certified during the last reporting period; and the number of applicators, private and commercial, by category, recertified during the last reporting period.

2. By revising §§ 35.400 through 35.425 to read as follows:

Subpart B—Program Grants

Sec.

35.400 Purpose.
35.400–1 Air pollution control agency grant awards.
35.400–2 [Reserved]
35.400–3 Public water system supervision program grant awards.
35.400–4 Solid hazardous waste management program support grant awards.
35.400–5 Pesticide enforcement and certification program grant awards.
35.400–6 Underground water source protection program grant awards.
35.403 Authority.
35.404 Annual guidance.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of agency performance.
35.415 Financial status report.
35.420 Payment.
35.425 Federal and grantee program support.

Authority: Authorities cited in § 35.403.

Subpart B—Program Grants

§ 35.400 Purpose.

This subpart establishes and codifies policy and procedures for air pollution, public water system supervision, solid and hazardous waste management support, pesticide enforcement and applicator certification and underground water source protection program grants, and supplements the EPA general grant regulations and procedures (Part 30 of this chapter). These grants are intended to aid programs for air pollution control, public water system supervision, solid and hazardous waste management, pesticide enforcement and applicator training and certification and underground water source protection.

§ 35.400–1 Air pollution control agency grant awards.

Grants may be awarded to air pollution control agencies for the planning, development, establishment, improvement, and maintenance of programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in accordance with the applicable implementation plan.

§ 35.400–2 [Reserved]

§ 35.400–3 Public water system supervision program grant awards.

Grants may be awarded to State agencies to assist them in developing or administering public water system supervision programs.

§ 35.400–4 Solid and hazardous waste management program support grant awards.

Grants may be awarded to agencies having responsibility for solid and hazardous waste management to assist them in developing and implementing solid and hazardous waste management work programs.

§ 35.400–5 Pesticide enforcement and certification program grant awards.

Grants may be awarded to State agencies or Indian Tribes to assist them in establishing, developing, improving, or maintaining programs relating to the regulation of the production, sale, distribution, and use of pesticides and programs relating to the certification of private and commercial applicators to purchase and apply restricted use pesticides.

§ 35.400–6 Underground water source protection program grant awards.

Grants may be awarded to eligible States to assist them in developing and administering programs to protect underground sources of drinking water by adoption and enforcement of a program which meets the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Safe Drinking Water Act and regulations promulgated under these sections.

§ 35.403 Authority.

This subpart is issued under:

(a) sections 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g));

(b) sections 1443 and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j-2 and 300j-9);

(c) sections 3011, 4007, 4008 and 4009 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948, and 6949);

(d) sections 4 and 23 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Pub. L. 95–396, 92 Stat. 819, (7 U.S.C. 136b and 136u).

§ 35.404 Annual guidance.

The Environmental Protection Agency will develop and disseminate annual guidance to be used by the grantee to structure air pollution, public water system supervision, solid and hazardous waste management, pesticide enforcement and applicator certification and underground water source protection programs for the coming Federal fiscal year. The guidance will contain a statement of the national strategy, including national objectives and national priorities for the year, together with planning figures for Federal program grant assistance based on the EPA budget approved by the President. The annual guidance will be disseminated each year as soon as practicable during the month of February.

§ 35.405 Criteria for evaluation of program objectives.

(a) Programs set out in the application and submitted in accordance with these regulations shall be evaluated in writing by the Regional Administrator to determine:

(1) Consistency and compatibility of objectives and expected results with EPA national and regional priorities in implementing purposes and policies of the Clean Air Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, or the Federal Insecticide, Fungicide, and Rodenticide Act.

(2) Feasibility of achieving objectives and expected results in relation to existing problems, past performance, program authority, organization, resources and procedures.

(b) Approval of the program developed under § 35.526 (air) or § 35.626 (public water system supervision) or § 35.718 (solid and hazardous waste management) or § 35.775 (pesticide enforcement and applicator training and certification) or § 35.650 (underground water source protection) shall be based on the extent to which the applicant's program satisfies the above criteria.

§ 35.410 Evaluation of agency performance.

(a) A performance evaluation shall be conducted at least annually by the Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved objectives and outputs described in the work program. The evaluation shall be consistent with the requirements of § 35.538 for air pollution control agencies, § 35.626(d) for public water system supervision agencies, § 35.744 for solid and hazardous waste management agencies, § 35.782 for pesticide enforcement and applicator training and certification agencies, and § 35.680 for underground water source protection agencies.

(b) The Regional Administrator shall prepare a written report of the annual evaluation. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.415 Financial status report.

Within 90 days after the end of each budget period, the grantee must submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615–3 of this chapter until this report is received.

§ 35.420 Payment.

Grant payments will be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of all allowable costs incurred from the beginning of the approved budget period, provided that monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs incurred in the last month of the prior budget period.

§ 35.425 Federal and grantee program support.

(a) For purposes of establishing the amount of resources which will be committed by the agency to particular budget categories or program elements under §§ 35.527 (air), § 35.626–1 (public water system supervision), § 35.778 (pesticide enforcement and applicator certification), or § 35.670–2 (underground water source protection) Federal and grantee financial contributions shall be considered as combined sums, and shall not be separately identified for each budget category or program element. For purposes of this subpart, and pursuant to § 30.700(a) of this chapter, all project expenditures by the grantee shall be deemed to include the Federal share.

(b) A grantee may not unilaterally reduce the non-Federal share of project costs. In the event of a significant proposed or actual reduction in the non-Federal contribution, the Regional Administrator must consider a reduction in the Federal share or an increase to the Federal percentage.

[FR Doc. 80–34632 Filed 11–5–80; 8:45 am]
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federal register

Thursday
November 6, 1980

Part III

Department of the Interior

Fish and Wildlife Service

United States and Foreign Country Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

United States and Foreign Country Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of United States and foreign proposals.

SUMMARY: The United States and any other nation that is Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) may propose changes in the list of animal and plant species included in Appendices I and II for protection by this treaty. Under the terms of the CITES, the Party nations may consider such proposals either at their biennial meetings or through a postal procedure between meetings.

This notice announces proposals submitted by the U.S. and other nations for consideration by the Parties at their third biennial meeting, which will be held in February 1981 at New Delhi, India.

Future notices will describe comments and actions on these proposals by the Parties, in addition to any actions by the U.S. to modify its proposals in view of new information.

DATES: The proposals described in this notice were received by the Secretariat for the CITES on or before September 5, 1980. They will be considered by the Party nations in February 1981. The Service will consider all information received by November 21, 1980, in developing comments to be sent to the Secretariat. The Service also will consider all information received by December 15, 1980, in determining if the U.S. should take any action at the meeting in New Delhi to modify its proposals and in determining positions to take with regard to foreign proposals.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection by appointment from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: *United States Proposals.* The basic requirements for including species of animals and plants in Appendices I and II to the CITES were described in previous **Federal Register** notices (45 FR 23370, April 4, 1980, and 45 FR 48830, July 21, 1980).

In the April 4, 1980, **Federal Register,** the Service invited suggestions and supporting information for any potential amendments to the Appendices. The Service published an annotated list of suggested proposals in the July 21, 1980, **Federal Register.** Comments and information received in response to those notices, and comments received at public meetings on June 2 and August 7, 1980, were considered in addition to recommendations from the International Convention Advisory Commission and from Federal agencies.

This notice announces the resulting proposals. Each proposal was prepared in a standardized format adopted by the Parties at their previous biennial meeting. Many of the suggested proposals listed in the July 21 notice were not submitted for consideration by the Parties, either because the available information was insufficient to meet the Parties' criteria for including or delisting species, or because the information indicated that a proposal was not appropriate under the terms of the CITES. The Service will continue to compile and review information on species not proposed for consideration at New Delhi, where information presently available is insufficient. Any proposed actions concerning such species will be announced in the **Federal Register.**

The accompanying table summarizes the proposals. For each proposal, it shows the present status under the CITES, the proposed status, the reasons for the proposal, and the proponent Party.

The majority of comments received by the Service concerned the listing of the order Psittaciformes in Appendix II. These comments were stimulated primarily by mailings from the American Federation of Aviculture and Bird World Magazine/International Bird Institute. They prompted individuals to write letters objecting to the proposal for a variety of reasons, often based on the incorrect premise that the Service was proposing to ban all imports of psittacines. The principal comments were as follows:

(1) A proposal to ban all imports of psittacine birds is not warranted because not all species are endangered or affected by trade;

(2) Habitat destruction is a much more important factor than trade in the decline of wild populations of psittacines, and banning import would not stop the destruction;

(3) Banning the import of psittacines would result in increased smuggling and introduction of viscerotropic velogenic Newcastle disease (as a result of evading quarantine), which would seriously affect the poultry industry;

(4) The listing of all psittacines in CITES Appendix II under the provisions of Article II.2(b) for control purposes could later be changed to a more restrictive status in Appendix II under the provisions of Article II.2(a) or in Appendix I, or could be used as a basis for listing members of the order as Endangered or Threatened species under the Endangered Species Act of 1973.

The Service considered these and other comments in reaching a decision to submit a proposal on this order. If adopted, the proposal would require export permits for specimens in international trade, but it would not ban such trade. The proposal is intended to enable authorities to effectively control international trade in those species of psittacines that are currently or potentially threatened with extinction. There is a provision in the CITES for listings of this type. The Service recognizes, in making this proposal, that habitat destruction and local use of psittacine are major problems for their conservation. However, international trade poses an added threat to the survival of some species. The United Kingdom shares this view and has made a similar proposal (see table). A recent sampling of documents accompanying all imports of psittacine birds entering the U.S. from October to December 1979 showed that 70 percent of these birds had permits from foreign authorities designated to issue permits under the CITES. This proposal would increase that coverage to 100 percent.

Because the proposal is for purposes of control, the Service does not now consider species covered by this proposal to be currently or potentially threatened. Further information would be required to demonstrate the need for stricter controls in Appendix II under Article II.2(a) or in Appendix I. The Service does not anticipate listing any of the psittacines included in Appendix II under Article II.2(b) as Endangered or Threatened species under the Endangered Species Act unless later information requires that action.

The Department of Agriculture (USDA) informed the Service that it cannot be determined if smuggling increased with bans and restrictions previously imposed by that agency to prevent Newcastle disease. The USDA supports the present proposal.

In addition to comments on the psittacine proposal, the Service also received comments and information on certain other species for which proposals were suggested. The international Association of Fish and Wildlife Agencies and several state conservation agencies requested deletion of the bobcat (*Lynx rufus*), lynx (*Lynx canadensis*), and river otter (*Lutra canadensis*) from Appendix II. The state agencies have provided extensive information to the Service concerning the population status and management of these species, in support of findings on the export of pelts harvested in each state. The Service determined, prior to receiving information in support of findings for the 1980–81 season, that the information then available did not satisfy criteria adopted by the Party nations for delisting species (the "Berne criteria"). The Service intends to evaluate the recent information and to establish a clear interpretation of the criteria, in order to determine if proposals to delist any of these three species should be made for consideration by postal procedures after the meeting of the Parties. It is now too late to submit additional proposals for that meeting. Development of an interpretation of the criteria will include opportunities for public participation to be announced later in the **Federal Register.**

The American Federation of Aviculture provided extensive comments on the various suggested proposals concerning species of birds. These comments and information from other individuals and organizations led the Service to advance certain of these proposals and not others, based on a case-by-case evaluation of each species in terms of standards for listing set forth in CITES Article II and the Berne criteria.

The North American Falconers Association (NAFA), Dr. Tom Cade of Cornell University, and Drs. Swartz, Roseneau, and Bente of Alaska provided information in support of a proposal to transfer the gyrfalcon in North America from Appendix I to Appendix II. The International Council for Bird Preservation endorsed this proposal. The NAFA also urged that the subspecies *Falco peregrinus pealei* and *F. peregrinus tundrius* be transferred from Appendix I to Appendix II. Because the peregrine falcon, including all subspecies, is now listed as an Endangered species under regulations implementing the Endangered Species Act of 1973, the Service believes that it should resolve the question of whether they are appropriately classified under the Act before proposing a change under the CITES to the other Party nations.

The International Fund for Animal Welfare petitioned the Service to propose adding the harp seal and hooded seal to Appendix II. The Service agreed with recommendations from the International Convention Advisory Commission, the National Marine Fisheries Service, and the Government of Canada not to make either proposal. The existence of a Canadian research and management program and the lack of evidence that these species are potentially threatened with extinction unless trade is further controlled were the grounds for this decision.

On a more general note, the American Association of Zoological Parks and Aquariums and the Riverbanks Zoological Park of Columbia, S.C., commented that the Service should have allowed more time for comment on suggested proposals. The Service acknowledges that the comment period of 30 days was not as long as it would like to have provided. The large number of suggested proposals made it difficult to publish an earlier notice. The Service agrees with a suggestion by the Riverbanks Zoo that prior screening of suggested proposals would be useful. In the future, the Service intends to establish minimum requirements for petitions in order to eliminate those without sufficient data or merit.

The following table lists proposals that the Service submitted to the CITES Secretariat for consideration by the Parties at their third biennial meeting. Supporting information for these proposals is available for inspection at the address given above.

Foreign Proposals

Several other Parties submitted to the Secretariat proposed amendments to the CITES appendices for consideration at the New Delhi meeting in 1981. These proposals are included in the following table along with U.S. proposals. The Service seeks information as to whether or not the U.S. should support the recommendations as proposed or suggest modifications to them. Information and recommendations received in response to this notice will be used in developing U.S. positions on these foreign proposals at New Delhi. Supporting information for these proposals is available for inspection at the address given above.

Article XV of the CITES provides that the Secretariat is to circulate proposed amendments to all Parties for comment prior to their consideration at the meeting. Comments from other Parties and other new information might lead the Service to recommend that the U.S. Delegation attempt to modify or withdraw certain of the proposals at the meeting. Because of this possibility, and in view of the need to consider all relevant information, the Service invites additional public comment. The closing dates for receipt of comments are stated above.

The Service plans to publish a notice in the **Federal Register** before the third meeting of the Parties to announce any intended modifications or withdrawals of its proposals, and to announce U.S. positions on foreign proposals.

An environmental assessment has been prepared in conjunction with the U.S. proposals. It is on file in the Service's Office of the Scientific Authority, room 536, 1717 H Street, NW., Washington, D.C., and may be examined during regular business hours.

Species	Present listing	Proposed listing	Reasons for proposal	Proponent party
CLASS MAMMALIA				
Order CHIROPTERA—Family Pteropodiadae:				
Pteropus mariannus (Marianas fruit bat)	Not listed	I	Heavy use for food is primary cause for its severe depletion. Status United States vulnerable.	
Pteropus tokudae (little Marianas fruit bat)	do	I	Population extremely rare, possibly extinct. Has been heavily exploit- ed for food, considered a delicacy.	United States

Species	Present listing	Proposed listing	Reasons for proposal	Proponent party
Order PRIMATES—Family Cercopithecidae:				
Colobus badius, population of Cameroon (Preuss' red colobus)	II	I	Very restricted range; limited habitat being destroyed; hunted for food. Estimated 8,000 total population. Endangered status.	United States.
Colobus satanas (Black colobus)	II	I	Population greatly reduced and still declining. Heavy habitat destruction. Regularly hunted for food. Has entered the fur trade to some extent.	United States.
Papio (=*Mandrillus*) *leucophaeus* (drill)	II	I	Populations being reduced; restricted distribution; and rapid habitat destruction. Excessively hunted for food; have a long reproductive period. Endangered. Any trade might be detrimental.	United States.
Family Callitrichidae: *Saguinus geoffroyi* (Geoffroy's tamarin)	II	I	Populations, formerly common, now very depleted and rarely encountered, usually only 4 or 5 individuals in a band. Habitat being destroyed by deforestation. Because they make excellent pets, they are very much in demand internationally.	Panama.
Order CETACEA—Family Balaenopteridae:				
Balaenoptera borealis (sei whale)	I and II	I, for certain stocks. I, all stocks	Intense exploitation for meat and oil; consistency with protection stocks of International Convention for Regulation of Whaling (IWC). All stocks require protection in order to stop illegal taking outside IWC control. Stock of origin very difficult to prove.	United States. Federal Republic of Germany.
Balaenoptera physalus (fin whale)	I and II	I, for certain stocks. I, all stocks	Same as for U.S. proposal on sei whale Same as for German proposal on sei whale	United States. Federal Republic of Germany.
Family Physeteridae: *Physeter macrocephalus* (sperm whale)	II	I, for certain stocks. I, all stocks	Same as for U.S. proposal on sei whale Same as for German proposal on sei whale	United States. Federal Republic of Germany.
Order PINNIPEDIA—Family Phocidae:				
Halichoerus grypus (gray seal)	Not listed	II	Worldwide population estimated at 115,000–120,000 individuals, of which 70% are in the U.K. Populations in certain Atlantic European countries are very rare and decreasing. The species is exploited for pelts.	France.
Phoca vitulina (harbor or hair seal)	do	II	Population = 650,000–950,000 individuals. Listing for control purposes mainly, as identification is difficult, and certain populations considered threatened.	France.
Order PERISSODACTYLA—Family Rhinocerotidae: *Ceratotherium simum simum*, South African population (Southern white rhinoceros)	I	II	Strictly protected in all game reserves and national parks in South Africa. Protected (with limited hunting) in Natal, Orange Free State, Transvaal and the Cape Province. Large numbers in game reserves are continually increasing and unless surplus animals are removed they will exceed the carrying capacity of the habitat.	South Africa.
Order ARTIODACTYLA—Family Bovidae:				
Damaliscus dorcas dorcas (bontebok)	I	II	1977 census records a total of 260 individuals in the Bontebok National Park and about 800 elsewhere in the Cape Province. Bred in large numbers outside its natural range. Proposal will encourage the establishment of more nucleus herds within the original range by stimulating farmers to keep them for commercial gain.	South Africa.
Hippotragus equinus (roan antelope)	III (Ghana)	II	Population estimated at ca. 350 in 3 sites in South Africa; small herds also in Namibia. Species susceptible to disease and any exploitation could be detrimental.	South Africa.
Family Cervidae: *Elaphurus davidianus* (Pere David's deer)	Not listed	II	World population approx. 1,000 and gradually increasing. Confined to zoological parks only. No herds exist in wild. Regular monitoring of the world population is essential for continuation of the species and eventual reintroduction in native range.	United Kingdom.
CLASS AVES				
Order SPHENISCIFORMES—Family Spheniscidae: *Spheniscus humboldti* (Humboldt penguin).	do	I	Populations have been considerably diminished in the last century as a result of intense persecution for food, oil, eggs, and skins by fishermen and for specimens for foreign zoological gardens.	Peru.
Order TINAMIFORMES—Family Tinamidae: *Tinamus major* (great tinamou).	do	II	Formerly very common, the number of populations has decreased alarmingly over the years due to commercial hunting for meat.	Panama.
Order FALCONIFORMES—Family Falconidae: *Falco rusticolus* (gyrfalcon)	I	II (North American population).	Numbers have fluctuated, but if anything have increased in the last 30 years in Alaska and northwest Canada. Use by falconers not extensive. Some of demand met by captive breeding. Trade small compared to population base.	United States.
Order GALLIFORMES—Family Cracidae: *Penelope albipennis* (white-winged guan).	Not listed	I	Endemic to Peru where its current population is estimated to be only Perú 62 individuals. Threatened by hunting for food and by habitat destruction.	United States.
Order COLUMBIFORMES—Family Columbidae: *Nesoenas mayeri* (Mauritius pink pigeon).	III (Mauritius)	I	Severely restricted distribution. Maximum present population is twenty-four. Any trade detrimental.	United States.
Order PSITTACIFORMES—Family Psittacidae:				
Amazona agilis (black-billed amazon)	Not listed	II	Estimates only in the hundreds. Utilized for pets and occasionally for food. Occurs in illegal international trade.	United States.
Amazona arausiaca (red-necked amazon)	do	I	Drastic population decline. Perhaps 350 birds still exist. Killed for food and kept in captivity. Trade potential exists.	United States.
Amazona barbadensis (yellow-shouldered amazon)	do	I	Greatly diminished population as a result of habitat disturbance. Occasionally kept as pet. Occurs in trade despite legal protection.	United States.
Amazona brasiliensis (red-tailed amazon)	do	I	Habitat largely destroyed; not seen in recent decades in the wild; few in captivity. Potential demand in trade.	United States.
Amazona collaria (yellow-billed amazon)	do	II	Population decline from 1,000's to 100's. Utilized for food. Demands in pet trade cause some illegal export.	United States.
Amazona ochrocephala, population of Mexico (yellow-headed amazon)	do	II	Substantial population decline in recent years. Serious reduction in habitat. In demand for pet trade. Minimum of 300 entered U.S. legally in 1978.	United States.

Species	Present listing	Proposed listing	Reasons for proposal	Proponent party
Amazona ventralis (Hispaniolan amazon)	do	II	Has declined from common to rare. Habitat rapidly disappearing. Used on Hispaniola for pets and food. Enters international trade in limited numbers.	United States.
Amazona viridigenalis (red-crowned amazon)	do	II	Limited range. Serious population decline due to habitat destruction and capture of birds for pet trade. At least 525 legally entered the U.S. in 1978.	United States.
Anodorhynchus hyacinthinus (hyacinth macaw)	do	II	Notable population decline. In great demand for pet trade, trophies, and food. Heavy illegal international trade. At least 662 entered the U.S. as Bolivian and Paraguayan re-exports between January 1977 and August 1979. Extremely high cost ($5,000–$7,000). Extensive world market.	United States.
Ara ambigua (great green macaw)	III (Costa Rica)	II	Presently declining population with relatively small range. Current habitat being destroyed. Kept as pets and taken for feathers and food. Potential for increased trade.	United States, Panama.
Ara ararauna (blue and yellow macaw)	Not listed	II	Habitat destruction and population decline. Kept as pet and killed for feathers and food. Heavy international trade. Over 3,800 birds imported legally into U.S. between January 1977 and August 1979.	United States, Panama.
Ara caninde (Caninde macaw)	do	II	Population poorly known, range reduced. Kept occasionally as a pet, used for food and feathers. Recently subject to exploitation for export trade.	United States.
Ara chloroptera (red and green macaw)	do	II	Rapid habitat destruction. Population decline. Hunted for pets, feathers and food over most of its range. Heavy international trade. 1,000 entered U.S. between January 1977 and August 1979.	United States, Panama.
Ara Macao (scarlet macaw)	III (Costa Rica)	II	Formerly common, now rare and localized in Middle America. Severe habitat destruction. Highly prized as pet, taken locally for feathers and food. Substantial international trade. At least 750 entered the U.S. between January 1977 and August 1979.	United States, Panama.
Ara maracana (blue-winged macaw)	Not listed	II	Extensive habitat destruction. Taken occasionally as pet. Moderate international trade. More than 150 entered U.S. legally between January 1977 and August 1979.	United States.
Ara militaris (military macaw)	do	II	Has become rare and declining south of Mexico. Remains numerous in Mexico. Utilized as pet. Involved in international trade. At least 122 entered the U.S between January 1977 and August 1979.	United States.
Ara rubrogenys (red-fronted macaw)	do	II	Very restricted range; population unknown. In 1979, 125 entered the U.S.	United States.
Ara severa (chestnut-fronted macaw)	do	II	Populations much reduced as a result of great demand in the pet trade.	Panama.
Aratinga auricapilla (golden-capped conure)	do	II	Populations greatly reduced everywhere except southern Minas Gerais in Brazil. Utilized in pet trade. Now being smuggled to neighboring countries for re-export. Over 500 entered U.S. between January 1977 and August 1979.	United States.
Aratinga euops (Cuban conure)	do	II	Formerly common, now rare. Affected by forest clearing and capture for pets. Occasionally enters international trade, particularly to Eastern European countries.	United States.
Cyanoliseus patagonus, all ssp. (Patagonian conure or burrowing parrot).	II (ssp. *byroni* only).	II	Subspecies *patagonus* has had a substantial population decline. Subspecies *andinus* has always been low in numbers. Subspecies *byroni* is quite rare. Large portions of habitat within species' range have been destroyed. All used in local pet trade. At least 700 imported into the U.S. between January 1977 and August 1979.	United States
Cyclopsitta (=Opopsitta) *diophthalma coxeni* (Coxen's fig parrot)	II	I	Disappeared over much of its former range and now very rare largely as a result of destruction of its rainforest habitat. While not presently in trade, owing to extreme scarcity, its potential in trade is considered high.	Austria
Hapalopsittaca amazonina (rusty-faced parrot)	Not listed	II	Now quite rare throughout range. Overall decline due to forest habitat loss. Potential for substantial trade.	United States.
Ognorhynchus icterotis (yellow-eared conure)	do	II	Large decline in population. Forest habitat extensively cleared. Potential for substantial trade.	United States.
Poicephalus rueppellii (Ruppell's parrot)	do	II	Exploitation could be detrimental to the species owing to its very restricted range and apparently small total population. Some individuals in captivity.	South Africa.
Pyrrhura albipectus (white-necked conure)	do	II	Known only from four specimens. Strong potential might exist for trade.	United States.
Pyrrhura leucotis, population of Brazil (white-eared conure)	do	II	Greatly reduced in numbers by deforestation. Presently only occurs locally. Habitat seriously depleted. Enters local pet trade in small numbers. Potential for international trade.	United States.
Rhynchopsitta terrisi (maroon-fronted parrot)	do	I	Population presently estimated at 1,600 birds. Threat from habitat destruction. No evidence of trade.	United States.
Order PSITTACIFORMES, all remaining species	do	II, for purposes of control only.	Many species in international trade; Similarity in appearance between threatened species and other species creates enforcement difficulties.	United States.
Order PSITTACIFORMES, all remaining species except *Melopsittacus undulatus* (budgerigar).	do	II	Heavy international trade; problems of identification	United Kingdom.
CLASS REPTILIA				
Order CROCODYLIA—Family Crocodylidae: *Crocodylus acutus*, all populations (American crocodile).	II (except I for Florida).	I	Populations largely reduced to remnants at scattered localities. Extirpated from many regions within its range. Extensive international trade in skins. Unkown number traded illegally. Panama population on border of extinction as a result of exploitation for leather goods.	United States, Panama.
Order TESTUDINATA—Family Cheloniidae:				
Chelonia depressa (flatback sea turtle)	II	I	Endemic to coastal Australian waters where it is currently common. Being proposed for listing to facilitate monitoring and control of trade of all Appendix I sea turtles.	Australia.

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Species	Present listing	Proposed listing	Reasons for proposal	Proponent party
Chelonia mydas Australian population (green sea turtle)	II	I	Although abundant in Australian waters, it is proposed for listing in Australia order to monitor and control trade in all App. I sea turtles.	Australia.
Family Dermatemydidae: *Dermatemys mawii* (Central American river turtle).	Not listed	I	Exploitation rapidly depleting populations, which could lead to extinction. The meat is a much sought-after delicacy.	United States.
Family Testudinidae: *Psammobates (= Testudo) geometricus* (geometric turtle).	I	I	Name change in Lieu of *Psammobates geometrica*	South Africa.
Order SQUAMATA—Family Cordylidae:				
Cordylus spp. (girdled lizards)	Not listed	II	Much sought after in pet trade outside Africa. All *Cordylus* and *Pseudocordylus* must be protected because of the confusion between common and rare forms..	South Africa.
Pseudocordylus spp. (crag lizards)	do	II	Same as above	South Africa.
Family Iguanidae:				
Brachylophus fasciatus (Fiji banded iguana)	do	I (by U.S.), II (by Australia).	Limited range. Populations severly reduced by feral cats, habitat destruction, killing by Fijians and trade. Once a common food item. Evidence of smuggling and poaching. Any trade could be detrimental.	United States, Australia.
Brachylophus sp. (unnamed new sp.) (Fiji crested iguana)	do	I	Single population of 100–300 specimens exists on 30 ha. of habitat on a small island. Any trade could be detrimental to this population..	United States, Australia.
Cyclura spp. (West Indian rock or ground iguanas)	II	I	Populations reduced from habitat destruction and introduction of non-native predators and competitors. Further reduction in populations caused by hunting of *Cyclura* for food and collecting for pet trade. Any such trade could be detrimental.	United States
Sauromalus varius (San Esteban Island chuckwalla)	Not listed	I	Total population estimated at 6,000 animals on 200 ha suitable habitat on San Esteban Island. Pet trade shifting from *Iguana iguana* to *Sauromalus*. If large scale removal continues, the species may be faced with extinction.	United States
Order SQUAMATA—Family Varanidae: *Varanus grayi* (Gray's monitor lizard).	II	I	Decline in abundance due to habitat destruction and hunting. Hunted mainly for its edible flesh, some use of skins. Any trade could be detrimental to population.	United States.
CLASS AMPHIBIA				
Order ANURA—Family Pipidae: *Xenopus gilli* (Cape clawed toad)	Not listed	I	Extremely rare and often collected illegally by amateur herpetologists. Considerable demand for use in scientific studies outside of Africa, which is expected to increase in the future.	South Africa.
CLASS OSTEICHTHYES—all blind cave fishes as listed below except *Anoptichys jordani* (blind characin), which is not proposed for listing, and *Caecobarbus geertsi*, which is proposed for Appendix I.	do	II	Because of their generally low population levels, limited geographical ranges, highly specialized food and habitat requirements and apparent inability to breed in captivity, any trade in these fishes could seriously endanger their survival. Trade is currently known to exist for several species, and increasing interest in "unusual" fishes is likely to stimulate further collecting.	United Kingdom.
Order CYPRINIFORMES—Family Cyprinidae:				
Barbopsis devecchi	do	II		
Iranocypris typhlops	do	II		
Phreatichthys andruzzi	do	II		
Caecocypris basimi	do	II		
Typhlogarra widdowsoni	do	II		
Garra sp. nov. (Oman)	do	II		
Family Characidae:				
Anoptichthys antrobius	do	II		
Anoptichthys hubbsi	do	II		
Stygichthys typhlops	do	II		
Family Cobitidae: *Naemacheilus smithi*	do	II		
Order SILURIFORMES—Family Ictaluridae:				
Gronias ngrilabris	do	II		
Prietella phreatophila	do	II		
Satan eurystomus	do	II		
Troglogianis pattersoni	do	II		
Family Clanidae:				
Gymnallabes nops	do	II		
Horaglanis krishna	do	II		
Uegiglanis zammaranoi	do	II		
Family Pimelodidae:				
Caecorhamdella brasiliensis	do	II		
Caecorhamdia undri	do	II		
Pimelodella kronei	do	II		
Family Trichomycteridae:				
Phreatobius cisternatum	do	II		
Pygidianops eigenmanni	do	II		
Typhlobetus terneti	do	II		
Order CYRINIFORMES—Family Cyprinidae: *Caecobarbus geertsi* (*African or Congo blind barb*).	do	I	Known only from seven isolated cave systems in Zaire. Because of low numbers and apparent inability to breed in captivity, any trade would pose a serious threat to the species' survival.	United Kingdom.
CLASS INSECTA				
Order COLEOPTERA—Family Carabidae: *Carabus* spp. (ground beetles).	do	I	Many species and subspecies threatened from over-collecting by entomologists and commercial collectors. Several species have great commercial value. Destruction of habitat also has caused the loss, or rarity, of several forms. The Secretariat of CITES has been advised by France that they will be modifying the present proposal.	France.
Family Scarabeidae: *Dynastes hercules* (Hercules beetle)	do	I	Threatened by habitat destruction, chemical spraying and collecting. Many populations are already rare or extinct as a result of overcollecting. The international market value for adult males is very high.	France.

Species	Present listing	Proposed listing	Reasons for proposal	Proponent party
CLASS ANTHOZOA				
PHYLUM COELENTERATA: Order ANTIPATHARIA—all species (black corals, antipathanans).	do	II	In Hawaii, black corals are commercially harvested for sale to tourists and collected indiscriminately for souvenirs. Uncontrolled and illegal harvesting in parts of the Caribbean is a major threat. These corals are now economically extinct in Japan, Okinawa and Taiwan. Due to difficulties in taxonomy and identification, the entire order is proposed to give wider protection to areas where black coral is threatened by overexploitation.	United Kingdom.
Family Apocynaceae: *Pachypodium namaquanum* (Elephant's trunk)	II	I	Due to its rarity and striking appearance it has become one of the most sought after succulents in the world, illegal trade in large specimens is thought to be considerable.	South Africa.
Family Araliaceae: *Panax ginseng* (Korean ginseng, Oriental ginseng, Chinese ginseng).	Not listed	II, for control purposes only.	Wild populations very rare. Both *Panax* species are extensively traded. *P. quinquefolius* (American ginseng) roots might be dug from within the U.S. and exported as *P. ginseng* thus avoiding CITES controls. The similarity of these species creates enforcement difficulty.	United States
Family Sarraceniaceae:				
Darlingtonia californica (California pitcher plant, cobra lily)	do	II	Habitat modification and commercial collecting are serious threats to many populations, especially in Oregon. Traded internationally.	United States.
Sarracenia alabamensis ssp. *alabamensis* (Alabama canebrake pitcher plant).	do	I	Fewer than 500 individuals from six sites known in 1976. Threat from habitat destruction. Evidence of international trade among private collectors. International interest in carnivorous plants is growing rapidly. Trade could be detrimental to remaining populations.	United States
Sarracenia jonesii (pticherplant)	do	I	Estimated 1,600 individuals remain in four South Carolina Populations considered endangered in North Carolina. Populations have been damaged and diminished through overcollecting by commercial dealers, hobbyists, and botanists. *S. Jonesii* considered Endangered by the The Smithsonian Institution. Continued trade threatens species' survival.	United States
Sarracenia oreophila (green pitcherplant)	do	I	Total number in Alabama estimated at under 700. Georgia Population over 100 plants. Reduction in range due to land development. Collecting by carnivorous plant fanciers is substantially decreasing the populations. Continued trade threatens the survival of this species. A listed U.S. Endangered species.	United States
Family Droseraceae:				
Drosera regia (sundew)	do	I	Considered nearly extinct, known only from one small population. In heavy demand by collectors. Any trade could be detrimental.	United States.
Dionaea muscipula (Venus flytrap)	do	II	North Carolina has records of 96 sites and has verified over 50. Subject to habitat destruction. 1.4 to 1.5 million sold annually in the U.S. International trade estimated at 4 million annually. Smithsonian Institution considers the flytrap to be threatened by overcollecting.	United States
Family Nepenthaceae: *Nepenthes rajah* (pitcherplant)	do	I	Several thousand individuals remain in four populations. Plants regularly smuggled out of range for sale elsewhere. Several small populations could easily be eradicated by one collector.	United States.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: November 3, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-34657 Filed 11-5-80: 8:45 am]

BILLING CODE 4310-55-M

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federal register

Thursday
November 6, 1980

Part IV

Consumer Product Safety Commission

Flammability Standards for Children's Sleepwear; Statement of Enforcement Policy

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Flammability Standards for Children's Sleepwear; Statements of Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Statements of policy.

SUMMARY: The Commission is reissuing, with minor modifications, an enforcement policy statement for the flammability standard for children's sleepwear in sizes 0–6X, originally published by the Federal Trade Commission in 1972. The Commission is issuing the same enforcement policy statement for the flammability standard for children's sleepwear in sizes 7–14. The two statements were published for comment on October 22, 1979. They contain the factors that the CPSC will consider in deciding whether to commence enforcement action on the grounds that particular fabrics or garments are covered by one of the two flammability standards and are not in compliance.

DATES: The enforcement policy statement for children's sleepwear in sizes 0–6X has been in effect since the FTC issued it in 1972. The statement issued below, reflecting minor modifications, will become effective on December 8, 1980. The enforcement policy statement for children's sleepwear in sizes 7–14 will become effective on December 8, 1980.

FOR FURTHER INFORMATION CONTACT: H. Elizabeth Jones, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301)492–6400.

SUPPLEMENTARY INFORMATION:

I. Introduction

For purposes of the Commission's flammability standards for children's sleepwear, most fabrics and garments are either clearly items of sleepwear or are not sleepwear. However, there are some "borderline" fabrics and garments that are not identified by the manufacturer (or importer) as sleepwear, but that resemble sleepwear items in design and appearance. These fabrics and garments may be perceived by the consumer as items of sleepwear. In view of this potential uncertainty about the scope of the sleepwear standards, the Commission believes the manufacturer should have prior knowledge of the factors the Commission considers when examining borderline fabrics or garments to determine if they are subject to the standards.

The enforcement policy statements issued below provide the factors that the Commission will consider before deciding to take enforcement action on the ground that a particular noncomplying item falls within the scope of the flammability standards for children's sleepwear. The Commission need not have evidence on all of these factors before deciding that a fabric or garment is an item of sleepwear and before initiating an enforcement proceeding under the sleepwear standards. Rather, the factors are guidelines for Commission and industry decisions on which fabrics and garments are sleepwear items. In addition, the policy statements encourage manufacturers to place a warning label on a noncomplying fabric or garment if doubts remain after the factors are applied. The presence of such a label would be an additional factor that may affect the Commission's decision as to whether an enforcement action will be initiated against a fabric or garment. A label may tend to indicate that a fabric or garment is not a sleepwear item and does not fall within the scope of the standards. However, a warning label would not prevent the Commission from concluding that the fabric or garment is nevertheless an item of children's sleepwear, based on factors supporting that conclusion.

II. Background

The Standard for the Flammability of Children's Sleepwear: Sizes 0–6X (16 CFR 1615) was issued by the Department of Commerce under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) on July 29, 1971, with an effective date of July 29, 1972. The standard applies to any item of children's sleepwear in sizes 0–6X. "Item" is defined as "any product of children's sleepwear or any fabric or related material intended or promoted for use in children's sleepwear" (16 CFR 1615.1(c)). "Children's sleepwear" is defined as "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping" (16 CFR 1615.1(a)). Diapers and underwear are excluded from the definition.

Before the effective date of the 0–6X standard, certain questions were raised concerning the interpretation of the phrase "intended or promoted" in the definition of "item", and the phrase "intended to be worn primarily for sleeping or activities related to sleeping" in the definition of "children's sleepwear". As a result, the Federal Trade Commission (FTC), the agency that enforced the FFA at that time, published an enforcement policy statement in the **Federal Register** on March 23, 1972 (37 FR 5982). That statement in essence provides that whether a particular fabric or garment falls within the scope of the standard is dependent upon (1) the nature of the product and its suitability for children's sleepwear, (2) the manner in which the product is distributed and promoted, and (3) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. The FTC policy also states that if there is a substantial question as to the applicability of these factors to a particular product, it would be advisable for the manufacturer to place a prominent warning on labels and tags attached to such product to warn the consumer that the product does not meet the flammability standard for children's sleepwear.

On May 14, 1973, all FTC functions relating to the FFA were transferred to the Consumer Product Safety Commission by the Consumer Product Safety Act (15 U.S.C. 2079 (b)). The Consumer Product Safety Act also specifies that all determinations, rules, and regulations issued in the exercise of such functions continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission (15 U.S.C. 2079(e) (2)). The FTC enforcement policy statement therefore remains in effect.

On May 1, 1975 the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616) became effective. This standard issued by the CPSC under the FFA, defines the terms "item" (16 CFR 1616.2(c)) and "children's sleepwear" (16 CFR 1616.2(a)) in the same manner as they are defined in the 0–6X sleepwear standard, except for the reference to size.

On October 22, 1979, the Commission proposed to reissue the FTC enforcement policy statement for children's sleepwear in sizes 0–6X and to issue the same policy statement for children's sleepwear in sizes 7–14. The proposal included certain clarifications as to the use of the enforcement policy statements.

III. Proposed Statements of Enforcement Policy

Like the FTC statement, the CPSC-proposed statements of policy provided that whether a particular fabric or garment falls within the scope of the flammability standards for children's sleepwear is dependent upon (1) the nature of the product and its suitability for children's sleepwear, (2) the manner in which the product is distributed and promoted, and (3) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. The proposal also stated that, if there is a substantial question as to the applicability of these factors to a particular product, it would be advisable for the manufacturer to place a prominent warning on labels and tags attached to such product to warn the consumer that the product does not meet the flammability standards for children's sleepwear. The CPSC proposal further advised that such a disclaimer would not bind the Commission if, in its opinion, the item in question falls within the scope of the standards.

Like the FTC statement, the CPSC-proposed statements of policy provided that retailers also have an obligation to avoid selling "items" of "children's sleepwear" that violate the standards. Retailers were further advised to segregate fabrics and garments covered by the standards from fabrics and garments beyond the scope of the standards, and to utilize store display signs indicating the distinction.

The October 1979 proposal also provided that the policy would be applied in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the May 1979 CPSC Enforcement Policy and Procedural Guides. These procedures provide a firm with 10 days to present its views to the Commission before an enforcement action involving the firm or its products is initiated.

IV. Discussion of Public Comments

The Commission received 12 public comments on its October 1979 proposed statements of policy. Four of these came from individual garment manufacturers and four came from industry associations. The remaining comments came from a nationwide chain retailer, a city fire department and two members of the CPSC's National Advisory Council for the Flammable Fabrics Act.

The following discussion of the public comments is divided into five general topics.

A. *Scope*

Several commenters noted that the policy statements would include certain underwear, such as thermal underwear, as sleepwear subject to the standards, and they pointed out that the standards expressly exclude underwear. The commenters believe this part of the policy statements expands the scope of the flammability standards for children's sleepwear to include underwear. They questioned this perceived expansion because they believe that injury data are not associated with underwear and because the Commission did not amend the standard in accordance with Administrative Procedure Act procedures. One commenter also stated that expanding the scope of the standards would adversely affect the cotton industry.

The policy statements do not expand the scope of the flammability standards for children's sleepwear to cover underwear or any other category of fabrics or garments not previously within the scope of the standards. They merely provide the factors that will clarify whether particular fabrics or garments fall within the scope of the standards. Thermal wear was mentioned in the October 1979 proposal as an example of a type of borderline garment that may or may not be primarily intended for sleeping or activities related to sleeping, depending upon the individual case facts.

The Commission acknowledges that it may not solely rely on the statements of policy to prove that a particular fabric or garment falls within the scope of the standards. In any enforcement action, the Commission will be prepared to prove that the fabric or garment in question is an item of children's sleepwear, as defined in the applicable flammability standard. At that time, any affected firm will be provided an opportunity to litigate the merits of the Commission's claim with respect to the particular fabrics or garments involved, and thus will be afforded due process. In addition, the 10–day procedure described above will precede any Commission enforcement.

The Commission stresses that the factors concerning scope of the standards re guidelines and do not create any new enforcement burden for the Commission. They are merely intended to assist the Commission and the industry in determining what fabrics or garments fall within the scope of the standards. It is not necessary that all of the factors be present for a fabric or garment to be an item of children's sleepwear as defined in the flammability standards. The evidence that will bear on proper classification of any particular fabric or garment will vary from case to case. The final policy statements have been modified to clarify this point.

B. *Suggested Label*

A few commenters addressed the warning label suggested in the proposed statements of policy. A nationwide chain retailer stated that any label advising consumers that a thermal garment does not meet the standard may lead some consumers to believe that others do. The Commission does not expect this to be a problem because it expects all borderline garments to be labeled, and consumers would not expect to see such "negative" labels on non-borderline garments. A different commenter reported that the thermal underwear industry has taken voluntary action to use the word "underwear" on garment labels and packaging and in advertisements.

A comment from Louis Bates, a sleepwear manufacturer, discussed his then-pending petition for a labeling regulation (FP 79–2). Mr. Bates stated in the petition that decorated thermal wear garments have been marketed as children's sleepwear. To address confusion by consumers, he petitioned the Commission to require that such garments not meeting the sleepwear flammability standards bear a label stating:

Caution

This garment does not meet the Flammability Standards for Children's Sleepwear. It is not intended for and is not suitable for use as children's sleepwear.

On July 23, 1980 the Commission, by majority vote, granted the Bates petition and the staff is now preparing a proposed regulation that would require such a label for all children's thermal wear. If a final regulation is issued, children's thermal wear would have to be labeled in accordance with that regulation, and the label suggested in these enforcement policies would be superseded for thermal wear. However, this enforcement policy would still suggest a "negative" label for other borderline items, such as some infant clothing.

c. *Retail Responsibility.* An apparel trade association suggested certain changes in the statements of policy "to place the respective duties of apparel, manufacturers and retailers in the proper perspective." While the proposed policy statements contained guidelines for the retail sale of borderline fabrics or garments, the suggested changes would use stronger and more specific wording.

The Commission agrees with the apparel association that some changes are necessary to isolate and clarify the responsibilities of retailers. The retailer and not the manufacturer of a fabric or garment should generally be subject to an enforcement action, if an item bears a manufacturer's negative label and retail marketing and promotion nevertheless results in a CPSC decision that the fabric or garment falls within

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the scope of the standards. Changes have been made in the final enforcement policy to reflect this approach (at 16 CFR 1615.64(b) and (c) and 16 CFR 1616.65(b) and (c)). At the same time, the Commission notes that it may still enforce the sleepwear standards against the manufacturer of a fabric or garment bearing a negative label if it believes that the item was in fact intended or promoted by such firm primarily for sleeping or activities related to sleeping.

The Commission also believes that the policy statements should be modified to include more specific guidelines on retail promotion and advertisement of sleepwear and non-sleepwear fabrics and garments. Therefore, the final policy statements incorporate the advice that segregation of such fabrics and garments by retailers should be "by placement in different parts of a department or store" (16 CFR 1615.64(c) and 1616.65(c)). In addition, the guidelines indicate that store display signs distinguishing between sleepwear and non-sleepwear garments and fabrics should "[indicate] which are sleepwear items and which are not" (same sections).

Two other public commenters raised points about retailers:

1. One commenter suggested that two terms used in the policy statements be made more precise. The Commission agrees, and has made the suggested changes. "Manufacturer or importer" has been changed to "manufacturer, importer or other person (such as a converter) initially introducing an item subject to the standard into commerce" (16 CFR 1615.64(b) and (c) and 16 CFR 1616.65(b) and (c)). In addition, to include, as intended, all subsequent firms in the channels of distribution, the term "retailer" has been expanded to "retailers, distributors and/or wholesalers" (16 CFR 1615.64(b) and (c) and 16 CFR 1616.65(b) and (c)).

2. Another commenter suggested that the obligations of retailers be specified in existing regulatory provisions (§§ 1615.31(d) and 1616.31(c) of the sleepwear standards), rather than in new subsections, as proposed. However, the referenced existing provisions were issued to address the time period, just before and not very long after the effective dates of the sleepwear standard, when complying and noncomplying sleepwear items were sold at the same time. These requirements concern the identification and segregation of noncomplying sleepwear items from complying sleepwear items, in that particular situation. The Commission did not expect these requirements to place a permanent burden on the retailer, since noncomplying sleepwear items manufactured prior to the effective dates of the standards were expected to clear the channels of distribution within one to three years after the effective dates. The Commission is aware of no evidence that any pre-standard sleepwear is now being sold.

Most children's non-sleepwear items in the marketplace would not be confused with children's sleepwear. Therefore, the Commission believes that it would be unnecessarily burdensome to apply the segregation and identification requirements of §§ 1615.31(d) and 1616.31(c) to all noncomplying children's items, as suggested. The guidelines for retailers will remain in §§ 1615.64(b) and (c) and 1616.65(b) and (c), as proposed.

D. *Ten-Day Period.* The proposed policy statements provided that firms will be informed by letter before they or their products are the subject of enforcement action. Before any such action is taken, the firms will have 10 days within which to provide information, evidence or arguments indicating that the products are not violative or not covered by the standard, unless the Commission determines that the public health and safety require immediate action (16 CFR 1615.64(d) and 1616.65(d)).

One commenter suggested changing the "10 days" to "10 working days from the date of receipt of the Commission's [l]etter". Based upon its experience with this procedure, however, the Commission believes that the 10 days currently provided is sufficient time for an initial response from a firm. Additional response time may be negotiated, if necessary. The change has therefore not been adopted.

E. *FTC Exemption Policy.* Four commentator noted that the proposed statements of enforcement policy did not include the exemptions provided in the 1972 FTC policy statement. These exemptions apply to certain collars, cuffs, labels, vinyl soles, and other functional materials used on sleepwear garments. The commentators strongly urged inclusion of these exemptions in the CPSC policy statements because (1) data presented to the FTC indicated that the exempted portions of the garments presented very little hazard and (2) the industry has relied on the exemptions since 1972.

The commentators are concerned that the CPSC's failure to reissue the exemptions in the FTC policy statement signals a rejection of them. This is not the case. The reproposal of the FTC policy statement for the 0–6X sleepwear standard, and the proposal of the same policy for the 7–14 standard, were directed solely at the issue of borderline fabrics and garments. A problem continued to exist and a solution became necessary. In contrast, exemptions currently involve no problems for enforcement of the sleepwear standards.

The CPSC believes it is unnecessary to reissue the exemptions as a published statement of policy. Rather, the CPSC enforcement staff has affirmed, in a recent Commission-approved compliance advisory letter, that it will apply the exemptions to sleepwear in sizes 0–14. Therefore, the industry should be assured that the CPSC has not signaled any change in its adherence to the exemptions.

V. Conclusion

Therefore, in accordance with provisions of the Flammable Fabrics Act (sec. 5, Pub. L. 90–189, 81 Stat. 569 (15 U.S.C. 1194)) and the Consumer Product Safety Act (sec. 30, Pub. L. 92–573 (15 U.S.C. 2079)), the Consumer Product Safety Commission amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter D, as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Subpart C is amended by adding a new section a follows:

§ 1615.64 Policy to clarify scope of standard.

(a) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1615.1(c), and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" as used in the definition of "children's sleepwear" in § 1615.1(a).

(b) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission according to the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the fabric and its suitability for use in children's sleepwear, (ii) the extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments and (iii) the likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases. Wherever there is a substantial question as to the applicability of the standard after the factors are applied to a particular fabric, it would be advisable for the fabric manufacturer, importer or other person (such as a converter) initially introducing the fabric into commerce to place a prominent warning on labels, shipping invoices, packages, etc., that the fabric in question does not meet the flammability standards for children's sleepwear, and is not intended for and is not suitable for use in children's sleepwear. However, any such disclaimer will not bind the Commission in an enforcement action against the fabric manufacturer, importer or other person (such as a converter) initially introducing the fabric into commerce, if in the Commission's opinion the fabric was in fact promoted by such firm for use in children's sleepwear garments and/or an enforcement action against a wholesaler, distributor or retailer, if in the Commission's opinion the fabric was in fact promoted by such firm for use in children's sleepwear.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping, (ii) the manner in which the product is distributed and promoted, and (iii) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. Wherever there is a substantial question as to the applicability of the standard after the factors are applied to a particular garment, it would be advisable for the garment manufacturer, importer or other person (such as a converter) initially introducing the garment into commerce to place a prominent warning on labels or tags attached to such product to warn the consumer that the product of wearing apparel in question does not meet the flammability standard for children's sleepwear, and is not suitable for use as children's sleepwear. However, any such disclaimer will not bind the Commission in an enforcement action against the garment manufacturer, importer or other person (such as a converter) initially introducing the garment into commerce, if in the Commission's opinion the garment was in fact intended or promoted by such firm primarily for sleeping or activities related to sleeping and/or an enforcement action against a wholesaler distributor or retailer, if in the Commission's opinion the garment was in fact promoted by such firm primarily for sleeping or activities related to sleeping.

(3) For a particular fabric to be intended for use in children's sleepwear or for a particular garment to be children's sleepwear, it is not necessary that all of the relevant factors be present. The factors are guidelines rather than necessary elements of the definitions.

(c) Retailers, distributors and wholesalers, as well as manufacturers, importers and other persons (such as coverters) initially introducing a fabric or garment into commerce, which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote such fabric or garment for use as an item of children's sleepwear. As such, retailers, distributors and wholesalers are advised not to advertise or promote as an item of children's sleepwear any item upon which a manufacturer, importer or other person such as a converter initially introducing the item into commerce has placed a prominent warning that the item does not meet the requirements of the flammability standards for children's sleepwear and is not intended or suitable for such use. In addition, retailers are advised (1) to segregate, by placement in different parts of a department or store, fabrics and garments covered by the standard from all fabrics and garments that are beyond the scope of the standards, but which resemble items of children's sleepwear, (2) to utilize store display signs indicating the distinction between types of fabrics and garments, for example by indicating which are sleepwear items and which are not, and (3) to avoid the advertisement and promotion of a noncomplying fabric or garment in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

(d) The Commission, except as noted below, will apply this policy in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, issued May 1979 and available from the CPSC's Office of the Secretary or from the Directorate for Compliance and Enforcement. Under the procedure described in this chapter, firms will be informed by letter before they or their products may be the subject of enforcement action. Before any such action is taken, the firms will have 10 days within which to provide information, evidence or arguments indicating that the products are not violative or not covered by the standard. However, the Commission may take enforcement action without providing firms 10 days to provide information if it determines that the public health and safety so requires. In determining whether the public health and safety may necessitate acting before the 10-day period ends, the Commission will take into account the nature of the hazard presented by the fabric or garment in question and whether the firm continues to sell it during the 10-day period.

Effective Date: December 8, 1980.

Note.—The policy was initially published by the Federal Trade Commission on March 23, 1972, 1972 (37 FR 5982). It was revised and reissued by the Consumer Product Safety Commission on November 6, 1980.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74)

Subpart C is amended by adding a new section as follows:

§ 1616.65 Policy to clarify scope of the standard.

(a) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1616.2(c), and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" as used in the definition of "children's sleepwear" in § 1616.2(a).

(b) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission according to the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the fabric and its suitability for use in children's sleepwear, (ii) the extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments, and (iii) the likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases. Wherever there is a substantial question as to the applicability of the standard after the factors are applied to a particular fabric, it would be advisable for the fabric manufacturer, importer or other person (such as a converter) initially introducing the fabric into commerce to place a prominent warning on labels, shipping invoices, packages, etc., that the fabric in question does not

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meet the flammability standards for children's sleepwear, and is not intended for and is not suitable for use in children's sleepwear. However, any such disclaimer will not bind the Commission in an enforcement action against the fabric manufacturer, importer or other person (such as a converter) initially introducing the fabric into commerce, if in the Commission's opinion the fabric was in fact intended or promoted by such firm for use in children's sleepwear garments; and/or an enforcement action against a wholesaler, distributor or retailer, if in the Commission's opinion the fabric was in fact promoted by such firm for use in children's sleepwear garments.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worm primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping, (ii) the manner in which the product is distributed and promoted, and (iii) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. Wherever there is a substantial question as to the applicability of the standard after the factors are applied to a particular garment, it would be advisable for the garment manufacturer, importer or other person (such as a converter) initially introducing the garment into commerce to place a prominent warning on labels or tags attached to such garment adequate to warn the consumer that the garment in question does not meet the flammability standard for children's sleepwear, and is not intended for and is not suitable for use as children's sleepwear. However, any such disclaimer will not bind the Commission in an enforcement action against the garment manufacturer, importer or other person (such as a converter) initially introducing the garment into commerce, if in the Commission's opinion the garment was in fact intended or promoted by such firm primarily for sleeping or activities related to sleeping; and/or an enforcement action against a wholesaler, distributor or retailer, if in the Commission's opinion the garment was in fact promoted by such firm primarily for sleeping or activities related to sleeping.

(3) For a particular fabric to be intended for use in children's sleepwear or for a particular garment to be children's sleepwear, it is not necessary that all of the relevant factors be present. The factors are guidelines rather than necessary elements of the definitions.

(c) Retailers, distributors, and wholesalers, as well as manufacturers, importers and other person (such as converters) intially introducing a fabric or garment into commerce, which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote such fabric or garment for use as an item of children's sleepwear. As such, retailers, distributors and wholesalers are advised not to advertise or promote as an item of children's sleepwear any item upon which a manufacturer, importer or other person (such as a converter) initially introducing the item into commerce has placed a prominent warning that the item does not meet the requirements of this standard and is not intended or suitable for such use. In addition, retailers are advised (1) to segregate, by placement in different parts of a department or store, fabrics, and garments covered by the standard from all fabrics and garments that are beyond the scope of the standards, but which resemble items of children's sleepwear, (2) to utilize store display signs indicating the distinction between types of fabrics and garments for example by indicating which are sleepwear items and which are not, and (3) to avoid the advertisement or promotion of a noncomplying fabric or garment in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

(d) The Commission, except as noted below, will apply this policy in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, issued in May 1979 and available from the CPSC's Office of the Secretary or from the Directorate for Compliance and Enforcement. Under the procedure described in this chapter, firms will be informed by letter before they or their products may be the subject of enforcement actions. Before any such action is taken, the firms will have 10 days within which to provide information, evidence or arguments indicating that the products are not violative or not covered by the standard. However, the Commission may take enforcement action without providing firms 10 days to provide information if it determines that the public health and safety so requires. In determining whether the public health and safety may necessitate acting before the 10-day period ends, the Commission will take into account the nature of the hazard presented by the fabric or garment in question and whether the firm continues to sell it during the 10-day period.

Effective Date: December 8, 1980.

Dated: October 31, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-34660 Filed 11-5-80; 8:45 am]

BILLING CODE 6355-01-M

federal register

Thursday
November 6, 1980

Part V

Community Services Administration

Emergency Energy Conservation Program; Energy Crisis Intervention Program, Funding Requirements for Fiscal Year 1981

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COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Funding Requirements for FY 81 Energy Crisis Intervention Program

Note.—This document originally appeared in the **Federal Register** for Tuesday, November 4, 1980. It is reprinted in this issue to meet requirements for publication on the Monday–Thursday schedule assigned to the Community Services Administration.

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule on the FY' 81 Energy Crisis Intervention Program (ECIP). This rule is required to implement the fiscal year 1981 appropriation. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Crawford, Mr. Thomas R. Burns, Community Services Administration, Energy Crisis Intervention Program, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 254–9833, Teletypewriter (202) 254–6218.

SUPPLEMENTARY INFORMATION: On September 4, 1980, CSA published in the **Federal Register** (44 FR 58534) a final rule for its FY' 81 Crisis Intervention Program with a notation that the rule was final and effective on October 6, 1980. On October 7, 1980, CSA published a stay of the final rule in the **Federal Register** (45 FR 66462), which noted that the final rule would not be effective on that date for the reasons specified therein. In the September 4, 1980, published regulations, CSA indicated that it would welcome comments through September 29, 1980, and that the rule could be amended to reflect the comments, if warranted.

A number of comments have been received from the public and prospective grantees, which CSA believes are important enough to warrant amending the rule. In addition, the final level of appropriations for this program has dictated certain changes and clarifications in the rule in order that the CSA program complement the allocations to States under the HHS's Low-Income Energy Assistance Program (LIEAP).

Subpart 1061.51 amended by revising § 1061.51–1 through § 1061.51—14 and its appendices is reprinted in its entirety for the convenience of the public and supersedes the September 4, 1980 regulations.

CSA received 33 written comments from many types of groups, including Community Action Agencies (16), Aging Groups (3), CAP Directors Associations (2), Legal Services Agencies (3), CSA Regional Offices (5), a Governor's office, a State Office of Economic Opportunity and several national organizations. Many of the comments referred to questions of clarification and some of those changes have been incorporated into the final regulation.

Many respondents expressed concern relative to the amount of each grant that could be used for purposes of the direct services provision and, in particular, emergency utility bill paying. It is CSA's position that it would not be consistent with Congressional intent to eliminate in total the direct service and the emergency fuel/utility bill paying capacity of grantees. However, CSA has clarified the criteria to be employed by a grantee prior to the provision of direct services, in general, and emergency fuel/utility bill paying, in particular.

Several respondents urged CSA to revise the definition of Seasonal and Migrant Farmworkers and Indians. CSA has adopted less restrictive definitions for Seasonal and Migrant Farmworkers in order to avoid confusion and provide greater access by these individuals to the program's services. Similarly, the Indian definition has been revised to avoid existing confusion.

Some respondents questioned the maximum level of assistance for alternate energy sources. CSA is concerned that grantees will have sufficient funds to provide adequately for the activities required in the regulations and fund alternate energy sources.

Some commentators expressed concern with regard to the multiple Federal program responsibilities of the ECIP Coordinator. The ECIP Coordinator is expected to mobilize the resources available from other federal, state, and local programs and cooperate fully with those programs. The Coordinator is not to assume programmatic or administrative responsibility for other programs.

Many respondents, specifically Community Action Agencies, expressed concern with the membership requirements of the Project Advisory Committees (PACs). CSA has removed certain restrictions on the PACs membership composition.

CSA has received a number of comments urging that the CSA raise income eligibility to 150% of poverty for the elderly. As a result of an Amendment to the appropriating legislation for the FY 1981 Low-Income Energy Assistance Program, which authorizes single person households at or below 125 percent of poverty to be eligible for HHS's LIEAP, CSA feels it is inappropriate to increase eligibility of the elderly under ECIP. Nevertheless, CSA urges grantees to emphasize program services to the elderly and the handicapped.

CSA is waiving any further comment period because any further delay would be impractical and contrary to the public interest. Additional delay would render it impossible to publish a final rule prior to the onset of winter weather, would not provide prospective grantees sufficient time to prepare applications (work programs and budgets) prior to the onset of winter weather, and would not be consistent with Congressional intent that this program be operated during the onset of the winter weather.

For these same reasons, an emergency exception to the regulatory analysis provision in Executive Order 12044, Improving Government Regulations, is appropriate.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942)

Richard J. Rios,
Director.

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

45 CFR 1061 is amended to add the following:

Sec.

1061.51–1 Applicability.
1061.51–2 References.
1061.51–3 Definitions.
1061.51–4 Background.
1061.51–5 Purpose.
1061.51–6 Policy
1061.51–7 Who can apply for funds?
1061.51–8 What can these funds be used for?
1061.51–9 Who can be served by this program?
1061.51–10 Level of assistance.
1061.51–11 How to obtain funds.
1061.51–12 Project requirements.
1061.51–13 Post funding requirements.
1061.51–14 Termination of program.
Appendix A to § 1061.51–7—Names and Addresses of Migrant Conduits.
Appendix B to § 1061.51–9—CSA Poverty Income Guidelines.
Appendix C to § 1061.51–11(a)—CSA Regional Offices.
Appendix D to § 1061.51–11(a)—CSA National Farmworker Desk Address.

§ 1061.51–1 Applicability.

This subpart is applicable to grants made under section 222(a)(5) of the Economic Opportunity Act 1964, as amended, for Energy Crisis Intervention activities if the assistance is administered by the Community Services Administration.

§ 1061.51–2 References.

(a) Section 222(a)(5) of the Economic Opportunity Act of 1964, as amended.

(b) 45 CFR Subpart 1067.40, Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the Economic Opportunity Act, of 1964, as amended.

(c) 45 CFR Subpart 1050.50, Cost Sharing and Matching.

(d) 45 CFR Subpart 1068.20, Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs.

(e) 45 CFR Subpart 1067.4, Standards for Evaluating the Effectiveness of CSA Administered Programs and Projects.

(f) 45 CFR Subpart 1067.7, Due Process Rights For Applicants Denied Benefits Under CSA Funded Programs.

(g) 45 CFR Subpart 1050.80, Monitoring and Reporting Performance.

(h) 45 CFR Subpart 1050.70, Financial Reporting Requirement.

(i) 45 CFR Subpart 1050.160, Procurement Standards.

(j) 45 CFR Part 260, Department of Health and Human Services Social Security Administration, Low Income Energy Assistance Program.

§ 1061.51–3 Definitions.

(a) "Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

(b) "Elderly" means persons who are sixty years of age or older.

(c) "Handicapped" means those individuals who meet the definition of "handicapped" individuals as defined in section 7(8) of the Rehabilitation Act of 1973, as amended, that is "any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment" or who are under a disability as defined in section 1614(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Act of 1970, as amended, or who are receiving benefits under Chapter 11 or 15 of Title 38, United States Code.

(d) "SSI Benefits" means Supplemental Security Income benefits under title XVI of the Social Security Act, including mandatory and optional payments that the Department of Health and Human Services administers for a State under Subpart T of 20 CFR Part 416 to supplement Federal benefits, but excluding benefits:

(1) Paid under 20 CFR 416.231 because the beneficiary is living in a Medicaid institution and Medicaid is paying more than 50 percent of the cost of care;

(2) Reduced by one-third under 20 CFR 216.1125(b) because the beneficiary is living in another person's household and is receiving both support and maintenance (food and shelter) from that person and is not paying his pro rata share of food and shelter expenses; or

(3) Paid to a beneficiary who is:

(a) A child for SSI purposes under 20 CFR 416.1050; and

(b) Living with a parent or with the spouse of a parent.

(e) "AFDC" means Aid to Families with Dependent Children payments made under title IV–A of the Social Security Act, but not including Foster Care payments under § 233.110 or Emergency Assistance payments to needy families with children under § 233.100.

(f) "Seasonal Farmworker" shall mean a farmworker who during the preceding twelve months has been employed less than 250 days in field or food processing work and who is not a migrant farmworker. This does not include supervisors of other farmworkers.

(g) "Migrant Farmworker" shall mean a person who left home (accepted place of residence) temporarily to do hired field or food processing work which requires travel such that the worker is unable to return home within the same day.

(h) "Indian" means any individual who is a recognized member of a federal or state recognized Indian tribe, Alaskan Native Village or corporation.

(i) "Tribe" or "Indian Tribe" means a distinct community of Indians that exercises powers of self-government and is so recognized by Federal and/or State statute.

§ 1061.51–4 Background.

(a) $87.5 million has been authorized to the Director of the Community Services Administration for carrying out energy crisis related activities under Section 222(a)(5) of the Economic Opportunity Act of 1964.

(b) $3 million of these funds will be set-aide for purposes of outreach activities designed to assure that eligible households with elderly members are aware of the assistance under LIEAP and ECIP.

(c) Eighty percent (80%) of the remaining funds received by CSA will be allocated among the States to eligible applicants as defined in this rule.

(d) The remaining twenty percent (20%) shall be used by CSA to provide such things as training and technical assistance to grantees; to evaluate the program; to support its administration of the program; and to provide grants for special emphasis projects relating to energy and the needs of the poor.

§ 1061.51–5 Purpose.

This rule details the procedures CSA will utilize to implement the FY 1981 Energy Crisis Intervention Program, and outlines the policies and funding criteria which will govern the expenditure of funds allocated under this program.

§ 1061.51–6 Policy.

(a) In keeping with Congressional intent, the CSA Energy Crisis Intervention Program (ECIP) is designed to *complement* HHS's Low Income Energy Assistance Program (LIEAP). The goals of the ECIP are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving community resources to deal with both short and long range energy issues affecting the poor in the specific community.

(b) This program is not an income transfer program. This program does not entitle any person or household to a certain amount or form of assistance. This program is not to be considered as an alternative to those households which have access to direct assistance through other networks and public and private entities. Although CSA has not established any particular priorities, grantees are encouraged to continue to emphasize program services for the elderly and the handicapped.

§ 1061.51–7 Who can apply for funds?

(a) All Community Action Agencies (CAA's) are eligible to apply for ECIP funds to undertake crisis intervention activities in their service areas.

(b) CSA Regional Directors will identify existing CSA grantees to undertake crisis intervention activities in those areas of a state not covered by an existing CAA.

(c) Indian Tribes are also eligible to apply for funds to undertake crisis intervention activities for their service areas. If a CSA Regional Director identifies a significant population of Indians that is not self-governed but which would not be able to receive services outlined in this rule due to geographical isolation or other significant factors, he/she may request a

waiver from Headquarters to fund this Indian group directly. Waivers will be reviewed on a case by case basis.

(d) The Migrant and Seasonal Farmworker organizations designated as CSA conduits (see Appendix A for names and addresses of organizations) are eligible to apply for funds to undertake crisis intervention activities for Migrant and Seasonal Farmworkers.

(e) Grants made in regard to the remaining 20% [§ 1061.51–4(d)] will be to public and private non-profit organizations and agencies which meet CSA's general eligibility criteria.

§ 1061.51–8 What can these funds be used for?

(a) All work programs proposing to undertake energy crisis intervention activities, including emphasis on delivery of the activities to the elderly and handicapped, must include, at a minimum, activities (1) through (4):

(1) *Access.* Grantees must undertake activities to insure that all poor and near poor households are provided access to federal, state or other energy crisis assistance programs. Such activities might include, but are not limited, to the representation of the interests of the poor with utility/fuel vendors, with the program operators of the Low Income Energy Assistance Program (LIEAP), and with the program operators of the Department of Energy's weatherization program.

(2) *Community Mobilization Activities.* Mobilization and organization of community resources to respond to crisis needs within the community.

(i) Mobilization of Organizations—Such activities might include, but are not limited to coordination of religious, social service and other community based organizations to become aware and involved in the energy issues affecting the poor and soliciting their help in ameliorating their effects.

(ii) Mobilization of Goods and Services—Such activities might include but are not limited to securing goods, services, and temporary relocation centers from community based merchants, religious, social service and other organizations to respond to the energy needs of the poor during individual emergencies and periods of crises.

(3) *Direct services.* The provision of direct services in the form of goods or services are to be provided only when these direct services are not available from other sources. These services might include, but are not limited to, providing blankets, warm clothing, temporary shelter, energy-related repairs to housing such as patching a roof or replacing a broken window, furnace repairs and space heaters. Grantees are also permitted to make payments of utility/fuel bills as a one-time form of crisis assistance to a household and only after negotiations with utility/fuel vendors and other energy crisis assistance operators (e.g., LIEAP local program operators and other federal, state and local agencies) have failed to resolve the household's crisis and the determination that sufficient, timely and appropriate assistance is not available from any other source. Grantees must document in the applicant's file, the actions taken on behalf of the applicant before authorizing the payment of a utility/fuel bill. In undertaking this activity, grantees must assure that reconnection of utility service or delivery of fuel actually occurs. Funds under this program shall not be used to weatherize houses.

(4) *Community Planning and Education.* Such as, but not limited to comprehensive energy-related planning to benefit the low-income populace of the area, the dissemination of energy conservation information, the conduct of energy conservation education programs and the provision of information on existing energy programs in the community (e.g., information and referral to the LIEAP).

(5) *Alternate Energy Sources.* Constitutes the replacement of or the substantial supplement to a household's source of energy. This activity is being allowed since grantees may find, in some instances, that the best means of solving an individual household's energy problem is to utilize an alternate energy source.

§ 1061.51–9 Who can be served by this program?

(a) *Income Eligibility.* Notwithstanding the provision of 45 CFR 1060.2(a) found at 45 FR 51561 (8/4/80), for purposes of this program, eligibility shall be limited to households whose incomes total no more than 125% of the CSA Income Poverty Guidelines or whose major income earner receives SSI or AFDC payments. (See definition for SSI and AFDC at 1061.51–3 [d] and [e]). No grantee may change these income eligibility guidelines. (See Appendix "B" for CSA Income Poverty Guidelines.)

(b) *Program Eligibility.* Assistance under this program is to be provided only to households not having access to direct assistance of the same type through any other supportive networks, such as the Low-Income Energy Assistance Program (LIEAP), welfare, or other federally funded programs or who have exhausted such assistance, and the household is experiencing or is in danger of experiencing a life threatening or health-related emergency situation and that sufficient, timely and appropriate assistance is not available from any other source.

(c) *Certification of Income Eligibility Required of Grantees.* Proof of income eligibility shall be required of each applicant. The period for determining eligibility will not be more than 12 months or less than 90 days preceding the request for assistance. The determination of what constitutes income shall be based on the CSA Income Poverty Guidelines. In limited instances when proof of income is unavailable, an applicant must sign a declaration of income eligibility in order to receive assistance. In such cases, the local program operator must make a reasonable number of ongoing checks (no less than 10%) to verify income eligibility.

(d) *Income Disregard.* Benefits made available under this program shall not be considered as income or resources of such household (of any member thereof) for any purposes under any federal or state law, including any law relating to taxation, public assistance or welfare program.

§ 1061.51–10 Level of assistance.

(a) The sum of all forms of direct and alternate energy sources assistance under this program made to and/or on behalf of any eligible household under this program may not exceed $400.

(1) The provision of direct services may not exceed a total of $200 for any eligible household.

(2) No alternate energy source can exceed a total sum of $400.

§ 1061.51–11 How to obtain funds.

(a) Applications for funds under this program, except for applications submitted by Migrant & Seasonal Farmworker Conduits, must be submitted to the appropriate CSA Regional Office. (See Appendix "C".) Applications by the Migrant & Seasonal Farmworker Conduits must be submitted to the Headquarters Migrant & Seasonal Farmworker Office.

(b) Applications should be received within thirty (30) days from the date of publication of these regulations.

(c) *Contents of application.* (1) The following forms are required as part of the application package:

(i) CSA Form 419, Summary of Work Programs and Budget. This form must address all of the activities outlined under § 1061.51–8 which the applicant is going to undertake. Each activity should be addressed separately with a breakdown for the level of funding to support each activity.

(ii) CAP Form 25, Program Account Budget;

(iii) CAP Form 25a, Program Account Budget Support Sheet; and

(iv) SF 424, Federal Assistance.

(2) When delegating part or all of the work program, the applicant must also submit the following:

(i) CAP Form 65, Administering Agency Funding Estimate;

(ii) CAP Form 87, Delegate Agency Basic Information; and

(iii) CAP Form 11, Assurance of Compliance with Civil Rights.

(d) *Clearinghouse review procedures.* (1) OMB has granted a procedural variation of OMB Circular No. A–95 clearinghouse review procedures for the Energy Crisis Intervention Program for FY '81. Due to the emergency nature of the Program, suggested modifications to an application resulting from clearinghouse comments are to be addressed by a grantee or CSA on a post grant approval basis this fiscal year.

(i) Prospective grantees/applicants must submit a full application, including a summary of work programs, to appropriate state and areawide clearinghouses at the time of submission to CSA. Early contact with the clearinghouses prior to submittal of the application is encouraged to determine if the clearinghouses can be of assistance in identifying areas or individuals in need, current assistance being made available and community, areawide, or state networks available that might assist in responding to energy crisis needs.

(ii) State and areawide clearinghouses shall have a total of 60 days from receipt of an application to conduct notifications and reviews. They will be of assistance to the applicant and to CSA if their reviews address the policy considerations identified in § 1061.51–6 as well as appropriate subject matter of comments and recommendations in item 5, Part I, Attachment A of OMB Circular No. A–95, particularly regarding the coordination of energy planning which relates to the needs of the poor. Clearinghouse comments should be sent to the appropriate CSA Regional Office with a copy to the applicant.

CSA reserves the right to modify a grantee's program if it deems documented clearinghouse comments warrant such action. It is expected that grantees will act in good faith in resolving any issues identified by clearinghouses. In instances where issues cannot be resolved, they should be referred to the CSA Regional Office by the clearinghouse or the grantee.

§ 1061.51–12 Project requirements.

(a) *Project Advisory Committee.* (1) Each applicant shall establish a Project Advisory Committee (PAC). However, if the applicant has an existing PAC that is properly constituted, this PAC will satisfy this requirement.

(2) The role of the PAC should include, but not be limited to, the following activities:

(i) Participate in the development of an ongoing review of the proposed work program;

(ii) Recommend to the Grantee board agency policy for the approval or disapproval of requests for the installation of alternate energy sources. The criteria to be used in establishing the policy should include the determination that the installation of the alternate energy source will:

(A) Lessen the impact of the high cost of energy on the household;

(B) Have a significant impact on the household's energy usage pattern; and

(C) Lessen the potential for future energy assistance subsidies.

(iii) Address the energy issues affecting the community as a whole and how they impact upon the poor;

(iv) Make recommendations to the Grantee board on the routine operation of the grantee's crisis intervention program; and

(v) Participate in the development of applications for any future crisis intervention activities.

(3) Membership on the PAC should include at least 51% poor persons as well as representatives of the local governments. The remaining membership should be made up of other energy related resource agencies and organizations, such as energy advocacy organizations, representatives of local public utilities, aging organizations, and local fuel vendors.

(b) *Crisis Intervention Program Coordinator.* A grantee must have at least one energy crisis intervention program (ECIP) coordinator who will be responsible for assuring the implementation of the approved work program. ECIP program funds and other funds from CSA programs may be used to support this position. The ECIP coordinator is expected to mobilize the resources available from other Federal, State and local programs, and cooperate fully. The coordinator is not to assume programmatic or administrative responsibility for other programs.

(c) Non-Federal share requirements. Since this is a program with crisis intervention activities, a matching share is not required. However, grantees are encouraged to mobilize additional resources to supplement and support this program.

(d) *Maintenance of effort.* Assistance provided with funds made available under this program shall be in addition to, and not in substitution for, services previously provided without federal assistance.

(e) *Procedures on denial of assistance.* Grantees are subject to the provisions of 45 CFR § 1067.7 which requires them to have written procedures for the review of the partial or complete denial of assistance to any household or individual.

§ 1061.51–13 Post funding requirements.

(a) *Financial reporting.* Grantees shall follow normal procedures for submission of the SF–269 and SF–272 outlined in 45 CFR Part 1050, Subpart H.

(b) *Project progress review reports.* Grantees shall also follow normal procedures for the submission of the Project Progress Review Report (CSA Form 440) outlined in 45 CFR Part 1050, Subpart I.

(c) *Audit requirement.* The program including its contracted-out components will be audited at the time of the grantee's regularly scheduled CSA audit.

(d) *Procurement.* The procurement standards outlined in 45 CFR § 1050.160 are applicable to this program.

(e) *Administrative costs.* The grantee may expend up to 10% of the total grant for administrative costs except the ECIP Coordinator's salary may be charged against the ECIP program, other CSA programs and non-CSA funds.

(f) *Prohibition against transfer to another grant.* Funds unobligated at the termination of the grant cannot be transferred by the grantee of record to another grant.

§ 1061.51–14 Termination of program.

No funds under this program may be obligated after September 30, 1981. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

Appendix A—Names and Addresses of Migrant Conduits

Migrant Conduits

New England Farmworkers Council (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 11 Frost Street, Springfield, Massachusetts 01105. ECIP Coordinator: Jane Malone, Phone: (413) 781–2145

Rural New York (Serving: New Jersey, New York), 339 East Avenue, Suite 305, Rochester, New York 14604. ECIP Coordinator: Kaven Carney, Phone: (716) 546–7180

Farmworkers Corporation of New Jersey (Serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia), 1400 West Landes Avenue, Vineland, New

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Jersey 08360. ECIP Coordinator: Tom Paque, Phone: (609) 691–7101

Mississippi Delta Housing Development Corporation (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Louisiana), 432 Highway 82 East, P.O. Box 847 Indianola, Mississippi 28751. ECIP Coordinator: Alvin Brown, Phone: (601) 887–4852

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, South Dakota), P.O. Box 1231, St. Cloud, Minnesota 56301. ECIP Coordinator: Irving (Rich) Echola, Phone: (612) 253–7010

Coloneas Del Valle (Serving: Arkansas, New Mexico, Oklahoma, Texas), P.O. Box 907, San Juan, Texas 78759. ECIP Coordinator: Tony Barco, Phone: (512) 781–9795

ORO Development Corporation (Serving: Iowa, Kansas, Missouri, Nebraska), 1208 Kansas Avenue, Kansas City, Kansas 66105. ECIP Coordinator: Marco Marcano, Phone: (913) 342–2121

North Dakota Migrant Council (Serving: Colorado, Montana, North Dakota, Utah, Wyoming), P.O. Box Drawer X, Grand Forks, North Dakota 58201. ECIP Coordinator: Jerry Nagel, Phone: (701) 746–6494

Campesinos Unidos (Serving: Arizona, California, Nevada), P.O. Box 203, Brawley, California 92227. ECIP Coordinator: Tony Cornejo, Phone: (714) 344–4500

Idaho Migrant Council (Serving: Idaho, Oregon, Washington), 7155 Capitol Boulevard, Suite 406, Boise, Idaho 83706. ECIP Coordinator: Roger deLeon, Phone: (208) 345–9761

Appendix B—CSA Poverty Income Guidelines

125 percent of the Poverty-income Guidelines for All States Except Alaska and Hawaii

Size of family unit	Nonfarm family	Farm family
1	$4,738	$4,063
2	6,263	5,351
3	7,788	6,639
4	9,313	7,927
5	10,838	9,215
6	12,363	10,503

For family units with more than 6 members, add $1,525 for each additional member in a nonfarm family and $1,288 for each additional member in a farm family.

125 percent of the Poverty Guidelines for Alaska

Size of family unit	Nonfarm family	Farm family
1	$5,950	$5,113
2	7,850	6,713
3	9,750	8,313
4	11,650	9,913
5	13,550	11,513
6	15,450	13,113

For family units with more than 6 members, add $1,900 for each additional member in a nonfarm family and $1,600 for each additional member in a farm family.

125 percent of the Poverty Guidelines for Hawaii

Size of family unit	Nonfarm family	Farm family
1	$5,463	$4,700
2	7,213	6,175
3	8,963	7,650
4	10,713	9,125
5	12,463	10,600
6	14,213	12,075

For family units with more than 6 members, add $1,750 for each additional member in a nonfarm family and $1,475 for each additional member in a farm family.

Appendix C—CSA Regional Office Addresses

Mr. Ivan Ashley, Regional Director, CSA, Region I, E–400, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (817) 223–4080/FTS–8–223–4080. Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Ms. Josephine P. Nieves, Regional Director, CSA, Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: (212) 364–1900/FTS–8–364–1900. New York: New Jersey, New York, Puerto Rico, Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA, Region III, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: (215) 597–1139/FTS–8–597–1139. Philadelphia: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA, Region IV, 101 Marietta Street NW., Atlanta, Georgia 30303, Phone: (404) 221–2717/FTS–8–242–2717. Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA, Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606. Phone: (312) 252–5562/FTS–8–353—5562. Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA, Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767–6126/FTS–8–729–6126. Dallas: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA, Region VII, 911 Walmut Street, Kansas City, Missouri 64106, Phone: (816) 374–3761/FTS–8–758–3761. Kansas City: Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA, Region VIII, 1961 Stout Street, Federal Building, Denver, Colorado 80294, Phone: (303) 837–4767/FTS–8–327–4767. Denver: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Mr. Alphonse Rodriquez, Regional Director, CSA, Region IX, 450 Golden Gate Avenue, Box 36008, San Francisco, California 94102, Phone: (415) 556–5400/FTS–8–556–5400. San Francisco: Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA, Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442–4910/FTS–8–399–4910. Seattle: Alaska, Idaho, Oregon, Washington.

Appendix D

CSA National Farmworkers Desk Address

Office of Farmworkers Programs, Attn: Mr. Eduardo Gutierrez, 1200 19th Street, NW., Washington, D.C. 20506, Phone: (202) 254–5400.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

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67094 10–9–80 / Idaho; partial revocation of military withdrawal

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66460 10–7–80 / Tacoma, Wash.; commercial zone

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66706 10–7–80 / Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

List of Public Laws

Note: The current listing of October 24, 1980 of public bills which have become law was the last until Congress reconvenes November 12, 1980. For a complete up to date cumulative listing see **Reader Aids** in the issue of Wednesday, November 5, 1980.

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federal register

Book 1 of 2 Books
Friday, November 7

Highlights

74158 **Alpha-Fetoprotein** HHS/FDA proposes to restrict the sale, use and distribution of test kits with certain exceptions and the CDC, PHS and HCFA jointly propose additional quality control and testing requirements; comments for both documents by 1–6–81; hearing on 1–15–81 (2 documents) (Part II of this issue)

74456 **Grant Programs—Medicare and Medicaid** HHS/HCFA announces grant funds for demonstration projects on the effectiveness of providing alcoholism services; apply by 1–15–81 (Part XII of this issue)

74017 **Standby Gasoline Rationing Plan** DOE solicits the 50 States, District of Columbia and Puerto Rico for proposals to preimplement a State Ration Reserve Plan and provides grant awards to complying States

74432 **Petroleum** DOE/ERA amends price regulations to reflect a markup of twenty cents per barrel for all crude oil resellers; effective 12–1–80 (Part X of this issue)

74422 **Energy** DOE publishes interpretations and rulings through 10–15–80 (Part IX of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

74004 **Grant Programs—Telecommunications** Commerce/NTIA announces that applications for planning and construction grants for public telecommunications facilities are invited by 1-19-81, under the Public Telecommunications Facilities Program

73923 **Mobile Homes** HUD/FHC increases loan limits and maturities to the authorized maximum on mobile homes and lot loans; effective 11-7-80; comments by 1-6-81

73962 **Grant Programs—Housing** HUD announces transmittal to Congress of proposal on community development block grants

74384 **School Breakfast and Lunch Programs** USDA/FNS proposes changes in the Summer Food Service Program for children; comments by 12-7-80 (Part VII of this issue)

74093 **Grant Programs—Social** Labor/ETA announces several awards for research on social and institutional processes affecting Hispanic American Employment Outcomes

73955 **Over-the-Counter-Drugs (OTC)** HHS/FDA proposes that hair grower and hair loss drug products be classified as not generally effective and misbranded for OTC use; comments by 2-5-81

74416 **Grant Program Requirements** OMB request comments by 1-15-81, on the OMB circular entitled managing generally applicable requirements for assistance programs (Part VIII of this issue)

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74141 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
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Friday, November 7, 1980

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

[Amendment 15]

Burley Tobacco Quota Program; Correction

AGENCY: Agricultural Stabilization and Conservation Service, USDA.
ACTION: Correction of final rule.

SUMMARY: This document corrects a previous **Federal Register** document relating to the burley tobacco quota program (FR Doc. 80–31682) appearing at page 67296 in the issue for Friday, October 10, 1980.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, Washington, D.C. 20013, (202) 447–7935.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–31682 appearing at page 67296 in the **Federal Register** of Friday, October 10, 1980, Amendment 15 in the heading of the document was shown incorrectly as "Amendment 14". This document corrects the heading to read "Amendment 15".

Final Rule

The heading of the document appearing at page 67296 in the **Federal Register** (FR Doc. 80–31682) of Friday, October 10, 1980, is changed to read "Amendment 15".

Signed at Washington, D.C., on October 30, 1980.

Bill Cherry,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–34697 Filed 11–6–80; 8:45 am]
BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Parts 906 and 944

[Texas Orange and Grapefruit Regulation 32; Orange Import Regulation 11]

Handling Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Fruits; Import Regulations; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.
ACTION: Final rule.

SUMMARY: This action establishes minimum grade and size requirements for Texas oranges and grapefruit and for imported oranges. The action is necessary to assure shipment of ample supplies of fruit of acceptable grade and size in the interests of growers and consumers.

DATES: Effective November 10, 1980, through November 8, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Notice was published in the October 17, 1980, issue of the **Federal Register** (45 FR 68951) that the Department was considering establishment of minimum grade and size regulations, to be effective under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906). This marketing agreement and order regulate the handling of oranges and grapefruit grown in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). A conforming regulation for imported oranges, effective under § 8e (7 U.S.C. 608e–1) of this act, was also considered. The notice provided that all written comments be submitted by November 3, 1980. None were received.

The minimum grade and size requirements for Texas oranges and grapefruit reflect the Department's appraisal of the need for regulating domestic shipments of Texas oranges and grapefruit during the specified period, based on the available supply and current and prospective market demand conditions. The minimum grade and size requirements for imported oranges, which are the same as those for Texas oranges, are issued under § 8e of the act, as required. Both the domestic and import requirements are the same as those currently in effect through November 9, 1980, under § 906.362 Texas Orange and Grapefruit Regulation 31, and § 944.309 Orange Import Regulation 10.

The regulations with respect to Texas oranges and grapefruit are based upon recommendations of the Texas Valley Citrus Committee established under the marketing order. The 1980–81 season Texas orange crop is forecast at 5,600,000 boxes (85 pounds net weight), 39 percent above the 1979–80 crop; while the Texas grapefruit crop is forecast at 9,000,000 boxes (80 pounds net weight), 14 percent more than the 1979–80 production. In Texas, citrus trees recovered well from the summer's heat stress. Irrigation kept adequate moisture on trees to insure good crops. Hurricane Allen brought needed rains which reduced irrigation needs but caused some fruit droppage. Fruit is sizing well and condition is good. Harvest of early oranges began in late September.

The committee estimates that about 50 percent of the Texas orange crop, and 60 percent of the Texas grapefruit crop will be marketed as fresh fruit. In addition to the regulated domestic market (United States, Canada, and Mexico), Texas oranges are also sold in the fresh export market, the processed products market, and the local unregulated market within the production area. Fresh shipments of Texas oranges and grapefruit meet considerable competition in major markets from citrus produced in other areas of the country. This season, about 2 percent of the nation's orange supply and about 13 percent of the nation's grapefruit supply is expected to be produced in Texas.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that

the domestic requirements are in accordance with the provisions of this marketing agreement and order, and that the domestic and import requirements are necessary to establish and maintain orderly marketing conditions, and they will tend to effectuate the declared policy of the act in the interests of growers and consumers.

It is further found that good cause exists for not postponing the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning these regulations, with an effective date of November 10, 1980, was published in the **Federal Register**, and no objection to the regulations or such effective date was received; (2) the recommendation for regulation was developed at a public meeting at which interested persons were afforded an opportunity to submit their views; (3) the regulations will not require any special preparation on the part of the persons subject to these requirements which cannot be completed by the effective time; (4) shipment of the 1980–81 season Texas orange and grapefruit crops have already begun; (5) the regulatory provisions for Texas oranges and grapefruit, and for imported oranges are the same as those currently in effect and those proposed in the notice; (6) the import requirements are mandatory under § 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and they should become effective at nearly the same time as is reasonably practicable as the domestic requirements; (7) the import regulation imposes the same grade and size requirements on imports of oranges as are being made applicable to shipments of Texas oranges; and (8) three days notice thereof, the minimum prescribed by § 8e, is provided with respect to this import regulation.

Therefore, new §§ 906.363 and 944.310 are added to read as follows: (§§ 906.363 and 944.310 expire November 8, 1981, and will not be published in the annual Code of Federal Regulations).

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

§ 906.363 Texas Orange and Grapefruit Regulation 32.

(a) During the period November 10, 1980, through November 8, 1981, no handler shall handle any variety of oranges or grapefruit grown in the production area unless:

(1) Such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1), or U.S. No. 2;

(2) Such oranges are at least pack size 288, as such size is specified in § 2851.691(c) of the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2$^{9}/_{16}$ inches;

(3) Such grapefruit grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, or U.S. No. 2;

(4) Such grapefruit are at least pack size 96, as such size is specified in § 2851.630(c) of the U.S. Standards for Grades of Grapefruit (Texas and States other then Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3$^{9}/_{16}$ inches: *Provided,* That any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3$^{5}/_{16}$ inches;

(5) An appropriate inspection certificate has been issued for such fruit within 48 hours prior to the time of shipment; and

(6) The fruit meets all the applicable container and pack requirements effective under this marketing order.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and diameter shall mean the same as in the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680–2851.714) or in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.620–2851.653).

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.310 Orange Import Regulation 11.

(a) *Applicability to imports.* Pursuant to § 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any oranges is prohibited during the period November 10, 1980, through November 8, 1981, unless such oranges meet the minimum grade and size requirements specified in paragraphs (a)(1) and (a)(2) of § 906.363 Texas Orange and Grapefruit Regulation 32.

(b) It is hereby determined that oranges imported into the United States are in most direct competition with oranges grown in the Lower Rio Grande Valley in Texas, and that the grade and size requirements specified in this section are the same as those being made effective for Texas oranges in § 906.363.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of oranges that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective Service, applicable to the particular shipment of oranges, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) *Minimum quantity exemption:* Any person may import up to ten $^{7}/_{10}$ bushel cartons, or equivalent quantity, of oranges exempt from the requirements specified in this section, except for oranges which have been inspected and found not to meet such requirements.

(f) No provisions of this section shall supersede the restrictions or prohibitions on oranges under the Plant Quarantine Act of 1912.

(g) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of oranges for the purpose of making it eligible for importation. Any lot of oranges or portion thereof which subsequently fails to meet the grade or size requirements specified herein may not be imported. Disposal of such fruit at the port of entry shall be certified by the Federal or Federal-State Inspection Service. Costs of certifying the disposal of rejected oranges shall be borne by the importer.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 5, 1980, to become effective November 10, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-34994 Filed 11-5-80; 1:05 pm]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 278]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 9–15, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 9, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 4, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 910.578 is added as follows:

§ 910.578 Lemon regulation 278.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 9, 1980, through November 15, 1980, is established at 215,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-35055 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorized expenses for the functioning of the South Texas Lettuce Committee. It will enable the committee to collect assessments from first handlers of lettuce grown in the Lower Rio Grande Valley in South Texas and to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal period ending July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis relating to this final rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Pursuant to Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in Cameron, Hidalgo, Starr and Willacy Counties in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable lettuce handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee on October 21, 1980, at McAllen. No objections were offered. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Section 971.219 (44 FR 66178, November 19, 1979) is hereby deleted and a new § 971.220 is added as follows:

§ 971.219 [Deleted]

§ 971.220 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1981, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate amount to $40,875.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be three cents ($0.03) per carton of assessable lettuce handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: November 4, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-34098 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270, 274

[Release Nos. 33-6254, IC-11414, File No. S7-743]

Bearing of Distribution Expenses by Mutual Funds

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a rule to permit open-end management investment companies to bear expenses associated with the distribution of their shares, if such companies comply with certain conditions and procedures. The rule requires that any decision by an open-end management investment company to use its assets to finance distribution be approved by its shareholders and directors, including its disinterested directors. The rule also contains provisions intended to ensure that the disinterested directors are not dominated nor unduly influenced by management and that the directors are fully informed and exercise reasonable business judgment. The procedures in the rule by which shareholders and directors would approve a plan to use assets for distribution are generally similar to those prescribed by statute for approval of investment advisory contracts. The procedural requirements are somewhat less stringent than they were in the rule as proposed.

The Commission also is adopting a rule to exempt from the requirement of prior Commission approval, to the extent necessary, certain agreements between open-end management investment companies and their affiliated persons whereby investment company assets are used for distribution, if such agreements are entered into in compliance with the rule permitting such companies to bear their distribution expenses.

The Commission is adopting certain disclosure and reporting requirements relating to the use of assets for distribution, including a revision of the registration and reporting form for open-end management investment companies.

The Commission is taking these actions because it believes that directors and shareholders of open-end management investment companies should be able to make business judgments to use fund assets for distribution in appropriate cases but that, in view of the investment adviser's conflict of interest with respect to any recommendation to bear distribution expenses and because of uncertainties about whether such companies are likely to benefit from such expenditures, any such exercise of business judgment should be subject to conditions designed to ensure that it is made by persons who are free of undue management influence and have carefully considered all relevant factors.

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT: Richard W. Grant, Special Counsel to the Director, (202) 272–2041, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting rule 12b–1 (17 CFR 270.12b–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act") to permit open-end management investment companies ("mutual funds" or "funds") to bear expenses associated with the distribution of their shares. Among the significant provisions of the rule are the following:

—Selection and nomination of directors who are not interested persons of the fund must be committed to the discretion of such disinterested directors;

—A fund which decides to bear distribution expenses must formulate a written plan describing all material aspects of the proposed financing of distribution, and all agreements relating to implementation of the plan must be in writing; such plan and agreements must contain certain provisions similar to those required by the Act for investment advisory contracts;

—The plan must be approved initially: (1) By a vote of at least a majority of the fund's outstanding voting securities; (2) by its board of directors as a whole; and (3) separately by its directors who are not interested persons of the fund and have no direct or indirect financial interest in the operation of the plan or any agreement related to the plan;

—In considering a plan to finance distribution, the directors must give appropriate weight to all pertinent factors; and

—The directors must decide, in the exercise of their reasonable business judgment and in light of their fiduciary duties under state law and under the Act, that there is a reasonable likelihood that a plan will benefit the fund and its shareholders.

The Commission also is adopting rule 17d–3 (17 CFR 270.17d–3) under the Act to provide an exemption from section 17(d) (15 U.S.C. 80a–17(d)) of the Act and rule 17d–1 (17 CFR 270.17d–1) thereunder, to the extent necessary, for agreements between a mutual fund and its affiliated persons whereby payments are made by the fund with respect to distribution, if such agreements are entered into in compliance with rule 12b–1. The Commission also is adopting certain disclosure and reporting requirements relating to use of assets for distribution, so that funds which bear distribution expenses in accordance with rule 12b–1 will disclose that fact to shareholders and prospective investors, as well as report it in registration statements filed with the Commission.

Background

In November, 1976, the Commission held public hearings on the use of fund assets for distribution.[1] After analyzing the comments and written submissions made at the hearings, the Commission reiterated its traditional view that it is generally improper under the Act for mutual funds to bear direct or indirect expenses related to the distribution of their shares.[2] However, the Commission has been reviewing the issue in light of public interest in and comment on the legal and policy implications of use of fund assets for distribution. In May, 1978, the Commission issued an Advance Notice of Proposed Rulemaking concerning conditions under which mutual funds might be permitted to bear distribution expenses.[3] Release No. 10252 stated the Commission's belief that it would be useful to explore further whether permitting mutual funds to finance distribution could, under some circumstances, benefit investors. It also solicited public comment on a variety of proposed conditions upon such use of assets designed to safeguard the interests of investors.

The Commission reevaluated the issue of funds bearing distribution expenses in view of the comments received in

[1] The hearings were announced in Investment Company Act Release No. 9470 (Oct. 4, 1976) (41 FR 44770, Oct. 12, 1976) ("Release No. 9470"). Copies of the hearing transcripts and written submissions made in connection with the hearings are filed in File No. 4–186.

[2] Investment Company Act Release No. 9915 (Aug. 31, 1977) (42 FR 44810, Sept. 7, 1977).

[3] Investment Company Act Release No. 10252 (May 23, 1978) (43 FR 23589, May 31, 1978) ("Release No. 10252").

response to Release No. 10252[4] and in view of the philosophy and objectives of the Investment Company Act Study being conducted by the Division of Investment Management. The Commission concluded that there were a number of difficulties with some of the conditions proposed in Release No. 10252. Accordingly, in September, 1979, the Commission proposed for public comment rule 12b–1 under the Act.[5] Generally, the proposed rule would make it unlawful for a mutual fund to finance distribution directly or indirectly except in compliance with the rule's substantive provisions. It would prescribe procedural requirements which are similar to those established by the Act for approval of investment advisory contracts, although the requirements of the proposed rule were more stringent. The substantive provisions of the proposed rule would place a great deal of responsibility on fund directors, especially the disinterested directors. The provisions were intended to insure that: (1) The disinterested directors would be free of domination or undue influence by management; (2) the directors would be fully informed and consider all relevant factors; and (3) the directors would exercise reasonable business judgment and would act in a manner consistent with their fiduciary duties.

Summary of Comments on Release No. 10662

Thirty-two comments were received on Release No. 10862.[6] Twenty-two commentators, associated primarily with the mutual fund industry, submitted statements favoring the use of fund assets for distribution.[7] Six commentators argued against such use of fund assets,[8] and one commentator refrained from taking any position on the propriety of a fund using its assets for distribution.[9] In general, most commentators objected to at least some of the provisions of proposed rules 12b–1 and 17d–3. Several commentators also questioned some general statements made by the Commission in Release No. 10862.

Several commentators challenged the fundamental premises underlying the proposed rule. A common statement made by those in favor of using fund assets for distribution was that no Commission rule was necessary to enable funds to finance distribution.[10] Instead, these commentators thought that directors could already authorize a fund to bear distribution expenses. Several commentators thought that the proposed rule would create uncertainty about purportedly well-established and current industry practice whereby the level of advisory fees reflects distribution expenses of the advisers.[11]

Three of the commentators who opposed the use of fund assets for distribution concluded that withdrawal of the proposed rule and a reaffirmation of the Commission's traditional position was warranted because of the assertedly irreconcilable conflicts of interest of fund advisers and because the shareholder benefit would not be as discernible as that of advisers, since advisers clearly benefit from increased sales of fund shares.[12] Dreyfus and Federated, which also opposed using fund assets for distribution, thought that the proposed rule would destroy the entrepreneurial incentives provided by the Act. Dreyfus concluded that the additional responsibilities placed on the disinterested directors would improperly transform their role from one of supervision to one of management. Dreyfus questioned the ability of the disinterested directors to assume the management functions described in Release No. 10862. The board of directors of a fund advised by Dreyfus and a disinterested director[13] from that fund made similar comments individually.

Several commentators criticized the Commission's reliance on section 12(b) for rulemaking authority with respect to distribution and argued that Congress intended section 12(b) (15 U.S.C. 80a–12(b)) to authorize the Commission to adopt rules only where a fund distributed its own shares without an external underwriter.[14] Instead, several submitted that any distribution rule with respect to funds which have principal underwriters should be promulgated only under section 15 of the Act.[15]

Some commentators, who argued in favor of permitting mutual funds to bear distribution expenses, urged the Commssion to adopt the standard for decision-making by fund disinterested directors established by *Tannenbaum* v. *Zeller*, 552 F.2d 402 (2d Cir.), *cert. denied*, 434 U.S. 934 (1977), as the only legal requirement in the distribution area.[16] In *Tannenbaum*, the Court of Appeals for the Second Circuit held that the disinterested directors of a fund did not breach their fiduciary duty to the fund in deciding to forgo recapture of brokerage commissions because: The directors were truly independent of the adviser; they were fully informed of all the available alternatives; and they had made a "reasonable business judgment" after thorough review of all relevant factors. Others would place responsibility with the entire board of directors and/or shareholders.[17] The ABA urged that any rule adopted should apply only to those funds which knowingly elect to use fund assets for distribution purposes.

Two commentators suggested conditions governing use of fund assets for distribution that were, in some respects, similar to the proposed rule. Scudder would be sympathetic to a permissive rule if the independent directors of a fund concluded, acting in good faith, that a fund would benefit from sales expenditures by the fund, and if there was adequate disclosure to and consent by the shareholders. A disinterested director of Vanguard

[4] The comments are summarized in Investment Company Act Release No. 10662 (Sept. 7, 1979) (44 FR 54014, Sept. 17, 1979) ("Release No. 10862").

[5] Release No. 10862. Certain disclosure and reporting requirements relating to the use of fund assets for distribution were also proposed in Release No. 10862. In addition, the release contained proposed rule 17d–3 under the Act.

[6] Copies of the comments are filed in File No. S7–743. Two comments were filed too late to be included in this summary. However, neither contained comments that had not already been made by the other commentators on the proposed rule.

[7] American Bar Association ("ABA"), Capital Research and Management Company ("Capital Research"), The Fidelity Group of Mutual Funds ("Fidelity Group"), Fidelity Management and Research Company ("Fidelity Management"), Neil Flanagin, Gardner, Carton & Douglas ("Gardner"), Investment Company Institute ("ICI"), Investors Diversified Services, Inc. ("IDS"), Investors Group of Companies ("Investors Group"), Alice P. Jones ("Jones"), Jones & Babson, Inc. ("Babson"), Lord Abbett & Co. ("Lord Abbett"), Massachusetts Financial Services Company ("Mass. Financial"), John G. McDonald ("McDonald"), John R. Metcalf, National Association of Securities Dealers, Inc., Paine Webber Cashfund, Inc. ("Paine Webber"), Pilgrim Management Corporation ("Pilgrim"), Charles D. Root, Jr. ("Root"), Scudder, Stevens & Clark ("Scudder"), The Vanguard Group of Investment Companies ("Vanguard"), and Waddell & Reed, Inc. ("Waddell").

[8] American Bankers Association ("American Bankers"), The Dreyfus Corporation ("Dreyfus"), The Dreyfus Third Century Fund, Inc. ("Dreyfus Fund"), Federated Investors, Inc. ("Federated"), State of California, Department of Corporations ("Calif. Department of Corporations"), and Harold N. Warsawer ("Warsawer").

[9] The Association of the Bar of the City of New York ("NYC Bar").

[10] Capital Research, Fidelity Group, ICI, McDonald, and Waddell.

[11] ICI, NYC Bar, Paine Webber, and Waddell.

[12] American Bankers, Calif. Department of Corporations, and Warsawer.

[13] Jones.

[14] Gardner, ICI, Mass. Financial, Paine Webber, and Waddell.

[15] ABA, ICI, Mass. Financial, and Waddell.

[16] Gardner, ICI, IDS, and Lord Abbett.

[17] Federated, Mass. Financial, and McDonald (director approval), and Babson (director and shareholder approval). In the context of responding specifically to the voting provisions of the proposed rule, several commentators, including some who preferred the *Tannenbaum* standard, supported the general concept of shareholder and director approval. Others opposed the requirements for shareholder approval. *See* pp. 13–14 *infra*.

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thought that shareholder interests would be protected by independent directors exercising reasonable business judgments on distribution arrangements where: (1) The independent directors have no connection to or conflicts of interest with investment advisers, distributors, or any other organizations rendering services to the fund; (2) the independent directors are fully informed and represent a diversity of talent; (3) actual distribution expenses, whether paid directly or indirectly, are disclosed to shareholders; and (4) the independent directors review annually the long-term cost effectiveness and benefits to shareholders of any distribution expenses.

Commentators expressed some support for the statement in Release No. 10862 that there would be an indirect use of fund assets for distribution if the advisory fee was inflated to provide the adviser with funds for that purpose [18] and agreement with the position that any rule on distribution should encompass both direct and indirect distribution expenses.[19] In general, however, the commentors either criticized or were confused by the statement that distribution expenses include direct and indirect expenses primarily intended to result in the sale of shares of a fund. The ABA thought that directors should consider whether there is any indirect use of fund assets only if the directors previously made an express determination that a portion of the advisory fee would be used by the adviser to pay distribution expenses. Two commentators [20] thought that, to the extent approval of an underwriting contract which diverted a portion of investors' payments from the fund to the underwriter is deemed to be an indirect distribution expense, a fund and its directors could comply with section 15(b) of the Act (15 U.S.C. 80a–15(b)) and still violate the proposed rule. Others [21] were uncertain whether the indirect bearing of distribution expenses was intended to be subject to the proposed rule. Two commentators [22] urged that the concept of "indirect expenses" be deleted from the proposed rule.

Many commentators misconstrued the discussion in Release No. 10862 of the Commission's longstanding position that an adviser may use its "legitimate" or "not excessive" profits to finance distribution. In the opinion of several, such statements represented an improper and unwarranted expansion of the fiduciary duty standard embodied in section 36(b) of the Act (15 U.S.C. 80a–35(b)).[23] A few commentators concluded that the proposed rule would establish a level of profit standard that was rejected by Congress in 1970, when Congress considered profit standards for investment advisory agreements but instead created the fiduciary duty standard under section 36 (15 U.S.C. 80a–35).[24] The ABA and the ICI thought that every externally managed fund would be forced to adopt the procedures within the proposed rule rather than risk a later determination that the adviser's profits were not legitimate and that the failure to adopt a plan resulted in a violation of the rule. Fidelity Management, on the other hand, thought that the rule would discourage an adviser from using any of its profits for distribution for fear of second guessing by the Commission.

Many of the specific conditions suggested by the Commission drew extensive criticism from the commentators. For example, several objected to the definition of distribution expenses, part of which included a non-exclusive list of activities that would be deemed distribution expenses. Instead, the commentators recommended that the definition be changed to recite precisely all activities that would be deemed distribution expenses.[25]

Similarly, commentators criticized the requirement for two-thirds approval by shareholders and directors for the implementation of a distribution plan. They concluded that, since the potential for conflict in the decision whether a fund should bear distribution expenses would assertedly be no greater than the conflict involved in approving the advisory contract, a majority vote by shareholders and directors should be sufficient to approve a distribution plan,[26] and that there was no statutory basis for the more stringent voting requirements in the proposed rule.[27] Several commentators thought that it would be expensive [28] and difficult [29] for a fund to achieve such a high percentage of shareholder approval. Capital Research and Vanguard were of the opinion that, after the initial shareholder approval of a distribution plan, choice of specific arrangements to be used from time to time should be within the discretion of the board of directors. Capital Research argued against requiring shareholder approval after each adjustment to the basic plan. Other commentators saw no need to require any shareholder approval for a distribution plan proposal.[30]

Several commentators urged the Commission to eliminate the nominating committee requirement because they viewed it as unnecessary,[31] founded on erroneous premises,[32] inconsistent with the Act,[33] and creating additional problems.[34] Commentators also questioned the Commission's views in Release No. 10862 as to the possible lack of independence of independent directors, in light of the analysis by the Supreme Court in *Burks* v. *Lasker*, 99 S. Ct. 1831 (1979), concerning the role of disinterested directors.[35] Vanguard was the only commentator that expressly approved of the requirement that the selection and nomination of disinterested directors be committed to the discretion of the disinterested directors. Several commentators thought that, if the nominating committee concept is preserved in the proposed rule, interested directors should be allowed to participate in the nominating process.[36]

With respect to the requirement that the directors weigh all pertinent factors before deciding to use fund assets for distribution, including a list of nine requisite factors, a majority of commentators on this point preferred the Commission to issue a release incorporating the nine factors.[37] In such a format, they contended, the directors could be made aware of their obligations to consider each factor without the rigidity that they feared would occur if the factors became mandatory provisions in a rule.

The standard of care required of directors in implementing a distribution plan was viewed with concern by some commentators, who thought the standard suggested that there may be fiduciary duties under state law or under the Act which are inconsistent with a business judgment standard.[38] Instead, these commentators joined Mass. Financial in the view that a business judgment standard alone would be appropriate when directors considered adopting a distribution plan.

Release No. 10862 stated that the proxy statement relating to a proposal to use fund assets for distribution would have to describe all material aspects of the plan and all material aspects of any agreements relating to implementation of the plan and it listed numerous disclosure items. The few comments that were received on this portion of the proposed rule generally supported the concept of full disclosure to investors.[39] The Fidelity Group concluded that meaningful disclosure would be the most practical check on excessive commitments of fund assets for distribution expenses. Fidelity Management, however, objected to the list of items in Release No. 10862 that were deemed to be required disclosure items because it was concerned that such a pattern of regulation could be expected to expand into other areas.

Release No. 10862 noted that the Commission has taken the preliminary position in the *Vanguard* [40] proceeding that a fund which bears distribution expenses but which does not charge a front end sales load cannot refer to itself as a "no-load" fund or use equivalent terminology. Release No. 10862 stated further that the Commission would not change its position at this time but that further consideration would be given to the "no-load" issue in connection with the *Vanguard* proceeding. Scudder, adviser to eight "no-load" funds, argued that, if the term "no-load" could be applied where a fund pays promotional expenses, the term would lose its meaning. On the other hand, a few commentators argued that there was no justification for the position taken in the *Vanguard* proceeding because the Act makes a distinction between a "sales load" and "sales or promotional expenses," [41] and because such a prohibition would not necessarily result in fair disclosure.[42]

Commentators on proposed rule 17d–3 requested that the Commission clarify the effects of such a rule,[43] requested that the rule be expanded to encompass fund complexes,[44] and challenged the Commission's asserted characterization of situations raising questions under section 17(d) of the Act.[45] The ICI and IDS objected to what they considered the Commission's position that funds with a common adviser, directors and/or officers are affiliated persons of one another. Paine Webber objected to what it viewed as the assumption in proposed rule 17d–3 that a traditional advisory or distribution agreement involving a single fund and its underwriter is subject to rule 17d–1. Federated and Vanguard argued that distribution services would be done most efficiently on a group-sharing basis and that proposed rule 17d–3 ignores the fact that fund complexes, rather than individual funds, dominate the industry. The ABA questioned whether the proposed rule would apply only with respect to a single fund within a complex, to funds not within a complex, or to several funds within a complex.

[18] Lord Abbett.
[19] Vanguard.
[20] Fidelity Management and Paine Webber.
[21] Pilgrim and Vanguard.
[22] Babson and Pilgrim.
[23] ABA, Federated, IDS, and Waddell.
[24] Federated, NYC Bar, and Waddell.
[25] ABA, ICI, IDS, and NYC Bar.
[26] ABA, Capital Research, Federated, ICI, IDS, Investors Group, NYC Bar, Paine Webber, Pilgrim, Root, and Vanguard.
[27] Babson, Fidelity Management, Gardner, ICI, Mass. Financial, NYC Bar, and Waddell.
[28] ABA, IDS, and Paine Webber.
[29] ABA, Fidelity Management, Gardner, ICI, Lord Abbett, NYC Bar, and Paine Webber.
[30] Fidelity Management, Lord Abbett, and Scudder.
[31] Federated, Lord Abbett, and ICI.
[32] ABA, Federated, Fidelity Group, ICI, Paine Webber, and Pilgrim.
[33] ABA, Federated, Fidelity Group, ICI, Mass. Financial, and NYC Bar.
[34] Dreyfus Fund.
[35] ABA, Federated, Fidelity Group, ICI, and Paine Webber.
[36] ABA, Capital Research, and Fidelity Management.
[37] ABA, Fidelity Management, ICI, Investors Group, and Lord Abbett.
[38] ABA, Federated, and ICI.
[39] Fidelity Group, Fidelity Management, and Lord Abbett.
[40] For a full discussion of this issue, see *In Re The Vanguard Group, Inc.*, Initial Decision, Admin. Proc. File No. 3–5281, 21 (Nov. 29, 1978).
[41] Paine Webber and Vanguard.
[43] Gardner and Paine Webber.
[43] ABA.
[44] Federated, Root, and Vanguard.
[45] ICI, IDS, and Paine Webber.

Discussion

After a thorough review of the comments on proposed rule 12b–1 and the companion rules, the Commission has decided to adopt the rules substantially as proposed in Release No. 10862. In response to the comments, however, the Commission has made certain modifications to proposed rule 12b–1, which are discussed below. Since there may be circumstances under which it would be appropriate for a fund to bear its distribution expenses, the Commission believes there should be some latitude for fund directors to exercise their business judgment to authorize such a use of fund assets. Nevertheless, the Commission still remains generally concerned about: (1) The conflicts which may exist between the interests of a fund and those of its investment adviser in deciding whether a fund should pay its distribution costs; (2) the likelihood that the fund will benefit from paying for such costs, and (3) the fairness to existing shareholders. Therefore, the Commission believes that any permissive rule in this area must contain substantive standards to protect fund shareholders, guidelines to ensure an orderly process of decision-making by directors, and accountability for exercising the authority to use fund assets for distribution. The Commission has concluded that proposed rule 12b–1, as modified, and its companion rules establish an appropriate regulatory balance and should be adopted. The Commission and its staff will monitor the operation of the rules closely and will be prepared to adjust the rules in light of experience to make the restrictions on use of fund assets for distribution either more or less strict.

The Legal Authority To Adopt Proposed Rule 12b–1

Before proposing rule 12b–1 the Commission twice received public comment on its legal authority to regulate the direct or indirect use of fund assets for distribution. The release announcing the public hearings which were held in November, 1976, suggested as an issue for consideration: "What, if any, authority does the Commission have to adopt rules which would permit, prohibit, or limit the use of fund assets to pay distribution expenses?" [46] The Advance Notice of Proposed Rulemaking [47] stated that any ensuing rule proposal would be under section 12(b).

Relatively few of the presentations at the public hearings discussed the legal issues associated with the regulation of fund distribution expenses, but the prevalent view among those who did was that, although the Act did not necessarily prohibit the financing of distribution by funds, the Commission had the legal authority under the Act to prohibit or limit such activity. Of the 51 persons who commented on the Advance Notice, only three questioned the Commission's legal authority under section 12(b); only two argued affirmatively that the Commission lacks the authority to regulate expenditures by funds which have principal underwriters.

However, a significant number of the commentators on Release No. 10862 questioned the Commission's legal authority, so it is important to set forth fully the Commission's basis for relying primarily on section 12(b) for authority to regulate the use of fund assets for distribution.[48] Section 12(b) provides:

It shall be unlawful for any registered open-end company (other than a company complying with the provisions of section 10(d)) to act as a distributor of securities of

[46] Release No. 9470.
[47] Release No. 10252.
[48] It must be noted that the Commission is also relying on other sources of authority as well. Section 38(a) of the Act (15 U.S.C. 80a–37(a)) gives the Commission general authority to adopt rules "necessary or appropriate to the exercise of the powers conferred" elsewhere in the Act and specifically authorizes the Commission to define "accounting, technical, and trade terms" used in the Act. The latter phrase is significant because the term "distributor" in section 12(b) is not defined. In addition, section 17(d) of the Act authorizes the Commission to adopt rules regulating certain joint transactions involving investment companies and their affiliated persons and principal underwriters. The Commission is exercising its authority under section 17(d) to permit arrangements for use of fund assets for distribution which involve covered joint transactions only if such arrangements comply with rule 12b–1.

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which it is the issuer, except through an underwriter, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

Many commentators argued that the Commission has no authority under this provision to regulate the distribution financing activities of funds which have principal underwriters because of the phrase "except through an underwriter." Most of these commentators believed that other provisions of the Act, primarily section 15(b), govern the distribution efforts of funds which have principal underwriters. Some contended that the proposed rule was inconsistent with the basic statutory scheme regulating the relationships between funds and their investment advisers and principal underwriters established by sections 10 and 15 of the Act (15 U.S.C. 80a–10, 80a–15) because some of the procedural and substantive requirements of the proposed rule were more rigorous than similar provisions in the Act.

Section 12(b) was intended to permit the Commission to regulate the use of mutual fund assets to finance distribution. Commission spokesman David Schenker testified that the purpose of the section was to protect funds "against excessive sales, promotion expenses, and so forth."[49] The phrase "except through an underwriter" does not deprive the Commission of authority over the distribution financing activities of funds which have underwriters. If a fund finances distribution, it becomes so actively and intimately involved in the distribution process that, even if it contracts with an underwriter, it cannot fairly be said to be distributing *through* that underwriter. Such a fund should more properly be viewed as acting as a distributor *along with* the underwriter.

[49] H.R. 10065, *Investment Trusts and Investment Companies: Hearings Before a Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 76th Cong. 3d Sess. 112 (1940) (testimony of Commission spokesman David Schenker). H.R. 10065, which became law, embodied a compromise accepted both by the Commission and representatives of the investment company industry. (*Id.* at 15–16.) Shortly after passage of the Act, Alfred Jaretzki, who had participated in drafting the Act as a representative of closed-end companies, wrote about section 12(b):

[a]pparently the Commission was particularly fearful of the possibility that open-end investment companies in their formative stages might be made to shoulder the unprofitable burden of selling and distributing their shares during this period of heavy expenses and small return, building up the investment company for the benefit of some controlling person.

Jaretzki, *The Investment Company Act of 1940*, 26 Wash. U.L.Q. 303, 324–25 (1941) (footnote omitted).

Nevertheless, it is argued that section 15(b) of the Act is the exclusive source of authority to regulate the distribution arrangements of funds with underwriters. However, that section, in contrast to Section 12(b), provides no alternative mechanism for the regulation of fund expenditures to promote distribution. It would appear that section 15(b) is designed to regulate traditional underwriting arrangements, i.e., those where underwriters get their compensation from sales loads. Unlike section 15(a) (15 U.S.C. 80a–15(a)), Section 15(b) does not require any description of the compensation to be paid to the underwriter. This difference presumably exists because Congress did not expect funds to pay underwriters anything. It would appear that Congress sought to regulate under section 15(b) only distribution arrangements as it understood them to exist and did not comtemplate the bearing of distribution expenses by funds which have underwriters. Therefore, it is inconsistent with the purposes of the Act to conclude that Section 15(b) is the exclusive source of regulation of fund expenditures to promote distribution.

General Requirements

Many commentators were critical of the inclusion of indirect distribution expenses within the scope of the rule. Some appeared confused about what might constitute indirect expenses, and others recommended that the rule apply only to direct expenditures. One commentator recommended that directors consider whether there is an indirect use of fund assets only if the directors made an express determination that part of the advisory fee would be used for fund distribution expenses. Accepting these recommendations would make evasion of the rule easy. The Commission has historically been concerned with whether funds are paying for distribution in substance and not with the form of particular arrangements. In this connection, it should be noted that section 48(a) of the Act (15 U.S.C. 80a–47(a)) in effect prohibits doing indirectly that which cannot be done directly. Therefore, the Commission believes that the rule should apply to indirect expenses as well as direct expenses.

However, in light of the uncertainty evinced by the commentators, some further explanation is in order. If a mutual fund makes payments which are earmarked for distribution, that is obviously a direct use of fund assets for distribution. If a fund makes payments which are ostensibly for some other purpose, and the recipient of those payments finances distribution, the question arises whether the fund's assets are being used indirectly. The Commission's position has been and continues to be that there can be no precise definition of what types of expenditures constitute indirect use of fund assets. That judgment will have to be made based on the facts and circumstances of each individual case. Under proposed rule 12b–1, fund directors, particularly the disinterested directors, would bear substantial responsibility for making that judgment. Under sections 15(a) and (c) of the Act they are also responsible for evaluating and deciding whether to approve the advisory contract. In fulfilling these obligations directors of mutual funds would have to give careful scrutiny to any past, present or planned expenditures by the investment adviser for distribution, and determine on the basis of the facts of each particular case whether such expenditures constituted an indirect use of fund assets in violation of their fiduciary obligations under section 36 of the Act and in contravention of the rule. The Commission and its staff will continue to scrutinize arrangements which appear to involve the indirect use of fund assets for distribution.

Much of the confusion among the commentators arose from the description in Release No. 10862 of the effect proposed rule 12b–1 would have on advisers who bear the cost of distribution. Many commentators misconstrued the Commission's reaffirmation of its position that distribution financing activities by investment advisers do not necessarily involve an indirect use of fund assets. It is hoped that the following explanation will clarify the Commission's position. It is the Commission's view that, an indirect use of fund assets result if any allowance is made in the adviser's fee to provide money to finance distribution. Therefore, when an adviser finances distribution, fund directors, in discharging their responsibilities in connection with approval of the advisory contract, must satisfy themselves either that the management fee is not a conduit for the indirect use of the fund's assets for distribution or that the rule has been complied with. However, under the rule there is no indirect use of fund assets if an adviser makes distribution related payments out of its own resources. In determining whether there is an indirect use of fund assets, it is appropriate to relate a fund's payments pursuant to the advisory contract to the adviser's expenditures for distribution and to view such expenditures as having been made from the adviser's profits, if any, from the advisory contract. To the extent that such profits are "legitimate" or "not excessive", the adviser's distribution expenses are not an indirect use of fund assets. Many commentators drew unwarranted inferences from the use of "legitimate" and "not excessive" in Release No. 10862. Profits which are legitimate or not excessive are simply those which are derived from an advisory contract which does not result in a breach of fiduciary duty under section 36 of the Act. The courts have not established definitive standards for determining what does or does not constitute a breach of fiduciary duty in the compensation area, and, although the Commission reserves the right to express its own views of what such standards should be, it has not done so.

Some commentators suggested that the definition of distribution expenses recite precisely all activities that would be deemed distribution expenses. Recognizing that new distribution activities may continuously evolve in the future, and in view of the impracticability of developing an all-inclusive list, the Commission maintains that the better approach is to define distribution expenses in conceptual terms (e.g., financing activities primarily intended to result in the sale of fund shares).

Procedural Requirements

The Commission has reevaluated the requirement in the proposed rule for two-thirds approval by shareholders in light of comments about the practical difficulties funds anticipated in getting sufficient shareholder participation, as distinct from approval, to meet the two-thirds requirement. Consequently, the rule, as adopted, requires only a majority shareholder vote. The Commission believes that the approval requirements, including the requirement of director approval, are sufficient to protect adequately shareholder interests in deciding whether it is necessary or appropriate for a fund to bear its distribution expenses. In addition, the Commission does not believe it is necessary to impose the extraordinary requirement that two-thirds of the disinterested directors and of the board as a whole approve the use of fund assets for distribution. It is not clear that the practical effect of such a requirement would justify deviation from the normal requirement of a majority vote, especially since in most cases it would require the support of as many disinterested directors to achieve a majority vote as it would to achieve a two-thirds vote.

The rule has also been amended to clarify that, subsequent to the adoption of a distribution plan, only modifications which would materially increase the amount of money to be spent need be submitted to the shareholders for approval. Moreover, agreements pursuant to a plan will not be subjected to a shareholder vote. The Commission recognizes that once a distribution plan has been approved in the manner prescribed in the rule, directors should be allowed some discretion to modify agreements with the providers of distribution services as the circumstances change.

Independence of Directors

Permitting the use of fund assets for distribution is a major regulatory change for the Commission. This change reflects both altered circumstances and a determination by the Commission that adoption of rule 12b–1 is appropriate in light of the regulatory reform objectives of the Investment Company Act Study. Two central goals of the Study are to permit investment companies to exercise wider latitude in making business judgments without Commission approval and to enhance the role of directors, particularly the disinterested directors, in scrutinizing investment company affairs. These goals are interdependent in that the more capable the disinterested directors are of overseeing the kinds of activities of investment companies which are of regulatory significance, the more the Commission will be willing to reduce regulatory restrictions.

The Commission views a decision to use fund assets for distribution as a particularly difficult business judgment which is complicated by the conflicts of interest which are present. Since rule 12b–1 does not restrict the kinds or amounts of payments which could be made, the role of the disinterested directors in approving such expenditures is crucial. No formal provisions in a rule can insure that directors will make the right decision in every instance; however, the likelihood that a decision will be in the best interests of a fund and its shareholders will be increased if the disinterested directors are genuinely independent of management. Of course, a requirement that the tenure of disinterested directors be independent of management control will not guarantee that disinterested directors will in fact be independent. Nevertheless, experience indicates that such formal independence will breed an atmosphere in which actual independence will develop. The well-documented trend among corporations generally toward director independence (e.g., the increasing number of boards which have independent majorities and majority independent committees, including nominating committees) strongly implies a recognition of the validity of this proposition. Accordingly, the Commission believes that, in order for rule 12b–1 to be effective, disinterested directors must be independent.

The Commission remains concerned that there will be situations in which disinterested directors may not be able to act with complete independence in deciding whether to use fund assets for distribution because of the possibility that the advisers' control over the funds they advise could lead to domination of or undue influence over the disinterested directors. The Commission recognizes that many advisers who control the funds they advise would not attempt to misuse such control over the disinterested directors and that many disinterested directors are fully independent. However, the Commission still believes that it is appropriate to enhance the independence of disinterested directors by adopting the provisions of paragraph (c) as proposed. This belief reflects the cumulative experience of the staff in regulating the mutual fund industry and, for that reason, citations of such cases as *Burks* v. *Lasker*[50] are not apposite. Whatever *Burks* or *Tannenbaum* may have said about the theoretical role of disinterested directors or about the actual independence of the directors who were involved in those cases, it is the Commission's view that as a general proposition disinterested directors should not be entrusted with a decision on use of fund assets for distribution without receiving the benefit of measures designed to enhance their ability to act independently.

With respect to the argument that paragraph (c) is extra statutory, the Commission acknowledges that there are no identical provisions in the Investment Company Act, although

[50] 99 S. Ct. 1831. In *Burks* the Supreme Court held, in part, that the Act did not forbid disinterested directors from terminating non-frivolous law suits. In that case, the Court did not pronounce generally that under all circumstances disinterested directors are able to act with genuine independence. Instead, the court recognized that because of the potential conflicts, "some restraints upon the unfettered discretion of even disinterested mutual fund directors, particularly in their transactions with the investment adviser" may be justified (at 1839). Although the Commission does not view the measures in the rule which will enhance the independence of disinterested directors to be restraints upon such directors, the Commission believes that such measures, in the context of a permissive rule to allow funds to pay distribution expenses, are consistent with the Supreme Court's caution concerning the role of disinterested directors and are necessary and appropriate.

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section 15(f) contains provisions of similar import.[51] Nevertheless, the Commission believes that paragraph (c) is a reasonable restriction. That provision does not impose a new regulatory requirement on all investment companies; instead it makes available an exemption from regulation for companies which elect to institute a corporate governance mechanism which, as suggested above, is consistent with salutary developments among corporations of all types.

Factors

In order to avoid the appearance of either unduly constricting the directors' decision making process or of creating a mechanical checklist, the Commission has decided to delete the list of factors from rule 12b–1. However, in order to insure a proper record of the deliberative process, the rule will require preservation of minutes. Since corporate minutes are frequently cryptic, the rule requires explicitly that these minutes set forth the factors the directors considered, together with an explanation of the basis for the decision to sue fund assets for distribution.

Although the Commission has decided not to require directors to consider any particular factors, the Commission believes that the factors enumerated in rule 12b.1 would normally be relevant to a determination of whether to use fund assets for distribution. Therefore, it appears that setting forth those factors in this release may provide helpful guidance to directors. The following list of factors is the same as the list contained in proposed rule 12b–1, except for slight amplification of the fourth factor:

(1) Consider the need for independent counsel or experts to assist the directors in reaching a determination;

(2) Consider the nature of the problems or circumstances which purportedly make implementation or continuation of such a plan necessary or appropriate;

(3) Consider the causes of such problems or circumstances;

(4) Consider the way in which the plan would address these problems or circumstances and how it would be expected to resolve or alleviate them, including the nature and approximate amount of the expenditures; the relationship of such expenditures to the overall cost structure of the fund; the nature of the anticipated benefits, and the time it would take for those benefits to be achieved;

(5) Consider the merits of possible alternative plans;

(6) Consider the interrelationship between the plan and the activities of any other person who finances or has financed distribution of the company's shares, including whether any payments by the company to such other person are made in such a manner as to constitute the indirect financing of distribution by the company;

(7) Consider the possible benefits of the plan to any other person relative to those expected to inure to the company;

(8) Consider the effect of the plan on existing shareholders; and

(9) Consider, in the case of a decision on whether to continue a plan, whether the plan has in fact produced the anticipated benefits for the company and its shareholders.

Reasonable Business Judgment

The Commission is adopting the standard of care required of directors in implementing a distribution plan as proposed originally in Release No. 10862. The Commission intentionally did not define the relationship between a "reasonable business judgment" and "fiduciary duties" under state law and under sections 36 (a) and (b) of the Act, nor did it define those director activities that would be consistent with each concept. The Commission did this in recognition that the concepts are constantly evolving and, particularly, that there have been no comprehensive or definitive interpretations of the various fiduciary duty requirements of section 36. Certainly it was not the Commission's intent to assert any such interpretation of its own. Rather, as stated clearly in Release No. 10862, paragraph (e) incorporates directors' existing duties in order to emphasize that formal compliance with the other provisions of the rule will not establish a safe harbor. The Commission believes that the standards for accountability placed on the directors concerning their decision to implement a distribution plan are necessary and are consistent with the standards under the Act and under state law required of fund directors in other decision making contexts.

Disclosure and Reporting Requirements

The Commission is adopting the disclosure and reporting requirements substantially as proposed in Release No. 10862 for the reasons stated in that release.[52] As noted above, the few comments that were received on the disclosure and reporting requirements generally supported the concept of full disclosure to investors. Moreover, the Commission continues to believe that it is inappropriate, at this time, to modify the position taken in the *Vanguard* proceeding that a fund which bears distribution expenses but which does not charge a front-end sales load cannot refer to itself as a "no-load" fund or use equivalent terminology. Instead, the Commission remains of the opinion that it is more appropriate to give further consideration to this issue within the context of the *Vanguard* proceeding.

Proposed Rule 17d-3

The Commission is adopting rule 17d-3 as proposed in Release No. 10862. One commentator asked whether the rule 17d-3 exemption would apply to several funds within a complex. Each fund within a complex can make individual and independent determinations, in accordance with the provisions of rule 12b-1, to bear its own distribution expenses. To the extent that each fund independently decides to bear its own distribution expenses, and to the extent that the provisions of section 17(d) and rule 17d-1 would otherwise apply, the exemption under rule 17d-3 is available. However, the Commission remains of the opinion that it would be inappropriate, in view of the *Vanguard* proceeding, to extend rule 17d-3 to arrangements for the joint sharing of distribution costs by funds which are affiliates (or affiliates of affiliates) of each other. The Commission wished to emphasize that it has no intention of categorizing certain transactions as raising the applicability of section 17(d) and rule 17d-3 of the Act. The Commission's only comment is that, to the extent that arrangements in which a fund pays for its distribution costs would involve the fund in a "joint enterprise" with an affiliated person, and if such arrangements were entered into in compliance with rule 12b-1, the Commission sees no need for prior Commission review and approval of the arrangements.

Authority, Effective Date

The Commission, pursuant to section 12(b) (15 U.S.C. 80a-12(b)), and section 38(a) (15 U.S.C. 80a-37(a)) of the Act hereby amends 17 CFR Part 270 by adding new § 270.12b-1. Further, the Commission pursuant to section 17(d) (15 U.S.C. 80a-17(d)) and 38(a) of the Act hereby amends 17 CFR Part CFR Part 270 by adding new § 270.17d-3. Finally, the Commission is amending 17 CFR Part 239 and 17 CFR Part 274 by amending § 239.15 and § 274.11, pursuant to sections 6, 7, 8, 19, and 19(a) of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a)), and sections 8 (15 U.S.C., 80a-8) and 38(a) of the Act. This action is effective immediately pursuant to the Administrative Procedure Act (15 U.S.C. 553(d)(1)).

I. Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. Adding a new § 270.12b-1 as follows:

§ 270.12b–1 Distribution of shares by registered open-end management investment company.

(a)(1) Except as provided in this section, it shall be unlawful for any registered open-end management investment company (other than a company complying with the provisions of section 10(d) of the Act (15 U.S.C. 80a–10(d))) to act as a distributor of securities of which it is the issuer, except through an underwriter.

(2) For purposes of this section, such a company will be deemed to be acting as a distributor of securities of which it is the issuer, other than through an underwriter, if it engages directly or indirectly in financing any activity which is primarily intended to result in the sale of shares issued by such company, including, but not necessarily limited to, advertising, compensation of underwriters, dealers, and sales personnel, the printing and mailing of prospectuses to other than current shareholders, and the printing and mailing of sales literature.

(b) A registered, open-end management investment company ("Company") may act as a distributor of securities of which it is the issuer: *Provided,* That any payments made by such company in connection with such distribution are made pursuant to a written plan describing all material aspects of the proposed financing of distribution and that all agreements with any person relating to implementation of the plan are in writing: *And further provided,* That:

(1) Such plan has been approved by a vote of at least a majority of the outstanding voting securities of such company;

(2) Such plan, together with any related agreements, has been approved by a vote of the board of directors of such company, and of the directors who are not interested persons of the company and have no direct or indirect financial interest in the operation of the plan or in any agreements related to the plan, cast in person at a meeting called for the purpose of voting on such plan or agreements; and

(3) Such plan or agreement provides, in substance:

(i) That it shall continue in effect for a period of more than one year from the date of its execution or adoption only so long as such continuance is specifically approved at least annually in the manner described in paragraph (b)(2) of this section;

(ii) That any person authorized to direct the disposition of monies paid or payable by such company pursuant to the plan or any related agreement shall provide to the company's board of directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made; and

(iii) In the case of a plan, that it may be terminated at any time by vote of a majority of the members of the board of directors of the company who are not interested persons of the company and have no direct or indirect financial interest in the operation of the plan or in any agreements related to the plan or by vote of a majority of the outstanding voting securities of such company; and

(iv) In the case of an agreement related to a plan,

(A) That it may be terminated at any time, without the payment of any penalty, by vote of a majority of the members of the board of directors of such company who are not interested persons of the company and have no direct or indirect financial interest in the operation of the plan or in any agreements related to the plan or by vote of a majority of the outstanding voting securities of such company on not more than sixty days' written notice to any other party to the agreement, and

(B) For its automatic termination in the event of its assignment; and

(4) Such plan provides that it may not be amended to increase materially the amount to be spent for distribution without shareholder approval and that all material amendments of the plan must be approved in the manner described in paragraph (b)(2) of this section;

(5) Such plan is implemented and continued in a manner consistent with the provisions of paragraphs (c), (d), and (e) of this section;

(c) A registered open-end management investment company may rely on the provisions of paragraph (b) of this section only if selection and nomination of those directors who are not interested persons of such company are committed to the discretion of such disinterested directors;

(d) In considering whether a registered open-end management investment company should implement or continue a plan in reliance on paragraph (b) of this section, the directors of such company shall have a duty to request and evaluate, and any person who is a party to any agreement with such company relating to such plan shall have a duty to furnish, such information as may reasonably be necessary to an informed determination of whether such plan should be implemented or continued; in fulfilling their duties under this paragraph the directors should consider and give appropriate weight to all pertinent factors, and minutes describing the factors considered and the basis for the decision to use company assets for distribution must be made and preserved in accordance with paragraph (f) of this section;

Note.—For a discussion of factors which may be relevant to a decision to use company assets for distribution, see Investment Company Act Releases Nos. 10862, September 7, 1979, and 11414, October 28, 1980.

(e) A registered open-end management investment company may implement or continue a plan pursuant to paragraph (b) of this section only if the directors who vote to approve such implementation or continuation conclude, in the exercise of reasonable business judgment and in light of their fiduciary duties under state law and under sections 36(a) and (b) (15 U.S.C. 80a–35 (a) and (b)) of the Act, that there is a reasonable likelihood that the plan will benefit the company and its shareholders; and

(f) A registered open-end management investment company must preserve copies of any plan, agreement or report made pursuant to this section for a period of not less than six years from the date of such plan, agreement or report, the first two years in an easily accessible place.

2. Adding a new § 270.17d–3 as follows:

§ 270.17d–3 Exemption relating to certain joint enterprises or arrangements concerning payment for distribution of shares of a registered open-end management investment company.

An affiliated person, of, or principal underwriter for, a registered open-end management investment company and an affiliated person of such a person or principal underwriter shall be exempt from section 17(d) of the Act (15 U.S.C. 80a–17(d)) and rule 17d–1 thereunder (17 CFR 270.17d–1), to the extent necessary to permit any such person or principal underwriter to enter into a written

[51] Section 15(f) requires, inter alia, that the board be three-fourths disinterested for three years after a sale of an interest in the investment adviser resulting in assignment of the advisory contract.

[52] The Commission has slightly amended proposed new Item 9, Part II, Form N–1 (17 CFR 239.15, 274.11) in order to facilitate monitoring of expenditures for distribution.

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agreement with such company whereby the company will make payments in connection with the distribution of its shares, *Provided*, That:

(a) Such agreement is made in compliance with the provisions of § 270.12b–1; and

(b) No other registered management investment company which is either an affiliated person of such company or an affiliated person of such a person is a party to such agreement.

II. Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By adding new Item 1(b)(15), Part II of Form N–1 as follows:

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

§ 274.11 Form N–1, registration statement of open-end management investment companies.

* * * * *

Item 1. Financial Statements and Exhibits.

* * * * *

(b) Exhibits:

* * * * *

(15) copies of any plan entered into by Registrant pursuant to rule 12b–1 under the 1940 Act, which describes all material aspects of the financing of distribution of Registrant's shares, and any agreements with any person relating to implementation of such plan.

2. By adding new Item 9, Part II, of Form N–1 and renumbering current Item 9 in Part II as Item 10:

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

§ 274.11 Form N–1, registration statement of open-end management investment companies.

* * * * *

Item 9. Distribution Expenses.

Furnish a summary of the material aspects of any plan pursuant to which the Registrant incurs expenses related to the distribution of its shares, and of any agreements related to the implementation of such a plan. The summary should include, among other material information, the following:

(a) The amounts paid by the Registrant under the plan during the last fiscal year, as a total dollar amount and a percentage of Registrant's average net assets during that period;

(b) The manner in which such amount was spent on:

(i) Advertising,

(ii) Printing and mailing of prospectuses to other than current shareholders,

(iii) Compensation to underwriters,

(iv) Compensation to dealers,

(v) Compensation to sales personnel, and

(vi) Other (specify).

(c) Whether any of the following persons had a direct or indirect financial interest in the operation of the plan or related agreements:

(i) Any interested person of the Registrant; or

(ii) Any director of the Registrant who is not an interested person of the Registrant.

(d) The benefits, if any, to the Registrant resulting from the plan.

Instruction: In responding to this item the Registrant should take note of the requirements of rule 12b–1 under the 1940 Act (17 CFR 270.12b–1).

By the Commission.

George A. Fitzsimmons,

Secretary.

October 28, 1980.

[FR Doc. 80-34786 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 240 and 249

[Release No. 34–17258, File No. S7–590]

Filings by Self-Regulatory Organizations of Proposed Rule Changes and Other Materials with the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and form; revocation of rule and form.

SUMMARY: The Commission is amending the requirements applicable to the filing by self-regulatory organizations of proposed rule changes and certain other materials. The amendments, which are intended to facilitate the review of proposed rule changes, (i) specify in greater detail the information required in a filing; (ii) expand the categories of proposed rule changes that may become effective summarily to include certain rules effecting changes in existing services of registered clearing agencies; and (iii) clarify which actions of self-regulatory organizations are proposed rule changes. In addition, the Commission is revoking the requirement that self-regulatory organizations file stated policies, practices, and interpretations not deemed to be rules. The Commission is also revoking requirements that each national securities exchange or registered securities association file separately information about its rules in effect on June 4, 1975, and certain forms, reports, or questionnaires. Finally, the Commission is adopting a rule requiring registered clearing agencies to file material they make generally available. The Commission is withdrawing, in a separate release, proposals relating to these matters.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Susan Davis, Esq., (202) 272–2828; or Jeffrey Jordan, Esq., (202) 272–2847, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the following action with respect to proposals in its May 1979 release [1] (the "Proposal Release") to facilitate review of proposed rule changes of self-regulatory organizations under Section 19(b) [2] of the Securities Exchange Act of 1934 (the "Act"): [3]

(1) Adoption of amendments to Rule 19b–4 under the Act,[4]

(A) Clarifying which actions of a self-regulatory organization constitute proposed rule changes,

(B) Providing summary effectiveness for certain rules changing existing services of registered clearing agencies,

(C) Eliminating the requirement that a self-regulatory organization file on Form 19b–4B [5] notice of stated policies, practices, and interpretations not deemed to be rules, and

(D) Eliminating the requirement that each national securities exchange and registered securities association file information about its rules in effect on June 4, 1975.

[1] Securities Exchange Act Release No. 15838 (May 18, 1979), 44 FR 30924 (May 29, 1979). The Commission received comments in response to the Proposal Release from the American Stock Exchange, Inc. ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), Depository Trust Company ("DTC"), Municipal Securities Rulemaking Board ("MSRB"), National Association of Securities Dealers, Inc. ("NASD"), National Securities Clearing Corporation ("NSCC"), New York Stock Exchange, Inc. ("NYSE"), and Options Clearing Corporation ("OCC"). Securities and Exchange Commission File No. S7–590 ("File No. S7–590").

[2] 15 U.S.C. 78s(b). Section 19(b) requires a self-regulatory organization to file with the Commission each of its proposed rule changes, accompanied by a concise general statement of the basis and purpose of the proposed rule change. A proposed rule change cannot take effect unless the Commission approves it, or it is otherwise permitted to become effective under Section 19(b). To approve a proposed rule change, the Commission must find that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization proposing the rule change.

[3] 15 U.S.C. 78a *et seq.*

[4] 17 CFR 240.19b–4. Rule 19b–4 was adopted in August 1975. Securities Exchange Act Release No. 11804 (Aug. 19, 1975), 40 FR 40509 (Sept. 3, 1975).

[5] 17 CFR 249.819b.

(2) Adoption of amendments to Form 19b–4A [6] and redesignation of Form 19b–4A as Form 19b–4.

(3) Revocation of Form 19b–4B, on which notice is filed of stated policies, practices, and interpretations not deemed to be rules.

(4) Revocation of Rule 17a–18,[7] which requires national securities exchanges and registered securities associations to file new or substantially modified forms, reports, or questionnaires.

(5) Adoption of Rule 17a–22 [8] requiring registered clearing agencies to file materials they issue or make generally available.

(6) Withdrawal of proposed amendments to Rule 19b–4 and Form 19b–4A that would have provided summary effectiveness for certain proposed rule changes of self-regulatory organizations circulated, for pre-filing review, to the Commission and to persons who would be subject to the rules.

(7) Withdrawal of proposed Rule 3b–7, which would have defined the term "rule" of a self-regulatory organization for purposes of Sections 3(a)(27) and 3(a)(28) of the Act.[9]

The Commission's actions announced today [10] are intended to facilitate the review of proposed rule changes of self-regulatory organizations [11] and are designed to complement the Commission's ongoing program to improve the review process.[12] The self-regulatory organizations have also undertaken efforts to improve the review process and have substantially assisted the Commission in its efforts in this area. Continued cooperation and communication between the Commission and the self-regulatory organizations is essential to the efficient administration of Section 19(b).

The Commission's actions are discussed in detail in the remainder of this release,[13] which consists of the following sections:

I. Amendments to Form 19b–4.

II. Expansion of categories of proposed rule changes that may become effective on filing.

III. Self-regulatory organization actions constituting proposed rule changes.

IV. Revocation of certain filing requirements; adoption of rule 17a–22 concerning registered clearing agencies.

V. Statutory basis.

VI. Text of rules and form.

I. Amendments to Form 19b–4

A major problem the Commission has encountered in administering Section 19(b) is that many proposed rule change filings have not provided an adequate basis for Commission review. As a result, the Commission's staff has had to devote considerable time and resources to obtaining from self-regulatory organizations necessary information not provided in the filings, thereby delaying the rule review process. To avoid such delays, the Commission proposed amendments to Form 19b–4A designed to elicit the information necessary for it to review proposed rule changes promptly and efficiently. The Commission is adopting the proposed amendments with the modifications described below and is redesignating Form 19b–4A as Form 19b–4.

A. Instruction B. Need for Careful Preparation of the Completed Form, Including Exhibits

The Commission proposed a new Instruction B to Form 19b–4 emphasizing that the information required by the form is necessary for the Commission to determine whether, as required by Section 19(b) of the Act, a proposed rule change is consistent with the Act and the rules and regulations thereunder. Instruction B also makes clear that any filing not in compliance with the requirements of the form may be returned to the self-regulatory organization at any time before issuance of the notice of filing.

Commentators expressed concern that Instruction B would permit the Commission or its staff to return filings on the basis of substantive objections.[14] Instruction B, however, does not contemplate that filings will be returned for reasons other than failure to comply with the requirements of the form.

Another commentator stated that Instruction B could exacerbate pre-filing delays unless the Commission established a limit on the time for determining whether a filing is deficient.[15] The Commission intends to publish notices of filing promptly. Since prompt publication of the notices will effectively reduce pre-filing delays, the Commission believes that establishing further limits on the time for pre-filing review is unnecessary.

The Commission believes that the information provided on Form 19b–4 must be adequate to support a Commission finding that a proposed rule change is consistent with the Act and applicable rules and regulations.[16] Returning deficient filings permits the Commission and its staff to focus on filings that provide an adequate basis for review. Accordingly, the Commission is adopting Instruction B, as proposed, with only editorial changes.

B. Instruction D. Amendments

Instruction D prescribes requirements for amending rule change filings. The Commission proposed certain amendments to the instruction, including requirements to indicate changes, if any, made from the preceding filing and from existing rules of the self-regulatory organization.

One commentator stated that when amending a filing the self-regulatory organization should not be required to submit the entire text of a lengthy rule in order to alter, for example, only one page of the text.[17] The Commission agrees that the filing requirement should afford some flexibility in that regard and has revised the instruction to provide that if the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may file only those portions of the text in which amendments are made if the filing is clearly understandable on its face.

Instruction D has also been revised in several other respects. First, it has been revised to make clear that the self-regulatory organization must file, in accordance with Instruction F, copies of any correspondence or other communications reduced to writing (including comment letters) to and from the self-regulatory organization that it prepares or receives on a proposed rule change after the rule change is filed with the Commission but before the Commission takes final action on it. Second, Instruction D has been revised to provide that if information in such a communication makes the rule change filing inaccurate, the filing must be amended to correct the inaccuracy.

[6] 17 CFR 249.819a.

[7] 17 CFR 240.17a–18.

[8] 17 CFR 240.17a–22.

[9] 15 U.S.C. 78c(a)(27), 78c(a)(28).

[10] In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q–1(d)(3)(A)(i), at least fifteen days before this announcement, the Commission consulted and requested the views of the Board of Governors of the Federal Reserve System.

[11] Rule 19b–4 applies only to proposed rule changes of self-regulatory organizations. The Commission has proposed a separate rule under the Act, proposed Rule 11Aa3–2, which would establish procedures relating to plans governing the planning, developing, operating or regulating of a national market system, or one or more facilities thereof. See Securities Exchange Act Release No. 16410 (Dec. 7, 1979), 44 FR 72607 (Dec. 14, 1979).

[12] Each year since 1975 the Commission has received approximately three hundred filings of proposed rule changes and stated policies, practices, and interpretations not deemed to be rules.

[13] The withdrawal of proposed Rule 3b–7 and certain proposed amendments to Rule 19b–4 and Form 19b–4A is the subject of a brief companion release also issued today, Securities Exchange Act Release No. 17259 (October 30, 1980) (the "Companion Release").

[14] DTC, NASD, and NYSE Responses, File No. S7–590.

[15] Amex Response, File No. S7–590.

[16] *See* text accompanying n. 24, *infra*.

[17] NASD Response, File No. S7–590.

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Third, it has been revised to describe more clearly the manner in which changes made by the amendment are to be marked. Finally, the instruction has been revised to provide that the self-regulatory organization is required to explain the purpose of the amendment and, if the amendment changes the purpose of the proposed rule change, it is also required to provide a revised statement of the purpose of the proposed rule change.[18]

C. Instruction E. Completion of Action by the Self-Regulatory Organization on the Proposed Rule Change

Instruction E provides that if the self-regulatory organization files a proposed rule change before it has completed all action necessary for internal approval of the change, it must consent to an extension of time until at least thirty-five days after the self-regulatory organization files an amendment stating that it has completed action on the rule change. One commentator stated that the requirement is unnecessarily rigid.[19] The commentator suggested that the instruction should provide for extensions of up to thirty-five days, to be negotiated as circumstances warrant.

In most instances, after the self-regulatory organization files an amendment stating that it has completed action on the proposed rule change, the Commission requires thirty-five days to complete its review. Where the Commission completes its review before expiration of the thirty-five day period, it can accelerate effectiveness of the rule change.[20] Accordingly, the Commission is adopting Instruction E without the suggested amendment.

D. Item 1. Text of the Proposed Rule Change

Paragraph (a) of Item 1 requires the self-regulatory organization to set forth the text of the proposed rule change. The Commission proposed to amend paragraph (a) to require the self-regulatory organization to submit any existing form, report, or questionnaire that is directly related to a proposed rule change. A number of self-regulatory organization rules are implemented through prescribed forms, reports, or questionnaires not set forth in the text of the rules published by the self-regulatory organization. In considering such rules, the Commission reviews the related forms, reports, or questionnaires. Accordingly, to expedite the review process, the Commission is adopting the amendment to Item 1(a) as proposed.

Paragraph (b) of Item 1 of Form 19b–4A as originally adopted requires the self-regulatory organization to set forth the text of any rules the application of which is affected, directly or indirectly, by the proposed rule change. In response to comments that that requirement was overly burdensome, the Commission proposed to amend paragraph (b) to require that the designation or title, rather than the text, of such rules be provided.

One commentator suggested that the Commission revise paragraph (b) to delete the requirement that the self-regulatory organization list those rules that the proposed rule change affects indirectly.[21] The commentator stated that the requirement is unwieldy and burdensome because indirect effects cannot be predicted fully and accurately.

The Commission does not intend to require the self-regulatory organization to predict every effect a proposed rule change could have on the organization's existing rules. Rather, the Commission intends to require the self-regulatory organization merely to identify those rules on which the organization reasonably expects the proposed rule change to have direct or significant indirect effects. Accordingly, the Commission has revised the amendment to Item 1(b) to make that intent clear.

E. Item 2. Procedures of the Self-Regulatory Organization

Item 2 requires the self-regulatory organization to describe action on the proposed rule change taken by its members or board of directors or other governing body. The Commission proposed to amend Item 2 to require the self-regulatory organization to provide the name and telephone number of the staff member prepared to respond to questions and comments on the proposed rule change. The Commission has revised the amendment, in light of a suggestion made by one commentator,[22] to provide for instances where different persons at the self-regulatory organization are best prepared to discuss different aspects of the proposal.

F. Item 3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Item 3 of Form 19b–4A as originally adopted requires a statement of the purpose of a proposed rule change, and Item 4 requires a statement of its basis under the Act. The Commission proposed to combine the statements of purpose and basis. The Commission also proposed amendments to specify in detail the information required in the statement, making clear that the statement should be sufficiently detailed and specific to support a Commission finding under Section 19(b) that the proposed rule change is consistent with the Act and rules and regulations thereunder. Several commentators objected to proposed Item 3, contending that the required statement either is unnecessary or exceeds the Section 19(b)(2) requirement for a "concise" statement.[23]

The statement of purpose and basis must be sufficient to support a finding by the Commission that a proposed rule change is consistent with the Act and rules and regulations thereunder. The Congress anticipated that, in most instances, the Commission's statement of reasons for approving a proposed rule change would "simply be an endorsement of the justification filed by the self-regulatory agency."[24] The Commission is adopting the proposed amendments to the statement of purpose and basis, limiting the requirement to discuss problems persons are likely to have in complying with the proposed rule change. In light of objections raised by commentators,[25] the Commission has modified that requirement to require discussion only of significant compliance problems.

G. Item 4. Self-Regulatory Organization's Statement on Burden on Competition

Item 4 requires the self-regulatory organization to provide a discussion of any burden on competition the proposed rule change would impose. The Commission proposed to amend Item 4 to make it clear that the discussion must be clearly articulated and thorough and to specify in detail the information to be included.

One commentator stated that the proposed amendment would require self-regulatory organizations to speculate on competition issues.[26] A second commentator suggested that the requirement to discuss competition issues raised by commentators should be limited to significant issues.[27]

The Commission believes that the statement concerning any burden on competition must be sufficiently detailed and specific to support a Commission finding that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act and is adopting Item 4 essentially as proposed. It has, however, revised the requirement to respond to comments received concerning any impact on competition to comments received concerning any significant impact on competition.[28]

H. Items 5 and 9. Comments on the Proposed Rule Change

Item 5 requires the self-regulatory organization to summarize the comments it receives on a proposed rule change. The Commission proposed to amend Item 5 to require the self-regulatory organization to respond in detail to significant issues raised by commentators that are not discussed in response to Items 3 or 4.

One commentator stated that the requirement in Item 5 to respond to comments is unnecessary in light of the Item 4 requirement to provide a discussion of comments on any burden on competition.[29] A second commentator stated that the requirement is unnecessary because self-regulatory organizations will not risk rejection or disapproval of a proposed rule change by failing to respond to any comment concerning the statutory basis for the proposed rule change.[30] This commentator also stated that the new requirement would, in effect, require the self-regulatory organization to respond to every comment received because the significance of a comment would be determined not by the self-regulatory organization but by the Commission's staff in its review of the filing.[31] A third commentator stated that the comments to which the self-regulatory organization must respond should be limited to written comments, at least as far as clearing agencies are concerned.[32]

The requirement in Item 5 to respond to comments does not duplicate the Item 4 requirement to discuss comments on competition. Item 5 provides that if a comment is addressed in the statement of basis and purpose (Item 3) or discussion of competition issues (Item 4), the self-regulatory organization should cross-reference the response.

The Commission does not believe that the requirement to respond to comments raising significant issues would impose an undue burden on self-regulatory organizations. The amendment is intended to require only that the self-regulatory organization respond to written comments. The volume of such comment letters usually is not great. Frequently, none or at most a very few are received. Moreover, it has not been the Commission's experience that the comment letters typically raise inappropriate or trivial issues. Accordingly, the Commission is adopting the amendment to Item 5, modified to make clear that the requirement applies only to written comments.

A related provision, Item 9, requires the self-regulatory organization to file copies of any comment letters it receives. The Commission proposed to amend Item 9 to require the self-regulatory organization to provide, in addition to the required copies of comment letters, an alphabetical list of such letters and a transcript of comments on the proposed rule change made at any public meeting or, if a transcript is not available, a summary of such comments.

One commentator suggested that the Commission make it clear that the term "public meeting" does not include, except to the extent specifically designated as "public," meetings such as board meetings, committee meetings, and informal meetings between staff and members of the self-regulatory organization.[33] The Commission does not intend, and does not believe the term "public meeting" is generally understood, to cover such meetings. The Commission believes transcripts or summaries of comments made at public meetings would facilitate Commission review.[34]

The Commission is adopting Item 9 as proposed with one revision. It has revised Item 9 to reflect the requirement in Instruction D that the self-regulatory organization file copies of any correspondence or other communications reduced to writing (including comment letters) to and from the self-regulatory organization concerning the rule change that it receives or prepares after the proposed rule change is filed with the Commission but before the Commission takes final action on it.

I. Item 7. Basis for Summary Effectiveness or Accelerated Effectiveness of the Proposed Rule Change

Item 7 requires the self-regulatory organization to indicate under which provision of Section 19(b)(3), if any, it is designating the proposed rule change for summary effectiveness. The Commission is amending that item to reflect the new category for summary effectiveness of certain clearing agency rules.[35] It is also adding a new paragraph (d) to Item 7 providing that if the self-regulatory organization requests accelerated effectiveness pursuant to Section 19(b)(2), it must provide a statement explaining why there is good cause for the Commission to accelerate effectiveness.[36]

J. Item 8. Proposed Rule Change Based on Other Rules

The Commission proposed a new Item 8 to require the self-regulatory organization to state whether a proposed rule change is based on a rule of another self-regulatory organization or of the Commission and, if so, to identify the rule and explain any differences between that rule and the proposed rule change.

One commentator asserted that it is inappropriate to require the self-regulatory organization to interpret the rules of another self-regulatory organization, with respect to which it does not have jurisdiction, expertise, or experience.[37] The Commission is adopting Item 8, revised to make clear that any discussion of rules of other self-regulatory organizations or of the Commission is to be based on the self-regulatory organization's understanding of those rules.

K. Exhibit 1. Notice of Filing

The Commission is adopting the proposed amendments to Exhibit 1 of Form 19b–4, the Notice of Filing for

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[18] As indicated elsewhere in this release, the Commission has decided not to adopt the proposed category for summary effectiveness of proposed rule changes subjected to pre-filing review (see text accompanying n. 46 *infra*). Therefore, the Commission is withdrawing related proposed amendments to Instructions D and E and Item 7. See the Companion Release.

[19] NYSE Response, File No. S7–590.

[20] Section 19(b)(2) of the Act provides that the Commission shall not approve any proposed rule change before the thirtieth day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for doing so. If the self-regulatory organization requests accelerated effectiveness pursuant to Section 19(b)(2), it should so indicate in Item 7(d) of Form 19b–4 and provide a statement explaining why there is good cause for the Commission to accelerate effectiveness.

[21] NYSE Response, File No. S7–590.

[22] *Id.*

[23] DTC, NASD, and NYSE Responses, File No. S7–590.

[24] Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Sess. 30 (1975).

[25] DTC and NASD Responses, File No. S7–590.

[26] DTC Response, File No. S7–590.

[27] NYSE Response, File No. S7–590.

[28] See text accompanying n. 29 *infra*.

[29] NYSE Response, File No. S7–590.

[30] Amex Response, File No. S7–590.

[31] *Id.*

[32] DTC Response, File No. S7–590.

[33] Amex Response, File No. S7–590.

[34] The Commission is amending paragraph (h) of Rule 19b–4, to require that a self-regulatory organizations retain in a file, available for public inspection and copying, any correspondence and other communications reduced to writing (including comment letters) to and from such self-regulatory organization concerning any proposed rule change filing, whether the correspondence or communication is prepared or received before or after the filing of the proposed rule change.

[35] See text accompanying n. 49 *infra*.

[36] See n. 20 *supra*.

[37] NYSE Response, File No. S7–590.

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publication in the **Federal Register.**[38] The Commission is also adopting two other amendments to Exhibit 1. First, it is amending Item I to require that the response to the item include only the terms of substance of the proposed rule change or the text of the proposed rule change, if it is relatively brief. Second, it is amending Item II to require a brief summary of the most significant aspects, rather than the full text, of the responses to Items 3, 4, and 5 in the completed Form 19b–4. These two changes are designed to reduce the length of notices published in the **Federal Register.**

II. Expansion of Categories of Proposed Rule Changes That may Become Effective on Filing

Section 19(b)(3)(A)(iii) of the Act [39] authorizes the Commission to expand the categories of proposed rule changes that self-regulatory organizations may designate for summary effectiveness.[40] The Commission proposed to exercise that authority by amending Rule 19b–4 to permit the self-regulatory organization to designate a proposed rule change for summary effectiveness if the self-regulatory organization provides a thirty-day pre-filing comment period on the rule and before the rule change becomes operative affords the Commission a sixty-day period to consider abrogation (and refiling under Section 19(b)). The proposal was intended to permit proposed rule changes to be put into effect more rapidly than frequently is the case when full Commission review and approval are required.

Commentators questioned both the usefulness of the proposed category [41] and the Commission's authority to adopt it.[42] The major objection to the proposed amendment was to the length of time required between circulation and operation of the rule.[43] Commentators stated that the time savings offered by the proposed category would not be sufficient to cause them to forego Commission approval under Section 19(b)(2). They suggested that the proposed new category be revised either to permit the Commission to use its discretion to set a postfiling operative date up to 60 days after filing [44] or to dispense with the post-filing delay in operation.[45]

The proposed category for summary effectiveness was intended to provide, consistently with the purposes of Section 19(b), a meaningful opportunity for public comment on, and Commission review of, proposed rule changes filed under the category. The Commission believes that the suggested revisions do not make sufficient provision for comment or review before such rule changes become operative. Accordingly, because commentators indicated that they would not use the new category as proposed, the Commission is withdrawing the proposal.[46]

The Commission also is not adopting the proposal suggested by certain commentators [47] that proposed rule changes of limited duration be permitted to become effective summarily. The proposal does not make adequate provision for pre-effective comment or review, nor does it provide sufficient assurance that a defective rule could be abrogated promptly. A substantive rule change involving, for example, facilities implementation or clearing practices that became operative under the proposed category might not be able to be withdrawn without undue disruption. The Commission also does not agree with commentators that the proposal would reduce the Commission's work. In fact, if adopted, the proposal might require a disproportionate amount of staff time for evaluation of such filings to avoid disruption resulting from abrogation.[48]

The Commission, however, is expanding the categories of clearing agency rules that may become effective summarily, as suggested in the Proposal Release and supported by clearing agency commentators.[49] Clearing agencies often include in their rules the precise mechanical or operational details of their procedures.[50] Frequently, minor changes in these details do not fail within any existing category of proposed rule changes that may be designated for summary effectiveness, and therefore they require Commission review and approval.

Proposed rules dealing solely with mechanical or operational details of existing clearing agency services are similar to "solely administrative" rules, which currently qualify for summary effectiveness under Section 19(b)(3)(A)(iii) of the Act. Allowing such changes to become effective on filing should increase staff time available to review other filings. The Commission believes that it is consistent with the public interest and the purposes of Section 19(b) to amend paragraph (d) of Rule 19b–4 (redesignated as paragraph (e)) by adding a new subparagraph (4) to provide that:

> (e) A proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act if properly designated by the self-regulatory organization as * * *
>
> * * * * * *
>
> (4) effecting a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

The Commission believes that permitting such proposed rule changes to become summarily effective could expedite the review process significantly.[51] For example, proposed rule changes that make minor modifications or improvements in services or implement changes of a "housekeeping" nature would be eligible for summary effectiveness under the category.[52]

III. Self-Regulatory Organization Actions Constituting Proposed Rule Changes

The Commission's proposals to facilitate filing and review of proposed rule changes included a new rule, proposed Rule 3b–7, defining the term "rule." That definition was intended to clarify which stated policies, practices, and interpretations and other self-regulatory actions must be filed as proposed rule changes. Commentators, however, stated that they did not believe the proposed definition would provide clarification.

The Commission has decided to withdraw proposed Rule 3b–7 and to amend Rule 19b–4 to specify more precisely which self-regulatory actions constitute proposed rule changes. The amendments to Rule 19b–4 are discussed in detail below. As background for that discussion, this section first discusses (A) the standards under the Act and under Rule 19b–4 as originally adopted for determining which actions are proposed rule changes and (B) proposed Rule 3b–7.

A. Standards Under the Act and Rule 19b–4 as Originally Adopted

Section 19(b) defines the term "proposed rule change" to mean any proposed rule or any proposed change in, addition to, or deletion from the rules of the self-regulatory organization. Read together, Sections 3(a)(27) and 3(a)(28) of the Act define "rules of a self-regulatory organization" to mean (i) the rules of the MSRB and the constitution, articles of incorporation, bylaws, and rules, or instruments corresponding thereto, of any other self-regulatory organization, and (ii) such stated policies, practices, and interpretations of the self-regulatory organization, other than the MSRB, as the Commission deems to be rules.

Paragraph (b) of Rule 19b–4 as originally adopted defines "stated policies, practices, and interpretations" to include certain self-regulatory actions and paragraph (a) of the rule deems certain of these to be rules. The definition of "stated policies, practices, and interpretations" in paragraph (b) focuses primarily on whether the self-regulatory action is either a material aspect of the operation of the facilities of a self-regulatory organization or a statement that is made generally available to specified persons and has certain effects on those persons.[53] Paragraph (a) deems a stated policy, practice, or interpretation to be a rule only if it meets one of several primarily procedural tests, such as being required, under the rules of the self-regulatory organization, to be approved by the organization's governing body.[54] The standards established by paragraphs (a) and (b) were entended to ensure that all significant regulatory actions by self-regulatory organizations would be subject to Commission review.

The definition of "stated policies, practices, and interpretations" in paragraph (b) of Rule 19b–4 is sufficiently broad to encompass most significant self-regulatory initiatives. The definition, however, does not make clear that certain significant regulatory matters that may be considered to concern "privileges," rather than "rights or obligations," are within the definition. In addition, the definition does not cover significant interpretations if they are not made generally available, even if the interpretation is approved or ratified by the governing body of the self-regulatory organization.

The Commission believes that paragraph (a), which deems certain stated policies, practices, and interpretations to be rules, focuses too extensively on procedural aspects of how the statement was adopted rather than on the substance of the statement. For example, paragraph (a) deems a stated policy, practice, or interpretation to be a rule if it is required to be approved by the governing body of the self-regulatory organization; however, not all matters that are required to be so approved are necessarily significant enough to warrant Commission review. At the same time, certain other matters that are not required to be approved by the governing body have significant regulatory effects and should be subject to Commission review.

B. Proposed Rule 3b–7

Proposed Rule 3b–7 was intended to resolve problems encountered with Rule 19b–4 by defining the term "rule" functionally, instead of procedurally, to include statements and stated policies, practices, and interpretations having specified significant regulatory effects.[55] The definition of "rule" in proposed Rule 3b–7 was drawn, in large part, from the definition of "rule" in the Administrative Procedure Act ("APA").[56] The definition expressly excluded certain stated policies, practices, and interpretations of the self-regulatory organization that are reasonably and fairly implied by the organization's existing rules.

Commentators raised a number of objections to the proposed definition of "rule." Several commentators stated that they believe the meaning of the term "rule" is already sufficiently clear. They questioned both the Commission's authority to define "rule"[57] and the usefulness of doing so.[58] One commentator stated that the proposed definition of "rule" is difficult to read

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[38] For the reasons expressed in the Proposal Release, the Commission plans to continue publishing notices in the **Federal Register.** See Proposal Release, 44 FR 30932.

[39] Section 19(b)(3)(A) provides that a proposed rule change may take effect upon filing if designated by the self-regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the self-regulatory organization, or (iii) concerned solely with the administration of the self-regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of Section 19(b), may specify as without the provisions of Section 19(b)(2).

[40] The Commission announced in the Proposal Release that, as a matter of general policy, if a self-regulatory organization, other than the MSRB, files under Section 19(b)(3)(A)(ii) a proposed rule change that establishes or changes a due, fee, or other charge applicable to a non-member or a non-participant, the Commission intends, unless unusual circumstances are present, to abrogate the rule change and require that it be filed for review under Section 19(b)(2). Proposal Release, 44 FR 30928. Several commentators stated that they believe that general policy is too broad. The Commission, however, continues to believe that, in the absence of unusual circumstances, dues, fees, and other charges applicable to non-members or non-participants should receive full review under Section 19(b)(2). The general policy announced is sufficiently flexible to permit summary effectiveness on a case-by-case basis.

[41] Amex, CBOE, DTC, NSCC, NYSE, and OCC Responses, File No. S7–590.

[42] CBOE, NYSE, and OCC Responses, File No. S7–590.

[43] CBOE Response, File No. S7–590.

[44] NYSE Response, File No. S7–590.

[45] Amex Response, File No. S7–590.

[46] See Companion Release.

[47] CBOE, NSCC, and OCC Responses, File No. S7–590.

[48] The Commission has previously accelerated the effectiveness of, or taken similar steps for, temporary or test programs filed as proposed rule changes under Section 19(b)(2). The Commission will continue to do so for appropriate proposed rule changes.

[49] NSCC and OCC Responses, File No. S7–590.

[50] DTC, NSCC, and OCC Responses, File No. S7–590.

[51] The Commission, at this time, is not expanding this category to include rule changes of other self-regulatory organizations. Clearing agencies, unlike other self-regulatory organizations, function primarily as providers of services to their participants. As other self-regulatory organizations develop more varied and complex services, it may become appropriate to expand the category to include certain rules of those organizations.

[52] The Commission, of course, retains the authority, under Section 19(b)(3)(C), to abrogate summarily within sixty days of the date of filing any proposed rule change that has become effective under Section 19(b)(3)(A).

[53] Paragraph (b) of Rule 19b–4 as originally adopted provided that the term "stated policies, practices, and interpretation" includes:

> Any material aspect of the operation of the facilities of the self-regulatory organization or any statement made generally available to the membership of, or all participants in, or persons having or seeking access (including, in the case of national securities exchanges or registered securities associations, through a member) to facilities of, a self-regulatory organization, or to a group or category of such persons, establishing or changing any standards or guidelines with respect to (1) the rights or obligations of such persons or, in the case of national securities exchanges or registered securities associations, persons associated with such persons or (2) the application or interpretation of an existing rule.

[54] Paragraph (a) of Rule 19b–4 as originally adopted provided that a stated policy, practice, or interpretation of a self-regulatory organization shall be deemed to be a rule of the self-regulatory organization if:

> (1) Action thereon by the members or by the board of directors, or similar governing body, of such self-regulatory organization is required under its constitution, articles of incorporation, by-laws, rules, or instruments corresponding thereto, (2) a self-regulatory organization elects or is required, pursuant to its constitution, articles of incorporation, by-laws, rules, or instruments corresponding thereto, to treat it as a rule change hereunder, (3) it represents a change in, addition to, or deletion from a stated policy, practice or interpretation which the self-regulatory organization previously treated as a proposed rule change or (4) it requires a determination, or affects a prior determination, pursuant to Rules 8c–1(g) or 15c2–1(g).

[55] Proposed Rule 3b–7 defined "rule" to include:

> The whole or part of any statement or of any stated policy, practice, or interpretation (including any form, report, or questionnaire)
>
> (a) that is of general or particular applicability and future effect,
>
> (b) that is designed to implement, interpret, describe, or prescribe a requirement, procedure, definition, standard, guideline, policy, or any part of a corporate or financial structure or organization, and
>
> (c) that directly or indirectly affects the rights or obligations of any person or the conduct of business by any person;
>
> Provided, however, that the term "rule" shall not include any stated policy, practice, or interpretation with respect to an existing rule that is reasonably and fairly implied by that rule and that is not required under the rules of the self-regulatory organization to be approved by the governing body of the self-regulatory organization.

[56] 5 U.S.C. 551(4).

[57] Amex and CBOE Responses, File No. S7–590.

[58] Amex Response, File No. S7–590.

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and understand.[59] Several commentators questioned whether the APA definition of "rule" is an appropriate basis for a definition of "rule" for self-regulatory organizations.[60] In addition, one commentator stated that the proposed definition appears to preclude the self-regulatory organization from designating actions that are not within the proposed definition as proposed rule changes.[61]

The major objection to proposed Rule 3b–7, however, was to the breadth of the definition of "rule."[62] Commentators were concerned that the definition is too open-ended and would, inappropriately, cover internal administrative matters[63] and many day-to-day business decisions of self-regulatory organizations.[64] Clearing agencies expressed concern that the definition would cover minor changes in clearance and settlement systems.[65] A few commentators suggested that the definition would cover such statements or documents as contracts for goods and services, individual employment arrangements, real estate leases, and annual reports.[66]

Several commentators focused separately on the exclusion from the definition of "rule" of any stated policy, practice, or interpretation that is "reasonably and fairly implied" by an existing rule of the self-regulatory organization and is not required under the rules of the organization to be approved by its governing body (the "exclusion"). Commentators stated that the "reasonably and fairly implied" standard would not provide sufficient guidance to self-regulatory organizations as to when an action would not be required to be filed as a proposed rule change,[67] and that the standard would allow self-regulatory determinations to be "second-guessed" by the Commission.[68] In addition, the MSRB expressed concern that, because the exclusion would not be available if the action was required to be approved by the self-regulatory organization's governing body, the exclusion would not be available for MSRB interpretations.[69] The MSRB explained that it has adopted internal procedures to ensure that the Board itself is directly involved in the interpretive process.

C. Amendments to Rule 19b–4

The Commission continues to believe it is important to make clear to self-regulatory organizations that they must file all significant regulatory actions for Commission review.[70] The Commission also continues to believe that additional guidance can be provided, beyond that contained in Rule 19b–4 as originally adopted, as to which self-regulatory actions are proposed rule changes. In light of the comments received on proposed Rule 3b–7, however, the Commission does not believe that it is useful to attempt to provide additional guidance through a definition of "rule" based on the APA. Accordingly, the Commission is withdrawing proposed Rule 3b–7[71] and is amending Rule 19b–4 to specify more precisely which self-regulatory actions are proposed rule changes.

The amendments (i) make minor modifications in the definition of "stated policies, practices, and interpretations" in paragraph (b); (ii) revise paragraph (a) (redesignated as paragraph (c)) to deem stated policies, practices, and interpretations to be proposed rule changes primarily on the basis of their substantive effect; and (iii) add a new paragraph (d) deeming to be a proposed rule change any interpretation of an existing rule of the self-regulatory organization if it is approved or ratified by the governing body of the self-regulatory organization and is not reasonably and fairly implied by the existing rule.[72]

Paragraphs (a) through (d) of Rule 19b–4 will read as follows:

(a) Filings with respect to proposed rule changes by a self-regulatory organization shall be made on Form 19b–4.

(b) The term "stated policy, practice, or interpretation" means (1) any material aspect of the operation of the facilities of the self-regulatory organization or (2) any statement made generally available to the membership of, to all participants in, or to persons having or seeking access (including, in the case of national securities exchanges or registered securities associations, through a member) to facilities of, the self-regulatory organization ("specified persons"), or to a group or category of specified persons, that establishes or changes any standard, limit, or guideline with respect to (i) the rights, obligations, or privileges of specified persons or, in the case of national securities exchanges or registered securities associations, persons associated with specified persons, or (ii) the meaning, administration, or enforcement of an existing rule.

(c) A stated policy, practice, or interpretation of the self-regulatory organization shall be deemed to be a proposed rule change unless (1) it is reasonably and fairly implied by an existing rule of the self-regulatory organization or (2) it is concerned solely with the administration of the self-regulatory organization and is not a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization.

(d) Regardless of whether it is made generally available, an interpretation of an existing rule of the self-regulatory organization shall be deemed to be a proposed rule change if (1) it is approved or ratified by the governing body of the self-regulatory organization and (2) it is not reasonably and fairly implied by that rule.

Paragraphs (b), (c), and (d) will operate as discussed below.

1. Paragraph (b): Definition of Stated Policy, Practice, or Interpretation

Revised paragraph (b) continues to define "stated policy, practice, or interpretation" as, essentially, (1) any material aspect of the operation of the facilities of the self-regulatory organization or (2) any statement that the self-regulatory organization makes generally available to specified persons and that has certain effects.[73] The revised definition differs from the definition as originally adopted in several minor respects.

First, the revised definition substitutes "stated policy, practice, or interpretation means" for "stated policies, practices, and interpretations includes" to clarify that a self-regulatory action that is not within the definition is not a stated policy, practice, or interpretation.[74] Second, for simplification, it adds the term "specified persons" as a definition of the persons included in the definition of "stated policy, practice, or interpretation" in Rule 19b–4.

Third, the revised definition adds the word "limit" to the list of specified effects to make clear that a statement prohibiting conduct is within the definition. Fourth, it adds in paragraph (b)(2)(i) the word "privileges" to make clear that statements establishing or changing any standard, limit, or guideline with respect to the privileges of specified persons are within the definition. Finally, it substitutes, in paragraph (b)(2)(ii), "meaning, administration, or enforcement of an existing rule" for "application or interpretation of an existing rule." That substitution is intended to conform the language of the provision to that in Section 19(b)(3)(A)(i) of the Act and is not intended to change the meaning of paragraph (b)(2).[75]

2. Paragraph (c): Stated Policy, Practice, or Interpretation Deemed to be a Proposed Rule Change

Revised paragraph (c) is intended to limit the stated policies, practices, and interpretations subject to Commission review to those most likely to affect significantly the activities of specified persons. It does so by excepting two categories of stated policies, practices, and interpretations from those deemed to be proposed rule changes. The first exception is for stated policies, practices, and interpretations "reasonably and fairly implied" by the self-regulatory organization's existing rules. The second exception is for certain stated policies, practices, and interpretations that are "concerned solely with the administration" of the self-regulatory organization. The two exceptions are intended to operate independently of each other; if the action meets the requirements of either exception, it will not be considered a proposed rule change under paragraph (c). The two exceptions are discussed further below.

(i) "Reasonably and Fairly Implied" Exception

The "reasonably and fairly implied" exception is intended to make clear that self-regulatory organizations may issue stated policies, practices, and interpretations with respect to their existing rules without necessarily being subject to rule filing requirements. For example, interpretations of existing rules arising out of individual enforcement or disciplinary proceedings would not have to be filed as proposed rule changes if the interpretations are reasonably and fairly implied by the existing rules.

The "reasonably and fairly implied" standard is the same standard used in proposed Rule 3b–7 to except certain stated policies, practices, and interpretations from the definition of "rule." The Commission believes, in spite of commentators' objections that the standard is vague, that it provides as much guidance to self-regulatory organizations as is now possible. The limits of the "reasonably and fairly implied" exception will have to be determined on a case-by-case basis. It is clear, however, the a stated policy, practice, or interpretation that prescribes extensive and specific limitations on particular types of transactions or conduct that are not apparent from the face of the existing rule is not "reasonably and fairly implied" by the rule.[76] Moreover, the fact that a self-regulatory organization, for purposes of its internal operations, characterizes a stated policy, practice, or interpretation as reasonably and fairly implied does not mean the statement is reasonably and fairly implied for purposes of Rule 19b–4.[77]

(ii) "Concerned Solely with the Administration" Exception

The "concerned solely with the administration" exception in paragraph (c) is intended to prevent the self-regulatory organization from having to file as a proposed rule change most stated policies, practices, or interpretations that deal solely with "housekeeping" matters.[78] The exception should eliminate concern, stemming from the definition of "rule" in proposed Rule 3b–7, that self-regulatory organizations would have to file as proposed rule changes stated policies, practices, or interpretations relating to matters such as floor decorum.[79]

The exception would not be available for stated policies, practices, and interpretations with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. The Commission believes that, once the self-regulatory organization has chosen to handle a housekeeping matter by rule, the Commission and the public should be given notice of any stated policy, practice, or interpretation that effectively modifies the terms of that rule.[80] Any such stated policy, practice, or interpretation should be set forth in the self-regulatory organization's rule book.

3. Paragraph (d): Governing Body Interpretations Deemed to be Proposed Rule Changes

The Commission believes that any interpretation of an existing rule that is of sufficient importance to be approved or ratified by the governing body of the self-regulatory organization, whether or not it is made generally available, is a proposed rule change subject to Commission review unless it is reasonably and fairly implied by the existing rule.

Accordingly, the Commission is amending Rule 19b–4 to provide, in paragraph (d), that regardless of whether it is made generally available, an interpretation of an existing rule of the self-regulatory organization is a proposed rule change if it is approved or ratified by the governing body of the self-regulatory organization and it is not reasonably and fairly implied by the

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[59] CBOE Response, File No. S7–590.

[60] Amex, CBOE, and NSCC Responses, File No. S7–590.

[61] OCC Response, File No. S7–590. See n. 74 *infra*.

[62] Amex, CBOE, DTC, NSCC, NYSE, and OCC Responses, File No. S7–590.

[63] Amex, CBOE, and NYSE Responses, File No. S7–590.

[64] Amex, NSCC, NYSE, and OCC Responses, File No. S7–590.

[65] DTC and NSCC Responses, File No. S7–590.

[66] CBOE, DTC, NSCC, NYSE, and OCC Responses, File No. S7–590.

[67] NSCC, NYSE, and OCC Responses, File No. S7–590.

[68] OCC Response, File No. S7–590.

[69] MSRB Response, File No. S7–590.

[70] The Commission expects that, in most instances where a self-regulatory organization acts in such a manner as to have a significant regulatory impact on persons, the self-regulatory organization will designate the action as a "rule." Sections 6, 15A, 15B, and 17A of the Act provide that self-regulatory organizations must have "rules" designed to achieve specified objectives.

[71] See Companion Release.

[72] Self-regulatory organizations may seek interpretive advice from the Commission's staff in those instances where the self-regulatory organization is uncertain whether a particular action is a proposed rule change or should have been previously treated as one.

[73] Material, even if it is not included in the definition of "stated policy, practice, or interpretation," that the self-regulatory organization (other than a registered clearing agency) makes generally available is required to be filed with the Commission under Rules 6a–3, 15Aj–1, and 17a–21 under the Act, 17 CFR 240.6a–3, 240.15Aj–1, and 240.17a–21. Rule 17a–22, the adoption of which is announced in this release, will impose a similar requirement on registered clearing agencies.

[74] The self-regulatory organization could, of course, elect to designate as a "rule" a statement that is not within the definition of "stated policy, practice, or interpretation."

[75] A form, report, or questionnaire of a self-regulatory organization that constitutes a stated policy, practice, or interpretation under paragraph (b) would have to be filed as a proposed rule change if, under paragraph (c), it is a stated policy, practice, or interpretation deemed to be a proposed rule change.

[76] As the Commission explained in connection with its discussion of the "reasonably and fairly implied" standard in the exclusion of proposed Rule 3b–7, the standard would not be met by an interpretation such as that filed by the CBOE and other exchanges concerning "front-running." *See, e.g.*, File No. SR–CBOE–78–28. The standard also would not be met by a stated policy, practice, or interpretation that implements a system if if affects the manner in which members or others do business or in which the system functions, in a way that is not reasonably foreseeable from the rule to which the stated policy, practice, or interpretation applies.

[77] For example, the governing body of the NASD adopts or amends specific implementing policies under general rules adopted by its membership, such as its rule requiring observance of just and equitable principles of trade, and, for purposes of its by-laws, characterizes the implementing policies as reasonably and fairly implied by the general rules. See the NASD's interpretations and policy statements relating to "free-riding," advertising, and underwriting arrangements. Such interpretations or policy statements are required to be filed as proposed rule changes. NASD Manual (CCH) ¶2151. See also Article VII of the NASD's By-Laws, NASD Manual (CCH) ¶1501 *et seq.*

[78] If the self-regulatory organization adopts a "rule" that is concerned solely with the administration of the organization, that rule is required to be filed as a proposed rule change, but it may qualify for summary effectiveness under Section 19(b)(3)(A) of the Act.

[79] An administrative stated policy, practice, or interpretation having implications beyond housekeeping matters would not, of course, qualify for this exception. For example, a stated policy, practice, or interpretation establishing or changing floor procedures, procedures for resolving or determining the rights or obligations of members, or composition of the self-regulatory organization's governing body would generally not be "concerned solely with the administration" of the self-regulatory organization.

[80] For example, if the self-regulatory organization has a rule establishing a dress code, any stated policy, practice, or interpretation with respect to the dress code would be a proposed rule change, unless it is reasonably and fairly implied by the rule, in which case it would qualify for the first exception.

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existing rule.[81] Paragraph (d) makes clear that, whenever the governing body of the self-regulatory organization, including that of the MSRB,[82] approves or ratifies an interpretation that is not reasonably and fairly implied by an existing rule, its action is a proposed rule change.

IV. Revocation of Certain Filing Requirements; Adoption of Rule 17a–22 Concerning Registered Clearing Agencies

The Commission proposed to revoke several filing requirements that it believes are unduly burdensome. First, the Commission proposed to revoke the provision in paragraph (c) of Rule 19b–4 as originally adopted, and related Form 19b–4B, requiring self-regulatory organizations to file on Form 19b–4B notice of stated policies, practices, and interpretations not deemed to be rules. The filing requirement partially duplicates filing requirements in Rules 6a–3, 15Aj–1, and 17a–21 under the Act,[83] which require national securities exchanges, registered securities associations, and the MSRB, respectively, to submit to the Commission any material they make generally available.

Second, the Commission proposed to revoke Rule 17a–18, which requires a national securities exchange or registered securities association to file with the Commission any form, report, or questionnaire it requires or proposes to require its members to complete. The Commission believes this requirement is unnecessary because self-regulatory organizations are required to file such documents under Section 19(b).

Finally, the Commission proposed to revoke paragraph (g) of Rule 19b–4. Paragraph (g) required self-regulatory organizations to respond to Items 3, 4, 5, and 6 of Form 19b–4A with respect to their rules in effect on June 4, 1975, and to file those responses with the Commission by April 1, 1976. Paragraph (g) was intended to afford national securities exchanges and associations an opportunity to provide relevant information on their existing rules before any Commission action under Section 31(b) of the Securities Acts Amendments of 1975. Commentators expressed the view that the information supplied would be of little assistance to the Commission and that supplying the information would impose a considerable burden on self-regulatory organizations. To avoid imposing that burden, the Commission decided in early 1976 not to require compliance with paragraph (g) of Rule 19b–4.[84]

The Commission did not receive any comments on its proposals to revoke the Form 19b–4B filing requirement, Rule 17a–18, and paragraph (g) of Rule 19b–4, and, as proposed, is revoking those provisions.

In conjunction with its proposal to revoke Form 19b–4B, the Commission proposed Rule 17a–22, which would establish for registered clearing agencies a filing requirement parallel to the filing requirements imposed under Rules 6a–3, 15Aj–1, and 17a–21. Registered clearing agencies, unlike national securities exchanges, registered securities associations, and the MSRB, previously have not been required to file with the Commission materials (other than stated policies, practices, and interpretations deemed not to be rules) they make generally available. Receipt of such material is important to the Commission's oversight responsibilities under the Act. The Commission did not receive any comments on proposed Rule 17a–22 and is adopting the rule as proposed, with minor modifications.

V. Statutory Basis

On the basis of the foregoing analysis and discussion, the Commission finds that the rule and the amendments to the rule and the form adopted are consistent with the public interest, the protection of investors, and the purposes of the Act. The Commission also finds that the amendment to paragraph (e) of Rule 19b–4, expanding the categories of proposed rule changes that may become effective pursuant to Section 19(b)(3)(A) of the Act, is consistent with the public interest and the purposes of Section 19(b) of the Act. The Commission, pursuant to Section 23(a)(2) of the Act, finds that the rule and the amendments to the rule and the form adopted herein do not impose any burdens on competition.

Rule 17a–22 is promulgated under the Act, and particularly Sections 2, 3, 17, 17A, and 23, 15 U.S.C. 78b, 78c, 78q, 78q–1, and 78w. The amendments to Rule 19b–4 and Form 19b–4A (redesignated as Form 19b–4) are promulgated under the Act, and particularly Sections 2, 3, 6, 11A, 15A, 15B, 17, 17A, 19, and 23, 15 U.S.C. 78b, 78c, 78f, 78k–1, 78o–3, 78o–4, 78q, 78q–1, 78s, and 78w.

VI. Text of Rules and Form

The Commission is amending Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.17a–18 [Removed]

1. By revoking § 240.17a–18.

2. By adding § 240.17a–22 to read as follows:

§ 240.17a–22 Supplemental material of registered clearing agencies.

Within ten days after issuing, or making generally available, to its participants or to other entities with whom it has a significant relationship, such as pledgees, transfer agents, or self-regulatory organizations, any material (including, for example, manuals, notices, circulars, bulletins, lists, or periodicals), a registered clearing agency shall file three copies of such material with the Commission. A registered clearing agency for which the Commission is not the appropriate regulatory agency shall at the same time file one copy of such material with its appropriate regulatory agency.

(Secs. 2, 3, 17, and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 897, and 901, as amended by secs. 2, 3, 14, and 18, Pub. L. No. 94–29, 89 Stat. 97, 137, and 155 (15 U.S.C. 78b, 78q, and 78w); sec. 17A, as added by sec. 15, Pub. L. No. 94–29, 89 Stat. 141 (15 U.S.C. 78q–1))

3. By revising § 240.19b–4 to read as follows:

§ 240.19b–4 Filings with respect to proposed rule changes by self-regulatory organizations.

(a) Filings with respect to proposed rule changes by a self-regulatory organization shall be made on Form 19b–4.

(b) The term "stated policy, practice, or interpretation" means (1) any material aspect of the operation of the facilities of the self-regulatory organization or (2) any statement made generally available to the membership of, to all participants in, or to persons having or seeking access (including, in the case of national securities exchanges or registered securities associations, through a member) to facilities of, the self-regulatory organization ("specified persons"), or to a group or category of specified persons, that establishes or changes any standard, limit, or guideline with respect to (i) the rights, obligations, or privileges of specified persons or, in the case of national securities exchanges or registered securities associations, persons associated with specified persons, or (ii) the meaning, administration, or enforcement of an existing rule.

(c) A stated policy, practice, or interpretation of the self-regulatory organization shall be deemed to be a proposed rule change unless (1) it is reasonably and fairly implied by an existing rule of the self-regulatory organization or (2) it is concerned solely with the administration of the self-regulatory organization and is not a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization.

(d) Regardless of whether it is made generally available, an interpretation of an existing rule of the self-regulatory organization shall be deemed to be a proposed rule change if (1) it is approved or ratified by the governing body of the self-regulatory organization and (2) it is not reasonably and fairly implied by that rule.

(e) A proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act if properly designated by the self-regulatory organization as (1) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, (2) establishing or changing a due, fee, or other charge, (3) concerned solely with the administration of the self-regulatory organization, or (4) effecting a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

(f) After instituting a proceeding to determine whether a proposed rule change should be disapproved, the Commission will afford the self-regulatory organization and interested persons an opportunity to submit additional written data, views, and arguments and may afford, in the discretion of the Commission, an opportunity to make oral presentations.

(g) Notice of orders issued pursuant to Section 19(b) of the Act will be given by prompt publication thereof, together with a statement of written reasons therefor.

(h) Self-regulatory organizations shall retain at their principal place of business a file, available to interested persons for public inspection and copying, of all filings made pursuant to this section and all correspondence and other communications reduced to writing (including comment letters) to and from such self-regulatory organization concerning any such filing, whether such correspondence and communications are received or prepared before or after the filing of the proposed rule change.

(Secs. 2, 3, 6, 17, 19, and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 885, 897, 898, and 901, as amended by secs. 2, 3, 4, 14, 16, and 18, Pub. L. No. 94–29, 89 Stat. 97, 104, 137, 146, and 155 (15 U.S.C. 78b, 78c, 78f, 78q, 78s, and 78w); sec. 15A, as added by sec. 1, Pub. L. No. 75–719, 52 Stat 1070, as amended by sec. 12, Pub. L. No. 94–29, 89 Stat. 127 (15 U.S.C. 78o–3); secs. 11A, 15B, and 17A, as added by secs. 7, 13, and 15, Pub. L. No. 94–29, 89 Stat. 111, 131, and 141 (15 U.S.C. 78k–1, 78o–4, and 78q–1))

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.819a [Redesignated as § 249.819 and Amended]

1. By redesignating § 249.819a (Form 19b–4A, for filings with respect to proposed rule changes by all self-regulatory organizations) as § 249.819, by amending the heading of this section to refer to "Form 19b–4," and by amending the text of this form as provided by this release.

§ 249.819b [Removed]

2. By revoking § 249.819b.

Copies of the form have been filed with the Office of the Federal Register and will be forwarded to the self-regulatory organizations. Copies may be requested from the Commission.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 30, 1980.

[FR Doc. 80–34737 Filed 11–6–80; 8:45 am]

BILLING CODE 8010–01–M

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[81] If the governing board of the self-regulatory organization establishes a committee to approve or ratify interpretations, the self-regulatory organization should treat interpretations approved or ratified by that committee as having been acted upon by the governing body.

[82] Paragraph (d) makes clear that if the MSRB issues an interpretation of an existing rule that is not reasonably and fairly implied by that rule, it is a proposed rule change.

[83] 17 CFR 240.6a–3, 240.15Aj–1, and 240.17a–21. Rule 17a–22, the adoption of which is announced in this release, will impose a similar requirement on registered clearing agencies.

[84] Securities Exchange Act Release Nos. 12157 (Mar. 2, 1976), 41 FR 10682 (Mar. 12, 1976), and 13100 (Dec. 22, 1976), 42 FR 782 (Jan. 4, 1977).

17 CFR Part 270

[Release No. IC–11421]

Prevention of Certain Unlawful Activities With Respect to Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission announced that it is adopting a rule under the Investment Company Act of 1940 to provide guidance to investment companies as to the minimum standards of conduct appropriate for persons who have access to information regarding the purchase and sale of portfolio securities by investment companies. The rule prohibits certain activities on the part of persons affiliated with registered investment companies or their investment advisers or principal underwriters. In addition, the rule requires such entities to establish codes of ethics applicable to certain persons associated with them, and requires that these persons make certain reports regarding their securities transactions.

EFFECTIVE DATE: (1) As to paragraph (a), October 31, 1980; (2) as to all other paragraphs, May 1, 1981.

FOR FURTHER INFORMATION CONTACT: S. Elliott Cohan, Esq. (202) 272–2060, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting Rule 17j–1 [17 CFR 270.17j–1] ("Rule") under the Investment Company Act of 1940 ("Act"). The Rule is designed to implement Section 17(j) of the Act [15 U.S.C. 80a–17(j)] which provides that:

> It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company in contravention of such rules and regulations as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative. Such rules and regulations may include requirements for the adoption of codes of ethics by registered investment companies and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business.

Background

Section 17(j) was added to the Act in 1970 as a result of a recommendation to Congress by the Commission that the Commission be authorized to adopt rules for the protection of investors in connection with trading in securities purchased and sold by investment companies by persons affiliated with them or their investment advisers or principal underwriters.[1] This

[1] See Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d Sess. 200 (1966).

recommendation was based upon the Commission's earlier finding that transactions by such persons in securities held by investment companies often placed such persons in a position of conflict of interest, and that the considerable disagreement in the investment company industry as to the nature and extent of obligations in this area suggested a need for clearer and higher standards of conduct.[2]

The Commission believes that the conditions which led to the original recommendation are to some extent still present in the investment company industry. Through its examination program, the Commission has become aware of an increasing number of situations involving parallel trading by individuals with knowledge regarding transactions anticipated or engaged in by registered investment companies. Therefore, the Commission believes it would be desirable to provide guidance to the investment company industry as to the minimum standards of conduct which it believes would be appropriate for persons with access to information regarding the purchase and sale of portfolio securities of investment companies. However, the variety of employment and institutional arrangements utilized by different investment companies renders impracticable a rule designed to cover all conceivable possibilities. Moreover, as a matter of policy the Commission believes the introduction and tailoring of ethical restraints on the behavior of persons associated with an investment company can best be left in the first instance to the directors of the investment company. Therefore, the Commission believes it is appropriate to impose an obligation on individual investment companies and their investment advisers and principal underwriters to prescribe standards and procedures reasonably designed to prevent the fraudulent or manipulative activities proscribed by the Rule.

The Rule is intended to be broad enough to permit those entities required to adopt codes of ethics to establish the standards and procedures that they believe are necessary to prevent fraudulent, deceptive and manipulative practices. However, the Commission believes that certain activities may be of such a nature as to create the type of conflict of interest situations to which Section 17(j) was addressed. The Commission expects that these potentially abusive activities would be specifically considered by entities required to adopt code of ethics. For example, it is expected that an effective code of ethics will be designed, in part, to eliminate conflict of interest situations where access persons improperly are able to gain personal benefit through their relationship with the investment company. Such situations might exist if access persons were to engage in prsonal securities transactions involving securities which are held by the investment company or which are to be acquired by such investment company, or involving securities which, although they have not yet been purchased or sold by the investment company, are being considered for purchase or sale. Furthermore, such activities may create an incentive for such persons to influence improperly the investment strategy of the company.

Entities subject to the Rule should, therefore, consider whether to provide in their codes of ethics prohibitions against access persons engaging in such activities and appropriate guidelines for determining when a transaction by an access person is prohibited. In this regard, the entity may have to determine the point at which a purchase or sale recommendation is deemed to reach a stage where a concurrent or related transaction in the same security by an access person would present a danger of abuse. Though such a threat may not exist where particular securities are merely being reviewed as part of a general industrial survey or other broad monitoring of the securities markets, an access person may take unfair advantage of an investment company once a particular security has become a probable target of purchase or sale by the investment company.

Another situation which would appear to present a conflict of interest of the type to which Section 17(j) is addressed might occur where access persons already own a particular security and through their position of influence over the investment company attempt to cause the investment company to purchase, sell or hold the same security. This situation could be especially abusive where the investment strategy recommended by the access person may be expected to create a personal benefit to the access person. The Commission expects such a situation would be considered also in adopting codes of ethics, and that appropriate prohibitions, restrictions or guidelines would be included in the codes of ethics.

Although entities, in adopting their codes of ethics, may determine to prohibit certain (or all) of the activities discussed above, the Commission recognizes that there may be certain types of personal transactions by access persons which may not create the conflict of interest situations to which Section 17(j) was addressed. These nonabusive transactions might be generally characterized as ones which are: non-volitional on the part of the access person involved in the transaction; only remotely potentially harmful to the investment company because they would be very unlikely to affect a highly institutional market; or clearly not related economically to the securities to be purchased, sold or held by the investment company.[3] The broad language of the Rule is intended to permit entities to consider transactions by access persons in the context of their particular business operations when adopting their individual codes of ethics.

The Commission is endeavoring in this discussion to offer guidance with regard to the type of activities which should be considered by entities in designing and adopting codes of ethics. It is not attempting to list all activities and circumstances which could or should be the subject of concern by those entities, for it is the entities themselves, required by the Rule to adopt codes of ethics, that bear the primary responsibility for identifying those areas which present a potential for abuse by access persons. In this regard, the Commission has instructed its Division of Investment Management through the inspection program to monitor carefully developments under the Rule. If it appears to the Commission that entities are not adopting and enforcing codes which deal adequately with potential abuses in terms of current economic conditions, the Commission may determine that it is necessary to exercise further its authority under Section 17(j), and it may then consider whether it would be necessary and appropriate to propose amendments to the Rule specifically to prohibit certain abusive activities.

Discussion

The Commission proposed Rule 17j–1 (the "proposed rule") and requested public comments on that proposed rulemaking in Investment Company Act Release No. 10162, 43 FR 12721 (March 17, 1978), File No. S7–738 ("Release No. 10162"). Forty-two letters of comment were received.

[2] See Report of the Special Study of the Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess, pt. 4, at 235–55 (1963).

[3] For example, an entity required to adopt a code of ethics might determine that there is little or no potential for abuse where the particular purchase transaction is part of an automatic dividend reinvestment plan in which the access person participates.

General Anti-Fraud Provisions

Paragraph (a) of the proposed rule was a general antifraud provision similar to Section 17(a) of the Securities Act of 1933 [15 U.S.C. 77q(a)] and Rule 10b–5 under the Securities Exchange Act of 1934 [17 CFR 240.10b–5], and would have prohibited, generally speaking, fraudulent trading by certain persons affiliated with investment companies or their investment advisers or principal underwriters with respect to securities held or to be acquired by the investment company. Almost all of the letters received opposed adoption of the anti-fraud section of the proposed rule. Commentators argued that this provision was overly broad and outside the authority granted the Commission in Section 17(j). Another argument advanced by most of the commentators opposed to the provision was that, as proposed, any securities transaction—whether or not in securities being held, purchased or sold by the investment company—by an affiliated person of an investment company or its investment adviser and principal underwriter would be subject to the antifraud provision of the proposed rule.

In response to these comments, the Commission has made certain changes in this paragraph in order to clarify its intent that the anti-fraud provision should be limited to purchases and sales of securities held or to be acquired by a registered investment company.[4] The Commission expects that the anti-fraud section in the final rule, as revised, will accomplish one of the objectives desired by Congress in enacting Section 17(j).

Code of Ethics

Paragraph (b) of the proposed rule would have required each registered investment company, and each investment adviser of or principal underwriter for the investment company, to adopt a written code of ethics containing provisions reasonably necessary to prevent certain persons associated with an investment company from violating the general anti-fraud provisions of paragraph (a). Two commentators suggested that the codes of ethics should allow an investment company the option of permitting an "access person"[5] to obtain written clearance from a designated person or body prior to effecting any personal securities transaction. This procedure, it was suggested, would help assure the investment company and the access person that the proposed securities transaction was proper.

The Commission has determined to retain the approach taken in the proposed rule, i.e., to let individual entities take fully into account their own unique circumstances in designing their codes of ethics prescribing standards of conduct which effectuate the purposes of the Rule. The Commission would not have any objection to a prior clearance procedure where the investment company directors believed it was appropriate for their particular investment company arrangements. However, it is concerned that, if the Commission were to modify the proposed rule explicity to require or allow all investment companies to adopt prior clearance procedures, then it would appear that the Commission had concluded that any code of ethics which did not contain a prior clearance procedure would be fatally defective. Accordingly, the Commission believes the current approach is more desirable because it gives maximum flexibility to the entities which must design the codes of ethics.

However, paragraph (b)(1) requiring the adoption of codes of ethics by certain entities has been modified to make clear that such codes of ethics need only apply to access persons of those individual entities.

In addition, the language of paragraph (b)(1) of the Rule has been altered by deleting the words "and detect" in order to clarify the Commission's belief that entities which adopt codes of ethics have an affirmative duty to take appropriate steps to enforce the standards of conduct contained in the codes of ethics where violations occur. In terms of implementation and fulfillment of the statutory mandate that entities be required to adopt codes of ethics as a means reasonably necessary to prevent improper acts, those entities in designing codes of ethics must go beyond mere detection of improper acts; rather, the codes of ethics must necessarily also include provisions addressed to enforcement of the codes of ethics.

It should be noted that a violation of any provision of a particular code of ethics would not be considered a *per se*, unlawful act prohibited by paragraphs (a) and (b) of the Rule. Rather, the Commission believes that such a violation should and would be considered, with all the surrounding facts and circumstances, merely as one piece of evidence in determining whether, in addition to a violation of the code of ethics, a violation of the anti-fraud provisions of the Rule also has occurred.

Reporting Requirements

Paragraph (c) of the proposed rule would have required access persons to report certain information about securities transactions to the investment company, investment adviser or principal underwriter, subject to certain exceptions.

Many commentators objected to the Commission's approach in the proposed rule of requiring reports of certain disinterested directors who might have access to information concerning an investment company's portfolio transactions, even though the proposed rule would have limited the transactions to be reported by such persons who are not "interested persons" [6] of an investment company. Commentators argued that this reporting requirement would pose an undue burden on disinterested directors making it difficult to attract high caliber people.

The proposed rule stated that a disinterested director would be required to report transactions only if he or she "has actual knowledge that, within the most recent 30 days, such security was purchased or sold by the investment company or such purchase or sale by such company was considered by the company or its adviser." Commentators suggested that this limited reporting requirement for disinterested directors should be extended to those persons who, though interested persons of the investment company, are not "affiliated persons." [7] It was argued that requiring these outside directors to file reports, even with the limitations permitted, will alienate and antagonize them and again make it more difficult to attract qualified people.

The Commission has carefully considered those comments which sought to expand the more limited reporting requirement for disinterested directors to include also those directors who, though unaffiliated with the investment company on whose board they sit, still come within the definition of "interested person." The Commission believes that it is appropriate, in continuing the statutory distinctions made between interested and disinterested persons in the Act, to subject all interested directors to the full

[4] In this regard, it should be noted that a major criticism of the proposed rule by the commentators was alleviated merely by correcting an unfortunate error which occurred in the printing of the proposed rule.

[5] Briefly, paragraph (e)(1) of the proposed rule would have defined the term "access person" to mean a director, officer or general partner, or an employee of an investment company, investment adviser or principal underwriter whose functions or duties relate to the determination or what securities an investment company should purchase or sell.

[6] The term "interested person" is defined in Section 2(a)(19) of the Act [15 U.S.C. 80a–2(a)(19)].

[7] The term "affiliated person" is defined in Section 2(a)(3) of the Act [15 U.S.C. 80a–2(a)(3)] and is substantially more restrictive than the definition of "interested person."

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reporting requirements of the Rule. Therefore, no change has been made in this regard.

Furthermore, the Commission believes that the limited reporting requirement permitted by paragraph (c)(3)(ii) does not present an unduly onerous burden to those directors who are not interested persons of investment companies. Although the Commission recognizes that the preparation of these reports may be time consuming, it understands that that type of reporting requirement is used already by some industrial companies and some investment companies as a matter of fundamental corporate policy. Extrapolating from those experiences, the Commission does not believe that this reporting requirment is so burdensome as to force talented individuals to choose not to serve as investment company directors. In addition, the imposition of such responsibility does not appear to be inconsistent with other responsibilities imposed by Congress on disinterested directors throughout the Act.

With respect to the requirement that disinterested directors submit reports about their securities transactions only where they have actual knowledge that the investment company purchased or sold (or was considering the purchase or sale of) a security, the Commission is concerned that the "actual knowledge" standard previously employed in the proposed rule may be a difficult concept for investment companies to administer. For example, in determining whether a disinterested director had properly filed reports with the investment company, the other investment company directors might be placed in the difficult position of having to evaluate the credibility of testimony or an affidavit of such disinterested director wherein he contends that, although the circumstances might suggest otherwise, he really did not know about a particular investment company security transaction. Also, the Commission is concerned that an "actual knowledge" standard inappropriately might encourage a disinterested director to avoid situations or committee assignments, although otherwise within the proper scope of his official duties as a director of an investment company, where he might become privy to substantial knowledge about proposed and actual investment company security transactions. To avoid creating unnecessary problems, the Commission has determined that disinterested directors should be required to report transactions when they know or, in the ordinary course of fulfilling their official duties as directors of the investment company, should have known that the investment company purchased or sold (or was considering the purchase or sale of) the security involved. While this modifies the standard used in the proposed rule, it is intended to clarify the circumstances under which disinterested directors should file reports of their security transactions. The Commission believes that this modified reporting obligation is consistent with the regulatory scheme of the Act and the general responsibilities of directors to be aware of the activities of those investment companies for which they serve.

In addition, the proposed rule has been modified to shorten and clarify the period of time during which a reportable transaction by the disinterested director takes place. Pursuant to the Rule as modified, a transaction need be reported only if it occurs within 15 days prior to or after either: (1) the purchase or sale of such security by the investment company; or (2) the consideration of such purchase or sale by the investment company or its investment adviser.

Beneficial Ownership—Paragraph (c)(1)

Several commentators raised questions concerning the term "beneficial ownership" as it related to the reporting requirements of the proposed rule. Commentators expressed confusion as to whether beneficial ownership for purposes of paragraph (c)(1) of the proposed rule should be construed in accordance with the definition in Rule 13d–3 of the Securities Exchange Act of 1934 [17 CFR 240.13d–3] or the general meaning in Section 16 [15 U.S.C. 78p] of that act.

To alleviate any confusion as to how the term "beneficial ownership" will be construed, the Commission has concluded that beneficial ownership should be interpreted in a manner which is consistent with the way it is presently interpreted for purposes of determining whether an individual is subject to the requirements of Section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder. However, in light of the diverse composition of investment company portfolios, transactions in all securities as to which the access person has or acquires any direct or indirect beneficial ownership, whether or not such securities are issued by companies registered pursuant to Section 12 of the Securities Exchange Act [15 U.S.C. 781], must be considered as subject to Section 16 solely for purposes of the reporting requirements of the Rule.

Access Person—Paragraph (e)(1)

Four commentators argued that the definition of access person in paragraph (e)(1) of the proposed rule was overly broad. Briefly, paragraph (e)(1) of the proposed rule would have defined the term "access person" to mean all directors, officers, general partners and advisory persons, as defined, with respect to a registered investment company or its investment adviser, and with respect to principal underwriters, all directors, officers or general partners. It was pointed out that such a definition would be unduly burdensome to institutions such as banks which, as a result of being primarily engaged in a business other than advising registered investment companies, allocate only a small part of their staff to the operations of any investment company managed by them. These commentators suggested that the term "access person" should be defined separately for investment advisers that are primarily engaged in a business other than advising registered investment companies.

One commentator argued that, with respect to principal underwriters, the definition of access person was overly broad also. This argument was advanced using reasoning similar to that used in the case of investment advisers primarily engaged in a business other than advising investment companies.

In recognition of the above comments, the definition of "access person" has been changed in order to ensure that the Rule will apply only to those persons who have an active part in the management, portfolio selection or underwriting functions of the investment companies with which they are associated. The Commission has determined that, where the investment adviser is primarily engaged in a business other than advising registered investment companies, only those directors, officers, general partners or advisory persons of the investment adviser who are involved in making investment decisions or portfolio selections for the registered investment company should be subject to the Rule. Similarly, the Commission has concluded that only those directors, officers or general partners of principal underwriters for registered investment companies who participate in recommending the purchase or sale of securities by such companies should be considered access persons.

Advisory Person—Paragraph (e)(2)(i) & (ii)

Although no specific comments were received, the Commission is concerned that the definition of advisory person in the proposed rule might, for purposes of the reporting requirements, have created unintentional confusion as to whether employees of companies in control relationships with investment companies or their investment advisers who obtain information regarding the purchase or sale of a security by a registered investment company were subject to the reporting provisions of the Rule. Accordingly, the Commission has altered the definition of advisory person to make clear its intention that the Rule apply both to natural persons and certain employees of companies in a control relationship to such investment company or investment adviser. The Commission believes that this change is consistent with both the mandate given by the Congress in Section 17(j) of the Act and the general regulatory scheme of the Act.

Security—Paragraph (e)(5)

Briefly, the term "security" was defined to except only securities issued by the United States government. Several commentators suggested that the exception to the definition of "security" provided in paragraph (e)(4) of the proposed rule should be expanded to include all money market instruments and shares of open-end investment companies. Commentators argued that these securities do not present an opportunity for profiting at the expense of an investment company.

After analyzing the comments received in regard to the definition of "security," the Commission has concluded that money market instruments and shares of open-end investment companies present very little opportunity for the type of improper trading that the Rule is intended to cover. The exceptions to the definition of security have, therefore, been expanded to include bankers' acceptances, bank certificates of deposit, commercial paper and shares of open-end investment companies.

Consideration of Purchases and Sales—Paragraphs (c)(3)(ii) and (e)(6)

As noted in footnote 9 of Release No. 10162 proposing Rule 17j–1, commentators on an earlier proposal of the Rule suggested that that proposal's trading prohibition with respect to securities "being considered" for purchase or sale by an investment company was too broad. Similar comments were advanced regarding the proposed rule as that concept is used in paragraphs (c)(3)(ii) and (e)(6). The Commission continues to believe that the scope of the trading prohibition was intended by Congress to be very broad, but that the mechanics of setting parameters for determining when a transaction is "being considered" by a particular investment company can best be resolved by the investment company, investment adviser or principal underwriter in the codes of ethics required to be adopted under the Rule.

Other Comments

One comment received suggested that all reports made pursuant to the code of ethics should be filed with the independent accountants to preserve the privacy of respondents.

The Commission believes that filing the required reports with the entity of which the individual is an access person will ensure the maximum amount of privacy.

Two commentators suggested that the time for filing the required reports should be extended to 30 days after the end of the quarter. After considering this suggestion, the Commission has decided that the 10 day time requirement for filing the reports is adequate and, therefore, no change has been made in the Rule.

Effective Dates

The effective dates of Rule 17j–1 are as follows:

(1) As to paragraph (a), October 31, 1980;

(2) As to all other paragraphs, May 1, 1981.

The Commission finds, in accordance with Section 553(d) of the Administrative Procedure Act of 1946 [5 U.S.C. 553(d)] that good cause exists for dispensing with the normal 30-day delay in the effectiveness of paragraph (a) of the Rule. Further, the Commission believes that these effective dates should allow all those subject to the Rule sufficient time to adopt appropriate codes of ethics and establish the necessary reporting and record keeping procedures.

Text of Rule 17j–1

Accordingly, 17 CFR Part 270 is amended by adding § 270.17j–1 to read as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§ 270.17j–1 Certain unlawful acts, practices, or courses of business and requirements relating to codes of ethics with respect to registered investment companies.

(a) It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of an investment adviser of or principal underwriter for a registered investment company in connection with the purchase or sale, directly or indirectly, by such person of a security held or to be acquired, as defined in this section, by such registered investment company—

(1) To employ any device, scheme or artifice to defraud such registered investment company;

(2) To make to such registered investment company any untrue statement of a material fact or omit to state to such registered investment company a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any such registered investment company; or

(4) To engage in any manipulative practice with respect to such registered investment company.

(b)(1) Every registered investment company, and each investment adviser of or principal underwriter for such investment company, shall adopt a written code of ethics containing provisions reasonably necessary to prevent its access persons from engaging in any act, practice, or course of business prohibited by paragraph (a) of this section and shall use reasonable diligence, and institute procedures reasonably necessary, to prevent violations of such code.

(2) The requirements of paragraph (b)(1) shall not apply to any underwriter (i) which is not an affiliated person of the registered investment company or its investment adviser, and (ii) none of whose officers, directors or general partners serves as an officer, director or general partner of such registered investment company or investment adviser.

(c)(1) Every access person of a registered investment company or of an investment adviser of or principal underwriter for such investment company shall report to such investment company, investment adviser or principal underwriter of which he or she is an access person the information described in paragraph (c)(2) with respect to transactions in any security in which such access person has, or by reason of such transaction acquires, any direct or indirect beneficial ownership in the security: *Provided, however,* That any such report may contain a statement that the report shall not be construed as an admission by the person making such report that he or she has any direct or indirect beneficial ownership in the security to which the report relates. For purposes of this section, beneficial

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ownership shall be interpreted in the same manner as it would be in determining whether a person is subject to the provisions of section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder, except that the determination of direct or indirect beneficial ownership shall apply to all securities which the access person has or acquires.

(2) Every report required to be made pursuant to paragraph (c)(1) shall be made not later than 10 days after the end of the calendar quarter in which the transaction to which the report relates was effected, and shall contain the following information:

(i) The date of the transaction, the title and the number of shares, and the principal amount of each security involved;

(ii) The nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);

(iii) The price at which the transaction was effected; and

(iv) The name of the broker, dealer or bank with or through whom the transaction was effected.

(3) Notwithstanding the provision of paragraph (c)(1), no person shall be required to make a report:

(i) With respect to transactions effected for any account over which such person does not have any direct or indirect influence or control;

(ii) If such person is not an "interested person" of a registered investment company within the meaning of section 2(a)(19) of the Act [15 U.S.C. 80a–2(a)(19)], and would be required to make such a report solely by reason of being a director to make such a report solely by reason of being a director of such investment company, except where such director knew or, in the ordinary course of fulfilling his official duties as a director of the registered investment company, should have known that during the 15-day period immediately preceding or after the date of the transaction in a security by the director such security is or was purchased or sold by such investment company or such purchase or sale by such investment company is or was considered by the investment company or its investment adviser;

(iii) Where the principal underwriter, as to which such person is an access person, (A) is not an affiliated person of the registered investment company or any investment adviser of such investment company, and (B) has no officers, directors, or general partners who serve as officers, directors or general partners of such investment company or any such investment adviser; or

(iv) Where a report to an investment adviser would duplicate information recorded pursuant to Rules 204–2(a)(12) or 204–2(a)(13) [17 CFR 275.204–2(a)(12) and 275.204–2(a)(13)] under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1, et seq.].

(4) Each registered investment company, investment adviser and principal underwriter to which reports are required to be made pursuant to this section shall identify all access persons who are under a duty to make such reports to it and shall inform such persons of such duty.

(d) Each registered investment company, investment adviser and principal underwriter which is required to adopt a code of ethics or to which reports are required to be made by access persons shall, at its principal place of business, maintain records in the manner and to the extent set forth below, and make such records available to the Commission or any representative thereof at any time and from time to time for reasonable periodic, special or other examination.

(1) A copy of each such code of ethics which is, or at any time within the past five years has been, in effect shall be preserved in an easily accessible place;

(2) A record of any violation of such code of ethics, and of any action taken as a result of such violation, shall be preserved in an easily accessible place for a period of not less than five years following the end of the fiscal year in which the violation occurs;

(3) A copy of each report made by an access person pursuant to this rule shall be preserved for a period of not less than five years from the end of the fiscal year in which it is made, the first two years in an easily accessible place; and

(4) A list of all persons who are, or within the past five years have been, required to make reports pursuant to this section shall be maintained in an easily accessible place.

(e) As used in this rule

(1) "Access person" means:

(i) With respect to a registered investment company or an investment adviser thereof, any director, officer, general partner, or advisory person, as defined in this section, of such investment company or investment adviser;

(ii) With respect to a principal underwriter, any director, officer, or general partner of such principal underwriter who in the ordinary course of his business makes, participates in or obtains information regarding the purchase or sale of securities for the registered investment company for which the principal underwriter so acts or whose functions or duties as part of the ordinary course of his business relate to the making of any recommendation to such investment company regarding the purchase or sale of securities.

(iii) Notwithstanding the provisions of paragraph (e)(1)(i), where the investment adviser is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, the term "access person" shall mean: any director, officer, general partner, or advisory person of the investment adviser who, with respect to any registered investment company, makes any recommendation, participates in the determination of which recommendation shall be made, or whose principal function or duties relate to the determination of which recommendation shall be made to any registered investment company; or who, in connection with his duties, obtains any information concerning securities recommendations being made by such investment adviser to any registered investment company.

(iv) An investment adviser is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its most recent three fiscal years or for the period of time since its organization, whichever is lesser, the investment adviser derived, on an unconsolidated basis, more than 50 percent of (A) its total sales and revenues, and (B) its income (or loss) before income taxes and extraordinary items from such other business or businesses.

(2) "Advisory person" of a registered investment company or an investment adviser thereof means:

(i) Any employee of such company or investment adviser (or of any company in a control relationship to such investment company or investment adviser) who, in connection with his regular functions or duties, makes, participates in, or obtains information regarding the purchase or sale of a security by a registered investment company, or whose functions relate to the making of any recommendations with respect to such pruchases or sales; and

(ii) Any natural person in a control relationship to such company or investment adviser who obtains information concerning recommendations made to such company with regard to the purchase or sale of a security.

(3) "Control" shall have the same meaning as that set forth in section 2(a)(9) of the Act [15 U.S.C. 80a–2(a)(9)].

(4) "Purchase or sale of a security" includes, *inter alia*, the writing of an option to purchase or sell a security.

(5) "Security" shall have the meaning set forth in section 2(a)(36) of the Act [15 U.S.C. 80a–2(a)(36)], except that it shall not include securities issued by the Government of the United States, bankers' acceptances, bank certificates of deposit, commercial paper and shares of registered open-end investment companies.

(6) "Security held or to be acquired" by a registered investment company means any security as defined in this rule which, within the most recent 15 days, (i) is or has been held by such company, or (ii) is being or has been considered by such company or its investment adviser for purchase by such company.

Authority

The Commission is adopting Rule 17j–1 under its authority in Sections 17(j) and 38(a) of the Act [15 U.S.C. 80a–17(j) and 15 U.S.C. 80a–37(a)]. It finds that any changes in the rule from the proposal published in Investment Company Act Release No. 10162 have already been generally subject to comment and pertain to matters of form or are less burdensome than those proposed. Further notice and rulemaking procedures under the Administrative Procedure Act [15 U.S.C. 553] are, therefore, unnecessary.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 31, 1980.

[FR Doc. 80–34869 Filed 11–6–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Chains and Parts Thereof, of Cast Iron, Iron or Steel From Italy; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Revocation of countervailing duty order.

SUMMARY: This notice is to advise the public that the Department of Commerce is revoking the countervailing duty order on chains and parts thereof from Italy because of the termination of an injury investigation by the United States International Trade Commission.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202–377–3758).

SUPPLEMENTARY INFORMATION: A notice entitled "Countervailing Duties: Chains and Parts Thereof, of Cast Iron, Iron or Steel from Italy," T.D. 77–249, was published in the **Federal Register** of October 11, 1977 (42 FR 54799). The notice stated that the Treasury Department had determined that exports of chains and parts thereof, of cast iron, iron or steel from Italy were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Accordingly, imports of the merchandise were subject to countervailing duties as set out in T.D. 77–249 and as modified in T.D. 79–20, published in the **Federal Register** of January 17, 1979 (44 FR 3473).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) ("the TAA") went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department"). Under section 104(b)(1) of the TAA, the United States International Trade Commission ("the ITC") is required to review countervailing duty orders issued under section 303 of the Act applicable to merchandise from "countries under the Agreement" upon the request of a government or group of exporters of merchandise covered by the order. Italy is considered a "country under the Agreement".

On January 11, 1980 and March 27, 1980, the ITC received two such requests for review of the countervailing duty order on chains and parts thereof from Italy. Pursuant to the ITC's notification to the Department of the requests for an injury review of the order, the Department issued instructions to suspend liquidation of entries of the affected merchandise made on or after April 3, 1980, as required by section 104(b)(3) of the TAA.

On May 2, 1980, the ITC received a request to withdraw the petition from counsel for the National Association of Chain Manufacturers, the petitioner in the original proceeding.

The ITC published a notice on August 6, 1980 in the **Federal Register** (45 FR 52273) proposing termination of its investigation under section 710(a) of the Act and section 104(b) of the TAA and requesting public comment by September 5, 1980. No adverse comments were received in response to the ITC notice. As a result, the ITC published a notice in the **Federal Register** of October 1, 1980 (45 FR 65087) accepting the withdrawal of the petition and terminating its investigation, pursuant to section 704(a) of the Act. The ITC informed the Department that "the termination of this investigation has the same effect as a determination of no material injury or threat thereof." This was the same language used by the ITC in its letter of August 26, 1980 terminating the investigation concerning certain steel products from Italy (T.D. 69–113). On the basis of such language, the Department subsequently revoked the latter order (45 FR 68931).

Similarly, the Department hereby revokes T.D. 77–249 with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980.

The Department will instruct Customs officers to proceed with liquidation of all such entries of the subject merchandise without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. Entries, or withdrawals from warehouse, for consumption made before April 3, 1980 are subject to countervailing duties as set forth in T.D. 77–249 and as modified by T.D. 79–20.

Table in Part 355, Annex III [Amended]

The table in Part 355, Annex III, Commerce Regulations (19 CFR Part 355, Annex III, 45 FR 4949), is amended under the country heading "Italy", by deleting from the column headed "Commodity", the words "Iron or steel chains and parts"; from the column headed "Treasury Decision", the numbers "77–249"; and from the column headed "Action", the words "Bounty declared-rate".

This revocation and notice publication are in accordance with section 104(b)(4)(B) of the TAA (93 Stat. 192, 19 U.S.C. 1671 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80–34808 Filed 11–6–80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 80F-0112]

Boiler Water Additives; Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polymaleic acid (hydrolyzed polymaleic anhydride) and/or its sodium salt as boiler water additives in the preparation of steam that will contact food. This action is based on a petition by Ciba-Geigy Corp.

DATES: Effective November 7, 1980; objections by December 8, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 8, 1980 (45 FR 45961), notice was given that a petition (FAP 8A3405) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 173.310 *Boiler water additives* (21 CFR 173.310) be amended to provide for the safe use of hydrolyzed polymaleic anhydride and its sodium salt as boiler water additives in the preparation of steam that will contact food. The agency subsequently determined that the proper chemical name for hydrolyzed polymaleic anhydride for purposes of regulation would be polymaleic acid.

The agency has evaluated data in the food additive petition and other relevant material and concludes that the food additive regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 173 is amended in § 173.310 by alphabetically inserting a new item in paragraph (c), to read as follows:

§ 173.310 Boiler water additives.

* * * * *

(c) * * *

Substances	Limitations
* * *	* *
Polymaleic acid [CAS Reg. No. 26099-09-2], and/or its sodium salt. [CAS Reg. No. 70247-90-4].	Total not to exceed 1 part per million in boiler feed water (calculated as the acid).
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 8, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 7, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: October 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34454 Filed 11-6-80; 8:45 am]

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21 CFR Part 601

[Docket No. 80N-0377]

Licensing; Sale of Biological Products Under Development

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologic regulations to clarify the relationship between the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act relating to the sale of investigational biological products.

DATES: Effective November 7, 1980; comments by January 6, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) HFA-305, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul K. Hiranaka, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: Biological products are controlled by the Public Health Service Act (PHS Act) (42 U.S.C. 262), the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 301 et. seq.) and the regulations promulgated thereunder. The PHS Act requires that biological products be licensed before their sale, barter, or exchange in interstate commerce. The Bureau of Biologics of the Food and Drug Administration is responsible for licensing biological products. To be licensed, an investigational biological product must be developed and tested to ensure that it is safe, pure, potent, and effective. A biological product undergoing development is subject to the investigational new drug regulations prescribed in §§ 312.1 and 601.21 (21 CFR 312.1 and 601.21) promulgated under the FD&C Act and the PHS Act, respectively. However, once such a product is licensed under the PHS Act, the new drug provisions of the FD&C Act no longer apply (21 CFR 310.4).

In the **Federal Register** of July 31, 1954 (19 FR 4722), the Division of Biologics Standards of the National Institutes of Health (now the Bureau of Biologics, FDA) issued a regulation (now § 601.21) interpreting the interaction between the PHS Act and the FD&C Act. The preamble of that **Federal Register** document characterized the regulation as "essentially informative in nature * * *" and "at most interpretative of the relationship between the two statutes * * *." The regulation appears to prohibit the interstate shipment of an unlicensed biological product undergoing development if it is to be sold, bartered, or exchanged.

Subsequently, FDA issued in the **Federal Register** of July 25, 1956 (21 CFR 5577) the investigational new drug regulations (now § 312.1), which define the conditions under which

investigational drugs and biologicals may be used. These regulations require, in part, that an investigational product shall not be sold, unless a full and satisfactory explanation of why the sale should not be regarded as commercialization of the product is provided.

Because the regulations concerning investigational new drugs under § 312.1 complement § 601.21, the agency concludes that § 601.21 should be clarified by including a reference to § 312.1. Accordingly, the prohibition in the PHS Act and § 601.21 against the sale of an unlicensed biological product does not preclude the sale of an investigational biological product where such sale is in conformance with the regulations governing investigational new drugs and is approved by the agency.

In order for a sale of an investigational biological product to be permitted, the requester must show why the sale is necessary as part of an investigation and should not be regarded as commercialization of the product. The request must be submitted in advance of any sale. The agency will carefully review each request, and no such sale will be permitted except in the context of an acceptable clinical investigation. No sale of an investigational biological product shall occur unless and until it has been approved by the Director, Bureau of Biologics.

This interpretation in no way affects the basic statutory prohibition against any interstate shipment of an investigational biological product prior to submission of a Notice of Claimed Investigational Exception for a New Drug and full compliance with § 312.1.

In addition to clarifying § 601.21 by including a reference to § 312.1, the agency concludes that § 601.21 should also be amended to delete reference to trivalent organic arsenical since such products are included in the definition of a biological product.

The agency has determined pursuant to § 25.24(b)(17) (proposed December 11, 1979, 44 FR 11742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 601 is amended by revising § 601.21 to read as follows:

§ 601.21 Products under development.

A biological product undergoing development, but not yet ready for a product license, may be shipped or otherwise delivered from one State or possession into another State or possession provided such shipment or delivery is not for sale, barter, or exchange, except as provided in section 505(i) of the Federal Food, Drug, and Cosmetic Act, as amended, and the regulations thereunder (21 CFR 312.1).

Under the Administrative Procedure Act (5 U.S.C. 5539 (b) and (d)) and 21 CFR 10.40 (c)(4) and (e)(1)), the agency concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 601.21 because it does not impose an additional duty or burden on any person but rather clarifies an existing regulation. However, interested persons may, on or before January 6, 1980 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective Date. This final rule becomes effective November 7, 1980.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: October 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34463 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-80-883]

Combination and Mobile Home Lot Loans

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule with request for comments.

SUMMARY: Section 313 of the Housing and Community Development Amendments of 1979 amended the National Housing Act to permit increased loan amounts and terms under HUD's Combination and Mobile Home Lot Loan Program. The following amendments increase loan limits and maturities to the maximum authorized by the 1979 Act and also make other miscellaneous changes.

EFFECTIVE DATE: November 7, 1980.

COMMENTS DUE: January 6, 1981.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the docket number indicated by the headings, and give reasons for any recommendations. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The interim rule may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9178, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Section 313 of the Housing and Community Development Amendments of 1979, Pub. L. 96-153, amended Title I of the National Housing Act (12 U.S.C. 1703) to authorize increased loan limits and terms for single-unit and multi-unit mobile homes when purchased in combination with developed and undeveloped lots. These regulations implement the increases so authorized. For single-unit homes with undeveloped lots the dollar limit will be raised from $21,000 to $24,000. For multi-unit homes with undeveloped lots the limit will be raised from $29,000 to $33,000. The limit for single-unit homes with developed lots will be raised from $23,500 to $27,500 and the dollar limit for multi-unit homes with developed lots from $31,500 to $36,500.

The individual ceilings on dollar amounts allocated to purchase the lot or mobile home in combination were removed by the Act, and it is intended to remove this limitation from the regulations.

The term for loans to purchase single-unit homes purchased in combination with developed or undeveloped lots will be increased to 20 years and 32 days, and the term for multi-module homes

with developed or undeveloped lots will be increased to 25 years and 32 days.

The loan limit for the purchase of a lot only by the present owner of a mobile home will be increased to $6,250 for an undeveloped lot and $9,375 for a developed lot. The maximum term for lot purchase loans, whether developed or undeveloped, will be raised from 10 years and 32 days to 15 years and 32 days.

Loans are also limited to 130 percent of the price set in the mobile home manufacturer's invoice plus the actual cost and installation of central air conditioning and/or heat pumps and the appraised value of the lot.

Section 201.1502 is amended to delete the prohibition on the purchase of a lot subject to a condominium agreement, and to clarify the definition of a "developed" lot.

Section 201.1504 is amended to provide for the financing of the purchase of a used mobile home which was previously financed with a loan under this part.

Section 201.1511 is amended to provide for a one percent origination fee although it must be included within the maximum financing charge.

A new § 201.1515 is added which will require at least 30 calendar days prior notice by the lender to the homeowner before acceleration of the debt instrument secured by the mobile home or lot. The lender shall also be required to make certain disclosures to the borrower concerning the borrower's default and to offer the borrower an opportunity to cure the default.

Section 201.1520 is amended to provide that prior approval by the Commissioner is required before a deed in lieu of foreclosure or repossession is taken by an insured lender.

Section 201.1525(b) is amended to provide that claim shall be filed no later than 18 months and 31 days after the due date of the earliest fully unpaid installment.

Section 201.1526(b) is amended to provide that interest at the rate of 7 percent shall be paid upon the amount due on the borrower's obligation without deducting the amount received from sale of the home, and to provide that such interest shall be payable for a period computed from the date of default to either the date of the claim or for a period of 18 months and 31 days following the date of default, whichever period of time is less.

Due to sharp increases in the cost of housing, many middle-income families and individuals have been excluded from homeownership. This interim regulation will make homeownership available to a broader segment of the population, particularly the first time homebuyer, and will also help stimulate and stabilize the production of housing.

In the current economic situation, rising costs have tended to make decent housing unavailable for many low and moderate income families. Prompt implementation of the program to be authorized by this rule will help to provide new affordable homeownership opportunities to these low and moderate income families. Accordingly, the Secretary has determined that, in light of the current economic situation, it is urgent that the benefits afforded by this rule be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on the rule prior to its effective date would cause a substantial delay in making the benefits available. Therefore, the Secretary finds that prior notice and public procedure on the rule would be contrary to public interest and that the rule should become effective as soon as possible under applicable legal requirements. However, the Secretary is providing an opportunity for public comment on the rule following its effective date. Serious consideration will be given to all public comments submitted in developing a final rule, which will be prepared and published as soon as possible after the close of the time period allowed for public comment.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above. In addition, the Chairman and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act and the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

In accordance with Executive Order 12044 a Regulatory Analysis has been prepared on this regulation and is available for copy and inspection at the above address.

This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart D—Combination and Mobile Home Lot Loans

1. Section 201.1502 (b) and (f) are revised to read as follows:

§ 201.1502 Definitions.

* * * * *

(b) "Mobile Home Lot" means a portion of land acceptable to the Secretary as a mobile home site. The mobile home lot may be unplatted, or may be in a mobile home park, a recorded or unrecorded subdivision, or planned unit development or condominiums.

* * * * *

(f) "Developed lot" means a lot with water and utility connections, sanitary facilities, appropriate driveways, provisions for anchoring and support systems as specified by the manufacturer of the home to be placed on the lot, and other improvements which are necessary to make the lot acceptable to the Secretary as a mobile home site.

* * * * *

3. Section 201.1504 is revised to read as follows:

§ 201.1504 Maximum loan amounts and terms.

(a) Maximum insurable loan amounts and terms shall not exceed the lesser of:

(1) $24,000 for 20 years and 32 days for the purchase of a single-wide mobile home and an undeveloped lot.

(2) $27,500 for 20 years and 32 days for the purchase of a single-wide mobile home and a developed lot.

(3) $33,000 for 25 years and 32 days for the purchase of a mobile home composed of two or more modules and an undeveloped lot.

(4) $36,000 for 25 years and 32 days for the purchase of a mobile home composed of two or more modules and a developed lot.

(5) 130 percent of the total price of a new mobile home, as stated in the manufacturer's invoice plus the actual cost and installation of central air conditioning and/or heat pumps. To this amount may be added the Secretary's estimate of the value of the mobile home lot; or

(6) 90 percent of the Secretary's estimate of the value of a used mobile home, if the used mobile home was previously financed with a loan under this part, plus the Secretary's estimate of the value of the mobile home lot.

(b) The maximum permissible loan amounts and terms for the purchase of a mobile home shall not exceed the lesser of the Secretary's estimate of the value of the mobile home lot or;

(1) $6,250 for 15 years and 32 days for the purchase of an undeveloped lot on which to place a mobile home owned by the borrower.

(2) $9,375 for 15 years and 32 days for the purchase of a developed lot for which to place a mobile home owned by the borrower.

4. Section 201.1506(a) is revised as follows:

§ 201.1506 Loans for the purchase or acquisition of a lot.

(a) A loan to finance the purchase by the borrower of a lot on which to place a mobile home owned by the borrower including funds for site preparation, anchoring devices, support systems and foundation shall be eligible: *Provided*, That

* * * * *

5. Section 201.1509 (a) and (b)(1) is revised to read as follows:

§ 201.1509 Fees and charges for origination of loan.

(a) The insured will be charged a fee by an appraiser approved by the Commissioner.

(b) * * *

(1) Appraisal fee charged by an approved appraiser.

* * * * *

6. Section 201.1511(a)(2) is revised to read as follows:

§ 201.1511 Financing charges.

(a) * * *

(1) * * *

(2) No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed this fee must be included in the financing charge. * * *

* * * * *

7. A new § 201.1515 is proposed to be added to read as follows:

§ 201.1515 Notice of default.

(a) The lender shall, prior to taking any action to accelerate the maturity of the borrower's note or obligation, send to the mobile home owner a written notice by registered or certified mail of the lender's intention to declare a default. The notice shall be sent to the address where the mobile home is located. The notice shall contain the following disclosures in a clear and concise manner:

(1) A description of the obligation or security interest held by the lender.

(2) The nature of the default claimed, which may be stated in general terms, for example: "failure to make required installment payments when due."

(3) The specific actions which the lender intends to take at the expiration of the 30-day notice period.

(4) The right of the mobile home owner to cure the default and the exact manner in which he or she may do so, including the sum of money which must be tendered, if any, in order to cure the default; and the office address to which payment must be sent.

(5) A statement that the default may be cured at any time before title is lawfully transferred, and that title will not be transferred, in any event, until at least 40 days, or such longer period as required by state law, has passed following mailing of the notice to the mobile homeowner.

(b) The notice required by paragraph (a) of this section shall not be required when the mobile home owner has abandoned the mobile home or offered a deed in lieu of foreclosure, provided that the lender retains evidence thereof satisfactory to the Commissioner.

7. Section 201.1520(a) is amended to add subparagraph (5) as follows:

§ 201.1520 Deed in lieu of foreclosure.

(a) * * *

(5) The Secretary's prior approval shall be obtained before a deed in lieu of foreclosure is accepted by the lender.

8. Section 201.1525(b) is revised to read as follows:

§ 201.1525 Claim application.

(a) * * *

(b) *Where to file.* Claim shall not be filed by the insured lender until after default, repossession, and resale of the mobile home and lot or mobile home lot. Where a mobile home and lot have been financed, the mobile home and lot shall be sold in a single transaction. The mobile home may not be removed from the lot without the prior approval of the Secretary. Claim shall be filed no later than 18 months and 31 days after the due date of the earliest fully unpaid installment unless an extension is requested and approved by the Secretary.

9. Section 201.1526(b)(1) is amended to read as follows:

§ 201.1526 Amount of claim.

* * * * *

(b) On loans in default prior to April 1, 1980 add to 90 percent of the amount determined under paragraph (a) of this section, computed from date of default: On loans in default on or after April 1, 1980 add to 90 percent of the amount determined under paragraph (a) of this section, 90 percent of the interest at 7 percent per annum on the outstanding principal balance computed from the date of default:

(1) To either the date of claim application or for a period of 18 months and 31 days following such default date, whichever period of time is the lesser, or;

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)))

Issued at Washington, D.C., October 16, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-34783 Filed 11-6-80; 8:45 am]

BILLING CODE 4210-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Rate Changes, Bibliography, and Index

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby makes numerous rate changes and adds a bibliography and a subject index to the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register.** 39 CFR 111.1.

All of the rate changes made to sections or Exhibits in the DMM reflect rate changes previously published in a notice in the **Federal Register** and made effective on July 6, 1980, 45 FR 45041. The bibliography and subject index are new.

EFFECTIVE DATE: July 30, 1980.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

SUPPLEMENTARY INFORMATION: The DMM has been amended by the publication of a transmittal letter for Issue 3, dated July 30, 1980. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following Summary of Changes is taken from the transmittal letter for Issue 3.

Summary of Changes

1. Sections 411.21, 411.321 b, 411.322, 411.331, 411.332, 411.341, 411.342 and Exhibits 611.2 and 711.4 are revised to

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reflect the rate changes implemented effective 12:01 a.m., July 6, 1980. These rates appeared in *Postal Bulletin* 21244, dated May 8, 1980.

2. A Bibliography and Index are added to the DMM.

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register Publication
3	July 30, 1980	45 FR 73925

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218, 3403–3405, 3601, 3621; 42 U.S.C. 1973–cc–13, 1973–cc–14)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80–34721 Filed 11–6–80; 8:45 am]

BILLING CODE 7710–12–M

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to the Postal Contracting Manual.

SUMMARY: The Postal Service hereby announces numerous miscellaneous revisions of the Postal Contracting Manual. The revisions are explained below in the Supplementary Information.

EFFECTIVE DATE: August 30, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Jones, (202) 245–4603.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the **Federal Register** (see 39 CFR 601.100), has been amended by the issuance of Transmittal Letter 33, dated July 30, 1980.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers of the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation

a. Paragraph 1–309.2(c) has been revised to remove the existing limitation on the maximum period for the assessment of liquidated damages.

b. Paragraph 1–313 has been revised to implement the Contract Disputes Act of 1978.

c. Paragraph 1–407.2(b)(2)(i) has been revised to reflect a change in the procurement authority that the Regional Postmasters General may delegate the SC Manager/Postmasters for construction contracts.

d. Paragraph 1–903.1(i) has been revised to provide guidance in determining responsibility of prospective contractors as it relates to unusually low offers.

e. Paragraph 1–1001.1 has been revised to update policy on publicizing proposed procurement actions in newspapers and trade journals.

f. Paragraph 1–1105.2 has been revised to reflect that the General Manager, Procurement Technical Support Division, Procurement and Supply Department, shall approve brand name or equal purchase descriptions for procurements in excess of $30,000.

g. Paragraph 1–1906 has been revised to reflect that the General Manager, Procurement Technical Support Division, Procurement and Supply Department, shall evaluate any value engineering change proposals received by the contracting officer.

h. Paragraph 2–406.3(c)(ii) has been revised for clarity with respect to the evaluation of unusually low offers.

i. Paragraph 7–103.5, the *Inspection* clause, has been revised.

j. Paragraph 7–103.12, the *Disputes* clause, has been replaced by the *Claims and Disputes* clause.

k. Paragraph 7–104.47 has been added to incorporate a new clause, *Affirmative Action for Handicapped Workers.*

l. Paragraph 7–104.48 has been added to incorporate a new clause, *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.*

m. Section 12, Part 8, has been updated to reflect changes in the policies and procedures established by the Department of Labor with respect to equal opportunity, specifically in the areas of contract compliance reviews and dealings with the Office of Federal Contract Compliance Programs.

n. Section 12, Part 10, has been added to incorporate policies and procedures with respect to employment of the handicapped.

o. Section 12, Part 11, has been added to incorporate policies and procedures with respect to employment of disabled veterans and veterans of the Vietnam era.

p. The following new, revised, or replacement forms have been included in Section 16 and shall be used immediately:

(1) Form 7308, April 1979—*Evaluation and Award Criteria—Contract Units*

(2) Form 7310, April 1979—*Representations and Certifications—Contract Units*

(3) Form 7311, Dec. 1979—*Specification Requirements—Contract Stations, Contract Branches, and Community Post Offices*

(4) Form 7312, April 1979—*Monthly Report of Operations—Contract Units*

(5) Form 7313, Jan. 1979—*Health Unit Agreement*

(6) Form 7314, Dec. 1979—*Medical Agreement*

(7) Form 7332, July 1979—*General Provisions for Fixed-Price Contracts (Supplies and Services or Research and Development)*

(8) Form 7348, January 1980—*Sale of USPS Personal Property—Bid and Award*

(9) Form 7348–A, January 1980—*Sale of USPS Personal Property—General Sale Terms and Conditions*

(10) Form 7348–B, January 1980—*Sale of USPS Personal Property—Item Bid Page*

(11) Form 7368, Dec. 1979—*Solicitation, Offer, and Award—Contractor Operated Stations, Branches, or Community Post Offices*

(12) Form 7369, Dec. 1979—*General Provisions for Contract Stations, Contract Branches, and Community Post Offices*

(13) Form 7475, Nov. 1979—*Solicitation, Offer, and Award—Vehicle Hire*

(14) Form 7476, Nov. 1979—*General Provisions for Vehicle Hire Contracts.*

q. The following obsolete forms have been deleted from section 16:

(1) Form 7361, April 1976—*Solicitation, Offer, and Award—Vehicle Hire (Areawide)*

(2) Form 7361–A, May 1977—*Area Wide Vehicle Contract Modification*

(3) Form 7374, April 1975—*Solicitation, Offer, and Award—Vehicle Hire (not to Exceed $5,000 Annually)*

(4) Form 7374, Feb. 1976—*Solicitation, Offer, and Award—Vehicle Hire (Over $5,000 Annually)*

r. Paragraphs 18–309.7 and 18–518.12 have been added to provide instructions for use of the new clause entitled *Affirmative Action for Handicapped Workers* prescribed in 7–104.47.

s. Paragraphs 18–309.8 and 18–518.13 have been added to provide instructions for use of the new clause entitled *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era* prescribed in 7–104.48.

t. The following new, revised, or replacement forms have been included in section 18 and shall be used immediately where applicable:

(1) Form 7322, Jan. 1979—*Solicitation, Offer, and Award (Construction Contract)*

(2) Form 7322–A, Dec. 1976—*Labor Standards Provisions Applicable to Contracts in Excess of $2,000*

(3) Form 7388, May 1975—*Bid Form (Construction Contract)*

(4) Form 7389, May 1975—*Instructions to Bidders (Construction Contract)*

(5) Form 7391, Oct. 1979—*General Provisions for Fixed-Price Construction Contracts*

(6) Form 7401, July 1979—*Supplemental Agreement (Lessor Improvements)*

(7) Form 7404, July 1979—*Contract for Real Estate Services*

(8) Form 7417, Dec. 1974—*Short Form Lease*

(9) Form 7417–A, April 1979—*General Conditions to Short Form Lease*

(Previous editions of any of the above forms are obsolete and must be destroyed.)

u. Paragraph 26–208 has been revised to clarify the provisions of the clause entitled *Guaranteed Maximum Shipping Weights and Dimensions.*

v. Appendix A has been revised to update the rules of practice before the Postal Service Board of Contract Appeals.

w. The remainder of the changes are minor, editorial, or technical in nature.

In consideration of the foregoing, 39 CFR Part 601 is amended by adding the following to § 601.105:

§ 601.105 Amendments to the Postal Contracting Manual.

Transmittal letter	Dated	FEDERAL REGISTER Publication
33	July 30, 1980	45 FR 73926

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80–34722 Filed 11–6–80; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52

[A–5–FRL 1661–3]

Approval and Promulgation of Implementation Plans; Ohio.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule restarts compliance schedules and revises attainment dates in the federally promulgated Ohio state implementation plan for three power plants. Compliance with the emission limitations for the three power plants was stayed pending the Environmental Protection Agency's reconsideration of its original use of the Pasquill-Gifford (P–G) class A dispersion coefficients in setting emission limitations for these plants. The United States Court of Appeals for the Sixth Circuit remanded the class A record to the agency on June 29, 1978. *Cincinnati Gas and Electric Company* v. *EPA*, 578 F.2d 660 (6th Cir. 1978). On June 19, 1980, EPA published its reconsideration of the class A issue and affirmed its original use of the P–G class A coefficients in setting emission limitations for these power plants (45 FR 41501). Thus, on June 19, 1980, EPA affirmed the emission limitations for the power plants that were originally promulgated by EPA on August 27, 1976. 41 FR 36324, 40 CFR 52.1881, et seq. In order to bring the three power plants into compliance with their emission limitations, EPA is restarting the original compliance schedules. The new starting date for the compliance schedules is June 19, 1980. The attainment date for these plants is June 19, 1983. EPA is also publishing for comment in today's **Federal Register** a proposed alternative compliance schedule for the Conesville power plant based on the stated intention of Columbus and Southern Ohio Electric Company to install a coal washing facility to achieve compliance. If CSOE chooses not to install a coal washing facility to achieve compliance, it must comply with the original compliance schedule.

EFFECTIVE DATE: June 19, 1980.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6039.

SUPPLEMENTARY INFORMATION: On June 29, 1978, the U.S. Court of Appeals for the Sixth Circuit remanded to EPA for its further consideration the agency's use of the Pasquill-Gifford dispersion coefficients in setting emission limitations for isolated rural sources in Ohio. *Cincinnati Gas and Electric Company* v. *EPA*, 578 F.2d 660 (1978). The agency published its preliminary findings on its review of the original class A record on February 7, 1979. 44 FR 7798. The agency stated that its preliminary review of additional scientific data supported EPA's original decision to use the class A coefficients in setting emission limitations for isolated rural power plants in Ohio. Review of the agency's modeling determined that only four Ohio power plants had emission limitations which were determined by P–G class A conditions. These power plants are Stuart (Dayton Power and Light Company), Conesville (Columbus and Southern Ohio Electric Company), Cardinal and Muskingum River (Ohio Power Company).

The Court's remand effectively stayed compliance with the originally promulgated emission limitations for the four plants pending the agency's reconsideration of the original class A record. 44 FR 7798 (February 7, 1979). However, since the agency's preliminary findings supported the original use of class A, the agency solicited comment on whether these utilities would need more time than allowed under the current compliance schedule to bring their sources into compliance with their original emission limitations.[1] 44 FR 7798. The original attainment date for these four plants was June 17, 1980. 40 CFR 52.1875 (1979). EPA stated in the February 7, 1979 notice that, if necessary, it would amend the SIP to give the utilities more time to comply.[2]

On June 19, 1980, EPA published its evaluation of comments on the February 7, 1979 notice and its final determination on use of the P–G class A coefficients. 45 FR 41501. EPA found that the scientific evidence and utility monitor data supported the agency's original decision to use the P–G class A coefficients in setting emission limitations for the four Ohio power plants. Therefore, the agency reaffirmed

[1] The current emission limitations for these plants are as follows: Stuart—3.16 lbs. SO_2/MBTU; Conesville—5.66 lbs. SO_2/MBTU; Cardinal—4.76 lbs. SO_2/MBTU; and Muskingum River—6.48 lbs. SO_2/MBTU. *See* 40 CFR § 52.1881. These are some of the highest emission limitations in the federally promulgated Ohio SO_2 plan.

[2] Restarting compliance schedules and revising attainment dates following a remand is proper under the Clean Air Act. Section 110(a)(2)(A), 42 U.S.C. §7410(a)(2)(A). The United States Court of Appeals for the Sixth Circuit affirmed exactly such an action following remand of particulate matter regulations in Ohio. *Northern Ohio Lung Association* v. *EPA*, 572 F.2d 1143 (1978).

the originally promulgated emission limitations for the four plants on June 19, 1980, and these sources are now required to come into compliance with those emission limitations.[3] 45 FR 41509 (June 19, 1980).

In response to EPA's February 7, 1979 notice, only Dayton Power and Light Company indicated that it would not need more time to comply. Dayton Power and Light stated that its Stuart power plant is in compliance with the originally promulgated emission limitation. There is, therefore, no need to restart the compliance schedule or revise the attainment date for the Stuart power plant. However, in order to bring the Conesville, Muskingum River and Cardinal plants into compliance, the agency is restarting the original compliance schedules for these plants. This means that these plants will have to comply with the same interim compliance milestones used for all other SO_2 sources in the state of Ohio. These plants will also have the same three year period for attainment as used for all other SO_2 sources in Ohio.

In addition to restarting the original compliance schedules, the agency is proposing to promulgate an alternative compliance schedule for the Conesville plant. On January 23, 1980, Columbus and Southern Ohio Electric Company (CSOE) submitted to EPA a proposed coal washing compliance program and schedule to meet its original emission limitation. EPA reviewed the CSOE schedule and determined that it is as expeditious as practicable and provides for compliance within three years of approval. In addition, the coal washing program allows CSOE to continue burning Ohio coal and still meet its emission limitation. EPA is publishing for comment in the proposed rules section of today's **Federal Register** the CSOE coal washing compliance schedule as an alternative to the original compliance schedule in 40 CFR 52–1882(b). If CSOE chooses to comply by installing a coal washing facility, it would have to meet the interim dates in the coal washing compliance schedule. If CSOE chooses not to install a coal washing facility, it will be subject to the interim dates of the original compliance schedule. EPA is proposing to make the coal washing schedule subject to the same starting date as the original schedule.

The agency has determined that the appropriate starting date for the original compliance schedules for these plants is June 19, 1980. Accordingly, the new attainment date for these plants is June 19, 1983. The Court's remand in effect required the agency to stay compliance for the "class A" power plants until the agency responded to the remand. The utilities, however, were on notice that the stay would be lifted once the agency's responded to the remand. The utilities were also on notice that the agency was considering reaffirming their original emission limitations. 44 FR 7798 (February 7, 1979). In fact, the agency specifically asked the utilities to comment on whether they would need more time to comply with their original emission limitations. Therefore, the utilities had fair warning that they could be required to comply with their original emission limitations once the agency responded to the remand. Further delay in moving these plants toward compliance with emission limitations that were promulgated in 1976 is unwarranted and would be contrary to the public interest.[4]

The agency has determined that it is unnecessary to provide for further comment on the original compliance schedules. Both the utilities and the public have already had the opportunity to comment on the compliance schedules as part of the agency's original promulgation of the SO_2 plan in 1976. Thirty-three petitions for review were filed following EPA's promulgation of the SO_2 plan in 1976. None of the petitioners challenged the compliance schedules. *Cleveland Electric Illuminating Company* v. *EPA*, 572 F.2d 1150 (6th Cir. 1978), *cert. denied* 439 U.S. 910 (1978); *Cincinnati Gas and Electric Company* v. *EPA*, 578 F. 2d 660 (6th Cir. 1978), *cert. denied* 439 U.S. 1114 (1978). In addition, the public and the utilities have had an opportunity to comment on the need to revise the original compliance schedules for these four "class A" power plants. 44 FR 7798 (February 7, 1979). Only the affected utilitites commented. In addition, further public comment on these compliance schedules and revised attainment dates would delay moving these sources toward compliance. For these reasons, further public comment is unnecessary and would be contrary to the public interest.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it can follow other specialized development procedures. EPA labels these regulations "specialized." I have reviewed this rule and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action and supporting record is available only by the filing of a petition for review in the United States Court of Appeals for the Sixth Circuit within 60 days of the date of this publication. Under Section 307(b)(1) of the Clean Air Act, the requirements which are the subject to today's notice may *not* be challenged later in civil or criminal proceedings brough by EPA to enforce these requirements. This Notice of Final Rulemaking is issued under the authority of Section 110(a), 172 and 301 of the Clean Air Act as amended.

(42 U.S.C. 7410(a), 7502, 7601(a))

Dated: November 3, 1980.

Barbara Blum,

Acting Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart kk—Ohio

1. In § 52.1875, the attainment date for sulfur dioxide in the table is revised for Ohio Power Company and Columbus and Southern Ohio Electric Company. This revision is reflected in footnote "f" to the table. The introduction paragraph of footnote f. is revised and a new footnote f.(3) is added, as follows

§ 52.1875 Attainment dates for national standards.

* * * * *

f. August 27, 1979 except for the companies listed in (1) which are subject to an attainment date of June 17, 1980, the Ashland Oil Company which is subject to an attainment date of Septebmer 14, 1982, the companies in Summit County listed in (2) which are subject to an attainment date of January 4, 1983, PPG Industries, Inc. (boilers only) in Summit County, Ohio which is subject to an attainment date of August 25, 1983, and the utilities listed in (3) which are subject to an attainment date of June 19, 1983.

* * * * *

(3) Ohio Power Company (Cardinal plant in Jefferson County and Muskingum River plant in Washington and Morgan Counties) and the Columbus and Southern Ohio Electric Company (Conesville plant in Coshocton County).

[3] Ohio Power Company and Columbus and Southern Ohio Electric Company filed petitions for reconsideration of the agency's June 19, 1980 determination on class A. Both requested a stay of the decision pending the agency's reconsideration or, if the agency denies the reconsideration, pending judicial review. The agency will respond to the petitions and requests for stay in a seperate **Federal Register** notice.

[4] The U.S. Court of Appeals for the Sixth Circuit recently cited the long delays and the "'public interest' in achievement of national air quality standards" in Ohio. *Republic Steel Corporation* v. *Costle*, 621 F.2d 797 (6th Cir. 1980).

2. In § 52.1882, new section (h) is added as follows:

§ 52.1882 Compliance schedules.

* * * * *

(h) The federal compliance schedule for Ohio Power Company's Cardinal plant in Jefferson County and Muskingum River plant in Washington and Morgan Counties and Columbus and Southern Ohio Electric Company's Conesville plant in Coshocton County is set forth in § 52.1882(b) except that all references to June 17, 1977, are changed to June 19, 1980.

[FR Doc. 80-34907 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 55

[A-4-FRL 1646-1]

Energy Related Authority; Amendment to Delayed Compliance Order for the Florida Power Corp.—Crystal River Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues an Amendment to the Delayed Compliance Order (DCO) for the Florida Power Corporation. The amended DCO requires the Company to bring air emissions from its Crystal River Plant Unit No. 2 boiler located near Red Level, Florida, into compliance with certain regulations contained in the Federally-approved Florida State Implementation Plan (SIP) by December 30, 1980. Florida Power Corporation's compliance with the amended DCO will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the amended DCO.

EFFECTIVE DATE: This rule takes effect on November 7, 1980.

ADDRESS: The amended Federal Delayed Compliance Order, supporting material, and any comments received in response to the prior **Federal Register** notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne J. Aronson, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone number: 404/881–4253.

SUPPLEMENTARY INFORMATION: On September 3, 1980, the Regional Administrator of EPA's Region IV Office published in the **Federal Register** (Volume 45, No. 172 at page 58381), a notice setting out the provisions of a proposed Amendment to the Delayed Compliance Order (DCO) for Florida Power Corporation's (FPC)—Crystal River Plant. The notice asked for public comments and provided an opportunity for a public hearing on the proposed Amendment. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, an Amendment to Delayed Compliance Order (Docket No. DCO–78–6) effective this date is issued to Florida Power Corporation by the Administrator of EPA pursuant to the authority of Section 113(d)(5) of the Clean Air Act (the Act), 42 U.S.C. 7413(d)(5). The amended DCO places Florida Power Corporation on a schedule to bring Crystal River Plant Unit No. 2 boiler located near Red Level, Florida, into compliance by December 30, 1980, with Sections 17–2.04(6)(e)2a and 17–2.04(6)(e)2b of the Air Pollution Rules of the State of Florida, a part of the Federally-approved Florida State Implementation Plan. This Amendment to the DCO requires FPC to complete installation of particulate emission control equipment, shakedown operations, performance tests, and certification of final compliance at its Crystal River Plant for Unit No. 2, according to the schedule set forth below. The amendment to the DCO requires FPC to maintain compliance with an interim emission limit of 0.10 pound per million BTU's while operating Unit 2 at a derated level of approximately 303 megawatts. Compliance with the terms of the amended DCO precludes any further enforcement by EPA under Section 113 of the Act, and any citizen suits under Section 304 of the Act, against FPC for violations of the Florida State Implementation Plan provisions covered by the amended DCO.

Enforcement may be initiated, however, for violations of any provision of the amended DCO. If the Administrator determines that FPC violates any requirement contained in the amended DCO, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of the notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act. EPA has determined that the Amendment to the DCO shall be effective upon publication of this notice because of the need to immediately place FPC on a revised schedule for compliance with the Florida State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: October 31, 1980.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

In § 55.230, paragraphs (f)(1)–(3) and (k)(4) and (5) are revised to read as follows:

Subpart K—Florida

§ 55.230 Federal delayed compliance orders issued under section 113(d)(5) of the Act.

* * * * *

(f) * * *

(1) Particulate emissions from Crystal River Unit 2 shall not exceed 0.10 pound per million BTU heat input maximum 2-hour average.

(2) (Reserved)

(3) FPC as part of the control strategy shall operate, calibrate, and maintain an instrument to continuously monitor and record visible emissions from Crystal River Unit 2. Visible emissions from Crystal River Unit 2 shall be limited to 20% opacity averaged over a six-minute period recorded by the continuous opacity monitor. In the event of a malfunction of the continuous opacity monitor, opacity shall be determined in accordance with EPA Reference Method 9 averaged over a six-minute period. The continuous opacity monitor strip charts shall be maintained by the Company and be subject to EPA review when requested.

* * * * *

(k) * * *

(4) October 30, 1980—Complete onsite construction or installation of particulate emission control equipment.

(5) December 30, 1980—Complete shakedown operations and performance tests for particulate emissions in accordance with EPA reference methods as contained in 40 CFR Part 60, Appendix A on the emission control equipment; also achieve compliance with the Florida Air Pollution Rules, Chapter 17–2 and certify such compliance to the Director of the Enforcement Division, Region IV.

As amended, Delayed Compliance Order Docket No. DCO–78–6 issued on November 21, 1978, shall remain in full

force and effect until termination by EPA.

[FR Doc. 80-34799 Filed 11-6-80; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 81

[A-6-FRL 1660-F]

State of Oklahoma; Section 107 Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the *Oklahoma* chart for total suspended particulates (TSP) by revising two terms under the Air Quality Control Regions (AQCRs) 184 and 186 respectively. These AQCRs are listed in the Revised July 1, 1979, Title 40 Parts 81 and 99 Code of Federal Regulations (CFR). The language in the existing CFR is ambiguous for the nonattainment status of Oklahoma and Tulsa Counties. There is no distinction in wording between those "portions" which do not meet the primary standards and those "portions" which do not meet the secondary standards. The revised wording will provide a clear distinction between the two Oklahoma County areas and the two Tulsa County areas by using the terms "portions" and "remainder." Therefore, EPA is requesting that the revised terms be included in the next publication of Title 40 CFR.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT:
Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: § 81.337 Oklahoma—chart TSP is amended by revising AQCRs 184 and 186 to read as follows:

Oklahoma—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 184:				
Portions of Oklahoma County	x	x		
Remainder of Oklahoma County			x	
Remainder of AQCR				x
AQCR 186:				
Portions of Tulsa County	x	x		
Remainder of Tulsa County			x	
Portions of Muskogee County			x	
Portions of Mayes County	*x			
Remainder of AQCR				x

*EPA designation replaces State designation.

(This notice of final rulemaking is issued under the authority of Section 107 of the Clean Air Act, as amended, 42 U.S.C. 7407)

Dated: October 23, 1980.

Frances E. Phillips,
Deputy Administrator, Region VI.

[FR Doc. 80-34921 Filed 11-6-80; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Definition and Reimbursement of Hospital Intensive Care Type Units

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of a final rule.

SUMMARY: This document makes certain corrections to the Medicare final rule published in the **Federal Register** August 18, 1980 (45 FR 54757) concerning the definition and reimbursement of hospital intensive care type units.

EFFECTIVE DATE: Effective for provider cost reporting periods beginning on or after October 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Alton Cobb, 301-594-9773.

SUPPLEMENTARY INFORMATION:

Background

The revision to the regulations in 42 CFR 405.452(e)(2)(ii) that was published August 18, 1980, (45 FR 54757) failed to include the asterisks at the end of the regulation text. As a result, the regulation printed in the next edition of the CFR would have inadvertently omitted the charts that follow the text in that section.

In addition, we omitted a conforming change in the regulations at 42 CFR 405.430(b)(9). The definition that now appears in this section is the same as the definition that formerly appeared at 42 CFR 405.452(d)(10) which we revised in the August 18 document. We have therefore revised § 405.430(b)(9) to include the revised definition. We have also made a conforming change in the charts in § 405.452(e)(3)(iii) that should have appeared in the published document.

The revisions to the regulations in 42 CFR Part 405 that were published August 18, 1980, (45 FR 54757), are amended as set forth below:

1. The revisions to the regulation appearing at § 405.430 are amended by revising paragraph (b)(9) to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

* * * * *

(b) *Definitions.* * * *

(9) *Intensive care type inpatient hospital unit.* To be considered an intensive care type inpatient hospital unit, the unit must furnish services to critically ill patients. (Examples of intensive care type units include, but are not limited to, intensive care units, trauma units, coronary care units, pulmonary care units, and burn units. Excluded as intensive care type units are postoperative recovery rooms, postanesthesia recovery rooms, maternity labor rooms, and subintensive or intermediate care units.) The unit must also meet the following conditions:

(i) The unit must be in a hospital;

(ii) The unit must be physically and identifiably separate from general routine patient care areas, including subintensive or intermediate care units, and ancillary service areas. There cannot be a concurrent sharing of nursing staff between an intensive care type unit and units or areas furnishing different levels or types of care. However, two or more intensive care type units that concurrently share nursing staff can be reimbursed as one combined intensive care type unit if all other criteria are met. Float nurses (nurses who work in different units on an as-needed basis) can be utilized in the intensive care type unit. If a float nurse works in two different units during the same eight hour shift, then the costs must be allocated to the appropriate units depending upon the time spent in those units. The hospital must maintain adequate records to support the allocation. If such records are not available, then the costs must be allocated to the general routine services cost areas;

(iii) There must be specific written policies that include criteria for admission to, and discharge from, the unit;

(iv) Registered nursing care must be furnished on a continuous 24-hour basis. At least one registered nurse must be present in the unit at all times;

(v) A minimum nurse-patient ratio of one nurse to two patients per patient day must be maintained. Included in the calculation of this nurse/patient ratio are registered nurses, licensed vocational nurses, licensed practical nurses, and nursing assistants who provide patient care. Not included are general support personnel such as ward clerks, custodians and housekeeping personnel; and

(vi) The unit must be equippped, or have available for immediate use, lifesaving equipment necessary to treat the critically ill patients for which it is designed. This equipment may include, but is not limited to, respiratory and cardiac monitoring equipment, respirators, cardiac defibrillators, and wall or canister oxygen and compressed air.

2. The revisions to the regulation appearing at § 405.452 are amended by adding asterisks after paragraph (e)(2)(ii) and by revising the chart in paragraph (e)(3)(iii) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(e) *Application.* * * *

(2) *Departmental Method.* * * *

(ii) *For cost reporting periods starting after December 31, 1971.* * * *

(3) *Combination Method.* * * *

(iii) *Combination Method for cost reporting periods beginning after December 31, 1971.* * * *

Hospital Z

Statistical and financial data:	
Total inpatient days for all patients—General area	$30,000
Total inpatient days for all patients—All intensive care type units units	2,500
Inpatient days applicable to program beneficiaries—General area	7,500
Inpatient days applicable to program beneficiaries—All intensive care type	750
Total allowable costs—General inpatient routine area	600,000
Total allowable costs—All intensive care type units	95,000
Inpatient ancillary services—Total allowable cost excluding delivery room cost	320,090
Inpatient ancillary services—Total charges excluding delivery room charges	400,000
Inpatient ancillary services—Charges for services to program beneficiaries	80,000
Computation of cost applicable to program:	
Average cost per diem for general routine services: 600,000 ÷ 30,000 = $20 per diem.	
Cost of general routine services (exclusive of any inpatient routine nursing salary cost differential adjustment factor) rendered to program beneficiaries: $20 per diem X 7,500 days	150,000
Average cost per diem for intensive care type units: $95,000 ÷ 2,500 = $38 per diem.	
Cost of services rendered to program beneficiaries in intensive care type units: $38 per diem X 750 days	28,500
Ratio of beneficiary charges to total charges for all ancillary services excluding delivery room charges: $80,000 ÷ $400,000 = 20 percent.	
Cost of ancillary services rendered to program beneficiaries: 20 percent X $230,000	64,000
Total cost (exclusive of any inpatient routine nursing salary cost differential adjustment factor) of services rendered to program beneficiaries	$242,500

* * * * *

(Secs. 1102, 1814(b), 1861(v), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: November 3, 1980.

Robert F. Sermier,
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 80-34772 Filed 11-6-80; 8:45 am]
BILLING CODE 4110-35-M

42 CFR Part 405

Medicare Program; Technical Amendments on Reconsideration and Appeals Under the Hospital Insurance Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final regulation.

SUMMARY: This regulation places in HCFA's part of the Code of Federal Regulations certain material formerly included in the regulations of the Social Security Administration (SSA). Specifically, SSA's regulations about making and reviewing program determinations referred to certain types of determinations made in the Medicare program. However, in its recent recodification of those regulations, SSA deleted the references to Medicare determinations. The following amendments place the deleted material among the HCFA regulations on making and reviewing program determinations. In addition, for the convenience of the reader of HCFA regulations, we are reprinting the SSA's regulations on making and reviewing program determinations as an Appendix to the Medicare regulations on the same subject.

EFFECTIVE DATE: December 8, 1980.

FOR FURTHER INFORMATION CONTACT:
Jack Wasserman, Health Care Financing Administration, Division of Technical Policy and Litigation, Dogwood West Building, Second Floor, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, 301-594-9300.

SUPPLEMENTARY INFORMATION:

Background

Section 1869(b) of the Social Security Act provides that individuals who are dissatisfied with certain determinations about Medicare entitlement and payment of benefits have a right to a hearing. The Social Security Administration (SSA) makes initial and reconsidered determinations about entitlement to hospital insurance (Part A of Medicare) and supplementary medical insurance (Part B of Medicare), and HCFA makes initial and reconsidered determinations about the amount of hospital insurance benefits payable. However, SSA provides the hearings and final agency review to individuals who dispute either SSA's entitlement determinations or HCFA's hospital insurance benefit amount determinations. (Under section 1842(b)(3)(c) of the Act, Medicare carriers provide hearings about determinations about the amount of supplementary medical insurance benefits payable (42 CFR 405, Subpart H)).

The regulations that govern SSA's administrative review process, 20 CFR Part 404, Subpart J, have been rewritten and published in the **Federal Register** (45 FR 52078, August 5, 1980). The material on representation of parties has been moved to a new Subpart R. In recodifying its material, however, SSA deleted references to the Medicare program that had been contained mainly in 20 CFR 404.905 and 404.906 (initial determinations). Although the preamble to the recodified regulations indicated that the old SSA regulations continue to apply to Medicare, the CFR will not contain this information since preambles are not printed in the CFR. Consequently, organizations and individuals using the CFR will not have the necessary information on SSA's responsibility for making determinations and holding hearings on certain matters under Medicare.

Provisions of the Regulations

To fill this gap, we are amending HCFA regulations at 42 CFR Part 405, Subparts G and H and adding an

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appendix to Subpart G. The specific changes in Subpart G are:

1. Section 405.701 explains more clearly the content and applicability of Subpart G.

2. Section 405.704 specifically states that initial determinations about the Medicare program include determinations as to whether an individual is entitled to hospital or supplementary medical insurance, and other determinations regarding such matters as applications for Medicare, failure to provide evidence and withdrawal of applications.

3. Section 405.705 describes more clearly those administrative actions that are not considered initial determinations and, therefore, do not confer the right to a formal hearing and judicial review.

4. Section 405.750 states that SSA will continue to reopen Medicare entitlement determinations as appropriate.

5. Cross-references to 20 CFR Part 404, Subparts J and R are updated.

6. A new appendix provides a reprint of SSA's Subparts J and R in order to make access to the rules easier for the public. Subpart J contains SSA's rules on initial determinations, reconsiderations, reopenings, hearings, and appeals council review. Subpart R contains the rules on representation of parties.

In addition, we are amending §§ 405.801 and 405.803 in 42 CFR Part 405, Subpart H, to cite the HCFA and SSA regulations that contain the administrative review procedures governing determinations about entitlement to supplementary medical insurance.

Waiver of Notice Requirements

This is a technical regulation that merely relocates provisions currently applicable to Medicare. It will provide easier access to Medicare rules and will not adversely affect any individual or organization. Therefore, issuing a notice of proposed rulemaking with a public comment period is unnecessary. Accordingly, we find good cause to waive publication of notice of proposed rulemaking requirements.

42 CFR Part 405 is amended as set forth below:

A. Subpart G is amended as follows:

1. The table of contents is amended by changing the title of § 405.701 and by adding a new appendix at the end, as follows:

Subpart G—Reconsiderations and Appeals Under the Hospital Insurance Program

Sec.

405.701 Basis and purpose.

* * * * *

Appendix—Social Security Administration Regulations on Determinations, the Administrative Review Process, and Representation of Parties.

2. Section 405.701 is revised to read as follows:

§ 405.701 Basis and purpose.

(a) This subpart implements section 1869 of the Social Security Act. Section 1869(a) provides that the Secretary will make determinations about the following matters, and section 1869(b) provides for a hearing for an individual who is dissatisfied with the Secretary's determination as to:

(1) Whether the individual is entitled to hospital insurance (Part A) or supplementary medical insurance (Part B) under title XVIII of the Act; or

(2) The amount payable under hospital insurance.

(b) This subpart establishes the procedures governing initial determinations, reconsidered determinations, hearings, and final agency review, and the reopening of determinations and decisions that are applicable to matters arising under paragraph (a) of this section.

(c) Subparts J and R of 20 CFR Part 404 (dealing with determinations, the administrative review process and representation of parties), reprinted in the appendix to this subpart, are also applicable to matters arising under paragraph (a) of this section, except to the extent that specific provisions are contained in this subpart.

3. Section 405.704 is amended as follows:

§ 405.704 Actions which are initial determinations.

(a) *Applications and entitlement of individuals.* An initial determination with respect to an individual includes the following—

(1) A determination with respect to entitlement to hospital insurance or supplementary medical insurance;

(2) A disallowance of an individual's application for entitlement to hospital or supplementary medical insurance, if the individual fails to submit evidence requested by SSA to support the application. (SSA will specify in the initial determination the conditions of entitlement that the applicant failed to establish by not submitting the requested evidence);

(3) A denial of a request for withdrawal of an application for hospital or supplementary medical insurance;

(4) A denial of a request for cancellation of a "request for withdrawal"; and

(5) A determination as to whether an individual, previously determined to be entitled to hospital or supplementary medical insurance, is no longer entitled to such benefits, including a determination based on nonpayment of premiums.

(b) *Requests for payment by or on behalf of individuals.* An initial determination with respect to an individual includes any determination made on the basis of a request for payment by or on behalf of the individual under Part A of Medicare, including a determination with respect to:

(1) The coverage of items and services furnished;

* * * * *

(13) Any other issues having a present or potential effect on the amount of benefits to be paid under Part A of Medicare, including a determination as to whether there has been an overpayment or underpayment of benefits paid under Part A, and if so, the amount thereof; and

(14) Whether a waiver of adjustment or recovery under sections 1870(b) and (c) of the Act is appropriate when an overpayment of hospital insurance benefits or supplementary medical insurance benefits (including a payment under section 1814(e) of the Act) has been made with respect to an individual.

(c) *Initial determination with respect to a provider of services.* An initial determination with respect to a provider of services shall be a determination made on the basis of a request for payment filed by the provider under Part A of Medicare on behalf of an individual who was furnished items or services by the provider, but only if the determination involves the following:

* * * * *

4. Section 405.705 is amended as follows:

§ 405.705 Actions which are not initial determinations.

An initial determination under Part A of Medicare does not include determinations relating to:

(a) The reasonable cost of items or services furnished under Part A of Medicare;

(b) Whether an institution or agency meets the conditions for participation in the program (see Subpart O of this Part 405);

(c) Whether an individual is qualified for use of the expedited appeals process as provided in § 405.718; or

(d) An action regarding compromise of a claim arising under the Medicare program, or termination or suspension of collection action on such a claim under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953). (See 20 CFR 404.515 for overpayment claims against an individual, § 405.374 for overpayment claims against a provider, physician or other supplier, and § 405.462 for claims concerning unpaid Medicare premiums.

5. In §§ 405.718a, 405.722, 405.724 and 405.730, the cross-references to 20 CFR Part 404, Subpart J are changed as follows:

§ 405.718a Expedited appeals process; place and time of filing request.

* * * * *

(b) * * *

(1) No later than 60 days after the date of receipt of notice of the reconsidered determination, unless the time is extended in accordance with the standards set out in 20 CFR 404.925(c). For purposes of this paragraph, the date of receipt of notice of the reconsidered determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary; or

(2) * * *

(3) Within 60 days after the date of receipt of notice of the presiding officer's decision or dismissal, unless the time is extended in accordance with the standards set out in 20 CFR 404.925(c). For purposes of this paragraph, the date of receipt of notice of the presiding officer's decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary; or

(4) If a request for review by the Appeals Council has been timely filed (see 20 CFR 404.968) at any time prior to receipt by such individual of notice of the Appeals Council's final action.

§ 405.722 Time and place of filing request for a hearing.

The request for a hearing shall be made in writing and filed at an office of the Social Security Administration or the Health Care Financing Administration or with a presiding officer, or, in the case of a qualified railroad retirement beneficiary, at an office of the Railroad Retirement Board. Such request must be filed within 60 days after the date of receipt of notice of the reconsidered determination by such individual, except where the time is extended as provided in 20 CFR 404.933(c). For purposes of this section, the date of receipt of notice of the reconsidered determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

§ 405.724 Appeals Council review.

Appeals Council review is provided by 20 CFR 404.967.

§ 405.730 Court review.

To the extent authorized by section 1869, section 1876(f), and section 1879(d) of the Act, a party to a decision of the Appeals Council (see 20 CFR 404.979) or the decision of a presiding officer where the request for review by the Appeals Council was denied, may obtain a court review where the amount in controversy after Appeals Council review is $1,000 or more, by filing a civil action in a district court of the United States in accordance with the provisions of section 205(g) of the Act (see 20 CFR 422.210 for the filing procedure). A party to a reconsidered determination may obtain a court review where the amount in controversy is $1,000 or more and he requests and meets the conditions for the expedited appeals process (see § 405.718).

6. Section 405.750 is amended as follows:

§ 405.750 Time period for reopening initial, revised, or reconsidered determinations and decisions or revised decisions of a presiding officer or the Appeals Council; finality of determinations and decisions.

(a) *Reopenings concerning applications and entitlement.* A determination, or decision, or revised determination or decision made by the Social Security Administration concerning any matter under § 405.704(a), may be reopened and revised under 20 CFR 404.988 (Conditions for reopening).

(b) *Reopenings concerning a request for payment.* An initial, revised, or reconsidered determination of the Health Care Financing Administration, or a decision or revised decision of a presiding officer or of the Appeals Council, with respect to an individual's rights concerning a request for payment under Part A of Medicare, which is otherwise final under 20 CFR 404.955 or 404.981 and 405.708, or 405.717 of this subpart may be reopened:

(1) Within 12 months from the date of the notice of the initial or reconsidered determination to the party to such determination;

(2) After such 12-month period, but within 4 years after the date of the notice of the initial determination to the individual, upon establishment of good cause for reopening such determination or decision (see 20 CFR 404.988(b) and 404.989; or

(3) At any time, when:

(i) Such initial, revised, or reconsidered determination or such decision or revised decision is unfavorable, in whole or in part, to the party thereto, but only for the purpose of correcting clerical error or error on the face of the evidence on which such determination or decision was based; or

(ii) Such initial, revised, or reconsidered determination or such decision or revised decision was procured by fraud or similar fault of the beneficiary or some other person.

7. An appendix is added as follows:

Appendix

This appendix is a reprint of 20 CFR Part 404, Subparts J and R, as published in the **Federal Register** on August 5, 1980 (45 FR 52078). It sets forth the rules for—

1. Initial determinations about the Medicare program made by the Social Security Administration (SSA);

2. SSA's administrative review process;

3. The reopening and revision by SSA of final determinations or decisions; and

4. The representation of parties by someone else in dealing with SSA or HCFA.

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

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Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

Introduction, Definitions, and Initial Determinations

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about your entitlement or your continuing entitlement to benefits or about any other matter, as discussed in § 404.902, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it. Generally, you must request a reconsideration before you may request a hearing.

(3) *Hearing.* If you are dissatisifed with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisifed with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary manner. In each step of the review process, you may present any information you feel is helpful to your case. We will consider it and all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

§ 404.901 Definitions.

As used in this subpart:

"Date you receive notice" means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

"Decision" means the decision made by an administrative law judge or the Appeals Council.

"Determination" means the initial determination or the reconsidered determination.

"Remand" means to return a case for further review.

"Vacate" means to set aside a previous action.

"Waive" means to give up a right knowingly and voluntarily.

"We," "us," or "our" refers to the Social Security Administration.

"You" or "your" refers to any person claiming a right under the old age, disability, dependents' or survivors' benefits program.

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, dependents' and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

(a) Your entitlement or your continuing entitlement to benefits;

(b) Your reentitlement to benefits;

(c) The amount of your benefit;

(d) A recomputation of your benefit;

(e) A reduction in your disability benefits because you also receive benefits under a workmen's compensation law;

(f) A deduction from your benefits on account of work;

(g) A deduction from your disability benefits because you refuse to accept rehabilitation services;

(h) Termination of your benefits;

(i) Penalty deductions imposed because you failed to report certain events;

(j) Any overpayment or underpayment of your benefits;

(k) Whether an overpayment of benefits must be repaid to us;

(l) How an underpayment of benefits due a deceased person will be paid;

(m) The establishment or termination of a period of disability;

(n) A revision of your earnings record;

(o) Whether the payment of your benefits will be made, on your behalf, to a representative payee, unless you are under age 18 or legally incompetent; and

(p) Who will act as your payee if we determine that representative payment will be made.

§ 404.903 Administrative actions that are not initial determinations.

Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart, and they are not subject to judicial review. These actions include, but are not limited to, an action—

(a) Suspending benefits pending an investigation and determination of any factual issue relating to a deduction on account of work;

(b) Suspending benefits pending an investigation to determine if your disability has ceased;

(c) Denying a request to be made a representative payee;

(d) Certifying two or more family members for joint payment of benefits;

(e) Withholding less than the full amount of your monthly benefit to recover an overpayment;

(f) Detemining the fee that may be charged or received by a person who has represented you in connection with a proceeding before us;

(g) Disqualifying or suspending a person from acting as your representative in a proceeding before us (See § 404.1745);

(h) Compromising, suspending or terminating collection of an overpayment under the Federal Claims Collection Act;

(i) Extending or not extending the time to file a report of earnings;

(j) Denying your request to extend the time period for requesting review of a determination or a decision;

(k) Denying your request to use the expedited appeals process;

(l) Denying your request to reopen a determination or a decision; and

(m) Withholding temporarily benefits based on a wage earner's estimate of earnings to avoid creating an overpayment.

§ 404.904 Notice of the initial determination.

We shall mail a written notice of the initial determination to you at your last known address. The reasons for the initial determination and the effect of the initial determination will be stated in the notice. The notice also informs you of the right to a reconsideration or to a hearing. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

§ 404.905 Effect of an initial determination.

An initial determination is binding unless you request a reconsideration or a hearing, as appropriate, within the stated time period, or we revise the initial determination.

Reconsideration

§ 404.907 Reconsideration—general.

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. However, if the initial determination is that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits, your first step is to request a hearing right after the initial determination. If you are dissatisfied with our reconsidered determination, you may request a hearing.

§ 404.908 Parties to a reconsideration.

(a) *Who may request a reconsideration.* If you are dissatisfied with the initial determination, you may request that we reconsider it. In addition, a person who shows in writing that his or her rights may be adversely affected by the initial determination may request a reconsideration.

(b) *Who are parties to a reconsideration.* After a request for the reconsideration, you and any person who shows in writing that his or her rights are adversely affected by the initial determination will be parties to the reconsideration.

§ 404.909 How to request reconsideration.

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request—

(1) Within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request a reconsideration.* If you want a reconsideration of the initial determination but do not request one in time, you may ask us for more time to request a reconsideration. Your request for an extension of time must be in writing and must give the reasons why the request for reconsideration was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.911 Good cause for missing the deadline to request review.

(a) In determining whether you have shown that you had good cause for missing a deadline to request review we consider—

(1) What circumstances kept you from making the request on time;

(2) Whether our action misled you;

(3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(b) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

(1) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(2) There was a death or serious illness in your immediate family.

(3) Important records were destroyed or damaged by fire or other accidental cause.

(4) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you requested Appeal Council review or filed a civil suit.

(6) We gave you incorrect or incomplete information about when and how to request administrative review or to file a civil suit.

(7) You did not recieve notice of the determination or decision.

(8) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

(9) Unusual or unavoidable circumstances exist which show that you could not have known of the need to file timely, or which prevented you from filing timely.

§ 404.917 Notice of another person's request for reconsideration.

If any other person files a request for reconsideration of the initial determination in your case, we shall notify you at your last known address before we reconsider the initial determination. We shall also give you an opportunity to present any evidence you think helpful to the reconsidered determination.

§ 404.918 Reconsidered determination.

After you or another person requests a reconsideration, we shall review the evidence considered in making the initial determination and any other evidence we receive. We shall make our determination based on this evidence.

§ 404.920 Effect of a reconsidered determination.

The reconsidered determination is binding unless—

(a) You or any other party to the reconsideration requests a hearing within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

§ 404.921 Notice of a reconsidered determination.

We shall mail a written notice of the reconsidered determination to the parties at their last known address. We shall state the specific reasons for the determination and tell you and any other parties of the right to a hearing. If it is appropriate, we will also tell you and any other parties how to use the expedited appeals process.

Expedited Appeals Process

§ 404.923 Expedited appeals process—general.

By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your case.

§ 404.924 When the expedited appeals process may be used.

You may use the expedited appeals process if all of the following requirements are met:

(a) We have made an initial and a reconsidered determination; an

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administrative law judge has made a hearing decision; or Appeals Council review has been requested, but a final decision has not been issued.

(b) You are a party to the reconsidered determination or the hearing decision.

(c) You have submitted a written request for the expedited appeals process.

(d) You have claimed, and we agree, that the only factor preventing a favorable determination or decision is a provision in the law that you believe is unconstitutional.

(e) If you are not the only party, all parties to the determination or decision agree to request the expedited appeals process.

§ 404.925 How to request expedited appeals process.

(a) *Time of filing request.* You may request the expedited appeals process—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision;

(3) Within 60 days after the date you receive a notice of the administrative law judge's decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (c) of this section); or

(4) At any time after you have filed a timely request for Appeals Council review, but before you receive notice of the Appeals Council's action.

(b) *Place of filing request.* You may file a written request for the expedited appeals process at one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(c) *Extension of time to request expedited appeals process.*

If you want to use the expedited appeals process but do not request it within the stated time period, you may ask for more time to submit your request. Your request for an extension of time must be in writing and must give the reasons why the request for the expedited appeals process was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.926 Agreement in expedited appeals process.

If you meet all the requirements necessary for the use of the expedited appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you, by every other party to the determination or decison and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is whether a provision of the Act that applies to your case is unconstitutional;

(c) Except for your belief that a provision of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were not applied to your case, your claim would be allowed; and

(e) Our determination or the decision is final for the purpose of seeking judicial review.

§ 404.927 Effect of expedited appeals process agreement.

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in a Federal district court within 60 days after the date the agreement is signed by our authorized representative.

§ 404.928 Expedited appeals process request that does not result in agreement.

If you do not meet all of the requirements necessary to use the expedited appeals process, we shall tell you that your request to use this process is denied and that your request will be considered as a request for a hearing or Appeals Council review, whichever is appropriate.

Hearings

§ 404.929 Hearing—general.

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration

§ 404.930 Availability of a hearing.

(a) You may request a hearing if we have made—

(1) A reconsidered determination;

(2) A revised determination of an initial or reconsidered determination;

(3) An initial determination that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits; or

(4) A revised decision based on evidence not included in the record on which the prior decision was based.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

§ 404.932 Parties to a hearing.

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 404.930. In addition, a person who shows in writing that his or her rights may be adversely effected by the decision may request a hearing.

(b) *Who are parties to a hearing.* After a request for a hearing is made, you, the other parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

§ 404.933 How to request a hearing.

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

(1) The name and social security number of the wage earner;

(2) The reasons you disagree with the previous determination or decision;

(3) A statement of additional evidence to be submitted and the date you will submit it; and

(4) The name and address of any designated representative.

(b) *When and where to file.* The request must be filed—

(1) Within 60 days after the date you receive notice of the previous determination or decision (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board for persons having 10 or more years of service in the railroad industry.

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed within the stated time period. You may file your request for an extension of time at one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.935 Submitting evidence before a hearing.

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

§ 404.936 Time and place for a hearing.

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision. Hearings are held in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Virgin Islands.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

§ 404.938 Notice of a hearing.

After the administrative law judge sets the time and place for the hearing, notice of the hearing will be mailed to the parties at their last known address or given by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 10 days before the hearing. It will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings.

§ 404.939 Objections to the issues.

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objections. The administrative law judge shall make a decision on your objections either in writing or at the hearing.

§ 404.940 Disqualification of the administrative law judge.

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objections and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Associate Commissioner for Hearings and Appeals, or his or her delegate, will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.

§ 404.941 Prehearing case review.

(a) *General.* After a hearing is requested but before it is held, we may, for the purposes of a prehearing case review, forward the case to the component of our office (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. A revised determination may be wholly or partially favorable to you. A prehearing case review will not delay the scheduling of a hearing unless you agree to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the administrative law judge unless a favorable revised determination is in process or you and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

(b) *When a prehearing case review may be conducted.* We may conduct a prehearing case review if—

(1) Additional evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulation; or

(4) There is an error in the file or some other indication that the prior determination may be revised.

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we shall mail written notice of the revised determination to all parties at their last known address. We shall state the basis for the revised determination and advise all parties of their right to request a hearing on the revised determination within 60 days after the date of receiving this notice.

(d) *Revised determination wholly favorable.* If the revised determination is wholly favorable to you, we shall tell you in the notice that the administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to continue must be made in writing within 30 days after the date the notice of the revised determination is mailed.

(e) *Revised determination partially favorable.* If the revised determination is partially favorable to you, we shall tell you in the notice what was not favorable. We shall also tell you that the hearing you requested will be held unless you, the parties to the revised determination and the parties to the hearing tell us that all parties agree to dismiss the hearing request.

Hearing Procedures

§ 404.944 Hearing procedures—general.

A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge looks fully into the issues, questions you and the other witnesses, and accepts as evidence any documents that are material to the issues. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing. The administrative law judge may also reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence. The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

404.946 Issues before the administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues brought out in the initial, reconsidered or revised determination that were not decided entirely in your favor. However, if evidence presented before or during the hearing causes the administrative law judge to question a fully favorable determination, he or she will notify you and will consider it an issue at the hearing.

(b) *New issues.*—(1) *General.* The administrative law judge may consider a new issue at the hearing if he or she notifies you and all the parties about the new issue any time after receiving the hearing request and before mailing notice of the hearing decision. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination. However, it may not be raised if it involves a claim that is within the jurisdiction of a State agency under a Federal-State agreement concerning the determination of disability.

(2) *Notice of a new issue.* The administrative law judge shall notify you and any other party if he or she will consider any new issue. Notice of the time and place of the hearing on any new issues will be given in the manner described in § 404.938, unless you have indicated in writing that you do not wish to receive the notice.

§ 404.948 Deciding a case without an oral hearing.

(a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the administrative law judge may issue a hearing decision without holding an oral hearing. However, the notice of the decision will inform you that you have the right to an oral hearing and that you have a right to examine the evidence on which the decision is based.

(b) *Parties do not wish to appear.* (1) The administrative law judge may decide a case on the record and not conduct an oral hearing if—

(i) You and all the parties indicate in writing that you do not wish to appear before the administrative law judge at an oral hearing; or

(ii) You live outside the United States and you do not inform us that you want to appear and there are no other parties who wish to appear.

(2) When an oral hearing is not held, the administrative law judge shall make a record of the material evidence. The record will inclue the applications, written statements, certificates, reports, affidavits, and other documents that were used in making the determination under review and any additional evidence you or any other party to the hearing present in writing. The decision of the administrative law judge must be based on this record.

(c) *Case remanded for a revised determination.* (1) The administrative law judge may remand a case to the appropriate component of our office for a revised determination if there is reason to believe that the revised determination would be fully favorable to you. This could happen if the administrative law judge receives new and

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material evidence or if there is a change in the law that permits the favorable determination.

(2) Unless you request the remand, the administrative law judge shall notify you that your case has been remanded and tell you that if you object, you must notify him or her of your objections within 10 days of the date the case is remanded or we will assume that you agree to the remand. If you object to the remand, the administrative law judge will consider the objection and rule on it in writing.

§ 404.949 Presenting written statements and oral arguments.

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, to present a written summary of your case, or to enter written statements about the facts and law material to your case in the record. A copy of your written statements should be filed for each party.

§ 404.950 Presenting evidence at a hearing.

(a) *The right to appear and present evidence.* Any party to a hearing has the right to appear before the administrative law judge, either personally or by means of a designated representative, to present evidence and to state his or her position.

(b) *Waiver of the right to appear.* You may send the administrative law judge a waiver or a written statement indicating that you do not wish to appear at the hearing. You may withdraw this waiver any time before a notice of the hearing decision is mailed to you. Even if all of the parties waive their right to appear at a hearing, the administrative law judge may notify them of a time and a place for an oral hearing, if he or she believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

(c) *What evidence is admissible at a hearing.* The administrative law judge may receive evidence at the hearing even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must file a written request for the issuance of a subpoena with the administrative law judge or at one of our offices at least 5 days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate why these facts could not be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(e) *Witnesses at a hearing.* Witnesses may appear at a hearing. They shall testify under oath or affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or affirmation. The administrative law judge may ask the witnesses any questions material to the issues and shall allow the parties or their designated representatives to do so.

(f) *Collateral estoppel—issues previously decided.* An issue at your hearing may be a fact that has already been decided in one of our previous determinations or decisions in a claim involving the same parties, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision unless there are reasons to believe that it was wrong.

§ 404.951 When a record of a hearing is made.

The administrative law judge shall make a complete record of the hearing proceedings. The record will be prepared as a typed copy of the proceedings if—

(a) The case is sent to the Appeals Council without a decision or with a recommended decision by the administrative law judge;

(b) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(c) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

§ 404.952 Consolidated hearings.

(a) *General.* (1) A consolidated hearing may be held if—

(i) You have requested a hearing to decide your benefit rights under title II of the Act and you have also requested a hearing to decide your rights under another law we administer, and

(ii) One or more of the issues to be considered at the hearing you requested are the same issues that are involved in another claim you have pending before us.

(2) If the administrative law judge decides to hold the hearing on both claims, he or she decides both claims, even if we have not yet made an initial or reconsidered determination on the other claim.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced in one case becomes evidence in the other(s). The administrative law judge may make either a separate or consolidated decision.

§ 404.953 The administrative law judge's decision.

(a) *General.* The administrative law judge shall issue a written decision that gives the findings of fact and the reasons for the decision. The decision must be based on evidence offered at the hearing or otherwise included in the record. The administrative law judge shall mail a copy of the decision to all the parties at their last known address. The Appeals Council may also receive a copy of the decision.

(b) *Recommended decision.* Although an administrative law judge will usually make an initial decision, where appropriate he or she may send the case to the Appeals Council with a recommended decision. Also, if a Federal district court remands a case to the Appeals Council, and the Appeals Council remands the cast to an administrative law judge the case must be returned to the Appeals Council with a recommended decision. The administrative law judge shall mail a copy of the recommended decision to the parties at their last known address and send the recommended decision to the Appeals Council.

§ 404.955 The effect of the administrative law judge's decision.

The decision of the administrative law judge is binding on all parties to the hearing unless—

(a) You or another party request a review of the decision by the Appeals Council within the stated time period, and the Appeals Council reviews your case;

(b) You or another party requests a review of the decision by the Appeals Council within the stated time period, the Appeals Council denies your request for review, and you seek judicial review of your case by filing an action in a Federal district court;

(c) The decision is revised by an administrative law judge or the Appeals Council under the procedures explained in § 404.987;

(d) The expedited appeals process is used; or

(e) The decision is a recommended decision directed to the Appeals Council.

§ 404.956 Removal of hearing request to the Appeals Council.

If you have requested a hearing and the request is pending before an administrative law judge, the Appeals Council may assume responsibility for holding a hearing by requesting that the administrative law judge send the hearing request to it. If the Appeals Council holds a hearing, it shall conduct the hearing according to the rules for hearings before an administrative law judge. Notice shall be mailed to all parties at their last known address telling them that the Appeals Council has assumed responsibility for the case.

§ 404.957 Dismissal of a request for a hearing.

An administrative law judge may dismiss a request for a hearing under any of the following conditions:

(a) At any time before notice of the hearing decision is mailed, you or the party or parties that requested the hearing ask to withdraw the request. This request may be submitted in writing to the administrative law judge or made orally at the hearing.

(b) Neither you nor the person you designate to act as your representative appears at the time and place set for the hearing and—

(1) Before the time set for the hearing you did not give the administrative law judge a good reason why you or your representative could not appear; or

(2) Within 10 days after the administrative law judge mails you a notice asking why you did not appear, you do not give a good reason for the failure to appear.

(c) The administrative law judge decides that there is cause to dismiss a hearing request entirely or to refuse to consider any one or more of the issues because—

(1) The doctrine of *res judicata* applies in that we have made a previous determination or decision under this subpart about your rights on the same facts and on the same issue or issues, and this previous determination or decision has become final by either administrative or judicial action;

(2) The person requesting a hearing has no right to it under § 404.930;

(3) You did not request a hearing within the stated time period and we have not extended the time for requesting a hearing under § 404.933(c); or

(4) You die, there are no other parties, and we have no information to show that another person may be adversely affected by the determination that was to be reviewed at the hearing. However, dismissal of the hearing request will be vacated if, within 60 days after the date of the dismissal, another person submits a written request for a hearing on the claim and shows that he or she may be adversely affected by the determination that was to be reviewed at the hearing.

§ 404.958 Notice of dismissal of a hearing request.

We shall mail a written notice of the dismissal of the hearing request to all parties at their last known address. The notice will state that there is a right to request that the Appeals Council vacate the dismissal action.

§ 404.959 Effect of dismissal of a hearing request.

The dismissal of a request for a hearing is binding, unless it is vacated by an administrative law judge or the Appeals Council.

§ 404.960 Vacating a dismissal of a hearing request.

An administrative law judge or the Appeals Council may vacate any dismissal of a hearing request if within 60 days after the date you receive the dismissal notice, you request that the dismissal be vacated and show good cause why the hearing request should not have been dismissed. The Appeals Council itself may decide within 60 days after the notice of dismissal is mailed to vacate the dismissal. The Appeals Council shall advise you in writing of any action it takes.

§ 404.961 Prehearing and posthearing conferences.

The administrative law judge may decide on his or her own, or at the request of any party to the hearing, to hold a prehearing or posthearing conference to facilitate the hearing or the hearing decision. The administrative law judge shall tell the parties of the time, place and purpose of the conference at least seven days before the conference date, unless the parties have indicated in writing that they do not wish to receive a written notice of the conference. At the conference, the administrative law judge may consider matters in addition to those stated in the notice, if the parties consent in writing. A record of the conference will be made. The administrative law judge shall issue an order stating all agreements and actions resulting from the conference. If the parties do not object, the agreements and actions become part of the hearing record and are binding on all parties.

Appeals Council Review

§ 404.967 Appeals Council review—general.

If you or any other party is dissatisfied with the hearing decision or with the dismissal of a hearing request, you may request that the Appeals Council review that action. The Appeals Council may deny or dismiss the request for review, or it may grant the request and either issue a decision or remand the case to an administrative law judge. The Appeals Council shall notify the parties at their last known address of the action it takes.

§ 404.968 How to request Appeals Council review.

(a) *Time and place to request Appeals Council review.* You may request Appeals Council review by filing a written request. Any documents or other evidence you wish to have considered by the Appeals Council should be submitted with your request for review. You may file your request—

(1) Within 60 days after the date you receive notice of the hearing decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request review.* You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the request for review was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.969 Appeals Council initiates review.

Anytime within 50 days after the date of a hearing decision or dismissal, the Appeals Council itself may decide to review the action that was taken. If the Appeals Council does review the hearing decision or dismissal, notice of the action will be mailed to all parties at their last known address.

§ 404.970 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) If new and material evidence is submitted with the request for review, the Appeals Council shall evaluate the entire record. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently in the record.

§ 404.971 Dismissal by Appeals Council.

The Appeals Council will dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You or any other party to the proceedings dies and the record clearly shows that dismissal will not adversely affect any other person who wishes to continue the action.

§ 404.972 Effect of dismissal of request for Appeals Council review.

The dismissal of a request for Appeals Council review is binding and not subject to further review.

§ 404.973 Notice of Appeals Council review.

When the Appeals Council decides to review a case, it shall mail a notice to all parties at their last known address stating the reasons for the review and the issues to be considered.

§ 404.974 Obtaining evidence from Appeals Council.

You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and a copy or summary of the transcript of oral evidence. However, you will be asked to pay the costs of providing these copies unless there is a good reason why you should not pay.

§ 404.975 Filing briefs with the Appeals Council.

Upon request, the Appeals Council shall give you and all other parties a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case. A copy of each brief or statement should be filed for each party.

§ 404.976 Procedures before Appeals Council on review.

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Evidence.* The Appeals Council will consider the evidence in the hearing record and any additional evidence it believes is

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material to an issue being considered. If the Appeals Council decides that more evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the information more quickly, it may do so unless it will adversely affect your rights.

(c) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would help to reach a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 days before the scheduled date.

§ 404.977 Case remanded by Appeals Council.

(a) *When the Appeals Council may remand a case.* The Appeals Council may remand a case to an administrative law judge so that he or she may hold a hearing and issue a decision or a recommended decision. The Appeals Council may also remand a case in which additional evidence is needed or additional action by the administrative law judge is required.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Appeals Council and may take any additional action that is not inconsistent with the Appeals Council's remand order.

(c) *Notice when case is returned with a recommended decision.* When the administrative law judge sends a case to the Appeals Council with a recommended decision, a notice is mailed to the parties at their last known address. The notice tells them that the case has been sent to the Appeals Council, explains the rules for filing briefs or other written statements with the Appeals Council, and includes a copy of the recommended decision.

(d) *Filing briefs with and obtaining evidence from the Appeals Council.* (1) You may file briefs or other written statements about the facts and law relevant to your case with the Appeals Council within 20 days of the date that the recommended decision is mailed to you. Any party may ask the Appeals Council for additional time to file briefs or statements. The Appeals Council will extend this period, as appropriate, if you show that you had good cause for missing the deadline.

(2) All other rules for filing briefs with and obtaining evidence from the Appeals Council follow the procedures explained in this subpart.

(e) *Procedures before the Appeals Council.* (1) The Appeals Council, after receiving a recommended decision, will conduct its proceedings and issue its decision according to the procedures explained in this subpart.

(2) If the Appeals Council believes that more evidence is required, it may again remand the case to an administrative law judge for further inquiry into the issues, rehearing, receipt of evidence, and another decision or recommended decision. However, if the Appeals Council decides that it can get the additional evidence more quickly, it will take appropriate action.

§ 404.979 Decision of Appeals Council.

After it has reviewed all the evidence in the hearing record and any additional evidence received, the Appeals Council will make a decision or remand the case to an administrative law judge. The Appeals Council may affirm, modify or reverse the hearing decision or it may adopt, modify or reject a recommended decision. A copy of the Appeals Council's decision will be mailed to the parties at their last known address.

§ 404.981 Effect of Appeals Council's decision or denial or review.

The Appeals Council may deny a party's request for review or it may decide to review a case and make a decision. The Appeals Council's decision, or the decision of the administrative law judge if the request for review is denied, is binding unless you or another party file an action in Federal district court, or the decision is revised. You may file an action in a Federal district court within 60 days after the date you receive notice of the Appeals Council's action.

§ 404.982 Extension of time to file action in Federal district court.

Any party to the Appeals Council's decision or denial of review, or to an expedited appeals process agreement, may request that the time for filing an action in a Federal district court be extended. The request must be in writing and it must give the reasons why the action was not filed within the stated time period. The request must be filed with the Appeals Council, or if it concerns an expedited appeals process agreement, with one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.983 Case remanded by Federal court.

When a Federal court remands a case to the Appeals Council for further consideration, the Appeals Council may make a decision, or it may remand the case to an administrative law judge with instructions to take action and return the case to the Appeals Council with a recommended decision. If the case is remanded by the Appeals Council, the procedures explained in § 404.977 will be followed.

Reopening and Revising Determinations and Decisions

§ 404.987 Reopening and revising determinations and decisions.

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review. However, a determination or a decision made in your case may be reopened and revised. After we reopen your case, we may revise the earlier determination or decision.

(b) *Procedure for reopening and revision.* You may ask that a determination or a decision to which you were a party be revised. The conditions under which we will reopen a previous determination or decision are explained in § 404.988.

§ 404.988 Conditions for reopening.

A determination, revised determination, decision, or revised decision may be reopened—

(a) Within 12 months of the date of the notice of the initial determination, for any reason;

(b) Within four years of the date of the notice of the initial determination if we find good cause, as defined in § 404.989, to reopen the case; or

(c) At any time if—

(1) It was obtained by fraud or similar fault;

(2) Another person files a claim on the same earnings record and allowance of the claim adversely affects your claim;

(3) A person previously determined to be dead, and on whose earnings record your entitlement is based, is later found to be alive;

(4) Your claim was denied because you did not prove that the insured person died, and the death is later established by reason of an unexplained absence from his or her residence for a period of 7 years;

(5) The Railroad Retirement Board has awarded duplicate benefits on the same earnings record;

(6) It either—

(i) Denies the person on whose earnings record your claim is based gratuitous wage credits for military or naval service because another Federal agency (other than the Veterans Administration) has erroneously certified that it has awarded benefits based on the service; or

(ii) Credits the earnings record of the person on which your claim is based with gratuitous wage credits and another Federal agency (other than the Veterans Administration) certifies that it has awarded a benefit based on the period of service for which the wage credits were granted;

(7) It finds that the claimant did not have insured status, but earnings for the appropriate period of time were later credited to his or her earnings record;

(8) It is wholly or partially unfavorable to a party, but only to correct clerical error or an error that appears on the face of the evidence that was considered when the determination or decision was made; or

(9) It finds that you are entitled to monthly benefits or to a lump sum death payment based on the earnings of a deceased person, and it is later established that you were finally convicted by a court of competent jurisdiction of the felonious and intentional homicide of the deceased person.

§ 404.989 Good cause for reopening.

(a) We will find that there is good cause to reopen a determination or decision if—

(1) New and material evidence is furnished;

(2) A clerical error in the computation or recomputation of benefits was made; or

(3) The evidence that was considered in making the determination or decision clearly shows on its face that an error was made.

(b) We will not find good cause to reopen your case if the only reason for reopening is a change of legal interpretation or administrative ruling upon which the determination or decision was made.

§ 404.990 Finality of determinations and decisions on revision of an earnings record.

A determination or a decision on a revision of an earnings record may be reopened only within the time period and under the conditions provided in section 205(c)(4) or (5) of the Act, or within 60 days after the date you receive notice of the determination or decision, whichever is later.

§ 404.991 Finality of determinations and decisions to suspend benefit payments for entire taxable year because of earnings.

A determination or decision to suspend benefit payments for an entire taxable year because of earnings may be reopened only within the time period and under the conditions provided in section 203(h)(1)(B) of the Act.

§ 404.992 Notice of revised determination or decision.

(a) When a determination or decision is revised, notice of the revision will be mailed to the parties at their last known address. The notice will state the basis for the revised determination or decision and the effect of the revision. The notice will also inform the parties of the right to further review.

(b) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

(c) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based only on evidence included in the record which the prior decision was based, you and any other parties to the decision will be notified of the proposed action. If a revised decision is issued by an administrative law judge you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

§ 404.993 Effect of revised determination or decision.

A revised determination or decision is binding unless—

(a) You or another party to the revised determination file a written request for a hearing;

(b) You or another party to the revised decision file, as appropriate, a request for review by the Appeals Council or a hearing;

(c) The Appeals Council reviews the revised decision; or

(d) The revised determination or decision is further revised.

§ 404.994 Time and place to request a hearing on revised determination or decision.

You or another party to a revised determination or decision may request, as appropriate, further review or a hearing on the revision by filing a request in writing at one of our offices within 60 days after the date you receive notice of the revision. Further review or a hearing will be held on the revision according to the rules of this subpart.

§ 404.995 Finality of findings when later claim is filed on same earnings record.

If two claims for benefits are filed on the same earnings records, findings of fact made in a determination on the first claim may be revised in determining or deciding the second claim, even though the time limit for revising the findings made in the first claim has passed. However, a finding in connection with a claim that a person was fully or currently insured at the time of filing an application, at the time of death, or any other pertinent time, may be revised only under the conditions stated in § 404.988.

Subpart R—Representation of Parties

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Authority: Secs. 205, 206, and 1102 of the Social Security Act, 53 Stat. 1368,53 Stat. 1372, 49 Stat. 647; (42 U.S.C. 405, 406, and 1302).

Subpart R—Representation of Parties

§ 404.1700 Introduction.

You may appoint someone to represent you in any of your dealings with us. This subpart explains, among other things—

(a) Who may be your representative and what his or her qualifications must be;

(b) How you appoint a representative;

(c) The payment of fees to a representative;

(d) Our rules that representatives must follow; and

(e) What happens to a representative who breaks the rules.

§ 404.1703 Definitions.

As used in this subpart—

"Past-due benefits" means the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable administrative or judicial determination or decision, up to but not including the month the determination or decision is made.

"Representative" means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you appoint to represent you in dealings with us.

"We," "our," or "us" refers to the Social Security Administration.

"You" or "your" refers to any person claiming a right under the old-age, disability, dependents', or survivors' benefits program.

§ 404.1705 Who may be your representative.

(a) *Attorney.* You may appoint as your representative in dealings with us, any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealings with us; and

(4) Is not prohibited by any law from acting as a representative.

§ 404.1707 Appointing a representative.

We will recognize a person as your representative if the following things are done:

(a) You sign a written notice stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. An attorney does not have to sign a notice of appointment.

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(c) The notice is filed at one of our offices if you have initially filed a claim or have requested reconsideration; with an administrative law judge if you requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

§ 404.1710 Authority of a representative.

(a) *What a representative may do.* Your representative may, on your behalf—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not sign an application on behalf of a claimant for rights or benefits under title II of the Act unless authorized to do so under § 404.612.

§ 404.1715 Notice or request to a representative.

(a) We shall send your representative—

(1) Notice and a copy of any administrative action, determination, or decision; and

(2) Requests for information or evidence.

(b) A notice or request sent to your representative will have the same force and effect as if it had been sent to you.

§ 404.1720 Fee for a representative's services.

(a) *General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us before he or she may charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) A representative shall not charge or receive any fee unless we have approved it, and he or she shall not charge or receive any fee that is more than the amount we approve. This rule applies whether the fee is charged to or received from you or from someone else.

(4) If the representative is an attorney and the claimant is entitled to past-due benefits, we will pay the authorized fee, or a part of the authorized fee, directly to the attorney out of the past-due benefits, subject to the limitations described in § 404.1730(b)(1). If the representative is not an attorney, we assume no responsibility for the repayment of any fee that we have authorized.

(c) *Notice of fee determination.* We shall mail to both you and your representative at your last known address a written notice of what we decide about the fee. We shall state in the notice—

(1) The amount of the fee that is authorized;

(2) How we made that decision;

(3) That we are not responsible for paying the fee, except when we may pay an attorney from past-due benefits; and

(4) That within 30 days of the date of the notice, either you or your representative may request us to review the fee determination.

(d) *Review of fee determination.*—(1) *Request filed on time.* We will review the decision we made about a fee if either you or your representative files a written request for the review at one of our offices within 30 days after the date of the notice of the fee determination. Either you or your representative, whoever requests the review, shall mail a copy of the request to the other person. An authorized official of the Social Security Administration who did not take part in the fee determination being questioned will review the determination. This determination is not subject to further review. The official shall mail a written notice of the decision made on review both to you and to your representative at your last known address.

(2) *Request not filed on time.* (i) If you or your representative requests a review of the decision we made about a fee, but does so more than 30 days after the date of the notice of the fee determination, whoever makes the request shall state in writing why it was not filed within the 30-day period. We will review the determination if we decide that there was good cause for not filing the request on time.

(ii) Some examples of good cause follow:

(A) Either you or your representative was seriously ill and the illness prevented you or your representative from contacting us in person or in writing.

(B) There was a death or serious illness in your family or in the family of your representative.

(C) Material records were destroyed by fire or other accidental cause.

(D) We gave you or your representative incorrect or incomplete information about the right to request review.

(E) You or your representative did not timely receive notice of the fee determination.

(F) You or your representative sent the request to another government agency in good faith within the 30-day period, and the request did not reach us until after the period had ended.

(3) *Payment of fees.* We assume no responsibility for the payment of a fee based on a revised determination if the request for administrative review was not filed on time.

§ 404.1725 Request for approval of a fee.

(a) *Filing a request.* In order for your representative to obtain approval of a fee for services he or she performed in dealings with us, he or she shall file a written request with one of our offices. This should be done after the proceedings in which he or she was a representative are completed. The request must contain—

(1) The dates the representative's services began and ended;

(2) A list of the services he or she gave and the amount of time he or she spent on each type of service;

(3) The amount of the fee he or she wants to charge for the services;

(4) The amount of fee the representative wants to request or charge for his or her services in the same matter before any State or Federal court;

(5) The amount of and a list of any expenses the representative incurred for which he or she has been paid or expects to be paid;

(6) A description of the special qualifications which enabled the representative, if he or she is not an attorney, to give valuable help in connection with your claim; and

(7) A statement showing that the representative sent a copy of the request for approval of a fee to you.

(b) *Evaluating a request for approval of a fee.*(1) When we evaluate a representative's request for approval of a fee, we consider the purpose of the social security proram, which is to provide a measure of economic security for the beneficiaries of the program, together with—

(i) The extent and type of services the representative performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative in giving the services;

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative. We may authorize a fee even if no benefits are payable.

§ 404.1728 Proceedings before a State or Federal Court

(a) *Representation of a party in court proceedings.* We shall not consider any service the representative gave you in any proceeding before a State or Federal court to be services as a representative in dealings with us. However, if the representative also has given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information required by § 404.1725.

(b) *Attorney fee allowed by a Federal court.* If a Federal court in any proceeding under title II of the Act makes a judgment in favor of a claimant who was represented before the court by an attorney, and the court, under Section 206(b) of the Act, allows to the attorney as part of its judgment a fee not in excess of 25 percent of the total of past-due benefits to which the claimant is entitled by reason of the judgment, we may pay the attorney the amount of the fee out of, but not in addition to, the amount of the past-due benefits payable. We will not certify for direct payment any other fee your representative may request.

§ 404.1730 Payment of fees.

(a) *Fees allowed by a Federal court.* We will pay a representative who is an attorney, out of the claimant's past-due benefits, the amount of fee allowed by a Federal court in a proceeding under title II of the Act. The payment we make to the attorney is subject to the limitations described in paragraph (b)(1) of this section.

(b) *Fees we may authorize.*—(1) *Attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in favor of a claimant who was represented by an attorney, and as a result of the determination or decision past-due benefits are payable, we will pay the attorney out of the past-due benefits the smallest of—

(i) Twenty-five percent of the total of the past-due benefits;

(ii) The amount of the fee that we set; or

(iii) The amount agreed upon between the attorney and the claimant represented.

(2) *Persons other than attorneys.* If the representative is not an attorney, we assume no responsibility for the payment of any fee that we have authorized. We will not deduct the fee from any benefits payable to the claimant represented.

(c) *Time limit for filing request for approval of attorney fee.* (1) In order to receive direct payment of a fee from a claimant's past-due benefits, an attorney should file a request for approval of a fee, or written notice of the intent to file a request, at one of our offices within 60 days of the date the notice of the favorable determination is mailed.

(2)(i) If no request is filed within 60 days of the date the notice of the favorable determination is mailed, we will mail a written notice to the attorney and to the claimant, at their last known addresses. The notice will inform the attorney and the claimant that unless the attorney files, within 20 days from the date of the notice, a written request for approval of a fee under § 404.1725, or a written request for an extension of time, we will pay all the past-due benefits to the claimant.

(ii) The attorney must send the claimant a copy of any request made to us for an extension of time. If the request is not filed within 20 days of the date of the notice, or by the last day of any extension we approved, we will pay all past-due benefits to the claimant. Any fee the attorney charges after that time must be approved by us, but the collection of any approved fee is a matter between the attorney and the claimant represented.

§ 404.1735 Services in a proceeding under title II of the Act.

Services provided a claimant in any dealing with us under title II of the Act consist of services performed for that claimant in connection with any claim he or she may have before the Secretary of Health and Human Services under title II of the Act. These services include any in connection with any asserted right a claimant may have calling for an initial or reconsidered determination by us, and a decision or action by an administrative law judge or by the Appeals Council.

§ 404.1740 Rules governing representatives.

No attorney or other person representing a claimant shall—

(a) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary regarding benefits, or other initial or continued right under the Act;

(b) Knowingly charge or collect or make any agreement to charge or collect directly or indirectly, any fee in any amount in excess of that allowed by us or by the court.

(c) Knowlingly make or participate in the making or presentation of any false statement, representation, or claim about any material fact affecting the rights of any person under title II of the Act; or

(d) Divulge, except as may be authorized by regulations prescribed by us, any information we furnish or disclose about the claim or prospective claim of another person.

§ 404.1745 What happens to a representative who breaks the rules.

Our Deputy Commissioner (Operations) or the Director (or Deputy Director) of our Office of Insurance Programs may begin proceedings to suspend or disqualify a person from acting as a representative in dealings with us if it appears that he or she—

(a) Has violated any of the rules in § 404.1740;

(b) Has been convicted of a violation under section 206 of the Act; or

(c) Has otherwise refused to comply with our rules and regulations on representing claimants in dealings with us.

§ 404.1750 Notice of charges against a representative.

(a) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs will prepare a notice containing a statement of charges that constitutes the basis for the proceeding against the representative.

(b) We will send this notice to the representative either by certified or registered mail, to his or her last known address, or by personal delivery.

(c) We will advise the representative to file an answer, within 30 days from the date of the notice, or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs may extend the 30-day period for good cause.

(e) The representative must—

(1) Answer the notice in writing under oath (or affirmation); and

(2) File the answer with the Social Security Administration, Office of Insurance Programs, 6401 Security Boulevard, Baltimore, Maryland 21235, within the 30-day time period.

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 404.1765(f).

§ 404.1755 Withdrawing charges against a representative.

We may withdraw charges against a representative. We will do this if the representative files an answer, or we obtain evidence, that satisfies us that there is reasonable doubt about whether he or she should be suspended or disqualified from acting as a representative in dealings with us. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

§ 404.1760 Referring charges to the Office of Hearings and Appeals.

If we do not take action to withdraw the charges against the representative before 15 days have passed after the time within which he or she has filed an answer, we shall send the record of the evidence in support of the charges to the Office of Hearings and Appeals. We will ask that they hold a hearing and make a decision on the charges.

§ 404.1765 Hearing on charges.

(a) *Hearing officer.* (1) When the Office of Hearings and Appeals receives the notice of charges against the representative, the record of evidence, and the request for a hearing, the Associate Commissioner for Hearings and Appeals or his or her delegate shall name an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(b) *Time and place of hearing.* The hearing officer shall mail the representative a written notice of the hearing, at his or her last known address, at least 20 days before the date set for the hearing. The hearing officer shall send a copy of the notice to the Deputy Commissioner (Operations) or to the Director (or Deputy Director) of the Office of Insurance Programs.

(c) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own initiative, or at the request of the representative or the other party to the hearing.

(2) The hearing officer may adjourn or postpone the hearing.

(3) The hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

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(4) The hearing officer shall give the representative and the other party to the hearing reasonable notice of any change in the time or place for the hearing, or of an adjournment or reopening of the hearing.

(d) *Parties.* The representative against whom charges have been made is a party to the hearing. The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs also is a party to the hearing.

(e) *Subpoenas.* (1) The representative or the other party to the hearing may request the hearing officer to issue a subpoena for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to any matter being considered at the hearing. The hearing officer may, on his or her own initiative, issue subpoenas for the same purposes when the action is reasonably necessary for the full presentation of the facts.

(2) The representative or the other party who wants a subpoena issued shall file a written request with the hearing officer. This must be done at least 5 days before the date set for the hearing. The request must name the documents to be produced, and describe the address or location in enough detail to permit the witnesses or documents to be found.

(3) The representative or the other party who wants a subpoena issued shall state in the request for a subpoena the material facts that he or she expects to establish by the witness or document, and why the facts could not be established by the use of other evidence which could be obtained without use of a subpoena.

(4) We will pay the cost of the issuance and the fees and mileage of any witness subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* (1) The hearing officer shall make the hearing open to the representative, to the other party, and to any persons the hearing officer or the parties consider necessary or proper. The hearing officer shall inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

(2) If the representative did not file an answer to the charges, he or she has no right to present evidence at the hearing. The hearing officer may make or recommend a decision on the basis of the record, or permit the representative to present a statement about the sufficiency of the evidence or the validity of the proceedings upon which the suspension or disqualification, if it occurred, would be based.

(3) If the representative did not file an answer to the charges, and if the hearing officer believes that there is material evidence available that was not presented at the hearing, the hearing officer may at any time before mailing notice of the hearing decisions reopen the hearing to accept the additional evidence.

(4) The hearing officer has the right to decide the order in which the evidence and the allegations will be presented and the conduct of the hearing.

(g) *Evidence.* The hearing officer may accept evidence at the hearing, even though it is not admissible under the rules of evidence that apply to Federal court procedure.

(h) *Witnesses.* Witnesses who testify at the hearing shall do so under oath or affirmation. Either the representative or a person representing him or her may question the witnesses. The other party and that party's representative must also be allowed to question the witnesses. The hearing officer may also ask questions as considered necessary, and shall rule upon any objection made by either party about whether any question is proper.

(i) *Oral and written summation.* (1) The hearing officer shall give the representative and the other party a reasonable time to present oral summation and file briefs or other written statements about proposed findings of fact and conclusions of law if the parties request it.

(2) The party that files briefs or other written statements shall provide enough copies so that they may be made available to any other party to the hearing who requests a copy.

(j) *Record of hearing.* In all cases, the hearing officer shall have a complete record of the proceedings at the hearing made.

(k) *Representation.* The representative, as the person charged, may appear in person and may be represented by an attorney or other representative.

(l) *Failure to appear.* If the representative or the other party to the hearing fails to appear after being notified of the time and place, the hearing officer may hold the hearing anyway so that the party present may offer evidence to sustain or rebut the charges. The hearing officer shall give the party who failed to appear an opportunity to show good cause for failure to appear. If the party fails to show good cause, he or she is considered to have waived the right to be present at the hearing. If the party shows good cause, the hearing officer may hold a supplemental hearing.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the representative.

(n) *Cost of transcript.* If the representative or the other party to a hearing requests a copy of the transcript of the hearing, the hearing officer will have it prepared and sent to the party upon payment of the cost, unless the payment is waived for good cause.

§ 404.1770 Decision by hearing officer.

(a) *General.* (1) After the close of the hearing, the hearing officer shall issue a decision or certify the case to the Appeals Council. The decision must be in writing, will contain findings of fact and conclusions of law, and be based upon the evidence of record. (2) If the hearing officer finds that the charges against the representative have been sustained, he or she shall either—

(i) Suspend the representative for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision; or

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 404.1799.

(3) The hearing officer shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs. The notice will inform the parties of the right to request the Appeals Council to review the decision.

(b) *Effect of hearing officer's decision.* (1) The hearing officer's decision is final and binding unless reversed or modified by the Appeals Council upon review.

(2) If the final decision is that a person is disqualified from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us until authorized to do so under the provisions of § 404.1799.

(3) If the final decision is that a person is suspended for a specified period of time from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us during the period of suspension unless authorized to do so under the provisions of § 404.1799.

§ 404.1775 Requesting review of the hearing officer's decision.

(a) *General.* After the hearing officer issues a decision, either the representative or the other party to the hearing may ask the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The party requesting review shall file the request for review in writing with the Appeals Council within 30 days from the date the hearing officer mailed the notice. The party requesting review shall certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

§ 404.1780 Appeals Council's review of hearing officer's decision.

(a) Upon request, the Appeals Council shall give the parties a reasonable time to file briefs or other written statements as to fact and law, and to appear before the Appeals Council to present oral argument.

(b) If a party files a brief or other written statement with the Appeals Council, he or she shall send a copy to the opposing party and certify that the copy has been sent.

§ 404.1785 Evidence permitted on review.

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council believes that the evidence offered is material to an issue it is considering, the evidence will be considered.

(b) *Individual charged filed an answer.* (1) When the Appeals Council believes that additional material evidence is available, and the representative has filed an answer to the charges, the Appeals Council shall require that the evidence be obtained. The Appeals Council may name an administrative law judge or a member of the Appeals Council to receive the evidence.

(2) Before additional evidence is admitted into the record, the Appeals Council shall mail a notice to the parties, telling them that evidence about certain issues will be obtained, unless the notice is waived. The Appeals Council shall give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the Appeals Council will not permit the introduction of evidence that was not considered at the hearing.

§ 404.1790 Appeals Council's decision.

(a) The Appeals Council shall base its decision upon the evidence in the hearing record and any other evidence it may permit on review. The Appeals Council shall either—

(1) Affirm, reverse, or modify the hearing officer's decision; or

(2) Return a case to the hearing officer when the Appeals Council considers it appropriate.

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year.

(c) If the Appeals Council affirms or changes a hearing officer's decision, the period of suspension or the disqualification is effective from the date of the Appeals Council's decision.

(d) If the hearing officer did not imposed a period of suspension or a disqualification, and the Appeals Council decides to impose one or the other, the suspension or disqualification is effective from the date of the Appeals Council's decision.

(e) The Appeals Council shall make its decision in writing and shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

§ 404.1795 When the Appeals Council will dismiss a request for review.

The Appeals Council may dismiss a request for the review of any proceeding to suspend or disqualify a representative in any of the following circumstances:

(a) *Upon request of party.* The Appeals Council may dismiss a request for review upon written request of the party or parties who filed the request if there is no other party who objects to the dismissal.

(b) *Death of party.* The Appeals Council may dismiss a request for review in the event of the death of the representative.

(c) *Request for review not timely filed.* The Appeals Council will dismiss a request for review if a party failed to file a request for review within the 30-day time period and the Appeals Council does not extend the time for good cause.

§ 404.1797 Reinstatement after suspension—period of suspension expired.

We shall automatically allow a person to serve again as a representative in dealings with us at the end of any suspension.

§ 404.1799 Reinstatement after suspension or disqualification—period of suspension not expired.

(a) After more than one year has passed, a person who has been suspended or disqualified, may ask the Appeals Council for permission to serve as a representative again.

(b) The suspended or disqualified person shall submit any evidence he or she wishes to have considered along with the request to be allowed to serve as a representative again.

(c) The Appeals Council shall notify the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs of the receipt of the request and give that person 30 days in which to present a written report of any experiences with the suspended or disqualified person since that person was suspended or disqualified. The Appeals Council shall make available to the suspended or disqualified person a copy of the report.

(d) The Appeals Council shall not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of section 206(a) of the Act, and to our rules and regulations.

(e) The Appeals Council shall mail a notice of its decision on the request to the suspended or disqualified person. It shall also mail a copy to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

(f) If the Appeals Council decides not to grant the request, it shall not consider another request before the end of 1 year from the date of the notice of the previous denial.

B. Subpart H is amended as follows:

1. Section 405.801 is amended by adding a new paragraph (c) as follows:

§ 405.801 Title XVIII, Part B—General.

* * * * *

(c) Procedures governing determinations as to whether an individual is entitled to supplementary medical insurance, which implement section 1869(a) of the Social Security Act, are covered in Subpart G of this part and 20 CFR Part 404, Subpart J.

2. In § 405.803, paragraph (c)(1) is amended as follows:

§ 405.803 Initial determination.

* * * * *

(c) Carriers (or hearing officers where a claim is not acted upon with reasonable promptness (see § 405.801)) do not make determinations with respect to the following, which are not initial determinations for purposes of this subpart:

(1) Any issue or factor for which the Social Security Administration or the Health Care Financing Administration has sole responsibility (for example, whether an independent laboratory meets the conditions for coverage of services; whether a Medicare overpayment claim should be compromised, or collection action terminated or suspended); or

* * * * *

(Sections 205, 1102, 1842, 1869 and 1871 of the Social Secruity Act (42 U.S.C. 405, 1302, 1395u, 1395ff and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare-Supplementary Medical Insurance Program).

Dated: September 18, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-34899 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

30 CFR Parts 715, 816, and 817

Reclamation and Enforcement

Disposal of Excess Spoil in Durable Rock Fills; Withdrawal of Interpretative Ruling

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Withdrawal of Final Interpretative Rule.

SUMMARY: This notice announces the withdrawal of the interpretative rule relating to the disposal of excess spoil in durable rock fills published on April 16, 1980, at 45 FR 25998–26001, which was intended to clarify the regulations at 30 CFR 715.15(d), 816.74, and 817.74 providing for alternative methods of disposal of excess hard rock spoil. The withdrawal of the interpretative rule has resulted from numerous comments and suggestions received during the public comment period.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Physical Scientist, Technical Services Division, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4022.

SUPPLEMENTARY INFORMATION: On April 16, 1980, the Office of Surface Mining Reclamation and Enforcement (OSM) published an interpretative rule relating to disposal of excess spoil in durable rock fills. 45 FR 25998–26001. The rule interpreted regulations published on March 13, 1979, 44 FR 15311–15463, and May 25, 1979, 44 FR 30610–30634, codified at 30 CFR 715.15(d), 816.74 and 817.74. See also 45 FR 48129, July 18, 1980 (provision for comment period on the interpretative rule), and 45 FR 56342,

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August 25, 1980 (comment period extended until September 17, 1980). Prior to the comment period, the National Coal Association/American Mining Congress (NCA/AMC) and Falcon Coal Company had filed two separate legal challenges to the interpretative rule in the United States District Court for the District of Columbia. *NCA/AMC* v. *Andrus*, D.D.C. No. 80–1477, *Falcon Coal Co.* v. *Andrus*, D.D.C., No. 80–1478 (both filed June 13, 1980). The litigation was held in abeyance by District Court Order until October 15, 1980. Order, D.D.C., September 8, 1980. By affidavit of Walter N. Heine, Director, OSM, dated 9 October, 1980, and filed with the District Court on October 15, 1980, the court and petitioners NCA/AMC and Falcon Coal were informed of OSM's decision to publish this notice of withdrawal. Thereafter the Court dismissed the petitions. Order, D.D.C., October 15, 1980.

For the reasons discussed above, 30 CFR Chapter VII is amended as follows:

PART 715—GENERAL PERFORMANCE STANDARDS

§ 715.200 [Amended]

(1) In Part 715, § 715.200(a) is withdrawn.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.200 [Amended]

(2) In Part 816, § 816.200(a) is withdrawn.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.200 [Amended]

(3) In Part 817, § 817.200(a) is withdrawn.

OSM will soon be proposing for public comment a legislative rule relating to durable rock fill construction. Existing legislative durable rock fill rules at 30 CFR 715.15(d), 816.74, and 817.74 remain in effect. Those comments submitted during the 60 day comment period on the April 16, 1980, durable rock fill interpretative rule that have materially influenced OSM's decision to withdraw the interpretative rule will be addressed in the notice of proposed rulemaking.

Dated: October 30, 1980.

Walter Heine,

Director.

[FR Doc. 80–34785 Filed 11–6–80; 8:45 am]

BILLING CODE 4310–05–M

Proposed Rules

Federal Register
Vol. 45, No. 218
Friday, November 7, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Parts 318 and 381

Accredited Laboratory Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Federal meat and poultry products inspection regulations to establish standards and procedures for the accreditation of non-USDA chemistry laboratories for analysis of official meat and poultry samples for (1) residues of particular chemicals or classes of chemicals, and (2) protein, moisture, fat, and salt content. In recent years, the Department has made ever-increasing use of non-USDA laboratories for such analyses. It appears that a permanent program should now be established. Public comment is, therefore, sought both as to the concept of the program and as to the specific standards and procedures to be used in approving laboratories for participation in the program. An intended effect of this action would be to increase the number of non-USDA laboratories available to do these analyses. This would result in a more timely analysis of official meat and poultry samples.

DATE: Comments must be received on or before: January 6, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry products inspection regulations to: Mr. H. J. Barth, (202) 447–5850. See also comments under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. H. J. Barth, Staff Officer, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–5850. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant."

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Coordination Division, and should bear a reference to the date and page number of this issue of the **Federal Register**. Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. H. J. Barth so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours.

Background

In order to assure compliance with Department regulations promulgated under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), samples of meat and poultry products are periodically tested to determine protein, moisture, fat, and salt content. Prior to 1962, these samples were principally analyzed by the Multidisciplinary Laboratories, Field Service Laboratories Division, Science Program, Food Safety and Quality Service (FSQS), USDA. However, in response to the meat and poultry industry's need for more rapid analytical results on official test samples, the Certified Laboratory Program for non-USDA chemistry laboratories was initiated in that year.

Traditionally, residue analysis was also generally done exclusively by departmental laboratories. In 1971 a "recognized status" for residue analysis was initiated for non-USDA chemistry laboratories when USDA laboratory capacity was exceeded during a major polychlorinated biphenyl (PCB) contamination problem in poultry. Since then, "recognized status" has been extended to additional non-USDA chemistry laboratories for testing of other pesticide and drug residues in both meat and poultry and of nitrosamines in meat products. Few, if any, laboratories can afford the resources necessary to test for all possible chemicals. Therefore, a laboratory is granted "recognized status" only with regard to those particular chemicals or classes of chemicals which it is qualified to analyze.

A processor whose sample is to be analyzed generally has the option of using either a USDA laboratory, or a certified or recognized laboratory. The cost of USDA analysis is borne by the government, while the cost of non-USDA analysis is borne by the processor. There are a limited number of USDA laboratories, and they all have a very heavy workload. Therefore, many processors prefer to use these non-USDA laboratories either for convenience of location or to obtain test results more quickly. In certain specific cases and situations, FSQS requires the use of USDA laboratories.

In order to become a certified or recognized laboratory, the non-USDA chemistry laboratory must meet certain standards required by FSQS for each respective laboratory program. These standards have evolved during the course of development of these two laboratory programs.

The Proposal

The proposed rule would combine the present certified and recognized laboratory programs into one accredited laboratory program. Specifically, it would amend the Federal meat and poultry products inspection regulations to establish standards and procedures for accrediting non-USDA chemistry laboratories for the analysis of meat and poultry samples for (1) residues of particular chemicals or classes of chemicals and/or (2) protein, moisture, fat, and salt content (PMFS).

The proposal would establish standards which must be met by a non-USDA laboratory to initially obtain

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accreditation for either chemical residue analysis or PMFS analysis, or both. It would also specify the on-going standards which must be continually met by an accredited laboratory to maintain accreditation for either or both of these two categories of analysis. In addition, the proposal would establish conditions under which accreditation may be refused or withdrawn and would contain provisions offering the opportunity for an oral hearing to appeal such a decision by the Administrator of FSQS.

Laboratories designated as certified or recognized on the effective date of these regulations would automatically become accredited laboratories for their current type of analysis since they have demonstrated their ability to meet the criteria for obtaining accreditation. However, such laboratories would be required to meet the standards for maintaining accreditation, as set forth in the proposal. All other laboratories which wished to be accredited would have to apply for accreditation in accordance with these regulations.

Most of the particular standards in the proposal have been used for several years by the Department in making determinations in specific cases for certifying or recognizing laboratory programs. No method of analysis can ascertain in all instances the exact amount of a chemical present in any particular product. However, numerous studies have been conducted over the years under the auspices of the Association of Official Analytical Chemists, various governmental agencies, private and industry groups, and academic institutions to ascertain the degree of accuracy in analysis for specific chemicals that can be achieved under the methods of analysis. The particular numerical variations proposed by the Department, both as to percentage and amount, are based upon these studies.[1] In addition, the USDA has an ongoing program to sponsor or participate in further studies to refine or assure the efficacy of these numerical variations in light of present scientific and technological expertise.

The standards also contain requirements as to supervisory experience and education, recordkeeping, reporting, FSQS access, and check samples which the Department believes are necessary to assure that accredited laboratories have sufficient expertise to perform the types of analysis for which they are accredited and to assure that the samples in accredited laboratories are being properly analyzed. Finally, it is required that a laboratory seeking accreditation for PMFS analysis provide the name and address of an official meat or poultry establishment which has agreed to employ its services. Since many laboratories can perform this type of analysis, the Department wishes to avoid overburdening its resources by evaluating applicants who have no foreseeable need for such accreditation.

In sum, the Department has had very good experience with these standards and programs. It is believed, therefore, that these programs and standards should be accorded a more permanent basis of general applicability. Thus, these amendments to the regulations are being proposed.

[1] A list of, or copies of, the scientific studies relied upon by USDA in determining these variations for particular chemicals are available from the Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Options Considered

The Department has reviewed both the certified and the recognized laboratory programs and considered two options for suggested revisions in the programs. Under Option I, the Department would provide all laboratory services for participating meat and poultry processing establishments. Non-USDA laboratories would no longer be used. Under Option II, the Department would combine the certified and the recognized laboratory programs into one Accredited Laboratory Program and propose laboratory accreditation standards and procedures in order to permit public review and comment.

A comparison of the two options indicates that there would be a substantial cost savings to the Department in the selection of Option II over Option I. The annual cost to the Department of maintaining USDA laboratories to analyze 36,000 official samples (Option I) would be over $750,000 more than the cost of effectively monitoring non-USDA laboratories to perform the same work under an Accredited Laboratory Program (Option II). In addition, the accreditation of non-USDA laboratories under Option II may increase the number and locations of laboratories available to the industry. This, in turn, would decrease turnaround time for the analysis of meat and poultry samples, and would thus save the industry money, as well as provide a more flexible, responsive system to meet industry needs. Such a responsive system may ultimately benefit the public through a more healthy and safe food supply. Thus, for the reasons stated herein, Option II was chosen.

This document incorporates by reference the "Official Methods of Analysis of the Association of Official Analytical Chemists". (*See* §§ 318.19(a)(13) and 381.153(13).)

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Accordingly, Part 318 of the Federal meat inspection regulations (9 CFR 318) would be amended by adding a new § 318.19, and the Table of Contents would be amended accordingly, to read as follows:

§ 318.19 Accreditation of chemistry laboratories.

(a) *Definitions:*

(1) *Accredited Laboratory*—A non-USDA chemistry laboratory that has met the requirements specified in this section for accreditation. Payment for analysis of official samples is to be made by the laboratory client.

(2) *Split Samples*—A duplicate of an official sample which is analyzed by an FSQS Multidisciplinary Laboratory and is used for comparison to determine the continued analytical capability of the accredited laboratory.

(3) *FSQS Form 6200–2*—The laboratory biweekly report used by FSQS and those laboratories accredited for moisture, protein, fat, and salt analysis in meat and poultry products. The results of the analysis for protein, moisture, salt, and fat content are reported on this form to the Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

(4) *MP Form 115*—The laboratory biweekly report used by FSQS and those laboratories accredited for chemical residue analysis in meat and poultry food products. The results of the analysis for chemical residues are reported on this form to the Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

(5) *Minor deviation*—

(i) *Laboratories accredited for analysis of protein, moisture, fat and salt content:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds the following values: protein = ±0.5%, moisture and fat = ±1.0%, and salt = ±0.3%; but does not exceed the following values: protein = ±1.0%, moisture and fat = ±2.0%, and salt = ±0.6%.

(ii) *Laboratories accredited for analysis of chemical residues:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds 2 times but not 4 times the coefficient of variation times the mean of the two results.

(6) *Major deviation*—

(i) *Laboratories accredited for analysis of protein, moisture, fat and salt content:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds the following values: protein = ± 1.0%, moisture and fat = ± 2.0%, and salt = ± 0.6%.

(ii) *Laboratories accredited for analysis of chemical residues:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds 4 times the coefficient of variation times the mean of the two results.

(7) *Official sample.*—A sample selected by a Federal inspector at an establishment. For samples for chemical residue analysis, this term also includes any sample selected and submitted under USDA supervision by a grower of livestock or by an establishment.

(8) *Accredited Laboratory Coordinator*—The FSQS official responsible for coordinating all activities of laboratory accreditation and automatic data processing (ADP) analysis.

(9) *Minimum Proficiency Level*—The minimum level of incurred residue expected to be identified and quantified by an accredited laboratory.

(10) *COV (Coefficient of Variation)*—The standard deviation of a set of analytical results multiplied by 100, divided by the average value of those analytical results.

(11) *Accreditation Check Samples*—A set of samples prepared by an FSQS laboratory and used to ascertain a non-USDA laboratory's analytical capability for obtaining accreditation.

(12) *Official Check Samples*—Samples prepared by an FSQS laboratory and used to determine an accredited laboratory's continued analytical capability.

(13) *AOAC procedures*—Procedures of chemical analysis accepted by the Association of Official Analytical Chemists (AOAC) and published in the "Official Methods of Analysis of the Association of Official Analytical Chemists".[1]

(14) *Standards of performance for initial and continued laboratory accreditation for chemical residue analysis*—Table 1 establishes the standards of performance which must be set by non-USDA laboratories for residues analyses using analytical procedures designated and approved by FSQS:

Table 1

Residue	Minimum proficiency level	Percent expected recovery	Initial acceptance criteria*	Continued acceptance criteria*
Aldrin	0.10 ppm	80–100	<COV 15%	<COV 20%
Benzene hexachloride	0.10 ppm	80–100	<COV 15%	<COV 20%
Chlordane	0.3 ppm	80–100	<COV 15%	<COV 20%
Dieldrin	0.10 ppm	80–100	<COV 15%	<COV 20%
DDT	0.15 ppm	80–100	<COV 15%	<COV 20%
DDE	0.10 ppm	80–100	<COV 15%	<COV 20%
TDE	0.15 ppm	80–100	<COV 15%	<COV 20%
Endrin	0.10 ppm	80–100	<COV 15%	<COV 20%
Heptachlor	0.10 ppm	80–100	<COV 15%	<COV 20%
Heptachlor epoxide	0.10 ppm	80–100	<COV 15%	<COV 20%
Lindane	0.10 ppm	80–100	<COV 15%	<COV 20%
Methoxychlor	0.5 ppm	80–100	<COV 15%	<COV 20%
Toxaphene	1.0 ppm	80–100	<COV 15%	<COV 20%
Polychlorinate biphenyls	0.5 ppm	80–100	<COV 15%	<COV 20%
Hexachlorobenzene	0.10 ppm	80–100	<COV 15%	<COV 20%
Mirex	0.1 ppm	80–100	<COV 15%	<COV 20%
Nonachlor	0.15 ppm	80–100	<COV 15%	<COV 20%
Polybrominated biphenyls	0.15 ppm	80–100	<COV 15%	<COV 20%
Arsenic	0.20 ppm	N/A	<COV 15%	<COV 20%
Sulfa drugs	0.1 ppm	65–85	<COV 12%	<COV 16%
DES	2 ppb	60–90	<COV 12%	<COV 16%
Ipronidazole	2 ppb	60–900	<COV 15%	<COV 20%
Nitrosamine	5 ppb	70–110	<COV 8% at the 10 ppb level	<COV 12% at the 10 ppb level

*Proper identification of each residue present is required.

(b) *Laboratories accredited for analysis of protein, moisture, fat and salt content in meat food products.*

(1) *Applying for Accreditation.*[2] Application for accreditation shall be made by letter by the owner or operator of the non-USDA laboratory to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Laboratories whose accreditation has been refused or withdrawn under the circumstances described in paragraph (d) or (e) of this section may reapply for accreditation no sooner than 1 year after the effective date of that action.

(2) *Criteria for obtaining accreditation.* Non-USDA chemistry laboratories may be accredited for the Accredited Laboratory Program for the analysis of moisture, protein, fat, and salt content. This accreditation authorizes official FSQS acceptance of such analytical test results from such laboratories on official samples. To obtain FSQS accreditation for moisture, protein, fat, and salt analyses, a non-USDA chemistry laboratory must:

(i) Provide to FSQS the name and address of at least one official meat establishment which has agreed to employ its services,

(ii) Be supervised by a person holding, at a minimum, a bachelor's degree in chemistry, and 1 year's experience in meat chemistry, or the equivalent as determined by the Administrator, FSQS,

(iii) Successfully demonstrate analytical capability using AOAC procedures[1] by taking part in a 30 check sample accreditation study carried out between the applying laboratory and a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS, USDA. The applying laboratory will bear the costs of its analysis. If analysis of the first set of accreditation check samples does not meet FSQS standards for obtaining accreditation, a second set of samples will be provided to the non-USDA laboratory. If the analysis of the second set of samples does not meet FSQS

[1] Copies of this publication are on file with the Director, Office of the **Federal Register**, and are available from the Association of Official Analytical Chemists, 1111 N. 19th Street, Suite 210, Arlington, VIrginia 22209.

[2] Laboratories designated by FSQS as "certified" on the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (b)(1) and (b)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories.

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standards for obtaining accreditation, no additional set of accreditation check samples will be provided for a 1-year time period commencing from the date on which the analysis results of the second set was reported to FSQS. The applying laboratory must meet the following standards on results from analyzing the 30 accreditation check samples:

(*a*) Not more than 25 percent of samples tested shall have minor deviations.

(*b*) Not more than 5 percent of samples tested shall have major deviations.

(*c*) Data must conform to normal statistical distribution.

(iv) Allow access to and inspection of the laboratory by FSQS officials prior to a determination as to the granting of accredited status.

(3) *Standards for maintaining accreditation.* To maintain accreditation for the Accredited Laboratory Program for moisture, protein, fat, and salt analyses, a non-USDA chemistry laboratory must:

(i) Report analytical results of the moisture, protein, fat, and salt content of official samples biweekly on FSQS Form 6200–2 to the Chemistry Division, Science Program, FSQS, USDA.

(ii) Maintain laboratory quality control records for a period of 3 years.

(iii) Maintain complete records of the receipt, analysis, and dispositon of official samples in a permanently bound book for a period of 3 years after the last entry.

(iv) Maintain a "standards book" which is a permanently bound book with sequentially numbered pages containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst and his/her supervisor within 1 working day, and the book is to be maintained for a period of 3 years after the last entry.

(v) Analyze official check samples, whenever requested by USDA, at no cost to USDA within 1 week of sample receipt.

(vi) Inform the Chemistry Division, Science Program, FSQS, by certified or registered mail, when a change in laboratory supervisory personnel occurs.

(vii) Permit FSQS officials to perform both announced and unannounced on-site laboratory reviews.

(viii) Use official AOAC procedures [1] on official samples.

(ix) Maintain acceptable analytical agreement of the laboratory's official sample results with split sample results from a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS. Acceptable agreement is:

(*a*) Not more than 25 percent of the samples tested having minor deviations.

(*b*) Not more than 5 percent of the samples tested having major deviations.

(*c*) Data conforming to normal statistical distribution.

(x) Report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator before making the results available to any other party. The Federal inspector at any establishment may assign the analysis of official samples to an FSQS-Science Multidisciplinary Laboratory if, in his/her view, there are an excessive number of delays in receiving test results on official samples from an accredited laboratory.

(c) *Laboratories accredited for chemical residue analysis in meat food products.*—(1) *Applying for accreditation.*[3] Application for accreditation shall be made by letter by the owner or operator of the non-USDA laboratory to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. Laboratories whose accreditation has been refused or withdrawn under the circumstances described in paragraphs (d) or (e) of this section may reapply for accreditation no sooner than 1 year after the effective date of that action.

(2) *Criteria for obtaining accreditation.* Non-USDA chemistry laboratories may be accredited for the Accredited Laboratory Program for the analysis for residue content of particular chemicals or classes of chemicals. This accreditation authorizes official FSQS acceptance of such analytical test results from such laboratories on official samples. To obtain FSQS accreditation for chemical residue analysis, a non-USDA chemistry laboratory must:

(i) Be supervised by a person holding, at a minimum, a bachelor's degree in chemistry from an American Chemical Society (ACS) approved college or university and having a minimum of 3 years' experience in the preceding 6 years in the residue analysis of those particular chemicals or classes of chemicals for which accreditation is sought or the equivalent as determined by the Administrator, FSQS; or 8 years' experience in the preceding 10 years in the residue analysis of those particular chemicals or classes of chemicals for which accreditation is sought, and a bachelor's degree in chemistry from any college or university.

(ii) Successfully demonstrate analytical capability for the particular chemical or class of chemicals applied for using procedures designated and approved by FSQS by taking part in a check sample accreditation study carried out between the applying laboratory and a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS, USDA. The applying laboratory will bear the costs of its analysis. If analysis of the first set of accreditation check samples for the particular chemicals or class of chemicals does not meet FSQS standards for obtaining accreditation, a second set of samples will be provided to the non-USDA laboratory. If the analysis of the second set of samples does not meet FSQS standards for obtaining accreditation, no additional set of accreditation check samples for the particular chemical or class of chemicals will be provided for a 1-year time period commencing from the date on which the analysis results of the second set was reported to FSQS. With regard to the accreditation check samples, the applying laboratory must meet the standards of performance for initial laboratory accreditation for chemical residue analysis of the particular chemical or class of chemicals (Table 1) and

(*a*) Not more than 25 percent of the samples tested shall have minor deviations.

(*b*) Not more than 5 percent of the samples tested shall have major deviations.

(*c*) Data must conform to normal statistical distribution.

(iii) Allow access to and inspection of the laboratory by FSQS officials prior to a determination as to the granting of accredited status.

(3) *Standards for maintain accreditation.* To maintaining accreditation for the Accredited Laboratory Program for chemical residue analysis, a non-USDA chemistry laboratory must:

(i) Report analytical chemical residue results of official samples biweekly on MP Form 115 to the Chemistry Division, Science Program, FSQS, USDA.

(ii) Maintain laboratory quality control records for a period of 3 years.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples in a permanently bound book for a period of 3 years after the last entry.

(iv) Maintain a "standards book" which is a permanently bound book with sequentially numbered pages containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst and his/her supervisor within 1 working day and the book is to be maintained for a period of 3 years after the last entry.

(v) Analyze official check samples whenever requested by USDA, at no cost to USDA within 1 week of the sample receipt.

(vi) Inform Chemistry Division, Science Program, FSQS, by certified or registered mail, when a change in laboratory supervisory personnel occurs.

(vii) Permit FSQS officials access to perform both announced and unannounced on-site laboratory reviews.

(viii) Use analytical procedures designated and approved by FSQS officials on official samples.

(ix) Maintain acceptable analytical agreement of the laboratory's official sample results with split sample results from a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS. Acceptable agreement is meeting the standards of performance for continued laboratory accreditation for chemical residue analysis for the particular chemical or class of chemicals (Table I) and

(*a*) Not more than 25 percent of the samples tested minor deviations.

(*b*) Not more than 5 percent of the samples tested major deviations.

(*c*) Data conforming to normal statistical distribution.

(x) Report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator before making the results available to any other party.

(d) *Refusal of accreditation.* Upon a determination by the Administrator a laboratory may be refused accreditation for the Following reasons:

(1) Laboratory may be refused accreditation for protein, moisture, fat and salt analysis for failure to meet the requirements of paragraph (b)(2) of this section.

(2) A laboratory may be refused accreditation for chemical residue analysis for failure to meet the requirements of paragraph (c)(2) of this section. The refusal may be limited to the analysis of particular chemicals or classes of chemicals if the deficiencies relate only to those chemicals or classes of chemicals and to the requirements in paragraph (c)(2)(i) or (ii) of this section.

(e) *Withdrawal of accreditation.* Upon a determination by the Administrator an accredited laboratory may have its accreditation withdrawn for the following reasons:

(1) An accredited laboratory may have its accreditation withdrawn for protein, mositure, fat and salt analysis for failure to meet the requirements of paragraph (b)(3) of this section.

(2) An accredited laboratory may have its accreditation withdrawn for chemical residue analysis for failure to meet the requirements of paragraph (c)(3) of this section.

(3) An accredited laboratory may have its accreditation withdrawn for either protein, mositure, fat and salt analysis or for chemical residue analysis if the laboratory owner or operator, or any agent or employee in the scope of his agency or employment, has:

(i) Altered any official sample or analytical findings, or,

(ii) Substituted any analysis from a non-accredited laboratory. Accredited laboratories may not send official samples to non-accredited laboratories for analysis.

(4) Withdrawals of accreditation for chemical residue analysis may be limited to the analysis of particular chemicals or classes of chemicals if the deficiencies relate only the those chemcials or classes of chemicals and to the requirements in paragraph (c)(3)(ix) of this section.

(f) *Appeal procedures.* Accreditation of any laboratory may be refused or withdrawn under the conditions previously described herein. The owner or operator of the laboratory will be sent written notice of the refusal or withdrawal of accreditation by the Administrator. In such cases, the laboratory owner or operator will be provided the opportunity to present, within 30 days of the date of the notification of the action, a statement challenging the merits or validity of such action and to request an oral hearing with respect to the denial or withdrawal decision. An oral hearing shall be granted if there is any dispute of material fact joined in such responsive statement. The proceeding shall thereafter be conducted in accordance with the applicable rules of practice which shall be adopted for the proceeding. Any such refusal shall be effective upon the notification, and shall continue in effect unitl final determination of the matter. Any such withdrawal shall be effective upon notification, but shall be held in abeyance until final determination of the matter except in cases where the Administrator determines the public health, interest, or safety requires the withdrawal to continue in effect until the final determination of the matter.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 42 FR 35625, 35626)

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Furthermore, Part 381, Subpart 0, of the poultry products inspection regulations (9 CFR 381) would be amended by adding a new § 381.153, and the Table of Contents would be amended accordingly, to read as follows:

§ 381.153 Accreditation of chemistry laboratories.

(a) Definitions:

(1) *Accredited Laboratory*—A non-USDA chemistry laboratory that has met the requirements specified in this section for accreditation. Payment for analysis of official samples is to be made by the laboratory client.

(2) *Spilt Samples*—A duplicate of an official sample, which is analyzed by an FSQS Multidisciplinary Laboratory and is used for comparison to determine the continued analytical capability of the accredited laboratory.

(3) *FSQS Form 6200–2*—The laboratory biweekly report used by FSQS and those laboratories accredited for moisture, protein, fat and salt analysis in meat and poultry products. The results of the analysis for protein, mositure, salt, and fat content are reported on this form to the Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

(4) *MP Form 115*—The laboratory biweekly report used by FSQS and those laboratories accredited for chemical residue analysis in meat and poultry food products. The results of the analysis for chemical residues are reported on this form to the Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

(5) *Minor deviation*—

(i) *Laboratories accredited for analysis of protein, moisture, fat and salt content:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds the following values: protein = ± 0.5%, moisture and fat = ± 1.0%, and salt = ± 0.3%; but does not exeed the following values: protein = ± 1.0%, moisture and fat = ± 2.0%, and salt = ± 0.6%.

(ii) *Laboratories accredited for analysis of chemical residues:*

[3] Laboratories designated by FSQS as "recognized" on the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (c)(1) and (c)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories.

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A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds 2 times but not 4 times the coefficient of variation times the mean of the two results.

(6) *Major deviation*—

(i) *Laboratories accredited for analysis of protein, moisture, fat and salt content.*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds the following values: protein = ± 1.0%, moisture and fat = ± 2.0%, and salt = ± 0.6%.

(ii) *Laboratories accredited for analysis of chemical residues:*

A difference between the accredited laboratory sample result and the FSQS Multidisciplinary Laboratory split sample or check sample result that exceeds 4 times the coefficient of variation times the mean of the two results.

(7) *Official sample*—A sample selected by a Federal inspector at an establishment. For samples for chemical residue analysis, this term also includes any sample selected and submitted under USDA supervision by a grower of poultry or by an establishment.

(8) *Accredited Laboratory Coordinator*—The FSQS official responsible for coordinating all activites of laboratory accreditation and automatic data processing (ADP) analysis.

(9) *Minimum Proficiency Level*—The minimum level of incurred residue expected to be identified and quantified by an accredited laboratory.

(10) *COV (Coefficient of Variation)*—The standard deviation of a set of analytical results multiplied by 100, divided by the average value of those analytical results.

(11) *Accreditation Check Samples*—A set of samples prepared by an FSQS laboratory and used to ascertain a non-USDA laboratory's analytical capability for obtaining accreditation.

(12) *Official Check Samples*—Samples prepared by an FSQS laboratory and used to determine an accredited laboratory's continued analytical capability.

(13) *AOAC procedures*—Procedures of chemical analysis accepted by the Association of Official Analytical Chemists (AOAC) and published in the "Official Methods of Analysis of the Association of Official Analytical Chemists." [1]

[1] Copies of this publication are on file with the Director, Office of the Federal Register, and are available from the Association of Official Analytical Chemists, 1111 N. 19th Street, Suite 210, Arlington, Virginia 22209.

(14) *Standards of performance for initial and continued laboratory accreditation for chemical residue analyses*—Table 1 establishes the standards of performance which must be met by non-USDA laboratories for residue analyses using analytical procedures designated and approved by FSQS:

Table 1

Residue	Minimum proficiency level	Percent expected recovery	Initial acceptance criteria*	Continued acceptance criteria*
Aldrin	0.10 ppm	80–100	<COV 15%	<COV 20%
Benzene hexachloride	0.10 ppm	80–100	<COV 15%	<COV 20%
Chlordane	0.3 ppm	80–100	<COV 15%	<COV 20%
Dieldrin	0.10 ppm	80–100	<COV 15%	<COV 20%
DDT	0.15 ppm	80–100	<COV 15%	<COV 20%
DDE	0.10 ppm	80–100	<COV 15%	<COV 20%
TDE	0.15 ppm	80–100	<COV 15%	<COV 20%
Endrin	0.10 ppm	80–100	<COV 15%	<COV 20%
Heptachlor	0.10 ppm	80–100	<COV 15%	<COV 20%
Heptachlor epoxide	0.10 ppm	80–100	<COV 15%	<COV 20%
Lindane	0.10 ppm	80–100	<COV 15%	<COV 20%
Methoxychlor	0.5 ppm	80–100	<COV 15%	<COV 20%
Toxaphene	1.0 ppm	80–100	<COV 15%	<COV 20%
Polychlorinated biphenyls	0.5 ppm	80–100	<COV 15%	<COV 20%
Hexachlorobenzene	0.10 ppm	80–100	<COV 15%	<COV 20%
Mirex	0.1 ppm	80–100	<COV 15%	<COV 20%
Nonachlor	0.15 ppm	80–100	<COV 15%	<COV 20%
Polybrominated biphenyls	0.15 ppm	80–100	<COV 15%	<COV 20%
Arsenic	0.20 ppm	N/A	<COV 15%	<COV 20%
Sulfa drugs	0.1 ppm	65–85	<COV 12%	<COV 16%
DES	2 ppb	60–90	<COV 12%	<COV 16%
Ipronidazole	2 ppb	60–900	<COV 15%	<COV 20%
Nitrosamine	5 ppb	70–110	<COV 8% at the 10 ppb level	<COV 12% at the 10 ppb level

*Proper identification of each residue present is required.

(b) *Laboratories accredited for analysis of protein, moisture, fat and salt content in poultry products.*

(1) *Applying for Accreditation.*[2] Application for accreditation shall be made by letter by the owner or operator of the non-USDA laboratory to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Laboratories whose accreditation has been refused or withdrawn under the circumstances described in paragraph (d) or (e) of this section may reapply for accreditation no sooner than 1 year after the effective date of that action.

(2) *Criteria for obtaining accreditation.* Non-USDA chemistry laboratories may be accredited for the Accredited Laboratory Program for the analysis of moisture, protein, fat, and salt content. This accreditation authorizes official FSQS acceptance of such analytical test results from those laboratories on official samples. To obtain FSQS accreditation for moisture, protein, fat, and salt analyses, a non-USDA chemistry laboratory must:

(i) Provide to FSQS the name and address of at least one official poultry establishment which has agreed to employ its services,

(ii) Be supervised by a person holding, at a minimum, a bachelor's degree in chemistry, and 1 year's experience in poultry chemistry, or the equivalent as determined by the Administrator, FSQS,

(iii) Successfully demonstrate analytical capability using AOAC procedures [1] by taking part in a 30 check sample accreditation study carried out between the applying laboratory and a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS, USDA. The applying laboratory will bear the costs of its analysis. If analysis of the first set of accreditation check samples does not meet FSQS standards for obtaining accreditation, a second set of samples will be provided to the non-USDA laboratory. If the analysis of the second set of sample does not meet FSQS

[2] Laboratories designated by FSQS as "certified" on the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraph (b)(1) and (b)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories.

standards for obtaining accreditation, no additional set of accreditation check samples will be provided for a 1-year time period commencing from the date on which the analysis results of the second set was reported to FSQS. The applying laboratory must meet the following standards on results from analyzing the 30 accreditation check samples:

(*a*) Not more than 25 percent of samples tested shall have minor deviations.

(*b*) Not more than 5 percent of samples tested shall have major deviations.

(*c*) Data must conform to normal statistical distribution.

(iv) Allow access to and inspection of the laboratory by FSQS officials prior to a determination as to the granting of accredited status.

(3) *Standards for maintaining accreditation.* To maintain accreditation for the Accredited Laboratory Program for moisture, protein, fat, and salt analyses, a non-USDA chemistry laboratory must:

(i) Report analytical results of the moisture, protein, fat and salt content of official samples biweekly on FSQS Form 6200–2 to the Chemistry Division, Science Program, FSQS, UDSA.

(ii) Maintain laboratory quality control records for a period of 3 years.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples in a permanently bound book for a period of 3 years after the last entry.

(iv) Maintain a "standards book" which is a premanently bound book with sequentially numbered pages containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst and his/her supervisor within 1 working day, and the book is to be maintained for a period of 3 years after the last entry.

(v) Analyze official check samples whenever requested by USDA, at no cost to USDA within 1 week of sample receipt.

(vi) Inform the Chemistry Division, Science Program, FSQS, by certified or registered mail, when a change in laboratory supervisory personnel occurs.

(vii) Permit FSQS officials to perform both announced and unannounced on-site laboratory reviews.

(viii) Use official AOAC procedures [1] on official samples.

(ix) Maintain acceptable analytical agreement of the laboratory's official sample results with split sample results from a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS. Acceptable agreement is:

(*a*) Not more than 25 percent of the samples tested having minor deviations.

(*b*) Not more than 5 percent of the samples tested having major deviations.

(*c*) Data conforming to normal statistical distribution.

(x) Report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator before making the results available to any other party. The Federal inspector at any establishment may assign the analysis of official samples to an FSQS-Science Multidisciplinary Laboratory if, in his/her view, there are an excessive number of delays in receiving test results on official samples from an accredited laboratory.

(c) *Laboratories accredited for chemical residue analysis in poultry products.*—(1) *Applying for accreditation.*[3] Application for accreditation shall be made by letter by the owner or operator of the non-USDA laboratory to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Laboratories whose accreditation has been refused or withdrawn under the circumstances described in paragraphs (d) or (e) of this section may reapply for accreditation no sooner than 1 year after the effective date of that action.

(2) *Criteria for obtaining accreditation.* Non-USDA chemistry laboratories may be accredited for the Accredited Laboratory Program for the analysis for the residue content of particular chemicals or classes of chemicals. This accreditation authorizes official FSQS acceptance of such analytical test results from such laboratories on official samples. To obtain FSQS accreditation for chemical residue analysis, a non-USDA chemistry laboratory must:

(i) Be supervised by a person holding, at a minimum, a bachelor's degree in chemistry from an American Chemical Society (ACS) approved college or university and having a minimum of 3 years' experience in the preceding 6 years in the residue analysis of those particular chemicals or classes of chemicals for which accreditation is sought or the equivalent as determined by the Administrator, FSQS; or 8 years' experience in the preceding 10 years in the residue analysis of those particular chemicals or classes of chemicals for which accreditation is sought, and a bachelor's degree in chemistry from any college or university.

(ii) Successfully demonstrate analytical capability for the particular chemical or classes of chemicals applied for using procedures designated and approved by FSQS by taking part in a check sample accreditation study carried out between the applying laboratory and a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS, USDA. The applying laboratory will bear the costs of its analysis. If analysis of the first set of accreditation check samples for the particular chemical or classes of chemicals does not meet FSQS standards for obtaining accreditation, a second set of samples will be provided to the non-USDA laboratory. If the analysis of the second set of samples does not meet FSQS standards for obtaining accreditation, no additional set of accreditation check samples will be provided for a 1-year time period commencing from the date on which the analysis results of the second set was reported to FSQS. With regard to the accreditation check samples, the applying laboratory must meet the standards of performance for initial laboratory accreditation for chemical residue analysis of the particular chemical or class of chemicals (Table 1) and

(*a*) Not more than 25 percent of the samples tested shall have minor deviations.

(*b*) Not more than 5 percent of the samples tested shall have major deviations.

(*c*) Data must conform to normal statistical distribution.

(iii) Allow access to and inspection of the laboratory by FSQS officials prior to a determination as to the granting of accredited status.

(3) *Standards for maintaining accreditation.* To maintain accreditation for the Accredited Laboratory Program for chemical residue analysis, a non-USDA chemistry laboratory must:

(i) Report analytical chemical residue results of official samples biweekly on MP Form 115 to the Chemistry Division, Science Program, FSQS, USDA.

(ii) Maintain laboratory quality control records for a period of 3 years.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples in a permanently bound

[3] Laboratories designated by FSQS as "recognized" on the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (c)(1) and (c)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories.

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book for a period of 3 years after the last entry.

(iv) Maintain a "standards book" which is a permanently bound book with sequentially numbered pages containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst and his/her supervisor within 1 working day and the book is to be maintained for a period of 3 years after the last entry.

(v) Analyze official check samples whenever requested by USDA, at no cost to USDA within 1 week of sample receipt.

(vi) Inform Chemistry Division, Science Program, FSQS, by certified or registered mail, when a change in laboratory supervisory personnel occurs.

(vii) Permit FSQS officials access to perform both announced and unannounced on-site laboratory reviews.

(viii) Use analytical procedures designated and approved by FSQS officials on official samples.

(ix) Maintain acceptable analytical agreement of the laboratory's official sample results with split sample results from a Multidisciplinary Laboratory, Field Service Laboratories Division, Science Program, FSQS. Acceptable agreement is meeting the standards of performance for continued laboratory accreditation for chemical residue analysis for the particular chemical or class of chemicals (Table I), and

(*a*) Not more than 25 percent of the samples tested having minor deviations.

(*b*) Not more than 5 percent of the samples tested having major deviations.

(*c*) Data conforming to normal statistical distribution.

(x) Report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator before making the results available to any other party.

(d) *Refusal of accreditation.* Upon a determination by the Administrator a laboratory may be refused accreditation for the following reasons:

(1) A laboratory may be refused accreditation for protein, moisture, fat and salt analysis for failure to meet the requirements of paragraph (b)(2) of this section.

(2) A laboratory may be refused accreditation for chemical residue analysis for failure to meet the requirements of paragraph (c)(2) of this section. The refusal may be limited to the analysis of particular chemicals or classes of chemicals if the deficiencies relate only to those chemicals or classes of chemicals and to the requirements in paragraph (c)(2)(i) or (ii) of this section.

(e) *Withdrawal of accreditation.* Upon a determination by the Administrator an accredited laboratory may have its accreditation withdrawn for the following reasons:

(1) An accredited laboratory may have its accreditation withdrawn for protein, moisture, fat and salt analysis for failure to meet the requirements of paragraph (b)(3) of this section.

(2) An accredited laboratory may have its accreditation withdrawn for chemical residue analysis for failure to meet the requirements of paragraph (c)(3) of this section.

(3) An accredited laboratory may have its accreditation withdrawn for either protein, moisture, fat and salt analysis or for chemical residue analysis if the laboratory owner or operator, or any agent or employee in the scope of his agency or employment, has:

(i) Altered any official sample or analytical finding, or

(ii) Substituted any analysis from a non-accredited laboratory. Accredited laboratories may not send official samples to non-accredited laboratories for analysis.

(4) Withdrawals of accreditation for chemical residues analysis may be limited to the analysis of particular chemicals or classes of chemicals if the deficiencies relate only to those chemicals or classes of chemicals and to the requirements in paragraph (c)(3)(ix) of this section.

(f) *Appeal procedures.* Accreditation of any laboratory may be refused or withdrawn under the conditions previously described herein. The owner or operator of the laboratory will be sent written notice of the refusal or withdrawal of accreditation by the Administrator. In such cases, the laboratory owner or operator will be provided the opportunity to present, within 30 days of the date of the notification of the proposed action, a statement challenging the merits or validity of such action and to request an oral hearing with respect to the denial or withdrawal decision. An oral hearing shall be granted if there is any dispute of material fact joined in such responsive statement. The proceeding shall thereafter be conducted in accordance with the applicable rules of practice which shall be adopted for the proceeding. Any such refusal shall be effective upon the notification and shall continue in effect until final determination of the matter. Any such withdrawal shall be effective upon notification, but shall be held in abeyance until final determination of the matter except in cases where the Administrator determines the public health, interest, or safety requires the withdrawal to continue in effect until the final determination of the matter.

(Sec. 14, 71 Stat. 441, as amended, 21 U.S.C. 463; 42 FR 35625, 35626)

Done at Washington, D.C., on November 3, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-34787 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-DM-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-17259, File No. S7-590]

Filings by Self-Regulatory Organizations of Proposed Rule Changes and Other Materials With the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of a proposed rule and withdrawal of proposed amendments to a rule and a related form.

SUMMARY: In light of amendments it has adopted to requirements applicable to the filings by Self-regulatory organizations of proposed rule changes and certain other materials, the Commission is announcing (i) withdrawal of a proposed rule that would have defined the term "rule" of a self-regulatory organization and (ii) withdrawal of proposed amendments to a rule and related form that would have provided summary effectiveness for certain proposed rule changes of a self-regulatory organization circulated, for pre-filing review, to the Commission and to persons who would be subject to the rules.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Davis, Esq., (202) 272-2846 or Jeffrey Jordan, Esq., (202) 272-2847, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In a companion release issued today,[1] the Securities and Exchange Commission is announcing certain actions designed to facilitate review of proposed rule changes of self-regulatory organizations under Section 19(b)[2] of the Securities Exchange Act of 1934 (the "Act").[3] As part of those actions, the Commission is withdrawing certain proposals made earlier[4] relating to these matters. Specifically, for the reasons explained in the companion release, the Commission is announcing the following actions:

(1) Withdrawal of proposed Rule 3b-7, which would have defined the term "rule" of a self-regulatory organization for purposes of Sections 3(a)(27) and 3(a)(28) of the Act.

(2) Withdrawal of proposed amendments to Rule 19b-4 and related Form 19b-4A that would have provided summary effectiveness for certain proposed rule changes of a self-regulatory organization circulated, for pre-filing review, to the Commission and to persons who would be subject to the rules.

Further explanation of the above actions, and of other actions being taken concerning filings of proposed rule changes and other materials, is provided in the companion release issued today.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 30, 1980.

[FR Doc. 80-34738 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

[1] Securities Exchange Act Release No. 17258 (October 30, 1980).

[2] 15 U.S.C. 78s(b).

[3] 15 U.S.C. 78a et seq.

[4] Securities Exchange Act Release No. 15838 (May 18, 1979), 44 FR 30924 (May 29, 1979).

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1596-1; FAP 9H5196/P19]

Glyphosate; Proposed Food Additive Tolerances

Correction

In FR Doc. 80-26939, appearing at page 58494 in the issue for Wednesday, September 3, 1980, make the following corrections:

(1) In the **"Summary"** paragraph, in the seventh line, "isopropylsponic" should have read "isopropylamine".

(2) In the first paragraph under **"Supplementary Information"**, in the twelfth line, the word "the" should have read "from".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 80N-0357]

Hair Grower and Hair Loss Prevention Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes that hair grower and hair loss prevention drug products be classified in Category II as being not generally recognized as effective and as being misbranded for over-the-counter (OTC) use. The document, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by February 5, 1981. Reply comments by March 9, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFA-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on December 10, 1979 a report on hair grower and hair loss prevention drug products from the Advisory Review Panel on OTC Miscellaneous External Drug Products.

Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the agency issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC hair grower and hair loss prevention drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

Because the Panel's recommendations on hair grower and hair loss prevention drug products for OTC use contain no Category I or Category III conditions, FDA is therefore issuing the Panel's recommendations as a notice proposing Category II classification of hair grower and hair loss prevention drug products for OTC use.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document as a formal notice to propose classification of hair grower and hair loss prevention drug products as Category II and to obtain public comment before the agency reaches any decision on the Panel's recommendations. Should the agency accept the Panel's recommendation that the ingredients in hair grower and hair loss prevention drug products be classified as Category II, a regulation declaring the products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 321(p)) will be proposed for inclusion in Part 310, Subpart E (21 CFR Part 310, Subpart E). The agency is including the proposed regulation in this notice to obtain full public comment at this time. After FDA has carefully reviewed the comments and reply comments, submitted in response to this notice, the agency will issue a tentative final order on hair grower and hair loss prevention drug products for OTC use.

Should FDA accept the conclusions and recommendations of the Panel, the agency would propose that hair grower and hair loss prevention drug products be eliminated from the OTC market, effective 6 months after the date of publication of a final order in the **Federal Register**, regardless of whether further testing is undertaken to justify their future use.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC hair grower and hair loss prevention drug products submitted for consideration by the Advisory Review Panel. All the submitted information will be put on public display at the Hearing Clerk's Office, Food and Drug Administration, after December 8, 1980, except to the extent that the person

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submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address above).

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, requests for data and information on all active ingredients used in OTC miscellaneous external drug products were issued in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179).

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of those products:

William E. Lotterhos, M.D., Chairman.
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976).
George C. Cypress, M.D. (resigned November 1978).
Yelva L. Lynfield, M.D. (appointed October 1977).
Harry E. Morton, Sc. D.
Marianne N. O'Donoghue, M.D.
Chester L. Rossi, D.P.M.
J. Robert Newson, M.D. (appointed September 1978).

Representatives of consumer and industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union, served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

Two nonvoting consultants, Albert A. Belmonte, Ph. D., and Jon J. Tanja, R.Ph., M.S., have provided assistance to the Panel since February 1977.

The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Arthur Auer until September 1978, followed by John T. McElroy, J.D. Thomas D. DeCillis, R.Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D. Joseph Hussion, R.Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for hair grower and hair loss prevention drug products in this document. The review of other categories of miscellaneous external drug products will be continued by the Panel, and its findings will be published periodically in future issues of the **Federal Register**.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on: October 29 and 30, 1978; January 14 and 15, March 11 and 12, May 18 and 19, August 3 and 4, September 28 and 29, October 28 and 29, and December 9 and 10, 1979.

The minutes of the Panel meetings are on public display in the Hearing Clerk's Office (HFA–305), Food and Drug Administration (address above).

At the Panel's request, Norman Orentreich, M.D., appeared before the Panel to express his views on hair grower and hair loss prevention drug products.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from an interested person, and has considered all pertinent information submitted through December 10, 1979 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel reviewed OTC hair grower and hair loss prevention drug products with respect to the following three categories:

Category I. Conditions under which OTC hair grower and hair loss prevention drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC hair grower and hair loss prevention drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel concludes that all hair grower and hair loss prevention active ingredients reviewed are safe, but none is effective for OTC use (Category II).

I. Submission of Data and Information

In an attempt to make this review as extensive as possible and to aid manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or use in marketed products, as hair growers and sebum hair loss (hair loss prevention) active ingredients. Thirteen hair grower ingredients were identified as follows: Amino acids, ascorbic acid, benzoic acid, essential oils, fatty acids, hormone constituents, lanolin, oil of eucalyptus, olive oil, proteins, tar oil, vegetable oil, and vitamins. Thirteen sebum hair loss prevention ingredients were identified as follows: Allantoin (5-ureidohydantoin), ammonium lauryl sulfate, dichlorophene, di-isobutyl-phenoxy-ethoxy-ethyl-dimethylbenzyl-ammonium chloride, estradiol, isopropyl alcohol, lauric diethanolamide, methyl ethyl ketone, polyethylene glycol, propylene glycol, sulfonated vegetable and mineral oils, and tetracaine hydrochloride. Notices were published in the **Federal Register** of November 16, 1973 (38 FR 31679) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC hair growers and sebum hair loss drug products.

A. *Submissions.* Pursuant to the above notices, the following submissions were received:

Firms and marketed products

Edwards Industrial Center, Inc., Matawan, NJ 07747—Hair and Scalp Treatment
Loesch Laboratory Consultants, Inc., Houston, TX 77006—Antiseptic Dressing, Deacidizing Scalp Conditioner, L–55–A Scalp Cleanser, Special Shampoo
Shepard D. Roberts, Brooklyn, NY 11203—Hair Stimulant and Grower

B. *Ingredients Reviewed by the Panel.*

1. *Labeled ingredients contained in marketed products submitted to the Panel.*

Ammonium lauryl sulfate
Ascorbic acid
Benzethonium chloride (di-isobutyl phenoxy ethoxy ethyl dimethyl benzyl-ammonium chloride, monohydrate)
Benzoic acid
Coconut oil
Estradiol
Isopropanol
Lanolin
Lauric diethanolamide
Methyl ethyl ketone
Mineral oil
Polyethylene glycol 400
Polysorbate 80
Sodium hydroxide
Sulfonated vegetable oil
Tetracaine hydrochloride
Vegetable olive oil
Wheat germ oil (source of vitamin E and thiamine)

2. *Other ingredients reviewed by the Panel.*

Allantoin (5-ureidohydantoin)
Amino acids
Dichlorophen (dichlorophene)
Essential oils
Eucalyptus oil
Fatty acids
Hormone constituents
Olive oil
Propylene glycol
Proteins
Tar oil
Vegetable oil
Vitamins

C. *Classification of Ingredients.*

1. *Active ingredients.*

Ascorbic acid
Benzoic acid (benzoaic acid)
Estradiol
Lanolin
Tetracaine hydrochloride
Wheat germ oil (source of vitamin E and thiamine)

2. *Inactive ingredients.*

Ammonium lauryl sulfate
Benzethonium chloride (di-isobutyl phenoxy ethoxy ethyl dimethyl benzyl-ammonium chloride, monohydrate)
Coconut oil
Isopropyl alcohol (isopropanol)
Methyl ethyl ketone
Mineral oil
Polyethylene glycol 400
Polysorbate 80
Sodium hydroxide
Sulfonated vegetable oil
Vegetable olive oil

3. *Other ingredients.* The Panel was not able to locate nor is it aware of any data demonstrating the safety and effectiveness of the following ingredients when used as OTC hair grower and hair loss prevention active ingredients. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be discussed further in this document.

Allantoin (5-ureidohydantoin)
Amino acids
Dichlorophen (dichlorophene)
Essential oils
Eucalyptus oil (oil of eucalyptus)
Fatty acids
Hormone constituents
Lauric diethanolamide
Olive oil
Propylene glycol
Proteins
Tar oil
Vegetable oil
Vitamins

D. *Referenced OTC Volumes.* The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All the information included in these volumes, except for those deletions which are made in accordance with confidentiality provisions as set forth in § 330.10(a)(2), will be put on public display after December 8, 1980, in the Hearing Clerk's Office (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Discussion

The Advisory Review Panel on OTC Miscellaneous External Drug Products was given the responsibility to review the safety and effectiveness of single ingredients as well as combinations of such ingredients when used in OTC hair growers and sebum hair loss drug products. The Panel interpreted that request as a charge to evaluate products used for hair growers and seburm hair loss on that portion of the human head usually covered with hair. However, the Panel finds that the term "sebum hair loss" is too restrictive when OTC drug preparations for human hair loss are considered. Therefore, instead of the term "sebum hair loss," the term "hair loss prevention" was chosen by the Panel as a more general term to accurately describe any condition that contributes to the prevention of hair loss from the human scalp.

The common type of baldness, male-pattern alopecia, is inherited, as are hair color, texture, and curliness. A concern about the thinning of scalp hair resulting in hair loss may lead to the use of OTC "hair growth stimulants."

Hair growth is not continuous but rather cyclical. A hair follicle grows a hair for a specific period of time; this phase is called anagen. The hair then enters a transitional phase (catagen) and finally a resting phase called telogen. The telogen or resting hair sits in the hair follicle for several months; then it is shed. The cycle begins again with the new hair growing in the same follicle. A growing hair has specific characteristics, such as swelling and pigmentation at the tip. All growing hairs have external and internal root sheaths.

Several factors determine hair growth, i.e., the rate of growth, the duration of anagen, the duration of telogen, the thickness (diameter) of the hair, and the percentage of hairs in the growth (anagen) phase. For example, a scalp hair grows 3 to 5 years and has a much longer final length than an eyebrow hair, which grows for about 6 months. The growing cycle of body hair varies in length from site to site. Approximately 85 percent of the hair on the scalp is in the anagen phase. Because hairs in the anagen, telogen, and catagen phase can be distinguished morphically (by structure), a differential hair count can be done by looking at the roots (Ref. 1).

Hormones, with the exception of those topically applied, affect the hair cycle, the rate of hair growth, the diameter, and the pigmentation of hair. Topically applied hormones have no affect. At puberty many hairs change. A beard hair, for example, under the influence of the androgen dihydrotestosterone is converted from a very fine vellus hair, which has no pigment, is thin, and grows only to a very short length, to a coarse, long, terminal hair.

Male-pattern baldness is the exact opposite of what occurs in the development of a beard. A hair starts out coarse and goes to fine. This occurs in a certain pattern. First, there is a frontal "V" which male adolescents develop and which is really physiologic (Ref. 1). The hairline in women and children is usually straight across; adult males usually exhibit a M-shaped hairline. In people who inherit the gene for male-pattern baldness and who have a normal adult male androgen level, this frontal "V" continues to recede. The crown of the hair starts to go bald, and eventually the "V" connects with the crown. The result is a horseshoe pattern of hair. The follicle has not suddenly stopped producing a hair. Rather, the cycles of hair growth become shorter and shorter; terminal hairs are replaced by vellus hairs. Hamilton (Ref. 2) showed that baldness did not occur in the absence of male hormones, such as in men castrated before puberty, even though the tendency to baldness was inherited. When given androgens, the same subjects became bald.

Hair loss in women is not as great as that seen in men. There is some thinning of the hair in women who inherit the tendency to pattern alopecia (loss of hair) in later years, but hair loss never occurs to the extent found in men.

In certain body states, such as fever or childbirth, a conversion of a great many hairs from the anagen to the telogen phase occurs (Ref. 3). In 3 months (the duration of telogen on the scalp) these hairs are shed, and a sudden thinning of hair (diffuse alopecia) occurs. Then, new anagen hairs start to grow in the same follicle. It would be difficult to prove that this new hair growth occurred as a result of an

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application of any substance to the scalp.

Diffuse hair loss can be produced by malnutrition (starvation, crash dieting, iron deficiency), exposure to radiation, and hormonal imbalance (hypothyroidism, hyperthyroidism, hypopituitarism) (Ref. 4). It is caused by a variety of drugs, especially those used for cancer chemotherapy. Alopecia areata (an inflammatory loss of hair in sharply defined areas), fungus infection, secondary syphilis, and lupus erythematosus can cause patchy or extensive baldness.

Nothing done to the hair shaft once it emerges from the surface of the scalp will influence the hair growth. Anything that would influence regeneration of the hair would have to work on the hair root. Pulling on the root, such as with tight ponytails, braids, or a great deal of hair teasing can damage the follicle and cause some alteration in hair growth. Permanent waving, bleaching, shaving, and other external trauma to the hair shaft, which does not affect the hair root, will not have a longterm effect on the hair.

Products which cling to the hair shaft will give extra bulk to the hair and make it seem thicker. The resulting effect is cosmetic and not a drug action intrinsically changing the hair. In order to demonstrate that an ingredient is a hair restorer, it must be proven that the substance gets into the hair root and causes stimulation of hair growth.

An increase in the rate of hair growth, an increase in the diameter of the hair shaft, or the duration of the anagen phase would be convincing evidence of hair growth stimulation. An easier measurement of hair growth would be the total weight of hair produced by stimulation as compared to a control over a period of time. These studies should be carried out on a portion of scalp with a matched, symmetrical area of scalp as simultaneous control, in order to allow for fluctuations of hair growth from systemic causes or from the season of the year.

Because a sudden excessive hair loss or an unusual pattern of hair loss may have an underlying medical cause, the Panel recommends that persons having such a problem consult a doctor.

References

(1) Transcript of Proceedings of the Advisory Review Panel on OTC Miscellaneous External Drug Products, January 14 and 15, 1979.

(2) Hamilton, J. B., "Male Hormone Stimulation is Prerequisite and an Incitant in Common Baldness," *American Journal of Anatomy*, 71:451–481, 1942.

(3) Kligman, A. M., "Pathologic Dynamics of Human Hair Loss," *Archives of Dermatology*, 83:175–198, 1961.

(4) Rook, A., D. S. Wilkinson, and F. J. G. Ebling, "Textbook of Dermatology," Vol. II, 2d Ed., Blackwell Scientific Publications, London, pp. 1559–1641, 1972.

III. Category II Active Ingredients

The Panel has classified the following hair grower and hair loss prevention ingredients as not generally recognized as effective and as being misbranded for OTC use.

Ascorbic acid
Benzoic acid
Estradiol
Lanolin
Tetracaine hydrochloride
Wheat germ oil

The Panel received three submissions for marketed products (Refs. 1, 2, and 3). One manufacuturer submitted a formula for review for a product containing tetracaine hydrochloride, benzoaic acid [sic] (benzoic acid), and ascorbic acid. The manufacurer claimed that this product was for use as a "hair and scalp treatment product for preventing hair loss." However, neither data on the product nor the individual ingredients were submitted. The manufacturer merely stated that the tetracaine hydrochloride was employed for its vasodilatory properties and antipruritic action for aiding in developing hair follicles. Further, the manufacturer claimed that benzoic acid was used because of its antibacterial action and ascorbic acid for the claimed effect of strengthening hair roots by activating cellular respiration of the scalp and stimulating blood circulation (Ref. 1). The Panel reviewed this submission and concluded that there is no evidence that tetracaine hydrochloride, benzoic acid, ascorbic acid, or their combination applied topically to the scalp has any effect on hair growth. A search of the scientific literature did not yield any such evidence.

Another manufacturer submitted a laboratory report for a hair stimulant and grower. The manufacturer described the ingredients as lanolin, wheat germ oil, pure coconut oil, and pure vegetable olive oil, but no data on the effectiveness of the individual ingredients or the combination of ingredients were submitted (Ref. 2). The Panel reviewed the submission and concluded that there is no evidence that these ingredients or their combination applied topically to the scalp have any effect on hair growth. A search of the scientific literature did not yield any such evidence.

A third manufacturer submitted both safety and effectiveness data for a variety of products used for sebum hair loss. Treatment includes the sequential use of the following five products: (1) A deacidizing scalp conditioner (claimed for correcting, destroying, or neutralizing an acid), (2) a scalp cleanser, (3) a shampoo, (4) a hair growth stimulator, and (5) an antiseptic dressing. The manufacturer identified the active ingredients as: estradiol 666 International Units per day (IU/day) of 0.011 milligram per fluid ounce (mg/fl oz), providing a daily dose of 0.0055 mg/day, isopropanol, methyl ethly ketone, sulfonated vegetable and mineral oils, ammonium lauryl sulfate, and benzethonium chloride (di-isobutyl phenoxy ethoxy ethyl dimethyl benzyl-ammonium chloride, monohydrate). The manufacturer claimed that this system was a treatment for "sebum hair loss," defined as "the damage or destruction of the cells and tissues responsible for the holding and synthesizing of the hair shaft in the hair follicle by the epilating agents which have been shown to be present in human sebum."

The scientific evidence cited in the third manufacturer's submission to the Panel consisted of studies, published in 1951 and 1952, showing that human sebum or squalene (a chemical in sebum) applied to the skin of rats produced epilation; no more recent studies and no human studies were available (Ref. 3).

The theory that sebum can cause hair loss is not today generally accepted by the medical profession (Ref. 4). One text described studies which measured the normal amount of sebum and the hourly production of sebum on the bald scalp, the hairy scalp of balding men, and the scalp of men who showed no baldness and found no quantitative difference in sebum between these groups. It was concluded that balding men did not have abnormally oily scalps and that no quantitative chemical difference existed between the sebum of balding subjects and balding men. Male pattern baldness may occur coincidentally with increased scalp oiliness. Except for the fact that hair loss and the stimulation of sebaceous glands are both caused by dihydrotestosterone, hair loss and increased scalp oiliness probably are otherwise unrelated.

Pochi and Strauss (Ref. 5) in 1974 reviewed the endocrinologic control of the human sebaceous gland. Estrogen given systemically reduces the size and secretion of sebaceous glands in both men and women. Ethinyl estradiol applied to the forehead of normal men was shown to reduce sebum production; however, the concentration required (1 percent or greater) to reduce sebum

production produced signs of feminization from systemic drug absorption. Attempts to inhibit sebum production with topical estradiol 17B, which is a weaker estrogen, have been unsuccessful.

Because estrogens are readily absorbed through the skin and mucous membranes, the systemic effects resulting from topical application frequently may be observed. For example, in factory workers, gynecomastia (excessive development of the male mammary glands) resulted from handling of diethylstilbestrol (Ref. 6). Masters (Ref. 7) demonstrated increased estrogen in the urine and estrogen-induced vaginal keratinization when two healthy post-menopausal women applied estrogen cream to their skins. Haznam, Mahesh, and Greenblatt (Ref. 8) reported similar effects from cutaneous application of estrogen to a 67-year-old woman. Greenblatt (Ref. 9) treated an 18-year-old girl with Turner's Syndrome with estrogen cream; she developed vaginal keratinization, breast enlargement, and an increase in pubic hair. After applying radioactive estrogen under plastic or aluminum foil to women's backs radioactive metabolites were promptly detected in their urine (Refs. 10 and 11).

Therefore, because of the risk of systemic effects, the amount of estrogen applied topically should be limited. OTC estrogen preparations are labeled with instructions not to exceed a measured amount, which contains 666 IU/day which is approximately 20,000 IU/month. The Panel agreed that estradiol in a dose of 5.5 micrograms per day (μg/day), which equals 666 IU/day, is safe. The lack of systemic effects from this dose is well documented in studies by Masters (Ref. 7), Haznam (Ref. 8), Karnaky (Ref. 12), and Greenblatt (Ref. 13). In the 30 years that these preparations have been marketed, only 3 cases of uterine bleeding (Refs. 14, 15, and 16) may be ascribed to their use. Other adverse effects of systemic estrogen therapy, such as thrombotic disorders, nausea, edema, and breast tenderness and enlargement, have not been reported at this dosage. This is in spite of the fact that when creams are purchased OTC, the user can disregard the instructions and apply far larger quantities than recommended.

The manufacturer of the estrogen-containing product further stated that "this system does purport to be effective in the treatment of male pattern baldness and was not designed for that purpose." However, the data included in this report show that in a random sample of men and women with thinning hair, at least 50 percent of the patients were helped by this treatment (Ref. 3). To support the use of the product for sebum hair loss, the manufacturer submitted a variety of animal safety data for the individual active components of the various marketed products. Effectiveness data included controlled and uncontrolled studies, documented case reports, and references to the scientific literature. The manufacturer stated that four clinical tests demonstrated effectiveness. Three uncontrolled tests were conducted by 44 dermatologists on 230 patients treated from 2 to 11 months during the years 1965 through 1971. Of the patients treated, 88 percent had their hair loss reduced to normal loss or the loss was significantly decreased; 82 percent showed an improvement in the general condition of the scalp, 58 percent showed evidence of new hair growth, and 51.6 percent showed noticeable hair thickening (Ref. 3). One controlled clinical study, conducted in a southwestern medical school, indicated that 33 percent of the patients had a significant decrease in hair loss compared with their control period. Forty-five percent of the patients showed significant evidence of new hair growth as shown by physician examination and corroborated by actual hair count. In addition, 57.5 percent of the patients reported a significant increase in hair density compared to their control period. The manufacturer claims that the studies demonstrate that the treatment "has been shown to be effective for controlling and treating sebum hair loss" (Ref. 3).

The Panel has reviewed the data submitted and concludes that the uncontrolled clinical studies were too subjective to be convincing, because they consisted of only favorable testimonials by dermatologists, as well as men and women with hair loss. Daily shampooing with any nonmedicated shampoo would remove surface oil, scale, and loose hairs. No descriptions, photographs, or quantitative data on the hair loss of individual patients were given. Since the telogen phase on the scalp averages 3 months, it would be surprising to have a real decrease in hair loss in 2 months.

The one controlled quantitative study was very well planned, but so poorly carried out that the results are not significant. Thirty-four subjects (8 women and 26 men) complaining of hair loss of either male pattern or generalized type were studied during a 2-month control period and 3 to 5 months of use of the combination treatment. Photographic assessment and telogen counts were attempted, but the results of these tests were inadequate because the photographs were unclear. Collections of hair loss were also unreliable because of changes in shampooing frequency.

The Panel has reviewed all the information submitted and concludes that the ingredients are safe when used as specified, but that the data fail to demonstrate the effectiveness of these ingredients. Based upon a review of all of the data available to the Panel, and on the fact that no data are available in the literature demonstrating the effectiveness of ingredients reviewed as hair growers and hair loss prevention drug products, the Panel concludes that all claimed hair grower and hair loss prevention active ingredients reviewed are not effective for OTC external use.

References

(1) OTC Volume 160118.

(2) OTC Volume 160232.

(3) OTC Volume 160018.

(4) Rook, A., "Common Baldness and Alopecia Areata" *in* "Recent Advances in Dermatology," Vol. 4, Churchill Livingstone, New York, pp. 223–245, 1977.

(5) Pochi, P. E., and J. S. Strauss, "Endocrinologic Control of the Development and Activity of the Human Sebaceous Gland," *The Journal of Investigative Dermatology*, 62:191–201, 1974.

(6) Murad, F., and A. G. Gilman, "Estrogens and Progestins," *in* "Pharmacological Basis of Therapeutics," 5th Ed., Edited by L. S. Goodman, and A. Gilman, MacMillan Publishing Co., Inc., New York, pp. 1423–1450, 1975.

(7) Masters, E. J., "The Percutaneous Absorption of Estrogens," *Proceedings of the Scientific Section of the Toilet Goods Association*, 33:5–11, 1960.

(8) Haznam, M. W., V. B. Mahesh, and R. B. Greenblatt, "Absorption of Topically Applied Estrogen Preparations," *Dermatologia Internationalis*, 4:86–91, 1965.

(9) Greenblatt, R. B., "Report on Helena Rubinstein Estrogen-Progesterone Cream Study," Draft of unpublished paper, in OTC Volume 160095.

(10) Goldzieher, J. W., and R. E. Baker, "The Percutaneous Absorption of Estradiol-17B and Progesterone," *The Journal of Investigative Dermatology*, 35:215–218, 1960.

(11) Baker, R. E., and J. W. Goldzieher, "A Simple Method for the Measurement of Total Urinary Radioactive Steroid Metabolites and its Application to the Study of Percutaneous Absorption." *Acta Endocrinologica*, 38: 276–284, 1961.

(12) Karnaky, K. J., "An Investigation of Possible Gynecological Changes Resulting From the Topical Use of an Estrogen-Progesterone Cream With Special Emphasis on Vaginal Epithelial Cell Height and pH," *Tri-State Medical Journal*, March, 1960.

(13) Greenblatt, R. B., et al., "Physiologic and Clinical Aspects of Ovarian Hormones," *Archives of Dermatology* 89:846–857, 1964.

(14) OTC Volume 160055.

(15) OTC Volume 160195.

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(16) Goldberg, M. B., and F. Harris, "Use of Estrogen Creams," *Journal of the American Medical Association*, 150:790–791, 1952.

The agency has determined that under 21 CFR 25.24(d)(9) (Proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 310 by adding new § 310.527 to Subpart E, to read as follows:

§ 310.527 OTC drug products containing active ingredients offered for external use as hair growers or for hair loss prevention.

(a) Ascorbic acid, benzoic acid, estradiol, lanolin, tetracaine hydrochloride, and wheat germ oil have been present as ingredients in over-the-counter (OTC) drug products marketed for use as hair growers or for hair loss prevention. There is a lack of adequate data to establish the effectiveness of these ingredients as hair growers or hair loss prevention OTC drug products. Data on any other ingredient intended for use as a hair grower or for hair loss prevention in OTC drug products have not been submitted to the Food and Drug Administration for review for safety and effectiveness. Therefore, any OTC drug product containing an ingredient offered for use as a hair grower or for hair loss prevention cannot be considered generally recognized as safe and effective for its intended use.

(b) Any OTC drug product labeled, represented, or promoted for use as a hair grower or hair loss prevention agent is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for use as a hair grower or hair loss prevention agent is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any such drug product introduced in interstate commerce that is not in compliance with this section is subject to regulatory action.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before February 5, 1981. Comments should be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before March 9, 1981. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 16, 1980.

Mark Novitch,

Acting Commissioner for Food and Drugs.

[FR Doc. 80-34724 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 700, 710, 720, and 730

[Docket No. 80N–0346]

Modification in Voluntary Registration of Cosmetic Industry Data

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reduce the reporting burden of the persons voluntarily participating in the registration of cosmetic product establishments and the filing of cosmetic product formulations, raw material compositions, and consumer adverse reactions. The proposed reductions will have no significant effect on the quality of the cosmetic registration programs.

DATES: Written comments by January 6, 1981. The proposed effective date of the final rule based on this proposal is 30 days after its date of publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Earl L. Richardson, Bureau of Foods (HFF–444), Food and Drug Administration, 200 C ST. SW., Washington, DC 20204, 202–245–1094.

SUPPLEMENTARY INFORMATION: Regulations issued in 1972 and 1973 in response to petitions received from the Cosmetic, Toiletry and Fragrance Association, Inc., provide for the voluntary registration of cosmetic product establishments (21 CFR Part 710), voluntary filing of cosmetic product ingredient and cosmetic raw material composition statements (21 CFR Part 720), and voluntary filing of cosmetic product experiences (21 CFR Part 730).

A recently conducted review of the reporting requirements and impact of the reported information on the quality of the voluntary registration and filing programs has demonstrated that several items may be eliminated without significantly affecting the respective data files. Exclusion of these items will reduce the reporting burden of the firms currently participating in the programs and may motivate others to become participants.

The following changes in the voluntary reporting of cosmetic industry data are being proposed. These changes will not require resubmission of previously registered data.

Voluntary Registration of Cosmetic Product Establishments

It has been determined that disclosure of the kind of ownership or operation of an establishment (e.g., individually owned, partnership, or corporation) is not pertinent to the registration of manufacturers or packers of cosmetics. The purpose of this registration program is to provide FDA with information on the existence and location of an establishment. Ownership information does not help to identify establishments subject to factory inspection or support the enforcement of the Federal Food, Drug, and Cosmetic Act. FDA therefore proposes that the designation of the kind of ownership be deleted in § 710.4 (21 CFR 710.4).

FDA also proposes to delete from § 710.4 any reference to establishments which merely distribute cosmetics. Such establishments were not intended to be, and have not been, included in the cosmetic establishment registration. Establishments where cosmetics are manufactured or packed as well as distributed will continue to be included in this registry.

Voluntary Filing of Cosmetic Product Ingredient and Cosmetic Raw Material Composition Statements

Experience has shown that the listing of the published standard in cases where an ingredient complies with such a standard (e.g., "The United States Pharmacopeia," "National Formulary," etc.) is of limited value to this registration program (21 CFR Part 720). FDA therefore proposes that the request for listing of ingredient standards in §§ 720.4 and 720.5 (21 CFR 720.4 and 720.5) be discontinued. In the absence of full disclosure of the quality standards used for all ingredients of a registered product formula, the usefulness of the listing of such standards is outweighed by the reporting burden. Further, the number of firms providing this information has been too small to give statistical significance to an assessment of the quality of ingredients used by the cosmetic industry.

Voluntary Filing of Cosmetic Product Experiences

The regulation for voluntary filing of cosmetic product experiences (21 CFR Part 730) currently distinguishes between reportable experiences as defined at § 700.3(q)(21 CFR 700.3(q)) and unusual reportable experiences as defined at § 700.3(r)(21 CFR 700.3(r)). The reportable experiences are broken down on the reporting form (FD–2704) into "local irritation or allergic reaction," "skin or nail damage," "infection," and "other." The unusual reportable experiences are broken down further on the reporting form (FD–2705) according to the specific anatomical sites listed on the form.

A review of the information reported since initiation of this program has shown that very few unusual experiences have been reported over the years. Further, many of the adverse reactions reported as unusual experiences might as well have been reported as usual experiences. Almost none of the firms participating in this program reported such adverse reactions occurring under similar circumstances as unusual reportable experiences. Accordingly, FDA proposes that the procedures for reporting of unusual reportable experiences be discontinued and that the respective provisions in Part 730 and the definition of the term "unusual reportable experience" in § 700.3(r) be deleted. Should a cosmetic firm become aware of an unusually severe adverse reaction or of an unusually high number of occurrences of typical adverse reactions, the firm is urged to report this information immediately to FDA and also to include the same information in the semiannual filing of product experiences.

The agency also proposes discontinuance of the reporting of product experiences by experience category (21 CFR 730.4(a) (5)); the rate of reportable experiences per million product units estimated to have been distributed to consumers during the respective period (21 CFR 730.4(a)(7)); and the cosmetic product establishment number or numbers assigned under § 710.6 (21 CFR 730.4(a)(8)). Because most of the adverse reactions reported over the years have been identified as "local irritation or allergic reaction," too little information, either individually or collectively, could be derived from this reporting provision to justify its continuance. The reporting of the rate of reportable experiences per million units estimated to have been distributed to consumers has never been implemented. It was recognized as an unnecessary burden on the participating firms. This information can be obtained more efficiently from the computer using the data supplied elsewhere on the reporting form. The reporting of cosmetic product establishment number or numbers on experience reports also has not been implemented. The repetitious inclusion of these numbers on each experience report is an unnecessary burden because the numbers are not needed for identification of the participating firm and are otherwise readily available in FDA files.

Reporting Forms

Forms FD–2511, FD–2512, FD–2513, FD–2514, and FD–2704 have been redesigned to accommodate the proposed changes and deletions. The agency will maintain sufficient inventory of either current or redesigned forms to meet the requirements of participating firms in order to ensure a continuity of voluntary participation in the registration program.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 601, 602, 701(a), 52 Stat. 1042–1043 as amended, 1054 as amended, 1055 (21 U.S.C. 331, 361, 362, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Title 21 of the Code of Federal Regulations be amended as follows:

PART 700—GENERAL

§ 700.3 [Amended]

1. In § 700.3 *Definitions*, by deleting paragraph (r).

PART 710—VOLUNTARY REGISTRATION OF COSMETIC PRODUCT ESTABLISHMENT

§ 710.4 [Amended]

2. In § 710.4 *Information requested*, by deleting the phrase "the kind of ownership or operation (e.g., individually owned, partnership, or corporation)" and by revising the parenthetical words "(manufacturer, packer, and/or distributor)" to read "(manufacturer and/or packer)."

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT AND COSMETIC RAW MATERIAL COMPOSITION STATEMENTS

§ 720.4 [Amended]

3. In § 720.4 *Information requested about cosmetic products*, by deleting the second sentence of paragraph (d)(2) and footnotes (1) through (4) and by adding in the third sentence the parenthetical abbreviation "(CRMCS)" between the words "statement" and "number."

§ 720.5 [Amended]

4. In § 720.5 *Information requested about cosmetic raw materials*, by deleting the third sentence of paragraph (c)(1) and footnotes (1) through (4) and by adding in the fourth sentence the parenthetical abbreviation "(CRMCS)" between the words "statement" and "number."

PART 730—VOLUNTARY FILING OF COSMETIC PRODUCT EXPERIENCES

§ 730.1 [Amended]

5. In § 730.1 *Who should file*, by deleting the phrases "or a Form FD–2705 (Cosmetic Product Unusual Experience Report)," "and unusual reportable experiences," and "or unusual reportable experience."

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§ 730.2 [Amended]

6. In § 730.2 *Time for filing*, by revoking paragraph (b).

§ 730.3 [Amended]

7. In § 730.3 *How and where to file*, by deleting the phrase "Form FD–2705 (Cosmetic Product Unusual Experience Report)" and the comma preceding it; by changing the name "Industry Guidance Branch" to read "Industry Programs Branch" and by deleting the last sentence.

8. In § 730.4 by revising paragraph (a)(5) and by revoking paragraphs (a)(7) and (8) and (b) as set forth below; by revoking paragraph (c)(5); by deleting in the introductory text of paragraph (d) the phrase "Form FD–2705 (Cosmetic Product Unusual Experience Report)" and the commas preceding and following it; by deleting in paragraph (d)(1) and (3) the reference "(b)" and the commas preceding and following it and by changing in paragraph (e) the reference "paragraphs (a) and (b)" to read "paragraph (a)."

730.4 Information requested.

(a) * * *

(5) Total number of reportable experiences during this reporting period and number of these experiences requiring professional medical attention.

* * * * * * *

(7)–(8) [Reserved]

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(b) [Reserved]

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§ 730.7 [Amended]

9. § 730.7 *Confidentiality of reports*, by deleting "2705."

Interested persons may, on or before January 6, 1981 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: October 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34455 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R–80–886]

Community Development Block Grants—Entitlement Grants; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This proposed rule would amend 24 CFR Part 570, § 570.302 by adding procedures which applicants must follow in applying for an exception to the general rule that a program activity must principally benefit persons of low and moderate income. The rule would also clarify the exception which applies where the applicant either has no areas in which low and moderate income persons constitute a majority or where it has so few such areas that it is inappropriate to limit grants to projects in those areas.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 570—Community Development Block Grants—Subpart D, Entitlement Grants

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., October 30, 1980.

Robert C. Embry, Jr.,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 80-34729 Filed 11-6-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 10

Practice Before the Internal Revenue Service; Proposed Regulation To Set Standards for Opinions by Practitioners Before the Internal Revenue Service Used in the Promotion of Tax Shelters

AGENCY: Department of the Treasury.

ACTION: Proposed Rule; Additional Time to Submit Written Comments.

SUMMARY: A notice of proposed rulemaking to amend the regulations governing practice before the Internal Revenue Service for the purpose of setting standards relative to opinions used in the promotion of tax shelters was published in the **Federal Register** on Thursday, September 4, 1980 (45 FR 58594. The public was invited to submit written comments on the proposal on or before November 3, 1980. In a notice published in the **Federal Register** on October 16, 1980 (45 FR 68686), the time to submit written comments was extended until November 14, 1980 and hearing on the proposed rule was scheduled for November 25, 1980. It has been determined that the time to submit written comments be extended.

DATES: The time in which to submit written comments is extended until Friday, November 21, 1980.

ADDRESS: All written comments on the proposed amendment and all requests for an opportunity to be heard, together with required statements, should be sent to the Office of Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie S. Shapiro, Director of Practice 202–376–0767.

SUPPLEMENTARY INFORMATION: Written comments should be sent in triplicate. The public hearing remains scheduled for Tuesday, November 25, 1980, beginning at 10 a.m. in the Cash Room, Main Treasury Building, Washington, D.C. Persons wishing to make statements at the hearing should advise the Director or Practice in writing by November 14, 1980, and should submit in triplicate the text or, at a minimum, an outline of comments they propose to make. Statements will be restricted to 10 minutes in length.

Dated: November 4, 1980.

David R. Brennan,

Acting General Counsel.

[FR Doc. 80-34802 Filed 11-06-80; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF EDUCATION

34 CFR Part 805

Local Advisory Committees; Overseas Dependents' Schools

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes regulations for the first time on the qualifications for election to local advisory committees of the Overseas Dependents' Schools and on procedures for conducting elections of advisory committee members. The Defense Dependents' Education Act of 1978, as amended by the Department of Education Organization Act requires the Secretary to prescribe these regulations in consultation with the Secretary of Defense.

DATES: Comments must be received on or before January 6, 1981.

ADDRESSES: Comments should be addressed to Dr. William L. Smith, U.S. Department of Education, Room 3017, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. Thomas E. Powers, U.S. Department of Education, Room 3017, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone No. 202/245–8011.

SUPPLEMENTARY INFORMATION: A Department of Defense (DOD) directive will establish the advisory committees for the 1980–1981 school year. Once the proposed regulations are in force, they will supersede the DOD directive with respect to rules governing qualifications for election to these committees and procedures for conducting elections of advisory committee members.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before the 60th day after publication of this document will be considered in the development of the final regulations. all comments submitted in response to these proposed regulations will be availble for public inspection, during and after the comment period, in Room 3017, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority: A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. N/A)

Dated: November 3, 1980.

Steven A. Minter,

Under Secretary of Education.

The Secretary proposes a new Part 805 of 34 CFR to read as follows:

PART 805—OVERSEAS DEPENDENTS' SCHOOLS: ADVISORY COMMITTEES

Subpart A—General

Sec.
805.1 Overseas dependents' schools: advisory committees.
805.2 What is the function of a school advisory committee?
805.3 What is the function of an installation advisory committee?
805.4 What definitions apply to overseas dependents' schools: advisory committees?

Subpart B—Establishment of Advisory Committees

805.10 Who establishes advisory committees? How many are established?

Subpart C—The Planning Committee: Functions and Composition

805.20 What is a planning committee?
805.21 Who shall serve as the initial chairperson of a planning committee?
805.22 What is the composition of a planning committee?
805.23 What are the responsibilities of a planning committee?

Subpart D—The School Advisory Committee: Composition, Qualifications, and Election

805.30 What is the composition of a school advisory committee?
805.31 What procedures apply prior to the election of a school advisory committee?
805.32 What are the qualifications for election?
805.33 What are the qualifications for voting?
805.34 What are the procedures for voting?
805.35 What is the date of election?
805.36 What is the tenure of members of a school advisory committee?
805.37 How is a vacancy filled on a school advisory committee?

Subpart E—The Installation Advisory Committee: Composition and Election

805.40 What is the composition of an installation advisory committee?
805.41 How are members chosen?
805.42 How is a vacancy filled on an installation advisory committee?

Subpart F—Fiscal Requirements

805.50 Do members of an advisory committee receive pay?

Authority: Section 1410(b) of the Defense Dependents' Education Act of 1978, as enacted by Pub. L. 95–561, 92 Stat. 2369–70 and amended by the Department of Education Organization Act, Pub. L. 96–88, 93 Stat. 693 (20 U.S.C. 928).

Subpart A—General

§ 805.1 Overseas dependents' schools: advisory committees.

The regulations in this Part 805 govern the composition and election of school advisory committees and installation advisory committees for overseas dependents' schools. (20 U.S.C. 928)

§ 805.2 What is the function of a school advisory committee?

A school advisory committee advises the principal of an overseas dependents' school on the operation of that school and makes recommendations regarding curricular and budgetary matters. (20 U.S.C. 928(a)(1))

§ 805.3 What is the function of an installation advisory committee?

(a) An installation advisory committee advises the commander of a military installation served by two or more overseas dependents' schools on matters concerning dependents' education within the jurisdiction of that commander.

(b) If a military installation is served by only one overseas dependents' school, the school advisory committee of that school shall perform—in addition to its own function as described in § 805.2—the function of the installation advisory committee. (20 U.S.C. 928(a)(2))

§ 805.4 What definitions apply to overseas dependents' schools: advisory committees?

The following definitions apply in these regulations:

"Military installation" means a local geographic area—

(a) Located outside the United States; and

(b) Under the jurisdiction of a United States military commander.

"Overseas dependents' school" means an educational institution administered by the Office of Dependents' Education in the Department of Defense under the Defense Dependents' Education Act of 1978, Pub. L. 95–561, title XIV.

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"Parent" means a father, mother, legal guardian, person standing in place of a parent, or a spouse whose dependent is eligible to enroll in an overseas dependents' school because of that "parent's"—

(a) Employment;
(b) Marital status;
(c) Military status; or
(d) Payment of tuition.

"School employee" means a person employed in an overseas dependents' school.

"United States" means, for purposes of these regulations, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

(20 U.S.S. 928, 932(4))

Subpart B—Establishment of Advisory Committees

§ 805.10 Who establishes advisory committees? How many are established?

The Director of Dependents' Education, Office of Dependents' Education, Department of Defense—

(a) Establishes a school advisory committee for each overseas dependents' school; and

(b) Establishes an installation advisory committee for each military installation with two or more overseas dependends' schools.

(20 U.S.C. 928)

Subpart C—The Planning Committee: Functions and Composition

§ 805.20 What is a planning committee?

Each overseas dependents' school shall have a planning committee to—

(a) Conduct the election of the school advisory committee; and

(b) Carry out the responsibilities described in § 805.23 and § 805.31(b).

(20 U.S.C. 928)

§ 805.21 Who shall serve as the initial chairperson of a planning committee?

In the 1980–81 school year or in the first year of operation of a new overseas dependents' school, the principal of the school shall perform the functions of the chairperson of the planning committee.

(20 U.S.C. 928)

§ 805.22 What is the composition of a planning committee?

A planning committee shall consist of the following:

(a) The elected chairperson of the school advisory committee, who shall form and chair the planning committee.

(b) Parents of students enrolled in the school.

(c) Professional employees of the school. For purposes of this paragraph, the term "professional employee"—

(1) Means a professional educator or other professional staff members of the school such as an education program manager, an assistant principal, a teacher, a pupil personnel specialist, a librarian, a media specialist, or a nurse; but

(2) Does not include the principal of that school except as provided in § 805.21.

(d) The commander of the military installation which the school serves or the commander's designee; and

(e) As appropriate, students enrolled in the school.

(20 U.S.C. 928)

§ 805.23 What are the responsibilities of a planning committee?

A planning committee shall be responsible for the following:

(a) The duties described in § 805.31(b), dealing with procedures prior to the election of a school advisory committee.

(b) Soliciting candidates who are eligible and willing to serve on the school advisory committee.

(c) Making necessary arrangements for conducting the election.

(d) Ensuring that the ballot includes—

(1) The names of all eligible and willing candidates; and

(2) Provision for write-in candidates.

(e) Supervising the election.

(f) Tabulating the votes.

(g) Certifying the results of the election.

(h) Publishing the results of the election as soon as possible following the election.

(20 U.S.C. 928)

Subpart D—The School Advisory Committee: Composition, Qualifications, and Election

§ 805.30 What is the composition of a school advisory committee?

(a) (1) The membership of the school advisory committee shall include an equal number of parents of students enrolled in that school and professional employees of that school, as defined in § 805.22(c).

(2) The total number of members who are parents or professional employees shall be in accord with the following:

School enrollment	Committee members
1–150	2 or 4
151–300	4 or 6
301–500	6 or 8
501–800	8 or 10
More than 800	10, 12, 14, or 16

(b) The membership of the school advisory committee may in addition include a student enrolled in that school.

(c) The school advisory committee shall invite the principal of that school and the commander of the military installation served by the school (or the commander's designee) to participate in committee meetings on a liaison (nonvoting) basis.

(20 U.S.C. 928)

§ 805.31 What procedures apply prior to the election of a school advisory committee?

(a) Prior to the election of a school advisory committee, the chairperson of the planning committee shall make generally known—through publication of an announcement or similarly effective means—the following:

(1) (i) The formation of a planning committee to nominate candidates for the school advisory committee; and

(ii) The names of members of the planning committee.

(2) Eligibility criteria for candidates for the school advisory committee.

(b) At least two weeks in advance of the election of the school advisory committee, the planning committee shall make generally known—through publication of an announcement or similarly effective means—the following:

(1) The date of the election.
(2) The hours of voting.
(3) The voting places.
(4) The names of the candidates.
(5) Information about voter eligibility.

(20 U.S.C. 928)

§ 805.33 What are the qualifications for election?

(a) To qualify for election to the school advisory committee, a person must be one of the following:

(1) A parent of a student enrolled in that school.

(2) A professional employee of that school as defined in § 805.22(c).

(b) At the discretion of the planning committee in consultation with the principal of the school, a student enrolled in that school may qualify for election. There is no minimum age qualification for a student to serve on the school advisory committee.

(20 U.S.C. 928)

§ 805.32 What are the qualifications for voting?

To vote in the election of a school advisory committee, a person must be at least 18 years of age and one of the following:

(a) A parent of a student enrolled in that school.

(b) An employee of that school.

(c) A student who is enrolled in that school.

(20 U.S.C. 928(b))

§ 805.34 What are the procedures for voting?

(a) Qualified voters shall elect members of a school advisory committee by secret ballot.

(b) (1) The names of all candidates shall be on the ballot.

(2) Each name shall be arranged alphabetically under one of the following categories, as appropriate:

(i) Parent.
(ii) School employee.
(iii) Student.

(3) The number of committee members authorized from each category shall be indicated on the ballot.

(c) In any category referred to in paragraph (b)(2) of this section, a voter may vote for as many candidates as are authorized from that category for membership on the school advisory committee.

(d) A voter may vote for fewer than the maximum number of candidates authorized from any category. However, a voter may cast only one vote for a particular candidate.

(e) The planning committee shall invalidate any ballot containing votes in excess of the maximum number authorized.

(f) The candidates with the highest number of votes are elected.

(g) In case of a tie vote, the tied candidates, under the supervision of the planning committee, shall employ some chance procedure (e.g., cast lots) to determine a winner.

(h) In any category a candidate who receives an insufficient number of votes to be elected shall be designated as an alternate committee member.

(i) In each category alternate committee members are ranked in order of the number of votes each received.

(20 U.S.C. 928)

§ 805.35 What is the date of election?

A planning committee shall conduct an election for a school advisory committee at the beginning of each school year and shall complete the election process no later than October 15.

(20 U.S.C. 928)

§ 805.36 What is the tenure of members of a school advisory committee?

(a) The term of an elected member of a school advisory committee is one year.

(b) An elected member may not serve more than three consecutive terms.

(20 U.S.C. 928)

§ 805.37 How is a vacancy filled on a school advisory committee?

If a vacancy occurs on a school advisory committee, the chairperson of the committee shall appoint, to fill that unexpired term, an alternate from the appropriate category in the order referred to in § 805.34(i).

(20 U.S.C. 928)

Subpart E—The Installation Advisory Committee: Composition and Election

§ 805.40 What is the composition of an installation advisory committee?

An installation advisory committee consists of one parent member and one school employee member of the school advisory committee of each overseas dependents' school serving that military installation.

(20 U.S.C. 928)

§ 805.41 How are members chosen?

(a) A school advisory committee shall select as its representatives to the installation advisory committee the parent member and the school employee member who received the highest number of votes in their respective categories in the election of the school advisory committee.

(b) If any person referred to in paragraph (a) of this section declines to serve on the installation advisory committee, the school advisory committee shall fill the vacancy according to the procedures in § 805.42.

(20 U.S.C. 928)

§ 805.42 How is a vacancy filled on an installation advisory committee?

If a vacancy occurs on an installation advisory committee, that position shall be filled by the person receiving the next highest number of votes in the appropriate category in the election of the school advisory committee.

(20 U.S.C. 928)

Subpart F—Fiscal Requirements

§ 805.50 Do members of an advisory committee receive pay?

A member of a school advisory committee or a member of an installation advisory committee may not receive pay for serving on that committee.

(20 U.S.C. 928[c])

[FR Doc. 80-34728 Filed 11-6-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

File Wrapper; Continuing Application Procedure

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendment of the rules of practice in patent cases to provide an additional procedure for filing continuation and divisional applications. This procedure is being proposed to simplify filing and processing continuation and divisional patent applications by using the application and amendment papers filed in the abandoned parent application. The proposed procedure would eliminate many of the problems currently involved in preparing and processing new patent application papers in such applications.

DATES: Written comments by February 4, 1981. Hearing, February 4, 1981 beginning at 10:00 a.m.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The hearing will be held in Room 11C24 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia. Written coments and transcript of hearing will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Louis O. Maassel by telephone at (703) 557–3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the rules of practice in patent cases to permit an applicant for patent to file a continuation or divisional application by simply filing a special request, a new set of claims, and paying the statutory filing fee. The proposed procedure would simplify filing a continuation or divisional application in those cases where the parent application is to be abandoned. If the parent application will issue as a patent, a division or continuation thereof may continue to be filed under the provisions of 37 CFR 1.60. Under the proposal, a new serial number would be assigned to the continuing application, the parent application would be abandoned and, the

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specification, drawings, oath or declaration, and other papers in the file wrapper of the parent application would be used as the papers in the continuing application, along with the new set of claims. Only the payment of the filing fee, the filing of a special request containing an indication of a desire to continue prosecution and a new set of claims would be required to effect the filing of a continuation or divisional application. The procedure would be available for utility, design, plant, and reissue applications. Use of the proposed procedure will automatically result in abandonment of the parent application.

The proposed procedure could be used for either a continuation or divisional application provided that applicant wishes the parent case to become abandoned.

A continuation or divisional application is an application in which the disclosure is identical to an earlier application. However, the claims may be somewhat changed. Continuation applications are often filed in situations where the applicant feels that the issue of patentability has not been sufficiently developed before the examiner for an appeal from the final rejection to be filed with the Board of Appeals. Divisional applications are filed voluntarily or as a result of a requirement for restriction by the examiner in a prior application.

The filing of continuing applications is provided for in the patent statute at 35 U.S.C. 120. Divisional applications are provided for in 35 U.S.C. 121. Under these provisions of the patent law, a continuation or divisional application may be filed during the pendency of an earlier application and retain the benefit of the filing date of the earlier parent application. Such benefit is valuable to the applicant if prior art becomes available or another inventor made the same invention during the pendency of the first application.

A simplified method of filing of such continuation or divisional applications is presently available under 37 CFR 1.60. Under § 1.60, the applicant may pay the filing fee and either supply or ask the Office to prepare the continuation or divisional application papers by making a copy of the original papers. Section 1.60 replaced earlier, more restrictive procedures under 37 CFR 1.147 and a procedure established by Commissioner's notice known as the "Streamline Continuation" program. The procedure under § 1.60 would remain in effect in its present form, if the proposed procedure were adopted since it allows a continuation or divisional application to be filed without abandonment of the parent application. The continuation or divisional application practice under § 1.60 has resulted in a number of problems. Often the original application does not permit the reproduction of good quality copy. Sometimes applicants prematurely abandon or fail to abandon the original application or otherwise do not understand the § 1.60 procedures. Correspondence relating to such problems has become burdensome to both the applicants and the Office. Under current § 1.60, the continuation or divisional application, in addition to being copied, must be completely processed as a new application through the Application Division, Microfilming Branch and Licensing and Review Division, as well as the Examining Group's new case docketing and amendment entry procedures. The prior application is sometimes difficult to locate because of the movement and placement of the application file wrapper after it leaves the Examining Group. The proposed procedure would not require such copies to be processed and filed and should therefore result in fewer problems and less work.

The proposed procedure is set forth in proposed § 1.62 and is in compliance with the requirements of 35 U.S.C. 111. The specification and drawings from the parent application are made available for use in the continuation or divisional application. A new filing fee is required in accordance with 35 U.S.C. 41(a). The only other statutory filing requirements are claims and a signed oath or declaration. A new copy of claims, beginning with "claim 1", would be required under the proposed procedure. Since a continuation or divisional application filed under proposed § 1.62 can not contain new matter, the oath or declaration filed in the parent case should supply all the information required under the statute and rules to obtain a filing date. Accordingly, the previously filed oath or declaration would be considered to be the oath or declaration of the § 1.62 continuation or division. If the claims submitted are broadened, a supplemental oath or declaration should be filed by the applicant in accordance with 37 CFR 1.67.

The original disclosure of an application filed under § 1.62 would be the original parent application as executed by the inventor(s). However, the filing fee would be based on the new copy of claims which must accompany the request and filing fee. The Certificate of Mailing Procedure under 37 CFR 1.8 would not apply to filing such a request since the filing of such a request is considered to be the filing of an application which is excluded under 37 CFR 1.8(a)(i).

Some of the anticipated benefits of the proposed procedure are the following: 1. Formality problems should be very small.

2. All current rules relating to after final rejection practice and filing of continuing applications would remain unchanged. The proposed filing procedure is an additional alternative which would be available to applicants to use at their option.

3. A more prompt first action in the continuation or divisional application should be received in view of the reduced processing time. The Application Division will process promptly all such applications. In the examining groups, such applications will be given high priority for processing purposes.

4. Amendments made to the specification and drawings of the parent application would carry over into the continuing application and would not need to be submitted again in the continuing application.

For the public; 1. The pendency of applications should be reduced since the time delay before examination and issuance of a continuing application filed under the proposed program would be reduced.

2. The entire record of prosecution would be in one file wrapper, even if several continuation applications were filed. This would result in easier access to a series of applications by the public if a patent is later issued.

For the Patent and Trademark Office; 1. The workload of reviewing and processing new application papers in the Application Division would be reduced.

2. The examining group clerks would not be required to again enter amendments made in the parent application.

3. Less storage space would be required since there would be fewer papers.

4. The parent file history and references cited therein would be readily available to the examiner and need not be ordered from abandoned files.

5. The Office would not be required to prepared a copy of the parent application file as under the current procedures under 37 CFR 1.60

Proposed new § 1.62 outlines the requirements of the proposed procedure.

Section 1.138 is proposed to be amended so that a registered attorney or agent could, without being of record, file a § 1.60 or 1.62 application and expressly abandon the prior application. Such an action would not affect an applicant's rights since the prior application would only be expressly abandoned if a filing date is granted to a continuing application.

Notice is hereby given that, pursuant to the authority contained in section 6 of Title 35 of the United States Code, as amended, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending § 1.138 and by adding a new § 1.62. The Patent and Trademark Office has determined that these rule changes would have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044. In the text of rule 1.138 below, additions are shown by arrows and deletions are shown by brackets. It is proposed to amend Title 37 of the Code of Federal Regulations, Chapter I, Part 1, as follows: 1. By adding new § 1.62 to read as follows:

§ 1.62 File wrapper continuation or division procedure.

(a) A continuation or divisional application which discloses and claims only subject matter disclosed in a prior application may be filed before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application by filing a request to use the specification, drawings, and oath or declaration from the prior application if the following four conditions are met: (1) The prior application is to be abandoned and not issued as a patent.

(2) A new set of claims to be prosecuted in the continuing application is submitted which begins with a new claim numbered "1".

(3) The filing fee under 35 U.S.C. 41(a) for the continuation or divisional application is paid during the pendency of the prior application. Such filing fee should be based on the number of claims submitted under the previous paragraph.

(4) Information is supplied as to the title, applicant, correspondence address, prior U.S. application, foreign priority application, number of pages of specification and sheets of drawings in the prior application.

(b) The filing of an application under § 1.62 will be construed to include a waiver of secrecy by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, or information concerning, either the prior application or any one of its continuation or divisional applications filed under the provisions of this section may be given similar access to, or information concerning, the other applications in the file wrapper.

(c) The filing of an application under § 1.62 will be considered to be a request to expressly abandon the parent application as of the filing date granted the continuation or divisional application filed under § 1.62.

2. By revising § 1.138 to read as follows:

§ 1.138 Express abandonment.

An application may be expressly abandoned by filing in the Patent and Trademark Office a written declaration of abandonment signed by the applicant himself and the assignee of record, if any, and identifying the application. Except as provided in § 1.262 an application may also be expressly abandoned by filing a written declaration of abandonment signed by the attorney or agent of record. ►A registered attorney or agent or agent acting under the provisions of § 1,34(a), or of record, may also expressly abandon a parent application as of the filing date granted to a continuing applicalton by filing such a continuing application under the provision by filing such a continuing application under the provisions of § 1.60 or § 1.62. ◄Express abandonment of the application may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue.

Dated: October 17, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: October 31, 1980.

Approved

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology & Innovation.

[FR Doc. 80-34919 Filed 11-6-80; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1660-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the San Luis Obispo County, Santa Barbara County, and Monterey Bay Unified Air Pollution Control Districts (APCDs) and the South Coast Air Quality Management District rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to January 6, 1981.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated evaluation reports are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812
San Luis Obispo County Air Pollution Control District, County Airport, Edna Road, San Luis Obispo, CA 93406
Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110
Monterey Bay Unified Air Pollution Control District, 1270 Natividad Rd., Salinas, CA 93906
South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on the indicated dates, as revisions to the California SIP.

San Luis Obispo

January 2, 1979

Rule 407—Organic Material Emission Standards, Limitations and Prohibitions

October 18, 1979

Rule 415—Dry Cleaning Solvents
Rule 416—Degreasing Operations
Rule 420—Cutback Asphalt Paving Materials
Rule 422—Refinery Process Turnarounds

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February 25, 1980

Rule 301—Fees
Rule 302—Schedule of Fees
Rule 303—Hearing Board Fees
Rule 304—Technical Reports—Charges for:

Santa Barbara

May 23, 1979

Rule 101—Title
Rule 102—Definitions
Rule 103—Severability
Rule 104—Agricultural Burning
Rule 201 (A, B, D, E, F, & G)—Permits required
Rule 202—Exemptions to Rule 201
Rule 203—Transfer
Rule 204—Applications
Rule 205 (A & B)—Standards for Granting Applications
Rule 206—Conditional Approval of Authority to Construct or Permit to Operate
Rule 207—Denial of Application
Rule 208—Action on Applications—Time Limits
Rule 209—Appeals
Rule 210—Fees
Rule 211—Technical Reports—Charges for
Rule 301—Circumvention
Rule 302—Visible Emissions
Rule 304—Particulate Matter—Northern Zone
Rule 305—Particulate Matter Concentration—Southern Zone
Rule 306—Dust and Fumes—Northern Zone
Rule 307—Particulate Matter Emission Weight Rate—Southern Zone
Rule 308—Incinerator Burning
Rule 309—Specific Containments
Rule 311—Sulfur Content of Fuels
Rule 312—Open Fires
Rule 313—Fires Set Under Public Authority
Rule 314—Reduction of Animal Matter
Rule 315—Gasoline Specifications
Rule 317—Organic Solvents
Rule 319—Asphalt Air Blowing—Southern Zone
Rule 324—Disposal and Evaporation of Solvents
Rule 328—Continuous Emission Monitoring
Rule 401—Agricultural Burning
Rule 402—Enforcement
Rule 403—Burning Permit for Non-Burning Days: Report Requirements
Rule 501—General
Rule 502—Filing Petitions
Rule 503—Contents of Petitions
Rule 504—Petitions for Variances: Contents
Rule 505—Breakdown Conditions
Rule 505-A—Breakdown Reporting Information Form
Rule 506—Emergency Variances for Breakdowns
Rule 507—Appeal from Denial
Rule 508—Failure to Comply with Rules
Rule 509—Petition Response (APCD Requirements)
Rule 510—Withdrawal of Petition
Rule 511—Place of Hearing
Rule 512—Notice of Hearing
Rule 513—Evidence
Rule 514—Preliminary Matters
Rule 515—Official Notice
Rule 516—Continuances
Rule 517—Decision
Rule 518—Effective Date of Decision
Rule 519—Lack of Permit
Rule 601—General
Rule 602—Episodes/Disasters
Rule 603—Enforcement
Rule 604—Plans (Emergency Provisions)
Rule 605—Communication Network
Rule 606—Air Monitoring Stations
Rule 607—Air Monitoring Summaries
Rule 608—Interdistrict Coordination
Rule 609—Scientific Committee
Rule 610—Emergency Action Committee

May 29, 1979

Rule 322—Metal Surface Coating Thinner and Reducer

(Deletions)

Rule 2,b,v,w—Definitions
Rule 8—Provision of Sampling and Testing
Rule 20—Scavenger Plants

Monterey Bay Unified

January 2, 1979

Rule 301—Permit Fee Schedules

May 7, 1979

Rule 403—Individual Particles (Nuisance)
Rule 602—Contents of Petitions

May 23, 1979

Rule 617—Emergency Variance

December 17, 1979

Rule 300—Permit fees
Rule 405—Exceptions
Rule 601—Filing Petitions

February 25, 1980

Rule 422—Burning of Wood Wastes

(Deletion)

Rule 508—Fees

March 4, 1980

Rule 205—Provision of Sampling and Testing Facilities
Rule 211—Appeals
Rule 212—Public Availability of Emission Data
Rule 213—Continuous Emission Monitoring
Rule 214—Breakdown Conditions

June 2, 1980

Rule 427—Steam Drive Crude Oil Production Wells

South Coast Air Quality Management District

November 19, 1979

(Deletions)

Rule 67—Fuel Burning Equipment (Los Angeles, Orange, and San Bernardino County portions of the District)
Rule 72—Fuel Burning Equipment (Riverside County portion of the District)

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as revisions to the SIP. All the rule revisions listed above have been evaluated and determined to be in accordance with the Clean Air Act, 40 CFR Part 51 and EPA policy, with certain exceptions. Therefore, it is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP, except as discussed below.

Santa Barbara

Rule 303, *Nuisance* and Rule 310, *Odorous Organic Sulfides* are not appropriate for inclusion in the SIP because they are not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, no action is proposed to be taken on these rules.

Rule 8, *Provision of Sampling and Testing*, requires a person to provide and maintain such sampling and testing facilities as specified in the permit to operate. Since deletion of this rule could weaken the enforceability of the District's rules, this deletion is proposed to be disapproved.

Paragraphs B and C of Rule 312, *Open Fires*, permit the burning of residential dry vegetation and right-of-way clearance material under certain conditions. Since burning this material is not allowed under the current SIP rules, it could result in an emissions increase. Because no control strategy demonstration was submitted to show that this revision will not interfere with the attainment and maintenance of the NAAQS, these paragraphs are proposed to be disapproved.

Paragraphs D.1 and D.2 of Rule 401, *Agricultural Burning*, permit range improvement burning and burning of empty pesticide sacks on "no-burn days". As no control strategy demonstration was submitted to show that this potential emission increase would not interfere with the attainment and maintenance of the NAAQS, these paragraphs are proposed to be disapproved.

Rules 513, *Evidence* and 519, *Lack of Permit*, are proposed to be disapproved due to typographical errors which could render the rules unenforceable. The previously approved Rules 53 and 59, submitted on February 21, 1972, are proposed to remain in effect.

Rule 602, *Episodes/Disasters*, is proposed to be disapproved because it does not include a contingency plan for the avoidance of significant harm from eleveted levels of total suspended particulates as required by 40 CFR 51.16, Emergency Episode. The rule does not mandate prompt acquisition of forecasts and updating of stagnation; does not mandate source inspections; and allows for the implementation of preplanned emission reduction strategies only after a special session with the Air Pollution Board instructing the Air Pollution Control Officer to implement those plans.

Monterey Bay Unified

Rule 212, *Public Availability of Emission Data*, does not provide for the correlation of emission data with applicable emission limitations as mandated by 40 CFR 51.10(c). The rule is approved since it partially meets the requirements of 40 CFR 51.10(e). However, since the correlation requirement is not met, paragraph (b)(4) of 40 CFR 52.224—General Requirements is retained as applicable to the Monterey Bay Unified District.

Paragraph i(1) of Rule 300, *Permit Fees*, allows the District to recover its legal and other costs pertaining to the "issuance of permits and inspections thereof." This provision is proposed to be disapproved pursuant to Section 110(a)(2)(K) because it could allow recovery of legal expenses associated with permit enforcement actions. While Section 110(a)(2)(K) does not prohibit the recovery of reasonable legal expenses associated with permit administration through permit fees, it specifically excludes recovery of costs associated with enforcement actions.

Rule 402, *Nuisance*, is not appropriate for inclusion in the SIP because it is not specifically directed toward the attainment and maintenance of the NAAQS. Therefore, no action is proposed on this rule.

No action is proposed to be taken on Rule 416 *Organic Solvents*, since this rule references rules which have not been submitted to EPA for approval and may therefore be unenforceable.

Rule 214, *Breakdown Conditions* and Rule 617, *Emergency Variance*, do not provide sufficient assurance that the NAAQS will not be violated during an equipment breakdown and a subsequent emergency period. Due to the lack of sufficient NAAQS assurance in the breakdown conditions and in the emergency variance, both rules are proposed to be disapproved.

South Coast Air Quality Management District (SCAQMD)

Rules 67, *Fuel Burning Equipment*, and 72, *Fuel Burning Equipment*, specify emission limits for new sources of fuel burning equipment in the SCAQMD. Since the emission requirements for new fuel burning sources are being replaced by equivalent or better control requirements contained in the SCAQMD nonattainment area plan, the recission of Rules 67 and 72 is proposed to be approved, as applied to new sources. However, in order to prevent existing sources from removing control equipment the emission limits of Rules 67 and 72 are also proposed to be partially retained, applicable only to (existing) sources granted permits prior to final recission of Rules 67 and 72 by EPA.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been met.

The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA has reviewed the revisions being acted upon in this notice and has determined that it is a "specialized" revision not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)))

Dated: October 27, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-34800 Filed 11-6-80; 8:45 am]
BILLING CODE 6560-38-M

[A-5-FRL 1660-6]

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: USEPA proposes to disapprove a petition for revision and request for an administrative stay of the Federally promulgated Ohio sulfur dioxide State Implementation Plan (SIP) for the Painesville Municipal Power Plant in Painesville, Ohio.

DATE: Comments must be received on or before December 8, 1980. Requests for a public hearing on this revision must be received no later than November 24, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The docket (#5A-80-11) for this revision is available for inspection and copying during normal business hours at the above address and at the Central Docket Section, West Tower Lobby, Gallery 1, USEPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio Air Programs Branch USEPA, Region V 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6039.

SUPPLEMENTARY INFORMATION: On September 24, 1979 the Painesville Municipal Power Plant in Painesville, Ohio submitted a petition for revision and request for administrative stay of the Ohio sulfur dioxide SIP. The submittal requested an emission limitation for Units #1-5 of 5.7 lbs/MMBTU with the condition that no more than one coal-fired boiler operate at any time. The submittal also requested a stay of enforcement of the existing regulation pending the Agency's review and response to the SIP revision request. The existing regulations for the Painesville Municipal Power Plant were promulgated by the United States Environmental Protection Agency (USEPA) on August 27, 1976 (41 FR 36324).

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After reviewing the submission, USEPA informed the City of Painesville in a March 11, 1980 letter that Boiler #5 is subject to the New Source Performance Standard (NSPS) of 1.2 lbs SO_2/MMBTU. USEPA promulgated this limit for Boiler #5 on August 27, 1976 (41 FR 36324). Therefore, the emission limitation for Boiler #5 cannot be changed through a SIP revision petition. The U.S. District Court for the Northern District of Ohio upheld USEPA's claim that Unit #5 is subject to the NSPS requirements since construction on the boiler did not commence until after August 17, 1971 (the date set by the USEPA for defining sources subject to NSPS requirements). USEPA also denied the request for a stay of enforcement since a pending petition for a SIP revision does not constitute a basis for a stay of enforcement.

After the determination that boiler #5 was subject to NSPS, USEPA analyzed the proposed emission limitation of 5.7 lbs SO_2/MMBTU for boilers 1–4 with the provision that only one of boilers 1–4 operate at any one time. USEPA found this operating scenario acceptable and informed the City of Painesville it could revise its request to reflect this scenario. On April 8, 1980, the City of Painesville responded that the alternative operating scenario was unacceptable. Therefore, since Boiler #5 is subject to the New Source Performance Standards for fossil fuel fired steam generators and is not eligible for a change in emission limitations through a SIP revision petition and since the alternative operating scenario analyzed by USEPA is unacceptable to the City of Painesville, USEPA is at this time proposing to disapprove this request for a SIP revision.

Note.—Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act, as amended, 42 USC 4710)

Dated: October 16, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-34905 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-2-FRL 1661-1]

Approval and Promulgation of Implementation Plans; Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On March 11, 1980 (45 FR 15531) the Environmental Protection Agency (EPA) promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended in 1977. Today's notice discusses two of the conditions on EPA's approval and announces EPA's intent to find the provisions of the conditions met. The conditions require a clarification of the term "lowest achievable emission rate" as used in a New Jersey regulation dealing with the degree of air pollution control required for new or altered sources in nonattainment areas, and certification that this regulation has been finally adopted and is enforceable. The State made its submission in response to these requirements on August 5, 1980. It should be noted that additional changes made by the State to its regulation, not in response to EPA's conditional SIP approval, are being proposed for disapproval.

DATE: Comments must be submitted on or before January 6, 1981.

ADDRESSES: All comments should be addressed to: Charles S. Warren, Regional Administrator, Region II Office, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 1005, New York, New York 10278. 212–264–2517.

SUPPLEMENTARY INFORMATION: On March 11, 1980, at 45 FR 15531, the Environmental Protection Agency (EPA) promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended. The reader is referred to this **Federal Register** notice for a detailed discussion of EPA's findings. Today's notice discusses EPA's proposed action with regard to a State submittal to meet the following two conditions on EPA's approval of the New Jersey SIP:

- On or before August 1, 1980 the State must clarify its definition of "lowest achievable emissions rate" as used in N.J.A.C. 7:27–18.1 *et seq.*, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," so as to require a degree of emission control reflecting the most stringent achievable emission limitation which is contained in the implementation plan of any state for such class or category of sources. Such a limitation must further be at least as stringent as that required by any standard of performance for a new stationary source as promulgated under Section 111 of the Clean Air Act.
- On or before August 1, 1980 the State must certify to EPA that N.J.A.C. 7:27–18.1 *et seq.* "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," has been finally adopted and is enforceable. Copies of the adopted regulations must be submitted along with the State's certification.

Under cover of an August 5, 1980 letter, the State submitted a copy of a revised version of N.J.A.C. 7:27–18.1 *et seq.*, "Control and Prohibition of Air Pollutioin from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)." In response to the first condition the State has appropriately revised its definition of "lowest achievable emission rate" and EPA finds that the condition has been met. Insofar as the State has submitted an adopted version of its regulation, EPA finds that the second condition has also been met. Therefore, except as noted in the discussion which follows, EPA proposes to incorporate the revised regulation into the SIP and to revoke the applicable conditions.

It should be noted that in adopting N.J.A.C. 7:27–18.1 *et seq.* New Jersey made two substantial changes to its definition of "significant emission increase" and a change to its criteria for performing an air quality impact review which cannot be approved by EPA. These changes affect whether or not a facility will be subject to the provisions of the regulation and exempt certain facilities which must be covered.

In Section 18.1 of the revised regulation, "Definitions," "signficant emission increase" is now defined in part as "an increase, since December 21, 1976, in the rate of allowable emissions, including fugitive emissions, at a facility of any criteria pollutant greater than or equal to 100 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions except where such decreases are contemporaneous with emission increases." At issue are the changes made by New Jersey to provide for a 100 tons per year rather than the previous 50 tons per year cutoff and the addition of a provision to allow "netting" of contemporaneous emission decreases. In Section 18.2 of the regulation, "General Provisions," paragraph (e)(1) (formerly (d)(1)) has similarly been revised to reflect this higher emission cutoff of 100 tons per year. Furthermore, in Section 18.3 of the regulation, "Air Quality Impact Review," paragraphs (a) and (b)(1) (formerly (c)(1)) have been revised to incorporate a netting concept.

These changes are inconsistent with the earlier "Emission Offsett Interpretative Ruling" promulgated by EPA on January 16, 1979 (44 FR 3274) which must be used as the basis for EPA's review at this time. The Interpretative Ruling has an effective cutoff for review of 50 tons per year in allowable emissions and does not allow netting. (The revised version of the "Emission Offset Interpretative Ruling," resulting from the recent *Alabama Power Company* v. *Costle* decision and promulgated on August 7, 1980 (45 FR 52741), will be used as a basis for EPA review of a future revision to the State's new source review procedures, due to be submitted to EPA by May 7, 1981. However, these changes promulgated by New Jersey prior to August 7, 1980 are also inconsistent with this later version).

Consequently, EPA proposes to disapprove the cahnges made by New Jersey to its definition of "significant emission increase" as it appears in Section 18.1 of N.J.A.C. 7:27–18.1 *et seq.* and changes made to paragraph (e)(1) of Section 18.2 and to paragraphs (a) and (b)(1) of Section 18.3 of the regulation.

Specifically, EPA proposes to promulgate at § 52.1578, Review of new sources and modifications, of Title 40 of the *Code of Federal Regulations* the following requirements (by adding paragraph (c)):

§ 52.1578 Review of new sources and modifications.

* * * * *

(c) Subchapter 18 of the New Jersey Administrative Code, entitled, "Control and Prohibitions of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," N.J.A.C. 7:27–18.1 *et seq.*, as submitted to EPA on August 5, 1980 by the New Jersey Department of Environmental Protection, is approved for the entire State of New Jersey, with the following provisions:

(1) The definition of "significant emission increase" as it appears in Section 7:27–18.1, entitled, "Definitions," is disapproved. The following definition of "significant emission increase" is applicable: "an increase, since December 21, 1976, in the rate of allowable emissions, including fugitive emissions, at a facility of any criteria pollutant greater than or equal to 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions. The increase in the rates of allowable emissions shall be the cumulative total of increases from all new or altered equipment for which permits have been issued on or after December 21, 1976 and for which permit applications have been received by the Department, and the fugitive emissions associated with that equipment. The hourly and daily rates shall apply only with respect to a pollutant for which a national ambient air quality standard for a period not exceeding 24 hours has been established."

(2) Subsection (e)(1) under Section 7:27–18.2, entitled, "General Provisions," is disapproved and replaced with the following: "The requirements of subsections (c)(3), (c)(4), and (c)(5) of this Section shall again become applicable when proposed new construction or alterations at the facility would cause the increase in the rate of allowable emissions of that criteria pollutant to again exceed 50 tons per year, 1,000 pounds per day, or 100 pounds per hour whichever is most restrictive. The accumulation of increases in the rate of allowable emissions shall resume from zero after each application of subsections (c)(3) and (c)(4) of this Section."

(3) Subsection (a) under Section 7:27–18.3, entitled, "Air Quality Impact Review," is disapproved and replaced with the following: "Any person who proposes to cause an increase since December 21, 1976 in the rate of allowable emissions at a facility, of any criteria pollutant, not including volatile organic substances (VOS), greater than or equal to 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions; such increase in the rates of allowable emissions to be the cumulative total of increases from all new or altered equipment, for which permits have been issued on or after December 21, 1976 and for which permit applications have been received by the Department; must determine, by use of an air quality simulation model approved by the Department, whether the emission increase would cause:".

(4) Subsection (b)(1) under Section 7:27–18.3, entitled, "Air Quality Impact Review," is disapproved and replaced with the following: "Consider all increases in the rate of allowable emissions since December 21, 1976 at the facility except for increases offset under the provisions of subsections 18.2(c)(3) and 18.2(d) of this Subchapter; and."

If finalized, this proposed promulgation would have the effect of maintaining in the SIP the original version of the provisions being proposed for disapproval today. Because the SIP so approved by EPA would remain consistent with the requirements of Part D of the Clean Air Act, the funding and growth limitations provided for by the Act would not be applied.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New Jersey State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110 and 172 of the Clean Air Act and applicable EPA requirements in 40 CFR Part 51. This current SIP revision request was submitted to EPA in accordance with the appropriate CFR requirements.

Comments received by January 6, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the

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procedural requirements of Executive Order 12044.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: October 14, 1980.

Charles F. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-34900 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A5 FRL 1662-2]

Approval and Promulgation of Ohio State Implementation Plan; Carbon Monoxide and Ozone

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Supplemental Notice of Proposed Rulemaking (NPR).

SUMMARY: On July 27, 1979, the State of Ohio submitted to USEPA, pursuant to Part D of the Clean Air Act as amended in 1977, a plan for the implementation of a vehicle emission control inspection and maintenance (I/M) program in the Ohio portion of the Cincinnati metropolitan area and in the Cleveland urbanized area. USEPA proposed disapproval of the State's I/M program in the March 10, 1980 **Federal Register** (45 FR 15192). On September 17, 1980, the State of Ohio submitted a revised I/M program. The purpose of today's notice is to announce receipt of the September 17, 1980 submission, to discuss the results of USEPA's review, and to repropose rulemaking.

DATE: Comments on this revision and on USEPA's proposed action must be received by USEPA no later than December 8, 1980.

ADDRESSES: Copies of these revisions to the SIP are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, 230 South Dearborn, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 E. Broad Street, P.O. Box 1049, Columbus, Ohio 43216.

WRITTEN COMMENTS SHOULD BE SENT TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Perrecone, Air Planning Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6081.

SUPPLEMENTARY INFORMATION:

General Introduction

On March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (ACT) as amended, USEPA designated certain areas in each State as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide, ozone, sulfur dioxide, particulates and nitrogen oxides. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standards as expeditiously as practicable, but not later than December 31, 1982. Under certain circumstances that date may be extended to no later than December 31, 1987 for ozone or carbon monoxide.

The requirements for an approval SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

To satisfy these requirements, the State of Ohio submitted proposed revisions to its SIP on July 27, 1979. Among other things, this submission provided for the establishment of an I/M program in two areas of Ohio that will not attain the National Ambient Air Quality Standards (NAAQS) for ozone (O3) and carbon monoxide (CO) by December 31, 1982. Due to specific deficiencies in this program, USEPA proposed disapproval of it in the March 10, 1980 **Federal Register** (45 FR 15192). On September 17, 1980, the State of Ohio submitted an I/M SIP revision addressing the deficiencies noted by the USEPA in the March 10, 1980 **Federal Register** (45 FR 15192).

USEPA has completed its review of the September 17, 1980 I/M submission and today is reproposing rulemaking on the State's I/M program. USEPA solicits public comments on the provisions of the I/M program as well as on USEPA's proposed rulemaking. In the discussion below, USEPA specifies portions of the proposed revisions to the Ohio SIP which it considers approvable or conditionally approvable. For minor deficiencies, USEPA proposes to approve the SIP on condition that the State provide firm assurances that the deficiencies will be corrected by the specified dates. The schedules must be negotiated between the USEPA and the State prior to final rulemaking on these revisions. The negotiated schedules will be announced for public comment in a separate Notice of Proposed Rulemaking. A conditional approval means that the restrictions of section 110(a)(2)(I) of the Act on major source construction do not apply unless the State fails to submit the necessary revisions by the scheduled date, or if the revisions are not approved by USEPA. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 39583) **Federal Register** Notices discuss conditional approval in more details.

A thirty day comment is being provided to enable publication of final action on this submission as expeditiously as possible. Final action approving this revision would satisfy one of the requirements of a Part D SIP. Until the State has an approved Part D, it is subject to the new source growth prohibitions of section 110(a)(2)(I) of the Clean Air Act. USEPA believes that thirty days will provide the public with ample time to review and comment on today's supplemental proposed rulemaking.

To assist the public in preparing comments on the proposed SIP revision, USEPA includes the following summary of the principal requirements for an approval motor vehicle inspection and maintenance program.

Vehicle Inspection and Maintenance

"Inspection/Maintenance" (I/M) refers to a program that requires motor vehicles to be given periodic inspection to check their exhaust emission control systems. Vehicles which have excessive emissions must correct the problem through maintenance. Generally, I/M programs include only passenger cars although other classes of vehicles can be included as well. Operation of noncomplying vehicles is prohibited. This can be accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. A windshield sticker system, much like that of many safety inspection programs, can be used is it can be demonstrated that equal effectiveness can be achieved.

Section 172(b)(11) of the Act requires the establishment of a specific schedule for the establishment of a vehicle emission control inspection and maintenance I/M program when attainment of the primary standards for carbon monoxide (CO) or ozone (03) is not possible in an area prior to December 31, 1982, even if all other reasonable emission control measures

are used. USEPA issued guidance on February 24, 1978 (43 FR 21673) on the genral criteria for SIP approval, including I/M, and on July 17, 1978 describing the specific criteria for I/M approval. Both of those items are part of the SIP guidance material referred to in the General Preamble for proposed rulemaking, 44 FR 23072, 23073, n.6. The July 17, 1978 guidance should be consulted for details. The requirements for approval of an I/M program are:

(1) Legal Authority—According to section 172(b)(10), states or local governments must have adopted the necessary statutes, regulations, ordinances, or other legally enforceable requirements to implement and enforce the I/M program. To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedures as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

(2) Commitment To Implement—Section 172(b)(10) of the Act also requires written evidence of a commitment by the appropriate governmental units to implement and enforce the appropriate elements of the program.

(3) Identification and Commitment To Resources—Section 172(b)(7) of the Act requires that the state identify and commit the necessary finances and resources to carry out the I/M program.

(4) Schedules for the Implementation of the Plan—Section 172(b)(11)(B) requires a specific schedule for establishing an I/M program. The July 17, 1978, guidance memorandum established as USEPA policy the key milestones for the various types of I/M programs. These milestones were specified in accordance with the general SIP requirement of 40 CFR 51.1(c) that increments of progress be incorporated for compliance schedules over one year in length.

(5) Program Effectiveness—In the July 17, 1978 I/M Policy Memorandum USEPA stated that each State must commit itself to achieve a reduction of at least 25 percent in light duty vehicle exhaust emissions by 1987. This reduction is measured by comparing the levels of emission projected to December 31, 1987 with and without the I/M program. This policy is based on section 172(b)(2) which states that the plan provisions shall ". . . provide for the implementation of all reasonably available control measures as expeditiously as practicable."

At the time of the passage of the Clean Air Act Amendments of 1977 several I/M programs, including mandatory programs in New Jersey and Arizona, were already operating at about 20 percent stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet has not undergone I/M before. In other words, it is the expected failure rate. Because some motorists tune their vehicle before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection), a mandatory I/M program may commence as late as December 31, 1982 with attainment as late as December 31, 1980. Based on an implementation date of December 31, 1982, and a 20 percent stringency factor, USEPA predicts that the required reductions of both CO and HC exhaust emissions of 25 percent can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20 percent stringency factors, it is USEPA policy to use a projected 25 percent emission reduction as the criterion to determine compliance of the I/M portion with section 172(b)(2).

Synopsis of Actions

In the March 10, 1980, **Federal Register** (45 FR 15192) USEPA noted that the State of Ohio demonstrated that attainment of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone in the Ohio portion of the Cincinnati metropolitan area and in the Cleveland urbanized area is not possible by December 31, 1982 despite implementation of all other reasonable emission control measures. Therefore, the State has requested an extension until Debember 31, 1987 for these areas. According to the requirements of section 172(b)(11) of the Act, a schedule for implementation of an I/M program is required before such an extension can be granted. In a letter dated July 27, 1979 transmitting the State's SIP O3 and CO submission, the Governor of Ohio requested an extension of the statutory deadline for these areas and submitted a document describing the State's progress in the development of the necessary legal authority required for an I/M program in these areas.

The July 27, 1979 submission was discussed in the March 10, 1980 **Federal Register** (45 FR 15192). At that time, USEPA identified deficiences in the Ohio plan and said that it could not approve the proposed implementation plan until these deficiencies were corrected.

On September 17, 1980 the State responded to the deficiencies identified by USEPA in the March 10, 1980 **Federal Register** (45 FR 15192) concerning the I/M portion of Ohio's July 27, 1979 SIP submission. The September 17, 1980 submission addressed all five of the key elements for I/M SIP approval. It included Amended Substitute Senate Bill 240 which enacts section 3704.14 of the Ohio Revised Code (ORC). ORC 3704.14 allows the Director of the Ohio Environmental Protection Agency (OEPA) to adopt rules for the implementation and enforcement of a motor vehicle inspection and maintenance program in Ohio. The purpose of today's notice is to discuss USEPA's review of this submission, and to repropose rulemaking on the I/M section of the nonattainment plan for Ohio.

Review and Evaluation Ohio's I/M Program

1. Legal Authority—In the September 17, 1980 SIP submission, the Governor of Ohio submitted a copy of Amended Substitute Senate Bill 240 as evidence that the State has the necessary legal authority to adopt and implement an I/M program in those parts of the State where the NAAQS for ozone and carbon monoxide will not be attained by December 31, 1982. Amended Substitute Senate Bill 240 grants the Director of the Ohio Environmental Protection Agency the authority to adopt rules for the implementation and enforcement of an I/M program in those parts of the State which are required to implement the program. This bill constitutes adequate legal authority to implement and enforce an I/M program. Therefore, USEPA proposes to approve Ohio's I/M legal authority. If such authority is later

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withdrawn or found to be inadequate to authorize implementation or enforcement of the required program, the SIP would no longer satisfy the requirements of Part D of the Clean Air Act.

2. Commitment to Implement—Section 172(b)(10) of the Act requires that the appropriate governmental body must be committed to implement and enforce the I/M program. USEPA considers Amended Substitute Senate Bill 240 and the Governor's submission of an I/M implementation schedule to be an adequate commitment to implement an I/M program. Therefore, USEPA proposes to approve this portion of the submission.

Even though USEPA is proposing to approve this portion of the SIP, in the event that the report to the Ohio legislature, required under Amended Substitute Senate Bill 240, should result in a recommendation that there is no I/M program which is feasible for implementation in Ohio, and subsequently result in no program being implemented according to the specified schedule, the SIP will no longer satisy the requirements of Part D of the Clean Air Act.

3. Identification and Commitment of Resources—Section 172(b)(7) of the Act requires the identification and commitment of the necessary finances and resources to carry out the I/M program. The State's submission of September 17, 1980 states that Amended Substitute Senate Bill 240 gives the I/M Study Board (created under the authority of Amended Substitute Senate Bill 240) and the Ohio Environmental Prortection Agency specific duties to execute. The State's submission of September 17, 1980 states that appropriate staff and financial commitments will occur as are necessary to comply with Ohio's I/M legal authority. USEPA recognizes that the State cannot at this time be more specific in the identification and commitment of the resources required to carry out and enforce the I/M program until the completion of the report by the I/M Study Board. Therefore, USEPA proposes to approve this portion of the I/M program on the condition that the State, by a specified date, submit an identification of the manpower and financial resources necessary to carry out and enforce the program and a commitment to obtain those resources. The date for this submission must be agreed to by the State and the USEPA prior to final rulemaking. At the time of final rulemaking USEPA will propose this date for public comment.

4. Schedule for the Implementation of the Plan—In the March 10, 1980 **Federal Register** (45 FR 15192), USEPA noted that pursuant to section 172(b)(11) of the Act, an I/M program must contain a legally enforceable schedule for the implementation of the plan and a commitment to the schedule by the State. USEPA further noted that the duties in the schedule must include the milestones listed in the July 17, 1978 memorandum by David G. Hawkins, Assistant Administrator for Air, Noise and Radiation.

As part of the September 17, 1980 submission, Ohio submitted implementation schedule consistent with Amended Substitute Senate Bill 240 which includes milestones such as the appointment of the I/M Study Board, required public hearings pursuant to the I/M report; issuance of the I/M study report, execution of any necessary contracts, construction and acquisition of facilities for the program, and full implementation of the program by December 31, 1982. While this bill does not address all the milestones outlined in the July 17, 1978 Hawkins memorandum, USEPA recognizes that the State cannot commit itself to a more detailed schedule until completion of the report by the I/M Study Board. In the September 17, 1980 submission, the State of Ohio indicated that a more detailed schedule would be prepared after the completion of the I/M Study Board Report of July 1, 1981. USEPA proposes to approve this portion of the Ohio I/M program on the condition that the State submit, by a specified date, a schedule which addresses all the milestones prescribed by the July 17, 1978 I/M Policy Memorandum. In the event that the State decides to implement a decentralized program, the schedule must indicate that full implementation should occur by December 31, 1981. The date for submission of the I/M schedule must be agreed to by the State and the USEPA prior to final rulemaking. At the time of final rulemaking, USEPA will propose for public comment the date for the submission of the I/M implementation schedule.

5. Program effectiveness—The July 17, 1979 Hawkins memo states that an approvable I/M program must demonstrate that the program will reduce light duty vehicle exhaust emissions in 1987 by 25 percent as compared to the level of emissions without the I/M program. In the Septmeber 17, 1980 submission, the State committed itself to a percentage reduction goal consistent with current USEPA guidance for both hydrocarbons and carbon monoxide exhaust emissions for light duty vehicles.

USEPA acknowledges that Ohio cannot provide USEPA with specific programmatic details to document a 25 percent reduction until the completion of the I/M Study Board Report. In order to insure that Ohio establishes an I/M program which meets USEPA's minimum requirements for program effectiveness, USEPA is proposing to approve this portion of the submittal on the condition that Ohio submits detailed program information relating to the specific geographic coverage of the program, enforcement mechanisms and procedures to be used, those vehicle categories to be included in the inspection program, and other factors which allows program effectiveness to be determined.

If the appropriate state officials provide USEPA with assurances that this deficiency will be corrected according to a date negotiated between the State and the USEPA, prior to final rulemaking USEPA will conditionally approve this portion of the submission. USEPA will propose the negotiated date for public comment in a subsequent **Federal Register** Notice.

Interested persons are invited to comment on these revisions to the Ohio SIP and on USEPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. All comments received will be available for inspection at the Region V Office, Air Programs Branch, 230 South Dearborn Street, Chicage, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to contain procedural requirements of the order whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator, and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the authority of Sections 110, 172, and 301(a) of the Clean Air Act as amended.

Dated: October 10, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-34012 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-5-FRL 1661-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to promulgate an alternative compliance schedule for Columbus and Southern Ohio Electric Company's Conesville power plant in Coshocton County, Ohio. The compliance schedule incorporates the installation of a coal washing facility that will allow the utility to continue to use Ohio coal and meet its current sulfur dioxide (SO_2) emission limitation of 5.66 lbs. SO_2/MBTU. Compliance with the Conesville SO_2 emission limitation was stayed pending EPA's response to the Court's remand in *Cincinnati Gas and Electric Company v. EPA*, 578 F.2d 660 (6th Cir. 1978). The agency responded to the remand on June 19, 1980 (45 F.R. 41501). In the rules section of today's **Federal Register**, EPA is restarting the original compliance schedule for Conesville as of June 19, 1980. In addition, the agency is proposing to promulgate CSOE's coal washing compliance schedule as an alternative to the original compliance schedule for the Conesville plant. This means that if CSOE chooses to comply with its emission limitation by installing the coal washing facility, it will have to meet the interim dates set forth in the alternative schedule rather than those in the original compliance schedule. EPA is also proposing to start the coal washing schedule on the same date as the original schedule, June 19, 1980. EPA solicits comments on the Conesville coal washing schedule.

DATE: Comments must be received on or before December 8, 1980.

ADDRESSES: Written comments should be sent to: Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The docket for this revision, 5A.80.14, is on file at the above address and at Central Docket Section, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The docket may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Deborah Marcantonio, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604, 8-886-6088.

SUPPLEMENTARY INFORMATION: On June 29, 1978, the U.S. Court of Appeals for the Sixth Circuit remanded to EPA for its further consideration the agency's use of the Pasquill-Gifford dispersion coefficients in setting emission limitations for isolated rural sources in Ohio. *Cincinnati Gas and Electric Company v. EPA*, 578 F.2d 660 (1978). The emission limitation for the Columbus and Southern Ohio Electric Company's Conesville plant was determined by the P-G class A dispersion coefficients. See 44 FR 7798. On February 7, 1979, EPA solicited comment on its preliminary findings on the class A issue. The agency stated in the February 7, 1979 notice that the Court's remand stayed compliance with the original emission limitations for four Ohio power plants including Conesville pending the agency's final determination. 44 FR 7798.

On June 19, 1980, EPA published its final determination on use of the P-G class A dispersion coefficients in setting emission limitations for the four Ohio plants. 45 FR 41501. EPA found that the scientific data supported the agency's original decision to use the P-G class A coefficients. Thus, the agency reaffirmed the emission limitations for the four plants on June 19, 1980. Those sources are now required to come into compliance with their original emission limitations.

In order to bring Conesville and the other plants into compliance, EPA is restarting the original compliance schedules for these plants as of June 19, 1980. Accordingly the attainment date for these plants is revised to three years from June 19, 1980. The agency is publishing a final rule in today's **Federal Register** to accomplish this.

EPA is proposing to promulgate CSOE's coal washing compliance schedule as an alternative to the original compliance schedule for the Conesville plant based on CSOE's stated intention to install a coal washing facility to meet its emission limitation. CSOE submitted the coal washing program and schedule to EPA on January 23, 1980. The coal washing program will allow CSOE to continue using Ohio coal and still meet its emission limitation. EPA has reviewed the CSOE schedule and determined that it is as expeditious as practicable and provides for compliance within three years of approval. EPA is proposing to make the coal washing schedule effective as of June 19, 1980 for the reasons set forth more fully in the notice of final rulemaking on the original compliance schedules published in today's **Federal Register**. That notice is incorporated herein by reference.

Approval of CSOE's coal washing schedule as an alternative to the original schedule means that if CSOE chooses to comply with its emission limitation by installing the coal washing facility, it will have to meet the interim dates in the coal washing schedule. If CSOE chooses not to install the coal washing facility, it will have to comply with the original compliance schedule. Interested parties are invited to comment on the proposed alternative schedule.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it can follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this rule and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 14, 1980.

John McGuire,

Regional Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

In § 52.1882, new section subpart kk-Ohio (i) is proposed to be added as follows:

§ 52.1882 Compliance schedules.

* * * * * *

(i) If the owner or operator of the Columbus and Southern Ohio Electric Company's Conesville plant in Coshocton County elects to comply with the emission limitation set forth in § 52.1881 by installing a coal-washing facility, the owner or operator shall met the following compliance schedule in lieu or meeting the compliance schedule set forth in § 52.1882 (b).

(1) 17 weeks from June 19, 1980: Notify the Administrator of intent to use washed coal to comply with sulfur dioxide emission limitations for the Conesville stem plant; Submit a projection for ten years of the amount of coal necessary to enable compliance at this facility; Submit the quality specifications of the fuel that is to be used. Such specifications shall include sulfur content, as content, heat and moisture content.

(2) 31 weeks from June 19, 1980: Submit data to the Administrator demonstrating the availability of fuel necessary to achieve compliance at the Conesville steam plant. Such data shall consist of copies of signed contracts with coal suppliers and/or signed contracts with a vendor pursuant to which the utility shall construct a coal preparation facility; submit statement to the Administrator as to whether boiler modifications at the Conesville steam plant will be required for combustion of

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the prepared (washed) complying coal. If boiler modifications are required, submit plans for such modifications.

(3) 40 weeks from June 19, 1980: If a coal preparation facility is to be constructed by the utility for preparing all or a portion of the fuel for combustion at the Conesville steam plant, submit to the Administrator a plan detailing actions to be taken to ensure completion of construction and startup in sufficient time to provide complying fuel for the final compliance date.

(4) 52 weeks from June 19, 1980: Complete engineering and specifications for the coal preparation facility.

(5) 64 weeks from June 19, 1980: Award contract for construction of the coal preparation facility providing incentives to the contractor to expedite the project.

(6) 108 weeks from June 19, 1980: Initiate on-site construction of the new coal preparation facility.

(7) 152 weeks from June 19, 1980: Complete construction of the coal preparation facility.

(8) 52 weeks from June 19, 1980: Submit to the Administrator a continuous monitoring plan detailing the equipment to be installed, equipment locations, and data reduction techniques as well as schedule of installation.

(9) 104 weeks from June 19, 1980: Complete installation and certification of sulfur dioxide monitors on stacks 1, 2 and 3 at the Conesville steam plant.

(10) 152 weeks from June 19, 1980: Complete any necessary boiler modifications to the Conesville steam plant units 1–4.

(11) 156 weeks (three years) from June 19, 1980: Achieve and demonstrate compliance at units 1–4 of the Conesville steam plant with the applicable emission limitation in § 52.1881 of this chapter.

[FR Doc. 80-34906 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-9-FRL 166-7]

Arizona's Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IX.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations was published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal Program.

Today EPA is announcing the availability for public review of the Arizona application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: To be considered as a part of the administrative record of this proceeding, comments on the Arizona interim authorization application must be received at or before the close of business at 4:30 P.M. on December 11, 1980. Written comments will also be accepted at the public hearing.

PUBLIC HEARING: EPA will conduct a public hearing on Arizona's interim authorization application at 1:30 P.M. and 7:30 P.M. sessions, December 11, 1980. The State of Arizona will participate in the public hearing. The hearing may be continued from time to time or from place to place to accommodate EPA or witnesses.

ADDRESSES: Written comments should be sent to:
Laura Yoshii, Hazardous Materials Section (A–3–2), Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Public hearing location: The public hearing will be held at:
Maricopa County Board of Supervisors Auditorium, 205 West Jefferson Street, Phoenix, AZ.

Copies of the Arizona interim authorization application are available at the following addresses for inspection and copying by the public:
Arizona Department of Health Services, 1740 West Adams, Phoenix, Arizona 85007, (602) 255–1170
Maricopa Association of Governments, 111 South Third, Phoenix, Arizona 85003, (602) 262–8528
Pima Association of Governments, 405 Transamerica Building, Tuscon, Arizona 85701, (602) 792–1093
Northern Arizona Council of Governments, 119 East Aspen Avenue, Flagstaff, Arizona 86001, (602) 774–1895
District IV Council of Government, 1020 4th Avenue, Suite No. 201, Yuma, Arizona 85364, (602) 782–1886
Environmental Protection Agency, Region IX, Hazardous Materials Branch, 215 Fremont Street, San Francisco, CA 94105, (415) 556–4606
EPA Headquarters Library, Room 2404, 401 M Street S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Paul Blais, Air and Hazardous Materials Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556–5455.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things: (1) have been in existence prior to August 17, 1980 and

(2) be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479).

The State of Arizona has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Dated: November 3, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-34941 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-9-FRL 1661-6]

California's Application for Interim Authorization; Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IX.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations was published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of California's application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: To be considered as a part of the administrative record of this proceeding, comments on the California interim authorization application must be received before or by the close of the public hearing on December 9, 1980.

PUBLIC HEARING: EPA will conduct a public hearing on California's interim authorization application at 1:30 p.m. and 7:30 p.m. on December 9, 1980. The State of California will participate in the public hearing. The hearing may be continued from time to time or from place to place to accommodate EPA or witnesses.

ADDRESSES: Written comments should be sent to: Environmental Protection Agency, Region IX, Air and Hazardous Materials Division, Laura Yoshii (A–3–2), 215 Fremont Street, San Francisco, CA 94105

Public Hearing Location: The public hearing will be held at: Environmental Protection Agency, Region IX, 215 Fremont Street, 6th Floor, San Francisco, CA 94105.

Copies of the California interim authorization application are available at the following addresses for inspection and copying by the public:
California Department of Health Services, Hazardous Materials Management Section, 714 P Street, Sacramento, CA 95814, (916) 322–2337
California Department of Health Services, Hazardous Materials Management Section, 107 South Broadway, Room 7012, Los Angeles, CA 90012, (213) 620–2380
California Department of Health Services, 2151 Berkeley Way, Berkeley, CA 94704, (415) 540–2043
Environmental Protection Agency, Region IX, Hazardous Materials Branch (A–3–2), 215 Fremont Street, San Francisco, CA 94105, (415) 556–4606
EPA Headquarters Library, Room 2404, 401 M Street S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Paul Blais, Hazardous Materials Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556–5455

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things: (1) Have been in existence prior to August 17, 1980, and

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479).

The State of California has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Dated: November 3, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-34940 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101-6

Federal Advisory Committee Management; Extension of Comment Period

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule on Federal Advisory Committee Management for 30 days beyond October 20, 1980, the original expiration date for submission of comments on the proposed rule published in the August 21, 1980, **Federal Register** (45 FR 55769). This action is necessary because many Federal agencies and other commenters were unable to respond within the original 60 day comment period. The intended effect of this action is to permit those Federal agencies and other interested parties an opportunity to comment on the proposed rule.

DATE: Comments must be received on or before November 19, 1980. Comments received after this date will not be considered in the development of the final rule.

ADDRESS: Comments should be addressed to: General Services Administration (NF), Washington, DC 20408. Copies of comments that have been received are available for public inspection in the Committee Management Secretariat, Room 9403, 1100 L Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:
John Clancy, Jr., Director, Committee Management Secretariat (202–357–0019).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)); Pub. L. 92–463, (5 U.S.C. App. 1))

Dated: November 4, 1980.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 80-34904 Filed 11-6-80; 8:45 am]

BILLING CODE 6820-26-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control
Health Care Financing Administration
Public Health Service

42 CFR Parts 74 and 405

Clinical Laboratories; Personnel Standards

AGENCIES: Center for Disease Control, Public Health Service; and Health Care Financing Administration, HHS.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: HHS withdraws the notice of proposed rulemaking, relating to supervisory technical personnel in clinical laboratories, which was published in the **Federal Register** on October 12, 1979 (44 FR 58923).

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Louis C. LaMotte (404) 329–3824 or FTS: 236–3824.

SUPPLEMENTARY INFORMATION: The background information in the Notice of Proposed Rulemaking of October 12, 1979, is still current and provides useful information with respect to divisions of program responsibilities among the Health Care Financing Administration (HCFA), the Public Health Service (PHS), and the Center for Disease Control (CDC).

The licensure program for clincial laboratories in interstate commerce was established by Section 353 of the Public Health Service Act (42 U.S.C. 263a) enacted by the Clinical Laboratories Improvement Act of 1967, Pub. L. 90–174. The implementing regulations for this Act are stated in Part 74, Title 42, of the Code of Federal Regulations. Departmental authority with respect to the setting of standards for independent and hospital laboratories is stated at Section 1861(s)(3), (10), and (11) and at Section 1861(e)(9) of the Social Security Act (42 U.S.C. 1395x(s)(3), and (10), and (11) and 42 U.S.C. 1395x(e)(9)). The implementing regulations for the cited provisions of the Social Security Act are stated in Part 405, Title 42, of the Code of Federal Regulations.

On October 12, 1979, PHS and HCFA proposed personnel standards (44 FR 58923) applicable to supervisory technical personnel in clinical laboratories licensed under the Clinical Laboratories Improvement Act of 1967 and clinical laboratories certified for reimbursement under the Medicare program. Public input was sought on all aspects of the proposal as well as comments and objective data on seven specific issues.

Approximately 6,175 comments were received in response to the Notice of Proposed Rulemaking (NPRM). Almost no objective data were provided, and a majority of comments were in opposition to one or more of the provisions in the NPRM. The Department created an interagency work group to determine an appropriate course of action. The work group concluded that insufficient data were available and that additional information should be sought.

On April 18, 1980, a notice of a public meeting and a call for comments was published in the **Federal Register** (45 FR 26387). CDC distributed the Notice to 62 professional groups and subsequently provided an agenda of the public meeting. The public meeting was attended by representatives of 34 professional groups. Several major organizations objected to the format of the meeting. The major purpose of the meeting was to identify and develop consensus among the scientific and technical community on certain options and to receive their recommendations.

The public meeting was held as scheduled on June 9 and 10, 1980. While a number of constructive purposes were served by the meeting, very little additional data were provided. Further, little or no consensus was developed with respect to specific personnel standards.

The Department has decided to intensify its efforts to assess the type and extent of problems that exist in clinical laboratories and to measure the costs and benefits of applying personnel standards. Included in this effort will be a careful review of whether and how to revise existing regulations.

The Department has determined that further rulemaking is not appropriate at the present time and that the NPRM of October 12, 1979 (44 FR 58923), corrected October 23, 1979 (44 FR 61059), should be withdrawn. The withdrawal of the NPRM, however, does not preclude the Department from issuing similar notices in the future or commit the Department to any particular course of action.

Accordingly, the specified Notice of Proposed Rulemaking to 42 CFR Parts 74 and 405 is withdrawn.

Dated: September 12, 1980.

Julius B. Richmond,
Assistant Secretary for Health.

Dated: September 19, 1980.

Howard Newman,
Administrator, Health Care Financing Administration.

Approved: October 31, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-34744 Filed 11-6-80; 8:45 am]
BILLING CODE 4110-86-M

42 CFR Parts 405 and 447

Medicare and Medicaid Programs; Reimbursement for Services Furnished by Rural Health Clinics; Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of extension of comment Period.

SUMMARY: This notice extends the period for public comment on a proposed rule published on September 10, 1980 (45 FR 59734), regarding Medicare and Medicaid reimbursement for services furnished by rural health clinics. In that document, we proposed to establish a prospective method of payment for clinic services, and to revise our current clinic productivity and overhead cost guidelines and payment limit. An opportunity for public comment was provided through November 10, 1980.

In order to ensure that we have the benefit of all useful public comment on the issues raised by that document, we are planning to hold a series of public meetings to explain the changes we are proposing. We have scheduled these meetings as follows:

November 7, 1980

HHS Region IV, Hilton Inn—Airport, 1 International Plaza, Nashville, TN 37217, (615)–361–7666, 9:00 a.m.–5:00 p.m.

November 14, 1980

HHS Regions VI–X, Plaza Cosmopolitan Hotel, 1780 Broadway, Denver, CO 80202, 800–525–3082, 9:00 a.m.–5:00 p.m.

November 21, 1980

HHS Regions I–V, William Penn Hotel, Mellon Square, Pittsburgh, PA 15230, 9:00 a.m.–5:00 p.m.

For further information about these meetings, contact William Bake, HCFA, 301–597–2953; or Alice Hersh, National Rural Center, 202–331–0258.

To allow participants in the meetings adequate time to prepare and submit their comments, we are extending the comment period for the proposed rule through December 10, 1980.

DATE: To assure consideration, comments should be mailed by December 10, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., in Washington, D.C.; or to Room 789, East High Rise Building, 6401 Security Boulevard, in Baltimore.

In commenting, please refer to BPP–22–P.

Agencies and organizations are requested to submit comments in duplicate.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

Comments will be available for public inspection in Room 309–G of the Department's office at 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: William Bake, 301–597–2953.

(Secs. 1102, 1833, 1861(aa), 1871, 1902(a) and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395l, 1395x(aa), 1395hh, 1396a(a), and 1396d(a)))

(Catalog of Federal Domestic Assistance Program No. 13,774, Medicare-Supplementary Medicare Insurance; No. 13,761 Medical Assistance Program)

Dated: November 4, 1980.

Howard Newman,
Administrator, Health Care Financing Administration.

Approved: November 5, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-34832 Filed 11-5-80; 12:43 pm]
BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22, and 90

[Gen. Docket No. 80–183; RM–2365; RM–2750; RM–3047; RM–3068]

Commission's Rules to Allocate Spectrum in the 928–941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Supplemental notice of proposed rule making.

SUMMARY: Federal Communications Commission adopts Supplemental Notice of Proposed Rule Making, proposing alternative allocation plan to original Notice of Proposed Rule Making. The original notice had proposed an allocation of one MHz for private paging systems, one MHz for common carrier paging systems, and one MHz to be placed in a reserve for advanced technology paging systems. Due to some concern that the original plan may have been too rigid, the alternative plan proposes flexible private and common carrier paging bands, and also proposes that forced sharing and restrictions on message length in a common carrier system be eliminated.

DATE: Comments on the original notice and this supplemental notice are due by December 15, 1980, and reply comments by January 30, 1981.

ADDRESSES: Federal Communications Commission Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney T. Small (Office of Science and Technology) (202) 653–8169; Michael D. Sullivan (Common Carrier Bureau) (202) 632–6450; or Eugene Bowler (Private Radio Bureau) (202) 632–6497.

SUPPLEMENTARY INFORMATION:
Adopted: October 21, 1980
Released: November 4, 1980

By the Commission:

1. On April 24, 1980 (45 FR 32013; May 15, 1980) the Commission adopted a *Notice of Proposed Rule Making* in this proceeding which proposed the allocation of three MHz of spectrum for private and common carrier paging systems in the 929–932 MHz band. In so doing we followed the traditional administrative approach to spectrum allocation; *i.e.*, we attempted to determine the need for given types of service and then allocated separate blocks of frequencies for each. In this *Supplemental Notice*, we are proposing to make the allocation plan for paging stations more flexible. Parties are invited to comment on this proposal as well as on the proposal in our earlier *Notice*.

2. The alternative proposed here would retain the basic allocation of two MHz for private and common carrier users and would continue to reserve one MHz for advanced technology systems. We would change the earlier proposal, however, by placing the private and common carrier bands next to each other. We would also allow each type of user access to the whole two MHz of spectrum at 900 MHz after a five year lag time if the one MHz band initially allotted to the particular class of user becomes too congested to meet additional demand. Thus, common carriers would be allowed to use the private band and private paging systems would be allowed to use the common carrier band. Except for the lag time, this approach is similar to that proposed for the Instructional Television Fixed Service, the Miltipoint Distribution Service, and the Private Operational Fixed Microwave Service.[1]

3. We are proposing a lag time because of the different ways in which common carrier and private channels are loaded. A new common carrier channel in a given area can be authorized even when another common carrier channel in that same area is lightly loaded. In the private services, on the other hand, a channel must generally have met threshold loading standards before another channel in that area is authorized. Private channels, therefore, are likely to remain available for a longer period of time than common carrier channels. While procedural problems (state certification, petitions to deny) may cause delays in utilization of channel by common carriers, we want to allow an adequate amount of time for development of private systems if there is demand for such systems. We request comments as to whether a time lag is needed and what the appropriate period should be.

4. Under the alternative being proposed here, demand conditions in each geographic area would ultimately determine the number of private, as opposed to common carrier, channels. In one area, for example, the number of private channels might be double the number of common carrier channels, while in another area the reverse might be true. In addition, in order to allow market forces to determine how the channels are used, we would not

[1] General Docket No. 80–112, FCC 80–136 (Adopted March 19, 1980; released May 2, 1980).

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earmark specific channels in the respective services for particular types of paging use. Rather, all channels would be available for *any* type of paging use.[2] These procedures overcome the inherent rigidities of the allocation plan proposed in our original *Notice*, wherein private users and common carriers were each allocated a compartmentalized band of one MHz, and many channel were earmarked for a particular type of use.

5. Under this alternative proposal, we would not impose restrictions on message length in a common carrier system. A common carrier may well find that it is in its own financial self-interest to limit message length. However, it may also wish to allow the customer the option of sending a longer (or shorter) message for an additional (or lesser) charge. We therefore believe that the most efficient use of a common carrier channel can be achieved by allowing the carrier itself to make a decision on message length.

6. Under the proposal in this *Supplemental Notice*, we would not prescribe sharing among common carriers in the event that a new application is received in an area where all channels are already occupied. Prescribed sharing among common carriers can force the marketplace into a common mold, where no carrier has the option of offering a higher quality service at a higher price or a lower quality service at a lower price. However, we request comments on our view that prescribed sharing would be inappropriate under this alternative.

7. Under this alternative, all other regulations proposed in our original *Notice* would be retained. Therefore, the technical, loading, and sharing standards for private radio users would remain as originally proposed. We invite comments as to the appropriate technical and processing criteria to be applied under this alternative.

8. Authority for this *Supplemental Notice of Proposed Rule Making* is contained in 47 U.S.C. §§ 154(i), (j), 303, 307, and 308.

9. In accordance with the provisions of 47 CFR § 1.419(b), an original and five copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, DC (1919 M Street, NW).

10. All interested persons are invited to file written comments on both the original *Notice* and this *Supplement* on or before December 15, 1980, and reply comments on or before January 30, 1981. Any person wishing to file a reply to a comment before the close of the formal comment period is encouraged to do so. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

11. The Secretary shall cause this *Supplemental Notice of Proposed Rule Making* to be published in the **Federal Register.**

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 80-34732 Filed 11-6-80; 8:45 am]

BILLING CODE 6712-01-M

[2] We do, however, retain the proposal that up to three channels be reserved for nationwide or regional paging networks. Two petitioners have already expressed an interest in establishing such a network, and we believe it will simplify matters considerably to have up to three channels reserved for this purpose. However, should one or more of these network channels remain unutilized after assignment of all other channels (or after the time lag discussed above), the network channels would be made available for any paging use.

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47 CFR Part 73

[BC Docket No. 80-667; RM-3354]

FM Broadcast Station in St. Johnsbury, Vermont; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a first FM channel to St. Johnsbury, Vermont, in response to a petition filed by Twin State Broadcasters, Inc.

DATES: Comments must be filed on or before December 29, 1980, and reply comments on or before January 19, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Molly Pauker, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments*, FM Broadcast Stations. (St. Johnsbury, Vermont), BC Docket No. 80-667, RM-3354.

Adopted: October 28, 1980.

Released: November 4, 1980.

1. Before the Commission is a petition filed by Twin State Broadcasters, Inc. ("Twin State") [1] seeking the deletion of Channel 272A at Randolph, Vermont,[2] substitution of Channel 292A at Randolph and assignment of Channel 272A to St. Johnsbury, Vermont, as that community's first FM assignment. Channel 272A, if deleted from Randolph, can be assigned to St. Johnsbury in conformity with the minimum distance separation requirements. However, Channel 292A at Randolph would be short-spaced to Station WECM licensed to Claremont, New Hampshire, and newly assigned Channel 292A at Littleton, New Hampshire (Docket No. 20576).[3] Twin State has affirmed its interest in applying for Channel 272A, if assigned to St. Johnsbury. No other comments have been received in this proceeding.[4]

2. St. Johnsbury (population of 8,409) [5] located in northeastern Vermont, is the seat of Caledonia County (population 22,789). St. Johnsbury is served locally by fulltime AM Station WSTJ only. Twin State reports that St. Johnsbury is the major retail trading center for several surrounding communities, a major distribution and service center for the surrounding area, and that it enjoys an expanding tourist trade.

3. It is our opinion that a first FM channel assignment of a Class A frequency is warranted at St. Johnsbury. Although Twin State seeks Channel 272A, we are reluctant to delete this channel from Randolph, in light of Stokes' stated interest in this frequency at Randolph and the unavailability of a substitute channel there. While we are not bound to honor such an expression of interest before an application for a construction permit has been filed, we believe the public interest would be better served, were we able to facilitate two first local FM outlets, at both Randolph and St. Johnsbury. Since Channel 287 has been deleted from Plymouth, New Hampshire, in the recently decided Docket No. 20576 (See fn. 3 *supra*), a staff analysis reveals that Channel 288A may be assigned to St. Johnsbury in conformity with the minimum distance separation requirements to all United States assignments. However, this assignment represents a minor short spacing to a Canadian assignment at Thetford Mines, Quebec. Thus, Canadian concurrence has been sought and obtained prior to consideration herein.

4. Accordingly, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it relates to St. Johnsbury, Vermont, as follows:

City	Channel No.	
	Present	Proposed
St. Johnsbury, Vt.		288A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 29, 1980, and reply comments on or before January 19, 1981.

7. For further information concerning this proceeding, contact Molly Pauker, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-667 RM-3354]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-34849 Filed 11-6-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice was given on April 16, 1979, Report No. 1172.

[2] Channel 272A is assigned to Randolph, but currently unoccupied.

[3] *Report and Order*, published October , 1980, 45 FR.

[4] However, we note that Edward H. Stokes, II ("Stokes") filed several pleadings in Docket No. 20576 indicating his intent to apply for a construction permit on Channel 272A at Randolph.

[5] Population figures are based upon 1970 U.S. Census data.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte MC 43 (Sub-11)]

Lease and Interchange of Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is revising its leasing regulations to require that the lease shall specify who is responsible for loading and unloading the property to be transported onto and from the motor vehicle. This action is being taken to bring the leasing rules into conformance with recent statutory changes enacted in Section 15 of the Motor Carrier Act of 1980.

DATES: Written comments are due on or before December 22, 1980.

ADDRESS: An original and 15 copies, if possible, should be sent to: Ex Parte No. MC-43 (Sub-No. 11), Room 7417, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Lewis R. Teeple, Phone: (202) 275-7612.

SUPPLEMENTARY INFORMATION: Section 15 of the Motor Carrier Act of 1980 (49 U.S.C. 11107(b)) requires the Commission to prescribe a rule that any arrangement, between a motor carrier of property providing transportation subject to Commission regulation and any other person who provides any portion of such transportation by a motor vehicle not owned by the carrier shall specify in writing who is responsible for loading and unloading the property onto and from the motor vehicle. Section 15 (49 U.S.C. 11109(a) and (b)) of the new law, which is now in effect, deals with lumping practices and represents an intent on the part of Congress to eliminate coercion in loading and unloading of cargo and to require the parties in transportation to agree in writing who will be responsible for loading and unloading cargo. The proposed rule would implement the requirement that equipment leases contain such an agreement for regulated traffic. Furthermore, the Commission proposes that the amount of compensation, if any, to be paid to the lessee by the regulated carrier for loading and unloading shall be specified in the lease. The legislative history indicates that Congress expected owner-operator leases to specify loading and unloading responsibilities, including compensation. H.R. Rep. No. 1069, 96th Cong., 2nd Sess. 31 (1980).

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In commenting on this section of the Act the House Committee on Public Works and Transportation also stated, "The purpose of this provision is not to suggest or endorse any particular apportionment of loading or unloading responsibilities between and among shippers, receivers, carriers, and owner-operators. In fact, it is the Committee's belief that this apportionment of responsiblity is a market decision to be determined by the parties to the transaction."

This reflects a clear intent to rely on competitive factors. At the same time, the Congress in concerned in Section 15 that all parties, and particularly owner-operators, be aware of, and agree to, the allocation of responsibility for loading and unloading cargo onto and from the motor vehicle. This is akin to Section 16 (49 U.S.C. 10527(a)) of the Motor Carrier Act which requires the Commission, where appropriate, to establish rules setting forth minimum contract requirements and conditions for contracts of haul entered into by carriers and other parties in the transportation of commodities exempt by reason of Section 10526(a)(6) of the Act. This section requires that arrangements for loading and unloading, including compensation, shall be included in all contracts of haul. In this connection, anyone with an interest in this proceeding should also review the proposed rulemaking in Ex Parte No. MC-147, *Information Required on Receipts and Bills—Responsibility for Loading and Unloading Motor Vehicles*, served October 23, 1980, which would require that all loading and unloading arrangements by regulated motor carriers be set forth in writing in their bills of lading or freight bills.

This proposed action does not significantly affect the quality of the human environment or the conservation of energy resources.

We propose: To amend Title 49 of the Code of Federal Regulations by revising Section 1057.12(f) of the CFR as set forth in the appendix.

This notice and action are issued under authority contained in 49 U.S.C. 10321 and 11902a and 5 U.S.C. 553.

Decided: October 16, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

Revision of 49 CFR 1057.12(f)

§ 1057.12 [Amended]

In § 1057.12, paragraph (f), revise to read as follows:

* * * * *

(f) *Items specified in lease.* The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portion of such items. The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle, and the compensation, if any, to be paid for this service.

[FR Doc. 80-34801 Filed 11-6-80; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 45, No. 218
Friday, November 7, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

[Pay Order 81-1]

Rates of Pay for Certain Officers and Employees of the Judicial Branch

Pursuant to the authority vested in me as Director of the Administrative Office of the United States Courts by the laws of the United States of America, I hereby ascertain, adjust, fix, and/or provide notice of pay rates for certain officers and employees of the Judicial Branch as follows:

1-1. *Rates of Pay.*

1-101. *Pay Rates Adjusted by Operation of Law.*

(a) The per annum pay rates for officials whose rates the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 1.

(b) The per annum pay rates for officials whose rates are linked to rates which the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 2.

1-102. *Pay Rates Fixed by Administrative Action.*

(a) The maximum per annum pay rates for officials whose maximum rates the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 3.

(b) The maximum per annum pay rates for officials whose maximum rates are linked to rates which the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 4.

(c) The maximum pay rates for officials whose maximum rates may be adjusted pursuant to section 5307 of title 5, United States Code, are set forth in Table 5.

(d) The maximum per annum pay rates for officials whose maximum rates are linked to rates which may be adjusted pursuant to section 5307 of title 5, United States Code, are set forth in Table 6.

(e) The maximum pay rates for officials whose maximum rates are linked to rates which are adjusted pursuant to section 5305 of title 5, United States Code, are set forth in Table 7.

(f) The per annum pay rates for officials whose rates the Judicial Conference of the United States fixes are set forth in Table 8.

(g) The per annum pay rates for officials whose rates are fixed in accordance with the Judicial Salary Plan are set forth in Table 9.

(h) The hourly pay rates for certain employees whose rates the Director of the Administrative Office of the United States Courts fixes in accordance with section 5349 of title 5, United States Code, are set forth in Table 10.

1-103. *The General Schedule.*

(a) The per annum pay rates for employees of the Judicial Branch whose rates are fixed in accordance with subchapter III of chapter 53 of title 5, United States Code, are set forth in Table 11.

(b) Table 11 is the General Schedule as adjusted by the President on October 16, 1980. Exec. Order No. 12,248 45 FR 69119 (1980).

1-2. *General Provisions.*

1-201. *Incorporation of Tables.*

Each of the tables referenced above is attached hereto and made a part hereof.

1-202. *Effective Dates.*

(a) Except as otherwise provided, all adjustments of pay rates in the attached tables are effective as of the beginning of the first applicable pay period commencing on or after October 1, 1980. Implementing adjustments as a consequence of adjustments to maximum rates in the attached tables shall be effective in accordance with the action of the entity possessing pay-fixing responsibility.

(b) The adjustments of pay rates in Table 10 are effective as of the date of this order, except that the adjustments shall be retroactive to October 6, 1980, for each employee who satisfies the criteria of section 5344(b) of title 5, United States Code.

1-203. *Determination of Adjustments.*

Certain adjustments in sections 1-101 and 1-102 depend on the overall percentage of the adjustment in the rates of pay under the General Schedule. According to the President's August 29, 1980, message to the Congress of the United States, that figure is 9.12 percent. 16 Weekly Comp. of Pres. Doc. 1596 (Sept. 1, 1980). However, the Executive Branch advises that the actual overall percentage of the adjustment in the rates of pay under the General Schedule is 9.11 percent and that the President will so notify the Congress. Accordingly, all appropriate calculations to determine adjustments employ this correct figure.

1-204. *Payment of Cost-of-Living Adjustments.*

The payment of pay, including cost-of-living adjustments, in full through normal payroll disbursement procedures on regular paydays for the duration of fiscal year 1981 is dependent on the availability of appropriated funds.

1-205. *Superseded Orders.*

Pay Order 80-1 of May 12, 1980, is superseded.

Done at Washington, D.C., this 31st day of October 1980.

William E. Foley,

Director.

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Table 1

PER ANNUM PAY RATES FOR OFFICIALS WHOSE RATES
THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS [1]

OFFICIAL	RATE	BASIC AUTHORITY	ADJUSTMENT AUTHORITY
Chief Justice of the United States	$92,400	28 U.S.C. $5 (1976)	28 U.S.C. $461 (1976)
Associate Justices of the Supreme Court of the United States	$88,700	28 U.S.C. $5 (1976)	do
Judges, United States Courts of Appeals	$70,900	28 U.S.C. $44(d) (1976)	do
Judges, United States Court of Claims	$70,900	28 U.S.C. $173 (1976)	do
Judges, United States Court of Customs and Patent Appeals	$70,900	28 U.S.C. $213 (1976)	do
Judges, United States District Courts	$67,100	28 U.S.C. $135 (1976)	do
Judges, United States Customs Court	$67,100	28 U.S.C. $252 (1976)	do
Commissioners (Trial Judges), United States Court of Claims	$59,800	28 U.S.C. $792(b) (1976)	do
Bankruptcy Judges (formerly Referees in Bankruptcy) (Full-time)	$58,400	Act of Nov. 6, 1978, Pub. L. No. 95-598, title IV, $$404(d), 411, 92 Stat. 2549, 2684, 2688.	do

1. The rates in this table exclude any October 1977 adjustment.

81-1-1

Table 2

PER ANNUM PAY RATES
FOR OFFICIALS WHOSE RATES ARE LINKED TO RATES WHICH
THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT
ADJUSTS [1]

OFFICIAL	RATE	AUTHORITY
District Judge, United States District Court for the District of the Canal Zone	$67,100	3 P.C.C. $5(b)
Judges, District Court of the Virgin Islands	$67,100	48 U.S.C. $1614(a) (1976)
Judge, District Court of Guam	$67,100	48 U.S.C. $1424b(a) (1976)
Judge, District Court for the Northern Mariana Islands	$67,100	48 U.S.C. $1694(b)(1) (Supp. II 1978)
Director, Administrative Office of the United States Courts	$67,100	28 U.S.C. $603 (1976)
Director, Federal Judicial Center	$67,100	28 U.S.C. $626 (1976)
Deputy Director, Administrative Office of the United States Courts	$58,500	28 U.S.C. $603 (1976)

1. The rates to which the rates in this table are linked exclude any October 1977 adjustment.

81-1-2

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Table 3

PAY FIXED BY ADMINISTRATIVE ACTION

MAXIMUM PER ANNUM PAY RATES
FOR OFFICIALS WHOSE MAXIMUM RATES
THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT
ADJUSTS

RATES WHICH THE JUDICIAL CONFERENCE FIXES[1]

OFFICIAL	MAXIMUM RATE	AUTHORITY	ADJUSTMENT AUTHORITY
Bankruptcy Judges (formerly Referees in Bankruptcy) (Part-time)	$29,200	Act of Nov. 6, 1978, Pub. L. No. 95-598, title IV, §§404(d), 411, 92 Stat. 2549, 2684, 2688.	28 U.S.C. §461 (1976)

1. In accordance with the September 1974 resolution of the Judicial Conference of the United States concerning cost-of-living adjustments for part-time bankruptcy judges and 5 U.S.C. §5307 (1976), the per annum pay rate for each part-time bankruptcy judge is adjusted as follows:

Level 1	$29,200
Level 2	26,400
Level 3	24,000
Level 4	4,300

These adjustments are effective October 1, 1980.

81-1-3

Table 4

PAY FIXED BY ADMINISTRATIVE ACTION[1]

MAXIMUM PER ANNUM PAY RATES FOR OFFICIALS
WHOSE MAXIMUM RATES ARE LINKED TO RATES
WHICH THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS[2]

RATES WHICH THE CHIEF JUSTICE FIXES

OFFICIAL	MAXIMUM RATE	AUTHORITY
Administrative Assistant to the Chief Justice of the United States	$67,100	28 U.S.C. §677(a) (1976)

RATES WHICH THE JUDICIAL CONFERENCE FIXES[3]

OFFICIAL	MAXIMUM RATE	AUTHORITY
Magistrates (Full-Time)	$58,400	28 U.S.C. §634(a) (1976)[4]
Magistrates (Part-Time)	$29,200	28 U.S.C. §634(a) (1976)[4]

RATES WHICH THE JUDICIAL COUNCILS FIX

OFFICIAL	MAXIMUM RATE	AUTHORITY
Circuit Executives	$58,500	28 U.S.C. §332(f) (1976)
Federal Public Defender for the Central District of California	"[C]ompensation received by the United States attorney for the district where representation is furnished. . . ."	18 U.S.C. §3006A(h)(2)(A) (1976); 5 U.S.C. §5315 (Supp. III 1979)

RATES WHICH THE DIRECTOR OF THE FEDERAL JUDICIAL CENTER FIXES

OFFICIAL	MAXIMUM RATE	AUTHORITY
Professional Personnel, Federal Judicial Center	$58,500	28 U.S.C. §625(b) (1976)

81-1-4

Continued

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Table 4 (Continued)

1. The actual pay rates of officials included in this table are not subject to automatic adjustment. The entity possessing pay-fixing responsibility must act to adjust actual pay rates. The adjustments may be retroactive to the beginning of the first pay period commencing on or after October 1, 1980, when such adjustments are made pursuant to 5 U.S.C. §5307 (1976).

2. The rates to which the rates in this table are linked exclude any October 1977 adjustment.

3. The Judicial Conference will have the opportunity to consider adjustments for Fiscal Year 1981 at its March 1981 session. Pending any further adjustments, in accordance with the March 1980 resolution of the Judicial Conference of the United States concerning cost-of-living adjustments for magistrates, the per annum pay rates for magistrates, effective as of the beginning of the first pay period commencing on or after October 1, 1979, will remain as follows:

Level I (Full-time)	$51,900	Level 7 (Part-time)	$11,800
Level II (Full-time)	45,500	Level 8 (")	10,000
Yosemite National Park (Full-time)	34,250	Level 9 (")	8,200
		Level 10 (")	6,400
Level 1 (Part-time)	$25,950	Level 11 (")	4,500
Level 2 (")	23,100	Level 12 (")	3,600
Level 3 (")	20,300	Level 13 (")	2,700
Level 4 (")	17,900	Level 14 (")	1,800
Level 5 (")	15,500	Level 15 (")	900
Level 6 (")	13,600		

4. Section 232 of the Act of Nov. 6, 1978, Pub. L. No. 95-598, title II, 92 Stat. 2549, 2665, which amends 28 U.S.C. §634(a) (1976), will not become effective until April 1, 1984, in accordance with section 402(b) of the Act.

81-1-4 (cont.)

Table 5

PAY FIXED BY ADMINISTRATIVE ACTION[1]

MAXIMUM PAY RATES FOR OFFICIALS WHOSE MAXIMUM RATES MAY BE ADJUSTED PURSUANT TO 5 U.S.C. §5307 (1976)

RATES WHICH THE DISTRICT COURTS FIX

OFFICIAL	MAXIMUM RATE	BASIC AUTHORITY	ADJUSTMENT AUTHORITY
Jury Commissioner	$72.64 per day	28 U.S.C. §1863(b)(1) (1976)	5 U.S.C. §5307 (1976)

1. The actual pay rates for officials included in this table are not subject to automatic adjustment. The entity possessing pay-fixing responsibility must act to adjust actual pay rates. The adjustments may be retroactive to the beginning of the first pay period commencing on or after October 1, 1980, when such adjustments are made pursuant to 5 U.S.C. §5307 (1976).

81-1-5

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Table 6

PAY FIXED BY ADMINISTRATIVE ACTION[1]

MAXIMUM PER ANNUM PAY RATES FOR OFFICIALS
WHOSE MAXIMUM RATES ARE LINKED
TO RATES WHICH MAY BE ADJUSTED
PURSUANT TO 5 U.S.C. §5307 (1976)

RATES WHICH THE JUDICIAL COUNCILS FIX

OFFICIAL	MAXIMUM RATE	AUTHORITY
Federal Public Defenders (except as provided in Table 4)	"Compensation received by the United States attorney for the district where representation is furnished. . . ."	18 U.S.C. §3006A(h)(2)(a) (1976), 28 U.S.C. §548 (1976)

1. The actual pay rates for officials included in this table are not subject to automatic adjustment. The entity possessing pay-fixing responsibility must act to adjust actual pay rates. The adjustments may be retroactive to the beginning of the first pay period commencing on or after October 1, 1980, when such adjustments are made pursuant to 5 U.S.C. §5307 (1976).

81-1-6

Table 7

PAY FIXED BY ADMINISTRATIVE ACTION

MAXIMUM PAY RATES FOR OFFICIALS
WHOSE MAXIMUM RATES ARE
LINKED TO RATES WHICH ARE
ADJUSTED PURSUANT TO 5 U.S.C. §5305 (1976)

RATES WHICH THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS FIXES[1]

OFFICIAL	MAXIMUM RATE	AUTHORITY
Land Commissioners	$192.72 per day	5 U.S.C. §3109 (1976); 28 U.S.C. §604(a)(5) (1976); H.R.J. Res. 610, Pub. L. No. 96-369, §101(a)(4), 94 Stat. 1351 (Oct. 1, 1980); Judiciary Appropriation Act, 1980, Pub. L. No. 96-68, title IV, 93 Stat. 416, 429 (1979).

1. The Director has delegated authority to district courts to fix the pay rates of officials included in this table, subject to the limitations that: (a) The hourly rate cannot exceed $40.00, and (b) notwithstanding the hourly rate, pay for any calendar day cannot exceed the maximum rate above. The district court must act to adjust actual pay rates.

81-1-7

Table 8

PAY FIXED BY ADMINISTRATIVE ACTION

PER ANNUM PAY RATES WHICH
THE JUDICIAL CONFERENCE OF
THE UNITED STATES FIXES[1]

OFFICIAL	RATE	AUTHORITY
Court Reporters, District Courts of the United States		28 U.S.C. §753(e) (1976)
Level I	$31,615	
Level II	30,178	
Level III	28,741	

1. In accordance with the March 1971 resolution of the Judicial Conference of the United States concerning the General Plan of Qualification and Compensation for Court Reporters, the Director of the Administrative Office of the United States Courts makes the adjustments reflected in this table.

81-1-8

Table 9

THE JUDICIAL SALARY PLAN[1,2]

JSP Grade	Steps 1	2	3	4	5	6	7	8	9	10
	Annual Rates									
1	$7960	$8225	$8490	$8755	$9020	$9175	$9437	$9699	$9712	$9954
2	8951	9163	9459	9712	9820	10109	10398	10687	10976	11265
3	9766	10092	10418	10744	11070	11396	11722	12048	12374	12700
4	10963	11328	11693	12058	12423	12788	13153	13518	13883	14248
5	12266	12675	13084	13493	13902	14311	14720	15129	15538	15947
6	13672	14128	14584	15040	15496	15952	16408	16864	17320	17776
7	15193	15699	16205	16711	17217	17723	18229	18735	19241	19747
8	16826	17387	17948	18509	19070	19631	20192	20753	21314	21875
9	18585	19205	19825	20445	21065	21685	22305	22925	23545	24165
10	20467	21149	21831	22513	23195	23877	24559	25241	25923	26605
11	22486	23236	23986	24736	25486	26236	26986	27736	28486	29236
12	26951	27849	28747	29645	30543	31441	32339	33237	34135	35033
13	32048	33116	34184	35252	36320	37388	38456	39524	40592	41660
14	37871	39133	40395	41657	42919	44181	45443	46705	47967	49229
15	44547	46032	47517	49002	50487	51972	53457	54942	56427	57912
16	52247	53989	55731	57473	58500	58500	58500	58500	58500	
17	58500	58500	58500	58500	58500					
18	58500									

1. Notwithstanding the rates in this table, the basic pay of clerks of court and of probation officers is limited to a rate which is $2,000 less than the maximum rate for circuit executives.

2. Notwithstanding the rates in this table, the basic pay payable to any employee whose pay is fixed in accordance with the Judicial Salary Plan shall not exceed the pay which may be payable, from time to time, to an employee classified at JSP Grade 18.

81-1-9

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Table 10

PAY FIXED BY ADMINISTRATIVE ACTION

HOURLY PAY RATES FOR CERTAIN EMPLOYEES WHOSE RATES THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS FIXES PURSUANT TO 5 U.S.C. §5349 (1976)

ADMINISTRATIVE OFFICE WAGE SYSTEM

Part A. Graded Tradesmen and Craftsmen (excluding lithographers and printers)

AO-G Grade	Steps 1	2	3	4	5
	Hourly Rates				
1	4.97	5.18	5.39	5.59	5.80
2	5.40	5.62	5.84	6.07	6.29
3	5.82	6.06	6.30	6.54	6.79
4	6.34	6.60	6.86	7.13	7.39
5	6.84	7.13	7.42	7.70	7.99
6	7.36	7.67	7.98	8.28	8.59
7	7.87	8.20	8.53	8.86	9.18
8	8.35	8.70	9.05	9.40	9.74
9	8.80	9.17	9.54	9.90	10.27
10	9.26	9.65	10.04	10.42	10.81
11	9.72	10.13	10.54	10.94	11.35
12	10.19	10.61	11.03	11.46	11.88
13	10.63	11.07	11.51	11.96	12.40
14	11.09	11.55	12.01	12.47	12.94
15	11.55	12.03	12.51	12.99	13.47

Part B. Supervisors of Tradesmen and Craftsmen

AO-S Grade	Steps 1	2	3	4	5
	Hourly Rates				
1	7.80	8.12	8.44	8.77	9.09
2	8.22	8.56	8.90	9.24	9.59
3	8.64	9.00	9.36	9.72	10.08
4	9.16	9.54	9.92	10.30	10.68
5	9.67	10.07	10.47	10.88	11.28
6	10.19	10.61	11.03	11.46	11.88
7	10.68	11.12	11.56	12.01	12.45
8	11.14	11.60	12.06	12.53	12.99
9	11.59	12.07	12.55	13.04	13.52
10	12.04	12.54	13.04	13.54	14.04
11	12.31	12.82	13.33	13.85	14.36
12	12.66	13.19	13.72	14.25	14.77
13	13.10	13.65	14.20	14.74	15.29
14	13.61	14.18	14.75	15.31	15.88
15	14.23	14.82	15.41	16.01	16.60

81-1-10

Table 11

THE GENERAL SCHEDULE

GS Grade	Steps 1	2	3	4	5	6	7	8	9	10
	Annual Rates									
1	$7960	$8225	$8490	$8755	$9020	$9175	$9437	$9699	$9712	$9954
2	8951	9163	9459	9712	9820	10109	10398	10687	10976	11265
3	9766	10092	10418	10744	11070	11396	11722	12048	12374	12700
4	10963	11328	11693	12058	12423	12788	13153	13518	13883	14248
5	12266	12675	13084	13493	13902	14311	14720	15129	15538	15947
6	13672	14128	14584	15040	15496	15952	16408	16864	17320	17776
7	15193	15699	16205	16711	17217	17723	18229	18735	19241	19747
8	16826	17387	17948	18509	19070	19631	20192	20753	21314	21875
9	18585	19205	19825	20445	21065	21685	22305	22925	23545	24165
10	20467	21149	21831	22513	23195	23877	24559	25241	25923	26605
11	22486	23236	23986	24736	25486	26236	26986	27736	28486	29236
12	26951	27849	28747	29645	30543	31441	32339	33237	34135	35033
13	32048	33116	34184	35252	36320	37388	38456	39524	40592	41660
14	37871	39133	40395	41657	42919	44181	45443	46705	47967	49229
15	44547	46032	47517	49002	50487	51972	53457	54942	56427	57912
16	52247	53989	55731	57473	59215*	60957*	62699*	64441*	66183*	
17	61204*	63244*	65284*	67324*	69364*					
18	71734*									

* Basic pay is limited by section 5308 of title 5, United States Code, to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $58,500.

81-1-11

[FR Doc. 80-34777 Filed 11-6-80; 8:45 am]
BILLING CODE 3210-01-C

V 45 / 218 NOV 7 1980 UMI

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

U.S. Border Animal Import Inspection Facility, Sweetgrass, Montana; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

ACTION: Notice of availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plan Health Inspection Service is not preparing an environmental impact statement concerning the construction of a new U.S. Border Animal Import Inspection Facility to replace the existing facility at Sweetgrass, Montana. The existing animal import inspection facility occupies a small building in Sweetgrass owned by the Great Northern Railroad Company which serves as an office for the Animal and Plant Health Inspection Service veterinary medical officer. There is no shelter for the veterinary medical officer to perform his inspection duties. The railroad company has also advised the Animal and Plant Health Inspection Service that it intends to terminate the present lease agreement. It is proposed to construct a new facility on property to be purchased by the General Services Adminstration adjacent to the U.S. Customs SErvice facility in Sweetgrass that will be large enough for the veterinary medical officer to perform his inspection duties under adequate shelter and conditions. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Dr. John H. Green, Energy and Environmental Staff, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301–463–8237).

SUPPLEMENTAL INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant."

The Animal and Plant Health Inspection Service is responsible for operating U.S. Border Animal Import Inspection Facilities along both the U.S. Canadian and U.S. Mexican borders. At these facilities, U.S. Department of Agriculture veterinary medical officers, in accordance with regulations (9 CFR 92), inspect the health certificates and look for visual signs of illness in animals which are being imported to, or returned to (e.g., race horses or show animals), the United States.

The present facility at Sweetgrass is inadequate in that it does not offer the veterinary medical officer proper facilities to unload, restrain and examine animals. In addition, the exposure to inclement weather is undesirable for both humans and animals. The proposed new U.S. Border Animal Import Inspection Facility would be built on property adjacent to the U.S. Customs Service facility in Sweetgrass. No administrative action will be taken until 15 days after date of this publication.

Done at Washington, D.C., this 30th day of October 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-34740 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

Basin Electric Power Cooperative; Intent To Prepare a Draft Environmental Impact Statement and Announcement of Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to Basin Electric Power Cooperative (Basin), 1717 East Interstate Avenue, Bismarck, North Dakota 58501. In connection with the proposed project, REA intends to hold two (2) public scoping meetings to aid in the Federal decisionmaking process and formulation of issues to be addressed in the EIS.

The EIS will address the need for, alternatives to, and environmental impact of, a proposed 345 kV transmission line approximately 112 kilometers (70 miles) in length and associated substation facilities. The transmission line will extend from Basin's Antelope Valley Station near Beulah, North Dakota, to the existing Western Area Power Administration's Charlie Creek Substation in eastern McKenzie County, North Dakota. The study area where this transmission line may be located includes Mercer, Dunn, Billings, and McKenzie Counties of North Dakota. Interested persons are invited to submit comments which may be helpful to REA in the preparation of a Draft EIS. Comments should be sent to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Public scoping meetings will be held on December 9, 1980, at 7:00 p.m. MST in the Beulah Civic Center, 250 7th Street, NE, Beulah, North Dakota, and on December 10, 1980, at 7:00 p.m. MST in the Killdeer Public High School, Killdeer, North Dakota. These public scoping meetings will be chaired by a representative of the REA. The meetings will be held in order to receive public input and comments concerning the need for the project, alternatives to the project, significant issues that should be addressed in the EIS, and other matters concerning the proposed project. A record will be made of the meetings and comments received will be addressed in the Draft EIS.

The REA encourages the public to attend these public scoping meetings for their information and to provide their input. All local, state, and Federal agencies having an interest in the project are invited to attend and participate in the meetings. Any person, group, or agency which desires to make its comments, questions, or recommendations in writing may do so either at the meetings or by submitting them to the REA at the address noted above. Requests for additional information or questions concerning the meetings may be directed to Mr. J. Michael Donovan of REA at the address given above, telephone (202) 447–7447.

Any REA financing assistance to Basin will be subject to, and release of funds thereunder will be contingent upon, the REA reaching satisfactory conclusions with respect to the environmental effects of the proposed projects, and final action will only be taken after compliance with the environmental impact statement procedures required by the National Environmental Policy Act of 1969.

This Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 30th day of October 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-34553 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-15-M

North Carolina Electric Membership Corp.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $921,200,000 to North Carolina Electric Membership Corporation of Raleigh, North Carolina. These funds will be used to finance a 56.25 percent undivided ownership interest in the 1145 MW Catawba Nuclear Generating Station Unit No. 1. The Catawba Project is being constructed by Duke Power Company in York County, South Carolina.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. J. W. Stephenson, Manager, North Carolina Electric Membership Corporation, P.O. Box 27306, Raleigh, North Carolina 27611.

In order to be considered, proposals must be submitted on or before December 8, 1980 to Mr. Stephenson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as North Carolina Electric Membership Corporation and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 30th day of October, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-34554 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-15-M

Saluda River Electric Cooperative, Inc., South Carolina; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $307,000,000 to Saluda River Electric Cooperative, Inc., of Laurens, South Carolina. These funds will be used to finance an 18.75 percent undivided ownership interest in the 1145 MW Catawba Nuclear Generating Station Unit No. 1. The Catawba project is being constructed by Duke Power Company in York County, South Carolina.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Henry M. Faris, President, Saluda River Electric Cooperative, Inc., 207 Sherwood Drive, Laurens, South Carolina 29360.

In order to be considered, proposals must be submitted on or before December 8, 1980 to Mr. Faris. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Saluda River Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 30th day of October, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-34555 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

Human Nutrition Advisory Committee; Intent to Reestablish

Notice is hereby given that the Secretary of Agriculture proposes to reestablish the Human Nutrition Advisory Committee.

The purpose of the Committee will be to obtain necessary public advice and participation in the development of policies and programs relating to nutrition in an effort to identify and meet the nutritional needs of the public.

The reestablishment of the Committee is necessary and in the public interest in connection with duties imposed on the Department of Agriculture by law.

The Committee will be composed of 20 public members appointed by the Secretary for 1-year terms. The members will be selected from the following categories:

—Four members representing consumers;

—Four members representing beneficiaries of food assistance and/or nutrition education programs;

—Four members representing State and local food assistance programs and/or education institutions and agencies;

—Four members representing the agricultural industry, including producers, processors, and retailers; and

—Four scientists in the food and nutrition area.

Persons wishing to comment on the proposed reestablishment of the Committee or desiring additional information concerning it may contact the Coordinator for Human Nutrition Policy, Office of the Secretary, U.S. Department of Agriculture, Room 419–A, Administration Building, Washington, D.C. 20250 by November 24, 1980. All written comments made pursuant to this notice will be available for public inspection at the above office during regular business hours.

Joan S. Wallace,

Assistant Secretary for Administration.

November 3, 1980.

[FR Doc. 80-34741 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-01-M

V 45 / 218 NOV 7 1980 UMI

Performance Review Boards; Membership

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards.

DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Riley, Jr., Performance Appraisal Systems Unit, Civil Service Reform Act Implementation Group, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 (202–447–6905).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314 (c)(1) through (5) requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. These boards shall review and evaluate the initial appraisal of a senior executive's performance; the response, if any, by the senior executive; the review of the initial appraisal by the higher level executive; and recommend the final scale and adjective rating for the performance of the senior executives. These boards will recommend the position coefficient for each SES position and make recommendations concerning probation, retention, rewards, award of rank, position level changes, or removal of individual senior executives. In addition, the Secretary's Performance Review Board will monitor the recommendations made by the program Boards.

This Notice supersedes the Notice published on April 1, 1980, 45 FR 21323.

Dated: November 4, 1980.

Bob Bergland,

Secretary.

The names and membership of the Performance Review Boards are:

I. Secretary's

1. Jim Williams, Deputy Secretary, Chairperson
2. Dale E. Hathaway, Under Secretary, International Affairs and Commodity Programs
3. Alex P. Mercure, Assistant Secretary for Rural Development
4. Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services
5. P. R. Smith, Assistant Secretary for Marketing and Transportation Services
6. Ned D. Bayley, Acting Assistant Secretary for Natural Resources and Environment
7. Joan S. Wallace, Assistant Secretary for Administration
8. Thomas F. McBride, Inspector General
9. Howard W. Hjort, Director of Economics, Policy Analysis and Budget
10. Anson R. Bertrand, Director of Science and Education
11. James C. Webster, Assistant Secretary for Governmental and Public Affairs
12. James H. Starkey, Deputy Under Secretary for International Affairs
13. Sally H. Greenberg, Associate Director, Executive Personnel and Management Development Group, Office of Personnel Management
14. Daniel Marcus, General Counsel
15. Director of Personnel, Executive Secretary

II. Office of the Secretary and Administration

1. Jim Williams, Deputy Secretary, Chairperson
2. Joan S. Wallace, Assistant Secretary for Administration
3. James C. Webster, Assistant Secretary for Governmental and Public Affairs
4. John W. Fossum, Director of Personnel
5. Dean K. Crowther, Director, Office of Operations and Finance
6. James Frazier, Director, Office of Equal Opportunity
7. Daniel Marcus, General Counsel
8. Thomas F. McBride, Inspector General
9. OP Representative, Executive Secretary

III. Economics, Policy Analysis and Budget

1. Susan Sechler, Deputy Director of Economics, Policy Analysis and Budget, Chairperson
2. Kenneth R. Farrell, Administrator, Economics and Statistics Service
3. Stephen B. Dewhurst, Director, Office of Budget, Planning and Evulation
4. J. Dawson Ahalt, Chairperson, World Food and Agricultural Outlook and Situation Board
5. Jerome A. Miles, Deputy Chief, Administration, Forest Service
6. Dean K. Crowther, Director, Office of Operations and Finance
7. Charles A. Bucy, Deputy Director of Personnel
8. Margaret J. Gates, Deputy Inspector General
9. OP Representative, Executive Secretary

IV. Rural Development

1. Alex P. Mercure, Assistant Secretary for Rural Development, Chairperson
2. Gordon Cavanaugh, Administrator, Farmers Home Administration
3. Robert W. Feragen, Administrator, Rural Electrification Administration
4. James O. Lee, Jr., Associate Administrator, Animal and Plant Health Inspection Service
5. John S. Bottum, Assistant Administrator, Rural Development, Science and Education Administration
6. William T. Cherry, Executive Assistant to the Administrator, Agricultural Stabilization and Conservation Service
7. Richard L. Fowler, Associate General Counsel, Community Development and Natural Resources, Office of the General Counsel
8. Clare I. Harris, Deputy Administrator, Agriculture, Rural Development, Family and Consumer Services, Science and Education Administration
9. OP Representative, Executive Secretary

V. Food and Consumer Services

1. Sydney J. Butler, Deputy Assistant Secretary for Food and Consumer Services, Chairperson
2. Donald L. Houston, Administrator, Food Safety and Quality Service
3. Bob Greenstein, Administrator, Food and Nutrition Service
4. John G. Stovall, Deputy Assistant Director, Joint Planning and Evaluation, Science and Education Administration
5. Lawrence Wachs, Deputy Director for Program Review, Office of Budget, Planning and Evaluation
6. William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service
7. Pierre A. Chaloux, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service
8. David R. Galliart, Deputy Administrator, Program Operations, Federal Grain Inspection Service
9. OP Representative, Executive Secretary

VI. Marketing and Transportation Services

1. Jerry C. Hill, Deputy Assistant Secretary for Marketing and Transportation Services, Chairperson
2. Barbara L. Schlei, Administrator, Agricultural Marketing Service
3. Harry C. Mussman, Administrator, Animal and Plant Health Inspection Service
4. Leland E. Bartelt, Administrator, Federal Grain Inspection Service
5. Randall E. Torgerson, Acting Administrator, Agricultural Cooperative Service
6. Ronald F. Schrader, Director, Office of Transportation
7. J. B. Penn, Deputy Administrator for Economics, Economics and Statistics Service
8. Eddie F. Kimbrell, Deputy Administrator, Commodity Services, Food Safety and Quality Service
9. Luverne L. Gast, Deputy Administrator, Compliance, Food Safety And Quality Service
10. OP Representative, Executive Secretary

VII. International Affairs and Commodity Programs

1. James H. Starkey, Deputy Under Secretary for International Affairs, Chairperson.
2. James Michael Kelly, Associate General Counsel, Legislation, Litigation, Research and Operations, Office of the General Counsel.
3. Ray Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service.
4. Thomas R. Hughes, Administrator, Foreign Agricultural Service.
5. Everette Sharp, Acting Manager, Federal Crop Insurance Corporation.
6. Kelly M. Harrison, General Sales Manager, Foreign Agricultural Service.
7. Quentin M. West, Special Assistant for International Scientific and Technical Cooperation and Director, Office of International Cooperation and Development.
8. Thomas C. Nelson, Deputy Chief, National Forest System, Foreign Service.
9. OP Representative, Executive Secretary.

VIII. Science and Education.

1. Anson R. Bertrand, Director of Science and Education, Chairperson.

2. Keith Shea, Associate Deputy Chief for Research, Forest Service.
3. Thomas N. Shiflet, Director, Ecological Sciences, Soil Conservation Service.
4. Douglas R. Leisz, Associate Chief, Forest Service.
5. Melvin L. Cotner, Director, Natural Resources Economics division, Economics and Statistics Service.
6. David G. Unger, Associate Chief, Soil Conservation Service.
7. Robert E. Buckman, Deputy Chief, Research, Forest Service.
8. Ronello M. Davis, Special Assistant for International Scientific and Technical Cooperation, Office of International Cooperation and Development.
9. OP Representative, Executive Secretary.

IX. Natural Resources and Environment

1. Ned D. Bayley, Deputy Assistant Secretary for Natural Resources and Environment, Chairperson.
2. Weldon Barton, Director, Office of Renewable Resources, Farmers Home Administration.
3. R. Max peterson, Chief, Forest Service.
4. Barry R. Flamm, Director, Office of Environmental Quality.
5. Weldon B. Denny, Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.
6. Normal A. Berg, Chief, Soil Conservation Service.
7. Ralph J. McCracken, Associate Director, Science and Education.
8. Edward L. Hastey, Associate Director, Bureau of Land Management, Department of Interior.
9. OP Representative, Executive Secretary.

[FR Doc. 80-34858 Filed 11-6-80; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended October 31, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed, Docket No. and Description

10–27–80, 38900—Muse Air Corporation, Post Office Box 1685, Dallas, Texas 75221. Applications of Muse Air Corporation, pursuant to Section 401(b) of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers, property, and mail, as follows: Between the terminal point Atlanta, Georgia; the intermediate points: Austin, Texas, Brownsville, Texas, Chicago, Illinois, Cincinnati, Ohio, Cleveland, Ohio, Corpus Christi, Texas, Dallas-Ft. Worth, Texas, Detroit, Michigan, Harlingen, Texas, Houston, Texas, Indianapolis, Texas, Kansas City, Missouri, Little Rock, Arkansas, Louisville, Kentucky, McAllen, Texas, Memphis, Tennessee, Nashville, Tennessee, New Orleans, Louisiana, Oklahoma City, Oklahoma, Pittsburgh, Pennsylvania, St. Louis, Missouri, San Antonio, Texas, and the terminal point: Tulsa, Oklahoma. Conforming Applications and Answers are due November 24, 1980.

10–29–80, 31937—Eastern Provincial Airways, c/o John J. McLaughlin, Penleton & McLaughlin, 888 Seventeenth Street, NW., Suite 504, Washington, D.C. 20006. Application of Eastern Provincial Airways, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of its permit which authorizes "charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States" (Order 74–12–19). Applicant wishes to amend its permit so as to authorize the operation of Fifth Freedom charters:

1. Charter flights of persons and their accompanying baggage between a point or points in Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and any point or points in the United States, limited to charter flights which originate in a named European country.

2. Circle tour charter flights of persons and their accompanying baggage which originate and terminate at the same point or points in Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and serve a point or points in the United States and a point or points in any country other than a named European country and the United States.

Answers may be filed by November 28, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34863 Filed 11-6-80; 8:45 am]

BILLING CODE 6210-01-M

Air International Application; For Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–10–196 application of Air International under Subpart Q for a certificate of public convenience and necessity for 25 Erie, Pa. markets; Docket 38718.

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Air International, subject to a favorable determination of its fitness, to authorize it to provide service in 25 Erie, Pa. markets listed in its application. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than December 3, 1980, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 38718, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Laurie Schaffer, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5009.

SUPPLEMENTARY INFORMATION: Objections should be served upon Air International; all certificated carriers;

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the mayors of Philadelphia, Pa., Chicago, Ill., South Bend, Ind., Tampa, Fla., Denver, Colo., Atlanta, Ga., Baltimore, Md., Cleveland, Ohio, Detroit, Mich., Washington, D.C., Newark, N.J., Binghamton, N.Y., Johnson City, N.Y., Pittsburgh, Pa., Kansas City, Mo., Allentown, Pa., Bethlehem, Pa., Easton, Pa., Little Rock, Ark., Oklahoma City, Ok., Tulsa, Ok., Memphis, Tenn., Erie, Pa., Toledo, Ohio; the managers of the airports in Philadelphia, Pa., Atlanta, Ga., Baltimore, Md., Cleveland, Ohio, Detroit, Mich., Washington, D.C., Newark, N.J., Pittsburgh, Pa., Ft. Wayne, Ind., Kansas City, Mo., Allentown, Pa., Little Rock, Ark., Oklahoma City, Ok., Toledo, Ohio, Tulsa, Ok., Memphis, Tenn., Erie, Pa.; the managers of Chemung County Airport, Horseheads, N.Y., Akron-Canton Regional Airport, North Canton, Ohio, and the Capital City Airport, New Cumberland, Pa.; Toledo-Lucas County Port Authority; Colorado Department of Highways, Aviation Transportation Section; Georgia Department of Transportation, Bureau of Aeronautics, Illinois Division of Aeronautics; Indiana Aeronautics Commission; Maryland Department of Transportation; Michigan Aeronautics Commission; Florida Department of Transportation, Pennsylvania Department of Transportation; New Jersey Department of Transportation; Arkansas Division of Aeronautics; Oklahoma Aeronautics Commission; Tennessee Department of Transportation; and the Port Authority of New York and New Jersey.

The complete text of Order 80–10–196 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 80–10–196 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 3, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34882 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38666]

Air International Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 17, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Order 80–10–120, served October 23, 1980, defined the issues for this proceeding, and decided that requests for additional evidence should be filed no later than November 3, 1980. Matters to be discussed at the prehearing conference will include evidence requested, future procedural dates, and such other matters as will contribute to the orderly and prompt conduct of this proceeding.

Dated at Washington, D.C., November 3, 1980.

William A. Pope, II,

Administrative Law Judge.

[FR Doc. 80-34880 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38449]

Air Micronesia, Inc., and Continental Air Lines, Inc.; Complaint Against The Japan Civil Aeronautics Bureau and Japan Air Lines Co., Ltd., Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of October, 1980.

Complaint of Air Micronesia, Inc. and Continental Air Lines, Inc. against the Japan Civil Aeronautics Bureau Japan Air Lines Co., Ltd. under the Federal Aviation Act of 1958, as amended, and section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974, as amended.

On July 9, 1980, Air Micronesia, Inc., and Continental Air Lines, Inc. filed a complaint with the Board against the Japan Civil Aeronautics Bureau (JCAB) and Japan Air Lines Co., Ltd. (JAL). The complaint stated that the JCAB had imposed unjustifiable and unreasonable restrictions on the access of Air Micronesia to Japan, and had unjustly discriminated against Air Micronesia and in favor of its flag carrier JAL, and that the actions of the JCAB and JAL violated the Federal Aviation Act (Act) and the International Air Transportation Fair Competitive Practices Act of 1974 [IATFCPA].

The Board issued Order 80–7–144 on July 23, 1980, inviting interested persons to comment on the Air Micronesia complaint. We received comments on the complaint from JAL, the U.S. Department of Transportation, Northwest Airlines, Inc., Pan American World Airways, Inc., the Government of the Northern Mariana Islands, the Government of the Federated States of Micronesia, and the Palau Commission on Status and Transition. After careful consideration of the complaint, the comments and replies, and all other evidence of record, and after consulting with the Departments of State and Transportation, we issued Order 80–9–25 on September 5, 1980, in which we set forth our findings and conclusions on Air Micronesia's complaint. In that order we determined that Japan had improperly denied Air Micronesia's request for access to Osaka and its request for increased frequencies in the Saipan-Tokyo market. We further found that these denials, made over the objections of the United States, have had a substantial adverse impact on Air Micronesia and warranted remedial action under the Act and the IATFCPA, as amended. We nevertheless decided to defer the question of specific sanctions pending the outcome of informal civil aviation consultations scheduled for September 15, 1980, in order to give the United States and Japan the opportunity to resolve this problem through negotiations.

Representatives of the United States and Japan met in Tokyo in September 1980, to discuss the issues raised in the Air Micronesia complaint and other aviation issues. These negotiations led to the Memorandum of Consultations (MOC) of September 20, 1980 in which Japan agreed to promptly authorize Air Micronesia to provide an additional seven roundtrip flights weekly by B–727 aircraft between Tokyo and Saipan, and to approve an additional increase of four roundtrip Tokyo-Saipan B–727 flights weekly on October 1, 1981 or at a later date chosen by Air Micronesia. The MOC also describes the circumstances under which Japan will permit Air Micronesia to operate seven roundtrip flights weekly by B–727 aircraft between Saipan and Nagoya: Upon notification by the Government of Japan that Air Micronesia may operate Saipan-Nagoya service, the Government of the United States will promptly authorize a Japanese designated airline to commence two roundtrip scheduled cargo flights per week, between Tokyo and Chicago. The MOC further records an understanding that Air Micronesia may operate fewer than the maximum number of flights allowed. In addition, the MOC includes procedures for future additional increases in Guam/Saipan-Japan service, in which approval of additional increases by one country triggers approval of equal increases by the other country.

Following the signing of the MOC, Air Micronesia applied for additional slots at Narita Airport to serve Tokyo from Saipan. Air Micronesia applied for three additional slots weekly to be available December 1, 1980 and for four additional slots for January 1, 1981. Japan has granted these Air Micronesia applications. Air Micronesia has also filed the necessary schedule changes with the JCAB.

The signing of the MOC, and its subsequent implementation by Japan and the United States, have significantly changed the situation which provided the basis for our determination in Order 80–9–25. Apparently, the circumstances which gave rise to this proceeding have been resolved satisfactorily through negotiations. Japan has agreed to remedy Air Micronesia's problems by increasing the carrier's frequencies between Tokyo and Saipan and by providing, under specified conditions, for Air Micronesia's access to Nagoya. Therefore, we believe that no further action is warranted on our part and that the complaint should be dismissed. The U.S. Departments of State and Transportation concur in this decision.

In recent correspondence, Air Micronesia has expressed a concern that Japan might not abide by the terms of the MOC, thus injuring Air Micronesia's competitive position in the Japanese markets. However, we have no basis for assuming that Japan will not honor its commitments and grant Air Micronesia all of the authority that it is entitled to under the Agreement and the MOC. Furthermore, we have ample power to take remedial action in the event that Japan does not satisfy both the letter and the spirit of the MOC and the Agreement. We will therefore dismiss the complaint without prejudice to refiling should circumstances warrant.

Accordingly,

1. We dismiss without prejudice the complaint of Air Micronesia, Inc. and Continental Air Lines, Inc., against the Japan Civil Aeronautics Bureau and Japan Air Lines Co., Ltd.; and

2. We are serving this order upon Air Micronesia, Inc., Continental Air Lines, Inc., Japan Air Lines Co., Ltd., the Ambassador of Japan in Washington, D.C., the representative to the United States of the Commonwealth of the Northern Mariana Islands in Washington, D.C., the Micronesia Liaison Office of the Federated States of Micronesia in Washington, D.C., the President of the Marshall Islands, the Speaker of the Palau Legislature, the Governors of Guam, Kusai, Ponape, Truk, and Yap, and the Departments of the Interior, State and Transportation.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Smith who did not participate.

[FR Doc. 80-34889 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

Baltimore Airways, Inc.; Proceeding To Revoke All-Cargo Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–11–12. Order To Show Cause, Docket 31835.

SUMMARY: The Board is proposing to revoke the All-Cargo Air Service Certificate of Baltimore Airways, Inc. of Glen Burnie, Maryland. This action is being proposed because the carrier apparently no longer exists.

DATES: Objections: All interested persons having objections to the Board issuing an order revoking the All-Cargo Air Service Certificate of Baltimore Airways, Inc. shall file no later than December 5, 1980, a statement of objection together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 31835, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John McCamant, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5082.

The complete text of Order 80–11–12 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Person outside the metropolitan area may send a postcard request for Order 80–11–12 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 3, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-34881 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37554]

Establishment of the Standard Foreign Fare Level; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of November, 1980.

The International Air Transportation Competition Act (IATCA), Pub. L. 96–192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base [1] periodically by percentage changes in actual operating costs per available seat-mile (ASM). The SFFL thus computed becomes the benchmark for measuring the statutory no-suspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in section 1002(d) of the Federal Aviation Act of 1958 (the Act). Order 80–2–69 established the first interim SFFL and subsequent Order 80–8–178 established the currently effective two-month SFFL applicable through November 30, 1980.

In establishing the SFFL for the two-month period commencing December 1, 1980, we have projected non-fuel costs based on the year ended June 30, 1980, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation.

Our calculations measure inflation from October 1, 1979, to January 1, 1981. The midpoint of the December–January projection period, for the three ratemaking entities: Atlantic, Latin America, and Pacific. The four-month average of June–September fuel cost increases produces the following rates of escalation: .81 cents per gallon in the Atlantic; (.02) cents per gallon in Latin America; and 1.10 cents per gallon in the Pacific. The resulting projections are fuel prices of 111.67 cents in the Atlantic, 94.33 cents in Latin America, and 110.37 cents in the Pacific at January 1, 1981.

Consequently, based on our calculations, we find the projected cost adjustment factor to be 16.83 percent in the Atlantic, 22.09 percent in Latin America, and 14.90 percent in the Pacific, over the October 1, 1979, level (See Appendix A).[2] This results in negligible changes since the rate of escalation in the price of fuel went down during the latest four months.

We calculated both a two-month and a four-month SFFL effective October 1, 1980 in Order 80–8–178. The four-month period continues through January 31, 1981, and carriers whose filings utilized the higher four-month figures may not rely upon the increases permitted by this Order. The next four-month SFFL, along with the usual two-month projection, will be effective February 1, 1981.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. Effective December 1, 1980, fares may be increased by the following adjustment factors over the October 1, 1979, level:

[1] As defined in section 1002(j)(7) of the Federal Aviation Act of 1958.

[2] Appendix A is on file with the original at the Office of the Federal Register.

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Atlantic, 1.1683
Latin America, 1.2209
Pacific, 1.1490

2. We shall serve a copy of this order upon all U.S. certificated air carriers and all foreign air carriers; and

3. We shall publish this order in the **Federal Register**.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Smith who did not participate.

[FR Doc. 80-34802 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363, 38666, 38667]

Former Large Irregular Air Service Investigation (Phase III); Application of Imperial Enterprises Corp., d.b.a. Imperial International Airlines; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding is assigned to be held on December 11, 1980, at 10 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C. November 3, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-34801 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38819]

Trans World Airlines, Inc.; Civil Penalties for Violations of Part 250; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders. Future communications should be addressed to him.

Dated at Washington, D.C., October 31, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-34800 Filed 11-6-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Approval of Federal Information Processing Standard Optical Character Recognition (OCR) Inks

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. On July 22, 1980, notice was published in the **Federal Register** (45 FR 48935-48936) that a standard for Optical Character Recognition (OCR) Inks was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 85. The provisions of the standard are effective on the date of publication of this notice in the **Federal Register**.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The objective of this standard is to define the spectral band for read inks and to provide spectrophotometric curves for red and blue nonread inks that are used by optical readers in order to facilitate the interchange of information among compatible OCR equipment.

The approved FIPS contains two portions: (1) an announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. This FIPS represents the adoption of American National Standard X3.86M-1980, Optical Character Recognition (OCR) Inks.

By arrangement with the American National Standards Institute interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Thomas Bagg, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3723.

Dated: November 4, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-34754 Filed 11-6-80; 8:45 am]

BILLING CODE 3510-13-M

Federal Information Processing Standards Publication

Announcing the Standard for Optical Character Recognition (OCR) Inks

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Optical Character Recognition (OCR) Inks.

Category of Standard. Hardware Standard, Media.

Explanation. This standard defines the special band for read inks and provides spectrophotometric curves for red and blue nonread inks.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Techology).

Cross Index. American National Standard for Optical Character Recognition (OCR) Inks (ANSI X3.86M-1980).

Related Documents. a. Federal Information Processing Standards Publication (FIPS PUB) 32, Optical Character Recognition Character Sets.

b. Federal Information Processing Standards Publication (FIPS PUB) 40, Guideline for Optical Character Recognition Forms.

c. American National Standard for Character Set for Optical Character Recognition (OCR-A), ANSI BSR X3.17-1980.

d. American National Standard for Character Set for Optical Character Recognition (OCR-B), ANSI X3.49-1975.

Applicability. This standard is applicable to the acquisition and use of inks and preprinted forms by Federal agencies that will be read by optical character recognition techniques where the interchange of machine readable information between different systems may be required.

Users of existing materials are encouraged to employ this standard. Materials not in accordance with this standard should be evaluated periodically by Federal agencies because information to be read by optical character recognition techniques which has inadequate image quality causes misreading (errors).

Specifications. This standard adopts in whole the American National Standard for Optical Character Recognition (OCR) Inks (ANSI X3.86M-1980).

Qualifications. None.

Implementation Schedule. All applicable inks and preprinted forms ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below.

Exceptions to this standard are made in the following cases: a. For materials in stock or on order prior to the effective date of this standard.

b. Where procurement actions are in the solicitation phase (i.e., Requests for Proposals or Invitations for Bids have been issued) prior to the effective date of this standard.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment unless it has already obtained such approval.

Where To Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute). When ordering, refer to Federal Information Processing Standards Publication 85 (FIPS-PUB 85), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 80-34754 Filed 11-6-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Fishery Conservation and Management Act; Operations Handbook

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Commerce.

ACTION: Notice of availability of Fishery Conservation and Management Act (FCMA) Operations Handbook.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA/National Marine Fisheries Service (NMFS)) announces the availability of a handbook to serve as a central reference on implementing the FCMA. It includes information on: a. The legislative and legal background of the Act; b. guidelines for operating standards for the eight Fishery Management Councils; c. foreign fishing oversight responsibilities; d. fishery management plan (FMP) development; and e. the promulgation and enforcement of fishery management regulations.

This notice informs the general public of its opportunity to obtain the handbook and comment on it. All comments received will be considered by NMFS in annual revisions of this handbook.

ADDRESS: Send comments to: National Marine Fisheries Service, Office of the Executive Director, 3300 Whitehaven Street, NW., Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Mr. Howard L. Hochman, National Marine Fisheries Service, Office of the Executive Director, Budget Operations Staff, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 634-7444.

SUPPLEMENTARY INFORMATION: Copies of the handbook are available for review at the places listed below:

National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 634-7444

Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, (617) 281-3600

Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893-3141

Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, (206) 442-7575

Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548-2575

Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586-7221

New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massacuhsetts 01906

Mid Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901, (302) 674-2331

South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407, (803) 571-4366

Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, (809) 753-6910

Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, (813) 228-2815

Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221-6352

North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, Alaska 99510, (907) 274-4563

Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Streets, Honolulu, Hawaii 96813, (808) 523-1368

Copies of the handbook may be obtained by writing to the place indicated in the "Address" section of this notice.

Authority: 16 U.S.C. 1801 *et seq.*

Signed in Washington, D.C., this 4th day of November 1980.

Robert K. Crowell,

Deputy Executive Director National Marine Fisheries Service

[FR Doc. 80-34894 Filed 11-6-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council's and Pacific Fishery Management Council's Inter-Council Salmon Coordination Subcommittees; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

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SUMMARY: The North Pacific Fishery Management Council and the Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), have established Inter-Council Salmon Coordinating Subcommittees, which will meet to discuss the coordination and implementation of salmon management objectives with respect to fishery management plan development.

DATES: The meeting, which is open to the public, will convene on Monday, November 24, 1980, at approximately 1 p.m., and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Oregon Department of Fish and Wildlife, Main Floor—Commission Room, 524 SW Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
North Pacific Fishery Management Council, 333 W. Fourth Avenue, Suite 32, P.O. Box 3136 DT, Anchorage, Alaska 99813, Telephone: (907) 274–4562;

or

Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: November 4, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-34899 Filed 11-6-80; 8:45 am]
BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Public Telecommunications Facilities Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of closing date for applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces that applications for planning and construction grants for public telecommunications facilities are invited under the Public Telecommunications Facilities Program (PTFP) of NTIA.

AUTHORITY: The Public Telecommunications Financing Act of 1978 (Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. § 390, *et seq.*) [the Act].

For further information, contact: John Cameron, Director, Public Telecommunications Facilities Division, 608 13th Street, N.W., Washington, D.C. 20004. Telephone: (202) 724–3307.

The purpose of this program, as stated in Section 390 of the Act, is:

> * * * [T]o assist, through matching grants, in the planning and construction of, public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, or operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

Closing date for filing of applications: January 19, 1981.

Applications delivered by mail: Applications delivered by mail must be postmarked no later than midnight, January 19, 1981, and be addressed to: Public Telecommunications Facilities Division, NTIA/DOC, 608 13th Street, N.W., Washington, D.C. 20004.

As a proof of mailing, NTIA prefers a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service.

Note.—Not all U.S. Postal Service offices uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method. Applicants are encouraged to use registered or at least first class mail.

Applicants whose applications are postmarked after midnight, January 19, 1981, will be notified that their applications will not be considered in the current competition.

Applications delivered by hand: Applications may be delivered by hand to the above address between 8:00 a.m. and 4:30 p.m. (Eastern Standard time) daily, except Saturdays, Sundays and Federal holidays, through January 19, 1981.

Application forms and regulations: Approval for a revised application form has not been obtained as yet, and would not be forthcoming soon enough to be useful in the next round of grants. In order to minimize the prospect of delayed grants or insufficient time to prepare applications for the January 19 deadline, the PTFP will continue to use, the existing form (Standard Form No. 424) for all 1981 grant requests. That form is presently being reprinted and will be available shortly. All persons and organizations on our mailing list will receive a copy of the application form shortly after the printing is completed. All persons not on that list or lacking one or more of the three documents relating to the PTFP may obtain a copy of the application form, the *Public Telecommunications Financing Act of 1978* and/or the *PTFP rules and regulations* by contacting: John Cameron, Director, Public Telecommunications Facilities Division, NTIA/DOC, 608 13th Street, N.W., Washington, D.C. 20004. Telephone: (202) 724–3307. NTIA anticipates that grant awards will be announced by the end of June 1981.

Special Consideration: Applicants are advised that under Section 392(f) of the Public Telecommunications Financing Act of 1978, NTIA is required to give special consideration to applications that foster the role of minorities and women in public telecommunications. A policy statement on Section 392(f) was published in the **Federal Register** on June 7, 1979, 44 FR 33,032. A detailed description of how special consideration is awarded was published in the **Federal Register** on January 9, 1980 (45 FR 1988, 1991). Copies may be obtained by contacting the PTFP at the above address.

Priorities of the Public Telecommunications Facilities Program

Pursuant to Section 392(e) of the Act, the PTFP adopted certain priorities to govern the FY 1980 funding round. *See* 44 FR 1991 (January 9, 1980). These same priorities will continue to govern the consideration of grant applications filed on or before January 19, 1981, and are set out below.

Priority I—Provision of Telecommunications Facilities for First Service to a Georgraphic Area

Within this category, we establish two subcategories:

A. *Projects to establish telecommunications facilities which include local origination capacity.*—This category includes the activation of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

B. *Projects to extend existing telecommunications delivery systems.*—This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters. No local origination capacity is required.

Priority II—Activation or Expansion of Telecommunications Facilities for Significantly Different Additional Service

This priority includes the planning and construction of facilities to provide additional complementary program services for which a clear and substantial community need can be demonstrated. Eligible projects include service to identifiable ethnic or linguistic minority audiences; service to the blind or deaf; instructional service; electronic text; or significantly different alternative service to a general audience.

Priority III—Improvement of Existing Broadcast Station Facilities

Two subcategories are listed under this priority:

A. *Projects to provide first local origination capacity for existing broadcast stations.*—This category includes projects to bring basic local program service to repeater transmitters and other licensed broadcast facilities now bringing in distant signals. Origination equipment may be fixed or mobile, but must be locally based.

B. *Projects to upgrade existing origination or delivery capacity to current industry performance standards.*—This category includes conversions to color, stereo, etc.; improvements in signal quality; and significant improvements in equipment flexibility or reliability.

Priority IV—Augmentation of Existing Broadcast Station Facilities

Projects under this priority would equip an existing station beyond a basic capacity to broadcast programming from distant sources and to originate local programming.

A. *Projects to equip auxiliary studios at remote locations, or to provide mobile origination facilities.*—An applicant must demonstrate that significant expansion in public participation in programming will result. This category includes neighborhood production studios or facilities in other locations within a station's service area which would make participation in local programming accessible to additional segments of the population.

B. *Projects to augment production capacity beyond basic level in order to provide programming or related materials for other than local distribution.*—This category would provide equipment for the production of programming for regional or national use. Need beyond existing capacity must be justified.

Other Cases

In any fiscal year, NTIA possesses the discretionary authority to award grants to eligible applicants whose proposals do not clearly fall within any of the listed priorities but whose applications, by virtue of their unique or innovative nature, would further the overall objectives of the Act.

Deferred Applications: Applications accepted for filing in prior fiscal years but which were deferred and not funded may be reactivated for consideration in the FY 1981 funding round. A deferred application that retains substantially the same purpose may be reactivated by notifying NTIA, at the above address, in writing, that reactivation is requested. Notice must be given, either by mail or by hand by the January 19, 1981 closing date as outlined above.

The notice to reactivate must include updated pages 4 and 5 of the application, and an undated narrative statement. The applicant must also update: (1) the availability of operating funds and any necessary non-Federal match; (2) the list of current eligible project costs; (3) the inventory of public telecommunications facilities owned by the applicant; (4) the five-year plan of the applicant's projected facilities needs and associated costs; (5) the evaluation of alternate technologies available within the applicant's service area; and (6) information detailing the basis for any request for special considerations under Section 392(f) of the Act. *See* 15 CFR 2301.7 of the PTFP Rules.

It is not necessary that local newspaper notice be published in the area served or proposed to be served under 15 CFR 2301.11. *See also* 45 FR 35,970, 36,027 (May 28, 1980).

Channel 6/FM interference: On October 3, 1980, NTIA rejected a petition for rulemaking filed by the Association of Maximum Service Telecasters. The petition sought changes in PTFP rules designed to reduce noncommercial FM interference to television channel 6 service. (A copy of the letter rejecting the petition is printed in Appendix A. *See* letter from Gregg P. Skall, Chief Counsel, NTIA, to Paul J. Berman, Esq.)

In large part, NTIA rejected the petition on the grounds that under the PTFP Rules, no grant project requiring an authorization from the Federal Communications Commission will be accepted for filing unless the applicant has filed an application with the FCC and the Commission has accepted that application for a filing. Moreover, no PTFP grant will be made unless any necessary FCC authorization has been issued. The rules also require that the staff terminate any grant made by the agency, if the Commission revokes the license or denies the application on which the PTFP grant was based. *See,* 15 CFR 2301.8(f), 13(b), and .32(a)(3).

NTIA also noted that the FCC has the sole responsibility and authority to evaluate the technical quality of the construction proposed by the FM applicant. It is inappropriate, therefore, for NTIA to review such technical licensing considerations. *Cf. Northeastern Educational Television of Ohio, Inc.,* 47 R.R.2d 1207, 1209 (1980). Under 15 CFR 2301.13(b) and .32(a)(3) of the PTFP Rules, we defer to the FCC for these judgments. Thus, in the absence of an official FCC policy on the channel 6/FM interference problem, it would be improper for NTIA to refuse to award grants on the basis of NTIA views on the acceptable level of interference once the entity has received its FCC authorization.

NTIA is, as we said in footnote 5 of the October 3rd letter, sympathetic to the potential interference problem between channel 6 television and noncommerical FM stations. Therefore, we have urged the FCC to expedite action on this problem. *See* Response of NTIA to Request for Expedited Action, filed in Docket No. 20735 on August 6, 1980. Additionally, NTIA said in the October 3rd letter that "in situations where the FM and the channel 6 stations serve the same areas, we * * * expect as a matter of course that that two parties have discussed potential [interference] problems and solutions such as collocation * * *. [We] wish to emphasize here, however, that our goal is to foster dialogue and we will *not* require collocation." [Emphasis Original.]

Appendix A:

As we did with the January 9, 1980, document adopting the FY 1980 funding priorities, *supra,* we are publishing in Appendix A a number of legal memoranda, opinions and decisions that relate to PTFP. (The attachments to all of the correspondence that follows has been deleted. To obtain copies of any of the deleted materials, contact the PTFP at the address above).

(Catalog of Federal Domestic Assistance Number 11.550.)

Henry Geller,

Assistant Secretary for Communications and Information.

U.S. Department of Commerce
National Telecommunications and Information Administration,
Washington, D.C., May 30, 1980.

To: John Cameron.
From: Gregg Skall/s/.

V 45 / 218 NOV 7 80 UMI

Subject: Use of PTFP Granted Funds for Experimentation.

You have asked us to determine whether approximately $3,500 of any FY 1979 PTFP construction grant awarded to Southern Oregon State College, licensee of non-commercial FM radio station KSOR, may be used to pay for parts, and the salary of a station employee during the time he is employed to design a more efficient and reliable radio translator for use in the KSOR system. Having reviewed the Act and the PTFP regulations, I find that no portion of the PTFP grant may be used to pay the salary of any personnel employed by KSOR.*

The stated purpose of the KSOR application was to construct 18 translators that would make public radio programming available to presently unserved areas in California and Oregon—and it was for this purpose that a construction grant was awarded. However, in its letter of March 13, 1980, to Mary Dinota of the PTFP, KSOR stated, in part, that it desired to use $3,000 of its grant to pay a portion of the salary of its technical director, John Patton, for the four to six-month period during which he would devote approximately 25 percent of his time to the research and of development of a translator that meets KSOR's unique specifications.

KSOR is an operating public broadcasting station and, therefore, is an "existing public telecommunications entity" (PTE) under Section 397(l) of the Public Telecommunications Financing Act of 1978. (Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. §§ 390, *et seq.*). As such, KSOR is eligible for an expansion grant under Section 393(b)(2) of the Act and may, in part, use a portion of its PTFP grant to pay "preoperational expenses" associated with the expansion project prior to the activation of the expanded facilities. By definition, however, such preoperational expenses "shall not include any portion of the salaries of any personnel employed by an operating" PTE. Section 397(10) of the Act. *See also* Section 2301.35(b)(2) of the PTFP Rules. Therefore, Mr. Patton's salary is, by definition, an ineligible expense under both the Act and the PTFP Rules. In addition, the proposed use of the PTFP grant funds to conduct research to develop a more reliable and efficient translator is not consistent with the specific purpose for which the grant was made—*i.e.*, the construction of 18 translators to bring programming to presently unserved areas in California and Oregon.

Development of a more efficient and reliable translator is a worthwhile project. Perhaps KSOR could seek a grant from the Office of Telecommunications Applications. Prior to such a grant, however, it will be necessary to resolve the question of patent rights in any resulting improvement. In this regard, the Senate very recently passed and sent to the House, a bill on patent rights under *research* grants. We are obtaining a copy of that bill to see how it would affect PTFP grants in the event that it becomes law.

*Mary Dinota has advised us that the insufficiency of translators currently on the market was discovered by KSOR after its grant had been awarded.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., May 28, 1980.

To: John Cameron.
From: Gregg P. Skall.
Subject: Excess Grants.

You have asked whether the Public Telecommunications Facilities Program (PTFP) may allow grant recipients to retain excess grant awards and to purchase additional eligible equipment with those funds rather than requiring the reduction of the grant and the return of any excess funds as presently provided in Section 2301.22(d) of the PTFP rules. The purpose of allowing recipients to retain such funds would be to encourage them to economize by rigorous procurement and bulk purchases. All additional equipment purchased with these excess funds would then become part of the final grant and subject to the ten year federal interest. Having reviewed the Public Telecommunications Financing Act of 1978 (the Act),[1] the rules of the PTFP,[2] and the Office of Management and Budget (OMB) Circulars A–110 and A–102, I find that, although there is no explicit directive requiring the reduction of the amount of the grants, the Act and Circulars A–110 and A–102 implicitly demand that any excess awards be recovered from grant recipients. However, nothing in the Act, the rules, or the OMB Circulars prohibits the PTFP from altering its grants to include equipment not initially within the grants' specific terms.

As stated above, there is no specific statutory directive contained in the Act that requires recipients to return excess grant funds to the Federal Government. Nevertheless, the clear intention of the Act is to encourage efficiency and economy on the part of the grantees and the agency as a whole. Section 393(c) of the Act provides in part that: "In choosing among applicants for grants, the Secretary shall compare the advantages of alternate technologies on the basis of costs and benefits." While this language specifically relates to the use of alternate technologies, the underlying theory is the promotion of cost-efficient technologies—*i.e.*, technologies that would serve the most people for the least cost to the program. Combining this language with the requirement of Section 392(a)(6) that each applicant give adequate assurance that it will "make the most efficient use of the grant," it is clear that Congress intended for the Secretary to make efficient use of the funds for this program.

Toward this end, Section 2301.22(d) of the PTFP rules requires that: "If the actual costs incurred in completing the project are less than the estimated costs which constitute the basis for the Administrator's determination of the Federal grant award, the amount of the final grant shall be the amount of the actual total project cost . . . ."[3] In addition, Attachment K of Circular A–110 provides that: "The recipient shall immediately refund any balance of unobligated (unencumbered) cash that the Federal sponsoring agency has advanced or paid and that is not authorized to be retained by the recipient for use in other grants or other agreements."[3] Thus, while we could delete or amend Section 2301.22(d) of the rules, Circular A–110 would still require recipients to return unobligated funds, unless the agency has authorized the grantee to retain them for use in "other grants or agreements". (By "other grants or agreements", the circulars refer to concurrently existing grants or cooperative agreements between the grantor agency and the grantee.) For example, if the PTFP makes a planning grant to an organization that later applies for and receives a construction grant before the planning grant is closed out, the PTFP may authorize the grantee to retain any funds that the PTFP has already paid to the grantee for use in the construction grant. In that situation the funds would be advance payments on the subsequent (construction) grant and would redcuce the initial (planning) grant to the amount of the actual costs.[4]

The PTFP may still accomplish its desired goal of allowing recipients to use excess grant funds however, by altering its grants to include any additional equipment prior to closing out the grants. In making any revisions to a grant, however, it is necessary for the grantees and the agency to follow the provisions of Attachment J of Circular A–110 and Attachment K of Circular A–102. Copies of those attachments are enclosed and provide in part that certain types of revisions require advanced approval from the federal agency while other types of revisions do not. Additionally, they provide that the Federal Agency must require its grantees to "promptly notify [the agency] whenever the amount of Federally authorized funds is expected to exceed the needs of the recipient by more than $5,000 or five percent of the Federal award, whichever is greater."[5]

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., June 10, 1980.

To: John Cameron, Director.
From: Gregg Skall Chief Counsel.
Subject: Eligibility of Nonprofit Corporations for Grants Under the PTFP.

We have now completed eligibility determinations for two rounds of applications, the issuance of several opinion letters and the first decision of the Grant Appeals Board of the Public Telecommunications Facilities Program (PTFP). I feel it would be helpful to you and your staff for the Office of Chief Counsel to outline eligibility standards for nonprofit corporations [1] for grants under the Public

[1] Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. § 390 (1978).

[2] 15 C.F.R. Part 2301 (1975).

[3] For the purposes of the PTFP, the amount of the final grant is the amount of the actual total costs less any required matching funds.

[3] Attachment K at ¶3. *See also* Attachment L to OMB Circular A–102.

[4] I have confirmed this opinion with George Northway of the Office of Management and Budget.

[5] OMB Circular A–110, Attachment J at ¶9.

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Telecommunications Financing Act of 1978, 47 U.S.C. §§ 390 *et seq.* (Act). Simply stated, it is our view that nonprofit corporations (*i.e.*, entities that are organized primarily for educational and cultural purposes), but which fail to qualify under the Act as "public" or "noncommercial" telecommunications entities, are only eligible for PTFP grants, that would provide "new telecommunications facilities to extend service to areas currently not receiving public telecommunications services." Section 393(b)(1) of the Act.

Section 392(a)(1) of the Act establishes five categories of entities that are eligible for grants.[2] Under Section 393(b) of the Act, however, the Secretary is directed to base determinations of whether to fund particular applications on criteria designed to achieve—

(1) the provision of new telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

(2) the expansion of the service areas of *existing public telecommunications entities;*

(3) the development of public telecommunications facilities owned by, operated by, and available to minorities and women; and

(4) the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

(Emphasis added)

The provisions of subsections (1), (2) and (4) of Section 393(b) have been interpreted by my office and the PTFP staff as establishing priorities *and restrictions* on the eligibility of various types of entities for grants under the PTFP. For the purposes of this memorandum, we will examine the effect of only subsections (1) and (2) of Section 393(b). The first priority of the Act, found in Section 393(b)(1), is the provision of public telecommunications services to areas that currently do not receive these services. Reflecting this goal is the fact that the broadesst scope of applicants are eligible to apply for a grant to extend service through activation of a new facility. Thus, any of the organizations described in Section 392(a)(1) may apply for and receive funds to "extend service to" areas currently not receiving public telecommunications services. For such a grant, a nonprofit entity must be "primarily organized for educational or cultural purposes."[3] This a broader scope than that required for a non-commercial telecommunications entity which must be created "primarily for the purpose of disseminating public telecommunications services."[4] To determine whether a non-profit, non-governmental entity is organized "primarily for educational or cultural purposes," its articles or incorporation (or other organic charter) must be examined. Ordinarily, the primary purpose for which an entity is organized will be readily apparent in its articles. We have interpreted "primary purpose" liberally. Therefore, as long as *one* of the entity's enumerated purposes is of an *educational* or *cultural nature,* it should be considered a nonprofit entity under Section 392(a)(1)(D) and eligible for grants to "extend" public telecommunications services to presently unserved areas.[5]

The second priority, established in Section 393(b)(2), is "the expansion of the service areas of existing public telecommunications entities." To achieve this goal, monies can only be granted to "existing public telecommunications entities." Consequently, for an existing entity to obtain funds to expand its service area, it must not only be "nonprofit," as defined in Section 397(8), but it must also be a "public telecommunications entity," as defined in Section 397(12). For all entities other than public broadcast stations, this means that they must be "primarily organized for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station . . . ."[6] A nonprofit foundation that does not include as a primary purpose in its articles or charter the dissemination of noncommercial educational and cultural programs to the public may not, therefore, be awarded a grant to "expand the service area of an existing public telecommunications entity."

To some extent, the application of this distinction between nonprofit foundations and noncommercial or public telecommunications entities may lead to anomalous results—for instance, a nonprofit foundation may obtain a grant to establish a first service in an area, but in later years it would be ineligible to obtain a grant to expand its service area. It may be that Congress did not consider the possible inconsistencies arising from this language. Moreover, since they actually provide public telecommunications services, we could recognize nonprofit organizations that disseminate programming as public telecommunication entities as a matter of fact. In any event, the PTFP can easily resolve any anomalies by requesting the nonprofit organization to amend its articles or charter to include the dissemination of noncommercial educational and cultural programs as one of its primary purposes. Such an amendment would merely reflect that with the activation of its first service facility, it has, in fact, become a public telecommunications entity. Nevertheless, it probably would be advisable for NTIA to propose a clarifying amendment to Section 393(b)(2) when we submit reauthorizing legislation next year.

Once an organization has met the test of eligibility under Section 393(b) of the Act, the applicant must also assure that it is authorized to engage in the proposed activity—*i.e.*, that is has the organic authority "to plan, construct and operate the public telecommunications facility for which funds are requested * * * ." Section 2301.6(a) of the PTFP Rules. As indicated earlier, problems with the scope of an organization's authority will generally arise only in the context of a nonprofit foundation, corporation, or association that does not qualify as a noncommercial or public telecommunications entity. We suggest that in reviewing organizations' articles of incorporation, the staff should look for language in the purposes section that states that: "The [corporation, foundation, association, etc.] is authorized to operate, a public telecommunications [*e.g.*, cable, SCA, radio or television broadcasting or other] facility." If this or a similar statement is not contained in the articles, the organization likely would be exceeding its authority in applying for a PTFP grant.

As indicated earlier, an organization's initial failure to qualify under Section 393(b)(2) as a public or noncommercial telecommunications entity, or lack of authority to engage in the functions for which a grant is sought can be easily remedied by an amendment which adds the necessary language. Please contact either Robert Hunter or Ken Salomon of my office if you have any questions.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., June 30, 1980.

RE: PTFP File No. 1138–T, American Indian Satellite Project.

Arnold P. Lutzker, Esquire,
Dow, Lohnes & Albertson,
1225 Connecticut Avenue., N.W.,
Washington, D.C.

Dear Mr. Lutzker: The Wiconi Project of the South Dakota United Indian Association (Wiconi), through you, has petitioned the National Telecommunications and Information Administration (NTIA) for extraordinary relief. Wiconi requests that it be substitued as the sponsoring organization for a FY 1980 grant application that, until March 13, 1980, was pending before the Public Telecommunications Facilities Program (PTFP). That application, submitted by First American's Commission for Telecommunications (FACT), sought funds for planning the American Indian Satellite Project (Project). We have considered your petition and supporting material, together with FACT's opposition and other information on the record, and have concluded that the petition must be denied.

By way of brief background, on January 9, 1980, FACT reactivated for the FY 1980 funding round, its deferred FY 1979 PTFP planning grant application. However, in a March 13, 1980, letter to the PTFP, Lee Piper, Chairperson of FACT's board of directors, asked that the application by withdrawn from consideration "for this funding year"

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telecommunications entity—which disseminates programming by means other than a primary TV or radio station. 47 U.S.C. § 397(7).

[2] The eligible categories are:

(A) a public broadcast station;

(B) a noncommercial telecommunications entity;

(C) a system of public telecommunications entities;

(D) a nonprofit foundation, corporation, institution or association organized primarily for educational or cultural purposes; or

(E) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State.

Each of these categories is defined in 47 U.S.C. §§ 397(6), (7), (17), (8) and (16), respectively.

[3] *See* Section 392(a)(1)(D). The entity must, nevertheless, be authorized by its articles of incorporation to carry out the functions it desires to accomplish with PTFP funds.

[4] *See* Section 397(7) of the Act.

[5] *See* Office of Chief Counsel Opinion Letter to Molly Richardson, dated December 31, 1979.

[6] Section 397(7)(b) of the Act.

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because the board felt that "the proposal as submitted, is inadequate. . . . It will be better to regroup and do a more thorough job next time around." (In our view, FACT was asking that consideration of its application be *deferred* for one year. Section 2301.7 (a) and (b) of the PTFP Rules—FACT's application had been accepted for filing during the FY 1979 funding cycle. 44 FR 46,712, 46,720 and (published August 8, 1979). The language of the March 13th letter clearly shows that FACT is not withdrawing its interest in proceeding with the Project. Indeed, FACT explicitly states that it will amend its application and resubmit it next year).

In light of FACT's letter and the importance of the Project to the American Indian people, Wiconi, in a March 21, 1980 letter, asked to be substituted as the Project's sponsoring organization so that the application could remain in contention for a grant this year.

Based on the two letters, the Office of Chief Counsel tentatively concluded that NTIA could not grant the substitution in the absence of either FACT's endorsement or a showing by Wiconi that FACT was acting for another organization or agency which had the authority to substitute another party in its stead for the purpose of applying for a grant.[1] This position was made clear over a period of several days to Wiconi leaders, representatives, and spokesmen. As a result, Wiconi filed a petition for extraordinary relief on April 18, 1980. NTIA granted the petition to the extent that processing of the application could continue pending resolution of sponsorship. The burdens of initially presenting us with facts in support of its agency theory and of proof were placed on Wiconi. 45 Fed. Reg., *Supra*, n.1, at 36,032.

Wiconi has alleged two bases on which NTIA can grant the substitution request: (1) FACT is the agent of 100 Indian leaders; and (2) the government's "trust responsibility" to Indians. To support the agency theory, Wiconi argues that the Project was conceived by Jerry Chris Elliot, who presented the idea to the leaders of 40 Indian nations, tribes and organizations. These leaders, Wiconi continues, created FACT "solely for the purpose of applying to NTIA . . ." for a planning grant, that this is FACT's only purpose and that FACT's board of directors "report to a constituency which consists of leaders of the now 100 nations and tribes concerned with the Project." Wiconi's April 25, 1980 Statement in Support of the Petition for Extraordinary Relief at 2–3 (Statement in Support). Wiconi cites Section 274 of Williston on Contracts (Third Edition) for the proposition that an agency relationship can be created—"if the facts fairly disclose" one is acting for or representing another. And, it is argued that because of the manner in which FACT was created; the limitations of its responsibilities to merely apply for a PTFP grant; that Barbara Gilbert actually prepared the application for FACT's board, but was not affiliated with FACT; and the FACT's board reports to the Indian leaders shows that the leaders are the principal and FACT their agent. From this, Wiconi concludes that the leaders substituted it as the sponsoring organization after FACT deferred the application so that the Project would continue to be considered for a grant this year.

In phone conversations NTIA's Deputy Chief Counsel starting on April 17th and in a May 7, 1980 telegram, FACT representatives Lee Piper and Bernie Whitebear opposed the substitution request [2] as well as the possibility of filing jointly with Wiconi this year.[3]

As you know, we gave Wiconi the burden of presenting evidence to support its agency theory. After reviewing Wiconi's material, we conclude that they have not met this burden. Wiconi has given us unsupported and unverified allegations rather than providing us with facts—names, dates, resolutions, etc.,—and supporting affidavits from those involved. For example, throughout the April 25, 1980 Statement in Support, Wiconi makes the following claims:

FACT was created by the leaders of 100 Indian nations and tribes for the purpose of applying for PTFP funds for the Project.

FACT's three original directors were not fully familiar with the scope of the Project or the field of telecommunications.

FACT's board of directors reports to the leaders of 100 Indian tribes and nations, and without the continuing support of the leaders, FACT would not be able to implement the Project

FACT staff work has been performed by Ms. Barbara Gilbert and FACT has not sought funds from any source other than PTFP.

FACT's PTFP application was prepared by Barbara Gilbert who was acting on behalf of Indian organizations. This work stemmed from Ms. Gilbert's relationship with the leaders of the 100 nations and tribes.

After FACT withdrew, the Indian leaders substituted Wiconi for FACT so that the application could continue to be considered and that action, combined with FACT's withdrawal, terminated the agency relationship between FACT and the Indian people.

Several of these factors would be relevant to our decision to grant the substitution if they had been proven. Unfortunately, Wiconi had failed to provide us with names, dates, or documents to support its allegations. Neither the Indian leaders nor their organizations are identified; no date is given for the meetings at which FACT was selected, and subsequently dismissed, as agent and Wiconi substituted; no copies of résolutions or minutes of meetings were provided; and no written statements from Indian leaders, sworn or unsworn, in support of Wiconi's claims were given to NTIA. The only verification is an affidavit from Barbara Gilbert, who is not an Indian leader. She only states that the facts set out in Wiconi's Statement in Support are true to the best of her knowledge and belief.

In many respects, FACT's FY 1979 and 1980 applications appear to be substantially alike, using the same basic technology to achieve the same goals. Contrary to Wiconi's assertions of the lack of knowledge or familiarity with the Project on the part of FACT's directors, FACT's FY 1979 application was signed by Lawrence Tekala, a FACT director, and he is listed as the contact person for the application. The FY 1979 application does not indicate that Barbara Gilbert was the preparer. (Barbara Gilbert is listed as the project director and contact person on FACT's FY 1980 application.) And, nowhere in that application, or for that matter, in the FY 1980 application, does it indicate that FACT's only purpose is to apply for a PTFP grant or that FACT's board is to report to the Indian leaders. The applications state that the Project was conceived and FACT was formed on April 20, 1979, by several Indian individuals and organizations. FY 1979 application, 150–P, Program Narrative at 2; FY 1980 application, 1138–T, Program Narrative at 8. The Wiconi application's Program Narrative is essentially identical and the statement of the background of the Project does *not* say that FACT was formed by 40 to 100 Indian leaders. At most, FACT's application states that the organization was "created to direct and pursue the development of a National Telecommunications Network controlled by Indian and Native People." FY 1979 application, 150–P, Program Narrative at 5. This is hardly an indication that FACT is a surrogate of the Indian leaders and not an idependent legal entity.

In short, Wiconi's supporting materials are insufficient, in light of FACT's opposition and the statements in its applications, to establish, by even a preponderence, the existence of the agency relationship and NTIA's authority to ratify the removal FACT from its timely filed application.[4]

[1] Early conversations with Wiconi spokespersons indicated that the March 21st request was for waiver of the January 9, 1980, application closing date so that Wiconi could submit *its own* application for a grant. PTFP has never waived the closing date and we refused to do so in this case. 45 Fed. Reg. 35670, 36032 (May 28, 1980); and note 3, *infra*. We have consistently stated that waiver of a closing date would only be considered under the most compelling circumstances. A sufficient demonstration has not been made to distinguish this situation so as to merit such a waiver.

[2] Wiconi asks that we reject FACT's May 7th opposition because it was late and no excuse was offered for the late filing. (We had requested that FACT comment on the Wiconi's pleadings by May 6, 1980. 45 Fed. Reg., *supra* at 36,032). We will not reject the opposition. Wiconi has neither claimed nor shown that any harm or prejudice resulted from the one day delay. Moreover, Wiconi overlooks that FACT had clearly stated its opposition to the substitution in several phone coversations with NTIA:s Deputy Chief Counsel, and that this fact was promptly relayed to Wiconi representatives, including Barbara Gilbert and yourself, in phone conversations with the Deputy Chief Counsel, starting on April 17.

[3] In ther May 7th telegram, FACT also asked that its application be reactivated for this year, and that it be given until May 19th to submit amendments that earlier had been requested by the PTFP. Except in extraordinary circumstances, the time for filing amendments to applications, Section 3201.5(b) of the PTFP Rules, is strictly adhered to both for the administrative convenience of the PTFP and, more importantly, for fairness to applicants who comply with our filing deadlines. FACT offered no justification for this request and, accordingly, we reject the effort to reactivate the application and to waive, by nearly one month, the time for filing amendments.

[4] We also note that Wiconi was advised repeatedly, and as early as April 16th, that it was

Footnotes continued on next page

Accordingly, we conclude that the facts provided by Wiconi do not "fairly disclose" that an agency relationship ever existed between FACT and the Indian leaders. See Williston, *supra*, page2.

Independent of the agency theory, Wiconi argues that NTIA, and all Federal agencies, are "legally bound to act in the best interests of the American Indian people" because of the "unique legal responsibilities" the Federal government owes to the Indian peope; *i.e.*, the trust relationship. Statement in Support at 6, citing *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831) and *Federal/Indian Relationship* from *Old Problems—Present Issues: Nine Essays on American Indian Law* (Inst. for Development of Indian Law). Specifically, Wiconi argues that FACT's failure to amend its application in response to a PTFP request (and its "withdrawal" of the application) jeopardizes the Project's chances for funding. Therefore, NTIA, acting in the best interests of the American Indian people, should allow Wiconi to prosecute the application in place of FACT. In addition, Wiconi representatives have stated to us that the coalition supporting the Project is fragile and that failure to continue the application this year dramatically reduces the chances of it being refiled next year.

Wiconi has failed to show that the generalized theory of trust responsibility applies specifically to telecommunications and the Interior Department has advised us that it does not. NTIA recognizes the potential merit of such a satellite project and the benefits that it might bring to the Indian people. But, even if we were able to concede that the trust responsibility does apply, we would still be unable to conclude, based on Wiconi's generalized and undocumented arguments, that substituting Wiconi for FACT would be in the best interests of those people. Aside from an allegation, there is no indication that the one year deferral of the application will preclude the fulfillment of the Project. Indeed, this is the second year that FACT has submitted an application for the Project. It has not withdrawn from the Project but merely deferred its application in order to, in FACT's words, "regroup and do a more thorough job" in the FY 1981 funding round. Letter of March 13, 1980, from Lee Piper to the PTFP. Wiconi has not challenged the truth of that statement beyond saying that it did not believe FACT would have the continued support of the Indian leaders. Absent affidavits from a number of leaders and the existence of an agency relationship, we cannot conclude that the best interests of the Indian people would be served by our terminating FACT's interest in its application and substituting Wiconi.

NTIA has been impressed by the desire of both FACT and Wiconi to plan and construct the Project. We also recognize the potential benefits to the Indian people of such a project. We deeply regret the division between two important Indian organizations and sincerely hope that representatives of the American Indian community will be able to file for the next round of facilities grants in January 1981.

———Sincerely,

John Cameron,

Director, Public Telecommunication Facilities Division.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., August 8, 1980.

To: John Cameron.
From: Gregg Skall.
Subject: Overhead expenses and capital expenditures of PTFP grantees.

You have asked whether the Public Telecommunications Facilities Program (PTFP) may distinguish between planning grants and construction grants for the purpose of refusing to allow "overhead" expenses as eligible costs in situations involving construction grants. In addition, you question whether the program may allow the use of its funds for the purchase of office equipment in the case of planning grants, and if so, what disposition should be made of such equipment when the grant is completed. Both of these questions relate to the management of the grant-in-aid program by the agency and are controlled by the Office of Management and Budget (OMB) Circulars A–21 and A–122, and Federal Management Circular (FMC) 74–4. (Copies of these circulars are attached). Having reviewed these materials, I find that the PTFP may not distinguish between planning grants and construction grants for the purpose of "overhead" expenses. Many of these expenses, however, may be disallowed at the agency's discretion regardless of the type of grant involved. As for the purchase of office equipment for use in the execution of PTFP planning grants, both OMB Circulars A–21 and A–122, and FMC 74–4 treat the purchase of equipment as a capital expenditure that may be disallowed by the agency.[1] However, Circulars A–21 and A–122 define equipment as property having a per unit acquisition cost of $500 or more.

The circulars cited above divide recipients of Federal grants into three categories: State and local governments (FMC 74–4), educational institutions (Circular A–21), and nonprofit organizations (Circular A–122). Since Circulars A–21, A–122 and FMC 74–4 all relate to the cost principles applicable to grants, and since they overlap to a great extent, I will limit discussion of FMC 74–4 and Circular A–122 to noting any substantial differences between them and Circular A–21. The purpose of these circulars, as stated in Circular A–21 is to "[establish] the principles for determining costs applicable to grants, contracts, and other agreements. . . . Agencies are not expected to place additional restrictions on individual items of cost." Thus, agency compliance with the cost accounting procedures and principles of Circular A–21 is necessary, and agency discretion in matters of cost allowability is limited to situations in which such discretion is specifically granted.

The PTFP has treated "overhead expenses" for planning grants as eligible costs. The question has been raised whether the PTFP may treat "overhead expenses" for construction grants as ineligible costs. The general provisions relating to the allowability of selected items of cost are found in ¶J of the Attachment to Circular A–21.[2] Since none of the circulars make any distinction in allowable costs based on whether the grant is for planning or for construction, the cost accounting principles of ¶J must be applied to both planning and construction grants in the same manner, unless ¶J gives the PTFP the discretion to allow or disallow a certain type of cost. Thus, as a general rule, whatever costs are allowable under ¶J for planning grants are also allowable under ¶J for construction grants.

Paragraph J lists a multitude of allowable and unallowable costs and does not use the term "overhead expenses." It is, therefore, necessary to examine each item of cost to determine whether it is allowable. Rather than presenting each item of cost here and trying to determine whether that item could be labeled "overhead," I have attached a copy of each circular. In doing so, you should refer to an accepted definition of that term: "Those general charges or expenses, collectively, in any business which cannot be charged up as belonging exclusively to any particular part of the work or product, as rent, taxes, insurance, lighting, heating, accounting, and other office expenses. . . ."[3] If you have any question, as to whether a specific "overhead" cost is allowable or disallowable, please let me know.[4]

The purchase of office equipment by a recipient of a planning grant is by and large discretionary with the agency. The circulars do not make any distinction between planning grants and construction grants. But ¶J § 13 of the Attachment to Circular A–21 states that "[c]apital expenditures for general purpose equipment, . . . are allowable as direct charges, except where approved in advance by the sponsoring agency." "Equipment," for the purposes of ¶J § 13, means "nonexpendable tangible personal property having a useful life of more than two years, and an acquisition cost of $500 or more per unit. . . ." "General purpose equipment" is defined to mean "equipment, the use of which is not limited to research, medical, scientific, or other technical activities"—a definition that would seem to encompass office equipment. Thus, for educational institutions and nonprofit organizations the cost of office equipment with a per unit price of less than $500 is allowable without the advance approval of the agency. For State

Footnotes continued from last page
ineligible under the PTFP Rules because it articles of incorporation did not authorize it to provide public telecommunications services nor state that it was, at least in part, organized for cultural or educational pruposes. *See* 47 U.S.C. Sections 392(a)(1), 397(7)(B) and (11), as amended by the Public Telecommunications Financing Act of 1978; and Section 2301.4(a)(4) of the PTFP Rules. This fact, however, is not controlling of our decision here.

[1] Circular A–21 also states: "All Federal agencies that sponsor research and development, training, and other work . . . shall apply the provisions of this Circular in determining the costs incurred for such work."

[2] *See also* Attachment B to FMC 74–4, and Attachment B to Circular A–122.

[3] Webster's 2nd Unabridged Dictionary.

[4] To aid applicants and grantees it would be possible for the PTFP to establish a list of eligible and ineligible costs, but such a list would have to conform to the circulars.

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and local governments, however, the requirements are somewhat different. FMC 74–4 provides that the cost of equipment is allowable "when such procurement is specifically approved by the Federal grantor agency." [5] "Equipment" is not defined and no dollar amount is established for the requirement of prior agency approval of a purchase of equipment. Thus, for State and local governments prior approval to spend PTFP funds for office equipment must be obtained, even if the cost of the equipment is less than $500.

Assuming that the PTFP approves the purchase of office equipment for use in connection with a planning grant—or in the case of an educational institution or a nonprofit organization, that the institution purchases office equipment without the approval of the agency—a question arises as to what happens to the property at the end of the project. The Public Telecommunications Financing Act of 1978 (Act),[6] requires that the PTFP maintain a ten-year interest in the facilities of a public telecommunications entity constructed with a PTFP grant. However, that interest only attaches to funds "for [the] construction [not for the planning] of public telecommunications facilities" and begins to run only after the completion of the project.[7] Neither the Act nor Circular A–21 has any specific provision regarding the treatment of office equipment purchased in connection with grants.[8]

Since Circular A–21 and FMC 74–4 generally apply only to the agency's determination of allowable costs, it is necessary to examine Circulars A–102 and A–110 to see whether these circulars provide any guidance. Attachment N to Circulars A–102 and A–110 states, that title to property[9] acquired with Federal funds is conditionally vested in the grantee. When a grantee ceases to need the property in connection with Federally sponsored activities, it may dispose the property and retain any proceeds, unless the property had a per unit acquisition cost of $1,000 or more. If the per unit acquisition cost was $1,000 or more, the grantee may retain the property for its use provided that it reimburses the Federal government for its share of the current fair market value of the property. If the grantee cannot use the item, the agency may (at the request of the grantee) either sell the property or take the property for use of the Federal government. In either case, the agency must reimburse the grantee for the grantee's share of the property's current fair market value.

[5] Attachment B to FMC 74–4, ¶C § 3. *See also* Attachment E to Circular A–122. ¶13 § b(1).

[6] Pub. L. No. 95–567, 92 Stat 2405, 47 U.S.C. § 390, *et seq.* (1978).

[7] 47 U.S.C. § 392(g).

[8] FMC 74–4, however, provides that:

When assets acquired with Federal grant funds are (a) sold, (b) no longer available for use in a Federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the assets will be refunded in the same proportion as the Federal participation in its costs.

[9] For the purposes of Circulars A–102 and A–110, the term "property" refers to nonexpendable personal property as defined in § 2(c) of Attachment N—*i.e.*, "tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit."

Attachments:
Circular A–21
Circular A–122
FMC 74–4

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., September 9, 1980.

Mr. William H. Kroll,
Indiana University Radio and Television Services, Radio and Television Building, Bloomington, Ind.

Dear Mr. Kroll: Dr. John Cameron, Director of the Public Telecommunications Facilities Program (PTFP), has asked me to respond to your letter of June 27, 1980, in which you inquired whether WTIU–TV could obtain remuneration from commercial television stations for the use of programs produced by WTIU–TV with PTFP funded equipment.

The Public Telecommunications Financing Act of 1978 [1] provides that each applicant for a PTFP grant must give assurances that "[the] public telecommunications facilities will be used only for the provision of public telecommunications services." 47 U.S.C. § 392(a)(4). We have interpreted this provision to be a condition of eligibility, such that if a grantee would cease to be eligible the grant would have to be terminated. *See* 15 C.F.R. § 2301.32 (1979). This does not mean, however, that a PTFP grantee is totally prohibited from allowing a commercial organization to use a program that it had orginally produced for distribution through public telecommunications facilities.

Since one of the PTFP's objectives is to extend delivery of Public Telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, we encourage the widest distribution of the noncommercial educational and cultural programs produced with PTFP-funded equipment. Therefore, in our *Notice of Proposed Rulemaking*, 44 FR 13,262, 13,267 (1979), we expressed our belief that the critical factor for us to consider in determining whether a use conforms with § 392(a)(4) is whether the program "was produced and will be used *primarily* by the grantee or other noncommercial entity." (Emphasis added.) Thus, a grantee may allow a commercial organization to use programs produced with PTFP-funded equipment and may charge the commercial organizations for that use, provided that it first "make a substantial effort to make the program available to other noncommercial entities and cultural and educational groups." *PTFP Report and Order*, 44 FR 30,898, 30,911 (1979). Once those avenues of distribution have been explored, the grantee may distribute the program to commercial organizations.

Since it is unclear from your letter exactly what actions WTIU-TV intends to undertake to make the program available to other noncommercial entities, I cannot issue binding opinion as to whether those efforts are "substantial" enough to permit WTIU-TV to sell the programs to commercial organizations. If you would provide us in greater detail with the information as to the type of distribution that WTIU-TV intends and how WTIU-TV will go about making the program available to other noncommercial entities. I would be willing to provide the opinion you request. If you have further questions prior to preparation of that material please feel free to call me or Kenneth Salomon, Deputy Chief Counsel at (202) 377-1866.

Sincerely,
Gregg P. Skall, *Chief Counsel.*

[1] Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. § 390, *et seq.* (1978).

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C. September 10, 1980.

To: John Cameron, Director.
From: Gregg Skall, Chief Counsel.
Subject: Bonding, financial management, reporting and record keeping requirements for PTFP grantees.

In order to establish consistent and uniform practices among the various Federal agencies and departments administering grant-in-aid programs, the Office of Management and Budget (OMB) has issued two circulars which prescribe uniform administrative requirements for each agency to follow.[1] In accordance with these circulars and the proposed Department of Commerce (DoC) administrative order on grant administration, 44 Fed. Reg. 54,910 (September 21, 1979), NTIA has adopted certain policies and reporting requirements in its Interim Grant Regulations with which all grantees must comply.

First, every grantee must establish a Financial Management System that meets the requirements of the applicable circular (Attachment G to Circular A–102 or Attachment F to Circular A–110). Although the particulars of the system are left for the most part to the individual grantee, each system must at a minimum provide for: (1) the accurate, current, and complete disclosure of financial results to the grantor agency; (2) records adequate to identify the source of funds and the use made of the funds; (3) systems for the grantee's effective control over and accountability for all funds, property or other assets; (4) systems which allow for a comparison of budgeted amounts against actual expenditures; (5) a method of minimizing the time elapsing between the transfer of funds from the Government and their disbursement by the grantee; (6) a method of determining reasonableness, allowability or allocability of costs; (7) accounting records supported by a source documentation; (8) a system of audits (internal or otherwise); and (9) a systematic method for quickly and accurately resolving any audit findings.

Second, as a part of this system, each grantee must comply with minimum prescribed financial reporting requirements. (Attachment H to Circular A–102 or Attachment G to Circular A–110). Under those attachments the PTFP has the option to permit grantees to file only a "Request for Advance or Reimbursement" form (S.F. 270) in lieu of either a "Financial Status Report" form or an "Outlay Report and Request for Reimbursement" form. However, in order to exercise this option the PTFP must examine each of the forms involved and make a written determination that the information contained in the "Request for Advance or Reimbursement" form provides adequate financial accountability. Once the PTFP makes such a determination, grantees may use the "Request for Advance or Reimbursement" form instead of either the "Financial Status Report" form or the "Outlay and Request for Reimbursement" form. Grantees must file an original and two copies of the "Request for Advance or Reimbursement" form when they desire to obtain reimbursement for any expenses they incur in performing a grant. (A copy of this form is attached as Exhibit A. In the event that the "Request for Advance or Reimbursement" form is used by the PTFP *solely* for advances, grantees must file a "Financial Status Report" form (S.F. 269), regardless of the PTFP determination to use only the "Request for Advance or Reimbursement" form. (A copy of the "Financial Status Report" form is attached as Exhibit 2.)

Third, all grantees that receive advances (no matter how short the period) are also required to file a "Report on Federal Cash Transactions" form (S.F. 272). In cases where assistance is provided solely by reimbursement, after funds have been spent by grantees, this form is not required. The frequency of this report is to be determined by the PTFP, but the PTFP may not require more than original and two copies to be filed on a quarterly basis. (A copy of this form is attached as Exhibit 3.)

Fourth, grantees must continually monitor the performance of projects that are paid for with PTFP grant funds. To assure that time schedules are being met, Attachment I to Circular A–102 and Attachment H to Circular A–110 place great reliance on each grantee to manage the day-to-day operations of grant supported activities. In discharging this obligation, grantees must submit performance reports at least annually (at most quarterly) during execution of the grant project and must submit a final technical or performance report, at a time specified by the PTFP after the completion of the project. (If there is a change in circumstances that has a substantial impact on the completion of the project, grantees must notify the agency immediately, even if a progress report is not immediately due.) Attachment I (Attachment H) provides the PTFP with the option of waiving the required performance reports:

(a) When the grantee is required to submit a performance report with a continuation or renewal application.

(b) When the Federal agency determines that on-site technical inspections and certified completion data will be sufficient to evaluate construction projects.

(c) When the Federal agency requests annual financial reports on a fiscal year basis but it is necessary to get annual progress reports on a calendar year basis.

Of these three bases for waiving the filing of performance reports, subparagraph (b) seems to be particularly appropriate. That subparagraph, however, relates only to construction projects and would not be a sufficient basis to waive performance reports for recipients of PTFP planning grants. In order to waive the filing of performance reports for planning grants, the PTFP staff must make a determination that one of the remaining subparagraphs is applicable to planning grants. That determination should also be in writing and precede or coincide with the issuance of any memorandum from the Office of Chief Counsel to PTFP grantees on the reports that the grantees must file.

Fifth, each grantee is required to establish a procedure for obtaining bonding and insurance (bid guarantees, performance bonds and payment bonds) from contractors and subcontractors for the construction or improvement of facilities. Where the contract between the grantee and/or contractor (or between a contractor and a subcontractor) is for $100,000 or less, the PTFP will presume that the grantee's procedures of bonding and insurance are adequate. If the contract exceeds $100,000, the grantee must either obtain PTFP approval of its bonding and insurance procedures or must follow the requirements set on in paragraph 2 of Attachment B to Circulars A–102 and A–110. Under that attachment grantees must obtain: (a) a bid guarantee from each bidder that is equivalent to five percent of the price bid; [2] (b) a performance bond from the contractor for 100 percent of the contract price; [3] and (c) a payment bond from the contractor for 100 percent of the contract price.[4]

Sixth, Attachment K to Circular A–102 and Attachment J to Circular A–110 require that the grantee immediately notify the PTFP in any case where the grantee expects the amount of the grant to exceed his or her actual needs by $5,000 or five percent of the total grant (whichever is greater).

Finally, all grantees are required to maintain records (financial records, supporting documents, statistical records, and all other records pertinent to the grant) for a period of three years. See Attachment C to Circulars A–102 and A–110. The retention period generally begins to run on the date of the submission of the final expenditure report. However, the retention period for nonexpendable property does not begin to run until the property has been finally disposed of.[5] Thus, grantees must retain records of all property with an acquisition price of more than $300 obtained with PTFP grant funds for three years after the ten-year period of Federal interest expires or for three years after the property is otherwise sold and ceases to be subject to any Federal interest. If any litigation, claim or audit is started before the expiration of the three-year period, the grantees must retain the records until the litigation, claim or audit has been resolved. To assist grantees in understanding the required forms, I have drawn up a chart that is attached as Exhibit 4. The specifics of this chart will, of course, change with the final decisions that are made regarding "advances" and the frequency of performance reports.

Attachments.

[1] OMB Circulars A–102 (for grants to State and Local Governments) and A–110 (for grants to institutions of higher education, hospitals and other non-profit organizations).

[2] A bid guarantee consists of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid.

[3] A performance bond is a bond to assure that the contractor fulfills all the obligations under a contract.

[4] A payment bond is a bond to assure the payment of all persons supplying labor and materials in performing the contract.

[5] Attachment N to Circulars A–102 and A–110 defines nonexpendable personal property (as distinquished from real property) to the "tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C., September 15, 1980.

To: John Cameron.
From: Gregg Skall.
Subject: Eligibility of solar power sources for PTFP grants.

You have asked whether the Public Telecommunications Facilities Program (PTFP) may alter Section 2301.35(a)(12) [1] of the rules to allow the funding of "electrical power sources other than those supplied by utility companies." In particular you want to know whether any provision of the Public Telecommunications Financing Act of 1976 (Act) [2] prohibits the funding of solar-powered translators.

Upon review I conclude that nothing in the Act prohibits the funding of solar-powered translators or, for that matter, any other electrical power source. Congress left to the Department of Commerce (hence, the National Telecommunications and Information Administration) the determination as to what types of equipment should be eligible for PTFP funds. As I understand it, the staff developed Section 2301.35(a)(12) because they perceived a need to conserve the Agency's funds for program purposes. Since the Act does not prohibit the PTFP from funding electrical power sources, there is no reason why the PTFP could not amend or waive Section 2301.35(a)(12) to allow the funding of solar-powered translators. In doing so, however, the PTFP must base its funding of solar-powered translators on some rational distinction between solar-power sources and other electrical power sources, and must articulate that distinction in amending the rules or granting a waiver.[3]

The PTFP may also achieve its goal of funding solar-powered translators (at least in part) without altering the rules by distinguising between the funding of a translator in which photo-electric power is an integral part of the translator itself and the funding of a solar-energy source that is a piece of equipment separate and distinct from

[1] 5 C.F.R. § 2301.35(a)(12) states that "[e]quipment providing power to the facility, including transformers, regulators, generators and related equipment [is ineligible for funding].

[2] Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. § 390 (1978).

[3] Since our funding of solar-powered translators would further the announced Federal policy of encouraging the development of solar technology, that announced policy would provide a sound basis on which to distinguish between solar-power sources and other electrical power sources.

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the translator (or other telecommunications equipment). Section 2301.35(a)(12), as presently written, only prohibits the funding "[e]quipment providing power to the facility. . . ." Where the power source is an integral part of the eligible equipment—*e.g.*, where a translator is powered by photo-electric cells that are attached to (otherwise incorporated as a part of) the translator itself—the question of eligibility would depend on whether the underlying equipment was in fact eligible.

Before the PTFP amends its rules or otherwise funds solar-powered translators, however, I believe it would be advisable for the PTFP to investigate the extent to which grants for similar equipment could be obtained through other agencies or departments. In particular, I believe that the Department of Energy (DoE) presently operates a Small Grants Program through which PTFP grantees might obtain grants for solar-powered translators. I have attached a summary that DoE has developed to explain its Small Grants Program for "Appropriate Technology." Robert Hunter of this office has spoken with Hal Devoe of DoE (252–9104) relating to the possibility of the joint funding of several projects by NTIA and DoE. Although Mr. Devoe was not sure of the extent to which DoE would be able to coordinate its activities with NTIA, he indicated a desire to discuss possible NTIA/DoE cooperative efforts. If you would like to further investigate joint NTIA/DoE activities, please let either Robert Hunter or Kenneth Salomon of this office know, so they might attend any meeting.

I also believe that DoE is developing a demonstrations program for solar technologies that may be available for PTFP grantees in the near future. If you desire more information on this program, you should contact Andrew Krantz of DoE (376–1956).

Attachment.

U.S. Department of Commerce,
National Telecommunications and Information Administration
Washington, D.C., September 17, 1980.

Robert A. Woods, Esq.,
Schwartz, Woods & Miller,
Suite 206, The Palladium,
1325 Eighteenth St., N.W.,
Washington, D.C.

Re: NTIA File No. 1001CTB.

Dear Mr. Woods: Thank you for your letter to the National Telecommunications and Information Administration (NTIA) on behalf of WVIZ–TV regarding the application of WEAO–TV for a grant to expand its coverage area from the Public Telecommunication Facilities Program (PTFP). Dr. John Cameron, Director of the PTFP has consulted with this office and asked me to respond. In reviewing that application, the PTFP staff has considered WVIZ–TV's objections and the response to them from Richard D. Marks and Michael Goldstein on behalf of WEAO–TV. For the reasons stated below, the PTFP has granted WEAO.TV's application.

In your letter, you state that WEAO–TV's application as presently proposed would expand WEAO–TV's coverage area to serve many citizens of the greater Cleveland area (already served by WVIZ–TV) as well as the citizens in many areas that are not presently receiving any public television services (such as significant portions of Stark and Wayne Counties, including the communities of Canton, Massilon, Wooster, Rottman and Orrville). The essence of WVIZ–TV's objection to WEAO–TV's application is the belief that such coverage is undesirable because both WVIZ–TV and WEAO–TV would have to compete on an expanded basis for contributions from the viewing public and such competition represents "poor planning" for public television.[1]

While it is unfortunate that public television stations with overlapping service areas must compete against one another for contributions from the public, the responsibility for noncommercial educational television assignments rests solely with the Federal Communication Commission (FCC). Under Section 1 of the Communications Act of 1934, as amended (47 U.S.C. § 51), the FCC is authorized and directed to provide of the development of a "Nation-wide and world-wide" system of wire and radio communications. In exercising this authority the Commission issues licenses for the construction, operation and expansion of public television stations throughout the United States. WVIZ–TV has already recognized the Commission's jurisdiction in this area had has raised this matter before the FCC. In a recent decision the Commission ruled that WVIZ–TV;s allegations are completely unsupported by economic data . . . [WVIZ–TV] has failed to relate its allegations of economic harm to specific harm to the public. We conclude, therefore, that [WVIZ–TV's] claim of economic harm fails to raise a substantial and material issue." [2] In the same way that the FCC defered to NTIA's judgment in matters that are entrusted to us under the Public Telecommunications Financing Act of 1978 (Pub. L. No. 95.567 92 Stat. 2405, 47 U.S.C. § 390, *et seq.*), we must defer to the Commission's judgment in matters that are entrusted to it—*viz.*, the licensing of public television stations.

Moreover, it is not at all clear that extension of service, such as that proposed by WEAO–TV, should be discouraged as a matter of public policy. While lower in priority than a first public telecommunications service, the expansion of service areas of existing public telecommunications entities is recognized as a priority consideration in our rules. *See* 15 C.F.R. § 2301.20(2). *See also* Priority I.B. for the FY 1980 grant round. 45 Fed. Reg. 1988 (January 9, 1980). Even when that expansion extends a second service to an area, it is our general belief that the increased competition for audience will result in better program service to the communities served. Therefore, although we share your concern over your continued ability to obtain contributions in a competitive environment, those conncerns should not take precedence over NTIA's primary obligation under 47 U.S.C. § 390(1) of extending public telecommunications services to areas that are presently unserved.

Sincerely,

Gregg P. Skall,
Chief Counsel.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C. 20230, September 18, 1980.

To: John Cameron, Director, PTFD.
Thru: Gregg Skall, Chief Counsel.
From: Kenneth Salomon, Deputy Chief Counsel.
Subject: Appalachian Regional Commission Supplements to PTFP Grants.

On July 7, 1980, two representatives of the Appalachian Regional Commission (ARC) called me about a potential problem involving a Public Telecommunications Facilities Program (PTFP) construction grant. It was explained to me that the ARC was proposing to contribute a certain percentage of the grantee's eligible costs in order to reduce the amount of the local match required to be provided by the grantee. The combined Federal share of PTFP and ARC funds would not exceed 80 percent of eligible project costs. Dan Falk, the PTFP program officer involved, apparently has questioned the propriety of the ARC contribution. I have examined the relevant ARC legislation and conclude that such contributions are permissible.

You will recall that on September 9, 1979, the Office of Chief Counsel sent you a memorandum on a closely related issue: the permissibility of contributions to the Federal share of grant-in-aid programs by Regional Planning Commissions created under the authority of Regional Development Act of 1975, 42 U.S.C.A. §§ 3181 *et seq.* In that memorandum we concluded that these Commissions have authority under 42 U.S.C.A. § 3188a, to make such contributions. The only limitation is that the total Federal involvement may not exceed 80 percent of eligible project costs. *See* 45 FR 1988, 1994 (January 9, 1980). Footnote 1 of the memorandum, however, specifically stated that we were not addressing the question of whether the ARC has similar authority, and that a subsequent memorandum would follow on that issue. We now have the opportunity to provide you with our advice on the ARC.

The ARC was created by the Appalachian Regional Development Act of 1965, as amended, (ARDA), 40 U.S.C.A. App. §§ 1 *et seq.* Section 214 of ARDA is identical in purpose and intent (although there are some wording variations) to 42 U.S.C.A. § 3188a discussed in the September 9, 1979, memorandum. Thus, § 214(a), in part, permits the ARC's Federal Co-chairman to use ARC funds "for increasing the Federal contribution to projects under [specific Federal grant-in-aid] . . . programs . . . above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law." 40 U.S.C.A. § 214(a). *Compare* 42 U.S.C.A. § 3188a(a). Under both the Regional Development Act (42 U.S.C.A. § 3188a(b)) and ARDA (40 U.S.C.A. App. § 214(b)), the total Federal contribution may not exceed 80 percent of eligible project costs. Both ARDA and 42 U.S.C.A. § 3188a define Title III, Part IV of the Communication's Act of 1934, as amended—the authorizing legislation for the PTFP—as one of the Federal grant-in-aid programs eligible for such contribution. *Compare* 40 U.S.C.A. App. § 214(c) with 42 U.S.C.A. § 3188a(c).

The ARC contribution is to be made available "to enable the people, States, and local communities of the region . . . to take maximum advantage of [a] Federal grant-in-aid program . . ." for which they are eligible but, "because of their economic situation, they cannot supply the required matching share . . . ." 40 U.S.C.A. App. § 214(a).[1] The Regional Development Act uses the following phrase to define the scope of eligible entities: "the state and other entities within economic development regions . . . ." 42 U.S.C.A. § 3188a.

Section 214(a) requires, as does 42 U.S.C.A. § 3188a(a), that where the ARC's contribution is to the basic Federal share, the administrator of the grant-in-aid program must certify that the program or project to receive ARC's supplemental funds meets the requirements of the Federal grant-in-aid act and that the program or project could have been approved for funding under that act if funds were available.

In conclusion, the ARC may contribute supplementary funds towards either the basic Federal share or to reduce the local match under the PTFP. However, the combined Federal share may not exceed 80 percent of the costs of the project. I have attached copies of ARDA and the Regional Development Act for your information.

Attachments.

cc: William Lucas, Associate Administrator, for Applications, NTIA. Robert L. McClosky, Esq., General Counsel, ARC.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C. September 22, 1980.

Lawrence M. Miller, Esq.,
Schwartz, Woods & Miller,
The Palladium, Suite 206,
1325 Eighteenth Street, N.W.,
Washington, D.C.

Dear Mr. Miller: Dr. John Cameron, Director of the Public Telecommunications Facilities Program (PTFP), has forwarded your request for guidance to me. Since you have not presented a specific proposal, as required under Section 2301.4(c) of the PTFP rules, 15 CFR 2301.4(c) (1979), I cannot give you a binding opinion as to the eligibility of your client on its proposal to obtain a PTFP grant to construct its share of a broadcast tower that it would jointly own with a commercial broadcasting entity.

It is clear from the discussion of the rules contained in the PTFP *Report and Order*, 44 FR 30898, 30911 (1979), that noncommercial entities may obtain PTFP funds to construct a tower jointly with a commercial entity. The major factors that NTIA considers in determining whether a particular application is eligible for funding are the extent to which the applicant's percentage of ownership is sufficient to secure the Federal interest and the extent to which the applicant has satisfactory use of the tower.

As a general rule, the applicant's percentage of ownership in the tower should be no less than the percentage which the applicant contributes to the tower's construction through a PTFP grant. The Federal interest in PTFP-funded equipment continues for 10 years from the completion of the project. Therefore, any contract between a commercial entity and a PTFP grantee for the joint construction, maintenance and operation of a tower would have to include specific provisions as to the manner in which the Federal interest would be protected if either entity cannot continue the joint relationship or in the event that the PTFP must terminate the grant for any reason.[1]

The contract must also include specific provisions guaranteeing that the PTFP grantee would have satisfactory use of the tower. "Use" not only means that the grantee must have access to the tower site for its employees and those of the Federal government, but also that the grantee's signal must not be interfered with by that of the commercial entity or any other entity using the tower.

In your letter you describe several aspects of the agreement that your client is developing with a commercial entity to jointly construct a tower. You state, among other things, that the noncommercial entity would have an ownership interest equal to its contribution toward the tower's construction and a right of first refusal in the event that the commercial entity later desires to sell its interest. According to your letter, any sale by the commercial entity would be subject to the sharing arrangement. In the event that the noncommercial entity ceases to operate its facility (or, presumably, that the noncommercial entity otherwise ceases to be eligible for a PTFP grant), you state that a successor noncommercial entity would be proposed or the commercial entity would be required to buy out the noncommercial entity's interest and repay the Federal interest. Generally, I believe the concepts you outline in your letter would provide adequate security for the Federal interest in a tower partly funded with a PTFP grant. However, without reviewing the specific language of the contract, I cannot give you a more definite answer.

If you desire a more specific opinion, it will be necessary for you to comply with the requirement of Section 2301.4(c) of the PTFP rules regarding opinion letters. *See* 15 CFR 2301.4(c). *See also Report and Order, supra* at 30903 and 30914.

Sincerely,

Gregg P. Skall,
Chief Counsel.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C. 20230, October 2, 1980.

To: Michael Natoli, Budget Examiner, OMB.
From: Gregg P. Skall, Chief Counsel.
Subject: Public Telecommunications Facilities Program Replacement Grants.

The Office of Management and Budget (OMB) has questioned under what legal authority the Public Telecommunications Facilities Program (PTFP) of the National Telecommunications and Information Administration (NTIA) can make grants to existing public broadcast stations for the replacement of equipment where that replacement will not necessarily result in an expansion of the station's service area. The purpose of this memorandum is to briefly outline the bases for that authority.

The PTFP was created by the Public Telecommunications Financing Act of 1978, Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. §§ 390 *et seq.* Authority for the issuance of grants to replace existing equipment is derived from two provisions of that Act. In Section 390(3), Congress declared that one of the purposes of the 1978 Act was to "strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public." [1] More importantly, in Section 393, Congress stated the priorities that are to govern the approval of applications and the amount of grant awards. Section 393(b)(4) provides specific authority for grants that will result in "the *improvement of the capabilities* of existing public broadcast stations to provide public telecommunications services." (Emphasis added). Section 393(c) of the 1978 Act directs that 75 percent of appropriated funds shall be available to "extend delivery of public telecommunications services to areas not receiving such services. . . ." Thus, only 25 percent of appropriated funds may be used to improve the capabilities of existing public television and radio stations.

Pursuant to Section 392(e) of the Act, NTIA, on behalf of the Secretary of Commerce, adopted regulations and funding priorities for the PTFP. *Report and Order*, 44 FR 30,898 (1979). The priorities were amended on January 4, 1980, 45 FR 1988 (1980). Copies of these documents are attached.

The first two funding priorities, based on Sections 390(1) and 393(b) (1) and (2) of the 1978 Act, relate to the expansion or extension of service to unserved or underserved areas or populations. The third and fourth priorities are based on Sections 390(3) and 393(b)(4) and, therefore, relate to the 25 percent of funds available for non-extension or non-expansion projects. Priority III reads as follows:

[1] In this regard it should be noted that WVIZ–TV and WEAO–TV already compete for contributions from the viewing audience because WVIZ–TV's coverage area presently includes the city of Akron, Ohio (WEAO–TV's city of license).

[2] *In re Application of Northeastern Educational Television, Inc.* (WEAO–TV), *Memorandum Opinion and Order*, File No. BPET–790720KF (released, June 26, 1980). We note that the FCC declined to examine WVIZ–TV's allegation as to the sufficiency of WEAO–TV's application for a grant from the PTFP stating that the FCC would not "second guess the governmental agency having the ultimate funding responsibility to rule on [WEAO–TV's] funding request." *Memorandum Opinion and Order*, supra at ¶ 6.

[1] ARC funds may also be used where there are insufficient Federal funds available under the grant-in-aid act which authorizes the program to meet a pressing need of the region. *Compare* 40 U.S.C.A. App. § 214(a) with 42 U.S.C.A. §3188a(a).

[1] *See* 15 CFR 2301.32 (1979).

[1] Section 397(14) defines these "services" as "noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material. . . ."

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Priority III—Improvement of Existing Broadcast Station Facilities

Two subcategories are listed under this priority:

A. *Projects to provide first local origination capacity for existing broadcast stations.*—This category includes projects to bring basic local program service to repeater transmitters and other licensed broadcast facilities now bringing in distant signals. Origination equipment may be fixed or mobile, but must be locally based.

B. *Projects to upgrade existing origination or delivery capacity to current industry performance standards.*—This category includes conversions to color, stereo, etc.; improvements in signal quality; and significant improvements in equipment flexibility or reliability.

It is under Priority III(b) that replacement grants are awarded.

In our view, the language of Sections 390(3) and, especially, 393(b)(4), is broad enough to encompass the replacement of obsolete, inefficient, worn-out, or outmoded equipment because such grants serve to improve the capabilities of existing stations. A review of the legislative history reinforces this construction.

Two of the major substantive changes made by the 1978 Act were the broadening of eligibility to nonbroadcast distribution systems and setting as the primary purpose of the Act the extension or expansion of service. Sections 390(1), 393 (b)(1), (b)(2), and (c) of the 1978 Act. The latter represented a 180 degree change in priorities from previous legislation. *See* former Section 392(d)(1) of Title 47 of the United States Code.

In changing the thrust of the program, Congress recognized that "existing stations must be able to expect a reasonable measure of Federal assistance to maintain and improve their facilities." Also recognized were the "difficulties which existing broadcasters face in financing . . . [the] improvement of their facilities. . . ." Senate Rept. No. 858, 95th Cong., 2nd Sess. 7 (1978). To assist existing stations to deal with these difficulties, Congress, in light of the 75 percent extension requirement of Section 393(c), increased the authorization for the program by $10 million dollars over its FY 1978 level. *See* Section 391 of the 1978 Act. With respect to the 25 percent of appropriated funds, the Senate Report also said that the purpose of those funds was to assure "that existing entities be adequately *maintained* and improved." *Id.* at 8. (Emphasis added).

On the day that the bill passed the Senate, Senator Hollings further clarified the scope of Sections 390(3) and 393(b)(4) stating that while 75 percent of the funds are to be used for expansion or extension, "[t]he remaining funds would be used to *replace equipment* or obtain new equipment to better serve the station's present audience." 124 Cong. Rec. S. 15,440 (Daily Ed. September 19, 1979). (Emphasis added). On the same day, Senator Cannon explained that the $10 million increased authorization level "is necessary in order to insure that *equipment replacement activities can continue* at adequate levels" while increased funds are being devoted for expansion and extension. *Id.* at S. 15,448. (Emphasis added).

NTIA submits that the language of Sections 390(3) and 393(b)(4) of the 1978 Act, combined with the broad authority delegated to the Secretary in Section 392(e), clearly confer authority for the PTFP to award a limited number of grants for the replacement of worn-out equipment. This conclusion is buttressed by the cited references to the legislative history.

Attachments.

U.S. Department of Commerce,
National Telecommunications and Information Administration,
Washington, D.C. October 3, 1980.

Re: Petition for rulemaking of the Association of Maximum Service Telecasters.

Paul J. Berman, Esq.,
Covington & Burling, 8888 Sixteenth Street, N.W., Washington, D.C.

Dear Mr. Berman: Assistant Secretary Geller has received the Petition for Rulemaking (*Petition*) that you filed on behalf of the Association of Maximum Service Telecaster (MST) and has asked me to respond to it. In its *Petition* MST seeks two changes in the rules of the Public Telecommunications Facilities Program (PTEP) that it believes would reduce noncommercial FM interference to television channel six service. First, MST asks the National Telecommunications and Information Administration (NTIA) to alter the rule of the PTFP to prohibit the grant of funds to construct a new, or to improve an existing noncommercial FM station that would case any "interference to television broadcast reception . . . ." [1] Second, MST believes that the PTFP rule should require existing noncommercial FM stations to use PFTP "improvement" funds to eliminate or reduce channel six interference that those stations cuase.

To support the proposed rule changes above, MST states that "[g]ranting public funds for new or 'improved' educational FM stations that cause interference simply cannot be squared with the statutory mandate to extend the delivery of public television services by the 'most efficient' means. 47 U.S.C. § 309(1)." [2] However, MST mistakes the basic purposes of the PTFP. That purpose, as stated in Section 390 of the Public Telecommunications Financing Act of 1978 (PTFA),[3] is:

. . . [T]o assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States and possible *by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies* . . . . (Emphasis added.)

When Congress used the term "efficient," it referred to the provision of public telecommunications services to the greatest number of people at the lowest possible cost to the agency. *See* Senate and House Reports on the PTFA, Sen. Rep. No. 858, 95th Cong., 2nd. Sess., 7 (1978); H.R. Rep. No. 1178 95th Cong., 2nd Sess., 14–15 (1978), respectively. Congress did not authorize NTIA to make grants based on our perception of technical standards for acceptable levels of interference to broadcast television by noncommercial FM radio stations. The setting of such standards have been and is not exclusively within the purview of the Federal Communications Commission (FCC). Section 1 of the Communications Act of 1934, as amended, [4] States that the purpose of that Act was the creation of a commission that would "make available, so far as possible, to all the people of the United States a rapid, *efficient*, Nation-wide wire and radio communications service. . . ." (Emphasis added.) Toward that end, the Commission is authorized to "assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate." 47 U.S.C. § 303(c) (1934). *See also* 47 U.S.C. § 307(b), as amended (1936), and 308(b)(1939). Thus, the PTFP rules state that the PTFP staff will not accept an application for a proposal that requires FCC approval, unless the applicant has filed an application with the FCC and the Commission has accepted that application for a filing. Moreover, no PTFP grant will be made unless any necessary FCC authorization has been issued. The rules also require that the staff terminate any grant made by the agency, if the Commission revokes the license or denies the application on which the PTFP grant was based. *See* 15 C.F.R. §§ 2301.8(f), 13(b), and .32(a)(3)(1979).

To be sure an existing noncommercial FM station may obtain a PTFP grant to "improve" its facilities by eliminating or reducing any interference caused broadcast television reception. But, the authority (and obligation) to judge the technical quality or feasibility of the construction of a new or the "improvement" of an existing noncommercial FM station, lies solely with the FCC, as the PTFP rules already recognize. Consequently, is its not appropriate for NTIA to reach such technical licensing conditions. As we stated in our rules, 15 C.F.R. §§ 2301.13(b) and .32(a)(3), we defer to the Commission for such judgments in its licensing process. Accordingly, your concerns should be raised with the FCC (as MST and the National Association for Broadcaster have, in fact, already done). Absent an officially adopted FCC pronouncement on the matter, NTIA believes it would be improper to refuse to issue grants to entites on the basis of our view of the proper levels of interference for efficient spectrum utilization, if that entity has received the necessary approval from the agnecy specifically charged by Congress with adminstering the spectrum.[5]

[1] *Petition* at 2.

[2] *Petition* at 4.

[3] Pub. L. No. 95–567, 92 Stat. 2405, 47 U.S.C. § 390, *et seq.* (1978).

[4] 47 U.S.C. § 151, *et seq. (1934), as amended.*

[5] This is not to say, that NTIA is unsympathetic to the potential interference problem that exists between noncommercial FM and channel six stations. On August 6th, we filed comments in support of the National Association of Broadcaster's request for expedited action in Docket No. 20735. A copy of that pleading was previously mailed to you. More specifically, in situations where the FM and the channel 6 stations serve the same areas, we will in future grants rounds expect as a matter of course that the two parties have discussed potential

Footnotes continued on next page

Since the Administrative Procedure Act does not require that the agency issue a public notice requesting comment on the petitions filed with it, I am responding to MST's *Petition* in this letter, but have not put the matter on public notice.

Sincerely,

Gregg P. Skall,
Chief Counsel.

The Comptroller General of the United States,
Washington, D.C., October 14, 1980.

File: B–194151.
Matter of: The Harris Corporation—Reconsideration.

Digest: Prior decision is affirmed upon reconsideration as earlier decision did not find grantee could not waive minor irregularities, as alleged by requester, thereby restricting competition. Items offered which were functionally equivalent to design specification were accepted by grantee except in two areas. We did not decide merits since such decision would be on purely technical dispute as to equivalency of two items and only possible recommendation was propriety of funding Federal portion of program.

The Harris Corporation (Harris) has requested reconsideration of our decision of July 16, 1980, in the matter of *The Harris Corporation—Reconsideration*, B–194151, July 16, 1980, 80–2 CPD 31.

The July 16 decision was a reconsideration of our decision (The Harris Corporation, B–194151, April 22, 1980, 80–1 CPD 282) on Harris' request for review of the award of a contract to the RCA Corporation for television broadcast equipment by the Milwaukee Area Technical College (MATC). The contract was funded, in part, by a Federal grant.

Our initial decision of April 22, 1980, found that since MATC had, in the solicitation, specifically reserved the right to waive any discrepancies or irregularities in the equipment offered, it appeared MATC had overstated its minimum needs in the specifications and that particular features of the RCA equipment were not essential. Because we concluded that MATC did not obtain maximum open and free competition, we recommended that the grant administrator, National Telecommunications and Information Administration (NTIA), Department of Commerce, determine whether to withhold the Federal grant funds or whether extenuating circumstances may make it appropriate to fund the grant notwithstanding the degree of competition.

Upon a request for reconsideration by MATC, our July 16 decision stated:

"We note that Wisconsin's VTAE (Vocational, Technical, and Adult Education) Procurement Policy was applicable to this procurement. VTAE provides that minor irregularities in bids may be waived but that irregularities which could substantially change the bids made by other vendors may not be waived. The VTAE example is a specification calling for swivel chairs and a bid offering non-swivel chairs. According to VTAE, this irregularity could not be waived since bids could change substantially if other vendors were allowed to rebid on the non-swivel chairs.

"Although it remains our position that the above-quoted clause, standing alone, is objectionable for the reasons stated in our prior decision, we are persuaded that MATC could not waive other than minor irregularities under the clause because of the applicable local law on the matter. Upon reconsideration, therefore, we conclude that the clause did not prevent open and free competition for this procurement."

We found it unnecessary to resolve the merits of Harris' original complaint—whether the specifications were restrictive—because of our original recommendation only affected the administration of the grant by NTIA (i.e., grant funding) and the contract had been substantially performed. We withdrew the prior recommendation that NTIA consider withholding of the grant funds.

Harris contends that our July 16 decision ignores other clauses in the solicitation that invited offerors to take exception to the specifications. Harris cities paragraph 9 of the Standard Conditions of bid and section IV.A.4 of the Specifications which read as follows:

Paragraph 9

"Any deviation from Standard Condition of Bid or Specifications or exceptions taken shall be described fully and appended to the bid form on the bidder's letterhead over the signature of the persons signing the bid form. In the absence of any statement of deviation or exception, the bid shall be accepted as in strict compliance with all terms, conditions, and specifications, and the bidder shall be liable therefor."

Section IV.A.4

"The equipment bid must be new and of current manufacture, and must conform to the requirements of the pertinent specifications. A point by point relpy, indicating compliance or deviation from the specifications shall be included as a part of the bid. If the equipment bid does not meet the requirements of the specifications, the bidder must take exception to the specification(s) and provide details and explanation of the extent to which the equipment bid deviates from the specification.

Further, Harris argues that it was given assurances by MATC, which is disputed by MATC, prior to the submission of bids that equipment offering performance characteristics similar to the specified equipment would be considered even if it did not meet the detailed specifications. Finally, Harris states that because of the above contentions, our Office must decide the merits of Harris' request for review (i.e., restrictive nature of the specifications), notwithstanding the advanced stage of performance.

We think Harris has misconstrued our July 16 decision. In that decision we did not conclude that MTAC could only waive minor irregulatities. As Harris pointed out in its request for reconsideration, the report from NTIA, on the original request for review, made clear that functionally equivalent items could not be rejected merely because of noncompliance with design specifications. We agree that the invitation permitted such bids. The purpose of the clauses cited by Harris was to obtain an item which was functionally equivalent and to place the burden on the bidder to demonstrate equivalency of the offered item. Our initial decision found the clause regarding waiver of irregularities to be too broad but upon reconsideration, when the clause was read in conjuction with the VTAE policy, we found it to be acceptable. Under the VTAE policy, those deviations which could substantially change the bids (i.e., swivel versus nonswivel chairs) could not be waived.

In fact, MTAC did accept the proposed Harris equipment where it was functionally equivalent. The consulting engineers who reviewed the bids for MATC found that the Harris equipment did not meet the exact specifications in numerous areas, but concluded that the intent of the specifications had been met. However, in two areas, the type of antenna proposed (batwing versus the required traveling wave antenna) and the transmission line equipment (lack of wristband expansion joint), the consulting engineers did not find the equipment offered by Harris to be functionally equivalent.

Harris contends that since the specifications were based on RCA equipment, only RCA equipment could comply because there was no listing of salient characteristics. However, we do not agree with the contention since the IFB made clear that design specifications were waivable if the item retained functional equivalency.

Finally, Harris complains about our failure to rule on the merits of its complaint. Initially, when we concluded that the invitation was defective, we recommended that MATC should consider withholding its funding of the project even though the contract had been substantially performed. However, upon reconsideration, we did not find the invitation to be defective. As a result, the remaining question was the propriety of the technical evaluation of MATC's consulting engineers regarding equivalency of the offered equipment. Our concern in connection with the instant request for review relates to the propriety of expending Federal grant funds. Where, as here, there was no allegation of bad faith and the grantee had agreed with the views of the engineers, we do not consider that Federal grant funds should be withheld on the grounds of differences in the *bona fide* technical judgments made.

While Harris has cited several cases where performance was completed in a contract under a grant and we still ruled on the merits, those cases either involved specifications which were restrictive as written in the invitation or other matters of general concern to the administration of the agency's grant program.

Footnotes continued from last page

problems and solutions such as collocation. We will have more to say in this in the notice of closing date for the FY 1981 grant round. I wish to emphasize here, however, that our goal is to foster dialogue and we will *not* require collocation.

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Accordingly, our decision of July 16, 1980, is affirmed.

Milton J. Scolar,

For the Comptroller General of the United States.

[FR Doc. 80-34807 Filed 11-6-80; 8:45]

BILLING CODE 3510-60-M

Office of the Secretary

Privacy Act of 1974; Adoption of Proposed System of Records

The purpose of this notice is to adopt in final form an additional system of records, COMMERCE/NBS–7, NBS Emergency Locator System. This new system of records was initially proposed in a new system report submitted to Congress and the Office of Management and Budget on August 18, 1980, and in a **Federal Register** notice published August 22, 1980 (45 FR 56123).

No public comments were received in response to the notice. However, the Chairman of the House Government Information and Individual Rights Subcommittee commented on the proposed system in a September 17, 1980 letter to the Department. The Chairman questioned the need to provide for any disclosures outside the agency and, therefore, suggested that Department-wide routine uses should not be applied to this system.

Departmental staff reviewed the proposed routine uses for COMMERCE/NBS–7. The staff determined that no disclosures outside the agency were necessary. Accordingly, the routine use section has been revised to delete the reference to the Department-wide routine uses. A fuller explanation of the Department's internal uses of the information is offered. The revised routine use section reads as follows (new text in solid capitals beginning with "Home Telephone Numbers," deletions in double parentheses):

COMMERCE/NBS–7

SYSTEM NAME:

NBS Emergency Locator Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

HOME TELEPHONE NUMBERS WILL BE USED BY DEPARTMENT OF COMMERCE STAFF TO CONTACT NBS EMPLOYEES OR INDIVIDUALS USING NBS FACILITIES IN THE CASE OF AN EMERGENCY (E.G., FIRE, EXPLOSION, POWER OUTAGE, HEAVY SNOW). THOSE CONTACTED WILL TYPICALLY BE SCIENTISTS OR ENGINEERS WHOSE EXPERIMENTS MIGHT BE AFFECTED BY SUCH AN EMERGENCY OR OTHER EMPLOYEES WHO WILL BE REQUIRED TO DEAL WITH THE EMERGENCY. ((See Prefatory Statement of General Routine Uses)).

* * * * *

The Department hereby adopts the new system of records effective November 7, 1980.

Authority: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (Public Law 93–579, 88 Stat 1986).

Dated: November 4, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-34858 Filed 11-6-80; 8:45 am]

BILLING CODE 3510-17-M

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 7, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 8, 1980 and May 16, 1980, the Committee for Purchase From the Blind and Other Severely Handicapped published notices (45 FR 52860 and 45 FR 32362) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to procurement List 1980:

Class 7530

Paper Set, Manifold and Carbon
7530–00–880–9154 (For GSA Regions W,1,2,3,5)
7530–00–401–6910 (For GSA Regions W,1,3,5)
7530–01–072–2536 (For GSA Regions W,1,2,3,5)
7530–01–073–2537 (For GSA Regions W,1,2,3,5)
7530–01–072–2538 (For GSA Regions W,1,2,3,5)
7530–00–072–2539 (For GSA Regions W,1,2,3,5)
7530–00–205–0511 (For GSA Regions W,1,2,3,5)

SIC 0782

Grounds Maintenance at the following locations in Washington, D.C.: LBJ Memorial Grove, Constitution Gardens, RFK Stadium.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-34743 Filed 11-6-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 3, 1980.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold a meeting on November 24, 1980 from 8:30 a.m. to 5:00 p.m. and November 25, 1980 from 8:30 a.m. to 5:00 p.m., at Wright-Patterson Air Force Base, Ohio, in Room 222, Building 14, Area B. The Group will review aircraft engine programs, the Long Range Combat Aircraft, and status of the C–X.

This meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-34775 Filed 11-6-80; 8:45 am]

BILLING CODE 3910-01-M

Proposed Deployment and Operation of the M–X; Supplemental Notice of Intent to Prepare Environment Impact Statement

The United States Air Force, Department of Defense, is preparing an environmental impact statement (EIS) for use in decisionmaking regarding the selection of a basing area or areas, withdrawing Federal lands from the operation of specified general land and mineral laws, and the acquisition of land areas and sites to be used for the proposed deployment and operation of the M–X, an advanced land based, intercontinental ballistic missile system. A previous Notice of Intent regarding the preparation of this EIS was published on November 27, 1979. The EIS will analyze the comprehensive effects of constructing and operating the missile system in geotechnically suitable areas and indicates a proposed location in Nevada/Utah. This Notice of Intent provides for the addition of Texas/New Mexico area as an alternative to be studied in the EIS.

The Department of the Air Force is the lead agency and will supervise the preparation of the EIS. The Bureau of Land Management, U.S. Department of the Interior, is a cooperating agency in development and preparation of the EIS. This EIS will be the third in a series prepared on the M–X program. The second, issued in October, 1978, covered the engineering development of the system.

The draft EIS is scheduled to be published in late 1980. Upon issuance of the draft statement, a public comment period and public hearings will be provided to obtain comments. The final environmental statement is scheduled to be released in 1981. Final decisions on site selection, withdrawal of Federal lands, and acquisition of other land areas required for the system would follow later in 1981.

The Department of the Air Force, with the cooperating agency, will conduct meetings in Texas and New Mexico with State officials to determine if there are any environmental issues and concerns which are not being addressed in the Environmental Impact Statement related to the proposed action and alternatives. These meetings will be held in Santa Fe, New Mexico, and Austin, Texas. Depending on the issues raised at these meetings, additional public meetings may be held in locales which could be affected by the selection of areas within New Mexico and Texas for M–X deployment. Individuals, organizations and government agencies are invited to submit views on issues to be included in the environmental statement and on the Department of the Air Force's approach to analyzing and evaluating the identified issues. Notice of the details of public meetings will be made available to public officials and announced in the news media in the areas of interest as appropriate.

For further information concerning the M–X program and the environmental impact statement activities, contact the following: M–X Regional Civil Engineering Office, Norton Air Force Base, California, 92405. Telephone (714) 386–4891.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-34779 Filed 11-6-80; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers; Department of the Army

Intent to Prepare a Draft Environmental Impact Statement for the Proposed Maintenance Dredging and Overboard Disposal at Tylers Beach Federal Navigation Channel and Harbor of Refuge, Isle of Wight County, Virginia

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The Federally maintained navigation channel and harbor at Tylers Beach, Virginia must be periodically redredged to keep them at the depth required for most efficient and economical use. This depth is 6-feet with 1-foot required premaintenance and 1-foot allowable overdepth. This gives a total minimum of 8-feet mean sea level as the depth to be maintained in the Tylers Beach Channel to a harbor of refuge of the same depth. The proposed maintenance dredging requires the removal of approximately 35,000 cubic yards of material with subsequent overboard disposal of dredged material into a 31-foot deep water trough in the James River near the project.

Alternatives to be considered in this statement include no action, upland disposal and overboard disposal.

3a. The scoping process for this statement has already taken place, in large part, in bimonthly coordination meetings with Federal, State and local agencies. Written comments of interested agencies or private groups which have not yet responded to the proposed project are requested to do so, so that all pertinent issues may be examined in the DEIS.

3b. The intent of the process has been to resolve the continuing problem of the disposal of dredged material from Tylers Beach harbor and channel. It is expected that the various interested agencies or citizens will comment on some or all of the suggested alternatives, most of these agencies have already had varying degrees of input. The major issue to be considered will be the suitability of the proposed overboard disposal operations, particularly from an environmental perspective. Other major alternatives will be considered on the basis of long term effects on the local environment and economic cost.

3c. Requests will be or have been made of the following Federal and State agencies for assistance within their area of expertise during the scoping portion of the Draft EIS: The U.S. Fish and Wildlife Service; The National Marine Fisheries Service; The U.S. Environmental Protection Agency; The Virginia State Water Control Board; The Virginia Department of Health; The Virginia Marine Resources Commission; The Virginia Institute of Marine Science.

Other Federal and State agencies may be requested to provide information for the draft document if necessary.

3d. Water Quality permits from the state (Virginia State Water Control Board and Virginia Marine Resources Commission) which satisfy the requirements of Section 401 and 404(r) of the Federal Water Pollution Control Act will be applied for. A Record of Decision (ROD) will be issued by the District Engineer at the end of the EIS process unless unresolved questions still remain between the Corps and the Federal agencies mentioned in 3c.

4. Bimonthly coordination meetings, during which the proposed action has been discussed at length, have satisfied the objectives of a scoping meeting and therefore, no further scoping meetings are scheduled at this time.

5. It is estimated that the Draft EIS will be available for public review within 1 month following the date of this notice.

ADDRESS: Questions about the proposed action and DEIS can answered by: Craig L. Seltzer, Oceanographer, NAOEN-RE, Norfolk District, Corps of Engineers, 803 Front Street, Norfolk, VA 23510. Tel: (804) 441-3766.

Dated: November 3, 1980.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 80-34776 Filed 11-6-80; 8:45 am]

BILLING CODE 3710-EN-M

DEPARTMENT OF ENERGY

Gasoline Rationing Preimplementation Project Office

Solicitation of Grant Proposals To Preimplement a State Ration Reserve in Each State Under DOE's Standby Gasoline Rationing Plan

AGENCY: Gasoline Rationing Preimplementation Project Office, Department of Energy.

ACTION: Notice of Solicitation to States and Availability of Grant Awards for Proposals to Preimplement State Ration Reserve Functions.

SUMMARY: The Gasoline Rationing Preimplementation Project Office (GRPPO) of the Department of Energy (DOE) hereby gives notice of a solicitation to the fifty States, the

District of Columbia and the Commonwealth of Puerto Rico (hereinafter collectively referred to as the States) for proposals to preimplement a State Ration Reserve in each State under DOE's Standby Gasoline Rationing Plan. DOE will provide a grant award to each State that agrees to complete a preimplementation plan to administer the State Ration Reserve in its State.

FOR FURTHER INFORMATION CONTACT:

GRPPO Contact—Eve Hilgenberg, Director, Intergovernmental and Interagency Requirements, Gasoline Rationing Preimplementation Project Office, Vanguard Building, 1111 20th Street, N.W., Room 4070, Washington, D.C. 20461, (202) 653–4145.

IR Contact—William Brennan, Director, State Affairs Branch, Department of Energy, 1000 Independence Avenue, S.W., Room 8G–024, Washington, D.C. 20585, (202) 252–5660.

GC Contact—Peter Schaumberg, Acting Deputy Assistant General Counsel for Petroleum Regulations, Department of Energy, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTARY INFORMATION:

On June 12, 1980 (45 FR 41330, June 18, 1980) the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued final regulations for the Standby Gasoline Rationing Plan. This Plan was deemed approved by Congress on July 30, 1980, in accordance with the provisions of the Energy Policy and Conservation Act (Pub. L. 94–163, EPCA), as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96–102, EECA). Subpart I of the Plan provides for a State Ration Reserve (a percentage of each State's total of ration coupons, hereafter referred to as SRR) which would be administered by each State to meet special needs and hardships. Under § 570.62 of the Plan regulations, in order to receive a delegation of authority from DOE to administer the SRR, each State must submit a plan to administer the SRR.

The purpose of this Notice is to inform the public that the Gasoline Rationing Preimplementation Project Office (GRPPO) of the Department of Energy has issued a solicitation to the States for proposals to preimplement the SRR. Each State that submits an approved proposal would be provided with a grant award to complete the task of preimplementing, within a prescribed period, the management and operation plan for the SRR. Copies of the solicitation may be obtained by writing: Document Control Specialist, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, S.W., Room 1J–009, Washington, D.C. 20585.

The appropriate total amount available for grant awards to States is $8,000,000. The maximum award to each State will be determined by using a fixed amount of $100,000 for each State plus a share of remaining funds in proportion to motor vehicle registrations as reported in *Highway Statistics 1978*, the U.S. Department of Transportation, Federal Highway Administration. This distribution is intended to take into account both the fixed planning costs for development of a standby operating system for gasoline rationing and the variable costs of States with a high number of vehicle registrations and potential hardship applications. See the solicitation for the amount of the grant award available to each State.

The Department of Energy has determined that of the Possessions and Territories, only Puerto Rico shall be included at this time in this program solicitation. Other entities may be included at a later date, in which case notice thereof will be given in the **Federal Register**.

This solicitation is subject to the availability of funds now pending in the Congressional appropriations process. The Catalog of Federal Domestic Assistance program number is 81.069, entitled, "Gasoline Rationing-State Preimplementation Activities." The provisions of OMB Circular A–95 do not apply.

Issued in Washington, D.C. November 3, 1980.

John A. Hewitt, Jr.,

Chief Financial Officer.

[FR Doc. 80–34886 Filed 11–6–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful USES of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Brazil.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/BR(EU)–3, from West Germany to Brazil, 5.125 kilograms of uranium, enriched to approximately 19.9% in U–235, in the form of uranium-aluminum prototype fuel elements for the IEAR–1 reactor, San Paulo, Brazil.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 4, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–34812 Filed 11–6–80; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Northwest Montana/North Idaho Support and Libby Integration Draft Facility Location Supplement; Notice of Availability of Draft Supplement

Notice is hereby given that the Bonneville Power Administration (Bonneville), in compliance with the National Environmental Policy Act of 1969, has prepared a Draft Facility Location Supplement to its Fiscal Year 1980 Proposed Program Environmental Impact Statement (EIS). The Northwest Montana/North Idaho Support and Libby Integration Draft Supplement assesses possible environmental impacts of a proposal to rebuild a transmission line. Rebuilding of the present facilities is needed in order to (1) maintain the quality and reliability of electrical service to the Northwest Montana/North Idaho area; and (2) integrate into the Federal Columbia River Power System the additional generation being added by the U.S. Army Corps of Engineers at Libby Dam.

Copies of the draft facility location supplement are available for public inspection at designated Federal depositories (for location, contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208) and at Department of Energy public document rooms located at:

Library, FOI—Public Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.;

Bonneville Power Administration, Washington, D.C. Office, Room 3352, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C.;

Library, Bonneville Headquarters, 1002 NE. Holladay Street, Portland, Oregon; and in the following Bonneville Area office:

Spokane Area, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, Washington.

The draft facility location supplement is being distributed to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed facility. Copies are also being furnished to State and local clearinghouses and to other interested groups and individuals.

Single copies are available upon request; contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, or the Spokane Area Manager.

Dated at Portland, Oregon, this 15th day of September 1980.

Sterling Munro,

Administrator.

[FR Doc. 80–33832 Filed 10–29–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 80–CERT–034]

Air Products and Chemicals, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 8, 1980, Air Products and Chemicals, Inc. (Air Products), P.O. Box 538, Allentown, Pennsylvania 18105, filed an application pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 7,500 Mcf of natural gas per day to displace 66,400 gallons (1,581 barrels) of No. 2 fuel oil (0.3 percent sulfur) per day at its complex of chemical plants in New Orleans, with the Administrator of the Economic Regulatory Administration (ERA). The eligible seller of the natural gas is Tenneco Oil Company and the gas will be transported by Tennessee Gas Pipeline Company, Transcontinental Gas Pipe Line Corporation, and Columbia Gas Transmission Corporation. Notice of that application was published in the **Federal Register** (45 FR 70542, October 24, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On November 6, 1979, Air Products received the original certification (ERA Docket No. 79–CERT–093) of an eligible use of natural gas purchased from Tenneco Oil Company for use at the New Orleans complex for a period of one year. This recertification is being made effective on November 6, 1980, in order to provide continuity with the original certificate which expires on November 5, 1980.

The ERA has carefully reviewed Air Products' application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Air Products' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the Division of Natural Gas Docket Room 7108, RG–55,. 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., November 3, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80–34813 Filed 11–06–80; 8:45 am]

BILLING CODE 6450–01–M

TOCO Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado, 80226, Phone: (303) 234–3195.

SUPPLEMENTARY INFORMATION: On September 19, 1980, 45 FR 62528 (1980), the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with TOCO Corporation on August 27, 1980 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order to the DOE, no comments were received. The proposed Consent Order has therefore been finalized.

Issued in Lakewood, Colorado on the 31st day of October, 1980.

Kenneth E. Merica,

District Manager of Enforcement.

Concurrence by:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80–34815 Filed 11–6–80; 8:45 am]

BILLING CODE 6450–01–M

Puget Sound Power & Light Co.; Application for Amendment to Presidential Permit PP–6A

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application by Puget Sound Power & Light Company for Amendment to Presidential Permit PP–6A for International Transmission Line.

SUMMARY: Puget Sound & Light Company filed an application for amendment to Presidential Permit PP–6A to allow the applicant to increase the voltage of its international transmission line from 12 kilovolts to 25 kilovolts, and to import additional amounts of electric energy annually from Canada into the United States.

FOR FURTHER INFORMATION CONTACT: James M. Brown, Jr., System Reliability & Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3825. Lise Courtney M. Howe, Office of the General Counsel, Department of Energy, Forrestal Building, Room 5E–064, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the Puget Sound Power & Light Company (Puget Sound) filed an application with the Economic Regulatory Administration (ERA) for amendment of its Presidential Permit PP–6A, dated April 23, 1942. In that Permit, Puget Sound is authorized to operate a 12-kilovolt international transmission line at the boundary line between the United States and Canada near Point Roberts, Washington, and to import no more than 4,380,000 kilowatt-hours per year at a rate not in excess of 500 kilowatts. In its application for amendment, Puget Sound requests that the transmission line be increased to 25 kilovolts and that the import limit be

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raised to no more than 43,800,000 kilowatt-hours per year at a rate not in excess of 5,000 kilowatts. According to the applicant, the amendments are necessary because demand for electric energy in the Point Roberts area has increased steadily over the years. Importation from Canada is the only feasible method of supplying electricl energy to Point Roberts due to its unique geographic location.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with section 1.8 or 1.10 of the Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10).

Any such petitions and protests should be filed on or before December 26, 1980. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B–210, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: November 1, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-34804 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51388-9006-21-77]

Rockwood Unit No. 1; Imperial Irrigation District

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Imperial Irrigation District Rockwood Unit No. 1 as an Existing Facility.

SUMMARY: On May 18, 1979, the Imperial Irrigation District (IID) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Rockwood Unit No. 1 (Rockwood 1) as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). The Final Rule published on October 19, 1979 (44 FR 60695) became effective November 30, 1979. Additional information was required by ERA and a revised request was submitted on April 1, 1980. On June 9, 1980, ERA published a summary of IID's request for classification and requested comments by interested persons on or before June 30, 1980. ERA has not received any comments in response to this notice.

ERA has completed its analysis of IID's request for Rockwood 1 and has determined that IID has satisfactorily demonstrated that it would suffer a substantial financial penalty. IID had expended, in nonrecoverable outlays, more than 25 percent of the total projected project costs as of November 9, 1978, for Rockwood 1 within the meaning of Section 515.6 of the Final Rule.

ERA has classified IID's Rockwood 1 as an existing facility. Therefore this unit is subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

Louis T. Krezanosky, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3012 B, Washington, D.C. 20461, Phone (202) 653–4208.

James Renjilian, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION:

(1) On May 18 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, IID requested that ERA classify IID's Rockwood Unit No. 1 (Rockwood 1) as an "existing" facility. The Final Rule published on October 9, 1979 (44 FR 60695) became effective November 30, 1979. Additional information was required by ERA and a revised request was submitted on April 1, 1980. On June 9, 1980, ERA published a summary of IID's request for classification in the **Federal Register** (45 FR 16524) and requested comments by interested persons on or before June 30, 1980. ERA has not received any comments in response to this notice.

(2) ERA has analyzed the material submitted by IID applicable to Rockwood 1 and has classified the unit as an existing facility on the basis that IID has satisfactorily demonstrated that it would suffer a substantial financial penalty because it has expended, in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for Rockwood 1 within the meaning of Section 515.6 of the Final Rule.

A copy of ERA's Summary of Analysis dated October 14, 1980, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., October 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-34803 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Baltimore Gas and Electric Co., Application

[Docket No. ES81-7-000]

November 3, 1980

Take notice that on October 24, 1980, Baltimore Gas and Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $275,000,000 principal amount of short-term debt to be issued from time to time with maturities not later than December 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34819 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-6-000]

Cabot Corp.; Application for Approval of Rates

November 3, 1980.

Take notice that on October 7, 1980, Cabot Corporation (Applicant), 1400 Charleston National Plaza, Charleston, West Virginia 25325, filed in Docket No. ST81-6-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas on behalf of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that under a gas transportation agreement dated October 2, 1980, Cranberry Pipeline Corporation (Cranberry) has agreed to provide a transportation service for Tennessee of gas Tennessee purchases in West Virginia from Appalachian Exploration & Development, Inc. and Cabot Oil & Gas Corporation. Applicant further states that Cranberry has agreed to provide such a service when the Public Service Commission of West Virginia grants permission for the transfer of ownership of the natural gas transportation system located in West Virginia from Applicant to Cranberry. Until such time it is asserted that Applicant, Tennessee, and Cranberry have entered into interim transportation agreements dated October 2, 1980, in order to begin deliveries of gas prior to the authorization to transfer facilities to Cranberry. It is asserted that such interim agreements provide that the term of such transportation services by Applicant would begin with the date of initial deliveries and extend to the earlier of a period not exceeding two years or until Cranberry accepts a certificate of public convenience and necessity from the Commission.

Applicant states that it would accept gas for Tennessee's account at mutually agreeable wellhead delivery points in West Virginia on Applicant's facilities and redeliver such gas to Tennessee at a mutually agreeable redelivery point in Kanawha County, West Virginia, or at such other redelivery points in West Virginia which are acceptable to both parties. Applicant further states that it would redeliver each day a quantity of gas equivalent to the thermal value of the gas it receives at the delivery points less volumes consumed as compressor fuel or unaccounted volumes.

Applicant proposes a transportation charge of $.60 per Mcf of gas redelivered to Tennessee as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34838 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3462]

Cascade Waterpower Development Corp. Application for Preliminary Permit

November 3, 1980

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3462 to be known as Three Mile Falls Diversion Dam Project located on the Umatilla River in Umatilla County, Oregon. The proposed project lies wholly on lands owned by the U.S. Water and Power Resources Service (WPRS). Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Project Description.—The proposed project would consist of: a penstock through the existing WPRS 24-foot high, concrete multiple arch Three Mile Falls Divesion Dam, a powerhouse, and transmission line. The project would utilize excess irrigation water.

Purpose of Project.—Applicant intends to market the power generated by the project to local public utilities.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct studies and surveys, perform preliminary designs, quantity, and cost estimates, and a feasibility analysis, conduct environmental studies and assessments, and prepare an FERC license application. No new roads are required to complete the studies.

The estimated cost of the work to be performed under the preliminary is $50,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before December 31, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 2, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 31, 1980.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition To Intervene", as

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applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3462. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St, N.E., Washigton, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Wash., D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34820 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3461]

Cascade Waterpower Development Corp. Application for Preliminary Permit

November 3, 1980.

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3461 to be known as the Scoggin Dam Project located on the Scoggin Creek in Washington County, Oregon. The proposed projects lies wholly on lands owned by the U.S. Water Power Resources Service (WPRS). Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Project Description.—The proposed project would consist of: a penstock connecting to the existing outlet works of the 131-foot high, earthfill WPRS' Schoggin Dam, a powerhouse, and a transmission line. The project would utilize excess irrigation water.

Purpose of Project.—Applicant intends to market the power generated by the project to local public utilities.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct studies and surveys, perform preliminary designs, quantity and cost estimates, and a feasibility analysis, conduct environmental studies and assessments, and prepare an FERC license application. No new roads are required to complete the studies.

The estimated cost of the work to be performed under the preliminary permit is $47,000.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 3, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b)d and (c), *(as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d), *(as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 2, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3461. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Wash., D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34839 Filed 11-06-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-52-000]

Central Louisiana Electric Co.; Filing

November 3, 1980.

The filing Company submits the following:

Take notice that on October 24, 1980, Central Louisiana Electric Company (CLECO) tendered for filing a letter agreement dated November 14, 1979, which provides for the sale of 150 MW of unit capacity from CLECO's Rodemacher Unit No. 1 to Gulf States Utilities, Inc. for the 12-month period commencing January 1, 1981.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in obtaining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34821 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-50-000]

Cliffs Electric Service Co.; Filing

November 3, 1980

Take notice that on October 24, 1980 Cliffs Electric Service Company filed a change in its incidental energy rate to the City of Marquette, Michigan. The effect of the change will be to increase the rate from 29.1 mills to 30.1 mills/kwh.

An effective date of January 1, 1981 is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *November 21, 1980.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34822 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-51-000]

Cliffs Electric Service Co., Rate Schedule Filing

November 3, 1980

Take notice that on *October 24, 1980,* Cliffs Electric Service Company ("Service Co.") filed a change in the Incidental Energy Service Schedule in its Interconnection and Energy Agreement with Wisconsin Electric Power Company. The effect of the change will be to increase the rate from 30.3 to 31.4 mills/kwh.

Service Co. requests an effective date of January 1, 1981.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before *November 21, 1980.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34822 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-23-000]

El Paso Natural Gas Co.; Application

November 3, 1980.

Take notice that on October 17, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-23.000 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon during the calendar year 1981 and operation of various field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed facilities would not exceed $3,000,000. Applicant requests waiver of the single-project cost limitation of $500,000 prescribed by Section 157.7(g). It proposes to increase the single project limitation to $1,000,000. Such a waiver is necessary, states Applicant, because of continuing increases in the cost of equipment and expenses incident to the installation of equipment. Such costs, it is asserted would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34830 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER77-516, ER77-549, ER77-550]

Florida Power Corp.; Filing

November 3, 1980.

The filing company submits the following:

Take notice that on October 23, 1980, Florida Power Corporation submitted for filing a refund report pursuant to the Commissions's order in the above referenced proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such

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protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34823 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-66]

Holiday Gulf; Filing of Petition for Review Under 42 U.S.C. 7194

November 3, 1980.

Take notice that Holiday Gulf on February 25, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977) (Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 18, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 18, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34831 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-69]

Interstate Power Co.; Application for Waiver

November 3, 1980.

Take notice that Interstate Power Company (Interstate), on July 1, 1980, filed an application for waiver of certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Waiver is sought from the requirement to file on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in § 290.401(b), separately by retail regulatory jurisdiction.

In its application for waiver, Interstate states that it should not be required to file the specified data for the following principal reasons:

(1) The Interstate system contains no geographic or distributional characteristics that are unique to any of the three retail regulatory jurisdictions included.

(2) The installation of independent load research metering in each jurisdiction would not enhance the information recovered although it would triple the cost borne by its customers.

Copies of the application for waiver are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for waiver must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, on or before December 22, 1980. Within that 45-day period such person must also serve a copy of such comments on Interstate Power Company, Attention: Fred E. Horton, Jr., Esquire, 1000 Main Street, Dubuque, Iowa 52001.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34824 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-67]

Iowa-Illinois Gas & Electric Co.; Application for Waiver

November 3, 1980.

Take notice that Iowa-Illinois Gas & Electric Company (Iowa-Illinois), on June 27, 1980, filed an application for waiver of certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Waiver is sought from the requirements to file on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in Section 290.401(b) by separate retail regulatory jurisdiction.

In its application for waiver Iowa-Illinois states that it should not be required to file the specified data for the following principal reasons:

(1) There is no significant difference in load data between its two retail regulatory jurisdictions.

(2) Both the Iowa State Commerce Commission and the Illinois Commerce Commission have waived the separate load reporting requirement.

Copies of the application for waiver are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for waiver must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45-day period such person must also serve a copy of such comments on Iowa-Illinois, addressed to: Iowa-Illinois Gas & Electric Company, Attention: Brent E. Gale, Esquire, 206 East Second Street, Davenport, Iowa 52808.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34825 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER77-576]

Kansas Gas and Electric Co.; Filing

November 3, 1980.

The filing company submits the following:

Take notice that on October 2, 1980, Kansas Gas and Electric Company submitted for filing a statement of compliance pursuant to Commission Opinion No. 80-A, issued in the above-referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34826 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. TA80-1-25, et al.]

Mississippi River Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

November 3, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of the filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 18, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date and company	Docket no.	Type filing
9/16/80—Mississippi River Transmission Corp.	TA80-1-25	Report.
10/17/80—South Georgia Natural Gas Co.	RP77-32-008	Report.
10/17/80—El Paso Natural Gas Co.	RP79-12-009	Report.
10/21/80—Texas Eastern Transmission Corp.	RP81-5-000	Plan.

[FR Doc. 80-34840 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-73]

New England Power Service Co.; Application for Waiver

November 3, 1980.

Take notice that the New England Power Service Company (NEPSC), on behalf of its subsidiaries the Massachusetts Electric Company and the Narrangansett Electric Company, on July 23, 1980, filed an application for waiver of certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Waiver is sought from the requirement to file on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in § 290.401(b), separately by retail regulatory jurisdiction.

In its application for waiver, NEPSC states that it should not be required to file the specified data for the following principal reasons:

(1) NEPSC proposes to do joint system-wide load research and submit this in lieu of separate data for each retail regulatory jurisdiction.

(2) The two retail regulatory jurisdictions, the Rhode Island Public Utilities Commission (RIPUC) and the Massachusetts Department of Public Utilities (MDPU) held joint hearings in Rhode Island and Massachusetts on May 22 and 23, 1980, on the subject of doing load research for the NEPSC system-wide and no party to the proceeding opposed the Company's request.

(3) The RIPUC and MDPU have given tentative approval to NEPSC to proceed with system-wide load research.

Copies of the application for waiver are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for waiver must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45-day period such person must also serve a copy of such comments on NEPSC, addressed to: New England Power Service Company, Attention: Mr. Gerald R. Browne, Executive Vice President, 20 Turnpike Road, Westborough, Massachusetts 01581.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34841 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RE80-70, 71, and 72]

Northeast Utilities; Application for Waiver

November 3, 1980.

Take notice that Northeast Utilities (NU) on behalf of its subsidiaries, the Western Massachusetts Electric Company, the Connecticut Light and Power Company, and the Hartford Electric Light Company, on July 1, 1980, filed an application for waiver of certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Waiver is sought from the requirements to file on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in § 290.401(b), separately by retail regulatory jurisdiction.

In its application for waiver, NU states that it should not be required to file the specified data for the following principal reasons:

(1) In lieu of furnishing the load data by separate retail regulatory jurisdiction, NU proposes to submit data for the NU system companies as a whole.

(2) NU subsidiary companies have received orders from the Massachusetts Department of Public Utilities (MDPU) and the Connecticut Division of Public Utility Control (CDPUC) to undertake research regarding the load characteristics of groupings of commercial and industrial customers.

(3) NU has submitted a system-wide load research plan to MDPU and CDPUC and they have approved it.

(4) NU states that since the number of load research metering devices needed by NU to do load research on a system-wide basis is significantly reduced it is prudent to request this waiver.

Copies of the application for waiver are on file with the Commission and are

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available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for waiver must file such information with the Federal energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45-day period such person must also serve a copy of such comments on NU, addressed to:

Northeast Utilities
Attention: Mr. Richard H. Brown,
Director of Consumer Economics,
P.O. Box 270,
Hartford, Connecticut 06101.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34842 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA-81-1-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

November 3, 1980.

Take notice that on October 27, 1980, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1:
- Twenty-fourth Revised Sheet No. 4a.
- Fourteenth Revised Sheet No. 4b.
- First Revised Sheet No. 4c.

Original Volume No. 2:
- Twenty-fourth Revised Sheet No. 1c.

Such revised tariff sheets are required in order that Northern may place into effect the proposed rates on December 27, 1980 to reflect:

(1) the estimated increase in the cost of purchased gas pursuant to Paragraph 18 of Northern's FERC Gas Tariff, Third Revised Volume No. 1. Additionally, this PGA reflects the flow-through of certain refund obligations pursuant to Commission Orders in Docket No. RP78-56;

(2) the decrease in Northern's costs associated with Research, Development and Demonstration Expenditures;

(3) the increase in Gas Research Institute unit charge pursuant to Paragraph 19 of Northern's FERC Gas Tariff, Third Revised Volume No. 1; and

(4) the estimated decrease in Louisiana First Use Tax surcharge pursuant to Paragraph 20 of Northern's FERC Gas Tariff, Third Revised Volume No. 1.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before Dec. 5, 1980. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34843 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-19-000]

Northwest Pipeline Corp.; Application

November 3, 1980.

Take notice that on October 17, 1980, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP81-19-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Southwest Gas Corporation (Southwest) at a new point of delivery to Southwest in LaPlata County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that with the exception of sales made to Southwest pursuant to Applicant's Rate Schedule WS-1 and Applicant's Special Rate Schedule X-46, all of the natural gas which Applicant is authorized to sell to Southwest is presently delivered to Southwest at a point of interconnection between the facilities of Applicant and Southwest on the Idaho-Nevada border in Owyhee County, Idaho. Applicant further states that it is also presently authorized to transport and deliver to El Paso Natural Gas Company (El Paso) for the account of Southwest up to 22,000 Mcf of gas per day which Southwest has or may develop and/or purchase in the States of Utah and Colorado.

Applicant proposes herein to establish a new point of delivery for the sale and delivery of natural gas to Southwest at an existing point of interconnection between the facilities of Applicant and El Paso in LaPlata County, Colorado.

Applicant proposes to provide Southwest with an additional delivery point in order to permit Southwest to purchase and take delivery of gas purchased from Applicant under Applicant's Rate Schedule ODL-1 and that the volumes of natural gas not required by Southwest to meet its northern Nevada (Reno) requirements would then be made available to serve the natural gas requirements of Southwest's other market areas.

Applicant asserts that it presently has a gas supply in excess of its firm contractual requirement and that the sale and delivery to Southwest at the proposed delivery point would help to defer the prepayment of gas by Applicant and permit the orderly attachment of new gas reserves.

Applicant states that any revenues received from the sale to Southwest at the proposed delivery point would be subject to the gas sales revenue tracking provision of Applicant's rate settlement approved May 15, 1980, in Docket RP79-57. The application also states that no additional facilities are required to provide the proposed service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34832 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-68]

Oklahoma Gas and Electric Co.; Application for Waiver

November 3, 1980.

Take notice that Oklahoma Gas and Electric Company (OG&E), on July 1, 1980, filed an application for waiver of certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Waiver is sought from the requirements to file on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in Section 290.401(b), separately by retail regulatory jurisdiction.

(1) Preliminary sampling of the kWh characteristics of consumers in its two retail regulatory jurisdictions exhibit stratistically similar patterns.

(2) The benefits received from load research metering in the two jurisdictions separately would not be warranted when considering the doubling of cost, the limited improvement of results, and the relatively small percentage (less than 10%) of total OG&E sales made to retail customers in Arkansas.

Copies of the application for waiver are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for waiver must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45-day period such person must also serve a copy of such comments on OG&E, addressed to:

Oklahoma Gas and Electric Company,
Attention: Mr. Leon C. Smith, Manager
of Rates and Assistant Secretary,
Post Office Box 321,
Oklahoma City, Oklahoma 73101.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34833 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-65]

Potomac Electric Power Co.; Application for Exemption

November 3, 1980.

Take notice that Potomac Electric Power Company (Pepco), on June 30, 1980, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file as to its Virginia retail jurisdiction, on or before June 30, 1982, certain jurisdictional load data pertaining to its costs of providing electric service as specified in § 290.401(b).

In its application for exemption, Pepco states that it should not be required to file the specified data for the following principal reasons:

(1) The proportion of all of Pepco's business done in Virginia is extremely small; and the proportion of all of Virginia's electricity sales made by Pepco is extremely small.

(2) The cost of complying is substantial and, in view of the data's limited usefulness, unduly burdensome.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45-day period such person must also serve a copy of such comments on Pepco, addressed to:

Potomac Electric Power Company,
Attention: Edward A. Caine, Esquire,
Deputy General Counsel,
1900 Pennsylvania Avenue NW., Rm. 841,
Washington, D.C. 20068.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34834 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-54-000]

Public Service Company of Oklahoma; Filing

November 3, 1980.

The filing Company submits the following:

Take notice that the Public Service Company of Oklahoma (PSO) submitted on October 28, 1980, for filing with this Commission an Agreement entered into between PSO and the United States of America acting through the Secretary of Energy as represented by the Administrator, Southwestern Power Administration dated October 16, 1980, which provides for the sale of conservation energy and emergency service by Public Service and Southwestern Power Administration desires to purchase said energy.

PSO contends that Southwestern would be entitled under that Agreement to purchase conservation energy only to the extent that it has alternate sources of dependable hydroelectric capacity which it could otherwise use. Such conservation energy purchased by Southwestern would replace energy which could otherwise be generated by the hydroelectrice projects of Southwestern so as to conserve and maintain their electric generating capability and environmental quality. PSO further contends that the rates set forth in this Agreement are based upon the rates which generally prevail in the area. Drought conditions and low water levels combined to make the Agreement necessary.

PSO requests that the Commission waive the 30 day minimum notice period and accept the Agreement effective on October 16, 1980.

PSO indicates that copies of the proposed Agreement have been forwarded to the Oklahoma Corporation Commission as well as the Southwestern Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34844 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

V 45 / 218 NOV 80 UMI

[Docket No. CP81-10-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

November 3, 1980.

Take notice that on October 9, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-10-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities necessary to connect gas purchased by Applicant from Conoco Inc. (Conoco), Getty Oil Company (Getty), Arco Oil and Gas Company (Arco)and Cities Service Company (Cities), in the Vermilion Area, Blocks 119 and 104, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate 9.9 miles of 12¾-inch O.D. pipeline and 1.4 miles of 8⅝-inch pipeline. Applicant asserts that the proposed 12¾-inch O.D. pipeline would permit the attachment of gas purchased by Applicant from Conoco, Arco, Cities and Getty to Applicant's existing pipeline system. It is stated that such facilities would originate at Conoco's, Arco's, Cities' and Getty's Platform "G" in the Vermilion Area Block 119, offshore Louisiana, and would extend to Vermilion Block 116 where it would interconnect with the existing Blue Water Project facilities. It is further stated that the proposed 8⅝-inch O.D. pipeline would permit the attachment of gas produced by Arco in Vermilion Block 104, offshore Louisiana.

Applicant estimates that as a result of the construction of the proposed facilities approximately 60,700,000 Mcf of recoverable gas reserves would be available to it from Vermilion 119 and 104 and that the total deliverability from Vermilion 119 and 104 would be approximately 50,000 Mcf of gas per day.

The cost of proposed facilities is estimated to be $7,963,000 which cost would be financed from general fund and/or borrowings on Applicant's revolving credit agreements, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34845 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-17-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

November 3, 1980.

Take notice that on October 16, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-17-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of East Tennessee Natural Gas Company (East Tennessee) in connection with an underground storage service proposed to be rendered for East Tennessee by Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to receive up to 4,546 Mcf of gas per day plus a volume equal to Applicant's fuel and use requirements from East Tennessee each day during the injection period that Applicant's existing Greenbrier No. 2 Sales Meter Station delivery point to East Tennessee in Robertson County, Tennessee, and to transport and deliver an equivalent volume to Consolidated at Applicant's existing Ellisburg Sales Meter Station delivery point to Consolidated in Potter County, Pennsylvania.

During the withdrawal period, Applicant proposes to receive a like amount of gas per day from Consolidated at the aforementioned Ellisburg delivery point and to transport and deliver such volumes to East Tennessee at the aforementioned Greenbrier No. 2 delivery point. It is asserted that the maximum volume which Applicant proposes to transport for East Tennessee during each injection and withdrawal period would be 500,000 Mcf.

For the transportation service proposed herein, Applicant states that it would initially change East Tennessee 40.71 cents for each Mcf received from Consolidated and transported and delivered to East Tennessee during the withdrawal period.

The proposed transportation service, it is stated, is for a primary term ending March 31, 2000, and from year to year thereafter. Applicant states it would transport the gas on a best-efforts basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants/parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34846 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-26-000]

Trunkline Gas Co.; Application

November 3, 1980.

Take notice that on October 20, 1980, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-26-00 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and redeliver to United a firm quantity of 10,000 Mcf of natural gas per day purchased by United from Getty Oil Company (Getty) and Conoco, Inc. (Conoco). It is stated that Applicant and United have entered into a transportation contract dated September 17, 1980, under which Applicant would receive gas for United's account from Getty and Conoco at the existing point of interconnection between the facilities of Applicant and Conoco on Conoco's production platform in South Timbalier Block 148, offshore Louisiana. Applicant states that it understands that United has arranged to purchase volumes of natural gas from Getty and Conoco in South Timbalier Block 146, offshore Louisiana. It is stated that Applicant would transport equal quantities of said gas, less 3 percent fuel usage, to United at the existing point of interconnection between the facilities of Applicant and United in St. Mary Parish, Louisiana. Applicant asserts that it has sufficient capacity in its system to transport these volumes and that this arrangement would be the most efficient and economical means of transporting United's gas.

It is stated that under the agreement, United would pay Applicant $10,000 per month subject to adjustment based on the firm 10,000 Mcf of natural gas per day. If Applicant receives more than the firm quantity the monthly charge would be increased by 3.28 cents per Mcf and if it receives less the charge would be reduced by 3.28 cents per Mcf, it is stated. Furthermore, it is stated the monthly charge would be subject to adjustment as a result of Applicant's rate proceedings.

It is asserted that the term of the transportation service is ten years and from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34847 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-53-000]

Tucson Electric Power Co.; Cancellation

November 3, 1980

Take notice that on October 24, 1980, Tucson Electric Power Company (Tucson) tendered for filing a notice of cancellation of FERC Rate Schedule No. 24. The proposed effective date of the cancellation is December 1, 1980.

Tucson states that the aforementioned Rate Schedule is identified as "Colorado-TGE 1979-1980 Power Sale Agreement" between Tucson and Public Service Company of Colorado, dated March 3, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34835 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3350]

Turlock Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

November 3, 1980.

Take notice that on August 25, 1980, Turlock Irrigation District (District) filed an application under Section 30 of the Federal Power Act [16 U.S.C. 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Federal Power Act. The proposed Drop No. 6—SHPG Power Plant (FERC Project No. 3350) would be located on the District's Main Canal at the sixth control structure (Drop No. 6), downstream of Turlock Lake, the District's regulating reservoir, in Stanislaus County, California. Water is diverted into the Turlock Main Canal from the Tuolumne River approximately 16 miles from the project site at LaGrange Diversion Dam. Correspondence with the District should be directed to Mr. Ernest Geddes, General Manager, Turlock Irrigation

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District, P.O. Box 949, Turlock, CA 95380.

Purpose of Project—Project energy would be utilized to meet the total future requirements of the District's electric service area.

Estimated Cost—The cost of the proposed project is estimated by the District to be $452,000.

Project Description—The District proposes to install a powerplant, at one end of and below the existing control structure, containing a turbine-generator unit that is a prototype design of the Schneider Hydrodynamic Power Generator with a rated capacity of 200 kW. Because the unit will be located at one end of the control structure, there will be room to add three units if such additions are deemed feasible in the future. The power plant would be locally monitored and controlled manually.

Agency Comments—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be received on or before December 15, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34836 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-49-000]

Upper Peninsula Power Co.; Filing

November 3, 1980.

Take notice that on October 24, 1980, Upper Peninsula Power Company (Upper Peninsula) tendered for filing a revised Service Schedule III (Energy Interchange Rate) to the 1978 Basic Agreement. Upper Peninsula states that Paragraph 1.07 of the 1978 Basic Agreement provides for an annual review and adjustment of the Energy Interchange Rate for each calendar year.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34827 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3270]

Water Power Development Corp.; Application for Preliminary Permit

November 3, 1980.

Take notice that Water Power Development Corporation (Applicant) filed on July 29, 1980, and revised on September 4, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3270 to be known as the Goodwin-Colebrook Dam Project located on the West Branch of the Farmington River in Hartford and Litchfield Counties, Connecticut. The proposed project would utilize Federal lands and a Federal dam under the jurisdiction of the U.S. Army Corps of Engineers. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Kenneth E. Mayo, President, Water Power Development Corporation, 23 Temple Street, Nashua, New Hampshire 03060. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wished to file.

Project Description—The proposed project would consist of the Goodwin Dam and the Colebrook River Lake Dam development. The Goodwin Dam is located 57 river miles upstream of the confluence of the Connecticut River and the West Branch of the Farmington River. The Colebrook River Lake Dam is located approximately 2 miles upstream of the Goodwin Dam.

The proposed Goodwin Dam development would consist of: (1) an existing earth dam having a height of 135 feet and a length of 900 feet; (2) a reservoir with a storage capacity of 6.5 billion gallons; (3) a proposed penstock extending 300 feet from six existing gate openings to; (4) a proposed powerhouse having an installed generating capacity of 3,200 kW; and (5) appurtenant works. Existing project facilities are currently owned by the Metropolitan District of the City of Hartford. The proposed Colebrook Dam development would utilize the U.S. Army Corps of Engineers' existing Colebrook River Lake Dam and Reservoir. The development would consist of: (1) a proposed penstock; (2) a proposed powerhouse having an installed generation capacity of 1,800 kW; and (3) appurtenant works.

It is estimated that the combined operation of both developments could provide an average annual net generation of 20,000 MWh.

Purpose of Project—Project power would be sold to a local public utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate the hydraulic, power generation, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, the Applicant would decide how to proceed with further environmental studies, project designs, and an application for an FERC license. Applicant estimates the cost of studies under the permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consitant with the purpose of a permit as described in this notice. No other formal request for comments will be made. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 6, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3270. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34837 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-57-000 (PGA81-1)]

Western Transmission Corp.; Proposed Changes

November 3, 1980.

Take notice that Western Transmission Corporation (Western), on October 28, 1980, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Fourteenth Revised Sheet No. 3–A, superseding Thirteenth Revised Sheet No. 3–A.

The proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is December 1, 1980.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-34828 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; Week of September 22 Through September 26, 1980

During the week of September 22 through September 26, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receivers actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved partywho fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Document Room of the Office of Hearings and Appeals, Room B120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

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October 31, 1980.

Amerada Hess Corporation, Washington, D.C., BEE–1310
Ashland Oil, Inc., Ashland, Kentucky, BEE–1377
Atlantic Richfield Company, Los Angeles, California, BEE–1301
Chevron U.S.A. Inc., San Francisco, California, BEE–1359
Cities Service Company, Tulsa, Oklahoma, BEE–1400
Exxon Company, U.S.A., Houston, Texas, BEE–1411
Getty Refining and Marketing Co., Tulsa, Oklahoma, BEE–1320
Gulf Oil Corporation, Houston, Texas, BEE–1304
Mobil Oil Corporation, Washington, D.C. BEE–1281
Shell Oil Company, Houston, Texas, BEE–1309
Standard Oil Company of Indiana (AMOCO), Chicago, Illinois, BEE–1314
Standard Oil Company of Ohio (SOHIO), Cleveland, Ohio BEE–1391
Sun Oil Company of Pennsylvania, Philadelphia, Pennsylvania, BEE–1349
Tenneco Oil Company, Houston, Texas, BEE–1401
Texaco Inc., White Plains, New York, BEE–1246, motor gasoline, propane

Each of the above-named firms filed Applications for Exception from the provisions of 10 CFR 212.83(c) and (h). The exception request, if granted, would permit the applicants to include in their selling prices for covered petroleum products sold in the State of Connecticut the cost of a gross receipts tax recently imposed by that State on sales of petroleum products by integrated refiners. On September 24, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception requests should be granted.

Hempstead Resources Recovery Corporation, Washington, D.C., BEE–1407
Arizona Chemical Company, Wayne, New Jersey, BEE–1273
Powerine Oil Company, Santa Fe Springs, California, BEE–1289
Laketon Asphalt Refining, Evansville, Indiana, BEE–1312
Peerless Petrochemicals, Inc., Washington, D.C., BEE–1251
Giant Industries, Inc., Washington, D.C., BEE–1406
Coastal Petroleum Refiners, Inc., Santa Ana, California, BEE–1405
Colonial Oil Industries, Inc., Savannah, Georgia, BEE–1364
Cadence Chemical Resources, Inc., Michigan City, Indiana, BEE–1360
Milwaukee Metropolitan Sewerage District, Milwaukee, Wisconsin, BEE–1361
Northeast Petroleum Industries, Inc., Washington, D.C., BEE–1350
County Sanitation Districts of Orange County California, Fountain Valley, California, BEE–1374
Nashville Thermal Transfer Corp., Nashville, Tennessee, BEE–1371
American Can Company, Greenwich, Connecticut, BEE–1372
Yetter Oil Company, Burlington, Iowa, BEE–1367
Midwest Solvents Co., Inc., Atchison, Kansas, BEE–1370
Irving Oil Corporation, Washington, D.C., BEE–1370
Western Refining Company, Los Angeles, California, BEE–1408
Coral Petroleum, Inc., Houston, Texas, BEE–1387
City of Los Angeles, Los Angeles, California, BEE–1388
Val Verde International, Inc., Laredo, Texas, BEE–1380, crude oil

Each of the above-named firms filed Applications for Exception from the provisions of the Entitlements Program, 10 CFR 211.67. The exception requests, if granted, would permit the applicants to sell additional entitlements to compensate for entitlements which Sector Refining, Inc. has failed to purchase. On September 25, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception requests should be granted.

Koch Exploration Company, Wichita, Kansas, BXE–1297, crude oil

Koch Exploration Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted would result in an extension of exception relief previously granted and would permit the firm to sell at market prices a certain portion of the crude oil which it produced from the Sink Draw #1 Lease for the benefit of the working interest owners. On September 22, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted with respect to the applicant's Sink Draw #1 Lease.

Vanway Gasohol, Inc., Brantley, Alabama, BEE–0978, gasohol

Vanway Gasohol, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211, Subpart F. The exception request, if granted, would result in the issuance of an Order assigning to the firm a base period allocation and supplier of unleaded motor gasoline for the purpose of blending gasohol. On September 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

PETITIONS INVOLVING THE MOTOR GASOLINE ALLOCATION REGULATIONS

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company name, Location, and Case No.

King & King Enterprises, Inc., Carl King d/b/a King Gas & Oil Co., Kansas City Missouri; DEE–2240

Moore's Gulf, Melbourne, Florida; BEE–1412

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company name, Location, Case No.

Advanced Sales Corp., St. Petersburg, Florida; BXE–1348

E. L. Yeager Construction Co., Inc., Riverside, California, DEE–5939

[FR Doc. 80–34806 Filed 11–6–80; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of September 8 through September 12, 1980

During the week of September 8 through September 12, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

October 31, 1980.

Proposed Decisions and Orders

Beacon Bay enterprises, Santa Ana, California, et al., BRO–1308, gasoline

On September 8, 1980, Beacon Bay Enterprises d/b/a Sierra Auto Wash, 2015 North Tustin Avenue, Santa Ana, CA 92680 d/b/a Newport Center Car Wash, 150 Newport Center Drive, Newport, Beach, CA 92660; d/b/a Lido Car Wash, 481 East Seventeenth Street, Costa Mesa, CA 92626; d/b/a Laguna Car Wash, 540 South Pacific Coast Highway, Laguna Beach, CA 92651; d/b/a Orange Car Wash, 2355 North Tustin, Orange, CA 92665; d/b/a El Toro Car Wash, 23602 El Toro Road, El Toro, CA 92630; d/b/a Newport Place Car Wash, 4200 Birch, Newport Beach, CA 92660; d/b/a Anaheim Auto Wash, 216 South Euclid, Anaheim, CA 92801; d/b/a Southcoast Auto Wash, 1501 South McArthur Boulevard, Santa Ana, CA 92704; d/b/a Lake Forest Auto Wash, 23581 Rockfield Boulevard, El Toro, CA 92630 filed a Notice of Objection to a Proposed Remedial Order (PRO) the DOE Western District Office of Enforcement issued to the firm on July 29, 1980. In the PRO, the Western District found that during August 1, 1979 to March 31, 1980 the firm committed pricing violations of $22,340.95 in connection with the sale of motor gasoline in the State of California.

Glen Cove yacht services, Glen Cove, New York, BRO–1309, gasoline

On September 10, 1980, Glen Cove Yacht Service, 88 Shore Road, Glen Cove, New York 11542, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on August 15, 1980. In the PRO, the Northeast District found that during the period January 2, 1980 through May 30, 1980, Glen Cove Yacht Service charged prices in excess of its maximum allowable selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO, the firms's violation resulted in $510.80 of overcharges.

Sheldon Hanson (H & B Texaco), Wichita Falls, Texas, BRO–1306, gasoline

On September 8, 1980, Mr. Sheldon Hanson d/b/a H & B Texaco and Broadstreet Texaco, c/o Bryant Pump and Equipment Co., 1903 Austin, Wichita Falls, Texas 76301, filed a Notice of Objection to a Proposed Remedial Order which the Office of Enforcement, Southwest District Office issued to the firm on August 21, 1980. In the PRO the Office of Enforcement found that during the period August 15, 1979 to February 26, 1980, the firm charged prices significantly in excess of its maximum allowable selling price for one or more grades of gasoline. According to the PRO the Hanson violation resulted in $11,202.18 of overcharges.

[FR Doc. 80–34805 Filed 11–6–80; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed, Week of September 26 through October 3, 1980

During the week of September 26 through October 3, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: October 31, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 26 through Oct. 3, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 26, 1980	DeMartin Truck Lines, Inc., Bakersfield, CA	BEH–1420 and BED–1420.	Request for Evidentiary Hearing and Motion for Discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by DeMartin Truck Lines, Inc. in response to the August 6, 1980 Proposed Decision and Order issued to the firm (Case No. DEE–1420).
Sept. 26, 1980	Exxon Company, U.S.A., Houston, TX	BFA–0481	Appeal of Information Request Denial. If granted: The August 18, 1980 Information Request Denial issued by the Office of Special Counsel would be rescinded, and Exxon Company, U.S.A. would receive access to an "issues paper" relating to the definition of the term "property".
Sept. 26, 1980	Genico Distributors and John C. Gabbert, Austin, TX.	BSG–0035	Petition for Special Redress. If granted: Genico Distributors and John C. Gabbert would receive a response to their request under the Freedom of Information Act regarding access to documents relating to the audit or investigation of Genico Distributors and John C. Gabbert.
Sept. 26, 1980	L. S. Riggins Oil Company, Washington, D.C.	BMR–0062	Request for Modification. If granted: The July 28, 1980 Decision and Order (Case Nos. DEE–3603 and DST–3603) issued to L. S. Riggins Oil Company by the Office of Hearings and Appeals would be modified.
Sept. 26, 1980	Total Petroleum, Inc., Washington, D.C.	BEE–1417	Price Exception. If granted: Total Petroleum, Inc. would receive an exception from the provisions of 10 CFR 212.83 which would permit Total Petroleum and Vickers Energy Corporation to be treated as separate firms for the purposes of the DOE Price Regulations.
Sept. 26, 1980	U.S. Oil and Refining Company, Washington, D.C.	BEE–1418 and BEL–1418.	Exception and Temporary Exception from the Entitlements Program. If granted: U.S. Oil and Refining Company would receive an exception and a temporary exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
Sept. 29, 1980	Atlantic Richfield Company, Los Angeles, CA	BFA–0483	Appeal of Information Request Denial. If granted: Atlantic Richfield Company would receive a waiver from payment of fees, in connection with the firm's August 14, 1980 Freedom of Information Request filed with Economic Regulatory Administration, Region V.
Sept. 29, 1980	Cedar Springs Marina, Inc., Vernal, UT	BEE–1419	Price Exception. If granted: Cedar Springs Marina, Inc. would receive an exception from the provisions of 10 CFR 212.93 which would permit the firm to sell motor gasoline at prices which exceed the applicable ceiling prices.
Sept. 29, 1980	Duncan, Allen and Mitchell, Washington, D.C.	BFA–0482	Appeal of Information Request Denial. If granted: The August 29, 1980 Information Request Denial issued by the Office of Power Marketing Coordination, Resource Applications would be rescinded, and Duncan, Allen and Mitchell would receive access to certain documents relating to the Colorado River Storage Project.
Sept. 29, 1980	Freddie Herbert, Jennings, LA	BEE–1483	Allocation Exception. If granted: Freddie Herbert would receive an exception from the provisions of 10 CFR Part 211 which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 29, 1980	J. D. Streett Company, Inc., Washington, D.C.	BRT–0107	Request for Temporary Stay. If granted: J. D. Streett Company, Inc. would receive a temporary stay of the obligation to file a response to a Notice of Probable Violation issued to the firm, pending a final determination on its Application for Stay (Case No. BRS–0107).
Sept. 29, 1980	L. O. Ward, Enid, OK	BRD–1235	Motion for Discovery. If granted: Discovery would be granted to L. O. Ward in connection with the firm's Statement of Objections (Case No. BRO–1235) submitted in response to a Proposed Remedial Order issued to the firm.

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 26 through Oct. 3, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 29, 1980	Mobil Oil Corp./Little America Refining Company, Washington, D.C.	BEJ-0139	Motion for Protective Order. If granted: Mobil Oil Corporation and Little America Refining Company would enter into a Protective Order regarding the exchange of proprietary information in connection with Little America's Applications for Exception, Temporary Exception and Stay (Case Nos. BEE-1084, BEL-1084, BES-0085 and BEL-0085).
Sept. 29, 1980	Village Standard Service, Elk Grove Village, IL	BRW-0069	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Village Standard Service on June 2, 1980 would be issued as a final Remedial Order.
Sept. 29, 1980	Wisconsin's Environmental Decade, Madison, Wisconsin.	BFA-0484	Appeal of Information Request Denial. If granted: Wisconsin's Environmental Decade would receive from DOE Region V a response to its request for documents on the subject of granite as a geological host medium for radioactive waste.
Sept. 30, 1980	Amerada Hess Corp. et al., Washington, D.C.	BEX-0101 to BEX-0115.	Supplemental Order. If granted: Amerada Hess Corp. et al. would be permitted to add the cost of a Connecticut gross receipts tax on refined petroleum products incurred during July and August 1980 to maximum lawful selling prices for those products sold in Connecticut during October and November 1980.
Sept. 30, 1980	Benson-Montin-Greer Drilling Corp., Washington, D.C.	BEE-1475	Price Exception. If granted: Benson-Montin-Greer Drilling Corp. would be permitted to sell at market prices the crude oil produced from the Canada Ojitos Unit located in Rio Arriba County, New Mexico.
Sept. 30, 1980	Caribou Four Corners Inc., Afton, WY	BEE-1477	Exception from the Entitlements Program. If granted: Caribou Four Corners Inc. would receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
Sept. 30, 1980	Cities Service Company, Tulsa, OK	BRJ-0140 and BRD-0140.	Motion for Discovery and Protective Order. If granted: Discovery would be granted to Cities Service Company and Cities Service would enter into a Protective Order with Giant Industries, Inc. regarding the release to Cities Service of proprietary information in connection with Giant Industries' Statement of Objections (Case No. BRO-1281) to the June 25, 1980 Proposed Remedial Order issued to Giant Industries by the Economic Regulatory Administration.
Sept. 30, 1980	Eagle Refining Company, Washington, D.C.	BST-0010	Request for Temporary Stay. If granted: Eagle Refining Company would receive a temporary stay of the provisions of 10 CFR 211.67, regarding its entitlements purchase obligations for the month of July 1980.
Sept. 30, 1980	Energy Development Board of Mercer County, Hazen, ND.	BEN-1121	Request for Interim Order. If granted: Energy Development Board of Mercer County would receive exception relief on an interim basis, pending a final determination on the firm's Application for Exception (Case No. BEE-1121).
Sept. 30, 1980	Mallard Resources, Inc., Washington, D.C.	BED-0537	Motion for Discovery. If granted: Discovery would be granted to Mallard Resources, Inc. in connection with its Statement of Objections submitted in response to the July 24, 1980 Proposed Decision and Order (Case Nos. BEE-0537, BST-0537, BES-0537) issued to the firm.
Sept. 30, 1980	Mallard Resources, Inc., Washington, D.C.	BRD-1277	Motion for Discovery. If granted: Discovery would be granted to Mallard Resources, Inc. in connection with its Statement of Objections (Case No. BRO-1277) submitted in response to the Proposed Remedial Order issued to the firm.
Sept. 30, 1980	Newmac Mfg., Inc., Woodstock, Ontario	BXE-1420	Extension of Relief granted in Newmac Mfg., Inc., 4 DOE ¶ 81,229 (1979). If granted: Newmac Mfg., Inc. would not be required to perform energy efficiency tests of its wood/oil and wood/coal/oil furnaces and boilers as required under 10 CFR Part 430.
Sept. 30, 1980	Southland Oil Co./VGS Corp., Washington, D.C.	BXE-1476	Exception from the Entitlements Program. If granted: Southland Oil Co./VGS Corp. would receive an exception from the provisions of 10 CFR 211.67 which would relieve the firm of a portion of its entitlements purchase obligations.
Sept. 30, 1980	Telum, Inc., Washington, D.C.	BRD-1244	Motion for Discovery. If granted: Discovery would be granted to Telum, Inc. in connection with its Statement of Objections (Case No. BRO-1244) submitted in response to the May 12, 1980 Proposed Remedial Order issued to the firm.
Sept. 30, 1980	Warrior Asphalt Co. of Alabama, Washington, D.C.	BXE-1477	Exception from the Entitlements Program. If granted: Warrior Asphalt Co. of Alabama would receive an exception from the provisions of 10 CFR 211.67 which would relieve the firm of a portion of its entitlements purchase obligations.
Oct. 1, 1980	Mid-America Refining Co., Inc., Washington, D.C.	BER-0063	Request for Modification. If granted: The June 18, 1980 Decision and Order issued to Mid-America Refining Co., Inc. by the Office of Hearings and Appeals would be modified.
Oct. 1, 1980	Plateau, Inc., Washington, D.C.	BEE-1480	Exception from the Entitlements Program. If granted: Plateau, Inc. would receive an exception from the provisions of 10 CFR 211.67 which would relieve the firm of a portion of its entitlements purchase obligations.
Oct. 1, 1980	Young Refining Corp., Washington, D.C.	BEE-1479	Exception from the Entitlements Program. If granted: Young Refining Corp. would receive an exception from the provisions of 10 CFR 211.67 which would relieve the firm of a portion of its entitlements purchase obligations.
Oct. 2, 1980	Giant Industries, Inc., Los Angeles, CA	BRD-0141 and BRJ-0141.	Motion for Discovery and Protective Order. If granted: Discovery would be granted to Giant Industries, Inc. and Giant Industries would enter into a Protective Order with Graves Oil Company and Standard Oil Company (Indiana) concerning the release to Giant Industries of proprietary information in connection with Giant Industries' Statement of Objections (Case No. BRO-1281) to the June 25, 1980 Proposed Remedial Order issued to Giant Industries by the Economic Regulatory Administration.
Oct. 2, 1980	Giant Industries, Los Angeles, CA	BRJ-0142 and BRD-0142	Motion for Discovery and Protective Order. If granted: Discovery would be granted to Giant Industries, Inc. and Giant Industries would enter into a Protective Order with Texaco, Inc. concerning the release to Giant Industries of propretary information in connection with Giant Industries' Statement of Objections (Case No. BRO-1281) to the June 25, 1980 Proposed Remedial Order issued to Giant Industries by the Economic Regulatory Administration.
Oct. 2, 1980	Marlex Oil and Refining, Inc., Washington, D.C.	BEE-1481	Exception from the Entitlements Program. If granted: Marlex Oil and Refining, Inc. would receive an exception from the provisions of 10 CFR 211.67 which would relieve the firm of a portion of its entitlements purchase obligations.
Oct. 2, 1980	Vic and Lou's Union, San Leandro, CA	BRX-0116	Motion for Supplemental Order. If granted: Vic and Lou's Union would receive an extension of time in which to file a notice of intent to appeal a May 30, 1980 Remedial Order to the Federal Energy Regulatory Commission.
Oct. 3, 1980	Blex Oil Company, Minneapolis, MN	BFA-0485	Appeal of Information Request Denial. If granted: The September 4, 1980 Information Request Denial issued by DOE Region VII would be rescinded, and Blex Oil Company would receive access to documents concerning complaints filed with the DOE against Blex Oil Company.
Oct. 3, 1980	EnDevCo, Inc., Oxford, MS	BEA-0487	Appeal of Assignment Order. If granted: The August 12, 1980 Assignment Order issued to EnDevCo, Inc. by the Economic Regulatory Administration, Region IV, denying EnDevCo's application for assignment of supplier and base period volume would be modified.

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List of cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of 9/26/80 to 10/3/80

If Granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name, Case No., Date, and State(s)

Lakeside Marathon, *et al.*—BEE–1422 to 1474—9/30/80—Indiana, Illinois, Ohio
H. L. Mills Petroleum Products—BXE–1482—10/1/80—Washington, D.C.

Notices of Objection Received

Week of September 26 through October 3, 1980

Date, Name and Location of Applicant, and Case No.

9/30/80—Glenn Martin Heller, Boston, Massachusetts—DEE–2142
10/1/80—A. Smith Bouman Distillery, Washington, D.C.—BEE–1096
10/1/80—Fannon Petroleum Service, Inc., Washington, D.C.—BXE–1318
10/2/80—Laketon Asphalt Refining, Inc., Washington, D.C.—BXE–1260
10/2/80—The Hartley Company, Cambridge, Ohio—BEE–0417.

[FR Doc. 80-34814 Filed 11-6-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 21 through July 25, 1980

During the week of July 21 through July 25, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 31, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Appeals

Cotten, Day & Doyle, Washington, D.C., BFA–0366, Freedom of Information

Cotten, Day & Doyle filed an Appeal from a denial by the Director of the Special Investigations Division, Office of General Counsel, Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE fund that release of the documents which were initially withheld under Exemption 7(A) would interfere with ongoing enforcement proceedings and therefore was not required by law. The Decision and Order affirmed that a specific index of documents need not be made available to a requester when the index itself would interfere with the enforcement proceedings, particularly when the requester has access to copies of documents and the index might disclose the focus of the enforcement case.

Floridan Oil Co., Orlando, Fla., BEA–0241, motor gasoline

Floridan Oil Company filed an Appeal of an Assignment Order issued to a retail outlet which it owns by ERA Region IV on December 17, 1979. In its appeal, Floridan sought to increase the allocation of motor gasoline granted to its outlet. However, the DOE found that ERA correctly limited the amount of motor gasoline it assigned Floridan to the adjusted base period volume of the largest existing station in Floridan's market area in order to protect existing stations in the area. Accordingly, the Appeal was denied.

Remedial Orders

Lupe A. Arias, Piru, Calif., BRO–0066–motor gasoline

Lupe A. Arias objected to a Proposed Remedial Order which the Western District Office of Enforcement issued to him on October 15, 1979. In the Proposed Remedial Order, the Western District found that Arias had made retail sales of motor gasoline at prices which exceeded his maximum lawful selling prices. In considering Arias' objections, the DOE determined that the Proposed Remedial Order did not explain how it had calculated Arias' costs of acquiring motor gasoline. In addition, the DOE found that there was no support for the allegations in the Proposed Remedial Order that Arias had engaged in discriminatory and unlawful business practices. The DOE therefore concluded that the Proposed Remedial Order should be rescinded in part and remanded to the Western District.

L. E. Jones Production Co., Duncan, Okla., DRO–0203, crude oil

L. E. Jones Production Company (Jones) filed a Statement of Objections to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on March 27, 1979. In the Proposed Remedial Order, the Office of Enforcement determined that a 40-acre lease operated by Jones was part of a single 80-acre property with an established BPCL, and that Jones had erroneously classified all of the crude oil produced from its 40-acre lease as "new crude oil". On the basis of these findings, Jones was directed to refund the overcharges. In its Statement of Objections, Jones argued that its acquisition in 1974 of oil and gas leases on the west 40 acres of the 80-acre lease divided the 80-acre lease into two separate properties. In the alternative, Jones contended that the establishment in 1965 of a 20-acre drilling and spacing unit around the sole producing well on the 80-acre lease had the effect of establishing a separate property with respect to that 20-acre unit. In considering the Appeal, the DOE found that Ruling 1975–15's prohibition against the establishment of a new property through the post-1972 subdivision of a single right to produce applied even when a portion of a property is conveyed to a new working interest owner who had no prior dealings with the former working interest owner. The DOE further found that this broad prohibition on dividing properties is consistent with the regulatory definition of "property" and the underlying purpose of the DOE regulations. The DOE also determined that the establishment of a drilling and spacing unit within a leased premises comprising a single, effective "right to produce" crude oil does not create a separate "right to produce" and consequently a separate "property" on those premises. Accordingly, the Jones Appeal was denied.

Request for Modification and/or rescission

Union Carbide Caribe, Inc., New York, N.Y., DMR–0074 naphtha

Union Carbide Caribe, Inc. (Union Carbide) filed an Application for Modification of a Decision and Order issued to the firm on August 15, 1979. *See Commonwealth Oil Refining Co., Inc.*, 4 DOE ¶ 81,118 (1979). Union Carbide requested that the protion of the August 15 Decision which denied the firm an increase in the benefits which it receives under the Naphtha Entitlements Program, 10 C.F.R. § 211.67(d)(5) be reversed. In considering the request, the DOE found that the Naptha Entitlements Program did not adequately compensate Union Carbide for its increased feedstock costs, thereby discouraging continued petrochemical operations by the firm and adversely affecting the economy of Puerto Rico. Accordingly, exception relief was granted which enables the firm to earn up to 2.2 runs credits for each barrel of naphtha in excess of 405,000 barrels which it imports into Puerto Rico in a particular month.

Request for Exception

Adler, Ledoux Tire and Supply, Inc., Opelousas, La., DEE–5964, motor gasoline

Adler, Ledoux Tire and Supply Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not suffered a gross inequity because it had not demonstrated that it had been adversely affected to a significant degree by the updating of the base period for motor gasoline allocation. Accordingly, exception relief was denied.

Apex Oil Co., Bonita Springs, Fla., BEO–0339, motor gasoline

Apex Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience a gross inequity as a

result of DOE regulations if exception relief were denied. The DOE did find, however, that the firm could attempt to adjust its base period volumes pursuant to 10 C.F.R. § 211.25(c) to enable it to satisfy any increased seasonal demand by tourists. Accordingly, exception relief was denied.

Associated Master Barbers & Beauticians, Charlotte, N.C., BEE–0372, temperature restrictions

Associated Master Barbers & Beauticians filed an Application for Exception from the provisions of 10 C.F.R. Part 490 in which the firm sought permission to raise the maximum heating temperature above 65° F in its members' facilities. In considering the request, the DOE found that the applicant had not demonstrated that its members' customers face a health risk at a temperature level of 65° F. Accordingly, exception relief was denied.

Atlanta Stove Works, Inc., Atlanta, Ga., BEE–0983, consumer products

Atlanta Stove Works, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 430, Appendix O in which the firm sought to market gas-fired vented space heaters with manual and modulating controls without regard to the testing procedures set forth in those provisions. In considering the request, the DOE found that exception relief was necessary to prevent a gross inequity because the prescribed testing procedure does not properly account for the variable heating output of these heaters.

Bingaman's Exxon, Lykens, Pa., BEO–0484, motor gasoline

Bingaman's Exxon filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that although the firm had made an investment to purchase an existing retail outlet, it had done so after the DOE updated the base period for motor gasoline on February 28, 1979. Accordingly, exception relief was denied.

Carlos Chevron, Glendale, Calif., DEE–7676, motor gasoline

Carlos Chevron filed an Application for Exception from the provisions of 10 C.F.R. 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship or gross inequity as a result of the motor gasoline allocation program. Accordingly, exception relief was granted.

City of Long Beach, California, Long Beach, California EXE–0908, crude oil.

The City of Long Beach, California filed an Application for Exception from the provisions of 10 C.F.R. Part 212, Subpart D. Exception relief was granted to permit Long Beach to sell at upper tier ceiling prices 58.87 percent of the crude oil produced form the Fault Block III Unit.

Clark Oil and Refining Corporation, Milwaukee, Wisconsin BEE–1166, gasohol.

Clark Oil and Refining Corporation filed an Application for Exception from the provisions of 10 C.F.R. Part 212 in which the firm requested that it be permitted to classify gasohol as a separate grade of motor gasoline for purposes of the Petroleum Price Regulations. In considering the request, the DOE found that exception relief was necessary to further the important national policy objective of increasing the production and use of gasohol. Accordingly, exception relief was granted.

Driftwood Dairy, El Monte, California, BEO–0650 motor gasoline.

Driftwood Dairy filed an application for exception in which it sought an increase in its base period allocation for motor gasoline. In considering the firm's request, the DOE found that Driftwood had failed to show that it is unable to acquire its additional motor gasoline requirements at retail outlets. Consequently, the DOE concluded that Driftwood was not suffering a hardship or inequity and therefore denied the firm's exception request.

Energy Cooperative Incorporated, East Chicago, Indiana, DXE–8112, crude oil.

Energy Cooperative, Inc. (ECI) filed an Application for Exception from the provisions of 10 C.F.R. 211.65 and 211.67 in which the firm sought, for the period October through December 1979, either to purchase crude oil under the Buy/Sell Program or to receive additional runs credits under the Entitlements Program. In considering the request, the DOE found that (1) ECI, when treated as a separate firm from its member-owners, would experience serious financial difficulties if it were forced to absorb its excessively high crude oil costs, (2) ECI's agricultural customers would suffer an unfair distribution of burdens if the firm reduced its crude oil runs to stills or passed through its high crude oil costs to those customers, and (3) the eligibility requirements of the Buy/Sell Program were imposing a gross inequity on ECI. Accordingly, exception relief was granted.

F&P Market, Jackson, Tennessee, DEE–8314, gasoline.

F&P Market filed an Application for Exception from the provisions of 10 C.F.R. 211.105 in which the firm sought to have a portion of its base period allocation transferred from E. L. Morgan & Company, a Citgo distributor, to Weeks & Frazier Oil Company, a Shell distributor. In considering the request, the DOE found that exception relief was necessary to permit F&P Market to continue to operate as a Shell branded retailer of motor gasoline. Accordingly, exception relief was granted. (An important issue discussed in the Decision and Order is the Treatment to be accorded to an independent branded reseller who could have designated its February 28, 1979 supplier as its sole supplier but who may have failed to give the notice required by 10 C.F.R 211.105(d).

Farm Fuel Products Corporation, Fostoria, Iowa, DEE–7059, gasohol.

Farm Fuel Products Corporation filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought a base period volume and supplier of unleaded motor gasoline for use in its alcohol production plant. In considering the request, the DOE found that exception relief was necessary to alleviate the gross inequity which would result if the application of the allocation regulations for motor gasoline were allowed to frustrate the national objective of increasing the use of alcohol-related fuels. Accordingly, exception relief was granted.

Gulf Oil Corporation, Houston, Texas, BEE–0990, DEE–6314, motor gasoline.

Gulf Oil Corporation (Gulf) filed Applications for Exception from the provisions of 10 C.F.R. § 212.83. Because Gulf had sold certain consignee operations, it requested permission to eliminate costs from those operations from its May 1973 base period marketing costs. In considering the exception requests, the DOE found that the Petroleum Price Regulations are not specifically designed to apply to the unusual circumstances arising from the divestiture of a portion of a refiner's operations. Accordingly, exception relief was granted.

Helmerich & Payne, Inc., Tulsa, Oklahoma, BEE–0842, crude oil.

Helmerich & Payne, Inc. (Helmerich) filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. In considering Helmerich's exception request, the DOE determined that the application of the provisions of 10 C.F.R. § 212.79 to the firm's Dwight Leonard "A" No. 1 Well does not result in a gross inequity and that no other basis for exception relief had been provided. Accordingly, the DOE concluded that exception relief should be denied.

Lonny's Standard Service, Moline, Illinois, BEO–0578, motor gasoline.

Lonny's Standard Service filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that neither the firm nor the residents of Moline had been shown to be experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Mohave Petroleum Co., Pampa, Texas, DEE–2743, motor gasoline.

Mohave Petroleum Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm's difficulties apparently have been caused by its own business decisions rather than by the DOE regulatory program. Accordingly, exception relief was denied.

Publix Oil Co., Morristown, Tenn., DEE–8115.
Chevron U.S.A. Inc., San Francisco, Cal., BEA–0065, BEA–0137.
Exxon Company, U.S.A., Houston, Texas, BEA–0058, BEA–0132.
Marathon Oil Co., Findlay, Ohio, BEA–0050.
Gulf Oil Company, Houston, Texas, BEA–0140.
Mobil Oil Company, Fairfax, Va., BEA–0168, Motor gasoline.

Publix Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm requested the DOE to issue orders directing new, lower-priced suppliers to furnish the firm with portions of its base period use of motor gasoline. The DOE upheld the tentative findings, which it had reached in a November 30 Proposed Decision, that during the months December 1979 through April 1980: (1) a significant price disparity existed between the prices charged by the firm's Gulf Coast suppliers and the prices charged by suppliers to Publix's competitors in Tennessee, and (2) the firm would experience a serious hardship in the absence of exception relief. The DOE also found that after April 30, 1980 the jobbers and retail stations supplied directly and indirectly by Publix would not be able to market gasoline purchased by Publix from the Gulf Coast. In addition, the DOE found that the implementation of the new base period has seriously frustrated the firm's efforts to rehabilitate its business and that logistical and financial difficulties have prevented the firm from obtaining the product available to it from the Gulf Coast. Accordingly, exception relief was granted.

The DOE also discussed the following other arguments raised by the parties in their Statement of Objections: (1) the Office of Hearings and Appeals exceeded its authority by granting the exception relief; (2) the findings in the November 30 Decision do not support price disparity relief for a six-month period of time; (3) the award of exception relief for more than three months is an abuse of discretion and an error of law; (4) Publix has failed to demonstrate that it could not sell the higher priced Gulf Coast product; and (5) the proposed relief is excessive.

In this consolidated proceeding, the DOE also considered appeals of October 12 and December 6, 1979 Orders issued by the Region IV Office of ERA pursuant to directions in the December 5 Temporary Exception Decision and the November 30 Proposed Decision issued to Publix. In these appeals the parties advanced the following arguments:

(1) the Region failed to provide adequate and reasonable notice prior to issuance of the December 6 Order; (2) the Region departed from the directions contained in the Decisions issued by the Office of Hearings and Appeals on October 5 and November 30, 1979; (3) the December 6 and October 12 Orders failed to set forth sufficient facts and legal bases; and (4) the December 6 Order does not comply with the provisions of Section 205.39(a).

Smitty's Arco Mini-Mart, San Diego, California, BEO–0205, motor gasoline.

Smitty's Arco Mini-Mart filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to alleviate the gross inequity the firm was experiencing as a consequence of the joint operation of the mandatory allocation regulations and the imposition of rent increases by its supplier. Accordingly, exception relief was granted. The important issues discussed in the Decision and Order is the use of the *Anger* standard in cases in which the applicant did not make an investment but nevertheless bears the economic burden of an investment through increased station rent.

Webber Chevron, Corinna, Maine, BEO–1173, motor gasoline.

Webber Chevon filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the community it served was experiencing an unfair distribution of burdens as a result of DOE regulations. Accordingly, exception relief was denied.

Requests for Temporary Exception

Atlantic Richfield Co., Los Angeles, California, BEL–1294, Crude Oil.

The Atlantic Richfield Company filed an Application for Temporary Exception in which it requested that Chevron USA Inc. be directed to purchase additional entitlements so as to equalize the latter firm's imported crude oil costs with those of the refining industry as a whole. Arco contended that it was incurring a gross inequity as a result of the Entitlements Program's failure to equalize refiners' costs of imported crude oil. The Department of Energy rejected this argument, noting that Arco did not attempt to show that its overall crude oil costs exceed those of the refining sector as a whole. The Application for Temporary Exception was denied.

Drug Abuse Preventive Center, San Luis Obispo, California, BEL–0050, motor gasoline.

Drug Abuse Preventive Center (Center) filed and Application for Temporary Exception from the Mandatory Petroleum Allocation Regulations (10 C.F.R. Part 211). Because Center had been compelled by its supplier, pursuant to an interim allocation agreement, to promise not to sell gasohol, it requested relief that would permit it to receive motor gasoline that would not be subject to such a condition. In considering the Application, the DOE determined that the granting of the Application would be in the national interest because it would permit Center to expand its supplies of motor fuel by adding ethanol and because no party would be harmed by granting the relief. Center's Temporary Exception request was therefore granted.

Energy Cooperatives, Inc., Washington, D.C., BEL–1127, BES.1127, crude oil.

Energy Cooperatives, Inc. (ECI) filed an Application for Temporary Exception in which it requested that its entitlement obligations for the period December 1979 through April 1980 be recalculated to reflect additional revenues which the firm would have received had Alaska North Slope crude oil been treated as upped tier crude oil for purposes of that program during that month. The Department of Energy determined that ECI failed to show that it was likely to succeed on the merits of its underlying exception request or that it would suffer an irreparable injury absent immediate exception relief. The request was therefore denied.

MOCO, Inc., Malvern, Arkansas, BEL–0056, crude oil.

MOCO, Inc. filed an Application for Temporary Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The temporary exception request, if granted, would permit the firm to sell the waste crude oil that it reclaims at market price levels. On July 24, 1980, the Department of Energy issued a Decision and Order in which it was determined that the reclamation of waste crude oil was in the national interest and that temporary exception relief should be granted.

Requests for Stay

Copano Refining Company, San Antonio, Texas, BES–1249, BEL–1249, crude oil.

Copano Refining Company filed and Application for Stay and an Application for Temporary Exception from the provisions of 10 C.F.R. § 211.65. If granted, the relief that was requested would permit the firm to participate in the DOE Crude Oil Buy/Sell Program. In considering the applications, the DOE determined that Copano had failed to meet the criteria for a stay or temporary exception. Copano's requests were therefore denied.

Smith's Petroleum Marketing Company, Incorporated, West Plains, Missouri, BES–0397, BST–0397, motor gasoline.

Smith's Petroleum Marketing Company, Inc. filed Applications for Stay and Temporary Stay of a March 21, 1980 Decision and Order of the ERA's Region VII Office of Petroleum Operations. That Decision and Order concluded that Getty Refining and Marketing Company ("Getty") should become the base period supplier of the Orval Davis Tire Company's ("Orval Davis") Ava, Missouri bulk plant, which it had acquired from Matney Oil Company. The bulk plant's base-period allocation of motor gasoline had been received from Smith's Petroleum. The DOE found that Smith's Petroleum had failed to satisfy the criteria for the granting of a stay or temporary stay and denied the Applications. Although Smith's claimed that it, and not Orval Davis, had acquired the ongoing business and allocation entitlement of the Matney Oil Company, the DOE concluded that Smith's had not demonstrated a strong likelihood of eventual success on the merits of its Appeal. In particular, the DOE found that Smith's had not clearly demonstrated either that it acquired the entire business activity of Matney Oil Company or that the challenged Decision and Order Lacked appropriate authority.

Universal Utilities, Inc., Great Neck, New York, BST–0084, BES–0084, BMR–0052, No. 2 heating oil.

Universal Utilities, Inc. filed Applications for Temporary Stay, Stay and Modification of a Consent Order which it entered into with ERA Region II on January 30, 1978. The Consent Order required Universal to refund a total of $117,639 to six classes of residential purchasers of No. 2 heating oil. The DOE determined that the standards for temporary stay and stay had not been met. Thus the applications were denied. The DOE also concluded that the Application for Modification should have been filed with ERA, Region II rather than with the Office of

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Hearings and Appeals. Accordingly, it was dismissed without prejudice.

Motion for Evidentiary Hearing

Texas Recovery Company, Palestine, Texas, DRH–0267, crude oil.

On September 12, 1979, Texas Recovery Company (TRC) filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the DOE Southwest Enforcement District on June 18, 1978. In its Motion, TRC requested permission to present testimonial evidence in support of the contentions raised in its Statement of Objections. In considering the request, the DOE determined that none of these contentions involved a relevant and material factual dispute which could not be fairly resolved without the direct questioning of witnesses at an evidentiary hearing. Accordingly, the Motion for Evidentiary Hearing was denied.

Supplemental Orders

San-Ann Service, Inc., Washington, D.C., BEX–0079, motor gasoline.

The Office of Hearings and Appeals issued an Order to supplement a Decision and Order which it had issued to San-Ann Service, Inc., on July 3, 1980. (Case No. DXE–5354). In its Supplemental Order, the DOE corrected an error inadvertantly made in an ordering paragraph of its July 3, 1980 *San-Ann* determination.

TOSCO Corporation, Washington, D.C., DEX–0054, crude oil.

In two separate decisions, the Department of Energy granted TOSCO exceptions from the provisions of 10 C.F.R. 211.67, the Entitlements Program. These decisions relieved TOSCO of a part of its projected entitlement purchase obligations during the fiscal year ending December 1977. Based on actual data which the firm submitted for its 1977 fiscal year, the DOE conducted a year-end review and determined that the relief granted to TOSCO for that fiscal year was appropriate and that no adjustment should be made.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case Number, and Location

Alger Oil Co., BEN–0920, Rising Sun, MD.
Brock Exploration Corp., BEN–0066, Washington., DC.
City of Philadelphia/Federal Bureau of Investigation, BEN–1080, Philadelphia, PA.
Fort Oglethorpe Tire & Service Center, Inc., BEN–0044, Rossville, GA.
Melvin's Sunoco, BEN–0045, Crisfield, MD.
The Oasis, BEN–0046, Catheys Valley, CA.
Southern Oil Co., BEN–0043, Geiger, AL.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Orders as an Order of the Department of Energy:

Name, Case Number, and Location

Chevron USA, Inc., BEJ–0105, Washington, D.C.
Seaview Pet., Inc., BEJ–0107, Washington, D.C.
International Processors,, BEJ–0108, Washington, D.C.
United Ref. Co., BEJ–0104, Findlay, OH.
Marathon Oil Co., BEJ–0104, Findlay, OH.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE Issued Decisions and Orders which determined that the requests be denied.

Company Name, Case Number and Location

Airport Limo. Service, BEO–0990, Norfolk, VA.
Budd's Standard Serv., BEO–0089, Platteville, WI.
Camino Car Wash., DEE–6592, San Fran., CA.
Captain Beans' Cruises BEO–0696, Kailua-Kona, HI.
Cottonwood Heights Chevron, BEO–0757, Salt Lake City, UT.
Davcon Ltd., DEE–4650, N. Haven, CT.
Gray Bros. Oil Co., DEE–5237, Ashland, MS.
Howard's Self Serv. Oil Co., BEO–0069, Belgrade, MN.
Industrial Metal Supply Co., BEO–1084, Burbank, CA.
Jay Jay's Service, BEO–0776, Houston, TX.
Jed's Exxon, BEO–0777, Clarksville, TN.
Main Street Automotive, DEE–6828, Boston, MA.
Redwood Enterprises, BEO–0586, Santa Rosa, CA.
Sparta Exxon, BEO–0720, Sparta, NJ.
Sunnyvale Mobile Stat., BEO–1110, Sunnyvale, CA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case Number and Location

Boulder Valley Oil Co., DEE–2495, Lafayette, Co.
Cash 'N' Dash, BEO–0151, Nevada, MO.
Oasis Trading Post, DEE–5369, Oasis, NV.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case and Number

Commonwealth Oil, BIE–1089.
Gulf Oil Products, BEE–0530.
J. C. Texaco, BEE–0801.
James Wilson Oil Co., DEE–2338; DES–2338; DST–2338.
Kreiner Bros. Motor & Implement Co., BEE–0707.
Norman H. Singer, BEE–1272.
Petro-Plus-Tobacco Ltd., BEE–1279.
Stoch Nolle Oil Co., Inc., BEE–0848.
Vantage Pet. Corp., DES.6605; DST–6605; DES–7132; DST–7132.
Workingman's Friends Oil, Inc., BEE–1261; BEL–1261.
Tommy Oil Co., Inc., BEE–1262; BEL–1262.
Hi-Lo Oil Co., Inc., BEE–1263; BEL–1263.
Highway Oil, Inc., BEL–0058.

[FR Doc. 80–34916 Filed 11–6–80; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PP OG2300/T260; FRL 1586–3]

Mobay Chemical Corp.; Establishment of Temporary Tolerances

Correction

In FR Doc. 80–25811, appearing on page 56431, in the issue for Monday, August 25, 1980, in the first paragraph of **"SUPPLEMENTARY INFORMATION"**, in the tenth line, please delete the last "]" from the chemical now reading "chlorophenoxyl".

BILLING CODE 1505–01–M

[A–9–FRL 1660–6]

Issuance of PSD Permit to Mobil Oil Corp.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Mobil Oil Corporation, Kern County, California, EPA Project number SJ 78–41.

SUPPLEMENTAL INFORMATION: Notice is hereby given that on February 27, 1980, the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to install the following equipment for enhanced oil recovery to be located in Section 14, T28S, R27E in the Young and Wetmore leases of the Kern Front Oil Field, Kern County, California: Three (3) MMBTU/hr steam generators, two (2) 22 MMBTU/hr steam generators, one (1) 8.4 MMBTU/hr heater treater, and forty-two (42) production wells.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of NO_x at 246 tons/year.

Best Available Control Technology (BACT) requirements include use of low NO_x burners and excess oxygen control.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105.

Carl C. Kohnert Jr.,

Acting Director, Enforcement Division, Region IX.

Dated: October 27, 1980.

[FR Doc. 34782 Filed 11–6–80; 8:45 am]
BILLING CODE 6560–38–M

[SA–FRL 1661–8]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held on November 25, 1980, in Conference Room 3906–08, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. Adjournment will be not later than 4:30 p.m.

The purpose of the meeting will be (1) to discuss Agency plans for consulting the Committee on several health risk assessments and other health-related scientific issues currently under consideration; and (2) to hear reports of the Committee's Subcommittees (Health Effects Research Review; Energy-Related Health Effects Research; and Health Risk Assessment). The Agenda will also include brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper, or wishing further information should contact the Secretariat, Science Advisory Board (A–101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 21, 1980. Please ask for Ms. Patricia Howard or Ms. Lindeke Trumbly. The telephone number is (202) 472–9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80–34781 Filed 11–6–80; 8:45 am]
BILLING CODE 6560–34–M

[ER–FRL–1662–4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISs) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of October 27, 1980 to October 31, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from November 7, 1980 and will end on December 22, 1980. The 30-day review period for final EIS's as calculated from November 7, 1980 will end on December 8, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact this Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source:

Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558–8270

SUMMARY OF NOTICE: This notice sets forth a list of EISs' filed with EPA during the week of October 27, 1980 to October 31, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EISs' such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245–3006.

Dated: November 4, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Department of Agriculture

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Final

Thompson Creek Molybdenum Project, Challis NF, Custer County, Idaho, October 31: Proposed is an operating plan for the mining and processing of molybdenum disulfide in the Challis National Forest, Custer County, Idaho. The project will include an open pit mine, waste dumps, concentrator facilities and tailings impoundment. These components will be connected by transportation, pipeline and/or utility corridors. The alternatives considered are: (1) Locating the concentrator at a different site, (2) use of the Upper Bruno Creek watershed for waste dumps and tailing impoundment, (3) use of Upper and Lower Bruno Creek for tailing impoundment, and (4) no action. The cooperating agency is the Bureau of Land Management. Comments made by: USDA, HUD, DOT, EPA, DOC, DOE, AHP, DOI, FERC, State and local agencies, individuals and businesses. (EIS Order No. 800829.)

Rural Electrification Administration

Draft

Sherco-Benton 345 KV Transmission Line, Loan, Sherburne and Benton Counties, Minn., October 31: Proposed is the issuance of a loan guarantee for the financing of the Sherco to Benton 345 KV transmission line in Sherburne and Benton Counties, Minnesota. The line would connect the Sherco generating station and the Benton County substation. The alternatives consider: (1) No action, (2) alternative routes, and (3) alternative electrical systems. (USDA–REA–EIS–(ADM)–80–10–D.)(EIS Order No. 800833.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272–0121.

Final

Cordell Hull Dam and Reservoir, Disposal, Jackson County, Tennessee, October 30: Proposed is the sale of 65 acres, presently

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part of the Cordell Hull Dam and Reservoir, for the development of a public port and industrial facilities. The deed would be conditioned by the COE. The alternatives consider: (1) public recreation, (2) public sale of the site, (3) use of other sites, and (4) no action. The project is located in Jackson County, Tennessee. (Nashville District). Comments made by: EPA, TVA, HEW, USDA, DOI, FPC, HUD, ORBC, State and local agencies (EIS Order No. 800828).

Redbank and Fancher Creeks Flood Control, Fresno County, California, October 28: The proposed plan involves construction of flood control facilities east of the Fresno-Clovis metropolitan area in Fresno County, California, to provide increased flood protection to eastern Fresno, Clovis, and surrounding rural and agricultural lands. The plan calls for a dam on Fancher Creek, enlargement of the existing Big Dry Creek Project, and construction of three detention basins, one on Pupcreek, one on Redbank Creek, and one in Alluvial Drain. The alternatives consider: Construction of reservoirs, channel modification, levees, diversions, enlargement of existing dams, construction of a detention basin, and nonstructural measures. (Sacramento District). Comments made by: DOI, USDA, EPA, AHP, FPC, State and local agencies, groups (EIS Order No. 800822).

Final Supplement

Manteo (Shallowbag) Bay Project (FS–1), Dare County, North Carolina, October 30: This statement supplements a final EIS, No. 790384, filed 4–11–79 concerning the Manteo (Shallowbag) Bay Project located in Dare County, North Carolina. This supplement discusses: (1) Disposal of dredged material by combination of controlled effluent and diked upland disposal, (2) reduction of spacing between the jetties, (3) elimination of the jetty doors, (4) designation of disposal area, and (5) dredging the Oregon inlet ocean bar channel by hydraulic pipeline dredge during project construction. (Wilmington District). Comments made by: DOI, DOC, EPA, and State agencies (EIS Order No. 800827).

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7641, Department of Commerce, Washington, D.C. 20230.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Correction: Published in the October 31, 1980 FR was an inaccurate description of the final EIS entitled Taking of Marine Mammals, Tuna Purse Seining Operations. Below is a correct description of the project as it was addressed in the final EIS.

Final

Taking of Marine Mammals, Tuna Purse Seining Operations, Regulatory, October 22: Proposed are amendments establishing conditions for the issuance of a general permit to allow the taking of a maximum of 20,500 porpoises, as apportioned into individual stock quotas, for each of the five years 1981–1985 within the tuna fishery of the Eastern Tropical Pacific. Proposed regulations add to or modify gear and procedural requirements, clarify observer responsibilities, and modify importation documentation requirements. Comments made by: DOI, EPA, DOC, State agencies, groups and businesses (EIS Order No. 800805).

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Kenneth Halleran, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310 (202) 694–4269.

Final

Tripler Medical Center addition/alteration, Oahu Honolulu County, Hawaii, October 28: Proposed is the hospital addition and alterations to the Tripler Army Medical Center located in the County of Honolulu, Oahu, Hawaii. The project will involve the construction of a new, 438,000-square foot hospital wing housing major outpatient clinics, diagnostic and treatment facilities, and supply department; the construction of a new, 24,000-square foot central plant housing chillers, emergency generators, and other mechanical equipment; construction and realignment of roadways, parking areas, utility lines, and other support facilities to serve the new construction or eliminate existing deficiencies; and the renovation and structural upgrading of wings within the hospital. Comments made by: DOI, USN, USAF, USDA, EPA, State and local agencies (EIS Order No. 800821).

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350 (202) 697–3689.

Final

Atlantic fleet weapons training facility, Vieques, Puerto Rico, October 27: Proposed is the continued use of the Atlantic fleet weapons training facility inner range located on the island of Vieques, Commonwealth of Puerto Rico. The activities of the facility include: Air-to-ground and naval gunfire support training, Marine landings, maneuver and artillery training operations, and storage of ammunition. The alternatives consider: (1) Continuation of activities; (2) ceasing all or some activities, excessing land and transferring activity; and (3) ceasing all or some activities without excessing land or transferring activity. Comments made by: AHP, DOI, HEW, EPA, and local agencies (EIS Order No. 800819).

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

Correction: Published in the October 24, 1980 FR was an inaccurate description of the final EIS entitled Wasted Isolation Pilot Plant, Construction. Below is a correct description of the project as it was addressed in the final EIS.

Final

Waste isolation pilot plant, Construction, Eddy County, New Mexico, October 17: Proposed is the construction and operation of a waste isolation pilot plant for the defense transuranic nuclear wastes (TRU), and experimental research and development with high level waste forms. The site under consideration is located in Eddy County, New Mexico. Four alternatives are considered which include: No action, alternatives to tru-waste disposal, alternative time schedules, and potential alternative locations. (DOE/EIS–0026). Comments made by: HEW, DOI, EPA, NRC, State and local agencies (EIS Order No. 800794).

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566–1416.

Final

Smithsonian Institution quadrangle development, District of Columbia, October 31: Proposed is development of the Smithsonian Institution quadrangle located in the District of Columbia. The Development consists, of a 460,000 square foot structure principally housing underground museum programs including an extension to the Freer Gallery of Art and New Center for Eastern Art, an education center, and the museum of African Art. Also to be included will be related program functions, facilities, offices, and a small above-ground pavilion for each museum. Comments made by: HUD, HHS, EPA, DOI, USDA, and local agencies (EIS Order No. 800831).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Draft

Lakewood Estates development, mortgage insurance, McLean County, Illinois, October 29: Proposed is the issuance of HUD home mortgage insurance for the lakewood Estates development in the city of Bloomington, McLean County, Illinois. The development would encompass 203 acres and consist of approximately 1,400 housing units. Also included are park sites and a neighborhood retail center. (HUD–R05–EIS–79–09–(D)). (EIS Order No. 800825).

Wellington Hill development, mortgage insurance, Hillsborough County, New Hampshire, October 31: Proposed is the issuance of HUD home mortgage insurance for the Wellington Hill Development in the city of Manchester, Hillsborough County, New Hampshire. The Development will encompass 250 acres and contain in excess of 700 residential units, and will also include a recreation area, communitiy center and possibly a light industrial complex. (EIS Order No. 800835).

Final

Treehouse Apartments, mortgage insurance, Cook County, Illinois, October 29: The proposed action is the issuance of HUD home mortgage insurance for the Treehouse Apartments to be located at the northeast quadrant of the intersection of Algonquin and Old Plum Roads in Schaumburg, Cook County, Illinois. The proposed Project includes 752 multifamily units on 39.41 acres of land. The units will be constructed in a total of 16 buildings of 2 and 3 stories and parking will include 1,680 uncovered spaces. Open space areas include proposed recreation facilities. (HUD–R05–FEIS–78–17 (F)). Comments made by: COE, EPA, DOI, USDA, DOT, State and local agencies (EIS Order No. 800826).

Final

Copperfield Subdivision, mortgage insurance, Harris County, Texas, October 31: Proposed is the issuance of HUD home mortgage insurance for the Copperfield Subdivision located in Harris County, Texas. The development would encompass approximately 1,800 acres and contain 5,178 detached single houses in four villages. The development will also contain apartments, schools, commercial and retail sites, church sites, and recreational facilities. (HUD–R06–EIS–80–11F). Comments made by: AHP, DOI, USDA, VA, FEMA, State agencies (EIS Order No. 800830).

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Sutherlin City water and sewerage facilities, CDBG, Douglas County, Oregon, October 27: Proposed is the awarding of a CDBG to the city of Sutherlin in Douglas County, Oregon, for water and sewerage facilities including the installation of water and sewage lines, a 1,000,000 gallon water storage reservoir, and two sewage pump stations. The facilities would be used for industrial development in the southern portion of the city. The grant would specifically apply to two major sections of water main. The alternatives include: (1) No action, (2) relocation of various components of water and/or sewage systems, (3) alternate sources of water, and (4) alternate sewage disposal methods. (EIS Order No. 800817).

Final

San Buenaventura downtown redevelopment, UDAG, Ventura County, California, October 28: Proposed is the awarding of a UDAG grant to the city of Buenaventura, Ventura County, California. The plan would include: (1) A combined supermarket and superdrug unit, (2) a home improvement center, and (3) ancillary community-oriented commercial shops. The alternatives consider: (1) Integration of new commercial development with upgraded existing development, (2) new commercial development with removal of existing development, (3) upgraded and expanded industrial development, and (4) no project. Comments made by: EPA, HUD, HHS, and State agencies (EIS Order No. 800820).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343–3891.

BUREAU OF LAND MANAGEMENT

Draft

Coal slurry pipeline transportation project, several counties, October 31: Proposed is the approval of right-of-way for the construction of a 1,664 mile main coal slurry pipeline. The pipeline would extend from Wyoming, through South Dakota, Colorado, Nebraska, and Kansas, to power plant customers in Oklahoma, Arkansas and Louisiana. The alternatives consider: (1) Pipeline routes, (2) transportation modes, and (3) water sources. The cooperating agencies are the Fish and Wildlife Service, Geological Survey, Forest Service, and Corps of Engineers. (DES–80–69). (EIS ORDER No. 800834).

Extension: The review period for the above EIS has been extended until January 6, 1981. (No. 800834).

FISH AND WILDLIFE SERVICE

Draft

Big Boggy National Wildlife Refuge, Matagorda County, Texas, October 29: Proposed is the establishment of the Big Boggy National Wildlife Refuge in Matagorda County, Texas. Establishment of the refuge would require the acquisition in fee simple of 4,500 acres which would be managed primarily for wintering waterfowl. All or part of the area may be opened to the public for waterfowl hunting and other forms of wildlife-oriented recreation. The alternatives consider: (1) No action, (2) acquisition of nondevelopment easements, (3) acquisition by the State of Texas, and (4) protection via local, State and Federal Regulations. (EIS Order No. 800824).

Extension: The review period for the above EIS has been extended until December 31, 1980. (No. 800824).

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555 (301) 492–8446.

Draft

Smelted alloys licensing requirements, exemption, regulatory, October 28: Proposed are exemptions from licensing requirements for smelted alloys containing residual technetium-99 and low enriched uranium at concentrations of 5 ppm and 17.5 ppm, respectively. The contaminated metals considered for smelting are the scrap copper, nickel, and iron resulting from the improvement and upgrading of gaseous diffusion plants. The alternatives consider: Sale of surface scrap, recycle of equipment, burial of scrap, surface storage of scrap, and issuance of either a general or specific license for scrap disposal. (NUREG–0518), (EIS Order No. 800823).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Saftey, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

I–90 completion, city of Wallace, Shoshone County, Idaho, October 31: Proposed is the completion of I–90 through the city of Wallace, Shoshone County, Idaho. The facility would extend for 1.7 miles connecting existing portions of I–90 east and west of the city. The facility would have four travel lanes and be built to full interstate standards. The alternatives consider: (1) No action, (2) four interchange alternatives, (3) four alignments through the city, and (4) three alignments for the east segment of the project. The cooperating agency is the State of Idaho. (FHWA–IDA–EIS–80–02–D). (EIS Order No. 800832).

Extension: The review period for the above EIS has been extended until January 1, 1981. (No. 800832).

Final

Port Orchard Bypass, WA–160 to WA–16, Kitsap County, Washington, October 27: Proposed is the construction of the Port Orchard Bypass between WA–160 and WA–16 in Kitsap County, Washington. The project would involve an east-west route beginning at the intersection of Lund Street and Bethel Road extending approximately one mile via a bridge crossing the Blackjack Creek Ravine at Tremont Street to the intersection of Tremont and Port Orchard Boulevard. The alternatives consider: (1) Improvement of the existing facility, (2) the Tremont-Lund connector, (3) the Tremont-Lincoln connector, and (4) the Melcher-Bethel connector. (FHWA–WA–EIS–79–02–F). Comments made by: DOT, EPA, DOI, DOE, DOC, State and local agencies and groups (EIS Order No. 800818).

[FR Doc. 80-34903 Filed 11-6-80; 8:45]

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[A-5-FRL 1661-4]

Reconsideration of the Use of Pasquill-Gifford Dispersion Coefficients for Stability Class A in Setting Emission Limitations for Four Ohio Power Plants; Petitions for Reconsideration

AGENCY: Environmental Protection Agency.

ACTION: Denial of petitions for reconsideration and requests for stay.

On June 19, 1980, the U.S. Environmental Protection Agency (EPA or agency) affirmed its original decision to use the Pasquill-Gifford dispersion coefficients for stability class A in setting emission limitations for four Ohio power plants. 45 FR 41501. The Ohio Power Company and Columbus and Southern Ohio Electric Company

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(CSOE) have petitioned the agency to reconsider its June 19, 1980 decision as it relates to the Cardinal, Muskingum River, and Conesville power plants.[1] Based on EPA's evaluation of the petitions and the supporting evidence, EPA finds that these petitions do not present new information which would warrant reconsideration of the agency's decision. EPA therefore denies the petitions and reaffirms the original emission limitations for these plants. *See* 40 CFR 52.1881 (21), (34)(viii), and 63(i). Elsewhere in today's **Federal Register**, EPA is restarting the original compliance schedules for petitioners' class A power plants. These schedules begin to run as of June 19, 1980, and allow petitioners up to three years to comply. The new attainment date specified for these plants is June 19, 1983.

Petitioners also requested that the agency stay its June 19, 1980 decision pending reconsideration, or if reconsideration is denied, pending judicial review.[2] Petitioners, however, fail to present sufficient grounds for granting a stay of compliance with their emission limitations. Petitioners do not show that a stay of compliance would be in the public interest, that they would be irreparably harmed during the time necessary for judicial review, or that they are likely to prevail on the merits. EPA therefore denies petitioners' requests for a stay of compliance pending judicial review.

Background

The agency promulgated emission limitations for the Cardinal, Muskingum River and Conesville power plants on August 27, 1976, as part of the federally-promulgated Ohio sulfur dioxide plan. 41 FR 36324 (August 27, 1976).[3] The emission limitations for these three sources and Dayton Power and Light Company's Stuart power plant,[4] were determined by the P-G class A stability. 45 FR 41502 (col. 1) (June 19, 1980). This means that the agency's dispersion modeling calculated that the highest pollution levels caused by these sources occurred during meteorological conditions that the model classified as class A stability. Based on the model calculations, the agency set emission limitations for these sources to assure that pollution levels would not exceed the national ambient air quality standards.

Following promulgation of the federal SO_2 plan, thirty-three companies including Ohio Power and CSOE petitioned for judicial review of the plan. The United States Court of Appeals for the Sixth Circuit issued two major decisions in these cases affirming the agency's use of dispersion modeling in setting emission limitations in urban and rural areas. *Cleveland Electric Illuminating Company* v. *EPA*, 572 F.2d 1150 (6th Cir. 1978), *cert. denied*, 436 U.S. 911 (1978) and *Cincinnati Gas and Electric Company* v. *EPA*, 578 F.2d 660 (6th Cir. 1978), *cert. denied* 439 U.S. 1114 (1978). However, the Court found that the administrative record supporting the agency's decision to use the Pasquill-Gifford (P-G) dispersion coefficients for stability class A in setting emission limitations for isolated rural power plants was inadequate and remanded the class A record to the agency for its reconsideration. *Cincinnati Gas and Electric Company* v. *EPA*, 578 F.2d 660 (6th Cir. 1978).

In response to the Court's remand, the agency reviewed available scientific data and reconsidered its use of the P-G class A coefficients. EPA also evaluated the alternative suggested by the utilities. On February 7, 1979, EPA published and solicited comment on its preliminary finding that review of the data supported its original decision to use the P-G class A coefficients and demonstrated that the utility alternative would underpredict ground level concentrations. 44 FR 7798. Both Ohio Power and CSOE submitted extensive comments to the agency and also requested that the agency review monitoring data collected at various power plants including the Muskingum River and Conesville power plants. See 45 Fed. Reg. 41503–41504, 41509 (col. 2) (June 19, 1980).

On June 19, 1980, EPA published its response to comments and final determination. 45 FR 41501. The agency determined that all of the data including the relevant utility monitor data supported its original decision to use the P–G class A coefficients in setting the emission limitations for the four Ohio power plants. Moreover the data established that the agency could not accept any of the new alternatives proposed by the utilities during the comment period. Thus EPA reaffirmed the original emission limitations for these sources on June 19, 1980. Elsewhere in today's **Federal Register**, EPA is restarting the original compliance schedules for the Muskingum River, Cardinal and Conesville plants and revising the attainment dates for these sources.

Subsequent to the June 19, 1980 notice, Ohio Power Company and CSOE filed petitions in the U.S. Courts of Appeals for the Sixth and District of Columbia Circuits seeking judicial review of the agency's determination to support its original use of the P–G class A coefficients in setting the original emission limitations for the Cardinal, Muskingum River and Conesville plants. In addition, Ohio Power and CSOE filed these petitions for reconsideration and requests for stay.

Discussion

Ohio Power and CSOE petitioned for reconsideration of the agency's decision to support the original use of the P–G class A coefficients in setting emission limitations for their plants pursuant to Section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(D)(7)(B), and Section 553(e) of the Administrative Procedure Act (APA), 5 U.S.C. § 553(e). The agency considers these petitions for reconsideration as petitions under the APA to revise the original emission limitations for petitioners' "class A" power plants. The agency has already determined that the agency's compilation of a supplemental record in response to the Court's remand is not subject to Section 307(d) of the Clean Air Act. 45 FR 41509 (June 19, 1980). Therefore, Section 307(d)(7)(B) does not apply to the agency's action.[5] Nevertheless, the agency recognizes the right of petitioners to seek revision of the original emission limitations for their "class A" plants under Section 553(e) of the APA. The Agency therefore considers these petitions as petitions to revise a rule under the APA. The standard of review for such petitions is whether the petitions present new information that warrants agency reconsideration of the rule. See generally, *Oljato Chapter of the Navajo Tribe* v. *Train*, 515 F.2d 654 (D.C. Cir. 1975). Under this standard, petitioners have presented no basis for changing their emission limitations.

Petitioners allege that there is "significant evidence arising after the comment period" that requires the agency to reconsider its June 19, 1980 determination to support the original use of the P–G class A coefficients in setting the emission limitations for the four Ohio power plants. However, petitioners have not presented any new information that would warrant revision of the original emission limitations for their power plants.

Petitioners cite as new information two recently published reports and the most recent monitoring data collected near the Conesville plant. Neither of the reports presents new information relevant to the predictive accuracy of the agency's modeling using the P–G class A coefficients. The Miller report consists of information that the agency has already evaluated. 45 FR 41502 (col. 2) (June 19, 1980). The Weil report prepresents no data relevant to the predictive accuracy of the agency's model which uses the P–G class A coefficients. Instead, the Weil report addresses the predictive accuracy of a completely different model. Finally, petitioner's analysis of additional months of Conesville monitoring data confirms the predictive accuracy of the agency's modeling with the P–G class A coefficients. The most recent Conesville data therefore further support the agency's original decision to use the P–G class A coefficients in setting the emission limitation for the Conesville plant.

Petitioners also raise several objections to the agency's June 19, 1980 evaluation of petitioners' previous comments, proposed alternatives and data.[6] None of petitioners' objections are based on any new data. Nevertheless, the agency has evaluated the objections and finds that all of petitioners' objections to the agency's use of the P–G class A coefficients are without merit. Petitioners, therefore, have not presented a basis for revising their emission limitations.

A. The Miller report consists of information already considered by the agency

Petitioners offer as new information a recently published report entitled "Recommendations Concerning Models and Parameters Best Suited to Breeder Reactor Environmental Radiological Assessment" by C. W. Miller and others for the Oak Ridge National Laboratories (May 1980). However, the Miller report is not based on any new data with respect to the class A issue. Instead, it merely recites the recommendations of the American Meteorological Society (AMS) Workshop on Stability Classifiation Schemes and Sigma Curves, Hanna et al. (1977), and the recommendations of Geiss et al. (1978) (Julich curves). The agency previously reviewed both of these reports and recommendations and concluded that the recommended alternatives would underpredict ground level concentrations for sources with tall stacks. The AMS and Geiss recommdenations, therefore, can not be used to set emission limitations adequate to insure attainment and maintenance of ambient standards for the four Ohio power plants. *See* 45 FR 41502 (col. 2), 41507 (col. 2–3) (June 19, 1980). In short, the Miller report does not provide any new information which would warrant revision of petitioners' emission limitations.

B. The Weil report is not relevant to the predictive accuracy of the agency's modeling with P–G class A coefficients

Petitioners submitted another recently published article entitled "Performance of Simple Models For Stack Plume Dispersion During Convective Conditions" (April 8, 1980) by Jeffrey C. Weil. The article reports Weil's findings regarding the predictive accuracy of his own model. Weil neither analyzes the agency's model nor draws any conclusions regarding the accuracy of the agency's model. Moreover, Weil does not analyze the relative accuracy of his model compared to the agency's model. The Weil report therefore is not relevant to the predictive accuracy of the agency's model using the P–G class A coefficients and provides no basis for revising petitioners' emission limitations.

In his report, Weil compares pollution concentrations calculated by his own model using the Brookhaven class B_z, P–G class A and P–G class B curves with concentrations measured by monitors. Weil concludes that pollution concentrations calculated by *his model* with the Brookhaven class B_z curves compared more favorably with monitored data than concentrations calculated by *his model* with the P–G class A or P–G class B curves.[7] However, Weil's model is very different from the agency's model. Weil uses modeling assumptions for plum height and mean transport wind that are significantly different than the agency's model treatment of these factors. Therefore, Weil's analysis is not relevant to the predictive accuracy of the agency's model using the PO–G class A coefficients.

Moreover, Weil does not evaluate the relative accuracy of his model using the Brookhaven class B_z curves compared to the agency's model using the P–G class curves.[8] Weil's data, therefore, do not present a basis for revising the agency's decision to use the P–G class A coefficients in setting emission limitations for petitioners' plants.

C. The most recent Conesville data further supports the gency's use of the P–G class A coefficients

Petitioners submitted additional monitoring data from four Conesville monitors.[9] In addition, petitioners compared the maximum 3-hour concentrations measured by the monitors to the maximum 3-hour concentrations calculated by the agency's MPTER model using the P–G class A curves,[10] Petitioners' comprison

[1] Ohio Power filed its petition on July 10, 1980. CSOE filed a similar petition on August 11, 1980. Ohio Power and CSOE filed a joint supplement to their petition on August 18, 1980. These petitions have been evaluated together since they raise similar issues. On September 26 and October 3, 1980, petitioners filed further supplements to their petitions for reconsideration. The agency has reviewed these additional materials and finds that except for a comparison of monitor and model data from the Gibson power plant, petitioners have not submitted any new information. The agency will publish its evaluation of the Gibson comparison after review of the comparison has been completed.

[2] Both Ohio Power and CSOE have filed petitions to review the agency's reconsideration in the U.S. Courts of Appeals for the Sixth and District of Columbia Circuits.

[3] The emission limitations for these sources are as follows: Cardinal —4.76 lbs. SO_2/MBTU; Muskingum River —6.48 lbs. SO_2/MBTU; and Conesville —5.65 lbs. SO_2/MBTU. See 40 CFR 52.1881 (21), (34)(viii), and (63)(i). These are some of the highest (least stringent) SO_2 emission limitations in the State of Ohio.

[4] Dayton Power and Light Company's Stuart power plant is currently in compliance with its emission limitations of 3.16 lb. SO_2/MBTU. 40 CFR 52.1881(11)(i).

[5] Even if Section 307(d)(7)(B) did apply, petitioners would not qualify for a reconsideration. Based on the reasons set forth below, petitioners do not present a new objection of central relevance to the outcome of the rule within the terms of Section 307(d)(7)(B). Under the criteria of Section 307(d)(7)(B), therefore, the petitions would be denied.

[6] On June 25, 1980, the agency denied Ohio Power Company's request for an additional comment period on the agency's June 19, 1980 evaluation of comments and final determination. EPA found that the utilities had had an opportunity to comment on the agency's findings and that a further comment period was unnecessary.

[7] The agency evaluated use of the Brookhaven class B_z curves as an alternative to using the P–G class A coefficients in EPA's model and found that use of the Brookhaven curves would underestimate ground level concentrations. 45 FR 41507 (col. 2–3). The agency concluded that it could not use the Brookhaven curves to set emission limitations for the four power plants that would protect ambient standards.

[8] Agency review of the Weil report and a recent technical note by a Weil associate, Roger Brower, entitled "Comparison between Prediction of Two Gaussian Models (CRSTER and modified CRSTER) and Measured SO_2 Concentrations Near Tall Stacks Under Convetive Conditions" (June 1980), indicates that the Weil model will calculate even higher concentrations than the agency's model using the P–G class A curves.

[9] CSOE set up four SO_2 monitors in June of 1979 at locations 1.0 to 1.4 km from the Conesville plant. However, CSOE may not have placed its four "class A" monitors in locations where the maximum three-hour concentrations would occur under class A-type conditions. All of CSOE's "class A" monitors are located in a northeasterly direction from the Conesville plant. Review of the agency's modeling for Conesville established that the Conesville emission limitation was based on a second high 3-hour concentration located 230° southwest of the plant. Review of climatological data in the Conesville area also indicates that the prevailing winds are out of the northeast-north/northeast direction during class A type meteorological conditions. Therefore, more frequent and higher maximum 3-hour ground level concentrations are probably occurring in a different area than where CSOE has placed its monitors.

[10] CSOE's comparison set forth in Table 3a of the August 18, 1980 Supplement is similar to the monitor/model comparison the agency included in

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establishes that the agency's model using the P–G class A coefficients is accurately predicting the maximum ground level concentrations measured at the four Conesville monitors. Petitioners' new data therefore further support the agency's original decision to use the P–G class A coefficients in setting the emission limitation for the Conesville plant. The Conesville data does not provide a basis for revising the original emission limitation.

The agency considered the early months of data from the Conesville monitors in its June 19, 1980 notice (45 Fed. Reg. at 41509 (col. 2)). The agency determined that three months of data was insufficient to draw sound conclusions regarding the predictive accuracy of the P–G class A curves at the Conesville plant. The agency, however, noted that the limited comparison submitted by CSOE using three months of data indicated that the P–G class A coefficients were *underpredicting* the maximum observed 3-hour concentrations. 45 FR 41509 (June 19, 1980).

With the additional data the petitioners submitted in their petitions for reconsideration, the petitioners now have twelve months of data from three of the four monitors and ten and a half months at the fourth monitor. Petitioners compared the highest and second highest 3-hour pollution concentrations observed at each of the four Conesville monitors to the highest and second highest model calculated 3-hour concentrations at the monitor locations for each of six years of meterological data. The ratio of the model predicted to monitored maximum second high 3-hour concentrations for all four monitors on the average is 1.05 (1.0 would mean perfect agreement). The ratio for the highest 3-hour concentrations for all four monitors on the average is 1.32. The ratios demonstrate that there is very good agreement between the monitor readings and the model calculations. The petitioners' comparison establishes that the agency's model using the P–G class A curves accurately predicts the maximum 3-hour sulfur dioxide concentrations measured at the Conesville monitors. The Conesville data therefore further support the agency's original decision to use the P–G class A dispersion coefficients in setting an emission limitation for Conesville.

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the July 19, 1980 notice using relevant utility monitoring data and MPTER (NTIS version) modeling calculations. See 45 FR 41503, 41512. (Table 3.). The agency has updated the CSOE table with model calculations using the OAQPS version of MPTER. See p. 21 and Table 2.

D. Petitioner's other objections are without merit.

1. Big Bend Study.

Petitioners imply that it was inconsistent for the agency on the one hand to determine that field study data collected at the shoreline site of the Big Bend power plant were not relevant to the predictive accuracy of the P–G class A curves (45 FR at 41509) and on the other hand to use P–G class A coefficients to set emission limitations for two Cleveland Electric Illuminating power plants located on Lake Erie (45 FR 42279, June 24, 1980). Petitioners, however, misconstrue the agency's findings on the Big Bend data.

The agency determined that it could not use the Big Bend data in evaluating the predictive accuracy of the P–G class A coefficients because the data was collected during a period of time when very unstable (class A type) meteorological conditions were suppressed by the influence of the Gulf. As EPA stated in its June 19 notice, "a large body of water *often* has a stabilizing influence on atmospheric conditions near the shoreline." 45 Fed. Reg. 41508 (col. 3) (emphasis added). In other words, the agency found that very unstable (class A type) conditions did not occur during the period of the Big Bend field study, *not* that class A type conditions never occur near large bodies of water.

Since class A type conditions do occur near large bodies of water, the agency must evaluate class A conditions and their effect on the dispersion of pollutants from sources near such areas. Only by evaluating class A (and all other) meterological conditions can the agency be sure of setting emission limitations that will protect air quality standards. It therefore was necessary for the agency to evaluate class A conditions for the two Cleveland Electric Illuminating power plants and appropriate for the agency to set emission limitations based on that evaluation.

2. Petitioner CSOE's Proposed Alternatives

Petitioners contend that the agency did not consider CSOE's proposed alternatives to the P–G class A coefficients. However, EPA has already considered and rejected CSOE's proposals. Petitioners present no basis for revising EPA's initial evaluation of petitioner's proposals.

Specifically, petitioners contend that EPA did not consider two alternatives: 1) the use of correction factors (time scaling factors)[11] and 2) the use of the shorter averaging times method. Both alternatives would essentially result in larger sigma-y values than in the P–G class A coefficients. Larger sigma-y values mean greater horizonal dispersion of the pollutant and lower maximum ground level concentrations.

EPA has already considered CSOE's alternatives and the general contention that the horizontal dispersion (sigma-y) component in the P–G class A curves is too small. See 45 FR 41506–41508 (June 19, 1980). EPA review of CSOE's alternatives as well as other alternatives relying on larger sigma-y values established that use of the alternative would underpredict ground level concentrations.[12] For that reason, the agency determined that it could not rely on the suggested alternatives to set emission limitations to protect the ambient air quality standards. 45 FR 41507–41508. Petitioners present no data to support revising that finding.

3. EPA's use of the Karlsruhe Data

Petitioners criticize EPA's reliance on the dispersion coefficients derived by the 195 meter Karlsruhe experiments in preference to the coefficients derived from the 60, 100, and 160 meter experiments. Petitioners contend that the Karlsruhe experimenters recommend using the coefficients obtained by combining the results of experiments at 160 and 195 meters. Petitioners also cite a recent article entitled "Dispersion Parameters for Emission Heights up to 195 meters Determined Experimentally at the Karlsruhe National Research Center", Nester and Thomas (1979), which summarizes the results of the 60, 100, 160, and 195 meter experiments. Petitioners contend that the combined experiment results in this report support larger sigma-y curves than in the P–G class A coefficients.

Petitioners misconstrue the Karlsruhe experimenters' recommendation. The Karlsruhe experimenters recommended use of the combined experiment coefficients for evaluating the low level emissions from the Karlsruhe facility.[13] The Karlsruhe experimenters did not comment on the appropriate coefficients for evaluating emissions from tall stack power plants. The 195 meter experiments are in fact the most appropriate experiments for evaluating dispersion from power plants.

As the agency explained in the June 19, 1980 notice, the most appropriate experiments for evaluating dispersion from the four Ohio power plants are the experiments that come closest to approximating power plant conditions. 45 FR 41505. Emissions from these power plants are released from tall stacks and attain heights of 200 meters or higher. Experiments that release tracers from 195 meters rather than 60, 100 or 160 meters best approximate the release of pollutants from these power plants. The 195 meter experiments, therefore, are the most appropriate experiments for evaluating dispersion coefficients for the power plants. 45 FR 41505 (June 19, 1980).

Petitioners contend that the recent article summarizing the results of the 60, 100, 160 and 195 meter dispersion experiments at Karlsruhe over the last ten years supports larger sigma-y curves than the P–G class A sigma-y values. The authors of the article, however, base their conclusions on the averaged results of these experiments. As discussed above, the 195 meter experiments are the most appropriate for evaluating dispersion coefficients for the four power plants, rather than averaged results from experiments at lower heights. Therefore, the article does not support the use of larger sigma-y values for the four power plants. Moreover, the agency has already considered and rejected the utility arguments for larger sigma-y values. 45 FR 41506–41507. (June 19, 1980). Petitioners present no basis for finding that the agency's reliance on the 195 meter experimental data is inappropriate.

4. EPA did not use monitoring data from power plants using supplementary control systems

Petitioners criticize the agency for not using monitoring data from two TVA power plants and Public Service Indiana's Gibson plant because these plants use supplementary control systems.[14] As EPA stated in the June 19, 1980 notice, appropriate comparison of model predictions with monitor observations for plants using a supplementary control system requires actual operating data that are not available to the agency. 45 FR 41503 (col. 3). The agency, therefore, could not use the monitoring data from these plants.

5. EPA's monitor/model comparison

Petitioners contend that the agency's comparison of monitor and model data set forth in Table 3 of the June 19, 1980 notice does not support EPA's conclusions. Supplement to petitions at 9–10. However, petitioners' argument on this point implies that petitioners misunderstand the agency's intent in drawing the comparison.[15] The point of the comparison is to determine whether the model using the P–G class A coefficients accurately predicts actual maximum ground level concentrations.[16] The agency compared the maximum 3-hour concentrations observed at power plant monitors to the model calculations of the maximum 3-hour concentrations at the same locations. The comparison established that the model calculations compared well with actual measurements. The agency, therefore, concluded that its model using the P–G class A coefficients accurately predicts maximum ground level concentrations for power plants with tall stacks. 45 FR 41504 (June 19, 1980). Petitioners present no basis for revising that conclusion. Instead, petitioners, raise several false issues.

First, petitioners criticize the modeling data the agency used in the comparison because the data was not "exclusively class A." Supplement to the petitions at 10. Each of the maximum 3-hour concentrations calculated by the agency's model consists of one or two hours of class A stability. See Supplement to petitions, Exhibit 4. However, petitioners assume that model calculated maximum 3-hour concentrations must consist of three consecutive hours of class A stability. Petitioners' assumption is wrong. Therefore, their criticism of the data is without merit.

The model calculates a maximum 3-hour concentration by averaging three one-hour concentrations. For each one-hour concentration the model evaluates the meterological data and determines the stability classifications. Thus, a 3-hour concentration has three stability classifications. Review of the agency's modeling demonstrates that maximum 3-hour concentrations usually do not consist of three consecutive hours of class A stability but consists of one or two hours of class A and the remainder of class B, C, or D stability. In fact, each of the second high 3-hour concentrations that were used to set emission limitations for the four "class A" power plants is based on only one or two hours of class A stability.[17] For example, the second high 3-hour concentration that was used to set the emission limitation for the Cardinal power plant was based on one hour of class A stability, one hour of class B stability and one hour of class C stability.

Second, petitioners criticize the agency for calculating maximum 3-hour concentrations only at the monitor locations. Petitioners contend that the agency should have calculated concentrations at several locations and compared the model's maximum concentration (considering all locations) to the monitor concentration. However, identity of monitor locations and model receptor sites is necessary for an accurate comparison. The agency specifically calculated concentrations at the monitor locations in order to compare data for the same locations. *See Cleveland Electric Illumination Company* v. *EPA*, 572 F.2d 1150, 1163 (6th Cir. 1978) (where the Court

[11] CSOE did not propose this alternative during the comment period, but submitted it in a January 18, 1980 report. Nevertheless, the agency considered it in its June 19, 1980 notice. See 45 FR 41507 (Col. 1).

[12] CSOE in fact submitted evidence that use of its shorter averaging times alternative would significantly underpredict ground level concentrations calculated by the agency's modeling using the P–G class A coefficients. Class A Record at II.B.4.b. p. 39. Since the monitor/model comparison demonstrates that the agency's model accurately predicts monitored ground level concentrations, CSOE's alternative would necessarily underpredict monitored ground level concentrations.

[13] The dispersion coefficients derived from combining the 195 meter and 160 meter experimental data are more appropriate for use in evaluating the lower level releases that would occur at the Karlsruhe facility. Emissions at the Karlsruhe nuclear research facility are released at levels of less than or equal to 100 meters and are non-buoyant. The combination of the 160 and 195 meter experiments more closely approximates the Karlsruhe releases. Thus, use of the combined experiment coefficients is appropriate for evaluating the lower level emissions from the Karlsruhe facility, but not for evaluating the buoyant high level releases.

[14] Petitioners erroneously contend that there is nothing in the record to support the fact that these plants use supplementary control systems. See Class A record at III.C.10.a and III.D.101.

[15] For example, petitioners argue that the agency's comparison is faulty because it does not evaluate the accuracy of the model in predicting when class A weather conditions occur. Supplement to petitions at 9–10. However, whether or not the model can predict when class A conditions occur is not at issue. The issue is whether the model using the P–G class A curves accurately predicts maximum ground level concentrations.

[16] The agency made similar monitor/model analyses in originating deciding to use dispersion modeling to set emission limitations in Ohio. The U.S Court of Appeals for the Sixth Circuit noted the results of such comparisons in affirming the agency's use of dispersion modeling. *See Cleveland Electric Illuminating Co.* v. *EPA*, 572 F.2d 1150, 1163–1164 (6th Cir. 1978).

[17] Petitioners contend that the Muskingum River emission limitation was based on three class A hours. Supplement to petitions at 10. However, review of the modeling demonstrates that it was based on only two class A hours. The model did not average in the third class A hour as contributing to the concentraion since the wind direction changed, carrying the pollution off in a different direction. Petitioners also contend that model calculations of three consecutive hours of class A stability with a persistent wind direction are unrealistic. As discussed above, the model does not usually calculate maximum 3-hour concentrations with three consecutive hours of class A and a persistent wind direction, but such conditions do occur. Wind data submitted during the comment period by Cincinnati Gas and Electric Company for the East Bend power plant demonstrate that such conditions actually occur. Class A record at II.B.8.b.

V 45/218 NOV 80 UMI

discusses the need for identity of monitor locations and receptor sites). Petitioners' suggestions would not result in an accurate comparison and is without merit.

Finally, petitioners imply that the agency's comparison is faulty because it is not a "validation study." Model validation usually involves extensive on-site data collection and modeling analyses to evaluate the performance of an entire model. *See Cleveland Electric Illuminating Company* v. *EPA*, 572 F.2d 1153 (6th cir. 1978) (where the Court discusses the rigors of model validation). Using available monitor data to compare monitor and model concentrations is also a valid although less rigorous procedure for checking the accuracy of model predictions. Petitioners' implied critique of the comparison study is therefore without merit.

6. The agency's modeling methodology

Petitioners raise as an issue the fact that EPA did not use the CRSTER model in making the monitor/model comparison even though EPA had used the CRSTER model in setting the emission limitations for the four power plants. EPA did not use the CRSTER model for the comparison because that model does not have the capability of calculating concentrations at specifically designated locations such as the monitor locations. Instead, the agency used the MPTER model because it has the capability of calculating concentrations at specifically designated locations.[18] This allowed the agency to calculate concentrations at the monitor locations and make a more accurate comparison between model calculations and the monitor data

EPA developed the MPTER Model from the CRSTER model and in most respects the MPTER is equivalent to the CRTSTER model.[19] Besides the capability of calculating concentrations at specified locations, the MPTER Model can also take into account actual stack separation and the actual height of the wind instrument. These features increase the predictive accuracy of the MPTER Model analyses.

At the time the agency ran the MPTER model for the June 19, 1980 comparison, the agency considered that, except for the above described improvements over the CRSTER model, the MPTER Model was identical to CRSTER. The agency, however, has recently determined that two adjustments to the MPTER Model are require to make it completly consistent with CRSTER. These adjustments to the computer coding were outlined in a memorandum issued July 7, 1980, by EPA's Office of Air Quality Planning and Standards to EPA's regional offices.[20] The adjustments make the MPTER treatment of plume cut-off and receptor elevation consistent with CRSTER.

In order to evaluate the effect of these adjustments on the agency's June 19, 1980 modeling, which used the MPTER without these adjustments, the agency remodeled the John Sevier and Muskingum River power plants.[21] Table 1 sets forth a comparison of monitor data with the adjusted MPTER model (hereinafter "MPTER–OAQPS version") calculations for the John Sevier and Muskingum River plants and the original MPTER (hereinafter "MPTER–NTIS version") calculations which were set forth in Table 3 in the June 19, 1980 notice.[22] 45 Fed: Reg. 41512.

Comparison of the pollution concentrations calculated by the two versions of the MPTER demonstrates that the differences in the maximum and second maximum pollution concentrations are insignificant in almost all cases. Moreover, both MPTER versions calculate maximum concentrations that compare well with observed maximum concentrations. The comparison also shows that the monitors observed maximum concentrations of sulfur dioxide as high or higher than the maximum concentrations calculated by the model (OAQPS version) using the P–G class A dispersion coefficients. Therefore, the comparison using the OAQPS version of the MPTER model confirms the conclusion that the agency's modeling using the P–G class A coefficients accurately predicts measured maximum ground level concentrations.

Conclusion

Petitioners do no submit new data or raise objections that warrant revision of their original emission limitations. In fact, the most recent monitoring data from monitors, near the Conesville plant further support the agency's original decision to use the P–G class A coefficients in setting the emission limitation for the Conesville plant. EPA therefore denies the petitions for reconsideration.

Petitioners also fail to establish sufficient grounds to warrant a stay pending judicial review. The grounds for granting such a stay are set forth in *Virginia Petroleum Jobbers Association v. Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958). Those grounds are that a stay would be in the public interest, is necessitated by the fact that petitioners would otherwise suffer irreparable harm and is justified by the likelihood of success on the merits.

Petitioners do not contend that a stay would be in the public interest or that they will suffer irreparable harm without a stay. On the contrary, the public interest requires that petitioners bring their power plants into compliance with their emission limitations. Moreover, petitioners will not suffer irreparable harm during the time necessary to complete judicial review. Under the compliance schedules for petitioners' class A plants, final compliance is not required for three years if compliance is achieved through installation of desulfurization equipment or for two and a half years if compliance is achieved through burning lower sulfuc or washed coal.[23]

Petitioners also have not established any likelihood of prevailing on the merits. Petitioners have had a full and fair opportunity to comment on the agency's findings. The agency has evaluated petitioners' comments and all available data on the class A issue. The agency has found that its findings are fully justified. In addition, EPA has utilized data comparable to the data relied upon by the Court in affirming the agency's use of RAM modeling. *Cleveland Electric Illuminating Company v. EPA*, 572 F.2d 1150, 1163–164 (6th Cir. 1978). That data is a comparison between monitor observations and model calculations at the monitor locations. The comparison establishes that the agency's model using the P–G class A coefficients is accurately predicting ground level concentrations. In sumary, petitioners do not satisfy any of the grounds for granting a stay. Therefore, EPA denies petitioners' requests for a stay pending judicial review of the agency's June 19, 1980 action.

for this action is the United States Court of Appeals for the Sixth Circuit. Under Section 307(b)(1) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: November 3, 1980.

Barbara Blum,

Acting Administrator.

[18] These model runs are in the class A record at IIIB

[19] The agency explained the difference between the MPTER and the CRSTER models in footnote number 7 of the June 19, 1980 notice. 45 FR 41503. The **Federal Register** inadvertently omitted this footnote in printing. The footnote in the original text reads as follows. "MPTER is a model EPA developed from the EPA CRSTER model. In most respects, the MPTER and CRSTER models are identical and both can be run with the P–G dispersion coefficients. However, unlike CRSTER, MPTER can take into account stack separation and can also locate receptors using Cartesian coordinates. This feature allowed the agency to set a model receptor exactly at the location of the monitor and therefore make a more accurate comparison between model predictions and monitoring data."

[20] This memorandum is in the record supporting the agency's response to the petitions for reconsideration.

[21] The agency also changed the SO_2 half-life previously used in its MPTER modeling to be consistent with that used in CRSTER modeling.

[22] Petitioners point out in their supplemental petitions at 8–9 that the meteorological data for 1964 used to set the original emission limitations is different than the data used in the MPTER modeling. The agency has previously pointed out that the national weather service corrected a mistake in the original 1964 meteorological data, after the agency's original modeling in 1976. The agency now uses the corrected data. The agency has found that the change has an insignificant effect on concentrations. See 45 FR 68930. (December 5, 1979). Petitioners also allege that the mixing height data is in error; however, petitioners do not support this allegation and the agency has no evidence of any error in the mixing height data it used in its MPTER modeling.

[23] Elsewhere in today's **Federal Register**, EPA is restarting the original compliance schedules for the petitioners' Class A power plants. The schedules will begin to run as of June 19, 1980.

Table 1.—*Highest and second highest 3-hour SO_2 concentrations observed and calculated at the four "class A" monitor sites at the Conesville powerplant*

Monitor observed			Model calculated (MPTER–NTIS version)			Model calculated (MPTER–OAQPS version)	
Year	Highest	Second	Year	Highest	Second	Highest	Second
John Sevier:							
1973	.17	.16	1964	.32	.32	.32	.31
1974	.23	.22	1970	.26	.18	.26	.17
1975	.45	.39	1971	.24	.21	.25	.21
1976	.40	.39	1972	.29	.25	.31	.26
1977	.43	.31	1973	.23	.16	.23	.16
1978	.34	.30	1974	.21	.17	.23	.17
1979	.24	.20					
Muskingum River:							
1978	.39	.20	1964	.43	.29	.50	.44
1979	.63	[1].43	1971	.33	.25	.34	.25
1980	[1].49	[1].44	1972	.40	.34	.95	.40
			1973	.40	.34	.42	.35
			1974	.36	.30	.37	.31
			1975	.55	.43	.56	.53
			1977	.41	.34	.42	.36

[1] This reflects the most recent data submitted by Ohio Edison on August 18, 1980. The 1980 figures are only for January through April, 1980.

Table 2.—*Highest and second highest 3-hour SO_2 concentrations observed and calculated at the four "class A" monitor sites at the Conesville powerplant*

Monitor observed			Model calculated (MPTER–NTIS version)			Model calculated (MPTER–OAQPS version)	
Year	Highest	Second	Year	Highest	Second	Highest	Second
Levee:							
June 1, 1979 and May 31, 1980	.38	.38	1964	.45	.31	.47	.32
			1973	.52	.42	.54	.44
			1974	18	14	19	15
			1975	.55	.36	.57	.45
			1976	.46	.27	.48	.28
			1977	.74	64	.78	68
Ash Pond No. 1:							
June 1, 1979 and April 16, 1979	.31	.26	1964	.37	.31	.38	.33
			1973	.44	.20	.45	.20
			1974	.52	.34	.53	.35
			1975	.45	.30	.48	.31
			1976	.30	.29	.31	.30
			1977	.71	.50	.76	.52
Batch:							
June 1, 1979 and May 31, 1980	.38	.34	1964	.49	.45	.51	.46
			1973	.32	.09	.32	.09
			1974	.39	.22	.40	.22
			1975	.54	.36	.56	.37
			1976	.37	.34	.38	.35
			1977	.58	.42	.59	.43
River:							
June 1, 1979 and May 31, 1980	.37	.34	1964	.38	.37	.39	.38
			1973	.30	.28	.31	.29
			1974	.34	16	.35	.17
			1975	.45	.42	.46	.43
			1976	.11	.07	.12	.09
			1977	.69	.40	.71	.40

[FR Doc. 80-34909 Filed 11-6-80; 8:45 am]

BILLING CODE 6560-38-M

[Docket No. ECAO-CD-79-1; AD-FRL 1664-4]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meetings.

SUMMARY: On November 18–19, 1980, and throughout the month of December, the U.S. Environmental Protection Agency (EPA) will be holding a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM\text{-}SO_x$). The public is invited to attend the meetings.

DATES: The first of a number of meetings is scheduled to be held on November 18–19, 1980, beginning at 9 a.m., concerning Chapters 11, 12 and 13 (Deposition and Fate, Animal and Human Clinical Studies). Information concerning the subject matter and dates of additional meetings during December will be announced in a subsequent **Federal Register** notice.

ADDRESSES: The meeting of November 18–19, 1980, will be held in the conference room of the U.S. Army Research Office, Alexander Drive at North Carolina Route 54, Research Triangle Park, North Carolina. The location of additional meetings will be announced in a subsequent **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, MD–12, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–4172.

SUPPLEMENTARY INFORMATION: In April 1980 EPA made available for public comment a first external review draft of a revised criteria document for PM/SO_x (45 FR 24913, April 11, 1980; 45 FR 42023, June 23, 1980). The document is being prepared pursuant to Sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. §§ 7408 and 7409, and will be

used as a basis for the review and, as appropriate, revision of the national ambient air quality standards (NAAQS) for PM and SO_x.

On August 20–22, 1980, the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board met to provide scientific and technical advice to EPA regarding the first external review draft of revised criteria for PM/SO_x (45 FR 51644, August 4, 1980). At that meeting CASAC advised that EPA prepare a second external draft for public review prior to obtaining further advice from CASAC. CASAC recommended that EPA, in preparing the second draft, hold informal technical working sessions at which EPA, its consulting authors and reviewers, and other scientific and technically qualified persons selected by EPA could discuss the various chapters of the document and suggest ways of resolving outstanding issues. EPA is planning to hold such meetings as stated above under "Dates."

Discussions at the meetings will focus on preliminarily revised chapters of the PM/SO_x document which EPA is preparing in response to comments from the public and CASAC on the first external review draft. Copies of the preliminarily revised chapters will be available at the meetings at which they are discussed. Copies may also be obtained before the meeting as they become available by calling Robert Bauman (see "Further Information" above). An opportunity will be provided at the end of each meeting for members of the public to make brief oral statements. Ample opportunity for review and the submission of written comments will be provided, of course, when a second external review draft of the entire document is made available. It is anticipated the second draft will be released in January, 1981, following EPA's consideration of the discussions held at these meetings.

Detailed minutes of each meeting will be kept by EPA, containing a complete and accurate description of matters discussed and any conclusions reached at the meetings. The minutes, preliminary chapter drafts discussed at the meetings, and any other materials provided for or produced collectively at the meetings will be included in the docket which has been established for the review of PM/SO_x national ambient air quality standards. The docket is available for inspection and copying between the hours of 8 and 4 at EPA headquarters in the Central Docket Section (A–130), Gallery 1, West Tower, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. 20460. (The criteria document docket, No. ECAO–CD–79–1, is part of the dockets established for review of the particulate matter and sulfur oxides NAAQS, Nos. A–79–28 and 29).

M–079999 0054(03)(06–NOV–80–18:45:25)

November 5, 1980.

Steven R. Reznek,

Acting Assistant Administrator for Research and Development.

[FR Doc. 80–34963 Filed 11–6–80; 8:45 am]

BILLING CODE 6560–26–M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 80–685, 80–686; File Nos. BPCT–79072KF, BPCT–800714KJ]

Christian Center of the Ozarks and Springfield Family Television, Inc.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 16, 1980.

Released: October 31, 1980.

In re applications of Christian Center of the Ozarks, Springfield, Missouri, BC Docket No. 80–685, File No. BPCT–790727KF; Springfield Family Television, Incorporated, Springfield, Missouri, BC Docket No. 80–686, File No. BPCT–800714KJ; for a construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Christian Center of the Ozarks and Springfield Family Television, Inc. for a new commercial television station to operate on Channel 33, Springfield, Missouri.

2. The Commission finds the applicants qualified to operate and construct as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of them will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

3. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

4. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

5. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80–34796 Filed 11–6–80; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Council on the Aging; Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on December 1, 1980 from 9:30 a.m. to 5:00 p.m., December 2, 1980 from 9:00 a.m. to 5:00 p.m. and December 3, 1980 from 9:00 a.m. to 3:00 p.m. in Rooms 403A and 425A, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The progress on key issues and reports of the Council's Congressionally Mandated Study will be the major agenda item. Committee reports on the older worker, long term care and the White House Conference on Aging will also be given. In addition, there will be a discussion on the Council's organization and work plan for 1981, the Annual Report and the organization of the 97th Congress and its impact on aging.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201. Telephone (202) 245–0441.

FCA meetings are open for public observation.

Dated: November 3, 1980.

Charles J. Fahey,

Chairman, Federal Council on the Aging.

[FR Doc. 80–34855 Filed 11–6–80; 8:45 am]

BILLING CODE 4110–92–M

FEDERAL MARITIME COMMISSION

Gulf Caribbean Marine Lines; Application for Permission To Submit Alternative Data

The Federal Maritime Commission hereby gives notice that Gulf Caribbean Marine Lines (GCML) has filed an application with the Commission for permission to submit alternative data pursuant to 46 CFR 512.2(d).

GCML requests permission to use revenue tons, in lieu of cargo cubes, as the basis of allocation in the filing of actual and projected General Order 11, Revised, Statements of Financial and Operating Data. This data is to be submitted on or about December 1, 1980, in connection with a general rate increase in the U.S. Gulf Coast to Puerto Rico Trade.

Interested parties may inspect the data submitted in support of the application at the Washington, D.C., Office of the Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. Interested parties may submit comments on the application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before (20 days). A copy of any comments should also be forwarded to Crowley Maritime Corporation, The Caribbean Division, P.O. Box 2110, Jacksonville, Florida 32203, Attention: Mark Morrison and the comments should indicate that this has been done.

Dated: October 31, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–34902 Filed 11–6–80; 8:45 am]

BILLING CODE 6730–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 26, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10044–5.

Filing Party: R. J. Finnan, Chief Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10044–5 is a proposal by the parties to the U.S. Gulf/Peru Pooling Agreement to extend the expiration date of the basic agreement for 90 days, through March 31, 1981. Additionally, a provision which permits the parties, in every pool year except the final pool year (1980), to consider pool earnings from the final yearly sailing as earnings for the next succeeding year, is being amended by allowing such action in the final pool year.

Dated: November 3, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–34818 Filed 11–6–80; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 80–78]

Antonio Lopez Quintana d.b.a. Tony Quintana Freight Forwarders—Independent Ocean Freight Forwarder License No. 1324; Order of Investigation and Hearing

Antonio Lopez Quintana d.b.a. Tony Quintana Freight Forwarders (Quintana) located at 739 West Flagler Street, Miami, Florida 33130, is an independent ocean freight forwarder operating under FMC license number 1324 issued May 4, 1971. Information has been developed by the Commission staff indicating that Quintana has apparently violated section 44(e) of the Shipping Act, 1916 (46 U.S.C. 841(b)), and sections 510.23(a) and 510.24(e) of the Commission's General Order 4 (46 CFR 510). Quintana's actions may have rendered it unfit to carry on the business of forwarding, pursuant to section 44(b) of the Shipping Act, 1916 (46 U.S.C. 841(b)).

During the course of a compliance investigation of another licensee it was disclosed that Quintana had permitted a then-unlicensed firm, Trans-World International, Inc. (T.W.I.), to use Quintana's license for the performance of ocean freight forwarding services during the period May 17, 1977 to September 3, 1977, on at least 53 shipments. On at least 30 of these shipments Quintana collected compensation from the oceangoing common carrier which is a violation of section 44(e) of the Shipping Act, 1916 and section 510.24(e) of the Commission's General Order 4.

The licensee's apparently willful violations of the shipping statute and the Commission's regulations are relevant to the degree of fitness required of an independent ocean freight forwarder. Thus, Quintana may no longer be qualified to hold an FMC license.

In addition, section 32 of the Shipping Act, 1916, prescribes civil penalties for violations of section 44 of the Act and the Commission's regulations and charges the Commission with the responsibility of assessing those penalties.

Now therefore it is ordered, That pursuant to sections 22, 32 and 44 (46 U.S.C. 821, 831 and 841(b)) of the Shipping Act, 1916, and section 510.9 of the Commission's General Order 4 (46 CFR 510.9) a proceeding be instituted to determine:

1. Whether Quintana violated section 510.23(a) of General Order 4 by permitting a person not in its employ to use its license for the performance of ocean freight forwarding services.

2. Whether Quintana violated section 44(e) of the Shipping Act, 1916 and section 510.24(e) of the Commission's General Order 4 by collecting compensation from oceangoing common carriers on shipments for which it did not perform ocean freight forwarding services.

3. Whether civil penalties should be assessed against Quintana pursuant to section 32(e), Shipping Act, 1916 for violations of the Shipping Act, 1916, and/or the Commission's rules and regulations and, if so, the amount of any such penalty which should be assessed, taking into consideration factors in possible mitigation of such a penalty.

4. Whether Quintana's ocean freight forewarder's license should be suspended or revoked pursuant to

section 44(d) of the Shipping Act, 1916, for:

(a) willful violations of the Shipping Act, 1916, or the Commission's rules or regulations or both;

(b) such conduct as the Commission finds renders Quintana unfit properly to carry on the business of forwarding in accordance with section 510.9(e) of General Order 4.

It is further ordered, That Antonio Lopez Quintana d/b/a Tony Quintana Freight Forwarders be named Respondent in this proceeding.

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence within the time limits specified in Rule 61 (46 CFR 502.61) of the Commission's Rules of Practice and Procedure. The hearing shall include oral testimony and cross-examination at the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements or affidavits, depositions, or other documents, or that the nature of the matter at issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That notice of this Order be published in the **Federal Register** and a copy thereof and Notice of Hearing be served upon Respondent, Antonio Lopez Quintana d/b/a Tony Quintana Freight Forwarders and the Commission's Bureau of Hearing Counsel.

It is further ordered, That any person other than the Respondent and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for Leave to Intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34817 Filed 11-6-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Western Steamship Lines, Inc. d.b.a. Western Cruise Lines and Eastern Steamship Lines, Inc., c/o Eastern Steamship Lines, Inc., 1220 Biscayne Boulevard, P.O. Box 010882, Miami, Florida 33101.

Dated: November 5, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34924 Filed 11-6-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnifiction of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Western Steamship Lines, Inc., d.b.a. Western Cruise Lines and Eastern Steamship Lines, Inc., c/o Eastern Steamship Lines, Inc., 1220 Biscayne Boulevard, P.O. Box 010882, Miami, Florida 33101.

Dated: November 5, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-34925 Filed 11-6-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Carter Lake Investment Co.; Formation of Bank Holding Company

Carter Lake Investment Co., Carter Lake, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Bank and Trust of Carter Lake, Carter Lake, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34735 Filed 11-6-80; 8:45 am]

BILLING CODE 6210-01-M

Chase Bank International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Chase Bank International, Newark, Delaware, and to establish branches thereof in Chicago, Houston, Los Angeles and Miami, through conversion of existing Edge Corporations. Chase Bank International would operate as a subsidiary of Chase Manhattan Bank, N.A., New York, New York. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34738 Filed 11-6-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 31, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 25, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of a revision of 10 CFR Part 20, Standards for Protection Against Radiation, Burial of Small Quantities of Radionuclides. The revision to Part 20 is the deletion of § 20.304 which allows licensees to bury small quantities of radionuclides without prior approval by NRC. Deletion of 10 CFR 20.304 will increase the number of licensees who must submit applications for burial of radionuclides as required by section 20.302. The NRC estimates that an additional 26 licensees will be required to submit applications and that 24 hours will be required to prepare each application.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-34774 Filed 11-6-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Amended System of Records

AGENCY: General Services Administration.

ACTION: Notification of amended system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to amend a system of records that is maintained by GSA. The system of records, Investigation Case Files GSA/ADM-24, will be amended to change the records storage medium from only paper records to a combination of paper records and computer records. An amended system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on September 30, 1980.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before December 8, 1980. The amendment shall become effective as proposed without further notice on December 8, 1980, unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (HRAR), Washington, DC 20405.

FOR FURTHER INFORMATION: Mr. William Hiebert, Records Management Branch, Information Management Division, (202) 566-0673.

Background: The Office of Inspector General (OIG) system of records, Investigation Case Files, is being amended by changing the record storage medium from only paper records to a combination of paper records and computer records. A computer system is necessary due to the increased number of investigation case files that will be covered by the system of records. The use of computers will reduce the staff time required to maintain the records and also provide instant access to investigation information. The system of records notice GSA/ADM-24, Investigation Case Files, was last published in the **Federal Register** on August 29, 1980, 45 FR 57878.

The amended system of records notice GSA/ADM-24 will read as follows:

GSA/ADM-24 (23-00-0024)

SYSTEM NAME:

Investigation Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 11652.

SYSTEM LOCATION:

The system is located in the Office of Inspector General, 18th and F Streets NW., Washington, DC 20405. The data base for this system is on computers operated by the Neshaminy Valley Information Processing Company, 4850 Street Road, Trevose, PA 19049.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of GSA and commissions, committees, and small agencies serviced by GSA. Also included are historical researchers, employees of contractors performing custodial or guard services in buildings under GSA jurisdiction, individuals who were the source of an individual complaint or an allegation that a crime had taken place, witnesses having information or evidence on any side of an investigation, and identification of possible and actual suspects in the criminal, administrative, or civil actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files contain information such as name, date and place of birth, experience, and investigatory material. These records are used as a basis for issuance of subpoenas; security clearances; suitability determinations; and civil, criminal, and administrative actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. Section 2 et seq.; Executive Order 10405, April 27, 1953; Executive Order 11478, August 8, 1969; Executive Order 11652, March 8, 1972; Executive Order 11246, September 24, 1965; and 40 U.S.C. 276a through a-7, 276c, 318 (a) through (d), and 327 through 331.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used by GSA officials and representatives of other Government agencies on a need-to-know basis in the performance of their official duties under the authorities set

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forth above and also for the following routine uses:

1. *Law enforcement:* Records maintained by the Office of Inspector General may be disseminated in any of the following manners:

a. A record of any case in which there is an indication of a violation of law, whether civil, criminal, or regulatory in nature, may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

b. A record may be disseminated to a Federal, State, local, or foreign agency or to an individual organization in the course of investigating a potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

c. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

d. A record relating to a case or matter may be disseminated to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

e. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement or that involves a case or matter within the jurisdiction of any agency may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made or to make such other inquiries and reports as are necessary during the processing of the case or matters;

f. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

g. A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

h. A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; or

i. A record may be disseminated to the public, news media, trade associations, or organized groups when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi.

2. *Grievance, complaint, appeal:* A record from this system or records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

3. *Congressional inquiries:* A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

4. *Private relief legislation:* The information contained in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage or the legislative coordination and clearance process as set forth in the circular.

5. *GSA agents:* A record from this system of records may be disclosed as a routine use (a) to an expert, a consultant, or a contractor, of GSA to the extent necessary to further the performance of a Federal duty and (b) to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in files and file folders and magnetically encoded records on electronic media; e.g., disk drives and tapes.

RETRIEVABILITY:

Paper records are retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident. Magnetically encoded records are retrieved from computer files organized by investigation case file number.

SAFEGUARDS:

Paper records are stored in locked alarmed vault type rooms and/or three-way combination dial safes with access limited to authorized personnel. Computer based records are protected by system, file, and date element level passwords and by user right-of-access codes with all access restricted to authorized personnel. Information is released only to authorized officials on a need-to-know basis.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Executive Director, Office of Inspector General, 18th and F Sts. NW., Washington, DC 20405. Mailing address: General Services Administration (JM), Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager or the Director of Information (XI), 18th and F Sts. NW., Washington, DC 20405.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the Executive Director, Office of Inspector General, and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR Part 105–64, published in the **Federal Register**.

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other government agencies, employers, references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(j), this system of records is exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) of the act, to the extent that information in the system pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (1) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (2) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (3) reports of enforcement of the criminal laws, from arrest or indictment through release from supervision. This system is exempted to maintain the efficacy and integrity of the Office of Inspector General's law enforcement function.

In accordance with 5 U.S.C. 552a(k), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identify of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the act, under an implied promise that the identity of the source would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the act, under an implied promise that the identity of the source would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Office of Inspector General's law enforcement responsibilities and responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

Dated: October 31, 1980.

Ben Schiffman,

Director of Administrative Services.

[FR Doc. 80-34728 Filed 11-6-80; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Mountaire Feeds, Inc.; Premix AB–5–3N; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration withdraws approval of a new animal drug application (NADA) providing for use of Premix AB–5–3N (buquinolate and roxarsone). Finished feeds containing the premix are fed to poultry as an aid in preventing coccidiosis and enhancing growth and pigmentation. The sponsor, Mountaire Feeds, Inc., requested the withdrawal of approval.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1846.

SUPPLEMENTARY INFORMATION: Mountaire Feeds, Inc., 124 East Fifth, P.O. Box 5391, North Little Rock, AR 72119, is the sponsor of NADA 37–983 which provided for use of Premix AB–5–3N (3.30 percent buquinolate and 2.0 percent roxarsone) in making finished poultry feeds. The feeds are indicated as aids in prevention of coccidiosis caused by *E. tenella, E. necatrix,* and *E. acervulina* and for stimulating growth and improving feed efficiency and pigmentation in broiler chickens. The application was originally approved December 14, 1967. By letter of August 27, 1980, the sponsor requested withdrawal of approval of the NADA because, since the approval date, the product has not been manufactured.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 37–983 and all supplements for Mountaire Feeds, Inc., Premix AB–5–3N is hereby withdrawn, effective November 17, 1980.

Dated: October 30, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-34567 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N–0189; DESI 6566]

Orphenadrine Citrate Tablets; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice (1) announces that Norflex Tablets (orphenadrine citrate) are a controlled-release dosage form and not a conventional dosage form as implied in previous notices, and (2) announces the conditions for marketing the product. The drug is effective for the relief of discomfort associated with acute, painful musculo-skeletal conditions.

DATES: Bioavailability supplements to approved new drug applications due on or before May 6, 1981; other supplements due on or before January 6, 1981.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 6566, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research

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Council: Public Records and Documents Center (HFI–35), Rm. 12A12.

Requests for guidelines or information on conducting bioavailability tests: Division of Biopharmaceutics (HFD–520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 6566) published in the Federal Register of June 25, 1970 (35 FR 10394) as amended on March 11, 1974 (39 FR 9487) (Docket No. FDC–D–686 (now Docket No. 80N–0189)), the Food and Drug Administration (FDA) announced its conclusions that the following drug product is regarded as a new drug, that it is effective for the indication described below, and that abbreviated new drug applications and abbreviated supplements to previously approved new drug applications will be accepted.

NDA 12–157; Norflex Tablets containing 100 milligrams orphenadrine citrate; Riker Laboratories, 19901 Nordhoff St., Northridge, CA 91324.

Other drugs included in the notice of March 11, 1974, are not affected by this notice.

Abbreviated new drug applications were submitted in response to the March 11, 1974 notice. Upon further review, however, FDA has determined that Norflex Tablets are a controlled-release dosage form and not a conventional dosage form as implied in the March 11, 1974 notice. The abbreviated new drug applications submitted were for orphenadrine citrate in conventional dosage form that releases all the drug within 15 minutes, while Norflex controlled-release tablets release the drug over an 8- to 12-hour period. FDA believes that this significant increase in the rate of release of orphenadrine citrate may lead to a higher incidence of adverse effects than has occured with the controlled-released dosage form. Therefore the notice of March 11, 1974, is amended to reflect that Norflex Tablets are a controlled-released dosage form and that the finding that an ANDA is acceptable applies only to controlled-release products. It is further amended to require, in accord with 21 CFR 320.21 (a) and (f), supplements to approved applications and new or pending abbreviated new drug applications to furnish data adequate to assure the biologic availability of the drug and a rate of release that will be safe and effective.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. Such a drug may not be marketed if it is not the subject of an approved new drug application.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that orphenadrine citrate in a controlled-release dosage form is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Orphenadrine citrate preparations are in controlled-release tablet from suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, the labeling bears adequate information for safe and effective use of the drug, and the label and other labeling include appropriate statements about its slow release. The indication is as follows:

Orphenadrine citrate is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions. The mode of action of this drug has not been clearly identified, but may be related to its sedative or analgesic properties. Orphenadrine citrate does not directly relax tense skeletal muscles in humans.

3. *Marketing Status.* a. Maketing of such drug products that are now the subject of an approved or effective new drug aplication may be continued provided that, on or before January 6, 1981, the holder of the application has submitted (i) a supplement for revised labeling, including the label and other container labeling, that is in accord with the labeling conditions described in this notice, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)).

In addition, on or before May 6, 1981, the holders of such applications are required to supplement their applications to provide (1) evidence from in vivo bioavailability studies comparing the single-dose 100-milligram oral formulation to two doses of an oral solution of 50 milligrams of orhpenadrine citrate administered every 6 hours (total dose in 12 hours equals 100 milligrams), and (2) data from dissolution testing on three consecutive lots of the product. Guidelines on conducting dissolution tests and bioavailability studies are available from the Division of Biopharmaceutics at the address given above.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) must be obtained before marketing such products. An abbreviated new drug application is required to contain evidence from in vivo bioavailability studies comparing a single dose of 100 milligrams of the oral formulation to two doses of an oral solution of 50 milligrams of orphenadrine citrate administered every 6 hours (total dose in 12 hours equals 100 milligrams), and (2) data from dissolution testing on three consecutive lots of the product. Guidelines on conducting dissolution tests and bioavailability studies are available from the Division of Biopharmaceutics. Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 26, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-34414 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77N–0283; DESI 5378 and 11673]

Phentermine Tablets and Capsules; Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice amends previous Federal Register notices on drug products containing phentermine resin complex or phentermine hydrochloride to include additional strengths and state the marketing conditions fot these drug products. Also, this notice rescinds the notice of opportunity for hearing on the proposal to refuse to approve the new drug application (ANDA 85–128) for Adipex-P Tablets (containing 37.5 milligrams phentermine hydrochloride).

ADDRESS: Communications in response to this notice should be directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for labeling guidelines: Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–45, Bureau of Drugs.

Requests for guidelines or information on conducting dissolution tests: Division of Biopharmaceutics (HFD–520), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for opinion of the applicability of this notice to specific products: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5378) published in the Federal Register of August 8, 1970 (35 FR 12678), FDA classified Ionamin '15' Capsules and Ionamin '30' Capsules (containing 15 milligrams and 30 milligrams of phentermine as resin complexes) as possibly effective drug products. In a followup notice published in the Federal Register of July 19, 1974 (39 FR 26459, formerly Docket No. FDC–D–687, now Docket No. 77N–0283), FDA reclassified the products to be effective in the management of exogenous obesity as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction. Abbreviated new drug applications (ANDAs) were allowed. The notice also reclassified all remaining possibly effective claims to lacking substantial evidence of effectiveness and offered an opportunity for hearing on them. No person requested a hearing and the claims are no longer allowable in labeling.

In another notice (DESI 11673) published in the Federal Register of February 12, 1973 (38 FR 4280), the agency announced its conclusion that Wilpo Tablets containing 8 milligrams phentermine hydrochloride are effective for the exogenous obesity indication stated above.

Since publication of the above notices several firms submitted ANDA's for phentermine hydrochloride tablets or capsules in 30-milligram and 37.5-milligram strengths. To determine whether such strengths are appropriate for abbreviated new drug applications the Director of the Bureau of Drugs has considered the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on phentermine, the pharmacokinetic characteristics of the drug, and other available information. In view of the long biologic half-life inherent to phentermine, equivalent therapeutic responses and safety can be expected from either a slow-release form (e.g., resin complex) or from an immediate-release formulation of the drug (e.g., hydrochloride salt). The half-life of phentermine is reported to be approximately 20 hours. Therefore, phentermine products whose extent of absorption are identical will provide similar mean steady-state plasma concentrations even if their rates of absorption differ provided the phentermine is fully available for absorption (evidence of dissolution can be used as a measure of availability for absorption). In addition, dosage strength is not critical to the therapeutic effect. Based on the above information, the Director has concluded that the safety and effectiveness conclusions reached concerning the DESI products Wilpo and Ionamin apply to strengths of 30 milligrams and 37.5 milligrams of phentermine hydrochloride. The Director has also concluded that the pharmacokinetic characteristics of phentermine render a claim of controlled-release for a specific formulation of the drug clinically meaningless and misleading.

This notice pertains to all of the products described below.

1. NDA 11–613; Ionamin '15' Capsules and Ionamin '30' Capsules containing respectively 15 and 30 milligrams phentermine as a resin complex; Pennwalt Prescription Products, 755 Jefferson Rd., Rochester, NY 14603.

2. NDA 12–737; Wilpo Tablets containing 8 milligrams phentermine hydrochloride; Dorsey Laboratories, Division of Sandoz, Inc., P.O. Box 83288, Lincoln, NE 68501. Approval of this NDA was withdrawn in the Federal Register of March 9, 1979 (44 FR 13079) for failure of the holder to submit required reports. Marketing of the product had been discontinued.

3. ANDA 86–329; Phentermine Hydrochloride Capsules containing 30 milligrams phentermine hydrochloride; Zenith Laboratories, Inc., 140 LeGrand Ave., Northvale, NJ 07647.

4. ANDA 85–933; Adipex-P Tablets containing 30 milligrams phentermine hydrochloride; Lemmon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960.

5. ANDA 86–911; Adipex-P Capsules containing 30 milligrams Phentermine hydrochloride; Lemmon Pharmacal Co.

Othr drugs included in the previous notices are not affected by this notice.

In a notice published in the Federal Register of September 16, 1977 (42 FR 46592, Docket No. 77N–0283), the Director offered an opportunity for a hearing on a proposal to refuse approval of an abbreviated new drug application (ANDA 85–128) for Adipex-P Tablets containing 37.5 milligrams phentermine hydrochloride submitted by Lemmon Pharmacal Co. Based upon the reevaluation of phentermine drug products, the Director has concluded that abbreviated new drug applications are suitable for conventional drug products containing 37.5 milligrams phentermine hydrochloride (equivalent to 30 milligrams of phentermine base). Therefore, the notice of opportunity for hearing of September 16, 1977 is hereby rescinded.

Accordingly, the July 19, 1974 and February 12, 1973 notices are amended as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review

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this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that phentermine, as a resin complex or as the hydrochloride, is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. A labeling guideline for the drug is available from the Food and Drug Administration (address given above). The indication is as follows:

For use in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restriction.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application or abbreviated new drug application may be continued provided that, on or before January 6, 1981, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314(f)) must be obtained before marketing such product. The application must contain full manufacturing information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H. In addition, the application must contain dissolution rate data. Depending on the formulation, the dissolution rate data must demonstrate that the product meets one of the following requirements. For a product that is formulated to be fast dissolving (not formulated as a cationic resin complex or utilizing any other slow release mechanism), the data must show that at least 80 percent of the labeled amount of the drug dissolves in 60 minutes. For a product formulated to be slow release, such as a cationic resin complex, the data must show that at least 80 percent of the labeled amount of the drug dissolves in 6 hours. In vitro dissolution studies are to be conducted in accordance with the methods provided in the guidelines on conducting dissolution tests, which are available from the Division of Biopharmaceutics at the address given above.

Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 26, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-34415 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0413]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of candelilla wax, collagen, methylpolysilicones, and oiticica oil to determine whether they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before December 8, 1980.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, or to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee), about the safety of ingredients used in food to determine whether they are GRAS or subject to a prior sanction.

The agency now announces that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: Candelilla wax, collagen, methylpolysilicones, and oiticica oil. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of this substance, in addition to those previously submitted in writing under notices published in the **Federal Register** of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the food ingredients listed above and has reached one of the following five tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion.

The following table lists the ingredient, the Select Committee's tentative conclusion (keyed to five types of conclusion listed above), and the available information on which the Select Committee reached its conclusions:

Substances	Select committee tentative conclusion	Scientific literature review (order No.; price code; price)[1]	Other information (order No.; price code; price)[1]
Candelilla Wax	1	PB 287-762/AS; A02; $5.00	1. Letter, Oct. 18, 1966, L. E. Buckley, FDA, Washington, DC, to J. H. Heckman, Keller and Heckman, Washington, DC. 2. Letter, Feb. 1, 1967, L. E. Buckley, FDA, Washington, DC, to E. I. Lambert, National Association of Chewing Gum Manufacturers, Washington, DC. 3. Letter, Oct. 11, 1961, F. A. Cassidy, FDA, Washington, DC, to H. W. Conner, Wm. Wrigley, Jr. Co., Chicago, IL. 4. Letter, Aug. 7, 1959, A. A. Checchi, FDA, Washington, DC, to B. E. Sievert, Frank B. Hess Co. Inc., Jersey City, NJ. 5. Committee on GRAS List Survey (Phase III, 1978). 1975 Resurvey of the annual poundage of food chemicals generally recognized as safe (GRAS) (PB 288-081/AS; A03; $6.00). 6. Safety data relating to the use of candelilla wax in chewing gum, 1960. Submitted to FASEB, Bethesda, MD, by National Association of Chewing Gum Manufacturers, New York. Sect. 1. Hodge, H. C. 1973. University of California, San Francisco, CA. A critical review of the (1) Feeding studies of candelilla wax incorporated in gum base. (2) Together with studies of the possible carcinogenic potential by other routes of administration. Sect. 2. Toxicity test upon laboratory sample 36731 #12, Type 11 G. R. S. rubber and candelilla wax. Sect. 3a. Letter, Feb. 27, 1948, I. Davidson Mount Sinai Hospital, New York, to H. W. Conner, Wm. Wrigley, Jr. Co., Chicago, IL; summary of pathological findings on rats receiving various gum base mixtures. b. Letter, Jan. 3, 1949, I. Davidson, Mount Sinai Hospital, New York, to H. W. Conner, Wm. Wrigley, Jr. Co., Chicago, IL; summary of pathological findings on rats receiving various gum base mixtures. c. Letter, July 12, 1950, I. Davidson, Mount Sinai Hospital, New York, to H. W. Conner, Wm. Wrigley, Jr. Co., Chicago, IL; summary of pathological findings on rats receiving various gum base mixtures. d. Letter, Dec. 23, 1952, I. Davidson, Mount Sinai Hospital, New York, to H. W. Conner, Wm. Wrigley, Jr. Co., Chicago, IL; summary of pathological findings on rats receiving various gum base mixtures. Sect. 4. Harrisson, J. W. E. 1948. Toxicity test upon laboratory sample 38222, #16, 50/50 mixture candelilla wax and Heveatex (styrene and butadiene) polymer N-1017. Sect. 5. Harrisson, J. W. E. 1949. Toxicity test upon laboratory sample 39348, #17, Heveatex 50%, candelilla wax, hydrogenated fat. Sect. 6. Harrisson, J. W. E. 1953. (Condensed reort on long-term safety studies on gum base (including 25 percent candelilla wax employing rats and dogs.) Sect. 7. Harrisson, J. W. E. 1952. Summary, carcinogenicity studies on gum base (including 25 percent candelilla wax). 7. Letter, Dec. 20, 1968, W. G. Orr, FDA, Washington, DC, to D. D. Abbott, LaWall and Harrisson Research Laboratories, Inc., Philadelphia, PA. 8. Letter, Dec. 13, 1963, W. F. Randolph, FDA, Washington, DC, to P. E. Smith Jr., E. I. duPont de Nemours and Co., Inc., Wilmington, DE. 9. Memorandum, Sept. 20, 1979, H. I. Chinn, FASEB, Bethesda, MD. 10. Subcommittee on Review of the GRAS List (Phase II, 1972). A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS). (PB 221-921 through PB 221-949 or PB 221-920 for set; E99; $173.00. 11. Lipstick use studies, 1959. Submitted to FASEB, Bethesda, MD, by the Toilet Goods Association, Inc., New York.
Collagen	1	PB 289-599/AS; A05, $6.00	1. Brusick, D. J. 1977. Mutagenicity evaluation of Code 21 coria with poly dust. Submitted to Teepak, Danville, IL, by Litton Bionetics, Inc., Kensington, MD. 2. Letter, Sept. 20, 1960, F. A. Cassidy, FDA, Washington, DC, to J. G. Finch, Ithicon, Inc., Somerville, NJ. 3. Committee on GRAS List Survey (Phase III, 1978). 1975 resurvey of the annual poundage of food chemicals generally recognized as safe (GRAS). (PB 288-081/AS, A03, $6.00). 4. Collagen, Aug. 5, 1977. Submitted to FDA, Washington, DC, by Devro, Inc., Somerville, NJ, Corrected June 2, 1978. 5. Letter Dec. 6, 1979, L. H. Froehlich, Teepak, Inc., Chicago, IL, to F. R. Senti, FASEB, Bethesda, MD. 6. Letter, Jan. 21, 1980, L. H. Froehlich, Teepak, Inc., Chicago, IL, to F. R. Senti, FASEB, Bethesda, MD. 7. Letter, Jan. 18, 1980, E. R. Lieberman, Technical Consultant, Bridgewater, NJ, to L. Froehlich, Teepak, Inc., Chicago, IL. 8. Letter, June 1, 1979, C. I. Miles, FDA, Washington, DC, to F. R. Senti, FASEB, Bethesda, MD. 9. Morgaredge, K. 1967. Subacute feeding studies with a cross-linked coacervate in rats and dogs. Submitted to FASEB, Bethesda, MD, by L. H. Froehlich, Teepak, Inc., Chicago, IL.

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Substances	Select committee tentative conclusion	Scientific literature review (order No., price code; price)[1]	Other information (order No., price code; price)[1]
			10. Nehring, P. 1978. "Coria-casings" der Firma Teepak. Submitted to Thomasen & Drijver Verblifa N. V., Deventer, Holland, from Institut fur Konserventechnologie, Braunschweig, W. Germany. 11. Evaluation of the health aspects of gelatin as a food ingredient (SCOGS–58). Submitted to FDA by FASEB. (PB 254–527, A02, $5.00.) 12. Evaluation of the health aspects of soy protein isolates as food ingredients (SCOGS–101). Submitted to FDA by FASEB. (BP 300–717, A05, $8.00.) 13. Letter, May 1, 1979, G.A. Sellers Devro, Inc., Somerville, NJ, to F. R. Senti, FASEB, Bethesda, MD.
Methylpolysiloxanes	1	PB 289–396/AS; A04; $5.25	1. Letter, Oct. 18, 1960, F. A. Cassidy, FDA, Washington, DC, to T. W. Nale, Union Carbide Corp., New York. 2. Letter, Aug. 21, 1961, F. A. Cassidy, FDA, Washington, DC, to L. Jennings, National Dairy Products Corp., New York. 3. Memorandum, Jan. 7, 1980, H. I. Chinn, FASEB, Bethesda, MD. 4. Letter, Feb. 25, 1963, D. R. Kleber, Jr., Dow Corning Corp., Chicago, IL, to B. M. Crippin, Jr., Hormel and Co., Austin, MN. 5. Pollard, H. M. 1960. Oral toxicity of DC 15 Unpublished report to Dow Corning Corp., Midland, MI. 6. Subcommittee on Review of the GRAS List (Phase II, 1972). A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS). (PB 221–921 through PB 221–949 or PB 221–920 for the set; E99; $173.00.) 7. University of Birmingham, 1967–1970. Studies on silicone antifoam compound MS Antifoam M (compound F 9816) I. 90-day feeding test on rats, 1967a. II. Acute feeding study, 1967b. III. 120-day feeding test in dogs, 1968. IV. 80-week feeding study on mice, 1970.
Chinica Oil	5	PB 287–764/AS; A02, $4.00	1. Letter, Mar. 30, 1960, F. A. Cassidy, FDA, Washington, DC, to F. G. Buerk, Murray Oil Products, Co., New York. 2. Letter, Mar. 31, 1960, F. A. Cassidy, FDA, Washington, DC, to M. Hassel, Brazilian Industrial Oils, Inc., New York.

[1] Price subject to change.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

In addition to the information contained in the table above, the Select Committee supplemented, where appropriate, its review with specific information from specialized sources as announced in a previous hearing opportunity notice published in the **Federal Register** of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on candelilla wax, collagen, and methylpolysilicones for direct food use and oiticica oil for use in food-contact surfaces are available for review at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredient are available for review at the Docket Management Branch. To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing addressed to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Dockets Management Branch address noted above, and all requests shall be placed on public display in that office. Any such request must be postmarked on or before December 8, 1980, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is required for the presentation. Requests should specify the docket number found in brackets in the heading of this notice. As soon as possible after the requested deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the **Federal Register.**

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee reports shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views, identified with the docket number found in brackets in the heading of this notice, shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Dockets Management Branch, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will be placed on public display in the Dockets Management Branch, Food and Drug Administration.

Dated: October 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34565 Filed 11–6–80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N–0438]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of ethoxylated soya fatty acid amines to determine whether they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations to the public hearing must be postmarked on or before December 8, 1980.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansor, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee) about the safety of ingredients used in food to determine whether they are GRAS or subject to a prior sanction. The agency now announces that the Select Committee is prepared to conduct a public hearing on ethoxylated soya fatty acid amines for use as components of lubricants in forming metal cans used as food and beverage containers. The public hearing will provide an opportunity for interested persons to present to the Select Committee scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing under notices published in the **Federal Register** of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 26, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the food ingredients listed above and has reached one of the following five tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion.

The Select Committee will evaluate the information received at the public hearing and use it in reaching its conclusion.

The following table lists the ingredient, the Select Committee's tentative conclusions (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substance	Select committee tentative conclusion	Scientific literature review (order No.; price code; price[1])	Animal study report (order No.; price code; price)	Other information
Ethoxylated soya fatty acid amines.	1	PB–289–414A02; $5.00		1. Letter, May 18, 1961, F. A. Cassidy, FDA, Washington, DC, to J. W. Bausch, Armour & Co., Washington, DC. 2. Doyle, R. L.; Majors, P. A. 1973. Acute toxicity and irritation studies of samples RD 4409 and Ethomeen® T/12. Submitted to FASEB, Bethesda, MD, by Armak Co., McCook, IL. 3. Evans, R. A.; McDougal, J. E.; Glass, M. G. 1950. Oral toxicity and irritation studies on products of the chemical division. Submitted to FASEB, Bethesda, MD, by Armak Co., McCook, IL. 4. Goater, T. O.; Griffiths, D.; McElligott, T. F. 1965a. Ninety-day oral toxicity of Ethomeen® T/12—albino rats. Imperial Chemical Industries Ltd., Cheshire, England. Submitted to FASEB, Bethesda, MD, by Armak Co., McCook, IL. 5. Goater, T. O.; Griffiths, D.; McElligott, T. F. 1965b. Ninety-day oral toxicity of Ethomeen® T/12—beagle dogs. Imperial Chemical Industries Ltd., Cheshire, England. Submitted to FASEB, Bethesda, MD, by Armak Co., McCook, IL. 6. Memorandum of telcon, Nov. 16, 1979, L. L. Jacobs, S. H. Mack Co., St. Charles, IL, and F. R. Senti, FASEB, Bethesda, MD. 7. Memorandum of telcon, Oct. 29, 1979, W. E. Link, Sherex Chemical Co., Inc., Dublin, OH, and F. R. Senti, FASEB, Bethesda, MD. 8. Memorandum of telcon, Nov. 15, 1979, R. A. Neal, The Ironsides Co., Columbus, OH, and F. R. Senti, FASEB, Bethesda, MD.

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Substance	Select committee tentative conclusion	Scientific literature review (order No.; price code; price[1])	Animal study report (order No.; price code; price)	Other information
				9. Evaluation of the health aspects of hydrogenated soybean oil as a food ingredient (SCOGS–70). PB–266–280/AS. 10. Memorandum, Dec. 14, 1979, F. R. Senti, FASEB, Bethesda, MD.

[1] Price subject to change.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the **Federal Register** of September 23, 1974 (39 FR 334218).

The Select Committee's tentative report on ethoxylated soya fatty acid amines is available for review at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Dockets Management Branch.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the time required to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall inform the Select Committee in writing addressed to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each request shall be sent to the Dockets Management Branch (address above). All requests will be placed on public display in that office. Any such request must be received by or postmarked on or before December 8, 1980, state the substance(s) on which an opportunity to present oral views is requested and must state how much time is being requested for the presentation. Requests shall specify the docket number found in brackets in the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the **Federal Register**.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views, identified with the docket number found in brackets in the heading of this notice, shall be addressed to the Select Committee at the address noted above and must be postmarked no later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Dockets Management Branch, Food and Drug Administration, and will be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will be placed on public display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration.

Dated: October 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–34566 Filed 11–6–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80D–0358]

Effectiveness Evaluation of Anthelmintics; Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of a guideline for use in developing data to establish the effectiveness of swine anthelmintic drugs. The agency invites interested persons to submit written comments on the guideline.

ADDRESSES: The guideline is available for public examination at, and comments may be submitted to, the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Single copies are available from the Information Services Staff (HFV–5), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including a requirement that a drug's effectiveness be shown by "substantial evidence" as defined in section 512(d)(3) (21 U.S.C. 360b(d)(3)).

The Bureau of Veterinary Medicine has prepared a guideline that addresses the type of data to be included in an NADA for swine anthelmintic drugs to establish "substantial evidence" of effectiveness for the drug.

Requests for single copies of the guideline should be addressed to the Information Services Staff (HFV–5) (address above). A copy of the guideline is on file in the office of the Hearing Clerk (HFA–305) (address above).

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA–305). Such comments will be considered in determining whether amendments to or revisions of the guideline are warranted. Comments should be in four copies (except that individuals may submit single copies of comments), identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–34714 Filed 11–6–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80G–0412]

Hoffmann-La Roche, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Hoffmann-LaRoche, Inc., has filed a petition (GRASP 0G0265) proposing affirmation that dl-alpha-tocopherol is generally recognized as safe (GRAS) for use to aid in blocking nitrosamine formation in bacon.

DATE: Comments by January 6, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna A. Dennis, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 0G0265) has been filed by Hoffmann-LaRoche, Inc., Nutley, NJ 07110, proposing affirmation that dl-alpha-tocopherol used at a level of 0.05 percent in bacon to block nitrosamine formation is GRAS. The petition has been placed on display at the office of the Hearing Clerk (HFA–305), Food and Drug Administration.

Any petition that meets the formal requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of petition for GRAS affirmation should not be interpreted as preliminary indication of suitability for affirmation.

Interested persons, may, on or before January 6, 1981 review the petition and/or file comments (four copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk (HFA–305), Food and Drug Administration, RM 4–62, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 23, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–34719 Filed 11–6–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0370]

Prescription Drugs; Draft Guideline Patient Package Inserts

AGENCY: Food and Drug Administration.

ACTION: Notice; clarification of comment period.

SUMMARY: The Food and Drug Administration (FDA) is clarifying its policy on comments on draft guideline patient package inserts (PPI's). The agency is taking this action because of requests it has received for an extension beyond October 27, 1980, of the comment period on the agency's guideline PPI's published September 12, 1980. FDA is not granting an extension of the comment period, but will consider late-filed comments to the extent possible.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 44–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD–107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4893.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60785), FDA published 10 draft guidelines PPI's for the following drugs and drug classes: ampicilins, benzodiazepines, cimetidine, clofibrate, digoxin, methoxsalen, propoxyphene, phenytoin, thiazides, and warfarin. The agency provided until October 27, 1980, (or 45 days) for comments on the draft guideline. The agency also stated its intention to publish final guideline PPI's in November 1980, for cimetidine, clofibrate, and propoxyphene, in December 1980, for ampicillins, phenytoin, and warfarin, and in January 1981, for benzodiazepines, digoxin, methoxsalen, and thiazides.

On October 21, 1980, Endo Laboratories, Inc., Garden City, NY asked FDA for a 30-day extension of the comment period on the draft guidelines. On October 22, 1980, the American College of Physicians, Philadelphia, PA, asked for a 30-day extension of the comment period because the college had not received an FDA mailing of copies of the draft guideline PPI's until October 16. While FDA specifically solicits the submission of late-filed comments (comments received after October 27, 1980) and will consider them to the extent possible, for the following reasons the agency declines to formally extend the official comment period.

FDA guidelines are issued under section 10.90 (21 CFR 10.90) of the agency's administrative practices and procedures regulations. FDA guidelines do not establish legal requirements, and while a person may rely upon the guidelines with assurance that they are acceptable to FDA, their use in not required. A drug manufacturer, distributor, or dispenser is therefore free to adopt labeling that differs from the FDA guideline PPI as long as its PPI complies with the agency's regulations.

In publishing draft guideline PPI's for the 10 drugs or drug classes to which the agency intends initially to apply the requirements, FDA provided 45 days for comment. The agency also published the guidelines in a format that permits commenters to make written comments directly on their **Federal Register** copy of the guidelines. Given the length of the guidelines, the issues they raise, and their format, FDA believes that 45 days is adequate time to comment on the guidelines. An extension of the type requested will prevent the agency from meeting its scheduled publication of final PPI guidelines as announced in the notice of draft guidelines, that is, in November 1980, December 1980, and January 1981. With respect to the request of the American College of Physicians, while FDA's mailing of individual copies of the proposed guidelines to organizations of health professionals was intended to facilitate the filing of comments by them, it was not intended to substitute for the notice provided by the publication of the draft guidelines in the **Federal Register** of September 12. FDA will, nonetheless, consider all comments received before the agency concludes the preparation of

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final guidelines, even if the comments are received after October 27.

Dated: November 3, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34718 Filed 11-6-80; 10:05 am]

BILLING CODE 4110-03-M

Small Business Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming Small Business Exchange Meeting to be chaired by Lloyd R. Claiborne, Regional Food and Drug Director, Region V, Chicago Field Office.

DATE: This meeting will be held at 9 a.m., Wednesday, December 10, 1980.

ADDRESS: The meeting will be held at the Conrad Hilton Hotel, 720, S. Michigan Ave., Chicago, IL 60605.

FOR FURTHER INFORMATION CONTACT: Danny D. Horner, Small Business Representative, Food and Drug Administration, 175 W. Jackson Blvd., Chicago, IL 60604, 312-353-9406.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small businesspersons in FDA's decisionmaking process.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34715 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

Small Business Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming Small Business Exchange Meeting to be chaired by Caesar A. Roy, Regional Food and Drug Director, Region II, New York Field Office.

DATE: This meeting will be held at 1 p.m., Tuesday, December 9, 1980.

ADDRESS: The meeting will be held at the East Orange Library, 21 S. Arlington Ave., East Orange, NJ 07018.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6385.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small businesspersons in FDA's decisionmaking process.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34716 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

Small Business Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming Small Business Exchange Meeting to be chaired by James W. Swanson, Regional Food and Drug Director, Regions X and IX, Seattle Field Office and San Francisco Field Office.

DATE: This meeting will be held at 1:30 p.m., Wednesday 17, 1980.

ADDRESS: The meeting will be held at the Santa Ana Public Library, Spurgeon Room, 26 Civic Center Plaza, Santa Ana, CA 92702.

FOR FURTHER INFORMATION CONTACT: J. Lawrence Stevens, Small Business Representative, Food and Drug Administration, 1600 N. Broadway, Santa Ana, CA 92706, 714-836-2380.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small businesspersons in FDA's decisionmaking process.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34717 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on December 3-4, 1980, in Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on December 3, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on December 3, from 10:00 a.m. to adjournment on December 4, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C08, National Institutes of Health, Bethesda, maryland, Area Code 301, 496-4120, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because the fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

[FR Doc. 80-34770 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

Breast Cancer Task Force Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Breast Cancer Task Force Committee, National Cancer Institute, December 9-10, 1980, Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. on December 9 through adjournment on December 10, 1980. Agenda items will include workshops on luteal phase defects in breast cancer risks. Attendance by the public will be limited to space available.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. D. Jane Taylor, Executive Secretary, National Cancer Institute, Landow Building, Room 4A22, 7910 Woodmont Avenue, Bethesda, Maryland 20014 (301/496-6718) will furnish substantive program information.

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH

[FR Doc. 80-34787 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

Institutional Biosafety Committee Chairpersons; Meeting

Notice is hereby given of a Workshop for the Institutional Biosafety Committee (IBC) Chairpersons. The Workshop is being held on November 24 and 25, 1980, at the Shoreham Hotel on Calvert St., Washington, D.C. and is being sponsored by the National Institute of Allergy and Infectious Diseases. The meeting will convene at 9:00 a.m. on November 24, 1980 and will be open to the public; attendance will be limited to space available.

The Workshop is designed to provide an opportunity for the Chairpersons of all Institutional Biosafety Committees to study together how best to address and resolve some problems they may face and to serve as a stimulus for action at the local level. In addition, the Workshop will serve as the first stage of a formal evaluation process to assess whether the IBCs as constituted have been able to meet the increasing responsibilities that changes in the NIH Guidelines for Recombinant DNA Research have thrust upon them and to identify and seek solutions to problems at both the federal and institutional level.

Topics covered during the meeting in plenary sessions will include:

- Review and Update of the NIH Guidelines for Recombinant DNA Research.
- Recombinant DNA Advisory Committee Procedures and Operations.
- Operations of Institutional Biosafety Committees (IBC).
- Other Federal Regulations and Guidelines that Impact on Biomedical Science.
- Proposed plan for evaluation of the IBCs.

In addition to the plenary sessions there will be three workshops:

- The IBC as a Means of Implementing Institutional Oversight.
- Health Surveillance, Monitoring and Certification.
- IBC Procedures and Operations.

Further detailed information can be obtained from Dr. John Nutter, Chief, Office of Specialized Research & Facilities, National Institute of Allergy & Infectious Diseases, National Institutes of Health, Bethesda, Maryland 20205, (301-496-6752).

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-34765 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

Large Bowel and Pancreatic Cancer Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee), National Cancer Institute, December 4-5, 1980, Prudential Building, 10th Floor Dining Room, Houston, Texas. The meeting will be open to the public on December 4, from 7:30 p.m. to 8:00 p.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on December 4, from 8:00 p.m. to adjournment, and on December 5, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, National Cancer Institute, Blair Building, Room 312, National Institutes of Health, Bethesda, Maryland 20205 (301/427-8800) will furnish substantive program information.

Dated: October 28, 1980.

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, Project grants in cancer cause and prevention research, cancer detection research, and cancer treatment research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-34788 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, December 4, 1980 at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Maryland.

The meeting will be open to the public on December 4 from 9:00 a.m. to approximately 10:00 a.m. to discuss program policies and issues. Attendance

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by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meeting of the Committee will be closed to the public on December 4 from approximately 10:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7465, will provide substantive program information.

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80-34766 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

National Eye Institute, Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 1 and 2, 1980, Building 31, Room 6A–35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on December 1 from 8:30 a.m. until approximately 2:30 p.m. for general remarks by the Institute's Acting Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on December 1 from approximately 2:30 p.m. until adjournment and the entire day on December 2 for review, discussion, and evaluation of individual projects conducted by the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A–25, National Institutes of Health, Bethesda, Maryland 20205 (telephone 301/496–5248), will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Jin Kinoshita, Acting Scientific Director, National Eye Institute, Building 6, Room 222–A, National Institutes of Health, Bethesda, Maryland 20205 (telephone 301/496–3552).

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-34769 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

National Institute of Arthritis, Metabolism, and Digestive Diseases, Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, November 20–22, 1980, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20205.

This meeting will be open to the public from 7:30 to 10:00 p.m. on November 20, from 9:00 a.m. to 4:30 p.m. on November 21, and from 9:00 to approximately 11:00 a.m. on November 22. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIAMDD intramural research program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:00 to 7:30 p.m. and 10:00 to 10:30 p.m. on Thursday, November 20, from 4:30 to 5:30 p.m. on November 21, and from approximately 11:30 a.m. to 12:30 p.m. on Saturday, November 22, for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Arthritis, Metabolism, and Digestive Diseases, Building 31, Room 9A46, Bethesda, Maryland 20205. Further information concerning the meeting may be obtained by contacting the office of Dr. J. E. Rall, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20205, (301) 496–4128.

Dated: October 28, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-34764 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Care and Treatment of Seamen and Certain Other Persons; Delegations of Authority

Notice is hereby given that the following delegations and redelegations have been made under section 322 of the Public Health Service Act (42 U.S.C. 249), as amended, Care and Treatment of Seamen and Certain Other Persons:

1. Delegation from the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of authority under section 322 of the Public Health Service Act (42 U.S.C. 249), as amended, including the authority under section 322(e) to make grants and contracts to private and non-profit organizations for the purpose of providing mental health care. However, the delegation to the Administrator, Health Services Administration does not include the authority delegated by the Assistant Secretary for Health to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration under section 322(e) of the Public Health Service Act (42 U.S.C. 249(e)) to make grants and contracts to private and non-profit organizations for the purpose of providing mental health care for the Haitian/Cuban Initiative, insofar as the authority applies to the functional responsibility assigned to the Alcohol, Drug Abuse, and Mental Health Administration.

2. Delegation from the Assistant Secretary for Health to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, with authority to redelegate, of authority under section 322(e) of the Public Health Service Act, (42 U.S.C. 249(e)), as amended, to make grants and contracts to private and non-profit organizations for the purpose of providing mental health care for the Haitian/Cuban Initiative, insofar as the authority applies to the functional responsibility assigned to the Alcohol, Drug Abuse, and Mental Health Administration.

3. Redelegation from the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, to the Director, National Institute of Mental Health, without authority to redelegate, of authority under section 322(e) of the Public Health Service Act (42 U.S.C. 249(e)), as amended, insofar as the authority applies to the functional responsibilities of the National Institute of Mental Health to make grants and contracts to private and non-profit organizations. The delegation to the Director, National Institute of Mental Health does not include the authority delegated by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration to the PHS Regional Health Administrators to make grants and contracts to existing community mental health centers within their respective jurisdictions, insofar as the authority applies to their functional responsibility, for the purpose of providing mental health care for the Haitian/Cuban Initiative.

4. Redelegation from the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, to the PHS Regional Health Administrators, without authority to redelegate, of authority under section 322(e) of the Public Health Service Act (42 U.S.C. 249(e)), as amended, to make grants and contracts to existing community mental health centers within their respective jurisdictions, for the purpose of providing mental health care for the Haitian/Cuban Initiative, insofar as the authority applies to the Regional Health Administrators functional responsibilities.

Previous delegations to the Administrator, Health Services Administration, of the authority under section 322 of the Public Health Service Act have been superseded. Provision has been made for previous redelegations within the Health Services Administration to remain in effect pending further redelegations.

The above delegations and redelegations became effective on October 8, 1980.

Dated: October 30, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

[FR Doc. 80-34713 Filed 11-6-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Computation of Royalties on Phosphate Production on Public Lands

AGENCY: Department of the Interior, Geological Survey.

ACTION: Advance notice of proposed adoption of a new method of computing royalty payments to the Federal Government on phosphate rock mined on public lands.

SUMMARY: This notice solicits comments concerning a proposal to revise the method for determining mine values for the purpose of computing royalties on phosphate rock produced on Federal leases in the States of Idaho, Montana, Utah, and Wyoming.

DATE: Written comments due by December 8, 1980.

ADDRESS: Written comments should be addressed to: Andrew V. Bailey, Chief, Branch of Solid Minerals Management, U.S. Geological Survey, National Center, MS 650, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Barney Brunelle, District Mining Supervisor, U.S. Geological Survey, 150 S. Arthur Street, P.O. Box 1610, Pocatello, Idaho 83201, Telephone No: 208–236–6860.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 440), as amended by the Act of June 3, 1948 (62 Stat. 289; 30 U.S.C. 212), and 30 CFR 231.61, Value Basis for Royalty Computation, the Geological Survey proposes to adopt a new method for determining mine values for computing royalties on phosphate rock produced on Federal leases in the States of Idaho, Montana, Utah, and Wyoming.

On May 13, 1976, the Secretary of the Interior adopted a method of computing royalty payments to the Federal Government for phosphate rock mined on Federal lands. The method adopted was based on the average arm's-length sales price received for beneficiated/calcined phosphate rock with deductions allowed for trasportation and processing. The "proportion of profit" attributable to mining was included in the gross value of the product at the mine on which the royalty was assessed.

During the period of 1975 through 1979, arm's-length sales, both long-term sales and spot sales, were of sufficient magnitude to establish a realistic product value. In 1980, however, arms's-length sales diminished to less than 1 percent of total mine production in the western phosphate region. With such limited sales data on which to base a value, the suitability of the method adopted in 1976 is extremely questionable. Therefore, it is proposed that the method adopted on May 13, 1976, expire at the end of 1980.

With the adoption of this proposal, it will be necessary to develop a new method for computing mine value for royalty purposes for the 1981 production year and succeeding years.

Under existing Federal phosphate lease terms, the Secretary of the Interior may establish reasonable minimum value for the purpose of computing royalty on any of the deposits presently leased. This takes into consideration the highest price paid for a part or a majority of the production of comparable products from the same general area, the price received by the lessee posted prices, mining costs, and other relevant economic factors.

Most of the phosphate mined on Federal lands in the West is from the State of Idaho and includes all of the phosphate rock mined on Indian lands which is located within the same general area. In early 1980, a valuation method for phosphate rock mined form the Fort Hall Indian Reservation in Idaho was adopted following negotiations between the Shoshone-Bannock Tribe, the Bureau of Indian Affairs, and the producing companies. These nogotiations were based on studies conducted to determine the value of mined phosphate, and therefore represent the best information available to establish reasonable values for the purpose of computing royalty.

The above method now in use for assessing royalty on production of phosphate form Indian lands in Idaho consists of an established base value for the 1979 production year. This value was set at $.337 for each unit of P_2O_5. For

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each dry ton (2,000 pounds) of ore, the value is the percent grade multiplied by $.337. For example, 27 percent P_2O_5 ore would be valued at $9.099 per ton.

For succeeding years, the 1979 value is indexed to the annual averae of the Consumer Price Index-Urban (CPI–U). Utilization of the CPI–U was the result of the negotiated settlement, with full recognition that the selected index bore no relationship to mined phosphate.

While the method adopted by the Secretary in 1976 utilized actual sales and cost data specific to the Idaho phosphate operations, its utility is no longer viable because of diminished arm's-length sales. Also, this method was cumbersome, as it required the phosphate lessees to submit all their costs and sales data. These data, in turn, were audited by the Department and, after several months, a gross value was established. In most years, the royalty assessment was not determined until after the mining year was completed. Utilization of an indexing system will preclude these annual or periodic requirements and the royalty cost will be known prior to mining.

The proposed method will adjust the unit value of P_2O_5 annually, based on the index selected. The unit value for each calendar year will be adjusted annually by multiplying $0.337 by the average index for the preceding calendar year and dividing the product by the average annual index for 1979. The resultant unit value is multiplied by the percent P_2O_5 in the crude ore, to determine mine value. This method of determining crude ore value would apply to crude phosphate ore removed form Federal leases beginning in calendar year 1981.

No specific index has been selected. Although the CPI–U was agreed upon for the Fort Hall Indian Reservation lands, no specific Index has been selected for use on Federal lands. For this reason, comments are requested with respect to: (1(selection of an Index and (2) proposals for other methods of phosphate ore valuation.

Dated: November 3, 1980.

Don E. Kash,

Chief, Conservation Division.

[FR Doc. 80-34711 Filed 11–6–80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Arizona; Announcement of Final Intensive Wilderness Inventory Decision

I hereby announce my final intensive inventory decision under the authority of Sec. 603 of the Federal Land Policy and Managment Act (FLPMA) and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

The proposed intensive inventory decision was published in the May 30, 1980, **Federal Register** page 36525, which initiated a 90-day public comment period. A supplement to the May 30 announcement, which amended the announced wilderness inventory, was published in the July 24, 1980, **Federal Register**, page 49364.

These **Federal Register** notices stated that the public comment period was to end on August 28, 1980 and gave the following State Wilderness Study Area units and acreages:

Districts	Acres intensive inventoried	Acres proposed for WSA	(Units)	Acres proposed to be dropped
Arizona Strip	1,576,672	483,618	(25)	1,093,054
Phoenix	1,867,081	907,024	(35)	960,057
Safford	311,333	191,731	(19)	119,602
Yuma	680,455	337,965	(19)	342,490
State	4,435,541	1,920,338 (98 WSA's)		2,515,203

Thirteen public meetings were held throughout Arizona during the 90-day comment period. Verbal and written comments concerning the wilderness characteristics of the WSA units were filed in the permanent documentation files. Those comments which provided new information were field checked and verified. Specific comments which disagreed with BLM's judgment of the application of the wilderness criteria mandated by Sec. 603 of the FLPMA of 1976 were also field checked. The comments received during the public comment period resulted in WSA boundary adjustments, dropping some recommended WSAs from further wilderness consideration and adding other WSA units which were proposed to be released from Sec. 603 of FLPMA.

Public comments received during this period are on file in the BLM District offices responsible for management of the specific inventory unit in question. WSA final decision maps and summary narratives are available from any Arizona BLM office listed at the end of this notice.

The WSA final decision is set forth in the following tables which list each inventory unit. Approximately 1,941,426 acres (94 units) have been determined to possess wilderness characteristics as set forth in Sec. 2(c) of the 1964 Wilderness Act and are WSAs. The remaining areas, consisting of about 2,467,398 acres, have been determined not to possess wilderness characteristics as set forth in Sec. 2(c) of the 1964 Wilderness Act and is therefore dropped from further consideration under the wilderness review process and released from the constraints of interim management as specified in Sec. 603(c) of the FLMPA of 1976.

Wilderness Study Area Final Decision

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Arizona Strip District	AZ–010–006	26,502		14,988		14,988
Ferry Swale	AZ–010–006A		10,170		10,170	
Judd Hollow	AZ–010–006B		1,226		1,226	
Paria Rim	AZ–010–006C		106		106	
Cedar Mtn	AZ–010–006D		12		12	
	AZ–010–008/019	136,859		5,083		5,083
Paria Plateau	AZ–010–008A/19		124,428		124,428	
Overlook	AZ–010–008B		7,348		7,348	
Emmett Wash	AZ–010–009	25,856	12,913	12,943	12,913	12,943
House Rock Valley	AZ–010–010	15,437	0	15,437	0	15,437
Buffalo Range	AZ–010–011	25,139	0	25,139	0	25,139
North Canyon	AZ–010–012	8,550	0	8,550	0	8,550
Anderson Ranch	AZ–010–014	6,053	0	6,053	0	6,053
Round Valley	AZ–010–015	5,708	0	5,708	0	5,708
Big Ridge	AZ–010–016	6,912	0	6,912	0	6,912
Sand Hills	AZ–010–017	17,408	0	17,408	0	17,408
Corral Valley	AZ–010–018	9,164	0	9,164	0	9,164
Kaibab	AZ–010–020	11,990	0	11,990	0	11,990
Pine Hollow Canyon	AZ–010–021	11,635	0	11,635	0	11,635
Buckskin Mtns	AZ–010–022	9,064	0	9,064	0	9,064

Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Pasture Canyon	AZ–010–023	13,850	0	13,850	0	13,850
Rock Canyon	AZ–010–024	5,171	0	5,171	0	5,171
LeFevre Canyon	AZ–010–025	18,912	0	18,912	0	18,912
Muggings Flat	AZ–010–026	17,894	0	17,894	0	17,894
Shinarump Cliff	AZ–010–027	13,696	0	13,696	0	13,696
Wildcat Canyon	AZ–010–028	40,533	0	40,533	0	40,533
Pigeon Canyon East	AZ–010–029	20,275	0	20,275	0	20,275
Little Cedar Knoll	AZ–010–030	10,320	0	10,320	0	10,320
Knab Creek	AZ–010–031	49,565	39,907	9,658	39,907	9,658
Scotts Hole	AZ–010–032	11,264	0	11,264	0	11,264
Hack Canyon (A)	AZ–010–033A	70,046	63,682	6,364	63,682	6,364
Hack Canyon (B)	AZ–010–033B	10,802	0	10,802	0	10,802
Robinson	AZ–010–034	9,741	9,671	70	9,671	70
Nates Canyon	AZ–010–038	5,550	0	5,550	0	5,550
Yellowstone Mesa	AZ–010–039	51,519	0	51,519	0	51,519
Bull Pasture	AZ–010–040	11,034	0	11,034	0	11,034
Cottonwood Point	AZ–010–041	6,790	6,449	341	6,449	341
Wild Band Pockets	AZ–010–045	7,706	0	7,706	0	7,706
Swapp	AZ–010–047	9,022	0	9,022	0	9,022
Hancock Knolls	AZ–010–048	12,189	0	12,189	0	12,189
Broad Canyon	AZ–010–049	4,122	0	4,122	0	4,122
Toroweap	AZ–010–050	5,427	5,312	115	5,312	115
Mt. Logan	AZ–010–051	18,608	8,803	9,805	8,803	9,805
Mt. Trumbull	AZ–010–052	8,400	7,285	1,115	7,285	1,115
Marshall Ranch	AZ–010–053	5,555	0	5,555	0	5,555
Pugh Knoll	AZ–010–055	25,702	0	25,702	0	25,702
Crosby Tank	AZ–010–056	8,320	0	8,320	0	8,320
Nickaias	AZ–010–057	15,633	0	15,633	0	15,633
Hurricane Cliffs	AZ–010–058	36,071	0	36,071	0	36,071
Vunkaret	AZ–010–059	43,059	0	43,059	0	43,059
Flat Top	AZ–010–062	9,088	0	9,088	0	9,088
Rocks	AZ–010–063	8,960	0	8,960	0	8,960
Snake Pond	AZ–010–064	13,309	0	13,309	0	13,309
White Pockets	AZ–010–065	8,653	0	8,653	0	8,653
East Antelope	AZ–010–066	6,989	0	6,989	0	6,989
Atkins Well	AZ–010–067	6,451	0	6,451	0	6,451
Spring Mtn	AZ–010–068	7,104	0	7,104	0	7,104
Canaan Gap	AZ–010–069	22,950	0	22,950	0	22,950
Cottonwood Canyon	AZ–010–071	41,472	0	41,472	0	41,472
East Mesa	AZ–010–072	29,286	0	29,286	0	29,286
Yellow Horse Flat	AZ–010–073A	10,440	0	10,440	0	10,440
Quail Draw	AZ–010–073B	22,540	0	22,540	0	22,540
Seegmiller	AZ–010–074	8,550	0	8,550	0	8,550
Gyp Pocket	AZ–010–076	7,275	0	7,275	0	7,275
Nutter Pond	AZ–010–077	9,467	0	9,467	0	9,467
Lower Hurricane	AZ–010–078	51,018	0	5,018	0	5,018
Navajo	AZ–010–079	4,996	0	4,996	0	4,996
Hole-in-Wall	AZ–010–080	19,507	0	19,507	0	19,507
Main Street	AZ–010–081	10,163	0	10,163	0	10,163
Hard Pond	AZ–010–082	12,133	0	12,133	0	12,133
Hooter	AZ–010–083	7,665	0	7,665	0	7,665
Hurricane Wash	AZ–010–084	6,298	0	6,298	0	6,298
Round Pond	AZ–010–085	5,120	0	5,120	0	5,120
Sink Hole	AZ–010–086	6,530	0	6,530	0	6,530
Mudhole	AZ–010–087	11,726	0	11,726	0	11,726
Sullivan	AZ–010–088	8,243	0	8,243	0	8,243
Rocky's	AZ–010–089	6,451	0	6,451	0	6,451
Poverty Mtn	AZ–010–091	11,699	0	11,699	7,872	3,827
Parashaunt	AZ–010–093	38,938	28,141	10,797	28,141	10,797
	AZ–010–094	2,945	0	2,945	0	2,945
	AZ–010–095	1,920	0	1,920	0	1,920
Damsil Canyon	AZ–010–096A	294	294	0	294	0
Parashaunt Wash	AZ–010–096B	7,770	0	7,770	0	7,770
Grassy Mtn	AZ–010–096C	56,573		2,822		2,822
Grassy Mtn	AZ–010–096C			5,503		5,503
Andrus Canyon	AZ–010–096D			48,248		48,248
North Dellenbaugh	AZ–010–097	10,698	10,678	20	10,678	20
	AZ–010–098	640	0	640	0	640
G&F	AZ–010–099	640	640	0	640	0
	AZ–010–100	640	0	640	0	640
	AZ–010–101	320	0	320	0	320
	AZ–010–102	640	0	640	0	640
Burnt Canyon	AZ–010–103	6,400	0	6,400	0	6,400
	AZ–010–104	49,522		8,807		8,807
Salt House	AZ–010–104A		13,465	0	13,465	0
Mustang Point	AZ–010–104B		27,250	0	27,250	0
Hidden Wash	AZ–010–110	19,950	0	19,950	0	19,950
Last Chance	AZ–010–111	38,460	38,050	410	38,050	410
Nutter	AZ–010–116	6,835	0	6,835	0	6,835
Eaglestead	AZ–010–117	5,350	0	5,350	0	5,350
Shoebuckle	AZ–010–118	11,955	0	11,955	0	11,955
Hobble Pond	AZ–010–125	17,126	0	17,126	0	17,126
Wolf Hole	AZ–010–131	12,251	0	12,251	0	12,251
Purgatory	AZ–010–132	21,187	7,557	13,630	7,557	13,630
Mokaac Mtns	AZ–010–133	32,246	0	32,246	0	32,246

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Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Mt. Emma	AZ-010-136	8,320	6,480	1,840	6,480	1,840
	AZ-010-137	1,408	0	1,408	0	1,408
	AZ-010-138	614	0	614	0	614
	AZ-010-139	1,485	0	1,485	0	1,485
	AZ-010-140	1,446	0	1,446	0	1,446
	AZ-010-141	179	0	179	0	179
	AZ-010-143	2,397	0	2,397	0	2,397
	AZ-010-145	2,312	0	2,312	0	2,312
	AZ-010-146	4,075	0	4,075	0	4,075
Total 110 units inventoried		1,576,672	483,618 (25 WSAs)	1,093,054	491,490 (26 WSAs)	1,085,182
Phoenix District	AZ-020-001	36,203	.....	.....	.....	.....
Mt. Wilson	AZ-020-001A	.....	24,821	0	24,821	0
Mt Wilson Plain	AZ-020-001B	.....	0	11,382	0	11,382
Squaw Peak	AZ-020-002	20,525	0	20,525	0	20,525
Trail Rapids Hills	AZ-020-003	10,430	0	10,430	0	10,430
S. Detrital Valley	AZ-020-004/005	13,920	0	13,920	0	13,920
Pope Mine	AZ-020-006	1,100	0	1,100	0	1,100
Van Deeman	AZ-020-007	3,200	1,550	1,650	1,550	1,650
Mockingbird	AZ-020-008	5,700	5,700	0	5,700	0
Black Mtns. N	AZ-020-009	20,400	20,398	2	20,398	2
Burns Spring	AZ-020-010	30,000	29,961	39	29,961	39
Mt. Tipton	AZ-020-012/042	22,560	19,550	3,010	19,550	3,010
Grapevine Wash	AZ-020-014	2,200	2,200	0	2,200	0
Grand Wash Cliffs	AZ-020-015	12,746	12,176	570	12,176	570
Music Mtns	AZ-020-017	32,800	0	32,800	0	32,800
Mt. Davis	AZ-020-021 (4 parcels)	2,560	0	2,560	2,560	0
Pinnacles	AZ-020-023	10,460	0	10,460	0	10,460
Mt. Nutt	AZ-020-024	33,345	26,300	7,045	29,200	4,145
Warm Springs	AZ-020-028/029	143,000	118,695	24,305	118,355	24,645
Detrital Valley	AZ-020-039	16,022	0	16,022	0	16,022
Peoples Canyon	AZ-020-068	3,480	3,480	0	3,480	0
Buckskin Mtns	AZ-020-071	78,348	47,582	30,766	47,582	30,766
Sycamore Mesa	AZ-020-072	5,897	0	5,897	0	5,897
Harcuvar Mtns	AZ-020-075	94,313	74,778	19,535	74,778	19,535
Hassayampa River Canyon	AZ-020-083	26,985	24,200	2,785	24,200	2,785
	AZ-020-084	6,667	.....	.....	.....	.....
S. Bradshaws E.	AZ-020-084A	.....	640	0	640	0
S. Bradshaws W.	AZ-020-084B	.....	0	6,027	0	6,027
Buckhorns	AZ-020-086	6,571	5,427	1,144	0	6,571
Granite Wash Mtns	AZ-020-090	43,938	0	43,938	0	43,938
Tank Pass	AZ-020-091	14,441	0	14,441	0	14,441
Harcuvar Peak	AZ-020-092	33,600	0	33,600	0	33,600
Big Horn Mtns	AZ-020-099	24,133	22,337	1,796	22,337	1,796
Hummingbird Springs	AZ-020-100	69,025	61,660	7,365	67,680	1,345
Black Butte	AZ-020-103	20,460	0	20,460	0	20,460
Belmont Hills N	AZ-020-107	11,500	0	11,500	0	11,500
Belmont Hills	AZ-020-108	18,773	0	18,773	0	18,773
Cedar Basin	AZ-020-118	7,883	0	7,883	0	7,883
Hells Canyon	AZ-020-119	9,385	9,379	6	9,379	6
Baldy Mtn	AZ-020-120	10,736	0	10,736	0	10,736
Petrified Forest	AZ-020-124	560	0	560	0	560
New Water Mtns	AZ-020-125	58,600	58,600	0	58,600	0
	AZ-020-126	25,690	.....	.....	.....	.....
Little Horn Mtns. West	AZ-020-126A	.....	13,800	2,650	13,800	2,650
Little Horn Mtns. West B	AZ-020-126B	.....	0	9,240	0	9,240
Red Raven Wash	AZ-020-127A	27,079	0	27,079	0	27,079
Palomas Plain	AZ-020-130	30,700	0	30,700	0	30,700
Tank Mtns	AZ-020-131	43,400	0	43,400	0	43,400
Palomas Mtns	AZ-020-132/133	28,040	0	28,040	0	28,040
Fact Mtn	AZ-020-136	39,560	0	39,560	27,575	11,985
Yellow Medicine Butte	AZ-020-137	37,983	0	37,983	0	37,983
Signal Mtn	AZ-020-138	29,070	20,920	8,150	20,920	8,150
Hyder Valley	AZ-020-140	9,340	0	9,340	0	9,340
Woolsey Peak	AZ-020-142/144	81,700	73,930	7,770	73,930	7,770
Gila Bend Mtns	AZ-020-143	19,900	0	19,900	0	19,900
Gila River	AZ-020-148	16,400	0	16,400	0	16,400
	AZ-020-155	49,200	.....	.....	.....	.....
Painted Rocks Mtns. S	AZ-020-155A	.....	0	39,450	0	39,450
Painted Rocks Mtns. N	AZ-020-155B	.....	9,320	430	0	9,750
N. Maricopa Mnts.	AZ-020-157	77,650	75,485	2,165	75,483	2,167
Sierra Estrella S. Maricopa Mnts.	AZ-020-160	22,740	0	22,740	14,190	8,550
S. Maricopa Mnts	AZ-020-163	80,181	72,004	8,177	72,004	8,177
Butterfield Stage Memorial	AZ-020-164	9,574	9,566	8	9,566	8
Squaw Tits	AZ-020-169	33,690	0	33,690	0	33,690
Table Top Mtn	AZ-020-172	46,363	0	46,363	39,823	6,540
Batamote Mtns	AZ-020-175	57,697	0	57,697	0	57,697
Sikort Chapa Mtns	AZ-020-176	10,665	10,665	0	10,665	0
Pozo Redondo	AZ-020-177	19,890	0	19,890	0	19,890
Mineral Mtns	AZ-020-186	8,660	0	8,660	0	8,660

Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
White Canyon	AZ-020-187	6,975	6,970	5	6,968	7
Tortilla Mtns	AZ-020-188	5,030	0	5,030	0	5,030
Sawtooths	AZ-020-190	11,900	11,900	0	0	11,900
Picacho Mtns	AZ-020-194	6,400	6,400	0	6,400	0
W. Silver Bell Mtns	AZ-020-196	10,500	0	10,500	0	10,500
Ragged Top	AZ-020-197	8,480	0	8,480	4,460	4,020
Pan Quemado	AZ-020-199	11,870	0	11,870	0	11,870
Roskruge Mtns	AZ-020-200	7,700	0	7,700	0	7,700
Coyote Mtns.*	AZ-020-202	5,783	5,780	3	5,080	3
Baboquivari Peak	AZ-020-203	4,435	.....	.....	.....	.....
Baboquivari Peak North	AZ-020-203A	.....	0	2,370	0	2,370
Baboquivari Peak South	AZ-020-203B	.....	2,065	0	2,065	0
Ives Peak	AZ-020-204	11,435	9,875	1,560	9,675	1,760
Tres Alamo	AZ-020-205	8,935	8,910	25	8,910	25
Total 78 units inventoried		1,867,081	907,024 (35 WSAs)	960,057	976,661 (37 WSAs)	889,720

*No boundary adjustments were made. Final acres reflect a more accurate counting method.

Stafford District	AZ-040-001	25,174	.....	3,029	.....	3,029
Needles's Eye	AZ-040-001A	.....	10,020	0	9,485	535
Mescal Mtns	AZ-040-001B	.....	7,140	0	0	7,140
El Capitan	AZ-040-001C	.....	0	4,985	0	4,985
Zapata Wash	AZ-040-004	6,360	0	6,360	0	6,360
Black Rock	AZ-040-008	8,620	8,492	128	8,492	128
Ashurst	AZ-040-009	11,506	0	11,506	0	11,506
Bear Spring Flat	AZ-040-010/011	19,989	0	19,989	0	19,989
Diamond Bar	AZ-040-013	6,240	6,240	0	0	6,240
Fishhooks	AZ-040-014	32,633	20,600	12,033	15,013	17,620
Daymine	AZ-040-016	28,815	16,639	12,176	16,639	12,176
Oliver Knoll	AZ-040-017	7,786	6,984	802	0	7,786
Johnny Spring	AZ-040-020	8,382	8,225	157	0	8,382
	AZ-040-022/023/024	46,264	.....	9,220	.....	9,220
Gila Box	AZ-040-022/023/024A	.....	19,622	5	13,470	6,152
Turtle Mtn	AZ-040-022/023/024B	.....	17,422	0	17,422	0
Thumb Butte	AZ-040-030	10,075	0	10,075	0	10,075
Javelina Peak	AZ-040-048	18,207	17,870	337	17,870	337
Little Pranks	AZ-040-055	7,535	0	7,535	0	7,535
Orange Butte	AZ-040-059	7,655	0	7,655	0	7,655
Peloncillo Mtns	AZ-040-060	13,368	13,032	336	13,032	336
Happy Camp Canyon	AZ-040-065	20,327	17,271	3,056	16,771	3,556
Bowie Mtn	AZ-040-066	6,617	6,555	62	*	*
Baker Canyon	AZ-040-070	4,814	4,812	2	*	*
Rhode's Peak	AZ-040-072	279	0	279	*	*
YLE	AZ-040-073	960	0	960	*	*
Pothole	AZ-040-074	5,481	5,480	1	0	5,481
Linden Creek	AZ-040-075	160	0	160	0	160
Apache Box	AZ-040-076	932	932	0	932	0
Hoverrocker	AZ-040-077	3,754	3,754	0	2,769	985
Ketchum	AZ-040-078	22	0	22	0	22
Galiuro Addition #1	AZ-040-079	63	0	63	*	*
Galiuro Addition #2	AZ-040-080	160	0	160	*	*
Galiuro Addition #3	AZ-040-081	640	640	0	*	*
Holdout	AZ-040-082	116	0	116	0	116
Steeple Rock	AZ-040-083	8,400	0	8,400	0	8,400
Total 34 units inventoried		311,333	191,731 (19 WSAs)	119,602	131,895 (11 WSAs)	165,906

*These units were announced separately under an accelerated inventory. The final decision was released in the October 8, 1980 FEDERAL REGISTER, page 66876.

Yuma District						
Dead Mtn. North Addition	AZ-050-001	1,815	0	0	1,815	0
Dead Mtns. South Addition	AZ-050-002	630	630	0	630	0
Chemehuevi Mnts	AZ-050-003	195	195	0	195	0
Chemehuevi/Needles	AZ-050-004	960	960	0	960	0
Needles North Addition	AZ-050-005A	*5,835	0	*5,835	0	5,590
Needles Eastern Addition	AZ-050-005B	7,315	465	0	465	0
Needles Southern Addition	AZ-050-005C	.....	0	6,850	0	6,850
Buck Mtns	AZ-050-007A	19,675	0	9,020	0	9,020
West Buck Mtns	AZ-050-007F	.....	0	10,655	0	10,655
Mohave Wash	AZ-050-007C/5-48/2-52	104,605	104,605	0	104,605	0
No Name	AZ-050-007D	5,945	0	5,945	0	5,945
East Whipple Mtns	AZ-050-009	5,235	0	5,235	0	5,235
Whipple Mtn. Addition	AZ-050-010	1,380	1,380	0	1,380	0
The Mesa	AZ-050-011	14,185	0	14,185	0	14,185
Gibraltar Mtn	AZ-050-012	25,260	25,260	0	25,260	0

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Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Planet Peak	AZ-050-013	17,695	17,645	50	17,645	50
	AZ-050-014	72,825	.....	.....	.....	.....
Cactus Plain	AZ-050-014A	.....	65,645	2,145	70,380	2,485
Cactus Plain	AZ-050-014B	.....	0	5,035	.....	.....
Swansea	AZ-050-015A	44,785	41,690	3,095	41,690	3,095
Clara Peak	AZ-050-015B	9,695	0	9,695	0	9,695
E. Cactus Plain	AZ-050-017	14,020	13,735	285	13,735	285
Big Maria Mtns. N	AZ-050-018	415	415	0	415	0
Big Maria S	AZ-050-019	2,145	1,420	725	1,420	725
	AZ-050-020	54,230	.....	.....	2	.....
La Posa Plain	AZ-050-020A	.....	0	24,960	0	24,960
S. La Posa Plain	AZ-050-020B	.....	0	29,270	0	29,270
No Name	AZ-050-021	16,510	0	16,510	0	16,510
	AZ-050-023A/B	52,740	42,670	10,070	.....	.....
S. Trigo Mtns	AZ-050-023A	.....	.....	.....	4,500	1,390
Trigo Mtns	AZ-050-023B	.....	.....	.....	36,870	9,980
Kofa Unit 2	AZ-050-028	3,085	0	3,085	0	3,085
Kofa Unit 3	AZ-050-030	9,240	0	9,240	0	9,240
Kofa Unit 3 S	AZ-050-031	11,270	3,400	7,870	3,400	7,870
Kofa Unit 4 N	AZ-050-033	2,195	1,900	295	1,900	295
Kofa Unit 4 S	AZ-050-034	11,220	11,220	0	11,220	0
Little Picacho Peak Addition	AZ-050-035	2,950	2,915	35	2,915	35
No Name	AZ-050-036	5,060	0	5,060	0	5,060
No Name	AZ-050-037	6,740	0	6,740	0	6,740
Laguna Mtn	AZ-050-038	9,265	0	9,265	0	9,265
N. Gila Mtns	AZ-050-039	13,165	0	13,165	0	13,165
Gila Mtns	AZ-050-040	8,765	0	8,765	0	8,765
N. Mohawk Mtn	AZ-050-042	4,725	0	4,725	0	4,725
Butler Pass	AZ-050-047/2-73	27,340	0	27,340	0	27,340
Polomosa Mtn	AZ-050-049	*87,340	0	*87,340	0	75,100
Total 37 units inventoried		680,455	337,965 (19 WSAs)	342,490	341,380 (20 WSAs)	326,590

*No boundary adjustments were made. Final acres reflect a more accurate counting method.

Summary of Wilderness Inventory

District	Acres proposed for WSA	Acres final WSA units	Acres proposed to be dropped	Acres final to be dropped	Total final acres reported*
Arizona Strip	483,618	491,490	1,093,054	1,085,182	1,576,672
Phoenix	907,024	976,661	960,057	889,720	1,866,381
Safford	191,731	131,895	119,602	165,906	297,801
Yuma	337,965	341,380	342,490	326,590	667,970
State Totals	1,920,338	1,941,426 (94 Units)	2,515,203	2,467,398	4,408,824

*The final total acres do not include units which were reported in the accelerated inventories.

The final intensive inventory decisions will become effective on December 15, 1980.

Protests and Appeal Procedures

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. These decisions will become effective on December 15, 1980 unless timely protests are received by the Arizona State Director.

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before 4:15 p.m., December 15, 1980. Only those protests received by the Arizona State Office by time and date specified will be accepted.

The protest must specify the specific inventory unit to which it is directed. It must include a clear and concise statement and reason for the protest, as well as data supporting the reason.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and therefore have become final, and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decisions on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest may appeal such decision under the provisions of 43 CFR Part 4.

All Wilderness Study Areas or inventory units under protest, or otherwise not formally dropped from further consideration, are subject to certain management and use restrictions as identified in the Interim Management Policy published December 12, 1979.

WSA final decision maps and summary narratives are available from any Arizona BLM office listed below.

Arizona Strip District Office, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, (801) 673-4882.

Safford District Office, 425 East Fourth Street, Safford, Arizona 85546, (602) 428-4040.

Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401, (602) 757-4011.

Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, (602) 241-2501.

Yuma District Office, 2450 Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364, (602) 726-6300.

Havasu Resource Area Office, 2049 Swanson Avenue, P.O. Box 685, Lake Havasu City, Arizona 86403, (602) 855-8017.

Clair M. Whitlock,

State Director.

October 30, 1980

[FR Doc. 80-34524 Filed 11-6-80; 8:45 am]

BILLING CODE 4310-84-M

Announcement of Final Intensive Wilderness Inventory Decisions

The Bureau of Land Management in Nevada hereby announces the final intensive wilderness inventory decisions under the authority of Sec. 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78-61, change 3.

By publication in the April 1, 1980 **Federal Register**, pages 21356 through 21362, the BLM announced the beginning of a 90 day public review and comment period on the proposed decisions for approximately 14,108,000 acres subjected to the statewide intensive wilderness inventory. The public comment period ended on June 30, 1980. During the public comment period, twenty-five public meetings and open houses were held. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before final decisions were made, were treated equally. They have been read, recorded, analyzed, and where appropriate, field checked. The final intensive wilderness inventory report, including maps, is available upon request from the Bureau of Land Management, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520. Public comments received may also be inspected at this address.

The decision for each unit is considered individually and separately from the decision for every other inventory unit. Persons wishing to protest any of the decisions announced herein must file a written protest with State Director, Ed Spang, Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. 12000, Reno, Nevada 89520 on or before 4:15 p.m., December 15, 1980. Only those written protests received by the Nevada State Office by this time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed and include the name and address of the person(s) protesting. It must also include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest, may appeal such decision under the provisions of 43 CFR Part 4.

Dated: October 31, 1980.

Roger McCormack,

Associate State Director, Nevada.

Units Proposed as WSA's in the Apr. 1, 1980 "Federal Register" Notice and Are Now Identified as WSA's

Unit No	Unit names	Acres designated WSA's
	Elko District	
NV-010-027	Bluebell	63,150
NV-010-033	Goshute Peak	88,440
NV-010-106	Owyhee Canyon	17,170
NV-010-132	Little Humboldt River	40,100
NV-010-184	Bad Lands	9,000
	Winnemucca District	
NV-020-006-A/CA-020-914	East Fork High Rock Canyon.	53,920
NV-020-008-A/CA-020-913	Little High Rock Canyon.	52,143
NV-020-0121		
CA-020-621, 618	Poodle Mountain	127,829
NV-020-014	Fox Mountain Range	[1]72,347
NV-020-019	Calico Mountains	65,861
NV-020-200	Selenite Mountain	[2]31,920
NV-020-201	Mt. Limbo	24,126
NV-020-600	Blue Lakes	[1]23,397
NV-020-603	south Jackson Mtns.	61,708
NV-020-606	North Jackson Mtns	25,780
NV-020-620	Black Rock Desert	333,111
NV-020-622	North Black Rock Range	[2]29,945
NV-020-637	McGee Mountain	25,406
NV-020-827	No. Fork Little Humboldt.	81,320
NV-020-8591		
OR-3-1531		
OR-2-78	Disaster Peak	[4]18,200
	Carson City District	
NV-030-102	Clan Alpine Mtns.	[2]193,120
NV-030-104	Stillwater Range	[2]92,053
NV-030-110	Desatoya Mountains	48,150
NV-030-122	Job Peak	[2]91,022
NV-030-407	Gabbs Valley Range	77,330
NV-030-430	Basalt	[1]27,560
NV-030-432	Hontone Mine	1,570
NV-030-531/CA-010-105	Sinkard	5,440
NV-030-532	Carson-Iceberg	550
	Ely District	
NV-040-015	Goshute Canyon	[1]35,100
NV-040-0861		
UT-050-029	Granite Spring	[4]23,400
NV-040-154	Park Range	[1]46,500
NV-040-166	Riordan's Well	[1]56,800
NV-040-197	Table Mountain	[1]35,600
NV-040-2021		
UT-040-216	White Rock Range	[4]19,590
NV-040-246	Wsepah Spring	[1]61,000
	Las Vegas District	
NV-050-0131	East Pahranagat	16,200
NV-050-0132	South Pahrocs/Hiko	28,600
NV-050-0154	Medsger Pass	11,462
NV-050-0165	Lower Pahranagat Lake	3,350
NV-050-0350	Pigeon Spring	[2]3,575
NV-050-0054	Queer Mountain	[1]81,550
NV-050-0355	Bonnie Claire Flat	[1]69,000
NV-050-0268	Porter Mine	6,089
NV-050-0369	Amargosa	12,453
NV-050-0370	Nothing Flats	9,510
NV-050-03R-22	Gem	2,153
NV-050-0401	Mt. Stirling	[2]69,650
NV-050-4014	Pine Creek	[4]24,000
NV-050-0460	Resting Springs Range	3,850
	Battle Mountain District	
NV-060-019	Kawich	[2]27,360
NV-060-059	Rawhide Mountain	[2]64,360
NV-060-112	South Reveille	106,200
NV-060-142/162	Palisade Mesa	99,550
NV-060-158/199	Blue Eagle	[1]59,560
NV-060-163	The Wall	38,000
NV-060-166	Grant Range	[2]5,840
NV-060-191	Morey	20,120
NV-060-231/241	Antelope	[2]87,400
NV-060-541	Roberts	15,090

See footnotes at end of tabular matter

Units Proposed To Be Dropped in the April 1, 1980 "Federal Register" Notice, but Identified as WSA After Further Evaluation of Public Comments by BLM

Unit number	Unit name	Acres designated WSA
	Elko District	
NV-010-035	South Pequop	39,900
NV-010-151	Rough Hills	6,300
Total Elko District		46,200
	Winnemucca District	
NV-020-007	High Rock Lake	62,527
NV-020-406	Tobin Range	21,952
NV-020-621	Pahute Peak	55,052
Total Winnemucca District		139,531
	Carson City District	
NV-030-108	Augusta Mountain	93,200
NV-030-525A	Burbank Canyons	13,395
Total Carson City District		106,595
	Ely District	
NV-040-242	Worthington Mountains	47,100
Total Ely District		47,100
	Las Vegas District	
NV-050-0338	Silver Peak Range North	33,900
Total Las Vegas District		33,900
	Battle Mountain District	
NV-060-190	Fandango	40,940
NV-060-426	Simpson Park	49,670
Total Battle Mountain District		90,610
State total		463,936

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)

Unit no	Unit name	Acres Released From Further Wilderness Consideration
	Elko District	
NV-010-002	Maverick Springs	84,840
NV-010-002-A	Maverick Springs	6,360
NV-010-002-B	Maverick Springs	5,760
NV-010-002-C	Maverick Springs	7,040
NV-010-002-D	Maverick Springs	7,700
NV-010-002-E	Maverick Springs	5,800
NV-010-002-F	Maverick Springs	31,360
NV-010-002-G	Maverick Springs	10,900
NV-010-002-J	Maverick Springs	7,700
NV-010-004	High Bald Peaks	31,580
NV-010-004-B	High Bald Peaks	16,000
NV-010-016	Spruce Mountain	35,960
NV-010-016-B	Spruce Mountain	8,150
NV-010-017	Spruce Ridge	46,600
NV-010-017-C	Spruce Ridge	6,500
NV-010-022	Hogan	15,460
NV-010-023	Collar & Elbow	10,000
NV-010-023-A	Collar & Elbow	8,300
NV-010-025	Leppy Peak	10,840
NV-010-027	Bluebell	[1]2,980
NV-010-032	Morgan Basin	12,160
NV-010-033	Goshute Peak	[1]12,900
NV-010-035	South Pequop	[1]6,760
NV-010-035-B	South Pequop	6,100

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Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
NV-010-036	Boone Springs	8,320
NV-010-037	Brush Creek	13,320
NV-010-044	Antelope	33,020
NV-010-045	Curne Hills	27,640
NV-010-045-A	Curne Hills	7,760
NV-010-045-B	Curne Hills	5,200
NV-010-047	Kingsley	21,800
NV-010-047-D	Kingsley	8,160
NV-010-049	Sugarloaf	17,600
NV-010-050	Ferguson Mountain	6,960
NV-010-052	Lead Mine Hills	11,520
NV-010-053	Dead Cedar Wash	13,340
NV-010-054/UT-020-044.	Ferber Wash	[4]8,900
NV-010-058	Dead Horse	10,800
NV-010-060	White Sage Flat	19,540
NV-010-061/UT-020-050.	Ferber Flat	[4]8,300
NV-010-062UT-020-046.	Utah Peak	[4]5,700
NV-010-070	Cortez	33,260
NV-010-074	Fiono	12,100
NV-010-081	Smith Creek Mountains.	20,850
NV-010-085	Diamond Hills	56,320
NV-010-102-A	Little Owyhee	5,800
NV-010-104	Hat Peak	49,800
NV-010-105	Forklift	17,280
NV-010-106	Owyhee Canyon	[1]350
NV-010-106-A	Owyhee Canyon	7,360
NV-010-106-B	Owyhee Canyon	43,520
NV-010-107	Airstrip No. 1	42,240
NV-010-108	Star Valley Cabin	32,000
NV-010-109	Silver Lake	41,470
NV-010-109-A	Silver Lake	43,650
NV-010-110	Milligan Creek	121,360
NV-010-111	Winter Creek	59,780
NV-010-112	Bullhead	55,150
NV-010-113	Burner Hill	16,770
NV-010-114	Cornucopia	28,760
NV-010-115	Big Cottonwood Canyon.	56,140
NV-010-116	Sulphur	15,000
NV-010-129	Six Mile Hill	42,680
NV-010-130	Rock Creek	37,080
NV-010-131	Snowstorm	12,130
NV-010-132	Little Humboldt River	[1]56,220
NV-010-133	Three Mile Creek	28,440
NV-010-134	Chino Creek	9,680
NV-010-135	Bull Run	8,700
NV-010-143	Adobe	11,230
NV-010-147	Double Mountain	36,740
NV-010-148	Beaver Creek	22,240
NV-010-149	Lookout Mountain	44,960
NV-010-150	Table Mountain	47,300
NV-010-152	Charleston Reservoir	5,120
NV-010-153	Mahala Creek	10,240
NV-010-160/UT-020-009, 011, 012.	Wagon Box Pass	[4]16,330
NV-010-160-B	Wagon Box Pass	6,000
NV-010-161	Bald Mountain	16,620
NV-010-162	Tee Pee Rock No. 2	11,000
NV-010-167	Little Goose Creek No. 4.	5,300
NV-010-167-B	Little Goose Creek No. 4.	6,100
NV-010-170	Bedke Well	26,880
NV-010-171	Delano	7,400
NV-010-171-A	Delano	10,450
NV-010-171-B	Delano	10,540
NV-010-174	Ninemile	21,120
NV-010-177	Tijuana John	12,840
NV-010-177-B	Tijuana John	12,990
NV-010-177-F	Tijuana John	6,560
NV-010-177-J	Tijuana John	6,320
NV-010-177-L	Tijuana John	14,400
NV-010-178	Granite	8,300
NV-010-178-A	Granite	15,420
NV-010-178-C	Granite	9,900
NV-010-178-F	Granite	7,900
NV-010-181	Ellen and Dee	6,010
NV-010-181-C	Ellen and Dee	8,000
NV-010-181-E	Ellen and Dee	5,340
NV-010-183	Fort Yoho	12,350
NV-010-184	Bad Lands	[4]63,480
NV-010-185	Canyon Creek	35,760
NV-010-187	Cottonwood	15,490
NV-010-188	Beaver Ponds	17,320
NV-010-193	Anderson Creek	8,920
NV-010-197	Hank's Creek	37,640
NV-010-198	Coyote	9,580
NV-010-199	Stag Mountain	40,240
	Total Elko District	2,243,830
	Winnemucca District	
NV-020-001/CA-020-919.	Tenmile Spring	11,470
NV-020-004/CA-020-813-A&B.	Hog Ranch Mountain	9,960
NV-020-006/CA-020-914-A.	Warm Springs Canyon	65,369
NV-020-00	High Rock Lake	[7][8]9,869
NV-020-008/CA-020-913-A.	Little High Rock Canyon.	1,430
NV-020-009/CA-020-823.	Leadville	27,023
NV-020-010/CA-020-816/CA-020-821/CA-020-820.	Crutcher	52,745
NV-020-012/CA-020-821, 818.	Poodle Mountain	[7]9,331
NV-020-014	Fox Mountain Range	[7]9,077
NV-020-018	Division Peak	27,927
NV-020-019	Calico Mountains	[7]2,070
NV-020-021/CA-020-822-A&B/CA-020-823.	No Name	5,230
NV-020-200	Selenite Mountain	[2][7]8,911
NV-020-021	Mt. Limbo	[7]386
NV-020-204	Nightingales	56,549
NV-020-209	Razorback	67,467
NV-020-212	Lava Beds	69,605
NV-020-216	South Shawavee Mountains.	20,541
NV-020-217	Shawavee Mountains	65,757
NV-020-222	Blue Wing Mountains	43,711
NV-020-235	North Lava Bed	67,747
NV-020-406	Tobin Range	[4]64,920
NV-020-408	Jersey Valley	55,710
NV-020-410	Table Mountain	64,518
NV-020-436	Granite Mountain	20,269
NV-020-800	Blue Lakes	[7]9,827
NV-020-801	Alder Creek	30,467
NV-020-802	Mahogany Mountains	26,115
NV-020-803	South Jackson Mtns.	[7]7,606
NV-02-804	Trident Peak	69,718
NV-020-606	North Jackson Mtns.	[4]643
NV-020-609/OR-2-80.	Maggie Creek	[4]20,894
NV-020-610	Sentinel Peak	28,060
NV-020-612	Silk Creek	21,072
NV-020-615	Wood Canyon	[5]6,881
NV-020-617	Middle Spring	11,460
NV-020-618	Texas Springs	10,853
NV-020-620	Black Rock Desert	[5]218,189
NV-020-621	Pahute Peak	[7][8]420
NV-020-621-A	Pahute Peak	32,240
NV-020-622	North Black Rock Range.	[7]64,411
NV-020-641	Paiute Meadows	16,349
NV-020-642	Pueblo Mountains	640
NV-020-800	Long Ridge	12,430
NV-020-809-A/OR-3-172.	Deer Flat	1,200
NV-020-810/OR-3-191.	Carin "C"	[4]3,700
NV-020-827	N. Fork Little Humboldt.	32,701
NV-020-830	Sugar Loaf Hill	35,901
NV-020-835	Forks Ranch	21,998
NV-020-836	Little Owyhee River	34,833
NV-020-838	Lone Willow	24,597
NV-020-839	Calico Ranch	[3]33,043
NV-020-840	No Springs	11,174
NV-020-843	Raven Creek	21,436
NV-020-859/OR-3-153/OR-2-78.	Disaster Peak	[4]419,135
	Total Winnemucca District.	1,679,355
	Carson City District	
NV-030-102	Clan Alpine Mtns.	[7]63,860
NV-030-104	Stillwater Range	[5][7]3,177
NV-030-105	New Pass Range	61,500
NV-030-106	Shoshone Meadows	53,000
NV-030-108	Augusta Mountains	[7][8]2,800
NV-030-110/NV-060-288.	Desatoya Mountains	[4][3]30,010
NV-030-117	Diamond Canyon	65,000
NV-030-118	Desatoya South	[3]30,240
NV-030-125	Desatoya North	[3]55,500
NV-030-127	Job Peak	[2][7]24,098
NV-020-136	Mount Annie	19,500
NV-030-323	Wassuk Range	[3][7]57,600
NV-030-402	Gillis Range North	51,580
NV-030-407	Gabbs Valley Range	[7]3,790
NV-030-409	Stewart Valley Hills	44,410
NV-030-425	Excelsior Mountains	66,850
NV-030-430	Basalt	[3][7]27,890
NV-030-432	Hornone Mine	[7]1,000
NV-030-435	Truman Meadows	7,560
NV-030-436	Queen Valley North	7,640
NV-030-437	Queen Valley Ranch	610
NV-030-439	Orchard Spring	76
NV-030-517	Rawe Peak	49,480
NV-030-520	Lyon Peak	36,000
NV-030-525	East Pine Nuts	[3]38,785
NV-030-525-A	Burbank Canyons	[7][8]1,095
NV-030-603/CA-020-403.	Fort Sage Mountain	22,990
NV-030-605	Virginia Mountains	89,275
NV-030-610	Peterson Mountain	17,170
	Total Carson City District.	951,270
	Ely District	
NV-040-001/UT-020-053, 054.	Northeast Corner	[4]26,950
NV-040-004	Chin Creek	16,000
NV-040-007	Lehman Creek	17,300
NV-040-007-A	Lehman Creek	7,700
NV-040-008	Antelope Range	13,100
NV-040-009	Warm Springs	18,400
NV-040-015	Goshute Canyon	[5][7]155,580
NV-040-016	Willow Spring	19,200
NV-040-019	Egan Basin	20,900
NV-040-021	Butte Mountains	47,860
NV-040-021-A	Butte Mountains	33,460
NV-040-034	Buck Mountain	41,180
NV-040-042	Maple Syrup Well	20,400
NV-040-043	Robber's Roost	48,400
NV-040-047	Frank's Well	20,500
NV-040-048	Toner Spring	20,900
NV-040-048-A	Heusser Mountain	[3]32,940
NV-040-048-B	Toner Spring	[4]6,940
NV-040-049	Telegraph Canyon	20,020
NV-040-050	Hot Springs	8,900
NV-040-065	Golden Springs	16,200
NV-040-070	Red Hills	12,860
NV-040-078	Grass Valley Reservoir.	11,100
NV-040-079/UT-050-017.	Kern Mountains	[4]7,500
NV-040-079-A	Kern Mountains	7,300
NV-040-081	White Cloud Basin	25,100
NV-040-081-A	White Cloud Basin	17,800
NV-040-085	Yelland Ranch	9,900

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
NV-040-086/UT-050-029.	Granite Spring	[4][7]89,700
NV-040-100	Colorado Gulch	38,200
NV-040-100-C	John's Wash	3,000
NV-040-107	Kious Spring	2,900
NV-040-109	Snake Creek Cave	2,400
NV-040-110	Big Wash	1,000
NV-040-123	Martin Spring	24,800
NV-040-129	Copper Flat	42,600
NV-040-130-A	Deadman Gulch	9,800
NV-040-130-AA	Deadman Gulch	8,200
NV-040-130-AB	Deadman Gulch	11,900
NV-040-153	West Pancakes	317,820
NV-040-154	Park Range	[5][7]4,100
NV-040-155	South Pancakes	140,400
NV-040-159	Manzone Well	30,000
NV-040-159-A	Manzone Well	9,100
NV-040-159-B	Manzone Well	8,240
NV-040-166	Riordan's Well	[5][7]133,900
NV-040-184	Big Spring Wash	12,500
NV-040-185	Lexington Creek	4,900
NV-040-197	Table Mountain	[5][7]21,660
NV-040-202/UT-040-216.	White Rock Range	[4][7]13,780
NV-040-203	Burnt Canyon	7,860
NV-040-204	Camp Valley	16,000
NV-040-217	Black Cone	24,100
NV-040-226	Gap Mountain	9,800
NV-040-229	Scofield	10,200
NV-040-231	Bruno Creek	4,500
NV-040-234-A	South Badger Gulch	440
NV-040-235	Barton Spring	13,460
NV-040-241	Griswold	23,900
NV-040-241-A	Griswold	31,880
NV-040-242	Worthington Mtns	[7][8]15,300
NV-040-243	Garden Valley Reservoir.	99,580
NV-040-246	Weepah Spring	[5][7]130,700
NV-040-247	Fossil Peak	86,900
NV-040-249	North Pahranagat Range.	55,900
NV-040-249-A	North Pahranagat Range.	21,500
NV-040-250	Southpaw	34,900
	Total Ely Distrct	2,204,150
	Las Vegas Distrct	
NV-050-0100	Quinn Canyon	12,810
NV-050-0107	North Pahroc	28,847
NV-050-0108	Nesbitt	20,931
NV-050-0109	Seep Springs	15,149
NV-050-0112	Timpahute Range	52,800
NV-050-0113	Pahroc Summit Pass	61,737
NV-050-0114	Pahroc Spring	15,950
NV-050-0116	Chief Mountain	12,673
NV-050-0127	Swirl Cake Rock	6,690
NV-050-0131	East Pahranagat	[5][7]136,258
NV-050-0132	South Pahrocs/Hiko	[7]42,455
NV-050-0302	Cedar Mountain	10,577
NV-050-0304	Relay Station	23,379
NV-050-0305	Far North	11,905
NV-050-0306	Pilot Peak	59,274
NV-050-0308	Monte	[7]7,637
NV-050-0311	Devils Gate	36,332
NV-050-0312	Rock Hill	41,392
NV-050-0317	Lone Mountain	38,239
NV-050-0319	Montezuma Valley	12,047
NV-050-0320	Weepah Hills	29,153
NV-050-0323	Emigrant Peak	25,337
NV-050-0324	Volcanic Hills	25,444
NV-050-0325	Pinchot Creek	15,254
NV-050-0327	The Sump	30,693
NV-050-0328	Emigrant Pass	30,583
NV-050-0330/NV-050-0330-A.	Monocline	20,150
NV-050-0331	The Choice	23,676
NV-050-0335	Misplaced	49,040
NV-050-0336	Clayton Ridge	106,593
NV-050-0337	Company Spring South.	[1]25,206
NV-050-0337-A	Company Spring North.	10,880
NV-050-0338	Silver Peak Range North.	[7][8]38,879
NV-050-0338-A	Silver Peak Range South.	[1]54,845
NV-050-0339	Aiken	1,279
NV-050-0340	Red Mountain Triangle	33
NV-050-0341	Furnace Creek	1,050
NV-050-0342	Palmeto Mountains	30,165
NV-050-0344	Mount Jackson North	33,720
NV-050-0344-A	Mount Jackson South	6,184
NV-050-0345/NV-050-0345-A.	Chispa Hills	30,599
NV-050-0349	Magruder Mountain	19,651
NV-050-0350	Pigeon Spring	[5][7]3,402
NV-050-0351	Uncle Sam	24,223
NV-050-0352	Slate Ridge West	28,874
NV-050-0352-A	Slate Ridge East	8,813
NV-050-0353	Hell's Gate	19,596
NV-050-0354	Queer Mountain	[1][7]7,179
NV-050-0355	Bonnie Claire Flat	[1][7]12,766
NV-050-0358	Can You Believe	32,327
NV-050-0368	Porter Mine	[1]600
NV-050-0369	Amargosa	[1]73
NV-050-0370	Nothing Flats	[7]2,545
NV-050-0372	Crater Flat	37,242
NV-050-0373	Black Marble	28,864
NV-050-0375	Big Dune	21,900
NV-050-0376	Dry Well	21,732
NV-050-0377	Jokersville	4,625
NV-050-0386	Claw	820
NV-050-0387	Old McNett Ranch	23,661
NV-050-03R-11-A	Fish Lake Valley	165
NV-050-03R-12	Pinto Hill	16,712
NV-050-03R-15-A	Lida Valley	852
NV-050-03R-22	Gem	[1]40
NV-050-03R-23	Von Schmidt	2,786
NV-050-0401	Mount Stirling	[2][7]133,356
NV-050-0406	Lost Cabin Spring	68,421
NV-050-0410	Shoemaker Spring	82,917
NV-050-0414	Pine Creek	[1]10,761
NV-050-0418	Wheeler	7,282
NV-050-0421	Clark Canyon	7,880
NV-050-0450	Striped Hills	20,698
NV-050-0451	Specter Range	34,340
NV-050-0457	Mount Montgomery	45,193
NV-050-0459	Ash Meadows	9,770
NV-050-0460	Resting Springs Range.	[1]17,208
NV-050-0461	Last Chance Range	27,079
NV-050-0462	High Peak	10,872
NV-050-0463	Grown	7,064
NV-050-04R-03-A B&C	Pahrump	10,958
NV-050-CDCA276	Dead Mountains	750
	Total Las Vegas Distrct.	2,051,846
	Battle Mountain Distrct	
NV-060-019	Kawich	[2][7]11,640
NV-060-059	Rawhide Mountain	[3][7]11,040
NV-060-069	Empire Canyon	17,620
NV-060-078	Stone Cabin	24,000
NV-060-079	Hot Creek	45,970
NV-060-086	Monarch	11,700
NV-060-089	Woods Canyon	25,900
NV-060-112	South Reveille	[7]8,300
NV-060-113	Quinn Canyon	105,570
NV-060-120	East Kawich	18,100
NV-060-130	Castle Rock	22,300
NV-060-132	North Reveille	65,000
NV-060-136	Quinn Range	23,703
NV-060-142/162	Palisade Mesa	[1]17,450
NV-060-158/199	Blue Eagle	[1][7]13,340
NV-060-163	The Wall	5,300
NV-060-166	Grant Range	650
NV-060-174	Black Rock	25,500
NV-060-176	Big Round Valley	6,200
NV-060-183	North Pancake I	17,200
NV-060-184	North Pancake III	19,200
NV-060-188	Morgan	9,000
NV-060-190	Fandango	[7][8]7,660
NV-060-191	Morey	[7]9,580
NV-060-192	Slanted Buttes	23,900
NV-060-194	North Pancake II	26,400
NV-060-201/211	Snemie	12,600
NV-060-212	Rhyolite Hills	34,300
NV-060-213	Red Ring Mountain	6,200
NV-060-219	Milton Ranch	9,300
NV-060-231/241	Antelope	[2][7]60,900
NV-060-256	Buzanes	10,900
NV-060-278	Hayprese	2,900
NV-060-279	White Rock	26,400
NV-060-347	Diane's Punchbowl	14,700
NV-060-407	Bates Mountain	77,930
NV-060-415	Callaghan	79,300
NV-060-422	White Sage	16,400
NV-060-426	Simpson Park	[5][7][8]1,830
NV-060-432	Willow Creek	35,300
NV-060-433	Manhattan Mountain	31,300
NV-060-442	Sage	10,900
NV-060-459	Rocky Hills	57,360
NV-060-461	South Fish Creek	104,500
NV-060-464	Elephant Head	44,200
NV-060-465	Canco Ranch	8,000
NV-060-467	Francis Cabin	5,700
NV-060-474	Red Rock	14,100
NV-060-478	Castano Ranch	9,560
NV-060-482	North Fish Creek	52,400
NV-060-504	Diamond Mountains	73,470
NV-060-530	Rutabaga Creek	13,800
NV-060-531	Henderson	12,700
NV-060-541	Roberts	[7]42,710
NV-060-554	North Diamond	43,900
	Total Battle Mountain Distrct.	1,485,683
	State total	10,616,134

See footnotes at end of tabular matter.

Units Under Formal Appeal to the Interior Board of Land Appeals

Unit No.	Unit name	Acres under formal appeal
NV-010-102/ID-12-56A.	Little Owyhee	53,280
NV-010-103/ID-16-53	Devil's Corral	8,960
NV-010-103-A/ID-16-53.	Devil's Corral	10,880
NV-010-164/ID-202-1/UT-020-001.	Little Goose Creek No 1.	7,695
NV-010-179/ID-107/26/ID-17-26.	Cottonwood-Salmon Falls	11,790
NV-020-811/OR-3-159/ID-106-70-E.	Tent Creek	10,660
NV-020-642/OR-2-81 (an accelerated inventory unit).	Pueblo Mountains	600

NOTE.—The inventory units listed above are under formal appeal to the Interior Board of Land Appeals (IBLA) as a result of the final initial inventory decisions, and in one case, an accelerated inventory decision. These inventory units will be subject to Interim Management Policy and Guidelines (IMP) until the IBLA issues a final decision. The IMP guidelines will remain in effect on those units remaining under wilderness review.

[1] The final decision for this unit represents a change from the proposed decision. Public comments received prompted a reconsideration of wilderness characteristics in the area, resulting in an increase in Wilderness Study Area acreage.

[2] The final decision for this unit represents a change from the proposed decision. Public comments received prompted

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a reconsideration of wilderness characteristics in the area, resulting in a decrease in Wilderness Study Area acreage.
[3] Includes Lahontan Cutthroat Trout Natural Area.
[4] The proposed decision for this interstate unit cited total public land acreage in Nevada and the adjoining state. This figure represents only Nevada acreage. The final decision for the entire unit has not changed from the proposed decision.
[5] The acreage cited in the final decision differs from the proposed decision because of a more accurate acreage calculation.
[6] Includes Pine Creek Natural Area.
[7] A portion of this unit has been identified as a Wilderness Study Area, but the portion represented in this table was dropped from further wilderness consideration, because it lacks wilderness characteristics.
[8] The final decision for this unit represents a change from the proposed decision. Public comments received prompted a reconsideration of wilderness characteristics in the area, resulting in the identification of a Wilderness Study Area.
[9] Includes Heusser Mountain Bristlecone Pine Natural Area.
[10] Includes a portion of Pinyon Joshua Transition Natural Area.

[FR Doc. 80-34531 Filed 11-6-80 8:45 am]
BILLING CODE 4310-84-M

[INT DEIS 80-69]

Availability of Draft Environmental Impact Statement on Energy Transportation Systems, Inc. (ETSI) and Establishment of Public Review Period and Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of draft environmental impact statement of Energy Transportaion Systems, Incorporated (ETSI) Proposal. Establishment of 60-day Public Review and Comment Period and Location Sites and Dates for Public Meetings on the Document.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management has prepared an environmental impact statement on ETSI's proposed coal slurry pipeline. The proposed pipeline would originate in the Eastern Powder River region of Wyoming and cross Nebraska and Kansas to delivery points in Oklahoma, Arkansas, and Louisiana.

The proposed action would involve construction and operation of a 1,828-mile slurry transportation project. The project would comprise three coal slurry preparation plants, a water supply system (Niobrara County, Wyoming, well field); a 1,664-mile main slurry pipeline and slurry pump stations; nine dewatering plants; and ancillary facilities such as transmission lines microwave towers. The EIS also assesses the following alternatives: Market, Colorado route, Pipeline-Barge, Crook County Well Field, Oahe Reservior, coal cleaning, slurry pipeline water discharge, and no-action (all rail and rail-road-barge transportation). The Bureau has also established a 60-day public review and comment period and nine public meetings to receive public input and comment on the draft statement.

DATES: (1) Comments will be accepted until January 6, 1981.

(2) Public hearings will be held at the following places at 2:00 p.m. and 7:00 p.m.

Monday, December 1, State Mineral Board Conference Room, Natural Resources Building, 404 4th St., Baton Rouge, Louisiana.

Wednesday, December 3, Arkansas Game & Fish Commission, No. 2 Natural Resources Drive, Little Rock, Arkansas.

Thursday, December 4, Agricultural Center Auditorium, 4116 East 15th St., Room 107, Tulsa, Oklahoma.

Monday, December 8, Fort Hays State University, Black and Gold Room, Hays, Kansas.

Wednesday, December 10, Sterling City Auditorium, 120 So. 4th St., Sterling, Colorado.

Thursday, December 11, Holiday Inn, Junction I-80 & Highway 83, North Platte, Nebraska.

Monday, December 15, Rushmore Plaza Civic Center, 444 Mt. Rushmore Road North, Rapid City, South Dakota.

Tuesday, December 16, Parish Hall, Edgemont, South Dakota.

Wednesday, December 17, Niobrara County High School Auditorium, 5th & Iron St., Lusk, Wyoming.

Preregistration for people desiring to present testimony at the hearings is requested. Written comments and requests for hearing registration forms or a summary description of the ETSI project should be sent to: Richard E. Traylor, ETSI EIS Project Leader, Bureau of Land Management, Office of Special Projects, 555 Zang St., 3rd Floor East, Denver, Colorado 80228.

A limited number of single copies of the EIS may be obtained from the above address. Copies are available for inspection at the following locations:

Office of Information, Office of Special Projects, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Copies will also be available at various libraries along the proposed route of the project. A complete list of these libraries may be obtained from the EIS Project Leader.

Dated: October 30, 1980

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-34446 Filed 11-6-80; 8:45 am]
BILLING CODE 4310-84-M

Minnesota; Final Wilderness Inventory Decision—Minnesota Islands

In the September 17, 1980 **Federal Register**, the Bureau of Land Management (BLM) announced its final intensive wilderness inventory decision on 174 islands, totalling 701.21 acres, administered as BLM public lands in the State of Minnesota. The islands are located in 26 counties in eleven rivers and 47 lakes throughout the State.

The decision provided that, unless timely protests were received by the BLM Eastern States Director, 350 South Pickett Street, Alexandria, Virginia 22304, within a thirty-day period ending at 4:00 p.m., October 17, 1980, the decision would become *final*. No protests were received.

Under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978 *BLM Wilderness Inventory Handbook*, and BLM Organic Act Directive No. 78-61, Change 3, the final intensive wilderness inventory decision for the above units became effective October 17, 1980. The above public lands are no longer subject to BLM wilderness review and the management restrictions imposed by Section 603 of the Federal Land Policy and Management Act no longer apply.

Roger L. Hildebeidel,

Eastern States Director.

[FR Doc. 80-34778 Filed 11-6-80; 8:45 am]
BILLING CODE 4310-84-M

National Park Service—Pacific Northwest Region

Crater Lake National Park: Public Meetings

Notice is hereby given that public meetings will be held concerning options for the future of Crater Lake Lodge.

The meetings will be held at the following times and places:

1. Klamath Falls, Oregon—December 9, 1980, 7:30 p.m., Meeting Room, Klamath Production Credit Association, 900 Klamath Avenue.

2. Medford, Oregon—December 10, 1980, 7:30 p.m., Oregon Room, Bureau of Land Management District Office, 3040 Biddle Road.

3. Salem, Oregon—December 11, 1980, 7:30 p.m., Conference Room, Room 122, State Transportation Building, Center and Capital Streets.

Anyone interested in obtaining a summary of options for the future of Crater Lake Lodge to be discussed at the meetings should contact National Park Service, Pacific Northwest Region, Fourth and Pike Building, Seattle, Washington 98101, Attention: Daniel R. Kuehn, 206-442-4590. Written comments will be accepted up to 30 days following the public meetings.

Dated: October 24, 1980

Charles H. Odegaard,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 80-34857 Filed 11-6-80; 8:45 am]
BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given that the meeting of the Delta Region Preservation Commission previously announced for November 12, 1980, will be reconvened for a second session at 1:30 p.m. CST, November 19, 1980, at the Louisiana Department of Wildlife and Fisheries Building, 400 Royal Street, Room 220, New Orleans, Louisiana. All agenda items remain the same as published on October 31, 1980 (45 FR 72299).

Dated: November 4, 1980.

Jean Henderer,

Chief, Office of Cooperative Activities.

[FR Doc. 80-34856 Filed 11-6-80; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-084

Decided: October 30, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman.

MC 66753 (Sub-8F), filed October 27, 1980. Applicant: CHAIN HAULAGE, INC., 50 Middlesex Ave., Somerville, MA 02145. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with the Stop & Shop Companies, Inc., of Boston, MA.

MC 109633 (Sub-47F), filed October 23, 1980. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 110563 (Sub-318), filed October 23, 1980. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 W. Washington, Chicago, IL 60602. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of members of the Trojan Shippers Association, at points in Miami County, OH, on the one hand, and, on the other, points in the U.S.

MC 110683 (Sub-188F), filed October 20, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th St. NW, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between those points in the U.S., in and east of MN, SD, NE, KS, OK, and TX (except FL).

MC 118803 (Sub-22F), filed October 16, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Sun Chemical Corporation, of Ft. Lee, NJ.

MC 123993 (Sub-84F), filed October 20, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *General Commodities* (except Household goods as defined by the Commission and Classes A and B explosives), between Alexandria, LA, on the one hand, and on the other Beaumont, Dallas and Houston, TX, and points in LA.

MC 125433 (Sub-429F), filed October 20, 1980. Applicant: F-B TRUCK LINE COMPANY, A CORPORATION, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson, (same address as applicant). Transporting (1)(a) *pollution control systems*, and (b) *parts and accessories* for pollution control systems, and (2) *metal products*, between points in MO, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-430F), filed October 20, 1980. Applicant: F-B TRUCK LINE COMPANY, A CORPORATION, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *such commodities* as are

dealt in or used by manufacturers of radios, televisions and recording and phonographic equipment, between points in IL, MO, PA, IN, and TX, on the one hand, and, on the other, points in the U.S. (including HI, but excluding AK).

MC 125433 (Sub-431F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *plumbing fixtures,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plumbing fixtures, between points in CA, FL, IL, IN, KY, MI, NV, and OK, on the one hand, and, on the other, points in the U.S. (including HI, but excluding AK).

MC 125433 (Sub-432F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *equipment, materials, and supplies* used in the manufacture and distribution of swim pools, spas, and hot tubs, and (2) *chemicals and allied products,* as described in Item 28 of the Standard Transportation Commodity Code, between points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-433F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *paving joints,* between Birmingham, AL, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-435F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers of electrical sound amplifying equipment, between points in OK, on the one hand, and, on the other, points in the U.S. (including HI, but excluding AK).

MC 125433 (Sub-438F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *building materials,* and (2) *equipment, materials, and supplies,* used in the manufacture and distribution of the commodities in (1) above, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 128413 (Sub-6F), filed October 21, 1980. Applicant: SEASON-ALL TRANSPORTATION COMPANY, a corporation, Rte. 119 South, Indiana, PA 15701. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Season-All Industries, Inc., of Indiana, PA.

MC 131023F, filed October 9, 1980. Applicant: INTERNATIONAL TRAVEL CONSULTANTS, INC., d.b.a. WINDWARD TRAVEL CENTER, 127 East Market St., York, PA 17401. Representative: Murray D. Friedman, (same address as applicant). To engage in operations as a *broker* at York, PA, in arranging for the transportation, by motor vehicle, *of passengers and their baggage in the same vehicle with passengers,* in round-trip special and charter operations, beginning and ending at York, PA, and extending to Harrisburg and Philadelphia, PA, Baltimore, MD, Washington, DC and points NY.

MC 139923 (Sub-80F), filed October 21, 1980. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer "D", Stroud, OK 74079. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave, Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of infant formula and health care products (except commodities in bulk), between points in Campbell County, VA, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM.

MC 141873 (Sub-1F), filed October 17, 1980. Applicant: BERLIN TRANSPORTATION, INC., Rte. 5, Millersburg, OH 44654. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *pallets and rough sawed lumber,* between points in the U.S. under continuing contract(s) with (a) Brenneman Lumber Co., of Jefferson, OH, (b) Noah Raber & Edward Raber, d/b/a Raber Lumber, of Charm, OH, (c) GRH Products, Inc., of Berlin, OH, and (d) Andy Weaver, d/b/a Plains Pallet Co., of Millersburg, OH. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 142592 (Sub-111F), filed October 16, 1980. Applicant: H. L. STANSELL, INC., 1221 U.S. Alternate Hwy 19, Palm Harbor, FL 33563. Representative: David C. Venable, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *foodstuffs,* (2) *paper and paper products,* (3) *metal articles,* (4) *plastic articles,* and (5) *such commodities* as are dealt in or used by bakeries, from points in the U.S. (except AK and HI), to points in FL.

MC 147193 (Sub-4F) filed October 21, 1980. Applicant: MARTIN RUITER, d.b.a., MARTIN'S FEED CO., P.O. Box 189, Custer, WA 98240. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Transporting *feed and feed ingredients,* between points in WA, OR, CA, UT, MT, and WY.

MC 149482F, filed October 15, 1980. Applicant: R. W. McDANIEL TRANSPORTATION CORP., 11280 Gratiot Avenue, Detroit, MI 48213. Representative: R. W. McDaniel (same address as applicant). Transporting *automotive parts,* between points in MI, IN, OH, KY, MD, DE, VA, KS, MO, TN, SC, WI, IL, PA, NY, NJ, WV, OK, IA, MN, NC, and AR.

MC 152232F, filed October 15, 1980. Applicant: TYLER TRANSPORTATION, INC., 3305 Grant Line Road, New Albany, IN 47150. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting *general commodities* (except Classes A and B explosives and commodities in bulk, in tank vehicles), between points in the U.S., under continuing contract(s) with Pillsbury Company, of Minneapolis, MN.

MC 152302F, filed October 22, 1980. Applicant: CHARLES E. ARMES, 917 W. 9th St., Jonesboro, IN 46938. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting: *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. under continuing contract(s) with G & T Industries of Indiana, Inc., of Evansville, IN, and Reeves Bros., Inc., Curon Division, of Cornelius, NC.

Volume No. OP4–111

Decided: October 31, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Carleton not participating.

MC 63417 (Sub-296F), filed October 23, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting *household appliances,* and *materials, equipment and supplies* used in the manufacture and distribution of household appliances, between Greenville and Grand Rapids, MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, WY, CO, and NM.

MC 89716 (Sub-56F), filed October 21, 1980. Applicant: DICK JONES TRUCKING, a Corporation, Box 956, Powell, WY 82435. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *submergible pumping equipment, materials and supplies,* between points in WY and MT, on the one hand, and, on the other, points in CO, ID, KS, NE, ND, OK, SD, UT, and WA.

MC 99427 (Sub-51F), filed October 21, 1980. Applicant: ARIZONA TANK LINES, INC., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AZ, CA, CO, NM, NV, TX, and UT, on the one hand, and, on the other, points in the U.S.

MC 109397 (Sub-528F), filed October 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs, (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Harrison County, MS, on the one hand, and, on the other, points in the U.S.

MC 109397 (Sub-529F), filed October 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1) *rubber and rubber products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in King County, WA, on the one hand, and, on the other, points in the U.S.

MC 115557 (Sub-33F), filed October 24, 1980. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Larry D. McCauley (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Los Angeles County, CA; Cook County, IL; Fayette County, KY; Armstrong, Clarion and Jefferson Counties, PA; Dallas and Hunt Counties, TX, and points in NJ and NY, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 117427 (Sub-80F), filed October 17, 1980. Applicant: G. G. PARSONS TRUCKING CO., P.O. Box 1085, N. Wilkesboro, NC 28659. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *furniture,* between points in Sumter County, SC, on the one hand, and, on the other, points in ID, MT, WA, and OR.

MC 119777 (Sub-505F), filed October 22, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *such commodities* as are used in the construction, maintenance, operation, renovation, removal and salvage of tracks and railroad right-of-ways (except in bulk, and classes A and B explosives), between points in the U.S.

MC 135197 (Sub-27F), filed October 24, 1980. Applicant: LEESER TRANSPORTATION, INC., P.O. Box 545, Palmyra, MO 63461. Representative: Leonard A. Jaskiewicz, 1730 M St. NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in IL, IN, IA, MN, MO, and NE, on the one hand, and, on the other, points in the U.S.

MC 138177 (Sub-11F), filed October 20, 1980. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Rd., Germantown, TN 38138. Representative: John Paul Jones, P.O. Box 3140, Front Steet Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting (1) *commodities* in bulk, in dump vehicles, from points in Shelby and Fayette Counties, TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and NM, and (2) *metals and alloys,* from points in Colbert and Jefferson Counties, AL, and points in Hickman and Marshall Counties, KY, to points in Fayette County, TN.

MC 146807 (Sub-23F), filed October 21, 1980. Applicant: S N W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (same address as applicant). Transporting (1) *plastic sheeting* from Mountaintop, PA, to points in LA, TX, MO, and IL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of (1) above, in the reverse direction.

MC 148576 (Sub-4F), filed October 20, 1980. Applicant: DOTSON TRUCKING CO., INC., 1220 Murphy Ave. SW., Atlanta, GA 30310. Represenative: Brian S. Stern, North Springfield Professional Center II, 5411–D Backlick Rd., Springfield, VA 22151. Transporting (1) *scrap materials,* and (2) *scrap metals,* from points in Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, GA, to Gaston, SC.

MC 150447 (Sub-3F), filed October 20, 1980. Applicant: GSC TRANSPORT, INC., 166 National Rd., Edison, NJ 08817. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Boston, MA, Baltimore, MD, Wilmington, DE, New York, NY, Philadepphia, PA, and Norfolk and Newport News, VA, on the one hand, and, on the other, points in CT, DE, IL, MD, MA, NJ, NY, OH, PA, RI, and VA, restricted to shipments having a prior or subsequent movement by water.

MC 150567 (Sub-7F), filed October 21, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1) *plastic pipe and pipe fittings,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with R. G. Sloane Manufacturing Company, Inc., of Sun Valley, CA.

MC 150567 (Sub-8F), filed October 27, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with Seaport Cooperative, Inc., of Portland, OR. Condition: To the extent the permit to be issued in this proceeding

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authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issue.

MC 152107 (Sub-1F), filed October 7, 1980. Applicant: INTERPORT TRUCKING, INC., 860 McLester St., Elizabeth, NJ 07021. Representative: Ronald I. Shapss, 450 7th Ave., New York, NJ 10123. Transporting *chemicals and chemical containers*, between points in the U.S., under continuing contract(s) with Inland Chemical Corporation, of Ft. Wayne, IN.

Volume No. OP4–113

Decided: Oct. 31, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones. Member Jones not participating.

MC 63417 (Sub-295F), filed October 9, 1980, previously noticed in the FR issue of October 24, 1980, and republished this issue. Applicant: BLUE RIDGE TRANSFER CO, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting (1) *new furniture and furniture parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in NC, SC, and VA, on the one hand, and, on the other, points in the U.S.

Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation, at applicant's written request, of authority held in MC–63417 and Subs thereunder which duplicate, in full or in part, the authority herein.

Note.—The purpose of this republication is to correct the territorial description.

MC 63417 (Sub-297F), filed October 23, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., restricted to traffic originating at or destined to the facilities of Rand McNally and Company.

MC 70557 (Sub-36F), filed October 21, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in and used by chain grocery and food business houses (except commodities in bulk), and (1) between the facilities of The McCarty-Holman Company, Inc. at points in FL and MS, and (2) from points in the U.S. (except AK and HI) to the facilities of The McCarty-Holman Company, Inc., at points in FL and MS.

MC 107107 (Sub-488F), filed October 21, 1980. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery business houses, (a) between those points in the U.S. in and east of TX, OK, KS, NE, SD, and ND, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, and SC, and (b) between points in AL, FL, GA, LA, MS, NC, and SC.

MC 146807 (Sub-20F), filed October 20, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *coal*, from Wilkes Barre, PA, to points in WA, OR, CA, AZ, CO, TX, LA, FL, GA, NC, VA, MD, NY, ME, NH, VT, MA, OH, MI, MN, WI, IA, OK, KS, AR, MO, and DC.

MC 148647 (Sub-4F), filed October 27, 1980. Applicant: HI–CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Dubuque Packing Company, of Dubuque, IA.

MC 152256 (Sub-1F), filed October 21, 1980. Applicant: GRAMMER INDUSTRIES, INC., P.O. Box 51, Grammer, IN 47236. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *fertilizer* from points in Floyd County IN, to points in KY, and those points in IL on and south of U.S. Hwy 36, restricted to traffic originating at the facilities of W. R. Grace & Company.

Volume No. OP4–115

Decided: Nov. 3, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 70557 (Sub-37F), filed October 21, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *clay and clay products* and *materials, equipment and supplies* used in the manufacture and distribution of clay and clay products, between Olmsted, IL, and Paris, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MO, MS, NC, OK, SC, TN, TX, VA, and WV.

MC 123476 (Sub-60F), filed October 23, 1980. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Ct., Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). Transporting (1) *plastic and plastic products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between the points in the United States in and east of MT, WY, CO, OK and NM. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written requests of all Certificated authority under MC–123476. (Sub-Nos. 14, 15, 17, 18, 22, 24, 27, 30, 31, 34, 36, 37, 39, and 45).

MC 135936 (Sub-31F), filed October 27, 1980. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *chemicals* in containers, from points in Cook and Lake Counties, IL, Atlanta, GA, Baltimore and Barberton, OH, Berkeley Springs and Natrium, WV, Charleston, SC, Copperhill and Memphis, TN, Kansas City and Lawrence, KS, Midland and Detroit, MI, and Minneapolis, MN, to Omaha, NE and Sioux City, IA.

MC 140806 (Sub-6F), filed October 28, 1980. Applicant: HERMS TRUCKING, INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *wax*, between points in the U.S., under continuing contract(s) with Moore & Munger Marketing, Inc., of Fairfield, CT.

MC 146337 (Sub-F), filed October 21, 1980. Applicant: NEW WEST TRANSPORTATION, INC., 17090 S. 54th St., Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting (1) *tractors* (except truck tractors) and (2) *attachment parts* and accessories therefor, when moved in mixed loads with commodities in (1) above, from points in AZ to points in AZ, CA, NV, NM, and UT, restricted to shipments having a prior movement by rail.

MC 146637 (Sub-6F), filed October 27, 1980. Applicant: YANKEE REFRIGERATED XXPRESS, INC., 5500 Tacony St., Philadelphia, PA 19137. Representative: Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006. Transporting (1) *rubber or miscellaneous plastic products*, as described in Item 30 of the Standard Transportation Commodity Code Tariff, and (2) *supplies* used in the manufacture and distribution of commodities in (1) above, between points in Kern and Yolo Counties, CA; Fairfield County, CT; Newton County, GA; Will and Morgan Counties, IL; Middlesex County, MA; Warren County, NJ; Wayne, Ontario and Monroe Counties, NY; Pottawatomie County, OK; Belle County, CO; and points in TX, on the one hand, and, on the other, points in the U.S.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34742 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before November 28, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, members Krock, Williams, and Taylor.

MC–FC–78441. By decision of October 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 on reconsideration approved the transfer to Inland Transport, Inc., of Fort Scott, KS, of Certificate No. MC–145123 issued August 11, 1978, to Zirkel Trucking, Inc., of Fort Scott, KS, authorizing the transportation of iron and steel articles (except commodities, the transportation of which because of their size or weight require the use of special equipment), from the facilities of Keystone Steel & Wire Division, Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in Nevada, Utah, Idaho, California, Arizona, Oregon, and Washington, restricted to traffic originating at the named origin and destined to points in the named destination states. Representative is: Erle W. Francis, Attorney, Suite 719–700 Kansas Avenue, Topeka, KS 66603.

MC–FC–78733. By decision of October 2, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 5 approved the transfer to Brown Line, Line, of Certificate No. MC ???? issued to January 15, 1973 to Everett Trucking, Inc., and to be issued to Western Carriers, Inc., in No. MC–FC–77709 *Western Carriers, Inc., Transferee and Everett Trucking, Inc., Transferor* (not printed, decided November 13, 1978), authorizing the transportation of: Wine and Malt beverages, from points in California to Bellingham, Burlington, Everett and Mount Vernon, WA. Representative is: George R. LaBissoniere, Attorney At Law, 15 S. Grely Way, Suite 233, Perton, WA 98055.

MC–FC–78748. By decision of September 30, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 5 approved the transfer to Atlantic & Western Transportation Company, Inc. of Permit No. MC–108467 (Sub-No. 1) issued December 2, 1954 to Richards & Associates, Inc. authorizing the irregular route transportation of such materials and equipment used in, or in connection with the construction, operation, repair maintenance or dismantling of telephone and telegraph lines, between points in AL, GA, FL, MS, LA, NC, SC, KY, and TN. Transferee's representative is: Robert W. Gerson, Esq., Tautman, Sanders, Lakeman & Ashmore, 1400 Candler Building, 127 Peachtree Street NE., Atlantic, GA 30303. Representative is: Frank D. Jones, P.O. Box 1000, Carrollton, GA 30017.

MC–FC–78764. By decision of October 1, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 11132, Review Board Number 5 approved the transfer to Ewing Gary McDowell, William Gregory McDowell and Ronald Dwayne McDowell d.b.a. McDowell Trucking, Elizabeth, IL, of Certificate No. MC–142778 (Sub-Nos. 2 and 4) issued Sept. 25, 1980 to Don Baker, McLeansboro, IL, authorizing the common carrier transportation of Irregular Routes: Sub-4, *coal*, in bulk, in dump vehicles, from Saline, Franklin, Jefferson, Williamson, Ballatin, Marion, Hamilton, Hardin, Pipe, Johnson, Union, Jackson, White, Wabash, Perry, and Washington Counties, IL, to points in Vigo, Vermillion, Knox, Hamilton, Floyd, and Gibson Counties, IN; Sub-2, Irregular Routes: *coal*, in bulk, in dump vehicles, from the Sahara minesite, located at or near Carrier Mills, Saline County, IL, and the Freeman minesite, located at or near Waltonville, Jefferson County, IL, to Evansville, IN, with no transportation for compensation on return except as otherwise authorized. Representative is: Robert T. Lawley, (217) 544–5468, 300 Reisch Bldg., Springfield, IL 62701.

MC–FC–78770. By decision of October 7, 1980 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1132, Review Board Number 5 approved the transfer to Motor Transport of South Dakota, Inc., of Sioux Falls, SD, of Certificate No. MC–109538 and (Sub-Nos. 8, 13, 14, 17, 18, 20, 21, 22, 23, 24, 25, 28, 34, and 38) issued to Chippewa Motor Freight, Inc., of Eau Claire, WI, authorizing the transportation of general and specified commodities, over regular and irregular routes, between points in KY, IA, IL, IN, MN, OH, SD, and WI. Representative: H. Lauren Lewis, P.O. Box 850, Sioux Falls, SD, 57105.

Notes.—(1)TA has not been filed. (2) Transferee presently holds no authority from the Commission.

MC–FC–78775. By decision of 10/17/80, issued under 49 U.S.C. § 10926 and the transfer rules at 49 C.F.R. § 1132, Review Board No. 5 approved the transfer to Rappahannock Motor Lines, Inc. of Lively, Virginia of a portion of Certificate No. MC–99213 (Sub–No. 1), issued December 23, 1968 and of Certificate No. MC–99213 (Sub–No. 6), issued December 16, 1964 to Virginia Freight Lines of Kilmarnock, VA, authorizing the transportation of general commodities with exceptions, over

regular routes (1) between Baltimore, MD, and Burgess Stores, VA, serving the intermediate points of Montross and Owen, VA, intermediate points sought of the Westmoreland-Richmond County line, and serving off-route points in Northunberland, Richmond, and Lancaster Counties, VA. From Baltimore over Maryland Highway 3 (formerly U.S. Highway 301) to junction U.S. Highway 301, thence over U.S. Highway 301 across the Potomac River near Morgantown, MDS, to junction Virginia Highway 3, thence over Virginia Highway 3 to Warsaw, VA, thence over U.S. Highway 360 to Burgess Store, and return over the same route.
RESTRICTION: Restricted against the transportation of shipments moving from and to Dahlgren, Virginia; (2) between Tappahannock, VA, and Baltimore, MD, serving no intermediate points: from Tappahannock over U.S. Highway 360 to Warsaw, VA, thence over Virginia Highway 3 to junction U.S. Highway 301, thence over U.S. Highway 301 to junction Maryland Highway 3 (formerly U.S. Highway 301) and thence over Maryland Highway 3 to Baltimore, and return over the same route; and (3) between Office Hall, VA, and Port Royal Cross Roads, VA, as an alternate route for operating convenience only, serving no intermediate points: from Office Hall over U.S. Highway 301 to Port Royal Cross Roads, and return over the same route, and over irregular routes between points in Lancaster, Northumberland, Richmond, and Westmoreland Counties, VA, on the one hand, and, on the other, Washington, D.C., and Baltimore, MD. Representative is: James W. Lawson, 1511 K Street, N.W., Washington, D.C. 20005. Transferee presently holds no authority from this Commission. Application has been filed for temporary lease under 49 U.S.C. § 11349.

MC–FC–78778. By decision of October 2, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to VALLEY TRANSPORTATION SERVICE, INC., of Mission, TX, of Permit No. MC–136005 (Sub-Nos. 1 and 4), issued December 7, 1973, and August 30, 1978, respectively, to JACK D. WHATLEY and ROBERT T. CALHOUN, a partnership, d.b.a. MAGIC VALLEY REFRIGERATED EXPRESS, of McAllen, TX, authorizing the transportation of (1) *canned citrus juice* and *citrus pulp livestock feed*, in bags, from the facilities of the Texas Citrus Exchange at Harlingen and Mission, TX, to points in OK, AR, KS, MO, IL, NE, IA, SD, MN, WI, ND, and CO, (2) *canned citrus juice*, from the facilities of Texas Citrus Exchange at Harlingen and Mission, TX, to points in NM, AZ, CA, IN, and MI, and (3) *frozen concentrated citrus products*, in containers, in mixed loads with canned citrus juice, from the facilities of Texas Citrus Exchange at Harlingen, Mission, Brownsville and McAllen, TX, to points in OK, AR, MO, KS, IL, NE, IA, SD, MN, WI, ND, CO, NM, AZ, CA, IN, and MI, under continuing contract(s) in (1), (2), and (3) above the Texas Citrus Exchange of McAllen, TX.
Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768.
Transferee holds no authority from this Commission. However, transferee is under common control with L.C.W. Trucking, Inc., which holds contract carrier authority under MC–138578 and sub-numbers thereunder, and common carrier authority under MC–138686 and sub-numbers thereunder.

Note.—This application was previously docketed No. MC–F–14415F, and a TA application was filed under that number.

MC–FC–78780. By decision of October 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to JOE G. DIGGES, an individual, of Hendersonville, TN, of Certificate No. MC–126350 issued February 20, 1970, to RALPH GREEN and JACK NETTER, a partnership, d.b.a. GREEN & NETTER, of Memphis, TN, authorizing the transportation of milk products, milk byproducts, *fruit drinks, and fruit segments*, in containers, and *milk*, in containers, when transported in the same vehicle and at the same time with other commodities set forth herein, all in vehicles equipped with mechanical refrigeration, from the plant sites of Sealtest Foods Division, Kraftco Corporation at Memphis, TN, to points in AR, MS, and that part of MO on, south, and east of a line beginning at the Mississippi River, and extending westerly along U.S. Hwy 60 to junction U.S. Hwy 67 to the AR–MO state line, including points on the specified hwy portions, subject to the following condition: service shall be limited to the transportation of shipments originating at the origin points specified above.
Representative is: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137.

Note.—Transferee presently holds no authority from the Commission.

MC–FC–78790. By decision of 10–24–80 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to FALICE TRUCKING SERVICE, Inc. of Rome, NY, of Certificate No. MC–13676 issued August 25, 1978 to FRANK J. & ROLLIN P. NICHOLS TRUCKING CO. INC., of Rome, NY, authorizing the transportation by irregular routes of *household goods* between Syracuse, NY, and points in New York within 50 miles of Syracuse, on the one hand, and, on the other, points in NY, MA, CT, PA, NJ, IL, IN, ME, MD, MI, NH, OH, RI, VA and DC. Representative is: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501.

MC–FC–78791. By decision of 10/14/80 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to Bailey's Express, Inc. of the following certificates and authorities held by and in the name of Mutual Transportation, Inc., Baltimore, MD: (1) Certificate No. MC–92068, issued November 7, 1963, authorizing the transportation, in interstate or foreign commerce, of general commodites, over regular routes, from Baltimore, MD , to Alexandria, VA, serving the intermediate and off-route points of Laurel, Hyattsville, College Park, Chevy Chase, and Bethesda, MD; Washington, DC, and Bailey's Cross Roads, Clarendon, Del Ray, and Rosslyn, VA, for delivery only: from Baltimore over US Highway 1 to Alexandria, and return over the same route; (2) Certificate No. MC–92068 (Sub-No. 3), issued September 11, 1968, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of general commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, from the facilities of Mutual Pool Car Agency in Washington, DC, to the City of Fairfax, VA, and Baltimore and Annapolis, MD; (3) Certificate No. MC–92068 (Sub-5), issued April 24, 1970, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of general commodities, except those of unusual value, packinghouse products, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in the Washington, DC, Commercial Zone, as defined by the Commission; (4) Certificate No. MC–92068 (Sub-No. E1), published August 15, 1974, authorizing the transportation, over irregular routes, in interstate or foreign commerce of general commodities (except those of unusual value, packinghouse products, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in the Washington, DC, Commercial Zone as defined by the Commission to Baltimore, MD; (5) Certificate No. MC–92068 (Sub-No. E2), published August 15, 1974, authorizing the transportation, over irregular routes, in interstate or foreign commerce of general commodities (except those of unusual value, packinghouse products, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Washington, DC, Commercial Zone as defined by the Commission to Annapolis, MD; (6) Certificate No. MC–92068 (Sub-No. 10), issued January 9, 1975, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of (a) such commodities as are dealt in by retail and discount department and chain stores, from the facilities of Mutual Transportation, Inc., at Baltimore, MD, to the stores and facilities (i) of Mammoth Mart, Inc., at Lexington Park and Waldorf, MD, and Lower Paxton Township, PA, and (ii) of Zayre Corp., in Woodbridge, VA; and (b) returned shipments of the commodities in (a) above, from the stores and facilities (i) of Mammoth Mart, Inc., at Lexington Park, Waldorf, and, at or near Bel Air, MD, and Lower Paxton Township, PA, and (ii) of Zayre Corp., at Woodbridge, VA, to the facilities of Mutual Transportation, Inc., at Baltimore, MD; (7) Certificate No. MC–92068 (Sub-No. 12), issued January 7, 1976, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of such commodities as are dealt in by department stores (except in bulk), from the facilities of Mutual Transportation, Inc., in the District of Columbia, to the facilities of WOOLCO Department Store, Division. F. W. Woolworth Company, located at or near Woodbridge, VA; (8) Certificate No. MC–92068 (Sub-No. 14), issued May 17, 1976, authorizing the transportation, over irregular routes, in interstate or foreign commerce, such commodities as are dealt in or used by chain and department stores, from the facilities Mutual Transportation, Inc., at Washington, DC, to the facilities of the K Mart Store of S. S. Kresge Company at the intersection of US Highway 301 and MD Highway 424 near Crofton, MD; and from the facilities of Mutual Transportation, Inc., at Baltimore, MD, to the facilities of the K Mart Store of S. S. Kresge Company at the intersection of MD Highway 2 (Governor Richie Highway) and Jumpers Hole Road to Anne Arundel County, MD; (9) Certificate No. MC–92068 (Sub-No. 17), issued March 15, 1977, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of (a) such commodities as are dealt in or used by retail and discount department stores, from the facilities of Mutual Transportation, Inc., at Baltimore, MD, to the facilities of Mammoth Mart, Inc., at Odenton, MD, and the facilities of the K Mart Store of S. S. Kresge Company, at the intersection of MD Highway 3 and 424, near Crofton, MD; and (b) returned shipments of the commodities in (a) above, from the facilities of Mammoth Mart, Inc., at Odenton, MD, and from the facilities of the K Mart Stores of S. S. Kresge Company, at the intersection of MD Highways 3 and 424, near Crofton, MD, to the facilities of Mutual Transportation, Inc., at Baltimore, MD; (10) Certificate No. MC–92068 (Sub-No. 19), issued April 6, 1978, authorizing the transportation, over irregular routes, in interstate or foreign commerce, (a) such commodities as are dealt in or used by retail and discount department stores, from the facilities of Mutual Transportation, Inc., at Baltimore, MD, and Washington, DC, to (i) the facilities of the K Mart Stores of S. S. Kresge Company, at Frederick, Hagerstown, and Lexington Park, MD, and Fredericksburg and Manassas, VA; (ii) the facilities of the S. S. Kresge Store of the S. S. Kresge Company at Hagerstown, MD; (iii) the facilities of the Zayre Corporation Stores at Frederick and Hagerstown, MD; (iv) the facilities of the Woolworth Stores of F. W. Woolworth Company at Hagerstown, MD, and Manassas, VA; and (v) the facilities of the Woolco Stores of F. W. Woolworth Company, at Frederick, MD, and Fredericksburg, VA; and (b) returned shipments of the commodities named above, from the destination points there named to the origin points there named; and (11) Certificate No. MC–92068 (Sub-No. 20F), issued December 8, 1978, authorizing the transportation, over irregular routes, in interstate or foreign commerce, of such commodities as are dealt in or used by retail and discount department stores, (a) between the facilities of Mutual Transportation, Inc., at Baltimore, MD, and Washington, DC, on the one hand, and, on the other, the facilities of the Woolworth stores of F. W. Woolworth Company, at Frederick and Westminster, MD, and Fredericksburg, VA; and (b) between the facilities of Mutual Transportation, Inc., at Baltimore, MD, on the one hand, and, on the other, the facilities of the K Mart Stores of K Mart Corporation, at Elkton and Salisbury, MD. Representative is: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740, (301) 739–4860.

MC–FC–78792. By decision of October 10, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to C. E. Myers & Sons Trucking Co., Inc., of Kamay, TX, of Certificate No. MC–55981 (Sub-No. 3) issued 5/17/73 to Rayford Sadberry, of Holliday, TX, authorizing the transportation of machinery, materials, supplies and equipment used on oilfield development, between points in OK and points in TX on and west of U.S. Hwy. 81, earthdrilling machinery and equipment and machinery, equipment, materials, supplies and pipe incident to oilfield development (Mercer commodities), between points in OK, and points in TX on and west of U.S. Hwy. 81.
Representative is: Barry J. Brooks, 2340 Fidelity Union Tower, Dallas, TX 75201. Transferee is not a carrier. TA lease is not sought.

MC–FC–78797. By decision of October 14, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Elmer M. Rabel, an individual, of Box 59, R.D. #2, Olyphant, PA 18447 of Certificate No. MC–102939 issued June 25, 1942 to Michael Rabel and George Rabel, a partnership, doing business as, Rabel Brothers of Box 457 #1, Olyphant, PA 18447 authorizing the transportation of *household goods* as defined in *Practices of Motor Common carriers of Household Goods*, 17 M.C.C. 467, over irregular routes, between Olyphant, PA, and points and places within three miles of Olyphant, on the one hand, and, on the other, points and places in Connecticut, New York, New Jersey, and Maryland, traversing the District of Columbia for operating convenience. TA has not been filed.
Representative: Herbert R. Nurick, Esquire McNess, Wallace & Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108.

MC–FC–78798. By decision of October 9, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to Green Line Charters Ltd., of Vancouver, British Columbia, Canada, of Certificate No. MC–141875 (Sub-No. 2) issued 12/12/77 to Currie Bus Lines Ltd. (Price Waterhouse Limited, Trustee), of Vancouver, British Columbia, Canada, authorizing the transportation of passengers and their baggage, in special and charter operations, between ports of entry on the U.S.-Canada Boundary line, located at points in ID and WA, on the one hand, and, on the other, points in

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AZ, CA, ID, NV, NM, OR, UT, and WA, restricted to traffic originating and terminating at Merritt or Princeton, British Columbia, Canada. Representative is: Henry Winters, 525 Evergreen Bldg., 15 S. Grady Way, Renton, WA 98055. Transferee holds no authority. TA lease is not sought.

MC–FC–78804. By decision of October 10, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Thomas P. Kourafas and Laura J. Noven doing business as Esposito Moving Co. of Certificate No. MC–90767 issued December 6, 1971 to Joseph A. Esposito, Gennaro Esposito and Albert Esposito, doing business as Joseph A. Esposito & Co. authorizing the transportation of *used store, office and restaurant fixtures*, between Boston, MA, and points within 5 miles of Boston, on the one hand, and, on the other, points in New Hampshire and Rhode Island. Representative is: George C. O'Brien, 12 Vernon Street, Norwood, MA 02062. Transferee presently holds no authority from the Commission.

MC–FC–78807. By decision of October 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to RANDELL BUS COMPANY of Galesburg, IL, of Certificate No. MC–140279 (Sub-No. 1) issued October 11, 1977 to A–1 CHARTER SERVICE, of Anawan, IL, authorizing the transportation of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Henry and Bureau Counties, IL, and extending to points in MI, IN, KY, TN, MO, WI, IA, and MN. Representative: Edward F. Karas, 1 S 376 Summit Avenue, Suite 2A, Oakbrook Terrace, IL 60181.

Note.—(1) TA has not been filed. (2) Transferee holds motor common carrier authority pursuant to Certificate No. MC–134822.

MC–FC–78815. By decision of October 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to J. L. COUTURE TRUCKING, INC. of West Gardiner, ME of permit No. MC–12377 (Sub-No. 1) issued September 18, 1975, to Michael W. Wood of *merchandise* as is dealt in by retail drugstores, from Winslow, ME, to Portsmouth, NH, subject to the following restrictions: The operations are limited to a transportation service to be performed under a continuing contract or contracts with LaVerdure's Super Drug Store of Winslow, ME. Representative is: Gregory J. Farris, 251 Water Street, Gardiner, ME 04345. TA application has been filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34747 Filed 11-6-80; 8:45 am]
BILLING CODE 7035-01-M

Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before November 28, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, members Krock, Taylor, and Williams.

MC–FC–78706. By decision of October 1, 1980, issued under 49 U.S.C. 1926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to Washington-California Express, Inc., of Los Angeles, CA, of Permit/Certificates No. MC–129239 and MC–133796 (all subs) to Washington-California Express, Inc., of Los Angeles, CA, authorizing the transportation of named commodities including fireworks, heating, ventilation, and air conditioning enclosures, skis, paint, plastic, automotive parts, dampers, notions and novelties, electric heating elements, electric lamps, rope, such merchandise as is dealt in by department stores, candy and confectionery, from and to name points in various states subject to the following conditions: Representative is: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Transferee holds authority in MC–144584. TA lease not sought.

MC–FC–7811. By decision of October 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Gazda Moving Co., Inc., of that portion of Certificate No. MC–78643 acquired by BN Transport, Inc., pursuant to No. MC–F–13527 authorizing the transportation of *Household goods*, as defined by the Commission, and emigrant movables, between points in North Dakota, on the one hand, and on the other, points in South Dakota, Minnesota, Wisconsin, Iowa, Illinois, Ohio, Nebraska, and Montana. Between points in South Dakota, Minnesota, Wisconsin, Iowa, Illinois, Ohio, Nebraska, and Montana. Representatives: James E. Ballenthin for Transferee, 630 Osborn Building, St. Paul, MN 55102. Cecil L. Goettsch for Transferor, 11th Floor Des Moines Building, Des Moines, IA 50307.

MC–FC–78812. By decision of October 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to Crossriver Industries, Inc. of Certificate No. MC–125627 issued (date) July 21, 1964, to I&L Trucking Inc. authorizing the transportation of (1) *electrical, gas and household appliances, sinks and cabinets*, crated and uncrated, between the site of Sussman & Spiegel Distribution Center, Inc., Jersey City, NJ, on the one hand, and on the other, points in that part of Connecticut on and south of US Highway 44, and that part of New York on and south of a line beginning at the Massachusetts-New York State line and extending along US Highway 20 to Cazenovia, NY, and on and east of a line beginning at Casenovia, NY, and extending along New York highway 13 to junction New York highway 14 north of Elmira, NY, and then along New York highway 14 to the New York-Pennsylvania State line. (2) *Electrical, gas and household appliances, sinks and cabinets*, uncrated and crated when moving in mixed loads in the same vehicle, between the site of the Sussman & Spiegel Distribution Center, Inc., Jersey City, NJ, on the one hand, and, on the other, Philadelphia PA, Washington, DC, and points in Maryland. Representative is: Harold Reckson, Registered Practitioner, 33–28 Halsey Road, Fairlawn, NJ 07410. Application has been filed for temporary lease under 49 U.S.C. § 11349.

Agatha L. Mergenovich,
Secretary.

Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. §§ 11344 and 11349. Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonally to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 C.F.R. 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided October 29, 1980.

By the Commission, Review Board #5, members Krock, Taylor and Willaims. (Board member Taylor not participating in MC–F–14491.)

MC–F–14490F, filed October 14, 1980. TIGER TRUCKING GROUP, INC. (Tiger Trucking) (1888 Century Park East, Los Angeles, CA 90067)—Control—DOHRN TRANSFER COMPANY (Dohrn) (4016—9th Street, Rock Island, IL 61201); and HALL'S MOTOR TRANSIT COMPANY (Hall's) (6060 Carlisle Pike, Mechanicsburg, PA 17055)—Merger—DOHRN TRANSFER COMPANY (Dohrn). Representatives: Edward G. Bazelon and Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603, and Thomas F. Godfrey, 14 Wall Street, New York, NY 10005. Tiger Trucking seeks authority to acquire control of Dohrn through the purchase by Tiger Trucking of all the issued and outstanding capital stock of Dohrn. Further, Hall's seeks authority for the merger, subsequent to the acquisition of Dohrn's stock by Tiger Trucking, of all the operating rights and property of Dohrn into Hall's for ownership, management, and operation. The shares of Dohrn stock outstanding and held by Tiger Trucking immediately prior to the effective time of the meger will be cancelled and surrendered to Hall's. Tiger International, Inc., a non-carrier and sole stockholder of both Tiger Trucking and Hall's, seeks authority to acquire control of Dohrn and Dohrn's rights and properties through these transactions.

The operating rights to be acquired by Hall's are contained in certificates issued to Dohrn in Docket No. MC–43421 and sub-numbers thereunder and authorize the transportation of general commodities, with the usual exceptions, over a network of regular routes in the States of MN, IA, MO, OK, TX, WI, IL, IN, MI, OH, KY, NY, and MA.

Tiger Trucking holds no authority from the Commission. Halls operates as a common carrier in interstate or foreign commerce pursuant to certificates in MC–67646 and sub-numbers thereunder, transporting general commodities, with the usual exceptions, basically over regular routes in the States of MN, WI, IL, IN, OH, WV, PA, NY, MA, CT, RI, NJ, DE, MD, VA, KY, MI, and DC.

Notes.—(1) Application for temporary authority has been filed. (2) A directly related application under 49 U.S.C 11301 and 11302 has been filed in FD–29501, *Hall's Motor Transit Company—Assumption of Obligations and Liabilities*. Hall's seeks authority to assume Dohrn's liabilities including obligations of a total principal amount not to exceed $11,300,000. Hall's will assume the balance on Dohrn's promissory notes which were issued pursuant to FD–27333, FD–28399, FD–27939, FD–27627, FD–27135, and FD–28859, and assume the obligations and liabilities of Dohrn as guarantor in respect to an Industrial Development Bond which was issued pursuant to FD–29287. Condition: Tiger International, Inc., a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Tiger International, Inc., need only file such special reports as the Commission may from time to time require. Tiger International, Inc., is not made subject to the accounting requirements of 49 U.S.C. 11142.

MC–F–14491F, filed October 15, 1980. COLUMBINE CARRIERS, INC. (Columbine)—Merger—CENTURY MOTOR LINES, INC. (Century) (both of Box 66, South Bend, IN 46624). Representative: Charles J. Kimball, 350

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Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Columbine seeks authority to merge the interstate operating rights and property of Century into Columbine for ownership, management, and operation. Kenneth D. Rudy, who owns and controls Columbine, and Kenneth D. Rudy and David A. Weyhrich, who own and control Century through stock ownership, seek authority to continue to control the unified rights of Columbine and Century through this transaction. Columbine controls Century pursuant to authorization granted in MC–F–14213F. The interstate operating rights to be merged into Columbine are contained in Century's certificates issued in MC–144621 and sub-numbers thereunder, which authorize the transportation, as a motor common carrier, over irregular routes, as follows: (1) *food, food products, and food ingredients,* from the facilities of Archer Daniels Midland Company, at or near Decatur, IL, to points in CT, DE, ME, MD, MA, NH, NY, OH, NC, NJ, PA, RI, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (2) *commodities* as are dealt in or used by manufacturers and distributors of surgical supplies, medical supplies, and health care supplies (except commodities in bulk), from the facilities of Parke Davis Company, Inc., at or near Greenwood, SC, to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, and WA. (3) *such commodities* as are dealt in or used by manufacturers and distributors of surgical supplies, medical supplies, and health care supplies (except commodities in bulk), between the facilities of Parke Davis Company, Inc., at or near Greenwood, SC, on the one hand, and, on the other, points in the United States (except AK, HI, and SC). (4) *surgical, medical and health care products and supplies,* (a) between points in Middlesex County, NJ, Will and Cook Counties, IL, San Mateo County, CA, and Grayson County, TX, and (b) from Grayson County, TX to Denver, CO. (5) *frozen foodstuffs,* from the facilities of Tandem Associates, at or near Santa Maria, CA, to those points in the United States in and east of MN, IA, MO, AR, LA, and TX. (6) *meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near Cherokee, Des Moines, and Cedar Rapids, IA, and Albert Lea, MN, to points in CA, restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations. Columbine holds authority pursuant to its Permits in MC–135185 and sub-numbers thereunder, to operate as a motor contract carrier, in interstate or foreign commerce, serving eight shippers, in the 48 adjacent States.

Note.—Application for temporary authority has been filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-34751 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket Nos. 29450 (Sub-1) etc.]

Iowa Falls Western Holding Co. et al.; Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Co. et al.

Finance Docket No. 29450 (Sub-No. 1), Iowa Falls Western Holding Company—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) between Iowa Falls and Sibley, IA; Finance Docket No. 29451 (Sub-No. 1), Royal-Manson Shippers' Association—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) between Royal and Manson, IA; Finance Docket No. 20459 (Sub-No. 1), Gateway Railroad—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee) Lines in Iowa; Finance Docket No. 29470 (Sub-No. 1), Mid-States Port Authority—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) between Denver, CO and McFarland, KS; Finance Docket No. 29471 (Sub-No. 1), Little Rock and Western Railway Corporation—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) between North Little Rock and Perry, AR; Finance Docket No. 29473 (Sub-No. 1), Southeast Iowa Shippers Association—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) between Fruitland and Burlington, IA; Finance Docket No. 29474, Regional Transportation Authority (Illinois)—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) Chicago/Joliet Commuter Line; Tece Corporation—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) in Texas, Oklahoma, and Kansas; Finance Docket No. 29479, Des Moines Metropolitan Transit Authority—purchase (portion)—Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee); Finance Docket No. 29480, Arkansas Transportation Commission and Oklahoma Department of Transportation—purchase (portion)—Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee) in Oklahoma, Tennessee, Arkansas, and Louisiana.

AGENCY: Interstate Commerce Commission.

ACTION: Proceedings rescheduled.

SUMMARY: The Commission is granting the petition of the Chicago and North Western Transportation Company in part, and is rescheduling these proceedings. The prior deadlines for supplementing the applications, and filing comments and evidence are vacated.

DATES: 1. By December 2, 1980 all of the titled applications in these proceedings shall be completed. Additionally, all other applications seeking to acquire any of the same lines sought in the titled proceedings shall be filed on this date.

2. By December 22, 1980 verified statements supporting or opposing all proposals must be filed.

3. By January 6, 1980 verified statements in reply must be filed.

ADDRESS: The original and 10 copies of each statement should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave. NW., Washington, D.C. 20423, Attn.: RITEA Acquisitions.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7026.

SUPPLEMENTARY INFORMATION: The Chicago and North Western Transportation Company (C&NW) has filed petitions to intervene and for reconsideration of the decisions served September 22, 1980 and published in the Federal Reister of October 1, 1980, setting procedural time tables in Finance Docket No. 29450 (Sub-No. 1), Finance Docket No. 29451 (Sub-No. 1), Finance Docket No. 29459 (Sub-No. 1), and Finance Docket No. 29479. C&NW also filed a supplement to the petition. Replies were filed in Finance Docket Nos. 29450 (Sub-No. 1) and 29459 (Sub-No. 1).

In these cases, as well as, Finance Docket No. 29470 (Sub-No. 1), Finance Docket No. 29471 (Sub-No. 1) Finance Docket No. 29473 (Sub-No. 1), Finance Docket No. 29474, Finance Docket No. 29475, Finance Docket No. 29479, and Finance Docket No. 29480, also all published in the Federal Register of October 1, 1980, we granted waivers for 45 days of certain information normally required in an application. A number of requests for extensions of time in these proceedings have been filed so that negotiations with the Trustee can be concluded, and then the information provided in order to complete the applications.[1] We will partially grant the petition by C&NW and the extension requests. We will reschedule the titled proceedings which were filed under section 112 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. No. 96–254 (1980) (RITEA).

In its petitions, the C&NW contends that the expedited procedural timetable set in the prior decision will jeopardize the restructuring and revitalization of the midwestern rail system and impair negotiations by established carriers with the Trustees of both the Chicago, Rock Island and Pacific Railroad Company (Rock Island) and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee). It is argued that section 111 of RITEA provides for an expedited 100-day decisional timetable on applications for sales to "solvent carriers", and not to non-carrier or shipper groups. C&NW contends that the intent of the timetable set up by RITEA was to provide first an opportunity for established carriers to purchase portions of the Rock Island and the Milwaukee. After carrier applications were decided, under the expedited 100-day timetable then a system of federal assistance would be available so that non-carriers or shipper groups could acquire the remaining segments and retain needed rail service.

C&NW also argues that the Trustee of the Rock Island is currently developing valuation data to be used to determine the price for the sale of the Rock Island lines. This data will not be available until November 1980, at the earliest, and it is argued that no purchase negotiations can be completed until that time. C&NW contends that established carriers may be interested in purchasing portions of the Rock Island and the Milwaukee but will not be filing applications with the Commission until they have an agreement with the Trustee. C&NW concludes that under the expedited time frame set up in the prior decisions, the Commission could be approving transactions in the mistaken belief that no other carrier is interested in the lines.

In the replies it is argued that the Commission is required to dispose of applications to purchase portions of bankrupt lines in a timely fashion. It is argued that C&NW has made no compelling showing to delay these proceedings and that consideration of the acquisition proposals should progress as ordered by the Commission.

At this point we must stress that we will not give a preference to either carrier or noncarrier proposals. There is no legislative basis whatsoever for either the carrier or noncarrier preference argument. We intend to handle these cases on a consolidated basis, and consider the merits of each application.

The other arguments raised by C&NW are applicable to most of the applications which have been filed under section 112 of RITEA. The arguments are not relevant to those cases in which the Bankrupcy Court has imposed a decisional deadline.[2]

In addition the arguments are not relevant in Finance Docket No 29481 (Sub-No. 1) *Beaverville Grain & Lumber Company, and Kankakee, Beaverville & Southern Railroad Company—Acquisition and Operation (Portion)—Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee),* because an agreement has been reached with the Trustee, and a completed application is on file. We will consider C&NW's petition as it applies to the other applications filed under Section 112 of RITEA.

In order for the Commission to make a meaningful determination on these purchase applications, the record should include all the facts concerning the terms of the purchase, the involved rail lines, and the proposed operations. In addition, the Commission should be able to consider all competing applications. It is true that applications to acquire a portion of a bankrupt rail line must be disposed of in a timely fashion. However, it would be improper to expedite these proceedings if such action would prevent us from considering information which is needed to rule on the applications.

As C&NW points out in its petition, the 100-day timetable applies to applications by solvent carriers. Section 112 of RITEA, which applies to noncarriers seeking funding from the Federal Railroad Administration (FRA), has no specific time limit. Indeed, there is not even a timetable for a decision by FRA on the funding application. Of course, the Commission must dispose of the noncarrier applications in a timely fashion, no later than 180 days after any application was filed under section 5 or 17 of the Milwaukee Railroad Restructuring Act, Pub. L. No. 96-101 (November 4, 1979).

It has become apparent that the Trustee of the Rock Island is in the process of developing valuation data to be used in negotiating agreements for the sale of rail lines. It is also apparent that the earliest this information will be available is November, 1980. After obtaining this information the Trustee will be in a position to enter agreements for the sale of Rock Island's lines. Under these circumstances, if we continue to follow the expedited procedural timetable, it could frustrate the restructuring and revitalization of midwestern rail service. We do not believe that rescheduling these proceedings will prejudice any party. However, when an applicant provides all of the relevant information, it can then petition for expedited action on the application.

It was our intent in preparing the previous timetable to comply with the spirit of expedition enunciated by RITEA. However, because the parties have been unable to conclude negotiations with the Trustees for the acquisition of lines, we will interpret section 111 of RITEA technically. This section requires our decisions 100 days after an application has been filed by a solvent carrier to acquire a line of the Rock Island. None of the acquiring parties in the titled proceedings are carriers. The public good requires this delay so that we can consider agreements and other relevant material not now before us.

We are concerned that the delay in processing these applications should not be of indefinite duration. Although the orderly restructuring of the midwestern rail system is important, it is also very important that this process begin. Therefore, we have adopted the new timetable set forth under the DATES portion of this decision. It should be noted that parties who have previously submitted statements need not resubmit them. This should provide a reasonable time for parties to negotiate with the

[1] Requests for an extension of time to complete applications have been filed by Iowa Falls Western Holding Company, Royal-Manson Shippers' Association, Gateway Railroad Corporation, and the Southeast Iowa Shippers Association. Requests for an extension of time to file statements have been filed by Rath Packing Company, the Railway Labor Executives' Association, and Continental Grain Company.

[2] Finance Docket No. 29472 (Sub-No. 1) filed by Continental Group, Inc.; Finance Docket No. 29476, filed by North-South Development Corporation; Finance Docket No. 29484, filed by Trans-Con Services, Inc.; and Finance Docket No. 29494, filed by the Louisiana and Midland Railway Company. Order No. 282 requires a recommendation in these cases by December 24, 1980.

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Trustee so that we may pass on a more logical disposition of Rock Island and Milwaukee lines in the midwest.

At this point it is appropriate to point out our general belief that the debtors' estates (and therefore the creditors) will receive a greater benefit in selling the assets for continued rail service instead of net liquidation value. We believe it is also necessary to remind the parties that before a sale or transfer may be authorized by the bankruptcy court we must approve it under sections 5(b) or 17(b) of the MRRA. It also should be clear that although it is our prerogative to approve competing sales, we may find that the public interest requires us to approve an earlier filed proposal without an agreement, and later deny a competing proposal filed after our approval even though an agreement has been reached.

It is ordered:

(1) The petitions are granted in part, and the proceedings are rescheduled.

(2) This decision shall be effective on the date it is served.

Dated: October 31, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34752 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-10639]

Ohio Valley Shippers Association—Petition for Declaratory Order—Use of Representatives To Inform Non-Member Shippers of Advantages of Association Membership

AGENCY: Interstate Commerce Commission.

ACTION: Notice of declaratory order proceeding.

SUMMARY: A declaratory order proceeding is being instituted to determine the lawfulness of the use of representatives by shippers association to inform nonmember shippers of the advantages of membership in an association. Non-profit shippers associations, which are exempt from regulation under 49 U.S.C. 10562(3), consolidate and distribute freight for member shippers.

DATES: Comments should be filed on or before December 22, 1980.

ADDRESSES: Send an original and 15 copies, if possible, of any comments to: MC-C-10639, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of comments to petitioner's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT:

Mark S. Shaffer, (202) 275-7531

or

Edward E. Guthrie, (202) 275-7691.

SUPPLEMENTARY INFORMATION: By petition filed January 24, 1980, the Ohio Valley Shippers Association (OVSA) seeks a declaratory order that it can employ representatives to contact non-member shippers and receivers for the purpose of citing advantages of membership in the association. OVSA operates as a non-profit shippers association which is exempt from regulation under 49 U.S.C. 10562(3). This section provides that the Commission "does not have jurisdiction * * * over—the service a shipper or a group of shippers in consolidating or distributing freight on a non-profit basis, for the shipper or members of the group to secure carload, truckload, or other volume rates."

Essentially, OVSA argues that uncertainty exists as to the scope of permissable solicitation activities. It seeks a general determination that the use of agents to solicit new members does not necessarily constitute a "holding out" of services to the general public for compensation which would destroy its exempt status under section 10562(3). Petitioner argues that such a finding would allow it and other shippers associations to continue to provide low cost transportation to its members during inflationary times by increasing the number of members able to consolidate freight for movement at volume rates.

In the past, it has been held that the legislative history of this exemption section evinces strong Congressional policy that regulation should not encroach or restrict the right of shippers to join together to gain for themselves the savings of volume rates. *Freight Consolidators Cooperative, Inc.,* v. *United States,* 230 F. Supp. 692, 696 (S.D. N.Y. 1964), sustaining *American Freight Forwarding Corp.* v. *Konlon and Walder,* 318 I.C.C. 507 (1962). Shippers associations were accorded exempt status under section 10562(3) to effectuate this right. In determining the activities permissible under this section, as distinguished from those that would be subject to regulation as freight forwarder activities, we have stated that exempt shippers associations cannot hold out to the public to provide transportation for compensation within the freight forwarder definition. See e.g., *Atlanta Shippers Assn., Inc.,—Investigation,* 322 I.C.C. 273, 286-87 (1964).

It is petitioner's contention that allowing non-profit shippers associations to use representatives in the manner contemplated is not precluded by section 10562(3) or existing case law. It asks the Commission to declare generally that the use of representatives in the described manner is lawful so that such associations can continue to provide low-cost transportation to members on a non-profit basis. Petitioner states that the ruling requested will have no effect of any kind on the quality of the human environment.

Issues which may be addressed include: (1) What specific legal limitations exist concerning composition of exempt shippers associations, and (2) whether the proposal would allow solicitation of non-member freight and result in the providing of transportation of property for profit which is not exempt under 49 U.S.C. 10562(3).

Finally, several unsolicited pleadings have been received. They generally seek intervention in this proceeding. These comments are premature in that the Commission, until now, has not requested comments on the merits of the proposal. Any consideration of these pleadings would be inappropriate. Accordingly, they will not be considered. No prejudice should result from this determination in that any party having filed such a pleading is free at this time to participate in this proceeding by submitting its views or arguments.

Written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th Street and Constitution Ave., Washington, D.C., during regular business hours.

It is ordered: Pursuant to 5 U.S.C. 554(e) and in the sound exercise of the Commission's discretion, a declaratory order proceeding is instituted.

Decided: October 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34753 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 364]

Permanent Authority Decision-Notice

Decided: October 28, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for perfroming that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of paticular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 7, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Finding: With the exception of those application involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regualtion. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminary and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before December 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before December 8, 1980 or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 107002 (Sub-570F) (correction), filed January 21, 1980, published in the **Federal Register,** issue of April 17, 1980, and republished as corrected this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, MS 39204. Transporting *chemicals and materials* used in the manufacture of chemicals, in bulk, in tank vehicles, between the facilities of Fallek-Lankro Corporation at or near Tuscaloosa, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the commodity and territorial description.

MC 50682F (correction), filed April 28, 1980, published in the **Federal Register,** issue of July 15, 1980, and republished, as corrected, this issue. Applicant: KEDASHAW, INC., P.O. Box 246, Kensington, KS 66951. Representative: Erle W. Francis, Esq., Suite 719, 700 Kansas Avenue, Topeka, KS 66603. Transporting (1) *cheese, whey, whey protein and milk* (a) from Hebron, Oxford and Dodge, NE, to points in AZ, CO, IL, IA, KS, LA, MO, ND, UT, TX, and (b) from Ravenna, NE to points in AZ, CO, FL, IL, IA, KS, LA, MO, NY, ND, UT and TX; (2)(a) *packaging materials* from Des Moines, IA and (b) *cheese ingredients* from points in KS, to Dodge, Hebron, Oxford and Ravenna, NE.

Note.—The purpose of this republication is to add the territorial description in (1)(b) inadvertently omitted.

[FR Doc. 80-34746 Filed 11-6-80; 8:45 am]

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[Permanent Authority Decisions Volume No. OP4-112]

Permanent Authority Decision-Notice

Decided: October 31, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are nor allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 22, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1. Members: Carleton, Joyce, and Jones. Member Carleton not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 31367 (Sub-37F), filed October 21, 1980. Applicant: H. F. CAMPBELL & SONS, INC., P.O. Box 260, R.D. #1, Millerstown, PA 17062. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 147627 (Sub-5F), filed October 20, 1980. Applicant: ROADRUNNER DELIVERY SERVICE, INC., BWI Airport, Box 8765, Baltimore, MD 21240. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, and (2) *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

[FR Doc. 80-34745 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 72F)]

Illinois Central Gulf Railroad Co.—Abandonment-Near Union City, TN at Cayce, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 3, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment Goshen, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad known as the Cairo District (portion), extending from railroad milepost 451 near Union City, TN, to milepost 457 at Cayce, KY, a distance of 6 miles. A certificate of public convenience and necessity permitting the abandonment was issued to the Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than November 17, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34750 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C 10524(b).

1. The parent corporation is Amstar Corporation, 1251 Avenue of the Americas, New York, N.Y. 10020.

2. The wholly-owned subsidiaries which will participate in the operations are:

(a) Milwaukee Electric Tool Corporation, 13135 West Lisbon Road, Brookfield, Wisconsin 53005;

(b) Duff-Norton Company, Inc., 100 Pioneer Street, Charlotte, North Carolina 28232.

(1) Parent Corporation and address of principal office: Excel Industries, 1120 North Main Street, Elkhart, Indiana 46514.

(2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices.

Excel Corporation, 1120 North Main Street, Elkhart, Indiana 46514
Buchanan Metalform Products, Inc., 218 S. Post Road, Buchanan, Michigan 49107
Machine-Rite Products, Inc., U.S. Route 20, La Grange, Indiana 46761
Excel Metalcraft, Ltd., 95 Cousins Dr., Box 70, Aurora, Ontario, Canada L4G 3H1
Metal Fabricating Corporation, 2200 Helton Drive, Lawrenceburg, Tennessee 38464
Industrial Data Systems, 101 E. Simonton Street, Elkhart, Indiana 46514
Excel Industries of California, Inc., 12661 Box Springs Blvd., Industrial Park, Riverside, California 92507

A. Parent corporation and address of principal office: W. R. Grace & Co., Grace Plaza, 1114 Avenue of the Americas, New York, New York 10036.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Grace Distribution Services, Inc., P.O. Box 308, Duncan, SC 29334
(2) American Breeders Service International, Inc., Route 1, DeForest, WI 53532
(3) A-1 Bit & Tool Company, P.O. Box 26292, Oklahoma City, OK 73126
(4) Axial Basin Coal Corporation, Stapleton Plaza, Suite 8800, 3333 Quebec Street, Denver, CO 80207
(5) Chance Collar Company of Louisiana, P.O. Box 899, Pearland, TX 77581
(6) Daylin, Inc., 10960 Wilshire Blvd., Suite 2000, Los Angeles, CA 90024
(7) DeZaan, Incorporated, Grace Plaza 1114 Avenue of the Americas, New York, NY 10036
(8) El Torito-La Fiesta Restaurants, Inc., 2450 White Road, Irvine, CA 92714
(9) Far West Services, Inc., P.O. Box 19561, Irvine, CA 92713
(10) Gilbert/Robinson, Incorporated, P.O. Box 16000, Kansas City, MO 64112
(11) Handy Dan Home Improvement Centers, Inc., 10960 Wilshire Blvd., Suite 2420, Los Angeles, CA 90024
(12) Homco International, Inc., P.O. Box 2442, Houston, TX 77001
(13) MSP Industries Corporation, 6400 E 11-Mile Road, Center Line, MI 48015
(14) Rent-It, Inc., 9898 Bissonnet, Suite 450, Houston, TX 77036
(15) Sheplers, Inc., P.O. Box 9021, Wichita, KS 67277
(16) TRG Drilling Corp., P.O. Box 20020, Oklahoma City, OK 73156
(17) W. R. Grace & Co. of Canada Ltd., Grace Plaza, 1114 Avenue of the Americas, New York, NY 10036
(18) Precision Dynamics Corporation, 3031 Thornton Avenue, Burbank, CA 91504
(19) jojos Restaurants, Inc., 2932 E. Nutwood Avenue, Fullerton, CA 92631

1. Parent corporation and address of principal office: Johnson & Johnson, 501 George Street, New Brunswick, NJ 08903.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Chicopee, 317 George Street, New Brunswick, NJ 08903
(b) Codman & Shurtleff, Inc., New Bedford Industrial Park, New Bedford, MA 02745
(c) Critikon, Inc., 500 Elizabeth Avenue, Somerset, NJ 08873
(d) Devro, Inc., P.O. Box 858, Loeser Avenue, Somerville, NJ 08876
(e) Ethicon, Inc., U.S. Route #22, Somerville, NJ 08876
(f) Extracorporeal Medical Specialties, Inc., Royal & Ross Roads, King of Prussia, PA 19406
(g) J&J Baby Products Co., Centennial Avenue, Piscataway, NJ 08854
(h) J&J Dental Products Co., 20 Lake Drive, East Windsor, NJ 08520
(i) J&J International, 501 George Street, New Brunswick, NJ 08903
(j) J&J Products, Inc., 501 George Street, New Brunswick, NJ 08903
(k) McNeil Consumer Products Co., Camp Hill Road, Ft. Washington, PA 19034
(l) McNeil Laboratories, Camp Hill Road, Ft. Washington, PA 19034
(m) Ortho Pharmaceutical Corp., U.S. Route #202, Raritan, NJ 08869
(n) Permacel, U.S. Route #1, New Brunswick, NJ 08903
(o) Personal Products Co., Van Liew Avenue, Milltown, NJ 08850
(p) Pitman-Moore, Inc., Box 344, Bear Tavern Road, Washington Crossing, NJ 08560
(q) Surgikos, Inc., 2500 Arbrook Blvd., Arlington, TX 76010

1. Parent corporation and address of principal office: Landsman Motor Sales, Inc., 5601 Reisterstown Road, Baltimore, Maryland 21215.

2. Wholly-owned subsidiaries which will participate in the operations, and address of thier respective principal offices: Landsman Car Carrier Service, Inc., 5601 Reisterstown Road, Baltimore, Maryland 21215.

1. Parent corporation and address of principal office: Noble Affiliates, Inc. 330 Neustadt Plaza, 333 West Main, P.O. Box 1967, Ardmore, Oklahoma 73401.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Noble Drilling Corporation, 1924 South Utica, Suite 600, Tulsa, Oklahoma 74104
(b) Samedan Oil Corporation, 110 West Broadway, P.O. Box 909, Ardmore, Oklahoma 73401
(c) B. F. Walker, Inc., 1555 Tremont Place, P.O. Box 17-B, Denver, Colorado 80217
(d) Noble Transport, Inc., 1555 Tremont Place, P.O. Box 17-B, Denver, Colorado 80217

1. Parent corporation and address of principal office: St. Louis Southwestern Railway Company, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Dallas Terminal Railway and Union Depot Company, 2300 Canton Street, Dallas, TX 75226
(b) Glascar, Inc., Southern Pacific Building, One Market Plaza, San Francisco, CA 94105
(c) The Southwestern Town Lot Corporation, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105
(d) Southwestern Transportation Company, 1766 El Camino Real, Burlingame, CA 94010

1. Parent corporation: Stanley Works, 195 Lake Street, New Britain, Connecticut 06050.

2. Wholly owned subsidiaries:

a. Stanley-Vidmar, Inc., a Connecticut corporation, with principal offices located at Queen City Airport Industrial Park, 11 Grammes Road, Allentown, Pennsylvania 18103.
b. Mac Tools, Inc., an Ohio corporation with principal offices at P.O. Box 370, South Fayette Street, Washington Court House, Ohio 43160.
c. C.E.S., Inc., an Indiana corporation, with principal offices at 10640 East 59th Street, Indianapolis, Indiana 46236.

1. Parent corporation and address of principal office: The Terminal Corporation, 211 East Pleasant Street, Baltimore, Maryland 21202.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: Terminal Transportation Service, Inc., 211 East Pleasant Street, Baltimore, Maryland 21202.

1. Parent corporation: Texas United Corporation; 2000 West Loop South; Houston, Texas 77027.

2. Wholly-owned subsidiaries:

Texas Brine Corporation, 2000 West Loop South, Houston, Texas 77027
United Salt Corporation, 2000 West Loop South, Houston, Texas 77027
TBC Fluid Services, 2000 West Loop South, Houston, Texas 77027

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1. Parent Corporation and address of principal office: United Brands Company, 1271 Avenue of the Americas, New York, New York 10020.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal office:

A&W Beverages, Inc., 1271 Avenue of the Americas, New York, New York 10020
A&W Restaurants, Inc., 922 Broadway, Santa Monica, California 90406
A&W Concentrates, Inc., 2150 Yosemite Boulevard, Modesto, California 95351
TRT Telecommunications Corporation, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006
United Brands Floriculture, Inc., 17455 S.W. 157th Avenue, Perrine, Florida 33157
John Morrell & Company, 208 South LaSalle Street, Chicago, Illinois 60604
Ark Valley Feeders, R.R. #3, Arkansas City, Kansas 67005
Golden Sun Feeds, Inc., P.O. Box 517, Estherville, Iowa 51334
M.H. Greenebaum, Inc., 165 Chambers Street, New York, New York 10007
Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, New Jersey 07645
Maritrop Trading Corporation, 1271 Avenue of the Americas, New York, New York 10020

1. The parent corporation and the address of its principal office is: Washington Industries, Inc., 244 Second Avenue, North, Nashville, Tennessee 37202.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices are:

(a) Washington Mfg. Company, 244 Second Avenue, North, Nashville, Tennessee 37202.
(b) Keith-Simmons, Inc., 1010 South 7th, Nashville, Tennessee 37206.
(c) First National Company, d/b/a Ely & Walker, 823 E. Holmes Road, Memphis, Tennessee 38116.
(d) Marshall & Bruce Company, 689 Davidson Street, Nashville, Tennessee 37206.
(e) Carter Corp., 2101 Plantside, Louisville, Kentucky 40299.
(f) Hibben's Inc., 2750 Tobey Drive, Indianapolis, Indiana 46219.
(g) William R. Moore, Inc., 183 Monroe Avenue, Memphis, Tennessee 38103.
(h) Manufactors Warehouse Co., No. 9 Cummins Station, Nashville, Tennessee 37201.
(i) Jenkins & Darwin Bros., Inc., 3rd and Commerce, Nashville, Tennessee 37202.
(j) National Stores Corp., 3rd and Commerce, Nashville, Tennessee 37202.
(k) Rockford Textile Mills, Inc., 200 Mulberry Street, McMinnville, Tennessee 37110.

1. Parent: Whitehall Co., Ltd., 750 Everett Street, Norwood, Mass. 02062.

2. Subsidiaries:

(a) Lower Fultonville Trucking Co. (same as above).
(b) Crown Distributors Co., Inc., 184 Everett Street, Allston, Mass. 02134.
(c) Liberty Liquors Division, 75 Caldwell Drive, Springfield, Mass. 01101.
(d) New England Liquor Sales, Co., Inc., 750 Main Street, Holyoke, Mass. 01040.
(e) National Beer & Liquor Co., Inc., 750 Everett Street, Norwood, Mass. 02062.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34749 Filed 11-6-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Amdt. No. 1 to Delegation of Authority No. 1]

Delegation of Authority Amendment Regarding Personnel in AID and the Institute

Pursuant to the authority vested in the Director of the United States International Development Cooperation Agency ("IDCA") by Reorganization Plan No. 2 of 1979 (44 FR 41185) and Executive Order No. 12163 of September 29, 1979 (44 FR 56673), I hereby amend IDCA Delegation of Authority No. 1, dated October 1, 1979, 44 FR 57521, as follows: 1. Section heading 1–9 entitled "Foreign Service Personnel Authorities" is changed to "Personnel Authorities."

2. Section 1–901 is deleted in its entirety and replaced by the following: "1–901. The authority of the Administrator and the Director under section 625(a) of the Act, with respect to personnel in AID and the Institute respectively, shall include any authority available to me under any statute, regulation, or delegation of authority, relating to any aspect of personnel authority or administration, including, but not limited to: (a) The Act;

(b) The Foreign Service Act of 1980, Pub. L. 96–465, 94 Stat. 2071;

(c) Title 5 of the United States Code; and

(d) Delegations of Authority from the Office of Personnel Management."

This amendment is effective immediately.

Dated: October 31, 1980.

Thomas Ehrlich,

Director.

[FR Doc. 80-34795 Filed 11-06-80; 8:45 am]

BILLING CODE 4710-02-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee On Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. on December 2, 1980, beginning at 9:30 a.m. This meeting is subject to either cancellation or a change of date. A notice will appear in the **Federal Register** regarding any change which may occur.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections 1242(a)(1)(B)(C). In addition, administrative matters relative to the Advisory Committee will be reviewed.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the portion of the meeting dealing with the questions which may appear on the Joint Board's examinations falls within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, Section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The remainder of the meeting, i.e., those agenda items not pertaining to possible questions to be used on the Joint Board's examinations, will commence at approximately 9:30 a.m. and will be open to the public as space is available until the conclusion of those agenda items.

Dated: November 4, 1980.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 80-34794 Filed 11-6-80; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Publication of Criteria Used in Granting Excepted Prescription Drug Status of the Controlled Substances Act to Certain Preparations

AGENCY: Drug Enforcement Adminstration, Department of Justice.

ACTION: Notice

SUMMARY: One of the obligations incurred by the United States as a Party to the 1971 Convention on Psychotropic Substances is the requirement that the Secretary-General of the United Nations be notified of the names and composition of preparations exempted from any measures of control provided in that Convention. Also, the United States as a Party to the 1971 Convention, has provided to the Division of Narcotic Drugs of the Commission secretariat the criteria which have been used by the U.S. to except preparations. This was done in response to a request received from the Commission on Narcotic Drugs for information which might facilitate the elaboration of additional guidelines internationally. Comments concerning the criteria may be made to the Drug Enforcement Administration.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: The United States has provided the Secretary-General of the United Nations with a copy of Chapter II—Drug Enforcement Administration, Table of Excepted Prescription Drugs to Part 1308, 21 CFR in fulfillment of one of its obligations as a Party to the 1971 Convention on Psychotropic Substances. In addition, the United States, in response to a request contained in Resolution 2 (S–V1) of the Commission on Narcotic Drugs of the United Nations, for additional information, has provided to the secretariat of the Commission criteria which have been used by the Drug Enforcement Administration and its predecessor agencies to grant excepted prescription drug status of the Controlled Substances Act to over 2,000 preparations. The great majority of the preparations granted excepted prescription status were excepted by the Bureau of Drug Abuse Control (BDAC) of the Food and Drug Administration. The criteria used by BDAC were developed by a panel of Public Health Physicians and Food and Drug Administration medical officers in 1967. These criteria were used by BDAC's successor, the Bureau of Narcotics and Dangerous Drugs and later the Drug Enforcement Administration.

These criteria were based upon the concept of combining with the controlled substance contained in the preparation, an amount of counteractive drug sufficient to cause early subjective deterrent side effects. The ratios of psychotropic drug to counteractive deterrent drug were based upon specific daily threshold values for psychic and/or physical dependence. Daily threshold values of 500 mg. for short acting barbiturates and 800 mg. for intermediate and long acting barbiturates were selected by the panel of physicians and medical officers. Before a combination could be excepted, the side effects produced by the deterrent drug would have to be sufficient to limit the daily barbiturate intake to no more than 500 mg. for short and 800 mg. for intermediate and long acting barbiturates. Psychotropic drugs combined with relatively innocuous substances were not excepted.

Some examples of the deterrent daily threshold doses selected are:

	Mg./day
Atropine	3.50
Conjugated equine estrogen or equivalent	11.25
Theophylline	800
Theobromine	800
Chlorpromazine	500

Using theophylline as an example, a total daily dose of 800 mg. of theophylline would induce sufficient subjective side effects to preclude the intake of enough barbiturate to produce dependency. Therefore, a *ratio* of at least 800 parts by weight of theophylline and 800 parts by weight of a long acting barbiturate such as phenobarbital should be combined before an exception could be granted.

Drugs which do not have early deterrent side effects but which do include delayed, very serious toxic reactions after sustained use are not suitable for use in excepted preparations.

The following specific criteria have been used in evaluating requests for excepted prescription drug status:

I. *Barbiturate in combination with:*

A. *Analgesics:*

In order to be excepted, the following criteria apply to barbiturates and analgesics:

1. Fifteen milligrams of long or intermediate acting barbiturates combined with at least:
   a. 188 mg. aspirin;
   b. 375 mg. salicylamide;
   c. 70 mg. phenacetin, acetanilid, or acetaminophen.
2. Fifteen milligrams of short acting barbiturates combined with at least:
   a. 307 mg. aspirin;
   b. 614 mg. Salicylamide;
   c. 106 mg. acetanilid, phenacetin, or acetaminophen.

B. *Anticholinergics:*

1. Atropine or belladonna alkaloids: Hyoscyamine in official salts is the levo form. Dextro-hyoscyamine is inactive and not used because its antimuscarinic activity is almost nil. 1-hyoscyamine is therefore twice as potent as an equal weight of atropine.

If side effects from belladonna alkaloids do not limit the barbiturate intake to less than 500 mg. of short acting or 800 gm. of intermediate or long acting barbiturate, the combination should be controlled. It is recommended that if a person ingests 500 mg. of short acting or 800 mg. of intermediate or long acting barbiturates per day, the amount of atropine base or equivalent needed for exception must be not less than 3.5 mg. per day.

The following information is used for calculations involving belladonna and hyoscyamus preparations:

Hyoscyamus Extract: Total alkaloids as hyoscyamine, 155 mg/100 gm or 0.155% alkaloids.

Belladonna Extract: Total alkaloids as atropine, 1.25% alkaloids.

Belladonna Leaf: Total alkaloids as atropine, 0.35% alkaloids.

Belladonna Root: Total alkaloids as atropine, 0.45% alkaloids.

Tincture Belladonna: Total alkaloids as atropine, 0.03% alkaloids.

Belladonna Leaf Fluid-extract: Total alkaloids as atropine, 0.3% alkaloids.

2. *Synthetic Anticholinergics:*

In order for a preparation to be excepted it must contain at least the amount of anticholinergics shown in the following table with 15 mg. of either short or long acting barbiturate:

Anticholinergic drugs	Therapeutic dose(mg)	Threshold dose(mg)	Threshold dose(mg) compared to 15 mg barbiturate	
			Long acting	Short acting
Adphenine	75	525	9.8	15.75
Ambutonium Bromide	2.5	17.5	0.33	0.52
Ansotropine Methylbromide	10	70	1.33	2.1
Atropine	0.5	3.5	0.066	0.105
Dicyclomine Hydrochloride	20	140	2.6	4.2
Diphemanil Methylsulfate	50	350	6.6	10.5
Glycopyrrolate	1	7	0.13	0.21
Homatropine base	3.7	26	0.5	0.8
Mepenzolate Bromide	25	175	3.3	5.2
Methantheline Bromide	25	175	3.3	5.2
Oxphencyclimine Hydrochloride	10	70	1.3	2.1
Oxyphenonium	10	70	1.3	2.1
Penthienate Bromide	5	35	0.66	1.05
Pipenzolate Methylbromide	5	35	0.66	1.05
Pipendolate Hydrochloride	50	350	6.6	10.5
Poldine Methylsulfate	5	35	0.66	1.05
Propantheline Bromide	15	105	2	3.2
Scopolamine base	2	14	0.26	0.4
Thiophenamil Hydrochloride	100	700	13	21
Tricyclomol Hydrochloride	50	350	6.6	10.5
Valethamate	10	70	1.3	2.1

C. *Ephedrine:*

Drug combinations containing levels of barbiturates at 15 mg. and ephedrine at 12.5 mg. are excepted.

D. *Hormones:*

1. *Estrogens:*

Estrogens must be at a level of 3 times the maximum recommended therapeutic dose when a level of 500 mg. short acting or 800 mg. of intermediate or long acting barbiturate is present. At this level, estrogen can be considered a deterrent and such preparations may be excepted.

2. *Testosterone:*

Such combinations should be controlled because the subjective side effects in the male would not be limiting. In addition, the insidious onset of liver disease could be fatal.

3. *Estrogens, Testosterone, and Barbiturates:*

In the absence of evidence to the contrary, each would not conteract the effects of the other and a basis for exception could be made only by evaluating the estrogen content alone.

E. *Hydantoin Anticonvulsants (Mephenytoin, diphenylhydantoin):*

Every 80 mg. of long acting barbiturate must be combined with at least 100 mg. hydantoin for exception. Doses of diphenylhydantoin greater than 500 to 600 gm. daily uniformly produce side effects.

F. *Inert Ingredients or Ingredients of Doubtful Efficacy* are controlled. This includes vitamins, minerals, methycellulose, amino acids, magnesium hydroxide, etc.

G. *Nitrates or Nitrites:*

Combinations of drugs which contain therapeutic levels of nitrates or nitrites with a barbiturate up to 60 mg. in amount would be excepted.

H. *Thyroid Hormone:*

Every 15 mg. of long or intermediate acting barbiturate must be combined with at least 11 mg. of thyroid extract or 0.019 mg. thyroxine for exception.

I. *Xanthines:*

1. *Caffeine:* Will not prevent the potential abuse when combined with barbiturates. Barbiturates in single combination with caffeine should be controlled.

2. *Theophylline:* 800 mg. of the base as a total daily dose would induce sufficient subjective side effects to preclude the intake of sufficient barbiturate to produce dependency. Therefore, at a ratio of at least 800 mg. theophylline base and at most 500 mg. short acting or 800 mg. intermediate or 800 mg. long acting barbiturate should be combined before an exception could be granted.

3. *Theobromine:* Combination drugs which contain a ratio of 800 mg. or more of theobromine base in combination with 500 mg. short acting or 800 mg. of intermediate or long acting barbiturates are excepted.

J. *Secondary Ingredients with Hazardous but Insidious Side Reactions:* Some drugs, such as *thiocyanate*, do not have early deterrent side effects which occur regularly at a given dose, but do induce delayed, very serious toxic reactions after sustained use. Thus an abuser might develop a fatal, insidious illness from his experiments with a combination drug containing one of these secondary ingredients, with no warning from early side effects. Therefore, such combinations should be controlled.

II. *Meprobamate:*

Quantities of specific ingredients required to except 200 mg of meprobamate.

	mg
Conjugated Estrogens	0.2
Pentaerythritol Tetranitrate	10.0
Trichexethyl Chloride	12.5

III. *Chlordiazepoxide.*

Quantities of specific ingredients required to except 5 mg of chlordiazepoxide.

	mg
Conjugated Estrogens	0.1875
Clinidium Bromide	0.5830

Experience since 1967 has shown that excepted preparations have not contributed significantly to drug abuse in the U.S. Considering this lack of evidence that exemption of these preparations has significantly added to the abuse problem, DEA intends to continue the use of the described guidelines.

Interested parties may submit comments in writing regarding these criteria. Written comments should be received on or before December 8, 1980. Comments should be submitted to the Administrator, Drug Enforcement Administration, Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

Dated: November 3, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-34867 Filed 11-6-80; 8:45 am]

BILLING CODE 4410-09-M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed 1981 aggregate production quotas.

SUMMARY: This notice proposes 1981 aggregate production quotas for dextropropoxyphene, Tetraphydrocannabinols and pethidine intermediate-A. Since the establishment of the 1981 aggregate production quotas for other Schedules I and II controlled substances on September 18, 1980 (45 FR 62228), certain events have occurred which require that quotas for these additional substances be established, in accordance with the Controlled Substances Act of 1970.

DATE: Comments should be received on or before (30 days from publication).

ADDRESS: Send comments in quintuplicate to: Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations. Since the establishment of the 1981 aggregate production quotas for other substances in Schedules I and II on September 18, 1980 (45 FR 62228), events have occurred which require that quotas for dextropropoxyphene, tetrahydrocannabinols and pethidine intermediate-A be set.

In a final rule which appeared in the **Federal Register** on July 22, 1980, bulk dextropropoxyphene was placed in Schedule II of the Controlled Substances Act (45 FR 48881). This action requires that an aggregate production quota be established for this substance. In determining the proposed 1981 aggregate production quota for dextropropoxyphene, the Administrator considered data on quota applications submitted by those companies which desire to manufacture dextropropoxyphene or to formulate dosage units containing this substance. This data included actual past sales of dextropropoxyphene as well as estimates of 1980 sales and 1980 year-end inventories.

Concerning tetrahydrocannabinols, the National Cancer Institute has recently undertaken an expanded research program to investigate the usefulness of this Schedule I basic class in the control of emesis resulting from the treatment of cancer. The Pharmaceutical Resources Branch, Division of Cancer Treatment of the National Cancer Institute has estimated that 20,000 grams of tetrahydrocannabinols will be produced in 1981 in order to supply investigators for this research. A 1981 aggregate production quota must be set to allow a registered manufacturer to produce this amount of material.

Recently, application has been made for a manufacturing quota for pethidine intermediate-A (4-cyano-1-Methyl-4-phenylpiperidine), a Schedule II substance. This substance is to be manufactured for use as a precursor in the synthesis of meperidine. Therefore, it is necessary to propose an aggregate production quota for pethidine intermediate-A. This proposed quota is based on the historical yield of meperidine from this intermediate and the amount of meperidine which will be manufactured in 1981.

Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes that the 1981 aggregate production quotas for dextropropoxyphene and pethidine intermediate-A, expressed as anhydrous base, and tetrahydrocannabinols be established as follows:

Controlled substance	Proposed 1981 aggregate production quota (g)
Tetrahydrocannabinols (schedule I)	20,000
Dextropropoxyphene (schedule II)	44,798,000
Pethidine intermediate-A (schedule II)	6,877,000

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a hearing, the Administrator will have published in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: November 3, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-34850 Filed 11-6-80; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet Wednesday, November 19, 1980, in the 13th Floor Conference Room, 633 Indiana Avenue, NW., Washington, D.C. 20531. The meeting will be open to the public.

The meeting will begin at 10 a.m. Agenda items include: the review and preliminary identification of a limited number of priority, delinquency-related issues suitable for the Council's future attentions; a report on cooperative efforts with the Department of Health and Human Services regarding implementation of the Adoption Assistance and Child Welfare Act of 1980; discussion of the issue pertaining to the mentally disturbed and mentally retarded juvenile offender; an update on the progress of the Annual Analysis and Evaluation comprehensive survey; presentation of draft Council bylaws, including a provision regarding minimal criteria for selection of Council designees; and discussion of issues raised by the National Advisory Committee which are of mutual concern to the Council.

For further information contact Mr. James C. Shine, Executive Assistant and Special Council, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-34893 Filed 11-6-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Awards Pursuant to ETA OPER Grant Solicitation 8009; Grants for Research on Social and Institutional Processes Affecting Hispanic American Employment Outcomes

The U.S. Department of Labor, Employment and Training Administration, Office of Policy, Evaluation and Research, announces the following awards under Grant Solicitation 8009:

1. Pennsylvania State University, "Labor Market Dynamics and Joblessness for Hispanic American Youth", Approximate Cost—$59,000.

2. Michigan State University, "Illness and Disability as Factors Promoting Dependence on Seasonal Agricultural Labor Among Chicanos within the Midwestern Migratory Stream", Approximate Cost—$59,000.

3. The University of Akron, "Employment Outcomes of Hispanic Youth: An Analysis of Labor Market Behavior Using the 1979 National Longitudinal Survey of Youth", Approximate Cost—$100,000.

4. Northwestern University, "Determinants of High School Track Selection and Course Taking and Their

Consequences for Post Secondary Education and Earnings of Hispanic Americans", Approximate Cost—$57,000.

5. Battelle Human Affairs Research Centers, "English Proficiency, Occupational Characteristics, and the Employment Outcomes of Mexican-Americans", Approximate Cost—$98,000.

6. University of California, "The Economic Status of Male Hispanic Migrants and Natives in the U.S.: A Human Capital Approach", Approximate Cost—$37,000.

7. George Washington University, "Unemployment Among Hispanic Youth: Educational and Social Antecedents", Approximate Cost—$56,000.

Arvon W. Jordan,
Chief, Central Procurement Staff.
October 31, 1980.

[FR Doc. 80-34870 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-128-C]

Double "O" Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Double "O" Coal Company, Rockhouse, Kentucky 41561 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 137 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The coal seam in the No. 137 Mine ranges from 40 to 48 inches in height, with ascending and descending grades, resulting in dips in the coalbed.

2. Petitioner states that installation of cabs and canopies on the mine's haulage and electrical face equipment would result in a diminution of safety for the miners affected because:

a. The canopies cannot be set low enough to clear the roof support system.

b. Cramped seating of the equipment operator reduces visibility and causes operator fatigue.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 24, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 29, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-34888 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-100-M]

Noranda Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Noranda Mining, Inc., P.O. Box 1450, Park City, Utah 84060 has filed a petition to modify the application of 30 CFR 57.11-41 (fixed ladder requirements) to its Ontario Project located in Summit County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner requests a modification of the standard in order to maintain the maximum ventilation flow of air from the surface to the 100 foot level down a six foot borehole.

2. The standard requires the travel way in a vertical borehole to be offset with landings every 30 feet and the six foot diameter hole would require a back guard. Petitioner states that this type of structure would seriously hinder the air flow down the six foot diameter ventilation hole to the 100 foot level.

3. The purpose for having a manway down the borehole is for inspection of a sand line. The hole will not be used for regular travel or as an escapeway.

4. Petitioner proposes as an alternative method a fall prevention system which claims to meet the OSHA standard found at 29 CFR 1910.27. The system consists of a roller bearing equipped sleeve, a notched carrier rail on ladder, and two snaps on the sleeve that fasten to the safety belt.

5. petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 24, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 29, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-34885 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-143-C]

Mary Lee Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mary Lee Coal Company, Inc., P.O. Box 208, Tracy City, Tennessee 37387 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 27 Mine located in Sequatchie County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The coal seam varies from pencil thickness to 36 inches in height.

2. Petitioner states that installation of lighting fixtures onto the mine's equipment would result in a diminution of safety for the miners affected because:

a. Installation of the prescribed lighting system will cause an abrupt, virtually instantaneous change in the light intensity. For a period of time thereafter, the equipment operator and those working in the general vicinity will be blinded;

b. The lighting interferes with the communication between miners by cap lamp; and

c. The foreman is forced to travel from lighted areas to dark areas while performing duties and this could impair the foreman's vision and hamper job performance.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 24, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 29, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-34887 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-102-M]

Pea Ridge Iron Ore Co.; Petition for Modification of Application of Mandatory Safety Standard

Pea Ridge Iron Ore Co., Route 4, Sullivan, Missouri 63080, has filed a petition to modify the application of 30 CFR 57.4-61(B) (fire door requirements) to its Federal Mine located in Washington County, Missouri. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in each opening to an underground shop.

2. The underground shop area is at the lower-most working level (2475 foot level) of the mine with the normal fresh air flow from the downcast intake shaft (#1 shaft), through the underground shop and into the ore body on that level.

3. The mine is a "hardrock" mine of non-combustible materials consisting of magnetite and hematite iron ore surrounded by rhyolite porphyry; is high in humidity as measured at 95 to 100 percent relative humidity; is a non-gassy mine; has little or no timbering anywhere in the mine; and the underground shop area is merely additional mine excavation with concreted floors and gunited walls and back.

4. As an alternative method to installing fire doors, petitioner proposes the following:

a. The main level fan on the 2475 foot level (underground shop level) is located between the underground shop and the ore body. This fan would be shut off at the shop office by an emergency shutdown switch and automatically blocked from recirculating; this would allow diverting the air flow directly to the upcast mine exhaust shaft (#2 shaft) through the exhaust fan;

b. Any employees in the underground shop area would have direct access to the downcast fresh air intake shaft and employees working on the 2475 foot on level on the ore body side of the main level fan which has been shut off are protected by air doors between the shop and that main level fan;

c. These employees also have two means of exit via inclines which provide access to the 2275 foot level above and the fresh air flow at the #1 intake shaft on that level. The only exposure of personnel in this procedure would be the skip pocket attendant at the 2380 foot skip pocket level of the exhaust shaft. This employee has a signal connection to the emergency shutdown switch on the 2475 foot level main level fan that will activate a siren when that fan is shutdown, in which case it is required that the 2380 skip pocket attendant immediately exit to fresh air up the incline to the 2275 foot level fresh air intake station.

5. Petitioner believes that the modification as requested will provide an alternative method of achieving the result of the standard and guarantee at all times no less protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 24, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 29, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-34886 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Alaska State Standards; Notice of Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated August 4, 1980 from Edmund N. Orbeck, Commissioner, to James W. Lake, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.177 Subpart N, Servicing Multi-Piece Rim Wheels, as published (44 FR 6706) on January 29, 1980.

These State standards, which are contained in AAC 01.0810—Servicing Multi-Piece Rim Wheels, were promulgated after a public workshop and publication on April 9, 1980 in the State-wide media. The public comment period was open for thirty days by Edmund N. Orbeck, Commissioner, under authority vested by AS 18.60.020.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The significant area of difference is the deletion of the phrase, "the employer shall," throughout the standards, as the employer's responsibilities are spelled out in Alaska's State Statutes, Section 18.60.075, Safe Employment.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Roiom N2349R, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comments and further public participation would be repetitious.

This decision is effective November 7, 1980.

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(Sec. 18, Pub. L. 91596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 25th day of September 1980.

James W. Lake,

Regional Administrator.

[FR Doc. 80-34876 Filed 11-5-80; 8:45 am]

BILLING CODE 4510-26-M

[V-78-12; V-79-1]

Chrysler Corp.; Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of variance.

SUMMARY: OSHA has granted the Chrysler Corporation's application for a permanent variance from certain paragraphs of 29 CFR 1910.1025, Occupational Exposure to Lead, and 29 CFR 1910.1018, Occupational Exposure to Inorganic Arsenic.

DATES: The effective date of this grant of variance is November 7, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N3662, Washington, D.C. 20210, Telephone: (202) 523-7144

or the following Regional and Area Offices

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 1110, Charles Center—31 Hopkins Plaza, Baltimore, Maryland 21201

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building—Room 3007, 844 King Street, Wilmington, Delaware 19801

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Department of Labor, Occupational Safety and Health Administration, 344 Smoke Tree Business Park, North Aurora, Illinois 60542

U.S. Department of Labor, Occupational Safety and Health Administration, 231 West Lafayette—Room 628, Detroit, Michigan 48226

U.S. Department of Labor, Occupational Safety and Health Administration, 210 North 12th Boulevard—Room 520, St. Louis, Missouri 63101

U.S. Department of Labor, Occupational Safety and Health Administration, 1150 Grand Avenue—6th Floor, 12 Grand Building 30309, Kansas City, Missouri 64106

I. Background

On May 3, 1978, The Occupational Safety and Health Administration, ("OSHA") issued an occupational safety and health standard for exposure to inorganic arsenic [29 CFR 1910.1018; 43 FR 19584, May 5, 1978]. In September, 1978, Chrysler Corporation ("CC") applied, pursuant to section 6(d) of the Occupational Safety and Health Act [29 U.S.C. 655(d)] and 29 CFR 1905.11, for a permanent variance from several provisions of the standard. CC also requested an interim order pending a decision on the application.

An occupational safety and health standard for exposure to lead was issued on November 13, 1978 (29 CFR 1910.1025; 43 FR 52952, November 14, 1978). CC applied on January 8, 1979, for a variance from several provisions of the lead standard and an interim order pending a decision on the application.

Both variance applications pertain to the lead and inorganic arsenic exposure that occurs on the automobile assembly line during the soldering process. With concurrence of CC, OSHA consolidated the individual applications for consideration and disposition.

The addresses of the places of employment affected by the applications for inorganic arsenic and lead are as follows:

Chrysler Corporation, Stamping and Assembly Division
Belvedere Assembly Plant, Chrysler Drive, Belvedere, Illinois
Jefferson Assembly Plant, 12200 E. Jefferson Avenue, P.O. Box 1658, Detroit, Michigan
Lynch Road Assembly Plant, 6334 Lynch Road, P.O. Box 1518, Detroit, Michigan
Missouri Truck Assembly Plant, 1050 Dodge Drive, Fenton, Missouri
Newark Assembly Plant, 550 S. College Street, P.O. Box 179, Newark, Delaware
St. Louis Assembly Plant, 1001 N. Highway Drive, Fenton, Missouri
Warren Recreational Vehicle Plant, 6600 E. Nine Mile Road, Warren, Michigan
Warren Truck Assembly Plant, 21500 Mound Road, Detroit, Michigan
Warren Truck Special Equipment Center, 21900 Hoover Road, Warren, Michigan

In addition, the applicant has asked to have the variance extended to any future facilities which have solder grind booths operating in the same manner as existing ones.

An interim order pending the decision on CC's application for variance from the inorganic arsenic standard was granted on November 17, 1978. Notice of the CC application for variance and for the interim order, and of the grant of the request for an interim order was published in the **Federal Register** on November 17, 1978 [43 FR 53847-49]. An interim order covering the lead standard was subsequently granted on February 2, 1979. Notice of the CC application for variance from the lead standard and for the interim order, and notice of the grant of a lead interim order and of the renewal of the first interim order concerning inorganic arsenic, was printed in the **Federal Register** on February 2, 1979. [44 FR 6791-95]. Both notices invited interested persons to submit written data, views, and arguments regarding the grant or denial of the variances requested. In addition, affected employers and employees were notified of their right to request hearings on the applications for variance. The Chrysler Corporation requested a hearing in the event that the consolidated variance application was denied. The February 2, 1979 notice announced that additional data and information had been requested from CC to supplement the data submitted with the original variance applications to enable OSHA to reach a decision on the variance. In addition to the data generated by CC, OSHA conducted several variance investigations at CC facilities to gather additional information. Throughout the variance process, OSHA, CC, and the UAW met several times to discuss the CC application. These meetings provided more information to the record of the proceeding and served as a vehicle for revising the original application so that a complete protective program acceptable to OSHA, as reflected by the variance order, was developed. Discussions were also held with the General Motors Corporation and Ford Motor Company, both of whom had submitted similar applications for variance. Interim orders have been issued to these applicants [43 FR 53847-49, November 17, 1978; 44 FR 6791-95, February 2, 1979; 45 FR 10972-75, February 19, 1980] and a decision on a permanent variance for Ford is pending, while the General Motors grant of variance appeared in the **Federal Register** on July 11, 1980 [45 FR 46922-31, July 11, 1980].

Three comments were received with regard to the request for variance from the inorganic arsenic standard. Two of the comments were from the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("UAW"), the employee representative in the affected facilities. The UAW disagreed with much of CC's rationale and reserved the right to request a hearing. The UAW stated further that, considering the interrelationship between occupational exposure to inorganic arsenic and lead in the automobile industry, should CC file an application as to the lead standard, they would request consolidation of the hearings on the two applications. The third comment was from an employee of the Chrysler Corporation which was sent by way of one of OSHA's Regional Offices. This employee took exception to some of the assertions made in the application, but did not request a hearing.

On March 1, 1979, the U.S. Court of Appeals for the District of Columbia Circuit judicially stayed certain provisions of the lead standard (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 79-1048 (D.C. Circuit, March 1, 1979)). Notice of the partial judicial stay was published in the **Federal Register** on March 13, 1979 (44 FR 14554). CC had requested variance from several provisions of the lead standard which had been judicially stayed. The stayed provisions were 1910.1025(e)(1); 1910.1025(e)(3) except for (e)(3)(ii)(F); 1910.1025(i), as it applies to construction of new facilities or substantial renovation of existing facilities; and 1910.1025(r), as it applies to other provisions of the standard which had been stayed. On August 15, 1980, the Court of Appeals issued a decision upholding the standard in major part, but remanding to OSHA the question of the feasibility of the standard for specified industries, including the auto manufacturing industry. As to these industries, the record was remanded to the Secretary of Labor for reconsideration, with directions to return the record on feasibility, with sufficient evidence and explanation, within six months. In the interim, the stay of paragraph (e)(i) of the standard, which requires compliance with the PEL by engineering work practice controls, continues for these industries. All other provisions of the standard, including the requirement to reach the PEL by some combination of engineering, work practice and respiratory controls, are in effect.

II. Facts

A. *The Soldering Process.* The applicant is a manufacturer of automobiles. The assembly of some automobile bodies necessitates application of solder to certain welded joints. Lead solder is principally used to fill depressed, welded joints between body panels to achieve durable, finely-sculptured body surfaces after final paint.

The soldering process is performed in the body shop on the assembled shell. Joint soldering and grinding is one of the final steps in body assembling and construction performed prior to hanging and fitting of door, hood, fender and trunk lid assemblies. Stud welding and metal finishing may take place prior to transfer to the paint shops for painting.

An automotive body may have as many as eight to ten joints that require a solder fill. If a joint is scheduled to be covered with vinyl roof covers, in certain instances a substitute filler may be used since final paint appearance is not a factor.

The welded automobile body proceeds along the body shop conveyor to the soldering area and is processed in the following steps:

1. *Joint Preparation.* The joint area is rough ground and wire brushed to smooth the metal and remove excess chips, dirt and any coatings on the steel.

2. *Tinning.* Joint preparation is immediately followed by coating of the joint with a thin layer of tinning compound to assure a good bond of the solder.

This operation is performed by wiping on the tinning compound which is a suspension of powdered solder and flux. This tinning compound is subsequently heated with a hand held torch to promote reaction with the surface of the steel. This is immediately followed by rag wiping the coated surface, leaving only a thin coating of solder.

3. *Solder Fill.* The tinned joint is now filled with solder which has been prepared by heating to a mush-like consistency. Prior to application, the body joint is fanned with a torch to raise the temperature to avoid cold shock and poor adhesion of the solder. The employee performing this operation is skilled in filling, heating and contouring the solder on the body to produce a joint ready for minimal grinding.

4. *Solder Grind.* The cooled joint is sculptured to exact body contour through rough and finish grinding using rotary disc, hand-held grinders in enclosed solder-grind booths. These booths vary from about 100 to 200 feet in length, and can accommodate several car bodies with about six feet of work space on either side. The booths are operated under negative pressure with a designed minimum in-draft of 150 feet per minute into all openings of the booth. The booths are vented by drawing outside air into the booth and exhausting it through an enclosed system through the roof of the plant.

Workers then utilize grinding and finishing tools to remove excess solder and smooth the finish. The first operator in the line uses a relatively coarse abrasive; subsequent employees use a smoother finishing process as the car body passes through the booth.

During the grinding operation, particles of solder are released into the atmosphere of the solder grind booth at very high velocities. According to material specifications, the body solder used by CC contains arsenic in quantities of up to 0.6 percent and approximately 90 percent lead. Thus, whenever workers are exposed to lead from soldering applications, there is concurrent exposure to inorganic arsenic. To protect solder grind operators in the booth from the toxic dusts and the hot, high-velocity particles, these operators wear positive pressure supplied-air hoods which extend downward to cover the waist. Flaps covering the front and back fasten under the arms and around the waist. An inner bib is located around the neck of the wearer.

5. *Subsequent Operations.* The car body is then cleaned either by washing, wiping, or air blow-off. The body then proceeds for door, fender, hood and rear deck lid hanging and fitting, final stud welding, and metal finishing and polishing.

Some provisions are made in all body shops for a variety of repair operations. All lines provide a final body wash and blow-off of body shop dirt, dust and debris prior to the acid bath which prepares the car body for painting (phosphating), and the paint shop.

B. *Application for Variance.* CC's application for a variance applies to workers in the soldering process. The applicant proposes to provide a place of employment as safe as that required by 29 CFR 1910.1018, which contains regulations concerning inorganic arsenic and by 29 CFR 1910.1025, which contains regulations concerning lead. Specifically, the applicant requested variance from several provisions of the lead standard, as follows:

Sections 1910.1025(e)(1) and (e)(3) of the standard deal with engineering and work practice controls, and compliance programs, respectively, as they pertain to methods of compliance. In part, these provisions require that employers implement engineering and work practice controls to reduce and maintain employee exposure to lead consistent with levels required by the standard, and establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit ("PEL") solely by means of engineering and work practice

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controls. The applicant requested a variance from these provisions insofar as they pertain to every work station within the solder grind booth, and the assembly line between the solder application and the phosphating operations.

Section 1910.1025(i) of the standard relates to hygiene facilities and practices and deals, in part, with requirements for the provision and use of change rooms, showers, lunchrooms, and lavatories in areas where employees are exposed to lead above the PEL without regard to the use of respirators. The applicant requested a variance from this section insofar as it requires special hygiene facilities for solder applicators and employees on the line between the solder grind booth and the phosphating operation.

Section 1910.1025(i)(4) of the standard specifies requirements for hygiene facilities and practices including lunchrooms. Specifically, employers are required to provide temperature controlled, positive pressure, filtered air supplied lunchrooms, readily accessible to employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of respirators. The applicant requested a grant of variance from this section insofar as it required these lunchrooms.

Section 1910.1025(d)(1) deals with the general requirements for exposure monitoring and defines, for those purposes, employee exposure as that exposure which would occur if employees were not using a respirator. CC requested a variance from this section, insofar as it requires monitoring of air levels of lead within the solder grind booths, without regard to a respirator.

Sections 1910.1025(d)(1) (ii) and (iii) require, in part, that the employer collect full shift personal samples including at least one sample for each shift for each job classification in each work area, and that these samples be representative of a monitored employee's regular, daily exposure to lead. The applicant requested variance from these provisions insofar as they require full-shift monitoring for employees on the assembly line.

Section 1910.1025(g)(2)(viii) is concerned with the prohibition for the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air. The applicant requested a variance from this section insofar as it necessitates vacuuming of clothes when employees leave the solder grind booths.

Section 1910.1025(h)(2)(i) requires that surfaces where lead accumulates not be cleaned by the use of compressed air. The applicant requested a variance from this section insofar as it may be interpreted to prevent the removal of lead dust from automobile bodies prior to their exit from the solder grind booth.

Section 1910.1025(f)(2)(i) deals with respirator selection where respirators are required. The applicant requested a variance from this section insofar as it might be construed to prohibit supervisors spending intermittent periods in the solder grind booths from wearing half-mask, air-purifying respirators.

Section 1910.1025(r) deals with start up dates, requiring all obligations of the standard to commence on the effective date except for such requirements as hygiene facilities and compliance programs. The applicant requested relief from any obligation of this section from which the variance was requested.

Specifically, the applicant requested variance from several provisions of the inorganic arsenic standard, as follows:

Section 1910.1018(e)(1)(ii) defines employee exposure to inorganic arsenic as the exposure which would occur if the employee were not wearing a respirator.

Section 1910.1018(e)(1)(iii) requires collections of full shift (at least 7 continuous hours) personal sampling including at least one sample for each shift for each job classification in each work area.

Section 1910.1018(g)(1) requires the institution of engineering and work practice controls to reduce exposures to or below the permissible exposure limit, except to the extent that the employer can establish that such controls are not feasible; and

Section 1910.1018(g)(2) requires the establishment and implementation of a written compliance program for reducing exposures. The applicant requested variance from the requirement for using engineering and work practice controls to reduce employee exposure in the solder grind booths and from the requirement to develop written compliance programs.

Section 1910.1018(h)(2) contains the requirements for respirator selection, including a table which lists the required respirators for various concentrations of airborne inorganic arsenic. The applicant requested variance from this section to permit supervisors to wear half facepiece, filter-type respirators approved for toxic dust, with a high-efficiency filter if necessary.

Section 1910.1018(m)(3)(i) requires that employers provide readily accessible lunchrooms with temperature controlled, positive pressure, filtered air supply for employees working in regulated areas.

Section 1910.1018(m)(5) requires that employers provide and assure the use of facilities for employees, working in regulated areas where exposure (without the use of respirators) exceeds 100 $\mu g/m^3$, to vacuum their protective clothing and clean or change shoes before entering change rooms, lunchrooms or showers. The applicant requested a variance from this section insofar as it limits the cleaning process to the use of vacuum.

Section 1910.1018(n) requires physical examinations of employees exposed above the action level without regard to the use of respirators, either annually or semi-annually, depending on length and level of exposure. The applicant requested a variance from this section insofar as it requires semi-annual medical examinations.

III. Decision

CC's applications for variance were submitted shortly after the inorganic arsenic and lead standards were isued. The supporting data submitted at the early stages of the proceeding were deemed sufficient for granting an interim order, but OSHA concluded that more supporting data were necessary before a permanent variance could be granted. CC collected the additional information as requested and provided it to OSHA. OSHA conducted variance investigations at several CC assembly facilities to obtain more information it deemed necessary to make a final determination on the consolidated application. Extensive discussions were held with the Company and the UAW at various stages of the proceeding regarding the proposed CC program of worker protection. After careful consideration of the entire variance record and of the records in the lead and inorganic arsenic rulemakings, OSHA concluded that CC's original request could not be granted in its entirety as it did not meet the statutory criterion for a permanent variance.

However, at the core of CC's variance request was a voluntary commitment on the part of the Company to a program of preventing inorganic arsenic and lead exposure associated with solder grinding by eliminating the use of lead body solder where feasible (see application for lead variance, pp. 4–6). That commitment and the unlikelihood of CC finding an engineering control solution as effective as total elimination of lead exposure in the standard's one year compliance period fostered a cooperative effort among OSHA, the UAW, and the Company to promote that goal by finding an acceptable interim solution until the Company's effort to eliminate inorganic arsenic and lead exposure could be completed.

After numerous discussions, agreement was reached on a comprehensive variance program which OSHA concluded would provide workers with protection equivalent to that provided by the lead and arsenic standards. This program is embodied in the variance order issued today. CC's agreement to abide by the terms of the variance order is taken by OSHA to be an implicit revision of the original applications so as to incorporate only the terms of the order, thereby allowing a complete grant of the applications as revised. CC has also agreed, as has the UAW, to withdraw their requests for hearing. Certain items in the original applications for which a variance was requested are not addressed in the Order. With respect to these items, CC has agreed to have the relevant provisions of the lead and inorganic arsenic standards apply, and OSHA has treated these items as having been withdrawn. A discussion of these issues is found in the appropriate paragraphs below.

The variance order issued to CC today permits the Company to comply with the numbered terms and conditions set forth in the variance order instead of the following requirements in the lead and arsenic standards:

29 CFR 1910.1025(d)(1)(i) and 29 CFR 1910.1018(e)(1)(ii), concerning employee exposure for monitoring purposes; 29 CFR 1910.1025(d)(1)(ii) and 29 CFR 1910.1018(e)(1)(iii), concerning full-shift monitoring; 29 CFR 1910.1025(e)(1) and 29 CFR 1910.1018(g)(1)(i) and 29 CFR 1910.1018(g)(1)(ii), concerning engineering and work practice controls as they pertain to methods of compliance; 29 CFR 1910.1025(g)(2)(viii) and 29 CFR 1910.1018(j)(2)(viii), concerning the prohibition for lead removal from protective clothing or equipment by blowing, shaking or any means which disperses lead into the air and for removal of inorganic arsenic by blowing or shaking; 29 CFR 1910.1025(i)(4)(ii) and 29 CFR 1910.1018(m)(3)(i), concerning the requirement that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply; 29 CFR 1910.1025(h)(2)(i) concerning the prohibition for lead removal from floors and other surfaces by the use of compressed air; 29 CFR 1910.1018(m)(5), concerning removal of inorganic arsenic from protective clothing by vacuuming; 29 CFR 1910.1018(n)(3)(ii), concerning the requirement for a semi-annual chest x-ray and sputum cytology examination; and 29 CFR 1910.1025(r)(7)(A), concerning the startup date for compliance plans. All other provisions of both standards are unaffected by the variance order, and CC must continue to comply with them in conjunction with the order.

OSHA has concluded that the preponderance of the evidence accumulated over the entire course of this proceeding demonstrates that this variance, when viewed as a single, integrated compliance program, will provide affected CC workers with at least equivalent protection to that provided by the respective standards. It is important to note that OSHA's conclusion that the variance granted provides protection equivalent to that provided by the standards is based on the totality of what would be feasible under the standards. No item by item equivalence has been made. After an evalution of the unique circumstances presented in this case, OSHA has concluded that the "as safe and healthful as" criterion of section 6(d) of the Act has been satisfied. In fact, this variance in many ways may provide even greater protection than the standards. It immediately initiates a plan for implementation of engineering and work practice controls while that requirement of the lead standard is judicially stayed and not binding on the applicant; it ensures that the most effective type of control (elimination of lead and arsenic exposure) will be used; it provides acceptable interim protection until long term goals are met; and it facilitates OSHA enforcement by establishing a uniform compliance plan for all affected CC assembly facilities.

The following is a discussion of the individual provisions of the variance order and the relevant sections of the lead and inorganic arsenic standards:

1. *Methods of Compliance.* A variance is granted from paragraphs (e)(1) and (r)(7)(A) of § 1910.1025 and paragraph (g)(1)(i) of § 1910.1018. These paragraphs refer to methods of complying with the standards' permissible exposure limits and to the schedule for submitting a written compliance plan. The lead and inorganic arsenic standards both require compliance with the PEL (50 $\mu g/m^3$ for lead; 10 $\mu g/m^3$ for inorganic arsenic, as 8-hour time-weighted averages) by means of engineering and work practice controls. This requirement in the lead standard (§ 1910.1025(e)(i)) had previously been stayed and remains so pending completion of judicial review for certain industries, including the automobile industry. The inorganic arsenic standard allowed all employers up to 16 months for compliance with this requirement; the lead standard allowed up to 5–10 years for employers in 5 selected industries and up to one year for employers in all other industries, of which automobile manufacturing is one. Each standard requires employers to establish and implement a written compliance plan to achieve these goals. This requirement in the lead standard had also been stayed previously, but is now in effect. The inorganic arsenic standard gave employers 4 months to prepare a written compliance plan; under the lead standard, employers who were given one year from the standard's effective date for compliance with the PEL were given 6 months to complete the compliance plan. Where engineering and work practice controls are not sufficient to meet permissible limits, both standards require reductions in exposure to the lowest levels achievable with these controls supplemented with personal respiratory protective equipment.

For each standard, OSHA determined that compliance with the PEL by means of engineering and work practice controls by the dates given for compliance was generally feasible for all affected industries. OSHA also recognized that potential compliance problems could arise in specific operations, processes or jobs within a given industry. It was proposed that these situations be remedied in the enforcement context through negotiated abatement plans or variances. (See 43 FR 19601 (inorganic arsenic) and 43 FR 52991 (lead).)

The solder grinding operation consistently generates extremely high concentrations of airborne lead and arsenic particulates and, consequently, controlling the workers' exposure to within permissible limits is very difficult with conventional types of engineering and work practice controls. CC has thus committed itself to the objective of eliminating employee exposure to lead and inorganic arsenic due to solder grind operations by January 1, 1987, barring unforeseen economic or technical limitations. The Company has proposed to accomplish this by redesigning the automobile body so that it does not require solder joints. This approach would take longer than the standards would allow for compliance. It involves substantial redesigning and retooling, and since automobile production is planned several years in advance, new model changes can only be reasonably accomplished with several years lead time. CC is anticipating that all of its models will have undergone a major model change which incorporates the redesigned body by the 1987 model year.

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CC's commitment to eliminate exposure to lead and inorganic arsenic does not, however, preclude the Company from using alternative means of reaching the same goal if it finds them to be more cost-effective, efficient, or otherwise preferable. Alternative solutions which may be used under the variance Order include using suitable substitutes for lead solder or automating the solder grinding operation.

It is a fundamental principle of industrial hygiene that there is no better way of protecting employees from exposure to lead and arsenic than by elimination of employee exposure to those substances. To aid CC in its lead and arsenic exposure elimination program, OSHA has issued this variance and thereby extended the time for the Company to comply with the standard's PEL's solely by use of engineering and work practice controls. In the interim, the variance order obligates the Company to provide additional protection to that currently provided by the standards. CC has a continuing responsibility to reduce employee exposure to lead and arsenic by utilizing feasible engineering and work practice controls that may be developed in the future, despite the current stay of this provision of the lead standard (Order paragraph 9). Whenever permissible exposure levels are not met by engineering controls or work practice controls, the Company must provide to each solder grind booth worker, without regard to airborne exposure levels, a positive pressure, supplied-air respirator, with a hood and protective bib. Clean hoods and bibs must be provided on a daily bais (Order paragraph 1).

In addition to the written compliance plans required by the standard, CC is also required to submit a detailed annual report to OSHA on the implementation of its lead elimination program (Order paragraph 2). Since trade secret information may be included in these reports, the Department of Labor will protect the confidentiality of this information, if a privilege is asserted by CC, to the fullest extent permitted by law and will notify CC in advance if disclosure is compulsory to allow CC an opportunity to protect its interests.

Both the compliance plan and the annual report will reflect a Corporation-wide compliance program applicable to all of CC's affected facilities. This is in lieu of separate plans for each workplace which would otherwise be required under the standards. This approach will enable OSHA to monitor CC's total compliance efforts and will facilitate uniform and systematic enforcement of essentially similar operations in diverse locations. It is OSHA's decision that this approach, in conjunction with the augmented exposure monitoring, medical surveillance, medical removal protection, and training programs provided in the variance order, will provide solder grind booth workers with at least equivalent protection as would be afforded by the lead and inorganic arsenic standards.

2. *Exposure Monitoring.* The primary purpose of air monitoring is to identify the sources and the extent of employee exposure to airborne lead and inorganic arsenic. In general, monitoring assists the employer in the selection of proper engineering controls and the assessment of effectiveness of those controls. Where engineering controls do not reduce exposure levels to or below the PEL, monitoring enables the employer to determine the appropriate respiratory protection to be used in conjunction with engineering controls. Additionally, monitoring enables the employer to notify employees when their exposure levels exceed permissible limits, as required by section 8(c)(3) of the Act, and provides information to physicians when, for example, blood leads are high, but air lead readings are low.

Employee exposure, as defined by both the lead and inorganic arsenic standards, at 29 CFR 1910.1025(d)(1)(i) and 29 CFR 1910.1018(e)(1)(ii) respectively, is exposure which would occur in the absence of respiratory protection. It is acknowledged that engineering controls currently available to CC might not be sufficient by themselves to reduce employee exposure levels to the PEL within the time periods allowed by the lead and inorganic arsenic standards. Therefore, this variance is predicated on the interim use of supplied-air respirators by all solder grind booth employees while CC works toward eliminating exposure to lead and inorganic arsenic originating from solder grinding. Since data from CC as well as from OSHA variance inspections have demonstrated that airborne concentrations of lead and inorganic arsenic, although they vary considerably, are within the limits which permit the use of the supplied-air respirators currently in use by CC (not in excess of either 100,000 μg lead/m^3 of air, or 200,000 μg inorganic arsenic/m^3 of air), monitoring inside the hood of the respirator will present, for the purposes of this variance, a means of determining employee exposure to airborne lead and inorganic arsenic and efficacy of the respirator program. The objectives of airborne monitoring will be met in this way, and thus a variance is granted from 29 CFR 1910.1025(d)(1)(i) and 29 CFR 1910.1018(e)(1)(ii) to permit sampling as indicated, to be carried out under the hood of the respirator (Order paragraphs 8 and 11).

The exposure monitoring requirements of the standards state that full-shift personal samples (i.e., at least 7 continuous hours), including at least one job classification in each job area, be taken. See 29 CFR 1910.1018(e)(1)(iii) and 29 CFR 1910.1025(d)(1)(ii). CC has proposed that short-term monitoring inside the hood of the supplied-air respirator be carried out which represents the exposure of all solder grind booth employees, claiming that short-term sampling is sufficiently representative in this situation. The results of a Chrysler Corporation conducted study presented to OSHA comparing the concentrations of airborne lead from short-term (one full work cycle) samples with full-shift (7 hour) samples, indicated a significant relationship between the concentrations in the samples. This conclusion was based on high correlation coefficient values, the similarity of average concentrations and the similarity of the variations derived from the sample data. Short-term monitoring, therefore, appears to provide reliable measurements for solder grind booth employees where ceiling exposure levels inside the hood are consistently below the standard's PEL's (Order paragraph 12). For the purposes of this Order, a full work cycle includes the following steps: donning the supplied-air respirator and proceeding into the solder grind booth; grinding; using the air shower; exiting the booth; and removing the helmet. This work cycle includes the passage through the booth of at least 30 automobile bodies and normally requires a one and one-half hour time period.

Paragraph (d)(4)(i) of the lead standard requires an employer to monitor only a representative sample of workers to determine all workers' exposure levels. With regard to frequency of monitoring, paragraph (d)(6)(i) of the lead standard states that where an initial-reading reveals exposure below the action level, measurements need not be repeated unless a change in circumstances occurs, as outlined in paragraph (d)(7). Where monitoring reveals employee exposure at or above the action level but below the PEL, paragraph (d)(6)(ii) of the lead standard calls for monitoring at least once every six months, until readings fall below the action level.

Quarterly monitoring is required under paragraph (d)(6)(iii) of the lead standard only when exposure levels are determined to be above the PEL, until such time as readings are confirmed to be below the action level. An identical requirement is found in paragraph (e)(3) of the inorganic arsenic standard. OSHA believes that the methods for monitoring exposure to lead and inorganic arsenic, as detailed in paragraphs 8 and 11 of the Order, provide worker protection at least as safe and healthful as would exist if the exposure monitoring provisions of the lead and inorganic arsenic standards were followed.

In the case of lead, it was determined that the combination of monitoring of airborne levels on a semi-annual basis and monitoring of blood lead and zinc protoporphyrin (ZPP) levels every 2 months give an accurate picture of the exposure of the employee. When pre-established levels for blood lead (40 μg/100gm) or ZPP (100 μg/μg-100ml) are exceeded, both a documented comprehensive evaluation and a medical examination are to be carried out. When a TWA of 50 $\mu g/m^3$ is exceeded in the semi-annual airborne lead monitoring, a documented comprehensive evaluation shall be carried out.

In determining exposure to inorganic arsenic it is OSHA's contention that airborne monitoring within and outside of the hood of the supplied-air respirator is necessary since inorganic arsenic has been determined to be carcinogenic and there is no established correlation between the results of biological testing for lead and exposure to inorganic arsenic.

Where the levels of inorganic arsenic as measured inside the hood of the supplied-air respirator exceed the action level (5 micrograms per cubic meter of air), a documented comprehensive evaluation shall be carried out to determine the cause and a report shall be sent to OSHA's Office of Variance Determination.

3. *Medical Surveillance and Medical Removal Protection.* Under the variance, medical protection will be enhanced for solder grind booth workers exposed to lead and inorganic arsenic. CC will augment in several ways its medical surveillance and medical removal protection ("MRP") programs currently carried out under the lead standard. CC will also continue its medical surveillance program under the inorganic arsenic standard, but variance has been granted from several provisions dealing with frequency of medical examinations, and provision of sputum cytology and chest x-ray examinations-specifically, paragraphs (n)(2)(ii), (n)(3)(i) and (n)(3)(ii) of § 1910.1018.

Paragrah 3 of the Order requires CC to maintain its MRP program in accordance with paragraph (k) of the lead standard notwithstanding any judicial stay of enforcement that may be ordered. Although a stay was not ordered by the U.S. Court of Appeals, subsequent appeals may be taken to the Supreme Court where a stay of enforcement could be imposed.

The lead provides for blood lead monitoring on a frequency of 2 or 6 months, depending upon exposure levels. Under paragraph 4 of the Order, CC will provide all solder grind booth employees with blood lead and zinc protoporphyrin (ZPP) monitoring at least every two months, without regard to exposure levels. In this way, the Order expands coverage of the standard allowing closer surveillance of these workers which in turn will help evaluate the efficacy of CC's comprehensive health and hygiene program. If, at any time, an employee's blood lead level is greater than 40ug/100g, or the ZPP level is greater than 100ug/100ml, an additional sample shall be obtained from that employee within 10 days. If the abnormality is confirmed, a documented comprehensive evaluation of possible causes shall be made for appropriate corrective action. A report of this evaluation is to be sent to the Office of Variance Determination. In addition, a medical examination shall be provided to that employee.

During the first six months the variance is in effect, OSHA will review the results of the Chrysler Corporation zinc protoporphyrin (ZPP) testing as a method for detecting employee overexposure to lead.

Inorganic arsenic is a known human carcinogen which causes lung and other cancers. The inorganic arsenic standard specifies that all employees exposed at least 30 days per year over the action level, or with a history of 10 or more years of exposure over the action level must be provided with initial chest x-ray and sputum cytology examinations, as part of the medical surveillance program. 29 CFR 1910.1018(n)(3)(i) provides that all employees under 45 years of age with fewer than 10 years of exposure over the action level, without regard to respirators, shall have annual medical examinations thereafter that include chest x-ray, but not sputum cytology, examinations. 20 CFR 1910.1018(n)(3)(ii) specifies that all other employess in the medical surveillance program, i.e., those not included in (n)(3)(i), shall be given examinations that include both chest x-ray and sputum cytology examinations at least semi-annually.

In its application for variance from the inorganic arsenic standard, the Chrysler Corporation requested the elimination of chest x-ray and sputum cytology examination.

OSHA has concluded that in this particular case the frequency of chest x-ray examinations can be reduced without compromising the level of protection. Under paragraph 10 of the Order, employees whose initial exposure to inorganic arsenic occurred at least 10 years previously (exposure defined as assignment in an area where the employee is likely to be exposed over the action level of 5ug/m^3 of air for at least 30 days per year) without regard to respirator use are to be provided with chest x-ray examinations on an annual basis. Such variance is granted on the basis of the recognized latency between initial exposure to inorganic arsenic and risk of future cancer development. CC will continue to provide semi-annual physical examinations, incorporating the procedures listed in (n)(2)(i), and (n)(2)(ii)(B) and (D) of the inorganic arsenic standard, for all solder grind booth employees. In addition, an initial or baseline chest x-ray shall be provided to all exposed employees, as required by paragraph (n)(2)(i) of the inorganic arsenic standard. OSHA has further determined that, in view of the other provisions of this variance, sputum cytology examinations need not be required.

4. *Solder Dust Removal and Control.* A variance has been granted from the following provisions in the inorganic arsenic and lead standards which attempt to minimize dispersion of dust when contaminated clothing, equipment, or surfaces are cleaned: (1) 29 CFR 1910.1018(j)(2)(viii), which prohibits removal of arsenic dust by blowing or shaking; (2) 29 CFR 1910.1018(m)(5), which requires vacuuming of protective clothing before entering change rooms, lunchrooms or shower rooms; (3) 29 CFR 1910.1025(g)(2)(viii), which prohibits removal of lead dust from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air; and (4) 29 CFR 1910.1025(h)(2)(i), which prohibits removal of lead from floors and other surfaces where lead accumulates by the use of compressed air.

Instead of complying with these requirements, solder grind booth employees will be permitted to remove surface dust from their protective equipment and clothing, prior to exiting the booth, either by vacuuming or by the use of fixed-in-place overhead, multi-orificed, compressed air showers (Order

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paragraph 6). While the latter method is not acceptable under the standards, it meets the objectives of the standards in these circumstances because the employee, while using the air shower, is required to wear a supplied-air respirator connected to the air supply which will prevent dust from entering his breathing zone; any other employees in the solder grind booth would be unaffected since they also would be wearing their respirators; and employees outside of the solder grind booth would be unaffected because the lead and arsenic dust which would be removed by the air shower would remain within the confines of the booth (Order paragraph 5). The air showers permitted by the variance Order have been in use in various locations in the auto industry. OSHA has observed these air showers in several solder grind booths and is convinced that their use satisfies the standards' objective of minimizing dispersion of dust into the air when clothing and protective equipment are being cleaned.

Solder grind booth employees will be permitted to remove lead dust from the auto bodies before they exit the booth by the use of compressed air (Order paragraph 7). This method will be allowed since the dust blown from the car does not substantially change the lead levels at employee work stations where grinding is performed, and does not affect employees outside of the solder grind booth inasmuch as the dust remains within the confines of the booth, as required by paragraph 5 of the Order.

5. *Eating Facilities.* A variance has been granted from 29 CFR 1910.1025 (i)(4)(ii) and 29 CFR 1910.1018 (m)(3)(i), which require that readily accessible lunchroom facilities be provided and have a temperature controlled, possitive pressure, filtered air supply. Variance investigations have shown that CC currently provides such facilities, and OSHA has determined that they are in substantial compliance with these requirements of the standards.

Paragraph 14 of the Order permits the Company, as an alternative, to provide clean eating areas near the solder grind booths. These areas need not have a temperature-controlled, positive-pressure filtered air supply, but must be maintained as free as practicable of lead or arsenic dust and must be at least 50 feet from any point of the solder grind booth. OSHA has determined that these conditions will provide solder grind booth workers with a least equivalent protection as lunchrooms required by the standard. Unlike smelters, for example, where lead contamination is pervasive and filtered-air lunchrooms provide protection for workers eating lunch, the ambient air in an automobile manufacturing plant is relatively free from lead and arsenic. The solder grind booth is the primary source of lead and arsenic dust, and since the dust will be contained within the booth by the booth's ventilation system and by the carrying out of the requirement of the Order that car bodies and employees' protective clothing and equipment be cleaned before they exit the booth, contamination of food and eating areas by air borne lead and arsenic is not considered to be a problem. Air samples taken by CC and by OSHA near exists and entrances of the solder grind booth and in the eating areas support this conclusion.

6. *Training.* Under paragraph 15 of the Order, CC will supplement the training and education requirements of the lead and inorganic arsenic standards with periodic presentations of a written program for all employees in the soldering operation from application to finishing. The program will be given to all workers prior to initial assignment to the soldering operation and will provide information on the nature of the hazard, the controls used for reducing exposure, proper use of supplied-air respirators with hoods and bibs, procedures for cleaning clothes and equipment, personal hygiene and other relevant information.

7. *Non Solder Grind Booth Employees.* The variance Order also gives increased protection from lead and arsenic dust to workers on the assembly line adjacent to the solder grind booth, and to supervisors who enter the booth for short periods. All provisions of the lead and inorganic arsenic standards apply to these workers, and in addition the Company will (1) maintain the solder grind booths in such a manner that airborne lead or arsenic dust generated within the booth is not released outside the confines of booth; (2) remove any solder dust from the automobile bodies before additional work is performed; (3) provide blood lead and zinc proptoporphyrin (ZPP) monitoring to all other employees in the medical surveillance program, exposed more than 30 days per year at least every six months without regard to employee's airborne lead and arsenic exposure levels; and (4) implement the MRP provisions of the lead standard even if they are stayed by court order pending judicial review; and (5) conduct air monitoring on the assembly line in compliance with the lead standard.

Paragraph 5 of the Order requires the Company to perform whatever repair or maintenance is necessary to maintain the structural integrity of the booth and assure the efficiency of its exhaust ventilation system. Paragraph 7 of the Order also minimizes release of dust outside the booth by requiring that dust be removed from automobile bodies before they exit the booth. As an alternative, dust may be removed by washing the bodies outside of the booth, but in no case may the body proceed for further work until it is cleaned. Workers exposed to lead who do not work in the solder grind booth will be given additional protection through periodic blood and ZPP monitoring. The lead standard would permit termination of blood monitoring if air monitoring showed values below 30 ug/m^3; CC has agreed to monitor all workers exposed to lead at least at 6 month intervals regardless of airborne exposure levels (Order paragraph 4). The MRP program will be provided despite any stay of enforcement pending review (Order paragraph 3) (See section on Medical Surveillance and Medical Removal Protection above). Paragraph 13 of the Order requires air monitoring on the automotive assemply line (except for the solder grind booth) as required by the lead standard.

CC had originally requested variances from several other provisions of the inorganic arsenic and lead standards which would have directly affected non-solder grind booth employees. These requests and the reasons for their withdrawal, are as follows:

A request had been made for a variance from 29 CFR 1910.1018(e)(1)(iii) and 29 CFR 1910.1025(d)(1)(ii), those provisions of the exposure monitoring section in the inorganic arsenic and lead standards that required collection of full-shift (at least 7 continuous hours) personal samples, as they pertained to employees on the assembly line outside of the solder grind booth. CC's contention was that it was appropriate to collect short-term representative samples. The Company's monitoring revealed that very few operations outside the solder grind booth had exposure levels which would require additional monitoring. As a result, CC has withdrawn its request for short-term monitoring in these operations.

A request was made for a variance from 29 CFR 1910.1025(i) of the lead standard as it relates to requirements for the provision and use of change rooms, showers, lunchrooms, and lavatories in areas where employees are exposed to lead above the PEL without regard to the use of respirators. CC requested a variance for solder applicators and employees on the line between the solder grind booth and the phosphating operations, insofar as the provision required special hygiene facilities. OSHA's position was that overexposure to lead and inorganic arsenic for employees other than those working in the solder grind booths could readily be prevented by engineering and work practice controls and that, therefore, the standard would not require the employer to provide these hygiene facilities. CC concurred and withdrew its request for variance.

CC had originally requested a variance from the respirator selection tables of the lead and arsenic standards as they applied to supervisory personnel who enter the solder grind booth periodically for varying periods of time. CC's concern was that the standards could be interpreted to require supervisors to wear the supplied-air respirator with a hood and bib regardless of the duration of exposure. In discussions with CC, OSHA explained that the standards required supervisors to be provided with the respirator which affords the necessary protection factor according to the respirator selection tables. This interpretation satisfied CC's concerns, and the Company agreed to have the respective standards apply to the determination of the appropriate respirators for supervisors. Although the choice of the appropriate respirator takes into consideration the duration of exposure, it would appear that in actual practice, supervisors who enter the solder grind booth during grinding operations for any substantial period of time would need to wear respiratory protection equivalent to those of the solder grind booth employees.

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that the Chrysler Corporation be, and is hereby, authorized to comply with the requirements of this Order set out below in lieu of complying with the requirements prescribed in the following provisions of the standard for Occupational Exposure to Lead, 29 CFR 1910.1025, and of the standard for Occupational Exposure to Inorganic Arsenic, 29 CFR 1910.1018: 29 CFR 1910.1025(d)(1)(i), and 29 CFR 1910.1018(e)(1)(ii), concerning employee exposure for monitoring purposes; 29 CFR 1910.1025(d)(1)(ii) and 29 CFR 1910.1018(e)(1)(ii), concerning full-shift monitoring; 29 CFR 1910.1025(e)(1) and 29 CFR 1910.1018(g)(1)(i) and (ii), concerning engineering and work practice controls as they pertain to methods of compliance; 29 CFR 1910.1025(g)(2)(viii) and 29 CFR 1910.1018(j)(2)(viii), concerning the prohibition for lead removal from protective clothing or equipment by blowing, shaking or any means which disperses lead into the air and for removal of inorganic arsenic by blowing or shaking; 29 CFR 1910.1025(i)(4)(ii) and 29 CFR 1910.1018(m)(3)(i), concerning the requirement that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply; 29 CFR 1910.1025(h)(2)(i), concerning removing lead from floors and other surfaces where it accumulates by the use of compressed air; 29 CFR 1910.1018(m)(5), concerning removal of inorganic arsenic from protective clothing by vacuuming; 29 CFR 1910.1018(n)(2)(ii)(C), and (n)(3)(i) and (ii), concerning the requirements for initial and periodic medical examinations, respectively; and 29 CFR 1910.1025(r)(7), concerning the startup date for compliance plans. All other provisions of both standards are unaffected by this variance order, and the Chrysler Corporation must continue to comply with them in conjunction with the terms of this Order.

1. Each employee in the solder grind booth shall be provided daily with, and required to wear, supplied-air respirators with hoods and protective bids, operated in the positive pressure mode. These respirators shall be approved for use in atmospheres containing not more than 20 milligrams of inorganic arsenic per cubic meter of air (20 mg/m^3), or 100 milligrams of lead per cubic meter of air (100 mg/m^3).

2. A corporate written compliance program, as required by paragraph (e)(3) of the standard for Occupational Exposure to Lead, shall be completed within one year of the effective date of the grant of variance. Copies of the plan will be available at each plant covered by this variance. The employer shall substantially reduce, with the goal of ultimate elimination, employee exposure to lead and inorganic arsenic in connection with solder grind operations as soon as feasible, but not later than January 1, 1987, barring economic or technical limitations. In addition to the compliance plan, the employer shall submit to the Assistant Secretary a report concerning the detailed implementation of this objective on April 1, 1981, and annually thereafter until the goal is met. Upon the assertion by the employer, at the time of each submission, that the report contains trade secret information, the Department of Labor will protect the document to the fullest extent permitted by law and will not disclose it unless such disclosure is compulsory as a matter of law. Where disclosure may be required, the employer will be notified in advance.

3. For all employees in Chrysler's medical surveillance program, the employer shall institute a program of medical removal protection as provided in paragraph (k) of the standard for Occupational Exposure to Lead.

4. All solde grind booth employees shall have both blood lead level and zinc protoporphyrin (ZPP) levels determined at least every 2 months. All other employees in the medical surveillance program, exposed more than 30 days per year, shall have blood lead and ZPP levels determined in accordance with paragraph (j) of the standard for Occupational Exposure to Lead, but not less frequently than every 6 months, irrespective of airborne lead monitoring results.

5. The employer shall be required to maintain the solder grind booth in such condition that airborne lead or inorganic arsenic dust within the booth shall be contained within the confines of the booth.

6. The employer shall assure that employees, prior to exiting the solder grind booth, remove surface dust from their clothing and equipment by vacuuming, or by the use of fixed-in-place overhead air showers with multiple orifices, while their respirators are connected to an air supply.

7. The employer shall assure that solder dust is removed from the automobile bodies before they exit the confines of the solder grind booth, as required by paragraph (h)(1) of the standard for Occupational Exposure to Lead, except that where car wash facilities are provided, the automobile bodies may be washed to remove solder dust after they exit the solder grind booth. In any case, the solder dust shall be removed before any additional work is performed on the automobile bodies.

8. If a solder grind booth employee's blood lead level is greater than 40 micrograms per 100 grams (4μg/100g), or the zinc protoporphyrin (ZPP) level is greater than 100 micrograms per 100 milliliters (100μg/100ml), an additional sample shall be obtained from the employee within 10 days of receipt of the original laboratory results. If the abnormality is confirmed, then the following shall be accomplished: (a) A documented comprehensive evaluation shall be made by the employer. Such an evaluation shall include monitoring inside of the hood of the supplied-air respirator, for both lead and arsenic, and may also include air monitoring outside of the hood of the supplied-air respirator, a study of engineering controls and personal protective

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equipment (air supply, hood integrity, booth ventilation, and facilities), employee personal hygiene and work practices, and blood lead data to determine the cause. Engineering changes, further testing, and employee retraining shall be carried out as needed. A preliminary report of this evaluation shall be sent to the U.S. Department of Labor, Office of Variance Determination within 2 months of the receipt of the laboratory results of the confirming blood tests. A final report shall be sent when available; and (b) A medical examination shall be performed as outlined in paragraph (j)(3)(ii) of the standard for Occupational Exposure to Lead (§ 1910.1025). The specific tests and any follow-up examinations will be determined by the examining physician.

9. The employer is not relieved from the continuing responsibility to utilize feasible engineering and work practice controls that may be developed as the sole means of reducing exposure to inorganic arsenic and lead to acceptable levels under the standard for Occupational Exposure to Inorganic Arsenic and the standard for Occupational Exposure to Lead.

10. All solder grind booth employees shall be provided semi-annual medical examinations to include items specified in paragraphs (n)(2)(i), (n)(2)(ii)(B), and (n)(2)(ii)(D) of the standard for Occupational Exposure to Inorganic Arsenic (§ 1910.1018). In addition, 10 years following the date of initial exposure of any employee to inorganic arsenic over the action level (5μg/m³ of air) without regard to respirator use, such employee shall be provided with an annual chest X-ray examination described in paragraph (n)(2)(ii)(A) of the inorganic arsenic standard (§ 1910.1018). Exposure is defined as assignment in an area where the employee is likely to be exposed over the action level for at least 30 days per year.

11. The employer shall conduct air monitoring which represents the time weighted average exposure to inorganic arsenic and lead of all solder grind booth employees, on a semi-annual basis. These personal samples shall be taken from inside the hood of the supplied-air respirator in the breathing zone of the employee in the solder grind booth, and from within the solder grind booth outside of the hood of the supplied-air respirator. Where the time weighted average (TWA) for inorganic arsenic is 5 micrograms per cubic meter of air (5μg/m³) or greater or the TWA for lead is 50μg/m³ or greater, inside the hood of the supplied-air respirator, the employer shall conduct a documented comprehensive evaluation which may include a study of engineering controls and personal protective equipment (air-supply, hood integrity, booth ventilation, and facilities), employee personal hygiene and work practices, and blood data. Engineering changes, further testing, and employees retraining shall be carried out as needed. A preliminary report of this evaluation shall be sent to the U.S. Department of Labor, Office of Variance Determination within 2 months of notification of the results of the repeated monitoring inside the hood of the supplied-air respirator. A final report shall be sent when available.

12. When monitoring of airborne levels of lead or inorganic arsenic inside the hood of the supplied-air respirator of a solder grind booth employee is required, the monitoring shall be carried out for a period of time sufficient to collect samples representative of full-shift exposure, which shall include at least one full work cycle in the solder grind booth.

13. The employer shall conduct air monitoring on the automotive assembly line from solder application to Bonderite (except for the solder grind booth) in compliance with the standard for Occupational Exposure to Lead.

14. For solder grind boothe employees, the employer may provide a clean and readily accessible eating facility in lieu of the required lunchroom, as specified in § 1910.1018(m)(3)(i) of the inorganic arsenic standard and § 1910.1025(i)(4)(ii) of the lead standard. These eating facilities shall be no closer than fifty (50) feet from any point of the solder grind booth and shall be kept clean in accordance with the housekeeping requirements as provided in paragraph (h) of the standard for Occupational Exposure to Lead.

15. The employer shall provide a written training and education program for employees assigned to solder application, grinding, and finishing operations which shall include, but not be limited to, the health hazards associated with inorganic arsenic and lead, proper respirator use, protective clothing, personal hygiene, and restrictions on smoking or eating in the solder grind booth. This training and education program shall be operated periodically.

16. The employer shall comply with all provisions in this grant of variance, and in addition shall not be relieved from compliance with all other applicable provisions of the standard for Occupational Exposure to Inorganic Arsenic and the standard for Occupational Exposure to Lead.

As soon as possible, the Chrysler Corporation shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective Date: This Order shall become effective on November 7, 1980, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 28th day of October, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-34879 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor of Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.108 of Subpart D sets forth the State's schedule for the adoption of Federal standards. By letter dated August 19, 1980 from Darrel D. Douglas, Administrator of the Accident Prevention Division, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.177, Servicing Multi-Piece Rim Wheels, as published in the **Federal Register** (45 FR 6706) dated January 29, 1980. These State standards which are contained in OAR Chapter 437, Division 56, Vehicles, were promulgated by the State after a hearing held on May 15, 1980 pursuant to the rulemaking authority in ORS 654.025(2) and ORS 656.726(3) and in accordance with the procedure provided by ORS 183.335.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards with the following minor exceptions: rule numbers and required internal references, definitions, mention of responsible individuals by title, and the dates on which various rules became effective, and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, New Department of Labor Building, 3rd and Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 7, 1980. (Sec. 18. Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 16th day of September 1980.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 80-34875 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-26-M

Oregon State standards; Notice of Approval

1. **Background.** Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (herein after called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated purusant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of Federal standards as State standards after comments and/or public hearing. Section 1952.108 of Subpart D sets forth the State's schedule for the adoption of Federal standards. By letter dated May 8, 1980, from Darrel D. Douglas, Administrator, Accident Preveniton Divison, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1000, Table Z-1, Chlorine, as publsihed (43 FR 87602) on December 8, 1978. These State standards which are contained in OAR Chapter 437, Occupational Safety and Health Code, and amend Chapter 22-017(A), Air Contaminants, Table G-1, were promulgated by the State after a notice to amend was publish in the Secretary of State's Administrative Rules Bulletin on December 15, 1979 pursuant to ORS Chapter 183.335. No written comments or requests for a public hearing were received.

Decision. Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards except for different effective dates, and accordingly should be approved. The enforcement of the comparable Federal standard has been delayed pending Supreme Court action.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, New Department of Labor Building, 3rd and Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 7, 1980. (Sec. 18. Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 25th day of September 1980.

James W. Lake,

Regional Administrator.

[FR Doc. 80-34877 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been aproved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the Occupational Safety and Health Act of 1970. In accordance with ORS Chapter 183.336, the Workers' Compensation Department duly filed notice of intent to amend OAR Chapter 437, Oregon

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Occupational Safety and Health Code, Division 57 (part 26) Motor Vehicle Transportation of Workers. The notice was published in the Secretary of State's Administrative Rules Bulletin on December 15, 1976. On December 16, 1976, the notice of intent was mailed to the Worker's Compensation Department and Motor Vehicles Division. No written comments or requests for a public hearing regarding the filed notice of intent were received. The Motor Vehicle Transportation of Workers was adopted on March 17, 1977, upon the filing of an Order of Adoption with the Secretary of the State of Oregon.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that there is no comparable Federal standard and that, therefore, the State standard exceeds Federal requirements.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, New Department of Labor Building, 3rd St. and Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is one for which there is no comparable Federal standard and therefore the State standard exceeds the Federal standards.

2. The standard was adopted in accordance with the procedural requirements to State law and further participation would be unnecessary.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

This decison is effective November 7, 1980.

Signed at Seattle, Washington this 28th day of March 1980.

James W. Lake,

Regional Administrator.

[FR Doc. 80-34878 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Application No. D-2046]

Proposed Exemption for Certain Transactions Involving the Bakery Drivers Local 802 Pension Fund, Located in Long Island City, N.Y.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed leasing of office space by the Bakery Drivers Local 802 Pension Fund (the Pension Fund) to Bakery Drivers Local Union 802 (the Union), Bakery Drivers Local 802 Welfare Fund (the Welfare Fund), Bakery Drivers Local 802 Credit Union (the Credit Union), and other tenants in a building to be purchased from Bakery Drivers Real Estate Corp. (the Corp.), which is wholly owned by the Union. The proposed exemption, if granted, would affect the Pension Fund, the Welfare Fund, the Union, the Credit Union, any other tenants of the building, and any other persons participating in the proposed transaction.

DATES: 1Written comments and requests for a public hearing must be received by the Department of Labor on or before December 26, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, D.C. 20216, Attention: Application No. D-2046. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department of Labor, telephone (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Pension Fund, pursuant to section 408(a) of the Act and section 4975(c((2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. As of May 1980, there were approximately 2,300 participants in the Pension Fund. As of December 31, 1979, the market value of the gross assets of the Pension Fund was $12,464,498. Currently and for the past several years the Pension Fund, the Welfare Fund, the Union, and the Credit Union occupy and have occupied space in an office building (the Building) located at 41-20 Crescent Street, Long Island City, New York 11101. The same persons serve as trustees for both the Pension Fund and the Welfare Fund. Employees of the Welfare Fund participate in the Pension Fund, to which the Welfare Fund contributes on behalf of such employees. Thus, the Welfare Fund is a party in interest with respect to the Pension Fund, pursuant to section 3(14)(C) of the Act. The Union is a party in interest with respect to the Pension Fund, pursuant to section 3(14)(D). The applicants represent that the Credit Union is not a party in interest with respect to the Pension Fund.

2. The Building, consisting of two stories and a basement, contains a total area of 11,390.5 square feet. Under the current arrangement, which has been in effect for approximately 15 years, the Pension Fund, the Welfare Fund, and the union share jointly 4,810.5 square feet on the second floor and basement. The Pension Fund occupies approximately 9 percent (442.5 square feet); the Welfare Fund, approximately 31 percent (1500.5 square feet); and the Union, approximately 60 percent (2867.5) square feet) of the shared space. The remainder of the rentable space in the Building consists of 986 square feet leased to the Credit Union at an annual rent of $6,900, and 1,142 square feet which is currently unoccupied. In addition to the rentable space is 4,452 square feet which is common area, including but not limited to entrances, lobbies, stairways, and toilets.

3. The trustees of the Pension Fund intend to purchase the Building from the Corp. The Corp. is going to sell the Building primarily for financial reasons. There is no guarantee that a buyer other than the Pension Fund would not require the current tenants to relocate. The Pension Fund would thus incur relocation expenses, may find it difficult to obtain suitable office space, and may not find office space at the same place as the Union.

The application represents that it is extremely advantageous for both Funds to occupy the same building with the Union in order to facilitate transactions pertaining to the participants. The current location of the offices is considered very convenient for participants, as well as the trustees and employees. The application represents further that it is customary in the New York City area for Taft-Hartley pension and welfare funds and the related sponsoring union to have offices in the same building and that the proposed lease of office space to the Union and related Welfare Fund is also customary in this area for such arrangements.

4. No exemption is requested with respect to the purchase of the Building by the Pension Fund from the Corporation because the applicants believe that such purchase is permitted under the transitional rule of section 414(c)(3) of the Act.[1] The purchase price is less than four percent of the Pension Fund's total assets as of December 31, 1979. Such purchase is conditioned upon the ability of the Pension Fund to lease space in the Building to the Union, the Welfare Fund, the Credit Union, and other tenants.

5. The leases, which have not yet been entered into, will provide terms which have been recommended by Helmsley-Spear, Inc. (H-S), a company established in 1856 which deals in real estate and insurance. The leases will be for ten years at $10 per square foot, inclusive of heat, based on the rental value of this class of building in the area. Each lease will have escalator clauses which increase the annual rental payable to reflect increases in real estate taxes, heating costs, and building maintenance costs. According to H-S, these escalator provisions serve the same purpose as rental adjustments and it is common business practice to have these escalator provisions in 10-year leases, such as those involved in this transaction. Electricity is not included in the lease and will be apportioned to each tenant by the managing agent on the basis of usage, as determined by electrical engineering surveys. The rental rate is anticipated to be sufficient to cover the costs of operating the Building, including the managing agent's fee, and any tax on unrelated business income arising out of the debt-financed rental income. (The Building is being sold subject to an existing mortgage of approximately $62,000.)

6. H-S will be retained as independent fiduciary with respect to the proposed lease arrangements and in such capacity will serve as managing agent of the Building, pursuant to a written agreement not yet executed, with complete fiduciary authority to manage and control the Building and the leases, except for the authority to sell the Building, which authority will be retained by the trustees of the Pension Fund. H-S pay all bills for the Building, will monitor energy bills and make recommendations for conservation and will administer all service contracts relating to the Building. In addition, H-S will secure a tenant or tenants for the unoccupied rentable space and will renew or negotiate subsequent leases for the currently occupied space at such terms and rental as H-S will determine is reasonable and a fair market rental value for the space. H-S will undertake to advise the trustees of the Pension Fund regarding the continued viability and feasibility of ownership of the Building; However, H-S's power in this regard is solely advisory. The trustees believe that because the Pension Fund is buying the Building as a home for the Pension Fund, rather than as an investment, it would be impractical and unreasonable to delegate to an independent fiduciary final authority to sell the Pension Fund's home office. H-S has represented that the sale and leases between the Pension Fund, the Union, the Credit Union, and the Welfare Fund are in the best interests of the participants of the Pension Fund.

7. In summary, the applicants represent that the proposed lease arrangements satisfy the statutory criteria contained in section 408(a) of the Act because (a) the lease arrangements will enable the Pension Fund, the Welfare Fund, and the Union to continue to be located in the same building for the convenience of Plan participants; (b) the rental rate will be the fair rental value as appraised by an independent real estate company and is expected to cover the Building's operating costs, the managing agent's fee, and any unrelated business income tax; (c) electricity will be paid by the tenants; (d) the rental rate will be adjusted annually to reflect increases in real estate taxes, heating costs, and building maintenance costs; (e) the Building and the leases will be managed by an independent fiduciary who believes that the proposed lease arrangements are in the best interests of the participants of the Pension Fund; and (f) the trustees of the Funds believe that the transactions are appropriate for and in the interests of the Funds' participants and beneficiaries.

Notice to Interested Persons

Within 20 days of the date this notice of pendency is published in the **Federal Register**, the applicants will notify all interested persons of the pendency of this application for exemption. Interested persons include all contributing employers, the Union, active employees, pensioners, and beneficiaries. The notice will contain a copy of the notice published in the **Federal Register** and will inform interested persons of their right to comment and/or request that a hearing be held with respect to the proposed exemption. The notice will be posted at the various work sites of the employees and will be mailed to pensioners and beneficiaries.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in

[1] The Department is expressing no opinion as to whether such purchase meets the requirements of this section.

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accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the leasing of office space by the Pension Fund to the Union, the Welfare Fund, the Credit Union, and other tenants, in the Building to be purchased from the Corporation, according to the lease terms and conditions specified hereinabove, provided the rental payments are not less than fair market rental value.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consumated pursuant to the exemption.

Signed at Washington, D.C., this 4th day of November 1980.

Morton Klevan,

Deputy Administror, Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 80-34864 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2103]

Proposed Exemption for Certain Transactions Involving the Citizens Bank and Trust Company Revised Retirement Plan Located in Jeffersonville, Ind.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of certain real property by the Citizens Bank and Trust Company Revised Retirement Plan (the Plan) to the Citizens Bank and Trust Company (the Employer), a party in interest with respect to the plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and any other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before December 26, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2103. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined benefit plan with approximately 120 participants. The Trust Department of the Employer serves as the Plan trustee (the Trustee). Pursuant to the terms of a Plan Trust Agreement presently in effect, the Trustee is given discretionary authority to make investment decisions for the Plan. However, these decisions are subject to the review and endorsement of an eight member Trust Committee.

2. Among the assets of the Plan is certain real property located at 438, 440 and 442 Spring Street in Jeffersonville, Indiana (the Property). The Property consists of two contiguous parcels of land. Also making up the Property is a two-story office building known as the "Beck Building", which is erected on one of the parcels. The parcel containing the Beck Building was acquired by the Plan in November 1962 for $22,000. The adjacent parcel was purchased by the Plan in February 1970 for $5,020.

3. Prior to the passage of the Act, the Plan leased the Property to the Employer. The lease was for a 5 year period beginning in October 1971 and ending in September 1976. The rental paid was $5,250 per annum. Other lease provisions gave the Employer a right to renew the lease for three successive 5 year periods as well as an option to purchase the Property at any time during the leasehold term. The Employer was also responsible for incurring all repair and maintenance costs associated with the Property.

With the passage of the Act, the lease arrangement was terminated. The Plan then began leasing the Property to unrelated parties and to assume the expense of repairs.

4. As a result of deterioration of the Beck Building, the Plan has been unable to lease the entire second floor to prospective tenants. Although the Plan has advertised the availability of these premises on several occasions, no tenant has been found. Consquently, the Plan has suffered operating deficits with respect to its ownership of the Property.

5. To curtail potential losses, the Plan proposes to sell the Property to the Employer in order to divert the funds received into other investments. In addition, the Employer wishes to expand its existing banking facilities by acquiring the Property, which is adjacent to its business premises. The sales price of the Property is $58,000. This amount represents the higher of two independent appraisals made of the Property in January and February 1980. Mr. Renn F. LaMaster, a real estate broker, valued the Property at $58,000. Mr. James T. Raney, an appraisal consultant, valued the Property at $56,700. The proposed transaction will not involve the payment of real estate commissions or fees. Further, the sale will be for cash.

6. As of January 1, 1980, Plan assets totaled $741,240. Thus, the Property involved in the proposed transaction would represent approximately 8% of the total Plan assets.

7. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) it will be a one-time transaction for cash; (2) the sale will allow the Plan to divest itself of asset producing operating deficits; (3) the purchase price of the Property will be the greater of two independent appraisals; (4) no brokerage fees or commissions will be incurred by the Plan; and (5) the Trustee has determined that the proposed transaction is appropriate for the Plan and protective of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be given to the Plan Trustee and all active and inactive participants and beneficiaries, within 20 days of the publication of the notice of pendency in the **Federal Register**. Such notice shall include a copy of the notice of pendency as published in the **Federal Register** and shall inform interested persons of their rights to comment and/or request a hearing regarding the proposed exemption. Notice will be provided to participants currently employed by the Employer by posting it at locations customarily used to inform employees of items of interest. Notice shall be provided to each beneficiary, inactive participant and fiduciary by first class mail.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan to the Employer of certain real property located at 438, 440, and 442 Spring Street in Jeffersonville, Indiana for $58,000, provided this amount is no less than the fair market value on the date of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3rd day of November, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-34791 Filed 11-6-80; 8:45 am]

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[Application No. D-1502]

Proposed Exemption for Certain Transactions Involving the Rhodes, Kendall & Harrington, a Professional Law Corporation, profit Sharing Plan and Trust Agreement Located in Newport Beach, Calif.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a partnership interest in Abbott Equities, Ltd. (Abbott) by the Rhodes, Kendall & Harrington, a Professional Law Corporation, Profit Sharing Plan and Trust Agreement (the Plan) to RK&H Properties. RK&H Properties is a partnership composed of Terry L. Rhodes (Rhodes), Robert A. Kendall and Bruce E. Harrington who are stockholders in Rhodes, Kendall & Harrington, a Professional Law Corporation, the Sponsor of the Plan, as well as being trustees of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 18, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1502. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Dan O'Neil, of the Department of Labor, telephone (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed August 7, 1979, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. On February 9, 1978, the Plan purchased for $20,000 a 10 percent interest in Abbott, a limited partnership, from an independent third party, Michael McHugh, in an arm's-length transaction. Abbott owns a 75 percent interest in Stevenson Associates (Stevenson), a limited partnership which holds title to certain real estate (the Property) located on the northerly side of Stevenson Boulevard between Cedar Boulevard and Boyce Road in the City of Newark, Alameda County, California. The sale of the Property was consummated on December 28, 1978.

2. Subsequent to Stevenson's agreeing to acquire the Property for $25,000 an acre, but before the sale was consummated, the City of Newark revised the general planning designation of the Property from low density residential to high density residential and community commercial. Litigation ensued between Stevenson and the seller of the Property which resulted in a renegotiated purchase agreement at a price of $30,000 an acre. As a result of such renegotiation the Plan was required to make additional capital contributions to Abbott of $965.28 on August 1, 1978, $540 on December 1, 1978, and $50,000 on October 23, 1979. As a result of these contributions, the Plan's interest in the partnership constituted approximately 99 percent of the value of the assets of the Plan as of January 31, 1980.

3. At the time the Plan's interest in Abbott was acquired, the Plan had four participants. Currently, it has twenty-six participants. Plan documents permit contributions by participates. Administration of the Plan has become virtually impossible for several reasons. Since the partnership interest in Abbott represents approximately 99 percent of Plan assets, there is no opportunity to achieve the liquidity and diversity necessary for the sound management of Plan assets. Under the Plan documents, participants are empowered to direct investment of their interest in the Plan, and there has been little opportunity for participants to exercise such power. Substantial additional capital contributions may be required by Abbott, which could exceed the future financial capabilities of the Plan. Even if the Plan was financially capable of participating further in the development of the Property, income resulting from this effort, if any, may be taxable pursuant to the Unrelated Business Taxable Income rules in sections 511 through 514 of the Code. Additionally, Abbott has met resistance from potential investors in the development of the Property because of the presence of the Plan as a partner.

4. This application was filed by Rhodes, a trustee of the Plan, requesting an exemption to allow RK&H Properties to purchase the 10 percent interest in Abbott held by the Plan for approximately $80,600, the exact amount to be determined at the date of sale. This fugure represents a 10 percent annual return on the Plan's total investment of $71,505.28. The terms of the sale are to be cash. The appraised value of the Plan's interest in the Property amounted to $73,364 as of April 16, 1979, based on an appraisal by David M. DeVoe, S.R.P.A.-M.A.I., Hayward, California. Up to March 31, 1980, the Plan has received no offers from independent third parties to purchase the partnership interest in Abbott.

5. The applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because (1) the exemption would eliminate possible unfavorable tax rates, pursuant to the Unrelated Business Taxable Income rules contained in sections 511 through 514 of the Code, should the Plan participate in the development of the Property, (2) the proposed transaction would eliminate cash flow burdens which the Plan is presently unable to meet and allow the Plan to continue its investment objectives and (3) the Plan would receive in excess of fair market value for its share in Abbott.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons including participants and beneficiaries of the Plan within 10 days after publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing regarding the proposed exemption. Delivery of the notice will be accomplished by hand delivery to those participants currently employed by Rhodes, Kendall & Harrington, a Professional Law Corporation, and by mailing to all retired or otherwise terminated participants and beneficiaries.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by sections 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a 10 percent partnership interest in Abbott Equities, Ltd., by the Plan to RK&H Properties for approximately $80,600, the exact amount to be determined at the date of sale, the terms to be cash, provided that the selling price is at least the fair market value of the interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3rd day of November.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-34790 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1129]

Proposed Exemption for Certain Transactions Involving the Sheet Metal Workers Pension Plan for Northern California Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the issuance by the Sheet Metal Workers Pension Plan for Northern California (the Plan) of commitments obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions which are parties in interest solely by reason of being service providers to the Plan, when construction of such dwelling units may be by persons who are parties in interest with respect to the Plan, and the repurchase of defective mortgages by such financial institutions. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the financial institutions involved, contributing employers, and other persons participating in the proposed transactions.

DATES: Written comments must be received by the Department on or before January 20, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1129. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan by its legal counsel, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471,

April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multiemployer pension plan which covers sheet metal workers, some of whom are employed by home builders in Northern California. In order to obtain construction loans, builders frequently must have a commitment from a mortgage banking firm or other financial institution to provide financing for the purchasers of the dwelling units which the builder proposes to build and sell. Such mortgage banking firms and other financial institutions often do not hold for their own investment all the mortgage loans they make to purchasers of the homes but instead sell the loans to long-term investors, pursuant to a written commitment made by such an investor. In many instances the mortgage banker or financial institution relies on the commitment of the long-term investor in giving its financing commitment to the builder to provide financing for the purchasers of the dwelling units. The Plan has for over four years issued written commitments to independent mortgage banking firms. Such commitments obligate the Plan to purchase from the mortgage banking firms a specified amount of mortgage loans made by the firm, and secured by first deeds of trust on single family dwelling units. Such units are detached single family homes in subdivisions, are condominiums created under applicable state law, or are planned unit developments which are multi-unit subdivisions restricted by recorded documents limiting the use of property to residential purposes and providing a plan for maintenance of common facilities. Commitments are made on behalf of the Plan by McMorgan & Company, the Plan's investment manager, for the purchase of mortgage loans which conform to certain written guidelines, regarding the type and quality of the property and the credit worthiness of the buyer, established by the trustees of the Plan. In considering whether to issue a commitment on behalf of the Plan for a particular project, McMorgan & Company considers, among other things, who the builder of the project will be. McMorgan & Company is, and is required to remain while serving as investment manager for the Plan, registered as an investment advisor under the Investment Advisor's Act of 1940, and was appointed the Plan's investment manager under section 402(c)(3) of the Act.

2. Following purchase by the Plan of any such mortgage loans, the note and deed of trust are assigned by the mortgage banking firm to the Plan. The Plan normally charges a loan fee for issuing the commitment to purchase such loans, part of which is refundable if the loans are tendered and purchased by the Plan. Terms of the commitments prohibit sale to the Plan of any loan which is an obligation of a party in interest or disqualified person with respect to the Plan. Further, the commitment provides that in the event defects in the mortgage loan are discovered which would jeopardize the lien position or collectibility of the debt, the mortgage banker will repurchase the defective mortgage, within a specific period (typically 90 days) from the date of purchase by the Plan. The mortgage banker will pay the Plan the outstanding principal balance on the mortgage loan plus interest and will reimburse the Plan for any expenses incurred in making the loan. The Plan's commitment must conform to the written guidelines which the Plan trustees have provided to the Plan's investment manager. The guidelines are in two sets, one for conventional residential mortgages, including planned unit developments and condominium units, and the other for one-family dwellings, FHA-insured or VA-guaranteed mortgages. Each set of guidelines contains requirements regarding the dwelling, the plot, water supply and sewage disposal, the area, the mortgage loan (including the borrower's income and credit) and other requirements or considerations. These guidelines may be changed from time to time, but typically they have provided that the dwelling unit not be more than one year old (although justifiable exceptions may be considered), that the loan mature in not more than 30 years (in the case of conventional loans) or 35 years (in the case of FHA-insured or VA-guaranteed loans), that conventional loans not exceed 80 percent of appraised value except loans of 90 percent of appraised value will be considered where private mortgage insurance covers the top 20 percent, and that title insurance and other forms of insurance be provided. These requirements are specified in the written commitment. In addition, the commitment contains the fee charged by the Plan for issuing the commitment and the interest rate required on the loans which are to be purchased by the Plan.

Also, mortgage banking firms from which the Plan purchases mortgages service the loans under separate servicing contracts with the Plan. The servicing includes collective payments and remitting them to the Plan, sending late notices and handling foreclosures. Also, the servicing contract provides that should any mortgagor default in his payment obligations (e.g., fire and hazard insurance, taxes), the servicer shall nevertheless pay the obligations when due by advancing its own funds, subject to reimbursement by the Plan.

3. The terms of the commitment are similar to commitments made by other lenders, for example, insurance companies, banks and savings and loan associations. The interest rate charged is determined by the rate then prevailing in the marketplace.

Notice to Interested Persons

Notice will be given to all interested persons within 45 days of the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption. The notice will be posted by all contributing employers to the Plan and will be posted in each local union office and hiring hall. Also, notice will be published in any labor journal that is regularly distributed to participants.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single family dwelling units from financial institutions which are parties in interest solely by reason of being service providers to the Plan, when construction of such dwelling units may be by persons who are parties in interest with respect to the Plan, and the repurchase of defective mortgages by such financial institutions. The foregoing exemption will be applicable only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arm's length transactions between unrelated parties.

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan records are lost or destroyed prior to the end of the six year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the sanctions imposed by section 4975 of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any trustee of the Plan or any duly authorized employee or representative of such trustee;

(iii) The Plan's investment manager or any duly authorized employee or representative of the investment manager; and

(iv) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participant or beneficiary.

In addition, the proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3d day of November, 1980

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-34789 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-29-M

Office of Pension and Welfare Benefit Programs

Proposed Exemption for Certain Transactions Involving Supermarket Merchandising Corporation Profit Sharing Plan (Application No. D–1976); Decor Distributors, Inc. Profit Sharing Plan (Application No. D–1977); M–K Housewares Company Profit Sharing Plan (Application No. D–1978)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the proposed loans (the Loans) of money for a period of five years by the Supermarket Merchandising Corporation Profit Sharing Plan, the Decor Distributors, Inc. Profit Sharing Plan and M–K Housewares Company Profit Sharing Plan (collectively, the Plans) to their respective sponsors, Supermarket Merchandising Corporation, Decor Distributors, Inc. and M–K Housewares Company (collectively, the Companies), the sponsors of the Plans. The proposed exemption would also exempt for the term of the Loans the personal guarantees of the Companies' obligation by Joel Mandel (Mandel) and J. B. Kahn (Kahn). The proposed exemption, if granted, would affect the Plans, the Companies, and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 19, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, Attention: Application Nos.

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D–1976, D–1977 and D–1978. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of applications for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in applications filed by Mandel, Kahn and Gilbert Araiza, the Trustees (the Trustees) of the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. The three Plans are identical in structure and have the same Plan Administrator and Trustees. The custodian of the Plans is the First City National Bank of Houston (the Bank). As of December 31, 1979 the Plans had net assets totaling $1,065,323. The Trustees own the majority of the stock of the Companies. Each of the Companies maintains a fleet of vehicles (the Vehicles). Presently, the purchase of the Vehicles by the Companies is financed through the Bank. The Bank finances the Vehicles at an interest rate of 2% above the prevailing prime rate of the Bank.

2. The Trustees are requesting an exemption to allow each Plan, for a period of five years to make Loans on a recurring basis to the Company which sponsors it. The five year period would begin on the date the exemption for the proposed transactions is published in the **Federal Register**. The proceeds from the Loans would be used by the Company to purchase the Vehicles. Each Loan would be subject to the following conditions:

(1) Each Loan will be collateralized by a promissory note and a security agreement,

(2) Each Loan will have a first lien on the Vehicle, and in addition will be collateralized by other vehicles which are owned by the Companies such that at all times each Loan will be collateralized in an amount at least equal to 150% of outstanding balance of such Loan,

(3) Each Vehicle purchased will be a new Vehicle,

(4) No Loan will exceed 80% of the purchase price of the Vehicle financed, excluding the tax, title and license costs,

(5) The maximum length of any Loan will be 36 months,

(6) The interest rate on the Loans will be fixed at a rate 2¼% above the prevailing prime rate set by the Bank with the maximum rate being the rate which is legally allowed under the usury statutes of the State of Texas,

(7) At the time of its making no Loan together with other Loans will exceed 25% of the dollar value of the total assets of the Plan,

(8) Each Loan will be personally guaranteed by Mandel and Kahn who are the majority shareholders of the Companies. The Trustees represent that Mandel has a net worth of more than three million dollars and Kahn has a net worth of more than one million dollars.

3. Prio to the Plans entering into any Loan, an independent fiduciary, Mr. Kenneth H. Knop (Knop), Esquire, will certify that such Loan would be an appropriate investment for the Plan and that the terms of such Loan are equal to or better than those which the Plan would receive in dealing with an unrelated party. Knop will also be responsible for monitoring the payments on the Loans and for monitoring the fair market value of the collateral used in securing the Loans. Knop is engaged in the practice of law in Houston, Texas and specialzes in trust administration. Knop is unrelated to the Companies or the Plans. The Bank will release money to fund a Loan only upon the Bank's receipt of (1) a promissory note and security agreement in proper form, (2) an envelope draft payable to the order of the seller of the Vehicle containing an application for a title to the vehicle, a sales tax receipt, and a seller's affidavit of sale, and (3) the written approval of Knop. The Bank will receive all Loan payments and will notify knop of any failure on the part of any Company to make a Loan payment within 15 days from the date such payment is due.

4. The Trustees represent that the proposed Loans will satisfy the criteria of section 408(a) of the Act as follows: (1) The Trustees fo the Plan represent that the Loans will be in the best interests of the Plan; (2) the Loans will be approved and monitored by an independent fiduciary; (3) the Plans will receive a high rate of return on their investment; (4) the Loans will be secured at all times by personal property valued at 150% of the outstanding balance of the Loans and by personal guarantees of the majority shareholders of the Companies; and (5) the exemption will be for a five year period of time.

Notice to Interested Persons

A copy of the notice of pendency will be mailed to each participant and beneficiary of the Plans within 15 days of its publication in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will b available for public inspection with the applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and Section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)[1](A) through (E) of the Code shall not apply for a five year period to the Loans to the Companies by the Plans as above described, or for the term of the Loans to the personal guarantees of the Companies' obligation ~~by~~ Mandel and Kahn.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the applicatons accurately describe all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3rd day of November 1980.

Ian D. Lanoff,

Administator, Pension and Welfare Benefit Programs, Labor-Management Services Administation, Department of Labor.

[FR Doc. 80-34788 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1954

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending October 31, 1980.

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

Signed at Washington, D.C., on October 31, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-34882 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-30-M

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1954

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending October 31, 1980, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

Signed at Washington, D.C., on October 31, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-34881 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-30-M

[Secretary of Labor's Order 8–80]

Enforcement of Equal Opportunity in Programs and Activities Receiving or Benefiting from Financial Assistance from the Department of Labor

1. *Purpose.* To establish an Office of Civil Rights in the Office of the Secretary, and to delegate authority and assign responsibility for enforcing equal opportunity in programs and activities receiving or benefiting from financial assistance from the Department of Labor (DOL).

2. *Authority and Directives Affected.*—a. *Authority.* This Order is issued pursuant to the Act of March 4, 1913 (37 Stat. 736); 29 U.S.C. 551, 5 U.S.C. 301 and 302 (b) (1); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; Section 132 of the Comprehensive Employment and Training Act (CETA); and Executive Orders which apply to recipients of financial assistance from the DOL.

b. *Directives Affected.* This Order cancels Temporary Directives 33 and 33–E, including the abolishment of the position of Special Assistance to the Secretary for Civil Rights. All other Orders, Directives, and Notices inconsistent with the provisions of this Order are superseded to the extent of such inconsistency.

3. *Policy.* It is the policy of the DOL to promote equality of opportunity in its programs and activities, and to ensure full compliance with all constitutional, statutory and regulatory nondiscrimination provisions in programs and activities receiving or

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benefiting from financial assistance from the DOL.

4. *Background.* The DOL, through several of its Agencies, administers grant programs which provide financial assistance to various recipients including units, agencies, and consortia of State and local governments, educational institutions, nonprofit agencies and organizations and private corporations. Recipients of assistance must conform to constitutional, statutory and regulatory prohibitions against discrimination. An Office of Civil Rights in the Office of the Secretary is needed to establish uniform, consistent and effective enforcement of the nondiscrimination and equal opportunity requirements applicable to all DOL programs of financial assistance.

5. *Establishment.* There is hereby established in the DOL an Office of Civil Rights whose Director reports directly to the Secretary of Labor.

6. *Delegation of Authority and Assignment of Responsibilities.*—a. *The Director of the Office of Civil Rights* is delegated authority and assigned responsibility for:

(1) Developing, implementing, and monitoring the Department's civil rights enforcement program under all equal opportunity and nondiscrimination requirements applicable to programs of financial assistance from DOL, including Title VI of the Civil Rights Act of 1964, as amended; Section 132 of CETA; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; and the Age Discrimination Act of 1975, as amended (hereinafter referred to as grant related EO laws).

(2) Establishing and formulating all policies, standards, and procedures, as well as issuing rules and regulations governing the civil rights enforcement programs under grant related EO laws.

(3) Achieving compliance through pre-award and post-award reviews, complaint investigations, negotiations, conciliation proceedings, and the application of appropriate sanctions and remedies.

(4) Cooperating and coordinating with DOL Agencies, the Office of the Inspector General, the Department of Justice, Equal Employment Opportunity Commission and other agencies in connection with the administration of nondiscrimination and equal opportunity laws.

(5) Developing and conducting training and providing technical assistance for the National and regional staffs of the Office of Civil Rights as well as for DOL Agency program staffs, recipients of DOL financial assistance and beneficiaries.

(6) Developing and implementing a management information and case tracking system which can be used to assess the effectiveness of the DOL Civil Rights Program; and directing the regional programs and staff for civil rights in carrying out their functions under the grant related EO laws.

b. *Agency Heads* are assigned responsibility for:

(1) Promoting and instituting measures to assure that equality of opportunity is a reality in all Federal financial assistance programs funded by their Agency.

(2) Assuring that equal opportunity requirements are incorporated into all regulations, procedures and other guidelines and references covering grant programs administered by their Agency.

(3) Maintaining close liaison and providing full cooperation with the Director of the Office of Civil Rights in all civil rights and equal opportunity matters affecting the financial assistance programs of their Agency.

c. *The Solicitor of Labor* is delegated authority and assigned responsibility for:

(1) Providing legal advice and assistance to all officers of the Office of Civil Rights relating to the administration of grant related EO laws.

(2) Representing the Secretary of Labor and/or other DOL officials in legal proceedings under the grant related equal opportunity laws as appropriate.

7. *Transfer of Resources.* Personnel, funds, equipment, supplies and records associated with administration and enforcement of equal opportunity in any grant making programs of DOL Agencies are transferred to the Office of Civil Rights. The Assistant Secretary for Administration and Management will complete arrangements to effect an orderly and equitable transfer of resources, including assurance of consultation and negotiations as appropriate with the exclusive union representatives.

8. *Effective Date.* This order shall be effective as of October 28, 1980. Signed at Washington, D.C., this 28th day of October 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-34883 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-10,675]

Collins and Aikman Corp. Bangor Division, Cowpens, S.C.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition received on August 20, 1980 which was filed by former workers on behalf of workers and former workers producing finished fabric at the Cowpens, South Carolina plant of the Bangor Division of Collins and Aikman Corporation.

On September 8, 1980, an investigation (TA-W-10,675) was initiated on behalf of the same group of workers as TA-W-10,504.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,504, a new investigation would serve no purpose. Consequently, the investigation (TA-W-10,675) has been terminated.

Signed at Washington, D.C. this 4th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34872 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,173]

Conklin Forging Co., Inc., Detroit, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 6, 1980 in response to a worker petition received on September 29, 1980 which was filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO on behalf of workers and former workers producing forged parts and tools at Conklin Forging Company, Incorporated, Detroit, Michigan.

The petitioning group of workers in this case was included in a determination (TA-W-7784) issued on October 17, 1980 which certified as eligible to apply for adjustment assistance all workers at Conklin Forging Company, Incorporated, Detroit, Michigan. Since all workers separated totally or partially, from Conklin Forging Company, Incorporated, Detroit, Michigan on or after April 11, 1979 (impact date) and before October 17, 1982 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 4th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34873 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,616]

Metal Forge Co., Columbus, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on September 2, 1980 which was filed on behalf of workers at the Columbus, Ohio plant of Metal Forege Company. The workers produce front end suspension systems.

On October 17, 1980 workers at the Columbus, Ohio plant of Metal Forge Company were denied eligibility to apply for adjustment assistance (TA-W-8007). The petition alleged that imports of automobiles caused layoffs. The investigation revealed no evidence that indicated increased imports of automobiles or suspension systems had contributed importantly to layoffs at the Columbus, Ohio plant of Metal Forge Company in 1979 or the first six months of 1980.

The Department instituted another investigation on behalf of workers at the Columbus, Ohio plant of Metal Forge Company (TA-W-10,616). The petition alleges that imports of automobiles caused layoffs in July 1979.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-10,616) and since the current petition presents no additional information pursuant to the previous determination (TA-W-8007) that would change that determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 4th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-34871 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7399]

Uniroyal Merchandising Co., Houston, Tex.; Negative Determination Regarding Application for Reconsideration

By an application dated September 5, 1980, counsel for the petitioner with support from the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers engaged in employment related primarily to the sales and service of passenger car and truck tires at the Uniroyal Merchandising Company, Houston, Texas. The determination was published in the **Federal Register** on August 19, 1980, (45 FR 55298).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances: (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

Counsel for the petitioner with support from the company claims that the Uniroyal Merchandising Company's (UMC) application cannot be separated from the plant situations where trade adjustment assistance was approved. Counsel claimed that imported tires have caused UMC to sell its tires at unprofitable prices thereby causing layoffs. Lastly, counsel states that UMC's sales have been hurt by the shift to metric size tires which has brought a steadily declining share of the replacement market to UMC.

The Department's review shows that workers at UMC did not meet the "contributed importantly" test of the Trade Act of 1974. The Department found that the substantial decline in domestic demand for passenger car and truck tires and the management decision by UMC to phase out its retail outlets were the major factors affecting sales at UMC.

With respect to the linking of the certifications at several of Uniroyal tire plants to UMC's application and to the claim that UMC was placed in an unfavorable competitive position because of imported passenger car tires, it should be noted that in order to certify the UMC retail outlets, the adverse impact of increased imports must be shown to have contributed importantly to the closing of the UMC retail outlets. In this case, no such relationship has been found since the certifications issued to workers at Uniroyal tire plants in 1979 and 1980 were based on increased imports of passenger car tires by the Uniroyal Tire Company, itself, and on purchases of imported passenger car and truck tires by Uniroyal's customers in the original equipment and large wholesalers in the replacement markets. UMC's retail outlets sell passenger car and truck tires directly to individual customers in the replacement market. Certification of UMC workers, therefore, cannot be linked directly to the basis on which the production worker certification rested. The closing of UMC retail outlets beginning in 1977 were a factor in the significant declines in UMC's sales, especially in 1979. Declines in U.S. shipments in 1979 compared to 1978 of both passenger car and truck tires resulted primarily from the contraction in tire demand. This contraction was brought about by several factors including the increased use and longer life of radial tires and reduced tire wear due to lower speed limits, and longer tire life due to reduced driving caused by scarcity and costliness of gasoline. Further, the Department found that UMC's retail outlet closings were the result of a management decision which originated in the mid-1970s long before workers were certified at the first Uniroyal tire plant.

Finally, the Department does not agree with the claim that imports of metric size tires have been a factor in UMC sales declines. Metric size tires were only introduced on some 1978 new car models and the demand "downstream" in the replacement market has not as yet fully arrived. Irrespective of developments in the metric size tire market, the Department's negative decision is predominantly based on Uniroyal's management decision in the mid-1970s to divest itself of its company owned retail outlets and on the substantial decline in domestic demand for passenger car and truck tires.

Further, increased auto imports cannot be used as a basis for certifying employees of company owned retail outlets of independent tire producers. The Department has previously determined that component parts are not like or directly competitive with the finished article. This position has been supported by the courts.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

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Signed at Washington, D.C., this 28th day of October 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-34814 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 31st day of October 1980.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Abex Corp. Amsco Division (USWA)	Chicago Hts., IL	10-24-80	10-10-80	TA-W-11,497	Steel castings.
AIE Division of Vernitron (workers)	Smithville, TN	10-24-80	10-21-80	TA-W-11,498	Small electrical transformers.
Amencan Motors Corp., PDC (workers)	Burlingame, CA	10-24-80	10-20-80	TA-W-11,499	Automotive parts.
Amencan Safety Inflatables Division (workers)	Miami, FL	10-20-80	10-16-80	TA-W-11,500	Flotation safety equipment.
Bons Smoler & Sons Inc. (ILGWU)	La Porte, IN	10-24-80	10-21-80	TA-W-11,501	Ladies apparel
Bons Smoler & Sons Inc. (ILGWU)	Chicago, IL	10-24-80	10-21-80	TA-W-11,502	Ladies apparel.
Bons Smoler & Sons Inc. (ILGWU)	Elkhart, IN	10-24-80	10-21-80	TA-W-11,503	Ladies apparel.
Burgher Shingle Ridge Inc. (workers)	Copalis Crossing, WA	10-24-80	10-10-80	TA-W-11,504	Make shake ridge.
Crucible Steel Co. Coil Ind. (USWA)	Midland, PA	10-24-80	10-21-80	TA-W-11,505	Stainless and alloy steel.
Concord Coal Corp. (company)	Charlestown,"WV	10-24-80	10-17-80	TA-W-11,506	Metallurgical and utility coal.
Decker Coal Co. (PMWA)	Decker, MT	10-27-80	10-24-80	TA-W-11,507	Coal.
Fisher Corp. (company)	Troy, MI	10-22-80	10-20-80	TA-W-11,508	Seat belt hardware.
GAF Corp. Building Materials Group (USWA)	Joliet, IL	10-24-80	10-21-80	TA-W-11,509	Advanced mastics and fibrous padding.
Hoover N.S.K. Bearing Co. (UAW)	Ann Arbor, MI	10-24-80	10-17-80	TA-W-11,510	Ball bearings.
Jack Winter Company (ACTWU)	Milwaukee, WI	10-24-80	10-18-80	TA-W-11,511	Ladies and misses apparel.
Liberty Tool & Die (workers)	Walled Lake, MI	10-24-80	10-14-80	TA-W-11,512	Stamping die.
New Jersey Zinc Co. (USWA)	Ogdensburg, NY	10-24-80	10-20-80	TA-W-11,513	Mining product of zinc ore for processing into zinc metal.
Olivetti Corp. (workers)	Harrisburg, PA	10-24-80	10-21-80	TA-W-11,514	Calculators, printers and typewriters.
Pennsy Coats (ILGWU)	Paterson, NJ	10-24-80	10-22-80	TA-W-11,515	Raincoats.
Sharon Steel Corp., Brainard Strapping Division (USWA)	Warren, OH	10-24-80	10-21-80	TA-W-11,516	Strapping tools, steel trappings.
Thorntown Textile Co. (company)	Thorntown, IN	10-24-80	10-21-80	TA-W-11,517	Ladies sportswear.
Thorsby Mfg. Co. (ILGWU)	Thorsby, AL	10-24-80	10-21-80	TA-W-11,518	Sportswear.
Sharpe Mfg. (workers)	Brainerd, MN	10-24-80	10-18-80	TA-W-11,519	Ladies coats and jackets.
Simonds Cutting Tools Wallace Murray Corp (USWA)	Newcomerstown, OH	10-24-80	10-21-80	TA-W-11,520	Specialty files.
Thompson Steel Co. Inc. (USWA)	Worcester, MA	10-24-80	10-21-80	TA-W-11,521	Wire products, tempered and untempered.
VRN Division of Vernitron (workers)	St. Petersburg, FL	10-22-80	10-20-80	TA-W-11,522	Potentiometers and resistive devices.
Wheeling-Pittsburgh Steel Corp. (USWA), Martins Ferry Plant	Martins Ferry, OH	10-27-80	10-23-80	TA-W-11,523	Galvanized steel coils and sheet and strip.
Wonderall (workers)	Buffalo, MN	10-24-80	10-18-80	TA-W-11,524	Children blouses, shirts, pants, coats, jackets.
Wonderall (workers)	Minneapolis, MN	10-24-80	10-18-80	TA-W-11,525	Children blouses, shirts, pants, coats, jackets.
Wonderall (workers)	Paynesville, MN	10-24-80	10-18-80	TA-W-11,526	Children blouses, shirts, pants, coats, jackets.
Xplorer Motor Homes (workers)	Brown City, MI	10-27-80	10-24-80	TA-W-11,527	Motor homes and vans.
B&B Plastics (workers)	Lockport, NY	10-28-80	10-24-80	TA-W-11,528	Teflon coats carburetor parts.
Gene Bell Chevrolet Inc. (workers)	Detroit, MI	9-18-80	9-16-80	TA-W-11,529	Automobile sales.
Industrial Electronic Rubber Co. (workers)	Twinsburg, OH	10-28-80	10-22-80	TA-W-11,530	Precision molded rubber products.
S. W. Evans & Sons (workers)	Philadelphia, PA	10-27-80	10-22-80	TA-W-11,531	Umbrella frames.
Sager Glove Corp. (workers)	Murray, KY	10-28-80	10-23-80	TA-W-11,532	Flame retardant safety clothes.
Taylor Sportswear Inc. Warehouse (workers)	Cleveland, TN	10-24-80	10-21-80	TA-W-11,533	Men's 3 pc. vest suits.
Taylor Sportswear Inc. Plant (workers)	Cleveland, TN	10-24-80	10-21-80	TA-W-11,534	Men's 3 pc. vest suits.
Taylor Sportswear Inc. (workers)	New York, NY	10-24-80	10-21-80	TA-W-11,535	Men's 3 pc. vest suits.
United Canning Corp. (workers)	North Lima, OH	10-27-80	10-24-80	TA-W-11,536	Different sized cans of mushrooms.
United Steel Wire Co. (workers)	Battle Creek, MI	10-27-80	10-23-80	TA-W-11,537	Shopping carts.
Associated Spring Barnes Group Inc. (UAW)	Ann Arbor, MI	10-24-80	10-17-80	TA-W-11,538	Precision valve springs.
Armco Inc. (USWA)	Baltimore, MD	10-27-80	10-24-80	TA-W-11,539	Stainless steel products.
Bethlehem Steel Corp. (USWA)	Steelton, PA	10-28-80	10-22-80	TA-W-11,540	Steel ingots, alloy steels.
Dayton Malleable Ironton Division (workers)	Ironton, OH	10-28-80	10-20-80	TA-W-11,541	Automobile and truck parts.
East Side Lighting (AFL-CIO)	Linden, NJ	10-27-80	10-22-80	TA-W-11,542	Lighting fixtures.
Florsheim Shoe Co. (workers)	Chaffee, MO	10-20-80	10-11-80	TA-W-11,543	Men's leather shoes.
Intrend Textiles Inc. (workers)	New York, NY	10-27-80	10-22-80	TA-W-11,544	Printed fabric.
Mahoning Valley Mushroom Farm Inc. (workers)	North Lima, OH	10-27-80	10-24-80	TA-W-11,545	Different size cans of mushrooms.
Rehant Die & Engineering Co. (workers)	Detroit, MI	10-28-80	10-24-80	TA-W-11,546	Automotive dies and tools.
St. Joe Zinc Co. (USWA)	Balmat, NY	10-27-80	10-21-80	TA-W-11,547	Zinc concentrate, zinc sulphide.
Detroit Drop Die Co. (Detroit Die Sinkers)	Bellville, MI	10-24-80	10-21-80	TA-W-11,548	Forging dies, trimmers.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ensign Electric Co. (USWA)	Huntington, WV	10-27-80	10-23-80	TA-W-11,549	General mining equipment.
G. C. Lingerie Corp. (Company)	Tuscumbia, AL	10-27-80	10-21-80	TA-W-11,550	Lingene.
General Electric Co. (workers)	Memphis, TN	10-27-80	10-24-80	TA-W-11,551	Miniature automotive lamp.
Gregory Novelty, Ltd. (ILGWU)	New York, NY	10-27-80	10-23-80	TA-W-11,552	Process feathers.
Glenoma Shake & Shingles (workers)	Glenoma, WA	10-27-80	10-20-80	TA-W-11,553	Shakes and shingles.
Granite City Steel Division (USWA)	Granite City, IL	10-27-80	10-23-80	TA-W-11,554	Cold and hot rolled and galvanized steel.
Philadelphia Steel (USWA)	Conshohocken, PA	10-27-80	10-24-80	TA-W-11,555	Large round iron balls.
Rubin Gloves Inc. (ACTWU)	Gloversville, NY	8-1-80	7-30-80	TA-W-11,556	Men's and ladies gloves.
United States Steel Corp. (workers)	Pittsburgh, PA	10-27-80	10-21-80	TA-W-11,557	Clerical work.
Barnum Brothers Fibre Co. (Sterling Plastics Wkrs. Union).	Petoskey, MI	10-29-80	10-21-80	TA-W-11,558	Fan shrouds.
Creative Foam Corp. (workers)	Fenton, MI	10-29-80	10-1-80	TA-W-11,559	Foam gaskets and seals for the automotive industry.
DME Company (company)	Youngwood, PA	10-28-80	10-22-80	TA-W-11,560	Steel plates used to assemble tooling for plastic injection molding and die castings.
DME Comapny (company)	Darlington, PA	10-28-80	10-22-80	TA-W-11,561	Steel plates used to assemble tooling for plastic injection molding and die castings.
Display South (USWA)	Clanton, AL	10-28-80	10-23-80	TA-W-11,562	Metal display fixtures.
Doehler-Jarvis (UAW)	Batavia, NY	10-29-80	10-21-80	TA-W-11,563	Custom die castings, chain saw parts, audio visual parts.
K Industries Corp. (workers)	Mineral Wells, TX	10-28-80	10-23-80	TA-W-11,564	Hermetic seals.
Publix Shirt Co. (ACTWU)	Gallitzin, PA	10-29-80	10-22-80	TA-W-11,565	Men's sport shirts.
Signal Stat (IAM)	Union, NJ	10-27-80	10-22-80	TA-W-11,566	Automotive lighting devices.
Wheeling-Pittsburgh Steel Corp. (USWA)	Yorkville, OH	10-27-80	10-23-80	TA-W-11,567	Steel.
General Motors Corp., Central Office (company).	Willow Run, MI	10-30-80	10-27-80	TA-W-11,568	Administration, engineering and research testing.
Brown Shoe Co. (workers)	Peggott, AR	10-29-80	10-22-80	TA-W-11,569	Manufacture shoes.
Engineering & Research Staff—Manufacturing Development Glendale—Glendale Research (UAW).	Detroit, MI	10-29-80	10-23-80	TA-W-11,570	Research.
Imperial Display Corp. (workers)	Long Island City, NY	10-27-80	10-18-80	TA-W-11,571	Decorations.
Ina Sportswear (workers)	New York, NY	10-24-80	10-21-80	TA-W-11,572	Shirts and slacks.
Mickey Madann Handbags Inc. (company)	New Bedford, MA	10-24-80	9-23-80	TA-W-11,573	Manufacture ladies handbags.
Nicholson File Co. (workers)	Anderson, IN	10-15-80	10-8-80	TA-W-11,574	Hand files, rotary burrs.
Republic Steel Corp. (USWA)	Niles, OH	10-14-80	10-9-80	TA-W-11,575	Flat cold rolled steel coils.
Teledyne Wah Chang (workers)	Albany, OR	10-28-80	10-23-80	TA-W-11,576	Zirconium metal nuclear fuel rods.
Theo Gersherwald & Sons Inc. (workers)	New York, NY	10-14-80	10-9-80	TA-W-11,577	Suits, coats.
U.S. Steel Corp American Bridge Division (workers).	Pittsburgh, PA	10-20-80	10-14-80	TA-W-11,578	Fabricate and erect steel bridges, buildings.
Goodyear Tire & Rubber Co. Dist. Ctr. (workers).	Gadsden, AL	10-29-80	10-20-80	TA-W-11,579	Tires.
Jay Garment Co. (ACTWU)	Clarksville, TN	10-29-80	10-27-80	TA-W-11,580	Work shirts and suits.
Miller Shoe #4, Melville Corp	Brunswick, ME	10-29-80	10-23-80	TA-W-11,581	Women's shoes and boots.
Royal Down Products (ACTWU)	Belding, MI	10-29-80	10-20-80	TA-W-11,582	Textiles.
Sunstrand Heat Transfer Inc. (workers)	Dowagiac, MI	10-29-80	10-22-80	TA-W-11,583	Copper.
Tommy-Alpren Togs Inc. (factory) (workers)	New York, NY	10-29-80	10-22-80	TA-W-11,584	Manufacture children's clothing.
Tommy-Alpren Togs Inc. (showroom) (workers).	New York, NY	10-29-80	10-22-80	TA-W-11,585	Manufacture children's clothing.
Twine Products Corp. (UTW)	New Orleans, LA	10-29-80	10-27-80	TA-W-11,586	Sisal baler twine, polypropylene baler plastic twine
Vakko Leather (workers)	New York, NY	10-29-80	10-28-80	TA-W-11,587	Pants, coats, jackets.
Cadillac Cable Corp., Machine Division (AFL-CIO).	Frackville, PA	10-30-80	10-27-80	TA-W-11,588	Steel fabricated material handling racks.
Chrysler St. Louis Car Assembly Plant (UPGWA).	Fenton, MO	10-27-80	10-23-80	TA-W-11,589	Produce cars.
Elanvay Corp. (ILGWU)	Shelbyville, IN	10-30-80	10-27-80	TA-W-11,590	Pant suits, pants, blouses, skirts, dresses.
J. I. Case Co. (UAW)	Racine, WI	10-27-80	10-23-80	TA-W-11,591	2 wheel and 4 wheel agricultural tractors.
J. I. Case Co. (UAW)	Burlington, IA	10-27-80	10-23-80	TA-W-11,592	Rubber tires, construction equipment for construction tractors.
J. I. Case Co. (UAW)	Bettendorf, IA	10-27-80	10-23-80	TA-W-11,593	Crawler tractors.
J. I. Case Co. (UAW)	Rock Island, IL	10-27-80	10-23-80	TA-W-11,594	Components for agricultural tractors; valves, engines.
Miller Bros. Industries (workers)	New York, NY	10-27-80	10-24-80	TA-W-11,595	Manufacture jeans.
U.S. Steel Corp. U.S. Steel Supply Division (workers).	Tayler, MI	10-10-80	9-25-80	TA-W-11,596	Sale of steel products.
Peterson Spring Corp. (UAW)	Three Rivers, MI	10-30-80	10-25-80	TA-W-11,597	Springs, rings, stampings.
Andrew Bruce Fashions LTD (company)	New York, NY	10-30-80	10-27-80	TA-W-11,598	Men's clothing.
Distel Tool & Machine Co. (UAW)	Warren, MI	10-30-80	10-28-80	TA-W-11,599	Build large body dies.
Fly Manufacturing Co., Athens Division (workers).	Athens, AL	10-30-80	10-24-80	TA-W-11,600	Woven work and sport shirts.
National Fibrit (workers)	Springfield, TN	10-30-80	10-28-80	TA-W-11,601	Interior trim panel.
Parker Reynolds Chev. Inc. (workers)	North Olmsted, OH	9-9-80	9-2-80	TA-W-11,602	Auto dealership.
Salant & Salant (company)	Lexington, TN	10-30-80	10-23-80	TA-W-11,603	Men's and women's jeans.
Reed Forest Products Inc. (workers)	Cheektowaga, NY	10-30-80	10-28-80	TA-W-11,604	Wallpaper.
Yorktowne Manufacturing Co. (workers)	Ephrata, PA	10-30-80	10-27-80	TA-W-11,605	Women's blouses.

[FR Doc. 80-34874 Filed 11-6-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period October 27–31, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number of proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed

importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–8146; Commerce Engineering and Pattern Co., Walled Lake, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of industrial patterns are negligible.

TA–W–8150; J&I Pattern Company, Troy, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of industrial patterns are negligible.

TA–W–8152; Sherwood Metal Products, Inc., Drayton Plains, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of auto patterns are negligible.

TA–W–10,320; Ring Screw Work Co., Ring Screw Division, Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8778; H. Waterbury and Sons Co., Oriskany, NY

Investigation revealed the criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7846; Wells Lamont Corp., Leather Cutting Dept., Brownsville, TN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,032; DSB Engineering, Inc. Algonac, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8621; Modern Engineering Service Co., Inc., Troy, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–9496; Joan Fabrics Corp., Lowell, MA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of yam and finished fabric did not increase as required for certification.

TA–W–9376; Florsheim Shoe Co., Hermann, MI

Investigation revealed that criterion (3) has not been met. A certification applicable to the workers at the subject facility expired on May 4, 1980. Production at the facility has not declined since that time.

TA–W–9158; U.S. Industries Inc., Lucas Steel Div., Toledo, OH

Investigation revealed that the workers do not produce an articles as required for certification under Section 223 of the Act.

TA–W–8148; Admiral Pattern Works, Inc., Warren, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of industrial patterns are negligible.

TA–W–8091; Magnavox Consumer Electronics Co., Cabinet Div., Jefferson City, TN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of cabinets or televisions did not increase as required for certifications.

TA–W–7912; Dana Corp., Hagerstown Distribution Center, Hagerstown, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA–W–7302; Lear Siegler, Inc., Automotive Div., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7938; Bendix Corporation, St. Joseph, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7962; Dayco Corporation, Automotive Sales Div., Waynesville, NC

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA–W–8373; Ceramic Elements, Inc., South Plainfield, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA–W–8714; Bent Tube Inc., Fowlerville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA–W–9162; J&R Fashions, Inc., Paterson, NJ

Investigation revealed that sales by manufacturers for which the subject form product under contract did not decline.

TA–W–9429; E.I. Dupont De Nemours and Co., Inc., Flint, MI

Investigation revealed (3) has not been met. Aggregate U.S. importants of automotive coatings are negligible.

TA–W–10,285; National Steel Corp., Steamship Div., Cleveland, OH

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA–W–8124; Whittaker Corp., Detroit, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA–W–8999; Carron and Co., Inkster, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,853; Michigan Metal Processing Corp., Detroit, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA–W–10,893; Joseph T. Ryerson and Son, Inc., Indianapolis, IN

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA–W–8327; Uniroyal, Inc., Port Clinton, OH

Investigation revealed that criterion (1) has not been met.

TA–W–10,601; Warrior and Gulf Navigation Co., Port Birmingham, AL

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8659; General Hose Products, Inc., Fairfield, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8149; Progress Patern Div., Lear Siegler, Inc., Southfield, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7941 and 8209; Machine Rite Products, Inc., Lagrange, IN; Metal Fabricating Corp., Lawrenceburg, TN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8109, 8110, 8111, 8112, 8113, 8114, and 8115; Superior Industries International, Inc.; Woodley Ave., Van Nuys, CA; Keswick St., Van Nuys, CA; Redwood Ave., Los Angeles, CA; South Westgate, West Los Angeles, CA; Gardena, CA; Rt. 53, Itasca, IL; and West Bryn Mawr, Itasca, IL

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,667, 10,677, & 10678; Consolidation Coal Co., McDowell, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increases as required for certification.

TA–W–9676; Dana Corp., Hopins, MN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of axles did not increase as required for certification.

TA–W–9458; P.R. Die and Stamping Company, Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,004; Hub Material Company, Boston, MA

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8143; Perfection Pattern and Mfg. Co., Madison Heights, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8144; Automotive Pattern Foundry Tooling Division, Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7793; Modine Manufacturing Co., Paducah, KY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8064; Stamping Service, Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

Affirmative Determinations

TA–W–8014 & 8014A–F; Dalton Industries, Inc.; Willoughby, OH; Canton, OH; Lorain, OH; Solon, OH; Cleveland, OH; Asheville, NC; and Columbus, NC

A certification was issued covering all workers of the firm separated on or after April 28, 1979 and before June 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period October 27–31, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: November 3, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–34880 Filed 11–6–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80–76)]

NASA Advisory Council; Meeting

ACTION: Notice of Meeting Extension.

SUMMARY: The scheduled meeting on November 10, 1980, of The NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee, published in the **Federal Register** October 21, 1980 (45 FR 69602), has been extended to be held an additional day as follows:

NAME OF COMMITTEE: NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: November 10, 1980, 8:30 a.m.–5:00 p.m., November 11, 1980, 9:00 a.m.–12:00 noon.

ADDRESS: Board of Trustee's Room, Millikan Library, California Institute of Technology, Pasadena, California 91125.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

AGENDA:

November 10, 1980

8:30 a.m.–10:30 a.m., Introduction.

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10:30 a.m.–12:00 noon, Planning Status.
1:00 p.m.–4:00 p.m., Alternate Planning.
4:00 p.m.–5:00 p.m., Summary.

November 11, 1980

9:00 a.m.–10:30 a.m., Closed Session (Discussion of Membership).
10:30 a.m.–12:00 noon, Alternate Planning Continued.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–3728).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration. The committee will report its findings to the Council and to NASA. The chairperson of the committee is Dr. John E. Naugle, and the committee is composed of four other members of the Council and its standing committees, who will meet with about 9 other invited participants and certain NASA personnel.

The meeting, originally announced as a one-day open meeting, is being extended at this time to accommodate the recently identified need to consider adding additional members to cover any disciplines not adequately covered by the original membership. For this purpose, a portion of the extension will be closed to the public from 9:00 a.m. to 10:30 a.m., on November 11, for a discussion of the qualifications of additional candidates for participation in the committee's study. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 32 persons, including committee members and invited meeting participants. Visitors will be requested to sign a visitor's register.

Russell Ritchie,
Deputy Associate Administrator for External Relations.
November 3, 1980.

[FR Doc. 80-34773 Filed 11-6-80; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Robert E. Ricklefs; Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by December 8, 1980. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations appeared in final form in the June 7, 1979 **Federal Register.** Additional information was published in the July 31, 1980 **Federal Register,** page 51004.

The application received is:

1. *Applicant:* Robert E. Ricklefs, Department of Biology, University of Pennsylvania, Philadelphia, Pennsylvania 19104.

2. *Activities for which Permit Requested.* Taking (24 Adelie penguin eggs, 24 Giant Petrel eggs, 24 Blue-eyed Shag eggs, 12 South Polar Skua eggs, 24 Wilson's Storm Petrel eggs). Importing into the U.S.A.

The eggs are required in conjunction with studies on the tolerance of avian embryos to cooling. Petrel eggs are frequently abandoned for periods of one or more days, but although egg temperature drops to around 5° C during absences, the embryos survive. Embryos of most other species at Palmer Station cannot tolerate such cooling.

The applicant plans to measure the metabolism (oxygen consumption) of embryos exposed to different temperatures ranging downward from 36° C to the point at which metabolism is no longer detectable.

The applicant plans to test the tolerance of embryos exposed to temperatures of 20° C and 5° C for periods of 2 hours, 24 hours, and 72 hours. Three eggs will be tested under each combination of conditions. Where feasible, the experiment will be repeated with eggs collected during the early part of the incubation and during the late part.

3. *Location:* Anvers Island and vicinity, Antarctic Peninsula.

4. *Dates:* December 8, 1980 to March 31, 1981.

Authority to take this action has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,
Division Director, Division of Polar Programs.

[FR Doc. 80-34792 Filed 11-6-80; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. NPF–2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment lowers the core elevation radial peaking factor, Fxy, for the remainder of Cycle 2 and for the upcoming Cycle 3.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's supplemental filing dated September 25, 1980 contained a portion claimed to be proprietary pursuant to 10 CFR 2.790(b). The staff has not yet completed its proprietary determination. The information claimed to be proprietary will be treated as such pending our determination. The non-proprietary portion of the September 25, 1980 submittal is available in the Public Document Room.

For further details with respect to this action, see (1) the application for amendment dated August 15, 1980 and the non-proprietary portion of the letter dated September 25, 1980, (2) Amendment No. 16 to License No. NPF–2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Chief, Operating Reactors Branch #1, Division of Licensing

[FR Doc. 80-34854 Filed 11-6-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-250]

Florida Power and Light Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR–31 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of the Turkey Point Plant Unit No. 3 (the facility) located in the Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment permits continued operation of the Turkey Point Plant Unit 3 for six equivalent months of operation from October 24, 1980 at which time the steam generators shall be inspected.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 22, 1980, (2) Amendment No. 60 to License No. DPR–31, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Chief, Operating Reactors Branch, #1 Division of Licensing

[FR Doc. 80-34853 Filed 11-6-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

The Zion Inservice Inspection Program; Issuance of Amendments To Approve and Provide Relief Where Appropriate; Correction

On August 28, 1980, a "Notice of Issuance of Amendments to Facility Operating Licenses" was published on page 45 FR 57612 which incorrectly referenced the Commonwealth Edison Company's application date. The correct application date should have been October 1, 1979 instead of October 26, 1979.

The Notice related to the approval of the inservice inspection (ISI) program at the Zion Station, Unit Nos. 1 and 2 located in Zion, Illinois.

Dated at Bethesda, Maryland, this 29th day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 80-34852 Filed 11-6-80; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

November 3, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the President's Commission for a National Agenda for the Eighties, is scheduled for November 6, 1980, from 7:00 p.m. to 11:00 p.m. in Washington, D.C. The meeting will be held in the Board Room of the Federal Home Loan Bank Building, 1700 G Street, N.W.

The purpose of the meeting is to discuss elements of the Commission's report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Brenda Mayberry,
Acting Budget and Management Officer.

[FR Doc. 80-34809 Filed 11-6-80; 8:45 am]
BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

November 3, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of Panel VIII (The Quality of American

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Life) of the President's Commission for a National Agenda for the Eighties, is scheduled for November 7, 1980 from 7:30 a.m. to 9:00 a.m. The meeting will be held in the New Executive Office Building, Room 6103, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss elements of the Panel's draft report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:
President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616.

Brenda Mayberry,
Acting Budget and Management Officer.

[FR Doc. 80-34810 Filed 11-6-80; 8:45 am]
BILLING CODE 3110-01-M

Office of Personnel Management

SES Performance Review Board

AGENCY: Office of Personnel Management.
ACTION: Notice.

SUMMARY: Notice is hereby given of the names of two additional members of the Performance Review Board.

DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT:
Joseph E. Nordsieck, Career Management Division, Office of Personnel, Office of Personnel Management, 1900 "E" Street, NW, Washington, DC 20415 (202–632–7484).

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

The following two individuals are additions to the Senior Executive Service Performance Review Board:

1. Benita Sidwell, Deputy Director of Administration, Goddard Space Flight Center, National Aeronautics and Space Administration.
2. Vincent J. Hearing, Deputy Assistant Secretary for Administration, Department of Housing and Urban Development.

[FR Doc. 80-34801 Filed 11-6-80; 8:45 am]
BILLING CODE 6325-01-M

POSTAL SERVICE

Privacy Act of 1974; System of Records Modification and Addition of New System of Records

AGENCY: U.S. Postal Service.
ACTION: Advance notice of modification to one existing system of records and of the creation of a new system of records.

SUMMARY: The primary purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add a new routine use to system USPS 120.098, Personnel Records—Office of Workers' Compensation Program (OWCP) Record Copies, and to create a new system of records, USPS 120.099, Personnel Records—Injury Compensation Payment Validation Records.

DATE: Comments must be received on or before December 8, 1980.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260, or delivered to Room 3321 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected in Room 3321 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT:
Martha J. Smith, (202) 245–5568.

SUPPLEMENTARY INFORMATION: The Postal Service is planning to begin identifying current and former postal employees who have received injury compensation payments concurrently with payments under another benefit program. The information to be maintained will be valuable in evaluating the extent of double payments, determining validity of suspected cases of fraud, seeking remunerative action, and establishing a basis for proposing legislation that could effectively reduce unwarranted double payments in the future. Preliminary analyses indicate that significant cost savings to the Postal Service and the general public may result.

Various precautions will be taken to protect the privacy of Postal Service employees: (a) Minimal retention periods will be established for all records created; (b) the files will be purged of cases that do not involve improper payments after completion of operational phases which result in such determinations; (c) the flow of information between the various Postal Service facilities will be channeled through specific points; and (d) the parties involved will provide adequate safeguards while using this information.

System Modification to Add New Routine Use

On a one-time basis, the Postal Service proposes to disclose a limited amount of information about plan members to respective Federal health benefit carriers. This information will be used to identify postal employees who have received compensation payments for the same injury from both the Postal Service and the carrier. Accordingly, system USPS 120.098, Personnel Records—Office of Workers' Compensation Program (OWCP) Records Copies, 120.098, is modified to add a new temporary routine use to allow this disclosure as follows:

"7. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files. (Note: This routine use will be in effect for a period of one year from its effective date.)"

System 120.098 is reprinted herein with the proposed routine use inserted.

Proposed Creation of One New System

The Postal Service proposes to create a new system of records, namely, USPS 120.99, Personnel Records—Injury Compensation Payment Validation Records, 120.099. USPS 120.099 is being created to provide the capability to identify employees who receive double compensation payments for the same injury. The system will also be used to take necessary follow-up actions on a case-by-case basis. It will contain information already existing in other Postal Service Privacy Act systems of records. This information will be extracted from those systems and included in USPS 120.099 whenever a record for an individual appears in both USPS 120.098 and another system. Also, it will include information gathered from Federal health benefit carriers about employees who have received both insurance and injury compensation payments for the same injury. Accordingly, proposed system USPS 120.099 is included for comment.

W. Allen Sanders,
Associate General Counsel General Law and Administration.

USPS 120.098

SYSTEM NAME:
Personnel Records—Office of Workers Compensation Program OWCP1. Record Copies 120098

SYSTEM LOCATION:
All postal facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Postal employees who have voluntarily filed for injury compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:
Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payments and accounting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Purpose—This information is used to provide injury compensation to qualifying employees and to maintain a record of the events as a basis for managerial decisions.

Use—

1. To provide information to the Department of Labor for the purpose of determining whether a claimant qualifies for compensation and to what extent qualification applies.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.
6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.
7. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files.

Note.—This routine use will be in effect for a period of one year from its effective date.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Printed forms and correspondence.

Note: In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.

Continuation of pay and DOL charge-back information in stored on computer media.

RETRIEVABILITY:
Records are retrieved alphabetically by name and social security number.

SAFEGUARDS:
Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security, encryptions, and/or a computer software security system.

RETENTION AND DISPOSAL:
OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:
APMG, Employee Relations Department, and APMG, Finance Department, Headquarters.

NOTIFICATION PROCEDURE:
Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System manager.

RECORD ACCESS PROCEDURES:
See NOTIFICATION PROCEDURE above.

Note.—The original case file (in most cases) is maintained by OWCP and must be requested from that organization as provided for under Department of Labor Privacy Act System DOL/EAS–13.

CONTESTING RECORD PROCEDURES:
The contents of OWCP records may be contested only by contacting OWCP as provided for under the Department of Labor Privacy Act System DOL/EAS–13.

RECORD SOURCE CATEGORIES:
Information is obtained from the claimant, the supervisor, witnesses, physicians, and Department of Labor.

USPS 120.099

SYSTEM NAME:
Personnel Records—Injury Compensation Payment Validation records, 120.099.

SYSTEM LOCATION:
All postal facilities having injury compensation units, Inspection Service offices from which an investigation is conducted, National Headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Current and former Postal Service employees who have received or are receiving injury compensation program payments.

CATEGORIES OF RECORDS IN THE SYSTEM:
Lists of individuals whose names appear in two systems of records, research case records, remuneration and investigative records related to injury compensation paid to current and former employees by the Postal Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
39 U.S.C. 1001, 39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Purpose—This information is used to identify instances in which improper double payments have been or are being made to Postal Service employees who have filed injury/sickness compensation claims and to maintain records of this event as a basis for: Detecting fraud; seeking remuneration and/or legal actions; reporting the extent of double payments nationwide; and for proposing corrective legislation.

Use:

1. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files.

Note.—This routine use will be in effect for a period of one year from its effective date.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. Disclosure may be made to a congressional office from the record of

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an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer reports, paper records, correspondence and research records.

Note.—These files are considered to be USPS records to which USPS regulations apply.

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

These restricted files are maintained in locked file cabinets. Access to automated records is protected through a computer security system, file encryption, and/or password protection.

RETENTION AND DISPOSAL:

a. Computer reports.

(1) Initial data collection reports and master file/tape are maintained for 3 years and destroyed by depersonalization.

(2) Subsequent reports containing affirmative identifications become part of research case records.

b. Research case records (copies of records from other systems—includes computer reports, paper records, and correspondence).

(1) If research determines nonapplicability, destroy by burning or shredding, 6 months after such determination is made.

(2) If research determines applicability, research records then become (a) part of an investigative case file and fall within system USPS 080.010, Inspection Requirements Investigative File System (refer to USPS 080.010 for retention and disposal instructions), or (b) a remuneration case file which is maintained for 2 years and destroyed by burning or shredding.

Extra copies of research records are destroyed at the time a remuneration or investigative case file is created.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees or former employees wishing to know whether information about them is maintained in this system of records should address inquiries to the System manager.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is obtained from Postal Service injury compensation case files, payment records and employment records as found in USPS Privacy Act Systems: USPS 050.020, 120.070, and 120.098; Social Security Administration death files; and pertinent Federal health benefit carriers' claim/payment files.

[FR Doc. 80-34727 Filed 11-6-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21774; (70-6514)]

Arkansas Power & Light Co., Et al.; Proposed Issuance and Sale of Notes to Banks and Commercial Paper

November 3, 1980.

In the matter of Arkansas Power & Light Co., First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), Mississippi Power & Light Company ("Mississippi"), and New Orleans Public Service Inc. ("New Orleans"), electric utility subsidiaries of Middle South Utilities, Inc., a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Arkansas, Louisiana, Mississippi, and New Orleans currently have in effect separate programs under which each of them is authorized to issue and sell unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper to meet its interim financing requirements. (See File Nos. 70–6381, 70–6225, 70–6408, and 70–6369, respectively.) Arkansas, Louisiana, Mississippi, and New Orleans each proposes now to revise the foregoing programs and to issue and sell individually from time to time through June 30, 1982, unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper in aggregate principal amounts outstanding at any one time equal to the lesser, from time to time, of (i) $170,000,000, $190,000,000, $45,000,000, and $22,000,000, respectively, or (ii) 10 percent of the aggregate of (a) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed and then outstanding and (b) the capital and surplus of each company as then stated on its books of account (which 10 percent is the maximum principal amount of unsecured short-term borrowings permissible under the provisions of the respective charters without the appropriate consent of their respective preferred stockholders). On the basis of the foregoing 10 percent restriction, Arkansas, Louisiana, Mississippi, and New Orleans would have been permitted, as of July 31, 1980, to issue and sell short-term promissory notes (including commercial paper) in aggregate principal amounts of up to $163,500,000, $157,800,000, $37,600,000, and $23,000,000, respectively. Subject to the foregoing limitations, the nature of each issue of such notes (including commercial paper) will be determined in the light of the then prevailing market conditions and other factors.

It is stated that in accordance with the past practices, short-term bank borrowings will be made by each of the companies from a group of commercial banks which are located in the general service area of the respective company ("Territorial Banks"). In addition, each of the companies intends to effect short-term borrowings under consolidated "either/or" lines of credit established with a group of commercial banks located outside the general service areas of the companies ("Non-territorial Banks"). Under the proposed "either/or" borrowing arrangements, each of the Non-territorial Banks would provide a single line of credit which would be available to any and all of the declarants. It is stated that this consolidation of credit lines is expected to be preferable to existing arrangements whereby each of the companies currently maintains separate lines with various Non-territorial Banks in that it will allow for the maintenance of lines of credit for the declarants, on an aggregate basis, at the minimum levels necessary to provide adequate amounts of capital as required from time to time, will minimize the related costs of borrowing, including commitment fees and/or compensating balance requirements, and will afford the Middle South System greater control over the cost of short-term funds.

The notes proposed to be issued and sold by each company to the territorial Banks and the Non-territorial Banks will be in the form of unsecured promissory notes, will be payable not more than 270 days from the date of issuance with the right of renewal, will bear interest at a rate per annum no greater than the prime commercial bank rate in effect at the lending bank on the date of issuance or renewal or from time to time depending upon the requirements of the lending bank, and will, at the option of the company, or, under certain circumstances, with the consent of the lending bank, be prepayable, in whole or in part, at any time without premium or penalty.

Each of the declarants maintains accounts with its Territorial Banks, and, although balances in these accounts may be deemed to be compensating balances, these accounts are working accounts, and fluctuations in their balances do not reflect or depend upon fluctuations in the amounts of bank loans outstanding. Assuming that a 20% compensating balance is maintained and assuming a 13.5% per annum prime commercial bank rate, the effective interest cost for borrowings from Territorial Banks would be 16.875% per annum.

With respect to borrowings from the Non-territorial Banks, it is anticipated that the Non-territorial Banks will require the maintenance of compensating balances and/or the payment of commitment fees with respect to the amount of loan commitments and/or loans outstanding, but in no case will the total of such compensating balances exceed 12%. Assuming that a 12% compensating balance is maintained and assuming a 13.5% per annum prime commercial bank rate, the effective interest cost for borrowings from Non-territorial Banks would be 15.34% per annum.

The proposed commercial paper will be in the form of unsecured promissory notes with varying maturities not to exceed 270 days, the actual maturities to be determined by market conditions, effective cost of money to the respective declarant, and such company's anticipated cash requirements at the time of issuance. In accordance with the established custom and practices in the market, the proposed commercial paper will not be payable prior to maturity. Each company proposes to issue, reissue, and sell the commercial paper directly to a dealer in commercial paper ("Dealer") at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality of that particular maturity sold by public-utility issuers to commercial paper dealers.

No commission or fee will be payable in connection with the issuance and sale of the commercial paper. Each Dealer, as principal, will reoffer and sell the commercial paper at the customary discount rate for commercial paper. Each Dealer in reoffering the commercial paper will limit the reoffer and sale to a non-public customer list for each declarant containing not more than 200 buyers of commercial paper. It is anticipated that the commercial paper will be held by the buyers to maturity; however, each Dealer may, if desired by a buyer, repurchase the commercial paper for resale to others on the list of customers.

As of July 31, 1980, the construction programs of the declarants in 1981 and 1982 are estimated to result in the following expenditures:

[In thousands of dollars]

	Arkansas	Louisiana	Mississippi	New Orleans
1981	$308,100	$260,200	$158,700	$25,200
1982	168,500	293,800	84,900	27,900

The net proceeds to be received by the companies from the issuance and sale of the notes (including commercial paper) referred to herein, together with other funds available, from time to time, to the companies from their operations or derived from the issuance and sale of long-term debt and/or equity securities, will be applied to their construction programs and other lawful purposes.

The declarants request that they be granted authority to file individually and on a quarterly basis their certificates under Rule 24.

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $10,000, including legal fees of $5,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice if further given that any interested person may, not later than November 28, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34759 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21773; (70-6498)]

Arkansas Power & Light Co.; Proposal To Issue and Sell First Mortgage Bonds at Competitive Bidding

November 3, 1980.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Buidling, Little Rock, Arkansas 72203, an electric utility

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subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell at competitive bidding up to $70,000,000 in principal amount of its first mortgage bonds ("Bonds") of a series having a term of not less than five nor more than thirty years. Arkansas will determine, and give notice to bidders of, the principal amount of the Bonds, if less than $70,000,000, and of the maturity date of the Bonds on a business day and not later than 24 hours prior to the time fixed for the presentation of the bids. The interest rate of the Bonds, (which will be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be paid to Arkansas for the Bonds (which will not be less than 100% nor more than 102¾ of the principal amount thereof) will be determined by competitive bidding.

The Bonds are to be issued as a new series of Arkansas' First Mortgage Bonds under its Mortgage and Deed of Trust, dated as of October 1, 1944, to Guaranty Trust Company of New York (currently known as Morgan Guaranty Trust Company of New York) and Henry A. Theis (John W. Flaherty, successor), as Trustees, as heretofore supplemented and as proposed to be further supplemented by a Thirty-second Supplemental Indenture ("Supplemental Indenture") thereto. The Supplemental Indenture will include a prohbition, for a period of not more than five years, against refunding the Bonds, directly, or indirectly, with the proceeds of funds borrowed at a lower effective interest cost.

Arkansas proposes to use the net proceeds derived from the issuance and sale of the Bonds for the payment of a portion of the short-term indebtedness incurred or estimated to be incurred for financing Arkansas' construction program. Arkansas' 1980 construction program is expected to result in expenditures of approximately $283,600,000.

The fees and expenses to be incurred in connection with the proposed transaction are estimated to be $190,000. Legal fees of counsel for the successful bidders are estimated at $20,000. It is stated that the Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34782 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21771; (70-6476)]

The Columbia Gas System, Inc., and Columbia Gulf Transmission Co.; Proposal To Enter Into Partnership Agreements Relating to Construction and Ownership of Natural Gas Pipeline and To Issue and Sell Notes in Support Thereof

October 31, 1980.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and Columbia Gulf Transmission Company ("Columbia Gulf"), 3805 West Alabama Ave., Houston, Texas 77027, a wholly owned natural gas transmission subsidiary of Columbia, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9 and 10 of the Act and Rule 51 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Columbia Gulf and four other unaffiliated natural gas transmission companies have entered into partnership agreements which relate to construction and ownership of a new 800 mile natural gas pipeline system, to be known as the Trailblazer system, through which new supplies of natural gas being developed in Wyoming, Utah, Idaho, Nebraska and Colorado will be transported, directly and by displacement, to the mid-western and eastern markets owned by the partners. The partners are Colorado Interstate Gas Company ("Colorado"), Columbia Gulf, Mountain Fuel Resources, Inc. ("Resources"), Natural Gas Pipeline Company of America ("Natural"), and Northern Natural Gas Company ("Northern"), hereafter referred to as the Companies.

The Trailblazer system, which is estimated to cost $533 million, will be comprised of three segments. The western segment, referred to as the Overthrust Pipeline and named for the "Overthrust" discovery areas, will be approximately 88 miles long and will cost an estimated $57 million. It will be jointly owned by all five partners and will be designed, constructed and operated by Resources. Construction will be initially financed out of $17.1 million in partnership equity contributions (Columbia Gulf's contribution will be approximately $3.4 million) and the remaining $39.9 million with bank loans. The short-term bank loans will be repaid with proceeds from the subsequent issuance of long-term debt securities. The debt securities issued will be an obligation of the partnership, not of Columbia Gulf or any of the partners. Initial capacity of this pipeline will be approximately 400 million cubic feet per day.

The middle segment, Colorado Interstate Pipeline, will extend approximately 264 miles from near Rock Springs, Wyoming to a point south of Cheyenne, Wyoming, near Rockport, Colorado and will cost an estimated $195 million. This segment will be owned, built, financed and operated by Colorado and will have an initial capacity when completed of 665 million cubic feet of gas per day.

The eastern segment, known as the Trailblazer Pipeline, will be jointly owned by Natural, Columbia Gulf and Northern, and will transport gas supplies eastward for those partners. Total cost of this segment, which will consist of 445 miles of 36 inch diameter pipeline, is estimated at approximately $281 million. Natural, or its affiliate, will design, construct, and operate this segment, which will have an initial operating capacity of 525 million cubic feet of gas per day. Construction will be initially financed out of $84.3 million in equity contributions and the remainder with term bank loans. Columbia's equity contribution to the Trailblazer Pipeline segment will total approximately $28.1 million. The term bank loans for the Trailblazer Pipeline facilities will be repaid, at prevailing rates, with proceeds from a subsequent permanent financing program consisting of some combination of debt securities. The precise combination and provisions of the securities to be issued will depend upon market conditions at the time such securities are sold. The debt securities issued will be an obligtion of the partnership, not of Columbia Gulf, Natural or Northern.

Columbia Gulf proposes to participate in the construction and ownership of the Overthrust and Trailblazer Pipeline segments of the Trailblazer system through its membership in the Overthrust Pipeline Company General Partnership Agreement ("Overthrust Pipeline Company") and the Trailblazer Pipeline Company General Partnership Agreement ("Trailblazer Pipeline Company"), each of which is dated September 20, 1979, and amended and restated as of February 21, 1980. The central segment of the Trailblazer system, to be constructed, financed, owned and operated by Colorado alone, did not require any partnership agreement covering all three pipeline segments, which together form the Trailblazer system. However, an agreement covering all three pipeline segments was also entered into on September 20, 1979, and amended and restated as of February 21, 1980. It coordinates their activities and is called the Pipeline Project Agreement for the Trailblazer System. The parties are Colorado, Columbia Gulf, Columbia Gas Transmission Corporation, Resources, Mountain Fuel Supply Company, Natural, Northern, Overthrust Pipeline Company and Trailblazer Pipeline Company.

The Overthrust and Trailblazer Pipeline Company Agreements provide, in each case, that the partnerships shall be managed by management committees consisting of a representative selected by each partner and that no partner may incur any obligation on behalf of the management committees. In the event that a partner defaults with respect to its obligation to make a capital contribution, the agreements provide that the non-defaulting partners may contribute or lend funds to the partnership in equal amounts which total the amount of the default, and after 60 days, may require the defaulting partner to assign its interest in the partnership to a third party. All distributive shares of income, profit, loss, deduction or credit ar allocable to the partners in accordance with each partner's capital participation which, in the case of the Overthrust Pipeline Company, is one-fifth, and, in the case of the Trailblazer Company, one-third. Except with the unanimous consent of the management committee, a partner may not transfer any interest in either partnership, and no partner may withdraw from either partnership, except that the management committees may request Columbia Gulf to withdraw in the event that this Commission does not approve any capital contribution to the partnerships for which Columbia Gulf is obligated by the partnership agreements.

Columbia Gulf proposes to finance its participation in the Overthrust and Trailblazer Pipeline segments of the Trailblazer system through the issuance and sale to Columbia of up to $33 million of either 20-year installment promissory notes and/or 7-year floating rate term notes. The installment notes are to be unsecured and dated the date of their issue. The principal amounts will be due in twenty (20) equal annual installments on September 30 of each of the years 1982 to 2001, inclusive. Interest on the notes would accrue from the date of their issuance, on the unpaid principal thereof, and be paid semi-annually in accordance with the provisions of said notes. The interest rate would be the effective cost of money to Columbia with respect to its last sale of debentures prior to the issuance of said notes, decreased by an amount necessary in order that the interest rate be a multiple of 1/10th of 1%.

Columbia sold $100,000 principal amount of debentures on August 13, 1980 (HCAR No. 21671), at an effective cost of money of 12.9%. Subject to market conditions, Columbia anticipates selling additional long-term securities during the project's construction period. Therefore, installment notes issued prior to such additional sale of debentures would bear an interest rate of 12.9% and installment notes issued subsequent to any of Columbia's future debenture issues would carry an interest rate related to the last such sale prior to the issuance of said notes. Should Columbia issue any notes under the Revolving Credit and Term Loan Agreement, dated as of April 1, 1980, ("Agreement") among Columbia and certain banks named therein, then Floating Rate Term Notes ("Floating Rate Notes") due March 31, 1987 would be issued by Columbia Gulf in lieu of installment notes. Such would be dated the date of their issue and would bear interest at Columbia's effective cost of money of any borrowings under the Agreement. Any such Floating Rate Notes issued would be refinanced upon maturity.

The fees and expenses to be incurred in connection with the proposed transactions are $23,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The participants in the Trailblazer system have applied to the Federal Energy Regulatory Commission ("FERC") for a certificate of public convenience and necessity to build and operate the pipeline (FERC Docket No. CP 79-80).

Notice is further given that any interested person may, not later than November 28, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as amended or as it may be further amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any

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notices or orders issued in this matter, including the date of the hearing (if ordered) and any postonement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34781 Filed 11-6-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21772 (70-6509)]

New England Power Co.; Proposed Issuance and Sale of General and Refunding Bonds at Competitive Bidding and Pledge of First Mortgage Bonds to General and Refunding Mortgage Trustee; Proposed Issue and Sale of Preferred Stock at Competitive Bidding

October 31, 1980.

Notice is hereby given that New England Power Company ("NEPCO"), 25 Research Drive, Westborough, Massachusetts 01581, a subsidiary of New England Electric System, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10 and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NEPCO proposes to issue and sell not exceeding $50,000,000 principal amount of general and refunding bonds to be designated General and Refunding Mortgage Bonds, Series E, —— percent, due ———— ("Series E Bonds"), to bear interest at such rate and to be issued at such price as shall be determined by competitive bidding. The terms and conditions relating to bids provide that each bid shall specify the interest rate, which shall be a multiple of ⅛ of 1 percent, to be borne by the Series E Bonds (if the interest rate specified exceeds 15 percent per annum, further orders of State commissions exercising jurisdiction would be necessary), and the price, exclusive of accrued interest, to be paid to NEPCO therefor, which shall be not less than 98 percent of the principal amount nor more than 101¾ percent thereof. The Series E Bonds will bear interest, paid semiannually, for the date as of which bonds of the series are first authenticated at the rate per annum shown in their title. The Series E Bonds will be redeemable at general and special redemption prices. However, the Series E Bonds may not be redeemed at general redemption prices during the first five years of their term through refunding operations at a lesser effective interest cost to NEPCO.

The Series E Bonds will be issued under a General and Refunding Mortgage Indenture and Deed of Trust dated as of January 1, 1977, as amended and supplemented by a Third Supplemental Indenture (collectively the "G&R Indenture") and will be secured with all other bonds issued under the G&R Indenture by a mortgage lien on substantially all the properties then owned, and, to the extent permitted by law, thereafter acquired by NEPCO, subject to the lien of the First Mortgage Indenture, liens permitted by the G&R Indenture, and exclusive of property excepted by the G&R Indenture. All G&R bonds will be further secured by first mortgage bonds which NEPCO is obligated to issue and pledge with the G&R Trustee as described below.

By an order dated January 7, 1977 (HCAR No. 19844) the Commission authorized the execution and deliverance to the trustee of the G&R Indenture. The G&R Indenture was created in order to eliminate, among other items, certain provisions in NEPCO's First Mortgage Indenture dealing with restrictions on bondable property and definitions of additional property and net earnings. While NEPCO no longer issues bonds pursuant to its present first mortgage indenture for sale to the public, first mortgage bonds are, however, still issued and pledged to the Trustee under the G&R Indenture as additional security for the G&R Bonds. A principal amount of not exceeding $25 million additional first mortgage bonds to be designated First Mortgage bonds, Series Z, —— percent, due ———— ("Series Z Bonds") will be issued and pledged. The Series Z Bonds will be a new issue of first mortgage bonds ("First Mortgage Bonds") issued under and secured by the Indenture of Trust and First Mortgage dated as of November 15, 1936, and indentures supplemental thereto and will have the same interest rate and maturity as the Series E Bonds. Neither the principal of, nor the premium, if any, nor the interest on the Series Z Bonds shall be payable unless a default shall have occurred under the G&R Indenture or the First Mortgage Indenture.

NEPCO further proposes to issue and sell not exceeding $50 million of preferred stock in the form of 500,000 shares of a new series of its Dividend Series Preferred Stock (par value $100) to be designated Cumulative Preferred Stock, $100 par value, —— percent Series ("new preferred stock"). The new preferred stock has not yet been approved by stockholders and NEPCO will only issue stock upon receipt of all necessary regulatory and stockholder approvals.

The new preferred stock will bear such dividend rate and be issued at such price as will be determined by competitive bidding. The terms and conditions relating to bids will provide that each bid shall specify the dividend rate to be borne by the new preferred stock and that such dividend rate shall be a multiple of .04 of 1 percent. In addition, each bid must specify the price to be paid to NEPCO for the new preferred stock which shall not be less than par nor more than 102.75 percent of par. If the dividend rate specified exceeds 14 percent per annum, further orders of State commissions exercising jurisdiction would be necessary. Dividends will be cumulative from the date of initial issue. The new preferred stock will not be redeemable during the first five years after its issuance in connection with a refunding by the issuance of debt securities at a lesser effective interest cost or other preferred stock at a lesser effective dividend cost to NEPCO.

NEPCO will designate by telephone or telegram to prospective bidders not later than 12 Noon, E.S.T., on the second full business day prior to the time designated for the submission of bids (i) the date on which the Series E Bonds shall mature, which date shall be not less than 5 nor more than 30 years from the first day of the month as of which the Series E Bonds are issued, and (ii) the sinking fund for the new preferred stock which will retire up to 5% of the initial issue each year.

NEPCO has currently scheduled the issue and sale of the Series E Bonds and new preferred stock in December 1980; however, due to uncertain market conditions, NEPCO may sell such securities any time prior to April 1, 1981. The issue and sale of the Series E Bonds and the new preferred stock are separate transactions, and are not contingent upon each other.

NEPCO's short-term borrowings pursuant to Commission authorization totaled about $59 million at August 31, 1980. NEPCO expects that such borrowings will exceed $100 million by December 31, 1980 if the Series E Bonds or the New Preferred Stock are not issued by that date. The proceeds from the sale of Series E Bonds and/or the preferred stock will be applied to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury for uncapitalized additions and improvements to the plant and property of NEPCO and any other uncapitalized expenditures of NEPCO.

Statements of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Connecticut Division of Public Utility Control, the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission and the Vermont Public Service Board. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 24, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34760 Filed 11-6-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 11424, (812-4731)]

Real Estate Associates Limited III, National Partnership Investments Corp., and National Partnership Investments Associates; Filing of Application Pursuant to Section 6(c) of the Act for Exemption From All Provisions of the Act

October 31, 1980.

Notice is hereby given that Real Estate Associates Limited III ("REAL III"), a California limited partnership, and its general partners, National Partnership Investments Corp. and National Partnership Investments Associates ("General Partners" and, together with REAL III, collectively referred to hereinafter as "Applicants"), 1901 Avenue of the Stars, Los Angeles, California 90067, filed an application on September 8, 1980, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting REAL III from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that REAL III was formed under the California Limited Partnership Act on July 25, 1980, and is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 to provide private investors with a means of acquiring equity interests in government-assisted low and moderate income housing. REAL III will acquire limited partnership interests in local limited partnerships ("Local Limited Partnerships") which own or lease government-assisted rental housing projects for low and moderate income persons.

REAL III itself is organized as a limited partnership because a limited partnership is the only form of organization which provides an investor with both liability limited to his capital investment and the ability to claim on his individual tax return the deductions, losses, credits, and other tax items a partnership can pass through to its partners. Therefore, REAL III will operate as a "two tier" partnership; *i.e.*, REAL III, a limited partnership, will invest in Local Limited Partnerships which, in turn, will be engaged in the development, building, ownership, or leasing of government-assisted housing for low and moderate income persons.

One of the primary objectives of REAL III is to pass through to its partners during the early years of the partnership net losses which may be used to offset other taxable income. Another of REAL III's primary objectives is to invest in projects which will appreciate in value.

REAL III has filed a registration statement under the Securities Act of 1933, as amended, covering the sale of 3,000 Units to be offered at a maximum price of $5,000 per Unit. Each Unit consists of two limited partnership interests and a warrant to purchase two additional limited partnership interests, exercisable by January 22, 1982 (the "Warrants"). The Warrants will entitle an investor to purchase the related limited partnership interests for $2,500 each, the equivalent price per limited partnership interest acquired pursuant to the purchase of a Unit. In the event that any Warrant is not exercised, the respective limited partnership interests may be sold by REAL III to other qualifying offerees.

Commencing in 1982, REAL III will allocate 62½% of profits and losses to the limited partnership interests sold in 1982 (whether sold by exercise of the Warrants or by subscriptions for interests as to which the Warrants were not exercised), and 37½% of its profits and losses to the limited partnership interests sold in 1981. This allocation will continue until the aggregate profits and losses allocated to the limited partnership interests sold in 1982 equal the aggregate profits and losses allocated to limited partnership interests sold in 1981. The effect of this allocation is expected to be that, in the course of the life of REAL III, interests purchased in 1981 by investors who do not exercise the Warrants to purchase interests in 1982, and interests for which subscriptions pursuant to the unexercised Warrants are accepted in 1982, will have been allocated an equal aggregate amount of profits and losses in REAL III and will have equivalent capital accounts. After this equalization of capital accounts is attained, all interests will be treated equally without regard to the date they were purchased.

Interests in REAL III will be sold only to qualified investors with a minimum subscription of one Unit ($5,000). The General Partners will contribute to REAL III $12,500, an amount representing approximately 1%, .08%, or .04%, respectively, of the total capitalization depending upon whether the minimum, maximum (excluding exercise of the Warrants), or maximum (including exercise of the Warrants) offering amount is sold. It is estimated that REAL III will have as proceeds of its public offering, a minimum of $1,056,000 and maximums (depending upon the exercise of the Warrants) of

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approximately $13,200,000 or $26,737,000 available for investment after deductions for sales commissions and anticipated offering expenses.

Offers to sell and sales of the Units to the public are proposed to be effected through E.F. Hutton & Company Inc. and other selected members of the National Association of Securities Dealers, Inc., none of which will own or owns any interest in either of the General Partners or will have or has any other material relationship with their directors, officers, or partners. Such broker-dealers will use their best efforts as agents for REAL III and thereafter to sell any limited partnership interests available upon the non-exercise of the Warrants.

No subscription for Units will be accepted unless the subscribing investor will represent in the Subscription Agreement for Units (1) that he has a net worth (exclusive of home, furnishings, and automobiles) of at least $50,000 and an annual gross income of at least $50,000, or that he has a net worth (exclusive of home, furnishings, and automobiles) of at least $200,000, or that he is purchasing in a fiduciary capacity for a person or entity which has such net worth and annual gross income; and (2) that he is aware of the risks involved in investing in REAL III. He also must represent that some part of his annual income for 1981 will be taxable at the federal tax rate of 50% or more, and that he anticipates that some part of his income for the next six years will, but for the effect of his investment in the Units and limited partnership interests or other tax shelters, be taxable at such 50% rate. In addition, the partnership agreement of REAL III will require that during the first five years following effectiveness of the registration statement, each transferee of limited partnership interests must represent that he meets the suitability standards set forth above.

REAL III will be controlled by the General Partners pursuant to a partnership agreement ("Partnership Agreement") between the General Partners and limited partners, whereby the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of REAL III. However, limited partners owning a majority of limited partnership interests will have the right to amend the Partnership Agreement, dissolve REAL III, remove one or both of the General Partners and elect successor general partners, and continue REAL III upon the death, insanity, retirement, or bankruptcy of a General Partner. Also under the Partnership Agreement, each limited partner or his representative is entitled to review the records of REAL III at reasonable times, including the register of names, addresses, and number of limited partnership interests owned by each other limited partner.

Applicants state that REAL III will invest not less than 90% of its available capital in Local Limited Partnerships which own or lease government-assisted housing projects. REAL III may also invest up to 10% of its capital in limited partnerships owning other residential projects. REAL III has not yet identified any specific Local Limited Partnership or projects in which it proposes to invest. However, Applicants state that REAL III will make its investments in accordance with both detailed criteria for selecting particular projects for investment and certain investment policies which may not be changed without approval by the limited partners owning at least a majority of the outstanding limited partnership interests.

Because REAL III will invest only in limited partnership interests, both REAL III and the General Partners will have only limited control over the management of the Local Limited Partnerships. However, REAL III will own at least 50%, and, in many cases, 90% of the limited partnership interests of a Local Limited Partnership. Moreover, in negotiating Local Limited Partnership Agreements, the General Partners will endeavor to provide REAL III with one or more of the following: the right to approve or disapprove the sale of the project; the right to demand a dissolution of the Local Limited Partnership; and the right to demand the resignation of the local general partners. In addition, REAL III's capital contribution to a Local Limited Partnership will be made in stages, and, in most cases, REAL III will withhold the major portion of its contribution until the project has been constructed and is operating.

Although the General Partners are engaged in other real estate transactions and manage other similar limited partnerships, REAL III will not sell, acquire, or lease properties or interests therein to or from the General Partners or their affilitates. Further, the General Partners have undertaken that no new public offerings with the same investment objectives as REAL III will be commenced until substantially all funds raised by REAL III have been committed to investment or otherwise utilized as described in the REAL III prospectus.

The General Partners will be entitled to receive 1% of REAL III's profits, losses, and distributions subject to the conditions that their 1% share of new cash flow will be reduced each year by the amount of annual management fees which are paid or payable to them in that year. In addition to their 1% participation in REAL III's profits, losses, and distributions, the General Partners will receive certain fees for overseeing the conduct of REAL III's affairs and the continuing operation of each project. Applicants represent that these fees are in substantial conformity with the standards imposed by the Midwest Securities Commissioners and the California Corporations Commissioner, and that to the best of their knowledge all such fees are in compliance with the current rules promulgated by such authorities.

In the initial period, the General Partners will be paid a fee for the organization and initial management of REAL III, the syndication of the Units and the provision of certain financing commitments, if any, aggregating approximately 0.9% of invested assets. Invested assets are defined as the sum of the capital contributions anticipated to be made by REAL III to the Local Limited Partnerships and the aggregate amount of the nonrecourse mortgage loans on the projects owned by such Local Limited Partnerships attributable to REAL III's capital contributions. The General Partners also will receive acquisition and selection fees for their services in connection with the selection, evaluation, negotiation, and acquisition of REAL III's investments. The aggregate amount of such fees will equal approximately 1.3% of invested assets. Of the proceeds from the sale of the Units. Applicants anticipate that approximately a minimum of $117,600 and maximums (depending upon the exercise of the Warrants) of $1,500,000 and $3,100,000 will be paid for these organization, initial management, syndication, and commitment fees, and acquisition and selection fees.

During REAL III's operational period, the General Partners will receive, in consideration for their management services, an annual fee in an amount equal of 0.5% of invested assets to be paid out of REAL III's general funds. As noted above, this annual management fee will be applied against the General Partners' 1% share of REAL III's net cash flow. Finally, when a project is sold, the General Partners will receive a liquidation fee based upon the net proceeds only after payment to the limited partners of their invested capital in the project, plus an amount sufficient to pay their federal and state taxes.

REAL III states that it will file with the Commission pursuant to Section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on Forms 10–K, 10–Q, and 8–K, as well as any other reports required by such act. The General Partners will also send each limited partner a year-end report containing financial statements audited by REAL III's independent accountants and tax information necessary for the preparation of each limited partner's federal income tax return. In addition, each limited partner will receive a report at least semiannually of REAL III's activities and the operational status of its investments, as well as interim reports regarding acquisitions.

Under the California Limited Partnership Act, and under the terms of the Partnership Agreement, the corporate General Partner, which has registered as an investment adviser under the Investment Advisers Act of 1940, and the non-corporate General Partner, are fiduciaries of REAL III and its limited partners. Applicants state that under the Partnership Agreement, the officers and directors of the corporate General Partner and the partners of the non-corporate General Partner will be indemnified only when a court finds that such persons' conduct fairly and equitably merits indemnity in the amount claimed.

Without conceding that REAL III is an investment company as defined in the Act, Applicants request that REAL III be exempted from the Provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of REAL III from all provisions of the Act is both necessary and appropriate in the public interest. Applicants assert that the form of organization of REAL III, *i.e.*, a limited partnership, which is necessary to limit the liability of private investors investing in subsidized low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act would eliminate the primary means of attracting private equity capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons." Applicants further state that the exemption would be consistent with the protection of investors and the purposes and policies of the Act. The limited partnership interests in REAL III are beng sold only to relatively sophisticated investors who will be aprised of the management of REAL III and of th Local Limited Partnerships through reports sent to the limited partners and filed with the Commision. Furthermore, Applicants state that the General Partners' discretion to invest the assets of REAL III is proscribed by its stated investment policies and objectives, which may be changed only by the vote of the holders of at least a majority of the outstanding limited partnership interests. With a majority vote, the limited partners will also have the right to dissolve REAL III, to amend the Partnership Agreement, and to remove the General Partners.

Applicants further assert that although the involvement of the General Partners in similar past and future partnerships could create a conflict of interest, such potential conflicts are mitigated by the General Partners' undertaking not to make any conflicting new public offering until substantially all of REAL III's funds have been committed and to follow prescribed procedures for determining which partnership should make an investment in the event of a conflict. Moreover, Applicants state that the Partnership Agreement prohibits certain transactions between REAL III and its General Partners and their affiliates in order to eliminate or significantly mitigate conflicts of interest.

Notice is further given that any interested person may, not later than November 25, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commision shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-34758 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17264; File No. SR-MSRB-80-10]

Self-Regulatory Organizations; Proposed Rule Changes by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Statement of the Terms of Substance of the Proposed Rule Changes

The Municipal Securities Rulemaking Board is filing herewith amendments to rule A–3 relating to membership on the Board (hereafter referred to as the "proposed rule changes"). The text of the proposed rule changes appears below.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Changes

Rule A–3(d) contains procedures for the nomination and election of Board members. These procedures commence with the appointment by the Board of a Nominating Committee consisting of the five Board members serving the final year of their term on the Board and six persons who are not members of the Board, two representing bank dealers, two representing municipal securities brokers and non-bank municipal securities dealers, and two representing the public. Under the rule, the Nominating Committee is required to publish a notice soliciting public recommendations of candidates for the

five positions to be filled and to accept for its consideration all recommendations submitted for a period of a least 30 days from publication of the notice. Thereafter, the Nominating Committee nominates a slate of three persons for each position, and the Board selects one person from each slate of nominees.

The rule also provides a procedure for the nomination of additional industry candidates by municipal securities brokers and municipal securities dealers. Any such candidate must also meet the criteria of geography and size and type of municipal securities broker or municipal securities dealer designated by the Board for the position to be filled. In the event such additional candidates are nominated, the rule provides for an election in which the candidate receiving more than 50 percent of the votes cast will be duly elected to the contested position. In the event no candidate receives more than 50 percent of the votes cast on the first ballot, a run-off election is held between the two candidates receiving the highest percentage of votes.

Primarily as a result of the need to provide sufficient time to accommodate all of these procedures, the Board has had to commence the nomination process each year shortly after completing the election process for the prior year. In order to permit the nomination process to begin at a later date, while continuing to provide sufficient time for the Nominating Committee, the Board and the public to consider the credentials of prospective Board members, rule A–3(d) has been revised to eliminate the run-off election for contested positions. Instead, in the event additional industry candidates are nominated, the candidate receiving a plurality of the votes cast on the first, and only, ballot will be duly elected to the contested position.

In addition to revising the dates by which certain actions must be accomplished, the Board has adopted certain technical amendments to the rule for the purpose of clarification.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to sections 15B(b)(2)(B) and 15B(b)(2)(I) of the Act. The proposed rule changes were adopted under the general authority conferred on the Board by section 15B(b)(2)(I) of the Act to provide for the operation and administration of the Board. In addition, section 15B(b)(2)(B) of the Act authorizes the Board to establish procedures for the nomination and election of members of the Board.

Comments Received From Members, Participants and Others on Proposed Rule Changes

The Board neither solicited nor received comments on the proposed rule changes.

Burden on Competition

Since the proposed rule changes are solely technical in nature, they should have no effect on the conduct of business by any broker, dealer, or municipal securities dealer. The Board therefore believes that the proposed rule changes do not impose any burden on competition.

The foregoing rule changes have become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 1, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 31, 1980.

*Text of Proposed Amendments**

Rule A–3 Membership on the Board

(a) through (b) No change.

[(c) Term of Office of Initial Members. The term of office of the initial members of the Board shall be two years, ending with September 4, 1977. Any vacancy on the Board resulting from the death, resignation or removal of an initial member prior to such date shall be filled by appointment by the Commission for the remainder of such initial member's term.]

[(d)] *(c)* Nomination and Election of Members.

(i) [Except for the initial members of the Board,] [m]*M*embers shall be nominated and elected in accordance with the procedures specified by this rule. [The members of the Board elected to succeed the initial members shall consist of five of the initial members who shall serve for a succeeding term of one year, five of the initial members who shall serve for a succeeding term of two years, and five individuals who are not initial members, who shall serve for a term of three years; provided, however, that each such category of initial members shall include at least one public representative, one broker-dealer representative and one bank representative. Subsequent to such first election of members,] [a]*A*ll members of the Board shall be elected for terms of three years, so that the terms of office of one-third of the whole Board shall expire each year. [Except for members of the Board elected on or prior to September 5, 1978,] [t]*T*he terms of office of all members of the Board shall commence on October 1 of the year in which elected and shall terminate on September 30 of the year in which their terms expire. [With respect to members of the Board elected on or prior to September 5, 1978, including initial members of the Board, the terms of such members shall end on September 30 of the year in which their terms would otherwise expire. Except for the succeeding terms for initial members as hereinbefore provided,] [n]*N*o member of the Board may succeed himself in office and no broker-dealer representative or bank representative may be succeeded in office by any person associated with the municipal securities broker or municipal securities dealer with which such member was associated at the expiration of his term.

[(ii) Not later than March 15, 1977, the chairman of the Board shall announce the names of five initial members of the Board whose membership on the Board will terminate on September 4, 1977, and shall nominate, after consultation with the other members of the Board, five initial members to serve for a succeeding term to expire September 4, 1978, and five initial members to serve for a succeeding term to expire September 4, 1979. Each such category of initial members shall include at least one but no more than two public representatives and bank representatives.]

[(iii)] *(ii)* [In each year, prior to March 15, 1977 and [p]*P*rior to [February] *April* 15 of each year [thereafter], the Board will appoint a Nominating Committee composed of eleven members. The membership of the Nominating Committee shall consist of the five members of the Board whose terms expire during such year and six persons who are not members of the Board, two of whom shall be associated with and representative of bank dealers, two of whom shall be associated with and representative of municipal securities brokers and municipal securities dealers other than bank dealers, and two of whom shall not be associated with any broker, dealer, or municipal securities dealer. The Chairman of the Nominating Committee shall be designated by the Board. In appointing persons to serve on the Nominating Committee, the Board shall take into consideration such factors as the need to achieve broad geographic representation on such Committee, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented on such Committee.

[(iv)] *(iii)* Not later than [March 30, 1977 and March 15] *May 15* of each year [thereafter], the Nominating Committee shall publish a notice in a financial journal having general national circulation among members of the municipal securities industry, soliciting public recommendations for nomination for the positions on the Board to be filled in such year. Such notice shall require that recommendations be accompanied by a statement of the position for which the person is recommended, the background and qualifications for membership on the Board of the person recommended and information concerning such person's association with any broker, dealer or muncipal securities dealer. The Nominating Committee shall accept recommendations pursuant to such notice for a period of at least 30 days. Any interested member of the public, whether or not associated with a municipal securities broker or municpal securities dealer, may submit recommendations to the Nominating Committee. The names of all persons recommended to the Nominating Committee shall be made available to the public upon request.

[(v)] *(iv)* Not later than [May 15] *July 15* of each year, the Nominating Committee shall nominate three persons for each of the Board positions to be filled and shall submit such nominations to the Board. In making such nominations, the Nominating Committee shall take into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. Each nomination shall be accompanied by a statement indicating the position for which such person is nominated, the nominee's qualifications to serve as a member of the Board, and information concerning the nominee's association with any broker, dealer, or municipal securities dealer. The names of the nominees will be confidential.

[(vi)] *(v)* [Not later than June 1, 1977 the Board will elect the ten initial members of the Board nominated in accordance with subparagraph (ii) above for the terms for which they are nominated and] *The Board* shall, not later than [June 1] *August 1* of each year, select from [the] *each* slate of *three* nominees submitted by the Nominating Committee [and announce] the name of one candidate for each of the [other] Board positions to be filled, taking into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. *The Board shall announce the names of the candidates which it has selected.* The public representatives so named shall be considered duly elected, subject to the requirements of subparagraph [(x)] *(ix)* below.

[(vii)] *(vi)* In naming the bank and broker-dealer representative candidates as provided in subparagraph [(vi)] *(v)* above, the Board shall announce the broad criteria applied to their selection in terms of geographic representation and size and type of municipal securities broker and municipal securities dealer to be represented. An additional candidate for each position of bank representative and broker-dealer representative to be filled may be nominated by 20 percent or more of the municipal securities brokers and municipal securities dealers that have paid the [initial fee prescribed by rule A–12 of the Board] *annual fee prescribed by rule A–14 of the Board for the fiscal year in which the election is conducted* (hereafter referred to as "registered" municipal securities brokers and municipal securities dealers), if notice in writing signed by the required number of municipal securities brokers and municipal securities dealers is filed with the Board within 30 days of the date of the announcement by the Board of its selection of candidates. Any additional candidate nominated as provided in this subparagraph must meet the criteria of geography, and size and type of municipal securities broker or municipal securities dealer designated by the Board for the position to be filled.

[(viii)] *(vii)* If no additional candidate or candidates are nominated as provided in subparagraph [(vii)] *(vi)* above for a position to be filled, the candidate selected by the Board for such a position shall be considered duly elected.

[(ix)] *(viii)* If any additional candidate or candidates are nominated for a position to be filled as provided in subparagraph [(vii)] *(vi)* above, the Board shall send to each registered municipal securities broker and municipal securities dealer, a ballot setting forth the names of each candidate for the contested position or positions. Such ballot shall indicate the date by which ballots must be returned to the Board, but such date may not be less than 20 nor more than 30 days from the end of the nominating period provided in subparagraph [(vii)] *(vi)*. All ballots shall be opened by such representative of the Board as the Chairman of the Board shall designate, and in the presence of a representative of each candidate if such representation is requested in writing by a candidate. The candidate for each contested position receiving [more than 50 percent of the votes cast for such position] *the largest number of votes cast* (each registered municipal securities broker and municipal securities dealer having one vote for each contested position) shall be considered duly elected. [In the event no candidate receives more than 50 percent of the votes cast for such position on the first ballot there shall be a run-off election between the two candidates receiving the highest percentages of votes cast. Such run-off election shall be conducted in accordance with the procedures followed on the first ballot, provided that any such run-off election must be completed within 20 days from the date the ballots for such election are mailed by the Board.] In all elections under this paragraph, voting shall be by confidential mail ballot.

[(x)] *(ix)* The public representatives on the Board will, prior to their assumption of office, be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities.

*Italics indicate new material; [brackets] indicate deletions.

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[(xi)] *(x)* Upon completion of the procedures for nomination and election of new Board members as set forth above, the Board will announce the names of the new members.

[(e)] *(d)* Resignation and Removal of Members. A member may resign from the Board by submitting a written notice of resignation to the Chairman of the Board which shall specify the effective date of such member's resignation. In no event shall such date be more than 30 days from the date of delivery of such notice to the Chairman. If no date is specified, the resignation shall become effective immediately upon its delivery to the Chairman. In the event the Board shall find that any member has willfully violated any provision of the Act, any rule or regulation of the Commission thereunder, or any rule of the Board or has abused his authority or has otherwise acted, or failed to act, so as to affect adversely the public interest or the best interests of the Board, the Board may, upon the affirmative vote of two-thirds of the whole Board (which shall include the affirmative vote of at least one public representative, one broker-dealer representative and one bank representative), remove such member [(other than an initial member)] from office. [or, in the case of an initial member of the Board, recommend to the Commission that such member be removed from office or censured.]

[(f)] *(e)* Vacancies. Vacancies on the Board shall be filled by vote of the members of the Board, subject to the Commission's power of approval referred to in paragraph [(d)] *(c)* of this rule with respect to public representatives. Any person so elected to fill a vacancy shall serve for the term, or any unexpired portion of the term, for which such person's predecessor was elected. For purposes of this rule, the term "vacancies on the Board" shall include any vacancy resulting from the resignation of any person duly elected to the Board prior to the commencement of his or her term.

[(g)] *(f)* Compensation and Expenses. Members shall be entitled to an allowance for transportation expenses, to the extent provided by resolution of the Board, from their home to the site of a meeting of the Board and from the site of such meeting to their home, together with a per diem to be set by the Board for those days or fraction thereof on which the Board meets. Members of the Board shall also be entitled to reimbursement for actual and necessary expenses incurred by them in connection with any other official business of the Board. Except as provided in paragraph (c) of rule A–6, no member of the Board shall be entitled to receive any other compensation from the Board.

[FR Doc. 80-34783 Filed 11-6-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17267; File No. SR-Amex-80-27]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 17, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. (the "Exchange") proposes to amend its rules to conform to Securities Exchange Act Rules 19c–1 and 19c–3.

Exchange's Statement of Purpose

The purposes of the proposed rule change are (1) to conform Rules 5, 189 and 550 with Securities Exchange Act Rules 19c–1 ("Rule 19c–1") and 19c–3 ("Rule 19c–3"), and (2) to conform Rule 550 to the current Exchange staff organization. The proposed rule change would make no substantive changes in the Exchange's rules; it is intended only to clarify the scope and requirements of the rules which are proposed to be amended, so that members may better understand and comply with them.

Statement of Basis

The proposed amendments of Rules 5, 189 and 550 are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) of the Act in particular by clarifying the scope and meaning of the rules which are proposed to be amended, and thus helping members to understand and comply with them.

Comments Received from Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

The Amex has determined that no burden on competition would be imposed by the proposed amendments.

On or before December 12, 1980 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 3, 1980.

[FR Doc. 80-34756 Filed 11-6-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17268; File No. SR-Amex-80-26]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 27, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange proposes to adopt Rule 620, which would provide a simplified arbitration procedure for resolving small claim disputes between members involving sums of $5,000 or less.

The Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes are as follows:

In 1976, the Exchange adopted the uniform, simplified procedure for the arbitration of customer small claim disputes developed by the Securities Industry Conference on Arbitration (Rule 619). Subsequent experience with the uniform customer small claims procedure suggests that a similar mechanism would be useful in resolving small claim disputes between members involving sums of $5,000 or less. Proposed Rule 620 would track the procedures of the customer small claims rule, with certain differences, as set forth in the table below:

	General arbitration procedure	Customer small claims procedure (Rule 619)	Proposed member small claim procedure (Rule 620)
1. Panel composition	Three arbitrators	Single public arbitrator	Single member arbitrator.
2. Hearing	Full evidentiary	Full evidentiary if requested by customer; otherwise, decision is based on pleadings.	Full evidentiary if requested by any party; otherwise, decision is based on pleadings.
3. Dollar limit	None	$2,500	$5,000.
4. Availability of simplified procedure.	Not applicable	Only if requested by customer.	If requested by either party.
5. Fees	Variable, based upon size of claim.	$15	$100.

Proposed Rule 620 is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it will provide a more effective, efficient and economical small dispute resolution system for members.

Comments Received from Members, Participants or Others on Proposed Rule Changes

No comments were solicited or received with respect to the proposed rule changes.

Burden on Competition

The Exchange has determined that no burden on competition will be imposed by the proposed rule changes.

On or before December 12, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before November 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 3, 1980.

[FR Doc. 80-34757 Filed 11-6-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17263; File No. SR-CBOE-80-26]

Chicago Board Options Exchange, Inc, Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 24, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

This proposed rule change would add, as interpretation and policy .02, the following language to Rule 7.7 titled Displaying Bids and Offers in the Book.

.02. In effecting a transaction with an Order Book Official, the executing member must obtain an oral confirmation from the Order Book Official or his staff as to the material terms of the transaction, including the number of contracts bought or sold. Absent such oral confirmation, the Order Book Official shall not be obligated for more than 25 contracts per series in any transaction even though an indication for a greater number of contracts may be displayed.

Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed change is to encourage the securing of oral confirmations from Order Book Officials to minimize the chance for misunderstandings arising from the possible display of an erroneous indication of the price or size of bids or offers in the book maintained by the Order Book Official.

The proposed change makes trading with an Order Book Official less apt to involve an error because it requires oral confirmations. Its basis under the Act is section 6(b)(5) in that it protects investors and is therefore in the public interest.

No comments on this proposed rule change have been solicited or received.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before December 12, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L Street

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NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 31, 1980.

[FR Doc. 80-34758 Filed 11-6-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0410]

Clinton Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On August 28, 1980, a Notice was published in the **Federal Register** (45 FR 57632) stating that Clinton Capital Corporation, 135 Middagh Street, Brooklyn, New York 11201, had filed an application with the Small Business Administration pursuant to Section 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business September 15, 1980, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on October 22, 1980 issued License No. 02/02-0410 to Clinton Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34796 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0398]

Columbia Pictures Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On May 19, 1980, a Notice was published in the **Federal Register** (45 FR 32815) stating that Columbia Pictures Capital Corporation, 711 Fifth Avenue, New York, New York 10022, had filed an application with the Small Business Administration pursuant to Section 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business June 3, 1980, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on October 22, 1980 issued License No. 02/02-0398 to Columbia Pictures Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34797 Filed 11-6-80 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5259]

Milestone Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On February 8, 1980, a notice was published in the **Federal Register** (45 FR 8785), stating that Milestone Capital Corporation, located at 5401 Mission Street, San Francisco, California 94112, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1980), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business February 25, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-5259 to Milestone Capital Corporation, on October 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34798 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0242]

California Partners; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that California Partners, Two Palo Alto Square, Suite 700, Palo Alto, California 94304, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1980)) for approval of a conflict of interest transaction.

California Partners proposes to make an investment in Apollo Computer Inc. (Apollo), 5 Executive Park Drive, North Billerica, Massachusetts 01862. The proposed financing will be used to purchase 7,500 shares of Apollo's Preferred Stock at a price of $5.00 per share, for a total purchase price of $37,500.

California Partners is a California limited partnership. Its corporate general partner is Draper Associates, Inc., of which Mr. William H. Draper III is an officer, director, and its sole shareholder. The limited partners of California Partners are members of Mr. Draper's immediate family. Mr. Draper also is one of the general partners of Sutter Hill Ventures (Sutter Hill), a California partnership. SBA deems Sutter Hill and its other general partners as Associates of California Partners. Sutter Hill, its general partners and associates of general partners currently own approximately 32 percent of the voting power in Apollo and, following a proposed November 1980 financing, will own approximately 31 percent of the voting power in Apollo. California Partenrs currently owns approximately 2.5 percent of the voting power of Apollo, and will own approximately the same percentage following its proposed investment. Because Sutter Hill, its partners and their associates own more than 10 percent of the voting power of Apollo, Apollo is defined as an Associate of California Partners. Therefore the proposed investment of California Partners in Apollo falls within the purview of Section 107.1004(b)(1) of SBA Rules and Regulations and requires SBA prior written approval.

Notice is hereby given that any person may not later than November 24, 1980 submit written comments to the Acting Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Palo Alto, California and North Billerica, Massachusetts areas.

(Catalog of Federal Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: October 30, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34731 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1948]

Connecticut; Declaration of Disaster Loan Area

New Haven County and adjacent counties within the State of Connecticut constitute a disaster area as a result of damage caused by high tides, heavy rains, winds and flooding which occurred on October 25, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 29, 1980, and for economic injury until the close of business on July 29, 1981, at: Small Business Administration, District Office, One Financial Plaza, Hartford, Connecticut 06103.
or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 30, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-34734 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0399]

Noro Capital Corp.; Issuance of a license to Operate as a Small Business Investment Company

On September 9, 1980, a Notice was published in the **Federal Register** (45 FR 39465) stating that Noro Capital Corporation, 230 Park Avenue, New York, New York 10017, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business September 24, 1980, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA, on October 15, 1980, issued License No. 02/02-0399 to Noro Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 30, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34733 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-5418]

North American Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*), has been filed by North American Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Frank R. Wong, 25-28 148th Street, Flushing, NY 11354—President
Franklin F. Y. Wong, 25-28 148th Street, Flushing, NY 11354—Vice President
Kai H. Lo, 33 Pearl Street, New York, NY 10038—Secretary-Treasurer

The Applicant, a New York corporation, with its principal place of business at 177 Cannal Street, New York, New York 10013, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 100 shares of common stock to 14 stockholders.

The Applicant will conduct its activities principally in the State of New York. Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than November 24, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 31, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-34730 Filed 11-6-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Provisions on Employee Conduct Exempting Remote or Inconsequential Employee Financial Interests Under 18 U.S.C. 208(b)(2)

AGENCY: Internal Revenue Service, Treasury Department.

ACTION: Provisions on Employee Conduct.

SUMMARY: Section 208(a) of 18 U.S.C. prohibits Government employees from participating personally and substantially as a Government employee in any particular matter in which to their knowledge they or their spouse, minor child, partner, or organization in which they are an employee or prospective employee, has a financial interest. Under section 208(b)(2) of 18 U.S.C., employee financial interests may be excluded

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from the provisions of section 208(a) if an agency, by a rule published in the **Federal Register**, determines that such financial interests are too remote or too inconsequential to affect the integrity of the employee's services. These provisions provide that certain financial interests of employees are excluded from the provisions of section 208(a) because they are deemed too remote or too inconsequential to affect the integrity of the services of an employee in any matter in which he/she may act in a governmental capacity. An employee's financial interest in any stock, bond or other security of an entity publicly traded on a securities exchange is remote or inconsequential if (1) the number of shares, bonds or other units of each type of security held is less than 1 percent of the total number of units of each such type of security outstanding, (2) the aggregate value of the employee's holdings in all types of securities of the entity is less than $5,000, and (3) the employee is not an officer, director, trustee, or employee of the entity, or the employee's spouse or dependent is not an officer, director, or trustee of the entity. An employee's financial interest in shares of a widely held, diversified, mutual fund or regulated investment company is remote or inconsequential, regardless of the value of such interest or number of shares held, if (1) the employee is not an officer, director, trustee, or employee, or the employee's spouse or dependent is not an officer, director, or trustee and (2) the matter being handled by the employee does not directly involve the mutual fund or regulated investment company itself.

EFFECTIVE DATE: These provisions take effect on November 7, 1980.

FOR FURTHER INFORMATION CONTACT: James W. Corbitt, Jr. of the General Legal Services Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:GLS:3) (202–566–6571).

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal author of this document was James W. Corbitt, Jr. of the General Legal Services Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Office of Chief Counsel and the Internal Revenue Service participated in developing this document, both on matters of substance and style.

Public Procedure

The Service has determined that these provisions relate to agency management and personnel. Accordingly, it is found, pursuant to 5 U.S.C. 553(a)(2), that notice and public procedure on these provisions is unnecessary.

Nonapplicability of Treasury Directive

The provisions set forth in this document are part of the Internal Revenue Manual, an internal management document of the Internal Revenue Service. Accordingly, the provisions of paragraphs 8 through 14 of the Treasury Department directive (published in the **Federal Register** at 43 FR 52120) implementing Executive Order 12044 do not apply to this document.

The following rule is added to § 228 of Internal Revenue Manual 0735.1, Handbook of Employee Responsibilities and Conduct:

1. Pursuant to 18 U.S.C. 208(b)(2), the financial interests described below of employees are deemed too remote or too inconsequential to affect the integrity of the services of an employee in any matter in which he/she may act in a governmental capacity.

(a) An employee's financial interest in any stock, bond, or other security of an entity publicly traded on a securities exchange is remote or inconsequential if (1) the number of shares, bonds, or other units of each type of security held is less than 1 percent of the total number of units of each such type of security outstanding, (2) the aggregate value of the employee's holdings in all types of securities of the entity is less than $5,000, and (3) the employee is not an officer, director, trustee, or employee of the entity, or the employee's spouse or dependent is not an officer, director, or trustee of the entity.

(b) An employee's financial interest in shares of a widely held, diversified, mutual fund or regulated investment company is remote or inconsequential, regardless of the value of such interest or number of shares held, if (1) the employee is not an officer, director, trustee, or employee, or the employee's spouse or dependent is not an officer, director, or trustee and (2) the matter being handled by the employee does not directly involve the mutual fund or regulated investment company itself.

2. In determining whether the number of units of a type of security held and the aggregate value of an employee's holdings in all types of securities exceed the limitations in section 1(a) above, securities held outright by or in trust or a similar arrangement for the benefit of the employee or the employee's spouse or dependent will be taken into account. Also, securities held by any organization in which the employee or his/her spouse or dependent is serving as an officer, director, trustee, or employee will be taken into account.

3. The number of units of each type of security outstanding and the value of an employee's holdings in all securities of an entity under section 1(a) of these rules shall be determined at the time the employee first acts in a governmental capacity with respect to the financial interest. If at any future time during which an employee is acting in a governmental capacity with respect to a financial interest, the (1) number of shares, bonds, or other units of a type of security held increases to equal or exceed 1 percent of the total number of units of such type of security outstanding and/or (2) the aggregate value of the employee's holdings in all types of securities of the entity increases to equal or exceed $5,000, the foregoing exemption no longer applies and the employee must seek an exemption under 18 U.S.C 208(b)(1). This exemption must be sought within a reasonable period of time after the employee first becomes aware of the increase in securities and/or the increase in value.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 80-34926 Filed 11-6-80; 8:45 am]
BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 218
Friday, November 7, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., November 12, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Docket No. 78–6: Adel International Development, Inc. v. Puerto Rico Maritime Shipping Authority and Star Lines, Inc.—Consideration of the record.
2. Docket No. 80–40: Foreign Commerce Tariff Regulations—Amendments Implementing the Ocean Shipping Act of 1978—Consideration of comments submitted in response to notice of proposed rulemaking.
3. Docket No. 80–45: Agreement Nos. 10386, as Amended, 10388, 10382, as Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of motion to terminate or suspend proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–2046–80 Filed 11–5–80; 12:54 pm]
BILLING CODE 6730–01–M

2

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, November 6, 1980.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of Response to Congressional Request for the Commission's views on its Section 5 Authority over Unfair Acts or Practices; Discussion of Legal Interpretations of Commission Enforcement Authority.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523–3830; recorded message: (202) 523–3806.

[S–2050–80 Filed 11–5–80; 3:20 pm]
BILLING CODE 6750–01–M

3

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, November 13, 1980.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Development of Regulation Permitting Federal Credit Unions to Offer Alternative Mortgages.
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant; telephone (202) 357–1100.

[S–2047–80 Filed 11–5–80; 2:53 pm]
BILLING CODE 7535–01–M

4

NEIGHBORHOOD REINVESTMENT CORPORATION.

TIME AND DATE: 2:30 p.m., November 10, 1980.

PLACE: Board room, sixth floor, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Associate Director, Communications (202) 377–6815.

AGENDA:

I. Call to Order and Remarks of the Chairman.
II. Approval of Minutes, September 3, 1980.
III. Resolution: Third Annual Meeting.
IV. Resolution: Regular Meetings of the Board, 1981.
V. Report of the Audit Committee.
VI. Report of the Personnel Committee.
VII. Treasurer's Report.
VIII. Executive Director's Report.
No. 16 November 4, 1980.

Donnie L. Bryant,
Secretary.

[S–2044–80 Filed 11–4–80; 4:09 pm]

5

NUCLEAR REGULATORY COMMISSION.

DATE: November 10, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Monday, November 10:

10 a.m.

Discussion of Policy on Anticipated Transient Without Scram (public meeting).

2 p.m.

Briefing on Inclusion of Steam Generator Transients as an Unresolved Safety Issue (public meeting).

ADDITIONAL INFORMATION: The affirmation of Request by UCS for Stay of Policy Statement, was postponed from October 31 until 3:30 p.m., November 3.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S–2049–80 Filed 11–5–80; 3:13 pm]
BILLING CODE 7590–01–M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 71700, OCTOBER 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on November 6, 1980.

CHANGES IN THE MEETING: This meeting has been *rescheduled for 11 a.m. on November 6, 1980.*

Dated: November 5, 1980.

[S–2048–80 Filed 11–5–80; 3:10 pm]
BILLING CODE 7600–01–M

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7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 10, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, November 12, 1980, at 2.30 p.m. An open meeting will be held on Thursday, November 13, 1980, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Friedman and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, November 12, 1980, at 2:30 p.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Litigation matters.
Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Report of investigation.
Consideration of *amicus* participation.
Freedom of Information Act appeal.
Regulatory matter bearing enforcement implications.
Proposed order in administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, November 13, 1980, at 10 a.m., will be:

1. Consideration of whether to issue a release revising Form N–1Q under the Investment Company Act of 1940, which is used by all management investing companies to report the occurrence during the preceding quarter of any one or more of twelve specified events. The revisions are designed to eliminate the necessity for management investment companies to file Form N–1Q on a regular basis. For further information, please contact Anthony A. Vertuno at (202) 272–2107.

2. Consideration of whether to withdraw proposed staff guidelines for disclosure in registration statements and periodic reports filed by electric and gas utility companies. For further information, please contact William H. Carter at (202) 272–2604.

3. Consideration of whether to issue a release adopting technical amendments to Regulations S–X and S–K to the rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934 and amendments to Rule 30–1, the Commission's general organization rule delegating authority to the Director of the Division of Corporation Finance. For further information, please contact Elizabeth K. Norsworthy at (202) 272–2589.

4. Consideration of whether to grant the application of Stephens, Inc. and Jackson T. Stephens for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.

5. Consideration of whether to send a letter to Senator William Proxmire, Chairman of the Senate Committee on Banking, Housing and Urban Affairs, expressing the Commission's views on S. 3188, the "Tender Offer Improvements and Investor Protection Act of 1980." For further information, please contact Alan Rosenblat at (202) 272–2428.

6. Consideration of whether to issue a release adopting amendments to the management remuneration disclosure requirements embodied in Item 4 of Regulation S–K. The amendments will remove from the Item 4(a) table remuneration resulting from stock option, pension and stock appreciation right plans and will establish separate disclosure of these forms of remuneration. The amendments also relate to the definition of the term "executive officer," compensation relating to the termination of employment, indebtedness of management and certain other technical amendments. These amendments are in response to concerns that have come to the Commission's attention during the administration of the new remuneration disclosure requirements. For further information, please contact Joseph G. Connolly, Jr. at (202) 272–3208.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

November 4, 1980.

[S–2045–80 Filed 11–5–80; 10:43 am]

BILLING CODE 8010–01–M

V 45 / 218 NOV 7 1980 UMI

Reader Aids

Federal Register
Vol. 45, No. 218
Friday, November 7, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
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DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
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DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

ENVIRONMENTAL PROTECTION AGENCY

66952 10–8–80 / Air pollution; submission of altitude performance adjustments for motor vehicles

66984 10–8–80 / Final high-altitude emission standards for 1982 and 1983 light-duty motor vehicles

66789 10–8–80 / Vermont State Implementation Plan revision

66789 10–8–80 / Virginia State Implementation Plan; approval of revisions

66792 10–8–80 / Virginia State Implementation Plan; approval of certain amendments

FEDERAL HOME LOAN BANK BOARD

67313 10–10–80 / Marketable certificates of deposit, brokered funds by institutions whose accounts are insured by the FSLIC

List of Public Laws

Note: The current listing of October 24, 1980 of public bills which have become law was the last until Congress reconvenes November 12, 1980. For a complete up to date cumulative listing see **Reader Aids** in the issue of Wednesday, November 5, 1980.

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Alpha-Fetoprotein Test Kits; Proposed Rule and Proposed Additional Quality Control and Testing Requirements

74178 **Part III—Commerce/NOAA:**
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Part II

Department of Health and Human Services

Food and Drug Administration, Public Health Service and Health Care Financing Administration

Alpha-Fetoprotein Test Kits; Proposed Restrictions and Proposed Additional Quality Control and Testing Requirements

V 4 5 / 2 1 8

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16, 20, 899

[Docket No. 80N-0002]

Alpha-Fetoprotein Test Kits

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing, for public comment, regulations to restrict the sale, use, and distribution of alpha-fetoprotein (AFP) test kits. AFP test kits are used in prenatal detection of a class of birth defects known as neural tube defects (NTD's). A public hearing will be held on the proposed regulations. Elsewhere in this issue of the **Federal Register**, the Centers for Disease Control (CDC) and the Health Care Financing Administration (HCFA) are proposing additional quality control and testing requirements applicable to laboratories engaged in AFP testing.

DATES: Comments on or before January 6, 1981. Public hearing on January 15, 1981; notices of participation by December 8, 1980; applications of public hearing participants for reimbursement by November 28, 1980. FDA intends that the final regulations will be effective 60 days after the date of publication of the final rule and will expire 4 years after first approval of an AFP test kit.

ADDRESS: Written comments, notices of participation, and applications for reimbursement to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION:

I. Background

Neural tube defects (NTD's) are among the most common serious birth defects in the United States. About 5,000 of the 3 million babies born each year in the United States have NTD's, an incidence of between 1 and 2 per 1,000 births. NTD's result when the neural tube, the developmental structure from which the spinal cord and brain of the fetus form, does not close properly during the early development of the fetus. About half the NTD's are characterized by a missing or malformed cranial vault or brain (anencephaly). There are roughly the same number of cases of spina bifida, in which the spinal column is open or otherwise fails to develop properly. Almost all infants affected by anencephaly are stillborn or die shortly after birth. The health of patients with spina bifida is often significantly impaired by conditions including paralysis of the lower limbs, mental retardation, incontinence, recurrent urinary infections, and hydrocephalus (excessive cranial fluid).

The cause of NTD's is not known. Only about 5 percent of affected babies are born to couples who have a family history of NTD's; about 95 percent of the cases are born to couples with no known risk factors (Ref. 1). Geographic variations in incidence both within the United States and internationally have been reported (Ref. 2). The rate of NTD's in the United Kingdom, for example, is about three times that of the United States. NTD's occur twice as often among whites as blacks in the United States, and in certain parts of the country—notably, Appalachia—the incidence of NTD's is well above the overall incidence in the United States.

An AFP determination together with confirmatory diagnostic procedures can alert parents and physicians to the possibility of an NTD fetus. AFP is a protein produced by the developing fetus. Its function has not been determined, though there is some indication that it is involved in regulating the fetal immunological system. AFP appears in the amniotic fluid surrounding the fetus at increasing levels during the first 14 weeks of pregnancy, after which the level usually declines. Since 1972, investigators have noted abnormally high levels of AFP in the amniotic fluid of fetuses with open NTD's (Ref. 3). Anencephaly is an open NTD; about 85 percent of spina bifidas are open lesions. Fetuses with anencephaly and spina bifida apparently shed an increased amount of AFP, which accounts for a higher than expected amniotic fluid AFP level for a given gestational age. Closed lesions generally are not detected by measurement of AFP levels.

AFP is also found in the mother's blood, perhaps due to direct transfer across the placental barrier or to the AFP in the amniotic fluid crossing the fetal membranes. AFP levels in the maternal blood increase during pregnancy, reaching a maximum at 32 to 34 weeks. An elevated maternal serum AFP level can be an indirect indication of the possibility of an NTD in the fetus. However, it may also be due to other factors, such as multiple fetuses, e.g., twins, or intrauterine fetal death. Investigators have also noted raised AFP levels in women bearing children with other congenital defects (Ref. 4); women with elevated AFP blood levels have been reported to be at greater risk of spontaneous abortion, perinatal deaths, and other pregnancy complications (Refs. 3 and 5).

An elevated maternal serum AFP level, therefore, is not diagnostic for NTD's. Accordingly, the AFP test kits are usually used in conjunction with other procedures to detect NTD's. The protocol generally followed includes the following steps, although the sequence may vary:

1. The serum AFP test is performed between 15 and 22 weeks of gestation.

2. If the first serum AFP is elevated, a second serum test is usually performed.

3. If the second serum AFP level is elevated, ultrasonography (diagnostic ultrasound) is used to determine whether the test results can be explained by incorrect estimate of gestational age, multiple fetuses, or fetal death. Anencephalic fetuses can often be identified at this stage.

4. If the elevated AFP level remains unexplained, amniocentesis is performed before the 22d week of gestation and amniotic fluid AFP levels are measured.

5. If fetal blood is present and the AFP level is elevated, amniocentesis is repeated 7 to 10 days later. Fetal blood can contaminate the amniotic fluid and cause a false-positive test result.

6. If the AFP levels in the fluid remain elevated, the physician may conduct additional studies, such as amniography or more extensive ultrasonography, to confirm or rule out suspected NTD's. Biochemical tests for analytes involved in neural transmission and morphological analysis of amniotic fluid cells in short term cultures are research procedures currently being studied to enhance the reliability of NTD detection by the examination of amniotic fluid AFP levels. Measurements of acetylcholinesterase in amniotic fluid have also been used.

7. Information and counseling are provided to the patient throughout the testing to enable her to make informed choices about whether to proceed with the testing, how to interpret the results, and to understand options available to her.

Of the steps listed, an elevated amniotic fluid AFP level following an elevated maternal serum AFP test is currently the most reliable diagnostic indicator of an NTD given a normal sonogram (to establish fetal age, a single fetus, and the absence of anencephaly). Amniotic fluid is obtained, however, by means of amniocentesis, an invasive procedure that carries a small risk of fetal death. The AFP blood test can be used to help screen out those pregnant women who are at high risk of carrying an affected baby, and for whom amniocentesis may be justified.

The analysis of amniotic fluid is not fully accurate, however. The proportion of women who will have elevated amniotic fluid AFP levels and be carrying a child without an NTD is probably about one in ten (Refs. 3, 11, and 12). (In some of these cases, the fetus may have a defect other than an NTD.) Subsequent tests, such as amniography and an extensive ultrasound examination, can further reduce the likelihood of misdiagnosis.

Interest in AFP testing of pregnant women is increasing both in the United States and abroad. A number of testing programs have been established in the United States for the purpose of diagnosing NTD's. In addition, AFP tests are sometimes conducted on the amniotic fluid of (1) women undergoing amniocentesis for indications other than high risk for an NTD; and (2) women who have previously given birth to an NTD baby.

The United Kingdom has been in the forefront of AFP testing and research. A number of local health centers of the National Health Service provide maternal serum screening; an extensive quality control program has been established; and test outcomes have been widely studies.

In 1977 and 1979, published results on a collaborative study of 19 centers doing AFP testing in the United Kingdom documented the effectiveness of AFP testing in the detection of NTD's and provided a framework for laboratory and clinical procedures (Refs. 7 and 8). The United Kingdom established a government commission that explored and recently reported on the feasibility of a national screening program (Ref. 10a). In France, a serum screening is done only in state hospitals (Ref. 9); Finland has a state-operated pilot screening program in two parts of the country; it serves annually about 5,000 of Finland's 70,000 pregnant women (Ref. 10).

In addition, AFP test kits have been marketed for the past several years in Canada, Japan, and some European countries for screening for germ cell tumors and to monitor the progress of patients in remission from germ cell tumors. In the People's Republic of China, AFP tests have been used extensively to screen for malignant hepatomas.

Because AFP test kits for measuring AFP in maternal serum or amniotic fluid for the detection of NTD's were not commercially marketed in the United States before the enactment date of the Medical Device Amendments of 1976 (see 44 FR 11832; March 2, 1979), these devices are classified as class III devices under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)). Class III devices must be approved by FDA prior to marketing (section 515a (21 U.S.C. 360e(a))); see also section 513(a)(1)(C) (21 U.S.C. 360c(a)(1)(C)). FDA has denied a petition by Abbott Laboratories to reclassify this product, under section 513(f) of the act (21 U.S.C. 360c(f)), into class II (standards) (see 44 FR 11832).

FDA has received several applications under section 515(c) of the act (21 U.S.C. 360e(c)) for premarket approval (PMA) of radioimmunoassay test kits to measure AFP as an aid to detect NTD's. In the **Federal Register** of August 3, 1979 (44 FR 45644), FDA published a notice of its intent to issue proposed regulations under section 520(a) of the act (21 U.S.C. 360j(e)) establishing restrictions on the sale, distribution, and use of AFP test kits as a condition of approval of any such applications. FDA has decided not to approve any applications for premarket approval of AFP test kits as an aid to detect NTD's until it has determined through this rulemaking process what restrictions, if any, are needed to assure the safety and effectiveness of the kits. Manufacturers may not distribute AFP test kits in the United States for investigational purposes in accordance with the FDA investigational device exemption (IDE) regulations (21 CFR Part 812). Firms that have submitted PMA's to FDA for AFP test kits before July 16, 1980 (the effective date of the IDE regulations), are considered to have in effect an approved IDE.

On February 26, 1979, FDA held a public hearing on AFP test kits before two of its advisory committees, the Obstetrics-Gynecology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel and the Immunology Device Section of the Immunology and Microbiology Devices Panel. Summary minutes of the Panel meetings are on file in the office of the FDA Hearing Clerk.

FDA and the National Center for Health Care Technology (NCHCT), in collaboration with the National Institutes of Health (NIH), the Centers for Disease Control (CDC), and the Health Services Administration (HSA) (all components of the Department of Health and Human Services (HHS)) held a national education symposium on maternal serum AFP on July 28-30, 1980, in Washington, DC. The proceedings of this symposium will be made part of the administrative record for this proposal when available.

II. Is There a Need for Restrictions?

Section 515(d) of the act requires approval of AFP test kits upon a showing that they are "safe and effective under the conditions of use prescribed, recommended, or suggested in the proposed labeling." That section further provides that the approval may be subject to such conditions as FDA may prescribe:

> If, because of its potentiality for harmful effect or the collateral measures necessary to (their) use, (FDA) determines that there cannot otherwise be reasonable assurance of (their) safety and effectiveness.
>
> (Section 520(e)(1).)

Several health professional and consumer organizations, as well as specialists in AFP testing, have told FDA that although they recognize that the AFP test is beneficial, they fear that unrestricted use of the AFP test kits could increase the chance of the serious complications, e.g., abortion of normal fetuses, failure to identify affected fetuses, and prospective parents' becoming unnecessarily alarmed about the outcome of the women's pregnancy (Ref. 13-24). Others have expressed the view that the AFP test kits are safe and effective and should be made available as widely as possible, to give women who may be carrying NTD fetuses the greatest possible access to this technology for identifying them (Refs. 41 and 42).

These potentially conflicting concerns have created a dilemma for FDA in deciding the conditions under which AFP test kits can be used safely and effectively. FDA believes any restrictions must take into account both the goal of appropriate access to this useful test and the need for assurance that the entire set of test procedures is available to any woman who undergoes AFP testing. FDA has considered various alternatives (which are described later) for meeting those requirements and decided to propose in regulatory language an approach which emphasizes use of the test under controlled conditions. FDA believes this approach best raises the difficult issues concerning AFP tests for public consideration and gives the public notice of the range of restrictions that could be imposed. FDA is proposing regulations which, if adopted, would require that AFP test kits be used only as part of a program in which a coordinator certifies in writing to FDA that an array of specified services would be provided to patients. These services

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would include laboratory testing, ultrasonography, amniocentesis, and counseling. The regulations would also prescribe, in considerable detail, requirements for the laboratories and other service providers, and would require detailed recordkeeping. In addition, manufacturers would be required to provide comprehensive information to physicians, laboratories, and patients. FDA emphasizes, however that the scheme set out in this notice is only a proposal. FDA hopes by this notice to stimulate a broad range of discussion among affected interests and the general public before developing a final rule.

Each of the proposed restrictions is described below, together with many questions about particular provisions, there are more general issues on which public comment is especially invited:

(1) As with screening tests in general, AFP kits are not 100 percent specific. Thus, of 1,000 pregnant women whose blood is tested with an AFP kit, about 50 will have elevated AFP levels. A second blood test will reduce that number to about 30, sonography to about 15, and amniotic fluid AFP testing to about 2. Moreover, of 10 women who manifest elevated AFP levels in amniotic fluid, 1 will be carrying a normal child.

Thus, AFP testing presents in microcosm a problem frequently encountered with diagnostics: It can considerably improve the physician's and patient's knowledge of the situation, but it is not perfect. The error can occur in either direction. That is, an AFP test may predict that the fetus has an NTD when, in fact, it does not—a false-positive; or it may predict that the fetus does not have an NTD when, in fact, it does—a false-negative. If confirmatory procedures are available to reduce the error rate, as they are here, what is the best means of ensuring that patients and physicians are aware of the need for doing the confirmation procedures? Should FDA require that these confirmation procedures be conducted or at least made available to the patient?

What role should patient autonomy play in this decision? That is, once a technology is available which can give a patient some information, why and when should that information be denied her or him merely because the information is not perfect?

a. Excessive restrictions on AFP testing may discourage physicians, laboratories and patients from engaging in AFP testing. To the extent that the restrictions limit access to AFP testing, many women will not be tested and, therefore, will not have the information upon which to base decisions on the future of the pregnancy. How should the balance be struck between restrictions on use of the kits and the widest possible patient access to the technology? Is widespread access desirable?

b. Under the proposed restrictions, AFP testing may be available for the most part at medical centers capable of providing under one roof—or at least within a relatively small geographical area—all the necessary services. How would physicians gain access to program participation if there were no program in their areas? Or there is a program in the area, but the coordinator does not allow a particular physician to participate? Would the proposed restrictions unfairly deny women in certain geographic areas or of limited income access to AFP testing?

(2) AFP test kits have been under active review by FDA for several years. Much of the concern expressed about their unrestricted use came in the earlier part of that time. In the interim, have increased experience with AFP test kits and greater familiarity with them by the medical profession reduced the need for restrictions on their distribution?

(3) One manufacturer has estimated that the proposed restrictions would increase the costs of a test kit by 50 percent, e.g., from $150 to $225 for a kit that can be used for 40 patients. Are these figures accurate? Are the additional costs that the proposed restrictions would impose on consumers justified by the benefits?

(4) Are there sufficient resources in this country to provide the ancillary services required for AFP testing? If not, will the existing capacity for delivery of these services expand as necessary in response to demand? Even if the capacity might not expand as necessary, should FDA nevertheless approve AFP test kits so that at least some women will benefit from AFP testing?

III. The Proposed Restrictions

1. *Diagnostic protocol.* The regulations in effect establish a preferred diagnostic protocol. Should alternative protocols be suggested as well? Measurement of acetylcholinesterase in amniotic fluid, for example, has been suggested as useful in the diagnosis of NTD's in pregnancies with positive amniotic fluid AFP results (Ref. 12a). Has the development of the acetylcholinesterase test reached the stage that it should routinely be used in the diagnostic protocol? Would the use of the acetylcholinesterase test diminish the need for quality ultrasound to confirm the presence of an NTD?

2. *The coordinator.* The proposed regulation would require a program to have a coordinator who provides a written assurance to FDA that the program will comply with FDA regulations on AFP testing. The coordinator would oversee the timely delivery and quality of needed followup services. The coordinator may, for example, be the director of an existing genetics program or an individual responsible for a program established specifically for AFP testing.

To qualify as a coordinator under the proposed regulations, an individual would submit a letter containing his or her name, address, and telephone number, and the certification that is described in proposed § 899.82(a). That certification states that certain requirements FDA considers essential for an AFP testing program have been met. Proposed § 899.82(b) provides that when FDA receives a letter from the coordinator containing the certification required by the regulations, FDA would provide the coordinator with an enrollment number. The coordinator would then provide this number to physicians and laboratories that are part of the coordinator's program.

One proposed requirements is that the program have within its organization, or obtain through written agreements with other providers, access to services, for example, amniocentesis, ultrasonography, and laboratory services, enabling the program to offer patients all procedures necessary for proper diagnostic followup. FDA is proposing the requirement in the belief that it may not be enough for the coordinator merely to locate a facility providing the services. As proposed, the coordinator would be required to have written agreements for patients in the program to use that facility. Any written agreement would have to establish that the provider of the service would agree to provide services to patients within the AFP testing program and would comply with applicable provisions of the proposed regulations.

Are people available to fill the role of coordinator? Who would pay them? What would they cost? What are the incentives and disincentives to volunteer as a coordinator?

Are coordinators essential to assure the timely delivery of ancillary and confirmatory services for AFP testing? Is a prearranged program the only means of assuring the availability and timely delivery of services? Are there other, more appropriate, mechanisms available? Are there parallels between AFP testing and other diagnostic procedures which suggest alternative mechanisms?

3. *Ultrasonography.* Ultrasonography may be used several times in the course

of screening for NTD's. First, an ultrasound examination is conducted to estimate gestational age because AFP values can be correctly interpreted only in relation to the age of the fetus. Ultrasonography should also be able to rule out multiple fetuses, fetal death, and to identify anencephalic fetuses. If these alternate explanations for elevated AFP serum levels cannot be ruled out, either because ultrasound is unavailable or because it is not of adequate quality, some women will be unnecessarily exposed to risks, costs, and anxieties associated with subsequent procedures. Clinical trials suggest that close to half of all women with elevated serum readings might be spared further testing by effective use of ultrasound before amniocentesis.

Ultrasonography is also used in conjunction with amniocentesis to locate the placenta and the fetus and to identify the best site for inserting the needle. More extensive ultrasound examinations may be used after a positive amniotic fluid AFP test to provide a detailed image of the fetus to attempt to locate a suspected defect. This latter examination is complex and time-consuming and requires additional expertise and, perhaps, more sophisticated equipment.

Proposed § 899.83(a)(2) would require that a competent diagnostic ultrasound service be available that is capable of identifying multiple fetuses and anencephaly, accurately determining gestational age and detecting fetal death. Such a facility would have to agree to comply with applicable provisions of the regulation.

The availability of equipment for ultrasonography early in the testing protocol does not appear to be a significant problem. In 1974, an FDA survey of 1,000 United States hospitals of various sizes indicated that there was sufficient ultrasound imaging instrumentation to provide ultrasound examinations for approximately one-third of the total pregnancies at these institutions (Ref. 26). The substantial growth rate of ultrasound since that time suggests that there is access to ultrasound facilities for obstetric applications. A limited 1979 survey reported in *Radiology/Nuclear Medicine Magazine* showed that ultrasound facilities are available in radiology or obstetric services at over 70 percent of the responding institutions (Ref. 27).

Although ultrasonography may be widely available, FDA is concerned that all patients have access to services of sufficiently high quality for use in AFP testing. FDA welcomes comment on the degree of expertise needed to do AFP testing and the availability of that level of expertise. In addition, it would be useful to know how much training and experience is needed to reach that level of expertise. FDA has received comments from the Society of Obstetric and Gynecologic Ultrasound (SOGU) stating that "the technology continues to outpace user experience" (Ref. 28). The Public Citizen Health Research Group (HRG), citing SOGU's discussion of limited training in ultrasonography and quoting other sources, concludes that "the present inadequacy of expertise in ultrasound and the unlikelihood of significant expansion of expertise in the near future should preclude, at present, the setting up of neural tube defect screening programs except on a limited, tightly controlled basis with firm quality control assurances for all components of the screening program" (Ref. 29).

Training and experience for both technologists and physicians has been discussed in the professional literature (Refs. 30 through 33). Education and certification guidelines for technologists have recently been recognized by the American Medical Association's Committee on Allied Health Education and Accrediation. Some questions about ultrasound are now included in the Board Examinations in Obstetrics and Radiology.

The Commission on Ultrasound of the American College of Radiology (ACR) has recommended that: (1) Residents in radiology receive a minimum of 3 months training in ultrasound; (2) radiologists wanting a career in ultrasound seek a fellowship of a minimum of 1 year; and (3) practicing radiologists just starting in ultrasound receive a minimum of 1 month of formal training in ultrasound technique and interpretation before using the modality (Refs. 39 and 40).

SOGU has recommended that the equivalent of 2 months out of a 4-year postgraduate residency training course in obstetrics and gynecology be devoted to interpretation and supervised performance of both static and real-time B-scan ultrasound examinations.

Under proposed § 899.83(a)(2), competent diagnostic ultrasound service would require ultrasound equipment and competent physicians to interpret ultrasound scans. There are currently no uniform ultrasound training criteria. Therefore, FDA has not attempted to define "sufficient" training and experience. Should it? Would program coordinators be able to determine that ultrasound services are of sufficiently high quality? Is the coordinator in a better position to make this determination than the patient's own physician?

4. *Amniocentesis.* Proposed § 899.83(a)(3) would require that amniocentesis for the purpose of obtaining amniotic fluid to measure AFP levels be available to all women in the testing program who require it. The proposal requires the coordinator to assure that the program has available facilities to draw the amniotic fluid and to analyze that fluid for AFP, and that these facilities agree to comply with applicable provisions of the regulations. This requirement is intended to reduce the possibility that a woman with elevated maternal serum AFP would not have access to the diagnostic AFP amniotic fluid test.

HSA has told FDA that it believes resources are inadequate to meet the demand if AFP screening were undertaken as a routine procedure (Ref. 34).

Amniocentesis may be done in a physician's office, a hospital, or at a tertiary genetics center (a facility usually affiliated with a major medical center that offers a wide range of genetic services).

The procedure is done in either the second or third trimester of pregnancy, depending on the reason for the test. It is usually performed in the second trimester for chromosomal analyses of cells in amniotic fluid of women who, because of advanced maternal age or other reasons, are at increased risk of bearing a child with a birth defect.

FDA is not aware of any complete source of data on the total number of second trimester amniocenteses performed in the United States each year. The report of the NIH Consensus Development Conference, published in April 1979, however, estimates on the basis of surveys and regional data that about 15,000 second trimester procedures were performed in the country in the preceding year (Ref. 20).

FDA cannot predict exactly how widespread and how rapid adoption of AFP testing will be. FDA believes, however, that approval of the AFP test kit would generate a significant increase in the number of amniocentesis procedures being performed.

Of the women who have the first serum AFP test, approximately 2 percent will need to have access to second trimester amniocentesis. If all pregnant women were tested, an additional 60,000 amniocentesis procedures could be generated each year. Not all pregnant women, however, receive prenatal care in time to benefit from AFP testing. Furthermore, some women or physicians can be expected not to participate. It is unlikely, therefore, that there will be a demand for the maximum number of 60,000 additional amniocenteses. Taking

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into account likely participation in a national NTD screening program, Goldberg and Oakley have projected that approximately 28,000 amniocenteses annually would be generated in a national screening program (Ref. 2). this figure does not include possible repeat amniocenteses, for example, where fetal blood contaminates the first sample and the test is positive, or where the test result is borderline.

Would the suply of amniocentesis services be adequate to meet the demand caused by increased AFP testing? If not, how quickly could the supply be increased?

5. *Counseling.* Proposed § 899.83(a)(4) would require that counseling be available to all women who are considering being tested or who are participating in the testing. Under the proposal, the program coordinator must ensure that as part of the program there would be qualified personnel to discuss several issues relating to AFP testing and NTD's including: The procedures that may be performed as part of the testing; the risks and benefits of the testing; the likelihood of false-positive and false-negative test results; the significance of the test results; the range of severity of NTD's; and options available to the patient with abnormal diagnostic test results. The counseling services should be based on a policy of voluntarism about the options of a patient with abnormal test results, especially with respect to the choice of termination of pregnancy.

Should it be left open whether counseling should be done by the physician, nurses, other health care professionals, or specially trained laypersons; or should genetics counseling be provided by qualified counselors? Should access to counseling be left to the patient's individual physician? Or must the program coordinator perform that function? Who would pay the counselors? What would they cost?

The American College of Obstetricians and Gynecologists (ACOG) has told FDA that the level of expertise and numbers of trained counselors necessary to deal with the patient's anxiety are "insufficient" to handle the need for counseling that would be associated with unrestricted use of AFP test kits (Ref. 36). Historically, has the availability of counselors to consult with patients about birth defects increased in rough proportion to the demand so that government intenvention to assure the availability of counseling is unnecessary?

FDA invites comment on whether patient anxiety would in fact occur, and if so, whether it would be any greater than, or different from, anxiety patients now manifest about other possible birth defects. Are comparably comprehensive counseling systems for other potential problems such as Down's Syndrome available? Could such existing systems be adapted to serve women ungoing AFP testing? Would the availability of appropriate printed patient information, together with interpretative aid from the patient's physician, family, or others, be sufficient?

6. *Laboratories.* Proposed § 899.85(a) would require that a laboratory be part of a program enrolled with FDA to purchase AFP test kits for use in NTD testing. A laboratory would prove that it is part of a program by providing the enrollment number of the program to the manufacturer.

Proposed § 899.85(b) would provide that laboratories may accept samples for AFP tests only from physicians who are part of a program enrolled with FDA. All samples would have to be accompanied by the FDA enrollment number.

Proposed § 899.85(c) would require that laboratories doing AFP testing follow the manufacturer's approved labeling unless alternative procedures are justifiable. The labeling would specify that each laboratory must establish its own normal median values for serum and amniotic fluid for each manufacturer's test kit used by the laboratory. The normal median values would have to be independently established for each manufacturer's AFP test used by each qualifying laboratory for each appropriate gestational week (that is, the 15th to 22d gestational weeks) from a statistical basis that includes maternal sera or amniotic fluids obtained from at least 100 screened women, each with a singleton conceptus that is unaffected by NTD's.

While normal median values are being established in a laboratory, that laboratory would be permitted to provide AFP test results to a physician, using, as a guide for interpretation, normal values obtained from the manufacturer of the AFP test kit used by the laboratory. Any abnormal AFP values during this period, however, would be required to be confirmed by repeat analysis of the same sample at a laboratory with an established range of normal values using the same manufacturer's approved AFP test kit. FDA believes that verifying results in this way would adequately ensure that analysis of samples by laboratories that have not yet developed normal AFP values would not lead to inaccurate reporting of normal samples as containing elevated AFP levels.

Laboratory labeling for each manufacturer's test kit would include summaries or explanations of the following: (1) AFP measurement procedures; (2) the protocol for AFP assay; (3) the principles of radioimmunoassay procedure; (4) the reagents and their preparation; (5) indications of instability; (6) radioactivity warnings; (7) specimen collection and preparation; (8) sample preparation; (9) the procedure for testing; (10) results of data accumulation; (11) a description of cutoff levels; (12) limitations of the procedure; (13) expected values; (14) performance characteristics; (15) the protocol and flow charts for AFP and associated modality testing; (16) the standard curve preparation calculations and quality control procedures; and (17) summary tables of maternal serum and amniotic fluid values obtained in clinical studies. The physician would send a manufacturer-supplied tear-off sheet to the laboratory with each sample to be tested; the laboratory would return the tear-off sheet to the physician along with the test results; it would include the median values and multiples of the median for gestational weeks 15 to 22 and a description of the need for followup procedures if the test result is positive.

To facilitate statistical comparison of normative and cutoff data obtained with different manufacturers' AFP test kits, each manufacturer would be required to calibrate its AFP test kit against the World Health Organization Reference Standard for Human Alpha-Fetoprotein (72/225) and report, in its professional and laboratory labeling, the mass of AFP found by use of its AFP test kit that is equivalent to one International Unit of AFP.

Under proposed § 899.85(d), the laboratory would be required to participate successfully on a regular basis in an FDA endorsed proficiency survey. Generally, proficiency testing programs are designed to monitor a particular laboratory's performance by comparing its quantitative results to those obtained by reference laboratories. FDA is working with CDC on a proficiency testing program for AFP. The College of American Pathologists (CAP) has informed FDA that it will be establishing a proficiency testing program shortly. The Commission on Inspection and Accreditation of the CAP is one of several national accreditation bodies approved by the Secretary, HHS, for accrediting laboratories under 42 U.S.C. 263a. (See § 74.1(e) of CDC's clinical laboratories regulations (42 CFR 74.1(e)). Proposed § 899.85(d) would require laboratory participation in either CDC's or CAP's proficiency testing programs or any other one subsequently endorsed by FDA.

As with other facilities participating in the program, proposed § 899.85(d) would require any laboratory that wishes to obtain AFP test kits for NTD testing to agree to participate in an inspection program authorized by FDA. Inspections would be made on a surveillance basis or for-cause to assure compliance with the regulations. HCFA would share responsibility for laboratory inspections with FDA, and both agencies are currently working to develop a Memorandum of Understanding to avoid duplicative inspections. The records the laboratory would be required to keep for inspectors to assure compliance are set out in proposed § 899.85 (f) through (h).

Proposed § 899.85(i) would require a participating laboratory to report test results greater than 2.5x the median to the program coordinator as well as to the attending physician. Because of the need for rapid followup testing, FDA believes that it is desirable that the laboratory telephone the results while the written report is being delivered. The laboratory would make data on AFP testing available to the coordinator, as requested, for submission in the manufacturer's reports so that coordinators may monitor the program.

A joint task force of ACOG and the American Academy of Pediatrics (AAP), HRG, CDC, and two NIH conferences on AFP (Refs. 20 and 37) have recommended that AFP testing be restricted to laboratories that conduct what they consider to be an adequate volume of AFP tests. The NIH workshop report (Ref. 37) suggested 50 maternal sera AFP samples and 10 amniotic fluid samples weekly. The ACOG/AAP report (Ref. 22) suggested 100 maternal sera tests weekly. CDC has proposed a minimum weekly sample workload of 50 mid-pregnancy patient specimens as regulatory requirements. The CAP does not favor minimum volume or frequency requirements on the grounds that they are not necessary to ensure proficiency. CDC asserts that there are statistics on several assays that indicate that laboratories routinely testing only a few samples each week have a much larger number of unacceptable results than do laboratories with a larger workload. CDC also points out that some State regulations prohibit laboratories from offering certain types of tests unless the laboratories perform tests of samples at a fixed workload and frequency.

After consultation with CDC, FDA has decided that it would be appropriate to propose at this time that, within 1 year after enrollment in the program, a laboratory be required to test a minimum total of 50 of any combination of maternal serum and amniotic fluid samples each week and proposed § 899.85(e) so provides. A CDC/HCFA joint proposal, published elsewhere in this issue of the **Federal Register**, would require the same weekly sample workload for clinical laboratories licensed by CDC to conduct AFP testing, and to be reimbursed by HCFA under the medicare program. Are these requirements necessary to assure the quality of laboratory performance? Any comments dealing with volume or assay frequency should, if possible, cite data or other pertinent supporting information.

7. *Reporting requirements.* Proposed § 899.84(c) would require manufacturers of AFP test kits also to submit quarterly and annual reports to FDA summarizing the results of AFP testing at each program. Quarterly reports would enable FDA to determine the abnormal/normal fetus abortion ratio at the individual programs. The proposed annual reports would include more detailed data to rates associated with each manufacturer's AFP test kit. FDA will specify the content and timing of submissions in the premarket approval orders to individual manufacturers.

Proposed § 899.83(d) would require the coordinator to secure written agreement from each physician involved in the program to notify the coordinator of the pregnancy outcome in all cases with an elevated AFP level and of all pregnancies involving fetuses with an NTD. All facilities associated with the program would also report abnormal test results to the coordinator, as well as to the attending physician. These data would enable the coordinator to monitor the performance of the program. They would also form a part of the data submission that proposed § 899.83(e) requires the coordinator to provide to the manufacturer of each kit used by that program.

FDA proposes that each coordinator would be required to furnish the current data FDA requires as part of the approval of a premarket approval application for an AFP test kit to the manufacturer of any AFP test kit used by a laboratory within the coordinator's program 15 days before the manufacturer must submit its quarterly report. FDA also proposes that, for any pateint undergoing amniocentesis to enable the measurement of AFP in amniotic fluid, the coordinator be required to furnish the manufacturer the information required by § 899.83(g) within 35 days of amniocentesis. The data would, in turn, be used by the manufacturers for quarterly and annual reports to FDA.

FDA intends to make available to the public, on a regular basis, summary analyses of the data it receives as part of the program, and to include in these summaries as much relevant information as is permissible under sections 301(j) and 520(c) of the act (21 U.S.C 331(j) and 360j(c)), the Trade Secrets Act (18 U.S.C. 1905), the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a). For example, these summaries will include data identified by the manufacturer. The data will not be retrievable by the name of the individual patient, and there will be no other means of identifying an individual patient. Thus the Privacy Act of 1974 does not prohibit the public disclosure of these data (see 5 U.S.C. 552a(a)(5)). FDA has determined that this information does not constitute trade secret information.

In addition to the postmarketing data requirements described above, CDC intends to conduct an epidemiological study to obtain additional information on AFP testing and NTD's. FDA will cooperate with CDC in this effort.

For inspectors authorized by FDA to determine whether a program is in compliance, the proposal would require coordinators, manufacturers, physicians, and facilities associated with the program to keep certain records. These are set out in appropriate sections of the regulations.

Proposed § 899.83(g) describes the records the coordinator would be required to keep. These records would enable authorized inspectors to identify facilities and physicians used by patients associated with the program who test abnormal or whose pregnancies involve an NTD fetus. The records would also be used to verify data submitted in the manufacturers' quarterly and annual reports and to identify facilities or circumstances which may require further followup investigation.

To verify distribution of test kits to approved programs, proposed § 899.84(d) would require manufacturers to maintain distribution records for AFP test kits.

Authorized inspectors must also be able to inspect raw data generated by facilities within the program as part of the AFP testing. Proposed §§ 899.85(f) and 899.87(a) respectively, therefore, would require the laboratory and the ultrasound and amniocentesis facilities

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either to maintain specified records or to identify the location of such records. FDA does not anticipate that these proposed recordkeeping requirements would create an undue burden on the facilities because the records are those that would typically be generated in the delivery of services.

As proposed, physicians participating in an enrolled AFP testing program would be required to maintain records for each patient involved in AFP testing as described in proposed § 899.86(e). These records could be inspected to verify information supplied to the coordinator. FDA believes that this proposed required recordkeeping is typical of patient records a physician would keep and, therefore, should not create an undue burden on the physician. Further, FDA would not expect to inspect physicians' offices on a routine basis. Rather, it generally would expect to examine records in participating physicians' offices, including those ultrasound and amniocentesis facilities which are physicians' offices, only on a "for cause" basis.

Proposed § 899.89 would provide that program records must be maintained for 2 years following the expiration of the final regulations to permit FDA to conduct any necessary followup investigations and to verify the manufacturers' data submissions.

The recordkeeping and periodic reporting requirements contained in this proposal are subject to clearance by the Office of Management and Budget (OMB) under the Federal Reports Act of 1942 (44 U.S.C. Chapter 35). FDA intends to submit to the Director, OMB, copies of this proposal and other related materials during the comment period on the proposal. If OMB approves the proposed requirements, FDA will include them, along with any changes resulting from comments, in the final regulations as necessary to comply with OMB's determination. FDA will, if appropriate, also make conforming changes in any recordkeeping and reporting requirements applied in premarket approval orders for individual AFP test kits. Any comments received from OMB will become part of the administrative record for this matter and will be placed on file for public review in the office of the Hearing Clerk, FDA, in Docket No. 80N–0002.

Are all of these recrodkeeping requirements necessary to the safe and effective use of AFP test kits? Would requiring the provision of information about abortions invade a patient's privacy, or deter her use of an AFP test? Are the costs of these requirements commensurate with their benefits?

8. *Physician education.* Proposed § 899.83(b) would require the program coordinator to ensure that all physicians in the program have a sufficient supply of professional labeling prepared by the manufacturer and approved by FDA. Professional labeling for each manufacturer's AFP test kit would include: (1) A description of the measurement of AFP as an indicator of NTD's; (2) the nature, incidence, and consequences of NTD's; (3) the AFP testing protocol, including the importance of adhering to time requirements and using confirmatory diagnostic procedures; (4) the significance of test results, including how to adjust interpretations for racial and geographic population int he United States; (5) the specificity and sensitivity of the tests; (6) expected values; (7) a description of the cutoff levels used to distinguish abnormal and normal values for the manufacturer's product; (8) the protocol and flow charts for AFP and associated modality testing; and (9) summary tables of maternal serum and amniotic fluid values obtained in clinical studies.

ACOG has emphasized to FDA its concern that physicians are not prepared to use the AFP test safely. ACOG also called for restricted distribution of AFP test kits and a major educational campaign for physicians to ensure that AFP screening for NTD's is fully understood before it is undertaken (Ref. 36).

Are the AFP test kits and confirmatory diagnostic procedures more difficult to understand or to undertake than diagnostic procedures now in use?

9. *Patient information.* Women must be aware of the risks as well as the benefits of AFP tests in order to make an informed decision about participating in the testing and taking actions on the basis of test results. Faced with test results indicating elevated AFP levels, women must be provided detailed information about the significance of the results and the likelihood that an elevated level signifies an affected fetus. A discussion of NTD's and the options available must also be provided to women at risk. General information could be provided to patients at an early stage of the testing; more detailed information at the later stages may also be helpful.

The Spina Bifida Association of America (SBAA), HRG, and the ACOG/AAP Task Force have emphasized the importance of patient education for safe and effective screening for NTD's (Refs. 16, 17, and 22). Without such information, women: (1) May not understand that further diagnostic tests may be necessary to confirm or rule out a diagnosis of NTD based on an elevated AFP level; (2) may not be aware of the time sensitivity of the initial tests and may report for tests or receive abnormal results too late to take action on the medical options; (3) may forego followup tests without understanding that these tests could relieve anxiety about the child; (4) may not know that many spina bifida children, with treatment, can lead productive lives; or (5) may fear that once they have an affected pregnancy they cannot bear normal children. These groups believe that patient information must address these issues. The following is a sample patient brochure on which FDA invites comment.

Patient Information for AFP Testing

This is about a new test called the alpha-fetoprotein (al-fah-fee-toe-pro-teen) (AFP) test. Doctors can use this test to help identify those pregnant women who may have an increased chance that their unborn baby has certain birth defects called neural tube defects (NTD's).

This leaflet will help you learn more about the AFP test and NTD's. If you are thinking of having this test you should read this leaflet and use it as you talk with your doctor.

What Are Neural Tube Defects?

In the early development of the unborn baby, the spinal cord and brain grow from a structure called the neural tube. As the unborn baby grows, this tube changes its shape, with the head region developing into the brain and the rest of the tube becoming the spinal cord. Together, the brain and the spinal cord make up the central nervous system. NTD's result when the neural tube does not completely close during the early development of the unborn baby.

What Are Some Types of Neural Tube Defects?

Two common and serious types of NTD's are *anencephaly* (an-en-sef-a-lee) and *spina bifida* (spy-nah biff-ah-da).

Anencephaly. In this disorder, much of the brain, head and spinal cord have not developed normally. Newborn children with this severe disorder usually die shortly after birth.

Spina bifida. This disorder is also called "open spine." It is a defect of the spine and nervous system. There are several forms of spina bifida.

(Illustration showing normal neural tube and varying degrees of severity of spina bifida.)

Children born with spina bifida are often handicapped in a number of ways.

In a few cases, normal development of the child with little physical handicap is possible. Often, however, paralysis of the lower limbs, repeated urinary tract infections, hydrocephalus ("water on the brain"), and mental retardation occur.

The spine malformation and nerve damage caused by this disorder hamper movement in varying degrees. Some individuals with spina bifida can walk by themselves. Others use braces and crutches or a wheelchair. Through modern surgical and corrective techniques, many children born with spina bifida can lead healthy and productive lives.

What Causes Neural Tube Defects?

The cause of neural tube defects is not known. It may be a genetic (inherited) defect, or it may be caused by environmental factors. The occurrence of this problem in the United States varies from region to region; neural tube defects seem to occur more often in areas which are highly populated. Much more research must be conducted to find out the cause of this problem.

What Are the Chances of a Baby Born With a Neural Tube Defect?

In the United States, about 1 to 2 live births per thousand involve a neural tube defect: About 3,000 to 6,000 of the three million annual babies. These birth defects are about equally split into the two main types: Anencephaly and spina bifida.

Of the 3,000 to 6,000 births that result in a neural tube defect, approximately 2,700 to 5,400 (90 percent) babies with such a defect will be born to women who have no special or common "risk" characteristic. The remaining 300 to 600 babies with neural tube defects will be born to women who have any one of the following "special risk" characteristics:

Women who have already given birth to a child with a neural tube defect; one or both parents have neural tube defects or; women whose mother or father has a history of neural tube defects.

Alpha-Fetoprotein Blood Test

What is Alpha-Fetoprotein (AFP)?

Alpha-fetoprotein is a substance that is produced by the unborn baby as it grows and is passed into the amniotic fluid around the unborn baby and then into the mother's blood.

When the neural tube is not properly formed, too much alpha-fetoprotein "leaks" into the amniotic fluid around the unborn baby and reaches the mother's blood. By measuring the amount of AFP in the mother's blood and amniotic fluid, it is possible to tell whether or not there is a *chance* that the unborn baby has a neural tube defect.

What is the AFP Blood Test?

A blood test is the first step that the doctor will take to determine whether or not an unborn baby may have a neural tube defect.

The AFP blood test is simple and does not present any significant risk to the mother or the unborn baby. The doctor will take a sample of blood from the vein in the mother's arm and send it to a laboratory. The laboratory will test the mother's blood to see how much AFP is present and then send the doctor the results of the test.

When Should a Pregnant Woman Have the AFP Blood Test?

The best time to have the AFP blood test is during the second trimester of pregnancy. The best time is 15–22 weeks after your last menstrual period. Unreliable results may be obtained if the blood sample is taken too early during the pregnancy. If the sample is taken too late, there may not be enough time to complete all the tests.

What Will the Test Results Mean?

If the mother's blood has normal levels of AFP, the test results will be considered negative and there will be no need for further tests. Approximately 950 out of 1,000 women who have this blood test will have a negative result.

It is important for parents to understand that an AFP blood test result in the normal range cannot guarantee a perfect baby at birth, but it can offer some reassurance that the baby will not have an open neural tube defect.

An elevated result indicates that there are high levels of AFP in the mother's blood. This does not always mean an NTD is present. It means that the woman requires more care and additional tests to see whether or not the unborn baby has an NTD. These additional tests are described later in this brochure. Approximately 50 out of 1,000 women who have the AFP blood test may have a positive result from the first blood test.

If a high AFP blood level is obtained, there is about a 2-in-100 (2 percent) chance that the unborn baby has an NTD. More likely reasons for the positive result are that the pregnancy is further advanced than you think, or that you are carrying twins.

A week after the first elevated blood sample, the doctor will take a second sample of blood from your arm. If the result of the second test is also elevated, there is about a 4 to 10-in-100 chance (4 to 10 percent) that your unborn baby has an NTD. At this time, the doctor will discuss the need for you to have additional tests that will give a more accurate diagnosis than blood tests.

Is There a Possibility of False Results?

Women who are thinking of having the AFP blood tests should be aware it is possible that NTD's may be missed by the test or that a healthy fetus may wrongly be identified as having an NTD. The possibility of these false results should be openly discussed by you and your doctor.

What Are the Other Tests That May Be Needed If the Second AFP Blood Test Is Elevated?

Sonography (so-nog-raf-fee). The first test is pulse echo sonography, in which high-frequency sound waves are used to obtain an image of the unborn baby. The results of this test can be used to tell whether the blood test was elevated because the woman is carrying twins, or because the week of pregnancy was estimated incorrectly. Sonography can also show if an unborn baby has died, and often whether an NTD is present.

Amniocentesis (*am*-nee-o-sen-*tee*-sis). In this test, the doctor will take a sample of the amniotic fluid around the unborn baby and send it to the laboratory to measure the AFP level in the fluid. If the AFP level is high and other possible causes (twins or the age of the fetus when the test was taken) have been ruled out, there may be a 19-in-20 (95 percent) chance or more that the unborn baby has a neural tube defect. This test cannot tell how bad the defect will be or the possible degree of the handicap.

If the amniotic fluid AFP is elevated, the physician may wish to attempt to visualize the possible defect by means of gray scale sonography (a more advanced and accurate type of ultrasound), or by amniography, in which the baby is outlined by radiopaque dye injected into the uterus.

The chart attached to this brochure shows for 1,000 pregnancies the estimated results from the full testing sequence on determining whether an unborn baby has an NTD.

What Are the Risks and Costs of the AFP Blood Test and Other Tests?

Women who receive two positive results from the AFP blood test should be aware that other tests are needed to be more sure whether the unborn baby has an NTD. The AFP blood tests carry little risks—no more than any other blood tests people can get. In addition, these blood tests do not cost too much to have done. If the blood tests are elevated, the other tests described above (sonography and amniocentesis) may present a small risk, and can cost more money. It is not known whether

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sonography carries any risk. You should ask your doctor about these tests; the risks that they present; how much they cost; where these tests are given; and any other questions that may be of concern to you.

What Should You Do if the Tests Show That Your Unborn Baby Has a Neural Tube Defect?

Counseling can help parents to assess the choices they have in relation to their own personal capabilities, needs, and desires. Women should ask their doctor for information about counseling.

Estimated Results of AFP Testing Program

Number of pregnant women tested		1,000
Elevated result—1st serum sample		50
Elevated result—2nd serum sample		30
Referred for sonography		30
Twins	8	
Corrected gestational age	6	
Fetal death	1	
Unexplained elevated serum AFP	15	
Referred for amniocentesis		15
Normal AFP	13	
unexplained elevated amniotic fluid AFP	2	
Referred for amniography or gray scale sonography		1
Normal	1	
NTD	1	

FDA invites comments on the brochure, particularly in the form of suggested alternative language to make the brochure more understandable and to add or delete information.

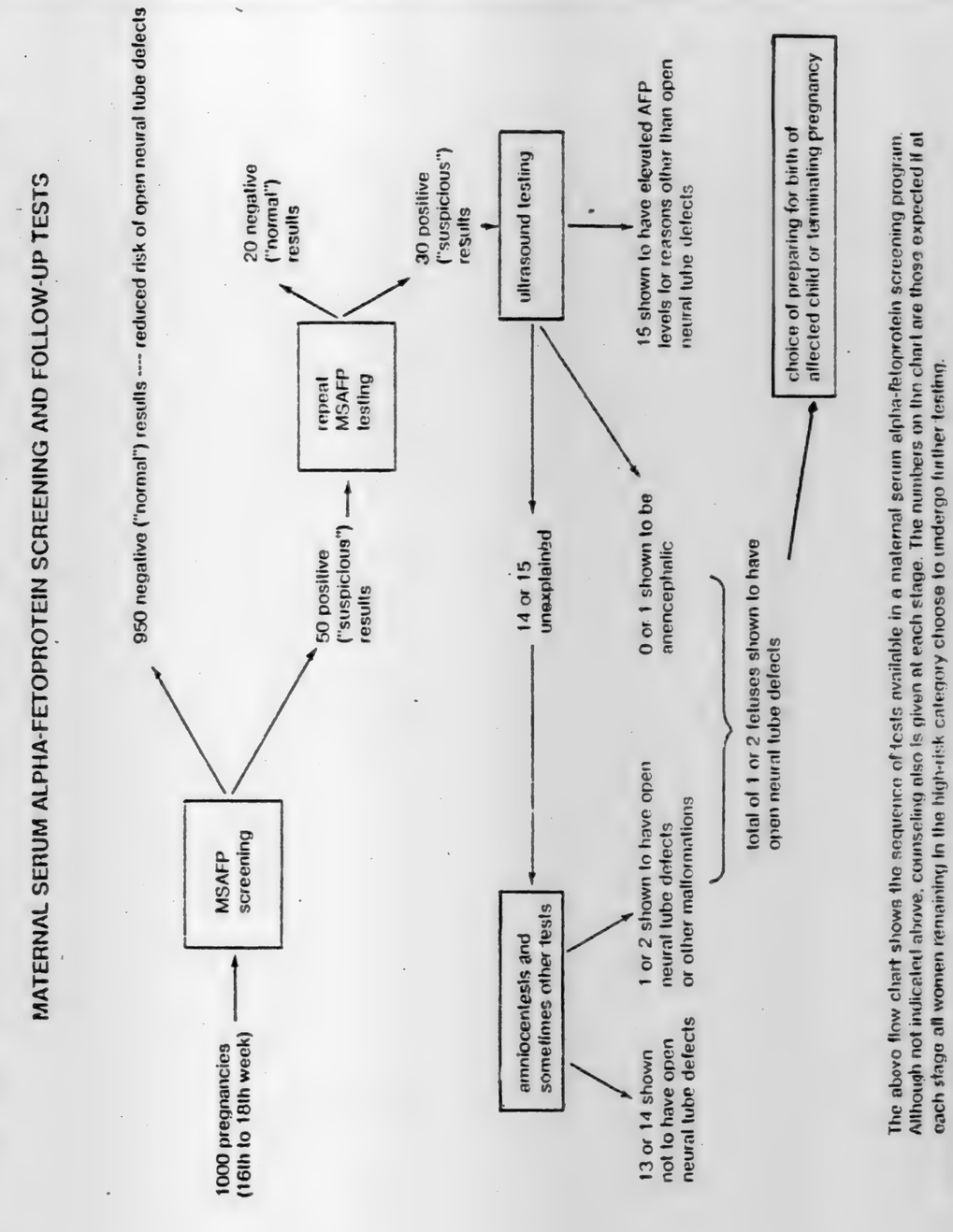
10. *Patient acknowledgment.* Under proposed § 899.86(a) a physician in the program would be required to obtain from each patient written acknowledgment that she: (1) Has been provided with the patient brochure prior to receiving the first AFP test, (2) has had an opportunity to discuss questions related to AFP testing with the physician or a counselor familiar with the subject, and (3) authorizes government employees to review and if necessary copy her records related to AFP testing.

Proposed § 899.85(k) would require the laboratory to maintain a file by physician name of a copy of a signed patient acknowledgment for each sample analyzed. Proposed § 899.86(b)(4) would require the physician to submit a copy of the signed patient acknowledgment to the laboratory with each sample to be analyzed. This requirement would make the acknowledgment accessible to FDA authorized agents at a central point. This requirement would also reduce the need for FDA to visit physicians' offices to ascertain whether patient acknowledgment was obtained.

A majority of women tested will have a negative test. For these women the proposed brochure might cause some anxiety that would prove to have been unnecessary. Is this concern important enough, or are there other reasons, to choose instead a requirement that patient information be provided only if the first test is elevated (rather than before the first test)?

The proposal would require the patient to sign an acknowledgment authorizing the review and copying of her records by government officials prior to the first time blood is drawn for AFP testing. The acknowledgment would accompany any samples sent to laboratories. Is patient acknowledgment necessary for safe and effective use of AFP test kits? Would the proposed acknowledgment requirement intrude on the patient's privacy? Should "informed consent" be required instead? Or nothing? Should the patient acknowledgment accompany the sample to the laboratory or should it be sent to the program coordinator, or stay in the physician's office? Would providing such information to the government violate the patient's privacy? Would requiring the provision of such information deter women from having AFP tests performed? Could the information be limited in some way to avoid these problems?

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11. *Confidentiality of patient records.* To ensure the privacy of individually identifiable medical records, proposed § 899.83(f) would require the establishment and use of a patient identification code designed to ensure confidentiality at all levels of the program with the exception of the patient acknowledgment form. The patient identification code would be used on all patient records required by these proposed regulations. The proposal would not interfere with the use of patient names by the provider on documents, e.g., laboratory slips, on which names are customarily used. The patient code would be included on records to enable inspectors authorized by FDA to retrieve and copy documents without using the patient name.

Authorized inspectors would not ordinarily copy medical records containing the names of patients. The coordinator or his or her representative would be given the right to delete any information that could identify a patient except when: (1) FDA has reason to believe that the patient acknowledgment was not obtained; or (2) there is reason to believe that the records do not represent actual patient tests or do not represent actual results obtained. If an individually identifiable medical record is copied, the record would be properly safeguarded by FDA and would be used or disseminated under conditions that protect the privacy of the individual to the fullest possible extent, consistent with laws relating to public disclosure of information (e.g., the Freedom of Information Act and the Privacy Act) and the law enforcement responsibilities of FDA.

12. *Other elements of the AFP test Kit program.* In addition to the proposed regulation, FDA plans to publish articles of AFP testing in the "FDA Drug Bulletin" and the "FDA Consumer." ACOG plans to publish a technical bulletin on AFP testing that will be distributed to all its members.

13. *Applicability.* Proposed § 899.80 provides that the regulations apply to the use of AFP test kits to measure AFP in serum, plasma, or amniotic fluid in the prenatal detection of NTD's. Under the proposed regulations, a laboratory would be prohibited from analyzing either maternal blood serum (or plasma) or amniotic fluid using AFP test kits that are not approved by FDA or the subject of an IDE. FDA recognizes that many persons currently involved in AFP testing believe that there are methods for analyzing amniotic fluid for AFP that are preferable to the radioimmunoassay used in the test kits for which FDA approval is sought. No one has yet submitted data to FDA concerning the effectiveness of these alternative methods.

FDA has concluded that both its responsibility to protect the public and its statutory mandate dictate that it require either premarket approval applications or IDE's for these alternative tests for AFP. FDA does not wish to discourage innovation in this field and is aware of the fact that there is as yet little commercial interest in distribution of some of these tests. Thus, FDA will look favorably on properly supported requests for waiver of particular provisions of the IDE regulations with respect to the use of unapproved tests (see 21 CFR 812.10).

These proposed regulations would apply only to the use of AFP test kits to detect NTD's. They would not apply to AFP test kits labeled and sold for cancer screening or uses other than maternal serum, plasma, or amniotic fluid testing to detect NTD's. AFP test for cancer screening have been the subject of notices in the **Federal Register** of April 27, 1973 (38 FR 10488), and December 16, 1977 (42 FR 63472).

IV. Alternative Proposals

As noted above, FDA is considering other means of regulating the sale, use, and distribution of AFP test kits to provide for their safe and effective use. These include the following options:

1. *Regional pilot programs.* Some individuals, organizations, and government health agencies have urged FDA to restrict the use of AFP test kits to pilot programs serving a designated geographical area. They suggest that the high-volume testing that would occur at these regional centers is necessary for laboratory quality control and that limited pilot programs would allow for the accumulation of additional information on the test's performance prior to more extensive use of the technology.

Arguments to the contrary posit that limiting AFP testing to pilot programs would unnecessarily restrict access to the test. The proposed regulations would allow greater access to AFP testing than would occur if it were available in only a few regional centers. Second, the regional approach would require FDA to select and oversee a program for each region of the country, entailing more government involvement than seems justified. Also, concerns about high-volume laboratory testing could be addressed under the proposed regulations—if a relationship between volume and proficiency can be demonstrated—by restricting the test kits to laboratories that conduct the minimum volume of tests required by the regulations. Finally, FDA does not appear to have the authority to set up regional pilot programs per se. This could be done through funding agencies or State regulatory bodies.

Likewise, as part of the premarket approval of AFP test kits and as part of this proposal, FDA would require that data on AFP testing be submitted to the agency. The data proposed to be submitted are essentially the same as the data that would be generated by a regional pilot program. FDA believes AFP testing in foreign countries, as well as clinical trials within the United States, provides sufficient assurance about the test's safety and effectiveness to permit more extensive use of the AFP test kits while FDA monitors the test kits' performance through quarterly and annual reports.

2. *General availability.* Some persons have urged that AFP test kits be approved for unrestricted use. If this were done each manufacturer would be required (a) to develop labeling for laboratories, and prepare brochures for physicians and patients, and (b) to provide to FDA postmarketing data on each device's performance. This plan would rely on comprehensive labeling to address the issue of the availability of followup diagnostic and counseling services, the coordination of the elements of the testing, and the quality control of laboratories. No compliance program to enforce any of the labeled statements could be implemented.

3. *Physician certification to laboratories and laboratory certification to manufacturer.* A program could be adopted in which, in addition to the provisions of paragraph 2 above, any physician wishing to undertake AFP testing would have to certify to the laboratory analyzing any samples of the physician's patients, that he or she (a) has read and will follow the physician's labeling, except where medical judgment supports deviation, (b) has access to all necessary confirmatory diagnostic procedures, and (c) will make available to FDA the data described earlier in this proposal.

The laboratory would certify to the manufacturer of any AFP test kit used by the laboratory that it would accept samples only from physicians who complied with (a), (b), and (c) and that the laboratory would meet quality control criteria. This approach would be only a variant of the current proposal without use of a "program coordinator."

V. Legal Authority and Need for the Proposed Regulations

Section 520(e) of the act (21 U.S.C. 360j(e)) provides authority for the FDA (acting upon delegation of authority from the Secretary of Health and Human Services) to restrict the use of medical devices. The issuance of the proposed regulations initiates the procedure to provide FDA authority to enforce the restrictions, if adopted, with respect to persons other than the manufacturers of AFP test kits. Thus, if the regulations that FDA is proposing in this document are made effective, any person who failed or refused to comply with the requirements, including manufacturers, laboratories, physicians, and others involved in the AFP process, would be violating the act (sections 502(q)(2); 301(a), (b), (c), (k) (21 U.S.C. 352(q)(2); 331(a), (b), (c), (k))). Publication of the proposed regulations in final form would also provide FDA other remedies under the act, besides withdrawal of the kits, if violations of the restrictions occur. Violation of restrictions imposed by regulation can result in seizure, (section 304 (21 U.S.C. 334)), injunction, (section 302 (21 U.S.C. 332)), and prosecution, (section 303 (21 U.S.C. 333)).

VI. Sunset

The proposed regulations would expire 4 years after the first approval of an AFP test kit. At the end of 4 years, the period would be extended if FDA determined that continued restrictions were necessary. Throughout the period restrictions, FDA would closely monitor the performance of the AFP test kits. Comments are especially invited on this projected "sunset" provision.

VII. Public Hearing

An open hearing will be held beginning at 9 a.m. on January 15, 1981, to give the public an opportunity to make oral comments on the proposed regulations. The hearing will be held under § 15.1(a) (21 CFR 15.1(a)), of FDA's administrative practices and procedures regulations, in the auditorium 1st floor, North Health and Human Services Building, 330 Independence Ave. SW., Washington, DC. The presiding officer will be Stuart L. Nightingale, M.D., Acting Associate Commissioner for Health Afffairs.

The purpose of the hearing is (1) to provide an open forum to present views concerning the merit of the proposed regulations and their general applicability and practicality and, (2) to foster greater consideration of the proposal among the scientific community, the regulated industry, and the public. Although the hearing will encompass all aspects of the proposal the agency seeks specific advice on the several areas of consideration discussed in the preamble above.

In preparing final regulations, FDA will consider the administrative record of this hearing along with all other written comments previously received and received during the comment period specified in this proposal.

A written notice of participation under the requirements of § 15.21 (21 CFR 15.21) must be filed with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, not later than December 8, 1980. The notice of participation should contain Hearing Clerk Docket No. 80N–0002, the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate amount of time requested for the presentation (suggested to be limited to 10 minutes). To facilitate identification, the envelope containing the notice should be marked "AFP Hearing." A schedule for the hearing will be filed with the Hearing Clerk and mailed to each person who files a notice of participation within the specified filing time. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and to request time for a joint presentation.

If the response to this notice of hearing is such that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, the agency will allocate the available time among the persons making the oral presentation. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion in the administrative record.

If the response to this notice of hearing is such that all persons cannot be accommodated, the hearing will be extended for an additional day, as appropriate.

The hearing will be open to the public. Any interested person may be heard on matters relevant to the issues under consideration.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings under Part 15. This program is described in regulations (21 CFR Part 10, Subpart C) that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. Applications for reimbursement must be filed by December 8, 1980 in accordance with § 10.210(a) (21 CFR 10.210(a)). For more information regarding the reimbursement program, contact Curtis Noah, Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3170.

Although reimbursement may be made available for the hearings under Part 15, the program's priority will be given to funding participating in formal evidentiary pubic hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Part 12 or 13).

As permitted by § 10.210 of FDA's public reimbursement regulations (21 CFR 10.210), the agency has established expedited procedures for review of any applications for reimbursement submitted in this proceeding. FDA will make a decision on any such applications within about 10 days after the deadline for their submission. Applicants whose applications are approved will have about 15 days to prepare for the public hearing on the AFP test kit proposal.

Conforming Amendments

FDA is proposing to amend the procedural regulations (21 CFR 16.1) regarding regulatory hearings before the FDA to add a cross-reference to the procedures proposed in this document regarding withdrawal of the enrollment for coordinator's AFP testing program.

To conform appropriately the rules on the public availability of summaries of data generated by AFP test programs, FDA purposes to add § 899.90 to the list regulations in § 20.100(c) (21 CFR 20.100(c)) that contain special rules on availability of records.

Environmental Impact

FDA has carefully considered the potential environmental impacts of this proposal and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement will not be prepared. FDA's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the office of the Hearing Clerk, FDA.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

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(7) Wald, N. J., H. Cuckle, "Maternal Serum-Alpha-Fetoprotein Measurement in Antenatal Screening for Anencephaly and Spina Bifida in Early Pregnancy," *Lancet*, June 25, 1977, pp. 1323-1332.
(8) Wald, N. J., H. S. Cuckle, "Amniotic-Fluid Alpha-Fetoprotein Measurement in Antenatal Diagnosis of Anencephaly and Open Spina Bifida in Early Pregnancy," *Lancet*, September 29, 1979, pp. 651–661.
(9) Letter dated 8 Aout (August), 1979, from Mme. Hermine Nagel to Monsieur Michel Bernon.
(10) Letter dated July 27, 1979, from Markku Seppala, M.D., to Dr. Alison Carlson.
(10a) Report by the Working Group on Screening for Neural Tube Defects, July, 1979 Department of Health and Social Security, Health Notice No. HN(79)116, London, England.
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(14) Letter dated April 13, 1979, from Charles Scriver, M.D., to Donald Kennedy, Commissioner, Food and Drug Administration.
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(16) Statement by Mrs. Carol Buchholz and Mr. Thomas Tapke on behalf of the Spina Bifida Association of America at the February 26, 1979, public hearing on AFP.
(17) April 23, 1979 letter and enclosed petition from Robert B. Leflar, Staff Attorney, and Sidney M. Wolfe, M.D., Public Citizen Health Research Group, to Dr. Donald Kennedy, Commissioner, Food and Drug Administration.
(18) Memorandum dated March 9, 1979, from Director, Center for Disease Control, to Ms. Ruth Hanft.
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(34) Memorandum dated June 12, 1979, to Director, Bureau of Medical Devices from Administrator, Health Services Administration.
(35) Letter dated November 14, 1979, from Duane Alexander, M.D., to Renie Schapiro.
(36) Letter dated May 14, 1979, from Ervin Nichols, M.D., American College of Obstetricians and Gynecologists to Donald Kennedy, Ph.D., Commissioner, Food and Drug Administration.
(37) Wald, N. J., H. S. Cuckle, and B. Stoll, "Antenatal Screening and Diagnosis of Open Neural-Tube Defects—Quality Control of Alpha-Fetoprotein Reagents and Assay," (in press) *Clinica Chemica Acta*, 1980.
(38) Memorandum dated January 7, 1980, from Stephen W. Smith, Ph.D., to Staff Fellow, Office of Health Affairs, FDA.
(39) Letter dated October 22, 1979, from Marc S. Lapayowker, M.D., American College of Radiology, to Mark Novitch, M.D.
(40) "System Design of a Clinical Facility for Diagnostic Ultrasound," prepared by Alliance for Engineering in Medicine and Biology, September 1977.
(41) Letter dated June 13, 1980, from Joseph D. Schulman, M.D., National Institutes of Health, to Mark Novitch, M.D.
(42) Memorandum dated August 4, 1980 from Joseph D. Schulman, M.D. to Mark Novitch, M.D. and Seymour Perry, M.D.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 520(e), 701(a), 52 Stat. 1055, 90 Stat. 567 (21 U.S.C. 360j(e), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In Part 16, § 16.1(b)(2) is amended by adding the following:

§ 16.1 Scope.

* * * * *

(b) * * *

(2) * * * § 899.82(d), relating to withdrawal of the enrollment for a coordinator's alpha-fedoprotein testing program.

* * * * *

PART 20—PUBLIC INFORMATION

2. In Part 20, by adding new paragraph (c)(34) to § 20.100, to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(34) Data and information submitted in periodic reports for alpha-fetoprotein test kits, in § 899.90 of this chapter.

* * * * *

3. By adding new Part 899, to read as follows:

PART 899—RESTRICTED DEVICES

Subparts A–D [Reserved]

Subpart E—Alpha-Fetoprotein Test Kits

Sec.
899.80 Definitions.
899.81 Designation as restricted device; specific restrictions.
899.82 Enrollment of AFP testing programs.
899.83 Responsibility of program coordinators.
899.84 Restrictions on manufacturers.
899.85 Restrictions on laboratories.
899.86 Restrictions on physicians.
899.87 Restrictions on ultrasonography and amniocentesis facilities.
899.88 Permission to inspect.
899.89 Record retention.
899.90 Release of information.

Subparts A–D [Reserved]

Subpart E—Alpha-Fetoprotein Test Kits

§ 899.80 Definitions.

As used in this subpart:

"AFP test kit" means reagents and other materials for use in the diagnosis of neural tube defects in fetuses by analysis of the amount of alpha-fetoprotein (AFP) in the blood serum (or plasma) and amniotic fluid of pregnant women;

"AFP testing program" means all services that are covered by the certification made by a coordinator pursuant to § 899.82;

"Coordinator" means an individual who, on behalf of a program, makes the written certification required by § 899.82

§ 899.81 Designation as restricted device; specific restrictions.

(a) AFP test kits are restricted devices.

(b) AFP test kits may be distributed, sold, or used only in compliance with an approved investigational device exemption application under Part 812, or in compliance with the specific restrictions set out in this subpart.

§ 899.82 Enrollment of AFP testing programs.

(a) To initiate an AFP testing program, a coordinator shall certify in writing to the Bureau of Medical Devices, Division of Clinical Laboratory Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, that he or she is capable of complying and will comply with the requirements of this section and §§ 899.83, 899.88, and 899.89. The certification shall contain the coordinator's name, address, and telephone number and shall state that the facilities referred to in § 899.83(a) either (1) exist within an organization, such as a hospital or medical center, of which the coordinator is an authorized representative, or (2) have agreed in writing to provide services to patients within the AFP testing program and to comply with applicable provisions of this subpart.

(b) When a certification under paragraph (a) of this section has been submitted, the Food and Drug Administration (FDA) will review it and if not deficient, will enroll the AFP testing program, and will provide an enrollment number to the coordinator. Upon receiving an enrollment number, the coordinator shall inform each physician and laboratory associated with his or her program of that enrollment number.

(c) If the coordinator determines that the certification made pursuant to paragraph (a) of this section can no longer truthfully be made, the coordinator shall notify FDA and all persons associated with the program that the enrollment of that program is terminated.

(d) Whenever FDA has reason to believe that the certification made by a coordinator under paragraph (a) of this section was not made truthfully or, because of changed circumstances, can no longer be truthfully made—

(1) The Director of the Bureau of Medical Devices (the Director) will furnish the coordinator written notice of the matter complained of in general terms and offer the coordinator an opportunity to explain the matter informally or in writing;

(2) If an explanation is offered but not accepted by the Director, the coordinator shall have an opportunity for a regulatory hearing before FDA, pursuant to Part 16 of this chapter, on the question of whether the enrollment for the coordinator's AFP testing program should be withdrawn;

(3) If, after evaluating all available information, the Commissioner of Food and Drugs determines that the certification made by the coordinator was not true when made or can no longer truthfully be made, the Commissioner will withdraw the enrollment of that coordinator's AFP testing program;

(4) If, in the judgment of the Director, the alleged deviations from the certification required to be made by the coordinator are such that they place patients involved in the coordinator's AFP testing program at significant risk, the Director may withdraw the enrollment of the coordinator's AFP testing program prior to, and pending completion of, a regulatory hearing; in such case, the regulatory hearing will be expedited.

(5) The remedies provided by § 899.82(d) shall be in addition to other remedies provided for enforcement of the restrictions contained in this subpart.

§ 899.83 Responsibility of program coordinators.

(a) Each coordinator of an AFP testing program shall assure that there is available to each patient utilizing the program, as needed, all of the following—

(1) A laboratory that has agreed to comply with the requirements of §§ 899.85, 899.88, and 899.89;

(2) Ultrasonography capable of identifying multiple fetuses and anencephaly, detecting fetal death, and determining gestational age at a facility that has agreed to comply with the requirements of §§ 899.87, 899.88, and 899.89;

(3) Amniocentesis for the purpose of obtaining amniotic fluid to measure AFP at a facility that has agreed to comply with requirements of §§ 899.87, 899.88, and 899.89;

(4) Appropriate counseling for all women who are considering participation or who participate in the AFP testing program, including a description of the risks associated with the testing procedures, the significance of the test results, the range of severity of neural tube defects, and the options available to the patient.

(b) Each coordinator shall establish a procedure for providing all physicians participating in that coordinator's AFP testing program with professional and patient brochures prepared by the manufacturer and approved by FDA.

(c) Each coordinator shall make arrangements to receive timely notification of any test result on a patient within the coordinator's program which suggests either that the patient carries a fetus with a neural tube defect or that further testing is appropriate, e.g., an elevated result from analysis of a maternal serum specimen or an ultrasonography test that fails to account for high AFP serum levels as resulting from causes other than a neural tube defect.

(d) Each coordinator shall secure agreements from each physician associated with that coordinator's program that the physician will:

(1) Notify the coordinator of the pregnancy outcome for any patient with an AFP test result greater than 2.5x the median,

(2) Notify the coordinator if any patient involved in the AFP testing program has a pregnancy involving a fetus with a neural tube defect or any other condition associated with elevated AFP,

(3) Notify the coordinator if any patient has an induced or spontaneous abortion within 3 weeks of an amniocentesis performed to obtain amniotic fluid upon which to measure AFP, and

(4) Make available to the coordinator, as requested, all data related to AFP testing of that physician's patients within that coordinator's program, including copies of patient

acknowledgments, as required by § 899.86(d).

(e) Each coordinator shall furnish to each manufacturer of an AFP test kit used by a laboratory within that coordinator's program, 15 days before the manufacturer is required to submit the quarterly report, current data required by FDA as part of the approval of premarket approval applications for such AFP test kit(s). In addition, the coordinator shall furnish to each manufacturer, for inclusion in its report, the information required by § 899.83(g) within 35 days of amniocentesis for each patient who undergoes amniocentesis to obtain amniotic fluid for measuring AFP.

(f) Each coordinator shall establish and implement written procedures for coding the identification of patients within the program to ensure the confidentiality of patient records.

(g) Each coordinator shall maintain, for each woman who has a result greater than 2.5x the median in any AFP test or who is tested for AFP and whose pregnancy involves a fetus that has a neural tube defect or any other condition associated with elevated AFP, records listing, as applicable:

(1) Patient code;

(2) Physician identification;

(3) Date of initial test and estimated gestational age on that data;

(4) For each serum and amniotic fluid test—

(i) Result in mass units or in International Units and in multiples of the normal median value at the same gestational week;

(ii) Designation of that result as greater or less than 2.5x the median;

(iii) Identification of the facility that performed each test;

(iv) For an amniotic fluid test, identification of the facility at which amniotic fluid was withdrawn;

(v) Relation of fetus to any first or second degree family relative with anencephaly or spina bifida;

(5) For each amniotic fluid test—

(i) Age, race, and county and State of residence of patient;

(ii) Specific indication for test, or other test performed, where primary indication for amniocentesis was not to measure AFP;

(6) For each ultrasonography examination—

(i) Whether the pregnancy involved a single fetus or multiple fetuses;

(ii) Whether the pregnancy involved fetal death;

(iii) Gestational age as determined by ultrasonography;

(iv) Identification of the facility that performed the examination;

(v) Whether the fetus or fetuses have anencephaly or other defects;

(7) Statement of whether or not the pregnancy involved a fetus with a neural tube defect or any other condition associated with elevated AFP.

(h) Each coordinator shall make arrangements to receive timely (within 1 week of the abortion) reports of any pathologic examination of the fetus for the presence of external congenital malformations following any spontaneous induced abortion occurring within 3 weeks after an amniocentesis performed to obtain amniotic fluid upon which to measure AFP.

§ 899.84 Restrictions on manufacturers.

Each manufacturer of an AFP test kit shall—

(a) Distribute any AFP test kit—other than for investigational use in compliance with Part 812—only to laboratories that are associated with an enrolled AFP testing program and that notify the manufacturer of the enrollment number of that program;

(b) Prepare and provide to coordinators at their request professional brochures and patient brochures approved by FDA;

(c) Submit quarterly and annual reports to the Bureau of Medical Devices, Division of Clinical Laboratory Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, of data generated by those programs using that manufacturer's AFP test kit as specified in the approval of that manufacturer's premarket approval application for its AFP test kit;

(d) Maintain distribution records for each AFP test kit distributed by that manufacturer under the provisions of § 899.84(a) that include, or identify the location of, the name and address of the consignee, the consignee's enrollment number, the date shipped, and the control number used.

§ 899.85 Restrictions on laboratories.[1]

Each laboratory using an AFP test kit shall—

(a) Measure AFP for the purpose of testing for neural tube defects only by use of—

(1) An AFP test kit approved by FDA pursuant to 21 U.S.C. 360e, or

(2) An AFP test kit for which an investigational device exemption application has been approved pursuant to Part 812;

(b) Use AFP test kits to analyze only samples submitted by physicians who are part of an AFP testing program with which the laboratory is associated and who demonstrate that fact by including the enrollment number for the program with each sample submitted;

(c) Follow the product labeling prepared by the manufacturer of the AFP test kit used and approved by FDA except where there is a clear justification for using alternative procedures;

(d) Participate satisfactorily in—

(1) A laboratory inspection program authorized by FDA, and

(2) A proficiency testing program established by the Center for Disease Control or the College of American Pathologists or one endorsed by FDA.

(e) Within 1 year after enrollment in the program, test a minimum total of 50 of any combination of maternal serum and amniotic fluid samples each week.

(f) For each AFP test performed, maintain, or identify the location within the program of, separate records that include—

(1) Type of specimen (i.e., serum or amniotic fluid);

(2) Sample identification;

(3) Physician identification;

(4) Program number;

(5) Patient code;

(6) Date test performed;

(7) Estimated week of gestation on date specimen drawn;

(8) Result (numerical and as a multiple of the median value);

(9) Identity of AFP test kit manufacturer and control number of the AFP test kit used in the test;

(10) Median value used;

(11) Quantitation of fetal blood, if any, in amniotic fluid samples.

(g) Until it has established its own normal median values, maintain, or identify the location within the program of, separate records of samples having values greater than 2.5x the median that were referred to another laboratory, which records shall include—

(1) Original sample identification;

(2) Program number of laboratory to which sample is referred;

(3) Date test performed by laboratory to which sample is referred;

(4) Result obtained by laboratory to which sample is referred (numerical and as a multiple of the median value);

(5) Identity of AFP kit manufacturer and control number of the AFP test kit used by laboratory to which the sample is referred;

(6) Median value used;

(7) Quantitation of fetal blood, if any, in amniotic fluid samples.

(h) Document the establishment of normal median values for each manufacturer's AFP test kit that the laboratory uses;

(i) Notify immediately by telephone (and confirm in writing) both the coordinator and the attending physician of any test result greater than 2.5x the median;

(j) Make available to each coordinator, as requested, all data related to AFP testing by that laboratory of patients within that coordinator's program; and

(k) Maintain a file by physician name containing a copy of the signed patient acknowledgement for each sample analyzed.

[1] See also 42 CFR 74.22 and 42 CFR 405.1317.

§ 899.86 Restrictions on physicians.

Each physician participating in an enrolled AFP testing program shall—

(a) Obtain from each patient, prior to taking the sample for the first AFP test, acknowledgment, by signature and date on a document that contains the patient's code, that the patient has—

(1) Been provided an approved patient brochure;

(2) Been provided an opportunity to discuss AFP testing and neural tube defects generally with the physician or with a counselor familiar with the subject;

(3) Authorized review and copying of her records by authorized agents of FDA, if necessary, for compliance purposes.

(b) Include with each sample submitted to a laboratory for analysis—

(1) Enrollment number of the program with which the physician is associated;

(2) Patient code;

(3) Estimated week of gestation on date specimen drawn;

(4) A copy of the signed patient acknowledgement;

(c) Notify the coordinator immediately of—

(1) Any pregnancy involving a fetus with a neural tube defect or other condition associated with elevated AFP;

(2) The pregnancy outcome of all women who have a result greater than 2.5x the median in an AFP test;

(d) Make available to the coordinator, as requested, all data related to AFP testing of that physician's patients within that coordinator's program, including copies of patient acknowledgments;

(e) Maintain records for each of that physician's patients involved in AFP testing which include—

(1) Signed patient acknowledgment documents;

(2) For all AFP-related tests, including any followup amniocentesis, ultrasound or other confirmatory tests—

(i) Type of test;

(ii) Date specimen drawn for serum and fluid tests and date of testing for all other tests;

(iii) Identification of testing facility;

(iv) Test result;

(v) Patient code;

(3) Record of whether or not the pregnancy involved a fetus with a neural tube defect or any other condition associated with elevated AFP;

(4) Program enrollment number;

(5) Estimated gestational age for serum and fluid tests and record of how that age was determined for each such test.

§ 899.87 Restrictions on ultrasonography and amniocentesis facilities.

Each ultrasonography and amniocentesis facility that performs confirmatory tests on any patient as a result of that patient's participation in AFP testing shall—

(a) For each AFP-related test performed, maintain, or identify the location within the program of, records that include:

(1) Type of test and date performed;

(2) Patient code;

(3) Identification of patient's physician;

(4) Program enrollment number;

(5) For each ultrasonography examination—

(i) Whether the pregnancy involves a single fetus or multiple fetuses;

(ii) Whether the pregnancy involves fetal death;

(iii) Gestational age as determined by ultrasonography;

(iv) Whether the pregnancy involves anencephaly or other defects;

(6) Identification of the individual who performed the test;

(b) Make available to each coordinator, as requested, all data related to AFP testing by that facility of patients within that coordinator's program.

§ 899.88 Permission to inspect.

Any coordinator, laboratory, physician, amniocentesis facility, or ultrasonography facility associated with an AFP testing program shall permit authorized agents of FDA—

(a) To inspect the person's establishment at reasonable times and in a reasonable manner; and

(b) To have access to and to copy all records relating to AFP testing.

§ 899.89 Record retention.

All records required to be maintained as part of an AFP testing program shall be retained until 2 years following the expiration of the regulations in this subpart.

§ 899.90 Release of information.

FDA will release to the public summaries of data from AFP test programs submitted by manufacturers. These summaries will, if feasible, report results by AFP test program and by manufacturer.

Interested persons may, on or before January 6, 1981, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

The restrictions that are being proposed by informal rulemaking under section 520(e) of the act (21 U.S.C. 360j(e)) are essentially the same as those that are part of the premarket approval of the device under section 515 of the act (21 U.S.C. 360e). The reason for the additional rulemaking is to expand the reach of the restrictions to ensure the safe and effective use of the device. FDA will only approve the device if its safe and effective use can be ensured by the restrictions being imposed under section 520(e) of the act. Thus, those restrictions are functionally, if not technically, part of the approval process. Under the act, the premarket approval of a drug for human use, a veterinary drug, or a class III device, is a licensing decision ("adjudication"), not a regulation ("rule"). Because Executive Order 12044 only applies to regulations, it does not require regulatory analyses for premarket approval decisions for these products. FDA has concluded that a regulatory analysis is not required for a regulation that imposes the same restrictions as those that were conditions to premarket approval, and whose purpose is to expand the reach of these conditions.

Furthermore, because the preamble to the proposed regulation identifies and discusses thoroughly several alternatives to the proposed restrictions and their impacts, FDA has determined that preparation of a discretionary regulatory analysis would contribute nothing further at this stage of the development of the regulation. It should be noted, however, that in addition to reviewing written comments on the proposal, FDA will hold a public hearing to afford interested persons the opportunity to discuss the proposed restrictions, their impact, and alternatives.

Dated: September 26, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80–34052 Filed 11–6–80; 8:45 am]

BILLING CODE 4110–03–M

V 45/218 NOV 80 UMI

Public Health Service

Health Care Financing Administration

42 CFR Parts 74 and 405

Clinical Laboratories: Quality Control Standards Regarding Alpha-Fetoprotein Test Kits

AGENCIES: Center for Disease Control, Public Health Service, and Health Care Financing Administration, Department of Health and Human Services.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: See the notice of Proposed Rulemaking by the Food and Drug Administration (FDA), immediately preceding this Notice, in which the FDA proposes conditions for marketing commercial test kits for use by clinical laboratories in measuring alpha-fetoprotein (AFP) levels in maternal sera, plasma, and amniotic fluid. In this Notice, the Department proposes additional quality control and testing requirements applicable to AFP testing for the prenatal detection of fetal neural tube defects conducted by laboratories licensed under the Clinical Laboratories Improvement Act of 1967 (CLIA) and laboratories certified for reimbursement under Title XVIII of the Social Security Act (Medicare).

DATE: Comments must be received on or before January 6, 1981.

ADDRESS: Comments or inquiries may be submitted to: Dr. Joseph H. Boutwell, Deputy Director, Bureau of Laboratories, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Comments will be available for public inspection at this address between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Dr. Joseph H. Boutwell (404) 329–3263 or FTS 236–3263.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this Notice is to propose addtional quality control and testing requirements with respect to AFP testing. As discussed in the FDA NPRM immediately preceding this Notice, it has been determined that the additional quality control and testing requirements proposed in the NPRM are necessary in order to assure the safe and effective use of AFP testing kits.

Provision of the Regulations

Current quality control regulations include requirements of a general nature which are applicable to AFP testing. Because of the tentative FDA decision, which has the potential for increasing the application of AFP testing technology, it is necessary to amend the current regulations to include additional quality control testing requirements of a more specific nature in order that this technology may be safely and effectively used in clinical laboratories which have little or no experience in this test procedure. The proposed provisions are regarded as good laboratory practice and employed by many laboratories presently doing this test.

New requirements of a substantive nature indlude:

- The provision of specified demographic and epidemiolgic data in order to assure that the physician can be provided with the information required for valid interpretation values by specific gestational week for maternal sera, plasma, and amniotic fluid and to provide the basis for method validation;
- Confirmation of positive results by a referral laboratory while normal median values are being developed in order to assure proper interpretation of patient results while relevant local norms are being developed;
- Specification of minimum weekly workload requirements for testing maternal sera, plasma, and amniotic fluid to insure the timely development and continued current maintenance of local normative data for patient interpretation;
- A specification that serum specimens are not to be tested for neural tube defect screening except during the 15th through 22nd completed gestational weeks;
- The use of a specified number of calibrators and controls sufficient to insure accurate and reproducible patient results;
- Patient specimens to be tested in duplicate to increase the assurance against the possibility of aberrant results not detected by the usual quality control system.

Some of these new AFP requirements (including the mandatory submission of patient data and the minimum weekly workload requirements) are more stringent quality control measures than those which are currently applied to other laboratory procedures. These stricter quality control measures are necessary because of the potentially serious consequences that could arise out of inaccurate AFP testing. Such undesirable consequences, as pointed out in the accompanying FDA NPRM, include therapeutic abortion of normal fetuses, failure to identify affected fetuses, and women becoming unnecessarily alarmed about the outcome of their pregnancies.

Applicability

CDC/HCFA regulations apply to the performance of AFP tests without regard to the nature of the procedure used or the source of reagents used. Certain details with respect to reporting the results of AFP testing (for fetal abnormalities) in 42 CFR 74.22(d)(1)(xii) and 74.22(d)(4)(i), and possibly other sections, may be modified if alternative proposals (FDA NPRM Preamble, IV) are adopted.

Expanded Patient Data and Minimum Workload Requirements

The Department has decided that it is necessary for the laboratory to require that some additional patient data accompany the patient specimen. This is essential to insure correct patient identification and to insure that the physician is provided correct and appropriate results related to the normal expected results which may vary by gestational age of the fetus, race, family history, geographic variations, and source of specimen (maternal sera, plasma, or amniotic fluid). Unless complete relevant information accompanies the test result, the patient may be inappropriately subjected to the further risks of sonography and amniocentesis and to the emotional trauma of considering the relative merits of terminating the pregnancy. We invite comments on whether these data requirements are necessary for the safe and effective use of AFP tests. We also invite comments as to whether requiring this information intrudes on a patient's privacy and deters her use of an AFP test or, on the other hand, whether any additional information should be required in order to assure a more accurate interpretation of the laboratory results.

The Department has determined that the required accuracy of results cannot be assured unless laboratories performing AFP testing do so with a reasonable frequency and in sufficient numbers to provide accuracy of performance and the data for the required internal cross correlations. The FDA notice which appears elsewhere in this issue of the **Federal Register** summarizes the various points of view on appropriate workload requirements. The Department invites comments on whether these requirements are necessary to assure the quality of laboratory performance. The Department also invites comments on the specific minimum workload requirements proposed in this notice and the effect of those requirements on the ability of laboratories to participate in AFP testing.

Use of Non-Commercial Reagents for AFP Testing

The question has arisen as to whether laboratories should be permitted to use reagents other than those included in a commercial test kit. Clinical laboratory quality control regulations are intended to insure the quality of performance of laboratory tests regardless of the source of the reagents employed in such tests. Accordingly, it is the Department's intent that these quality control requirements should apply to AFP testing using either commercial or noncommercial reagents. It should be noted that these proposed regulations require that the method used to measure AFP levels must rely on a working curve which has been calibrated against the World Health Organization Standard for AFP (72–225), or its equivalent. The calibration process must also be documented.

Interagency Agreement Between the Public Health Service (PHS) and the Health Care Financing Administration (HCFA)

Under an Interagency Agreement between the PHS and HCFA, approved on March 17, 1979, for administration of Departmental regulatory programs affecting clinical laboratories, the Center for Disease Control is responsible for developing scientific and technical standards in the areas of quality control, proficiency testing, personnel requirements, and records, equipment and facilities; conducting a program of proficiency testing for laboratories licensed under the Clinical Laboratories Improvement Act of 1967; monitoring the performance of State Agencies and approved accreditation bodies to evaluate effectiveness and uniformity in the application of standards; and determination of training needs and design and presentation of seminars and courses for State Agency surveyors, HCFA regional office laboratory specialists, and representatives of approved accreditation bodies.

HCFA responsibilities under the Interagency Agreement include the initial surveys and annual resurveys of CLIA licensed and Medicare certified laboratories, working through State Agencies and other accrediting bodies; the issuance of licenses and necessary certification documents; and the execution of any adverse actions which may be necessary with respect to the termination or limitation of licenses, or the Medicare certification status, of clinical laboratories.

AFP Proficiency Testing

The Center for Disease Control (CDC) is developing a proficiency testing program for AFP which can be operational within 90 days of publication of this NPRM. For a period of time, this proficiency testing program will be operated on an experimental basis in order to develop data with respect to an appropriate grading system and to develop appropriately referenced samples with sufficient stability so that they can be distributed through the mail systems.

The CDC program will assign a gestational week to each of the proficiency testing samples and then ask for a laboratory assessment of "normal" or "abnormal" which will be compared with an evaluation of the same materials by a panel of experts.

Until such time as other proficiency testing programs, such as the one conducted by the College of American Pathologists, are operational, CDC will provide proficiency testing services to Medicare certified laboratories upon request by HCFA.

Cost Implications

We estimate the cost of the proposed quality control and testing requirements for AFP testing in a laboratory performing at a minimal workload (50 per week) to be no more than 10–15 percent of the cost of performing the tests, or about $300–$500 per year. One manufacturer has estimated that the proposed restrictions would increase the cost of a test kit by 50 percent, for example, from $150 to $225 for a kit that can be used for 40 patients. We invite comments on the accuracy of our estimates of the costs of complying with the proposed quality control requirements and on whether those additional costs are justified.

It is anticipated that some laboratories, particularly some smaller facilities, that might otherwise be interested in performing AFP testing, may choose not to engage in such testing because they might find it difficult to meet, and to comply with on a continuing basis, the quality control and testing requirements that are set forth in the attached NPRM. Accordingly, it is possible that the supply of laboratories qualified to perform AFP testing services may not be sufficient to meet the demand for these services, and further, that the market forces in such a situation could result in the escalation of the cost of AFP testing services.

The Department invites comment on the cost implications of the proposed requirements, their impact on small laboratories, and their effect on the supply of AFP testing services.

Recordkeeping and Reporting Requirements

The recordkeeping and reporting requirements to be included in the final rule will be submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942 (44 U.S.C. 3501 et seq.). OMB approval will be obtained before the recordkeeping and reporting requirements are implemented.

It is, therefore, proposed to amend Parts 74 and 405 of Title 42, Code of Federal Regulations, as set forth below.

Dated: May 27, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Dated: June 4, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: October 21, 1980.

Patricia Roberts Harris,

Secretary.

PART 74—CLINICAL LABORATORIES

It is proposed to amend 42 CFR Part 74 as follows:

Section 74.22 is amended by adding a new paragraph (d) which reads as follows:

§ 74.22 Serology.

* * * * *

(d) The following requirements are applicable to screening and diagnostic tests to determine alpha-fetoprotein (AFP) levels on sera, plasma, or amniotic fluid obtained from pregnant patients.

(1) The laboratory's requisition form for AFP testing must provide for the following information:

(i) Name of the person from whom the specimen was taken.

(ii) State and county of residence of person from whom the specimen was taken.

(iii) Age of person from whom the specimen was taken.

(iv) Race/ethnicity of person from whom the specimen was taken.

(v) Date the specimen was collected and the nearest gestational age of the fetus calculated in weeks from the first day of the last menstrual period.

(vi) Source of specimen (maternal sera, plasma, or amniotic fluid).

(vii) Indication of whether the specimen is the first specimen or a repeat specimen.

(viii) Relation of fetus to any first or second degree family member relative with anencephaly or spina bifida.

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(ix) Identification of any preservative added to the specimen, concentration, and the consequent dilution of the specimen if greater than one percent.

(x) For amniotic fluid, a statement indicating that the specimen has not been centrifuged; or, if it has, an evaluation of the whole fluid (uncentrifuged) has been made for the presence of fetal red blood cells of fetal hemoglobin by the shipper. The results of that evaluation must accompany the specimen.

(xi) Name and address of person, clinic, center, or laboratory submitting the specimen.

(xii) A statement specifying that a report will not be issued unless the name of the patient and items (v), (vi), (vii), (ix), (x), and (xi) are provided to the laboratory. Items (ii), (iii), (iv), and (viii) do not have to be provided to the laboratory if the physician, coordinator, or laboratory determines that the lack of such information does not jeopardize the identification of that patient or the interpretation of the test results for the patient.

(2) The following requirements apply to AFP testing of maternal serum or plasma specimens:

(i) Only those serum or plasma specimens taken between the 15th and 22nd gestational week as measured from the first day of the last menstrual period may be used for testing. The report (phoned and written) shall include the patient's name, type of specimen, numerical value of the test result as a multiple of the normal median value at the same gestational week, and the equivalent mass or international units.

(ii) The laboratory must validate its own serum AFP method by assaying at least 100 normal maternal serum or plasma specimens at each gestational week between the 15th and 22nd weeks measured from the first day of the last menstrual period and document the median AFP levels for each gestational week. While normal values are being determined, a laboratory may use the normal values specified in the manufacturer's package insert. An elevated value must be confirmed, however, with repeat testing by a laboratory which has established its own normal values. If commercial kits are used, the medians determined by the laboratory must fall within 10 percent of those stated in the manufacturer's literature. The laboratory must maintain its competency by assaying a total of at least 50 mid-pregnancy patient specimens, in duplicate, per week. Maternal serum, plasma, and amniotic fluid specimens may all be counted for purposes of attaining this stated minimum workload level. The laboratory must attain the stated minimum workload level within 12 months of licensure or certification to provide AFP services.

(iii) The laboratory must document that the alpha-fetoprotein working curve has been calibrated against the World Health Organization Standard for AFP (72–225) or its equivalent within the lifetime of the working curve. The laboratory must perform its own calibration against the World Health Organization Standard or equivalent for its working curve or use a working curve certified by the manufacturer to have been calibrated against the World Health Organization Standard. At least a six point dose response regression analysis (3 dilutions in duplicate per curve) must be used in this calibration comparison to permit a valid statistical evaluation of the results. Each analytical run must contain at least 5 dilutions of the laboratory's AFP calibrator covering a range of at least 0.5 times to 8.0 times the median AFP level of the unaffected pregnancies at the 17th week of gestation. At least three quality control sera must be assayed in duplicate in each analytical run. The respective concentrations of AFP used for control purposes must have values near the median mid-pregnancy maternal serum AFP concentration of normal unaffected population at the 17th weeks, near the maternal serum positive screening cut off value at 2.5 times the unaffected population median at the same gestational age, and near the median pathological level for spina bifida at 4 times the unaffected population median. Patient specimens must be tested in duplicate. Control limits for calibrators and reference samples shall be recorded and displayed and shall include the course of action to be instituted when the results are outside of acceptable limits. The limits may not be less stringent than those recommended by the manufacturer in the package insert.

(3) The following additional requirements apply to AFP testing of amniotic fluid specimens:

(i) The laboratory must validate its amniotic fluid method for AFP by assaying at least 100 amniotic fluid specimens at each gestational week between the 15th and 22nd week for which it can be confirmed that a normal fetus was delivered. While normal values are being determined, a laboratory may use normal values specified in the manufacturer's package insert. An elevated level must be confirmed, however, with repeat testing by a laboratory which has established its own normal values. Median values for each gestational week are established based upon these assays.

(ii) The standardization procedure, quality control, and reporting requirements for serum and plasma specimens also are required when testing amniotic fluid specimens.

(4) The following requirements apply for reporting the results of AFP testing:

(i) Test results will be released by the laboratory only if the laboratory is in possession of information required in §§ 74.22 (d)(1)(i), (v), (vi), (vii), (ix), (x), and (xi). If the laboratory is not in possession of items (ii), (iii), (iv), and (viii), the laboratory will release the test results only if the physican, coordinator, or laboratory determines that the lack of such information does not jeopardize the identification of that patient or the interpretation of the test results for that patient. In addition to the requirements for reporting at § 74.54, all positive screening test results must be communicated promptly to the attending physician and to the coordinator as defined in 21 CFR Part 899, Subpart E, by telephone or other rapid system. Written confirmation of results will be transmitted to the physician as soon as possible.

(ii) The report (phoned and written) shall include the patient's name, type of specimen, numerical value of the test result as a multiple of the normal median value at the same gestational week, and the equivalent mass or international units. In addition, the report must include a statement in the same terms of the laboratory's cutoff values above which a result is considered abnormal.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

It is propsoed to amend 42 CFR Part 405 as follows: § 405.1317(b) is amended by adding a new subparagraph (9) reading as follows:

§ 405.1317 Condition—quality control.

* * * * *

(b) * * *

(9) Any laboratory performing screening or diagnostic tests to determine alpha-fetoprotein levels on serum or amniotic fluid obtained from pregnant patients shall meet the requirements specified in 42 CFR 74.22(d). These tests may be performed in serology or chemistry.

[FR Doc. 80-34053 Filed 11-6-80; 8:45 am]
BILLING CODE 4110-86-M

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federal register

Friday
November 7, 1980

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Shrimp Fishery of the Gulf of Mexico; Plan Approval and Proposed Regulations

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611 and 658

Shrimp Fishery of the Gulf of Mexico; Plan Approval and Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Approval of Fishery Management Plan, Proposed Regulations and request for comments.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved the fishery management plan for the shrimp fishery of the Gulf of Mexico (FMP), which was prepared by the Gulf of Mexico Fishery Management Council. The FMP governs the fisheries for six species of shrimp (brown, pink, white, royal red, seabobs and rock) which occur in the fishery conservation zone in the Gulf of Mexico. Regulations implementing the FMP are proposed. Comments on the FMP, the regulatory analysis, and the proposed regulations are invited.

DATE: Comments will be received until January 1, 1981.

ADDRESS: Please send comments to: Mr. Harold Allen, Acting Regional Director, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Allen (813) 893–3141.

SUPPLEMENTARY INFORMATION: The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (the "Act") authorizes the Secretary of Commerce (the "Secretary") to promulgate regulations implementing approved FMPs prepared by the Regional Fishery Management Councils for their geographic areas of concern. Pursuant to Title III of the Act, the Gulf of Mexico Fishery Management Council prepared and submitted to the Secretary an FMP for shrimp in the fishery conservation zone (FCZ) in the Gulf of Mexico.

A. Background

The Gulf shrimp fishery is the most valuable of all domestic commercial fisheries. From 1964 through 1977, shrimp averaged 23 percent of the total exvessel value of all fish landed in the United States. In 1977 shrimp accounted for $355.2 million of $1.515 million for all fish. From 1964 through 1977, Gulf shrimp comprised 83 percent of the total U.S. exvessel value of shrimp landings. The target species of the Gulf shrimp fishery are brown, white, pink, and royal red shrimp. Seabob and rock shrimp are taken incidentally to the target species.

The three most valuable species of shrimp (brown, white, and pink) are biologically impervious to the effects of intense fishing pressure because of the following factors:

1. The rapid growth rate of shrimp, under favorable conditions, results in sexual maturity within one year; and
2. The high fecundity of shrimp protects them from being depleted by overfishing.

There is not current evidence of overfishing of brown, white, or pink shrimp, because the rapid growth and high fecundity of these species offset current levels of natural and fishing mortality. The chief threat to the continuance of the major species of shrimp is loss of habitat, principally the estuarine environment. Continued mineral exploration, bulkheading, dredge and fill operations, channelization, and pollution could result in depletion of shrimp resources through the loss of productive estuarine nursery grounds. The other shrimp species (royal red, seabob, and rock shrimp) are not estuarine-dependent because they spend their entire life in the open waters of the Gulf. Royal red shrimp are found at depths of 100–300 fathoms in a relatively stable environment, and do not reach maturity in one year. Up to five year classes occupy the same fishing ground. Seabob are harvested with white shrimp in shallow water, primarily in the territorial sea off Louisiana. Rock shrimp are harvested with pink shrimp off Florida.

The Gulf States' regulations establish minimum legal sizes of shrimp that reflect the requirements of their respective industries. Louisiana, Mississippi, and Alabama have a size limit of 68 whole shrimp to the pound. Tremendous numbers of small shrimp are caught and landed in those States, which encourage use of small shrimp for canning and bait. Florida has a size limit of 47 whole shrimp to the pound (average of shrimp landed). The minimum Texas size limit is 39 whole shrimp to the pound. Small shrimp are culled from the catch and discarded from vessels' catches in Florida or Texas because of the States' size limits.

There are two general categories of vessels used in the Gulf shrimp fishery: (1) Small vessels from 16 to 50 feet that fish in State territorial waters and in sheltered inshore waters; and (2) larger, more mobile vessels more than 50 feet in length that may fish anywhere in the Gulf and are capable of remaining at sea for extended periods.

There is a live-bait shrimp fishery in shallow inshore waters which takes shrimp that are held live for sale as fish bait. Also, recreational shrimping is conducted from pleasure craft in shallow inshore waters. The shrimp are taken for personal use with small trawls and other nets.

B. The Management Regime

The Council, in preparing the FMP, identified problems in the shrimp fishery and proposed solutions which require both Federal regulation and State and Federal support. The primary problem addressed in the FMP is the harvest of shrimp well below optimal size and value. To optimize the yield of shrimp and the economic return to the fishermen, the FMP specifies an optimum yield (OY) for brown, pink, white, seabob, and rock shrimp. The specification of OY for shrimp presents a unique problem. Brown, pink, and white shrimp provide an annual crop because most are harvested when less than six months of age and very few live as long as 12 months. It is presently not possible to harvest so many shrimp that the survivors are unable to repopulate the fishery. A given year's yield is primarily dependent on temperature and salinity in the estuarine nursery areas. As a result, for the purpose of this FMP, OY for those three species and the associated rock and seabob is all the shrimp that can be taken each year during open seasons in open areas with existing gear and technology. The OY for the royal red shrimp is 177.8 metric tons (m.t.) (tails).

The U.S. capacity to harvest and process the shrimp resource meets or exceeds OY for all species except royal reds. A surplus of royal red shrimp of 66.2 mt is identified in the FMP and will be made available for foreign fishermen. No adverse impact on foreign fishermen is expected to result from implementation of the FMP.

If shrimp are harvested at a small size, the weight and value of the total landings may be reduced. If the shrimp are given additional time for growth before harvest, there will be a greater total yield in weight, even though the total number of shrimp will be less. The main purpose of the FMP is to encourage harvest of larger and more valuable shrimp through area closures.

The FMP establishes a permanent closure of an area off the State of Florida known as the "Tortugas Shrimp Sanctuary." The purpose is to protect small pink shrimp until most have reached a size larger than 69 shrimp tails to the pound. This measure re-

establishes in the FCZ a shrimp conservation area formerly maintained by the State of Florida. The State presently prohibits all shrimp trawling by Florida vessels, except for live-bait fishing, within the proposed sanctuary.

Establishment of a closure of the FCZ off the State of Texas for a 45-day period (normally June 1 through July 15) to protect small brown shrimp is also proposed. This controversial closure, which is a "trial measure," is expected to benefit the shrimp industry.

A seasonal closure of the entire FCZ in the Gulf was not selected because of possible adverse impacts on the Louisiana canning industry that depends on a continuing supply of smaller shrimp from the FCZ during the proposed period of closure. When brown shrimp reach the FCZ off Mississippi and Alabama they are of a larger and more economically desirable size.

The State of Texas traditionally closes its nine-nautical-mile territorial sea to shrimp fishing for a 45-day period, during which brown shrimp generally are less than the size of 39 whole shrimp to the pound. The purpose is to allow for further growth that will increase the weight and value of the harvest when the area is opened. The dates of the closure may be adjusted up to 15 days on either end, but the closure may not exceed 60 days, nor be less than 45 days.

The State measure has not been completely effective because small shrimp move beyond State jurisdiction into the FCZ and because many shrimp vessels are alleged to enter the territorial sea at night when most brown shrimp fishing occurs. Many small shrimp are taken which, because of the Texas size limit, cannot be landed in Texas and are culled from the catch and discarded. While the State closure is in effect, some Texas vessels tie up, others continue to fish in the FCZ off Texas (and allegedly in the territorial sea), and others shift effort to the Louisiana coast or elsewhere.

The FMP indicates that the proposed cooperative Texas closure will result in an increase in exvessel value of $7.1 million (increased growth and use of previously discarded shrimp). However, the Council recognizes that the seasonal closure could result in displacement and shift of effort in the shrimp fleet. For example, Louisiana shrimp fishermen may fish in the FCZ off Texas after the closure terminates and thus share in the benefits.

Six Council members filed two minority reports stating their opposition to the Texas closure. The statements cite the importance of Texas' eliminating its size limitation and the possible adverse impact of the closure on Louisiana shrimp fishermen. The Louisiana shrimp fishermen protested that, if the closure of the FCZ off Texas is implemented, more vessels will move to the Louisiana coast during the 45-day period.

Because of the concern about the potential impact on Louisiana fishermen, the Council will evaluate further the effect of the Texas closure on fishermen from all States and consider whether any alternatives, such as extending the area of the FCZ closure, would prevent undue adverse impact. A baseline study comparing the 1980 season (closure of Texas waters only) and the 1981 season cooperative closure of both FCZ and Texas waters) will assist the Council in this evaluation. The FMP could be amended, as appropriate, prior to the 1982 fishing season.

The FMP incorprates the seasonal closure of a portion of the Tortugas shrimp grounds to avoid gear conflict with stone crab fishermen. This measure was implemented under the stone crab fishery management plan, (44 FR 18031) and has been effective in preventing damage to stone crab gear and in increasing the size and value of shrimp harvested outside the line.

To encourage harvest of optimal-size shrimp, the FMP also encourages establishment of State sanctuaries in nursery grounds inside the territorial sea and elimination of State restrictions on landing of small shrimp.

The Council recommends that the Gulf States adopt flexible management procedures to regulate shrimp fisheries in the internal waters and territorial sea by State administrative agencies, rather than by direct State legislative actions. The FMP also urges the States to adopt procedures to allow joint management of shrimp fisheries with other States and NMFS.

All the sea turtles of the Gulf of Mexico are threatened or endangered and need protection. Sea turtles are caught incidentally in the trawls of shrimp fishermen. The catch of sea turtles in shrimp trawls results in some level of mortality. The implementation of closures recommended by the FMP will have direct and coincidental benefits for sea turtles by reducing the level of mortality. Two of the recommendations adopted by the Council are specifically aimed at sea turtle conservation: the encouragement of research and development of trawl gear that excludes turtles; and the recommendation to develop and implement an education program for fishermen regarding sea turtles.

A consultation was held in accordance with Section 7 of the Endangered Species Act to determine whether implementation of the FMP would be likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or adverse modification of critical habitat of such species. It has been determined that the actions to be implemented through the FMP are not likely to jeopardize the continued existence of any listed species or adversely affect their habitat. The NMFS Southeast Region has a Sea Turtle program designed to conserve sea turtles in accordance with the Endangered Species Act. In addition to projects concerning turtle biology and habitat, the program involves: (1) monitoring the incidental catch and mortaiity of sea turtles from commercial shrimp vessels; and (2) developing gear moification to exclude turtles from shrimp trawls. A recovery team has been formed to prepare a sea turtle recovery plan. NMFS believes its Sea Turtle Program is a more appropriate vehicle than the Shrimp FMP to address the problem of the incidental catch of sea turtles in all trawl fisheries.

The FMP encourages research on, and development of, finfish gear that would reduce the incidental catch of finfish without decreasing the overall efficiency of shrimping or imposing an excessive cost for such modified gear.

The Council has established a committee to monitor and review the proposed construction of artifical offshore reefs. The committee intends also to meet with representatives of the oil and gas industries in order to minimize the capping of well-heads above the sea floor.

C. Measures of Major Impact

Better information is needed for effective management of the Nation's most valable fishery. Because of the complex and diverse nature of the commercial and recreational shrimp fisheries, the cost of obtaining specific biological, environmental, social, and economic information from each user would be prohibitively high. Therefore, the FMP recommends that NMFS develop a system whereby sampling methods will be used whenever a sample will be representative and will provide information of adequate precision. The Center Director will determine the number of shrimp fishermen who will be required to keep records and to report based on the data required for specific management needs. When only a portion of such individuals are needed to provide information, the Center Director will select those individuals through use of standard statistical sampling procedures.

The NMFS will design, test, evaluate, and implement procedures for collecting all information on individual fishing trips required from shrimp dealers on receipts at the time of sale. The procedures proposed in the regulations would require all shrimp dealers and processores to keep records and report but would require only those shrimp fishermen specifically selected by the Center Director to keep records and report. However, current methods of data collection based on port agent contact with dealers and fishermen will be used prior to implementation of the sales receipt system described in the regulations.

The area of the Texas closure, depicted in Figure 3 of the regulations, encompasses the FCZ off Texas between the territorial sea and the outer boundary of the FCZ. It is bounded by extensions of the boundary lines separating Texas from Louisiana and Mexico. Although the dates of the closure are June 1 to July 15, under the criteria listed below, the NMFS Regional Director may adjust the closing or opening date by as much as 15 days to provide for an earlier, later, or longer closure. However, the closure may not exceed 60 days, nor be less than 45 days. The criteria upon which the Regional Director must base an adjustment of the closing or opening date are: (1) Biological data collected by the Texas Parks and Wildlife Commission (TPWC) used to predict when brown shrimp in the central northern bays of Texas will reach a total length of 80 to 90 mm; (2) the strength of outgoing tides at the time predicted under (1); and (3) other biological data relevant to the timing or duration of the closure.

Although no permit is rquired for vessels of the United States fishing for shrimp in the FCZ, a letter of authorization is required for those United States vessels fishing for royal red shrimp beyond 100 fathoms in the FCZ off of Texas during the period of the Texas closure. Application is made to the Regional Director of NMFS, who will issue such letters of authorization by May 1.

The boundary line separating the geographical areas of the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) has been the subject of controversy. In a legal opinion to NOAA, the Department of Justice stated that the boundary line should be based only upon geographical factors. In response to that opinion, NOAA has proposed that the geographical boundary line accepted by the United States Supreme Court in *U.S.* v. *Florida* separate the areas of authority of the Councils.

The shrimp regulations apply only in the Gulf of Mexico Council's area of authority. Therefore the line delineating the Tortugas closure area in the regulations is different from the one described in the FMP, which extends into the South Atlantic Council's ara. If the boundary line separating the areas of authority of the Councils is changed in the final rulemaking on that issue, then the area of coverage of these regulations also would be changed.

Subpart D of 50 CFR Part 611 has been amended to incorporate all regulations, including those for royal red shrimp, governing foreign fishing in the FCZ in the Caribbean Sea, Gulf of Mexico, and the Atlantic Ocean south of 35°00′ N. latitude. Only §§ 611.60, 611.61, and 611.62 are affected. No changes have been made to those sections other than a restructuring to provide for the inclusion of shrimp. Those proposed sections are reprinted in their entirety in this document.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Pursuant to the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published in the **Federal Register** on November 6, 1979 (44 FR 64114). The final environmental impact statement is being prepared and will soon be filed.

The Assistant Administrator for Fisheries, NOAA, has determined that this is a significant action under Executive Order 12044, and a regulatory analysis has been prepared. A copy of the draft regulatory analysis may be obtained by writing to: Mr. Harold Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. The regulations and the FMP are set forth below.

Signed in Washington, D.C. this 22d day of October 1980.

(16 U.S.C. 1801 *et seq.*)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

A. It is proposed to amend 50 CFR Part 611 as follows:

Subpart D is amended by the addition of §§ 611.60, 611.61 and 611.62 as follows:

Subpart D—Atlantic, Caribbean, and Gulf of Mexico

* * * * *

§ 611.60 General Provisions.

(a) *Purpose.* This subpart regulates:

(1) All foreign fishing conducted under a Governing International Fishery Agreement (GIFA) within the fishery conservation zone (FCZ) in the Atlantic Ocean south of 35°00′N. latitude, in the Gulf of Mexico, and in the Caribbean Sea; and

(2) All foreign longline fishing conducted under a GIFA which involves the catching of any species of billfishes, sharks, or other fish in the FCZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

(b) *Authorized fishery*—(1) *Allocations.* Foreign vessels may engage in fishing only in accordance with applicable allocations.

(2) *TALFF.* The TALFFs are set forth in Appendix 1 to § 611.20

(3) *Permitted fishing.* Foreign fishing authorized under this subpart may be conducted only during the seasons, in the open areas, and with the gear specified in §§ 611.61 and 611.62

(c) *Prohibited species.* (1) All species of fish over which the United States exercises exclusive fishery management authority and for which there is no applicable allocation are prohibited species and shall be treated in accordance with § 611.13. Fish caught in excess of an applicable national allocation are prohibited species.

(2) As a means of rebutting the presumption of § 611.13(c), a vessel may store all prohibited species caught outside the FCZ in a separate part of the hold that can be sealed, and may have its holds inspected and sealed before commencing fishing in the FCZ. Seals affixed during such inspection shall be maintained in an unbroken condition during the time the fishing vessel is in the FCZ. Such inspections may be obtained at Venice or New Orleans, La., Key West, Fla., Mayaquez, P.R., or Norfolk, Va., upon 48 hours advance notification to: Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9430 Koger Boulevard, St. Petersburg, Fla. 33702. Telephone: (813) 893–3145.

(3) Additional ports for hold inspection may be arranged with the Regional Director.

(4) The designation of ports for hold inspections does not modify the port entry arrangements or requirements (if any) of Governing International Fishery Agreements or the notification requirements of any other laws or regulations of the United States.

(d) *Open area.* Except for the closed area set forth in paragraph (e) of this section, foreign fishing authorized under this subpart may be conducted in that portion of the FCZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea.

(e) *Closed area.* The area known as East and West Flower Garden Banks is closed to directed foreign fishing. Flower Garden Banks is the Ocean space including the water column and the surface waters within two intersecting circles 9 nautical miles in radius from the center of each bank. The area of this proposed national marine sanctuary is 432 square nautical miles. The geographical centers of the banks are as follows: for the West Flower Garden Bank, the center point, P2, is located at 27°52′ 14.21″N. lat., 93°48′54.79″W. long.; and for the East Flower Garden Bank, the center point is located at 27°55′07.44″N. lat., 93°36′08.49″W. long.

§ 611.61 Atlantic billfish and sharks fishery.

(a) *Purpose.* This section regulates all foreign fishing conducted pursuant to a GIFA which involves the catching of any species of billfishes, sharks, or other fish in the FCZ in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

(b) *Open season and closures.* Foreign fishing under this section may be conducted throughout the year, except that any retention of sharks shall terminate when the applicable national allocation has been reached. The closure provisions of § 611.15(a) do not apply to this section.

(c) *Prohibited species.* Unless otherwise specifically instructed by a U.S. observer or Authorized Officer, all billfish and all prohibited sharks must be released by cutting the line (or by other appropriate means) without removing the fish from the water.

(d) *Gear restrictions.* Foreign vessels participating in a directed fishery for sharks must use a minimum sized hook of 7 inches shank length and 2.5 inches gap (distance between tip and shank) when fishing inside the 100-fathom depth contour. There is no hook size restriction seaward of the 100-fathom depth contour.

(e) *Statistical reporting.* (1) In addition to the requirements of § 611.9, a vessel of a nation with an applicable allocation shall submit the following additional quarterly reports:

(i) Catch and effort data, summarized weekly by one degree squares, containing the following information:

(A) Number of hooks set,

(B) Number of sharks caught under allocation,

(C) Number of prohibited species (by species code from Appendix I to § 611.9) caught and released,

(D) Number of prohibited species (by species code) released alive.

(ii) Summary of vessel activities containing the following information:

(A) Permit number of each vessel fishing,

(B) For each successive day of the reporting period, the noon-day location (within 0.1 degree of latitude and longitude) of each vessel in the fishery.

(2) A vessel of a nation with no applicable allocation is exempt from the requirements of § 611.9(d) and (e), but shall provide the reports required by § 611.9(f) and (g), when applicable. In addition, a vessel of a nation with no applicable allocation shall submit the quarterly reports described in paragraph (e)(1)(i)(A), (C), and (D), only, and (ii) of this section.

(3) The quarterly reports required by paragraphs (e)(1) and (2) of this section shall be submitted, not later than 60 days from the end of the quarter for which the report is being made, to: Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149. Telephone: (305) 361–5761.

§ 611.62 Royal red shrimp fishery.

(a) *Purpose.* This section regulates all foreign fishing conducted pursuant to a GIFA which involves the catching of royal red shrimp in the FCZ of the Gulf of Mexico.

(b) *Closed areas.* Fishing by foreign vessels for royal red shrimp is prohibited in depths less than 100 fathoms.

(c) *Gear restrictions.* No foreign vessel may use gear other than trawl gear to fish for royal red shrimp, except as specifically authorized in writing by the Regional Director.

Appendices to §§ 611.9 and 611.20

1. Amend Appendix 1 to § 611.9, Atlantic Ocean Fishes, Invertebrates, by adding a new Code 630—Royal Red Shrimp, as follows:

Appendix I—Species Codes

A. Atlantic Ocean Fishes (Including the Gulf of Mexico)

Code	Common English name	Scientific name
	. . . . .	
	Invertebrates	
	. . . . .	
630	Shrimp, royal red	*Hymenopenaeus robustus*

2. Amend Appendix I to § 611.20 by adding the following B. to 2. Atlantic and Gulf Fisheries:

Appendix I.—*OY, DAH, JVP, TALFF*

Species	Species code	Areas	OY optimum yield (mt)	Domestic allowable harvest (DAH) (mt)	Est. joint venture processing capacity (JVP) (mt)	Reserve	TALFF
. . .	.	.	.	.	.	.	.
2. Atlantic and Gulf Fisheries:							
. . .	.	.	.	.	.	.	.
B. Royal red Shrimp fishery	630		177.8	111.6			66.2
. . .	.	.	.	.	.	.	.

B. It is proposed to add a new 50 CFR Part 658 as follows:

PART 658—GULF SHRIMP FISHERY

Subpart A—General Measures

Sec.
658.1 Purpose and scope.
658.2 Definitions.
658.3 Relation to other laws.
658.4 Vessels, permits, and fees.
658.5 Recordkeeping and reporting.
658.6 Vessel identification.
658.7 Prohibitions.
658.8 Enforcement.
658.9 Penalties.

Subpart B—Management Measures

Sec.
658.20 Fishing year.
658.21 Allowable levels of harvest.
658.22 Tortugas Shrimp Sanctuary.
658.23 Stone crab closure.
658.24 Texas closure.
658.25 Size restrictions.

Authority: 16 U.S.C. 1801 et seq.

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Subpart A—General Measures

§ 658.1 Purpose and scope

(a) The purpose of this part is to implement the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters, developed by the Gulf of Mexico Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended.

(b) The regulations in this Part govern fishing for brown shrimp, white shrimp, pink shrimp, royal red shrimp, seabobs, and rock shrimp by vessels of the United States within that portion of the Gulf of Mexico over which the United States exercises exclusive fishery management authority.

(c) Regulations governing foreign fishing for royal red shrimp appear in 50 CFR Part 611. Appendix I to § 611.20 contains the TALFF for royal red shrimp.

§ 658.2 Definitions

In addition to the definitions in the Act, the terms used in this Part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 *et seq.*).

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149. Telephone (305) 361–5761.

Catch, take, or harvest includes, but it not limited to, any activity which results in bringing any shrimp on board a vessel.

Fishery Conservation Zone (FCZ) means that area adjacent to the territorial sea of the constituent States of the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters, and any amendments thereto.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of shrimp;

(b) The attempted catching, taking, or harvesting of shrimp;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of shrimp;

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Gulf of Mexico means geographic area of authority of the Gulf of Mexico Fishery Management Council.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of that vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the Untied States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government, or any entity of any such government.

Regional Director means the Regional Director, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, or a designee.

Shrimp means the following species:

Brown shrimp, *Penaeus aztecus*
White shrimp, *P. setiferus*
Pink shrimp, *P. duorarum*
Seabobs, *Xiphopeneus koyeri*
Rock shrimp, *Sicyonia brevirostris*
Royal red shrimp, *Hymenopenaeus robustus United States harvested shrimp* means shrimp caught, taken, or harvested by vessels of the United States under this Part, whether or not such shrimp is landed in the United States.

Vessel of the United States means:

(a) A vessel documented or numbered by the U.S. Coast Guard under United States law; or

(b) Any vessel under five net tons registered under the laws of any State.

§ 658.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) The regulations found in this Part are intended to be compatible with regulations pertaining to the Everglades National Park in the State of Florida. These regulations are found at 36 CFR 7.45 and 36 CFR 7.27.

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel in accordance with a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 658.4 Vessel permits and fees.

(a) *General.* No permit is required for vessels of the United States fishing for shrimp under this Part.

(b) *Royal red shrimpers.* During the Texas closure, a vessel may fish for royal red shrimp beyond the 100-fathom curve in the area described in § 658.24(a), if the vessel has on board a letter of authorization signed by the Regional Director.

(c) *Application for letter of authorization.* (1) By April 1, the owner or operator of a vessel intending to fish for royal red shrimp during the Texas closure shall submit a letter to the Regional Director stating such intent and including the following information:

(i) The name, mailing address, including ZIP code, and telephone number of the owner of the vessel;

(ii) The name of the vessel; and

(iii) The vessel's U.S. Coast Guard documentation number or the vessel's State registration number for vessels not required to be documented under Title 46 of the U.S. Code.

(d) *Issuance of letter of authorization.* By May 1, the Regional Director will issue letters of authorization to applicants under paragraph (c) of this section.

§ 658.5 Recordkeeping and reporting.

(a) *Owners and operators.* The owner or operator of any fishing vessel or boat engaged in fishing for shrimp shall report to the National Marine Fisheries Service (NMFS) the information required by this section.

(1) *Selection.* The Center Director will use statistical sampling procedures to select all or a portion of shrimp fishermen to report information. The number of individuals selected, the reporting interval, and the duration for reporting will be determined by the Center Director according to data requirements for specific management needs. The NMFS may conduct surveys to obtain information on recreational shrimp fishing and to assess the accuracy and precision of any data collected under this section.

(2) *Information.* When notified by agents authorized by NMFS of his/her selection for reporting, the owner or operator of a shrimp vessel shall provide the information requested on a form available from the dealer at the time of sale. The information may include any of the following items:

(i) Vessel identification, including official number.

(ii) Date landed.

(iii) Days fished.

(iv) Area and depth of catch.

(v) Fishing time by species, area, and depth.

(vi) Gear type, number, and quantity.

(vii) Kinds and quantities of incidental catch and discards.

(viii) Other biological, social, and economic information.

(b) *Dealers.* Shrimp dealers shall provide the following information on individual fishing trips on forms provided by NMFS:

(1) Dealer or plant identification number.

(2) Official number.

(3) Date landed.

(4) Shrimp landed in pounds and value by species and class.

(5) Other social and economic information.

(c) *Processors.* Shrimp processors shall provide the following information on forms provided by NMFS:

(1) Processor identification.

(2) Type of product(s).

(3) Shrimp processed (quantity and value by product).

(4) Number of employees.

(5) Other social and economic information.

(d) *Filing.* Reports under this section shall be recorded on a form provided by the Center Director, or as otherwise described in this paragraph, as follows:

(1) Owners/operators of fishing vessels/boats—Required information shall be recorded at the time of the sale on a form provided by NMFS.

(2) Dealers—Copies of forms required to be submitted containing the required information shall be forwarded to NMFS within three days of the close of a business week.

(3) Processors—Required information shall be submitted on a form and at times specified by the Center Director.

§ 658.6 Vessel identification.

(a) *Offical number.* Each vessel of the United States engaged in the shrimp fishery in the Gulf of Mexico FCZ shall:

(1) Display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the documentation number issued by the Coast Guard for documented vessels, or the registration number issued by a State or the Coast Guard for undocumented vessels.

(2) The official number must be in block arabic numerals in contrasting color to the background.

(3) The official number shall be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels.

(4) The official number shall be permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of each fishing vessel shall:

(1) Keep the name or registration number clearly legible and in good repair, and

(2) Insure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the official number from any enforcement vessel or aircraft.

§ 658.7 Prohibitions.

It is unlawful for any person to:

(a) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any shrimp taken or retained in violation of the Act, this Part, or of any other regulation promulgated under the Act;

(b) Fish for shrimp in a closed area or during a closed season within the FCZ, except as allowed under § 658.4(b);

(c) Transfer directly or indirectly, or attempt to so transfer, any United States harvested shrimp to any foreign fishing vessel, while such vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Act which authorizes the receipt by such vessel of United States harvested shrimp;

(d) Falsify or fail to affix and maintain vessel markings as required by § 658.6;

(e) Falsify or fail to make, keep, maintain, or submit any record or report required by § 658.5;

(f) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this Part, or any other regulation issued under the Act;

(g) Refuse to permit an Authorized Officer to inspect any record required to be kept under § 658.5;

(h) Fail to comply immediately with enforcement and boarding procedures specified in § 658.8;

(i) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any Authorized Officer in the conduct of any search or inspection under the Act;

(j) Resist a lawful arrest for any act prohibited by this part;

(k) Interfere with, delay, or prevent by any means the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(l) Interfere with, obstruct, delay or prevent by any means a lawful investigation or search in the process of enforcing this part;

(m) Interfere with, obstruct, delay, or in any other manner prevent the seizure of illegally taken shrimp or the final disposition of such shrimp through the sale of the shrimp; or

(n) Violate any other provision of this part, the Act, or any regulation promulgated pursuant thereto.

§ 658.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft, or any other vessel or aircraft authorized to enforce provisions of the Act, the operator of a fishing vessel shall be alert for communications conveying enforcement instructions. The VHF–FM radiotelphone is the normal method of communicating between vessels. Should radiotelphone communications fail, however, other

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methods of communicating between vessels, including visual signals, may be employed. The following signals extracted from the International Code of signals are among those which may be used, and are included here for the safety and information of fishing vessel operators:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you,"

(3) "AA AA AA etc." which is the call to an unknown station, to which the signaled vessel should respond by illuminating the name or number required by § 658.6, and

(4) "RYCY" meaning "You should proceed at slow speed, a boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Guard Channel 16, VHF–FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(3) Provide a safe ladder, if required, for the Authorized Officer and his party;

(4) When necessary to facilitate the boarding and/or when requested by an Authorized Officer, provide a man rope or safety line; and

(5) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party to facilitate the boarding.

§ 658.9 Penalties

Any person or fishing vessel found to be in violation of this Part is subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures).

Subpart B—Management Measures

§ 658.20 Fishing year

The fishing year for all species of shrimp, except royal red shrimp, begins on May 1 and ends on April 30. The fishing year for royal red shrimp begins January 1 and ends December 31.

§ 658.21 Allowable levels of harvest

(a) *Catch quotas.* The domestic quota for royal red shrimp is 111.6 metric tons. There is no domestic quota for other species of shrimp.

(b) *Territorial waters.* These regulations do not limit the harvest of shrimp resources in waters landward of the FCZ. However, harvest from these waters will be taken into account in the calculation of the maximum sustainable yield and optimum yield from the fishery.

(c) *Closure.* When the domestic quota for royal red shrimp is reached, the Regional Director shall close the fishery by publishing a notice in the **Federal Register**

§ 658.22 Tortugas shrimp sanctuary

The area commonly known as the "Tortugas Shrimp Sanctuary," off the State of Florida, is closed to all fishing for shrimp. The area is that part of the fishery conservation zone shoreward of the following line (see Figure 1):

Begin at the intersection of the Florida territorial sea with a line drawn between point N (Coon Key Light, 25°52.9′ N. lat., 81°37.95′ W. long.) and point F (24°50.7′ N. lat., 81°51.3′ W. long.); thence proceed on a straight line to point F; thence proceed on a straight line to point G (New Grounds Shoals Light, 24°40.1′ N. lat., 82°26.7′ W. long.); thence proceed on a straight line to point H (Rebecca Shoals Light, 24°34.7′ N. lat., 82°35.1′ W. long.); thence proceed on a straight line to the intersection of the Florida territorial sea with a line drawn from point H to point P (Marquesas Keys, approximately 24°35′ N. lat., 82°08′ W. long.).

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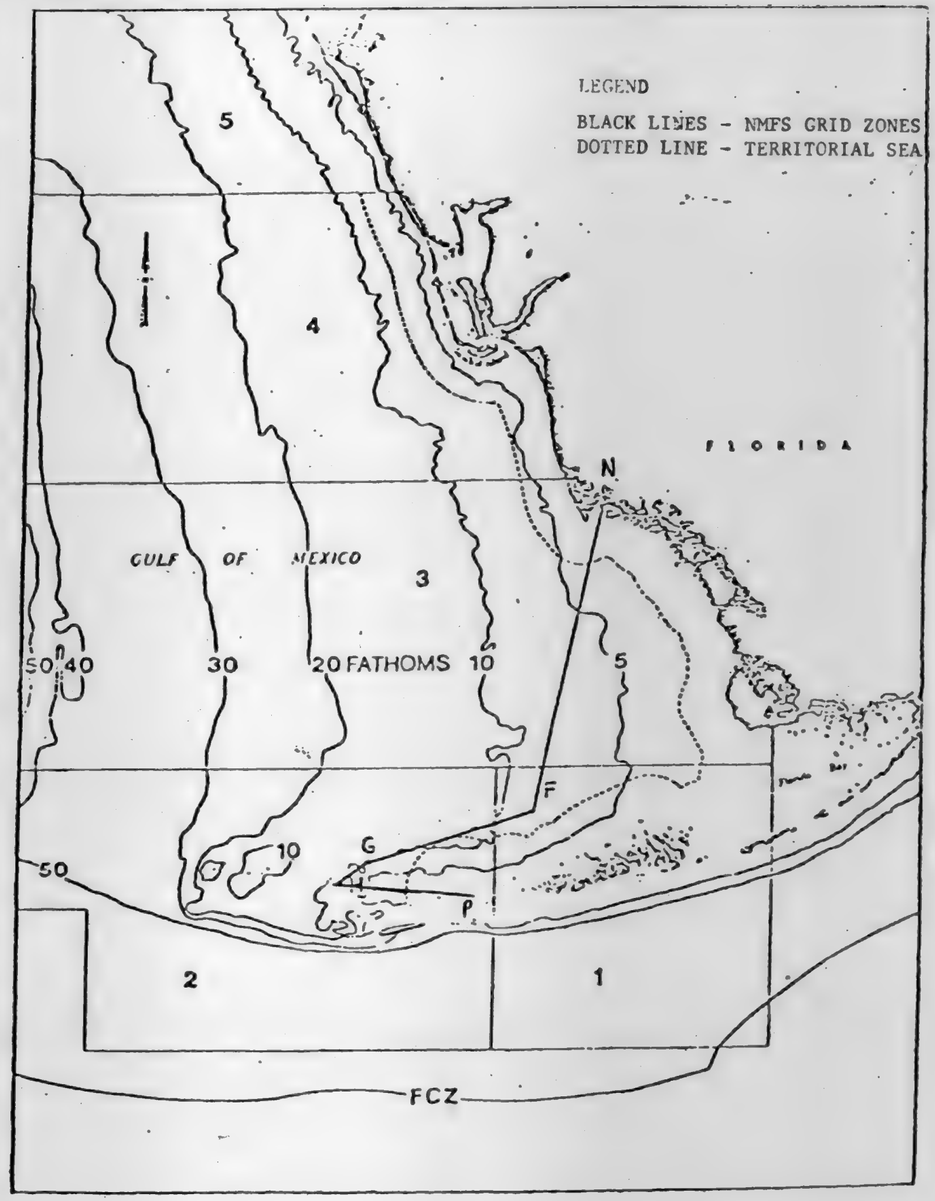


FIGURE 1. LOCATION OF PROPOSED TORTUGAS SHRIMP SANCTUARY.

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§ 658.23 Stone crab closure

(a) *Area and season restrictions.* Between January 1 and May 20, the area described in this paragraph is closed to trawl gear, except as provided in paragraph (b) of this section. The area is that part of the fishery conservation zone shoreward of the following line (see Figure 2):

Begin at point B (26°16′ N. lat., 81°58.5′ W. long.); thence proceed on a straight line to point C (26°00′ N. lat., 82°04′ W. long.); thence proceed on a straight line to point D (25°09′ N. lat., 81°47.6′ W. long.); thence proceed on a straight line to point E (24°54.5′ N. lat., 81°50.5′ W. long.); thence proceed on a straight line to the intersection of the Florida territorial sea with a line drawn between point E and point M (24°41.9′ N. lat., 81°40.5′ W. long.).

(b) *Exception.* Trawling for live bait shrimp may be conducted shoreward of the line specified in paragraph (a) of this section. Live bait boats must (1) have live shrimp wells, (2) use gear other than otter trawls, and (3) possess no more than 5 pounds of dead shrimp at any time. It shall be a rebuttable presumption that any vessel not meeting all the above criteria is not engaged in the bait shrimp fishery.

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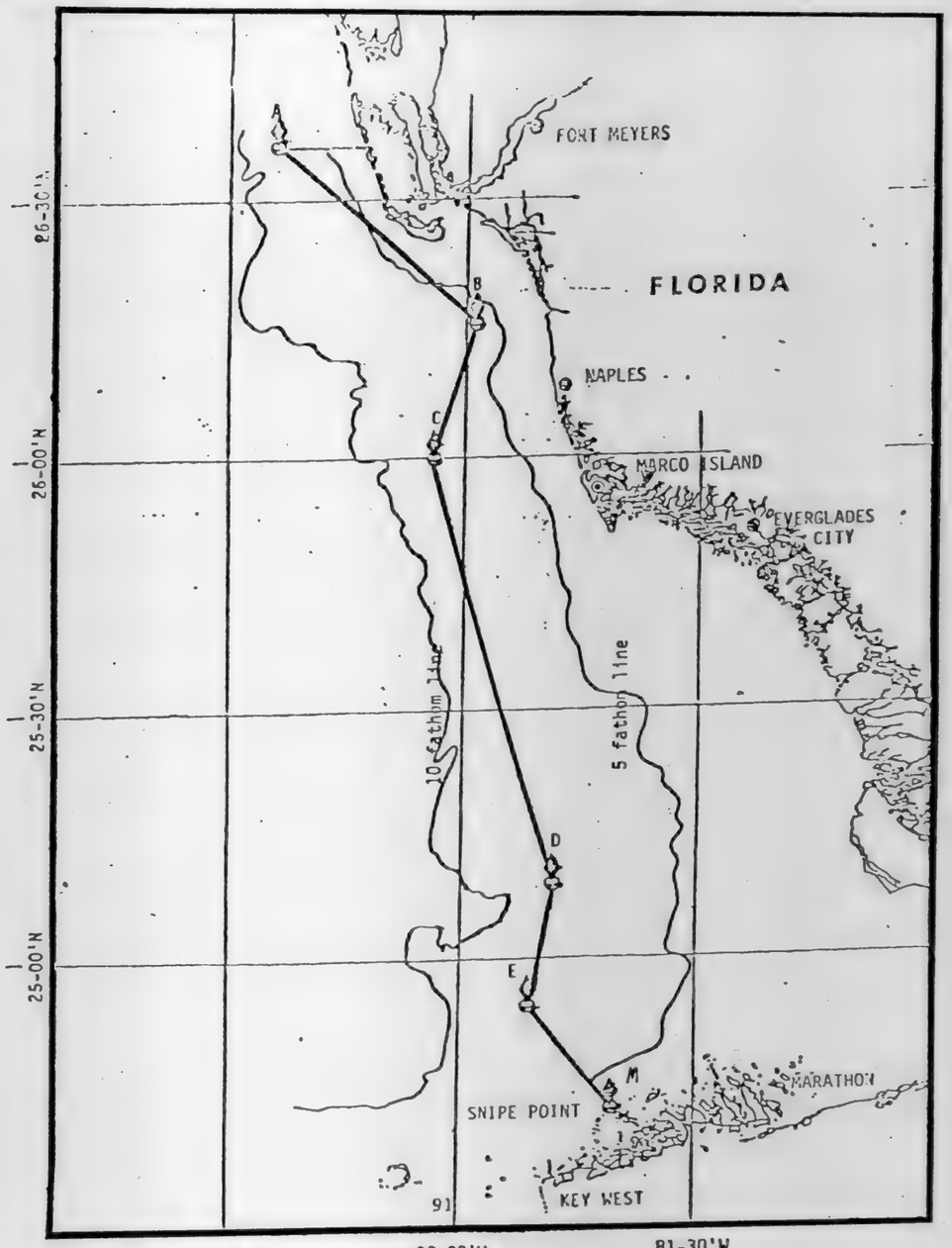


FIGURE 2. AREA CLOSED TO SHRIMPING BETWEEN JANUARY 1 AND MAY 20.

BILLING CODE 3510-22-C

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§ 658.24 Texas closure.

(a) *Area and season restrictions.* Between June 1 and July 15, the area described in this paragraph is closed to all fishing for shrimp, except as permitted in § 658.4(b) for royal red shrimp. The area is that part of the fishery conservation zone off the State of Texas west of a line beginning at point A (29°32.1′ N lat., 93°47.7′ W long.) and proceeding directly to point B (26°11.4′ N lat., 92°53′ W long.) (see Figure 3).

(b) *Adjustment of dates.* The Regional Director may adjust the closing or opening date by as much as 15 days, to provide an earlier, later, or longer closure; but the duration of the closure may not exceed 60 days, nor be less than 45 days.

(1) The Regional Director must base an adjustment of the closing or opening date on the following criteria:

(i) Biological data collected by the Texas Parks and Wildlife Commission (TPWC) and used to predict when brown shrimp in the central and northern bays of Texas will reach a total length of 80 to 90 mm;

(ii) The strength of outgoing tides at the time predicted under paragraph (b)(1)(i) of this section; and

(iii) Other biological data relevant to the timing or duration of the closure.

(2) The Regional Director, after consulting with the TPWC, may adjust the closing or opening date by issuing a field order. The order will specify the adjusted date and the reasons for the adjustment.

(3) A field order advancing the closing date or delaying the opening date must have been available to the public for 72 hours before its effective date. A field order delaying the closing date or advancing the opening date must have been available to the public for 24 hours before its effective date.

(4) A field order may be made available to the public by any of the following methods:

(i) Procedures customarily used by the TPWC for posting and publicizing similar notices of opening or closure;

(ii) Publication of a notice in a newspaper of major circulation in each of the following cities: Brownsville, TX; Aransas Pass, TX; Galveston, TX; Corpus Christi, TX; Freeport, TX; Port Arthur, TX; Cameron, LA; and Morgan City, LA;

(iii) Notification of shrimp fishery organizations in all the States bordering the Gulf of Mexico;

(iv) Broadcast of a notice at time intervals, channels, and frequencies customarily used by the TPWC to broadcast similar notices of opening or closure.

§ 658.25 Size restrictions.

There are no minimum size requirements for shrimp harvested in the fishery conservation zone.

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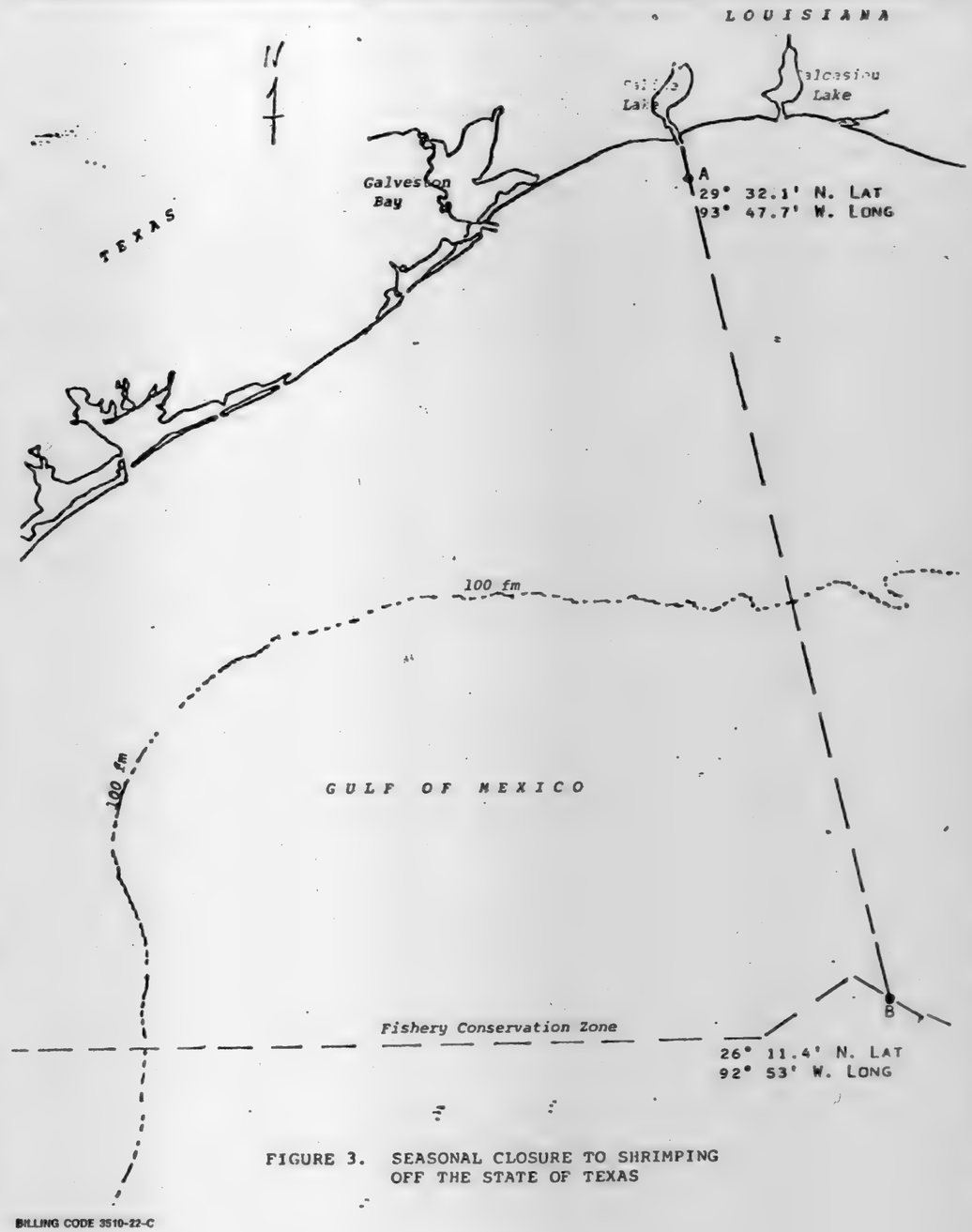


FIGURE 3. SEASONAL CLOSURE TO SHRIMPING OFF THE STATE OF TEXAS

BILLING CODE 3510-22-C

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C. Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico

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2.0 Introduction

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) provides for exclusive United States management authority over the fishery resources within a fishery conservation zone extending from the seaward boundary to the United States territorial sea (three nautical miles for the Gulf of Mexico states of Louisiana, Mississippi, and Alabama and nine nautical miles for Texas and the west and northwest coasts of Florida) to a point 200 miles from shore. Responsibility for developing a shrimp fishery management plan for the Gulf of Mexico is vested in the Gulf of Mexico Fishery Management Council; and implementation and enforcement of any regulations pertinent to the management of fisheries within the fishery conservation zone are the responsibility of the Secretary of Commerce and Secretary of the Department wherein the U.S. Coast Guard is located.

Successful implementation of the plan will require unity of purpose between Federal regulations and those of the five Gulf states (Florida, Alabama, Mississippi, Louisiana, and Texas). Authority for implementing state regulations is vested in the Florida Department of Natural Resources, the Alabama Department of Conservation and Natural Resources, the Mississippi Marine Conservation Commission, the Louisiana Wildlife and Fisheries Commission, and the Texas Parks and Wildlife Commission.

The fishery addressed is comprised of six species, occurring in the area of jurisdiction of the Gulf of Mexico Fishery Management Council as well as in the territorial seas adjacent thereto and the associated bays, inlets, wetlands, and upland areas as appropriate. Species include brown shrimp (*Penaeus aztecus* Ives), white shrimp (*Penaeus setiferus* Linnaeus), pink shrimp (*Penaeus duorarum* Burkenroad), and royal red shrimp (*Hymenopenaeus robustus* Smith [1]), plus seabobs (*Xiphopeneus kroyeri* Heller) and rock shrimp (*Sicyonia brevirostris* Stimpton), which are incidental bycatch. The management unit is to be equal to the fishery throughout its range; however, federal implementation will occur only in the fishery conservation zone.

Biological aspects of the shrimp species have been reviewed, and the maximum probable catch is estimated at: (see Sec. 4.7.1.1)

Brown shrimp—132 million pounds (tails) per year
White shrimp—64 million pounds (tails) per year
Pink shrimp—20 million pounds (tails) per year
Royal red shrimp—0.392 million pounds (tails) per year

Each year's take of brown, white, and pink shrimp will be heavily influenced by water salinity and temperature during critical periods of estuarine shrimp growth. Maximum sustainable yield (MSY) estimates for the seabobs and rock shrimp cannot be made with any authority because they are caught incidentally by fishermen trawling for the other species.

Seabobs and rock shrimp are caught incidental to the three main species of penaeid shrimp. MSY estimates are weakened because of lack of data.

None of the stocks appear to be biologically overfished.

Major concern for future stocks is related to concern for adequate habitat, particularly for the estuarine-dependent brown, white, and pink shrimp, which account for most of the annual shrimp harvest.

The effects of shrimping on sea turtles and incidentally caught finfish are considered in the plan.

The fishery is the most valuable and probably the most diverse in the nation. Harvesters include (1) a large commercial fleet fishing the inshore, nearshore Gulf, and open Gulf waters, (2) an undetermined (but large) number of recreational shrimpers mainly fishing the inshore and nearshore Gulf waters, and (3) a substantial number of bait shrimpers mainly fishing the inshore waters. Processed products include frozen, canned, fresh, and breaded shrimp as well as a host of specialty

[1] The genus *Hymenopenoeus* is the same as *Pleoticus* according to Isabel Farfante.

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items. Present management regimes differ in the fishery over the allowable size of shrimp at first harvest as size is related to whom can harvest and process the shrimp.

Unfortunately, socioeconomic data are insufficient for this complex fishery to evaluate fully the relative needs of various user groups for shrimp of different sizes. Care has therefore been taken in making recommendations to reduce the waste of current culling practices so that one user group will not be favored over another. No recommendations are made on limiting fishing effort because the resource is not biologically overfished. There is insufficient socioeconomic data to suggest methods or reasons, consistent with FCMA, to limit entry at this time.

During a period of public review of the Draft Fishery Management Plan and Environmental Impact Statement, 21 public hearings were held and written comments were received by mail. Public comments and responses are contained in the Final Environmental Impact Statement.

The plan is to be reviewed annually so that management measures can be evaluated for their fairness and effectiveness and so that other methods of optimizing yield can be assessed.

Problems in the Fishery (See Section 8.3)

The Council has identified the following problems associated with the fishery and the present management regime and has prepared the plan objectives to address and alleviate them. In a free access fishery a management regime to maximize protein yield and economic return of the fisherman is of importance.

(1) Conflict among user groups as to area and size at which shrimp are to be harvested.

(2) Discard of shrimp through the wasteful practice of culling.

(3) The continuing decline in the quality and quantity of estuarine and associated inland habitats.

(4) Lack of comprehensive, coordinated and easily ascertainable management authorities over shrimp resources throughout their ranges.

(5) Conflicts with other fisheries such as the stone crab fishery in southern Florida, the groundfish fishery of the north central Gulf, and the Gulf's reef fish fishery.

(6) Incidental capture of sea turtles.

(7) Loss of gear and trawling grounds due to man-made underwater obstructions.

(8) Partial lack of basic data needed for management.

2.1 Goal and Objectives

Goal: To manage the shrimp fishery of the United States waters of the Gulf of Mexico in order to attain the greatest overall benefit to the nation with particular reference to food production and recreational opportunities on the basis of the maximum sustainable yield as modified by relevant economic, social or ecological factors.

Objectives: 1. Optimize the yield from shrimp recruited to the fishery.

2. Encourage habitat protection measures to prevent undue loss of shrimp habitat.

3. Coordinate the development of shrimp management measures by the GMFMC with shrimp management programs of the several states, where feasible.

4. Promote consistency with the Endangered Species Act and the Marine Mammal Protection Act.

5. Minimize the incidental capture of finfish by shrimpers, when appropriate.

6. Minimize conflicts between shrimp and stone crab fishermen.

7. Minimize adverse effects of underwater obstructions to shrimp trawling.

8. Provide for a statistical reporting system.

2.2 Management Measures Considered and Adopted (See Sec. 8.5.1.1)

In order to obtain the above objectives, the Council has adopted the following management measures:

Measure 1: Establish a cooperative permanent closure with the State of Florida and the U.S. Department of Commerce of the area delineated in Table 8.3–1 to protect small pink shrimp until they have generally reached a size range larger than 69 tails to the pound.

Measure 2: Establish a cooperative closure of the territorial sea of Texas and the adjacent U.S. FCZ with the State of Texas and the U.S. Department of Commerce during the time when a substantial portion of the brown shrimp in these waters weigh less than a count of 65 tails to the pound (39 heads-on shrimp to the pound).

Measure 3: Recommend that all Gulf states consider establishing shrimp management sanctuaries in important segments of nursery grounds under their sole jurisdiction.

Measure 4: The Gulf of Mexico Fishery Management Council has established an internal committee to review and assess the status of Gulf fishery habitats, with particular attention to those factors which might further stimulate "the downward trends in quality and quantity of fish habitats." (Atlantic States Marine Fisheries Commission et al., 1977.)

Measure 5: The Gulf states are encouraged to adopt flexible management procedures which would provide regulation by administrative agencies of the shrimp resources in inland waters and territorial seas.

Measure 6: The Gulf states are encouraged to adopt reciprocal internal management decisions flexible enough to allow joint management of shrimp with other states and with the Department of Commerce.

Measure 7: Develop and implement an educational program to inform shrimpers of the current status of sea turtle populations and of proper methods of resuscitation and return to sea of incidentally captured sea turtles.

Measure 8: Encourage research on and development of shrimping gear in order to reduce the incidental catch without decreasing the overall efficiency of shrimping or excessively increasing the cost of gear.

Measure 9: Consistent with the Stone Crab management Plan, establish a seasonal closure of a portion of the Dry tortugas shrimp grounds in order to avoid gear conflicts with stone crab fishermen.

Measure 10: The Gulf of Mexico Fishery Management Council will attempt to reduce, where feasible, the loss of offshore trawlable bottom by establishing within GMFMC, a committee to monitor and review construction of offshore reefs, with attention to the needs of the reef fish and shrimp user groups.

Measure 11: All statistical reporting requirements will be mandatory.

2.3 Operational Definitions of Terms Used

Acceptable Biological Catch (ABC) is a seasonally determined catch that may differ from MSY for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks.

Annual Crop is a species which is harvested essentially as a 0-year class (less than one year of age).

Boats are crafts that displace less than five gross tons.

Catch Per Unit of Effort (CPUE) is the total number or weight of fish harvested by a defined unit of fishing effort.

Commercial Shrimpers are shrimpers who sell any portion of their catch.

Culling is the practice of discarding those shrimp caught which are smaller than a size the fisherman wishes to retain.

Determination for Total Allowable Level of Foreign Fishing (FTALFF). The foreign allowable catch is determined by deducting the expected domestic annual harvest from the optimum yield.

Detritus is considered as decaying plant material and its associated community of microscopic plants and animals.

Domestic Annual Fishing Capacity (DAFC) is the total potential physical fishing capacity of the fleet, modified by logistic factors. The components of the concept are:

a. An inventory of total potential physical capacity, defined in terms of appropriate vessel and gear characteristics (that is, size, horsepower, hold capacity, gear design, etc.).

b. Logistic factors determining total annual fishing capacity, (that is, variations in vessel and gear performance, trip length between fishing locations and landing points, weather constraints, etc.).

Domestic Annual Processing Capacity (DAPC) is the amount that can be processed if supplies are available.

Equilibrium Yield (EY) is the annual or seasonal harvest that maintains the resource at approximately the same level of abundance (apart from the effects of environmental variation) in succeeding seasons or years.

Estuarine Dependent Species are those organisms that must complete a portion of their life cycle within an estuary.

Expected Domestic Annual Harvest (EDAH) is the total expected catch of the U.S. shrimp fleet.

Fishery conservation Zone (FCZ) is the area of federal jurisdiction, beginning at the outer limit of the states' territorial seas and extending 200 miles from shore.

Fishing Effort is the total fishing gear in use for a specified period of time.

Fishing Mortality includes all deaths to the exploited populations associated with the harvesting practices.

Growth Overfishing is a level of effort which prevents the exploited population from attaining its maximum size.

Incidental Catch refers to the catch of species other than the target species (bycatch).

Inland Waters (inside waters) are areas of state jurisdiction and include all bays and lagoons inland from the baseline from which the territorial sea is measured.

Maximum Economic Yield (MEY) is the level of harvest from the common property resource that maximizes the stream of generated net incomes over time.

Maximum Sustainable Yield (MSY) is an average over a reasonable length of time of the largest catch which can be taken continuously from a stock, under current environmental conditions.

Natural Mortality includes deaths from all causes except capture by man.

Omnivore is an animal which eats whatever dead or alive animal or plant material is available.

Optimum Yield (OY) with respect to the yield from a fishery, means the amount of fish:

(a) which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities; and

(b) which is prescribed as such on the basis of the maximum sustainable yield from such fishing, as modified by any relevant economic, social, or ecological factor.

Recreational Shrimpers are shrimpers who do not sell their catch.

Recruitment Overfishing is used to denote that level of fishing effort which reduces the spawning stock size to the point where there is a reduction in the amount of young recruited to the fishery.

Spawner-Recruit Relationship is the quantifiable relationship between the number of reproducing adults and the resulting number of young recruited to the fishery.

Stock is a group of fish manageable as a unit.

Target Species are the species at which the fishery is directed.

Territorial Sea is the area of state jurisdiction extending from the baseline to three nautical miles seaward for Alabama, Mississippi, and Louisiana, and to nine nautical miles for Texas and the Florida west and northwest coasts.

Total Allowable Level of Foreign Fishing (TALFF) is any surplus in the optimum yield above the expected domestic annual harvest.

Unit Fishing Effort is a measure of harvesting pressure which has been adjusted to account for differences in the ability of boats and vessels of different types to harvest the resource.

Vessels are crafts with displacement greater than or equal to five gross tons.

Year-class is the fish spawned in a given year.

Yield is the amount of a species harvested by man.

3.0 Description of Fishery

3.1 Area and Stocks Involved

The fishery being addressed is comprised of the species listed below and occurs in the area of jurisdiction of the Gulf of Mexico Fishery Management Council as well as in the area of jurisdiction of the various Gulf states including their territorial seas, associated bays, inlets, wetlands, and upland areas as appropriate.

Consideration of this large area is necessary because of the migratory natures of the exploited species and fishermen, the critical role of estuaries in the life cycles of the dominant shrimp species, and the impacts upland alterations may have on the quality of shrimp habitat.

Shrimp species within the fishery are:

Brown shrimp *(Penaeus aztecus* Ives)
White shrimp *(Penaeus setiferus* Linnaeus)
Pink shrimp *(Penaeus duororum* Burkenroad)
Royal red shrimp *(Hymenopenaeus robustus* Smith)
Seabobs *Xiphopeneus Kroyeri* Heller)
Incidental bycatch
Rock shrimp *Sicyonia brevirostris* Stimpton) Incidental bycatch

In addition to these shrimp species, shrimpers also catch sea turtles and other shellfish and finfish. The sea turtle catch is of concern to the development of this plan because all the sea turtles which occur in the Gulf are listed as either endangered or threatened under the U.S. Endangered Species Act which prohibits capture of endangered species. Though primary responsibility for protection of these sea turtle species lies with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, the plan contains appropriate suggestions to minimize the impact on sea turtle populations. The incidental catch of other shellfish and finfish is also of concern because much of this catch is discarded at sea. Since much of the discarded catch is dead or dies as a result of being caught, this operation largely represents a direct conversion of national resources into food for scavengers. Many of these resources can be used by other national interests. Primary responsibility for managing these resources lies with the GMFMC, NMFS, and the Gulf states. Management plans are currently being prepared by GMFMC for two major bycatch groups—groundfish and reef fish—in which appropriate measures are suggested to reduce this bycatch. In addition, the groundfish management plan contains a thorough treatment of current efforts to develop markets for these discarded species.

Brown shrimp range along the north Atlantic and Gulf of Mexico coasts from Martha's Vineyard, Massachusetts, to the northwestern coast of Yucatan. The range is not continuous but is marked by an apparent absence of brown shrimp along Florida's west coast between the Sanibel and the Apalachicola shrimping grounds (Perez Farfante, 1969). In the U.S. Gulf of Mexico, catches are high along the Texas, Louisiana, and Mississippi coasts.

Mark-recapture experiments indicate a mixing of brown shrimp populations along the north central and

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northwestern Gulf coast. A southward drift of brown shrimp off the Texas coast towards Mexico has been proposed (Gunter, 1962). There is some speculation that the Mississippi River may act as a barrier to east-west migration.

Brown shrimp are caught out to at least 50 fathoms, though most come from less than 30 fathoms. The season begins in May, peaks in June and July, and gradually decline to an April low.

White shrimp range along the Atlantic coast from Fire Island, New York, to Saint Lucie Inlet, Florida, and along the Gulf coast from the mouth of the Ochlachonee River, Florida, to Campeche. In the Gulf there are two centers of abundance: one along the Louisiana coast and one in the Campeche area (Perez Farfante, 1969).

There appears to be a general mixing of white shrimp west of the Mississippi River to at least the northeast coast of Mexico, with an observed northward migration along the Mexico-Texas shore to at least Aransas Pass, Texas, during the spring (Lindner and Anderson, 1956). A reciprocal southward movement in the fall and winter has been proposed (Gunter, 1962). It has been suggested that again the Mississippi River may act as a barrier in east-west migration (Linder and Anderson, 1956; Perez Farfante, 1969).

White shrimp are a comparatively shallow-water shrimp, with most of the catch coming from less than 15 fathoms. Annual catch has two peaks: the major one in late summer-early fall, with an October high; the minor one is the "Easter fishery" on over-wintered shrimp which peaks in May. Largest U.S. catches occur west of the Mississippi River to the Freeport, Texas, area, though catch is considerable along the entire north central and western Gulf.

Pink shrimp range along the Atlantic from lower Chesapeake Bay south to around the Florida Keys and up and around the Gulf coast to Isla Mujeres, Mexico. They are also found in the Bermuda Islands and the northern coast of Yucatan. Major concentrations are off southwest Florida and in the southeastern part of Golfo de Campeche (Perez Farfante, 1969).

The two major pink shrimp grounds in the United States are the Tortugas and Sanibel grounds in southwestern Florida. There is little movement of shrimp between these grounds, and they are derived from largely different estuarine areas (Costello and Allen, 1965).

Pink shrimp catch comes mainly from less than 25 fathoms, with a peak catch at 11 to 15 fathoms. Because of continuous recruitment in southeastern Florida, the catch exhibits a broad peak October through May. U.S. catch is mainly restricted to Florida and is greatest in southwestern Florida.

Royal red shrimp are deepwater shrimp occurring as far north as Cape Hatteras, North Carolina, to as far south as the coast of the Guianas, and primarily in depths of 140 to 300 fathoms. Concentrations of royal red are known to exist in three geographical areas: (1) East of St. Augustine, Florida, in the western Atlantic; (2) south-southeast of the Dry Tortugas in the Florida Straits; and (3) southeast of the Mississippi River Delta in the Gulf of Mexico (Roe, 1969).

Seabobs are caught most often in shallow waters at six to seven fathoms or less and almost never in estuaries (Renfro and Cook, 1963). U.S. catch is highest along the Louisiana coast in October through December.

Rock shrimp occur along the Atlantic coast from Virginia to the Florida Keys and up along the Gulf coast to Cabo Catoche, Mexico (Cobb, et al., 1973; Hildebrand, 1954). Major concentrations occur at Cabo Catoche, Mexico, and in the Cape Canaveral, Florida, area (Christmas and Etzold, 1977). Major Gulf catch (1971–1975) comes from the Panhandle area of Florida at depths of 10 to 22 fathoms (Christmas and Etzold, 1977).

3.2 History of Exploitation

3.2.1 Domestic Fishery

3.2.1.1 Description of User Groups

The shrimp fishery of the Gulf can be divided into four general categories of users—harvesters (directly involved in the taking of shrimp), processors, marketers, and consumers.

The actual taking of shrimp is done by recreational fishermen, commercial bait shrimpers, and commercial (food) shrimpers. The commercial shrimp user category includes employees as well as owner's of vessels and may be divided into smaller boat operations, which are restricted to inland bay and shallow offshore activities, and the offshore vessels, which range from the territorial seas out to the limits of the FCZ and into foreign waters.

The economics of the shrimp fishery include vessel owners who do not actually shrimp themselves, the boatyard and gear industry, and the suppliers of ice and fuel (essential inputs for shrimping operations).

Processors include the shrimper as a first level processor, if he heads the shrimp. fish houses may perform one or all processing activities such as heading, peeling, grading, packing in ice, and freezing, cooking, or drying. The non-shrimper processors handle the shrimp between the fish house and the purchaser. The three basic types of processors are: (1) Producers of "green" (fresh) or frozen shrimp; in 1974 they accounted for 86.25 million pounds valued at $152.6 million, or 59 percent of the total value of shrimp produced in the Gulf that year; (2) "breaders," who in 1974 produced 52.66 million pounds of breaded shrimp (including imports) valued at $75.7 million, or 29 percent of the total value of shrimp processed in the Gulf region (Florida and Texas accounted for 91 percent of the breaded shrimp); (3) canners, who generally use small- to medium-sized shrimp; such canning plants are located primarily in South Louisiana and Mississippi, with the greatest concentration found in the New Orleans area. They accounted for $13.1 million worth of canned shrimp represented by 1.9 million standard cases, or seven percent of the total value of all shrimp processed in the Gulf region. In addition, there is a wide array of specialty items such as dried shrimp, gumbo, etc.

Restaurants are also an important processing entity. It is estimated that more shrimp are consumed in restaurants than used in homes. The role of restaurants as processors ranges from minimal, limited to the actual cooling process, to the handling of shrimp in raw and unpeeled form.

Marketing of shrimp involves every stage of the industry; there also are groups which engage solely in marketing, with their processing function limited to possible repackaging. Transportation of shrimp is usually handled by trucks operated by the wholesale marketing entitles.

Consumers are given a choice of several different ways to purchase shrimp, ranging from heads-on to stove-ready status.

3.2.1.2 General Description of Fishery Effort

Prior to the introduction of the otter trawl in 1917, most shrimp were commercially harvested in shallow inshore areas with haul seines. White shrimp were the main shrimp caught and marketed until the early 1950's; quantities of seabobs and brown shrimp were used for dried products. During these years fishing efforts were concentrated in areas where white shrimp were abundant. From 1917 to the late 1940's, most shrimp were caught from vessels rigged with single otter trawls which operated within about six miles of shore. However, vessels occassionally went out about ten miles and, in some instances off Louisana, out fifty miles. By the early 1950's, increased markets for brown and pink shrimp and the discovery of new fishing grounds initiated a period of rapid expansion of the shrimp industry. As a result, some vessels began to move farther offshore because of the increasing difficulty of making profitable catches on traditional fishing grounds. By the early 1960's, U.S. shrimp vessels were fishing off the coasts of Mexico and South America. A major change in gear methodology took place in the late 1950's with the introduction of double-rig trawling. Two small trawls were pulled instead of a single large net, resulting in a substantial increase in catch efficiency and a reduction of handling problems. Double-rig trawls were used by most vessels fishing for pink and brown shrimp. More recently the twin-trawl has become popular in the offshore Gulf shrimp fleet because of its efficiency (Figure 3.2–11). With this arrangement four small trawls are towed instead of two from a single vessel. The inshore shrimp fishery is primarily confined to the internal waters fo each of the Gulf states. There are numerous small boats rigged with single otter trawls which harvest shrimp commercially from the bays and marshes. Some of the boats may fish in the Gulf during favorable weather conditions, especially for white shrimp.

Fishing efforts for royal red shrimp occur intermittently when shrimping along the coast is poor. Royal red shrimp are harvested from vessels using a single trawl. The deep-water habitat of the species necessitates the use of heavier inches and cables than are used to catch shallow-water shrimp species and, in general, the use of larger vessels.

The live-bait shrimp fishery is generally limited to the shallow inshore waters of the Gulf. Bait shrimp catches on the Florida west coast consist primarily of pink shrimp, which are harvested in shallow grass beds from boats equipped with single or double side-frame trawls. The bait shrimp fishery in the remaining Gulf states is usually dependent upon white and brown shrimp, which are harvested with boats rigged with a single otter trawl. Mortality of the live shrimp is minimized by trawling for short durations during the cooler early morning hours and then rapidly sorting the catch. The limited capacity of live-holding facilities aboard the boat and the perishability of live shrimp probably restrict bait shrimping operations to areas near the dealer where the catch is sold. The dealer in turn, however, may transport live shrimp considerable distances, i.e., 200 or more miles.

Recreational shrimping efforts are generally concentrated in shallow inshore waters, though few individuals may occasionally venture into the territorial sea during favorable weather conditions. It is unlikely, however, that any recreational shrimpers operate in the fishery Conservation Zone. The boats used in the recreational shrimp fishery are usually outboard or inboard pleasure craft rigged tow for a single otter trawl ranging from about 16 to 40 feet in width. Although most of the recreational catch is harvested with otter trawls, other gears such as cast nets, wing nets, channel nets, and dip nets may account for a substantial amount of the harvest in localized areas.

3.2.1.3 Catch Trends

Trends in the shrimp fishery discussed here are based on two data sets. The first is the reported commercial catch by species (U.S. Department of Commerce, 1959.1975). The second is the reported commercial landings by state (U.S. Department of Commerce, 1880–1975). These two data sets are not identical. The catch is the amount of shrimp caught in a specific inshore or offshore area. Landings are the total catch, whose origin may not be known, delivered at a port and sold commercially.

3.2.1.3.1 Commercial Catch Trends by Species

Annual Catch Patterns.—Average annual reported commercial catches of shrimp (plus or minus one standard deviation) in the U.S. Gulf are:

Brown shrimp,* 60.4 ± 17.4, million pounds (tails)
White shrimp,* 32.8 ± 8.9, million pounds (tails)
Pink shrimp,* 12.7 ± 2.2, million pounds (tails)
Royal red shrimp,* 0.83 ± .091, million pounds (tails)
Seabob shrimp,* 1.4 ± 1.6, million pounds (tails)
Rock shrimp,** .331 ± .358, million pounds (tails)

Three species—brown, white, and pink shrimp—account for 98 percent of the total average catch.

Annual catches of the dominant species (brown, white and pink shrimp) are highly variable. The annual variation has long been a concern to shrimpers, processors, and consumers. As with other annual crops (such as wheat or corn), success is associated with prevalent environmental conditions. In the case of brown, white, and pink shrimp, the effects of environmental forces are most dramatic during the critical esturaine phase of growth (Section 4.1). The variation in the catch of the three minor species appears to be related more to market conditions and the supply of other shrimp than to variation in shrimp abundance.

There are no apparent or significant linear trends in annual catches of brown, white, or pink shrimp (Fig. 3.2–1 and Table 4.7–1). Although annual catches appear somewhat cyclical, they are caused by environmental conditions. A poor year can be followed by an exceptionally good year for any of these species. Catch for a given year appears to be independent of the preceding year's catch, and no spawner-recruit relationship suggests itself.

Annual catch of minor species has tended to increase with time. This increase in catch is associated with an increase in the effort applied to harvest the major species (Table 4.7–6). Annual catch of royal red shrimp has ranged between 4,600 and 270,000 pounds of tails annually but has generally increased at the rate of 14,000 ± 5,000 pounds of tails per year (1963–1976).

Reported catch of seabob shrimp has generally increased over the 1963–1975 period, though the most dramatic increase occurred over the 1971–1975 period (Fig. 3.2–2). The reported catch of seabob shrimp may be much greater incidentally with other shrimp (Table 4.7–8), an increase in effort on white shrimp (as seabobs are an incidental catch to this fishery). Seabobs are retained when the price expected is high or the supply of other shrimp is limited (P. Juneaux, LDWF, personal communication, 1978).

The reported catch of rock shrimp is relatively recent, with the first report occuring in 1971. Catch for the 1971–1976 period is listed in Table 4.7–6. Rock shrimp are mostly caugth incidentally with other species, especially pink shrimp (Table 4.7–9), however, a small directed fishery does exist.

Area Distribution of the Catch

The reported commecial catch of shrimp is classified by NMFS into 21 areas along the U.S. Gulf coast (fig. 3.2–3).

The average annual commercial catch by area is compared for brown, white, and pink shrimp in Fig. 3.2–4 and for royal red, seabob, and rock shrimp in Fig. 3.2–5.

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*(1959–1975)
**(1971–1976)

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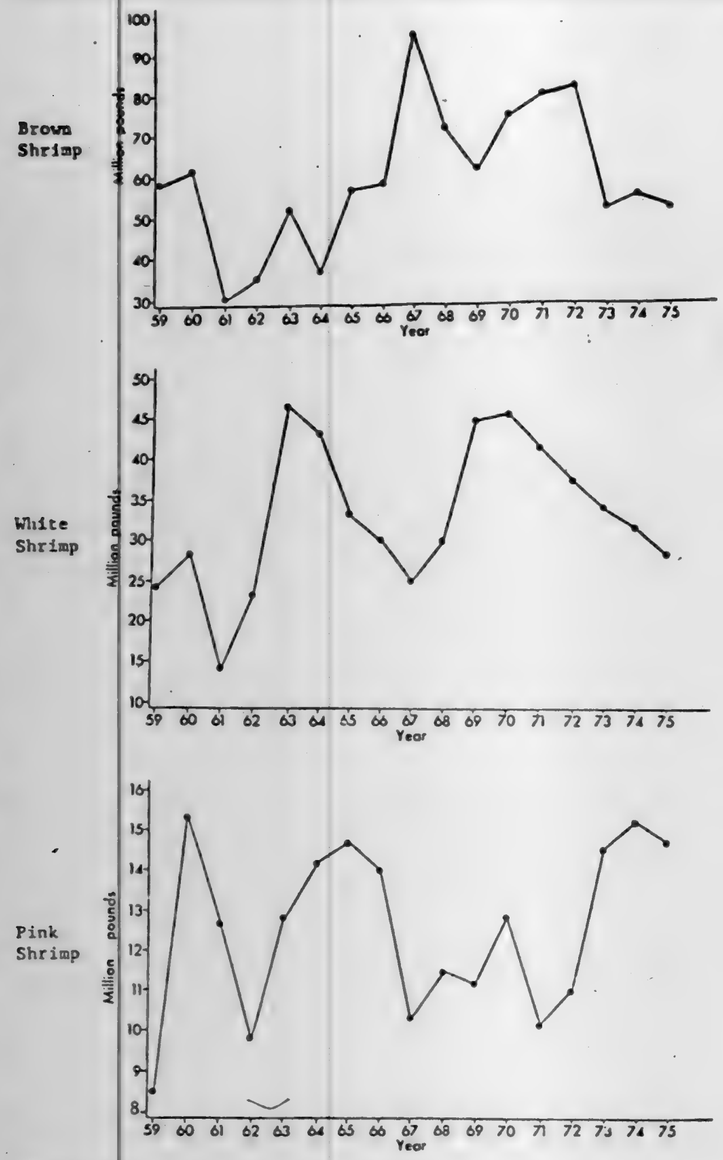


Figure 3.2-1. Trends in annual reported commercial catch of brown, white, and pink shrimp from the US Gulf of Mexico (US Dept. Com., Gulf Coast Shrimp Data, 1963-1975). Weight is in pounds of tails.

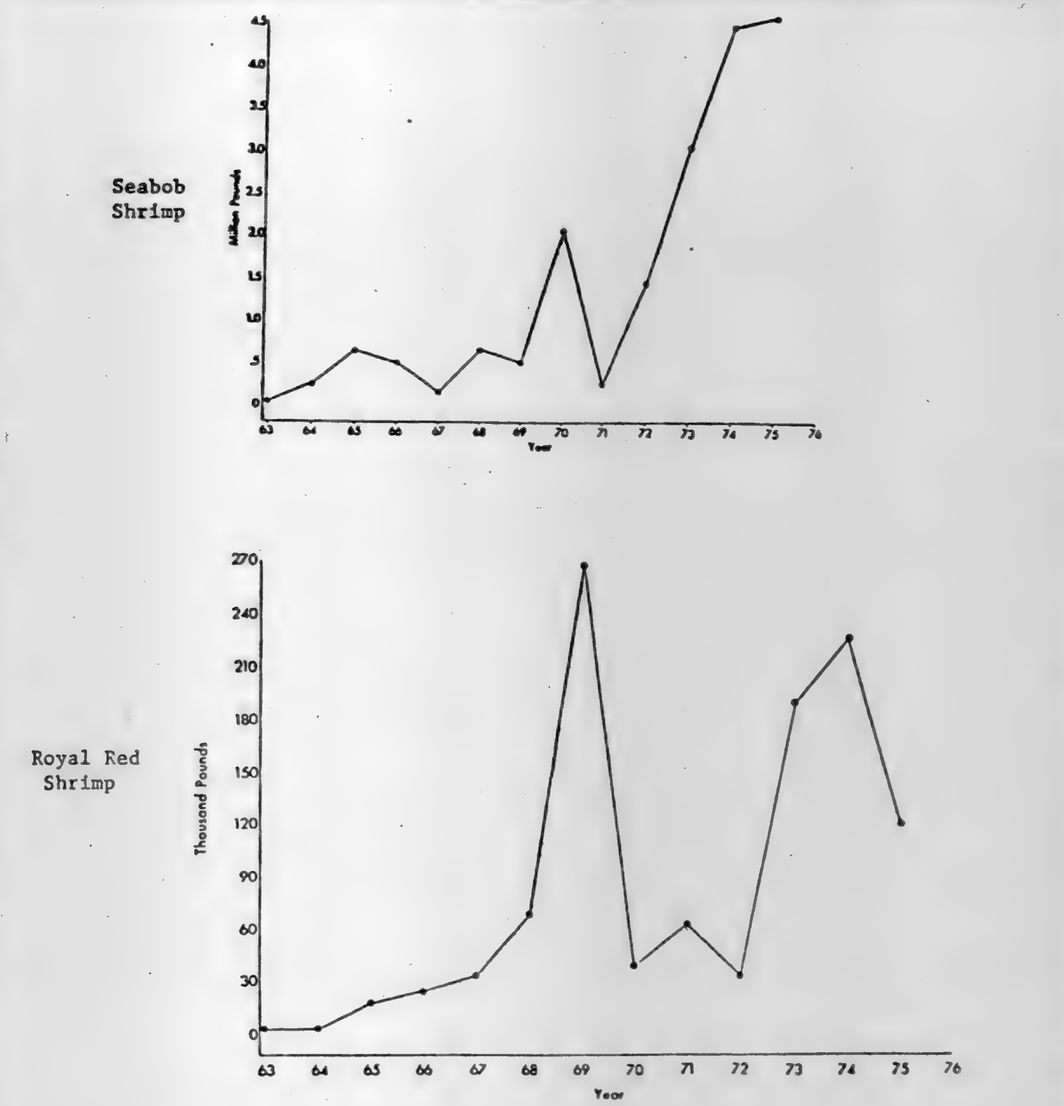
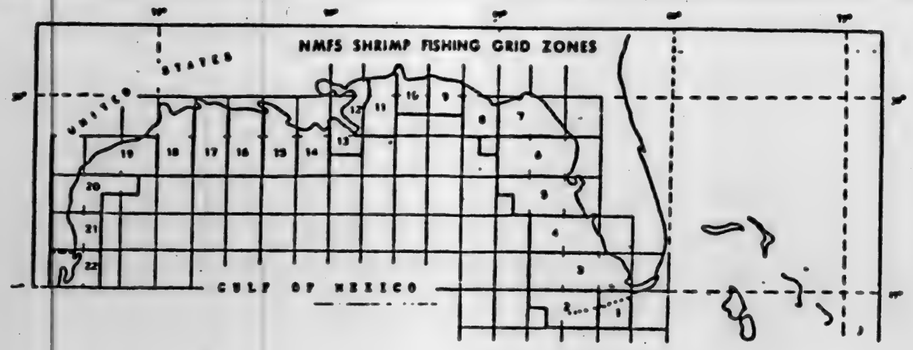


Figure 3.2-2. Trends in annual reported commercial catch of seabob and royal red shrimp from the US Gulf of Mexico (US Dept. Com., Gulf Coast Shrimp Data, 1963-1975). Weight is in pounds of tails.

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Area code index to prominant city, bay, or federal game reserve associated with the area:

1. Key West
2. Dry Tortugas
3. Everglades
4. Naples
5. Tampa
6. Tarpon Springs
7. Apalachee
8. Panama City
9. Fort Walton
10. Mobile
11. Biloxi
12. Chandeleur
13. Barataria
14. Terrebonne
15. Atchafalaya
16. Rockerfeller
17. Calcasieu
18. Galveston
19. Freeport
20. Corpus Christi
21. Brownsville

Figure 3.2-3. National Marine Fishery Service Shrimp Fishery Grid Zones in the US Gulf of Mexico (US Department of Commerce, Gulf Coast Shrimp Data, 1959-1975).

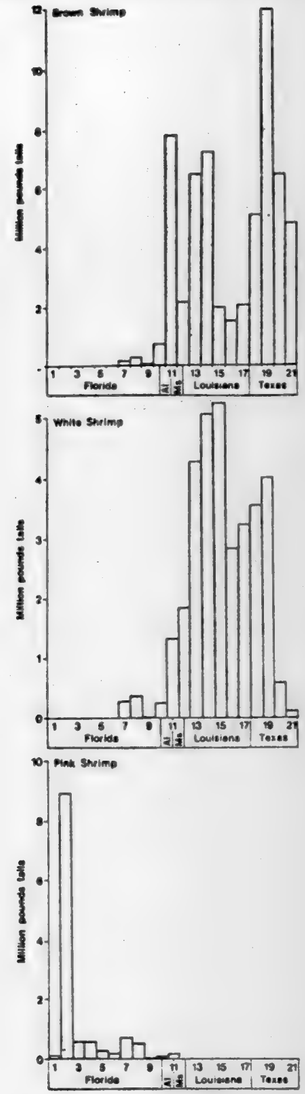
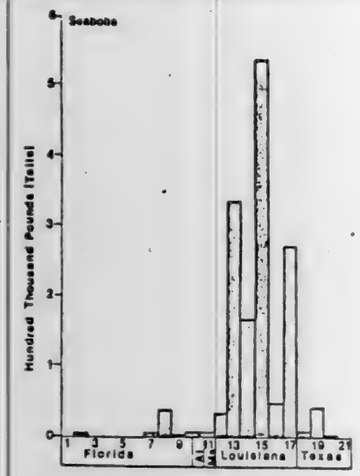
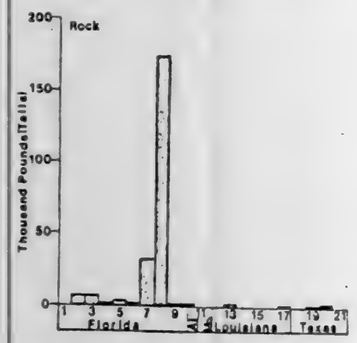


Figure 3.2-4. Average reported commercial catch of brown, white, and pink shrimp along the US Gulf Coast (US Dept. Com., Gulf Coast Shrimp Data, 1959-1975). Catch is represented as averages reported for the 21 NMFS statistical reporting zones along the US Gulf Coast (Fig. 3.2-3).

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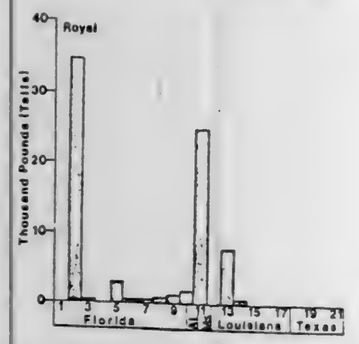


Figure 3.2-5. Average reported commercial catch of seabob (1963-1975), rock (1971-1975), and royal red shrimp (1963-1975) along the US Gulf Coast (US Dept. Com., Gulf Coast Shrimp Data, 1963-1975). Averages are for the 21 NMFS statistical reporting zones (Fig. 3.2-3).

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Brown and white shrimp exhibit a similar broad peak in catch from the Apalachee to Brownsville areas. Pink shrimp catch is substantial in the Key West to Apalachee Bay areas. There is little overlap of dominant pink areas with brown or white shrimp.

Brown shrimp catch normally exceeds two million pounds of tails annually in each of the NMFS grid areas in the Biloxi to Brownsville areas. The Freeport area normally has the largest catch, averaging 12 million pounds of tails annually. White shrimp catch normally exceeds four million pounds of tails annually in the Barataria, Terrebonne, and Atchafalaya areas. Catches from the Rockefeller through Freeport areas are also normally high, averaging above 2.5 million pounds of tails annually. Pink shrimp harvest is concentrated in the Dry Tortugas area with an annual catch of nine million pounds of tails.

There are two main areas for the royal red shrimp catch. One is off the Dry Tortugas area; the other is off the mouth of the Mississippi River and is reported for the Biloxi and Barataria areas. Catch is highest from January through June and in September and occurs at depths of 100 to 300 fathoms. Seabob catch is normally highest in waters associated with the Louisiana coast, peak catch normally occurring in the Atchafalaya area at 0.5 million pounds annually. Rock shrimp catch (1971–1975) is mainly limited to waters associated with Florida. Annual catch is highest in the Panama City and Apalachee areas.

Month, Depth, and Size Patterns in Catch of Brown, White, and Pink Shrimp

Brown and white shrimp exhibit distinct annual cycles in their abundance and size at different depths in the shrimping grounds of the U.S. Gulf. Although pink shrimp have an expected size-depth relationship (Section 4.1), their seasonal and size patterns in reported commercial catch are not as dramatic as those of brown and white shrimp; pink shrimp have a more or less continual recruitment in the Dry Tortugas area and Florida has practiced areal closures to protect undersized pink shrimp. Pink shrimp catch (Fig. 3.2–8) exhibits a peak from October through May at 11 to 15 fathoms. Seasonal patterns in size or depth of catch are not pronounced because of the fairly continual recruitment of pink shrimp in the Dry Tortugas area and closure of the Tortugas shrimp bed by Florida to protect undersized shrimp.

As shown in Fig. 3.2–6, the fishery on 0-year class brown shrimp normally starts in inland waters in May on shrimp of a count greater than 67 tails to the pound. The inshore catch peaks in June at an average catch of 6.6 million pounds of tails. Although it consists mainly of smaller size shrimp, this inshore catch is popular among recreational and small boat commercial shrimpers whose gear does not normnally allow them to fish the open waters of the Gulf.

The offshore fishery for brown shrimp peaks in July and August at depths of 11 to 20 fathoms. The dominant size class in the reported commercial catch is 31 to 40 tails to the pound. The actual average size shrimp caught may be much smaller since a considerable number of undersized shrimp are discarded off the Texas coast (Baxter, 1973; Sections 4.7 and 8.3) and the primary brown shrimp catch during this time also occurs off the Texas coast.

The September brown shrimp catch is dominated by 26 to 30 tails-to-the-pound shrimp at 16 to 20 fathoms. The catch becomes further restricted to deeper waters and larger shrimp in October to December. The January to April pattern is relatively constant, with greatest catch in open Gulf waters of 21 to 40 fathoms and of shrimp of a count less than 21 tails to the pound.

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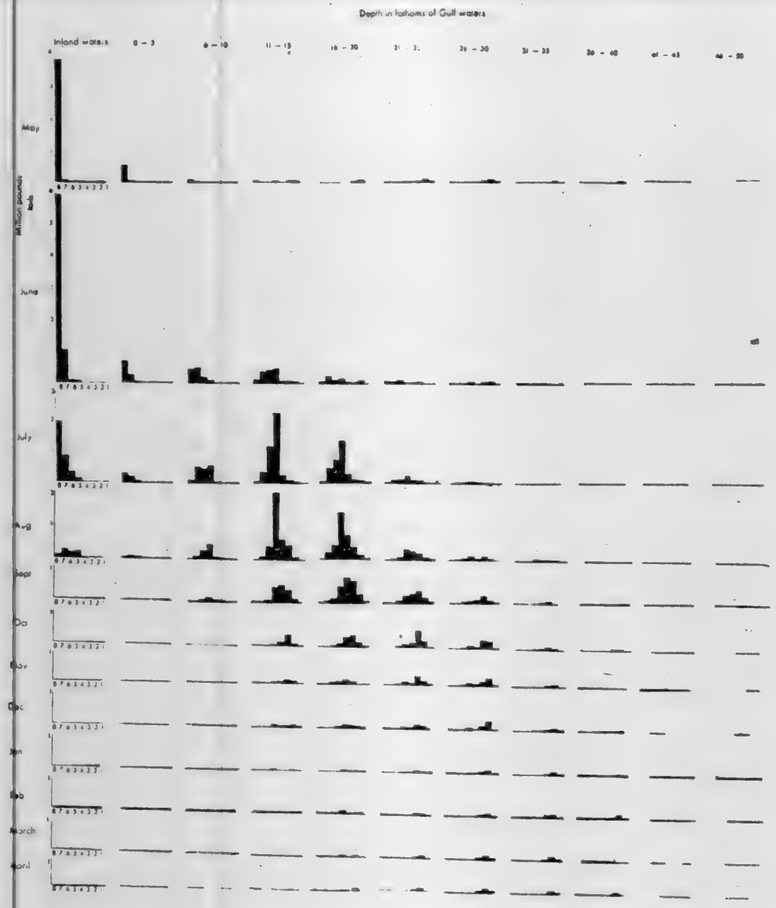


Figure 3.2-6. Brown shrimp average catch in the US Gulf by size, class, depth, month (US Dept. Com., Gulf Coast Shrimp Data, 1959-1975). Code to size of shrimp: 1 = under 15 tails per pound; 2 = 15-20 tails per pound; 3 = 21-25 tails per pound; 4 = 26-30 tails per pound; 5 = 31-40 tails per pound; 6 = 41-50 tails per pound; 7 = 51-67 tails per pound; 8 = 68 and over tails per pound.

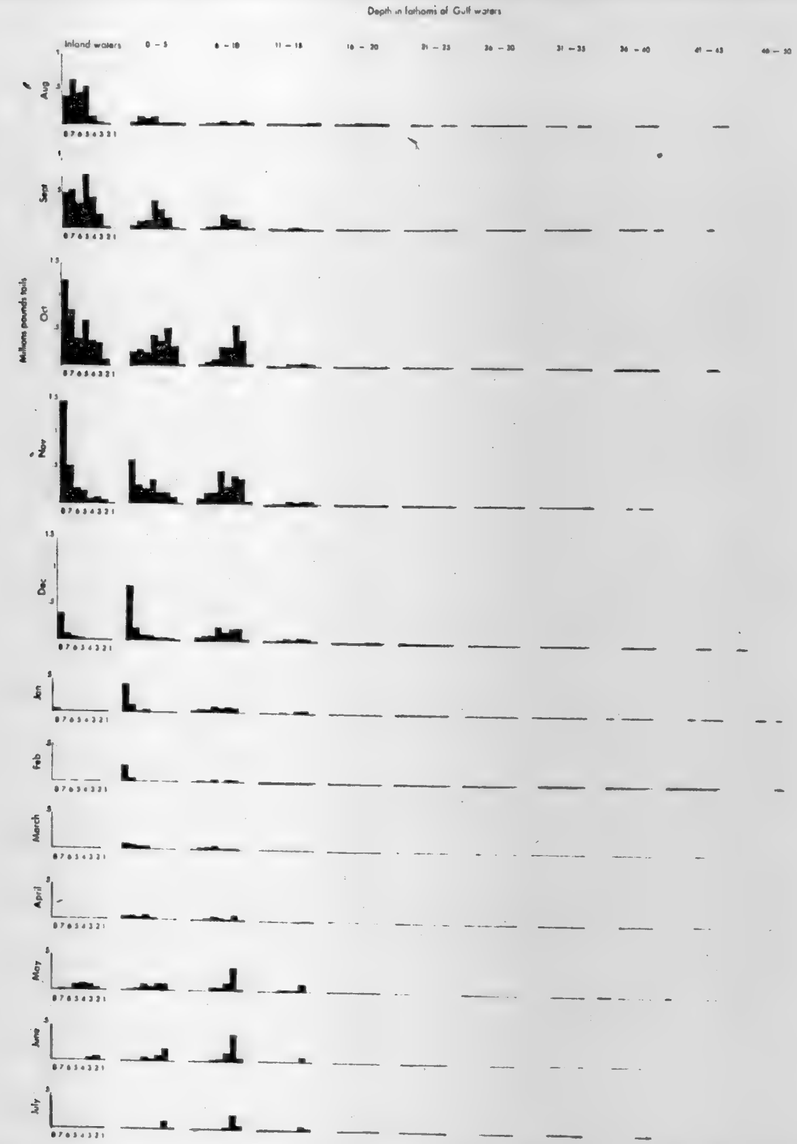


Figure 3.2-7. White shrimp average catch in the US Gulf by size, class, depth, month (US Dept. Com., Gulf Coast Shrimp Data, 1959-1975). Code to size of shrimp: 1 = under 15 tails per pound; 2 = 15-20 tails per pound; 3 = 21-25 tails per pound; 4 = 26-30 tails per pound; 5 = 31-40 tails per pound; 6 = 41-50 tails per pound; 7 = 51-67 tails per pound; 8 = 68 and over tails per pound.

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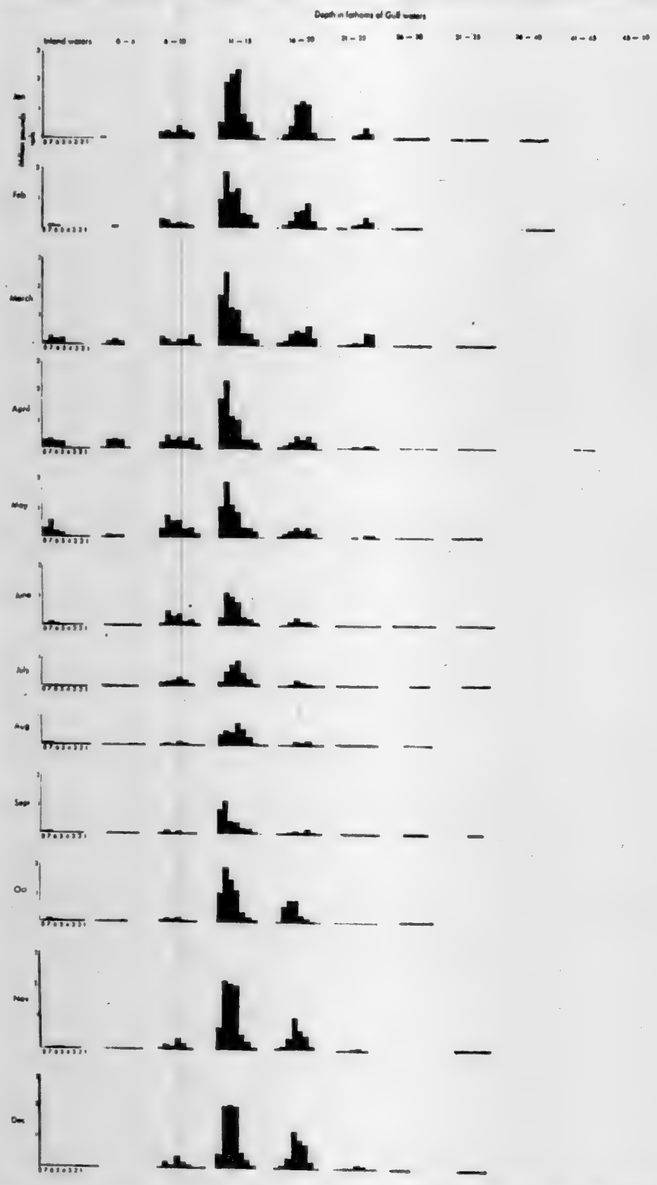


Figure 3.2-8. Pink shrimp average catch in the US Gulf by size, class, depth, month (US Dept. Com., Gulf Coast Shrimp Data, 1959-1975). Code to size of shrimp: 1 = under 15 tails per pound; 2 = 15-20 tails per pound; 3 = 21-25 tails per pound; 4 = 26-30 tails per pound; 5 = 31-40 tails per pound; 6 = 41-50 tails per pound; 7 = 51-67 tails per pound; 8 = 68 and over tails per pound.

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The size-depth-month patterns in white shrimp catch are not as simple as those of brown shrimp, but they do reflect the annual nature of the white shrimp's life cycle. The fishery on the 0-year class white shrimp, spawned in the spring and summer, essentially begins in August and September (Fig. 3. 2–7). The white shrimp catch in internal waters contains much larger size shrimp than does the brown shrimp catch. This size difference refleots the rapid growth rate of white shrimp and their tendency to leave the estuaries at a larger size than brown shrimp. Catch remains comparatively high from August to November, though it it essentially limited to water shoreward of 11 fathoms. The comparative increase in shrimp catch in the 68 tails and over count group in October through December reflects a decline in the growth rate of white shrimp as well as a migration of shrimp to deeper waters. Both of these phenomena are associated with cold fronts advancing during these months and the accompanying decline in temperature.

Catch declines from December through February. The decline reflects, in part, adverse weather conditions for shrimping but also the dwindling supplies and comparatively small size of white shrimp during this period.

In March through June with the spring warming of the estuaries and shallow Gulf, the overwintered white shrimp are believed to exhibit an increase in their growth rates. This increase is reflected in the commercial catch: peak size classes of white shrimp shift from those greater than 67 tails to the pound to 31 to 40 tails to the pound in March to shrimp 15 to 20 tails to the pound in June and July. The May and June inshore catch of white shrimp reflects the reentry of overwintering white shrimp into the estuaries for a period of pre-spawning growth.

Catch by Size, State, and Species for Brown, White, and Pink Shrimp

Different harvesting strategies have developed among the several Gulf States. These differences largely relate to the evolution of the dominant fisheries at different times (Section 3.2.1.2). The Louisiana-Mississippi fishery developed comparatively early on inshore and nearshore Gulf concentrations of white, brown, and seabob shrimp. The brown shrimp fishery in Texas and the pink shrimp fishery in Florida developed in the 1950's on offshore concentrations of shrimp in comparatively deep water. In large part local management still reflects the needs of the historical fisheries in these areas for shrimp of certain sizes or of their gear restrictions limiting the depth of harvest.

Tables 3.2–1 and 3.2–2 compare estimates of the average commercial (1963–1976) catch of brown, white, and pink shrimp in the various reported size categories in terms of pounds and estimated number (see Table 3.2–2 for method in which number of shrimp were estimated).

Catch from the states of Mississippi and Alabama were combined due to similarities in the minimum size of harvest and overlapping areas in the reported catch statistics.

The brown shrimp catch off the Texas coast accounts for 46 percent of the total poundage and 25 percent of the number of brown shrimp caught commercially in the U.S. Gulf of Mexico. Conversely, the catch associated with Louisiana accounts for 40 percent of the poundage and 64 percent of the number of commercially caught brown shrimp. The apparent discrepancy lies in the fact that Louisiana is estimated to harvest a tremendous number of shrimp in the smallest commercial size category, some 54 percent of average total catch of brown shrimp in the Gulf. Much of these shrimp are utilized in the Louisiana canning industry. Conversely, the reported catch of brown shrimp off Texas peaks at a larger size, 31–40 tails to the pound shrimp. There are no shrimp canneries in Texas and much of this product is utilized by the fresh-frozen industry. The Mississippi-Alabama and Florida catches of brown shrimp exhibit a peak catch at 51–67 tails to the pound size category.

Louisiana has by far the largest catch of white shrimp, accounting for some 82 percent by number and 77 percent by weight of the average reported catch. As with brown shrimp, the peak in catch occurs in the smallest commercial size group, though there is a comparatively better mix of larger size shrimp than with brown shrimp. The Texas white shrimp catch peaks at a size similar to the brown shrimp catch, or 31–40 tails to the pound. Though the Florida white shrimp catch peaks at the same size class as its brown shrimp catch, the Mississippi-Alabama catch of white shrimp peaks at a larger size, 15–20 tails to the pound in terms of weight, and 31–40 tails to the pound in terms of numbers.

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Table 3.2-1. Average weight of brown, white, and pink shrimp by size and state[1] in thousand pounds of tails (US Dept. of Comm., 1963-1975).

Shrimp	State	Size (Tails per Pound) 68 & over	51-67	41-50	31-40	26-30	21-25	15-20	Under 15	Total
Brown	FLA	37	84	50	64	18	4	2	---	259
	ALA-MISS	1724	2223	1288	1513	784	674	467	73	8746
	LA	13598	2612	1625	2636	1756	1550	1974	520	25771
	TX	1373	2787	3198	8726	4426	5234	3506	483	29383
	GULF	16682	7206	6361	12939	6484	7462	5949	1076	64159
White	FLA	189	154	81	104	64	34	22	1	649
	ALA-MISS	76	133	164	260	270	345	379	31	1606
	LA	7220	3646	2187	3780	2212	2640	2593	516	24794
	TX	519	587	490	1212	773	793	679	135	5188
	GULF	8002	4520	2922	5356	3269	3812	3673	683	32237
Pink	FLA	1135	3199	2164	2786	1411	1245	547	27	12514
	ALA-MISS	16	79	61	46	23	16	5	1	247
	LA	1	3	3	3	1	1	---	---	12
	TX	---	---	---	3	1	1	1	---	6
	GULF	1152	3281	2228	2838	1436	1263	553	28	12779
Species Combined	GULF	25836	15007	11511	21133	11189	12537	10175	1787	109175

[1]Florida = statistical area 1-9. ALA-MISS = statistical area 10-11. Louisiana = statistical area 12-17. Texas = statistical area 18-21. See Fig. 3.2-3 for location of statistical areas.

Table 3.2-2. Estimated average number[1] of brown, white, and pink shrimp by size and state[2] in thousands of shrimp (US Dept. of Comm., 1963-1975).

Shrimp	State	Size (Tails per Pound) 68 & over	51-67	41-50	31-40	26-30	21-25	15-20	Under 15	Total
Brown	FLA	2536	4956	2253	2270	513	99	31	---	12656
	ALA-MISS	151742	131134	58618	53699	21942	13513	8174	912	441734
	LA	2189355	156116	73920	93597	35159	35640	34554	6496	2622837
	TX	89949	134949	154594	309764	123920	120393	61364	6043	1000976
	GULF	2433582	425153	289385	459330	181536	171645	104123	13451	4078203
White	FLA	12848	9089	3669	3709	1782	789	386	8	32278
	ALA-MISS	6341	7834	7461	9236	6148	7938	6636	389	51984
	LA	620918	215132	99528	134204	61933	60721	45371	6446	1244253
	TX	35298	34634	22283	43020	21638	18240	11886	1690	188689
	GULF	675405	266689	132941	190169	91501	87689	64277	8533	1517204
Pink	FLA	77200	188731	98487	98920	39497	28645	9570	343	541393
	ALA-MISS	1392	4658	2765	1628	840	371	90	11	11555
	LA	241	197	122	122	31	14	7	---	734
	TX	1	18	23	115	29	19	18	1	224
	GULF	78834	193604	101397	100785	40197	29049	9685	353	553906
Species Combined	GULF	3187821	885446	523723	750284	313232	288383	178085	22339	6149313

[1]The number of shrimp caught in each size category was estimated in the following manner:

If size equals	Then number equals pounds times
Under 15	12.5
15-20	17.5
21-25	23
26-30	28
31-40	35.5
41-50	45.5
51-67	59
68 and over in Fla or Tx	68
68 and over brown or pink shrimp Miss-Ala	88
68 and over brown or pink shrimp in La	161
68 and over white shrimp in La or Miss-Ala	86

[2]Florida = statistical area 1-9. ALA-MISS = statistical area 10-11. Louisiana = statistical area 12-17. Texas = statistical area 18-21. See Fig. 3.2-3 for location of statistical area.

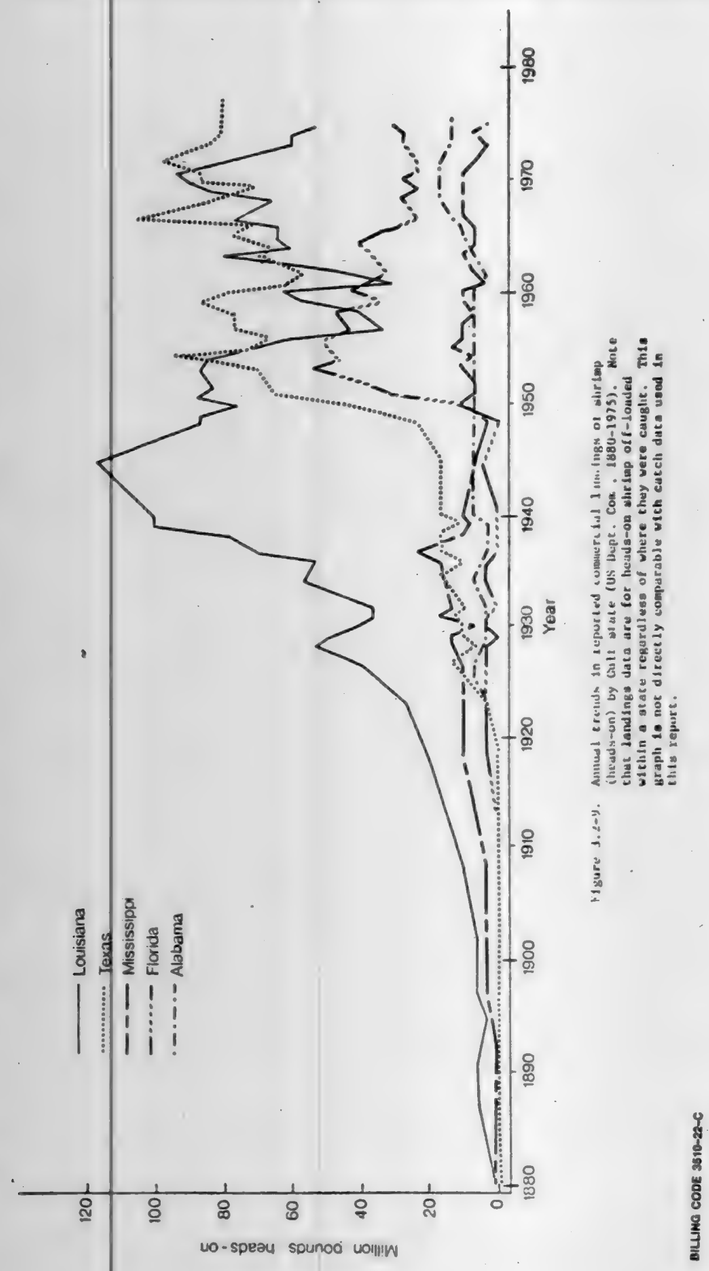


Figure 3.2-9. Annual trends in reported commercial landings of shrimp (heads-on) by Gulf state (US Dept. Com., 1880–1975). Note that landings data are for heads-on shrimp off-loaded within a state regardless of where they were caught. This graph is not directly comparable with catch data used in this report.

Florida accounts for 98 percent of the pounds and numbers of pink shrimp caught in the reported commercial fishery of the U.S. Gulf of Mexico. Pounds and numbers both peak at a size of 51–67 tails to the pound.

Calliouet, et al. (in press) has noted a shift in harvest over the 1963 to 1976 period to smaller shrimp in both the Louisiana and Texas reported catch. Basic data on growth and mortality (Section 4.1) indicate a decrease in total yield in weight is expected with this shift in catch to smaller shrimp.

3.2.1.3.2 Landing Trends by State

Catch trends by species are not available before 1957. In order to provide some historical overview, Fig. 3.2–9 shows reported landings by state from 1880 to 1975. These landings data are not comparable to the catch data used in this report because they are pounds of heads-on shrimp (instead of tails) and are for shrimp landed in a state regardless of where they were caught—including foreign countries. Further, there is considerable debate as to whether the data were collected consistently over the long time span. Regardless of these questions, however, the data reflect important historical trends.

Before about 1920, Louisiana and Mississippi were the dominant shrimp producing states in the Gulf. Between 1920 and 1948 the fisheries off Texas and Alabama began to rival that of Mississippi. At the same time, Louisiana's landings far exceeded any of the other states. During these early years the fishery was mainly an inshore and shallow water fishery predominantly of white shrimp, with minor catches of seabob and brown shrimp used mainly as dried shrimp. After World War II, the fishery began to expand. Sudden increases of landings in Texas and Florida were due to the discovery of concentrations of offshore populations of brown and pink shrimp, respectively, and the successful development of markets for these species. The gradual decline in landings from Florida (west coast) after 1954 may reflect a change in landings patterns of shrimp caught in Central and South America. The dramatic decline in landings in Lousiana from 1945 to about 1961 may reflect a salinity-induced shift in estuarine production of the state from predominantly white shrimp to a mixture of brown and white shrimp. However, data are insufficient to support this hypothesis. The patterns from 1960 to 1975 reflect the mature nature of the fishery.

3.2.1.4 Description of Vessels and Gears Employed

Early Gulf coast shrimp trawlers were generally shallow-draft open skiffs ranging in length from 15 to 25 feet and powered by inboard gasoline engines. These early designs were gradually replaced in the 1920's by trawlers constructed with decks and pilot houses (Christmas and Etzold, 1977). The introduction of the diesel engine in the 1930's was considered a major advancement over gasoline engines in terms of safety, reliability, and reduced maintenance. The limited holding facilities and range of these early trawlers confined shrimping operations to areas relatively near the major shrimping ports. As a result, many coastal areas of the Gulf were inaccessible to the small trawlers (Johnson and Lindner, 1934, cited in Christmas and Etzold, 1977).

Until the late 1940's commercial shrimp landings in the Gulf of Mexico consisted primarily of white shrimp (Idyll, 1963). By the early 1950's, however, increasing quantities of brown and pink shrimp were being caught and sold in response to a growing public acceptance of these unfamiliarly pigmented species (Idyll, 1963). The strong demand for shrimp and the opening of new fishing grounds off Florida, Alabama, Texas, and Mexico initiated a period of rapid growth in the size of the shrimp fleet. The expansion of offshore fishing grounds dictated the need for larger vessels with greater horsepower capable of remaining at sea for extended periods. Innovations in design and construction, such as steel hulls and onboard freezer units, were incorporated into the newer offshore trawlers of the late 1940's (Christmas and Etzold, 1977).

Captiva (1966) stated that the modern trends in the design and construction of shrimp trawlers were: (1) the increasing use of all-welded steel construction instead of wood; (2) more powerful engines; (3) onboard installation of sorting, packaging, and freezing equipment; (4) more comfortable crew accommodations; (5) development of multipurpose vessels which may be rapidly rerigged with a variety of fishing gears; (6) modern hydraulic equipment; (7) increased use of modern electronic equipment; and (8) increased use of newer hull materials such as aluminum and fiberglass-reinforced plastics.

The shrimp boat design most commonly seen in the offshore waters of the Gulf of Mexico is believed to be a derivation of Greek designs used in the sponge fishery on the Florida west coast (Idyll, 1963). The "Florida-type" vessels are characterized by the forward placement of the wheelhouse and engine room. Current construction trends are toward larger offshore Florida-type vessels ranging from 75 to 80 feet or more in length (Christmas and Etzold, 1977).

The "Biloxi-type" vessel design, with the wheelhouse and engine room aft, is used primarily for shrimping in the inshore waters of the Gulf region (Idyll, 1963). These vessels range from 30 to 45 feet in length and are less common than the Florida-type designs (Idyll, 1963).

The boats used in inshore shrimp fisheries are made of wood or fiberglass and range in length from 16 to 50 feet. Most of the boats use gasoline-powered inboard or outboard motors for propulsion, and some may be equipped with powered winches to retrieve nets. The smaller boats are rigged in a variety of ways and are primarily confined to sheltered inshore waters. The larger boats may occasionally fish offshore if weather conditions are suitable. The "mosquito" fleet of Louisiana is made up of numerous small boats, generally operated by one person, that shrimp commercially in the inshore bays and marshes. These boats are typically shallow-draft, open skiffs.

Deep-water trawling for royal red shrimp in the Mississippi and Tortugas grounds has been steadily increasing in the past few years. Royal reds are fished by wood, steel, and aluminum vessels ranging in length from 56 to 86 feet. Most of the vessels are double-rigged and are capable of shrimping both the shallow and deep water of the Gulf. Smaller vessels and boats usually do not have the winch capacity or sufficient stability in rough seas to fish for royal reds (Klima and Ford, 1970).

Although the otter trawl is the most common of the gears used in the Gulf shrimp fisheries, other kinds of gear are also used. The star trawl was developed for shallow-water shrimping in the Gulf of Mexico (Marinovich and Whiteleather, 1968, cited in Klima and Ford, 1970). Sideframe trawls, used almost exclusively to harvest bait shrimp on the Florida west coast from Cedar Key to Naples (Woodburn, et al., 1957; Saloman, 1965), are virtually unknown in the other Gulf states. Researchers are conducting experiments with the electric trawl, beam trawl, separator trawl, and excluder panels. Other gear types used by both commercial and recreational shrimp fishermen include haul seines, cast nets, channel nets, wing nets, and push nets.

The haul seine was the primary gear used to harest shrimp until the introduction of the otter trawl in Beaufort, North Carolina, between 1912

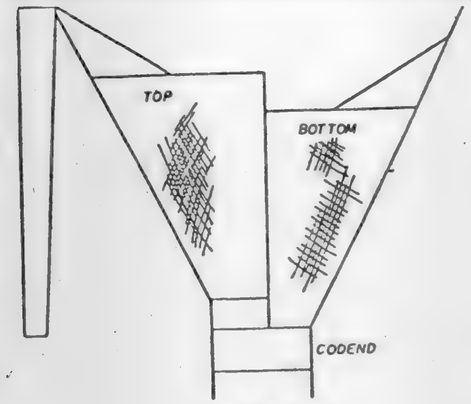
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and 1917 (Christmas and Etzold, 1977). Tulian (1920) reports that the otter trawl was introduced into the Louisiana shrimp fisheries in 1917. The use of the otter trawl spread rapidly among shrimp fishermen in Louisiana because of the increase in catch per man-hour possible over haul seines.

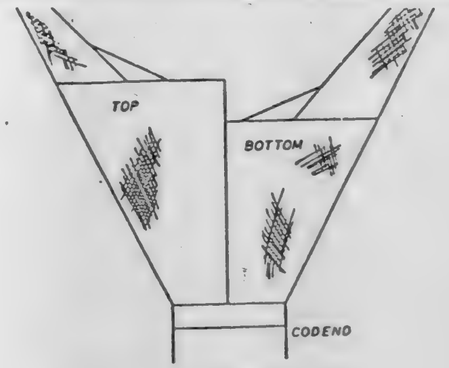
An otter trawl consists of a a heavy mesh bag with wings on each side designed to funnel the shrimp into the codend or tail. A pair of otter boards or trawl doors positioned at the end of each wing hold the mouth of the net open by exerting a downward and outward force at towing speed.

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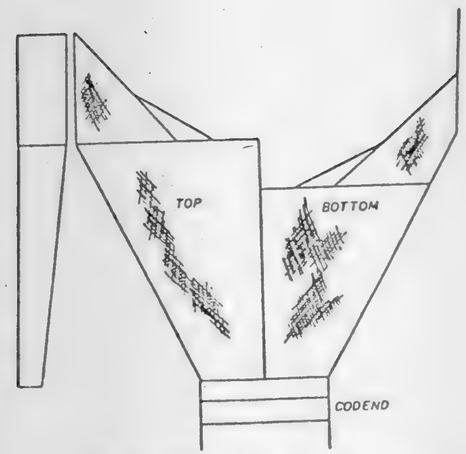
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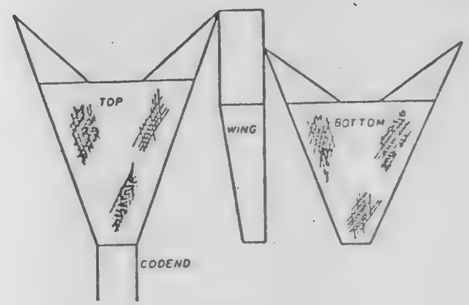
Gulf flat net



Two-seam semi-balloon trawl



Gulf four-seam semi-balloon trawl



Star net

Figure 3.2-10. Diagrams of the four basic designs of otter trawls used by the Gulf of Mexico shrimp fleet (after Christmas and Etzold 1977).

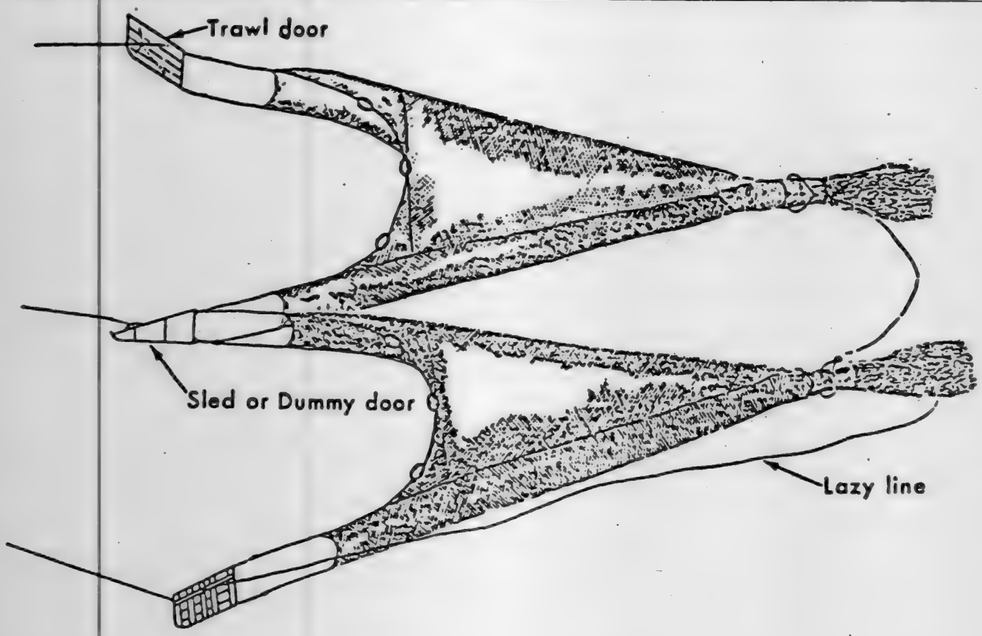


Figure 3.2-11. Diagram of the twin-trawl rig (after Harrington et al. 1972).

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The two basic otter trawl designs used by the Gulf shrimp fleet are the flat and the semi-balloon trawls (Klima and Ford 1970). The mouth of the flat trawl is rectangular in shape, whereas the mouth of the semi-balloon design forms a pronounced arch when in operation. The basic design of each trawl type is shown in Figure 3.2–10. The semi-balloon designs tend to maintain an efficient shape under repeated towing strains; flat nets require periodic rerigging and rehanging to maintain maximum efficiency (Christmas and Etzold, 1977). The two-seam semi-balloon trawl (Figure 3.2–10) was introduced in the Gulf of Mexico in 1947 (Marinovich and Whiteleather, 1968, cited in Christmas and Etzold, 1977). The two-seam design was followed by the development of the four-seam semi-balloon trawl, which has "a shorter jib with wings on either side between the top and bottom bellies," whereas the "top and bottom bellies were joined directly together" in the two-seam design (Christmas and Etzold, 1977). The four-seam trawl maintains an efficient shape under towing strains and therefore creates less resistance in the water than the two-seam trawl.

About 90 percent of the fishermen in the royal red fishery use 55- to 75-foot flat otter trawls, and the remainder use semi-balloon trawls ranging in width from 45 to 60 feet (Klima and Ford, 1970).

Try nets are small otter trawls about 12 to 15 feet in width which are used to test areas for shrimp concentrations. These nets are towed during regular trawling operations and lifted periodically to allow the fishermen to assess the amount of shrimp and other fish and shellfish being caught. These amounts in turn determine the length of time the large trawls will remain set.

Until the late 1950's, most shrimp vessels pulled single otter trawls ranging from 80 to 100 feet in width (Idyll, 1963). Double-rig trawling was introduced into the shrimp fleet during the late 1950's. The single large trawl was replaced by two smaller trawls, each 40 to 50 feet in width, which were towed simultaneously from stoutly constructed outriggers located on the port and starboard sides of the vessels. The port trawl was towed about 150 feet in back of the starboard trawl to prevent fouling. The advantages of double-rig trawling are (1) increased catch per unit of effort, (2) fewer handling problems with the small nets, (3) lower initial gear costs, (4) a reduction in costs associated with damage or loss of the nets, and (5) greater crew safety (Idyll, 1963).

The haul seine consists of a large rectangular panel of webbing ranging up to 1,000 feet in length and 20 feet in depth. It was mainly used before 1917. At that time mesh size ranged from 0.5- to 1.5-inch bar and a large crew was required to set and fish the net. Typically, a corkline buoyed the top of the net and a leadline was attached to the bottom edge. Haul seines were frequently constructed with bags or pockets where the captured shrimp were forced to congregate. Although the haul seine is no longer used to harvest commercial quantities of shrimp, it is still licensed in some states.

Cast nets are used mostly by sportsmen along tidal creeks, bayous, and weirs where shrimp congregate seasonally. Cast nets are circular, usually ranging from 6 to 12 feet in diameter, with a leadline sewn around the periphery of the net. A cord line passes through a metal or plastic thimble in the center of the net and radiates out to several smaller cords which are attached at even intervals to the leadline. Cast nets are usually constructed of nylon webbing with a 0.25- to 0.75- inch mesh. The nets are thrown in a circular pattern and allowed to sink to the bottom. The cord line is pulled in, causing the leadline to be drawn to the center of the net where the shrimp are trapped.

Channel nets are stationary nets which resemble otter trawls and catch emigrating shrimp in narrow cuts and bayous in areas with large tidal amplitude. The mouth of the net is held open with anchors or poles instead of trawl doors. The contents of the net are periodically dumped into a small skiff or a box located onshore.

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Table 3.2-3. Estimates of Foreign Catch (in tails) of Shrimp (1971-1976) in Waters Now Considered as Within the US Fishery Conservation Zone of the Gulf of Mexico (Data from Charles Fuss, NMFS, personal communication 1978).

Bordering state	Year	Foreign country involved: Estimated catch			Total estimated foreign catch
		Cuba	Mexico	Panama	
		Pounds			
Florida	1971	57,440	0	0	57,440
	1972	10,240	0	0	10,240
	1973	20,480	0	0	20,480
	1974	75,000	0		75,000
	1975	135,000	105,000	0	240,000
	1976	0	0	0	0
6-year average		49,693	17,500		67,193
Texas	1971	0	2,783,300	0	2,783,300
	1972	0	83,820	0	83,820
	1973	1,710,000	0	0	1,710,000
	1974	1,110,000	90,000	0	1,200,000
	1975	1,665,000	225,000	0	1,890,000
	1976	722,750	0	126,000	848,750
6-year average		867,958	530,353	21,000	1,419,311

Table 3.2-4. Estimates of Monthly Foreign Effort and Catch Directed Toward Shrimp (1971-1976) in Waters Now Considered as Within the US Fishery Conservation Zone of the Gulf of Mexico (Data from Charles Fuss, NMFS, personal communication 1978). Weight is tail weight.

Bordering states	Year	Principal fishing months	Estimated # vessels	Estimated fishing days per vessel	Estimated number of vessel days	Estimated catch per vessel day	Estimated total catch (pounds)
		Mexico					
Florida	1971	—	—	—	—	—	—
	1972	—	—	—	—	—	—
	1973	—	—	—	—	—	—
	1974	—	—	—	—	—	—
	1975	July	7	30	210	500	105,000
	1976	—	—	—	—	—	—
Texas	1971	June	128	16	2,048	195	
		July	345	16	5,520	418	
		August	11	16	176	435	2,783,300
	1972	June	7	16	112	435	
		July	5	16	80	[439]	83,820
	1973	—	—	—	—	—	—
	1974	July	3	30	90	500	
		October	3	30	90	500	90,000
	1975	July	8	30	240	500	
		August	7	30	210	500	225,000
	1976	—	—	—	—	—	—
		Cuba					
Florida	1971	January	10	16	160	215	
		February	6	16	96	240	57,440
	1972	February	2	16	32	320	10,240
	1973	February	4	16	64	320	20,480
	1974	January	1	30	30	500	
		November	4	30	120	500	75,000
	1975	February	3	30	90	500	
		August	6	30	180	500	135,000
	1976	—	—	—	—	—	—
Texas	1971	September	7	2	14	—	—
	1972	—	—	—	—	—	—
	1973	April	3	30	90	500	
		May	5	30	150	500	
		June	15	30	450	500	
		July	59	30	1,770	500	
		August	32	30	960	500	1,710,000
	1974	April	3	30	90	500	
		May	10	30	300	500	
		June	16	30	480	500	
		July	35	30	1,050	500	
		August	10	30	300	500	1,110,000
	1975	June	25	30	750	500	
		July	46	30	1,380	500	
		August	40	30	1,200	500	1,665,000
	1976	June	25	25	625	350	
		July	31	25	775	350	
		August	19	25	[475]	350	[656,250]
		Panama					
Florida	1971	—	—	—	—	—	—
	1972	—	—	—	—	—	—
	1973	—	—	—	—	—	—
	1974	—	—	—	—	—	—
	1975	—	—	—	—	—	—
	1976	—	—	—	—	—	—
Texas	1971	—	—	—	—	—	—
	1972	—	—	—	—	—	—
	1973	—	—	—	—	—	—
	1974	—	—	—	—	—	—
	1975	—	—	—	—	—	—
	1976	January	1	30	30	350	
		September	5	60	300	350	
		October	1	30	30	350	126,000

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Butterfly or wing nets are bags constructed of nylon webbing which are hung on a rectangular frame and attached to the side of a boat. Boats equipped for "butterfly" shrimping anchor themselves heading into the current and lower the nets into the water perpendicular to the gunwales. The tidal currents are then allowed to sweep emigrating shrimp into the mouth of the net. The net can be checked without raising the frame by lifting the codend on board with a lazy line and emptying the contents into a sorting box. The net is than put overboard to resume fishing while the catch is sorted.

Push nets, which are occasionally used to catch shrimp is shallow-water areas of Florida and Texas, are small mesh bags hung on rectangular frames. The operation of a push net usually involves an individual wading and pushing the net before him in shallow water.

3.2.2 History of Foreign Exploitation

3.2.2.1—3.2.2.3 General Description of User Groups. Fishing Effort, Vessels and Gear Employed

Foreign shrimp fishing in the U.S. Gulf of Mexico has been virtually nonexistent in 1977–1978 (Charles Fuss, NMFS, personal communication, 1978) as a result of the passage of the FCMA. Prior to 1971, Mexican vessels had been shrimping in U.S. waters for many years; Cubans entered the fishery in 1971, and some Panamanian boats shrimped off Texas in 1976 (Table 3.2–3). Annual harvest for the years 1971–1976 from zero to 2.8 million pounds in tails off Texas and zero to 135,000 pounds in tails off Florida. Mexican harvest off Texas ranged from zero to 2,783,000 pounds in tails. Cuban boat activities off Texas were concentrated in the months of June, July, and August, the peak brown shrimp season (Table 3.2–4). It is estimated that 30 boats worked 29 days per month and harvested 408,000 pounds in tails per month. Mexican boats, present in the same waters duing the same period, in 1971 totaled 345 and took an estimated 2.3 million pounds. The catch fell sharply in ensuing years. Cuban boat activities off Florida occurred mainly during the winter months; from one to ten vessels were involved, and the take was as high as 135,000 pounds in tails annually. Seven Mexican vessels took 105,000 pounds of shrimp tails off Florida in july 1975 (Charles Fuss, NMFS, personal communication, 1978). Foreign vessels are of the same configuration as the U.S. offshore fleet and utilize similar gear.

3.3 History of Management

3.3.1. Management Institutions, Policies, Jurisdiction

Inland water management of the Gulf shrimp fishery is based on the laws and regulations of the five states affected. All the states have restrictions on the size of shrimp which may be taken; all have exclusive state authority for the determination of shrimping seasons; all require licensing of or permits for various types of shrimp dealers and vessels; all provide for restricted waters to some degree; all have penalties for violations of law and regulations; Florida, Alabama, Mississippi, and Louisiana have some administrative authority to negotiate reciprocal shrimp agreements with other states while Texas has none. All Gulf states have agencies concerned with wetlands management; shrimp habitat protection in nursery areas comes within their purview as advisory or rule-making bodies. However, none of the states have yet a federally approved Coastal Zone Management Program which would embrace all the laws and regulations of the governing bodies, both local and state, affecting the state-controlled shrimp fishery and nursery areas. The five states all have reporting requirements, but the type of information asked for and the diligence with which it is sought vary. Louisiana, Mississippi, and Alabama are authorized to collect taxes based on volume from shrimpers and/or processors. None of the states have a limited entry law.

Alabama: The Department of Conservation and Natural Resources is responsible for shrimp fishery management. Its powers include determination of open and closed seasons, regulation of time, place, and method of taking seafood, and authority to require submission of statistical information from shrimpers and processors. Direct supervision of seafoods is handled by the Department's Division of Marine Resources; headed by a director named by the Commissioner of Conservation and Natural Resources. A thirteen-memeber advisory board meets at least twice each year to review regulations proposed by the Commissioner and to establish policy on proposed legislation. The advisory board can revise or repeal regulations proposed by the Commissioner, or it can adopt its own regulations by a two-thirds vote and the consent of the Governor. All seafood in state-owned waters is declared to be state property. Wetlands management in Alabama is under the jurisdiction of the Coastal Area Board (appointed by the Governor). Its area of authority begins at the ten-foot contour line and is concerned with habitat protection. A fourteen-member advisory committee of experts in all fields of coastal usage advises the Coastal Area Board. Alabama has entered into reciprocal shrimp agreements with Louisiana, Mississippi, and Florida.

Texas: Overall control of the Texas shrimp fishery is either vested in the six-member Parks and Wildlife Commission appointed by the Governor or controlled by the legislature. The Commission establishes rules and regulations in some coastal counties and may adjust the closed Gulf season; enforcement is handled by the Texas Parks and Wildlife Department. The Texas Shrimp Conservation Act is applicable all along the Texas coast because the Commission has adopted it as a regulatory policy. State jurisdiction extends seaward three leagues (nine nautical miles) from the coast line. The state distinguishes between inside waters—all bays, passes, rivers, or other bodies of water landward from the Gulf—and outside waters, extending from the shoreline seaward to the extent of Texas jurisdiction. The Texas Coastal Coordination Act requires the Texas Natural Resources Council to study problems and issues in connection with coastal natural resources and to submit a biennial study with recommendations for action on identified problems. The Council is also to recommend research and data acquisition priorities. Texas has no reciprocal shrimp agreement with the other Gulf states; legislative approval of any such agreement would be required. The Commission is empowered to coordinate any Texas shrimp management plans with those drafted for the federal fishery zone.

Louisiana: The Wildlife and Fisheries Commission has exclusive control over the shrimp fishery and the shrimp industry. Rules and regulations are promulgated by the seven-member Commission. Its members are named by the Governor to serve overlapping terms and represent various segments of fish- and wildlife-related industries and sportsmen's groups. Administration is handled by the Department of Wildlife and Fisheries. The Department's Office of Coastal and Marine Resources is responsible for enforcing regulations and monitoring the shrimp fishery. A severance tax, payable by the first purchaser and collected by the Department, is levied on shrimp taken from Louisiana waters. Data reporting is required from shrimp processing plants and wholesale dealers. The Department has a limited degree of authority to enter into reciprocal agreements with other states. Louisiana's jurisdiction extends seaward three nautical miles from the coastline. The state differentiates between inside waters, including the large bays, and outside waters. Shrimping seasons are set for inside waters; there is no closed season for outside waters. Regulations proposed by the Commission are subject both to review by the Joint Senate and House Natural Resources Committee and to the Administrative Procedures Act which requires public notice through publication in the Louisiana State Register prior to ther adoption by the Commission. The State Department of Transportation and Development is in the process of developing a Coastal Zone Management Program covering coastal marshes and estuaries and extending to Louisiana's seaward boundary. The vast Louisiana shrimp nursery grounds are included in the territorial limits to be covered by the program.

Mississippi: A thirteen-member Mississippi Marine Conservation Commission has full power to manage, control, supervise, and direct all matters pertaining to saltwater aquatic life. This Commission was superseded on July 1, 1979, by the newly-created Mississippi Commission on Wildlife Conservation as part of a restructuring of Mississippi government. Executive authority is vested in the Director of Wildlife who is elected by the Commission for a four-year term. The reorganization will bring into being a Bureau of Marine Resources to be supervised by a director experienced in marine conservation; this Bureau is to aid the Commission in "formulating policies, discussing problems and considering other matters." The Commission determines seasons, restricted waters, and size of shrimp to be taken. The Commission is authorized to require such reporting as may be needed to meet the needs of any research project, and persons receiving such questionnaires are required to respond factually. Fines are imposed for failure to respond or for falsifying data. A severance tax is imposed on all shrimp processed, transported in or from the state, or caught within state waters. The state has a broadly-worded statute covering reciprocal agreements. The Mississippi Marine Resource Council is authorized to study "plans, proposals, reports, and recommendations" for development and utilization of coastal and offshore lands, waters, and marine resources.

Florida: The Florida Department of Natural Resources is the state's shrimp fishery regulating agency. It is empowered to adopt rules and regulations governing "method, manner, and equipment" used in taking shrimp and to define areas where shrimp may be caught. Its Division of Marine Resources is charged to "preserve, manage, and protect" fishery resources and to regulate vessels and fishermen "within or without" the boundaries of the state. However, the legislature has adopted numerous local laws (general bills of local application) which regulate shrimping in the particular counties. Special county acts govern shrimping seasons in Apalachicola Bay, St. Vincent Sound, and the area from Cape San Blas to Cape St. George. By legislative act, some nursery areas are permanently closed to all except bait shrimping. Florida has uniform rule-making procedures for all administrative agencies; these procedures require prior notice, an economic impact statement, and an opportunity for "substantially affected" persons to challenge proposed rules on the grounds of invalid exercise of the agency's legal authority. Proposed rules are also to be reviewed by a legislative Administrative Procedures Committee. Florida has no statute specifically taxing the taking or handling of shrimp. The Department of Natural Resources is authorized to enter into reciprocal agreements with other states, giving shrimpers based in such states the same "rights and privileges" that residents of states in which they are fishing have.

3.3.1.1 Regulatory Measures Employed to Regulate the Fishery

The following is summarized from Craig, et al. (1978).

Legal Size of Shirmp; Catch Limits

Texas: Thirty-nine to the pound, heads on, and 65 to the pound for tails, based on a three- to five-pound sample of shrimp per 1,000 pounds. Commercial shrimpers are not limited as to amount of shrimp taken in outside waters; 300 pounds per day limit in spring open season for inside waters; no limit on fall catch in major bays, however, August 15 to October 31, minimum count of 50 whole is required; no count restriction November 1 to December 15. Recreational shrimpers may take 100 pounds per day in outside waters, 15 pounds per day from major bays in spring, and 100 pounds per day in fall open season. Commercial bait shrimpers are limited to 150 pounds per day.

Louisiana: Inside waters size limit is 68 whole shrimp to the pound; limit not applicable in outside waters or to any species taken during spring inside waters open season, nor to brown shrimp taken after November 20. There are no catch limits on commercial shrimpers; unlicensed recreational shrimpers are limited to 100 pounds per boat per day. Bait shrimp are excluded from size requirements.

Mississippi: Size limit is 68 whole shrimp to the pound. Bait shrimpers are not subject to size limitation. No catch limits.

Alabama: Size limit is 68 whole shrimp to the pound. Bait shrimp are excepted. There are no catch limits for commercial including bait shrimpers. Recreational boats are limited to 25 pounds per boat in areas open to commercial shrimpers and 15 pounds per boat in bait shrimping areas.

Florida: Statewide size limit is 47 to the pound, heads on, and 70 tails to the pound; in three panhandle counties local size limit is 55 to the pound, heads on, in open inside bays and sounds. No catch limits.

Licensing of Vessels and Fishermen

Texas: Commercial Gulf shrimp boat, bay shrimp boat, bait shrimp boat, and sport shrimp trawl must be licensed; "John Doe" licenses are also required for the captain and each crewman of commercial vessel and a personal license for each recreational shrimper.

Lousiana: Commercial boat license based on length; no license needed for recreational boats; license required for all gear except noncommercial under 16 feet in length.

Mississippi: Vessel license is based on length; bait shrimp boats and interstate vessels pay additional annual fees. No shrimp gear license required.

Alabama: Vessel license for Alabama residents and non-resident shrimpers required unless there is reciprocal agreement with state of their residence; gear license is based on length of trawl.

Florida: Vessels are registered according to size; permits are required for trawling but no charge is assessed. Alien and nonresident commercial fishermen are required to obtain license.

Season

Texas: Inside waters in major bays are open May 15 to July 15 and August 15 to December 15. Outside waters are normally closed June 1 to July 15, subject to 15-day alteration in opening and closing. White shrimp may be caught during the closed season at zero to four fathoms during the day. Outside waters are also closed December 16 to February 1. During the closed season seabobs may be harvested during the day, but catch can contain no more than ten percent of other species. Zero to seven fathoms at night closed year round.

Louisiana: For inside waters, the spring season opens no later than May

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25 and continues for at least 50 days or until technical data indicate a closure is needed to protect newly recruited white shrimp; however, at least one zone must have a 50-day open season. Fall season opens the third Monday in August and closes December 21. Commission may set special seasons. No closed season in outside waters.

Mississippi: The season opens first Wednesday in June, dependent on shrimp size of sample catch, and usually runs from the second or third week of June until following April 30 unless declared otherwise.

Alabama: Closed from late April to mid-June, depending on samples.

Florida: Season varies according to area.

Restricted Waters

Texas: All passes to and from outside waters are closed to trawling. Shrimping in inside waters is limited to major bays and bait bays as defined by law. Other inside waters are classified as nursery areas and no shrimping is allowed.

Louisiana: State and federal wildlife refuges, Bayou Judge Perez, and sanctuaries in Lake Pontchartrain and Lake Catherine are restricted waters.

Mississippi: Commercial shrimping is forbidden within one-half mile of mainland from Mississippi-Alabama line west to Bayou Caddy, off Gulf Island National Seashore, and in all bayous with the exception of two pipeline ditches in Hancock County.

Alabama: All rivers, streams, bayous, creeks, and portions of bays designated as nursery areas are restricted. No shrimping is allowed within 200 yards of the beach off Dauphin Island and Mobile Point from May 5 to September 15.

Florida: Portions of Santa Rosa Sound, Tortugas shrimp bed in Florida waters, and that portion of the Tortugas shrimp bed in the FCZ are closed to Florida residents. Other areas are subject to local seasonal restrictions. Certain areas designated as state parks or recreational areas are closed to commercial fishing.

3.3.1.2 Consistency Requirements of Coastal Zone Management Act

Consistency provisions of the Coastal Zone Management Act require a Council, in preparation of a fishery management plan, to address and consider the extent of fishing within State waters, on the premise that good management principles "require that the FMP address an individual stock of fish as a unit throughout its range, including its presence within state waters." Councils should "make every effort to coordinate their FMP development activities with the state coastal zone agencies."

3.3.2 Management and Regulation of Foreign Fishery

The present extent of the U.S. fishery conservation zone in the Gulf of Mexico is defined on the basis of two treaties on maritime boundaries, one with Mexico and the other with Cuba. Both treaties are now pending Senate advice and consent to ratification. In the meantime, the maritime boundaries specified in the treaties are being applied provisionally.

Access to the FCZ for foreign shrimp fishermen must be predicated on an available surplus of shrimp in excess of the U.S. harvesting capacity, as well as a Governing International Fishery Agreement (GIFA) with their home country. Likewise, for U.S. shrimp fishermen to gain access to the zones of exclusive fisheries jurisdiction of Mexico or Cuba, there must be a surplus over the harvesting capacity of the domestic fishermen involved. Cuba has a GIFA with the United States effective September 26, 1977, and Mexico a GIFA effective December 28, 1977. However, the FCMA does not permit allocations to the fishermen of either country unless a shrimp surplus is determined.

For the past three years the U.S.-Mexico Fisheries Agreement has authorized U.S. fishermen to fish for shrimp within Mexico's fishery zone, but the Agreement allows for no further access after 1979. The United States has therefore initiated negotiations with Mexico in an effort to obtain some form of continued shrimp access. U.S. fishermen have no access to fish for shrimp in the Cuban fishery zone. The U.S.-Cuba Convention for the Conservation of Shrimp was terminated on April 28, 1978, after being in force twenty years.

3.4 History of Research

Other than the work of Percy Viosca and various annual reports by the Gulf states, little was recorded about Gulf shrimp until the 1930's. During the 1930's, the various Gulf states and the U.S. Bureau of Commercial Fisheries initiated a series of intensive studies on the life history of white shrimp (Lindner and Anderson, 1956). These mark-recapture and associated studies provided the basis for our knowledge of Gulf shrimp as well as providing a model for subsequent studies and an initial group of fishery scientists knowledgeable about Gulf shrimp and their environment.

The history of research since that time is too extensive and diverse to summarize in this section. Indeed, this entire plan attempts to summarize only that portion of the research which is directly relevant to the mandates of FCMA.

No articles were encountered which would indicate studies on U.S. Gulf shrimp had been supported by foreign countries.

3.5 Socioeconomic Characterization

3.5.1 Output of the Subject Domestic Reported Commercial Fishery

Measured by the value of shrimp at dockside, the shrimp fishery is the most valuable of all domestic fisheries, averaging 23 percent of the value of all fish landed in the United States for the period 1964 through 1977. Translated into dollars, the 1977 fish and shellfish landings were worth $1,515,000,000. Shrimp accounted for $355,200,000; salmon, $221,900,000; and tuna, $135,800,000.

The Gulf of Mexico commercial shrimp fishery accounted for 83 percent of the dockside value of the U.S. shrimp landings and in terms of pounds of shrimp, the relative Gulf contribution is 67 percent of the U.S. landings.

3.5.1.1 Ex-vessel Value of the Catch

Table 3.5–1 gives the ex-vessel or dockside value of all shrimp species reported in the Gulf states from 1958 through 1977. These figures are for landings and do not reflect the actual areas where shrimp were taken (shrimp caught off the coast of one state, or another country, may be landed in another state). The Gulf-wide average annual increase in value of shrimp landed was 8.9 percent.

Texas, with an average of 46 percent of the value of all landings, has consistently had the largest ex-vessel value of all the Gulf states. Louisiana accounts for 28 percent of the average annual value of the landings. Florida ranks third at 15 percent of the total value.

The pronounced increase in dockside values between 1974 and 1977 is primarily the result of significant increases in price—from $1.17 in 1974 to $1.66 in 1975, a high of $2.08 in 1976, and $1.78 in 1977. Poundage figures for the years were: 117 million pounds of tails in 1974, a drop to 107 million in 1975, 132 million in 1976, and up to 166 million pounds (tails) for 1977.

The main factors cited for the recent increase in total value (1974–1977) of the landings are (1) the recovery of domestic demand for shrimp products, (2) world demand, (3) decreases in the supply of U.S. imports, (4) general inflation, (5) domestic inventory reductions after 1974–1975 (due to U.S. and world demand), and (6) increased landings.

Area Distribution of the Value of the Catch

Fig. 3.5–1 compares the average value distribution of the combined brown, white and pink shrimp catches from 1959 to 1975. Area 19 (the Freeport, Texas, grid) has the highest ex-vessel value. It has accounted for an average of 19 percent of the total value. Waters adjacent to Texas provide 42 percent of the average shrimp catch value. The value of the catch off Louisiana accounts for 36 percent of the total value; Florida, 11 percent; and Alabama and Mississippi each six percent.

A comparison of the value of landings (Table 3.5–1) and the average percent of the value of catch (Fig. 3.5–1) indicates some apparent differences, for example, Texas and Florida have larger percentage values in landings (see above) than are accounted for in percentage value of catch, whereas Mississippi and Louisiana have smaller values in landings than expected from the reported value of the catch. These differences reflect the mobility of much of the Gulf fleet. For example, until recently many vessels from Florida and Texas, because of their proximity, had shrimped off Mexico and landed a portion of their catch in the United States. Some vessels from Florida often migrate north in the spring and summer to fish off Mississippi and Louisiana and then Texas. Vessels from Louisiana frequent the shallow waters off Galveston, Texas, fishing for white and brown shrimp. Texas boats may fish off Louisiana during the Texas closed season in June and part of July. Alabama's Bayou La Batre vessels have the capability to "roam" the Gulf in search of shrimp, though they are larger than the average sized vessel in the northern Gulf.

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Table 3.5-1
EXVESSEL VALUE OF
SHRIMP LANDINGS BY STATE

(In thousands of $)

	Florida West Coast	Alabama	Mississippi	Louisiana	Texas	Total Gulf
1958	$16,312	$1,984	$2,377	$13,533	$29,665	$63,871
1959	9,752	1,991	2,345	13,067	23,193	50,348
1960	12,155	2,090	2,899	15,881	24,606	57,631
1961	11,094	1,154	1,281	8,913	21,208	43,650
1962	14,556	1,647	2,220	14,985	27,149	60,557
1963	12,256	2,419	2,484	19,789	26,591	63,539
1964	13,322	2,630	1,805	18,794	26,144	62,695
1965	13,905	3,654	2,523	19,584	31,241	70,907
1966	12,427	4,920	2,751	24,390	38,485	82,973
1967	10,476	6,049	3,122	24,573	46,355	90,575
1968	12,695	7,964	3,677	25,623	45,870	95,829
1969	12,021	8,788	4,011	33,358	42,884	101,062
1970	13,108	8,040	3,810	34,614	48,614	108,186
1971	12,985	11,451	4,362	43,285	64,191	136,274
1972	17,309	14,661	4,966	47,066	80,099	164,101
1973	22,601	14,165	3,698	44,511	86,879	171,854
1974	21,445	13,490	3,225	32,203	67,679	138,042
1975	27,799	17,843	3,825	40,968	87,902	178,337
1976	36,842	30,393	8,418	79,688	119,881	275,222
1977	39,971	33,487	10,113	87,183	125,620	296,374
Average Annual % Change	5.2%	16.6%	6.5%	9.5%	9.1%	8.9%

From Fishery Statistics of the United States.

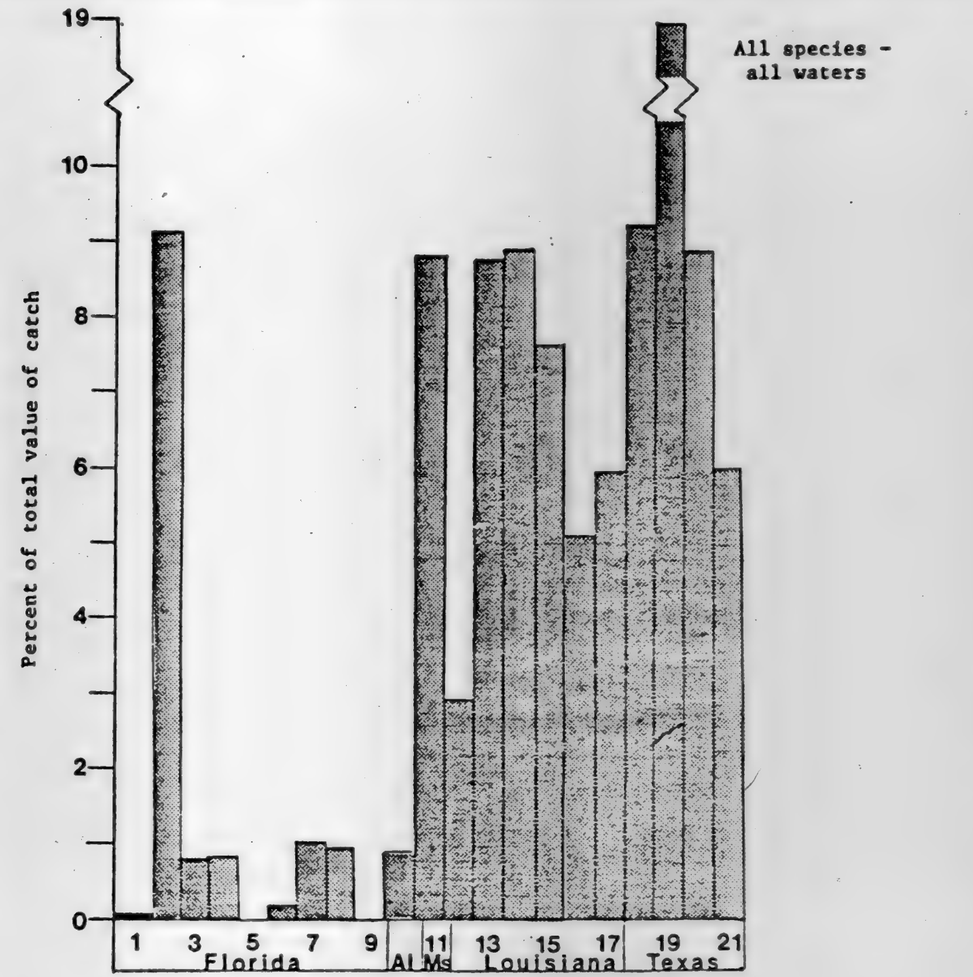


Figure 3.5-1. Average percent of total value of the Gulf catch for all species 1959-1975 by area (US Dept. Com., 1959-1975).

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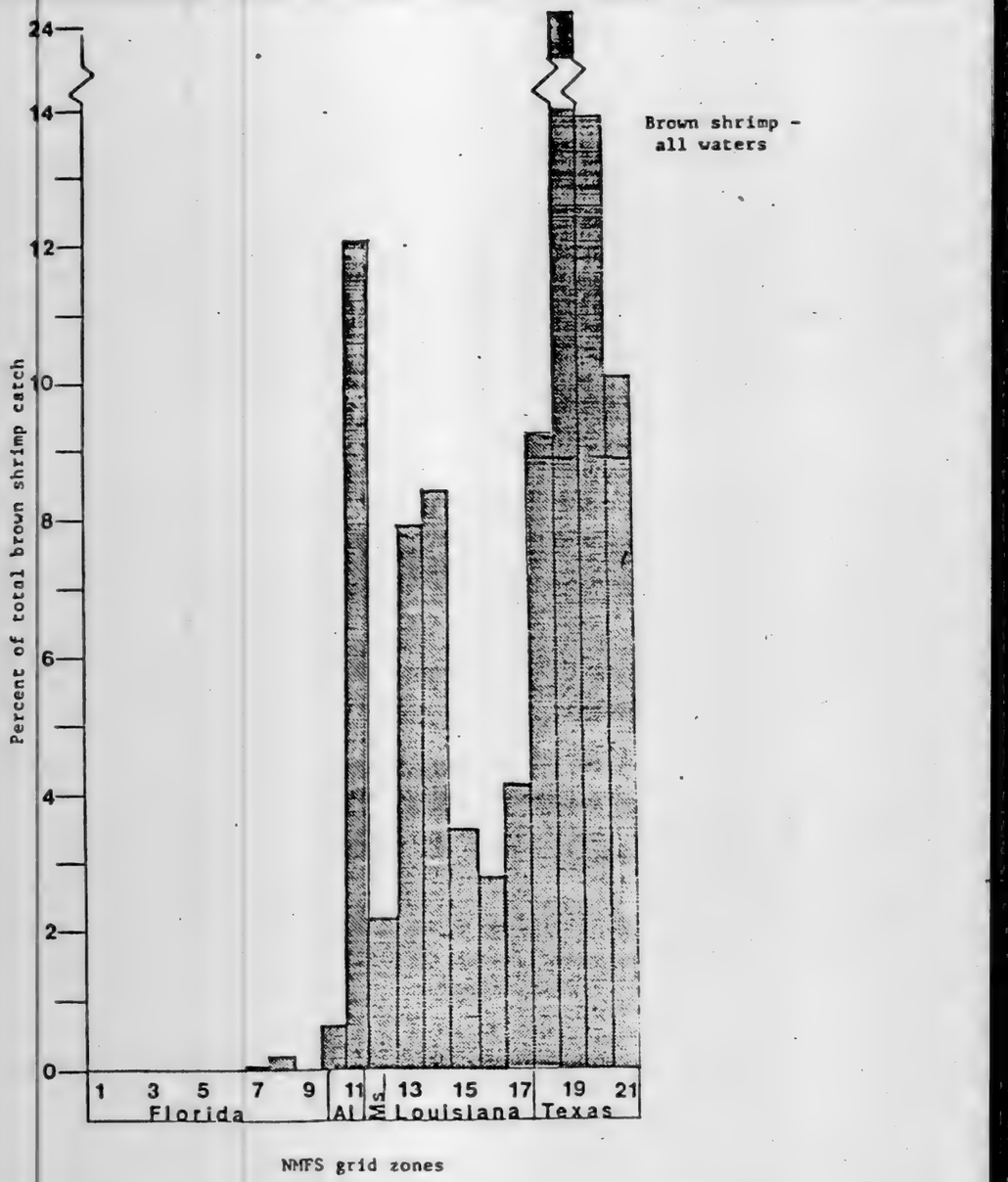


Figure 3.5-2. Average percent o the total value of the brown shrimp catch 1959-1975 by area (US Dept. Com., 1959-1975).

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Studies now underway may pinpoint current casual evidence of mobility; there have been recent reports of movement into Gulf waters by the south Atlantic fleet, especially during periods of low production in the south Atlantic states.

Harvesting regimes exert a substantial influence on ex-vessel value. Texas regulations, for example, result in much greater landings of larger-sized shrimp than do those of Louisiana. A 1958–1975 study showed Texas prices for brown shrimp to be 1.6 times that of Louisiana brown shrimp, and 1.2 times that of white shrimp (Caillouet and Patella, 1978).

Although there have been variations in the relative importance of the ex-vessel value of brown, white, and pink shrimp, the brown shrimp is the most valuable, accounting for 52 percent of the total value of all species from 1958 to 1967 and for 56 percent of the total value from 1968 to 1977. White shrimp are the second most valuable species. The relative position of white shrimp increased from 25 percent of the total value in the 1958–1967 period to 30 percent of the total value during the 1968–1977 period. The percentage of total value of Gulf shrimp catch attributable to pink shrimp has fallen from 21 percent in the 1958–1967 period to 13 percent for 1968–1977.

Approximately 57 percent of the annual value of the brown shrimp catch is from Texas, 28 percent from Louisiana, and the remaining 15 percent from Mississippi, Alabama, and Florida (Fig. 3.5–2).

Louisiana, waters furnish 61 percent of the value of the white shrimp harvest, Texas 30 percent, Mississippi five percent, Alabama three percent, and Florida one percent (Fig. 3.5–3).

The Florida catch accounts for 97 percent of the total pink shrimp value (Fig. 3.5–4). The Dry Tortugas area accounts for 70 percent of this value. Seabob are concentrated in the Atchafalalya River area of Louisiana (Fig. 3.5–5). These waters furnish 92 percent of the value of the catch. Texas adds four percent and the remainder comes from areas east of the mouth of the Mississippi (Fig. 3.5–5). Florida accounts for 98 percent of the rock shrimp ex-vessel value (Fig. 3.5–6). The royal red fishery is concentrated in two areas (Fig. 3.5–7): the Dry Tortugas catch is 45 percent of the total value, while the catch off the Mississippi delta is 42 percent of the value.

Price Structure Sensitivity to Size Distribution of the Catch

The price per pound for shrimp varies in direct proportion to size. There are significant price differences between size groups of shrimp. Price differentials play a key role in the substitution of certain sizes for others into various products such as breaded shrimp, fresh-frozen, and specialty items. This price structure appears to be partially sensitive to changes in the size distribution of the catch (Toevs and Johnson, 1978).

3.5.1.2 Wholesale Value of the Product

Table 3.5–2 gives the wholesale prices of shrimp in various processed forms for the Gulf of Mexico fishery for 1958–76. Prices for all categories have fluctuated frequently, but on the average, they have increased at a rate of 4.0 to 7.5 percent per year between 1958 and 1976. Prices of breaded, cooked, and otherwise processed shrimp increased at smaller rates than raw shrimp input prices.

The wholesale value of processed shrimp for the Gulf states (Table 3.5–3) was 529 milliom dollars in 1977.

A diagram of the 1976 breakdown of product categories by value is shown in Fig. 3.5–8 and Figure 3.5–9.

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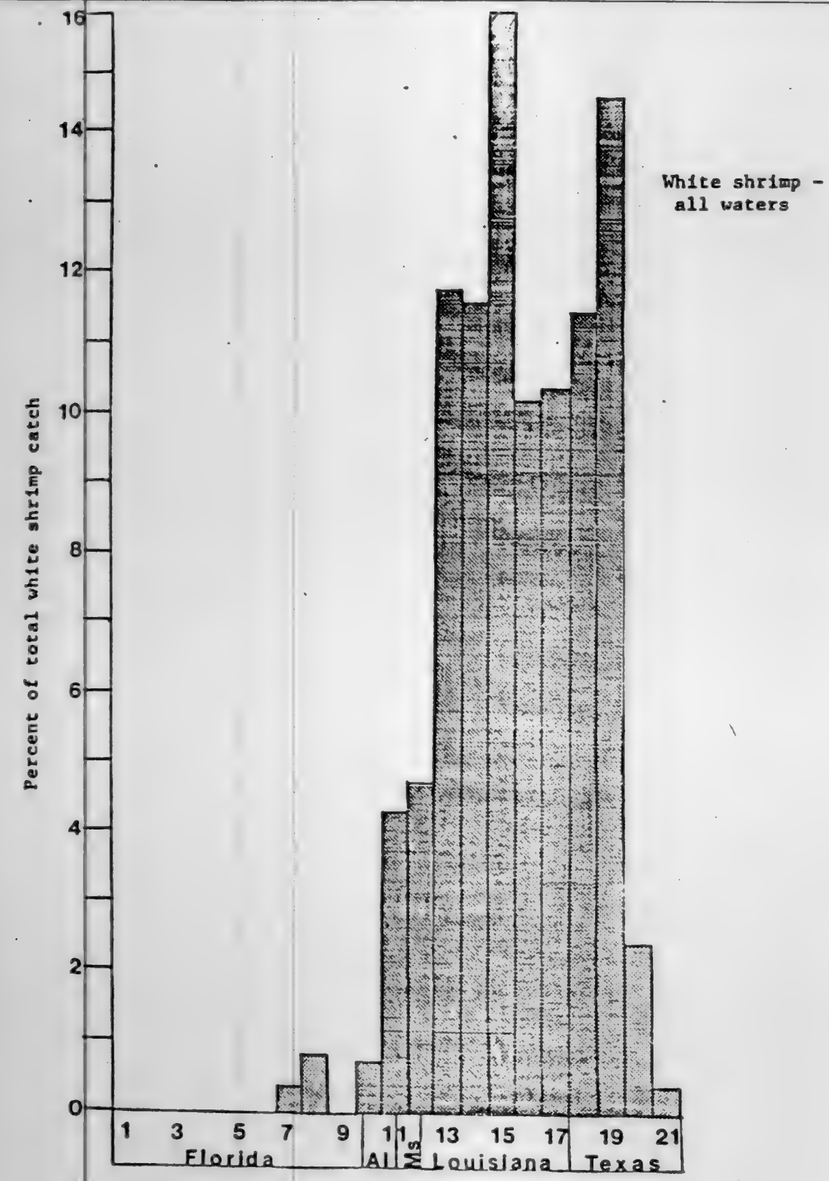


Figure 3.5-3. Average percent of the total value of the white shrimp catch 1959-1975 by area (US Dept. Com., 1959-1975).

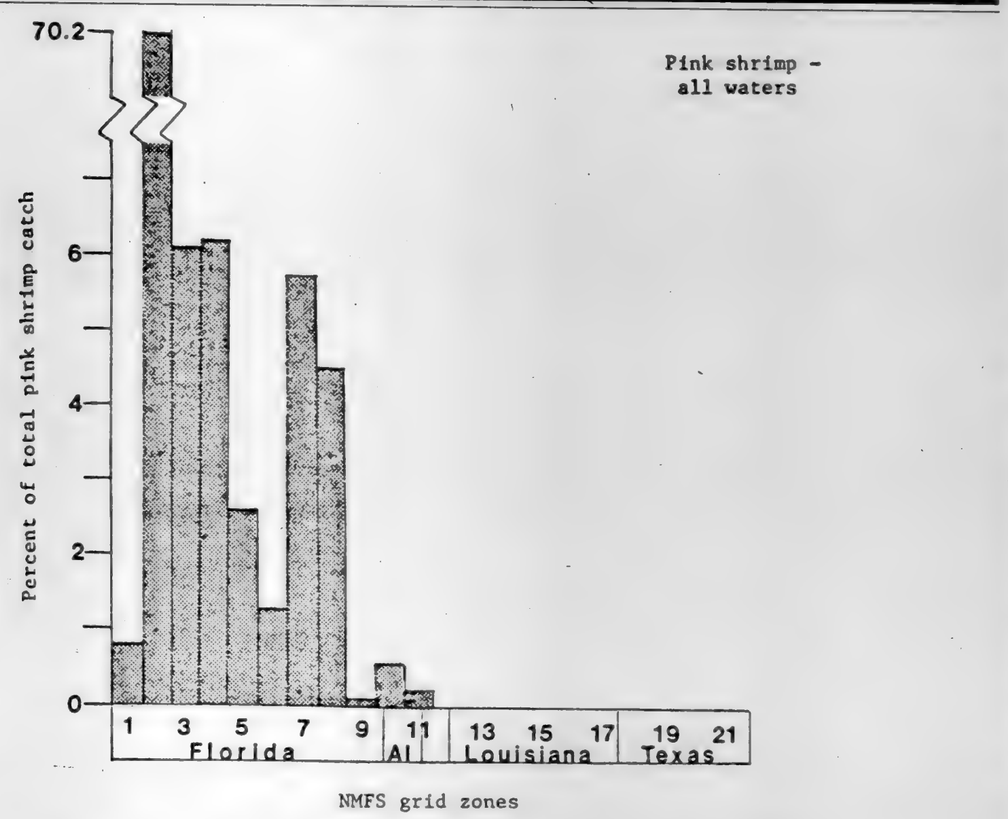


Figure 3.5-4. Average percent of the total value of the pink shrimp catch 1959-1975 by area (US Dept. Com., 1959-1975).

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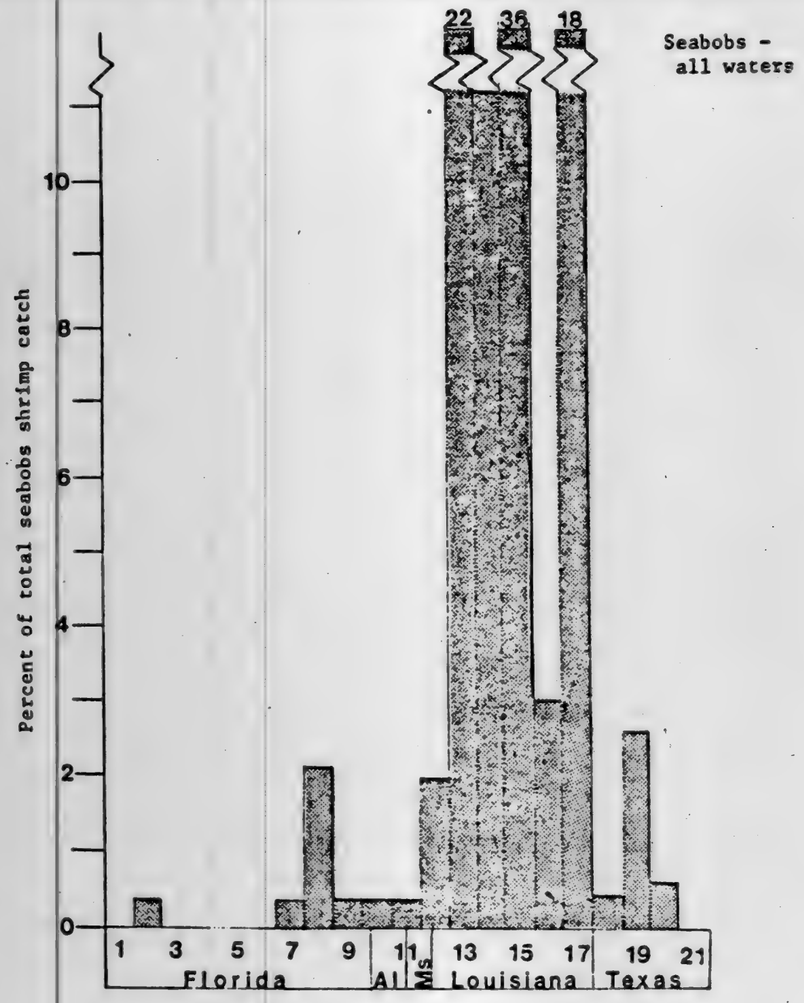


Figure 3.5-5. Average percent of the total value of the seabob shrimp catch 1963-1975 by area (US Dept. Com., 1963-1975).

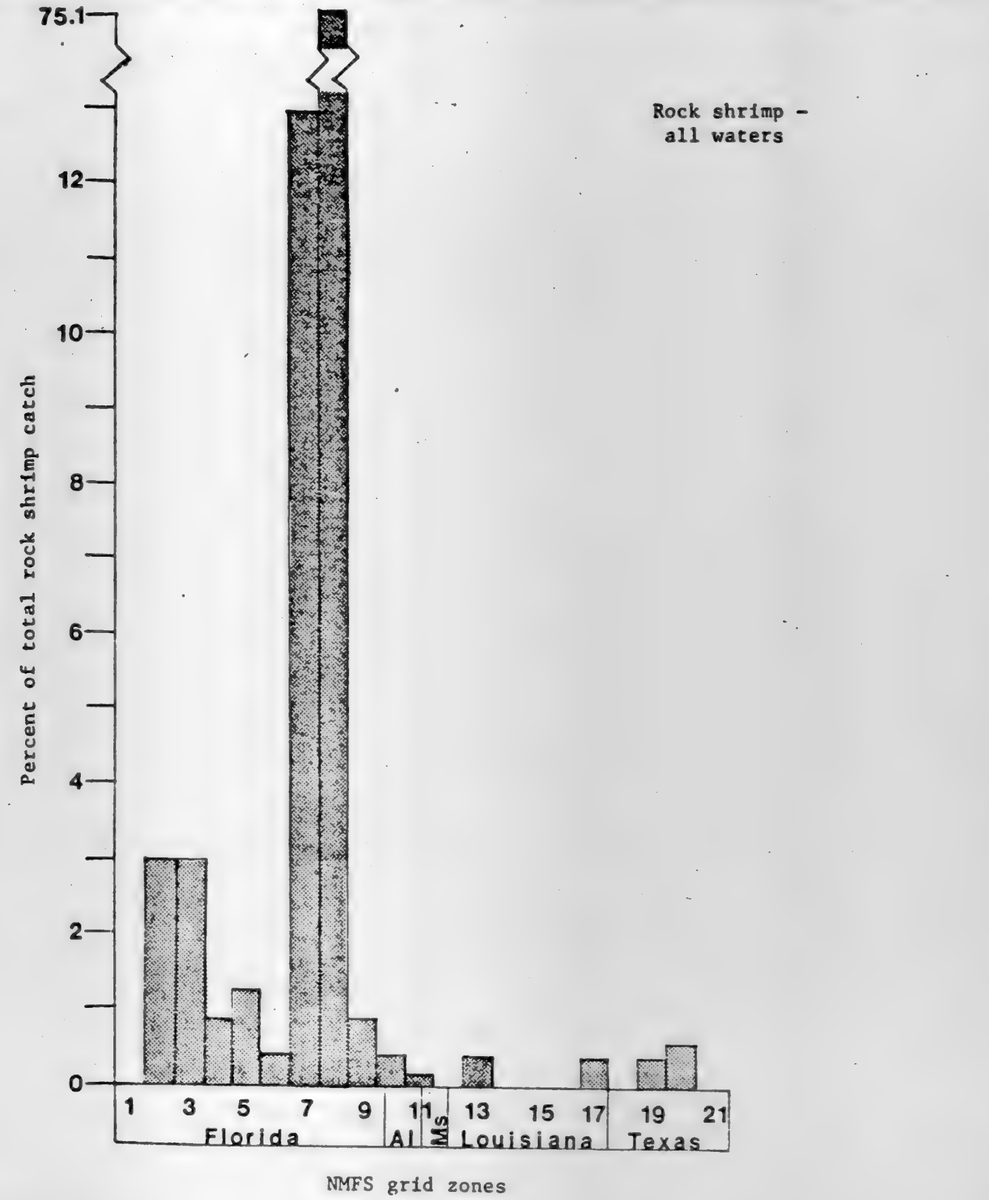


Figure 3.5-6. Average percent of the total value of the rock shrimp catch 1963-1975 by area (US Dept. Com., 1963-1975).

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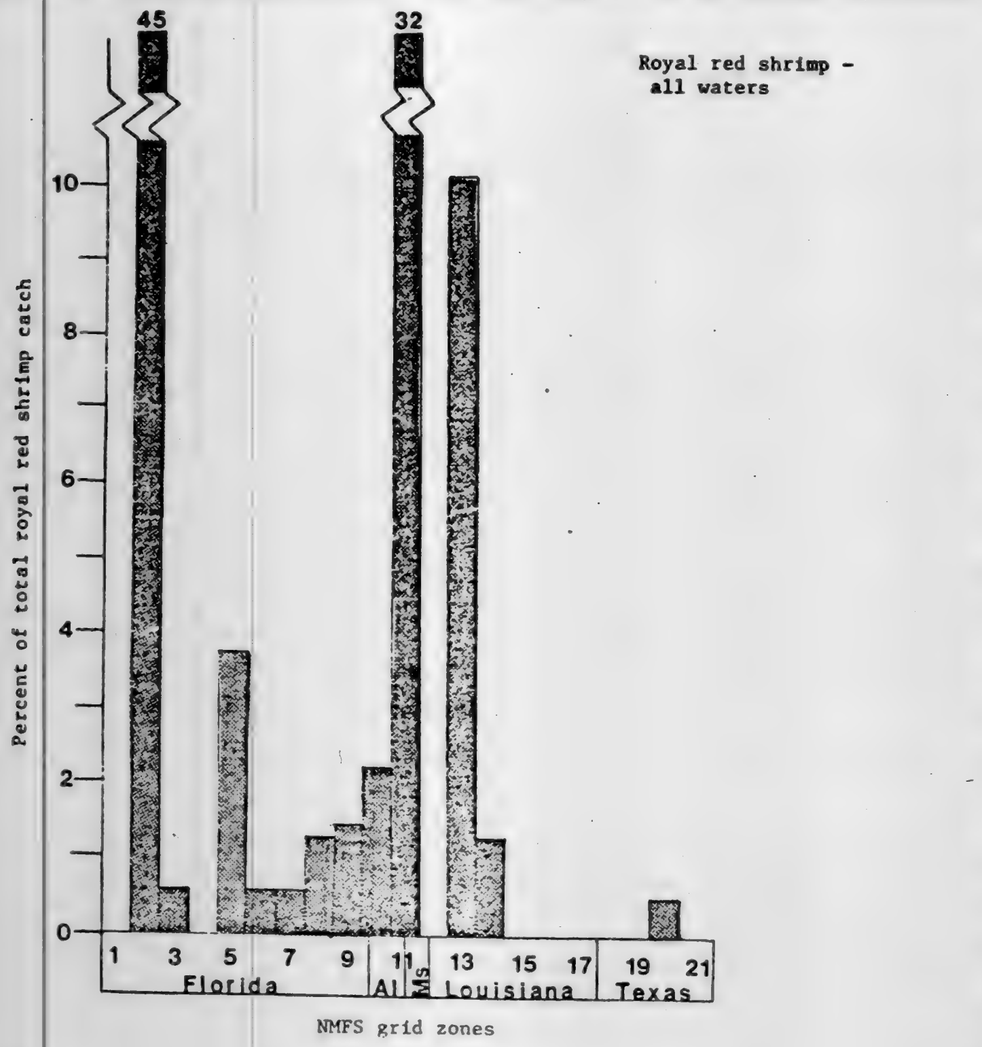


Figure 3.5-7. Average percent of the total value of the royal red shrimp catch 1963-1975 by area (US Dept. Com., 1963-1975).

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Processors in the Gulf are becoming increasingly dependent on shrimp imported from outside the region. Between 1958 and 1967, the average Gulf-wide shrimp landings consituted 84.2 percent of production requirements. During the 1968–1976 time period, the Guld shrimp landings declined to 73.1 percent of production requirements while total production has increased. (Fishery Statistics of the United States, U.S. Department of Commerce, various years.)

The shortage of locally landed shrimp is most pronounced on the west coast of Florida. Between 1968 and 1976, shrimp landings in this area were only 39 percent of total usage by processors. Mississippi has had a roughly similar experience with 49 percent of total processed pounds being locally supplied. The remaining Gulf states have not had to depend as heavily on non-local sources. Louisiana fishing ports have recently been able to supply more than 85 percent of the state processors' raw supply needs; in Texas and Alabama the percentages are 90 and 80, respectively. The relative sizes of the supply deficits have varied considerably for the individual years in all states.

3.5.1.3 Domestic Marketing Channels

The marketing of shrimp from the vessels to consumer may be handled through a variety of channels with as many as 11 components (Figure 3.5–10). The usual participation is more limited, however, involving fishermen, wholesalers, processors, transporters, and retailers. Other seafood product are usually handled by members of the shrimp marketing system.

Since shrimp may range from five to more than 200 tails per pound, size is the principal factor influencing market channels and use. Larger size shrimp usually go the restaurants; those in the 30 to 65 per pound range go principally to breaders, fresh seafood retailers, canners, and other processors. Smaller shrimp are use by canners, driers, and specialty producers. In recent years there has been a growing trend to use the full range of shrimp sizes for breaded, peeled, and stove-ready products.

Variation in use of marketing channels depends on many factors: shrimp size, processed form, location of processor, degree of industry concentration, source of raw shrimp, amount of imported shrimp used, and amount of foreign labor involved in processing. Area differences prevent extrapolation of the Alvarez, et al. (1976) study of Florida's marketing channels to the entire Gulf coast (Christmas and Etzold, 1977). A telephone survey of shrimp processors and middlemen in each of the Gulf states was conducted in the drafting of this plan. The survey revealed a general pattern of marketing channels, shown in Fig. 3.5–10. The bold lines in the figure indicate major channels.

Dealers

The dealer is the first middleman to take possession of the shrimp. He normally operates docking facilities with allied provisions for service and storage. His relationship with the fisherman is that of purchaser of shrimp and, on occasion, purveyor of fuel, ice, and supplies. But he may also offer financial services ranging from credit extension to maintenance of records for boats based at his dock. In this relationship there is usually an understanding that the shrimper's catch will be handled by the dealer; such a relationship may have a corrolary price impact.

Louisiana dealers surveyed reported purchasing shrimp on a regular basis from 80 to 120 craft, with the median about 110. Dealers may also get shrimp from other craft on a part-time basis; some operate craft of their own.

Among the dealer's functions are processing of shrimp for the market—heading, grading, packing, refrigerating, and storing. Some, especially in Louisiana, have operations for handling of heads-on shrimp for drying. The drying operations reduce loss of shrimp due to spoilage and permit the utilization of shrimp in periods of peak landings.

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Table 3.5-2

WHOLESALE PRICES OF GULF SHRIMP PROCESSED PRODUCTS

1958-1976

	Raw Headless*	Raw Peeled*	Breaded Raw*	Cooked and Peeled*	Canned**	Dried*
1958	.76	1.06	.67	1.89	10.38	1.41
1959	.59	.82	.62	1.54	8.89	.90
1960	.61	.98	.63	1.64	8.29	1.12
1961	.76	1.09	.75	1.63	9.09	1.78
1962	.92	1.24	.81	1.93	10.43	1.61
1963	.72	1.18	.71	1.77	8.59	.84
1964	.80	1.12	.71	1.61	9.14	2.04
1965	.83	1.16	.80	1.67	9.63	1.99
1966	.96	1.32	.90	1.97	10.66	2.02
1967	.88	1.37	.85	1.92	10.21	1.65
1968	1.03	1.55	.94	2.39	10.92	1.90
1969	1.09	1.75	1.00	2.04	10.29	1.74
1970	1.04	1.45	.99	1.57	10.51	no data
1971	1.28	1.69	1.07	2.51	11.14	1.87
1972	1.44	1.90	1.24	1.95	13.28	2.42
1973	2.42	2.25	1.48	3.44	18.91	3.87
1974	1.74	1.80	1.44	3.11	16.25	2.72
1975	2.35	1.77	1.61	3.36	16.74	4.92
1976	2.79	2.67	2.02	3.82	19.74	3.81
Average % increase	7.5%	5.0%	5.7%	4.1%	4.0%	6.7%

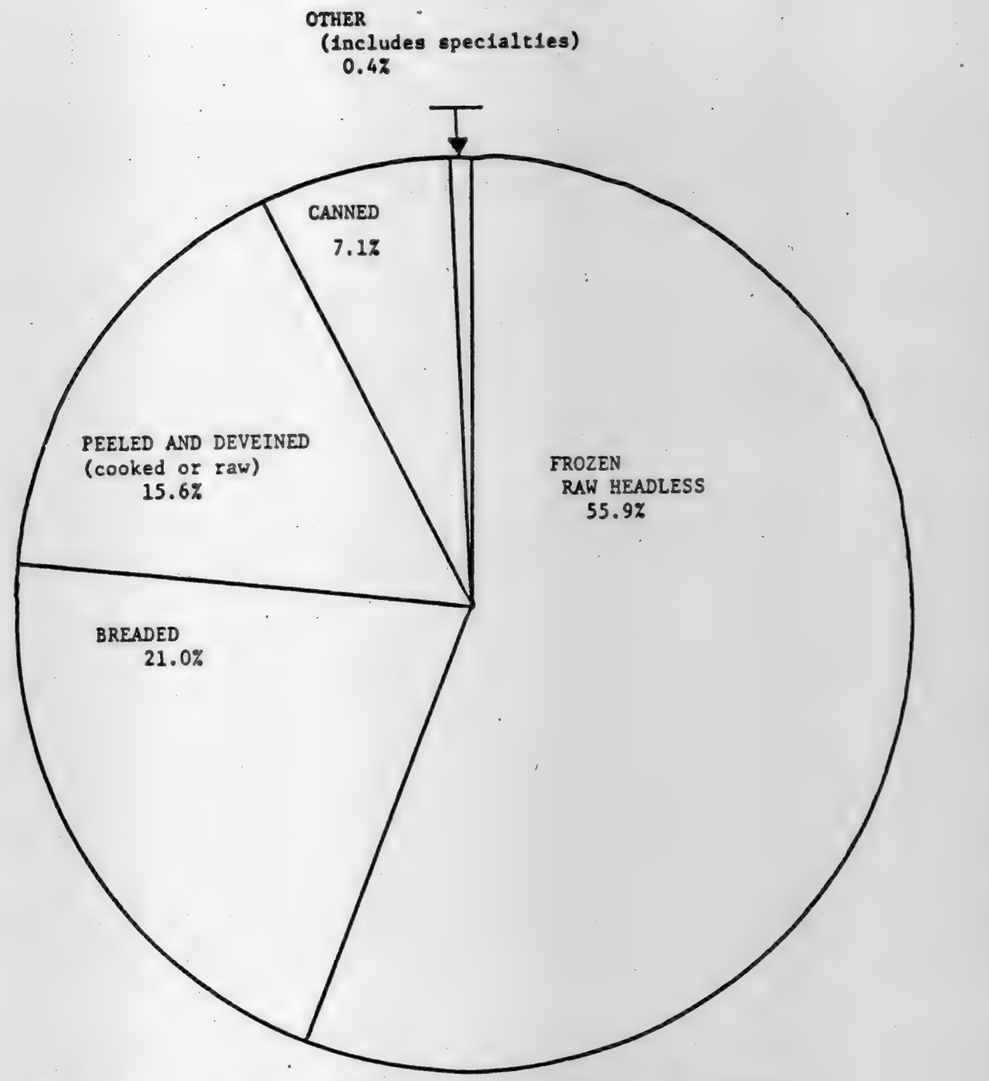
* Price per pound of finished product.

** Price per standard case of canned shrimp

From Fishery Statistics of the United States and Current Fishery Statistics

Figure 3.5-8

Value of Shrimp Products of the Gulf States, 1976



NOTE: Some of the products have been processed from raw products imported from other states or from foreign countries.

SOURCE: National Marine Fisheries Service, Processed Fishery Products, Annual Summary, 1976 (Washington D.C.: Dept. of Commerce).

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Table 3.5-3

Wholesale Values of Processed Shrimp for the Gulf States
(millions of dollars)

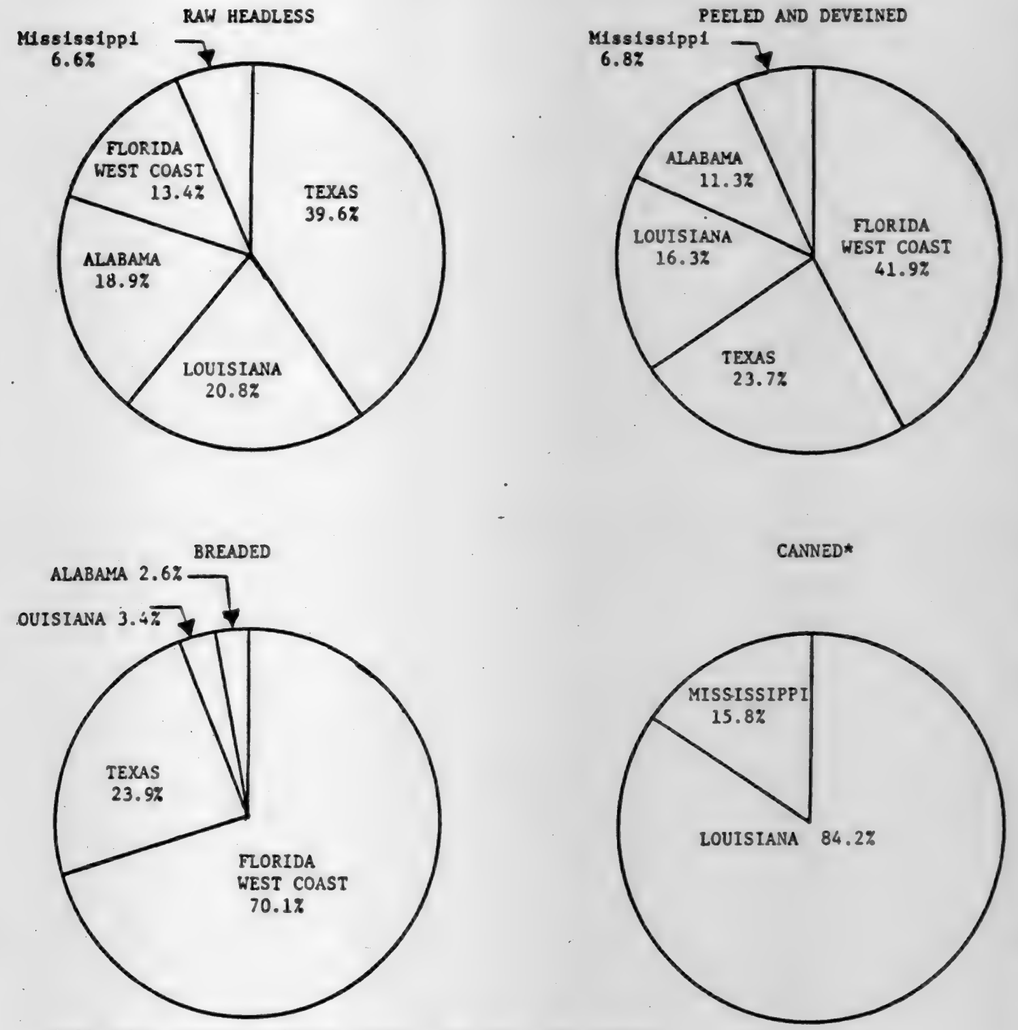
STATE	1971	1972	1973	1974	1975	1976	1977
Florida, W.C.	70.2	70.9	80.0	69.5	83.3	133.2	150.9
Alabama	11.6	23.2	30.7	20.3	28.9	59.0	68.3
Mississippi	12.7	13.7	15.7	16.9	15.7	26.9	40.0
Louisiana	65.7	64.8	76.9	72.4	64.1	95.6	125.4
Texas	93.6	110.2	120.6	80.7	67.7	141.4	144.2
Gulf Total	253.7	282.6	330.0	259.9	259.8	456.1	528.9

Numbers do not add due to rounding. Totals are correct.

From National Marine Fisheries Service, Processed Fishery Products Annual Summary (Washington D.C.: Dept. of Commerce, various years).

Figure 3.5-9
Percentage Production, by States, of
the Major Gulf Shrimp Products

(Percentage figures based on wholesale dollar values)

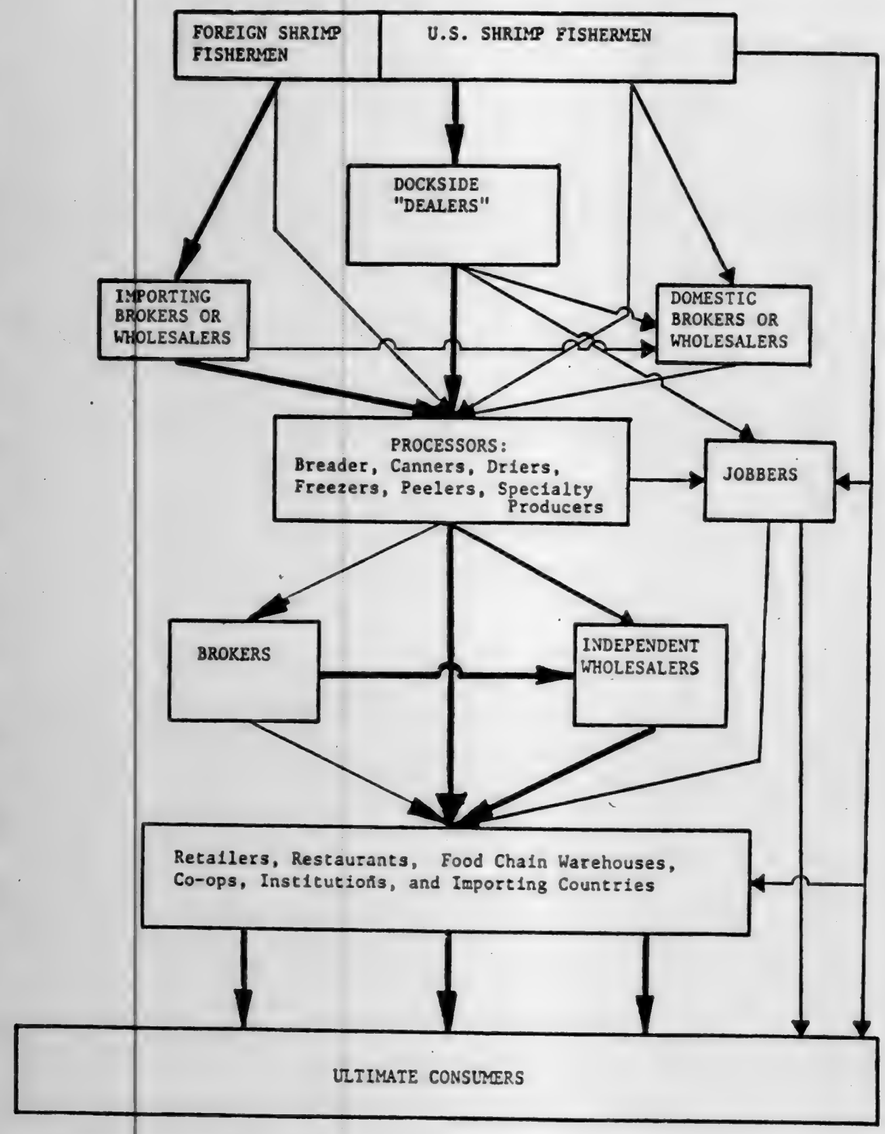


*All other states combined produce less than one percent.

SOURCE: National Marine Fisheries Service, Processed Fishery Products, Annual Summary, 1976 (Washington D.C.: Dept. of Commerce)

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Figure 3.5-10
Major Marketing Channels for Shrimp Products



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Dealer operations tend to be seasonal in nature. At peak periods the work force is augmented largely by women, teenagers, and members of the fishermen's families. The workweek can vary from three to seven days, and the working day can last from six to fifteen hours.

Most of the dealer's output is sold directly to processors; wholesalers also figure largely in this market. Dealers generally have up to 10 major customers and ship their output in their own trucks or with common carriers.

Processors

Processors are the shrimp companies engaged in peeling and deveining, cooking, freezing, canning, breading, and preparing specialty products. Some also deal in green, headless shrimp, requiring no processing.

In the southeast region, including the south Atlantic and the Gulf of Mexico shrimp fisheries, 69 percent of the processors are single facility corporation; 25 percent are either corporations with branches or divisions of parent corporations. Nearly half of the individual corporations are family owned; six percent of all southeastern processors are partnership operations.

The shrimp handling and processing industry is expanding in total volume, but the rate of withdrawal of individual firms exceeds the rate of new entrants. A shortage of domestic landings appears to put a severe constraint on the entrance of new firms and the expansion of existing ones. Major factors contributing to the shrimp shortage are: (1) The decline in U.S. landings of shrimp caught in Central South American waters. and (2) the current exploitation of the major domestic Gulf stocks at their MSY levels. An example of the decline in U.S. landings from foreign waters is Florida's landings of Campeche shrimp, which have declined from a high of more than 30 million pounds in 1953 to two to three million pounds annually (1970–1975).

There are an increasing number of processors who maintain their own fleets or dockside facilities. Others continue to depend on dealers for their shrimp supplies. Due to the seasonal nature of the shrimp catch, processors carry large raw product and frozen finished product inventories. Unlike dealers, processors tend to operate their plants throughout the year. Market forms of processed shrimp include breaded, frozen, canned and specialty products (dried, pastes, sauces, and convenience dishes).

Brokers and Wholesalers

Brokers act as an intermediary between the buyers and sellers of shrimp products at the various marketing levels, usually from the various marketing levels, usually from the processor level on up. The biggest use of brokers is in interstate and international contracts and sales, promotion of new products, and establishment of business contacts for new firms.

Wholesalers also act as intermediaries in the marketing system. They take possession of shrimp products and provide storage and transportation functions for firms in the industry, thereby creating benefits and economies for all firms.

Marketing

Channels used to market processed shrimp products vary firm to firm. Some processors have their own distribution channels—such as an organization of sales representatives or a subsidiary seller—while many other firms almost exclusively employ brokers to sell their products. Though net flows cannot be given, most processors do not limit their geographic marketing territories as much as dealers do; indeed, most processors sell on a national or at least regional basis, and many of them export shrimp, primarily to Canada, Mexico, and Japan. Tables 3.5–4 through 3.5–6 provides data on U.S. exports for 1977. Data on exports by Gulf processors are unavailable.

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Table 3.5-4
United States Exports of Domestic and Foreign Shrimp Products (Fishery Statistics of the United States, 1977)

Item	Percent of Total		Quantity	
	Pounds	Dollars	Thousand Pounds	Thousand Dollars
Fresh and frozen:				
Domestic	74.6%	69.5%	26,089	$60,731
Foreign*	25.4	30.5	8,902	26,643
Total	100.0	100.0	34,991	87,374
Canned:				
Domestic	99.5	99.2	8,966	18,066
Foreign*	0.5	0.8	48	144
Total	100.0	100.0	9,014	18,210
Total:				
Domestic	79.7	74.6	35,055	78,797
Foreign*	20.3	25.4	8,950	26,787
Total	100.0%	100.0%	44,005	$105,584

Table 3.5-5
Exports of Domestic Fresh and Frozen Shrimp, By Country of Destination (Fishery Statistics of the United States, 1977)

Country	Percent of Total		Quantity	
	Pounds	Dollars	Thousand Pounds	Thousand Dollars
Canada	33.1%	33.9%	8,634	$20,610
Mexico	33.8	31.3	8,811	19,003
Japan	18.1	19.7	4,718	11,957
Sweden	6.6	6.3	1,734	3,815
United Kingdom	2.4	2.4	630	1,474
Denmark	1.6	1.6	428	941
Bermuda	0.4	0.7	115	412
New Zealand	0.7	0.6	176	363
Netherlands	0.5	0.5	124	312
Other	2.8	3.0	719	1,844
Total	100.0%	100.0%	26,089	$60,731

*Foreign shrimp exports are shrimp exported out of the United States that were of foreign origin prior to processing.

Table 3.5-6
Exports of Domestic Canned Shrimp, by Country of Destination, 1974

Country	Percent of Total		Quantity	
	pounds	dollars	Thousand pounds	Thousand dollars
Canada	70.7%	72.4%	6,340	$13,076
Sweden	5.5	6.7	493	1,205
United Kingdom	6.0	4.7	542	845
Switzerland	3.3	3.2	293	582
Australia	4.1	3.0	368	536
Japan	3.9	2.9	345	526
France	1.9	2.3	169	417
New Zealand	0.9	0.8	82	151
Other	3.7	4.0	334	728
Total	100.0%	100.0%	8,966	$18,066

From National Marine Fisheries Service, Fisheries of the United States, 1977, (Washington, D.C.: US Department of Commerce, April 1978).

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Domestic per capita consumption of shrimp has increased at a rate of 2.8 percent per year (1960–1977), a remarkable increase given that shrimp prices increased by 600 percent while the Consumer Price Index increased by slightly more than 100 percent. Exceptions to this general increase in shrimp consumption are associated with a slowing in the growth of the U.S. economy (1961–1962, 1966, late 1973–1974) or with extraordinarily high increases in shrimp prices (1971, 1975). In addition, the energy crisis in 1974 was a factor in reducing important consumption in restaurants.

Shrimp is becoming a larger portion of the total seafood products consumed in the nation (1960–1977). A large part of this relative increase has come within the last few years despite a faster growing price for shrimp than for other processed fish products.

The socioeconomic characteristics of domestic consumers of shrimp were assessed in 1969 (U.S. Department of Commerce, 1973). An update of this data is necessary in order to evaluate what effect, if any, management of shrimp decisions may have on different types of consumers.

Pricing of Shrimp

A limited insight into the mechanism of shrimp pricing was obtained from a telephone survey (conducted in development of the plan) of processors and dealers. Shrimpers feel prices are established by dealers; dealers suggest prices are set by processors from current key port trends.

Prices seem to reflect supply and demand conditions in general and the economic strengths of the U.S. and Japanese markets in particular. Since both are large importers of shrimp, any change in the quantities imported by either country can substantially influence price.

The quantity of shrimp demanded, in a normal good year, varies inversely with price (Gillespie, et al., 1969; Bell, 1970; Doll, 1972). This suggests that management measures to increase the supply of domestic shrimp would decrease the price to consumers, all other factors being equal. Conversely, measures which would result in a decline in U.S. production would increase the cost to consumers.

The consumption of shrimp also increases as income increases (Bell, 1970; Doll, 1972). Dependence of consumption on income reflects the general dependence of shrimp prices on the economic well-being of the nation.

3.5.2 Domestic Commercial Fleet Characteristics

3.5.2.1 Total Gross income of the Fleet

Reported annual pounds and ex-vessel value for domestic catch of U.S. Gulf shrimp by vessels and by boats is compared in Table 3.5–7. Annual total income for both vessels and boats increased over this time period 1962–1974.

A 10.3 percent average annual growth rate in gross income of shrimp vessels is due to a 2.3 percent average annual growth rate in pounds of shrimp landed, plus an 8.0 percent increase in ex-vessel price. A ten percent growth rate in gross income to shrimp boats is due to a 3.2 percent increase in pounds caught and a 6.8 percent increase in ex-vessel price.

Some incidentally-caught finfish are also marketed, but the value of these marketed fish is small in comparison with that of shrimp (Figs. 3.6–1 through 3.6–5).

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Table 3.5-7. Reported annual pounds and value of the domestic catch of US Gulf Shrimp by boats and by vessels, 1962-1974 (Christmas and Etzold 1977).

Vessel Fishery

Year	Million Pounds (Heads-off)	Value (Million $)	Price Per Pound ($)	Total Days Fished (1000)	Effort (1000)	Pounds Per Day Fished
1962	45.4	33.4	0.74	88.5	144.0	513
1963	77.0	41.5	0.54	112.9	181.8	682
1964	71.0	40.7	0.57	114.4	186.3	621
1965	80.1	49.1	0.61	113.7	187.6	704
1966	78.3	61.9	0.79	187.6	190.5	688
1967	99.7	68.5	0.69	116.0	201.7	859
1968	83.7	68.4	0.82	121.5	218.1	688
1969	82.4	74.3	0.90	147.8	273.6	557
1970	96.1	81.4	0.85	134.6	249.1	713
1971	91.3	100.8	1.10	137.0	259.0	566
1972	94.3	120.1	1.27	146.8	282.6	642
1973	71.0	118.6	1.67	140.0	269.7	507
1974	73.9	99.8	1.35	132.4	243.6	558

Boat Fishery

Year	Million Pounds (Heads-off)	Value (Million $)	Price Per Pound ($)	Total Days Fished (1000)	Pounds Per Day Fished
1962	25.2	11.9	0.47	58.0	434
1963	33.3	9.4	0.28	38.5	865
1964	23.5	9.6	0.41	55.4	424
1965	25.5	9.5	0.37	56.7	450
1966	24.6	12.2	0.50	62.2	395
1967	30.6	12.1	0.40	66.1	463
1968	29.9	13.2	0.44	70.0	427
1969	35.5	17.8	0.50	52.6	675
1970	40.1	17.6	0.44	65.4	613
1971	42.5	23.7	0.56	67.9	626
1972	37.7	27.5	0.73	82.1	459
1973	33.6	34.3	1.02	98.0	343
1974	33.0	22.7	0.69	90.3	363

From The Shrimp Fishery of the Gulf of Mexico United States: A Regional Management Plan, J.Y. Christmas and D.J. Etzold et al.

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Table 3.5-8 Annual estimates of vessels and boats in the U.S. Gulf shrimp fishery

Year	Number of Gulf Shrimping Vessels*	Gross Tons Per Vessel	Otter Trawls Per Vessel	Number of Gulf Shrimping Boats
1960	2,941	41.3	1.76	3,089
1961	2,686	42.6	1.80	2,987
1962	2,600	41.9	1.77	3,927
1963	2,697	41.5	1.76	4,481
1964	2,782	42.0	1.74	4,360
1965	2,849	42.7	1.72	4,785
1966	2,942	44.9	1.74	4,797
1967	3,146	48.9	1.76	4,983
1968	3,430	52.5	1.77	5,109
1969	3,569	53.7	1.76	4,817
1970	3,579	53.8	1.73	4,495
1971	3,487	57.8	1.77	4,828
1972	3,683	59.2	2.20	4,500
1973	4,091	59.9	1.78	4,723
1974	3,785	61.5	1.77	4,589
1975	3,690	59.5	1.78	5,054

* This total is exclusive of duplication.

From NMFS data from Fishery Statistics of the United States.

Table 3.5-9. Cost of new US Gulf shrimp vessels by various sizes and types of construction, 1971-1977 (from Warren and Griffin 1978).

Year	Vessel Length and Type	Cost
1971:	53-65' wood and steel	$ 57,000
	66-72' wood and steel	76,000
1973:	63-69' wood	93,000
	63-69' steel	118,000
	70-78' steel	144,000
1975:	68' wood	121,000
	73' wood	134,000
	68' steel	148,000
	73' steel	185,000
1977:	68' wood	147,000
	73' wood	164,000
	68' steel	195,000
	73' steel	220,000

Table 3.5-10

Annual Participation in the Subject Fishery by Vessels and Boats (Fishery Statistics of the United States)

Year	Vessels	Days* fished per vessel	Boats	Days fished per boat
1962	2600	34.0	3927	14.8
1963	2697	41.9	4481	8.6
1964	2782	41.1	4360	12.7
1965	2849	39.9	4785	11.8
1966	2942	38.6	4797	13.0
1967	3146	36.9	4983	13.3
1968	3430	35.4	5109	13.7
1969	3569	41.8	4817	10.9
1970	3579	37.6	4495	14.5
1971	3487	39.3	4828	14.1
1972	3683	39.9	4500	18.2
1973	4091	34.2	4723	20.7
1974	3785	35.0	4589	19.7

* Day = 24 hours of fishing time

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Estimates of Net Income of Vessels

Net income estimates for 50–90 foot vessels varies considerably from year to year. The variation reflects a difference in annual production of shrimp (due largely to changes in environmental forces), a variation in ex-vessel value (due largely to conditions of U.S. and Japanese economy), and the limited usefulness of shrimp vessels in other economic endeavors.

3.5.2.2 Investment in Vessels, Boats, and Gear

Table 3.5–8 lists estimates of the number of vessels and boats in the domestic shrimp fleet, as well as estimated gross tons and otter trawls per vessel. These estimates indicate that since 1970 Gulf shrimp vessels have averaged 76 percent of the number and 83 percent of the gross tonnage of total U.S. shrimp vessels. The average gross tons per vessel in the Gulf is half again as large as that in the south Atlantic fleet. Since 1970 Gulf shrimp boats have averaged 83 percent of the total number of U.S. shrimp boats. The Gulf vessels are comparatively new: in 1975, 23 percent of the vessels had been constructed within the 1970–1975 period and 52 percent in the 1965–1975 decade.

Investment in vessels and gear is only available for limited portion of the vessel component of the fleet (Table 3.5–9, from Warren and Griffin, 1978). As indicated, the cost of a vessel has jumped sharply during the 1970's. Inflation, the trend to larger vessels, and additional equipment are the principal causes of the increase; and obviously a larger income is now required to justify investment in the vessels.

The 15-year trend in vessel sizes shows a decline in the relative share of the fleet in the 20 to 79 ton range, with, however, a statistically significant increase for craft larger that 79 tons. This statistic may reflect the larger vessel's ability to fish in inclement weather, its increased range, and its attractiveness to more competent crew members. There are no current studies over a sufficiently long period of time to investigate economic profitability by size of vessel. Nor have these studies attempted to examine the boat component of the fleet.

Investment in new vessels appears to be cyclical in nature: several consecutive good shrimping years induce a major increase in new craft construction and several consecutive bad years result in a pronounced reduction.

3.5.2.3 Consideration of Overcapitalization

Biological literature dealing with fishery management is replete with discussion of 'overfishing'. The economics profession has developed a similar body of literature which attributes the eventuality of this overfishing to the common property nature of fishery resources. Economic literature also identifies economic waste as an inherent aspect of harvesting common property fishery resources. Essentially, the scientific argument is that free access to fishery resources results in harvests larger that maximum economic yield (MEY) and almost centainly larger than MSY, and inefficiency employing resources for these harvests. Bromley (1969) has also pointed out the inappropriateness of applying the conventional fisheries' economic model (developed for demersal fishery) to all fishery resources.

Focusing on the economic impact of free access, then, involves deliberation over the quantities harvested and the effort and capital expended. Much debate normally occurs when proponents of MEY management argue that not only less effort but also lower harvests will be beneficial to fishermen, processors, and society at large. As Gulland (1972) indicates, shrimp fisheries exhibit flat-topped yield curves. The implication is that reductions in fishing effort are likely to result in proportionally smaller decrease in shrimp landings. Thus management of fishing effort at some point below MSY must be concerned with the benefits and costs of reducing fishing effort. Economists note that free access to fishery resources leads to overfishing, lower sustained yield, and higher costs. With overfishing and lower sustained yield previously cited as not a vaild concept in the Gulf shrimp fishery, the benefits to society from any benefit-cost measurement must come from reduction of harvest costs. Reducing the total harvest cost would involve reducing the number of firms (fishing effort) in the industry. There is evidence that other measures to reduce fishing effort, such as quotas, gear restrictions, shortened seasons, etc., actually increase capitalization and costs (Crutchfield and Zellner, 1962).

Although the annual nature of the shrimp crop provides some biological uniqueness, the Gulf shrimp fishery is subject to the sound scientific argument that all mature free access fisheries become overcapitalized (overcapitalization being the fishing effort or number of firms beyond that necessary to harvest the MEY). The extent of overcapitalization cannot be precisely stated at this time. Two investigations analyzed only vessel overcapitalization and utilized only one year's data. The results, even with these limitations, support the scientific arguments previously presented.

Very little analysis is required to show that the ideal world, perhaps MEY for the economist or MSY for the biologist, is better that the laissez-faire real world of free access to fishery resources (Coase, 1968). As pointed out above, however, methods to achieve MEY or even MSY may be more burdensome to the resource users, society, and government. Simply stated, the issue of overcapitalization and limited entry as a means of eliminating it really only require that a proposed shrimp harvest be judged better or worse than the existing harvest when all benefits and costs are considered. The problem of overcapitalization in the shrimp fishery, however, is not as simple as might first appear.

There are two issues, each dealing with the demand for shrimp, that also have an effect on the extent and importance of overcapitalization. The first is that Gates and Norton (1974) clearly demonstrate that the level of fishing effort (capital) yielding MEY is not necessarily the same as that representing maximum economic efficiency (MEE). MEE is realized at that level of fishing effort at which the value to society of the last unit of shrimp produced is equal to the cost to society of producing that unit. MEY is equal to MEE only when the price of shrimp is perfectly elastic, that is, when unlimited quantities can be purchased without the price rising. The demand for shrimp is quite different from this situation, and the result is that MEY and MEE are not identical. In this case MEE, not the rent maximization associated with MEY, is the appropriate economic goal. Futher, the MEE goal would induce a lower harvest than that of MEY, since the industry generates costs to society by using a common property resource. These cost involve the physical, human and monetary resources used in the fishery which could be better employed in other sectors of the economy. Their use in the fishery bids up their prices thereby creating inflationary pressures.

The second issue has to do with the impacat high levels of consumer demand have on the size of cost savings from decreasing the number of shrimping firms (capitalization). Bell (1972) and Cowers (1976) both recognize that, at high levels of consumer demand, maximization of yield (MEY) and maximum economic efficiency (MEE) for all practical purposes are identical goals, even in view of the above argument. If such circumstances occur in the Gulf shrimp fishery, the overcapitalization may not be as serious as a cursory appraisal would suggest. Futhermore, while there is evidence of overcapitalization, the economic performance of harvesting firms, their owners, and employees, appears satisfactory. Also, the social ramifications of limited entry, such as alternative employment opportunities for those excluded, must be considered.

At present there is neither a suitable model nor adequate research to evaluate fully the socioeconomic issue of overcapitalization. The Council, therefore, has determined that, while capitalization (and effort) in the shrimp fishery may exceed MEE, the benefits of high levels of employment and the healthy economic condition of the shrimp industry outweigh any inflationary results.

3.5.2.4 Annual Participation in the Fishery

Table 3.5–10 lists the number of days fished per vessel and per boat, and the number of craft engaged in the subject fishery for each of the years from 1962 to 1974. It should be noted that days fished represent 24 hours of trawling time. Tables in Section 4.7 indicate the time spent trawling for each of the dominant species.

3.5.2.5 Total Man-Days Per Season

Annual estimates of the number of shrimpers on vessels and boats are given in Tables 3.5–11 and 3.5–12.

3.5.3 Domestic Commercial Processing Characteristics

3.5.3.1 Total Gross Income from the Shrimp and All Related Fisheries

Annual production for the Gulf region by product type of shrimp is shown in Table 3.5–13. Raw headless shrimp appear to generate the most revenue for Gulf processors: they constitute 45 percent of gross income in the 1967–1976 time period. Raw peeled shrimp make up 26 percent of the total, and breaded shrimp 17 percent. Although it involves a substantial amount of poundage processed, canning accounts for only ten percent of revenue, and the remaining two percent is split between dried shrimp and cooked and peeled shrimp.

3.5.3.2 Investment in Plant and Equipment

The number of seafood processing plants in the Gulf totaled 356 in 1976 (Table 3.5–14). No data are available for the capital assets or the yearly investment in shrimp processing either at national or at Gulf-wide levels. Data are available at the national level to construct an accurate capital series for all canned and cured seafood processing plants and for all fresh and frozen seafood processing plants. These data will be useful for comparative purposes if, at some future time, a shrimp processing capital series can be constructed.

3.5.3.3 Total Employment and Labor Income

Statistics for the Gulf shrimp processing industry cannot be isolated from the total fish processing data. Table 3.5–15 gives the pattern of employment and Table 3.5–16 shows the average hourly wage, for the nation and for the Gulf region. The annual rate of increase in fish processing employment has exceeded the national average for all manufacturing industries. Employment, reflected in both yearly average and seasonal high, declined for Louisiana and Texas in the 1970–1976 interval, while the other three states in the Gulf fishery all registered increases.

3.5.4 Recreational Fishing Characteristics

From 1955 to 1970, the number of marine recreational fishermen in the U.S. Gulf of Mexico more than doubled, from 1.1 million to 2.3 million, and expenditures by recreational fishermen more than quadrupled, from about $98 million to $405 million. A 1975 marine recreational survey conducted by the National Marine Fisheries Service suggested that the total poundage of shellfish, in terms of live weight, taken by recreational fishermen amounted to more than 56 million pounds, or about 25 percent of the finfish catch. The absence of accurate measures of total catch and effort allow only general inferences of their magnitude along the Gulf coast; therefore, precise delineation of the catch and effort may not be possible. There is no evidence to suggest, however, that recreational shrimping along the Gulf coast has failed to follow growth trends of other marine recreational fisheries.

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Table 3.5-11

Resident Vessel Shrimp Fishermen for the Gulf and Gulf States (1958-1974)

Year	Total Gulf*	Florida West Coast	Alabama	Mississippi	Louisiana	Texas
1958	8,171	2,669	518	1,221	2,749	4,592
1959	8,225	2,520	577	1,261	3,235	4,222
1960	7,849	2,119	564	1,106	3,432	4,142
1961	7,186	2,091	462	1,152	2,613	4,268
1962	6,661	1,955	428	1,174	2,348	3,406
1963	7,252	2,601	659	1,157	3,380	3,824
1964	7,121	2,254	582	1,000	3,503	3,749
1965	7,223	2,105	706	1,010	3,341	3,657
1966	7,466	2,140	882	1,020	3,524	3,787
1967	8,219	2,161	961	972	3,782	4,723
1968	8,851	2,412	1,164	1,195	3,824	4,932
1969	9,266	2,350	1,283	1,166	3,987	4,975
1970	9,386	2,033	1,143	1,127	4,450	4,737
1971	9,042	1,897	1,160	851	4,063	5,247
1972	9,534	2,159	1,166	766	4,170	5,264
1973	10,573	2,710	1,438	904	4,948	6,312
1974	9,733	2,377	1,175	615	3,675	5,415
1975	9,507	2,425	1,179	573	3,552	4,751

Source: Fishery Statistics of the United States

* exclusive of duplication between states

Table 3.5-12

Resident Full-Time Boat Shrimp Fishermen for the U.S. Gulf, by States (1958-1974)

Year	Total Gulf	Florida West Coast	Alabama	Mississippi	Louisiana	Texas
1958	4358	219	348	322	2824	645
1959	4280	149	340	270	2789	768
1960	4116	140	346	248	2836	570
1961	3903	147	315	208	2668	573
1962	4108	172	371	216	2815	565
1963	4443	203	395	220	3098	594
1964	4451	160	380	232	2974	705
1965	4457	178	335	235	2997	735
1966	4312	142	311	178	2919	772
1967	4195	110	279	168	2949	699
1968	3988	104	227	146	2910	601
1969	3771	88	188	150	2914	431
1970	3774	97	174	200	2791	512
1971	3879	93	171	254	2808	553
1972	3794	75	177	218	3188	475
1973	4078	94	158	200	3152	474
1974	3937	94	125	222	3130	366
1975	4159	75	147	216	3168	553

From Fishery Statistics of the United States.

Source: Processed Fishery Products, "Gulf Fisheries," various years.

Note: "Gross Income" is the gross amount received by the producer at the production point; no deductions are made for commission or expenses.

Table 3.5-13

Production of Shrimp Products in the Gulf States, 1958-1977

Year	Breaded cooked and raw: Gross Income (thousand $)	Breaded cooked and raw: Pounds (thousand)	Cooked and peeled: Gross Income (thousand $)	Cooked and peeled: Pounds (thousand)
1958	$20,854	19,392	$2,265	2,368
1959	18,094	18,156	1,739	2,227
1960	25,608	25,530	2,379	2,851
1961	32,016	26,941	2,354	2,839
1962	33,399	25,870	1,925	1,965
1963	30,437	27,092	2,465	2,745
1964	35,459	31,661	2,243	2,745
1965	45,211	35,605	3,580	4,216
1966	52,001	36,349	3,707	3,705
1967	43,494	32,319	3,922	4,039
1968	53,257	35,687	4,327	3,569
1969	59,454	37,396	5,510	5,318
1970	55,990	35,462	4,586	5,751
1971	61,085	36,048	6,378	5,013
1972	76,451	38,763	4,004	4,038
1973	95,767	40,680	4,927	2,819
1974	75,173	32,888	4,788	3,032
1975	68,066	26,716	4,319	2,535
1976	92,835	28,935	3,549	1,832

Year	Raw Headless Shrimp: Gross Income (thousand $)	Raw Headless Shrimp: Pounds (thousand)	Raw Peeled: Gross Income (thousand $)	Raw Peeled: Pounds (thousand)
1958	$43,474	57,284	$4,402	5,309
1959	32,914	55,486	6,056	9,437
1960	45,263	74,730	10,519	13,702
1961	31,993	42,297	13,058	15,402
1962	43,743	47,646	14,360	14,825
1963	44,748	62,143	17,258	18,676
1964	44,271	55,295	19,155	21,957
1965	48,689	58,928	21,286	23,430
1966	54,207	56,242	26,443	25,664
1967	81,121	91,860	33,033	30,842
1968	76,448	74,205	37,715	31,068
1969	88,031	80,452	42,260	30,852
1970	91,342	88,061	45,540	40,228
1971	112,342	87,860	48,934	36,893
1972	125,159	86,824	47,380	31,917
1973	149,473	43,642	43,371	24,671
1974	114,077	65,537	33,937	24,145
1975	132,084	56,183	34,824	25,249
1976	255,877	85,459	67,685	32,437

Year	Canned: Gross Income (thousand $)	Canned: Pounds (thousand)	Dried: Gross Income (thousand $)	Dried: Pounds (thousand)
1958	$16,759	22,034	$493	1,688
1959	13,259	21,207	291	1,555
1960	14,853	24,428	796	3,430
1961	8,760	13,142	745	2,019
1962	16,502	21,584	598	1,796
1963	17,503	27,765	380	2,194
1964	11,929	17,812	461	1,092
1965	19,560	27,724	547	1,329
1966	20,383	26,057	685	1,640
1967	19,833	26,489	582	1,701
1968	22,079	27,527	1,066	2,707
1969	20,898	27,663	1,135	3,141
1970	26,730	34,664	n.a.	n.a.
1971	23,787	29,130	1,356	3,498
1972	29,160	29,937	1,439	2,876
1973	38,024	27,420	1,250	1,558
1974	31,137	26,131	1,401	2,482
1975	17,486	14,235	2,931	2,879
1976	32,606	22,511	1,748	2,217

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Most of the shrimp caught by recreational fishermen are taken with otter trawls ranging from 16 to 40 feet in width. Seines, cast nets, dip nets, butterfly nets, and push nets are also used in some areas. It is not possible from available data to determine what portion of the total recreational shrimp catch is used for home consumption and what may be sold commercially.

State-by-state summaries of the recreational shrimp fishery are:

Florida West Coast: No permit is required; total catch and effort are not quantified. The number of boats is estimated at 500 to 650 (Charles R. Futch, Florida Department of Natural Resources, personal communication).

Alabama: About a third of the owners of boats in the coastal counties less than 26 feet in length owned 16-foot trawls, for which no licenses are required (Swingle, et al., 1976). There are more than 6,000 such boats. Swingle, et al. (1976) estimate that recreational shrimpers harvested 15 to 25 percent of the total catch in the inland waters (Table 3.5–17). Because of catch limitations, some recreational shrimpers often purchase commercial licenses during open commercial seasons to avoid poundage restrictions imposed on sport shrimpers.

Mississippi: Weaver and Christmas (n.d.) estimate that recreational shrimpers constituted an average of 67 percent of the licensed shrimpers in 1974–1976 and took more than a half million pounds of shrimp or about one-eighth of the reported inshore commercial catch during the three-year period (Table 3.5–17).

There is no distinction between commercial and recreational shrimpers under the law. In their study, Weaver and Christmas classified recreational shrimpers as those who reportedly did not sell their catches.

Louisiana: More recreational shrimpers are located in Louisiana than in any other state. It is estimated that in 1973 sport shrimpers in Louisiana equipped some 30,000 boats with otter trawls and harvested some 23.6 million pounds (heads-on) of shrimp, Table 3.5–17 (U.S. Army Corps of Engineers n.d.). At the present time, both the number of boats equipped with trawls and the total catch are probably much higher. No license is required for recreational trawls up to 16 feet. Licenses are required for trawls in the 17- to 50-foot range. The smaller trawl operators may take up to 100 pounds of shrimp, heads-on, per day with no size limitations. A sport trawling license permits the shrimper to take as many shrimp each day as he can, provided the shrimp are not sold. Recreational shrimpers often purchase commercial licenses which permit them to shrimp on a part-time basis and sell all or part of the catch. Most of the shrimp sold go to outlets which are not statistically monitored, so the magnitude of this commercial catch cannot be defined.

Texas: King (1975) estimated that 1.1 percent of the Texas shrimp harvest was caught by recreational shrimpers in 1973. Recreational shrimpers harvested about 846,000 pounds from Texas' bays and about 55,000 pounds from the Gulf waters adjacent to Texas (Table 3.5–17). Licenses are required of Texas recreational fishermen. An additional license is required for trawls. Cast nets, dip nets, traps, and minnow seines do not require licenses. Catch limits are two quarts per person during any inland waters closed season. Up to 100 pounds may be taken in major bays during the open season, August 15 to December 15 and from Gulf waters under state jurisdiction during the July 16 to May 31 season. The limit is 15 pounds in major bays during the May 15 to July 15 season. Recreational shrimpers are prohibited from selling any portion of their catch and are subject to the same size restrictions as commercial fishermen.

Personal Communications from Fishery Managers

The following information on recreational shrimping was collected by means of personal communications with fishery management personnel from each of the five Gulf states.

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Table 3.5-14

Number of Processing Plants in the Gulf Coast States 1970-1976

	Total Gulf	Florida West Coast	Alabama	Mississippi	Louisiana	Texas
1970	435	138	44	43	122	88
1971	428	127	48	44	128	81
1972	417	118	51	42	124	82
1973	407	118	51	40	118	80
1974	360	103	44	37	112	64
1975	350	106	43	37	104	60
1976	356	113	43	36	109	55

From Fishery Statistics of the United States and Processed Fishery Products, Annual Summary.

Table 3.5-15
Yearly Average and Seasonal High Employment in Fish Processing

	Total Gulf		Florida West Coast		Alabama	
	Yearly Ave.	Sea. High	Yearly Ave.	Sea. High	Yearly Ave.	Sea. High
1970	11,527	15,659	3,507	4,137	875	1,383
1971	11,488	15,912	3,562	4,321	1,018	1,590
1972	11,477	15,372	3,409	3,971	1,158	1,732
1973	11,405	15,440	3,477	3,951	1,196	1,786
1974	9,316	13,245	2,953	3,473	1,040	1,496
1975	9.058	12,028	2,860	3,319	1,005	1,419
1976	10,399	13,590	3,393	4,014	1,297	1,839

	Mississippi		Louisiana		Texas	
	Yearly Ave.	Sea. High	Yearly Ave.	Sea. High	Yearly Ave.	Sea. High
1970	990	1,458	3,177	4,612	2,978	4,069
1971	1,025	1,604	3.122	4.699	2,771	3,698
1972	1,087	1,564	3,262	4,775	2,561	3,328
1973	1,016	1,466	3,233	4,807	2,483	3,430
1974	1.088	1,516	2,953	4,242	1,282	2,518
1975	1,035	1,468	2,733	3,780	1,425	2,042
1976	1,124	1,530	2,865	3,958	1,720	2,249

From Fishery Statistics of the United States and Current Fisheries Statistics.

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Table 3.5-16

Hourly Wage Rates for Fish Processing 1958-1976

	Canned and Cured		Fresh and Frozen	
	Nation	Gulf	Nation	Gulf
1958	$1.57	$1.10	$1.17	$ .82
1959	1.68	1.18	1.19	.83
1960	1.79	1.25	1.20	.84
1961	1.79	1.25	1.28	.90
1962	1.88	1.32	1.41	.98
1963	1.91	1.34	1.41	.98
1964	1.94	1.36	1.46	1.02
1965	2.07	1.56	1.65	1.24
1966	2.12	1.59	1.71	1.28
1967	2.19	1.64	1.80	1.35
1968	2.28	1.72	1.90	1.42
1969	2.34	1.86	2.04	1.62
1970	2.74	2.19	2.00	1.60
1971	2.86	2.29	2.17	1.73
1972	3.09	2.81	2.59	2.36
1973	3.34	3.04	2.72	2.48
1974	3.60	3.27	3.07	2.79
1975	3.87	3.52	3.32	3.02
1976	4.50	4.10	3.65	3.31

From Census of Manufacturers and Annual Survey of Manufacturers, US Department of Commerce.

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Table 3.5-17.—*Gulf of Mexico Recreational Shrimp Fishery: The Survey Methods, Number of Sport Trawls, Estimated Total Effort (m.h. = Man Hours, a.d. = Angler-Days and m.d. = Man-Days), Estimated Total Catch and Data Source by State and Year*

State	Year	Survey method	Number of sport trawls [1]	Estimated total effort	Estimated total catch (lbs. heads-on)	Data source
Florida west coast			([2])	([2])	([2])	([2])
Alabama [3]	1972	Postal and telephone survey	[4]5,727	([5])	277,051	Swingle et al. 1976
	1973	Personal interview	5,727	309,644 m.h.	204,577	Swingle et al. 1976
	1974	Personal interview	5,727	189,944 m.h.	290,541	Swingle et al. 1976
Mississippi	1974	Personal interview	1,535	19,958 a.d.	166,667	Weaver and Christmas n.d.
	1975	Postal and telephone	1,770	15,410 a.d.	176,353	Weaver and Christmas n.d.
	1976	Survey	1,874	16,571 a.d.	182,111	Weaver and Christmas n.d.
Louisiana	1968	Telephone survey	14,000	378,000 m.d [6]	19,000,000	U.S. Fish and Wildlife Service 1972.
	1973	([7])	30,000	472,000 m.d	23,600,000	U.S. Army Corps of Engineers n.d.
Texas	1973	Postal and telephone survey	10,117	([5])	900,823	King 1975.
					118,080	

[1] The number of recreational trawls (≥ 16 feet in length) in Baldwin and Mobile Counties, Alabama, was estimated for 1972 based on the assumptions that all recreational trawls were owned by boat owners and that all recreational shrimping was conducted from boats ≤ 26 feet in length. The estimated number of recreational trawls in Louisiana during 1973 was based on the assumption that 25 percent of the licensed sport boats were equipped with trawls to harvest shrimp. The total number of trawls in Mississippi was based on the results of a survey of licensed trawl holders who reported no sale of catch. In Texas, the total number of recreational trawls was determined from direct counts of the number of "Individual Bait-Shrimp Trawl" licenses sold during 1973.

[2] No data available.

[3] All estimates are for Baldwin and Mobile Counties only.

[4] Catch Estimates for 1973 and 1974 were based on the assumption that there was no change in the number of trawls owned since 1972

[5] Not determined.

[6] Based on the assumption that 14,000 shrimpers fished an average of 27 man-days each in 1968.

[7] The estimated total catch and effort for 1973 were projections based upon the results of the 1968 survey.

Florida West Coast: Most of the interest in recreational shrimping appears to be centered in the Apalachicola Bay region. The boats used in the fishery range in size from about 15 feet to large cabin cruisers, and include a number of small (20–25 feet) fully-rigged shrimp boats. Most of the recreational effort is expended on weekends during summer and autumn by residents of the coastal counties and adjacent inland counties. Trawls range in size from 14 to 18 feet with an average size of 16 feet. Other gear types are seldom used to harvest shrimp for home consumption. The popularity of recreational shrimping in Florida appears to be related to the retail price of shrimp rather than to the availability of the resource. The number of participants in the recreational shrimp fishery may increase if shrimp prices continue to rise. (Charles R. Futch, Assistant Chief, Bureau of Marine Science and Technology, Florida Department of Natural Resources, Tallahassee, 9 May 1978).

Comparatively little recreational shrimping occurs on the Florida west coast. Some recreational effort may occur out of the Cedar Key area by inland county residents traveling to the coast for the weekend. There may have been a decline in the number of participants in the recreational shrimp fishery in the past few years because of the rising prices of fuel, nets, and equipment. Also, obtaining the necessary information on how to shrimp may be more difficult here than in other areas (Jeffrey A. Fisher, Marine Advisory Agent, Panama City, 10 may 1978).

Alabama: Enforcement officers have observed an apparent increase in the number of recreational shrimp boats in the past few years which is believed to be mainly due to the rising retail price of shrimp. The number of participants will probably increase if shrimp prices continue to rise. Most of the recreational effort is expended in the Mississippi Sound and lower Mobile Bay where the greatest concentrations of brown shrimp occur. Some recreational effort may occur in Wolf and Perdido Bays but is small by comparison. Recreational shrimpers reside primarily in Baldwin and Mobile counties, although some live in the inland counties and travel to the coast to shrimp. Residents of other states have been periodically observed trawling recreationally in Alabama. Most of the recreational effort occurs on the weekends, and to a lesser extent, after work on weekdays. The boats generally range from 14 to 30 feet in length, with the majority in the 14 to 20 foot class. Most of the recreational catch is harvested with 16-foot otter trawls. Owners of 16-foot trawls sometimes purchase commercial licenses to avoid the poundage limitations imposed on recreational shrimpers. (Steven R. Heath, Marine Biologist, Alabama Department of Conservation and Natural Resources, Dauphin Island, 11 May 1978.)

Mississippi: Recreational shrimping occurs primarily in Mississippi Sound between Biloxi and Pascagoula, with a comparatively small effort in the vicinity of Waveland. Most recreational shrimping is conducted using a small boat (30 feet long or less) outfitted with a single 16-foot trawl with one to two people aboard. The majority of the recreational shrimpers reside in Harrison and Jackson counties; relatively few live in Hancock county. The number of licensed trawls in Mississippi has increased sharply in the last three years. (Tom Van Devender, Fishery Biologist, Gulf Coast Research Lab, Ocean Springs, 8 May 1978.)

Louisiana: There are a large number of participants in the recreational shrimp fishery. About 25 percent of the estimated 200,000 recreational boats registered in Louisiana are equipped with otter trawls. Although the majority of the recreational catch is taken in otter trawls, some effort occurs with wing nets and cast nets. Wing nets may be attached to fixed platforms or boats; cast nets are used in the Rockefeller Refuge, lake Pontchartrain vicinity, and other accessible marsh areas. The boats used for recreational shrimping range in length from about 14 feet and up. Most of the residents of the coastal parishes who own boats 16 feet in length have otter trawls. Many recreational shrimpers are residents of larger cities and choose to shrimp in the wetland areas nearby. However, on a typical trip, recreational shrimpers travel 50 to 80 miles to shrimp in coastal areas Comparatively few people from the northern part of the state above Baton Rouge travel to the coast to shrimp. There is no known recreational shrimping by residents of other states. (Harry Schafer, Chief; William S. Perret, Federal Aid Coordinator; Judd Pollard, Biologist, Division of Oysters, Water Bottoms and Seafoods, Louisiana Wildlife and Fisheries Commission, New Orleans, 6 June 1978.)

Texas: The general increase in the number of "Individual Bait-Shrimp

Trawl" licenses sold in recent years suggests that the number of participants in the Texas recreational shrimp fishery has shown the same growth trends as the other Gulf states. The growth of the recreational shrimp fishery in Texas may be attributed to (1) population growth in the coastal areas, (2) an increase in leisure time, and (3) the rising retail price of shrimp. The boats used by recreational shrimpers average about 16 to 21 feet in length. Most of the shrimpers reside in coastal counties or adjacent inland counties. There is no known recreational shrimping effort by residents of other states. The majority of the recreational catch is taken with otter trawls. (Roy B. Johnson, Regional Director, Coastal Fisheries, Texas Parks and Wildlife Department, La Porte, 13 June 1978.)

3.5.5 Subsistence Shrimping

Accepting the definition of a subsistence shrimp fisherman as one who catches just enough shrimp to provide for immediate sustenance of his family, no individuals, communities, or sicieties fitting into this category could be identified as part of the Gulf of Mexico shrimp fishery. There are apparently some fishermen who partially subsist on shrimp. In a broader sense, there are substantial numbers of south Louisiana residents who alternate their subsistence activity from shrimping to crabbing, trapping, and hunting and who have little or no income other than that derived from these activities.

3.5.6 Indian Treaty Fishing Characteristics

No treaties with Indians (Native Americans) which would affect a Gulf of Mexico fishery management plan have been located. One lawsuit, pending in Federal District Court for the Eastern District of Louisiana, seeks to enjoin enforcement of all Louisiana wildlife and fishery laws "unsupported by legitimate conservation considerations" as applied to three tribes domiciled in Louisiana. It seeks to overturn Louisiana laws regulating gill nets and seines, defining the line of demarcation between inside and outside waters for shrimping, and regulating nets and gear used for taking shrimp, by having them delcared unconstitutional as applied to Houmas, Chittimacha, and Choctaw Indians on the grounds that treaties entered into between France and Spain and various Indian tribes were carried over in full force by the terms of the Louisiana Purchase.

3.5.7 Output of Domestic Commercial Bait-Shrimp Fishery

A bait-shrimp industry of considerable economic importance has arisen in some areas of the Gulf of Mexico due to the popularity of shrimp, live or dead, as bait for numerous varieties of saltwater game fish (Section 4.1, Predation). Each of the Gulf states has laws regulating the bait-shrimp industry. Generally there are no restrictions as to season, count size, or closed areas. The bait fishery is based primary on the juveniles of brown, pink, and white shrimp, with pink shrimp dominant for Florida and brown and white shrimp dominant in the other states.

Otter trawls, side-frame trawls, cast nets, seines, and baited traps are used to harvest bait. The catch is sorted rapidly, and shrimp are placed in aerated live-bait wells. Live-bait shrimping operations are conducted primarily at night.

A state-by-state summary:

Florida: An average of 74.75 million shrimp, valued at $1.42 million, was produced in the 1968–1975 period (Table 3.5–18). The number of permits issued increased from a 1968–1969 low of 182 to 761 in 1974 (Table 3.5–18). A decline in the total catch has accompanied the increase in permits (Table 3.5–18).

Alabama: Swingi (1972) reports that 24 bonafide bait dealers in Baldwin and Mobil counties sold 1,544,000 live shrimp with a retail value of $64,500 during. In addition to the live bait sales, a total of 22,200 pounds of dead shrimp was sold for bait with a retail value of $12,040. Bait-shrimping is a part-time occupation, primarily during the May–September period, for most of the bait dealers; 40 licenses were issued for 1977–1978 fiscal year (Steven R. Heath, Alabama Department of Conservation and Natural Resources, personal communication.)

Mississippi: Christmas, et al. (1976) estimate that bait-shrimpers in the coastal counties of Mississippi harvested a total of 60,317 pounds of live shrimp with a retail value of $96,804 during May to November, 1971. In addition, they estimate that 44,860 pounds of shrimp valued at $25,875 were used as dead bait during the same period.

Louisiana: Saltwater finfisherman in Louisiana used an estimated 1,529,000 pounds of bait-shrimp during 1973 (U.S. Fish and Wildlife Service data 1976, cited in U.S. Army Corps of Engineers n.d.). Live bait-shrimping in Louisiana comes under strict regulation, and a $1,000 property, cash, or performance bond must be posted by the dealer as surety for observance of regulations. The number of licenses issued during 1971–1978 varied between 11 and 28 per year; a recent high was 28 in 1974, and the 1978 total was 12 (W.S. Perret, LDWF personal communication).

Texas: Chin (1960) estimates that a total of 460,995 pounds of live bait-shrimp and 206,624 pounds of dead bait-shrimp were harvested from Galveston Bay from June 1957 to May 1959. The total retail value of the catches were $653,520 and $112,761 for live and dead bait-shrimp, respectively. Stokes (1974) estimates that a total of 53,181 quarts of live bait-shrimp with a retail value of $265,905 were harvested in the Lower Laguna Madre area from November 1970 through October 1972. NMFS estimates that a total of 2,340,000 pounds of live and dead bait shrimp valued at $6,790,000 were harvested on the Texas coast in 1978. There were approximately 1,500 commercial bait-shrimp boat licenses issued that year.

3.5.8 Area Community Characteristics

3.5.8.1 Total Population

A very substantial settlement of the coastal area has occurred during the twentieth century, resulting in substantial changes to the estuarine habitat of the Gulf populations (Lindall and Saloman, 1977).

The most recent population trends in the coastal area are presented in Figure 3.5–11. The coastal parishes/counties display no uniform pattern of recent population change. However, on a state-by-state comparison the coastal parishes/counties that have been experiencing the most rapid growth tend to be situated along the Florida coast. Several Louisiana, Alabama, Mississippi, and Texas counties that show moderately strong growth appear to do so in conjunction with the spread of population in and around metropolitan areas. Rapid growth of Florida counties has long been associated with retirement.

The shrimp industry makes its presence felt in virtually all ports that lie on or near the Gulf of Mexico. However, in only a handful of ports could it be considered the dominant industry. The ports tend also to be sites of shipbuilding, petrochemical manufacture, and marine transport.

3.5.8.2 Total Employment in Shrimp Fishery

Peak average employment associated with the Gulf shrimp fishery for 1974 was 28,295, with a seasonal peak of 32,850. Employment is delineated in the accompanying table, covering processing, wholesaling, and vessel and boat fisherman for the year. Data is from Fisheries Statistics of the U.S., 1974.

Table 3.5–18—*Total number of bait-shrimp permits issued, total live shrimp production, and value of the catch in Florida for the years 1968 through 1975 (after Christmas and Etzold 1977)*

Year	Permits	Live shrimp production (× 10^6 individuals)	Value (× 10^6 dollars)
1968	182	87.02	1.49
1969	182	88.55	1.76
1970	399	78.72	1.40
1971	401	67.04	1.23
1972	544	73.64	1.32
1973	361	70.31	1.34
1974	761	61.30	1.29
1975	699	71.48	1.55

	Seasonal seafood processing employment	Yearly averages	Seasonal seafood wholesaling employment	Yearly averages	Full time	
					Fishermen vessels	Boats
Florida west coast	3,473	2,953	557	515	2,377	94
Alabama	1,496	1,040	145	91	1,175	125
Mississippi	1,516	1,088	127	80	615	222
Louisiana	4,242	2,953	443	358	3,675	3,130
Texas	2,518	1,282	1,139	741	5,415	366
Total gulf	13,245	9,316	2,411	1,785	13,257	3,937

3.5.8.3 Relationship of Shrimp Fisheries to Total Work Force

Census information about numbers of shrimp fishermen is unavailable as it is masked among counts of people employed in agriculture, forestry, and fisheries. A frequency distribution of Gulf counties, in terms of the percent of the labor force that was employed, is given in Figure 3.5–12. It does not appear that shrimp fishing is a major contributor to overall employment in most of Gulf counties. The highest proportion employed in agriculture, forestry, and fisheries combined was 30 percent.

Table 3.5–19 compares, by county, the number of people identified as employed in the fisheries, mining, contract construction, and petrochemical manufacturing industries (county business patterns) for Texas and Louisiana counties identified as major centers of shrimp industry activity. The data indicate that the shrimp industry is overshadowed in all these units by other marine-oriented industries alone. The data suggest that the shrimp industry could not contribute, even at its peak, much more than 25 percent to the employment profile of any of these Gulf counties. In most cases, the peak contribution very likely is far less than 25 percent.

The presence of other industries in the shrimp ports is a mixed blessing to the shrimpers. Offshore oil, in particular, can provide off-season employment. However, in a number of ports shrimpers have had to relinquish berthing space to offshore oil or oceanic transshipment, both of which provide more revenue to port authorities.

3.6 Interaction Between and Among User Groups

3.6.1 Shrimpers Interactions

Inland shrimp operations most likely involve family members or close friends as crew. Where the relationship is close, the income may not specifically be divided but shared.

If the offshore vessel is operated by its owner, the usual arrangement is for the vessel to get a portion of the value of the catch and for the owner/captain and crew to divide the remainder. The vessel share goes toward maintenance and repair of the vessel, fuel, and ice.

If the operator is not the owner, a different relationship exists. The captain and crew share from 42 to 33 percent of the "take"—the net value of the shrimp minus a share of such operating expenses as fuel, ice, processing charges, and gear repair.

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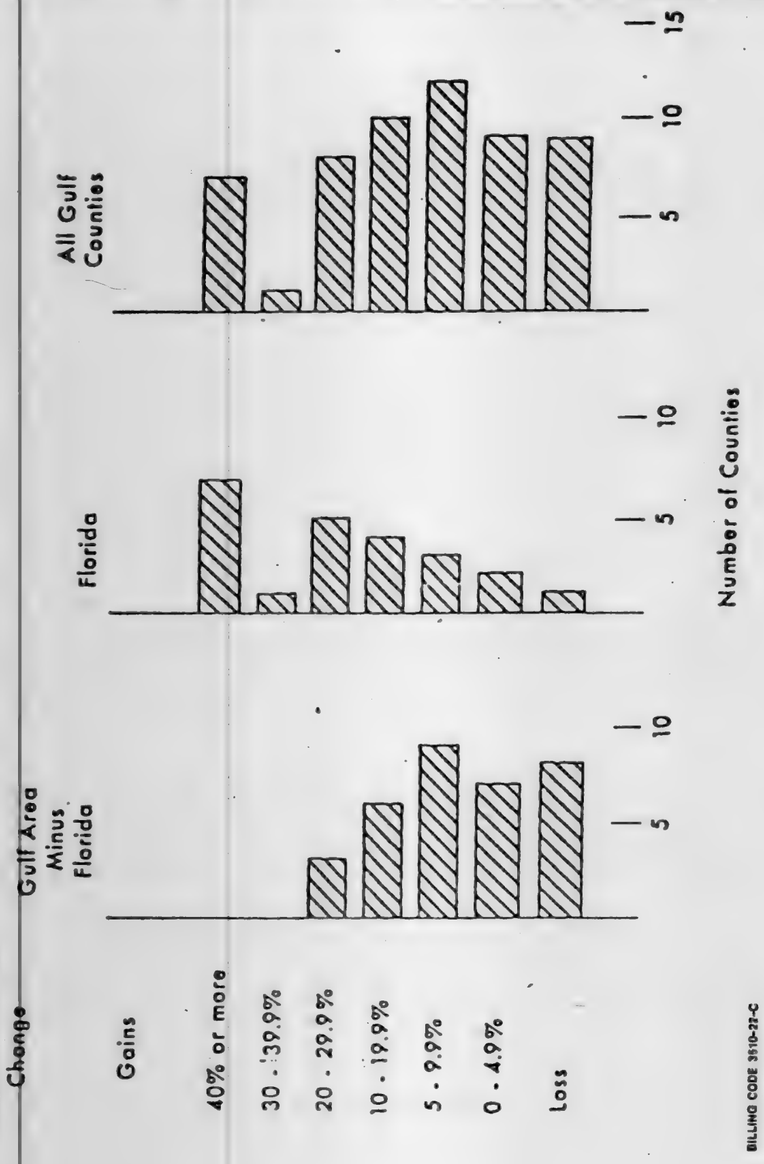


Figure 3.5-11.

There is another complex set of relationships—between the owner and the dealer where the shrimp are unloaded. In some areas there is no apparent bond; in others, with such fluctuations as periodic ice shortages or marked shrimp supply-demand fluctuations, a fairly permanent relationship may develop. The relationship seems to work to the benefit of both dealer and owner in some cases, for example, when ice or shrimp supplies are scarce. This kind of relationship, in which both parties are mutually interdependent, appears to be an amicable one with few signs of antagonism or conflict. In other areas, where it is customary for a dealer rather than a banker to advance operating capital to the shrimper, the lack of independence in business transactions apparently can lead to antagonism.

3.6.2 Prevalent Conflicts With Shrimpers and Other National Interests

Gulf shrimp are harvested by one of the largest and most diverse group of fishermen in the nation. Harvest occurs from the shallow-water estuarine areas out to open Gulf waters of 300 fathoms. The reported commercial fleet averaged 8,300 boats and vessels trawling an average of some 5.2 million hours annually during the 1970–1974 period. All information indicates a general increase in these figures. In addition there is a large, growing, relatively uncounted recreational fleet as well as a substantial number of commercial bait shrimpers. Conflicts of this large group with other national interests may involve:

- Capture of finfish and shellfish, which are harvested and then discarded;
- Incidental capture of sea turtles;
- Loss of estuarine habitat necessary for growth and survival of brown, white and pink shrimp;
- Gear conflicts with stone crab fishermen in southern Florida;
- Construction (accidental or intentional) of underwater obstructions to shrimp trawling.

Measures are suggested in Section 8.3 to alleviate these conflicts through consideration of the needs both of shrimpers and of other national interests. Two of these conflicts (those over sea turtles and finfish) and treated in more detail in this section.

3.6.2.1 Incidental Catch of Finfish by Shrimpers and of Shrimp by Groundfish Fishermen

The discard of the incidental catch of finfish during commercial shrimping operations in the Gulf of Mexico is a matter of concern to fishery managers. During the process of sorting shrimp from the remainder of the catch brought in by a trawl, most of the incidental catch die from trawling, handling, and exposure before they are discarded. In recent years this problem has become accentuated by the movement of shrimp trawlers into offshore areas traditionally used by the groundfish fleet.

Seidel (1975) estimated that four to 12 pounds of finfish are taken for each pound of shrimp harvested. The annual finfish discard was approximated in Table 3.6–1 by multiplying the low and high estimates (four and 12 pounds, respectively), by the total yearly shrimp catch in the Gulf of Mexico. The analysis of experimental tows taken in the north central Gulf by the National Marine Fisheries Service, Pascagoula Laboratory, indicates that the fish-to-shrimp ratios vary widely by season, locality, year, and fishing strategy. The fish-to-shrimp ratios presented in Table 3.6–2 are composite figures computed from many tows taken in the inshore and offshore areas of the north central Gulf. Up to 70 percent (by weight) of the discard are species usable by the groundfish industry.

During the period of concentrated shrimping effort in estuarine nursery areas, shrimp trawls capture and kill large numbers of juvenile groundfish and other species. At present it is not known if current levels of trawl-induced mortality of juvenile fishes in estuaries have a detrimental effect on offshore groundfish populations.

The income from marketable incidental catch taken in shrimp trawls and reported to NMFS in 1974 was (by states): Florida, 1.7 percent of the value of the shrimp landings; Alabama, 13 percent; Mississippi, 7 percent; Louisiana, 0.8 percent; and Texas, 0.5 percent (Figures 3.6–1 through 3.6–5).

There is no information currently available on the magnitude of the incidental catch discarded by recreational shrimpers in the Gulf of Mexico. Most of the recreational catch and effort occurs in estuarine areas. The total amount of finfish discards, based on the estimated number of participants in the recreational shrimp fishery, may be substantial in some states. Louisiana has by far the largest number of participants in the recreational shrimp fishery, followed by Texas, Alabama, Mississippi, and Florida.

No quantitative data are available on the mortality of the incidental catch taken during live bait-shrimping operations. Bait shrimpers operate primarily at night in the inshore areas of the Gulf of Mexico. The mortality of the incidental catch is probably minimized by: (1) the short duration of the tows; (2) the speed at which the catch is sorted; and (3) cooler, humid conditions at night.

Juhl (1974) estimates that the average incidental catch of shrimp was eight pounds and seven and a half pounds (heads-on) per hour of fishing effort by industrial and foodfish trawlers, respectively. Although substantial quantities of shrimp are caught and marketed by the industrial and foodfish fleet (Gutherz, et al., 1975), these catches are not specifically listed in the annual summaries of landing statistics published by the National Marine Fisheries Service.

3.6.2.2 Habits, Distribution, and Incidental Capture of Sea Turtles in the Gulf of Mexico

(See Appendix FEIS for detail information)

Six of the seven species of sea turtles in existence are found in the U.S. Gulf of Mexico. These sea turtles are sometimes accidentally caught during trawling operations for shrimp and groundfish. The listing of the Kemp's ridley, hawksbill, leatherback, and Florida populations of the green turtle as endangered species, and of the green, loggerhead, and olive ridley turtles as threatened species, necessitated a careful consideration of the effect of shrimping on these species. A considerable effort was made to document what was known about the life history and factors affecting the decline in their numbers, and shrimping operation measures which would alleviate these problems. (See Appendix FEIS.)

Exploitation and habitat loss are two major causes of the drastic decline in sea turtle numbers. Incidental capture by shrimp and groundfish fishing operations is increasingly important as populations decline. Preservation measures are aimed at reducing adult and subadult mortality and increasing juvenile recruitment.

The accidental capture of sea turtles during shrimp and groundfish fishing activities is a major problem along the southern Atlantic and Gulf coasts (Ogren, et al., 1977). An estimated 800 to 1,000 sea turtles are caught each year off the south Atlantic coast (based on Hillestad, et al., 1977; Ulrich, 1978). Similar estimates for incidental turtle catch in the Gulf of Mexico are not available.

All of the Gulf states have laws aimed at conservation of sea turtles. At the federal level, designation of critical habitat areas is under consideration. Headstarting—protection during incubation and the first year of life—still is in the experimental stage. Predator control, primarily for raccoons, can protect nests from destruction.

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Figure 3.5-12. The percent of all county residents employed who were active in Agriculture, Forestry, and Fisheries.

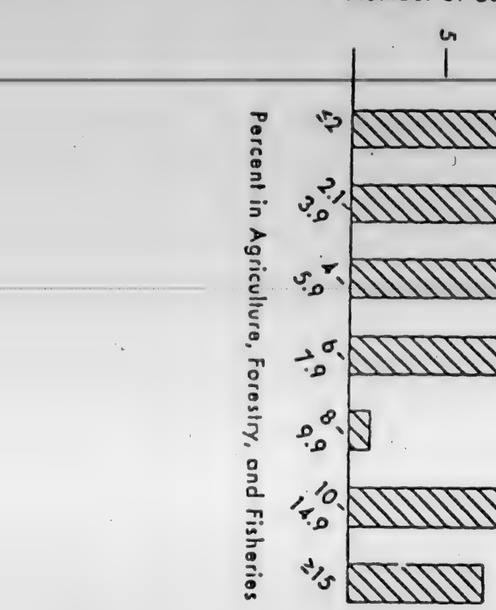


Table 3.5-19

Employment Patterns in Major Shrimp Counties of Texas and Louisiana, 1976

Number of employees	Seafood				Other		
	Fishing Hunting Trapping	Whole-salers	Canned Cured Seafood	Fresh or Frozen Shrimp	Contract Construction	Mining	Petrochemical Manufacturing
Louisiana							
Calcasieu					3531	612	1816
Jefferson	86	157	160	289	13288	7052	509
LaFourche	316				981	956	
Terrebonne	191	93	113	(100-249)	1886	7312	(100-249)
Texas							
Brazoria	128	60			6432	675	(5000-9999) +(2500-4999)
Cameron	1075	59		(500-999)	7770	89	(100-249)
Galveston	108	50			3125	505	6532
San Patricio [1]	300				457	1048	(500-999)

[1] Note that no establishments are reported in any of the seafood trade or processing categories. This is despite the fact the Aransas Pass, in San Patricio County, touts itself the world's shrimp capital. Aransas Pass does have a sizeable shrimp wholesaling and processing industry. Again, this time for county business patterns, the data are not very adequate even for our modest purposes.

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Table 3.6-1. Annual Gulf of Mexico shrimp catch and estimated finfish discards using fish:shrimp ratios of 4:1 and 12:1, 1959-1975. Shrimp catches were converted to heads-on poundages from headless data furnished by the U.S. Department of Commerce, 1959-1975. Discard ratios encompass the range reported by Seidel (1975) and are presumably based on round (live) weight.

Year	Shrimp catch (heads-on)[1] (million pounds)	Estimated discard 4:1 ratio (million pounds)	Estimated discard 12:1 ratio (million pounds)
1959	143.4	573.6	1,720.8
1960	166.1	664.4	1,993.2
1961	90.7	362.8	1,088.4
1962	106.6	426.4	1,279.2
1963	176.5	706.0	2,118.0
1964	150.1	600.4	1,801.2
1965	167.7	670.8	2,012.4
1966	163.4	653.6	1,960.8
1967	207.7	830.8	2,492.4
1968	180.4	721.6	2,164.8
1969	187.8	751.2	2,253.6
1970	215.6	862.4	2,587.2
1971	211.4	845.6	2,536.8
1972	208.2	832.8	2,498.4
1973	165.3	661.2	1,983.6
1974	169.1	676.4	2,029.2
1975	157.9	631.6	1,894.8

1/ Heads-on poundages were estimated from headless data using conversion factors for each species and average percent species composition of Gulf catches from 1959-1975: brown shrimp -- 1.61, 55%; white shrimp -- 1.54, 32%; pink shrimp -- 1.60, 11%; sea bobs -- 1.53, 1%; royal red shrimp -- 1.80, 0.8%; rock shrimp -- 1.67, 0.2%. The conversion factors for all species except rock shrimp are from the U.S. Department of Commerce (1959-1975). The conversion factor for rock shrimp was computed from data published by Cobb et. al. (1973).

Table 3.6-2. Comparison of fish discard ratios derived from trawl data collected in the inshore and offshore areas of the Gulf of Mexico between 87° 30' and 91° 31', 1973-1977 (data collected and summarized by the National Marine Fisheries Service, Pascagoula, Mississippi).

Year	Inshore		Offshore	
	Sample size	Ratio	Sample size	Ratio
1973	52	4.9	(1)	(1)
1974	19	1.0	15	4.3
1975	47	5.9	52	20.3
1976	27	3.6	53	12.6
1977	24	2.7	19	6.0

(1) No data.

Table 3.6-3. Estimated annual discard (metric tons) of the six major species of finfishes taken during inshore and offshore shrimping operations in the Gulf of Mexico from 87° 30' to 90° 30', 1969-1976. Percentages in parentheses refer to the percent composition of the total catch for each species and are composite figures derived from data collected during 1973-1977 (data collected and summarized by the National Marine Fisheries Service, Pascagoula, Mississippi).

Year	Inshore						Offshore					
	Atlantic Croaker (32.8%)	Sand Seatrout (10.6%)	Spot (10.6%)	Sea Catfish (7.5%)	Atlantic Cutlassfish (6.0%)	Silver Seatrout (1.7%)	Atlantic Croaker (55.1%)	Sand Seatrout (6.1%)	Atlantic Cutlassfish (5.0%)	Spot (3.3%)	Silver Seatrout (2.0%)	Sea Catfish (1.7%)
1969	28,854	9,325	9,325	6,598	5,278	1,495	133,298	14,759	12,096	7,983	4,838	4,113
1970	29,890	9,659	9,659	6,834	5,468	1,549	140,576	15,563	12,756	8,419	5,102	4,337
1971	33,196	10,728	10,728	7,590	6,072	1,720	153,543	16,998	13,933	9,196	5,573	4,737
1972	26,274	8,491	8,491	6,008	4,806	1,362	142,417	15,767	12,924	8,530	5,169	4,394
1973	18,369	5,936	5,936	4,200	3,360	952	89,939	9,957	8,161	5,386	3,264	2,775
1974	19,504	6,303	6,303	4,460	3,568	1,011	92,583	10,250	8,401	5,545	3,360	2,856
1975	16,183	5,230	5,230	3,700	2,960	839	96,713	10,707	8,776	5,792	3,510	2,984
1976	29,430	9,511	9,511	6,730	5,384	1,525	134,188	14,856	12,177	8,037	4,871	4,140

Table 3.6-4. Estimated percent species composition of the total catch of finfishes taken in shrimp trawls for each of the six major species discarded in the inshore and offshore waters of the Gulf of Mexico between 87° 30' and 91° 30', 1973-1977 (data collected and summarized by the National Marine Fisheries Service, Pascagoula, Mississippi).

Year	Inshore						Offshore					
	Atlantic Croaker	Sand Seatrout	Spot	Sea Catfish	Atlantic Cutlassfish	Silver Seatrout	Atlantic Croaker	Sand Seatrout	Atlantic Cutlassfish	Spot	Silver Seatrout	Sea Catfish
1973	17.3	4.6	21.4	8.5	7.6	0.6	(2)	(2)	(2)	(2)	(2)	(2)
1974	46.2	2.6[1]	19.7	13.2	7.0	---	80.9	1.1	(3)	(3)	2.2	6.0
1975	36.2	12.9	7.7	7.0	6.3	2.1	56.2	6.3	6.2	1.9	1.6	0.8
1976	24.1	4.6	15.4	8.2	2.5	0.3	45.1	6.9	2.0	9.6	3.8	3.2
1977	16.9	9.8	16.7	5.0	5.1	0.3	23.5	6.1	5.1	14.1	(3)	6.3

[1]Includes Silver Seatrout.

[2]No data coverage.

[3]No records of having been captured.

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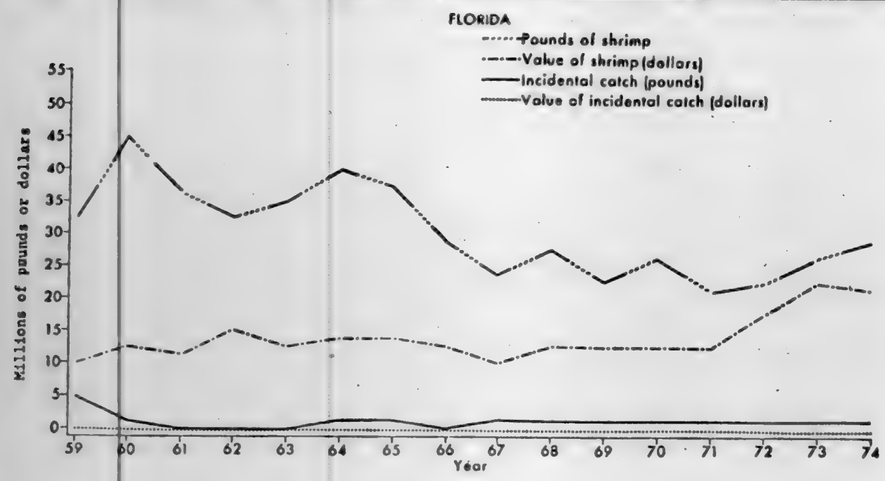


Figure 3.6-1. Annual Florida landings and value of shrimp and marketable incidental catch, 1959-1974. Poundages are in round (live) weight. Source: Fishery Statistics of the United States, 1959-1974.

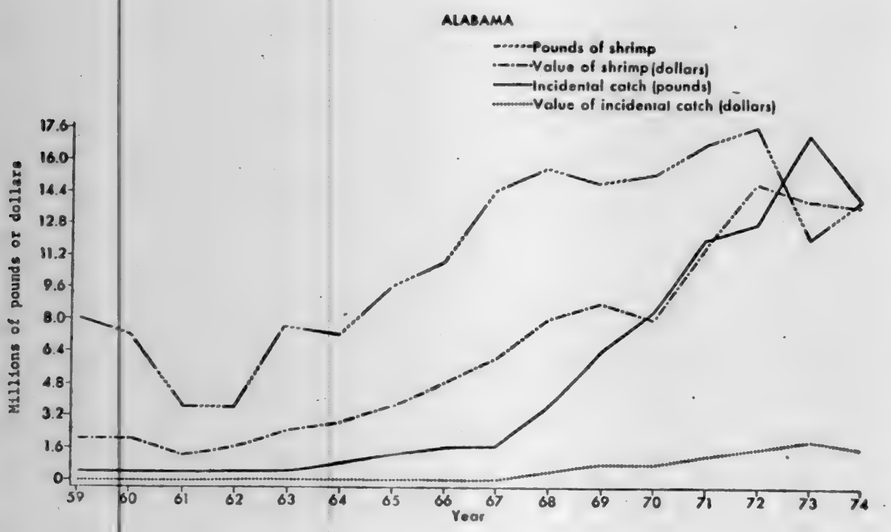


Figure 3.6-2. Annual Alabama landings and value of shrimp and marketable incidental catch, 1959-1974. Poundages are in round (live) weight. Source: Fishery Statistics of the United States, 1959-1974.

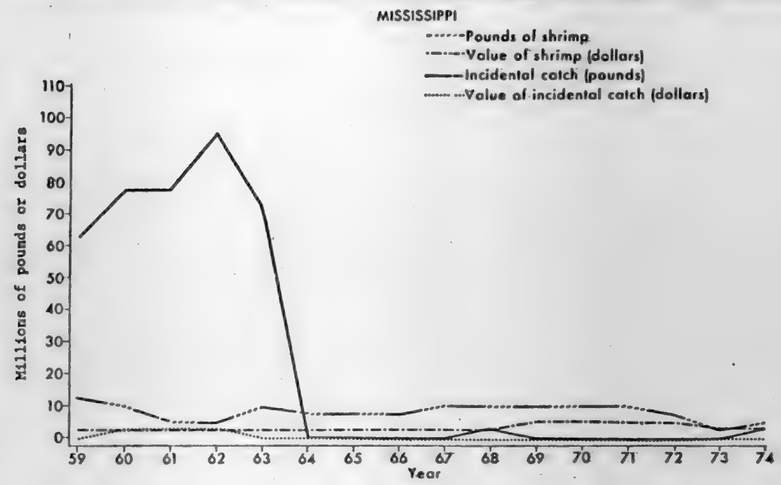


Figure 3.6-3. Annual Mississippi landings and value of shrimp and marketable incidental catch, 1959-1974. Poundages are in round (live) weight. Source: Fishery Statistics of the United States, 1959-1974.

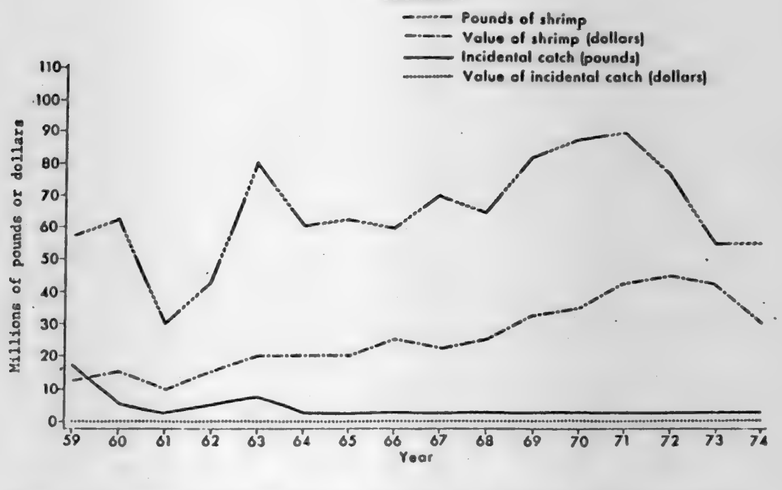


Figure 3.6-4. Annual Louisiana landings and value of shrimp and marketable incidental catch, 1959-1974. Poundages are in round (live) weight. Source: Fishery Statistics of the United States, 1959-1974.

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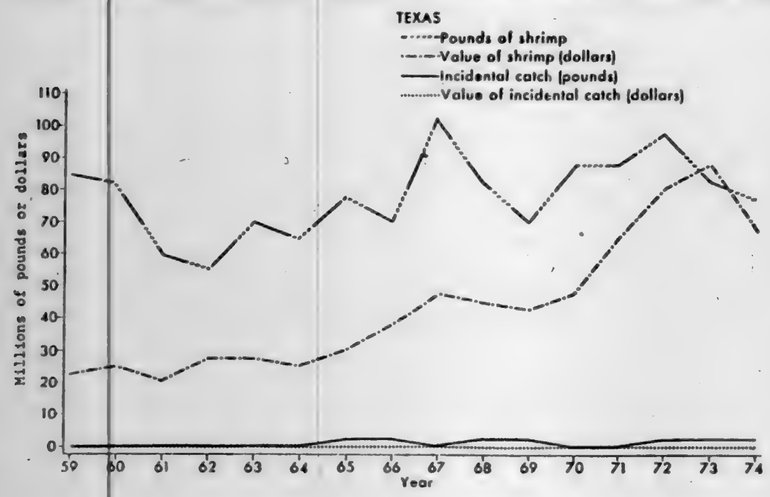


Figure 3.6-6. Annual Texas landings and value of shrimp and marketable incidental catch, 1959-1974. Poundages are in round (live) weight. Source: Fishery Statistics of the United States, 1959-1974.

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Of the sea turtles in the Gulf, the Kemp's ridley is in the greatest danger of extinction. Almost all of Kemp's ridley nesting is restricted to a small stretch of beach near Rancho Nuevo, Tamaulipas, Mexico, although nestings are also recorded for Padre Island on the Texas coast. Seventeen recaptures of tagged nesting females show that these ridleys are distributed throughout most of the Gulf. Eight—all taken by shrimp trawlers—occurred in 1969 between Brownsville, Texas, and the mouth of the Mississippi. Captures of Kemp's ridleys through the years are recorded from Brownsville to the Dry Tortugas off Florida: it is believed that these turtles migrate along the shores back to Mexico for nesting. One of the smallest sea turtles with a primary range in the Gulf of Mexico, the ridley is a turtle of coastal areas—primarily a carnivore and a bottom feeder.

The National Marine Fisheries Service and the U.S. Fish and Wildlife Service are currently involved in research and public workshops whose goal is to restore those sea turtle populations in a manner consistent with the requirements of the Endangered Species Act. Three approaches to reducing the incidental catch are most prominent: first, delineation of critical habitats and restriction of trawling in these areas; second, an education program to inform shrimpers and goundfish fishermen of the methods of, and reasons for, adequatley handling incidentally captured sea turtles in order to reduce mortality; and third, development of gear such as the excluder panel, which reduces the capture of sea turtles during trawling operations. Currently work is underway on all three approaches.

3.7 State and Federal Revenues Derived From Shrimp Fishery

State and federal revenue figures from the shrimp fishery are not isolated by data processing systems of the state agencies in the Gulf; these data are included, however, at the federal level with non-related activities.

The only available documentation applies to licenses and severance taxes imposed by the states. Revenues by states are listed below:

State	1977	1976	1975	1974	1973
Texas	$881,084	$845,556	$887,768	$969,899	$644,781
Louisiana	645,867	517,877	405,651	405,152	405,507
Mississippi	54,696	43,889	37,912	42,483	37,842
Alabama	46,285	25,846	19,017	17,099	16,218
Florida west coast	470,109	450,431	439,439	431,078	398,062

Such items as taxes paid for fuels, income, social security, and employment security by participants in the shrimp fishing effort do not appear in any statistical breakdown, nor is there any pinpointed material on government income derived from the onshore processing and distributing segment.

4.0 Biology Descriptors

4.1 Life History Features

General Features of the Speices

The general life cycles of brown, white, and pink species of shrimp are similar. Adults spawn in the Gulf. Fertile eggs hatch into free-swimming larvae, and the larvae pass through a series of molts. During the postlarvae stage, the shrimp enter an estuary and become bottom feeders.

Within the estuary the juvenile shrimp feed mainly at the marshwater or mangrove-water interface or in submerged grass beds. These areas apparently offer both a concentrated food supply of detritus, algae and microfauna and some protection from predators. Growth and survival in the estuary are largely dependent upon local salinity and temperature regimes. As they grow larger the shrimp shift to deeper waters and become more predacious. At a variable size 2.75–4.7 in (70 to 120mm) they emigrate to the Gulf. This emigration is a function of size, tide, and temperature. Growth continues at a rapid rate in the Gulf under optimum temperatures, though it declines as shrimp approach their maximum size. Spawning probably occurs before the shrimp are 12 months old.

Major differences in the life cycles of the brown, white, and pink shrimp are due to shifts in the time and space at which various life stages reach their maximum abundance. These shifts apparently allow the species to avoid direct competition even when one species predominates in the same general geographical area. In areas where shrimp stocks co-occur, management has built its harvest strategies around these shifts. For example, the Louisiana estuaries are closed in winter and early spring in order to protect juvenile brown shrimp. The inshore brown season is closed when appreciable numbers of juvenile whites appear in trawls for brown shrimp.

There are five overriding biological factors which seem to account for the resiliency of the shrimp resources:

(1) The migration of the life stages through several environments.

(2) The food habits of juveniles and subadults in the estuary provide access to rich, widely-based food supply.

(3) The apparent rapid growth rate of shrimp under favorable conditions results in a harvestable size shrimp within a short time.

(4) High fecundity and extended spawning seasons help to prevent recruitment overfishing in spite of intense fishing pressure.

(5) A large portion of the Gulf is inaccessible to harvesting, e.g., rocky bottom, loggerheads, etc.

The other three shrimp species exploited in the Gulf (royal red, seabob, and rock shrimp) are not estuarine-dependent and apparently spend their life cycles within the open waters of the Gulf. Royal red shrimp differ considerably from other species in that they: (1) Are harvested from depths of 100 to 300 fathoms, (2) have an estimated five year classes occupying the same fishing grounds, (3) exist in a relatively stable environment, and (4) do not reach sexual maturity as a zero-year class shrimp. Seabob shrimp are harvested, along with white shrimp, October through December when they migrate towards the Gulf beaches from deeper water, in response to advancing cold fronts. Rock shrimp are harvested mainly from Florida's sandy bottoms. They are taken primarily as bycatch.

Sexual Maturity

The minimum size at which shrimp become sexually mature (males—fully developed spermatophores; females—ripe ovaries) are listed in Table 4.1-1.

Spawning, Larval Development, Recruitment of Postlarvae to Either Estuaries or Fishing Grounds

Brown Shrimp

Renfro and Brusher (1965) found brown shrimp spawned in Gulf waters of greater than ten fathoms from spring to early summer and continuously at 25 to 60 fathoms. Two peaks were noted, a major one in September to November and a minor one April to June (Renfro and Brusher, 1965). A February to March spawning peak has been proposed (Gunter, 1950; Kutkuhn, 1962), based on

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juvenile abundance in estuaries; however, no direct evidence was presented. Temple and Fisher (1967) note that off the Texas coast planktonic stages of Penaeus species were greatest at 14.8 fathoms from August to November and in 25.2 fathoms and 44.8 fathoms from September to November. They suggest that as these peaks corresponded to peaks in the occurrence of adult brown shrimp at these depths, the larvae were those of brown shrimp. The reported commercial catch peaks in July on the zero-year class; and spawning reaches its height after this July peak and occurs during the intense fall offshore fishing season for brown shrimp.

Baxter and Renfro (1967) found that postlarval brown shrimp recruitment to Galveston Bay peaks in March and mid-April. Second and third peaks are sometimes noted June through September. Estuarine recruitment may occur slightly earlier in Louisiana. White and Boudreaux (1977) and Gaidry and White (1973) report that postlarval brown shrimp recruitment normally peaks in Louisiana in February to March. Thus peak recruitment of postlarval brown shrimp to the estuaries occurs months after the peak in spawning.

Basing their claim on a comparison of their work with Baxter and Renfro (1967), Temple and Fisher (1967) proposed an overwintering of postlarval brown shrimp in the Gulf. They suggest that the postlarvae burrow in the offshore bottom and await the advent of warmer temperatures before entering the estuaries. In support of this theory they note the laboratory work of Aldrich, et al. (1967) which showed that postlarval brown shrimp burrowed at low temperatures.

White Shrimp

A single female white shrimp releases between 500,000 and 1,000,000 eggs in a spawn (Burkenroad 1934, Anderson, et al., 1949). Spawning occurs in Gulf waters at four to seventeen fathoms, spring through fall (Lindner and Anderson, 1956; Renfro and Brusher, 1964; Joyce, 1965; Bryan and Cody, 1975). The spring spawn is believed to be accomplished by females which have overwintered, while the fall spawn is largely attributed to females spawned in the early spring (Lindner and Anderson, 1956).

Multiple spawning of white shrimp in a single season is believed to occur (King, 1948; Lindner and Anderson, 1956; and Renfro and Temple, personal communication in Perez Farfante, 1969).

Off the Texas coast the greatest abundance of planktonic stage Penaeus species occurred from May to August at 7.6 fathoms (14 m) (Temple and Fisher, 1967). They suggest that this peak was composed of white shrimp and note that the time corresponded to the reported spawning peak for white shrimp.

Larval development requires between ten to twelve days (Johnson and Fielding, 1956) and two to three weeks (Anderson, et al., 1949). By the time the postlarval stage is reached, the shrimp have normally entered the estuarine nursery areas (Anderson, et al., 1949). However, Anderson, et al. (1949) reported that "schools of adult white shrimp have been known to approach the coast and spawn close to inlets. When such a spawning occurs, the eggs may be swept through the passes on incoming currents, and larvae (nauplii) may reach the nursery grounds within a few hours."

Table 4.1.1.—*Estimate of the minimum sizes at which shrimp reach sexual maturity (fully developed spermatophores for males and ripe ovaries for females)*

Species/sex	Size (total length, mm)	Source
Brown shrimp:		
Males	[1] 140	Renfro (1964).
Females	140	Renfro (1964).
White shrimp:		
Males	155	(Perez Farfante's [1969] conversion of Burkenroad's [1934] estimate).
Females	135	(Perez Farfante's [1969] conversion of Burkenroad's [1934] estimate).
Pink shrimp:		
Males	34	(Perez Farfante (1969).
Females	92	Eldred et al. (1961).
Royal red:		
Males	125	Anderson and Lindner (1971).
Females	155	Anderson and Lindner (1971).
Rock shrimp:		
Males	34	Cobb et al. (1973).
	42	Kennedy et al. (1977).
Females	49	Cobb et al. (1973).
	64	Kennedy et al. (1977).
Seabob:		
Males	[2]	
Females	63	Anderson (1970).

[1] Assumed
[2] Not available.

Postlarval white shrimp recruitment to the estuaries of the northern Gulf occurs over a fairly uniform time period. In Mississippi it extends from May through October (Christmas, et al., 1966). In Louisiana, postlarvae are primarily recruited to the estuaries from July to August though recruitment begins in June (Gaidry and White, 1973; White and Boudreaux, 1977). In Texas, postlarval white shrimp recruitment to the estuary extends from May through October (Baxter and Renfro, 1967).

Pink Shrimp

Pink shrimp in the Dry Tortugas area spawn year round at 12 to 26 fathoms, with a more intense spawn in spring through fall (Ingle, et al., 1959; Cummings, 1961; Tabb, et al., 1962; Jones, et al., 1964, in Perez Farfante, 1969). In the Tampa and Apalachicola areas, spawning occurs in summer, and juveniles overwinter in the bays (Christmas and Etzold, 1977). Matosubrato (1974) estimates fecundity at about 500,000 eggs per female.

Minimal larval development time is 15 days (Ewald, 1965; Jones, et al., (1964). In the Dry Tortugas, estuarine recruitment is continuous, with peaks in abundance reported for April to June (Tabb, et al., 1962) and July through October (Jones, et al., 1964). A May through December recruitment of pink shrimp in Mississippi is reported (Christmas, et al., 1966). In Texas, Copeland and Truitt (1966) report an August to September peak in recruitment.

With the three major species, copulation is not directly associated with spawning. Indeed, Perez Farfante (1969) suggests multiple copulation for white and pink shrimp, since female white shrimp often lost the attached spermatophore and female pink shrimp shed the spermatophore upon molting.

Royal Red Shrimp

Anderson and Lindner (1971) observe that the St. Augustine population of royal red shrimp have a major spawning peak during the winter and spring, with some spawning occurring throughout the year. Their analysis of length-frequency distributions by sex for all sample periods combined suggests that recruitment to the fishery begins at one year of age but is not complete until the shrimp reach maturity at about three years of age. They note that the majority of shrimp taken in their samples were fully mature. Even though this population is outside of the management area, this information is thought to be true of the Gulf of Mexico stock.

Rock Shrimp

Spawning of rock shrimp in Gulf waters off Tampa to Fort Myers, Florida, is continuous, with a peak in October through January (Cobb, et al., 1973). Development time to postlarvae requires 29 days in the laboratory at 70° to 76° F (21° to 24.5° C) and 24 to 27 ppt (Cook and Murphy, 1965).

Cobb, et al., (1973) note that rock shrimp less than 1.2 in. (30 mm) total length appeared in their samples in March, May to July, and November, whereas slightly larger individuals occurred in all other months except December. They therefore suggest recruitment to the fishing grounds occurs year round.

Rock shrimp are not believed to be estuarine dependent (Eldred, 1959; Joyce, 1965; Cobb, et al., 1973). Cobb, et al., (1973) suggest that the shrimp found by Rouse (1969) in Chatham River, Florida, were other species of Sicyonia and not rock shrimp. The life cycle of rock shrimp is apparently passed in offshore waters and mainly at depths of 10 to 45 f (18 to 82 m) (Cobb, et al., 1973).

Seabob Shrimp

Juneau (1977) reports gravid seabob females were taken in peak numbers along the Louisiana beaches in July and August, while smaller non-gravid females were taken in large numbers between December and March. He concludes that spawning most likely occurs in the Gulf between July and December.

Renfro and Cook (1963) observe that early larval development from spawning to first protozoeal stage requires 58 hours in the laboratory at 73–75° F (23° to 24° C) and 27 ppt.

Juneau (1977) reviews current information available on seabob shrimp and concludes with Renfro and Cook (1963) that the species is probably not estuarine dependent and is found most commonly from the beach line to Gulf waters of five fathoms (9 m) and are primarily caught in one to two fathoms (1.8 to 3.6 m) along the Louisiana coast (within the Territorial Sea).

Emigration of Brown, White, and Pink Shrimp From Estuaries

The time, size, and causes of emigration have important management implications for brown, white, and pink shrimp. The specific reasons for their importance may vary from area to area. In Louisiana, with its large inshore harvester group, the setting of opening dates must include a recognition that a portion of the catch may be lost for smaller boats if the shrimp emigrate before the inshore season is opened. Conversely, in Texas and southern Florida where estuarine and near-shore Gulf harvest is restricted, the expected emigration time is needed in order to close offshore waters to protect the emigrating crop.

In general, emigration is keyed to environmental conditions such as tides, temperature, or salinity. Fishermen take advantage of this knowledge and fish the surface waters of channels and passes with a butterfly, or wing net used at night, although efforts during the day are sometimes rewarded.

Brown Shrimp

Copeland (1965) sampled ebb tide March to December in Aransas Pass, Texas. He found that brown shrimp emigration peaked in association with full moons in May through August, the high tides and faster currents of full moons being a stimulus to emigration.

Trent (1967) sampled the main tidal pass to Galveston Bay, day and night on the ebbing tides (May to August) with a bottom trawl as well as from June to August with a surface trawl. Catch per unit effort was greater on the bottom during the day and at the top during the night, though the difference was not significant.

Trent (1967) found two peaks in abundance of emigrating shrimp: one in mid-May and another in mid-June. The mean size of emigrating shrimp increased linearly from 400 tail count (58 mm) on May 18 to 40 tail count (108 mm) on July 28 or 0.14 in. (3.6 mm) per week. (See Table 4.1.5 for length-weight conversions).

Gaidry and White (1973) observed that emigration of brown shrimp from the Louisiana nursery grounds occurs in two stages. The first movement normally begins at a size of 264 to 415 tail count (60 to 70 mm) when juveniles leave the shallow marsh areas for the open bays. These bays serve as a "staging area" where the shrimp continue to grow and feed until they begin a second movement—the migration to offshore waters—at a size of 3.5 to 4.3 in (90 to 110 mm). This offshore movement begins in middle to late May, increases in intensity in June and July, and continues in diminished magnitude until November when essentially all the shrimp have left the bays.

Blackmon (1974) sampled a small tidal pass in Caminada Bay, Louisiana, from May to November on the full and new moons. He found that the mean length of emigrating shrimp generally increased from 3 in. (79 mm) in May to 3.8 in. (98 mm) in September and then declined to 3.3 in. (84 mm) in November. Mean lengths of emigrating shrimp were always greater than those in the bay: during the May to September period, the average emigrating shrimp was at least 0.39 in. (10 mm) larger than its average counterpart in the bay.

The highest percentage of emigrating brown shrimp occurred during or just after twilight. No correlation was found between the percentage of emigrating shrimp and current speed, temperature, or salinity. Distribution of emigrating shrimp in the three-meter water column changed with time of day. During the day, peak density of emigrating shrimp was greatest on the bottom; at twilight, the peak occurred in the middle; and at night, the peak occurred in the top meter (Blackmon, 1974).

White Shrimp

White shrimp that enter the Louisiana estuaries as postlarvae in the spring and early summer emigrate to the Gulf in September through November (Gaidry and White, 1973). Those white shrimp postlarvae recruited to the estuary later in the summer and early fall may be forced offshore by advancing cold fronts in October to December at a size much smaller than that of shrimp emigrating in the summer. These "later-recruited" white shrimp overwinter in the nearshore Gulf and reenter the estuaries at an average size of 100 mm during the spring warming. After a second period of growth, they emigrate to the Gulf to spawn in the spring and early summer (Lindner and Anderson, 1956; Gaidry and White, 1973).

Pink Shrimp

In the Everglades nursery areas, Yokel, et al., (1969) observed that juvenile pink shrimp emigrate almost exclusively at night, and on night ebb rather than night flood tides. Catch per unit effort of emigrating was 37 shrimp per minute as during new and full moons opposed to 20 shrimp per minute during the first and third lunar quarter. The effect of moon phase was directly dependent upon the relative abundance.

They observed that the size of emigrating shrimp ranges from 2 to 45 mm (carapace length), and averaged 14 mm (carapace length). Using Kutkuhn's (1966, Fig. 7) carapace length vs. weight plot for pink shrimp, the size range equates to a weight range of up to 80 g for male shrimp and an average of 2.0 to 2.5 g for male and female shrimp. The average shrimp leaving the Everglades is in the 300 to 200 tails to the pound range.

Migration Patterns in Offshore Waters

Brown Shrimp

Brown shrimp released off the Mississippi coast in June (Klima and Benigno, 1965) traveled less than an average of one mile per day from the release site. An offshore movement was not apparent since less than one percent of returns came from waters deeper than 16 fathoms. The longest distance traveled was 85 miles—from the release site off Horn Island to the Mississippi River's Southwest Pass. This information indicates that the Mississippi River may not be an absolute barrier to brown shrimp migration.

Most of the brown shrimp released off Grand Isle, Louisiana, in July (Klima,

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1964) were recaptured near the release site. A slight seaward and westward movement was noted.

Movement of brown shrimp released off Galveston, Texas, in July led Klima (1964) to suggest that brown shrimp from the Galveston estuary were recruited to the fishery all along the Texas coast.

Brown shrimp released off the central Texas coast at 21 to 24 fathoms in April (Klima, 1964) showed little coastwide movement. No major offshore movement was apparent from April to June because 99 percent of the returns were within 25 fathoms and none were beyond 30 fathoms.

From an examination of commercial catch trends, Gunter (1962) suggested a southward drift of brown shrimp off the Texas coast in the fall.

The commercial catch statistics indicate that brown shrimp migrate out to the deeper waters of the Gulf. The inshore catch peaks in May to July on shrimp smaller than those measuring 67 tails to the pound. After Texas opens its Territorial Sea, offshore brown shrimp catch in the Gulf as a whole peaks in July and August at depths of 11 to 20 fathoms, with most of the landed shrimp being 31 to 40 tails to the pound. By December, the largest catch comes from 26 to 30 fathoms, and the 15 to 20 tails to the pound shrimp perdominate. Generally, the data indicate a four to five fathom per month depth migration of the catch. However, the relationship of the shift in the catch to the actual depth migration of the shrimp is somewhat obscured by the Texas closure in June and mid-July and by the multiple waves of shrimp emigrating from the estuaries.

White Shrimp

White shrimp east of the Mississippi River to Mobile Bay tend to migrate from the estuaries to deeper waters along the barrier islands and towards the Mississippi River Delta during the summer to fall (Lindner and Anderson, 1956). The Mississippi River may act as a barrier to east-west movement (Lindner and Anderson, 1956; Perez Farfante, 1969).

Other than the offshore-onshore migrations and a tendency to concentrate between Ship and Trinity Shoals, Lindner and Anderson (1956) observed no definite migration patterns of white shrimp along the Louisiana coast west of the Mississippi River during the fall and winter.

Klima (1964) noted a coastwide movement or dispersion of tagged white shrimp along the Louisiana coast between Cameron and Vermillion bay. Perret, et al., (1978) observed that movement along the western portion of the Louisiana coast was mainly westerly, though the majority of the tagged shrimp were returned within 60 nautical miles of the release area.

Lindner and anderson (1956) observed a migration of white shrimp from off the coast of Mexico to Aransas Pass, Texas, during the spring. There also appears to be a reciprocal southward movement from central and southern Texas into northern Mexico during the fall and winter. From an analysis of reported commercial catch patterns, Gunter (1962) suggested a similar southward movement of white shrimp.

Pink Shrimp

Juvenile pink shrimp emigrate from the estuaries of southern Florida into the deeper waters of the Gulf. Costello and Allen (1965) found that the nursery grounds of pink shrimp on the Tortugas grounds were estuaries from the Florida Bay and from at least as far north as Indian Key, whereas the nursery grounds of shrimp on the Sanibel grounds were estuaries from at least Indian Key north to Pine Island Sound. They observed little movement of shrimp between the Tortugas and Sanibel grounds. Iverson, et al., (1960) observed that larger pink shrimp tended to occur at deeper depths on the Tortugas grounds.

Royal Red and Rock Shrimp

Apparently nothing is recorded about migration patterns of royal red or rock shrimp.

Seabob Shrimp

Immediately following passage of a cold front, seabob shrimp along the Louisiana coast migrate toward the beach from offshore areas. In July and August, gravid females also move close to shore (C. J. Juneau, personal communication in Christmas and Etzold, 1977).

Substrate

The substrate preferences of shrimp appear to be important to their distribution patterns along the Gulf coast. In general, pink and rock shrimp prefer calcareous sediments and are found mainly along the Florida coast. Brown, white, and seabob shrimp prefer soft mud or peat bottoms and are found mainly along the coast from Texas to Alabama.

The juvenile brown and white shrimp prefer a soft mud or peat bottom with large quantities of decaying organic matter or vegetation (Williams, 1955, 1959; Mock, 1967; Jones, 1973). Sand or clay substrates are sometimes satisfactory for young brown shrimp, unless these substrates are bare clay, sand, or shell (Williams, 1959). Adult brown shrimp are found on mud or silt and also on mud, sand, and shell (Perez Farfante, 1969). In the Gulf, white shrimp are also found on muddy or silty bottoms and on clay or sand with fragments of shell (Springer and Bullis, 1954; Hildebrand, 1954, 1955).

Pink shrimp apparently prefer firm mud or silt bottoms with coral sand containing a mixture of millusk shells (Springer and Bullis, 1954; Hildebrand, 1954, 1955; Williams, 1958) and firm sand bottoms (Farfante, 1969).

Royal red shrimp show not apparent preference for a particular sediment type; they occur on sand, silty sand, terrigenous, and calcareous sediments (Roe, 1969).

Rock shrimp occur most frequently on sandy bottoms (either terrigenous or biogenic) and only sporadically on mud bottoms (Hildebrand, 1954, 1955; Cobb, et al., 1973). Hildebrand (1955) suggests bottoms were "strays" from areas of hard sand. In South Carolina, the rock shrimp is called the coral shrimp because it is occasionally taken from coral banks (Lunz, 1957).

Seabob shrimp are taken from bottoms and mud, silt, or silt mixed with sand (Neiva, 1967; Christmas and Etzold, 1977).

Food

Larval Stages

Larval stages are planktonic and eat algae and zooplankton (Pearson, 1939; Ewald, 1965). Nutrient levels of Gulf waters may be a necessary environment for larval stages because a high density of food causes poor survival due to entanglement.

The postlarval stage is not strictly planktonic but is capable of deposit feeding (Pearson, 1939). Zien-Elden and Griffith (1969) have fed this stage on algae, *Artemia salina* nauplii, and groundfish or shrimp in the laboratory.

Juveniles to Adults

Juvenile and adult brown, white, and pink shrimp ingest whatever is available, including decaying organic matter, animals, and plants (Vicosa, 1920; Weymouth, et al., 1955; Flint, 1956; Darnell, 1958; Broad, 1965; Perez Farfante, 1969; Odum, 1971; Jones, 1973).

Jones (1973) intensively studied the food habitats and absorption efficiency of brown shrimp 1 to 4 in. (25 to 104 mm) in a Louisiana marsh. He observed a shift in diet and habitat as shrimp grew larger. Juveniles 1 to 1.75 in. (25 to 44 mm) were concentrated in the nearshore environment. Here they indiscriminately ingest the top layer of sediment containing detritus and microorganisms.

Jones classified this stage as omnivores or encounter-feeders. At 1.8 to 2.5 in. (45 to 64 mm) they selected the organic fraction of the sediment and were classified as opportunistic omnivores. At 2.6 to 4 in. (65 to 104 mm) shrimp had dispersed from the nearshore environment to the deeper waters of the marsh and became active predators feeding intensively on polychaetes, amphipods, nematodes, and chironomid larvae. However, they continued to ingest detritus and algae and were classified as omnivore predators (Jones, 1973).

Darnell (1958) found the foreguts of white shrimp 3.6 to 5.6 in. (91 to 142 mm) contained sand, detritus and ground organic matter, and fragments of mollusks, ostracods, copepods, insect larvae, and forams.

Eldred, et al., (1961) found pink shrimp in the Tampa Bay contained both animals and plant remains. These include aquatic macrophytes, red and blue-green algae, diatoms, dinoflagellates, polychaetes, nematodes, shrimp, mysids, copepods, isopods, amphipods, mollusks, forams, and fish.

Rock shrimp are apparently nocturnal, generalized carnivores (Cobb, et al., 1973). Small bivalve mollusks, decopod crustaceans, gastropods, and other crustaceans are an important part of the diet which also includes formaminfera, nematodes, polychaetes, ectoprocts, echinoderms, and finfish (Cobb, et al., 1973; Kennedy, et al. 1977).

Nothing is apparently recorded on the food habits of seabob or royal red shrimp.

Predation

Penaeid shrimp, in general , are ingested by many carnivorous fish (Gunter, 1945; Darnell, 1958; Farfante, 1969). Table 4.1–2 list some fish known to ingest brown, white, or pink shrimp. Included in this list are speckled trout, black drum, redfish, Atlantic croaker, southern flounder, bass, and several varieties of catfish. Many of these prey species are an important component of the bycatch discarded by shrimpers.

Growth Rates

General Considerations

As in most fisheries, growth rates are estimated from changes in the length of the species with time. Growth in weight is estimated by converting growth in length estimates to weight. Table 4.1–3 lists length-weight estimates for shrimp.

The method of measuring growth varies with the size of shrimp. Growth (in length) of "smaller" shrimp 1 to 3.5 in. (25 to 90 mm) is normally estimated from length frequency measurements of trawl samples taken in estuarine nursery areas over a period of time. Growth is expressed as the increase either in the mean size of the trawl sample or in each of the peaks in the polymodal length-frequency data with increasing time. Growth estimates range from 0.003 to 0.13 mm) per day. Variability has been attributed to temperature, salinity, recruitment, density, and emigration.

Growth of "large" shrimp greater than 2.75 in. (70 mm) has normally been estimated from mark and recapture experiments. A simple linear relationship of length (or weight) to time is not applicable. The shrimp enter a self-limiting period of growth.

Table 4. 1-2.—*Fish identified by Gunter (1945) or Darnell (1958) as feeding on penaeid shrimp*

Species	Common names
Carcharhinus leucas (Muller and Henle).	Bull shark.
Dasyatis sabina (LeSueur)[1]	Stingaree.
Lepisosteus spatula (Lacepede).	Alligator Gar.
Elops saurus (Linnaeus)	Bonefish, Shipjack, Bigeye Herring, Ten-pounder.
Ictalurus furcatus (LeSueur)	Blue catfish.
Bagre marina (Mitchell)	Gafftopsail catfish.
Galeichthys felis (Linnaeus)	Hardhead or sea cat.
Morone interrupta (Gill)	Yellow bass.
Micropterus s. salmoides (lacepede)[1].	Northern largemouth bass.
Sciaenops ocellata (Linnaeus).	Redfish, channel drum.
Micropogon undulatus (Linnaeus).	Atlantic croaker.
Pogonias Cromis (Linnaeus)[2]	Black drum.
Cynoscion neulosus (Culver and Valenciennes)[3 4].	Speckled trout.
Parlichthys lethostigma (Jordan and Gilbert).	Southern flounder.

[1] Assumed to ingest shrimp by Darnell (1958).
[2] Darnell (1958) states that when black drum are in the marine waters Gulf penaeid shrimp are a significant portion of its diet.
[3] Gunter (1945) states that in Texas shrimp are the predominant food of speckled trout during the summer. However, when shrimp are scarce, as in January speckled trout shift to fish (*Mugil* species).
[4] Darnell (1958) states that pink shrimp are the stable diet of speckled trout in Florida.

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Table 4.1-3. Length-weight relationships for brown, white, pink, royal red, and rock shrimp (after Christmas and Etzold 1977).

Species/Sex	Total Length to Total Weight: $Wt = a \times TL^b$ a (x 10^{-6})	b	Size Range (mm)	No. measured	Carapace Length to Total Weight: $Wt = a' \times CL^b$ a'	b	Size Range (mm)	No. measured	Carapace Length to Total Length: $Lng = a'' \times CL^b$ a''	b	Size Range (mm)	No. measured	Source
Brown shrimp													
Combined	12.3	3.02	65-165	2104									McCoy (1968)[1]
Male	11.61	2.911	45-204	1396									Fontaine and Neal (1971)
Female	9.53	2.966	58-240	2016									Fontaine and Neal (1971)
Combined	10.52	2.938	45-240	3412									Fontaine and Neal (1971)
Male					0.000819	2.94	10-42	358	(2)				McCoy (1972)[1]
Female					0.00113	2.84	10-42	243	(2)				McCoy (1972)[1]
White shrimp													
Combined	7.69	2.976	55-160	100									Perret (1966)
Male	2.02	3.261	70-200	970									Fontaine and Neal (1971)
Female	2.32	3.234	70-214	1120									Fontaine and Neal (1971)
Combined	2.16	3.247	70-214	2090									Fontaine and Neal (1971)
Pink shrimp[3]													
Male	4.49	3.13	35-173	729	0.001[a]	3.04	8-40	729	5.27	0.96	35-173	729	Kutkuhn (1966)
Female	5.06	3.12	35-215	868	0.002[a]	2.79	8-55	868	6.14	0.90	35-215	868	Kutkuhn (1966)
Combined	9.79	2.98	65-165	2641									McCoy (1968)[1]
Male	10.02	2.967	70-175	1173									Fontaine and Neal (1971)
Female	5.93	3.92	60-114	2125									Fontaine and Neal (1971)
Combined	7.71	3.029	60-175	3298									Fontaine and Neal (1971)
Combined					0.0062	3.03443	6-22						Tabb, et al. (1962a)
Male					0.00148	2.77	10-42	297	(2)				McCoy (1972)[1]
Female					0.00209	2.66	10-42	503	(2)				McCoy (1972)[1]
Royal red shrimp													
Dry Tortugas Area													
Male	2.129	3.22	113-154	109									Klima (1969)
Female	16.134	2.82	95-209	118									Klima (1969)
Combined	7.860	2.96	95-209	227									Klima (1969)
Mississippi River Delta Area													
Male	4.325	3.06	125-176	90									Klima (1969)
Female	13.306	2.83	135-229	114									Klima (1969)
Combined	5.853	3.00	125-229	204									Klima (1969)
Rock shrimp[4]													
Male					0.000601	3.122	n.a.	n.a.					Cobb et al. (1973)
Female					0.000589	3.144	n.a.	n.a.					Cobb et al. (1973)
Combined					0.000604	3.128	3-37	973					Cobb et al. (1973)

[1] For shrimp from North Carolina.

[2] McCoy (1972) derived the following equations for converting carapace length (CL) to total length (TL) in mm for North Carolina populations of:

Brown shrimp	Male	TL = 3.50 + 4.16 CL
	Female	TL = 10.50 + 3.83 CL
Pink shrimp	Male	TL = 12.37 + 3.81 CL
	Female	TL = 21.90 + 3.40 CL

[3] Iverson and Idyll (1960) provide conversion tables for pink shrimp in terms of total length, carapace length, and tails to the pound.

[4] Kennedy, et al. (1977) give the following relations for rock shrimp off the east coast of Florida:

	Carapace length versus weight: <23 mm CL	>23 mm CL	Carapace length versus total length: <20 mm CL	≥20 mm CL
Males:	$W = 4.104 \times 10^{-6} CL^{3.303}$	W = 1.886 CL - 30.922	TL = 3.803 CL + 0.249	TL = 3.448 CL + 7.523
Females:	$W = 3.398 \times 10^{-6} CL^{3.366}$	W = 1.818 CL - 30.475	TL = 3.786 CL + 0.118	TL = 2.881 CL + 18.498

where CL and TL are carapace and total length in mm and W is weight in gms.

[5] Kutkuhn's carapace-weight equations do not fit his published data, evidently due to rounding error. It is suggested that figures published in Kutkuhn (1966) be used instead of these equations to convert carapace length to weight.

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Brown Shrimp

Growth in length is slow 0.019 in. (0.5 mm per day) during January and February, increases in March, and reaches a maximum .02–.13 mm per day) in April and June (Loesh, 1965; Ringo, 1965; St. Amant, et al., 1966; Broom, 1968; Ford and St. Amant, 1971; Jacob, 1971; Swingle, 1971). This monthly variation in growth rate has been associated with the spring warming of the estuaries (St. Amant, et al., 1962; Ford and St. Amant, 1971).

Parrack (1978) estimates growth rate of brown shrimp from mark and recapture experiments conducted in the northern Gulf of Mexico in 1967, 1968, and 1969 (Clark, Emiliani, and Neal, 1974). His discussion indicates that females grow more rapidly than males, weigh more than males of the same age, and attain a larger final length and weight than males.

White Shrimp

Growth rates of white shrimp estimated from trawl samples range from .02–.08 in. (0.6 to 2.2 mm) per day in the summer (Williams, 1955; Gunter, 1955; Loesch, 1965).

Growth rates of white shrimp have been estimated by a number of workers from mark and recapture experiments. Lindner and Anderson (1956) marked white shrimp 200 to 18 tail count (5 to 180 mm) in the South Atlantic and northern Gulf and calculated formulae for growth in length and weight. The results indicated that growth in length was a function of size and month, growth being faster for the smaller than the larger shrimp, and faster in April to June and September to December than from December to March. Klima (1964, 1974) calculated formulae for growth in length and weight. In comparing growth rates for two time periods, he notes that growth was faster in August to October than in September to November. He suggests that the difference is due to differences in water temperature.

Pink Shrimp

Higman, et al. (n.d.) determined the growth of postlarval-juvenile pink shrimp held in enclosures in the estuarine area of Everglades National Park. Multivariant regression analysis was used to determine significant relationships between weekly growth rate estimates and weekly estimates of bottom salinity, temperature, and dissolved oxygen. Salinity appeared to be the most important factor. Since the salinity regime of this area is dependent upon drainage through southern Florida into the Everglades, pink shrimp success in the Dry Tortugas may be related to local rainfall in the Everglades drainage basin as well as to man-made alterations which block the normal waterflow patterns.

Several growth estimates from tagging experiments are available. Iverson and Idyll (1960) tagged pink shrimp in the Dry Tortugas in December, 1957, and recovered them through April, 1958. Females increased in weight from 39 to 31 tails per pound in 45 days, whereas males increased from 60 to 50 tails per pound in the same time. This approximates a growth rate of .07 oz. (0.75 g) per week for female shrimp and of .013 oz. (0.38 g) per week for male shrimp. The authors caution that these estimates were made in the "unusually cold winter of 1957–1958 and may be slower than the growth in a more normal winter." Kutkuhn (1966, table 4) estimates that pink shrimp tagged in the Dry Tortugas area September to December 1961 grew from 5.9 g to 19.5 g in 12 weeks. Lindner (1966) also derived growth curves for pink shrimp in the Dry Tortugas.

Royal Red and Seabobs

Apparently nothing is recorded about the growth rates of seabobs and royal red shrimp.

Mortality Rates

The death of fish in a population is due either to natural causes or to harvest by man. Coefficients of fishing (F), natural (M), and total (Z) mortality are defined as instantaneous death rates for a cohort of N individual fish over a short time, noted as dt. The rate of decline of the population numbers over time is presented as a function of these observed values.

The reported estimates of natural (M), fishing (F), and total (Z) mortality of shrimp are compared in Table 4.1–4. Values of the weekly natural mortality coefficient range from .01 to .55 or a loss of from 1 to 42 percent of the population from the beginning to the end of the week. Estimates of fishing mortality range from .02 to .96. The variations in mortality estimates make it difficult to construct yield per recruit models.

Yield Per Recruit

The pounds of brown, white, or pink shrimp which can be harvested from a given number of post-larval shrimp reaching an estuarine system is a function of the population's rates of growth and mortality, age at which harvest begins, and the rate of fishing mortality once the shrimp are subject to harvest. The age at which yield will be maximized will be dependent on the trade-off between growth and natural and fishing mortality.

Brown Shrimp

There are no published yield per recruit estimates available on brown shrimp. M. Parrack (NMFS, Galveston Lab) prepared a preliminary yield per recruit analysis using his sex specific growth rate equations for brown shrimp (Parrack, 1978) and two levels of monthly instantaneous natural mortality rate, M=.05 and M=.10 (Annon, 1978). (These levels of M on a monthly basis compare to estimate of M=.011 and .023 on a weekly basis.) If M=0.5, yield was maximized when harvesting began on shrimp six months of age, or 21 tails to the pound (assuming a sex ration of 50:50). If M=.10, yield was maximized when harvesting began on shrimp five months of age, or 24 tails to the pound (assuming a sex ratio of 50:50).

He points out that these sizes are much larger than size limits currently imposed in the U.S. Gulf. His analyses indicate that if the above estimates of M approximate reality and if F is at the level estimated by Berry (1971), then current harvesting strategies employed in the Gulf result in a harvest considerably below the theoretical maximum. Klima and Parrack (1978) review the question of the size of shrimp at harvest which will maximize yield and state that "data on hand indicates that these two rates (growth and natural mortality) balance at 6–9 months of age or at a size of 20–30 shrimp tails per pound." If their analyses are correct, then a reduction in the size at first harvest of brown shrimp in the U.S. Gulf of Mexico would result in a decrease in protein yield. Further, an increase in yield is expected if the size at first harvest of brown shrimp is increased in any of the areas of the U.S. Gulf.

White shrimp

Data are insufficient at this time to estimate the expected yield per recruit for white shrimp in the U.S. Gulf.

Pink Shrimp

The most extensive published yield per recruit estimates of Gulf shrimp are for pink shrimp off southeastern Florida (Kutkuhn, 1966; Lindner, 1966; Berry, 1971). Although there is some disagreement between authors, the data indicate that a reduction in yield will be expected if pink shrimp are harvested before they reach a size of 70 tails to the pound.

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Table 4.1-4.—*Comparison of instantaneous rates of mortality (in weekly values) for shrimp in the U.S. Gulf of Mexico (modified from Berry 1970)*

Species	Natural mortality M	Fish mortality F	Total mortality	
Brown shrimp.	0.21	0.06	0.27	Klima (1964).
White shrimp.	.09	.06–.19	.14–.27	Klima and Benigno (1965).
	.04–.12	.10–.13	.16–.22	Klima (1974).
	.27	.09	.36	Iverson (1962).
Pink shrimp	.55	.96	.76–1.51	Kutkuhn (1966).
	.06–.12	.12–.16	.25	Lindner (1966).
	.02–.06	.16–.23	.22–.27	Berry (1967).
	.08–.11	.03–.07	.11–.18	Costello and Allen (1966).
	.01–.03	.02–.16	.07–.16	Berry (1970).

Table 4.1-5.—*Length-Weight Conversion Table for Brown, White, Pink, and Royal Red Shrimp (Sexes Combined). (Equations are listed in Table 4.1-3)*

Total length	Count (per pound)							
	Brown shrimp[1]		White shrimp[2]		Pink shrimp[1]		Royal red shrimp[3]	
	Shrimp	Tails	Shrimp	Tails	Shrimp	Tails	Shrimp	Tails
Millimeters:								
50	440	708	[4]519	[4]799	[4]420	[4]673	(*)	(*)
60	258	415	301	464	242	387	(*)	(*)
70	164	264	227	349	152	243	(*)	(*)
80	111	178	147	227	101	162	137	247
90	78	126	100	155	71	113	97	174
100	57	92	72	110	52	82	71	128
110	43	70	52	81	39	62	53	96
120	34	54	40	61	30	47	41	74
130	26	43	31	47	23	37	32	58
140	21	34	24	37	18	30	26	47
150	17	28	19	30	15	24	21	38
160	14	23	16	24	12	20	18	32
170	12	19	13	20	10	16	15	26
180	10	16	11	16	[4]9	[4]14	12	22
190	9	14	9	14	(*)	(*)	10	19
200	7	12	8	12	(*)	(*)	9	16
210	6	10	6	10	(*)	(*)	8	14

[1] From Fontaine and Neal (1971).
[2] 50-60 mm estimates from Perret (1966) and 70-210 mm estimates from Fontaine and Neal (1971).
[3] Klima (1969).
[4] Outside of data range.

Temperature and Salinity

Temperature and salinity are important driving forces in the life cycles of brown, white, and pink shrimp, affecting growth, mortality, migration, and spawning. These factors can be incorporated in models used to predict annual yield (see Section 4.7.1.2).

The major influx of postlarval brown shrimp to the estuaries of the northern Gulf occurs February to March (Baxter, 1963; Baxter and Renfro, 1967; Gaidry and White, 1973; Christmas and Etzold, 1977). Little growth is expected until water temperature exceeds 20° C (St. Amant, et al., 1963; Ford and St. Amant, 1971).

Postlarval white shrimp normally enter the major bays of the Gulf when temperature are above 25° C (Baxter and Renfro, 1967) and are apparently optimum for growth and survival. As the temperatures decline in the fall with advancing cold fronts, growth apparently also declines (Lindner and Anderson, 1956; Klima, 1974). Annual production in the northern Gulf has been associated with estuarine salinity regimes. A similar salinity effect, caused by different weather patterns seems to operate in Texas and Louisiana. Gunter and Edwards (1969) observed a positive correlation between the annual successes (1922–1964) of white shrimp in Texas with the rainfall in the State for that year and the two previous years. They suggest that the lag effect of rainfall was a result of the arid conditions of the State. In Louisiana, an inverse relationship between annual white shrimp catch and the annual discharge of the Mississippi and Atchafalaya Rivers has been noted (Barrett and Gillespie, 1973). White and Boudreaux (1977) obtained statistically significant linear regressions of catch against river discharge by dividing the data into two periods, 1958–1968 and 1969–1974.

Gunter and Edwards (1969) suggest that high rainfall is necessary in Texas to dilute the estuaries for optimum white shrimp production, while lower than normal river discharge is necessary in Louisiana for optimum white shrimp production, since these estuaries were less saline than those in Texas.

Growth of postlarval and juvenile pink shrimp in Florida appears to decline as salinity increases from 10 to 28 ppt and may increase as temperature increases from 15° to 32° C (Higman, et al., n.d.). This apparent relationship between growth and salinity is in contrast to the observation that juvenile pink shrimp normally occupy a higher salinity area on nursery grounds than do brown or white shrimp (Gunter, et al., 1964).

Highest densities of royal red shrimp are found at 9° to 10° C and most occur within 8° to 12° C (Roe, 1969).

Migration and Spawning

Spawning of white shrimp has been associated with the sudden warming in the spring of the offshore waters of the northern Gulf (Lindner and Anderson, 1956).

Both white and pink shrimp apparently seek deeper water as water temperatures fall in the fall and winter and will reenter shallow water if temperature rise (Lindner and Anderson, 1956; Tabb, et al., 1962).

Bioeconomic Models

Grant and Griffin (in press) and Biomo, et al., (1978) have developed a bioeconomic simulation model of the brown shrimp fishery of Galveston Bay, Texas, and its associated offshore waters. The model is designed to assess the change in yield and revenue recruited to the fishery if various restrictions are imposed on either area of catch or fishery effort. Work is currently underway to adapt this model to the Dry Tortugas pink shrimp fishery (Griffin, personal communication, 1979).

4.2 Stock Unit

A stock is defined as a group of fish manageable as a unit. This definition differs from the biological concept of a stock as a more or less freely interbreeding population of a species.

The effects that strategies for increasing the yield for one of these species may have on other species of national interest as well as other multipurpose uses of the area involved must be considered (Section 3.6). Management and conservation of Gulf shrimp has been carried out mainly by the several Gulf States. Management policies employed by these States differ (Section 3.3.1); these differences largely reflect differences in the history of exploitation (Section 3.2).

Given this apparent genetic continuity, the need for a multipurpose approach to management, and the partial lack of data necessary to

evaluate potential benefits derived by modifying current management practices, the GMFMC, realizing that management must consider other mutipurpose uses for national resources and may have to consider area differences in harvesting strategies, has adopted the FMP group of species as the management unit for the Gulf shrimp fishery.

4.3 Catch-Effort Data

The National Marine Fisheries Service has collected data on shrimp landed by commercial fishermen. Griffin (1978) has prepared estimates for the 1963–1975 period on unit fishery effort for brown, white, and pink shrimp. (See Appendix B for review of his technique.)

Published accounts of recreational and bait-shrimp catch and effort are comparatively sparce. The few published estimates of discarded catch are summarized in Section 4.7.

4.4 Survey and Sampling Data

Christmas and Etzold (1977) reviewed the major survey and sampling programs which exist in order to monitor the shrimp resource and predict yields.

Texas: Texas has sampled its key bay areas from March to May for brown shrimp and from June to September for white shrimp. In addition Texas Parks and Wildlife Department also monitors the size, distribution, and abundance of shrimp in the open Gulf.

Louisiana: Louisiana has an ongoing shrimp monitoring program in the estuaries March through October. The program provides the data needed to set the opening date and predict the success of the brown shrimp season.

Mississippi: There is a year-round monitoring of all Mississippi's marine resources. In addition, an intensive sampling of juvenile shrimp occurs from mid-April through summer to provide growth and size data for opening of the inshore brown shrimp season.

Alabama: An ongoing shrimp monitoring program extends from April through September of each year to provide background data as well as to set seasons.

Florida: Florida surveys for age information, and for the life cycle and population dynamics of rock and pink shrimp in offshore waters.

NMFS: NMFS surveys provide the number, weight, and species composition.

4.5 Habitat

Brown, white, and pink shrimp use a variety of habitats as they grow from planktonic larvae to spawning adults. In part, this migration tends to separate the various life stages so that they are not in direct competition for the same resources. As planktonic larvae the shrimp feed on phytoplankton and zooplankton and exist mainly in the open Gulf. As postlarvae they enter the estuaries and adopt a benthic existence at the marsh-water, mangrove-water interface, or with grassbeds. The estuarine phase is considered a critical stage because local fluctuations in temperature and salinity have a dramatic affect on both the acres of marsh available for growth and the actual growth rate of the shrimp. As the shrimp grow, they move away from the marsh-water or mangrove-water interface into deeper, more open waters. At some point they begin an offshore migration to the Gulf. The major species tend to be partly separated in the Gulf. Brown and white shrimp predominate on the mud and sandy mud bottoms of the northwestern and northern Gulf; pink shrimp predominate on the coral sand bottoms of the southeastern Gulf. Adult brown shrimp tend to migrate to deeper waters (30 to 50 fathoms) than adult white shrimp (10 to 20 fathoms).

The weakest link in the life cycle chain is the estuarine phase of growth. Man's alteration of the fragile environment has removed much of the area that would be considered suitable shrimp habitat. Some of these alterations are easily assessed. These include:

- Impoundments that prevent influx of shrimp.
- Bulkheading that removes the critical marsh-water or mangrove-water interface.
- Alterations in freshwater discharge that create an unfavorable salinity regime.

The immediate effects of other alterations are not as easily assessed. These include:

- Stimulation of saltwater intrusion.
- The continuing encroachment of polluted waters on the estuarine waters.

Despite any uncertainty about the effects of these alterations, we do have indications of the kind of environment necessary for shrimp survival. Turner (1977) observed that the yield of shrimp in Louisiana's estuaries is directly related to the acreage of marsh, while that from the northeastern Gulf of Mexico is directly related to the acreage of marsh and submerged grassbeds. He found no relationship between yields and estuarine water surface, average water depth, or volume. His findings concur with the observations of Barrett and Gillespie (1973) that annual brown shrimp production in Louisiana is correlated with the acreage of marsh with waters above 10 ppt salinity, but not with acres of estuarine water above 10 ppt salinity. These findings suggest that the brown, white, and pink shrimp yields in the U.S. Gulf of Mexico depend on the survival of the estuarine marshes, mangrove areas, and grassbeds in their natural state. These areas not only provide postlarval, juvenile, and subadult shrimp with food and protection from predation, but they help to maintain an essential gradient between fresh and salt water.

4.5.1 Physical Description of the Habitats

The following parameters are used in characterizing shrimp habitats around the Gulf Coast:

1. Bottom types
   a. Offshore
   b. Inshore
2. Surface water discharge into estuaries
3. Estuarine salinities
4. Areal extent of estuaries
5. Estuarine availability (access from open Gulf)
6. Water quality (with emphasis on low salinity)

All of these factors vary over space and time.

Habitats can change from one type to another, and the changes can be either culturally induced (i.e., filling or dredging of wetlands) or naturally induced (i.e., subsidence of wetlands resulting in its conversion to open water). These changes are critically important to the Gulf's estuarine-dependent species. Documented evidence of the effect of permanent changes in essential habitats is severly limited, except for the change in wetland area.

An important component in the habitat of the estuarine dependent shrimp is the wetland zone along the Gulf coast. Salinity regimes critically needed for shrimp occur in these areas, and their primary production (vegetation) is the basis for the shrimp's detritus food web.

The wetlands along the Gulf coast have formed during approximately the past 5,000 years, when alluvial sediment supplied to the coast exceeded that removed through erosion and subsidence. The general physiography of the Gulf coast has favored extensive wetland formation. Some 60 percent of the coastal wetland area of the conterminous United States occurs along the Gulf coast. Tidal marsh, mangroves, and submerged aquatics that comprise this area amount to some 6.2 million acres. An additional 8.4 million acres are classified as unvegetated estuarine open water (Crance, 1971; Chabreck, 1972; McNulty,

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Lindall, and Sykes, 1972; Christmas, 1973; Diener, 1975).

Wetlands are not evenly distributed along the Gulf coast. Some 73 percent of the emergent wetlands along the Gulf are found in Louisiana as the result of an abundant sediment supply transported by the Mississippi River. Some 395,00 acres of mangrove are found almost exclusively along the Florida coast. While substrate and currents (to carry germinated seeds) are generally favorable along the entire Gulf coast, mangrove distribution is limited to areas where hard freezes do not occur. Submerged vegetation is found along most of the Gulf coast but is particularly abundant and diverse along the shores of central and southern Florida. Information on submerged vegetation is generally lacking for other states.

The relative abundance and type of submerged vegetation depends mainly on bottom type, turbidity, salinity, water temperature, bottom slope, and tidal range (McNulty, Lindall, and Sykes, 1972). Along the Gulf coast of southern Florida nearly 50 percent of the estuarine bottoms are covered by submerged vegetation. Cover density generally decreases as one moves northward, with bays along the panhandle having only five percent of their bottoms vegetated. Reports for isolated study sites indicate that the five percent figure would hold for the remainder of the Gulf coast, except for portions of Louisiana where the percentage would be less, and the lower Texas coast where abundance is greater. Lindall and Saloman (1977) report 796,806 acres of submerged vegetation in estuaries along the Gulf, of which 63 percent are found in Florida and 31 percent are found in the Laguna Madre and Copano-Aransas Bays in Texas.

4.5.1 Bottom Types

4.5.1.1.1 Offshore Bottom Types

There are three general offshore bottom type regions extending to the 200 m isobath in the Gulf of Mexico. One occurs from the Texas-Mexico border to just west of the Texas-Louisiana border. Here the offshore zone consists mainly of sand and finer grain sediments. Occasional pockets of sand and shell are found from the 11 to 109 fms (20 m to 200 m) isobath. The second zone extends eastward to a point approximately even with Pascagoula Bay, Mississippi, and is mainly a complex of fine grain sediments with occasional surface deposits of sand and shell. The dominance of muddy bottoms in this zone is attributed to the deposition by the Mississippi River. The third region encompasses the remaining area offshore Alabama and Florida, which is almost exclusively comprised of sand, shell, and coral. Coral becomes more prevalent along the central and southern Florida coast.

The first two zones are primarily associated with brown and white shrimp, while the third zone is primarily associated with pink shrimp.

4.5.1.1.2 Estuarine Bottom Types

Many of the estuaries found along the Gulf of Mexico represent drowned river valleys, which have subsequently undergone some degree of fill. Generally those estuaries that still have considerable freshwater flow coming in at the head contain bottom sediments that reflect the stream load. Those with little or no stream flow are generally dominated by marine sediments and are usually coarser. Estuaries formed by deltaic progradation and subsequent deterioration are dominated by muddy bottoms.

4.5.1.2 Surface Water Discharge

Freshwater flow into the estuaries of the northern Gulf of Mexico is variable in space and time (Fig. 4.5–1) largely because of differences in drainage basin area, lithology, climate, and land use.

Two aspects of surface water flow are considered in terms of their effect on shrimp habitat: 1) the volume entering the estuaries and 2) the seasonal variability of the hydrography. Four regions of surface water flow are identified:

1. Lower Texas coast
2. Upper Texas coast through the Panhandle of Florida, except for the Deltaic plain of Louisiana
3. Deltaic plain of Lousiana
4. Central and lower Florida coast

Lower Texas Coast

Rivers of the lower Texas coast have relatively low discharges, with peaks occurring in the spring and fall. Low discharge is due to the semi-arid conditions and relatively small drainage areas of the rivers. More to the south, the fall peak is first noticeable on the hydrographs of streams entering the Matagorda Bay system. In the San Antonio Bay system, the fall peak is very pronounced, and, from Aransas Bay through Laguna Madre, the fall peak exceeds the spring peak. In Laguna Madre, however, the total volume of discharge is extremely low, 9 to 200 cfs (1950–1977).

Occasional heavy rains (often associated with tropical disturbances) can have a substantial short term effect on the estuaries and may affect shrimp yields if the resulting flood waters enter the estuaries during critical growth periods of shrimp.

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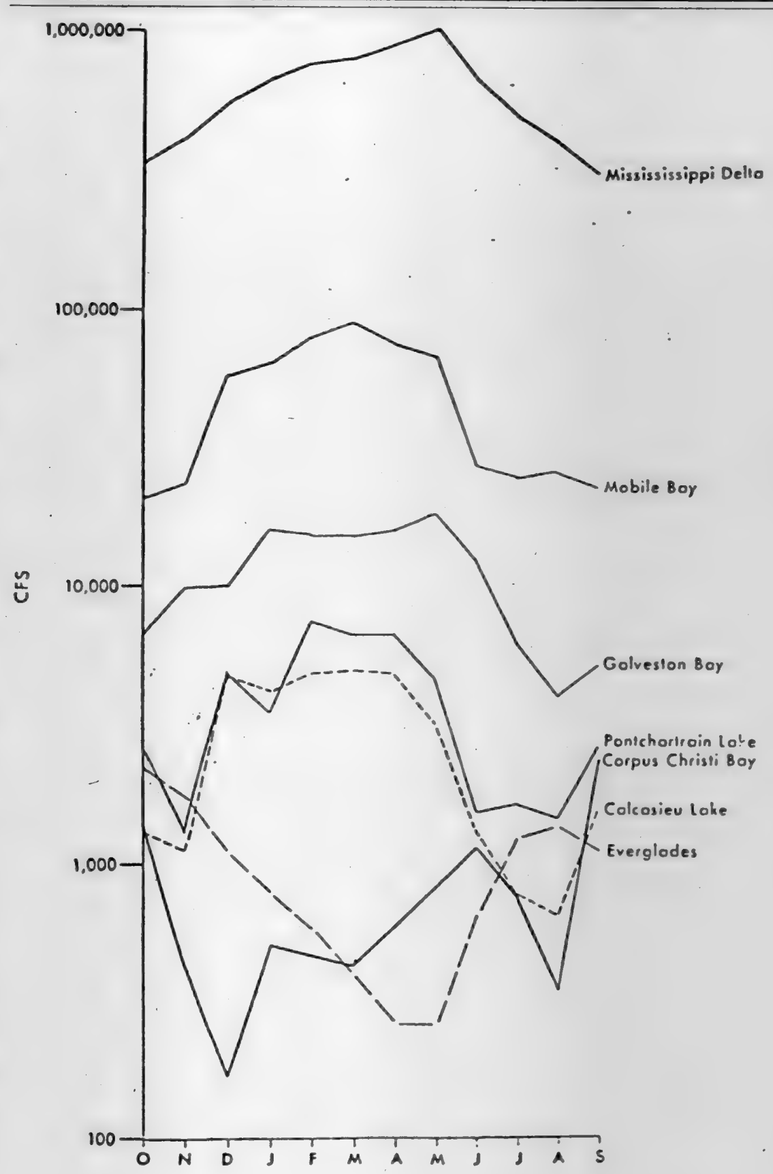


Figure 4.5-1 Ten Year Mean Freshwater Discharge Into Selected Gulf Coast Estuaries (U.S. ACOE and USGS Water Resource Data).

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Upper Texas Coast Through the Panhandle of Florida, Except for the Deltaic Plain of Louisiana

Most of the rivers from the panhandle of Florida west to Galveston Bay, Texas, have a peak discharge in early spring, followed by low discharge during the summer and early fall months. Mean monthly precipitation is generally similar throughout the year; however, a high degree of variability exists from year to year. The differences in seasonal distributions of precipitation and discharge are primarily attributed to the seasonal differences in evapotranspiration rates and to the spring release of precipitation stored in winter as soil moisture and snow.

Deltaic Plain of Louisiana

The Mississippi and the Atchafalaya are by far the largest suppliers of fresh water to the Gulf of Mexico (Fig. 4.5–1). Peak discharge usually occurs in April through May; low flow typically occurs in September through October. During periods of flood, fresh water, carried by the Gulf into the mouths of neighboring estuaries, results in lower salinities.

Though extremely variable in magnitude, the monthly flow of the Mississippi River is less variable in relation to average flow than any other gauged rivers entering the Gulf. Its variance in flow, however, has a noticeable effect on the yield of brown shrimp in the Gulf (Section 4.1) and on white shrimp in Louisiana (White and Boudreaux, 1977).

Central and Lower Florida Coast

Stream flow entering the Everglades is lower than most areas of the Gulf, largely because of the small contributing drainage area. The additional input of groundwater is recognized, but its significance cannot be determined.

The seasonal flood cycle is asymmetrical. The peak rises rapidly in early summer, continues into the fall, and then drops slowly to a low stage during the months of April and May (Fig. 4.5–1). The summer maximum differs from most other Gulf rivers in that the latter are typically at low stage during the summer. This difference reflects the greater influence of tropical climate in the Everglades where summer showers are typically intense and result in higher stream flow despite evapotranspiration rates. From Charlotte Harbor north to Suwannee Sound, the seasonal hydrograph is in transition between the summer fall peak of the south and the late winter-spring peak common along the northern Gulf coast. South of Suwannee Sound the total volume of stream flow is small.

4.5.1.3 Estuarine Salinity

Throughout the Gulf of Mexico estuarine salinity is highly variable in both time and space. Salinity ranges from 0 ppt to a high of 113.9 ppt recorded in Laguna Madre (Hedgepeth, 1953, in Diener, 1975).

Because of severe data inadequacies, it is rather difficult to make a Gulf-wide comparison of salinity in the various estuaries. There are few estuaries in which salinity is continually monitored. In those which are monitored by public agencies, station locations are such (for example, along major dredged waterways) that data often do not reflect general conditions of the estuary.

This section is limited to presentation of averages and extremes; these values, however, are generally based on limited data and present a superficial picture. As a result, many of the estuaries appear quite similar with respect to salinity. The ensuing description of salinity in various estuaries is based largely on secondary reference material, and all values are for surface salinities unless otherwise noted.

Laguna Madre: The only estuary in the Gulf which is almost continually hypersaline had average annual isohalines ranging from 35 to 55 ppt (1963–1966), with lower salinities occurring at tidal passes rather than inland (Diener, 1975).

Corpus Christi Bay: The Nueces River helps to maintain salinities lower than those of average seawater. Most of Corpus Christi Bay averaged between 30 to 35 ppt (1963–1966). Hypersaline conditions can be expected during low discharge periods.

Copano-Aransas Bays: Salinity ranged from 6 ppt in Copano Bay and 12 ppt Aransas Bay near the Gulf Intracoastal Waterway (GIWW) during flood periods, to 32 ppt in Copano Bay and 35 ppt in Aransas Bay during low discharge periods of the Mission River (1965–1967, McGowen, et al., 1976).

San Antonio Bay: The Guadalupe River strongly influences the salinity in San Antonio Bay. During periods of flood, the entire bay above the Gulf Intercoastal Waterway may be fresh; during low flow, slightly hypersaline conditions occur in some parts of the bay (1965–1967, McGowen, et al., 1976). Average salinities range from 6 ppt at the head to 20 to 25 ppt at the GIWW and decrease slightly on the lee side of Matagorda Island.

Matagorda Bay Complex: The Lavaca River and several streams affect salinity. Salinities range from 0 ppt at the head of Lavaca and Tres Palacios Bays and 20 ppt near Port O'Connor during flood periods, to 30 ppt at the head of the bays and slightly hypersaline conditions near Port O'Connor during low discharge (1965–1967, McGowen, et al., 1976). East Matagorda Bay is separated from Matagorda Bay proper by the Colorado River Delta. Several streams flow into East Matagorda Bay, and its opening to the Gulf consists of a single narrow cut. Salinities here are generally lower, averaging 10 to 15 ppt and ranging from a reported low of 8 ppt to a high of 24 ppt at Brown Cedar Cut (1965–1967).

Galveston Bay Complex: Considerable surface flow enters via the Trinity and San Jacinto Rivers and several small streams and bayous. These are the westernmost estuaries influenced by a humid climate, and hypersaline conditions are rare. Highest salinities are recorded in West Bay, averaging 25 to 30 ppt (1965–1967, Fisher, et al., 1972). Galveston and Trinity Bays average from 10 to 15 ppt near the head to 20 to 25 ppt in the lower portions. During high discharge, surface salinity ranges from 2 ppt to 14 ppt, and during low discharge periods the range is from 20 to 32 ppt (Fisher, et al., 1972).

Circulation between East Bay and Galveston Bay is rather poor (Gooselink, in press) perhaps because of numerous oyster reefs, and salinities are somewhat higher. The reopening of Rollover Fish Pass in 1955 improved circulation in the eastern half of East Bay.

Sabine Lake: Dredging of the Sabine-Neches Ship Channel and the construction of the Toledo Bend Reservoir are classic examples of how man has altered the natural salinity regime of Gulf estuaries. The dam stores winter surplus water, which is released in mid-May for hydroelectric generator demands (White and Perret, 1973). The mid-May release corresponds to the peak period of brown shrimp estuarine production. Alteration in this discharge pattern means the loss of the lake as a shrimp habitat (White and Perrett, 1973).

The natural opening of Sabine Lake to the Gulf was narrow and approximately 4 m deep (Gosselink, in press). This narrowness, combined with the large discharge into the estuary, probably resulted in low salinities throughout the area. The Sabine-Neches Ship Channel 46 ft. (14 m in depth) has resulted in unusual hydrographic changes. Spoil from the channel is continuous until the mouth of the Neches River, at which point an increase in lake salinity is noted. The ship channel acts as a corridor facilitating saltwater intrusion during low discharge periods and allows for more rapid runoff of high discharge.

Combined effects of the natural physiography and of these perturbations have resulted in relatively low and monotonous annual salinity regimes. Salinities at the estuary's head range from 2 to 10 ppt (wet and dry years) and from 16 to 20 ppt (wet and dry years) at the south end of Sabine Lake (Fisher, et al., 1973).

Calcasieu Lake: This estuary is similar to Sabine Lake in its size, its orientation, and in that its constricted opening to the Gulf has been dredged. Salinity in the ship channel has increased since its construction (Gosselink, in press). Historic changes in oyster distribution and in marsh acreage and vegetation indicate that salinity has increased in the lake. Means and extremes are not known for the lake, but it seems that salinity here is somewhat higher than in Sabine Lake (Barrett, 1971).

Atchafalaya-Vermilion Bays Complex: Salinities are generally low due to the Atchafalaya River as well as to the other lesser sources of fresh water. A significant decrease in salinity has occurred in the Vermilion Bay area since 1950, for the expected continued growth of the Atchafalaya Delta will result in continued high turbidity levels and lower salinities. If the Delta grows out to the present coastline it may act as a barrier decreasing water exchange with the Gulf. The immediate estuarine area will probably deteriorate in terms of shrimp habitat over the foreseeable future. Over the long term, if the normal sequence of deltaic processes is not inhibited, the result will be a significant increase in estuarine habitat area (Gosselink, in press).

Terrebonne and Barataria Estuaries: Since artificial levies block the normal flow of the Mississippi River, these estuaries are no longer greatly influenced by freshwater runoff. During flood periods, Mississippi waters can enter into the mouths of these estuaries via the Gulf of Mexico and create a reversal in the salinity gradient (Barrett, 1971). While salinity data is extremely sparse, the extensive salt and brackish marshes indicate favorable conditions for shrimp habitat.

Mississippi Delta: The Delta marshes are generally too fresh to be significant shrimp habitats. Surface salinities are usually near zero ppt; however, a well-developed salt wedge moves upriver at low stage.

Pontchartrain-Breton Sound: Marshes in Breton Sound have salinities similar to those of the lower portions of the Barataria and Terrebonne estuaries (20 to 25 ppt, 1967–1968, Barrett, 1971).

Mississippi Sound Complex: Salinities in Mississippi Sound, despite its numerous wide passes, are considerably less than those of the Gulf. Freshwater discharge is considerable both directly (via the Pascagoula system and weirs entering into St. Louis and Biloxi Bays) and indirectly (via Mobile Bay to the east and the Pearl River and Pontchartrain-Borgne system to the west). At the western end, surface salinity ranged from 6 to 20 ppt, while at the east end it ranged from 14 to 30 ppt (1962–1964, 1966–1969, Christmas, 1973). The east-west gradient reflects differences in surface water inputs.

In the landward estuaries, such as Biloxi and St. Louis Bays, surface salinities range from less than eight ppt to 20 ppt. A fairly strong salinity gradient is present from the mouths of the estuaries seaward to the offshore barrier islands. This gradient is most evident from Biloxi Bay to Dog Keys Pass where surface salinities differ by about 12 ppt, with a range of 10 to 20 ppt over the 131 m distance.

Mobile Bay: Mobile Bay is another example of a shallow-water estuary modified by a deep-water channel that allows for saltwater intrusion. Mobile Bay receives more freshwater flow than any other U.S. Gulf estuary except for the Mississippi River and its tributary, the Atchafalaya. Consequently, salinity has a strong inverse relationship to stream flow.

Florida Estuaries: In the panhandle area and south to Suwannee Sound, salinity patterns are similar to those of the estuaries to the west. Salinities are highly variable and are related to stream flow, which is substantial for these areas. Choctawhatchee Bay is a glaring exception because of a well-defined persistent salt wedge (McNulty, et al., 1972).

Despite the lack of major freshwater surface flow, the coastline south of Waccassa Bay and north of Tampa Bay has salinities similar to those of the large-discharge panhandle estuaries. These lower-than-normal Gulf salinities have been a factor in the presence of offshore oyster reefs and submerged aquatics, suggesting the strong possibility of springs emerging in the offshore zone (McNulty, et al., 1972).

Relatively high salinities from Tampa Bay south through Florida Bay are due to the absence of major stream flow and high evapotranspiration rates. The frequency and degree of hypersalinity generally increases in a southerly direction, except for the Charlotte Harbor area where stream flow is normally sufficient to mitigate hypersalinity. Hypersalinity, a normal and frequent occurrence in Florida Bay, is brought about by natural drought periods and is intensified by man's diversion of normal freshwater flow (McNulty, et al., 1972). Higman (n.d.) discusses the possible inverse relationship between growth rate of postlarval and juvenile pink shrimp and salinity in Florida Bay estuaries.

4.5.1.4 Estuarine Access

The area becomes closed as a nursery ground if wetlands are impounded. Indirect effects may be considerable and may cause changes in water flow patterns. Control gates can close off nursery grounds landward of the structures.

Weirs constructed along the Sabine Navigation Channel and the Gulf Intracoastal Waterway in the Keith Lake area of southeast Texas to protect the neighboring marshes from saltwater instrusion were removed in 1977 reopening the Keith Lake area as a shrimp nursery ground (R. Fish, personal communication).

4.5.1.5 Non-Salinity Water Quality

The effects of pollutants on Gulf shrimp is still relatively unknown. Pollutants can reduce the available estuarine habitat area and result in high concentrations of substances harmful for human consumption.

4.5.1.6 Currents

The most important process in producing currents in the Gulf of Mexico is the stress of the wind upon the water surface. While the loop current in the eastern Gulf has been documented for some time, a major current in the western Gulf has only recently been firmly established (Sturges and Blaha, 1976). The loop current may serve as an eastern boundary to the Mexican current (Sturges and Blaha, 1976), especially during summer months.

Tidal currents are of particular importance in the nearshore area and affect movement into and out of estuaries. Despite the small tidal range throughout the Gulf, tidal current velocities are relatively high. In the estuaries high velocity is due to constricted outlets that characterize many of the lagoons and bays. In the nearshore area, water level changes occur over a shallow Continental Shelf. Wind can have a pronounced effect on the overall water level change. Two of the most dramatic examples are cold fronts that push water out of the northern Gulf estuaries and tropical disturbances that raise water levels in these same estuaries. Shrimp migration, from these estuarine areas is associated in part with the relative magnitude of the tidal exchange (Section 4.1).

4.5.2 Habitat Concerns

See introduction to Section 4.5, Habitat, and Section 4.8, Estimates of Future Stock Conditions.

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4.6 Quality of Data

Despite the importance of the Gulf shrimp fishery, there are some significant data deficiencies which limit the selection of mangement measures. Some of these deficiencies include:

- Lack of a clear understanding of natural mortality rates, of temperature and salinity effects on growth rates, and of migration patterns.
- Lack of data on utilization of the shrimp resouces.
- Lack of cost-earnings and catch-effort data.

4.7 Current Status of the Stocks

4.7.1 Maximum Sustainable Yield

4.7.1.1 Explanation and Specification of MSY

The biological characteristics which affect sustainable yields for penaeid shrimp are unusual. They are an annual crop. Very few individuals live a year and the majority harvested are less than six months old. There is no demonstrable stock-recruitment relation and recruitment overfishing, given present technology, is essentially impossible. That is, it is not economically or technically feasible to take so many shrimp that there are too few survivors to provide an adequate supply for the following year. Because of these characteristics, fishing mortality and yield in one year do not affect yield in the following year. The maximum yield in number for a given year is essentially all the shrimp available to harvest, using current technology.

Growth overfishing is caused by taking the available recruits at too small a size. If growth overfishing is occurring, allowing additional time for growth will result in a greater total yield in weight, although the total number of individuals will be less. The rapid growth rate of penaeid shrimp makes them resistant to growth overfishing until high levels of effort are reached. Effort in the fishery has been increasing rapidly, and it is probable that the total yield of penaeid shrimp could be increased if the average size taken were larger. However, the poor quality and small amount of available data makes it difficult to precisely estimate the magnitude of any increase (see Section 4.1).

The abundance (number of recruits) and therefore yield and catch per unit effort, vary greatly from year to year depending on the temperature and salinity in the estuarine nursery areas. This is evident when regression coefficients for the different models are compared. For example, linear regressions of catch on effort showed that effort alone explained only 38 percent of the variation in catch of Louisiana white shrimp and 57 percent of the variation in Gulf brown shrimp catch. Multiple regressions including environmental parameters explained 89 percent and 88 percent respectively. For brown shrimp, the environmental model predicts that at a fishing effort of 100,000 units (essentially the record until 1976), annual catch would vary from 57 to 88 million pounds provided temperature and salinity ranged within 1963–1975 levels. If environmental conditions were more favorable, a greater yield would be expected. Given environmental conditions slightly better than previously observed and high levels of effort, the maximum probable catch is estimated at 116.4 million pounds tails, 37.6 percent greater than the point estimate of MSY from a Schaefer surplus production model.

Surplus production models utilize trends in catch and fishing effort over a series of years. They were designed for, and are usually applied to, species with multiple year classes, (i.e., individual animals live longer than one year). They do not consider fluctuations in recruitment controlled by environment, but assume that environmental effects are constant. The predictive ability of these models, particularly in the range of fishing effort which might produce overfishing, is at its best for long-lived species and/or those which are not subject to large, environmentally produced fluctuations in recruitment. Because penaeid shrimp meet neither of these criteria, application of surplus production models must be made with caution and with an understanding of what is being predicted by the model. Estimates of MSY produced should be considered as long-term averages which are greatly affected by environmental conditions. They should not be considered a maximum allowable catch for a given year.

The Schaefer version of the surplus production model was chosen to estimate MSY in all three species because: sufficient data were available; it fit the date as well as other models which gave similar estimates of MSY, and was mathematically easier to use. The estimate was calculated using only reported catch and effort from the commercial fishery. Estimates of the recreational catch, bait catch, and discarded undersized shrimp are added.

	Schaefer commercial [1]	Recreational	Bait	Discard	Total
Brown shrimp	85	8	2	5	100
White shrimp	38	8	1	3	50
Pink shrimp	14	.....	1	.....	15

[1] All weights are in millions of pounds, tail weight for a total MSY of 165 million pounds of tails annually for the three species.

For royal red shrimp, MSY was estimated as 392,000 lbs. of tails using a Schaefer model.

For rock shrimp, MSY was estimated as 1.1 million pounds of tails using a Schaefer model. This estimate is a very poor one because most landings are incidental catch, making effort estimates unreliable.

For seabob shrimp, no accurate MSY could be calculated due to lack of effort data. Seabobs are treated as an incidental catch, to the white shrimp fishery where they account for an average of 4.3 percent of the total catch or 1.4 million pounds (tails) for the years 1959–1975. This must serve as the best available MSY. The catch of seabobs is almost entirely within the Territorial Sea (Sec. 4.1).

For the three penaeid species, surplus production models indicate only a long term average yield, and not an allowable maximum. The catch in any given year can only be estimated using environmental factors and expected effort for that particular year.

A reasonable estimate of the maximum probable catch of white and pink shrimp can be estimated by applying the percentage by which the maximum probable catch of brown shrimp exceeds the Schaefer MSY estimate to all species. Estimates of bait catch, recreational catch and discards are then added to give a total maximum probable catch (see Sec. 4.7.1.2). These estimated are:

[In millions of pounds]

	Schaefer commercial estimate	Maximum commercial yield considering environmental factors (137.6 pct)	Recreational	Bait	Discard	Total
Brown shrimp	85	117	8	2	5	132
White shrimp	38	52	8	1	3	64
Pink shrimp	14	19	.....	1	.....	20
Total	137	188	16	4	8	216

4.7.1.2 Technical Description of MSY Calculations

Yield Models Incorporating Environmental Driving Forces

To achieve reasonable accuracy, the calculation of specific yields for penaeid shrimp must be made for specific points in time and must include environmental driving forces, since yield is dependent on those forces and not on abundance in previous years. Such models are much more appropriate and useful for penaeid shrimps because of the overriding impact of the environment on yield.

The environmental models presented below do not estimate MSY in the classical sense, rather they provide a yield estimate for any year under given conditions. They fit empirical relationships to observed data but are not directly tied to biological parameters of the species such as growth rate or mortality rates. The estimates from these models become invalid if extreme and unrealistic values are used for fishing effort and/or environmental parameters. At average levels of river discharge and effort, these models produce yield estimates which approximate MSY estimates from surplus production models.

Griffin and Beattie (1978) attempted to do this using freshwater discharge from the Mississippi River as a proxy for estuarine salinity conditions. Their formula, a modified Spillman production equation (Heady and Dillon, 1961) estimates yield for that portion of Gulf shrimp resources of all species caught by vessels (i.e., five gross tons or larger). It predicts maximum yield will be attained only at infinite fishing pressure, although the rate of increase in yield decreases rapidly with increasing effort.

To estimate average yield, equivalent to MSY, Mississippi River discharge was used as an index of environmental driving forces, and the predictive equation derived is

$$Y = 6593D - {}^{0.6013}(1 - 0.995701^{E}) \qquad \text{Eq. 4.7–1}$$

where Y is yield in million pounds of tails, D is Mississippi River discharge in thousand cubic feet per second, and E is fishing effort in thousand units. For a year with an average river discharge pattern, their equation predicts an average yield for Gulf shrimp vessels of 128.7 million pounds of tails. Within rounding error, 90 percent of this catch would be achieved at an expenditure of 314,300 effort units. The current range is 100,000 to 300,000 units.

For the purposes of this plan, it was necessary to consider each species individually. For white shrimp, the data was available only for Louisiana (Fig. 4.7–1).

The association of Louisiana's reported commercial catch of white shrimp (on a year-class basis) to unit fishing effort and Mississippi River discharge was investigated. It was found that the log of average river discharge for the May through August period (LMJJA) could be used as a forecaster for the success of the coming year's harvest (Y) if an estimate of commercial fishing effort (E) could be made (Figure 4.7–4),

$$Y = 127.8 + .6411E - 49.4LMJJA (R^2 = .84) \qquad \text{Eq. 4.7–2}$$

where Y is in million pounds tails of white shrimp, LMJJA is the log of river discharge in 1,000 cfs and E is in 1,000 units. This time period encompasses the early phase of estuarine growth. It was also noted that the relationship in Eq. 2 was improved (increased R^2) if the time period over which river discharge was averaged was increased from the May through August period to May through December.

$$Y = 129.1 + .6411E - 51.48LMD (R^2 = .89) \qquad \text{Eq. 4.7–3}$$

where LMD is the log of the average river discharge in 1,000 cfs for the May through December period. This longer time period essentially encompasses the first growing season for white shrimp.

These models could not be applied to the entire Gulf white shrimp catch because shrimp production from estuarine areas not connected to the Mississippi River are substantial and do not always correlate well with Louisiana production.

For pink shrimp no data was available to fit these types of models.

For brown shrimp in Louisiana, a correlation has been drawn between the annual success of the brown shrimp harvest and the temperature of both the estuarine water during mid-April and the acres of marsh above 10 ppt. (Barrett and Gillespie, 1973, 1975, 1976; Barrett and Ralph, 1977). In general, good production is expected if the spring is dry and warm, whereas poor production is expected for a wet, cold spring. A similar phenomenon has been observed in Texas (T. Leary, GMFMC, personal communication, 1978).

After the success of the Louisiana Department of Wildlife & Fisheries in predicting its brown shrimp harvest with these environmental variables, and given the fact that the successes of many of the major brown shrimp fishery areas in the Gulf are correlated with the Louisiana catch, "Barrett's" indicators were then tested for their ability to predict the annual Gulf brown shrimp catch. Results of the multiple regression equation generated are shown in Figure 4.7–2. The equation,

$$\text{Catch} = -51.73 + 3.664(\text{Temp}) - 0.01496(\text{River}) + 0.5061(\text{Effort}) \qquad \text{Eq. 4.1–4}$$

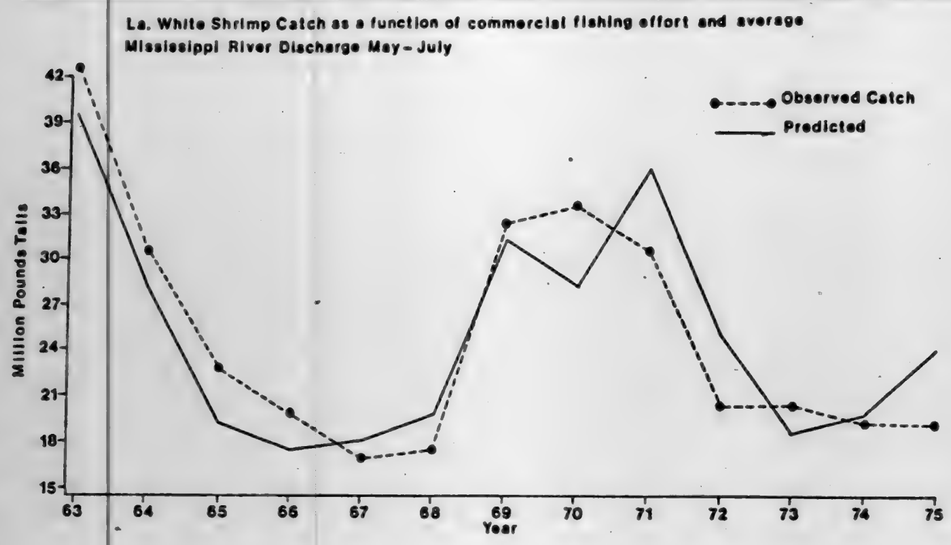
predicts 88 percent of the annual variance in catch, where "Catch" is annual brown shrimp catch in million pounds, "Temp" is average water temperature in degrees Centigrade at Grande Terre, Louisiana, April 16 to 22, "River" is Mississippi River discharge in 1,000 cfs March to May, and "Effort" is unit fishing effort in 1,000 units (Griffin, 1978).

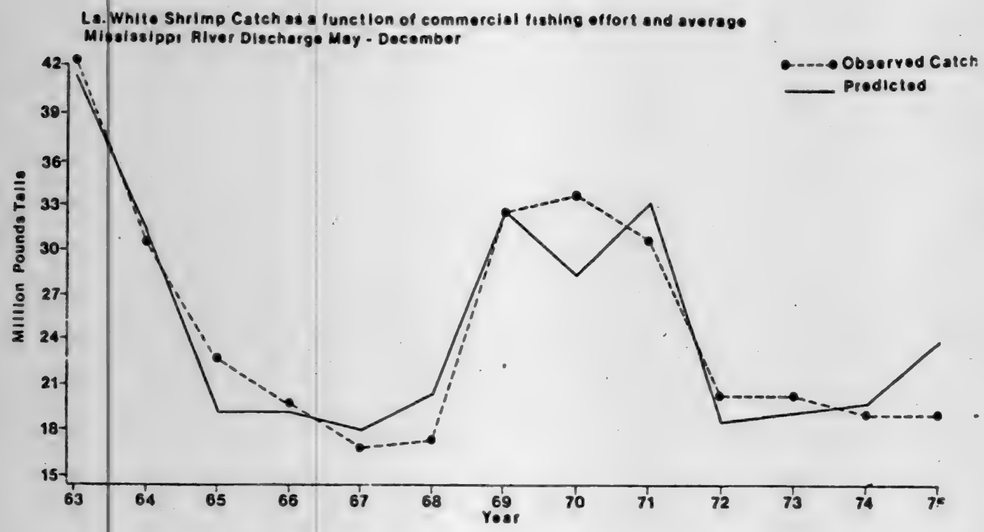
In general, low freshwater discharge and high temperatures mean large yields (temperature is the most important factor). The estimated yield for the most favorable recorded combination of temperature (26.3° C in 1967), river discharge (480,000 in 1963) and effort (113,569 in 1972) is 94.9 million pounds. This compares with the best reported catch of 91.5 million pounds in 1967. To calculate a maximum probable yield, it is reasonable to assume slightly better environmental conditions and higher levels of effort. Using 27° C, 480,000 cfs and 150,000 effort units, the yield estimate is 116.4 million pounds of tails. This estimate is 37.6 percent greater than the estimate of MSY from the Schaefer surplus production model and more nearly resembles true conditions.

This model is an adequate predictor of reported annual Gulf brown shrimp harvest, although there is considerable room for refinement and improvement. When the necessary data becomes available, this type of model should be used for all penaeid shrimp.

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4.9-1 Louisiana white shrimp commercial reported catch as a function of commercial fishing effort and average Mississippi River discharge. (See Appendix E for derivation of equations.)

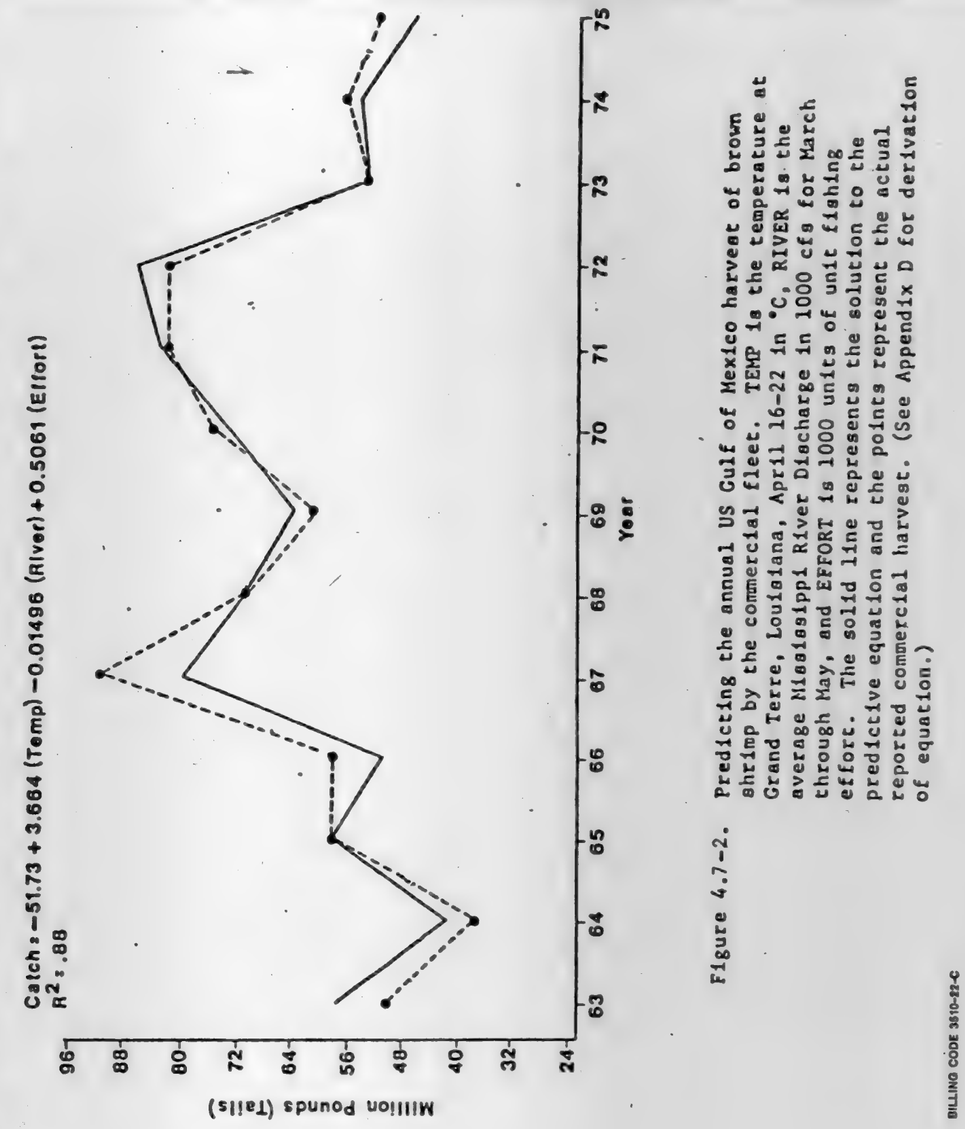


Figure 4.7-2. Predicting the annual US Gulf of Mexico harvest of brown shrimp by the commercial fleet. TEMP is the temperature at Grand Terre, Louisiana, April 16-22 in °C, RIVER is the average Mississippi River Discharge in 1000 cfs for March through May, and EFFORT is 1000 units of unit fishing effort. The solid line represents the solution to the predictive equation and the points represent the actual reported commercial harvest. (See Appendix D for derivation of equation.)

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As shown by the calculations above, surplus production models which do not incorporate environmental forces are inappropriate for these species. They are only used because of a lack of the required environmental data.

Surplus Production Models

Klima and Parrack (1978) used the Schaefer form of the Generalized Stock Production (GSP) model to predict a MSY for the shallow-water catch of Gulf shrimp (brown, white, pink, seabob, and rock shrimp). They used estimates of reported commercial catch and days fished for the period 1956–1975, excluding 1957, 1961, and 1962 as years of major hurricane activities and therefore not indicative of normal fishing activity. Their equation,

$$Y = E(.45528 + 9.3870396 \times 10^{-7} E) \quad \text{Eq. 4.7-4}$$

(where Y = yield in metric tons and E is effort in days fished) predicts an annual MSY for these shallow-water shrimp of 55 thousand metric tons (121 million pounds) of tails harvested by 225,000 days fished. They noted that annual catch has fluctuated around this maximum since 1970 and conclude that the shallow-water shrimp "have been fully exploited in recent years."

In developing this plan an attempt was made to find the most predictive model relating catch to fishing effort for each of the shrimp species harvested in the U.S. Gulf. Models used were the Spillman production equation (Dillion and Heady, 1966) (for brown, white, and pink shrimp) and the Generalized Stock Production model (GSP) (Pella and Tomlinson, 1969; Fox, 1975). Four levels of m were used in fitting the GSP model: m = 0.5, 1.5, 2.0, 3.0. The parameter m is a measure of how a stock reacts to increasing fishing effort and overfishing.

The available catch data include the reported commercial catch-effort data published in the Gulf Coast Shrimp Data (U.S. Department of Commerce, 1963–1975) as well as point estimates of recreational, bait, and discarded catch and (in some cases) effort. To test the fit of the models to available data, only the reported commercial catch and effort data were used, since these were the only data with reliable time-series, catch-effort estimates.

Brown, white, and pink shrimp commercial catch-effort data (U.S. Department of Commerce, 1963–1975; Griffin, 1978) are listed in Table 4.7–1. Yield curves were fitted to this reported commercial catch and are compared in Figure 4.7–3 and Table 4.7.2. Essentially, all the models suggest that brown, white, and pink shrimp are being harvested within their respective MSY ranges. With each species, the fit (compare the residual sum of squares) is generally better with the GSP models than with spillman equation, and within the GSP models the fit becomes better with increasing m.

Choosing one of these models over another because of the apparent fit of the data is questionable. The fit of the data points to any of the surplus production models is relatively poor because of fluctuations in abundance caused by environmental factors. Although the GSP model where m = 3 appears to give the best fit, this type of model is usually associated with species which are very susceptible to recruitment overfishing. Penaeid shrimp are very resistant to this type of overfishing.

There are other factors which may be affecting the fit of the data. Most of the points lie near the peak of the yield curve. This makes prediction of the effects of higher levels of effort unreliable. A fraction of the catch is unreported. If this fraction is increasing and is large, it would cause the reported catch effort data to fit the curve where m = 3 more closely. Environmentally induced fluctuations in abundance cause great scatter in the points. In the case of white shrimp the shape of the curve is greatly affected by one point, 1975. Removal of this point would result in a large change in the right half of the curve.

Table 4.7-1—*Reported commercial catch and effort data for brown, white, and pink shrimp for 1963–76 (data from Griffin 1978). Weight is tail weight.*

Year	Brown shrimp Catch (1,000,000 lb)	Days fished (1,000 d)	Unit effort (1,000 units)
1963	50.2	82.0	51.3
1964	36.4	74.1	48.0
1965	57.0	102.4	61.6
1966	57.7	111.9	73.6
1967	91.5	116.6	84.2
1968	71.1	117.8	84.9
1969	61.5	114.6	90.6
1970	75.3	117.4	86.7
1971	81.1	126.2	102.6
1972	81.4	144.0	113.6
1973	52.8	115.3	90.0
1974	55.8	103.8	74.9
1975	50.6	86.6	67.8
1976	77.8	181.9	130.3

Year	White shrimp Catch (1,000,000 lb)	Days fished (1,000 d)	Unit effort (1,000 units)
1963	46.6	80.0	55.7
1964	43.5	95.3	63.3
1965	33.2	74.5	51.2
1966	29.8	72.1	43.6
1967	24.2	61.6	40.9
1968	30.3	77.4	52.0
1969	44.5	115.1	78.4
1970	45.8	91.3	72.6
1971	42.0	88.7	68.2
1972	37.7	91.8	76.3
1973	34.0	115.6	86.5
1974	31.3	96.1	67.5
1975	27.6	121.8	92.3
1976	36.5	111[4	67.7

Year	Pink shrimp Catch (1,000,000 lb)	Days fished (1,000 d)	Unit effort (1,000 units)
1963	12.4	21.9	15.3
1964	14.2	25.0	18.5
1965	14.6	23.3	17.4
1966	13.9	23.1	17.5
1967	10.2	21.7	16.7
1968	11.4	22.4	17.5
1969	11.1	21.5	17.8
1970	12.7	20.2	16.8
1971	10.3	17.8	15.1
1972	10.9	21.5	18.7
1973	14.5	25.4	22.4
1974	15.1	27.1	23.9
1975	14.6	31.3	28.6
1976	13.0	29.4	26.2

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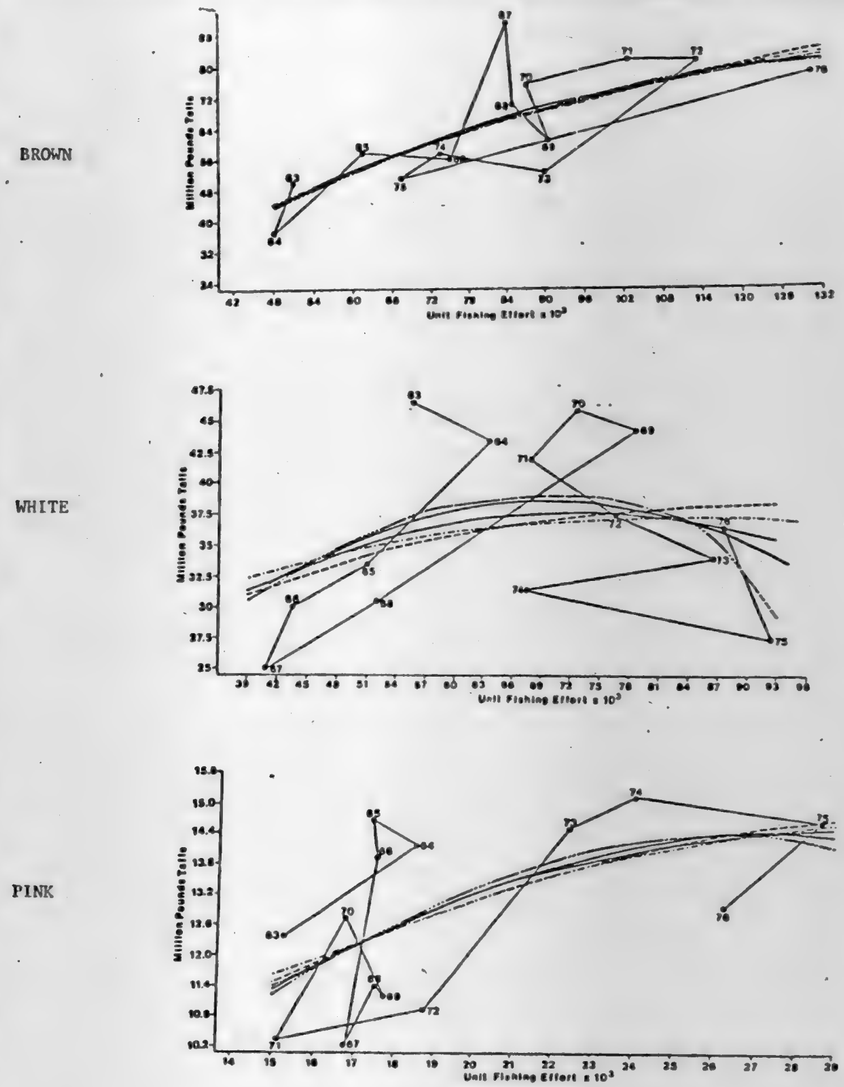


Fig. 4.7- 3. Comparison of the fit of various surplus yield modes to the reported commercial catch of brown, white, and pink shrimp in the US Gulf of Mexico. Equations and estimates of MSY and f opt are listed in Table 4.7-2. Spillman — — — — ; GSP, m = 0.5 -·-·-·-·-; GSP, m = 1.5 ····· ; GSP, m = 2.0 ——— ; GSP, m = 3.0 ——·····—;

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Table 4.7-2.—Comparison of Point Estimates of MSY Generated by Fitting[1] Various Surplus Yield Models to the Reported Commercial Catch Data for Brown, White, and Pink Shrimp as Reported in Table 4.7-1

Species and model	Equation predicted	Residual sum of squares ***	Predicted MSY (1,000,000 lbs tails)	Predicted f_{opt} (unit fishing effort—1,000 units)
Brown Shrimp:				
Spillman*	$Y = 113.5\ (1 - .9896^{E})$	1,315	113.5	.....
CSP **, m = 0.5	$Y = .5268\ E\ (.6513 + .001970\ E)^{.5}$	1,320	102.6	331
CSP **, m = 1.5	$Y = .5431\ E\ (1.448 - .002846\ E)^{1.5}$	1,296	85.8	170
CSP **, m = 2.0	$Y = 1.087\ E - .003491\ E^{2}$	1,283	84.6	156
CSP **, m = 3.0	$Y = .3\ E\ (12 - .059\ E)^{3}$	1,265	81.4	136
White Shrimp:				
Spillman	$Y = 39.92\ (1 - .9272^{E})$	582	39.9	.....
CSP, m = 0.5	$Y = .9626\ E\ (.7821 + .008144\ E)^{.5}$	573	37.8	96.0
CSP, m = 1.5	$Y = .7073\ E\ (1.299 - .006041\ E)^{1.5}$	487	38.0	71.7
CSP, m = 2.0	$Y = 1.102\ E - .007885\ E^{2}$	447	38.5	69.9
CSP, m = 3.0	$Y = .6039\ E\ (2.702 - .02604\ E)^{3}$	377	39.6	69.2
Pink Shrimp:				
Spillman	$Y = 16.23\ (1 - .9211^{E})$	25.7	16.2	.....
CSP, m = 0.5	$Y = .9102\ E\ (.8224 + .01782\ E)^{.5}$	25.7	15.5	46.1
CSP, m = 1.5	$Y = .8851\ E\ (1.115 - .01255\ E)^{1.5}$	25.3		29.6
CSP, m = 2.0	$Y = 1.036\ E - .01866\ E^{2}$	25.1	14.4	27.8
CSP, m = 3.0	$Y = .3043\ E\ (9.794 - .2494\ E)^{3}$	25.0	14.4	26.2

[1] The NLIN procedure in Barr et al. (1976) was used to fit the data to the curvilinear models. All three iterative procedures provided in the NLIN program were used. Only the solution with the lowest residual sum of squares is presented in the "Equation Predicted" column for each species-model combination.

*$Y = M\ (1 - A^{E})$ where Y is yield in million pounds tails, M is the maximum yield, A is a constant, and E is thousand units of fishing effort.

**Equation 4.7-1 where catch in million pounds and effort is in 1000 units of effort.

***Corrected total sum of squares for brown shrimp data is 3138, for white shrimp data is 692, and for pink shrimp data is 39.9.

The Schaefer model, which is equivalent to the GSP where m = 2, was chosen as representative of the current commercial catch-effort relationships of brown, white, and pink shrimp. The Schaefer model appears to fit the data well, is mathematically easier to use, and generates MSY estimates comparable to those of other models giving similarly good fits. The MSY estimates excluding unreported bait, recreational, and discards, were 85 million pounds of brown shrimp, 38 million pounds of white shrimp, and 14 million pounds of pink shrimp.

Catch and effort data for royal red shrimp are shown in Table 4.7-3; the data are compared to the Generalized Stock Production model in Table 4.7-4, for m equal to 0.5, 1.5, 2.0, and 3.0. As with brown, white, and pink shrimp, all models have fairly similar fits to the data. Despite the similarity, however, the Schaefer model is suggested as representative of the royal red shrimp since they exist in a relatively constant environment in which at least three year classes occupy the same feeding grounds (Anderson, 1971). A MSY of 392,000 pounds of tails annually is predicted. This result is compatible with Roe's estimate of a potential royal red shrimp yield of 425,000 pounds (in Klima, 1976).

Catch and effort estimates for seabob and rock shrimp are shown in Table 4.7-3. An attempt was made to fit the data to the GSP model despite the fact that the reported commercial catch data for seabob and rock shrimp indicate that they are caught and landed incidentally with other shrimp (Tables 4.7-5 and 4.7-6).

The MSY's predicted for rock shrimp are compared in Table 4.7-4. The Schaefer model (GSP, m = 2) was chosen because the predicted relation between catch and effort was similar to other GSP models and because it is mathematically easy to use. The MSY predicted for rock shrimp is 1.1 million pounds of tails annually. This figure cannot be compared to published reports of rock shrimp density; rather it should be viewed with skepticism because the effort estimates for 1971 to 1976 are poor (since the species is an incidental bycatch) and new fishing grounds for these shrimp may be found, as a market for them continues to develop..

Solutions predicting a MSY were not obtained for seabob shrimp. This inability to predict a MSY is due to unreliable effort estimates since seabob shrimp are usually landed incidentally with other shrimp.

Modification of Surplus Yield Estimates for Penaeid Shrimp

The estimates of MSY from surplus production models for penaeid shrimp must be modified to include unreported catch, bait, recreational, and discards. The demonstrated influence of environmental driving forces must also be included. These considerations have much less impact on other species in this plan and need not be considered for them.

Estimates of recreational and bait catches of brown, white, and pink shrimp are listed in Tables 4.7-7 and 4.7-8. In addition, there are important harvesting areas in the gulf where shrimp are caught and discarded. Some estimates of these discarded catches on an average annual basis are:

- Five million pounds (tails) of brown and white shrimp along the Texas coast, June through August (Terry Leary, GMFMC, personal communication, 1978).
- Two to four million pounds (tails) of brown and white shrimp along the Louisiana coast (Charles White, LDWF, personal communication, 1978).
- 316,000 pounds (tails) of pink shrimp in the Dry Tortugas for the 1963-1966 period (Berry and Benton, 1969).

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Table 4.7-3. Reported commercial catch and effort[1] for royal red, sea bob, and rock shrimp in the U.S. Gulf of Mexico (U.S. Dept. of Commerce, 1963-1976).

Year	Royal Red Shrimp CATCH	Royal Red Shrimp EFFORT	Sea Bob Shrimp CATCH	Sea Bob Shrimp EFFORT	Rock Shrimp CATCH	Rock Shrimp EFFORT
	thousand pounds tails	days fished	million pounds tails	days fished	thousand pounds tails	days fished
1963	5.0	8.4			1.14	709
1964	4.6	6.1			.33	778
1965	17.0	27.3			.71	790
1966	23.5	36.5			.48	737
1967	37.7	88.4			.21	575
1968	73.5	88.7			.69	2,420
1969	271.3	506.2			.52	817
1970	40.9	65.8			2.13	1,905
1971	64.1	90.7			.32	344
1972	36.6	34.8			1.43	1,635
1973	230.8	410.3			2.97	3,548
1974	226.9	503.8			4.36	4,350
1975	112.6	229.7			4.58	4,580
1976	164.2	382.1			.74	1,641
						880.0 981.5

[1] Days fished for sea bob and rock shrimp (1963-1975) was calculated by assuming that the fishing effort for a given trip was proportioned directly as the weight of the various species caught and landed. Interviewed days fished estimates were converted to total days fished estimates by using the ratio of interviewed days fished to interviewed pounds of 1976 days fished for each species were taken directly from NMFS estimates on the Gulf Coast Shrimp Data tapes.

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Table 4.7-4.—*Comparison of Point Estimates of MSY Generated by fitting[1] Various Forms of the GSP Model[2] to the Reported Commercial Catch Date for Royal Red, Sea Bob, and Rock Shrimp as Reported in Table*

Species and model	Equation predicted	Residual sum of squares[3]	Predicted MSY[4] (1,000 lbs tails)	Predicted f_{opt} (days fished)
Royal Red Shrimp:				
CSP, m=0.5	$Y = .7048\ E\ (1.0723 + .0002529\ E)^{2}$	3547	650	4,240
CSP, m=1.5	$Y = .6063\ E\ (.9974 - .0001960\ E)^{2}$	3,577	455	1,696
CSP, m=2.0	$Y = .6068\ E - .0002347\ E^{2}$	3,588	392	1,290
CSP, m=3.0	$Y = .1976\ E\ (9.150 - .00598\ E)^{3}$	3,613	352	1,020
Sea Bob Shrimp:				
CSP, m=0.5	$Y = 1.182\ E\ (.2604 + .000969\ E)^{2}$	* *	* *	* *
CSP, m=1.5	$Y = 0.002536\ E\ (5.086 - .01600\ E)^{2}$	* *	* *	* *
CSP, m=2.0	$Y = .5077\ E + .0001039\ E^{2}$	* *	* *	* *
CSP, m=3.0	No points produced a valid sum of squares			
Rock Shrimp:				
CSP, m=0.5	$Y = .6465\ E\ (.6909 + .0001528\ E)^{2}$	57,621	1,531	4,522
CSP, m=1.5	$Y = .2054\ E\ (2.525 - .0004214\ E)^{2}$	56,446	1,162	1,997
CSP, m=2.0	$Y = 1.297\ E - .0003889\ E^{2}$	55,970	1,081	1,668
CSP, m=3.0	$Y = .2087\ E\ (37.24 - .01853\ E)^{3}$	55,131	985	1,339

[1] The NLIN procedure in Barr et al. (1976) was used to fit the data to the curvilinear models. All three iterative procedures provided in the NLIN program were used. Only the solution with the lowest residual sum of squares is presented in the "Equation Predicted" column for each species-model combination.

[2] Equation 4.7-1 where catch in thousand pounds and effort is in days fished.

[3] Corrected total sum of squares for royal red shrimp data is 110,949 and for rock shrimp data is 642,499.

[4] Equations predicted for sea bob shrimp data are not theoretically expected and do not predict a MSY.

* Although equations yield solutions, the estimates appear meaningless and plots of residuals indicate that the equations are biased.

* * Equation generated is not theoretically expected.

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Table 4.7-5. Comparison of sea bob shrimp caught with and without other shrimp in the U.S. Gulf of Mexico (GCSD, 1970-1975).

Year	Sea bob shrimp catch reported as not occurring with other shrimp (million pounds)	Sea bob shrimp catch reported as occurring with other shrimp (million pounds)	Ratio sea bob shrimp catch to other shrimp caught
1970	.073	2.06	1:28.2
1971	.003	0.25	1:83.3
1972	.073	1.36	1:18.6
1973	.782	2.19	1:2.8
1974	.740	3.62	1:4.9
1975	.344	4.24	1:12.3

Table 4.7-9. Comparison of the catch of rock shrimp caught with and without other species of shrimp in the U.S. Gulf of Mexico (GCSD, 1971-1975).

Year	Rock shrimp catch reported as not occurring with other shrimp (pounds)	Rock shrimp catch reported as occurring with other shrimp (pounds)	Ratio rock shrimp catch to other shrimp caught
1971	0	113	1:2.2
1972	3,039	195,461	1:1.8
1973	2,915	174,734	1:3.7
1974	7,813	53,064	1:4.4
1975	11,199	662,723	1:1.2

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Table 4.7-6.—*Estimates of Annual Recreational Shrimp Catch by Waters Associated With the Five Gulf States*

State	Reported estimate of annual commercial recreational shrimp (1,000 lbs of tails—heads-on)	Assumptions made to convert reported estimates to species catch in tail weight	Estimated annual brown shrimp (1,000 lbs of tails)	Estimated annual white shrimp (1,000 lbs of tails)	Estimated annual pink shrimp (1,000 lbs of tails)
Florida	([5])				([5])
Alabama [1]	257 ± 46	Assume catch is 78% brown shrimp and 22% white shrimp [6]	125	37	
Mississippi [2]	175 ± 9	Assume catch is 86% brown shrimp and 14% white shrimp [6]	94	16	
Louisiana [3]	23,600	Assume catch is 50% brown shrimp and 50% white shrimp [6]	7,329	7,662	
Texas [4]	901 ± 118	Assume catch is 77% brown shrimp and 23% white shrimp [6]	431	134	

[1] Average 1972–1974 (Swingle et al. 1976)
[2] Average 1973–1975 (Weaver and Christmas n.d.)
[3] 1973 estimate (U.S. Army Corps of Engineers n.d.)
[4] 1973 estimate (King 1975).
[5] No data available
[6] Computed from ratio of annual average reported commercial catch of brown shrimp to white shrimp from the area.

Table 4.7-7.—*Estimates of Annual Commercial Bait Shrimp Catch by Waters Associated With the Five Gulf States*

State	Reported estimate of annual commercial bait shrimp catch	Assumptions made to convert reported estimates to species catch in tail weight	Estimated annual brown shrimp catch (1,000 lbs of tails)	Estimated annual white shrimp catch (1,000 lbs of tails)	Estimated annual pink shrimp catch (1,000 lbs of tails)
Florida	74.75 ± 9.5 million shrimp [1]	Assume all shrimp are pink shrimp and 68 tails per pound.			1,099
Alabama	1,544,000 shrimp [2] plus 22,000 pounds shrimp	Assume all shrimp are 68 tails per pound. Assume catch is 78% brown shrimp and 22% white shrimp [6].	28	8	
Mississippi	43,407 pounds shrimp [3]	Assume catch is 86% brown shrimp and 14% white shrimp [6].	23	4	
Louisiana	1,529,000 pounds shrimp [4]	Assume catch is 50% brown shrimp and 50% is white shrimp [6].	475	496	
Texas	2,340,000 pounds shrimp [5]	Assume catch is 77% brown shrimp and 23% white shrimp [6].	1,119	349	
Estimated total			1,645	857	1,099

[1] Average 1969–1975, Christmas and Etzold (1977).
[2] Estimate for the 1968 period, from Swingle (1972).
[3] Estimate for 1971, from Christmas et al. (1976).
[4] Estimate for 1973, from U.S. Army Corps of Engineers (n.d.) citing a manuscript from the U.S. Fish and Wildlife Service.
[5] Estimate for 1978 from O. H. Farley (NMFS, personal communication 1979).
[6] Computed from ratio of annual average reported commercial catch of brown to white shrimp from the area.

The lack of sufficient data series prevented the development of MSY figures for the recreational, bait, and discard catch. Because estimates of these catches are low in comparison with the commercial MSY figure, they have been rounded off and added to it in the case of each of these three species. This "add-on" is a reasonable approach when as in this case, the amount to be added is a small fraction of the total. An alternate approach would assume trends in annual CPUE for recreational, bait, and discarded catch to be similar to observed commercial CPUE, adjust the point estimates of the catches accordingly, and add them to the commercial catch and effort in each year. While this might be more technically correct, the estimated MSY would be unchanged. The "add-on" approach was only necessary with brown, white, and pink shrimp because estimates for royal red shrimp are not believed to be significant.

The impact of environmental factors on the Gulf brown shrimp catch has been demonstrated. Although the available data for whites and pinks does not allow individual calculation, it is reasonable to expect a very similar impact. This is supported by visual inspection of the figures for Gulf brown shrimp catch and for Louisiana white shrimp catch. Both show a very similar amount of variation in yield, slightly greater than 100 percent between the lowest and highest yields.

In order to estimate a maximum probable yield for all three species, the percentage by which the maximum probable yield estimate for brown shrimp exceeded the surplus production model estimate (137.6 percent) was applied to all three penaeid species. The point estimates for bait, recreational, and discards were then added on. The estimates for the "add-on" do not consider environmental factors and are probably conservative for that reason. The maximum probable catches in millions of pounds of tails for the three penaeid species are:

	Schaefer estimate	Maximum yield considering environmental factors (137.6%)	Recreational	Bait	Discard	Total
Brown Shrimp	65	117	8	2	5	132
White Shrimp	38	52	8	1	3	64
Pink Shrimp	14	19		1		20
Total	137	188	16	4	8	216

These estimates of probable maximum catch, particularly for white and pink shrimp are subject to considerable uncertainty, and are only achievable under optimum environmental conditions with high levels of effort.

The Council will monitor data points throughout the life of the plan in order to obtain data which will allow the derivation of specific formula for species other than brown shrimp.

4.8 *Estimates of Future Stock Conditions*

Although effort is expected to increase, there is no reason to believe that recruitment overfishing will occur. Growth overfishing could occur and decrease the total yield if effort in inshore areas continues to increase. Management measures in the plan should prevent this from occurring and increase yield beyond present levels.

5.0 Catch and Capacity Descriptors

5.1 *Domestic Annual Capacity (DAC)*

Domestic Annual Capacity is considered to be the total physical capacity of the fleet and the processing sector. The basic physical indicators of the U.S. commercial Gulf fleet and its estimated annual capacity to Harvest Gulf shrimp are given in Table 5.2–1 for the 1962–1975 period. The number of commercial boats increased from 1962 to 1968, declining in the early 1970's then increased to 1968 levels in 1975. The number of commercial vessels, average gross tons, average effort index, and total days fished by vessels and boats increased generally over the 1962–1975 period. The increases in days fished by boats and by vessels were similar over this period (Christmas and Etzold, 1977, Fig. 17.)

In 1967 commercial catch and catch per day fished were near record levels. Therefore, 1967 was used to represent the ability of the commercial fishery to land shrimp on an annual and daily basis. The commercial domestic annual capacity in the following years was computed by using 718 pounds per day as an estimate of M_c in Eq. 5.2–2. the actual reported days fished in each year through 1975 were used to estimate the nation's capacity to fish commercially for shrimp in the U.S. Gulf during that year. These estimates are given in Table 5.1–1.

In general, the annual U.S. capacity to harvest shrimp commercially increased over the 1968 to 1975 period from an estimated 138 to 191 million pounds of tails annually. This increase in Domestic Annual Capacity reflects a general increase in the desire and physical facilities to harvest Gulf shrimp. In addition, recreational and bait shrimp catches are expected to remain at least at current levels. These levels have been estimated as 16 and four million pounds of tails, respectively.

The estimated total Domestic Annual Capacity to harvest U.S. Gulf brown, white and pink shrimp is 211 million pounds of tails annually, as of 1975. *Estimated capacity for 1980 and 1981 is 233 million pounds and 240 million pounds, respectively. The DAC for royal red shrimp is estimated to be 270,000 pounds.*

Table 5.1.1.—*Basic Catch and Capacity Indicators of the Reported Commercial U.S. Gulf Fleet and Estimates of Domestic Annual Capacity [3] to Harvest Shrimp*

Year	Number of reported commercial boats [1]	Number of reported commercial vessels [1]	Average vessel gross tons [1] (tons)	Average effort index of vessels [2]	Reported commercial catch [2] (million pounds)	Reported days fished [2] (thousand days)	Reported catch per days fished [2] (pounds per day)	Domestic annual capacity (DAC) [3] (million pounds)	Difference between DAC and observed harvest (million pounds)	Percent DAC not attained (percent)
1962	3,927	2,600	41.9	1.63	69.9	146.5	477.1			
1963	4,481	2,697	41[5	1.61	110.7	121.4	731.1			
1964	4,360	2,782	42.0	1.63	95.9	169.8	546.7			
1965	4,785	2,849	42.7	1.65	107.1	170.4	628.5			
1966	4,797	2,942	44.9	1.67	103.7	175.9	589.5			
1967	4,983	3,146	48.9	1.74	130.7	182.1	717.7			
1968	5,109	3,430	52.5	1.80	113.9	191.5	594.7	137.4	23.5	17
1969	4,817	3,569	53.7	1.85	118.3	200.4	550.3	143.8	25.5	18
1970	4,495	3,579	53.8	1.85	136.3	200.0	681.5	143.5	7.2	5
1971	4,828	3,487	57.8	1.89	134.1	204.9	654.4	147.0	13.1	9
1972	4,500	3,683	59.2	1.93	132.1	228.9	577.1	164.3	32.2	20
1973	4,723	4,091	59.9	1.93	104.7	238.0	539.9	170.8	66.1	39
1974	4,589	4,785	61.5	1.84	106.9	222.7	480.0	159.8	52.9	33
1975	5,054	3,780	64.0		99.5	266.5	466.0	191.3	91.8	48

[1] Griffin (1978).
[2] Christmas and Etzold 1977.
[3] Computed as DAC—$E \times M_c$ where DAC equals domestic annual capacity, E is the observed days fished, and M_c is the maximum observed catch per day fished for a peak catch year during the period of observation.

5.2 *Data and Analytical Approach*

Catch (Y) can be viewed as

Eq. 5.2–1

$$Y = f(P) .E$$

where f is the catchability coefficient; P, the population density and E, the fishing effort. The population density will depend in large part upon prevalent environmental conditions. The expected fishing effort will be the summation of physical and economic parameters limiting fishing effort, as well as physical and economic parameters limiting the landing, storage, and consumption of shrimp.

Domestic annual capcity (DAC) can be defined as

Eq. 5.2–2

$$DAC = E \times M_c$$

where E is annual days fished and M_c is the average maximum catch per day fished that could be harvested, landed, processed, and later consumed, for that annual period of fishing effort.

In estimating the DAC of the Gulf shrimp fishery, the largest annual catch per day (during a peak year) for the 1963 to 1975 period and the actual number of days fished in each year was used.

After 1975 the annual number of days fished (E) was estimated by a linear regression of days fished on year for 1968–1975.

$$RE = (-17958.6) + 9.22\ (year) \quad r^2 = .81$$

The shrimp catch of the Gulf vessel fleet in any year can be expressed by the following identity:

$$Yv = V\ (Dv/V)\ (E/Dv)\ (Yv/E) \qquad \text{Eq. 5.2.3}$$

where Yv indicates the pounds caught by vessels, V represents the number of vessels, Dv is the total number of days fished by the vessel fleet, and E is total fishing effort of the vessel fleet.

Similarly, the shrimp catch by Gulf boats in any year can be expressed as

$$Yb = B\ (Db/B)\ (Yb/Db) \qquad \text{Eq. 5.2–4}$$

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where Yb represents the pounds landed by boats, B the number of boats, and Db the number of days fished by all shrimp boats.

5.3 Expected Domestic Annual Harvest (DAH)

The Domestic Annual Harvest is the record and projections of atual shrimp harvest.

5.3.1 Expected DAH for the Combined Species

DAH was estimated from trends in the reported commercial harvest and from point estimates derived for recreational, bait, and discarded catches. Trends in commerical harvest and effort were examined by boat data and vessel data separately.

Catch and effort statistics for commercial vessels are listed in Table 5.3–1. The commercial vessels fleet has had no statistically significant linear trend in days fished per vessel (Dv/V) or catch per unit of fishing effort (Yv/E). Rather these seemed to have exhibited averages of

38.1 days fished per vessel, and
367.1 pounds (tails) per unit effort.

The number of commerical vessels (V) and the unit effort per day fished (E/Dv) of these vessels have had statistically significant linear increases from 1962 to 1974 that are represented by the relationships

$V = 2461 + 117\ YR\ (R^2 = .93)$ Eq. 5.3–1
$E/Dv = 1.57 + .029\ YR\ (R^2 = .86)$ Eq. 5.3–2

where YR is the calendar year minus 1961

The expected commercial vessel catch in 1980 and 1981 are estimated (by substituting the estimated values for Dv/Y, Yv/E, V, and E/Dv into Eq. 5.1–3) to be 139 and 144 million pounds of tails.

Catch and days fished statistics for commercial boats are listed in Table 5.3–1. The commercial boat fleet has not exhibited statistically significant linear trends in number of boats (B) or catch per day fished (Yb/Db). The averages over the 1962–1974 period have been 4,645 boats and 503 pounds per day fished. The number of days fished per boat (Db/B) has increased significantly (1962–1974).

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Table 5.3-1. Parameters used to estimate expected domestic annual harvest for the reported commercial shrimp fishery.

YEAR	VESSEL CHARACTERISTICS			BOATS		
	number[1] of vessels	days fished[2] per vessel	ratio unit[3] effort to days fished	number[1] of boats	days fished[2] per boat	pounds per[3] days fished
62	2600	34.0	1.63	3927	14.8	434
63	2697	41.9	1.61	4481	8.6	865
64	2782	41.1	1.63	4360	12.7	424
65	2849	39.9	1.65	4785	11.8	450
66	2942	38.6	1.67	4797	13.0	395
67	3146	36.9	1.74	4983	13.3	463
68	3430	35.4	1.80	5109	13.7	427
69	3569	41.8	1.85	4817	10.9	675
70	3579	37.6	1.85	4495	14.5	613
71	3487	39.3	1.89	4828	14.1	626
72	3683	39.9	1.93	4500	18.2	459
73	4091	34.2	1.93	4723	20.7	343
74	3785	35.0	1.84	4589	19.7	363

[1] From Table 3.5-8.

[2] Data on days fished from Table 3.5-7.

[3] From Christmas and Etzold (1977).

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$Db/B = 9.72 + .66\ (Time)\ (R^{2=.59}$ Eq. 5.3–3

The expected commecial boat catch in 1980 and 1981 are estimated (by substituting the estimated values for B, Yb/Db, and Db/B into Eq. 5.1–4) to be 52 and 54 million pounds of tails.

The expected reported commercial catches for 1980 and 1981 are 191 and 198 million pounds. Bait and recreational catches are not expected to decline from 1963–1967 levels. A conservative estimate of expected recreational catch is 16 million pounds (tails) and four million pounds (tails) for the expected bait shrimp. *The total expected domestic catches for 1980 and 1981 are 211 million pounds and 218 million pounds.*

These estimates of expected harvest must be viewed with considerable caution because of limitations inherent in the formulas or model being used. The periods for which catch is estimated are six or more years beyond the limits of the available data series. Such a large time extension goes far beyond the predictive ability of the model. The model assumes constant CPUE and increases in catch with increasing effort. Catch per unit effort was assumed constant because the trend between 1962 and 1974 was not statistically significant. However, the data does indicate a downward trend as effort has increased. Because the catch is approaching the maximum available in a given year, further increases in effort must, inherently, decrease CPUE. When the data becomes available, the estimate of expected harvest may be reduced if CPUE is declining. The Council will closely monitor the fishery to establish the reliability of these estimates.

5.3.2 Expected DAH of Royal Red Shrimp

Royal red shrimp deserve special attention because these deep-water shrimp were subject to a directed fishery. Available data indicated they were underexploited.

In this case annual catch was regressed against year by simple linear regression. The relationship implies that as time progresses, catch will increase. This has some validity in that

- Catch has tended to increase with time (1963–1976);
- The major shrimp resources of the Gulf are being harvested at levels approximating MSY; and
- There has been a general increase in effort in the U.S. Gulf shrimp fishery despite the fact that the major stocks are being harvested at levels approximating MSY.

A simple linear increase is not expected to continue as catch of this limited resource approaches its MSY. The relationship derived is

DAH of royal red shrimp = −890 + 14.2 (year) Eq. 5.3–4 ($R^{2=.41, n=8}$)

where year is in the form 63, 64, etc. *The expected domestic annual harvest of royal red shrimp in 1980 and 1981 is 246,000 pounds and 260,000 pounds, respectively.* Eq. 5.3–4 is considered a crude estimator and should be reevaluated as new data are available.

5.4 Domestic Annual Processing Capacity (DAP)

Cato (1975) reported that 1970 shrimp landings in Louisiana, Texas, Alabama, Mississippi, and Florida represented 97, 84, 76, 57, and 35 percent respectively of the raw shrimp processed in each state. There have been no subsequent studies to identify more recent conditions. If similar figures apply after 1970, then the capacity to process domestic landings exceeds domestic landings. The deficit is overcome with shrimp imported from other states and foreign nations.

A 1972 (Alvarez) survey of fifteen Florida shrimp processors who accounted for 85 percent of the state's production revealed that the industry was utilizing only 55 percent of total plant capacity. This poor utilization of plant capacity occurred despite the use of significant imports from other states and countries. On the average, firms in the "small" class used more of their capacity than did firms in the "medium" and "large" classes. The same relationship held true between the "medium" class and the "large" class. A shortage of raw shrimp for processing was responsible for the excess capacity.

Prochaska and Andrew (1974) point out that the entire southeast is deficient in raw shrimp supplies in comparison with processing capacity. A detailed analysis of the situation in Florida reveals that shortages of raw shrimp result in an increasing share of processed shrimp being produced by a few firms.

While excess capacity is frequently found in an industry, the available information here clearly leads to the conclusion that *Gulf shrimp processing capacity is far in excess of the region's domestic landings.*

The Florida studies adequately addressed shrimp processing functions similar to those in most Gulf states. However, the absence of information on shrimp canning operations means that the results cannot completely describe the major Gulf shrimp canning industry. Capacity measures for the canning industry located in Louisiana and Mississippi were developed from key machinery capacities and a specified number of operating days per year; the production year was based on 147 operating days during the approximate 180 days of the inshore seasons. Average daily plant capacity was estimated to be 4,400 standard cases containing 24 cans, each four and one-half ounces. When these figures are applied to the 14 shrimp canners reporting production in 1978, a maximum capacity of 9,055,200 standard cases is derived. In the three most recent years Gulf shrimp canners produced 1,618,322 (1976), 2,104,625 (1977), and 1,464,722 (1978) standard cases (U.S. Department of Commerce 1979). Excess capacity in shrimp canning operations exists for a number of reasons, among which are the necessity of designing plants to handle peak volumes of fresh shrimp, recent high ex-vessel prices, and cash-flow problems related to the difficulty of financing inventories.

5.4.1 Data Which Shrimp Processors Must Submit to the Secretary of Commerce to Calculate DAP

Shrimp processors in the Gulf of Mexico participate in data collection programs of varied natures. Most states have some reporting requirements of processors; these requirements must be recognized prior to the development of mandatory data systems for the Gulf Shrimp Management Plan. The comparability of the requirements among the states and the information collected through the voluntary programs of the National Marine Fisheries Service must also be considered.

Reporting requirements of the Gulf states are identified in section 3.3.1, Management Institutions, Policies, and Jurisdictions. A brief summary for each state follows:

Alabama—Seafood dealers are required to make monthly reports of the names and addresses of persons from or to whom fish, seafood, or other saltwater products of the state are purchased or sold, the quantity purchased from or sold to each vendor or buyer, and the date of each transaction. The data reporting requirements are not well accepted.

Florida—Individuals harvesting or buying shrimp for canning, drying, or shipping must state the number of barrels of shrimp caught or sold each month and any other information FDNR may require. Wholesale dealers make quarterly reports on the number of pounds purchased from commercial fishermen but this is not applied or enforced as to purchases of shrimp.

Mississippi—Processing or landing firms are the points at which data on harvesting activities are reported.

Louisiana—All shrimp processing plants and dealers must keep records of the date, quantity, and point of origin of each lot of shrimp received. Retailers must complete a quarterly report on the amount of shrimp purchased and the name and license number of the seller.

Texas—No reporting on processing activities is required. Anyone who purchases shrimp from the fisherman for resale must report monthly.

Shrimp processors, ranging from dealers to canners, frequently provide information to the National Marine Fisheries Service on a variety of topics. The amount of product handled, its value, frozen shrimp holdings, and the number of seasonal and full-time employees are all reported to the public through the NMFS Current Fisheries Statistics publication series and Market News Reports. The information collection procedure involves voluntary contribution of statistics. Although there may be previously unmeasured problems with the representativeness of the statistics, they do identify poundage, locations, disposition, and prices. In the majority of instances species identification is not maintained beyond the dealer level.

The NMFS information collection effort, other U.S. government surveys on economic activities of businesses, and the reporting requirements of some states do not make for a climate conducive to the successful addition of another information system. Thus, the management objectives concerning the processing sector that are proposed here require no additional information collecting programs. Then too, many shrimp processors are involved in the processing of other species, and, until a systematic program of information collection on processing activities is developed, a species approach to data collection could create a chaotic situation. Instead, emphasis should be placed on improving the coverage, frequency, and currency of the existing voluntary system. When developed, comprehensive information systems on processing activities should show their consideration of the statistics that reflect processing capacity.

5.5 Additions to DAH to Account for Joint Ventures

The domestic market for shrimp and shrimp products has been sufficiently strong historically to attract significant quantities of imported shrimp. The economic climate has been such that no incentive exists for the transfer at sea of U.S. shrimp caught in the FCZ to flag vessels of other nations. In fact, domestically based shrimpers have sought harvesting arrangements in foreign waters to secure increased supplies of shrimp. The catch by U.S. flag vessels off Central and South America was reported to be 14 million pounds annually worth about $18 million (G.A.O., 1976). However, there is information available which indicates that the practice as relates to Mexican waters decreased significantly between 1962 and 1974 (Griffin, 1976).

The shrimping activities of foreign nations in the FCZ have been quite limited. From 1971 to 1975 harvest by Cuba and Mexico in the FCZ averaged slightly more than one million pounds (G.A.O., 1976). Thus, there has been little spatial interaction in the FCZ between major shrimp harvesting nations on which a transfer business could be based.

The lack of historical occurrence of the transfer of shrimp to foreign vessels and a domestic market strong enough to attract approximately 50 percent (Sec. 3.5.1.3) of domestic needs from imported shrimp lead to the conclusion that transfer are unlikely to occur. The market conditions ar such that this conclusion should have merit over the next five years. While this conclusion relates to shrimp it is possible that the transfer of incidental catch could be arranged. The domestic market condition for the bulk of the incidental catch is essentially the antithesis of that for shrimp. Transfer of some or all of the incidental catch of cooperating vessels to foreign vessels may become an avenue to improve the utilization of incidental catch.

6.0 Optimum Yield

A program of improved management as specified in this plan is expected to increase the yield from the fishery which is not operating at optimum harvest levels. Basic factors limiting the attainment of optimum harvest include:

(1) Conflict between user groups as to area and size of shrimp to be harvested.

(2) Discarding of shrimp through the wasteful process of culling.

(3) Continuing decline in quality and quantity of estuarine habitat.

(4) Lack of comprehensive, coordinated, and easily ascertainable management authorities over shrimp resources throughout their ranges.

(5) Conflicts with other fisheries such as the stone crab fishery in southern Florida, groundfish fishery in the north central Gulf, and the Gulf's reef fish fishery.

(6) Incidental capture of sea turtles.

(7) Loss of gear and trawling grounds due to man-made underwater obstructions.

(8) Partial lack of the basic data needed for management.

Specific objectives and measures to alleviate these problems and to attain OY levels are suggested in Section 8.0. None of these measures are likely to result in a reduction in present catch levels; some are likely to increase yield in a manner consistent with the National Standards for Fishery Conservation and Management.

6.1 Determination of Optimum Yield (OY)

Optimum yield is defined as "the amount of fish

(A) which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor."

It is the intent of this plan in conformance with the first of the national standards to prevent overfishing while achieving, on a continuing basis, the optimum yield. The shrimp fishery, however, is unique for several reasons. Most shrimp harvested are about six months old, and few survive beyond a year. Because they are prolific spawners, the quantity of one year's brood stock is not related to the abundance of the next year's population.

Natural environmental forces have a dramatic and overriding effect on the annual yields of brown, white, and pink shrimp (Section 4.1). Because of their great fluctuation and the high spawning-ability of shrimp, a predetermined classical MSY is not a good indicator to use in determining if overfishing will occur. For example, the classical MSY levels were exceeded in four years from 1966 to 1975, years of favorable environmental conditions.

For these species of shrimp the optimum yield essentially is all of the shrimp that can be harvested from the stock given certain management conditions. *Recruitment* overfishing has not will not occur with the use of present technology and fishing gear. Management measures proposed in Section 8 are intended to prevent *growth* overfishing where it may presently occur, thus achieving a higher yield from a same level of recruitment.

For the purpose of this plan OY should be regarded as a goal to be achieved and exceed under favorable environmental conditions without fear

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of damage to future stocks. It should not be considered to be a ceiling above which recruitment overfishing occurs.

6.2 Specification of Optimum Yield

In deriving OY from MSY as adjusted by environmental conditions, the Council paid close attention to the following criteria:

1. Provide each associated processing industry with the count size of the shrimp resource most suited to the several needs.
2. Prevent discrimination among fishermen based on boat/vessel size.
3. Eliminate conditions wherein boat/vessels would shrimp in the FCZ and claim the landings came from the territorial sea or inland waters and vice versa, depending on location of open and/or closed waters.
4. Protect the resource during specific periods to improve yield.

6.2.1 Shrimp Other Than Royal Red Shrimp

OY is determined to be: All the shrimp that can be taken during open seasons in permissible areas in a given fishing year with existing gear and technology. The Council has determined that, because of the annual nature of the resource, a numerical value for OY cannot be calculated for any given year until the environmental factors can be determined and evaluated. However, under optimum environmental conditions and maximum effort, the maximum probable catch for brown, white and pink shrimp is estimated to be 216 million pounds of tails. Fishing, however, will not be stopped when this numerical estimate is reached.

The Council has also determined that adjustments to OY need not be made yearly as economic, bilogical, and technological factors prevent the taking of sufficient shrimp during a single year to harm the next year's resource size. The Council will monitor closely the appropriate factors of the management regime established by the plan and, in particular, the environmental factors surrounding the determination of MSY. Should conditions warrant, the Council will provide the information to the Secretary of Commerce and a new MSY/OY relationship will be established through rule making.

6.2.2 Royal Red Shrimp

Royal red shrimp differ from brown, white, and pink shrimp in that they are not estuarine dependent but exist in a relatively constant environment in the deeper waters of the Gulf (100 to 300 fathoms). They are not an annual crop but are harvested from grounds believed to contain at least five year classes. Thus, they conform more closely to a classical Schaefer-type fishery. For this reason, the optimum yield of royal red shrimp should be the total pounds of royal red shrimp which can be harvested without biologically overfishing this resource. An estimate of the allowable catch is 392,000 pounds (tails). These figures should be reassessed as new annual catch-effort data become available. OY is set at this figure and fishing will stop when it is reached.

6.3 Alternatives to Optimum Yield Considered and Rejected

6.3.1 Optimum Yield for Brown, White, and Pink Shrimp to be Set at MSY

Setting OY for these three species at MSY or 165 million pounds of tails annually would have reduced the 1977 catch by 27 million pounds. Because this fishery can support a yield of all that can be harvested with present gear and technology, setting a lower level of harvest would result in a wasted resource in an annual crop. The loss of 27 million pounds of shrimp at 1976 wholesale prices would have resulted in a loss $75.3 million to the industry. No benefit from stockpiled shrimp nor an increased number of recruits the following season would result from taking less than is available.

6.3.2 Fishing to Stop When Optimum Yield is Reached for Brown, White, and Pink Shrimp

The intent of the first National Standard is to achieve OY while preventing overfishing the stocks. If the stocks cannot be overfished, any reduction of catch from the available, harvestable stock is a direct loss to the fishing industry.

6.3.3 Optimum Yield for Royal Red Shrimp to be Set Above MSY

The fishery for royal red shrimp differs substantially from that for brown, white and pink shrimp. It is composed of a slower growing species with up to five year classes in the catch. Little is known about the population dynamics of royal red shrimp, and recruitment overfishing may be possible. The establishment of OY above MSY could result in overfishing and stock damage.

6.3.4 Optimum Yield for Royal Red Shrimp to be Set at MSY With Fishing to be Permitted to Exceed OY

Exceeding the catch of OY equal to MSY (as in alternative 6.3.3) could result in biological overfishing. This alternative was rejected for a more conservative approach in an area of limited data.

6.3.5 Optimum Yield for Royal Red Shrimp to be Set Below MSY

This alternative for a multiyear class fishery would have the result of rebuilding the stock. Royal red shrimp have, however, been fished well below MSY and may be considered to be an underutilized resource. No rebuilding is necessary at this time.

6.3.6 Optimum Yield Set at Higher Estimate of ABC

An expected range of the seasonally determined estimates for Acceptable Biological Catch when the upper range of variation in catch data was considered as an ABC for each fishery; the following ranges were proposed:

brown shrimp—51 to 107 million pounds of tails annually.
white shrimp—37 to 59 million pounds of tails annually.
pink shrimp—11 to 16 million pounds of tails annually.

The Council considered determining that OY for these species should be at the upper level of the expected ABC ranges:

brown shrimp—107 million pounds of tails annually.
white shrimp—59 million pounds of tails annually.
pink shrimp—16 million pounds of tails annually.

for a total of 182 million pounds of tails annually. This option was rejected for two reasons. It was based only on past recorded landings with little basis in the biology of the stocks. This OY can be and has been (1977, 1978) exceeded when environmental conditions are favorable and effort is high. There is no evidence that exceeding this OY option had an adverse impact on recruitment in subsequent years.

7.0 Total Allowable Level of Foreign Fishing (TALFF)

7.1 Brown, White, and Pink Shrimp

There is no surplus available for a TALFF in the fisheries for brown, white, and pink shrimp. Domestic Annual Harvesting Capacity for brown, white and pink shrimp is estimated to be 234 million pounds in 1980 and 240 million pounds in 1981. Expected Domestic Annual Harvest for 1980 and 1981 is estimated at 211 and 218 million pounds of tails; OY is designated to be all the shrimp that can be harvested in allowable times and areas under present conditions. Major stocks are currently being harvested at optimum yield levels by the U.S. shrimp fleet.

7.2 Royal Red Shrimp

It is generally believed that royal red shrimp are not being harvested at their

OY level of 392,000 pounds of tails annually. Annually reported commercial catch has never exceeded 270,000 pounds of tails (1963–1975); expected domestic harvest for 1980 and 1981 are 246,000 and 260,000 pounds of tails. A foreign TALFF of some 146,000 pounds in 1980 and 132,000 pounds in 1981 is, therefore, estimated to be available. Catch trends should be reinvestigated, however, as new data become available.

Further domestic development of this fishery is hampered by the great depth at which the resource exists and the specialized gear required to fish it, high production costs, and shrinkage of the product during processing.

7.3 Seabob and Rock Shrimp

Data available on seabob and rock shrimp indicate that

- They are caught incidentally to other shrimp—seabob shrimp mainly with white shrimp and rock shrimp with pink shrimp;
- They are not being harvested at MSY levels (1963–1976);
- The catch has increased markedly in recent years (1971–1976).

Seabobs and rock shrimp are caught incidentally with white and pink shrimp respectively. There is no surplus of white and pink shrimp from the domestic fishery available for foreign fishing. Therefore, in order to prevent foreign harvest of nonsurplus species, no TALFF for seabobs or rock shrimp is provided.

8.0 Management Regime

8.1 Areas and Stocks Involved

The fishery being addressed is comprised of the species listed below and occurs in the area of jurisdiction of the Gulf of Mexico Fishery Management Council as well as in the territorial seas adjacent thereto and the associated bays, inlets, wetlands, and upland areas as appropriate:

Brown shrimp *(Penaeus aztecus* Ives)
White shrimp *(Penaeus setiferus Linnaeus)*
Pink shrimp (*Penaeus duorarum* Burkenroad)
Royal red shrimp (*Hymenopenaeus robustus* Smith)
Seabobs (*Xiphopeneus kroyeri* Heller) incidental bycatch
Rock shrimp (*Sicyonia brevirostris* Stimpton) incidental bycatch

The Council recognizes that the stock and the fishery extend across political and international boundaries. While it is the intent to manage the stock as a unit, the authority of the Council is restricted to the development of plans and proposal of management measures in the United States' FCZ in the Gulf of Mexico.

An arrangement for joint management of common stocks with Mexico would require a bilateral agreement. Negotiations with Mexico to renew the U.S./Mexico bilateral are underway; however, a mechanism for joint management does not seem likely for the near future. With the present lack of such an international management mechanism this plan addresses only the stock in U.S. waters and makes the assumption that shrimp movement across the border flows equally in both directions.

8.2 Management Unit and Period

8.2.1 Management Unit

This management unit is comprised of brown, white, pink, royal red, seabobs and rock shrimps in the area of jurisdiction of the Gulf of Mexico Fishery Management Council as well as the territorial seas adjacent thereto and the associated bays, inlets, wetlands and upland areas as appropriate. Federal implementation of regulations will occur only in the FCZ. On the east coast of the United States a natural biological break in fauna is found on the southeast coast of Florida. On the western edge the international boundary between Mexico and the U.S. serves as a political break.

8.2.2 Management Period

The Council has specified that the management year for all species except royal red should begin May 1 and extend through April 30 annually. The beginning of the period coincides with a time of low harvest in all of the major species of the management unit. The fishery year for royal red shrimp will be the calendar year because of the TALFF associated with the fishery.

8.3 Problems in the Fishery

The Council has identified the following problems associated with the fishery and the present management regime and has prepared the plan objectives to address and alleviate them. In a free access fishery a management regime to maximize protein yield and economic return of the fisherman is of importance.

(1) Conflict among user groups as to area and size at which shrimp are to be harvested.

(2) Discard of shrimp through the wasteful practice of culling.

(3) The continuing decline in the quality and quantity of estuarine and associated inland habitats.

(4) Lack of comprehensive, coordinated and easily ascertainable management authorities over shrimp resources throughout their ranges.

(5) Conflicts with other fisheries such as the stone crab fishery in southern Florida, the groundfish fishery of the north central Gulf, and the Gulf's reef fish fishery.

(6) Incidental capture of sea turtles.

(7) Loss of gear and trawling grounds due to man-made underwater obstructions.

(8) Partial lack of basic data needed for management.

8.4 Objectives

8.4.1 Specific Management Objectives

The following are the specific management objectives of this plan and are proposed to the appropriate authorities in charge of Gulf of Mexico shrimp resources. These objectives are to:

(1) Optimize the yield from shrimp recruited to the fishery.

(2) Encourage habitat protection measures to prevent undue loss of shrimp habitat.

(3) Coordinate the development of shrimp management measures by the Gulf of Mexico Fishery Management Council with the shrimp management programs of the several States, where feasible.

(4) Promote consistency with the Endangered Species Act and Marine Mammal Protection Act.

(5) Minimize the incidental capture of finfish by shrimpers, when appropriate.

(6) Minimize conflicts between shrimp and stone crab fishermen.

(7) Minimize adverse effects of underwater obstructions to shrimp trawling.

(8) Provide for a statistical reporting system.

8.4.2 Alternative Objectives

Alternative management objectives were considered by the Council and rejected for the reasons indicated:

Alternative 1.

Establish the preferred size at which shrimp will be harvested. In establishing this size provide a reasonable accommodation for the conflicting interests of the various groups which concurrently compete for the shrimp resources in order to prevent the economic dislocation of particular groups as a result of measures adopted.

Rationale: The Council did not establish one preferred size for harvest because, based on economic and sociological factors, this size varies regionally. The variation is due to the local vessel size composition of the fleet and prevailing methods of processing shrimp. The establishment of one preferred size throughout the Gulf and the regulation of catch to that size would have severely disrupted the economy and work force of those areas where the fishery is directed to a different size.

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Alternative 2.

Define and restrict shrimping in areas where preferred size shrimp are not normally taken on a seasonal or yearly basis.

Rationale: This alternative was rejected as a specific management objective because its scope was narrow. Its goal is included under the selected objective number 1.

Alternative 3.

Minimize the incidental catch and the adverse effects of the incidental catch of sea turtles by shrimpers.

Rationale: The wording of this alternative was revised to become objective number 4.

Alternative 4.

Establish a preferred level of capitalization.

Rationale: There is no economic evidence to suggest that the shrimp fishery differs from the classic example of a fishery near open access equilibrium. (Open access equilibrium refers to firms having free access to the fishery, generating just enough revenue to cover total costs over a long period of time, and entering or exiting the fishery in the short run with prevailing economic conditions.) Reductions in fishing effort are unlikely to result in anything other than small decreases in shrimp landings and a loss of jobs to fishermen and shore support personnel.

Alternative 5.

Insure continuance of the resource.

Rationale: Objective number 1 includes this option. Recruitment overfishing is not a problem in this fishery.

8.5 Management Measures and Rationale

8.5.1 Management Measures Considered and Adopted

Management measures considered by the Gulf of Mexico Fishery Management Council and suggested for incorporation into a shrimp management plan are discussed below. Some of these management measures are recommended for federal implementation by the U.S. Department of Commerce. Other measures are either administrative policies adopted by the GMFMC or are recommended for consideration by the various States and other agencies. Other measures considered, but not recommended, are documented in Section 8.5.2 and in the notes of the various meetings conducted to develop and evaluate the draft plan. The recommended measures are grouped with the objective addressed.

8.5.1.1 Objective 1: Optimize the Yield of Shrimp Recruited to the Fishery

Measure 1: Establish a cooperative permanent closure with the State of Florida and the U.S. Department of Commerce of the area delineated in Table 8.3-1 to protect small pink shrimp until they have generally reached a size range larger than 69 tails to the pound. The area to be closed is to be denoted as the "Tortugas Shrimp Sanctuary" and is generally represented by the line drawn in Figure 8.3-1.

The historic Tortugas Shrimp Sanctuary as established by the State of Florida has been modified slightly as the result of public hearings to reduce its size. This modification will allow shrimping in some deeper areas containing larger shrimp north of Smith and New Ground Shoals in the vicinity of Key West.

The U.S. Department of Commerce will close that portion of the FCZ within the area defined as the Tortugas Shrimp Sanctuary to all shrimping. All shrimp which are caught in open waters of the FCZ may be retained.

The State of Florida is encouraged to continue its present restrictions on shrimping in the area and to consider the retention of all shrimp which are caught in open waters, as well as establishing a sampling program to evaluate the effectiveness of the closed area.

Rationale: This measure would essentially re-establish most of the old Tortugas shrimp nursery area which until recently has served as a sanctuary for pink shrimp recruited to the Tortugas and Sanibel shrimping grounds. (The area within the FCZ can currently be shrimped by non-Floridians because Florida does not have jurisdiction.) Currently, the minimum legal size in Florida is 70 tails to the pound. No more than five percent of the catch can be of smaller-sized shrimp.

This measure would largely recreate the old Tortugas Shrimp Sanctuary; its proposal is based on available biological data and on the fact that a mature fishery appears to be dependent on it. Lindner (1966) and Berry (1970) report growth and mortality data which indicate that pink shrimp yield will be maximized if harvest begins only when shrimp are larger than the minimum legal size for harvest in Florida.

Costello and Allen (1965) summarized extensive sampling and mark and recapture data which indicate that estuaries within the Tortugas Shrimp Sanctuary are important nursery areas for post-larval and juvenile pink shrimp eventually recruited to the Tortugas and Sanibel beds. Yokel, et al. (1969) observed that the average shrimp leaving the Everglades nursery area is in the 300 to 200 tails to the pound range. Iverson, et al. (1960), sampling extensively in the southern portion of the Tortugas Shrimp Sanctuary area and in the southern portion of the Tortugas shrimping grounds, observed a relationship between size of shrimp and depth of water.

Table 8.3-2 was constructed using these observed relationships and McCoy's (1972) carapace length-weight relationships. The table indicates that at 10 fathoms shrimp will average 68 tails to the pound, and at 13 fathoms they will average 54 tails to the pound. Essentially, none of the proposed sanctuary area is deeper than 13 fathoms, and most of it is shallower than ten fathoms. Thus it should protect shrimp until they have reached an average count of around 70 tails to the pound. However, given the variation in size of shrimp according to depth reported in Iverson, etal. (1960), it does not seem likely that the sanctuary will protect shrimp until they have reached the current legal mix in Florida of no more than five percent of the catch consisting of shrimp 70 or more tails to the pound. For example, Table 8.3-2 indicates that at 13 fathoms the catch will average around 54 tails to the pound. A spot check of the reported commercial catch (U.S. Department of Commerce, Gulf Coast Shrimp Data, Annual Summaries for 1972 and 1974) shows that catch in the 11 to 15 fathom interval of the Dry Tortugas does have a peak in the 51 to 57 tails to the pound range. However, although considerable pounds of shrimp larger than this count were reported, only minor quantities of smaller shrimp were reported as landed. This apparent discrepancy in size distribution may relate to a possible discard of large quantities of undersized pink shrimp.

Table 8.3-1. Delineation of suggested Tortugas Shrimp Sanctuary

The Tortugas Shrimp Sanctuary is described as follows:

(1) Begin at Coon Key Light in Collier County (N);

(2) Thence proceed on a straight line to a point (F) located at 24° 50.7′ north latitude and 81° 51.3′ west latitude;

(3) Thence proceed on a straight line to New Grounds Shoal Light (G);

(4) Thence proceed on a straight line to Rebecca Shoals Light (H);

(5) Thence proceed on a straight line to R. B. Bell Buoy (I);

(6) Thence proceed on a straight line to Cosgrove Shoal Light (J);

(7) Thence proceed on a straight line to Sand Key Light (K); thence proceed northerly to the abandoned lighthouse located in the southwest portion of Key West (L);

(8) Thence along the south and east meandered shoreline of the Florida Keys and the connecting viaducts between said Keys to 80° 30.00′ west longitude; thence north until a point on the mainland is reached;

(9) Thence proceed west and north along the coast of the mainland of Florida until a point is reached which is located due north of the aforementioned Coon Key Light located in Collier County;

(10) Thence due south to Coon Key Light, the point of beginning.

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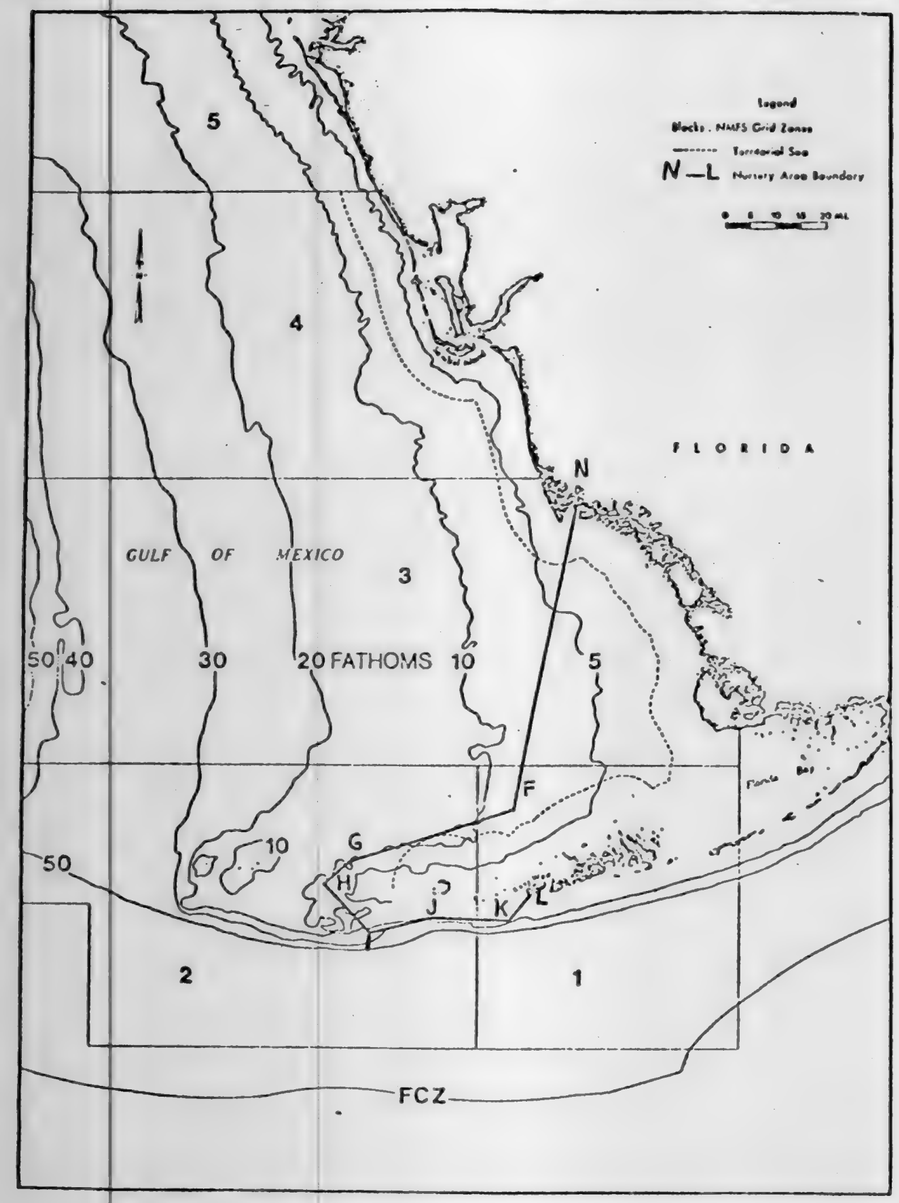


Figure 8.3-1. Location of proposed Tortugas Shrimp Sanctuary. See Table 8.3-2 for definition of line N-L.

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Table 8.3-2.—*Expected Average Weight of Male and Female Pink Shrimp in the Dry Tortugas Area as a Function of Depth*[1]

Depth	Males (heads-on)	Females (heads-on)	Count[2] of a 1:1 mixture males to females
fm	g	g	tails per pound
7	6.6	9.8	89
8	7.1	10.8	81
9	7.7	11.8	74
10	8.3	12.9	68
11	9.0	14.0	63
12	9.6	15.2	58
13	10.3	16.5	54
14	11.1	17.8	50
15	11.9	19.3	47

[1] Expected average weight was calculated from carapace length-depth relationships derived by Iverson et al. (1960) (See Eq. 4.1-1, 4.1-2) and the carapace length-weight relationships of McCoy (1972) (See Table 4.1-3). The formulas used are: Males: $W = 0.00148\ (16.394 + 0.618\ D)\ 2.77$; Females: $W = 0.00209\ (17.914 + 0.868\ D)\ 2.66$. Where W is weight of shrimp in grams and D is depth in fathoms.

[2] Currently the minimum legal size in Florida is 70 tails to the pound which cannot exceed five percent of the catch. The Table estimates that at a given depth the entire catch will average a given count. It does not denote the depth at which the minimum legal size mix currently in effect in Florida will occur.

Florida law presently prohibits all shrimping (except for live bait fishing under permit) in its nine-mile territorial sea within the sanctuary (Figure 8.3-1). Florida also prohibits Florida vessels from shrimping in the sanctuary beyond its territorial sea. Thus, the vessels which would be displaced by this measure would be non-Florida vessels now fishing the sanctuary beyond the territorial sea and Florida vessels that may be fishing in the area contrary to state law. No estimates on the number of these vessels is available.

A 40 to 50 percent increase in value (Blomo, 1979) and a greater yield of shrimp taken at a larger size will offset any increase in operating expenses for the additional distance that non-Florida vessels may be required to travel from the outer limit of the territorial sea to the sanctuary boundary. Because no minimum size limit is proposed, the elimination of forced discarding will further increase the fishermen's shrimp landings.

No special provision is made for live bait shrimping in the sanctuary in the FCZ because none is presently conducted there. It is limited to the nearshore waters of the territorial sea.

No allocation or redistribution among user groups is expected to result from this action.

Although the Dry Totugas shrimp nursery area has been defined by the best available data, at times pink shrimp smaller than the size preferred for local harvest may be taken beyond the closed area. Similarly, large shrimp may also be found within the nursery area. The present delineation provides for the best conservation and use of the resource according to known information, but the Council recognizes the need for better data and recommends a program of sampling in order to identify more precisely the actual range of small shrimp in this area. When the area can be better defined, it can be adjusted accordingly.

The best available data indicate that as a result of this measure, total shrimp landings would increase by one million pounds. In addition, the average size of shrimp landed would increase, thus increasing the per unit value of the increase in landings as well as the protein yield of the managed fishery. The total exvessel value of the increased landings would increase by $2.29 million, using a price of $2.29 per pound (June, 1978, Eastern Gulf ports). With approximately 900 vessels fishing in this area in 1975, the average increase in revenue per vessel would be $2,544. Employment in the processing sector would increase slightly.

Measure 2: Establish a cooperative closure of the Territorial Sea of Texas and the adjacent U.S. FCZ with the State of Texas and the U.S. Department of Commerce during the time when a substantial portion of the brown shrimp in these waters weigh less than a count of 65 tails to the pound (39) heads-on shrimp to the pound). The U.S. Department of Commerce will close the FCZ, and the time of closing should correspond to the closure by Texas of its territorial sea. Closure normally occurs June 1 to July 15; however, the effects of climatic variation on shrimp growth may necessitate a 15-day flexibility in the closing and opening dates to provide for a closure of no more than 60 days. Provision is to be made to allow taking of royal red shrimp beyond 100 fathoms under permit.

The State of Texas is encouraged to continue the present seasonal closure of its Territorial Sea, to eliminate its count restriction on catch in open water, and to evaluate the effect of its allowing fishing in white shrimp fishery during the closure on brown shrimp.

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Table 8.3-3 Possible change in the average weight of the brown and white shrimp if the waters off of Texas are closed to shrimping June and July.

	Yield under present management	Expected weight if fishing is prevented until Aug. 1 and natural mortality is .01	.05	.10	.20
	Million pounds (tails)				
BROWN SHRIMP					
caught and landed	8.3	10.1	8.8	7.5	5.6
Discarded by the brown shrimp fishery	0.0	1.8	1.6	1.3	1.0
Discarded by the white shrimp fishery at 0-5 fathoms off Central Texas	0.0	1.0	0.8	0.6	0.4
TOTAL	8.3	12.9	11.2	9.4	7.0
WHITE SHRIMP					
caught and landed (no growth is assumed)	0.8	0.7	0.6	0.5	0.4
TOTAL WEIGHT	9.1	13.6	11.8	9.9	7.4
NET CHANGE OVER PRESENT HARVEST STRATEGY		+4.5	+2.7	+0.8	-1.7

Table 8.3-4 Possible change in average ex-vessel value of brown and white shrimp if waters off of Texas are closed to shrimping June and July.

	Value under present management	Expected ex-vessel value if fishing is prevented until Aug. 1 and natural mortality is .01	.05	.10	.20
	Million dollars				
BROWN SHRIMP					
caught and landed	17.1	25.6	22.3	18.9	13.9
Discarded by the brown shrimp fishery	0.0	3.4	2.9	2.4	1.8
Discarded by the white shrimp fishery at 0-5 fathoms off Central Texas	0.0	2.1	1.7	1.3	0.7
TOTAL	17.1	31.1	26.9	23.0	16.4
WHITE SHRIMP					
caught and landed (no growth is assumed)	3.0	2.9	2.4	2.0	1.4
TOTAL VALUE	20.1	34.0	29.3	25.0	17.8
NET CHANGE OVER PRESENT HARVEST STRATEGY		+13.9	+9.2	+4.9	-2.3

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Rationale: In general, the measure is recommended to increase the yield of shrimp and to eliminate waste by discard of undersized brown shrimp in the FCZ. Data indicate that closure would protect the shrimp until they have generally reached a more valuable size. Elimination of the count restriction would allow all the shrimp that are caught to be landed. A Texas study of the benefits of its white shrimp fishery in the territorial sea seems necessary because of the apparent discard of considerable numbers of small brown shrimp associated with this catch.

The brown shrimp discard off the Texas coast is estimated to average 33 percent by number of the May-through-August catch (Berry and Benton, 1969; Baxter, 1973). The discard apparently occurs not only because of the legal count restriction in Texas but also because price and market favor larger sizes in the Texas area (Baxter, 1973). In Texas there are relatively less landings of smaller-sized shrimp than in Louisiana. There are no shrimp canneries in Texas, and most of the shrimp are processed by freezing. The economy of the industry in the western Gulf is tied to the harvest of shrimp larger than 65 tails to the pound.

Bryan, et al. (1978) found along the central Texas coast that relatively large numbers of small brown shrimp were taken and discarded in waters beyond the state's Territorial Sea out to 20 fathoms during June and July and in the open area inside 4 fathoms during June. They recommended that a seasonal closure of these waters based on biological sampling would protect the brown shrimp until they had reached a useful size for the area's fishery and would eliminate the need for a forced discard of undersized shrimp.

Unpublished data from the Texas Parks and Wildlife Department indicate that shrimp beyond 20 fathoms off the central Texas coast generally are larger than 65 tail count. Because of the variability of distance of the 20 fathom isobath from shore, a zone 30 miles from shore was considered for protection of small brown shrimp. However, only seven percent of the shrimp landed from Gulf waters off Texas in June and July came from beyond 30 miles offshore.

The Council, with support from its Advisory Panel, has made the determination that the entire FCZ off Texas should be closed to increase yield (weight and value), catch per unit of effort, and to facilitate effective law enforcement.

This measure is presently limited to the FCZ off Texas as a *trial measure* which would enhance an existing management regime in the Territorial Sea. It is expected to be immediately beneficial to the majority of present users in the area. The Council, however, recognizes that the seasonal closure could result in displacement and shift of effort in an already highly migratory shrimp fleet. It is the intent of the Council that the biological, ecological, social and economic impact of this measure be monitored so that revisions of the management measure may be made when warranted.

The best available data indicate that shrimp landings would increase 2.1 million pounds after implementation of this measure. This increase includes 0.5 million pounds due to increased shrimp growth and 1.6 million pounds due to utilization of previously discarded shrimp (Table 8.3-3). The ex-vessel value of these increased landings would be $7.1 million, using a price of $2.33 per pound which is an adjusted price due to increased landings of large shrimp. With approximately 1,500 vessels fishing in the area during 1975, the average increase in revenue per vessel would amount to $4,733.

An extension of the closure to offshore Louisiana could have a major impact on the fishery in that area. The measure would not be compatible with present territorial sea management and may have a negative impact on the industry presently geared to the processing of smaller shrimp.

An attempt has been made to assess the possible change in yield associated with this measure. The analysis was based on (1) the reported catch statistics from the area (U.S. Department of Commerce 1970-75); (2) a 25 percent discard rate of brown shrimp by weight (associated with the brown shrimp catch); (3) an expected brown to white shrimp catch ratio of 40:1 in June and 70:1 in July; (4) Parrack's (1978) monomolecular growth rate equations; (5) the July 1978 price structure of shrimp; and (6) four levels of natural mortality. No growth of white shrimp was assumed. Only the brown shrimp discarded in association with the zero-to-four-fathom fishery in central Texas were estimated. Results are summarized in Tables 8.3-3 and 8.3-4 in terms of the average pounds and value of shrimp which could be expected on August 1 if there is no shrimping in the area from June to July and no migration of shrimp out of the area. Both natural and fishing mortality throughout the life cycle of shrimp has been used in estimating mortality. The crude analysis indicates an increase in yield and value when weekly instantaneous natural mortality is in the range of .01 to .10; if natural mortality is in the range of .20, then net losses can be expected.

According to Klima and Parrack (1978), current data on growth and mortality of shrimp populations in the Gulf indicate that maximum weight of unfished populations would occur at "six to nine months of age or at a size of 20-30 shrimp tails per pound." This measure is designed to protect shrimp until they are around 65 tails to the pound. It should increase both yield and value. The Council will monitor the effects of the management regime and reevaluate the need for area closure periodically.

Mark and recapture data available indicate that shrimp exhibit depth migration. It is possible that once the season opens shrimp may generally be about five fathoms deeper and further south along the Texas coast than previously. However, nothing definitive can be suggested (see Section 4.1, Migration).

The measure is expected to have little or no impact on smaller vessels, those 47 feet or less in length. Vessels less than 42 feet fish primarily in the inshore waters which are included in Texas' present closure of the Territorial Sea. Those vessels 42 to 47 feet in length would still find good concentrations of shrimp shoreward of 20 fathoms, their outer range, when the season opens in July according to Bryan, et al. (1978).

The closure will affect other areas by causing a dislocation of effort. Some vessels will tie up, but others will likely fish off other states such as Louisiana, as many do now.

The Gulf shrimp fleet is presently migratory. In 1978, Louisiana sold over 2,300 non-resident shrimp trawl/vessel licenses even though many of the larger Texas vessels will not fish within Louisiana's Territorial Sea or land in Louisiana.

In 1976, about 20 percent of the volume and 25 percent of the value of Louisiana's Gulf shrimp catch was landed in Texas. (Gulf Coast Shrimp Data).

The Texas-based fleet capable of fishing in the FCZ consists of approximately 1,000 vessels. Another 500 vessels from other states, including Louisiana, fish off Texas during a portion of the year. (Texas Parks and Wildlife Department license records.)

In determining that the closure should extend through the entire FCZ off the Texas coast the Council made the following determinations in conformance with the National Standards:

1. Management Objectives 1 and 3 will be met by increasing the opportunity for greater yield in product

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and value and by enhancing the existing management regime of the adjacent state. In this trial measure the brown shrimp stock will be managed in its range from the estuary and territorial sea through the FCZ.

2. There will be no discrimination against any group by this measure. All vessels will have the same opportunity to catch the larger, more valuable shrimp during open season. Small boats restricted to near-shore operation are already excluded from fishing during this period by the nine-mile Texas territorial sea closure and may resume fishing when the season reopens for all boats and vessels. No allocation is made among fishermen.

3. The low yield of large shrimp offshore and beyond 20 fathoms during this period does not provide for an efficient fishery according to the advisory panel and landing statistics.

4. Enforcement difficulties presently encountered by the state with vessels moving from the FCZ to the closed territorial sea would be greatly reduced. Closure of the FCZ to 200 miles would prevent a similar enforcement problem in the FCZ.

5. The measure takes into account the variation in the brown shrimp fishery in Texas directed toward a larger size product.

6. The measure would minimize costs by enhancing an existing management regime.

7. The measure conforms to best data available from state and other researchers concerning this fishery.

8. Most importantly, this measure is directed toward achieving optimum yield in the fishery while preventing growth overfishing.

9. This measure is parallel with the establishment of the Tortugas Shrimp Sanctuary for pink shrimp. Pink shrimp emigrate from inshore nursery grounds over a long period while brown shrimp move in a major migration in late May or early June.

Measure 3: Recommend that all states consider establishing shrimp management sanctuaries in important segments of nursery grounds under their sole jurisdiction. Within these areas shrimp would be protected from harvest until they have reached an optimum size for harvest by the user groups dependent upon them. In all open areas shrimpers would be allowed to keep all shrimp they harvest—that is, there should be no laws which would force the culling of shrimp caught.

All states are encouraged to continue their monitoring of these areas in order to provide basic data for management—especially data on habitat quality, yield predictions, and variations in the area distribution of shrimp.

Rationale: There are diverse user groups dependent on shrimp of differing sizes in the Gulf area. In fact, the conflict between interest groups is often acute in the states' internal waters. Currently, the Gulf states are attempting to provide accommodation for the various groups dependent upon these resources while protecting shrimp smaller than useful size. This problem will not be easy to solve since the number of recreational and commercial shrimpers is apparently increasing.

The most vulnerable area appears to be shallow water estuaries. These areas, critical for growth and development of brown, white, and pink shrimp, are also fragile ecosystems which are being affected by man (Lindall and Saloman, 1977).

It is conceivable that shrimp within these areas could be harvested and used at an extremely small size, say 300 tails to the pound, particularly by recreationists. In the other hand, basic biological data reviewed in the development of this plan indicate that yield would be maximized if shrimp were harvested at sizes larger than minimum count laws currently enforced in the Gulf area. These viewpoints provide the Gulf states biological flexibility in deciding which size ranges of shrimp would give the best yields.

The respective Gulf states can protect critical habitat areas, reduce the waste of shrimp from culling, and probably increase the yield of shrimp by identifying the areas where shrimp smaller than useful size exist and closing those areas to shrimping on a seasonal or permanent basis. Without such closures it is likely that these areas will be subject to increased fishing effort as competition for the resource intensifies. Increased effort will likely reduce the overall yield of shrimp. This measure is consistent with the groundfish plan and would afford protection to juvenile recreational and commercial fisheries which utilize the same nursery areas as shrimp.

Where feasible, area closures based on biological sampling are preferred to count laws which force discarding of undersized shrimp and directly waste the resources. The effect of such closures might be to shift fishing areas several miles or more to the larger lakes and bays. The Council will work toward a common management regime throughout the area on a state-by-state basis.

8.5.1.2 *Objective 2: Encourage Adequate Habitat Protection Measures*

Measure 4: The Gulf of Mexico Fishery Management Council has established an internal committee to review and assess the status of Gulf fishery habitats, with particular attention to those factors which might further stimulate "the downward trends in quality and quantity of fish habitats." (Atlantic States Marine Fisheries Commission, et al., 1977). The committee interacts where appropriate, with federal and state agencies to insure that adequate consideration is given to possible impacts of the agencies' actions on these renewable resources. The agencies include, but are not limited to, the states' wildlife management agencies, the U.S. Corps of Engineers, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Environmental Protection Agency, and coastal zone management agencies (in those states which have them).

The Council will adopt the policies set forth in the National Plan for Marine Fisheries and the Eastland Fisheries Survey (Atlantic States Marine Fisheries Commission, et al., 1977) regarding habitat protection and pollution control to:

(1) "Reverse the downward trends in quantity and quality of fish habitats by minimizing further losses and degradation of these habitats, restoring and enhancing them where possible, and establishing protected areas where necessary, while recognizing other compatible essential uses of fish habitat areas.

(a) Improve the consideration given to fish habitats in key decision-making processes.

(b) Where possible, mitigate losses of habitats, restore habitats lost or degraded, and develop economically feasible enhancement opportunities.

(c) Establish sanctuaries, reources, or other systems when necessary to protect critical fish habitats and maintain fish production.

(d) Improve the quality and increase the dissemination of information required for effective fish habitat conservation.

(2) Prevent rapid development of coastal and marine areas including those of the Continental Shelf, where development is based on hastily gathered and often critically incomplete data.

(3) Take stronger action to insure abatement and control of pollution that contaminates fish or adversely influences fish environment and prevent development of new environmental degradation or fish contamination."

Rationale: Man's alteration of the Gulf estuarine and offshore fish habitats appear to pose the greatest threat to viability of fish resources. This is especially true for estuarine areas, since about 90 percent of the commercial and 70 percent of the recreational catches are estuarine-dependent (Lindall and Saloman, 1971). The shrimp fishery depends on acreage of suitable marsh or estuarine habitat not merely on acreage of inland waters. The Council encourages the Secretary of Commerce to aid in achieving wetland conservation. Quantitative studies are needed both to assess potential impacts on fishery habitats by man-made alterations and to support recommendations for workable alternatives. Some direct action is needed now; a Council committee working with the appropriate state and federal agencies appears to be not only a logical extension of the review and advice role of the Council but also a mechanism to insure adequate consideration of the habitat needs of fishery resources addressed in its fishery management plans. This committee is concerned with fishery habitats in general, because of the similarities in species requirements, and because it is necessary to approach these impacts with a multispecies understanding and to carry out the mandate of FCMA (reducing, where possible, duplication of effort). The committee makes recommendations to the Council as needed.

This measure particularly addresses National Standard Number 3 which requires management of the stock throughout its range. Because authority in the estuaries and marshes lies with the various states, the Council recommends coordinated efforts for habitat protection for the shrimp resource.

8.5.1.3 Objective 3: Coordinate, Where Feasible, the Gulf Shrimp Management Programs

Measure 5: The Gulf states are encouraged to adopt flexible management procedures which would provide regulation by administrative agencies of the shrimp resources in inland waters and territorial seas. These agencies would operate within legislative parameters but would have sufficient flexibility to perform such essential tasks as setting the seasons, based on environmental monitoring.

- The State of Florida is encouraged to consider setting its regulations by general law rather than by special laws of local application and to codify all such laws.
- The State of Louisiana is encouraged to enact laws which would authorize LDWF to regulate shrimping activities in its territorial sea.

Rationale: The yield of the dominant shrimp stocks is related to prevalent environmental conditions during the estuarine phase of growth. This dependency results in yearly variations in the times at which shrimp reach a minimum useful size and begin their offshore emigrations.

In order to increase the yield of shrimp, various minimum useful sizes have been established in the Gulf region. Appropriate state agencies are responsible for monitoring the resource and opening and closing seasons based on evaluations of their monitoring. To accomplish this essential task, the agencies must have sufficient flexibility to be able to establish seasons based on interpretations of current, relevant data. Without this flexibility, shrimp are wasted through culling because statutory seasons open on shrimp smaller than a useful size.

If the Gulf states adopt such flexible management where it does not already occur, wasteful culling of shrimp should be reduced; the opening and closing of seasons will then be based on interpretation of current data on the shrimp populations. This management should not drastically affect present seasons because the flexibility required would not normally adjust the seasons more than a few weeks. Also, programs can be devised to provide shrimpers with suitable lead time. Nor will this management result in a drastic increase in the monitoring responsibilities of the various states, since programs are currently in effect to assess the majority of needed parameters.

Measure 6: The Gulf states are encouraged to adopt reciprocal internal management decisions flexible enough to allow joint management of shrimp with other states and with the Department of Commerce.

Rationale: Shrimp and shrimpers in the Gulf states are not limited by state or federal jurisdictional boundaries. Migrations of these populations from one area to another require coordinated flexible management to better protect the biological basis of the resource, to reduce conflicts among shrimpers and the waste of resources, and to ease enforcement problems.

The usefulness of such interaction was evidenced in the preparation of this management plan. The measures recommended herein are, in large part, results of the interaction of state and federal personnel who suggested and assessed measures to reduce the waste of resources and to enhance the industry's vitality. As is appropriate, the final plan will reflect the open public review of these measures to insure that they are sound, acceptable, and designed to promote conservation of our resources. The continued interaction of the appropriate state agencies with the GMFMC is essential if the shrimp resources in the area are to be harvested at optimum levels.

If management measures were coordinated wherever feasible, the likely result would:

(1) provide a stronger base for protecting the environmental basis of the resource;

(2) reduce waste of shrimp resources through the cooperative protection of shrimp smaller than a minimum size for an area;

(3) reduce conflicts between fishermen by coordinating, where feasible, such regulation measures as opening and closing dates;

(4) ease enforcement problems; and

(5) reduce the cost of management by coordinating the monitoring, enforcement, and environmental assessment programs.

8.5.1.4 Objective 4: Promote Consistency with the Endangered Species Act and Marine Mammals Protection Act

Measure 7: Develop and implement an educational program to inform shrimpers of the current status of sea turtle populations and of proper methods of resuscitation and return to sea of incidentally-captured sea turtles.

Rationale: All of the sea turtles that inhabit the U.S. Gulf of Mexico are listed either as threatened or endangered and must be protected. The shrimp fishermen, therefore, need to be informed of the necessity of following good conservation practices in relation to this species.

Informed shrimpers would be prepared both to take adequate measures in releasing turtles in a viable state and to give reliable information on incidental seas turtle capture.

8.5.1.5 Objective 5: When Appropriate, Minimize the Incidental Capture of Finfish by Shrimpers

Measure 8: Encourage research on and development of shrimping gear in order to reduce the incidental catch without decreasing the overall efficiency of shrimping or excessively increasing the cost of gear. This program would include current efforts on an excluder panel to prevent accidental catch of sea turtles; examination of the feasibility of a net mesh size and configuration that

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reduces the harvest of shrimp smaller than a given size; and development of a trawl to reduce incidental capture of finfishes (includes efforts on excluder panel, beam trawl, separator trawl).

Rationale: This option would generally reduce the waste not only of marine resources but also of labor efforts, gear damage, and conflicts with other users. Development and use of an excluder panel would greatly reduce the incidental capture of sea turtles and facilitate compliance with the Endangered Species Act.

A shrimp trawl that is size selective for shrimp would allow protection of undersized shrimp without area closures. Reduction in incidental catch of finfish would reduce waste of these resources and conflicts with the groundfish and reef fish fisheries.

The indirect impact of this option includes the possibility of (1) a reduction in finfish bycatch (usually discarded), (2) increases in predation on shrimp by escaping finfish predators, (3) increased competition for food and shelter between shrimp and escaping finfish which occupy ecological niches similar to those of shrimp, (4) a reduction in the amount of food available to scavengers, (5) a reduction in finfish growth rate through stocks not being thinned out, (6) shrimpers might be able to shrimp in areas not previously used, (7) stimulate the development of fisheries utilizing excaping finfish, and (8) the effect of discarding the bycatch on the fertility of the area may be ascertained. The ecosystems should be monitored to determine the best mix of benefits.

8.5.1.6 Objective 6: Minimize Conflicts between Shrimp and Stone Crab Fishermen

Stone crab traps are placed on the bottom where they are inadvertently destroyed by shrimp trawlers. Trawling for pink shrimp is done at night when buoys are not visible. The loss to the stone crab fishery is estimated to be $80,000 per year (Table 1, Stone Crab EIS).

Measure 9: Consistent with the Stone Crab Management Plan, establish a seasonal closure of a portion of the Dry Tortugas shrimp grounds in order to avoid gear conflicts with stone crab fishermen. The area to be closed is outlined in Table 8.3–5 and is generally shown in Fig. 8.3–2 and 8.3–3. The seasonal opening of this area will not affect the "Tortugas Shrimp Sanctuary."

As a result of adopting this line from the Stone Crab FMP, the seasonal exclusion of shrimp vessels from this inshore area would allow for a longer growth period for these generally smaller shrimp. The increase in pounds of shrimp landed has been estimated at 60 thousand. The increase in value due to growth from delay in harvest has been estimated to be $46.2 thousand.

Rationale: The Stone Crab Fishery Management Plan contained a measure to avoid gear conflicts between shrimpers and stone crab fishermen. The seasonal closure developed in that plan is a reasonable compromise between the requirements of these two groups and is incorporated into the plan in order to provide consistency. However, the seasonal opening of the area outlined in the Stone Crab Management Plan will not affect that area closed as the "Tortugas Shrimp Sanctuary"; this area is closed to provide for conservation of shrimp recruited to the Tortugas and Sanibel shrimping grounds.

8.5.1.7 Objective 7: Minimize Adverse Effects of Underwater Obstructions to Shrimp Trawling

Measure 10: The Gulf of Mexico Fishery Management Council will attemp to reduce, where feasible, the loss of offshore trawlable bottom by establishing within GMFMC, a committee to monitor and review construction of offshore reefs, with attention to the needs of the reef fish and shrimp user groups.

Rationale: In the Gulf shrimp fishery, there is a considerable loss of gear and time associated with trawls becoming entangled on artificial underwater obstructions. The adverse effect of these obstructions must be minimized in a way consistent with other national interests.

Table 8.3–5.—Line denoting area to be seasonally closed to prevent gear conflicts between shrimpers and stone crab fishermen. Start in the Florida Keys at Snipe Point (Point F defined on Chart 11420 as 24°41.9′ N and 81°40.5′ W) proceeding northwesterly to Point E (defined as 24°54.5′ N and 81°50.5′ W) thence northeasterly along a line on a compass bearing of approximately 010° magnetic to Point D (25°09.0′ N and 81°47.6′ W) thence northwesterly along the 8 fathom line on a compass bearing of approximately 344.5° magnetic to Point C (described as 26°0.0′ N and 82°04.0′ W) and thence northeasterly to 6 fathoms along a line on a bearing of approximately 016° magnetic to Point B (26°16.0′ N and 81°58.5′ W) and thence northwesterly along a line on a compass bearing of approximately 311° magnetic to Point A (26°36.4′ N and 82°24.3′ W) and thence east to Captiva Pass (Figure 8.3–2). The specific location of Points A through F are as follows:

Table 8.3–5

Point	Location
A	Lat. 26°36.4 N, long. 82°24.3′ W.
B	Lat. 26°16.0 N, long. 81°58.5′ W.
C	Lat. 26°00.0 N, long. 82°04.0′ W.
D	Lat. 25°09.0 N, long. 81°47.6′ W.
E	Lat. 24°54.5 N, long. 81°50.5′ W.
M	Lat. 24°41.9 N, long. 81°40.5′ W.

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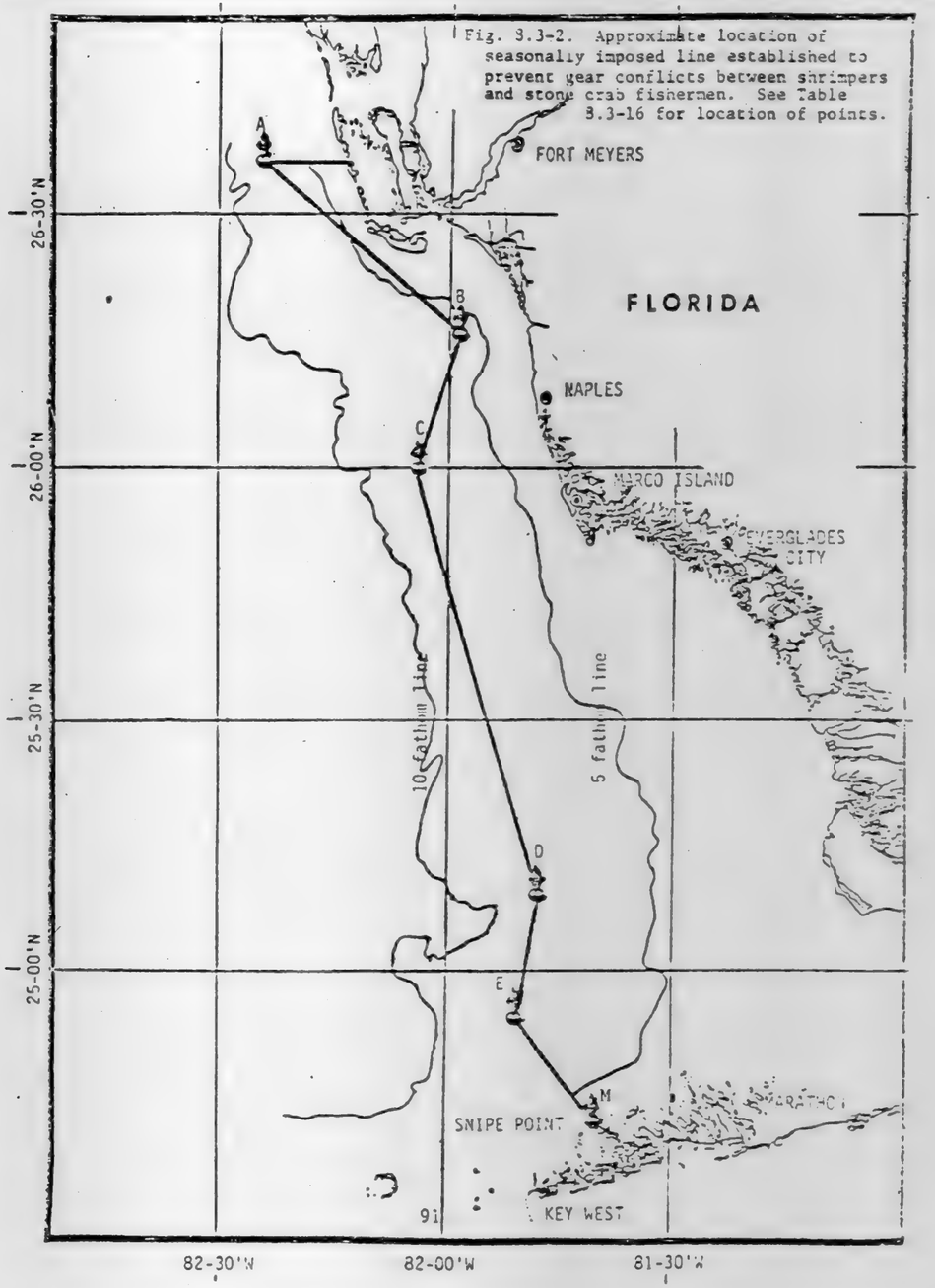


Fig. 8.3-2. Approximate location of seasonally imposed line established to prevent gear conflicts between shrimpers and stone crab fishermen. See Table 8.3-16 for location of points.

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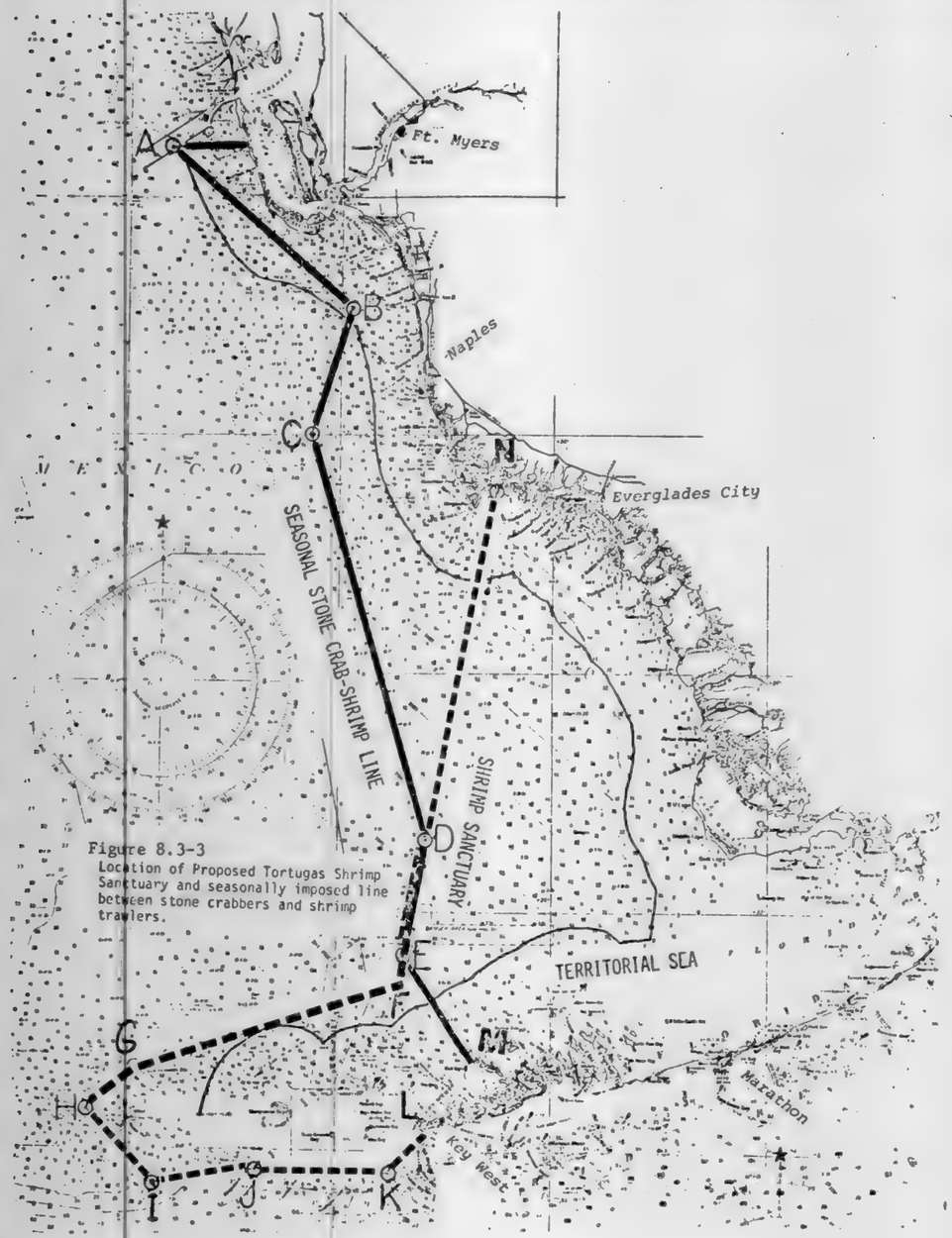


Figure 8.3-3
Location of Proposed Tortugas Shrimp Sanctuary and seasonally imposed line between stone crabbers and shrimp trawlers.

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8.5.1.8 Objective 8: Provide for a Statistical Reporting System

Measure 11: All statistical reporting requirements will be mandatory. As a unit, the Gulf shrimp fishery is the most valuable one in the nation. It is also complex and supports a large recreational effort mainly limited to inside state waters, as well as a diverse commercial effort which ranges out to Gulf waters of 200 to 300 fathoms. Data useful for wise management of these resources includes the following (however, not all is to be included in the statistical reporting program):

A. Harvesting sector—all harvestors, recreational and commercial

1. Number of fishermen and mailing addresses.

2. Boat or vessel: home port, length of hull, construction of hull, year built, number in crew, type, make and model number of engine, type, size, and number of gear, presence or absence of salt box, and, when developed and deployed, type of excluder panel used (if required).

3. Catch data by boat or vessel including: date left port; date returned to port; date shrimp landed; catch and value by species, size, area, and depth; shrimping time by species area and depth; size distribution of catch including discards; species composition of catch (including discards).

B. Processing sector

Number and locations of processing plants identified by type of product, seasonal production of types and species processed, and number of employees and seasonality of employment.

Because of the high cost of gathering all the data listed in A and B above, the following alternative system is recommended. The NMFS will be responsible for the design for Council review, implementation and management of surveys to obtain the necessary information to manage the fishery including, but not limited to the following guidelines:

Statistical reporting requirements recommended:

1. Maintain at least the existing commercial statistical reporting system with more timely publication.

2. Require the collection of minimum data on catch, effort, biological and socioeconomic information needed to manage this fishery under FCMA.

3. Require mandatory reporting of *all* selected shrimp fishermen and all selected shrimp dealers and processors. Selection of respondents to be made by NMFS.

4. Utilize the vessel enumeration system to identify saltwater shrimp fishermen.

5. The Fisheries Survey Task Force of Southeast Fisheries Center will be responsible for the design, implementation and management of this survey and will spell out details on what is to be collected based on resources provided.

6. Consideration should be given to improvement of the data base on boat catch and the bait harvest in state waters.

Rationale: Basic statistical data are needed in monitoring the fishery in order to insure the viability of the stocks, to evaluate reasonable solutions to conflicts, and to provide for the management of the fishery.

8.5.2 Alternative Management Measures Considered But Not Adopted

8.5.2.1 No Action

The Council has determined in the plan that management of shrimp stocks in the FCZ can provide a higher yield of shrimp in both weight and value. Management measures therefore were developed to provide this optimum yield from the fishery. Taking no action would result in continuing waste from culling and discard of small shrimp, degradation of shrimp habitat, conflicts among users, and inadequate statistics to monitor the fishery. Implementation of management will serve to address and meet the objectives of the plan.

The anticipated benefits and costs from management measures in this plan provide a comparsion with a "no action" alternative. With this FMP, monetary benefits and costs are projected to be:

Management measure	Benefits	Costs
Torugas nursery area	$2,290,000	$385,900
Texas FCZ closed June-July	7,100,000	75,300
Total	9,390,000	461,200

The enforcement costs of the stone crab-shrimp separation line primarily provides a space and time separation between fishermen to prevent unquantifiable conflicts. Without these measures, either the status quo would prevail, as in the case of shrimping in the Texas FCZ, or the Tortugas area would continue to experience a lower total yield than when the traditional nursery area was closed by Florida.

8.5.2.2 Size and/or Season Regulations

1. *Modify Any of the Minimum Size Ranges of White Shrimp Seasonally Imposed by the Gulf States and/or Establish Minimum Size Ranges for White Shrimp in the FCZ.*—Minimum size limits require culling and discarding of small shrimp, a wasteful and self-defeating practice. The purpose, to direct fishing effort toward larger, more valuable shrimp, can more constructively be attained. This plan uses closed areas and seasonal closures on small shrimp to accomplish the objective.

No size restrictions are proposed in the FCZ but the management regime selected should encourage harvesting in the FCZ of the optimum weight and value, and the plan encourages states to permit the landing of any size shrimp from open areas.

Because the fishery for white shrimp is inshore, the plan suggests that states identify and close to trawling those areas in their internal waters and territorial seas where shrimp are too small for best local use.

The existing minimum size patterns as currently outlined by the states do not appear to threaten the biological basis of the resource. As the size of shrimp is frequently associated with the area and depth of harvest, the ability of the fleet to harvest the resource would be affected if the minimum size were changed; boats could be dislocated or excluded from the fishery. Additionally, as most states currently impose size regulations based on local industry demands, local processors in the Gulf could be disrupted.

2. *No Size Regulation.*—No size regulation with no area closures to protect undersized shrimp would likely result in a harvest with a wider range of sizes. The mix would consist of more smaller size shrimp and consequently less large shrimp. Because there are few sufficiently developed markets for the smaller ranges of shrimp except in Louisiana, discard could be expected to increase, resulting in greater biological waste. It could also be expected to result in a greater concentration of fishing effort in nearshore and inland waters on juvenile shrimp. This could result in a decreased harvest for deep-water vessels. More shrimp would be harvested, but with less total poundage and lower total value.

3. *Determine Preferred Minimum Size and Regulate Area and Season for That Size. Allow Retention of All Catch Regardless of Size.*—This approach has been proposed in those measures which establish seasonal closures for areas off of Texas and Florida as an extension of present state management schemes, as well as in Option 3, Section 8.3.1.1, where it is suggested that the Gulf states consider such delineations and closures.

The shrimp fishery has a number of processing entities (e.g., fresh, frozen, canned, etc.), each of which contributes

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to the economy of the nation, and each of which has preferred sizes. If this alternative were implemented, it would provide protection for the resource until the preferred minimum size for the area were attained thus delaying the harvest. Some processors might be disrupted temporarily due to the loss of fresh shrimp during the time of closure. The congestion of boats and vessels within open waters could increase, intensifying conflicts over trawlable space. The elimination of forced discard would reduce biological and economic waste.

Those shrimpers who have traditionally fished in an area of closure would be displaced. Boats smaller than 47 feet in length would not be entirely displaced as a closure of an area in the FCZ would still permit shrimping within a state's inland and territorial waters. Those using deepwater vessels would move to further fishing grounds that were not within the area of closure with an attendant increase in fuel consumption. The extent of the disclocation would depend on the area closed.

4. *Establish a Minimum Shrimp Count Size in the FCZ, Under Which White Shrimp May Not Be Retained.*—White shrimp which reach the FCZ are large enough to comply with the landing laws of the adjacent area. There is no need to protect undersized white shrimp in the FCZ because recruitment or growth overfishing is not evident there.

The imposition of a minimum size count with a forced discard is unnecesary and would result in increased biological waste due to the culling of shrimp smaller than permitted, if and when they should occur there.

5. *Establish a Cooperative Seasonal Closure to Shrimping in the FCZ off Texas within 20 fathoms in June and July to Protect Undersized Brown Shrimp.*—Currently, the Texas Territorial Sea is usually closed from June 1 through July 15. There is a variable, but often substantial discard of small brown shrimp in the Territorial Sea and FCZ associated with Texas during the May–August period. This closure reduces the biological waste that presently occurs when large quantities of undersized shrimp are discarded.

The extension of the closed season to 20 fathoms in the FCZ was considered because Texas researchers found that small shrimp usually do not extend beyond 20 fathoms. Shrimp of the preferred size do occur beyond that depth off the central Texas coast with infrequent mixing of smaller sizes. The 20 fathom isobath is about 20 miles from shore in the study area but is much closer on the lower Texas coast and more than 50 miles offshore near Louisiana. Size distribution offshore is as much a function of distance as depth. Shrimp fishermen document occasions when small shrimp are taken beyond this depth.

Becaue a meandering depth contour was not practical as a line of closure, various distances from shore were suggested as alternatives.

Closure of only a portion of the FCZ would cause substantial enforcement problems in monitoring the area of limited closure. Because the line of closure is based on a depth delineation, there may result some hardship to fishermen attempting to stay just beyond the 20 fathom range. Texas' present Territorial Sea closure is difficult to enforce because vessels move inshore under cover of darkness when shrimping occurs. The enforcement costs requiring full at-sea patrols were estimated by NMFS to be $202,400.

6. *Establish a Cooperative Seasonal Closure of the Territorial Sea off of Texas and the Associated FCZ within 30 Nautical Miles to Protect Undersized Brown Shrimp.*—This alternative is similar to the previous measure. It is an extension of present Texas management policies. Currently, the Texas Territorial Sea is usually closed from June 1 through July 15. There is a variable, but often substantial discard of brown shrimp in the Territorial Sea and FCZ associated with Texas during the May–August period. This closure would reduce the biological waste that presently occurs when large quantities of undersized shrimp move beyond the state's closure of the Territorial Sea. The 30-mile line was considered to provide a zone beyond which most shrimp would provide an optimum yield in weight and value.

With support from its advisory panel, the Council has determined that a partial closure of the FCZ in this instance would be ineffective. Shrimping is done at night and vessels can move into the closed area to fish. Small shrimp do move far offshore on occasion. Only seven percent of shrimp landed from Gulf waters off Texas during this period came from beyond 30 miles. The alternative of expanding the closure to encompass the entire FCZ associated with Texas was adopted. The enforcement costs requiring full at-sea patrols were estimated by NMFS to be $136,000.

8.5.2.3 Spawning Area Closures

1. *Protect Spawning White Shrimp From Harvest in April Through July.*—Although white shrimp have the shallowest depth range of the three major species and are fished extensively throughout their range, catch-effort data do not indicate a decline as a result of recruitment overfishing. Data also indicate multiple spawning of white shrimp in a season with wide ranging spawning areas which are difficult to delineate.

No scientific data exist to show an advantage from protecting spawning shrimp. There is no relationship between the number of spawners and recruits.

2. *Establish a Trial Sanctuary in April and May in the FCZ South of Mississippi to Protect Spawning White Shrimp and Assess Spawner Recruit Relationship.*—In recent years there has been a decline in the white shrimp fishery off Mississippi and Alabama. Because white shrimp live in the bays, sounds, and inshore Gulf, they are heavily fished throughout their range. Some fishermen have suggested that heavy fishing on spawning adults off Mississippi may be a factor in the decline of stocks in that area. Best available scientific data, however, show no relationship between the number of spawners and subsequent number of recruits to the fishery.

Establishment of a seasonal sanctuary for the spawners would result in the loss of the spring catch in that area with no evidence of justification.

3. *Close the Offshore Waters of the Northern Gulf CFCZ and Territorial Sea to All Shrimping from Approximately April 15 to Approximately June 15 Each Year (At Least East of the Mississippi River).*

4. *Area Closures to Protect Spawning Populations of Brown Shrimp.*

5. *Area Closures to Protect Spawning Populations of Pink Shrimp.*

The same rationale for rejection was established for measures 3, 4, and 5 as for all other proposals for protection of spawning shrimp. There are no scientific data to support a measure to protect spawning shrimp because no relationship between number of spawners and subsequent number of recruits to the fishery has been found.

6. *Area Closures to Protect Spawning Populations of Royal Red, Rock and Seabob.*

Royal reds (off St. Augustine, Florida) are believed to spawn during the winter. Unlike other species of shrimp, they are harvested over several year classes.

The area of spawning for rock shrimp has not been determined as they are not believed to be estuarine dependent.

Seabobs spawn in the Gulf off of Louisiana during July–December. They are not estuarine dependent.

Present data on all three species is incomplete. Rock and seabob shrimp have been harvested mainly as an incidental bycatch. Spawning area closures would be difficult to identify and might conflict with peak harvesting for the major species, thus restricting shrimpers in those areas so closed, and disrupting local processors. This could be an unnecessary disruption as there is no apparent spawner-recruit relationship.

8.5.2.4 Licensing and Data Collection

1. *A No-Cost Permit Be Issued to "Recreational" Shrimpers (Trawlers Only).*

This measure would permit identification and determination of the effort by recreational shrimpers in the FCZ. Substantial costs would occur in the governmental sector. These costs appear unjustified because most recreational shrimping occurs within inland and nearshore waters. Recreational shrimpers will be identified by a vessel enumeration system through state boat registration.

2. *Numerous Recommendations Were Considered Dealing With the Licensing of Different Types of Trawls.*

Costs of implementing this type of regulation would be substantial to fishermen with no benefits to be derived from such regulation. Identification of users is to be obtained through a vessel enumeration program.

8.5.2.5 Limited Entry and Gear Restrictions

1. *Impose Limited Entry in the FCZ*

Provided there was no increase in effort in the states' waters, the imposition of limited entry in the FCZ would have substantial economic impact. The catch per unit of effort could be expected to increase and provide stable incomes for those permitted to participate in the fishery. There would be reduction in the amount of disturbance to the benthic habitat as well as possible reduction in the incidental capture of associated fisheries. There would be an overall decrease in consumption of fuel within the industry as well as reduced conflicts over space for trawling in the FCZ. Incidental factors such as lack of ice supplies could be expected to improve.

Without a limit on entry in the states' waters, this measure could also be expected to result in intensified effort in waters within state jurisdiction. The increased pressure on juvenile shrimp in these areas may decrease the poundage of yield harvested by deepwater vessels. Additionally, it would be most difficult for people not presently in the fishery in the FCZ to participate, particularly young people. Excessive economic rent may accrue to industry members unless taxed away or controlled by government.

The measure was not recommended because there is insufficient data on who is using the resource, on what the benefits (if any) to society at large would be, and on how methods to limit entry would be made consistent with the mandates of FCMA. A discussion of overcapitalization is presented in Section 3.5.2.3.

2. *Various Limitations on the Width, Mesh, and Type of Trawl*

Regulation of the width, mesh, and type of trawls might reduce disturbance of the benthic habitat, reduce conflicts over trawling space, and reduce the incidental catch of associated fisheries.

As the industry is presently using the most efficient gear economically available, changes rendering current gear useless could result in increased costs to the fishermen as well as the consumer. Additionally, such restrictions could reduce the catch per unit of effort and possibly result in lay-offs in the processing industry. There is evidence that gear restrictions actually increase capitalization and costs (Johnson and Toevs, 1979).

8.5.2.6 Recommend Consideration to Change Endangered Species Act to Permit Incidental Catch and Release of Sea Turtles

Sea turtles protected by the Endangered Species Act may be captured unwittingly. Even though shrimpers may release the turtles unharmed, they are in tehcnical violation of the Act when they capture an endangered turtle. The suggestion was made to recommend that the Act be changed to provide for incidental capture and release of endangered and threatened turtles.

This proposal was rejected as being beyond the authority of the Council's planning responsibility.

8.5.3 Management Measures for Foreign Fishing

Currently there is no foreign fishing for shrimp in the U.S. Gulf of Mexico, nor are there applications for the only stock (royal red shrimp) which has an estimated surplus in 1980 and 1981 for total allowable level of foreign fishing (TALFF). Measures to provide catch data and area/depth restrictions to eliminate nonsurplus bycatch will be specified in the permits or in the regulations as may be appropriate. In addition, the Secretary is requested to place the following three restrictions on any foreign nation fishing for royal red shrimp which were adopted by the Council.

1. Foreign fishing for royal red shrimp is to be accomplished by trawl; however, gear other than standard shrimp trawl may be used after approval by the Secretary after consultation with the Council.

2. Foreign fishing for royal red shrimp is to be permitted only in depths beyond 100 fathoms.

3. Bycatch of foreign vessels fishing for royal red shrimp is to be monitored and the Secretary, after consultation with the Council, may require appropriate conservation measures.

8.5.4 Relationship of Recommended Measures to Existing Laws and Policies

8.5.4.1 Other Fishery Management Plans Prepared by a Council or the Secretary

The plan is consistent with the Stone Crab Management Plan, the Draft Reef Fish Management Plan, and the current status of the Groundfish Plan now being drafted.

8.5.4.2 Federal Laws and Policies

The plan attempts to be consistent with the Endangered Species Act and Marine Mammals Protection Act. Section 7 consultations have been requested from appropriate federal agencies to assure conformance (EIS Appendix B, Exhibits 1 and 2).

8.5.4.3 State Laws and Policies

The following section contains a discussion of the relationship between the shrimp plan and the existing state laws and policies. Where discrepancies are apparent, they are pointed out for consideration by the appropriate state.

Texas Laws and Policies:

Relationship to 8.5.1.1, Measure 2:

The Texas Territorial Sea is closed from June 1 to July 15 to protect small brown shrimp during the major emigration period. Based on sound biological data, the season may be extended to no more than 60 days by the Texas Parks and Wildlife Commission changing the opening or closing dates. Currently, white shrimp within four fathoms may be harvested during the closed season.

If Texas adopted this option it would eliminate its minimum size limit and resulting forced discard of small brown shrimp.

Relationship to 8.5.1.1, Measure 3:

The Texas Parks and Wildlife Department currently has the flexibility to determine opening and closing of the summer season in outside waters. However, the department has no flexibility in determining the time of the

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winter closed season. Texas statutes presently impose a size limitation of 65 tails, or 39 heads-on, shrimp to the pound on shrimp caught. Possession of shrimp smaller than the minimum size violates the law.

If Texas decides to manage by closed area or area without size restriction, its statutory scheme might be amended. For example, Sec. 77:062 might be amended to provide the Commission the authority to change the opening and closing of both the summer and winter season (or areas), the decision to be based on sound biological data acquired through sampling. Conceivably the seasons (or areas) could then be opened when shrimp have reached the minimum size desired. Further, Texas might amend both Sec. 77:013, which contains size limitations, and Sec. 77:014, which provides the procedures for enforcing size limits.

A 1979 amendment to the Texas Shrimp Conservation Act provides for some bays to serve as shrimp sanctuaries in which no shrimp trawling is permitted.

Relationship to 8.5.1.3, Measure 5:

The Parks and Wildlife Commission is vested with control of the Texas shrimp fishery and is authorized to establish rules and regulations for the conservation and management of shrimp. At present, the Commission has only minimal flexibility in determining the seasons. Texas might amend the statutes and clearly establish that the Commission has full flexibility to set seasons based on their environmental monitoring.

Relationship to 8.5.1.3, Measure 6:

The Texas statutory scheme provides the Department the authority to negotiate reciprocal agreements with other states. However, agreements are limited to the application in Texas' contiguous zone of another state's shrimping regulations to citizens of that state. The Department also has limited authority to cooperate with the Gulf Council in developing a fishery management program.

Texas might broaden the Department's authority to allow it to enter into any reciprocal agreements necessary to insure coordinated management with other interested states. Additionally, the limitation on the Department's authority to cooperate with the Gulf Council puts the state in a difficult position. Texas might make cooperative management easier by repealing Sec. 79:002, which limits the authority granted in Sec. 79:001.

Relationship to 8.5.1.5, Measure 8:

There is a Special Game and Fish Fund (Sec. 11:031–11:033) available for varied uses approved by the Legislature. Since the Department is authorized to conduct research on the use of trawls, nets, and other devices for taking shrimp, there are funds to carry out this measure if required by the state agency and appropriated by the Legislature.

Relationship to 8.5.1.8, Measure 11:

The Department of Parks and Wildlife is authorized to acquire certain data from all licenses, and dealers purchasing seafood from fishermen for resale are required to report quantity and value of products.

Other measures would have little or no effect on existing Texas law and policies.

Louisiana Laws and Policies:

Relationship to 8.5.1.1, Measure 3:

Louisiana has designated certain areas as "sanctuaries," closed to most forms of shrimping (R.S. 56:801); these areas, however, are limited in scope. If Louisiana adopts the sanctuary concept (Management Measure No. 3), legislative action would be needed to implement this provision: the Louisiana legislature might amend R.S. 56:493, authorizing the Department of Wildlife and Fisheries to designate areas as needed, or it could create sanctuary areas by special provision. (It is noteworthy that, during 1975, a series of public hearings on the feasibility of establishing additional sanctuaries was held throughout the state. A renewal of these efforts appears justified.)

Louisiana's present management procedures divide the waters in which shrimp are found into inside and outside waters. Because of the indefinite nature of Louisiana's water/land interface, the definitions are quite precise, and the statute draws the line delineating these waters. If a sanctuary area is designated, Louisiana might create these divisions: the sanctuary waters, inside waters (which would refer to open bays), and outside waters as already defined. The exact delineation of the sanctuary areas may be difficult and perhaps likely to result in legal challenges and enforcement problems. The state might grant this authority to the LDWF by amending R.S. 56:495 to provide for the designation of the protected areas in the same manner that inside and outside waters are determined; however, it may be more feasible to permit LDWF to open and close areas as appropriate (R.S. 56:497).

Relationship to 8.5.1.3, Measure 5:

The Wildlife and Fisheries Commission does not have exclusive control of the shrimp fishery or shrimp industry. Although the Commission is authorized to open or close seasons occasionally at times other than the regular seasons and may set special seasons for all or part of the inside waters, the two major seasons are set by statute. These seasons apply only to inside waters and are determined by sampling data; the Commission has only minimal flexibility in setting the spring season and none in setting the fall season.

To provide the flexibility necessary for the best yield, Louisiana might amend R.S. 56:497, giving the Commission the authority to establish open and closed seasons within both inside and outside waters. These seasons should be determined on the basis of biological data acquired through sampling, such as are currently used to determine the opening of the spring season.

Relationship to 8.5.1.3, Measure 6:

The Department of Wildlife and Fisheries is authorized to enter into reciprocal agreements with Mississippi and Texas for the protection of aquatic life found within common waters. While this provides part of the framework for reciprocal agreements, Louisiana might consider legislation authorizing the Department of Wildlife and Fisheries to enter into appropriate agreements with Alabama, Florida, and the Gulf Council, as well as with Texas and Mississippi.

Relationship to 8.5.1.5, Measure 8:

Louisiana currently has sufficient authority to implement this measure and does in fact conduct such research.

Relationship to 8.5.1.8, Measure 11:

The Department of Wildlife and Fisheries is authorized to acquire certain data from commercial shrimpers and processors, but enforcement is limited. Louisiana has no provisions for collecting data from recreational shrimpers.

Other measures would have little or no effect on Louisiana's existing laws and policies.

Mississippi Laws and Policies:

Relationship to 8.5.1.1, Measure 3:

The Mississippi Marine Conservation Commission is authorized to enact all regulations necessary for the "protection, conservation, or propagation of all shrimp. . ." (Sec. 49–15–15 3 k). The Commission has previously enacted ordinances closing

certain areas to shrimping in order to protect juvenile stage shrimp. For example, the Commission has closed to all but bait shrimpers that portion of the state's waters lying one-half mile from the coastline from July 15 to August 15 (Sec. 8100).

If Mississippi adopts the policy, it may have to denote and close other areas or eliminate its count restriction on catch.

Relationship to 8.5.1.3, Measure 5:

Supervision of matters concerning marine aquatic life is vested in the Mississippi Marine Conservation Commission. The Commission has broad authority to adopt and supervise appropriate management plans for marine fisheries. If it adopts the suggestions of the Shrimp Management Plan, the Commission has the mechanism to carry them out.

Relationship to 8.5.1.3, Measure 6:

Mississippi is a member of the Gulf States Marine Fisheries Commission, which was developed to foster cooperation between the states in matters of fish management. The Commission is authorized (49–15–15 j) to enter into agreements with officials of other states for the protection, propagation, and conservation of seafood.

Relationship to 8.5.1.5, Measure 8:

Mississippi has no specific authorization to conduct research on shrimping gear but is authorized to contract the services and facilities of the Gulf Coast Research Laboratory, or of state higher education facilities, for research it deems necessary to foster the seafood industry.

Relationship to 8.5.1.8, Measure 11:

The Commission is authorized to collect limited data from various sources.

Other measures would have little or no effect on Mississippi's existing laws and policies.

Alabama Laws and Policies:

Relationship to 8.5.1.1, Measure 3:

Alabama closes its season on about April 30 and does not open it again until sampling shows an average shrimp count of 68 or less per pound. Undersized shrimp are supposed to be discarded. If Alabama adopts this measure, current laws might be amended to allow possession of all shrimp caught in open areas.

Alabama already designates certain sanctuary areas as closed to shrimping for any purpose (Sec. 9–12–48). Supplemental legislation might be needed to the extent that Alabama finds the sanctuaries inadequate for producing the best yield.

Relationship to 8.5.1.3, Measure 5:

The Division of Marine Resources, under the Department of Conservation and Natural Resources, has been established to develop and administer management schemes for conservation and use of seafoods. It presently has fairly wide latitude in carrying out its programs and could adapt these programs to suggested guidelines if the Division so desired.

Relationship to 8.5.1.3, Measure 6:

Alabama is member of the Gulf States Marine Fisheries Commission which was designed to promote this type of cooperation. The Commissioner of Conservation and Natural Resources is authorized by Sec. 9–12–160 to enter into agreement of reciprocity with other states for the taking of seafood.

Relationship to 8.5.1.5, Measure 8:

Alabama has no specific authorization for the study and development of improved shrimping gear. However, the state has established a Seafoods Fund (9–2–87), which can be used by the Commissioner of Conservation and Natural Resources (9–2–89) in any way deemed appropriate for the benefit of the seafood industry. The governor's approval is necessary for such expenditures.

Relationship to 8.5.1.8, Measure 11:

The Department of Conservation and Natural Resources is authorized to acquire certain data within the realm of commercial seafood production, but enforcement is limited. Alabama has no provisions for collecting data from recreational shrimpers.

Other measures would have little or no effect on Alabama's existing laws and policies.

Florida Laws and Policies:

Relationship to 8.5.1.1, Measure 1:

Closure of the portion of the Tortugas Shrimp Sanctuary in the FCZ will, in large part, reimplement what Florida has done in the past. As noted previously, part of the Tortugas area was reopened to shrimping as a result of a U.S. Supreme Court decision delimiting Florida's Submerged Lands Act jurisdiction. While under Skiriortes, Florida law was still applicable in those waters beyond state waters but had no jurisdiction in the area over out-of-state fishermen.

The Supreme Court decision led to a heated controversy between shrimp fishermen and stone crabbers, because shrimpers began moving into areas of the Tortugas from which they had been excluded under previous law. Enactment of this recommendation by the Council would decrease conflicts between the shrimpers and crabbers.

However, the elimination of a size limit and resulting forced discard of shrimp in the FCZ may cause problems at Florida ports. Problems would be avoided if Florida eliminates its size limit law.

Relationship to 8.5.1.1, Measure 3:

In Florida, it is unlawful to possess a catch with more than five percent "small shrimp"—that is, those smaller than 47 with heads or 70 without heads. Florida's law implicitly requires fishermen to discard small shrimp in excess of the five percent allowed by law. In this respect it differs from the proposal.

If Florida adopts the objective, its legislature might amend the shrimp count law so that count is only used to determine when the season (or area) is opened. Once the season (or area) is opened, Florida might then allow a shrimper to keep his entire catch rather than having to cull out the small ones. To protect undersized shrimp, Florida may find it necessary to delineate sanctuary areas.

Relationship to 8.5.1.3, Measure 5:

There is presently some flexibility in the administration of fisheries in Florida. The Division of Marine Resources within the Department of Natural Resources apparently has authority to open and close areas (based on biological data), but the authority has not been exercised to the fullest extent. The Florida legislature might consider the enactment of a clearly written statute authorizing the Division of Marine Resources to use biological data in opening and closing areas to shrimping during the year.

Relationship to 8.5.1.3, Measure 6:

Florida has a reciprocal agreement with Alabama concerning access to shrimping waters. However, there have been no agreements adopted that would provide for joint management, and it is questionable whether the Department of Natural Resources has statutory authority to make such an agreement. If Florida adopts the option, its legislature might provide the Department with this authority.

Relationship to 8.5.1.5, Measure 8:

Florida's Department of Natural Resources presently has authority to regulate "the method, manner, and equipment used in the taking of shrimp," but there is no indication that ongoing

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research to develop gear is being conducted.

Relationship to 8.5.1.6, Measure 9:

If Florida adopts seasonal closure of a portion of the Dry Tortugas Shrimp Grounds, it will require legislative action. Presently, Sec. 370.151 closes an area designated as the Tortugas Shrimp Bed. Florida might find it useful to amend this law so that it also differentiates the seasonal closure of a delineated portion of the Dry Tortugas Shrimp Ground. Alternatively, the Division of Marine Resources is authorized by Sec. 370.15 to control the method, manner, and equipment used in the taking of shrimp, as well as limiting and defining the areas where shrimp can be taken. There appears to be sufficient authority to regulate a seasonal closure of the Tortugas Shrimp Grounds, which could be accomplished with a specific subsection for this area.

Relationship to 8.5.1.8, Measure 11:

Florida has legislation authorizing the acquisition of the various data listed in the recommendation, but the provision is not enforced.

Other measures would have little or no effect on Florida's existing laws and policies.

8.6 Enforcement Requirements

Enforcement agents of NMFS will be required.

Coast Guard aircraft and patrol vessels are needed for patrol.

8.7 Cooperative Research Requirements

Data needs in the fishery have been identified by the interdisciplinary team which prepared Christmas and Etzold (1977).

These data are also needed under FCMA and are therefore adopted here. However, priorities may differ; for example, adequate socioeconomic data are critically needed.

8.8 Permit Requirements

No permits are required except as may be required of foreign vessels.

8.9 Financing Requirements

8.9.1 Management and Enforcement Costs

8.9.1.1 Tortugas Closure (year round) Measure No. 1:

Estimated vessel population = 1,000
50 percent at-sea enforcement mode
Patrol days required = 83
Cost of patrol days = $232,400
Aircraft hours required = 83
Cost of aircraft hours = $83,000
Enforcement officers required = 1.4
Cost of officers = $35,000
Subtotal—Tortugas closure = $350,400

8.9.1.2 Texas Closure (45 days) Measure No. 2:

Estimated vessel population = 1,500
50 percent at-sea enforcement mode
Patrol days required = 125 (annual)
Forty-five day patrol requirement = 16
Cost of patrol days = $44,800
Aircraft hours required = 16
Cost of aircraft hours = $16,000
Enforcement officers required = 0.3
Cost of officers = $7,500
Subtotal—Texas closure = $68,300

8.9.1.3 Shore-side enforcement for inspections relative to mandatory reporting, etc., Measure No. 11:

Estimated vessel population = 4,000
50 percent shore-side enforcement
Inspection days required = 667
Inspectors required = 3.0
Cost of Inspectors = $75,000

8.9.1.4 Investigations to support sea and shore enforcement:

Total sea and shore staff required = 4.7
Investigators figured at 30 percent of (a) above
Agents required = 1.4
Cost of agents = $35,000

8.9.1.5 Support for all enforcement efforts:

Total sea, shore and investigative = 6.1
Support figured at 10 percent of (a) above
Support staff required = 0.6
Cost of support = $15,000

8.9.1.6 Total staff years of effort required and total cost of vessel and aircraft patrols, inspections, investigations and support:

Staff years required = 6.7
Total cost = $543,700

8.9.2 Expected State and Federal Revenues, Taxes, and Fees

No changes in existing revenues are expected other than those which would be required to obtain basic catch-effort data to manage the stocks.

9.0 Statement of Council Intention to Review The Plan After Approval by The Secretary

It is the intention of the Gulf of Mexico Fishery Management Council to monitor and review the plan and implementing regulations on a continuing basis, after its approval by the Secretary. The Council intends that the Secretary of Commerce, after consultation with the Council, develop annual estimates of MSY, DAH, DAP, OY and TALFF using the methodology developed by the Council and specified in Section 4.7. The Secretary will develop the data necessary to derive the specifications according to the equations(s) in the plan. The Secretary will publish the yearly figures as a notice for public review. The Council will monitor the management regime closely to assure that it attains the desired objectives of the management plan.

10.0 Selected Bibliography

The bibliography consists of 268 selected references. A copy is available from the Gulf of Mexico Fishery Management Council.

[FR Doc. 80-34241 Filed 11-6-80; 8:45 am]
BILLING CODE 3510-22-M

federal register

Friday
November 7, 1980

Part IV

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Florida: FL80–1118, FL80–1119

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alaska: AK80–5130	Sept. 26, 1980.
Arkansas:	
AR80–4080	Oct. 31, 1980.
AR80–4083	Oct. 31, 1980.
Colorado:	
CO80–5137	Oct. 24, 1980.
CO80–5138	Oct. 24, 1980.
CO80–5139	Oct. 24, 1980.
CO80–5140	Oct. 24, 1980.
Florida:	
FL79–1040	Feb. 16, 1979.
FL79–1109	July 20, 1979.
FL79–1118	Aug. 17, 1979.
FL80–1064	Apr. 25, 1980.
FL77–1060	May 20, 1977.
FL80–1072	May 16, 1980.
FL80–1075	June 20, 1980.
Louisiana: LA80–4072	Oct. 3,1980.
Nevada: NV80–5100	Feb. 1, 1980.
New York:	
NY80–3009	Feb. 29, 1980.
NY80–3041	July 7, 1980.
Ohio:	
OH80–2024	July 11, 1980.
OH80–2028	Aug. 1, 1980.
OH80–2044	July 7, 1980.
OH80–2048	July 11, 1980.
OH80–2052	July 7, 1980.
Oklahoma:	
OK80–4064	July 18, 1980.
OK80–4065	July 25, 1980.
OK80–4066	July 25, 1980.
OK80–4068	Aug. 1, 1980.
Pennsylvania:	
PA80–3001	Feb. 2, 1979.
PA80–3025	Apr. 11, 1980.
PA80–3027	Apr. 18, 1980.
PA80–3029	Apr. 25, 1980.
PA80–3031	Aug. 29, 1980.
PA80–3032	May 30, 1980.
PA80–3037	May 2, 1980.
PA80–3038	May 23, 1980.
Texas:	
TX80–4031	June 6, 1980.
TX80–4033	May 16, 1980.
TX80–4073	Oct. 10, 1980.
TX80–4076	Oct. 10, 1980.
TX80–4078	Oct. 10, 1980.
Washington:	
WA80–5125	Aug. 22, 1980.
WA80–5136	Oct. 17, 1980.
Wisconsin: WI80–2078	Sept. 12, 1980.
Wyoming: WY80–5129	Se-t. 19, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR79–4054(AR80–4081)	Mar. 30, 1979.
AR79–4056(AR80–4079)	Mar. 30, 1979.
AR79–4057(AR80–4082)	Aug. 3, 1979.
Indiana: IN77–2011(IN80–2087)	Feb. 11, 1977.
Louisiana:	
LA80–4026(LA80–4084)	June 13, 1980.
LA80–4039(LA80–4089)	May 23, 1980.
Texas:	
TX79–4032(TX80–4088)	Mar. 16, 1979.
TX79–4035(TX80–4087)	Sept. 28, 1979.
TX80–4001(TX80–4085)	Jan. 4, 1980.
TX80–4035(TX80–4086)	June 20, 1980.
Virginia: VA76–3254(VA80–3068)	Oct. 8, 1976.

Cancellation of General Wage Determination Decisions

The general wage decision listed below is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7(b)(2), the incorporation of the cancelled decision in contract specifications, the opening of bids is within 10 (10) days of this notice, need not be affected.

AL79–1120—Bibb, Choctaw, Fayette, Greene, Hale, Lamar, Marengo, Perry, Pickens, Sumter and Tuscaloosa Counties, Alabama dated March 23, 1979 (44 FR 17881)—Residential Construction

Signed at Washington, D.C., this 31st day of October 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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NEW DECISION

STATE: FLORIDA
COUNTIES: DIXIE, HAMILTON, LAFAYETTE, MADISON, SUWANEE, & TAYLOR COUNTIES, FLORIDA
DECISION NUMBER: FL80-1118 DATE: Date of Publication
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
AIR CONDITIONING MECHANICS	5.95				
BRICKLAYERS	6.85				
CARPENTERS	5.56				
CEMENT MASONS	6.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.00				
INSULATION INSTALLERS	6.00				
LABORERS	3.10				
PAINTERS	5.21				
PLUMBERS	6.00				
ROOFERS	5.51				
SHEET METAL WORKERS	7.00				
SOFT FLOOR LAYERS	6.00				
P.E.O					
BULLDOZER	5.38				
BACKHOE	5.54				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

NEW DECISION

STATE: FLORIDA
COUNTIES: ALACHUA, BAKER, BRADFORD, COLUMBIA, GILCHRIST, LEVY, MARION, & UNION COUNTIES, FLORIDA
DECISION NUMBER: FL80-1119 DATE: Date of Publication
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
AIR CONDITIONING MECHANICS	4.00				
BRICKLAYERS	8.25				
CARPENTERS	6.00				
CEMENT MASONS	6.62				
DRYWALL HANGERS	6.63				
ELECTRICIANS	6.62				
INSULATION INSTALLERS	4.45				
LABORERS					
LABORERS	3.25				
MASON TENDERS	3.50				
PAINTERS	6.00				
PLASTERERS	7.61				
PLUMBERS & PIPEFITTERS	5.95				
ROOFERS	4.00				
SHEET METAL WORKERS	5.50				
SOFT FLOOR LAYERS	5.00				
TILE SETTERS	6.45				
TRUCK DRIVERS	4.89				
P.E.O.					
DOZER	5.49				
LOADER OPERATOR	5.19				
BACKHOE OPERATOR	4.80				
TRACTOR	5.37				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (i) (ii))

Modification Page 1

DECISION # AR80-5130 Mod. # 1
(45 FR 64040 September 26, 1980)

STATEWIDE, ALASKA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Asbestos Workers	$22.67	.78	1.45		.10
Carpenters					
Areas 2 and 3					
Piledriverman	17.99	.90	3.00		.20
Electricians:					
Electricians, Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Residential Electricians	11.25	1.30			.10
Elevator Constructors	22.445	1.195		a	.35
Ironworkers	20.25	1.35	3.00		.30
Lathers	21.14	1.10			.04
Line Construction:					
Groundman, Powderman	19.15	1.65	3%+3.00		.25
Equipment Operators, Lineman, and Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Material Handlers	14.55	1.65	3%+3.00		.25
Power Equipment Operators:					
Group 1	18.39	1.20	3.00		.15
Group 1A	19.43	1.20	3.00		.15
Group 2	17.81	1.20	3.00		.15
Group 3	17.35	1.20	3.00		.15
Group 4	16.33	1.20	3.00		.15
Power Equipment Operators-Dredging:					
Group 1	16.33	1.20	3.00		
Group 2	17.35	1.20	3.00		
Group 3	17.81	1.20	3.00		
Group 4	18.30	1.20	3.00		
Group 5	19.18	1.20	3.00		
Survey Crews:					
Instrumentman	16.33	1.99	3.00		.20
Head Chainman	15.31	1.99	3.00		.20
Stakeman	14.29	1.99	3.00		.20
Rear Chainman	13.77	1.99	3.00		.20

Modification Page 2

DECISION #AR80-4080-Mod.#1 45 FR October 31, 1980 Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
Plumbers-Pipefitters	13.25	.90	.60		.10
Roofers	10.71		.30		
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

DECISION #AR80-4083-Mod.#1 45 FR Oct. 31, 1980 Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
PLUMBERS-PIPEFITTERS:					
Within 10 mile radius of Pulaski Co. Courthouse	13.20	.85	.85		.08
Over 10 miles of Pulaski County Courthouse	13.50	.85	.85		.08
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

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Modification Page 3

DECISION NO. C080-5117 - Mod. 1
(45 FR 70677 - Oct. 24, 1980)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers, Stonemasons:					
Boulder and Grand Counties	$ 12.15	.85	1.10		.06
Lathers	13.44				.01
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				
Plumbers, Steamfitters:					
Southern portions of Douglas, Elbert and Park Counties	12.90	.85	1.15	1.60	.10
Roofers:					
Remaining Counties, including northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	12.57	.80	.25		.08
Soft floor layers	12.39	.80	1.05	.75	.10
Tile, Marble and Terrazzo Finishers:					
Finishers	9.55	1.10	1.15	.50	
Floor Grinders	9.70	1.10	1.15	.50	
Base Grinders	10.25	1.10	1.15	.50	

DECISION NO. C080-5118 - Mod. #1
(45 FR 70682 - Oct. 24, 1980)
El Paso County, Colorado

CHANGE:

Cement Masons:					
Cement masons	$12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
Electricians	13.90	.75	3% + .65		.015
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01
Soft floor layers	12.39	.80	1.05	.75	.10

Modification Page 4

DECISION NO. C080-5119 - Mod. #1
(45 FR 70686 - Oct. 24, 1980)
Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers and Stonemasons:					
Remaining Counties	$11.90	.85	.85		.05
Cement Masons:					
Cement masons	12.04	.59	1.15		.13
Working with composition material and color	12.54	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.29	.59	1.15		.13
Lathers:					
Garfield, Mesa and Pitkin Counties	13.44				
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01

DECISION NO. C080-5140 - Mod. #1
(45 FR 70691 - October 24, 1980)
Las Animas, Otero and Pueblo Counties, Colorado

CHANGE:

Millwrights	$12.66	1.00	.85		.14
Plasterers	13.44				
Soft Floor Layers:					
Las Animas & Otero Counties	12.39	.80	1.05	.75	.10

Modification Page 5

DECISION # FL79-1040
MOD #5
(44FR 10230 - February 16, 1979) Hillsborough County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Electricians	$ 7.87				

DECISION NO. FL79-1109 -
MOD. #5
(44FR 42856 - July 20, 1979)
Martin & Palm Beach Counties, Florida

Change:					
Electricians					
Wiremen	12.62	4.5%	9%	6%	1.5%
Cable Splicers	13.88	4.5%	9%	6%	1.5%
Elevator Constructors					
Mechanic	12.84	1.195	.95		.035
Helper	8.99	1.195	.95		.035
Millwrights	12.17	.70	.70		.10
Sheet Metal Workers	11.25	.70	.72		.04
Sprinkler Fitters	12.40	.85	1.20		.10

DECISION NO. FL79-1118 -
MOD. # 5
(44FR 48564 - August 17, 1979)
Pinellas County, Florida

Change:					
Bricklayers & Blockmasons	11.55	.60	.50		.10
Sprinkler Fitters	12.40	.85	1.20		.10

Modification Page 6

DECISION NO. FL80-1064 -
MOD. # 3
(45FR 20860 - April 25,1980)
Broward County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Delete:					
Plumbers: Pipefitters:					
Small Commercial	9.75	.60	.50		.15
Large Commercial	12.45	.60	.80		.15
Add:					
Plumbers: Pipefitters:					
Commercial	12.95	.85	.80		.15
Industrial	13.95	.85	.80		.15
Change:					
Elevator Constructors					
Mechanic	12.84	1.195	.95		.035
Helper	8.99	1.195	.95		.035
Millwrights	12.17	.70	.70		.10
Sprinkler Fitters	12.40	.85	1.20		.10

DECISION NO. FL77-1060 -
Mod. #4
(42 FR 26093 - May 20, 1977)

Polk County, Florida

Change:

Decision No. FL77-1160 listed on Page 70669 of Federal Register dated Oct. 24, 1980 should read "Decision No. FL77-1060"

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Modification Page 7

DECISION NO. FL80-1072 - MOD. #3 (45FR 32535 May 16, 1980) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center & Malabar Radar Site Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delete:					
Groundman - under 1 year	4.29	.45	3%		3/4of1%
Change:					
Boilermakers	11.75	1.275	1.10		.04
Bricklayers; Bricklayers, Manhole Bricklayers, Plasterers, Terrazo workers, Tile Setters, & Cement Masons	10.25	.50	.40		.10
Elevator Constructors					
Mechanic	10.36	1.195	.95		.035
Helper	7.25	1.195	.95		.035
Linemen:					
Wiremen	11.72	.50	3%		3/4of1%
Cable Splicers	11.87	.50	3%		3/4of1%
Class A Operators - (Hole Boring Machines; Cranes; Tracked Equipment; Fifth Wheel Tractors; Tension & Wire Pulling Machines; Mobile Cranes & Backhoes)	11.72	.50	3%		3/4of1%
Class B Operators - (Flat Bed Material Trucks; Line Trucks when either are mounted with Winch and/or 'A' Frame; Trucks mounted with digging units; Power Wagons; The driving of Mobile Cranes and Bucket Trucks)	8.19	.50	3%		3/4of1%
Groundman	6.03	.50	3%		3/4of1%
Millwrights	12.17	.70	.70		.10

Modification Page 8

DECISION NO. FL80-1072 - Cont'd.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Roofers	8.90	.35	.25		
Kettlemen	7.45	.35	.25		
Sheet Metal Workers	12.55	.70	.72		.04
Sprinkler Fitters	12.40	.85	1.20		.10
DECISION NO. FL80-1075 - MOD. #3 (45FR 41831 - June 20,1980) Duval County, Florida					
Change:					
Bricklayers & Stonemasons	10.82	.45	.50		.06
Painter	9.45	.60	.60		
Roofers					
Roofers	10.71	.50	.25		.025
Kettlemen	8.03	.50	.25		.025
Sprinkler Fitters	12.40	.85	1.20		.10

Modification Page 9

DECISION NO. LA80-4072 - MOD. #1 (45 FR 65886 - October 3, 1980) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers & stonemasons:					
Zone 1	$13.50	.63	.85		.05
Zone 2	12.70	.75	.485		.10
Zone 3	11.30	.55	.65		
Electricians:					
Zone 2 - Electricians	13.65	.45	3%+.40		.05
Cable splicers	13.65	.45	3%+.40		.05
Line construction:					
Zone 1 - Group 1	13.65	.45	3%+.40		.05
Group 2	75%JR	.45	3%+.40		.05
Group 3	65%JR	.45	3%+.40		.05
Group 4	45%JR	.45	3%+.40		.05
Group 5	50%JR	.45	3%+.40		.05
Plumbers & pipefitters:					
Zone 1	13.10	.75	1.00		.10
Zone 3	14.01	.67	.72		.08

Modification Page 10

DECISION NO. NV80-5100 - Mod. #4 (45 FR 7451-February 1, 1980) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Omit:					
All Power Equipment Operators Schedules - for the Remaining Counties - ONLY					
Add:					
All Power Equipment Operators Schedules - for the Remaining Counties - See attached Schedules					

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DECISION NO. NV80-5100 (Cont'd)

	AREA 1	AREA 2	AREA 3	AREA 4	
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
(Except Piledriving and Steel Erection):					
Group 1-A	$11.64	$12.89	$13.39	$14.14	
Group 2	12.08	13.33	13.83	14.58	
Group 3	12.31	13.56	14.06	14.81	
Group 4	12.93	14.18	14.68	15.43	
Group 5	13.18	14.43	14.93	15.68	
Group 6	13.32	14.57	15.07	15.82	
Group 7	13.53	14.78	15.28	16.03	
Group 8	14.02	15.27	15.77	16.52	
Group 9	14.29	15.54	16.04	16.79	
Group 10	14.59	15.84	16.34	17.09	
Group 10-A	14.74	15.99	16.49	17.24	
Group 11	14.95	16.20	16.70	17.45	
Group 11-A	16.31	17.56	18.06	18.81	

FRINGE BENEFITS:

Health and Welfare	$2.14
Pensions	2.75
Vacation	1.87
Apprenticeship Tr.	0.08

AREA DEFINITIONS:

Area 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse
Area 2: Area between 50 and 100 road miles of the Washoe County Courthouse
Area 3: Area between 150 and 300 road miles of the Washoe County Courthouse
Area 4: Area over 300 road miles of the Washoe County Courthouse

DECISION NO. NV80-5100 (Cont'd)

Group 1-A: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power agitated)

Grup 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphalt or concrete paving); Bobcat or similar Loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper (multi-purpose); Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar) (asphalt or concrete paving)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machine; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small rubber-tired tractors; Snooper Crane, Paxton-Mitchell or similar; Stationary Pipe wrapping, cleaning and bending Machine; Auger-type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

DECISION NO. NV80-5100 (Cont'd)

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Crusher Plant Engineer; Generators; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (Asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe cleaning Machines (tractor propelled and supported); Pipe wrapping machines (tractor (propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highways); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine (Wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn scraper; Tractor; Tractor-mounted compressor drill combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (Gunite); Lull Hi-lift (20 ft. or over); Mucking Machine; Subgrader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving machine (single engine with tandem scrapers)

DECISION NO. NV80-5100 (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Carylift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Waybora and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple-engine Earth-moving Machines (Euclid, Dozers, etc); Pre-stress Wire-wrapping Machines; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled reservoir-debris equipment floating (200 H.P. and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine, multi-engine with sloping attachments (Jmfco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual-lane, Auto-grades SP300 and similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to push pull); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired earthmoving machine (with tandem Scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Universal Liebher and Tower Cranes(and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Bank Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes, and Gradealls (over 7 cu. yds. M.R.C.); Remote-controlled earthmoving equipment; Wheel Excavator (over 750 cu. yds. per hour)

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DECISION NO. NV80-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Piledriving:					
Remaining Counties:					
Group 1	$11.63	$2.14	$2.75	$1.87	.08
Group 1-A	12.04	2.14	2.75	1.87	.08
Group 1-B	12.29	2.14	2.75	1.87	.08
Group 2-A	12.29	2.14	2.75	1.87	.08
Group 2-B	12.98	2.14	2.75	1.87	.08
Group 2-C	13.37	2.14	2.75	1.87	.08
Group 2-D	13.19	2.14	2.75	1.87	.08
Group 3	13.55	2.14	2.75	1.87	.08
Group 3-A	14.07	2.14	2.75	1.87	.08
Group 4	14.73	2.14	2.75	1.87	.08
Group 5	14.94	2.14	2.75	1.87	.08
Group 6	16.31	2.14	2.75	1.87	.08
Steel Erection:					
Remaining Counties:					
Group 1	12.20	2.14	2.75	1.87	.08
Group 2	12.65	2.14	2.75	1.87	.08
Group 3	13.88	2.14	2.75	1.87	.08
Group 4	14.05	2.14	2.75	1.87	.08
Group 4-A	14.42	2.14	2.75	1.87	.08
Group 5	15.02	2.14	2.75	1.87	.08
Group 6	15.54	2.14	2.75	1.87	.08
Group 7	15.90	2.14	2.75	1.87	.08
Group 8	16.25	2.14	2.75	1.87	.08
Group 9	17.51	2.14	2.75	1.87	.08

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Piledriving

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Fork Lift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Barge, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, Flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type driver (Raymond or similar type); Truck Crane Operator (over 25 tons)(hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

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DECISION NO. NV80-5100 (Cont'd)

Steel Erection

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over) (Structural steel or tank erection only); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Farklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons m.r.c. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.); Single drum hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons m.r.c.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator or Helicopter

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DECISION NO. NY80-3009 - Mod #3
(45 FR 13604 - February 29, 1980)
Cattaraugus, Chautauqua, & Erie Counties, New York

Change:

Erie County:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	12.61	1.30	1.50	n	.16
CLASS 2	12.47	1.30	1.50	n	.16
CLASS 3	9.83	1.30	1.50	n	.16
CLASS 4	12.03	1.30	1.50	n	.16
CLASS 5-A	11.58	1.30	1.50	n	.16
CLASS 5-B	10.08	1.30	1.50	n	.16
CLASS 5-C	9.63	1.30	1.50	n	.16
CLASS 6	12.18	1.30	1.50	n	.16
CLASS 7	9.23	1.30	1.50	n	.16
CLASS 8	13.70	1.30	1.50	n	.16
CLASS 9	12.99	1.30	1.50	n	.16
CLASS 10	13.36	1.30	1.50	n	.16
CLASS 11	13.61	1.30	1.50	n	.16
CLASS 12	14.11	1.30	1.50	n	.16

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY

CLASS 1
All boom type equipment all pan and carry-all operators, archer hoist (finish course), asphalt roller (finish course), asphalt spreader or paver, automatic fine grade machine (C.M.I. and similar type), back filling machine operators, back and pull hoe operator, black top plants, blast or rotary drill (track or cat mounted), boiler (when used for power, boom trucks, boring machine operator, bulldozers (all sizes), cableway operator, caisson auger, cableway operator, central mix plant (and all concrete batching plants), cherry picker, concrete paver machine, concrete pump, crane operator, derrick operator, dragline operator, dredge, elevating grader (self-propelled), excavator (all purposed hydraulically operated), farklift, front end loader, gradall, grader, head tower operator, hydro crane, hydraulic booms, lubrication unit on truck, maintenance engineer, mucking machine operator, multiple drum hoist (more than 1 drum in use), overhead crane, peine crane or similar type, piledriving machine operator, pump crete, push or snatch cats, quarry master or equivalent, ready mix concrete plant, road widener, rock bit sharpener (all types), scoopmoblc, shovel, side boom, skimmer operator, slip form paver (C.M.I. and similar type), test core drill machine, tractor shovel operator, truck crane, tunnel shovel machine, well drilling machine, winch, winch truck with A Frame , Tire truck and repair, tractor drawn belt type graders, trenching machine

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CLASS 2
Airhoist operator, automatic fine grade machine (C.M.I. and similar type), belt placer (C.M.I. and similar type), bending machine, bituminous spreader and mixer, cage hoist operator, concrete finishing machine,concrete mixer operator 1/2 cu. yd. or more, concrete saw - self-propelled, concrete spreader, conveyor operator, conveyor systems (belt or crete or similar), hoisting engine operator, house elevator (when used for hoisting), Hydraulic pipe jack machine or similar type machines, hydro hammer or similar types, industrial tractor, kolman loader or similar type machine, locomotive operator, mixer for stablized base self-propelled, monorail, plant engineer, push button hoist operators, roller machine operator, slip form paver (C.M.I. and similar type), snorkel, stone crushers, tractors (with towed accessories), tube finisher (C.M.I. and similar type), stratotower, towed or self-propelled rollers, tractors (when used winch power)

CLASS 3
Air compressors (under 160 cu. ft.), air compressors (over 160 cu. ft.), mechanical heaters (when 3 are in a battery), generator, pump operator (2 or 3 in battery), pump operator (4" or over), welding machine operator (1 machine over 300 amps, or 2 or 3 machines regardless of amps)

CLASS 4
Firemen, jeep trencher, motorized hydraulic seeders, mulching machine, power broom and rakes

CLASS 5-A
Aggregate bid operator, C.M.I. and similar type concrete spreads, cement bid operators, concrete mixer operator (under 1/2 cu. ft.), mechanical heaters (when one or two are used), pump operator (one inch), pump operator (two inch), pump operator (three inch), revinius widener, steam cleaner tractor machines

CLASS 5-B
Oiler-Driver

CLASS 5-C
Oiler

DECISION NO. NY80-3009 - Mod. #3 Cont'd

CLASS 6
Asphalt curb and gutter machines, blower for burning brush, chipping machine, chip spreader, concrete curb and concrete curing machines, concrete gutter machines, grout or gunite machines, heating boiler operator (used for temporary heat), hydraulic rock expander or similar type machines, hydraulic system pumps, motorized hydraulic pin puller, pneumatic mixer operator, post hole digger, post driver, power plant in excess of 10 K.W. well point systems (electric, diesel, or gas driven)

CLASS 7
Mechanical heaters (when one or two are used), pump operator (one inch, two inch, or three inch)

CLASS 8
Master mechanic

CLASS 9
Assistant master mechanic

CLASS 10
Crane with bomm over 100 feet

CLASS 11
Crane with bomm over 200 feet

CLASS 12
Crane with boom over 300 feet

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
n. Paid Holidays: A through F, provided employee works the day before and after the holiday.

DECISION NO. NY80-3009 - Mod #3 Cont'd

Chautauqua and Cattaraugus Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS I	12.46	1.30	1.50	m	.16
CLASS II	12.23	1.30	1.50	m	.16
CLASS III	11.85	1.30	1.50	m	.16
CLASS IV	11.12	1.30	1.50	m	.16
CLASS V	9.78	1.30	1.50	m	.16
CLASS VI	9.40	1.30	1.50	m	.16
CLASS VII	8.69	1.30	1.50	m	.16
CLASS VIII	9.07	1.30	1.50	m	.16
CLASS IX	9.19	1.30	1.50	m	.16

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS I: Asphalt roller(except rubber tired),Automatic fine grade machine, backhoe (except tractor mounted, rubber tired), Black top plant (automated) blast or rotary drill (truck or cat mounted), cableway, caisson auger, central mix plant (automated), cherry picker - over 5 tons capacity, crane, derrick, dragline, dredge, dual drum paver, elevation grader (self-propelled or towed), excavator (all purpose - hydraulically operator), front end loader (4/c.y. and over), gradall, grader, head tower, hoist, 2 or 3 drum locomotive (irrespective of size or power), maintenance engineer, mine hoist, mucking machine, overhead crane, peins crane or similar type, piledriver, quarry master or equivalent, shovel, skimmer, slip form paver, tractor drawn belt-type loader, truck crame, tunnel shmvel

CLASS II: Asphalt roller (rubber tired), asphalt spreader, automatic fine grade machine, backhoe (tractor mounted, rubber tired), back filling machine, belt placer, bending machine (pipe), bituminous spreader and mixer, blacktop plant (non automated), boom truck boring machine, cage hoist, central mix plant (non-automated), and all concrete batching plants, cherry picker 5 tons and under, concrete paver over 16S, concrete pump, crusher,dozer or push cat, drill rigs tractor mounted, elevator, front end loader (under 4 c.y.),hi-pressure boiler (15 lbs.and over), hoist (one drum, hydraulic pipe jack machine or similar type machine, jersey spreader, kolman plant loader and similar type loaders (if employer requires another man to clean the mcreen or to maintain the equipment, he shall be an oiler), maintenance tractor man, mixer for stabilized base self-propel[illegible] plant engineer, pump trucks, push cat, [illegible] rock bit sharpener (all types), roller (all above subgrade), scraper, side boom, slip from paver, snorkel, stump chipping machine, trencher, tube finisher, winch truck with A-frame

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CLASS III: Asphalt curb and gutter machine, blower for burning brush, chipping machine and chip spreader, concrete pavement spreaders and finishers, concrete curb and gutter machine, concrete curing machines, conveyor, drill core, drill well, electric pump used in conjuction with well point systems farm tractor with accessories, fine lift, hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compacter, vibro tamp, well point, grout or gunite machine.

CLASS IV: Aggregate plant, boiler, (used in conjunction with production), C.M.I. and similar type concrete spreaders, cement bin operator, concrete mixer (16s and under), concrete saw self-propelled, fireman, form tamper, fuel truck, mulching machine, power bromm, revinius widener, steam cleaner, tractor.

CLASS V: Compressors (4 or less) exceeding 2000 C.F.M. combined capacity.

CLASS VI: Compressors: 4 not to exceed 2000 C.F.M. combined capacity, or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M. ,Compressors (any size but subject to other provisions for compressors), Dust Collectors, Generators, Pumps, Welding Machines (4 of any type or combination).

CLASS VII: Compressors: 3 or less not to exceed 1200 C.F.M. combined capacity: Compressos: (any size but subject to other provisions for compressors), Dust Collectors, Generators, Pumps, Welding Machines (3 or less of any type or combination), Power Heaterman.

CLASS VIII: Oilers.

CLASS IX: Oiler-Driver.

FOOTNOTE:
m. Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

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DECISION NO. NY80-3041 - Mod. #1
(45 FR 45801 - July 7, 1980)
Nassau & Suffolk Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	14.70	1.21	2.31		
Boilermakers	16.34	5%	5%		
Cement Masons	12.10	2.04	1.47		.09
Ironworkers, Structural	12.70	1.86	4.15	1.75+g	.11
Marble Carvers	12.05	1.21	1.71	j	
Marble Cutters & Setters	11.90	1.21	1.71	j	
Marble Polishers	11.58	1.21	1.71	j	
Marble Finishers, Crane Operators & Derrickmen	9.90	1.21	1.71	j	
Painters:					
Suffolk County:					
Brush & Drywall Finishers Scaffold work and Rolling	11.65	3.15	.85		.21
Scaffolds 12' and over, Spraying	12.85	3.15	.85		.21
Nassau County:					
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:					
Painters	13.00	1.14	1.20	3%	
Spray & Scaffold	14.57	1.14	1.20	3%	
Fire Escapes	13.71	1.14	1.20	3%	
Plumbers:					
Nassau County:					
Building, Heavy & Highway	12.45	1.10	1.44	1.10	.25
Suffolk County:					
Building, Heavy & Highway	13.15	1.57	2.05	1.30	.37
Roofers:					
Composition & Damp Waterproofers	11.23	1.51	2.74	2.00	.01

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DECISION NO. OH80-2024 - MOD. #2
(45 FR 47047 - July 11, 1980)
Mahoning and Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Mahoning (Smith Twp.) Co.:					
Commercial Building	14.61	.79	3%+.80		.3%
Line Construction:					
Mahoning Co. (Smith Twp.):					
Linemen	14.61	.79	3%+.80		.3%
Cable Splicer	13.50	.79	3%+.80		.3%
Line Equipment Operators	12.35	.79	3%+.80		.3%
Groundman; Truck Driver	8.75	.79	3%+.80		.3%

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DECISION NO. OH80-2028 - MOD. #4
(45 FR 51416 - August 1, 1980)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, and Summit Cos., Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Remaining Counties	$ 14.56	.60	1.09		.02
Bricklayers; Stonemasons:					
Stark County	12.79	.95	1.05		.01
Carpenters:					
Stark County	12.63	.70	.80		.02
Electricians:					
Lorain (except Columbia Twp.):					
Residential Construction	9.03	.75	3%		1%
Stark County:					
Commercial Construction	14.61	.79	3%+.80		.3%
Ashtabula Co. (Rem. of Co.):					
Commercial Construction	15.30	1.00	3%+1.00		.5%
Ironworkers:					
Ashtabula (NE ¼ of Co.) Co.	14.00	1.86	1.01		.15
Line Construction:					
Stark County:					
Cable Splicers	13.50	.79	3%+.80		.3%
Linemen	14.61	.79	3%+.80		.3%
Truck Drivers; Groundmen	8.75	.79	3%+.80		.3%
Line Equipment Ops.	12.35	.79	3%+.80		.3%
Marble Setters; Terrazzo Workers; & Tile Setters:					
Stark County:					
Marble Setters	11.87	.95	1.05		
Terrazzo Workers	11.79	.95	1.05		
Tile Setters	11.70	.95	1.05		

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DECISION NO. OH80-2028 CONT'D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Portage & Summit Cos. (up to & incl. Ohio Turnpike):					
Brush; Roller; & Paperhanger	13.15	1.07	.60		
Structural Steel; Drywall Finishers & Tapers	13.75	1.07	.60		
Spray	13.85	1.07	.60		
Terrazzo Workers' Finishers:					
Stark County	10.91	.95	1.05		
Tile Setters' Finishers:					
Stark County	10.79	.95	1.05		
Laborers:					
Lorain County:					
Building & Construction; Tool Crib; Carpenter Tender; Finishers Tender; Concrete Tenders; Concrete Handler; Guard Rail Erector; & Utility Construction	11.68	.75	1.10		.05
Bottom Men; Scaffold, Builder; Tunnel Laborers; Pipelayers; Air & Power Driven Tools; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setters; Mason Tenders; Plasterers' Tenders; Hod Carriers; Laser Beam Set Up Man	11.88	.75	1.10		.05
Gunnite Operator	12.28	.75	1.10		.05

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DECISION NO. OH80-2028 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stark County: Building and Construction; Tool Cribman; Carpenters' Tenders; Finishers Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	10.66	.75	1.10		.05
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on Demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Mortar Mixers; Form Setter; Mason Tenders; Hod Carrier; Laser Beam Setup Men	10.86	.75	1.10		.05
Gunnite Operator	11.26	.75	1.10		.05

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DECISION NO. OH80-2044 - MOD. #4 (45 FR 45806 - July 7, 1980)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Ashland, Auglaize, Brown, Butler, Carroll, Champaign, Clark, Clermont, Clinton, Columbiana, Coshocton, Crawford, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Gallia, Geauga, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Holmes, Huron, Knox, Lawrence, Licking, Logan, Madison, Marion, Medina, Meigs, Mercer, Miami, Montgomery, Morrow, Muskingum, Ottawa, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Union, Van Wert, Warren, Wayne, Williams, Wood and Wyandot Counties, Ohio					
Change: Asbestos Workers: Ashland, Coshocton, Holmes, Medina, Richland, Tuscarawas & Wayne Cos.	$ 14.56	.60	1.09		.02
Erie (Wh), Fulton, Hancock, Henry, Ottawa Putnam, Sandusky, Seneca, Wood & Wyandot Cos.	15.64	.60	1.55		.03
Gallia, Lawrence, Meigs Pike, & Scioto Cos.	15.60	.60	1.10		.03

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Boilermakers: Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, & Warren Cos.	12.50	1.275	1.20	2.00	.04
Allen, Ashland, Auglaize, Crawford, Darke, Defiance, Delaware, Erie, Fulton, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Shelby, Union, Van Wert, Williams, Wood, & Wyandot Cos.	16.10	1.275	1.50		.28
Columbiana County	13.88	5%	7%+.95		.02
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons: Carroll, Columbiana (Twps. of Knox, Butler, West, & Hanover) & Tuscarawas Cos.	12.79	.95	1.05		.01

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Defiance, Fulton, (except Twps. of Fulton, Amboy & Swan Creek), Henry (except Twps. of Monroe, Barlow, Liberty, Washington, Richfield, Marion & Damascus & that part of Harrison outside city limits of City of Napolean), Paulding, Putnam, & Williams Cos.	$ 13.97	1.06	.75		
Carpenters: Carroll, Tuscarawas, & Wayne Cos.	12.63	.70	.80		.02
Columbiana County	12.73	1.04	1.25		.04
Cement Masons: Carroll & Tuscarawas Cos.	12.79	.95	1.05		.01
Electricians: Carroll (N½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.) Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green & Wayne Twps.) Cos.	14.61	.79	3%+.80		.3%
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford Union, & Stokes) Cos.	12.89	.75	3%+.95		.04
Defiance, Fulton, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	15.30	.85	3%+.95		.3%
Gallia Co.	14.52	.50	3%+1.00	1.00	.04
Lawrence County	14.02	.50	3%+1.00	1.00	.04

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors:					
Carroll County	11.80	1.045	.82	e&f	.035
Gallia, Lawrence, Meigs, Pike, Scioto Cos.	14.10	1.195	.82	e&f	.035
Ironworkers:					
Allen (N½), Defiance (except Portion S. of a line drawn from where Rte. 66 meets the N. line through Independence to the E. Co. border), Mercer (N½), Paulding, Putnam (except portion E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), Van Wert & Williams (except portion E. of a line drawn from Pioneer thru Stryker to the S. border) Cos.	13.35	1.00	1.85		.02
Meigs County	13.10	1.00	1.60		.03
Marble Setters; Terrazzo Workers; & Tile Setters:					
Carroll & Tuscarawas Cos.:					
Marble Setters	11.87	.95	1.05		
Terrazzo Workers	11.79	.95	1.05		
Tile Setters	11.70	.95	1.05		
Defiance, Fulton (except Twps. of Fulton, Amboy & Swan Creek), Henry (except Twps. of Monroe, Barlow, Liberty, Washington, Richfield, Marion & Damascus & that part of Harrison outside city limits of city of Napolean), Paulding, Putnam, &					

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Williams Cos.:					
Marble Setters	13.97	1.06	.75		
Fulton & Wood (except Twps. of Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids) Cos.:					
Terrazzo Workers; Tile Setters	14.99	1.06	.30		
Marble Setters' Finishers; Terrazzo Workers' Finishers & Tile Setters' Finishers:					
Carroll & Tuscarawas Cos.:					
Terrazzo Workers' Finishers	10.91	.95	1.05		
Terrazzo Grinders	11.25	.95	1.05		
Tile Setters' Finishers	10.79	.95	1.05		
Piledrivermen:					
Columbiana County	14.05	6%	10%		4%
Pipefitters; Plumbers; Steamfitters:					
Butler (N½) & Warren (N. of Rte. 63 exclu. Lebanon & South Lebanon) Cos.	15.80	.90	1.00		.05
Butler (S½) & Warren (S. of Rte. 63 to Hamilton Co. line W. to Indiana State line E. to Rte. 42 including Lebanon, South Lebanon, & Mason) Cos.	15.63	.90	1.20		.02

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Carroll, & Tuscarawas Cos.	12.79	.95	1.05		.01
Roofers:					
Allen, Auglaize, Champaign, Delaware, Fairfield, Fayette, Franklin, Hardin, Knox, Licking, Logan, Madison, Marion, Mercer, Morrow, Perry, Pickaway, Putnam, Ross, Union, Van Wert & Wyandot Cos.	14.30	.92	.65		.01
Sheet Metal Workers:					
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Knox, Lawrence, Licking, Madison, Marion, Meigs, Morrow, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	13.45	.94	1.28		.16
Defiance, Fulton, Hancock, Henry, Ottawa, Paulding, Putnam, Seneca, Williams, & Wood Cos.	13.225	1.06	1.91		.075

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Ashland, Crawford, Knox, Morrow, & Richland Cos.:					
Group A	10.86	.70	.90		.10
Group B	11.06	.70	.90		.10
Group C	11.46	.70	.90		.10
Carroll, Coshocton, Delaware, Hancock, Hardin, Holmes, Marion, Seneca, Tuscarawas, Wayne, & Wyandot Cos.:					
Group A	10.66	.75	1.10		.05
Group B	10.86	.75	1.10		.05
Group C	11.26	.75	1.10		.05
Brown, Clermont, Clinton & Hamilton Cos.:					
Group 1	12.35	.95	.90		.05
Group 2	12.45	.95	.90		.05
Group 3	12.50	.95	.90		.05
Group 4	12.55	.95	.90		.05
Group 5	12.70	.95	.90		.05
Group 6	12.85	.95	.90		.05
Group 7	13.10	.95	.90		.05
Group 8	10.62	.95	.90		.05
Group 9	10.77	.95	.90		.05

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler & Warren Cos.:					
Common Laborers	$11.64	.75	1.10		.05
Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op.	11.74	.75	1.10		.05
Mason Tenders; Mortar Mixers; & Scaffold Builders	11.97	.75	1.10		.05
Concrete Pumps & Hose Men; Gunnite Operators; & Sandblasters	11.99	.75	1.10		.05
Columbiana Co.:					
Carpenter Tenders; General Laborers	10.55	.75	1.10		.05
Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Operator; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stone Masons, & Tile Setters	10.72	.75	1.10		.05
Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; All Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Concrete Busters; Panel Cleaning Machine Operators; Pipelayer and Tenders Working in Ditches or Tunnels and Hand					

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Spikers on Railroads, and Laborer Handling Concrete for Test or Working with Tar, Acid, & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders	10.75	.75	1.10		.05
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building and Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tenders; Guard Rail Erectors; Tool Cribmen & Utility Construction Laborers	11.71	.75	1.10		.05
Air and Power Driven Tools; Bottom Men; Burner on Demolition Work; Caisson Workers; Cofferdam Workers; Creosote Workers; Form Setters; Hod Carrier; Laser Beam set up Men; Mason Tenders; Mortar Mixers; Mucker; Pipelayers; Plasterers' Tenders; Powder Men & Dynamite Blasters; Scaffold; Swinging Scaffold; & Tunnel Laborers	11.91	.75	1.10		.05
Gunnite Operator	12.31	.75	1.10		.05

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Muskingum & Perry Cos.:					
Building & Construction Laborers; Carpenter Tenders; Planters (Landscape); Plumbers Tenders & Tree Trimmers	10.52	.75	1.10		.05
Air & Machine Driven Tools Operators; Asphalt Plant Aggremeter Operator; Asphalt Plant Mixer men; Brick Slingers; Car Pushers & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand Spikers Operators; Jackhammer Operator; Mason Tenders; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Operator; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Mon; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Operator; & Yarners & Wrenchmen	10.62	.75	1.10		.05
Brick Dropper; Lock Tender; & Powdermen & Blasters	10.77	.75	1.10		.05

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DECISION NO. OH80-2044 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Carroll (N½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green & Wayne Twps.) Cos.:					
Cable Splicers	13.50	.79	3%+.80		.3%
Line Equipment Ops.	12.35	.79	3%+.80		.3%
Groundmen; Truck Drivers	8.75	.79	3%+.80		.3%
Linemen	14.61	.79	3%+.80		.3%
Defiance, Fulton, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	15.88	.70	3%	a	½%
Technicians	15.32	.70	3%	a	½%
Cable Splicers	16.13	.70	3%	a	½%
Operator Class I	12.65	.70	3%	a	½%
Operator Class II	11.15	.70	3%	a	½%
Groundmen	9.55	.70	3%	a	½%

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DECISION NO. OH80-2048 -	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MOD. #3 (45 FR 47045 - July 11, 1980) Lucas County, Ohio					
Change:					
Asbestos Workers	$ 15.64	.60	1.55		.03
Boilermakers	16.10	1.875	1.50		.28
Line Construction:					
Linemen	15.88	.70	3%	c	½%
Cable Splicers	16.13	.70	3%	c	½%
Groundmen	9.55	.70	3%	c	½%
Sheet Metal Workers	13.225	1.06	1.91		.075
Terrazzo Workers; Tile Setters	14.99	1.06	.30		

DECISION NO. OH80-2052 -	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MOD. #4 (45 FR 45834 - July 7, 1980) Statewide, Ohio					
Change:					
Bricklayers & Stone Masons:					
Athens County	$ 13.50	.80	1.00		.05
Carroll, Columbiana (Twps. of Butler, Hanover, Knox & West), Mahoning (Twp. of Smith), Stark, & Tuscarawas Cos.	12.79	.95	1.05		.01
Defiance, Fulton (except Twps. of Amboy, Fulton, & Swan Creek), Henry, (except Twps. of Barlow, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Napolean), Paulding, Putnam, & Williams Cos.	13.97	1.06	.75		
Carpenters & Piledrivermen:					
Adams, Fayette, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, & Scioto Cos.					
Carpenters	12.83	.75	1.25		.05
Piledrivermen	13.12	.75	1.25		.05
Belmont and Monroe Cos.:					
Carpenters	12.73	1.04	1.25		.04
Columbiana & Jefferson Cos.:					
Carpenters	12.73	1.04	1.25		.04
Piledrivermen	14.05	6%	10%		.5%

DECISION NO. OH80-2052 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Darke, Greene, Miami, Montgomery, Preble & Shelby Counties:					
Carpenters	12.80	1.00	1.40		.07
Piledrivermen	12.80	1.00	1.40		.07
Harrison County:					
Carpenters	12.73	1.04	1.25		.04
Electricians:					
Belmont County	13.20	.50	3%+1.00	1.25	.04
Carroll (Rem. of Co.), Columbiana (Knox Twp.), Holmes, Mahoning (Smith Twp.), Stark, Tuscarawas (N½ excl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	14.61	.79	3%+.80		.3%
Champaign & Clark Cos. & Madison Co. (Twps. of Paint, Pike, Somerford, Stokes & Union)	12.89	.75	3%+.95		.04
Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams & Wood Cos.	15.30	.85	3%+.95		.3%
Gallia County	14.52	.50	3%+1.00	1.00	.04
Lawrence County	14.02	.50	3%+1.00	1.00	.04

DECISION NO. OH80-2052 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Allen (N½), Defiance (except portion S. of a line drawn from where Rt. 66 meets the N. line through Independence to the E. Co. border), Mercer (N½), Paulding, Putnam (except portion E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), Van Wert & Williams (except portion E. of a line drawn from Pioneer thru Stryker to the S. border) Cos.	13.35	1.00	1.85		.02
Ashtabula (NE ¼) Co.	14.00	1.86	1.01		.15
Athens, Meigs, Morgan, Noble & Washington Cos.	13.10	1.00	1.60		.03
Painters:					
Medina, Portage (Up to & incl. the Ohio Turnpike), & Summit (Up to & Incl. the Ohio Turnpike) Cos.:					
Brush; Paperhanger; & Roller	13.15	1.07	.60		
Structural Steel	13.75	1.07	.60		
Spray	13.85	1.07	.60		

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DECISION NO. OH80-2052 CONT'D	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters:					
Belmont Co. & Monroe Co. South of Rt. 78	12.59	.75	9%	10%	.05
Butler (North Half) & Warren (N. of Rte. #63 Excluding Lebanon and S. Lebanon) Cos.	15.80	.90	1.00		.05
Butler (South Half) & Warren (S. of Rte. #63 including Lebanon and S. Lebanon) Cos.	15.63	.90	1.20		.02
Laborers:					
Zone 1:					
Group I	12.38	.75	1.10		.05
Group II	12.505	.75	1.10		.05
Group III	12.58	.75	1.10		.05
Group IV	12.73	.75	1.10		.05
Group V	13.03	.75	1.10		.05
Zone 2:					
Group I	11.20	.75	1.10		.05
Group II	11.325	.75	1.10		.05
Group III	11.40	.75	1.10		.05
Group IV	11.55	.75	1.10		.05
Group V	11.85	.75	1.10		.05
Zone 3:					
Group I	10.77	.75	1.10		.05
Group II	10.895	.75	1.10		.05
Group III	10.97	.75	1.10		.05
Group IV	11.12	.75	1.10		.05
Group V	11.42	.75	1.10		.05

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DECISION NO. OH80-2052 CONT'D	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Belmont County:					
Equipment Operators; Linemen & Technicians	$13.20	.50	3%+1.00	1.25	4%
Cable Splicers and Welders	13.45	.50	3%+1.00	1.25	4%
Groundmen	10.56	.50	3%+1.00	1.25	4%
Carroll (N. ½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Mahoning (Smith Twp.), Stark, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green & Wayne Twps.) Cos.:					
Cable Splicers	13.50	.79	3%+.80		.3%
Linemen	12.35	.79	3%+.80		.3%
Line Equipment Ops.	12.35	.79	3%+.80		.3%
Groundmen; Truck Drivers	8.75	.79	3%+.80		.3%
Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	15.88	.70	3%	a	4%
Technicians	15.32	.70	3%	a	4%
Cable Splicers	16.13	.70	3%	a	4%
Operator Class I	12.65	.70	3%	a	4%
Operator Class II	11.15	.70	3%	a	4%
Groundmen	9.55	.70	3%	a	4%

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DECISION #OK80-4064-Mod. #1
45 FR 48444-July 18, 1980
Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Lincoln, Logan, McClain, Grady, Seminole and Pottawatomie Counties, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.38	.70	1.25		.04
BRICKLAYERS-STONEMASONS:					
Caddo and Grady Counties	10.90	.62	1.00		.10
CARPENTERS - ZONE I					
Carpenters	10.05	.55	.60		.05
Power saw operator	10.30	.55	.60		.05
ELECTRICIANS:					
Zone I	12.70	.70	8%+.10		1%
Zone II	12.95	.70	8%+.10		1%
Zone III	13.20	.70	8%+.10		1%
CABLE SPLICERS:					
Zone I	12.95	.70	8%+.10		1%
Zone II	13.20	.70	8%+.10		1%
Zone III	13.45	.70	8%+.10		1%
LATHERS	11.25	.55	.80		.09
Marble Masons	13.52		.80		
PAINTERS:					
Brush	10.40	.50	.50	.50	.03
Spray under 30 feet	10.90	.50	.50	.50	.03
Spray over 30 feet	11.40	.50	.50	.50	.03
Paperhanging	11.40	.50	.50	.50	.03
Tapers using machine tools	10.90	.50	.50	.50	.03
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	11.10	.60		.65	.03
TERRAZZO WORKERS	13.52		.80		
TILE SETTERS	13.52		.80		
OMIT- UNDER PAINTERS:					
Sandblasting under 30 feet	9.95	.50	.35	.35	.03
Sandblasting over 30 feet	10.45	.50	.35	.35	.03
UNDER CARPENTERS-ZONE V					
Carpenters	7.25				

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DECISION #OK80-4065-Mod. #1
45 FR 49832-July 25, 1980
Wagoner County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.95	.55	.90		.03
ELECTRICIANS:					
ZONE I					
Electricians	12.55	.60	3%		1%
Cable splicers	12.95	.60	3%		1%
ZONE II					
Electricians	12.95	.60	3%		1%
Cable splicers	13.35	.60	3%		1%
ZONE III					
Electricians	13.25	.63	3%+.61		.10
Cable splicers	13.50	.63	3%+.61		.10
GLAZIERS	10.49	.70			.01
PAINTERS:					
Brush and roller	10.55		.40	.20	.10
Highwork and stage	11.15		.40	.20	.10
Sandblasting & spray	11.40		.40	.20	.10
Hot or bituminous	12.05		.40	.20	.10
POWER EQUIPMENT OPERATORS:					
Group I	13.20	.70	.75		.12
Group II	12.70	.70	.75		.12
Group III	12.20	.70	.75		.12
Group IV	11.95	.70	.75		.12
Group V	11.70	.70	.75		.12
Group VI	11.45	.70	.75		.12
Group VII	11.20	.70	.75		.12
Group VIII	10.20	.70	.75		.12

UNDER ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS
ZONE I
A thirty (30) mile radius from the Post Office in Muskogee

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DECISION #OK80-4066-Mod. #1
45 FR 49837-July 25, 1980
McIntosh County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.95	.55	.90		.03
CARPENTERS (southern half of county)					
Carpenters	9.80	.55	.85		.05
Millwrights-Piledrivermen	11.15	.55	.85		.05
ELECTRICIANS:					
ZONE I					
Electricians	12.55	.60	3%		1%
Cable splicers	12.95	.60	3%		1%
ZONE II					
Electricians	12.95	.60	3%		1%
Cable splicers	13.35	.60	3%		1%
PAINTERS:					
Brush & roller	10.55		.40	.20	.10
High work & stage	11.15		.40	.20	.10
Sandblasting & spray	11.40		.40	.20	.10
Hot or bituminous	12.05		.40	.20	.10
Sheet rock power tools	11.15		.40	.20	.10
POWER EQUIPMENT OPERATORS					
Group I	13.20	.70	.75		.12
Group II	12.70	.70	.75		.12
Group III	12.20	.70	.75		.12
Group IV	11.95	.70	.75		.12
Group V	11.70	.70	.75		.12
Group VI	11.45	.70	.75		.12
Group VII	11.20	.70	.75		.12
Group VIII	10.20	.70	.75		.12
TILE LAYERS	12.74	.70	.50		

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DECISION #OK80-4068-Mod. #1
45 FR 51422-August 1, 1980
Comanche County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.38	.70	1.25		.04
BRICKLAYERS-Stonemasons	10.76	.62	1.00		.12
MARBLE SETTERS	13.52		.80		
PAINTERS:					
Brush and roller	9.40		.25	.70	.05
Brush & roller (structural steel)	9.65		.25	.70	.05
Spray	10.05		.25	.70	.05
Swing stage, bosun chair work	9.65		.25	.70	.05
Taping & bedding (hand tools)	9.70		.25	.70	.05
Sandblasting	9.75		.25	.70	.05
PLASTERERS	12.70				.01
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	11.10	.60		.65	.03
TERRAZZO WORKERS:					
Terrazzo workers	13.52		.80		
TILE LAYERS	13.52		.80		
ADD:					
POWER EQUIPMENT OPERATORS:					
GROUP VIII	10.20	.70	.75		.12

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DECISION NO. PA79-3001
MOD. NO. 6
(44 FR 6868 - February 2, 1979)
Northampton County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	$11.61	.65	.35		.01
Line Construction:					
Linemen	14.20	.60	3%		3/8%
Cable Splicer	14.20	.60	3%		3/8%
Groundman	8.47	.60	3%		3/8%
Winch truck operator	9.90	.60	3%		3/8%
POWER EQUIPMENT OPERATORS					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
Plumbers	13.23	.85	1.40		.14

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DECISION NO. PA80-3025
MOD. NO. 6
(45 FR 25015 - April 11, 1980)
Adams & York Counties, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, cable splicers	$12.52	.60	3%		3/8%
Winch truck operator	8.73	.60	3%		3/8%
Groundman	7.45	.60	3%		3/8%
Marble, tile & terrazzo workers	9.80	.45	.45		
Painters:					
Brush	9.20	.45	.15		
Steel	9.95	.45	.15		
Spray	10.05	.45	.15		
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

DECISION NO. PA80-3027
MOD. NO. 5
(45 FR 26654 - April 18, 1980)
Schuylkill County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

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DECISION NO. PA80-3029 MOD. NO. 5 (45 FR 28069 - April 25, 1980) Lebanon County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Lineman & Cable Splicers	$12.52	.60	3%		3/8%
Groundman	7.45	.60	3%		3/8%
Winch truck operators	8.73	.60	3%		3/8%
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
Plumber & Steamfitters:					
East of Rte. 501	13.23	.80	1.45		.11
DECISION NO. PA80-3031 MOD. NO. 2 (45 FR 59747 - August 29, 1980) Bradford, Tioga, Union Counties, Pennsylvania					
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group 1	$13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

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DECISION NO. PA80-3032 MOD. NO. 5 (45 FR 36767 - May 30, 1980) Columbia, Montour & Snyder Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group 1	$13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
DECISION NO. PA80-3037 MOD. NO. 5 (45 FR 29522 - May 2, 1980) Sullivan County, Pennsylvania					
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

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DECISION NO. PA80-3038 MOD. NO. 5 (45 FR 35148 - May 23, 1980) Lancaster County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Lineman	$12.52	.60	3%		3/8%
Cable splicers	12.52	.60	3%		3/8%
Groundman	7.45	.60	3%		3/8%
Winch truck operators	8.73	.60	3%		3/8%
Marble setters	9.80	.45	.45		
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
Terrazzo Workers	9.80	.45	.45		
Tile Setters	9.80	.45	.45		

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DECISION NO. TX80-4031 - MOD. #7 (45 FR 38250 - June 6, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Building Construction:					
Asbestos workers-Zone 2	$12.99	.70	1.00		.03
DECISION NO. TX80-4033 - MOD. #6 (45 FR 32544 - May 16,1980) Bowie County, Texas					
CHANGE:					
Asbestos workers	12.99	.70	1.00		.03
DECISION NO. TX80-4073 - MOD. #1 (45 FR 67532 - October 10, 1980) Jefferson & Orange Cos., Texas					
CHANGE:					
Line construction:					
Lineman	15.99	.60	3%		1/2%
Groundman	11.67	.60	3%		1/2%
DECISION NO. TX80-4076 - MOD. #1 (45 FR 67535 - October 10, 1980) Wichita County, Texas					
CHANGE:					
Asbestos workers	12.99	.70	1.00		.03
DECISION NO. TX80-4078 - MOD. #1 (45 FR 67537 - October 10, 1980) Travis County, Texas					
CHANGE:					
Plumbers & pipefitters	12.55	.45	.40		.05

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DECISION NO. WA80-5125 - Mod.#2
(45 FR 56302 - August 22, 1980)
Clallam, King, Kitsap, Pierce, Snohomish, and Thurston Counties, Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
PAINTERS	11.02				
PLUMBERS:					
Clallam and King Counties	12.70				

DECISION NO. WA80-5136 - Mod. #1
(45 FR 69151 - October 17, 1980)
Statewide Washington

CHANGE:
POWER EQUIPMENT OPERATORS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and the Southern portion of Pacific County.

GROUP	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$13.12	13.62	14.02	14.52	15.42	16.12
2	13.28	13.78	14.18	14.68	15.58	16.28
3	13.40	13.90	14.30	14.80	15.70	16.40
4	13.58	14.08	14.48	14.98	15.88	16.58
5	13.60	14.10	14.50	15.00	15.90	16.60
6	13.69	14.19	14.59	15.09	15.99	16.69
7	13.76	14.26	14.66	15.16	16.06	16.76
8	13.87	14.37	14.77	15.27	16.17	16.87
9	13.94	14.44	14.84	15.34	16.24	16.94
10	14.01	14.51	14.91	15.41	16.31	17.01
11	14.03	14.53	14.93	15.43	16.33	17.03
12	14.10	14.60	15.00	15.50	16.40	17.10
13	14.19	14.69	15.09	15.59	16.49	17.19
14	14.37	14.87	15.27	15.77	16.67	17.37
15	14.55	15.05	15.45	15.95	16.85	17.55
16	14.76	15.26	15.66	16.16	17.06	17.76
17	14.92	15.42	15.82	16.32	17.22	17.92
18	15.12	15.62	16.02	16.52	17.42	18.12
19	15.28	15.78	16.18	16.68	17.58	18.28

FRINGE BENEFITS:

Health & Welfare	$1.25
Pension	1.47
Vacation	.50
Apprenticeship Training	.05

DECISION NO. WA80-5136 (Cont'd)

CHANGE:

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

GROUP	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$13.14	14.19	14.59	15.24	15.99
2	13.18	14.23	14.63	15.29	16.03
3	13.24	14.29	14.69	15.34	16.09
4	13.33	14.38	14.78	15.43	16.18
5	13.34	14.39	14.99	15.64	16.39
6	13.58	14.63	15.03	15.68	16.43
7	13.64	14.69	15.09	15.74	16.49
8	13.68	14.73	15.13	15.78	16.53
9	13.79	14.84	15.24	15.89	16.64
10	13.83	14.88	15.28	15.93	16.68
11	14.14	15.19	15.59	16.24	16.99
12	14.28	15.33	15.73	16.38	17.13
13	14.44	15.49	15.89	16.54	17.29
14	14.58	15.63	16.03	16.68	17.43

FRINGE BENEFITS:

Health and Welfare	$1.24
Pension	1.33
Apprenticeship Training	.09

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI80-2078 Mod. #1(45 FR-60751)Sept. 12, 1980) Juneau County, Wisconsin					
CHANGE:					
ASBESTOS WORKERS:	$13.30	1.05	1.15	1.50	.14
BOILERMAKERS:	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS:	11.35	.85	.70		
CEMENT MASONS:	10.98	.75	.40		
ELECTRICIANS:	12.54	.55	3%	8%	1/8%
LABORERS:					
General: Mason Tender, Plasterer Laborer	9.57	.55	.50		.03
Mortar Mixer, Air Hammer & JackHammer, Air Spade Oprts.	9.72	.55	.50		.03
PLUMBERS & STEAMFITTERS:	13.20	.90	.75		.05
ROOFERS:	11.00				
SHEETMETAL WORKERS:	11.53	.75	.60		.04
TILE SETTER	10.05	.85	.70		
DECISION NO. WY80-5129 - Mod. #2 (45 FR 62689 - September 19, 1980) Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming					
CHANGE:					
Asbestos workers	$ 13.49	.75	1.52		
Boilermakers	13.75	1.375	1.10		.05
Electricians:					
Area 1:					
Electricians	13.95	.75	3%+.50		3/4 of 1%
Cable Splicers	14.20	.75	3%+.50		3/4 of 1%
Millwrights	12.66	1.00	.85		.14
Roofers	11.03				

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SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: Sebastian, Crawford and Washington

DECISION NO. AR80-4081 DATE: Date of Publication

SUPERSEDES DECISION NO. AR79-4054 dated March 30, 1979 in 44FR19104

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEBASTIAN & CRAWFORD COUNTIES:					
ASBESTOS WORKERS	$12.60	.55	.85		.015
BOILERMAKERS	12.00	.80	1.00		.02
BRICKLAYERS-STONEMASONS	10.40	.70	.35		.14
CARPENTERS:					
Carpenters	9.54	.50	.60		.04
Millwrights-Piledrivermen	10.29	.50	.60		.04
CEMENT MASONS	10.45	.25			
ELECTRICIANS:					
Electricians	13.11	.50	3%+5.5%		1/4%
Cable splicers	13.36	.50	3%+5.5%		1/4%
ELEVATOR CONSTRUCTORS	10.18	1.195	.82	4%+a+b	.035
ELEVATOR CONSTRUCTORS HELPER	70%JR	1.195	.82	4%+a+b	.035
IRONWORKERS	12.10	.75	.95		.12
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe and concrete pump hose placer

GROUP II
Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, and chuck tenders

GROUP III
Steel form setters, curb and gutters, grout and cement muckers

GROUP IV
Swinging scaffold, Barco, 90 lb. pavement breaker and burners

GROUP V
Nozzleman (gunite, grout and sand blaster; concrete pump (nozzle placer)

GROUP VI
Powderman and blasters

GROUP VII
Wagon drill

DECISION NO. AR80-4081 Page 2

SEBASTIAN AND CRAWFORD COS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman; operator	$10.76	.50	3%+.055		1/4%
Cable splicers	10.91	.50	3%+.055		1/4%
Powderman	90%JR	.50	3%+.055		1/4%
Truck driver	75%JR	.50	3%+.055		1/4%
Groundman	65%JR	.50	3%+.055		1/4%
PAINTERS:					
Brush	8.00				
Roller work, sheetwork, finishing by machinery	8.25				
Spray painting	9.00				
Swing stage work	8.25				
Sandblasting-steam cleaning	9.00				
All pipe and steel	8.75				
All mitten & glove painting	9.00				
PLASTERERS	11.35				.02
PLUMBERS & STEAMFITTERS	12.06	.55	.55		.04
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, and mechanics

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swing boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III
HEAVY EQUIPMENT OPERATORS - all bulldozers, front end loaders, sidebooms, skytracks, push tractors, pull scrapers, motor graders, trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, boilers fireman, high or low pressure, all asphalt spreaders, hydro truck cranes multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless or size, regardless of motive power and dredge tender operator

DECISION NO. AR80-4081 Page 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP IV
LIGHT EQUIPMENT OPERATORS - oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, lad-a-vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system, de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckahand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.71		.30		
SHEET METAL WORKERS	11.57	.55	3%+.72		.04
SPRINKLER FITTERS	11.69	.75	1.05		.08

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rates
b - Paid Holidays - A through G

PAID HOLIDAYS:
A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO. AR80-4081 Page 4

WASHINGTON COUNTY, ARKANSAS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$11.97	.50	1.00		
Bricklayers	7.50				
Carpenters	6.79				
Cement masons	8.67	.25			
Electricians	11.86	.50	3%+5.5%		1/4%
Glaziers	6.60				
Ironworkers	8.95				
LABORERS:					
Unskilled	4.32				
Plaster tender	6.25				
Lathers	8.52				
Painters, brush	8.15				
Plasterers	9.70				.02
Plumbers & Pipefitters	10.26	.45	.55		.04
Roofers	7.39				
Sheet metal workers	11.57	.55	3%+.72		.04
Sprinkler fitters	11.69	.75	1.05		.08
Tile setters	6.50				
POWER EQUIPMENT OPERATORS:					
Bulldozers	4.64				
Backhoe	5.25				
Cranes	6.24				
Rollers	4.50				
Motor patrol	5.90				
Tractors	4.47				

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

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SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Garland, Hot Springs and Clark
DECISION NO. AR80-4079 DATE: Date of Publication
SUPERSEDES DECISION #AR79-4056 dated March 30, 1979 in 44FR19108
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.05	.55	1.00		.02
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS-STONEMASONS:					
Garland & Clark Cos.	11.25		.50		
Hot Springs	9.00	.40	.35		.04
CARPENTERS:					
Carpenters	10.35	.50	.50		.05
Millwrights & Piledrivermen	10.85	.50	.50		.05
CEMENT MASONS	10.45	.35			.03
ELECTRICIANS:					
Electricians	11.57		3%		1/4%
Cable splicers	11.695		3%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	10.18	1.195	.82	4%+a+b	.035
Helpers	70%JR	1.195	.82	4%+a+b	.035
IRONWORKERS	11.10	.55	.95		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe and concrete pump hose placer
GROUP II
Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, and chuck tenders
GROUP III
Steel form setters, curb and gutters, grout and cement muckers
GROUP IV
Swinging scaffold, Barco, 90 lb. pavement breaker and burners
GROUP V
Nozzleman (gunite, grout and sand blaster; concrete pump (nozzle placer)
GROUP VI
Powderman and blasters
GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and roller	$7.75				
Paperhanging	8.25				
Sheet rock (tape and float only); stage & steel	8.25				
Spray and sandblasting	10.75				
Painters operating any kind of taping or floating machine	11.25				
PLASTERERS	11.00		.35		.04
PLUMBERS-PIPEFITTERS:					
Zone A	11.60	.90	.60		.10
Zone B	12.70	.90	.60		.10

PLUMBERS AND PIPEFITTERS ZONE DEFINITIONS

ZONE A - within 10 miles of Garland County Courthouse
ZONE B - 10 miles and over from Garland County Courthouse

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, and mechanics
GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swing boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size
GROUP III
HEAVY EQUIPMENT OPERATORS - all bulldozers, front end loaders, sidebooms, skytracks, push tractors, pull scrapers, motor graders, tronching machines, regardless of size or motive power, all back fillers, central mixing plants, 105 and larger, finishing machines, boilers fireman, high or low pressure, all asphalt spreaders, hydro truck cranes multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless or size, regardless of motive power and dredge tender operator

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS (CONT'D)

GROUP IV
LIGHT EQUIPMENT OPERATORS - oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, lad-a-vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system, de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckahand

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$12.57		3%		1/4%
Cable splicers	12.695		3%		1/4%
Groundman	64%JR		3%		1/4%
Truck drivers (with winch)	80%JR		3%		1/4%
Truck driver (flat bed)	64%JR		3%		1/4%
ROOFERS	10.71		.30		
SHEET METAL WORKERS	11.57	.55	3%+.72		.04
SPRINKLER FITTERS	11.69	.75	1.05		.08
TILE LAYERS:					
Garland & Clarke Cos.	11.25		.50		

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

FOORNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate.
b. PAID HOLIDAYS - A through G
A-New years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Union and Ouachita
DECISION NO. AR80-4082 DATE: Date of Publication
SUPERSEDES DECISION NO. AR79-4057 dated August 3, 1979 in 44 FR 45855
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.05	.55	1.00		.02
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS	11.25		.55		
CARPENTERS:					
Carpenters	10.35	.50	.50		.04
Millwrights & Piledrivermen	10.85	.50	.50		.04
CEMENT MASONS	10.45	.35			
ELECTRICIANS:					
Electrical contracts $20,000 or less:					
Electricians	12.39		3%		1/4%
Cable splicers	12.69		3%		1/4%
Electrical contracts over $20,000.00:					
Electricians	13.08		3%		1/4%
Cable splicers	13.48		3%		1/4%
IRONWORKERS	12.40	.60	1.15		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe and concrete pump hose placer
GROUP II
Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, and chuck tenders
GROUP III
Steel form setters, curb and gutters, grout and cement muckers
GROUP IV
Swinging scaffold, Barco, 90 lb. pavement breaker and burners
GROUP V
Nozzleman (gunite, grout and sand blaster; concrete pump (nozzle placer)
GROUP VI
Powderman and blasters
GROUP VII
Wagon drill

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Electrical contracts $20,000 or less:					
Lineman	$12.39		3%		1/4%
Cable splicers	12.69		3%		1/4%
Electrical contracts over $20,000.00:					
Lineman	13.18		3%		1/4%
Cable splicers	13.48		3%		1/4%
Electrical contracts $20,000 or less and over $20,000.00:					
Groundman	65%JR		3%		1/4%
Truck drivers	70%JR		3%		1/4%
Winch operator	80%JR		3%		1/4%
Heavy Equipment operator (on track or transmission equipment)	100%JR		3%		1/4%
PAINTERS:					
Brush, roller, sheet rock work & paperhanging	9.00				
Spray and sandblasting	9.875				
PLASTERERS	11.00				.02
PLUMBERS & PIPEFITTERS	12.20	.75	.45		.05
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, and mechanics

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swing boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP III
HEAVY EQUIPMENT OPERATORS - all bulldozers, front end loaders, sideboome, skytracks, push tractors, pull scrapers, motor graders, trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, boilers fireman, high or low pressure, all asphalt spreaders, hydro truck cranes multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless or size, regardless of motive power and dredge tender operator

GROUP IV
LIGHT EQUIPMENT OPERATORS - oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for marrying workmen from floor to floor and handling building material, lad-a-vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system, de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckahand

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.71		.30		
SHEET METAL WORKERS	12.09	3%+.69	.50		.19
SPRINKLER FITTERS	11.69	.75	1.05		.08

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: INDIANA COUNTY: HAMILTON
DECISION NO.: IN80-2087 DATE: Date of Publication
Supersedes Decision No. IN77-2011, dated February 11, 1977 in 42 FR 8912
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING AND HEATING MECHANICS	$6.34				
BRICKLAYERS	5.00				
CARPENTERS	6.43				
CEMENT MASONS	6.00				
ELECTRICIANS	6.68				
LABORERS	4.00				
PAINTERS	6.50				
PLUMBERS	5.50				
ROOFERS	4.50				
SHEET METAL WORKERS	4.75				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA80-4084 DATE: Date of Publication
Supersedes Decision No. LA80-4026, dated June 13, 1980, in 45 FR 40438.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories.

		Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	ZONE 1	$13.32	.775	1.18		.04
	ZONE 2	12.99	.70	1.00		.03
	ZONE 3	11.70	.65	1.30		.07
	ZONE 4	11.64	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes

ZONE 3 Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS					
ZONE 1	13.05	.80	1.15		.31
ZONE 2	11.06	.53	.67		
ZONE 3	13.50	.63	.85		.05
ZONE 4	12.70	.75	.485		.10
ZONE 5	12.25				
ZONE 6	11.30	.55	.65		
ZONE 7	11.50		.30		
ZONE 8	12.70		.50		
ZONE 9	12.50				

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ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge, & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
Zone 8 - Caldwell, East Carroll, Franklin, Jackson Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1 - Carpenters	$11.05	.50			.05
Millwrights	11.77	.50			.05
Piledrivermen	11.95	.50			.05
ZONE 2 - Carpenters, Piledrivermen & soft floor layers	12.51	.80	.33		.07
Millwrights	14.41				.07
ZONE 3 - Carpenters	10.90	.70	.55		
Millwrights	11.75	.70	.55		
Piledrivermen	11.20	.70	.55		
ZONE 4 Carpenters & Piledrivermen	12.95	.60	.60		.11
Millwrights	14.275				7/10¢
ZONE 5 - Carpenters & Soft floor layers	12.30	.70	.70		.06
Millwrights	12.69	.70	.70		.06
Piledrivermen	12.40	.70	.70		.06
ZONE 6 - Carpenters & Soft floor layers	12.135	.70	.70		.06
Millwrights	12.69	.70	.70		.06
Piledrivermen	12.40	.70	.70		.06
ZONE 7 - Carpenters & Soft floor layers	11.10				
Millwrights	11.85				
Piledrivermen	11.60				
ZONE 8 - Carpenters & soft floor layers	11.10	.55	.50		.04
Millwrights	11.85	.55	.50		.04
Piledrivermen	11.35	.55	.50		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & Soft floor layers	$11.10				
Millwrights	11.85				
Piledrivermen	11.60				
ZONE 10 - Carpenters & Soft floor layers	11.10	.70	.45		.10
Millwrights	12.00	.70	.45		.10
Piledrivermen.	11.60	.70	.45		.10

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from The Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE 1	$11.91				.05
ZONE 2	12.53				
ZONE 3	10.75	.50	.75		.05
ZONE 4	12.105	.79	.50		.09
ZONE 5	11.35				
ZONE 6	9.00				
ZONE 7	10.50	.45			
ZONE 8	11.17		.50		
ZONE 9	10.00		.30		

ZONE 1- Ascension, Assumption, East Baton Rouge, East Feliciana, Ibervi Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Pars
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3- Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	14.46	5%	8%		3/10%
Cable splicers	14.71	5%	8%		3/10%
ZONE 2 - Electricians	12.80	.45	3%		.02
Cable splicers	13.30	.45	3%		.02
ZONE 3 - Electricians	14.75	.55	3%+.40		1/10%
Cable splicers	15.00	.55	3%+.40		1/10%
ZONE 4 - Electricians	14.00	.70	3%		2/10%
Cable splicers	14.25	.70	3%		2/10%
ZONE 5 - Electricians	13.65	.45	3%+.40		.05
Cable splicers	13.65	.45	3%+.40		.05
ZONE 6 - Electricians	12.75	.85	3%		1/2%
Cable splicers	13.25	.85	3%		1/2%
ZONE 7 - Electricians	13.25	1.75	3%		1%
Cable splicers	13.75	1.75	3%		1%
ZONE 8 - Electricians	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayettte, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	10.575	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
ZONE 2 - Mechanics	11.66	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6% over 5 yrs.- 8% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary,St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	$12.25			c+d	.02
ZONE 2	9.90				.01
ZONE 3	10.825	.17	.30		.01
ZONE 4	9.88		.30		.04
ZONE 5	6.80				
ZONE 6	10.99				

FOOTNOTES FOR GLAZIERS:
c - 5 days paid vacation
d - Paid Holidays: New Years' Day; Good Friday; Fourth of July; Labor Day; Thanksgiving Day; Christmas Day

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy.51), Vermilion, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
ZONE 1	12.52	.93	.65		.08
ZONE 2	12.54	.60	.75		.04
ZONE 3	12.45	.45	.90		.06
ZONE 4	12.85	.60	1.15		.06
ZONE 5	10.70	.45	.85		.04
ZONE 6	12.88	.60	.65		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrentun, southwest through Hammond to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St.Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. Line, then west along the southern border of Rapides Par.)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitmches Par. boundary west through the city of Peason tu the Tex.-La. border)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & Adjacent Areas) Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. Line)

ZONE 5 - That part of Madisnn Par. (including the cities of Mound, Delta & adjacent areas)

ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE 1- Group 1	7.20	.30			
Group 2	7.40	.30			
Group 3	7.45	.30			
ZONE 2 - Group 1	7.35	.25	.27		.05
Group 2	7.55	.25	.27		.05
ZONE 3 - Group 1	8.88	.25	.27		.05
Group 2	8.98	.25	.27		.05
Group 3	9.03	.25	.27		.05
Group 4	9.84	.25	.27		.05
Group 5	9.40	.25	.27		.05
Group 6	9.24	.25	.27		.05
Group 7	8.93	.25	.27		.05
Group 8	9.13	.25	.27		.05
ZONE 4 - Group 1	8.20	.30	.27		.05
Group 2	8.30	.30	.27		.05
Group 3	8.35	.30	.27		.05
ZONE 5 - Group 1	7.80	.30	.27		.05
Group 2	7.90	.30	.27		.05
Group 3	7.95	.30	.27		.05
ZONE 6 - Group 1	9.45	.30	.27		.05
Group 2	9.55	.30	.27		.05
Group 3	9.70	.30	.27		.05
ZONE 7 - Group 1	8.075	.25	.27		.05
Group 2	8.225	.25	.27		.05
Group 3	8.275	.25	.27		.05
ZONE 8 - Group 1	6.89	.25	.27		.05
Group 2	7.09	.25	.27		.05
Group 3	7.14	.25	.27		.05
Group 4	7.19	.25	.27		.05
Group 5	7.54	.25	.27		.05
ZONE 9 - Group 1	7.53	.25	.27		.05
Group 2	7.63	.25	.27		.05
Group 3	7.68	.25	.27		.05
Group 4	7.73	.25	.27		.05
ZONE 10 - Group 1	7.28	.25	.27		.05
Group 2	7.38	.25	.27		.05
Group 3	7.53	.25	.27		.05

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LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction

GROUP 2 - Stone mason tenders, mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman

GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS - ZONE 3

GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners

GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipped

GROUP 3 - Mortar mixers

GROUP 4 - Blasterers

GROUP 5 - Blaster tenders; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete

GROUP 7 - Interior of closed tanks & vessels manually

GROUP 8 - Jackhammer operators

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders

GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)

GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Laborers

GROUP 2 - Laborers handling steel pans, stone masons tenders, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

LABORERS ZONE 7

GROUP 1 - Common laborers

GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons tenders, vibratormen

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone masons tenders; concrete workers; scaffold builders

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GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders(cement); Mortar mixer (wet or dry)); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)

GROUP 3 - Chain saw operator

GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders

GROUP 5 - Powderman

LABORERS - ZONE 9

GROUP 1 - Laborers

GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers

GROUP 3 - Mortar mixers

GROUP 4 -Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers

LABORERS - ZONE 10

GROUP 1- Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading, unloading,carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring

GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters finisher

GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy) then west on U. S. 61 to Blind River & on a direct line to Manchac)

ZONE 5 -Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. Line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. James (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes

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ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, & Winn Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$11.13	.55	.40		.05
ZONE 2	11.28	.55	.40		.05
ZONE 3	11.53	.55	.40		.05
ZONE 4	11.88	.55	.40		.05
ZONE 5	12.60	.60	.60		.10
ZONE 6	11.40				.01
ZONE 7	13.485	.55			.01
ZONE 8	12.85				
ZONE 9	9.40				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans

ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.

ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Pars. which are within a 32.5 mile radius of New Orleans center .

ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

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ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa(north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Pontchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Parishes

ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberia, Iberville (eastward to lower Grand River), Lafayette,St. Landry, St. Martin (excluding lower separted section), St. Mary (east to Berwick) & Vermilion Pars.

ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.

ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.

ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - GROUP 1	$13.65	.45	3%+.40		.05
GROUP 2	75%JR	.45	3%+.40		.05
GROUP 3	65%JR	.45	3%+.40		.05
GROUP 4	45%JR	.45	3%+.40		.05
GROUP 5	50%JR	.45	3%+.40		.05

GROUP 1 - Linemen

GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines

GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)

GROUP 4 - Op. using truck without winch

GROUP 5 - Groundmen

ZONE 2					
Linemen	$14.46	5%	8%		3/10%
Cable splicers	14.71	5%	8%		3/10%
Equipment operators	10.85	5%	8%		3/10%
Truck drivers & groundmen	6.51	5%	8%		3/10%
ZONE 3					
Linemen, equipment op	14.75	.55	3%+.40		1/10%
Cable splicers	15.00	.55	3%+.40		1/10%
Groundmen	12.75	.55	3%+.40		1/10%
ZONE 4					
Linemen, equipment ops.	14.00	.70	3%		
Cable splicers	14.25	.70	3%		
Groundmen	50%JR	.70	3%		
ZONE 5					
Linemen, equipment ops.	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%
Groundmen	60%JR		3%		1/2%
ZONE 6					
Linemen, equipment ops.	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
Groundman	4.17	.85	3%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	13.25	1.75	3%		1%
Cable splicer	13.75	1.75	3%		1%
Groundmen	11.25	1.75	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern Segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	$12.70	.75	.485		.10
Tile & terrazzo workers	12.15	.40			.10
Marble, tile & terrazzo finishers	7.90	.40		.20	
ZONE 2 - Marble & terrazzo workers	13.50	.63	.85		.05
Tile setters	9.30	.48	.67		.02
ZONE 3 - Marble setters	12.50				
Terrazzo workers	10.05				
ZONE 4 - Marble, tile & terrazzo workers	11.42		.50		
ZONE 5 - Marble, tile & terrazzo workers	10.10	.5[illegible]			
ZONE 6 - Marble, tile & terrazzo workers	14.25				
Marble, tile & terrazzo finisher	7.90	.40		.20	
ZONE 7 - Tile setters	12.25				
Tile finishers	7.90	.40		.20	

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5- Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$12.615		.30		
GROUP 2	12.815		.30		
GROUP 3	12.96		.30		
GROUP 4	14.405		.30		
ZONE 2 - GROUP 1	10.65		.50		.08
GROUP 2	11.92		.50		.08
ZONE 3 - GROUP 1	9.845	.625	.60		.08
GROUP 2	10.22	.625	.60		.08
GROUP 3	11.095	.625	.60		.08
ZONE 4 - GROUP 1	10.99				
GROUP 2	11.43				
GROUP 3	11.12				
GROUP 4	12.25				
GROUP 5	12.59				
GROUP 6	11.09				
GROUP 7	11.33				
ZONE 5 - GROUP 1	9.95				
GROUP 2	10.45				
GROUP 3	10.95				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	10.60	.40	.30		.05
ZONE 7 - GROUP 1	7.80				
GROUP 2	8.30				
GROUP 3	8.80				
ZONE 8 - Painters	9.90		.50		.08

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers
ZONES 2 GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks sprinkler systems, wharves & structrual steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, samdblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 5 - GROUP 1 Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north of Hwy.22), Assumption (north of Hwy.22), East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy.22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22) Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatmula) & Washington Parishes

ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield excluding Winfield) Parishes

ZONE 8 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS -	ZONE 1	$11.70				.01
	ZONE 2	10.50				
	ZONE 3	13.25				
	ZONE 4	12.70				.01
	ZONE 5	10.08	.60	.35		.08
	ZONE 6	8.00				.01
	ZONE 7	9.75			1.00	
	ZONE 8	12.70		.50		
	ZONE 9	11.50		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6- Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, & Webster
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS					
ZONE 1	$13.10	.75	1.00		.10
ZONE 2	12.75	.88	.955		.09
ZONE 3	12.50	.90	.80		.10
ZONE 4	11.87	.70	1.10	1.00	.09
ZONE 5	14.01	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of Eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.
ZONE 3- Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln , Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
ZONE 1 - GROUP 1	$ 8.62	.65	1.00		.05
GROUP 2	9.31	.65	1.00		.05
GROUP 3	9.40	.65	1.00		.05
GROUP 4	9.72	.65	1.00		.05
GROUP 5	11.20	.65	1.00		.05
ZONES 2, 3 & 4 - GROUP 1	8.55	.65	1.00		.05
GROUP 2	9.43	.65	1.00		.05
GROUP 3	9.51	.65	1.00		.05
GROUP 4	9.92	.65	1.00		.05
GROUP 5	11.77	.65	1.00		.05
ZONE 5 - GROUP 1	8.56	.65	1.00		.05
GROUP 2	8.24	.65	1.00		.05
GROUP 3	8.03	.65	1.00		.05
GROUP 4	8.84	.65	1.00		.05
GROUP 5	11.23	.65	1.00		.05
GROUP 6	9.25	.65	1.00		.05
GROUP 7	9.93	.65	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OP. (CONT'D)					
ZONE 6 - GROUP 1	$12.96	.65	1.10		.10
GROUP 2	13.21	.65	1.10		.10
GROUP 3	13.46	.65	1.10		.10
GROUP 4	13.71	.65	1.10		.10
GROUP 5	14.21	.65	1.10		.10
GROUP 6	13.96	.65	1.10		.10
GROUP 7	12.71	.65	1.10		.10
GROUP 8	11.32	.65	1.10		.10
GROUP 9	9.89	.65	1.10		.10
GROUP 10	8.99	.65	1.10		.10
GROUP 11	8.37	.65	1.10		.10
GROUP 12	9.36	.65	1.10		.10
ZONE 7 - GROUP 1	12.03	.65	1.10		.10
GROUP 2	10.40	.65	1.10		.10
GROUP 3	11.38	.65	1.10		.10
GROUP 4	11.28	.65	1.10		.10
GROUP 5	9.34	.65	1.10		.10
GROUP 6	8.39	.65	1.10		.10
GROUP 7	12.28	.65	1.10		.10
GROUP 8	12.53	.65	1.10		.10
GROUP 9	12.78	.65	1.10		.10
GROUP 10	13.03	.65	1.10		.10
GROUP 11	13.53	.65	1.10		.10
GROUP 12	14.03	.65	1.10		.10

POWER EQUIPMENT OPERATORS - ZONES 1,2,3&4 CLASSIFICATION DEFINITIONS
GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman

GROUP 4 - Air compressor; asphalt plant; bulldozers, D-4 & equivalen & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machine or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structure other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5
GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant
GROUP 2 - Pumps under 3 inch suction
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); Locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeymen; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.
GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grasscutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump 3" & over); tear pump-internal combustion engine powered; water blast pumps
GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboats-not requiring licensed operator
POWER EQUIPMENT OPERATORS - ZONE 6
GROUP 1 - Crane op. 60 tons & over; Crane op. boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.
GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.
GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.
GROUP 4 - Crane op. 200 tons up to 300 tons
GROUP 5 - Crane op. 300 tons
GROUP 6 - Crane op. 300 ft. & over
GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drum; Locomotive crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete)

POWER EQUIPMENT OPERATORS - ZONE 6 (CONT'D)
GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, Scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over
GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated bush hog & similar grass or bush cutting equipment
GROUP 10 - Batch plant operator
GROUP 11 - Oiler
GROUP 12 - Pumps, over 3 inch suction; Snatch cat
POWER EQUIPMENT OPERATORS - ZONE 7
GROUP 1 - A-frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, cranes, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model #620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, backhoes (all types); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, Journeyman; Work boats requiring licenced ops.
GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineers; Asphalt finisher, screed men; Blade graders; Small boat op.; Bull floats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1); Distributors, asphalt; "Ditch Witch" & similar equipment; Electric elevator (inside); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers, except on brick & asphalt; Rubber tired front end loader (with or without attachment) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Trench machines & equivalent machines
GROUP 3 - Unit and wellpoint operator
GROUP 4 - Outside electric elevator operator
GROUP 5 - Batch plant operator, Oilers (Driver)
GROUP 6 - Oiler
GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.
GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.
GROUP 9 - Crane op. 125 tons & up to 200 tons
GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 floors

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POWER EQUIPMENT OPERATORS - ZONE 7 (CONT'D)
GROUP 11 - Crane op. 300 tons & up to 400 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower cranes over 30 floors
GROUP 12 - Crane op. over 400 tons; Crane op. boom 400 ft. & over

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Parishes border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Parishes (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the Louisiana-Mississippi border)
ZONE 7 - All of Jeffersen, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa &Washington Parishes (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Parish, due north of the town of Huckley, thence southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
ZONE 1 - Roofers	$11.13		.20		
ZONE 2:					
Roofers	9.56	.80	.85	.50	.70
Preparers remove old roofing, place, stock or move materials, tools or equipment for the journeymen	4.55	.50			
ZONE 3:					
Roofers	9.96	.60	.70		.04
Roofer helpers does not use the tools of the trade in removing & disposing of old roofing, stocking & unloading material, hauling materials to the journeymen & sweeping	6.14	.60	.70		.04
ZONE 4 - Roofers	9.70		.30		
Kettlemen	8.35		.30		
ZONE 5 - Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04

ZONE 1 - Allen, Beauregard Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines. St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1	$13.50	.58	.60		.18
ZONE 2	12.25	3%+.65	1.11		.16
ZONE 3	13.57	.55	.80		.16
ZONE 4	12.09	3%+.69	.50		.19

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	12.80	.80	1.20		.08
TRUCK DRIVERS					
ZONE 1 - GROUP 1	10.11	.70			
GROUP 2	10.59	.70			
GROUP 3	10.82	.70			
GROUP 4	10.61	.70			
GROUP 5	10.71	.70			
GROUP 6	10.63	.70			
GROUP 7	11.05	.70			

Truck Drivers (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - GROUP 1	7.20				
GROUP 2	7.45				
GROUP 3	8.00				
GROUP 4	7.85				
GROUP 5	8.30				
GROUP 6	8.40				
GROUP 7	8.70				
GROUP 8	8.85				
ZONE 3 - GROUP 1	8.22				
GROUP 2	8.30				
GROUP 3	8.55				
GROUP 4	8.70				
GROUP 5	8.85				
GROUP 6	9.05				
GROUP 7	9.40				
ZONE 4 - GROUP 1	9.18				
GROUP 2	9.48				
GROUP 3	9.63				
GROUP 4	9.83				
GROUP 5	9.98				
GROUP 6	9.78				
ZONE 5 - GROUP 1	8.64	.45			
GROUP 2	9.25	.45			
GROUP 3	9.30	.45			
GROUP 4	9.56	.45			

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TRUCK DRIVERS

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds.

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 tons, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to; winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 5 - GROUP 1 - Truck drivers, up to but not including 1½ tons
GROUP 2 - Truck drivers, 1½ tons up to but not including 3 tons
GROUP 3 - Truck drivers, 3 tons up to but not including 5 tons
GROUP 4 - Truck drivers, 5 tons & over, including euclids, winch truck, dempsey dumpsters, lowboys, semitrailers, fork lifts, etc.

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana
PARISHES: Bossier, Caddo & Calcasieu

DECISION NO. LA80-4089
DATE: Date of Publication

Supersedes Decision No. LA80-4039, dated May 23, 1980 in 45 FR 35136.

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$12.90	.70	1.00		.03
Calcasieu Parish	13.32	.775	1.18		.04
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	11.30	.55	.65		.05
Calcasieu Parish	13.50	.63	.85		
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	11.10	.55	.50		.04
Millwrights	11.85	.55	.50		.04
Piledrivermen	11.35	.55	.50		.04
Calcasieu Parish:					
Carpenters and Pile-drivermen	12.51	.80	.33		.07
Millwrights	14.41				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	10.50	.45			
Calcasieu Parish	12.53				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
Calcasieu Parish:					
Electricians	14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	11.66	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
Calcasieu Parish:					
Mechanics	10.575	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
GLAZIERS:					
Bossier & Caddo Parishes	9.88		.30		.04
Calcasieu Parish	12.25			c+d	.02
IRONWORKERS:					
Bossier & Caddo Parishes	12.45	.45	.90		.06
Calcasieu Parish	12.90	.45	.90		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Laborers	$ 7.53	.25	.27		.05
GROUP 2					
Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	7.63	.25	.27		.05
GROUP 3					
Mortar mixers	7.68	.25	.27		.05
GROUP 4					
Air jacks, vibrators; sewer pipe layers and wipers	7.73	.25	.27		.05
Calcasieu Parish:					
GROUP 1					
Building & general laborers; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	8.88	.25	.27		.05
GROUP 2					
Air tool op.(except jack-hammer); interior of closed tanks & vessels power equipment	8.98	.25	.27		.05
GROUP 3					
Mortar mixers	9.03	.25	.27		.05
GROUP 4					
Jackhammer operators	9.13	.25	.27		.05
GROUP 5					
Blasterers	9.84	.25	.27		.05
GROUP 6					
Blaster tenders; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	9.40	.25	.27		.05
GROUP 7					
Wipe joints, laying pipe & tile from pumpcrete	9.24	.25	.27		.05
GROUP 8					
Interior or closed tanks & vessels manually	8.93	.25	.27		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Bossier & Caddo Parishes	$ 12.85				
Calcasieu Parish	13.485	.55			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	10.10	.55			
Calcasieu Parish	13.50	.63	.85		.05
PAINTERS:					
Bossier & Caddo Parishes:					
Painters, tape & float, vinyl & paperhangers	10.60	.40	.30		.05
Calcasieu Parish:					
GROUP 1					
Brush, roller, buffer	12.615		.30		
GROUP 2					
Paperhangers, taping and floating	12.815		.30		
GROUP 3					
Spray, Sandblasting	12.96		.30		
PLASTERERS:					
Bossier & Caddo Parishes	9.75			1.00	
Calcasieu Parish	13.25				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	11.87	.70	1.10	1.00	.09
Calcasieu Parish	14.01	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04
Calcasieu Parish:					
Roofers	11.13		.20		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	7.74	3%+.67			.15
Calcasieu Parish	13.50	.58	.60		.18
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	11.10	.55	.50		.04
Calcasieu Parish	12.51	.80	.33		.07
SPRINKLER FITTERS	12.80	.85	1.20		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	10.10	.55			
Calcasieu Parish	13.50	.63	.85		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Bossier & Caddo Parishes	$ 10.10	.55			
Calcasieu Parish	9.30	.48	.67		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Pick-ups, spotters and dumpers	8.22				
GROUP 2					
Stake bodies; flat bmds (all sizes)	8.30				
GROUP 3					
Single axle dumps & water trucks; transit mix up to & including 3 ydm.	8.55				
GROUP 4					
Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	8.70				
GROUP 5					
Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	8.85				
GROUP 6					
Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 5 axle trucks, transit mix over 3 yds.	9.05				
Calcasieu Parish:					
GROUP 1					
Pick-ups	10.11	.70			
GROUP 2					
Stake bodies (all sizes)	10.59	.70			
GROUP 3					
Trucks trailer & dump over 8 yds.; mixers on trucks over 3 yds.; Mississippi wagon & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	10.82	.70			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS CONT'D:					
Calcasieu Parish Contd:					
GROUP 4					
Mixers on trucks up to & including 3 yds.	10.61	.70			
GROUP 5					
Winch trucks	10.71	.70			
GROUP 6					
Dump trucks	10.63	.70			
GROUP 7					
Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.	11.05	.70			
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS & CLAZIERS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS & CLAZIERS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays - A thru G
c - 5 days paid vacation
d - Paid Holidays, A,C,D,E,G & Good Friday

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$ 8.56	.65	1.00		.05
GROUP 2	8.24	.65	1.00		.05
GROUP 3	8.03	.65	1.00		.05
GROUP 4	8.84	.65	1.00		.05
GROUP 5	11.23	.65	1.00		.05
GROUP 6	9.25	.65	1.00		.05
GROUP 7	9.93	.65	1.00		.05

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Scale Operators; oiler-driver on motor crane; batch plant operator
GROUP 2 - Pumps under 3 inch suction
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozer; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type) outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drum or over); locomotive (all types); mechanic; mixer plant operator-central mix; motor patrols; pile-drivers; pull cat; pump crete-6" and over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit operator; welder, journeyman; well point system; whirleys; winch cats (cat D-4 & over); winch truck with A-Frame (5 ton & over); work boats-requiring licensed operator
GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass cutters, etc.); hoist-1 drum (under 4 stories on buildings); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum Buff Machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps
GROUP 7 - Asphalt plant operator; boom trucks; bull floats; concrete spreader; farm type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); work boats-not requiring licensed operator

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SUPERSEDEAS DECISION

STATE: Texas COUNTY: Harrison
DECISION NO.: TX80-4088 DATE: Date of Publication
Supersedes Decision No. TX79-4032, dated March 16, 1979. in 44 FR 16325.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use ~~current heavy & highway general wage determination for Paving &~~ Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	11.75		.50		
CARPENTERS	6.59				
CEMENT MASONS	8.00				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.15				
IRONWORKERS	6.88				
LABORERS:					
Laborers	3.21				
Mason tenders	4.15				
Plasterers' tenders	4.75				
LATHERS	8.95	.40	.20		
PAINTERS:					
GROUP 1 - Journeymen painters, paperhangers, hand rollers & tools used for cleaning	5.155				
GROUP 2 - Window jack or window sill; sand tape & floating	5.275				
GROUP 3 - Swing stage; spray & sandblasting; sign painting; steel swing stage, boatswain's chair brush	5.65				
GROUP 4 - Steam cleaning, buffing, burners & torch	6.90				
GROUP 5 - Steel brush	5.40				
GROUP 6 - Steel swing stage, boatswain's chair, spray & sandblasting	7.65				
PLASTERERS	8.075				
PLUMBERS & PIPEFITTERS	7.60				
ROOFERS	8.10				
SHEET METAL WORKERS	10.42½	.50	.66		.105
SPRINKLER FITTERS	11.71	.55	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX80-4088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.765	.65	1.00		.15
GROUP 2	11.53	.65	1.00		.15
GROUP 3	11.93	.65	1.00		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment
GROUP 3 - Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Mixer-mobile; Locomotives; Mixer, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derrick, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixer (all types); Pile drivers; Mobile concrete mixers over 14 cu. ft.; Bulldozers, loaders, tractovators; Scrapers and pulls ; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressors & one pump; Pump, three or more; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Gregg
DECISION NO.: TX80-4087 DATE: Date of Publication
Supersedes Decision No. TX79-4035, dated September 28, 1979, in 44 FR 56108.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS	12.10		.45		.05
CARPENTERS:					
Carpenters	10.60				.015
Millwrights	13.25				.015
Piledrivermen	11.10				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' FINISHERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine ops.	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler
DECISION NO. TX 80-4085 DATE: Date of publication
Supersedes Decision No. TX80-4001, dated Jan. 4, 1980 in 45 FR 1376
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving and Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.95	.80	1.25		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	12.60		.80		
CARPENTERS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Carpenters	12.20		.50		.01
Millwrights	12.55		.50		.01
Zone 2 - Childress Co.:					
Carpenters	11.85	.48	.60		.10
Millwrights	12.35	.48	.60		.10
CEMENT MASONS	11.40				
ELECTRICIANS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Electricians	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Zone 2 - Childress Co.:					
Electricians	12.10	.60	3%		1/10%
Cable Splicers	12.35	.60	3%		1/10%

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DECISION NO. TX80-4085 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	$ 7.90			a	
IRONWORKERS:					
Zone 1: Armstrong, Carson, Castro, Childress (excluding southeastern 1/4) Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties	12.10	.55	1.40		.10
Zone 2: Childress County (southeastern 1/4)	10.825	.55	1.40		.10
LABORERS:					
Group 1: General or Construction Laborers	6.82	.63	.40		
Group 2: Air or electric tool operators, jackhammers, vibrator tampers chipping hammers, pipe wrappers, kettleman, asphalt rakers, sand blasterers, pot-tenders, riprap stone pavers, cutting torch operators (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader and placer, chuck tenders, timberman, collapsible form setters, concrete power buggy operators; carpenter tenders, pipe layers: main, sewer and drainage; make-up man, powderman and blasters; gunite ops. or concrete operators	6.97	.63	.40		
LATHERS	12.15				.01

DECISION NO. TX80-4085 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Zone 1 - Childress County:					
Lineman; Operators	$12.10	.60	3%		1/2%
Cable Splicers	12.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
Zone 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Lineman	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Groundman	7.66	.60	3%+.50		1/2%
Operator - hole digger, line truck	8.91	.60	3%+.50		1/2%
Flat bed truck driver	6.72	.60	3%+.50		1/2%
MARBLE MASONS (EXTERIOR)	12.60		.80		
PAINTERS:					
Group 1 - Brush and Roller; Paperhangers; Perfa-tapers	9.95		.50		
Group 2 - Structural steel; Swinging stage or chair below 50 ft.	10.07		.50		
Group 3 - Spray and Sandblasters	10.70		.50		
Group 4 - Perfa-tape machine operator	10.20		.50		
PLASTERERS	12.15				.01
PLUMBERS & PIPEFITTERS	11.90	.50	.65	1.06	

DECISION No. TX80-4085 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 4.50				
SHEET METAL WORKERS	12.38	.50	.66		.12
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS:					
1/2 ton to 3 tons; Ready mix concrete to 3 yds.	3.10				
3 to 5 tons; Ready mix concrete over 3 yds.	3.13				
5 tons and over	3.38				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE FOR GLAZIERS:
a. - Paid Holidays A thru F.

PAID HOLIDAYS FOR GLAZIERS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

DECISION NO. TX80-4085 Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	$11.70	.65	.50		.15
Group 2	11.20	.65	.50		.15
Group 3	9.25	.65	.50		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1: Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating Graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers-12½ tons and over; Shovels; Heavy Duty Mechanics; All Welders; All tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. and over) with Backhoe

Group 2: Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - unders 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader, Payloader; Blade Grader, towed; Elevators, building; Fork Lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors - Wheel type except when hauling material

Group 3: Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise

DECISION NO: TX80-4086

DATE: Date of Publication

~~Supersedes Decision No. TX80-4045, dtd. June 20, 1980 in 45 FR 41832~~

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving Incidental to Building Construction in Tarrant Co. and for Paving & Utilities Incidental to Building Construction in remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Grayson County	10.60				
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	12.98	.57	.50		.07
ZONE 3 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	11.89	.57	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	11.52	.70	.55		.005
Millwrights	11.92	.70	.55		.005
Piledrivermen	12.02	.70	.55		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	12.22	.80	.75		.08
Millwrights	13.50	.80			.08
CEMENT MASONS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	9.645	.40	.60		
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	9.485	.55	.60		.01
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
Electricians	12.70	.60	7%		1%
Cable splicers	12.95	.60	7%		1%
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
Electricians	12.65	.60	7%		1%
Cable splicers	13.92	.60	7%		1%

DECISION NO. TX80-4086 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Mechanics	$11.14	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
GLAZIERS:					
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	11.45	.40	.65		.025
IRONWORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto (excluding northwest corner), Rockwall, Tarrant & Wise (excluding northwest 1/2) Counties	11.81	.55	1.45		.07
ZONE 2 - Palo Pinto (northwest corner) & Wise (northwest 1/2) Counties	10.825	.55	1.40		.10
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled labor	7.145	.30	.40		.02
GROUP 2 - Air tool op. jackhammer, vibrator), mason tenders & mortar mixors, pipelayers	7.395	.30	.40		.02
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	7.83	.30	.40		.02
GROUP 2	7.98	.30	.40		.02
GROUP 3	8.08	.30	.40		.02
GROUP 4	8.23	.30	.40		.02

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LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging dirt work & backfilling; firing of salamanders, loading & unloading of materials to & from hoist or cages; loading & unloading of tools & equipment; wheeling, placing & pouring of concrete; all excavation; handling of lumber, steel, cement; distribution of all materials; flagging trucks; miscellaneous job clean-up; wrecking & razing of buildings & all structures; Cleaning & cleaning of all debris; handling of broken concrete or other damaged or undamaged materials; removing, moving, handling & greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold builders, checking materials & tools in & out of receiving lots & sheds; tool house men; landscaper; asphalt ironer & raker; waterproofing tender; dumper; spotter; concrete pumpcrete pipe (handling & laying); carpenter tender

GROUP 2 - All power tool & equipment operators (gas, electric or air); cutting torch man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan & steel form men; handling creosoted materials; liquid acids or like materials injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale men on batch plants

GROUP 3 - Concrete & clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carriers mortar mixers; lather tenders, plaster tenders; water pump operators up to 4 inches; cement mason tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating & wrapping, including all men working with dope, mortar & plaster mixing machines grout machines, pump crete machines, gunite mixing machines, including placing & cleaning of pipe & conduits used in placing of concrete, handling & placing of gunite materials from stockpiles, screening sand, running sand dryer & loading & operating sand blaster, except nozzle, conveying, stocking & handling of all materials for brickmasons, lathers, cement finishers, plasterers; ditch work over 6 ft. & cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; gumite worker; gunite nozzleman & terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$12.18				.04
LINE CONSTRUCTION:					
Linemen	13.78		3%		1/2%
Cable splicers	15.16		3%		1/2%
Groundman	9.65		3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	10.92		.30		
MARBLE & TILE FINISHERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	7.40				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	$10.73	.55	.60		.07
GROUP 2 - All wall covering work: paper, fabric, sheeting, flexwood, etc.	10.98	.55	.60		.07
GROUP 3 - Ames tools op.	10.855	.55	.60		.07
GROUP 4 - Structural steel, stage work, bosun chair, spray gun, sandblasting & window jacks, fire escapes	11.105	.55	.60		.07
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	11.58		.20		.12
GROUP 2	11.83		.20		.12
GROUP 3	12.83		.20		.12

GROUP 1 - Brush

GROUP 2 - Soray, wallcovering; pressure roller; sandblasting; structural steel; bosun chair, window jack & window sill; stage, fire escape; steel storage tank; stilts; mittens; ames tools, drywall finishing

GROUP 3 - Steeple jack (radio & TV towers, smoke stacks, chimneys & water towers & similar facilities & flag poles atop buildings located closer to the edge of the building than the height of the pole); toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

PLASTERERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	9.44	.45		.50	.03
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	10.41				.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson Hood, Hunt, Kaufman & Rockwall Counties	$12.76	.43	1.00		.10
ZONE 2 - Denton, Johnson, Palo Pinto, Tarrant & Wise Counties	12.53	.64	1.00		.12
ROOFERS:					
GROUP 1 - Slate & tile	10.155				
GROUP 2 - Composition & built-up roofing, damp-proofing & bituminous waterproofing	10.005				
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Rockwall, Tarrant & Wise Cos.	12.645	.60	.84		.145
ZONE 2 - Palo Pinto Co.	12.29				.09
SOFT FLOOR LAYERS	10.85	.40	.40		.01
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	4.25				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a. 1st 6 months - none; 6 months to 5 years - 6¢; over 5 years - 8¢; basic hourly rate
b. Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day G-Christmas Day

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Dallas County:					
GROUP 1	$ 7.89	.65	.90		.125
GROUP 2	10.595	.65	.90		.125
GROUP 3	10.995	.65	.90		.125

GROUP 1 - Oilers
GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade grader, towed; Flex plane; Form grader; Concrete mixer, less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 3 cu. yd. or less; Bob cat with loader

GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Clam shell; Cranes (all types); Truck mounted or crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms: .01¢ per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); DW-10 caterpillar, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machines (all); Forklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile driver; Pumpcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machine, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pump; Welding machines (7 to 13 machines)

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$7.765	.65	1.00		.15
GROUP 2	11.53	.65	1.00		.15
GROUP 3	11.93	.65	1.00		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment

GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear); Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck, Six Wheel Truck, when used continuoulsy for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5,5 (a)(1)(ii)).

[FR Doc. 80-34496 Filed 11-6-80; 8:45 am]
BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: VIRGINIA LOCATION: York & James City Cos. & the Independent Cities of Hampton and Newport News

DECISION NO.: VA80-3068 DATE: DATE OF PUBLICATION

Supersedes Decision No. VA76-3254, dated October 8, 1976, in 41 FR 44680

DESCRIPTION OF WORK: Residential construction consisting of single family houses and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$ 8.50				
Carpenters	6.32				
Cement Masons	6.80				
Dry Wall Hanger	6.49				
Dry Wall Tapers & Finishers	6.00				
Electricians	4.53				
Insulation Mechanics	5.00				
Laborers, Unskilled	4.08				
Painters, Brush	5.29				
Plumbers	7.65				
Roofers	5.51				
Sheet Metal Workers	4.41				
Soft Floor Layers	6.50				
Truck Drivers	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.43				
Bulldozer	6.36				
Forklift	5.03				
Loader	4.56				

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federal register

Friday
November 7, 1980

Part V

Department of Health and Human Services

Food and Drug Administration

Laser Products; Intent to Amend Performance Standard

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1040

[Docket No. 80N-0364]

Laser Products; Intent To Amend Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is considering amending the laser product performance standard to require certain reporting, recordkeeping, and labeling for original equipment manufacturer component sales, to simplify the definition for "human access," and to clarify the concepts of "protective housing" and "product classification." Additionally, there may be a need to extend the wavelength range of control, to relax the general requirements for safety interlocks and viewing optics, and to eliminate the requirements for a remote control connector and an emission indicator delay on Class III products below 5 milliwatts peak power output. A change may also be proposed to clarify the need for scanning safeguards on certain lasers as a function of product classification, to require an emission indicator on operator controls separated from the laser system in excess of 2 meters, and to require a new "manual reset mechanism" performance feature for Class III and Class IV laser products. The standard may also be amended to incorporate appropriate requirements for laser light shows. FDA's experience in administering the laser standard has indicated a need to make changes.

DATE: Comments and data by January 6, 1981.

ADDRESS: Written comments and supporting data to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard S. Sternchak, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: FDA issued the performance standard for laser products in Part 1040 (21 CFR Part 1040) as a final rule in the **Federal Register** of July 31, 1975 (40 FR 32252). Based on its experience in administering the laser standard since it became effective on August 2, 1976, FDA has recognized that some provisions of the standard needed to be revised. The agnecy issued amendments to the performance standard as a final rule in the **Federal Register** of November 28, 1978 (43 FR 55387). These amendments removed unneeded criteria for determining human access to laser or collateral radiation; specified more appropriate parameters for measuring the accessible emission levels of laser and collateral radiation, including scanned laser radiation; relaxed the accessible emission limits for collateral radiation in the wavelength range of greater than 400 nanometers (nm); relaxed the labeling and performance requirements for some Class II laser products; and allowed more administrative flexibility in determining the wording of warning labels. These amendments solved major problems in the standard. They also reduced the burden on manufacturers by increasing the design latitude within each of the graded risk classes for laser products without compromising the public health and safety.

As a result of the agency's continuing effort to evaluate the significance of new information and its experience enforcing the present laser standard and processing variance applications, FDA has concluded that other amendments may be necessary. The modifications under consideration, FDA believes, would further clarify the standard without affecting the hazard classification scheme; would appreciably reduce the burden on affected manufacturers without compromising the public health; and would generally improve the effectiveness of regulation of the laser industry without imposing undue constraints.

This notice is being issued under FDA's policy of seeking early public participation in performance standard amendment activities. Comments and supporting data concerning the rationale for the proposed amendments discussed below would be particularly useful:

1. The agency believes that there may be a need to require manufacturers of laser products not subject to the performance standard to maintain relevant records, to provide certain reports, and to affix additional labeling. Any laser product sold to, by, or for a manufacturer of an electronic product subject to the performance standard for use as a component (or replacement thereof) in such electronic product, commonly referred to as an original equipment manufacturer (OEM) component, currently is not subject to the performance standard for laser products set forth in § 1040.10(a) (1) and (2) (21 CFR 1040.10(a) (1) and (2)) and is excluded from the reporting and recordkeeping requirements for electronic products set forth in § 1002.1(b) (21 CFR 1002.1(b)). Under these circumstances, FDA's Bureau of Radiological Health (the Bureau) cannot ensure that these laser products actually meet the conditions required for exclusion from the standard.

FDA has information that some manufacturers have been selling uncertified and noncompliant laser components to end users rather than to actual laser product manufacturers. To prevent these unauthorized sales, the agency is considering actions to ensure the proper identity, use, and traceability of OEM laser products. These could include the requirement that a label listing the manufacturer's name and address, the date of manufacture, and model and unit identification be placed on all components. A requirement that OEM manufacturers verify, prior to shipment, that all sales of laser products not subject to the performance standard are sold to, by, or for other manufacturers for use as components in electronic products could be imposed. The records that manufacturers may be required to maintain would be similar to those required by § 1002.30(a) (4) and (b) (21 CFR 1002.30(a) (4) and (b)) and would include records of OEM sales verification. Records to be obtained by dealers and distributors would be the same as those listed in § 1002.40 (21 CFR 1002.40). The conditions for the preservation, inspection, and disposition of records would be in accordance with §§ 1002.31 and 1002.41 (21 CFR 1002.31 and 1002.41). One proposal is to limit reporting to annual reporting under the provisions of § 1002.11 (21 CFR 1002.11), except that the submission might need only to summarize the contents of the records to be maintained under § 1002.30(a) (4) and (b).

2. The current definition of "laser" in § 1040.10(b)(15) specifies the applicability of the laser product performance standard to a wavelength range between 250 and 13,000 nm. The agency is considering extending the wavelength range for the classification limits of laser products, because it has found that laser products are being manufactured outside the present control range. At the low end of the wavelength spectrum, excimer (rare gas-holgen combination) lasers are commercially available that emit short, intense pulses in the shortwave ultraviolet (UV). These include argon fluoride (ArFl) and krypton chloride (KrCl) lasers that radiate at 193 nm and 220 nm wavelengths, respectively. Fluorine (Fl) lasers operating at 157 nm are also available but may not be placed under performance standard control because they operate in the vacuum-UV range.

Several types of lasers are available in which far-infrared output is obtained by illuminating a gas with a carbon dioxide (CO_2) or carbon monoxide (CO) laser. These lasers generally produce low-power, pulsed, or continuous-wave output for spectroscopic purposes. Molecules used in these lasers include methanol of 119 micrometer (μm) output, hydrogen cyanide for 311 μm or 337 μm, ammonia for 34 to 388 μm, and methyl fluoride for 496.1 μm. The agency is considering extending the wavelength range of control to between 180 nm and 10^6 nm (1 millimeter) to include these laser products.

Of concern is the lack of biological data upon which limits would be based in the expanded regions. Without such data, it may not be possible to effect this change. The agency invites submission of relevant biological effects data. This expanded wavelength range, however, does coincide very nearly with the 200 nm to 10^6 nm wavelength range contained in the American National Standards Institute (ANSI), Inc.'s recommended "Standard for the Safe Use of Lasers" (ANSI–Z 136.1–1980, revision pending).

3. Reference to a line-of-sight path of up to 100 centimeters (cm) was included in the present definition of "Human access" in § 1040.10(b)(12)(ii) to account for the possible insertion into a laser product of optical fiber probes, tools, or other foreign objects that could allow access to specularly reflected laser radiation. These types of objects inserted through a small hole, crack, or opening in a protective housing could possibly reach points accessible by a straight, unobstructed path of up to 100 cm from any part of the human body and reflect accessible laser radiation. The likelihood of this occurring may not be sufficiently great to warrant the added design difficulty posed by this requirement. The agency is considering whether the 100 cm line reference should be modified for clarification or simply be deleted. Modification may require the specification of the maximum allowable size of dimensions of permanent openings in protective housings other than exit apertures and temporary openings that result from intended portions of the protective housing being removed and displaced.

4. Based on the review of initial reports and the inspection of actual products, FDA has found that laser product manufacturers have particular difficulty interpreting the present laser performance standards requirements for protective housings. Consequently, manufacturers have had difficulty designing products with protective housings that comply with the standard. Therefore, the agency is considering rewording § 1040.10(f)(1) to make it easier to understand. This action may include stating the general requirement more simply, clarifying the phrase "wherever and whenever", and relating the concept of protective housing more closely to the amended definition of human access.

5. FDA, from experience, recognizes that product classification is a complex process. That process involves the simultaneous consideration of a set of interrelated criteria for permitting or preventing human access to laser or collateral radiation. These criteria vary with the individual function and form of each product. This complexity often leads to misclassification of laser products. The agency believes that the wording of § 1040.10(c)(1) can be improved to make product classification more understandable. It is considering restructuring the section by providing more procedural details, using simplified terms and sentence structure, and integrating the concept of protective housing more closely with the concept of product classification.

6. The agency is considering relaxing the requirements for safety interlocks. Under the conditions currently defined in § 1040.10(f)(2), each laser product, regardless of its class, requires a safety interlock for each portion of the protective housing that is designed to be removed or displaced during operation or maintenance, if removal of displacement of that portion of the protective housing could permit human access to laser or collateral radiation in excess of the limit of the lowest class necessary for the performance of the intended function of the product. To comply with the current standard, safety interlocks must prevent human access to unnecessary laser and collateral radiation upon removal or displacement of the interlocked portion of the protective housing and preclude the removal or displacement of that portion of the housing upon failure of the interlock to prevent human access to radiation in excess of the required limit. If defeatable, the safety interlock must also provide an indication of interlock defeat, and when defeated, it must preclude replacement of the removed or displaced portion of ther protective housing.

The requirements for safety interlocks and the concepts for meeting them are discussed in the Bureau's Interpretative Guideline No. 12, dated September 9, 1976. Since that time, the Bureau has relaxed its policies on safety interlock requirements. The Bureau states in Interpretative Guideline No. 20, dated July 1, 1977, that it will not object to the use of standard electrical and mechanical interlocks with appropriate labeling for operation and maintenance ports in the protective housing of laser products through which access to levels of visiable laser radiation not exceeding Class II limits is possible. This relaxation was considered warranted because eye damage, while possible from chronic exposure to Class II levels of laser radiation, is not likely to occur from acute exposure. The agency is now considering relaxation of the laser standard regarding safety interlocks because experience has shown that the current requirements may be overly restrictive. With regard to laser products that could permit human access to visible laser or collateral radiation through portions of the protective housing intended for removal or displacement, the agency is considering elimination of interlock requirements for accessible levels below the limits of Class II. It may also eliminate the requirements of § 1040.10(f)(2)(i)(*b*) for accessible visible laser radiation levels in excess of the limits of Class II but equal to or less than 5 milliwatts (mW) peak power, as long as an interlock and interlock failure indicator are provided. In addition, the agency is considering allowing the use of dual interlocks in lieu of the requirements of § 1040.10(f)(2)(i)(*b*) when access to visible laser radiation levels in excess of 5 mW peak power can be gained. Panels intended for removal or displacement during operation or maintenance may still require safety interlocks meeting all requirements of the present § 1040.10(f)(2) if access could be gained to laser radiation above 710 nm or less than 400 nm wavelengths. These changes would make the safety interlock requirements of the laser standard more consistent with the less restrictive guidelines recommended in ANSI–Z 136.1–1980, (revision pending) and by the International Electrotechnical Commission (IEC).

7. Section § 1040.10(b)(30) currently defines a remote control connector as an electrical connector which permits the connection of external controls placed apart from other components of the laser product to prevent human access to all laser and collateral radiation in excess of the limits specified in §§ 1040.10 and

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1040.11 (21 CFR 1040.10 and 1040.11). The agency questions the need for a remote control connector on products intended for outdoor use and certain other products that radiate at or below 5 mW peak power in the visible wavelength range. This is because external barrier interlocks and optional remote switches are almost never used on products in this category, which includes surveying, leveling, and alignment laser products. Furthermore, these laser systems are generally not used under conditions that would pose a high risk of injury due to retinal burns. Both the IEC and ANSI only recommend the implementation of this performance feature on Class III_b and Class IV laser products.

8. The agency is considering requiring a new performance feature for Class III lasers above 5 mW peak power output and Class IV systems to protect the operator from dangers associated with the unexpected resumption of radiation emission following interruption of product operation due to any temporary power failure, interlock failure or defeat, or use of the remote control connector. A "manual reset mechanism" safety feature may be added to laser products that exceed 5 mW peak power to preclude the high risk of injury to an attendant from the sudden automatic reenergizing of the product.

9. Section 1040.10(f)(5)(ii) states that each laser system classified as a Class III or IV laser product shall incorporate an emission indicator which provides a visible or audible signal during emission of accessible laser radiation in excess of the accessible emission limits of Class I, and sufficiently prior to emission of such radiation to allow appropriate action to avoid exposure to the laser radiation. Technically, visible radiation of 5 mW peak radiant power is a level at which biological damage to human tissue is possible from acute direct exposure, and direct viewing should be prevented. There is no clear distinction, however, between the bioeffects of lasers at the low end of Class III and that of lasers at the upper levels of Class II, where radiation may be viewed under carefully controlled exposure. Therefore, the agency is considering not requiring an emission delay for laser products radiating in the visible up to 5 mW peak power output because of the marginal safety benefit that would be provided by this requirement. The degree of risk involved by not providing an emission delay in these circumstances may not justify the cost of implementation.

10. On the other hand, the agency may require an emission indicator on operator controls that are separated from the laser head and the laser energy source by a distance of greater than 2 meters. Experience has shown that the requirement of a second emission indicator is often more appropriate on the controller than on a power supply under the same condition of separation. This requirement would be consistent with the safety criteria set forth in § 1040.10(f)(5)(iii), which states that, "if the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both laser and laser energy source shall incorporate an emission indicator as required in accordance with § 1040.10(f)(5)(i) or (ii)."

11. FDA is also considering an amendment to relax the requirements for viewing optics during the performance of service functions. Unlike operation and maintenance, service must often be performed under compromised circumstances of human access to higher levels of laser and collateral radiation. However, these activities are generally performed under controlled conditions, for shorter periods, and by individuals having more technical awareness. For these reasons, the agency is considering allowing Class II accessible emission levels through viewing optics during service.

12. The agency believes that it may be necessary to clarify the requirement for a scanning safeguard on laser products which emit accessible scanned laser radiation for laser products classified at a higher level than would be exceeded upon scan failure. There is a question concerning the need, under all circumstances, for a scan failure safeguard to preclude change of class of scanned radiation as now required in § 1040.10(f)(9).

13. FDA is considering modifications to the specific purpose section of the laser product performance standard, § 1040.11(c) (21 CFR 1040.11(c)), to include requirements for laser light show products. At the time of the development of the laser standard, the widespread use of higher powered lasers in light shows was not anticipated. Consequently, in most cases, it is impossible for a laser light show to meet the requirements of the standard for "demonstration laser products." Therefore, those light show products are now regulated by the use of procedures for variance from the laser performance standard. FDA is considering amending the standard to incorporate the appropriate requirements for these special laser products to negate the need for variances.

Interested persons are invited to participate in these efforts to improve the laser product performance standard by submitting written data, views, or arguments concerning the matters discussed in this notice and any associated environmental and economic concerns. Written comments or data should be sent (preferably four copies) to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The comments should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Comments submitted before December 3, 1980, may be discussed at the next meeting of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), tentatively scheduled for December 3–4, 1980, as part of its review of possible proposed amendments resulting from this notice. This committee, a statutory advisory committee to the Secretary of Health and Human Services, must be consulted prior to the establishment of standards under the Radiation Control for Health and Safety Act of 1968. All comments received will be considered to the fullest possible extent in formulating the proposed amendment(s). Information submitted in response to this notice will be available for public inspection in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f) and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: November 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34720 Filed 11-4-80; 10:12 am]

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federal register

Friday
November 7, 1980

Part VI

Environmental Protection Agency

Toxic Substances Premanufacture Notification Requirements and Review Procedures; Statement of Revised Interim Policy

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-50019; TSH-FRL 1653-5]

Toxic Substances Premanufacture Notification Requirements and Review Procedures; Statement of Revised Interim Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed-Rule-Related Notice.

SUMMARY: On January 10, 1979, EPA proposed rules and notice forms for permanufacture notification for new chemical substances under section 5 of the Toxic Substances Control Act, 15 U.S.C. 2604 (44 FR 2242). On that date, EPA also established an interim policy for the submission of premanufacture notices. This policy was to apply for 90 days after the effective date of the premanufacture notification requirement. On May 15, 1979, EPA published a statement of Interim Policy to clarify its earlier proposal (44 FR 28564). The latter statement extended the Interim Policy's coverage to all notices filed before the effective date of the final premanufacture rules and notice forms. The May 15 statement also outlined procedures that the Agency intended to follow concerning premanufacture notices filed under the Interim Policy.

This Revised Interim Policy Statement, is intended to clarify further the original interim policy. Provisions of the May 15 notice which are not addressed in this statement will remain in effect as published on May 15, until the final rules are promulgated.

ADDRESS: All materials regarding the premanufacture notification rulemaking are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-429, 401 M St., SW., Washington, DC 20460. Toll Free: 800-424-9065; in Washington, D.C., 202-554-1404.

SUPPLEMENTARY INFORMATION:

I. Background

On January 10, 1979, EPA proposed regulations governing the submission of premanufacture notices under section 5 of the Toxic Substances Control Act (TSCA or the Act) (44 FR 2242). Section 5 provides that any person who intends to manufacture (or import) a new chemical substance for a commercial purpose must submit a notice to EPA at least 90 days before he commences manufacture (or import). A "new chemical substance" is defined in section 3(a) of the Act as any chemical substance which is not included on the list of existing substances which EPA keeps under section 8(b).

Premanufacture notices are required for all new chemical substances manufactured or imported 30 or more days after publication of the section 8(b) list. The notification requirement for any chemical substance manufactured, or imported in bulk became effective July 1, 1979, 30 days after publication of the Revised Inventory. The notification requirement for new chemical substances imported as part of a mixture was effective August 30, 1980, 30 days after publication of the Revised Inventory.

The preamble to the January 10, 1979 proposed regulations contained an interim policy for the submission of notices for new chemical substances to be manufactured or imported within 90 days after the section 5 requirement took effect (44 FR 2245). That policy covered notices submitted prior to publication of the Inventory, for chemicals believed to be "new" and which submitters intended to initially manufacture or import within 120 days after publication of the Inventory.

On May 15, 1979, EPA published another Statement of Interim Policy to clarify the terms of the initial interim policy statement. The May 15 statement replaced the interim policy published in January and applied to all notices received prior to the effective date of the premanufacture notification rules. Reporting under this policy began on July 1, 1979, 30 days after publication of the Inventory.

The purpose of this notice is to clarify the Interim Policy based on the comments received and on the Agency's experience with notices since July 1, 1979. As stated in the May 15 Interim Policy Statement, EPA cannot require compliance with the proposed regulations before completion of the rulemaking. However, pending final rulemaking, EPA will continue to act on a case-by-case basis when a notice fails to meet the statutory requirements. The provisions of the May 15 notice which are not addressed in this statement will remain in effect as published on May 15, until the final rules are promulgated.

The Agency currently is working on various aspects of section 5 rulemaking. EPA is reviewing comments received on the proposals of January 10, 1979 and October 16, 1979 (44 FR 59764). In addition, the Agency will propose the economic analysis and Draft Regulatory Analysis for public comment. In the **Federal Register** of August 15, 1980, the Agency proposed a rule extending reporting requirements to processors (45 FR 54642). This may be incorporated into the final section 5 rules. After a review of the economic analysis and the comments received on all these issues, the Agency will promulgate the final section 5 rules.

II. Notice Contents

Section 5(d) of TSCA requires that notices contain certain categories of information that are listed in section 8(a)(2) of the Act and reprinted in the May 15 Interim Policy. Persons who do not submit any data relevant to one of those categories or who submit little data should indicate in their notice that the missing information is "not known or reasonably ascertainable." This is preferable to simply failing to provide information without any explanation. However, in some cases EPA will presume that certain information is known to or reasonably ascertainable by the submitter. This may be true for some types of chemicals or processes in question, or for some kinds of information, such as production volume and use. EPA particularly will question responses by submitters that molecular structure is not known or reasonably ascertainable.

To date, EPA has received several submissions which initially did not meet these statutory requirements. The policy has been to notify the submitter as soon as possible of the inadequacy of the submission and what action must be taken to fulfill the statutory requirements. The notice period does not begin until the required information is provided by the submitter. To avoid similar problems, which cause both the submitter and the Agency unwanted delays, EPA is providing the following examples of responses which did not meet the statutory requirements.

One submission did not include the molecular structure of the new chemical substance. Section 8(a)(2)(A) requires this information to the extent that it is known to or reasonably ascertainable by the submitter. In providing identity information, submitters should follow the instructions for reporting for the Inventory. Substances with no known Chemical Abstract Service (CAS) number should be identified in accordance with Appendix 5 of "Reporting for the Chemical Substance Inventory" which describes the development of chemical structure diagrams. If submitters cannot provide exact structural diagrams because of the nature of the substances, representative structures are satisfactory. For the notice in question, EPA scientists determined that representative molecular structures for the new chemical substance were in fact known to or reasonably ascertainable by the submitter because a knowledgeable chemist should have been able to derive the structure from available process information. Therefore, the notice review period did not begin until this information was provided to EPA.

Section 8(a)(2)(B) requires the submitter to include in the premanufacture notice the categories or proposed categories of use for the chemical substance described in the notice. The category of use should be specific enough to enable EPA to estimate potential consumer exposure as part of the risk assessment of the subject chemical. The Agency received several submissions that were incomplete since, without use information, it was unable to make reasonable assessments of consumer exposure. In one case, the submitter described the new substance only as a "captive intermediate" without specifying the substance's end use. Clearly EPA could not estimate consumer exposure from such a use description. Therefore, the 90-day review period did not start until the submitter supplied more specific use information.

Section 8(a)(2)(C) requires that a notice include "reasonable estimates of the total amount of the new substance to be manufactured or processed." In one case, the notice submitter only provided minimum production volume estimates. EPA does not believe that an estimate with only a lower limit is a "reasonable" estimate of the "total amount." Submitters should provide a range for production estimates, or at least provide an estimated maximum production volume.

Sections 8(a)(2) (D), (F) and (G) require submitters to describe the byproducts, the number of individuals exposed in their places of employment and the duration of that exposure, and the method of disposal of the new chemical, respectively. Such information should be provided for the total lifecycle of the new substance to the extent it is known or reasonably ascertainable. The submitter, knowing proposed uses of the new chemical, should be able to provide information on worker exposure, byproducts, and disposal beyond those processess such as manufacturing or processing over which the submitter has control. If such information is not known to or reasonably ascertainable by the submitter, EPA will make its own best estimates of worker exposure, byproducts and disposal for the lifecycle of the chemicals.

Regarding workplace exposure, one submitter only stated that exposures would be in accord with OSHA requirements. Such a statement is not sufficient to meet the statutory requirements of section 8(a)(2)(F) since EPA under TSCA may reach workplace exposures OSHA cannot. Section 8(a)(2)(F) requires estimates for workplace exposure, at least in the aggregate, and preferably divided among the stages of manufacture, processing, distribution in commerce, use, and disposal to the extent that they are known or reasonably ascertainable. The notice review period did not begin until the Agency had received this information.

In another case, a submitter only provided statements that exposures would be "minimal or nonexistent" or "no hazard". Such qualitative statements do not meet the requirements of section 8(a)(2)(F) for estimates of the number of individuals who will be exposed in their places of employment and the duration of that exposure. In this case, the notice review period did not begin until the Agency received quantitative exposure estimates.

Finally, section 5(d)(1)(B) requires the submission of any test data on the health or environmental effects of the new substance in the possession or control of the person submitting the notice. In some cases the Agency has received only conclusions based on the health or environmental effects data. A submitter should provide actual test data (including protocols or methods), results, and conclusions of tests for health or environmental effects of the new substance in the notice.

III. Use of the Notice Form

EPA proposed a notice form in January 1979 and proposed a revised form in October 1979. While use of a form is not mandatory until the Agency has completed its rulemaking, EPA strongly encourages submitters to use the revised form. Using the form will (1) provide the Agency with a consistent format, (2) speed the review process, and (3) provide the Agency with experience for additional, future clarification of the form when finally promulgated. Use of the form also benefits the submitters by allowing standard organization of data, thus reducing completion time.

The following is a brief explanation of the parts of the form which have most often raised questions.

Byproducts and impurities: Some submitters have been unsure where to list byproducts, impurities and other related substances. Impurities should be listed in Subsection 4 of Part I, Section B, Chemical Identity. Information on other related chemical substances, such as byproducts that are produced during manufacture of the new substance, should be included in the Block Diagram, Part II, Section A, Subsection 2. For industrial sites controlled by the submitter, Part II, Section A, Subsection 3.5, requests a listing of related chemicals to which workers may be exposed. For sites controlled by others, information on related chemicals such as byproducts or feedstocks should be provided in Part II, Section B, Subsection 2 as part of the process description and in Subsection 4.3 for those related materials that contain the new chemical substance and will be disposed of as solid or liquid waste. In addition, byproducts which are formed as a result of consumer and commercial categories of use should be reported in Part II, Section C, Subsection 4.

Manufacture, processing, use and disposal: Some submitters indicated that it is difficult to distinguish between manufacture, processing, use and disposal and as a result they were uncertain for which industrial sites they must submit information. Submitters must provide worker exposure and environmental release and disposal data for all industrial sites where activity with the new chemical substance occurs. The following examples will clarify where this information should appear on the form.

If submitter A produces a new solvent X to be used in paints, data on human exposure and environmental release during manufacture should be provided in Part II, Section A, Industrial Sites Controlled By the Submitter. If another party manufactures the substance under contract, this information should be provided in Section B, Industrial Sites Controlled By Others. If the solvent X is used in paint formulation, processing may be conducted by manufacturer A or it may be conducted by paint manufacturer B to whom manufacturer A has supplied solvent X. If A produces the paint at his own site, he should provide worker exposure and environmental release information in Part II, Section A. However, if manufacturer A supplies solvent X to manufacturer B, then manufacturer A should supply the worker exposure and

environmental release information in Section B.

Site-specific exposure and environmental release data are required only for use of the new substance at an industrial site. The paint containing solvent X in the previous example may be used to paint automobiles at an automotive manufacturing site not controlled by manufacturer A. In this case, A should provide information concerning worker and environmental release in Part II, Section B of the form. If, however, the paint containing the solvent X is distributed for general consumer use and no further use occurs at an industrial site, A should complete Part II, Section C, Consumer and Commercial User Exposure.

Site disposal information must be provided for any site where liquid or solid wastes are generated during manufacture, processing, or industrial use of the new chemical substance. For example, if disposal occurs at the manufacturing site, manufacturer A should complete Part II, Section A, Subsections 3 and 4. If disposal occurs at commercial or municipal disposal sites, manufacturer A should complete Section B. If solvent X is used by manufacturer B to produce auto paint, manufacturer A should report disposal by manufacturer B in Section B, no matter where disposal occurs. If solvent X is used as a degreasing agent at an automotive manufacturing site, manufacturer A should also report disposal of the waste solvent in Section B.

If the submitter controls an industrial site, Part II, Section A should be completed. If other persons control the site, Part II, Section B should be completed.

Category of use: Some submitters have asked what information should be provided on the categories of use that are the basis for the production volume estimates for Category of Use, Part I, Section D, Subsection 2. The category of use list should include all phases of industrial, commercial and consumer applications. For example, if the submitter intends to manufacture a new solvent to be used in house paint the following categories of use would be reported: solvent: paint manufacture, industrial; solvent: house paint, consumer, commercial.

Detailed data concerning human exposures and environmental release associated with these categories are required in Part II of the notice. Information concerning the processing of the new solvent in the manufacture of paint would be reported in Part II, Section A, if the submitter controlled the site, or Section B, if other persons controlled the site. Similarly, information concerning consumer use and exposure for the "house paint" category of use would be provided in Part II, Section C, Consumer and Commercial User Exposure. If the submitter believes that completion of these parts of the form does not explain the exact nature of each category of use, he may attach a narrative description of the operation and conditions that are expected for each category of use.

Human exposure and environmental release data: Some submitters have asked what kind of exposure data should be provided and how detailed it should be. Part II of the proposed form requires human exposure and environmental release and disposal data to be submitted for all industrial, commercial and consumer uses of the new chemical substance. In most places where quantitative estimates are requested, ranges have been provided. If ranges are not provided, submitters may use their own ranges. If submitters have information more detailed than that requested by the form, they may voluntarily provide such information.

Plant hours of operation: Some submitters were confused about reporting the hours of operation of the industrial plant that manufacturers, processes, or uses the new chemical substance. Estimates should be based on the operations that involve the new chemical substance only and not total hours of operation for each site.

Federal Register *notice:* The October 16 reproposal also included a page for information to be published in the **Federal Register** in accordance with section 5(d)(2) of the Act. This information comes from various parts of the form. The submitter is given the opportunity to provide generic substitutes for any of the information which would appear in the **Federal Register** but has been claimed confidential on the form. If the submitter does not complete this part of the proposed form, EPA will compile nonconfidential information from other parts of the form and publish it in the **Federal Register**.

IV. Confidentiality

Pending the promulgation of section 5 regulations, the assertion and review of confidentiality claims and the disclosure of information will be governed by EPA's general rules for confidentiality of business information submitted under TSCA (40 CFR 2.306.)

Until the section 5 rules are effective, the policy discussed below will apply to all information submitted to EPA under the premanufacture notification program. After the rules are effective, all such information in the possession of the Agency will be subject to the rules. EPA will give submitters ample opportunity to update past confidentiality claims to conform to the new rules.

A. Asserting Claims

As stated in the May 15 Interim Policy, if a person wishes to assert a business confidentiality claim for all or part of the information submitted to EPA, he must assert this claim with the notice. If the person does not assert a claim at the time he submits the information, EPA will make the information available to the public without further notice to the submitter.

If the submitter uses the proposed notice form, he may assert his claims of confidentiality in accordance with the instructions published as an appendix to the October 16 reproposal.

The form as proposed in October provided a system for asserting claims of confidentiality. The Agency, recognizing the relationship between various pieces of information, allowed submitters, by checking one box, to claim several pieces of related information confidential for the same reason. For example, if submitters want to claim confidential all the information in questions 1, 2, 3 under Manufacturer Identification (Part I) on page 2 of the proposed form, they only have to check the box at the top of Section A. There is no need to individually check the boxes next to items 1, 2, and 3 to assert the same claim of confidentiality.

If the submitter does not use the proposed form, section 2.203(b) of EPA's business confidentiality regulations prescribes the methods for claiming confidentiality. For example, confidential portions of otherwise non-confidential documents should be identified clearly. EPA strongly urges submitters to be as specific as possible in identifying confidential information. Each page of a document should be marked appropriately. In some cases, if non-confidential and confidential material are mixed on a single page, item-by-item markings would be appropriate. Section 2.203(b) also states that where a portion of an otherwise non-confidential document is asserted to be confidential, the person may submit separate confidential and non-confidential documents to facilitate identification and handling by EPA. The Agency strongly encourages persons to submit two copies of premanufacture notices if some of the information is claimed confidential. Section 5(d)(1) of TSCA requires the Agency to make public any non-confidential information in premanufacture notices. Therefore, if a submitter does not file a non-confidential copy, EPA will prepare an excised copy for the public file, based upon the submitter's confidentiality claims. Submitter preparation of the public copy will ease the administrative burden on EPA, and will reduce the remote possibility that EPA inadvertently will disclose information which a submitter claims as confidential.

Another question raised about confidentiality concerns the treatment of generic names submitted to the Agency when the specific chemical identity of a new chemical substance is claimed confidential. The proposed form requests the submitter to provide three generic names. Because disclosure of more than one generic name could reveal the confidential chemical identity of a substance, EPA treats as confidential business information the two generic names not included in the section 5(d)(2) notice published in the **Federal Register**.

B. Substantiation of Claims

The Agency encourages submitters of notices containing claims of confidential business information to substantiate those claims when the notice is submitted. The October 16 reproposed form and accompanying instructions provide a method for substantiating the claims. If the claim is not substantiated, the Agency, early in the notification period, will send the notice submitter a detailed letter requesting substantiation of all information claimed confidential. EPA must do this to meet short Freedom of Information Act deadlines in view of the large number of requests received and anticipated. Therefore, the Agency encourages persons to substantiate their confidentiality claims at the time the notice is submitted and thus avoid the duplication and delay which is caused by separate substantiation.

Any information which the submitter furnishes in response to substantiation questions, can be claimed as confidential by marking Confidential at the top of each page containing such information. EPA will not disclose such information to the public unless ordered by a court.

C. Disclosure of Chemical Identity during the Interim Period

Pending completion of section 5 rulemaking, EPA will not disclose a specific chemical identity included in a health and safety study submitted with a premanufacture notice, if such disclosure would reveal confidential business information. This policy will apply both before and after a person has commenced manufacture or import of the substance. However, all information submitted to the Agency during the interim period will be subject to the section 5 rules when they become final.

V. Test Marketing Exemptions

Section 5(h)(1) of TSCA authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b) of the Act, and to permit applicants to manufacture or process new chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. Section 5(h)(6) provides that EPA must either approve or deny the application within 45 days of its receipt and must publish a notice of its decision in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Based on the exemption applications received to date, the Agency is concerned about the failure of test marketing applicants to provide sufficient data for EPA to make the required finding that the test marketing will not present any unreasonable risk of injury to health or the environment. For example, some manufacturers have not provided any toxicity data in their applications. In some cases, EPA may not be able to obtain sufficient information to determine that the substance will not present any unreasonable risk during test marketing and thus could not approve the application. To approve an exemption application, the Agency must make an affirmative finding that there will not be any unreasonable risk presented by the test marketing activities. It is not sufficient for EPA to find only that there is no basis to conclude that there may be an unreasonable risk. Moreover, EPA has only 45 days to determine if there is an adequate basis for making the statutory finding for approval of an exemption. This limits the extent to which EPA can search beyond the manufacturer's application for information indicating a lack of unreasonable risk.

If the manufacturer does not include adequate information to assess the risks presented by a proposed exemption and if data otherwise are not readily available to EPA during the 45-day review period for the applications, EPA will not be able to make the finding of no unreasonable risk and will deny the request for an exemption. Taken alone, the absence of data in the application will not be the basis for a denial. However, if at the end of the 45-day review period there is significant uncertainty concerning the risk presented because of a lack of data on the toxicity of, or exposure to, the chemical substance during test marketing, the Agency will not approve the application.

To facilitate review of applications and to enable EPA to meet the statutory burden for granting test marketing exemptions, applicants are encouraged to include, at minimum: all existing data regarding health and environmental effects of the substance, including physical and chemical properties and in the absence of such data, a discussion of toxicity based on Structure-Activity Relationships (SAR) and relevant data on the selected analogues; the maximum quantity of the substance which the applicant will manufacture for test marketing purposes; the maximum number of persons that may be provided the substance for test marketing purposes; the maximum number of persons who may be exposed to the substance as a result of test marketing, including information regarding duration, concentration, and route of such exposures; and a description of the test marketing operation, including its length, and how it can be distinguished from full-scale commercial production.

VI. Public Inquiries

Since the effective date of the premanufacture notification program, the Agency has received inquiries concerning various aspects of the program. This Revised Interim Policy Statement will outline the Agency's policy on how these inquiries will be handled.

EPA has received three types of inquiries related to the premanufacture notification program.

1. General inquiries concerning the status of the program.

2. Inquiries from persons preparing a notice or considering the submission of one, who have specific questions about their responsibilities.

3. Inquiries concerning notices that have been submitted to EPA.

Guidance for those who may wish to consult with the Agency in any of these areas is discussed below.

General inquiries: The Office of Toxic Substances (OTS) created an Industry Assistance Office to respond to general inquiries concerning the various programs operating under TSCA. General inquiries concerning the premanufacture notification program, not related to a specific chemical or notice, should be directed to the Industry Assistance Office. That office is open from 8:00 a.m. to 5:00 p.m., Monday through Friday (except holidays). Persons may contact that

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office by telephone toll-free at 800–424–9065 or, in Washington, 554–1404. Written inquiries may be sent to: John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–429, 401 M St., SW., Washington, D.C. 20460.

Prenotice communications: The Notice Review Branch (NRB) of the Chemical Control Division (CCD), the office primarily responsible for implementation of the premanufacture notification program, employs a Prenotice Communications Coordinator to assist persons preparing a notice of considering the submission of one. Although a wide range of topics is covered under this category, the NRB Prenotice Communications Coordinator should be the initial Agency contact. The Coordinator will either respond directly to the question or refer the inquirer to the OTS staff person who can best answer the specific question. The NRB Prenotice Communications Coordinator can be reached by telephone at 202–426–3980 or by writing to the: Prenotice Communications Coordinator, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

EPA staff may respond to telephone inquiries but the Agency will consider the response only informal advice by staff that may not necessarily represent the official Agency view. The Agency will treat prenotice communications with high priority and will respond as quickly as possible.

Inquiries about notices submitted to EPA: Once a notice has been submitted, a notice manager in the Chemical Control Division is assigned to that notice. The notice manager is responsible for coordinating the review of that notice and is the Agency spokeperson for all matters concerning the notice. During the review, as a general rule, no information about a specific notice, othe than that available in the Public File, will be discussed with anyone other than an authorized representative of the company and preferably only with those listed as company contacts on the notice. Persons wishing to speak with the notice manager for a particular notice can contact the NRB Prenotice Communications Coordinator for the notice manager's name and phone number. That information also is listed in the section 5(d)(2) **Federal Register** notice.

In addition, the Agency is establishing an Advisory Circular System to inform the regulated industry and the general public of EPA decisions or interpretations which may affect the implementation of section 5. The Advisory Circular System will provide information on the Agency's procedures under the Interim Policy and under the rules when promulgated. Subscriptions to the series can be obtained free of charge by writing to: John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–429, 401 M St., SW., Washington, D.C. 20460.

Dated: October 23, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80–34723 Filed 11–6–80; 8:45 am]

BILLING CODE 6560–01–M

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federal register

Friday
November 7, 1980

Part VII

Department of Agriculture

Food and Nutrition Service

Summer Food Service Program for Children

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program for Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule completely reorganizes the regulations for the Summer Food Service Program for Children (Program) to make them easier to understand and use. The proposal also makes several substantive changes. It requires State agencies to establish for each food service site serving vended meals an approved level of meal service. Program sponsors will not receive reimbursement for meals served in excess of the approved levels. This change is intended to reduce waste in the Program by reducing the number of excess meals claimed for reimbursement under the Program. The requirements for State agency monitoring of sponsor and site operations have been changed to reduce the burden of conducting reviews early in the summer while emphasizing the need for follow-up reviews of program operations. This change is intended to give State agencies greater flexibility in utilizing their monitoring resources. The proposed rule spells out corrective action requirements for State agencies dealing with meal service violations at the site level. These requirements will assist State agencies in reducing Program mismanagement and abuse. The proposed rule will allow Food and Nutrition Service regional offices (FNSRO's) greater discretion in the scheduling of conducting management evaluations of State agencies.

Interested parties are offered the opportunity to comment on this proposal.

DATE: Comments must be received by December 7, 1980, to be assured of consideration in the final rulemaking.

ADDRESS: Written comments should be sent to Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Either Mr. Benderly or Ms. Beverly Walstrom at the above address or by telephone at (202) 447–6509. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from either Mr. Benderly or Ms. Beverly Walstrom at the above address or telephone number. Copies of all written comments will be available for review during normal business hours at room 644, 500 12th Street SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This proposed regulation has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

The Summer Food Service Program is authorized by section 13 of the National School Lunch Act. Comprehensive Program regulations were last published on January 2, 1979 (44 FR 8). On October 30, 1979 (44 FR 62279), and February 1, 1980 (45 FR 7227), amendments were published implementing the provisions of Public Law 96–38, which set a deadline for the submission of the final claim for reimbursement for fiscal year 1979. On January 8, 1980 (45 FR 1844), amendments to the regulations were published which implemented the changes in Program eligibility mandated by Public Law 96–108, and made several other minor changes.

This proposed rule comprehensively reorganizes the regulations and makes several changes which are based on Program experience and recommendations received from various sources. A 30-day comment period is afforded to allow interested people and organizations to submit criticisms, favorable opinions, and information to affect the regulatory policies. All interested parties should note that legislation that would make several significant changes in the Program is currently pending in the Congress. If the legislation is enacted, the Department will publish appropriate amendments to Part 225 as quickly as possible.

Comment Period

The President has directed each Executive Agency to adopt procedures to improve the public comment and rulemaking process (Executive Order 12044, issued March 24, 1978, at 43 FR 12661). Although the Executive Order establishes a 60-day comment period for significant rulemaking, it does allow for shorter comment periods under certain circumstances. A shortened comment period for this proposed rule will allow timely publication of final regulations to give involved agencies and organizations at all levels an adequate amount of time to plan and prepare for the next summer's Program. The Program's authorizing legislation mandates that final regulations be published no later than January 1 of each year. Therefore, 30 days, rather than 60 days, are being allowed for public comment. Accordingly, the Department is issuing proposed amendments to Part 225 as follows:

1. Reorganization

In response to numerous comments from the public that the Program's regulations are difficult to use, the Department decided to reorganize the regulations. The purpose of the reorganization is to make it easier for those who take part in the Program to find the information they need in the regulations.

The order of sections of the proposed rulemaking flows from the general or administrative to the more specific or operational requirements. The regulations begin with the general purpose, definitions, and administrative structure of the Program. The next two sections deal with financial and commodity assistance to States. The following 13 sections deal with the administrative responsibilites of States, covering areas such as the requirements for the State management and administration plan, monitoring and corrective action requirements, and Program payment procedures. These sections also include general procurement standards, as well as procedures for dealing with food service management companies. The next four sections establish the eligibility requirements for sponsors and their operational responsibilities. The regulations conclude with a section containing miscellaneous provisions and a section listing the addresses of Food and Nutrition Service Regional Offices and the States in each region. Some of the significant features of the reorganization are listed below.

(i) All of the provisions regarding payments to States through Letters of Credit appear in one section, § 225.4. Previously the provisions appeared in two separate sections.

(ii) The procedures for the review and approval of applications have been placed in a single section, § 225.8.

(iii) All of the contents of the Program application are brought together in § 225.9 for convenient reference.

(iv) State agency requirements for Program expansion and assistance appear in one section, § 225.10.

(v) All requirements for State agency records and reports are listed in § 225.11.

(vi) Provisions governing procedures for payment to sponsors and giving base rates of reimbursement (not current rates) are located in § 225.12.

(vii) All provisions for audits and management evaluations are covered in one section, § 225.13.

(viii) Special emphasis is placed on corrective action in a separate section, § 225.14.

(ix) All of the provisions dealing with food service management companies, including requirements for registration, competitive bidding, and the standard contract are in one section, § 225.17.

(x) In order to make the meal patterns easier to use, they are presented in a chart form in § 225.21(b).

The reorganization encompasses not only a reordering of the regulatory provisions; but it also includes a rewording of many of the paragraphs. In most cases the rewording is intended to make the provisions easier to understand rather than to change their meaning. (Substantive changes are discussed below). The Department believes that this reorganization makes the contents of the regulations more readable and that it will enhance understanding of the Program.

2. Assistance to States

a. *Letter of Credit.* The Department has made two changes in the Letter of Credit provisions. These changes only affect provisions for payments to States and have no effect on the procedures for payments to sponsors. The first change modifies the Letter of Credit provision for Program advance payments so that the regulatory wording more closely follows current payment procedures. Previously, the regulations called for each Letter of Credit to be equal to 65 percent of the amount of Program funds that would be needed in the State for one month's Program payments. The proposed rule makes it clear that the amount of each of the Letters of Credit for advance payments is to be in an amount sufficient to ensure that a total of 65 percent of the amount of Program funds that would be needed in the State for the complete summer's Program, has been provided, based on the best available data. (See § 225.4(a).)

The other change is in regard to the second Letter of Credit for State administrative funding. In the past, the second Letter of Credit has been in an amount not to exceed 75 percent of the State administrative funds which the State expects to receive for the summer. The proposed rule provides 80 percent of that amount. The increase is proposed in order to make the second payment consistent with the percentage given in the provision for the State administrative funding assurance. (See §§ 225.4(g)(2) and 225.4(j).)

b. *Special developmental projects.* In the past, Program regulations have provided for funding of special developmental projects, as allowed under Section 10 of the Child Nutrition Act of 1966. Provision of these funds is at the discretion of the Secretary. The funding allowed for this purpose in each State has been in an amount equalling up to one percent of the Program funds earned in the State during the prior year. However, serious concerns have arisen about the effectiveness of projects that are intended to lead to regulatory change or Program improvement, as little time is available to study proposals and only six to eight weeks are available to conduct the projects. Furthermore, for many States the amount of money involved is not sufficient to conduct a well planned and thoroughly documented study. The projets have generally yielded very little in the way of useable results, while they have absorbed a great deal of staff time in State agencies and FNSRO's.

Therefore, the proposed rule deletes the provision of special developmental project funding under the Program. This change is within the discretionary authority provided to the Secretary in the statute. The Department believes that this change is in the best interest of the Program and will promote more effective use of Federal funds.

3. Administrative Requirements

a. *Approved levels of meal service for sites.* Audit reports from some parts of the country suggest that excess meals at some sites may run as high as 20 to 30 percent of the meals claimed under the Program. Excess meals have been a particular problem in programs serving meals provided by food service management companies, where frequently too many meals are prepared and delivered to the sites. In self-preparation programs it is easier to adjust the number of meals prepared to the number of children in attendance. Regulations in previous years have contained no mechanism for ensuring that on a day-by-day basis, sites serving meals prepared by food service management companies do not have a large number of excess meals. In the interest of reducing waste in the Program and providing sponsors of vended-meal programs with more specific guidance as to the number of meals to have prepared and delivered to their sites, the Department is proposing to require State agencies to set an "approved level" of meal service for each site serving meals prepared by a food service management company. These levels will be the maximum number of meals, including seconds, which may be served at the site at a given meal service.

The Department envisions the process as working in the following manner: State agencies will set an approved level of meal service for each vended site during the application approval period. For such sites which were used in the Program in prior years, the State agencies will base the approved levels on the historical record of attendance at those sites and other available information. In some instances, State agencies could approve a site for a level higher than the historical record would dictate, based on changes in local population charcteristics caused by events such as the influx of large numbers of immigrants, lay-offs in the area, or the construction of a new housing development in the neighborhood, or if the State agency believes that the site is capable of providing meal service to a larger number of children than were served at the site in other years. If proposed sites were not used in prior years, State agencies will base these maximum approved levels on their own best estimates of attendance. These estimates could result from pre-approval visits to the sites, information provided by the sponsors, or the historical records of other sites which operated in the same locales.

State agencies are encouraged to adjust these levels as circumstances warrant throughout the summer, based on information either collected during reviews or included in sponsor requests. Sponsors of vended programs are required to notify food service management companies of the maximum approved level for each site for which they provide meals prior to commencement of Program operations and whenever adjustments are made to those levels, so that deliveries may be adjusted accordingly. The State agency is required to maintain on file documentation of any adjustments and to send immediate written confirmation of adjustments to the sponsors. This will help to prevent misunderstanding between the State agency and the sponsor. Once approved levels are set, State agencies will be required to disallow all meals in excess of those levels found at sites during reviews.

The idea of setting approved levels of meal service for sites is not a new element in the Program. In fact, some State agencies have administered the Program in such a manner for the past several years. Program experience in those States has demonstrated that establishing approved levels is an effective mechanism for ensuring that sponsors are preparing or ordering meals for their sites with the objective

of providing only one meal per child and, thereby, reducing waste in the Program. So long as State agencies allow sponsors to request adjustments to these levels as circumstances warrant, approved levels should not prevent sponsors from providing the number of meals needed to meet the demand of their programs. As under prior regulations, sponsors are required to adjust the number of meals prepared or ordered with the objective of providing only one meal per child. For vended sites, sponsors must make these adjustments below the approved levels of meal service.

Setting and adjusting these approved levels should not be a major burden to State agencies. States which have imposed similar systems in the past report, instead, that approved levels are a helpful administrative tool. In addition, while some added workload is involved in setting and adjusting the approved levels, the Department has responded with some adjustments for pre-approval and monitoring visits by States (see below). Approved levels should, however, help alleviate the problems experienced by State agencies in dealing with large numbers of excess meals by preventing them from being delivered to sites. State agencies may choose, as under prior regulations, to establish approved levels for any sponsor which prepares its own meals. (See § 225.8(j).)

b. *Program assistance/review requirements.* The Department is aware that the State agency monitoring requirements for sponsors and sites in current Program regulations impose a major workload on administering agencies prior to, and at the beginning of, Program operations. This workload results from the minimum number of pre-approval visits and program reviews required by the regulation's various monotoring provisions. Under regulations of previous years, State agencies were required to visit, prior to approving the application, (1) all sponsors which did not participate in the previous year or which the State agencies deemed to need such a visit; (2) all new non-school sites located in cities whose total elementary and secondary public school enrollment exceeds 75,000; and, (3) any new site with a proposed average daily attendance of more than 300 children. Additionally, State agencies were required to conduct program reviews of (1) all sponsors which operate 10 or more sites and, at a minimum, an average of 15 percent of the sites under those sponsors, during the first four weeks of operations; (2) for States earning more than $250,000 in State administrative funding, an additional 75 percent of the non-school sites and 25 percent of the school sites under sponsors which operate 10 or more sites and are located in cities whose total elementary and secondary public school enrollment exceeds 75,000, during the first four weeks of operations; and, (3) 80 percent of the remaining sponsors, including an average of 10 percent of their sites, at least once during the period of Progrm operations. (These monitoring provisions appeared in § 225.5(b)(1)–(6) of the 1980 regulations.) Several changes to these monitoring requirements are included in the proposed rule.

The first change reduces the requirements for pre-approval visits of sponsors and sites. The proposed rule retains the first category of pre-approval visits, for new applicant sponsors, and for sponsors which the State agency determines are in need of such a visit. The second category of pre-approved vistis (for new nonschool sites in cities with school enrollment over 75,000) is deleted from the proposal in order to free up State agency administrative resources. The Department feels that these resources may be more effectively used in assisting sponsors and sites with special needs, prior to the commencement of operations and during the crucial early phases of operations. Finally, the proposed rule modifies the requirement for pre-approval visits of new sites with proposed average daily attendance of more than 300 children by limiting the requirement to sites which are not schools. This change is proposed in response to comments and Program experience indicating that school-sites are normally well controlled and have greater capacity than most other site types.

The provisions for pre-approval visits described above are minimum requirements. State agencies are urged to conduct as many additional visits as are necessary to ensure proper Program operations. (See § 225.10(e)(1).) The second change relieves State agencies of the burden of conducting reviews during the first four weeks of operations of sponsors with 10 or more sites which operated the Program in the prior year with no significant problems. This review burden included reviews of an average of 15 percent of the sites of these sponsors. Although the Department believes that the often substantial amounts of money involved warrant placing special emphasis on large sponsors, it also feels that sponsors of large programs which have a record of successful operations may not necessarily need to be reviewed during the first four weeks of operation, as opposed to later in the summer. The proposed rule maintains the requirement for reviews of sponsors of 10 or more sites and an average of 15 percent of their sites which have operated with no significant problems, but allows the State agency to conduct such reviews at any time during the period of program operations. The proposed rule continues to require these reviews during the first four weeks of operations of sponsors of 10 or more sites (1) which did not participate in the Program in the prior year, and (2) which the State agency determines to need these reviews due to problems observed in the sponsors' programs in the prior year. (See § 225.10(e)(1).)

The third change deletes the requirement that States expecting to earn $250,000 or more in State administrative funds conduct reviews of 75 percent of the non-school sites and 25 percent of the school sites under sponsors with 10 or more sites in cities which have a public school enrollment exceeding 75,000, during the first four weeks of operations. Since only three States (California, New York, and Pennsylvania) have cities and Programs large enough to be affected by this requirement, the impact of deletion will be felt by only a few States.

This provision originally was directed at intensifying site review efforts in States which experienced major problems with large urban programs. It was particularly directed at improving performance in New York City, where the most severe Program abuse had occured. However, since that time, New York City has implemented statistical monitoring procedures in lieu of conducting site reviews under this provision, as allowed under the regulations. For this reason, the deletion of this site review requirement will not affect New York City.

For the other two States, the proposed deletion will allow the States to better target their monitoring resources in those cities. Instead of devoting almost all of their monitoring efforts to meeting this numerical requirement, the State agencies will be able to direct their efforts at itensified review and follow-up of sponsors and sites most in need of attention.

The programs in the big cities of these States are often operated by private sponsors which contract with food service management companies. These sponsors have been associated with high levels of waste and mismanagement and have therefore required extensive monitoring by State agencies. The Department believes that the requirement, described earlier in this preamble, that State agencies established maximum approved levels for meal services at sites serving vended meals will contribute significantly to the reduction of such abuses. For these reasons, the Department is proposing the deletion of this site review requirement.

The fourth change reduces the number of program reviews State agencies are required to conduct of sponsors with fewer than 10 sites, from an average of 80 percent to 70 percent of the sites of such sponsors. This change is proposed to lessen the administrative burden on State agencies. In choosing which sponsors to review, the State agency is directed to consider whether or not a sponsor was reviewed during the prior year. This will prevent the problem of any sponsor going unreviewed over a period of several years.

These changes in monitoring requirements are designed to accomplish several objectives. First, some reduction in State agency workload is needed in view of the added workload required to implement the provision for establishing and adjusting the maximum approved levels of meal service for sites serving vended meals. The Department believes that the establishment of maximum approved levels of meal service for sites serving vended meals is likely to deal more effectively with the problem of overordering and excess meals, perhaps the most frequent violation in the Program, than would the retention of the prior monitoring requirements. (See § 225.10(e)(2)(ii).)

In addition, these modifications in monitoring requirements would provide State agencies with greater flexibility in allocating their monitoring resources. The Department believes that by reducing the workload imposed by minimum numbers of pre-approval visits and some of the burden of the initial program reviews, more State agency resources can be marshalled for the task of follow-up. Therefore, the proposed rule emphasizes the importance of follow-up efforts in ensuring corrective action on program deficiencies.

c. *Reviews by sponsors.* The proposed rule expands the number of items which State agencies must include in the forms to be completed by monitors. New items required in the forms include the number of meals prepared or delivered, the number of meals served to children, and any deficiencies noted. These are added to the requirements for the form to emphasize the importance of thorough monitoring by sponsors and to improve the quality of the information gathered on the forms. They are especially important for the purpose of ensuring that the approved levels of meal service are not exceeded. State agencies are urged to add any other items to their monitor review forms which they feel will help to achieve these objectives. (See § 225.10(e)(6).)

d. *Audits.* Many Regional Offices and State agencies have suggested that the $50,000 level is no longer adequate as a measure for determining which sponsors need to be audited annually and is, therefore, resulting in an ineffective use of Program funds. Program regulations for prior years required sponsors which expected to earn $50,000 or more in reimbursement to arrange for an audit of their programs every year and allowed them to claim the costs of their audits as an administrative cost under the Program. State agencies were required to arrange for audits of other sponsors every other year, with certain exemptions, and the costs of these audits were paid out of the State's administrative funds. The effect of inflation since the $50,000 level was established in 1977 justifies raising it to $75,000, as a sponsor earning $75,000 in Program payments in 1981 would operate a program about the same size as that of a sponsor which earned $50,000 in 1977. For this reason, the Department proposes to require annual audits of all sponsors which expect to earn $75,000 or more in Program reimbursement.

Although the Department realizes that the effect of raising this level will be an increase in the number of biennial audits which State agencies must arrange and pay for out of State administrative funds, we feel the resulting savings to the Program by eliminating unnecessary annual audits warrants increasing the level at this time. Also, the Department is concerned that many sponsors whose programs have experienced only minimal growth over the past few years have been unduly burdened with the responsibility for having an audit conducted of their programs every year merely because inflation has raised their level of reimbursement to $50,000 or more. The Department solicits comments on the adequacy of the proposed $75,000 level. (See § 225.13(a).)

e. *Management evaluations.* The regulations for 1980 required that FNS Regional Offices conduct a management evaluation of each State agency's Program administration prior to the initiation of Program operations. The Department is concerned, however, that for some States a pre-operational evaluation may not be sufficient to ensure that management problems are noted and corrected. In some cases, it is necessary to observe a State agency's management practices in operation.

For this reason, the proposed rule allows the Regional Offices to conduct management evaluations either prior to or during the first six weeks of Program operations. Regional Offices are directed to choose the time that they believe will be the most effective for evaluating each State's management systems. The Department believes that by giving Regional Offices this flexibility, the management evaluations can be made more useful as a management tool. The proposed rule also requires the Regional Offices to conduct a follow-up evaluation if the management evaluation reveals serious problems in the State's administration of the Program. The purpose of the follow-up evaluation will be to assist States in ensuring that appropriate corrective action is taken. In addition, the proposed rule provides Regional Offices with authority to require the State agency to submit on 20 days notice a corrective action plan regarding serious problems as served during any phase of the management evaluation. This is intended to address problems which require immediate attention. (See § 225.13 (c) and (f).)

f. *Corrective actions procedures.*—(i) *Tolerance level.* In the past, Program regulations have required State agencies to disallow all meals which were served in violation of meal service requirements. State agencies have often faced the dilemma of being required by the regulations to disallow meals when the violations observed involved only minor infractions which occurred inadvertently or larger infractions which resulted from events clearly beyond the sponsor's control. In such situations, the State agencies have been forced either to penalize the sponsor for the minor infractions, or to ignore the violations and allow reimbursement for the meals, contrary to the regulations. To deal with this problem, the proposed rule provides State agencies with some flexibility for addressing violations which are observed during a site review. The proposed rule continues to authorize the State agency to disallow all meals served in violation of the meal service requirements. As an option to such action, the proposed rule also provides State agencies with authority to allow sponsors to claim any meals found during the review to be in violation of Program requirements if the aggregate of meals served in violation does not exceed five percent of the total number of meals provided at the meal service. If more than five percent of the meals at the site are found to violate Program

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requirements, however, all of the meals in violation will be disallowed for reimbursement. The proposal requires that whenever the State agency chooses, in accordance with this provision, to allow meals served in violation, it shall require the sponsor to take immediate corrective action to ensure that the violations do not recur.

This proposal will provide State agencies with some flexibility for dealing with infractions occurring on a small scale (i.e., below a level of five percent). At the same time, it will help to reduce Program abuse by clearly defining the boundaries for tolerance of violations. With a standardized tolerance policy, State agencies will not be tempted to reimburse sponsors for meals in violation of the meal service requirements when the violations observed during a site review occur on a larger scale. Since Program violations of a greater magnitude sometimes occur as a result of unusual circumstances clearly beyond the sponsor's control, the proposed rule allows State agencies to reimburse sponsors for meals in violation of the meal service requirements in excess of the five percent level due to such unusual occurrances. Such circumstances include natural disasters, severe weather conditions, or other unforseeable events. The proposed rule requires that whenever the State agency allows a sponsor to claim meals in violation of the meal service requirements in excess of five percent as allowed under this provision, the State agency shall document in its files the reasons for allowing the higher tolerance.

The only meal service violation which may not be included in the five percent tolerance is meals served in excess of the approved level of meal service established for vended sites. All meals served in excess of the site's approved level must be disallowed. Service of seconds, as allowed under § 225.20(d), is not a violation, and is therefore not to be included in the tolerance level.

The Department has considered allowing a tolerance level of either five or ten percent. The five percent level has been proposed because the Department believes that, in the interest of accountability, the lower tolerance is preferable. At the same time, the Department recognizes that the five percent level may be rather rigid, since it represents an aggregate of all types of meal service infractions. The Department is especially interested in comments on the adequacy of the five percent level and on the advisability and feasibility of establishing tolerance levels.

(ii) *Termination of sponsors.* In prior years, regulations have required State agencies to deny applications of sponsors identifiable through their organizations or principals which at any time participated in the Program and were determined by the State agency to be seriously deficient in their operation of the Program. The proposed rule changes the provision in several ways.

First, prior regulations have only stated that serious deficiencies in the operation of the Program are grounds for disapproval of applications. The proposed rule makes it clear that serious deficiencies in the operation of any Federal child nutrition program are grounds for disapproval and are also grounds for the termination of sponsors which are operating the Program. However, State agencies are required to afford the sponsor every reasonable opportunity to correct its problems before initiating termination procedures. This proposed change clarifies the provision in prior regulations (§ 225.18(b)) of the regulations for 1980 requiring the State agency to terminate sponsors which fail to comply with the conditions of the Program.

Regulations in prior years required the State agency to deny the application of a sponsor determined at any time to have been seriously deficient. This was effectively a permanent exclusion from the Program of any sponsor determined seriously deficient. The proposed rule limits this period of mandatory exclusion from the Program to three fiscal years. In addition, to provide some flexibility for dealing with sponsors which have been determined seriously deficient, the proposed rule allows the State agency, with FNSRO concurrence, to approve the application of a sponsor determined to have been seriously deficient before the expiration of three fiscal years if the State agency is convinced that the sponsor has taken all corrective actions needed to prevent recurrence of the deficiencies. The Department is proposing this change in order to allow deficient sponsors a reasonable opportunity to improve their programs and regain eligibility. At the same time, the State agency should be circumspect in considering early readmission of an applicant which has been found to be a seriously deficient sponsor.

(iii) *Termination of sites.* The Department has received several requests that the new regulations clearly spell out provisions governing the termination of site participation in the Program. The proposal addresses this issue by specifying two situations in which the State agency must terminate a site.

The first such situation is when the sponsor fails to take corrective action on Program violations noted in a State agency review report. Under the regulations for prior years, State agencies have not been provided with clear regulatory authority to enforce corrective action on the part of the sponsor, other than by disallowing meals. The proposed provision will lend strength to State agency efforts to improve site performance through corrective action. The second situation in which the State agency is required to immediately terminate a site's participation is whenever, due to conditions at the site, the health or safety of the children is imminently threatened.

The proposed rule also requires the State agency to notify the appropriate food service management company, if applicable, of the site's termination within 48 hours of taking such action. This is intended to guarantee that food service management companies are informed of terminations in a timely manner. (See § 225.14(c),(f), and (g).)

g. *Claims against sponsors.* Program regulations in prior years have required State agencies to recover any improper payments in excess of $35 made to sponsors but have not identified specific procedures and time frames for recovery of such payments. The proposed rule provides a minimum procedure and schedule for State agency demands for repayment. The State agency shall, at a minimum, make three written demands of the sponsor for the return of improper payments. The demands are to be made at 30 day intervals. If the State agency has received no satisfactory response from the sponsor within 90 days of the initial demand, the State agency must refer the claim against the sponsor to the appropriate legal authorities. The State agency may use its own procedures for the recovery of improper payments as long as they meet the minimum procedures described above. The Department is proposing these requirements in order to provide State agencies with clear guidance and to ensure prompt recovery of improper payments. (See § 225.15(b).)

h. *Appeal procedures.* The proposed rule makes several changes in the minimum procedures for granting a fair hearing to sponsors of food service management companies which request a review of a State agency decision. (Decisions which may be appealed are listed in § 225.16(a).) The first change is a requirement that, if the sponsor or food service management company wishes to submit written documentation refuting the State agency's decision, it must do so within seven days of submitting its request for a review. This change is made simply to ensure that documentation is submitted in sufficient time to allow the review official to examine it and hold the review within 14 days of receiving the request for a review, as is required under § 225.16(b)(7). The time restrictions are necessary in order to make a quick resolution of the review possible. Quick resolution is essential because of the short duration of the Program.

The second change in the fair hearing procedures included in the proposed rule is a requirement that the State agency provide the appellant five days advance written notification of the time and place of the hearing, sent by certified mail, return receipt requested. This provision is proposed with the intention of providing the sponsor or food service management company with enough time to prepare for the hearing and travel to its location. Again, the amount of time allowed is under the constraints of the schedule for completion of the appeal process. (See § 225.16(b)(4) and (6).)

The third change is the inclusion of a requirement that a representative of the State agency be allowed to attend any hearing. This change is proposed in response to comments from administering agencies that, because State agencies have not had the opportunity to respond to arguments appellants raise during hearings, review officials sometimes have not had the benefit of the State agency's response to arguments raised by the appellant. The proposed change will help to provide for an equitable fair hearing procedure. (See § 225.16(b)(5).)

Finally, the proposed rule raises the number of days in which the review official must make a final determination, following a hearing, from three to five days. This change is intended to provide review officials with more time to carefully consider all of the evidence submitted and to render a decision. The Department believes that the two-day increase in the time allowed for the final determination will not impose an unnecessary hardship on appellants. (See § 225.16(b)(10).)

i. *Nondiscrimination.* The proposed rule contains a new section concerning the State agency's responsibility to comply with the Department's nondiscrimination regulations, which were issued pursuant to Title VI of the Civil Rights Act of 1964. This section also provides the address of the contact person to whom complaints of discrimination based on race, color, or national origin must be referred by State agencies. Although this information has not been included in prior regulations, its inclusion in the proposed rule does not signal a change in policy. As before, State agencies are responsible for collecting racial and ethnic participation data, public notification of the nondiscrimination policy, reviews to ensure compliance, and referral of complaints to FNS's Washington office. This new section, in effect, simply alerts State agencies to the areas of Civil Rights compliance for which they are responsible. Specific instructions regarding these areas of compliance will be issued by the Department at a later date. (See § 225.10(h).)

4. Sponsor provisions

a. *Claims for meals examined.* The proposal formalizes the Department's policy which allows sponsors to receive reimbursement for meals which are examined for meal quality by the State agency, auditors, or local health authorities and are found to meet the meal pattern requirements. State agencies may deal with meals examined and found to be deficient in accordance with their normal procedures for deficient meals. (See § 225.12(d).)

b. *Site personnel.* Regulations in prior years have required that sponsors hold training sessions for their administrative and site personnel and that no site be allowed to operate until site personnel have been trained. The proposed rule clarifies this requirement by mandating that each site shall have present at each meal service at least one person who has received the required training. If a turnover of site personnel occurs the sponsor will be required to ensure that the new site personnel have been trained in Program requirements. (See § 225.20(i).)

c. *Simultaneous service of meals.* The current policy of directing sponsors to serve only one meal at a time to children is clarified by a provision in the proposed rule. While sponsors must plan for and prepare or order meals with the objective of providing only one meal per child, the regulations have recognized that allowance must be made for unusual and unexpected fluctuations in attendance and have allowed the service of seconds to attending children in such cases. The proposed rule stipulates that when seconds are served, they may only be served after all children have received their first meals. This is intended to help prevent a situation in which some children will go unfed, because they arrive late or are last in line, while others get two meals due to the simultaneous service. This should also help to prevent site personnel from encouraging children to overeat by presenting them with more food than they need. (See § 225.20(d).)

d. *Meal pattern requirements.* The proposed regulations present the meal component and portion requirements for the various meal types in chart rather than narrative form. This change in format is designed to achieve greater clarity and to facilitate quick reference. (See § 225.21(b).) Some of the newly established meal pattern requirements of the National School Lunch Program (NSLP) (issued at 45 FR 32502) have been incorporated into the Program. The proposed rule includes the NSLP's new nutritional equivalencies for various foods, including the amount of eggs and cooked dry beans and peas needed to provide the protein equivalent of the meat/meat alternate requirement. The recommendation in NSLP meal planning guidance that the amount of fat, sugar, and salt be kept at a moderate level and the new yield standards established in NSLP's Food Buying Guide will be included in future Program guidance materials.[1] These changes are based on the most recent nutritional information available and can be readily accommodated by the Program. (See § 225.21(b).)

Other changes in the NSLP meal pattern requirements are not being incorporated into the Program because they do not lend themselves to the manner in which the Progam operates. For instance, the NSLP's weekly, rather than per meal, bread requirement would be difficult to implement as the Summer Program is often provided at open sites where no enrollment records are kept. Since the Program is most commonly operated at unenrolled sites or parks which are frequented by the entire neighborhood and where attendance fluctuates from day to day, there is no way of knowing whether or not a nutritional requirement based on more than one meal is being met. Likewise, the NSLP's portin size requirements which divide participants into five age groups would be nearly impossible to implement in the Program. Incorporation of NSLP portion size requirements by age group in the Summer Program would have required site supervisors to estimate the next day's attendance by each age group, a task the Department does not believe should be imposed on them. It would also complicate the production of meals, and for vended programs it might increase the cost of meals.

[1] It should be noted that several pages have been withdrawn from the Food Buying Guide. The withdrawn pages are not a part of the Buying Guide, and will not be reflected in SFSP guidance materials.

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The proposed rule also amends the provision dealing with varying portion sizes relative to the greater or lesser food needs of children. In prior years, the regulations included a provision allowing the State agency to permit sponsors to serve varied portion sizes "in accordance with the age levels of the children served." Such variations were to be allowed for meals served to children under 10 or over 12 only if the State agency was convinced that the sponsor had the capability of adequately controlling portion sizes. The Department believes that it is necessary to provide firmer guidelines for meals with smaller quantities than those indicated in the normal meal pattern to ensure that the needs of the younger children are met. Therefore, the proposed rule changes the provision by requiring that meals served with lesser quantities meet the minimum requirements for meals served to the appropriate age group given in the Child Care Food Program regulations (7 CFR Part 226). These variations require prior State agency approval. In order to be consistent with the age groups given in the Child Care Food Program regulations, the proposed rule allows lesser quantities to be served only to children under age six. As before, greater quantities of food may be served to older children to meet their food needs. These changes are intended to provide firmer guidelines for sponsors approved to serve smaller quantities to younger children and to provide State agencies with uniform standards for monitoring compliance. (See § 225.21(d) and (f).)

e. *Deadline for submission of claims.* The proposed rule includes provisions which were promulgated for Fiscal Years 1979 and 1980, setting a December 31 deadline for the submission of Claims for Reimbursement. However, this provision does not prohibit the amending of claims after that date if the amendments represent adjustments of the initial claims (Submitted on or before December 31) based on the results of audits, reviews, or other information available to the State agency. By allowing these amendments, the proposed rule permits State agencies to correct claims should new information affecting the claims become available. The Department proposes to extend this provision to future fiscal years to ensure prompt submission of claims and to facilitate more rapid finalization for each fiscal year's accounts. (See § 225.12(c)(7) and (9).)

Miscellaneous provisions

1. *Operating dates.* Section 225.1 (General purpose and scope) of the regulations has been reworded in the proposed rule to make it clear that the Program is intended to operate only during periods when area schools are closed for vacation. State agencies should only approve applicant sponsors which will serve children on school vacation from the first day of operation. Sponsors may be approved to serve areas during periods when some, but not all, local schools are closed for vacation, provided that they will serve needy children who attend the schools which are closed. State agencies are encouraged to carefully scrutinize applicants which propose to operate in such areas. The Department believes that this clarification is consistent with the wording of the statute that defines eligible service institutions (i.e., sponsors) as those which "developed special summer or school vacation programs providing food service similar to that made available to children during the school year" under the National School Lunch and School Breakfast Programs. (See § 225.1.)

2. *Definition of "camps".* The proposed rule clarified the definition of the term "camp" by stipulating that nonresidential camps must operate for at least six hours each day. The Department believes that this stipulation is justified because any sponsor wishing to qualify a site as a nonresidential camp should assume responsibility for children for a full day of activities. Actually, this does not constitute a change in the Program, as the requirements governing the length of time that must elapse between meal services and the number of meal types which must be served at nonresidential camps dictate that nonresidential camps operate for at least six hours a day. (See § 225.2(e).)

3. *Procurement standards.* Regulations in prior years have contained a lengthy section covering general procurement standards as required in Attachment O of Office of Management and Budget Circular A–102. However, A–102 is intended to apply only to entities of State government, local government, and Indian tribal territories. Any other types of institutions or agencies are covered under Attachment O of Office of Management and Budget Circular A–110. Rather than including a lengthy section detailing procurement standards from each of the Circulars for each type of sponsor, the proposed rule cites the two Circulars, indicating which one applies to each type of sponsor. State agencies are required to provide sponsors with information on these procurement standards as appropriate. The proposed rule also makes clear that all procurements made with Program payments, including contracts with food service management companies, must be made in conformance with the appropriate Office of Management and Budget Circulars. FNS will provide the attachments and other guidance materials for distribution. (See § 225.17(a) and 225.18).)

4. *Fraud provision.* The proposed rule includes a new provision requiring State agencies to inform the appropriate Regional Office, for referral to the Office of the Inspector General, of all cases of suspected fraud or other criminal acts. This change builds on a statutory provision of Pub. L. 95–627, enacted on November 10, 1978, amending section 12(g) of the National School Lunch Act, providing fraud penalties in the Department's special nutrition programs.

The Department believes that the proposed change will: (1) provide a basis for monitoring States' anti-fraud efforts; (2) aid in the prevention and detection of fraud and other criminal acts; and (3) ensure that all cases are handled in a reasonable and timely manner. (See § 225.14(b).)

5. *Overpayment.* In 1973 the Department instituted a policy of allowing State agencies, FNS, and OIG to disregard overpayments to a sponsor unless the overpayments exceeded $35, except that, in States which are not administered by FNSRO, the State agency may disregard overpayments up to the level generally permitted by State laws, regulations, or procedures. Administering agencies have commented that it is unreasonable to require them to expend more money to recover a small overpayment than can possibly be recovered. The Department agrees that it may not be cost effective in many cases to go through all of the steps required under § 225.15(b) for making claims against sponsors when the amount of money is very small. In addition, the effect of inflation since 1973 would justify an increase in the level. For these reasons, the proposed rule raises the level of overpayments which may be disregarded to $100. As under prior regulations, the proposed rule stipulates that no overpayment may be disregarded when there are unpaid claims for the sponsor for the same fiscal year from which the overpayment may be deducted. (See § 225.13(g).)

6. *Late applications.* The Department has received comments from OIG indicating that when a State agency receives sponsor applications after the State's deadline date for submission of applications, it sometimes feels compelled to hurry approval of the late applications. This action may result in approval of applicants which are not actually prepared to assume responsibility for operating a summer program. The proposed rule modifies the procedures for approval of sponsor applications which are submitted late by stipulating that the State agency shall not approve a late application any sooner than seven days following its submission. This change will ensure that the State agency has enough time to evaluate a late application and will prevent the State agency from feeling compelled to approve any late application within a shorter time frame. (See § 225.8(a).)

7. *Affirmative action to increase participation by minority food service management companies.* It has come to the Department's attention that the regulations should be expanded to stress affirmative action on the part of administering agencies to increase the participation of minority food service management companies in the Program. The authorizing legislation and existing regulations require administering agencies and sponsors to take positive efforts to utilize minority owned business as sources of supplies and services. The Department has undertaken activities in the past to make administering agencies aware of minority owned firms which might be potential participants in the Program.

The Department agrees that increased emphasis on minority business participation is both necessary and important. Therefore, the proposed rule highlights certain provisions included in the Office of Management and Budget (OMB) Circular A–102.

Administering agencies should ensure that the following practices are followed in the Summer Program: (1) include minority business enterprises (MBEs) on solicitation lists; (2) solicit such enterprises whenever they are potential sources of goods and services; (3) whenever economically feasible, divide total requirements into smaller tasks or quantities in order to permit maximum participation by these businesses; (4) whenever possible, establish delivery schedules which will assist minority businesses to meet deadlines; and (5) use the services and assistance of the Small Business Administration (SBA), the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration. Additionally, the Department expects to collect data during the food service management company registration process for the summer of 1981 regarding the level of minority participation in the Program. (See § 225.17(c)(2).)

Anticipated Legislative Amendments and Departmental Proposals for Implementation

Congress is now considering legislation affecting the Program. The House passed bill (H.R. 7664) was significantly amended by the Senate and both versions of the bill have been referred to a conference committee which has not yet filed a report. In this section of the Supplementary Information, the proposed statutory amendments are discussed, and the Department's proposals for implementing these amendments are discussed. In order to facilitate implementation of the amendments if enacted, the Department is soliciting public comments on these proposals. While the Department believes that an opportunity for comment should be afforded at this time, the proposals are presented for public consideration with the cautionary advice that some or all of the amendments may not be enacted.

Comments on these proposals should be clearly linked to this section of the Supplementary Information so that they will not be incorrectly associated with provisions in the proposed rule.

1. State administrative funding

H.R. 7664, as passed by the Senate, changes the State administrative funding (SAF) formula which has been in effect during the last two years. The formula would be altered by making available to each State an additional $30,000, provided that the State's total SAF cannot exceed 33⅓ percent of the total Program funds to be made available to the State for the year. This amendment would increase SAF for all States. It would allow the Secretary to adjust the amount of SAF made available (subject to the 33⅓ percent limitation) based on changes in the size of the State's Program.

The amendment would also permit the Secretary to provide the State with additional SAF if the State establishes that it would otherwise have insufficient funding to ensure proper Program administration. The Department solicits public comment concerning the method (described below) in which it proposes to implement this option.

A State would be eligible for additional SAF to facilitate effective Program administration if the State has assumed administration of the Program, or has transferred responsibility for administration of the Program from one agency of the State to another, during the prior two fiscal years. A State would also be eligible to receive additional SAF if it earns over $250,000 in SAF based on the funding formula, it has expended at least 90 percent of its SAF each of the prior two fiscal years, and it has satisfactorily addressed in its management and administration plan all of the deficiencies noted during the prior year's management evaluation. This additional method for establishing eligibility for extra SAF would be provided to States operating large programs because of the special Program management challenges they encounter.

The Department would require that a request for these additional funds be included in the State's management and administration plan as an addendum, and that it clearly detail how the requested additional SAF will be used to address critical areas of Program management which might otherwise not be addressed. The request for additional SAF would be considered only if the State has submitted its complete plan, including the addendum, the FNS Regional Office by February 15. It would also be required that the entire plan, except the request for additional SAF, be approved by the Regional Office not later than March 15 in order for the request to be considered.

Although the Regional Office would submit a recommendation regarding each request, all requests would be approved or disapproved by FNS national headquarters because it is necessary to ensure equal consideration of all requests nationwide, and because authorization of additional SAF would be subject to the availability of funds. FNS headquarters would be required to respond to all requests by April 15.

2. Program audits

Two percent funding: H.R. 7664, as passed by the Senate, requires the Secretary to make funds available to States for the conduct of audits of Program sponsors. The amount of these funds would be equal to not more than two percent of the Program funds expended in the State during the prior fiscal year. If this amendment is enacted, the Department proposes to establish the audit funding level at the maximum authorization of two percent.

Special audit procedures: H.R. 7664, as passed by the Senate, authorizes the Secretary to establish special procedures for the conduct of audits of participating sponsors in order to ensure Program integrity. The Department solicits public comment on its proposal to implement this authorization in the following manner.

In conjunction with the provision of two percent audit funds, the Department proposes to alter the schedule for the conduct of audits in a manner suited to both the needs of the Program and the

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amount of funds that would be available to the States. Audits would be provided for by the State agency, and no sponsor would be required to provide for its own audit. Each year, the State agency would be required to provide for audits of:

(a) Sponsors which expect to earn $100,000 or more in Program funds during the fiscal year; (b) Sponsors which were audited during the prior year and were found to have had significant problems in meeting Program requirements; and (c) Sponsors which were not audited during the prior year, including sponsors which did not operate the Program in the prior year.

State agencies which would not earn sufficient two-percent funds to pay for all of the required audits would be allowed to waive the audit requirement for sponsors anticipating less than $10,000 in Program payments. States would be expected to conduct all of the required audits that their two-percent funding will permit. State agencies with more than sufficient audit funding to provide for the required audits would be encouraged to utilize the balance in conducting audits of sponsors which would not otherwise be audited (i.e., those on a biennial schedule).

It should be noted that these special audit procedures differ significantly from those proposed in § 225.13(a)(1)–(3) of this rule. The differences stem from the introduction of the anticipation two-percent audit funding. In the event that Congress does not make this funding available, Program audit procedures will be governed by § 225.13 of this rule, as modified in response to public comment.

Final Payment: H.R. 7664, as passed by the Senate, would mandate that sponsors required to be audited receive final payment for their Program expenses as soon as the results of the audit have been received, reviewed, and approve by the State.

The Department solicits comments on its proposal to implement this amendment in the following manner. Commenters are invited to address not only the Department's proposal, but also the possible effects of its proposal on payment systems.

If Congress were to authorize the two-percent audit funding, the State agency would be required to contract for all Program audits. The State agency would be required to ensure that the audit conducted on any sponsor's program is completed and reviewed within 75 days of the date of submission of the sponsor's final claim for reimbursement. The State agency would also be required to withhold payment on the final claim of any sponsor which is under audit until the audit has been completed and the results have been reviewed by the State agency. However, if the State agency has failed to ensure that the audit is completed and reviewed within 75 days of the date of submission of the sponsor's final claim, it would be required to pay this claim after the 75 days have elapsed unless; (1) the State agency has reason to believe that the sponsor's claim is incorrect or invalid, or (2) in the opinion of the State agency, faults in the sponsor's recordkeeping procedures have caused the delay in the conduct of the audit.

It should be noted that the proposed rule (§ 226.13(b)) requires some sponsors to provide for their own Program audits. In the proposed rule, State agency review of the audit as a condition for payment of the final claim applies only to these sponsors.

3. Crossover of Reimbursement

H.R. 7664, as passed by the Senate, provides the Secretary with the authority to allow States to permit sponsors which prepare their own meals to use, or "cross over," a preapproved portion of reimbursement that is otherwise available for operating costs to defray administrative costs. States could also be allowed to permit such sponsors to use a preapproved portion of reimbursement that is othewise available for administrative costs to defray operating costs. Only at the discretion of the State agency would any sponsor be allowed to make such use of funds.

The Department solicits public comments on its proposal to implement this proposed statutory amendment in the following manner.

If the State agency chooses to authorize crossovers, the sponsor would be required to submit its request for permission as part of its Program application. The request would have to be supported in the sponsor's administrative budget. It would also have to provide sufficient justification of anticipated costs for the State agency to determine (1) that crossover is warranted and (2) that crossover will not reduce either the sponsor's ability to administer its program properly or the quality of Program meal service under the sponsor. State agencies would be expected to evaluate each request carefully and, if necessary, negotiate with the sponsor the amount to be crossed over.

The Department recognizes that crossover of reimbursement otherwise available for operating costs to defray administrative costs may, in extremes, pose a risk to the quality of meals provided to children. In order to prevent excessive crossover in favor of administrative reimbursement, State agencies would be required to limit this form of crossover to 50 percent of the administrative reimbursement for the appropriate meal type normally available to self-preparation sponsors. With State agency approval, such sponsors could thus increase their administrative reimbursement by up to 50 percent. State agencies would be permitted to restrict eligibility for crossover in favor of administrative reimbursement to school sponsors who prepare their own meals. No limit would be imposed on the crossover to augment operating reimbursement because the Department believes that resultant reductions in administrative reimbursement would tend not to pose a serious threat to the Program.

4. School Sponsorship

H.R. 7664, as passed by the Senate, contains an amendment concerning the participation of schools in the Summer Program. Under this amendment the State agency would, by March 15 of each year, be required to inform all school food authorities operating the National School Lunch Program of their eligibility to participate in the Summer Program.

In order to preserve their priority status as applicants for Program sponsorship, schools would be required to inform the State agency by March 15 that they intend to participate. If a school did not propose until after March 15 to sponsor the Program and a nonschool sponsor proposed to serve the same area as the school, the State agency would be required to select the sponsor which it determined would operate the Program most successfully.

After March 15, the State agency would be required to provide information upon request to any member of the public regarding whether any school has proposed to operate the Program in an area.

The Department would establish a deadline for State agencies to inform school food authorities operating the National School Lunch Program of their eligibility for Summer Program sponsorship. This information would have to be conveyed to schools early enough to afford sufficient time for a response prior to the March 15 due date. The Department solicits recommendations regarding a date by which State agencies would be required to inform schools.

The Department would also require that schools' statements of intent to sponsor the Program include a list of the facilities which would operate as sites under their sponsorship.

Accordingly, the Department proposes to revise and reissue 7CFR Part 225 as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—Assistance to States

225.4 Payments to State agencies and use of Program funds.
225.5 Commodity assistance.

Subpart C—State Agency Provisions

225.6 Program management and administration plan.
225.7 State agency personnel.
225.8 Procedures for approval of applications.
225.9 Program applications.
225.10 Program expansion monitoring and assistance.
225.11 Records and reports.
225.12 Program payments.
225.13 Audits and management evaluations.
225.14 Corrective action procedures.
225.15 Claims against sponsors.
225.16 Appeals procedures.
225.17 Procedures for food service management companies.
225.18 Procurement standards.

Subpart D—Provisions for Sponsors

225.19 Requirements for sponsor participation.
225.20 Operational responsibilities of sponsors.
225.21 Meal service requirements.
225.22 Free meal policy.

Subpart E—Miscellaneous Provisions

225.23 Other provisions.
225.24 Program information.

Authority: Sec. 2, 6, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1761); sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1759a).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program to assist States through grants-in-aid to initiate, maintain, and expand non-profit food service programs for children during the summer months and at other approved times. The primary purpose of the Program is to provide food service to children as a substitute for the National School Lunch and School Breakfast Programs, during periods when area schools are closed for vacation, except that the Summer Food Service Program is directed toward children from needy areas.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the program, and excluding interest costs and operating costs.

(c) "Advance payments" means financial assistance made available to a sponsor for its operating costs or administrative costs prior to the end of the month in which such costs will be incurred.

(d) "Areas in which poor economic conditions exists" means (1) the local areas from which a site draws its attendence in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined (i) by information provided from departments of welfare, education, zoning commissions, census tracts, and organizations determined by the State agency to be migrant organizations, (ii) by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or (iii) from other appropriate sources, or (2) an enrollment program in which at least 33⅓ percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the sizes and incomes of the families of the children enrolled.

(e) "Camps" means residential summer camps and nonresidential day camps which offer a regularly scheduled food service as part of an organized program for enrolled children and which serve up to four meals a day. Nonresidential programs shall operate at least six hours each day and shall offer a continuous schedule of organized cultural or recreational program for enrolled children.

(f) "Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

(g) "Costs of obtaining food" means costs related to obtaining food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school are (1) on a vacation for periods of 15 continuous school days or more during the periods October through April and (2) in attendance at regularly scheduled classes during most of the period May through September.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FINS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means any commercial enterprise or non-profit organization which contracts with a sponsor to manage any aspect of the food service program. Food service management companies may be (1) public agencies or entities; (2) private, nonprofit organizations; or (3) private, for-profit companies.

(n) "Income accruing to the Program" means all monies (other than Program payments) received by a sponsor for use in the Program from Federal, State and local governments, from food sales to adults, and from any other source, including cash donations or grants. Income accruing to the Program will be deducted from combined operating and administrative costs.

(o) "Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means whole milk, lowfat milk, skim milk, and buttermilk. All milk must be fluid and pasteurized and must meet State and local standards for the appropriate type of milk. Milk served may be flavored or unflavored. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain Vitamins A and D at the levels specified by the Food and Drug Administration and at levels consistent with State and local standards for such milk.

(q) "Needy children" means children from families whose incomes are equal to or below the Secretary's Guidelines for Determining Eligibility for Reduced Price School Meals.

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(r) "OIG" means the Office of the Inspector General of the Department.

(s) "Operating costs" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances for equipment and space and (5) costs for transporting children in rural areas to feeding sites in rural areas, but excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of in-kind donations, and (v) administrative costs.

(t) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(u) "Program" means the Summer Food Service Program for Children authorized by Section 13 of the Act.

(v) "Program funds" means Federal financial assistance made available to State agencies for the purpose of making Program payments.

(w) "Program payments" means financial assistance in the form of start-up payments, advance payments or reimbursement paid to sponsors for operating and administrative costs.

(x) "Rural" means (1) any area in a county which is not a part of a Standard Metropolitan Statistical Area or (2) any "pocket" within a Standard Metropolitan Area which, at the option of the State agency and with FNSRO concurrence, is determined to be geographically isolated from urban areas.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Self-preparation" means the sponsor prepares the meals which will be served at its site(s), and does not contract with a food service management company for the preparation of all or a portion of the meals.

(aa) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program in those schools.

(bb) "Session" means a specified period of time during which an enrolled group of children attend camp.

(cc) "Site" means a physical location at which a sponsor provides a food service for children and at which children consume meals in a supervised setting.

(dd) "Special account" means an account between a sponsor and a food service management company with a State or Federally insured bank in which checks from the State agency for operating costs are deposited by the sponsor and released only in accordance with the terms of the special account agreement.

(ee) "Sponsor" means a public or private nonprofit institution which develops a special summer or other school vacation program providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs and which is approved to participate in the Program. Institutions eligible to be sponsors include (1) camps and (2) nonresidential institutions which provide a year-round service to the community, or provide a food service to the children of migrant workers, or provide a food service for a significant number of needy children which would not otherwise have reasonable access to the Program. (Sponsors are referred to in the Act as "service institutions").

(ff) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a summer food service, and to establish effective management procedures for such a service. These payments shall be deducted from subsequent administrative costs payments.

(gg) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(hh) "State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and which has been approved by the Department to administer the Program within the State, or in States where FNS administers the Program, FNSRO.

§ 225.3 Administration.

(a) FNS shall act on behalf of the Department in the administration of the Program.

(b) Each State shall designate a State agency to administer the Program within the State, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse the Federal funds payable to the State under the Program. Each State agency shall notify FNS by each November 1 as to whether or not it will administer the Program.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with FNS for the administration of the Program in the State in accordance with the provisons of this part. The agreement shall cover the operation of the Program during the period specified therein and may be extended by written consent of both parties. The agreement shall contain an assurance that the State agency will comply with the Department's nondiscrimination regulations (7 CFR Part 15), issued under Title VI of the Civil Rights Act of 1964, and any Instructions issued by FNS pursuant to those regulations.

(d) When the Secretary determines that the State is not operating the Program in accordance with the provisions of this part, he shall, through FNSRO, assume the responsibility for administration of the Program in the State as provided for in § 225.23(b).

(e) In States in which FNSRO administers the Program, it shall assume all of the responsibilities of a State agency and shall earn State administrative and Program funds as set forth in this part.

Subpart B—Assistance to States

§ 225.4 Payments to State agencies and use of Program funds.

(a) *Letter of Credit for Program payments.* (1) Not later than April 15 of each fiscal year, FNS shall make available to each State in a Letter of Credit an amount equal to 65 percent of the preceding fiscal year's Program payments of operating costs plus 65 percent of the preceding fiscal year's Program payments for administrative costs in the State. This amount may be adjusted to reflect changes in reimbursement rates made pursuant to § 225.12(c)(12). However, the State shall not withdraw funds from this Letter of Credit until its Program management and administration plan is approved by FNS. (2) Not later than May 15, FNS shall make available, if necessary, additional funds in a Letter of Credit to ensure that at least 65 percent of the Program operating and administrative funds estimated to be needed for the summer in the State's approved management and administration plan has been provided to each State. (3) Not later than July 1, FNS shall make available, if necessary, in a Letter of Credit an amount sufficient to ensure that at least 65 percent of the Program operating and administration funds determined during the evaluation required in § 225.13(c) and (d) to be needed for the summer has been provided to the State. Funds made available in these Letters of Credit shall be used by the State agency to make Program payments to sponsors. FNS may make appropriate changes in the amounts included in these Letters of Credit based on any information available upon which determinations of actual Program size may be made.

(b) *Continuous school calendar.* The Letter of Credit shall include sufficient funds to enable the State agency to make advance payments to sponsors serving areas in which schools operate under a continuous school calendar. These funds shall be made available no later than the first day of the month prior to the month during which the food service will be conducted.

(c) *Remaining funds.* FNS shall make available any remaining Program funds due within 45 days of the receipt of valid Claims for Reimbursement from sponsors by the State agency. However, no payment shall be made for claims submitted for any fiscal year if they are submitted after December 31 of the following fiscal year, except as allowed under § 225.12(c)(7).

(d) *Return of funds.* Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 calendar days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(e) *State administrative funds.* For each fiscal year, FNS shall pay to each State agency for administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $250,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2½ percent of any remaining Program funds properly payable to the State in the preceding fiscal year: Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS.

(f) *Use of State administrative funds.* State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative expenses as are set forth in their approved Program management and administration plan.

(g) *State administrative funds Letter of Credit.* (1) Not later than October 1 of each fiscal year, FNS shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in that fiscal year. This allocation shall not exceed one-third of the administrative funds provided to the State in the preceding fiscal year. For State agencies which did not receive any Program funds during the preceding fiscal year, the amount to be made available shall be determined by FNS.

(2) Additional State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed 80 percent of the State administrative funds determined by the formula set forth in paragraph (e) of this section and based on the estimates set forth in the approved Program management and administration plan.

(3) The remaining State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the funding assessment described in § 225.13(c) and (d) (but not later than September 1) and shall be in an amount equal to that determined to be needed during the funding evaluation, less the amounts paid under paragraphs (g) (1) and (2) of this section. As described in § 225.13(d), further adjustments in the levels of State administrative funds paid or payable to a State may be made.

(h) *Funding assurance.* At the time FNS approves the State's management and administration plan, the State shall be assured of receiving State administrative funding equal to the lesser of the following amounts: 80 percent of the amount obtained by applying the formula set forth in paragraph (e) of this section to the total amount of Program payments made within the State during the prior fiscal year, or, 80 percent of the amount obtained by applying the formula to the amount of Program funds estimated to be needed in the management and administration plan. The State agency shall be assured that it will receive no less than this level unless FNS determines that the State agency has failed or is failing to meet its responsibilities under in this part.

(i) *Limitation.* In no event may the total payment for State administrative costs in any fiscal year exceed the total amount of expenditures incurred by the State agency in administering the Program.

(j) *Adjustment of Letter of Credit.* Prior to May 15 of each fiscal year, FNS shall make any adjustments necessary in each State's Letter of Credit to reflect actual expenditures in the preceding fiscal year's Program.

(k) *Health inspection funds.* By April 15 of each fiscal year, FNS shall make available by Letter of Credit to each State agency an amount equal to one percent of Program funds expended in the preceding fiscal year in the State. Following approval of the State's management and administration plan, FNS shall make available in a Letter of Credit any additional funds necessary to ensure that 1 percent of Program funds estimated to be needed for Program payments in the State's management and administration plan is available to the State. These funds shall be used solely to enable State or Local health departments or other governmental agencies charged with health inspection functions to carry out health inspections and meal quality tests, provided that if these agencies cannot perform such inspections or tests, the State agency may use the funds to contract with an independent agency to conduct the inspection or meal quality tests. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.13(c) and (d), if such an adjustment is warranted. Funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

§ 225.5 Commodity assistance.

(a) Sponsors eligible to receive commodities under the Program include only those which prepare the meals to be served at their sites and those which have entered into an agreement with a school or school district for the preparation of meals. The State agency shall make available to these sponsors information on available commodities.

(b) Not later than June 1 of each year State agencies shall prepare a list of the names of sponsors which are to receive commodities. The list shall indicate the average daily number of eligible meals to be served by each of these sponsors. If the State agency does not handle the distribution of commodities donated by the Department, this list shall be forwarded to the agency of the State responsible for the distribution of commodities. The State agency shall be responsible for promptly revising the information included on the list to reflect additions or terminations of sponsors and for adjusting the average

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daily participation data as it determines necessary.

Subpart C—State Agency Provisions

§ 225.6 Program management and administration plan.

(a) Not later than February 15 of each year, each State Agency shall submit to FNSRO a Program management and administration plan for that fiscal year.

(b) Each plan shall be acted on or approved by March 15, or if it is submitted late, within 30 calendar days of receipt of the plan. If the plan initially submitted is not approved, the State agency and FNS shall work together to ensure that changes to the plan, in the form of amendments, are submitted so that the plan can be approved within 60 calendar days following the initial submission of the plan. Upon approval of the plan, the State agency shall be notified of the level of State administrative funding which it is assured of receiving under § 225.4(h).

(c) Prior to submission, the State shall ensure that interested parties have opportunity to make comments and recommendations and that timely comments and recommendations have been given full consideration in the development of the Plan.

(d) The Plan shall have the original signature of the Chief Official (Commissioner or Superintendent) of the State agency.

(e) The State agency shall give the Govenor, or his delegated agent, the opportunity to comment on the management and administration plan. A period of 45 calendar days from the date of receipt of the Plan shall be afforded to make such comments.

(f) Approval of the Plan by FNS shall be a prerequisite to the withdrawal of Program funds by the State from the Letter of Credit and to the donation by the Department of any commodities for use in the State's Program.

(g) The Plan shall include, at a minimum, the following information:

(1) The State's plan for the use of State administrative funds, Program funds, and funds from within the State to reach needy areas, and a description of the means of identifying needy areas. It shall provide the procedures and timeframes for achieving the maximum participation of needy children, particularly needy children in rural areas, in Indian tribal territories, and in areas with a concentration of migrant farmworkers, by disseminating information on the availability of the Program to potential sponsors. The Plan shall provide the State's procedures for locating sponsors eligible under § 225.19(a)(1) through (5);

(2) The estimated number and types of sponsors and sites expected to participate and the estimated average daily attendance. A description of the estimation methods used shall be included;

(3) The estimated amount of Program funds, by month, needed for operating costs payments to sponsors. The plan shall describe the State's method for calculating the amount and the procedures and timeframes for disbursing these payments to sponsors;

(4) The estimated amount of Program funds, by month, needed for administrative costs payments to sponsors. The plan shall describe the State's method for calculating the amount and the method and timeframes for disbursing these payments to sponsors;

(5) The State agency budget, by month, for the use of State administrative funds, including but not limited to staffing, salaries, travel, and per diem;

(6) The State's procedures, deadlines, timeframes, and criteria to be used in the approval process for sponsor applications, including sponsors seeking eligibility under § 225.19(a)(6);

(7) The State's procedures and timeframes for providing technical assistance and training to sponsors, including the number of such training sessions and any other types of technical assistance the State agency intends to provide.

(8) The State's procedures and timeframes for (i) monitoring sponsors and sites, including the number of pre-approval visits and Program reviews conducted in the prior fiscal year and the number of Program reviews planned for the current fiscal year, (ii) followup and corrective action to remedy Program deficiencies and violations detected during such monitoring, and (iii) additional monitoring of sponsors described in § 225.19(a)(6) and sites administered by such sponsors;

(9) The State's procedures and timeframes for (i) registering, (ii) training, and (iii) monitoring of food service management companies, (iv) ensuring that food service management companies do not enter into contracts for more than they can provide effectively and efficiently, and (v) followup and corrective action to remedy food service management company Program deficiencies and violations;

(10) The State's Plan to provide for health inspections and meal quality tests, and the State's plan for the use of funds provided under § 225.4(k);

(11) The State's plan for maximizing the use of school food service facilities and on-site meal preparation;

(12) The actions to be taken to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15);

(13) The State's procedures and timeframes for auditing sponsors not subject to the auditing requirements prescribed by the Secretary in accordance with § 225.13(a)(1). The Plan shall also include the total number of audits performed during the prior fiscal year;

(14) The State's procedures for granting a fair hearing and prompt determination to any sponsor wishing to appeal a State's decision affecting its application for participation, its site participation, or its Program payments, and the State's procedures for granting a hearing and prompt determination to any food service management company wishing to appeal a States' denial of registration in the State. The State shall also identify the title and/or position of the hearing official responsible for hearing appeals by sponsors and food service management companies of any State decision concerning any aspect of their participation in the Program. The Plan shall provide evidence of that official's independence from the original decision-making process;

(15) The amount of non-Federal funds made available to the Program through direct State appropriations;

(16) An explanation of significant deviations in last year's actual Program operations from that proposed in the Plan for last year. This explanation shall include the State's corrective action plan for resolving any problems or deficiencies which occurred during the prior fiscal year and for reducing waste and mismanagement in the Program.

§ 225.7 State agency personnel.

(a) The State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the Program, monitor performance, and measure progress in achieving Program goals. The State agency shall assign Program responsibilities to personnel to ensure that all applicable requirements under this part are met.

(b) All administrative personnel shall be employed and available for Program duties at least 30 days prior to the State agency's sponsor application deadline date. All field staff personnel shall be employed and available at least 15 days prior to the first day of Program operations. However, the State agency may submit to FNSRO a written request for an exception to these hiring dates. The requests shall include information in sufficient detail for FNSRO to determine that the exception is necessary and will not adversely affect Program administration and operation. The requests must be submitted prior to the first of the hiring dates.

§ 225.8 Procedures for approval of applications.

(a) Each State agency shall establish and inform all of the previous year's sponsors and all potential sponsors of the deadline date for submitting a written application for participation in the Program. The State agency shall approve the application of an otherwise eligible applicant sponsor submitted after the deadline date established by the State agency only when the failure to do so would deny the Program to an area in which poor economic conditions exist or a significant number of needy children would not otherwise have reasonable access to the Program. The State agency shall inform potential sponsors inquiring after the sponsor application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency shall not approve an application submitted after the deadline date any sooner than seven days following its submission.

(b) Within 30 days of receiving a complete and correct application, the State agency shall notify the applicant of its approval or disapproval. If an incomplete application is received, the State agency shall so notify the applicant within 15 days and shall provide technical assistance for the purpose of completing the application. Any disapproved applicant shall be notified of its right to appeal under § 225.16.

(c) The State agency shall determine the eligibility of applicant sponsors applying for participation in the Program in accordance with the applicant sponsor eligibility criteria outlined in § 225.19.

(d) The State agency shall review each applicant's administrative budget as a part of the application approval process, in order to assess the applicant's ability to operate in compliance with these regulations within is projected reimbursement. In approving the applicant's administrative budget, the State agency shall take into consideration the number of sites and children to be served, as well as any other relevant factors. A sponsor's administrative budget shall be subject to review for adjustments by the State agency if the sponsor's level of site participation or the number of meals served to children changes significantly.

(e) State agencies may approve the application of an otherwise eligible applicant which does not provide a year-round service to the community which it proposes to serve under the Program only if it meets one or more of the following criteria: (1) it is a residential camp, or (2) it proposes to provide a food service for the children of migrant workers, or (3) a failure to do so would deny the Program to an area in which poor economic conditions exist, or (4) a significant number of needy children will not otherwise have reasonable access to the Program. Such an applicant may be approved to operate more than 50 sites only if it will provide a food service for the children of migrant workers and the State agency determines that the applicant has adequate capabilities and facilities and has provided services to migrant communities in prior years. When approving the applications of such applicants, the State agency shall take particular care to ensure that such applicants are timely in their Program planning and thoroughly prepared to assume and carry out all Program responsibilities.

(f) Applicants which qualify as camps shall be approved for reimbursement only for meals served free to enrolled children who meet the eligibility requirements for free and reduced price school meals.

(g) The State agency shall use the following order of priority in approving sponsors eligible under § 225.19(a) (1) through (5) to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicant sponsors which are public or nonprofit private schools which have demonstrated successful Program performance in a prior year;

(2) Applicant sponsors which oppose to prepare meals at their own facilities or which operate only one site;

(3) Applicant sponsors which propose to utilize local school food service facilities for the preparation of meals;

(4) Other applicant sponsors which have demonstrated ability for successful Program operations; and

(5) Applicant sponsors which plan to integrage the Program with Federal, State, or local employment or training programs.

(h) The State agency shall not approve the application of any applicant sponsor which seeks eligibility under § 225.19(a)(6) unless the applicant fully documents that it has a consistent record of reliable and honest management and administration of community food service programs. For the purpose of determining eligibility under § 225.19(a)(6), "community food service program" means a program that provides meals on a regular schedule, and which has the stated objective of providing nutritionally balanced meals to participants. The State agency shall approve these applicants only if sponsors indentified in § 225.19(a) (1) through (5) are not available to administer the Program in the same geographic area or a significant number of needy children will not otherwise have reasonable access to the Program. Upon receiving an application from a potential sponsor seeking eligibility under § 225.19(a)(6), the State agency shall make every reasonable effort to locate a sponsor eligible under § 225.19(a) (1) through (5) to serve sites in that same area. The State agency may also assist applicants seeking eligibility under § 225.19(a)(6) in making changes in their proposed programs that would make the applicants eligible under one of the other categories in § 225.19(a) (1) through (5).

(i) When evaluating a proposed food service site, the State agency shall ensure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist, as defined by § 225.2(d);

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served, or, if applicable, the number enrolled;

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal and that the total number of meals, by type, served to children at all sites does not exceed the number of children residing in the area; and

(4) The site is approved to serve no more than the number of children for which its facilities are adequate.

(j) When approving each application, the State agency shall establish an approved level for the number of meals which may be claimed for reimbursement under the Program for each site at which the sponsor proposes to serve meals prepared by a food service management company. The approved level shall be set with the objective of providing only one meal per child. The approved level shall be based upon the historical record of attendance at the site, if the site has been used in the Program in prior years. If the site has not been used in prior years, the State agency shall establish the approved level based on its own best estimate of

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attendance. The approved level shall be adjusted, if warranted, based upon information collected during site reviews. The sponsor may seek an adjustment in the approved level for its sites by requesting a site review or by providing the State agency with evidence that its attendance at a site exceeds the site's approved level. Whenever the State agency makes such adjustments, it shall document them in its files, and it shall immediately send written confirmation of the adjustments to the sponsor. Upon approval of its application or any adjustment of approved levels, the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals.

(k) Each State agency shall inform potential sponsors of the procedure for applying for advance operating and administrative costs payments as provided for in § 225.12(b), and where applicable, each State agency shall inform sponsors of the procedure for applying for start-up payments provided for in § 225.(12)(a).

(l) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(m) The State agency shall not approve the application of any applicant sponsor identifiable through its organization or principals as a sponsor which participated during the prior three fiscal years and was seriously deficient in its Program operations. In the event that an applicant sponsor's application is denied, the State agency shall inform such applicant sponsor of the procedure to request a review of the denial. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies which are grounds for nonapproval are described in § 225.14(c).

(n) Pending the outcome of a review of a denial the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (g) of this section, without regard to the application under review.

(o) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for Program participation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding such disapproval of an applicant shall be submitted by the State agency through FNSRO to OIG.

§ 225.9 Program applications.

(a) The applicant shall submit a written application to the State agency for participation in the Program as a sponsor. The State agency may use the application form developed by FNS or it may develop an application form for use in the Program. Application shall be made on a timely basis in accordance with the State agency deadline date established under § 225.8(a). At a minimum, the application shall include the items listed below:

(1) A site information sheet, as developed by the State agency, for each site where a food service operation is proposed. The site information sheet shall demonstrate or describe the following:

(i) An organized and supervised system for serving meals to attending children;

(ii) The estimated number and types of meals to be served and the times of service;

(iii) Arrangements, within standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and arrangements for storing and refrigerating any leftover meals until the next day;

(iv) Arrangements for food service during periods of inclement weather;

(v) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(vi) The geographic area to be served by the site;

(vii) The percentage of children to be served by the site who meet the eligibility requirements for free or reduced price school meals; and

(viii) Whether the site is rural, as defined by § 225.2(x), or non-rural, and whether the site's food service will be self-preparation or vended.

(2) Along with its site information sheet for a site that is not a camp, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist. For those sites at which applicants will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from an organization determined by the State agency to be a migrant organization, which supports eligibility for those children as a group. When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. For such sites applicants shall only be required to obtain new documentation every other year. Prior to filing their Claims for Reimbursement for each session or at such time as specified by the State agency, camps shall submit to the State agency family-size and income information which documents the number of children enrolled in each session who meet the eligibility requirements for free or reduced price school meals.

(3) Information in sufficient detail to enable the State agency to determine whether the applicant meets the criteria for participation in the Program as set forth in § 225.19, and the extent of Program payments needed, including a request for advance payments and start-up payments, if applicable, an administrative and operating budget, and a staffing and monitoring plan.

(4) A complete administrative budget for State agency review and approval. The budget shall contain the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to assess the sponsor's ability to operate under the Program within its estimated reimbursement. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(5) A plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.17.

(6) A free meal policy statement, as required in § 225.22.

(7) For sponsors applying after the deadline date established by the State agency under § 225.8(a), an explanation to the State of why they are applying late. The State shall maintain a record documenting all late submissions.

(8) Applicants which sponsored the Program during any of the prior three fiscal years shall not be required to submit the documentation described in this paragraph. Applicants under § 225.19(a)(6) of this part which have not sponsored the Program during the prior three fiscal years shall submit sufficient documentation with the application to demonstrate that they have been consistently reliable and honest in the management and administration of community food service programs. The following types of documentation shall be submitted by these applicants for any other community food service programs

administered during the prior three years, and may be submitted for any program administered prior to that time:

(i) A description of all food service programs which the applicant has managed or administered, including lists of names of corporate officers, addresses of food service sites, and sources of funding;

(ii) Independent audit reports stemming from any audits which may have been conducted of the applicant's food service programs;

(iii) An assurance that the applicant has not been terminated or determined to have been seriously deficient in its operation of community food service programs; and

(iv) Any other relevant information which is available to the applicant concerning its record in management and administration of food service programs.

(b) Sponsors approved for participation in the Program shall enter into written agreements with the State agency. The agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation or at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.21 during a period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not served meals under the Program;

(4) Issue a policy statement in accordance with § 225.22;

(5) Meet the training requirement for its administrative and site personnel, as required under § 225.20(i);

(6) Provide for an audit if it expects to receive over $75,000 in Program payments, as outlined in § 225.13(a)(2);

(7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligible for free or reduced price school meals. No permanent changes may be made in the time of any meal service period unless the changes are approved by the State agency;

(8) Submit Claims for Reimbursement in accordance with procedures established by the State agency, and those stated in § 225.12;

(9) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(10) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(11) Have access to facilities necessary for storing, preparing, and serving food;

(12) Maintain a financial management system as prescribed by the State agency;

(13) Maintain on file documentation of site visits and reviews in accordance with § 225.20(g) and (h);

(14) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. These records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigation findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

(15) Maintain children on site while meal are consumed; and

(16) Retain final financial and administrative responsibility for its program.

(c) Each State agency shall require applicant sponsors submitting Program applications, site information sheets, Program agreements or Claims for Reimbursement, and sponsors requesting advance payments, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(d) Within two weeks of receiving notification of their approval, sponsors shall submit to the State agency a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.

(e) Within two weeks of receiving notification of its approval, any sponsor whose total Program payments are expected to exceed $75,000 shall submit to the State agency a copy of its letter of agreement with the accounting firm or individual which is to conduct the audit of its program in accordance with § 225.13(a) and (b).

(f) In addition, the State agency may require any sponsor which contracts with a food service management company to enter into an agreement with the State agency to provide that the sponsor shall establish a special account with a State of Federally insured bank for operating costs payable to the sponsor by the State. The special account agreement shall specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain other terms agreed to by both sponsor and food service management company, which are not inconsistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

§ 225.10 Program expansion, monitoring and assistance.

(a) Program availability. By February 1 of each fiscal year, each State agency shall announce the purpose, eligibility criteria, and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponsors which have not previously participated in the Program and shall contact them. State agencies shall identify rural areas, Indian tribal territories, and areas with a concentration of migrant farmworkers which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance and target outreach efforts in these areas. Outreach efforts shall be directed toward potential sponsors which would be eligible under § 225.19(a)(1) through (5). State agencies shall make every reasonable effort to locate high priority sponsors for sites in areas where poor economic conditions exist. The State agency shall encourage potential sponsors to use their own facilities or the facilities of public or nonprofit private schools for the preparation, delivery, and service of meals under the Program.

(b) *Training.* Each State agency shall plan for and carry out Program training for sponsors, food service management company representatives, auditors, and health inspectors which will participate in the Program in that State. Prior to Program operations, each State agency shall ensure that the sponsor's

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supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. This training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize sponsors which have previously participated in the Program in such training and to train site personnel regarding their responsibilities. Training should be made available at convenient locations. Prior to the beginning of Program operations, each State agency shall make available training in all necessary areas of Program administration for representatives from all food service management companies and each health department which will participate in the Program in the current year.

(c) *Program materials.* Each State agency shall develop and make available all necessary Program materials in sufficient time to enable applicant sponsors to adequately prepare for their participation in the Program.

(d) *Food specifications and meal quality standards.* With the assistance of the Department, each State agency shall develop and make available to all sponsors minimum food specifications and model meal quality standards which shall become part of the contracts between sponsors and food service management companies.

(e) *Program monitoring and assistance.* The State agency shall conduct monitoring and provide Program assistance according to the following provisions:

(1) *Pre-approval visits.* The State agency shall conduct pre-approval visits of sponsors and sites as specified below, to further assess the applicant sponsor's or site's potential for successful Program operations and to verify information provided in the application. The State agency shall visit prior to approval:

(i) All applicant sponsors which did not participate in the Program in the prior year;

(ii) All other applicant sponsors which, as a result of operational problems noted in the prior year, the State agency has determined need a pre-approval visit;

(iii) All proposed nonschool sites with an expected average daily attendance of 300 children or more and which did not participate in the Program in the prior year.

(2) *Sponsor and site reviews.* The State agency shall review sponsors and sites, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and any other applicable instructions issued by the Department. In determining which sponsors or sites to review under this paragraph, the State agency shall, at a minimum consider whether or not the sponsor or site has been used or reviewed in prior years, the performance of the sponsor or site in prior years, the performance of other sites operated by the same sponsor in prior years and the current year, and the performance of the applicable sponsor in prior years and the current year. Reviews shall be conducted as follows:

(i) For the following types of sponsors, State agencies shall conduct both a review of sponsor operations and reviews of an average of 15 percent of their sites during the first four weeks of the sponsor's operations:

(A) Sponsors which have 10 or more sites and which did not operate the Program in the prior year, and

(B) Other sponsors of 10 or more sites which are determined by the State agency to need early reviews.

(ii) The State agency shall review the following types of sponsors and sites not reviewed under subparagraph (2)(i) of this paragraph at least once during the period of program operations:

(A) All remaining sponsors of 10 or more sites and an average of at least 15 percent of their sites, and

(B) 70-percent of all sponsors of fewer than 10 sites and an average of 10-percent of their sites.

(iii) The State agency shall conduct follow-up reviews of sponsors and sites as necessary.

(3) *Monitoring system.* Each State agency shall develop and implement a monitoring system to ensure that sponsors, including site personnel, and the appropriate food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance. As a part of its monitoring system, the State agency may elect to implement a five-percent tolerance level, as allowed under § 225.14(f). Sponsors and site personnel shall be afforded every opportunity to make necessary corrections in a timely manner.

(4) *Records.* Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(5) *Food Preparation facility visits.* As a part of the review of any sponsor which contracts with a food service management company for the preparation of meals, the State agency shall inspect the facilities of the food service management company. Each State agency shall establish an order of priority for visiting facilities at which food is prepared to be served in the Program. The State agency shall respond promptly to complaints concerning facilities with potential problems. Funds provided for in § 225.4(k) may be used for this purpose.

(6) *Forms for reviews by sponsors.* Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, time of reviewer's arrival and departure, site supervisor's signature, certification statement to be signed by monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, and corrective actions taken by sponsor and date of such actions.

(7) *Statistical monitoring.* State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (e)(2) of this section to accomplish the monitoring and technical assistance aspects of the Program. State agencies which use statistical monitoring procedures may use the findings in evaluating claims for reimbursement. FNS will develop guidance outlining statistical monitoring procedures. States should use the statistical monitoring procedures provided by FNS, or develop alternate procedures and obtain FNS approval prior to implementation. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the requirements for reviewing sponsors in subparagraph (2) of this paragraph.

(8) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in § 225.14. The State agency shall conduct follow-up reviews as appropriate when corrective actions are required.

(f) *Food quality and preparation facility inspections.* The State agency shall make a positive effort to ensure that inspections of food preparation facilities and food service sites, including meal quality tests, are conducted. The procedures for carrying out the inspections and tests shall be consistent with procedures used by local health authorities. For inspections of facilities of food service management companies not conducted by State agency personnel, copies of the results of the inspections shall be provided to the State agency. The company and the sponsor shall also immediately receive a copy of the results of these inspections when corrective action is required.

(g) *Financial management.* Each State agency shall establish a financial managment system in accordance with Office of Management and Budget Circular A–102 and FNS guidance to identify allowable Program costs and establish standards for sponsor recordkeeping and reporting. The system shall also be consistent with Federal Management Circular 74–4. The State agency shall provide guidance on these financial management standards to each sponsor.

(h) *Nondiscrimination.* (1) Each State agency shall comply with the requirements of title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program. (2) Complaints of discrimination filed by applicants or participants shall be referred to FNS or the Secretary of Agriculture, Washington, D.C. 20250.

§ 225.11 Records and reports.

(a) Each State agency shall maintain complete and accurate current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, claims against sponsors and efforts to recover overpayments, and expenditures for administrative and operating costs. These records shall be retained for a period of three years after the date of the submission of the final Program Operations and Financial Status Report (SF–269), except that, if audit findings have not been resolved, the affected records shall be retained beyond the three year period until such time as any issues raised by the audit findings have been resolved. The State agency shall also retain a complete record of each review or appeal conducted, as required under § 225.16, for a period of three years following the date of the final determination on the review or appeal. Records may be kept in their original form or on microfilm.

(b) By December 15 of each year the State agency shall provide FNS with information on the scope of Program operations within the State.

(c) Each State agency shall report information to FNS on the use of funds and on Program operations on a form provided by, and as instructed by, FNS.

(d) Not later than March 1 of each fiscal year, the State agency shall submit to FNS a final Operations and Financial Status Report for the prior fiscal year, on a form (SF–269) provided by FNS. Any requested increase in reimbursement levels for a fiscal year resulting from corrective action taken after submission of the final Program Operations and Financial Status Reports shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such an increase, it will make payment, subject to the availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 225.15(d), except that amounts recovered may not be used to make Program payments.

(e) By October 15, each State agency shall submit to FNS, on a form provided by FNS, information concerning each food service management company which applied to the State agency for registration for that calendar year's Program. FNS shall allow any food service management company to review the information concerning that company which was submitted to FNS in accordance with this paragraph.

§ 225.12 Program payments.

(a) *Start-up payments.* At their discretion, State agencies may make start-up payments to sponsors which have executed Program agreements. Start-up payments shall not be made more than two months before the sponsor is scheduled to begin food service operations and shall not excpeed 20 percent of the sponsor's approved administrative budget. The amount of the start-up payment shall be deducted from the first advance payment for administrative costs or, if the sponsors does not receive advance payments, from the first administrative reimbursement.

(b) *Advance payments.* At the sponsor's request, State agencies shall make advance payments to assist sponsors in meeting operating costs and administrative expenses. For sponsors operating under a continuous school calendar, all advance payments shall be forwarded on the first day of each month of operation. Advance payments shall be made by the dates specified in paragraphs (b) (1) and (2) of this section for all other sponsors whose requests are received at least 30 days prior to those dates. Requests received less than 30 days prior to those dates shall be acted upon within 30 days of receipt. When making advance payments, State agencies shall observe the following criteria:

(1) *Operating costs.*

(i) State agencies shall make advance payments for operating costs by June 1, July 15, and August 15. To be eligible for the second advance payments, the sponsor must have conducted training sessions for its own personnel and site personnel covering Program duties and responsibilities. A sponsor shall not receive advance operating costs payments for any month in which it will participate in the Program for less than ten days.

(ii) To determine the amount of the advance payment to any sponsor, the State agency shall employ whichever of the following methods will result in the larger payment: (A) The total operating costs paid to the sponsor for the same calendar month in the preceding year, or (B) for sponsors contracting with a food service management company, 50 percent of the amount determined by the State agency to be needed that month for meals, and, for sponsors preparing their own meals, 65 percent of the amount determined by the State agency to be needed that month for meals.

(2) *Administrative costs.*

(i) State agencies shall make advance payments for administrative costs by June 1 and July 15. To be eligible for the second advance payment, the sponsor must certify that it is operating the number of sites for which the administrative budget was approved and that its projected administrative costs do not differ significantly from the approved budget. A sponsor shall not receive advance administrative costs payments for any month in which it will operate under the Program for less than 10 days. However, if a sponsor operates for less than 10 days in June but for at least 10 days in August, the second advance administrative costs payment shall be made by August 15.

(ii) Each payment shall equal one third of the total amount which the State agency determines the sponsor will need to administer its program. For sponsors which will operate for ten or more days only in one month and, therefore, will qualify for only one advance administrative costs payment, the payment shall be no less than one half and no more than two thirds of the total

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amount which the State agency determines the sponsor will need to administer its program.

(3) *Advance payment estimates.* When determining the amount of advance payments payable to the sponsor, the State agency shall make the best possible estimate based on the sponsor's request and any other available date. Under no circumstances may the amount of the advance payment for operating or administrative costs exceed the amount estimated by the State agency to be needed by the sponsor to meet operating or administrative costs, respectively.

(4) *Limit.* The sum of the advance operating and administrative costs payments to a sponsor for any one month shall not exceed $40,000 unless the State agency determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and managerial capability to justify a larger payment.

(5) *Deductions from advance payments.* The State agency shall deduct from either advance operating payments or advance administrative payments the amount of any previous payment which is under dispute or which is part of a demand for recovery under § 225.15.

(6) *Withholding of advance payments.* If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the month for which advance payments have already been made, the subsequent month's advance payment shall be withheld until a valid claim is received.

(7) *Repayment of excess advance payments.* Upon demand of the State agency, sponsors shall repay any advance Program payments in excess of the amount cited on a valid Claim for Reimbursement.

(c) *Reimbursements.* Sponsors shall not be eligible for reimbursements for operating and administrative costs unless they have executed an agreement with the State agency. All reimbursements shall be in accordance with the terms of this agreement. Reimbursements shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program. The State agency may make full or partial reimbursement upon receipt of a Claim for Reimbursement, but shall first make any necessary adjustments in the amount to be paid. The following requirements shall be observed in submitting and paying claims:

(1) No reimbursement may be issued until the sponsor certifies that it operated all sites approved in the administrative budget and that there has been no significant change in its projected administrative costs since its preceding claim or, for a sponsor receiving an advance payment for only one month, that there has been no significant change in its projected administrative costs since its initial advance administrative costs payment.

(2) Claims for reimbursement shall be submitted by the 10th day of the month following the month for which the claim is made. The State agency may require that claims be submitted more frequently than once each month.

(3) Sponsors whose first month of operation consists of less than 10 days shall submit a combined claim for that month and the month immediately following.

(4) Sponsors whose final month of operations consists of less than 10 days shall submit a combined claim for the final month and the month immediately preceding within 10 days of the last day of operation.

(5) The State agency shall forward reimbursements within 45 days of receiving valid claims. If a claim is incomplete or invalid, the State agency shall return the claim to the sponsor within 30 days with an explanation of the reason for disapproval. If the sponsor submits a revised claim, final action shall be completed within 45 days of receipt.

(6) The State agency is not required to act upon any Claim for Reimbursement which is not received within 30 days of the sponsor's last day of food service operations, unless the State agency determines that the late submission is due to circumstances beyond the sponsor's control, in which case payment shall be made if the claim is valid.

(7) Claims for reimbursement for any fiscal year shall not be considered if they are submitted later than the following December 31, with the exception of Claims submitted on or before December 31 and subsequently amended as a result of audits or investigations.

(8) Claims for reimbursement shall include data sufficient to justify the amount claimed and to enable the State agency to provide the information required in Program reports. Sponsors shall also certify that records supporting the claim are available. The cost of meals served to adults performing necessary food service labor may be included in the claim.

(9) The State agency shall promptly take corrective action with respect to any Claim for Reimbursement for which such action is determined necessary based upon the results of Program reviews or any other information available. The corrective action must be completed in time to be reflected in the final Program Operations and Financial Status report for each fiscal year if reimbursement for the claim is to be made available for that fiscal year through the Letter of Credit system described under § 225.4(j).

(10) Payments to a sponsor for operating costs shall equal the lesser of the following totals:

(i) The actual operating costs incurred by the sponsor, or

(ii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 85.75 cents for each lunch or supper, 42.75 cents for each breakfast and 22.50 cents for each supplement. These are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph (c)(12) of this section.

(11) Payments to a sponsor for administrative costs shall equal the lowest of the following totals:

(i) The amount estimated in the sponsor's approved administrative budget (taking into account any amendments);

(ii) The actual administrative costs incurred by the sponsor; or

(iii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 6.75 cents for each lunch or supper, 3.50 cents for each breakfast and 1.75 cents for supplements, except that sponsors shall be eligible to receive an additional 1.50 cents for each lunch or supper, 1.00 cents for each breakfast, and .50 cents for each supplement served to participating children at rural or self-preparation sites. All rates in this subparagraph are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph (c)(12) of this section.

(12) Each January 1, FNS shall publish a notice in the **Federal Register** announcing any adjustment to the reimbursement rates described in paragraphs (c)(10)(ii) and (11)(iii) of this section. Adjustments shall be based upon changes in the series for food away from home of the Consumer Price Index for all Urban Consumers since the establishment of the rates.

(13) Sponsors of camps shall be reimbursed only for meals served to children in camps whose eligibility for free or reduced-price meals is documented. Any nonresidential camp

reduced to fewer than four meals per day under the terms of § 225.14(d) shall receive reimbursement only for those meals served to children eligible for free or reduced-price school meals.

(14) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations shall be a basis for nonpayment of the applicable sponsor's Claims for Reimbursement.

(d) The sponsor may claim reimbursement for any meals which are examined for meal quality by the State agency, auditors, or local health authorities and found to meet the meal pattern requirements.

(e) In reviewing a sponsor's claim, the State agency may limit payments to the sponsor according to the approved level for meal service which may be claimed for reimbursement at the sponsor's sites, as provided for in § 225.8(j).

§ 225.13 Audit and management evaluation.

(a) *Audits.* (1) Upon approval of applicant sponsors whose total Claims for Reimbursement are expected to exceed $75,000, the State agency shall provide those sponsors with an audit guide to be used in the conduct of the audit required by § 225.20(k) and any other guidance necessary to enable them to comply with the audit requirements of this part. The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department for the Program.

(2) In addition to the plan submitted under § 225.6(g)(13), the State agency shall ensure that all sponsors within the State whose total Claims for Reimbursement are expected to be more than $75,000 provide for an annual audit of their program. Any sponsor required to provide for an audit of its program shall engage an accounting firm or individual which is independent of the sponsor to conduct the audit.

(3) The State agency shall also provide for biennial audits of sponsors whose total Claims for Reimbursement are expected to be less than $75,000 with the following exceptions: (i) sponsors under $10,000, (ii) sponsors receiving other Federal funds, and subject to an organization-wide audit in accordance with OMB Circular A–102, and (iii) sponsors for which the State agency determines an audit is unnecessary based on program performance. States must justify and document all exemptions made to the biennial audit requirement. The cost of such audits shall be considered an allowable State administrative expense, and in no case may the cost of such audits be passed through to sponsors. States which can demonstrate that compliance with the requirement will impose financial hardship may initiate an appeal through FNSRO to FNS.

(4) Any audit of an organization which is conducted in accordance with the Program audit guide and includes the Program covered by this part may be included to meet a portion of the audit requirement contained in this section.

(5) Audits shall be conducted by: State agency internal auditors; State Auditors General; State Comptroller's Offices; other comparable State or local government audit groups; Certified Public Accountants; or public accountants licensed on or before December 31, 1970, and currently certified or licensed by the regulatory authority of the State or other political subdivision of the United States.

(6) Within the first two weeks of the sponsor's operation of the Program, the auditor engaged by any sponsor required to have an annual audit shall submit to the sponsor and to the State agency a copy of a letter evaluating and making recommendations for the improvement of the sponsor's accounting and recordkeeping systems.

(7) Each State agency shall coordinate its monitoring review findings under § 225.10 and the audit reports provided for under § 225.20(k). Each State agency shall ensure that monitoring is conducted to result in a representative review of the sponsor's operations under the Program.

(8) While OIG shall rely to the fullest extent feasible upon State-sponsored audits, it shall, when considered necessary, (i) make audits on a Statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(9) State agencies shall provide FNS and OIG with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds, upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any sponsor.

(10) Use of Program audit guides available from OIG is encouraged. When this guide is utilized, OIG will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(b) For each sponsor whose total Program payments under any Program agreement are expected to exceed $75,000, the final Claim for Reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(c) *Management evaluations.* For management purposes, FNSRO shall conduct an annual evaluation of Program operations within each State agency to determine Program needs and identify potential problem areas. Based on information obtained during this assessment, FNSRO may provide training or technical assistance to the State agency. FNSRO shall conduct management evaluations either prior to the initiation of Program operations, or during the first six weeks of Program operations, whichever time FNSRO considers best to evaluate the State. If the management evaluation discloses serious problems, a follow-up evaluation shall be made.

(d) In addition to the management evaluation, FNSRO shall collect data on the need for Program and State administrative funding within each State agency. Based on this data, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency under § 225.4(g) to reflect changes in the size of the State's Program as compared to that estimated in its management and administration plan. The data shall be based on approved Program participation levels and collected during the period of Program operations, but no later than August 1. Immediately following this data collection, payment of State administrative funds shall be made to the State agency. The payment may reflect adjustments in the level of State administrative funding, based on the information collected. FNS shall not decrease the amount of a State's administrative funds unless the State failed to make reasonable efforts to administer the Program as proposed in its management and administration plan or the State incurred unnecessary expenses.

(e) The State agency shall fully respond to any recommendations made by FNSRO pursuant to the management evaluation. The response shall be in the form of a corrective action plan, as required under § 225.6(g)(16).

(f) FNSRO may require the State agency to submit on 20 days notice a corrective action plan regarding serious

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problems observed during any phase of the management evaluation.

(g) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, when there are unpaid claims for the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes.

§ 225.14 Corrective action procedures.

(a) *Purpose.* The provisions in this section shall be used by the State agency to improve Program performance.

(b) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file all evidence relating to such investigations and actions. The State agency shall inform the appropriate FNSRO of any suspected fraud or criminal abuse in the Program which would result in a loss or misuse of Federal funds. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(c) *Denial of applications and termination of sponsors.* The State agency shall not enter into an agreement with any applicant sponsor identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program at any time during the previous three fiscal years, including the fiscal year of its application to the Program, and which was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor which it determines to be seriously deficient. Following such termination, the sponsor shall not be eligible to participate in the Program during the remainder of the fiscal year of its termination and the subsequent two fiscal years. The State agency may, before the expiration of the three fiscal years, approve the application of a sponsor which has been disapproved or terminated in accordance with this paragraph if the State agency, with FNS concurrence, determines that the sponsor has taken appropriate corrective actions to prevent recurrence of the deficiencies. However, the State agency shall afford a sponsor every reasonable opportunity to correct problems before terminating the sponsor for being seriously deficient. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with this part, or failure to submit all Claims for Reimbursement in any prior year, provided that failure to return any advance payments for months for which Claims for Reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to any child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(d) *Meal service restriction.* The State agency shall restrict to one meal service per day (1) any food service site which is determined to be in violation of the time restrictions for meal service included in § 225.21(a) when corrective action is not taken within a reasonable time as determined by the State agency, and (2) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the time restrictions included in § 225.21(a). If this action results in children not receiving any meals under the Program, the State agency shall make every reasonable effort to locate another source of meal service for the children.

(e) *Meal disallowances for improper planning.* If the State agency determines that a sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service at a food service site, the State agency shall withhold reimbursement for the number of meals prepared or ordered in excess of the number of children served. The State agency shall withhold reimbursement for any meals observed during a site review, in excess of a site's approved level, established under § 225.8(j).

(f) *Tolerance level.* The State agency may elect not to reimburse the sponsor for any meals served in violation of Program requirements. However, the State agency may reimburse the sponsor for meals served in violation which are observed during a site review if the number of meals in violation does not exceed five percent of the total number of meals served at the meal service. In making such a determination, the State agency shall in no case allow meals served in excess of the site's approved level, set in accordance with § 225.8(j). If the State agency elects to reimburse the sponsor for any meals served in violation of Program requirements, it shall require the sponsor to take immediate corrective action to ensure that the violations do not recur. The State agency may reimburse sponsors for meals in violation of the five percent level only if it determines that the high level of meal service violations is due to unusual circumstances beyond the control of the sponsor. If the State agency elects to take such action, it shall document in its files the reasons for allowing the five percent tolerance level to be exceeded. Seconds served in accordance with § 225.20(d) are not violations and, therefore, shall not be counted in the aggregation of violations under this paragraph.

(g) *Termination of sites.*

(1) The State agency shall terminate the participation of a sponsor's site if the sponsor fails to take action to correct the Program violations noted in a State agency review report within the timeframes established by the State agency and specified in the review report.

(2) The State agency shall immediately terminate the participation of a sponsor's site if during a review it determines that the health or safety of the participating children is imminently threatened.

(3) Within 48 hours of terminating a site, the State agency shall, if applicable, notify the food service management company providing meals to the site of the termination.

(4) Upon terminating a sponsor's site, the State agency shall inform the sponsor of its right to appeal under § 225.16.

§ 225.15 Claims against sponsors.

(a) The State agency shall disallow any portion of a Claim for Reimbursement and recover any payment to a sponsor not properly payable under this part, except as provided for in § 225.13(g). However, the State agency shall notify the sponsor of the reasons for the disallowance or demand for repayment, and allow the sponsor full opportunity to submit evidence on appeal as provided for in § 225.16.

(b) Minimum State Agency collection procedures for unearned payments shall include: (1) written demand to the sponsor for the return of improper payments; (2) if after 30 days the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments, sent by certified mail, return receipt requested; (3) if, after 60 days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a third written demand for the return of improper payments, sent by certified mail, return receipt requested; and (4) if after 90 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the sponsor to appropriate State or Federal authorities for pursuit of legal remedies.

(c) If FNS does not concur with the State agency's action in paying a sponsor or in failing to collect overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment unless FNS determines that the State agency has conformed with this part in issuing the payment and has exerted reasonable efforts in accordance with paragraph (b) of this section to recover the improper payment.

(d) The amounts recovered by the State agency from sponsors may be utilized (1) to make Program payments to sponsors for the period for which the funds were initially available, and (2) to repay the State for any of its own funds used to make payments on Claims for Reimbursement. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

§ 225.16 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a claim against a sponsor for remittance of a payment, the termination of the sponsor or a site, a denial of a sponsor's application for a site, or a denial of a food service management company's application for registration.

(b) At a minimum, the procedures for those reviews shall provide that:

(1) The sponsor or food service management company be advised in writing of the grounds upon which the State agency based the action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a full description of the sponsor's or food service management company's rights and responsibilities under this section;

(2) The sponsor or food service management company be advised in writing that the request for review must be made within a specified time. The State agency shall establish this period of time at not less than one week nor more than two weeks from the date of receipt of the notice of action;

(3) The appellant be afforded the opportunity to reveiw any information upon which the action was based;

(4) The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the request for review;

(5) A hearing shall be held by the reveiw official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specified in the letter of request for review. The appellant may retain legal counsel, or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing;

(6) If the appellant has requested a hearing, the appellant shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(7) The hearing shall be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraph (b)(4) of this section;

(8) The review official shall be independent of the original decisionmaking process;

(9) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(10) Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;

(11) The State agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued operation under the Program shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

(12) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(c) A complete record regarding each review shall be kept by the State agency, as required under § 225.11(a).

§ 225.17 Procedures for food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals with or without milk. In all cases, the sponsor shall adhere to the procurement standards indicated in § 225.18. All meals prepared by a food service management company shall be unitized, with or without milk, unless the sponsor submits to the State agency a request for exceptions to the unitizing requirement for certain components of a meal. These requests shall be submitted to the State agency in writing prior to advertising for bids. The State agency shall notify the

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sponsor in writing of it determination in a timely manner.

(b) Any sponsor which contracts with a food service management company shall be responsible for ensuring that the food service operation is in conformity with its agreement with the State agency and all the applicable provisions of this part. No sponsor may contract out for the management responsibilities of the Program such as monitoring, enforcing corrective action, or preparing Program applications.

(c) A sponsor may contract only with a food service management company which is registered with the State in which the sponsor will operate the Program, except that a school acting as a food service management company and a food service management company which has an exclusive contract with a school for year-round service (and no contracts with other sponsors) shall not be required to register with the State. The procedures for registration of all other food service management companies are as follows:

(1) By February 1, each State agency shall notify each food service management company which participated in the Program in either of the prior two years in the State that it must register with the State agency. This notification shall include at a minimum: (i) a statement that registration with the State agency is a prerequisite to participation in the Program during the fiscal year; (ii) a list of the items which must be submitted in the application for registration as set forth in paragraph (c)(2) of this section; (iii) a complete description of the criteria developed by the State agency for determining registrant eligibility; and (iv) any other information necessary to apply for registration. In addition, each State agency shall by the same date issue a public announcement of the registration requirement, including all the information necessary to apply for registration.

(2) With the exceptions described in the first sentence of this paragraph, each food service management company shall register with the State by March 15 of each fiscal year. At a minimum, registration shall require: (i) submission of name and mailing address and any other names under which such food service management company presently or in the past two years has marketed its services; (ii) a certification that the food service management company meets applicable State and local health, safety, and sanitation standards; (iii) disclosure of present company owners, directors, and officers, and their relationship in the past two years to any sponsor or food service management company which participated in the Program; (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior Program participation during the past two years; (v) records of any other contract terminations and health, safety, and sanitation code violations during the past two years; (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of the facilities; (vii) the number of meals which can be prepared in each preparation facility in a twenty-four hour period for use in the Program; (viii) a certification that the food service management company will operate in accordance with current Program regulations; (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites, or for meals which are delivered to approved sites outside of the agreed upon delivery time, or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company; and (x) submision of a Certified Public Accountant's audit report if an audit was performed during the prior year and, (xi) a statement as to whether the organization is a minority business enterprise. A minority business enterprise is a business,

(A) In which the management and daily operations of the business are controlled by a member or members of a minority group; and

(B) At least 51 percent of which is owned by a member or members of a minority group; (1) if the business is a corporation, at least 51 percent of all classes of voting stock of the corporation must be owned by members of a minority group; (2) if the business is a partnership, at least 51 percent of the partnership must be owned by a member or members of a minority group. Minority groups are Black, Hispanics, American Indians, Alaskan Natives and Aleuts.

(3) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines that the lack of registration could result in a significant number of needy children not having reasonable access to the Program.

(4) Prior to registration, the State agency shall provide for inspections of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall ensure that the facility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the Program. The State agency may waive this inspection requirement if a facility was registered last summer and operated in accordance with Program requirements.

(5) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it is identifiable through its organization or principals as a food service management company which participated in the Program during any previous year and was seriously deficient in its Program operation. Serious deficiencies which are grounds for non-registration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements or Program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior Program operation.

(6) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(7) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 calendar days after receipt of the complete application. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in § 225.16. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(8) Each State agency shall submit information to FNS regarding registration of food service management companies, as required under § 225.11(e).

(d) In the absence of any applicable State or local laws governing bid procedures, each sponsor which contracts with a food service management company shall comply with the competitive bid procedures described in this paragraph, except that a sponsor which is a school which has an exclusive contract with a food service management company for year-round service and a sponsor whose total contracts with food service management companies will not exceed $10,000 shall not be required to comply with these procedures. These exceptions do not relieve the sponsor of the responsibility to ensure that normally accepted bidding procedures are followed in contracting with any food service management company.

Each sponsor whose proposed contract is subject to competitive bidding procedure shall ensure, at a minimum, that:

(1) All proposed contracts shall be publicly announced at least once, not less than 14 calendar days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(2) The bids shall be publicly opened; and

(3) The State agency is notified at least 14 calendar days prior to the opening of the bids, of the time and place of the bid opening.

(4) When advertising for bids, the sponsor shall adhere to the following requirements, at a minimum:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(5) A copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(6) Sponsors shall submit to the State agency copies of all bids received and their reason for selecting the food service management company chosen;

(7) All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(e) Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. (Sponsors which are public institutions and sponsors exempt from the competitive bid procedures described in paragraph (d) of this section may use their existing or usual form of contract, if such form of contract has been submitted to and approved by the State agency.) The standard contract developed by the State agency shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites, along with the approved level for the number of meals which may be claimed for reimbursement for each site (established under § 225.8(j)), and shall notify the food service management company of all sites which have been approved, cancelled, or terminated subsequent to the submission of the initial approved site list and of any changes in the approved level of meal service for a site. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program, and it shall ensure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals beings served. These levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other food service management in the locality. Results of the inspections shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency and upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, the Department, and the U.S. General Accounting Office at any reasonable time and place for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the food service management company and the number of meals served by the sponsor that are eligible for reimbursement;

(8) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meals ordered shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the Program shall meet the requirements of § 225.21;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) If the State agency requires the sponsor to establish a special account for the deposit of operating costs payments made by the State agency to the sponsor in accordance with the conditions given in § 225.9(f), the contract shall so specify.

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(f) A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal.

(g) Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in Program payments.

(h) The State agency may require any sponsor which contracts wih a food service management company to establish a special account in a State or Federally insured bank for the deposit of Program payments for operating costs. The special account shall be such that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company, and shall be in accordance with the other specifications included in § 225.9(f).

(i) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of Program operations.

(j) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(k) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of the contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(l) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(m) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.23(b). If a food service management company fails to take the actions recommended to correct violations noted by the State agency or health inspectors in the conducting of a review or inspection, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification. When the State agency takes such action, it shall inform the sponsor of its right to appeal under § 225.16.

§ 225.18 Procurement standards.

(a) State agencies and sponsors which are Federally recognized Indian tribal governments or entities of State or local governments (such as some school districts, elementary and secondary schools, and public park authorities) shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–102 in the procurement of food, supplies, goods, and other services with Program payments.

(b) All sponsors other than those identified in paragraph (a) of this section shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–110 in the procurement of food, supplies, goods, and other services with Program payments.

(c) The State agency shall make available to sponsors information on Office of Management and Budget Circulars A–102 and A–110, as appropriate.

(d) Sponsors may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds conform with provisions of this section, as well as with procurement requirements which may be established by the State agency, with the approval of FNS, to prevent fraud, waste, and Program abuse.

(e) In accordance with OMB Circular A–102, the State agency shall ensure that sponsors described in paragraph (a) of this section adhere to the following practices with respect to minority business enterprises. The State agency shall encourage all other sponsors to observe these practices:

(1) Including qualified minority business enterprises on solicitation lists,

(2) Soliciting minority business enterprises whenever they are potential sources,

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by minority business enterprises,

(4) Establishing delivery schedules which will assist minority business enterprises to meet deadlines, and

(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

Subpart D—Provisions for Sponsors

§ 225.19 Requirements for sponsor participation.

(a) *Sponsor eligibility.* Applicants eligible to sponsor the Program include:

(1) Public sponsors;

(2) Private nonprofit sponsors, including residential summer camps, which prepare their own meals or obtain meals from a public facility, such as a school district, public hospital, or State university;

(3) Private nonprofit schools, including colleges and universities;

(4) Private nonprofit migrant farmworker organizations, including those that purchase meals from a food service management company, which develop programs for children of migrant families;

(5) Private nonprofit sponsors which serve not more than a total of 500 children daily at not more than three sites and which purchase meals from a food service management company; and

(6) In areas where no sponsors described in paragraph (a) (1) through (5) of this section are available to operate the Program, or where a significant number of needy children will not otherwise have access to the Program, private nonprofit service institutions which purchase meals from a food service management company, and which are determined to have a consistent record of reliable and honest management and administration of community food service programs.

(b) *Requirements.* No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service.

(2) Has not been seriously deficient in operating the Program in prior years.

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp.

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site incuding adequate personnel to conduct the visits and reviews required in § 225.20 (g) and (h).

(5) Provides an ongoing year-round service to the community which it proposes to serve under the Program, except as provided for in § 225.8(e);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist, as defined in § 225.2(d). If a camp, certifies that it will collect family size and income information to support its Claim for Reimbursement; and

(8) If a summer school, is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours.

(c) *Applications.* Applicants shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.9.

(d) *Agreements.* Each sponsor shall enter into a written agreement with the State agency upon approval of its application, as rquired in § 225.9(b).

(e) *Meal services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplemental food. No sponsor shall be approved to provide more than two services of supplemental food per day. A sponsor shall only be reimbursed for meals served in accordance with paragraphs (f) and (g) of this section.

(f) *Camps.* Sponsors of camps shall only be reimbursed for meals served in camps to children from families which qualify for free and reduced price meals under the guidelines established for the National School Lunch Program (7 CFR Part 210). The sponsor shall maintain a copy of the family income documentation of each child receiving meals under the Program. Meal service at camps shall be subject to the following provisions:

(1) A residential camp may serve up to four meals each day.

(2) A nonresidential camp shall serve four meals each day or three meals consisting of breakfast, lunch, and supper.

(3) Camps are not subject to the time restrictions for meal service given in § 225.21(a)(1).

(4) A camp shall be approved to serve these meals only if it has the administrative capability and, where applicable, adequate food preparation and holding facilities, and if the service period of the different meals does not coincide or overlap.

(5) A camp may be approved to serve supplemental food and also participate in the Special Milk Program (7 CFR Part 215). Any camp which participates in both Programs shall keep separate records for each Program, and shall not claim or receive reimbursement under both Programs for the same milk.

(g) *Sites other than camps.* Food service sites other than camps shall serve children in areas where poor economic conditions exist, as defined by § 225.2(d). A sponsor which operates in accordance with this part shall receive reimbursement for all eligible meals served to children at these sites. Food service sites other than camps may serve up to three meals each day provided that at least one of these meals is a supplement. These sites shall not be approved to serve supplemental food and also participate in the Special Milk Program (7 CFR Part 215).

§ 225.20 Operational responsibilities of sponsors.

(a) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

(b) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(c) Upon approval of its application or any adjustment in the approved levels of meal service for its sites, established under § 225.8(j), the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals.

(d) Sponsors shall plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service. The sponsor shall make the adjustments necessary to achieve this objective using the results from its monitoring of sites. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals within the approved level for the site that are prepared or ordered may be served to children and claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. Second meals shall be served only after all participating children at the site's meal service have been served a meal. In no case shall the sponsor order or prepare meals for any site in excess of its approved level, established in accordance with § 225.8(j).

(e) Sponsors shall submit Claims for Reimbursement only for meals served to children in accordance with this part. Claims shall be submitted by the 10th day of the month following the month for which the claim is made. However, the State agency may require that claims be submitted more frequently.

(f) Sponsors shall maintain accurate records which justify all costs and meals claimed. The sponsor's records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and the State agency for a period of three years following the date of submission of the final Claim for Reimbursement for the fiscal year.

(g) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(h) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

(i) Each sponsor shall hold training sessions for its administrative and site personnel with regard to Program duties and allow no site to operate until site personnel have attended at least one of these training sessions. Training of site personnel, at a minimum, shall include: the purpose of the Program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors shall provide training throughout the summer to ensure that administrative and site personnel are thoroughly knowledgeable in all requisite areas of Program administration and operation and are provided with sufficient information to

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enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.

(j) Sponsors shall not claim reimbursement under parts 210, 215, 220, or 226 of this Chapter, or any other Federally-funded program for meals served under the Program.

(k) Each sponsor whose total Program payments under any Program agreement are expected to exceed $75,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims. The audit shall be conducted in accordance with the provisions of § 225.13(a) and (b). A report on the audit shall be submitted to the State agency.

§ 225.21 Meal service requirements.

(a) *Time restrictions for meal service.*

(1) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this subparagraph shall not apply to residential camps.

(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

(3) Meals served outside of the period of approved meal service shall not be eligible for Program payments.

(4) Any permanent or planned changes in meal service periods must be approved by the State agency.

(5) Meals for each meal service which are not prepared at the food service site shall be delivered within one hour of the beginning of the appropriate meal service unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations.

(6) The sponsor shall serve only the type(s) of meals for which it is approved under its agreement with the State agency.

(b) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors shall ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program.

Breakfast [1]

(b)(1) The minimum amount of food components to be served as breakfast are as follows:

Food components	Minimum amount
Milk [2]	
Milk, fluid	1 cup [3] (½ pint, 8 fl. oz.).
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	½ cup.
or	
Full-strength vegetable or fruit juice.	½ cup (4 fl. oz.).
or	
An equivalent quantity of any combination of vegetable(s), fruit(s), and juice	
Bread and and Bread Alternates [4]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.[5]	1 serving.
or	
Cold dry cereal [6]	¾ cup or 1 oz.
or	
Cooked cereal or cereal grains	½ cup.
or	
Cooked pasta or noodle products	½ cup.
or	
An equivalent quantity of any combination of bread/bread alternate.	
Meat and Meat Alternates (optional)	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter	2 tbsp.
or	
An equivalent quantity of any combination of meat/meat alternate	

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section.
[2] Milk shall be served as a beverage or on cereal, or used in part for each purpose.
[3] For the purposes of the requirement outlined in this subsection, a cup means a standard measuring cup.
[4] Bread, pasta or noodle products, cereals, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.
[5] Serving sizes and equivalents to be published in guidance materials by FNS.
[6] Either volume (cup) or weight (oz.), whichever is less.

Lunch or Supper [1]

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Milk	
Milk, fluid, served as a beverage	1 cup [2] (½ pint, 8 fl. oz.).
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)[3]	¾ cup total.
Bread	1 slice.
or	
Combread, biscuits, rolls, muffins, etc.[5].	1 serving.
or	
Cooked pasta or noodle products	½ cup.
or	
Cooked cereal grains	½ cup.
or	
An equivalent quantity of any combination of bread/bread alternate.	
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter	2 tbsp.
or	
An equivalent quantity of any combination of meat/meat alternate	

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Serve 2 or more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[4] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; combread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[5] Serving sizes and equivalents to be published in guidance materials by FNS.

Supplemental Food [1]

(3) The minimum amounts of food components to be served as supplemental food are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Milk [2]	
Milk, fluid	1 cup [3] (½ pint, 8 fl. oz.).
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	¾ cup.
or	
Full-strength vegetable or fruit juice.	¾ cup (6 fl. oz.).
or	
An equivalent quantity of any combination of vegetable(s), fruit(s), and juice	
Bread and Bread Alternates [4]	
Bread	1 slice.
or	
Combread, biscuits, rolls, muffins, etc.[5].	1 serving.
or	
Cold dry cereal [6]	¾ cup or 1 oz.
or	
Cooked cereal	½ cup.
or	
Cooked pasta or noodle products	½ cup.
or	
Cooked cereal grains	½ cup.
or	
An equivalent quantity of any combination of bread/bread alternate.	
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter	2 tbsp.
or	
An equivalent quantity of any combination of meat/meat alternate	

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section.
[2] Milk should be served as a beverage or on cereal, or used in part for each purpose.
[3] For purposes of the reuirements outlined in this subsection, a cup means a standard measuring cup.
[4] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or ennched meal or flour; cereal shall be whole-grain or ennched or fortified.
[5] Serving sizes and equivalents to be published in guidance materials by FNS.
[6] Either volume (cup) or weight (oz.), whichever is less.

(c) *Meat or meat alternate.* Meat or meat alternates served under the Program are subject to the following requirements and recommendations.

(1) The required quantity of meat or meat alternate shall be the quantity of the edible portion as served. These foods must be served in a main dish, or in a main dish and one other menu item.

(2) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but they may not be used as both.

(3) Textured vegetable protein products, cheese alternate products, and enriched macaroni with fortified protein may be used to meet part, but not all, of the meat/meat alternate requirement.

(4) If the sponsor believes that the recommended portion size of any meat or meat alternate is too large to be appealing to children, the sponsor may reduce the portion size of that meat or meat alternate and supplement it with another meat or meat alternate to meet the full requirement.

(d) *Varying amounts.* The State agency may authorize the sponsor to serve food in smaller quantities than are indicated in paragraph (b) of this section to children under six years of age if the State agency determines that the sponsor has the capability to ensure that variations in portion size are in accordance with the age levels of the children served. In such cases, the sponsor shall follow the age-appropriate meal pattern requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(e) *Infant meal patterns.* Sponsors approved to serve children under one year of age shall be required to comply with the applicable meal requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(f) *Additional foods.* To improve the nutrition of participating children, additional foods may be served with each meal.

(g) *Temporary unavailability of milk.* If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(h) *Continuing unavailability of milk.* The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in the tables included in this section. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(i) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements and authorized: a serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(j) *Individual substitutions.* Substitutions may be made by sponsors in food listed in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(k) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, in so far as practicable, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure that adequate facilities are available to store food or hold meals.

§ 225.22 Free meal policy.

(a) *Basic policy.* As part of the application, applicants shall submit a statement of their policy for serving free meals at all sites under their jurisdiction. No application may be approved unless its accompanying policy statement is approved. The policy statement shall consist of an assurance to the State agency that all children are served the same meals at no separate charge and that there is no discrimination in the course of the food service.

(b) *Camps.* In addition, the policy statement for a camp which charges separately for meals shall include the following:

(1) A statement that the camp's eligibility standards conform to the State's family size and income standards for free and reduced-price school meals;

(2) A description of the method for accepting applications;

(3) A description of the method for collecting payments from children who pay the full price of the meal while protecting the anonymity of children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure for families wishing to appeal a denial of an application for free meals which provides for the following:

(i) That a simple, publicly announced method will be used for a family to make an oral or written request for a hearing;

(ii) That the family will have the opportunity to be assisted or represented by an attorney or other person;

(iii) That the family will have an opportunity to examine the documents and records supporting the decision being appended both before and during the hearing;

(iv) That the hearing will be reasonably prompt and convenient for the family;

(v) That adequate notice will be given to the family of the time and place of the hearing;

(vi) That the family will have an opportunity to present oral or documentary evidence and arguments supporting its position;

(vii) That the family will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

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(viii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in the action being appealed;

(ix) That the decision shall be based on the oral and documentary evidence presented at the hearing and made a part of the record;

(x) That the family and any designated representative shall be notified in writing of the decision;

(xi) That a written record shall be prepared for each hearing which includes the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family; and

(xii) That the written record shall be maintained for a period of three years following the conclusion of the hearing, during which it shall be available for examination by the family or its representatives at any reasonable time and place.

(5) An assurance that, if a family requests a hearing, the child shall continue to receive free meals until a decision is rendered.

(6) An assurance that there will be no overt identification of free meal recipients and no discrimination against any child on the basis of race, color, or national origin.

(c) *Public Announcements.* Each sponsor shall annually announce in the media serving the area from which it draws its attendance, the availability of free meals. Camps shall annually announce to all participants the availability of free meals for eligible children. All announcements must also state that meals are available without regard to race, color or national origin.

Subpart E—Miscellaneous Provisions

§ 225.23 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of the Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A–102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for cause.* (1) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 calendar days to respond. In instances where the State does respond, FNS shall inform the State of its final determination no later than 30 calendar days after the State responds. (2) A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by the State agency that the sponsor has failed to comply with the conditions of the Program. (3) When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may agree to terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in the manner provided for in this paragraph.

(d) *Maintenance of effort.* Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

(e) *Program benefits.* The value of benefits and assistance available under the Program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(f) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part, provided that such additional requirements shall not deny the Program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the Program. Prior to imposing any additional requirements, the State agency must receive approval from FNSRO.

(g) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $100,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 225.24 Program information.

(a) Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(1) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(2) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(3) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, GA 30367.

(4) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, IL 60605.

(5) In the States of Arkansas, Louisana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, TX 75202.

(6) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430, Denver, CO 80211.

(7) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, CA 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559, Summer Food Service Program for Children).
(The Summer Food Service Program for Children is subject to Part III of Attachment A of OMB Circular No. A–95 (revised). Part III requires that Governors or their designated Plan review agency be given the opportunity to reivew the State plans required by Program regulations.)

Dated: November 4, 1980.

Sydney J. Butler,

Acting Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-34784 Filed 11-6-80; 8:45 am]
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Friday
November 7, 1980

Part VIII

Office of Management and Budget

Proposed Circular on Managing Generally Applicable Requirements for Assistance Programs; Request for Comment

OFFICE OF MANAGEMENT AND BUDGET

Proposed Circular on Managing Generally Applicable Requirements for Assistance Programs; Request for Comment

AGENCY: Office of Management and Budget.

ACTION: Request for comment on proposed OMB Circular on managing generally applicable requirements for assistance programs.

BACKGROUND: Section 8 of the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224, 41 U.S.C. 507) required OMB to study the management of Federal assistance including the feasibility of establishing a comprehensive system of guidance for assistance activities and to recommend actions for proceeding with implementation of system elements deemed warranted. The study process provided for extensive participation of interested parties and a report on the study was transmitted to the Congress on March 5, 1980.

A major finding of the study was that:

"At the same time that the number and value of Federal assistance programs have multiplied, both Congress and the Executive Branch have seen opportunities for advancing national social and economic goals by requiring recipients of federal assistance to do or refrain from doing certain things while conducting federally-assisted activities. For example, recipients must protect the environment, avoid discrimination in employment practices, and provide for the handicapped.

"This study has identified and described 59 general policy and administrative requirements called 'crosscutting' because they apply to assistance programs of more than one agency or department. Over half of these requirements have been promulgated within the last 9 years. Some of these are standard administrative requirements which have been issued to simplify program management and reduce recipient burdens. These include such management improvements as standards for record maintenance, auditing, and payment of indirect costs. Unfortunately, even some of these simplifying standards seem to have added to the complexity facing some recipients.

"Individually, each crosscutting requirement may be sound. But cumulatively the conditions may be extraordinarily burdensome on federal agencies or recipients."

In the report the following points are emphasized:

—In too many cases, a single generally applicable requirement has been implemented differently for several assistance programs. The result is that a recipient of several agencies may receive inconsistent or conflicting instructions for meeting a single requirement.

—There can be cases where some of the requirements are mutually conflicting or conflict with individual assistance program purposes. There are, however, few established processes for resolving these conflicts without resort to the courts.

—Some of the larger executive departments are not organized or equipped to manage general assistance policies on a departmental basis.

—Some of the generally applicable requirements have been shunted off to specialists and administered in ways that are not consistent with the assistance programs to which they apply.

—The effectiveness of the requirements and their implementation is often not evaluated on any regular basis.

—There is a need for stronger central leadership in the management of generally applicable requirements and OMB is the most appropriate organization to provide it.

This proposed circular is one of a series of actions designed to meet problems identified in the report.

This Circular is designed to be compatible with and an extension of Executive Order 12044 on Improving Government Regulations. The typical generally applicable requirement is assigned to a single Federal agency to oversee its Government-wide implementation. This agency typically issues regulations or other guidance to the Federal agencies that administer assistance programs. These agencies, in turn, may pass the requirement to their program operating components through one or more successive iterations for the various internal management levels. Then, recipient instructions are often issued in the form of regulations.

The OMB study found that the successive iterations of regulations or guidance through which these requirements pass are a major source of problems. It concluded that the iterative aspect of these requirements require special processes beyond those required by other Government regulations that flow more directly to the public.

SUMMARY: The proposed circular is designed to perform four functions.

—Provide general policy statements to guide agency actions in the management of generally applicable requirements.

—Generally describe the basic phases of a five step process to be used in managing each requirement.

—Specify the responsibilities of federal agencies and OMB.

—Serve as the unifying framework for more detailed or specific guidance as it is developed.

The circular is intended as a central core of what will eventually be an integrated body of policy and procedure. While changes are expected to be made to reflect substantive suggestions and comments received, OMB proposes to issue the policy at approximately the level of generality reflected here. As additional or more detailed guidance is developed in conjunction with the agencies and recipients, it will be added in the form of attachments. Each attachment can be subject to review and improvement independently of the basic Circular itself.

OMB is reviewing its circular structure to see how many circulars may be needed to cover existing assistance policies plus any new policies that may be adopted. The draft that follows may be combined with other policies when it is issued. The draft is being published at this time to obtain comments on its substance.

DATES: Written comments must be received on or before January 15, 1981.

ADDRESS: Comments should be sent to Richard R. Hite, Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 5234, NEOB, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Thomas L. Hadd, Chief, Assistance Policy Branch, Intergovernmental Affairs Division, Office of Management and Budget, Room 5217, NEOB, Washington, D.C. 20503, Telephone 202–395–5156.

Linda L. Smith,

Assistant to the Director for Administration.

Circular No. A ——

To: The Heads of Executive Departments and Agencies

Subject: Managing generally applicable requirements for assistance programs

1. *Purpose.* The Circular establishes policies and process to be followed by departments and other executive agencies in the development, implementation, and evaluation of the government-wide national policies and administrative requirements that are generally applicable to domestic assistance programs.

2. *Background.* All executive departments and over forty other agencies administer domestic assistance programs. There are over sixty government-wide national policies and administrative requirements that generally apply to these assistance programs on a crosscutting basis (see Attachment A). The policies direct actions toward such national goals as preventing discrimination, protecting the environment, and conserving energy. The administrative requirements cover such areas as personnel systems of recipient governments, grant reporting standards, and audit provisions. The growth in the number of assistance programs, the scope of activities affected by them, and the range of types of eligible recipients combined with the increasing number and significance of the crosscutting generally applicable requirements has led to a high level of complexity for federal agencies and recipients. This complexity is particularly serious for recipients of programs of more than one federal agency that provide inconsistent instructions for complying with generally applicable requirements.

The typical generally applicable requirement goes through at least three successive stages of statement and interpretation. First, the basic policy is briefly stated in a statute or an executive order. Then a designated lead executive agency explains and elaborates the policy for all federal agencies that administer assistance programs. Finally, the agencies administering assistance programs incorporate these policy explanations and elaborations in instructions to their recipients. These successive interpretations and re-statements have become a major source of complexity and inconsistency among programs of different agencies.

This Circular builds on and expands the concepts established in Executive Order 12044 on Improving Government Regulations. It is required because of the confusion that can come from successive re-statements of generally applicable requirements, their interaction with individual program requirements, and their affects in a wide variety of local situations.

3. *Summary.* This Circular has three main sets of provisions and provides for a fourth. First, it establishes the basic, long-range policies to guide agencies in the administration of generally applicable requirements for assistance programs. Second, it establishes the framework of a Government-wide process to implement the policies. Third, it specifies the responsibilities of executive departments, other agencies that report to the President which administer assistance programs, and the Office of Management and Budget.

Together, these three sets of provisions are designed to be a stable guide or general view of the level of coordination, cooperation, and management that will be necessary. Supplementary details, procedures, and arrangements have been deliberately omitted.

The fourth set of provisions will be to provide more specific information and direction. These will be issued as attachments to the Circular and may be revised individually as needed. Attachments may be developed to amplify each of the five steps in the management process, the agency action requirements, or other provisions as necessary.

4. *Definitions.* Six major terms used in this Circular have the following specific and restricted meanings.

a. *Generally applicable requirement* means a federal policy or administrative requirement that applies to the assistance programs of two or more assistance agencies and to individual grants or cooperative agreements issued in accordance with the Federal Grant and Cooperative Agreement Act (41 U.S.C. 504–505). Attachment A contains a list of generally applicable requirements as of the date of the Attachment.

b. *Assistance agency* means a department or other agency reporting to the President that administers assistance programs or uses grants or cooperative agreements pursuant to 41 U.S.C. 504–505. Bureaus or other departmental or agency units are considered as components of assistance agencies for purposes of this Circular.

c. *Guidance agency* means an Executive Branch agency authorized to administer government-wide adherence to generally applicable requirements.

d. *Guidance* means the explanations, elaborations, and interpretations of generally applicable requirements written by guidance agencies to assistance agencies. Guidance includes:

(1) Rules, regulations, or standards develped for uniform implementation by assistance agencies.

(2) Statements of policies, goals, objectives, advice, or suggestions intended to quide more flexible implementation.

e. *Recipient* means a state or local government, federally recognized Indian tribe, university, non-profit, for-profit, or other organization that receives assistance, stimulation, or support directly from a federal agency. Individuals are also considered to be recipients if they are eligble to participate in programs along with one or more types of organizations.

f. *Recipient instructions* means the regulation, manuals, notices, or other instructions written by assistance agencies to their applicants and recipients for complying with guidance.

5. *Coverage.* The provisions of this Circular and its attachments shall apply to the actions of all guidance and assistance agencies in developing, implementing, and evaluating generally applicable requirements for domestic assistance programs, awards to domestic recipients of international assistance programs, and individual grants and cooperative agreements awarded pursuant to 41 U.S.C. 504–505.

6. *Basic policies.* The primary purpose of each assistance program is to carry out the provisions and intent of its enabling statutes or the authorizing statutes of the awarding agency.

a. In accomplishing this primary purpose, each program shall conform with all generally applicable requirements and guidance that apply to it.

b. A recipient that receives awards under two or more assistance programs is entitled to receive:

(1) Recipient instructions with each program for complying with a generally applicable requirement, that are:

(a) Identical in practical meaning or

(b) Consistent, differing perhaps in degree or some other respect, but not contradictory or

(2) Prompt resolution of inconsistent or contradictory instructions by the assistance and guidance agencies involved.

c. A guidance agency should be designated for each generally applicable requirement that needs consistent, government-wide implementation.

d. Guidance shall be develped to be compatible with the programs and recipients to which it will apply. While uniform standards are to be used as widely as practicable, it may be necessary to make provisions for different types of programs, classes of recipients, types of relationships or assistance transactions.

e. Guidance shall be implemented by assistance agencies in ways that ensure the greatest possible degree of consistency for each recipient of two or more programs.

f. Whenever possible, conflicts between generally applicable requirements and specific program requirements shall be resolved by the appropriate guidance and assistance agencies involved before the requirements are imposed on recipients.

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g. Both guidance and assistance agencies shall help recipients meet generally applicable requirements through advice, technical assistance, and other cooperative techniques to the extent resources allow.

h. The implementation of and accomplishments related to each generally applicable requirement shall be evaluated on a periodic basis. In addition, an evaluation shall be made when there is evidence of significant problems or opportunities for improvement.

These policies of maximum practicable standardization tempered by flexibility where necessary will require extensive coordination, cooperation, and judgment by all assistance and guidance agencies.

Process. This Circular establishes a basic five-step process for the management of all generally applicable requirements. It states, in general terms, who must do what for each step. As the process is developed through experience, additional guidance will be developed as attachments to the Circular.

The Office of Management and Budget will provide leadership and advice to speed implementation of the process.

a. *Policy development.* Whenever a new generally applicable requirement is being established or revised in Congress or the Executive Branch, the Office of Management and Budget shall, whenever practicable, ensure there is:

(1) Adequate projection of its potential costs and impacts on assistance programs and recipients.

(2) Critical analysis of the language used to state the requirements to ensure compatibility with existing assistance related statutes, executive orders, guidance, and established conventions of assistance terminology.

(3) Designation of a guidance agency either by statute or the President, unless it is clear that no implementing guidance or oversight will be needed.

b. *Guidance development.* Guidance development is primarily the responsibility of guidance agencies, but it shall be done with the direct involvement of representatives from assistance agences. Representatives of affected recipient classes will be given the maximum practicable opportunity to participate.

(1) In addition to basic problem identification, these representatives should participate in:

(a) The determination of the degree of standardization or flexibility most appropriate for a specific requirement.

(b) The development of the initial guidance draft.

(2) Guidance agencies are reminded that Executive Order 12044 on improving government regulations applies to all formal, general guidance they issue, unless it is purely informational, advisory, or will affect only the internal operations of federal agencies. If guidance has been developed to be inserted directly into recipient instructions without revision, and the guidance was developed in accordance with E.O. 12044, assistance agencies need not go through the E.O. 12044 process again before including it in their recipient instructions. Guidance agencies are also reminded of the government-wide policies administered by OMB on recipient reporting and recordkeeping established pursuant to the Federal Reports Act.

(3) In unusual circumstances, where conditions warrant, OMB may review final guidance prior to issuance by a guidance agency. This review can be requested by federal agencies or representatives of recipients.

c. *Guidance promulgation.* Once issued, guidance should be quickly communicated to the heads of assistance agencies, who will ensure that it is made available to all assistance administrative and program management levels within their respective agencies. There will be established a central repository for all current guidance that is accessible to federal agencies, recipients, and the public.

d. *Guidance implementation.* The implementation phase continues beyond incorporation of guidance in recipient instructions, through personnel training and resolution of related issues or conflicts for the life of the guidance.

(1) To meet the basic policy of compatible recipient instructions:

(a) Assistance agencies should assure a phased implementation of new or revised guidance that is minimally disruptive to recipients. Normally, this will involve revising recipient instructions by the first of each Federal fiscal year, to be applied to recipients with all awards made thereafter.

(b) In the event the guidance is not in the form of a single standard or a set of standards, one or more interagency implementation teams shall be organized by the guidance agency to develop compatible sets of recipient instructions tobe used for similar programs or specific classes of recipients. Executive Order 12044 will apply to the work of these teams, but not to the appropriate use of the resulting instructions with individual programs.

(c) To the degree practicable, each assistance agency should maintain its recipient instructions based on generally applicable requirements apart from those based on program or other requirements. This will allow more rapid and coordinated revisions to the generally applicable requirements set.

(2) The objectives for the recipient instruction writing phase of guidance implementation are:

(a) The greatest possible degree of consistency among programs of different agencies, with recognition of the legitimate needs of various classes of recipients and types of programs.

(b) An annual revision cycle for recipient instructions, to reflect new or revised guidance, to be completed by the start of each federal fiscal year.

(c) Substantially lower government-wide costs to develop recipient instructions based on new or revised guidance.

(d) A general reduction of paperwork for both Federal agencies and recipients.

(3) While interagency coordination and cooperation should provide compatible instructions for most recipients, some combinations of program activities and recipient classes may still lead to guidance related inconsistencies or conflicts. Where these occur:

(a) The federal agencies involved, including both assistance and guidance agencies, shall be responsible for providing waivers of procedures and relatively minor program requirements or negotiating other mutually acceptable solutions.

(b) Guidance agencies shall keep records of such conflicts and their resolutions, to serve the guidance evaluation phase.

e. *Guidance evaluation.* For many generally applicable requirements, the basic statutes, executive orders, supporting guidance, and recipient instructions reflect the information, policy choices, and approaches current when they were written. Since experience can usually be expected to show needs or opportunities for improvement, guidance agencies shall ensure that each generally applicable requirement and related guidance is evaluated periodically.

(1) The purposes of the evaluation are to:

(a) Test the efficacy of the basic policy statement and assess the effectiveness of the chosen implementation strategy.

(b) Seek ways of improving any supplemental guidance to assistance agencies.

(c) Find resolutions to significant or recurring implementation problems affecting recipients.

(2) An evaluation should be undertaken if agency or recipient experience indicates there are significant problems or opportunities for improvement. Each generally applicable requirement shall be evaluated at least every five years after issuance.

(3) Guidance agencies are responsible for conducting evaluations and ensuring:

(a) Active participation opportunities for assistance agencies and recipients or their representatives in teams similar to those used for guidance development and implementation, but with different members.

(b) Adequate opportunities for public comment.

(c) Development of a public record of issues raised and proposals for their resolution.

8. *Action requirements.*

a. Heads of assistance agencies are responsible for assuring:

(1) Full compliance with all generally applicable requirements and related guidance.

(2) Full agency participation in the five-step guidance process.

(3) Provision of the best efforts possible to resolve conflicts that recipients may encounter with conflicting instructions.

(4) Continuous designation of a policy level official responsible and with authority to ensure the agency meets these responsibilities.

b. *Heads of guidance agencies* are responsible for:

(1) Exercising the leadership necessary to adhere to the five-step process for their assigned generally applicable requirements.

(2) Recommending to OMB or the Congress (subject to applicable statutes and policies) advisable revisions to basic policy statutes that establish generally applicable requirements.

9. *OMB responsibilities.* The Office of Management and Budget is responsible for:

a. Providing leadership and developing appropriate arrangements to ensure successful implementation of this Circular.

b. Reviewing and approving guidance prior to issuance by guidance agencies in those unusual cases where circumstances warrant.

c. Performing as a guidance agency for those generally applicable requirements for which it is responsible.

d. Assisting in the resolution of issues between agencies.

10. *Effective date.* This Circular becomes effective on the date issued.

11. *Sunset review date.* This Circular expires four years after the date issued.

12. For further information, contact Thomas L. Hadd, Chief, Assistance Policy Branch, Intergovernmental Affairs Division, Room 5217, NEOB, Washington, D.C. 20503, Telephone 202–395–5156.

13. *Attachments.* More detailed arrangements and guidance will be developed during implementation of this Circular. These will be added as attachments to the Circular. Attachments issued with the Circular or to be developed in the near future are:

Attachment	Title
A	Inventory of Generally Applicable Requirements.
B	Agency Performance Standards for Complying With the Circular.

In addition, Administrative Notes may be issued by OMB from time to time as advisory or clarifying guidance. Administrative Notes will not be used to direct actions and will not be subject to Executive Order 12044.

Attachment A.—*Inventory of Generally Applicable Requirements*

Socioeconomic policy requirements	Guidance agency
A. Nondiscrimination	
Nonconstruction Activities	
1. Civil Rights Act of 1964, Title VI (race, color or national origin) (42 U.S.C. 2000d *et seq.*). E.O. 11764 gives the Attorney General responsibility for effective implementation.	Justice.
2. Age Discrimination Act of 1975 (42 U.S.C. 6101).	HHS.
3. Title IX of the Education Act Amendments of 1972, as amended by Pub. L. 93–568, 88 Stat. 1855 (20 U.S.C. 1681 *et seq.*).	HHS.[1]
Housing	
4. Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284, 82 Stat. 73 (18 U.S.C. 245).	HUD.
Handicapped	
5. Sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, and Rehabilitation Act Amendments of 1974, Pub. L. 93–516; E.O. 11914 delegates coordination to HEW.	HHS.[2]
6. Architectural Barriers Act of 1968, as amended, Pub. L. 90–480 (42 U.S.C. 4151 *et seq.*).	ATBCB.[3]
Alcoholics	
7. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Pub. L. 91–616 (42 U.S.C. 4581).	HHS.
Drug Abusers	
8. Drug Abuse Office and Treatment Act of 1972, Pub. L. 92–225, as amended (21 U.S.C. 1174).	HHS.
Construction Activities	
9. E.O. 11246, September 24, 1965, Part III (race, color, creed or national origin).	Labor.

Attachment A.—*Inventory of Generally Applicable Requirements*—Continued

Socioeconomic policy requirements	Guidance agency
B. Environmental Protection	
10. National Environmental Policy Act of 1969, as amended, Pub. L. 91–190 (42 U.S.C. 4321 *et seq.*).	CEQ.
11. Sec. 508 of the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act), Pub. L. 92–500 (33 U.S.C. 1251 *et seq.*). E.O. 11738, 9/12/73, provides for administration of Act with respect to contracts, grants, or loans.	EPA.
12. Title XIV, Public Health Service Act, as amended by Sec. 1424(e) of the Safe Drinking Water Act of 1974, Pub. L. 93–523 (42 U.S.C. 300f to J10).	EPA.
13. Conformity of Federal Activities with State implementation plans under the Clean Air Act Amendments of 1977, Title I, Sec. 129(b).	EPA.
14. Sec. 306 of Clean Air Act, as amended by the Clean Air Amendments of 1970, Pub. L. 91–604, 84 Stat. 1707.	EPA.
15. Endangered Species Act of 1973, Pub. L. 93–205 (16 U.S.C. 1531 *et seq.*), as amended by Pub. L. 95–632.	Interior.
16. Floodplain Management, Executive Order 11988, May 24, 1977.	Water Resources Council.
17. Protection of Wetlands, Executive Order 11990, May 24, 1977.	Water Resources Council.
18. National Flood Insurance Act of 1968, as amended by Flood Disaster Protection Act of 1973, Pub. L. 93–234, Sec. 102 and 202.	HUD.
19. Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661 *et seq.*).	Interior.
20. Sec. 106 of the National Historical Preservation Act of 1966, Pub. L. 89–665, as amended (16 U.S.C. 470), 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978).	Adv. Council Hist. Pres.
21. Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800).	Adv. Council Hist. Pres.
22. E.O. 11593, May 31, 1971, Protection and Enhancement of the Cultural Environment (36 FR 8921, 16 U.S.C. 470).	Adv. Council Hist. Pres.
23. Wild and Scenic Rivers Act of 1968, Pub. L. 90–542, as amended (16 U.S.C. 1271 *et seq.*).	Interior.
24. Secs. 307(c) and (d) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).	Commerce.
Construction Activities (Grantee Contracts)	
25. Archeological and Historic Preservation Act, May 24, 1974, Pub. L. 93–291 (16 U.S.C. 469a—469a–2).	Interior.
C. Protection and Advancement of Economy	
26. Cargo Preference Act of 1954, 68 Stat. 832.	Commerce.

Attachment A.—*Inventory of Generally Applicable Requirements*—Continued

Socioeconomic policy requirements	Guidance agency
27. Use of U.S. Flag Air Carriers, International Air Transportation Fair Competitive Practices Act of 1974, Pub. L. 93-623 (49 U.S.C. 1517).	GSA.
28. Placement of Procurement and Facilities in Labor Surplus Areas, 32 A CFR Part 134.	DOD/GSA.
D. Health, Welfare and Safety	
29. Protection of Human Subjects of Biomedical and Behavioral Research, Sec. 474, National Research Act, Pub L. 93-348 (42 U.S.C. 289-3) as implemented by 45 CFR Part 46.	HHS.
30. Lead-Based Paint Poisoning Prohibition (42 U.S.C. 4831(b)).	HUD.
31. Animal Welfare Act of 1966 (7 U.S.C. 2131-2147).	USDA.
E. Minority Participation	
32. Indian Self-Determination and Education Assistance, Sec. 7(b), Pub. L. 93-638, January 4, 1975, 25 U.S.C. 450e(b).	None assigned.[1]
33. E.O. 12138 of May 18, 1979, Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating, and Implementing a National Program for Women's Business Enterprise.	ICWB.[5]
F. Labor Standards	
Grantee Contracts Only	
34. Davis-Bacon Act, 40 U.S.C. 276a—276a-7 and 27 CFR Pt. 1, 46 Stat. 1494, Appendix A.	Labor.
35. Anti-Kickback (Copeland) Act (18 U.S.C. 874; 40 U.S.C. 276c).	Labor.
36. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).	Labor.
G. Natural Resource Conservation	
37. Power Plant and Industrial Fuel Use Act of 1978, Pub.L. 95-620, Sec. 403(b) (92 Stat. 3318); 44 FR 75093; E.O. 12185 of December 17, 1978.	Energy.
Administrative and Fiscal Policy Requirements	
A. Public Employee Standards	
38. Intergovernmental Personnel Act of 1970, as amended by Title VII, Sec. 602, Civil Service Reform Act, Pub. L. 95-454 (42 U.S.C. 4728-4763).	OPM.
39. The Health Act (5 U.S.C. 1501-1508).	OPM.
B. Administrative and Procedural Requirements (General)	
40. Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224 (41 U.S.C. 501-509).	OMB.
41. OMB Circular No. A-40: *Management of Federal Reporting Requirements.*	OMB.
42. OMB Circular No. A-95: *Evaluation, Review, and Coordination of Federal and Federally-Assisted Programs and Projects, Revised, January 1, 1978.*	OMB.
43. OMB Circular No. A-111: *Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations—Policies and Procedures, July 6, 1976.*	OMB.
44. Executive Order 12044: *Improving Government Regulations, March 23, 1978.*	OMB.
45. Department of Commerce Directives for the Conduct of Federal Statistical Activities, May, 1978 (Formerly OMB Circular No. A-46).	Commerce.
46. FMC 74-8: *Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 Pub. L. 91-646, October 4, 1976.*	GSA.
47. Treasury Circular No. 1062: *Notification to States of Grant-in-Aid Information,* August 8, 1973.	Treasury.
48. Treasury Circular No. 1075 (Fourth Revision): *Regulation Governing the Withdrawal of Cash from Treasury for Advance Payments under Federal Grant and Other Programs,* December 14, 1947.	Treasury.
49. Claims Collection Act of 1966, Pub. L. 89-508, 89 Stat. 309 (31 U.S.C. 952).	GAO.
C. Recipient-Related Administrative and Fiscal Requirements	
Non-profit Organizations and Institutions	
50. OMB Circular No. A-21 (Formerly FMC 73-8, December 19, 1973): *Cost Principles for Education Institutions,* March 6, 1979.	OMB.
51. OMB Circular No. A-110: *Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations—Uniform Administrative Requirements,* July 30, 1976.	OMB.
52. FMC 73-3: *Cost Sharing on Federal Research, December 4, 1973.*	OMB.
53. OMB Circular No. A-88 (Formerly FMC 73-6): *Coordinating Indirect Cost Rates and Audit at Educational Institutions,* December 5, 1979.	OMB.
54. FMC 73-7: *Administration of College and University Research Grants,* December 19, 1973.	OMB.
State and/or Local Governments	
55. OMB Circular No. A-90: "Cooperating with State and Local Governments to Coordinate and Improve Information Systems", September 21, 1968.	OMB.
56. OMB Circular No. A-102: "Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments, Revised", August 24, 1977.	OMB.
57. OMB Circular No. A-73 (Formerly FMC 73-2): Audit of Federal Programs, March 15, 1978.	OMB.
58. FMC 74-4: "Cost Principles Applicable to Grants and Contracts with State and Local Governments", July 18, 1974.	OMB.
D. Access to Information	
59. Freedom of Information Act (5 U.S.C. 552).	None assigned.
60. Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 522a).	OMB.

[1] Pending assignment to Department of Justice.
[2] Pending reassignment to Department of Justice.
[3] Architectural and Transportation Barriers Compliance Board.
[4] Pending Assignment to EEOC.
[5] Interagency Commission on Women's Business.

[FR Doc. 80-34811 Filed 11-6-80; 8:45 am]
BILLING CODE 3110-01-M

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federal register

Friday
November 7, 1980

Part IX

Department of Energy

Indexes for Interpretations and Rulings

DEPARTMENT OF ENERGY

10 CFR Ch. II

Indexes for Interpretations and Rulings

AGENCY: Department of Energy.

ACTION: Notice of Indexes for Interpretations and Rulings.

SUMMARY: Attached are indexes to all interpretations and rulings issued by the General Counsel (or his delegate) of the Department of Energy or predecessor agencies through October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585, (202) 252–2931.

SUPPLEMENTARY INFORMATION:

Interpretations issued pursuant to 10 CFR part 205, Subpart F are published from time to time in the **Federal Register** in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

1974–1 through 1974–29: 42 FR 25648, May 18, 1977.
1975–1 through 1975–74: 42 FR 23722, May 10, 1977.
1976–1 through 1976–23: 42 FR 7923, February 8, 1977.
1976–24: 42 FR 10963, February 25, 1977.
1976–25: 42 FR 23722, May 10, 1977.
1977–1 through 1977–5: 42 FR 10963, February 25, 1977.
1977–6: 42 FR 17100, March 31, 1977.
1977–7 through 1977–16: 42 FR 31143, June 20, 1977.
1977–17 through 1977–21: 42 FR 39959, August 8, 1977.
1977–22 through 1977–27: 42 FR 41095, August 13, 1977.
1977–28 through 1977–33: 42 FR 46270, September 15, 1977.
1977–34 through 1977–38: 42 FR 54268, October 5, 1977.
1977–39 through 1977–44: 42 FR 61271, December 2, 1977.[1]
1977–45 through 1977–53: 42 FR 1479, January 10, 1978.
1978–1: 43 FR 5797, February 10, 1978.
1978–2 through 1978–5: 43 FR 12848, March 28, 1978.
1978–6 through 1978–10: 43 FR 15617, April 14, 1978.
1978–11 through 1978–21: 43 FR 19817, May 9, 1978.
1978–22 through 1978–28: 43 FR 25079, June 9, 1978.
1978–29 through 1978–42: 43 FR 29528, July 10, 1978.[2]
1978–43 through 1978–47: 43 FR 34433, August 4, 1978.
1978–48 through 1978–56: 43 FR 40200, September 11, 1978.[3]
1978–57 through 1978–59: 43 FR 46517, October 10, 1978.[4]
1978–60: 43 FR 51755, November 7, 1978.
1978–61: 43 FR 57583, December 8, 1978.
1978–62 and 1978–63: 44 FR 3021, January 15, 1979.
1979–01 and 1979–02: 44 FR 12160, March 6, 1979.[5]
1979–03 and 1979–04: 44 FR 16891, March 20, 1979.
1979–05: 44 FR 24045, April 24, 1979.
1979–6 and 1979–7: 44 FR 29431, May 21, 1979.
1979–8, 1979–9 and 1979–11: 44 FR 39375, July 6, 1979.
1979–10 and 1979–12 through 1979–14: 44 FR 44472, July 30, 1979.
1979–15 and 1979–16: 44 FR 50588, August 29, 1979.
1979–17 through 1979–22: 44 FR 60284, October 19, 1979.
1979–23 through 1979–25: 44 FR 72096, December 13, 1979.
1979–26: 45 FR 5663, January 24, 1980.
1980–1 through 1980–3: 45 FR 13043, February 28, 1980.
1980–4: 45 FR 21203, April 1, 1980.
1980–5 and 1980–6: 45 FR 25375, April 15, 1980.
1980–7 through 1980–9: 45 FR 33950, May 21, 1980.
1980–10 through 1980–12: 45 FR 42248, June 24, 1980.
1980–13 through 1980–17: 45 FR 46787, July 11, 1980.
1980–18 through 1980–20: 45 FR 59786, September 10, 1980.
1980–21 through 1980–26: 45 FR 61562, September 16, 1980.
1980–27 through 1980–32: 45 FR 66772, October 8, 1980.

The appendices to today's notice provide an updated comprehensive index system covering all of the published interpretations and rulings issued by FEO/FEA/DOE through October 15, 1980. Previously published indexes have appeared at 43 FR 1613, January 11, 1978, 43 FR 17337, April 24, 1978, 43 FR 49775, October 25, 1978, 44 FR 29896, May 23, 1979, and 45 FR 10321, February 15, 1980. A total of 365 interpretations and rulings are covered by the indexes published today.

Appendix A provides an alphabetical listing of the firms or persons to whom or on whose behalf interpretations have been issued, while Appendix B lists rulings in chronological order of issuance by number and title. Appendix C contains an index of interpretations and rulings according to informal subject entries, such as "Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," etc. Interpretations and rulings are indexed in Appendix D according to the regulation sections which they interpret. Appendix E provides an index of rulings construed by interpretations, and Appendix F contains a list of statutes construed by interpretations and rulings.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, interpretations are subject to reconsideration by the General Counsel (§ 205.85(f)). The interpretations indexed herein have been published only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., October 31, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A—Alphabetical Listing of Interpretations Issued Through December 31, 1979

Issued to and Interpretation

Agents Alliance, Inc.—1975–17
Air-Conditioning and Refrigeration Institute—1978–26
Alaska, State of—1977–7
Alaska Petrochemical Co.—1978–1
Albina Fuel Co.—1975–74
Allied Chemical Corp.—1978–3, 1980–26
American Petrofina, Inc.—1978–31
American Red Cross—1980–32
AMF, Inc.—1980–2
Amoco Chemicals Corp., Inc.—1978–49
Amoco Oil Co. (Indiana)—1974–16, 1978–7, 1978–14
Apco Oil Corp. (rescinded)—1978–51
Arizona Fuels Corp.—1979–18
Atlantic Richfield Co.—1974–8, 1976–4, 1977–13, 1977–30, 1978–13, 1978–36, 1978–54, 1978–61
Atlas Aircraft Corp—1974–15
Babcock and Wilcox Co.—1975–25
Baker Industries, Inc.—1980–8
Ball Marketing Enterprise, *et al.*—1977–18
Baltimore Gas & Electric Co.—1975–34
Barber Oil Corp.—1980–22
Basin, Inc.—1978–25, 1980–6
Beacon Oil Co.—1977–23, 1977–24

[1] (Correction Notice) 1977–42: 43 FR 64104, December 22, 1977.
[2] (Correction Notice) 1978–35: 43 FR 57583, December 8, 1975.
[3] (Correction Notice—Rescission) 1978–51: 45 FR 59780, September 10, 1980.
[4] (Correction Notice) 1978–58: 43 FR 46517, November 7, 1978.
[5] (Correction Notice) 1979–02: 44 FR 39375, July 6, 1979.

Berry Holding Co., *et al.*—1975–43
Beukema Petroleum Co.—1975–73
Blue Blaze Gas Co., Inc.—1979–6
Body Beautiful Car Wash—1975–57
Boron Oil Co.—1975–62
Boston Gas Co.—1976–19
Boston Housing Authority—1975–54
Brocato, Charles P.—1979–12
Bronson, William S.—1975–67
California, State of—1977–14
Callahan Oil Co.—1976–25
Calumet Industries, Inc.—1975–11
Campbell Oil Co., Inc.—1975–63
Can Manufacturers Institute—1975–14
Carter, Carl, Agency, Inc.—1975–67
Castor, Joseph L.—1975–72
Celanese Corp.—1974–17
Champlin Petroleum Co.—1976–22
Charter Oil Co.—1974–6, 1980–29
Chase, Wilson A.—1979–23
Cheker Oil Co.—1975–6
Chevron U.S.A. Inc.—1980–10
Cities Services Oil Co.—1976–10, 1980–12
City of Long Beach, Calif.—1977–2
Clark Oil & Refining Corp.—1977–25
Collier & Collier, *et al.*—1978–20
Colt, Mack C., Inc.—1978–56
Columbia City Blue Flame—1979–6
Commonwealth Oil Refinering Co., Inc.—1977–45
Concord Oil Co., Inc.—1980–19
Consolidated Paper, Inc.—1975–23
Consumers Power Co.—1979–26
Continental Airlines—1975–8
Continental Oil Co.—1974–26, 1975–30, 1975–31, 1978–29, 1978–44
Cook & Cooley, Inc.—1975–50, 1977–32
Crown Central Petroleum Corp.—1978–39, 1980–16
Crystal Oil Co.—1979–14
Cyr Oil Co.—1975–69
Damson Oil Corp.—1977–38
Danielson, E. L.—1976–70
Day and Zimmerman, Inc.—1975–56
DeBlois Oil Co.—1975–66
DeLozier Chevron Station—1980–34
Department of Army and Air Force—1976–14
Department of Defense—1974–27
Department of the Navy—1975–15
Derby Refining Co.—1975–64
Deshler Blue Flame, Inc.—1979–6
Devon Corp.—1979–3
Diversified Chemicals & Propellants Co.—1976–24
Dollar Rent-a-Car Systems—1975–65
Dyer Oil Service—1975–67
Eason Oil Co.—1979–3
East Oil, Inc.—1975–51
El Paso Natural Gas Co.—1978–32
Elkins, Campbell H. and El Ran, Inc. (modified)—1978–58M
Empire Gas Corp.—1976–6
England, C. R., Oil & Gas Properties—1977–33
Enterprise Products Co.—1975–3
Estron Oil Corp., *et al.*—1974–12
Ethyl Corp.—1979–15
Eugene Water & Electric Board—1980–33
Expo Car Wash, Inc.—1974–29
Exxon Corp.—1974–14, 1977–10, 1977–52, 1980–3
Farmland Industries, Inc.—1975–37
Florida Power & Light Co.—1979–9
Flying Tiger Line, Inc.—1974–21
F. M. Brown's Sons, Inc.—1980–4
Ford Motor Co.—1976–21
Fresh, R. C. *et al.*—1977–8
Gas Club, Ltd.—1975–49
General American Oil Co. of Texas—1979–19
Getty Oil Co.—1978–40, 1980–3
Golden Oil Co.—1975–67
Good Hope Refineries, Inc.—1978–47
Gould, John Jr.—1979–1
Gravcap, Inc.—1978–21
Greenbelt Consumer Services, Inc.—1974–7
Greene Bros. LP Gas and Oil Co.—1974–5
Grosch Blue Flame—1979–6
Guam Oil & Refining Co.—1976–22, 1977–5, 1977–36
Gulf Companies, The—1980–18
Gulf Oil Corp.—1977–44, 1978–48, 1978–50, 1978–57, 1979–7, 1980–21
Hamilton Brothers Oil Co.—1974–3
Harrison, Charles—1975–67
Hattenhauer, John Douglas—1977–20
Hauer, James—1975–67
Hawaiian Independent Refinery, Inc.—1978–55
Hicks Oil Co.—1977–9
Hillsdale Blue Flame—1979–6
HNG Petrochemicals Inc.—1978–16, 1978–62
Hunt Oil Co.—1980–17
Husky Oil Co.—1977–15
Idaho Transportation Department—1975–52
Independent Drivers Organization—1975–53
Independent Oil Compounders Assn.—1977–50, 1978–33
Indiana Farm Bureau Cooperative Association, Inc.—1979–21
Inexco Oil Co.—1976–5
Intenco, Inc., and Houston Carbon Co., Ltd.—1978–28
Jackson, Darrell—1974–22
Japanese Air Lines Co. Ltd.—1975–40
Jewell Oil Co., Inc.—1978–23
Johnson, A. & Co.—1975–24
Juti Enterprises, Inc.—1980–13
J & W Refining Inc.—1975–45
Kadane, G. E. & Sons—1975–29
Kansas-Nebraska Natural Gas Co., Inc.—1978–41
K.C.H. Flying Service, Inc.—1976–13
Kellermyer's Inc.—1977–39
Koch Oil Co.—1977–49
Kramer Service Center, Inc.—1975–59
Krenik Distributors, Inc.—1980–24
Latimer, D. C.—1976–16
Lido Co. of New England—1979–25
LIG California, Inc.—1979–16
Liquid Waste Disposal Co.—1974–11
Longview Refining Co.—1975–12
Madison Blue Flame—1979–6
Manley, John D. III—1978–15
MAPCO, Inc., *et al.*—1978–63
Markle Blue Flame—1979–6
Martin Exploration Co.—1978–27
Mason, Robert A.—1980–25
McCulloch Gas Processing Corp.—1974–13, 1977–3
McNair, Charles W.—1977–40
Meridian Oil Corp.—1977–46
Mid-State Oil Co., Inc.—1975–68
Midwest Oil Co.—1975–33
Mitchell Energy Corp.—1980–23
Mobil Oil Corp.—1976–9, 1977–16, 1977–28, 1977–31, 1977–34, 1978–8, 1978–48, 1978–53, 1979–7, 1979–11, 1980–5
Mobley Oil Co.—1978–6
Monsanto Co.—1975–2, 1979–22
Moore-McCormack Resources, Inc.—1975–44
Murphy Oil Corp.—1975–16
National Airlines, Inc.—1977–11
National Association of Texaco Consignees, Inc.—1975–19
National Convenience Stores, Inc.—1974–25, 1976–11
National Cooperative Refinery Association—1978–52
National Institute of Infant Services—1975–39
National Life and Accident Insurance Co.—1974–24
National Pest Control Association, Inc.—1980–35
National Soft Drink Association—1979–24
Navajo Refining Co.—1977–26
Nelson Oil Co.—1977–41, 1978–24
New Mexico, State of—1980–9
North Manchester Blue Flame—1979–6
North Webster Blue Flame—1979–6
Northeast Petroleum Corp.—1975–22
Northern Natural Gas Co., *et al.*—1978–63
Oil Transit Corp.—1977–35
Oregon Department of Transportation—1975–18
Owsley, J. M.—1977–27
Pacemaster, Inc.—1975–47
Pacific Lighting Exploration Co.—1975–27
Paine, Joseph J. C. & Associates—1977–37
Pan American World Airways, Inc.—1975–26
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Peerless Distributing Co.—1977–29
Pennzoil Co.—1978–11
Pennzoil Offshore Gas Operators, Inc.—1978–17
Permian Corp.—1978–12, 1978–45
Peters, B. R. Inc.—1975–38
Petrolane, Inc.—1976–18
Petroleum, Inc.—1975–42
Petro US, Inc.—1974–20
Phillips Petroleum Co.—1975–5, 1977–12
Placid Oil Co. (modified)—1979–2M
Pleasant Street Co.—1975–55

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Portable Sanitation Association—1974–1
Price, W. H.—1980–14
Pru Lease, Inc.—1974–23
Public Service Commission of Delaware—1978–4
Pyrofax Gas Corp.—1977–4
Remington Blue Flame—1979–6
Rookwood Oil Terminals, Inc.—1976–8
Rotary Gasoline Dealers—1975–48
Rounds, Don M. Co.—1975–42
Rustex Oil, Inc.—1978–5
Ryall, E. E.—1978–59
Saber Petroleum Corp.—1976–7
Scarpulla, Frances O., Esq.—1977–17
Sea Horse Marine, Inc.—1977–22
Semarck California, Inc.—1979–16
Shell Oil Co.—1975–4, 1975–21, 1976–15, 1978–2, 1978–42, 1978–50, 1979–20, 1980–7, 1980–15
Shields, Herman F.—1975–67
Signal Oil and Gas Co.—1974–4
Signore, Anna, Estate of—1975–58
Simmons Oil Corp.—1975–61
Sinclair Oil Corp.—1979–5
Skelly Oil Co.—1975–1
Sky Harbor Air Services, Inc.—1974–15
Sohio—1976–17
Sohio-BP Oil, Inc.—1976–3
Solar Turbines International—1979–13
Sound Refining Inc.—1974–2
Southern Gulf Oil Distributors Association, Inc.—1975–13
Southern Union Gas Co.—1978–34
Spartan Petroleum Co.—1978–30
Standard Oil Co. (Indiana)—1974–10, 1977–43, 1978–50, 1979–4, 1980–3, 1980–11, 1980–27
Sterling Stations, Inc.—1977–19
Stevenson, Warren—1978–46
Surburban Propane Gas Corp.—1977–21
Sulphur Springs L. P. Gas, Inc.—1979–6
Sun Gas Co.—1978–37
Sun Oil Co.—1976–12, 1978–19, 1980–31
Sundance Oil Co.—1977–1
Sunmark Industries—1980–30
Swann Oil, Inc.—1974–19
System Fuels, Inc.—1975–16
Tesoro Petroleum Corp.—1975–32, 1978–10
Tesoro-Alaskan Petroleum Corp.—1974–21
Texaco, Inc. (modified)—1977–42M
Texas City Refining, Inc.—1977–6
Thurman, F. D. —1975–70
Time Oil Co.—1979–10
Tinnin, G. W.—1978–60
Trans World Airlines—1975–46
Transcontinental Gas Pipeline Corp.—1978–18
Tristate Oil & Asphalt Sales, Inc.—1978–22
True Oil Purchasing Co.—1978–43
Twin Montana, Inc.—1975–10
U.S.A. Petroleum Corp.—1976–20
U.S. Oil and Refining Co.—1975–41, 1979–8
Union Oil Co. of Calif.—1977–53
United Oil Co., Inc.—1974–28
United Refining Co.—1976–1
United States Marine Corps—1975–20
United States Steel Corp.—1980–20
UPG, Inc. (modified)—1978–35M
Vickers Petroleum Corp.—1977–47
Wallace, Gordon H.—1975–71
Wanda Petroleum Co.—1976–2
Ward, L. O. —1977–48, 1979–17
Webber Tanks, Inc.—1977–51
Weinert Estate, H. H.—1978–9
WESO Corp—1975–60
West Side Distributing Co.—1980–1
Whirlpool Corp.—1980–28
Wickland Inc.—1975–35
Williams Energy Co.—1974–18
Winamac Blue Flame—1979–6
Wooten, Norman, Inc.—1975–9
Yellow Cab Co. of Philadelphia—1978–57

Appendix B—Chronological Index of Rulings by Number and Title Issued Through December 31, 1979

Ruling and Title

1974–1, Prices for Base Period Purchasers
1974–2, Redirected Sales Pricing
1974–3, Supplier/Purchaser Relationships Under the Petroleum Allocation Regulations
1974–4, Impact of State Tax on Gross Sales
1974–5, Determination of Propane Prices Under the Petroleum Allocation Regulations
1974–6, Discrimination Among Purchasers of Allocated Products
1974–7, Truck Stop Leases
1974–8, Allocation of Non-Bonded Aviation Fuel
1974–9, Minimum Rent Provisions in Leases of Real Property in the Retailing of Gasoline
1974–10, Changes in Credit Terms
1974–11, Current Free Market Price for "New" and "Released" Crude Oil Under the Price Rule of § 212.72
1974–12, Unrecouped Increased Product Costs Where Prices Charged Under Fixed-Price Contracts Are Less Than The Lawful Base Price
1974–13, Motor Gasoline Retail Sales Outlets
1974–14, Base Rent Regulations
1974–15, Portable Sanitation Industry
1974–16, Allowable Use of Multiple Allocation Fractions
1974–17, Base Price Computation
1974–18, Discounted May 15, 1973 Price to a Class of Purchaser
1974–19, Competitive Bids: Supplier/Purchaser Relationships
1974–20, Additional Use of Property Used in the Retailing of Gasoline
1974–21, Exchanges of Refined Petroleum Products for Crude Oil
1974–22, Supplier/Purchaser Relationships Applying to the Department of the Interior
1974–23, Car Wash Sales of Gasoline
1974–24, Truck Stop Leases
1974–25, Spot Sales Under Part 211
1974–26, Application of the Refiner's Cost Formula of § 212.83(c) to Refiners Required to Sell Crude Oil Under the Allocation Program
1974–27, Allocation of Refiner's Increased Product Costs to Sales Volume
1974–28, Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR § 210.32 to Gas Wells
1974–29, Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR § 210.32
1974–30, Measurement of the Number of Barrels of Production from an Oil Well for the "Stripper Well Lease" Exemption of 10 CFR § 210.32
1975–1, Transportation Costs
1975–2, Application of the Term "Class of Purchaser" under FEA Petroleum Price Regulations
1975–3, Prospective Increases in Rent for Real Property Used in the Retailing of Gasoline
1975–4, Storage Tank Rentals
1975–5, Treatment of Confidential Information Received by FEA Pursuant to Oil and Gas Reserves Survey (Form FEA P–301–S–0)
1975–6, Pricing of Natural Gas Liquid Products Prior to January 1, 1975
1975–7, Export Sales
1975–8, Qualification of Certain Consignees as Wholesale Purchaser-Resellers
1975–9, Storage Costs
1975–10, Transportation Costs Where Transportation is Provided by the Firm Concerned
1975–11, Rentals of New, Higher Cost Storage Tanks
1975–12, Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed
1975–13, Early Payment Percentage Discounts
1975–14, Prices Charged to Reflect Non-Product Cost Increases Incurred by Resellers, Reseller-Retailers and Retailers
1975–15, Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72
1975–16, Carry-Forward of the Amount by Which Prices Charged are Less than the Price Increase Permitted to Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers
1975–17, Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975

1975–18, Computation of Increased Cost of Natural Gas Shrinkage
1976–1, Allocations with Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program
1976–2, Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments
1976–3, Interpretation of Naval Petroleum Reserves Production Act of 1976
1976–4, Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed from Oil Shale, Tar Sands, and Coal
1976–5, Retail Sales Outlet Operator's Entitlement to Motor Gasoline
1976–6, Record Keeping Requirements
1977–1, Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil
1977–2, Further Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil
1977–3, Cargo Sales
1977–4, Timing of Landed Cost for Inter-affiliate Transactions
1977–5, Application of the Definition of "Transaction" for Purposes of Computing Weighted Average May 15, 1973, Prices
1977–6, Applicability of the Stripper Well Property Exemption to Properties that Produce Both Crude Oil and Condensate Recovered in Non-Associated Production
1977–7, Post-September 1, 1976 Treatment of Separate Reservoirs as Stripper Well Properties
1977–8, Termination of Crude Oil Supplier/Purchaser Relationships by a Producer
1979–1, Application of "Transaction" Definition to Variable-Price Contracts
1979–2, Redirection of Motor Gasoline
1980–1, Kerosene-fueled Water Heaters
1980–2, Allocation of Motor Gasoline at Retail Sales Outlets
1980–3, Clarifications to the Newly Discovered Crude Oil Ceiling Price Rule
1980–4, Clarification of the Definition of "Operational"

Appendix C.—*Subject Index for Interpretations and Rulings Issued through Dec. 31, 1979*

Subject	Interpretations	Rulings
Accounting practices	1978–52	
Acquisition rule	1975–9; 1978–18; 1980–30	
Affiliated entities, def	1976–4	
Agricultural production, def	1979–24; 1980: –4, –35	
Allocation entitlement	1974–17; 1975–37; 1979–10; 1980: –11, –24.	
Allocation entitlement, method of	1974–19	
Allocation entitlement, transfer of	1974–29; 1975–35; 1977–47; 1979–23; 1980: –16, –18, –20.	1974–13.
Allocation fraction	1980–21	1974–16.
Allocation levels	1974–1; 1979: –9, –13, –15, –24; 1980: –4, –8, –32, –35.	
Assignment by agency	1976–25	
Average daily production, def	1974–22; 1975: –41, –43	
Average monthly purchases, def	1980–34	
Aviation fuel, allocation of		1974–8.
Base period supplier	1974: –6, –15; 1975: –31, –73; 1980–1	
Base period supplier, designation of	1974–21	
Base period supply obligations	1974–25; 1976–11; 1977: –19, –20	1974–25.
Base period use, adjustments to	1977: –28, –32; 1978–24; 1979–20; 1980–34.	1974–13.
Base period volume	1975–50; 1980–11	
Base price	1975–5	1974: –2, –17, –18, –26; 1975–6; 1977–5.
BPCL	1975–27; 1976–16; 1977: –12, –37; 1978–6; 1979–1, –1; 1977–2; 1980: –17, –25.	1975–15; 1976–2.
Base rent rule	1974: –24, –28	1974: –7, –9, –14, –20, –24; 1975–3.
Base rent rule, lease termination	1975–58	
Benzene and toluene, special rules for	1976–10	
Blending costs, retailer	1975–74	
Bonded fuel, def	1975: –8, –26, –46	
Bonded fuel exemption	1975: –8, –26, –46	
Borrow-pay back rule	1975–30	
Burning of petroleum products by power generators.	1975–25	
C, subpart; part 212	1979–21; 1980–29	
California lower tier crude oil	1978–48	
Certification	1977: –33, –52; 1978: –12, –24; 1979–19; 1980–14.	
Class of purchaser	1974–7; 1975: –5, –6, –22, –31, –47, –63; 1976: –1, –6, –7, –20; 1977: –10, –11; 1978–44; 1980–16.	1974: –1, –2, –17, –18; 1975–2.
Commission agents or consignees	1974–10; 1975: –13, –17, –19, –31, –33, –48; 1977: –8, –17, –27, –39, 40; 1978: –59, –60; 1979–6; 1980: –1, –18, –24.	1975–8.
Competitive bids	1975–56	1974–19.
Condensate, def	1978–35M; 1979: –4, –26; 1980–31	
Confidential information		1975–5.
Cost of crude oil, def	1976–4	
Covered products, def	1976–24; 1977: –9, –50; 1978: –11, –28, –54.	

Appendix C.—*Subject Index for Interpretations and Rulings Issued through Dec. 31, 1979—Continued*

Subject	Interpretations	Rulings
Crude oil buy/sell program	1977–34; 1978–39; 1979–8	1974–26; 1976–1.
Crude oil, def	1975–29; 1977: –3, –22, –31; 1979: –3, –4; 1980–29.	
Crude oil resales	1978–25	
Crude oil runs to stills, def	1978–31; 1979–26; 1980–27	
Crude oil ceiling price rules, long-term contracts (premiums).	1977: –2, –14; 1978–21	
Current cumulative deficiency	1974–8; 1976–16	1976–2.
Customary discounts	1975–66	1974: –18, –23; 1975–13.
Customary price differential	1978–44; 1980–16	
D, subpart, part 212	1974–20; 1975–29; 1977–3; 1978–21; 1979: –17, –21; 1980: –7, –9, –17, –20, –22, –23, –25.	
December 1 rule	1974: –2, –3, –4; 1975–45; 1976: –15, –20; 1977: –7, –13, –14, –15, –42M; 1978: –1, –45.	1974: –11, –21, –22; 1977–8.
Disallowance of costs	1979–11	
E, subpart, part 212	1978: –16, –29, –61; 1979: –3, –11; 1980: –3, –12, –15, –16, –19, –29.	
EPAA supercession of other Federal laws	1974–27; 1975–15	
Emergency services, def	1980; –8, –32	
End-user, def	1980–2, –35	
Energy conservation program:		
Room air conditioners	1978–26	
Clothes washers	1980–28	
Emergency building temperature restrictions	1980–33	
Kerosene-fueled water heaters		1980–2.
Operational, def		1980–4.
Solar energy exemption	1980–33	
Energy production, def	1979; –9, –13, –15	
Entitlements program	1975–21, 1976–22; 1977: –5, –22, –31, –45; 1978: –31, –42, –48; 1979: –4, –16, –26; 1980: –10, –27, –29.	1976–3.
Equal application rule	1975–5; 1976–17; 1978: –36, –53; 1980–15	
Exchange agreements	1977: –5, –36; 1978–10	1974–21.
Export sales, def	1977–16	
Export sales deduction	1975–21, 1977: –16, –30, –36, –44; 1978: –10, –42, –54, –55; 1980–10.	
Export sales exemption	1977–16, –21, –44; 1978: –10, –42	1975–7.
F, subpart, part 212	1976–6; 1977–3; 1978: –4, –63; 1979–23	1977–3.
Federal preemption of State laws	1978–4	
Field	1977–43	
Firm, def	1975: –3, –32, –52, –55, –69; 1976: –3, –8; 1977: –6, –18, –29; 1978: –62, –63; 1979: –3, –16, –22; 1980–2	
1st sale, def	1976–4; 1977–38; 1978: –21, –63; 1979–14; 1980: –22, –23.	
5 percent rule	1974–14; 1977: –6, –24	
Fuel use act regulations:		
Alternate fuel, def	1980–5	
Refinery, def	1980–5	
Waste gas	1980–5	
G, subpart, part 212	1974: –24, –28; 1975–69	1974–24; 1975–3.
Gas plant, def	1980–26	
Gasoline reseller—going out of business	1980–24	
Guam	1975: –8, –26, –46	
Import exemption	1975–24	
Inventories	1975–23	1977–3.
K, subpart, part 212	1976: –2, –5; 1977–3; 1978: –16, –27, –29, –32, –34, –35M, –37, –41, –61, –62, –63; 1979: –2M, –3, –14; 1980: –26, –31.	1975: –6, –18.
Landed costs	1980–12	1977–4.
Lease condensate, def	1979–4	
Motor gasoline, def	1978–47	
Naphtha, def	1978–47	
Naphtha allocation	1975–44	
Naval petroleum reserves, crude oil price exemption.		1976–3.
Natural gas shrinkage	1978: –27, –34, –37, –41, –61, –62; 1979: –2M, –3	
Natural gas liquids, def	1978: –32, –35M; 1980–31	
Natural gas liquid products	1974–13; 1977–3; 1978: –3, –27; 1980–26	1975: –6, –18.
Natural gasoline, def	1978–35M	
Net-back sale, def	1978–32; 1979–14	
New and released crude oil	1975–2; 1977–42M; 1979–19	1974–11
New item and new market rule	1974: –23, –24; 1975: –3, –9; 1976: –5, –7; 1978–3.	1974–20
"New" motor gasoline retail sales outlet	1975–61	1976–5.
"New" wholesale purchaser-reseller	1975–57; 1977–28	
Newly discovered crude oil	1980: –17, –25	
Non-product cost increases	1975: –48, –59, –74; 1978: –8, –13, –14, –52, –63; 1979–7; 1980–15.	1975: –1, –4, –10, –11, –14, –16.
Normal business practices	1974: –3, –16, –27; 1975: –49, –62; 1977: –8, –11, –19, –26, –35; 1978: –7, –21, –38, –56, –57; 1979: –5, –6, –10; 1980: –2, –6, –16, –19.	1974: –6, –10, –11, –23; 1975: –4, –11, –13.
Oil import regulations	1978–50	
Once-a-month rule	1975–64	
Over-recoupment	1975–12	

Appendix C.—*Subject Index for Interpretations and Rulings Issued through Dec. 31, 1979—Continued*

Subject	Interpretations	Rulings
Passenger transportation services	1975–65	
Posted Price, def	1976–4; 1977: –26, –43; 1978: –17, –20, –30, –43.	1977–1.
Price, def		1974–10.
Price increase	1977–53	
Price/octane No. information and posting	1978–9	
Priority allocation levels	1979: –9, –15, –24; 1980: –4, –8, –32, –35	
Procedural requirements	1975–40; 1976–12; 1977–28	
Processing agreements	1974–6	
Producer, def	1974–20; 1980: –22, –23	
Producer of crude oil, price rule	1978–17	
Product cost increases	1974–5; 1978: –40, –51 (rescinded); 1980–12	1974: –5, –26, –27; 1975: 1–9, –10, –13, –18; 1977–3.
Product cost increases, carryover of	1975–16	1974–12; 1975–16.
Propane allocation	1975–14; 1976: –19, –21	
Propane prices	1978–4	1974–5.
Property, def	1974–22; 1975: –2, –4, –27, –42; 1977: –1, –37, –42M, –48; 1978: –5, –9, –15, –18, –58M; 1979: –1, –17, –21; 1980: –17, –25.	1975–15; 1977: –1, –2, –7.
Reclamation of waste crude oil	1978–18	
Record-keeping requirements	1979–12	1976–6.
Refined petroleum products, def	1975–1; 1978–42; 1979–26	
Refiner, def	1974–13; 1976–2; 1977: –6, –29; 1978: –22, –33, –63; 1979: –3, –16, –22, –26..	
Refiner gasoline price variation rules	1978: –36, –53	
Refiner price formula:		
"A" factor	1978–40; 1980–29	
"B" factor	1978–51 (rescinded)	
"V" factor	1975–7	1974–27; 1975–7.
"H" factor	1977–23	
"N" factor	1978: –8, –13, –14, –52; 1979–7; 1980–15	
"Y" factor	1978–51 (rescinded)	
Refiner price rule	1977–53	1974–26.
	1978: –11, –13; 1980–30	
Refinery yield	1976–23	
Refunds	1975–12	
Rent, def	1975–51	
Rent regulations (see also base rent rule)	1975–69	1974: –7, –9, –14, –20, –24; 1975–3.
Reporting requirements, refiner	1975–11; 1977–24	
Reseller, def	1974–12; 1976–2; 1977: –3, –8, –29; 1978: –22, –33M, –63..	
Residual fuel oil, def	1975–29	
Retail price rule	1980–30	
Retail sales outlets, motor gasoline	1979–23	1974–13.
Retailer, def	1974–12; 1976–2; 1978–22	
Retaliatory actions	1975–63	
Retroactive price increase	1977–14; 1978–2	
Sales by Federal, State, and local governments	1974–4; 1975–15	1974–22; 1976–3.
Sanitation services, def	1974–1; 1975–39; 1980–35	1974–15.
Seller, def	1976–8	
September 1975; application of price/allocation regulations during.		1975–17.
Small refiner bias	1979–22	
Social service agency use, def	1980–32	
State set-aside program	1980: –11, –21	
State tax increase pass-through	1975–18	1974–4.
Storage tank rentals		1975: –4, –11.
Stripper well lease exemption	1974: –22, –26; 1975: –4, –10, –41, –43; 1977–48; 1978: –5, –9, –58M; 1979–21; 1980: –13, –14.	1974: 26, –29, –30; 1975–12; 1977: –1, –2, –6, –7–.
Supplier, def	1976–23	
Supplier/purchaser relationship	1974: –17, –18, –19; 1975: –20, –54; 1976: –13, –14, –18; 1977: –20, –49; 1978: 23, –45, –46, –49, –56, –57, –59, –60; 1979: –18, –23, –25; 1980: –6, –16, –20.	1974: –3, –19; 1975–8.
Supplier substitution	1976–25	
Surplus product, purchase of	1974–19; 1975–20; 1977–41	
Synthetic fuels		1976–4.
S.N.G. feedstock allocation	1975–34	
Temporary discounts on May 15, 1973	1975–6	
Tertiary incentive crude oil program	1980: –7, –22, –23	
Transaction, def	1978–19	1977–5; 1979–1.
Transfer pricing	1974–20; 1978: –61, –63; 1979–14	
Transportation costs, def	1978–25	
Transportation costs to reseller/retailer inventory	1977: –4, –51	1975: –1, –9, –10.
Transportation cost, refiner	1977–25; 1980–3	
United States, def	1975: –8, –26, –46	
Unitization	1974–22; 1975: –2, –4, –10, –27; 1978: –8, –9; 1980: –13, –17, –25.	1975–15; 1977–2.
Unleaded gasoline	1976–3	
Unusual growth adjustment	1980–34	
Waste crude oil, reclamation of	1974: –11, –20; 1977–22	
Wholesale purchaser-consumer def	1975: –37, –52; 1980: –32, –35	1974–19.
Wholesale purchaser-reseller, def	1974: –10, –12; 1975: –13, –17, –19, –33, –37, –38, –53, –60, –67, –68, –70, –71, –72; 1977: –17, –27, –39, –40; 1978: –46, –59; 1979–6; 1980: –1, –2, –18, –24.	1975–8.

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Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Dec. 31, 1979*

Regulation interpreted [1]	Interpretations	Rulings
Part 202, subpart A		1975–5.
205.2	1976–12; 1977–28	
205.26(d)	1975–40	
205.33(a)	1976–12; 1977–28	
205.194	1975–12	
205.202	1980: –6, –9, –19	
210.21	1975: –8, –26, –46; 1977–5; 1980–10	
210.32	1974: –22, –26; 1975: –4, –10, –41, –43	1974: –28, –29, –30; 1975–12; 1977–1.
210.33	1975: –8, –26, –46	
210.61	1975–63	1974–3.
210.62	1974: –3, –27; 1975–49; 1977: –8, –19, –26; 1978: –7, –21, –38; 1979: –6, –10; 1980: –2, –6, –16.	1974: –6, –10, –11; 1975: –4, –11, –13.
210.62(a)	1974–16; 1975: –62, –63; 1977–35; 1978: –56, –57; 1979–5; 1980: –9, –19.	
210.62(c)	1976–18; 1977–11; 1980–9	1974–23.
210.77	1975–51	
210.91	1977–24	
210.92		1976–6.
211.1(a)	1977–8	
211.9	1974: –15, –19; 1975: –58, –62; 1976–25; 1977: –19, –49; 1978: –46, –49, –59, –60; 1980: –11, –20.	1974: –3, –19.
211.9(a)	1974–18; 1975: –20, –54, –56, –73; 1977–8; 1978–23.	
211.9(c)	1977–20	
211.10	1975: –20, –56, –73; 1980–11	
211.10(a)	1975–35	
211.10(b)	1974–17; 1980–21	1974: –16, –25.
211.10(e)	1974–29	
211.10(g)	1974–19; 1976: –14, –21; 1977–41	
211.11	1974–17; 1975–61; 1976–19; 1980: –18, –20, –24.	
211.11(b)	1974–6	
211.11(d)	1975–35	
211.12	1975: –50, –57; 1976–11; 1980–11	
211.12(b)	1980–21	
211.12(e)	1974–17; 1976–19; 1977: –28, –49; 1978–38; 1979–25.	1974–19.
211.12(f)		1974–19.
211.12(h)	1976–18	
211.12(g)	1976–21	
211.13	1975–50	
221.13(c)	1976–12; 1977: –28, –32; 1978: –24, –36; 1979–20.	
211.13(f)	1977–26; 1978–24	
211.14(d)		1974: –3, –16.
211.17(h)	1980: –11, –21	
211.22	1975–23	
211.24		1974–3.
211.24(a)	1974–25; 1976–11	
211.25	1975–31; 1976–25; 1978–23	
211.25(a)	1977–20	
211.25(c)	1975–30	
211.28	1980–16	
211.29	1975–34; 1976–19	
Special rule No. 1 to subpart A of part 211	1975–34; 1976–19	
211.31	1977–8	
211.51 (definitions)	See corresponding subject entry, app. C	See corresponding subject entry, app. C.
211.62 (definitions)	See corresponding subject entry, app. C	See corresponding subject entry, app. C.
211.63	1974: –2, –3, –4; 1975–45; 1976: –14, –20; 1977: –7, –13, –14, –15, –42M; 1978 –1, –45; 1979–16; 1980–6.	1974: –21, –22; 1977–8.
211.64	1974: –2, –3	
211.64(a)		1974–11.
211.65	1974–6; 1977–34; 1978–39; 1979–8	1976–1.
211.67	1977: –5, –22, –31; 1978–31; 1979: –4, –26; 1980: –27, –29.	1976–3.
211.67(a)(4)	1978–48	
211.67(d)(2)	1975–22; 1976–22; 1977: –16, –30, –36, –44; 1978: –10, –42, –54, –55; 1980–10.	
211.67(d)(5)	1977–45	
211.71(c)	1976–23	
Special rule No. 7 to subpart C of part 211	1976–22	
211.82	1976–21; 1978–49; 1980–20	
211.83	1975–14; 1980–20	
211.83(c)	1976–19	
211.85	1978–49	
211.86	1978–49	
211.96(b)	1977–49	
211.102	1975: –20, –73; 1980: –8, –32, –35	
211.103	1975–65; 1979: –9, –15, –24; 1980: –4, –8, –32.	

Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Dec. 31, 1979—Continued*

Regulation interpreted [1]	Interpretations	Rulings
211.103(a)	1974–1	
211.104	1974–6; 1980–34	
211.105(d)	1979–25	
211.105(f)	1980–11	
211.106	1975: –58, –61, –73; 1976–11; 1977: –19, –47; 1980–16.	1974–13; 1976–5.
211.106(b)	1974: –12, –25	
211.106(c)	1975–53; 1977–19	
211.106(d)	1974–25	
211.106(e)	1975–57; 1979–23	
211.145	1976–13	1974–8.
211.145(c)	1974–21	
211.145(d)	1974–21	
211.162	1975–54	
211.166	1974–19	
211.182	1978–47	
211.183	1975–44	
211.201	1975–37	
211.202	1975–37	
211.203(c)(2)(iii)	1975–37	
212.1		1975–3.
212.2	1975–24	
212.31 (definitions)	See corresponding subject entry, app. C	See corresponding subject entry, app. C.
212.52	1974–4; 1975–15	
212.53	1975–24; 1976–22	1975–7.
212.53(a)	1977: –16, –21, –36, –44; 1978: –10, –55	
212.53(c)	1977–30	
212.54	1974: –22, –26; 1977: –2, –48; 1978: –5, –9, –58M; 1979–21; 1980: –13, –14.	1977: –6, –7.
212.55	1977–2	1976–3.
212.71	1974–11	
212.72	1974: –8, –11; 1975: –2, –4, –27; 1976–16; 1977: –1, –3, –12, –33, –37, –38, –42M, –46, –52; 1978: –5, –12, –15, –18, –58M; 1979: –1, –17, –19, –21; 1980–25.	1977–7.
212.73	1974–11; 1975–42; 1977: –2, –3; 1978–20	
212.74	1974: –8, –11; 1975: –2, –4, –42; 1977: –2, –3; 1978: –2, –17, –20, –30, –43; 1979–1.	1974–11.
212.74(c)	1977–14	
212.75	1978–6; 1980: –17, –25	1977–2.
212.76		1976–2.
212.78	1980: –7, –22, –23	
212.79	1980: –17, –23	
212.81	1977–29	
212.82	1975: –5, –47; 1976: –3, –4, –5; 1977: –6, –18; 1980–12.	1974: –17, –18.
212.82(a)	1976–1	
212.82(b)	1975: –22, –31	
212.83	1974–20; 1975: –3, –5, –7; 1976–10; 1977: –23, –53; 1978–16; 1979: –2M, –3; 1980: –12, –16, –19.	1974: –12, –26, –27; 1975: –6, –7, –13.
212.83(b)	1976–4	
212.83(c)	1978–40	
212.83(c)(1)(i)(C)	1980–30	
212.83(c)(1)(iii)		1974–5.
212.83(c)(1)(iii)(C)	1980–29	
212.83(c)(2)(iii)(D)	1978–51 (rescinded) 1980–15	
212.83(c)(2)(iii)(E)	1978: –8, –11, –13, –14, –52; 1979–7	
212.83(e)	1975: –12, –16	
212.83(h)	1976–17; 1978: –36, –53; 1980–15	
212.84	1979–11	1977–4.
212.85	1977–25	
212.85(d)	1980–3	
212.88		1974–26.
212.91	1974–14; 1975: –3, –59; 1977: –3, –6, –24, –29; 1978–63.	
212.92	1975: –48, –74; 1976: –6, –8; 1977: –4, –51; 1980: –15, –30.	1975: –1, –9, –10.
212.93	1974: –5, –12; 1975: –8, –9, –18, –59, –74; 1976–6; 1977–4.	1974: –4, –17.
212.93(a)	1976–7; 1977–3; 1980–30	
212.93(b)	1975: –48, –55, –64	1975: –1, –10, –14, –16.
212.93(e)		1975–16.
212.94	1978–39; 1979–8	1974–26.
212.101	1975–58	
212.102	1974–24; 1975: –51, –58	1974: –7, –9, –14, –20, –24; 1975–3.
212.103	1975–51	1974: –7, –9, –14, –20, –24; 1975–3.
212.111	1974: –23, –24; 1975: –3, –9; 1976: –5, –7; 1978–3.	1974–20.
212.111(c)(2)	1978–18	
212.112	1976–3	
212.126	1975–11	
212.128	1979–12	1976–6.

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Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Dec. 31, 1979—Continued*

Regulation interpreted [1]	Interpretations	Rulings
212.129	1976–9	
212.131	1977: –33, –52; 1980–14	
212.131(a)(2)	1978–12	
212.161	1976–2; 1978: –61, –63; 1979–3	
212.161(b)(2)	1978–29	
212.162	1977–3; 1978: –3, –27, –32, –35M, –37, –41, –61, –62, –63; 1979–14; 1980–26.	
212.163	1978: –32, –61, –63	
212.163(a)	1976–6; 1977–3	
212.164	1978: –29, –61, –63	
212.164(a)	1976–5	
212.164(e)	1980–26	
212.165	1978–16; 1980–26	
212.166	1978–61	1975–18.
212.166(b)(3)	1978: –27, –37, –41, –62	
212.167(b)	1978: –16, –34; 1979–2M	
212.168	1978–34; 1979–3	
212.169	1978–32	
212.170	1978–18	
212.182	1978–25	
212.183	1978–25	
213.35	1978–50	
215.3	1975–25	
215.5	1975–25	
10 CFR:		
Part 430	1976–26; 1980–28	1980–1.
Part 490	1980–33	
Fuel use act regulations: 500.2(a)	1980–5	

[1] Regulations listed as cited in interpretations and rulings. No attempt has been made to change citations to reflect those relatively few cases in which regulations have been renumbered.

Appendix E—Rulings Construed by Interpretations Issued through December 31, 1979

Rulings and Interpretations

1974–3, 1975: –61, –62; 1976–25; 1980: –18, –20, –24
1974–4, 1975–18
1974–10, 1974–16
1974–11, 1976–15
1974–15, 1975–39
1974–17, 1975–66
1974–18, 1975: –6, –66; 1976–20
1974–19, 1974–15; 1975: –52, –56
1974–20, 1974–24
1974–22, 1977–7
1974–24, 1974–28
1974–29, 1975: –41, –43
1975–1, 1975–74; 1977: –4, –51
1975–2, 1975: –22, –47, –63, –66; 1976: –1, –7, –20; 1980–16
1975–4, 1977–11; 1978–7
1975–8, 1979–2M
1975–8, 1975: –33, –60, –67, –70, –71, –72; 1976–23; 1977: –17, –27, –39, –40; 1979–6; 1980: –18, –24
1975–9, 1975–74, 1977: –4, –51
1975–10, 1977: –4, –51
1975–11, 1977–11; 1978–7
1975–12, 1975: –41, –43; 1977–48
1975–14, 1976–8
1975–15, 1975–42; 1978: –6, –9, –15; 1979: –1, –17; 1980–25
1975–18, 1978–62; 1980–31
1977–1, 1977: –1, –26, –37, –43; 1978–15; 1979: –1, –17; 1980–17
1977–2, 1980: –6, –15; 1979–17
1977–4, 1979–21
1977–5, 1978–19
1980–3, 1980–25

Appendix F.—*Statutes Construed by Interpretations and Rulings Issued Through December 31, 1979*

Statutes	Interpretations	Rulings
Economic Stabilization Act of 1970, as amended...	1975–12; 1976–24	
Energy Policy and Conservation Act of 1975, as amended.	1977: –7, –12, –22, –26, –38, –42; 1978–26...	
Energy Supply and Environmental Coordination Act of 1974.		1975–5
Emergency Petroleum Allocation Act of 1973, as amended.	1974: –6, –13, –22, –26, –27; 1975: –1, –5, –8, –12, –15, –56, –66; 1976: –4, –6, –12, –20, –21, –22, –23, –24; 1977: –3, –5, –7, –11, –28, –42; 1978: –1, –4, –51 (rescinded), –54; 1980–6.	1974: –3, –26; 1975–17; 1976–4; 1977–1.
Federal Energy Administration Act of 1974	1974–13	
Freedom of Information Act		1975–5
Fuel Use Act	1978–26; 1980: –5, –28, –33	1980: –2, –4
Naval Petroleum Reserves Production Act of 1976.		1976–3
Trans-Alaska Pipeline Authorization Act		1975–12; 1977–1

[FR Doc. 80–34868 Filed 11–6–80; 8:45 am]
BILLING CODE 6450–01–M

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federal register

Friday
November 7, 1980

Part X

Department of Energy

Economic Regulatory Administration

Crude Oil Reseller Regulations; Final Rule

V 45 / 218 NOV 80 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-48]

Crude Oil Reseller Regulations

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the price regulations applicable to resales of crude oil (Subpart L of 10 CFR Part 212) to establish a uniform, maximum permissible average markup of twenty cents per barrel for all crude oil resellers. We are also amending the general price rule to provide that a reseller may not charge a price for crude oil that exceeds its acquisition cost if between the time of purchase and the time of resale (i) the crude oil remained in the same physical location or (ii) such reseller did not take physical possession of the crude oil; unless, in either case (i) or (ii), the reseller (A) was the importer of record, or (B) purchased the crude oil from the producer of that crude oil, or (C) sells the crude oil to a refiner which certifies in writing that the crude oil is being purchased for refining purposes, or (D) receives certification from the refiner that refines the crude oil that it would not have received the crude oil but for a service performed by the reseller. We are also adopting a clarifying amendment to the definition of "average markup" set forth in section 212.182 to explicitly provide that a reseller may not include in its average-markup calculations any sales with respect to which the regulations would prohibit the reseller from charging a price for the crude oil involved that exceeds its acquisition cost for that crude oil. Finally, we are adopting an amendment providing that a reseller that first sold crude oil during the period May 1973 through November 1977 but had no sales of crude oil in November 1977 shall utilize the first month prior to November 1977 during which it did sell crude oil for purposes of determining its permissible average markup for the period January 1978 through November 1980.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT:

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William Funk or Jack Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 (Funk); 252-6739 (Kendall).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Amendments Adopted.
III. Procedural Matters.

I. Background

A. Current Regulations

Subpart L of 10 CFR Part 212, which became effective January 1, 1978, sets forth the regulatory scheme applicable to the pricing of crude oil by resellers and refiners (42 FR 64856, December 29, 1977). A reseller is permitted to charge any price in a particular sale of crude oil so long as its average markup (over allowed costs) for all crude oil sales in a month does not exceed its permissible average markup and provided that it does not unreasonably discriminate among purchasers.

Under Subpart L, the method to be used by a reseller in determining its permissible average markup depends on the time period during which it first resold crude oil. The permissible average markup of a reseller that resold crude oil in May 1973 is defined as its total lawful revenues from sales of crude oil in May 1973, less all allowed costs and expenses associated with sales of crude oil in that month, divided by the number of barrels of crude oil sold in that month. A reseller that entered the crude oil reselling business after May 1973 but prior to December 1977 is required to impute a permissible average markup based on what its average markup on sales in November 1977 would have been if it had set its prices in all sales that month in accordance with the provisions of 10 CFR Subpart F which governed pricing in crude oil resale transactions prior to January 1, 1978.

As originally adopted, Subpart L did not set forth the permissible average markup applicable to resellers first doing business on or after December 1, 1977 ("post-November 1977 reseller"). However, we announced in the preamble to Subpart L our intent to establish at a later time the permissible average markup applicable to these new entrants into the reselling market. Furthermore, we afforded these new entrants the means for assuring compliance with the regulations by providing in § 212.183(c) that, if in any month a post-November 1977 reseller's average markup should exceed the permissible average markup subsequently established by the ERA, the reseller woud nevertheless be deemed to have complied with the price rule if the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil did not exceed the prices at which such crude oil was sold by the nearest comparable reseller in the month.

B. October 1979 Notice of Proposed Rulemaking

A primary consideration leading to the adoption of Subpart L was the expression by crude oil resellers that additional pricing flexibility—such as that afforded by the average markup rule of Subpart L—was needed to provide a regulatory system that would appropriately recognize the differences between these resellers and resellers of other covered products. Since the adoption of Subpart L, we have observed apparently unjustified disparities in the average markups being realized by resellers. We concluded that these disparities might be resulting partly from those provisions that provide that a reseller will be included within one of three regulatory classes depending solely on when its reselling activities began. However, we also concluded that the observed disparities must be largely unjustified since, even though the regulations provide a different method to assure compliance for each class of reseller, all three methods were designed to insure that every reseller's permissible average markup would be consistent with the historical markups of resellers generally. Moreover, we decided, regardless of whether intentional violation or unintentional misapplication of the pricing provisions was more responsible for the wide variance in markups, that modifications to Subpart L might be appropriate to insure that a reseller's permissible markup in any transaction be both commensurate with the services it performed in that transaction and the permissible markups of other firms offering comparable services. We also became concerned that the average markup rule was being utilized by some resellers as a means of disguising violations of the price regulations through the insertion of sham transactions, or less-than-arms'-length transactions, in the calculations of their average markups to make it appear that they had not exceeded their permissible average markups.

On October 25, 1979, we issued a notice of proposed rulemaking setting forth various proposed amendments formulated in response to the above concerns (44 FR 62848, October 31, 1979). These proposals were both numerous and, in some instances, complex. We have determined, as discussed below, not to adopt those proposals which would require extensive and complicated revisions to Subpart L. Rather than present in this notice a complete exposition of all aspects of the October 1979 proposals, we believe it appropriate to refer interested persons to the October 31, 1979 edition of the **Federal Register**. However, we are including a summary of the October 1979 proposals in order to facilitate consideration of the summary of public comments set forth below.

Description of October 1979 Proposals

1. *Primary Proposal to Establish Maximum Permissible Price Rule for All Crude Oil Resellers for Application on Transaction-by-Transaction Basis*

a. *General Price Rule.* We proposed to amend Subpart L to provide that a reseller may not charge in any resale of crude oil, except as provided below, a price exceeding the sum of (1) the acquisition cost of the crude oil sold; plus (2) any amounts associated with the transportation of the crude oil between the reseller's points of acquisition and sale which were (a) actually paid by the reseller to an unaffiliated common carrier or other third party or (b) actually incurred by a common carrier or other entity affiliated with the reseller; plus (3), in sales in which the reseller has transported crude oil by means of its own facilities, a "transportation allowance" permitting a return on investment in transportation and storage facilities; plus (4) one cent per barrel to permit a return on any services, other than transportation by means of its own facilities, that the reseller performs.

The two following alternative methods for computing the "transportation allowance" in any sale were proposed. *Comparable Common Carrier Tariff.* Under the first alternative, a reseller that uses its own facilities to transport crude oil would have been permitted to include in its price, regardless of the transportation expenses actually incurred, an amount equal to the expense the reseller would have incurred if it had used a common carrier to transport the crude oil. A reseller would have been required to utilize a comparable common carrier tariff filed with the appropriate State or Federal agency.

Transportation Expenses plus Return on Investment. Under the second alternative, a reseller's transportation allowance in any sale would have been equal to the expenses incurred by the reseller in using its own transportation facilities plus an additional amount to permit return on investment. We proposed that a reseller be permitted to include in its transportation allowance in any sale an amount equal to the expense it would have incurred in transporting the crude oil the same distance by the same mode of transportation in the month prior to the preceding month.

We also proposed that a reseller's transportation allowance include an amount to permit a return on the reseller's investment in transportation, gathering and storage facilities. We proposed two means of accomplishing this objective. First, we proposed a fixed per barrel amount. Based on then available information, we believed the appropriate amount would be approximately twenty-five cents per barrel. Second, we proposed in the alternative that a reseller be permitted to include an amount in its transportation allowance equal to either (1) an amount equal to a percentage of its transportation expenses associated with that particular sale or (2) the product of an amount equal to a percentage of the reseller's depreciated original cost of investment in transportation and storage facilities multiplied by the number of barrels in that sale that are transported in facilities (other than common carrier facilities) owned and used by the reseller and divided by the total number of barrels sold in the month that are transported by all modes of transportation (other than common carrier) owned and used by the reseller.

General and administrative expenses. We proposed to limit the passthrough of general and administrative expenses by including those costs in a reseller's transportation allowance in sales where the reseller has transported the crude oil by means of its own facilities. We requested comments on any modifications that might be necessary to account for general and administrative expenses under any of the proposed methods for determining a reseller's transportation allowance.

b. *Permissible Markup in Resales of Crude Oil Not Subject to General Price Rule.* We proposed a separate price rule to provide that, if between the time of purchase and the time of resale of crude oil by a reseller (a) the crude oil remained in the same physical location or (b) the reseller did not take actual physical possession of the crude oil, the reseller generally would be limited to recoupment of its acquisition cost of the crude oil. However, the reseller would have been permitted a markup of one cent per barrel, if it (1) sold the crude oil directly to a refiner certifying to the reseller that the crude oil was being purchased for refining purposes, or (2) received certification from the refiner that ultimately refines the crude oil that the refiner would not have received that volume of crude oil but for the reseller's service or (3) purchased the crude oil from the producer, or (4) in the case of imported crude oil, was the importer of record.

2. *Alternative Proposal to Establish Specified Permissible Average Markup*

We recognized that the primary proposal represented a significant departure from the regulatory scheme in Subpart L. Inasmuch as many resellers have expressed support for the average markup concept, we also solicited comments on an alternative to the primary proposal that would retain Subpart L in basically its present form, but that would limit all resellers to a fixed average markup of twenty-five cents per barrel. However, we proposed that general and administrative expenses be included in this permissible average markup, as opposed to providing for the separate itemization and passthrough of such expenses as under the current regulations.

We also proposed to further modify the current Subpart L price rule by adopting the provision of the primary proposal that, while generally prohibiting profit margins in resales of crude oil the reseller neither stored nor transported, would permit a one cent per barrel markup in such sales if the reseller (1) sold the crude oil directly to a refiner that certified that the crude oil was being purchased for refining purposes, or (2) receives certification from the refiner that ultimately refines the crude oil that it would not have received that volume of crude oil but for the reseller's service, or (3) purchased the crude oil from its producer, or (4) in the case of imported crude oil, was the importer of record.

Finally, we proposed, as requested by many commenters following the adoption of Subpart L, to extend from one to three months the compliance period for purposes of determining whether a reseller's average markup has exceeded its permissible average markup. In view of this proposal to extend the compliance period, we also proposed to eliminate the self-correcting refund provisions of § 212.185 and the per se rule set forth in § 212.185(b)

which provides that, notwithstanding the self-correcting refund provisions, a reseller will be deemed to be in violation of the price regulations if its prices result in average markups in excess of that reseller's permissible average markup during three consecutive months.

3. *Applicability of Subpart L to Crude Oil Exchanges*

We proposed a definition of the term "exchange" to emphasize that a transaction between a reseller and any other firm will be deemed to be an exchange only if the circumstances and terms of the arrangement indicate an intent, to the extent commercially practicable, on the part of each firm to transfer to each other volumes of crude oil of equal value. The proposed definition would have provided that any compensating payment should not exceed the quality, location, or time differences between the value of the volumes exchanged. It would also provide that exchange transactions include matching purchase and sale agreements (also known as buy/sell agreements). We proposed to define a matching purchase and sale as a transaction in which two firms sell crude oil to each other, pursuant to an agreement that the sale by one firm is incident to the sale by the other, and in which the volumes transferred and the cash paid and received by each firm are dependent on the value of the volumes received.

4. *Certification of Imported Crude Oil by Resellers*

Section 212.131(b)(1) of the price regulations currently requires each reseller of crude oil to certify in writing to any purchaser the respective volumes and prices of each category of domestic crude oil sold. In order to aid our enforcement efforts and administration of the entitlements program, we proposed to amend § 212.131 to extend such certification requirements to volumes of imported crude oil.

5. *Definition of Reseller*

We proposed a definition of the term "reseller" to emphasize that a reseller is permitted a markup under Subpart L with respect to any volume of crude oil only if no other firm or entity with which the reseller shares significant affiliations has realized a profit associated with that volume of crude oil. Accordingly, the proposed definition would provide that a "reseller" means a firm that carries on the trade or business of purchasing crude oil for resale in substantially unchanged form and that a "reseller" includes generally the parent of the reseller and the consolidated and unconsolidated entities directly or indirectly controlled by either the reseller or its parent.

6. *Affiliated Common Carriers*

Common carrier tariffs normally include a return on capital investment. Therefore, use by a reseller of the tariff paid to an affiliated common carrier in computing the reseller's transportation and gathering cost can be expected to add a margin which represents this return on capital investment to the prices of crude oil resales. In interpretation 1978–25, the DOE's Office of General Counsel concluded that a firm may utilize the tariff paid an affiliate for purposes of computing transportation and gathering costs under Subpart L. We tentatively determined, however, that it could create inequitable disparities to permit resellers that establish affiliated common carriers to obtain an additional return on investment. Therefore, we proposed an amendment to provide that, in the event we did not adopt an amendment that would permit all resellers to use a comparable common carrier tariff, any reseller may include in its recoverable transportation and gathering costs only those expenses actually incurred by an affiliated common carrier.

7. *Resellers First Selling Crude Oil After May 1973 but Prior to December 1977 that had No Sales in November 1977*

A reseller that entered the crude oil reselling business after May 1973 but prior to December 1977 is required to determine an imputed permissible average markup based on its lawful revenues in November 1977. Some resellers requested guidance as to how they should apply the regulations in the event they had no sales in November 1977. Therefore, we proposed an amendment to Subpart L to require that any such reseller determine its permissible average markup in reliance on its lawful revenues in the month first preceding November 1977 in which it did sell crude oil.

8. *Proposed Permissible Average Markup for Resellers First Reselling Crude Oil on or After December 1, 1977*

The preamble to Subpart L announced our intent to establish at a later date a permissible average markup for resellers first doing business on or after December 1, 1977. Based on available information, we proposed in the October 1979 notice to establish a permissible average markup of fifteen cents per barrel for such resellers. This proposal was based on our belief that such a markup would be consistent with the profit margins realized by most resellers in May 1973, a period of relative stability and strong competition in the crude oil reselling market. Furthermore, since pre-December 1977 resellers generally have not been permitted under either Subpart F or Subpart L to obtain markups in excess of actual or imputed May 1973 profit margins, it was our further belief that post-November 1977 resellers that established their prices with reference to their nearest comparable resellers in reliance on § 212.183(c) would not be prejudiced by the adoption of the proposed fifteen-cent per barrel average markup.

Summary of Comments

Comments on the October 1979 proposed amendments were solicited from all interested parties through December 31, 1979. In addition, public hearings on the proposals were held in Houston, Texas and Washington D.C. on December 6, 1979 and on December 11 and 12, 1979, respectively. Thirty oral presentations were made at the public hearings. In addition, one hundred thirty-nine written comments were received. Some firms filed more than one written submission or made both oral and written comments.

Comments were submitted by thirty-five representatives of crude oil resellers. The commenters also included six of the major integrated oil companies, twelve small refiners, an association representing small refiners, one large independent refiner, and one firm with plans to construct a small refinery. Independent producers were represented by an association representing a group of independent producers in California and Texas and twenty-eight independent producers commenting individually. Finally, comments were submitted by a non-profit public interest group and an association representing farm cooperatives.

Those aspects of the October 1979 notice pertaining to the establishment of separate price rules for transactions where the reseller transports and those where it does not transport the crude oil generated intense interest on the part of the commenters, often to the exclusion of any reference to other matters dealt with in the notice. A summary of the comments with respect to those aspects of the October 1979 proposals that the commenters did address follows.

1. *Uniform Permissible Markup for Crude Oil Resellers*

Many of the commenters indicated that they shared our concerns regarding apparently unjustified disparities in resellers' markups. In particular, historical resellers with substantial investments in crude oil transportation facilities and some refiners stated that some of the more recent entrants into the crude oil marketplace that provide minimal or no services in moving crude oil from producer to refiner are in many instances selling crude oil at dramatically higher markups than other firms that provide greater services.

Many of the commenters expressing concern regarding the seemingly unjustified disparities among resellers' markups indicated that adoption of a uniform markup for all resellers would be appropriate. Other commenters argued that any attempt to impose a uniform markup would prove financially ruinous for some resellers while giving a bonanza to others. Still other commenters indicated that, while they might at an earlier time have supported adoption of a uniform markup for all resellers, they felt that such action would no longer be warranted in view of the fact that price controls are scheduled to expire in a relatively short period of time.

2. *Permissible Average Markup versus Permissible Transaction-by-Transaction Markup*

While refiners indicated some support for a price rule that would limit resellers' markups in individual transactions, resellers argued strongly for retention of the flexibility afforded by the permissible average markup rule. Resellers stressed, as they did prior to the adoption of Subpart L, that any price rule that would impose a maximum permissible markup on individual transactions would fail to comport with the realities of the marketplace. Several resellers emphasized that they have historically operated on margins that vary from transaction to transaction, from region to region, and even from station to station, depending upon the services being provided and market conditions. These commenters asserted that a transaction-by-transaction markup rule would be impracticable because costs associated with particular volumes of crude oil cannot always be accurately determined. They further emphasized that removal of the pricing flexibility provided by the average markup rule would result in disruptions in the crude oil distribution system, since resellers might find it necessary to refrain from entering into supply arrangements that can be made profitable under an average markup rule but that simply might not permit an adequate return on investment if subject to a maximum permissible transaction markup.

3. *Separate Price Rule for Transactions where Reseller does not Transport*

Opposition was particularly strong with respect to the proposal that a reseller be permitted no markup or, at most, a one-cent markup in any sales where the reseller did not transport the crude oil sold. The strongest objections on this issue were voiced by those resellers that do not perform a transporting function. However, while refiners objected to those markups of non-transporters which they perceived to be excessive in many instances, small refiners indicated that the service of these firms is sometimes essential in finding sufficient supplies of suitable crude oil to keep their refineries running efficiently. Crude oil producers also indicated that the October 1979 proposals created too great a dichotomy between transporting and non-transporting resellers. Small producers, in particular, asserted that the non-transporting resellers often are the only prospective buyers of relatively small volumes of crude oil. For example, a non-transporting reseller may go about obtaining title to small volumes of crude oil from serveral producers in the same geographic area in order to aggregate a volume of crude oil large enough to provide adequate incentive for a transporting firm to enter the area and go from site to site to pick up the crude oil. Generally, even the transporting firms were unable to give unqualified endorsement to the proposal, since these firms to varying extents make sales of crude oil that they do not transport. They felt either that they should be permitted a reasonable profit on such sales or that an unreasonable administrative burden would be involved in segregating for accounting purposes sales of crude oil that they had transported from sales of crude oil that they had not transported.

4. *Treatment of General and Administrative Expenses*

Resellers were very critical of our proposal to eliminate the separate itemization and passthrough of general and administrative expenses in order to lessen the opportunity for price manipulation. They argued that these expenses can vary greatly among and within firms and, therefore, that it would be infeasible to limit recovery of these expenses to a fixed amount. Other commenters expressed some support for elimination of the separate passthrough of general and administrative expenses as a means of preventing resellers from padding such expenses. However, even non-resellers indicated that they also believed that any attempt to limit resellers to the passthrough of a uniform, fixed amount representing general and administrative expenses could lead to arbitrary results in many instances.

5. *Alternative Proposal to Establish Twenty-Five-Cent Per Barrel Permissible Average Markup*

Although resellers were strongly opposed to the transaction-by-transaction proposal, many commenters, including resellers, recognized the need to prevent arbitrary discrepancies in resellers' markups. They indicated a strong preference for the alternative proposal to establish a permissible average markup of twenty-five cents per barrel in all sales where the reseller transported the crude oil involved. However, this support was qualified in two respects. First, resellers generally indicated that they would support the establishment of a twenty-five-cent per barrel permissible average markup only so long as the regulations continued to permit the separate itemization and passthrough of currently allowed general and administrative expenses. Second, resellers, including transporting resellers, indicated that the proposed twenty-five-cent per barrel permissible average markup should also apply to those legitimate transactions where the reseller does not transport the crude oil involved.

6. *Passthrough of Transportation Expenses Paid to Common Carrier Affiliates*

We proposed, in the event we did not adopt an amendment that would permit all resellers to use a common carrier tariff in computing their transportation and gathering allowance, to amend Subpart L to provide that a reseller may include in its recoverable transportation and gathering costs ony those expenses actually incurred by a common carrier affiliate in transporting crude oil, regardless of the applicable tariff.

Resellers that own common carrier pipelines and truck lines objected vehemently to the proposal. They emphasized that implementation of the proposal would effectively require that they abandon their common carrier affiliates. No commenter expressed support for the proposal.

7. *Certification of Imported Crude Oil*

The only commenter that specifically addressed our proposal to require that resellers certify imported crude oil as such supported it.

8. *Applicability of Subpart L to Crude Oil Exchanges*

Some commenters expressed appreciation of our proposal to define the terms "exchange" and "matching purchase and sale" in order to deter layering and to prevent resellers from using certain types of transactions in computing their average markups so as to make it appear that they have not exceeded their permissible average markups. However, only one commenter

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indicated that it would support adoption of the proposed definitions. Other commenters recommended that the definitions not be adopted either because they felt they were unclear or would prevent resellers from profiting in certain types of transactions that historically have been profitable.

9. *Resellers that First Sold Crude Oil After May 1973 but prior to December 1977 but had no Sales in November 1977*

Only a few resellers addressed our proposal that resellers that began crude oil reselling operations during the period June 1973 through November 1977 but had no sales in November 1977 should determine their permissible average markups with reference to the first month preceding November 1977 during which they did sell crude oil. In general, these firms merely indicated the need for guidance in establishing their permissible average markups. However, two firms indicated that they did not favor the proposal because they had been operating on the assumption that since they did not sell crude oil in November 1977 they should look to those provisions applying to post-November 1977 resellers. Therefore, these firms were more concerned with the fifteen-cent per barrel permissible average markup proposed for application to sales by post-November 1977 resellers since January 1, 1978.

10. *Proposed Three-Month Compliance Period*

We proposed that, in the event we decided that the average markup rule should be retained, the period for determining compliance with the price regulations be extended from one to three months. While few commenters addressed this proposal, reaction to the proposal was favorable.

C. February Notice Regarding Peparation of Regulatory Analysis

After considering the comments received in response to the October 1979 proposals, we decided that the preparation of a regulatory analysis would be helpful in our consideration of the proposed amendments. In particular, we believed that further consideration would be appropriate, in view of the comments, to determine whether it would be feasible to adopt a transaction-by-transaction price rule and eliminate the separate itemization and passthrough of general and administrative expenses. Accordingly, we issued a notice announcing our intent to defer final rulemaking action until an analysis could be completed (44 FR 8025, February 6, 1980).

We have conducted an economic analysis of today's amendments based on data submitted by resellers on Form ERA–69. The findings of this analysis are set forth in section III of this notice. However, we have determined that preparation of a regulatory analysis of all aspects of the October 1979 proposals is not necessary in view of our decision that extensive revisions to Subpart L should not be made at this time. Furthermore, having conducted an economic analysis of the amendments that are being adopted, we believe that further delay in implementing those amendments would be inappropriate in view of possible inequities occurring as the result of the current disparities in resellers' markups.

D. July 1980 Interim Final Rule

While § 212.183(c) of Subpart L had afforded post-November 1977 resellers the means to assure compliance with the regulations, the permissible average markup for these resellers had not been established. We recognized both the possible administrative inconvenience to these recent entrants and the restrictions on our own enforcement efforts resulting from the lack of a fixed permissible average markup for these firms. Therefore, we determined that, while other aspects of the October 1979 proposals might require longer consideration, we should establish at the earliest possible time the permissible average markup for application to crude oil sales by post-November 1977 resellers since the adoption of Subpart L.

As stated in the October 1979 notice of proposed rulemaking, it was our intent that any permissible average markup adopted for application to sales by post-November 1977 resellers on or after January 1, 1978 should be consistent with the average markups realized by crude oil resellers in May 1973. Accordingly, we reviewed our proposed permissible average markup of fifteen cents per barrel for post-November 1977 resellers in view of the information submitted on Form ERA–69 by firms doing business in May 1973. We concluded that it would be appropriate to limit our analysis to data concerning those firms in business in May 1973, since under both Subpart F and Subpart L crude oil resellers have been required in order to assure compliance to set their prices in accordance with regulations designed so that their markups would be consistent with those realized by firms in May 1973.

Thirty-nine firms reported crude oil sales in May 1973. However, five of these firms reported neither gathering and transportation expenses nor any general and administrative expenses. We could not establish whether these five firms incurred such expenses and simply did not report them or included such expenses under another expense category. Furthermore, since we assume that all resellers performing a legitimate function must incur general and administrative expenses, we concluded that the data for these firms was incomplete and, therefore, that we could not reasonably ascertain the average markups of these firms. Accordingly, we omitted their data from the statistical analysis. One firm reported an average markup in May 1973 of $3.95 per barrel. Data concerning this firm was also excluded since we determined, in view of the findings discussed below, that its reported average markup was not representative of resellers' average markups in May 1973.

Our analysis of the data submitted by the thirty-three remaining firms indicated that the median average markup of those firms in May 1973 was twelve to thirteen cents per barrel. Twenty-four of those firms (i.e., seventy-three percent of those resellers providing reliable data) reported average markups in May 1973 that were less than twenty cents per barrel. We also reviewed the data for those firms on a volume weighted basis. This analysis indicated that half of all barrels of crude oil resold by those resellers in May 1973 were sold by those resellers reporting average markups of less than twelve to thirteen cents per barrel. Eighty-five percent of all barrels of crude oil resold in May 1973 were sold by those resellers reporting average markups of less than sixteen cents per barrel. Finally, ninety-nine percent of all barrels of crude oil resold in May 1973 were sold by resellers reporting average markups of less than twenty cents per barrel.

Based on this analysis, we concluded that a permissible average markup of twenty cents per barrel for post-November 1977 resellers would be reasonable since it would be both fair and consistent with historical average markups and, thus, the average markups of other resellers that had correctly determined and utilized their permissible average markups under Subpart L. This conclusion was reached after review of the relevant comments received in response to the October 1979 proposed rulemaking. On July 29, 1980, we issued an interim final rule establishing a permissible average markup of twenty cents per barrel for application to crude oil sales by post-November 1977 resellers since January 1, 1978 and prospectively (45 FR 52112, August 5, 1980).

II. Amendments Adopted

In view of the comments received in response to the October 1979 notice of proposed rulemaking, as well as our own recognition of the relatively short time remaining to regulate crude oil prices, we have determined that extensive revisions substantially altering the regulatory structure of Subpart L should not be made at this time. In addition, we recognize that with respect to some of the October 1979 proposals there were few or no comments because most of the commenters, especially those appearing at the public hearings, felt it necessary to limit their attention to those issues of the most critical interest to them. In view of these considerations, we are adopting only those amendments discussed below, even though we continue to believe that certain additional aspects of the October 1979 proposals have substantial merit.

A. Establishment of Uniform Permissible Average Markup of Twenty Cents Per Barrel

It is our conclusion that further rulemaking action is necessary to prevent the continuance of apparently unjustified disparities in the markups being realized by crude oil resellers. This conclusion has been reinforced by the findings of our analysis of the data submitted by resellers on Form ERA–69 which, while unaudited by the ERA, indicate (as discussed below in section III of this notice) that in general resellers' markups have been widely disparate. While Subpart L has required firms entering the crude oil reselling business at different times to ascertain their permissible average markups in different manners, it is our belief that in many instances those firms with relatively high markups will be unable to justify those markups. We believe this conclusion follows since under both Subpart F and Subpart L all crude oil resellers have been required as a matter of assuring compliance to set their prices in accordance with regulatory provisions designed so that their markups would be consistent with those realized by firms in May 1973.

Regardless of whether any particular reseller can justify its markups under Subpart L, it is our intent to insure that, during the remaining time in which price controls are in effect, Subpart L provide for, to the maximum extent practicable, equity among resellers, while retaining an adequate basis for effective enforcement action. It is our conclusion that these objectives can be best balanced and most readily achieved by adopting a modified version of our October 1979 alternative proposal to establish a uniform permissible average markup for resellers, regardless of when a particular reseller began reselling crude oil. As indicated above in the discussion of comments received in response to the October 1979 proposals, there was substantial support expressed by the commenters for our alternative proposal to establish a uniform permissible average markup of twenty-five cents per barrel, provided that the same price rule apply to all legitimate transactions, not just those where the reseller transports the crude oil involved, and further provided that the regulations continue to permit the separate itemization and passthrough of general and administrative expenses.

As discussed above, our recently adopted interim final rule establishing a permissible average markup of twenty cents per barrel for post-November 1977 resellers was based on our decision that such a markup would be reasonable since it would be both fair and consistent with historical average markups. Since issuing that July 1980 interim final rule, resellers which were in business before December 1977 have recommended that a twenty-cent permissible average markup be established for all resellers. Furthermore, we believe the comments received in response to the October 1979 proposal indicate support for our conclusion that a permissible average markup of twenty cents per barrel with continued provisions in the regulations for the separate itemization and passthrough of general and administrative expenses would be consistent with our October 1979 proposal to establish a twenty-five-cent per barrel permissible average markup but eliminate the separate passthrough of general and administrative expenses. In view of all these considerations, we have concluded that it would be reasonable to adopt a final rule amending Subpart L, effective December 1, 1980, to provide that the permissible average markup for all crude oil resellers be twenty cents per barrel.

B. Amendment and Discussion Pertaining to Transactions Where Resellers Are Restricted to Recoupment of Acquisition Cost

In view of the scheduled expiration of crude oil price controls, we have determined, as discussed above, that extensive revisions to Subpart L at this time to insure that in all instances a reseller's permissible markup be commensurate with the particular services performed in a particular transaction would not be warranted. Therefore, we are not adopting today those aspects of the October 1979 proposal that would establish separate price rules for application to transactions where the reseller transports the crude oil involved and transactions where the reseller does not transport the crude oil involved. Neither are we adopting formulae or other means to insure that each transporting firm's permissible average markup accurately reflect its investment in transportation facilities.

We believe the comments support our decision that it would be infeasible to make extensive revisions to the regulations, given the short time crude oil price controls are scheduled to remain in effect. However, many commenters, including those who felt that non-transporting firms in many instances offer a valuable service, nevertheless shared our opinion that the non-transporting firms—and, in some instances, those resellers that generally transport—are engaging in many transactions that serve no function in moving crude oil supplies to the refinery and, therefore, could only be for the purpose of obtaining the markup that could be had simply by inserting an additional, unnecessary transaction that has no effect on the ultimate destination of the crude oil involved. Many commenters also indicated agreement with our observations that these unnecessary transactions, through the process of accumulated markups, may indicate collusion on the part of firms or afford greater opportunity for firms to miscertify price-controlled oil.

It is our continued opinion that in most instances an intermediate reseller (i.e., a reseller other than one that is a first purchaser or importer of record or sells directly to a refiner) does not perform a service or other function traditionally and historically associated with the resale of crude oil that justifies a markup (and therefore is layering) in those transactions where such a reseller takes title to crude oil from one firm and passes title to that crude oil to another firm and, between the time of purchase and resale of the crude oil by the reseller, the crude oil remains in the same place or the reseller does not even take physical possession of the crude oil. We are particularly concerned with the high incidence of in-line pipeline transactions that appear to have no effect on the ultimate destination of the crude oil involved. In these transactions, the resellers do not appear to provide any service or function traditionally and historically associated with the resale of crude oil. In fact, our observations indicate that in many instances firms are not only purchasing and selling but

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often repurchasing and reselling identical volumes of crude oil.

These firms do not own, operate or control the pipeline systems through which the crude oil is transported. Neither do they arrange or provide gathering services, accounting or reporting services for producers, or transportation, storage and handling services; nor do they find any new buyers to take crude oil off the pipelines or find any new end-users, i.e., refiners, for the crude oil. Furthermore, these firms do not at any time acquire, hold, or exercise physical control, possession, or custody of the crude oil involved, but merely take title to the crude oil for brief periods and shortly pass that title to another firm at a higher selling price. In such in-line transfers, the firms involved do not serve as shippers of the crude oil in the pipeline involved. They do not pay transportation or other charges for shipment of the crude oil, deliver the crude oil to the pipeline for shipment, provide the necessary facilities for receiving the crude oil when it leaves the pipeline, or bear the risk of loss of the crude oil while it is in the pipeline. Neither do these firms serve as the final consignees of the crude oil or obtain title to the crude oil when it leaves the pipeline or assume the responsibility for removing it from the pipeline.

The regulations clearly prohibit resellers from taking markups in transactions such as the above described pipeline transactions. In recent months, we have issued to a number of firms Notices of Probable Violation based on audits indicating that these firms have realized illegal revenues as the result of such transactions. Our continued observations of such practices as those described above have led us to the conclusion that it would be appropriate to further emphasize our position in this regard. Therefore, we are revising the general price rule of Subpart L to include provisions explicity prohibiting resellers from charging prices in excess of their crude oil acquisition costs in transactions where circumstances clearly indicate that layering has occurred. Accordingly, we are adopting an amendment, similar to that set forth in our October 1979 notice, that would amend the price rule set forth in section 212.183 to provide that, if between the time of purchase and the time of resale of crude oil by a reseller (i) the crude oil remained in the same physical location or (ii) such reseller did not take physical possession of the crude oil, the reseller may not charge a price for that crude oil which exceeds the acquisition cost of that crude oil, unless, in either situation (i) or (ii), the reseller (A) was the importer of record, or (B) purchased the crude oil from the producer of that crude oil, or (C) sells the crude oil to a refiner which certifies in writing to the reseller that the crude oil is being purchased for refining purposes, or (D) receives certification from the refiner which refines the crude oil that such refiner would not have received the crude oil but for a service performed by the reseller.

This amendment is intended as an explicit statement of our position that a firm that, for example, purchases crude oil (from a firm other than the producer of the crude oil) that is already in a pipeline or in storage is in most instances layering where the firm then sells that crude oil to another firm (other than a refiner that is purchasing for refining purposes) while it is still in the same pipeline or at the same storage location. We believe this conclusion is justified since, from the examples, it appears that the firm has performed no service (and that the transaction, therefore, would not appear likely to have any effect on the ultimate destination of the crude oil involved), since the crude oil has remained in the same physical location (e.g., in the same pipeline or at the same storage location) and the firm has not taken physical possession of the crude oil involved (e.g., the firm does not own or control the pipeline or storage facility, serve as the shipper of the crude oil or ultimately receive the crude oil into transportation or storage facilities owned or controlled by the firm).

We believe this amendment permits adequate opportunity for a firm to demonstrate that it is entitled to a markup on any intermediate transaction, since it provides that the firm will be permitted to realize a profit if it obtains a certification from the refiner that eventually refines the crude oil involved stating that it would not have received the crude oil but for the reseller's service. However, in this regard, we wish to emphasize our position, as indicated in the above discussion concerning in-line pipeline transfers, that the mere fact that a firm happened at some time to hold title to crude oil does not in and of itself demonstrate that the firm has had any effect on the ultimate destination of that crude oil. Accordingly, a refiner should not provide certification to a reseller that it would not have received a particular volume of crude oil but for that reseller's service unless it can document the service performed by the reseller and not merely that the reseller previously held title to the crude oil.

We cannot here give examples of all situations in which it could be demonstrated that a reseller has performed a service but for which a particular refiner would not have received a particular volume of crude oil. However, for example, we believe a reselling firm would be entitled to a markup if a refiner can document that it, rather than another refiner, has received—as a consequence of the reselling firm's transaction—crude oil that theretofore had consistently been sold to the other refiner. Or, most likely in the case of crude oil that remains in the same storage location between the times of purchase and resale by a reselling firm, a refiner could certify that it would not have received a particular volume of crude oil but for the reselling firm's service if it can document that it would not have received the crude oil but for, as an example, the reselling firm's agreement to assume the risk of loss while the crude oil remained in storage.

Unlike our October 1979 proposal, under today's amendment any reseller that in a particular transaction meets the requirements of any of the designated exceptions, even if he does not take possession of the crude oil or the crude oil remains in the same location, will be permitted to charge any price in that transaction subject to the provisions of the general price rule that its average markup in the month that transaction occurs does not exceed the twenty-cent permissible average markup. This decision reflects not only our recognition that in such instances a non-transporting reseller may perform a service of value but also our determination, as discussed above, that it is not practicable at this time to revise Subpart L to insure that the permissible average markup of a reseller—be it a transporter or non-transporter—in all instances reflect the degree of service performed by that reseller in a particular transaction. Moreover, it reflects the comments of many refiners that crude oil resellers may provide valuable services even in the transactions where they do not transport or otherwise take physical possession of the crude oil involved.

Notwithstanding the above, we wish to emphasize that—regardless of the nature of a particular reseller, the point at which that reseller's transaction occurs, or the fact that the reseller may perform certain of the traditional reselling functions discussed above—every reseller remains subject in every transaction to the layering clause of § 212.186. Accordingly, today's final rule should not be construed to indicate any lessening of our intention to enforce vigorously the prohibitions against sham or unnecessary transactions that subvert the intent of the price regulations or any other activities in which a reseller has heretofore been engaged or may prospectively be engaged in violation of the layering clause, or the general prohibitions of 10 CFR 205.202, or the normal business practices rule of § 210.62(c), or the new item rule of § 212.111, or the certification requirements of §§ 212.131 and 212.185(c), or of any other aspect of the price regulations governing that reseller.

C. Clarifying Amendment Regarding Calculation of Average Markup

The reseller price rule in § 212.183(a) provides, in general, that a reseller may charge any price in a sale of crude oil, provided that the reseller's average markup for any month shall not exceed the reseller's permissible average markup. When calculating its average markup for a particular month, a reseller may not include data concerning any transaction that constitutes layering or in which the crude oil was improperly certified and with respect to which the regulations would, respectively, prohibit the reseller from charging a price for crude oil that exceeds the actual price paid by the reseller for that crude oil, after taking into account any differentials involved in an exchange or matching purchase and sale (*see* § 212.186, "Layering") or require a refund of any portion of the reseller's selling price for crude oil that exceeded its weighted average acquisition cost for crude oil of that regulatory category in the month the crude oil was sold (*see* section 212.185, "Improper certifications"). If resellers were permitted to utilize data for layered sales or sales with respect to which refunds have been required, they could readily make it appear that their average markup in any given month did not exceed their permissible average markup. We are particularly concerned regarding sales made at very low markups in less-than-arms'-length circumstances. Our observations indicated that in such instances layering has frequently occurred as the result of firms treating as sales with very low markups transactions that, but for an intent to frustrate the price regulations, would be treated as exchanges or matching purchases and sales. As an indication of our intent to scrutinize individual transactions in order to determine whether an intent to impair the objectives of the regulations is present, we are today adopting a clarifying amendment to the definition of "average markup" in § 212.182 to emphasize that only data concerning sales in which the crude oil is properly certified and which are not subject to the special pricing restrictions of § 212.186 may be utilized in calculating a reseller's average markup for any month.

D. Amendment Regarding Resellers That First Sold Crude Oil After May 1973 But Prior to December 1977 But That Had No Sales in November 1977

A reseller which entered the crude oil reselling business after May 1973 but prior to December 1977 has been required to determine its permissible average markup based on its lawful revenues in November 1977. Some resellers requested guidance as to how they should apply the regulations in the event they had no sales in November 1977. Therefore, we proposed in the October 1979 notice an amendment to Subpart L to provide that a reseller first selling crude oil after May 1973 but prior to December 1977 but that made no sales in November 1977 should determine its permissible average markup in reliance on its lawful revenues in the month first preceding November 1977 in which it did sell crude oil. We requested comments as to whether it would be appropriate to adopt this proposed method for determining regulatory compliance by this group of resellers during the period January 1, 1978 through the effective date of any final rule we might adopt in this proceeding.

After considering the relevant comments (discussed above), we have decided that it is appropriate to include in today's rule an amendment, identical to that proposed in October 1979, providing that a reseller that first sold crude oil during the period June 1973 through November 1977 but that had no sales in November 1977 should determine its permissible average markup for the period January 1978 through November 1980 in reliance on its lawful revenues in the month first preceding November 1977 in which it did sell crude oil. We believe this action is appropriate based on our conclusion that it could be reasonably anticipated and that consistency among resellers' permissible average markups can be best promoted by requiring that a reseller that did not sell crude oil in November 1977 use as its reference month the first month prior to November 1977 in which it did sell crude oil for purposes of determining its permissible average markup during the period January 1978 through November 1980.

In response to the comments of those firms that indicated their assumption that they have been, due to their lack of sales in November 1977, subject to those provisions applicable to post-November 1977 resellers, we must state that we do not believe that it was reasonable for a firm to assume that it would be considered for purposes of the regulations to be a post-November 1977 reseller simply because it did not sell crude oil in November 1977 even though it had sales in prior months. In this regard, we believe to be of particular relevance the reasons stated at the time Subpart L was adopted for our decision to postpone the adoption of a permissible average markup for post-November 1977 resellers. We stated that "with respect to firms which enter the reselling business on or after December 1, 1977, a more difficult problem is presented, since existing firms' prices upon which a new entrant would have to rely in order to apply the new item rule, may be in a state of transition beginning January 1, 1978, since they will no longer be subject to pricing rules providing for a maximum permissible price applicable to each transaction." (*See* 42 FR 64856, December 29, 1977). In view of this language, we believe a pre-November 1977 reseller could not have reasonably assumed that it would be appropriate to characterize itself as a post-November 1977 reseller if it had been engaged in crude oil reselling activities in any month prior to November 1977 and, therefore, could apply the rule that by definition applied to it.

III. Other Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we have referred this final rule to the Federal Energy Regulatory Commission for a determination whether it would significantly affect any matter within the Commission's jurisdiction. By letter dated October 27, 1980, the Commission communicated to the ERA its determination that this rule would not significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1975 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days

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during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A draft copy of this notice was sent to the EPA Administrator. By letter dated October 17, 1980, the Administrator communicated to the ERA that, based on preliminary review, he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. *et seq.*, Pub. L. 91–190), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Section 553 of the Administrative Procedures Act

Subsection (d)(1) of Section 553 of the Administrative Procedures Act provides that the required publication of a rule be made at least thirty days before the effective date of the rule, except when the rule relieves a regulatory constraint, is a non-substantive amendment, or the agency finds good cause for not publishing the rule thirty days before its effective date. We have decided that there is good cause to make today's final rule effective prior to thirty days following publication. This decision is based on our determination that action should be taken at the earliest possible time in order to eliminate current disparities in resellers' markups that are resulting in substantial inequities to a significant number of resellers, particularly those resellers that are subject to permissible average markups that are less than twenty cents per barrel but, because they were in business prior to December 1977, may not utilize the twenty-cent permissible average markup established in July 1980 for post-November 1977 resellers, effective September 1, 1980. In view of these considerations, today's final rule is being made effective December 1, 1980, the beginning of the first full calendar month following the date of issuance.

E. Regulatory Analysis

Crude oil resellers are assigned to one of three classes, depending on the date of their first resale of crude oil. Class A firms sold crude in May 1973. Class B firms made their first sales after May 1973 and before December 1977. All firms that started sales in December 1977 or later months are considered to be in Class C.

The permissible average markups (PAMs) of each class are determined differently. Class A resellers compute their PAMs as the average difference between sales revenue and the costs specified in 10 CFR Part 212 Subpart L in May 1973. Class B resellers were required to establish their first sale prices under the new item rule (10 CFR 212.111). In turn, lawful selling prices in November 1977 were derived from these initial selling prices, and used to establish the PAM for each Class B reseller. On July 29, 1980, (45 FR 52112, August 5, 1980), ERA established a 20 cent permissable average markup for Class C resellers. The final rule issued today establishes the same 20 cent PAM for Class B and Class A resellers.

The potential impact of these changes are evaluated using the sales volumes and average markups reported to DOE on form ERA–69 by approximately 250 firms in each of the first six months in 1980. This data has not been audited by DOE. Reported average markup may be understated and sales volume overstated because of the inclusion of sham transactions.

Methodology

Class A and Class B resellers were organized in accordance with the average markups reported to EPA in each month. We found exceptionally high and low margins due to omission of various costs or sales revenue, and deleted all firms whose average markups were not between minus $2.00 and plus $2.00. As discussed later, many firms reported negative margins during the first half of 1980.

We then classified firms into three margin categories: those exceeding 20 cents, those showing profits less than 20 cents, and firms showing losses. The volume weighted average margins for each category were calculated. The impact of the rule was determined as the total change in revenues of each margin category for class A and B resellers that could have occurred in 1980 if they had been limited to the 20 cent PAM.

Discussion

The total volume of crude sold by resellers has increased substantially since 1973. Approximately 1,250 million barrels were reported as sold by resellers in the first half of 1980. During this six month period, the monthly volume increased by 50%, due primarily to increased sales by Class C resellers, although Class C resellers also increased sales. (See Table 1.)

Table 1.—*1980 Estimated Volume of Sales by Class of Reseller*

[Million barrels]

	Class A	Class B	Class C	Total
January	62	33	66	161
February	60	43	89	192
March	63	47	84	194
April	59	48	98	205
May	66	47	130	243
June	68	55	126	249
Total	378	273	593	1,244

The number of reselling firms has also increased since 1973. Approximately 50–55 Class A resellers, 85 Class B resellers, and about 120 Class C firms reported sales in 1980. There was no significant change in the number of firms reporting in each category during the first six-months of 1980.

The tier mix of these sales by resellers shows that approximately 60% of these sales were exempt crudes, and that this proportion was fairly constant for each of the six months. The total volume of exempt crude sales increased substantially during these six months. Upper tier sales also increased somewhat, while lower tier volume was unchanged. (See Table 2)

Table 2.—*1980 Estimated Volume of Sales by Resellers of Each Crude Oil Category*

[million barrels]

	Lower tier	Upper tier	Exempt	Total
January	18	49	94	161
February	20	57	115	192
March	19	54	121	194
April	16	57	132	205
May	17	71	155	243
June	21	64	164	249
Total	111	352	781	1,244

Table 3 shows the number of firms reporting in each margin category, and those that either reported no sales or had reported average markups outside of the acceptable range (from −$2.00 to +$2.00). Though the number of such firms which did not report sales is quite constant within each class, we did not establish if the same firm reported no sales in all months. There is a significantly higher proportion of Class B firms that exceeded the 20 cent average markup among the Class A firms.

Table 3.—*Classification of Resellers by Margin*

[Number of firms]

1980	Total reporting	No sales reported	Margin: Outside acceptable range	Above 20¢	Between 0¢ and 20¢	Below 0¢
Class A:						
January	54	2	5	4	24	19
February	54	1	5	7	22	19
March	54	1	2	9	20	22
April	52	1	7	8	20	16
May	52	1	4	6	21	20
June	51	1	4	7	20	19
Class B:						
January	88	11	8	28	19	22
February	88	11	6	35	20	16
March	85	11	8	31	20	15
April	84	11	7	25	21	20
May	83	11	9	30	19	14
June	79	10	9	26	19	15

Under the final rule, average markups will be limited to 20 cents in each month. If this rule had been in effect

Under the final rule, average markups will be limited to 20 cents in each month. If this rule had been in effect in the first half of 1980, some Class A and Class B resellers would have had to reduce their prices, which would have reduced their total margins by $40 million (See Table 4). Most of these reductions would have been required of the 25 to 35 Class B resellers that exceeded the 20¢ average markup.

Table 4.—*Estimated Reduction in Revenues of Firms Reporting Markups Greater than 20 cents*

[In millions of dollars]

1980	Class A	Class B	Total
January	$0.6	$3.1	$3.7
February	0.8	4.2	5.0
March	0.9	6.6	7.5
April	0.6	7.7	8.3
May	0.8	7.9	8.7
June	0.6	6.0	6.6
Total	4.3	35.5	39.8

On the other hand, the final rule would also have allowed resellers that realized lower markups to have increased their prices. If all Class A and Class B resellers with margins below 20 cents had realized 20 cent average markups for the first half of 1980, their revenues would have increased by $92 million. Therefore, when the $40 million reduction is balanced against the $92 million increase, the maximum impact of this rule would have been to allow an increase of about $50 million in the first six months of 1980, or $100 million for the year. This would increase the average cost of all crude sold by all resellers by $0.04 per barrel or a $0.08 increase in all sales by only Class A and Class B resellers. As these costs are approximately 0.1 and 0.2 cent a gallon, respectively, and would apply only to the portion of the crude sold by these resellers, no significant general impact on consumer costs is likely.

Table 5.—*Potential Increase in Revenue by Resellers with Markups Below 20 Cents*

[Million dollars]

	On volumes sold at 0 to 20 cents markups			On volumes sold below 0 cent markups		
	Class A	Class B	Total	Class A	Class B	Total
January	$4.7	$1.8	$6.5	$2.1	$1.3	$3.4
February	4.8	2.1	6.9	7.4	1.1	8.5
March	4.0	1.6	5.6	10.2	1.0	11.2
April	6.7	1.2	7.9	10.0	2.6	12.6
May	4.1	1.5	5.6	6.3	1.2	7.5
June	6.6	2.3	8.9	3.4	3.9	7.3
Totals	30.9	10.5	41.4	39.4	11.1	50.5

Analysis of Impact

The $100 million per year maximum cost increase projection assumes that all Class A and Class B resellers are able to realize the 20 cent average markup.

We believe that competition and other market forces are affecting crude oil prices, and that only a portion of the markups that are below 20 cents would be increased in the future. For example, its unlikely that resellers would be able to increase margins on exempt crude oil sales, which accounted for about two-thirds of sales in the first six months of 1980. If half of the crudes sold at markups below 20 cents were raised to 20 cents, the increased revenue would essentially equal the reductions for firms that exceed 20 cents, and the net effect on total Class A and Class B revenue will be essentially zero.

However, individual firms may be beneficially or adversely affected. On the basis of the large number of firms that are realizing markups below 20 cents and are apparently increasing their sales volume, we conclude that the 20 cent margin is generally equitable, and that most resellers will be able to continue to function and prosper in the market, so there will be no adverse effects on the crude oil distribution system.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, and Pub. L. 94–163; and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the ERA is amending 10 CFR 212.182 and 212.183 as set forth below, effective December 1, 1980.

Issued in Washington, D.C., October 31, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.182 [Amended]

1. 10 CFR 212.182 is amended by revising the definitions of "average

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markup" and "permissible average markup" to read as follows:

* * * * *

"Average markup" means the total revenues in sales (other than those to which the pricing restrictions of § 212.186 apply) of properly certified crude oil in a particular month by the reseller, less the costs and expenses associated with such sales of crude oil in the month, divided by the number of barrels of crude oil sold by the reseller in such sales in the month.

* * * * *

"Permissible average markup" means, for the period January 1978 through November 1980, with respect to a reseller that sold crude oil before or during May 1973, the total lawful revenues in all sales of crude oil by the reseller in May 1973 less all allowed costs and expenses associated with sales of crude oil in that month, divided by the number of barrels of crude oil sold by the reseller in that month. With respect to a reseller that sold crude oil before December 1, 1977, but not before or during May 1973, "permissible average markup" means, for the period January 1978 through November 1980, the total lawful revenues from sales of crude oil received by such reseller during the month of November 1977 or, if the reseller sold no crude oil in November 1977, the month first preceding November 1977 in which the reseller did sell crude oil, less the total costs and expenses associated with sales of crude oil for that month, divided by the number of barrels of crude oil sold in that month, plus the per-barrel increase in general and administrative expense and transportation and gathering cost incurred since such reseller's first month of crude oil sales. With respect to a reseller that did not sell crude oil before December 1, 1977, "permissible average markup" means, effective September 1, 1980, 20 cents per barrel. With respect to a reseller that first sold crude oil before December 1, 1977, "permissible average markup" means, effective December 1, 1980, 20 cents per barrel.

* * * * *

2. 10 CFR 212.183 is amended by revising paragraph (a) to read as follows:

§ 212.183 Price rule.

(a) *General.* A reseller may charge any price in a sale of crude oil: *Provided,* That the reseller's average markup for each month shall not exceed the reseller's permissible average markup, and provided that a reseller shall not unreasonably discriminate or grant unreasonable preferences in the pricing of crude oil among its purchasers, and further provided that, if between the time of purchase and the time of resale of crude oil by a reseller (i) the crude oil remained in the same physical location or (ii) such reseller did not take actual physical possession of the crude oil, the reseller shall not charge a price for that crude oil which exceeds the acquisition cost of that crude oil, unless (A) the reseller was the importer of record or (B) the reseller purchased the crude oil from the producer of that crude oil or (C) the reseller sells the crude oil to a refiner which certifies in writing to the reseller that the crude oil is being purchased for refining purposes, or (D) the reseller receives certification from the refiner which refines the crude oil that such refiner would not have received the crude oil but for the reseller's service.

* * * * *

[FR Doc. 80-34848 Filed 11-6-80; 8:45 am]
BILLING CODE 6450-01-M

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Federal Register

Friday
November 7, 1980

Part XI

Department of Labor

Mine Safety and Health Administration

Criteria and Procedures for Proposed Assessment of Civil Penalties; Proposed Rule

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

Criteria and Procedures For Proposed Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make significant changes in the current rules for proposing civil penalties by the Mine Safety and Health Administration (MSHA) under the Federal Mine Safety and Health Act of 1977. These changes are intended to provide more effective incentives for the prevention of conditions and practices that may result in injury or illness to the Nation's miners.

DATE: Written comments must be received on or before February 5, 1981.

ADDRESSES: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

On May 30, 1978 (43 FR 23514), MSHA published final rules governing the proposed assessment of civil penalties under the Federal Mine Safety and Health Act of 1977 (1977 Act). These rules, which are currently in effect, made certain revisions to previous rules which had been applied under the Federal Coal Mine Health and Safety Act of 1969. Among the most significant revisions made in 1978 were an overall increase in proposed penalty amounts, changes in the assessment procedures, and the inclusion for the first time of the metal and nonmetal mining industries as required by the 1977 Act. The 1978 rules included a "formula system" for determining most proposed penalties. The formula system has been in effect since 1974 and its continued use was encouraged by Congress in enacting the 1977 Act.

In the preamble to the 1978 rules, MSHA stated that once experience had been gained under the 1977 Act, the rules would be evaluated to determine the need for possible changes. On July 30, 1979, the Assistant Secretary for MSHA announced that such an evaluation had begun and solicited public comments and recommendations. Over 30 written comments were received and several informal meetings with interested persons were held to discuss possible revisions to the rules.

After carefully considering these comments and discussions, this proposed rule was developed. To provide the public with the fullest opportunity to present MSHA with its views on this proposal, the period for public comment has been expanded to 90 days. In addition, the agency will conduct a series of public hearings on the proposal and the comments received. The times and places of these hearings will be announced in a future **Federal Register** notice.

II. Discussion of Proposed Rule

A. *General Discussion.* In enacting the 1977 Act, Congress made clear its belief that mandatory civil penalties were necessary to maximize the inducement for compliance with the Act, standards and regulations. Congress was also explicit in setting forth the criteria which were to be applied in determining an appropriate civil penalty. The formula system for proposing civil penalties was developed in 1974 in order to achieve two basic goals: (1) The timely processing of the high volume of cases generated under a mandatory penalty scheme; and (2) the fair and consistent application of the six statutory criteria. In the 1978 revisions to the rules, there were some adjustments made to the formula and the assessment procedures were modified to improve the timeliness of administrative decisions. However, MSHA determined that a more comprehensive review of the penalty assessment rules was appropriate in order to appraise the overall effectiveness of the penalty process.

In its appraisal of the various components of the current rules, MSHA posed two basic questions: (1) Can the rules be revised to result in a fairer and more equitable application of the statutory criteria for the determination of a proposed penalty amount? (2) Can the rules be revised to increase the incentives for mine operators to prevent and correct hazardous conditions? MSHA believes that the new provisions contained in this proposed rule respond affirmatively to these questions, will result in significant improvements in the overall effectiveness of MSHA's civil penalty system and address many of the public comments received since the enactment of the 1977 Act. Among the major revisions are:

(1) A new provision for the assessment of a fixed "minimum penalty" in circumstances of low level gravity and no negligence;

(2) The elimination from an operator's "history of previous violations" of two classes of cases—violations for which a minimum penalty has been paid, and citations pending which have not been finally adjudicated;

(3) Separate gravity consideration for health violations;

(4) The awarding of greater good faith credit for timely abatement and special efforts to abate;

(5) The establishment of separate formula tables for independent contractors; and

(6) a revised and more explicit "special assessment" provision.

MSHA is interested in receiving comments not only on the specific provisions contained in this proposed rule, but also on any other recommendations for improving either the rules themselves of their administration. The system of civil penalty assessment established under the 1977 Act is the predominant vehicle for enforcing the Act, standards and regulations, and this rulemaking is a critical step in improving that system.

B. *Proposed assessment of a fixed "minimum penalty" for low gravity/no negligence violations.* MSHA is proposing in certain types of cases to assess fixed "minimum penalties." This proposed provision appears in new § 100.4. Representatives from many segments of the mining industries have contended that improved health and safety in the Nation's mines are not encouraged by requiring both MSHA and mine operators to go through the same penalty assessment process for minor violations as for more serious violations. It has been noted that resources are often diverted from more productive health and safety efforts by devoting inordinate amounts of time to the administrative handling and contesting of citations for violations whose impact on safety and health is not substantial. However, MSHA is required under sections 104(a) and 105(a) of the Act to assess a penalty for all violations. In light of these considerations, MSHA has been urged to adopt an approach to penalty assessments which permits increased flexibility in both the procedures used and in the penalties imposed for less serious violations.

MSHA agrees that there are certain types of violations for which there is little to be gained in terms of improving health and safety by imposing a substantial penalty. The primary focus of the effort of both MSHA and the mining industry should be the prevention and correction of conditions which pose a significant risk to safety and health. MSHA's civil penalty system should better reflect that focus and therefore the agency is proposing a minimum penalty for violations involving a low level of gravity and no negligence. In this way, MSHA and mine operators can more effectively focus their efforts on the prevention and correction of those hazards which most directly affect the safety and health of our Nation's miners.

MSHA would make determinations with respect to the appropriateness of fixing a minimum penalty in the following manner. In the initial review of each citation and the accompanying inspector's statement, the Office of Assessments would first apply the negligence and gravity criteria as set forth in the proposed §§ 100.3(d) and (e) of Part 100. Except where a § 104(b) order is issued for noncompliance, the minimum penalty would automatically be proposed in lieu of applying the remainder of the formula, if as a result of that review an operator receives either: (1) A total of four or fewer points for gravity; or (2) zero points for negligence and a total of not more than seven points for gravity. In such cases, there would be an administrative policy that the other factors within the formula do not carry sufficient weight to warrant a penalty above the minimum. Under the proposal, the minimum penalty would be $20.

Section 100.5 of the existing regulation provides opportunity for a conference to discuss the results of MSHA's initial review of an alleged violation before MSHA proposes a penalty. Under the minimum penalty system opportunity for a conference would be preserved, but the scope of the conference would be limited to the issue of whether there has been a violation. In addition, the statutory right to contest a proposed penalty to the Commission would also continue to apply to all assessments under the proposed Part 100. However, in each instance where this statutory right is exercised by contesting an alleged violation beyond the initial proposed assessment stage, the penalty would be independently determined by the Commission's application of the six statutory criteria without consideration of MSHA's formula (30 U.S.C. 815(d), 820(i)).

To further lessen the potential impact of minimum penalty assessments on the operator, violations for which a minimum penalty was assessed and timely paid would not be included in the operator's history of previous violations.

Based on MSHA's experience under the present rule, a significant reduction in regular formula assessments under § 100.3 is expected to result from the implementation of the proposed minimum penalty assessment procedure. MSHA believes that using the gravity and negligence criteria schedules as a basis for determining the appropriateness of a minimum penalty will provide a degree of objectivity and uniformity that may not be easily achievable under other systems. MSHA recognizes that these proposed provisions represent a new approach to the agency's enforcement program and welcomes all suggestions to best implement the "minimum penalty" system.

C. *Section 100.3 Determination of penalty; regular assessment.* This section provides a formula for the application of the six statutory criteria to violations for which the assessment of a minimum civil penalty would be inapplicable. The formula is used in determining the appropriate initial proposal of a civil penalty for a violation. Changes are proposed in the formula for five of the six criteria under this section. The formula is an administrative tool used by MSHA to determine initial assessments. Therefore, the proposed revisions to the formula woud not affect the proposal of penalties in cases contested before the Mine Safety and Health Review Commission.

The sixth criterion (§ 100.3h) involves consideration of the effect of the proposed penalty on the operator's ability to continue in business. This criterion allows the Office of Assessments to reduce a proposed penalty assessment where its imposition will adversely affect an operator's ability to continue in business. Commenters did not suggest changes for this criterion, and MSHA believes that it is effectively applied under the current rules.

1. *Section 100.3(b) The appropriateness of the penalty to the size of the operator's business.* Under the current formula system, up to 15 penalty points can be given for this criterion. Up to 10 points are available for mine size and the remaining 5 points are applied for the size of the controlling entity. Generally, the size of a controller is considered under this criterion when an entity owns such a substantial interest in a mining operation that it is in a position to exercise a significant degree of control over the operation's business affairs. There are separate penalty tables for coal, metal and nonmetal mines, and controlling entities.

Several commenters stated that the size of the controlling entity should not be considered when evaluating the appropriateness of the penalty to the size of the business involved. Some of these commenters recommended that the tables for size of the controller be eliminated from the rules and that the points currently assigned from that portion of the formula be incorporated into the mine size tables. The commenters asserted that each mine is run as an individual profit center which is independent of a controller for its operational status. Consequently, it is their belief that a mine should not be penalized based upon the size of its controlling entity. MSHA disagrees. The fact that a mine may be for most business purposes an independent operational entity does not, and should not, relieve the business organization as a whole from participating in safety and health matters affecting individual mines. In the preamble to the current rules, MSHA stated that "business judgments affecting health and safety may be made at various levels of a business structure and * * * penalties must be such as to encourage management at all levels to respond positively to health and safety concerns." (43 FR 23514, 23515, May 30, 1978). In the legislative history of both the 1969 and 1977 Acts, Congress expressed an intent to "place the responsibility for compliance with the Act and the regulations, as well as the liability for violations on those who control or supervise the operation of * * * mines as well as on those who operate them" (S. Rep. No. 91–411, 91st Cong. 1st Sess. 39 (1969); S. Rep. No. 95–181, 95th Cong. 1st Sess. 40 (1977)). Upper level management decisions such as those affecting capital expenditures, the basic nature and scope of a corporate safety and health program, the hiring of top mine management officials, and other policy matters have a profound effect upon safety and health conditions at individual mines. Penalties should be sufficient to influence such decision-making. Therefore, MSHA proposes to retain the controlling entity aspect of the formula for the size criterion.

Some commenters questioned the agency's rationale for measuring size in terms of "tonnage" for coal mines, while using "hours worked" for metal and nonmetal mines. The principal purpose of the size criterion is to help assure a penalty of a sufficient amount to serve as an economic incentive for future compliance by the operator. Over the past several years the mine and controlling entity size of coal operations have been measured by tonnage. MSHA has found this indicator to be a fair guide to the comparative sizes of coal operations for compliance incentive

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purposes, and believes that "hours worked" would not present a more accurate picture of relative size for these purposes.

Tonnage, however, is not usually a useful indicator of size for metal and nonmetal mines because of the vast differences in the commodities mined within that segment of the mining industry. In some instances large volumes of material are mined for only a few ounces of a marketable commodity. In others, nearly one hundred percent of the mined material is marketable. In addition, the costs of production and the market prices may vary markedly within the metal and nonmetal industry. For these reasons, MSHA believes that an annual tonnage measurement of metal and nonmetal operations would not enable the Office of Assessments to fairly evaluate the economic impact of a proposed penalty on each operator. It has been MSHA's experience that the annual hours worked is the only available guide to the relative size of metal and nonmetal operations that can be applied both consistently and equitably throughout the metal and nonmetal industry.

Under the current rules, violations of independent contractors are assessed through the special assessment provision (§ 100.4). MSHA believes that independent contractors should be subject to all aspects of Part 100 including the minimum penalty and formula assessment provisions as well as the special assessment procedures. The new information requirements, procedures for service of documents and enforcement guidelines for independent contractors set forth in 45 FR 44494 now enable MSHA to more effectively integrate independent contractors into the entire penalty assessment process. The proposed rule would add a third size table for independent contractors who have been issued citations under the new MSHA policy and procedures. The proposed table would determine the size of the independent contractor based upon the annual hours worked at all mines. Only work performed by independent contractors at mining operations will be considered in determining size. MSHA believes that the annual hours worked most appropriately reflect the comparative sizes of independent contractors. Because information concerning controlling entities is not readily available for all independent contractors at this time, it would be impracticable to consider the size of controlling entities as a separate factor in the assessment process. However, the information concerning the total annual hours worked at all mines will provide satisfactory means to evaluate whether a proposed penalty will have a sufficient economic impact on an independent contractor to serve as an incentive for future compliance. MSHA is particularly interested in receiving suggestions and comments on the proposed size table as it would apply to independent contractors.

2. *Section 100.3(c) History of previous violations.* MSHA has received a substantial number of comments and recommendations concerning this aspect of the formula. Presently, a total of 20 penalty points may be attributed to a violation on the basis of this criterion. Up to 15 points may be given based upon the average number of violations assessed at the mine per inspection day during the preceding 24 months. The remaining 5 points may be assigned based upon the average number of violations assessed at the mine per year in the preceding 24 months.

The average number of violations per inspection day represents the total number of days spent on enforcement activity at the mine by MSHA inspectors during the preceding 24-month period, divided into the total number of assessed violations which have not been vacated or dismissed. Several commenters urged MSHA to base the determination of what constitutes an "inspection day" on not only the time spent by the authorized representatives of the Secretary (AR), but by all other persons accompanying an AR who may point out violations, such as inspector-trainees or Miners' representatives. Since an AR has received the requisite training to conduct inspections and identify alleged violations and is the only individual who may issue citations or orders, it is MSHA's view that it would be inappropriate to consider time spent by other people. Therefore, MSHA proposes to retain the current approach to computing inspection days.

The average number of violations assessed per year represents the total number of violations cited during the preceding twenty-four month period divided by two. Many commenters urged that the 5-point scale for the average number of violations assessed per year should be eliminated because this scale fails to consider factors which may create a high average number of violations but which should not result in the assignment of a high number of prior history points. For example, large operations will generally have a higher annual volume of violations than small operations. However, this fact is not always indicative of the comparative safety and health records of those operations and should not be a sufficient basis for making distinctions in the assignment of history points. Therefore, MSHA is proposing to eliminate the application of this scale to production operators. Instead, the assessment of points for history of previous violations would be based only upon a mine's average violations per inspection day which MSHA believes presents a more accurate picture of a mine's history of violations.

In contrast, the nature of most services performed by independent contractors at mines does not lend itself to a violations per inspection day scale. Independent contractor activities are frequently closely integrated into the overall mining operation. Therefore, inspections often encompass both operations at the same mine and the complexities of segregating inspection time for purposes of computing inspection days are substantial. As a result, MSHA proposes to establish a 20-point scale based upon the average number of violations assessed per year for independent contractor operators. The use of a separate scale for independent contractors will remove the burden that some production operators believe results from having independent contractor violations counted in their history of previous violations. MSHA is especially interested in receiving comments on this aspect of the proposed rule.

Some of the commenters who suggested that the 5-point scale for average annual violations be dropped also recommended that these 5 points be added to the 15-point scale. These commenters believed that the current scale fixes an unrealistically low average number of violations per inspection day as a basis for assessing the maximum number of penalty points and that the scale should be extended. The statistics do reflect some clustering of violations at the 15-point level. Therefore, MSHA proposes to provide a single 20-point scale for average number of violations per inspection day as the sole basis for determining all production operator's history of previous violations. To receive the maximum point total, an operator would have to receive an average of 2.2 violations per inspection day.

Under the current assessment system, MSHA includes in its prior violation history computations "all violations assessed that have not been vacated or dismissed." Many commenters strongly urged MSHA not to include in such computations any violations, which although assessed, are still in the adjudicatory process and may ultimately be dismissed or vacated. MSHA agrees that a greater measure of fairness would be attained if violation history points are based only upon those violations which have been finally adjudicated. Therefore, under the proposed rule, only violations which have become final would be considered in determining an operator's history of previous violations. Violations which have been assessed a "minimum penalty" would also be eliminated from an operator's history of previous violations under the proposed rule.

In addition to the suggestions discussed above for revising the penalty point scales for history of previous violations, MSHA has been urged to change its formula to award negative points where an operator's history of previous violations has been maintained at a low level. In view of the fact that one of the primary goals of these revisions is to provide additional incentives for mine operators to prevent hazardous conditions, MSHA has considered whether such a system would provide some measure of incentive for operators to make extra efforts to reduce violations. MSHA believes at this point in the rulemaking process that any reduction of a penalty assessment should be linked to the particular circumstances of each violation, rather than to the overall history of violations at the mine. This philosophy is reflected in the proposed minimum penalty provisions. There may be some incentive for operators to improve their violations record if future penalties were subject to reduction based on low prior history. However, the benefit of such an approach may be offset if it resulted in the reduction of penalties for violations which pose a significant threat to safety and health and clearly demand substantial penalties. MSHA invites further comments on this issue.

3. *Section 100.3(d) Negligence.* Under the current formula system, a total of up to 25 points may be assessed for negligence. From 1 to 20 points may be assessed for ordinary negligence and from 21 to 25 points for gross negligence.

The Act places the primary responsibility to prevent the existence of unsafe working conditions on operators. Under the current rule, negligence is measured on a sliding scale from 0–25 and is designed to penalize the operator to the extent that the violation was caused by its failure to exercise care to protect miners from mine safety or health hazards. When applying this criterion, MSHA evaluates what the operator did to prevent or correct the conditions or practices which caused the violation. This process takes into consideration the risk of harm to miners, and whether the operator could have reasonably anticipated the harm in the particular circumstances. Based on this evaluation, MSHA determines whether the operator exercised adequate care to attempt to avoid the violation. In evaluating the danger posed to miners which could have been reasonably anticipated, the gravity of the violation must be considered. The seriousness of any potential injury, the number of miners exposed and the probability of any harm to miners are all factors in considering the diligence that the operator should have exerted to protect the miners in any given circumstances.

MSHA believes that the more grave the risks posed by a hazard the greater the degree of care that must be exercised to prevent or correct the hazard. Therefore, the negligence section of the existing rule has been clarified by the proposal to reflect this relationship between the gravity and negligence criteria. MSHA also proposes to delete the current terms "gross" and "ordinary" as characterizations of degrees of negligence since they represent complex legal concepts which may not enable operators to adequately evaluate their conduct.

It was also suggested that violations which result from gross negligence and which create a potential for injury should be assessed the statutory maximum penalty amount of $10,000. MSHA agrees that an emphasis on serious safety and health problems should be reflected in the penalty system by further assuring that operators are assessed substantial penalties for more serious violations. Generally, MSHA has been waiving the use of the formula and making a special assessment for certain violations with findings of high negligence and high gravity such as in the cases of unwarrantable failure to comply orders or violations involving fatalities or serious injuries. MSHA proposes to add other high negligence and high gravity violations to the classes of cases reviewed under the special assessment procedures. MSHA believes that the individual case review afforded by these procedures will more equitably and effectively address these special circumstances. (For further discussion of this issue, see "Special Assessment" section of the preamble).

Commenters also asserted that zero negligence points should be assigned to violations which did not result from any operator negligence. MSHA assigns zero negligence points to such violations and proposes to continue this practice. The proposed minimum penalty provision will also have an effect on this criterion.

Many comments on the existing criterion were directed at the manner in which the criterion is administratively applied rather than its Part 100 formula. These comments urged that MSHA's assessment officials rely, to the maximum extent possible, on the inspector's statement which accompanies each citation in determining the degree of negligence in each case. As a result of such comments and after an intensive internal review by the agency, MSHA has taken administrative steps to assure that inspectors' statements will be the primary basis for the application of the negligence criterion.

4. *Section 100.3(e) Gravity.* Under the current gravity criterion, a maximum of 30 penalty points may be assigned. The formula for gravity contains three scales of up to 10 points each for: (1) Probability of occurrence; (2) the seriousness of an injury if it occurred or where to occur; and (3) the number of persons affected.

Many of the comments concerning this criterion have been addressed in the discussion of the new "minimum penalty" provision being proposed. There were also comments suggesting changes in the probability of occurrence scale.

MSHA believes that there can be further refinement of the scales within the existing gravity criterion. In the present Part 100, the first gravity scale measures the probability of occurrence of the event against which a standard is directed. The measure is based upon whether the event's occurrence is "improbable," "probable," "imminent" or has "occurred." Commenters suggested that the term "imminent" relates more to time than probability. MSHA agrees that some ambiguity exists and proposes to substitute the term "highly likely" for "imminent." To further clarify the gravity scale, MSHA also proposes to add the new category of "no likelihood." This category is intended to apply to technical type violations which pose no risk to miners. MSHA also proposes to substitute the term "unlikely" for "improbable" to apply to situations where the hazard's occurrence is remote but possible, and substitute "likely" for the term "probable." Also, for consistency the proposed rule would change the existing schedule's title to "Likelihood of occurrence" instead of "Probability of occurrence." As proposed, the new terms would range as follows: No likelihood, unlikely, likely, highly likely, and occurred.

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In the 1977 Act, Congress placed increased emphasis on the protection of miners from occupational health hazards and diseases. In the legislative history, Congress noted in particular the Federal Metal and Nonmetallic Mine Safety Act's lack of a provision specifically tailored or relating to the development of health standards or carrying out health research projects (H.R. Rep. No. 95–312, 95th Cong. 1st Sess. 10–13, 16–17 (1977)). In consideration of this increased emphasis, MSHA believes that the penalty system should be revised to address the legislative intent of the 1977 Act.

Section 101(a)(6)(A) of the Act requires that standards dealing with toxic substances and harmful physical agents "assure * * * that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life." Many health violations involving exposure to toxic substances or harmful physical agents have effects on the health of miners which may not be reflected by an assessment which is based on the existing gravity scales.

Due to the inherent differences between safety and health violations of this type, MSHA proposes two new separate gravity scales for violations involving employee exposure to toxic substances or harmful physical agents. The existing scale which measures the number of employees affected by the violation would continue to be applied to all violations. MSHA believes that the proposed changes should eliminate any ambiguity or uncertainty that is created by the application of the existing scales to employee exposure to toxic substance and harmful physical agent violations.

The first proposed scale would measure the potential adverse effect of the toxic substance or harmful physical agent on human health. This scale is intended to classify the potential harm to human health created by the toxic substance or harmful physical agent to which the employee was overexposed. A potential of ten points could be assigned to a violation under this proposed scale. There would be three categories which would be assigned penalty points as follows: Low Risk Effects (1–3 points); Medium Risk Effects (4–6 points); and High Risk Effects (7–10 points). MSHA would determine how to categorize a substance or agent based on the health effect normally associated with it and the extent to which it tends to impair human health. For example, where the toxic substance or harmful physical agent involved a health violation which has a potential to cause life threatening, life-shortening, or permanent and totally disabling consequences, the violation would be classified as having a high risk effect. Similarly, where there is a potential for a partial disability or a severe illness which does not threaten life, the violation would be classified as having a medium risk effect. When the toxic substance or harmful physical agent involved in the violation has the potential for causing only a mild to moderate and reversible impact on health, the violation would be classified as having a low risk effect.

The second scale measures in multiples of the allowable exposure limit, the magnitude of recorded overexposure. The extent by which the threshold limit value for the toxic substance or harmful physical agent was exceeded is an important factor in assessing the gravity of a violation since the degree of overexposure bears a direct relationship to the potentiality for harm. A maximum of 10 penalty points could be assigned under the proposed scale as follows: recorded exposures exceeding 3 times the permissible limit will receive 8–10 penalty points; those greater than 2 up to 3 times the limit will receive 5–7 penalty points; and those greater than 1 up to 2 times the limit will receive 2–4 points. This scale is premised on the assumption that the greater the threshold limit value is exceeded, the more the likelihood of harm and the more severe the effect on health.

The third scale would be identical to the current scale used to assign points based on the number of personnel affected except the scale would be revised to evaluate the number of persons *potentially* affected. This change would more appropriately reflect the nature of health hazard exposures.

The existing inspector's statement which accompanies each citation and order would be revised to reflect the proposed factors for evaluating violations involving exposure to toxic substances and hazardous physical agents.

MSHA solicits comments with respect to the proposed revisions which create separate gravity scales for health violations involving exposure to toxic substances or harmful physical agents.

5. *Section 100.3(f) Demonstrated good faith of the operator.* Under the existing formula, negative points from minus one to minus ten can be awarded for rapid compliance, zero points for normal compliance, and positive points from one to ten can be added for lack of good faith. Negative points are those which are subtracted from the point total in determining the number of penalty points attributable to a particular violation.

Numerous comments were directed at the application of the "good faith' criterion. Many of the criticisms were directed at the manner in which MSHA applies this aspect of the formula rather than at the formula itself. It was stated that there often appears to be a reluctance to award "rapid compliance" points unless "extraordinary" efforts are made by the operator to abate the violation. MSHA agrees that the statute does not require extraordinary efforts by an operator for good faith abatement credit.

To assure a more equitable application of this aspect of the formula, MSHA proposes to make several revisions. An operator would automatically receive minus 3 points if the violation is abated within the time set for abatement, either as originally set or as extended. This would be considered "normal compliance." It is possible for a penalty to be reduced further, where an operator's abatement actions exceed normal compliance expectations. An operator would be awarded between minus 4 and minus 10 points for "rapid compliance" if;

—The violation is abated before the time that is set by the inspector, either originally or as extended, *or*

—The violation is abated within the time set (i.e., normal compliance) and special efforts have been made to abate, such as the assignment of additional personnel to the abatement effort or the voluntary removal of personnel from the affected area.

No change would be made in the assessment of points for lack of good faith.

MSHA believes that these proposed changes will be responsive to the vast majority of commenters who feel that Congress intended the agency to give credit to operators who achieve a timely abatement and who make special efforts to do so. These proposed changes should act as a further incentive for operators to devote maximum effort and resources to the prompt abatement of hazards.

6. *Section 100.3(g) Penalty conversion table.* After the six statutory criteria have been considered and the penalty points applied according to the formula, a total is derived by adding the points assessed under each criterion. Under the existing regulation, the penalty conversion table converts this point total into a dollar amount which constitutes the monetary penalty for the particular violation. The proposal does not change this provision.

Representatives of one segment of the metal and nonmetal mining industry suggested that there be separate penalty tables based upon "commodity groups." These commodity groups would be determined based upon the selling price of the commodity and the applicable penalty table would reflect the differences in selling price between the commodity groups. For example, where the selling price of a commodity such as sand and gravel is three dollars per ton, the penalty for a particular violation which had been assessed 20 penalty points might be 30 dollars; whereas a commodity such as coal with a selling price of 40 dollars per ton, might be assessed 90 dollars for the same violation.

MSHA is not persuaded at this point in the rulemaking process that the linking of penalty amounts to commodity groups is a viable option. MSHA questions the principle underlying this option. It is not apparent a one hundred dollar penalty necessarily has more serious adverse consequences (and therefore acts as a more effective incentive) to an operator whose product sells for five dollars per ton than to an operator whose product sells for 50 dollars per ton. MSHA believes that there are factors at least as critical as the selling price of the product which must be taken into account. To determine the actual effect of a monetary fine on a particular operation it would be necessary to evaluate such things as profitability of the operation, comparative capital expenditures, transportation costs, labor costs, and other market influences. When appropriate, MSHA already considers such factors under the existing regulation when applying the statutory criterion of the effect of the penalty on the operator's ability to continue in business. MSHA is interested in receiving further comment addressing these issues.

7. *Section 100.5 Special Assessments.* Under certain types of circumstances, an appropriate penalty assessment cannot be derived using the formula contained in § 100.3. The Office of Assessments may then determine the amount of the proposed penalty through the special assessment process. Generally, special assessments occur where the nature or seriousness of a violation is not fully addressed by using the formula. When a special assessment does occur, it is based upon the six statutory criteria and is supported by narrative findings. Mine operators cited for a specially assessed violation still retain all the conference, hearing, and appeal rights which exist for violations assessed under the formula system.

Some commenters believed that the rule should spell out the instances requiring special assessment with greater particularity. Other commenters were under the impression that once a violation fell within designated categories, a special assessment would be mandated. MSHA agrees that the categories considered under the special assessment provision, and the process of screening violations within those categories for a potential special assessment should be more clearly defined. Initially, it should be emphasized that neither the nature nor seriousness of a particular violation automatically initiates a special assessment. Under both the current regulation and the proposed rules, certain types of violations are first individually reviewed to determine whether a regular or special assessment is proper. When this review discloses that the violation can be appropriately addressed by the formula, it is returned for a regular assessment.

For the purpose of clarifying the categories of violations considered for a special assessment, MSHA proposes to require that an individual review to determine whether a violation should be specially assessed occur in the following instances:

(1) Significant and substantial violations at a mine that has been determined to have a pattern of violations;

(2) Violations involving fatalities and serious injuries;

(3) Violations involving an unwarrantable failure to comply with mandatory health and safety standards;

(4) Operation of a mine in the face of a closure order;

(5) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;

(6) Violations for which individuals are personally liable under the Act;

(7) Violations involving an imminent danger; or

(8) Violatons involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances.

The first six listed categories are already set out in the existing special assessment section (§ 100.4). The seventh and eighth categories of violations are also currently subject to special assessment as a matter of policy, but are not explicitly articulated in the existing § 100.4. Under the proposal, when the Office of Assessments elects to waive the use of the assessment formula for cases involving unique aggravating circumstances, the operator would be notified that a special assessment is contemplated and afforded an opportunity to submit additional information for consideration.

Several of the existing categories which are currently considered for special assessment have been deleted. Under the proposal, discrimination violations under section 105(c), failure to abate a violation within the prescribed period, and violations by designated independent contractors would not automatically be individually reviewed for a special assessment. MSHA believes that in most instances, other sufficient sanctions would exist either under the Act or the proposed rule for these classes of violations.

In addition to the proposed changes, MSHA has administratively reviewed the special assessment procedure. As a result, new emphasis has been placed on achieving greater consistency in the dollar amounts of specially assessed penalties and more details will be provided in the narrative findings.

III. Drafting Information

The principal persons responsible for drafting this proposed rule are Frank A. White, Mine Safety and Health Administration; and Inga A. Watkins and William B. Moran, Office of the Solicitor, Department of Labor.

IV. Executive Order 12044

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 28, 1979).

Dated: November 4, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

It is proposed to revise Subchapter P, Part 100 of Chapter I, Title 30 of the Code of Federal Regulations as set forth below:

SUBCHAPTER P—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Sec.

100.1 Scope and purpose.
100.2 Applicability.
100.3 Determination of penalty; regular assessment.
100.4 Determination of penalty; minumum assessment.
100.5 Determination of penalty amount special assessment.

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100.6 Procedures for assessment of civil penalties; initial review and conferences.
100.7 Issuance of notice of proposed penalty; notice of contest.
100.8 Service.

Authority: Secs. 105, 110, 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173, as amended by Pub. L. 95–164), and sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95–164).

§ 100.1 Scope and purpose.

This proposed rule sets forth the criteria and procedures for the proposed assessment of civil penalties under sections 105 and 110 of the Federal Mine Safety and Health Act of 1977 (Act). It is the purpose of these rules to provide a fair and equitable procedure for the application of the statutory criteria in determining proposed penalties for violations, and to maximize the incentives for mine operators to prevent and correct hazardous conditions.

§ 100.2 Applicability.

The criteria and procedures contained in this part would be applicable with respect to all initial reviews and proposed assessments issued on or after the effective date of these regulations. The Office of Assessments, Mine Safety and Health Administration, United States Department of Labor, shall review each citation and order and shall make proposed assessments of civil penalties.

§ 100.3 Determination of penalty amount; regular assessment.

(a) *General.* The amount of the civil penalty proposed in a regular case shall be based upon the formula set forth in this section. The formula is based on the general criteria described in sections 105(b) and 110(i) of the Act. These criteria are as follows:

(1) The appropriateness of the penalty to the size of the business of the operator charged;

(2) The operator's history of previous violations;

(3) Whether the operator was negligent;

(4) The gravity of the violation;

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation; and

(6) The effect of the penalty on the operator's ability to continue in business.

The penalty amount in a regular case shall be determined by first assigning the appropriate number of penalty points to the violation for each of the criteria by using the schedules set forth in paragraphs (b) through (f) of this section. The number of penalty points assigned for all criteria will then be totalled. This total point accumulation will be converted into a penalty amount by using the penalty conversion table in paragraph (g) of this section.

(b) The appropriateness of the penalty to the size of the operator's business. The appropriateness of the penalty to the size of the operator's business is calculated on both the size of the mine cited and the size of the controlling entity of which the mine is a part and may account for a maximim of 15 penalty points. The size of the mine is taken into account by selecting the appropriate number of penalty points from the table contained in paragraph (b)(1)(i) of this section in the case of a coal mine or paragraph (b)(1)(ii) of this section in the case of a metal/nonmetal mine. The size of the controlling entity is taken into account by selecting the appropriate number of penalty points from the table contained in paragraph (b)(2)(i) of this section in the case of a coal mine or paragraph (b)(2)(ii) of this section in the case of a metal/nonmetal mine. Where the operator is designated as an independent contractor, the size of the business is taken into account by selecting the appropriate number of penalty points from the table contained in paragraph (b)(3)(i) of this section.

(1)(i) Size of Coal Mine.

Annual tonnage of mine	Penalty points
Under 15,000	0
Over 15,000 to 30,000	1
Over 30,000 to 50,000	2
Over 50,000 to 100,000	3
Over 100,000 to 200,000	4
Over 200,000 to 300,000	5
Over 300,000 to 500,000	6
Over 500,000 to 800,000	7
Over 800,000 to 1.1 million	8
Over 1.1 to 2 million	9
Over 2 million	10

(ii) Size of metal/nonmetal mine.

Annual hours worked at mine	Penalty points
Under 10,000	0
Over 10,000 to 20,000	1
Over 20,000 to 30,000	2
Over 30,000 to 60,000	3
Over 60,000 to 100,000	4
Over 100,000 to 200,000	5
Over 200,000 to 300,000	6
Over 300,000 to 500,000	7
Over 500,000 to 700,000	8
Over 700,000 to 1 million	9
Over 1 million	10

(2)(i) Size of controlling entity—coal mine.

Annual tonnage of controlling entity—coal mine	Penalty points
Under 100,000	0
Over 100,000 to 700,000	1
Over 700,000 to 1.5 million	2
Over 1.5 million to 5 million	3
Over 5 million to 10 million	4
Over 10 million	5

(ii) Size of controlling entity—metal/nonmetal mine.

Annual hours worked—controlling entity—metal/nonmetal mine	Penalty points
Under 60,000	0
Over 60,000 to 400,000	1
Over 400,000 to 900,000	2
Over 900,000 to 3 million	3
Over 3 million to 6 million	4
Over 6 million	5

(3)(i) Size of independent contractor.

Annual hours worked at all mines	Penalty points
Under 10,000	0
Over 10,000 to 20,000	1
Over 20,000 to 30,000	2
Over 30,000 to 60,000	3
Over 60,000 to 100,000	4
Over 100,000 to 200,000	5
Over 200,000 to 300,000	6
Over 300,000 to 500,000	7
Over 500,000 to 700,000	8
Over 700,000 to 1 million	9
Over 1 million	10

As used in subparagraphs (1), (2), and (3) of this paragraph the terms "annual tonnage" and "annual hours worked" means tonnage produced and hours worked in the previous calendar year or in the case of a mine opened or owned less than one full calendar year the tonnage and hours worked prorated to an annual basis.

(c) *History of previous violations.* Previous history means all violations which have been finally adjudicated. Violations which receive the minimum assessment under § 100.4 and are timely paid are not included as part of the previous history. The history of previous violations may account for a maximum of 20 penalty points, which are derived from the following schedules:

(1) Average number of violations assessed per inspection day in the preceding 24 months:

Violations per inspection day	Penalty points
Under 0.3	0
Over 0.3 to 0.5	2
Over 0.5 to 0.7	4
Over 0.7 to 0.9	6
Over 0.9 to 1.1	8
Over 1.1 to 1.3	10
Over 1.3 to 1.5	12
Over 1.5 to 1.7	14
Over 1.7 to 1.9	16
Over 1.9 to 2.1	18
Over 2.1	20

(2) For independent contractors: average number of violations assessed per year in the preceding 24 months:

Number of violations at all mines	Penalty points
1 to 5	0
6 to 10	2
11 to 15	4
16 to 20	6
21 to 25	8
26 to 30	10
31 to 35	12
36 to 40	14
41 to 45	16
46 to 50	18
Over 50	20

(d) *Negligence.* Negligence is committed or omitted conduct which falls below a standard of care established by law to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of the employees and to take the steps necessary to correct or prevent such conditions or practices. For purposes of assessing a penalty under this part, failure to do so is negligence on the part of the operator. The degree of care required of an operator will vary with the circumstances. An operator's exercise of care should increase with the risk posed to miners by a mining activity. The Office of Assessments will evaluate the degree of care exercised by an operator based on the danger to miners which was known or could have been reasonably anticipated to be created by the circumstances under which each unsafe condition or practice occurred. In determining the number of points to be assigned to a violation, the Office of Assessments will consider whether the operator demonstrated the extent of care due in the particular circumstances. This criterion may account for a maximum of 25 penalty points, depending on the specific facts involved.

(i) If the operator could not have reasonably predicted or known of the violation or the violation occurred due to circumstances beyond the operator's control, no negligence points will be assigned.

(ii) If the operator failed to take reasonable measures to prevent or correct the condition or practice that caused the violation and which should have been known to exist; the violation will be assigned between 1–20 penalty points, depending on the gravity and the steps taken by the operator to prevent or correct the condition from occurring.

(iii) If the operator demonstrated a reckless disregard of a mandatory safety or health standard by causing the cited condition or practice or if the operator failed to correct an unsafe condition or practice which was known to exist; the violation will be assigned between 21–25 penalty points, depending on the gravity and the steps taken by the operator to prevent or correct the condition from occurring.

(e) *Gravity.* This criterion may contribute a maximum of 30 penalty points. The points will be derived from the following schedules:

(1) Violations of mandatory standards, except health standards involving exposure to toxic substances or hazardous physical agents.

(i) Likelihood of the occurence of the event against which a standard is directed may account for a maximum total of 10 penalty points using the listed definitions and schedules.

Likelihood of occurrence	Penalty points
No likelihood	0
Unlikely	2
Likely	5
Highly likely	7
Occurred	10

(ii) Severity of injury if it occurred or were to occur, using the listed definitions and the following schedule, may account for a maximum of 10 penalty points.

Severity of injury or illness normally expected	Penalty points
No lost work days	0
Lost work days or restricted duty	3
Permanently disabling	7
Fatal	10

Types of injury or illness expected if the event caused or could cause injury or illness are defined as follows:

No lost work days. All occupational injuries and illnesses as defined in 30 CFR Part 50 except those listed below.

Lost work days. Any injury or illness which would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or which would cause one full day or more of restricted duty.

Permanently disabling. Any injury or illness which results in the total or partial loss of use of any member or function of the body.

Fatal. Any work-related injury or illness resulting in death, or which has a reasonable potential to cause death.

(iii) Number of personnel potentially affected if event occurred or were to occur.

Number of persons potentially affected	Penalty points
0	0
1	1
2	2
3	4
4 to 5	6
6 to 9	8
More than 9	10

(2) Violations of mandatory health standards involving employee exposure to toxic substances or hazardous physical agents.

(i) Potential adverse health effects of toxic substances or harmful physical agents may account for a maximum of 10 penalty points.

Potential adverse health effects from exposure to toxic substances or harmful physical agents	Penalty points
High risk effect	7–10
Medium risk effects	4–6
Low risk effects	1–3

(ii) Magnitude of overexposure is measured by the extent by which the recorded concentration exceeded the threshold limit value for harmful physical agents or toxic substances.

Multiple of threshold limit value	Penalty points
Greater than 3 times the limit	8–10
Greater than 2 and up to 3 times the limit	5–7
Greater than one and up to 2 times the limit	2–4

(iii) Number of potentially overexposed personnel in work area where violation was measured:

Number of persons potentially affected	Penalty points
0	0
1	1
2	2
3	4
4 to 5	6
6 to 9	8
More than 9	10

(f) *Demonstrated good faith of the operator charged in attempting to achieve rapid compliance.* This criterion awards negative points for normal and rapid compliance efforts in achieving abatement, and can contribute a

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maximum of 10 points as indicated in the following schedule and definitions:

Degree of good faith	Penalty points
Rapid	-10 to -4
Normal	-3
Lack of good faith	1 to 10

In determining the operator's good faith in attempting to achieve rapid compliance, the following definitions apply:

Rapid compliance. There is demonstrated evidence that the operator abated the violation before the time set by the inspector, either originally or as extended, or abated the violation within the time set and special efforts have been made to abate.

Normal compliance. The operator abated the violation by the time set by the inspector, either originally or as extended.

Lack of good faith. The operator has been untimely and has not shown diligence and effort in attempting to abate the violation.

(g) *Penalty conversion table.* The penalty conversion table shall be used to convert the accumulation of penalty points to the appropriate assessment.

Penalty Conversion Table

Points	Penalty
10 or less	$20
11	22
12	24
13	26
14	28
15	30
16	32
17	34
18	36
19	38
20	40
21	44
22	48
23	52
24	56
25	60
26	66
27	72
28	78
29	84
30	90
31	98
32	106
33	114
34	122
35	130
36	140
37	150
38	160
39	170
40	180
41	195
42	210
43	225
44	240
45	255
46	275
47	295
48	305
49	325
50	345
51	370
52	395
53	420

Penalty Conversion Table—Continued

Points	Penalty
54	445
55	470
56	500
57	530
58	560
59	590
60	620
61	655
62	690
63	725
64	760
65	800
66	840
67	880
68	920
69	960
70	1,000
71	1,050
72	1,100
73	1,150
74	1,200
75	1,250
76	1,300
77	1,400
78	1,500
79	1,600
80	1,700
81	1,900
82	2,100
[illegible]	2,300
84	2,500
85	2,700
86	3,000
87	3,400
88	3,800
89	4,200
90	4,600
91	5,000
92	5,500
93	6,000
94	6,500
95	7,000
96	7,500
97	8,000
98	8,500
99	9,000
100	10,000

(h) *The effect on the operator's ability to continue in business.* It is initially presumed that the operator's ability to continue in business will not be affected by the proposed assessment. The operator may submit information to the Office of Assessments concerning the business financial status to show that payment of the proposed assessment will affect the ability to continue in business. If the information provided by the operator indicates that the proposed assessment will adversely affect the ability to continue in business, the Office of Assessment may reduce the penalty.

§ 100.4 Determination of penalty; minimum assessment.

A minimum assessment of $20 shall be imposed as the civil penalty in a regular case where a violation is abated in good faith and:

(a) A total of four or fewer penalty points are assessed for gravity; or

(b) A total of zero penalty points for negligence and seven or fewer penalty points for gravity are assessed.

§ 100.5 Determination of penalty amount; special assessment.

The Office of Assessments may elect to waive in whole or in part the use of the assessment formula contained in § 100.3 or the minimum penalty assessment contained in § 100.4 if it determines that conditions surrounding the violation warrant such a waiver. Although an effective penalty can generally be derived from the formula in the usual case, some types of violations may be of such a nature or seriousness that it is not possible to arrive at an appropriate penalty by resorting only to the formula. Accordingly, the following categories will be individually reviewed to determine whether a special assessment should be made:

(a) Significant and substantial violations at a mine that has been determined to have a pattern of violations;

(b) Violations involving fatalities and serious injuries;

(c) Unwarrantable failure to comply with mandatory health and safety standards;

(d) Operation of a mine in the face of a closure order;

(e) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;

(f) Violations for which individuals are personally liable under the Act;

(g) Violations involving an imminent danger; and

(h) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances. When it is determined by the Office of Assessments that a special assessment is appropriate, such special assessments shall take into account the six criteria enumerated in § 100.3(a) and all findings shall be in narrative form.

§ 100.6 Procedures for assessment of civil penalties; initial review and conferences.

(a) All citations which have been abated and all closure orders, regardless of termination or abatement, will be promptly referred by MSHA to the Office of Assessments for a determination of the fact of the violation and the amount, if any, of the penalty to be proposed.

(b) The Office of Assessments shall make an initial review of the citation or order and shall immediately serve, by regular mail, a copy of the results of the initial review, including the formula computation made by the Office, upon the party to be charged and the miners or their representatives at the mine.

(c) Upon receipt of the results of the initial review, all parties shall have ten days within which to either request a conference or to submit additional evidence for consideration. The Office of Assessments shall provide a return mailing card with the results of the initial review which will permit any party to: (1) Request a conference; (2) request to participate in and be notified of the time and place of a conference requested by any other party; or (3) submit additional facts. To request a conference, a party must either make reference on the mailing card or immediately contact the appropriate assessment office to indicate the date and time proposed for the requested conference. All conferences shall be held at the appropriate assessment field office unless that office agrees to another location.

(d) It is within the sole discretion of the Office of Assessments to conduct a conference or deny a request for a conference and, if a conference is to be conducted, to determine the nature of the conference.

(e) All conferences shall be conducted within 33 days of the service of the results of the initial review by the Office of Assessments unless it is not feasible to conduct a conference within that period and the party requesting a conference demonstrates to the Office a substantial likelihood that a conference will result in a suitable resolution of the issues involved in the case. However, under no circumstances may a conference be conducted or evidence considered later than 30 days after the issuance of a proposed penalty under § 100.7(a) or after the date the Office of Assessments receives a timely notice of contest under § 100.7(b).

(f)(1) The Office of Assessments will consider all relevant information submitted in a timely manner by all the parties with respect to the alleged violation. When the facts warrant a finding that no violation occurred, a penalty will not be proposed.

(2) If a conference is conducted, the parties may submit any additional relevant information relating to the alleged violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may contact the parties to discuss the issues involved prior to the conference.

(g) With respect to those issues which are resolved either as the result of a conference or based upon information submitted to the Office of Assessments, payment of any amount agreed upon must be received by the Office within 30 days from the date of receipt of the proposed penalty by the party charged under § 100.7(b). Acceptance by the Office of Assessments of payment tendered by the party charged will close the case.

§ 100.7 Issuances of notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail upon the parties under the following circumstances:

(1) Upon the failure of any party to file a timely response to the results of the initial review;

(2) Upon the completion of a conference or upon review of timely submitted information for review by the Office of Assessments;

(3) Upon the expiration of 33 days from the service of the results of the initial review in a case in which no conference can be held within such 33 day period.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to notify the Office of Assessments in writing that it wishes to contest the proposed penalty. The Office shall provide a return mailing card with each notice of proposed penalty to allow the party charged to request a hearing before the Federal Mine Safety and Health Review Commission under section 105 of the Act. Such a request should be sent to the field assessment office listed on such notification. When the Office of Assessments receives the notice of contest, it shall immediately forward the case to the Office of the Solicitor, and shall immediately advise the Commission of such notice. No proposed penalty which has been contested before the Commission shall be compromised, mitigated or settled except with the approval of the Commission.

(c) The failure to contest the proposed penalty within 30 days of receipt of notice thereof shall result in the proposed penalty being deemed a final order of the Commission and not subject to review by any court or agency.

§ 100.8 Service.

(a) All operators are required by 30 CFR 41.11 (notification of legal identity) to file with the Mine Safety and Health Administration the name and address of record of the operator. All representatives of the miners are required by 30 CFR Part 40 to file with the Mine Safety and Health Administration the mailing address of the person or organization acting in a representative capacity. Initial findings and proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have these documents mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall constitute service.

(c) Service for operators who fail to file under 30 CFR Part 41 will be upon the last known business address, as recorded with the Mine Safety and Health Administration.

[FR Doc. 80-34806 Filed 11-6-80; 8:45 am]
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Friday
November 7, 1980

Part XII

Department of Health and Human Services

Health Care Financing Administration

Alcoholism Services; Health Financing Research and Demonstration Grants; Special Solicitation

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Health Financing Research and Demonstration Grants; Special Solicitation; Alcoholism Services

AGENCY: Health Care Financing Administration (HCFA), HHS.
ACTION: Final notice.

SUMMARY: This notice announces that grant funds are available for demonstration projects on the effectiveness of providing alcoholism services under the Medicare and Medicaid programs in free-standing residential and outpatient centers and halfway houses utilizing non-physician personnel. HCFA will fund approximately five grants to encourage States, non-profit provider consortia, and other non-profit organizations to study the feasibility of providing outpatient alcoholism services as effectively as in an inpatient hospital setting, and at lesser cost. HCFA offers these grants in conjunction with the National Institute on Alcohol Abuse and Alcoholism of the Department. This solicitation contains information about demonstration requirements, application procedures, and amount and duration of grant awards.

CLOSING DATE FOR APPLICATIONS: All grant applications must be received by 4:30 p.m., January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew Solarz, Health Care Financing Administration, Office of Research, Demonstration, and Statistics, Office of Demonstrations and Evaluations, Area 1–E–5, Oak Meadows Building, 6340 Security Boulevard, Baltimore, Maryland 21207, (301) 594–0397.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with HCFA's **Federal Register** notice of February 25, 1980 (45 FR 12362), which stated that special solicitations would be announced periodically.

Availability of Grants

A. General

This special solicitation announces the HHS initiative to fund demonstration projects to study the effectiveness of providing alcoholism services under the Medicare and Medicaid programs in settings which are less expensive than hospitals. The current statutes and policies governing these programs have encouraged inpatient hospital treatment of alcoholism, and discouraged potentially lower cost alternatives such as halfway houses and free-standing residential and outpatient centers.

In conjunction with the National Institute on Alcohol Abuse and Alcoholism, HCFA's Office of Research, Demonstrations and Statistics is seeking to fund projects which will encourage States, non-profit consortia, and other non-profit organizations to test the feasibility of providing alcoholism treatment through less expensive residential and outpatient services utilizing non-physician personnel (see General Policy Considerations below).

If an applicant proposes a project that would involve Medicaid recipients, the application must be developed in cooperation with the single State agency which administers the Medicaid program and with the State Alcoholism Authority. If a project would involve both Medicare beneficiaries and Medicaid recipients, the applicant must submit two applications, with the application for the Medicare portion of the project submitted directly to HCFA. Only the State Medicaid agency may apply for that portion of a project that involves Medicaid recipients. The State agency applications must be made under Section 1115(a) of the Social Security Act, which authorizes the Secretary to waive State Medicaid plan requirements and to reimburse cost no otherwise Federally matchable in order to enable State Medicaid agencies to carry out significant demonstration projects. For section 1115 projects, the States must share in the costs of the projects. Costs for Medicaid services must be shared on the basis of each State's medical assistance matching rate. In addition, States must share at least 5 percent of the administrative costs of projects.

All applicants must show compliance with State certification, licensing requirements, and areawide clearances. Applicants for projects under section 402(a) of the Social Security Amendments of 1967 must meet any qualifications specified in that section.

The eligibility criteria for this demonstration relate to: (1) The umbrella applicant; (2) treatment facilities included in the application; and (3) the geographical site where services will be provided. Since the grantees will have responsibility for coordination of the treatment facilities, we are interested in receiving applications from umbrella entities that have organizational experience with Medicare and Medicaid.

Typical applicants may include:

1. A state Alcoholism Authority representing a consortium of providers.
2. A State Medicaid agency that is willing to contract with local providers either directly or through one of the other applicant types from this list.
3. A county or city alcoholism agency.
4. A consortium of providers with one major coordinating provider that will carry overall responsibility for organization and implementation of the project.
5. A State, county, or city governmental department that will assume responsibility for the overall management and coordination of the participating treatment facilities.
6. An academic or research institution that has interest and experience in alcoholism services development in the geographical area proposed for the demonstration.
7. A State, regional, county or city medical society or foundation that has a demonstrated knowledge of both the Medicare and Medicaid programs and alcoholism services providers in the geographical site.
8. A tribal or other non-profit organization, agency, or group providing services to a designated population of American Indians or Alaskan Natives.
9. A non-profit voluntary health agency.

We expect at least one application to show that the proposed site includes a substantial population of American Indians or Alaskan Natives. If the site has special treatment programs related to such a population, the applicant should show how these programs will be incorporated in the demonstration.

B. Authorities

The authorities for these grants are:

- Sections 1110 and 1115(a) of the Social Security Act.
- Section 402(a) of the Social Security Amendments of 1967 as amended by Section 222(b) of the Social Security Amendments of 1972.

C. Regulations

General policies and procedures that govern the administration of all HHS grants are located in 45 CFR Part 74. All applicants are urged to review the uniform grants requirements established in those regulations.

General Policy Considerations

As noted above, current statutes and policies governing the Medicare and Medicaid programs have encouraged alcoholism treatment in hospital inpatient units and discouraged lower cost alternative free-standing residential and outpatient services. It is the purpose of these demonstrations to encourage States, non-profit provider consortia, and other non-profit organizations to provide alcoholism treatment in the Medicare and Medicaid programs through effective but less expensive free-standing residential and outpatient services that utilize non-physician personnel.

The goals of this grant demonstration project may be summarized as follows:

a. To test the potential value of providing payment for alcoholism treatment services to Medicare beneficiaries and Medicaid recipients in free-standing inpatient and outpatient centers and halfway houses.

b. To evaluate the performance of non-physician personnel providing alcoholism treatment in the above settings.

c. To test means of developing the awareness and involvement of beneficiaries and recipients in alcoholism treatment services.

d. To assess the cost and effectiveness of these alcoholism treatment services as compared to: (1) Matched site and population cohorts not in the demonstration areas; (2) retrospective data; and (3) related studies.

e. To establish a basis for legislative, regulatory, and policy changes that will result in the most cost effective alcoholism treatment for Medicare beneficiaries and Medicaid recipients.

The Medicare and Medicaid programs constitute a potential major source of funding for treatment of alcoholic individuals. However, both programs contain restraints that limit the availability of treatment for alcoholism. For example, the Medicare program allows hospitals, skilled nursing homes, and home health agencies to be reimbursed as providers of services, but does not give provider status to free-standing outpatient or residential treatment facilities. Under Medicare, the primary coverage is for hospitalization and related care, and for physicians' and certain other medical services furnished to the ill. No specific provisions are made for the treatment of alcoholism. Consequently, coverage provided for alcoholism treatment services focuses on care in the traditional acute care institutional settings.

Because services for alcohol or drug abuse problems are not specifically mentioned in the Medicaid law, each State determines whether alcoholism treatment should be covered under its Medicaid program. A few States reimburse for care provided by non-physicians and some States recognize services at halfway houses. However, many State Medicaid programs do not actively support treatment and rehabilitation services for alcoholism.

This demonstration grant program will use a sample of sites and providers

designed to test, in five geographic sites, the effect of extending Medicare and Medicaid coverage for alcoholism treatment through the use of lower cost alternatives to present treatment providers. Alcoholism treatment will be covered and paid for under a uniform coverage schedule prescribed for all sites. The demonstrations will test as lower cost alternatives the use of the following types of providers in the Medicare and Medicaid programs: (1) Free-standing inpatient providers, (2) free-standing outpatient providers, and (3) halfway houses. The demonstrations will use existing alcoholism treatment providers that have the necessary resources to furnish basic alcoholism services and that have the potential for expanding their service capacity to the Medicaid or Medicare eligible population. We will not fund the development of new free-standing primary care providers in these demonstrations.

This will be a coordinated demonstration using common design and evaluation methods in all five sites. The selected grantees must be prepared to comply with uniform billing, accounting, and data gathering procedures, and participate in a common training program. This demonstration grant program is intended to operate for a maximum of 4 years. The first 6 to 9 months will be used to develop technical capacity for billing, make provider reimbursement arrangements, train grantee and provider personnel, and install the evaluation component of the project.

Each applicant must be able to act as an umbrella grantee for 12 to 18 providers in the geographic area. Each application must include a minimum of 12 treatment facilities in the following approximate ratio: *1* free-standing center to *2* halfway houses to *3* free-standing outpatient centers.

The uniform coverage schedule to be employed at all sites includes:

—Alcohol Detoxification Services—No Limit.

—Inpatient Alcoholism Treatment Services—Up to 30 days per calendar year, including care in a halfway house.

—Outpatient Alcoholism Treatment Services—Up to 45 visits per calendar year.

Depending on facility and staff capabilities and client need, halfway houses may furnish one or all of the above services to their residents.

Within its geographical test area, the demonstration project will seek to document the effect of this extended coverage on the costs of services, the impact on the services of other traditional health care providers reimbursed through Medicare and Medicaid, and the impact on the client population. The demonstrations are also expected to explore questions regarding program standards and techniques for developing the awareness of beneficiaries of the demonstration's treatment facilities.

Number and Size of Awards

Approximately five umbrella grantees will be selected, each grantee representing a different geographic location. As a total study population of approximately 75 treatment facilities is being sought, each umbrella grantee will represent at least 12 and no more than 18 facilities. These participating facilities must be of the types specified above (see General Policy Considerations).

Grant funds will cover administrative costs only. The Medicare and Medicaid programs will cover the allowed service costs as appropriate. For fiscal year 1981, anticipated funding includes up to a total of $1 million for administrative costs. Funding of applications recommended for approval is subject to the availability of funds.

Duration of Funding

This is a multiple year demonstration and will be funded up to a maximum of 4 years. However, we award grant funds for 1 year at a time. If the original grant is awarded as a multiple year project, we may continue a grant on a non-competing basis. After the initial year, continuation of funding will be contingent on the availability of future year funds, the ability of grantees to meet prior year project objectives, and the continued relevance of the project to HCFA programs. Application for continuation of funding must be made at least 3 months before the expiration of the grant period.

Waivers

It is possible to waive certain Federal statutes and regulations for the Medicare and the Medicaid programs to allow elements of service to be delivered and paid for that are normally not a part of these health care programs. Projects requesting waivers must define the waivers which are required, state the specific waiver language, discuss the impact of the waivers on program expenditures (i.e. estimate service costs with and without the waiver), state the effect on Federal, State, and local laws and discuss the impact on beneficiaries enrolled in the project. Both Federal and State regulations govern the Medicaid program. Therefore, when a project is planned that will require the waiver of Medicaid regulations, the State Medicaid agency must be the grantee.

Section 1115 Projects

Under section 1115(a)(1) of the Social Security Act, compliance with statutory State Medicaid plan requirements may be waived to enable a State Medicaid agency to carry out a significant demonstration project which will further the objectives of the Medicaid program.

All requirements of the Social Security Act, the Code of Federal Regulations, and other issuances that pertain to the Title XIX categorical (formula grant) program are applicable to a project approved under section 1115, except as specifically waived.

A State Medicaid agency should give special attention to the preparation of the budget. These budgets are substantially more extensive than the budget for other grant applications (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application Form HCFA–PG–11).

Selection Procedures

A. General Criteria for Funding New Projects

The Director of ORDS determines which projects will be funded. These decisions are based on the recommendations of technical review panels and on the comments of other Department components and outside individuals or organizations. More specifically, the criteria employed in arriving at the award decision include:

1. The adequacy of the demonstration design, methods, data base(s), and the experience and competence of the personnel;
2. Whether there is a realistic expectation that the demonstration objectives can be achieved within the time specified;
3. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the state of the art;
4. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project;
5. The documentation of a commitment of the parties necessary to the success of the planned project; and
6. Whether results would be of value in other State settings or are of national importance.

B. Standard Specific Project Requirements

In addition to meeting the general criteria described above, and the particular requirements for this special solicitation that are described in the detailed guidelines distributed with application kits, the applications for grants must meet standard specific requirements as follows:

1. The project goals and objectives must be clearly stated and must be measurable.
2. The demonstration design, including the questions to be addressed, and the methods and the data to be used, must be explicitly described. The methodology must be well defined and scientifically valid.
3. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA.
4. Data that are collected under a HCFA grant must be available to HCFA or its agents. However, the applicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA grant. (See item 12 below for more information about confidentiality.)
5. The application must include the qualifications and experience of the personnel and demonstrate how their qualifications make the individuals capable of performing the tasks in the project. The application must also specify how the personnel are to be organized in the project, to whom they report and how they will be used to accomplish specific objectives or portions of the project.
6. The application must specify the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.
7. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results. Applicants must directly share in the costs of the projects (see Application Procedures, Item (D), Grant Policies, below).

Funds will not be available for construction, remodeling, or the development of new providers. Funding will also not be available for project activities that take place before the applicant has received official notification of HCFA approval of the project.

8. Projects that require waivers (e.g., those under section 1115 of the Social Security Act and section 402(a) of the Social Security Amendments of 1967) must define the services, list the waivers, discuss the implications if such waivers are granted, state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project.

In addition, these types of applications must estimate the amount

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of program and administrative expenditures that will occur under the waivers and compare these expenditures to those that currently occur in the programs. Particular emphasis must be given to this element.

9. Plans for utilization of the project's results must be discussed.

10. The application must assure the applicant's willingness to comply with the human subjects' regulations (45 CFR Part 46) by the inclusion of a completed form "Protection of Human Subjects" (HEW–596, Rev. 2–80, expected to be reprinted as HHS–596 when existing supplies run out). Because meeting this requirement may require substantial effort, applicants should obtain information about the details involved as early in the planning process as possible.

11. While Office of Management and Budget Circular No. A–95 review does not apply to this demonstration grant, all applicants must nevertheless determine whether review by the appropriate State and areawide clearinghouse is required. This review is designed to promote coordination of Federal and federally assisted programs and projects with each other and with State and local plans and programs.

12. The application must detail plans to protect the confidentiality of all information tending to identify individuals served or studied under the project. The plans must specify that such information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that informed written consent of the individual must be obtained for any disclosure.

C. Other Requirements

When a project is completed, each applicant must submit a final report. The report must contain a project description, and must, at a minimum, include:

1. Identification of the project director, grant number, grantee, and title of the project;

2. A description of initial hypotheses and objectives, the study methodology and findings;

3. A list of the copies of publications resulting from the project;

4. Acknowledgement of the support received from HCFA and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA; and

5. An executive summary of the report in camera ready format.

Application Procedures

A. Application Forms and Kits

Standard application forms and guidance for the completion of the forms are available from: Health Care Financing Administration, Project Grants Branch, Area E–1, Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301) 594–3342.

State Medicaid agencies must request the section 1115 application kit. All applicants must state that they need the application kit for the alcoholism demonstration.

B. Submitting Applications

When submitting the application, applicants must include a statement in the project title block that the application is in response to the special solicitation on alcoholism services. This designation must also be marked clearly on the outside of the package/envelope.

Applications should be addressed to the Projects Grants Branch at the address shown in A above.

C. Closing Date and Time

The closing date for grant applications under this special solicitation is January 15, 1981. The closing time is 4:30 p.m. Eastern Standard Time.

Applications that are mailed must be postmarked (first class mail) by the closing date and received by HCFA before the independent review team concludes its review. Because of the importance of the postmark, we encourage applicants to request the post office to provide a legible postmark. Applications that are hand-delivered must be received by the closing date and time.

D. Grant Policies

Projects are funded through a competitive process based on a choice of applications submitted in response to this notice. All grantees are expected to share directly in the costs of the projects. This sharing must be at least 5 percent of the total project cost or must be institutional cost sharing when the applicant has such cost sharing established with the Department of Health and Human Services.

For section 1115 projects, the amount the single State agency will be expected to provide generally must be at least 5 percent of special Federal project funds for administration costs. This amount cannot be in-kind.

Other policies, including grantee responsibilities, awarding and payment procedures, special provisions and assurances, are described in the following documents that are included in the application kit:

—HCFA Grants Policy Handbook, DHEW Publication No. (HCFA) 79–04001 (Rev. 6/79).

—45 CFR Part 74, Administration of Grants.

Secs. 1110, 1115, 1875, Social Security Act (42 U.S.C. 1310, 1315, 1395ll); sec. 402(a), Social Security Amendments of 1967 (42 U.S.C. 1395(b–1))

(Catalog of Federal Domestic Assistance Program No. 13,766 Health Financing Research, Demonstrations and Experiments)

Dated: October 30, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80–34771 Filed 11–6–80; 8:45 am]

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federal register

Monday
November 10, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue

74612 **Scholarships** Harry S. Truman Scholarship Foundation is accepting nominations from eligible institutions of higher education for Truman Scholarships, apply by 12–1–80

74505 **Natural Gas** DOE/FERC proposes regulations implementing alternative fuel price ceilings for incremental pricing; comments by 12–5–80

74680 **Grant Programs** Interior/OSM clarifies submission date for allotment grants for mining and mineral resources, research institutes and mineral research projects; effective 12–10–80 (Part V of this issue)

74567 **Consumer Food Study** FTC extends comment period to November 30, 1980 on study of consumer response to availability of advertised specials

74676 **Sex Discrimination** EEOC publishes final amendment to guidelines on discrimination because of sex; effective 11–10–80 (Part IV of this issue)

74672 **Natural Gas** DOE/ERA publishes regulations regarding synthetic natural gas feedstock allocation revisions; effective 12–15–80 (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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74521 **Governmental Programs** ACTION proposes treatment of volunteer payments and services by Governmental programs; comments by 12–10–80

74572 **Fuel** ICC authorizes 13 percent surcharge on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed; effective 11–7–80

74499 **Space Transportation** NASA proposes space transportation system regarding insurance and indemnification of NASA space vehicle users; comments by 1–9–81

74471 **Continental Shelf** Interior/GS publishes revised regulations regarding oil and gas and sulphur operations in the Outer Continental Shelf; effective 11–10–80

74640 **Hazardous Materials Transportation** DOT/RSPA publishes corrections and clarifications regarding identification numbers, hazardous wastes and substances, international and improved descriptions, forbidden materials, and organic peroxides; effective 11–20–80 (Part II of this issue)

74688 **Fish** Interior/BIA amends conservation regulations governing Indian Fishing on the Hoopa Valley Indian Reservation; effective 12–10–80 (Part VII of this issue)

74684 **Acoustical Testing** Commerce/Sec'y request comments on preliminary finding of need to accredit laboratories that provide acoustical testing services; comments by 1–9–81 (Part VI of this issue)

74609 **Revenue Sharing** Treasury/IRS gives notice of issuance of revenue procedure to enhance ability of the IRS district offices to respond fully and effectively to inquiries by employees of business entities; effective 12–10–80

74463 **Fruits** USDA/AMS clarifies the intent of the order relative to the application of shipping holiday regulations to shipments of the specified fruits; effective 11–8–80

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74612 **VA**

74614 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 45, No. 219
Monday, November 10, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 404

Western United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; corrections.

SUMMARY: The Western United States Apple Crop Insurance Regulations (7 CFR Part 404) appearing as a final rule in the **Federal Register** at 45 FR 72619 on Monday, November 3, 1980, contained typographical errors in one section. This notice is published to correct those errors.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

Correction

Subsection (d) of 7 CFR 404.7, appearing in the lower left column of page 72621 (45 FR 72621), is corrected to read to the bottom of the column as follows:

§ 404.7 The application and policy.

* * * * *

(d) The provisions of the application and Western U.S. Apple Insurance Policy for the 1981 and succeeding crop years, and the Appendix A to the Western U.S. Apple Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—and Succeeding Crop Years

Western U.S. Apple Crop Insurance Contract

Contract number _____
Indentification Number _____
Name and Address _____
ZIP Code _____
County _____
State _____
Type of Entity _____
Applicant is over 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the * * *

Issued in Washington, D.C., on Monday, November 3, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80-34971 Filed 11-7-80; 8:45 am]
BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Interpretation of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interpretative rule.

SUMMARY: The purpose of the rule is to clarify the intent of the order relative to the application of shipping holiday regulations to shipments of the specified fruits. Such action recognizes the practical operations involved in the preparation of fruit for market and is designed to facilitate the packing of fruit for export shipment.

EFFECTIVE DATE: November 8, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 10244 and has been classified "not significant". This rule is issued under the marketing agreement, as amended, and marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida, hereinafter referred to collectively as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Citrus Administrative Committee established under the order and other available information. It is found that this action will tend to effectuate the declared policy of the act.

Section 905.52(a)(3) of the order provides for a prohibition of shipments regulation on any variety of oranges, grapefruit, tangerines and tangelos for one period not exceeding 5 days during the week in which Thanksgiving Day occurs and for not more than two periods not exceeding a total of 14 days during the period December 20 through January 20 of a particular year. This section also provides that no such prohibition shall apply to exports other than to Canada or Mexico. Section 905.52(d) provides that whenever any variety is regulated pursuant to paragraph (a)(3), no such regulation shall be deemed to limit the right of any person to sell, contract to sell, or export other than to Canada or Mexico such variety but no handler shall otherwise ship any fruit of such variety which was prepared for market during the effective period of such regulation.

In recent years export has become increasingly important as a market for fruit. Such markets often demand only a limited number of grades or sizes. The fruit when brought from the grove to the packinghouse contains a commingling of grades and sizes. Consequently, it is necessary to grade and size the entire lot in order to separate the grades and sizes needed to fill the export order. A clarification of § 905.52(d) is necessary to carry out the primary intent of this paragraph with respect to noninterference with export since a literal reading could lead to the conclusion that the grades and sizes not desired for export which were prepared for market incidentally with fruit for export could not be shipped to domestic markets.

The rule specifies that prior to shipment of any variety so prepared the handler shall provide the committee, or

its designated agent, a copy of the shipping manifest applicable to such shipment with a notation thereon that the fruit was packed incidentally as part of a lot packed for export, other than to Canada or Mexico. This requirement is necessary to assure compliance with the provision in § 905.52(d) that no handler shall otherwise ship any fruit of such variety which was prepared for market during the effective period of such regulation except as provided herein.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044. This action is in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553.559). It is necessary to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937 to make this provision effective as specified.

The interpretative rule is as follows:

Subpart—Interpretative Rule

§ 905.400 Interpretation of certain provisions.

(a) In interpreting the provisions of § 905.52(d), the limitation on shipment of any variety regulated pursuant to paragraph (a)(3) of this section, which was prepared for market during the effective period of such regulation, shall not be deemed to apply to shipment of such variety which was prepared for market incidentally as part of a lot packed for export, other than to Canada or Mexico, and shipped following the period of regulation.

(b) Prior to shipment of any variety so prepared the handler shall provide the Citrus Aministrative Committee, or its designated agent, a copy of the shipping manifest applicable to such shipment with a notation thereon that the fruit was packed incidentally as part of a lot packed for export, other than to Canada or Mexico.

(Secs. 1–19, 48 Stat. 31, as amended: (7 U.S.C. 601–674))

Dated: November 4, 1980, to become effective November 8, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-34968 Filed 11-7-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 927 and 931

Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Fresh Bartlett Pears Grown in Oregon and Washington; Expenses and Rates of Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These actions authorize expenses and rates of assessment for the 1980–81 fiscal year, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering Oregon, Washington, and California winter pears, and Bartlett pears grown in Oregon and Washington.

DATES: Effective July 1, 1980, through June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statements relative to these final rules are available on request from the above named individual.

SUPPLEMENTARY INFORMATION: These final actions have been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and have been classifed "not significant". These final rules are issued under Marketing Order Nos. 927, as amended, and 931 (7 CFR Parts 927 and 931), respectively regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, and Bartlett pears grown in Oregon and Washington. These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon recommendations and information submitted by the Control Committee and the Northwest Fresh Bartlett Pear Marketing Committee, and other available information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

These actions were recommended at public meetings at which all present could state their views. There is insufficient time between the date when information became available upon which these final rules are based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). These orders require that the rates of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which begin July 1, 1980. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new §§ 927.220 and 931.215 are added to read as follows: (§§ 927.220 and 931.215 expire June 30, 1981, and will not be published in the annual Code of Federal Regulations).

Marketing Order 927

§ 927.220 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Control Committee during the period July 1, 1980, through June 30, 1981, will amount to $139,262.

(b) The rate of assessment for said period payable by each handler in accordance with § 927.41 is fixed at $0.0150 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

Marketing Order 931

§ 931.215 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee during the period July 1, 1980, through June 30, 1981, will amount to $30,786.

(b) The rate of assessment for said period payable by each handler in accordance with § 931.41 is fixed at $0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

(Sec. 1.19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-35073 Filed 11-7-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrication Administration

7 CFR Part 1701

Public Information, Appendix A—REA Bulletins; Acceptance Tests for Stored Program, Processor—Controlled Digital Central Offices

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for the addition of Appendix VII, "Acceptance Tests for Stored Program, Processor-Controlled Digital Central Offices," to REA Bulletin 384–2. With the introduction of digital switching equipment it becomes necessary to furnish acceptance test procedures for that type of equipment. Other appendices of Bulletin 384–2 cover acceptance test procedures for step-by-step switching equipment.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Maynard S. Knapp, Chief, Central Office Equipment Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1334–S, U.S. Department of Agriculture, Washington, D.C. 20250. telephone (202) 447–5773. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant."

A Notice of Proposed Rulemaking was published in the **Federal Register** on June 6, 1980, Volume 45, Number 111, 45 FR 38064. However, no public comments were received in response to the notice.

Dated: October 30, 1980.

Robert W. Feragen,

Administrator.

[FR Doc. 80-34966 Filed 11-7-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Braniff Airways, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: October 21, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into an agreement with the following named carrier on the date indicated to guarantee the preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Braniff Airways, Inc. Effective date: October 21, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

§ 238.4 *Preinspection outside the United States,* the listing of transportation lines preinspected at Montreal and at Toronto are amended by adding in alphabetical sequence "Braniff Airways, Inc." under both headings.

(Secs. 103, 238(d); (8 U.S.C. 1103, 1228(b))

Dated: November 4, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-34915 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238

Contracts With Transportation Lines; Guyana Airways Corporation

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulation of the Immigration and Naturalization Service adds a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code [80 Stat. 383], as amended by Pub. L. 93–502 [88 Stat. 1561], and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of Immigration and Naturalization Service entered into agreement with the following named

carrier on the date indicated to gurantee the passage through the United States of aliens in immediate and continuous transit destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR: Guyana Airways Corporation.

Effective date: October 27, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Guyana Airways Corporation."

* * * * *

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d))

Dated: November 4, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-34914 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-50-AD, Amdt. 39-3971]

Airworthiness Directives: Hiller UH-12D, UH-12E and Bell 47G Series Helicopter as Modified by Soloy Conversions, Ltd. STC Nos. SH177WE, SH178WE and SH657NW Respectively

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires a one time inspection of all Soloy lower transmission oil lubrication jets for proper brazing of each braze joint. This action is prompted by two reported failures of oil jet assemblies, one of which was a complete separation of the oil jet from its retaining fitting. Such a failure may result in complete transmission failure and possible loss of the aircraft.

DATES: Effective Date: November 20, 1980. Compliance: 25 hours time in-service or 30 days, whichever occurs first after the effective date of this AD.

ADDRESSES: The Soloy Service Bulletins specified in this directive may be obtained upon request to: Soloy Conversions, Ltd., Post Office Box 60, Chehalis, Washington 98532. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Daniel I. Cheney, Propulsion Branch, ANW-140S, Seattle Aircraft Certification Area Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: Recently, an operator of a Hiller UH-12 helicopter which had been converted to turbine power by Soloy Conversions, Ltd., Supplemental Type Certificate (STC) No. SH177WE or SH178WE aborted a takeoff when he observed a dramatic drop of transmission oil presure. A subsequent investigation revealed that one lower transmission gearcase oil jet assembly had separated at the braze joint between the protruding oil jet and the AN fitting that mounts the assembly into the gearcase. Upon further investigation, a second oil jet assembly was discovered where the jet had become loose in the braze joint. A separated oil jet may result in immediate transmission failure due to the jet becoming caught in the transmission gears, or in eventual upper or lower transmission seizure from overheating, due to reduced oil flow to the remaining jets.

Examination of the two defective parts disclosed that the brazing on the affected joint, from the time of manufacture, was either omitted completely or found to be inadequate. Bell 47G series helicopters converted by Soloy STC No. SH657NW are also subject to this condition since these use the same oil jets as the Soloy converted Hillers. Since this situation may exist in other helicopters of the same type design, an Airworthiness Directive is being issued to require a one time visual inspection of all Soloy lower transmission oil lubrication jets for a complete fillet of braze material around each joint, and for a check that the jet is secure in the base of the oil jet assembly. This AD requires that any defective jets discovered be replaced before further flight.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Soloy Conversions, Ltd.: Applies to Hiller UH-12D, UH-12E (including 4 place) and Bell 47G series helicopters certificated in all categories which have been converted to turbine power under Soloy Conversions, Ltd. Supplemental Type Certificates SH177WE, SH178WE and SH657NW respectively.

Compliance required within 25 hours time in-service or 30 days, whichever occurs first after the effective date of this AD.

To prevent failure of Soloy transmission oil lubrication jets which may result in complete transmission failure and possible loss of the aircraft:

1. Inspect all Soloy transmission oil lubrication jets in accordance with the following Soloy Service Bulletins:

a. Soloy/Hiller UH-12D and UH-12E (including 4 place): 14-560 dated October 20, 1980, or later FAA Approved revisions.

b. Soloy/Bell 47G series: 14-660 dated October 20, 1980, or later FAA Approved revisions.

2. Replace defective jets before further flight.

Equivalent methods of compliance may be used when approved by the Chief, Seattle Aircraft Certification Area Office, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Soloy Conversions, Ltd., Post Office Box 60, Chehalis, Washington 98532. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective November 20, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12004 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on October 31, 1980.

Charles R. Foster,

Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-34937 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NW-47-AD, Amdt. 39-3970]

Airworthiness Directives: Boeing Model 737 Series Airplanes Equipped with Auxiliary Body Fuel Tanks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 80-02-02 (Amdt. 39-3660; January 10, 1980, 45 FR 2008) requires a recurring pressure and air flow test of the Boeing Model 737 auxiliary body fuel tank refuel and vent system shrouds. The AD was amended by Amdt. 39-3863, July 31, 1980, 45 FR 50722 to relieve operators of those test requirements by allowing the installation of newly designed refuel and vent line shrouds. This amendment adds to the amended listing of shrouds and corrects an error in the earlier list.

DATES: Effective date November 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. J. M. Walker, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: The list of original design part number shrouds and corresponding final design shrouds presented in Amdt. 39-3863, AD 80-02-02 has been determined not to be complete. The airplane manufacturer has found that additional old design shrouds were installed on some early airplanes and these shrouds were not listed in the above mentioned amendment. In addition, an error in the 737 shroud list was found.

Since this amendment is relieving in nature and imposes no additional burden, it is found that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 80-02-02 (Amdt. 39-3660, January 10, 1980, 45 FR 2008; as amended by Admt. 39-3863, July 31, 1980, 45 FR 50722) as follows:

1. Add to Paragraph D the following list of shrouds:

Original design part numbers	Interim design part numbers	Final design part numbers
10-61707-3	10-61707-65	10-61707-651
10-61707-4	10-61707-66	10-61707-652
10-61707-5	10-61707-67	10-61707-671
10-61707-6	10-61707-68	10-61707-681
10-61707-7	10-61707-69	10-61707-691

2. Correct in Paragraph D part number listed as 10-61707-711 (Final Design) to read instead: 10-61707-40 (Original Design; 10-61707-70 (Interim Design); and 10-61707-701 (Final Design).

This amendment becomes effective November 20, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979)

Issued in Seattle, Wash., on October 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-34938 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NW-46-AD; Amdt. 39-3969]

Airworthiness Directives: Boeing Model 727 Series Airplanes Equipped with Auxiliary Body Fuel Tanks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: FAA Airworthiness Directive (AD) 80-02-01 (Amdt. 39-3659; January 10, 1980, 45 FR 2007) requires a recurring pressure and air flow test of the Boeing Model 727 auxiliary body fuel tank refuel and vent system shrouds. The AD was amended by Amdt. 39-3864, July 31, 1980, 45 FR 50722 to relieve operators of those test requirements by allowing the installation of newly designed refuel and vent line shrouds. This amendment adds to the amended listing of shrouds and corrects an error in the earlier list.

DATES: Effective date November 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. J. M. Walker, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: The list of original design part number shrouds and corresponding final design shrouds presented in Amdt. 39-3864, AD 80-02-01, has been determined not to be complete. The airplane manufacturer has found that additional old design shrouds were installed on some early airplanes and these shrouds were not listed in the above mentioned amendment. In addition, an error in the 727 shroud list was found.

Since this Amendment is relieving in nature and imposes no additional burden, it is found that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 80-02-01 (Amdt. 39-3659, January 10, 1980, 45 FR 2007, as amended by Amdt. 39-3864, July 31, 1980, 45 FR 50722) as follows:

1. Add to Paragraph D, the following list of shrouds:

Original design part numbers	Interim design part numbers	Final design part numbers
10-61707-8	10-61707-49	10-61707-491
-9	-50	-501
-10	-51	-511
-11	-52	-521
-12	-53	-531
-13	-54	-541
-14	-55	-551
-15	-56	-561
-16	-57	-571
-17	-58	-581
-18	-59	-591

2. Correct in Paragraph D, part number listed as 10-61707-40 (Original Design); 10-61707-70 (Interim Design); and 10-61707-701 (Final Design) to read instead: 10-61707-41 (Original Design); 10-61707-71 (Interim Design); and 10-61707-711 (Final Design).

This amendment becomes effective November 20, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 120-4 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

V 45 N 0 10 80 0 UMI

Issues in Seattle, Wash., on October 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-34939 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-CE-38-AD; Amdt. 39-3968]

Beech Model A36TC Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 80-21-02, applicable to certain Beech Model A36TC airplanes. The AD requires, prior to further flight, the installation of a drain hose on the idle fuel adjustment screw boss on the fuel metering assembly. This action is necessary in order to drain any fuel which may leak from the boss clear of the airplane so that it will not impinge on hot exhaust system parts and cause an in-flight fire.

EFFECTIVE DATE: November 17, 1980, to all persons except those to whom it has already been made effective by letter from the FAA dated October 1, 1980.

Compliance: Prior to further flight unless already accomplished.

FOR FURTHER INFORMATION CONTACT:
R. A. Brenk, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: A fuel leak was detected in the engine compartment of a Beech Model A36TC airplane prior to takeoff. Tests showed the leak to come from the idle adjustment screw boss on the fuel metering assembly located on the throttle body on the left rear side of the engine. Had this leak not been detected, the leak could have impinged on hot exhaust system surfaces and an in-flight fire could have resulted. The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design thereby requiring the issuance of an AD. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by letter dated October 1, 1980. The AD became effective as to those individuals upon receipt of that letter and is identified as AD 80-21-02. Since this unsafe condition described herein may still exist on certain other serial numbers of Beech Model A36TC airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. This AD, which is applicable to Beech Model A36TC (Serial Numbers EA-1 through EA-146) airplanes, requires, prior to further flight, installation of a drain hose on the idle fuel adjustment screw boss on the fuel metering assembly. This action will drain any fuel which may leak from the boss clear of the airplane so that it will not impinge on hot exhaust system parts and cause an in-flight fire.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Beech: Applies to Model A36TC (Serial Numbers EA-1 through EA-146) airplanes:

Compliance: Required as indicated unless already accomplished.

To prevent the possibility of a fuel leak which could result in an engine compartment fire, accomplish the following:

(A) Prior to further flight:

1. Install a drain hose over the idle fuel adjustment screw boss on the fuel metering assembly located on the rear of the throttle body on the left rear side of the engine, and clamp the hose to the housing. (Use a Part Number AN737 clamp and a one-half inch inside diameter Gates Part Number 6B or 3219C or Aeroquip Part Number 303 or Stratoflex Part Number 111 hose or any equivalent hose which meets the requirements of MIL-H-8794.)

2. Route the hose to the right hand cowl flap opening and insure maximum clearance between the hose and the turbocharger/exhaust system.

3. Support the hose where necessary to prevent rubbing or chafing.

4. Cut the drain hose flush with the crankcase vent tube.

(B) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective on November 17, 1980, to all persons except those to whom it has already been made effective by letter from the FAA dated October 1, 1980, and is identified as AD 80-21-02.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 30, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-34942 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-WE-15]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters a portion of the Placerville, California 700-foot transition area. This action redescribes the controlled airspace required to protect instrument flight operations at the Placerville Airport.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

On September 8, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Placerville, California (45 FR 59174). Redesignation of this transition area will provide controlled airspace for protection of instrument operations at the Placerville Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the propsal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1980 (45 FR 445).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Placerville, California. This transition area provides protection for instrument operations authorized for the Placerville Airport. This amendment increases air traffic safety and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., December 25, 1980, as follows:

§ 71.181 Placerville, California [Amended]

Delete the period following * * * "southwest of the VOR" and add "and within four miles each side of the Hangtown VOR 197° radial extending from four mile radius area to eleven miles south of the VOR."

(Secs. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on October 21, 1980.

John D. Mattson,

Director, Western Region.

[FR Doc. 80-34945 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3042]

Bendix Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Southfield, Mich., industrial firm engaged in four major business segments: Automotive, aerospace-electronics, forestry and industrial-energy, to divest itself of the Warney & Swasey Rotating Toolholder Business and the Bendix Crush-Form Grinder Business within one year of the effective date of the order to a Commission-approved firm. Further, the order requires Bendix to maintain the businesses as viable business entities, and prohibits any diminishing of their value prior to their divestiture. The order also places a ten-year ban on the purchase of any concerns engaged in the rotating toolholder market or in the external cylindrical grinding machine market without prior Commission approval.

DATES: Complaint and Order issued September 23, 1980.[1]

FOR FURTHER INFORMATION CONTACT:
FTC/C, E. Perry Johnson, Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Tuesday, July 15, 1980, there was published in the **Federal Register**, 45 FR 47438, a proposed consent agreement with analysis In the Matter of The Bendix Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20, Federal Trade Commission Act.

(Sec. 6, Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 45, 18))

Carol M. Thomas,

Secretary.

[FR Doc. 80-34923 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Quota Cheese Subsidy Determinations

AGENCY: International Trade Administration.

ACTION: Final rule.

SUMMARY: These regulations add a new Subpart D concerning the determination by the Secretary of Commerce of the existence and amount of quota cheese subsidies, under the authority of section 702 of the Trade Agreements Act of 1979 and Reorganization Plan No. 3 of 1979.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT:
Robert F. Seely, Office of the General Counsel, Department of Commerce, Washington, D.C. 20230: 202-377-3295.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements of 1979 (19 U.S.C. 1202) ("the Trade Agreements Act") requires the President to prohibit in whole or in part the entry of or to impose a fee on importations of quota cheese (as defined in section 701 of the Trade Agreements Act, 19 U.S.C. 1202) with respect to which (1) the Secretary of Commerce determines that a foreign government has been providing subsidies and (2) the Secretary of Agriculture determines there have been sales at wholesale, duty-paid prices below the domestic wholesale price of similar cheese produced in the United States, provided the price undercutting is not eliminated within 15 days after the U.S. Trade Representative notifies the foreign government of these determinations. Any import fee imposed by the President pursuant to section 702 of the Trade Agreements Act is limited to an amount, not to exceed the amount of the subsidy, necessary to ensure that the duty-paid wholesale price of the import will not be less than the domestic wholesale market price of similar articles produced in the United States.

Background

The Department of the Treasury published a proposed rule and request for comments on this regulation concerning quota cheese subsidy determinations as 19 CFR Subpart E (§§ 155.60-153.64) on October 3, 1979 (44 FR 57057). Effective January 2, 1980, the responsibilities of the Treasury Department under section 702 of the Trade Agreements Act were transferred to the Department of Commerce, pursuant to Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979)

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and Executive Order No. 12188 (45 FR 989, January 4, 1980).

The Department of Commerce published in 45 FR 4932, January 22, 1980, a final rule effective January 22, 1980, which announced regulations concerning countervailing duties and gave notice of its decision to defer publication of final regulations concerning the determination of subsidies on quota cheese. The Department invited additional public comment on the Treasury Department's proposal of October 3, 1979 concerning quota cheese.

The Department has considered all comments received and has incorporated some of them into this final rule, Subpart D. We adopted a suggestion to delete the requirement contained in § 153.63 of the proposed regulations that complaints of price undercutting be filed with the "administering authority", which is Department of Commerce after January 2, 1980, as well as with the Department of Agriculture. The statutory language and legislative history supported the change.

In addition, the Department adopted a suggestion to simplify the content of the petition, described in § 355.48(b) of the final rule. The comparable section of the Treasury Department's proposed rule, § 155.62(b) contained requirements considered unnecessary and burdensome to petitioner. For the same reason, we reduced the required number of copies of the petition from 10 to 5.

Rather than require determination and publication of only the net subsidy, as defined in section 771(b) of the Tariff Act of 1930 as amended (19 U.S.C. 1677) ("the Tariff Act"), the final rule requires determination of both the net and the gross subsidy, as defined in section 771(5) of the Tariff Act. This requirement is intended to provide the Department of Agriculture with as much relevant information as possible on which it can base its determination of price undercutting by subsidized imports, pursuant to section 702(b) of the Trade Agreements Act.

Drafting Information

The principle drafter of this final rule was Robert Seely, Office of the General Counsel, Department of Commerce. Other Department of Commerce employees assisted in the drafting.

Regulatory Analysis

Regulatory analysis of these regulations is unnecessary, because the economic consequence of this program flow directly from the legislation which authorizes it.

Final Regulations

Accordingly, Title 19, Part 355 of the Code of Federal Regulations, as effective January 22, 1980 (45 FR 4932), is amended as follows by adding a new Subpart D.

Dated: November 3, 1980.

John D. Greenwald,

Deputy Assistant Secretary (Import Administration).

Subpart D—Quota Cheese Subsidy Determinations

§ 355.45 Scope.

This subpart sets forth procedures and rules by which the Department determines the existence and amount of subsidies with respect to quota cheese, and publishes these determinations, under section 702 of the Trade Agreements Act of 1979, Pub. L. 96–39 (July 26, 1979), 93 Stat. 144, 269 (hereinafter referred to as "the Trade Agreements Act").

§ 355.46 "Subsidy" Defined.

For the purpose of this subpart, the term "subsidy" means both "subsidy" and "net subsidy" as defined in sections 771(5) and 771(6) of the Tariff Act of 1930, as amended.

§ 355.47 Annual list and quarterly update.

(a) Annual List. Not later than January 1 of each year, the Department, in consultation with the Secretary of Agriculture, shall determine on the basis of the best information then available whether any foreign government is providing a subsidy as defined in section 355.46, with respect to any article of quota cheese, as defined in section 701(c)(1) of the Trade Agreements Act, and shall publish in the **Federal Register** a list of the type and amount of each such subsidy. In annual lists published on and after January 1, 1981 the Department shall incorporate the changes and additional subsidies determined for the preceding calendar year under paragraph (b) of section 355.48 and paragraph (b) of this section.

(b) Quarterly update. Not later than April 1, July 1, and October 1 of each year, the Department, in consultation with the Secretary of Agriculture, shall determine on the basis of the best information then available whether there have been any changes in the type or amount of any subsidy included in the subsidy included in the latest annual list published under paragraph (a) of this section and whether any subsidy not included in such list is being provided by a foreign government, and shall publish in the **Federal Register** determinations with respect to any such changes and additional subsidies.

§ 355.48 Determinations upon request.

(a) Request for determination. Any person, including the Secretary of Agriculture, who has reason to believe there have been changes in the type or amount of any subsidy included in the current annual list (as modified by the latest quarterly update, if any) or that a subsidy not included in such list (as updated) is being provided by a foreign government, may file a petition to request the Department to determine whether there are any changed or additional subsidies.

(b) Contents of petition. Any petition requesting a determination under paragraph (a) of this section shall be filed with the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th St. & Constitution Avenue, N.W., Washington, D.C. 20230. Such petition shall allege either a change in the type or amount of any subsidy included in the latest annual list (as updated) or an additional subsidy provided by a foreign government not included in such list (as updated), and shall contain or be accompanied by, information reasonably available to the petitioner in substantially the following form:

(1) The name and address of the petitioner;

(2) The article of quota cheese allegedly benefitting from the changed or additional subsidy;

(3) The country of origin of such article of quota cheese, and

(4) All pertinent facts with regard to the alleged changed or additional subsidy including, if known, the statutory or other authority under which it is provided, the manner in which it is paid, and the value of such subsidy when received and used by producers or sellers of the article.

The petition and, to the extent feasible, all supporting information shall be submitted on letter-size paper, double space typewritten or printed, in 5 copies. Unless such requirement is waived in individual cases, foreign language submissions must be accompanied by an English language translation.

(c) Determination. Not later than 30 days after receiving an acceptable request, the Department shall,

(1) In consultation with the Secretary of Agriculture, determine on the basis of the best information then available whether there have been any changes in the type or amount of any subsidy included in the latest annual list (as modified by any quarterly update) or whether any subsidy not included in such list (as updated) is being provided by a foreign government;

(2) Notify the Secretary of Agriculture and the person making the request of such determination; and

(3) Publish in the **Federal Register** notice of any such changed or additional subsidies.

Any determination under this section shall be in addition to the annual list and quarterly determinations under section 355.46.

§ 355.49 Complaints of price-undercutting by subsidized imports.

Upon receipt of a complaint filed with the Secretary of Agriculture under section 702(b) of the Trade Agreements Act concerning price-undercutting by subsidized imports, the Department shall promptly determine as provided in section 355.48(c) whether or not the alleged subsidies are included in or should be added to the current annual list under section 355.47(a) (as updated).

The Department of Agriculture regulations concerning complaints of price-undercutting by subsidized imports of quota cheese are published in 7 CFR Part 6.

§ 355.50 Access to information.

The procedures concerning access to, and confidential treatment of, information contained in Subpart B of this part, shall apply to information submitted in connection with this subpart.

[FR Doc. 80-34920 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Department of the Interior.

ACTION: Final Rule.

SUMMARY: The Geological Survey is revising its regulations in § 250.18 on Rights of use and easement, and is also adding a new regulation on pipeline approval. These changes are the result of a Memorandum of Understanding between the Bureau of Land Management and the Geological Survey which more definitely defines the roles of each agency with respect to pipeline approval on the Outer Continental Shelf.

EFFECTIVE DATE: The effective date of these changes is November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Prehoda, Branch of Offshore Field Operations, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092, (703) 860–7571.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (BLM) and USGS on August 23, 1980, signed a Memorandum of Understanding (MOU) which defined and realigned the administrative and operational roles of each Agency as they relate to the approval of pipelines on the Outer Continental Shelf.

Under the terms of the MOU, each Agency's permitting authority is split as follows:

USGS—The USGS will issue permits for OCS pipelines that are *wholly contained* within the boundaries of a single lease, the boundaries of unitized leases, or the boundaries of contiguous (not cornering) leases of the same owner or operator.

BLM—BLM will issue permits for OCS pipelines which are not wholly contained within boundaries of a single lease, the boundaries of unitized leases, or the boundaries of contiguous (not cornering) leases of the same operator.

Prior to the signing of this new MOU, the USGS–BLM permitting authorities were split along somewhat more complex lines. The USGS, in addition to permitting leasehold pipelines, also granted rights of use and easements to construct pipelines that could also go off-lease. Under certain circumstances, these off-lease lines could also fall under BLM's right-of-way approval. This division of permitting authority was a source of confusion which triggered the preparation and eventual signing of the previously mentioned MOU.

The effect of the MOU as far as the USGS is concerned is to generally limit its permitting authority to lease lines. Since rights of use and easements as they relate to OCS pipelines are no longer applicable to the USGS, the regulations must be revised to reflect this fact.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that the revision of 30 CFR 250.18 and the addition of 30 CFR 250.20 is not a major Federal action significantly affecting the quality of the human environment, and, therefore, preparation of an Environmental Impact Statement is not required. The Department has also determined that this Final Rule is not a significant action and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: November 3, 1980.

Joan M. Davenport,

Assistant Secretary—Energy and Minerals.

30 CFR Part 250 as it appeared in the **Federal Register**, Vol. 44, No. 209, (44 FR 61886) on October 26, 1979, is amended as follows:

Section 250.18 is amended as follows:

A. Paragraph (b) is removed in its entirety.

B. Paragraph (c) is redesignated as paragraph (b) and revised, and paragraphs (d) and (e) are redesignated as paragraphs (c) and (d) respectively. New paragraph (b) reads as follows:

§ 250.18 Rights of use and easement.

* * * * *

(b) The Director may approve the design, fabrication, and plan of installation of all platforms, artificial islands, and installations, and other devices permanently or temporarily attached to the seabed on the OCS as a condition of the granting of a right of use and easement under paragraph (a) of this section, or as authorized under any lease issued or maintained under the Act.

* * * * *

A new § 250.20, is added as follow:

§ 250.20 Pipeline approval.

The director shall approve the design, fabrication, and the plan of installation of OCS pipelines that are wholly contained within the boundaries of a single lease, the boundaries of unitized leases, or the boundaries of contiguous (not cornering) leases of the same owner or operator.

[FR Doc. 80-34982 Filed 11-7-80; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 78-041b]

Puget Sound Vessel Traffic Service Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects two typographical errors, caused by an error in a previous correction document published in the **Federal Register** on August 11, 1980, at 45 FR 53135 relating to Puget Sound Vessel Traffic Service.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (G–WWM/11), Room 1104, U.S. Coast Guard Headquarters, 2100 Second Street, S.W.,

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Washington, D.C. 20593, (202) 426–1934. Normal office hours are 7 a.m. to 5 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION: Drafting information—The principal persons involved in drafting this document are Mr. Daniel W. Ziegfeld, Project Manager, Office of Marine Environment and Systems, and LCDR Jack Orchard, Project Counsel, Office of the Chief Counsel.

A final rule was published on July 21, 1980 at 45 FR 48822, which amended the vessel traffic service (VTS) regulations in Puget Sound. The final rule included descriptions of precautionary areas (§ 161.187) and separations zones (§ 161.183) which were identified by reference to buoys that were intended to be designated consecutively in alphabetical order (i.e., SA, SB, SC . . . etc.). However, one buoy (SF) had been permanently removed, thus creating a gap in the consecutive designations. When the final rule was published, the buoys had not been redesignated to fill the gap. In an attempt to avoid confusion to the mariner, the Coast Guard, on August 11, 1980, at 45 FR 53135, published a correction document to eliminate this error. Unfortunately, the correction document only corrected the error in § 161.187, entitled "precautionary areas". Section 161.183, entitled "separation zones", contained two errors which were not corrected. In paragraph 161.183(c)(8), the reference to "SE and SG" should read "SE and SF." Likewise, in paragraph 161.183(c)(9), the reference to "SC and SG" should read "SF and SG".

Accordingly, the Coast Guard is correcting 33 CFR 161.183(c)(8) and (c)(9) to read as follows:

§ 161.183 Separation zones.

* * * * *

(c) * * *

(8) Between precautionary area "SE" and "SF".

(i) * * *

(ii) * * *

(9) Between precautionary area "SF" and "SG".

(i) * * *

(ii) * * *

* * * * *

(Sec. 2, Pub. L. 95–474, 92 Stat. 1471, (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)(4))

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

Dated: November 4, 1980.

[FR Doc. 80–35113 Filed 11–7–80; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL-1663-1]

Air Programs; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve conditionally revisions to the New York State Implementation Plan which address attainment of national ambient air quality standards for sulfur dioxide, carbon monoxide, and ozone in areas of the Niagara Frontier Air Quality Control Region designated as nonattainment for these pollutants. These revisions were prepared by the State to meet the requirements of Part D, "Plan Requirements for Nonattainment Areas," of the Clean Air Act, as amended in 1977.

EFFECTIVE DATE: This action is effective on November 10, 1980.

ADDRESSES: Copies of the SIP revision submitted by New York State, supplementary information, and public comments are available for inspection during normal business hours at the following addresses:
Environmental Protection Agency
Region II
Air Programs Branch, Room 908
26 Federal Plaza
New York, New York 10278
Environmental Protection Agency
Public Information Reference Unit
401 M Street, S.W.
Washington, D.C. 20460
The Office of the Federal Register
1100 L Street, N.W.
Room 8401
Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Discussion

Pursuant to the requirements of Section 107(d) of the Clean Air Act, as amended in 1977, the Environmental Protection Agency (EPA) published in the **Federal Register**, on March 3, 1978 (43 FR 8962), designations of the attainment status with respect to each national ambient air quality standard for every area within the State of New York. These designations were revised on January 25, 1979 (44 FR 5119). A further revision to the designations, with regard to the ozone standard, was published on December 7, 1979 (44 FR 70466); this revision, however, did not modify the attainment status designation of any area in the Niagara Frontier area. The reader is referred to the January 25, 1979 notice for a detailed description of the geographic areas covered by this final rulemaking action. A general description is contained in the revisions to Section 52.1682, "Attainment dates for national standards," promulgated at the end of this notice.

Part D of the Clean Air Act requires that for each area designated as not meeting a national ambient air quality standard, a State Implementation Plan (SIP) revision must be developed by the state and submitted to EPA by January 1, 1979. The SIP revision must provide for attainment of the contravened standard by December 31, 1982 or, for certain pollutants, no later than December 31, 1987. The required contents of such SIP revisions are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. EPA's Guidance for implementation of these requirements can be found in **Federal Register** notices published on April 4, 1979 (44 FR 20372), July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

On May 25, 1979, the Governor of the State of New York formally adopted a SIP revision intended to meet these Clean Air Act requirements for those portions of the Niagara Frontier designated as not meeting a national ambient air quality standard. The document, which was formally submitted to EPA on May 31, 1979, is entitled "New York State Air Quality Implementation Plan, Niagara Frontier, Erie and Niagara Counties," May 1979. Notice of EPA receipt of the proposed SIP revision was announced in the **Federal Register** on June 28, 1979 (44 FR 37681). In addition, on May 23, 1979, November 13, 1979, and November 14, 1979, the State submitted additional information to EPA for inclusion in the proposed SIP revision.

On April 29, 1980, EPA published in the **Federal Register**, at 45 FR 28371, a notice of proposed rulemaking dealing with New York's SIP submittal for the Niagara Frontier, with regard to its provisions for addressing attainment of national ambient air quality standards for sulfur dioxide, carbon monoxide, and ozone. (Although the proposed SIP revision document submitted by the State also addresses attainment of particulate matter ambient air quality standards, no action was then proposed on those aspects; EPA's proposed findings and actions on the particulate matter parts of the SIP were subsequently published in the **Federal Register** on August 15, 1980 (45 FR 54372)). The April 29, 1980 proposal described the provisions of the State's submittal, discussed EPA's proposed findings and actions, and requested comment on its determinations. The reader is referred to this notice for a detailed description of the material submitted.

In response, comments were received from the New York State Department of Environmental Conservation (letter dated June 24, 1980) and the Bethlehem Steel Corporation (letter dated June 27, 1980). In addition, general comments, addressed to national policy, were submitted by Covington & Burling, on behalf of the Manufacturing Chemists Association (letter dated July 5, 1979) and by the Natural Resources Defense Council, Inc. (letter dated August 6, 1979). As applicable, these comments are addressed in Section II, "Disposition of Proposed Conditions for Approval," and Section III, "Other Comments Received and Issues Raised," of today's notice. Also, on May 1, 1980, the State submitted additional information to EPA for inclusion in the proposed SIP revision; this supplemental material, submitted in fulfillment of four of the conditions proposed, is discussed in Section II.B of this notice.

Based on its review of the supplemental information and comments received, EPA is now taking final action to conditionally approve the New York State SIP revision as it relates to carbon monoxide, ozone and sulfur oxides.

B. Summary of SIP Contents

With respect to the pollutants addressed by this notice, the plan as revised by the State may be summarized as follows:

- Sulfur Dioxide

—The control of by-product coke oven emissions, to be accomplished as a result of compliance with a revised State regulation (6 NYCRR Part 214).

—The continued enforcement of existing State regulations for the control of sulfur oxide emissions, including a revised State regulation (6 NYCRR Part 225) which changes sulfur content limitations for fuel oil from 1.1 percent to 1.7 percent in Niagara County and areas in Erie County outside of Lackawanna and South Buffalo.

- Ozone

—The normal replacement of old automobiles with new ones (i.e., "vehicle turnover").

—The control of the following categories of stationary sources which emit volatile organic compounds: cutback asphalt, petroleum refineries, metal degreasing, surface coating, and gasoline storage and transfer. This is to be accomplished as a result of compliance with various new and revised State regulations.

- Carbon Monoxide

—Vehicle turnover.

- General

—Regulatory requirements for the review of major new sources and major modifications as contained in Part 231, "Major Facilities," and complementing administrative provisions.

C. Conditional Approval

A discussion of conditional approval and its practical effect appears in supplements to EPA's "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" (44 FR 20371, April 4, 1979) at 44 FR 38583 (July 2, 1979) and at 44 FR 67182 (November 23, 1979). The conditional approval action taken today requires the State to submit to EPA additional material by the deadlines specified in today's notice. There will be no extensions of the conditional approval deadlines which are being promulgated in this notice. EPA will follow the following procedures in determining if the State has satisfied a condition:

1. When the State submits required documentation showing that a condition was met on schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition was fully met. After review is complete, a **Federal Register** notice will be published either proposing or taking a final action to find that the condition has been met and the plan can be approved, or to find that the condition has not been met and that conditional approval is withdrawn and the plan is disapproved. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on new major source construction will come into effect.

3. If the State fails to submit the required material needed to meet a condition in a timely fashion, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and that Section 110(a)(2)(I) restrictions on growth are in effect.

Elsewhere in this notice deadlines by which conditions must be met are being promulgated. Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that, for good cause, additional notice and comment are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (See 44 FR 38583, July 2, 1979 and 45 FR 28371, April 29, 1980).

D. Attainment Dates and Compliance Deadlines

Revisions to Section 52.1682, "Attainment dates for national standards," which are promulgated at the end of today's notice, list the deadlines for attaining each national ambient air quality standard in the various areas of the State of New York. The version of this list appearing in the Code of Federal Regulations does not reflect the new deadlines provided for by Section 172(a) of the Clean Air Act, as amended in 1977. Today's notice updates this list where later dates were provided by the State in its SIP revision and where these later dates were approved by EPA.

However, sources subject to plan requirements and deadlines established prior to the 1977 Amendments to the Clean Air Act remain obligated to comply with those requirements as well as with the new Section 172 plan requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after the approval of a plan. This provision was not changed by the

1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. Even when a new requirement is being added to a SIP, the existing requirement may not ordinarily be relaxed or revoked. The new requirement does not supersede or replace the old requirement. Instead the existing requirement must remain an enforceable provision of the SIP, and must co-exist with the new requirement in the applicable implementation plan. The present emission control requirement must be retained because the source must be prevented from operating without controls (or with less stringent controls) while it is moving toward compliance with (or challenging) the new requirement.

There are some exceptions, however. A state may submit a relaxation or revocation of an existing requirement (or, for an existing requirement promulgated by EPA, have EPA relax or revoke it) if the requirement is in one or more of the following categories:

- Any existing requirement that conflicts with a new, more stringent requirement, making it highly impractical for a source to comply with the old requirement. Any exemption granted must be drawn as narrowly as possible, on a case-by-case basis, and will be acted upon by EPA as a SIP revision.
- Any federally promulgated indirect source review program and any bridge toll requirement revocable under Section 110(c)(5)(A) of the Clean Air Act.
- Any existing motor vehicle emission inspection and maintenance program or transportation control measure to the extent the measure is demonstrated not to be reasonably available, if the revised SIP satisfies all Part D requirements.
- Any new requirement in a 1979 SIP submittal designed for the previous 0.08 ppm ozone standard as long as the control measures in the revised SIP satisfy all requirements for the current 0.12 ppm standard.

A relaxation or revocation is also permissible if it will not contribute to concentrations of pollution where there is a violation of an ambient air quality standard or of a prevention of significant deterioration increment. Where relaxation of a requirement is allowed, but where the deadline for compliance is not relaxed, the new requirement must call for compliance no later than the existing deadline for compliance so that there is no gap in enforceability.

E. Requirements for Additional Stationary Source Controls

As noted in the "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas" (44 FR 20376, April 4, 1979), the minimum acceptable level of stationary source control for SIPs developed to meet the ozone standard, such as New York's, includes the reasonably available control technology (RACT) requirement for volatile organic compound stationary sources covered by Control Technique Guidelines (CTGs) that EPA issued by January 1978 and schedules to adopt and submit by each future January additional requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by a **Federal Register** notice published on August 28, 1979 (44 FR 50371). This was done in recognition of the fact that state regulatory adoption procedures are more lengthy than was first anticipated. Today's action on the ozone portion of the New York plan is contingent on the submittal of the additional RACT regulations which were due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each January, beginning January 1, 1981, RACT requirements for CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in § 52.1673, "Approval status," which is revised at the end of this notice. If the RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will take appropriate remedial action.

It should be noted that the "second round" of RACT regulations, which were due for submittal by July 1, 1980, have not yet been formally submitted by the State. However, EPA has received drafts of proposed regulations for informal review and public hearings have been held by New York. Formal submission is expected early in October. On this basis, no action is being taken by EPA at this time with regard to this requirement.

F. Effective Date

EPA finds that good cause exists for making the action taken in this notice immediately effective for the following reasons:

- The SIP provisions being approved are already in effect under State law and EPA approval imposes no additional regulatory burden, and
- EPA has a responsibility under the Clean Air Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

II. Disposition of Proposed Conditions for Approval

This section is devoted to a discussion of the plan provisions for which conditional approval had been proposed by EPA, an identification of the supplemental material submitted by the State on May 1, 1980 and a discussion of comments submitted, where applicable.

A. Conditions Being Promulgated as Proposed

The following conditions (identified by the numbers used in Section IV, "Unfulfilled Requirements," of EPA's April 29, 1980 proposal) are being promulgated as proposed in Section 52.1674, "Part D—Conditions on Approval." The only comment received with regard to these conditions was dated June 24, 1980 from the New York State Department of Environmental Conservation, which indicated agreement with the substance and time frame for the corrective actions identified: 1. Proposed Condition (3): On or before May 1, 1981 the State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt emissions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency.

2. Proposed Condition (5): On or before July 1, 1980 the State must submit to EPA criteria and conformity of the outputs of the transportation planning process with the SIP.

It should be noted that the State made the required submission on July 2, 1980. This submission has been reviewed by EPA and is the subject of a notice of proposed rulemaking published in the **Federal Register** on September 15, 1980 at 45 FR 60930.

3. Proposed Condition (6): On or before July 1, 1981 the State must submit to EPA additional emissions inventory data for the baseline year and projected attainment year indicated in the SIP revision document. Such data shall be in a format equivalent to that presented in the EPA document, "Workshop on Requirements for Nonattainment Area Plans," April 1978 and shall be generated, in part, as a result of the emissions inventory improvement programs identified in the plan.

B. Conditions Being Deleted

In its May 1, 1980 submittal of supplemental information, the State provided documentation adequate to meet four of the conditions on the Niagara Frontier SIP proposed by EPA:

1. Proposed Condition (4): On or before August 1, 1980 the State must adopt and submit to EPA a revised 6 NYCRR Part 229, "Gasoline Storage and Transfer," which regulates all petroleum liquid storage in fixed roof tanks.

2. Proposed Condition (7): On or before April 1, 1980 the State must adopt and submit to EPA revisions to §§ 231.6(a) and 231.9(d) of 6 NYCRR part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating in attainment areas, but significantly impacting the air quality of nonattainment areas.

3. Proposed Condition (8): On or before August 1, 1980 the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

4. Proposed Condition (9): On or before August 1, 1980 the State must adopt and submit to EPA a revision to § 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act.

In a July 1, 1980 **Federal Register** notice (45 FR 44273) these proposed conditions were found to have been satisfied by the State. The reader is referred to that notice for a detailed description of the State's May 1, 1980 submission and a discussion of the reasons for EPA's findings and action. On the basis that the State's submission has eliminated the deficiencies to which these conditions were addressed, EPA is not promulgating these requirements as conditions for approval of the subject SIP revision for the Niagara Frontier area. For this reason EPA finds that for good cause further notice and comment on this action are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act).

C. Conditions Being Promulgated With Changes

1. Proposed Condition (1): On or before June 1, 1980 the State must submit to EPA adequate test procedures for determining the compliance of coke making equipment with the sulfur compound mass emission standards contained in Part 214.

Comment: In its June 24, 1980 letter, the State indicated that, due to its administrative procedures necessary to address comprehensively all regulatory revisions required by EPA conditional approval, additional time would be required to carry out the necessary corrective action. The State requested that the deadline for fulfilling this condition be changed to January 1, 1981.

Response: EPA finds the State's request adequately justified and is promulgating the condition with a revised deadline of January 1, 1981. EPA further finds that for good cause additional notice and comment on this action are unnecessary (See 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The State is the party responsible for meeting the deadlines and, as discussed in this subsection, the State has agreed to undertaking the corrective action necessary. In addition, the public has had an opportunity to comment generally on the concept of conditional approval, on the substance of this specific condition, and on the deadline applicable to this condition; no other comment, other than the State's, was received on this condition.

2. Proposed Condition (2): On or before December 1, 1980 the State must revise § 200.1(j), "By-product coke oven battery," to provide for an acceptable definition of coke oven batteries.

Comment: In its June 27, 1980 letter, Bethlehem Steel Corporation indicates that this condition is unnecessary "in view of specific control requirements for coke oven batteries set forth in Part 214." It is claimed that "EPA is attempting to expand the control requirements of Part 214."

Response: In its April 29, 1980 notice of proposed rulemaking, EPA stated that a clear definition of the affected source, the coke oven battery, is central to the enforceability of the regulation. The fact that specific control requirements are presented in Part 214 bears minimally on the definition of a coke oven battery. A clearer interpretation of the equipment comprising a coke oven battery is necessary for the purpose of evaluating whether the specific control requirements have been applied in a manner consistent with the provisions of Part 214. Therefore, except for a change in the deadline applicable to this condition, as will be discussed, EPA is promulgating this proposed condition unchanged.

Comment: In its June 24, 1980 letter, the State indicated that, due to its administrative procedures necessary to address comprehensively all regulatory revisions required by EPA conditional approval, additional time would be required to carry out the necessary corrective action. The State requested that the deadline for fulfilling this condition be changed to January 1, 1981.

Response: EPA finds the State's request acceptable and is promulgating the condition with a revised deadline of January 1, 1981. EPA further finds that for good cause additional notice and comment on this action are unnecessary (See 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The State is the party responsible for meeting the deadlines and, as discussed in this subsection, the State has agreed to undertaking the corrective action necessary. In addition, the public has had an opportunity to comment generally on the concept of conditional approval, on the substance of this specific condition, and on the deadline applicable to this condition; no other comments, other than the State's, were received on the deadline applicable to this condition.

III. Other Comments Received and Issues Raised

This section is devoted to a discussion of and response to those comments received by EPA which did not pertain to the specific conditions on approval proposed in the April 29, 1980 notice. These comments were contained in the June 27, 1980 letter from Bethlehem Steel, the July 5, 1979 letter from Covington & Burling on behalf of the Manufacturing Chemists Association, and the August 6, 1979 letter from the Natural Resources Defense Council, Inc.

A. Other Issues Raised by Bethlehem Steel

Comment: The Niagara Frontier is an attainment area for sulfur dioxide, thus not requiring a SIP revision. Therefore, in the context of attainment of the sulfur dioxide standards, EPA's comments and conditional approval are not appropriate. The claim that this area is "attainment" is based on a New York State Department of Environmental Conservation air quality report for 1978.

Response: EPA has reviewed the record it and the State used in developing the attainment status

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designations promulgated on March 3, 1978 (43 FR 8962) and later revised on January 25, 1979 (44 FR 5119). This record, based generally on air quality observations for 1977, supports the "nonattainment" designations presently in effect. While it could be argued that New York State might have requested a redesignation based on later air quality observations made during 1978 and 1979, this has not occurred. Further, the diffusion modeling performed by the State and presented in its SIP revision document identifies a number of sulfur dioxide hotspots at which air quality is worse than the annual primary standard. Since the "nonattainment" designation made pursuant to Section 107(d) of the Clean Air Act triggers the requirement for a SIP revision subject to Clean Air Act Part D requirements, EPA must review the State's submission for consistency with such requirements and must publish its approval or disapproval as is being done today.

Comment: EPA does not have authority under the Clean Air Act to approve a SIP revision conditionally. EPA must either approve or disapprove the entire plan on the basis of the criteria in Section 110(a)(3)(A) of the Act.

Response: EPA must reaffirm its policy of exercising conditional approval in cases where minor deficiencies exist in a SIP. The inherent authority of federal agencies to grant conditional approvals is firmly established. In *McManus* v. *Civil Aeronautical Board*, 286 F. 2d 414, 419 (2d Cir.), cert. denied 366 U.S. 929 (1961), the court expressly upheld the power of the Board to conditionally approve certain agreements, saying: "Nor is the Board bound to approve or disapprove agreements in their entirety. . . . The power to condition its approval on the incorporation of certain amendments is necessary for flexible administrative action and is inherent in the power to approve or disapprove." The reader should also take notice of *National Air Carrier Association* v. *Civil Aeronautics Board*, 436 F. 2d 185, 190 (D.C. Cir. 1970), which applied the holding in McManus to "a closely parallel power to grant approval for a limited time." Similarly, in *Friends of the Earth* v. *EPA*, 499 F. 2d 1118, 1124 (2d Cir. 1974), the court upheld EPA's procedure of approving transportation control plans which lacked detailed regulations in cases where EPA had been furnished assurances that the regulations would subsequently be submitted. The Second Circuit found such a procedure, which resembles conditional approval, to be a reasonable method of carrying out a "difficult and complex job." Id.

EPA feels that the concept of conditional approvals is appropriate to the SIPs for the following reason. A fundamental purpose of Part D of the Act was to permit reasonable economic growth in nonattainment areas at the same time that reasonable further progress is being made toward attainment by the required deadlines. Where a state plan substantially satisfies the Part D requirements, but lacks minor portions that themselves do not interfere with attainment of ambient standards, it would be contrary to the intent of Congress to impose the growth moratorium specified in the Act. Thus, conditional approval prevents the unnecessarily harsh application of the moratorium in states which have made good faith efforts and submitted plans which have only minor deficiencies, where the state has committed to fixing the deficiencies within a set time. Therefore, the concept of conditional approval is consistent with the intent of the 1977 Amendments, as well as being within the inherent authority of the Agency.

Further, the sole use of the criteria in Section 110(a)(3)(A) would clearly be inappropriate. Congress has clearly mandated requirements for nonattainment area plans; these are specifically defined in Section 172(b) of the Clean Air Act.

Comment: EPA objections to the "delayed compliance orders" are not relevant insofar as EPA has not formally advised Bethlehem Steel of its findings that these administrative orders do not qualify as "delayed compliance orders." The bases for such findings are not expressed in the April 29, 1980 notice and compliance has been achieved. Further, since these orders have been formally submitted as Part of the SIP revision, EPA's position is inconsistent with its own policy that "EPA will not be bound by any agreement between the source and the State *unless* (emphasis added) the agreement's provisions are incorporated into the SIP through a formal SIP revision process."

Response: EPA has, since 1975, been in continuous contact with responsible staff representing the Bethlehem Steel Corporation with regard to control measures necessary to achieve compliance with 6 NYCRR Part 214, as approved and incorporated into the New York SIP. The Clean Air Act Amendments of 1977 provide for collection of "noncompliance penalties" pursuant to Section 120 and issuance of "delayed compliance orders" pursuant to Section 113. In the course of negotiations since the enactment of the 1977 Amendments, EPA has consistently stated that the control measures being proposed by Bethlehem Steel do not fulfill any of the Section 113 criteria for "delayed compliance orders," including the use of "innovative technology." This is the basis for EPA's findings, which were expressed in its April 29, 1980 notice. As stated in that notice, EPA cannot be bound by State approval of a compliance date extension with regard to the collection of noncompliance penalties.

EPA, while recognizing that the source has taken corrective steps toward achieving compliance, must, as mandated by Section 120, evaluate the "noncompliance penalty" issue in the context of "economic value which a delay in compliance beyond July 1, 1979 may have for the owner of such source . . ." and "amount of expenditure made by the owner or operator of that source . . . for the purpose of bringing that source into, and maintaining compliance. . . ."

With regard to the last issue raised in the comment, EPA does not believe that it is being inconsistent with its own policy. The provisions of the agreement between the State and the source are not being incorporated into the SIP insofar as they are incompatible with the "continuity policy" discussed in the April 29, 1980 notice and the April 4, 1979 "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" (44 FR 20372), and the "noncompliance penalty" requirements discussed above. This issue is further discussed in EPA's notice of proposed rulemaking addressing the particulate matter provisions of the Niagara Frontier SIP (August 15, 1980; 45 FR 54372).

Comment: The Part 214 sulfur emission limit is incorrectly referenced in the April 29, 1980 notice. The regulation, it is claimed, provides a limitation of 0.5 grains of sulfur compounds per dry standard cubic foot of total coke oven gas produced, not 0.05 grains per dry standard cubic foot as stated by EPA. The error arises as a result of a typographical error in the printed version of Part 214.

Response: The commentor is correct. The State, in formally carrying out its administrative procedures for adoption, has corrected the typographical error. EPA, in its review of the SIP revision, premised its findings on the correct standard of 0.5 grains of sulfur compounds per dry standard cubic foot of total coke oven gas produced and is incorporating this standard into the approved SIP.

B. Other General Comments

General comments addressed at national EPA policy and, therefore, applicable to all comprehensive SIP revisions prepared pursuant to Part D of the Clean Air Act were submitted by the Natural Resources Defense Council and the law firm of Covington & Burling on behalf of the Chemical Manufacturers Association. These comments and EPA's response to them are presented in a final rulemaking notice for New York State published on February 5, 1980 at 45 FR 7803.

C. Other Issues

In previous notices of final rulemaking addressing the New York SIP (February 5, 1980, 45 FR 7803; May 21, 1980, 45 FR 33981) EPA promulgated a number of additions to § 52.1670, "Identification of plan," which served to list State submissions being incorporated into the EPA-approved plan. It has become apparent that typographical errors occurred in paragraph (c)(44) of this section. As a result, as part of today's action, EPA is taking steps to correct these errors by repromulgating the entire subject paragraph.

Dated: November 4, 1980.

(Secs. 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Note.— Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1980.

Note.— Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670 paragraph (c) is amended by revising subparagraph (c)(44) and by adding a new subparagraph (c)(54) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(44) Supplementary submittals of SIP revision information from the New York State Department of Environmental Conservation, insofar as they deal with all provisions except those for attainment of particulate matter standards in the Niagara Frontier Air Quality Control Region, dated: (i) May 23, 1979, dealing with new source review and growth tracking provisions, adoption of proposed regulations, schedule for hydrocarbon emissions inventory improvements, identification of resources necessary to carry out the SIP, schedule for development of a public participation program, schedule for development of transportation planning process improvements, the need for an 18-month extension for the City of Syracuse and Village of Solvay, demonstration of control strategy adequacy for the area addressed by the Capital District and Town of Catskill plan revision document, compliance schedules for two facilities in the Hudson Valley Air Quality Control Region, and development of a local government consultation program in Jamestown, New York.

(ii) May 31, 1979, dealing with adoption of proposed regulations, hydrocarbon emission inventory improvements, schedule for development of transportation planning process improvements, and compliance schedules for two facilities in the Hudson Valley Air Quality Control Region.

(iii) June 12, 1979, providing a final draft of the proposed regulations, information on the compliance schedule for a facility in the Hudson Valley Air Quality Control Region, and general information on development of compliance schedules. The proposed regulations to be incorporated in Title 0 of the New York Code of Rules and Regulations are as follows:

(A) Part 200, General Provisions (revision);

(B) Part 211, General Prohibitions (revision);

(C) Part 212, Process and Exhaust and/or Ventilation Systems (revision);

(D) Part 223, Petroleum Refineries (revision);

(E) Part 226, Solvent Metal Cleaning Processes (new);

(F) Part 228, Surface Coating Processes (new);

(G) Part 229, Gasoline Storage and Transfer (new); and

(H) Part 231, Major Facilities.

(iv) June 18, 1979, dealing with new source review provisions, general information on development of compliance schedules, and adoption of proposed regulations.

(v) August 10, 1979, providing a comprehensive set of adopted regulations. Action is only taken on adopted regulatory revisions previously submitted on June 12, 1979—Parts 200, 211, 223, 226, 228, 229, and 231.

(vi) September 26, 1979, providing additional information regarding the EPA notice of proposed rulemaking (44 FR 44556, July 30, 1979) which deals with the adoption of regulations for control of volatile organic compound sources for source categories addressed by Control Technology Guideline documents issued subsequent to December 1977, regulatory revisions to 6 NYCRR Parts 211 and 229, the transportation planning process, emissions inventory improvements, new source review procedures, public participation and local government consultation programs, and adoption of regulations.

(vii) October 1, 1979, dealing with new source review procedures.

(viii) November 13, 1979, providing a "declaratory ruling" regarding interpretation of the provisions of 6 NYCRR Part 231 in implementing the new source review program.

(ix) November 14, 1979, providing supplemental documentation on the administrative process of revising regulations.

(x) February 20, 1980, dealing with public hearings to revise Parts 229 and 231 of 6 NYCRR consistent with corrective action indicated by EPA.

* * * * *

(54) A document entitled, "New York State Air Quality Implementation Plan—Niagara Frontier, Erie and Niagara Counties," submitted on May 31, 1979 by the New York State Department of Environmental Conservation. The administrative orders for Bethlehem Steel Corporation, referenced by this document, are not being incorporated as part of the plan.

2. Section 52.1673 is revised to read as follows:

§ 52.1673 Approval status.

With the exceptions set forth in this subpart, the Administrator approves New York's plan for the attainment and maintenance of the national standards under Section 110(a)(2) of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title I of the Clean Air Act, as amended in 1977, except as noted below in § 52.1674 and for the mass transportation improvement provisions of the plan for the New Jersey-New York-Connecticut Air Quality Control Region and the provisions of the plan for the Niagara Frontier Air Quality Control Region addressing attainment of particulate matter standards. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP

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depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

3. Section 52.1674 is amended by revising the introductory paragraphs in paragraphs (a), (b), and (c) and adding a new paragraph (g) as follows:

§ 52.1674 Part D—Conditions on approval.

The following actions must be carried out by the State for correction of unfulfilled requirements of Part D of the Clean Air Act:

(a) The following conditions shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone standard in those areas of the Central, Genesee Finger Lakes, Hudson Valley, Niagara Frontier and New Jersey-New York-Connecticut Air Quality Control Regions designated as nonattainment for this pollutant in § 81.333 of this chapter, when last revised.

* * * * *

(b) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone and carbon monoxide standards in those areas of the Central, Genesee Finger Lakes, Niagara Frontier and Hudson Valley Air Quality Control Regions designated as nonattainment for each of these pollutants in § 81.333 of this chapter, when last revised.

* * * * *

(c) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone and particulate matter standards in those areas of the Central and Hudson Valley Air Quality Control Regions, the ozone and sulfur dioxide standards in those areas of the Niagara Frontier Air Quality Control Region, the particulate matter standard in those areas of the Southern Tier West Air Quality Control Region, and the ozone standard in those areas of the Genesee Finger Lakes Air Quality Control Region designated as nonattainment for each of these pollutants in § 81.333 of this chapter, when last revised.

* * * * *

(g) The following conditions shall be applicable to the New York State plan with regard to its provisions for attainment of the sulfur dioxide standards in those areas of the Niagara Frontier Air Quality Control Region designated as nonattainment for this pollutant in § 81.333 of this chapter, when last revised.

(1) On or before January 1, 1981 the State must submit to EPA adequate test procedures for determining the compliance of coke making equipment with the sulfur compound mass emission standard contained in Part 214.

(2) On or before January 1, 1981 the State must revise § 200.1(j), "Byproduct coke oven battery," to provide for an acceptable definition of coke oven batteries.

4. Section 52.1682 is amended by deleting the entry in the table identified as "Niagara Frontier Intrastate" and inserting, in its place, new entries as follows:

§ 52.1682 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
Niagara Frontier Intrastate:							
City of Buffalo (portion)	e	e	b	a	a	b	b
City of Lackawanna (portion)	e	e	b	a	a	a	b
City of Cheektowaga (portion)	e	e	a	a	a	b	b
Town of Amherst (portion)	a	a	a	a	a	b	b
Remainder of AQCR	e	e	a	a	a	a	b

[FR Doc. 80-34984 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 52

[A-3-FRL 1662-3]

Approval of Revision of the State of West Virginia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On November 9, 1978, (43 FR 52239) the Administrator approved as a revision to the West Virginia State Implementation Plan (SIP), amendments to the State's Regulation X dealing with sulfur dioxide (SO_2) emissions from electric power generating plants. In response to petitions for review in the United States Court of Appeals for the Third Circuit, EPA reconsidered the air quality impacts of the revised emission limitations for two of the power stations affected by the revisions. On November 7, 1979, (44 FR 64439) on the basis of its reconsideration, EPA proposed to approve again the emission limitations for the two power plants. EPA today takes final action to approve again the emission limitations for the two power plants as adequate to ensure attainment and maintenance of the primary national ambient air quality standard for SO_2. EPA has determined, however, that these limitations are not adequate to ensure attainment and maintenance of the secondary national ambient air quality standard for SO_2. In a separate notice published elsewhere in today's **Federal Register**, EPA is informing the State of this plan deficiency and requiring the State within nine months to submit a control strategy that demonstrates attainment and maintenance of the secondary SO_2 standard.

EFFECTIVE DATE: December 10, 1980.

ADDRESSES: Copies of the SIP revision and supporting material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

ATTN: Patricia Sheridan, Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. William Belanger, Air Programs Branch (3AH13), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, telephone (215) 597-8188.

SUPPLEMENTARY INFORMATION:

I. Background

West Virginia amended its Air Pollution Control Commission Regulation X, sulfur dioxide (SO_2) emission controls for power plants, and submitted the amended regulation to EPA in January 1978; further amendments were submitted during the course of the year. EPA approved most of the changes. 43 FR 52239 (November 9, 1978). In January 1979, the Commonwealth of Pennsylvania and six citizens' organizations petitioned the United States Court of Appeals for the Third Circuit to review EPA's approval so far as it applied to the Mitchell and Harrison power stations. In response to these petitions, EPA reviewed the record of its action and at EPA's request the Court remanded two issues to EPA for reconsideration: dispersion modelling of the air quality impact of emissions from the two power stations, and an analysis of the impact of the Harrison station emissions on maximum allowable increases ("increments") under EPA's regulations for the prevention of significant degradation of air quality ("PSD"). The Court allowed the revisions to remain in effect while EPA reviewed these two issues.

The SO_2 emission limit for the Harrison station was an interim limit effective until November 8, 1979, or until EPA promulgated final regulations concerning credit for tall smokestacks, whichever occurred first. 42 U.S.C. 7423. As EPA has not promulgated such regulations, the interim Harrison limitation would have expired during the remand period; EPA therefore extended Harrison's interim emission limit until such time as EPA adopts a permanent limit. 45 FR 39253 (June 10, 1980).

On November 7, 1979, EPA proposed to reapprove the Regulation X amendments remanded to it for reconsideration. On the basis of its review and consideration of comments submitted to it, EPA today takes final action to approve those amendments as a revision of West Virginia's SIP for attainment and maintenance of the primary national ambient air quality standards ("NAAQS") for SO_2.

EPA's review found, however, that West Virginia's control strategy does not demonstrate attainment and maintenance of the secondary SO_2 standard. Dispersion modelling using the CRSTER model with the most recent five years of meteorological data predicted a violation of the three-hour secondary SO_2 standard under meteorological conditions which occurred in one of those years. As a result, the State's control strategy is not adequate to ensure attainment of the secondary SO_2 standard. In a separate notice in today's **Federal Register**, EPA is informing the State of this deficiency. EPA is also calling on the State to submit within nine months either a revision of its control strategy or a demonstration that the current control strategy is adequate to protect the secondary SO_2 standard. If the State determines that additional emission limitations are needed to protect the secondary SO_2 NAAQS, the State must also prescribe a schedule for compliance with the new limits within a reasonable time.

Section 110(a)(2)(A) of the Clean Air Act and EPA regulations require that a compliance schedule provide for attainment of the secondary standard within a reasonable period of time. EPA regulations provide that a state may consider social, economic and technological factors in determining a reasonable schedule for attainment of secondary standards. 40 CFR 51.13(b) (1979).

EPA is aware that the State and the representatives of the utility owners, coal companies and coal miners have alleged that severe social and economic disruption will occur if the power stations are required to reduce their emissions below the levels approved today as adequate for primary standard attainment. The Agency recognizes that some methods of attaining the secondary SO_2 standard, such as switches to low sulfur coal, could result in localized job losses in the coal mining industry and related businesses. If the State determines that additional emission limitations are necessary to demonstate attainment of the secondary SO_2 standard, EPA encourages the State to take into account potential adverse employment effects when establishing a compliance schedule to carry out any necessary secondary SO_2 standard control strategy, and to consider control strategies and compliance schedules that will avoid or minimize social and economic disruption. If desired by the State, EPA personnel will work with the State to develop approaches that ensure secondary SO_2 standard attainment within a reasonable time while minimizing any adverse employment impacts.

II. Control Strategy Demonstration

In its November 7, 1979, notice proposing approval of this revision, EPA noted that its original action and proposed reapproval were based on its conclusion that the one modelled violation of the secondary SO_2 standard was so unlikely to occur that the violation should not be used as a basis for establishing emission limitations for the power plants. EPA's evaluation of the probability of the violation was based on a statistical analysis that related worst-case meteorology to sulfur variability in coal and calculated the likelihood that worst-case meteorology would coincide with worst-case sulfur content.

EPA has since concluded that the use of such statistical techniques should be evaluated for general Agency use and subject to public comment before being used by the Agency to analyze SIP revisions. Since the Agency has not yet completed review of statistical methodologies for general use, it has determined that it would be inappropriate to approve the instant revision based on a statistical analysis. Under the Agency's current policy and modelling guidelines, the State's control strategy does not demonstrate attainment and maintenance of the secondary SO_2 standard.

III. PSD Analysis

The Harrison plant emission limit was amended after June 19, 1978, the date on which EPA's PSD regulations applied in some respects to SIP revisions. EPA therefore agreed to model the plant's impact on affected clean air areas. The analysis showed that the plant's emissions would not cause degradation of air quality in excess of the PSD increments applicable in nearby Class II areas or in more distant Class I areas.

IV. Public Comments

Parties to the lawsuit concerning these emissions limits submitted extensive technical comments on EPA's proposed approval. These comments and EPA's responses are set forth in a rationale document which is available to interested members of the public at the addresses given at the beginning of this Notice.

V. EPA Evaluation

West Virginia's proposed SIP revision will attain and maintain the primary SO_2 NAAQS and to this extent meets the requirements of Section 110(a) of the Clean Air Act and 40 CFR Part 51.

VI. Final Action

The Administrator approves the above-described amendments of West Virginia's Air Pollution control Commission Regulation X as a revision to the State's Implementation Plan to attain and maintain the primary national ambient air quality standard for sulfur dioxide.

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Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged in civil or criminal proceedings to enforce these requirements.

The Adminstrator has reviewed this regulation and determined that it is a specialized regulation not subject to procedural requirements for significant regulations under Executive Order 12044.

(42 U.S.C. 7401-642)

Dated: October 31, 1980.

Douglas M. Costle,

Administrator.

Note:— Incorporation by reference of the West Virginia State Implementation was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart XX–West Virginia

1. Section 52.2520, paragraph (c)(3), is added as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(3) Amended Sections 3.01(2) and 3.03(1) of Regulation X (to prevent and control air pollution from the emission of sulfur oxides), submitted on January 25, 1978 and amended September 13, 1978 by the Governor.

2. Section 52.2522, paragraph (e), is added as follows:

§ 52.2522 Approval status.

* * * * *

(e) The Administrator approves the amended Sections 3.01(2) and 3.03(1) of West Virginia Air Pollution Control Commission Regulation X submitted January 25, 1978 and amended September 13, 1978, as a plan for attainment of the primary SO_2 NAAQS. The Administrator does not approve the State's control strategy for attainment and maintenance of the secondary SO_2 NAAQS submitted on those dates, so far as it applies to the Mitchell and Harrison power stations.

[FR Doc. 80-35080 Filed 11-7-80 8:45 am]

BILLING CODE 6560-28-M

40 CFR Part 52

[A-9-FRL 1663-3]

Imperial County Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On April 1, 1980 (45 FR 21297), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the Imperial County Nonattainment Area Plan (NAP) submitted on October 11 and 15, 1979. The April 1, 1980 notice proposed to disapprove the NAP because the lack of New Source Review (NSR) rules constituted a major deficiency with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas." On March 17, 1980, the State submitted NSR rules for Imperial County. As a result, the NAP contains only minor deficiencies with respect to Part D. Further, the State has initiated the process to submit the material to correct the minor deficiencies. Therefore, EPA takes final action to conditionally approve the Imperial County NAP as a revision to the California State Implementation Plan (SIP). This action removes the prohibition on construction of certain major new or modified sources in Imperial County.

This notice also provides a brief summary of the proposed rulemaking notice, describes recent revisions which supplement the NAP, discusses public comments, specifies deadlines by which the State is required to submit the material to correct the minor deficiencies, and describes EPA's final action on the Imperial County NAP.

DATES: This action is effective November 10, 1980.

ADDRESS: A copy of the revision is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On October 11 and 15, 1979, the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted revisions to the California SIP consisting of a control strategy and regulations for Imperial County. These revisions, submitted as the Imperial County NAP, are intended to provide for the attainment of the ozone NAAQS in Imperial County.

On April 1, 1980 (45 FR 21297), EPA published a notice of proposed rulemaking for the Imperial County NAP. That notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and, as described below, proposed to approve, conditionally approve or disapprove portions of the NAP. The April 1, 1980 notice should be used as a reference in reviewing today's action.

EPA proposed to approve the following portions of the NAP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources, public and governmental involvement, and public hearing. These portions of the NAP were found to be consistent with the requirements of Part D of the Clean Air Act.

EPA proposed to conditionally approve the legally adopted measures portion of the NAP because the lack of a cutback asphalt rule constituted a minor deficiency with respect to Part D.

EPA proposed to disapprove the permit program portion of the NAP because the lack of an NSR rule constituted a major deficiency with respect to Part D.

As noted in the April 1, 1980 notice, approval or conditional approval of all portions of the NAP is sufficient to lift the current prohibition on construction of certain major new or modified sources in Imperial County. As a result of the lack of an NSR rule, the April 1, 1980 notice proposed to disapprove the overall Imperial County NAP and continue the construction prohibition.

Supplemental Revisions

Subsequent to EPA's review, which appears in the April 1, 1980 notice, the State submitted revisions which supplement portions of the NAP. These revisions are discussed below.

New Source Review

As discussed in the April 1, 1980 notice, a legally enforceable NSR rule was not included in the NAP and this constituted a major deficiency. However, the State did submit a draft NSR rule. EPA reviewed the draft NSR rule (See EPA's Evaluation Report) and concluded that it contained only minor deficiencies with respect to the Part D requirements. Thus, EPA proposed that the permit program portion of the NAP could be conditionally approved if the State submitted an adopted NSR rule similar and equivalent to the draft NSR rule.

On March 17, 1980, the Governor's official designee submitted the following NSR rules for the Imperial County Air Pollution Control District (APCD):

Rule 207—Standards for Permits to Construct [Subparagraph C.4. of this rule, which addresses significant deterioration requirements, is not reviewed here, but will be discussed in a future **Federal Register** notice.]

Rule 208—Standards for Permits to Operate

Rule 209—Implementation Plans

Section 173 of the Act contains the requirements for approval of a permit program. EPA has established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling (January 16, 1979, 44 FR 3274) and (2) EPA's proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling (September 5, 1979, 44 FR 51924).

EPA has reviewed the Imperial County APCD's NSR rules with respect to the draft NSR rule and to the guidance based on Section 173 and EPA policy regarding rural ozone areas. The Imperial County APCD's NSR rules differ from both the draft NSR rule and the Section 173 guidance. The only major difference is that subparagraph C.5. of Rule 207 exempts certain categories of sources from the "lowest achievable emission rate" (LAER) requirements. These exemptions are not authorized by the Clean Air Act. An NSR permit program cannot be approved or conditionally approved with these exemptions. The Imperial County APCD's NSR rules contain additional minor deficiencies with respect to the Section 173 guidance, including a definition of "stationary source" less stringent than is required and the failure to regulate secondary emissions. These and other minor deficiencies are described in EPA's Evaluation Report Addendum which is available at the Region IX office, the ARB, the Imperial County APCD, and the EPA Library in Washington, D.C. Thus, with the exception of the LAER exemptions, the Imperial County APCD's NSR rules are similar and equivalent to the draft NSR rule and contain only minor deficiencies with respect to Section 173.

It should be noted that EPA is approving certain offset provisions in the Imperial County APCD's NSR rules which would be disapproved in an urban area. (See Evaluation Report Addendum). These provisions are being approved because EPA's rural ozone policy does not require emission offsets for rural areas. Further, although the rules allow interpollutant offsets, sources may not avoid the requirements of NSR or prevention of significant deterioration (PSD) by the use of interpollutant offsets.

It should also be noted that EPA recently published two final rulemaking notices on the September 5, 1979 proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's Interpretative Ruling and set out EPA requirements for NSR under Section 173. The State is required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the Imperial County APCD's NSR rules the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum (contained in Document File NAP-CA-06 at the EPA Library in Washington, D.C. and the Region IX office).

Public Comments

Comments Specific to the Imperial County NAP

During the public comment period, EPA received several comments. These comments and EPA's responses follow.

Comment: The Imperial County APCD commented that it intends to limit cutback asphalt emissions to a level below 100 tons/year without adopting a rule for cutback asphalt sources. The Imperial County APCD believes this strategy would satisfy EPA's proposed condition of approval regarding the lack of a cutback asphalt rule. The Imperial County APCD also commented that it should not be required to adopt a cutback asphalt rule for sources which emit less than 100 tons/year since such a rule would control only 2 percent of the volatile organic compound (VOC) emissions in the County.

Response: EPA has determined that the Imperial County APCD's strategy of limiting cutback asphalt emissions is not enforceable and thus not acceptable. EPA requires that a legally enforceable cutback asphalt rule be adopted, which reflects reasonably available control technology (RACT), if cutback asphalt emissions are more than 100 tons/year for the County.

Comment: After the above comment and during the public comment period, the Imperial County APCD committed to adopting a cutback asphalt rule which meets EPA's requirements. The Imperial County APCD, however, requested an extension for satisfying this condition of approval.

Response: Before a NAP can be conditionally approved, EPA must receive assurance from the State that the deficiencies will be remedied. Senate Bill 647, enacted on September 23, 1979 by the State Legislature, prevents ARB from amending cutback asphalt rules which an APCD has adopted. Because of this legislation, a commitment for adopting a rule to satisfy this condition of approval must come from the Imperial County APCD. EPA feels that the commitment made by the Imperial County APCD provides sufficient assurance for EPA to proceed to conditional approval. In response to the Imperial County APCD's request, EPA has revised the deadline for satisfying the condition of approval to January 1, 1981.

Comment: Two comments were received concerning EPA's proposed disapproval of the NAP due to the lack of an NSR rule. The commenters stated that the Imperial County APCD's NSR rules were submitted to EPA on March 17, 1980.

Response: A discussion of EPA's review of the NSR rules, which were submitted on March 17, 1980, is provided in the SUPPLEMENTAL REVISIONS section of this notice.

Comment: The ARB commented that they are committed to satisfying the condition of approval regarding the Imperial County APCD's NSR rules. The ARB, however, recommended that the date for satisying the condition of approval be amended to be consistent with the time frame specified in EPA's final NSR regulations.

Response: EPA feels that this commitment provides sufficient assurance to proceed to conditional approval. Further, in response to ARB's request, EPA has revised the deadline for satisfying the condition of approval to May 7, 1981.

Comment: The ARB stated that EPA did not consider the State's finding that a Stage I Gasoline Vapor Recovery rule is a reasonably available control measure (RACM) for Imperial County.

Response: The commitment made by the ARB (ARB Resolution 79-9) to adopt a Stage I Gasoline Vapor Recovery rule for Imperial County is incorporated into the SIP in today's notice.

National Comments

Comment and Response: One commenter submitted extensive comments which it requested to be considered part of the record for each state plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to the provisions in the Imperial County NAP, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments previously submitted on the Emission Offset Interpretative Ruling, as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of the comments on each state NAP. EPA responded to those comments in its final rulemaking on amendments to the Emission Offset Interpretative Ruling (May 13, 1980, 45 FR 3274 and August 7, 1980, 45 52676).

2. The commenter objected to general policy guidance issued by EPA on the grounds that EPA's guidance is more stringent than that required by the Act. Such general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove an SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2) of the Act. However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent Court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's NSR requirements for Part D NAPs as well. The decision is *Alabama Power Company* v. *Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commenter's view, the Court's rulings on the definition of "source," "modification" and "potential to emit" should apply to Part D NAPs as well as PSD programs. In addition, the commenter believes that the Court's decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emissions Offset Interpretative Ruling, as revised on January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification" and "potential to emit," and the areas in which NSR applies, govern state NAPs under Part D (44 FR 3275 Col. 3 through 3276 Col. 1, January 16, 1979). In proposed rules published on September 5, 1979 (44 FR 51924) and final rules published on May 13, 1980 (45 FR 3274) and August 7, 1980 (45 FR 52676), EPA explained its views on how the *Alabama Power* decision effects NSR requirements for state Part D NAPs.

4. The commenter questioned EPA's alternative emission reduction options policy (the "Bubble Policy"). As the commenter noted, EPA has set forth its proposed "Bubble Policy" in a separate proposal (44 FR 3720, January 18, 1979). EPA responded to the comments on the "Bubble" approach in the final "Bubble Policy" statement published on December 11, 1979 (44 FR 71780).

5. The commenter questioned EPA's requirement for a demonstration that the application of all RACM would not result in attainment any faster than the application of less than RACM. In EPA's review, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than RACM, the statutory deadline is the earlier date. While there is no requirement to apply more than RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the state must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is not practicable, it would not constitute a RACM.

6. The commenter found the discussion in the General Preamble on RACT for VOC sources covered by the Control Techniques Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the states for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in NAP development (44 FR 53671, September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for the submittal of Part D NAPs. EPA disagrees and this issue has been addressed in the General Preamble (44 FR 20377, April 4, 1979).

8. The commenter questioned EPA's authority to require states to consider transfers of technology from one source type to another as part of the LAER determinations. EPA responded to this comment in the May 13, 1980 (45 FR 3274) and August 7, 1980 (45 FR 52676) **Federal Register.**

9. The commenter suggested that if a state fails to submit a Part D NAP, or the submitted NAP is disapproved, EPA must promulgate a NAP under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a Federal promulgation. EPA has promulgated regulations which impose restrictions on construction in any nonattainment area for which a state fails to submit an approvable Part D NAP (44 FR 35853, July 2, 1979). Section 110(a)(2)(I) of the Act does not require a complete Federally promulgated SIP before the restrictions may go into effect.

Comment: Another commenter, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of state boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a state commitment to satisfy the permit fee and state board requirements before conditionally approving a NAP under Part D. In those states that fail to correct their omission within a required time, the commenters urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

Response: To be fully approved under Section 110(a)(2) of the Act, a state plan must satisfy the requirements for state boards and permit fees for all areas, including nonattainment areas. Several states have adopted provisions satisfying these requirements, and EPA is working with other states to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the state board provisions in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

EPA Actions

EPA's final actions on the Imperial County NAP are described below and are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

Approved Portions of the NAP

As proposed in the April 1, 1980 notice, EPA is taking final action under Part D to approve the following portions of the NAP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources, public and governmental involvement, and public hearing. No supplemental revisions or public comments were received addressing these portions of the NAP.

Also as proposed, EPA is taking final action under Section 110 and Part D to approve all the VOC rules listed in the April 1, 1980 notice. No supplemental revisions or public comments were received addressing these rules.

Conditionally Approved Portions of the NAP

Although the State did not officially submit NSR rules with the NAP in October 1979, the State did submit their draft NSR rule and requested EPA to review this rule. As described in the April 1, 1980 notice, EPA reviewed the draft NSR rule, determined that it contained only minor deficiencies with respect to Section 173, stated that the NAP could be conditionally approved upon submittal of an NSR rule similar and equivalent to the draft NSR rule, and provided an opportunity for public comment on these actions.

As stated in the Supplemental Revisions section, EPA has found that the Imperial County APCD's NSR rules submitted on March 17, 1980 are similar and equivalent to the State's draft NSR rule and contain only minor deficiencies with respect to Section 173, with the exception of the LAER exemptions in subparagraph C.5. of Rule 207. Further, EPA found that a NAP containing these exemptions cannot be approved or conditionally approved. Therefore, EPA disapproves this subparagraph. As a result, the Imperial County APCD's NSR rules are conditionally approvable with respect to Section 173. Further, the conditionally approvable rules are similar and equivalent to the draft NSR rule which was subject to public comment. Therefore, EPA takes final action to conditionally approve the Imperial County APCD's NSR rules (permit program portion of the NAP) with the exception of subparagraph C.5. of Rule 207 which is disapproved.

As discussed in the April 1, 1980 notice and as discussed in the Public Comments section of this notice, the legally adopted measures portion of the NAP contains a minor deficiency due to the lack of a cutback asphalt rule. Therefore, EPA takes final action to conditionally approve the legally adopted measures portion of the NAP.

The conditions of approval and the associated deadlines are specified below:

1. By May 7, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the Imperial County APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–06 at the EPA Library in Washington, D.C. and the Region IX office).

2. By October 1, 1980, a cutback asphalt rule which reflects RACT must be submitted as an SIP revision.

Final Action on the NAP

Since the major deficiency noted in the April 1, 1980 notice has been corrected and only minor deficiencies remain, EPA is taking final action by this notice to conditionally approve the overall Imperial County NAP with respect to Part D. As a result, the current prohibition on construction of certain major new or modified sources in Imperial County is no longer in effect.

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for Imperial County, EPA finds that good cause exists for making this action immediately effective.

Under Section 307(b)(1) of the Clean Air Act, judicial review of today's action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble (44 FR 38583, July 2, 1979 and 44 FR 67192, November 23, 1979). Conditional approval requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register,** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the NAP or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the NAP. If the NAP is disapproved, the Section 110(a)(2)(I) restrictions on construction would be reimposed.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) restrictions on construction are in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 21297, April 1, 1980).

40 CFR Part 52 Rescissions

EPA is taking final action to rescind certain Federally promulgated

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regulations from 40 CFR Part 52 as proposed. No supplemental revisions or public comments addressed EPA's proposed rescissions.

VOC RACT Requirements

The April 9, 1979 General Preamble (44 FR 20376) requires states to submit VOC RACT regulations for certain sources located in ozone nonattainment areas. The first set of RACT regulations were required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I CTG documents were to have been submitted by January 1, 1979. A second set of RACT regulations are required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II CTG documents were to have been submitted by July 1, 1980 (44 FR 50371, August 28, 1979). Continued satisfaction of the Part D requirements for the ozone portion of the Imperial County NAP is contingent on the submittal of the Group II RACT regulations. Further, these requirements have been set forth in 40 CFR 52.223.

Attainment Dates

The 1979 edition of 40 CFR Part 52 lists, in the Subpart for California, the applicable deadlines for attaining the NAAQS [attainment dates] required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on California's attainment date chart in 40 CFR Part 52. The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373–74, April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Note.—EPA has determined that this action is "specialized," and therefore not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 129, 171–178, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501–7508, and 7601(a)])

Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1980.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(52)(ii), (c)(55), and (c)(56), as follows:

§ 52.220 Identification of plan.

* * * * *

(52) * * *

(ii) Imperial County APCD.

(A) Rules 415.1 and 424.

* * * * *

(55) The following material for Imperial County was submitted on October 11, 1979 by the Governor's designee.

(i) Summary of Plan Compliance with Clean Air Act Requirements.

(ii) Imperial County plan to attain National Ambient Air Quality Standards for oxidants, October 31, 1978.

(iii) SIP Revision—Imperial County ARB Staff Report, No. 79–4–2.

(iv) ARB resolution 79–9, February 21, 1979.

(v) Copies of Board hearing testimony.

* * * * *

(56) Revised regulations for the following APCDs submitted on March 17, 1980, by the Governor's designee.

(i) Imperial County APCD.

(A) Rules 207 [except Subparagraph C.4.], 208, and 209.

* * * * *

2. Section 52.222, paragraph (b) is revised to read as follows:

§ 52.222 Extensions.

* * * * *

(b) The Administrator hereby extends to December 31, 1982 certain attainment dates for the national standards for carbon monoxide (CO), ozone (O_3), total suspended particulates (TSP), nitrogen dioxide (NO_2), and/or sulfur dioxide (SO_2) in the following nonattainment areas:

(1) Imperial County for O_3.

* * * * *

3. Section 52.223 is revised to read as follows:

§ 52.223 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves California's plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act.

(b) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in 1977, for the nonattainment areas listed in this paragraph. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the State Implementation Plan (SIP) depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for sources covered by Control Technique Guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

(1) Imperial County for O_3.

* * * * *

4. Subpart F of Part 52 is amended by adding § 52.232, reading as follows:

§ 52.232 Part D conditional approval.

(a) The following portions of the California SIP contain deficiencies with respect to Part D of the Clean Air Act which must be corrected within the time limit indicated.

(1) The Imperial County portion of the California SIP is approved as satisfying Part D requirements for O_3 provided the following conditions are met.

(i) By May 7, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications."

In revising the Imperial County APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–06 at the EPA Library in Washington, D.C. and the Region IX office).

(ii) By January 1, 1981, a cutback asphalt rule which reflects reasonably available control technology (RACT) must be submitted as an SIP revision.

* * * * *

5. Section 52.233 is amended by adding paragraph (a), as follows:

§ 52.233 Review of new sources and modifications.

(a) The following regulations are disapproved because they are not consistent with Clean Air Act requirements.

(1) Imperial County APCD.

(i) Subparagraph C.5. of Rule 207, *Standards for Permit to Construct*, submitted March 17, 1980.

* * * * *

6. Section 52.233, subparagraphs (h) and (i) are hereby revoked and reserved.

* * * * *

7. In § 52.238, the column headings are revised, the entries for Southeast Desert Intrastate are revised, a second "Note" is added, and footnote (h) is added to footnotes (a)–(g), as follows:

§ 52.238 Attainment dates for national standards.

* * * * * * *

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO	CO	O_3
	Primary	Secondary	Primary	Secondary			
* * * * * * *							
Southeast Desert Intrastate:							
a. Imperial County portion	(e)	(e)	(e)	(e)	(e)	(e)	(h)
b. Remainder of AQCR	(a)	(a)	(e)	(e)	(e)	May 31, 1977	May 31, 1977
* * * * * * *							

Note.—Dates or references which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

Note.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52.238 (1979).

* * * * * * * *

(h) December 31, 1982.

* * * * * * * *

[FR Doc. 80-35089 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5770

[A-9224]

Arizona; Public Land Order No. 5756; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order

SUMMARY: This document will correct an error in the land description of Public Land Order No. 5756 of September 22, 1980.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202–343–6486.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of land in Public Land Order No. 5756 of September 22, 1980, as published in 45 FR 63850–63851 of the issue of September 26, 1980, is hereby corrected by changing lot 9 to read S½S½NE¼NE¼ in Sec. 19, T. 8 S., R. 18 W. The total acreage remains unchanged.

Guy R. Martin,

Assistant Secretary of the Interior.

November 4, 1980.

[FR Doc. 80-34892 Filed 11-7-80 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 306

Assignment of Benefits; Collection of Medical Support and Payments; Correction

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Correction of final regulations.

SUMMARY: This notice corrects an error in the final regulations published in the **Federal Register** on February 11, 1980 (45 FR 8982) on medical support enforcement. The final regulations contain an incorrect regulatory citation in 45 CFR 306.10(j).

EFFECTIVE DATE: May 12, 1980.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald (301) 443–5350.

SUPPLEMENTARY INFORMATION: In the **Federal Register** for Monday, February 11, 1980 make the following correction in FR Doc. 80–4030 appearing at page 8982: On page 8987, in the third column, in § 306.10(j), in the 2nd line, replace the citation "42 CFR 443.154" with the citation "42 CFR 433.154".

Dated: November 4, 1980.

Robert F. Sermier,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 80-35074 Filed 11-7-80; 8:45 am]

BILLING CODE 4110-07-M

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Twelfth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, Twelfth Revised Service Order No. 1473, modifies Appendix A of the previous order by granting authority to The La Salle and Bureau County Railroad Company in Item 24., from Chicago (milepost 4.26) and Blue Island, Illinois, (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

EFFECTIVE DATE: 12:01 a.m., November 6, 1980, and continuing in effect until 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decided: November 4, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Twelfth Revised Service Order No. 1473, modifies Appendix A of the previous order by adding Item 24., granting authority to The La Salle and Bureau County Railroad Company between Chicago (milepost 4.26) and Blue Island, Illinois, (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

1. The authority contained in Item 5(E) of Appendix A of this order, previously operated by the Union Pacific Railroad Company (UP) between Colby and Caruso, Kansas (milepost 387.8 to 429.3), is conditioned upon the assumption by Burlington Northern, Inc. (BN) of the negotiated agreement between UP and the Rock Island Trustee with regard to the compensation to be paid the Trustee for that line segment until a new agreement is reached between the Trustee and the BN.

(d) Interim operators authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the RI lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., November 6, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*
   - A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois
3. *Union Pacific Railroad Company (UP):*
   - A. Beatrice, Nebraska
   - B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska
   - C. Limon, Colorado
4. *Toledo, Peoria and Western Railroad Company (TP&W):*
   - A. Keokuk, Iowa
   - B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois
5. *Burlington Northern, Inc. (BN):*
   - A. Burlington, Iowa (milepost 0 to milepost 2.06)
   - B. Fairfield, Iowa (milepost 275.2 to milepost 274.7)
   - C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).
   - D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9)
   - E. CBQ Junction, Kansas (milepost 325.9) to Seibert, Colorado (milepost 487).
6. *Fort Worth and Denver Railway Company (FW&D):*
   - A. Terminal trackage at Amarillo, Texas, including approximately (3) three miles northerly along the old Liberal Line, and at Bushland, Texas.
   - B. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).
   - C. from Amarillo, Texas, to Liberal, Kansas (milepost 153.2), via Etter and Morse Junction, Texas, and between Morse Junction and Pringle, Texas; including the trackage rights of the former RI over The Atchison, Topeka and Santa Fe Railway Company between Amarillo and Etter, Texas.
7. *Chicago and North Western Transportation Company (C&NW):*
   - A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri
   - B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0)
   - C. from Inver Grove (milepost 344.7) to Northwood, Minnesota
   - D. from Clear Lake Junction (milepost 191.1) to Purina, Iowa (milepost 147.0)
   - E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364)
   - F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7)
   - G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)
   - H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9)
   - I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2)
   - J. from Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9)
   - K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7)
   - L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)
   - M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2)
   - N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids
   - O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6)
   - P. Sibley, Iowa
   - Q. Worthington, Minnesota
   - R. Altoona to Pella, Iowa
   - S. Carlisle, Indianola, Iowa
   - T. Omaha, Nebraska, (between milepost 502 to milepost 504)
   - U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5)
8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*
   - A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland
   - B. Washington, Iowa
   - C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota
9. *Davenport, Rock Island and North Western Railway Company (DRI):*
   - A. Davenport, Iowa
   - B. Moline, Illinois
   - C. Rock Island, Illinois, including 26th Street yard
   - D. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex
   - E. from East Moline to Silvis, Illinois
   - F. from Davenport to Iowa City, Iowa
   - G. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal
10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana.
11. *St. Louis Southwestern Railway Company (SSW):* operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.
12. *Little Rock & Western Railway Company:* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).
13. *Missouri Pacific Railroad Company:* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.
14. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*
   - A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth
   - B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas
   - C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma
   - D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas
   - E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only
   - F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.
   - G. Rock Island right to use interchange tracks to interchange with the Great Soutwest Railroad Company located in Grand Prairie, Texas.
   - H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at

milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.

I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North End, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles.

J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.

K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

15. *The Denver and Rio Grande Western Railroad Company:*
A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

16. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

17. *St. Louis-San Francisco Railway Co.:*
A. At Okeene, Oklahoma.
B. At Lawton, Oklahoma.

18. *Southern Railway Company:*
A. At Memphis, Tennessee.

19. *Cadillac and Lake City Railroad:*
A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

20. *Baltimore and Ohio Railroad Company:*
A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

21. *Louisiana Midland Railway Company:*
A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

22. *Cedar Rapids and Iowa City Railway Company (CIC):*
A. From the west intersection of Lafayette Street and South Capitol Street, Iowa City, Iowa, Southward for approximately 2.2 miles, terminating at the intersection of the RI tracks and the southern line of Section 21, Township 79 North, Range 6 West, Johnson County, Iowa, including spurs of the main trackage to serve various industry; and to effect interchange with the Davenport, Rock Island and North Western Railway Company.

23. *Keota Washington Transportation Company:*
A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

24. *The La Salle and Bureau County Railroad Company:*[1]
A. from Chicago (milepost 4.26) and Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

[FR Doc. 80-35054 Filed 11-7-80; 8:45]

BILLING CODE 7035-01-M

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49 CFR Part 1111

[Ex Parte No. 282 (Sub-8)]

Railroad Consolidation Procedures—Time Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: The Staggers Rail Act of 1980 amended 49 U.S.C. 11345 and substantially changed the time limits for Commission action on many railroad consolidation proceedings. Three categories of railroad consolidation proceedings are involved. They are the merger or control of at least two class I railroads, a transaction of regional or national transportation significance, and any other transactions covered by 49 U.S.C. 11343. These interim rules adopt those time limits and specify the transactions to which they apply.

DATES: These interim rules are effective on November 7, 1980. Comments are due on or before December 10, 1980.

ADDRESS: An original and 15 copies of comments, if possible, should be sent to: Ex Parte No. 282 (Sub-No. 8), Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

[1] Added.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7026; or Ellen D. Hanson, (202) 275–7245.

SUPPLEMENTARY INFORMATION: The Staggers Rail Act of 1980 (1980 Act) altered the times which the Commission has to act on certain types of proceedings. Three categories of railroad consolidation proceedings are involved. They are the merger or control of at least two class I railroads,[1] a transaction of regional or national transportation significance, and any other transactions covered by 49 U.S.C. 11343.

The time limits for transactions involving two or more Class I railroads have not been changed.

The time limits involving transactions of regional or national transportation significance differ substantially from those which existed before the 1980 Act. Under these provisions the Commission must accept or reject an application within 30 days of its filing. If the Commission accepts an application, by publishing a notice in the **Federal Register**, written comments must be filed within 30 days of that publication and comments by the Attorney General and Secretary of Transportation must be filed 15 days after the written comments have been received. Inconsistent applications and petitions for inclusion must be filed within 60 days of publication of the notice. The Commission has 180 days from the publication of the notice to conclude evidentiary proceedings in these cases, and 90 days from the conclusion of evidence to issue a final decision.

All other transactions must also be accepted or rejected within 30 days. Written comments must also be filed within 30 days of acceptance, and the Secretary of Transportation and Attorney General must submit their comments within 15 days of receipt of the written comments. There is no provision for the filing of inconsistent applications or petitions for inclusion for these types of transactions. Therefore, we presume that these types of relief were not contemplated by Congress, and we will not permit their filing in these cases. Evidentiary proceedings in these transactions must be completed 105 days after the notice of acceptance of the application has been published and a final decision must be issued 45 days after the completion of evidence.

The 1980 Act also requires the Commission to indicate the time limits which apply to a particular transaction when it publishes a notice in the **Federal Register.**

[1] Class I railroads are those which generate more than $50 million in operating revenues annually.

We have also amended our existing regulations to define the three types of cases. Transactions are defined as either major or minor (§ 1111.5(a) and (b)). Major transactions are broken down into controls or mergers involving more than one class I railroad (§ 1111.5(a)(1), and transactions of regional and national transportation significance which include controls or mergers which do not involve two or more class I railroads and major market extensions (§ 1111.5(a)(2) and (3)).

We are adopting these interim rules. We invite all persons to participate in this proceeding by submitting an original and 15 copies of their views and arguments concerning the adoption of these rules permanently. The attached appendix contains the changes to the regulations adopted in the **Federal Register** on September 23, 1980 (45 FR 62991).

These regulations are adopted pursuant to 49 U.S.C. section 11345 and 5 U.S.C. section 553.

Dated: October 29, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1111—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS AND LEASE PROCEDURES

The following amendments are made to 49 CFR Part 1111.

§ 1111.4 [Amended]

(1) Section 1111.4(c)(7)(i) is amended by adding a new sentence at the end which reads:

* * * * *

(c) * * *
(7) * * *
(i) * * *

The Commission notice published in the **Federal Register** shall indicate: (A) the merger or control of at least two Class I railroads, as defined by the Commission, shall be decided within the time limits of 49 U.S.C. 11345(b); (B) transactions of regional or national transportation significance shall be decided within time limits specified in 49 U.S.C. 11345(c); or (C) any other transaction covered by 49 U.S.C. 11343–11345 shall be decided within time limits specified in 49 U.S.C. 11345(d).

* * * * *

(2) Section 1111.4(d)(1)(i) is revised to read as follows:

* * * * *

(d) * * *
(1) * * *

(i) "Written comments must be filed no later than 45 days after an application is accepted, except that these comments on transactions defined in § 1111.5(a) (2) or (3) or § 1111.5(b) must be filed within 30 days of the acceptance of an application."

* * * * * * *

(3) Section 1111.4(d)(2) is amended by adding a new sentence after the first sentence which reads as follows:

* * * * * *

(d) * * *
(2) * * *

For transactions defined in § 1111.5(a) (2) or (3) and 1111.5(b) these comments are due within 4 days of the date of acceptance of the application. * * *

* * * * * *

(4) Section 1111.4(d)(4) is amended by changing the first sentence to read as follows:

* * * * *

(d) * * *

(4) All responsive applications shall be filed within 90 days, after the primary application has been accepted except those filed for transactions defined in § 111.5(a) (2) or (3) which shall be filed within 60 days after acceptance. No inconsistent applications or petitions for inclusion will be permitted for applications filed under § 1111.5(b).

(5) Section 1111.4(e) is amended by deleting the second paragraph and replacing it with the following:

* * * * *

(e) In transactions filed under § 1111.5(a) (2) or (3), the Commission will conclude the oral hearing, hearing by written submission, other evidentiary proceedings within 180 days following the date the application is accepted. A final decision will be issued 90 days after the close of evidence in these proceedings. For applications under § 1111.5(b), the Commission will conclude the evidentiary proceedings within 105 days following the date the application is accepted. A final decision will be issued 45 days from the completion of the evidentiary period in these cases. Where the transaction is filed under § 1111.5(a)(1), the evidentiary hearings shall be concluded not more than 24 months following the date the application is accepted. The Commission will issue a final decision by the 180th day after the conclusion of the evidentiary proceeding.

§ 1111.5 [Amended]

(6) Section 1111.5(a) is revised to read as follows:

(a) A *major* transaction includes:

(1) A control or merger involving two or more class I railroads;

(2) Any other control or merger; or

(3) A major market extension resulting from:

(i) Acquisition
(ii) Lease
(iii) Partial purchase
(iv) Purchase
(v) Trackage rights, or
(vi) Any other agreement or coordination project.

A major transaction must involve one or more class I railroads acting together with one or more other class I or class II railroads. The transactions defined in paragraphs (a) (2) and (3) of this section are of regional or national transportation significance s defined in 49 U.S.C. 11345.

* * * * * *

§ 1111.4 [Amended]

(7) Section 1111.4(i) is added, and states:

* * * * * *

(i) If the Commission does not issue a decision that is a final action under 49 U.S.C 10327, it will send written notice to Congress that the decision was not issued and the reasons why it was not issued.

[FR Doc. 80-34967 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[SW FRL 1665-1]

Consolidated Permit Regulations and Hazardous Waste Management System

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of issuance of regulation interpretation memorandum.

SUMMARY: The Environmental Protection Agency (EPA) is issuing today a Regulation Interpretation Memorandum (RIM) which provides official interpretation of one of the signatory provisions of its May 19, 1980 consolidated permit regulations and hazardous waste management regulations promulgated under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA). Questions have been addressed to the Agency requesting clarification of the requirement in 40 CFR 122.4(b) that for RCRA, owners and operators of hazardous waste management facilities

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must sign and thereby certify to the permit application.

DATE: This Regulation Interpretation Memorandum becomes effective November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brook, Office of Water Enforcement (EN–336), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 755–0750.

In the matter of RIM 122–80–1, Regulation Interpretation Memorandum on Clarification of the Facility Owner's Signature and Certification on the RCRA Permit Application § 122.4(b).

Issue

Section 122.4(b) of the consolidated permit regulations requires both the owner and the operator of a hazardous waste management facility to sign and certify the application for a RCRA permit. EPA has received a number of requests from the regulated community seeking clarification of this requirement, particularly as to what persons are considered "owners" of facilities for signatory purposes. Commenters have stated that in many cases title for a facility will be split for financing purposes between the "legal" and "equitable" owner, and that the legal titleholder should not be required to sign a permit application.

Discussion

It is the intention of the Agency that all those who exercise effective ownership and control of a hazardous waste facility sign and certify to the permit application. It is not the intention of the Agency that those holding bare legal title solely for the purpose of establishing security for a financing arrangement be required to sign and certify to the permit application.

Therefore, solely for the purpose of this regulation, 40 CFR 122.4(b), the Agency will interpret the term "owner" so as to exclude those who both hold bare legal title for the purpose of providing security for a financing agreement, and do not exercise any of the effective incidents of ownership or equitable title.

It is not the intention of EPA to enter the complex field of property relationships and promulgate a new rule defining who is or is not holding title beyond bare legal title. Rather, interested parties should examine relevant state and federal law. In the event that a titleholder shall be considered by relevant state or federal laws, such as property, partnership, securities or tax laws, to hold equitable title or incidents of ownership beyond bare legal title, then that titleholder shall be considered an owner for the purposes of 40 CFR 122.4(b). It is the intention of the Agency to narrowly construe this interpretation and where there is doubt a titleholder will be considered an owner. For example, a mortgagee bank holding a deed in trust given to secure mortgage financing will not be considered an owner under 40 CFR 122.4(b). The vendee-lessor in a sale-lease back arrangement may or may not be an "owner" depending on the terms of the sale-lease back agreement and pertinent state and federal laws.

This interpretation shall be limited to 40 CFR 122.4(b) and shall not affect other responsibilities and liabilities imposed by law or regulation. For example the requirements of 40 CFR 265.120, placement of a notice in the deed to the property, must still be adhered to, irrespective of the status of the titleholder who must comply with this requirement. Similarly nothing in this RIM is intended to release any person from liability or responsibility beyond the responsibility to sign and certify to the permit application and such liability and responsibility as accrues from the signing and certifying to the permit application.

Dated: November 3, 1980.

Approved:

R. Sarah Compton,

Deputy Assistant Administrator for Water Enforcement.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 80-35197 Filed 11-7-80; 10:14 am]

BILLING CODE 6560-30-M

Proposed Rules

Federal Register
Vol. 45, No. 219
Monday, November 10, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

Increase in License Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes an increase in the license fee in the Regulations (other than Rules of Practice) issued under the Perishable Agricultural Commodities Act to cover increased costs associated with administration of the program.

DATE: Written comments on this proposal should be filed by November 25, 1980.

ADDRESS: Written comments should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1. 27(b)).

FOR FURTHER INFORMATION CONTACT: Wilbur A. Rife, Head, License Section, Regulatory Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 447–2189.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's memorandum 1955 and supplemental memorandum dated March 5, 1980, to implement Executive Order 12044 and has been determined to be exempt from those requirements.

Dr. William T. Manley, Deputy Administrator, AMS, made this determination because the proposal is in response to an emergency funding situation and as such is considered to be an agency management decision.

Background

The Perishable Agricultural Commodities Act was enacted by Congress in 1930, after recognizing the need for a code of fair trading standards to curb abuses in marketing of perishable agricultural commodities in interstate or foreign commerce. It prohibits unfair and fraudulent practices thereby protecting the growers, shippers, and distributors dealing in those commodities. It established a means for the enforcement of contracts by providing for the collection of damages from anyone who fails to live up to contractual obligations. The law is enforced through a licensing system. All commission merchants, dealers, and brokers engaged in business subject to the Act must be licensed. Since its enactment, the Act has been amended numerous times to keep it in accord with changing trade practices.

The cost of administering the Act is financed entirely through the license fees paid by those engaging in business subject to the law. The Secretary is charged with setting the license fee at a level necessary to meet the expenses of administration within the maximum provided in the law by Congress. Amendments to the Act in 1978, permitted the Secretary to assess a base annual license fee of up to $150 plus an assessment of up to $50 per branch for each branch operation exceeding nine. However, the aggregate annual license fee for any firm cannot exceed $1,000.

The legislative increase of exemptions for certain operators provided in the latest amendments to the Act in 1978 has been one of the major factors in the shrinking of the source of funds for administering the Act by decreasing the number of firms subject to a license. Continued mergers and acquisitions have been common among produce firms of all sizes and have also attributed to the decline in the number of licensees. As a result of this decline, there were 15,650 licensees under the Act at the end of fiscal year 1980 as compared to 16,179 at the end of the 1979 fiscal year. The workload under the program has increased in the past fiscal year with a slightly larger number of complaints being filed requiring substantially more personal investigations. This increase has contributed to increased operation costs even though the number of employees engaged in the Administration of the program has not increased.

In order to assure continued and effective administration of the program, the license fees related to firms dealing in commodities subject to the Perishable Agricultural Commodities Act must be amended to reflect the increased cost associated with this program in the coming fiscal year to meet the requirements of the Federal Pay Comparability Act of 1970 and the increased cost of travel mandated by Congress. It is proposed to amend the Regulations (other than Rules of Practice) (7 CFR Part 46) under the Act as follows:

7 CFR 46.6 is revised to read as follows:

§ 46.6 License fee.

The annual license fee is one hundred and fifty (150) dollars plus fifty (50) dollars for each branch or additional business facility operated by the applicant exceeding nine. In no case shall the aggregate annual fees paid by any applicant exceed one thousand (1,000) dollars. The Director may require that the fee be submitted in the form of a money order, bank draft, cashier's check, or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

It has been determined that in order to cover the increased cost of services in compliance with the requirements of the Federal Pay Comparability Act of 1970 and the increased travel expenses in connection with the performance of the services of the program, the license fees must be increased to keep the Perishable Agricultural Commodities Act fund solvent and produce sufficient revenue needed to continue the effective administering of the Act.

In view of the circumstances related above, and pursuant to the provisions of 5 U.S.C. 553(d)(3) and 7 U.S.C. 499c(b), it is found that a thirty day period for notice and comment are impracticable and contrary to the public interest. It is further found, under these circumstances, that only a 15-day period for comment is reasonable. Therefore, the time for filing comments is limited to November 25, 1980.

Done at Washington, D.C., on: November 3, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-35059 Filed 11-7-80; 8:45 am]

BILLING CODE 3410-02-M

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM-51-5]

States of New York, Ohio, and Wisconsin; Notice of Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: By a two-two vote, the Nuclear Regulatory Commission (NRC) had deadlocked over whether to grant a motion filed by the States of New York, Ohio, and Wisconsin in Docket No. RM-50-3, on December 15, 1978, which has been treated as a petition for rulemaking and assigned Docket No. PRM-51-5. A notice of receipt of the petition and request for comments was published in the Federal Register on November 14, 1979. The petitioners requested that the Table of Uranium Fuel Cycle Environmental Data be amended to account for the commitment of economic resources necessitated by the various nuclear waste management activities involved in the uranium fuel cycle. The effect of the Commission's tie vote is that the petition is denied.

ADDRESS: Copies of the petition for rulemaking and the NRC's letter of denial are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: T. R. Workinger, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-427-4211.

SUPPLEMENTARY INFORMATION: The petitioners proposed that the Nuclear Regulatory Commission amend Table S-3 of 10 CFR 51.20(e) to include dollar value impacts to account for the commitment of economic resources necessitated by the various nuclear waste activities involved in the uranium fuel cycle. Specifically, the petitioners proposed that Table S-3 include the commitment of economic resources (cost/RRY*) for low-level waste disposal, fuel pool storage, transporation, spent fuel containers, geological repository, and dismantling of the nuclear reactor at the end of its useful life, and proposed a range of values for each of these cost categories. By a two-two vote, the Commission has deadlocked over whether to grant this petition. The petition is therefore not granted by the Commission. This supplementary information reviews the background of the petitioners' request. Separate views of the Commissioners are appended.

*Reference Reactor Year (RRY).

Basis for Request

The States made several statements to justify consideration of their proposal. Their main points are summarized below:

1. Exclusion of economic values from Table S-3 "would not only be contrary to the Commission's statements regarding this reopened proceeding but contrary to the law governing the rulemaking.

2. The Commission's regulations "acknowledge the need to consider the impacts of reactor operation *prior* to reactor licensing * * * To exclude adverse data would, of course, fatally prejudice the cost-benefit analysis."

3. The Commission's regulation, 10 CFR 51.20(e) (1977), states that "the impacts of the entire uranium fuel cycle are to be quantified in Table S-3 and that no further discussion of those impacts is required beyond Table S-3." Relying on the 1977 rule, the petitioners state that "* * * inclusion in Tabel S-3 of economic data relating to the backend of the fuel cycle is mandated * * *" by this regulation. the petitioners point out that Table S-3 quantifies various environmental effects, but "does not state how many dollars will be used or irretrievably committed as a result of reactor operation and the fuel cycle activities, such as waste management, which are crucial to the protection of man and his environment." They claim that "the costs which have been omitted (from Table S-3) are unavoidable, direct and quantifiable * * *" They also claim that the costs of reactor decontamination, decommissioning, and waste disposal are substantial and that exclusion of these costs renders individual cost-benefit analyses for reactor licensing proposals "hopelessly invalid."

4. "The true costs associated with the waste management and fuel reprocessing portions of the uranium fuel cycle involve the irretrievable commitment of economic resources. Thus the assessment and inclusion of these costs in Table S-3 are fundamental to compliance with the National Environmental Policy Act, section 102(2)(D) and essential to an accurate balancing of costs and benefits by the Commission as mandated by 10 CFR 51.20(b)." The Council on Environmental Quality's guidelines specify that secondary or indirect consequences should be included in analyses for environmental impact statements. According to the guidelines, these effects "may often be even more substantial than the primary effects of the original action itself" (40 CFR 1500.8(a)(3)(ii)) (1977). Thus, "(t)here could be no more appropriate application of this section of the CEQ guidelines than to the economic impacts of waste management activities."

Present Status of S-3 Rule

On August 2, 1979, after an extensive proceeding focused on the nuclear waste management and fuel reprocessing parts of the fuel cycle, the Commission promulgated a final rule, 44 FR 45362-45374, which sets out revised impact values in Table S-3. The impact values in this table differ only slightly from the values in the interim rule. The final rule also specifies fuel-cycle-related subjects that are to be considered in individual licensing proceedings as part of the environmental cost-benefit analysis for a power reactor.

Request for Comments on Petition

A notice of filing of petition for rulemaking was published in the Federal Register on November 14, 1979 (44 FR 65598). The comment period expired January 14, 1980. Seven letters of comment were received in response to this notice. One of the letters supported the petition and six letters opposed the petition.

The letter in support of the petition noted, in general, that costs are escalating significantly.

Four of the letters opposing the petition commented on the proposed costs for decommissioning a nuclear power reactor at the end of its useful life. Two letters addressed the issue of whether reactor decommissioning costs should be considered in the fuel cycle rule, since the S-3 fuel cycle rule was designed to assess the environmental impact of the steps in the fuel cycle external to the reactor site.

Three letters commented that nuclear waste management costs are case-specific, vary with time, and should not be included in the S-3 fuel cycle rule. One letter commented that the rule is of little practical value unless its elements are both (1) generally applicable (generic), as distinguished from being tied to the individual circumstances of a particular reactor (case-specific), and (2) reasonably stable and predictable over time. Cost values probably would not remain up to date very long, and thus the necessity to continually update cost values in the rule would defeat the very purpose of establishing it—to avoid constant relitigation of the issues.

A copy of "Abstracts of Comments and Staff Responses: Proposal that Nuclear Regulatory Commission Amend Table S-3 of 10 CFR 51.20(e) to Include the Economic Impacts of Various Waste Managment Activities of the Uranium Fuel Cycle—Docket No. PRM 51-5," will be placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., for public inspection and copying for a fee.

The effect of the Commission's action on this petition is that it is denied.

Dated at Washington, D.C., this 3rd day of November, 1980.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk

Secretary of the Commission.

Separate Views of Chairman Ahearne and Commissioner Hendrie

Chairman Ahearne and Commissioner Hendrie, who voted to deny the petition, based their decision on the following analyses:

The decision whether to resolve issues by rulemaking or in individual licensing proceedings, and determination of the scope of a given rulemaking proceeding, is a matter of Commission discretion. By itself, Table S-3 does not and is not intended to implement all the requirements of NEPA. Its purpose is to fix generically, by rulemaking proceedings, certain environmental effects attributable to the variety of uranium fuel cycle activities in support of a model 1,000 MWe nuclear reactor, which are beyond the control of the license applicant, so that it is not necessary for each applicant, other interested persons, and the NRC staff to redefine and litigate these values in every individual reactor licensing proceeding. Cost data are somewhat regional or site-specific and vary with time; and the applicant has some control over costs by choice of alternatives, e.g., method for waste treatment or method of decommissioning. Moreover, generic dollar values would be subject to challenge because they may not remain valid for very long, and if included in Table S-3, they would have to be frequently updated by rulemaking proceedings to amend Table S-3. The necessity to frequently update economic values in the S-3 fuel cycle rule would defeat its purpose—to avoid constant relitigation. For these reasons, the economic commitments related to the various nuclear waste activities involved in the uranium fuel cycle should continue to be addressed on a case-by-case basis and discussed in a manner similar to the way all other economic commitments are addressed in the applicable sections of environmental reports and environmental impact statements. Since the applicant and the staff both have access to current cost data and estimated costs, the evaluation of the economic costs of power generation and related cost-benefit analyses in environmental reports and impact statements should be based on current regional or site-specific cost projections, rather than generic values.

Grounds for Denial

Petition fo rulemaking PRM 51-5 should be denied on the grounds that economic costs related to nuclear waste management activities are too variable to be treated generically and are more appropriately addressed on a case-by-case basis in the same manner as other economic cost data relevant to the evaluation of the cost of generating power. Not only does the choice among alternative nuclear waste management activities affect the amount of economic resources committed, but the alternative selected is specific to each reactor and is within the license applicant's control. Since generic cost data are unlikely to remain valid for more than a short period of time, and since appropriate facility-specific data are readily available for use by the applicant, intervenors and the NRC staff, there is little merit in supplying generically derived cost data in Table S-3 for use in the benefit-cost analysis of individual nuclear reactors.

Separate View of Commissioner Gilinsky

I would grant the motions to amend Table S-3 to include the costs in dollars of the various waste management activities connected with power reactor operation. The Table cannot be used for its intended purpose—the balancing of costs and benefits of reactor operation—without such figures. The staff position that the costs related to waste are so variable that they cannot be treated generically is to my mind indefensible.

I should add that I continue to believe, as I wrote in my separate views on the final adoption of the S-3 rule (44 FR 45374), that it is virtually inconceivable that the Table would affect the outcome of any licensing proceeding before our Boards, precisely because of the generic nature of the information it contains. Because the Table does not distinguish among reactors, a decision in one case that the fuel cycle costs outweigh the reactor's benefits is in effect a decision that no reactor should be licensed. As a practical matter, such a finding can only come from the Commission itself. What is wanted for the Boards is therefore not a table of values but a generic finding by the Commission.

Nevertheless, since the Commission has chosen to have the Boards work with the Table, we should try to make it usable.

While it is true that cost data will vary slightly from region to region and reactor to reactor, bounding assumptions can be made and values can be attached to particular alternatives. Cost figures would not need to be updated more than every five years, and this would be a much easier matter than litigating them in individual proceedings.

Commissioner Bradford agrees with the general thrust of these comments.

[FR Doc. 34974 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 170

Fees for Review of Applications

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing an interpretative rule to clarify that fees for review will be charged, as appropriate, when review of an application is completed, whether by issuance of a permit, license, or other approval, or by denial or withdrawal of an application, or by any other event that brings active Commission review of the application to an end.

DATES: Comments are due by December 8, 1980.

FOR FURTHER INFORMATION CONTACT: William O. Miller, Chief, License Fee Management Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: 301-492-7225.

SUPPLEMENTARY INFORMATION: Based upon the language of 10 CFR 170.12(b) and of footnote 3 to 10 CFR 170.21 (footnote 3 reads in pertinent part as follows: "When review of the permit, license, approval, or amendment is complete, the expenditures for professional manpower and appropriate support services will be determined and the resultant fee assessed, but in no event will the fee exceed that shown in the schedule of facility fees. * * *") the Commission has been billing power reactor construction permit applicants for the actual costs of review of their applications up to the time the applicant withdraws the application from Commission consideration.

It was the Commission's intent in promulgating 10 CFR Part 170 that charges be assessed whenever a review is brought to an end, whether by reason

of issuance of a license, a denial of an application, or by its withdrawal, suspension or postponement. Such charges are authorized and directed under Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and supported by judicial decision upholding charges for government services rendered to applicants based upon cost to the agency. *See e.g., Mississippi Power and Light* v. *NRC*, 601 F.2d 223 (1979) *cert. denied* 444 U.S. 1102 (1980), and cases cited therein. The fee guidelines approved by the Commission and the Court of Appeals in *Mississippi Power and Light* v. *NRC, supra*, make clear the Commission's position that the review of an application at the request of a recipient of the service, is a service for which a charge may be made. In the guidelines, fees may be assessed for services rendered at the request of an applicant whether or not these services are linked to or result in the issuance of a permit or license. For example, the guidelines support the inclusion in the fee schedule of "special projects and reviews" that do not result in issuance of permits, licenses or approvals but are yet subject to a fee for the service based upon actual cost. (10 CFR 170.21, Schedule F). The review given a power reactor application that does not end in a permit or license is analogous to a special project with respect to the work performed and the service rendered to the applicant.

The interpretative amendments to 10 CFR 170.12 are intended to remove any possibility of misunderstanding the Commission's intent in appropriate cases to charge fees on withdrawal or denial of an application, and in cases of suspension or postponement of action on an application. The Commission will consider billing an applicant for costs incurred in the processing and review of an application upon either a statement of intent by the applicant to postpone further review effort or a delay in the construction schedule which causes the staff to postpone further review. In the event such an application is reinstated without significant changes, or review effort recommenced, subsequent charges will accrue only from the time of reinstatement or recommencement of review effort. In such cases the aggregate of charges for review of applications covered by the actual cost principle will not exceed the scheduled amount for the class of facility.

Although the impetus for issuing this interpretative rule stems from the withdrawal of power reactor construction permit applications, the interpretative amendments also apply to certain materials licenses applications subject to the actual cost principle as stated in footnote 4 to 10 CFR 170.31. These are primarily major fuel processing and fabrication plants, waste storage and disposal facilities, spent fuel storage facilities, uranium milling plants, evaluation of casks and packages, and special projects.

Since the new language merely restates what the Commission's rule has been on collecting fees for withdrawn or otherwise terminated applications since the promulgation of revisions to 10 CFR Part 170 (43 FR 7418), the clarifying language, if adopted as proposed, will be applicable to all license applications on file before the Commission on or after March 23, 1978, the effective date of the current version of 10 CFR Part 170, as well as to those received after adoption of the clarifying language.

Although the rules' changes in these amendments are interpretative only and could be published effective immediately without notice and comment under 5 U.S.C. 553(b), and without the customary 30 days notice under 5 U.S.C. 553(d), the Commission has decided to solicit public comment and, therefore, is proceeding by normal notice and comment rulemaking procedure prior to adopting the clarifying language.

Pursuant to Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), the Atomic Energy Act of 1954, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Part 170, Title 10, Chapter 1, Code of Federal Regulations, is contemplated.

1. Paragraphs 170.12(b), (e), and (f) of 10 CFR 170.12 are amended to read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) *License fees.* Fees for review of applications for construction permits, operating licenses, manufacturing licenses, and materials licenses, are payable upon notification by the Commission when the review of the project is completed. For the purposes of this Part the review of a project is completed when a permit or license is issued, or an application for a permit or license is denied, withdrawn, suspended, or action on the application is postponed.

* * * * *

(e) *Approval Fees.* fees for review of applications for spent fuel cask and shipping container approvals, standardized spent fuel facility design approvals, and construction approvals are payable upon notification by the Commission when the review of the project is completed. For the purposes of this Part the review of a project is completed when the approval is issued, or the application for an approval is denied, withdrawn, suspended, or action on the application is postponed. Fees for facility reference standarized design approvals will be paid in five (5) installments based on payment of 20 percent of the approval fee (see footnote 3 § 170.21) as each of the first five (5) units of the approved design are referenced in an application(s) filed by a utility or utilities. In the event the standardized design approval application is denied, withdrawn, suspended, or action on the application is postponed, fees will be collected when the review is completed and the five (5) installment payment procedure will not apply.

(f) *Special Project Fees.* Fees for review of special projects are payable upon notification by the Commission when the review of the project is completed. For the purposes of this Part the review of the project is completed upon notification by the staff that it has finished its review, upon withdrawal of the request, or suspension or postponement of further review.

2. A new paragraph is added to § 170.12 of Part 170 to read as follows:

§ 170.12 Payment of fees.

* * * * *

(i) this section applies to all applications for licenses, permits approvals or requests for review of special projects on file with the Commission on or after March 23, 1978.

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a), Sec. 161, 68 Stat. 948 (42 U.S.C. 2201))

Dated at Washington, D.C., this 3rd day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary to the Commission.

[FR Doc. 80-34851 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-35]

Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration.

ACTION: Notice of postponement of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that because of conflicting schedules, the public hearing on the "Retailer Price Rule for Moror Gasoline" (October 10, 1980, 45 FR 67355) previously announced to be held 9:30 a.m. on November 6, 1980 in the Goldengate Room of the Jack Tar Hotel, San Francisco, California has been rescheduled for December 2, 1980.

DATES: The public hearing will be held on December 2, 1980, 9:30 a.m.

Requests to speak are requested to be received by 4:30 p.m., November 21. The Washington, D.C. hearing remains as scheduled, and will be held November 12, 1980, 9:30 a.m.

ADDRESSES: Public hearing locations:

Ramada Inn—Fisherman's Wharf, Crocker-Hopkins Room, 590 Bay Street, San Francisco, California.

Room 2105, 2000 M Street N.W., Washington, D.C.

Requests to speak should be addressed to Ms. Terry Osborn, Department of Energy, 333 Market Street, San Francisco, California 94105 (415–764–7027).

FOR FURTHER INFORMATION CONTACT:

Karene F. Walker (Public Hearings Division), Economic Regulatory Administration, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055.

Roger Miller (Office of Regulatory Policy), Economic Regulatory Administration, Room 7121, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3245.

William Funk or Mayo Lee (Office of the General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6736 or 252–6754.

Issued at Washington, D.C. on October 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy Economic Regulatory Administration.

[FR Doc. 80-35141 Filed 11-6-80; 2:50 pm]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-WE-53-AD]

McDonnell Douglas DC–10 Series Airplane; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require replacement of the electrical connector assemply in the fuel boost/transfer pump housing on certain McDonnell Douglas DC–10 series airplanes. The proposed AD is prompted by reports of electrical arcing and burning between loose electrical pins in the fuel boost/transfer pump housing which could result in an ignition source inside the pump housing.

DATE: Comments must be received on or before January 5, 1981.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region. Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publication and Training C1–750–[54–60]

FOR FURTHER INFORMATION CONTACT:

Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of loose electrical pins in the electrical connector assembly in the fuel boost/transfer pump housing receptacle on certain McDonnell Douglas DC–10 series airplanes which could result in an ignition source in the pump housing. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of electrical connector assemblies on certain McDonnell Douglas DC–10 series airplanes.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas

Applies to Model DC–10 series airplanes, fuselage numbers 1 through 98, except fuselage number 2, certified in all categories.

Compliance is required as indicated unless already accomplished.

To prevent electrical arcing and burning in the electrical connector in the Hydro-Aire fuel pump housing, accomplish the following:

(a) Within 300 hours' additional time in service after the effective date of this AD, replace the electrical connectors in the fuel boost/transfer housings in those fuel tanks specified, in accordance with paragraph 2. Accomplishment Instructions, McDonnell Douglas Service Bulletin, DC–10 SB 28–17 Revision 2, dated July 27, 1973.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

V 45 N 10 80 0 UMI

Issued in Los Angeles, Calif., on October 30, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-34936 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-49-AD]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: The Federal Aviation Administration proposed to amend Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model 727 series airplanes having cold bonded upper body skin tear straps. Airlines using the ultrasonic inspection techniques for detection of tear strap delamination recommendations by the manufacturer have found a significant number of occurrences of such delamination. These straps act to arrest the progression of longitudinal skin cracks. Delamination degrades the tear strap function and could result in rupture of the fuselage skin due to fatigue cracks and subsequent rapid decompression of the cabin. Since this condition is likely to exist or develop on other airplanes of the same design the proposed airworthiness directive would require inspection and repair of the affected aircraft.

DATES: Comments must be received on or before January 1, 1981.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-49-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANW-120S, Seattle Aircraft Certification Area Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: The 727 upper body tear straps are circumferential structural members which in the event of a crack developing in the upper body skin provide a fail-safe capability against pressure vessel rupture. Properly functioning straps stop the progression of longitudinal cracks in the upper body, limiting the maximum possible rupture size. To function properly the straps must be continuously attached (within specified limits) to the upper body skin. This is accomplished with an adhesive bond. 727's in which a cold bond manufacturing process has been used for attachment have had a history of adhesive bond degradation and skin/strap delamination. Recent inquiries made by the FAA show such delamination is a widespread problem and for some airplanes can be very extensive.

Boeing has published a service bulletin (No. 727-53-82) which recommends periodic ultrasonic inspection of tear straps and methods of repair is delamination is found. Some airplane operators have incorporated the ultrasonic inspection into their aircraft maintenance program. Those who do use the ultrasonic inspection have reported delamination requiring repair on roughly half of the airplanes inspected. One operator reported an aircraft having thirty delamination locations which required repair. Operators using other inspection methods report finding few delamination cases and these are usually accompanied by corrosion which increases the likelihood of being detected.

For these reasons the FAA believes that periodic ultrasonic inspection should be made mandatory.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80-NW-49-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing

Applies to all Model 727 series airplanes, certificated in all categories, listed in Boeing Service Bulletin No. 727-53-82 Revision 2, dated March 28, 1975, or later FAA approved revisions. Compliance required as indicated.

To detect delamination of the upper body skin bonded tear straps and to correct the delaminated condition accomplish the following:

A. Within six (6) months from the effective date of this AD, unless accomplished within the last six (6) months, and thereafter, at intervals not to exceed twelve (12) months inspect the upper body skin bonded tear straps for delamination from the body skin in accordance with the ultrasonic inspection procedures of Boeing Service Bulletin No. 727-53-82, Revision 2, dated March 28, 1975, or later FAA approved revisions, or in accordance with equivalent procedures approved by the Chief, Seattle Aircraft Certification Area Office, FAA Northwest Region.

B. Bond delaminations outside the limits of Boeing Service Bulletin No. 727-53-82, Revision 2, dated March 28, 1975, or later FAA approved revisions, are to be repaired before further pressurized flight in accordance with one of the following methods or in accordance with an equivalent method approved by the Chief, Seattle Aircraft Certifications Area Office, FAA Northwest Region:

1. Method II of Service Bulletin No. 727-53-82, Revision 2. (This method provides a permanent repair if corrosion is present).

2. Method III of Service Bullentin No. 727-53-82, Revision 2. (This method is only to be used if their are no visible traces of corrosion.)

3. Method IV of Service Bulletin No. 727-53-82, Revision 2. (This method is only considered a temporary repair and must be replaced with one of the other repairs within 1 year).

Accomplishment of repairs 1, or 2 above, constitutes terminating action of this AD for the repaired area.

C. Bond delaminations within the limits of Boeing Service Bulletin No. 727-53-82, Revision 2, dated March 28, 1975, or later FAA approved revisions are to be repaired in accordance with one of the repair methods of paragraph B of this AD or are to be ultrasonically reinspected for delamination growth at intervals not to exceed six (6) months.

D. Aircraft may be ferried, with the cabin pressurized, to a maintenance base for repair in accordance with FAR 21.197.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on October 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-34938 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-49]

Proposed Alteration of Control Zone: Santa Fe, New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of the control zone at Santa Fe, N.M. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Santa Fe County Municipal Airport. The circumstances which created the need for the action is the proposed installation of an instrument landing system (ILS) to Runway 02.

DATES: Comments must be received on or before December 10, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart F § 71.171 (45 FR 356) of FAR Part 71 contains the description of control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the control zone at Santa Fe, N.M., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 10, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone at Santa Fe, N.M. The FAA believes this action will enhance IFR operations at the Santa Fe County Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed ILS to Runway 02. Subpart F of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 356).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) by deleting the present description and substituting the following:

Santa Fe, New Mexico

Within a 6.5-mile radius of the Santa Fe County Municipal Airport (latitude 35°37'00" N., longitude 106°05'25" W.); and within 2.5 miles each side of the Doman LOM (latitude 35°33'09" N., longitude 106°06'29" W.) 215° radial, extending from the 6.5-mile radius area to 3 miles southwest of the Doman LOM (7.5 miles southwest of the threshold of Rwy 2)."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on October 30, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-34934 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-CE-24]

Transition Area—Hutchinson, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Hutchinson, Kansas, to provide additional controlled airspace in order to preserve the 3,000-foot MSL cardinal altitude for IFR arrivals and departures on the 7DME ARC.

DATES: Comments must be received on or before December 13, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation

Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles A. Sears, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 13, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Hutchinson, Kansas. It is necessary that additional controlled airspace be established in order to preserve the 3,000-foot MSL cardinal altitude for IFR arrivals and departures on the 7DME ARC. This airspace will also be used by aircraft operating between the Hutchinson VORTAC and the SALTT LOM. The requirement to contain IFR operations in controlled airspace entails alteration of the transition area at Hutchinson, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445) by altering the following transition area:

Hutchinson, Kansas

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Hutchinson, Kansas Municipal Airport (Latitude 38 03′ 56″ N, Longitude 97 51′ 37″ W) counter clockwise from the 125 radial of the Hutchinson VORTAC, to 9½ miles northeast and 4½ miles southwest of the Hutchinson ILS localizer northwest course extending to 18½ miles northwest of the Hutchinson ILS Outer Marker (Latitude 38 07′ 25″ N, Longitude 97 55′ 35″ W) and counter clockwise from 4½ miles southwest of the Hutchinson ILS northwest course via the 13 mile radius of the Hutchinson VORTAC (Latitude 37 59′ 49″ N, Longitude 97 56′ 02″ W) to the 125 radial of the Hutchinson VORTAC, to the 8½ mile radius of the Hutchinson Airport, excluding that airspace that overlies the Lyons, Kansas transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on October 28, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-34943 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-18]

Proposed Alteration of Transition Area, Chambersburg, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amended Notice of Proposed Rule Making.

SUMMARY: This amended notice amends an NPRM published in the **Federal Register** on July 16, 1980. It proposed to alter the Chambersburg, Pa., transition area over Chambersburg Municipal Airport, Chambersburg, Pa. This amendment will control additional airspace required to protect the instrument approach procedure as it has been modified with minor changes. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before November 17, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before November 17, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430 or by calling (212) 995-3391. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Chambersburg, Pa., Transition Area. The airport is at present overlaid by a 700-foot area which will be expanded by the addition of an extension to the northeast, 3.5 miles in width and approximately 6 miles in length.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends its NPRM (Docket No. 80-EA-18) as follows:

Amend Item 1 of the proposal by deleting the whole proposed alteration of the description and insert in lieu thereof:

In the text delete "29 miles east of the VORTAC" and substitute therefore, "29 miles east of the VORTAC; and within 9.5 miles south and 4.5 miles north of the NEAL NDB (39°59′05″N., 77°37′58″W.) 029° bearing extending from the NDB to 18.5 miles northeast of the NDB".

(Sec. 307(a), Federal Aviation Act of 1958, (72 Stat. 749; 49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on October 20, 1980.

Norbert A. Owens,

Acting Director, Eastern Region.

[FR Doc. 80-34944 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to provide a rule for its implementation of Sec. 6 of Pub. L. 96-48, which authorizes NASA to provide liability insurance and to indemnify a user of a NASA space vehicle for claims of third parties resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle.

DATE: Comments or suggestions respecting the proposed rules should be submitted in writing on or before January 9, 1981.

ADDRESS: Robert J. Wojtal, Office of General Counsel, Code GK-3, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert J. Wojtal, Telephone (202) 755-3169.

SUPPLEMENTARY INFORMATION: NASA previously published an advanced notice of its Plant for implementing Space Transportation System (STS) Insurance and Indemnification Requirements (45 FR 10808-10809, February 19, 1980) and considered the comments received from the public prior to drafting the proposed rule. The Principal comment received was the concern expressed that the insurance market may not have the capacity to insure more than one user on board one Shuttle flight for 500 million dollars—the asserted maximum insurance available in the market. Based on this assumption, it was proposed that a facility be established to insure all users on board one Shuttle flight and the U.S. Government for the maximum insurance available in the market. The proposed rule continues to require each user on board each Shuttle flight to provide insurance coverage. If experience shows that the market does not have the capacity to provide the insurance requested from each user on board a Shuttle flight, the proposed rule would permit NASA to provide adequate liability protection by using one or more devices, including the use of a facility to insure all users and the U.S. Government.

The proposed NASA rule requires certain users of a NASA space vehicle to provide liability insurance protecting the user and the U.S. Government from third party claims. The rule also provides the conditions under which NASA will provide insurance or will indemnify such users from third party claims and provide authority to a NASA official to negotiate and enter into appropriate insurance and indemnification agreements and certify that an indemnification payment is just and reasonable. Examples of appropriate agreements are appended to the proposed rules. The rule also provides that a designated NASA official may authorize a deviation from the requirements of this rule.

PART 1214—SPACE TRANSPORTATION SYSTEM

14 CFR Chapter V, Part 1214 is amended by adding a new Subpart 1214.13, reading as follows:

Subpart 1214.13—Insurance and Indemnification of NASA Space Vehicle Users

Sec.

1214.1300 Scope.
1214.1301 Definitions.
1214.1302 Insurance and indemnification.
1214.1303 Conditions to indemnification.
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Appendix A: Provision applicable to Shuttle payload users.
Appendix B: Provision applicable to NASA contractors providing payload specialists for Shuttle.

Authority: Sec. 203, Pub. L. 85-568, 72 Stat. 429, as amended (42 U.S.C. 2473); § 308 of the National Aeronautics and Space Act of 1958, as amended.

Subpart 1214.13—Insurance and Indemnification of NASA Space Vehicle Users

§ 1214.1300 Scope.

This Subpart sets forth: (a) The conditions under which NASA requires a user of a NASA space vehicle to provide third party liability insurance protecting the user and the U.S. Government from claims by third parties for damage.

(b) The conditions under which NASA provides liability insurance to, or will indemnify, a user of a NASA space vehicle to compensate the user for claims by third parties for damage. This regulation does not apply to damage sustained by NASA or a user if such

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damage is caused by other users or by NASA while involved in STS Operations as defined in each launch and associate services agreement. Each such agreement provides that NASA and all users agree to an inter-party waiver of liability during STS Operations.

(c) Appropriate implementing responsibilities and procedures.

§ 1214.1301 Definitions.

(a) Damage: Bodily injury to or death of any person, damage to or loss of any property, and loss of revenue or profits or other direct, indirect or consequential damages arising therefrom.

(b) Indemnify: To compensate a user for third party claims, including the expenses of litigation or settlement.

(c) Small Self-Contained Payloads: These payloads are small (200 pounds or less and 5 cubic feet or less) scientific research and development payloads flown on a space-available basis in a NASA-supplied container under the provisions of Subpart 1214.9.

(d) Space Vehicle: An object intended for launch, launched or assembled in outer space, including the Space Shuttle and other components of a space transportation system, together with related equipment, devices, components and parts.

(e) Third party: Any person who may institute a claim against a user or the U.S. Government for damage.

(f) User: Any entity or person who enters into an agreement with NASA for use of all or a portion of a space vehicle; who owns or provides property to be flown on a space vehicle; or who employs a person to be flown on a space vehicle.

§ 1214.1302 Insurance and indemnification.

(a) NASA will indemnify the following users of a NASA space vehicle for third party liability to the extent that such claims are not compensated by liability insurance of the particular user. These users will not be required to obtain insurance.

(1) All users flying small self-contained payloads.

(2) All users who provide payload specialist services for NASA missions under a NASA contract.

(b) All other users of a NASA space vehicle shall obtain insurance protecting themselves, the United States Government and other persons or entities identified in the launch and associated services agreement entered into by NASA and the users for third party liability, except that the Associate Administrator for Space Transportation Operations, with the concurrence of the General Counsel and Associate Administrator/Comptroller of NASA, may waive this requirement with respect to a particular user and/or flight if he or she determines such action to be in the public interest. Ordinarily, agencies of the U.S. Government will not be required to obtain such insurance. To the extent NASA requires users to obtain such insurance. To the extent NASA requires users to obtain insurance, they should obtain insurance from a financially responsible commercial source. The amount of insurance and the terms and conditions of such insurance shall be agreed to by the user and NASA in view of the insurance available in the world market at a reasonable premium. NASA will agree to indemnify each user (except other U.S. Government agencies) for liability incurred by the user to the extent it is in excess of the NASA approved insurance purchased by or provided to the user, subject to the terms, conditions and exceptions contained in the indemnification agreement. Examples of the insurance and indemnification agreement that may be entered into by NASA and users are provided in Appendix A, "Provision Applicable to Shuttle Payload Users" and Appendix B, "Provision Applicable to NASA Contractors Providing Payload Specialists for Shuttle." These example agreements may be revised by the Associate Administrator for Space Transportation Operations pursuant to § 1214.1304, without revision of Appendix A or B.

(c) If NASA determines that adequate third party liability insurance is not available on reasonable terms and conditions or at a reasonable premium in the commercial insurance market or if NASA determines that the availability of third party liability insurance prevents an orderly and equitable allocation of the risk of liability, NASA will seek to provide adequate liability protection for users and the U.S. Government through one or more of the following devices:

(1) a user or users designated by NASA will be authorized to purchase an insurance policy protecting all users on board the flight, the U.S. Government and other persons or entities identified in the launch and associated services agreement entered into by NASA and the users. The insurance premium will be allocated among the users in an equitable fashion as determined or approved by NASA. A U.S. Government agency which is a user and/or a small self-contained payload user on that flight will not be required to pay a premium for this insurance.

(2) NASA will procure an insurance policy and allocate the premium among the users on board a particular flight in an equitable fashion as determined by NASA. A U.S. Government agency which is a user and/or a small self-contained payload user on that flight will not be required to pay a premium for this insurance.

(3) NASA will agree to indemnify the users for a reasonable premium. The resulting premium will be retained in an indemnification pool to be used by NASA to indemnify users of a NASA space vehicle or to offset equitably premiums of other users. NASA will agree to indemnify a user under this paragraph only to the extent that NASA determines that adequate insurance is not available at a reasonable premium and on reasonable terms and conditions in the commercial insurance market.

§ 1214.1303 Conditions to indemnification.

(a) NASA is authorized to agree to indemnify a user only to the extent that claims by third parties are not compensated by liability insurance of the user.

(b) A user shall not be indemnified for payments:

(1) which are within the deductible amounts of the user's insurance policy, or

(2) to its contractor or subcontractor for liability incurred by that contractor or subcontractor, or

(3) as settlement payments, unless such payments are agreed to by the United States.

(c) An agreement that provides for indemnification must also provide for:

(1) notice to the United States of any claim or suit against the users for death, bodily injury or loss of or damage to property, and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(d) No indemnification payment may be made unless the Administrator or his or her designee certifies that the amount is just and reasonable.

(e) The Associate Administrator for Space Transportation Operations, with the concurrence of the General Counsel and Associate Administrator/Comptroller, may prescribe other appropriate conditions to indemnification.

§ 1214.1304 Responsibilities and procedures.

The Associate Administrator for Space Transportation Operations, with the concurrence of the General Counsel and Associate Administrator/Comptroller, is responsible for negotiating and entering into appropriate insurance and/or indemnification agreements and other transactions and certifying that the amount of an indemnification payment is just and reasonable. Indemnification payments will be made from sums which may be appropriated or which may be made available for such purpose, but no NASA program shall be curtailed or terminated because of such payments.

§ 1214.1305 Deviations.

Upon a determination in writing by the Associate Administrator for Space Transportation Operations, with the concurrence of the General Counsel and Associate Administrator/Comptroller of NASA, that it will serve the public interest, an agreement or other transaction may be entered into by NASA which deviates from the requirements of this Subpart.

Appendix A—Provision Applicable to Shuttle Payload Users

1. *Definitions.* For purposes of this Agreement, the following definitions shall be applicable:

a. "Liability" shall include payments made pursuant to United States' treaty, any judgment by a court of competent jurisdiction, administrative and litigation costs, and, after consultation with the User, settlement payments.

b. "Damage" shall mean bodily injury to or death of any person, damage to or loss of any property, and loss of revenue or profits or other direct, indirect or consequential damages arising therefrom.

2. *Third-Party Liability.* a. The User shall obtain, at no cost to NASA, insurance protecting the User, the United States Government and, to the extent the United States Government is liable to reimburse them for costs they incur for Liability, the United States Government's contractors and subcontractors from any third party Liability for Damage arising out of the performance of this Agreement during the "Risk Period" (as defined herein).

(1) The "Risk Period" for the User begins at the start of the physical attachment by bolt or other device of the Payload to the Orbiter.

(2) The "Risk Period" for the user ends after launch of a Payload upon the landing on the particular orbiter without causing damage to third parties or, if a Payload is jettisoned, when the Payload impacts the Earth without causing damage to third parties, whichever occurs last. If third parties are damaged, the "Risks Period" end immediately after all such damage occurs.

(3) The "Risks Period" for the user ends prior to launch of a payload upon completion of removal of the payload from the orbiter for any reason and shall begin again upon start of physical attachment as described in subparagraph 2a(1) above.

b. The user shall obtain, at no cost to NASA insurance protecting the user, the United States Government and, to the extent the United States Government is liable to reimburse them for costs they incur for liability, the United States Government's contractors and subcontractors from any third-party liability for any damage resulting from a deployable payload element following deployment. A payload which remains tethered to the orbiter shall not be considered to have been deployed.

c. The insurance policy may take into account the agreement by NASA, the user and other identified persons, in paragraph 3 below, not to make a claim for damage under the conditions described therein. The policy may exclude from coverage the liability of an insured to the insured's own employee. The insurance policy shall provide for the right of the United States Government to settle reasonably a claim for damage after consultation with the user.

d. The amount of insurance and the terms and conditions of such insurance to be purchased pursuant to this paragraph 2 shall be agreed to by the user and NASA in view of the insurance available in the world market at a reasonable premium. Notwithstanding such agreement by NASA, the user shall have the responsibility to meet the requirements in subparagraphs 2a and 2b above. Such insurance shall not be required in an amount in excess of $500 million dollars (U.S.). The user shall provide to NASA a copy of the executed insurance policy (or policies), or other evidence thereof satisfactory to NASA, within a reasonable time before the Firm Launch Date.

e. (1) Under section 308 of the National Aeronautics and Space Act of 1958, as amended by Pub. L. 96-48, for purposes solely of subparagraph 2a above, if NASA determines that it is not feasible for the user to obtain insurance, or if NASA determines that the user is unable to obtain adequate insurance, NASA may provide the User Insurance and/or indemnification for a reasonable fee to be agreed upon by the user and NASA.

(2) Under section 308, NASA agrees to idemnify the User, at no additional cost, for Liability incurred by the User solely under subparagraph 2a above, but only to the extent it is in excess of the amount of insurance purchased by or provided to the User. For purposes of this subparagraph 2e(2), "Liability" shall not include payments made by a User:

(a) Which are within the deductible amounts of the User's insurance policy, or

(b) To the User's contractor or subcontractor for Liability incurred by that contractor or subcontractor, or

(c) As settlement payments, unless such payments are agreed to by the United States Government.

(3) No payment shall be made by the United States Government under this subparagraph 2e unless the NASA Administrator or Administration's designee certifies that the amount is just and reasonable.

(4) The User shall (i) promptly notify the General Counsel of NASA of any claim or suit against the User for the death, bodily injury, or loss of or damage to property which reasonably may be expected to involve indemnification under this subparagraph 2e, (ii) furnish evidence or proof of any claim, suit or Damage covered by this subparagraph 2e in the manner and form required by the United States Government and (iii) immediately furnish to the United States Government copies of all pertinent papers to such claim or suit received by the User.

(5) The United States Government, at its election, may control or assist in the settlement or defense of any such claim or suit. The United States Government may discharge its obligation under this subparagraph 2e by making payments to the User or directly to persons to whom the User may be liable.

Appendix B—Provision Applicable to NASA Contractors Providing Payload Specialists for Shuttle

1. *Definitions.* For purposes of this provision, the following definitions shall be applicable:

a. "Liability" shall include payments made pursuant to United States' treaty, any judgment by a court of competent jurisdiction, administrative and litigation costs, and, after consultation with the User, settlement payments.

b. "Damage" shall mean bodily injury to or death of any person, damage to or loss of any property, and loss of revenue or profits or other direct, indirect or consequential damages arising therefrom.

c. The "User" is the contractor who is to provide under this contract a person to be flown on the Shuttle as a Payload Specialist.

2. *Indemnification for Third Party Liability.* a. (1) Under section 308 of the National Aeronautics and Space Act of 1958, as amended by Pub. L. 96-48, NASA agrees to indemnify the User for Liability incurred by the User for Damage resulting from activities carried on under this contract in connection with the launch, operations and recovery of the Shuttle, but only to the extent it is in excess of the amount of insurance purchased by the User. For the purposes of this subparagraph 2a(1) "Liability" shall not include payments made by a User:

(a) which are within the deductible amounts of the User's insurance policy, or

(b) to the User's contractor or subcontractor for Liability incurred by that contractor or subcontractor, or

(c) as settlement payments, unless such payments are agreed to by the United States Government.

(2) No payment shall be made by the United States Government under this subparagraph 2a unless the NASA Administrator or the Administrator's designee certifies that the amount is just and reasonable.

(3) The User shall (i) promptly notify the General Counsel of NASA of any claim or suit against the User for the death, bodily injury, or loss of or damage to property which reasonably may be expected to involve indemnification under this subparagraph 2a, (ii) furnish evidence or proof of any claim, suit or Damage covered by this subparagraph 2a in the manner and form required by the United States Government and (iii) immediately furnish to the United States Government copies of all pertinent papers to such claim or suit received by the User.

(4) The United States Government, at its election, may control or assist in the

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settlement or defense of any such claim or suit. The United States Government may discharge its obligation under this subparagraph 2a by making payments to the User or directly to persons to whom the User may be liable.

Robert A. Frosch,

Administrator.

[FR Doc. 80-35057 Filed 11-7-80; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9132]

Central Florida Electrical Bid Depository, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Winter Park, Fla. corporation operating a non-profit electrical bid depository service, and nine individuals to cease engaging in any course of action, conspiracy or agreement which has the purpose or effect of fixing, maintaining, stabilizing, or tampering with the price of electrical contracting services, including: encouraging or requiring members or signatories to exchange relevant bid information prior to bid opening time; barring them from negotiating or submitting bids after the bid filing deadline; requiring them to function exclusively through the bid depository; and penalizing those who fail to do so. Further, previously suspended recalcitrants would have to be reinstated, and the corporation would have to promptly amend its rules and regulations so as to conform with the terms of the order.

DATE: Comments must be received on or before January 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. (202) 523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9132]

Central Florida Electrical Bid Depository, Inc., et al; Agreement Containing Consent Order to Cease and Desist

Consent

The agreement herein, by and between The Central Florida Electrical Bid Depository, Inc., a corporation, by its duly authorized officer, and David Perry, Robert Behe, Larry Poirier, Fred Newton, individually and as officers and directors of said corporation, and Charles Mayo, Helmuth Eidel, Donald Burchnell, Patrick Kelly, and Lynn Harden, individually and as directors of said corporation, hereinafter sometimes referred to as respondents, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent The Central Florida Electrical Bid Depository, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with it office and principal place of business located at 707 Nicolet Avenue, Winter Park, Florida 32789.

Respondents David Perry, Robert Bene, Larry Poirier, and Fred Newton are officers and directors of said corporation. Respondents Charles Mayo, Helmuth Eidel, Donald Burchnell, Patrick Kelly and Lynn Harden are directors of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of said corporation.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, as amended and have filed an answer to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, respresentation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

It is ordered, That respondents The Central Florida Electrical Bid Depository, Inc., a corporation, its successors and assigns, the officers and directors, David Perry, Robert Behe, Larry Poirier, and Fred Newton, individually and as officers and directors of said corporation, and Charles Mayo, Helmuth Eidel, Donald Burchnell, Patrick Kelly, and Lynn Harden, individually and as directors of said corporation, and respondents' agents, representatives and employees, directly or indirectly, or through any corporate or other device, or through any member of or signatory to its bid depository, in connection with the receipt, solicitation, use, submission or transmission of bids or estimates which are, or may be, employed in the awarding of building construction contracts and subcontracts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from entering into, continuing, cooperating in, or carrying out, any course of action, conspiracy, undertaking or agreement:

(1) Which requires or provides that electrical contractors using the services of a depository are prohibited from (a) negotiating, after the deadline for the filing or deposit of bids with the depository, with general contractors using the services of the depository; or (b) submitting further bids to such general contractors after the deadline for the filing or deposit of bids with the depository; or (c) accepting a contract at a price other than the price submitted by such electrical contractors through the depository prior to the deadline for the filing or deposit of bids;

(2) Which requires or provides that the general contractors using the services of a bid depository are prohibited from (a) negotiating, after the deadline for the filing or deposit of bids with the depository, with electrical contractors using the services of the depository; or (b) attempting to obtain or obtaining further offers to perform jobs for which bids were taken through the depository; or (c) awarding contracts to electrical contractors at prices other than those submitted through the depository prior to the deadline for the filing or deposit of bids;

(3) Which requires or encourages the exchange, prior to bid opening time, among, member electrical contractors of the names, addresses or other identifying information with respect to those member electrical contractors who register or otherwise express their intent to bid on a project, or provides for the disclosure to any member or participant in the depository of the name, address, or other identifying information with respect to any subcontractor who expresses an intent to bid and requests confidentiality for such information prior to the opening of bids by those companies, firms, or individuals to whom bids are submitted;

(4) Which encourages, provides for or requires the registration of or exchange of information among member electrical contractors with respect to any job which is the subject of negotiation between member electrical contractors and companies, firms, or individuals engaged in general contracting;

(5) Which requires or provides that any work which is the subject of negotiation between any general contractor and one or more electrical contractors and has been registered by two or more electrical contractors is automatically required to be bid through a depository;

(6) Which requires or provides that any member, signatory, company, firm or individual that uses a bid depository operated by one or more of the respondents with respect to any specific job shall receive or solicit bids from, or submit bids to, only those companies, firms or individuals that are using the services of the depository with respect to that job;

(7)(a) Which subjects any member, signatory, company, firm or individual using a bid depository to submit bids in connection with any specific job, to suspension from the use of the bid depository or to a fine, penalty or any other sanction, or threat of sanction, for submitting any bid to any company, firm or individual that is not a member of or signatory to the bid depository or that is not using the bid depository with respect to that job;

(b) Which subjects any member, signatory, company, firm or individual using a bid depository to solicit or receive any bids in connection with any specific job, to suspension from the use of the bid depository or to a fine, penalty or any other sanction, or threat of sanction, for soliciting or receiving any bid from any company, firm or individual that is not a member of or signatory to the bid depository or is not using the bid depository with respect to that job; or,

(c) Which subjects any member, signatory, company firm or individual using a bid depository to solicit or receive any bids in connection with any specific job, to suspension from the use of the bid depository or to a fine, penalty or any other sanction, or threat thereof, for awarding any contract based upon any bid received from any company, firm or individual that did not use the bid depository with respect to that job;

(8) Which requires or provides that any member, signatory, company, firm, or individual that in any fashion uses a bid depository operated by one or more of the respondents shall receive or solicit bids from, or submit bids to, only those companies, frims or individuals that are also members, signatories or participants in said bid depository;

(9)(a) Which suspends from participation in a bid depository, or fines or imposes any other sanction or threat of sanction upon any member, signatory, company, firm or individual that submits any bid in any fashion to any company, firm or individual that is not a member of or signatory to said bid depository, or that does not employ or use said bid depository.

(b) Which suspends from participation in a bid depository, or fines or imposes any other sanction or threat of sanction upon any member, signatory, company, firm or individual that receives or solicits any bid in any fashion from any company, firm or individual that is not a member of or signatory to said bid depository, or that does not employ or use said bid depository;

(c) Which suspends from participation in a bid depository, or fines or imposes any other sanction or threat of sanction upon any member, signatory, company, firm or individual for awarding any contract based upon any bid received from any company, firm or individual that is not a member of or signatory to said bid depository or that does not employ or use said bid depository in connection with the particular job for which the contract was awarded; or,

(10) Which requires or provides for the circulation of any notice that any member or signatory of a bid depository operated by one or more of the respondents shall be, or has been, suspended or otherwise disciplined for violation of the rules and regulations of the bid depository.

(11) Which has the purpose or effect of fixing, maintaining, stabilizing, or tampering with the price of electrical contracting services.

It is further ordered, That respondents shall immediately reinstate any

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company, firm, or individual suspended from participation in said depository, which suspension resulted from conduct engaged in by respondents, which hereafter would amount to a violation of this order.

It is further ordered, That respondents shall promptly amend the rules and regulations of the corpoorate respondent and all documents used by the corporate respondent in the operation of its bid depository so that such rules, regulations and documents are consistent with the terms of this order.

It is further ordered, That each individual respondent named herein promptly notify the Commission at such time as he may discontinue his affiliation with the corporate respondent, its successors or assigns. In addition, each individual respondent shall for a period of fifteen (15) years after the date of service of this order promptly notify the Commission of each new affiliation of himself as officer, director, employee or consultant with any corporation or association whose activities include the operation of a bid depository. Such notice shall include the respondent's business address at such corporation or association and a statement of the nature of the affiliation, as well as a description of the respondent's duties and responsibilities in connection with said affiliation.

It is further ordered, That respondent corporation shall within fifteen (15) days of the service of this order distribute a copy of this order to all individuals who are employees, officers and directors as of the time of service of this order and to all members, signatories, companies, firms of individuals that have participated in said bid depository at any time prior to service of this order. Furthermore, respondent corporation shall within (15) days of the date that individuals, companies, or firms become affiliated with, or commence participation in such bid depository, its successors or assigns, distribute a copy of this order to all such new employees, officers and directors who become affiliated with the bid depository, its successors or assigns, and to all such new members, signatories, companies, firms or individuals that begin participation in the bid depository, its successors or assigns.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order or at least thirty (30) days prior to the formation by or with the participation of any respondent of any other corporation or organization which conducts the business of a bid depository.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Central Florida Electrical Bid Depository, Inc., and nine individuals who were named individually and as officers and directors of the corporation which operated the bid depository. Four of the nine individuals were both officers and directors of the corporation operating the bid depository. These four were David Perry, Robert Behe, Larry Poirier, and Fred Newton. The remaining five individually named parties to the order were directors of the corporation operating the bid depository. These five were Charles Mayo, Helmuth Eidel, Donald Burchnell, Patrick Kelly and Lynn Harden.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charges violation of the Federal Trade Commission Act through the operation of a bid depository whose rules allegedly tampered with price, facilitated price-fixing and created a group boycott in the electrical contracting industry in Central Florida.

The complaint alleges that prices were tampered with by rules restricting the practices of "bid shopping" and "bid peddling." "Bid shopping" is the practice of general contractors seeking to obtain further offers at prices lower than those submitted to them in response to an invitation for bids. "Bid peddling" is the practice of subcontractors (such as the electrical contractors in this case) offering to do work for general contractors at prices lower than those submitted by themselves or others to general contractors in response to an invitation to bid on a job.

The rules allegedly facilitated price-fixing by causing the circulation among competitors of a list of all those persons registering an intent to bid on a job prior to the submission of bids and requiring that one of the bids submitted must be used by a general contractor taking bids. The circulation of the list of competitors intending to bid assured that competitors knew the names of all persons who were committing themselves to comply with the depository's alleged rules against bid shopping and bid peddling and who might join in any consensus agreement to fix prices or allocate jobs. A second rule provision allegedly facilitated price-tampering by requiring that private negotiations between general contractors and electrical contractors be registered with the depository. The negotiation requirement was supplemented by a provision that a registration by two electrical contractors required the job to be bid through the depository and, thus, subjected to the alleged restrictions on "bid shopping" and "bid peddling."

The complaint further alleges that the rules created a group boycott by requiring that general contractors bidding through the depository must award a contract to one of the electrical subcontractors who bid through the depository at the price submitted. This rule allegedly operated as an agreement among general contractors not to take bids from electrical contractors who wanted to place bids without going through the depository and complying with depository rules against "bid shopping" or "bid peddling." Conversely, electrical contractors using the depository to place bids for a job allegedly agreed through the operation of this rule to boycott general contractors not using the depository on that job.

The proposed order requires that all the allegedly anti-competitive practices described above be discontinued permanently by the corporation operating the depository, any successors to that corporation and all the nine individuals named in the order.

The effect of the acceptance of the order should be to increase price competition in the electrical contracting business in Central Florida, thereby lowering the prices to be charged for such electrical contracting services.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify in any way their terms.

Carol M. Thomas

Secretary.

[FR Doc. 80-34973 Filed 11-7-80; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-17265; File No. S7-851]

FOCUS Reporting System; Requirements for Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 9, 1980, (45 FR 62092, September 18, 1980) the Commission published for comment proposed amendments to Form X-17A-5, the Financial and Operational Combined Uniform Single ("FOCUS") Report, and Rule 17a-5 under the Securities Exchange Act of 1934. In Release No. 34-17213, October 14, 1980, the period for public comment was extended until October 31, 1980. The Commission is further extending the period for submitting comments until November 30, 1980.

DATE: Comments must be received on or before November 30, 1980.

ADDRESSES: All comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-851 and will be available for inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW. Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James G. Moody, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-2370; or William J. Atkinson, Directorate of Economic and Policy Analysis, Securities and Exchange Commission, Washington, D.C. 20549 (202) 523-5493.

SUPPLEMENTARY INFORMATION: On September 9, 1980, the Commission published for comment Proposed Amendments to Part I, Part II, and Part IIA of Form X-17A-5 (17 CFR 249.617), the Financial and Operational Combined Uniform Single ("FOCUS") Report and Rule 17a-5 (17 CFR 240.17a-5) under the Securities Exchange Act of 1934. The proposed amendments would revise the Form so as to clarify certain financial and operational reporting requirements of securities brokers and dealers, to require more detailed reporting of some items, and to eliminate or consolidate other items. Rule 17a-5 would be amended to require the filing of two copies of the annual audited report at the Commission's headquarters' office instead of the single copy now required.

Notice of the request for comments was given by Securities Exchange Act Release No. 34-17138 (September 9, 1980) and by publication in the **Federal Register** (45 FR 62092 (September 18, 1980)). Interested persons were invited to submit written comments prior to October 15, 1980. In release No. 34-17213, October 14, 1980; 45 FR 69248, October 20, 1980, the period for public comment was extended until October 31, 1980. Based on the comments received thus far, the Commission feels it would be in the public interest to further extend the comment period.

Accordingly, the Commission today has extended the period for the submission of written comments concerning the foregoing proposed amendments until November 30, 1980.

Finally, it is not expected that any changes in Part II of the FOCUS Report pursuant to Securities Exchange Act Release No. 17138 can be adopted before sometime in 1981. It is anticipated, however, that if any changes in Part II of the FOCUS Report are made in 1981, the first filing of the revised Part II would cover the period from January 1, 1981 to the date of the first Report and thus provide the income data necessary for monitoring. Firms will continue to file the current Part II in regular course until any revisions are adopted. All interested persons are invited to comment on the feasibility and impact of this implementation process, as well as the changes proposed in Release No. 17138.

Dated: October 31, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35053 Filed 11-7-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-21]

Regulations Implementing Alternative Fuel Price Ceilings for Incremental Pricing Under the Natural Gas Policy Act of 1978; Inquiry

November 4, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission is considering, and requests public comment on certain revisions to its rules on incremental pricing under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301-3432). The revisions relate to the designation of incremental pricing regions and to the methodology for calculating alternative fuel price ceilings in those regions. The Commission requests comments from interested persons, accompanied by supporting data where possible, to assist it in formulating specific proposals for improvements to the data collection system and the price ceiling computation procedures.

DATES: Informal technical conferences to discuss the issues raised in this notice are scheduled to be held in Kansas City, Missouri on Friday, November 21, 1980, and in Washington, D.C. on Monday, November 24, 1980.

If sufficient interest is expressed by the public in holding additional conferences at other locations, the Commission will establish dates and locations for such conferences and make an announcement in the **Federal Register.** Written comments are due on or before December 5, 1980.

ADDRESSES: Written comments should be directed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE.

Hearings will be held at the following locations:

Holiday Inn Tower, Lewis & Clark Room, 424 Minnesota Avenue, Kansas City, Missouri.

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Collette Bohatch, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033;

Carol Lane, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE.,

Washington, D.C. 20426, (202) 357–8114;
Thomas P. Gross, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8077.

I. Background

The Federal Energy Regulatory Commission (Commission) is considering, and requests public comment on, certain revisions to its rules on incremental pricing (18 CFR Part 282) under the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432). The revisions relate to the designation of incremental pricing regions and to the methodology for calculating alternative fuel price ceilings in those regions.

Section 201 of the NGPA requires the Commission to institute and administer, within certain guidelines, a federal incremental pricing program. The program is designed to pass through, by surcharge, to certain industrial facilities that use natural gas as a boiler fuel, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA. Section 204 provides that the surcharge imposed on an industrial facility under the incremental pricing program may not raise the facility's cost of non-exempt natural gas above the alternative fuel price ceiling established by the Commission. Section 204 also directs the Commission to establish the price ceiling based on the cost of alternative fuel oils in each region designated by the Commission.[1]

On September 28, 1979, the Commission issued final regulations implementing sections 201 and 204 (Order Nos. 49, 50 and 51, Docket Nos. RM79–14 and RM79–21, 44 FR 57726, 57754 and 57778, October 5, 1979). Additional regulations were issued May 7, 1980 (Order No. 81, Docket No. RM79–21, 45 FR 31300, May 13, 1980). Generally, those regulations established a three-tier alternative fuel price ceiling (based on No. 2, low-sulfur No. 6, and high-sulfur No. 6 fuel oils) for each of the 48 contiguous states and for each of 31 metropolitan areas. However, as discussed below, the regulations were made effective only as they established a single-tier alternative fuel price ceiling (based on high-sulfur No. 6 fuel oil) for the 48 states, on a month-to-month basis.

Experience under these regulations indicates that improvements are possible in the determination of alternative fuel price ceilings, so that the published prices will more acurately reflect high-sulfur No. 6 fuel oil prices. In particular, the Commission is concerned that in some cases price ceilings have varied widely in neighboring states, raising questions about inequities and the possibility of fuel switching. On the basis of its observations and judgment at this time, the Commission believes that a reconfiguration of the regions would improve the correspondence between the alternative fuel price ceiling calculated for each region and the actual fuel price paid in that region. In addition, the Commission believes that an adjustment to the methodology for calculating the alternative fuel price ceilings may further improve the precision of the calculated price ceilings.

The revisions to the regulations being considered by the Commission do not reflect a change in policy; rather they are intended to carry out the commitment made in Order No. 50 to review the regions and methodology for calculating the alternative fuel price ceilings and to make technical changes and improvements in order to carry out the objectives of the incremental pricing program. The Commission requests comments from interested persons, accompanied by supporting data where possible, to assist it in formulating specific proposals for improvements to the data collection system and the price ceiling computation procedures.

Incremental Pricing Regions

A. Current Incremental Pricing Regions

Establishing the appropriate regions is critical to the effectiveness of the oil sales data collection and price publication system used to determine the alternative fuel cost. There are approximately 150 high-sulfur residual fuel oil suppliers from whom price data must be collected in order to calculate the alternative fuel price ceilings. The collection of customer-specific data for all of the customers of these suppliers is virtually impossible. Some system for collecting and aggregating these data and for publishing the calculated alternative fuel price ceilings is necessary. The issue is how to structure a data collection and price publication system that appropriately balances the need for a prompt and feasible data-collecting procedure and the need for publishing reasonably accurate price ceilings in order to achieve the statutory purposes within the statutory constraints.

In establishing the regions, the Commission used the following five criteria:

(1) The number of regions should be manageable from an administrative point of view;

(2) Each region should be such that prices charged to industrial end-users will be reasonably close to the average for the region;

(3) Each region should include enough oil users to obtain a statistically meaningful sample size upon which to determine the alternative fuel cost;

(4) The regions should be rationally related to industrial concentrations and fuel oil marketing areas; and

(5) The regions should be as closely aligned with political boundaries as possible.

The Commission initially considered three types of regions that would satisfy the five criteria listed above: (1) 48 contiguous states; (2) eight large multi-state regions; and (3) the eight large multi-state regions combined with the 31 metropolitan regions which have a population of one million or greater. The Commission finally adopted an approach which combined the first and third options: the 48 states combined with the 31 metropolitan regions. This approach would have required data collection and price publication for 79 separate regions. However, the Energy Information Administration (EIA) [2] anticipated that publication of price ceilings for metropolitan regions would be significantly more difficult than publication for states. It suggested that the Commission initially require that price ceilings be published only for the 48 states, in order to provide the EIA with additional time to perfect a system for developing ceiling prices for the metropolitan regions. The Commission agreed and, in Order No. 81, postponed the publication of prices for the 31 metropolitan areas until November 1, 1981.

The experience to date with the state regions demonstrates that some states have not had sufficient high-sulfur No. 6 oil sales for calculation of a realistic alternative fuel price.[3] If fewer than a

[1] The statute further provides that the appropriate alternative fuel cost for passthrough is the price paid for No. 2 fuel oil in the region where the industrial facility is located, unless the Commission determines that using the price for No. 2 fuel oil could cause the loss of industrial load such that an increase in rates to high-priority gas users would result. To prevent such load loss, the NGPA permits the Commission to reduce the alternative fuel ceiling to a level not lower than the price of No. 6 fuel oil.

[2] Under the current regulations, the data collection is performed by the Energy Information Administration of the Department of Energy, in accordance with general policies established by the Commission.

[3] In statistical terms, this problem is known as "sampling error". In most situations the straightforward remedy is merely to increase the size of the sample. However, the EIA states that the present sample comprises the universe and that there are no transactions not observed. Expansion of the sample is therefore not possible in the usual sense. Reduction of the sampling error can be

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certain number of sellers reported oil sales, or if a single seller captured more than a certain fraction of the market in a state, the EIA did not publish a price ceiling based solely on the state data because proprietary oil price information might have been revealed. Instead, the EIA referred to the multi-state regions established in Order No. 50 in determining the price ceiling for that state. Using this procedure, the price ceilings for such states have been determined sometimes by the state data and at other times by multi-state data, leading to month-to-month price instability. To correct this fluctuation, the EIA adopted the use of three-month rolling average for oil prices. This technique has been effective in removing some month-to-month instability, but has not resolved the problem entirely.

A related problem regarding state regions is the price disparity among neighboring states. This disparity increases the possibility of industrials switching from gas to oil purchased in a nearby state. Even without any fuel switching, there remains an equity problem where industrial gas customers in neighboring states are paying widely varying prices for the same service.

Three states in particular have emerged with consistantly higher prices than their neighbors: Kentucky, South Dakota, and Oregon. From time to time certain other states experience this disparity with neighboring states. For example, in September 1980, a difference of 64 cents in alternative fuel price ceilings developed between Kansas and Colorado, and a difference of 96 cents between Idaho and Wyoming. Louisiana has recently developed a pattern of relatively low prices. In September, 1980, the Louisiana price ceiling was 87 cents less than Texas, 76 cents less than Mississippi and $1.07 less than Arkansas.

B. Proposed Revision of Regions By Grouping States

Based on experience to date, the Commission believes it might be appropriate to reconfigure the regions by grouping states in order to reduce the problems related to inadequate data in individual states. Price variations at state borders could be reduced by merging adjacent states with a similar history of average oil prices.[4] Ideally, a state with a history of high alternative fuel price ceilings and inadequate data should be grouped with an adjacent state with a history of adequate data and lower price ceilings.

Preliminary discussions with the EIA have indicated that the following reconfiguration of the state regions may eliminate problems resulting from inadequate data:

(1) Maine, New Hampshire, and Vermont;

(2) Massachusetts, Rhode Island, and Connecticut;

(3) New York;

(4) Pennsylvania;

(5) New Jersey;

(6) Delaware and Maryland;

(7) Virginia and North Carolina;

(8) South Carolina, Georgia, and Florida;

(9) Alabama and Mississippi;

(10) Tennessee, Kentucky, Ohio, Indiana, and West Virginia;

(11) Illinois, Michigan, Wisconsin, Minnesota, North Dakota, and South Dakota;

(12) Iowa, Missouri, Oklahoma, Kansas, Nebraska, and Colorado;

(13) Louisiana and Arkansas;

(14) Texas and New Mexico;

(15) California, Arizona, Nevada, and Utah;

(16) Wyoming, Montana, Oregon, Washington, and Idaho.

The Commission preliminarily suggests these 16 regions as the new incremental pricing regions. Under this approach, a single price would be published for each of these regions.

Before converting this concept into a specific proposal, the Commission requests the public to assist in a careful review of the need for a revision of the present state regions and the structure any such revision should take. This review should focus on oil sales volumes, prices, and decrement procedures on a state-by-state basis. The Commission is concerned that a grouping strategy, if not carefully implemented, may tent to "smooth out" low prices as well as high prices and lead to load loss in the affected states. There is also a possibility that large groupings of states may lead to large price differences at group boundaries, and that grouping of states may ultimately lead to a uniform national price, a result the Commission believes is undesirable.

The Commission requests comment from the public on how, if at all, states should be grouped for ceiling price determinations. The Commission believes that the questions listed at the end of this notice will help to focus comments on the issues the Commission believes are important for reconfiguring the regions. Comments and suggestions need not, however, be limited to these questions.

C. Proposed Elimination of Metropolitan Regions

The experience to date with the present data collection and price publication system used on a state-by-state basis has convinced the EIA that publication of prices for high-sulfur No. 6 fuel oil is not feasible for metropolitan regions, because such regions do not include enough oil users to obtain a statistically meaningful sample size. The Commission proposes to eliminate the 31 metropolitan regions. The public is urged to respond to the pertinent questions listed at the end of this notice regarding this proposal.

D. Proposed Revision or Elimination of Multi-state Regions

In the first Notice of Proposed Rulemaking in this docket, the Commission proposed to establish incremental price ceilings for eight large multi-state regions that were derived by modifying various regional divisions used by the Bureau of Census, the Department of Energy and others to take into account energy production, distribution, and sales patterns.

Public comment was generally critical of the proposed approach. Many commenters expressed the view that the multi-state regions were too large. The Commission took this into consideration and acted to require publication of price ceilings by states. The multi-state regions were not discarded for all purposes, however. The EIA is presently using them in several ways: (1) The current standard deviation approach is based on multi-state region standard deviations; (2) the multi-state regional data are factored into the rolling average whenever a state reports no data for a given month, and (3) the present lag adjustment is computed for four large geographic regions which are based on aggregations of the eight multi-state regions.

The opportunity now exists to reconsider the use of these eight multi-state regions. Multi-state regions may not be necessary if a new ceiling price computation methodology is adopted. As discussed below, the Commission is

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achieved through several techniques that act to expand the quantity of data relied upon for each monthly computation, while not actually expanding the sample. Grouping of states is an example of such a technique. Other possible strategies serve to expand the sample by including new sources of data in the ceiling price computation. Use of price data for No. 2 or low-sulfur No. 6 fuel oil falls into this latter category.

[4] Such grouping of states should be viewed as distinct from re-arrangements of the multi-state regions. In eliminating inequities resulting from use of the state regions, the Commission recognizes that some states may have to be split. Although the commission will consider this approach, it is concerned that the difficulties may outweigh the benefits.

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considering abandoning the two standard deviation approach in favor of a cumulative decrement approach. States with inadequate data would be grouped with neighboring states to form new incremental pricing regions, and a single price would be published for each such group of states. The lag adjustment factor, as presently structured, would not necessarily be affected by changes in the regions. Such modifications would appear to eliminate the need for the eight multi-state regions.

If, however, grouping of states and the cumulative decrement approach were not adopted, it may be necessary to retain the multi-state regions. If the multi-state regions were retained, the Commission would propose to move Kansas from Region E to Region F. Other states might be proposed to be moved from one region to another based on comments filed in this inquiry.

The Commission solicits comments on a proposal to eliminate usage of the multi-state regions for the various computational purposes described above. It especially solicits comments from those who favor retaining such regions for computing a standard deviation decrement, and those who prefer not to group states with inadequate data.

III. Proposed Methodology for Calculation of the Alternative Fuel Price Ceilings

A. Current Methodology

As stated above, the data collection system is critical to the calculation of the alternative fuel price ceilings which are published region-by-region. Under the current methodology, the EIA collects the oil sales data and performs a series of calculations to determine the alternative fuel price ceilings. The data are aggregated region-by-region to derive an average price, weighted by volume, for each region. Each weighted average price is adjusted downward from the mean by two standard deviations,[5] calculated on the basis of data from a multi-State region, to establish an alternative fuel price ceiling for each incremental pricing region. In the event the ceiling price is lower than the lowest reported price for the period, the lowest reported price would be the ceiling price. This methodology is referred to as the "two standard deviation" approach.

A downward adjustment of the weighted average price is necessary, as noted above, because industrial facilities that could purchase oil for a price below the weighted average would probably switch to oil if the ceiling price were set at the weighted average. Such load loss for pipelines would necessitate shifting of piepline-fixed costs from low-priority industrial customers to high-priority customers, thereby undermining the purposes of Title II of the NGPA.

The two standard deviation approach was initially proposed by the Commission because it appeared to provide a method for setting a ceiling price that would be close to the price paid by those industrial users with access to favorably priced sources of supply. The procedure also seemed to have the advantage of minimizing the probability of setting the price based on some atypical sale at a price far below the market or at a price that might be manipulated in order to establish a low ceiling price.

The two standard deviation approach, however, assumes that the oil sales data collected are distributed according to a normal or "bell" shaped curve. Assuming normal distribution, setting the alternative fuel price at two standard deviations from the weighted average allows 2.5 percent of all fuel oil sales to be priced below the ceiling.

The Commission recognized that the fuel oil sales data might not form a normal, "bell" shaped curve, but, due to the nature of the fuel oil market, is likely to be skewed to the right (towards higher prices) and to end abruptly on the left (at lower prices). If the curve were skewed to the right, then two standard deviations lower than the mean would result in an alternative fuel price ceiling below the lowest oil sales price reported. Therefore, the Commission proposed a price ceiling set at the greater of (1) the weighted average price adjusted downward by two standard deviations, or (2) the lowest observed price.[6] At the time the program was implemented, the Commission stated that it would consider altering the two standard deviation approach as subsequent experience indicated.

The drawbacks of the two standard deviation technique [7] were explored in many written comments and oral presentations made to the Commission. After balancing the advantages and disadvantages of alternative techniques and the two standard deviation technique, the Commission concluded that the latter would result in the most accurate calculation of alternative fuel price ceilings.

The Commission issued final regulations, again expressing its preference for the two standard deviation approach, although the final rule did not implement a specific methodology for collecting data and generating price ceilings. The Commission decided to provide the EIA with flexibility in order that it might periodically adjust the data collection and analysis techniques. Even though the EIA had this flexibility from the beginning of the program, it decided to use the two standard deviation approach.[8]

After nine months of operating under the two standard deviation approach, the Commission believes that revisions to the method used for computing the price ceilings should be considered. One reason for such consideration is the variation from month-to-month of the published price ceilings.[9] Informal studies by the Commission staff indicate that the month-to-month price variation may be caused by the two standard deviation approach. In the first six months of the incremental pricing program, price ceilings were equal to the lowest reported State price in nearly 85 percent of all cases. Use of the lowest reported prices for determining the ceiling price is undesirable not only because month-to-month instability may result, but also because this practice effectively reduces the surcharge and passthrough of gas acquisition costs to nonexempt industrial users.[10] Accordingly, some of the hoped-for advantages of the two standard deviation approach are not being realized.

B. The Proposed Revised Methodology

The Commission now proposes to adopt a modification of an approach previously suggested in this docket by the California Public Utilities Commission (California), and referred to as the "cumulative decrement approach." Under the California proposal all observed sale volumes of high-sulfur No. 6 fuel oil would be ranked in ascending order by price. The point below which 2.5 percent of the observed volumes occurred would determine the alternative fuel price ceiling. Thus, no more than 2.5 percent of the observed oil sales volumes would have been sold at a price below the derived price ceiling.

Staff observations indicate that the 2.5 percent recommended by California would have resulted in the lowest reported price setting the published price ceilings in 73 percent of all cases thus far.[11] The Commission believes this result would be unsatisfactory but could be corrected by increasing the percent cut-off point.

If properly structured, the cumulative decrement approach could nevertheless mitigate the instability problem which presently exists with the standard deviation approach if the percentage could be set so that the ceiling price would be above the lowest reported price in most cases. It is essential to structure the procedure so that a single reported transaction will seldom determine the published ceiling, *i.e.*, a transaction in which the volume of fuel oil equaled or exceeded the referenced percentage of volume (2.5 percent under the California approach) and such transaction was made at the lowest reported price. Therefore, the Commission is considering a cumulative decrement approach using 7.5 percent (rather than 2.5 percent) to alleviate the problem of the routine coincidence of the ceiling price and the lowest reported price. Under this method, the Commission expects the lowest price to set the ceiling price in less than half of all cases. The Commission solicits public comment on this proposed approach and specifically requests the public to respond to the questions at the end of this notice.

Although the Commission is considering adoption of the cumulative decrement approach, it recognizes that at least the following methodologies are also available: (1) The fixed percentage decrement; (2) the fixed cost decrement; and (3) the use of the mean (*i.e.*, no decrement). Commentator are invited to address these alternate methodologies.

C. The Lag Adjustment Factor

A further issue related to the collection of the oil sales data is the lag time between the reporting of oil sales prices and the date the alternative fuel prices are effective. Commentators have stated previously in this docket that the major problem created by the EIA's data collection procedures is the two-month lag.[12] In response to these comments, the Commission recommended that the EIA develop a lag adjustment factor based on current oil prices, which would be used to adjust the price ceilings for the lag between data collection and publication of price ceilings.

The lag adjustment factor developed by the EIA tracks trends in oil prices derived from data not subject to the time lag.[13] The factor is calculated by multiplying the price ceiling data collected by the EIA by the ratio of currently posted oil prices to posted prices from the previous two months.[14]

The Commission realizes that there may be better methodologies for compensating for future price perturbations.[15] Although it does not now propose a change, the Commission will entertain comments from the public on alternative methodologies, including the currently used methodology.

D. Possible Data Expansion Method

The Commission previously considered, but did not adopt, expansion of the alternative fuel data base by including data for sales of low-sulfur No. 6 and No. 2 fuel oil. If there is a co-variant relationship between the prices of these fuels and the price of high-sulfur No. 6 fuel oil, and if there are sufficient sales, a price for high-sulfur No. 6 fuel oil could be extrapolated from these data. The Commission requests comment on this methodology.

E. Possible "Fail-Safe" Method

The Commission has received comments on the interim rule issued in Docket No. RM80-46 (Rule Adopting Revised Alternative Fuel Price Ceilings for the Month of April 1980, issued March 28, 1980) concerning a "fail-safe" method of determining alternative fuel price ceilings. This method would operate to allow a non-exempt user to reduce the surcharge that would otherwise be based on the EIA-determined price ceilings, if such user could certify to the Commission that a lower alternative fuel price is available to his facility.

The Commission considered but declined to adopt this approach in Order No. 50. However, in the context of this inquiry, the Commission is again prepared to receive comments on whether the evidence to date indicates that a "fail-safe" method should be adopted.

IV. Summary

The Commission believes that the proposed changes would improve the incremental pricing methodologies. However, it may be desirable to retain the current methodologies, or there may be superior changes that the Commission should consider. The

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[5] A standard deviation is a statistical measure of the degree of dispersion or scatter in a sample of data which has been gathered at random. The greater the degree of dispersion, the greater the value of the standard deviation. The probability that any single observation in a large set of randomly selected observations will lie far from the average is mathematically described in terms of the standard deviation. For example, if a random variable is distributed according to a "bell" shaped curve, approximately 68 percent of all observations will differ from the average by less than one standard deviation. Approximately 95 percent of the observations will differ from the average by less than two standard deviations. In this latter case, generally half of the outlying observations, or about 2.5 percent of the total, will be on the low side. Thus, while 50 percent of all observations can be expected to be lower than the average, only about 2.5 percent can be expected to be lower than the average minus two standard deviations.

[6] Under the three month rolling average method, the "lowest price" which is compared to the decremented mean is an average of the lowest prices for the three months in the rolling average. The first two months' data are adjusted statistically to reflect price trends.

[7] One disadvantage to the two standard deviation technique is that it is a statistical technique unfamiliar to many in the oil and gas markets. Another disadvantage is that it is a more difficult concept than other techniques which use a fixed-percent decrement or the lowest reported price.

[8] The standard deviations used by the EIA have been computed from multi-State region rather than State data.

[9] Although some of the observed variation is probably due to the dynamic nature of oil markets, there remains a legitimate concern that much of the variation is due to faulty specification of the ceiling price algorithm. The current procedure used by the EIA is based on a three month rolling average and was selected largely for reasons of stability from month-to-month. Despite this procedure, one round of ceiling price publications produced price increases of nearly 60 cents per MMBtu in certain States such as Idaho and Texas.

[10] Reliance on the lowest price also opens the possibility of price manipulation.

[11] There is a circumstance in which under the cumulative decrement approach the ceiling price would be the lowest reported price. A single, industrial sale could easily comprise the lowest-priced two percent of the total volumes observed in a given region. This two percent would be ignored in setting the ceiling price by the cumulative decrement (97.5 percent) approach. Only the next one-half percent would matter. But if in a subsequent month, an industrial facility purchased three percent of the total volumes observed this single sale would determine the ceiling price. If this sale happened to be at a low price, the resulting ceiling price could drop dramatically from the previous month. Thus, a cumulative decrement could lead to the ceiling price fluctuating erratically, depending on slight changes in a single sale. There is also concern that since only the sale price of the lowest two and one-half percent of volumes would be considered in determining a ceiling price, a single customer purchasing two and half-percent of the volumes could manipulate the ceiling price.

[12] Under the originally proposed collection procedures, April fuel oil prices would form the basis for ceilings for July. By then, however, industrial customers might be able to purchase fuel oil at a lower price, in which case they would be likely to switch to oil. In addition to the seasonal fluctuation in price, oil prices can fluctuate dramatically at any time of the year due to changes in international markets.

[13] Posted oil prices are used for computing the lag adjustment factor. Platt's Oilgram is used as the source of posted price data. EIA data or EIA publications cannot be used for obtaining posted prices because the data obtained from them would be subject to the same time lag problems as the uncorrected ceiling price data. The prices found in Platt's Oilgram are given each trading day in the form of high and low prices for each oil product. The low price is used for determining the lag adjustment factor.

[14] This factor is an estimate of the increase or decrease in residual oil prices. Lag factors are computed for four regions of the country rather than two, as suggested in the preamble to Order No. 50. The oil price data are weighted by volume in deriving the adjustment. Low-sulfur oil prices are incorporated into the factor as necessary, but these data are first independently adjusted to reflect oil sales of a uniform sulfur content. Finally the EIA has experimented with the number of days of posted price data used to derive the lag adjustment factor.

[15] Attempting to attain the second decimal place in fitting historical data may not ensure future success. Given the time and effort directed to this problem by the EIA, the Commission will refrain from proposing any specific alternatives at this time.

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Commission, therefore, solicits proposals.

Insofar as the Commission will address the three-tier system at a later date, the Commission requests that all comments and proposals be limited to the single-tier system.

V. Questions for Public Comment

The Commission invites the public to assist the Commission in its effort to revise the incremental pricing regions and the methodology for calculating the alternative fuel price ceilings. Responses to the following questions, supported by data where appropriate, will give the Commission additional information upon which to base its decisions.

1. Certain states appear to have too few reporting sellers to provide sufficient data for a reliable sample. Should these states be grouped with other states to increase the sample size of oil sales? Should the proposed grouping set forth at p. 8 be adopted?

2. In order to increase the sample size of oil sales, should the Commission collect data on sales of low-sulfur No. 6 and No. 2 fuel oils? Are there significant industrial sales of these fuels? Is the relationship between the prices of these fuels and the price of high-sulfur No. 6 such that a stable price for high-sulfur No. 6 fuel oil could be extrapolated from the reported data?

3. EIA studies indicate that there are inadequate data to publish ceiling prices for the 31 metropolitan areas beginning on November 1, 1981. Should the metropolitan areas be eliminated from consideration as incremental pricing regions?

4. Should the eight multi-state regions be eliminated for all purposes? If not, for what purposes should they be used? If they are used, should certain states be moved from one region to another?

5. Should the Commission adopt a "fail-safe" method under which a non-exempt user could (a) certify to the Commission that a lower alternative fuel price than that published by the EIA is available to him, and (b) be surcharged only to the level of that lower certified price? How could the Commission verify the data upon which a "fail safe" approach would be based?

6. To what extent have the previous month-to-month fluctuations in the ceiling prices affected normal business operations?

7. By using the two standard deviation approach, about 2.5 percent of all fuel oil sales are priced below the ceiling price. Instability in the ceiling price arises when the lowest reported price is greater than the ceiling price. This instability could be eliminated by using less than two standard deviations. Should the Commission adopt a cumulative decrement approach which uses 7.5 percent of fuel oil sales priced below the ceiling price?

8. Another way of reducing month-to-month fluctuations would be to eliminate the rule that the ceiling price will be the lowest reported price if it is higher than the price set by the decremented mean. Would this be desirable? Is the Commission legally required by section 204(e)(2) of the NGPA to set a ceiling price not lower than the lowest reported oil sale price?

9. In considering alternative methodologies for determining the ceiling price, should the Commission give more consideration to adopting a methodology that minimizes fluctuations (both month-to-month and state-to-state) in the ceiling price or a methodology that carefully reflects actual oil prices regardless of fluctuations?

10. The Commission currently computes the lag adjustment factor from prices obtained from Platt's Oilgram. Are there better sources of data which could be used for a lag adjustment computation?

VI. Written Comment Procedures

Interested persons may comment on this Notice of Inquiry by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 5, 1980. Each person submitting a comment should indicate that the comments are being submitted in Docket No. RM79–21, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning this docket may be addressed. An original and 14 copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commisison's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during normal business hours.

VII. Technical Conferences

The Commission staff will hold informal technical conferences in Kansas City, Missouri, on Friday, November 21, 1980, and in Washington, D.C., on Monday, November 24, 1980, to discuss the issues raised in this notice. If sufficient interest is expressed by the public in holding additional conferences at other locations, the Commission will establish dates and locations for such conferences and make an appropriate announcement in the **Federal Register.**

The technical conferences will utilize an informal, round-table format. The Commission hopes that technical personnel representing natural gas pipelines, distribution companies, and industrial end-users will attend the conferences and offer detailed information and recommendations to staff on the various issues raised in this Notice.

(Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350, (15 U.S.C. 3301, *et seq.*))

By the direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35127 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

RAILROAD RETIREMENT BOARD

20 CFR Part 341

Statutory Lien Where Sickness Benefits Paid

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board proposes to amend Title 20, Chapter II, of the Code of Federal Regulations by adding a new Part 341, Statutory Lien Where Sickness Benefits Paid. Section 12(o) of the Railroad Unemployment Insurance Act provides that sickness benefits shall be payable to an individual for days of sickness regardless of the liability of any person for the infirmity for which the benefits are paid. However, that section also provides that the Board is to be reimbursed for the sickness benefits actually paid from any sum or damages paid or payable to the individual by reason of the infirmity.

The new Part 341 explains when a lien is established under section 12(o) of the Railroad Unemployment Insurance Act, how the amount of the lien is determined, what procedures must be followed by the Board in establishing the lien, and how the lien may be satisfied. In addition, the proposed regulations establish procedures to be followed by the Board in terminating sickness benefits where it has been reported to the Board that the beneficiary has recovered through settlement or judgment any sum or damages for the same injury or sickness for which sickness benefits under the Railroad Unemployment Insurance Act have been paid.

DATES: Comments must be submitted on or before January 9, 1981.

ADDRESS: Comments should be sent in duplicate to R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, where they will be made available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Walter Witkovich, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Room 600, Chicago, Illinois 60611, (312) 751–4810, (FTS 387–4810).

SUPPLEMENTARY INFORMATION: In accordance with the Board's report under Executive Order 12044, as amended, the Board's Chief Executive Officer reviewed the proposal and determined that these regulations would not constitute significant regulations under the criteria established in the Board's report. However, in the spirit of Executive Order 12044, as amended, the board has determined to issue the regulations first as proposed rules and allow the public a 60-day period to comment on the proposed rules.

Title 20, Chapter II, is amended as follows:

1. A new Part 341 is added to Subchapter C as follows:

PART 341—STATUTORY LIEN WHERE SICKNESS BENEFITS PAID

Sec.

341.1 Lien.
341.2 Sum or damages paid or payable.
341.3 Notice of lien.
341.4 Information required to be furnished by the employee.
341.5 Amount of reimbursement.
341.6 Report of settlement or judgment.
341.7 Liability on Board's claim.
341.8 Termination of sickness benefits due to a settlement.
341.9 Board as a party; attorney's fee.

Authority: Sec. 323, Pub. L. 79–572, 60 Stat. 740, 741 (45 U.S.C. 362(o)).

§ 341.1 Lien.

After notice in accord with this part, the Board shall have a lien upon any sum or damages paid or payable to an employee based upon an infirmity for which the employee received sickness benefits.

§ 341.2 Sum or damages paid or payable.

(a) The term "sum or damages paid or payable" means the amount of money that an employee recovers because of any claim of liability based upon his injury or illness.

(b) The term "sum or damages paid or payable" does not include:

(1) An amount specified in a settlement or award as payment for any loss of property, or the amount of a settlement or award specifically apportioned as pay for lost time.

(2) An amount paid as a result of a lawsuit based on wrongful death.

(3) Workers' compensation payments.

(4) "No-Fault" personal-injury protection benefits or any other benefits paid under a health, sickness, accident or similar insurance policy carried by an employee.

(5) Payments made to an employee under the terms of his insurance policy providing for payment of all amounts which the employee is legally entitled to recover for bodily injury from the owner or operator of an uninsured automobile.

§ 341.3 Notice of lien.

(a) *Notice to alleged tortfeasor.* The Board shall mail a "Notice of Lien" to each person or company identified as liable or potentially liable for causing the employee's infirmity. The "Notice of Lien" will notify the person or company of the Board's right to reimbursement. The notice shall include:

(1) The employee's name;

(2) The employee's address;

(3) The employee's social security account number;

(4) The date and place of the accident; and

(5) The employee's occupation, if injured on duty for his employing railroad.

(b) *Notice to employee.* A notice regarding repayment of sickness benefits shall be sent to an employee who names a party other than a railroad as the alleged tortfeasor.

(c) *Notice of amount of lien.* The amount of the Board's lien shall be reported, upon request, to a railroad or other person or company that may be liable for paying damages, or to the claimant, or to an attorney representing any of those parties. The amount of the lien shall be reported whether or not the terms of a settlement have been agreed upon. When requested, a list showing the sickness benefits paid for each claim period may be furnished.

§ 341.4 Information required to be furnished by the employee.

(a) On his application for sickness benefits or other form, an employee shall report the name and address of the person or company, if any, who is alleged to have caused his infirmity. The employee shall also provide whatever other details are reasonably needed so that the Board may establish its lien.

(b) The employee shall, upon request, tell the Board whether and from whom he has collected any damages for his infirmity.

§ 341.5 Amount of reimbursement.

(a) The Board shall receive as reimbursement the lesser of:

(1) The amount of sickness benefits paid to the employee for the infirmity for which he recovers any sum or damages; or

(2) The net amount of the sum or damages paid to him for the infirmity, after subtracting the amount of the expenses listed in paragraph (b) of this section.

(b) The expenses which may be subtracted from the amount of damages recovered are:

(1) The medical and hospital expenses that the employee incurred because of his injury. These expenses are deductible even if they are paid under an insurance policy covering him or are covered by his membership in a medical or hospital plan or association. But such expenses are not deductible if they are not covered by insurance or by membership in a medical or hospital plan or association and are consequently paid by a railroad or other person directly to the doctor, clinic or hospital that provided the medical care or services.

(2) The cost of litigation. This includes both the amount of the fee to which the attorney and the employee have agreed and the other expenses that the employee incurred in the conduct of the litigation itself.

§ 341.6 Report of settlement or judgment.

(a) When a person or company makes a settlement or must satisfy a judgment based on an injury for which the employee received sickness benefits, the person or company shall notify the Board of the settlement or judgment. That notice shall be in writing and submitted within five days of the settlement or judgment. That notification shall contain:

(1) The amount of the settlement or judgment;

(2) The date of the settlement or judgment; and

(3) The amount withheld from the settlement or judgment to satisfy the Board's lien.

(b) Payment of the amount due the Board shall be delivered to the Board within 30 days after the date of the settlement agreement or the entry of judgment.

(c) If the damages payable are to be paid directly to the court to satisfy a judgment, thus making it impossible for

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the person or company to remit the amount of reimbursement due the Board, the person or company shall immediately notify the Board of the situation.

§ 341.7 Liability on Board's claim.

(a) A person or company paying any sum or damages to an employee who has received sickness benefits from the Board shall, upon receipt of notice as provided in § 341.3(a), be liable to the Board for the amount of reimbursement computed under § 341.5. This liability may be relieved by either:

(1) Withholding the amount reimbursable to the Board from the sum or damages payable to the employee, and subsequently paying that amount to the Board; or

(2) Including the United States Railroad Retirement Board as a payee on the check or draft along with the employee and any others who have an interest in the damages.

(b) If the person or company paying the damages does not protect the Board's lien or attempts to protect the Board's lien in some manner other than those described in paragraphs (a)(1) and (a)(2) of this section, that person or company shall remain liable to the Board until the Board is reimbursed in full.

§ 341.8 Termination of sickness benefits due to a settlement.

(a) Sickness benefits payable to an eligible employee shall be paid without regard to whether any person or company may be liable to him for causing his infirmity. However, the Board will terminate the payment of sickness benefits upon receipt of an oral or written report that a settlement or judgment for the infirmity has been made.

(b) A report of settlement shall be made to the Division of Claims Operations, Bureau of Unemployment and Sickness Insurance, and shall include the information required in § 341.6. Where the report is an oral report, and the informant is neither the employee nor his representative, the informant shall be told that written confirmation containing the information called for by § 341.6 must be submitted to the Board within five days from the date of the oral report.

(c) If, in the case of an oral report, the written confirmation as described in paragraph (b) of this section is not received within five days, the Division of Claims Operations shall take steps within five additional working days to verify whether there has been a settlement or judgment. If there has been no settlement or judgment, the payment of sickness benefits shall be reinstated.

(d) Within five days of the notification of a settlement or judgment, the Board shall inform the employees of the report of the settlement or judgment. The notice to the employee shall state how the employee may inform the Board that there has not been a settlement or judgment. If the employee states that there has not been a settlement or judgment, the adjudicating office shall, within 10 days after the receipt of such a statement, make a determination as to the employee's rights to future sickness benefits and shall notify him accordingly.

(e) An employee shall have the right to appeal from the determination of the amount of sickness benefits recoverable from the settlement or judgment. An employee shall also have the right to appeal the termination of his sickness benefits after the report of a settlement or judgment made in accordance with the procedures provided in paragraphs (b), (c) and (d) of this section. Such appeals shall be filed and processed in accordance with Part 320 of these regulations.

§ 341.9 Board as a party; attorney's fee.

(a) The Board shall not participate in the prosecution of a personal-injury claim of an employee eligible for sickness benefits and shall neither encourage nor discourage such employee with respect to the pursuit of a claim for damages.

(b) The Board shall not be a party in any action for damages brought by an employeee claiming sickness benefits under the Railroad Unemployment Insurance Act. The Board's right of reimbursement under section 12(o) of the Railroad Unemployment Insurance Act shall not be construed as giving the Board a right of subrogation or other cause of action for damages against an alleged tortfeasor. The Board shall intervene in such an action only when it is apparent that intervention may be required to protect its right of reimbursement.

(c) The Board shall not be liable for the payment of any attorney's fee or other expenses incurred in connection with such a claim for damages.

Dated: October 30, 1980.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-34946 Filed 11-7-80; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Proposed Regulations Relating to Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations relating to individual benefit reporting and recordkeeping under the Employee Retirement Income Security Act of 1974 (ERISA). These regulations, applicable to certain multiple employer pension plans, deal with reports that must be furnished to individual participants and beneficiaries regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 45 FR 52824 (August 8, 1980).

DATES: The hearing will be held on December 4, 1980, beginning at 10 a.m. E.S.T.

ADDRESSES: The hearing will be held in the Auditorium of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523-9595.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on August 8, 1980 (45 FR 52824), the Department proposed regulations relating to individual benefit reporting and recordkeeping. In the notice, the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations.

The Department has received a number of comments concerning the proposed regulations, some of which requested a public hearing. In view of the importance of these regulations, the Department has decided to hold a public hearing on December 4, 1980, beginning at 10 a.m. E.S.T., in the Auditorium of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:00 p.m. E.ST., December 1, 1980: (1) A written request to be heard, and (2) outline (preferably five copies) of the topics to be discussed, indicating the time to be allotted to each topic. The request to be heard and accompanying outline should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, Washington, D.C. 20216, Attention: Multiple Employer Individual Benefit Reporting and Recordkeeping Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allocated ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after December 3, 1980 by telephoning Mary O. Lin, Esq., Washington, D.C. (202) 523-9595 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 6th day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-35086 Filed 11-6-80; 11:06 am]

BILLING CODE 4510-29-M

29 CFR Parts 2520 and 2530

Proposed Regulations Relating to Individual Benefit Reporting and Recordkeeping for Single Employer Plans

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations relating to individual's benefit reporting and recordkeeping under the Employee Retirement Income Security Act of 1974 (ERISA). These regulations, applicable to single employer pension plans (defined to include plans maintained by groups of employers under common control), deal with reports that must be furnished to individual participants and beneficiaries regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 45 FR 51231 (August 1, 1980).

DATES: The hearing will be held on November 25, 1980, beginning at 10 a.m. E.S.T.

ADDRESSES: The hearing will be held in Room S-4215A and B of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

FUR FURTHER INFORMATION CONTACT: Mary O. Lin, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523-9595.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on August 1, 1980 (45 FR 51231), the Department proposed regulations relating to individual benefit reporting and recordkeeping. In the notice, the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations.

The Department has received a number of comments concerning the proposed regulations, some of which requested a public hearing. In view of the importance of these regulations, the Department has decided to hold a public hearing on November 25, 1980, beginning at 10 a.m. E.S.T., in Room S-4215A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:00 p.m. E.S.T., November 21, 1980: (1) A written request to be heard, and (2) outline (preferably five copies) of the topics to be discussed, indicating the time to be allotted to each topic. The request to be heard and accompanying outline should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N-4508, Washington, D.C. 20216, Attention: Single Employer Individual Benefit Reporting and Recordkeeping Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allocated ten minutes in which to complete his presentation. Information about the agenda may be obtained after 3:00 p.m. E.S.T., November 24, 1980 by telephoning Mary O. Lin, Esq., Washington, D.C. (202) 523-9595 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 6th day of November 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-35087 Filed 11-6-80; 11:06 am]

BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

Reclamation and Enforcement

30 CFR Ch. VII

Public Hearing and Public Comment Period on the Resubmitted Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Notice of receipt of permanent program resubmission; schedule for public hearing and public comment period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Kansas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the State and which were not previously approved by the Secretary of the Interior.

This notice sets forth the times and locations that the Kansas program is available for public inspection; the date when and location where OSM will hold a public hearing on the resubmission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing will be held at 7:00 p.m. on November 24, 1980, at the address listed below. Comments from members of the public must be received on or before the close of business on November 26, 1980, in order to be considered in the Secretary's decision.

ADDRESSES: The public hearing will be held at the Holiday Inn, N. 69 Highway, Pittsburg, Kansas. Written comments should be sent to Raymond L. Lowrie, Regional Director, Office of Surface Mining, Department of the Interior, 818 Grand Avenue, Kansas City, Missouri, 64106, or may be hand delivered to the Regional Office.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.
Mined-Land Office, 107 West 11th Street, Pittsburg, Kansas 66762.
Kansas Corporation Commission, Legal Office, 4th Floor, State Office Building, 915 Harrison, Topeka, Kansas 66612.

A copy of this notice along with a copy of the Kansas statutes and regulations regarding the proposed Kansas regulatory program has been placed on file and is available for inspection in the library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avene, Kansas City, Missouri 64106, Telephone (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 26, 1980, the State of Kansas submitted to OSM a proposed state regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328), the Regional Director published notification of receipt of the program submission in the March 4, 1980 **Federal Register** (45 FR 14152–14153) and in newspapers of general circulation within the state. In accordance with that announcement, public comments were solicited and a public meeting was held on April 10, 1980, on the issue of the program's completeness.

On April 10, 1980, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be incomplete (45 FR 26368) as required by 30 CFR 731.14(c).

After several discussions between Kansas and OSM during the review of the Kansas program, Kansas decided to make extensive revisions to its proposed regulations. Accordingly, on April 28, 1980, Kansas withdrew the regulations and the section-by-section analysis of those regulations from its program submission. Kansas elected not to officially submit proposed temporary or permanant regulations to OSM by the 104th day after initial submission of the program, (June 9, 1980). As of June 9, 1980, the Kansas proposed program contained the Mined-Land Conservation and Reclamation Act and other state laws in Volume I and the narrative description of the proposed program in Volume III.

A public hearing to review the substance of the portions of the Kansas program not previously approved by the Secretary of the Interior will be held at 7:00 p.m. on November 24, 1980, at the address listed below. The hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. The hearing will end after all people in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement, or in lieu of, an oral presentation at the hearing. Comments from members of the public must be received on or before the close of business on November 26, 1980, in order to be considered in the Secretary's decision on those elements of the proposed Kansas program which were not approved in the initial decision on the proposed program.

A public hearing on the Kansas submission was held on July 14, 1980, in Pittsburg, Kansas, by the Regional Director, after due notice on June 16, 1980 in the **Federal Register** (45 FR 40619–40621) and in newspapers of general circulation within the state. The public comment period ended July 21, 1980.

Throughout the period beginning with the submission of the program, OSM had frequent contact with the staff of the Kansas Mined-Land Conservation and Reclamation Board. Minutes or notes of the discussions were placed in Administrative Record and made available for public review and comment. The full chronology of the events leading to the Secretary's initial decision is contained in the **Federal Register** notice of the partial approval by the Secretary (45 FR 58569–58576), published on September 4, 1980.

That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which approved and disapproved specific parts of the Kansas program. The approved parts of the Kansas program have not been the subject of discussions that might have influenced the decision to approve after the close of the public comment period. Discussions relating to parts of the program that were disapproved are in the Administrative Record and will be subject to public comment during the public comment period announced herein.

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Kansas had 60 days from the date of publication of the Secretary's partial approval decision in which to submit a revised program for consideration. The state submitted its revised program for consideration on October 31, 1980. Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director a recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that those portions of the program that were not approved in the Secretary's initial decision now be approved or disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326–15327). For further details, refer to 30 CFR 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the State of Kansas will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-federal and non-Indian lands in Kansas. If the revised program is approved, the Secretary and the Governor may also enter into a cooperative agreement governing regulation of these activities on federal lands in Kansas. Such an agreement would be the subject of a separate

rulemaking and **Federal Register** notice. If the revised program is disapproved, a federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Kansas. To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR, Chapter VII. Subchapter T will consist of parts 900 through 950. Provisions relating to Kansas will be found in 30 CFR Part 916 after Kansas' resubmission has been approved or disapproved.

At the public hearing, parties wishing to comment on the proposed program will be asked to register for placement on the speaker's agenda. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326):

1. The hearing shall be informal and follow legislative procedures.
2. Based on the number in attendance, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

Public Participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's partial approval of the initial Kansas program submission (45 FR 58569–58576), published on September 4, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically approved and disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will only consider comments relating to those portions previously disapproved or to any portions of the program first appearing in the resubmission.

Set forth below is a summary of the contents of the resubmission:

(a) State Regulations.
(b) Other Related State Laws.
(c) State/Federal Regulation Comparison.
(d) Certification by Revisor of Statutes.
(e) Structural Organization—Staffing Functions.
(f) Supporting Agreements Between Agencies.
(g) Narrative Description for:
(1) Issuing Exploration and Mining Permits.
(2) Assessing Permit Fees.
(3) Bonding-Insurance.
(4) Inspecting and Monitoring.
(5) Enforcing the Administrative, Civil and Criminal Sanction.
(6) Administering and Enforcing Permanent Program Standards.
(7) Assessing and Collecting Civil Penalties.
(8) Issuing Public Notices and Holding Public Hearings.
(9) Coordinating with Other Agencies.
(10) Consulting with Other Agencies.
(11) Designating Lands Unsuitable for Mining.
(12) Restricting Financial Interests.
(13) Training, Examining and Certifying Blasters
(14) Providing for Public Participation.
(15) Providing Administrative and Judicial Review.
(16) Providing a Small Operator Assistance Program (S.O.A.P.).
(h) Statistical Information.
(i) Summary of Staff with Titles, Functions, Job Experience and Training.
(j) Description of Staffing Adequacy.
(k) Projected Use of Other Professional and Technical Personnel.
(l) Budget Information.
(m) Physical Resources Information.
(n) Other Programs Administered by the Regulatory Authority.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Kansas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332).

Dated: November 4, 1980.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 80-35125 Filed 11-7-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1662-6]

Approval and Promulgation of Implementation Plans; North Carolina; Approval of 1979 CO Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to give full approval to North Carolina's 1979 revisions for the Mecklenburg County carbon monoxide nonattainment area, which were conditionally approved on April 17, 1980 (45 FR 26038). The corrective materials required (described below) have been submitted and form the basis for today's proposal. The public is invited to submit written comments on the proposed action.

DATE: To be considered, written comments must be received on or before December 10, 1980.

ADDRESSES: Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Library, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION: On April 17, 1980 (45 FR 26038), EPA approved North Carolina's 1979 revisions for the Mecklenburg County CO nonattainment area on the condition that the State correct deficiencies in transportation related commitments and submit added detail and specific commitments for the vehicle inspection/maintenance (I/M) program required.

On May 22, 1980, the State submitted revisions in the narrative of the Charlotte-Mecklenburg Air Quality Implementation Plan, a commitment from the North Carolina Department of Transportation to implement transportation control measures (TCM) contained in the plan and materials related to the evaluation and implementation of TCM. On July 1, 1980, the State submitted new legislation changing the implementation of I/M by merging it with the safety inspection program administered by the Department of Motor Vehicles. On August 19, 1980, the State submitted further revisions in the narrative of the plan, including an I/M schedule revised to meet legislative changes, a resolution of the Environmental Management Commission certifying to the Commissioner of Motor Vehicles the need for I/M in Mecklenburg County, and a letter from the Commissioner of Motor Vehicles acknowledging his statutory responsibility with regard to I/M.

The following is a list of the deficiencies noted in the conditional approval of April 17, 1980, and a description of how the supplemental submittals correct them:

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Deficiency: The memorandum of agreement required under Section 174 is inadequate with respect to commitments by the appropriate agency (agencies) to the implementation of the mobile source transportation control measures.

Correction: On February 7, 1980, the Secretary of the North Carolina Department of Transportation submitted a letter to EPA committing his staff to the implementation of transportation projects and to fully supporting the objectives of the Clean Air Act. In addition, the Department of Transportation will fully cooperate in the programming of transportation projects in the Charlotte urban area.

Deficiency: The current 1979 Transportation Improvement Program/ Annual Element (TIP/AE) must be reviewed for projects that have a positive air quality impact. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporation into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

Correction: Charlotte officials have reviewed the 1979 TIP/AE for projects having positive air quality impacts. The projects identified were (1) a ride-share program and (2) improvement to the public transit network. The submittal included an implementation schedule for the projects and as a commitment to implement, copies of grant requests for funding of these projects.

Deficiency: Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible, EPA will allow these measures to be withdrawn. The submittal does not contain a commitment to justify the decision not to implement these measures if found infeasible. Also, the State and/or responsible agencies must commit to implement as expeditiously as practicable those measures found feasible for implementation. The schedule for the analysis of the 108(f) measures does not include a deadline date of July 1980. The analysis must be completed by July 1980 with implementation of measures found feasible before December 1982.

Correction: As revised by the May 2, 1980 submittal, the SIP contains a commitment to justify the decision not to implement any of the Section 108 measures after analysis and a commitment to the expeditious implementation by the end of 1982 of those Section 108 measures found feasible. Due to a late issuance of guidance for the analysis of the Section 108 measures, EPA is allowing a deadline date of December 31, 1980 for the completion of the analysis. The December 31 date will still allow the Charlotte Metropolitan Planning Organization (MPO) to integrate the Section 108 measures into the regular 1981 programming process for expeditious implementation.

Deficiency: The submittal does not identify the financial and manpower allocations to accomplish the tasks required under Section 108(e) of the CAA and other transportation system management elements and air quality related projects which are or will be incorporated into the Unified Planning Work Program (UPWP) and the Transportation Improvement Program Annual Element (TIP/AE). The UPWP must also be modified to include provisions for progress reporting as required by the "Transportation/Air Quality Planning Guidelines", issued pursuant to Section 108(e) of the CAA. The SIP must contain only those measures from the modified UPWP and TIP/AE that are related to transportation air quality planning under Section 108(e) of the CAA.

Correction: In the May 2 submittal, the State included a copy of the Charlotte MPO's Section 175 fund grant application outlining the financial and manpower allocations to accomplish the Section 108(e) requirements. This grant application has been adopted into the FY 1980 UPWP for the Charlotte area.

I/M Program—As for the additional details and commitments required for the inspection and maintenance program on June 27, 1980, the General Assembly enacted legislation providing for a decentralized program to be added to the current safety inspection program. The program will be jointly administered by the Environment Management Commission and the Department of Motor Vehicles and will test gasoline-powered motor vehicles manufactured within the previous 12 years. Operation of noncomplying vehicles will be prohibited through use of the existing "sticker" system. A revised I/M schedule contains the following key dates:

1. Initiate public information program—October 1, 1980.
2. Initiate voluntary program—March, 1981.
3. Initiate mechanics training program—October, 1981.
4. Develop rule and regulations—September, 1981.
5. Initiate mandatory program—December 31, 1981.

The submittal also includes the EMC's ratification of the program and the Commission of Motor Vehicles commitment to implement the program. Inasmuch as all law officials in North Carolina are sworn to uphold all laws of the State, EPA accepts this as a commitment to the enforcement of the program.

Proposed Action

It is proposed to give full approval to the Mecklenburg County CO revisions. The public is invited to participate in this rulemaking by submitting written comments on this proposal. After reviewing all pertinent comments received, the Administrator will take final action on these revisions in the North Carolina plan.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 29, 1980.

John A. Little,

Acting Regional Administration.

[FR Doc. 80-34076 Filed 11-7-80; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-6-FRL 1664-1]

New Mexico Plan for Nonattainment Areas; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes approval of submittal schedules for revisions to New Mexico's Air Quality Control Regulation, 702–Permits and revisions to the Albuquerque control strategy for total suspended particulates (TSP). These submittal schedules were developed by the State in response to the April 10, 1980 (45 FR 24509) Notice of Proposed Rulemaking in which EPA proposed schedules for the submission of revisions to New Mexico's Plan for nonattainment areas.

DATES: Interested persons are invited to submit comments on this proposed action on or before December 10, 1980.

ADDRESSES: Written comments should be submitted to the address below. Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, Attn: Jerry Stubberfield, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and the following location: Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTARY INFORMATION:

Provisions of the Clean Air Act, as amended in 1977 (the Act), require that States revise their SIPs for all areas designated as not attaining the national ambient air quality standards (NAAQS). Section 173 of the Act—Permit Requirements—stipulates the permit requirements for major sources locating in nonattainment areas.

The State of New Mexico submitted revisions to the SIP in accordance with the requirements of Part D of the Act on January 23, 1979. EPA reviewed the State submission and in the August 9, 1979 **Federal Register** proposal notice discussed the deficiencies of the State's permitting regulations with regard to Section 173 of the Act. The State subsequently indicated indicated that it does not issue permits to sources locating in nonattainment areas. The State also indicated that recent amendments to the New Mexico Air Quality Act would allow the State to comply with Section 173 of the Act but that present regulations would have to be amended in light of this new legal authority. In a letter of August 2, 1979 the Governor reaffirmed that the State did not issue permits to sources in nonattainment areas. The Governor also committed that during the interim period before final action on the revised regulation, the State would continue its policy to not issue construction permtis in any area exceeding the national ambient air quality standards.

On September 25, 1979 the Governor submitted a schedule for the modification and submission of Air Quality Control Regulation #702. This schedule established the following requirements:

(1) Proposed amendments prepared for EPA and public reviewDDecember 1, 1979 (EPA has received these documents).

(2) Public hearing held—January, 1980.

(3) Submit revised regulation—March 1, 1980.

In the April 10, 1980 **Federal Register** EPA proposed to approve this schedule for the revision of Air Quality Control Regulation #702. EPA also solicited public comments on this proposed schedule. During the thirty-day comment period, which ended on May 10, 1980, no public comments were received by EPA.

On May 20, 1980, the Governor of New Mexico submitted a revised schedule for the modification and submission of Air Quality Control Regulation #702. The Governor stated that the schedule which he proposed on September 25, 1979 was structured so that the State would have an opportunity to incorporate pending federal regulations for Prevention of Significant Deterioration (PSD) into the State's permitting authroity. He had expected the federal PSD regulations to have been in force prior to the January, 1980 public hearing date which he had originally proposed. In order to avoid any possible conflict between the State's permit regulations and the federal PSD Regulations, the Governor proposed to revise to revise the schedule for the modification and submission of Air Quality Control Regulation #702 to allow for the promulgation of federal PSD Regulations. The proposed revised schedule is as follows:

(1) Propose amendments to permit regulations prepared for EPA and public review—April 1, 1981.

(2) Hold public hearing—July 1981.

(3) Submit revised regulation to EPA—September 1, 1981.

The Governor further stated that this revised schedule was the most realistic one which could be proposed since the New Mexico legislature cannot act on amendments to the State Act until March of 1981, and the effective date of legislation passed during the next session would be July 1, 1981.

EPA proposes to approve the revised schedule for the submission of revisions for New Mexico Air Quality Control Regulation #702.

The April 10, 1980 **Federal Register** also proposed to approve a schedule for the revision of the Albuquerque control strategy for TSP. Section 172(b) of the Act specifies that nonattainment plans must include the implementation of all reasonably available control measures. Section 172(b) of the Act further requires that control strategy demonstrations for nonattainment areas be based on comprehensive, accurate, current inventories of the actual emissions from all sources of pollutants for which the areas have been given a nonattainment designation. Inventories representing 1977 emissions indicate that fugitive dust from nontraditional sources (unpaved roads and parking lots, reentrained dust from paved roads) contribute to over fifty percent of the emission inventories and account for a major portion of the air quality problem at each nonattainment site. Where a state is unable to demonstrate attainment of the TSP standard through controls on stationary sources, EPA policy allows a State to conduct studies of nontraditional source controls and submit regulations based on the studies if the State requires application of reasonably available control technology (RACT) to existing stationary sources. Albuquerque's five nonattainment sites are impacted heavily by nontraditional sources. In two of the nonattainment areas stationary sources exist which are controlled by fabric filtration or venturi scrubbers. EPA considers these control measures sufficient to satisfy the requirement that stationary sources be controlled with reasonable available control technology (RACT). The SIP includes an assessment of the impact of traditional and nontraditional sources and shows that emission reductions sufficient to demonstrate attainment of standards can be gained through the control of the nontraditional sources. EPA, in a proposal notice of August 9, 1979, proposed to approve this portion of the SIP provided that the State submit a schedule committing to the adoption of measures sufficient to attain the primary standards. On September 25, 1979 the Governor submitted a schedule for the adoption and submission of a revised TSP control strategy and regulation. This schedule required the following to be completed:

(1) Update emissions inventory and identify major influencing sources—July 1, 1980.

(2) Analyze data and further define TSP problem—January 1, 1981.

(3) Propose TSP control strategy including cost/benefit analysis—July 1. 1981.

(4) Develop proposed control regulation and hold public hearing—October 1, 1981.

(5) Submit revised plan to EPA—December 1, 1981.

In the August 9, 1979 proposal notice, EPA proposed to approve this portion of the plan as a result of the submission of this schedule by the State. Though EPA considered the schedule to be appropriate, EPA felt that the schedule should be subject to notice and comment. In the April 10, 1980 **Federal Register**, EPA conditionally approved this schedule pending the receipt and evaluation of comments. During the thirty-day comment period, which ended May 10, 1980, no comments on the above schedule were received.

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In his May 20, 1980 letter, the Governor proposed a revised schedule for the revision of the Albuquerque control strategy for TSP. The Governor requested that the schedule be revised due to the timing on EPA contractual assistance not allowing them to meet the previously established dates. This schedule is as follows:

(1) Update emissions inventory and identify major influencing sources—January 1, 1981.

(2) Analyze data and further define TSP problem—June 1, 1981.

(3) Propose TSP control strategy including cost/benefit analysis—January 1, 1982.

(4) Develop proposed control regulations, as required, and go to public hearing—April 1, 1982.

(5) Submit revised plan to EPA—July 1, 1982.

EPA proposes to approve this revised schedule for the revision of the Albuquerque TSP control strategy.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: October 7, 1980.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 80-34985 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-6-FRL 1662-8]

Approval and Promulgation of Implementation Plans; Louisiana Regulations for Volatile Organic Compounds

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to approve revised sections of Louisiana Regulation 22.0 with the exception of Section 22.8(b) for which EPA takes no action. These revisions deal with control of emissions of volatile organic compounds from new sources and existing sources in Louisiana's designated nonattainment areas. These Sections under Regulation 22 were revised by the State in accordance with a conditional approval of the State Implementation Plan (SIP), Louisiana Plan for Nonattainment Areas, published in a final rulemaking notice in the **Federal Register** on February 14, 1980 (45 FR 9903). This proposed rulemaking means that conditional approval of the Louisiana SIP will remain in effect until EPA takes final action on these revisions.

DATES: Interested persons are invited to submit comments on this proposed rulemaking on or before December 10, 1980.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, Attention: Jerry Stubberfield, 1201 Elm Street, Dallas, Texas 75270.

Copies of the materials submitted by the State and comments received on this proposed rulemaking will be available for inspection during normal business hours at the above address and the following address: Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: The Governor of Louisiana submitted the State's SIP revisions on April 30, 1979. These revisions addressed Part D requirements for attainment of the National Ambient Air Quality Standards (NAAQS) for ozone. The Governor's submittal also included revisions relative to other than Part D requirements which will be addressed in a separate action.

EPA originally published proposed rulemaking with respect to Louisiana's April 30 submission on July 31, 1979 (44 FR 44908) which stated EPA's proposed approval/disapproval action. Where minor deficiencies were noted, EPA proposed conditional approval.

EPA published a final rulemaking on February 14, 1980 (45 FR 9903) to conditionally approve Sections 22.6, 22.12.4, 22.17, and 22.18 of the Louisiana Plan. The conditional approval for Sections 22.6 and 22.12.4 required the State to submit additional materials by December 15, 1979. Revised Sections 22.6 and 22.12.4 were submitted by the Governor of Louisiana on December 10, 1979. EPA published a notice of receipt for Sections 22.6 and 22.12.4 on April 24, 1980 (45 FR 27788).

EPA has evaluated the State's submission of revised Regulation 22.0 and proposes to approve Sections 22.6, 22.12.4, 22.17, 22.18, 22.3, 22.5, 22.8, and 22.10 with the exception of Section 22.8(b) for which EPA takes no action.

Section 22.6 concerns volatile organic compound (VOC) emissions from waste water separators. The original submittal exempted from control, waste water separators which receive effluent water containing less than 200 gallons/day of VOC. EPA's conditional approval required the State to either modify this section to exclude the exemption or to demonstrate that the emissions from waste water separators after application of the exemption is within five percent of the emissions allowed after application of the CTG's presumptive norm for this source category (EPA's "five percent" rule for control exemptions). The State elected to modify the section to delete the exemption and require proper control equipment on all VOC waste water separators emitting 100 tons/year or more of hydrocarbons. In accordance with the requirements for approving Part D plans, a State may limit control to sources emitting 100 tons or more per year if attainment is demonstrated by December 31, 1982. Revised Sections 22.6.1 and 22.6.2 dealing with waste water separators for volatile organic compounds and non-volatile organic compounds, respectively, were submitted by the Governor to EPA on December 10, 1979. EPA proposes to approve Section 2.6.1 and Section 22.6.2.

Section 22.12.4 involves exemptions for vapor degreasers under Regulation 22.12, submitted by the Governor on April 30, 1979. Section 22.12.4 exempted from control all degreasing operations which emitted a combined weight of VOCs less than 100 pounds in any consecutive 24-hour period. On July 31, 1979 (44 FR 44911), EPA proposed to approve Section 22.12.4 based on the submittal of information by the State which satisfactorily demonstrated that the exempted sources affect less than five percent of the emissions from the solvent metal cleaning (degreasing) category. Information relating to the proposed exemption was to be submitted within thirty days after publication of the July 31, 1979 **Federal Register** notice. However, the State determined that the necessary demonstration could not be achieved, and on October 11, 1979, the State committed to adopt and submit a revised regulation to EPA by December 15, 1979. The Governor submitted revised Section 22.12.4 to EPA on December 10, 1979. Revised Section 22.12.4 exempts degreasing operations on a facility wide basis which have emissions of volatile organic compounds equal to or less than 100 tons/year. EPA is proposing to approve revised Section 22.12.4.

Revisions to Section 22.3, 22.8, and 22.10 were originally submitted by the Governor on December 9, 1977. EPA proposed approval of Sections 22.3 and 22.10, and disapproval of 22.8 (b) and (c) on March 2, 1979 (43 FR 11800). Prior to final action on Regulation 22.0 by EPA, the Governor withdrew Sections 22.3, 22.8, and 22.10. The Governor's submittal of April 30, 1979 included revisions to the three withdrawn sections. These were revisions to sections of Regulation 22.0 which are no longer officially before EPA. Since EPA cannot act on revisions to sections which have not been officially received, EPA could take no action on these revisions. Sections 22.3, 22.8 and 22.10 were formally submitted by the Governor to EPA on June 20, 1979.

Section 22.8 concerns the control of waste gas disposal streams. The Governor withdrew Section 22.8 and submitted a revised Section 22.8(b). Revised Section 22.8(b) required the total combustion of halogenated hydrocarbons from any waste gas disposal stream and the halogenated products of combustion be reduced to an emission level acceptable to the Technical Secretary. EPA will take no action on Regulation 22.8(b) since the halogenated products of combustion are not criteria pollutants.

Revised Section 22.8(c) gives the Technical Secretary the authority to waive control requirements if: (1) the waste gas stream is not significant, (2) will not support combustion without auxiliary fuel, (3) disposal cannot be accomplished practically or safely, or (4) disposal causes economic hardships. Since the term "significant" was not defined, EPA proposed disapproval of Section 22.8(c) in the **Federal Register** on March 2, 1979 (43 FR 11800). The Governor withdrew Section 22.8 and submitted a modified version of Section 22.8(c) to EPA on June 20, 1979. Revised Section 22.8(c) defines a waste gas stream to be insignificant if it has emissions of less than 100 tons/year. EPA interprets this revision to mean that the aggregate of all waste gas streams at a facility has emissions of less than 100 tons/year. Therefore, EPA is proposing to approve Section 22.8(c).

Section 22.10 states that the Technical Secretary may exempt from control requirements of Regulation 22.0 volatile organic compounds which do not react to form photochemical oxidants, if their control causes economic hardship. The Governor subsequently submitted revisions to Section 22.10 to EPA on June 20, 1979. This submittal included an exemption for five compounds, among them methyl chloroform and methylene chloride.

On May 16, 1980, EPA published a clarification of Agency policy concerning the control of methyl chloroform and methylene chloride in ozone SIPs (45 FR 32424). EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a Federally enforceable ozone SIP because current information indicates that neither compound is an ozone precursor. Consequently, EPA is not disapproving Louisiana's exemption of these compounds.

This policy is in no way an expression of EPA's view of the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean Air Act. In addition, State officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (See, *e.g.*, Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 FR 39766, June 11, 1980.)

Section 22.10 was again revised on December 10, 1979. This revision included other organic compounds which would be considered for exemption by the Commission if their control caused undue hardship. Exemptions of these compounds, not specifically exempted in Section 22.10, will be considered a revision to the SIP. Consequently, such exemptions must be submitted to and approved by EPA before they will become part of the approved SIP. EPA proposes to approve revised Regulation 22.10.

Revised Section 22.3, concerning storage of volatile organic compounds, was also submitted by the Governor on June 20, 1979. A minor revision which regulates storage in containers or more than 40,000 gallon capacity was submitted on July 7, 1979. An administrative change to Section 22.3(a) was submitted on December 10, 1979. EPA is proposing to approve these modified versions of Section 22.3.

As previously stated EPA proposed to disapprove portions of Regulation 22.0 in a proposed rulemaking notice of March 2, 1979. On March 19, 1979, the Louisiana Air Quality Division (LAQD) requested that Region 6 not promulgate Section 22.3, 22.5, 22.8, and 22.10 of Regulation 22.0 and stated they would request that the Governor of Louisiana withdraw the submittal of December 9, 1977 insofar as it pertains to hydrocarbon control. However, the Governor of Louisiana withdrew only Sections 22.3, 22.8 and 22.10 on March 28, 1979. Since EPA had expected the withdrawal of Section 22.5, EPA did not address Section 22.5 in the February 14, 1980 **Federal Register**. EPA is addressing Section 22.5 in this notice.

Section 22.5 which was submitted by the Governor to EPA on December 9, 1977 applies to loading facilities for volatile organic compounds (VOC). In a **Federal Register** notice (43 FR 11798) of March 2, 1979, EPA proposed to disapprove Section 22.5, since it had allowed submerged or bottom fill as an acceptable control technique for VOC transfer. EPA's presumptive norm for applicable facilities call for vapor collection and disposal systems or their equivalent. Since submerged or bottom fill results in lower emission reductions, this control method represents a relaxation of the regulation. Vapor collection and disposal systems are considered technologically and economically feasible for applicable facilities. The Governor submitted to EPA on April 30, 1979 a revision to Section 22.5, which required vapor collection and disposal systems or their equivalent. A minor revision to Section 22.5 was submitted on July 7, 1979 which excluded ship and barge loading operations from this regulation. EPA proposes to approve revised Section 22.5.

Sections 22.17 and 22.18, dealing with refinery vacuum producing systems and process unit turnarounds, respectively, were submitting by the Governor to EPA on October 18, 1979 as a result of the proposed notice of rulemaking of July 31, 1979. These sections were conditionally approved by EPA on February 14, 1980 (45 FR 9903). Both of these sections specify that emissions shall be controlled by one of the applicable methods specified on Section 22.8. Therefore, they could not be fully approved until Sections 22.8(b) and 22.8(c), dealing with the disposal of waste gas streams, were satisfactorily revised and resubmitted. With EPA's proposed approval of Section 22.8(c), and no action on 22.8(b), the conditions for approval for Section 22.17 and 22.18 stated in the **Federal Register** notice of February 14, 1980 have been met and Sections 22.17 and 22.18 are proposed for approval.

Current Action

On February 14, 1980 (45 FR 9904), EPA took final action to conditionally approve revised Sections 22.5, 22.12.4, 22.17, and 22.18. EPA proposes to

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approve these regulations and the conditional approval will remain in effect until EPA takes final action. EPA proposes to approve revised Sections 22.3, 22.8, and 22.10 which were formally submitted on June 20, 1979. EPA proposes to approve Regulation 22.5, which was submitted on April 30, 1979. EPA takes no action on 22.8(b).

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefor subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the proceedure requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Sections 110(a) of the Clean Air Act as amended in 1977 and 42 U.S.C. 7410(a) and 7501.

Dated: October 9, 1980.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 80-35059 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL 1662-5]

Deficiency in West Virginia's State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency in State implementation plan.

SUMMARY: As the result of EPA's review of West Virginia's Regulation X as it applies to two powerplants, EPA has determined that West Virginia's sulfur dioxide air pollution control plan is not adequate to ensure attainment and maintenance of the secondary national ambient air quality standard for SO_2. Therefore, the Administrator requires the State to submit a control strategy and demonstration of attainment.

DATE: The control strategy and demonstration of attainment should be submitted within nine months from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Sheldon Novick, Regional Counsel, Environmental Protection Agency Region III, The Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106 (215-597-9821).

SUPPLEMENTARY INFORMATION: On November 9, 1978, EPA approved amendments to West Virginia's Air Pollution Control Commission Regulation X as a revision of the State Implementation Plan (SIP) for sulfur dioxide control. Those amendments as they applied to the Mitchell and Harrison power stations were challenged in the United States Court of Appeals for the Third Circuit by the Commonwealth of Pennsylvania and six citizens' organizations. As part of this litigation, EPA again reviewed West Virginia's Regulation X as it applies to the two power plants, and determined that the SIP revision is adequate to ensure attainment and maintenance of the primary SO_2 standard. EPA's approval is announced in a notice of final action published elsewhere in today's **Federal Register.** In the course of its review, however, EPA determined that West Virginia's SO_2 control strategy is not adequate to ensure attainment and maintenance of the secondary national ambient air quality standard for SO_2 ("NAAQS"). Dispersion modelling of the emission limits now in effect for the Mitchell and Harrison power plants predicts a violation of the secondary SO_2 NAAQS at those limits.

When EPA gives notice of such a deficiency, as it does today, the Clean Air Act requires the State to prepare and submit a revision of its SIP to correct the deficiency. 42 U.S.C. 7410(a)(2)(H). The Administrator believes West Virginia will need at least nine months to evaluate its control strategy, enact any necessary regulations and submit a control strategy that demonstrates attainment of the secondary SO_2 standard. The Administrator therefore requires the State to submit a control strategy and demonstration of attainment within nine months from the date of publication of this notice. EPA regulations call for consultation with the State concerning the time needed for this submission, 40 CFR 51.6(b), and the Administrator therefore will consider any request from the State for additional time.

In the next nine months, West Virginia must reassess its SO_2 control strategy and adopt any additional regulations that may be needed to protect the secondary SO_2 NAAQS. If such new regulations are needed, the State must also prescribe a schedule for compliance within a reasonable time.

Section 110(a)(2)(A) of the Clean Air Act and EPA regulations require that a compliance schedule provide for attainment of a secondary NAAQS within a reasonable period of time. EPA regulations provide that a State may consider social, economic, and technological factors in determining a reasonable schedule for attainment of secondary standards. 40 CFR 51.13(b).

EPA is aware that the State and the representatives of the utility owners, coal companies and coal miners have alleged that severe social and economic disruption will occur if the power stations are required to reduce their emissions below the levels approved today as adequate for primary standard attainment. The Agency recoginzes that some methods of attaining the secondary SO_2 standard, such as switches to low sulfur coal, could result in localized job losses in the coal mining industry and related businesses. If the State determined that additional emission limitations are necessary to demonstrate attainment of the secondary SO_2 standard, EPA encourages the State to take into account potential adverse employment effects when establishing a compliance schedule to carry out any necessary secondary SO_2 standard-control strategy, and to consider control strategies and compliance schedules that will avoid or minimize social and economic disruption. If desired by the State, EPA personnel will work with the State to develop approaches that ensure secondary SO_2 standard attainment within a reasonable time while minimizing any adverse employment impacts.

The details of the deficiency noted by EPA are more fully described in documents supporting EPA's final action approving the West Virginia SIP revision as adequate to attain and maintain the primary SO_2 standard. The documents are available at the addresses given in the notice of final action, published elsewhere in today's **Federal Register.**

Dated: October 31, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-35061 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-8-FRL 1663-8]

Montana Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Montana application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Montana interim authorization application must be received by December 15, 1980.

Public hearing: EPA will conduct a public hearing on the Montana interim authorization application at 9:00 a.m. on December 15, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Montana, Department of Health and Environmental Sciences, Solid Waste Management Bureau will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Montana interim authorization application are available at the following addresses for inspection and copying by the public:

1. U.S. Environmental Protection Agency 1860 Lincoln Street, Denver, Colorado 80295. Telephone (303) 837-2221.
2. Montana Department of Health and Environmental Sciences, Solid Waste Management Bureau, Cogswell Building, Room A201, Helena, Montana 59601. Telephone (406) 449-2821.
3. EPA Montana Office, 301 S. Park, Drawer 10096, Helena, Montana 59601. Telephone (406) 449-5414.
4. Northern Montana College Library, Havre, Montana 59501.
5. Eastern Montana College Library, Billings, Montana 59101.
6. University of Montana Library, Missoula, Montana 59801.
7. Montana State University Library, Bozeman, Montana 59717.

Written comments should be sent to: U.S. EPA, Montana Office, 301 S. Park, Drawer 10096, Helena, Montana 59601, Attn: Jim Harris.

The public hearing will be held at: Room 289, Federal Office Building, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Jim Harris, EPA Montana Office, 301 S. Park, Drawer 10096, Helena, Montana 59601, Telephone (406) 449-5414.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional state in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for Phase I interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: November 5, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-34980 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-38-M

ACTION

45 CFR Part 1223

Treatment of Volunteer Payments and Services by Governmental Programs

AGENCY: ACTION.

ACTION: Notice of proposed rulemaking.

SUMMARY: These Regulations outline the manner in which payments to volunteers under the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*), must be treated in determining the level of or eligibility for assistance or services any such volunteers may be receiving or may be entitled to under any governmental programs.

DATE: Comments must be received by December 10, 1980.

ADDRESS: Comments should be sent to the Office of the General Counsel, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Written comments should be identified with the words "Volunteer Income" on the envelope. Oral comments may be offered by calling 202-254-8855.

FOR FURTHER INFORMATION CONTACT: Louise E. Maillett, Assistant General Counsel, ACTION, 806 Connecticut Avenue, NW Washington, D.C. 20525, 202-254-8855.

SUPPLEMENTARY INFORMATION: Prior to the 1979 Amendments to the Domestic Volunteer Service Act of 1973 (Pub. L. 96-143; December 13, 1979), Section 404(g) of the Act (42 U.S.C. 5044(g)) provided that payments to volunteers under the Act must not adversely affect the level of or eligibility for services or assistance under any governmental program such volunteers were receiving prior to their enrollment as volunteers. This section, referred to as an income disregard, operated to allow low-income persons to join a volunteer program without suffering loss of eligibility for or a decrease in the level of services or assistance they had been receiving upon enrollment as a volunteer. In Pub. L. 96-143, Congress amended this section to provide that upon the determination by the Director that the value of payments to volunteers was equal to or greater than the applicable minimum wage, the income disregard would be inapplicable.

The standard to be used in this determination is the greater of the minimum wage under the Fair Labor Standards Act or the minimum wage under the laws of the State in which the volunteers are serving. In summary, if the payments received by a volunteer under this Act are greater than the applicable minimum wage, the income disregard is not applicable and such payments may be included in determining eligibility or benefit levels for volunteers. If the payments received by a volunteer are less than the applicable minimum wage, the income disregard section does apply to exclude such payments from determinations of the volunteer's eligibility or benefit level under government programs.

The Congress has also amended Section 404(g) by adding a subsection concerning the work registration requirement of governmental programs. This section provides that no full-time volunteer in a program under Title I of the Act, who was otherwise qualified, may be denied benefits under any governmental program because of such volunteer's failure or refusal to register for, seek, or accept employment or training during his or her period of volunteer service. The purpose of this Amendment was to correct an unintended inclusion of volunteers in the requirement that persons receiving Aid to Families of Dependent Children (AFDC) payments register for and accept employment and training under the Work Incentive (WIN) program.

This regulation, as a matter involving volunteers, is exempt from the requirements of Executive Order 12044: "Improving Government Regulations."

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Accordingly, Part 1223 is added, as follows, to Title 45 of the Code of Federal Regulations:

PART 1223—TREATMENT OF VOLUNTEER PAYMENTS AND SERVICES BY GOVERNMENTAL PROGRAMS

Subpart A—Volunteer Payments

Sec.
1223.1 Purpose.
1223.2 Scope.
1223.3 Definitions.
1223.4 Applicable minimum wage.
1223.5 Volunteer hours.
1223.6 Treatment of volunteer payments.

Subpart B—Volunteer Services

1223.7 Treatment of volunteer services.

Authority: Pub. L. 93–113, sec. 402(14) and 404(g) (42 U.S.C. 5042(14) and 5044(g); Pub. L. 96–143, sec. 12 (42 U.S.C. 5044(g)); sec. 420 (42 U.S.C. 5060).

Subpart A—Volunteer Payments

§ 1223.1 Purpose.

The purpose of these Regulations is to describe the manner in which volunteer payments and volunteer services under the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.)* must be treated with respect to the level of or eligibility for assistance or services any such volunteers may be receiving under any government program.

(42 U.S.C. 5044 (g))

§ 1223.2 Scope.

(a) This part applies unless otherwise noted to all volunteers serving in a program authorized by the Act.

(b) This part applies to any governmental program administered on the Federal, State, or local level regardless of its source of funding, which allocates services or assistance to qualified recipients on the basis of their level of income or availability for employment or training.

(c) This part shall govern the treatment of volunteer payments under the Domestic Volunteer Service Act, notwithstanding any other provision of law, except as may be provided expressly in limitation of Section 404(g)(1) of the Act.

(42 U.S.C. 5044 (g))

§ 1223.3 Definitions.

(a) The "Act" means the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.).*

(b) "Director" means the Director of ACTION, or a person authorized by the Director to make a determination or perform a function required by this part.

(c) "Volunteer" means a person enrolled for training or service in a program authorized by the Act either in a full-time or part-time capacity. Such programs may be administered directly by ACTION or may be conducted under an agreement between ACTION and a Federal, State, or local agency, or a private nonprofit organization.

(d) "Payments," for the purposes of this part, include only allowances paid to volunteers to defray their personal living expenses, or a reasonable cash equivalent if the support normally provided as an allowance is provided in kind. Other forms of support, whether provided in cash or in kind, are not included. Other support includes, but is not limited to, transportation, supplies, equipment, technical assistance, legal assistance, special clothing, medical care, training, and career development. Payments do not include the volunteer's end of service stipend, reimbursements for travel or transportation or other necessary expenses provided on the basis of actual cost or as *per diem* in lieu of actual subsistance while the volunteer is away from his or her place of assignment. Meals provided to part-time volunteers during a period of service, and recognition awards of nominal value, are not payments. Allowances such as a settling-in allowance, reenrollment allowance or vacation allowance shall be pro-rated over the entire enrollment period to which it relates in making the computation described in § 1223.6.

(e) "Sponsoring organization" means the organization to which the volunteer is assigned under an agreement with ACTION and which is responsible for the daily supervision of the volunteer.

(f) "Receive," and "Receiving," when used in connection with assistance under governmental programs includes assistance for which a volunteer was eligible prior to the commencement of volunteer service, although the volunteer may not have actually been receiving such assistance.

(42 U.S.C. 5044 (g))

§ 1223.4 Applicable minimum wage.

(a) For purposes of this part, the applicable minimum wage is the minimum wage then in effect under the Federal Labor Standards Act of 1938 (29 U.S.C. 20 *et seq.*), or the minimum wage established by the laws of the State where such volunteers are serving, which ever is greater.

(b) Upon any increase in the payments to volunteers, the Director shall ascertain the relationship between the increased level of payments and the prevailing minimum wage, as defined in paragraph (a) of this section. The Director, on the basis of such information, shall determine whether the value of such changed payments, adjusted to reflect the number of hours such volunteers are serving, is equal to or greater than the applicable minimum wage. Upon making such a finding, the Director shall provide timely notice to all affected volunteers and shall also cause such notice to be published in the **Federal Register.**

(42 U.S.C. 5044(g))

§ 1223.5 Volunteer hours.

(a) For purpose of this part, a volunteer who is enrolled in a program of full-time service shall be deemed to serve a minimum of forty (40) hours per week unless the program in which the volunteer is serving specifically provides for a different weekly service period. Upon request, the sponsoring organization will certify the actual number of hours a volunteer is serving.

(b) Part time volunteers receiving payments shall be deemed to be serving twenty (20) hours per week unless the program in which they are serving authorizes a different weekly service period. Upon request, the sponsoring organization will certify the actual number of hours a part-time volunteer is serving.

(42 U.S.C 5044(g))

§ 1223.6 Treatment of volunteer payments.

(a) In the absence of a determination by the Director and notice, as provided for under paragraph (b) of § 1223.4 hereof, payments or support provided to volunteers shall not be treated as income to the volunteer for the purpose of determining the eligibility for or level of assistance or services such volunteers may be receiving under any government program. Nor shall such payments or support be treated in such a manner as to otherwise reduce or eliminate the level of or the eligibility for such assistance or services.

(b) In the absence of a determintion by the Director and notice, as provided for under § 1223.4(b) hereof, if the eligibility for or the level of assistance or services received by a volunteer under any government program is in whole or in part derived from the status of the volunteer in a family unit, payments received by the volunteer under the Act may not be basis for any reduction in the level of, or the elimination of the eligibility for, assistance and services received by the family, or any member thereof.

(c) A determination that the value of volunteer payments is equal to or greater than the prevailing minimum wage shall be prospective in effect. Volunteer payments received prior to such a determination shall not be considered as overpayments under any governmental program or result in any liability therefor.

(42 U.S.C. 5044(g))

Subpart B—Volunteer Services

§ 1223.7 Treatment of volunteer services.

(a) This subsection applies only to full-time volunteers under Title I of the Act. Any assistance or service which such a volunteer was otherwise entitled to receive under any governmental program prior to enrollment shall not be denied solely because of the volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such volunteer's service.

(b) Upon written request from an appropriate officer or employee in any governmental program which requires registration for or acceptance of employment or training as a condition to receipt of services or assistance, the Director will certify whether an individual is enrolled under Title I and his or her term of service.

(42 U.S.C. 5044(g))

Signed at Washington, D.C., this 5th day of November, 1980.

Sam Brown,
Director.

[FR Doc. 80-34922 Filed 11-7-80; 8:45 am]
BILLING CODE 6050-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 93

[CGD 77-162]

Damage Stability Standards for Great Lakes Bulk Dry Cargo Vessels

AGENCY: Coast Guard, DOT.

ACTION: Extension of advanced notice of proposed rulemaking comment period and notice of public conference.

SUMMARY: The purpose of this notice is to inform the public of an extension of the comment period for the subject ANPRM (45 FR 54095) to allow all persons connected with the Great Lakes bulk fleet and other interested parties to develop meaningful comments prior to the Coast Guard's regulation writing effort. Additionally, this notice is to inform the public of an open conference to be held Thursday, December 11, 1980 at Cleveland, Ohio by the Commander, Ninth Coast Guard District.

DATES: Comments must be received on or before March 1, 1981. The Conference is scheduled for December 11, 1980.

ADDRESSES: Comments may be mailed to Commandant (G–CMC/24), (CGD 77–162), U.S. Coast Guard, Washington, D.C., 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C., 20593, (202) 426–1477, between the hours of 7 a.m. and 5 p.m., Monday through Thursday. Details concerning the public hearing location and time can be obtained from the Marine Safety Office, Cleveland, Ohio (216) 522–3944, after November 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Howell, Merchant Marine Technical Division (G–MMT–5/12), Room 1206, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C., 20593, (202) 426–2187. Normal business hours are 7 a.m. to 5 p.m., Monday through Thursday.

Supplementary Information

On March 16, 1978, the Coast Guard issued an Advanced Notice of Proposed Rulemaking (ANPRM) at 43 FR 10946, concerning the development of damage stability standards for Great Lakes bulk dry cargo vessels. This ANPRM indicated that a minimum level of subdivision was under consideration, solicited comments on specific questions of a technical and economic nature, and referred to the ongoing Maritime Administration (MarAd) study of economic benefits of watertight subdivision of Great Lakes vessels. Nineteen comments were received in response to this ANPRM.

The MarAd study was completed in December 1978, and a second ANPRM was published on August 14, 1980 at 45 FR 54095, discussing some aspects of this study and soliciting further comments. The response to this second ANPRM has been minimal, indicating some lack of awareness on the part of the parties who would be effected most. To correct this deficiency, and to allow all persons connected with the Great Lakes bulk fleet as well as other interested parties to develop meaningful comments prior to the Coast Guard's regulatory drafting effort, the comment period will be extended an additional 108 days to March 1, 1981. In addition, an open public conference in Cleveland, Ohio is scheduled for December 11, 1980.

The purpose of this conference is to meet with representatives of all phases of the Great Lakes Bulk Carrier industry and any other interested persons in order to publicly examine:

(1) The background of subdivision levels of safety in the Great Lakes fleet;

(2) The feasibility of bulkheading to produce various levels of subdivision safety; and

(3) Possible alternatives to subdivision safety.

Since the loss of the S.S. *Edmund Fitzgerald,* the National Transportation Safety Board has maintained an outstanding recommendation for subdivision safety with which the Coast Guard has concurred. The two ANPRM's have produced very little in response for the Coast Guard to review prior to making its proposal for design subdivision. The period for comments on the current ANPRM is being extended until 1 March 1981 and it is hoped that this open conference will also produce meaningful comments to enable the Coast Guard to consider the alternatives more accurately before drafting a proposed rule.

Dated: November 5, 1980.

Henry H. Bell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-35071 Filed 11-7-80; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 63

[CC Docket No. 78-72 Phase II]

MTS and WATS Market Structure; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: This order grants an extension of time to file comments to the *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking* in *CC Docket 78–72 Phase II.*

That Report dealt with the Commission's conclusion that it should not adopt rules restricting interstate telecommunications services equivalent to MTS and WATS in the nation as a whole. This extension gives more time to Alascom to complete studies supporting its position.

DATES: Initial comments are now due December 8, 1980, and reply comments are due January 14, 1981.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Douglas Slotten, Common Carrier Bureau (202) 632–9342.

V 45 NO 10 80 UMI

In the matter of MTS and WATS Market Structure, CC Docket No. 78–72–Phase II.

Adopted: November 3, 1980.

Released: November 4, 1980.

1. On October 22, 1980, Alascom, Inc., filed a petition for an extension of time to file comments to the Commission's *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking* in *CC Docket No. 78–72–Phase II*, FCC 80–463 (released August 25, 1980).[1] The *Third Supplemental Notice* separated the question of competitive versus monopoly supply of telecommunications services in the Alaska submarket from the consideration of that issue for the remainder of the United States. In so doing, it provided Alascom with a further opportunity to support its argument that Alaska should be served on a sole source basis.

2. Alaska seeks an extension of time until December 8, 1980, in which to file initial comments, and until January 7, 1981, in which to file reply comments. In support of its request, Alascom states that it has expended considerable time in developing appropriate studies to support its position. Numerous variables must be analyzed in conducting such studies to determine the impact of competition on Alascom and its ability to serve the public. In order to permit adequate time to gather the necessary data to perform the studies and to incorporate the various assumptions and variables that are necessary, Alascom seeks a four week extension.

3. The Commission recognizes that there are a number of assumptions and/or variables which Alascom must consider in preparing its comments in response to our *Third Supplemental Notice*. The collection of the data to support these assumptions or variables and the completion of the study in these circumstances obviously takes some time. Alascom has indicated that an additional four weeks will permit it to prepare appropriate studies in support of its case. In the interest of having a complete record with which to decide the issue of entry policy in the Alaska submarket, a four week extension of time does not appear to be an unreasonable request. Therefore, we find the grant of a four week extension of time in which to file initial comments to be in the public interest. This extension of time in which to file initial comments necessitates extending the time in which to file reply comments. A similar four week extension would mean reply comments would be due on January 7, 1981. However, since this encompasses the holiday season, reply comments will be due on January 14, 1981. This action should minimize the need for additional extensions of time in this proceeding.

4. Accordingly, it is ordered, pursuant to Sections 4(i), 5(d)(1) and 303(f) of the Communications Act, as amended, and Section 0.291 of the Commission's rules, that the dates for filing comments in response to the *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking is* extended to and including December 8, 1980, and the date for filing reply comments is extended to and including January 14, 1981.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-35112 Filed 11-7-80; 8:45 am]

BILLING CODE 6712-01-M

[1] That Order initially established filing dates of October 17, 1980, for initial comments and November 17, 1980, for reply comments. Because of Commission delays in issuing the Order, the Common Carrier Bureau extended the dates at Alascom's request until November 10, 1980, and December 10, 1980, respectively. See Mimeo No. 35462.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

North Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public hearing.

SUMMARY: This notice announces that the North Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will hold a public hearing for the purpose of receiving public input on its proposed amendments to the Groundfish Fishery in the Bering Sea-Aleutian Island Area Fishery Management Plan (FMP) and draft regulations for the 1981 season.

DATES: Written comments may be submitted on or before January 1, 1981. The public hearing will be held on November 20, 1980, at 7:30 p.m.

ADDRESSES: Send written comments to: the North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510. The public hearing will be held in the Association of Village Council President's meeting room, Bethel, Alaska.

Copies of the draft Bering Sea/Aleutian Groundfish Plan are available at the Alaska Department of Fish and Game, P.O. Box 96, Bethel, Alaska 99559, Bethel Public Library, Bethel, Alaska 99559.

Limited numbers of the proposed amendment package will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, Alaska 99501 (P.O. Box 3136DT, Anchorage, Alaska 99510) and the National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510; telephone (907) 274–4563.

Should winter travel necessitate cancelling the meeting, notice of cancellation and a new schedule will be announced locally by telephone and radio, and when possible, by newspaper and television.

Dated: November 5, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35167 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 45, No. 219

Monday, November 10, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 stat. 770–776), the Science and Education Administration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.
Dates: December 4, 1980.
Time: 8:30 a.m.
Place: St. Charles Hotel, Mayflower Room, 2203 St. Charles Avenue, New Orleans, Louisiana.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recomend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative Research, Washington, D.C. 20250, telephone: 202/447–4329.

Done at Washington, D.C., this 3rd day of November 1980.

W. I. Thomas,

Administrator Cooperative Research.

[FR Doc. 80-35017 Filed 11-7-80; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

International Trade Administration

Aurora Pump Co. Division, General Signal Corp.; Order

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979 (Pub. L. 96.72, to be codified at 50 U.S.C. app. 2401, *et seq.)* (the Act) against Aurora Pump Company Division, General Signal Corporation (Aurora) based on allegations that Aurora violated the export Administration Regulations [15 CFR Part 368, et seq. (1978) and (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and Aurora having entered into a Consent Agreement whereby Aurora has agreed to settle this matter by payment of a civil penalty in the amount of $8,500; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Aurora, within 20 days of the date of service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $8,500;

Second, that Aurora, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Aurora agrees that it shall promptly communicate its compliance policy and procedures to its various employees involved in international sales, and will thereafter provide these persons with notice of all material changes which may be issued by the Department with respect to such Regulations.

(b) Aurora shall establish a final review procedure for all documents to customers in boycotting countries prior to mailing. Such review shall be conducted by persons who have been instructed about the requirements of the Act and Regulations and who will receive internal communications regarding compliance procedures.

(c) Aurora shall promptly institute an internal reporting system and educate its employees involved in international sales as to the importance of following designated procedures with respect to reporting of all reportable requests to the Department and with respect to taking appropriate exception to requests, compliance with which is prohibited, and which may occur on orders, letters of credit, requests for quotations, instructions from customers, correspondence, etc.

(d) Aurora shall conduct unannounced inspections of documents to ensure that the proper procedures have been implemented and are being followed. Such inspections shall take place at least once a calendar quarter for one year following the date of the order entered pursuant to this agreement.

Third, that the proposed Charging Letter, the Consent Agreement, and this Order be made public; and

Fourth, that Aurora submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date November 3, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34993 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Fairco, Inc.; Order

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against Fairco, Inc. (Fairco) based on allegations that Fairco violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] (the Regulations) promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and Fairco having entered into a Consent Agreement whereby Fairco has agreed to settle this matter by payment of a civil penalty in the amount of $1,500 and to undertaken certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved

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the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered, First, that Fairco within 20 days of the date of service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $1,500;

Second, that Fairco, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations: (a) Fairco shall establish a final review procedure for all shipping documents to customers in boycotting countries prior to mailing. Such review shall be conducted by one person who has been instructed about the requirements of the Act and Regulations and who will receive internal communications regarding compliance procedures.

(b) Fairco shall verify proper distribution of memoranda and other communications regarding antiboycott compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

Third, that the Consent Agreement, the proposed Charging Letter, and this Order be made public; and

Fourth, that Fairco submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date October 17, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34994 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M Company)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against the Minnesota Mining and Manufacturing Company, Inc. (3M) based on allegations that 3M violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M having entered into a Consent Agreement whereby 3M has agreed to settle this matter by payment of a civil penalty in the amount of $6,000 and to undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M, within 30 days of the service of this Order, pay to the Department the civil penalty in the amount of $6,000;

Second, that 3M, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate its antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgement of receipt by the designated recipients.

(c) 3M shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M shall, within 60 days after the date on which this Order is entered, designate an attorney from the Office of the General Counsel, whose tasks shall include giving advice pursuant to 3M's antiboycott compliance program to subsidiaries of 3M doing business with Middle East customers.

(e) 3M shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that the 3M submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34995 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co.; Inc. et al.; Order (3M Middle East, Inc.)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against 3M Middle East, Inc. based on allegations that 3M Middle East, Inc. violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Middle East, Inc. having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $2,000 and that 3M Middle East, Inc. shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M Middle East, Inc. shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $2,000;

Second, that 3M Middle East, Inc., to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M Middle East, Inc. shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M Middle East, Inc.'s customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Middle East, Inc. shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M Middle East, Inc. shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M Middle East, Inc. shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Middle East, Inc.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Middle East, Inc. submit a report which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34996 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M France)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against 3M France based on allegations that 3M France violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M France having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $500, and that 3M France shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M France shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $500;

Second, that 3M France, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M France shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M France's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M France shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M France shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M France shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M France.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M France submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order, specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 9 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34997 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M Italia S.p.A.)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96.72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against 3M Italia S.p.A. (3M Italia) based on allegations that 3M Italia violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Italia having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $500, and that 3M Italia shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M Italia, shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $500;

Second, that 3M Italia, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M Italia shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M Italia's customers in the Middle East. Such communications shall also include education of appropriate empoloyees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Italia shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgement of receipt by the designated recipients.

(c) 3M Italia shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M Italia shall, with 60 days after the date on which this Order is entered, designate a company official whose responsbilities shall include supervision of boycott request reporting under the Regulations for 3M Italia.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Italia submit a report which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 9 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administraton.

[FR Doc. 80-34998 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M Nederland B.V.)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96–72, to be codified at 50 U.S.C. app 2401, *et seq.*) (the Act) against 3M Nederland B.V. (3M Netherlands) based on allegations that 3M Netherlands violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Netherlands having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $5,500 and that 3M Netherlands shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M Netherlands shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $5,500;

Second, that 3M Netherlands, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M Netherlands shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M Netherlands' customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Netherlands shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M Netherlands shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M Netherlands shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Netherlands.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Netherlands submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order, specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 9 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-34999 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al., Order (3M Middle East, Ltd.)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.)* (the Act) against 3M Middle East, Ltd. based on allegations that 3M Middle East, Ltd. violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Middle East, Ltd. having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $57,000, and that 3M Middle East, Ltd. shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that 3M Middle East, Ltd. shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $57,000;

Second, that 3M Middle East, Ltd., to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations:

(a) 3M Middle East, Ltd. shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M Middle East, Ltd.'s customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Middle East, Ltd. shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M Middle East, Ltd. shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M Middle East, Ltd. shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Middle East, Ltd.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Middle East, Ltd. submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 9 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-35000 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M United Kingdom)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against 3M United Kingdom, Ltd. (3M United Kingdom) based on allegations that 3M United Kingdom violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M United Kingdom having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $11,000, and that 3M United Kingdom shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, first, that the 3M United Kingdom shall cause to be paid to the Department within 30 days of the service of this Order the civil penalty in the amount of $11,000;

Second, that the 3M United Kingdom, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations: (a) 3M United Kingdom shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing the 3M United Kingdom's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M United Kingdom shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgement of receipt by the designated recipients.

(c) 3M United Kingdom shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M United Kingdom shall, within 60 days after the date on which this Order is entered, designate a comnpany official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M United Kingdom.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M United Kingdom submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order, specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to Paragraph No. 10 thereof.

V 45 N 0 10 0 80 UMI

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-35001 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M Belgium)

The Office of Antiboycott Compliance, International Trade Aministration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96–72, to be codified at 50 U.S.C. app. § 2401, *et seq.*) (the Act) against 3M Belgium S.A./N.V. (3M Belgium) based on allegations that 3M Belgium violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. § 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Belgium having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $7,000 and that 3M Belgium shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, first, that the 3M Belgium shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $7,000;

Second, that the 3M Belgium, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations: (a) 3M Belgium shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing 3M Belgium's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipents of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Belgium shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M Belgium shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) 3M Belgium shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Belgium.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Belgium submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 10 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-35002 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (3M Deutschland GmbH)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. No. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against 3M Deutschland GmbH (3M Deutschland) based on allegations that 3M Deutschland violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app § 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and 3M Deutschland having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $47,000, and that 3M Deutschland shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, first, that the 3M Deutschland shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $47,000;

Second, that the 3M Deutschland, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations: (a) 3M Deutschland shall, within 60 days after the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing the 3M Deutschland's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) 3M Deutschland shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) 3M Deutschland shall, within 60 days after the date on which this Order is entered, append appropriate, prominent warnings in German to the German Chamber of Commerce Shippers' Guide that is used by personnel at the 3M Deutschland warehouse in Reisholz, Germany, indicating that certain certificates and statements recommended by the Guide violate United States law and specific 3M Deutschland company policy, and that such certificates and statements may not be used when goods in U.S. commerce (as defined by the Regulations) are involved.

(d) 3M Deutschland personnel shall inspect randomly selected documents at the Eurospa warehouse in Reisholz, Germany, to ensure that 3M's antiboycott compliance program is being fully followed. Such inspection shall take place at least two times prior to 3M Deutschland's report as mandated by this Order.

(e) 3M Deutschland shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(f) 3M Deutschland shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Deutschland.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Deutschland submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken place at least two times prior to 3M Deutschland's report as mandated by this Order.

(e) 3M Deutschland shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(f) 3M Deutschland shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for 3M Deutschland.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that 3M Deutschland submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Fifth, that this Order shall be modified as necessary to reflect any amendment to the Consent Agreement made pursuant to paragraph No. 10 thereof.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-35003 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

Minnesota Mining & Manufacturing Co., Inc. et al.; Order (Bird Corp.)

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against Bird Corporation based on allegations that Bird Corporation violated the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)]; and

The Department and Bird Corporation having entered into a Consent Agreement whereby the parties have agreed that, in settlement of this matter, the Department shall be paid a civil penalty in the amount of $1,000 and that Bird Corporation shall undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement;

It is therefore ordered, First, that Bird Corporation shall cause to be paid to the Department, within 30 days of the service of this Order, the civil penalty in the amount of $1,000;

Second, that Bird Corporation, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations: (a) Bird Corporation shall, within 60 days of the date on which this Order is entered, instruct its legal counsel to communicate Minnesota Mining & Manufacturing Company's (3M) antiboycott compliance program, as issued on January 10, 1979, and revised thereafter, to the department responsible for invoicing the Bird Corporation's customers in the Middle East. Such communications shall also include education of appropriate employees concerning requirements of the Act and the Regulations; establishing procedures for identification of proper recipients of future communications regarding antiboycott compliance measures; and establishing direct communications between the legal counsel and appropriate personnel for questions.

(b) Bird Corporation shall, within 60 days after the date on which this Order is entered, verify proper distribution of memoranda and other communications regarding antiboycott regulation compliance measures by identification of appropriate recipients and acknowledgment of receipt by the designated recipients.

(c) Bird Corporation shall implement its existing plan for annual antiboycott compliance audits of selected Middle Eastern transactions. There shall be at least two such audits.

(d) Bird Corporation shall, within 60 days after the date on which this Order is entered, designate a company official whose responsibilities shall include supervision of boycott request reporting under the Regulations for Bird Corporation.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that Bird Corporation submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within nine months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date October 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-35004 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Intent To Grant Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS), U.S. Department of Commerce, proposes to grant to Neurobiological Systems Inc. a limited exclusive right in the United States and in some or all of a group of foreign countries including Denmark, France, Great Britain, Japan, Luxembourg, Sweden, Switzerland and West Germany for the manufacture, use and worldwide sale of the products embodied in an invention on a "Radioreceptor Assay for Benzodiazepines in Plasma and Other Biological Specimens," protected by U.S. Patent Application No. 949,689 (dated October 10, 1978).

V 45 N 010 80 UMI

This patent has been assigned to the United States of America, as represented by the Secretary of Health and Human Services. Custody of the right to license this invention has been transferred to the Secretary of Commerce.

Copies of the patent application may be purchased from the National Technical Information Service, Springfield, Virginia 22161 at a cost of five dollars per copy. Public announcements of the availability of this invention for licensing were published in the **Federal Register** on April 20, 1979 (44 FR 23554); in the NTIS publication *Government Inventions for Licensing* on April 24, 1979; and in the *Official Gazette* of the Patent and Trademark Office on May 15, 1979. To date, these and other promotional efforts have not resulted in any applications for, or the granting of, nonexclusive licenses under this patent. The Director of NTIS has therefore determined, in accordance with 41 CFR 101–4.103–3, that this invention is available for licensing on a limited exclusive basis.

The limited exclusive license proposed to be granted will be a royalty-bearing license for a term of five years from the effective date of the license agreement. The license will be revocable in accordance with 41 CFR 101–4.104.5.

The proposed license will be subject to an irrevocable, nonexclusive, nontransferable, royalty-free right in the U.S. Government to make, use or sell the licensed invention throughout the world by or through contract on behalf of the U.S. Government or any foreign government pursuant to a treaty or agreement with the United States.

The proposed license will be granted by NTIS to Neurobiological Systems unless, on or before January 9, 1981, NTIS receives (1) an application for a nonexclusive license from a responsible U.S. applicant intending to practice the invention identified herein in the United States and NTIS determines that such applicant is likely to bring the invention to the point of practical application within a reasonable period of time under a nonexclusive license; or (2) written evidence and argument which establishes that it would not be in the public interest to grant the proposed limited exclusive license to Neurobiological Systems.

Written data, inquiries, comments and objections relating to this proposed limited exclusive license should be submitted to the Office of Government Inventions and Patents, National Technical Information Service, Springfield, VA 22161. NTIS shall maintain and make available for public inspection a record of all decisions made in this matter and the basis therefor. This record shall contain copies of all written data, inquiries, comments and objections received by NTIS and pertaining to the proposed limited exclusive license.

Dated: October 31, 1980.

Melvin S. Day,

Director.

[FR Doc. 80-35014 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

Office of Productivity, Technology, and Innovation: Implementation of Title IV of Trade Agreements Act of 1979 (Pub. L. 96–39)

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

As required by Section 412 of the Trade Agreements Act of 1979 and Section 1–103(a) of Executive Order 12188 of January 2, 1980 (45 FR 989, January 4, 1980), the Secretary of Commerce has initiated a Technical Office to perform certain implementing functions with respect to standards, testing, and certification activities for nonagricultural products. That office ("Technical Office/Title IV Implementation") is located within the Office of Product Standards Policy which is a constituent unit of the Office of Productivity, Technology, and Innovation (OPTI).

The functions of the Technical Office relate to: provision of information on foreign proposed standards and certification systems; adequate representation of U.S. trade interests in international standards organizations; coordination of technical work regarding possible bilateral and international arrangements concerning reciprocal acceptance of testing and certification; provision of other technical assistance and related advice regarding measures for taking advantage of the trade opportunities created by the Agreement on Technical Barriers to Trade (the so-called "Standards Agreement"); and provision of coordination services with other parts of the Department of Commerce and with the Office of the U.S. Trade Representative.

Anyone interested in the work of the Technical Office should write to the Program Manager, Technical Office, Title IV Implementation, Office of Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230

Dated: November 5, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80-34913 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Manmade Fiber Textile Products From the Republic of the Philippines

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling women's, girls' and infants' coats of man-made fibers in Category 635(pt.) (all T.S.U.S.A. numbers in the category except 382.7828), produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1980, at a level of 196,419 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53502)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, the United States Government has decided to control imports of man-made fiber textile products in Category 635(pt.) (all T.S.U.S.A. numbers in the category except 382.7828), produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** a letter dated December 19, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of man-made fiber textile products in Category 635pt. (all T.S.U.S.A. numbers in category except 382.7828) during that same period. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of manmade fiber textile products in Category 635pt. (all T.S.U.S.A. numbers in the category except 382.7828) in excess of 196,419 dozen. The level of restraint has not been adjusted to account for any imports after December 31, 1979. Imports in the category during the period which began on January 1 and extended through August 31, 1980 have amounted to 110,949 dozen and will be charged. When the data become available, further import charges will be made for the period which began on September 1, 1980 and extends to the effective date of this action.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce
International Trade Administration,
Washington, D.C., November 5, 1980.

Committee for the Implementation of Textile Agreements,
Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 19, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 12, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 635pt., produced or manufactured in the Philippines, in excess of the following level of restraint:

Category and Twelve-Month Level of Restraint [1]

635pt.[2]—196,419 dozen.

Manmade fiber textile products in the foregoing category which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Manmade fiber textile products in the foregoing category which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-35050 Filed 11-7-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports during the period January–August 1980 have amounted to 110,949 dozen.

[2] In Category 635, all T.S.U.S.A. numbers except T.S.U.S.A. 382.7828.

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Proposed Resolution Pertaining to the 90-Day United States Treasury Bill Futures Contract of the Chicago Mercantile Exchange

The Commodity Futures Trading Commission, in accordance with Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–408, § 12, 92 Stat. 871 (1978), has determined that a proposed resolution of the Chicago Mercantile Exchange ("CME" or "Exchange") concerning the addition of five (5) trading months in the 90-Day United States Treasury Bill futures contract is of major economic significance.

Pursuant to rule 3202A of the CME,[1] the Exchange has proposed by resolution the addition of the following delivery months in the January cycle of the 90-Day United States Treasury Bill futures contract: July 1982; October 1982; January 1983; April 1983; and July 1983. The delivery months would be listed for trading over a period of ten months.

Any person interested in submitting written data, views, or arguments on the proposed resolution should send comments by December 10, 1980 to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C., on November 5, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-34977 Filed 11-7-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Senior Executive Service; Schedule for Awarding Bonuses

Notice is hereby given that the Department of the Air Force will be paying Senior Executive Service bonuses no earlier than 14 days from this date and no later than 30 November 1980.

For further information, contact the Senior Executive Service Management Office at (202) 695–5989.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-34947 Filed 11-7-80; 8:45 am]

BILLING CODE 3910-01-M

[1] Rule 3202A of the CME governing trading months and hours in the Exchange's 90-Day United States Treasury Bill futures contract provides as follows: Futures contracts shall be scheduled for trading during such hours and delivery in such months as may be determined by the Board of Governors, subject to the requirement that all such determinations and other actions implementing such determinations be submitted to the Commodity Futures Trading Commission in accordance with the provisions of Section 5a(12) of the Commodity Exchange Act and all Commission regulations adopted thereunder. 45 FR 51520 (August 1, 1980).

DEPARTMENT OF ENERGY

Conduct of Employees

Robert L. Ferguson; Waiver Pursuant to section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95–91).

Section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95–91) authorizes the Secretary of Energy to waive the post-employment restrictions of section 605(a)(1) of the Department of Energy Organization Act, to permit a former employee with outstanding scientific or technological qualifications to make appearances before or communications to the Department in connection with a particular matter in a scientific or technological field, where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Robert L. Ferguson, formerly Deputy Assistant Secretary for Nuclear Reactor Programs, has outstanding scientific and technological qualifications in the fields of nuclear physics and engineering, reactor development, and nuclear plant construction and operation. I am further satisfied that it will serve the national interest to permit him, in his capacity as Managing Director/Chief Executive Officer of the Washington Public Power Supply System—

(1) With respect to the New Plutonium Production Reactor (NPR) of the Department of Energy, to confer with the Manager of the Richland Operations Office of the Department on the purchase of NPR generated steam by the Washington Public Power Supply System, and to confer with the Administrator of the Bonneville Power Administration on the sale of electricity produced from the steam by the Washington Public Power Supply System to the bonneville Power Administration, and

(2) With respect to the Net Billed Projects (nuclear powerplants) of the Washington Public Power Supply System, to confer with the Administrator of the Bonneville Power Administration on management of the projects, including determination of cost of electricity generated, utilization of technology, and scheduling and financing of construction and operations of the projects.

I am also satisfied that these activities require the qualifications stated.

I have, therefore, waived the post-employment appearance and communication prohibitions of section 605(a)(1) of the Department of Energy Organization Act, with respect to contact with officials of the Richland Operations Office of the Department of Energy and of the Bonneville Power Administration by Mr. Robert L. Ferguson to permit him to undertake the stated activities in his capacity as Managing Director/Chief Executive Officer of the Washington Public Power Supply System.

Dated: October 3, 1980.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-34917 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-01-M

Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Fiber Materials, Inc., of Biddeford, Maine, an exclusive license to manufacture, use, and sell in the United States, the invention described in U.S. Patent No. 3,577,344, entitled "Fibrous Thermal Insulation and Method of Making Same." The patent is owned by the United States of America, as represented by the Department of Energy (DOE). The patent relates to a lightweight, high-temperature, thermal insulating material, exhibiting the capability of being readily machineable into relatively intricate configurations.

The proposed license will have a duration of five years and will contain other terms and conditions to be negotiated by the parties, in accordance with 42 U.S.C. 5908(b) and 10 CFR Part 781. DOE will grant the license unless within 60 days of this Notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States in accordance with Title 10 CFR 781, in which the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical or commercial application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this Notice. The license will be granted if a determination can be made by DOE, following expiration of the 60-day notice period, (i) that no applicant for a nonexclusive license has brought or will bring the invention to the point of practical or commercial application within a reasonable period and (ii) that the granting of the license would be in the public interest after consideration of all the facts, evidence, and argument which third parties may present to the Assistant General Counsel for Patents.

Third parties who participate as outlined above are further advised of their right to appeal any decision of the Assistant General Counsel for Patents concerning the grant of the proposed exclusive license or the denial of any application for a nonexclusive license under the subject patent. Such appeal shall be in accordance with the appeal procedures of 10 CFR 781.51, including the right to request an oral hearing.

Eric J. Fygi,

Acting General Counsel, Department of Energy.

November 4, 1980.

[FR Doc. 80-35079 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Orange and Rockland Utilities, Inc., Changed Circumstances Concerning a Certification Issued for the Use of Natural Gas to Displace Fuel Oil

[ERA Docket No. 80-CERT-024]

On July 24, 1980, the Economic Regulatory Administration (ERA) issued to Orange and Rockland Utilities, Inc. (Orange and Rockland), One Blue Hill Plaza, Pearl River, New York 10965, a recertification (80–CERT–024, 45 FR 50625, July 30, 1980) of an eligible use of natural gas for up to 50,000 Mcf per day to displace fuel oil at Orange and Rockland's Lovett Plant and/or Bowline Point generating facilities located in Rockland County, New York, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). The eligible seller of the gas is the East Tennessee Natural Gas Company. The certification was issued for a one-year period ending on July 23, 1981, unless the Federal Energy Regulatory Commission regulations in 10 CFR Part 284, Subpart F, required termination prior to that time. The ERA fuel oil displacement certification program currently ends under those regulations on May 31, 1980.

On October 14, 1980, Orange and Rockland notified the ERA that it proposes to store a portion of the natural gas certified by ERA for oil displacement with the Texas Gas Transmission Company, P.O. Box 1160, Owensboro, Kentucky 42301. The stored gas will be redelivered to Orange and Rockland during the period November, 1980 through April, 1981. Orange and Rockland indicates that the gas placed in storage will be withdrawn and used to displace fuel oil at its Lovett Plant and/or Bowline Point generating facilities prior to May 31, 1981. Thus, Orange and Rockland states that all of the natural gas certified as an eligible use will be used by it to displace fuel oil during the term of the certificate. More detailed information is contained in the Orange and Rockland application and letter discussing these changed circumstances on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning the storage and redelivery of this gas to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before November 20, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this certification may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Orange and Rockland and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on November 3, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-34918 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-01-M

Petro-Lewis Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: October 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Kenneth E. Merica, District Manager, Rocky Mountain District, Economic Regulatory Administration, Department of Energy, 1075 South Yukon Street, Post Office Box 26247, Belmar Branch, Lakewood, Colorado, 80226; phone (303) 234–3195.

SUPPLEMENTARY INFORMATION: On September 30, 1980, 45 Fed. Reg. 64629, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Petro-Lewis Corporation on August 28, 1980 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order to the DOE, no comments were received. The proposed Consent Order has therefore been finalized.

Issued in Lakewood, Colo., on the 31st day of October 1980.

Kenneth E. Merica,

District Manager, Rocky Mountain District, Economic Regulatory Administration.

Concurrence by:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-34916 Filed 11-7-80; 8:45 am]

BILLING CODE: 6450-01-M

[Docket No. ERA-APS-78-4]

Getty Oil Co.; Application for Designation as a Producer of Petroleum Substitute in the Domestic Crude Oil Allocation Program for Oil-Impregnated Diatomaceous Earth

Decision and Order

I. Introduction

On January 4, 1979, the Getty Oil Company, 3810 Wilshire Blvd., Los Angeles, California 90010, submitted to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) an application for designation as a producer of a petroleum substitute pursuant to 10 CFR 211.67(a)(5) (the Entitlements Program). The application was received by ERA on January 8, 1979. Additional environmental information was submitted by Getty on August 4, 1980 and received by ERA on August 18, 1980.

ERA is issuing this Decision and Order pursuant to Subpart G of 10 CFR Part 205 (Administrative Procedures and Sanctions) and § 211.67(a)(5) of Subpart C of 10 CFR Part 211 (Mandatory Petroleum Allocation Regulations).

II. Regulatory Authorities

Section 211.62 of the Mandatory Petroleum Allocation Regulations provides that upon application the ERA may designate on a case-by-case basis a liquid synthetic fuel as a petroleum substitute if it is found that the liquid synthetic fuel is derived from a domestic source specified in § 211.62 and is used as a feedstock to a refinery, a blending feedstock in a refinery or as a boiler fuel in a refinery or elsewhere.

ERA may deny the application for designation as a petroleum substitute producer if it finds that the process by which the liquid synthetic fuel is produced does not result in a net energy gain or does not result in a higher-valued fuel when the quantity and type of fuels consumed in the process are considered, especially if a substantial amount of a relatively scarce fuel is consumed.

ERA may designate the producer, marketer, or consumer of the petroleum substitute as the party to receive entitlement benefits. The producer will in many cases, although not in all cases, be the designated recipient.

III. Analysis of Getty Oil Company's Petroleum Substitute Application

Getty Oil Company (Getty) submitted its application on January 4, 1979 for petroleum substitute benefits in the Entitlements Program. Getty is proposing a facility which will produce by the retort process 20,000 barrels per stream day (BPSD) of crude oil from 32,000 tons/day from oil-impregnated diatomite ore or will produce by the solvent extraction process 24,500 BPSD of crude oil from 37,000 tons/day from oil-impregnated diatomite ore. Crude oil recovered by the solvent extraction process would be suitable for use only as a refinery feedstock but the crude oil recovered by the retort process would be suitable for use as refinery feedstock, blending feedstock, or directly as fuel in a refinery or elsewhere.

The proposed processes by which Getty will produce the oil from the oil-impregnated diatomite ore are as follows:

(A) Lurgi Ruhrgas Retort Process.—1. The oil-impregnated diatomite ore is mined, crushed to less than ¼ inch size and then mixed with water in a slurry.

2. The slurry of crushed diatomite has the water removed in a steam-heated drying kiln.

3. The oil-impregnated diatomite is heated to 900° F in a retort where the volatiles are vaporized and removed.

4. The volatiles are cooled and condensed and the separation of gas, oil, and water is effected.

(B) Dravo Solvent Extraction Process.—1. The oil-impregnated diatomite ore is mined, crushed to less than ¼ inch size, and mixed with solvent in a slurry.

2. The diatomite-solvent slurry is pumped into extraction-thickeners where the flow of solvent and diatomite in countercurrent fashion removes the oil from the diatomite ore.

3. The oil-bearing solvent is then pumped to a miscella clarifier where the fine particles are settled and filtered out.

4. The oil-rich solvent is then processed by multiple effect evaporators which remove most of the solvent from the oil.

5. Finally, an oil stripper removes the remaining solvent from the oil. The oil is sent to the pipeline and the solvent is returned into the process.

The oil-impregnated diatomite mined by Getty will yield crude oil or unfinished oil as described in the application. The yield of the retort process (Getty Application Attachment III, page 7) is described as follows:

"The oil recovered from the Lurgi Ruhrgas retort process is a partially cracked product. However, it can be hydrotreated to yield an 18° API gravity oil of low sulfur content."

The yield of the solvent extraction process (Getty Application Attachment III, page 8) is described as follows:

"Oil recovered by the Dravo solvent extraction process is anticipated to be equivalent to the oil shown in exhibit F."

The energy requirements of the two proposed processes and their resultant products demonstrate that both should yield a positive energy balance as follows:

(A) Retort Process

1. Energy Produced 20,000 bbls/Day @ 6.35 mmbtu/bbl=127,000 mmbtu/Day.

2. Energy Consumed=1434.3 mmbtu/Day.

3. Net Energy Gain=Energy Produced − Energy Consumed=127,000 mmbtu/Day − 1,434.3 mmbtu/Day=125,565.7 mmbtu/Day.

(B) Solvent Extraction Process

1. Energy Produced 24,500 bbls/Day @ 6.4 mmbtu/bbl=156,800 mmbtu/Day.

2. Energy Consumed=17,263 mmbtu/Day.

3. Net Energy Gain=Energy Produced − Energy Consumed=156,800 mmbtu/Day − 17,263 mmbtu/Day=139,537 mmbtu/Day.

The synthetic fuel for which entitlements are being sought must satisfy the definition of petroleum substitute set forth in § 211.62. The case-by-case applications portion of the definition states:

"(b), As designated in orders issued by ERA following review of applications submitted under Subpart G of Part 205 of this chapter, (1) Any other fuel derived from domestically found solid-waste materials; or (2) Any other fuel in a liquid form which is derived from domestic biomass, coal, or tar sands."

The source material in Getty's application is oil-impregnated diatomaceous earth. It is the ERA's determination that oil-impregnated diatomaceous earth is in the category of tar sands as evidenced by the known characteristics of the formation and as represented by Getty in the application.

The final determination to be made concerns an environmental evaluation, under the National Environmental Protection Act (NEPA) of 1978. For the purpose of making that determination, a copy of the Getty application was forwarded to the Assistant Secretary for the Environment. The Assistant Secretary has completed her review of the application and has found that an Environmental Impact Statement (EIS) is required before a final NEPA determination on the Getty application could be made.

ERA finds therefore that the Getty application cannot be approved for the following reasons:

(1) An EIS would be required before a NEPA determination could be finalized.

(2) The generation of an EIS will require approximately one year.

(3) The Entitlements Program will expire on October 1, 1981.

(4) The Getty facility will not be operational prior to October 1, 1981.

In summary, Getty is proposing a facility and two processes which:

(1) Will produce a liquid (crude oil, or unfinished oil);

(2) Will market the crude oil, or unfinished oil as boiler fuel or refinery feedstock;

(3) Will have a net energy gain in the processes as proposed;

(4) Will produce the crude oil from oil-impregnated diatomaceous earth which is from domestic tar sands.

(5) Will not be in operation prior to expiration of the Entitlements Program and is environmentally still under review by the State of California.

IV. Decision

Although the application meets most of the requirements of the regulations to qualify as a producer of a petroleum substitute, ERA hereby denies the application of Getty Oil Company for designation as a producer of a petroleum substitute, under 10 CFR 211.62 and 211.67(a)(5). This denial is based upon environmental considerations previously discussed in this Decision and Order.

In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this Decision and Order with the Office of Hearings and Appeals of the Department of Energy. The provisions of 10 CFR Part 205, Subpart H, set forth procedures and criteria which govern the filing and determination of any such appeal.

This decision is based upon the presumed validity of statements, allegations, and documentary material submitted by the applicant. It may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C. on October 17, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-35080 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume No. 311]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 4, 1980.

JD NO	JD DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
*A. L. HERNDON & MORRIS CANNAN			RECEIVED: 10/24/80			
0102435	07560	4217331056	103 ERWIN LANDGREBE #1	BRANDT	200.0	TEXAS EASTERN TRANSM
0102436	07560	4217331074	103 L W NOSTER GAS UNIT #1	BRANDT	100.0	TEXAS EASTERN TRANSM
*ADOBE OIL & GAS CORPORATION			RECEIVED: 10/24/80			
0102382	17551	4247331885	103 BARTOW 15 NO 1		360.0	TRANSWESTERN PIPELIN
*ALFRED J SMITH			RECEIVED: 10/24/80			
0102443	12352	4217900000	106 G M SAUNDERS NO 1 (25677)	SCOTT (CHERRY CANYON)		
*AMERADA HESS CORPORATION			RECEIVED: 10/24/80		4.0	COLTEXO CORP
0102434	07022	4216331391	103 ADAIR SAN ANDRES UNIT #1209R	PANHANDLE EAST		
*AMOCO PRODUCTION CO			RECEIVED: 10/24/80		20.0	PIONEER NATURAL GAS
0102867	20496	4235330975	103 CARTHAGE GAS UNIT 16 NO 1	ADAIR		
0102742	20609	4239130957	103 EL DBO CATTLE #10	CARTHAGE/COTTON VALLEY/	436.0	TENNESSEE GAS PIPELI
0102741	20608	4239131162	103 EL DBO CATTLE #23	WOODSBORO SOUTH/4200/	16.4	LA ROSA CORPORATION
0102737	20604	4239131230	103 EL DBO CATTLE #25	WOODSBORO SOUTH/4200/	13.7	LA ROSA CORPORATION
0102740	20607	4239131220	103 EL DBO CATTLE #28	M E OCONNOR/STRAY A/	25.5	THE LA ROSA CORPORAT
0102739	20606	4239131219	103 EL DBO CATTLE #29	M E OCONNOR/STRAY A/	91.3	THE LA ROSA CORPORAT
0102738	20605	4239131228	103 EL DBO CATTLE #30	MARY ELLEN OCONNOR/9000/	22.6	LA ROSA CORPORATION
*0102720	20703	4203931440	103 MIRAM MOORE C #23	M E OCONNOR/FB-30/	69.3	LA ROSA CORPORATION
*0102914	17121	4235330675	103 J B WATERFIELD C #8	HASTINGS WEST	68.0	AMOCO GAS COMPANY
0102967	20865	4221932845	103 LEVELLAND UNIT #753	NW MENDOTA (MORROW UPPER	234.0	MICHIGAN WISCONSIN P
0102961	20864	4221932846	103 LEVELLAND UNIT #754	LEVELLAND	1.0	EL PASO NATURAL GAS
0102962	20915	4221932855	103 LEVELLAND UNIT #755	LEVELLAND	0.0	EL PASO NATURAL GAS
0102747	20915	4239130965	103 M E OCONNOR #44	LEVELLAND	0.0	EL PASO NATURAL GAS
0102746	20914	4239130957	103 M E OCONNOR #47	M E OCONNOR/FB-9/	102.0	LA ROSA CORPORATION
0102745	20912	4239131049	103 M E OCONNOR #58	MARY ELLEN OCONNOR/9000/	73.0	LA ROSA CORPORATION
0102743	20910	4239131258	103 M E OCONNOR #59	M E OCONNOR/FB-30/	43.8	LA ROSA CORPORATION
0102744	20911	4239131250	103 M E OCONNOR #60	M E OCONNOR/FB-40/	37.5	LA ROSA CORPORATION
0102659	20138	4210900000	106 HARBARETE BRUNER #1	HANDFORD	21.9	LA ROSA CORPORATION
0102660	20360	4220330075	103 SANDERS GAS UNIT NO 3	WOODLAWN/COTTON VALLEY/	19.7	NORTHERN NATURAL GAS
0102903	17035	4227231732	103 TEX LAND/MTGE CO /A/ R/A	IATAN EAST/MOWARD/	436.0	EAST TEXAS INDUSTRA
0102949	13602	4203931880	103 W J MILLER ESTATE NO 6	HASTINGS EAST	1.5	GETTY OIL CO
*0102460	13166	4203931370	103 WOOSTER M B #13	HASTINGS WEST	19.0	AMOCO GAS CO
*ARCO OIL AND GAS COMPANY			RECEIVED: 10/24/80		40.0	TEXAS EASTERN TRANS
0102451	14014	4221330901	103 BUCHANAN GAS UNIT NO 3	DONNA	72.0	TENNESSEE GAS PIPEL
0102470	15835	4213304557	106 GOLDSMITH CUMMINS DEEP UNIT #5100	GOLDSMITH (CLEARFORK)	5.0	PHILLIPS PETROLEUM C
0102736	20882	4223930880	106 KETCHUM MOUNTAIN CLFK UNIT #5800	KETCHUM MOUNTAIN	4.4	J L DAVIS
0102475	15603	4217900000	106 M B LEOPOLD #3	PANHANDLE	7.0	GETTY OIL CO
0102476	15604	4217900000	106 M B LEOPOLD #4	PANHANDLE	7.0	GETTY OIL CO
0102477	15605	4217900000	106 M B LEOPOLD #5	PANHANDLE	7.0	GETTY OIL CO
0102478	15606	4217900000	106 M B LEOPOLD #7	PANHANDLE	7.0	GETTY OIL CO
*ART MACHIN & ASSOCIATES INC			RECEIVED: 10/24/80			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
0102688	20497	4220330676	103		HOWARD HEIRS #1-A		150.0	MISSISSIPPI RIVER TR
•B & H OPERATING CO INC					RECEIVED: 10/24/80 JA: TX			
0102585	18446	4215133982	103		ZADIK UNIT NO 1	NEELY (BRUNI 1900)	150.0	VALERO TRANSMISSION
•B B C OIL OPERATING CO					RECEIVED: 10/24/80 JA: TX			
0102697	20614	4236731293	103		BRAWLEY NO 1 (05357)	POOLVILLE W (ATOKA)	40.0	NATURAL GAS PIPELINE
•BAR-MAC & MOLLUS DRILLING CO					RECEIVED: 10/24/80 JA: TX			
0102625	19850	4205130413	103		PRECISION HOMES #1	INEZ JAMESON (NAVARRO) A	50.0	FURGOSON CROSSING PI
•BERT FIELDS JR					RECEIVED: 10/24/80 JA: TX			
0102748	20932	4220330581	103		J MASSINGALE #2		180.0	TEXAS EASTERN TRANSM
•BETTIS BOYLE & STOVALL					RECEIVED: 10/24/80 JA: TX			
0102457	14215	4242900000	108		C K WEST #2	ECHOLS (MARBLE FALLS)	21.2	LONE STAR GAS CO
0102459	14217	4242900000	108		C K WEST #3	ECHOLS (MARBLE FALLS)	19.5	LONE STAR GAS CO
0102456	14214	4242900000	108		C K WEST NO 1	ECHOLS (MARBLE FALLS)	20.1	LONE STAR GAS CO
0102458	14216	4242900000	108		C K WEST NO 4	ECHOLS (MARBLE FALLS)	21.7	LONE STAR GAS CO
•BILL FORNEY INC					RECEIVED: 10/24/80 JA: TX			
0102699	20629	4229732021	102		J T LYNE #3	CHARLINE (FORNEY 4-C) FI	700.0	TRANSCONTINENTAL GAS
0102699	20629	4229732021	103		J T LYNE #3	CHARLINE (FORNEY 4-C) FI	700.0	TRANSCONTINENTAL GAS
•BLADE OIL CO					RECEIVED: 10/24/80 JA: TX			
0102646	20064	4223300000	103		SANFORD #6 (04278)	PANHANDLE	0.0	PHILLIPS PETROLEUM C
•BLAKE MAHMAN					RECEIVED: 10/24/80 JA: TX			
0102440	10446	4223700000	108		FRICK STRICKLAND 1-C 31243	DARNER MAHMON BEND CONGL	21.0	CITIES SERVICE CO
0102441	10448	4223700000	108		MC KENZIE 39397	DARNER MAHMON BEND CONGL	20.0	CITIES SERVICE CO
•BONANZA PETROLEUM INC					RECEIVED: 10/24/80 JA: TX			
0102450	13965	4235551332	103		SOVEREIGN #1 COUNTIES	AGUA DULCE	50.0	ESPERANZA TRANSMISSI
•CHALLENGE OIL & GAS					RECEIVED: 10/24/80 JA: TX			
0102549	18431	4205130463	103		JOHN CONDEN #2	NOACK CON HERD (3460)	36.0	FERGUSON CROSSING PI
•CHALMERS OPERATING CO INC					RECEIVED: 10/24/80 JA: TX			
0102554	18499	4208130828	103		J W ARLEDGE JR 262 (98703)	ARLEDGE (PENN SAND)	35.0	SUN OIL COMPANY
•CHAMPLIN PETROLEUM COMPANY					RECEIVED: 10/24/80 JA: TX			
0102613	19572	4245100000	103		DUFF ESTATE A-3	DOVE CREEK FIELD	7.3	NORTHERN NATURAL GAS
•0102576	19347	4224931072	103		G P WARDNER NO 141	STRATTON	45.0	TENNESSEE GAS PIPELI
•CHAPMAN OIL CO					RECEIVED: 10/24/80 JA: TX			
0102481	15836	4215730988	102		RICHTER NO 1-L	TAVENER (COOK MOUNTAIN)	1202.0	LONE STAR GAS CO
0102482	15837	4215730988	102		RICHTER NO 1-U	KODYTEK (YEGUA)	556.0	LONE STAR GAS CO
0102515	07183	4215731002	102		VORPHAL NO 1	TAVENER (COOK MOUNTAIN 7	0.0	LONE STAR GAS CO
•CHEVRON U S A INC					RECEIVED: 10/24/80 JA: TX			
•0102430	05884	4236930945	102		REEVES-STATE 1-14	MARSH S	149.7	LOVACA GATHERING CO
•COCKRELL CORPORATION					RECEIVED: 10/24/80 JA: TX			
0102482	14062	4200730614	102		STATE TRACT 253 #2	NUARC N (J-2)	300.0	
•CONOCO INC					RECEIVED: 10/24/80 JA: TX			
0102530	17696	4238900000	108		FORD GERALDINE UNIT #173 (21021)	GERALDINE FORD	0.1	EL PASO NATURAL GAS
0102644	20022	4238900000	108		FORD GERALDINE UNIT #182 (#21021)	GERALDINE FORD	0.1	EL PASO NATURAL GAS
0102531	17792	4200300000	108		MUNGER - NIX #22 (10694)	PUMPMAN-NIN	0.6	PHILLIPS PET CO
0102532	17793	4200300000	108		MUNGER-NIX #26 (10694)	PUMPMAN-NIX	0.6	PHILLIPS PET CO
0102533	17754	4238300000	108		UNIVERSITY #6 (00229)	BIG LAKE	0.7	DORCHESTER GAS PROD
0102483	15876	4207932316	103		WILLIAM HUBBERD D NO 16 83022	LAREDO (LOBO)	400.0	LOVACA GATHERING CO
•COTTON PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
0102671	20181	4229530286	103		BORN B NO 2	MAMMOTH CREEK-(NORTH CLE	30.0	DIAMOND SHAMROCK
•DAVID A SCHLACHTER OIL & GAS					RECEIVED: 10/24/80 JA: TX			
0102469	15229	4239900000	108		B C DORSEY NO 1	HENDERSON (RUSK CO PETTI	16.1	UNITED GAS PIPE LINE
•DELRAY OIL INC					RECEIVED: 10/24/80 JA: TX			
0102610	19554	4206331911	103		BERTIE E STONE NO 1	WILDCAT	0.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
0102611	19555	4206331938	103		BERTIE E STONE NO 2	WILDCAT	0.0	LONE STAR GAS CO
0102612	19556	4206331941	103		BERTIE E STONE NO 3	COLEMAN COUNTY REGULAR	5.0	LONE STAR GAS CO
0102670	20176	4206331944	103		BERTIE E STONE NO 4	COLEMAN COUNTY REGULAR	2.0	LONE STAR GAS CO
•DELTA DRILLING CO					RECEIVED: 10/24/80 JA: TX			
0102555	18721	4236730437	103		E E THOMAS #1	TRAWICK (TRAVIS PEAK)	310.0	TEJAS GAS CORPORATIO
0102677	20368	4236530610	102		LOUIS WERNER #1 (#76633)	CARTHAGE SE (COTTON VALL	447.6	WESTERN GAS CORPORAT
0102678	20370	4236500000	102		WRIGHT-THOMEY #1 (#76791)	CARTHAGE SE (COTTON VALL	320.9	WESTERN GAS CORPORAT
•DIAMOND SHAMROCK CORPORATION					RECEIVED: 10/24/80 JA: TX			
0102428	05496	4235700000	108		M T GLASGOW NO 1	ELLIS RANCH	8.0	NATURAL GAS PIPELINE
•DILLEY PRODUCTION CO					RECEIVED: 10/24/80 JA: TX			
0102680	20400	4206730138	103		BREEDING J C #1	PANHANDLE EAST	0.0	EL PASO NATURAL GAS
•DOUGLAS PETROLEUM CONSULTANTS INC					RECEIVED: 10/24/80 JA: TX			
0102550	18433	4213100000	103		E A BUCHANNAN NO 1	WILLIFORD (1650)	85.0	TEXAS EASTERN TRANSM
•EDWIN L COX					RECEIVED: 10/24/80 JA: TX			
0102516	17187	4212330995	103		BUEHRIG #5-U	COTTONWOOD CREEK SOUTH	180.0	LONE STAR GAS CO
•ENSERCH EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
0102706	20660	4249700000	108		A Y BOGY B NO 1	BOONSVILLE	14.0	LONE STAR GAS COMPAN
0102708	20662	4223700000	108		BELLE ALSTOT NO 2	BOONSVILLE (BCG)	3.0	LONE STAR GAS COMPAN
0102714	20668	4249700000	108		BEN A MOORE NO 1	BOONSVILLE	9.0	LONE STAR GAS COMPAN
0102715	20669	4249700000	108		CECIL BULLARD NO 1	BOONSVILLE	8.0	LONE STAR GAS COMPAN
0102713	20667	4249700000	108		CRAFT WATER BD UNIT 17 NO 1	BOONSVILLE (BCG)	9.0	LONE STAR GAS COMPAN
0102716	20670	4249700000	108		D C GARGIS NO 1	BOONSVILLE	17.0	LONE STAR GAS COMPAN
0102718	20672	4223700000	108		E L WILCOCKSON B NO 1	BOONSVILLE	7.0	LONE STAR GAS COMPAN
0102709	20663	4249700000	108		G M COCANOUGHER NO 1	BOONSVILLE	10.0	LONE STAR GAS COMPAN
0102705	20659	4223700000	108		J J LONG B NO 1	BOONSVILLE	6.0	LONE STAR GAS COMPAN
0102712	20666	4249700000	108		JAMES GRISHAM NO 1	BOONSVILLE	5.0	LONE STAR GAS COMPAN
0102719	20673	4223700000	108		L M YATES NO 1	BOONSVILLE	17.0	LONE STAR GAS COMPAN
0102711	20665	4223700000	108		L M YATES NO 3	BOONSVILLE	3.0	LONE STAR GAS COMPAN
0102707	20661	4249700000	108		PIPES-COCANOUGHER NO 1	BOONSVILLE	10.0	LONE STAR GAS COMPAN
0102710	20664	4223700000	108		ROY CHERRYHOMES A NO 2	CRAFTON WEST	12.0	LONE STAR GAS COMPAN
0102717	20671	4249700000	108		T M FOXALL B NO 1	BOONSVILLE	14.0	LONE STAR GAS COMPAN
•ESENJAY PETROLEUM CORP					RECEIVED: 10/24/80 JA: TX			
0102517	17306	4240931326	103		G R TAYLOR NO 1 (84052)	ST PAUL NW (5670)	432.0	TRANSCONTINENTAL GAS
•EUGENE PUMPMAN OIL CO					RECEIVED: 10/24/80 JA: TX			
0102466	15046	4223732398	103		R W BERRY NO 1	OZIE WEST (CADDO CONGL)	190.0	LONE STAR GAS CO
•EXPANDO OIL CO					RECEIVED: 10/24/80 JA: TX			
0102498	16500	4239100000	108		DAVENPORT #10	REFUGIO HEARD 6130	1.8	UNITED GAS PIPE LINE
•EXXON CORPORATION					RECEIVED: 10/24/80 JA: TX			
0102661	20141	4229732060	103		CHARLES L MCCABLIN 15-F (04047)	RAMIRENA SW (YEGUA 3)	55.0	NATURAL GAS PIPELINE
0102568	19079	4233930453	103		CONROE FIELD UNIT #3812	CONROE	110.0	MORAN UTILITIES
0102698	20627	4222732003	103		DOUTHIT UNIT #309	HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEUM C
0102700	20631	4222731994	103		DOUTHIT UNIT #312	HOWARD - GLASSCOCK	0.1	PHILLIPS PETROLEUM C
0102684	20435	4235730952	103		DUDE WILSON GAS UNIT 1 #2	ELLIS RANCH (CLEVELAND)	61.0	TRANSWESTERN PIPE LI
0102721	20712	4237132898	103		FT STOCKTON UNIT #1525	FORT STOCKTON	5.0	NUECES COMPANY
0102681	20403	4210300000	108		J B TUBB A/C 1 #47	SAND HILLS (TUBB)	7.0	EL PASO NATURAL GAS
0102673	20187	4200330929	108		J E PARKER A/C 10 #83	GOLDSMITH NORTH	18.0	NORTHERN NATURAL GAS
0102524	17581	4200730607	103		NINE MILE POINT CONS G U #10	NINE MILE POINT (CONSOL	730.0	NATURAL GAS PIPELINE
0102548	18382	4221131074	103		R A FLOWERS #2	MENDOTA NW (GRANITE WASH	389.0	TRANSWESTERN PIPELIN
0102685	20436	4215133186	103		V KOHLER A 124 D (#86084)	VIGGO (Y-14 NE) FIELD	365.0	TENNESSEE GAS PIPELI
•GALAXY OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
0102487	15918	4223300000	108		HUBER PRITCHARD #10-01590	PANHANDLE FIELD	0.6	J M HUBER CORP
0102484	15913	4223300000	108		HUBER PRITCHARD #4-01590	PANHANDLE FIELD	0.6	J M HUBER CORP

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102485	19915	4223300000	108		HUBER PRITCHARD #7-01590	PANHANDLE FIELD	0,6	J M HUBER CORP
8102486	19917	4223300000	108		HUBER PRITCHARD #9-01590	PANHANDLE FIELD	0,6	J M HUBER CORP
8102488	19919	4223300000	108		HUBER PRITCHARD A #1-01744	PANHANDLE FIELD	5,0	J M HUBER CORP
8102490	19921	4223300000	108		HUBER PRITCHARD A #2-01744	PANHANDLE FIELD	5,0	J M HUBER CORP
8102491	19923	4223300000	108		HUBER PRITCHARD A #6-01744	PANHANDLE FIELD	5,0	J M HUBER CORP
8102489	19920	4223300000	108		HUBER PRITCHARD A #5-01744	PANHANDLE	5,0	J M HUBER CORP
8102492	19925	4223300000	108		HUBER-PRITCHARD A #7-01744	PANHANDLE FIELD	5,0	J M HUBER CORP
=GENERAL AMERICAN OIL COMPANY OF TEX					RECEIVED: 10/24/80 JA: TX			
8102471	15247	4240930632	103		RADNEY #2	COKE (PITTSBURG 8470)	100,0	LONE STAR GAS CO
=GEO P POST DBA POST PETROLEUM CO					RECEIVED: 10/24/80 JA: TX			
8102031	06104	4235730870	103		MCCARTOR #1	BULER (MISSISSIPPIAN)	547,5	NORTHERN NATURAL GAS
=GETTY OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102496	16380	4239330645	103		EARP NO 1	RED DEER N/E UPPER MORRO	730,0	EL PASO NATURAL GAS
8102923	17981	4235330770	103		LAKE TRAMMEL UNIT #97	LAKE TRAMMEL N (CANYON)	15,0	WEST LAKE NATURAL GA
8102605	20048	4236500000	103		SALLIE BAKER #3	CARTHAGE	0,0	UNITED GAS PIPELINE
8102432	06197	4206500000	108		SCHAFER RANCH NO 227	PANHANDLE	3,0	GETTY OIL COMPANY NA
8102574	19320	4236500000	103		WERNER-POPE NO 2	CARTHAGE (COTTON VALLEY)	575,0	DELHI GAS PIPELINE C
=GRACE PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102520	17454	4223732667	103		DENISON A-1	LUCKY RIDGE SW (CONGL 91	275,0	NATURAL GAS PIPELINE
8102464	14992	4224931040	103		STELZIG-ZHERNEMAN 10	AMARGOSA 2300	183,0	NATURAL GAS PIPELINE
=GROSS INC					RECEIVED: 10/24/80 JA: TX			
8102467		4219500000	108		SEALY & SMITH #1	TEXAS HUGOTON	19,0	PHILLIPS PETROLEUM C
=GULF OIL CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102640	19913	4247331863	103		CRAWAR FIELD UNIT NO 12	CRAWAR (GLORIETTA)	168,0	TRANSWESTERN PIPELIN
8102662	20157	4207900000	108		DUGGAN SLAUGHTER UNIT NO 978	SLAUGHTER	10,3	AMOCO PRODUCTION COM
8102446	13486	4221130983	103		FORGEY #1-112-C	GEM-MEMPHILL/DOUGLAS	387,0	TRANSWESTERN PIPELIN
8102575	019322	4247932318	103		P A MACMAHON NO 4 (#85282)	LAREDO (LOBO)	500,0	VALERO TRANSMISSION
=H C FEDERER					RECEIVED: 10/24/80 JA: TX			
8102534	17781	4229530612	103		SANDING #1	MIGGINS SOUTH (MORROW)	165,0	TRANSWESTERN PIPELIN
=HANLEY COMPANY					RECEIVED: 10/24/80 JA: TX			
8102674	20189	4217331025	103		D C REED NO 4 (08467)	SPRABERRY (TREND AREA)	22,0	PHILLIPS PETROLEUM C
8102675	20190	4217331026	103		J B CALVERLEY B NO 6	SPRABERRY (TREND AREA)	20,0	PHILLIPS PETROLEUM C
=HARKEN OIL & GAS INCORP					RECEIVED: 10/24/80 JA: TX			
8102499	16624	4236730935	103		HAMILTON UNIT #1-C 77239	LAKE MINERAL WELLS (4000	73,0	NATURAL GAS PIPELINE
=HILLIARD OIL & GAS INC					RECEIVED: 10/24/80 JA: TX			
8102551	18436	4200730767	102		BARBARA LIPS C #1	RUCIAS N (FB D) FIELD	0,0	SOUTHERN NATURAL GAS
=HORIZON OIL & GAS CO OF TEXAS					RECEIVED: 10/24/80 JA: TX			
8102583	19415	4229530680	103		SUBBARD 191-1 (84533)	MIGGINS WEST (MORROW)	365,0	TRANSWESTERN PIPELIN
8102730	20794	4219530695	103		OLOUGHLIN A 20-1 (84678)	HANSFORD (MORROW UPPER)	90,0	NORTHERN NATURAL GAS
=HURLEY PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102732	20830	4220330683	103		HOLCOMBE GAS UNIT NO 5-T	BETHANY (COTTON VALLEY)	365,0	TENNESSEE GAS PIPELI
=HYTECH ENERGY CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102438	08367	4216531274	108		HULSE UNIT NO 1	LOOP NE (YATES)	0,4	NORTHERN NATURAL GAS
=J M HUBER CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102501	16911	4206500000	108		BURNETT B NO 1	WEST PANHANDLE	15,0	NORTHERN NATURAL GAS
8102502	16912	4223300000	108		KELLY NO 1	WEST PANHANDLE	11,0	COLORADO INTERSTATE
8102487	13490	4223330667	103		PRITCHARD B NO 1A	PANHANDLE WEST	270,0	COLORADO INTERSTATE
8102518	17315	4223300000	108		SANFORD C NO 5	WEST PANHANDLE	19,0	COLORADO INTERSTATE
=J ROY MCCOY					RECEIVED: 10/24/80 JA: TX			
8102704	20640	4207931048	103		DEAN #1 (62459)			
8102703	20639	4207931049	103		DEAN #2 (#62459)	SLAUGHTER	10,3	AMOCO PRODUCTION COM
8102702	20638	4207931102	103		DEAN #3 (#62459)	SLAUGHTER	10,3	AMOCO PRODUCTION COM
						SLAUGHTER	10,3	AMOCO PRODUCTION COM

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102701	20637	4207931185	103		DEAN #4 (62459)	SLAUGHTER	10,3	AMOCO PRODUCTION COM
=JACK B JONES					RECEIVED: 10/24/80 JA: TX			
8102472	15383	4229530527	108		MASON NO 1 (75708)	FOLLETT	20,6	TRANSWESTERN PIPELIN
=JAKE L HAMON					RECEIVED: 10/24/80 JA: TX			
8102556	18760	4221131111	103		URSCHEL A-2	TWISTER (DOUGLAS)	365,0	CITIES SERVICE GAS C
=JAMES A BAKER III					RECEIVED: 10/24/80 JA: TX			
8102577	19355	4216331703	103		JAMES A BAKER III FEE NO 1	PEARSALL (AUSTIN CHALK)	43,0	TPG INC
8102578	19356	4216331709	103		JAMES A BAKER III FEE NO 2	PEARSALL (AUSTIN CHALK)	43,0	TPG INC
=JAMES K ANDERSON INC					RECEIVED: 10/24/80 JA: TX			
8102539	18061	4239900000	103		ODELL #1	FRITZEES (ODOM LIME)	252,0	LONE STAR GAS CO
8102540	18062	4239900000	103		PAUL MICHAELIS #1	FRITZEES (ODOM LIME)	252,0	LONE STAR GAS CO
=JOHN M HENDRIX CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102614	19891	4237132918	103		J N THIGPIN A #1	WILDCAT	365,0	W WILSON CORP
=KLING INC					RECEIVED: 10/24/80 JA: TX			
8102557	18762	4217531213	103		P A ALBRECHT NO 1	BOYCE (REKLAW)	900,0	UNITED GAS PIPELINE
=KOMANCHE OIL & GAS					RECEIVED: 10/24/80 JA: TX			
8102433	06491	4206530381	103		COBB NO 2 (03291)	WEST PANHANDLE	100,0	NORTHERN NATURAL GAS
=L E WINDHAM					RECEIVED: 10/24/80 JA: TX			
8102624	19849	4213500000	108		J E PARKER A (EO) NO 7	HARPER	1,6	PHILLIPS PETROLEUM C
=LADD PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102686	20450	4239330721	103		JAMES E WILSON NO 3	HODGES (DES MOINES)	202,8	PHILLIPS PETROLEUM C
8102448	13495	4236312960	103		MCDANIEL UNIT #2-C (CADDO)	TOTO	109,0	LONE STAR GAS CO
8102429	05953	4226730590	103		STANLEY UNIT #2	TOTO	0,0	LONE STAR GAS CO
=LEON GAINES OPERATOR					RECEIVED: 10/24/80 JA: TX			
8102672	20183	4223700000	108		P C LIVELY #1 (#99967)	JACKSBORO WEST (CONGLOME	6,6	SOUTHWESTERN GAS PIP
=LIVELY ENERGY CO					RECEIVED: 10/24/80 JA: TX			
8102642	19995	4243500000	103		ALDWELL RANCH #2203	WHITEHEAD (STRAWN)	280,0	NORTHERN NATURAL GAS
=MABON ENERGIES INC					RECEIVED: 10/24/80 JA: TX		72,0	
8102696	20571	4214330436	102		SKILES 4			
=MCFADDEN OIL CORP					RECEIVED: 10/24/80 JA: TX			
8102473	15384	4231131284	102		W A WHITMIRE A #5-A-1	WHITMIRE (GOVERNMENT WEL	322,0	TRANSCONTINENTAL GAS
=MCGOLDRICK OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102617	19798	4236530938	103		DANIELS GAS UNIT #1 WELL #1 (85277)	BECKVILLE W (COTTON VALL	912,0	UNITED GAS PIPELINE
=MESSERS CO INC					RECEIVED: 10/24/80 JA: TX			
8102552	18472	4240931347	103		IVES #1	ENOS COOPER (I-1 SAND)	250,0	UNITED GAS PIPE LINE
=MGF OIL CORP					RECEIVED: 10/24/80 JA: TX			
8102494	16172	4231732078	103		MARY WEBB NO 2	ACKERLY (DEAN SAND)	24,0	
8102641	19954	4231732079	103		MCCULLOCH NO 1	MCCULLOCH	12,8	ADOBE OIL & GAS CORP
8102579	19359	4231732079	103		PARMAN NO 1	SPRABERRY (TREND AREA)	29,2	ADOBE OIL & GAS CORP
8102647	20071	4231732083	103		PETERS 3 NO 2 (25736)	SPRABERRY (TREND AREA)	19,0	PHILLIPS PETROLEUM C
=MITCHELL ENERGY CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102497	16416	4249731441	103		DEAVER (CADDO CONGL) #5-10	ALVORD (CADDO CONGL)	70,0	NATURAL GAS PIPELINE
8102504	17052	4249700000	108		P B WALKER #1 (10014)	ATOKA (ATOKA CONGL)	16,0	NATURAL GAS PIPELINE
8102505	17053	4249700000	108		FLAVIS GREER #2 (17350)	MORRIS	15,0	NATURAL GAS PIPELINE
8102506	17061	4249700000	108		J W PALMER #1 (21264)	BRIDGEPORT (STRAWN)	14,0	NATURAL GAS PIPELINE
8102507	17062	4249700000	108		JOHN W WALKER #1 (28846)	BOONSVILLE (BEND CONGL)	10,0	NATURAL GAS PIPELINE
8102508	17064	4249700000	108		L L BRIDGES #1 (34740)	BOONSVILLE (BEND CONGL)	15,0	NATURAL GAS PIPELINE
8102493	16064	4249700000	108		MARY MCCLURE #1 (32313)	BOONSVILLE (BEND CONG GA	14,0	NATURAL GAS PIPELINE
8102509	17066	4249700000	108		W W NIKIRK #1 (13119)	ALVORD (ATOKA CONGL)	14,0	NATURAL GAS PIPELINE
8102510	17070	4237300000	108		SPM B #6 (67122)	MORTENSE (WOODBINE)	8,0	HOUSTON PIPELINE CO
8102511	17071	4249700000	108		TCMB #20 (35786)	BOONSVILLE (BEND CONGL)	14,0	NATURAL GAS PIPELINE
8102512	17073	4249700000	108		V D ROSS #1 (40147)	BOONSVILLE (BEND CONGL)	15,0	NATURAL GAS PIPELINE

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102513	17075	4249700000	108		W C BLANTON #1 (43461)	ALVORD (ATOKA CONGL)	16,0	NATURAL GAS PIPELINE
*MOBIL OIL CORP					RECEIVED: 10/24/80 JA: TX			
8102537	17986	4232900000	108		PEGASUS SPRABERRY UNIT #1-1	PEGASUS/SPRABERRY	9,2	EL PASO NATURAL GAS
*MONSANTO COMPANY					RECEIVED: 10/24/80 JA: TX			
8102587	19497	4207931058	103		BANK NO 47-13	LEVELLAND	1,4	CITIES SERVICE GAS C
8102589	19498	4207931087	103		BANK NO 47-14	LEVELLAND	2,9	CITIES SERVICE GAS C
8102599	19503	4207931059	103		BANK NO 47-9	LEVELLAND	2,6	CITIES SERVICE GAS C
8102595	19501	4207931127	103		BANK NO 53-11	LEVELLAND	7,2	CITIES SERVICE GAS C
8102597	19502	4207931126	103		BANK NO 53-12	LEVELLAND	0,2	CITIES SERVICE GAS C
8102591	19499	4207931093	103		BANK NO 53-3	LEVELLAND	2,4	CITIES SERVICE COMPA
8102593	19500	4207931094	103		BANK NO 53-7	LEVELLAND	3,3	CITIES SERVICE GAS C
8102654	20099	4207931108	103		CALVIN NO 40-14	LEVELLAND	0,2	CITIES SERVICE COMPA
8102601	19504	4207931107	103		WOOD NO 46-1	LEVELLAND	1,2	CITIES SERVICE COMPA
8102605	19506	4207931105	103		WOOD NO 46-13	LEVELLAND	4,8	CITIES SERVICE COMPA
8102609	19508	4207931118	103		WOOD NO 46-14	LEVELLAND	1,7	CITIES SERVICE COMPA
8102603	19505	4207931117	103		WOOD NO 46-2	LEVELLAND	1,7	CITIES SERVICE COMPA
8102607	19507	4207931125	103		WOOD NO 46-9	LEVELLAND	0,2	CITIES SERVICE COMPA
8102649	20094	4207931096	103		WRIGHT NO 45-1	LEVELLAND	4,8	CITIES SERVICE COMPA
8102652	20097	4207931067	103		WRIGHT NO 45-10	LEVELLAND	0,2	CITIES SERVICE COMPA
8102651	20096	4207931113	103		WRIGHT NO 45-2	LEVELLAND	4,8	CITIES SERVICE COMPA
8102655	20100	4207931123	103		WRIGHT NO 45-3	LEVELLAND	9,5	CITIES SERVICE COMPA
8102650	20095	4207931160	103		WRIGHT NO 45-4	LEVELLAND	12,0	CITIES SERVICE COMPA
8102656	20101	4207931097	103		WRIGHT NO 45-5	LEVELLAND	7,2	CITIES SERVICE GAS C
8102653	20098	4207931111	103		WRIGHT NO 45-6	LEVELLAND	4,8	CITIES SERVICE COMPA
8102658	20103	4207931124	103		WRIGHT NO 45-7	LEVELLAND	23,9	CITIES SERVICE COMPA
8102657	20102	4207931145	103		WRIGHT NO 45-8	LEVELLAND	21,5	CITIES SERVICE COMPA
8102648	20093	4207931095	103		WRIGHT NO 45-9	LEVELLAND	0,2	CITIES SERVICE COMPA
*MORAN EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
8102525	17623	4223531407	103		MURPHEY B #3	SPRABERRY (TREND AREA)	43,8	NORTHERN NATURAL GAS
8102526	17624	4230331397	103		ROCKER B #81	SPRABERRY (TREND AREA)	23,6	NORTHERN NATURAL GAS
8102527	17625	4230331398	103		ROCKER B #82	SPRABERRY (TREND AREA)	13,7	NORTHERN NATURAL GAS
*NEUMIN PRODUCTION CO					RECEIVED: 10/24/80 JA: TX			
8102691	20555	4228531416	103		EDNA SMITH ET AL #2 (65770)		79,5	ALUMINUM COMPANY OF
8102695	20560	4229731879	103		M E GRAY INGERSOLL #2	OAKVILLE EAST (BLICK)	251,0	VALERO TRANSMISSION
*ONG EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
8102465	15021	4229530591	103		W C ANDREY NO 1	DARREN (MORROW MIDDLE)	100,0	NORTHERN NATURAL GAS
*PARKER & PARSLEY INC					RECEIVED: 10/24/80 JA: TX			
8102572	19217	4231732101	103		STROUD C NO 1	SPRABERRY (TREND AREA)	15,0	ADOBE OIL & GAS CORP
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/24/80 JA: TX			
8102500	16726	4246101424	108		(03913) N PEMBROOK SPRA NO 85-01	SPRABERRY (TREND AREA)	0,2	NORTHERN NATURAL GAS
8102427	04635	4249503619	108		BRADISH NO 1 (03333)	KEYSTONE (DEVONIAN)	5,9	BID RICHARDSON GASOL
8102689	20525	4223300000	108		COCKRELL RANCH #10	PANHANDLE	4,0	GETTY OIL CO
8102474	15426	4200304511	108		EMBAR B NO 13 (01269)	EMBAR (PERMIAN)	20,6	EL PASO NATURAL GAS
8102495		4248130067	103		GILMORE NO 2	TEX HUGOTON	42,0	MICHIGAN WISCONSIN P
8102479	15729	4223300000	108		JOHNSON 00 NO 1	WEST PANHANDLE	17,0	PANHANDLE EASTERN PI
8102437	07671	4219700233	108		LOCKHART-A NO 1	CONLEY	10,0	SHELL OIL CO
8102559	18781	4217900000	108		PHIL-PAMPA UNIT #8-12	PANHANDLE GRAY	2,0	GETTY OIL CO
8102558	18780	4217900000	108		PHIL-PAMPA UNIT #9-07	PANHANDLE GRAY FIELD	13,0	GETTY OIL CO
8102541	18068	4217900000	108		PHIL-PAMPA UNIT NO 09-13	PANHANDLE GRAY	1,4	GETTY OIL CO
8102542	18069	4217900000	108		PHIL-PAMPA UNIT NO 12-03	PANHANDLE GRAY	21,0	GETTY OIL CO
8102543	18070	4217900000	108		PHIL-PAMPA UNIT NO 58-12	PANHANDLE GRAY	1,8	GETTY OIL CO
8102455	14181	4217900000	108		PHIL-PAMPA UNIT 07-06	PANHANDLE GRAY	1,9	GETTY OIL CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102454	14180	4217900000	108		PHIL-PAMPA UNIT 7-04	PANHANDLE GRAY	1,2	GETTY OIL CO
8102618	19805	4235730943	103		SWINK #3	HORIZON CLEVELAND FIELD	23,0	PANHANDLE EASTERN PI
8102444	13099	4223300000	108		TERR NO 4A	PANHANDLE HUTCHINSON	0,4	EL PASO NATURAL GAS
*PLEMONS ENTERPRISES					RECEIVED: 10/24/80 JA: TX			
8102535	17797	4206500000	103		SANFORD C #3	PANHANDLE	91,3	PHILLIPS PETROLEUM C
*POLK & PATTON INC					RECEIVED: 10/24/80 JA: TX			
8102731	20807	4249731318	103		J T JONES #1	WILDCAT JONESIE (PREGNAN	803,0	SOUTHWESTERN GAS PIP
*QUINTEX PETROLEUM CORP					RECEIVED: 10/24/80 JA: TX			
8102521	17461	4203931446	103		J PRICE NO 1	ARCOLA	365,0	TENNGASCO
*R & J PRODUCTION					RECEIVED: 10/24/80 JA: TX			
8102694	20559	4206530703	103		BURNETT #1	PANHANDLE CARBON	88,3	PANHANDLE EASTERN PI
8102693	20558	4206530704	103		BURNETT #2	PANHANDLE CARBON	77,4	PANHANDLE EASTERN PI
8102692	20557	4206530705	103		BURNETT #3	PANHANDLE CARBON	106,6	PANHANDLE EASTERN PI
*R C BLACK					RECEIVED: 10/24/80 JA: TX			
8102664	20165	4249500000	108		BROWN & ALTMAN A #5	EMPEROR	12,6	WEST TEXAS GATHERING
8102663	20163	4249500000	108		BROWN & ALTMAN A/C 2-#17	EMPEROR	4,2	WEST TEXAS GATHERING
8102665	20166	4249500000	108		BROWN & ALTMAN G #1	EMPEROR	1,5	PHILLIPS PETROLEUM C
8102666	20167	4249500000	108		BROWN & ALTMAN G #4	EMPEROR	1,5	PHILLIPS PETROLEUM C
8102667	20168	4249500000	108		BROWN & ALTMAN G #5	EMPEROR	17,0	WEST TEXAS GATHERING
8102669	20171	4249500000	108		MAGNOLIA BROWN & ALTMAN #8-1	EMPEROR	0,6	WEST TEXAS GATHERING
8102668	20170	4249500000	108		MAGNOLIA BROWN & ALTMAN #1	EMPEROR	1,7	WEST TEXAS GATHERING
*R L BURNS CORP					RECEIVED: 10/24/80 JA: TX			
8102632	19861	4243530472	108		HICKS 22 #1	SAWYER (CANYON) FIELD	10,0	LOVACA GATHERING COM
8102626	19851	4243530886	108		MAYER 20 #2-B	SAWYER (CANYON)	7,3	LOVACA GATHERING COM
8102631	19860	4243530771	108		MAYER 21 #1	SAWYER (CANYON) FIELD	6,6	LOVACA GATHERING COM
8102630	19859	4243530782	108		MAYER 21 #2	SAWYER (CANYON)	8,2	LOVACA GATHERING COM
8102628	19853	4243531096	108		MAYER 36 #3	SAWYER (CANYON) FIELD	4,3	LOVACA GATHERING COM
8102639	19869	4243530395	108		MAYER 37 #1	SAWYER (CANYON) FIELD	3,2	LOVACA GATHERING COM
8102635	19865	4243530436	108		MAYER 38 #1	SAWYER (CANYON) FIELD	11,1	LOVACA GATHERING COM
8102637	19867	4243530000	108		MAYER 47 #1	SAWYER (CANYON) FIELD	11,6	LOVACA GATHERING COM
8102629	19858	4243530731	108		MAYER 7 #1	SAWYER (CANYON) FIELD	1,4	LOVACA GATHERING COM
8102638	19868	4243530910	108		MAYER 9 #1	SAWYER (CANYON) FIELD	12,4	LOVACA GATHERING COM
8102634	19864	4243530911	108		MORRIS 5 #1	SAWYER (CANYON) FIELD	5,4	LOVACA GATHERING COM
8102636	19866	4243530685	108		SAWYER 13 #1	SAWYER (CANYON) FIELD	3,6	LOVACA GATHERING COM
8102633	19863	4243530680	108		SAWYER 16 #1	SAWYER (CANYON) FIELD	8,4	LOVACA GATHERING COM
8102627	19852	4243530918	108		SAWYER 16 #2	SAWYER (CANYON) FIELD	10,1	LOVACA GATHERING COM
*RANGER OPERATING CO					RECEIVED: 10/24/80 JA: TX			
8102528	17628	4250332761	103		DONNELL B NO 2 (#84854)	KENDALL (BEND CONGLOMERA	73,0	LONE STAR GAS CO
*ROBERT RANBONE INC					RECEIVED: 10/24/80 JA: TX			
8102483	14115	4233700000	108		VIVIAN MUTCHISON #1	BOEDEKER SE (STRAWN)	9,1	TIPPERARY CORP
*SAXON OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102569	19140	4238331453	103		HUNT A NO 1	SPRABERRY (TREND AREA)	17,2	PHILLIPS PETROLEUM C
*SHELL OIL CO					RECEIVED: 10/24/80 JA: TX			
8102733	20845	4270830233	102		B L 76433 SHELL-LLSE NW/4 NO 2	GALVESTON 102L	6000,0	LONE STAR GAS COMPAN
8102734	20847	4270630148	102		B L 76433-NW #3	GALVESTON 102L (MIOCENE)	6100,0	LONE STAR GAS COMPAN
*SOUTHLAND ROYALTY CO					RECEIVED: 10/24/80 JA: TX			
8102592	19528	4213500000	108		EDWARDS GRAYBURG UNIT #1-3	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102590	19527	4213500000	108		EDWARDS GRAYBURG UNIT #2-1	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102588	19525	4213500000	108		EDWARDS GRAYBURG UNIT #2-3	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102602	19534	4213500000	108		EDWARDS GRAYBURG UNIT #2-4	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102600	19533	4213500000	108		EDWARDS GRAYBURG UNIT #2-8	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102596	19532	4213500000	108		EDWARDS GRAYBURG UNIT #3-1	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102594	19531	4213500000	108		EDWARDS GRAYBURG UNIT #3-3	EDWARDS	0,9	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102594	19530	4213500000	108		EDWARDS GRAYBURG UNIT #3-4	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102604	19536	4213500000	108		EDWARDS GRAYBURG UNIT #6-2	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102621	19822	4213500000	108		EDWARDS GRAYBURG UNIT #6-5	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102619	19818	4213500000	108		EDWARDS GRAYBURG UNIT #7-12	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102620	19820	4213500000	108		EDWARDS GRAYBURG UNIT #7-19	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102608	19539	4210300000	108		EDWARDS GRAYBURG UNIT #7-22	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102606	19537	4210300000	108		EDWARDS GRAYBURG UNIT #7-23	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102606	19537	4210300000	108		EDWARDS GRAYBURG UNIT #7-24	EDWARDS	0,9	PHILLIPS PETROLEUM C
8102606	19537	4210300000	108		EDWARDS GRAYBURG UNIT #7-24	EDWARDS	0,9	PHILLIPS PETROLEUM C
*88 & B PRODUCTION CO					RECEIVED: 10/24/80 JA: TX			
8102564	18108	4217930684	103		MACKIE #2	PANHANDLE	144,0	NORTHERN NATURAL GAS
8102565	18118	4217930693	103		MACKIE #3	PANHANDLE	144,0	NORTHERN NATURAL GAS
*STAHL PETROLEUM CO					RECEIVED: 10/24/80 JA: TX			
*8102676	20231	4248300000	108		MCCALL #1	EAST PANHANDLE	14,0	TRANSWESTERN PIPELIN
*SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/24/80 JA: TX			
8102460	16564	4213100000	108		A J WIEDERKEHR NO 5	NORTH GOVERNMENT WELLS	0,2	TENNESSEE GAS PIPELI
8102426	01367	4221530426	102		A W BEAURLINE ET AL NO 1	BEAURLINE (VICKSBURG R)	673,0	TENNESSEE GAS PIPELI
8102538	17998	4242700000	108		CHAPOTAL LAND CO A NO 3	YTURRIA (FROST B)	17,0	TRANSCONTINENTAL GAS
8102622	19834	4223732722	103		CHERRYHOMES D GAS UNIT NO 2	BOONSVILLE (BEND CONGL)	44,0	LONE STAR GAS COMPAN
8102553	18574	4221900000	108		COBLE B NO 31	LEVELLAND	0,1	AMOCO PRODUCTION COM
8102562	18921	4213500000	108		FOSTER JOHNSON UNIT NO 1-2	FOSTER FIELD	0,4	ODESSA NATURAL CORPO
8102561	18920	4213500000	108		FOSTER JOHNSON UNIT NO 1-7	FOSTER FIELD	0,7	ODESSA NATURAL CORPO
8102563	18923	4213500000	108		FOSTER JOHNSON UNIT NO 2-11	FOSTER FIELD	0,4	ODESSA NATURAL CORPO
8102565	18925	4213500000	108		FOSTER JOHNSON UNIT NO 3-16	FOSTER FIELD	0,4	ODESSA NATURAL CORPO
8102564	18924	4213500000	108		FOSTER JOHNSON UNIT NO 3-2	FOSTER FIELD	0,4	ODESSA NATURAL CORPO
8102566	18926	4213500000	108		FOSTER JOHNSON UNIT NO 5-1	FOSTER FIELD	1,0	ODESSA NATURAL CORPO
8102567	18927	4213500000	108		FOSTER JOHNSON UNIT NO 5-3	FOSTER FIELD	0,7	ODESSA NATURAL CORPO
8102723	20737	4210300000	108		J C GRAY NO 1	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8102724	20738	4210300000	108		J C GRAY NO 5	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8102725	20739	4210300000	108		J C MCKINLEY NO 11	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8102726	20740	4210300000	108		J C MCKINLEY NO 12	EAST TEXAS	0,5	UNITED GAS PIPE LINE
8102461	16566	4239100000	108		J M OBRIEN #5-A	GRETA	11,0	UNITED TEXAS TRANSMI
8102573	19267	4249731535	103		J W COLE UNIT NO 2	BOONSVILLE (BEND CONGLOM	219,0	NATURAL GAS PIPELINE
8102462	16571	4242700000	108		MARRS-MCLEAN NO 7-U	LOCKHART	4,0	TENNESSEE GAS PIPELI
8102722	20736	4249900000	108		P TAYLOR -CA- NO 3	QUITMAN	3,0	CRA INC
8102728	20753	4235700000	108		R C ELLIOTT A NO 1	FARNSWORTH-CONNER	1,9	PHILLIPS PETROLEUM C
8102463	16573	4242700000	108		REILLY HEIRS NO 8	GARCIA	11,0	
8102727	20751	4240100000	108		SCHUYLER JT -B- NO 14	EAST TEXAS	0,2	ARCO OIL AND GAS COM
8102729	20761	4210300000	108		WILLIAM PENTECOST NO 23	EAST TEXAS	0,1	MOBIL OIL CORPORATIO
*TENNECO OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102519	17402	4250131676	103		MEDBERG #11	PRENTICE	0,3	AMOCO PRODUCTION CO
8102570	19169	4217930698	103		WORLEY 93	PANHANDLE GRAY COUNTY	3,2	PHILLIPS PETROLEUM C
8102571	19170	4217930696	103		WORLEY 94	PANHANDLE GRAY COUNTY	9,5	PHILLIPS PETROLEUM C
*TEXACO INC					RECEIVED: 10/24/80 JA: TX			
8102682	20426	4210532479	103		A R KINCAID TRUST #5	OZONA (CANYON SAND)	300,0	NORTHERN NATURAL GAS
8102683	20433	4222731952	103		HOWARD F FEE #1	COAHOMA N (FUSSELMAN)	82,5	PHILLIPS PETROLEUM C
8102749	20982	4210532574	103		J M SCHEUBER #10	DAVIDSON RANCH (PENN 789	200,0	NORTHERN NATURAL GAS
*TEXAS INTERNATIONAL PET CORP					RECEIVED: 10/24/80 JA: TX			
8102580	19376	4208130584	103		M C HENDRY #1	JAMESON (STRAWN)	30,0	SUN GAS COMPANY
*TEXAS OIL & GAS CORP					RECEIVED: 10/24/80 JA: TX			
8102735	20848	4228930351	102		LEWIS B #1	BEAR GRASS (COTTON VALLE	365,0	
8102735	20848	4228930351	103		LEWIS B #1	BEAR GRASS (COTTON VALLE	365,0	
*THE SUPERIOR OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102660	20140	4247531557	103		UNIVERSITY P 1	WAR-WINK S (WOLFCAMP)	7,0	

VOLUME 311 PAGE 009

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*TOMMY LITTLEPAGE					RECEIVED: 10/24/80 JA: TX			
8102616	19748	4250300000	103		MARY TAYLOR #18818	YOUNG COUNTY REGULAR	3,0	LEWTEX OIL & GAS CO
8102615	19746	4250300000	103		ROBBER #1 (19575)	YOUNG COUNTY REGULAR	38,0	LEWTEX OIL & GAS CO
*TRANSIERRA EXPLORATION CORP					RECEIVED: 10/24/80 JA: TX			
8102560	18794	4213300000	108		PLOWMAN & VINES NO 2	EASTLAND COUNTY REGULAR	11,0	LONE STAR GAS CO
*TRINITY OIL & GAS CORP					RECEIVED: 10/24/80 JA: TX			
8102529	17637	4213331636	103		BAR H BAR #1 (15440)	WILDCAT	59,0	REISS PETROLEUM INC
*TUCKER & BAUMGARDNER					RECEIVED: 10/24/80 JA: TX			
8102679	20389	4222732092	103		BLACK BASS NO 3 (25991)	COAHOMA NORTH (FUSSELMAN	49,3	PHILLIPS PETROLEUM C
*TURK KEHLE & ASSOC (TKA)					RECEIVED: 10/24/80 JA: TX			
8102750	20983	4213133616	102		RAMIREZ NO 1 (65965)	EL MESQUITE (3000) FIELD	120,0	VALERO TRANSMISSION
*UNION OIL COMPANY OF CALIF					RECEIVED: 10/24/80 JA: TX			
8102680	19721	4236530707	103		L T POSS #1	CARTHAGE (COTTON VALLEY)	1423,0	WESTERN GAS CORP
*UNITED CO					RECEIVED: 10/24/80 JA: TX			
8102546	18219	4207900000	103		MILLER WRIGHT #2	LEVELLAND (SAN ANDRES)	7,0	EL PASO NAT GAS CO
*VISTA RESOURCES INC					RECEIVED: 10/24/80 JA: TX			
8102623	19843	4210532207	103		W E WEST ESTATE #1		108,0	EL PASO NATURAL GAS
*W DON SMITH					RECEIVED: 10/24/80 JA: TX			
8102536	17953	4242932070	103		LLOYD SMITH A #1-KT	IVAN (DUFFER)	124,0	LONE STAR GAS CO
*W R EDWARDS JR					RECEIVED: 10/24/80 JA: TX			
8102439	09744	4223300000	103		CAL MERCHANT A NO 3	PANHANDLE HUTCHINSON COU	92,0	PANHANDLE PRODUCING
*WARREN PETR CO A DIV OF GULF OIL CO					RECEIVED: 10/24/80 JA: TX			
8102445	13458	4210300000	108		J B TUBB B TR A #4	SAND HILLS TUBB	1,0	EL PASO NATURAL GAS
8102442	12248	4210330151	108		W N WADDELL TR 1 #1043	DUNE	1,0	EL PASO NATURAL GAS
*WAY & MILLS					RECEIVED: 10/24/80 JA: TX			
8102584	19428	4210532405	103		UNIVERSITY 21 #2	FARMER (SAN ANDRES)	2,0	NORTHERN NATURAL GAS
*WAYMAN M BUCHANAN					RECEIVED: 10/24/80 JA: TX			
8102643	20009	4249731499	103		KAKER NO 1	BOONSVILLE (BEND CONGL G	222,6	LONE STAR GAS COMPAN
*WILBERT GOMLKE					RECEIVED: 10/24/80 JA: TX			
8102586	19452	4217500000	108		PITTMAN NO 1 (44089)	WEEGATCHE E (COOK MTN 53	7,8	UNITED GAS PIPELINE

OTHER PURCHASERS VOLUME NO 1311

8102430	TEXAS UTILITIES FUEL CO
8102468	AMOCO GAS CO
8102576	COLUMBIA GAS TRANSMISSION COMPANY
8102676	WARREN PETROLEUM COMPANY
8102720	TEXAS EASTERN TRAN CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by November 25, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35020 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-9-000]

Academy Service Station; Filing of Petition for Review

November 4, 1980.

Take notice that Academy Service Station on October 20, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 19, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petiton to intervene on or before November 19, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35035 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3015]

Alaska Power Authority; Revised Application for License (Major)

November 4, 1980.

Take notice that on September 8, 1980, the Alaska Power Authority (Applicant) filed a revised application [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for a major license for the unconstructed Tyee Lake Project No. 3015. Correspondence with the Applicant should be directed to: Mr. Eric P. Yould, Executive Director, Alaska Power Authority, 333 West 4th Avenue, Anchorage, Alaska 99501.

The revised application changes the location and design of the proposed powerhouse and power tunnel. The revised Tyee Lake Project would consist of: (1) Tyee Lake with a usable storage capacity of approximately 52,400 acre-feet between the existing surface elevation of 1,396 feet and a minimum surface elevation of 1,250 feet; (2) a power tunnel, 8,700 feet long and 10 feet in diameter, conducting water from Tyee Lake to: (3) a surface powerhouse containing two 10,000-kW generating units with provisions for a third unit discharging into Bradfield Canal via; (4) a tailrace channel approximately 1,100 feet long and a short section of an unnamed creek; (5) a switchyard adjacent to the powerhouse; and (6) a 115-kV transmission line, consisting of 69 miles of overhead line and 12 miles of submarine cables, leading from the powerhouse switchyard to Wrangell and then to Petersburg.

The proposed project would have a total rated capacity of 20,000 kW and would be capable of providing 130,000 MWh of firm energy annually. Power would be marketed in the Cities of Petersburg and Wrangell.

The Tyee Lake Project would affect public lands of the United States located within the Tongass National Forest.

In order to enhance recreational opportunities in the project area, Applicant would provide a shelter, picnic tables, grill, and sanitation facilities at the powerhouse site.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confided to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35025 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RM79-29, ER80-592, ER80-782, et al.] [1]

Limits for Percentage Adders in Electric Rates for Transmission Service; Order Accepting Rates for Filing, Suspending Rates, and Consolidating Proceedings

Issued October 29, 1980.

The Amendment of Part 35 of the regulations under the Federal Power Act; limits for percentage adders in electric rates for transmission service: (Docket No. RM79-29): Allegheny Power System, *et al.* (Docket Nos. ER80-592, *et al.) and Commonwealth Edison Company, et al.* (Docket Nos. ER80-782, *et al.*)[1]

The Commission, on May 7, 1980, issued Order No. 84, in Docket No. RM79-29, requiring electric utilities to place revenue limits on percentage adders in rate schedules used for transmission or third party resales of electric power.

In response to Order No. 84, 83 rate filings were received as of September 1, 1980, proposing to change various percentage adders currently included in interchange rate schedules affecting transmission or the purchase and resale of energy. The Commission, by order issued October 3, 1980 in this docket, accepted a number of the proposed filings effective as of September 1, 1980, suspended other filings for one day to become effective September 2, 1980 and set the suspended dockets for hearing in a consolidated proceeding.

Since September 1, 1980, additional Order No. 84 compliance filings have been received. Many of the additional dockets submitted for filing are not in full compliance with Order No. 84.

The additional tendered filings have been classified into five general categories:

(1) percentage adders capped at a limit in excess of 1 mill/Kwh;

(2) fixed adders of 1 mill/Kwh in submittals which otherwise do not comply with Order No. 84;

(3) fixed adders of more than 1 mill/Kwh;

(4) fixed adders of more than 1 mill per Kwh plus 1 mill/Kwh for difficult-to-quantify costs; and

(5) other rate schedule modifications.

Each of these categories will be discused separately.

Rate Filings Which Include Limitations of More Than 1 Mill/Kwh on Percentage Adders

Southern Indiana Gas & Electric Company, in Docket No. ER80-733, tendered a rate filing which includes a percentage adder limitation exceeding 1 mill/Kwh. Inasmuch as the adder in excess of 1 mill was not cost supported, this filing shall be accepted, suspended and set for hearing as further provided in this order.

Rate Filings Having No Percentage Adder But Including A Fixed Adder of 1 Mill/Kwh

Several companies have tendered rate filings which comply with Order No. 84 in part. Such filings comply to the extent that they propose to replace percentage adders and certain service schedules with a fixed 1 mill/Kwh adder. Cost support for the 1 mill/Kwh adder was not filed by any party. Although Order No. 84 did not provide for the replacement of percentage adders with fixed adders, the Commission noted in its October 3, 1980 order in this docket that a fixed 1 mill/Kwh adder would only produce more revenues than a percentage adder capped at 1 mill/Kwh if the cost of purchased energy is less than 10 mills. After noting that there was no indication that the cost of purchased energy in those dockets was less than 10 mills, the Commission accepted the submittals for filing effective as of September 1, 1980. Consistent with its prior finding, the Commission will therefore accept for filing effective as of September 1, 1980 fixed adders of 1 mill/Kwh as tendered in the following filings: Commonwealth Edison Company and Wisconsin Power & Light Company, Docket No. ER80-782; Dayton Power & Light Company, Docket Nos. ER80-720, ER80-721, ER80-722; Columbus & Southern Ohio Electric Company/Dayton Power & Light Company, Docket No. ER80-726; Ohio Edison Company, Docket No. ER80-662; and Ohio Power Company/Cleveland Electric Illuminating Company, Docket No. ER80-640; Indiana & Michigan Electric Company/Central Illinois Public Service Company, Docket No. ER80-646; and Wisconsin Electric Power Company/Commonwealth Edison Company, Docket No. ER80-732.

Limitations on Percentage Adders Which Include Fixed Adders of More Than 1 Mill/Kwh

Commonwealth Edison Company, Docket Nos. ER80-779 and 782; and Public Service Company of Indiana, Inc., Docket No. ER80-750 and Commonwealth Edison Company, Docket No. ER80-732, have tendered for filing rate schedules including fixed adders which exceed 1 mill/Kwh to replace percentage adders in transmission or third party resale rates. These fixed adders exceeding 1 mill/Kwh have not been shown to be just and reasonable and will therefore be suspended as hereinafter ordered, and set for hearing.

Rate Schedules Including Fixed Adders of More Than 1 mill/Kwh Plus 1 mill/Kwh For Difficult-to-Quantify Costs

A number of companies have submitted proposed rates to recover: (1) the cost of the purchase, (2) a fixed adder and (3) 1 mill/Kwh for unquantifiable costs. Order No. 84 allows a maximum of 1 mill for difficult-to-quantify costs when the filing party is capping its percentage adder. These filings proposed to recover 1 mill per Kwh for unquantifiable costs in addition to the recovery of fully distributed costs. These proposed rates have not been shown to be just and reasonable and therefore will be accepted for filing, suspended and set for hearing as provided in this order. Dockets in this category include: Wisconsin Power & Light Company, Docket No. ER80-782; Central Illinois Public Service, Docket No. ER80-779; Indiana & Michigan Electric Company/Central Illinois Public Service Company, Docket No. ER80-646; Wisconsin Electric Power Company, Docket No. ER80-732; Central Illinois Public Service Company, Docket Nos. ER80-747, ER80-748, and ER80-754, Wisconsin Public Service Corporation/Wisconsin Power & Light Company/Madison Gas & Electric Company Docket No. ER80-618; Wisconsin Public Service Corporation/Wisconsin Power & Light Company, Docket No. ER80-616; Wisconsin Power & Light Company/Northern States Power Company (Minn.)/Northern States Power Company (Wisc.), Docket No. ER80-667, Wisconsin Power & Light Company, Docket No. ER80-668; Illinois Power Company, Docket No. ER80-749; Dayton Power & Light Company, Docket Nos. ER80-720, ER80-721, and ER80-722; Ohio Edison Company, Docket No. ER80-662; Columbus & Southern Ohio Electric Company/Dayton Power & Light Company, Docket No. ER80-726; and Ohio Power Company/Cleveland Electric Illuminating Company, Docket No. ER80-640.

On September 26, 1980, the Municipal Wholesale Power Group (MWPG) and the Wisconsin Public Power, Inc. (WPPI) filed a petition to intervene requesting consolidated hearings to determine whether the transmission rates filed are just and reasonable. On October 6, 1980, Wisconsin Power & Light Company (WP&L) filed an answer objecting to the granting of intervention and request for consolidation on the grounds that MWPG and WPPI are not parties to the rate schedules of Docket No. ER80-667

[1] See Attachment A for complete list of dockets.

V 45 N 0 10 0 80 UMI

and would not be bound by such rate schedules. The Commission has determined that the petitions to intervene by MWPG and WPPI should be granted and will so order.

Other Rate Schedule Modifications

Columbus & Southern Ohio Electric Company and Dayton Power & Light Company, Docket No. ER80-726, have tendered for filing a rate schedule proposing to increase the minimum charge for emergency energy from 17.5 mills/Kwh to 30 mills/Kwh. The 30 mill/Kwh is presently on file and accepted in other dockets and the Commission will therefore order that this rate schedule be accepted for filing.

Ohio Edison Company in Docket No. ER80-662 submitted Modification Nos. 2 and 3. Modification No. 2 would increase the short term and limited term power demand charges to the same level as currently on file in other Ohio Edison rate schedules. The Commission will therefore order acceptance of Modification No. 2 effective August 1, 1980. Modification No. 3 is Ohio Edison Company's filing in compliance with Order No. 84. Modification No. 3 will be accepted and suspended in part and accepted without suspension in part, as discussed elsewhere in this order.

In addition to the categories of filings discussed above several filings were tendered which do not fit within any specific category.

In Docket No. ER80-678, Union Electric Company (UE) filed amendments to its various interchange agreements with 14 other parties. The filing proposes to modify the provisions of the interchange service schedules under which the parties may provide transmission or resale of third party purchase power to replace the currently specified 10 percent adders to purchase price, by adders specified as the greater of: (1) a fixed adder (UE-3.36 mills/Kwh; Missouri Public Service Company (MPS)—3.88 mills/Kwh; St. Joseph Light & Power Company (SJLP)—1.0 mills/Kwh) plus an adjustment for transmission losses, or (2) 10 percent of the transmitting parties' "internal incremental cost." UE, MPS and SJLP have not provided cost support or rationale for charging more than the specified fixed adder (based on full transmission costs, plus losses whenever 10 percent of internal incremental costs exceeds such adder plus losses). Those rates will therefore be accepted for filing, suspended and set for hearing, as further provided by this order.

On September 16, 1980, one day after the expiration of specified notice period, the City of Columbia, Missouri filed a protest and petition to intervene in Docket No. ER80-678, contending that UE's filing of the instant amendment to their interchange agreement provides rates that are neither cost supported nor consistent with Order No. 84. The City of Columbia will be allowed to intervene.

The Commission orders: (A) The identified portions of the following dockets are hereby accepted for filing effective September 1, 1980: Commonwealth Edison Company and Wisconsin Power & Light Company's filing of fixed 1 mill/Kwh adders for interchange service in Docket No. ER80-782; Dayton Power & Light Company's filing of fixed 1 mill/Kwh adder in Docket Nos. ER80-720, ER80-721, and ER80-722; Ohio Edison Company's filing of fixed 1 mill/Kwh adders in Docket No. ER80-662; Columbus & Southern Ohio Electric Company's and Dayton Power & Light Company's filing of fixed 1 mill/Kwh adders and 30 mill/Kwh Minimum charge for Emergency Energy in Docket No. ER80-726; and Ohio Power Company and Cleveland Electric Illuminating Company's filing of fixed 1 mill/Kwh adders in Docket No. ER80-640.

(B) Ohio Edison Company's filing of Modification No. 2 in Docket No. ER80-662 shall be accepted for filing and waiver will be granted allowing the rate to become effective as of August 1, 1980 as requested.

(C) All provisions of the rate schedules identified in ordering paragraphs A and B which have not been specifically accepted for filing by this order are hereby suspended for one day to become effective September 2, 1980, subject to refund.

(D) Docket Nos. ER80-733, ER80-750 and ER80-779 are hereby suspended for one day to become effective September 2, 1980, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR, Chapter I), all dockets suspended by this order shall be consolidated with the dockets previously suspended by the Commission's October 3, 1980 order in this docket and set for public hearing as previously ordered.

(F) The Municipal Wholesale Power Group, and the Wisconsin Public Power, Inc. and the City of Columbia, Missouri, are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act; *provided, however,* that participation by the intervenors shall be limited to matters set forth in their petition to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that there might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(G) Attachment B of this order shall set forth the rate schedule designations and effective dates affected by this order.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Company and Docket Numbers

Commonwealth Edison Company—ER80-782 and ER80-779
Central Illinois Public Service Company—ER80-779, ER80-749
Public Service Company of Indiana, Inc.—ER80-750
Southern Indiana Gas & Electric Company—ER80-733
Wisconsin Power & Light Company—ER80-782
Dayton Power & Light Company—ER80-720, ER80-721, ER80-722
Cincinnati Gas & Electric Company—ER80-721
Columbus & Southern Ohio Electric Company—ER80-726
Dayton Power & Light Company—ER80-726
Ohio Edison Company—ER80-662
Indiana & Michigan Electric Company—ER80-646
Central Illinois Public Service Company—ER80-646
Wisconsin Electric Power Company—ER80-732
Commonwealth Edison Company—ER80-732
Central Illinois Public Service Company—ER80-747, ER80-748, ER80-754
Illinois Power Company—ER80-731
Union Electric Company—ER80-678
Missouri Public Service Company—ER80-678
St. Joseph Light and Power Company—ER80-678
Wisconsin Power and Light Company—ER80-616, ER80-618, ER80-667, ER80-668, ER80-616
Wisconsin Public Service Corp.—ER80-618
Madison Gas & Electric Company—ER80-618
Northern States Pwr. Co. (Minn.)—ER80-667
Northern States Pwr. Co.—ER80-667
Ohio Power Company—ER80-640
Cleveland Electric Illuminating Company—ER80-640

Attachment B

Docket No. ER80-779

Filing Party: Commonwealth Edison Company
Other Party: Central Illinois Public Service Company
Effective: (1) & (2)—September 2, 1980, subject to refund.

Designation

Commonwealth Edison Company:
(1) Supplement No. 10 to Rate Schedule FPC No. 10
Central Illinois Public Service Company:
(2) Supplement No. 9 to Rate Schedule FPC No. 61

Docket No. ER80-733

Filing Party: Southern Indiana Gas & Electric Company
Other Party:
(1) Big Rivers Electric Corporation
(2) Public Service Company of Indiana
(3) Louisville Gas & Electric Company
(4) Indianapolis Power & Light Company
(5) Alcoa Generating Corporation
Effective: (1)—(5) September 2, 1980, subject to refund

Designation

Southern Indiana Gas & Electric Company:
(1) Supplement No. 11 to Rate Schedule FPC No. 33
(2) Supplement No. 4 to Rate Schedule FPC No. 21
(3) Supplement No. 5 to Rate Schedule FPC No. 24
(4) Supplement No. 8 to Rate Schedule FPC No. 25
(5) Supplement No. 4 to Rate Schedule FPC No. 29

Docket No. ER80-750

Filing Party: Public Service Company of Indiana
Other Party:
(1) Indiana & Michigan Electric Company
(2) Central Illinois Public Service Company
(3) Southern Indiana Gas & Electric Company
(4) City of Peru, Indiana
(5) Cincinnati Gas & Electric Company
(6) Hoosier Energy Division of Indiana Statewide
(7) City of Logansport, Indiana
(8) Kentucky-Indiana Pool Agreement
(9) Northern Indiana Public Service Company
(10) City of Crawfordsville, Indiana
Effective: (1)-(10)—September 2, 1980, subject to refund

Designation

Public Service Company of Indiana:
(1) Supplement No. 8 to Rate Schedule FPC No. 49
(2) Supplement No. 13 to Rate Schedule FPC No. 205
(3) Supplement No. 9 to Rate Schedule FPC No. 207
(4) Supplement No. 9 to Rate Schedule FPC No. 212
(5) Supplement No. 2 to Rate Schedule FPC No. 218
(6) Supplement No. 18 to Rate Schedule FPC No. 222
(7) Supplement No. 7 to Rate Schedule FPC No. 223
(8) Supplement No. 13 to Rate Schedule FPC No. 225
(9) Supplement No. 5 to Rate Schedule FPC No. 227
(10) Supplement No. 9 to Rate Schedule FPC No. 229

Docket No. ER80-640

Filing Party: Ohio Power Company
Other Party: Cleveland Electric Illuminating Company
Effective: (1), (2), (4), (5) & (6)—September 1, 1980; (3)—September 2, 1980, subject to refund

Designation

Ohio Power Company:
(1) Supplement No. 11 to Rate Schedule FPC No. 31 (Short Term Power)
(2) Supplement No. 12 to Rate Schedule FPC No. 31 (Supersedes Supplement No. 9) (Limited Term Power)
(3) Supplement No. 13 to Rate Schedule FPC No. 31 (Emergency Service)
Cleveland Electric Illuminating Company:
(4) Supplement No. 10 to Rate Schedule FPC No. 1 (Short Term Power)
(5) Supplement No. 11 to Rate Schedule FPC No. 1 (Limited Term Power)
(6) Supplement No. 12 to Rate Schedule FPC No. 1 (Emergency Service)

Docket No. ER80-721

Filing Party: Dayton Power & Light Company
Other Party: Cincinnati Gas & Electric Company
Effective: (1) September 1, 1980—Sections III & IV; September 1980, subject to refund—Sections I & II; (2) Same as (1) above

Designation

Dayton Power & Light Company:
(1) Supplement No. 8 to Rate Schedule FERC No. 38 (Modification No. 2)
Cincinnati Gas & Electric Company:
(2) Supplement No. 2 to Rate Schedule FERC No. 39 (Concurs in (1) above)

Docket No. ER80-722:

Filing Party: Dayton Power & Light Company
Other Party: Ohio Power Company
Effective: September 2, 1980, subject to refund—Service Schedules B & E; September 1, 1980—all other service schedules

Designation

Dayton Power & Light Company:
(1) Supplement No. 10 to Rate Schedule FPC No. 31

Docket No. ER80-726

Filing Party: Columbus & Southern Ohio Electric Company
Other Party: Dayton Power & Light Company
Effective: (1) September 2, 1980, subject to refund—Section 3.12 of Service Schedule A, 3.2.2 of Service Schedule D; September 1, 1980—for all other sections of Modification No. 2; (2) Same as (1) above

Designation

Columbus & Southern Ohio Electric Company:
(1) Supplement No. 2 to Rate Schedule FERC No. 29 (Modification No. 2)
Dayton Power & Light Company:
(2) Supplement No. 2 to Rate Schedule FERC No. 37 (Concurs in (1) above)

Docket No. ER80-616

Filing Party: Wisconsin Public Service Corporation
Other Party: Wisconsin Power & Light Company
Effective: (1)-(6) September 2, 1980, subject to refund

Designation

Wisconsin Public Service Corporation:
(1) Supplement No. 28 to Rate Schedule FPC No. 17 (Supersedes Supplement Nos. 22 & 27) (Participation Capacity)
(2) Supplement No. 29 to Rate Schedule FPC No. 17 (Emergency Energy)
(3) Supplement No. 30 to Rate Schedule FPC No. 17 (Short Term Power)
(4) Supplement No. 31 to Rate Schedule FPC No. 17 (Maintenance Energy)
(5) Supplement No. 32 to Rate Schedule FPC No. 17 (General Purpose Energy)
Wisconsin Power & Light Company:
(6) Supplement No. 24 to Rate Schedule FPC No. 14 (Supersedes Supplement Nos. 15-16, 23) (Concurs in (1)-(5) above)

Docket No. ER80-618

Filing Party: Wisconsin Public Service Corporation
Other Party: Wisconsin Power & Light Company; Madison Gas & Electric Company
Effective: (1)-(7) September 2, 1980, subject to refund

Designation

Wisconsin Power Service Corporation:
(1) Supplement No. 6 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 5) (Participation Power)
(2) Supplement No. 7 to Rate Schedule FPC No. 33 (Emergency Energy)
(3) Supplement No. 8 to Rate Schedule FPC No. 33 (Short Term Power)
(4) Supplement No. 9 to Rate Schedule FPC No. 33 (Maintenance Energy)
(5) Supplement No. 10 to Rate Schedule FPC No. 33 (General Purpose Energy)
Wisconsin Power & Light Company:
(6) Supplement No. 4 to Rate Schedule FPC No. 99 (Supersedes Supplement Nos. 2, 4-7, 12) (Concurs in (1)-(5) above)
Madison Gas & Electric Company:
(7) Supplement No. 6 to Rate Schedule FPC No. 5 (Supersedes Supplement No. 5) (Concurs in (1)-(5) above)

Docket No. ER80-747

Filing Party: Central Illinois Public Service Company
Other Party: Southern Illinois Power Cooperative, Inc.
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company:
Supplement No. 17 to Rate Schedule FPC No. 74

Docket No. ER80-748

Filing Party: Central Illinois Public Service Company
Other Party: Public Service Company of Indiana
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company:
Supplement No. 8 to Rate Schedule FPC No. 45

V 45 N 0 10 0 80 0 UMI

Docket No. ER80–754

Filing Party: Central Illinois Public Service Company
Other Party: Kentucky Utilities Company
Effective: (1) September 2, 1980, subject to refund, (2) September 1, 1980

Designation

Central Illinois Public Service Company:
(1) Supplement No. 8 to Rate Schedule FPC No. 59
Kentucky Utilities Company:
(2) Supplement No. 10 to Rate Schedule FPC No. 81 (Concurs in (1) above)

Docket No. ER80–782

Filing Party: Commonwealth Edison Company
Other Party: Wisconsin Power & Light Company
Effective: (1) September 1, 1980, (2)–(6) September 2, 1980, subject to refund

Designation

Commonwealth Edison Company:
(1) Supplement No. 1 to Supplement No. 1 to Rate Schedule FPC No. 16 (Limited Term Service)
(2) Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 16 (Emergency Energy)
(3) Supplement No. 2 to Supplement No. 8 to Rate Schedule FPC No. 16 (Short Term Power)
(4) Supplement No. 1 to Supplement No. 5 to Rate Schedule FPC No. 16 (Maintenance Energy)
(5) Supplement No. 1 to Supplement No. 6 to Rate Schedule FPC No. 16 (General Purpose Energy)
Wisconsin Power & Light Company:
(6) Supplement No. 3 to Rate Schedule FPC No. 106 (Concurs in (1)–(5) above)

Docket No. ER80–667

Filing Party: Wisconsin Power & Light Company
Other Party: Northern States Power Company (Minn) Northern States Power Company (Wisc)
Effective: (1)–(7) September 2, 1980, subject to refund

Designation

Wisconsin Power & Light Company:
(1) Supplement No. 1 to Rate Schedule FERC No. 124 (Emergency Energy)
(2) Supplement No. 2 to Rate Schedule FERC No. 124 (Maintenance Energy)
(3) Supplement No. 3 to Rate Schedule FERC No. 124 (General Purpose Energy)
(4) Supplement No. 4 to Rate Schedule FERC No. 124 (Short Term Power)
(5) Supplement No. 5 to Rate Schedule No. 124 (Limited Term Power)
Northern States Power Company (Minn.):
(6) Supplement No. 10 to Rate Schedule FERC No. 410 (Supersedes Supplement Nos. 2, 4–7) (Concurs in (1)–(5) above)
Northern States Power Company (Wisc.):
(7) Support No. 1 to Rate Schedule FERC No. 65 (Concurs in (1)–(5) above)

Docket No. ER80–668

Filing Party: Wisconsin Power & Light Company
Other Party: Dairyland Power Cooperative
Effective: (1)–(4) September 2, 1980, subject to refund

Designation

Wisconsin Power & Light Company:
(1) Supplement No. 9 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 2) (Emergency Energy)
(2) Supplement No. 10 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 4) (Short Term Power)
(3) Supplement No. 11 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 5) (Maintenance Power)
(4) Supplement No. 12 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 6) (General Purpose Energy)

Docket No. ER80–731

Filing Party: Illinois Power Company
Other Parties: Central Illinois Public Service Company, Union Electric Company, Tennessee Valley Authority
Effective: September 2, 1980, subject to refund

Designation

Illinois Power Company:
Supplement No. 10 to Rate Schedule FPC No. 48

Docket No. ER80–749

Filing Parties: Central Illinois Public Service Company
Other Party: Illinois Power Company, Union Electric Company, Tennessee Valley Authority
Effective: September 2, 1980, subject to refund

Designation

Central Illinois Public Service Company:
Supplement No. 10 to Rate Schedule FPC No. 66

Docket No. ER80–662

Filing Party: Ohio Edison Company
Other Party: Columbus & Southern Ohio Company
Effective: (1) August 1, 1980, (2) Section 3.1.2 of Service Schedule A, Section 3.2.2 of Service Schedule B—September 2, 1980, subject to refund; Remaining portion of Modification No. 3—September 1, 1980

Designation

Ohio Edison Company:
(1) Supplement No. 6 to Rate Schedule FERC No. 143 (Modification No. 2)
(2) Supplement No. 7 to Rate Schedule FERC No. 143 (Modification No. 3)

Docket No. ER80–720

Filing Party: Dayton Power & Light Company
Other Party: City of Piqua, Ohio
Effective: September 1, 1980—First Revised Schedule B; September 2, 1980, subject to refund—First Revised Schedule C

Designation

Dayton Power & Light Company:
Supplement No. 1 to Supplement No. 8 to Rate Schedule FERC No. 34

Docket No. ER80–646

Filing Party: Indiana & Michigan Electric Company
Other Party: Central Illinois Public Service Company (CIPS)
Effective: (1) September 1, 1980, (2) & (3) September 2, 1980, subject to refund

Designation

Indiana and Michigan Electric Company:
(1) Supplement No. 18 to Rate Schedule FPC No. 67 (Supersedes Supplement No. 17) (Short Term & Limited Term Power)
(2) Supplement No. 19 to Rate Schedule FPC No. 67 (Supersedes Supplement No. 11) (Emergency Energy)
Central Illinois Public Service Company:
(3) Supplement No. 11 to Rate Schedule FPC No. 62 (Concurs in (2) above)

Docket No. ER80–732

Filing Party: Wisconsin Electric Power Company
Other Party: Commonwealth Edison Company
Effective: (1) September 1, 1980; (2–6) September 2, 1980, subject to refund

Designation

Wisconsin Electric Power Company:
(1) Supplement No. 11 to rate Schedule FPC No. 33 (Supersedes Supplement No. 4) (Limited Term Power)
(2) Supplement No. 12 to Rate Schedule FPC No. 33 (Supersedes Supplement Nos. 5 and 10) (Emergency Energy)
(3) Supplement No. 13 to Rate Schedule FPC No. 33 (Supersedes Supplement Nos. 7 and 10) (Short Term Power)
(4) Supplement No. 14 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 8) (Maintenance Energy)
(5) Supplement No. 15 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 9) (General Purpose Energy)
Commonwealth Edison Company:
(6) Supplement No. 4 Rate Schedule FPC No. 14 (Supersedes Supplements Nos. 2 and 3) (Concurs in (1)–(5) above)

Docket No. ER80–678

Filing Party: Union Electric Company
Other Parties: Arkansas—Missouri Power Company (AMPC), Associated Electric Cooperative, Inc. (AEC); (2) AMPC; (3) AEC; (4) City of Columbia, Missouri; (5) Iowa Power and Light Company; (6) Iowa Southern Utilities Company; (7) Kansas City Power and Light Company; (8) Kentucky Utilities Company; (9) AEC, Kansas Gas and Electric Company, Public Service Company of Oklahoma; (10) Missouri Public Service Company; (11) St. Joseph Light and Power Company; (12) Central Illinois Public Service Company, Illinois Power Company, Tennesseee Valley Authority; (13), (14), and (15) Union Electric Company.
Effective: (13) September 1, 1980; Others—September 2, 1980, subject to refund
Union Electric Company:
(1) Supplement No. 13 to Rate Schedule FPC No. 94
(2) Supplement No. 9 to Rate Schedule FPC No. 68
(3) Supplement No. 11 to Rate Schedule FERC No. 95
(4) Supplement No. 7 to Rate Schedule FERC No. 96
(5) Supplement No. 14 to Rate Schedule FPC No. 74
(6) Supplement No. 6 to Rate Schedule FPC No. 63
(7) Supplement No. 10 to Rate Schedule FPC No. 66
(8) Supplement No. 15 to Rate Schedule FPC No. 90 (Executed Second Amendment)
(9) Supplement No. 10 to Rate Schedule FPC No. 79
(10) Supplement No. 12 to Rate Schedule FPC No. 67 (Executed Third Amendment)
(11) Supplement No. 6 to Rate Schedule FPC No. 75 (Executed Second Amendment)
(12) Supplement No. 12 to Rate Schedule FPC No. 76
Kentucky Utilities Company:
(13) Supplement No. 3 to Rate Schedule FPC No. 100 (Concurs in (8) above)
Missouri Public Service Company:
(14) Supplement No. 5 to Rate Schedule FPC No. 24 (Concurs in (10) above)
St. Joseph Light and Power Company
(15) Supplement No. 2 to Rate Schedule FPC No. 14 (Concurs in (11) above)

[FR Doc. 80–35024 Filed 11–7–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. RI80–13]

Amoco Production Co. v. Phillips Petroleum Co.; Complaint

November 4, 1980.

Take notice that on August 28, 1980, Amoco Production Company (Amoco) filed a complaint with the Federal Energy Regulatory Commission (FERC) against Phillips Petroleum Company (Phillips). Amoco alleges that Phillips refuses to pay Amoco's effective filed rate which contains a tax component. Amoco filed for a rate increase by means of Supplement No. 29 to its Rate Schedule No. 57. Amoco sells gas to Phillips who resells it to Michigan-Wisconsin Pipe Line Company (Michigan-Wisconsin) under Phillips Rate Schedule No. 4. Amoco asserts that Phillips collects tax reimbursement from Michigan-Wisconsin for the sale of gas but refuses to flow through the tax reimbursement to Amoco. Amoco maintains further that the Commission ruled, in its order Adopting Initial Decision with Modification, issued October 8, 1974 in *Amoco Production Company*, Docket Nos. RI71–691 and RI73–70, 52 FPC 895 that Amoco was entitled to the disputed tax. In its August 8, 1980 filing Amoco requests that the Commission promptly institute under Section 20 of the Natural Gas Act proceeding against Phillips Petroleum Company (1) granting judgment to Amoco, (2) directing Phillips to pay all tax reimbursement amounts now due and owning to Amoco under Amoco's Rate Schedule No. 57, plus accrued interest at the rate prescribed in Section 154.102 of the Commission's Regulations, and (3) directing Phillips to pay Amoco from and after the date of the Commission's order, the rate on file and effective under Amoco's FERC Gas Rate Schedule No. 57.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–35028 Filed 11–7–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. RA80–118]

Campus Chevron; Filing of Petition for Review

November 4, 1980.

Take notice that Campus Chevron on September 16, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 19, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 19, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80–35036 Filed 11–7–80; 8:45 am]
BILLING CODE 6450–85–M

[Project No. 3459]

Cascade Waterpower Development Corp.; Application for Preliminary Permit

November 4, 1980.

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuit to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3459 to be known as Mason Dam Project located on the Powder River in Baker County, Oregon. The proposed project lies wholly on lands owned by the U.S. Water and Power Resources Service (WPRS). Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Project Description—The proposed project would consist of: an intake structure, penstock through the existing WPRS 185-foot high earthfill Mason Dam, a powerhouse, and tailrace channel. The project would utilize excess irrigation water.

Purpose of Project—The Applicant intends to market the power generated by the project to local public utilities.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct technical studies and surveys, perform preliminary designs, quantity and cost estimates, and a feasibility analysis, conduct environmental studies and assessments, and prepare an FERC license application. No new roads are required to complete the studies.

The estimated cost of the work to be performed under the preliminary permit is $72,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine

the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 7, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 7, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is availble for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35027 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3441]

Eastern States Energy & Resources, Inc.; Application for Preliminary Permit

November 4, 1980.

Take notice that Eastern States Energy & Resources, Inc. (Applicant) filed on Sept. 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3441 to be known as Green River Lock and Dam No. 5 on the Green River in Warren and Butler Counties, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jeffrey M. Kossak, Suite 1900, 14 Wall Street, N.Y., N.Y. 10005. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers flood control project, Green River Lock and Dam No. 5. Project No. 3441 would consist of: (1) a proposed powerhouse located on the southern bank of the river; (2) proposed transmission line; and (3) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 7MW, and the annual energy output to be 31GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Kentucky Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned estimates long with obtaining agreements with other Federal, State and local agencies is estimated to be $57,500.00.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 9, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3441. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35028 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-58-000]

The Hartford Electric Light Co.; Purchase Agreement

November 4, 1980.

The filing Company submits the following:

Take notice that on October 27, 1980, The Hartford Electric Light Company (HELCO) tendered for filing a proposed rate schedule entitled: Purchase Agreement with Respect to Middletown Unit No. 4 between HELCO and Massachusetts Municipal Wholesale Electric Company (MMWEC), dated as of April 1, 1979.

HELCO states that the Purchase Agreement provides for a sale to MMWEC of a specified percentage of capacity and energy from HELCO's Middletown Unit No. 4 generating unit during the period November 1, 1979 through October 31, 1980.

HELCO requests that the Commission waive the customary notice period and permit the rate schedule to become effective on November 1, 1979.

HELCO states that the services to be provided under the Purchase Agreement are similar to services provided by HELCO under an agreement between it and the North Attleborough Electric Department (FERC Rate Schedule No. HELCO 155).

HELCO states that a copy of the rate schedule has been delivered to MMWEC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35029 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-10-000]

Iverson Service Station; Filing of Petition for Review

November 4, 1980.

Take notice that Iverson Service Station on October 22, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in period proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 19, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who has denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 19, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H.025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35021 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-95]

National Fuel Gas Supply Corp.; Technical Conference

November 3, 1980.

Take notice that a conference of technical representatives from National Fuel Gas Corporation and the Commission Staff will be held at 10:00 a.m. on November 13, 1980, in Room 5300C of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any interested party to this proceeding wishing to send a technical representative to the conference may do so.

Kenneth F. Plumb,

Secretary.

[FR Doc. 35037 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-60-00]

Niagara Mohawk Power Corp.; Proposed Tariff Filing

November 4, 1980.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on October 27, 1980, tendered for filing as a rate schedule, an agreement between Niagara and the Green Mountain Power Corporation (Green Mountain) dated December 17, 1979.

The agreement provides for the purchase for resale of power from the Ontario Hydro Electric Commission (Ontario Hydro) and the transmission of such power to Green Mountain. Niagara has charged Green Mountain at the same rate paid to Ontario Hydro. No percentage adders were attached to the purchase for resale.

Niagara inadvertently misplaced the agreement without filing with the Federal Energy Regulatory Commission. Niagara requests a waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of December 17, 1979.

V 45 N 0 10 0 80 UMI

Copies of the filing were served upon the Green Mountain Power Corporation and the Public Service Commission of the State of New York.

Any persons desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions shall be filed on or before November 24, 1980. Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35038 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-55-000]

Niagara Mohawk Power Corp.; Proposed Tariff Change

November 4, 1980.

The filing company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on October 27, 1980 tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated August 28, 1980.

Niagara presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Rochester as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1980.

Copies of the filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practices and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35022 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-57-000]

Niagara Mohawk Power Corp.; Filing

November 4, 1980.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on October 27, 1980 tendered for filing as a rate schedule, an agreement between Niagara and Central Hudson Gas and Electric Corporation (Central Hudson) dated August 28, 1980.

Niagara presently has on file an agreement with Central dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 88. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Central Hudson as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1980.

Copies of this filing were served upon the Central Hudson Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35023 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-56-000]

Niagara Mohawk Power Corp.; Filing

November 4, 1980.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on October 27, 1980 tendered for filing as a rate schedule, an agreement between Niagara and Orange and Rockland Utilities, Inc. (Orange and Rockland) dated August 28, 1980.

Niagara presently has on file an agreement with Orange and Rockland dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 89. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Orange and Rockland as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1980.

Copies of this filing were served upon the Orange and Rockland Utilities, Inc. and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35030 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-59-000]

Niagara Mohawk Power Corp.; Cancellation

November 4, 1980.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on October 27, 1980, tendered for filing a cancellation of an agreement between Niagara and the Green Mountain Power Corporation (Green Mountain) dated December 17, 1979 which was filed with the Federal Energy Commission on October 24, 1980.

The agreement provides for the purchase for resale of power from the Ontario Hydro Electric Commission (Ontario Hydro) and the transmission of such power to Green Mountain. Niagara has charged Green Mountain at the same rate paid to Ontario Hydro. No percentage adders were attached to the purchase for resale.

Niagara inadvertently misplaced the agreement without filing with the Federal Energy Regulatory Commission. Niagara filed the agreement with the Commission on October 24, 1980 and has requested a waiver of the Commission's prior notice requirements in order to allow the said agreement to become effective as of December 17, 1979. The transmission service to Green Mountain ended on March 30, 1980. The proposed cancellation date is March 31, 1980.

Copies of this filing were served upon the Green Mountain Power Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10. All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35031 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3153]

Public Utility District No. 1 of Wahkiakum County; Application for Preliminary Permit

November 4, 1980.

Take notice that Public Utility District No. 1 of Wahkiakum County (Applicant) filed on July 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3153 to be known as Grays River Project located on the Grays River in Pacific and Wahkiakum Counties, Washington. Correspondence with the Applicant should be directed to: Donald E. Bowes, Partner, R. W. Beck and Associates, 200 Tower Building, Seattle, Washington 98101.

Project Description—The proposed project would consist of: (1) a concrete diversion dam, 50 feet high, including a central uncontrolled spillway and fish passage facilities; (2) a concrete lined power tunnel, 10 feet in diameter and approximately 11,200 feet long; (3) a powerhouse containing two vertical shaft Francis-type turbines and generating units, having a total installed capacity of 17 MW, located in the lower reaches of the gorge area; and (4) a new 115-kV wood pole transmission line, extending from the power site 6.5 miles in a southwesterly direction to the Naselle to Cathlamet 115-kV transmission line.

Purpose of Project—The power developed by the project will be used by the applicant, a municipal corporation which distributes power to 1,700 customers. The power produced by the project in excess of the Applicant's needs would be made available first to Bonneville Power Administration.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of three years, during which it would prepare a definitive project report, prepare preliminary designs, conduct geologic explorations, with various Federal, State, and local agencies, and prepare a FERC license application. The cost of these activities is estimated by the applicant to be $800,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 20, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended*, 44 Fed. Reg. 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended*, 44 Fed. Reg. 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments files, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 22, 1980. The Commission's address is: 825 North

Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35033 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER77-277 (Phase I)]

Pennsylvania Power Co.; Filing

November 4, 1980.

The filing company submits the following: Take notice that on October 27, 1980, Pennsylvania Power Company (PPC) submitted for filing a corrected compliance filing as result of certain errors which were contained in PPC's compliance filing of October 1, 1980.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35039 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-61-000]

Potomac Edison Co.; Proposed Tariff Change

November 4, 1980.

The filing Company submits the following: Take notice that The Potomac Edison Company, on October 28, 1980, tendered for filing a Supplement to its FERC Electric Service Tariff, Volume No. 3 consisting of an Electric Service Agreement with the Shenandoah Valley Electric Cooperative, Inc. The Agreement supersedes a previous Agreement between The Potomac Edison Company and the Cooperative. The Potomac Edison Company has requested that the Agreement be deemed effective as of November 1, 1979, in order that the date of the Agreement and its applicability coincide. The proposed changes will have no effect upon purchases under other rate schedules and no change in rates is proposed in the Agreement.

The reasons for the proposed changes are to update the format and language of the Agreement, and to provide for an additional interconnection point.

A copy of the filing has been served upon the Shenandoah Valley Electric Cooperative, Inc., upon the Virginia State Corporation Commission, and upon the West Virginia Public Service Commission by The Potomac Edison Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35040 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2964]

City of Sturgis; Application for Amendment of License

November 4, 1980.

Take notice that on June 26, 1980, the City of Sturgis (Applicant) filed an application for amendment of its license for the City of Sturgis Dam Project, FERC Project No. 2964, located on the St. Joseph River in the County of St. Joseph, near the Town of Centreville, Michigan. Correspondence with Applicant on this matter should be addressed to: Mr. R. Lennie Scott, Lawson-Fisher Associates, 525 West Washington Street, South Bend, Indiana 46601.

Project Description—The City of Sturgis Dam Project would consist of: (1) an existing reservoir with a surface area of 480 acres and a gross storage capacity of 6,550 acre-feet at normal pool elevation of 825.5 feet msl; (2) an existing composite dam with a concrete section 300 feet long and 25 feet high, and an earth section 500 feet long with an average height of 12.5 feet, south of the concrete section; (3) an existing powerhouse containing two generating units, each rated at 550 kW, and a proposed powerhouse containing two generating units, each rated at 810 kW; (4) a proposed 12-foot diameter concrete pipe penstock; and appurtenant facilities.

Under the proposed amendment, the Applicant would construct a powerhouse, surge tank, intake structure, and related facilities. The new powerhouse would contain two new units, each rated at 810 kW, and would generate a total estimated annual output of 8,365,800 kWh.

The Applicant states that the two additional units would decrease its dependence on purchasing power from the Indiana and Michigan Electric Company. Electric power generated at the project would be sold to customers of the City of Sturgis Electric Utility.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 17, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35034 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-5-000]

Texas Eastern Transmission Corp.; Petition for Order Approving Refund Plan

November 4, 1980.

Take notice that on October 21, 1980, Texas Eastern Transmission Corporation (Texas Eastern) filed a petition for an order approving a proposed refund plan whereby Texas Eastern would flow through to its customers in the form of a lump sum cash payment the jurisdictional portion of $115,465.10 in refunds which Texas Eastern has received from Southern Natural Gas Company (Southern).

Additionally, Texas Eastern requests that the Commission waive its regulations and prior orders and the provisions of Texas Eastern's FERC Gas Tariff to the extent necessary to approve Texas Eastern's refund plan.

Texas Eastern states that copies of the filing have been mailed to all of its affected customers and interested state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene, file comments, or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 (18 CFR 1.8, 1.10). All such petitions, protests or comments should be filed on or before November 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35041 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RI80-16]

TransOcean Oil, Inc.; Petition for Declaratory Order

November 4, 1980.

Take notice that on September 23, 1980, TransOcean Oil, Inc. (TransOcean), 1700 First City East Bldg., 1111 Fannin Street, Houston, Texas 77002 filed a petition for declaratory order in Docket No. RI80-16 pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure. TransOcean requests that the Commission determine whether TransOcean is contractually authorized to collect the maximum lawful price applicable to sales of its interest in gas produced from the Patterson Field, St. Mary's Parish, Louisiana.

The gas is sold pursuant to the terms of a 1965 Gas Sales Contract between Placid Oil Company (Placid) and TransOcean's predecessor in interest (J. Ray McDermott & Co.) and American Louisana Pipeline Company, the predecessor to Michigan Wisconsin Pipe Line Company. Placid, which serves as operator, filed the contract as its Gas Rate Schedule No. 40 covering both its and TransOcean's interests. On January 5, 1978, TransOcean's petition states that Placid executed a contract amendment providing that the Seller was entitled to charge and collect the highest applicable lawful price. TransOcean has since drilled a new well (the Shadyside No. 10) for which the Section 107 price under the Natural Gas Policy Act of 1978 has been charged and collected. TransOcean now asks the Commission to determine if it is entitled to the highest lawful price for such sale.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before December 4, 1980. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35042 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-62-000]

Washington Water Power Co.; Filing

November 4, 1980.

The filing Company submits the following: Take notice that on October 29, 1980, The Washington Water Power Company (Washington) tendered for filing copies of an interim agreement with Bonneville Power Administration (Bonneville) associated with an earlier filed General Transfer Agreement which formalizes transmission service initiated during the negotiation of the General Transfer Agreement.

A recently filed General Transfer Agreement provides for transmission service which Bonneville and Washington each provide to the other party for that party's customers connected to the other part's transmission facilities. This General Transfer Agreement replaced a multitude of agreements under which similar service had been provided for man years and supercedes this interim agreement. This interim agreement formalizes arrangements under which transmission service was provided to a number of new points of delivery during the negotiation of the General Transfer Agreement. The terms and conditions of service to these new points of delivery under the interim agreement was provided under the same terms and conditions as specified in the several agreements then in existence.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35043 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP70-164-002]

Western Gas Interstate Co. Tariff Filing

November 3, 1980.

Take notice that Western Gas Interstate Company ("Western"), on October 28, 1980, filed, pursuant to Section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations Under the Natural Gas Act, First Revised Sheet No. 9 and Third Revised Sheet No. 22 to its FERC Gas Tariff, Original Volume No. 2.

Western states that the tendered tariff sheets have been modified to include certain additional delivery points for Western and Panhandle Eastern Pipeline Company in their November 21, 1969 Gas Purchase and Sales Agreement, reflected in Western's FERC Gas Tariff, Original Volume No. 2, as Rate Schedule X-1 as approved by the Commission in its order dated May 27, 1970 in Docket No. CP70-164. Western has requested an effective date of November 27, 1980, for the tendered tariff sheets.

Western filed on October 22, 1979, a petition to further amend the May 27, 1970 order to provide for the delivery of natural gas at additional points for exchange and the construction and operation of facilities therefor, all as

more fully set forth in the petition. The Commission issued its Order Amending Order Issuing Certificate of Public Convenience and Necessity and Granting Petition to Intervene on March 20, 1980. Said order granted Western and Panhandle the authorization for certain additional delivery points and the construction and operation of facilities necessary therefor.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35044 Filed 11-7-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Proceedings Scheduled for December

AGENCY: Department of Education.

ACTION: Notice of Education Appeal Board Proceedings Scheduled for December 1980.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of Arizona*, Docket No. 1–(37)–78, for December 10, 1980, and in the *Appeal of the State of Arizona*, Docket No. 2–(38)–78, for December 11, 1980. Interested third parties may apply to intervene in the appeal proceedings.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on April 3, 1980 (45 FR 22634).

Prehearing Conferences

The Education Appeal Board has scheduled prehearing conferences in two audit appeals for the month of December 1980:

(1) *Appeal of the State of Arizona*, Docket No. 1–(37)–78. The prehearing conference is scheduled for December 10, 1980, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 11:00 a.m.

In its appeal, Arizona is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary for Elementary and Secondary Education). The Deputy Commissioner found that in fiscal years 1973 and 1974 the State educational agency improperly charged the costs of administering the migrant program conducted under Title I of the Elementary and Secondary Education Act of 1965 to program funds. The Deputy Commissioner also found that in fiscal year 1974, the State educational agency charged migrant program funds for personnel services, audio-visual services and other activities directed toward entire school populations rather than toward migrant children, and used a portion of the amount spent on personnel services to supplant normal district funding. The Deputy Commissioner requested a refund of $230,723.00 from Arizona.

(2) *Appeal of the State of Arizona*, Docket No. 2–(38)–78. The prehearing conference is scheduled for December 11, 1980, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In this appeal, Arizona is contesting final audit determinations made by the Associate Commissioner for Elementary and Secondary Education (now the Assistant Secretary). The Associate Commissioner found that in fiscal years 1968 and 1969, the State educational agency approved projects under Title I of the Elementary and Secondary Education Act of 1965 in the Tucson Elementary School District that were not specifically designed to provide educational assistance to educationally deprived children. The Associate Commissioner also found that in fiscal years 1968 and 1969, the Roosevelt and Phoenix Elementary School Districts used Title I funds to supplant State and local funds available for conducting classes for the mentally retarded. For fiscal years 1966 through 1969, the Associate Commissioner found that the State educational agency approved local claims against Title I funds for county administrative and miscellaneous expenditures that were not related to Title I; that the State educational agency claimed workshop, printing, and moving costs that were not related to Title I; and that the Phoenix and Tucson school districts used Title I funds to make unallowable equipment purchases. The Associate Commissioner requested a refund of $762,023.00 from Arizona.

Intervention

Section 100d.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the two appeals listed above.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: November 5, 1980.

David S. Pollen,

Chairman, Education Appeal Board.

[FR Doc. 80-35015 Filed 11-7-80; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51161; TSH FRL 1663–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences.

Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by November 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Robert Jones, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M St. SW., Washington, DC 20460, (202–426–8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50444—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before November 28, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51161]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 31, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–269.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 28, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.
Manufacturing site—East-north central U.S.
Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Dineoalkyl ester of glycerine.

Use. Component of a metal coating formulations.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	50,000
2nd year	50,000	200,000
3d year	200,000	500,000

Physical/chemical properties.

Physical state—Viscous liquid.
Weight/gallon—9.0 lb.
Molecular weight—500.
Hydroxyl number—442.9.
Acid number—5.
Vapor pressure—5.4 Torr at 65.6° C.
Flash point—121° C.
Decomposition point—Starts at 255° C.
Water solubility—7.5 pct.
Elemental analysis—C—59.2 pct; H—5.9 pct; and O—34.9 pct.

Toxicity data.

Acute dermal toxicity (rabbits)—0% Mortality.
Primary eye irritation (rabbits)—Extremely irritating without washout; Severely irritating with washout after 30 seconds.
Primary skin irritation (rabbits)—Mildly irritating.

V 45 NO 10 80 UMI

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Dermal	3	2	65	0–1	1–10
Use	Dermal	2	<1	65	0–1	1–10
Disposal	Dermal	4	<2	50	0–1	1–10

The manufacturer states that a maximum of 150 people will be exposed to a vital coating formulation containing less than 10% of the PMN substance for commercial use and not more than 10 people will be exposed to the formulation weekly at the submitter's location.

Environmental Release/Disposal. The manufacturer states that less than 10 kilograms of the substance will be released to the environment per year. Disposal of waste materials will be by landfill.

PMN 80–270.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. December 28, 1980.

Manufacturer's Identity. Inmont Corp., 5935 Milford Ave., Detroit MI 48210.

Specific Chemical Identity. Glycidyl methacrylate, hydroxy propyl methacrylate, 12-hydroxystearic acid, methacrylic acid, methyl methacrylate polymer.

Use. Automotive enamels.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	15,000
2d year	15,000	20,000
3d year	20,000	25,000

Physical/Chemical Properties.

Molecular weight—50,000.
Hydroxyl number—45–55.
Acid number—15–20.
Weight/gallon—9.8 lb.

Toxicity Data. No data were submitted.

Exposure. Inmont Corp. states that there will be no exposure to workers, users and/or customers to the new substance.

Environmental Release/Disposal. The manufacturer states that the manufacturing process is a closed system and nothing is released to air or water.

[FR Doc. 80-34960 Filed 11-7-80; 8:45 am]
BILLING CODE 6560-01-M

[PF-203; PH-FRL 1663-2]

Certain Pesticide Chemicals; Filing of Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals in or on raw agricultural commodities and food items.

ADDRESS: Written comments and inquiries should be directed to the: Designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–203]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the agency to establish tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and food items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

FAP OH 5272. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland, OH 44144. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the fungicide chlorothalonil (2,4,5,6-tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) on the commodity citrus oil at 10 parts per million (ppm). (PM 21, Eugene M. Wilson, Rm. E.349, 202–755–1806).

PP OF2405. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland, OH 44144. Proposes amending 40 CFR 180.275 by establishing tolerances for the combined residues of the fungicide chlorothalonil (2,4,5,6-tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) in or on the raw agricultural commodities oranges and grapefruit at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with an electron capture detector. (PM 21, Eugene M. Wilson, Rm. E–349, 202–755–1806).

(Secs. 408d(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: November 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-34962 Filed 11-7-80; 8:45 am]
BILLING CODE 6560-32-M

[OPTS-5902B; TSH-FRL 1664-2]

Dialkyl Thionocarbamate; Premanufacture Exemption Application Denial

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is denying an application for exemption from the premanufacture notification (PMN) requirements of section 5 of the Toxic Substances Control Act (TSCA) for the test marketing of dialkyl thionocarbamate because the Agency cannot find that the manufacture, processing, distribution in commerce, use and disposal of the substance, or any combination of such activities will not present any unreasonable risk of injury to health or the environment. This Notice also amends the earlier notice of receipt of the exemption application to provide for a generic chemical identity and a generic use.

FOR FURTHER INFORMATION CONTACT: Cynthia Work, Notice Review Branch, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: Under section 5(a) of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for a commercial purpose must submit a premanufacture notice (PMN) to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing

substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the required contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit such applicants to manufacture or process new chemical substances for test marketing purposes. To grant an exemption, the agency must find, pursuant to section 5(h)(1)(A), that the test marketing activities will not present any unreasonable risk of injury to health or the environment. Section 5(h)(6) provides that EPA must either approve or deny the application within 45 days of its receipt and must publish a notice of its decision in the **Federal Register**. If EPA grants a test marketing exemption, it may, pursuant to section 5(h)(1)(B), impose restrictions on the test marketing activities.

EPA may deny an exemption application if (1) it finds that the subject chemical substance will pose an unreasonable risk of injury to health or the environment or, (2) if the Agency lacks sufficient information to make the finding that the test marketing activities will not pose any unreasonable risk during test marketing activities. This exemption is denied because EPA lacks sufficient information to find that the test marketing of the subject substance will not pose an unreasonable risk to health or the environment.

On July 16, 1980, EPA received an application from the Minerec Corporation ("Minerec") of Baltimore, Maryland, for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. Notice of receipt of this application, designated TME 80–34, appeared in the **Federal Register** on August 1, 1980. (45 FR 51271). The submitter claimed confidential all information provided in the application except for the company's name, pursuant to section 14 of TSCA. With the submitter's approval the Agency subsequently developed a generic chemical identity and generic use for the subject chemical as follows:

Generic chemical identity: Dialkyl thionocarbamate
Generic use: Froth flotation reagent for metallic ores.

Minerec did submit some physical-chemical data on the PMN chemical; however, it did not submit toxicity data. EPA was unable to find toxicity data on the PMN substance itself, but did identify carcinogenicity concerns with carbamates, the general class of chemicals of which the PMN substance is a member and into which it may metabolize. The Agency further identified a close structural analogue which indicates that the PMN chemical could act as an antithyroid agent. The Agency was also unable to resolve concerns regarding possible ecological hazards posed by the new chemical, as related substances are currently used as biocides.

The manufacturer did provide some information on the numbers of workers exposed and the duration and types of exposure. However, the Agency is concerned that there may be significant additional environmental release and worker exposure, particularly during processing and use of the chemical.

In order to approve an exemption of a new chemical for test marketing purposes, EPA must make an affirmative finding that test marketing of the substance will not present an unreasonable risk of injury to health or the environment; it is not sufficient that EPA find only that it has no evidence to indicate that there will be an unreasonable risk. In making such an affirmative finding, the Agency will consider information on the likely toxicity of the chemical, its physical and chemical properties, and on exposure of the substance to humans or the environment, including information on method of processing and manufacturing, use, worker and consumer exposure, environment release, disposal and other factors.

As indicated above, the application provided no information on the toxicity of the substance and insufficient information on exposure. While the absence of information in the application does not by itself constitute a basis for a denial, it clearly hinders the Agency's ability to make the necessary findings, particularly because EPA has only 45 days in which to determine whether there is an adequate basis for finding that there will be no unreasonable risk. If EPA has significant uncertainty at the end of the review period concerning the risk presented by test marketing due to lack of information on toxicity or exposure, the Agency will not approve an application. In this case, EPA cannot make a finding of no unreasonable risk merely on the basis of the relatively low production volume, given the insufficient information and toxicity concerns. Therefore, the Agency is denying this request for an exemption from the requirements of section 5(a) and 5(b) of TSCA to manufacture this substance for test marketing purposes.

As a result of this decision, Minerec Corporation may not commence manufacture/import of dialkyl thionocarbamate for test marketing purposes. Minerec or any other person who intends to manufacture this substance for test marketing purposes may submit another application for exemption at any time, but should include additional information and data sufficient to establish that the production of the new substance for test marketing purposes will not pose an unreasonable risk to health and the environment. Unless an exemption is granted, no person may commence manufacture of the substance for non-exempt commercial purposes unless he has complied with section 5(a) by submitting a premanufacturing notice as described in section 5(d)(1).

Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-34957 Filed 11-7-80; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51144A; TSH-FRL 1663-6]

Ethene-Alkene-Vinyl Carbonyl Amine Polymer; Premanufacture Notice; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects certain information on a premanufacture notice on the new substance ethene-alkene-vinyl carbonyl amine polymer.

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St., SW., Washington, DC 20460. (202–426–3980).

SUPPLEMENTARY INFORMATION: EPA issued a notice of receipt of a PMN identified as PMN 80–240 submitted by a certain company for the manufacture of the above new chemical substance. The summary of the PMN was published in the **Federal Register** of October 1, 1980 (45 FR 65030) as provided for in section 5(a)(1) of the Toxic Substance Control Act (TSCA).

In the FR Doc. 80–30371 appearing at page 65030, third column under "Manufacturer's Identity", the entry following "Standard Industrial Classification Code" is corrected to read

"2822 'Snythetic Rubber (Vulcanizable Elastomers)' ".

Dated: October 31, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

[FR Doc. 80-34959 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51166; TSH-FRL 1664-3]

Hydrogen Zeolites; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by December 8, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Robert Smith, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M St., SW, Washington, DC 20460, (202-426-8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 8, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51166]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 31, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-280.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 7, 1981.

Manufacturer's Identity. Norton Co., P.O. Box 350, Akron, OH 44309.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Hydrogen zeolites.

Use. Generic use provided: Air pollution control absorbents.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Solid powder.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m³)	
			Hours/day	days/year	Average	Peak
Manufacture	Inhalation skin contact.		2-4	260		5
Use	Inhalation skin contact.		4	1		

Environmental Release. The manufacturer states that 100 to 1,000 kilograms of the PMN substance will be released to the environment per year.

[FR Doc. 80-34955 Filed 11-7-80; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59038; TSH FRL 1663-4]

Polymer of: D-Glucose; Succinic Acid; Propanoic Acid, 2-Oxo; and Galactose; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by November 20, 1980. Persons should submit written comments on the application no later than November 25, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Robert Jones, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-208, Washington, DC 20460, (202-426-8816).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability on the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(d)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), had determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before November 25, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59038]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 31, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

TM 80-43.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Close of Review Period. November 20, 1980.

Manufacturer's Identity. Kelco, Div. of Merck & Co., Inc., 8355 Aero Dr. San Diego, CA 92123.

V 45 NO 10 80 UMI

Specific Chemical Identity. Polymer of: *D*-Glucose; succinic acid; propanoic acid, 2-oxo; and galactose.

Use. Antimigrant in textile dyeing operations.

Production Estimates. Maximum: 25,000 pounds. Test period is not to exced a year from date of approval.

Physical/Chemical Properties.

Solubility—Soluble in water and water miscible solvent; insoluble in organic solvent.
Physical state—Powder.
Vapor pressure—Nil.
Melting point—>250°C.

Toxicity Data.

Acute Oral, LD_{50} (male, female rats)—>5.000 mg/kg.
Acute eye irritation (rabbits)—Non-irritant.
Acute Inhalation Toxcity, (rats) 4-hr. LC_{50}—>6.14 mg/l (nominal); >0.108 mg/l (gravimetric).

Exposure. The submitter states that approximately 25 workers in the manufacturing site and 150 in customers' plants (consisting of 30 customers) may be exposed to the substance by skin contact and dermal inhalation.

Environmental Release/Disposal. No data were submitted.

[FR Doc. 80-34961? Filed 11-7-80; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-59040; TSH—FRL 1663-7]

Polyurenthane; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register**. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by December 5, 1980. Persons should submit written comments on the application no later than November 25, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, Washington, DC 20460, (202–426–3980).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances with EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before November 25, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Rm. E–447, 401 M St. SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59040]. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 31, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

TM 80–45.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Close of Review Period. December 5, 1980.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyurethane.

Use. Claimed confidential business information. Generic use provided: Component in industrial coatings.

Production Estimates. The manufacturer estimates that 2,500–5,000 kilograms of the substance will be produced for test market purposes to run for a period of six months. Six to ten companies will be provided with the product.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted; however, the submitter states that an Ames mutagenicity test has been conducted on a similar material which was negative and that no new and unusual health hazards are expected.

Exposure. The manufacturer states that a total of 32 man-hours and three employees will be required to manufacture the substance, and that direct exposure will occur only as a result of accidental spills or leaks.

Environmental Release. The manufacturer states that the product will be manufactured in closed kettles and therefore environmental release under normal operating conditions is nil.

[FR Doc. 80-34958 Filed 11-7-80; 8:45 am]
BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

[Docket No. 80–67]

Los Angeles Steamship Association v. the City of Los Angeles; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

On September 26, 1980, the Los Angeles Steamship Association filed a complaint against the city of Los Angeles (the City) alleging that Item 205(e) of the City's tariff relating to pilotage is violative of the Shipping Act, 1916. The OEA has determined that the Commission's final resolution of Docket No. 80–67 will cause no significant adverse environmental effects in excess of those created by existing uses. The action sought would not change or modify the Los Angeles Harbor's use.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment on or before December 1, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35049 Filed 11-7-80; 8:45 am]
BILLING CODE 6730-01-M

Puerto Rico Maritime Shipping Authority; Application for Permission To Submit Alternative Data

The Federal Maritime Commission hereby gives notice that Puerto Rico Maritime Shipping Authority (PRMSA) has filed an application with the Commission for permission to submit alternative data pursuant to 46 CFR 512.2(d).

In support of general rate changes, carriers are required by the Commission's General Order 11, Revised, to submit actual financial data for a twelve-month period commencing not more than fourteen months prior to the filing data. If the filing is within 150 days of the end of its fiscal year, this requirement may be satisfied by the submission of the carrier's General Order 11, Revised, report for its fiscal year. PRMSA operates on a fiscal year ending June 30, and proposes to file a general rate change on or before December 15, 1980. Although more than 150 days will expire between June 30, 1980, and December 15, 1980, PRMSA purposes to use its fiscal year 1980 General Order 11, Revised, submission as the actual twelve months financial and operating data in support of its general rate increase.

Interested parties may inspect the data submitted in support of the application at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. Interested parties may submit comments on the application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before (20 days). A copy of any comments should also be forwarded to Puerto Rico Maritime Shipping Authority, c/o Amy Loeserman Klein, Galland, Kharasch, Calkins & Short, P. C., Canal Square, 1054 Thirty First Street, NW., Washington, DC. 20007, and the comments should indicate that this has been done.

Dated: November 3, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35046 Filed 11-7-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 4, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Huntington Bancshares, Inc., Columbus, Ohio (insurance underwriting activities; Phoenix, Arizona): To engage

through its subsidiary, Scioto Life Insuarnce Company, in underwriting, as a reinsurer, credit life, accident, and health insurance directly related to extensions of credit by its subsidiary bank, The Huntington National Bank. These activities would be conducted from offices in Phoenix, Arizona and Springfield, Ohio, serving the areas where the bank is located.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Central National Bancshares, Inc., Des Moines, Iowa (management consulting activities; Iowa): To engage in providing management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks located in Iowa. These activities would be conducted from an office in Des Moines, Iowa, serving the State of Iowa. Comments on this application must be received by November 28, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34951 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 4, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York, 10045:

Midlantic Banks Incorporated, West Orange, New Jersey (factoring, leasing, and loan servicing activities; North Carolina, South Carolina, Virginia, Tennessee, Georgia, Florida): To engage, through its subsidiary, Midlantic Commercial Company, in making or acquiring, for its own account or the account of others, loans and other extensions of credit as a factoring company; leasing personal property and equipment or acting as agent, broker, or advisor in the leasing thereof in accordance with the Board's Regulation Y, and servicing loans and other extensions of credit for any person. These activities would be conducted from an office in Charlotte, North Carolina, serving North Carolina, South Carolina, Virginia, Tennessee, Georgia, and Florida. Comments on this application must be received by December 2, 1980.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

Equitable Bancorporation, Baltimore, Maryland (insurance underwriting activities; North Carolina, Virginia): To engage through its subsidiary Equiban Life Insurance Company, in underwriting, as reinsurer, of credit life insurance in connection with extensions of credit by Equitable Bancorporation's subsidiaries. These activities would be conducted from an office in Baltimore, Maryland, serving North Carolina and Virginia. Comments on this application must be received by December 3, 1980.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (finance and credit life, health and accident insurance activities; Pennsylvania): to engage through its subsidiary, Pacific Consumer Discount Company, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life, health and accident insurance. These activities would be conducted from an office of Security Pacific Consumer Discount Company in Bradford, Pennsylvania, serving the State of Pennsylvania.

D. *Other Federal Reserve Bank:* None.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34954 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Banko, Inc.; Proposal to Continue To Engage in Insurance Agency Activities

Banko, Inc., Osceola, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in activity of acting as agent in the sale of credit life, accident, and health insurance in connection with extensions of credit by its subsidiary bank. These activities would be performed from offices of Applicant in Osceola, Iowa, and the geographic areas to be served are Osceola and its surrounding areas within a 25-mile radius of Osceola. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 1, 1980.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34949 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Citibank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank International, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Dallas, Texas. Citibank International operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34950 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Irving Trust International/Miami; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Irving Trust International/Miami, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; and Los Angeles, California. Irving Trust International/Miami operates as a subsidiary of Irving Trust Company, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34953 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Pike Bancshares, Inc.; Formation of Bank Holding Company

Pike Bancshares, Inc., Petersburg, Indiana, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Petersburg, Petersburg, Indiana. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34948 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

Williamsburg Holding Company; Formation of Bank Holding Company

Williamsburg Holding Company, Omaha, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Security Savings Bank, Williamsburg, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-34952 Filed 11-7-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

A Study of Consumer Response to the Availability of Advertised Specials; Extension of Comment Period

AGENCY: Federal Trade Commission.

ACTION: Extension of period to November 30, 1980 for public comment on the Study of Consumer Response to the Availability of Advertised Specials.

SUMMARY: The Commission is extending the public comment period an additional thirty-one days with respect to a study, conducted for the Commission by Market Facts, Inc., describing consumer response to the availability of advertised food specials.

DATE: Written comment will now be accepted until November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Richard C. Donohue, Federal Trade Commission, Room 272, 6th Street &

Pennsylvania Ave., NW., Washington, DC 20580, Telephone: 202/523–3913.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission had previously released a study conducted by Market Facts, Inc., describing consumers' behavior and attitudes toward food store advertised specials. On September 9, 1980 (45 FR 59634, September 10, 1980), the Federal Trade Commission invited public comment on this study. In addition to comments on the Market Facts, Inc. study, the FTC is also seeking public comment on eight groups of questions concerning, among other things, whether the trade regulation rule should be kept as is, eliminated, modified or broadened to include other retailers such as drug stores, department stores, etc. The original comment period was to end on October 30, 1980. Comments will now be accepted until November 30, 1980.

Comments may be mailed to: Richard C. Donohue, Federal Trade Commission, Room 272, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. A copy of the Study of Consumer Response to The Availability of Advertised Specials as well as the list of questions prepared by staff are available in Room 130 of the Federal Trade Commission at the above address. Copies will be sent upon request.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-34972 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 30, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **FEDERAL REGISTER** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 28, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Maritime Commission

The FMC requests clearance of Form FMC–174a which requests statements of unearned passenger revenue and also serves as a reminder notice for semi-annual statements required by sections 540.9(h) and 540.27(h) of General Order 20. FMC has amended General Order 20, effective February 20, 1981, to raise the maximum financial responsibility required of vessel owners, charterers or operators from $5,000,000 to $10,000,000. FMC expects an increased percentage of certificants to qualify and maintain their Performance certificates based upon unearned passenger revenue experience rather than submitting the $10,000,000 maximum. Such certificants will be required to report the highest amount of unearned passenger revenue semi-annually to the Commission so that the correct amount of coverage required can be determined and maintained. Form 174a is used by the FMC to request statements of unearned passenger revenue and also to serve as a reminder notice for semi-annual statements required by sections 540.9(h) and 540.27(h) of General Order 20. The FMC estimates respondents will number approximately 40 and that 2 reports will be filed annually by each, requiring a preparation time of 4 hours per report.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-35052 Filed 11-7-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Child Abuse and Neglect Advisory Board; Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, of the meeting of the Advisory Board on Child Abuse and Neglect Meeting, November 13, 1980, from 10:00 a.m. to 4:30 p.m., Rooms 339A & 337A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

At this meeting the Advisory Board will discuss the Comprehensive Plan, the Annual Report to the Secretary, Federal Standards Update, the Child Abuse and Neglect 5th National Conference, Child Abuse and Neglect Legislation, and Child Abuse and Neglect Funding Priorities for FY 1981.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 3754, Donohoe, Building, P.O. Box 1182, Washington, D.C. 20013, Telephone (202) 755–8208.

Advisory Board meetings are open for public observation.

Failure to give 15 days notice is due to the uncertainty of knowing whether funds would be available to provide travel for the public members.

Dated: November 4, 1980.

Mamie J. Welborne,

Human Development Services Committee Management Officer.

[FR Doc. 80-35018 Filed 11-7-80; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

HHS Consumer Affairs Council; Notice of Meeting

SUMMARY: This notice sets forth the scheduled date of the second meeting of the HHS Consumer Affairs Council. This meeting is being held under the Department of Health and Human Service's Consumer Affairs Charter to comply with E.O. 12160 established by President Carter in the **Federal Register**, Vol. 45 No. 112, Monday, June 9, 1980, page 38981. ALL WELCOME!

DATE: Wednesday, November 12, 1980, 10:00 a.m.–12 noon

ADDRESS: 200 Independence Ave., S.W., Room 800 Washington, D.C. 20201

FOR FURTHER INFORMATION CONTACT: Susan L. Randolph, Assistant—Consumer Affairs Ofc., 200 Independence Avenue, S.W., Room 622E, Washington, D.C. 20201 (202)245–0409.

Dated: November 4, 1980.

Belle B. O'Brien,

Assistant to the Secretary for Consumer Affairs.

[FR Doc. 80-35019 Filed 11-7-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service modifies its acceptance of three suggestions for addition of items to the agenda of the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and requests information and comments on one of those items.

ADDRESSES: Information and comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information and comments received will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

DATE: The Service will consider information and comments received by November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, Washington, D.C. 20240, telephone 703/235–2416.

SUPPLEMENTARY INFORMATION:

Modification of Notice

In a **Federal Register** notice of August 11, 1980 (45 FR 53238), the Service announced that it had accepted three suggestions for the addition of items to the provisional agenda of the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"). The notice also provided for the combination of two of these items, "The Treatment of Species Included in Appendix I or Appendix II in Order to Control Trade in Other Listed Species" and "Scientific Authority Review of Applications for Importation of Appendix I Specimens," under a broader agenda item to be entitled "Scientific Authority Findings on Nondetriment to the Survival of the Species." Although the Service by letter dated September 4, 1980 to the CITES Secretariat submitted two papers entitled "The Treatment of Species Included in Appendix I or Appendix II in Order to Control Trade in Other Listed Species" and "Scientific Authority Review of Applications for Importation of Appendix I Specimens," the Service did not suggest a broader entitled agenda item encompassing them. Instead the Service stated in the letter that it believed that the papers would fit appropriately under the existing agenda item XV, Interpretation and Implementation of the Convention. The Service believes that by narrowing the agenda item to the specific subjects covered by these two papers, the focus of discussion will be centered on the substance of the papers, thus better enabling the Parties to reach decisions on the resolutions contained in those papers.

The notice of August 11 also provided for transmission to the Secretariat of a suggested provisional agenda item entitled "Trade with Nonparty Countries." This item was an outgrowth of the Service's consultations with its Management Authority contacts (a group consisting of representatives of other Federal agencies and organizations interested in CITES) on provisional agenda item XV.1, Effects of Reservations. The Service recently received a letter dated September 4, 1980 from the Management Authority for Australia, the Australian National Parks and Wildlife Service (ANPWS). The letter included three proposals for additional agenda items here printed in full:

Proposed Agenda Item

Regulation of Trade in Appendix II Wildlife

Australia is concerned that the Convention is simply documenting the decline of Appendix II species in spite of the fact that Article IV.3 of the Convention should prevent any decline once a species is listed in Appendix II.

Article IV.3 of the Convention states:

> A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

Australia does not believe that in general "suitable measures * * * to limit the grant of export permits" are being undertaken. In order to take such measures it is necessary to have detailed information on the total ecology of a species and this is lacking in the majority of cases.

Australia requests that the Conference of Parties consider ways in which the Administration of Article IV.3 can be improved. In particular it requests the Parties to consider the possibility of establishing an Expert Committee which would:

(i) Identify Appendix II wildlife that is traded extensively,
(ii) Consider the adequacy of present management programs, and
(iii) Advise on the development of research and management programs to enable commercial utilization of such wildlife without endangering its survival.

Australia also commends to Parties the Resolution of the Conference of the Parties made at Costa Rica (conf.2.6) which suggests that Parties should, if they have reason to believe that an Appendix II species is being traded to the detriment of its survival:

(i) Consult directly with Management Authorities or the Secretariat,
(ii) Make use of Article XIV to apply stricter domestic measures.

If importing Parties exercise independent judgment over whether or not to allow imports, rather than only relying on export documentation, exporting Parties will be encouraged to allocate more resources to the management of Appendix II species.

Proposed Agenda Item

Reverse Listing Concept for CITES Appendices

At the XVII World Conference of the International Council for Bird Preservation, 13–18 June 1978, the following resolution was adopted:

Recognizing that any exploitation of wild birds should be based on sound biological and ecological principles;
Being aware that data for evaluating the exploitation of birds on this basis are frequently lacking; and
Recalling that at the first Meeting of the Conference of the Parties to the 1973 Convention on International Trade in Endangered Species (CITES), held in Bern in November 1976, a resolution was passed urging exporting countries gradually to restrict the collection of wild animals for that purpose with the object of eventually limiting the keeping of pets to those species which can be bred in captivity; and
Recognizing the increasing practical problems involved in identifying the numerous species listed for varying degrees of control in the Appendices to CITES:

V 45 NO 10 80 0 UMI

Recommends that governments of any countries which permit trade in birds should allow trade only in listed species which are not threatened by trade and that this principle be adopted by CITES to replace the present Appendices to the Convention.

This resolution identifies the problems arising from continuing additions to Appendices and recommends that the principle of "reverse or clean" listing be adopted by CITES to replace the present Appendices. Such lists would comprise only those species which have been proposed for commercial trade by a Party and for which there is agreement that a sufficient level of knowledge, management and control exists to ensure that the proposed trade will not threaten the species survival. The onus would be on the proponent to provide this data to the Conference of Parties and a proposal would be dealt with in a manner similar to that presently adopted for Appendix listings.

It is envisaged that there would be two or more listings to enable categorization according to levels of restrictions on trade. Commercial trade would only be permitted in species on these lists.

Australia commends to the Conference of Parties the principle of "reverse or clean" listing, and proposes that its adoption to replace the present Appendices be examined by an expert committee which would report to the next Conference of Parties.

Proposed Agenda Item

Interpretation of the Convention With Regard to the Exploitation of Wild Species

At the Second Meeting of the Conference of the Parties, Australia submitted for discussion a document on the subject of the impact of the Convention on non-listed wildlife. After some debate, Australia agreed to withdraw the paper and reconsider the matter for the next meeting.

During the debate at the Second Meeting it became apparent that there was a strong divergence of opinion between the Parties on the interpretation of the Convention with regard to the exploitation of wild species for products and derivatives. Two views can be summarized thus—

CITES provides:

(i) A mechanism whereby international trade in wildlife may be steadily reduced, and eventually stopped altogether, and

(ii) A mechanism to enable the rational use of wildlife as a sustainable and renewable resource.

Australia notes that the World Conservation Strategy published by I.U.C.N., U.N.E.P., and the W.W.F. contains the view that CITES provides a method by which regulation of international trade in wild plants and animals may be achieved.

Australia also notes that in the World Conservation Strategy, conservation is defined as "the management for human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations."

Australia urges Convention Parties to consider the objectives of the Convention with regard to the exploitation of wild species in international trade and to choose between the options in paragraph 2. The choice is necessary as the decision will have a significant impact on the manner in which parties interpret and implement the Convention.

Australia wishes to bring to the attention of Convention Parties Agenda Items[1] which is related to this question. The adoption of reverse listing would be consistent with the view of the World Conservation Strategy about the rational human use of wildlife.

Australia notes that it would also be consistent with the World Conservation Strategy for a Convention Party to permit the export and import of commercially exploited wildlife only when the species was taken under a scientifically controlled management program (see Agenda Item[2]).

Taken together, these ANPWS proposals express a concern that CITES is not effectively controlling trade in wild species. The Service believes that the ANPWS proposal to establish a technical expert committee to upgrade present species management programs could provide, if its mandate were somewhat expanded, an appropriate tool to address proposals directed at developing methods for more effectively controlling trade in wild species. Such a committee could consider the reverse listing of the Appendices, restrictions on trade with nonparty countries, as well as ways to improve the administration of Article IV.3.

The Service has decided that it was premature to raise the issue of non-trade with non-Parties in the format of a draft resolution, as a separate agenda item. Several interests, both inside and outside the government, were concerned that a proposal to cut off trade with non-Parties would have serious effects on legitimate trade, especially if all the complexities of such a proposal were not worked out in advance.

The Service believes that the Australian proposal, or other existing agenda items, would offer an opportunity to express our concerns about the effects of trading with non-Parties while leaving flexibility to find the best avenue for further work on the issue.

In light of the aforegoing, the Service will not transmit to the Secretariat a suggested provisional agenda item entitled "Trade with Nonparty Countries."

Request for Information and Comments

In view of the high probability that the issue of methods for the more effective control of trade in specimens of wild species will be raised at the New Delhi meeting, the Service requests information and comments on such issue especially with regard to the three Australian proposals set forth above for the purpose of developing a proposed negotiating position.

Possible Change of New Delhi Meeting Dates

Previous notices have stated that the third regular meeting of the Conference of the Parties to CITES would be held in New Delhi, India on February 2–13, 1981. The Service has recently been informed that the dates of the meeting may be changed to February 16–27, 1981 due to a time conflict with another international meeting. The Service is awaiting confirmation of this change from the CITES Secretariat, and will publish another notice regarding dates of the meeting after receipt of such confirmation.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: October 30, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-34481 Filed 11-7-80; 8:45 am]

BILLING CODE 4310-55-M

[1] Note—Refers to "Reverse Listing Concept for CITES Appendices."

[2] Note—Refers to "Regulation of Trade in Appendix II Wildlife."

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-83F)]

Burlington Northern Inc.—Abandonment—Between Hastings and Randolph, IA; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 3, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of a line of railroad known as the Hastings to Randolph line extending from railroad milepost 0.17 near Hastings, IA, to railroad milepost 11.79 at the end of the line near Randolph, IA, a distance of 11.62 miles, in Mills and Fremont Counties, IA. A certificate of public convenience and necessity permitting the abandonment was issued to the Burlington Northern Inc. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than November 20, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[F Doc. 80-34931 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388]

State Intrastate Rail Rate Authority—Pub. L. 96-448

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing requirement and procedures for State exercise of jurisdiction over intrastate rail rates.

SUMMARY: To exercise jurisdiction over intrastate railroad rates, State authorities are required by the Staggers Rail Act of 1980 to submit, for ICC approval, standards and procedures consistent with the new legislation. This notice directs the filing of these proposals and explains the standard of ICC review.

DATE: Proposals are due January 29, 1981. No extensions are permitted.

ADDRESS: An original and six copies of the proposal, signed by an authorized State official, should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 275-7693 or Martin Zell (202) 275-7138.

SUPPLEMENTARY INFORMATION: The Staggers Rail Act of 1980 amends 49 U.S.C. § 11501 to require that a State authority may only exercise jurisdiction over intrastate railroad rates exclusively in accordance with the Interstate Commerce Act, as amended. The new law also prohibits the exercise of jurisdiction by State authorities over general rate increases under 49 U.S.C. § 10706, inflation based rate increases under 49 U.S.C. § 10712 or fuel adjustment surcharges which we may authorize.

The new law requires that, on or before January 29, 1981, each State authority wishing to exercise jurisdiction over intrastate rail rates, classifications, rules, and practices shall submit to the ICC for approval standards and procedures (including timing requirements) consistent with this legislation. The same process must be repeated every five years. During each five-year period, State standards may not be changed without notifying the ICC and receiving our approval.

We do not anticipate that this certification procedure will be a difficult one. We do not expect State authorities to submit unnecessarily detailed or complicated proposals reiterating the provisions of the statute. We merely wish to receive sufficient information to conclude that the State authority intends to exercise jurisdiction consistent with the law, and to do so in a timely fashion.

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

A copy of this notice will be served on the Governors, Public Service Commissions and the Transportation Committees in the legislatures of each State. It will also be available for inspection in the Office of the Secretary, Interstate Commerce Commission.

Dated: November 3, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34928 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29484]

Trans-Con Services, Inc.—Purchase (Portion)—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) in Arkansas and Louisiana

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application of Trans-Con Services, Inc. (Trans-Con) to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) located in Louisiana and Arkansas. The Commission is also setting a schedule for the proceeding so that a recommendation on the application may be issued by December 24, 1980.

DATES: (1) Verified statements supporting or opposing the application are due November 26, 1980.

(2) Verified statements from the United States Secretary of Transportation and the Attorney General of the United States are due December 2, 1980.

(3) Verified replies in support or opposition are due December 11, 1980.

ADDRESSES: An original and 5 copies of all statements should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423, Attention RITEA acquisitions.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7026.

SUPPLEMENTAL INFORMATION: Trans-Con filed an application on September 15, 1980, as subsequently supplemented, under section 17(b) of the Milwaukee Railroad Restructuing Act, Pub. L. 96-101, 93 Stat. 736 (1979) and section 112 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (1980) (RITEA) for authority to purchase about 195 miles of trackage and right-of-way from the Rock Island in Louisiana and Arkansas. The application will be handled under the rules adopted in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980), 45 FR 6107 (January 25, 1980).

The properties to be acquired are:

V 45 N 0 10 0 80 UMI

(1) Trackage rights over the Louisiana & Arkansas Railway from Alexandria to Winnfield, LA, which would include the Rock Island yard at Alexandria, LA; and

(2) Trackage and right of way from Winnfield, LA, to Fordyce, AR, including all real estate between Winfield and Fordyce, which would include Rock Island yard and facilities at El Dorado, AR, and all trackage and real estate at Fordyce, AR.

Trans-Con has requested a waiver of the information required by 49 CFR 1111.21(a)(3)(ii), 1111.21(a)(3)(iii), and 1111.21(a)(3)(vii), and 1111.21(a)(3)(viii). These regulations pertain to the filing of (1) the agreement to purchase, (2) the Court order approving the agreement, and (3) impacts on railway labor and energy data. The waiver is requested because the information is not readily available.

Preliminarily, we note that under 49 CFR 1111.25(b)(7) (1) and (2), an application must be accepted or rejected no later than 10 days after the date of filing. Although Trans-Con filed its application on September 15, 1980, the application was substantially supplemented thereafter. We are waiving the above requirement in this instance because of the considerable public interest in considering proposals to acquire Rock Island property.

Due to the time constraints imposed by RITEA and the complexity of the arrangements that are not yet agreed upon, applicant did not submit all the information required by our rules. Temporary waivers for similar information were approved in advance in other applications. Since this applicant is similarly situated to those applicants, Trans-Con is granted until November 26, 1980 to either submit the information required in 49 CFR 1111.21(a)(3)(ii), (iii), and (vii) or explain why it cannot be submitted as of that date. In all other regards, we find the application to be in substantial compliance with the information required by our rules. Since Section 113 of RITEA obviates the need for additional energy data, applicant need not submit further information under 49 CFR 1111.21(a)(3)(viii).

Order No. 32 of the United States District Court for the Northern District of Illinois Eastern Division requires our decision in this proceeding by December 24, 1980.

Accordingly, the above schedule will apply to this proceeding. A copy of all comments should be served upon applicant's representative: J. H. Brown, President, Trans-Con Services, Inc., P.O. Box 44041, Shreveport, LA 71104.

It is ordered: 1. The application in Finance Docket No. 29484 is accepted for consideration.

2. The parties shall comply with all provisions as stated above.

3. This decision is effective on Nov. 4, 1980.

Dated: October 31, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34929 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

November 5, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. by November 25, 1980.

No. 43865, Southwestern Freight Bureau, Agent (No. B-97), new rule covering length of car applying on all traffic from or to stations in the United States covered by 233 SWFB and other individual lines tariffs. Grounds for relief—allow rail carriers to maximize efficient utilization of available equipment.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34930 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: November 4, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.3-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 4.9-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m., November 7, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

November 3, 1980 ..... 113.4¢

	Transportation performed by—			
	Owner-operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.3	2.3	4.9	[3] 2.1
Percent surcharge allowed	13.0	2.3	4.9	[4] 1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-34966 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-25770 appearing at page 56924 in the issue for Tuesday, August 26, 1980, make the following:

On page 56926, in the first column, in paragraph MC 149170 (Sub-17F) for Action Carrier, Inc., in the 14th line, "SC" should have read "SD".

BILLING CODE 1505-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-31067, appearing at page 66526 in the issue for Tuesday, October 7, 1980, make the following correction:

On page 66530, in the middle column, in the paragraph "MC 133173 (Sub-1F)", application of Armstrong Transfer and Storage Co., Inc., in the 11th line, "MJ" should have read "NJ".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commision's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 26, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foeign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3-060

Decided: October 28, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 145974 (Sub-10F), filed October 16, 1980. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Volume No. OP4-114

Decided: October 31, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 146646 (Sub-123F), filed October 23, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Bunkie, Mansura Junction, Hamburg, Simmesport, and Lettsworth, LA on the one hand, and on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Volume No. OP5-045

Decided: October 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 131019F, filed September 9, 1980, previously noticed in the **Federal Register** issue of October 2, 1980. Applicant: ALTUS FREIGHT TRAFFIC SERVICE, INC., P.O. Box 357, Gladstone, NJ 07934. Representative: Kenneth A. Olsen (same address as applicant). To operate as a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Note.—This republication indicates the correct decision-notice.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35062 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also

consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 10, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such term, conditions of limitations as if finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before December 10, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 367

Decided: October 31, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 105566 (Sub-209F), filed September 24, 1979, previously noticed in the FR of March 14, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Office Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312. Transporting *such commodities* as are dealt in or used by manufacturers of glass containers, glassware, closures, plastic articles, chinaware, and hardware (except in bulk), between the facilities of Anchor Hocking Corporation in CA, FL, TX, IL, IN, MD, MN, NJ, OH, PA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to include the states of MD, MN, NJ, OH, and PA.

Volume No. 368

Decided: October 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 110098 (Sub-184F), filed June 4, 1980. (Republication). Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road (Box 20380), San Antonio, TX 78220. Representative: T. W. Cothern (same address as applicant). Transporting *paper and paper products, and plastic film and sheeting,* between Dallas, TX on the one hand, and, on the other, points in the United States in and west of NM, CO, WY, and MT. [Hearing site: Dallas, TX.]

Note.—This republication broadens the commodity description.

MC 123048 (Sub-445F), filed May 29, 1979, previously noticed in FR issue of December 11, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406, Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting *such commodities* as are dealt in or used by manufacturers of iron and steel articles (except commodities in bulk), between the facilities of Feralloy Corporation, at or near Birmingham, AL, on the one hand, and, on the other, points in AR, FL, GA, KY, IL, IN, IA, LA, MI, MO, MS, NC, OH, SC, TN, TX, and WI.

Note.—This republication changes Birmingham, IL, to Birmingham, AL.

MC 134519 (Sub-2F), filed June 19, 1980. Applicant: KNOXVILLE TOURS, INC., 5833 Clinton Highway, Knoxville, TN 37912. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Transporting *passengers and their baggage,* in charter operations, beginning and ending at points in Knox and Anderson Counties, TN, and extending to points in the U.S., (including AK and excluding HI).

MC 144883 (Sub-9F), filed June 18, 1979, previously noticed in FR issues of February 20, 1980 and May 29, 1980. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 92 East Main Street, Somerville, NJ 08876. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. *Contract carrier,* transporting *such commodities* as are dealt in by retail drug stores and cigar stores, (except commodities in bulk and foodstuffs) (1) from the facilities of Beecham Products Company at Rockwood, MI to Clifton, NJ, Morrisville (Bucks County) PA, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, (2) from the facilities of Beecham Products Company at Clifton, NJ to Rockwood, MI, Morrisville (Bucks County) PA, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, and (3) from the facilities of Beecham Products Company at Morrisville (Bucks County) PA to Rockwood, MI, Clifton, NJ, Los Angeles, CA, Denver, CO, Savannah, GA, Chicago, IL, Kansas City, MO, Milwaukie, OR, Memphis, TN, and Dallas, TX, under continuing contract(s) with Beecham Products Company, of Pittsburgh, PA. (Hearing site: Washington, DC.)

Note.—This republication corrects the commodity description.

Volume No. 369

Decided: October 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 148089F filed August 9, 1979, published in FR issues February 20, 1980 and April 8, 1980. Applicant: MASONRY TRANSPORT, INC., 3211 North Roan Street, Johnson City, TN 37601. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Contract carrier* transporting *Such commodities as are dealt in or used by manufacturers and distributors of clay, clay products, concrete, concrete products, shale, shale products, construction materials, mortar mixes, sand, and cinders,* between the facilities of General Shale Products Corporation, at or near (a) Huntsville, AL, (b) Indianapolis and Evansville, IN, (c) Louisville, KY, Chattanooga, Elizabethton, Johnson City, Kingsport, and Knoxville, TN, and (e) Glasgow, Groseclose and Richlands, VA, and the following subsidiaries and affiliates of General Shale Products Corporation, Arkansas Lightweight Aggregate Corporation, at or near England and West Memphis, AR, Chattahoochee Brick Company, at or near Atlanta, GA, Cumberland Mountain Sand Corporation, at or near Hillsboro, TN, McMinnville Concrete Products, Inc., at or near McMinnville, TN, Smithville Concrete Company, at or near Smithville, TN, Sparta Concrete Company, at or near Sparta, TN, and Woodbury Concrete Company, at or near Woodbury, TN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK and TX, under continuing contract(s) with General Shale Products Corporation of Johnson City, TN, and the following subsidiaries and affiliates of (1) above, (2) Arkansas Lightweight Aggregate Corporation of West Memphis, AR, (3) Chattahoochee Brick Company of Atlanta, GA, (4) Cumberland Mountain Sand Corporation of Hillsboro, TN, (5) McMinnville Concrete Products, Inc., of McMinnville, TN, (6) Smithville Concrete Company of Smithville, TN, (7) Sparta Concrete Company of Sparta, TN, and (8) Woodbury Concrete Company of Woodbury, TN.

Note.—This republication adds Sparta Concrete Company to the list of subsidiaries and affiliates, and shows the correct location for Smithville Concrete Company.

MC 148149F, filed August 24, 1979. Applicant: INDUSTRIAL TRUCKING CO., INC., 382 Newbury Street, Danvers, MA 01923. Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109. Transporting *chemicals,* (1) between Peabody, Beverly, and Salem, MA, on the one hand, and, on the other, points in ME and New York, NY, (2) From Peabody, Beverly and Salem, MA to points in RI, NH, VT, NY, NJ and CT, and (3) from points in NJ to points in MA, NH, RI and CT. Condition: Prior or coincidental cancellation, at applicant's written request, of its certificate of registration in MC 98049 (Sub-1).

Volume No. 370

Decided October 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 146128 (Sub-10F) (republication), filed April 18, 1980. Applicant: MERRITT FOODS COMPANY, a corporation, d.b.a. MERRITT REFRIGERATED SERVICE, 2840 Guinotte Street, Kansas City, MO 64120. Representative: Authur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), from the facilities of Adams Transfer & Storage Co., and Mid-West Terminal Warehouse Co., at Kansas City, MO, to points in KS.

Note.—This republication broadens the territorial description as published July 15, 1980.

MC 147179 (Sub-2F), filed May 7, 1979. Applicant: JET SERVICES, INC., 1946 South First St., Milwaukee, WI 53204. Representative: William C. Dineen, 710 N. Plankirton Ave., Milwaukee, WI 53203. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers or trailers having an immediately prior or subsequent movement by rail or water, between Chicago, IL, and Milwaukee, WI.

MC 148569 (Sub-2F), filed September 17, 1979. Applicant: JAMES BRUCE LEE & STANLEY LEE, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, 837 East 162nd St., South Holland, IL 60473. Transporting (1) *iron and steel hot rolled bars,* from the facilities of Wisconsin Steel, at Chicago, IL, to Anderson, Muncie, New Castle, and Indianapolis, IN, and Maryville, MO; (2) *iron and steel plate and sheet,* from Birmingham, AL, Gary, IN, Dearborn and Detroit, MI, Akron, Cleveland, Dayton, Toledo, and Youngstown, OH, and Monaca and Pittsburgh, PA, to the facilities of Pittsburgh-International Division of Pittsburgh Tube Company, at or near Fairbury, IL; (3) *wrought steel pipe,* from the facilities of Pittsburgh-International Division of Pittsburgh Tube Company, at or near Fairbury, IL, to Alabaster, Athens, Birmingham, Fairfield, Greenville, Jackson, Montgomery, and Winfield, AL, Jacksonville, Jonesboro, Little Rock, Pine Bluff, and Trumann, AR, Boulder and Denver, CO, Bridgeport, Hartford and New Haven, CT, Ashburn, Atlanta, Augusta, Dacula, Dalton, Forest Park and Monticello, GA, Cherryvale, Hutchinson, McPherson, Newton, Parsons, and Wichita, KS, Oakdale, LA, Baltimore, MD, Boston, Cambridge, Chelsea, Fall River, Holyoke, Malden, and Marlboro, MA, Minneapolis, Morris, Renville, and Winona, MN, Greenwood, Indianola, Tupelo, and Vicksburg, MS, Beatrice, Fremont, Hastings, Holdrege, Omaha and Valley, NE, Henderson, NV, Cedar Grove and Newark, NJ, Buffalo, Tonawanda and Walden, NY, Charlotte, Greensboro, Lewiston and Rocky Mount, NC, Newburgh, ND, Chickasha, Claremore, El Reno, Oklahoma City, and Tulsa, OK, Bala-Cynwyd, Butler, Camp Hill, Carnegie, Easton, Linesville, Monaca, Pine Grove, Pittsburgh, Ridgway, Tarentum, York and Zelienople, PA, Slatersville and Warwick, RI, Belton, Lyman, and Pawleys, SC, Brownsville, Dallas, Grand Prairie, Greenville, Houston, and Jasper, TX, Bridgewater and Richmond, VA, points in Kings County, NY, points in IN, IA, KY, MO, OH, TN, WI, and those points in the Lower Peninsula of MI; (4) *wrought steel tubing,* (a) from the facilities of Aladdin Steel, Inc., at or near Gillespie, IL, to Winfield, AL,

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Harrison and Springdale, AR, Pittsburgh, KS, Detroit, Holland, Temperance, Romulus, and Ludington, MI, Albert Lea, Mora, and St. Paul, MN, Wyoming, NY, Columbus, Holland and Youngstown, OH, Chickasha and Healdton, OK, Montgomeryville and Paradise, PA, Maryville, TN, Boyd and Houston, TX, Charleston, WV, Eau Claire, WI, and points in IN, IA, KY, MO, NE, and SD, and (b) from Chicago, IL, and the facilities of (i) Charles E. Kline Company, at or near Warren, OH, (ii) Miami Industries, at Piqua, OH, (iii) Republic Steel at Ferndale, MI, (iv) Republic Steel and Roth Steel Tube, at Cleveland and Toledo, OH, (v) U.S. Metal Company, at or near Sharon, PA, and (vi) Pittsburgh-International, at or near Fairbury, IL, to the facilities of Aladdin Steel, Inc., at or near Gillespie, IL; (5) *pulpboard, fibreboard, leather and leather by-products,* and *materials, equipment, and supplies* used in the manufacture and distribution of pulpboard (except commodities in bulk), (a) between Bridgewater, MA, on the one hand, and, on the other, Hanover, Westfield and Akron, PA, Bonne Terre, Belle and St. Louis, MO, and Madison, IN, and (b) from Bridgewater, MA, to Franklin, TN, Flowery Branch, GA, and Luray, VA, restricted in (5)(a) and (b) to traffic originating at or destined to the facilities of Jenkins Products Corp. at Bridgewater, MA; (6) (a) *grain bins, storage tanks, fans, heaters, augers, dryers, pre-engineered steel buildings, greenhouses, and parts and accessories* for the aforementioned commodities from the facilities of Superior Equipment Manufacturing Co., at Mattoon, IL, to points in the U.S. (except AK and HI), and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (6)(a) above (except commodities in bulk), from St. Louis, MO, Detroit, and Grand Rapids, MI, Alton, Marengo, Hennepin and Chicago, IL, Houston, TX, Scottsburg and Sheffield, IA, Cleveland, TN, Redwing, MN, Valley, NE, Indianapolis, and Elwood, IN, Sharon, PA, Fort Smith, AR, and Dodge City, KS, to the facilities of Superior Equipment Manufacturing Co., at Mattoon, IL; (7)(a) *pulpboard, fiberboard, and leatherboard,* from the facilities of Robus Products Corporation, at Madison, IN, to Bridgewater, MA, Milwaukee, WI, Franklin, TN, St. Louis and Cape Girardeau, MO, and Hanover, PA, and (b) *offal, hide trimmings or pieces, chrome, or leather scrap, and tannery by-products,* from Milwaukee, WI, Boone Terre and Cape Girardeau, MO, Hanover, PA, Salem, MA, and Nashville, TN, to the facilities of Robus Products Corporation, at Madison, IN; (8) *magazines, magazine parts, printed paper, and printed inserts,* (a) from Pontiac, IL, to Milwaukee, New Berlin and Waukesha, WI, New York, NY, Fairview, Vineland and Trenton, NJ, Bridgeport, New Britain, North Haven, and Bristol, CT, Indianapolis, IN, Des Moines, Meredith and Mt. Pleasant, IA, Dayton, OH, Waseco, MN, Hialeah, FL, and Livonia, MI, and (b) from Bristol, CT, to Pontiac, Crystal Lake, Effingham, Bloomington and Chicago, IL, restricted in (8)(a) and (b) above to traffic originating at and destined to the facilities of City National Printing CO, (9) *printing paper* (other than newspaper or carbonized), (a) from Niagara Falls and Corinth, NY, Luke, MD, Millinocket, ME, Catawba, SC, and Biron, WI, to Pontiac, IL and Bristol, CT, and (b) between Pontiac, IL and Bristol, CT; (10) *magazines, magazine parts, printed paper and printed inserts* (other than newsprint or carbonized articles), from the facilities of City National Printing Co., at Pontiac, IL, to Jonesboro and Little Rock, AR, Old Saybrook, CT, Atlanta, GA, Yorktown, IN, Kansas City and Lawrence, KS, Detroit, MI, Oakland, CA, Minneapolis, MN, St. Louis, MO, Carlstadt and Hackensack, NJ, Akron and Cleveland, OH, Philadelphia, PA, Dallas, TX, Springfield, VA, Elkhorn, Madison, and Pewaukee, WI, and points in Nassau, Suffolk, Queens and Kings Counties, NY; and (11) *shoe heels,* and *materials, equipment and supplies* used in the manufacture and distribution of shoe heels, (a) between Pontiac, IL and Nashville, TN, and (b) between Pontiac, IL and Nashville, TN, on the one hand, and, on the other, Peoria, Chicago, Dixon, and Litchfield, IL, Indianapolis and Madison, IN, South Paris and Bar Mills, ME, Bridgewater, Brockton, and Boston, MA, St. Louis, Wright City, Piedmont, and Boone Terre, MO, Buffalo, NY, Hazelton and Pittsburgh, PA, Clarksville, Chattanooga, and Wartrace, TN, Dallas, Fort Worth, El Paso, Houston, Nocona, Hereford, and Plainview, TX, Pearlsburg, Luray, and Norfolk, VA, Marlinton, WV, and Milwaukee and Beloit, WI. Condition: Issuance of a certificate is subject to the prior or coincidental cancellation, at applicant's written request, of outstanding permits in MC–136848 Subs 1, 5, 7, 9, 11, 13, 15, 17, 18, 19F, 21F, 22F, and 24F, issued July 22, 1974, July 12, 1976, June 15, 1976, June 3, 1977, December 9, 1977, September 16, 1977, November 8, 1978, August 6, 1979, March 27, 1979, March 14, 1979, August 3, 1979, April 10, 1980, and April 4, 1980, respectively, and dismissal of its pending contract carrier application in MC–136848 Sub 23F.

Note.—The purpose of this application is to convert contract carrier authority to common carrier authority.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35064 Filed 11-7-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the forms of verified statements filed on or before December 26, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Liberman and Eaton.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–063

Decided: November 3, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 59241 (Sub-11F), filed October 28, 1980. Applicant: JOHN GIBBONS, INC., 1400 Industrial Hwy., Eddystone, PA 19013. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1500 K Street, NW., Washington, DC 20005. Transporting (1) *paper and paper products* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Delaware, Philadelphia, and Bucks Counties, PA, on the one hand, and, on the other, points in RI, CT, MA, NH, VT, and ME, and those in NY on and east of Interstate Hwy 81.

MC 65491 (Sub-13F), filed October 28, 1980. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd Street, New York, NY 10469. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *iron and steel articles,* between New York, NY, and Wheeling, WV.

MC 150211 (Sub-3F), filed October 22, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *sheet steel laminations,* between Niles, IL, on the one hand, and, on the other, points in TN, AL, MS, and AR.

MC 152390F, filed October 10, 1980. Applicant: MURRAY TRUCKING, INC., P.O. Box 2138, Calcutta Branch, East Liverpool, OH 43920. Representative: James M. Burtch, 100 E. Broad Street, Columbus, OH 43215. Transporting (1) *clay products, and refractory products,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in Jefferson, and Columbiana Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP3–062

Decided: October 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 118535 (Sub-159F), filed September 15, 1980, previously noticed in the FR issue of October 3, 1980. Applicant: TIONA TRUCK LINE, INC., Inn Building, P.O. Drawer 312, Butler, MO 64730. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (22) (a) *animal feed,* and *animal feed ingredients* and (b) *livestock feeders* and *livestock feeder parts,* (i) from Rogers, MN, to points in AR, CO, IL, IN, KS, KY, LA, MS, MO, NM, NE, ND, OK, SD, TN, TX, and WI, and (ii) from Minneapolis, MN, to points in AR, CO, IL, IN, KS, KY, LA, MS, MO, NM, NE, ND, OK, SD, TN, TX, and WI; (24) *dry corn products,* from Kansas City, MO, to points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, NE, NM, ND, OH, OK, SD, TN, TX, and WI; and (39) *lead, lead alloys, and lead by-products,* from the facilities used by Schuylkill Metals Corp., near Forest City, MO, to points in AZ, AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, NE, NM, ND, OK, SD, TN, TX, and WI.

Note.—This partial republication correctly states the territorial description.

Volume No. OP4–116

Decided: October 31, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 29886 (Sub-377F), filed October 2, 1980, previously noticed in the **Federal Register** issue of October 15, 1980, and republished this issue. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314–39th Ave., Kenosha, WI 53142. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, D.C. 20005. Transporting (1) *trucks and truck chassis,* in secondary movement, in truckaway service, and (2) *parts, equipment, and supplies* for the commodities in (1) above, between Chesapeake and Portsmouth, VA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to correctly state the commodity description.

MC 126736 (Sub-138F), filed October 2, 1980, previously noticed in the **Federal Register** issue of October 16, 1980, and republished this issue. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., Jacksonville, FL 32202. Transporting (1) *commodities* in bulk, and (2) *commodities* in dump vehicles, between points in the U.S.

Note.—The purpose of this republication is to correctly state the commodity description.

Volume No. OP5–046

Decided: October 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 151968 (Sub-1F), filed October 14, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, a Corporation, 10700 Lyndale Ave., South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting (1) *chain saws; snow throwers; and garden, lawn, turf, and golf course care equipment;* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and installation of the commodities in (1) above, between points in the U.S., under continuing contract(s) with The Toro Company, of Minneapolis, MN. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP5–047

Decided: October 29, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 97119 (Sub-3F), filed September 5, 1980, previously noticed in **Federal Register** issue of October 2, 1980. Applicant: MERCHANT TRANSPORT, INC., 5409 Georgia Ave., West Palm Beach, FL 33405. Representative: Norman J. Bolinger, 3100 University Blvd. S., Suite 225, Jacksonville, FL 32216. Transporting (1) *iron and steel articles,* (2) *concrete forming systems,* and (3) *commodities* requiring special equipment, (except those in (1) and (2) above, and oil field equipment and supplies), between points in FL.

Note.—This republication clarifies the commodity description. Applicant seeks to convert its Certificate of Registration MC 97119 to a Certificate of Public Convenience and Necessity.

MC 99439 (Sub-16F), filed October 3, 1980. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st St., Jacksonville, FL 32203. Representative: Norman J. Bolinger, 3100 University Blvd. S., Suite 225, Jacksonville, FL 32216. Transporting *commodities* requiring the use of special equipment, between points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MD, MS, MO, NE, NY, NC, OK, PA, SC, TN, TX, VA, and WV.

Note.—The person or persons who appear to be engaged in common control with

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applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 144599 (Sub-7F), filed September 9, 1980, previously noticed in **Federal Register** issue of October 2, 1980. Applicant: TRANSFER, INC., 4750 Kentucky Ave., Indianapolis, IN 46241. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of Trans-City Terminal warehouse, Inc., at points in Marion County, IN, on the one hand, and, on the other, points in AR, GA, IL, IN, KY, MI, MO, NJ, OH, PA, TN, TX, WV, WI, and VA.

Note.—This republication adds VA to the territory description.

Volume No. OP5–048

Decided: October 29, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier, and Hill.

FF 448 (Sub-2F), filed October 8, 1980. Applicant: INTERMODAL CONTAINER EXPRESS, INC., One Appletree Square, Bloomington, MN 55420. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, D.C. 20036. To operate as a *freight forwarder*, in interstate commerce, in the transportation of general commodities (except household goods as defined by the Commission, and classes A and B explosives), between points in IA, MN, ND, SD, WI, on the one hand, and, on the other, points in the U.S.

MC 113678 (Sub-892F), filed August 28, 1980, previously noticed in **Federal Register** issue of September 23, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *general commodities* (except household goods and classes A and B explosives), from points in Hudson County, NJ, and Philadelphia County, PA, to points in Los Angeles and San Francisco Counties, CA, Denver County, CO, Dade, Duval, Hillsborough, and Orange Counties, FL, Washoe County, NV, Clackamas, Multnomah, and Washington Counties, OR, Salt Lake County, UT, King County, WA and Los Angeles and San Francisco, CA, Denver, CO, Jacksonville, Miami, Orlando, and Tampa, FL, Portland, OR, Salt Lake City, UT, and Seattle, WA, and points in TX

Note.—This republication changes the commodity description and broadens the territorial description.

MC 117999 (Sub-8F), filed September 19, 1980, previously noticed in **Federal Register** issue of October 14, 1980. Applicant: TOM GALLO, P.O. Box 151, Ticonderoga, NY 12883. Representative: W. Norman Charles, P.O. Box 724, Glen Falls, NY 12801. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, DE, MD, MA, ME, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to traffic originating at or destined to the facilities of International Paper Company. Condition: Prior or coincidental cancellation, at applicant's written request, of its authority in MC–117999 Sub 6F.

Note.—This republication adds ME to the territory description.

MC 130998F, filed August 26, 1980, previously noticed in **Federal Register** issue of September 23, 1980. Applicant: TRIPP ASSOCIATED LTD. 99 Pleasant Street, Northampton, MA 01060. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. To engage in operations as a *broker*, at Northampton, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in CT, MA, NE, NH, VT, RI, and DC, and extending to points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–35083 Filed 11–7–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–70

The following applications were filed in region 1.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, room 501, Boston, MA 02114.

MC 152138 (Sub-1–1TA), filed October 27, 1980. Applicant: D & J TRANSPORTATION SPECIALISTS, INC., Truckstop 7, 107 7th North Street, Liverpool, NY 13088. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Waste and hazardous waste for destruction or disposal only*, between points in the US. Supporting shipper: Cecos International, P.O. Box 619, Niagara Falls, NY 14302.

MC 114896 (Sub-1–8TA), filed October 27, 1980. Applicant: PUROLATOR ARMORED INC., 255 Old New Brunswick Road, Piscataway, NJ 08854. Representative: Carl T. Kessler, 255 Old New Brunswick Road, Piscataway, NJ 08854. *Contract carrier:* irregular routes: *Articles of unusual value*, from Chicago, IL to Cleveland, OH; Detroit, MI; New Haven, CT; San Francisco, CA; Denver, CO; Cincinnati, OH; Omaha, NE; Indianapolis, IN; Albany, NY; Seattle, WA; Silver Spring, MD; Cockeysville, MD; Richmond, VA; Charleston, WV; Atlanta, GA; Little Rock, AR; Topeka, KS; Kansas City, MO; Oklahoma City, OK; Dallas, TX; Fort Worth, TX; Houston, TX; San Antonio, TX; Boston, MA; Milwaukee, WI and Durham, NC. Supporting shipper: American Telephone & Telegraph Company, 195 Broadway, New York, NY 10007.

MC 152248 (Sub-1–1TA), filed October 27, 1980. Applicant: JEN-CHARTER, INC., 4 Gravin Street, Coram, NY 11727. Representative: Deborah Laper, 4 Gravin Street, Coram, NY 11727. *Contract carrier:* irregular routes: *Bulk coal in dump trailers* from Bethlehem, PA to St. James, NY. Supporting shipper: Falk Coal & Oil Co., 944 Middle Country Rd., St. James, NY 11780.

MC 143127 (Sub-1–22TA) (republication), filed September 25, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *(1) Such commodities as are dealt in by grocery and food business houses (except in bulk) and, (2) materials, supplies and equipment used in the manufacture and distribution of commodities in (1) (except in bulk)*, between Cattaraugus, Genesee, Livingston, Orleans and Seneca Counties, NY, on the one hand, and, on the other, points in the US in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Curtice-Burns, Inc., Lent Ave., LeRoy, NY 14482.

MC 152173 (Sub-1–1TA), filed October 27, 1980. Applicant: TONAWANDA TANK TRANSPORT SERVICE INC., 1140 Military Road, Buffalo, NY 14217. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Hazardous waste and toxic materials;* between all points in the US. Supporting shipper: Frontier Chemical Waste Process, Inc., 4626 Royal Avenue, Niagara Falls, NY 14303.

MC 148431 (Sub-1–1TA), filed October 27, 1980. Applicant: WESTCHESTER FURNITURE DELIVERY, INC., P.O. Box 392, Milford, CT 06460. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *New furniture*, between New York, NY and Milford, CT, on the one hand, and, on the other, points in MI and IN. Applicant intends to tack this authority with its existing operating rights at Milford, CT to service New England and Middle Atlantic points. Supporting shipper(s): Art Steel company, Inc., 170 West 233rd St., Bronx, NY 10463; Herman Miller, Inc., 8500 Bryan Rd., Zeeland, MI 49464; Kimball Office Furniture, Division of Kimball International, P.O. Box 460, Jasper, IN 47546.

MC 55898 (Sub-1–2TA), filed October 29, 1980. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Representative: David M. Marshall, Marshall and Marshall, 102 State Street, Suite 304, Springfield, MA 01103. *Construction materials and supplies* from Kewanee, IL, Gales Ferry, CT, Carteret, NJ, Baltimore, MD, Wilmington, DE, Steelton and Milton, PA, Rouses Points and Auburn, NY, and Highgate Springs, VT, to the facilities of K-Ross Building Supply Center, Inc. at or near Lebanon, NH. Supporting shipper: K-Ross Building Supply Center, Inc., Box 436, Lebanon, NH 03766.

MC 149511 (Sub-1–2TA), (Republication), filed September 10, 1980. Applicant: COASTAL REFRIGERATION, INC., 27 Lillibridge Drive, East Greenwich, RI 02818. Representative: Mary E. Kelley, Esq., 22 Stearns Avenue, Medford, MA 02155. *General commodities, (usual exceptions)* (1) between points in Morris, Passaic, Middlesex, Bergin, Hudson, Essex, Union, Somerset, Mercer, and Monmouth Counties, NJ; New York City, Cohoes and Albany, NY; and Nassau, Suffolk and Westchester Counties, NY, on the one hand, and, on the other, points in CT and MA; (2) between points in MA and CT. Supporting shippers: There are 6 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA. The sole purpose of this is to add Westchester County, NY, after Suffolk County omitted from Federal Register, Volume 45, No. 190, September 29, 1980, Page 64276.

MC 71593 (Sub-1–14TA), filed October 24, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson, 1608 E. Second Street, Scotch Plains, NJ 07076. *General commodities (except household goods as defined by the Commission and Class A and B explosives)*, between St. Gabriel and Baton Rouge, LA, McIntosh and Mobile, AL, Memphis and Millington, TN, on the one hand, and, on the other, points in the U.S. Supporting shipper: Ciba-Geigy Corp., 444 Saw Mill River Road, Ardsley, NY 10502.

MC 143445 (Sub-1–5TA), filed October 24, 1980. Applicant: MMAR TRANSPORTATION, INC., 128 Pennsylvania St., Kearny, NJ 07032. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Meat, meat products and packinghouse products*, from the facilities of Geldin Meat Company at or near Los Angeles, CA to points in the U.S. Supporting shipper: Geldin Meat Co., Inc., 2677 East Vernon Ave., Los Angeles, CA 90058.

MC 108006 (Sub-1–1TA), filed October 24, 1980. Applicant: MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, LaSalle, Quebec H8N 1X4. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between Detroit and Port Huron, MI, on the one hand, and, on the other, ports of entry on the US–CD boundary line at or near Detroit and Port Huron, MI. Applicant states that the purpose of the application is to utilize the Michigan ports of entry in lieu of Buffalo, NY, in connection with its Ontario authority. Supporting shipper: Maislin Transport, Ltd., 7401 Newman Blvd., LaSalle, Quebec, CD H8N 1X4.

MC 152404 (Sub-1–1TA), filed October 28, 1980. Applicant: DEL SORDO TRUCKING, 7 Summer Street, Fairhaven, MA 02719. Representative: William F. Polle, 41 Bea Drive, North Kingstown, RI 02852. *Carpet, carpet pads, floor coverings, supplies and related accessory items*, from points in GA, NC, SC, on the one hand, and, on the other, to points in CT, MA, ME, NH, RI, VT. Supporting shipper(s): There are nine statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 112107 (Sub-1–1TA), filed October 28, 1980. Applicant: NEW ENGLAND MOTOR FREIGHT, INC., 454 Main Ave., Wallington, NJ 07057. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Footwear, advertising displays, and accessories and supplies used in retail shoe stores* between Lebanon, NJ, on the one hand, and on the other, points in MA, RI, and CT. Supporting shipper: Meldisco Division of Melville Corp., 401 Hacksack Ave., Hackensack, NJ 07601.

MC 22675 (Sub-1–2TA), filed October 28, 1980. Applicant: ALLSTATES VAN LINES CORP., 53–13 97th Place, Corona, NY 11368. Representative: Robert J. Gallagher, Esq., Suite 1112, 1000 Connecticut Avenue, NW., Washington, DC 20036. *Household goods, as defined by the Commission*, between points in FL, GA, NC and VA; between the above named points on the one hand, and, on the other, points in SC, DC, MD, PA, RI, MA, ME, VT and NH; between NY, on the one hand, and, on the other, ME; between GA, on the one hand, and, on the other, NV. Supporting shipper: Allstates Worldwide Movers, Inc., 53–13 97th Place, Corona, NY 11368.

MC 2860 (Sub-1–20TA), filed October 27, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *General commodities (except Classes A & B Explosives, household goods, as defined by the Commission, and commodities in bulk)* between points in NJ and OH.

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Supporting shipper: Basco, Inc., Millvill, Millville, NJ 08332.

MC 148127 (Sub-1–11TA), filed October 27, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: Neal R. Michaud, P.O. Box 5078, Manchester, NH 03108. *Lubricants, antifreeze, chemicals and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities* from Lowell, MA to points in the U.S. (except CT, MA, ME, NH and RI). Supporting shipper: Commonwealth Chemical Corp., 24 Payton Street, Lowell, MA 01852.

MC 150463 (Sub-1–2TA), filed October 27, 1980. Applicant: ROETHEL COACH LINES, INC., 515 Ford Street, Ogdensburg, NY 13669. Representative: Thomas G. Roethel, 515 Ford Street, Ogdensburg, NY 13669. *Passengers and baggage in charter and special operations* between Ogdensburg, NY on the one hand, and, on the other, the US/CD border crossings at Ogdensburg, Massena, Alexandria Bay, Niagara Falls, Trout River, and Champlain, NY. Supporting shipper(s): WYBG, Main & W. Orvis St., Flanders Inn, Massena, NY 13662; Executives Drum & Bugle Corps, 916 Lafayette St., Ogdensburg, NY 13669; City of Ogdensburg—Recreation Department, Community Center, Ogdensburg, NY 13669; Ogdensburg City School District—Athletic Department, 1100 State Street, Ogdensburg, NY 13669; Enlarged Ogdensburg City School District, 110 State Street, Ogdensburg, NY 13669.

MC 52579 (Sub-1–4TA), filed October 27, 1980. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. *Wearing apparel, hanging loose and in cartons* from Greer, SC to Columbus, OH and Wilmington, DE. Supporting shipper: Sears, Roebuck and Co., Sears Tower, Chicago, IL 60684.

MC 152205 (Sub-1–1TA), filed October 27, 1980. Applicant: CATARACT TRUCK & CAR RENTAL CORP., 2445 Allen Avenue, Niagara Falls, NY 14303. Representative: William Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Non-radioactive hazardous waste* between points east of the states of ND, SD, KS, OK, and TX. Supporting shipper: Cecos International, Inc., Niagara Falls Blvd. & Walmore Road., Niagara Falls, NY 14304.

MC 152376 (Sub-1–1TA), filed October 27, 1980. Applicant: TABLOID SHIPPERS, INC., 1101 Tonnelle Avenue, North Bergen, NJ 07047. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. *Printed matter* between points in the US. Supporting shippers: There are six statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 143445 (Sub-1–6TA), filed October 24, 1980. Applicant: MMAR TRANSPORTATION, INC., 128 Pennsylvania Street, Kearny, NJ 07032. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *General commodities (except classes A & B explosives, household goods as defined by the Commission, articles of unusual value, commodities in bulk, and those requiring special equipment),* between points in NY, CT and MA, on the one hand, and, on the other, points in CA, CO, FL, GA, IL, MI, MN, OH, OR, TX and WA, restricted to traffic moving on bills of lading of Charter Oak Shippers Cooperative Association, Inc. Supporting shipper: The Charter Oak Shippers Association, Inc., One Parkland Drive, Box 1147, Darien, CT 06820.

MC 148560 (Sub-1–1TA), filed October 27, 1980. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *Non-exempt foods or kindred products* between Atlanta, GA on the one hand, and, on the other, Decatur and Montgomery, AL, and their respective commercial zones, under continuing contract(s) with Family Center, Inc. Supporting shipper: Family Center, Inc., 2 Paragon Drive, Montvale, NJ 07645.

MC 2860 (Sub-1–19TA), filed October 27, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Clothing and materials, and equipment and supplies used in the manufacture, sale, and distribution thereof,* between points in Cumberland County, NJ, on the one hand, and, on the other, points in Shelby County, TN. Supporting shipper: Major Coat Co., Inc., Bridgeton Ave., Bridgeton, NJ 08302.

MC 106961 (Sub-1–2TA), filed October 29, 1980. Applicant: SPEAR TRUCKING CORP., 3 Brick Kiln Road, North Billerica, MA 01862. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. *Wearing apparel, wearing apparel accessories and materials, equipment and supplies used in the manufacture thereof,* between Jersey City, NJ on the one hand, and, on the other, Waterville, ME. Supporting shipper: Warnaco, Inc., 350 Lafayette Street, Bridgeport, CT.

MC 143250 (Sub-1–1TA), filed October 29, 1980. Applicant: WILDCAT CONSTRUCTION CO., INC., Box 145, St. Albans Bay, VT 05481. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. *Contract carrier:* irregular routes: *(1) Cheese and cheese products, (2) Alcoholic beverages, carbonated beverages, malt beverages, and other products used in processing, distribution and marketing thereof,* (1) from St. Lawrence County, NY to CT, MA, NY, NJ, DE, VA, RI, MD, ME, NH, PA, and DC, (2) between Newark, NJ and Clinton County, NY. Supporting shipper(s): Lucille Farm Products, Sonergin Drive, Swanton, VT 05488; Plattsburgh Distribution Co., Inc., 215 Sharron Ave., Plattsburgh, NY 12901.

MC 148387 (Sub-1–4TA), filed October 28, 1980. Applicant: S.M.P. INC., 166 Sitgreaves St., Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Silicon carbide bricks; (2) Abrasive grain; and (3) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) and (2) above (except commodities in bulk in tank vehicles),* between Springdale, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MI, NJ, NY, NC, OH, VA and DC. Supporting shipper: American Metallurgical Products Co., P.O. Box 171, Springdale, PA 15144.

MC 152400 (Sub-1–1TA), filed October 28, 1980. Applicant: ANDERSON TRUCK RENTAL CORP., d.b.a. ABH, RFD 1, Route 107, Kensington, NH 03827. Representative: Kenneth E. Anderson, Jr., R.F.D. 1, Route 107, Kensington, NH 03827. *Contract carrier:* irregular routes: *Plastic Material, in bulk, in tank vehicles* from the facilities of Borden Chemical, Thermoplastics Division, Leominster, MA, to points east of the Mississippi River in the US. Supporting shipper: Borden Chemical, Div. of Borden, Inc., 511 Lancaster St., Leominster, MA 01453.

MC 134806 (Sub-1–9TA), filed October 28, 1980. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract carrier:* irregular routes: *Woodenware,* from Brattleboro, VT to Denver, CO, Salt Lake City, UT, Reno, NV and to all points in CA. Supporting shipper: Cersosimo Lumber Co., Inc., R.D. No. 3, Vernon Drive, Brattleboro, VT 05301.

MC 144029 (Sub-1–3TA), filed October 30, 1980. Applicant: CUMBERLAND TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Contract carrier:* irreguar routes: *Containers, closures, paper, paper products and materials, supplies and equipment used in the manufacture, sale and distribution of containers, closures, paper and paper products,* between the facilities of International Paper Company in Ontario County, NY on the one hand, and, on the other, points in the U.S. Supporting shipper: International Paper Co., International Paper Plaza, 77 West 45th St., New York, NY 10036.

MC 152420 (Sub-1–1TA), filed October 30, 1980. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Road, Wellesley, MA 02181. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. *Such commodities as are sold in drug, chain, discount and department stores, and materials, supplies, and equipment related thereto (except commodities in bulk, in tank vehicles)* between points in ME, NH, VT, MA, RI, and CT, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK and TX. Supporting shippers: There are six statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 139225 (Sub-1–1TA), filed October 30, 1980. Applicant: INTERSTATE COURIER SYSTEMS, INC., 18 Park Place, Paramus, NJ 07652. Representative: Julius DeVito, 240 Madison Ave., New York, NY 10016. *General commodities, restricted to shipments weighing each 100 pounds or less* between points in CT, DE, ME, MA, NH, NJ, NY, OH, PA, RI, VT and WV. Supporting shipper: TRW, Inc., 60 Craig Road, Montvale, NJ 07645.

MC 145548 (Sub-1–1TA), filed October 30, 1980. Applicant: COMMUNITY TRANSIT LINES, INC., 315 Howe Ave., Passaic, NJ 07055. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Common carrier:* regular route: *Passengers and their baggage,* between junction Garden State Parkway and Interstate Hwy. 280 at East Orange, NJ, and New York, NY, serving no intermediate points: From junction Garden State Parkway and Interstate Hwy. 280 over Interstate Hwy. 280 to junction Interstate Hwy. 95, then over Interstate Hwy. 95 to junction Interstate Hwy. 495 in Secaucus, NJ, then over Interstate Hwy. 495 and the Lincoln Tunnel to New York, and return over the same route. Supporting shipper: Chamber of Commerce of the United States, 376 St. Cloud Avenue, West Orange, NJ 07052.

MC 138884 (Sub-1–1TA), filed October 29, 1980. Applicant: CONDOR CORPORATION, P.O. Box 630, Dixfield, ME 04224. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Lumber or wood products (including wood by-products), except furniture* between points in ME and NH, on the one hand, and, on the other hand, points in the U.S. (except AK and HI) pursuant to a bilaterial contract with Wilner Wood Products Co. Supporting shipper: Wilner Wood Products Co., Alpine Road, Norway, ME.

MC 22425 (Sub-1–3TA), filed October 27, 1980. Applicant: MALFIN EXPRESS, INC., 155 Lenox Street, Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *(1) Brass, copper, aluminum, and steel, and (2) products manufactured from the commodities named in (1) above (except commodities in bulk, in dump vehicles and those requiring special equipment),* between points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, VA, VT and WV. Supporting shipper: Guggenheim International, Inc., Jersey City, NJ.

MC 105843 (Sub-1–1TA), filed October 30, 1980. Applicant: VAN AUKEN EXPRESS, INC., P.O. Box 176, Greenville, NY 12083. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Springs, NY 13160. *Toilet preparations and soap* from the facilities of Stiefel Laboratories, Inc., Oak Hill, NY to Clinton, CT. Supporting shipper: Stiefel Laboratories, Inc., Oak Hill, NY 12460.

MC 133841 (Sub-1–9TA), filed October 29, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Filtering machinery, flotation machinery, and power pumps; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk in tank vehicles),* between Peapack, NJ, on the one hand, and, on the other, points in GA. Supporting shipper: Komline-Sanderson Engineering Corp., Holland Ave., Peapack, NJ 07977.

MC 52574 (Sub-1–4TA), filed October 30, 1980. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *Bedding, new furniture and materials, supplies and equipment used in the manufacture, sale and distribution of new furniture,* between Columbia, PA on the one hand, and, on the other, points in NY, NJ, MA and OH. Supporting shipper: Harris Hub Company, Inc., 15600 South Commercial Avenue, Harvey, IL 60426.

MC 151408 (Sub-1–12TA), filed October 30, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Ave., P.O. Box 288, Somerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Contract carrier:* irregular routes: *Floats, plastic and materials, supplies and equipment used in the sale, distribution and handling thereof (except materials in bulk and classes A & B explosives),* between Canton, MA on the one hand, and, on the other, all points in the US (excluding AK and HI). Supporting shipper: W. R. Grace & Co., Dewey & Almy Chemical Div., 55 Hayden Ave., Lexington, MA 02173.

MC 147074 (Sub-1–12TA), (republication), filed October 2, 1980. Applicant: E Z FREIGHT LINES, 70 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Part, NJ 08904. *Synthetic fiber* from Dillon and Spartanburg, SC to points in NC, NJ, NY, PA, RI, and VA and Greensboro, NC to NJ, NY, PA, RI, SC and VA. Supporting shipper: Titan Textile Company, Inc., and Atlas Yarn Company, Inc., 53 34th Street, Paterson, NJ 07514. Correction of Publication of October 22, 1980, on Page 70136.

MC 133526 (Sub-1–1TA), filed October 24, 1980. Applicant: DICKSON'S TRANSPORT AND COACH LINES (NAPANEE) LIMITED, 293 Dundas Street, West, Napanee, Ontario CD K7R 2B4. Representative: Herbert M. Canter, Esq., Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. *Extruded plastic door panels* from ports of entry on the International Boundary Line between the US and CD in NY, MI, and MN to Hartford City (Blackford County), IN, Grand Island (Hall County) NE, Cortland (Cortland County), NY and Lewistown (Mifflin County), PA. Supporting shipper: Kelwood Industries, Inc., 7291 Victoria Park Avenue, Unit 1, Markham, Ontario, Canada L3R 3A4.

MC 144275 (Sub-1–1TA), filed October 29, 1980. Applicant: J. K. EXPRESS, INC., P.O. Box 2508, Trenton, NJ 08690. Representative: Mel P. Booker, Jr., Hernly & Booker, P.C., 110 S. Columbus St., Alexandria, VA 22314. *Contract carrier:* irregular routes: *Food stuffs (except in bulk)* between Trenton, NJ, on the one hand, and, on the other, points

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in CT, DE, MA, ME, MD, NH, NY, NJ, PA, VA, VT and DC. Restricted to traffic originating at or destined to the facilities utilized by General Nutrition Centers, Inc., under a continuing contract(s) with General Nutrition Centers, Inc. of Pittsburgh, PA. Supporting shipper: General Nutrition Centers, Inc., 921 Penn Avenue, Pittsburgh, PA 15222.

MC 152264 (Sub-1–1TA), filed October 27, 1980. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghamton, NY 13902. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between points in MA, CT, RI, NY and PA. Supporting shipper: There are 32 statements in support of this application which may be examined at the I.C.C. Regional Office, in Boston, MA.

MC 152405 (Sub-1–1TA), filed October 29, 1980. Applicant: ESPY CARTAGE COMPANY OF NEW JERSEY, INC., 2115 69th Street, North Bergen, NJ 07047. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. *General commodities (except classes A & B explosives, cement, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* which are at the time moving on bills of lading of Acme Fast Freight, Inc. under the provisions of the Interstate Commerce Act, between points in New York, NY and its commercial zone and points in NJ. Supporting shipper: Acme Fast Freight, Inc., 201 Eleventh Avenue, New York, NY 10001.

MC 146182 (Sub-1–3TA), filed October 29, 1980. Applicant: GARY W. GRAY, P.O. Box 48, Delaware, NJ 07823. Representative: Joseph A. Keating, Jr., 121 S. Main Street, Taylor, PA 18517. *Contract carrier:* irregular routes: *Petroleum and petroleum products in bulk,* (1) from Newark, NJ to points in Carbon, Schuylkill, Lackawanna, Lehigh, Luzerne, Lycoming, Northampton and Monroe Counties, PA, and Orange & Rockland counties, NY; (2) from Delaware City, DE to Carbon, Schuylkill, Lackawanna, Lehigh, Luzerne, Lycoming, Northampton, Monroe, Bucks, Montgomery, Delaware, Chester, Lancaster and Berks Counties, PA and points in NJ and Orange and Rockland counties, NY; (3) from Philadelphia, PA to points in NJ, under a continuing contract(s) with Getty Refining and Marketing, Inc., of Tulsa, OK. Supporting Shipper(s): Getty Refining & Marketing Corp., 86 Doremus Ave., Newark, NJ 07015.

MC 152318 (Sub-1–1TA), filed October 24, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Such commodities as are dealt in, or used by food business houses, drug, and variety stores (except in bulk),* between points in Nassau and Suffolk counties, NY, Savannah, GA, Dallas, TX and Chatsworth, CA, on the one hand, and, on the other, points in the U.S. Supporting shipper: L. S. Amster Company, Inc. and Interstate Cigar Co., Inc., 275 Grand Boulevard, Westury, NY 11590.

MC 152298 (Sub-1–1TA), filed October 23, 1980. Applicant: HENRY H. BROWNING, LIQUID TRANSPORTER, INC., RD #1, Box 297–B, Route 16, Orlean, NY 14760. Representative: Michael A. Wargula, Esq., 2550 Main Place Tower, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Liquid petroleum and liquid petroleum products in bulk, in tank vehicles* between points in PA and NY, under continuing contract(s) with Lowe's Empire Gasoline Service, Inc., Olean, NY; Sandburg Oil Company, Inc., Olean, NY; Rinker Oil Company, Inc., Cuba, NY; and Short Oil Company, Inc., Wellsville, NY. Supporting shipper(s): Rinker Oil Co., Inc., 29 Water St., P.O. Box 74, Cuba, NY 14727; Lowe's Empire Gasoline Service, Route 16, Hinsdale Highway, Olean, NY 14760; Sandburg Oil Co., Inc., 1641 E. State Road, Olean, NY 14760; Short Oil Co., Inc., Wellsville, NY 14895.

MC 143445 (Sub-1–4TA), filed October 24, 1980. Applicant: MMAR TRANSPORTATION, INC., 128 Pennsylvania St., Kearny, NJ 07032. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Chain saws, generators and parts and accessories thereof* from Lake Havasu City, AR to points in MO, IL, OH, PA, NJ, NY, MD, CT and MA. Supporting shipper: The McCulloch Company, 900 Lake Havasu Ave., Lake Havasu City, AR 86404.

MC 115352 (Sub-1–2TA), filed October 24, 1980. Applicant: R. H. REDIKER TRANSPORT, LTD., P.O. Box 30, Beebe, Quebec, CD JOB 1EO. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641. *Stone working abrasives* from Buffalo and Niagara Falls, NY, on the one hand, and, on the other, points of entry located on the International Boundary Line between the US and CD at or near Buffalo and Niagara Falls, NY. Supporting shipper: Border Machine Tool and Supply Company, Inc., Beebe, Quebec, CD JOB 1EO; Dominion Granite Co., Ltd., Beebe, Quebec, CD JOB 1EO.

MC 152264 (Sub-1–1TA), filed October 27, 1980. Applicant: WHITE AND BLUE TAXI OF SCHENECTADY, INC., 1743 State Street, Schenectady, NY 12304. Representative: Nick Solomakos, 1330 State Street, Schenectady, NY 12304. *Contract carrier:* irregular route: *Consolidated Rail Corporation (Conrail) employees and their equipment* to and from various Conrail locations in Eastern NY and Western MA. Supporting Shipper: Consolidated Rail Corporation, Room 301, 1528 Walnut Street, Philadelphia, PA 19102.

MC 143445 (Sub-1–3TA), filed October 24, 1980. Applicant: MMAR TRNASPORTATION, INC., 128 Pennsylvania Street, Kearny, NJ 07032. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *General commodities (except classes A 7 B explosives, household goods as defined by the Commission, articles of unuusual value, commodities in bulk, and those requiring special equipment),* between the facilities of Streamline Shippers Association at or near Los Angeles, CA, on the one hand, and, on the other, points in NJ, PA, MD VA, OH, IL, WI, MD, IN, MA and CT. Supporting Shipper: Streamline Shippers Association, Inc., P.O. Box 3606, Terminal Annex, Los Angeles, CA 90051.

MC 42261 (Sub-1–2TA), filed October 24, 1980. Applicant: LANGER TRANSPORT CORP., P.O. Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. *Aluminum wire* from Portsmouth, RI, to points in NJ. Supporting Shipper: Kaiser Aluminum & Chemical Corporation, 200 Route 22, Hillside, NJ 07204.

MC 152290 (Sub-1–1TA), filed October 24, 1980. Applicant: PROVINCIAL TANKERS LIMITED, 8820 Keele Street North, Vaughan, Ontario, CD. Representative: William J. Hirsch, Esq., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Glucose and fructose,* from the commerical zone of Detroit, MI, to ports of entry on the International Boundary line between the US and CD located in MI. Supporting Shipper: Zymaize Company, 1100 Greenvalley Road, London, Ontario, CD.

MC 152377 (Sub-1–1TA), filed, October 27, 1980. Applicant: PAUL JOSEPH, d.b.a. JOSEPH'S EXPRESS, 543 Maplewood Ave., Roselle Park, NJ 07204. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Plastic articles; and (2) Materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above,* between points in PA, NJ, DE, MD, NY, CT, RI, MA, VA, and DC. Supporting shipper: Amoco Container Company, 2111 Powers Ferry Rd., Suite 300, Atlanta, GA 30099.

MC 150542 (Sub-1–2TA), filed October 27, 1980. Applicant: RIDGEFIELD PARK TRANSPORT CO., INC., 106 Teaneck Road, Ridgefield Park, NJ 07660. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *General commodities except Classes A and B explosives, and household goods as defined by the Commission,* between all points in the US, under continuing contract(s) with Pepsi-Cola Company and its subsidiaries: Diversified Containers, Inc. and Pepsi-Cola Metropolitan Bottling Co., Inc. Supporting shippers: Diversified Containers, Inc. and Pepsi-Cola Metropolitan Bottling Co., Inc., Anderson Hill Road, Purchase, NY 10577.

MC 152126 (Sub-1–1TA), filed October 27, 1980. Applicant: TIMBERMAN'S EXPRESS, INC., 131 South Main Street, Elmer, NJ 08318. Representative: Harry R. Adler, Esq., 80 West Broad Street, P.O. Box 474, Bridgeton, NJ 08302. *General commodities, except bulk and liquid in tank trucks,* between Philadelphia, PA commercial zone on the one hand, and points and places in the State of DE, and the Counties of Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May in the State of NJ. Supporting shipper: West Wholesale Drug Co., 231 East Luzerne Street, Philadelphia, PA 19124.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC, FEDERAL RESERVE BANK BLDG., 101 N. 7TH ST. ROOM 620, PHILADELPHIA, PA.

MC 150432 (Sub-II–8TA), filed October 23, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street NW., Suite 1111, Washington, D.C. 20036. Contract—irregular: *Frozen foods,* between Columbus, OH, and Fort Wayne, IN, on the one hand, and, on the other, points in OH, IN, PA, VA, WV, KY, TN, IL, WI, MI, and NY, under a continuing contract with Interstate Cold Storage, Inc., for 270 days. Supporting shipper: Interstate Cold Storage, 4350 Robert Road, Columbus, OH 43228.

MC 107006 (Sub-II–2TA), filed October 27, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, except commodities in bulk,* between Urbana, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: The Drackett Products Co., 5020 Spring Grove Ave., Cincinnati, OH 45232.

MC 150939 (Sub-II–9TA), filed October 27, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract, irregular—*Such commodities as are dealt in by mail order houses and retail chain department stores and equipment, materials and supplies used in the conduct of such businesses (except commodities in bulk)* between points in the U.S., under a continuing contract or contracts with Heck's, Inc. of Nitro, WV., for 270 days. Supporting shipper: Heck's, Inc., P.O. Box 158, Nitro, WV 25143.

MC 113666 (Sub-II–13TA), filed October 27, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). *Carbonaceous materials, foundry, supplies, and materials and supplies used in the manufacture of iron and steel, iron and steel articles and refractory products,* between points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Hickman Williams Company, 600 Grant Street, Suite 2972, Pittsburgh, PA 15219.

MC 115703 (Sub-II–9TA), filed October 29, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 6331, Wyomissing, PA 19610. Representative: Bernard L. Quaglia (same as applicant). *Cement plant equipment and articles used in the manufacture thereof,* between Lehigh County, PA and Essex County, NJ on the one hand, and, on the other, Millard County, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fuller Company, a GATX Company, S. 10th & Mill Sts., Allentown, PA 18103.

MC 30089 (Sub-II–1TA), filed October 29, 1980. Applicant: FRANK W. LILLY, INC., P.O. Box 111, Turtle Creek, PA 15145. Representative: James F. Lilly (same address as applicant). Contract; irregular—*Canned and preserved foodstuffs and wood pallets* between points in MI, IN, OH, KY, PA, WV, MD, VA, NY, CT, MA, RI, VT, NH and ME, under contract with Heinz USA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Heinz USA, Div. of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 152411 (Sub-II–1TA), filed October 29, 1980. Applicant: EMANON TRANSPORTATION SERVICE, INC., 141 Lincoln St., Exeter, PA 18643. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities (except household goods as defined by the Commission and classes A and B explosives),* between Exeter, PA, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Jewelcor Jewelers & Distributors, Erie & Susquehanna Ave., Exeter, PA 18643.

MC 61470 (Sub-II–2TA), filed October 27, 1980. Applicant: BRYAN TRUCK LINE, INC., 610 E. Wilson St., Bryan, OH 43506. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. *General commodities (except those of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between pts. in Fulton, Henry and Williams Counties, OH, on the one hand, and, on the other, pts. in the U.S. Restricted against movements originating at or destined to the facilities of Campbell Soup Co. in Henry County, OH and the facilities of Pet Milk Co. in Williams County, OH. An underlying ETA seeks 120 days authority. Applicant intends to interline at Toledo, OH. Supporting shippers: There are 20 supporting shippers. Their statements may be examined at the office listed below.

MC 152383 (Sub-II–1TA), filed October 28, 1980. Applicant: C. C. M. ENTERPRISES, INC., Suite 40, 27 Produce Drive, Cincinnati, OH 45201. Representative: John R. Mateyko (same as applicant). *Iron and steel articles and such commodites as are dealt in or used by manufacturers of iron and steel articles,* between Hamilton County, OH on the one hand, on the others, points in ND, MN, PA, WI, MI, IL, IN., for 270 days. Supporting shipper: Steelcorp, Inc., 6667 Mullen Road, Cincinnati, OH 45239.

MC 31237 (Sub-II–2TA), filed October 29, 1980. Applicant: DIGNAN TRUCKING, INC., P.O. BOX 7643, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., 521 S. Cameron st., Winchester, VA 22601. *Materials, Supplies and Equipment used or useful in the construction and/or maintenance of communications systems, and scrap metal,* between pts. in MD, and between pts. in MC, on the one hand, and, on the other, pts. in Arlington County, VA and

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the Washington, DC Commercial Zone, with authority to interline with other motor carriers at Baltimore, MD and Washington, DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Electric, P.O. Box 25000, Greensboro, NC 27420.

MC 69281 (Sub-II–3TA) filed October 30, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. Common, regular: *general commodities (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment),* 1) between Washington, DC and Roanoke, VA: from Washington over Interstate Hwy 66 to junction US Hwy 211, then over US Hwy 211 to junction Interstate Hwy 81, then over US Interstate Hwy 81 to Roanoke and return over the same routes serving all intermediate points; 2) between Richmond, VA and Columbia, SC: from Richmond over Interstate Hwy 95 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction US Hwy 21, then over US Hwy 21 to Columbia and return over the same routes serving all intermediate points; 3) between Roanoke, VA and Charlotte, NC: from Roanoke over US Hwy 220 to junction US Hwy 29, then over US Hwy 29 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Charlotte, and return over the same routes serving all intermediate points; 4) between Richmond, VA and Bristol, VA: from Richmond over Interstate Hwy 64 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Bristol and return over the same routes serving all intermediate points; 5) between Richmond, VA and Miami, FL: from Richmond over Interstate Hwy 95 to Miami and return over the same route serving all intermediate points; 6) between Norfold, VA and Bluefield, VA: from Norfolk over US Hwy 58 to junction US Hwy 460, then over US Hwy 460 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 77, then over Interstate Hwy 77 to Bluefield and return over the same routes serving all intermediate points; 7) between Norfolk, VA and Jacksonville, FL: from Norfolk over US Hwy 13 to junction US Hwy 17, then over US Hwy 17 to junction Interstate Hwy 95 to Jacksonville, FL and return over the same routes serving all intermediate points; 8) between Asheville, NC and New Bern, NC: from Asheville over Interstate Hwy 40 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction US Hwy 70, then over US Hwy 70 to New Bern and return over the same routes serving all intermediate points; 9) between Asheville, NC and Charleston, SC: from Asheville over Interstate Hwy 26 to Charleston and return over the same route, serving all intermediate points; 10) betwen Charlotte, NC and Atlanta, GA: from Charlotte over Interstate Hwy 85 and return over the same route serving all intermediate points; 11) between Columbia, SC and Atlanta, GA: from Columbia over Interstate Hwy 20 to Atlanta and return over the same route serving all intermediate points; 12) between Columbia, SC and Miami, FL: from Columbia over Interstate Hwy 26 to junction Interstate Hwy 95,then over Interstate Hwy 95 to Miami and return ovr the same routes serving all intermediate points; 13) between Atlanta, GA and Miami, FL: from Atlanta over Interstate Hwy 75 to junction State Road FL 60, then over State Road FL 60 to Interstate Hwy 95, then over Interstate Hwy 95 to Miami and return over the same routes serving all intermediate points; 14) between Dalton, GA and Savannah, GA: from Dalton over Interstate Hwy 75 to junction Interstate Hwy 16, then over Interstate Hwy 16 to Savannah and return over the same routes serving all intermediate points; 15) between Pensacola, FL and Miami, FL: from Pensacola over Interstate Hwy 10 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Miami and return over the same routes serving all intermediate points; 16) between Pensacola, FL and Tampa, FL: from Pensacola over Interstate Hwy 10 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Tampa and return over the same routes serving all intermediate points; 17) between Atlanta, GA and Pensacola, FL: from Atlanta over Interstate Hwy 85 to junction US Hwy 27, then over US Hwy 27 to junction Interstate Hwy 10 to Pensacola and return over the same routes serving all intermediate points; 18) between Jacksonville, FL and Tampa, FL: from Jacksonville over US Hwy 301 junction State Road 24, then over State Road 24 to juhction Interstate Hwy 75, then over Interstate Hwy 75 to Tampa and return over the same routes serving all intermediate points; 19) between Tampa, FL and Miami, FL: from Tampa over State Road 60 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Miami and return over the same routes serving all intermediate points; 20) between New York, NY and Putnam, CT: from New York over Interstate Hwy 95 to junction Interstate Hwy 91, then over Interstate Hwy 91 to junction Interstate Hwy 86, then over Interstate Hwy 86 to junction State Road 44, then over State Road 44 to junction State Road 52, then over State Road 52 to Putnam, CT and return over the same routes serving all intermediate points; 21) between New York, NY and Thompsonville, CT: from New York Over Interstate Hwy 684 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 91 to Thompsonville, CT and return over the same routes serving all intermediate points; 22) between Danbury, CT and Norwich, CT: from Danbury over Interstate Hwy 84 to junction State Road 66, then over State Road 66 to junction State Road 2, then State Road 2 to Norwich and return over the same routes serving all intermediate points. Serving all points within the counties of Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland and Windham in the state of Connecticut as off route points. Serving all points within the counties of Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Catoosa, Charlton, Chathan, Chattahoochee, Cattooga, Cherokee, Clarke, Clay, Clayton, Clinch, Cobb, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Dade, Dawson, Decatur, De Kalb, Dodge, Dooly, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Emanuel, Evans, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Lumpkin, McDuffie, McIntosh, Macon, Madison, and Marion in the state of Georgia as off route points. Serving all points within the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawaba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecomb, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey in the state of North Carolina as off route points. Serving all points within the counties of Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillion, Dorchester, Edgefield, Fairfield, Florence, Georgetown, Greenvile, Greenwood, Hampton, Horry, Jasper, Kershaw, Lancaster, Laurens, Lee, Lexington, McCormick, Marion, Marlboro, Newberry, Oconee, Orangeburg, Pickins, Richland, Saluda, Spartanburg, Sumter, Union, Williamsburg, and York in the state of South Carolina as off route points. Serving all points within the Counties of Accomack, Albermarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nansemond, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell, Warren, Washington, Westmoreland, Wise, Wythe and York in the state of Virginia as off route points, for 270 days. Applicant intends to tack and interline. Supporting shippers: There are sixty-six (66) supporting shippers. Their statements may be examined at the I.C.C. Reg. Ofc., Phila, PA.

MC 146807 (Sub-II–11–TA), filed October 30, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Iron and steel wire rope or strand,* between points in PA, IN, TN, IL, KY, OH, MO, VA, WV, MD, NC, SC, AL, TX, FL, LA, OK and IA for 270 days. An underling ETA seeks 120 days authority. Supporting shipper(s): Bridon American Corporation, P.O. Box 6000, Wilkes Barre, PA 18773.

MC 77424 (Sub-II–1–TA), filed October 24, 1980. Applicant: WENHAM TRANSPORTATION, INC., 3200 E. Seventy-ninth St., Cleveland, OH 44104. Representative: James Johnson (same address as applicant). *Automobile parts,* from Centralia, IL to points in MI and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Rockwell International, 2135 West Maple Rd., Oakland, MI.

MC 116763 (Sub-II–46–TA), filed October 27, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *General Commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the United States (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Restricted to the transportation of traffic originating at or destined to the facilities of Trio Products or its customers or suppliers. Supporting shipper(s): Trio Products, Inc., 350 Davenport Drive, Thomasville, GA 31792.

MC 116763 (Sub-II–45–TA), filed October 27, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Non exempt food and kindred products* (except commodities in bulk, in tank vehicles), between Ulster County, NY on the one hand, and, on the other, points in SC and FL, for 270 days. An underlying ETA seeks 120 days authority. Restricted to traffic originating at and/or destined to the facilities of Heinz USA. Supporting shipper(s): Heinz USA, division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 152384 (Sub-II–1–TA), filed October 28, 1980. Applicant: DONNIE A. WANGER, T/A DONNIE A. WANGER GEN HAULING, Route 1, Box 48, Hinton VA 22831. Representative: Frankie C. Coyner, P.O. Box 33, Broadmoor Plaza, Stuarts Draft, VA 24477. *Crushed limestone aggregates and masonry sand* from the facilities of Frazier Quarry, Rockingham County, VA, to points in Grant, Mineral, Pendleton, Pocahontas and Randolph Counties, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Frazier Quarry, Inc., 75 Waterman Drive, Harrisonburg, VA 22801.

MC 113158 (Sub-II–7TA), filed October 29, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Containers, and other shipping devices* from the facilities of Connelly Containers, Inc., at or near Philadelphia, PA to Martinsburg, WV, and points in its Commercial Zone and Wytheville, VA, and points in its Commercial Zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Connelly Containers, Inc., P.O. Box 426, Bala Cynwyd, PA 19004.

MC 145k61 (Sub-II–1TA), filed October 24, 1980. Applicant: VANTRANS, INC., 11375 Greenwich Rd., Homerville, OH 44235. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract:* irregular: (1) *electrical controllers, switches, magnets and rheostat resistors,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of (1) above, between Richland Center and Milwaukee, WI and Cleveland, OH, on the one hand, and, on the other, points in the U.S. under contract(s) with Allen Bradley Company of Milwaukee, WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Allen Bradley Company, 1201 South Second St., Milwaukee, WI 53204.

MC 106920 (Sub-II–9TA), filed October 22, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsite of Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 106920 (Sub-II–8TA), filed October 22, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Foodstuffs and materials, equipment and supplies* used

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in the manufacture, distribution and sale thereof (except in bulk), (1) from the facilities of Sugar Creek Foods Company, at or near Louisville, KY and Chattanooga, TN, to points in FL and (2) from points in MN and WI to the facilities of Sugar Creek Company, at or near Russellville, AR, for 270 days. Supporting shipper: Sugar Creek Foods Company, Division of Beatrice Foods Company, P.O. Box 747, Russellville, AR 72801.

MC 106920 (Sub-II–10TA), filed October 23, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 28, New Bremen, OH 45869. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Dairy products and egg nog* from Adell, LaCrosse and Milwaukee, WI to points in the U.S., in and east of MI, IN, IL, MO, AR, and TX, for 270 days. Supporting shipper: Galloway West Company, Division of Borden, Inc., 325 Tompkins Street, Fond du Lac, WI 54934.

MC 145567 (Sub-II–1–TA), filed October 23, 1980. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Dr., Cincinnati OH 45246. Representative: Michael Spurlock, 275 E. State St., Columbus OH 43215. *Contract carrier, irregular route: Used petroleum products, spent chemicals, chlorinated solvents, non-chlorinated solvents, coolants and inks,* in bulk, in tank vehicles, between Cincinnati, OH, and Shandon, OH, and their respective commercial zones, on the one hand, and, on the other, points in KY, PA, IL, IN, WV, NC, MI, and TN, under continuing contract(s) with Liquid Waste Management, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Liquid Waste Management, Inc., 4472 Bridgetown Rd., P.O. Box 11070, Cincinnati OH 45211.

MC 61825 (Sub-II–10–TA), filed October 24, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same as applicant). *New furniture, furniture parts,* and *equipment, materials and supplies used in the manufacture and distribution thereof,* between points in the United States (except AK, ID, HI, MT, OR, WA and WY), restricted to traffic originating at or destined to the facilities of S. K. Products Corp, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: S. K. Products Corporation, 5355 Bucknell Drive, SW., Atlanta, GA 30378.

MC 2202 (Sub-II–16TA), filed October 29, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. *Common, regular: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Pueblo and Colorado Springs, CO, serving all intermediate points and points in their commercial zones. From Pueblo over U.S. Hwy. 50 to Canon City, then County Hwy 120 to Jct County Hwy 115, then County Hwy 115 to Colorado Springs, and return over the same route, for 270 days. Applicant proposes to tack the authority sought herein with its regular routes at Pueblo and Colorado Springs, CO. Applicant proposes to interline at existing gateways throughout its system. Supporting shippers: There are five supporting shippers. Their statements may be examined at the ICC Regional office, Philadelphia, PA.

MC 107012 (Sub-II–101TA), filed October 28, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Evaporative coolers, and parts and accessories for the manufacture, maintenance, and distribution of evaporative coolers* from Tempe, AZ to points in CA, CO, NM, NV, OK, TX, and UT for 270 days. Supporting shipper: Combined Technologies, Ltd., 3207 South Hardy Dr., Tempe, AZ 85282.

Note.—Common control may be involved.

MC 123685 (Sub-II–1TA), filed October 27, 1980. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Rd., S.W., Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Lime,* between points in Cuyahoga County, OH, and North Adams, MA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Foseco, Inc., 20200 Sheldon Rd., Brookpark, OH 44142.

MC 119632 (Sub-II–17TA), filed October 8, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). (1) Such commodities as are dealt in or distributed by grocery, hardware and drug stores, (2) cleaning and building maintenance materials and supplies, (3) swimming pool, spa and hot tub products, (4) chemicals, and (5) materials, equipment and supplies used in the manufacture, sale and distribution of commodities named in (1) through (4) above, (except commodities in bulk), between points in the states of AL, FL, GA, IL, IN, LA, MS, MO, NC, OH, SC, TN, VA and WV, for 270 days. Restricted to traffic originating at or destined to facilities used by Purex Corporation. Supporting shipper: Purex Corporation, P.O. Box 975, Toledo, OH 43696.

MC 116763 (Sub-II–41TA), filed October 14, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Nonexempt food or kindred products,* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in AL, GA, MS, TN, SC, NC, FL and LA. Restricted to traffic originating at or destined to the facilities utilized by Heinz, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 79687 (Sub-II–2TA), filed October 14, 1980. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Macaroni, related products and equipment, materials and supplies* used in the manufacture and distribution of the above commodities, between the facilities of Guido Division of Viviano Macaroni Company at Schenectady, NY on the one hand, and, on the other, points in MA, OH and PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Guido Division of Viviano Macaroni Co., Rotterdam Industrial Park, Building No. 11, Schenectady, NY 12306.

MC 116763 (Sub-II–42TA), filed October 14, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *(1) Printed matter and (2) materials and supplies used in the manufacture or distribution of printed matter* (except commodities in bulk in tank vehicles), between Rockingham County, VA, on the one hand, and, on the other, points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VT, WV and DC, for 270 days. Restricted to traffic originating at or destined to the facilities of Banta Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): George Banta Co., Curtis Reed Plaza, Menasha, WI 54952.

MC 116763 (Sub-II–40), filed October 14, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *(1) Printed matter, and (2) materials and supplies used in the manufacture or distribution of printed matter,* except commodities in bulk, between points in the United States in and east of MN, IA, MO, OK and TX. Restricted to the transportation of traffic originating at or destined to the facilities of R. R. Donnelley & Sons Company or its customers or suppliers, for 270 days. Supporting shipper(s): R. R. Donnelley & Sons, Co., 2223 South Martin Luther King Dr., Chicago, IL 60616.

MC (Sub-2–1), filed October 9, 1980. Applicant: TRIDENT CORPORATION, d.b.a. TRIDENT TOURS, 3531 Halfmoon Circle, Falls Church, VA 22044. Representative: Robert J. Brooks, Suite 1115, 1828 L St., N.W., Washington, DC 20036. *Passengers and their baggage in the same vehicle with passengers,* in special operations between points in MD, VA and DC in vehicles carrying no more than fourteen (14) passengers for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Virginian Apartment-Hotel, 1500 Arlington Blvd., Arlington, VA 22209; Quality Inns International (2), 10750 Columbia Pike, Silver Springs, MD 20901; Quality Inn Central, Rte. 50 at N. Courthouse Rd., Arlington, VA 22201; Holiday Inn, 1900 Connecticut Ave., NW., Washington, D.C. 20009.

MC 113158 (Sub-II–6TA), filed October 7, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Secretary, MD 21664. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Phila., PA 10107. *Foodstuffs* (except frozen foods and commodities in bulk), between the facilities of Joan of Arc Company, Sampson County, NC, on the one hand, and, on the other, Hoopeston, IL, Belledeau and St. Francisville, LA, and points in CT, DE, FL, GA, MA, MD, NJ, NY, OH, PA, and SC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Joan of Arc Co., 2231 West Altorfer Dr., Peoria, IL 61614.

MC 125463 (Sub-II–1TA), filed October 14, 1980. Applicant: KENNETH W. STRAUB III, White St., Weissport, PA 18235. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Contract, Irregular, Waste Textile Scrap Materials,* in bales and *Textile Fabrics,* in bundles and rolls, between Allentown, PA and Atlanta, GA, Claremont, NH, Dallas, TX, Manchester, NH, Orangeburg, SC, and Tyler, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: S. Levine & Sons, Inc., Allentown, PA.

MC 125023 (Sub-II–5TA), filed October 8, 1980. Applicant: SIGMA–4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy (same address as applicant). *Malt beverages in containers and materials, equipment and supplies used in the manufacture, sale and distribution of malt beverages,* between (A) Baltimore, MD, Evansville, IN, and Newport, KY, on the one hand, and, on the other, between points in (A) and points in MA, MD, NJ, NY, and PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: G. Heileman Brewing Co., Inc., 100 Harborview Plaza, P.O. Box 100, LaCrosse, WI 54601.

MC 95136 (Sub-II–2TA), filed October 8, 1980. Applicant: ALLEN S. YEATMAN, INC., P.O. Box 383, Montrose, VA 22520. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *Canned goods,* from points in Lancaster and Westmoreland Counties, VA to points in CT, DE, MD, NJ, NY, PA, WV, NC, and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Virginia Seafords, Inc., Irvington, VA 22480.

MC 123065 (Sub-II–1TA), filed October 6, 1980. Applicant: STX, INC. (a Delaware corporation); d.b.a. SPOTSWOOD TRAIL EXPRESS, Redbone Rd., Chester Springs, PA 19425. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New Furniture,* from points in Alexander, Burke, Caldwell, Catawba, Cumberland, Davidson, Graham, Guilford, Iredell, Lee, Orange, Randolph, Rutherford, and Surry Counties, NC to points in CT, DE, MA, MD, MI, NJ, NY, OH, PA, RI, and DC, for 270 days. Supporting shipper: The sole purpose of this application is to substitute direct service in lieu of existing interchange service to conserve energy resources and eliminate wasted transportation. An underlying ETA seeks 120 days authority.

MC 79687 (Sub-II–1TA), filed October 14, 1980. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Macaroni and related products, and materials, equipment and supplies used in the manufacture and distribution of the above commodities,* between the facilities of Viviano Macaroni Company at Carnegie, PA, on the one hand, and, on the other, points in CT, IL, MD, MA, MN, NH, NJ, NY, OH, and VT, for 270 days. Supporting shipper: Viviano Macaroni Co., Nobelstown Rd., Carnegie, PA 15106.

MC 150567 (Sub-II–1TA), filed October 8, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. *Contract carrier, irregular: foodstuffs and materials, equipment, and supplies in the manufacture, sale, and distribution of foodstuffs* between Dallas, TX, Newport, TN and Indianapolis, IN and points in the United States under continuing contract with Stokely-Van Camp, Inc., Indianapolis, IN, for 270 days. Supporting shipper: Joseph J. Reardon, Stokely-Van Camp, Inc., 941 N. Meridian St., Indianapolis, IN 46206.

MC 146807 (Sub-II–10TA), filed October 6, 1980. Applicant: S & W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Materials and supplies used in the manufacture and distribution of confectionery and chewing gum,* from points in IL, OK, GA, IN, TX, TN, MO, KY, MS, AL, KS, OH, NC, SC, LA, FL, MN, WI, MI and NY to the facilities of Topps Chewing Gum, Inc., at Scranton and Duryea, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Topps Chewing Gum, Inc., York Ave., Duryea, PA 18642.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, Ca 30357.

MC 121568 (Sub-3–17TA), filed October 24, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). *Common carrier, regular routes: General commodities (with the usual exceptions),* serving Grayson and Smith Counties, TX, as off-route points in connection with carrier's otherwise authorized routes: (1) From Little Rock, AR, to Tyler, TX (a) over Interstate Hwy. 30 to its jct. with U.S. Hwy. 259, thence on U.S Hwy. 259 to its jct. with State Hwy. 155, thence over State Hwy. 155 to its jct. with U.S. Hwy. 271, to Tyler, TX, and return, serving no intermediate points. (b) over Interstate 30 to its jct. with U.S. Hwy. 271, thence to Tyler, TX, and return, serving no intermediate points. (2) From Little Rock, AR to Sherman, TX (a) over Interstate 40 to its jct. with U.S. Hwy. 69, thence over U.S. Hwy. 69 to Sherman and return, serving no intermediate points. (b) over Interstate 40 to its jct. with Interstate 35, thence over Interstate 35 to its jct. with U.S. Hwy. 82, thence

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over U.S Hwy. 82 to Sherman, TX, and return, serving no intermediate points. (3) From Fort Smith, AR, to Tyler, TX (a) over U.S. Hwy. 271 to Tyler, TX, and return, serving no intermediate points. (4) From Fort Smith, AR, to Sherman, TX (a) over Interstate Hwy. 40 to its jct. with U.S. Hwy. 69, thence over U.S. Hwy. 69 to Sherman, TX, and return, serving no intermediate points. (b) over Interstate 40 to its jct. with Interstate 35, thence over Interstate 35 to its jct. with U.S. Hwy. 82, thence over U.S. Hwy. 82 to Sherman, TX, and return, serving no intermediate points. *Note:* Applicant intends to tack the authority sought with its existing authority and to interline at Tyler, TX, Sherman, TX, and Memphis, TN. There are 34 statements in support of this application, which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 150700, (Sub-3–3TA) filed October 27, 1980. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Containers, Container Parts, and Materials and Supplies used in the manufacture, distribution and sale of containers and container parts,* between points in AL, CT, FL, GA, MD, MS, NC, NJ, NY, PA, SC and TN. Supporting shipper: National Can corporation, Route 287 & South Randolphville Road, Piscataway, NJ 08854.

MC 116254, (Sub-3–21TA), filed October 24, 1980. Applicant: CHEM–HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: M.D. Miller (same as above). *Aluminum dross,* between Sapulpa, OK and Pittsburg, KS, on the one hand, and, Salisbury, NC; Winston-Salem, NC; Hannibal, OH; Lancaster, PA; Moncks Corner, SC, on the other. Supporting shipper: Metal Exchange Corp., 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 35807 (Sub-3–2TA), filed October 24, 1980. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same as above). *Contract carrier,* irregular routes; *coin, currency, checks and food coupons,* between Richmond and Columbia Counties, GA, on the one hand, and, on the other, Edgefield and Aiken Counties, SC. Supporting shipper: Bi-Lo, Inc., P.O. Box 99, Mauldin, SC 29662.

MC 119777 (Sub-3–21TA), filed October 24, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *(1) Rough iron castings and (2) materials, equipment and supplies (except in bulk) used in the manufacture or distribution of (1) above,* between the facilities of Jencast, Inc. at or near South Coffeyville, OK, on the one hand, and, on the other, points in TX, KS, AR, VA, PA, TN, MO and NE. Supporting shipper: Jencast Products, Inc., P.O. Box 298, South Coffeyville, OK 74072.

MC 114604 (Sub-3–14TA), filed October 24, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Jean E. Kesinger, P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. *Non-exempt food or kindred products,* from Atlanta, GA and its commercial zone (including Lithonia, GA) to points in LA, MS, TN (except Chattanooga, TN), and points in that part of FL in and south of Citrus, Sumter, Lake and Volusia Counties, FL. Supporting shipper: Pet, Incorporated, Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102.

MC 151727 (Sub-3–1TA), filed October 21, 1980. Applicant: WORCY CRAWFORD, d.b.a. CRAWFORD & SONS, 4301 Crawford Avenue, Brownville, AL 35228. Representative: Worcy Crawford (same address as applicant). *Passengers and their baggage, in charter operations,* beginning and ending at points in Jefferson and Greene Counties, AL, and extending to points in the states of FL, GA, IL, IN, KY, LA, MI, MS, NY, NC, OH, SC, TN, TX, and DC. Supporting shippers: Southern Christian Leadership Conference, Birmingham Chapter, 1925–15th Terrace, North, Birmingham, AL 35234; Fourth Avenue YMCA, 1400–4th Avenue, North, Birmingham, AL 35203; Miles College, 5500 Avenue G, Fairfield, AL 35208; and Trinity Baptist Church, 900 Graymont Avenue, West, Birmingham, AL 35204.

MC 47171 (Sub-3–11TA), filed October 21, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* between points in GA (except Chatham, Clayton, Cobb, Coweta, DeKalb, Fayette, Fulton, Gwinnett, Henry, Richmond and Rockdale Counties) on the one hand, and, on the other, points in Culpepper, Suffolk, Windsor, Norfolk, Madison Heights, Petersburg, Lester Manor, Richmond, Fredericksburg, Warrenton, Franklin, Lynchburg, Farmville, Smithfield, Danville, South Boston, Victoria, and Roanoke, VA; Washington, DC; CT, Baltimore and Cumberland, MD; Wilmington and Cheswold, DE; MA, PA, NJ, NY, RI. There are thirteen statements of support which may be examined at the ICC Regional Office in Atlanta, GA.

MC 146937 (Sub-3–1TA), filed October 24, 1980. Applicant: ALL STAR AIR FREIGHT, INC., 7001 West 20th Ave., Hialeah, FL 33014. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *Contract carrier,* irregular routes: *Coin operated video games and nonvideo games and parts and accessories for same* and (2) *materials and supplies used in the manufacture of same* between Dade County, FL, on the one hand, and, on the other, points in the U.S. (excluding AK and HI) under continuing contract(s) with Centuri, Inc., Dade County, FL. Supporting shipper: Centuri, Inc., 245 W 74th Place, Hialeah, FL 33014.

MC 150211 (Sub-3–9TA), filed October 24, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (address same as applicant). *Photo offset printing plates and sheets, gum and solvents, aluminum articles, and materials, equipment and supplies, used in the manufacture, sale and distribution of the above commodities* between Jackson, TN and points within its commercial zone, on the one hand, and, on the other, points in IA, IL, WI, OH, PA, NC, GA, TX, CO and CA. Supporting shipper: Citiplate, Inc., 360 Commerce Street, Jackson, TN 38301.

MC 105813 (Sub-3–5TA), filed October 23, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North Lasalle Street, Chicago, IL 60601. *Non-exempt food or kindred products,* between points in Mecklenburg County, NC, on the one hand, and on the other, between those points in the U.S. in and east of MT, WY, UT and AZ. Supporting shipper: Heinz USA, Division of H. J. Heinz Company; P.O. Box 57; Pittsburgh, PA 15230.

MC 136123 (Sub-3–11TA), filed October 23, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same as above). (1) *Mist eliminators, asbestos cooling tower media, plastic baffles and plastic articles* and (2) *materials, supplies* and *equipment* used in the manufacture of (1) above, between the facilities of The Munters Corporation located at or near Ft. Myers, FL and points in the United States (except AK and HI). Supporting shipper: The Munters Corporation, P.O. Box 6428, Ft. Myers, FL 33901.

MC 2900 (Sub-3–21TA), filed October 3, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). (a) *Adhesives, Furniture, Foodstuffs, and Glassware* between Denver, CO; Chicago, IL; Minneapolis, MN; Kansas City, MO; Omaha, NE; Oklahoma City, OK; Dallas, TX; Houston, TX; and Cheyenne, WY; on the one hand, and on the other, points in the States of AZ, CA, ID, NV, OR, UT, and WA; (B) *Cleaning Compounds, Feed or Feed Supplements, Foodstuffs, and Petroleum Products* between the States of AZ, CA, CO, ID, NV, OR UT, and WA. Supporting shippers: Pepperidge Farm, Inc., 595 Westport Ave., Norwalk, CT 06856; Metropolitan Distribution Centers, Inc., 1340 E. Sixth St., Los Angeles CA 90021; Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 146108 (Sub-3–3TA), filed October 22, 1980. Applicant: BIG T TRANSFER, INC., 1814 Gillett Ave., Louisville, KY 40216. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. *Contract Carrier:* irregular routes, (1) *Paint, Paint products, Wall coverings, and Adhesives, and (2) Materials, Supplies, and Equipment used in the manufacture and distribution of the commodities in (1) above.* Between points in the U.S., under a continuing contract with the Devoe & Raynolds Co., Division of Grow Group, Inc., Louisville, KY. Supporting Shipper: Devoe & Raynolds Co., Division of Grow Group, Inc., 4000 DuPont Circle, Louisville, KY 40207.

MC 112617 (Sub-3–11TA), filed October 21, 1980. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson, Traffic Manager (Same address as applicant). *Liquid calcium chloride,* in bulk, in tank vehicles, from the storage facilities of Dow Chemical Company at Lemont, IL, to points in Breathitt, Daviess, Floyd, Knott, Leslie, Letcher, Martin, Perry, and Pike Counties, KY. Supporting shipper: Sicalco, Ltd., P.O. Box 415, Palos Heights, IL 60463.

MC 124154 (Sub-3–6TA), filed October 24, 1980. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31703. *Agricultural fertilizers, chemicals, and products, supplies and raw materials used in the manufacture, distribution and sale of agricultural fertilizers and chemicals* between Bowling Green, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Rad Chemicals, Inc., 125 W. Plymouth Avenue, Leland, FL 32720.

MC 134084 (Sub-3–8TA), filed October 27, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30505. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *(1)(a) Foodstuffs (except in bulk) and (b) such merchandise as is dealt in by retail, gift, and curio shops and catalog distribution centers (except in bulk),* from the facilities of The Swiss Colony at Monroe and Madison, WI, to points in the United States (except AK and HI) and *(2)(a) Foodstuffs (except in bulk); (b) such merchandise as is dealt in by retail, gift, and curio shops and catalog distribution centers (except in bulk), and (c) materials, equipment and supplies used in the manufacture and distribution of the commodities names in (1) above (except in bulk),* from points in the United States (except AK and HI) to the facilities of The Swiss Colony at Madison and Monroe, WI. Supporting shipper: The Swiss Colony, 1112 7th Avenue, Monroe, WI 53566.

MC 140484 (Sub-3–14TA), filed October 20, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (Same as Applicant). *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), having prior or subsequent movement by rail,* between (1) The Florida East Coast Railroad piggyback ramp at Belle Glade, FL, on the one hand, and on the other, points in Collier, Hendry and Lee Counties, FL, and (2) The Seaboard Coastline Railroad Company piggyback ramp at or near Tampa, FL, on the one hand, and on the other, points in Collier, Hendry and Lee Counties, FL. Supporting shippers: Sunset Distributors, Inc., 3404 Cargo Street, Fort Myers, FL, 33901; Sarlo/Power Mowers, Inc., 2315 Anderson Avenue, Fort Myers, FL, 33901, and Metropolitan Fort Myers Chamber of Commerce, P.O. Box CC, Fort Myers, FL 33902.

MC 143956 (Sub-3–15TA), filed October 22, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Road, Atlanta, GA 30305. *Electronic calculators, cash registers and parts thereof* between points in the U.S. restricted to movements destined to or originating at facilities utilized by Victor Business Products. Supporting shipper: Victor Business Products, 9555 Plaza Circle, El Paso, TX 79907.

MC 143059 (Sub-3–22TA), filed October 20, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 42032. Representative: Kenneth W. Kilgore (same address as applicant). *Iron and steel articles,* from Chicago, IL, to points in AL, AR, FL, GA, KY, LA, MS, OK, TN and TX. Supporting shippers: Precision Steel Co., 3500 N. Wolfe Rd., Franklin Park, IL 60131; Abex-Stanray Corp., 4527 Columbia Ave., Hammond, IN 46320; Abcor Steel, 351 W. Pershing, Chicago, IL 60609; and California Steel Co., 3301 California Ave., Chicago, IL.

MC 91306 (Sub-3–6TA), filed October 24, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Avenue NE., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street N.W., Washington, DC 20005. *Insulated copper wire, flexible steel conduit, and wrought steel pipe, and materials and supplies used in the distribution thereof,* from New York and Hicksville, NY, and points in their commercial zones, to points in NC, SC, TN, GA, VA, and KY. Supporting shipper: Cerro Wire & Cable Company, 5500 Maspeth Avenue, Maspeth, NY 11378.

MC 121654 (Sub-3–20TA), filed October 24, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *General Commodities (except in bulk, and except Classes A and B explosives, those requiring special equipment and household goods) in containers having a prior or subsequent movement by water,* between Savannah, GA and its commercial zone, on the one hand, and, on the other, points in NC, SC, GA, FL, AL, and TN. There are 5 statements in support which may be examined at the ICC Regional Office in Atlanta, GA.

MC 121654 (Sub-3–19TA), filed October 24, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Foodstuffs* from the facilities of J. H. Filbert & Co. at or near Baltimore, MD to points in NJ, PA, NY, CT, RI, MA, NH, VT, and ME. Supporting shipper: J. H. Filbert & Co.,

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3701 Southwestern Boulevard, Baltimore, MD 21229.

MC 121654 (Sub-3—18TA), filed October 24, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Malt Beverages* from the facilities of Miller Brewing Company at or near Eden, NC to Martinsburgh, WV. Supporting shipper: Reid Distributing Company, 638 N. Queen Street, Martinsburg, WV 25401.

MC 121654 (Sub-3–17TA), filed October 24, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Concrete Products* from facilities of Gate Concrete Products Co., Jacksonville, FL to points in GA, NC, and SC. Supporting shipper: Gate Concrete Products Co., 402 Heckscher Drive, Jacksonville, FL 32218.

MC 136315 (Sub-3–7TA), filed September 26, 1980. Republication—originally published in **Federal Register** of 10–16–80, page 68782, volume 45, No. 202. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Primary metal products and materials, equipment and supplies used in the manufacture and sale and distribution of said commodities,* between points in New Castle County, DE and Washington and Allegheny Counties, PA, on the one hand, and, on the other, points in the states of DE, IL, IN, KY, MI, NC, NY, OH, PA, SC, TN, and VA. Supporting shipper: Forbes Steel Corporation, P.O. Box 329, Cannonsburg, PA 15317.

MC 31389 (Sub-3–8TA), filed October 27, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. *Pipe and pipe fittings,* from Hoboken and Harrison, NJ to Manchester (Adams County), OH. Supporting shipper: Fabco Piping, Inc., 1000 South 4th Street, Harrison, NJ 07029.

Note.—Applicant intends to tack this authority with its existing authority in MC 31389.

MC 147911 (Sub-3–4TA), filed October 27, 1980. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37419. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Glues and Adhesives and materials, supplies and equipment used in the manufacture and sale of same, (except commodities in bulk),* between the facilities of Tennessee Adhesives and Chemical Corp at or near Murfreesboro, TN, on the one hand, and, on the other, points in and east of TX, OK, KS, NB, ND, and SD. Supporting shipper(s): Tennessee Adhesives and Chemical Corp., 114 Bridge Avenue, Murfreesboro, TN.

MC 123654 (Sub-3–1TA), filed October 21, 1980. Applicant: DORIS JONES d.b.a. DORIS JONES TRUCKING COMPANY, Old Dresden Highway, Gleason, TN 38229. Representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219. *Contract carrier,* irregular routes: *Bricks,* between Nashville, TN and Fayetteville, AR. Supporting shipper: Herbert Materials Incorporated, 1136 2nd Avenue, North, Nashville, TN 37208.

MC 150464 (Sub-3–4TA), filed October 15, 1980. Applicant: C. E. MELTON TRANSPORT, Route 4, Highway 280 East, Americus, Georgia 31709. Representative: Carl Melton (same as above). *General Commodities (with usual exceptions)* between Ellaville and Americus, GA, on the one hand, and, on the other, points in AL, AR, KY, MS, MO, KS, OK, LA, TN and TX. Supporting shipper: Bowen Supply, Swett Avenue, Americus, GA. 31709; Greenfield Metal Products Co., Inc., P.O. Box 26, Ellaville, GA, 31806; American Tree & Wreath, Route 4, Jingle Bell Lane, Americus, GA 31709; and Metalux Corp., P.O. Box 1207, Americus, GA 31709.

MC 151967 (Sub-3–1TA), filed October 23, 1980. Applicant: C. G. HOPKINS TRUCKING, 2071 S. E. 52nd St., Ocala, FL 32671. Representative: Cecil G. Hopkins (same address as applicant). *Cattle hides,* from Jacksonville, Tampa and Ocala, FL, to Memphis, TN. Supporting shipper: Memphis Processors, Inc., 700 West Peebles Rd., Memphis, TN 38109.

MC 151395 (Sub-3–5TA), filed October 23, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Containers and container components* from DeKalb County, GA to points in FL, GA, NC, SC, MD, TN, VA, TX, OK, AR, LA, MS, AL, KY, PA, NY, and NJ. (2) *Materials, equipment and supplies used in the manufacture and distribution of containers and container components* from the states listed in (1) above to DeKalb County, GA. Restricted to traffic originating at or destined to the facilities of Bennett Industries in DeKalb County, GA. Supporting shipper: Bennett Industries, 2160 Lithonia Industrial Blvd., Lithonia, GA 30058.

MC 146646 (Sub-3–34TA), filed October 22, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest, (same address as applicant). *Cleaning compound detergents, and materials, equipment and supplies used in the manufacture, sale and distribution of the foregoing commodities (except commodities in bulk).* Between the facilities of Pine Glo Products, Inc. at or near Raleigh, NC and points in the U.S. (except AK and HI). Supporting shipper: Pine Glo Products, Inc.; P.O. Box 27844, Raleigh, NC 27603.

MC 59150 (Sub-3–9TA), filed October 21, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval Street, Jacksonville, FL 32202. *Paper and paper products, and equipment, materials and supplies used in the manufacture, installation or distribution of paper and paper products,* between Richmond County, GA, on the one hand, and, on the other, points in the east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Abitibi Price Southern Corp., P.O. Box 427 (13), Augusta, GA 30913.

MC 31675 (Sub-3–23TA), filed October 22, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, N.C. 28234. Representative: Jay R. Hanson (same as above). *Display fixtures, parts and accessories for display fixtures and materials, equipment and supplies used in manufacture of the commodities* between Rutherford County, NC, Utah County, UT, and points and places in the U.S. Supporting shipper(s): The North Carolina Display Company, Forest City, NC.

MC 138177 (Sub-3–2TA), filed October 23, 1980. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Road, Germantown, TN 38138. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, Memphis, TN 38103. (1) *Commodities, in bulk in dump vehicles; and alloys, metals; non-liquid fertilizer and phosphate; caustic soda; aggregate, coal slag, shredded scrap, and pig iron,* from the facilities of G–K Industries, Inc. and Mid-South Terminals Corporation, Memphis, TN; and Specialty Alloys Corporation, Gallaway, TN, to points in the U.S. in and east of ND, SD, NE, KS, and NM; and (2) *Ferro and silicon alloys,* from Birmingham and Sheffield, AL; Hickman and Calvert City, KY, to the facilities of Specialty Alloys Corporation, Gallaway, TN. Supporting shippers: Mid-South Terminals Corporation, 1145 Channel Avenue, Memphis, TN 38113; Intsel Corporation, 825 Third Ave., New York, NY 10022; G–K Industries, Inc., 2750 Broad Ave., Memphis , TN 38112; and Specialty Alloys Corporation, P.O. Box 56, Gallaway, TN 38036.

MC 115793 (Sub-3–3TA), filed October 22, 1980. Applicant: CALDWELL FREIGHT LINES, INC. P.O. Box 620, Lenoir, N.C. 28645. Representative: C. Douglas Woods (same address as applicant). *New furniture and furniture parts, and materials and supplies used in the manufacture of furniture and furniture parts (except materials and supplies in bulk),* between the facilities of Singer Furniture Company, located at AR, VA, and NC. Supporting shipper: Singer Furniture Company, P.O. Box 3337, Roanoke, VA. 24012.

MC 145247 (Sub-3–1TA), filed October 24, 1980. Applicant: HERSCHEL T. LAMB, d.b.a. CAROLINA SOUTHERN, 2816 S. Stratford Road, Winston-Salem, NC 27103. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. *Contract* carrier: irregular routes, (1) *meat, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk) and (2) foodstuffs, when moving in mixed loads with the commodities in (1) above, from Washington, DC to points in Houston County, AL. Supporting shipper: District Hotel Supply Co., Inc., 300 E Street SW., Washington, D.C. 20024.

MC 151083 (Sub-3–3TA), filed October 20, 1980. Applicant: JACKSONVILLE EXPRESS, INC., 5219 New Kings Road, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier,* irregular routes: *Used office equipment,* between Jacksonville, FL and Elizabeth, NJ. Supporting Shipper: Southeast Carrier, Inc., 401 Bryan Street, Jacksonville, FL 32202.

MC 144069 (Sub-3–11TA), filed October 22, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). *General commodities, in containers or trailers, having an immediately prior or subsequent movement by water,* between Charleston, SC on the one hand, and, on the other, points in NC, SC, GA, VA, TN, and KY. Supporting Shippers: Battery Brokers, Inc., P.O. Drawer J, Charleston, SC 29402; Harrington & Company, 41 Prioleau St., P.O. Box 1296, Charleston, SC 29402; and Rohner, Gehrig Co., Inc., P.O. Box 1062, Charleston, SC 29402.

MC 682 (Sub-3–1TA), filed October 22, 1980. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: Wade H. Tomlinson, P.O. Box 7966, Columbus, GA 31907. *Kitchen cabinets and vanities,* between Denver, CO and all points in the Continental U.S. Supporting Shipper: Mastercraft Industries, Inc., 6175 E. 39th Ave., Denver, CO 80207.

MC 136363 (Sub-3–3TA), filed October 22, 1980. Applicant: J & P PROPERTIES, INC., P.O. Box 1146, Apopka, FL 32703. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. *(1) Such commodities as are dealt in by retail discount department or variety stores (except commodities in bulk) and (2) materials, equipment, and supplies used in the conduct of those businesses named in Item (1) above (except commodities in bulk)* between AR, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, OK, PA, RI, TX, VA, VT, WV, and WI, on the one hand, and on the other, facilities of Richway, a division of Federated Department Stores, Inc. located in AL, FL, GA, NC, SC, & TN. Supporting shipper: Richway, 45 Broad Street, Atlanta, GA 30302.

MC 31675 (Sub-3–22TA), filed October 22, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same address as applicant). *Chemicals: Sodium Sulphate,* between Gaston and Cleveland Counties, NC, McMinn County, TN, and points in and east of WI, IL, KY, TN, and MS. Supporting shipper: Prior Chemical Corp., 420 Lexington Ave., New York, NY 10017.

MC 11220 (Sub-3–13TA), filed October 23, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between the facilities of RMAX, Inc., at or near Dallas, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MS, MN, MO, NM, NE, ND, OH, OK, PA, SD, TN, TX, WV, and WY. Supporting shipper: RMAX, Inc., 13524 Welch Road, Dallas, TX.

MC 11220 (Sub-3–14TA), filed October 23, 1980. Applicant: GORDONS TRANSPORTS, INC., 165 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between the facilities of The Toro Company, at or near Mason City, IA; Bloomington, Burnsville, Minneapolis, and Windom, MN; and Hudson and Tomah, WI, on the one hand, and, on the other, St. Louis, MO and points in AL, AR, GA, LA, MS, OK, TN, and TX. Applicant intends to tack with its existing regular route authority and to interline with other carriers at St. Louis, MO, Chattanooga and Memphis, TN, Atlanta, GA, Birmingham and Mobile, AL, Jackson, MS, New Orleans, LA, Oklahoma City, OK and Dallas, TX. Supporting shipper: The Toro Company, 8111 Lyndale Avenue South, Minneapolis, MN 55420.

MC 112617 (Sub-3–10TA), filed October 24, 1980. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson (same address as above). *Liquid asphalt, in bulk, in tank vehicles, equipped with propane burners,* from the facilities of Gulf States Asphalt Company at Beaumont, TX to points in the U.S. in and east of TX, OK, KS, NB, and MN and points in NM. Supporting shipper: Gulf States Asphalt Company, Inc., 601 Jefferson, Suite 535, Houston, TX 77002.

MC 125689 (Sub-3–2TA), filed October 22, 1980. Applicant: BEATTYVILLE TRANSPORT, INC., Ice Dam Lane, Box 675, Cattlettsburg, KY 41129. Representative: Fred H. Daly, 2550 M Street NW., Washington, DC 20037. *Propane,* between Greenup County, KY, and points in OH, VA and WV. Supporting shipper: Buckeye Gas Products Company, 23rd and Beech Streets, Kenova, WV 25530.

MC 129537 (Sub-3–4TA), filed October 22, 1980. Applicant: REEVES TRANSPORTATION CO., Route 5 Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan Street, Tampa, FL 33602. *(1) Such commodities as are dealt in and distributed by grocery, hardware and drug stores; (2) Cleaning and building maintenance materials and supplies: (3) Swimming pools, spa and hot tub products; (4) Chemicals; and (5) Materials, equipment and supplies used for the manufacture, sale and distribution of the commodities named*

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in (1) through (4) above between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities used by Purex Corporation. Further restricted against the transportation of commodities in bulk. Supporting shipper: Purex Corporation, 24600 S. Main, Carson, CA 90749.

MC 152185 (Sub-3–1TA), filed October 24, 1980. Applicant: MAKO MARINE, INC., 4355 N.W. 128th Street, Miami, FL 33054. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. *Boats,* between all points and places in the following states: AL, CO, DE, FL, GA, IN, LA, ME, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TX and WI. Supporting Shippers: There are 20 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 25798 (Sub-3–7TA), filed October 24, 1980. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). *Meat products, meat byproducts and articles distributed by meat packinghouses as described in Sections A & C Appendix 1 to the report in Descriptions on Motor Carrier Certificates, 61 MCC 209 and 766.* From the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the United States (except AR, LA, OK and TX). Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 151083 (Sub-3–2TA), filed October 22, 1980. Applicant: JACKSONVILLE EXPRESS, INC., 5219 New Kings Road, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier:* Irregular routes: *Methalene chloride* between Jacksonville, FL and Savannah, GA. Supporting shipper: Southeast Carrier, Inc., 401 Bryan Street, Jacksonville, FL 32202.

MC 126574 (Sub-3–4TA), filed October 20, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., P.O. 7362, Greensboro, NC 27407. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Containers, container ends and closures, commodities manufactured or distributed by manufacturers and distributors of containers, and materials, supplies, and equipment, used in the manufacture, sale, and distribution of containers, containers end and closures* between points in Pittsylvania County, VA on the one hand, and, on the other, points in GA, KY, NC, SC and TN. Supporting shipper: Brockway Glass Company, Inc., McCollough Avenue, Brockway, PA 15824.

The following applications were filed in region 5. Send Protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–64TA), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Empty steel shipping cylinders for oxygen and gases,* between Garfield County, OK, on the one hand, and, on the other, points in CA. Restricted to shipments originating at or destined to facilities used by Chesterfield Cylinder Co., its affiliates, suppliers, or vendors. Supporting shipper: Chesterfield Cylinder Co., U.S. 64 & Raleigh St., Enid, OK 73701.

MC 200 (Sub-5–65TA), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Nonhousehold synthetic organic detergents, fatty acids, triglycerides, metallic stearates, and wax,* between Tarrant County, TX, on the one hand, and, on the other, Washington County, KY; Vermillion County, IL; Poweshiek County, IA; Aiken County, SC; Harris County, TX; Brazoria County, TX; and Galveston County, TX. Restricted to shipments originating at or destined to facilities used by Petrochemicals Company, Inc., its affiliates, suppliers, or vendors. Supporting shipper: Petrochemicals Company, Inc., 2001 N. Grove, Ft. Worth, TX 76101.

MC 29910 (Sub-5–61 TA), filed October 27, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. *Chemicals and lubricating oils (except in bulk),* between Huntsville, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Master Chemical Corporation, 501 West Boundary, Perrysburg, OH 43551.

MC 35320 (Sub-5–39), filed October 27, 1980. Applicant: T.I.M.E.–DC, INC. 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General commodities, except household goods as defined by the Commission, and classes A and B explosives,* serving Salt Lake City, UT and Clearfield, UT and their commercial zones as off-route points in connection with carrier's otherwise authorized regular-route operations. Supporting shippers: Seven.

Note.—Applicant intends to tack and interline.

MC 95084 (Sub-5–8TA), filed October 27, 1980. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *(1) Concrete, cement forms and (2) Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above,* between Boone, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Quinn Foundry and Machine, Division of Zeidlers, Inc., P.O. Box 130, 1518 East 12th, Boone, IA 50036.

MC 113362 (Sub-5–16TA), filed October 27, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Meat products,* between Webster City, IA, on the one hand, and, on the other, points in IL, IN, OH, MO, NE, KS, SD, MN, and WI. Supporting shipper: The Nissen Company, East Highway 20, Webster City, IA 50595.

MC 114274 (Sub-5–4TA), filed October 27, 1980. Applicant: VITALIS TRUCK LINES, INC., 137 NE. 48th St. Pl., Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, IL 60601, (Phone) 312–332–5106. *Confectionery* from the facilities of M & M Mars, Inc., Division of Mars, Inc., at Chicago, IL; Elizabeth, PA; and Hacketstown, NJ to points in IA, NE, IL, MN, KS, and MO. Supporting shipper: M & M Mars, Inc., Division of Mars, Inc., High St., Hacketstown, NJ 07870.

MC 116077 (Sub-5–11TA), filed October 27, 1980. Applicant: DSI TRANSPORTS, INC., 5851 San Felipe, Suite 800, P.O. Box 1505, Houston, TX 77057. Representative: J. C. Browder (same address as above). *Chemicals in bulk, in tank vehicles,* between Matagorda County and Nueces County, TX, on the one hand, and points in the U.S. (except AK and HI), on the other. Supporting shipper: Celanese Corporation, Post Office Box 47320, Dallas, TX 75247.

MC 117119 (Sub-5–37TA), filed October 27, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: June B. Ball (same address as applicant). *Such merchandise as is used in retail, wholesale, chain grocery and food business houses (except in bulk)* from Decatur, IL to Atlanta, GA and Mechanicsburg, PA. Supporting shipper(s): A. E. Staley Manufacturing Co., 2222 Kensington Court, Decatur, IL 60521.

MC 117119 (Sub-5–38TA), filed October 27, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: June B. Ball (same address as applicant). *Frozen foods* from Chicago, IL to points in MD, VA, NC, NJ, NY, DE, PA, SC, GA, TN, MA, CT, RI, and MN. Supporting shipper(s): Emcee Meat Company, 4545 South Racine, Chicago, IL 60609.

MC 121570 (Sub-5–1TA), filed October 27, 1980. Applicant: AUSLEY MOTOR FREIGHT, INC., 101 S.W. 7th Street, Oklahoma City, OK 73125. Representative: Dean Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Common, regular; *General commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those which require the use of special equipment),* between Altus, OK and the Dallas-Fort Worth, TX commerical zone over the following route: From Altus, OK via U.S. Highway 283 to its intersection with U.S. Highway 287 at Vernon, TX; thence via U.S. Highway 287 to the Dallas-Fort Worth commercial zone, and return over the same route serving no intermediate points. Applicant intends to interline with other carriers. Supporting shippers: There are 6 supporting shippers.

MC 125254 (Sub-5–7TA), filed October 27, 1980. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Liquid foundry compounds, in containers,* from Muscatine, IA, to Paterson, NJ; Arlington, MA; East Stroudsburg, PA; Greensboro, NC; and Newark, NJ. Supporting shipper: Carver Foundry Products, Division of International Mineral Corporation, P.O. Box 837, Muscatine, IA 52761.

MC 126822 (Sub-5–31TA), filed October 27, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). *(1) Building materials and (2) materials and supplies used in the manufacture and distribution of (1) above* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of D. L. Kropp and Associates, Inc. Supporting shipper: D. L. Kropp and Associates, Inc., P.O. Box 916, Lewisville, TX 75067.

MC 126822 (Sub-5–32TA), filed October 27, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). *General commodities (except commodities in bulk and household goods)* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of Jos. Schlitz Brewing Company. Supporting shipper: Jos. Schlitz Brewing Company, 235 W. Galena Street, Milwaukee, WI 53212.

MC 133811 (Sub-5–1TA), filed October 27, 1980. Applicant: H. E. McCONNELL and H. E. McCONNELL II d.b.a. McCONNELL & SON TRUCKING COMPANY, 5117½ East Broadway, North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Building, Little Rock, AR 72201. *Fly Ash and Bottom Ash, in bulk,* from the facilities of CHEM–ASH, Inc., at Redfield, AR to all points in KY, TN, MS and LA. Supporting shipper: CHEM–ASH, Inc., Redfield, AR.

MC 134405 (Sub-5–14TA), filed October 27, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Bentonite, in bulk in pneumatic trailers,* from Colony and Upton, WY to East Baton Rouge, West Baton Rouge and Pointe Coupee Parishes, LA. Supporting shipper: Wilbur-Ellis Company, Suite 200, Eighth and Eighth Building, Greeley, CO 80631.

MC 136212 (Sub-5–1TA), filed October 27, 1980. Applicant: JENSEN TRUCKING COMPANY, INC., P.O. Box 349, Gothenburg, NE 69138. Representative: Scott T. Robertson, Peterson, Bowman & Johanns, P.O. Box 81849, Lincoln, NE 68501. *Feed and feed ingredients* from Lincoln, Fremont and Gothenburg, NE; Emporia, Wichita, and Fredonia, KS; and Kansas City and St. Joseph, MO, and points within their respective commercial zones to OK, TX, and NM. Restricted to traffic originating at or destined to the facilities of Doug Record Corporation, Inc. Supporting shipper: Doug Record Corporation, Inc., 1946 Avenue Q, Fields Building, Lubbock, TX 79405.

MC 136786 (Sub-5–37TA), filed October 27, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Electrical meters,* between Waco, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Texas Meter & Device Co., Inc., 1323 N. 4th Street, P.O. Box 3088, Waco, TX 76707.

MC 140033 (Sub-5–10TA), filed October 27, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Wearing apparel and supplies necessary to operate retail clothing stores* from Arlington, TX to Atlanta, GA. Supporting shipper: Foxmoor Casuals, 393 Manley Street, West Bridgewater, MA.

Note.—Applicant intends to tack and interline.

MC 140665 (Sub-5–42TA), filed October 27, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *Frozen Meats* between the facilities of New Orleans Cold Storage and Warehouse Co., Ltd. at New Orleans, LA, on the one hand, and, on the other, points in AZ, CA, CO, IA, ID, IL, IN, KS, KY, MI, MN, MO, MT, NC, ND, NE, NM, NV, NY, OH, OK, OR, PA, SD, TN, TX, UT, VA, WA, WI, and WY. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., 3401 Alvar, New Orleans, LA 70188.

MC 141914 (Sub-5–16TA), filed October 27, 1980. Applicant: FRANKS AND SONS, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *Wood and plastic articles* from West Paris, ME to points in AL, CO, CN, DE, ID, IN, IA, KY, LA, MA, MI, MS, MT, NE, NJ, NM, NY, ND, PA, RI, SD, VT, WV, WI & WY. Supporting shipper: Penley Corporation, West Paris, ME 04289.

MC 141914 (Sub-5–17TA), filed October 27, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *General commodities* between points in the U.S., on the one hand, and, on the other, the facilities of Brunswick Corporation. Supporting shipper: Brunswick Corporation, One Brunswick Plaza, Skokie, IL 60077.

MC 142672 (Sub-5–16TA), filed October 27, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Foodstuffs (except in bulk, in tank vehicles)*—From the plantsite of Adams Packing Association, Inc., at or near Memphis, TN—To points in the U.S. (except AK and HI). Supporting

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shipper: Adams Packing Association, Inc., Post Office Box 37, Auburndale, FL 33823.

MC 144682 (Sub-5–11TA), filed October 27, 1980. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Paper and paper products, plastic film or sheeting, plastic articles, and plastic portable toilets* (1) between CA on the one hand, and, on the other, points in OR, WA, ID, CO, UT, AZ, NM and Dallas County, TX; and (2) between Dallas County, TX on the one hand and, on the other, points in CO, ID and NM. Supporting shipper(s): Dixico, Inc., Flexible Packaging Division, 4331 Bronze Way, Dallas, TX 75265.

MC 145489 (Sub-5–10TA), filed October 27, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract: Irregular. *Lumber, lumber products and millwork,* from points in AL, AR, FL, GA, LA, MS, OK and TX, to points in IA, IL, IN, MN and WI, under continuing contract(s) with Midwest Lumber Associates of Sun Prairie, WI. Supporting shipper(s): Midwest Lumber Associates, 600 West Main Street, Sun Prairie, WI 53590.

MC 145744 (Sub-5–2TA), filed October 27, 1980. Applicant: C. V. SOHN, INC., 142 Midland, Maryland Heights, MO 63043. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. (1) *Frozen Foods and Frozen Meat, Meat Products and Meat By-products;* and (2) *Meat, Meat Products and Meat By-products,* (1) Between St. Joseph, MO on the one hand, and, on the other, points in the U.S.; and (2) Between Holton, KS on the one hand, and, on the other, points in the U.S. Supporting shippers: Artesian Ice & Cold Storage Co., 2700 Stockyards Expressway, St. Joseph, MO 64102. Midland Meats, 622 West 3rd Street, Lee's Summit, MO 64063.

MC 148648 (Sub-5–1TA), filed October 27, 1980. Applicant: GREAT PLAINS TRANSPORTS, INC., P.O. Box 923, 1750 Highway 183 South, Clinton, OK 73601. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. *Machinery, equipment, materials and supplies, use in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products;* and *machinery, equipment, materials and supplies, use in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells,* between points in TX and OK, and between TX and OK, on the one hand, and, on the other, points in LA. Supporting shippers: 9.

MC 148833 (Sub-5–5TA), filed October 27, 1980. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Lumber, millwork and building materials, except in bulk,* between the facilities of Midwest Lumber and Millwork at or near Des Moines, IA, on the one hand, and, on the other, points in and west of MI, IN, KY, TN, GA and FL. Supporting shipper: Midwest Lumber and Millwork, 9945 Hickman Road, Des Moines, IA 50317.

MC 150330 (Sub-5–8TA), filed October 27, 1980. Applicant: BELCO, INC., 2101 West Main Street, Jacksonville, AR 72076. Representative: Ron Harvey, 2101 West Main Street, Jacksonville, AR 72076. Contract, irregular; *household appliances, television sets, recorders (tape or wire), air conditioners, equipment, materials, and supplies used in the manufacture and distribution thereof* between the facilities of General Electric Company on the one hand, and all points in the U.S.A. on the other hand. Supporting shipper: General Electric Company, Appliance Park, Louisville, KY 40225.

MC 150949 (Sub-5–4TA), filed October 27, 1980. Applicant: NFI, INC., Box 664, S. Interstate No. 35, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Plumbing goods, fixtures, and materials, equipment, and supplies,* used in the manufacture, sale, and distribution of such commodities between points in Lee County, MS, on the one hand, and, on the other, points in AR, LA, & TX. Supporting shipper: Eljer Plumingware, Pittsburgh, PA 15222.

MC 151848 (Sub-5–1TA), filed October 27, 1980. Applicant: INTERNATIONAL VAN AND STORAGE, INC., 5001 NW. 4th, Oklahoma City, OK 73127. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Household goods, as defined by the Commission,* between points in AZ, WY, CO, NM, NE, KS, OK, TX, MO, AR, LA, IL, TN, NY, MD, VA, and NJ. Supporting shippers:

MC 152025 (Sub-5–1TA), filed October 27, 1980. Applicant: TOMMY'S HOT SHOT SERVICE, P.O. Box 2022, Orange, TX 77630. Representative: Lena Ann Vilo (same address as above). (1) *Plastics and plastic articles (except in bulk);* (2) *Oilfield equipment, material and supplies,* from Orange, TX to points in LA, MS, AR, and OK. Supporting shippers: Wilson's Whse. Co. of Texas Inc., 215 N. 39th St., Orange, TX 77630 and Joe's Rental Tools Co., P.O. Box 212, Beaumont, TX 77704.

MC 152281 (Sub-5–1TA), filed October 27, 1980. Applicant: LIBERTY EXPRESS, INC., 1044 Swift, North Kansas City, MO 64116. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *General commodities,* from the Commercial Zone of Kansas City, MO, to points in AR, IA, KS, MO, NE and OK. Supporting shippers: Mid-West Terminal Warehouse Company, GPO Box 11 (1501 Southern), Kansas City, MO 64141 and Sweetheart Cup Corp., 7575 South Kostner Avenue, Chicago, IL 60652.

MC 152360 (Sub-5–1TA), filed October 27, 1980. Applicant: WILCO TRANSPORTATION, INC., Box 16, Springfield, MO 65803. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Contract, irregular. *Wine, malt beverages, and distilled spirits (except in bulk)* from Modesto, CA to Springfield, MO, under continuing contracts with Murray Distributing Company, of Springfield, MO. Supporting shipper: Murray Distributing Company, Springfield, MO 65803.

MC 152362 (Sub-5–1TA), filed October 27, 1980. Applicant: SOUTHWEST EXPRESS CO., INC., 1007 Cooper Sq. #276, Arlington, TX 76010. Representative: Mr. Timothy C. Hope (same address as applicant). (1) *Products utilized in the drilling and production of oil and gas wells, restricted to shipments of 15,000 lbs. or less;* (2) *General commodities (not to include refrigerated commodities), restricted to shipments under 15,000 lbs. or less* between all points in TX, NM, OK, CO, WY, AR, TN, LA, MS, AL, GA, NC, SC, FL, and VA, on the one hand, and on the other hand, all points in the U.S., including AK and HI. Supporting shipper: Maker Company, 6400 McCullar Rd., Haltom City, TX 76117; Earle M. Jorgensen Co., 2030 W. Commerce St., Dallas, TX 75265; Mustang Service Company, 109 Fairview, Arlington, TX 76010; Vickery Sims, 905 Mayfield Rd. Box 459, Arlington, TX 76010.

MC 152364 (Sub-5–1TA), filed October 27, 1980. Applicant: TOM, DICK AND HARRY DELIVERY CO., INC., 7313 Edwards Street, Houston, TX 77007. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. *General commodities (except classes A & B explosives, cement, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of Acme Fast Freight, Inc. under the provisions of the Interstate Commerce Act.* Between Houston, TX and points in the Houston, TX Commercial Zone, on the one hand, and on the other, points in Milam, Robertson, Leon, Houston, Angelino, San Augustine, Lee, Liberty, Burleson, Brazos, Grimes, Madison, Trinity, Polk, Tyler, Jasper, Newton, Washington, Waller, Harris, Walker, San Jacinto, Montgomery, Fayette, Austin, Colorado, Harris, Chambers, Jefferson, Orange, Hardin, Victoria, Jackson, Wharton, Brazoria, Fort Bend, Galveston, Matagorda, Calhoun, Refugio, and Arkansas Counties, TX. Supporting shipper: Acme Fast Freight, Inc., 4951 Simonton Road, Dallas, TX 75234.

MC 152365 (Sub-5–1TA), filed October 27, 1980. Applicant: PETROLEUM PUMP & TRANSPORT SERVICE, INC., 2800 W. 42nd St., P.O. Box 3803 (mailing), Odessa, TX 79760. Representative: George L. Fowler, Attorney at Law, 115 West Fifth Street, Odessa, TX 79761. *Machinery, materials, supplies and equipment incidental to, or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum. Between points in TX, OK, KS, NM, LA and CO. Supporting shippers: Approximately 47 supporting shippers.*

MC 152366 (Sub-5–1TA), filed October 27, 1980. Applicant: AMERICAN COLLOID CARRIER CORP., P.O. Box 951, Scottsbluff, NE 69361. Representative: James P. Beck, 717–17th St., Suite 2600, Denver, CO 80202. (1) *Machinery, equipment, materials and supplies used in, or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* and (2) *Machinery, materials, equipment and supplies used in, or in connection with the construction, operations, repair, servicing, maintenance and dismantling of pipelines* (a) between points in and west of ND, SD, NE, KS, OK and TX, and (b) between points in and west of ND, SD, NE, KS, OK and TX on the one hand, and, on the other, AR, IL and LA. Supporting shippers: Pacer Corporation, P.O. Box 912, Custer, SD 57730; Davis Oil Company, 410—17th St., Suite 1400, Denver, CO 80202; and Wilson Industries, Inc., P.O. Box 1492, Houston, TX 77001.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-34933 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Judgment in Action To Enjoin Discharge of Water Pollutants by Inversand Company

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 16, 1980, a proposed consent judgment in *United States of America* v. *Inversand Company,* Civil Action No. 80–3375, was lodged with the United States District Court for the District of New Jersey. The defendant, Inversand Company, owns and operates a facility which produces manganese greensand and discharges pollutants into a tributary of Mantua Creek in Sewell, New Jersey. The proposed consent judgment requires Inversand Company to achieve compliance with the effluent limitations in its National Pollutant Discharge Elimination System Permit by April 4, 1981, in accordance with a specified schedule of compliance, and to pay stipulated penalties if it fails to meet the compliance schedule. In addition, the consent judgment requires Inversand to pay a civil penalty of $65,000.

The proposed consent judgment may be examined at the office of the United States Attorney, Civil Division, Post Office Box 330, Newark, New Jersey 07102; at the Region II office of the Environmental Protection Agency, 25 Federal Plaza, New York, New York 10007; and at the Environmental Enforcement Section, Land & Natural Resources Division of the Department of Justice, Room 1254, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land & Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent judgment for a period of thirty (30) days from the date of this notice. Comments should be addressed to Angus Macbeth, Deputy Assistant Attorney General, Land & Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States of America* v. *Inversand Company,* Civil Action No. 80–3375, D.J. No. 90–5–1–1–1273.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-35005 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Hazardous Waste

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 30, 1980, a proposed Consent Decree in *United States* v. *Gulf Coast Lead Company* was lodged with the United States District Court of the Middle District of Florida. The proposed decree would require Defendants to correct its lead recovery operation located in Tampa, Florida which has resulted in contamination to groundwater and require Defendant to implement certain operational and remedial measures and a monitoring program at the site.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Gulf Coast Lead Company,* D.O.J. Docket No. 90–7–1–129.

The proposed consent decree may be examined at the Office of the Clerk, U.S. District Court, Tampa, Florida, office of the United States Attorney, Room 410, Robert Timber Lake Building, 500 Zack Street, Tampa, Florida, at the Region IV Office of the Environmental Protection Agency, Enforcement Division, Legal Branch, 345 Courtland Street, Atlanta, Georgia 30365 and at the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice (Room 1644), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Hazardous Waste Section, Land and

V 45 NO 010 80 0 UMI

Natural Resources Division, Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-35006 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 80-14]

Jack A. Braley, D.O.; Revocation of Registration

On April 15, 1980, the Administrator of the Drug Enforcement Administration (DEA) directed to Jack A. Braley, D.O. (Respondent) an Order to Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration AB5663504. The predicate for the Order to Show Cause is the revocation of Respondent's license to practice osteopathy by the Kansas State Board of Healing Arts on December 15, 1979, thereby terminating his authority to prescribe, dispense, administer or otherwise handle controlled substances in Kansas. Respondent, through counsel, requested a hearing. On June 24, 1980, the Honorable Francis L. Young, administrative law judge, conducted a telephone prehearing conference with counsel for Respondent and the Government. During the prehearing conference, counsel for Respondent and the Government agreed there is no genuine issue of fact in this case. On June 25, 1980, Judge Young issued a prehearing ruling directing Government counsel to submit a motion in the nature of a motion for summary judgment, which Government counsel did on July 16, 1980. The motion included a certified copy of the revocation by the Kansas board. Respondent's counsel responded to the motion on August 22, 1980. On September 11, 1980, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. Pursuant to 21 CFR 1316.67, the Administrator publishes his Final Order in this proceeding, based upon the findings of fact and conclusions of law set forth below.

Judge Young found that the Kansas State Board of Healing Arts revoked Dr. Braley's license to practice osteopathy in Kansas on December 15, 1979. This revocation terminates Respondent's authority to prescribe, dispense, administer or otherwise handle controlled substances in the State of Kansas. Under Title 21, United States Code, Section 823(f), DEA is to register practitioners such as Respondent only if they are authorized to dispense controlled substances under the law of the state in which they practice. The Kansas board has revoked Respondent's osteopathy license. Therefore, he is without authority to dispense controlled substances, and DEA cannot register him. The merits of the action of the Kansas board, and the lawfulness of its procedures, are irrelevant in the DEA proceeding.

In a Response to the Government's motion, counsel for Respondent argues that DEA must await conclusion of Respondent's appeal to the Kansas board before revoking Respondent's registration. This Administration has consistently held that it need not await the outcome of an appeal from a State medical board revocation or suspension before revoking a practitioner's DEA registration. See *Malcolm E. Bridwell*, Docket No. 77-25, 43 FR 3955 (1978).

Judge Young concluded that where, as here, there is no factual question, "a plenary, adversary administrative proceeding involving evidence, cross-examination of witnesses, etc. is not obligatory." *United States* v. *Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971). This Administration has denied or revoked DEA registrations without hearing in other cases in which the practitioner lost his state drug handling license. See *In the Matter of James Waymon Mitchell, M.D.*, Docket No. 79-16, 44 FR 71466 (1979); *In the Matter of David Sachs, M.D.*, Docket No. 77-22, 42 FR 29112 (1977).

The Administrator adopts the findings, conclusion and recommended decision of the administrative law judge, as set forth above. The Administrator finds that Dr. Braley's controlled substance handling privileges have been revoked by the Kansas State Board of the Healing Arts. The Administrator concludes that there is no genuine issue of fact, and further concludes that Respondent's DEA registration must be revoked. It is the decision of the Administrator to revoke Respondent's DEA registration. Accordingly, pursuant to the authority vested in the Attorney General by Section 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby revokes DEA Certificate of Registration AB5663504, issued to Respondent Jack A. Braley, D.O., for the reason that the Kansas State Board of Healing Arts on December 15, 1979, revoked Respondent's license to practice osteopathy in Kansas, thus terminating his authority to prescribe, dispense, administer, or otherwise handle controlled substances in Kansas. This revocation is effective December 10, 1980.

Peter B. Bensinger,

Administrator.

November 3, 1980.

[FR Doc. 80-35007 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Correction Notice of Application

On January 10, 1980, Merck and Co., Inc., Merck Chemical Manufacturing Division, P.O. Box 2000, Lincoln Avenue, Attn: Office of the Secretary, Rahway, New Jersey 07065, made application to register with the Drug Enforcement Administration as an Importer of Raw Opium (Code 9600) and Concentrate of Poppy Straw (Code 9670). Notice of application was published in the **Federal Register** (45 FR 57790) on August 29, 1980; however, Raw Opium (Code 9600) was inadvertently omitted from the notice.

Any other such applicant, and any person who is presently registered with the DEA as a bulk Importer of Raw Opium (Code 9600) may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1311.42 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than December 8, 1980.

Dated: November 3, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-35008 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Notice is hereby given that on February 26, 1980, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug	Schedule
Raw opium (9600)	II
Poppy straw (opium plant form) (9650)	II
Concentrate of poppy straw (9670)	II

Any other such applicant, and any other person who is presently registered with the DEA as a bulk importer of these substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1311.42 and in the form prescribed by 21 CFR 1316.47.

Any such comments or objections may be addressed to the Administrator, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than December 8, 1980.

Dated: November 3, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-35009 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-09-M

Dr. Nam Jin Park, M.D.; Revocation of Registration

On July 2, 1980, the Administrator of the Drug Enforcement Administration (DEA) directed to Nam Jin Park, M.D., the Respondent herein, an Order to Show Cause as to why the Respondent's DEA Certificate of Registration AP7277862 should not be revoked, for reason that on May 13, 1980, the United States District Court for the Southern District of New York accepted Respondent's plea of guilty to one (1) count of conspiracy to dispense and distribute Schedule II and Schedule IV controlled substances in violation of 21 U.S.C. 846. This conviction is a controlled substance-related felony. In a letter dated August 4, 1980, Respondent expressly waived his right to a hearing in this matter and provided the Administrator with a written statement regarding his position on the matters of fact and law involved. Pursuant to 21 CFR 1301.54(e), the Administrator has considered the investigative file in this matter and hereby publishes this Final Order pursuant to 21 CFR 1316.66.

The Administrator finds that on May 13, 1980, the Honorable Kevin Thomas Duffy, United States District Judge, sitting for and in the United States District Court for the Southern District of New York, found Respondent to be guilty of conspiracy to dispense and distribute Schedule II and Schedule IV controlled substances in violation of 21 U.S.C. 846. The Administrator further finds that the imposition of a sentence for the charge of conspiracy was suspended and that Respondent was placed on probation for two years with the special condition that Respondent spend at least two hundred fifty (250) hours on each year of probation in the performance of community service.

The Administrator further finds, based upon the investigative file, that on at least seven occassions, undercover investigators of the Drug Enforcement Administration purchased Schedule II and Schedule IV controlled substances, by way of written prescriptions, from Respondent without the benefit of physical examination or for approved medical purposes.

The Administrator further finds, upon a thorough review of the investigative file and the written statement filed by Respondent, that the public interest would be served if Respondent is permitted to administer or order the administration of controlled substances in the course of his professional practice while employed by the Creedmoor Psychiatric Center located in Queens Village, New York; it being a facility that is duly registered under the Controlled Substances Act. The Administrator also finds that there is no legal or regulatory impediment in Respondent being so employed, conditioned that Respondent remain licensed to practice medicine in the State of New York. It is noted that 21 CFR 1301.76(a) provides that "a registrant shall not employ as an agent or employee who has access to controlled substances any person who has had . . . his registration revoked, at any time." In order that Dr. Park may be employed at the Creedmoor Psychiatric Center, the Administrator hereby waives the prohibition of 21 CFR 1301.76(a) with respect to the employment of Nam Jin Park, M.D. as a staff psychiatrist at the Creedmore Psychiatric Center.

Based upon his review of the entire investigative file and the written statement from Respondent, the Administrator concludes that there are lawful grounds for the revocation of Respondent's DEA registration pursuant to 21 U.S.C. 824(a)(2). It is the decision of the Administrator of the Drug Enforcement Administration to revoke Respondent's DEA registration for reason that Nam Jin Park was found guilty of a felony relating to controlled substances. Accordingly, pursuant to the authority vested in the Attorney General in 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Certificate of Registration AP7277862, previously issued to Nam Jin Park, M.D., be, and is hereby, revoked, effective December 10, 1980.

Dated: November 4, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 35010 Filed 11-7-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music Panel (Chorus Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Chorus Section) to the National Council on the Arts will be held November 5-9, 1980, from 9:00 a.m.-5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on November 5, 1980, from 9:00 a.m.-11:00 a.m. and November 9, 1980, from 9:00 a.m.-11:00 a.m. to discuss policy and guidelines.

The remaining sessions of this meeting on November 5, 1980 from 11:00 a.m. to 5:30 p.m., November 6, 1980 from 9:00 a.m.-5:50 p.m., November 7, 1980 from 9:00 a.m.-5:30 p.m., and November 8, 1980, from 11:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 3, 1980.

[FR Doc. 80-35018 Filed 11-7-80; 8:45 am]

BILLING CODE 7537-01-M

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NUCLEAR REGULATORY COMMISSION

[Spent Fuel Pool Expansion Docket No. 50-155 OLA]

Reconstitution of Atomic Safety and Licensing Appeal Board; Consumer Power Company (Big Rock Point Nuclear Plant)

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this spent fuel proceeding to consist of the following members:

Thomas S. Moore, Chairman
Dr. John H. Buck
Christine N. Kohl

Dated November 3, 1980.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 80-34986 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-2623-OLA; Amdt. to Materials License SNM-1773]

Reconstitution of Atomic Safety and Licensing Appeal Board; Duke Power Company (Oconee/McGuire)

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this materials license amendment proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Richard S. Salzman

Dated November 3, 1980.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 80-34987 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Reconstitution of Atomic Safety and Licensing Appeal Board; Public Service Electric & Gas Co., et al. (Salem Nuclear Generating Station, Unit No. 1) (Proposed Issuance of Amendment to Facility Operating License No. DPR-70)

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this spent fuel proceeding to consist of the following members:

Christine N. Kohl, Chairman
Dr. W. Reed Johnson
Thomas S. Moore

Dated November 3, 1980.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 80-34988 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Babcock and Wilcox Water Reactors; Change of Meeting Date

The ACRS Subcommittee meeting on Babcock and Wilcox Water Reactors scheduled to be held November 12 has been rescheduled to be held on December 18, 1980. All items remain the same as published in the **Federal Register** on October 16, (45 FR 68817).

Additional information regarding this meeting may be obtained by a prepaid telephone call to the Designated Federal Employee, Mr. John C. McKinley, (telephone 303/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 5, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-34991 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Company et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment adds a condition to the license requiring implementation of a secondary water chemistry monitoring program to inhibit steam generator tube degradation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 2, 1980, (2) Amendment No. 51 to License No. NPF-1 and (3) the Commission's related letters dated August 1, 1979 and October 28, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October, 1980.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 80-34989 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the city of Eugene, Oregon, and Pacific Power & Light Company (the licensees), which revised the Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment revises the corporate (off-site) organization for support of the Trojan Nuclear Plant by placing all nuclear support activities in a single corporate division.

The application for the amendment complies with the standards and requirements of the Atomic energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commissionn has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 30, 1980 (2) Amendment No. 52 to License No. NPF-1 and (3) the Commission's related letter evaluation dated October, 28, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request address to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October 1980.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 80-34990 Filed 11-7-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

November 5, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available):
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
The number of forms in the request for approval;
The name and telephone number of the person or office responsible for OMB review; and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

Revisions

• Economic Development Administration
Application for financial assistance private sector
Investments, loans and guarantees (employment plan addendum)
ED-201
On occasion
Businesses or other institutions for profit business firms
SIC: Multiple
Small businesses or organizations
Area and regional development 300 responses; 51,000 hours, 1 form
William T. Adams, 395-4814

Purpose is to make Federal Economic Development programs work better by linking them with employment and training programs. The addendum will produce an employment plan that assures EDA-created jobs are made available to the long-term unemployed.

• Bureau of the Census
Internal combustion engines (except aircraft and nondiesel automotive)
MA-35L
Annually
Businesses or other institutions
Manufacturers of internal combustion engines
SIC: 351
Small businesses or organizations
Other advancement and regulations of commerce; 65 responses; 65 hours; $3,315,000 Federal cost, 1 form
Off. of Federal Statistical Policy and Standard, 673-7974
This survey was begun in 1943 to provide data on production and

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shipments of internal combustion engines. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market share analysis and long-term planning.

Extensions (Burden Change)

• International Trade Administration
Overseas business interest questionnaire
ITA-471P
On occasion
Businesses or other institutions
U.S. plan. to partic. in 1 or more est. 30 doc. trd.ms.
SIC: All
Small businesses or organizations
Other advancement and regulation of commerce; 1,000 responses; 500 hours; $630 Federal cost, 1 form
William T. Adams, 395-4814
An essential form used in the procurement process for all commerce-sponsored specialized trade and seminar missions. Each trade mission member voluntarily provides detailed information on the products and needs of the company for participation in the event.

• Bureau of the Census
Steel power boilers
MA-34G
Annually
Businesses or other institutions
Manufacturers of steel power boilers
SIC: 344
Small businesses or organizations
Other advancement and regulation of commerce; 37 responses, 19 hours; $3,315,000 Federal cost, 1 form.
Off. of Federal Statistical Policy & Standard, 673-7974
This survey was begun in 1919 to provide measures of manufacturers' shipments of steel power boilers. The data are used by Government agencies, business firms, trade associations, and private research and consulting organizations to analyze and forecast changes in the industry and to determine individual market share.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—633-9464.

• Economic Regulatory Administration
Municipal waste reprocessing demonstration facilities program: evaluation, assessment, and reporting guidelines
CS-489R-A
Quarterly
State or local governments
Municipalities
SIC: 919
Multiple functions, 24 responses, 384 hours; $3,000 Federal cost, 1 form
Jefferson B. Hill, 395-7340
The CS-489R-A is a semi-annual report to be filed by the municipalities participating in the municipal waste reprocessing demonstration facilities program. The data will be used to document and evaluate demonstration facility performance.

• Federal Energy Regulatory Commission
Coordinated regional bulk power supply program report
ERA-411
Annually
Businesses or other institutions
Regional electric reliability councils and electric util.
SIC: 491 869
Energy information, policy, and regulation, 638 responses, 26,981 hours; $19,000 Federal cost, 1 form
Jefferson B. Hill, 395-7340
The data are used by the economic regulatory administration for evaluating national bulk power supply reliability.

Revisions

• Conservation and solar energy
Coal production report
EIA-7A
Annually
Businesses or other institutions
All coal producers
SIC: 111 121
• Energy information, policy, and regulation
7,000 responses; 5,166 hours; $230,000 Federal cost; 1 form

Jefferson B. Hill, 395-7340

This annual form collects information on bituminous coal and lignite production, mine operation productivity, and stocks. The data collected will be used in this compilation of aggregated statistical reports which provide needed information to the interested public and which will assist the Department of Energy in monitoring the coal industry. Performing coal related analyses and developing energy policy.

• Economic Regulatory Administration,
Subcontractor survey,
CS-476,
Annually,
Businesses or other institutions,
Prime contractors of the Office of Solar Energy,
SIC: multiple,
Energy information, policy, and regulation, 440 responses; 880 hours; $60,500 Federal cost; 1 form
Jefferson B. Hill, 395-7340
The CS-476 will be used annually to help determine the amount of CS Office of Solar Energy dollars actually received by small, disadvantaged, and women-owned firms, as well as the amounts received by large businesses, universities, etc. through first and second level subcontracting.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—245-7488

New

• National Institutes of Health,
NHLBI twin study follow-up examination
NIH-2455 series,
Nonrecurring,
Individuals or households,
Male veteran twins examined ten years earlier
Health, 8,800. responses; 1,760 hours; $834,000 Federal cost; 11 forms
Richard Eisinger, 395-6880
This Data Collection is follow-up medical examination of a group of male twins examined ten years earlier. Data collection should start October 1980 and end by March 1982. Data will be used to assess genetic versus environmental influences on the risk of cardiovascular diseases.

• Alcohol, Drug Abuse, and Mental Health Administration
The NIMH epidemiologic catchment area program interview of institutionalized sample
Nonrecurring
Individuals or households
Persons who are institutionalized
Health, 400 responses, 600 hours; $175,000 Federal cost, 1 form
Richard Eisinger, 395-6880
This project will provide basic psychiatric epidemiologic data on incidence and prevalence of mental disorders, and to assess the relationship between psychiatric disorders in the community and the use of psychiatric and general health facilities.

• National Institutes of Health
Honolulu Hearth Program
NIH-2455 series
Nonrecurring
Individuals or households
Honolulu heart program "lipoprotein cohort"
Health, 3,450 responses, 1,112 hours; $370,600 Federal cost, 4 forms,
Richard Eisinger, 395-6880
Re-examination of a cohort of American men of Japanese ancestry, first examined in 1965, to obtain correlations among diet, lipoprotein fractions, and risk of heart disease, stroke and cancer.

• Center for Disease Control,
Questionnaires for participants in parent sex education courses,
Nonrecurring,
Individuals or households,
Participants in parent sex education courses,
Health, 3,000 responses, 880 hours; $70,000 Federal cost, 4 forms,
Richard Eisinger, 395-6880
Parent sex education programs will be conducted at nine sites. The purpose of this project is to evaluate the implemented curriculum carefully and comprehensively. Will begin as soon as cleared, data collected will last about eight months.

Revisions

• Social Security Administration,
Representative payee report
SSA-623
Annually
Individuals or households
Individuals who serve as payee for beneficiary
General retirement and disability insurance, 200,000 responses, 66,667 hours; $1,348,000 Federal cost, 1 form
Barbara F. Young, 395-6880
Sections 205 (a) and (j) of the Social Security Act provide for payment of social security benefits to a relative or some other person when in the best interest of the beneficiary. This form is used to determine a payee's continuing suitability to receive a beneficiary's payment when there has been some indication that misuse of benefits may have occurred.

• Social Security Administration,
Statement of institution or social agency
SSA-1255
On occasion
Businesses or other institutions
Institutions or social agencies in which a beneficiary resides
Small businesses or organizations
General retirement and disability insurance, 10,000 responses, 833 hours; $94,100 Federal cost, 1 form
Barbara F. Young, 395-6880
Sections 205 (a) and (j) of the Social Security Act provide for the certification of payment of a social security beneficiary's payments to a relative or some other person when it appears that to do so would serve the best interest of the beneficiary. The information is used to verify a representative payee's accounting for use of social security benefit payments. It also elicits information about the representative payee's interest in the welfare of the beneficiary.

• Social Security Administration
Representative payee report
SSA-624
On occasion
Businesses or other institutions
Agencies or institutions serving as payee for beneficiary
General retirement and disability insurance, 60,000 responses, 20,000 hours; $404,400 Federal cost, 1 form
Barbara F. Young, 395-6880
Section 205 (a) and (j) of the Social Security Act provide for payment of social security benefits to a relative or some other person when in the best interest of the beneficiary. This form is used to account for the use of social security payments certain institutional representative payees receive on behalf of that beneficiary.

• Social Security Administration
Application to be selected as payee
SSA-11-F6
On occasion
Individuals or households
Individuals who wish to receive social security or social security insurance benefits, child or adult benefits
General retirement and disability insurance, 600,000 responses, 100,000 hours; $61,452,000 Federal cost, 1 form
Barbara F. Young, 395-6880
This form is needed in order for a determination to be made regarding the suitability of a payee for a social security beneficiary who is determined to be incapable of handling his own funds. Our procedures require that the payee applicant must submit evidence to establish his relationship to, or his responsibility for the care of, the beneficiary. In order for a determination to be made on the suitability of a payee.

• Health Care Financing Administration
Home health agency statement of reimbursable cost
HCFA 1728 and 1728 A, B, C, D
Annually
Businesses or other institutions
Free Stand. Home Health Agenc Partic Under Medicare Prog.
SIC: 808
Small businesses or organizations, health, 2,800 responses, 112,000 hours; $2,720,000 Federal cost, 22 forms
Richard Eisinger, 395-6880
This information is needed for determining the amount of reimbursable cost, incorporating the provisions of recent legislation and regulatory change in the medicare program regarding cost apportionment.

Reinstatements

• Food and Drug Administration
Quick response surveys III (QRS)
Nonrecurring
Individuals or households
Probability samp. of adults in tel. households in U.S.
Consumer and occupational health and safety, 1 responses, 1 hours; $30,000 Federal cost, 1 form
Richard Eisinger, 395-6880
Information is often needed on a rapid turn-around basis from adult consumers in order for the agency to take quick action to protect the public health. The mechanism permits flexibility in terms of sample size, and geographical area as each survey subject matter dictates.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New

• Community Planning and Development
CDBG Indian Program Housing Assistance Plan
HUD-4329
Annually
State or local government
Indian and Alaskan Tribal Governments
SIC: 911
Community development, 300 responses, 6,000 hours; $6,000 Federal cost, 1 form
Richard Sheppard, 395-6880
Material will be used by HUD field staff during the full application review process to evaluate the applicant's housing need. HAP goals and strategies will be used to determine housing assistance to be delivered. After the first year, the HAP will be used to determine positive steps achieved toward meeting housing goals. The HAP form is part of the application form used annually to apply for community development block grant funds and its content changed from year to year.

Revisions

• Housing programs
Previous participation certificate
HUD 2530
On occasion
Individuals or households, businesses or other institutions, owners and managers (651), consultants (739), and general contractors (152) SIC: 651 739 152
Small businesses or organizations
Mortgage credit and thrift insurance, 9,000 responses, 5,400 hours; $1,500,000 Federal cost, 1 form
Richard Sheppard, 395-6880
HUD/FMHA will use this certification/ report to evaluate the feasibility of

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applications for multifamily housing projects with respect to the previous track records of applicants as: Owners, managers, consultants and general contractors.

Reinstatements

• Housing Programs
Development program of public housing agency
Development cost budget/cost statement
HUD 52483 and HUD 52484
On occasion
State or local governments
Public housing agencies SIC: 953
Public assistance and other income supplements, 500 responses, 1,000 hours; $86,020 Federal costs, 2 forms
Richard Sheppard, 395–6880
Authority for this report is title II, Housing and Community Development Act of 1974 (PL 93–383, 88 stat 633. Submitted by public housing agency requesting approval of financial assistance. Needed by HUD to obtain data upon which to develop a determination of financial feasibility, administration capability and cost data.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6191

New

• Bureau of Mines
Flotation plant information 1980
6–1171–X
Other—See SF83
Businesses or other institutions
Operators of flotation plants SIC: 101 102 103 104 105 106 109 121
Small businesses or organizations
Other natural resources, 350 responses, 700 hours; $17,000 Federal cost, 1 form
Erika Jones, 395–7340
The data is needed to fill a gap in metallurgical data and supply metallurgical guidance for both government and industry technical personnel. The data obtained from the survey will be used by government, educational institutions, research organizations, industry and the public.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

Reinstatements

• Immigration and Naturalization Service
Petition classify orphan as an immediate relative
I–600
Nonrecurring
Individuals or households
Alien orphan petitioners SIC: 919
Federal law enforcement activities, 6,000 responses, 3,000 hours; $210,000 Federal cost, 1 form
Andy Uscher, 395–4814
Information used to determine eligibility of orphan to be classified as immediate relative as specified in section 201(b) of the I&N Act, 8 U.S.C. 1151(b).

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

Reinstatements

• Departmental Management
Fabricated steel survey
ILAB 256
Quarterly
Businesses or other institutions
Contractors and/or Subcontractors SIC: 344
Other labor services, 1,000 responses, 750 hours; $64,375 Federal cost, 1 form
Arnold Strasser, 395–6880
Data and information needed to assist policymakers in determining the magnitude of imports of fabricated steel currently exempted from the "trigger price" mechanism and for adjustment assistance determinations.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Winsor, Acting—426–1887

Revisions

• Federal Aviation Administration
Aircraft registration application, aircraft bill of sale certificate of repossession of encumbered aircraft and flight hours for corporations not U.S. citizens—FAR 47 AC 8050–1, 2, and 4 AC 8050–117
On occasion semiannually
Individuals or households/State or local governments/farms/businesses or other institutions
Any individuals, States or local government farm, or business that owns, reg AC
Sic: All
Small businesses or organizations
Air transportation, 169,800 responses, 85,050 hours; $120,000 Federal cost, 1 form
Corrinne Hayward, 395–7340
Federal Aviation Act of 1958, section 501 (49 USC 1401) requires registration of aircraft. 14 CFR 47 prescribes requirements for registration. Information collected is used to determine proof of ownership and eligibility of applicant.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—634–2179

Extensions (Burden Change)

• United States Customs Service
Declaration of owner
Customs 3347 and 3347–A
On occasion
Businesses or other institutions
Customhouse brokers
Sic: All
Small businesses or organizations
Federal law enforcement activities, 6,600 responses, 550 hours; $7,234 Federal cost, 2 forms
Warren Topelius, 395–7340
Documents to allow an agent to submit, subsequent to making entry, the declaration of the consignee which is required by statute. And, to permit a nominal consignee to file the declaration of the actual owner and be relieved of statutory liability for the payment of increased duties.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0754

New

• Web coating and laminating questionnaire
Nonrecurring
Businesses or other institutions
Industrial coaters of fabrics, paper, plastic film or metallic foil
Sic: Multiple
Small businesses or organizations
Pollution control and abatement, 1,475 responses, 4,425 hours; $76,785 Federal cost, 1 form
Edward H. Clarke, 395–7340
Fabric, paper, film and foil coaters will be surveyed to determine volatile organic compound emissions. This data will be used to rank these industries for new source performance standard development. This study should start in November, 1980, and end in March, 1981.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2146

New

• Veterans application for assistance in acquiring special housing adaptations
26–4555D
On occasion
Individuals or households
Disabled veterans
Veterans housing, 1,000 responses, 333 hours; $5,745 Federal cost, 1 form
Laverne V. Collins, 395–6880
Completed for blinded veterans or veterans who have lost, or lost the use of, O as authorized by 38 U.S.C. 801(B) for acquiring adaptations to veterans' homes.

Extensions (No Change)

• Request for estate information
FL27439
On occasion
Businesses or other institutions/individuals or households/estate holders
Sic: 602 811
Small businesses or organizations
Other veterans benefits and services, 24,000 responses, 4,000 hours; $2,651 Federal cost, 1 form
Laverne V. Collins, 395–6880
When an incompetent veteran without spouse or dependent child is institutionalized at government expense, and his or her estate equals or exceeds $1,500, VA payments must be discontinued (38 U.S.C. 3203(B)(1). Use of this form letter is the least expensive method (for both the VA and the public) of collecting this estate data.

Reinstatements

• Evaluation of domiciliary program, Wood, WI
Nonrecurring
Individuals or households
Patients/members of the original and domiciliary at Wood, WI VA MC
Hospital and medical care for veterans, 200 responses, 325 hours; $18,500 Federal cost, 1 form
Laverne V. Collins, 395–6880
Needed to provide information about the effect of relocation on domiciliary patient members who did or did not move to a new facility. The data will be used to evaluate the impact of new construction and to study areas in which change might be expected in other domiciliaries. OMB approval was for testing feasibility of instruments.

INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

Reinstatements

• Producers and importers questionnaires—brooms
332–97
Annually
Businesses or other institutions
Known producers of brooms and whiskbrooms of broomcorn and other
Sic: 399
Small businesses or organizations
Conduct of foreign affairs, 200 responses, 400 hours; $68,370 Federal cost, 1 form
Phillip T. Balazs, 395–4814
Pursuant to section 332 of the Tariff Act of 1930, the U.S.I.T.C. is required to periodically provide current statistical information on the broom industry to the president. This data is used to monitor the impact of imports of the industry and/or assess the impact of tariff relief previously granted to broom producers.

C. Louis Kincannon,
Deputy Assistant Director For Reports Management.

[FR Doc. 80-34983 Filed 11-7-80; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11425; 812–4718]

Family Life Insurance Co., Merrill Lynch Variable Annuity Account and Merrill Lynch, Pierce, Fenner & Smith Inc.; Applications

Notice of filing of application for an order pursuant to section 6(c) of the Act granting exemptions from sections 2(a)(32), 2(a)(35), 12(d)(1), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and rule 22c–1 thereunder and pursuant to section 11 of the Act approving certain offers of exchange.

November 4, 1980.

Notice is hereby given that Family Life Insurance Company ("FLIC"), a stock life and disability insurance company organized under the laws of the State of Washington, Merrill Lynch Variable Annuity Account (the "Account") Park Place, Seattle, WA 98101, a separate account of FLIC registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") One Liberty Plaza, New York, NY 10080, the principal underwriter for the Account, (collectively referred to herein as "Applcants") filed an application on August 25, 1980, and amendments thereto on September 25, October 14, and October 30 1980, for an order of the Commission pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 12(d)(1), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c–1 thereunder and pursuant to Section 11 of the Act approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

FLIC, a wholly-owned subsidiary of Merrill Lynch & Company, Inc., a diversified financial services holding company organized in 1973, established the Account on July 21, 1980 for the purpose of funding certain variable annuity contracts to be issued by FLIC ("Contracts"). Assets of the Account will be invested in shares of Merrill Lynch Corporate Bond Fund, Inc., Merrill Lynch Basic Value Fund, Inc., Merrill Lynch Special Value Fund, Inc., Merrill Lynch Ready Assets Trust, and Merrill Lynch Capital Fund, Inc., all of which are diversified open-end management companies registered under the Act. Merrill Lynch Corporate Bond Fund is a series company with three separate portfolios, and assets of the Account will be invested in shares of each such portfolio. (The above-named Funds and the separate portfolios of the Corporate Bond Fund are referred to herein as the "Funds"). The investment advisers of the Funds are direct or indirect wholly-owned subsidiaries of Merrill Lynch & Company, Inc. MLPF&S, which is the principal underwriter of the Contracts, is also a subsidiary of Merrill Lynch & Company, Inc., and a broker-dealer registered under the Securities Exchange Act of 1934.

The Contracts funded through the Account are individual deferred variable annuity contracts designed for use in connection with retirement plans meeting the requirements of Sections 401, 403(a), 404, or 408 of the Internal Revenue Code of 1954 ("qualified plans") or plans not entitled to special income tax treatment under such or comparable provisions of the Code ("non-qualified plans"). The contract owner may allocate all or a portion of each purchase payment among one or more sub-accounts of the Account for investment in shares of one or more of the Funds (or portfolios of the Corporate Bond Fund) selected by the owner. With respect to each Fund (or porfolio of the Corporate Bond Fund) the Account will be divided into one sub-account for qualified plans and one sub-account for non-qualified plans. Upon notice to FLIC, the contract owner may transfer all or part of the contract value from one sub-account to another. However, no transfer may be made within six months of the date of issue of the Contract, and all transfers must be at least six months apart. Such sub-account transfers, as well as all other investments, are also subject to any applicable limits and rules established by each of the affected Funds.

Applicants state that under the Contracts no sales charges will be deducted from purchase payments as they are made. Instead, a contingent deferred sales charge will be assessed in

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some circumstances in the event of a full or partial withdrawal of the net contract value. The contingent deferred sales charge made at withdrawal will be the lesser of (i) 5% of the total purchase payments made within 7 years prior to the date of withdrawal, or (ii) 5% of the amount withdrawn. The cumulative total of all contingent deferred sales charges made within 7 years prior to the date of withdrawal will never exceed 5% of the total purchase payments made during the same period. No charge will be made for such part of the first withdrawal in any contract year as does not exceed 10% of the sum of all purchase payments made more than one year prior to the date of withdrawal. The contingent deferred sales charge may be reduced when sales of Contracts are made to a trustee, employer or similar party pursuant to a retirement plan or similar arrangement for sales of Contracts to a group of individuals if such program results in a savings of sales expenses. Any such reduction will not be unfairly discriminatory to any contract owner.

Other charges under the Contracts include a contract administration charge of $30 which FLIC deducts from the value of each Contract on each contract anniversary on or prior to the annuity date. Such charge will also be deducted upon the withdrawal in full of the contract value on any date other than a contract anniversary. The contract administration charge is designed only to reimburse FLIC for administration expenses on a cumulative basis. In addition, FLIC will assess an expense risk charge and a mortality risk premium which on an annual basis will equal 0.5% and 0.8%, respectively, of the daily net asset value of the Account. Finally, any premium taxes imposed by a state or other government entity will be deducted from the contract value at the annuity date.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants state that the contingent deferred sales charge is not within the definition of sales load set forth in Section 2(a)(35), since it is not deducted from the payment received from the contract owner. However, Applicants assert that the charge is designed to cover precisely those expenses to which the definition of sales load relates and if treated as such would be subject to certain provisions of Section 27 of the Act. Accordingly, Applicants have requested an exemption from Section 2(a)(35) to avoid any question as to the consistency of the proposed contingent deferred sales charge with the loading pattern contemplated by Sections 2(a)(35) and 27.

Applicants state that although FLIC will make no deduction from purchase payments for sales charges, it will incur expenses relating to the sale of the Contracts under which such payments are made, including commissions paid to sales personnel, costs of advertising and sales promotion, costs of the prospectus allocable to new sales and sales administration. Applicants state further that the contingent deferred sales charge, if applicable, will be assessed by FLIC to reimburse it solely for expenses relating to the sale of the Contracts, and that but for the timing of its imposition, the charge for these expenses fits squarely within the Section 2(a)(35) definition of "sales load." Applicants assert that deferring the sales charge and making it contingent upon the occurrence of an event which may never occur do not alter the basic nature of the charge which remains in all other respects a sales load. Applicants maintain that the sales charge provisions of the Contracts are to the advantage of contract owners in that the assessment of a contingent deferred sales charge will permit the entire purchase payment to be allocated to the Account for investment in shares of the Funds and if the contract owner makes no withdrawals, has made no purchase payments for 7 years, or makes only one withdrawal in any contract year which does not exceed 10% of the sum of all purchase payments made more than one year prior to the date of withdrawal, all purchase payments under the Contract will be completely free of any sales charge. Finally, Applicants state that the charge is clearly within the amount permitted by Section 27(a)(1) of the Act, since the cumulative total of all contingent deferred sales charges cannot exceed 5% of the total purchase payments made.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act requires that the holder of a periodic payment plan certificate be able to surrender the certificate at any time within the first eighteen months after its issuance and receive the value of his account and any amount paid for sales loading in excess of 15 percent of the gross payments made on such certificate. Applicants submit that the imposition of the contingent deferred sales charge is not inconsistent with the requirements of either Sections 2(a)(32) or 27(d) that the holder of a periodic payment plan certificate receive his proportionate share of the issuer's current net assets or his account value, respectively. However, in order to avoid any question as to the applicability of such sections, Applicants have requested an exemption from the definition of redeemable security in Section 2(a)(32) and from the requirements of Section 27(d) to the extent necessary to permit Applicants to offer the Contracts with the proposed contingent deferred sales charge.

Applicants assert that under the Contracts the contract owner's proportionate share or account value could be viewed as the gross purchase payments made, plus or minus any increase or decrease in value, less the contingent deferred sales charge and that the difference between the loading pattern contemplated by Sections 2(a)(32) and 27(d) and that proposed for the Contracts is limited to deferring the assessment of the sales charge. Applicants state that deferring the imposition of the sales charge does not prevent the contract owner from receiving as his proportionate share of the issuer's current net assets or the value of his account the amount he would otherwise receive on withdrawal or redemption. Applicants maintain that the contingent deferred sales charge is merely deducted at the time of withdrawal in determining the proportionate share or account value, rather that being deducted from purchase payments. Applicants contend that the contingent deferred sales charge defers the timing of the imposition of the sales charge and makes the charge contingent on the occurrence of an event which might never occur. Finally, Applicants state that this method of assessing sales charges permits the contract owner's net amount invested to be increased and, in certain circumstances, may result in no sales charge being assessed, thereby benefiting the the contract owner.

Section 22(c) and Rule 22c–1

Section 22(c) of the Act and Rule 22c–1 thereunder prohibit a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that the contingent deferred sales charge is not violative of Section 22(c) or Rule 22c–1 thereunder. However, in order to avoid any question as to the applicability of the Section and Rule, Applicants have requested an exemption therefrom to the extent necessary to permit Applicants to offer the Contracts with the proposed contingent deferred sales charge.

Applicants state that the value at which a full or partial withdrawal under a Contract is effected will be based on the current net asset value and that the contingent deferred sales charge will merely be deducted at the time of withdrawal in determining the payment to which the contract owner is entitled or the reduction in the contract value resulting from the withdrawal.

Section 27(c)(1)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or any depositor of or underwriter for such company, to sell any such certificate unless it is a redeemable security. Applicants state that they do not believe that the imposition of a contingent deferred sales charge in connection with certain withdrawals, which will be fully disclosed in the prospectus relating to the Contracts, restricts the redeemability of the Contracts for purposes of Section 27(c)(1). Applicants contend that a view to the contrary would be especially difficult to maintain if the relief requested from the definition of redeemable security in Section 2(a)(32) should be granted. However, in order to avoid any question as to the applicability of Section 27(c)(1), Applicants have requested an exemption from the provisions of Section 27(c)(1) to the extent necessary to permit Applicants to offer the Contracts on the terms proposed.

Applicants assert that the Contracts are clearly redeemable securities, whether the sales charge is deducted from purchase payments at the time of purchase, or whether such charge is deferred and made contingent upon an event which may or may not occur at a later time during the contract period. Applicants state that this is particularly true where, as here, the deferral of the contingent deferred sales charge until a withdrawal is effected has the general effect of increasing the contract value in comparison with the contract value that would result were the sales charge deducted from purchase payments prior to investment.

Sections 26(a) and 27(c)(2)

Sections 26(a) and 27(c)(2) of the Act, as here pertinent, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such agreement must provide, *inter alia*, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust, (ii) shall not resign until the trust has been liquidated or a successor has been appointed, (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services performed and reimbursement of expenses incurred as are provided for in the agreement, and (iv) shall not be allowed as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

Applicants have requested an exemption from the provisions of Sections 27(c)(2) and 26(a)(2)(C) to the extent necessary to permit them to offer the Contract with the proposed contingent deferred sales charge. Applicants state that the proposed sales charge is not inconsistent with the purposes of Sections 27(c)(2) and 26(a), which were not intended to prevent the depositor of a unit investment trust from imposing a sales load in connection with the sale of the trust's securitites. Applicants observe that Section 27(c)(2) specifically excepts sales load deductions from the requirement that the proceeds be deposited with a trustee or custodian and assert that deferring the sales charge and making it contingent upon an event which may never occur do not change the basic nature of the charge as a sales load within the contemplation of Section 27(c)(2). Applicants contend that the contingent deferred sales charge should not be deemed to be the type of charge the payment of which would be disallowed as an expense to a trustee or custodian, since the charge is intended specifically to reimburse Applicants for sales-related expenses.

Applicants have also requested an exemption from the provisions of Sections 27(c)(2) and 26(a) to permit purchase payments under the Contracts to be held by FLIC or its agent rather than by a bank as custodian or trustee pursuant to an agreement meeting the requirements of Section 26(a). Applicants state that as a life insurance company, FLIC must retain ownership of the Account's assets and therefore may not convey them to another in trust and that there appears to be little or no necessity for requiring a bank trustee or custodian in the context of an established insurance company offering variable annuity contracts through a separate account registered as a unit investment trust. Applicants represent that FLIC is subject to extensive supervision and regulation by the Washington Insurance Department and is also subject to the insurance laws and regulations of other states and jurisdictions in which it is licensed to operate. Applicants state that the supervision and inspection to which FLIC is subject are applicable to the Account so as to afford protection to variable annuity contract owners and provide assurance of FLIC's performance of its obligations to such owners. In addition, Applicants assert that all obligations under FLIC's variable annuity contracts will be general obligations of FLIC which may not be abrogated and that the assets and retained earnings of FLIC provide ample assurance of its financial ability to meet its obligations under such contracts. Finally, Applicants state that it is contemplated that the Fund shares issued to the Account will be held pursuant to an open account system and will not be represented by any transferable stock certificates which might require a trusteeship or custodianship for safekeeping purposes.

Applicants assert that the contingent deferred sales charge will cover, at most, sales expenses incurred by FLIC only with respect to the Contract under which the charge is made and that sales expenses incurred with respect to Contracts which do not terminate prematurely will initially be provided for out of FLIC's surplus. Applicants state that FLIC expects that the level of contract sales should be sufficient to generate profits adequate to compensate for sales expenses not recovered through the contingent deferred sales charge and that such profits will be attributable principally to the mortality risk premium and expense risk charge. Applicants indicate that the grant of the requested relief will permit FLIC to assess a mortality risk premium and expense risk charge, which would otherwise be precluded by Section 26(a). They also acknowledge the Commission's concern as to the propriety of investment companies bearing distribution expenses. However,

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Applicants assert that no specific factor was included in establishing the level of the mortality risk premium and expense risk charge for the purpose of recovering sales expenses in excess of contingent deferred sales charge revenues. Applicants also represent that even if FLIC realizes no profit in respect of the Contracts it will still have incurred sales expenses not recovered through the contingent deferred sales charge, for which expenses no reimbursement from contract owners may be obtained. Finally, Applicants submit that the contract charges are consistent with industry practice and that an additional sales charge would not be in the best interest of contract owners.

Applicants have consented to the requested exemption being made subject to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Section 12(d)(1)

Section 12(d)(1)(A) of the Act makes it unlawful for a registered investment company (the "acquiring company") to acquire any security issued by any other investment company (the "acquired company") if, after such acquisition, (i) the acquiring company, alone or together with other companies controlled by it, owns more than three percent of the total outstanding voting stock of the acquired company; (ii) more than five percent of the value of the acquiring company's assets consists of securities of the acquired company, or (iii) more than ten percent of the value of the acquiring company's assets consists of securities issued by the acquired company and other investment companies. Section 12(d)(1)(B) makes it unlawful for a registered open-end investment company (the "acquired company") or its principal underwriter knowingly to dispose of any security issued by the acquiring company to any other investment company (the "acquiring company") if, immediately after such disposition, more than (i) three percent of the total outstanding voting stock of the acquired company is owned by the acquiring company and any companies controlled by it; or (ii) ten percent of the total outstanding voting stock of the acquired company is owned by the acquiring company and other investment companies or companies controlled by them.

Applicants state that while shares of the Funds are and will continue to be offered directly to the public, shares of the Funds held by the Account will exceed the percentage limitation set forth in Section 12(d)(1)(A)(iii) and may exceed the other percentage limitations set forth in Sections 12(d)(1) (A) and (B). Applicants suggest that subsection (E) of Section 12(d)(1) may make it unnecessary for them to seek an exemption from Section 12(d)(1) since subsection (E) provides that the provisions of Section 12(d)(1) do not apply if (i) the principal underwriter for the investment company is a broker or dealer registered under the Securities Exchange Act of 1934, and (ii) the securities are the only investment securities held by a registered unit investment trust that issues two or more classes or series or securities, each of which provides for the accumulation of shares of a different investment company. Applicants indicate that they may satisfy the conditions of subsection (E), but in order to avoid any question concerning the scope of relief afforded by subsection (E) they have requested an exemption from the provisions of Section 12(d)(1) to the extent necessary to permit the Account to invest shares of the Funds without regard to the limitations of Sections 12(d)(1) (A) and (B).

Applicants contend that the proposed arrangement does not appear to present the type of abuse or danger against which Section 12(d)(1) was intended to guard. They state that the section was apparently intended to prevent the "pyramiding" of investment companies and that it is not their intent to "pyramid" but merely to grant to their customers and prospective customers flexibility in the choice of investment funds.

Section 11

Section 11(a) of the Act makes it unlawful for a registered open-end investment company, or its principal underwriter, to offer securities of an investment company in exchange for other securities of the same or another investment company unless the exchange either is based on the respective net asset values of the securities or has received prior approval of the Commission. Section 11(c) provides that in the case of a unit investment trust the prohibition of Section 11(a) is applicable regardless of the basis of the exchange. Applicants submit that the proposed transfers of contract value from one sub-account of the Account to another are not prohibited by Section 11. However, in order to avoid any question in this regard, Applicants have requested an order pursuant to Section 11 approving the transfer provisions described above.

Applicants state that the apparent purpose of Section 11 is to protect investors against unfair exchange offers. Applicants assert that since the transfer privilege under the Contracts will be based on the respective net asset values of the shares of the underlying Funds and no charges will be imposed on exercise of the privilge, the investor is assured that the arrangement is fair. Applicants contend that variable annuity contracts are normally purchased as long term investments and that a transfer privilege is in the best interest of contract owners by facilitating their periodic reevaluation and adjustment of investment objectives.

Section 6(c)

Section 6(c) of the Act provides in pertinent part that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 28, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following November 28, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35046 Filed 11–7–80; 8:45 am]

BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 4, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Permian Basin Royalty Trust—Shares of Beneficial Interest (File No. 7–5775).

San Juan Basin Royalty Trust—Shares of Beneficial Interest (File No. 7–5776).

The West Company, Inc.—Common Stock, $.25 Par Value (File No. 7–5777).

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 26, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.c. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35047 Filed 11–7–80; 8:45 am]

BILLING CODE 8010–01

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80–139]

Qualification of Samedan Oil Corporation as a Citizen of the United States

Notice is given that pursuant to 46 CFR 67.23–7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883–1), Samedan Oil Corporation of Ingleside, Texas, incorporated under the laws of the State of Delaware, did on September 11, 1980 file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification of the corporation as a citizen of the United States following the forms of oath prescribed in Form CG–1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on October 22, 1980 issued to Samedan Oil Corporation a certificate of compliance on Form CG–1262, as provided for in 46 CFR 67.23–7. The certificate and any authorization granted thereunder will expire three years from October 22, 1980 unless there first occurs a change in the corporation status requiring a report under 46 CFR 67.23–7.

Dated: October 29, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-35088 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

[T.D. 80-270]

Donnkenny, Inc.; Recordation of Trade Name

On August 14, 1980, there was published in the **Federal Register** (45 FR 54173) a notice of application for the recordation under section 42 of the Act of July 15, 1946, as amended (15 U.S.C. 1124), of the trade name DONNKENNY, INC. The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant date, views, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice. No responses were received in opposition to the application.

The name "DONNKENNY, INC." is hereby recorded as the trade name of Donnkenny, Inc., a corporation organized under the laws of the State of Delaware, located at 1411 Broadway, New York, New York 10018, when applied to women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans and slacks, manufactured in Macau, Korea, Taiwan, Hong Hong, China, and Japan. No foreign firm is authorized to use the trade name.

Dated: November 5, 1980

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-34979 Filed 11-7-80; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 80-269]

R.B.K. Importers, Inc.; Recordation of Trade Name

On August 14, 1980, there was published in the **Federal Register** (45 FR 54173) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name R.B.K. IMPORTERS, INC. The notice advised that prior to final action on the application, filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice. No responses were received in opposition to the application. The name "R.B.K. IMPORTERS, INC." is hereby recorded as the trade name of R.B.K. Importers, Inc., a corporation organized under the laws of the State of Delaware, located at 940 So. Alameda Street, Los Angeles, California 90021, when applied to women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans, and slacks, manufactured in Macau, Korea, Taiwan, Hong Kong, China, Japan, Italy and Greece. No foreign firms are authorized to use the trade name.

Dated: November 5, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-34978 Filed 11-7-80; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

[Delegation Order No. 67 (Rev. 14)]

Delegation of Authority; Signing the Commissioner's Name or on His Behalf

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, W. E. Williams, Acting Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Martha M. Seeman, PR:I, 1111 Constitution Ave., NW., Room 3528, Washington, D.C. 20224 (202) 566-4273 (Not a Toll-Free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Martha M. Seeman,

Executive Assistant to Director, Internal Management Documents Division.

Effective 12:01 A.M., November 1, 1980, all outstanding authorizations to sign the name of, or on behalf of, Jerome Kurtz, Commissioner of Internal Revenue, are hereby revised to authorize the signing of the name of, or on behalf of, W. E. Williams, Acting Commissioner of Internal Revenue.

This Order supersedes Delegation Order No. 67 (Rev. 13), issued May 5, 1977.

William E. Williams,

Acting Commissioner.

[FR Doc. 80-35016 Filed 11-7-80; 8:45 am]

BILLING CODE 4830-01-M

[Rev. Proc. 80-46]

Revenue; Administrative, Procedural, and Miscellaneous; Inquiries by Employees of Business Entities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of issuance of revenue procedure.

SUMMARY: The purpose of this revenue procedure is to enhance the ability of the Internal Revenue Service district offices to respond fully and effectively to inquiries by employees of business entities.

DATE: The effective date will be December 10, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond L. Rizzo, Director, Disclosure Operations Division, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202-566-4263 (not a toll-free call).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the **Federal Register** for Wednesday, May 24, 1978.

Section 1. Purpose

The purpose of this revenue procedure is to enhance the ability of the Internal Revenue Service district offices to respond fully and effectively to inquiries by employees of business entities. This procedure is intended to facilitate the resolution of account related questions and does not provide for the furnishing of tax returns to third parties. It has no effect on the Conference and Practice Requirements (26 CFR 601.501 et seq.), technical advice requests or ruling determination letters. Nor does it affect the ability of a taxpayer, or any person acting on behalf of a taxpayer, to contact the Internal Revenue Service by telephone for the purpose of obtaining general information regarding the meaning of a bill, notice, or letter.

Sec. 2. Background

The Internal Revenue Code specifies that confidential tax information with respect to sole proprietorships, partnerships, corporations, estates and trusts may be disclosed to certain persons. The Service is prohibited from disclosing confidential tax information to another person acting on behalf of a taxpayer in the absence of a written authorization from the taxpayer. It is recognized that the limitations on disclosure often cause delays in servicing requests for tax assistance. The restrictions are particularly troublesome for businesses that have a number of employees who need to contact the Service to resolve day to day tax matters. For example, an employee who is not specifically authorized in writing to receive confidential tax information might contact the Service to resolve a tax matter of the business, such as a notice or a bill. In these situations, the Service makes every effort to resolve the issue by discussing it in general terms without disclosing confidential tax information from our records. However, on many occasions, due to the complexity of the business's tax matters, the question cannot be resolved without disclosure of confidential tax information by the Service. Accordingly, the Service will accept letters of authorization, pursuant to the requirements of this revenue procedure, with attached lists specifying employees of business entities who are authorized to receive confidential tax information.

Sec. 3. Persons who may submit a list

.01 A sole proprietor may submit a list.

.02 With respect to a partnership, any partner may submit a list but the scope of the authorization is limited to those tax periods during which he or she is a partner.

.03 Authorization lists may be submitted on behalf of a corporation by the corporate president/chief executive officer or an officer authorized by law to bind the corporation. As an alternative, the list may be submitted by any principal officer if attested to by the secretary or any other officer.

.04 If the business entity is included in an estate, a list may be submitted by the administrator, executor or trustee of the estate.

.05 A trustee may submit an authorization list on behalf of a business entity that is a trust.

.06 In the case of business matters of an incompetent, an authorization list may be submitted by the trustee, guardian or committee for the incompetent.

.07 If substantially all of the property of the business is in the hands of a receiver or trustee in bankruptcy, such persons may submit a list.

Sec. 4. Contents of the Letter of Authorization

.01 The letter of authorization shall:

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1. Be dated, provide the employer identification number (EIN) for the entity and reference this revenue procedure;

2. Specify the tax periods and type of tax with respect to which information may be provided;

3. Contain a statement that the listed authorized employees have granted permission for the use of their social security numbers for the purpose of identification;

4. Contain a statement that the taxpayer assumes the responsibility to notify the addressee in writing of any changes to be made to the list;

5. Provide a statement as to the authority of the person to authorize the disclosure of the confidential tax information;

6. Be signed by the appropriate person;

7. Have attached a copy of any appropriate documentation such as an officer's authority contained in a corporate charter, etc. However, documentation is not needed if the authorization is submitted by two corporate officers;

8. Be received by the Service within sixty days of the date it is signed and dated.

.02 The attached list shall set forth the names of the authorized employees in alphabetical order and include their social security numbers for identification purposes.

.03 The following format should be used for authorizations by a president/chief executive officer or an officer authorized by law to bind the corporation:

Corporate Letterhead

(Date)

Disclosure Officer

_____ District Office

In accordance with Revenue Procedure 80–46, the employees named in the attached list are authorized to receive return information pertaining to *(name of corporation and employer identification number) [or (name of subsidiary* and employer *identification number)* a subsidiary of *(name of corporation)]* with respect of Form(s) *(941, 1120, etc.),* for tax period(s) _____.

Each of the employees named in the attached list have granted permission for the use of their social security numbers for identity verification purposes prior to receipt of confidential tax information.

(Name of corporation or subsidiary) will notify the addressee in writing of any changes to be made to the list.

I certify that I am the President/Chief Executive Officer or an officer authorized by law to bind *(name of corporation or subsidiary).*

/s/ _____

(Title)

.04 The following format should be used for authorizations signed by a principal corporate officer and attested to by the secretary or another officer:

Corporate Letterhead

(Date)_____.

Disclosure Officer

_____ District Office

In accordance with Revenue Procedure 80–46, the employees named in the attached list are authorized to receive return information pertaining to *(name of corporation and employer identification number) [or name of subsidiary and employer identification number a subsidiary of (name of corporation)]* with respect to *Form(s) (941, 1120 etc.),* for tax period(s) _____.

Each of the employees named in the attached list has granted permission for the use of their social security numbers for identity verification purposes prior to receipt of confidential tax information.

(Name of corporation or subsidiary) will notify the addressee in writing of changes to be made to the list.

This authorization is intended to comply with Internal Revenue Code Section 6103(e)(1)(D)(ii).

/s/ _____

(Any) Principal Officer *(Title)*

and

/s/ _____

Secretary or any other officer *(Title)*

.05 The following format should be used for authorizations with respect to business entities which are not corporations:

Business Letterhead (if any)

(Date)_____.

Disclosure Officer

_____ District Office

In accordance with Revenue Procedure 80–46, the employees named in the attached list are authorized to receive return information pertaining to *(name of entity and employer identification number or social security number)* with respect to Form(s) *(941, 940, etc.)* for tax period(s) _____.

Each of the employees named in the attached list have granted permission for use of their social security numbers for identity verification purposes prior to receipt of confidential tax information.

(Name of entity) assumes the responsibility to notify the addressee in writing of any changes to be made to the list.

I certify that *(statement of authority to authorize individuals to receive confidential tax information of the taxpayer).*

/s/ _____

Sec. 5. Where To Send the Letter of Authorization

The letter of authorization shall be submitted to the Disclosure Officer for the Internal Revenue Service district office with which contacts are expected. A list of Disclosure Officer addresses appears in Sec. 7. If contact with more than one district office is anticipated, a letter must be sent to each District Disclosure Officer. The Disclosure Officer will acknowledge receipt by letter, which will provide a telephone number for contacts pursuant to Sec. 6.03.

Sec. 6. Modification of the Authorization List

.01 It is the responsibility of the taxpayer to keep the authorization lists current and to modify the list when necessary. The Service will recognize authorizations as effective until revised or revoked, unless otherwise specified in the letter of authorization.

.02 The taxpayer shall modify the authorization list by sending a letter which meets the requirements of Secs. 3 and 4. The letter shall be addressed to the appropriate District Disclosure Officer(s) and shall clearly indicate the names of employees to be deleted from the list and the names of employees to be added to the list. If revocation of the Disclosure Authorization List is desired, the letter shall so state. Modifications will become effective when the Disclosure Officer receives the letter.

.03 To quickly effect deletions from the list, taxpayers may advise the Disclosure Officer of the deletions by telephone. The deletions become effective upon notification of the Disclosure Officer but shall then be confirmed in writing.

.04 The Disclosure Officer should be contacted five days after the modification letter is mailed to confirm receipt.

Sec. 7. Disclosure Officer Addresses

The following is a listing of district disclosure officer mailing addresses:

Central Region

Cincinnati—P.O. Box 1818, Cincinnati, OH 45201
Cleveland—P.O. Box 99181, Cleveland, OH 44199
Detroit—P.O. Box 32513, Detroit, MI 48232
Indianapolis—P.O. Box 44211, Indianapolis, IN 46244
Louisville—P.O. Box 1735, Louisville, KY 40201
Parkersburg—P.O. Box 1388, Parkersburg, WV 26101

Mid-Atlantic Region

Baltimore—FOB, P.O. Box 1018, Baltimore, MD 21203
Newark—P.O. Box 476, Room 1135, Newark, NJ 07101
Philadelphia—600 Arch Street, Philadelphia, PA 19106
Pittsburgh—P.O. Box 2488, Pittsburgh, PA 15230
Richmond—P.O. Box 10049, Richmond, VA 23240
Wilmington—P.O. Box 1206, 844 King Street, Wilmington, DE 19899

Midwest Region

Aberdeen—P.O. Box 370, Aberdeen, SD 57401
Chicago—230 S. Dearborn St., Room 2865, Chicago, IL 60690
Des Moines—P.O. Box 1337, Room 579, Des Moines, IA 50305
Fargo—P.O. Box 8, Fargo, ND 58102
Milwaukee—P.O. Box 493, Room 528B, Milwaukee, WI 53201
Omaha—P.O. Box 1052, Downtown Station, Room 102, Omaha, NE 68101
St. Louis—P.O. Box 1147, Room 702, St. Louis, MO 63188
St. Paul—316 No. Robert Street, Room 482, St. Paul, MN 55101
Springfield—320 W. Washington St., P.O. Box 398, Springfield, IL 62705

North-Atlantic Region

Albany—Leo O'Brien, Federal Office Building, Clinton Avenue & Pearl Street, Albany, NY 12207
Augusta—P.O. Box 1964, Augusta, ME 04330
Boston—P.O. Box 9097, JFK Post Office, Boston, MA 02203
Brooklyn—35 Tillary Street, Brooklyn, NY 11201
Buffalo—P.O. Box 1040, Niagara Square Station, Buffalo, NY 14201
Burlington—11 Elmwood Avenue, Burlington, VT 05401
Hartford—450 Main Street, Hartford, CT 06115
Manhattan—P.O. Box 3036, Church Street Station, New York, NY 10008
Portsmouth—80 Daniel Street, Portsmouth, NH 03801
Providence—130 Broadway, Providence, RI 02903

Southeast Region

Atlanta—275 Peachtree St., N.E., P.O. Box 904, Room 230, Atlanta, GA 30301
Birmingham—2121 Eighth Avenue, N., Room 1205, Birmingham, AL 35203
Columbia—Federal Office Building, 1835 Assembly St., Room 466, Columbia, SC 29201
Greensboro—Federal Office Building, 320 Federal Plaza, Room 305, Greensboro, NC 27401
Jackson—301 Building, 100 W. Capitol St., Suite 504, Stop 9, Jackson, MS 39201
Jacksonville—Federal Office Building, 400 W. Bay Street, Room 544, P.O. Box 35045 (Stop No. 610), Jacksonville, FL 32202
Nashville—U.S. Courthouse, 801 Broadway, Room 481, P.O. Box 1107, Nashville, TN 37202

Southwest Region

Albuquerque—P.O. Box 1967, Albuquerque, NM 87103
Austin—P.O. Box 1448, Mail Stop 620, Austin, TX 78767
Cheyenne—308 West 21st Street, Cheyenne, WY 82001
Dallas—1100 Commerce Street, Code 428, Dallas, TX 75242
Denver—1050 17th Street, Denver, CO 80265
Little Rock—P.O. Box 3778, Stop 25, Little Rock, AR 72203
New Orleans—P.O. Box 30350, Stop 40, New Orleans, LA 70190
Oklahoma City—P.O. Box 66, Stop T–D, Oklahoma City, OK 73101
Wichita—P.O. Box 400, Wichita, KS 67201

Western Region

Anchorage—P.O. Box 1500, Anchorage, AK 99510

V 45 N 0 10 0 80 UMI

Boise—550 West Fort Street, P.O. Box 041, Boise, ID 83724
Helena—2nd Floor West, Federal Building, Helena, MT 59601
Honolulu—P.O. Box 50089, Honolulu, HI 96850
Los Angeles—P.O. Box 3151, Los Angeles, CA 90053
Phoenix—2120 N. Central, Stop 450, Phoenix, AZ 85004
Portland—1220 S.W. 3rd Avenue, Portland, OR 97201
Reno—300 Booth Street, Reno, NV 89502
Salt Lake City—465 S. 400 East, Salt Lake City, UT 84111
San Francisco—450 Golden Gate Avenue, San Francisco, CA 94102
Seattle—915 2nd Avenue, M.S. 180, Seattle, WA 98174

Office of International Operations

1325 K Street, N.W., Room 900, Washington, DC 20225

Sec. 8. Inquiries

Inquiries in regard to this revenue procedure should be directed to the District Disclosure Officer.

Sec. 9. Effective Date

This revenue procedure becomes effective December 10, 1980.

Approved:

W. E. Williams,

Deputy Commissioner.

[FR Doc. 80-35114 Filed 11-7-80; 8:45 am]

BILLING CODE 4830-01-M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Scholarships; Closing Date for Nominations from Eligible Institutions of Higher Education

Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93-642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR 1801, and were published in the **Federal Register** on June 19, 1976 (43 FR 26366).

In order to be assured of consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, Box 2838, Princeton, N.J. 08541 postmarked no later than Monday, December 1, 1980.

Malcolm C. McCormack,

Executive Secretary.

November 5, 1980.

[FR Doc. 80-35045 Filed 11-7-80; 8:45 am]

BILLING CODE 9100-01-M

VETERANS ADMINISTRATION

National Cemeteries and Headstones and Markers Program Evaluation; Availability of Summary Report

Notice is hereby given that the program evaluation of the Veterans Administration's National Cemeteries & Headstones and Markers Programs has been completed.

Single copies of the National Cemeteries & Headstones and Markers evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: November 4, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-34970 Filed 11-7-80; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Amendment of Systems Notice; Additional Routine Use Statement

Notice is hereby given that the Veterans Administration is adding a new routine use statement to two systems of VA records entitled "Veterans, Dependents and Beneficiaries Compensation and Pension Records-VA" (49VA21) and "TARGET-Compensation, Pension, Education and Rehabilitation Records-VA" (58VA21/22) as set forth on pages 44740 and 44743, respectively, of the **Federal Register** of September 28, 1978. The Department of Defense (DOD) has requested the Veterans Administration to release to DOD the names, addresses and other identifying data, including the Social Security number, of surviving spouses, children and parents of deceased veterans from the above named systems of records. The information is needed by DOD in order to include it in the "Defense Enrollment/Eligibility Reporting System" (DEERS). This system is being developed by DOD for the sole purpose of identifying individuals eligibility for DOD health-care benefits, facility planning, personnel studies, capitalization budgeting and post exchange, commissary and housing studies. The Veterans Administration has determined that the release of this information to DOD is a necessary and proper use of the data in these systems of records and a specific routine use for this information transfer is appropriate.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine use to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C., 20420. All relevant material received before December 10, 1980 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until December 22, 1980.

Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132 at the above address. Such visitors to any VA field stations will be informed that the records are available for inspection only in Central Office and furnished the address and the room number.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the new routine use statement included herein is effective November 4, 1980.

Approved: November 4, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In the system identified as 49VA21, "Veterans, Dependents and Beneficiaries Compensation and pension Records-VA", appearing at 43 FR 44740, the following routine use statement is added to read as follows:

49VA21

SYSTEM NAME:

Veterans, Dependents and Beneficiaries Compensation and Pension Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

29. Names and addresses, and other identifying data including the Social Security number, of surviving spouses, children and parents of deceased veterans may be released from this system of records to the Department of Defense (DOD) upon its official request in order for DOD to identify individuals eligible for health care benefits administered by the DOD, or to collect or verify information necessary for DOD facility planning, personnel studies, capitalization budgeting and post exchange, commissary and housing studies.

* * * * *

2. In the system identified as 58VA21/22, "TARGET-Compensation, Pension, Education and Rehabilitation Records-VA", appearing at 43 FR 44743, the following routine use statement is added:

58VA21/22

SYSTEM NAME:

TARGET-Compensation, Pension, Education and Rehabilitation Records-VA.

* * * * *

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

37. Names and addresses, and other identifying data including the Social Security number, of surviving spouses, children and parents of deceased veterans may be released from this system of records to the Department of Defense (DOD) upon its official request in order for DOD to identify individuals eligible for health care benefits administered by the DOD, or to collect or verify information necessary for DOD facility planning, personnel studies, capitalization budgeting and post exchange, commissary and housing studies.

* * * * *

[FR Doc. 80-35011 Filed 11-7-80; 8:45 am]

BILLING CODE 8320-01-M

V 45 N 0 10 0 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 219
Monday, November 10, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Election Commission	1
Federal Energy Regulatory Commission	2
Federal Home Loan Bank Board	3
Federal Reserve System (Board of Governors)	4
National Transportation Safety Board	5

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, November 13, 1980 at 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1980–116: Brad J. Sherman (Americans for a Responsible Presidency (ARP).
Draft AO 1980–120: Philip Van Dam, Legal Counsel, Civic Host Committee for the 1980 Republican National Convention, Inc.
1980 Election and related matters
Appropriations and budget: Budget Execution Report
Pending legislation
Classification actions
Routine administrative matters

* * * * *

DATE AND TIME: Thursday, November 13, 1980 at 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S–2055–80 Filed 11–6–80; 3:50 pm]
BILLING CODE 6715–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION.

November 5, 1980.

TIME AND DATE: 10 a.m., November 12, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—468th Meeting, November 12, 1980, Regular Meeting (10 a.m.)

CAP–1. Project Nos. P–3190 and P–3193, City of Santa Clara, Calif.
CAP–2. Project No. 2756, Green Mountain Power Corp. and Burlington Electric Department.
CAP–3. Project No. 2694, Nantahala Power & Light Co.
CAP–4. Project No. 2004, Holyoke Water Power Co.
CAP–5. Project No. 1417, Nebraska Public Power District; Project No. 1835, Central Nebraska Public Power and Irrigation District.
CAP–6. Docket Nos. ER80–400 and ER80–458, Green Mountain Power Corp. and Central Vermont Public Service Corp.
CAP–7. Docket No. ER79–370, Consolidated Edison Co.
CAP–8. Docket Nos. ER76–827 and ER77–427, Minnesota Power & Light Co.
CAP–9. Docket No. ER78–513, Public Service Co. of Indiana, Inc.
CAP–10. Docket Nos. ER80–38 and ER80–121, West Texas Utilities Co.
CAP–11. Docket No. ES80–75; Iowa Electric Light & Power Co.

Miscellaneous Agenda—468th Meeting, November 12, 1980, Regular Meeting

CAM–1. Docket No. RA80–54, Southland Oil Co. and CGS Corp.
CAM–2. Docket No. RA80–27, Louisiana Power & Light Co.

Gas Agenda—468th Meeting, November 12, 1980, Regular Meeting

CAG–1. Docket No. TA81–1–49–000 (PGA81–1 and PGA81–12), Montana Dakota Utilities Co.
CAG–2. Docket Nos. RP79–22 and RP76–52, Consolidated Gas Supply Corp.
CAG–3. Docket Nos. RP78–76 and R–406, Consolidated Gas Supply Corp.
CAG–4. Docket No. RP74–4, Cities Service Gas Co.
CAG–5. Docket No. RP78–94, Texas Gas Transmission Corp.
CAG–6. Docket No. CI78–186, Mesa Petroleum Co.
CAG–7. Docket No. CI77–100, American Natural Gas Production Co.; Docket No. CI69–1096, Cities Service Co.; Docket No. CI80–466, Texas Pacific Oil Co.; Docket No. CI80–397, Alminex U.S.A. Inc.; Docket No. CI80–398, Canadian Superior Oil (U.S.) Ltd.; Docket No. CI80–366, Getty Oil Co.; Docket No. CI80–380, Cabot Corp.; Docket No. CI80–393, Amoco Production Co.; Docket No. CI80–422, Cities Service Co.; Docket No. CI80–410, Geo. Oil and Gas Co. of Houston; Docket No. CI68–1027, Union Oil Co. of California; Docket No. CI67–557, Arco Oil & Gas Co., Division of Atlantic Richfield Co.; Docket No. CI72–181, Amoco Production Co.; Docket No. CI72–490, Pennzoil Producing Co.; Docket No. CI80–375, Phillips Petroleum Co.; Docket No. CI66–1257, Jake L. Hamon (Operator), et al.; Docket No. CI71–668, Pennzoil Co.; Docket No. CI69–962, Marathon Oil Co.; Docket No. CI70–93, The California Co., a Division of Chevron Oil Co.; Docket No. CI70–134, Sun Oil Co.
CAG–8. Docket No. CP80–330, Columbia Gulf Transmission Co. and Consolidated Gas Supply Corp.; Docket No. CP80–385, Texas Gas Transmission Corp.
CAG–9. Docket No. CP80–407, Northwest Pipeline Corp.
CAG–10. Docket No. CP79–472, Florida Gas Transmission Co.
CAG–11. Docket No. CP80–498, Arkansas Louisiana Gas Co.
CAG–12. Docket No. G–1760, Cities Service Gas Co.
CAG–13. Docket No. CP80–98, Equitable Gas Co.

Power Agenda—468th Meeting, November 12, 1980, Regular Meeting

I. Licensed Project Matters

P–1. (a) Project No. 405, the Susquehanna Power Co. and Philadelphia Electric Power Co.; (b) Project No. 1025, Safe Harbor Water Power Corp.; (c) Project No. 1881, Pennsylvania Power & Light Co.; (d) Project No. 1888, York Haven Power Co.

II. Electric Rate Matters

ER–1. Docket No. ER80–768, Indiana & Michigan Electric Co.; Docket No. ER80–771, Appalachian Power Co., Ohio Power Co. and Wheeling Electric Co.; Docket No. ER80–775, Ohio Power Co.; Docket No. ER80–811, Ohio Power Co.; Docket No. ER80–804, Indiana & Michigan Electric Co.; Docket No. ER80–808, Indiana & Michigan Electric Co. and Ohio Power Co.; Docket No. ER80–809, Ohio Power Co.; Docket No. ER80–810, Indiana & Michigan Electric Co.; Docket No. ER81–2–000, Indiana & Michigan Electric Co.
ER–2. Docket Nos. E–9002 and ER76–122, Commonwealth Edison Co.
ER–3. Docket Nos. ER77–488 and ER78–520 (phase II), El Paso Electric Co.
ER–4. Docket No. ER77–277, Pennsylvania Power Co., price squeeze (phase II).
ER–5. Docket No. ER77–614, Union Electric Co.
ER–6. Docket No. ER80–204, CP National Corp.
ER–7. Docket No. ER80–329, Central Power & Light Co.
ER–8. (a) Docket No. EF80–2011, Bonneville Power Administration (system rates); (b) Docket No. E–9563, Bonneville Power Administration (wheeling rates).
ER–9. Docket No. EL80–4, Metropolitan Edison Co.
ER–10. Docket No. EL79–20, Buckeye Power, Inc. v. Cincinnati Gas & Electric Co.

Miscellaneous Agenda—468th Meeting, November 12, 1980, Regular Meeting

M–1. Reserved.
M–2. Reserved.
M–3. Docket No. RP79–64, Florida Gas Transmission Co.
M–4. Docket No. RM80–73, Natural Gas Policy Act of 1978, section 110, gathering allowance.
M–5. Docket No. RM80–74, Natural Gas Policy Act of 1978, section 110, compression allowance.
M–6. Docket No. RM80–33, final rules for part 270, subpart B, sections 270.201, 270.202 and 270.204.
M–7. (a) Docket No. RM79–76 (Wyoming—1), high-cost gas produced from tight formations; (b) Docket No. RM79–76 (Wyoming—2), high-cost gas produced from tight formations; (c) Docket No. RM79–76 (Colorado—2), high-cost gas produced from tight formations.
M–8. Docket No. RA80–41, Eagle's Chevron Service.

Gas Agenda—468th Meeting, November 12, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. RP71–125 (PGA78–2), Natural Gas Pipeline Co. of America.

II. Producer Matters

CI–1. Reserved.

III. Pipeline Certificate Matters

CP–1. Docket No. CP80–347, Natural Gas Pipeline Co. of America.
CP–2. Docket No. CP80–335, Arkansas Louisiana Gas Co.
CP–5. (a) Docket Nos. CP78–123, et al., Northwest Alaskan Pipeline Co.; Docket No. CP78–124, Northern Border Pipeline Co.; Docket No. CP79–60, Pacific Gas Transmission Co.; (b) Delegation to the Federal inspector of certain authority under sections 4, 5, 7 and 8 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[S–2051–80 Filed 11–6–80; 9:32 am]
BILLING CODE 6450–85–M

3

FEDERAL HOME LOAN BANK BOARD.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 6, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the board meeting: Definition of Net Worth.

[S–2052–80 Filed 11–6–80; 9:50 am]
BILLING CODE 6720–01–M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 9:30 a.m., Wednesday, November 12, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be resolved with a single vote unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation K (International Banking Operations) to establish procedures by which U.S. banking organizations may make investments abroad. (Proposed earlier for public comment: Docket No. R–0290).

Discussion Agenda:

1. Proposed amendment to Regulation K (International Banking Operations) to allow certain limited exemptions from the nonbanking prohibitions of the Bank Holding Company Act. (Proposed earlier for public comment: Docket No. R–0291).
2. Proposed revision of the Annual Report for Foreign Banking Organizations, Form F.R. Y–7. (Proposed earlier for public comment; Docket No. R–0256).
3. Proposed revision of the Quarterly Report of Intercompany Transactions for Foreign Banking Organizations and Their U.S. Bank Subsidiaries, Form F.R. Y–8f. (Proposed earlier for public comment; Docket No. R–0257).
4. Proposal to establish International Banking Facilities within the United States.
5. Eurodollar reserve requirement policy under Regulation D (Reserve Requirement of Depository Institutions).
6. Any agenda items carried forward from a previously announced meeting.

Items 4 and 5 will be considered only if time permits.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20661.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 5, 1980.

Theodore E. Allison,
Secretary of the Board.

[S–2053–80 Filed 11–6–80; 11:05 am]
BILLING CODE 6210–01–M

5

[NM–80–37]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 73217, November 4, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Wednesday, November 12, 1980.

STATUS: The first four items will be open to the public; the fifth item will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Study Proposal*—Rail-Highway Grade-Crossing Accidents Involving Transportation of Hazardous Materials by Truck.
2. *Discussion* of Board policy relating to oral arguments.
3. *Letter* to the Federal Aviation Administration re notice of proposed rulemaking "FAA Access to Flight Data Recorder and Cockpit Voice Recorder Tapes," Dkt. 20661, Notice No. 80.14.
4. *Recommendation* to the Federal Aviation Administration requesting student pilots to identify themselves as students while in contact with FAA facilities.
5. *Opinion and Order*—Petition of Arechavala, Dkt. SM–2492, disposition of the Administration's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 6, 1980.

[S–2054–80 Filed 11–6–80; 11:08 am]
BILLING CODE 4910–58–M

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federal register

Monday
November 10, 1980

Part II

Department of Transportation

Research and Special Programs Administration

Identification Numbers, Hazardous Wastes, Hazardous Substances, International Descriptions, Improved Descriptions, Forbidden Materials, and Organic Peroxides

V 45 N 010 80 UMI

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177

[Docket Nos. HM-118, 126A, 126B, 145A, 145B, 159, and 171; Amdt. Nos. 171-53, 172-58, 173-137, 174-37, 175-16, 176-11, 177-48]

Identification Numbers, Hazardous Wastes, Hazardous Substances, International Descriptions, Improved Descriptions, Forbidden Materials, and Organic Peroxides

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to dispose of petitions for reconsideration of the final rules published in the May 22, 1980, **Federal Register** (45 FR 34560) and to make a number of corrections and clarifications to those rules regarding the following subjects:

(1) A numerical identification system for hazardous materials transported in commerce;

(2) Regulations pertaining to the transportation of hazardous wastes;

(3) Regulations pertaining to the identification of, and discharge notifications for, hazardous substances;

(4) Identification of certain forbidden materials by name and revisions to the general criteria applicable to forbidden materials;

(5) Proper shipping names for organic peroxides; and

(6) A requirement for entering on shipping papers the technical names of certain hazardous components of materials covered by n.o.s. entries.

EFFECTIVE DATE: November 20, 1980, unless otherwise specified by the regulations. Shipments may be prepared, offered for transportation, and transported in accordance with the Amendments cited above, as amended herein, upon publication in the **Federal Register** except for the display of identification numbers on placards as specified in Subpart D of Part 172 which is authorized on and after April 1, 1981.

FOR FURTHER INFORMATION CONTACT: L. Metcalfe (202-426-0656) or Delmer F. Billings (202-426-2075), Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Office hours are 8 a.m. to 4:30 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This action by the Materials Transportation Bureau (MTB) amends, corrects, and clarifies the final regulations published in the **Federal Register** on May 22, 1980 (45 FR 34560). It is based on petitions for reconsideration, requests for clarification or interpretations, and errors discovered by MTB and commenters. A number of timely filed petitions were received addressing the final rule. A number of other submissions were received that, while not considered to be formal petitions, were given full consideration by MTB in its decisions concerning the changes made by this publication.

Several petitions received by MTB were considered to be of such major significance as to warrant further public participation prior to MTB's making decisions concerning their disposition. These petitions concerned the display of identification numbers (Docket HM-126A) and the voluntary and mandatory compliance dates in relation thereto; hazardous waste manifests (Docket HM-145A); the definition of hazardous substances (Docket HM-145B); and use of the Optional Table (Docket HM-171). Major portions of these petitions were published in the **Federal Register** on June 30, 1980 (45 FR 43761) and July 10, 1980 (45 FR 46417). On July 31, 1980, a public hearing concerning these matters was held in Washington, D.C., and more than 50 comments, both oral and written, were received by MTB concerning the particular issues raised by the petitions.

In all, more than 100 petitions, comments, and inquiries were received by MTB relative to the final rules published on May 22, 1980. All have been considered. This preamble first addresses the major issues raised in those petitions, comments and inquiries. All other corrections and amendments are addressed in the succeeding section-by-section discussion. Except as adopted herein, all petitions for reconsideration received by MTB concerning the matters covered by the final rule published on May 22, 1980, are hereby denied.

As stated in the preamble to the rule, the Office of Management and Budget (OMB) must clear the shipping paper and reporting requirements adopted in the rule. Acting under the Federal Reports Act of 1942, on August 21, 1980, OMB approved the incident reporting requirements specified in 49 CFR, Parts 171-177 (OMB approval No. 004-R5613). On September 5, 1980, OMB similarly approved the shipping paper requirements (OMB approval No. 004-R5750).

Display of Identification Numbers; Docket HM-126A

The Association of American Railroads (AAR), the Southern Railway System (Southern), and the National Tank Truck Carriers, Inc. (NTTC), filed timely petitions for reconsideration pertaining to the display of identification numbers on the exterior of transport vehicles and portable tanks. Substantial portions of the petitions were quoted verbatim in the **Federal Registers** of June 30 and July 10, 1980.

A variety of positions, many of them conflicting, were taken by the petitioners and commenters concerning the display of identification numbers. They are synopsized as follows:

1. If they are displayed at all, identification numbers should not be displayed on placards; only orange panels should be used.

2. Identification numbers should only be displayed on placards; the orange panel method of display should be eliminated.

3. Identification numbers should be displayed only on placards along with class inscriptions in reduced size lettering.

4. Carriers should not be required to replace identification numbers lost during transporation.

5. The voluntary and mandatory compliance dates for the display of identification numbers do not allow sufficient time to implement training and education programs or to effect compliance with the requirements.

6. The regulations pertaining to the display of identification numbers, as published in the **Federal Register** on May 22, 1980, should be retained without change.

Generally, the comments synopsized in Item 1 above were received from representatives of the railroad industry; the comments in Item 2 from the motor carrier industry; the comments in Item 3 from some shippers and subsequently from the motor carrier industry; the comments in Item 4 from carriers; the comments in Item 5 from most commenters, except emergency services; and the comments in Item 6 from emergency services.

The positions taken by the petitioners and commenters to the petitions are, to a certain degree, irreconcilable. Taken together they have not made a persuasive argument for any substantial change in the identification number display requirements as published in the final rule. The petitions and comments did, however, point to a number of adjustments that MTB believes will ease implementation and improve the regulations pertaining to display of identification numbers.

Concerning the method of display of identification numbers; i.e., on orange panels and/or placards, MTB has decided to retain the provisions it adopted in the final rule with certain modifications. Of significance is the change to § 172.332 consolidating the display provisions into a single section, and a revision to § 172.334 to specify the circumstances under which display of identification numbers would be prohibited. In the latter rule, paragraph (e) will prohibit the display of identification numbers on an orange panel on a cargo tank unless it is affixed to the cargo tank by the person offering the hazardous material for transportation. This means carriers operating cargo tanks will not be faced with the multiple choice situation suggested in the NTTC petition. If a shipper does not himself affix the identification numbers to a cargo tank, he must provide the identification numbers on placards under the circumstances that require him to provide placards. MTB, with this modification, believes it has resolved a significant and valid problem raised by the NTTC in its petition.

Several commenters from the railroad industry raised concern about the display of identification numbers on placards as having an adverse impact on compliance with the car handling requirements specified in Part 174. One commenter submitted a chart used by his company to illustrate the requirements for positioning cars containing hazardous materials in trains and for the switching of cars. The positioning chart, which illustrates the requirements in relation to the kind of placard applied, contains the following entries for placards in a column.

EXPLOSIVES A
POISON GAS
RADIOACTIVE
ANY PLACARD OTHER THAN COMBUSTIBLE
EMPTY—OTHER THAN COMBUSTIBLE
COMBUSTIBLE

The regulation, as adopted, does not authorize the display of identification numbers on EXPLOSIVES, POISON GAS, or RADIOACTIVE placards. A special presentation (white bottom) of the COMBUSTIBLE placard has been adopted if it is to be used for the display of an identification number. Therefore, identification numbers are only allowed to be displayed on those placards described in the chart as ANY PLACARD OTHER THAN COMBUSTIBLE (including EMPTY) and COMBUSTIBLE.

Concerning the training of railroad employees relative to the display of identification numbers on placards, the MTB does not agree with those commenters who suggested that this is an unreasonably burdensome task. Railroad personnel need only be trained to recognize that all cars bearing placards with identification numbers are treated in the same manner except those bearing COMBUSTIBLE placards which will be identified differently. Certainly training will be required to recognize these distinctions.

While orange panels would be required on tanks transporting poison gas and radioactive materials, MTB estimates this mandatory usage will be minimal in relation to the total number of movements of hazardous materials in tanks.

One commenter from a railroad indicated that studies show that currently placards are in place on rail cars in only 77% of the situations where required and that his railroad is replacing 500 placards a month. These statements were made in support of his contention that painting the name of the commodity on a tank car is more reliable, (80%) than any placarding system. The cited study was not submitted to support those statements. Consequently their correctness and value remain doubtful. However, the statements above suggest a need for increased surveillance and enforcement efforts to assure compliance with placarding and marking requirements.

Occasionally placards, which are required to be displayed on both sides and both ends of rail cars, are lost or destroyed during transportation and the same is likely to occur with orange panels. To ease the replacement burden on transportation companies, MTB is modifying § 172.338 to require replacement of identification numbers only when more than one required display is found missing or destroyed during transportation. When only one placard bearing an identification number (if used) is found missing or destroyed, the appropriate class placard (with inscription) may be used. If more than one placard or orange panel bearing an identification number is found missing or destroyed, all would have to be replaced. This is consistent with instructions to emergency services in the forthcoming Emergency Response Guidebook which tells them to check the sides of tanks if they do not see identification numbers on ends. Also, considering the strong interest expressed by motor carriers in utilizing placards for the display of identification numbers, and the limited relief provided for replacement of identification numbers, MTB has decided to eliminate the exception concerning the display of identification numbers on the forward end of cargo tank trucks and cargo tank semitrailers. Otherwise, it is conceivable that an identification number would not be visible from two directions i.e., the front and one side or the other—an unacceptable situation relative to the display of emergency response information.

MTB has fully considered the comments suggesting that class identification inscriptions should be retained in combination with the display of identification numbers on placards. As an alternative to the orange panel the final rule as published authorized identification numbers to be displayed on placards in 3½" high numerals in space made available by omitting the currently used inscription. The proposed inclusion of inscriptions in the placard display, even though rather small, would require a reduction in the size of the numerals. Also, the inclusion of inscriptions in the same block with the numerals would further diminish effective display of identification numbers at distances greater than 100 feet, while smaller inscriptions would only be readable at distances of less than 50 feet. Representatives of emergency services organizations who commented on this matter stated that they found it desirable to place the greatest emphasis on the visibility of identification numbers and one emphasized that the 3½" size for identification numbers is about twice the size of the lettering for present inscriptions on placards. He also pointed out that fire service emergency personnel depend more on the color of a placard to tell them the class of a hazardous material than the class inscription printed on the placard. In summary, emergency service representatives took the position that using all of the available space on a placard to display the particular commodity identification number as prominently as possible far exceeds the value of showing in that space a class name. MTB agrees and has decided to retain the format adopted in the rule.

A number of commenters requested that additional time be provided for compliance with the requirements pertaining to the display of identification numbers and that voluntary compliance not be permitted prior to July 1, 1981. Their principal argument was the time needed for implementation of training programs. It is in the public interest that the identification system be implemented

without further delay. Nevertheless it is clear that training is important to proper implementation of the system. Therefore, the voluntary date for display of identification numbers on placards (when authorized) is redesignated as April 1, 1981, and the mandatory date for their display on placards or orange panels is delayed to November 1, 1981. The later date was chosen to allow sufficient time for acquisition and deployment of orange panels or numbered placards and to implement the identification system.

Hazardous Wastes; Docket HM–145A

The National Tank Truck Carriers, Inc. (NTTC) and the American Trucking Associations, Inc. (ATA) petitioned for removal of the Note following subparagraph (3) of § 171.3(c). The Note provides a modification to the statement of inconsistency found in subparagraph (3) which pertains to the imposition of requirements by a State or its political subdivision relative to the format or contents of shipping papers including hazardous waste manifests.

Comments concerning this matter were numerous. Shippers and carriers strongly supported deletion of the Note while several State agencies strongly supported its retention. Merit is to be found in the arguments raised on both sides on this issue. Shippers and carriers maintain that there is a need for national uniformity to preclude impediments to the movement of hazardous materials (wastes) in interstate commerce. The States believe that the manifests they have adopted are essential to the accomplishment of their hazardous waste control systems.

MTB has been involved in the development of hazardous wastes transportation regulations for approximately four years. An MTB representative participated with Environmental Protection Agency (EPA) in a number of public hearings concernig the development of hazardous wastes requirements and heard repeated statements by shipper and carrier representatives expressing the view that the hazardous waste manifest requirements promulgated by the EPA should allow for their assimilation within existing transportation documentation systems. EPA, in its desire to minimize the impact of its hazardous waste transportation requirements, accepted the arguments raised by industry commenters and promulgated limited requirements that merely listed the information that must be displayed on hazardous waste manifests and did not adopt a specific manifest form on format.

It now appears that there is a significant demand for a uniform, Federally mandated format for a hazardous waste manifest. This is not entirely limited to shipper and carriers. Several State officials have expressed a need for a nationally agreed-upon system. MTB agrees that this should be accomplished and has been informed that an industry organization, the Hazardous Materials Advisory Council, is beginning a dialogue with various State officials having a similar concern. Because the prospects for the success of this effort appear favorable, MTB is deferring action on the petitions requesting the deletion of the Note to § 171.3(c) pending the development of an acceptable uniform hazardous waste manifest.

Hazardous Substances; Docket HM–145B

The Association of American Railroads (AAR) and the Southern Railway System (Southern) filed petitions for reconsideration concerning the applicability of the Department's Hazardous Materials Regulations to hazardous substances as published in the **Federal Register** on May 22, 1980 (45 FR 34560). In that final rule MTB, acting pursuant to its authority under the Hazardous Materials Transportation Act (HMTA), listed all materials identified by EPA as hazardous substances pursuant to Section 311 of the Clean Water Act. However, MTB limited its definition of a hazardous substance in § 171.8 to a reportable quantity in one package, or transport vehicle when not packaged, and to certain concentrations.

The AAR and the Southern petitions requested that the rule be modified to require shippers to notify transporters when several packages of hazardous substances are tendered in one transport vehicle if, in the aggregate, there is an amount equal to or exceeding a reportable quantity of a hazardous substance. Southern "strenuously" objected to the table in § 171.8 associated with the definition of a hazardous substance, and suggested that precise percentages should be furnished by shippers to carriers to determine whether, in fact, a reportable quantity of a hazardous substance contained in a mixture or solution has been spilled.

A public hearing was held on July 31, 1980, to receive comments on the petitions from interested persons. Also, a number of written comments were filed and made a part of the record. Except for comments received from persons representing the views of the railroad industry, virtually all other comments received in response to the petitions supported the rule as adopted. Based on a review of all the comments received, including the additional comments of the petitioners, MTB has concluded that the hazardous substance rules as adopted under Amendment 171–53 should remain the same, except for minor modifications for purposes of clarification. The rule is sufficiently extensive to address each substance in a quantity and form which may pose an unreasonable risk to health and safety or property when transport in commerce. MTB is satisfied that using the quantity in one package, or in one transport vehicle when not packaged, and percentages in mixtures or solutions provided the optimum method of limiting the application of rules issued under HMTA for reporting purposes. MTB has received concurrence from EPA concerning this decision as evidenced by EPA's publication in the **Federal Register** on September 17, 1980 (45 FR 61617) relative to the applicability of 40 CFR Part 117 to common carriers.

It has been pointed out to MTB that certain petroleum products such as unleaded gasoline may contain hazardous substances in reportable quantities when transported in cargo tanks and tank cars. Such materials were never intended to be covered by the hazardous substances spill reporting regulations since they are presently covered by the oil discharge regulations of the U.S. Coast Guard and the EPA. Therefore, a provision has been added to the definition of a hazardous substance excluding petroleum products that are lubricants of fuels.

International Descriptions; Docket HM–171

The Association of American Railroads (AAR) and the Southern Railway System (Southern) filed petitions requesting elimination of § 172.102 which would allow the use of international descriptions for hazardous materials as adopted by the Inter-governmental Maritime Consultative Organization (IMCO). At the hearing on July 31, 1980, a number of commenters suggested that the Section be deleted in deference to the formation of an industry working group under the leadership of the Bureau of Explosives (AAR). In its written submission, the AAR stated, "The AAR offers to undertake the task of combining the § 172.101 and Optional Tables. In the next year, it should be possible to make a decision as to whether a unified Table is feasible. The AAR therefore proposes that the MTB withdraw the Optional Table and allow the AAR until July 1,

1981, to determine whether a unified Table is attainable."

Several carriers and carrier organizations expressed particular concern about the use of the Optional Table for domestic transportation; especially with regard to tank cars and cargo tanks. They pointed out areas in which there is not direct comparability between the domestic commodity table (Section 172.101) and the Optional Table.

Classifications. IMCO specified classifications and labeling have been authorized for international shipments transported within the United States since adoption of § 171.12 under Docket HM–112 in 1976. There have not been any indications of any serious difficulties in operations conducted under that authority. Therefore, it must be assumed that the principal concerns of the petitioners and commenters are with the use of the differing classifications authorized by § 172.102 for purely domestic transportation. Moreover, removal of the alternative classifications authorized by § 171.12 for international shipments would be legally beyond the scope of the rulemaking under Docket HM–171. Accordingly, the provision with reference to the Optional Table in § 172.102 is being retained in order that such classifications be specifically listed in the DOT regulations.

Descriptions. Prior to the adoption of § 171.12 in 1976, several commenters requested that IMCO descriptions be authorized along with IMCO labels and classifications. MTB did not adopt the provision because the IMCO list was not generally available to or in the possession of carriers and enforcement personnel in the United States. The same is true today and is one of the principal reasons for publication of the § 172.102 Optional Table. MTB has decided to retain the Optional Table, but limit the use of the descriptions therein to international shipments involving transportation by vessels. The descriptions will not be authorized in connection with shipments aboard aircraft based on comments from operators of aircraft referring to potential difficulty in determining compliance with the quantity limitations specified in § 172.101 and alignment with international requirements. Further consideration will be given to such an authorization following the adoption of dangerous goods requirements by the International Civil Aviation Organization (ICAO).

One comment of special note spoke to so-called "land-bridge" operations which involve the movement of freight containers in international commerce by ocean voyage, coast-to-coast movement by rail, and a subsequent ocean voyage. That commenter, a carrier, suggested that shipments will be re-marked according to Section 172.101 if they are identified in accordance with the Optional Table. MTB assumes that the principal concern here is with the entries on shipping documents. MTB does not believe carriers should be placed in a position of having to accept (or cause a delay in the acceptance of) packages containing hazardous materials that are not marked with descriptions exactly as specified in § 172.101, if they are marked in accordance with the IMCO Code consistent with Rule 4 of the Safety of Life at Sea Convention. For this reason, and to provide a means for vessel loading in conformance with the IMCO Code (Column 7 of the Optional Table), and for the reasons stated in the preamble to the rule, MTB is retaining the Optional Table in Section 172.102 but is limiting its application as discussed above.

MTB accepts the AAR's offer to organize an inter-industry working group to undertake development of a single, integrated table and will reconsider the authorization for the use of the Optional Table, or its elimination, upon receipt of the recommendations from that working group.

The Emergency Response Guidebook

The Emergency Response Guidebook (ERG) that is associated with the rule issued under Docket HM–126A has been completed. MTB has entered into a contractual arrangement with the International Association of Fire Chiefs (IAFC) for distribution of the ERG to emergency services organizations. MTB's principal objective is to have one ERG placed in each police, fire, civil defense, and rescue-squad vehicle in the United States (estimated to be 450,000 vehicles) by November 1, 1981. Initial delivery of 200,000 copies of the ERG to the IAFC for distribution has been accomplished.

The IAFC is cooperating with the International Association of Chiefs of Police and the United States Civil Defense Council relative to distribution of the ERG. The IAFC will make initial distribution to the members of these organizations prior to distribution to other emergency services entities. This will avoid duplication of requests from different levels of emergency services organizations. For example, the chief of a county fire and rescue department responds to the IAFC inquiry, which will be mailed before January 1, 1981, and requests ERG's for all fire and rescue squad vehicles in his county. If he handles the distribution for his county, it will not be necessary for individual departments in his county to submit separate requests for the ERG.

MTB requests the cooperation of all interested persons relative to distribution of the ERG. It must be emphasized that the IAFC is distributing the ERG only to emergency services organizations engaged in protecting the general public. MTB has been informed that several private firms plan to reproduce and sell the ERG commercially. Commercial firms, organizations and private individuals should not contact the IAFC for copies of the ERG.

Persons representing emergency response entities that have not received copies of the ERG for their vehicles, and have not been contacted by the IAFC, may contact the IAFC after April 1, 1981 by writing to—

International Association of Fire Chiefs,
Attention: ERG, 1329 18th Street, NW.,
Washington, D.C. 20036.

Review By Sections

Section 171.3. Paragraph (d) of this section is revised with the addition of the words "or other hazardous material" at the end of line one to provide for a hazardous material that becomes a hazardous waste if discharged during transportation.

Section 171.7. The mailing address for OPPSD is changed to reflect the new address of the Organic Peroxide Procedures' Safety Division, Society of Plastic Industries.

Section 171.8. In response to several comments, the "Hazardous substance" definition is rewritten for clarification and a definition of "Reportable quantity" is added. A material identified by the letter "E" in Column (1) of the Table becomes a hazardous substance when the quantity in one package, or one transport vehicle when not packaged (bulk), equals or exceeds the reportable quantity indicated for the material in Column (2) of the Table. The "concentration by weight" columns (Percent and PPM) indicate the minimum concentration requiring consideration for determining if a material is a hazardous substance. Thus, for a material having a 1000 pound reportable quantity, a concentration below 2 percent is not considered a hazardous substance. Also excepted from the definition are petroleum products that are lubricants or fuels that are covered by the oil discharge reporting requirements (33 CFR 153.203).

The definition of "Name of contents" is revised to include a reference to § 172.102 which was overlooked in the final rulemaking.

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MTB was requested to provide clarification of the requirements for identifying reportable quantities of hazardous substances in a compartmented tank. The terms "package" and "packaging" are defined in § 171.8. Any time a package (compartmented or otherwise) contains a reportable quantity of a hazardous substance, the regulations pertaining to hazardous substances in the subchapter apply.

Section 171.12. The original provisions of paragraph (b) are reinstated with a reference to § 172.102. In addition, the shipping names in § 172.102 are authorized for international shipments involving transportation by vessel.

Section 171.17. The first four lines of paragraph (a) are revised to limit the applicability of the reporting requirement for a hazardous substance to discharges of reportable quantities. An editorial revision to paragraph (c) is made to correct a publication error in the spelling of the word "unremoved" in the fourth line.

Section 172.101. Paragraph (b)(1) is revised to delete the words "including its mixtures and solutions." This revision is based on a petition for reconsideration. MTB reviewed the data and concurs with the recommendation. Several requests for interpretation of paragraph (j) were received and MTB considers it appropriate to clarify the text. Paragraph (c)(10) is revised to specify that the word "Waste" is to be the first word of the proper shipping name if the description in the Table (or Optional Table, when authorized) does not contain the word "waste."

Paragraph (c)(12) is deleted. As written, the requirement would have applied to all packagings including portable tanks, cargo tanks, multi-unit tank car tanks and tank cars which was not intended. The appropriate requirements are contained in §§ 172.203, 172.301 and 172.324.

Paragraph (d)(3) is added to include the limitation previously stated in paragraph (a) of § 173.500 which is deleted. This associates a requirement for the designation of a hazard class with the instructions pertaining to Column (3) of the Table.

Paragraph (g)(1) is added to provide a reference to § 173.510 for the packaging of an ORM–A, B, or C that is a hazardous waste or a hazardous substance and is not required to be packaged under Subparts K, L, or M for a specific mode of transport.

Hazardous Materials Table

Additions and Deletions

MTB is adding twenty-one entries to the Hazardous Materials Table (Table) and is deleting two entries. This action is based on comments received concerning the final rule and/or MTB discussions and review concerning the adequacy of entries in the Table. Several other changes to the entries in the Table have also been made, many of which are editorial.

MTB is adding an entry to the Table for "Ammonium hyroxide (*containing less than 12% ammonia*)", classed as ORM–A. The entry for "Ammonium hydroxide (*containing not more than 44% ammonia*)", classed as Corrosive material, is being revised accordingly. Under an MTB contract, skin corrosion tests were conducted using aqueous solutions of ammonium hydroxide containing from 1% to 20% ammonia. The data indicate that a 12% solution is corrosive and a 10% solution is not corrosive. Ammonium hydroxide containing less than 12% ammonia is classed as ORM–A because the material has a pungent odor and can irritate the eyes, skin and mucous membranes. The material is a hazardous substance.

A commenter stated that the identification number listed in the United Nations Recommendations for the Transport of Dangerous Goods for Dinitrotoluene, UN1600, is for dinitrotoluenes in liquid form and that the Table does not contain an entry for dinitrotoluenes in solid form. However, the UN Recommendations do contain a description for dinitrotoluenes in solid form with UN number 2038. MTB agrees and is adding the proper shipping name "Dinitrotoluene, solid" to the Table, assigning it identification number UN2038 and is adding "liquid" to the present entry "Dinitrotoluene" which has the identification number UN1600.

MTB is adding the proper shipping name "Infectious substance, human, n.o.s." to the Table and assigning identification number UN2814. This description is referenced to "Etiologic agent, n.o.s.". Since "Etiologic agent, n.o.s." is not an acceptable description for the international shipment of etiologic agents, the new description should fill the gap and, also, provide an alternate description for domestic shipments.

MTB is adding an entry to the Table for lead sulfate, classed as ORM–E. "Lead sulfate, solid (*containing more than 3% free acid*)" is listed by name and classed as Corrosive material. Since lead sulfate has been designated a hazardous substance, it is appropriate to include an entry for lead sulfate that is essentially free of acid and does not meet the definition of any other hazard class.

MTB is adding an entry to the Table "Sodium hydrogen sulfite, solution" classed as Corrosive material. The solid form is listed by name and classed as ORM–B. Previously, solutions of this material meeting the definition for a corrosive material had to be described generically. Since sodium hydrogen sulfite has been designated as a hazardous substance, it is appropriate to include an entry for the material in solution.

A commenter notified MTB that EPA has designated sulfur monochloride as a hazardous substance and not sulfur dichloride, as shown in the Table (i.e., Sulfur chloride (*mono and di*)). MTB agrees. The italicized "and di" portion of the existing description is deleted. A new entry for Sulfur chloride (*di*) is added.

Several commenters expressed concern that a single entry for a hazardous substance that is a pesticide may not be sufficient to cover packaging requirements for various formulated products of that pesticide. Most pesticide entries cover only the technical material. Formulated products are covered only if they are in the same state or form (i.e., solid or liquid) as the technical material. Another description would have to be chosen that allows suitable packaging (e.g., a pesticide description based on family group as per HM–126B). However, if the hazardous substance in the packaged pesticide product equals or exceeds its reportable quantity (RQ), the name of the hazardous substance must appear on the shipping paper in association with the basic description (§ 172.203(c)(1)). This situation is common for hazardous substances with RQ–1/0.454 and RQ–10/4.54. The commenters argue that another entry for each of these hazardous substances should be added to the Table. Thus, an exact description can be used to identify the pesticides regardless of the formulation. This would also aid emergency response personnel responding to an accident. MTB agrees and is adding twelve new entries to the Table. The entries include: (1) Azinphos methyl mixture, liquid; (2) Carbofuran mixture, liquid; (3) Coumaphos mixture, liquid; (4) Dichlorvos mixture, dry; (5) Disulfoton mixture, dry; (6) Disulfoton mixture, liquid; (7) Endosulfan mixture, liquid; (8) Endrin mixture, liquid; (9) Ethion mixture, dry; (10) Guthion mixture, liquid; (11) Mevinphos mixture, dry, and (12) Mevinphos mixture, liquid.

In the preamble to the final rule, MTB stated that "Sodium hydrosulfide, solid" is reclassed as Corrosive material (45 FR 34560, 34577). However, the entry in the Table was not revised and the material remained classed as Flammable solid, as originally proposed in HM–145B. Questions concerning the hazard class lingered. In the interim, the commenter restated his case that the material should be classed as Corrosive material. In addition to skin corrosion data on flaked sodium hydrosulfide containing 25% water of crystallization, the commenter submitted acute toxicity data on the material. Values reported are: oral-rat, LD_{50}=58.5 mg/kg and skin-rabbit, LD_{50}=177.8 mg/kg. The acute oral study appears to meet DOT protocol. The acute dermal study does not meet DOT protocol because an insufficient number of rabbits was used in the test. The data indicate that the material is toxic and may meet the DOT definition for Poison B via skin absorption. The commenter stated that his company is the only domestic manufacturer of this material. The company has years of experience and cited a good safety record for shipping the material, classed as Corrosive material. The company has never had a reported case of poisoning caused by the manufacture, handling, and shipment of the material. At the February 1980, meeting of the Group of Rapporteurs of the UN Committee of Experts on the Transport of Dangerous Goods, the Rapporteurs agreed to split up the present entry for sodium hydrosulfide in the UN Recommendations, depending on the water of crystallization present in a sodium hydrosulfide molecule. Water of crystallization apparently is a major factor in determining the hazards associated with sodium hydrosulfide. The Rapporteurs did not mention anything about the toxicity of the material. Accordingly, MTB is adding an entry to the Table for "Sodium hydrosulfide, solid *(with not less than 25% water of crystallization)"*, classed as Corrosive material. The entry for "Sodium hydrosulfide, solid", classed as Flammable solid, has been revised to include water of crystallization in the description.

Diethylzinc is added to the Table but can not be used as a proper shipping name. This entry references Pyrophoric liquid, n.o.s. which is the appropriate shipping name for *Diethylzinc*. At a later date, MTB will consider adding *Diethylzinc* as a proper shipping name since this material is listed by name in the UN Recommendations (see UN1366) and is a recognized international description.

A commenter pointed out that tetraethyl lead is one of many compounds that can be and are used in the formulation of motor fuel antiknock compounds. Like tetraethyl lead, several of these compounds are hazardous substances (e.g., ethylene dibromide (RQ–1000/454), ethylene dichloride (RQ–5000/2270) and toluene (RQ–1000/454)). The commenter recommended that the description for the antiknock compound containing tetraethyl lead be deleted from the Table and that the basic description for antiknock compound be revised to indicate that the antiknock compound may contain a hazardous substance. MTB agrees and is deleting the entry in the Table for "Motor fuel antiknock compound *or* Antiknock compound; containing tetraethyl lead (*RQ–100/45.4*)". The description for "Motor fuel antiknock compound *or* Antiknock compound (*RQ–100/45.4*)" is revised accordingly.

MTB is adding a reference for *Delay connectors* to the Table. By error, the reference, which appeared in a final rule on detonators and detonating primers (HM–161; 44 FR 70721), was omitted from the revised Table.

Changes

MTB is changing or adding identification numbers or prefixes for 49 entries, in response to comments. Reportable quantity designations are changed in four entries, and the reportable quantity designation "(*RQ–1/.454*)" is changed to "(*RQ–1/0.454*)" wherever it appears. Reportable quantity changes include uranyl nitrate (due to an oversight); phosphorus pentasulfide (due to EPA's downward revision of the reportable quantity; see 44 FR 50777); allyl alcohol and chlorosulfonic acid-sulfur trioxide mixture (for clerical correction).

In eight other entries, an "E" and a reportable quantity designation are added. Of those eight, three are previously overlooked isomers: isobutyl acetate, isobutylamine, and isobutyric acid. Two others, "Sodium potassium alloy, liquid" and "Sodium potassium alloy, solid" are modified because sodium is a hazardous substance previously designated by EPA. "Titanium sulfate solution, *containing not more than 45% sulfuric acid"* similarly is modified because of the presence of sulfuric acid. The entry "Strychnine, solid" is modified to correct a previous error.

After considering comments concerning the 45 new descriptions for the 15 pesticide groups, MTB is adding the "n.o.s." modifier to these descriptions to improve consistency with international descriptions.

MTB is changing the order of appearance for labeling requirements for six materials, classed as Poison A, which require the additional label of either Flammable gas or Nonflammable gas. This reflects the fact that the primary label is that of the hazard class.

MTB is modifying the entry "Sulfur chloride (*mono and di*)". The entry in the May 22, 1980, Table indicated that both isomers are hazardous substances, with a reportable quantity of (RQ–1000/454). It was brought to MTB attention that only sulfur monochloride is designated as a hazardous substance by the EPA. Therefore, the entry in the Hazardous Materials Table is changed to reflect this situation. A separate entry is added for sulfur dichloride with only the *"mono"* entry being identified as a hazardous substance.

The entry "Ammonium nitrate-fuel oil mixture, (*containing only prilled ammonium nitrate and fuel oil*)" is modified by deleting the *"See"* reference and completing the line entry as specified for "Blasting agent, n.o.s." This change is made to clarify the fact that the entries for "Ammonium nitrate-fuel oil mixture" and "Blasting agent" reflect different materials and may not be used interchangeably.

For the entries disulofton, ethion, and mevinphos, the packaging references are changed to reflect packagings for technical grade organophosphorous pesticides in liquid form since these materials are liquids rather than solids.

MTB is modifying the entry for "Sodium bisulfite, solid. *See* Sodium hydrogen sulfite, solid" to include a reference for this material in solution, to reflect the new entry in the Table for "Sodium hydrogen sulfite, solution".

For the entry "Textile treating compound *or* mixture, liquid", the reference to § 173.245 in Column (5)(b) is deleted as being unnecessary since § 173.249(a) refers to § 173.245.

MTB is making four other nonsubstantive changes to the Table.

Section 172.102. The heading is revised to indicate that this section may be used only for international shipments as explained earlier in this preamble. Revisions also are made to § 172.102(a) and (b) to reflect this limitation. Since there are other uses of parentheses in paragraph (h), MTB believes that an element of possible confusion is eliminated if the parentheses are removed from each italicized hazard class entry. Therefore, the last sentence of the introductory text to paragraph (h) is revised and the parentheses are removed from the italicized hazard class entries.

Questions have been asked relative to the use of the Optional Table. The following example should resolve some of the problem area. "Mercury

compound, n.o.s., solid" is listed in § 172.101, but there is no similar entry for the liquid. Therefore, the appropriate listing for this material in § 172.101 is "Poison B, liquid, n.o.s.". The proper shipping name in § 172.102 is "Mercury compound, n.o.s.", if it is inorganic. The packaging is that prescribed for the "Poison B, liquid, n.o.s." in § 172.101 since all packaging references and limitations for § 172.102 entries are found in § 172.101.

An error in the definition of IMCO Division 3.3 has been corrected by amending the upper flash point limit to include liquids with a flash point of 141° F.

Five minor errors or omissions in the Optional Table are corrected. In addition, one commentator pointed out that the entry "Paint, enamel, lacquer, * * * lacquer base *and* thinner, etc." should read "Paint, enamel, lacquer, * * * lacquer base *or* thinner, etc." MTB agrees and is amending the entry accordingly. One commentator requested that the description "Ethyl fluid" be authorized as an alternate proper shipping name for the entry "Motor fuel anti-knock mixtures" as provided in the IMCO Code. MTB recognizes that the description "Ethyl fluid" is authorized under virtually all international hazardous materials transportation regulations whereas "Motor fuel anti-knock mixtures" is not. For this reason, MTB is including the entry "Ethyl fluid" in roman type with a cross reference to the principal IMCO description "Motor fuel anti-knock mixtures."

Numeric-Alpha index. The numeric-Alpha index contained in Appendix A to Subpart B or Part 172 is revised in its entirety to provide necessary corrections and additions.

Section 172.201. To clarify the intent of the requirement in paragraph (a)(1)(iii) an editorial change is made to show that the letters "RQ" required by § 172.203(c)(2) may be entered in the "HM" column in place of the "X" when appropriate, and when so placed will meet the requirements for both the "X" and the "RQ." This editorial change also clarifies the intent that the letters "RQ" are not required to be entered in the "HM" column. This change is based on a request for clarification.

Section 172.202. Paragraph (a) is revised to show that the intent of the regulation is to prescribe four elements for the shipping description, and that the basic description consists of the first three elements of the shipping description. Paragraph (a)(1) is revised to reflect the limitation on the use of the Optional Table. Paragraph (a)(2) is revised to limit the provision allowing the shipping name to be used as the class designation to instances where shipping names describe only one hazard class. It is believed that an entry such as "Flammable liquid, corrosive, n.o.s." without a showing of the hazard class on a shipping paper would lead to confusion when determining placarding requirements and possible packaging and labeling requirements. Paragraph (a)(3) is revised to correct "preceded." Paragraph (c)(2) is revised to authorize the entry of destination marks on the shipping paper as requested in a petition. MTB believes that allowing such entries will not adversely affect safety and will contribute to the facilitation of commerce.

Section 172.203. Paragraph (c)(1) is revised to clarify the requirement that the names of hazardous substances that are not identified in the proper shipping names must be obtained from § 172.101 and entered on shipping papers in association with the basic description.

Paragraph (e)(1) is revised editorially to delete an inconsistency and to clarify the requirements of the regulation.

Paragraph (i)(2) is revised with the addition of paragraph (iii) to indicate July 1, 1981, as the date on which more than one hazardous material in a mixture must be identified when the proper shipping name does not identify the materials.

The effective date for the requirement in paragraph (j) for entering "Dangerous When Wet" on a shipping paper is delayed to July 1, 1981, to be consistent with other new shipping paper requirements. Paragraphs (k)(1) and (k)(2) are revised to clarify the intent of the regulation.

Section 172.300. This section has been redesignated to provide an applicability section similar to the other subparts in Part 172. The requirements that were in § 172.300 are set forth in § 172.301.

Section 172.301. Paragraph (a) is revised to clarify the requirement that the identification number marking on packages must be preceded by "UN" or "NA" as appropriate unless otherwise prescribed. A provision was included in § 172.202(a)(3), but was omitted in this section. Also, paragraph (a)(1) is added to reference § 172.101(c)(10) and to preclude duplicative marking by adding an exception which allows the EPA marking specified in 40 CFR 262.32 to be used in place of adding the word "waste" to a proper shipping name on a package.

Paragraph (c) is revised for clarification of exceptions from the marking requirements. Paragraph (c)(3) is added to specify a July 1, 1981, effective date to provide additional time to change package markings relative to proper shipping names adopted or changed by Amendment No. 172–58. Also, a note is added to the section referencing EPA marking requirements for hazardous wastes.

Section 172.302. Paragraph (a) is revised by the addition of a reference to § 172.102 and is corrected to show that more than one technical name may have to be identified in the same manner as required by § 172.203(i)(2). Paragraph (b) is revised to be consistent with § 172.203(i)(2). A new paragraph (c) is added extending the date for compliance to July 1, 1981, relative to showing more than one hazardous material in a mixture.

Section 172.308. The first line of paragraph (a) is revised to indicate that the intent of the restriction against the use of abbreviations is limited to the proper shipping name. In the first line of paragraph (a)(1) the word "on" is changed to "of" to correct an earlier error that was made in HM–112/HM–103 when the requirement was transferred from § 173.400.

Section 172.316. A clarifying phrase is added to the introductory text of paragraph (a) to specify that the ORM marking requirement is applicable only to packagings having a capacity of 110 gallons or less. Paragraph (c) is revised to refer to all of Subpart (C) of Part 172 relative to the applicability of certification requirements.

Section 172.324. The section is revised by changing the section heading to "Hazardous substances" and by revising paragraph (a) by specifying the "proper shipping name" rather than the "basic description." In paragraphs (a) and (b), the addition of the words "having a capacity of 110 gallons or less" to paragraph (b) eliminates the need for an exception in paragraph (c) for portable tanks, cargo tanks and tank cars, and it also excludes vehicles such as hopper cars.

Section 172.326. In subparagraph (a)(2) and paragraph (d), "(when authorized)" is added following the references to § 172.102. A commentator requested deletion of the requirement in paragraph (d) for displaying the identification number on a transport vehicle if the identification number on a portable tank is not visible. MTB is not changing the requirement since the intent of requiring display of identification numbers is to have the numbers visible at all times when hazardous materials are transported in packagings having rated capacities greater than 110 gallons regardless of the transport configuration.

Section 172.328. Paragraph (a) is revised to clarify the regulation to show that § 172.102 may be used only when authorized. Paragraph (a)(1) is revised to require a person who offers a hazardous material in a cargo tank to provide the required identification numbers on placards or to affix orange panels bearing the required identification numbers unless the cargo tank is already marked for the material in accordance with paragraph (f) of this section or § 173.29(c). Paragraph (b) is revised to clarify the requirement for displaying names of materials on each side and each end of cargo tanks as was previously specified in § 172.328(b).

Section 172.330. Subparagraphs (a)(2), (c)(1) and (e) are revised to add "(when authorized)" after the reference to § 172.102. The introductory text to paragraph (g) is revised to accept tank cars containing residue of combustible liquids from the marking retention requirement consistent with § 174.25(c).

Section 172.332. This section is revised and consolidated with the specifications previously in § 172.334 to place all the identification number presentation requirements in one section. Paragraph (c)(4) requires that the bottom portion of a COMBUSTIBLE placard be white for transportation by railroad and highway if it is used for the display of an identification number. MTB believes it is necessary to provide a distinction between a FLAMMABLE and a COMBUSTIBLE placard because of differing requirements relative to car placement and access to tunnel and bridge facilities.

Section 172.334. This revision includes identification marking prohibitions, some of which were omitted from the rule. Paragraph (a) prohibits display of identification numbers on POISON GAS, RADIOACTIVE and EXPLOSIVES placards. Paragraph (b) prohibits the display of an identification number unless the package, freight container or transport vehicle contains the hazardous material associated with that identification number. Paragraph (c) species that only the placard required by § 172.504 may be used for display of an identification number. Paragraph (d) indicates that a placard with an identification number does not accomplish compliance with the placarding requirements unless the identification number is correct for all hazardous materials of the same class in the transport vehicle or freight container. For example, the number to identify acetone in a portable tank is appropriate for identification of the acetone in the portable tank (as required) and also acetone in drums (even though not required). However, the display does not accomplish the placarding requirement if other materials of the Flammable liquid class (e.g. Acrolein) are loaded in the same vehicle or freight container.

Section 172.336. Subparagraph (b)(1) is added to include a provision for locating an identification number on the plain white square-on-point background for those materials not subject to placarding requirements. Subparagraphs (c)(2) and (c)(3) provide for use of placards bearing GASOLINE and FUEL OIL as authorized by § 172.542(c) and § 172.544(c) respectively instead of display of identification numbers. Subparagraph (c)(4) contains a revision indicating gasoline is considered to be a distillate fuel. Subparagraph (c)(5) provides for display of the identification number of the liquid distillate fuel having the lowest flash point of any liquid distillate fuel carried in a cargo tank. This provision will eliminate the need for continuous changes in identification numbers in many operations where gasoline and fuel oil are transported in the same cargo tank on different trips during the same day.

Section 172.338. This section is revised to require replacement of an identification number when more than one display is lost or destroyed during transportation. In such a situation all required identification numbers must be replaced as soon as practicable. Several commenters mentioned varied colored indelible marking materials. Since all identification numbers are black, only a black indelible marking material will be necessary for entering replacement numerals by hand.

Section 172.400. Paragraph (b)(8) is revised to include a labeling exception for a package containing ORM–E and no other hazardous material that requires a label. This exception was omitted from the rule.

Section 172.407, 172.415, 172.417, 172.419 and 172.423. These sections are revised to provide for labeling in conformance with international requirements. MTB regards several of the label options as significant improvements in presentation. For example, white printing on a green label is much more visible than black printing. Therefore, use of the print color options provided in this revision is encouraged.

Section 172.500. Paragraph (b)(2) is revised to include a placarding exception for packages containing only material classed as ORM–E. This exception was omitted from the rule.

Section 172.516. Paragraph (c)(5) is revised to include a requirement that identification numbers be displayed horizontally on placards. This provision was omitted from the rule.

Section 172.519. The last sentence of paragraph (d) is revised to reference the requirement in § 172.332(c)(4) indicating when the lower portion of the COMBUSTIBLE placard must be white.

Section 173.8. Paragraph (a) is revised to require that hazardous wastes and hazardous substances transported from Canada to or through the United States must be in compliance with the DOT hazardous materials regulations pertaining to those materials. This revision is considered essential since there are no comparable hazardous substance or hazardous waste requirements in the regulations of the Canadian Transport Commission.

Section 173.21. Paragraph (b)(3) is added for organic peroxides to provide an option for determination of controlled temperature requirements in accordance with the UN Recommendations. United States representatives participated in the UN meetings at which these recommendations were developed and agreed upon. MTB has been advised that shippers of organic peroxides in the United States have been shipping organic peroxides in accordance with the UN recommendations for approximately eight years even though there were no comparable requirements in DOT regulations. In consideration of the good experience resulting from use of the recommendations, MTB believes they should be recognized in the rule as an alternative to the basic limitation specified in paragraph (b).

Section 173.29. Subparagraph (a)(1) is revised for clarity. Paragraph (d) is added to prohibit display of labels and markings (other than specification identification markings) that, if displayed, would indicate the presence of a hazardous material in a package. An exception is provided when closed transport vehicles and freight containers are used and such packages are not handled by transportation and terminal workers during transportation. This latter limitation is accomplished by the condition that loading be performed by the shipper and unloading by the shipper or consignee. As stated, this paragraph also responds to the numerous inquiries MTB has received relative to the display of labels on newly manufactured packagings that are transported to shippers of hazardous materials.

Paragraph (a)(3)(ii) is revised to include contract carriers which were omitted from the rule although discussed in the preamble to the rule.

Section 173.118a. Paragraph (b) is revised to clarify the requirements pertaining to a combustible liquid that is a hazardous substance or a hazardous waste when in a packaging having a rated capacity of 110 gallons or less.

Section 173.245. Paragraph (b) is revised to exclude hazardous wastes

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and hazardous substances from the exception contained in this paragraph for materials corrosive only to steel.

Section 173.364. The parenthetical statement at the end of paragraph (a) is revised to correct the omission of the reference to Part 174.

Section 173.500. The information formerly in the Note following paragraph (a) is added as paragraph (d)(3) of § 172.101. A new (revised) note is added to clarify the applicability of certain packaging requirements that are modal specific, thereby precluding the application of new packaging requirements for materials that are hazardous substances and hazardous wastes when transported by modes not referenced. In such cases, the requirements of § 173.510 will apply.

Section 174.25. The Table in paragraph (a)(2) is revised to reflect the placarding change for Explosive C shown in Table 2 of § 172.504. Paragraph (b)(1) is revised to require that hazardous materials be described in the same manner as specified in § 172.202.

Paragraph (c) is revised to correctly show the elements of basic description and to correct the example of the shipping paper entry.

Section 175.45. A proposal to revise paragraph (d) of this section was published in the February 22, 1979, NPRM for HM-145B (44 FR 10676). However, MTB did not adopt the requirement as explained in the preamble to the rule (45 FR 34586). Upon further consideration, MTB recognizes that a discharge of a hazardous substance in a reportable quantity could occur at airport terminals and enter navigable waters. Therefore, MTB has adopted a hazardous substance discharge reporting requirement for operators of aircraft.

Section 177.817. An exception is added to paragraph (b) to maintain the requirement for certification of hazardous waste shipments. This omission was an oversight in the rule resulting in an inconsistency with revised paragraph (b)(1) of § 172.204.

As an aid to the reader, the amendment sequential reference number appearing with the section number in the May 22, 1980, rulemaking is entered in parentheses immediately after the sequence reference number in this rulemaking. For example the § 171.8 amendment was number 5 in the previous rulemaking and is number 3 here. Thus, it appears as "3. (5.) In § 171.8 the definition, etc." Readers are advised that in reviewing the revisions contained in this document, they will have to refer to the May 22, 1980, final rule (45 FR 34560) as well as to 49 CFR, Parts 171–175 and 177 (October 1, 1979).

In consideration of the foregoing, Federal Register Document 80–15510 published May 22, 1980, (45 FR 34560) and Part 175 of Title 49 Code of Federal Regulations are revised and amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. (3.) In § 171.3 the first line of paragraph (d) is revised to read as follows:

§ 171.3 Hazardous waste.

* * * * *

(d) If a discharge of hazardous waste or other hazardous material * * *.

* * * * *

§ 171.7 [Amended]

2. (4.) In § 171.7 the mailing address for OPPSD in paragraph (c)(28) is revised to read "355 Lexington Avenue, New York, N.Y. 10017."

3. (5.) In § 717.8 the definition of "Hazardous substance" is revised; the definition of "Name of contents" is revised by adding the words "or § 172.102 (when authorized)" after the reference to § 172.101 in the third line; a definition of "Reportable quantity (RQ)" is added in alphabetical sequence to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Hazardous substance", for the purposes of this subchapter, means a material, and its mixtures or solutions, that is identified by the letter "E" in Column 1 of the Table to § 172.101 when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels; or to a mixture or solution containing a material identified by the letter "E" in Column 1 of the Table to § 172.101 if it is in a concentration less than that shown in the following table based on the reportable quantity (RQ) specified for the materials in Column 2 of the Table to § 172.101:

RQ pounds	RQ kilograms	Concentration by weight	
		Percent	PPM
5,000	2,270	10	100,000
1,000	454	2	20,000
100	45.4	.2	2,000
10	4.54	.02	200
1	.45	.002	20

* * * * *

"Reportable quantity (RQ)" for the purposes of this subchapter means the quantity specified in Column 2 of the Table to § 172.101, for any material identified by the letter "E" in Column 1.

* * * * *

4. (6.) In § 171.12 paragraph (b) is revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) Except for Class A and Class B explosives and radioactive materials, a hazardous material which is classed and labeled in accordance with the conditions and limitations specified in § 172.102 of this subchapter when being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation and transported within the United States if it is otherwise offered, accepted, and transported in accordance with this subchapter. In addition, an appropriate shipping name specified for a material in § 172.102 may be substituted for its proper shipping name in § 172.101 (subject to the conditions and limitations of this paragraph and § 172.102) if all or a portion of the transportation of the material is by vessel.

* * * * *

5. (9.) In § 171.17 the first two lines of paragraph (a) are revised as follows: and the word "removed" in line four of paragraph (c) is deleted and replaced by the word "unremoved".

§ 171.17 Hazardous substance discharge notification.

(a) When a hazardous substance is discharged in a reportable quantity from one package or transport vehicle if not packaged (accidentally or * * *

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

6. (12.) In § 172.101 paragraph (b)(1) is revised by deleting of the parentheses and the words within the parentheses in lines four and five; paragraphs (c)(9), (c)(10) and (j) are revised; the introductory text to paragraph (c)(11) is revised; paragraph (c)(12) is deleted and reserved; and paragraph (d)(3) and paragraph (g)(1) are added to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * *

(9) The numbers in italics following a proper shipping name of a material identified by the letter "E" in Column 1 specify, in pounds and kilograms, the minimum quantity of the material that constitutes a reportable quantity, excluding water and other formulating materials. For example: Ammonia solution, (*RQ–1000/454*) means that the reportable quantity for the Ammonia is 1,000 pounds or 454 kilograms. Any formulating material that is identified by the letter "E" in Column 1 of the Table to § 172.101 and used in a mixture or solution must be evaluated independently for the RQ determination. For example, if Mevinphos (*RQ–1/0.454*) is mixed with Xylene (*RQ–1000/454*) and is in a 10 lb. package described as "Organophosphorus pesticide, liquid, n.o.s.", Mevinphos could be in a reportable quantity, but there could not be a reportable quantity of the Xylene present in that package.

(10) If the word "waste" is not included in the hazardous material description in the Table, the proper shipping name for a hazardous waste must include the word "Waste" preceding the shipping name of the material. For example: Waste acetone.

(11) A mixture or solution comprised of a hazardous material identified in the Table by technical name and non-hazardous material may be described using the proper shipping name of the hazardous material, if—

* * * * *

(12) (Reserved)

* * * * *

(d) * * *

(3) Notwithstanding the ORM class shown for a material in Column 3, such a material having a flash point of 100°F. to 200°F. is classed as Combustible liquid when in a packaging having a rated capacity of more than 110 gallons.

* * * * *

(g) * * *

(1) Each reference to a section in Column 5(b) for an ORM A, B, or C that is a hazardous waste or a hazardous substance is modified to read § 173.510 if the section referenced is applicable only to a particular mode (or modes) and the material is transported by a mode not addressed in the section.

* * * * *

(j) If any entry in the Table is changed by an amendment to this subchapter, such a change does not apply to the shipment of any package filled prior to the effective date of the amendment, unless specifically stated otherwise in the amendment or the "Effective date" entry in its preamble.

* * * * *

§ 172.101 [Amended]

6a. (12) The Hazardous Materials Table to § 172.101 is amended as follows:

(a) For the following entries the identification numbers in Column 3A are changed or added as indicated.

Entry	Present	Change
Acetonitrile	UN1648	NA1648
Alkaline battery fluid	NA2797	UN2797
Allethrin	.....	NA2902
Ammonium nitrate (no organic coating).	NA1942	UN1942
Ammonium nitrate, solution	NA2426	UN2426
Benzaldehyde	UN1989	NA1989
Calcium, metal	NA1401	UN1401
Creosol	NA2076	UN2076
Crude oil, petroleum (2 entries)	NA1993	UN1267
Cyanide solution, n.o.s.	NA1588	UN1935
Ethyl phosphonous dichloride, anhydrous.	NA1760	NA2845
Formic acid, solution	NA1779	UN1779
Gasoline	NA1257	UN1203
Hydrogen floride	NA1790	UN1052
Hypochlorite solution (classed as corrosive material).	NA1791	UN1791
Lithium metal in cartridges	NA1415	UN1415
Liquefied nonflammable gas	NA1956	NA1058
Magnesium scrap	NA2793	NA1869
Mercuric iodide, solution	NA1638	UN1638
Mercurous iodide, solid	NA1638	UN1638
Metal borings, shavings, turnings or cuttings.	NA2793	UN2793
Methyl bromide, liquid (including up to 2 percent Chloropicrin).	NA1581	UN1062
Methyl butene	NA2460	UN2460
Methyl phosphorous dichloride	NA1760	NA2845
Mine rescue equipment containing carbon dioxide.	.....	NA1956
Monochloroacetone, stabilized or inhibited.	NA1695	UN1695
Mortar stain, liquid (2 entries)	NA1993	UN1263
Nitrating acid, spent	NA1796	NA1826
Nitrochlorobenzene (2 entries)	NA1578	UN1578
Nitrohydrochloric acid, diluted	NA1798	UN1798
Nitrostarch, wet with not less than 30 percent alcohol or solvent.	NA1993	UN1337
Organic peroxide, solid, n.o.s.	.....	NA9167
Oxygen	NA1072	UN1072
Oxygen, pressurized liquid	NA1073	UN1073
Poisonous liquid, n.o.s. or Poison B, liquid, n.o.s.	NA2810	UN2810
Poisonous liquid or gas, n.o.s.	NA9035	NA1955
Poisonous solid, n.o.s. or Poison B, solid, n.o.s.	NA2811	UN2811
Propionic acid, solution	NA1848	UN1848
Rubber, scrap or Rubber buffings.	NA1345	UN1345
Rubber, shoddy or Rubber, regenerated or Rubber, reclaimed.	NA1345	UN1345
Rubidium metal, in cartridges	NA1423	UN1423
Self-lighting cigarette	NA1325	UN1867
Sodium fluoride, solution	NA1690	UN1690
Titanium metal powder, dry or wet with less than 20 percent water.	NA2546	UN2546
Titanium metal powder, wet with 20 percent or more water.	NA1352	UN1352
Toluene sulfonic acid, liquid	NA2584	UN2584
Urea nitrate, wet with 10 percent or more water.	NA1357	UN1357
Uranyl nitrate, hexahydrate, solution.	.....	(RQ–5000/2270)

(b) For the following entries, the reportable quantity designations are changed or added as indicated.

Entry	Present	Change
Chlorosulfonic acid-sulfur trioxide mixture.	(RQ–1000/45.4)	(RQ–1000/454)
Allyl alcohol	(RQ–100/45.5)	(RQ–100/45.4)
Phosphorous pentasulfide.	(RQ–1000/454)	(RQ–100/45.4)
Electrolyte (acid) battery fluid (not over 47 pct acid).		(RQ–1000/454)
Isobutyl acetate		(RQ–5000/2270)
Isobutylamine		(RQ–1000/454)
Isobutyric acid		(RQ–5000/2270)
Sodium potassium alloy, liquid		(RQ–1000/454)
Sodium potassium alloy, solid		(RQ–1000/454)
Strychnine, solid		(RQ–10/4.54)
Titanium sulfate, solution containing not more than 45 pct sulfuric acid.		(RQ–1000/454)

(c) For all entries in the Table where a reportable quantity is shown as (*RQ–1/.454*), the value is changed to read (*RQ–1/0.454*).

(d) For the following entries an "E" is added in Column 1 and the indicated reportable quantity is added in Column 2:

Electrolyte (acid) battery fluid (not over 47 pct acid).	(RQ–1000/454)
Isobutyl acetate	(RQ–5000/2270)
Isobutylamine	(RQ–1000/454)
Isobutyric acid	(RQ–5000/2270)
Sodium potassium alloy, liquid	(RQ–1000/454)
Sodium potassium alloy, solid	(RQ–1000/454)
Strychnine, solid	(RQ–10/4.54)
Titanium sulfate, solution containing not more than 45 pct sulfuric acid.	(RQ–1000/454)

(e) In the description "Sulfur chloride (*mono and di*)", the words "*and di*" are deleted.

(f) For the two entries "Ammunition for cannon with tear gas projectile" the letter "E" in the word "Explosive" for the Hazard Class in Column 3 is changed from upper to lower case.

(g) For the entry "Benzyl chloroformate" the word "material" is added to the Hazard Class in Column 3.

(h) For the 45 new descriptions for pesticides containing the partial descriptions listed below, the letters "n.o.s." are added to the hazardous materials descriptions in Column 2, and the parenthetical modifiers are placed following the "n.o.s." notation. For example: "Arsenical pesticide (*compounds and preparations*), liquid" is changed to "Arsenical pesticide, liquid, n.o.s. (*compounds and preparations*)".

1. Arsenical pesticide
2. Benzoic derivative pesticide
3. Bipyridilium pesticide
4. Carbamate pesticide
5. Copper based pesticide
6. Dithiocaroamate pesticide
7. Mercury based pesticide
8. Nitrophenol pesticide, substituted
9. Organochlorine pesticide
10. Organophosphorus pesticide
11. Organotin pesticide
12. Phenoxy pesticide
13. Phenylurea pesticide
14. Phthalimide derivative pesticide
15. Substituted nitrophenol pesticide
16. Triazine pesticide

(i) The description "Ammonium hydroxide (*containing not more than 44% ammonia*)" is changed to read "Ammonium hydroxide (*containing not less than 12% but not more than 44% ammonia*)."

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(j) For the description "Arsenic chloride (*arsenious*) liquid. *See* Arsenic trichloride", the word "(*arsenious*)" is deleted.

(k) The description "*Blasting caps with detonating cord. See* Detonators and Detonating primers", the "*See*" reference is changed to read "* * * *See* Detonators, Class A *or* Class C explosives *and* Detonating primers, Class A *or* Class C explosives."

(l) for the entry "Detonators, Class A explosives. *See 173.53*" the spelling of the word "Explosite" in Column 4 is corrected to read "Explosive."

(m) In the description "Diesel Fuel. *See* Fuel oil" the letter "F" in the first "Fuel" is changed from upper to lower case.

(n) for the entry "Disulfoton" the packaging reference in Column 5(a) is changed to read "None" and the reference in Column 5(b) is changed to read "173.358."

(o) For the entry "Ethion" the indicated references are changed to read as follows: in Column 5(a) "173.345"; in Column 5(b) "173.346"; and in Column 7(b) "1, 2".

(p) In the description "Di-tert-Butyl peroxide, *technically pure. See* * * *", the letter "B" in Butyl is changed from upper to lower case.

(q) In the description "*Fabric with animal or* vegetable oil. See * * *" the words "vegetable oil. See" are italicized.

(r) In the description "Ferrous arsenate (*iron arsenate*), solid" the words "(*iron arsenate*)" are deleted.

(s) In the description "Fuel oil, Diesel. *See* Fuel Oil." the letter "D" in "Diesel" is changed from upper to lower case.

(t) For the entry "Isopropanol" the vessel stowage requirements in Column 7(a) are changed to "1, 2" and in Column 7(b) are changed to "1".

(u) For the entry "Isopropyl acid phosphate, solid," the spelling of the word "material" in Column 3 is corrected to read "material."

(v) In the description "Lacquer base *or* Lacquer chips, plastic (*Wet with alcohol or solvent*)", the "W" in the word "*Wet*" is changed from upper to lower case, and the identification number in Column 3A is changed to "UN1263".

(w) The description "Mercury compound, n.o.s., solid" is changed to read "Mercury compound, solid, n.o.s."

(x) For the entry "Mevinphos" the references in the following columns are changed as follows: 5(a) "None"; 5(b) "173.358"; 7(a) "1, 2"; and 7(b) "5".

(y) For the entry "Mining reagent, liquid (*containing 20% or more cresylic acid*)" the reference in Column 5(b) to § 173.245 is deleted.

(z) For the entry "Motor fuel antiknock compound *or* Antiknock compound (*RQ 100/45.4*)", the entry in Column 2 is changed to read "Motor fuel antiknock compound *or* Antiknock compound (*these materials may contain various hazardous substances for which the appropriate RQ applies*)".

(aa) In the description "Organic peroxide liquid *or* solution, n.o.s." (classed as Flammable liquid), a comma is added after the word "peroxide".

(bb) In the description "Organic peroxide, liquid, *or* solution, n.o.s." (classed as Organic peroxide), the comma after the work "liquid" is deleted.

(cc) The description "*Primer detonating. See* Detonating primers" is changed to read "*Primers detonating. See* Detonating primers, Class A *or* Class C explosives."

(dd) The description "Sodium arsenite (*solution*), liquid" is changed to read "Sodium arsenite, liquid, (*solution*)".

(ee) The description "Sodium bisulfite, solid. *See* Sodium hydrogen sulfite, solid" is changed to read "Sodium bisulfite, solid *or* solution. *See* Sodium hydrogen sulfite, solid *or* solution."

(ff) For the entry "Strychnine salt, solid (*RQ 10/4.54*)" the "E" in Column 1 is deleted and (*RQ 10/4.54*) in Column 2 is deleted.

(gg) The description "Mercuric oxycyanide, solid" is changed to read "Mercuric oxycyanide, solid (*desensitized*)."

(hh) For the descriptions "Flammable gas, n.o.s." and "Compressed gas, n.o.s." (classed as Flammable gas), the plus (+) in Column 1 is deleted.

(ii) In the entry for "Textile treating compound *or* mixture, liquid" the reference in Column 5(b) to 173.245 is deleted.

(jj) In the description "*Acetyl acetone peroxide with more that 9% by weight active oxygen*" the word "*that*" is corrected to read "*than*".

(kk) In the description "Di-n-propyl peroxydicarbonate, *technically pure. See* Organic peroxide, solid, n.o.s." the word "solid" is changed to read "liquid".

(ll) The description "Dinitrotoluene" is changed to read "Dinitrotoluene, liquid".

(mm) For the descriptions "Arsenic trisulfide" and "Mexacarbate" a "1" is added to the Columns 7(a) and 7(b).

(nn) For all descriptions listed below, classed as a Poison A and requiring dual labels with either a Flammable gas or a Nonflammable gas label, the order of entry of the labels required in Column 4 is reversed. For example: For the entry "Hydrocyanic acid, liquefied", the entry in Column 4 is changed to read "Poison gas and Flammable gas".

1. Chloropicrin and methyl chloride mixture.
2. Chloropicrin and nonflammable, nonliquefied compressed gas mixture.
3. Cyanogen chloride.
4. Cyanogen gas.
5. Hydrocyanic acid solution (*5% or more hydrocyanic acid*).
6. Hydrocyanic acid, liquefied.

(oo) For the entry "Hazardous waste, liquid *or* solid, n.o.s." the reference in Column 5(a) is changed to read "None".

(pp) The description "Ammonium citrate" is changed to read "Ammonium citrate, dibasic".

(qq) In the entry "Xylene" the following columns are changed to read: 6(b) "10 gallons" and 7(b) "1".

(rr) In the description "Plutonium nitrate solution" a comma (,) is added after the word "nitrate".

(ss) In the description "Metal alkyl solution, n.o.s." a comma (,) is added after the word "alkyl".

(tt) The description "Life-rafts, inflatable" is changed to read "Life raft, inflatable".

(uu) For the entry "Mercuric iodide solution" a comma is added after the word "iodide" and the identification number in Column 3A is changed to read "UN1638".

(vv) The description "Sodium hydrosulfide, solid (*RQ 5000/2270*)" (classed as Flammable solid), is changed to read "Sodium hydrosulfide, solid (*with less than 25% water of crystalization) (RQ 5000/2270).*"

(ww) In the entry "Decaborane" the following columns are changed to read: 5(a) "None"; 5(b) "173.236"; 6(a) "Forbidden"; and 6(b) "25 pounds."

(xx) In the entry "Dichlorobutene" the following columns are changed to read: 4 "Flammable liquid", and 6(b) "10 gallons."

(yy) The following are additions and deletions to the Table, with exception of the "Ammonium nitrate-fuel oil mixture" entry which is a change.

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§172.101 Hazardous Materials Table

1

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(c) Other requirements
	• • •										
	ADDITIONS										
	• • •										
EAW	Ammonium hydroxide (*containing less than 12% ammonia*) (*RQ-5000/2270*)	ORM-A	NA2672	None	173.505	173.510	10 gallons	55 gallons	1	1	
	Ammonium nitrate - fuel oil mixture (*containing only prilled ammonium nitrate and fuel oil*)	Blasting agent		Blasting agent	None	173.114a	Forbidden	100 pounds	1,2	1,2	
E	Azinphos methyl mixture, liquid (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.345	173.346	1/2 pint	1 quart	1,2	5	
E	Carbofuran mixture, liquid (*RQ-10/4.54*)	Poison B	NA2757	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Coumaphos mixture, liquid (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.345	173.346	1/2 pint	1 quart	1,2	5	
	Delay connectors. See Detonators, Class A *or* Class C explosives *and* Detonating primers, Class A *or* Class C explosives										
E	Dichlorvos mixture, dry (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Diethylzinc. See Pyrophoric liquid, n.o.s.										
E	Dinitrotoluene, solid (*RQ-1000/454*)	ORM-E	UN2038	None	None	173.510	No limit	No limit	1,2	1,2	
E	Disulfoton mixture, dry (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.377	173.377	Forbidden	200pounds	1,2	4	
E	Disulfoton mixture, liquid (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.359	173.359	1/2 pint	1 quart	1,2	5	
E	Endosulfan mixture, liquid (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Endrin mixture, liquid (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Ethion mixture, dry (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Guthion mixture, liquid. *See* Azinphos methyl mixture, liquid										
	Infectious substance, human, n.o.s. *See* Etiologic agent, n.o.s.		UN2814								
E	Lead sulfate (*RQ-5000/2270*)	ORM-E	NA2291	None	None	173.510	No limit	No limit	1,2	1,2	
E	Mevinphos mixture, dry (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.377	173.377	Forbidden	200 pounds	1,2	4	
E	Mevinphos mixture, liquid (*RQ-1/0.454*)	Poison B	NA2783	Poison	173.359	173.359	1/2 pint	1 quart	1,2	5	
E	Sodium hydrogen sulfite, solution (*RQ-5000/2270*)	Corrosive material	NA2693	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
E	Sodium hydrosulfide, solid, (*with not less than 25% water of crystallization*) (*RQ-5000/2270*)	Corrosive material	NA2923	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Sulfur chloride (*di*)	Corrosive material	UN1828	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	• • •										
	DELETIONS										
	• • •										
	Ammonium nitrate - fuel oil mixture (*Containing only prilled ammonium nitrate and fuel oil*). *See* Blasting agent, n.o.s.										
E	Motor fuel antiknock compound *or* Antiknock compound; containing tetraethyl lead (*RQ-100/45.4*)	Poison B	UN1649	Poison	None	173.354	Forbidden	55 gallons	1	5	If flashpoint is less than 141 DEG F, segregation same as for flammable liquids

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7. (13.) in § 172.102 the word "parentheses" inside the parentheses in line thirteen of paragraph (h) is deleted and replaced by the word "italics"; and the parentheses are deleted from the italicized hazard class words in paragraphs (h)(1) through (h)(9); and the heading and paragraphs (a) and (b) are revised to read as follows:

§ 172.102 Purpose and use of Optional Hazardous Materials Table for international shipments.

(a) The Optional Hazardous Materials Table (Optional Table) set forth in this section provides descriptions, classifications, labeling and vessel stowage requirements which may be used for international shipments as authorized by § 171.12 of this subchapter. The Optional Table provides alternatives to corresponding requirements in § 172.101 subject to conditions set forth in this section. The provisions of this section do not apply to materials designated as hazardous materials under this subchapter that are not subject to the requirements of the IMCO Code. This section does not designate materials as hazardous materials and it does not specify packaging requirements, exceptions or limitations. They are made only in § 172.101. A number of materials listed in the Optional Table may not be subject to the requirements of this subchapter, but they are subject to regulation under widely applied international standards. They are listed in this section in the interest of providing consistency with those standards and to alert persons offering or accepting these materials for transportation that the materials may be subject to regulation in international transport.

(b) A material described, classed and labeled in accordance with this section must be in conformance with all additional defining or limiting conditions prescribed for the description in the appropriate schedule of the IMCO Code.

* * * * *

(h) * * *

* * * * *

(3) Class 3—Flammable liquids.

(i) Division 3.1-Low flash point group (liquids with flash points below 0°F.).
Flammable liquid

(ii) Division 3.2—Intermediate flash point group (liquids with flash points of 0°F. or above but less than 73°F).
Flammable liquid

(iii) Division 3.3—High flash point group (liquids with flash points of 73°F. or above up to and including 141°F.).
Flammable liquid or Combustible liquid

7a. (13.) The Optional Hazardous Materials Table to § 172.102 is amended as follows:

(a) For the description "Acrylamide", the entire second line of the entry is deleted.

(b) The description "Motor fuel anti-knock mixtures" is changed to read "Motor fuel anti-knock mixtures *or* Ethyl fluid".

(c) A second entry "Alkylamines and polyamines, *flashpoint 23 deg C and above, boiling point above 35 deg C but not more than 200 deg C, n.o.s.*", is added below the present "Alkylamines, etc." entry in Column 2 to complete the line entry for which a description was omitted.

(d) In the description "Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base *and* thinner (*not including substances containing nitrocellulose for which See* Nitrocellulose)" the word *"and"* is changed to *"or"*.

7b. The Numeric—Alpha index in Appendix A to Subpart B of Part 172 is revised to read as follows:

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APPENDIX A - IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN §172.101 AND §172.102

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0001 ...	102	Alarm devices, explosive
UN 0004 ...	102	Ammonium picrate
UN 0005 ...	102	Cartridges for weapons
UN 0006 ...	102	Cartridges for weapons
UN 0007 ...	102	Cartridges for weapons
UN 0009 ...	102	Ammunition, incendiary
UN 0010 ...	102	Ammunition, incendiary
UN 0012 ...	102	Cartridges for weapons
UN 0014 ...	102	Cartridges for weapons, blank
UN 0015 ...	102	Ammunition, smoke
UN 0016 ...	102	Ammunition, smoke
UN 0018 ...	102	Ammunition, tear producing
UN 0019 ...	102	Ammunition, tear producing
UN 0020 ...	102	Ammunition, toxic
UN 0021 ...	102	Ammunition, toxic
UN 0022 ...	102	Amorces
UN 0027 ...	102	Black powder
UN 0028 ...	102	Black powder, compressed
UN 0029 ...	102	Blasting caps, non-electric
UN 0030 ...	102	Blasting caps, electric
UN 0033 ...	102	Bombs
UN 0034 ...	102	Bombs
UN 0035 ...	102	Bombs
UN 0037 ...	102	Bombs, photo-flash
UN 0038 ...	102	Bombs, photo-flash
UN 0039 ...	102	Bombs, photo-flash
UN 0042 ...	102	Boosters
UN 0042 ...	102	Gaines, without detonator
UN 0043 ...	102	Bursters
UN 0044 ...	102	Caps, percussion
UN 0044 ...	102	Primers, cap type
UN 0048 ...	102	Charges, demolition
UN 0049 ...	102	Cartridges, flash
UN 0050 ...	102	Cartridges, flash
UN 0054 ...	102	Cartridges, signal
UN 0055 ...	102	Cases, cartridges, empty, with primer
UN 0056 ...	102	Charges, depth
UN 0059 ...	102	Charges, shaped
UN 0060 ...	102	Charges, supplementary, explosive
UN 0065 ...	102	Cord, detonating
UN 0066 ...	102	Cord, igniter
UN 0070 ...	102	Cutters, cable, explosive
UN 0072 ...	102	Cyclotrimethylenetrinitramine
UN 0073 ...	102	Detonators for ammunition
UN 0074 ...	102	Diazodinitrophenol
UN 0075 ...	102	Diethyleneglycol dinitrate
UN 0076 ...	102	Dinitrophenol
UN 0077 ...	102	Dinitrophenates
UN 0078 ...	102	Dinitroresorcinol
UN 0079 ...	102	Hexanitrodiphenylamine
UN 0081 ...	102	Explosives, blasting, Type A
UN 0082 ...	102	Explosives, blasting, Type B
UN 0083 ...	102	Explosives, blasting, Type C
UN 0084 ...	102	Explosives, blasting, Type D
UN 0092 ...	102	Flares, surface
UN 0093 ...	102	Flares, aerial
UN 0094 ...	102	Photo-flash powder
UN 0096 ...	102	Photo-flash powder
UN 0099 ...	102	Fracturing devices, explosive
UN 0101 ...	102	Fuse, instantaneous, non-detonating
UN 0102 ...	102	Cord, detonating
UN 0103 ...	102	Fuse, igniter
UN 0104 ...	102	Cord, detonating, mild effect
UN 0105 ...	102	Fuse, safety
UN 0106 ...	102	Fuzes, detonating
UN 0107 ...	102	Fuzes, detonating
UN 0110 ...	102	Grenades, practice
UN 0113 ...	102	Guanyl nitrosamino guanylidene hydrazine
UN 0114 ...	102	Guanyl nitrosamino guanyl tetrazene
UN 0118 ...	102	Hexolite
UN 0121 ...	102	Igniters
UN 0124 ...	102	Jet perforating guns, charged
UN 0129 ...	102	Lead azide
UN 0130 ...	102	Lead styphnate
UN 0131 ...	102	Lighters, fuse
UN 0132 ...	102	Deflagrating metal salts of aromatic nitro-derivatives, n.o.s.
UN 0133 ...	102	Mannitol hexanitrate
UN 0135 ...	102	Mercury fulminate
UN 0136 ...	102	Mines
UN 0137 ...	102	Mines
UN 0138 ...	102	Mines
UN 0143 ...	102	Nitroglycerine, desensitized
UN 0144 ...	102	Nitroglycerine, spirit of
UN 0146 ...	102	Nitrostarch
UN 0147 ...	102	Nitro urea
UN 0150 ...	102	Pentaerythrite tetranitrate
UN 0151 ...	102	Pentolite
UN 0153 ...	102	Trinitro-aniline
UN 0154 ...	102	Trinitrophenol
UN 0155 ...	102	Trinitrochlorobenzene
UN 0158 ...	102	Potassium salts of nitro-aromatic derivatives
UN 0159 ...	102	Powder paste
UN 0160 ...	102	Powder, smokeless
UN 0161 ...	102	Powder, smokeless
UN 0167 ...	102	Projectiles
UN 0168 ...	102	Projectiles
UN 0169 ...	102	Projectiles
UN 0171 ...	102	Ammunition, illuminating
UN 0173 ...	102	Release devices, explosive
UN 0174 ...	102	Rivets, explosive
UN 0180 ...	102	Rockets
UN 0181 ...	102	Rockets
UN 0182 ...	102	Rockets
UN 0183 ...	102	Rockets
UN 0186 ...	102	Rocket motors
UN 0190 ...	102	Samples, explosive substance
UN 0191 ...	102	Signal devices, hand
UN 0192 ...	102	Signals, railway track, explosive
UN 0193 ...	102	Signals, railway track, explosive
UN 0194 ...	102	Signals, distress
UN 0195 ...	102	Signals, distress
UN 0196 ...	102	Signals, smoke
UN 0197 ...	102	Signals, smoke
UN 0203 ...	102	Sodium salts of nitro-aromatic derivatives
UN 0204 ...	102	Sounding devices, explosive
UN 0206 ...	102	Squibs
UN 0207 ...	102	Tetranitro-aniline
UN 0208 ...	102	Trinitrophenylmethylnitramine
UN 0209 ...	102	Trinitrotoluene
UN 0212 ...	102	Tracers for ammunition
UN 0213 ...	102	Trinitroanisole
UN 0214 ...	102	Trinitrobenzene
UN 0215 ...	102	Trinitrobenzoic acid
UN 0216 ...	102	Trinitrometacresol
UN 0217 ...	102	Trinitronaphthalene
UN 0218 ...	102	Trinitrophenetole
UN 0219 ...	102	Trinitroresorcinol
UN 0220 ...	102	Urea nitrate
UN 0221 ...	102	Warheads, torpedo
UN 0222 ...	102	Ammonium nitrate
UN 0223 ...	102	Ammonium nitrate fertilizers
UN 0224 ...	102	Barium azide
UN 0225 ...	102	Boosters, with detonator
UN 0225 ...	102	Gaines, with detonator
UN 0226 ...	102	Cyclotetramethylenetetranitramine
UN 0234 ...	102	Sodium dinitro-o-cresolate
UN 0235 ...	102	Sodium picramate
UN 0236 ...	102	Zirconium picramate
UN 0237 ...	102	Charges, shaped, flexible, linear
UN 0238 ...	102	Rockets, line throwing
UN 0240 ...	102	Rockets, line throwing
UN 0241 ...	102	Explosives, blasting, Type E
UN 0242 ...	102	Charges, propelling, for cannon
UN 0243 ...	102	Ammunition, incendiary, white phosphorus
UN 0244 ...	102	Ammunition, incendiary, white phosphorus
UN 0245 ...	102	Ammunition, smoke, white phosphorus
UN 0246 ...	102	Ammunition, smoke, white phosphorus
UN 0247 ...	102	Ammunition, incendiary
UN 0248 ...	102	Contrivances, water-activated
UN 0249 ...	102	Contrivances, water-activated
UN 0250 ...	102	Rocket motors
UN 0254 ...	102	Ammunition, illuminating
UN 0255 ...	102	Blasting caps, electric
UN 0257 ...	102	Fuzes, detonating
UN 0266 ...	102	Octolite
UN 0267 ...	102	Blasting caps, non-electric
UN 0268 ...	102	Boosters, with detonator
UN 0268 ...	102	Gaines, with detonator
UN 0271 ...	102	Charges, propelling, for rocket motors
UN 0272 ...	102	Charges, propelling, for rocket motors
UN 0273 ...	102	Charges, propelling, for rocket motors
UN 0274 ...	102	Charges, propelling, for rocket motors
UN 0275 ...	102	Cartridges, power device
UN 0276 ...	102	Cartridges, power device
UN 0277 ...	102	Cartridges, oil well
UN 0278 ...	102	Cartridges, oil well
UN 0279 ...	102	Charges, propelling, for cannon
UN 0280 ...	102	Rocket motors
UN 0281 ...	102	Rocket motors
UN 0282 ...	102	Nitroguanidine
UN 0283 ...	102	Boosters
UN 0283 ...	102	Gaines, without detonator
UN 0284 ...	102	Grenades
UN 0285 ...	102	Grenades
UN 0286 ...	102	Warheads, rocket
UN 0287 ...	102	Warheads, rocket
UN 0288 ...	102	Charges, shaped, flexible, linear
UN 0289 ...	102	Cord, detonating
UN 0290 ...	102	Cord, detonating
UN 0291 ...	102	Bombs
UN 0292 ...	102	Grenades
UN 0293 ...	102	Grenades
UN 0294 ...	102	Mines
UN 0295 ...	102	Rockets
UN 0296 ...	102	Sounding devices, explosive
UN 0297 ...	102	Ammunition, illuminating
UN 0299 ...	102	Bombs, photo-flash
UN 0300 ...	102	Ammunition, incendiary
UN 0301 ...	102	Ammunition, tear-producing
UN 0303 ...	102	Ammunition, smoke
UN 0305 ...	102	Photo-flash powder
UN 0306 ...	102	Tracers for ammunition
UN 0312 ...	102	Cartridges, signal
UN 0313 ...	102	Signals, smoke
UN 0314 ...	102	Igniters
UN 0315 ...	102	Igniters
UN 0316 ...	102	Fuzes, igniting
UN 0317 ...	102	Fuzes, igniting
UN 0318 ...	102	Grenades, practice
UN 0319 ...	102	Primers, tubular
UN 0320 ...	102	Primers, tubular
UN 0321 ...	102	Cartridges for weapons
UN 0322 ...	102	Rocket motors
UN 0323 ...	102	Cartridges, power device
UN 0324 ...	102	Projectiles
UN 0325 ...	102	Igniters
UN 0326 ...	102	Cartridges for weapons, blank
UN 0327 ...	102	Cartridges for weapons, blank
UN 0328 ...	102	Cartridges for weapons, with inert projectile

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 0329 ...	102	Torpedoes
UN 0330 ...	102	Torpedoes
UN 0331 ...	102	Explosives, blasting, Type B
UN 0332 ...	102	Explosives, blasting, Type E
UN 0333 ...	102	Fireworks, Type A
UN 0334 ...	102	Fireworks, Type B
UN 0335 ...	102	Fireworks, Type C
UN 0336 ...	102	Fireworks, Type D
UN 0337 ...	102	Fireworks, Type D
UN 0338 ...	102	Cartridges for weapons, blank
UN 0339 ...	102	Cartridges for weapons, with inert projectile
UN 0340 ...	102	Nitrocellulose with
UN 0341 ...	102	Nitrocellulose with
UN 0342 ...	102	Nitrocellulose with
UN 0343 ...	102	Nitrocellulose with
UN 0344 ...	102	Projectiles
UN 0345 ...	102	Projectiles
UN 0346 ...	102	Projectiles
UN 0347 ...	102	Projectiles
UN 0348 ...	102	Cartridges for weapons
UN 0349 ...	102	Articles, explosive, n.o.s.
UN 0350 ...	102	Articles, explosive, n.o.s.
UN 0351 ...	102	Articles, explosive, n.o.s.
UN 0352 ...	102	Articles, explosive, n.o.s.
UN 0353 ...	102	Articles, explosive, n.o.s.
UN 0354 ...	102	Articles, explosive, n.o.s.
UN 0355 ...	102	Articles, explosive, n.o.s.
UN 0356 ...	102	Articles, explosive, n.o.s.
UN 0357 ...	102	Substances, explosive, n.o.s.
UN 0358 ...	102	Substances, explosive, n.o.s.
UN 0359 ...	102	Substances, explosive, n.o.s.
UN 0360 ...	102	Blasting cap assemblies, non-electric
UN 0361 ...	102	Blasting cap assemblies, non electric
UN 0362 ...	102	Ammunition, practice
UN 0363 ...	102	Ammunition, proof
UN 0364 ...	102	Detonators for ammunition
UN 0365 ...	102	Detonators for ammunition
UN 0366 ...	102	Detonators for ammunition
UN 0367 ...	102	Fuzes, detonating
UN 0368 ...	102	Fuzes, igniting
UN 0369 ...	102	Warheads, rocket
UN 0370 ...	102	Warheads, rocket
UN 0371 ...	102	Warheads, rocket
UN 0372 ...	102	Grenades, practice
UN 0373 ...	102	Signal devices, hand
UN 0374 ...	102	Sounding devices, explosive
UN 0375 ...	102	Sounding devices, explosive
UN 0376 ...	102	Primers, tubular
UN 0377 ...	102	Primers, cap type
UN 0378 ...	102	Primers, cap type
UN 0379 ...	102	Cases, cartridge, empty, with primer
UN 0380 ...	102	Articles, pyrophoric
UN 0381 ...	102	Cartridges, power device
UN 0382 ...	102	Components, explosive train, n.o.s.
UN 0383 ...	102	Components, explosive train, n.o.s.
UN 0384 ...	102	Components, explosive train, n.o.s.
UN 0385 ...	102	5-Nitrobenzotriazol
UN 0386 ...	102	Trinitrobenzenesulfonic acid
UN 0387 ...	102	Trinitrofluorenone
UN 0388 ...	102	Trinitrotoluene
UN 0389 ...	102	Trinitrotoluene
UN 0390 ...	102	Tritonal
UN 0391 ...	102	Cyclotrimethylenetrinitramine mixed with cyclotetramethylenetetranitramine
UN 0392 ...	102	Hexanitrostilbene
UN 0393 ...	102	Hexatonal, cast
UN 0394 ...	102	Trinitroresorcinol
UN 1001 ...	101	Acetylene
UN 1002 ...	102	Air
UN 1002 ...	101	Air, compressed
UN 1003 ...	102	Air
UN 1005 ...	102	Ammonia
UN 1005 ...	101	Ammonia, anhydrous
UN 1006 ...	101	Argon
UN 1008 ...	101	Boron trifluoride
UN 1009 ...	102	Bromotrifluoromethane
UN 1009 ...	101	Monobromotrifluoromethane
UN 1010 ...	102	Butadiene
UN 1010 ...	101	Butadiene, inhibited
UN 1011 ...	102	Butane
UN 1012 ...	102	Butylene
UN 1013 ...	102	Carbon dioxide
UN 1014 ...	102	Carbon dioxide and oxygen
UN 1014 ...	101	Carbon dioxide-oxygen mixture
UN 1015 ...	102	Carbon dioxide and nitrous oxide
UN 1015 ...	101	Carbon dioxide-nitrous oxide mixture
UN 1016 ...	101	Carbon monoxide
UN 1017 ...	101	Chlorine
UN 1018 ...	102	Chlorodifluoromethane
UN 1018 ...	101	Monochlorodifluoromethane
UN 1020 ...	102	Chloropentafluoroethane
UN 1020 ...	101	Monochloropentafluoroethane
UN 1021 ...	102	Chlorotetrafluoroethane
UN 1021 ...	101	Monochlorotetrafluoroethane
UN 1022 ...	102	Chlorotrifluoromethane
UN 1022 ...	101	Monochlorotrifluoromethane
UN 1023 ...	102	Coal gas
UN 1026 ...	102	Cyanogen
UN 1026 ...	101	Cyanogen gas
UN 1027 ...	101	Cyclopropane
UN 1028 ...	101	Dichlorodifluoromethane
UN 1029 ...	102	Dichloromonofluoromethane
UN 1030 ...	102	1,1-Difluoroethane
UN 1030 ...	101	Difluoroethane
UN 1031 ...	102	Difluoromonochloroethane
UN 1032 ...	102	Dimethylamine
UN 1032 ...	101	Dimethylamine, anhydrous
UN 1033 ...	101	Dimethyl ether
UN 1035 ...	101	Ethane
UN 1036 ...	102	Ethylamine
UN 1036 ...	101	Monoethylamine
UN 1037 ...	101	Ethyl chloride
UN 1038 ...	102	Ethylene
UN 1039 ...	101	Ethyl methyl ether
UN 1040 ...	101	Ethylene oxide
UN 1041 ...	102	Ethylene oxide and carbon dioxide
NA 1043 ...	101	Crude nitrogen fertilizer solution
UN 1043 ...	101	Fertilizer ammoniating solution
NA 1043 ...	101	Nitrogen fertilizer solution
UN 1044 ...	101	Fire extinguisher
UN 1044 ...	102	Fire extinguishers
UN 1045 ...	101	Fluorine
UN 1046 ...	101	Helium
UN 1048 ...	101	Hydrogen bromide
UN 1049 ...	101	Hydrogen
UN 1050 ...	101	Hydrogen chloride
NA 1051 ...	101	Hydrocyanic acid, liquefied
UN 1051 ...	102	Hydrogen cyanide
UN 1052 ...	101	Hydrogen fluoride
UN 1053 ...	101	Hydrogen sulfide
UN 1053 ...	102	Hydrogen sulphide
UN 1055 ...	102	Isobutylene
UN 1056 ...	102	Krypton
UN 1057 ...	101	Cigarette lighter
UN 1057 ...	102	Lighters
NA 1058 ...	101	Liquefied nonflammable gas
UN 1058 ...	102	Liquefied non-flammable gases charged with nitrogen, carbon dioxide or air
UN 1060 ...	102	Methyl acetylene
UN 1060 ...	101	Methylacetylene-propadiene, stabilized
UN 1061 ...	102	Methylamine
UN 1061 ...	101	Methylamine, anhydrous
UN 1062 ...	102	Methyl bromide
UN 1062 ...	101	Methyl bromide, liquid
UN 1063 ...	101	Methyl chloride
UN 1064 ...	101	Methyl mercaptan
UN 1064 ...	102	Methylmercaptan
UN 1065 ...	101	Neon
UN 1066 ...	101	Nitrogen
UN 1067 ...	102	Nitrogen dioxide
UN 1067 ...	101	Nitrogen dioxide, liquid
NA 1067 ...	101	Nitrogen peroxide, liquid
NA 1067 ...	101	Nitrogen tetroxide, liquid
UN 1069 ...	101	Nitrosyl chloride
UN 1070 ...	101	Nitrous oxide
UN 1071 ...	102	Oil gas
UN 1072 ...	101	Oxygen
UN 1073 ...	102	Oxygen
UN 1073 ...	101	Oxygen, pressurized liquid
UN 1075 ...	101	Liquefied petroleum gas
UN 1075 ...	102	Petroleum gases
UN 1076 ...	101	Phosgene
UN 1077 ...	102	Propylene
UN 1078 ...	102	Refrigerant gases, n.o.s.
UN 1079 ...	101	Sulfur dioxide
UN 1079 ...	102	Sulphur dioxide
UN 1080 ...	101	Sulfur hexafluoride
UN 1080 ...	102	Sulphur hexafluoride
UN 1081 ...	102	Tetrafluoroethylene
UN 1081 ...	101	Tetrafluoroethylene, inhibited
UN 1082 ...	101	Trifluorochlorethylene
UN 1082 ...	102	Trifluorochloroethylene
UN 1083 ...	102	Trimethylamine
UN 1083 ...	101	Trimethylamine, anhydrous
UN 1085 ...	102	Vinyl bromide
UN 1086 ...	101	Vinyl chloride
UN 1087 ...	101	Vinyl methyl ether
UN 1088 ...	101	Acetal
UN 1089 ...	101	Acetaldehyde
UN 1090 ...	101	Acetone
UN 1091 ...	101	Acetone oil
UN 1091 ...	102	Acetone oils
UN 1092 ...	102	Acrolein
UN 1092 ...	101	Acrolein, inhibited
UN 1093 ...	101	Acrylonitrile
UN 1095 ...	102	Alcohol
UN 1096 ...	102	Alcohol
UN 1098 ...	101	Allyl alcohol
UN 1099 ...	101	Allyl bromide
UN 1100 ...	101	Allyl chloride
UN 1101 ...	102	Diethylaluminium chloride
UN 1102 ...	102	Aluminium triethyl
UN 1103 ...	102	Aluminium trimethyl
UN 1104 ...	101	Amyl acetate
UN 1104 ...	102	Amyl acetates
UN 1105 ...	102	Amyl alcohols
UN 1106 ...	101	Amylamine
UN 1107 ...	101	Amyl chloride
UN 1108 ...	101	Amylene
UN 1108 ...	102	n-Amylene
UN 1109 ...	101	Amyl formate
UN 1109 ...	102	Amyl formates
UN 1110 ...	102	Amyl methyl ketone
UN 1110 ...	101	Methyl amyl ketone
UN 1111 ...	101	Amyl mercaptan
UN 1112 ...	102	Amyl nitrate
UN 1113 ...	101	Amyl nitrite
UN 1114 ...	101	Benzene
UN 1115 ...	101	Benzine
UN 1118 ...	102	Brake fluid, hydraulic
UN 1120 ...	102	Butanol
NA 1120 ...	101	Butyl alcohol
UN 1121 ...	102	sec-Butanol
UN 1122 ...	102	tert-Butanol
UN 1123 ...	101	Butyl acetate
UN 1123 ...	102	n-Butyl acetate
UN 1124 ...	102	sec-Butyl acetate
UN 1125 ...	101	Butylamine
UN 1125 ...	102	n-Butylamine
UN 1126 ...	101	Butyl bromide
UN 1126 ...	102	n-Butyl bromide
UN 1127 ...	101	Butyl chloride
UN 1127 ...	102	n-Butyl chloride
UN 1128 ...	101	Butyl formate
UN 1128 ...	102	n-Butyl formate
UN 1129 ...	101	Butyraldehyde
UN 1130 ...	101	Camphor oil
UN 1131 ...	101	Carbon bisulfide, *or* Carbon disulfide
UN 1131 ...	102	Carbon disulphide
UN 1132 ...	102	Carbon remover
UN 1132 ...	101	Carbon remover, liquid
UN 1133 ...	102	Cement, adhesive
NA 1133 ...	101	Cement, container, linoleum, tile, *or* wallboard, liquid
NA 1133 ...	101	Cement, leather
NA 1133 ...	101	Cement, liquid, n.o.s.
NA 1133 ...	101	Cement, pyroxylin
NA 1133 ...	101	Cement, roofing, liquid
NA 1133 ...	101	Cement, rubber
UN 1134 ...	101	Chlorobenzene
UN 1135 ...	102	2-Chloroethanol
UN 1135 ...	101	Ethylene chlorohydrin
UN 1136 ...	101	Coal tar distillate
NA 1136 ...	101	Coal tar light oil
NA 1136 ...	101	Coal tar oil
UN 1137 ...	101	Coal tar distillate
NA 1137 ...	101	Coal tar light oil
NA 1137 ...	101	Coal tar oil
UN 1139 ...	101	Coating solution
NA 1142 ...	101	Antifreeze compound, liquid
NA 1142 ...	101	Antifreeze preparation, liquid
NA 1142 ...	101	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid
NA 1142 ...	101	Compound, polishing, liquid
NA 1142 ...	101	Compound, vulcanizing, liquid
NA 1142 ...	101	Dressing, leather
UN 1142 ...	102	Flammable liquid preparation, n.o.s.
NA 1142 ...	101	Leather bleach *or* dressing
NA 1142 ...	101	Polish, metal, stove, furniture *or* wood, liquid
NA 1142 ...	101	Rust preventive coating
UN 1143 ...	101	Crotonaldehyde
UN 1144 ...	101	Crotonylene

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1145 ...	101	Cyclohexane
UN 1146 ...	101	Cyclopentane
UN 1147 ...	101	Decahydronaphthalene
UN 1148 ...	102	Diacetone alchohol
UN 1148 ...	101	Diacetone alcohol
UN 1149 ...	101	Butyl ether
UN 1149 ...	102	Dibutyl ethers
UN 1150 ...	101	Dichloroethylene
UN 1152 ...	101	Dichloropentane
UN 1152 ...	102	Dichloropentanes
UN 1153 ...	102	1,2-Diethoxyethane
UN 1153 ...	101	Ethylene glycol diethyl ether
UN 1154 ...	101	Diethylamine
UN 1155 ...	102	Diethyl ether
UN 1155 ...	101	Ethyl ether
UN 1156 ...	101	Diethyl ketone
UN 1157 ...	101	Diisobutyl ketone
UN 1158 ...	101	Diisopropylamine
UN 1159 ...	101	Diisopropyl ether
UN 1160 ...	102	Dimethylamine
UN 1160 ...	101	Dimethylamine, aqueous solution
UN 1161 ...	101	Dimethyl carbonate
UN 1162 ...	101	Dimethyldichlorosilane
UN 1163 ...	102	Dimethylhydrazine
UN 1163 ...	101	Dimethylhydrazine, unsymmetrical
UN 1164 ...	101	Dimethyl sulfide
UN 1164 ...	102	Dimethyl sulphide
UN 1165 ...	101	Dioxane
UN 1166 ...	101	Dioxolane
UN 1167 ...	101	Divinyl ether
UN 1168 ...	102	Driers
UN 1168 ...	101	Paint drier, liquid
UN 1169 ...	102	Extracts
UN 1170 ...	101	Alcoholic beverage
NA 1170 ...	101	Cologne spirits
UN 1170 ...	102	Ethanol
UN 1170 ...	101	Ethyl alcohol
UN 1171 ...	102	2-Ethoxyethanol
UN 1171 ...	101	Ethylene glycol monoethyl ether
UN 1172 ...	102	2-Ethoxyethyl acetate
UN 1172 ...	101	Ethylene glycol monoethyl ether acetate
UN 1173 ...	101	Ethyl acetate
UN 1175 ...	101	Ethyl benzene
UN 1175 ...	102	Ethylbenzene
UN 1176 ...	101	Ethyl borate
UN 1177 ...	102	Ethylbutyl acetate
UN 1177 ...	101	Ethyl butyl acetate
UN 1178 ...	102	2-Ethylbutyraldehyde
UN 1178 ...	101	Ethyl butyraldehyde
UN 1179 ...	101	Ethyl butyl ether
UN 1180 ...	101	Ethyl butyrate
UN 1181 ...	101	Ethyl chloroacetate
UN 1182 ...	101	Ethyl chloroformate
UN 1183 ...	101	Ethyl dichlorosilane
UN 1183 ...	102	Ethyldichlorosilane
UN 1184 ...	101	Ethylene dichloride
UN 1185 ...	102	Ethyleneimine
UN 1185 ...	101	Ethylene imine, inhibited
UN 1188 ...	101	Ethylene glycol monomethyl ether
UN 1189 ...	101	Ethylene glycol monomethyl ether acetate
UN 1190 ...	101	Ethyl formate
UN 1191 ...	102	Ethyl hexaldehyde
UN 1191 ...	101	Ethylhexaldehyde
UN 1192 ...	101	Ethyl lactate
UN 1193 ...	101	Ethyl methyl ketone
UN 1193 ...	101	Methyl ethyl ketone
UN 1194 ...	102	Ethyl nitrite
UN 1194 ...	101	Ethyl nitrite (nitrous ether)
UN 1195 ...	101	Ethyl propionate
UN 1196 ...	101	Ethyl trichlorosilane
UN 1196 ...	102	Ethyltrichlorosilane
UN 1197 ...	101	Extract, liquid, flavoring
UN 1197 ...	102	Extracts
UN 1198 ...	102	Formaldehyde
UN 1198 ...	101	Formaldehyde solution
UN 1199 ...	101	Furfural
UN 1201 ...	101	Fusel oil
UN 1202 ...	102	Gas oil
UN 1203 ...	101	Gasoline
NA 1203 ...	101	Motor fuel, n.o.s.
UN 1204 ...	102	Glyceryl trinitrate
NA 1204 ...	101	Spirits of nitroglycerin
NA 1204 ...	101	Spirits of nitroglycerin, not exceeding 1% nitroglycerin by weight
UN 1205 ...	102	Gutta percha
UN 1206 ...	101	Heptane
UN 1207 ...	101	Hexaldehyde
UN 1208 ...	101	Hexane
UN 1208 ...	101	Nechexane
UN 1210 ...	101	Ink
UN 1210 ...	102	Ink, printers
UN 1212 ...	102	Isobutanol
UN 1213 ...	101	Isobutyl acetate
UN 1214 ...	101	Isobutylamine
UN 1216 ...	101	Isooctene
UN 1218 ...	101	Isoprene
UN 1219 ...	101	Isopropanol
UN 1220 ...	101	Isopropyl acetate
UN 1221 ...	101	Isopropylamine
UN 1222 ...	101	Isopropyl nitrate
UN 1223 ...	101	Kerosene
UN 1224 ...	102	Ketones
UN 1226 ...	101	Cigarette lighter
UN 1226 ...	101	Lighter fluid
UN 1226 ...	102	Lighter fuels
UN 1226 ...	102	Lighters
NA 1228 ...	101	Mercaptan mixture, aliphatic
UN 1228 ...	102	Mercaptans *and* mercaptan mixtures
UN 1229 ...	101	Mesityl oxide
NA 1230 ...	101	Columbian spirits
UN 1230 ...	102	Methanol
UN 1230 ...	101	Methyl alcohol
UN 1231 ...	101	Methyl acetate
UN 1232 ...	101	Methyl acetone
UN 1233 ...	101	Methylamyl acetate
UN 1234 ...	101	Methylal
UN 1235 ...	102	Methylamine
UN 1235 ...	101	Methylamine, aqueous solution
UN 1237 ...	101	Methyl butyrate
UN 1238 ...	101	Methyl chloroformate
UN 1239 ...	102	Methylchloromethyl ether
UN 1239 ...	101	Methylchloromethyl ether, anhydrous
UN 1242 ...	101	Methyl dichlorosilane
UN 1242 ...	102	Methyldichlorosilane
UN 1243 ...	101	Methyl formate
UN 1244 ...	101	Methylhydrazine
UN 1245 ...	102	Methyl isobutyl ketone
UN 1246 ...	102	Methyl isopropenyl ketone
UN 1246 ...	101	Methyl isopropenyl ketone, inhibited
UN 1247 ...	102	Methyl methacrylate
UN 1247 ...	101	Methyl methacrylate monomer, inhibited
NA 1247 ...	101	Methyl methacrylate monomer, uninhibited
UN 1248 ...	101	Methyl propionate
UN 1249 ...	101	Methyl propyl ketone
UN 1250 ...	101	Methyltrichlorosilane
UN 1251 ...	102	Methyl vinyl ketone
UN 1251 ...	101	Methyl vinyl ketone, inhibited
UN 1255 ...	102	Naphtha, petroleum
UN 1255 ...	101	Petroleum naphtha
UN 1256 ...	101	Naphtha, solvent
UN 1257 ...	102	Casinghead gasoline
UN 1259 ...	101	Nickel carbonyl
UN 1261 ...	101	Nitromethane
UN 1262 ...	101	Isooctane
UN 1262 ...	101	Octane
NA 1263 ...	101	Compound, enamel
UN 1263 ...	101	Lacquer base *or* Lacquer chips, plastic
UN 1263 ...	101	Mortar stain, liquid
UN 1263 ...	101	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish; Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid
UN 1263 ...	102	Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base *or* thinner
UN 1264 ...	101	Paraldehyde
UN 1265 ...	101	Isopentane
UN 1265 ...	101	Pentane
UN 1266 ...	102	Perfumery products
UN 1267 ...	101	Crude oil, petroleum
UN 1267 ...	102	Petroleum crude oil
NA 1268 ...	101	Naphtha distillate
UN 1268 ...	101	Petroleum distillate
UN 1268 ...	102	Petroleum distillates, n.o.s.
NA 1268 ...	101	Road oil
NA 1270 ...	101	Oil
UN 1270 ...	102	Petroleum oil
UN 1271 ...	101	Petroleum ether
UN 1271 ...	102	Petroleum spirit
UN 1272 ...	101	Pine oil
UN 1274 ...	102	Propanol
UN 1274 ...	101	Propyl alcohol
UN 1275 ...	101	Propionaldehyde
UN 1276 ...	102	n-Propyl acetate
UN 1276 ...	101	Propyl acetate
UN 1277 ...	102	Monopropylamine
UN 1277 ...	101	Propylamine
UN 1278 ...	101	Propyl chloride
UN 1279 ...	101	Propylene dichloride
UN 1280 ...	101	Propylene oxide
UN 1281 ...	101	Propyl formate
UN 1281 ...	102	Propyl formates
UN 1282 ...	101	Pyridine
UN 1286 ...	102	Rosin oil
UN 1287 ...	102	Rubber solution
UN 1288 ...	102	Shale oil
UN 1289 ...	102	Sodium methylate
NA 1289 ...	101	Sodium methylate, alcohol mixture
UN 1292 ...	101	Ethyl silicate
UN 1292 ...	102	Tetraethyl silicate
UN 1293 ...	102	Tinctures
UN 1294 ...	101	Toluene
UN 1295 ...	101	Trichlorosilane
UN 1296 ...	101	Triethylamine
UN 1297 ...	102	Trimethylamine
UN 1297 ...	101	Trimethylamine, aqueous solution
UN 1298 ...	101	Trimethylchlorosilane
UN 1299 ...	101	Turpentine
UN 1300 ...	101	Turpentine substitute
UN 1301 ...	101	Vinyl acetate
UN 1302 ...	102	Vinyl ethyl ether
UN 1302 ...	101	Vinyl ethyl ether, inhibited
UN 1303 ...	101	Vinylidene chloride, inhibited
UN 1304 ...	101	Vinyl isobutyl ether
UN 1305 ...	101	Vinyl trichlorosilane
UN 1307 ...	101	Xylene
UN 1307 ...	102	Xylenes
UN 1308 ...	102	Zirconium
UN 1308 ...	101	Zirconium, metal, liquid, suspensions
UN 1309 ...	102	Aluminium
UN 1310 ...	102	Ammonium picrate
UN 1310 ...	101	Ammonium picrate, wet
UN 1312 ...	102	Borneol
UN 1313 ...	101	Calcium resinate
UN 1314 ...	102	Calcium resinate
UN 1314 ...	101	Calcium resinate, fused
UN 1318 ...	102	Cobalt resinate
UN 1318 ...	101	Cobalt resinate, precipitated
UN 1320 ...	102	Dinitrophenol
UN 1321 ...	102	Dinitrophenolates
UN 1322 ...	102	Dinitroresorcinols
UN 1323 ...	102	Ferrocerium
NA 1324 ...	101	Film
UN 1324 ...	102	Film, motion picture
NA 1325 ...	101	Antimony sulfide, solid
NA 1325 ...	101	Burnt cotton, not repicked
NA 1325 ...	101	Cosmetics, n.o.s.
NA 1325 ...	101	Drugs, n.o.s.
UN 1325 ...	101	Flammable solid, n.o.s.
UN 1325 ...	102	Flammable solids, n.o.s.
NA 1325 ...	101	Fusee
NA 1325 ...	101	Garbage tankage
NA 1325 ...	101	N-Methyl-N'-nitro-N-nitrosoguanidine
NA 1325 ...	101	Paper stock, wet
NA 1325 ...	101	Rags, wet
NA 1325 ...	101	Rough ammoniate tankage
NA 1325 ...	101	Smokeless powder for small arms
NA 1325 ...	101	Tankage fertilizer
NA 1325 ...	101	Tankage, rough ammoniate
NA 1325 ...	101	Waste paper, wet
(UN 1325).	102	Zirconium
UN 1326 ...	102	Hafnium metal powder, wet
UN 1326 ...	101	Hafnium metal, wet
UN 1327 ...	102	Bhusa
UN 1327 ...	101	Hay
UN 1327 ...	101	Hay or straw
UN 1327 ...	102	Straw
UN 1328 ...	102	Hexamine
UN 1330 ...	102	Manganese resinate
UN 1331 ...	102	Matches
UN 1331 ...	101	Matches, strike anywhere
UN 1332 ...	102	Metaldehyde
UN 1333 ...	102	Mischmetal
UN 1334 ...	102	Naphthalene
UN 1334 ...	101	Naphthalene *or* Naphthalin
UN 1336 ...	102	Nitroguanidine
UN 1336 ...	101	Nitroguanidine, wet with not less than 20% water
UN 1337 ...	102	Nitrostarch
UN 1337 ...	101	Nitrostarch, wet with not less than 20% water
NA 1337 ...	101	Nitrostarch, wet with not less than 30% alcohol *or* solvent
UN 1338 ...	102	Phosphorus
UN 1338 ...	101	Phosphorus, amorphous, red

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 1339 ...	101	Phosphorus heptasulfide
UN 1339 ...	102	Phosphorus heptasulphide
UN 1340 ...	101	Phosphorus pentasulfide
UN 1340 ...	102	Phosphorus pentasulphide
UN 1341 ...	101	Phosphorus sesquisulfide
UN 1341 ...	102	Phosphorus sesquisulphide
UN 1343 ...	101	Phosphorus trisulfide
UN 1343 ...	102	Phosphorus trisulphide
UN 1344 ...	102	Picric acid
NA 1344 ...	101	Picric acid, wet, with not less than 10% water
UN 1345 ...	102	Rubber scrap
UN 1345 ...	101	Rubber scrap *or* Rubber buffings
UN 1345 ...	101	Rubber shoddy *or* Rubber, regenerated *or* Rubber, reclaimed
UN 1346 ...	102	Silicon powder
UN 1348 ...	102	Sodium dinitro-o-cresolate
UN 1349 ...	102	Sodium picramate
UN 1349 ...	101	Sodium picramate, wet
UN 1350 ...	101	Sulfur, solid
UN 1350 ...	102	Sulphur
UN 1352 ...	102	Titanium metal powder, wet
UN 1352 ...	101	Titanium metal powder, wet with 20% or more water
UN 1353 ...	102	Toe puffs
UN 1354 ...	102	Trinitrobenzene
UN 1354 ...	101	Trinitrobenzene, wet
UN 1355 ...	102	Trinitrobenzoic acid
UN 1355 ...	101	Trinitrobenzoic acid, wet
UN 1356 ...	102	Trinitrotoluene
UN 1356 ...	101	Trinitrotoluene, wet
UN 1357 ...	102	Urea nitrate
UN 1357 ...	101	Urea nitrate, wet
UN 1358 ...	102	Zirconium metal powder, wet
UN 1358 ...	101	Zirconium metal, wet
UN 1359 ...	102	Bags
UN 1359 ...	101	Bags, sodium nitrate, empty and unwashed
UN 1360 ...	101	Calcium phosphide
UN 1361 ...	102	Carbon, non-activated
NA 1361 ...	101	Charcoal briquettes *or* briquets
NA 1361 ...	101	Charcoal screenings, made from 'pinon' wood
NA 1361 ...	101	Charcoal, shell
NA 1361 ...	101	Charcoal, wood, ground, crushed, granulated, *or* pulverized
NA 1361 ...	101	Charcoal, wood, lump
NA 1361 ...	101	Charcoal wood screenings, other than 'pinon' wood screenings
NA 1361 ...	101	Coal, ground bituminous, sea coal, coal facings
UN 1362 ...	102	Carbon, activated
UN 1362 ...	101	Charcoal, activated
UN 1363 ...	101	Copra
UN 1364 ...	102	Cotton waste
UN 1364 ...	101	Cotton waste, oily
UN 1365 ...	102	Cotton
UN 1366 ...	102	Diethylzinc
UN 1367 ...	102	Diethylmagnesium
UN 1368 ...	102	Dimethylmagnesium
UN 1369 ...	102	Dimethyl-p-nitrosoaniline
UN 1369 ...	102	p-Nitrosodimethylaniline
UN 1370 ...	102	Dimethylzinc
UN 1371 ...	102	Ehers
NA 1372 ...	101	Burnt fiber
NA 1372 ...	101	Fibers
NA 1372 ...	101	Fibers, burnt
UN 1372 ...	102	Fibres
NA 1372 ...	101	Hair, wet
UN 1373 ...	102	Fabric
NA 1373 ...	101	Fibers *or* fabric, containing not more than 5% animal *or* vegetable oil
UN 1373 ...	102	Fibres
UN 1374 ...	102	Fishmeal *or* fishscrap
NA 1374 ...	101	Fish meal *or* fish scrap containing less than 6% or more than 12% water
UN 1375 ...	102	Pyrophoric fuel, n.o.s.
UN 1376 ...	101	Iron mass *or* sponge, spent
UN 1376 ...	102	Iron oxide
UN 1378 ...	102	Nickel catalyst
UN 1378 ...	101	Nickel catalyst, wet
UN 1379 ...	102	Paper
UN 1380 ...	101	Pentaborane
UN 1381 ...	102	Phosphorus
UN 1381 ...	101	Phosphorus, white *or* yellow, dry
UN 1381 ...	101	Phosphorus, white *or* yellow, in water
UN 1382 ...	102	Alkaline earth metal amalgams, n.o.s.
UN 1382 ...	101	Potassium sulfide
UN 1382 ...	102	Potassium sulphide
NA 1383 ...	101	Iron mass *or* sponge
UN 1383 ...	102	Pyrophoric alloys
UN 1383 ...	102	Pyrophoric metals
UN 1384 ...	102	Sodium dithionite
UN 1384 ...	101	Sodium hydrosulfite
UN 1385 ...	101	Sodium sulfide, anhydrous
UN 1385 ...	102	Sodium sulphide
UN 1386 ...	102	Seed cake
UN 1387 ...	101	Waste wool, wet
UN 1387 ...	102	Wool waste
UN 1389 ...	102	Alkali metal amalgams, n.o.s.
UN 1390 ...	102	Alkali metal amides, n.o.s.
UN 1391 ...	102	Alkali metal dispersions, n.o.s.
UN 1393 ...	102	Alloys of alkaline earth metals
UN 1394 ...	102	Aluminium carbide
UN 1395 ...	102	Aluminium ferrosilicon
UN 1396 ...	102	Aluminium powder
UN 1396 ...	101	Aluminum, metallic, powder
UN 1397 ...	102	Aluminum phosphide
UN 1397 ...	101	Aluminum phosphide
UN 1398 ...	102	Aluminium silicon
UN 1399 ...	102	Barium
UN 1400 ...	102	Barium
UN 1401 ...	102	Calcium
UN 1401 ...	101	Calcium, metal
NA 1401 ...	101	Calcium, metal, crystalline
UN 1402 ...	101	Calcium carbide
UN 1403 ...	102	Calcium cyanamide
UN 1403 ...	101	Calcium cyanamide, not hydrated
UN 1404 ...	102	Calcium hydride
UN 1405 ...	102	Calcium silicide
UN 1406 ...	102	Calcium silicon
UN 1407 ...	102	Caesium
UN 1407 ...	101	Cesium metal
UN 1408 ...	101	Ferrosilicon
UN 1409 ...	102	Hydrides
UN 1410 ...	102	Lithium aluminium hydride
UN 1410 ...	101	Lithium aluminum hydride
UN 1411 ...	102	Lithium aluminium hydride
UN 1411 ...	101	Lithium aluminum hydride, ethereal
UN 1412 ...	102	Lithium amide
UN 1412 ...	101	Lithium amide, powdered
UN 1413 ...	102	Lithium borohydride
UN 1414 ...	101	Lithium hydride
UN 1415 ...	102	Lithium
UN 1415 ...	101	Lithium metal
UN 1415 ...	101	Lithium metal, in cartridges
UN 1417 ...	101	Lithium silicon
UN 1418 ...	102	Magnesium
UN 1418 ...	102	Magnesium alloys
UN 1419 ...	102	Magnesium aluminium phosphide
UN 1419 ...	101	Magnesium aluminum phosphide
UN 1420 ...	102	Potassium, metal alloys
UN 1420 ...	101	Potassium, metal liquid alloy
UN 1421 ...	102	Alkali metals
NA 1421 ...	101	Sodium, metal liquid alloy
UN 1422 ...	102	Potassium-sodium
UN 1422 ...	101	Sodium potassium alloy, liquid
UN 1422 ...	101	Sodium potassium alloy, solid
UN 1423 ...	102	Rubidium
UN 1423 ...	101	Rubidium metal
UN 1423 ...	101	Rubidium metal, in cartridges
UN 1424 ...	102	Sodium amalgam
UN 1425 ...	101	Sodium amide
UN 1426 ...	102	Sodium borohydride
UN 1427 ...	101	Sodium hydride
UN 1428 ...	102	Sodium
UN 1428 ...	101	Sodium, metal *or* metallic
UN 1429 ...	102	Sodium
UN 1429 ...	101	Sodium, metal dispersion in organic solvent
UN 1431 ...	102	Sodium methylate
UN 1431 ...	101	Sodium methylate, dry
UN 1432 ...	101	Sodium phosphide
UN 1433 ...	101	Stannic phosphide
UN 1433 ...	102	Stannic phosphides
UN 1434 ...	102	Strontium
UN 1435 ...	102	Zinc ashes
UN 1436 ...	102	Zinc
UN 1437 ...	101	Zirconium hydride
UN 1438 ...	102	Aluminium nitrate
UN 1438 ...	101	Aluminum nitrate
UN 1439 ...	101	Ammonium dichromate
UN 1442 ...	101	Ammonium perchlorate
UN 1444 ...	102	Ammonium persulphate
UN 1445 ...	101	Barium chlorate
NA 1445 ...	101	Barium chlorate, wet
UN 1446 ...	101	Barium nitrate
UN 1447 ...	101	Barium perchlorate
UN 1448 ...	101	Barium permanganate
UN 1449 ...	102	Barium peroxide
UN 1449 ...	101	Barium peroxide
UN 1450 ...	102	Bromates
UN 1451 ...	102	Caesium nitrate
UN 1452 ...	101	Calcium chlorate
UN 1453 ...	101	Calcium chlorite
UN 1454 ...	101	Calcium nitrate
UN 1455 ...	102	Calcium perchlorate
UN 1456 ...	101	Calcium permanganate
UN 1457 ...	101	Calcium peroxide
UN 1458 ...	102	Borate and chlorate
UN 1458 ...	101	Chlorate and borate mixture
UN 1459 ...	102	Chlorate and magnesium chloride
UN 1459 ...	101	Chlorate and magnesium chloride mixture
UN 1461 ...	101	Chlorate, n.o.s.
NA 1461 ...	101	Chlorate, n.o.s., wet
UN 1461 ...	102	Chlorates
UN 1462 ...	102	Chlorites
NA 1463 ...	101	Chromic acid mixture, dry
NA 1463 ...	101	Chromic acid, solid
UN 1463 ...	102	Chromium trioxide
UN 1464 ...	102	Dichromates
UN 1465 ...	102	Didymium nitrate
UN 1466 ...	101	Ferric nitrate
UN 1467 ...	101	Guanidine nitrate
UN 1469 ...	101	Lead nitrate
UN 1470 ...	102	Lead perchlorate
UN 1471 ...	102	Lithium hypochlorite
UN 1471 ...	101	Lithium hypochlorite compound, dry
UN 1472 ...	101	Lithium peroxide
UN 1473 ...	102	Magnesium bromate
UN 1474 ...	101	Magnesium nitrate
UN 1475 ...	101	Magnesium perchlorate
UN 1476 ...	102	Magnesium peroxide
UN 1476 ...	101	Magnesium peroxide, solid
NA 1477 ...	101	Ammonium sulfate nitrate
NA 1477 ...	101	Nitrate, n.o.s.
UN 1477 ...	102	Nitrates
UN 1478 ...	102	Sodium nitrate and potash
NA 1479 ...	101	Compound, tree *or* weed killing, solid
NA 1479 ...	101	Cosmetics, n.o.s.
NA 1479 ...	101	Cupric nitrate
NA 1479 ...	101	Drugs, n.o.s.
NA 1479 ...	101	Manganese dioxide
UN 1479 ...	101	Oxidizer, n.o.s. *or* Oxidizing material, n.o.s.
UN 1479 ...	102	Oxidizing substances, n.o.s.
NA 1479 ...	101	Potassium dichromate
NA 1479 ...	101	Sodium dichromate
UN 1480 ...	102	Perborates
NA 1481 ...	101	Perchlorate, n.o.s.
UN 1481 ...	102	Perchlorates
NA 1482 ...	101	Permanganate, n.o.s.
UN 1482 ...	102	Permanganates
UN 1483 ...	102	Peroxides
UN 1484 ...	101	Potassium bromate
UN 1485 ...	101	Potassium chlorate
UN 1486 ...	101	Potassium nitrate
UN 1487 ...	102	Potassium nitrate and sodium nitrite
UN 1487 ...	101	Sodium nitrite mixed with potassium nitrate
NA 1487 ...	101	Sodium nitrite mixture
UN 1488 ...	101	Potassium nitrite
UN 1489 ...	101	Potassium perchlorate
UN 1490 ...	101	Potassium permanganate
UN 1491 ...	101	Potassium peroxide
UN 1492 ...	102	Potassium persulphate
UN 1493 ...	101	Silver nitrate
UN 1494 ...	101	Sodium bromate
UN 1495 ...	101	Sodium chlorate
UN 1496 ...	101	Sodium chlorite
UN 1498 ...	101	Sodium nitrate
UN 1499 ...	102	Sodium nitrate and potassium nitrate
UN 1500 ...	101	Sodium nitrite
UN 1502 ...	101	Sodium perchlorate
UN 1503 ...	101	Sodium permanganate
UN 1504 ...	101	Sodium peroxide
UN 1505 ...	102	Sodium persulphate
UN 1506 ...	101	Strontium chlorate
UN 1506 ...	101	Strontium chlorate, wet
UN 1507 ...	101	Strontium nitrate
UN 1508 ...	102	Strontium perchlorate
UN 1509 ...	101	Strontium peroxide
UN 1510 ...	101	Tetranitromethane
UN 1511 ...	102	Urea hydrogen peroxide
NA 1511 ...	101	Urea peroxide

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1512 ...	101	Zinc ammonium nitrite
UN 1513 ...	101	Zinc chlorate
UN 1514 ...	101	Zinc nitrate
UN 1515 ...	101	Zinc permanganate
UN 1516 ...	101	Zinc peroxide
UN 1517 ...	102	Zirconium picramate
UN 1517 ...	101	Zirconium picramate, wet
UN 1541 ...	101	Acetone cyanohydrin
UN 1542 ...	102	Aldrin
UN 1544 ...	102	Alkaloids
UN 1545 ...	102	Allyl isothiocyanate
UN 1546 ...	102	Ammonium arsenate
UN 1546 ...	101	Ammonium arsenate, solid
UN 1547 ...	102	Aniline
UN 1547 ...	101	Aniline oil, liquid
UN 1548 ...	102	Aniline hydrochloride
UN 1549 ...	102	Antimony compounds
NA 1549 ...	101	Antimony tribromide, solid
NA 1549 ...	101	Antimony tribromide solution
NA 1549 ...	101	Antimony trifluoride, solid
NA 1549 ...	101	Antimony trifluoride solution
UN 1550 ...	102	Antimony lactate
UN 1550 ...	101	Antimony lactate, solid
UN 1551 ...	102	Antimony potassium tartrate
UN 1551 ...	101	Antimony potassium tartrate, solid
UN 1553 ...	102	Arsenic acid
UN 1553 ...	101	Arsenic acid solution
UN 1554 ...	102	Arsenic acid
UN 1554 ...	101	Arsenic acid, solid
UN 1555 ...	102	Arsenic bromide
UN 1555 ...	101	Arsenic bromide, solid
UN 1556 ...	101	Arsenical compound, liquid, n.o.s., *or* Arsenical mixture, liquid, n.o.s.
UN 1556 ...	102	Arsenic compounds
NA 1556 ...	101	Methyldichloroarsine
NA 1556 ...	101	Phenyldichloroarsine
UN 1557 ...	101	Arsenical compound, solid, n.o.s., *or* Arsenical mixture, solid, n.o.s.
NA 1557 ...	101	Arsenical dip, liquid
UN 1557 ...	102	Arsenic compounds
NA 1557 ...	101	Arsenic iodide, solid
NA 1557 ...	101	Arsenic sulfide, solid
NA 1557 ...	101	Arsenic trisulfide
UN 1558 ...	102	Arsenic, metallic
UN 1558 ...	101	Arsenic, solid
UN 1559 ...	102	Arsenic pentoxide
UN 1559 ...	101	Arsenic pentoxide, solid
UN 1560 ...	102	Arsenic trichloride
UN 1560 ...	101	Arsenic trichloride, liquid
UN 1561 ...	102	Arsenic trioxide
UN 1561 ...	101	Arsenic trioxide, solid
UN 1562 ...	101	Arsenical dust
UN 1564 ...	102	Barium compounds, n.o.s.
UN 1565 ...	102	Barium cyanide
UN 1565 ...	101	Barium cyanide, solid
NA 1566 ...	101	Beryllium chloride
UN 1566 ...	101	Beryllium compound, n.o.s.
UN 1566 ...	102	Beryllium compounds
NA 1566 ...	101	Beryllium fluoride
UN 1567 ...	102	Beryllium
UN 1568 ...	102	Bordeaux arsenites
UN 1569 ...	102	Bromoacetone
UN 1569 ...	101	Bromoacetone, liquid
UN 1570 ...	102	Brucine
UN 1570 ...	101	Brucine, solid
UN 1571 ...	102	Barium azide
UN 1571 ...	101	Barium azide, wet
UN 1572 ...	102	Cacodylic acid
UN 1573 ...	102	Calcium arsenate
UN 1573 ...	101	Calcium arsenate, solid
UN 1574 ...	102	Calcium arsenate and arsenite
NA 1574 ...	101	Calcium arsenite, solid
UN 1575 ...	102	Calcium cyanide
UN 1575 ...	101	Calcium cyanide, solid *or* Calcium cyanide mixture, solid
UN 1577 ...	102	Chlorodinitrobenzene
UN 1577 ...	101	Dinitrochlorobenzene
UN 1578 ...	102	Chloronitrobenzenes
UN 1578 ...	101	Nitrochlorobenzene, meta *or* para, solid
UN 1578 ...	101	Nitrochlorobenzene, ortho, liquid
UN 1579 ...	102	4-Chloro-o-toluidine hydrochloride
UN 1579 ...	101	4-Chloro-o-toluidine hydrochloride
UN 1580 ...	102	Chloropicrin
UN 1580 ...	101	Chloropicrin, liquid
UN 1581 ...	102	Chloropicrin and methyl bromide
NA 1581 ...	101	Methyl bromide and more than 2% chloropicrin mixture, liquid
UN 1582 ...	102	Chloropicrin and methyl chloride
UN 1582 ...	101	Chloropicrin and methyl chloride mixture
NA 1583 ...	101	Chloropicrin, absorbed
UN 1583 ...	101	Chloropicrin mixture
UN 1583 ...	102	Chloropicrin mixtures, n.o.s.
UN 1584 ...	102	Cocculus
UN 1584 ...	101	Cocculus, solid
UN 1585 ...	102	Copper acetoarsenite
UN 1585 ...	101	Copper acetoarsenite, solid
UN 1586 ...	102	Copper arsenite
UN 1586 ...	101	Copper arsenite, solid
UN 1587 ...	101	Copper cyanide
UN 1588 ...	101	Cyanide *or* cyanide mixture, dry
UN 1588 ...	102	Cyanides
UN 1589 ...	101	Cyanogen chloride
UN 1590 ...	102	Dichloroanilines
UN 1591 ...	101	Dichlorobenzene, ortho, liquid
UN 1591 ...	102	Dichlorobenzenes
UN 1592 ...	101	Dichlorobenzene, para, solid
UN 1592 ...	102	p-Dichlorobenzene
UN 1593 ...	102	Dichloromethane
UN 1593 ...	101	Dichloromethane *or* Methylene chloride
UN 1594 ...	102	Diethyl sulphate
UN 1595 ...	101	Dimethyl sulfate
UN 1595 ...	102	Dimethyl sulphate
UN 1596 ...	102	Dinitroanilines
UN 1597 ...	102	Dinitrobenzenes
UN 1597 ...	101	Dinitrobenzene, solid, *or* Dinitrobenzol, solid
UN 1597 ...	101	Dinitrobenzene solution
UN 1598 ...	102	4,6-Dinitro-o-cresol
UN 1599 ...	102	Dinitrophenol
UN 1599 ...	101	Dinitrophenol solution
UN 1600 ...	101	Dinitrotoluene, liquid
UN 1600 ...	102	Dinitrotoluenes
UN 1601 ...	101	Disinfectant, liquid
UN 1601 ...	102	Disinfectants
UN 1601 ...	101	Disinfectant, solid
(UN 1601).	102	Germicides
UN 1602 ...	102	Dye intermediates
UN 1603 ...	102	Ethyl bromoacetate
UN 1604 ...	101	Ethylenediamine
UN 1605 ...	101	Ethylene dibromide
UN 1606 ...	102	Ferric arsenate
UN 1606 ...	101	Ferric arsenate, solid
UN 1607 ...	102	Ferric arsenite
UN 1607 ...	101	Ferric arsenite, solid
UN 1608 ...	102	Ferrous arsenate
UN 1608 ...	101	Ferrous arsenate, solid
UN 1609 ...	102	Fungicides
UN 1610 ...	102	Halogenated irritating liquids, n.o.s.
UN 1611 ...	102	Hexaethyl tetraphosphate
UN 1611 ...	101	Hexaethyl tetraphosphate, liquid
UN 1612 ...	102	Hexaethyl tetraphosphate
UN 1612 ...	101	Hexaethyl tetraphosphate and compressed gas mixture
UN 1613 ...	102	Hydrocyanic acid
UN 1613 ...	101	Hydrocyanic acid solution
UN 1613 ...	101	Hydrocyanic acid solution, less than 5% hydrocyanic acid
UN 1614 ...	102	Hydrogen cyanide
UN 1615 ...	102	Insecticides, n.o.s.
UN 1616 ...	101	Lead acetate
UN 1617 ...	102	Lead arsenates
UN 1617 ...	101	Lead arsenate, solid
UN 1618 ...	102	Lead arsenites
UN 1618 ...	101	Lead arsenite, solid
UN 1620 ...	101	Lead cyanide
UN 1621 ...	102	London purple
UN 1621 ...	101	London purple, solid
UN 1622 ...	102	Magnesium arsenate
UN 1622 ...	101	Magnesium arsenate, solid
UN 1623 ...	102	Mercuric arsenate
UN 1624 ...	102	Mercuric chloride
UN 1624 ...	101	Mercuric chloride, solid
UN 1625 ...	101	Mercuric nitrate
UN 1626 ...	102	Mercuric potassium cyanide
UN 1626 ...	101	Mercuric potassium cyanide, solid
UN 1627 ...	101	Mercurous nitrate, solid
UN 1628 ...	101	Mercurous sulfate, solid
UN 1628 ...	102	Mercurous sulphate
UN 1629 ...	101	Mercuric acetate
UN 1629 ...	101	Mercurous acetate, solid
UN 1629 ...	102	Mercury acetate
UN 1630 ...	101	Mercuric ammonium chloride, solid
UN 1630 ...	102	Mercury ammonium chloride
UN 1631 ...	101	Mercuric benzoate, solid
UN 1631 ...	102	Mercury benzoate
UN 1633 ...	102	Mercury bisulphate
UN 1634 ...	101	Mercuric bromide, solid
UN 1634 ...	101	Mercurous bromide, solid
UN 1634 ...	102	Mercury bromides
UN 1636 ...	101	Mercuric cyanide, solid
UN 1636 ...	102	Mercury cyanide
UN 1637 ...	101	Mercurous gluconate, solid
UN 1637 ...	102	Mercury gluconate
UN 1638 ...	101	Mercuric iodide, solid
UN 1638 ...	101	Mercuric iodide, solution
UN 1638 ...	101	Mercurous iodide, solid
UN 1638 ...	102	Mercury iodide
UN 1639 ...	101	Mercurol *or* Mercury nucleate, solid
UN 1639 ...	102	Mercury nucleate
UN 1640 ...	101	Mercuric oleate, solid
UN 1640 ...	102	Mercury oleate
UN 1641 ...	101	Mercuric oxide, solid
UN 1641 ...	101	Mercurous oxide, black, solid
UN 1641 ...	102	Mercury oxide
UN 1642 ...	101	Mercuric oxycyanide, solid
UN 1642 ...	102	Mercury oxycyanide
UN 1643 ...	101	Mercuric potassium iodide, solid
UN 1643 ...	102	Mercury potassium iodide
UN 1644 ...	101	Mercuric salicylate solid
UN 1644 ...	102	Mercury salicylate
UN 1645 ...	101	Mercuric sulfate, solid
UN 1645 ...	102	Mercuric sulphate
UN 1646 ...	101	Mercuric sulfocyanate, solid *or* Mercuric thiocyanate, solid
UN 1646 ...	102	Mercury thiocyanate
UN 1647 ...	102	Methyl bromide and ethylene dibromide
UN 1647 ...	101	Methyl bromide - ethylene dibromide mixture, liquid
NA 1648 ...	101	Acetonitrile
UN 1648 ...	102	Methyl cyanide
UN 1649 ...	101	Motor fuel antiknock compound *or* Antiknock compound
UN 1649 ...	102	Motor fuel anti-knock mixtures
NA 1649 ...	101	Tetraethyl lead, liquid
UN 1650 ...	102	Naphthylamine
UN 1651 ...	102	alpha-Naphthylthiourea
UN 1652 ...	102	Naphthylurea
UN 1653 ...	102	Nickel cyanide
UN 1653 ...	101	Nickel cyanide, solid
UN 1654 ...	102	Nicotine
UN 1654 ...	101	Nicotine, liquid
UN 1655 ...	102	Nicotine
UN 1655 ...	101	Nicotine hydrochloride
UN 1657 ...	101	Nicotine salicylate
UN 1658 ...	101	Nicotine sulfate, liquid
UN 1658 ...	101	Nicotine sulfate, solid
UN 1658 ...	102	Nicotine sulphate
UN 1659 ...	101	Nicotine tartrate
UN 1660 ...	101	Nitric oxide
UN 1661 ...	101	Nitroaniline
UN 1661 ...	102	Nitroanilines
UN 1662 ...	102	Nitrobenzene
UN 1662 ...	101	Nitrobenzene, liquid *or* Nitrobenzol, liquid
UN 1663 ...	101	Nitrophenol
UN 1663 ...	102	Nitrophenols
UN 1664 ...	101	Nitrotoluene
UN 1664 ...	102	Nitrotoluenes
UN 1665 ...	102	Nitroxylenes
NA 1665 ...	101	Nitroxylol
UN 1668 ...	102	Parathion
UN 1669 ...	102	Pentachloroethane
UN 1670 ...	101	Perchloromethyl mercaptan
UN 1670 ...	102	Perchloromethyl-mercaptan
UN 1671 ...	101	Phenol
UN 1672 ...	102	Phenylcarbylamine chloride
UN 1673 ...	101	Phenylenediamine, meta *or* para, solid
UN 1673 ...	102	Phenylenediamines
UN 1674 ...	102	Phenylmercuric acetate
UN 1677 ...	102	Potassium arsenate
UN 1677 ...	101	Potassium arsenate, solid
UN 1678 ...	102	Potassium arsenite
UN 1678 ...	101	Potassium arsenite, solid
UN 1679 ...	102	Potassium cuprocyanide
UN 1680 ...	102	Potassium cyanide
UN 1680 ...	101	Potassium cyanide, solid
UN 1680 ...	101	Potassium cyanide solution
UN 1681 ...	102	Rodenticides, n.o.s.
UN 1682 ...	102	Sheep dips
UN 1683 ...	102	Silver arsenite
UN 1684 ...	101	Silver cyanide
UN 1685 ...	101	Sodium arsenate
UN 1686 ...	102	Sodium arsenite
UN 1686 ...	101	Sodium arsenite, liquid
UN 1687 ...	101	Sodium azide
UN 1688 ...	102	Sodium cacodylate

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 1689	102	Sodium cyanide
UN 1689	101	Sodium cyanide, solid
UN 1689	101	Sodium cyanide solution
UN 1690	102	Sodium fluoride
UN 1690	101	Sodium fluoride, solid
UN 1690	101	Sodium fluoride, solution
UN 1691	102	Strontium arsenite
UN 1691	101	Strontium arsenite, solid
UN 1692	102	Strychnine
UN 1692	101	Strychnine salt, solid
UN 1692	101	Strychnine, solid
NA 1693	101	Irritating agent, n.o.s.
NA 1693	101	ORM-A, n.o.s.
UN 1693	102	Tear gas
UN 1694	102	Bromobenzyl cyanide
UN 1695	102	Chloroacetone
UN 1695	101	Monochloroacetone, stabilized *or* inhibited
UN 1697	102	Chloroacetophenone
UN 1697	101	Chloroacetophenone, gas, liquid, *or* solid
UN 1698	101	Diphenylaminechloroarsine
UN 1699	102	Diphenylchloroarsine
UN 1700	101	Tear gas candle
UN 1700	102	Tear gas candles
UN 1701	101	Xylyl bromide
UN 1702	102	1,1,2,2-Tetrachloroethane
UN 1702	101	Tetrachloroethane
UN 1703	102	Tetraethyl dithiopyrophosphate
UN 1703	101	Tetraethyl dithiopyrophosphate and compressed gas mixture
UN 1704	102	Tetraethyl dithiopyrophosphate
UN 1704	101	Tetraethyl dithiopyrophosphate, liquid
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, dry
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, liquid
UN 1705	102	Tetraethyl pyrophosphate and compressed gas
UN 1705	101	Tetraethyl pyrophosphate and compressed gas mixture
UN 1707	102	Thallium compounds
NA 1707	101	Thallium salt, solid, n.o.s.
NA 1707	101	Thallium sulfate, solid
UN 1708	102	Toluidines
UN 1709	102	2,4-Toluylenediamine
NA 1709	101	Toluenediamine
UN 1710	101	Trichloroethylene
UN 1711	102	Xylidines
UN 1712	101	Zinc arsenate
UN 1712	102	Zinc arsenate and arsenite
UN 1712	101	Zinc arsenite, solid
UN 1713	101	Zinc cyanide
UN 1714	101	Zinc phosphide
UN 1715	101	Acetic anhydride
UN 1716	101	Acetyl bromide
UN 1717	101	Acetyl chloride
UN 1718	101	Acid butyl phosphate
NA 1719	101	Alkaline liquid, n.o.s.
UN 1719	102	Caustic alkali liquids, n.o.s.
UN 1722	101	Allyl chlorocarbonate
UN 1722	102	Allyl chloroformate
UN 1723	102	Allyl iodide
UN 1724	101	Allyl trichlorosilane
UN 1725	102	Aluminum bromide
UN 1725	101	Aluminum bromide, anhydrous
UN 1726	102	Aluminium chloride
UN 1727	102	Ammonium hydrogen fluoride
UN 1727	101	Ammonium hydrogen fluoride, solid
UN 1728	102	Amyl trichlorosilane
UN 1728	101	Amyl trichorosilane
UN 1729	101	Anisoyl chloride
UN 1730	101	Antimony pentachloride
UN 1731	102	Antimony pentachloride
UN 1731	101	Antimony pentachloride solution
UN 1732	101	Antimony pentafluoride
UN 1733	102	Antimony trichloride
UN 1733	101	Antimony trichloride, solid
UN 1733	101	Antimony trichloride solution
UN 1734	102	Batteries
UN 1735	102	Battery fluid
UN 1736	101	Benzoyl chloride
UN 1737	101	Benzyl bromide
UN 1738	101	Benzyl chloride
UN 1739	101	Benzyl chloroformate
UN 1740	102	Bifluorides, n.o.s.
UN 1741	101	Boron trichloride
UN 1742	102	Boron trifluoride acetic acid complex
UN 1742	101	Boron trifluoride-acetic acid complex
UN 1743	102	Boron trifluoride propionic acid complex
UN 1744	101	Bromine
UN 1745	101	Bromine pentafluoride
UN 1746	101	Bromine trifluoride
UN 1747	101	Butyl trichlorosilane
UN 1748	102	Calcium hypochlorite
UN 1748	101	Calcium hypochlorite mixture
UN 1749	101	Chlorine trifluoride
UN 1750	102	Chloroacetic acid
UN 1750	101	Chloroacetic acid, liquid *or* solution
UN 1751	102	Chloroacetic acid
UN 1751	101	Chloroacetic acid, solid
UN 1752	101	Chloroacetyl chloride
UN 1753	102	Chlorophenyl trichlorosilane
UN 1753	101	Chlorophenyltrichlorosilane
UN 1754	101	Chlorosulfonic acid
UN 1754	101	Chlorosulfonic acid-sulfur trioxide mixture
UN 1754	102	Chlorosulphonic acid
UN 1754	102	Dichloroacetyl chloride
UN 1755	102	Chromic acid
UN 1755	101	Chromic acid solution
UN 1756	102	Chromic fluoride
UN 1756	101	Chromic fluoride, solid
UN 1757	102	Chromic fluoride
UN 1757	101	Chromic fluoride solution
UN 1758	102	Chromium oxychloride
UN 1758	101	Chromium oxychloride *or* Chromyl chloride
UN 1759	102	Cleaning compounds
UN 1759	101	Corrosive solid, n.o.s.
(UN 1759)	102	Corrosive solids, n.o.s.
NA 1759	101	Cosmetics, solid, n.o.s.
NA 1759	101	Drugs, n.o.s. solid
NA 1759	101	Ferrous chloride, solid
NA 1759	101	Stannous chloride, solid
NA 1760	101	Acid, liquid, n.o.s.
UN 1760	102	Alkaline corrosive liquids, n.o.s.
NA 1760	101	Aluminum phosphate solution
NA 1760	101	Aluminum sulfate solution
NA 1760	101	2-(2-Aminoethoxy) ethanol
NA 1760	101	Aminopropyldiethanolamine
NA 1760	101	N-Aminopropylmorpholine
NA 1760	101	bis (Aminopropyl) piperazine
NA 1760	101	Boiler compound, liquid
NA 1760	101	Chemical kit
NA 1760	101	Compound, cleaning, liquid
NA 1760	101	Compound, lacquer, paint, *or* varnish removing, liquid
NA 1760	101	Compound, rust preventing *or* Compound, rust removing
NA 1760	101	Compound, tree *or* weed killing, liquid
NA 1760	101	Compound, vulcanizing, liquid
UN 1760	101	Corrosive liquid, n.o.s.
UN 1760	102	Corrosive liquids, n.o.s.
NA 1760	101	Cosmetics, liquid, n.o.s.
NA 1760	101	2,2-Dichloropropionic acid
NA 1760	101	Drugs, n.o.s. liquid
NA 1760	101	Ethyl phosphonothioic dichloride, anhydrous
NA 1760	101	Ethyl phosphorodichloridate
NA 1760	101	Ferrous chloride, solution
NA 1760	101	Flame retardant compound liquid
NA 1760	101	Hexanoic acid
NA 1760	101	Isopentanoic acid
NA 1760	101	Memtetrahydro phthalic anhydride
NA 1760	101	Methyl phosphonothioic dichfonde, anhydrous
NA 1760	101	Morpholine, aqueous, mixture
NA 1760	101	Nitric acid, 40% or less
NA 1760	101	ORM-B, n.o.s.
NA 1760	101	Textile treating compound *or* mixture, liquid
NA 1760	101	Titanium sulfate solution
NA 1760	101	Valeric acid
NA 1760	101	Water treatment compounds, liquid
NA 1760	101	White acid
UN 1761	102	Cupriethylenediamine
UN 1761	101	Cuprnethylene-diamine solution
UN 1762	101	Cyclohexenyl trichlorosilane
UN 1763	101	Cyclohexyl trichlorosilane
UN 1764	101	Dichloroacetic acid
UN 1765	101	Dichloroacetyl chloride
UN 1766	102	Dichlorophenyl trichlorosilane
UN 1766	101	Dichlorophenyltrichlorosilane
UN 1767	101	Diethyl dichlorosilane
UN 1768	102	Difluorophosphonic acid
UN 1768	101	Difluorophosphonic acid, anhydrous
UN 1769	101	Diphenyl dichlorosilane
UN 1770	102	Diphenylmethyl bromide
UN 1770	101	Diphenyl methyl bromide, solid
UN 1770	101	Diphenyl methyl bromide solution
UN 1771	101	Dodecyl trichlorosilane
UN 1773	102	Ferric chloride
UN 1773	101	Ferric chloride, solid
UN 1774	101	Fire extinguisher charge containing sulfuric acid
UN 1774	102	Fire extinguisher charges
UN 1775	101	Fluoboric acid
UN 1776	102	Fluorophosphoric acid
UN 1776	101	Monofluorophosphoric acid, anhydrous
UN 1777	101	Fluorosulfonic acid *or* Fluosulfonic acid
UN 1777	102	Fluorosulphonic acid
UN 1778	102	Fluosilicic acid
NA 1778	101	Hydrofluorosilicic acid
UN 1779	101	Formic acid
UN 1779	101	Formic acid solution
UN 1780	101	Fumaryl chloride
UN 1781	102	Hexadecyl trichlorosilane
UN 1781	101	Hexadecyltrichlorosilane
UN 1782	101	Hexafluorophosphoric acid
UN 1783	102	Hexamethylenediamine
UN 1783	101	Hexamethylenediamine, solution
UN 1784	102	Hexyl trichlorosilane
UN 1784	101	Hexyltrichlorosilane
UN 1786	102	Acid mixtures
UN 1786	101	Hydrofluoric and sulfuric acid mixture
UN 1787	101	Hydriodic acid
UN 1788	101	Hydrobromic acid
UN 1788	101	Hydrobromic acid not more than 49% strength
NA 1789	101	Compound, cleaning, liquid (containing hydrochloric (muriatic) acid)
UN 1789	101	Hydrochloric acid
NA 1789	101	Hydrochloric acid mixture
UN 1789	101	Hydrochloric acid solution, inhibited
NA 1790	101	Compound, cleaning, liquid (containing hydrofluoric acid)
NA 1790	101	Etching acid, liquid, n.o.s.
UN 1790	102	Hydrofluoric acid
UN 1790	101	Hydrofluoric acid solution
UN 1791	102	Hypochlorite
UN 1791	101	Hypochlorite solution
NA 1791	101	Hypochlorite solution containing not more than 7% available chlorine
UN 1792	101	Iodine monochloride
UN 1793	102	Isopropyl acid phosphate
UN 1793	101	Isopropyl acid phosphate, solid
NA 1794	101	Lead dross
UN 1794	101	Lead sulfate, solid
UN 1794	102	Lead sulphate
UN 1796	102	Acid mixtures
NA 1796	101	Nitrating acid
UN 1798	101	Nitrohydrochloric acid
UN 1798	101	Nitrohydrochloric acid, diluted
UN 1799	102	Nonyl trichlorosilane
UN 1799	101	Nonyltrichlorosilane
UN 1800	102	Octadecyl trichlorosilane
UN 1800	101	Octadecyltrichlorosilane
UN 1801	102	Octyl trichlorosilane
UN 1801	101	Octyltrichlorosilane
UN 1802	102	Perchloric acid
UN 1802	101	Perchloric acid, not over 50% acid
UN 1803	102	Phenolsulphonic acid
UN 1804	102	Phenyl trichlorosilane
UN 1804	101	Phenyltrichlorosilane
UN 1805	102	o-Phosphoric acid
UN 1805	101	Phosphoric acid
UN 1806	102	Phosphorus pentachloride
UN 1806	101	Phosphorus pentachloride, solid
NA 1807	101	Phosphoric anhydride
UN 1807	102	Phosphorus pentoxide
UN 1808	101	Phosphorus tribromide
UN 1809	101	Phosphorus trichloride
UN 1810	101	Phosphorus oxychloride
UN 1810	102	Phosphoryl chloride
UN 1811	102	Potassium bifluoride
NA 1811	101	Potassium hydrogen fluoride solution
UN 1812	101	Potassium fluoride
UN 1812	101	Potassium fluoride solution
UN 1813	102	Potassium hydroxide
UN 1813	101	Potassium hydroxide, dry solid, flake, bead, *or* granular
UN 1814	102	Potassium hydroxide
UN 1814	101	Potassium hydroxide, liquid *or* solution

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1815	102	Propionyl chloride
UN 1816	101	Propyl trichlorosilane
UN 1817	101	Pyrosulfuryl chloride
UN 1817	102	Pyrosulphuryl chloride
UN 1818	101	Silicon chloride *or* Silicon tetrachloride
UN 1818	102	Silicon tetrachloride
UN 1819	102	Sodium aluminate
UN 1819	101	Sodium aluminate solution
UN 1821	101	Sodium hydrogen sulfate, solid
UN 1821	102	Sodium hydrogen sulphate
UN 1823	102	Sodium hydroxide
UN 1823	101	Sodium hydroxide, dry solid, flake, bead, *or* granular
UN 1824	102	Sodium hydroxide
UN 1824	101	Sodium hydroxide, liquid *or* solution
UN 1825	102	Sodium monoxide
UN 1825	101	Sodium monoxide, solid
UN 1826	102	Acid mixtures
NA 1826	101	Nitrating acid, spent
UN 1827	102	Stannic chloride
UN 1827	101	Tin tetrachloride, anhydrous
UN 1828	101	Sulfur chloride
UN 1828	102	Sulphur chlorides
UN 1829	101	Sulfur trioxide
UN 1829	102	Sulphur trioxide
UN 1830	101	Sulfuric acid
UN 1830	102	Sulphuric acid
NA 1831	101	Oleum
UN 1831	102	Sulphuric acid
UN 1832	101	Sulfuric acid, spent
UN 1832	102	Sulphuric acid
UN 1833	101	Sulfurous acid
UN 1833	102	Sulphurous acid
UN 1834	101	Sulfuryl chloride
UN 1834	102	Sulphuryl chloride
UN 1835	102	Tetramethylammonium hydroxide
UN 1835	101	Tetramethylammonium hydroxide, liquid
UN 1836	101	Thionyl chloride
UN 1837	101	Thiophosphoryl chloride
UN 1838	101	Titanium tetrachloride
UN 1839	102	Trichloroacetic acid
UN 1839	101	Trichloroacetic acid, solid
UN 1840	102	Zinc chloride
UN 1840	101	Zinc chloride solution
UN 1841	101	Acetaldehyde ammonia
UN 1842	102	Acetic acid
UN 1843	102	Ammonium dinitro-o-cresolate
UN 1845	101	Carbon dioxide, solid, *or* Dry ice, *or* Carbonice
UN 1846	101	Carbon tetrachloride
UN 1847	102	Potassium sulphide
UN 1848	101	Propionic acid
UN 1848	101	Propionic acid, solution
UN 1849	102	Sodium sulphide
UN 1850	101	Eradicator, paint *or* grease, liquid
UN 1850	102	Eradicators
UN 1851	101	Medicines, n.o.s.
UN 1851	101	Medicines, n.o.s., liquid
UN 1851	101	Medicines, n.o.s., solid
UN 1854	102	Barium alloys
UN 1855	102	Calcium
UN 1856	102	Rags
UN 1856	101	Rags, oily
UN 1857	102	Textile waste
UN 1857	101	Textile waste, wet
UN 1857	101	Waste textile, wet
UN 1858	101	Hexafluoropropylene
UN 1859	101	Silicon tetrafluoride
UN 1860	102	Vinyl fluoride
UN 1860	101	Vinyl fluoride, inhibited
UN 1862	101	Ethyl crotonate
UN 1863	102	Fuel, aviation
UN 1863	101	Fuel, aviation, turbine engine
UN 1864	102	Gas drips
UN 1864	101	Gas drips, hydrocarbon
UN 1865	102	n-Propyl nitrate
UN 1866	102	Resin
UN 1866	101	Resin solution
UN 1867	102	Cigarettes
UN 1867	101	Self-lighting cigarette
UN 1868	101	Decaborane
UN 1869	102	Magnesium
UN 1869	102	Magnesium alloys
UN 1869	101	Magnesium, metal
NA 1869	101	Magnesium scrap
UN 1870	102	Potassium borohydride
UN 1871	102	Titanium hydride
UN 1872	102	Lead dioxide
UN 1872	101	Lead peroxide
UN 1873	101	Perchloric acid
UN 1884	101	Barium oxide
UN 1885	101	Benzidine
UN 1886	102	Benzylidene chloride
UN 1887	101	Bromochloromethane
UN 1888	101	Chloroform
UN 1889	101	Cyanogen bromide
UN 1891	102	Ethyl bromide
UN 1892	102	Ethyl dichloroarsine
UN 1893	102	Organophosphates
UN 1894	102	Phenylmercuric hydroxide
UN 1895	102	Phenylmercuric nitrate
UN 1897	102	Tetrachloroethylene
UN 1897	101	Tetrachloroethylene *or* Perchloroethylene
UN 1898	101	Acetyl iodide
UN 1899	102	Alkanesulphonic acids
UN 1901	102	Calcium hydrogen sulphite
NA 1902	101	Di-(2-ethylhexyl) phosphoric acid
UN 1902	101	Diisooctyl acid phosphate
UN 1903	101	Disinfectant, liquid
UN 1903	102	Disinfectants
UN 1905	102	Selenic acid
UN 1905	101	Selenic acid, liquid
UN 1906	101	Acid, sludge
UN 1906	102	Sludge acid
UN 1907	102	Soda lime
UN 1907	101	Soda lime, solid
UN 1908	102	Sodium chlorite
UN 1908	101	Sodium chlorite solution
UN 1909	102	Sodium hydrogen sulphite
UN 1910	101	Calcium oxide
UN 1911	102	Diborane
UN 1911	101	Diborane *or* diborane mixtures
UN 1912	102	Methyl chloride and methylene chloride
UN 1912	101	Methyl chloride-methylene chloride mixture
UN 1913	102	Neon
UN 1914	102	Butyl propionate
UN 1915	102	Cyclohexanone
UN 1916	102	Dichloroethyl ether
UN 1917	102	Ethyl acrylate
UN 1917	101	Ethyl acrylate, inhibited
UN 1918	102	Isopropylbenzene
UN 1919	102	Methyl acrylate
UN 1919	101	Methyl acrylate, inhibited
UN 1920	102	Nonane
UN 1921	102	Propyleneimine
UN 1921	101	Propyleneimine, inhibited
UN 1922	101	Pyrrolidine
UN 1923	102	Calcium dithionite
UN 1924	102	Ethyl aluminium dichloride
UN 1925	102	Ethyl aluminium sesquichloride
UN 1926	102	Methyl aluminium sesquibromide
UN 1927	102	Methyl aluminium sesquichloride
UN 1928	102	Methyl magnesium bromide
UN 1928	101	Methyl magnesium bromide in ethyl ether
UN 1929	102	Potassium dithionite
UN 1930	102	Trisobutyl aluminium
UN 1931	102	Zinc dithionite
UN 1931	101	Zinc hydrosulfite
UN 1932	102	Zirconium
UN 1932	101	Zirconium scrap
UN 1935	102	Cyanides
UN 1935	101	Cyanide solution, n.o.s.
UN 1938	102	Bromoacetic acid
UN 1938	101	Bromoacetic acid, solid
UN 1938	101	Bromoacetic acid solution
UN 1939	101	Phosphorus oxybromide
UN 1940	101	Thioglycolic acid
UN 1941	101	Dibromodifluoromethane
UN 1942	102	Ammonium nitrate
UN 1942	101	Ammonium nitrate (no organic coating)
NA 1942	101	Ammonium nitrate (organic coating)
UN 1944	102	Matches
UN 1944	101	Matches, safety
UN 1945	102	Matches
UN 1950	102	Aerosol dispensers
UN 1951	102	Argon
UN 1951	101	Argon, liquid pressurized
UN 1952	102	Ethylene oxide and carbon dioxide
UN 1953	102	Compressed *or* liquefied gases
(UN 1953)	102	Stibine
(UN 1953)	102	Water-gas
UN 1954	101	Compressed gas, n.o.s.
UN 1954	102	Compressed *or* liquefied gases
NA 1954	101	Refrigerating machine
NA 1955	101	Chloropicrin and nonflammable, nonliquefied compressed gas mixture
UN 1955	102	Compressed *or* liquefied gases
NA 1955	101	Methyl bromide and nonflammable, nonliquefied compressed gas mixture, liquid
NA 1955	101	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; mixed with compressed gas
(UN 1955)	102	Perchloryl fluoride
(UN 1955)	102	Phosphorus trifluoride
NA 1955	101	Poisonous liquid *or* gas, n.o.s.
(UN 1955)	102	Tetrafluorohydrazine
NA 1956	101	Accumulator, pressurized
UN 1956	101	Compressed gas, n.o.s.
UN 1956	102	Compressed *or* liquefied gases
NA 1956	101	Dichlorodifluoromethane-dichlorotetrafluoroethane mixture
NA 1956	101	Dichlorodifluoromethane-monochlorodifluoromethane mixture
NA 1956	101	Dichlorodifluoromethane-trichloromonofluoromethane mixture
NA 1856	101	Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture
NA 1956	101	Dichlorodifluoromethane-trichlorotrifluoroethane mixture
NA 1956	101	Hexafluoropropylene oxide
NA 1956	101	Mine rescue equipment containing carbon dioxide
NA 1956	101	Water pump system
UN 1957	102	Deuterium
UN 1958	102	Dichlorotetrafluoroethane
UN 1959	102	1,1-Difluoroethylene
UN 1960	101	Engine starting fluid
UN 1961	102	Ethane
UN 1962	101	Ethylene
UN 1963	102	Helium
UN 1964	102	Hydrocarbon gases
UN 1964	101	Hydrocarbon gas, nonliquefied
UN 1965	102	Hydrocarbon gases
UN 1965	101	Hydrocarbon gas, liquefied
UN 1966	102	Hydrogen
UN 1966	101	Hydrogen, liquefied
UN 1967	102	Insecticide gases
NA 1967	101	Insecticide, liquefied gas, containing Poison A material *or* Poison B material
NA 1967	101	Parathion and compressed gas mixture
UN 1968	102	Insecticide gases
NA 1968	101	Insecticide, liquefied gas
UN 1969	102	Isobutane
UN 1970	102	Krypton
UN 1971	101	Methane
UN 1971	102	Methane *or* natural gases
UN 1972	102	Methane *or* natural gases
UN 1973	102	Chlorodifluoromethane and chloropentafluoroethane
UN 1974	102	Chlorodifluorobromomethane
UN 1975	102	Nitric oxide and nitrogen tetroxide
UN 1976	102	Octafluorocyclobutane
UN 1977	102	Nitrogen
UN 1977	101	Nitrogen, pressurized liquid
UN 1978	102	Propane
UN 1979	102	Rare gases
NA 1980	101	Helium-oxygen mixture
UN 1980	102	Rare gases
UN 1981	102	Rare gases
UN 1982	102	Tetrafluoromethane
UN 1983	102	Trifluorochloroethane
UN 1984	102	Trifluoromethane
UN 1986	102	Alcohols
NA 1986	101	Denatured alcohol
NA 1986	101	Propargyl alcohol
NA 1986	101	Rum, denatured
UN 1987	101	Alcohol, n.o.s.
UN 1987	102	Alcohols
UN 1988	102	Aldehydes
UN 1989	102	Aldehydes
NA 1989	101	Benzaldehyde
UN 1990	102	Benzaldehyde
UN 1991	102	Chloroprene
UN 1991	101	Chloroprene, inhibited

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 1992 ...	101	Flammable liquid, poisonous, n.o.s.
UN 1992 ...	102	Flammable liquids
NA 1993 ...	101	Combustible liquid, n.o.s.
NA 1993 ...	101	Compound, cleaning, liquid
NA 1993 ...	101	Compound, tree *or* weed killing, liquid
NA 1993 ...	101	Cosmetics, n.o.s.
NA 1993 ...	101	Creosote, coal tar
NA 1993 ...	101	Disinfectant, liquid, n.o.s.
NA 1993 ...	101	Drugs, n.o.s.
NA 1993 ...	101	Drugs, n.o.s,
NA 1993 ...	101	Ethyl nitrate
UN 1993 ...	101	Flammable liquid, n.o.s.
UN 1993 ...	102	Flammable liquids
NA 1993 ...	101	Fuel oil
NA 1993 ...	101	Fuel oil, No. 1, 2, 4, 5 *or* 6
NA 1993 ...	101	Heater for refrigerator car, liquid fuel type
NA 1993 ...	101	Insecticide, liquid, n.o.s.
NA 1993 ...	101	Organic peroxide, liquid *or* solution, n.o.s.
NA 1993 ...	101	Plastic solvent, n.o.s.
NA 1993 ...	101	Refrigerating machine
NA 1993 ...	101	Solvent, n.o.s.
NA 1993 ...	101	Wax, liquid
UN 1994 ...	102	Iron carbonyl
UN 1995 ...	102	Pesticides
UN 1996 ...	102	Pesticides
UN 1997 ...	102	Solvents
UN 1998 ...	102	Solvents
NA 1999 ...	101	Asphalt
NA 1999 ...	101	Asphalt, cut back
UN 1999 ...	102	Cut-backs
UN 1999 ...	101	Tar, liquid
UN 2000 ...	102	Celluloid
UN 2001 ...	102	Cobalt naphthenates
UN 2002 ...	102	Celluloid
UN 2003 ...	102	Aluminum alkylchlorides
UN 2003 ...	102	Aluminium alkyls
UN 2003 ...	102	Aluminium tributyl
UN 2003 ...	102	Metal alkyls, n.o.s.
UN 2004 ...	102	Magnesium diamide
UN 2005 ...	102	Magnesium diphenyl
UN 2006 ...	102	Plastics
NA 2008 ...	101	Pyroxylin plastic scrap
NA 2008 ...	101	Pyroxylin plastics, rods, sheets, rolls, *or* tubes
UN 2008 ...	102	Zirconium
UN 2008 ...	101	Zirconium metal, dry
UN 2008 ...	102	Zirconium metal powder, dry
UN 2009 ...	102	Zirconium
UN 2010 ...	102	Magnesium hydride
UN 2011 ...	102	Magnesium phosphide
UN 2012 ...	102	Potassium phosphide
UN 2013 ...	102	Strontium phosphide
UN 2014 ...	102	Hydrogen peroxide
UN 2014 ...	101	Hydrogen peroxide solution
UN 2015 ...	102	Hydrogen peroxide
UN 2015 ...	101	Hydrogen peroxide solution
UN 2016 ...	102	Ammunition
UN 2016 ...	101	Chemical ammunition, nonexplosive
NA 2016 ...	101	Grenade
UN 2017 ...	102	Ammunition
UN 2017 ...	101	Chemical ammunition, nonexplosive
NA 2017 ...	101	Grenade, tear gas
UN 2018 ...	102	Chloroanilines
UN 2019 ...	102	Chloroanilines
UN 2020 ...	102	Chlorophenates
UN 2020 ...	102	Chlorophenols
NA 2020 ...	101	Pentachlorophenol
NA 2020 ...	101	Trichlorophenol
UN 2021 ...	102	Chlorophenates
UN 2021 ...	102	Chlorophenols
UN 2022 ...	102	Cresylic acid
NA 2022 ...	101	Mining reagent, liquid
UN 2023 ...	101	Epichlorohydrin
UN 2024 ...	102	Mercury compounds
NA 2025 ...	101	Mercuric subsulfate, solid
UN 2025 ...	102	Mercury compounds
UN 2025 ...	101	Mercury compound, solid, n.o.s.
UN 2026 ...	102	Phenylmercuric compounds, n.o.s.
UN 2027 ...	102	Sodium arsenite
UN 2028 ...	102	Bombs, smoke
UN 2029 ...	102	Hydrazine
UN 2029 ...	101	Hydrazine, anhydrous
UN 2030 ...	102	Hydrazine
UN 2030 ...	101	Hydrazine, aqueous solution
UN 2031 ...	101	Nitric acid
UN 2032 ...	102	Nitric acid
UN 2032 ...	101	Nitric acid, fuming
UN 2033 ...	102	Potassium oxide
UN 2034 ...	102	Hydrogen and methane
UN 2035 ...	102	Trifluoroethane
UN 2036 ...	101	Xenon
UN 2037 ...	102	Carbouche
UN 2037 ...	102	Gas cartridges
UN 2037 ...	102	Receptacles
UN 2038 ...	102	Dinitrotoluenes
UN 2038 ...	101	Dinitrotoluenes, solid
UN 2044 ...	102	2,2-Dimethylpropane
UN 2045 ...	102	Isobutyraldehyde
UN 2046 ...	102	p-Cymene
UN 2047 ...	101	Dichloropropene
NA 2047 ...	101	Dichloropropene and propylene dichloride mixture
UN 2048 ...	102	Dicyclopentadiene
UN 2049 ...	102	Diethylbenzene
UN 2050 ...	102	Diisobutylene
UN 2051 ...	102	Dimethylethanolamine
UN 2052 ...	102	Dipentene
UN 2053 ...	102	Methyl isobutyl carbinol
UN 2054 ...	101	Morpholine
NA 2054 ...	101	Morpholine, aqueous, mixture
UN 2055 ...	102	Styrene monomer
UN 2055 ...	101	Styrene monomer, inhibited
UN 2056 ...	101	Tetrahydrofuran
UN 2057 ...	102	Tripropylene
UN 2058 ...	102	Valeraldehyde
UN 2059 ...	101	Box toe gum
NA 2059 ...	101	Collodion
UN 2059 ...	102	Nitrocellulose
NA 2059 ...	101	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% alcohol *or* solvent, *or* block, wet with not less than 25% alcohol
NA 2059 ...	101	Pyroxylin solution
NA 2059 ...	101	Pyroxylin solvent, n.o.s.
UN 2060 ...	101	Box toe gum
UN 2065 ...	102	Endrin
UN 2067 ...	101	Ammonium nitrate fertilizer
UN 2067 ...	102	Ammonium nitrate fertilizers
UN 2068 ...	101	Ammonium nitrate-carbonate mixture
UN 2069 ...	101	Ammonium nitrate mixed fertilizer
UN 2070 ...	101	Ammonium nitrate-phosphate
UN 2071 ...	102	Ammonium nitrate fertilizers
UN 2072 ...	102	Ammonium nitrate fertilizer
UN 2073 ...	102	Ammonia
UN 2073 ...	101	Ammonia solution
UN 2074 ...	102	Acrylamide
UN 2075 ...	102	Chloral
UN 2076 ...	101	Cresol
UN 2076 ...	102	Cresols
UN 2077 ...	102	Naphthylamine
UN 2078 ...	101	Toluene diisocyanate
UN 2079 ...	102	Diethylenetriamine
UN 2080 ...	101	Acetyl acetone peroxide
UN 2081 ...	101	Acetyl benzoyl peroxide
UN 2081 ...	101	Acetyl benzoyl peroxide solution
UN 2082 ...	101	Acetyl cyclohexanesulphonyl peroxide
UN 2082 ...	102	Acetyl cyclohexane sulphonyl peroxide
UN 2083 ...	101	Acetyl cyclohexanesulphonyl peroxide
UN 2083 ...	102	Acetyl cyclohexane sulphonyl peroxide
UN 2084 ...	101	Acetyl peroxide
UN 2084 ...	101	Acetyl peroxide solution
NA 2085 ...	101	Benzoyl peroxide
UN 2086 ...	102	Benzoyl peroxide
UN 2087 ...	101	Benzoyl peroxide
UN 2088 ...	101	Benzoyl peroxide
UN 2089 ...	101	Benzoyl peroxide
UN 2090 ...	101	Benzoyl peroxide
UN 2091 ...	101	tert-Butyl cumyl peroxide
NA 2091 ...	101	tert-Butyl isopropyl benzene hydroperoxide
UN 2091 ...	102	tert-Butyl cumyl peroxide
UN 2092 ...	101	tert-Butyl hydroperoxide
UN 2092 ...	102	tert-Butyl hydroperoxide
UN 2093 ...	101	tert-Butyl hydroperoxide
UN 2093 ...	102	tert-Butyl hydroperoxide
UN 2094 ...	101	tert-Butyl hydroperoxide
UN 2094 ...	102	tert-Butyl hydroperoxide
UN 2095 ...	101	tert-Butyl peroxyacetate
UN 2095 ...	102	tert-Butyl peracetate
UN 2096 ...	101	tert-Butyl peroxyacetate
UN 2096 ...	102	tert-Butyl peracetate
UN 2097 ...	101	tert-Butyl peroxybenzoate
UN 2097 ...	102	tert-Butyl perbenzoate
UN 2098 ...	101	tert-Butyl peroxyberzoate
UN 2098 ...	102	tert-Butyl perbenzoate
UN 2099 ...	101	tert-Butyl peroxymaleate
UN 2099 ...	102	tert-Butyl permaleate
UN 2100 ...	101	tert-Butyl peroxymaleate
UN 2100 ...	102	tert-Butyl permaleate
UN 2101 ...	101	tert-Butyl peroxymaleate
UN 2101 ...	102	tert-Butyl permaleate
UN 2102 ...	101	Di-tert-butyl peroxide
UN 2102 ...	102	tert-Butyl peroxide
UN 2103 ...	101	tert-Butyl peroxyisopropyl carbonate
UN 2103 ...	102	tert-Butyl peroxy isopropyl carbonate
UN 2104 ...	101	tert-Butyl peroxy-3,5,5-trimethylhexanoate *or* tert-Butyl peroxyisononanoate
UN 2104 ...	102	tert-Butyl peroxy-3,5,5-trimethyl hexanoate
UN 2105 ...	101	tert-Butyl peroxyphthalate
UN 2105 ...	102	tert-Butyl monoperphthalate
UN 2106 ...	101	Di-(tert-butylperoxy)phthalate
UN 2106 ...	102	tert-Butyl diperphthalate
UN 2107 ...	101	Di-(tert-butylperoxy)phthalate
UN 2107 ...	102	tert-Butyl diperphthalate
UN 2108 ...	101	Di-(tert-butylperoxy)phthalate
UN 2108 ...	102	tert-Butyl diperphthalate
UN 2110 ...	101	tert-Butyl peroxypivalate
UN 2110 ...	102	tert-Butyl perpivalate
UN 2111 ...	101	2,2-Bis-(tert-butylperoxy) butane
UN 2111 ...	102	2,2-Di-(tert-butylperoxy)butane
UN 2112 ...	102	1,4-Bis-(2-tert-butylperoxy isopropyl) benzene, *or* 1,3-bis-(2-tert-butylperoxy isopropyl) benzene
UN 2112 ...	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene
UN 2112 ...	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene and 1,4-Di-(2-tert-butylperoxyisopropyl) benzene mixture
UN 2113 ...	101	p-Chlorobenzoyl peroxide
UN 2113 ...	102	p-Chlorobenzoyl peroxide
UN 2114 ...	101	p-Chlorobenzoyl peroxide
UN 2114 ...	102	p-Chlorobenzoyl peroxide
UN 2115 ...	101	p-Chlorobenzoyl peroxide
UN 2115 ...	102	p-Chlorobenzoyl peroxide
UN 2116 ...	101	Cumene hydroperoxide
UN 2117 ...	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2118 ...	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2118 ...	101	Cyclohexanone peroxide
UN 2119 ...	102	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide
UN 2119 ...	101	Cyclohexanone peroxide
UN 2120 ...	101	Decanoyl peroxide
NA 2121 ...	101	Dicumyl peroxide
UN 2121 ...	101	Dicumyl peroxide, dry
UN 2122 ...	102	Di-(2-ethylhexyl) perdicarbonate
UN 2122 ...	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2123 ...	102	Di-(2-ethylhexyl) perdicarbonate
UN 2123 ...	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2124 ...	101	Lauroyl peroxide
UN 2125 ...	101	p-Menthane hydroperoxide
UN 2125 ...	101	Paramenthane hydroperoxide
UN 2125 ...	102	p-Menthane hydroperoxide
UN 2126 ...	102	Isobutyl methyl ketone peroxide
UN 2126 ...	101	Methyl isobutyl ketone peroxide
UN 2127 ...	102	Ethyl methyl ketone peroxide(s)
UN 2128 ...	102	Isononanoyl peroxide
UN 2128 ...	101	Isononanyl peroxide
NA 2129 ...	101	Caprylyl peroxide solution
UN 2129 ...	102	n-Octanoyl peroxide
UN 2129 ...	101	n-Octanoyl peroxide
UN 2130 ...	102	n-Nonanoyl peroxide
UN 2130 ...	101	Pelargonyl peroxide
UN 2131 ...	102	Peracetic acid
NA 2131 ...	101	Peracetic acid solution
UN 2131 ...	101	Peroxyacetic acid
UN 2132 ...	101	Propionyl peroxide
UN 2133 ...	102	Diisopropyl perdicarbonate
NA 2133 ...	101	Isopropyl percarbonate, unstabilized
UN 2133 ...	101	Isopropyl peroxydicarbonate
UN 2134 ...	102	Diisopropyl perdicarbonate
NA 2134 ...	101	Isopropyl percarbonate, stabilized
UN 2134 ...	101	Isopropyl peroxydicarbonate
UN 2135 ...	101	Succinic acid peroxide
UN 2136 ...	101	Tetralin hydroperoxide
UN 2137 ...	102	2,4-Dichlorobenzoyl peroxide
UN 2137 ...	101	2,4-Dichlorobenzoyl peroxide
UN 2138 ...	102	2,4-Dichlorobenzoyl peroxide
UN 2138 ...	101	2,4-Dichlorobenzoyl peroxide

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2139 ...	102	2,4-Dichlorobenzoyl peroxide
UN 2139 ...	101	2,4-Dichlorobenzoyl peroxide
UN 2140 ...	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2140 ...	102	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate
UN 2141 ...	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2141 ...	102	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate
UN 2142 ...	101	tert-Butyl peroxyisobutyrate
UN 2142 ...	102	tert-Butyl perisobutyrate
UN 2143 ...	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2143 ...	102	tert-Butyl per-(2-ethyl) hexanoate
UN 2144 ...	101	tert-Butyl peroxydiethylacetate
UN 2144 ...	102	tert-Butyl perdiethylacetate
UN 2145 ...	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2145 ...	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2146 ...	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2146 ...	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2147 ...	102	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2147 ...	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2148 ...	102	Bis-(1-hydroxy cyclohexyl) peroxide
UN 2148 ...	101	Di-(1-hydroxycyclohexyl) peroxide
UN 2149 ...	102	Dibenzyl perdicarbonate
UN 2149 ...	101	Dibenzyl peroxydicarbonate
UN 2150 ...	102	Di-sec-butyl perdicarbonate
UN 2150 ...	101	Di-sec-butyl peroxydicarbonate
UN 2151 ...	102	Di-sec-butyl perdicarbonate
UN 2151 ...	101	Di-sec-butyl peroxydicarbonate
UN 2152 ...	102	Dicyclohexyl perdicarbonate
UN 2152 ...	101	Dicyclohexyl peroxydicarbonate
UN 2153 ...	102	Dicyclohexyl perdicarbonate
UN 2153 ...	101	Dicyclohexyl peroxydicarbonate
UN 2154 ...	102	Bis-(4-tert-butyl cyclohexyl) perdicarbonate
UN 2154 ...	101	Di-(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2155 ...	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane
UN 2155 ...	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2156 ...	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane
UN 2156 ...	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2157 ...	102	2,5-Dimethyl-2,5-bis-(2-ethylhexanoylperoxy) hexane
UN 2157 ...	101	2,5-Dimethyl-2,5-di-(2-ethylhexanoylperoxy)hexane
UN 2158 ...	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3
UN 2158 ...	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2159 ...	102	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3
UN 2159 ...	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2160 ...	102	1,1,3,3-Tetramethyl butyl hydroperoxide
UN 2160 ...	101	1,1,3,3-Tetramethylbutyl hydroperoxide
UN 2161 ...	102	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate
UN 2161 ...	101	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate
UN 2162 ...	101	Pinane hydroperoxide
UN 2162 ...	101	Pinane hydroperoxide solution
UN 2163 ...	101	Diacetone alcohol peroxide
UN 2163 ...	102	Diacetone alcohol peroxides
UN 2164 ...	102	Dicetyl perdicarbonate
UN 2164 ...	101	Dicetyl peroxydicarbonate
UN 2165 ...	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2165 ...	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2166 ...	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2166 ...	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2167 ...	102	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxonane
UN 2167 ...	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2168 ...	102	2,2-Bis-(4,4-di-tert-butylperoxy cyclohexyl) propane
UN 2168 ...	101	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl)propane
UN 2169 ...	101	n-Butyl peroxydicarbonate
UN 2169 ...	102	n-Butyl perdicarbonate
UN 2170 ...	101	n-Butyl peroxydicarbonate
UN 2170 ...	102	n-Butyl perdicarbonate
UN 2171 ...	101	Diisopropylbenzene hydroperoxide
UN 2171 ...	101	Diisopropylbenzene hydroperoxide solution
UN 2172 ...	102	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane
UN 2172 ...	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2173 ...	102	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane
UN 2173 ...	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2174 ...	102	2,5-Dimethyl-2,5-dihydroperoxy hexane
UN 2174 ...	101	2,5-Dimethyl-2,5-dihydroperoxy hexane
UN 2174 ...	101	Dimethylhexane dihydroperoxide, (with 18% or more water)
UN 2175 ...	102	Diethyl perdicarbonate
UN 2175 ...	101	Diethyl peroxydicarbonate
UN 2176 ...	101	Di-n-propyl peroxydicarbonate
UN 2177 ...	101	tert-Butyl peroxyneodecanoate
UN 2177 ...	102	tert-Butyl per-neodecanoate
UN 2178 ...	102	2,2-Dihydroperoxy propane
UN 2178 ...	101	2,2-Dihydroperoxy propane
UN 2179 ...	102	1,1-Bis-(tert-butylperoxy) cyclohexane
UN 2179 ...	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2180 ...	102	1,1-Bis-(tert-butylperoxy) cyclohexane
UN 2180 ...	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2181 ...	102	1,2-Bis-(tert-butylperoxy) cyclohexane
UN 2181 ...	101	1,2-Di-(tert-butylperoxy)cyclohexane
UN 2182 ...	101	Diisobutyryl peroxide
UN 2182 ...	102	Isobutyryl peroxide
UN 2183 ...	101	tert-Butyl peroxycrotonate
UN 2183 ...	102	tert-Butyl percrotonate
UN 2184 ...	102	Ethyl-3,3-bis-(tert-butylperoxy) butyrate
UN 2184 ...	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2185 ...	102	Ethyl-3,3-bis-(tert-butylperoxy) butyrate
UN 2185 ...	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2187 ...	101	Carbon dioxide, liquefied
UN 2188 ...	101	Arsine
UN 2189 ...	102	Dichlorosilane
UN 2190 ...	102	Oxygen difluoride
UN 2191 ...	101	Sulfuryl fluoride
UN 2191 ...	102	Sulphuryl fluoride
UN 2192 ...	101	Germane
UN 2194 ...	102	Selenium hexafluoride
UN 2195 ...	102	Tellurium hexafluoride
UN 2196 ...	101	Tungsten hexafluoride
UN 2197 ...	102	Hydrogen iodide
UN 2198 ...	102	Phosphorus pentafluoride
UN 2199 ...	101	Phosphine
UN 2202 ...	101	Hydrogen selenide
UN 2203 ...	102	Silane
UN 2204 ...	102	Carbonyl sulfide
UN 2205 ...	102	Adiponitrile
UN 2206 ...	102	Isocyanates
UN 2207 ...	102	Isocyanates
UN 2208 ...	101	Bleaching powder
UN 2208 ...	102	Calcium hypochlorite mixtures
UN 2209 ...	102	Formaldehyde
UN 2209 ...	101	Formaldehyde solution
UN 2210 ...	102	Maneb, *or* maneb preparation(s)
NA 2210 ...	101	Pesticide, water reactive
UN 2211 ...	102	Plastics moulding materials
UN 2212 ...	102	Asbestos, blue
UN 2213 ...	101	Paraformaldehyde
UN 2214 ...	102	Phthalic anhydride
NA 2215 ...	101	Maleic acid
UN 2215 ...	101	Maleic anhydride
UN 2216 ...	102	Fishmeal *or* fishscrap
NA 2216 ...	101	Fish meal *or* fish scrap containing 6% to 12% water
UN 2217 ...	102	Seed cake
UN 2218 ...	101	Acrylic acid
UN 2219 ...	102	Allyl glycidyl ether
UN 2220 ...	102	Aluminum alkyl halides, in solution
UN 2221 ...	102	Aluminum alkyl halides
UN 2222 ...	102	Anisole
UN 2224 ...	101	Benzonitrile
UN 2225 ...	102	Benzene sulphonyl chloride
UN 2226 ...	102	Benzotrichloride
UN 2227 ...	102	n-Butyl methacrylate
UN 2228 ...	102	Butylphenols
UN 2229 ...	102	Butylphenols
UN 2230 ...	102	Chlorinated anthracene oil
UN 2232 ...	102	Chloroacetaldehyde
UN 2233 ...	102	p-Chloro-o-anisidine
UN 2234 ...	102	Chlorobenzotrifluorides
UN 2235 ...	102	p-Chlorobenzyl chloride
UN 2236 ...	102	3-Chloro-4-methylphenyl isocyanate
UN 2237 ...	102	Chloronitroanilines
UN 2238 ...	102	Chlorotoluenes
UN 2239 ...	102	Chlorotoluidines
UN 2240 ...	102	Chromosulphuric acid
UN 2241 ...	102	Cycloheptane
UN 2242 ...	102	Cycloheptene
UN 2243 ...	102	Cyclohexyl acetate
UN 2244 ...	102	Cyclopentanol
UN 2245 ...	102	Cyclopentanone
UN 2246 ...	102	Cyclopentene
UN 2247 ...	102	n-Decane
UN 2248 ...	102	Di-(n-butyl)amine
UN 2249 ...	102	sym-Dichlorodimethyl ether
UN 2250 ...	102	Dichlorophenyl isocyanates
UN 2252 ...	102	1,2-Dimethoxyethane
UN 2253 ...	102	N,N-Dimethylaniline
UN 2254 ...	102	Matches
UN 2255 ...	101	Organic peroxide, sample, n.o.s.
UN 2255 ...	102	Organic peroxides, n.o.s.
UN 2256 ...	102	Cyclohexene
UN 2257 ...	102	Potassium metal
UN 2257 ...	101	Potassium, metal *or* metallic
UN 2258 ...	102	Propylene diamine
UN 2258 ...	101	Propylenediamine
UN 2259 ...	102	Triethylenetetramine
UN 2260 ...	102	Tripropylamine
UN 2261 ...	101	Xylenol
UN 2261 ...	102	Xylenols
UN 2263 ...	101	1,4-Dimethylcyclohexane
UN 2263 ...	102	Dimethylcyclohexanes
UN 2264 ...	102	N, N-Dimethylcyclohexylamine
UN 2265 ...	102	N,N-Dimethylformamide
UN 2266 ...	102	Dimethyl-N-propylamine
UN 2267 ...	102	Dimethyl thophosphoryl chloride
UN 2269 ...	102	Dipropylene triamine
UN 2269 ...	101	Iminobispropylamine
UN 2270 ...	102	Ethylamine solution
UN 2271 ...	102	Ethyl amyl ketone
UN 2272 ...	102	N-Ethylaniline
UN 2273 ...	102	2-Ethylaniline
UN 2274 ...	102	N-Ethyl-n-benzylaniline
UN 2275 ...	102	2-Ethylbutanol
UN 2276 ...	102	2-Ethylhexylamine
UN 2277 ...	102	Ethyl methacrylate
UN 2278 ...	102	n-Heptene
UN 2279 ...	102	Hexachlorobutadiene
UN 2280 ...	102	Hexamethylenediamine
UN 2280 ...	101	Hexamethylenediamine, solid
UN 2282 ...	102	Hexanols
UN 2283 ...	102	Isobutyl methacrylate
UN 2284 ...	102	Isobutyronitrile
UN 2286 ...	102	Isododecane
UN 2287 ...	102	Isoheptene
UN 2288 ...	102	Isohexene
UN 2289 ...	102	Isophoronediamine
UN 2290 ...	102	Isophorone diisocyanate
NA 2291 ...	101	Lead chloride
UN 2291 ...	102	Lead compounds
NA 2291 ...	101	Lead fluoborate
NA 2291 ...	101	Lead sulfate
NA 2291 ...	101	Lead sulfide
NA 2291 ...	101	Lead thiocyanate
UN 2293 ...	102	4-Methoxy-4-methylpentan-2-one
UN 2294 ...	102	N-Methylaniline
UN 2295 ...	102	Methyl chloroacetate
UN 2296 ...	102	Methyl cyclohexane
UN 2296 ...	101	Methylcyclohexane
UN 2297 ...	102	Methyl cyclohexanone
UN 2298 ...	101	Cyclopentane, methyl
UN 2298 ...	102	Methyl cyclopentane
UN 2298 ...	101	Methylcyclopentane
UN 2299 ...	101	Methyl dichloroacetate
UN 2300 ...	102	2-Methyl-5-ethylpyridine
UN 2300 ...	101	Methyl ethyl pyridine
UN 2301 ...	102	2-Methylfuran
UN 2301 ...	101	Methylfuran
UN 2302 ...	102	5-Methylhexan-2-one

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 2303 ...	102	Isopropenylbenzene
UN 2304 ...	102	Napthalene, molten
UN 2305 ...	102	Nitrobenzenesulphonic acid
UN 2306 ...	102	Nitrobenzotrifluoride
UN 2307 ...	102	3-Nitro-4-chlorobenzotrifluoride
UN 2308 ...	102	Nitroxylsulphuric acid
UN 2309 ...	102	Octadiene
UN 2310 ...	102	2,4-Pentanedione
UN 2311 ...	102	Phenetidines
UN 2313 ...	102	Picolines
UN 2315 ...	101	Polychlorinated biphenyls
UN 2316 ...	102	Sodium cuprocyanide
UN 2318 ...	101	Sodium hydrosulfide, solid
UN 2318 ...	102	Sodium hydrosulphide
UN 2319 ...	102	Terpene hydrocarbons n.o.s.
UN 2320 ...	102	Tetraethylenepentamine
UN 2321 ...	102	Trichlorobenzene
UN 2322 ...	102	Trichlorobutene
UN 2323 ...	102	Triethyl phosphite
UN 2324 ...	102	Trisobutylene
UN 2325 ...	102	1,3,5-Trimethylbenzene
UN 2326 ...	102	Trimethylcyclohexylamine
UN 2327 ...	102	3,3,5-Trimethylhexamethylene diamine
UN 2328 ...	102	Trimethylhexamethylene diisocyanate
UN 2329 ...	102	Trimethyl phosphite
UN 2330 ...	102	Undecane
UN 2331 ...	102	Zinc chloride
UN 2331 ...	101	Zinc chloride, solid
UN 2332 ...	102	Acetaldehyde oxime
UN 2333 ...	102	Allyl acetate
UN 2334 ...	102	Allylamine
UN 2335 ...	102	Allyl ethyl ether
UN 2336 ...	102	Allyl formate
UN 2337 ...	102	Phenyl mercaptan
UN 2338 ...	102	Benzotrifluoride
UN 2339 ...	102	2-Bromobutane
UN 2340 ...	102	2-Bromoethyl ethyl ether
UN 2341 ...	102	1-Bromo-3-methylbutane
UN 2342 ...	102	Bromomethylpropanes
UN 2343 ...	102	2-Bromopentane
UN 2344 ...	102	Bromopropanes
UN 2345 ...	102	3-Bromopropyne
UN 2346 ...	102	Butanedione
UN 2346 ...	101	Diacetyl
UN 2347 ...	102	Butane-1-thiol
UN 2347 ...	101	Butyl mercaptan
UN 2348 ...	102	Butylacrylate
UN 2350 ...	102	Butyl methyl ether
UN 2351 ...	102	Butyl nitrite
UN 2352 ...	102	Butyl vinyl ether
UN 2353 ...	102	Butyryl chloride
UN 2354 ...	102	Chloromethyl ethyl ether
UN 2356 ...	102	2-Chloropropane
UN 2357 ...	101	Cyclohexylamine
UN 2358 ...	102	Cyclooctatetraene
UN 2359 ...	102	Diallylamine
UN 2360 ...	102	Diallylether
UN 2361 ...	102	Diisobutylamine
UN 2362 ...	102	1,1-Dichloroethane
UN 2363 ...	101	Ethyl mercaptan
UN 2364 ...	102	Propyl benzene
UN 2366 ...	102	Diethyl carbonate
UN 2367 ...	102	alpha-Methyl valeraldehyde
UN 2368 ...	102	alpha-Pinene
UN 2368 ...	101	Pinene
UN 2369 ...	102	Ethylene glycol monobutyl ether
UN 2370 ...	102	Hex-1-ene
UN 2371 ...	102	Isopentenes
UN 2373 ...	102	Diethoxymethane
UN 2375 ...	102	Diethyl sulfide
UN 2376 ...	102	2,3-Dihydropyran
UN 2376 ...	101	Dihydropyran
UN 2377 ...	102	1,1-Dimethoxyethane
UN 2379 ...	102	1,3-Dimethylbutylamine
UN 2380 ...	102	Dimethyldiethoxysilane
UN 2381 ...	102	Dimethyl disulfide
UN 2382 ...	102	Dimethylhydrazine
UN 2383 ...	102	Dipropylamine
UN 2384 ...	102	Dipropyl ether
UN 2385 ...	102	Ethylisobutyrate
UN 2386 ...	102	1-Ethyl piperidine
UN 2387 ...	102	Fluorobenzene
UN 2388 ...	102	Fluorotoluenes
UN 2389 ...	101	Furan
UN 2390 ...	102	2-Iodobutane
UN 2391 ...	102	Iodomethylpropanes
UN 2392 ...	102	Iodopropanes
UN 2393 ...	102	Isobutyl formate
UN 2394 ...	102	Isobutyl propionate
UN 2395 ...	102	Isobutyryl chloride
UN 2396 ...	102	Methacraldehyde
UN 2397 ...	102	3-Methyl butan-2-one
UN 2398 ...	102	Methyl-tert-butyl ether
UN 2399 ...	102	1-Methylpiperidine
UN 2400 ...	102	Methylisovalerate
UN 2401 ...	102	Piperidine
UN 2402 ...	102	Propanethiols
UN 2403 ...	102	Isopropenyl acetate
UN 2404 ...	102	Propionitrile
UN 2405 ...	102	Isopropyl butyrate
UN 2406 ...	102	Isopropyl isobutyrate
UN 2407 ...	102	Isopropyl chloroformate
UN 2408 ...	102	Isopropyl formate
UN 2409 ...	102	Isopropyl propionate
UN 2410 ...	102	1,2,3,6-Tetrahydropyridine
UN 2411 ...	102	Butyronitrile
UN 2412 ...	102	Tetrahydrothiophene
UN 2414 ...	102	Thiophene
UN 2416 ...	102	Trimethyl borate
UN 2417 ...	102	Carbonyl fluoride
UN 2418 ...	102	Sulphur tetrafluoride
UN 2420 ...	102	Hexafluoroacetone
UN 2421 ...	102	Nitrogen trioxide
NA 2422 ...	101	Perfluoro-2-butene
UN 2426 ...	101	Ammonium nitrate, solution
UN 2427 ...	102	Potassium chlorate
UN 2428 ...	102	Sodium chlorate
UN 2429 ...	102	Calcium chlorate
UN 2431 ...	102	o-Anisidine
UN 2432 ...	102	N,N-Diethylaniline
UN 2433 ...	102	Chloro-o-nitrotoluene
UN 2434 ...	102	Dibenzyldichlorosilane
UN 2435 ...	101	Ethyl phenyl dichlorosilane
UN 2435 ...	102	Ethylphenyldichlorosilane
UN 2436 ...	102	Thioacetic acid
UN 2437 ...	102	Methylphenyldichlorosilane
UN 2438 ...	102	Pivaloyl chlonde
UN 2438 ...	101	Trimethylacetyl chloride
UN 2439 ...	101	Sodium bifluoride, solid
UN 2439 ...	101	Sodium bifluoride, solution
UN 2439 ...	102	Sodium hydrogen fluoride
UN 2440 ...	102	Stannic chloride pentahydrate
UN 2440 ...	102	Titanium trichloride
UN 2442 ...	102	Trichloroacetyl chloride
UN 2443 ...	102	Vanadium oxtrichloride
UN 2443 ...	101	Vanadium oxytrichloride
NA 2443 ...	101	Vanadium oxytrichloride and titanium tetrachloride mixture
UN 2444 ...	101	Vanadium tetrachloride
UN 2445 ...	102	Lithium alkyls
UN 2446 ...	102	Nitrocresols
UN 2447 ...	102	Phosphorus white, molten
UN 2448 ...	102	Sulphur, molten
NA 2449 ...	101	Ammonium oxalate
UN 2449 ...	102	Cupric oxalate
UN 2449 ...	102	Oxalates
UN 2451 ...	101	Nitrogen trifluoride
UN 2456 ...	102	2-Chloropropene
UN 2456 ...	101	2-Chloropropene
UN 2457 ...	101	2,3-Dimethylbutane
UN 2458 ...	101	Hexadiene
UN 2458 ...	102	2-Methyl-1-butene
UN 2460 ...	102	2-Methyl-2-butene
UN 2460 ...	101	Methyl butene
UN 2461 ...	101	Methylpentadiene
UN 2462 ...	101	Methyl pentane
UN 2462 ...	102	Methylpentanes
UN 2463 ...	102	Aluminium hydride
UN 2463 ...	101	Aluminum hydride
UN 2464 ...	101	Beryllium nitrate
UN 2465 ...	102	Dichloroisocyanuric acid
NA 2465 ...	101	Potassium dichloro-s-triazinetrione
UN 2465 ...	101	Sodium dichloro-s-triazinetrione
UN 2466 ...	102	Potassium superoxide
UN 2467 ...	102	Sodium percarbonates
UN 2468 ...	102	Trichloroisocyanuric acid
UN 2468 ...	101	Trichloro-s-triazinetrione
NA 2468 ...	101	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry
UN 2469 ...	102	Zinc bromate
UN 2470 ...	102	Benzyl cyanide
UN 2471 ...	102	Osmium tetroxide
UN 2473 ...	102	Sodium arsanilate
UN 2474 ...	101	Thophosgene
UN 2475 ...	102	Vanadium trichloride
UN 2477 ...	102	Methyl isothiocyanate
UN 2478 ...	102	Isocyanates
UN 2480 ...	102	Methyl isocyanate
UN 2481 ...	102	Ethyl isocyanate
UN 2482 ...	102	n-Propyl isocyanate
UN 2483 ...	102	Isopropyl isocyanate
UN 2484 ...	102	tert-Butyl isocyanate
UN 2485 ...	101	n-Butyl isocyanate
UN 2485 ...	102	n-Butyl isocyanate
UN 2486 ...	102	Isobutyl isocyanate
UN 2487 ...	102	Phenyl isocyanate
UN 2488 ...	102	Cyclohexyl isocyanate
UN 2489 ...	102	Diphenylmethane diisocyanate
UN 2490 ...	101	Dichloroisopropyl ether
UN 2491 ...	102	Ethanolamine
UN 2491 ...	101	Monoethanolamine
UN 2493 ...	101	Hexamethyleneimine
UN 2495 ...	101	Iodine pentafluoride
UN 2496 ...	101	Propionic anhydride
UN 2497 ...	102	Sodium phenolate
UN 2497 ...	101	Sodium phenolate, solid
UN 2498 ...	102	1,2,3,6-Tetrahydrobenzaldehyde
UN 2498 ...	101	1,2,3,6-Tetrahydrobenzaldehyde
UN 2501 ...	102	Tris-(1-aziridinyl)phosphine oxide
UN 2501 ...	101	Tris-(1-aziridinyl) phosphine oxide
UN 2502 ...	101	Valeryl chloride
UN 2502 ...	102	Valeryl chlorides
UN 2503 ...	102	Zirconium tetrachloride
UN 2503 ...	101	Zirconium tetrachloride, solid
UN 2504 ...	101	Acetylene tetrabromide
UN 2505 ...	101	Ammonium fluoride
UN 2506 ...	101	Ammonium hydrogen sulfate
UN 2507 ...	102	Chloroplatinic acid
UN 2507 ...	101	Chloroplatinic acid, solid
UN 2508 ...	101	Molybdenum pentachloride
UN 2509 ...	101	Potassium hydrogen sulfate, solid
UN 2511 ...	102	Chloropropionic acid
UN 2512 ...	102	Aminophenols
UN 2513 ...	102	Bromoacetyl bromide
UN 2514 ...	101	Bromobenzene
UN 2515 ...	102	Bromoform
UN 2516 ...	102	Carbon tetrabromide
UN 2517 ...	101	Diffuoromonochloroethane
UN 2518 ...	102	1,5,9-Cyclododecatriene
UN 2520 ...	102	Cyclooctadienes
UN 2521 ...	102	Diketene
UN 2522 ...	102	Dimethylaminoethyl methacrylate
UN 2524 ...	102	Ethyl orthoformate
UN 2525 ...	102	Ethyl oxalate
UN 2526 ...	102	Furfurylamine
UN 2527 ...	102	Isobutyl acrylate
UN 2528 ...	102	Isobutylisobutyrate
UN 2529 ...	101	Isobutyric acid
UN 2530 ...	101	Isobutyric anhydride
UN 2531 ...	102	Methacrylic acid
UN 2533 ...	102	Methyl trichloroacetate
UN 2534 ...	102	Methyl chlorosilane
UN 2535 ...	102	Methylmorpholine
UN 2536 ...	102	Methyltetrahydrofuran
UN 2538 ...	102	Nitronapthalene
UN 2541 ...	102	Terpinolene
UN 2542 ...	102	Tributylamine
UN 2545 ...	101	Hafnium metal, dry.
UN 2546 ...	102	Hafnium metal powder, dry
UN 2546 ...	102	Titanium metal powder, dry
UN 2546 ...	101	Titanium metal powder, dry *or* wet
UN 2547 ...	102	Sodium superoxide
UN 2550 ...	102	Ethyl methyl ketone peroxide(s)
UN 2550 ...	101	Methyl ethyl ketone peroxide
UN 2551 ...	101	tert-Butyl peroxydiethylacetate, with tert-Butyl peroxybenzoate
UN 2551 ...	102	tert-Butyl perdiethylacetate
UN 2552 ...	102	Hexafluoroacetone hydrate
UN 2553 ...	102	Coal tar naphtha
NA 2553 ...	101	Coal tar naptha
UN 2553 ...	101	Naphtha
UN 2554 ...	102	Methyl allyl chloride
UN 2555 ...	102	Nitrocellulose
NA 2555 ...	101	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% water
NA 2555 ...	101	Nitrocellulose, wet with not less than 20% water
UN 2556 ...	102	Nitrocellulose
NA 2556 ...	101	Nitrocellulose, wet with not less than 30% alcohol *or* solvent
NA 2557 ...	101	Lacquer base, *or* Lacquer chips, dry
UN 2557 ...	102	Nitrocellulose
UN 2558 ...	102	1-Bromo-2,3-epoxypropane
UN 2562 ...	101	tert-Butyl peroxyisobutyrate
UN 2562 ...	102	tert-Butyl perisobutyrate
UN 2564 ...	102	Trichloroacetic acid

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2564 ...	101	Trichloroacetic acid solution
UN 2565 ...	102	Dicyclohexylamine
UN 2567 ...	101	Sodium pentachlorophenate
NA 2570 ...	101	Cadmium acetate
NA 2570 ...	101	Cadmium bromide
NA 2570 ...	101	Cadmium chloride
UN 2570 ...	102	Cadmium compounds
UN 2572 ...	102	Phenylhydrazine
UN 2573 ...	102	Thallium chlorate
UN 2574 ...	102	Tricresylphosphate
UN 2582 ...	101	Ferric chloride solution
UN 2584 ...	101	Alkanesulfonic acid
NA 2584 ...	101	Dodecylbenzenesulfonic acid
UN 2584 ...	101	Toluene sulfonic acid, liquid
NA 2586 ...	101	Insecticide, dry, n.o.s.
UN 2588 ...	102	Pesticides
UN 2590 ...	102	Asbestos, white
UN 2592 ...	101	Disteary peroxydicarbonate
UN 2592 ...	102	Disteary peroxydicarbonate
UN 2593 ...	102	Bis-(2-methylbenzoyl)peroxide
UN 2593 ...	101	Di-(2-methylbenzoyl)peroxide
UN 2594 ...	101	tert-Butyl peroxyneodecanoate
UN 2594 ...	102	tert-Butylperneodecanoate
UN 2595 ...	101	Dimyristyl peroxydicarbonate
UN 2595 ...	102	Dimyristylperoxydicarbonate
UN 2596 ...	102	3-tert-Butylperoxy-3-phenyl phthalide
UN 2596 ...	101	3-tert-Butyl peroxy-3-phenylphthalide
UN 2597 ...	102	Bis-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide
UN 2597 ...	101	Di-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide
UN 2598 ...	102	Ethyl-3,3-bis(tert-butylperoxy)butyrate
UN 2598 ...	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2602 ...	101	Dichlorodifluoromethane and difluoroethane mixture
UN 2603 ...	102	Cycloheptatriene
UN 2604 ...	102	Boron trifluoride diethyl etherate
UN 2605 ...	102	Methoxymethyl isocyanate
UN 2606 ...	102	Methyl orthosilicate
UN 2607 ...	102	Acrolein dimer
UN 2608 ...	102	Nitropropanes
UN 2610 ...	102	Triallylamine
UN 2612 ...	102	Methyl propyl ether
UN 2614 ...	102	Methallyl alcohol
UN 2615 ...	102	Ethyl propyl ether
UN 2616 ...	102	Triisopropyl borate
UN 2617 ...	102	Methyl cyclohexanol
UN 2618 ...	102	Vinyl Toluenes
UN 2619 ...	102	Benzyl dimethylamine
UN 2621 ...	102	Acetyl methyl carbinol
UN 2622 ...	102	Glycidaldehyde
NA 2626 ...	101	Chloric acid
UN 2630 ...	101	Sodium selenite
UN 2646 ...	101	Hexachlorocyclopentadiene
UN 2665 ...	102	Potassium silicofluonde
UN 2656 ...	101	Quinoline
UN 2670 ...	102	Cyanuric chloride
UN 2672 ...	102	Ammonia solutions
NA 2672 ...	101	Ammonium hydroxide
UN 2674 ...	102	Sodium silicofluoride
NA 2683 ...	101	Ammonium hydrosulfide solution
UN 2683 ...	101	Ammonium sulfide solution
UN 2686 ...	102	Diethylaminoethanol
UN 2692 ...	101	Boron tribromide
NA 2693 ...	101	Ammonium bisulfite, solid
NA 2693 ...	101	Ammonium bisulfite solution
NA 2693 ...	101	Calcium hydrogen sulfite solution
NA 2693 ...	101	Potassium metabisulfite
NA 2693 ...	101	Sodium hydrogen sulfite, solid
NA 2693 ...	101	Sodium hydrogen sulfite, solution
NA 2693 ...	101	Sodium metabisulfite
UN 2703 ...	101	Isopropyl mercaptan
UN 2704 ...	101	Propyl mercaptan
UN 2705 ...	102	Diethylcarbinol
UN 2707 ...	102	Dimethyldioxanes
UN 2708 ...	102	Butoxyl
UN 2709 ...	102	Butyl benzenes
UN 2710 ...	102	Butyrone
UN 2711 ...	102	Dibromobenzene
UN 2725 ...	101	Nickel nitrate
UN 2726 ...	101	Zirconium nitrate
UN 2733 ...	102	Alkylamines and polyamines
UN 2740 ...	102	n-Propyl chloroformate
UN 2749 ...	102	Tetramethylsilane
UN 2752 ...	102	1,2-Epoxy-3-ethyloxy propane
UN 2755 ...	101	3-Chloroperoxybenzoic acid
UN 2755 ...	102	m-Chloroperoxybenzoic acid
UN 2756 ...	101	Organic peroxide, mixture.
UN 2756 ...	102	Organic peroxides, mixture
UN 2757 ...	101	Carbamate pesticide, liquid, n.o.s.
UN 2757 ...	101	Carbamate pesticide, solid, n.o.s.
NA 2757 ...	101	Carbaryl
NA 2757 ...	101	Carbofuran
NA 2757 ...	101	Carbofuran mixture, liquid
NA 2757 ...	101	Mercaptodimethur
NA 2757 ...	101	Mexacarbate
UN 2758 ...	101	Carbamate pesticide, liquid, n.o.s.
UN 2759 ...	101	Arsenical pesticide, liquid, n.o.s.
UN 2759 ...	101	Arsenical pesticide, solid, n.o.s.
NA 2759 ...	101	Bordeaux arsenite, liquid
NA 2759 ...	101	Bordeaux arsenite, solid
UN 2760 ...	101	Arsenical pesticide, liquid, n.o.s.
NA 2761 ...	101	Endosulfan mixture, liquid
NA 2761 ...	101	Aldrin
NA 2761 ...	101	Aldrin, cast solid
NA 2761 ...	101	Aldrin mixture, dry
NA 2761 ...	101	Aldrin mixture, dry, with 65% or less aldrin
NA 2761 ...	101	DDT or Dichlorodiphenyltrichloroethane
NA 2761 ...	101	Dichlone
NA 2761 ...	101	Dieldrin
NA 2761 ...	101	Endosulfan
NA 2761 ...	101	Endrin
NA 2761 ...	101	Endrin mixture, liquid
NA 2761 ...	101	Heptachlor
NA 2761 ...	101	Kelthane
NA 2761 ...	101	Kepone
NA 2761 ...	101	Lindane
NA 2761 ...	101	Methoxychlor
UN 2761 ...	101	Organochlorine pesticide, liquid, n.o.s.
UN 2761 ...	101	Organochlorine pesticide, solid, n.o.s.
NA 2761 ...	101	TDE
NA 2761 ...	101	Toxaphene
NA 2762 ...	101	Aldrin mixture, liquid
NA 2762 ...	101	Aldrin mixture, liquid, with 60% or less aldrin
NA 2762 ...	101	Chlordane, liquid
UN 2762 ...	101	Organochlorine pesticide, liquid, n.o.s.
UN 2763 ...	101	Triazine pesticide, liquid, n.o.s.
UN 2763 ...	101	Triazine pesticide, solid, n.o.s.
UN 2764 ...	101	Triazine pesticide, liquid, n.o.s.
NA 2765 ...	101	2,4-Dichlorophenoxyacetic acid
NA 2765 ...	101	2,4-Dichlorophenoxyacetic acid ester
UN 2765 ...	101	Phenoxy pesticide, liquid, n.o.s.
UN 2765 ...	101	Phenoxy pesticide, solid, n.o.s.
NA 2765 ...	101	Propargite
NA 2765 ...	101	2,4,5-Trichlorophenoxyacetic acid
NA 2765 ...	101	2,4,5-Trichlorophenoxyacetic acid amine, ester, *or* salt
NA 2765 ...	101	2,4,5-Trichlorophenoxypropionic acid
NA 2765 ...	101	2,4,5-Trichlorophenoxypropionic acid ester
UN 2766 ...	101	Phenoxy pesticide, liquid, n.o.s.
NA 2767 ...	101	Diuron
UN 2767 ...	101	Phenylurea pesticide, liquid, n.o.s.
UN 2767 ...	101	Phenylurea pesticide, solid, n.o.s.
UN 2768 ...	101	Phenylurea pesticide, liquid, n.o.s.
UN 2769 ...	101	Benzoic derivative pesticide, liquid, n.o.s.
UN 2769 ...	101	Benzoic derivative pesticide, solid, n.o.s.
NA 2769 ...	101	Dicamba
NA 2769 ...	101	Dichlobenil
UN 2770 ...	101	Benzoic derivative pesticide, liquid, n.o.s.
UN 2771 ...	101	Dithiocarbamate pesticide, liquid, n.o.s.
UN 2771 ...	101	Dithiocarbamate pesticide, solid, n.o.s.
NA 2771 ...	101	Thiram
UN 2772 ...	101	Dithiocarbamate pesticide, liquid, n.o.s.
UN 2773 ...	101	Phthalimide derivative pesticide, liquid, n.o.s.
UN 2773 ...	101	Phthalimide derivative pesticide, solid, n.o.s.
UN 2774 ...	101	Phthalimide derivative pesticide, liquid, n.o.s.
UN 2775 ...	101	Copper based pesticide, liquid, n.o.s.
UN 2775 ...	101	Copper based pesticide, solid, n.o.s.
UN 2776 ...	101	Copper based pesticide, liquid, n.o.s.
UN 2777 ...	101	Mercury based pesticide, liquid, n.o.s.
UN 2777 ...	101	Mercury based pesticide, solid, n.o.s.
UN 2778 ...	101	Mercury based pesticide, liquid, n.o.s.
UN 2779 ...	101	Substituted nitrophenol pesticide, liquid, n.o.s.
UN 2779 ...	101	Substituted nitrophenol pesticide, solid, n.o.s.
UN 2780 ...	101	Substituted nitrophenol pesticide, liquid, n.o.s.
UN 2781 ...	101	Bipyridilium pesticide, liquid, n.o.s.
UN 2781 ...	101	Bipyridilium pesticide, solid, n.o.s.
NA 2781 ...	101	Diquat
UN 2782 ...	101	Bipyridilium pesticide, liquid, n.o.s.
NA 2783 ...	101	Azinphos-methyl
NA 2783 ...	101	Azinphos methyl mixture, liquid
NA 2783 ...	101	Chlorpyrifos
NA 2783 ...	101	Coumaphos
NA 2783 ...	101	Coumaphos mixture, liquid
NA 2783 ...	101	Diazinon
NA 2783 ...	101	Dichlorvos
NA 2783 ...	101	Dichlorvos mixture, dry
NA 2783 ...	101	Disulfoton
NA 2783 ...	101	Disulfoton mixture, dry
NA 2783 ...	101	Disulfoton mixture, liquid
NA 2783 ...	101	Ethion
NA 2783 ...	101	Ethion mixture, dry
NA 2783 ...	101	Hexaethyl tetraphosphate mixture, dry
NA 2783 ...	101	Hexaethyl tetraphosphate mixture, liquid
NA 2783 ...	101	Malathion
NA 2783 ...	101	Methyl parathion, liquid
NA 2783 ...	101	Methyl parathion mixture, dry
NA 2783 ...	101	Methyl parathion mixture, liquid
NA 2783 ...	101	Methyl parathion mixture, liquid, (containing 25% or less methyl parathion)
NA 2783 ...	101	Mevinphos
NA 2783 ...	101	Mevinphos mixture, dry
NA 2783 ...	101	Mevinphos mixture, liquid
UN 2783 ...	101	Mipafox
NA 2783 ...	101	Naled
NA 2783 ...	101	Organic phosphate mixture, Organic phosphate compound mixture, *or* Organic phosphorus compound mixture; liquid
NA 2783 ...	101	Organic phosphate mixture, Organic phosphate compound, *or* Organic phosphorus compound; liquid
NA 2783 ...	101	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; solid *or* dry
UN 2783 ...	101	Organophosphorus pesticide, liquid, n.o.s.
UN 2783 ...	101	Organophosphorus pesticide, solid, n.o.s.
NA 2783 ...	101	Parathion, liquid
NA 2783 ...	101	Parathion mixture, dry
NA 2783 ...	101	Parathion mixture, liquid
NA 2783 ...	101	Phencapton
NA 2783 ...	101	Tetraethyl pyrophosphate, liquid
NA 2783 ...	101	Tetraethyl pyrophosphate mixture, dry
NA 2783 ...	101	Tetraethyl pyrophosphate mixture, liquid
NA 2783 ...	101	Trichlorfon
UN 2784 ...	101	Organophosphorus pesticide, liquid, n.o.s.
UN 2785 ...	102	4-Thiopentanal
UN 2786 ...	101	Organotin pesticide, liquid, n.o.s.
UN 2786 ...	101	Organotin pesticide, solid, n.o.s.
UN 2787 ...	101	Organotin pesticide, liquid, n.o.s.
UN 2789 ...	101	Acetic acid, glacial
UN 2790 ...	101	Acetic acid
NA 2791 ...	101	Aircraft rocket engine
UN 2792 ...	101	Aircraft rocket engine igniter
UN 2793 ...	102	Iron swarf
UN 2793 ...	101	Metal borings, shavings, turnings, *or* cuttings
NA 2794 ...	101	Battery charger with electrolyte (acid) *or* alkaline battery fluid
NA 2794 ...	101	Battery, electric storage, wet
NA 2794 ...	101	Battery, electric storage, wet, with automobile, auto parts, engine
NA 2794 ...	101	Battery, electric storage, wet, with containers of electrolyte (acid) *or* alkaline battery fluid
UN 2796 ...	101	Electrolyte (acid) battery fluid

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(1) Identification Number	(2) Source 172.***	(3) Description
UN 2797 ...	101	Alkaline battery fluid
NA 2797 ...	101	Alkaline battery fluid with empty storage battery
NA 2797 ...	101	Electrolyte (acid) *or* alkaline battery fluid, packed with battery charger, radio current supply device, *or* electronic equipment and actuating device.
NA 2797 ...	101	Electrolyte (acid) *or* alkaline battery fluid, packed with dry-storage battery
UN 2798 ...	101	Benzene phosphorus dichloride
UN 2799 ...	101	Benzene phosphorus thiodichloride
NA 2801 ...	101	Coal tar dye, liquid
UN 2801 ...	101	Dye intermediate, liquid
UN 2802 ...	101	Copper chloride
UN 2803 ...	101	Gallium metal, liquid
UN 2803 ...	101	Gallium metal, solid
UN 2805 ...	101	Lithium hydride in fused solid form
UN 2806 ...	101	Lithium nitride
UN 2807 ...	101	Magnetized material
NA 2809 ...	101	Mercury, metallic
NA 2810 ...	101	Arsenious and mercuric iodide solution
NA 2810 ...	101	Compound, tree *or* weed killing, liquid
NA 2810 ...	101	Drugs, n.o.s. liquid
UN 2810 ...	101	Poisonous liquid, n.o.s. *or* Poison B, liquid, n.o.s.
UN 2810 ...	102	Poisonous liquids, n.o.s.
(UN 2810).	102	Sodium fluoride
NA 2811 ...	101	Drugs, n.o.s. solid
NA 2811 ...	101	Flue dust, poisonous
NA 2811 ...	101	Lead fluoride
NA 2811 ...	101	Lead iodide
NA 2811 ...	101	Lead stearate
UN 2811 ...	101	Poisonous solid, n.o.s. *or* Poison B, solid, n.o.s.
UN 2811 ...	102	Poisonous solids, n.o.s.
NA 2811 ...	101	Selenium oxide
(UN 2811).	102	Silicofluorides
UN 2812 ...	101	Sodium aluminate, solid
NA 2813 ...	101	Lithium acetylide-ethylene diamine complex
UN 2813 ...	101	Water reactive solid, n.o.s.
NA 2814 ...	101	Etiologic agent, n.o.s.
UN 2814 ...	101	Infectious substance, human, n.o.s.
UN 2815 ...	101	N-Amnoethylpiperazine
UN 2817 ...	101	Ammonium hydrogen fluoride solution
UN 2818 ...	101	Ammonium polysulfide solution
UN 2819 ...	101	Amyl acid phosphate
UN 2820 ...	101	Butyric acid
NA 2821 ...	101	Phenol, liquid *or* solution
UN 2823 ...	101	Crotonic acid
UN 2826 ...	101	Ethyl chlorothioformate
UN 2830 ...	101	Lithium ferrosilicon
UN 2831 ...	101	1,1,1-Trichloroethane
UN 2835 ...	101	Sodium aluminum hydride
UN 2837 ...	101	Sodium hydrogen sulfate solution
NA 2845 ...	101	Ethyl phosphonous dichloride, anhydrous
NA 2845 ...	101	Methyl phosphonous dichloride
UN 2845 ...	101	Pyrophoric liquid, n.o.s. *or* Pyroforic liqud, n.o.s.
UN 2854 ...	101	Ammonium silicofluoride
UN 2855 ...	101	Zinc silicofluoride
UN 2857 ...	101	Refrigerating machine
UN 2859 ...	102	Ammonium metavanadate
UN 2860 ...	102	Vanadium trioxide
UN 2861 ...	102	Ammonium polyvanadate
UN 2862 ...	101	Vanadium pentoxide
UN 2863 ...	102	Sodium-ammonium-vanadate
UN 2864 ...	102	Potassium metavanadate
UN 2867 ...	101	Ink
UN 2868 ...	101	Resin solution
UN 2876 ...	101	Resorcinol
UN 2880 ...	101	Calcium hypochlorite, hydrated
UN 2883 ...	101	2,2-Di-(tert-butylperoxy)propane
UN 2884 ...	101	2,2-Di-(tert-butylperoxy)propane
UN 2885 ...	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2886 ...	101	tert-Butyl peroxy-2-ethylhexanoate, with 2,2-Di-(tert-butylperoxy)butane
UN 2887 ...	101	tert-Butyl peroxy-2-ethylhexanoate, with 2,2-Di-(tert-butylperoxy)butane
UN 2888 ...	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2889 ...	101	Disotridecyl peroxydicarbonate
UN 2890 ...	101	tert-Butyl peroxybenzoate
UN 2891 ...	101	tert- Amyl peroxyneodecanoate
UN 2892 ...	101	Dimyristyl peroxydicarbonate
UN 2893 ...	101	Lauroyl peroxide
UN 2894 ...	101	Di-(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2895 ...	101	Dicetyl peroxydicarbonate
UN 2896 ...	101	Cyclohexanone peroxide
UN 2897 ...	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2898 ...	101	tert-Amyl peroxy-2-ethylhexanoate
UN 2899 ...	101	Organic peroxide, trial quantity, n.o.s.
NA 2902 ...	101	Allethrin
NA 2902 ...	101	Insecticide, liquid, n.o.s.
UN 2910 ...	101	Radioactive material, limited quantity, n.o.s.
UN 2911 ...	101	Radioactive device, n.o.s.
UN 2912 ...	101	Radioactive material, low specific activity *or* LSA, n.o.s.
UN 2918 ...	101	Radioactive material, fissile, n.o.s.
UN 2922 ...	101	Corrosive liquid, poisonous, n.o.s.
NA 2922 ...	101	Dimethyl chlorothiophosphate
NA 2922 ...	101	Sodium hydrosulfide, solution
NA 2923 ...	101	Sodium hydrosulfide, solid,
NA 2924 ...	101	Dichlorobutene
UN 2924 ...	101	Flammable liquid, corrosive, n.o.s.
UN 2925 ...	101	Flammable solid, corrosive, n.o.s.
UN 2926 ...	101	Flammable solid, poisonous, n.o.s.
UN 2928 ...	101	Poisonous solid, corrosive, n.o.s.
NA 9011 ...	101	Camphene
NA 9018 ...	101	Dichlorodifluoroethylene
NA 9026 ...	101	Dinitro-cyclohexylphenol
NA 9035 ...	101	Gas identification set
NA 9037 ...	101	Hexachloroethane
NA 9053 ...	101	Oiled material
NA 9069 ...	101	Tetramethylmethylenediamine
NA 9077 ...	101	Adipic acid
NA 9078 ...	101	Aluminum sulfate, solid
NA 9079 ...	101	Ammonium acetate
NA 9080 ...	101	Ammonium benzoate
NA 9081 ...	101	Ammonium bicarbonate
NA 9083 ...	101	Ammonium carbamate
NA 9084 ...	101	Ammonium carbonate
NA 9085 ...	101	Ammonium chloride
NA 9086 ...	101	Ammonium chromate
NA 9087 ...	101	Ammonium citrate, dibasic
NA 9088 ...	101	Ammonium fluoborate
NA 9089 ...	101	Ammonium sulfamate
NA 9090 ...	101	Ammonium sulfite
NA 9091 ...	101	Ammonium tartrate
NA 9092 ...	101	Ammonium thiocyanate
NA 9093 ...	101	Ammonium thiosulfate
NA 9094 ...	101	Benzoic acid
NA 9095 ...	101	n-Butyl phthalate
NA 9096 ...	101	Calcium chromate
NA 9097 ...	101	Calcium dodecylbenzenesulfonate
NA 9099 ...	101	Captan
NA 9100 ...	101	Chromic sulfate
NA 9101 ...	101	Chromic acetate
NA 9102 ...	101	Chromous chloride
NA 9103 ...	101	Cobaltous bromide
NA 9104 ...	101	Cobaltous formate
NA 9105 ...	101	Cobaltous sulfamate
NA 9106 ...	101	Cupric acetate
NA 9109 ...	101	Cupric sulfate
NA 9110 ...	101	Cupric sulfate, ammoniated
NA 9111 ...	101	Cupric tartrate
NA 9117 ...	101	Ethylenediaminetetraacetic acid
NA 9118 ...	101	Ferric ammonium citrate
NA 9119 ...	101	Ferric ammonium oxalate
NA 9120 ...	101	Ferric fluoride
NA 9121 ...	101	Ferric sulfate
NA 9122 ...	101	Ferrous ammonium sulfate
NA 9125 ...	101	Ferrous sulfate
NA 9126 ...	101	Fumaric acid
NA 9127 ...	101	Isopropanolamine dodecylbenzenesulfonate
NA 9134 ...	101	Lithium chromate
NA 9137 ...	101	Naphthenic acid
NA 9138 ...	101	Nickel ammonium sulfate
NA 9139 ...	101	Nickel chloride
NA 9140 ...	101	Nickel hydroxide
NA 9141 ...	101	Nickel sulfate
NA 9142 ...	101	Potassium chromate
NA 9145 ...	101	Sodium chromate
NA 9146 ...	101	Sodium dodecylbenzenesulfonate
NA 9147 ...	101	Sodium phosphate, dibasic
NA 9148 ...	101	Sodium phosphate, tribasic
NA 9149 ...	101	Strontium chromate
NA 9151 ...	101	Triethanolamine dodycylbenzenesulfonate
NA 9152 ...	101	Vanadyl sulfate
NA 9153 ...	101	Zinc acetate
NA 9154 ...	101	Zinc ammonium chloride
NA 9155 ...	101	Zinc borate
NA 9156 ...	101	Zinc bromide
NA 9157 ...	101	Zinc carbonate
NA 9158 ...	101	Zinc fluoride
NA 9159 ...	101	Zinc formate
NA 9160 ...	101	Zinc phenolsulfonate
NA 9161 ...	101	Zinc sulfate
NA 9162 ...	101	Zirconium potassium fluoride
NA 9163 ...	101	Zirconium sulfate
NA 9170 ...	101	Thorium metal, pyrophoric
NA 9171 ...	101	Thorium nitrate
NA 9173 ...	101	Uranium hexafluoride, fissile
NA 9174 ...	101	Uranium hexafluoride, low specific activity
NA 9175 ...	101	Uranium metal, pyrophoric
NA 9177 ...	101	Uranyl nitrate, solid
NA 9178 ...	101	Uranyl nitrate hexahydrate solution
NA 9180 ...	101	Uranyl acetate
NA 9181 ...	101	Radioactive material, n.o.s.
NA 9182 ...	101	Radioactive material, special form, n.o.s.
NA 9183 ...	101	Organic peroxide, liquid *or* solution, n.o.s.
NA 9184 ...	101	Pyrethrins
NA 9185 ...	101	Plutonium nitrate, solution
NA 9187 ...	101	Organic peroxide, solid, n.o.s.
NA 9188 ...	101	Hazardous substance, liquid *or* solid, n.o.s.
NA 9189 ...	101	Hazardous waste, liquid *or* solid, n.o.s.
NA 9190 ...	101	Ammonium permanganate
NA 9191 ...	101	Chlorine dioxide hydrate, frozen
NA 9193 ...	101	Oxidizer, corrosive, liquid, n.o.s.
NA 9194 ...	101	Oxidizer, corroeive, solid, n.o.s.
NA 9195 ...	101	Metal alkyl, solution, n.o.s.
NA 9199 ...	101	Oxidizer, poisonous, liquid, n.o.s.
NA 9200 ...	101	Oxidizer, poisonous, solid, n.o.s.
NA 9201 ...	101	Antimony trioxide

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8. (16.) In § 172.201 paragraph (a)(1)(iii) is revised to read as follows:

§ 172.201 General entries.

(a) * * *

(1) * * *

(iii) Must be identified by the entry of an "X" placed before the proper shipping name in a column captioned "HM." (The "X" may be replaced by "RQ," if appropriate.)

* * * * *

9. (17.) Section 172.202 is revised to read as follows:

§ 172.202 Description of hazardous materials on shipping papers.

(a) The shipping description of a hazardous material on a shipping paper must include:

(1) The proper shipping name prescribed for the material in § 172.101 or § 172.102 (when authorized);

(2) The hazard class prescribed for the material in the same section. Except for a proper shipping name that contains words describing more than one hazard class, inclusion of the hazard class is not required when the words of the proper shipping name contain the key word or words of the hazard class of the material, such as Flammable liquid; Poison B, liquid; Radioactive device; or Corrosive liquid;

(3) The identification number (preceded by "UN" or "NA" as appropriate) prescribed for the material in the same section; and

(4) Except for empty packagings, the total quantity (by weight, volume, or as otherwise appropriate) of the hazardous material covered by the description.

(b) Except as provided in this subpart, the basic description specified in paragraphs (a) (1), (2) and (3) of this section must be shown in sequence. For example: "Gasoline, Flammable liquid, UN1203."

(c) The total quantity of the material covered by one description must appear before or after, or both before and after, the basic description required and authorized by this subpart.

(1) Abbreviations may be used to specify the type of packaging and weight or volume. For example: "40 cyl. Nitrogen, Nonflammable gas, UN1066, 800 pounds"; "1 box Cement, liquid, n.o.s., Flammable liquid, NA1133, 25 lbs."

(2) The type of packaging and destination marks may be entered in any appropriate manner before or after the basic description.

(d) Technical and chemical group names may be entered in parentheses between the proper shipping name and hazard class.

10. (18.) Section 172.203 is revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) *Hazardous substances.* (1) If the proper shipping name for a mixture or solution that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such hazardous substance constituents as shown in § 172.101 shall be entered in association with the basic desciption. This requirement also applies when descriptions from the Optional Table in § 172.102 are used.

* * * * *

(e) *Empty packagings.*

(1) Except for a tank car, or any packaging that still contains a hazardous substance, the description on the shipping paper for an empty packaging containing the residue of a hazardous material may include the word(s) "EMPTY" or "EMPTY: Last contained * * *" as appropriate in association with the basic description of the hazardous material last contained in the packaging.

* * * * *

(i) *Transportation by water.*

* * * * *

(2) The shipping paper for a hazardous material offered for transportation by vessel to any country outside the United States must have in parentheses the technical name of the material immediately following the proper shipping name when the material is described by an n.o.s. entry in § 172.101 or § 172.102. For example: "Corrosive liquid, n.o.s. (Caprylyl chloride), UN1760." If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example: "Flammable liquid, corrosive, n.o.s. (Methyl alcohol, Potassium hydroxide), UN2924." The provisions of this paragraph do not apply—

(i) If the n.o.s. description for the material (other than a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compound, solid, n.o.s., Poison B, UN2025."

(ii) If the n.o.s. description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the n.o.s. description shall be entered in parentheses. For example: "Carbamate pesticide, liquid, n.o.s. (contains Xylene), Flammable liquid, UN2758."

(iii) To the identification of more than one hazardous material in a mixture prior to July 1, 1981.

* * * * *

(j) *Dangerous When Wet.* The words "Dangerous When Wet" shall be entered on the shipping paper in association with the basic description when a package covered by the basic description is required to be labeled with a DANGEROUS WHEN WET label.

(1) This requirement does not apply prior to July 1, 1981.

(k) *Poisonous materials.* Notwithstanding the class to which a material is assigned—

(1) If the name of the compound or principal constituent that causes a material to meet the definition of a poison (according to this subchapter) is not included in the proper shipping name for the material, the name of that compound or constituent shall be entered on the shipping paper in association with the shipping description for the material. The name of the compound or principal constituent may be either a technical name or any name for the material that is listed in the NIOSH Registry. This subparagraph does not apply to—

(i) A material having a proper shipping name that includes the chemical element or group which causes the material to be a poison.

(ii) Limited Quantities.

(2) If a liquid or solid material in a package meets the definition of a poison according to this subchapter, and the fact that it is a poison is not disclosed in the shipping name or class entry, the word "Poison" shall be entered on the shipping paper in association with the shipping description.

(3) The provisions of paragraphs (k)(1) and (2) of this section do not apply—

(i) To consumer commodities, ORM-D, or

(ii) To compounds or principal constituents that would cause death by corrosive destruction to tissue rather than by systemic poisoning.

(iii) Prior to July 1, 1981.

* * * * *

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11. Section 172.300 is redesignated and revised as § 172.301; and a new § 172.300 is added to read as follows:

§ 172.300 Applicability.

(a) Each person who offers a hazardous material for transportation shall mark each package, freight container, and transport vehicle containing the hazardous material in the manner required by this subpart.

(b) When assigned the function by this subpart, each carrier that transports a hazardous material shall mark each package, freight container, and transport vehicle containing the hazardous material in the manner required by this subpart.

(21.)

§ 172.301 General marking requirements.

(a) Except as provided by this subchapter, each person who offers for transportation a hazardous material in a packaging having a rated capacity of 110 gallons or less shall mark the package with the proper shipping name and identification number (preceded by "UN" or "NA" as appropriate) assigned to the material in § 172.101 or § 172.102 (when authorized).

(1) The proper shipping name is not required to include the word "Waste" as specified by § 172.101(c)(10) if the package bears the EPA marking prescribed by 40 CFR 262.32.

(b) When it has been determined by the shipper that a package has been previously marked as required for the material it contains, it need not be remarked. (For empty packagings, see § 173.29 of this subchapter.)

(c) This section does not apply to—

(1) Display of identification numbers on packages containing Limited Quantities (see § 171.8 of this subchapter) or materials classed as ORM–D (see § 173.1200 of this subchapter) when packed with no other hazardous material.

(2) Display of identification numbers on packagings having a rated capacity of 110 gallons or less filled for shipment prior to July 1, 1983.

(3) Display of new or changed proper shipping names for hazardous materials adopted under Amendment No. 172–58 on packages filled for shipment prior to July 1, 1981.

Note.—EPA requires special markings for hazardous wastes. See 40 CFR 262.32.

12. § 172.302 is revised to read as follows:

§ 172.302 Export shipments by water.

(a) Each package of hazardous material offered for export by water and described by a "n.o.s." entry in § 172.101 or § 172.102 (when authorized) must have the technical name or names of the material added in parentheses immediately following the proper shipping name (see § 172.203(i)(2)). For example: Corrosive liquid, n.o.s. (Caprylyl chloride).

(b) For a mixture of two or more hazardous materials, the technical name of at least two components most predominately contributing to the hazard or hazards of the mixture must be added in parentheses immediately following the proper shipping name.

(c) The requirements of this section to identify more than one hazardous material in a mixture do not apply prior to July 1, 1981.

13. § 172.308 is revised to read as follows:

§ 172.308 Authorized abbreviations.

(a) Abbreviations may not be used in a proper shipping name marking except in the following instances—

(1) For marking descriptions of ammunition, such as Ammunition for cannon without projectile, etc., the words "with" or "without" may be abbreviated as "W" or "W/O". For example: "Ammunition for cannon W/O projectile."

(2) The abbreviation "ORM" may be used in place of the words "Other Regulated Material."

14. (22.) In § 172.316 the introductory text of paragraph (a) is revised, and paragraph (c) is revised, as follows:

§ 172.316 Packagings containing material classed as ORM.

(a) Each packaging having a rated capacity of 110 gallons or less and containing a material classed as ORM–A, B, C, D, or E must be plainly, durably, and legibly marked on at least one side or end with the appropriate ORM designation immediately following or below the proper shipping name of the material. The appropriate ORM designation must be placed within a rectangle that is approximately ¼ inch (6.3 mm.) larger on each side than the designation. The appropriate designation for each ORM must be:

* * * * *

(c) The marking ORM–A, B, C, D, or E is the certification by the person offering the package for transportation that the material is properly described, classed, packaged, marked and labeled (when appropriate) and in proper condition for transportation according to the applicable regulations of this subchapter. This form of certification does not preclude the requirement for a certificate on a shipping paper when required by Subpart C of this Part.

15. (23.) The section heading and the text of § 172.324 are revised to read as follows:

§ 172.324 Hazardous substances.

(a) If the proper shipping name for a mixture or solution that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such hazardous substance constituents as shown in § 172.101 shall be entered in association with the proper shipping name on each packaging having a capacity of 110 gallons or less. This requirement also applies when descriptions from the Optional Table in § 172.102 are used.

(b) The letters RQ shall be displayed in association with the proper shipping name on a packaging having a capacity of 110 gallons or less that contains a hazardous substance.

(c) This section does not apply prior to July 1, 1983.

16. (24.) In § 172.326 "(when authorized)" is added following the reference to § 172.102 in subparagraph (a)(2) and paragraph (d); the words "or ends" are deleted in the first line of subparagraph (a)(2)(ii); and in the second line of paragraph (d) "paragraph (a)" is revised to read "subparagraph (a)(2)".

17. (25.) In § 172.328 paragraph (a) is revised by addition of "(when authorized)" before the period at the end of the sentence in line 8; paragraphs (a)(1) and (b) are revised as follows; and paragraph (d) is amended by adding "in letters no less than two inches (50.8 mm.) in height" before the period at the end of the paragraph.

§ 172.328 Cargo tanks.

(a) * * *

(1) A person who offers a motor carrier a hazardous material for transportation in a cargo tank shall provide the motor carrier the required identification numbers on placards or shall affix orange panels containing the required identification numbers, prior to or at the time the material is offered for transportation unless the cargo tank is already marked with the identification number required by this subpart in accordance with paragraph (f) of this section and § 173.29(c) of this subchapter.

* * * * *

(b) When the name of a material is required by this subchapter to be marked on a cargo tank, it must be legibly displayed on each end and each side in lettering no less than two inches (50.8 mm.) in height.

* * * * *

18. (26.) In § 172.330 paragraphs (a)(2), (c)(1) and (e) are revised by the addition of "(when authorized)" immediately following "§ 172.102"; and the introductory text of paragraph (g) and subparagraphs (g) (1) and (2) are revised to read as follows:

§ 172.330 Tank cars and multi-unit tank car tanks.

* * * * *

(g) Each multi-unit tank car tank and each tank car (except when it contains a combustible liquid) must remain marked when empty unless—

(1) Reloaded with a material not subject to this subchapter, or

(2) Sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

* * * * *

19. (27.) and (28.) Section 172.332 is revised to read as follows:

§ 172.332 Identification number markings.

(a) *General:* When required by this subpart, identification numbers shall be displayed on orange panels or placards as specified in this section.

(b) *Orange panels:* Display of an identification number on an orange panel shall be in conformance with the following:

(1) The orange panel must be 6¼ inches (16 cm.) high by 15¾ inches (40 cm.) wide with a 9/16 inch (15 mm.) black outer border. The identification number shall be displayed in 4-inch (10 cm.) black Helvetica Medium numerals on the orange panel. Measurements may vary from those specified plus or minus 0.2 of an inch (5 mm.).

(2) The orange panel may be made of any durable material prescribed for placards in § 172.519, and shall be of the orange color specified for labels or placards in Appendix A to this Part.

(3) The name and hazard class of a material represented by the identification number may be shown in the upper left border of the orange panel in letters not more than ¼ inch (18 points) high.

(4) Except for size and color, the orange panel and identification numbers shall be as illustrated for Liquefied petroleum gas:



(c) *Placards:* Display of an identification number on a hazard warning placard shall be in conformance with the following:

(1) The identification number shall be displayed across the center area of the placard in 3½ inch (89 mm.) black Alpine Gothic or Alternate Gothic No. 3 numerals on a white background 4 inches (10 cm.) high and approximately 8½ inches (21.5 cm.) wide.

(2) The top of the 4-inch (10 cm.) high white background shall be approximately 1⅝ inches (40.0 mm.) above the placard horizontal center line.

(3) When an identification number is displayed on a placard the United Nations hazard class number for the material shall be displayed in the lower corner of each placard as specified in § 172.519(d).

(4) For a COMBUSTIBLE placard used to display an identification number, the entire background below the white background for the identification number must be white during transportation by rail or highway.

(5) The name of the hazardous material and the hazard class may be shown in letters not more than ¼ inch (18 points) high immediately within the upper border of the space on the placard bearing the identification number of the material.

(6) If an identification number is placed over the word(s) on a placard, the word(s) should be substantially covered to maximize the effectiveness of the identification number.

(d) Except for size and color, the display of an identification number on a placard shall be as illustrated for Acetone:



20. § 172.334 is revised to read as follows:

§ 172.334 Identification numbers; prohibited display.

(a) An identification number may not be displayed on a POISON GAS, RADIOACTIVE or EXPLOSIVES placard.

(b) An identification number may not be displayed on an orange panel or a placard affixed to any package, freight container or transport vehicle that does not contain a hazardous material associated with that identification number in § 172.101 or § 172.102 (when authorized).

(c) Except as required by § 172.332(c)(4) for a combustible liquid, the identification number of a material may not be displayed on a placard other than the one required by Subpart F of this Part for the material.

(d) Except as provided in § 172.336, a placard bearing an identification number may not be used to meet the requirements of Subpart F of this Part unless it is the correct identification number for all hazardous materials of the same class in the transport vehicle or freight container on which it is displayed.

(e) Except as specified in § 172.338, an identification number may not be displayed on an orange panel on a cargo tank unless affixed to the cargo tank by the person offering the hazardous material for transportation in the cargo tank.

(f) If a placard is required by § 172.504, an identification number may not be displayed on an orange panel unless it is displayed in proximity to the placard.

21. (28A.) § 172.336 is revised to read as follows:

§ 172.336 Identification numbers; special provisions and exceptions.

(a) When not required or prohibited by this subpart, identification numbers may be displayed on a transport vehicle or a freight container in the manner prescribed by this subpart.

(b) For hazardous materials in hazard classes for which placards are not required, identification numbers may be displayed on a plain white square-on-point configuration having the same outside dimensions as those prescribed by this Part for placards. An identification number displayed as authorized by this paragraph is not considered a placard.

(1) The 4-inch (10 cm.) by 8½ inch (21.5 cm.) area containing the identification number shall be located as prescribed by § 172.332 (c)(2) and (c)(3) and may be outlined with a solid or dotted line border.

(c) Identification numbers are not required—

(1) On the ends of a portable tank, cargo tank or tank car having more than one compartment if hazardous materials having different identification numbers are being transported therein. In such a circumstance, the identification numbers on the sides of the tank shall be displayed in the same sequence as the compartments containing the materials they identify.

(2) On a cargo tank containing only gasoline, if the cargo tank is marked "Gasoline" on each side and rear in letters no less than 2 inches high, or is placarded in accordance with § 172.542(c).

(3) On a cargo tank containing only fuel oil, if the cargo tank is marked "Fuel Oil" on each side and rear in letters no less than 2 inches high, or is placarded in accordance with § 172.544(c).

(4) For different liquid distillate fuels, including gasoline, in a compartmented cargo tank or tank car, if the identification number is displayed for the distillate fuel having the lowest flash point.

(5) For each of the different liquid distillate fuels, including gasoline, transported in a cargo tank, if the identification number displayed is for the liquid distillate fuel having the lowest flash point.

(6) On nurse tanks meeting the provisions of § 173.315(m) of this subchapter.

(7) On multi-unit tank car tanks prior to July 1, 1983.

(8) On orange panels or placards prior to November 1, 1981.

22. (29.) Section 172.338 is revised to read as follows:

§ 172.338 Replacement of identification numbers.

If more than one of the identification number markings on the placards or orange panels that are required to be displayed are lost or destroyed during transportation, the carrier shall replace all the missing identification number(s) as soon as practicable. However, in such a case, the numerals may be entered legibly by hand using an indelible marking material. This section does preclude required compliance with the placarding requirements of this subchapter.

23. (30.) In § 172.400 paragraph (a) is revised by the addition of the words "or § 172.102 (when authorized)" following § 172.101 in the penultimate line; paragraph (b)(8) is revised to read as follows:

§ 172.400 General labeling requirements.

* * * * *

(b) * * *

(8) Package containing a material classed as ORM–A, B, C, D, or E if that package does not contain any other material classed as a hazardous material that requires labeling.

* * * * *

24. (32.) In § 172.407 the introductory sentence of paragraph (g), subparagraph (g)(1) and paragraph (h), are revised; and paragraph (j) is added to read as follows:

§ 172.407 Label specifications.

* * * * *

(g) A label may contain the UN and IMCO hazard class number and, when appropriate, the division number. The number must be—

(1) Black unless it is on a CORROSIVE label when it must be white, or unless other colors are authorized by this Part.

* * * * *

(h) For import shipments only, a label conforming to the requirements of IMCO or the United Nations Recommendations affixed to a package in another country may contain inscriptions required by the country or origin.

* * * * *

(j) EXPLOSIVE A, EXPLOSIVE B, and EXPLOSIVE C labels may bear inscriptions in addition to those prescribed in this subpart, if required for import or export purposes.

25. In § 172.415 the second sentence of paragraph (b) is revised to read as follows:

§ 172.415 NON-FLAMMABLE GAS label.

* * * * *

(b) * * *. The symbol and inscription must be black or white. The solid line border and, if used, the hazard class number must be the color of the symbol.

26. In § 172.417 the second sentence of paragraph (b) is revised to read as follows:

§ 172.417 FLAMMABLE GAS label.

* * * * *

(b) * * *. The symbol and inscription must be black or white. The solid line border and, if used, the hazard class number must be the color of the symbol.

27. In § 172.419 the last sentence of paragraph (b) is revised to read as follows:

§ 172.419 FLAMMABLE LIQUID label.

* * * * *

(b) * * *. The symbol and inscription must be black or white. The solid line border and, if used, the hazard class number must be the color of the symbol.

28. In § 172.423 the last sentence of paragraph (b) is revised to read as follows:

§ 172.423 DANGEROUS WHEN WET label.

* * * * *

(b) * * *. The symbol and inscription must be black or white. The solid line border and, if used, the hazardous class number must be the color of the symbol.

29. In § 172.500 paragraph (b)(2) is revised to read as follows:

§ 172.500 Applicability of placarding requirements.

* * * * *

(b) * * *

(2) Hazardous materials classed as ORM–A, B, C, D, or E, or

* * * * *

29a. In § 172.516 paragraph (c)(5) is revised to read as follows:

§ 172.516 Visibility and display of placards.

* * * * *

(c) * * *

(5) Have the words or identification number (when authorized) printed on it displayed horizontally, reading from left to right.

* * * * *

30. (35.) In § 172.519 paragraph (d) is revised to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(d) The hazard class and division number prescribed for dangerous goods in the UN Recommendations titled "Transport of Dangerous Goods" may be entered in the lower corner of the diamond on each placard. If a placard is used to display identification numbers as authorized by § 172.332, the class number must be entered in a numeral approximately 1¾ inches (45 mm.) in height (numeral height may be between 1⅝ inches (41 mm.) and 1¾ inches (45 mm.)). It must be black on each placard except when on a NON–FLAMMABLE GAS, FLAMMABLE GAS, FLAMMABLE, COMBUSTIBLE or CORROSIVE placard. The class number on a NON–FLAMMABLE GAS, FLAMMABLE GAS, FLAMMABLE and COMBUSTIBLE pacard may be white or black. The class number on a CORROSIVE placard must be white, and on a COMBUSTIBLE placard with a white bottom as prescribed by § 172.332(c)(4), the class number must be red or black.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

31. In § 173.8 paragraph (a) is revised by changing the first line to read as follows:

§ 173.8 Canadian shipments and packagings.

(a) Except for hazardous wastes and hazardous substances, shipments of hazardous materials * * *.

* * * * *

31a. (37.) In § 173.21 paragraph (b)(3) is added to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(b) * * *

(3) For organic peroxides, the decomposition temperature of 130°F. (54.4°C) does not apply if the controlled temperature requirements specified in Chapter 11 of the UN Recommendations are applied to determine when refrigeration is required.

* * * * *

32. (39.) In § 173.29 paragraph (a)(1) and (a)(3)(ii) are revised; and paragraph (d) is added to read as follows:

§ 173.29 Empty packagings, portable tanks, cargo tanks, and tanks cars.

(a) Except as otherwise provided in this section, a packaging having a capacity of 110 gallons or less that previously contained a hazardous material may not be offered for transportation unless offered in the same manner as required when it previously contained a greater quantity of hazardous material.

(1) This paragraph does not apply to—

(i) A packaging that has been cleaned and purged of all residue, or

(ii) A packaging filled with a material that is not subject to this subchapter.

* * * * *

(3) * * *

(ii) Is not subject to the shipping paper requirements of this subchapter when collected and transported by a contract or private carrier for reconditioning or reuse.

* * * * *

(d) An empty packaging bearing a label or marking that is described in this subchapter and that pertains to the identification of a hazardous material may not be offered for transportation, unless the packaging contains some of the hazardous material that previously required display of the label or marking. This prohibition does not apply to transportation in a transport vehicle or freight container if such a packaging is not visible during transportation and the packaging is loaded by the shipper and unloaded by the shipper or consignee.

33. (41.) In § 173.118a paragraph (b) is revised to read as follows:

§ 173.118a Exceptions for combustible liquids.

* * * * *

(b) A combustible liquid that is a hazardous substance or a hazardous waste in a packaging having a rated capacity of 110 gallons or less, and a combustible liquid in a portable tank, cargo tank or tank car is not subject to the requirements of this subchapter except those pertaining to:

(1) Shipping papers, waybills, switching orders, and hazardous waste manifests;

(2) Marking of portable tanks and marking of packages having a rated capacity of 110 gallons or less that contain hazardous substances or hazardous wastes;

(3) Display of identification numbers on portable tanks, cargo tanks, tank cars and multi-unit tank car tanks;

(4) Placarding of portable tanks, cargo tanks and tank cars;

(5) Carriage aboard aircraft and vessels; and

(6) Reporting incidents as prescribed by §§ 171.15, 171.16 and 171.17 of this subchapter.

33a. In § 173.245 paragraph (b) is revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

* * * * *

(b) Except when transportation by aircraft or vessel is involved and except for a hazardous waste or a hazardous substance, a material classed as a corrosive material that is corrosive only to steel and does not meet the definition of any other hazard class defined in this subchapter, is excepted from the requirements of this subchapter for rail or highway when transported in a portable tank, cargo tank, or tank car constructed of materials that will not react dangerously with or be degraded by the material being transported.

34. (47.) In § 173.364 the sentence within parentheses at the end of paragraph (a) is revised to read as follows:

§ 173.364 Limited quantities of Poison B solids.

(a) * * *. (In addition, these shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and § 174.680, or to Part 177 of this subchapter except § 177.817 and § 177.841(e).)

* * * * *

35. (49.) In § 173.500 the Note following paragraph (a) is revised to read as follows:

§ 173.500 Definitions.

(a) * * *

Note.—There is no change in the applicability of Subparts K, L, and M of this Part for materials classed as ORM–A, B, or C when they are hazardous substances or hazardous wastes (see § 172.101(g)(1)).

* * * * *

PART 174–CARRIAGE BY RAIL

36. (55.) In § 174.25 the Explosives C entry in the Table in paragraph (a)(2) is revised; paragraphs (b) and (c) are revised to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

(a) * * *

(2) * * *

Hazardous material or class	Placard notation	Placard endorsement
*	*	*
Explosives, Class C.	Placarded DANGEROUS.	Do.
*	*	*

(b) * * *

(1) The shipping description consisting of—

(i) The proper shipping name specified for the material in § 172.101 or § 172.102 (when authorized) of this subchapter;

(ii) The hazardous class specified for the material in the same Table;

(iii) The identification number (preceeded by "UN" or "NA" as appropriate) prescribed for the material in the same Table; and

(iv) The total quantity (by weight, volume, or as otherwise appropriate) of the hazardous material covered by the description.

(2) Except when a certified bill of lading is tendered to the carrier, the shipper's certification and signature specified in § 172.204 of this subchapter.

(3) The placard notation specified in the Table in § 174.25(a).

(4) For any entry for a material that is a hazardous substance, the letters "RQ" entered either before or after the basic description.

(c) For an empty tank car that previously contained a hazardous material, other than combustible liquid, or unless the tank car has been reloaded with a material not subject to this subchapter, or has been sufficiently

cleaned of residue and purged of vapor to remove any potential hazard, the billing must show the word(s) "EMPTY" or "EMPTY: Last Contained" followed by the basic description of the hazardous material last contained in the tank car, and the word, "Placarded." For example, "EMPTY: Sulfuric acid, Corrosive material, UN1830, Placarded:" or "EMPTY: Last Contained Sulfuric acid, Corrosive material, UN1830, Placarded".

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

37. In § 175.45 paragraph (d) is added to read as follows:

§ 175.45 Reporting hazardous materials incidents.

* * * * *

(d) Each operator who accepts for transportation or transport a hazardous substance shall comply with the reporting requirements of § 171.17 of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

38. In § 177.817 paragraph (b) is revised to read as follows:

§ 177.817 Shipping papers.

* * * * *

(b) *Shipper certification.* An initial carrier may not accept a hazardous material offered for transportation unless the shipping paper describing the material includes a shipper's certification which meets the requirements in § 172.204 of this subchapter. Except for a hazardous waste, the certification is not required for shipments to be transported entirely by private carriage and for bulk shipments to be transported in a cargo tank supplied by the carrier.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12221 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Modification is not necessary to the previously prepared regulatory evaluation and environmental assessment which are available for review in the docket.

Issued in Washington, D.C., on October 24, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-34027 Filed 11-7-80; 8:45 am]

BILLING CODE 4910-60-M

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federal register

Monday
November 10, 1980

Part III

Department of Energy

Economic Regulatory Administration

Synthetic Natural Gas Feedstock Allocation Revision; Final Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 210, 211

[Docket No. ERA-R-80-22]

Synthetic Natural Gas Feedstock Allocation Revision

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing amendments to its synthetic natural gas (SNG) feedstock allocation regulations that will exempt SNG feedstock use of naphtha from the allocation regulations and provide allocations of propane to existing SNG plants that use propane as feedstock at their historical level of usage. DOE has decided to exempt naphtha used as SNG feedstock and give plants using propane a permanent allocation as the simplest means of eliminating unneeded regulatory burdens from SNG plant operators.

DATES: Amendments will become effective on December 15, 1980.

FOR FURTHER INFORMATION CONTACT:

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William Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3256.

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William Funk or Joel M. Yudson (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 or 252-6744.

SUPPLEMENTAL INFORMATION:

I. Background

On July 11, 1980, we issued a proposal (45 FR 46647, July 21, 1980) to exempt the SNG feedstock use of naphtha from the allocation regulations. All other uses of naphtha have been exempted from the allocation program since September 1976.

The notice also proposed alternative methods of easing the regulatory burden on SNG plants that use propane for SNG feedstock. The first alternative would have deleted the restrictive criteria set forth in 10 CFR 211.29 that have to be satisfied before an allocation of propane used for SNG feedstock can be approved. Under that alternative, firms without a base period use would still have been required to apply for an allocation assignment under the general criteria of Subpart C of 10 CFR Part 205. The second alternative would have provided allocations of propane at historical use levels for all existing SNG plants.

II. Comments Received

Sixteen written and oral comments on the proposals were received from major refiners, gas utilities and gas transmission companies that operate SNG plants, associations representing natural gas and liquefied petroleum gas distributors, an association representing fuel oil marketers, and a group representing the petrochemical industry.

One refiner stated that these simplifying changes are a positive step toward complete deregulation and would improve productivity by reducing the unnecessary administrative burdens imposed by the regulations. Another stated that with the current surplus of naphtha and adequate supply of propane, now is an appropriate time to decontrol completely naphtha and propane used for SNG feedstock. A third refiner, which also operates a petrochemical facility, favored the complete decontrol of naphtha and propane. It stated that if DOE provides automatic allocations of propane to SNG plants without allocations, it should also allocate propane to petrochemical plants without allocations.

This latter argument has some merit, particularly in light of the number of petrochemical plants that have begun operation since the 1972-73 base period for propane. In the event of future shortages of propane, DOE would seriously consider updating the base period for propane to create allocation rights for petrochemical plant operators, as well as SNG plant operators. On the other hand, under § 211.29, SNG plant operators have been required to meet more restrictive criteria than all other categories of ultimate consumer.

Gas utilities and gas transmission companies were generally in favor of ERA's proposals, but preferred to see complete decontrol of propane as well as naphtha. In the event that propane would remain under control, such firms were willing to accept the establishment of permanent allocations for existing SNG plants. In general these companies supported ERA's assessment of the supply projections for SNG feedstock and for natural gas.

The Fuel Oil Marketers Association opposed the proposals because they believed such rules would encourage the switching from fuel oil to natural gas. It was asserted that this policy is contrary to our national energy policy. We believe that these rules will not lead to additional SNG production, because with the currently adequate supplies of feedstock and the use limitation waiver in effect, existing SNG plants are already able to meet their feedstock requirements through September 1981.

The group representing the petrochemical manufacturers, the Petrochemical Energy Group (PEG), opposed changes to the regulations that would allow SNG plants easier access to petroleum-based feedstocks. It cited a number of reasons why the proposals should not be adopted, but did not show that the regulation would harm the petrochemical industry. Among PEG's assertions is that the rule would be contrary to the Nation's energy policy toward SNG and would encourage the use of oil to back out natural gas. It was claimed that the rule would preclude effective allocation of SNG feedstocks in the event that an unforeseen shortage of naphtha or propane would occur. PEG also stated that the proposed rule is inconsistent with recent ERA SNG decisions, and does not further administrative convenience. Furthermore, it stated that the rule is unnecessary in that use limits on SNG feedstock have been waived and that plants using naphtha for SNG feedstock already have allocations.

In response to the PEG comments, we note that the supply/demand balance for natural gas has changed dramatically since the imposition of special controls on SNG feedstocks, as has the cost of producing SNG relative to other sources of natural gas. These factors demand re-examination of the allocation regulations for SNG plants. In the event an unforeseen shortage of naphtha occurs, mandatory allocation would most likely be re-imposed on *all* naphtha sales. Similarly, providing base period allocations for existing SNG plants does not impair the general allocation scheme for propane.

In addition, since SNG is much more expensive than domestically produced natural gas, it is unlikely that this rule will, in the short time remaining of petroleum allocation controls, encourage any additional SNG production. In the one instance known to ERA that a natural gas distribution company's contracts require its customers to purchase SNG before pipeline natural gas, this company can already obtain its SNG feedstock requirements.

Moreover, PEG's assertion is incorrect that all SNG plants that use naphtha have permanent allocations. The rule is needed to eliminate administrative burdens which are imposed on only one sector of petroleum user and which are not justified by the current energy supply situation.

III. Amendments Adopted

As proposed, we are exempting SNG feedstock use of naphtha from the allocation regulations. Naphtha has been exempted from the allocation regulations for all other uses since September 1976. No persuasive reason has been presented for the retention of such regulation until September 30, 1981.

With respect to propane used as SNG feedstock, rather than the deletion of the restrictive criteria to obtain allocation assignments in § 211.29, the final rule will provide allocations for existing SNG plants without requiring assignments. The base period use for each facility will consist of the firm's highest level of purchases or consumption of an allocated product in any consecutive four calendar quarters prior to April 1, 1980. The suppliers during that period will become the base period suppliers. However, other willing refiner-suppliers, producers or importers could assume the obligation to supply the product. The SNG plant operator will be required only to notify the suppliers of their supply obligations and furnish a copy of the notification to DOE. As we stated in the notice, this rule recognizes that the existing plants represent significant investments to the firms that built them and that adequate volumes of feedstock are available in the short term so that other users of propane will not be impacted by allocations to these plants. We have not been persuaded by the comments that there will be significant adverse effects on any sector that will result from the adoption of this rule.

The criteria set forth in § 211.29 will continue to be applicable to SNG plants to be built in the future. As has been noted, however, no new plants are expected to be built or to require an allocation prior to the expiration of the allocation program.

IV. Procedural Requirements

A. FERC Review.

The Federal Energy Regulatory Commission (FERC) was notified of the proposed rule and given an opportunity, under section 404 of the Department of Energy Organization Act, Pub. L. 95-91 (DOE Act), to the close of the comment period to make a determination whether the proposed rule may significantly affect a matter within its jurisdiction under sections 402 (a)(1), (b) and (c)(1) of the DOE Act. We were notified by the FERC that it had declined to exercise its jurisdiction in this matter.

B. NEPA.

In the July 11, 1980 proposal, we set forth DOE's determination that this rule does not involve major Federal actions that would significantly affect the quality of the environment. That determination remains valid.

C. Executive Order 12044.

Under Executive Order No. 12044, a Final Regulatory Analysis has been prepared and may be obtained by the public from ERA's Office of Public Information at the ERA, Room B-110, 2000 M Street, NW., Washington D.C. 20461. The Executive Summary of the Final Regulatory Analysis is set forth as follows:

This regulatory analysis addresses the potential impacts of a proposed change in the rules concerning allocation of naphtha and propane for use as feedstocks in synthetic natural gas (SNG) plants. The proposals under consideration were:

1. Exempt naphtha when used as SNG feedstock from the allocation regulations, and
2. Either delete § 211.29 and allocate propane pursuant to 10 CFR Part 211, Subpart D or give existing SNG plants using propane as a feedstock a permanent allocation

These proposals were made in response to the changes in the energy situation since 1974 when the regulations were put into effect. Since that time an increase in natural gas availability, decrease in naphtha demand and increase in naphtha cost have combined to make any fears of the wide proliferation of SNG plants questionable. Six plants would be affected by a change in the regulations, since the remainder already have permanent allocations. Currently, these plants are required to file periodic lengthy applications meeting detailed criteria in order to receive feedstock assignment orders.

This burden would be removed if naphtha for SNG feedstock were exempted from the allocation regulations and those plants using propane as a feedstock were given a permanent base period allocation as historical propane users. The burden would be also reduced, but not eliminated, if propane for SNG feedstock were allocated pursuant to 10 CFR Part 211, Subpart D.

Analysis of the impacts of the above proposals indicates that the impacts would be insignificant. SNG is not price competitive with natural gas in most circumstances because of high feedstock costs, and this should hold production of SNG to current levels in the short term. Additionally, there is an adequate supply of naphtha and propane to meet current needs without restrictive allocation procedures.

The DOE has therefore decided to exempt naphtha used as SNG feedstock from the provisions of § 211.29 and give plants using propane a permanent allocation, since this is the simplest means of eliminating unneeded regulatory burdens from SNG plant operators.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 210 and 211 of Chapter II of Title 10 of the Code of Federal Regulations are amended as set forth below effective December 15, 1980.

Issued in Washington, D.C., October 31, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 210—GENERAL ALLOCATION AND PRICE RULES

1. Section 210.35 is amended by revising paragraph (d) to read as follows:

§ 210.35 Exempted products.

* * * * *

(d)(1) Naphthas as defined in § 211.182 of this chapter are exempt from the provisions of Part 211 of this chapter.

(2) Naphthas as defined in § 212.31 of this chapter are exempt from the provisions of Part 212 of this chapter.

* * * * *

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

2. Section 211.1 is amended by revising paragraph (b)(7) to read as follows:

§ 211.1 Scope.

* * * * *

(b) *Exclusions.* * * *

(7) Notwithstanding any provision of this part to the contrary, naphtha and gas oils are excluded from this part.

* * * * *

3. Section 211.29 is amended by revising paragraph (b) to read as follows:

§ 211.29 Synthetic natural gas production.

* * * * *

(b) *Existing plants.* Firms without assigned base period uses that operated SNG plants prior to April 1, 1980 shall have as their base period uses for SNG feedstock use, SNG enrichment use and plant fuel an amount equal to their highest level of purchases or consumption of allocated products for

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such uses during any consecutive four calendar quarter period prior to April 1, 1980. The obligated suppliers will be the actual suppliers during the period chosen. However, if other refiner-suppliers, producers or importers are willing to supply the feedstock, they may assume the obligation to supply the allocated product. The SNG plant operator shall notify the firms of the volumes that will be required to be supplied by each supplier and furnish DOE with a copy of such notification.

* * * * *

[FR Doc. 80-34365 Filed 11-7-80; 8:45 am]
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federal register

Monday
November 10, 1980

Part IV

Equal Employment Opportunity Commission

Final Amendment to Guidelines on Discrimination Because of Sex

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1604

Discrimination Because of Sex Under Title VII of the Civil Rights Act of 1964, as Amended; Adoption of Final Interpretive Guidelines

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Amendment to Guidelines on Discrimination Because of Sex.

SUMMARY: On April 11, 1980, the Equal Employment Opportunity Commission published the Interim Guidelines on sexual harassment as an amendment to the Guidelines on Discrimination Because of Sex, 29 CFR Part 1604.11, 45 FR 25024. This amendment will re-affirm that sexual harassment is an unlawful employment practice. The EEOC received public comments for 60 days subsequent to the date of publication of the Interim Guidelines. As a result of the comments and the analysis of them, these Final Guidelines were drafted.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Karen Danart, Acting Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, (202) 634–7060.

SUPPLEMENTARY INFORMATION: During the 60-day public comment period which ended on June 10, 1980, the Commission received over 160 letters regarding the Guidelines on sexual harassment. These comments came from all sectors of the public, including employers, private individuals, women's groups, and local, state, and federal government agencies.

The greatest number of comments, including many from employers, were those commending the Commission for publishing guidelines on the issue of sexual harassment, as well as for the content of the guidelines.

The second highest number of comments specifically referred to § 1604.11(c) which defines employer liability with respect to acts of supervisors and agents. Many commentors, especially employers, expressed the view that the liability of employers under this section is too broad and unsupported by case law. However, the strict liability imposed in § 1604.11(c) is in keeping with the general standard of employer liability with respect to agents and supervisory employees. Similarly, the Commission and the courts have held for years that an employer is liable if a supervisor or an agent violates the Title VII, regardless of knowledge or any other mitigating factor. *Anderson* v. *Methodist Evangelical Hospital, Inc.*, ——— F.Supp. ———, 3 EPD ¶8282 (D.C. Ky. 1971), *aff'd* 464 F.2d 723, 4 EPD ¶7901 (6th Cir. 1972); Commission Decision No. 71–969, CCH EEOC Decisions (1973) ¶6193; Commission Decision No. 71–1442, CCH EEOC Decisions (1973) ¶6216. Furthermore, a recent 9th Circuit case on sexual harassment imposed strict liability on the employer where a supervisor harassed an employee without the knowledge of the employer. *Miller* v. *Bank of America*, 600 F.2d 211, 20 EPD ¶30,086 (9th Cir. 1979). In keeping with this standard, the Commission, after full consideration of the comments and the accompanying concerns, will let § 1604.11(c) stand as it is now worded.

A number of people asked the Commission to clarify the use of the term "agent" in § 1604.11(c). "Agent" is used in the same way here as it is used in § 701(b) of Title VII where "agent" is included in the definition of "employer."

A large number of comments referred to § 1604.11(a) in which the Commission defines sexual harassment. These comments generally suggested that the section is too vague and needs more clarification. More specifically, the comments referred to subsection (3) of § 1604.11(a) as presenting the most troublesome definition of what constitutes sexual harassment. The Commission has considered these comments and has decided that subsection (3) is a necessary part of the definition of sexual harassment. The courts have found sexual harassment both in cases where there is concrete economic detriment to the plaintiff, *Heelan* v. *Johns-Manville Corp.*, 451 F.Supp. 1382, 16 EPD ¶8330 (D. Colo. 1978), *Barnes* v. *Costle*, 561 F.2d 983, 14 EPD ¶7755 (D.C. Cir. 1977), *Garber* v. *Saxon Business Products*, 552 F.2d 1032, 14 EPD ¶7587 (4th Cir. 1977), and where unlawful conduct results in creating an unproductive or an offensive working atmosphere. *Kyriazi* v. *Western Electric Co.*, 461 F.Supp. 894, 18 EPD ¶8700 (D.N.J. 1978). For analogous cases with respect to racial harassment see *Rogers* v. *EEOC*, 454 F.2d 234, 4 EPD ¶7597 (5th Cir. 1971); *EEOC* v. *Murphy Motor Freight Lines, Inc.*, 488 F.Supp. 381, 22 EPD ¶30,888 (D.C. Mn. 1980).

The word "substantially" in § 1604.11(a)(3) has been changed to "unreasonably." Many commentors raised questions as to the meaning of the word "substantially." The word "unreasonably" more accurately states the intent of the Commission and was therefore substituted to clarify that intent.

It should be emphasized that the appropriate course for further clarification and guidance on the meaning of § 604.11(a)(3) is through future Commission decisions which will deal with specific fact situations. Since sexual harassment allegations are reviewed on a case-by-case basis, any further questions will be answered through Commission decisions which will be fact specific.

A fair number of comments were received on § 1604.11(d) which defined employer liability with respect to acts of persons other than supervisors or agents. Again, as in § 1604.11(c), the traditional Title VII concept prevails regarding employer liability with respect to those people other than agents and supervisory employees. Many commentors asked the Commission to clarify the meaning of "others." As a result, § 1604.11(d) has been separated into two subsections. The new § 1604.11(d) refers to sexual harassment among fellow employees and the liability of an employer in such a situation.

The new § 1604.11(e) refers to the possible liability of employers for acts of non-employees towards employees. Such liability will be determined on a case-by-case basis, taking all facts into consideration, including whether the employer knew or should have known of the conduct, the extent of the employer's control and other legal responsibility with respect to such individuals.

A number of people also raised the question of what an "appropriate action" might be under § 1604.11(d). What is considered to be "appropriate" will be seen in the context of specific cases through Commission decisions.

Section 1604.11(e) of the Interim Guidelines, which sets out suggestions for programs to be developed by employers to prevent sexual harassment, now becomes § 1604.11(f). The Commission has received many comments which state that this section is not specific enough. The Commission has decided that the provisions of this section should illustrate several kinds of action which might be appropriate, depending on the employer's circumstances. The emphasis is on preventing sexual harassment, and § 1604.11(f) intends only to offer illustrative suggestions with respect to possible components of a prevention program. Since each workplace requires its own individualized program to prevent sexual harassment, the specific steps to be included in the program should be developed by each employer.

Several commentors raised the question of whether a third party who was denied an employment benefit would have a charge cognizable under Title VII where the benefit was received by a person who was granting sexual favors to their mutual supervisor. Even though the Commission does not consider this to be an issue of sexual harassment in the strict sense, the Commission does recognize it as a related issue which would be governed by general Title VII principles. Subsection (g) has been added to recognize this as a Title VII issue.

After carefully considering the numerous comments it received, the EEOC made the above changes to the Interim Guidelines and, at its meeting of September 23, 1980, adopted them as the Final Guidelines on sexual harassment, subject to formal interagency coordination. Formal interagency coordination has been completed, and none of the affected agencies had additional comments. Therefore, these Guidelines become final as adopted at the Commission meeting of September 23, 1980.

Signed at Washington, D.C., this 3rd day of November 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

Accordingly, 29 CFR Chapter XIV, Part 1604 is amended by adding § 1604.11 to read as follows:

PART 1604—GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

§ 1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII.[1] Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

[1] The principles involved here continue to apply to race, color, religion or national origin.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job junctions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(Title VII, Pub. L. 88–352, 78 Stat. 253 (42 U.S.C. 2000e et seq.))

[FR Doc. 80–34981 Filed 11–7–80; 8:45 am]

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Monday
November 10, 1980

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Grants for Mining and Mineral Resources, Research Institutes and Mineral Research Projects

federal register

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 890

Grants for Mining and Mineral Resources, Research Institutes and Mineral Research Projects

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: OSM is amending portions of the policies and procedures in 30 CFR Part 890 for administering Title III of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (SMCRA). The amendments clarify the submission date for allotment grant applications and revise the grant period for allotment grants. These changes were requested by a majority of the thirty-one State Mining and Mineral Resources and Research Institutes to enable them to plan their costs more effectively and thereby exercise better control over the equipment and manpower resources necessary for conducting their mining and minerals research programs.

EFFECTIVE DATE: December 10, 1980.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ranvir Singh, address above, (202) 343–8032.

SUPPLEMENTARY INFORMATION: Title III of SMCRA provides for an annual allotment to one designated State Mining and Mineral Resources and Research Institute (Mineral Institute) in a State for seven years. This Title also provides for research funds to each Mineral Institute for mineral research grants, scholarships and fellowships, and specifies the criteria and the requirements for institutes to qualify for such funding. Regulations to implement Title III were published in the **Federal Register** on August 28, 1978 (43 FR 38556) and are found in 30 CFR Part 890 of the Departmental regulations. The requirements for submission of allotment grant applications are set forth in § 890.11 of these regulations and applicable grant agreement provisions are contained in § 890.21.

Proposed amendments to §§ 890.11(a) and 890.21(a)(3) were published in the **Federal Register** on August 27, 1980 (45 FR 57149). These amendments respectively clarify, but do not change, the April 1 date for submission of applications for annual allotment grants, and also revise the allotment grant period so that it begins on July 1 instead of October 1.

In January 1980 a number of Mineral Institute Directors sought clarification of the submission date for allotment grant applications after the initial grant year. In § 890.11(a) of regulations such applications were required to be submitted 6 months prior to the end of the Federal fiscal year. The Institutes desired that OSM specify a date instead of the six month time period reference. The Institutes also pointed out certain difficulties they had in properly administering the allotment grants. These problems were attributed to the fact that the grant periods were based on the Federal fiscal year and not on their academic year. This timing difference, the Institutes felt, severely hampered their ability to properly plan and manage their programs.

Believing in the validity of these concerns, OSM contacted all Mineral Institutes regarding the above issues and sought their comments. The Department received twenty-eight comments during these initial discussions. Twenty-three Mineral Institutes agreed with the suggested changes and five Institutes were either opposed to or had some reservations about the change in the grant period. After considering these initial views, OSM published the proposed rule changes on August 27, 1980. Following publication of the proposed amendments, the Department received only one timely comment on the proposed changes.

Disposition of Comments: The Department has carefully considered all the above comments in evaluating the proposed rule change. The comments received by the Department both before and after publication of the proposed rule, and the reasons for accepting or rejecting them are discussed below. All comments received pertained to the proposed change in § 890.21 regarding the timing of the grant period.

One Mineral Institute stated that they did not see any particular benefit to be gained from changing the grant period but agreed to adjust to the change if the majority of Mineral Institutes desired the change. OSM believes that there are definite benefits to be derived from the change in the grant period in terms of better planning and management of the allotment grants and these conclusions are supported by a majority of the Mineral Institutes.

Another Mineral Institute opposed the change in the grant period because they feared problems with coordinating the progress and financial reports required by OSM. OSM believes that changing the grant period would not create any problems relating to the progress and financial status reports because the reports would still continue to be submitted on a quarterly basis as has been the practice in the past.

Another Mineral Institute also objected to the change in grant period, both before and after the publication of proposed rule, because it would cause problems for the Institute due to the State's centralized purchasing, invoicing and accounting practices, and also because of the long lead time required for a timely grant close out procedure. The Institute, however, acknowledged that the change would perhaps facilitate the forecasting of salaries. OSM appreciates the apparent difficulties caused by the internal procedures utilized in this State but believes that in formulating program policies OSM has to consider the best interests of the majority of the Mineral Institutes.

One other Mineral Institute also expressed concern regarding the change in grant period because the change required OSM to reduce the grant amounts for the interim period of September 30, 1980 to June 30, 1981. The Mineral Institute speculated that OSM might continue to fund the allotment grants at this reduced level. OSM understands the Mineral Institute's concern and assures them that the change in amount is being made only because of the alignment of the grant period with the academic year. This alignment necessitates the reduction in the allotment grant amounts for the interim period which is shorter than 12 months.

This one time reduction in allotment grant amounts does not represent any decision to reduce or change future allotment grant amounts.

Another comment by a Mineral Institute stated that they did not oppose the change but preferred the current grant period which coincides with the Federal fiscal year. OSM is fully aware of these concerns and the initial difficulties that some Institutes might experience due to a change in the grant period. OSM, however, believes that this change in grant period would serve the best interests of the majority of the Mineral Institutes.

Information Collection Provisions: These amendments do not impose any additional information collection and reporting requirements on Mineral Institutes. The Mineral Institutes are expected to collect, retain and submit information to OSM as required by the original regulations published in the **Federal Register** on August 28, 1978 (43 FR 38556).

Statement of Significance and Environmental Impact. The Department of the Interior has determined that these amendments of rules are not significant and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has also determined that amendment of the rules within the scope of the document will not significantly affect the quality of the human environment. Accordingly, this action is not subject to the environmental impact statement requirements of the National Environmental Policy Act.

Drafting Information. These amendments were drafted by Ranvir Singh, Office of Surface Mining, and Christopher W. Warner, Office of the Solicitor.

Now, therefore, the amendments as set forth are adopted under the authority of Section 201(c) of Pub. L. 95–87, 30 U.S.C. 1211, *et seq.*

Dated: October 31, 1980.

Walter N. Heine,

Director, Office of Surface Mining

30 CFR Part 890 is amended as follows:

1. Paragraph (a) of § 890.11 is revised.

§ 890.11 Applications for allotments after the first year.

(a) After the first fiscal year, in order to obtain subsequent allotments an institute shall submit to the Assistant Director a request for an annual allotment (in six copies) containing information and materials on Standard Form 424 to supplement any previously submitted application as may be needed to make it currently applicable and to reaffirm eligibility. Such requests shall be submitted on or before April 1 to be considered for grants commencing on or after July 1 of the same calendar year.

* * * * *

2. Paragraph (a)(3) of § 890.21 is revised.

§890.21 Grants amendments.

(a) * * *

(3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period. Allotment grants shall commence on July 1 and shall terminate on June 30 of the following year.

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[FR Doc. 35056 Filed 11–7–80; 8:45 am]

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Monday
November 10, 1980

Part VI

Department of Commerce

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need To Accredit Laboratories That Provide Acoustical Testing Services

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DEPARTMENT OF COMMERCE

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need to Accredit Laboratories That Provide Acoustical Testing Services

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

ACTION: Request for comments on a preliminary finding of need to accredit laboratories that provide acoustical testing services.

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Parts 7a, 7b, and 7c), this notice announces the Department of Commerce's preliminary finding of need to accredit testing laboratories that provide acoustical testing services. The initial set of standards and test methods proposed by the requestor, Owens-Corning Fiberglas Corporation, for inclusion in this laboratory accreditation program (LAP) is set forth in the appendices. This notice sets out the basis for the preliminary finding of need, including how accreditation of laboratories that provide acoustical testing services would benefit the public interest. Comments are invited.

DATES: Written comments are due on or before January 9, 1981. A request for an informal hearing may be made before November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-3221.

SUPPLEMENTARY INFORMATION:

Background

The procedures for the operation of the National Voluntary Laboratory Accreditation Program (NVLAP) were announced in the **Federal Register** on February 26, 1976 (41 FR 8163–8168, 15 CFR Part 7 which has since been redesignated 15 CFR Part 7a). That notice, amended by publication in the **Federal Register** on March 9, 1979 (44 FR 12982–12990 designated 15 CFR Part 7b), on April 25, 1979 (44 FR 24274–24282 designated 15 CFR Part 7c), and on April 21, 1980 (45 FR 26993–26994), described the program as providing a national voluntary system to examine, upon request, the professional and technical competence of private and public testing laboratories that serve regulatory and non-regulatory product evaluation and certification needs. The program will accredit those laboratories that meet the qualifications established under the latest procedures.

Section 7a.4(b) of the NVLAP procedures sets out the requirements to be met by those persons who seek to have the Department of Commerce (DoC) find that there is a need to accredit testing laboratories which provide services relating to a specific product. By letter of August 25, 1980, Foster C. Wilson of Owens-Corning Fiberglas Corporation, Granville, Ohio, requested DoC to find that there is a need to accredit testing laboratories which "render services in the field of acoustical testing of sound control products and the measurement of sound power levels." In a letter of September 5, 1980 to Mr. Wilson, Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, acknowledged the formal request and suggested that the product be identified as "acoustical testing services" in order to clarify the scope of the request. In addition, Dr. Forman asked for confirmation of the list of test methods which the requestor recommended should be included initially in the laboratory accreditation program (LAP) if it is established. In a letter of September 24, 1980 to Dr. Forman, Mr. Wilson agreed with the suggestion and provided some further information to support his August 25 request letter. For the purposes of analysis, the August 25 and September 24 letters represent the formal request submitted to comply with section 7a.4(b) of the NVLAP procedures.

This request has been analyzed and evaluated, resulting in a preliminary finding of need to establish a LAP for acoustical testing services as set forth at the conclusion of this notice.

Request for Comments

Interested persons desiring to comment on the preliminary finding of need are invited to submit their comments on or before January 9, 1981, to the Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Room 3864, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal public hearing relative to this preliminary finding of need must do so by communicating that desire in writing on or before November 25, 1980, to the Assistant Secretary for Productivity, Technology, and Innovation. Upon receipt of such a request, an informal public hearing(s) will be held to give all interested persons an opportunity orally to present data, views, or arguments in addition to the opportunity to make written submissions. If deemed appropriate, hearings may be held at two locations, one of which will be east of and the other west of the Mississippi River. Notice of any hearings will be published in the **Federal Register** at least 20 days in advance thereof. A transcript will be made of any oral presentations.

Comments are invited particularly to determine whether there is a need to establish a LAP for "acoustical testing services." The specific standards and 13 of the 15 test methods identified by the requestor would be initially included in the LAP. As a result of comments in response to this preliminary finding of need, additional standards and test methods directly related to acoustical testing services could be included.

Procedure Following Receipt of Comments

Upon receipt of all written and oral comments and any testimony, a thorough evaluation of the comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the **Federal Register** announcing a final finding of need to accredit testing laboratories which provide "acoustical testing services," or announcing withdrawal of the preliminary finding of need. That notice will set out the basis for a final finding of need or for the withdrawal of the preliminary finding of need.

Documents in Public Record

The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in DoC's Central Reference and Records Inspection Facility (CRRIF), Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

All written and oral comments and testimony in response to this notice will be made part of the public record and will be available for inspection and copying at CRRIF.

November 5, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology and Innovation.

Preliminary Finding of Need

The request of Owens-Corning Fiberglas Corporation that DoC find that there is a need to accredit testing laboratories that provide acoustical testing services has been carefully considered. The analysis of that request is contained in the report entitled "NVLAP Summary and Analysis Report of Request for a Laboratory Accreditation Program for Acoustical Testing Services." Each heading which follows is keyed to the specific sections of the NVLAP procedures relative to making a preliminary finding of need.

Identification of the Product (Section 7a.4(b)(1))

The requestor identified the product (as defined in section 7a.3 of the NVLAP procedures) as "acoustical testing services."

Text of Applicable Standards and Test Methods (Section 7a.4(b) (2) and (3))

The requestor identified 8 applicable standards (see Appendix 1)*. In addition, the requestor cited NBS Special Publication 386, 1973 edition entitled "Standards on Noise Measurement, Rating Schemes, and Definitions: A Compilation" as a comprehensive list of acoustical test methods, but suggested that only 13 of those test methods listed in Appendix 2 initially be included in this proposed LAP.

Section 7a.4(i) of the NVLAP procedures (45 FR 26693–94 dated April 2, 1980) allows standards and test methods to be added to a LAP once a LAP is established if the additional standards and test methods fall within the boundaries established by the definition of the product for the LAP. At some future date, or even as a result of comment in response to this preliminary finding of need, additional standards and test methods directly related to acoustical testing services could be included. The specific standards and 13 of the 15 test methods identified by the requestor would be included in the LAP.

Basis of Need (Section 7a.4(b)(4))

The requestor included in his request information pertinent to the five items set out in section 7a.5 of the NVLAP procedures. This information is incorporated into the discussion under the section of this notice (see below) entitled *"Basis for Preliminary Finding of Need for Accrediting Laboratories That Proved Acoustical Testing Services (Section 7a.5)."*

Number of Laboratories and Users (Sections 7a.4(b)(4) (i) and (ii))

The requestor cited the ASTM publication STP 33D entitled "Directory of Testing Laboratories", and the "Directory of the American Council of Independent Laboratories" as listing many laboratories that conduct acoustical tests. According to the requestor, a total of 20 to 25 laboratories would be interested in becoming accredited.

The requestor suggested that it is almost impossible to estimate accurately the number of users that will desire services of accredited acoustical testing laboriatories, but estimated that it is "in the thousands." The number could include every manufacturer of sound control products and products that generate noise, every building code jurisdiction with sound control requirements in their codes, all users and purchasers of sound control products and noise producing equipment, and many Federal agencies responsible for noise control.

Basis for Preliminary Finding of Need for Accrediting Laboratories That Provide Acoustical Testing Services (Section 7a.5)

The basis for this preliminary finding of need, keyed to the information items listed in section 7a.5 of the NVLAP procedures, is as follows:

(1) *Whether the establishment of general or specific criteria and other conditions for accrediting testing laboratories that provide acoustical services would benefit the public interest (section 7a.5(a)).*

Criteria and other conditions for accrediting laboriatories would benefit the public interest due to the major role of sound control products in noise control and the need to rate the noise level generated by various types of equipment. Documents cited by the requestor attesting to the importance of sound control products, the necessity to know and control noise levels of noise sources, the involvement of all levels of government in noise problems, and the impact to the consumer include:

(a) The Noise Control Act of 1972 which authorizes the Administrator of the Environmental Protection Agency (EPA) to establish noise labeling procedures for any product which emits noise capable of adversely affecting the public health or welfare, or which is sold wholly or in part on the basis of its effectiveness in reducing noise;

(b) The Occupational Safety and Health Act of 1970 which provides for the setting of maximum noise exposure levels for workers; and

(c) The Quiet Communities Act of 1978 which directs the EPA to undertake a comprehensive program of research, technical assistance, and discretionary grants to support State and local government efforts in writing noise laws.

This proposed LAP could support labeling programs planned by several industries in response to EPA requirements. Without the presence of accredited laboratories uniformly to evaluate sound control and noise producing products, there exists a greater opportunity for disemination of inaccurate information about these products to the consumer or user.

(2) *Whether there is a national need to accredit testing laboratories for acoustical testing services beyond that served by any existing laboratory accreditation programs, in the public and private sector (section 7a.5(b)).*

There are no known acoustical testing laboratory accrediation programs currently in existence in the United States. The information set forth under (1) attests to a national need for such a LAP.

(3) *Whether for acoustical testing services, there is in existence a standard important to commerce, consumer well-being, or public health and safety (Section 7a.5(c)).*

Several standards and test methods, identified by the requestor, are used to determine noise levels of equipment and to evaluate the various acoustical properties of sound control products. The requestor suggested that a LAP would facilitate the flow of valid information about these products in commerce and benefit the consumer interest without undue intervention of government in the marketplace. The standards contemplated for use as part of EPA's labeling requirements for sound control and noise producing products are deemed important to consumer well-being and the public health and safety.

(4) *Whether there is in existence a valid testing methodology (Section 7a.5(d)).*

The requestor suggested that 15 test methods (see Appendix 2) initially be included in this proposed LAP. Those test methods are contained in standards of the American Society of Testing and Materials, the Acoustical Materials Association, the Public Buildings Service of the General Services Administration, the American National Standards Institute, or the American Society of Heating, Refrigerating, and Air Conditioning Engineers. Technical experts of the National Bureau of Standards have concluded that 13 of the 15 test methods represent valid testing methodologies (see annotations to appendix 2).

(5) *Whether it is feasible and practical to accredit testing laboratories that provide Acoustical Testing Services (Section 7a.5(e)).*

DoC is not aware of any characteristic of the acoustical test methods listed in Appendix 2 that would make an acoustical testing services LAP less

*Three of the 11 standards originally identified by the requestor, but subsequently dropped, are not listed because they are not in use or have been superseded.

feasible or practical than the other LAPs now in the program. Therefore, it is deemed feasible and practical to accredit testing laboratories that provide acoustical testing services.

Preliminary Finding of Need

The request to find that there is a need to accredit testing laboratories that provide acoustical testing services has been carefully examined and anaylzed. Based on that examination and analysis, which are outlined above, it is preliminarily found that a need exists to accredit testing laboratories that provide acoustical testing services. It is proposed that if a final finding of need is determined, this LAP initially would include the standards and test methods listed in Appendices 1 and 2 as annotated. Other standards and test methods would be added in the future, as requested, if they meet the requirements of the NVLAP procedures.

Appendix I.—List of Applicable Standards

Designation	Title
MIL–A–23054 (Military Standard).	Acoustical Absorptive Board, Fibrous Glass, Perforated Fibrous Glass Cloth Faced.
MIL–I–742	Insulation Board, Thermal, Fibrous Glass.
MIL–I–7171	Insulation Blanket, Thermal-Acoustical.
MIL–I–22023	Insulation Felt, Thermal and Sound Absorbing Felt, Fibrous Glass, Flexible.
HH–I–515 (Federal Specification).	Insulation Blanket, Thermal-Acoustical and Insulation, Thermal: Vegetable or Wood Fiber.
HH–I–526	Insulation Board, Thermal-Acoustical Mineral Wood (for roofs).
HH–I–545	Insulation, Thermal and Acoustical (Mineral Fiber, Duct Lining Material).
SS–S–118	Sound Controlling Blocks and Boards (Acoustical Tiles and Panels Prefabricated).

Appendix II.—List of Applicable Test Methods

Designation	Title
ASTM C423	Sound Absorption and Sound Absorption Coefficients by the Reverberation Room Method.
ASTM E90	Laboratory Measurements of Airborne Sound Transmission Loss of Building Partitions.
ASTM C384	Impedance and Absorption of Acoustical Materials by the Impedance Tube Method.
ASTM C522	Airflow Resistance of Acoustical Materials.
ASTM E477	Duct Liner Materials and Prefabricated Silencers for Acoustical and Airflow Performance.
ASTM E492	Laboratory Measurement of Impact Sound Transmission Through Floor/Ceiling Assemblies Using the Tapping Machine.
ASTM E596	Laboratory Measurement of the Noise Reduction of Sound-Isolating Enclosures.
AMA I–II*	Ceiling Sound Transmission Test by Two-Room Method.
PBS C.1**	Method for the Direct Measurement of Speech-Privacy-Potential (SPP) Based on Subjective Judgments.

Appendix II.—List of Applicable Test Methods—Continued

Designation	Title
PBS C.2**	Method for the Sufficient Verification of Speech-Privacy Potential (SSP) Based on Objective Measurements including Methods for the Rating of Functional Interzone Attenuation and NC-Background.
ANSI S1.29	Method for the Measurement and Rating of Noise Emitted by Computer and Business Equipment.
ANSI S5.1	Test Code for the Measurement of Sound from Pneumatic Equipment.
ANSI S1.35	Determination of Sound Power Levels of Noise Sources in Anechoic and Hemi-Anechoic Rooms.
ANSI S1.21	Methods for the Determination of Sound Power Levels of Small Sources in Reverberation Rooms.
ASHRAE 36	Methods of Testing for Sound Rating Heating, Refrigerating and Air-Conditioning Equipment.

*This test method is technically suitable for inclusion in the LAP, but there may be difficulty in getting copies of the document because AMA no longer exists and no other organization has assumed responsibility for the document.

**These two PBS test methods are deemed inappropriate for initial inclusion in the LAP. These methods are currently under consideration for adoption as ASTM standards. These methods will be reconsidered for inclusion in this LAP at such time that they become ASTM standards.

Note.—ASTM—American Society for Testing and Materials; AMA—Acoustical Materials Association (no longer in existence); PBS—Public Buildings Service, General Services Administration; ANSI—American National Standards Institute; ASHRAE—American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

[FR Doc. 80-35051 Filed 11-7-80; 8:45 am]
BILLING CODE 3510-13-M

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federal register

Monday
November 10, 1980

Part VII

Department of the Interior

Bureau of Indian Affairs

Indian Fishing—Hoopa Valley Indian Reservation—Conservation Regulations

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 258

Indian Fishing—Hoopa Valley Indian Reservation; Conservation Regulations

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is amending its conservation regulations governing Indian fishing on the Hoopa Valley Indian Reservation for the salmon, steelhead and sturgeon fisheries to provide for better data collection, and to alleviate some enforcement problems.

EFFECTIVE DATE: These amendments become effective on or before December 10, 1980.

FOR FURTHER INFORMATION CONTACT: Joe Weller, Superintendent, Hoopa Agency, Bureau of Indian Affairs, P.O. Box 367, Hoopa, California 95546, telephone: (916) 625–4285.

SUPPLEMENTARY INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2 and 9, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of federally reserved Indian fishing rights.

Normally tribal governments would be responsible for regulation of Indian fishing on a reservation. Tribal regulation on the Hoopa Valley Indian Reservation has not been possible because the reservation is shared by two tribes, one of which does not currently have a functioning government. The Bureau of Indian Affairs has made major efforts to assist the Yurok Tribe in developing an organized government that will be able to participate with the Hoopa Valley Tribe in regulation of the Indian fishery. To date, however, these efforts have not met with success. While efforts to resolve the organizational problems continue, the Department will continue to regulate the fishery to assure the continued existence of this valuable tribal asset.

Some twenty documents were received commenting on the proposed amendments to the regulations from both the Indian and non-Indian community (45 FR 43431, June 27, 1980). While some persons made brief comments addressed to a single item others submitted completely rewritten versions of the entire document. From the Indian community came expression of total support of the amendments as well as criticism that the regulations were unneeded and unlawful, and constituted harassment and subjugation of sovereign tribal rights. Many comments were general and not related to the proposed amendments. There were suggestions for additional amendments to the regulations which were outside the scope of the amendments that were proposed and consequently could not be considered at this time as there has been no opportunity for public comment on those suggestions.

From the non-Indian Community came comments that the introductory remarks to the proposed amendments to the regulations contained significant factual omissions or misstatements of fact that will, whether intended to or not, mislead the reviewer of the proposed regulations. While acknowledging other influences on the declining fishery, many comments from the non-Indian community asserted that the exercise of special rights by the Indians is the major contributor to depletion of the resource.

Until such time as all groups recognize and accept their share of the responsibility for conservation of the resource feelings of animosity will exist. The amendments to the regulations are made in an effort to provide clarification and better enforcement of the regulations while assuring the Indians of their rights and providing for proper spawning escapement.

Most comments from the Indian community criticized the amendments as seemingly prohibiting fishing by Indian children. The proposed amendments would have amended § 258.3 to read, "Children under the age of twelve (12) years are not subject to this Part and are not eligible to receive Fisher Identification Cards." This provision was not intended to prohibit Indian children under the age of 12 from fishing. The purpose was to avoid subjecting such children to the criminal justice system without permitting adults fishing with such children to avoid liability by attributing any illegal activity to such children.

Based on the comments received, it was concluded that some children as young as ten years old may be physically able to fish unaccompanied. When such children fish unaccompanied, only they may be held liable for their actions. It is undesirable, however, to subject such young children to the usual criminal penalties.

Accordingly, § 258.3 has been revised to (1) permit Indians as young as ten years of age to obtain a fishers identification card, (2) to permit children under ten years of age to accompany adults who are fishing even though such children are not eligible for their own fishers identification cards, (3) to provide that adults fishing in the company of such children are liable for violations of the regulations committed by such children, (4) to provide that children between the ages of 10 and 16, although subject to the regulations, may not be fined or imprisoned for violations of these regulations, and (5) to provide that persons 17 or 18 years old found guilty of violations of these regulations are liable to all penalties except incarceration.

Some comments concerning the proposed revisions to § 258.7 complained that gill nets created a hazard because their location is not sufficiently well marked. Although compliance with this provision will have the effect of requiring that the location of the net be marked in a manner that will make it visible to persons in boats, these requirements may not assure adequate marking for navigation purposes. This provision is not intended to address that problem, but is simply designed to assure that the identity of the person using the net can be readily ascertained. If additional requirements are needed to assure adequate visibility for navigation purposes, an additional amendment addressing that problem may be promulgated later.

There were comments relative to the proposed amendment of § 258.8(e)(9) which prohibited the placement of set nets within 300 feet of another set net. Many comments expressed concern over the controversy that could arise over who got there first and who was in violation of the regulations.

The purpose of this suggested change was to prevent placement of nets in a manner that would block a major portion of the river at a given point or that would tend to channel fish into a narrow portion of the river where they could be more easily caught. There are many situations, however, where nets can be placed closely together in a manner that will not block most of the river or channel the fish to a narrow passageway. The provision as previously drafted would have required Indians to forgo many good fishing sites. It was concluded that the desired goal could be obtained simply by prohibiting the placement of nets in a manner that covered more than one-third of the distance across the wetted area of any channel.

Numerous comments were received relative to fishing below the U.S. Highway 101 Bridge. Some comments received requested a total ban on the use of gill nets or a prohibition against their use between 6:00 a.m. and 8:00 p.m. Although limitation of gill net fishing

below the bridge to ten hours each night might reduce conflict between hook-and-line and net fishers, it could seriously impair the ability of Indians to catch the fish they need for subsistence purposes unless there is some compensating relaxation of other regulations. There has been some discussion in the local fishing community of permitting drift netting at night to compensate for a daytime closure to set net fishing, but no consensus has been reached. This suggestion had not been included in the proposed rules. Such a substantial change should be published for comment before it is adopted unless it is absolutely essential for conservation purposes. For these reasons no changes are being made at this time in the current regulations banning drift nets and permitting daytime use of set nets below the Highway 101 Bridge. There was one comment that *all* fishing on the river should cease for two days a week in order to provide for the opportunity for spawning escapements. This suggestion will be taken into consideration at such time that further restrictions are found necessary for preservation of the resource.

There were comments that there should be limits placed on mesh size of gill nets used as small mesh size will net immature salmon and small steelhead. There is no evidence that small mesh sizes are being used and restrictions at this time are not considered necessary.

The proposed amendment of § 258.8(e)(10) provided that "No set net may be placed within 400 feet of the test seining operation of the U.S. Fish and Wildlife Service." This amendment to the regulations was promulgated on July 31, 1980 as an emergency regulation. It is now evident that there are other test seining operations which are necessary for collection of data in order to conserve the resource properly. These other operations may be operated by the U.S. Fish and Wildlife Service or the California Department of Fish and Game. With these amendments to the regulations, § 258.8(e)(10) will now read "No set net may be placed within 400 feet of any test seining operation of the U.S. Fish and Wildlife Service or the California Department of Fish and Game."

Numerous comments addressed the issue of permitting eligible Indians to engage in snag fishing. The preponderant expression was that snagging should not be allowed. No comments were received explicitly favoring snagging. Accordingly, proposed amendments to the regulations permitting snagging will not be promulgated at this time.

A number of comments were received on the proposal to authorize the placement of weirs in the stream channel by groups of eligible Indian fishermen in lieu of using gillnets. Both favorable and unfavorable comments were received. Favorable comments stated that the weirs could be more easily monitored than gillnets and losses due to "drop out" would be less while others indicated the use of weirs would provide a greater sharing of the resource for commercial and subsistence fisheries. Adverse comments asserted that without proper control and management, the use of weirs in conjunction with gillnets could annihilate the resource. There was concern expressed that the Department does not have the capability to monitor the use of weirs properly at the present time. In commenting on the use of weirs as a traditional method of taking fish, it was pointed out that the use was restricted as to time and place. Since a preponderance of the comments opposed the use of weirs, the regulations will not be amended to provide for their use at this time.

There were many comments on marking of fish. The change proposed provided for the marking of fish before they were taken from the place they were caught instead of prior to leaving the reservation. This change makes it easier to monitor compliance with the marking requirement. Many members of the Indian community have expressed displeasure with the marking requirement because they believe they are being singled out for harrassment and discrimination. The marking of the fish identifies the origin of the fish and the right of possession by eligible Indian fishermen. The marking of fish also serves to curb the illegal sale of fish. Although non-Indian fishermen are not subject to these regulations, they must comply with many State regulations, that do not apply to Indian fishers.

There have been numerous objections to removal of the upper portion of the tail for religious and other reasons. It has also been suggested that a portion of the tail is more difficult to remove than other distinguishing features. Consideration was given to requiring the removal of the dorsal fin rather than the top portion of the tail. This proposed change was not among the proposed amendments previously published, consequently, there has not been an adequate opportunity for public comment on this proposal. For this reason, no change will be made at this time in the requirement that the tail be clipped or marked. Comments from the Indian community requested that transportation permits be issued by the Bureau of Indian Affairs for fish leaving the reservation and that all fish be so marked. Proper compliance with the marking requirements should make transportation permits unnecessary.

Several comments were received objecting to discontinuance of the requirement that consultation meetings be held by the Superintendent on a bi-weekly basis. After consideration it was decided that the proposed change would offer more flexibility in consultation. Flexibility is needed to discuss different aspects of the fishery at various reservation locations. With this flexibility, the Indian community can also request the Superintendent to discuss items that are unique to a given location. The Superintendent in determining the need for meetings will give as much time for notice as is possible while weighing the urgency of the matter.

During the comment period, it was recommended that notices of in-season adjustments should also be posted in the Humboldt County Courthouse and U. S. Post Office in Eureka. Section 258.11 is further amended to satisfy this need.

There were many varied comments on "Fish Catch Reporting", 25 CFR 258.12. The comments ranged from deriding data collection as a "waste of time and money" to suggesting that the reporting periods be weekly instead of monthly. The Hoopa Valley Business Council in recognition of the need for data gathering indicated support by way of encouraging tribal members to comply with fish catch reporting requirements. The Tribe was also quick to point out that it was an elaborate and time consuming system which is being imposed on the Indian fishermen. They wish the fact emphasized that the sport and non-Indian commercial fishers are also required to report all fish caught. Some comments suggested more data collection points and checking of catches in the boats.

It may be possible to develop an information-collecting system that imposes a lesser burden on Indian fishers but still provides the data needed for proper management of the fish stocks. The Department is interested in discussing possible modifications at some of the consultation meetings with Indian fishers. Because of the urgent need for improved data, however, the proposed reporting requirement is being adopted now. Modifications in that reporting requirement may be proposed later after further consultations on this issue with Indian fishers and fishery biologists.

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It was suggested that the data collected be made available to those who request the information. While the summary information will be available, it will not be possible to release data furnished by individual fishers nor will it be kept.

Changes in § 258.14, Enforcement, provide for the holding of fishing gear used in violation of the regulations pending disposal by court order and the prompt sale of fish which may have been seized. It is desirable to dispose of the fish as rapidly as possible rather than freezing the fish because the fish may deteriorate during the time it takes to hear a case even though the fish are frozen.

There were many comments related to the severity of penalties imposed by the regulations. Most of the comments were repetitive of those received during the promulgation of earlier regulations. The comments generally expressed the feeling that violations should be decriminalized or made less severe. There was an expression that proposed § 258.15(i) was an unconstitutional ex post facto law. Such a provision has been upheld by the Supreme Court as constitutional even when one of the earlier offenses was committed before the law providing for a more severe penalty for repeat offenders was passed. The more severe penalty is not a new or additional punishment for the earlier offense. It is a stiffened penalty for the latest offense, which is considered to be more serious because of its repetitive nature. *Gryger v. Burke,* 334 U.S. 728, 732 (1948).

Some comments objected to the existing provision making it a separate offense to violate a lawful order of the court. All courts have the power to cite for contempt persons who disobey their orders. Such authority is essential to assure compliance with court orders.

Objections were received to the imposition of a criminal penalty for failure to report fish caught below the U.S. Highway 101 Bridge. Prosecution would be difficult because of the need to prove that unreported fish were caught below the bridge. It would also be necessary for Fish and Wildlife Service biologists to testify against persons accused of violation of such a provision in order to establish that no report had been made. Because the biologists depend to a large extent on the voluntary cooperation of the fishers, their direct involvement in prosecutions could be counter-productive. Since the collection of accurate run size data is so clearly in the interests of the Indian fishers, voluntary cooperation is more likely to achieve the desired goal than the threat of criminal penalties. For these reasons the criminal penalty for failure to report fish catch has been deleted. The requirement that each fisher file written reports of fish that are caught in order to qualify for a subsequent year's fisher identification card, however, is being retained.

Section 258.16 is amended to clarify that all persons, rather than only eligible Indians, are subject to prosecution for interference with a law enforcement officer who is acting in the line of duty.

Finally, § 258.17 is amended to clarify that the jurisdiction of the Court of Indian Offenses extends to the determination that fish as well as nets and other fishing gear are forfeited.

The primary authors of this document are Bush Loucks, Bureau of Indian Affairs, Sacramento Area Office, and David Etheridge, Office of the Solicitor, Division of Indian Affairs, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

25 CFR Part 258 is amended as follows:

1. By revising § 258.2 to read as follows:

§ 258.2 Saving clause of regulations.

All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in these regulations and covered by the repeal contained therein, shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

2. By revising paragraph (c) § 258.3 and adding new paragraphs (d) and (e) to that section to read as follows:

§ 258.3 Application.

* * * * *

(c) Children under the age of 10 years are not liable for violation of the provisions of this part. Such children are not eligible to receive fisher identification cards, but may accompany adult eligible fishers. Adults in the company of such children shall be held liable for actions of such children that are in violation of the provisions of this part.

(d) Children between the ages of 10 and 16 are entitled to fisher identification cards and are subject to the provisions of this part, but such children are not subject to a fine or incarceration for violation of the provisions of this part.

(e) Eligible Indian fishers who are 17 or 18 years old are subject to all penalties prescribed in this Part except incarceration.

3. By revising paragraphs (g) and (h) of § 258.4 and by adding a new paragraph (s) to that section to read as follows:

§ 258.4 Definitions.

* * * * *

(g) *Fish, fishing means:* The fishing for, catching, or taking or the attempted fishing for, catching, or taking of any salmon, steelhead, or sturgeon within the exterior boundaries of the reservation. Placement of a net in the water constitutes fishing regardless of whether or not the person who placed the net in the water intended to catch fish.

(h) *"Fishers Identification Card" means:* the identification card issued by the Hoopa Valley Tribe to its members or the card issued by the Bureau of Indian Affairs identifying the holder as a person eligible to fish as an Indian of the Reservation. The identification card shall include the name, basis for eligibility to fish, address, birthdate, color of hair, color of eyes, height, weight, identification number, and photograph of the holder and the disclaimer provided in § 258.5.

* * * * *

(s) Logsheets means: that record maintained by eligible fishers of fish caught for reporting catch data for use by biologists in developing fish run and spawning escapement information.

4. By revising paragraph (c) of § 258.6 and by adding a new paragraph (d) to that section to read as follows:

§ 258.6 Fishers identification cards required.

* * * * *

(c) *Fisher identification card.* A fisher identification card shall be issued to tribal members by the Hoopa Valley Tribe or by the Bureau of Indian Affairs, Hoopa Agency, to applicants who fulfill eligibility requirements in § 258.5(a). Such cards may be obtained by contacting the Agency Superintendent, P.O. Box 367, Hoopa, California 95546, telephone: (916) 625–4285, or the Hoopa Valley Tribal Office. The card shall be signed by the card holder. The card shall be countersigned by the authorized official of the Bureau of Indian Affairs or the Hoopa Valley Tribe certifying that the card holder is recognized as eligible to exercise Indian fishing rights on the reservation.

(d)(1) Each eligible Indian who holds a 1981 fisher identification card must file monthly logsheets during 1981 reporting catch data. A report must be filed each month whether or not the person reporting caught any fish during that month. The logsheet shall be filed with the Hoopa Valley Agency Superintendent by the 15th day of the month following the month covered by the logsheet. Logsheet forms will be provided to Indian fishers by the Bureau of Indian Affairs.

(2) In order to qualify for a subsequent year's fisher identification card any person holding a fisher identification card must report monthly catch data for the period covered by the old card.

5. By revising paragraph (a) of § 258.7 and by adding a new paragraph (c) to that section to read as follows:

§ 258.7 Identification of gear.

(a) At the time an eligible fisher applies for a fisher identification card he or she shall be assigned an identification number and shall be required to attach the identification number to any net he or she is using for fishing on the reservation. Each net must have floats or corks attached which float and are visible at all times the net is in the water.

* * * * *

(c) No eligible fisher may permit his or her identification number to be used on a net that is being attended or fished by someone else. No eligible fisher may attend or fish a net that is not marked with his or her own identification number.

6. By revising paragraph (e) (4) and (5) and paragraph (h) of § 258.8 and by adding new paragraph (e)(9) to that section to read as follows:

§ 258.8 Permissible and prohibited fishing.

* * * * *

(e) *Restrictions on fishing.* * * *

(4) Both ends of a set net shall be anchored or staked at all times it is in use. The anchoring of nets to any boat dock or placement of nets in such a manner as to impede boat traffic from docking at or departing from any boat dock is prohibited.

(5) No set net or combination of set nets, staggered or joined, may be placed in the Klamath River or Trinity River in such a way that it covers more than one-third (⅓) of the distance across the wetted area of any channel.

* * * * *

(9) No set may be placed within 400 feet of the test seining operation of the U.S. Fish and Wildlife Service or the California Department of Fish and Game.

* * * * *

(h) *Special Fishing for Rest Home, Elderly and Incapacitated Persons of the Hoopa Valley Indian Reservation.* Four gillnets which are used in conformity with these regulations may be used for fishing for the Hoopa Square rest home and other elderly, incapacitated or otherwise eligible persons incapable of fishing for themselves on the Hoopa Valley Indian Reservation. Such gillnets shall be clearly marked with numbers assigned by the Bureau of Indian Affairs Agency Office at Hoopa upon registration of the nets. Eligible Indian community fishers shall attend these nets.

7. By revising § 258.9 to read as follows:

§ 258.9 Catch marking.

All fish transported away from the place where they were caught shall be clearly marked on the tail by an "X" in indelible dye or by clipping or cutting off the top half of the tail fin. The bottom half of the tail fin may not be removed until the fish have arrived at the location where they are to be consumed or preserved for consumption.

8. By revising § 258.10 to read as follows:

§ 258.10 Consultation.

The Bureau of Indian Affairs Agency Superintendent or his designated representative shall hold meetings as needed on the reservation to consult with Indians of the reservation on the status of the fishery, ocean harvests, the sport fishery, Indian harvests, in-season adjustments to the regulations, and other relevant matters. At the end of each presentation, comments will be received from those in attendance. A written summary of those comments shall be maintained as a record by the Bureau of Indian Affairs, Hoopa Agency.

9. By adding new paragraphs (c)(3) (xix), (xx), (xxi), and (xxii) to § 258.11 to read as follows:

§ 258.11 In-season and emergency regulations.

* * * * *

(c) * * *

(3) * * *

(xix) Crescent City Post Office.

(xx) Crescent City Court House.

(xxi) Eureka Post Office.

(xxii) Eureka Courthouse.

* * * * *

10. By revising paragraph (a) of § 258.12 to read as follows:

§ 258.12 Fish catch Reporting.

(a)(1) Any eligible fisher who catches fish on the Klamath River below Highway 101 Bridge shall bring such fish for inspection to the U.S. Fish and Wildlife Service inspection stations located along that portion of the river.

(2) All eligible fishers shall allow access to harvested fish to biologists, enforcement officers and Indian trainees for the purpose of monitoring the harvest and to check for compliance with the provisions of this part.

11. By revising paragraphs (b)(1) and (b)(3) and adding a new subparagraph (b)(6) to § 258.14 to read as follows:

§ 258.14 Enforcement.

* * * * *

(b) *Seizure: Confiscation of fishing gear and fish.* (1) Any net or other fishing gear used in violation of these regulations and any fish caught or possessed in violation of these regulations may be seized by a law enforcement officer. Fishing gear so seized shall be held pending disposition by court order.

* * * * *

(3) Upon filing of such petition, the enforcement officer shall set out details of the seizure citing time, place and location of such seizure and fix a time for a hearing and cause notices for unattended gear or fish to be posted and published. Notices shall be posted for 14 days at both courthouses of the Court of Indian Offenses and the Del Norte County Courthouse. The Clerk of the Court shall publish notices in local news media having circulation on the reservation. Such notices shall be published for a period of five days and shall set forth the substance of the hearing.

* * * * *

(6) All fish seized shall be promptly sold by law enforcement officers and the proceeds held pending adjudication of the charge that was the basis for the seizure. Proceeds from sales of fish that are found, upon adjudication, to have been illegally taken will be transferred to a special Hoopa-Yurok Fund in the U.S. Treasury.

12. By revising paragraphs (a)(1), (a)(2), and (a)(3) of § 258.15, and adding new paragraphs (h), (i) and (j) to that section to read as follows:

§ 258.15 Penalties.

(a) Any eligible Indian who violates §§ 258.3(c), 258.5(c), 258.8 (a), (e), or (g), 258.11 (a) or (b) shall be subject to the following penalties:

(1) *1st violation of the regulations of this part.* No more than $200 or 2 months in jail or suffer suspension of tribal

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fishing rights for 60 days during the fishing season, or any combination of the above.

(2) *2nd violation of the regulations of this part.* Not more than $400 or 4 months in jail or suffer suspension of tribal fishing rights for 120 days during the fishing season or any combination of the above.

(3) *3rd or subsequent violations of the regulations of the part.* Not more than $500 or 6 months in jail or suffer suspension of tribal fishing rights for 180 days during the fishing season, or any combination of the above.

* * * * *

(h) Any person who refuses while in the physical presence of a presiding judge to obey a lawful order of the Court of Indian Offenses shall be fined not more than $100 or sentenced to jail for a period not to exceed 30 days, or both.

(i) For purposes of determining imposition of fines and sentences under this part, the number of violations shall include all violations occurring in previous years.

(j) *Civil Penalty.* (1) The owner of a marked or unmarked gillnet shall be strictly liable for the costs of seizure, costs of storage, costs of advertising of seizure, costs of proceeding in court and attorney's fees for any gillnet fished in violation of these regulations.

(2) These civil regulations shall in no way substitute, replace or otherwise affect any criminal sanctions set forth in these regulations.

(3) The Court of Indian Offenses may secure said gillnets until such costs have been paid. If after a reasonable length of time no payment or inadequate payments have been made, the Court of Indian Offenses may release the nets to the Bureau of Indian Affairs for disposal as directed by the Secretary of the Interior.

§ 258.15 [Amended]

13. By revoking paragraph § 258.15(d).

14. By revising § 258.16 to read as follows:

§ 258.16 Forceable assault and impeding a law enforcement officer.

Any person who forcibly assaults, resists, impedes, or interferes with a law enforcement officer engaged in the enforcement of the regulations of this part shall be prosecuted in the federal courts under 18 U.S.C. 1111 and 1114.

15. By revising § 258.17 to read as follows:

§ 258.17 Hoopa Valley Indian Reservation court of indian offenses.

The Hoopa Valley Indian Reservation Court of Indian Offenses established under 25 CFR Part 11 has jurisdiction which is limited to trying persons accused of violating these regulations and determining whether nets, or other fishing gear and fish are forfeited.

Dated: November 3, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-34975 Filed 11-7-80; 8:45 am]

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Federal Register

Vol. 45, No. 219

Monday, November 10, 1980

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

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67345 10–10–80 / Arizona air quality control regions; approval of redesignation

67348 10–10–80 / Wisconsin; designation of areas for air quality planning purposes, change in attainment status for sulfur dioxide

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65597 10–3–80 / Domestic public and mobile radio services; ownership amendments, cut-off rules exemption clarification

[Corrected at 45 FR 70468, 10–24–80]

65595 10–3–80 / License response to certain investigatory reports; predesignation pleading procedure

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67310 10–10–80 / Assessments paid by insured banks for deposit insurance

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67663 10–14–80 / Small business class set-aside for architect-engineer services

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67325, 67326 10–10–80 / Hearing Aids; applications for exemption from Federal preemption of State and local requirements (2 documents)

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67542 10–10–80 / Professional Standards Review Organizations (PSROs); financing of hospital review activities

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67262 10–9–80 / Debarment and suspension from eligibility for financial assistance under HHS discretionary programs

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67500 10–10–80 / Surface coal mining and reclamation enforcement operations; administrative sanctions against permittees in violation; interim regulatory program

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31701 5–14–80 / Misadministration reporting requirements

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67064 10–9–80 / Operating limitations and related requirements for certain propeller driven, small airplanes designed for agricultural aircraft operations or fire fighting purposes

Federal Highway Administration—

67091 10–9–80 / Education and Training Programs; extension of financial support for recipient of a fellowship or scholarship grant

List of Public Laws

Note: The listing of October 24, 1980 of public bills which have become law was the last until Congress reconvenes November 12, 1980. For a complete up to date cumulative listing see **Reader Aids** in the issue of Wednesday, November 5, 1980.

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

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2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: December 5 and 19, January 16 and 30; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

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74854 **Food Relief Programs** USDA/FNS sets forth requirements for types and quantities of foods provided under the Special Supplemental Food Program for Women, Infants and Children; effective 11–12–80 (Part V of this issue)

74777 **Grant Programs—Health** HHS/PHS/HRA announces that grants for Predoctoral Training in Family Medicine are now being accepted; apply by 11–21–80

74716 **Income Taxes** Treasury/IRS provides final rules defining term "reasonable actuarial method of valuation" for purposes of applying minimum funding standards for pension plans

74778 **Grant Programs—Health** HHS/PHS/HRA announces that grants for Physician Assistant Training Programs are now being accepted; apply by 12–8–80

74721 **Taxes** Treasury/IRS issues final rule relating to minimum participation standards for qualified retirement plans

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

74778 **Grant Programs—Dental Health** HHS/PHS/HRA announces that grants are being accepted for Expanded Function Dental Auxiliary Training; apply by 11–28–80

74826 **Medicare** HHS/HCFA modifies current medicare regulations dealing with hospitals accredited by Joint Commission on Accreditation of Hospitals and the American Osteopathic Association (Part II of this issue)

74779 **Grant Programs—Dental Health** HHS/PHS/HRA announces that grants for Residency Training in the General Practice of Dentistry are now being accepted; apply by 12–12–80

74725 **Food Stamps** USDA/FNS proposes rule which further tightens criteria for authorizing wholesalers to accept and redeem food stamps; comments by 1–12–80

74846 **Air Pollution Control** EPA finalizes standards of performance for ammonium sulfate manufacturing plants; effective 11–12–80 (Part IV of this issue)

74836 **Blind** Committee for Purchase from the Blind and Other Severely Handicapped publishes Procurement List 1981 (Part III of this issue)

74693 **Nuclear Energy** NRC issues rules regarding licensing requirements for storage of spent fuel; effective 11–28–80

74884, 74893 **Environmental Protection** EPA finalizes listings of eighty hazardous wastes and proposes amendments; effective 11–19–80; comments by 1–12–81 (2 documents) (Part VII of this issue)

74728 **Surface Mining** Interior/SMO issues proposed rule regarding surface coal mining operations on Federal lands in Montana under the permanent regulatory program; comments by 12–17–80; hearing on 12–10–80

74742, 74743 **Leather and leather products** Commerce/ITA announces initiation of countervailing duty investigation concerning leather wearing apparel from Colombia, Mexico, and Uruguay; effective 11–12–80

74804 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 45, No. 220
Wednesday, November 12, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

Licensing Requirements for the Storage of Spent Fuel in an Independent Fuel Spent Storage Installation

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is adding a new Part to its regulations to cover the specific licensing requirements for the storage of spent fuel in an independent spent fuel storage installation (ISFSI). Such activities are currently licensed under the Commission's general regulation for the Domestic Licensing of Special Nuclear Material, 10 CFR Part 70. Experience with licensing actions under this regulation demonstrated the need for a more definitive regulation to cover spent fuel storage in an ISFSI. This new Part was developed to meet this need.

DATES: Effective date: November 28, 1980.

Note.—The NRC did not submit this rule to the Comptroller General for a review of its reporting and recordkeeping requirements because the projected number of licensees involved, fewer than 10, makes it exempt from the Federal Reports Act, as amended, 44 USC 3512.

FOR FURTHER INFORMATION CONTACT: Dennis W. Reisenweaver, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443–5910.

SUPPLEMENTARY INFORMATION: On October 6, 1978, the NRC published in the **Federal Register** (43 FR 46309) a notice of proposed rulemaking covering the storage of spent fuel in an independent spent fuel storage installation (ISFSI). In addition, copies of the proposed rule with a request for comments were sent to individuals, organizations, and government agencies thought to be potentially interested in this subject.

Seventy letters, containing more than 600 individual comments, were received in response to this request. Individual letters were submitted on behalf of several contributors. In addition, comments were received from interested NRC staff members. The comments covered generic subjects in addition to ones addressed to specific sections of the draft rule. After a careful consideration of all of the comments received, the Commission has adopted 10 CFR Part 72 in effective form. Major issues contained in these comments and resulting changes in the rule are discussed below. The detailed responses to individual comments are documented in NUREG–0587, "Analyses of Comments on 10 CFR Part 72." Copies of this report are available from the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issues Addressed in Public Comments

1. *Need for a Rule at This Time.* Fifty commenters showed a broad recognition of the need for the proposed rule at this time and endorsed this action by the NRC, although exceptions were taken to some of the specific requirements. Twelve commenters were opposed to this rule and its promulgation at this time. For example, some of these commenters expressed a concern that the promulgation of a rule covering spent fuel storage would decrease pressures on both industry and government to solve the radioactive waste problem. Others advocated a halt to the generation of spent fuel, i.e., shut down nuclear power plants until the waste problem is solved.

Following the President's deferral of reprocessing of spent fuel in April 1977 came the general recognition that, regardless of future developments, spent fuel would have to be stored for a number of years prior to its ultimate disposition, and that the storage of spent fuel in an ISFSI would be a likely additional new step in the nuclear fuel cycle. The NRC expects a number of license applications covering this activity in the near future. Part 72 establishes specific regulatory requirements for this activity.

It is the judgment of the Commission that the promulgation of Part 72, which is designed to codify certain existing regulatory practices and better define licensing requirements covering the storage of spent fuel in an ISFSI, is consistent with the NRC objective of having applicable regulations in place to meet anticipated needs.

2. *Purpose and Scope of Part 72.* In the opinion of those commenters who consider spent fuel to be a high-level waste, the licensing of sent fuel storage is the de facto licensing of the temporary storage of high-level wastes. Others commented that Part 72 could be expanded to cover the temporary storage of high-level wastes in a facility like an ISFSI to allow further radioactive decay prior to placement in a repository.

Part 72 is limited in scope to the temporary storage (up to 20 years with renewal at the option of the Commission) of spent fuel (and radioactive materials associated with spent fuel storage) in facilities designed specifically for this purpose. The purpose of Part 72 is to prescribe the regulatory requirements for this activity.

The Commission has stated that spent fuel from power reactors is high-level waste for the purposes of Section 202(3) of the Energy Reorganization Act.[1] Thus an ISFSI that is operated by the Department of Energy must be licensed by NRC.

3. *De Facto Support of Nuclear Power.* Some commenters interpreted the promulgation of Part 72 as de facto support by the Commission of the continuing production of electricity by nuclear power (and its resultant waste generation) without a national waste management policy. The Commission's intent in promulgating Part 72 is simply to have applicable regulations in place for the protection of the health and safety of the public and of the environment if applications are received for the storage of spent fuel in an ISFSI. The Commission's position on the subject of waste management was addressed in the **Federal Register** notice on 10 CFR Part 51, published on August 2, 1979 (44 FR 45362) promulgating a final rule which sets out in Table S–3, Table of Uranium Fuel Cycle Environmental Data, revised environmental impact values for the

[1] Statement of Dr. Joseph R. Hendrie, then Chairman of the U.S Nuclear Regulatory Commission before the Committee on Energy and Natural Resources. U.S. Senate. May 10, 1979.

uranium fuel cycle including waste disposal and the notice of proposed rulemaking on 10 CFR Parts 50 and 51, "Storage and Disposal of Nuclear Wastes," published on October 25, 1979 (44 FR 61372).

4. *Adequacy of Technology Base.* A number of commenters questioned the adequacy and availability of the technology base for the development of a rule covering extended spent fuel storage. In fact, there is a very broad technology base for both wet and dry modes of spent fuel storage for the contemplated lifetime of an ISFSI.

Water basins are simple structures that have been used since the mid-1940s for the handling, transfer and storage of spent fuel and other highly radioactive sources such as ^{60}Co and for the shielding of research reactors, initially at government plants and later at commercial reactors. The engineering practices and procedures involved in their design and construction are well established. The operation of a water basin is also straightforward, the water chemistry is well established, and the maintenance of high quality basin water is readily achievable. These water conditions are essentially non-corrosive to both the materials involved in the basin itself and the components of spent fuel assemblies from commercial light water reactors. Both experience and theoretical analyses of basin storage conditions indicate that spent fuel can be stored underwater for several decades without serious degradation.

Although dry storage has not been used for commercial light water reactor (LWR) fuels, dry storage has been used for a number of years for other types of spent fuels and other highly radioactive materials, particularly at the Idaho Nuclear Engineering Laboratory. Dry storage is used for spent MAGNOX fuels at the Wylfa Power Station in Wales. Canada is developing dry storage for CANDU reactor fuels, and the U.S. Department of Energy (DOE) is evaluating the storage of high burnup LWR fuels both in concrete and steel canisters similar to the Canadian design and in near-surface dry well storage at the Nevada Test Site.

5. *Is Spent Fuel Storage a Low Risk Operation?* Some commenters questioned whether the extended storage of spent fuel is a low risk operation as stated in the preamble to the proposed rule.

Radiological risks to the public result from a release of radioactive materials and their dispersal to the environment. Once in place, spent fuel storage is a static operation and during normal operations the conditions required for the release and dispersal of significant quantities of radioactive materials are not present. There are no high temperatures or pressures present during normal operations or under design basis accident conditions to cause the release and dispersal of radioactive materials. This is primarily due to the low heat generation rate of spent fuel with more than the one year of decay before storage in an ISFSI required by the rule and with the low inventory of volatile radioactive materials readily available for release to the environs.

However, it is essential to maintain safe storage conditions. For water basins, this means that the pool structure, storage racks and possibly other items such as crane tiedowns, must be designed to withstand the maximum potential natural phenomena, including earthquakes, to which the ISFSI may be exposed. For this reason, the rule stresses the selection of sound sites and designing for the most severe natural phenomena reported for the site and surrounding area. The same considerations are applicable to ISFSI designs other than water basins.

6. *Coverage of Dry Storage and Existing Facilities.* A number of commenters suggested that the purpose and scope be written in more definitive language and specifically to cover dry storage and other radioactive materials associated with spent fuel, recognizing that this was intended in the proposed rule. The wording was changed for improved clarity in response to these suggestions. In addition, paragraph 72.2(c) was added to the scope to clarify the fact that this rule covers both wet and dry storage. Other appropriate changes were made in the body of the rule to further clarify this point.

7. *Types of Fuel Covered and Decay versus Fuel Characteristics.* Comments were received suggesting that the rule be broadened to cover other than LWR spent fuel, e.g., CANDU reactor fuel that might be received from abroad. In response, the definition of spent fuel was broadened to cover all types of power reactor fuels. An ISFSI would have to be designed to accommodate the types of spent fuel to be stored, and any restrictions on fuel types would be a subject of license conditions.

Some commenters questioned the one-year decay stipulation, preferring that this requirement be expressed in terms of specific power, burnup, or other pertinent fuel characteristics. In practice, specific power is important only for freshly discharged fuel as the power level prior to shutdown is the controlling factor for the concentration of short-lived radionuclides present in spent fuel. The long-lived radionuclides present in spent fuel are proportional to burnup; but within the limits of expected burnups, this is not a significant factor for spent fuel aged more than one year.

The one-year decay stipulation has been retained as this is a basis for the requirements of Part 72, i.e., the presumption is made that no short-lived radionuclides are present and the levels of volatile radioactive materials are very substantially reduced.

Inasmuch as the definition of spent fuel eligible for storage in an ISFSI [Section 72.3(v)] specifies that the fuel must have undergone at least a year's decay since its irradiation in a power reactor, any facility for temporary storage of fuel irradiated in a power reactor which has not undergone a year's decay would be licensed under Part 50 rather than Part 72.

8. *Definition of Temporary Storage.* In response to comments, a definition of temporary storage has been added as paragraph 72.3(x). Temporary storage, in the context of Part 72, means "interim storage of spent fuel for a limited time only, pending its ultimate disposal."

9. *Material Versus Facility License.* Some confusion and misunderstanding over the differences between a Part 70 "material" license and a Part 50 "facility" license was reflected by a number of commenters. Under Part 70, a licensee is authorized to receive title to, own, acquire, deliver, receive, possess, use, and transfer special nuclear material for a stated purpose, such as fuel manufacturing, to be carried out in an approved plant complex; however, the plant itself is not licensed but its operation is regulated. Under Part 50, a licensee is authorized to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess or use a production or utilization facility, as defined by the Atomic Energy Act; the license covers the facility, not the material. The possession of fuel by a reactor licensee is covered under a Part 70 license, which is incorporated into the Part 50 license. The licensing of spent fuel storage in an ISFSI under Part 72 is a material type of license; however, Part 72 includes requirements for an ISFSI that are conditions under which a license to possess spent fuel will be issued.

10. *One License Application and One Safety Analysis Report.* For some time the NRC has endeavored to simplify its regulations and licensing activities. As spent fuel storage in an ISFSI is a simple operation, does not require a complex plant and is subject to few controversial technical issues, a one step licensing procedure requiring only one application and one SAR was adopted in Part 72. This one step licensing procedure was

the subject of a number of comments. It is believed that the rewording of the text of the rule plus the discussions of individual comments in NUREG–0587 have clarified requirements and the one application and one SAR requirement has been retained in Part 72. However, it should be recognized that locating an ISFSI on a nuclear power plant site may require an amendment to the Part 50 license to take into account possible interactions with the ISFSI.

Section 2.764 of 10 CFR Part 2 has been amended by adding a new paragraph (c) which provides that an initial decision directing the issuance under 10 CFR Part 72 of an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) shall not become effective until review by the Commission has been completed and that the Director of Nuclear Material Safety and Safeguards shall not issue such an initial license until expressly authorized to do so by the Commission. This amendment does not affect and is not intended to alter in any way the previous action of the Commission temporarily suspending the immediate effectiveness rule (10 CFR 2.764 (a) and (b)) in certain proceedings as provided in Appendix B to Part 2 (44 FR 65049 November 9, 1979.)

11. *Accident Analyses.* A number of comments addressed the subject of accident analyses, particularly an apparent inconsistency between the 24-hour inhalation/ingestion dose addressed in paragraph 72.15(a)(13) and the 2-hour direct radiation dose used as a site evaluation factor in § 72.67.

In response to those comments and upon further consideration, paragraph 72.15(a)(13) was revised to require accident analyses to cover both immediate dose and long-term dose commitment based on the duration of the postulated event rather than on an arbitrary time limit. Accident criteria to be used in site evaluation were removed from §§ 72.65 and 72.67 and placed in a new § 72.68 which addresses the criteria for establishing the controlled area for an ISFSI.

12. *Decommissioning Plan.* The requirement in Part 72 that the license application include a plan for decommissioning of the proposed ISFSI and the financial arrangements therefore were the subject of many comments. The reason for this requirement is that the decommissioning plan provides design input (see § 72.76) and the basis for the costs of decommissioning. Part 72 makes it a requirement that adequate financial arrangements to cover the cost of decommissioning should be made before a license is issued.

Although decommissioning of an ISFSI should require only the removal of surface contamination, planning for decontamination and decommissioning is an essential element of design input. The value of a decommissioning plan being developed at the license application stage is that this plan demonstrates the extent to which the proposed ISFSI has been designed for decommissioning.

The provisions for financing the ultimate decommissioning of an ISFSI were also the subject of many comments reflecting that this is a problem yet to be resolved. This should not be a serious problem as the cost of decommissioning an ISFSI that is designed for decommissioning should be small compared to these costs for some other nuclear facilities.

13. *Prequalification of Part 50 Licensees.* Some commenters, particularly utilities, suggested that Part 50 licensees should be considered to be prequalified. This suggestion was not adopted, although no serious difficulty is anticipated in the qualification of a Part 50 licensee. A Part 50 licensee must satisfy the requirement in Part 72 that an applicant have an adequately trained staff committed to the design, construction and operation of the proposed ISFSI. The storage of spent fuel in an ISFSI is a low risk operation provided the ISFSI is designed, constructed and operated in accordance with required standards. A commitment to this effect on the part of an applicant is considered important.

14. *Required Detail and Updating of the SAR.* Questions were raised on the required detail in the SAR and its updating. The single license granted under Part 72 prior to the start of construction requires considerable detail in the license application, particularly in the SAR. There must be sufficient detail to: (1) Support the findings enumerated in § 72.31 for the issuance of a license, and

(2) Serve as the bases for both the license conditions applicable to design and construction and the license conditions, including technical specifications, applicable to operations.

The wording has been changed throughout the rule to clarify this point.

Updating the SAR during the design and construction phase of the project is required. However, such updating is limited to an elaboration or modification of the information in an approved SAR. Any changes involving an unreviewed safety question require an amendment to the license. An annual updating of the SAR after the ISFSI is built is required even if no changes have been made. The annual updating will also address the significance of any changes to codes, standards, regulations, or regulatory guides which the licensee has committed to meeting that are applicable to the design, construction, or operations of the ISFSI. Changes at an ISFSI after it is built are expected to be limited to support systems with only marginal safety significance. This requirement is comparable to that of the proposed amendment to § 50.71 of 10 CFR Part 50, commonly referred to as the "FSAR Update Rule."

15. *Content of Environmental Reports.* The content of the environmental report required by § 72.20 was the subject of a number of comments. The environmental report required for an ISFSI is an evaluation of the environmental impact of the ISFSI on the region in which it is located, including the transportation that is involved. Discussions of generic issues covered by DOE and NRC generic environmental impact statements may be incorporated by reference.

16. *Provision for Public Hearings and State and Local Participation in the Licensing Process.* A number of commenters expressed concern over the omission in proposed Part 72 of any reference to public hearings or other provisions covering state and local participation in the licensing process. In accordance with the requirements of Sec. 189a of the Atomic Energy Act, as amended, which provides in part ". . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding . . . ," the Office of Nuclear Materials Safety and Safeguards has established the practice of publicizing proposed spent fuel storage licensing actions and holding public hearings on request by any person whose interest my be affected. A section based on the provisions of §§ 2.104 and 2.105 of 10 CFR Part 2, has been added to the rule (See § 72.34).

17. *Applicability of License Conditions.* Some commenters raised questions on the content and applicability of license conditions, recognizing that license conditions are an important aspect of the single preconstruction license issued under Part 72. In response to these comments, the wording of § 72.33 was changed to clarify the point that license conditions are applicable to design, construction, and operational activities. Since license conditions applicable to ISFSI operations are technical in nature, these have been identified by the more

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familiar term "Technical Specifications."

18. *At-Reactor versus Away-From-Reactor Siting.* Some commenters favored restricting the siting of ISFSIs to reactor sites, with the thought that this might reduce perceived transportation risks and keep pressure on the nuclear industry to help solve the waste management problem. Others favored away-from-reactor siting, perceiving this to be safest solution even though transportation might be increased.

Also, some commenters interpreted the promulgation of Part 72 as reflecting an NRC bias favoring away-from-reactor siting. This conclusion is not correct. The NRC is not aware of any compelling reasons generally favoring either at-reactor or away-from-reactor siting of an ISFSI. There are many factors to be considered in each situation and in the licensing actions involved; accordingly, the rule permits either.

19. *The Use of New Site-Related Terms.* One subject of particular interest to many commenters was the use in Part 72 of new site-related terms ("controlled area," "neighboring area" and "region,") rather than the more familiar site-related terms used in 10 CFR Parts 20 and 100.

Several considerations went into the development of new terms for site-related areas around an ISFSI. While the terminology used in 10 CFR Part 20, specifically 'restricted' and 'unrestricted' areas, applies to all nuclear facilities, it is limited to radiation protection concerns associated with normal operations and the means used by the licensee to control the access to areas of potential radiation exposure. With the advent of as low as is reasonably achievable objectives and environmental radiation protection standards promulgated by the Environmental Protection Agency in 40 CFR Part 190, the term "unrestricted" used in 10 CFR Part 20 is too narrow in meaning for applications to areas beyond the boundaries of the licensee's property.

The current terminology used in 10 CFR Part 100, specifically 'exclusion area' and 'low population zone', is applicable to postulated radiological consequences to individuals beyond the site boundary from potential accidents in test and power reactors. Its applicability is limited to specific types of nuclear reactors, not other nuclear installations, and to well-defined reference dose guidelines and risks associated with such nuclear reactors. The terminology used in 10 CFR Part 100 is too restrictive in meaning for use at multi-purpose sites and was never intended to be used for other than reactor sites. The use of these terms from 10 CFR Part 100 for an ISFSI is inappropriate.

Furthermore, the "Report of the Siting Policy Task Force," NUREG–0625, has recommended several changes in the basic criteria of 10 CFR Part 100. Therefore using the current terminology of 10 CFR Part 100 in 10 CFR Part 72 is not appropriate due to the potential changes that may be made in Part 100. For example, it is proposed to change the term (and definition) of "low population zone" to "emergency planning zone" (EPZ). This terminology was used in the proposed revision of Appendix E (now titled "Emergency Planning and Preparedness for Production and Utilization Facilities") to 10 CFR Part 50, that was published for comment on December 19, 1979. Consistent with this proposed revision, the term "neighboring area" in 10 CFR Part 72 has been changed to "ISFSI Emergency Planning Zone" (ISFSI–EPZ) because these are comparable in concept. The size of an ISFSI–EPZ is expected to be much smaller than that of a reactor EPZ.

20. *Criteria for Establishing the Controlled Area, Neighboring Area,*[1] *and Region as Applied to the Site of an ISFSI.* A number of commenters expressed the need for criteria for establishing the controlled area, the neighboring area and the region for an ISFSI as these terms are used in Part 72 and noted that there was a potential conflict of terms in the proposed rule. In response to these comments, more definitive criteria have been incorporated in the pertinent sections of the rule and clarifying changes in the text and definitions have been made.

Another concern with the implementation of these defined areas for an ISFSI is the possible conflict in terminology for an ISFSI located on the same site with a nuclear power reactor licensed under 10 CFR Parts 50 and 100 requirements.

Part of this concern appears due to a misunderstanding and the impression that the controlled area for an ISFSI is the same as the exclusion area for a reactor and that the neighboring area (since changed to ISFSI–EPZ) for an ISFSI is the same as the low population zone for a reactor. In concept, these areas are similar but the bases for their establishment are different. The controlled area for an ISFSI is not the same as the exclusion area for a reactor because the design basis accidents are different. Reactor accidents involve a potential release of radioactive materials, including short-lived species such as ^{131}I. Design basis accidents of concern at an ISFSI primarily involve direct radiation from exposure to the spent fuel rather than releases of radioactive materials. The areas requiring control or protective action measures for the protection of the public are quite different and hence using different terminology for each avoids confusion.

The four site-related terms and their definitions, i.e., site, controlled area, neighboring area (now ISFSI–EPZ), and region, establish each of the geographical areas and the interrelationship that would exist between these areas and the need to protect public health and safety and the environment. The site means the real property on which the ISFSI is located. The controlled area, which may or may not be the same as the site, has the purpose of defining licensee control for meeting regulatory licensing requirements. The controlled area, in most cases, will be enclosed by some physical barrier such as a fence, to provide the needed control of activities within the area. Beyond the controlled area, the licensee does not necessarily exercise authority over activities.

The ISFSI-Emergency Planning Zone (ISFSI–EPZ) is that area in the immediate vicinity of an ISFSI upon which local and State governments should base their radiological response plans. The requirement to define a neighboring area in the proposed 10 CFR Part 72, in which State and local governments could take protective action in the event of an emergency, is comparable in concept to the emergency planning zones for reactors. The term ISFSI–EPZ has been adopted to differentiate this zone and its requirements from those of an EPZ for a reactor.

The regions around an ISFSI site will vary in geographical area and location depending upon the event being evaluated to determine its impact on the ISFSI. A region has the purpose of defining the area within which such an event can have an impact on the public health and safety or environment. This impact must be assessed from the consequences postulated for the events evaluated.

21. *Dose Limits for Normal Operations and Accidents.* A number of commenters addressed the subject of dose limits for normal operations and accidents. Although spent fuel storage is not specifically identified as a fuel cycle operation in 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," the dose limits specified in this regulation are used in Part 72. Section 72.67 was rewritten to better clarify the requirements on effluents and direct radiation during normal operations and anticipated occurrences.

The accident dose limit of 5 rem was placed in a new § 72.66, that defines the criteria for establishing a controlled area for an ISFSI. The 2-hour criterion was deleted; the controlling design basis accident for the specific ISFSI covered in the application is to be evaluated. The 5 rem cumulative exposure limit is derived from protective actions recommended by EPA for projected doses to populations for planning purposes.[2]

The reference to 24 hours in paragraph 72.15(a)(13) was deleted; the requirements for the accident analysis section of the SAR were changed to call for the evaluation of a dose commitment due to the event that would take into account the total dose from a single exposure as well as dose reduction due to protective action.

In response to comments on the applicability of Appendix I to 10 CFR Part 50 and Part 100 to an ISFSI, Appendix I is applicable only to light water cooled power reactors and Part 100 is applicable only to power and test reactors. Neither of these regulations is applicable to an ISFSI.

22. *Geological and Seismological Investigations.* In the proposed rule, the geological and seismological investigation requirements for an ISFSI site were based on the reasoning that it should be possible to select sound sites for the few ISFSIs expected to be built. Seismologically, a sound site was considered one having potential ground motion of less than 0.25 g from earthquake with a return period of 500 years. This earthquake potential could be determined on a probabilistic basis; i.e., read from seismic zonation maps such as those published by the U.S. Geological Survey.[3] Uncertainties in such determinations could be offset by overdesign.

This use of probabilistic techniques was considered appropriate as a site selection criterion; it was not intended to be used for determining the design earthquake for structures. Assuming a sound site as defined above, the use of a standard design earthquake of 0.25 g (which has a return period that is much greater than 500 years) was considered conservative and adequate to offset uncertainties in an evaluation of a specific site on a probabilistic basis.

However, it was not possible to obtain a consensus among experts in the field on this approach. It was generally agreed that probabilistics techniques are adequate to determine potential seismicity on a regional basis, but these techniques are not yet adequately developed for application to a specific site.

As an alternative, the proposed rule allowed a site specific "g" value to be determined by the procedures of Appendix A to Part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants." This provision was in Subpart E, "Siting Criteria," and was intended for use in the evaluation of site characteristics, such as potential soil liquefaction, under earthquake conditions in areas of low potential seismic activity where the use of the standard design earthquake of 0.25 g was considered to be unduly restrictive.

The final rule makes a differentiation between the regions east and west of the Rocky Mountain Front, approximately 104° west longitude, and in the east makes a further differentiation between areas of low seismic potential and areas of known seismic potential, including, but not limited to, New Madrid, Mo.; Charleston, S.C.; and Attica, N.Y.

In areas of low seismic potential in the eastern United States, a proposed site will be considered acceptable if the results from onsite foundation and geological investigation, literature review, and regional geological reconnaissance show no unstable geological characteristics, soil stability problems, or potential for vibratory ground motion at the site in excess of an appropriate response spectrum anchored at 0.2 g. Unstable geological characteristics are defined as capable faults, surface offset potential, subsidence or collapse features, uplight or downwarp, active tectonism, or landslide or mudflow potential. In the western United States and in regions of known seismic potential in the eastern United States, the seismicity at a proposed site must be evaluated by the criteria and level of investigations of Appendix A of 10 CFR Part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants."

The conservatism reflected both in the use of a standard design earthquake of 0.25 g for the design of structures at sites in areas of low seismic potential or the alternative of developing a site specific design earthquake by the very thorough investigation required by Appendix A of Part 100 is considered necessary and appropriate for the protection of an ISFSI which could contain a large inventory of spent fuel. The Commission is considering a revision of Appendix A to Part 100. However, it is anticipated that such revision would be in the nature of a clarification of its requirements and that the rule would still be applicable to ISFSI siting.

The principle of selecting sound sites has been retained in the final rule. For example, floodplains and sites that lie within the range of strong nearfield ground motion from earthquakes on larger capable faults should be avoided. This principle is consistent with the recommendations in the "Report of the Siting Policy Task Force," NUREG–0625.

23. *The ISFSI Design Earthquake (ISFSI–DE).* The standardized ISFSI–DE of 0.25 g for massive structures, such as water basins, has been retained in the final rule for use at sites east of the Rocky Mountain Front that are in areas of low potential seismic activity and hence do not need to be evaluated by the criteria and level of investigations of Appendix A of 10 CFR Part 100.

For sites west of the Rocky Mountain Front and in regions in the eastern United States of known seismic activity, the ISFSI–DE must be determined using the level of investigations and the criteria of Appendix A of 10 CFR Part 100, including the requirement that it be no less than 0.10 g.

For an ISFSI that is located on a power plant site which has been evaluated by the criteria and level of investigations of Appendix A of 10 CFR Part 100, the ISFSI–DE for structures shall be equivalent to the safe shutdown earthquake (SSE) for a nuclear power plant.

For ISFSI's which do not involve massive structures, such as dry storage casks and cannisters, the required design earthquake will be determined on a case-by-case basis until more experience is gained with the licensing of these types of units.

24. *Probability Basis Used for Other Natural Phenomena.* Some commenters wanted to go one step further and use a probabilistic basis for other natural phenomena such as tornadoes and floods. It has been common practice in the United States to use probable maximum events as design bases for radiological safety-related structures, systems, and components. When a frequency or probabilistic analysis of historical data is used to estimate such a low probability event, there is generally too much uncertainty to make the estimate useful for design purposes. Therefore, the probable maximum flood, for example, is estimated using deterministic hydrologic models which

[1] The term "neighboring area" has been changed to "ISFSI–EPZ."

[2] EPA 520/1–75–001, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents," September, 1975.

[3] Such as Algermissen and Perkins, USGS, Open File Report 76–416, 1976, "A Probabilistic Estimate of Maximum Acceleration in Rock in the Contiguous United States."

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utilize meteorological input that approaches the upper limit possible for that location, taking into account existing climate and time of year.

25. *Prequalification of Reactor Sites and Their Population Distributions.* Some commenters recommended that reactor sites be prequalified with no site specific investigations required for an at-reactor siting of an ISFSI. While a site that has undergone a full safety and environmental review and has been approved for a Part 50 facility is likely to be found acceptable for a properly designed ISFSI, the pre-qualification of sites licensed under Part 50 without review in relation to the proposed design of the ISFSI does not seem prudent. Information on a specific site that has been submitted to the NRC in connection with other licensing actions need not be repeated in a Part 72 license application. It can be incorporated by specific references to previous submissions.

26. *Transportation Considerations.* A number of commenters considered that the transportation involved in spent fuel shipments to an ISFSI could be an important consideration in an evaluation of site suitability. This might be particularly true of a large installation. The Commission agrees and a new § 72.70 has been added to the rule to specifically address this point.

27. *Missile Protection.* Part 72 requires protection from natural phenomena with the exception of tornado missiles. Tornado missile protection at reactors is of concern because rupture of recently discharged fuel at a reactor could cause the potential release of volatile short-lived radionuclides, particularly ^{131}I. Since the quantity of ^{131}I present in aged fuel at an ISFSI is reduced a factor of 10^9 due to radioactive decay in the first year after discharge, the potential risk from the rupture of aged fuel is orders of magnitude lower for an ^{131}I release. The radionuclides which could potentially be released as a result of a tornado missile event are long-lived ^{85}Kr and ^{129}I. However, an accident evaluation in NUREG–0575,[5] Section 4.2.3.2, using conservative assumptions demonstrates that the consequences from the release of the nuclides attributable to a tornado missile would not be significant. Hence, a requirement for protection from tornado missiles does not appear to be justified.

28. *Criticality.* A number of commenters expressed concern over the prospect of a criticality in an ISFSI.

[5] Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Reactor Fuel, August 1979.

Criticality has been a subject of study and experiment in the nuclear industry and has received much attention among nuclear engineers. The technology used in evaluating a given design for criticality potential is now highly developed with sophisticated computer codes. These codes have been benchmarked by actual measurements in various kinds of lattices and configurations of critical arrays of fuel elements. Because spent fuel storage racks are designed with a large safety factor to prevent criticality, the possibility of a significant criticality in ISFSI is very remote.

29. *Application of ALARA to Occupational Exposures.* Some commenters objected to the application of the ALARA principle to the design of a facility as this might affect occupational exposures. These objections were based on two points:

(1) The thought that ALARA applied only to public health and safety, and

(2) Occupational exposures are controlled by administrative procedures.

In response, the ALARA concept does apply to occupational health protection as specified in 10 CFR Section 20.1(c). Furthermore, although it is recognized that occupational exposures can be controlled to some extent by administrative procedures, design provisions such as adequate shielding of sources and proper equipment layout to minimize exposures are also important factors in keeping occupational exposures to a minimum. It is often impossible to fully compensate for a poor design using administrative procedures. ALARA (and its predecessor ALAP) has been a cornerstone of radiation protection for many years and it has always been considered to apply to all types of exposure, occupational and public.

30. *Broadened Applicability of Quality Assurance Program.* Some commenters took objection to what they interpreted as a broadening of the QA program, e.g., coverage of operations and the physical security system. It is the Commission's view that a licensee's QA program must cover not only design and construction, but all activities that are important to safety throughout the life of a facility.

31. *Certification versus Licensing of Operating Personnel.* The safety of an ISFSI is achieved by static means, primarily its configuration. Its safety is not dependent on dynamic reactions to the manipulation of controls like a reactor. It is necessary that operating personnel be adequately trained but not necessarily licensed by the NRC. A certification by the licensee of an individual's proficiency to operate equipment is considered adequate.

32. *Definition of the term "Independent".* The meaning of the term "Independent" as used in Part 72 when applied to an ISFSI that is located on the site of another licensed facility, was the subject of a number of comments and considerable staff discussion.

An ISFSI may be a free-standing, away-from-reactor, fully independent type of facility or it may be located on the site of an existing facility such as a nuclear power plant. Such a location could have the economic benefit of sharing some utilities, services and personnel between the ISFSI and an existing facility on the site.

The rule is applicable to either type of location and an ISFSI may be provided with services from an existing facility and still be considered "independent." The use of services from an existing facility (i.e., electricity, makeup water, waste treatment, etc.) is allowable provided the Commission finds there is reasonable assurance that the construction and operation of the ISFSI will provide adequate protection to the health and safety of the public from the standpoint of both facilities involved.

Any physical connection between facilities must be evaluated, but any penetration of the reactor storage pool walls will be considered a conclusive showing that the ISFSI is not "independent" and hence is not within the scope of Part 72 and should be covered by licensing action under Part 50.

33. *Licensing Actions Involving Previously Licensed Facilities.* There are now in existence three facilities for spent fuel storage that have been subject to previous licensing actions. These are:

G.E.—Morris, Ill.—built under a Part 50 Construction Permit authorization as a reprocessing plant; spent fuel storage now licensed under Part 70;

NFS—West Valley—now licensed under Part 50;

AGNS—Barnwell, S.C.—built under a Part 50 Construction Permit authorization as a reprocessing plant; but no operating license issued.

In the event of an application for use of one of the above facilities as an ISFSI, a license would be issued if the facility meets the requirements of Part 72. Such licensing actions will require the preparation of an environmental impact statement or appraisal under conforming amendments of Part 51. In this regard see § 51.5(a)(10) for issuance of an initial license for storage of spent fuel in an ISFSI at a site not occupied by a nuclear power reactor; § 51.5(b)(4) for issuance of certain amendments to a license for storage of spent fuel in an ISFSI; § 51.5(b)(5) for issuance of a renewal license for storage of spent fuel in an ISFSI; and § 51.5(b)(9) for issuance of an initial license for storage of spent fuel in an ISFSI on the site of a nuclear power reactor. These environmental impact assessments will include an evaluation of feasible alternatives. However, since the site selection process for an existing facility has already been completed, no comparative review of alternative sites will be required unless there is new information which could alter the original site evaluation findings. In practice, this means that alternative sites need not be reviewed and that the existing facility would be rejected for siting considerations only if the site involved found to be unsuitable with respect to either safety or environmental impact considerations.

An application for renewal of the license for the G.E.—Morris facility under 10 CFR Part 70 was received on February 27, 1979 and has been under review since that time. As 10 CFR Part 72 has become effective prior to completion of this licensing action, such licensing action will proceed pursuant to 10 CFR Part 72 which is specifically designed to cover spent fuel storage in an ISFSI. This is expected to result in some procedural delays in the G.E.—Morris proceedings.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following new Part 72 and related conforming amendments of Parts 51, 70, 73 and 150 to Chapter I of Title 10, of the Code of Federal Regulations are published as a document subject to codification.

1. A new 10 CFR Part 72 is added to read as follows:

PART 72—LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

Subpart A—General Provisions

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72.2 Scope.
72.3 Definitions.
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72.5 Interpretations.
72.6 License required; types of licenses.
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Subpart B—License Application, Form, and Contents

72.11 Filing of applications for specific licenses; oath or affirmation.
72.12 Elimination of Repetition.
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72.14 Contents of application: General and financial information
72.15 Contents of application: Technical information.
72.16 Contents of application: Technical specifications.
72.17 Contents of application: Applicants' technical qualifications.
72.18 Decommissioning plan, including financing.
72.19 Emergency plan.
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Subpart C—Issuance and Conditions of Licenses

72.31 Issuance of licenses.
72.32 Duration of license; Renewal.
72.33 License conditions.
72.34 Public hearings.
72.35 Changes, tests, and experiments.
72.36 Transfer of licenses.
72.37 Creditor regulations.
72.38 Applications for termination of licenses.
72.39 Application for amendment of license.
72.40 Issuance of amendment.
72.41 Modification, revocation, and suspension of licenses.
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Subpart D—Records, Reports, Inspections and Enforcement

72.50 Safety analysis report updating.
72.51 Material balance, inventory and records requirements for stored materials.
72.52 Reports of accidental criticality or loss of special nuclear material.
72.53 Material status reports.
72.54 Nuclear material transfer reports.
72.55 Other records and reports.
72.56 Inspections and tests.
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Subpart E—Siting Evaluation Factors

72.61 General Considerations.
72.62 Design basis external natural events.
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72.64 Identifying regions around an ISFSI site.
72.65 Defining potential effects of the ISFSI on the region.
72.66 Geological and Seismological characteristics.
72.67 Criteria for radioactive materials in effluents and direct radiation from an ISFSI.
72.68 Controlled area of an ISFSI.
72.69 ISFSI emergency planning zone.
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Subpart F—General Design Criteria

72.71 General considerations.
72.72 Overall requirements.
72.73 Criteria for nuclear criticality safety.
72.74 Criteria for radiological protection.
72.75 Criteria for spend fuel and radioactive waste storage and handling.
72.76 Criteria for decommissioning.

Subpart G—Quality Assurance

72.80 Quality assurance program; records.

Subpart H—Physical Protection

Sec.
72.81 Physical security plan.
72.82 Design for physical protection.
72.83 Safeguards contingency plan.
72.84 Changes to physical security and safeguards contingency plans.

Subpart I—Training And Certification of ISFSI Personnel

72.91 Operator requirements.
72.92 Operator training and certification program.
72.93 Physical requirements.

Authority. The provisions of this Part 72 are issued under the Atomic Energy Act of 1954, as amended, secs, 51, 53 as amended, 57 as amended, 62, 63, 65, 69, 81 as amended, 161b, h, i, o, 182a as amended, 183 as amended, 184 as amended, 186, 187, Pub. L. 83–703, 68 Stat. 929, 930 as amended by 71 Stat. 576, 72 Stat. 632 and 79 Stat. 602, 932 as amended by 78 Stat. 605 and 88 Stat. 475, 933, 934, 935 as ameded by 88 Stat. 475 and 92 Stat. 3039, 948, 953 as amended by 70 Stat. 1069, 954 as amended by 78 Stat. 602, 955 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201(b), (h), (i), (o), 2232, 2233, 2234, 2236, 2237); sec. 234, Pub. L. 91–161, 83 Stat. 444 (42 U.S.C. 2282); sec. 274c, as amended, Pub. L. 86–273, 73 Stat. 688 as amended by Pub. L. 95–604, 92 Stat. 3036 (42 U.S.C. 2021(c)); under sec. 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332) and under the Energy Reorganization Act of 1974, as amended, sec. 201, as amended, 202, and 206, Pub. L. 93–438, 88 Stat. 1242, as amended by 89 Stat. 413, 1243, 1246 (42 U.S.C. 5841, 5842, 5846).

Subpart A—General Provisions

§ 72.1 Purpose.

The regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage, in an independent spent fuel storage installation (ISFSI), and the terms and conditions under which the Commission will issue such licenses.

§ 72.2 Scope.

(a) Licenses issued under this Part are limited to the possession of power reactor spent fuel to be stored in a complex that is designed and constructed specifically for the temporary storage of power reactor spent fuel aged for at least one year, and to the possession of other radioactive materials associated with spent fuel storage.

(b) The regulations in this part apply to all persons in the United States, including persons in Agreement States.

(c) The requirements of this regulation are applicable, as appropriate, to both wet and dry modes of storage of spent fuel.

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(d) Licenses covering the storage of spent fuel in an existing spent fuel storage facility shall be issued in accordance with the requirements of this part as stated in § 72.31.

§ 72.3 Definitions.

As used in this part: (a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "As low as is reasonably achievable" (ALARA) means as low as is reasonably achievable taking into account the state of technology, and the economics of improvements in relation to (1) benefits to the public health and safety, (2) other societal and socioeconomic considerations, and (3) the utilization of atomic energy in the public interest.

(c) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) "Byproduct material" means any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to, the radiation incident to the process of producing or utilizing special nuclear material.

(e) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(f) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings or excavations to determine subsurface materials and foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Construction of environmental monitoring facilities;

(3) Procurement of manufacture of components of the installation; or

(4) Construction of means of access to the site as may be necessary to accomplish the objectives of sections (1) and (2) above.

(g) "Confinement systems" means those systems, including ventilation, that act as barriers between areas containing radioactive substances and the environment.

(h) "Controlled area" means that area immediately surrounding an ISFSI for which the licensee exercises authority over its use and within which ISFSI operations are performed.

(i) "Design bases" means that information that identifies the specific functions to be performed by a structure, system, or component of a facility and the specific values or ranges of values chosen for controlling parameters as reference bounds for design. These values may be restraints derived from generally accepted "state-of-the-art" practices for achieving functional goals or requirements derived from analysis (based on calculation or experiments) of the effects of a postulated event under which a structure, system, or component must meet its functional goals. The values for controlling parameters for external events include: (1) estimates of severe natural events to be used for deriving design bases that will be based on consideration of historical data on the associated parameters, physical data, or analysis of upper limits of the physical processes involved and (2) estimates of severe external man-induced events to be used for deriving design bases that will be based on analysis of human activity in the region taking into account the site characteristics and the risks associated with the event.

(j) "Design capacity" means the quantity in metric tons of spent fuel, its maximum burnup in MWD/MTU, and the total heat generation in Btu per hour that an ISFSI is designed to accommodate.

(k) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands. Areas subject to a one percent or greater chance of flooding in any given year are included.

(l) "Historical data" means a compilation of the available published and unpublished information concerning a particular type of event.

(m) "Independent spent fuel storage installation" (ISFSI) means a complex designed and constructed for the storage of spent fuel and other radioactive materials associated with spent fuel storage. An ISFSI which is located on the site of another facility may share common utilities and services with such a facility and be physically connected with such other facility and still be considered to be independent, *provided* that such sharing of utilities and services or physical connections does not (i) increase the probability or consequences of an accident or malfunction of components, structures or systems that are important to safety; or (ii) reduce the margin of safety as defined in the basis for any technical specifications of either facility."

(n) "ISFSI-emergency planning zone" (ISFSI–EPZ) means that area in the vicinity of an ISFSI within which protective action measures may be needed in the event of an accident at an ISFSI.

(o) "NEPA" means the National Environmental Policy Act of 1969 including any amendments thereto.

(p) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Nuclear Regulatory Commission or the Department of Energy (DOE), except that the DOE shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to Section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244); (2) any State; any political subdivision of a state, or any political entity within a State, (3) any foreign government or nation, or any political subdivision of any such government or nation, or other entity; and (4) any legal successor, representative, agent, or agency of the foregoing.

(q) "Population" means the people that may be affected by the change in environmental conditions due to the construction, operation, or decommissioning of an ISFSI.

(r) "Region" means the geographical area surrounding and including the site, which is large enough to contain (1) all the features related to a phenomenon or to a particular event that could potentially impact the safety of the ISFSI and (2) all measurable effects of environmental impact, both radiological and nonradiological, that are due to the construction, operation or decommissioning of an ISFSI.

(s) "Site" means the real property on which the ISFSI is located.

(t) "Source material" means (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores that contain by weight one-twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(u) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing but does not include source material.

(v) "Spent fuel" as used in this Part means irradiated nuclear fuel that has undergone at least one year's decay since being used as a source of energy in a power reactor. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies.

(w) "Structures, systems, and components important to safety" means those features of the ISFSI whose function is (1) to maintain the conditions required to store spent fuel safely, (2) to prevent damage to the spent fuel during handling and storage, or (3) to provide reasonable assurance that spent fuel can be received, handled, stored and retrieved without undue risk to the health and safety of the public.

(x) "Temporary storage" means the interim storage, protection, and safeguarding of spent fuel and radioactive materials associated with spent fuel storage, for a limited time only, pending its ultimate disposal.

§ 72.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this Part and applications filed under them should be addressed to The Nuclear Regulatory Commission, Office of Nuclear Materials Safety and Safeguards, Division of Fuel Cycle and Material Safety, Washington, D.C. 20555. Communications, reports, and applications may be delivered in person at the Commission's Offices at 7915 Eastern Avenue, Silver Spring, Maryland, or at 1717 H Street, N.W., Washington, D.C.

§ 72.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission, other than a written interpretation by the General Counsel, will be recognized to be binding upon the Commission.

§ 72.6 License required; types of licenses.

(a) Licenses for spent fuel are of two types: general and specific. Any general license provided in this part is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

(b) A general license is hereby issued to receive title to and own spent fuel without regard to quantity.

(c) No person may acquire, receive, or possess spent fuel or radioactive material associated with spent fuel for the purpose of storage in an independent spent fuel storage installation except as authorized in a specific license issued by the Commission in accordance with the regulations in this part.

§ 72.7 Specific exemptions.

The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this Part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

§ 72.8 Denial of licensing by agreement states.

Agreement States may not issue licenses covering the storage of spent fuel in an ISFSI.

Subpart B—License Application, Form, Contents

§ 72.11 Filing of applications for specific licenses; oath or affirmation.

(a) *Place of filing.* Each application for a license, or amendment thereof, under this Part should be filed with the Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Applications, communications, reports and correspondence may also be delivered in person at the Commision's offices at 7915 Eastern Avenue, Silver Spring, Maryland, or at 1717 H Street, NW., Washington, D.C.

(b) *Oath or affirmation.* Each application for a license or license amendment (including amendments to such applications) shall be executed in an original signed by the applicant or duly authorized officer thereof under oath or affirmation.

(c) *Number of copies of applications.* Each filing of an application for a license or license amendment under this Part (including amendments to such applications) shall include, in addition to the signed originals, the documents listed in § 72.21.

(d) *Fees.* The application, amendment, and renewal fees applicable to a license covering the storage of spent fuel in an ISFSI are those shown in § 170.31 of this chapter.

§ 72.12 Elimination of repetition.

In any application under this part, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission: *Provided,* that such references are clear and specific.

§ 72.13 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with provisions of the regulations contained in Part 2 and Part 9 of this chapter.

§ 72.14 Contents of application: General and financial information.

Each application shall state:

(a) Full name of applicant;

(b) Address of applicant;

(c) Description of business or occupation of applicant;

(d) If applicant is: (1) an individual: citizenship and age;

(2) a partnership: name, citizenship, and address of each partner and the principal location at which the partnership does business;

(3) a corporation or an unincorporated association:

(i) the State in which it is incorporated or organized and the principal location at which it does business; and

(ii) the names, addresses, and citizenship of its directors and principal officers; or

(4) acting as an agent or representative of another person in filing the application: the identification of the principal and the information required under this paragraph with respect to such principal.

(e) Information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the license is sought. This information shall state the place at which the activity is to be performed, the general plan for carrying out the activity, and the period of time for which the license is requested. The information shall show that the applicant either possesses the necessary funds, or that the applicant has reasonable assurance of obtaining the necessary funds; or that by a combination of the two, the applicant will have the necessary funds available to cover the following:

(1) Estimated construction costs;

(2) Estimated operating costs over the planned life of the ISFSI complex; and

(3) Estimated shutdown and decommissioning costs, and the necessary financial arrangements to provide reasonable assurance prior to licensing that shutdown, decontamination, and decommissioning will be carried out after the removal of spent fuel from storage.

§ 72.15 Contents of application: Technical information.

(a) Each application for a license under this part shall include a Safety Analysis Report describing the proposed ISFSI for the storage of spent fuel, including how the ISFSI will be operated. The minimum information to

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be included in this report shall consist of the following:

(1) A description and safety assessment of the site on which the ISFSI is to be located, with appropriate attention to the design bases for external events. Such assessment shall contain an analysis and evaluation of the major structures, systems, and components of the ISFSI that bear on the suitability of the site when the ISFSI is operated at its design capacity. If the proposed ISFSI is to be located on the site of a nuclear power plant or other licensed facility, the potential interactions between the ISFSI and such other facility shall be evaluated.

(2) A description and discussion of the ISFSI structures with special attention to design and operating characteristics, unusual or novel design features, and principal safety considerations.

(3) The design of the ISFSI in sufficient detail to support the findings in § 72.31, including:

(i) The design criteria for the ISFSI pursuant to Subpart F of this Part, with identification and justification for any additions to or departures from the general design criteria;

(ii) The design bases and the relation of the design bases to the design criteria;

(iii) Information relative to materials of construction, general arrangement, dimensions or principal structures, and descriptions of all structures, systems, and components important to safety, in sufficient detail to support a finding that the ISFSI will satisfy the design bases with an adequate margin for safety; and

(iv) Applicable codes and standards.

(4) An analysis and evaluation of the design and performance of structures, systems, and components important to safety, with the objective of assessing the impact on public health and safety resulting from operation of the ISFSI and including determination of:

(i) the margins of safety during normal operations and expected operational occurrences during the life of the ISFSI; and

(ii) the adequacy of structures, systems, and components provided for the prevention of accidents and the mitigation of the consequences of accidents, including natural and man-made phenomena and events.

(5) The means for controlling and limiting occupational radiation exposures within the limits given in Part 20 of this chapter, and for meeting the objective of exposures as low as is reasonably achievable.

(6) The features of ISFSI design and operating modes to maintain low waste volumes.

(7) An identification and justification for the selection of those subjects that will be probable license conditions and technical specifications. Such subjects shall cover the design, construction, operation, and decommissioning of the ISFSI.

(8) A plan for the conduct of operations, including the planned managerial and administrative controls system, and the applicant's organization, and program for training of personnel pursuant to Subpart I of this Part.

(9) If the proposed ISFSI incorporates structures, systems, or components important to safety whose functional adequacy or reliability have not been demonstrated by prior use for that purpose or cannot be demonstrated by reference to performance data in related applications or to widely accepted engineering principles—an identification of such structures, systems, or components along with a schedule showing how such safety questions will be resolved prior to the initial receipt of spent fuel for storage at the ISFSI.

(10) The technical qualifications of the applicant to engage in the proposed activities, as required by § 72.17 of this Part.

(11) A description of the applicant's plans for coping with emergencies, as required by § 72.19 of this part.

(12) A description of the equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal operations and expected operational occurrences. The description shall identify the design objectives and the means to be used for keeping levels of radioactive material in effluents to the environment as low as is reasonably achievable and within the exposure limits stated in § 72.67 of this part. The description shall include:

(i) An estimate of the quantity of each of the principal radionuclides expected to be released annually to the environment in liquid and gaseous effluents produced during normal ISFSI operations; and prior to the first receipt of spent fuel, a second estimate confirming the original estimate or, if the expected releases and exposures are significantly different from the original estimate;

(ii) A description of the equipment and processes used in radioactive waste systems; and

(iii) A general description of the provisions for packaging, storage, and disposal of solid wastes containing radioactive materials resulting from treatment of gaseous and liquid effluents and from other sources.

(13) An analysis of the potential dose or dose commitment to an individual outside the controlled area from accidents or natural phenomena events that result in the release of radioactive material to the environment or direct radiation from the ISFSI. The calculations of individual dose or dose commitment shall be performed for direct exposure, inhalation, and ingestion occurring as a result of the postulated design basis event.

(14) A description of the quality assurance program to be applied to the design, fabrication, construction, testing, and operation of the structures, systems, and components of the ISFSI important to safety, as required by § 72.80. The description of the quality assurance program shall identify structures, systems and components important to safety and shall show how the criteria in Appendix B to Part 50 of this chapter will be applied to those safety-related components, systems, and structures in a manner consistent with their importance to safety.

(15) A description for the detailed security measures for physical protection, including design features and the plans required by Subpart H of this Part.

(16) A description of the program covering preoperational testing and initial operations.

(17) A description of the decommissioning plan required under § 72.18 of this Part.

§ 72.16 Contents of application: Technical specifications.

Each application under this Part shall include proposed technical specifications in accordance with the requirements of § 72.33 and a summary statement of the bases and justifications for these technical specifications.

§ 72.17 Contents of application: Applicant's technical qualifications.

Each application under this Part shall include: (a) The technical qualifications, including training and experience, of the applicant to engage in the proposed activities.

(b) A description of the personnel training program required under Subpart I of this Part.

(c) A description of the applicants' operating organization, delegations of responsibility and authority, and the minimum skills and experience qualifications relevant to the various levels of responsibility and authority.

(d) A commitment by the applicant to have and maintain an adequate complement of trained and certified plant personnel prior to the receipt of spent fuel for storage.

§ 72.18 Decommissioning plan, including financing.

(a) Each application under this part shall include a proposed decommissioning plan that contains sufficient information on proposed practices and procedures for the decontamination of the site and facilities and for disposal of residual radioactive materials after all spent fuel has been removed, in order to provide reasonable assurance that the decontamination and decommissioning of the ISFSI at the end of its useful life will provide adequate protection to the health and safety of the public. This plan shall identify and discuss those design features of the ISFSI that facilitate its decontamination and decommissioning at the end of its useful life.

(b) The decommissioning plan shall include the financial arrangements made by the applicant to provide reasonable assurance that the planned decontamination and decommissioning of the ISFSI will be carried out.

§ 72.19 Emergency plan.

An application to store spent fuel in an ISFSI shall include plans for coping with emergencies. These plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to Part 50 of this chapter.

§ 72.20 Environmental report.

Each application for a license under this part shall be accompanied by an Environmental Report which meets the requirements of Part 51 of this chapter.

§ 72.21 Required licensing documents.

Section	Document	No. of copies	Signed originals
72.14	License Application	25	3
72.15	Safety Analysis Report [a].	70	
72.18	Decommissioning Plan [a].	25	
72.19	Emergency Plan [a]	25	
72.20	Environmental Report [a]	150	
72.35(b)	Report of ISFSI Design and Procedures Changes.	25	3
72.36(b)	Application for Transfer of License	25	3
72.38	Application for Termination of License.	25	3
72.39	Amendment to License.	25	3
72.80	Quality Assurance Program [a].	25	
72.81	Physical Security Plan [a] [b].	10	
72.82	Design for Physical Protection [a] [b].	10	
72.83	Safeguards Contingency Plan [a] [b].	10	
72.84	Changes to Physical Security and Contingency Plans.	10	
72.92	Personnel Training Program [a].	25	

[a] Submitted with license application.
[b] Physical protection plans will be withheld from public disclosure by the NRC.

Subpart C—Issuance and Conditions of Licenses

§ 72.31 Issuance of licenses.

(a) Except as provided in paragraph (c) of this section, the Commission will issue a license under this Part upon a determination that the application for a license meets the standards and requirements of the Act and the regulations of the Commission, and upon finding that:

(1) The applicant's proposed ISFSI design complies with Subpart F of this part;

(2) The proposed site complies with the criteria in Subpart E of this Part;

(3) If on the site of a nuclear power plant or other licensed activity or facility, the proposed ISFSI would not pose an undue risk to the safe operation of such nuclear power plant or other licensed activity or facility;

(4) The applicant is qualified by reason of training and experience to conduct the operation covered by the regulations in this Part;

(5) The applicant's proposed operating procedures to protect health and to minimize danger to life or property are adequate;

(6) The applicant is financially qualified to engage in the proposed activities in accordance with the regulations in this Part;

(7) The applicant's quality assurance plan complies with Subpart G of this Part;

(8) The applicant's physical protection provisions comply with Subpart H of this Part;

(9) The applicant's personnel training program complies with Subpart I of this Part;

(10) The applicant's decommissioning plan and its financing pursuant to § 72.18 of this Part provide reasonable assurance that the decontamination and decommissioning of the ISFSI at the end of its useful life will provide adequate protection to the health and safety of the public;

(11) The applicant's emergency plan complies with § 72.19 of this Part;

(12) The applicable provisions of Part 170 of this chapter have been satisfied;

(13) There is reasonable assurance that (i) the activities authorized by the license can be conducted without endangering the health and safety of the public and (ii) such activities will be conducted in compliance with the applicable regulations of this Chapter; and

(14) The issuance of the license will not be inimical to the common defense and security.

(b) Grounds for denial for a license to store spent fuel in the proposed ISFSI may be commencement of construction prior to a conclusion or finding by the Director of the Office of Nuclear Materials Safety and Safeguards or his designee or after a public hearing, the Presiding Office, Atomic Safety and Licensing Board, or the Commission acting as a collegial body, as appropriate, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, and after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license with any appropriate conditions to protect environmental values.

(c) For facilities that have been covered under previous licensing actions including the issuance of a Construction Permit under Part 50 of this chapter, a reevaluation of the site is not required except where new information is discovered which could alter the original site evaluation findings. In this case, the site evaluation factors involved will be reevaluated.

§ 72.32 Duration of license; renewal.

(a) Each license issued under this Part shall be for a fixed period of time to be specified in the license but not to exceed 20 years from the date of issuance. Licenses may be renewed by the Commission at the expiration of that period upon application of the licensee.

(b) Applications for renewal of a license should be filed in accordance with the applicable provisions of Subpart B of this Part at least two years prior to the expiration of the existing license. Information contained in previous applications, statements, or reports filed with the Commission under the license may be incorporated by reference: *Provided*, that such references are clear and specific.

(c) In any case in which a licensee, not less than 2 years prior to expiration of his existing license, has filed an application in proper form for renewal of a license, such existing license shall not expire until a final decision concerning the application for renewal has been made by the Commission.

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§ 72.33 License conditions.

(a) Each license issued under this part shall include license conditions. The license conditions may be derived from the analyses and evaluations included in the safety analysis report and amendments thereto submitted pursuant to § 72.15 of this part. License conditions pertain to design, construction and operation. The Commission may also include such additional license conditions as it finds appropriate.

(b) Every license issued under this Part shall be subject to the following conditions, even if they are not explicitly stated therein:

(1) Neither the license nor any right thereunder shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act and give its consent in writing.

(2) The license shall be subject to revocation, suspension, modification, or amendment in accordance with the procedures provided by the Atomic Energy Act and Commission regulations.

(3) Upon request of the Commission, the licensee shall, at any time before expiration of the license, submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(4) Prior to the receipt of spent fuel for storage at an ISFSI, the licensee shall have in effect an NRC-approved program covering the training and certification of ISFSI personnel that meets the requirements of Subpart I of this Part.

(5) The licensee shall permit the operation of the safety-related equipment and controls of the ISFSI only by personnel whom the licensee has certified as being adequately trained to perform such operations, or by uncertified personnel who are under the direct visual supervision of a certified individual.

(c) Technical specifications submitted pursuant to § 72.16 of this Part shall include requirements in the following categories:

(1) Functional and operating limits and monitoring instruments and limiting control settings. (i) Functional and operating limits for an ISFSI are limits on fuel handling and storage conditions that are found to be necessary to protect the integrity of the stored fuel, to protect employees against occupational exposures and to guard against the uncontrolled release of radioactive materials. (ii) Monitoring instruments and limiting control settings for an ISFSI are those related to fuel handling and storage conditions having significant safety functions.

(2) Limiting conditions. Limiting conditions are the lowest functional capability or performance levels of equipment required for safe operation.

(3) Surveillance requirements. Surveillance requirements include: (i) inspections of spent fuel in storage and monitoring; (ii) inspection, test and calibration activities to ensure that the necessary integrity of required systems, components and the spent fuel in storage is maintained; (iii) confirmation that operation of the ISFSI is within the required functional and operating limits; and (iv) a confirmation that the limiting conditions required for safe storage are met.

(4) Design features. Design features include items that would have a significant effect on safety if altered or modified, such as materials of construction and geometric arrangements.

(5) Administrative controls. Administrative controls include the organization and management procedures, recordkeeping, review and audit, and reporting necessary to assure that the operations involved in the storage of spent fuel in an ISFSI are performed in a safe manner.

(d) Each license authorizing the storage of spent fuels under this Part shall include technical specifications that, in addition to stating the limits on the release of radioactive materials for compliance with limits of Part 20 of this chapter and the "as low as is reasonably achievable objectives" for effluents, require that:

(1) Operating procedures for control of effluents be established and followed, and equipment in the radioactive waste treatment systems be maintained and used, to meet the requirements of § 72.67 of this Part;

(2) An environmental monitoring program be established to ensure compliance with the technical specifications for effluents; and

(3) An annual report be submitted to the appropriate regional office specified in Appendix D of Part 20 of this Chapter, with a copy to the Director, Office of Nuclear Material Safety and Safeguards, within 60 days after January 1 of each year, specifying the quantity of each of the principal radionuclides released to the environment in liquid and in gaseous effluents during the previous 12 months of operation and such other information as may be required by the Commission to estimate maximum potential radiation dose commitment to the public resulting from effluent releases. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

(e) The licensee shall make no change that would decrease the effectiveness of the physical security plan prepared pursuant to § 72.81 of this Part without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to the license pursuant to § 72.39 of this Part. A licensee may make changes to the physical security plan without prior Commission approval, provided that such changes do not decrease the effectiveness of the plan. The licensee shall furnish to the Commission a report containing a description of each change within two months after the change is made, and shall maintain records of changes to the plan made without prior Commission approval for a period of two years from the date of the change.

(f) A licensee shall follow and maintain in effect an emergency plan that is approved by the Commission. The licensee may make changes to the approved plan without Commission approval only if such changes do not decrease the effectiveness of the plan, and if the plan, as changed, continues to contain the elements of Section IV of Appendix E of 10 CFR Part 50. Within six months after any such change is made, the licensee shall submit a report containing a description of any changes made in the plan to the appropriate NRC regional office specified in Appendix D to Part 20 of this chapter with a copy to the Director, Office of Nuclear Material Safety and Safeguards. Proposed changes that decrease the effectiveness of the approved emergency plan shall not be implemented unless the licensee has received prior approval of such changes from the Commission.

§ 72.34 Public hearings.

(a) In connection with each application for a license or an amendment to a license under this Part, the Commission shall issue or cause to be issued a notice of hearing in accordance with § 2.104, or a notice of proposed action in accordance with § 2.105, of this chapter, as appropriate. Except as provided in paragraph (b) of this section, a hearing may not be held until after 30 days' notice and publication once in the **Federal Register**.

(b) In the absence of a request for hearing by any person whose interest may be affected, the Commission may issue a license or an amendment to a license without a hearing upon 30 days' notice and publication once in the **Federal Register** of its intent to do so. The Commission may dispense with such 30 days' notice and publication with respect to an application for an amendment to a license issued under this Part upon a determination by the Commission that the amendment does not involve a significant hazards consideration or an unreviewed safety question.

§ 72.35 Changes, tests and experiments.

(a)(1) The holder of a license issued under this Part may, without prior Commission approval unless the proposed change, test or experiment involves a change in the license conditions incorporated in the license, an unreviewed safety question, significant increase in occupational exposure or a significant unreviewed environmental impact: (i) make changes in the ISFSI described in the Safety Analysis Report, (ii) make changes in the procedures described in the Safety Analysis Report, or (iii) conduct tests or experiments not described in the Safety Analysis Report.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Safety Analysis Report may be increased; (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the Safety Analysis Report may be created; or (iii) if the margin of safety as defined in the basis for any technical specification is reduced.

(b)(1) The licensee shall maintain records of changes in the ISFSI and of changes in procedures made pursuant to this section if such changes constitute changes in the ISFSI or procedures described in the Safety Analysis Report. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records shall include a written safety evaluation that provides the bases for the determination that the change, test, or experiment does not involve an unreviewed safety question. The records of changes in the ISFSI and of changes in procedures and records of tests shall be maintained for the lifetime of the ISFSI.

(2) Annually, or at such shorter interval as may be specified in the license, the licensee shall furnish to the appropriate regional office, specified in Appendix D of Part 20 of this chapter, with a copy to the Director, Office of Nuclear Material and Safeguards, a report containing a brief description of such changes, tests, and experiments, including a summary of the safety evaluation of each. Any report submitted by a licensee pursuant to this paragraph will be made a part of the public record pertaining to this license.

(c) The holder of a license issued under this Part who desires (1) to change the license conditions, (2) to change the ISFSI or the procedures described in the Safety Analysis Report, or (3) to conduct tests or experiments not described in the Safety Analysis Report that involve an unreviewed safety question, a significant increase in occupational exposure, or significant unreviewed environmental impact, shall submit an application for amendment of the license, pursuant to § 72.39 of this Part.

§ 72.36 Transfer of licenses.

(a) No license or any right included in a license issued under this Part shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

(b)(1) An application for transfer of a license shall include as much of the information described in §§ 72.14 and 72.17 of this Part with respect to the identity and the technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license. The application shall also include a statement of the purposes for which the transfer of the license is requested and the nature of the transaction necessitating or making desirable the transfer of the license.

(2) The Commission may require any person who submits an application for the transfer of a license pursuant to the provisions of this section to file a written consent from the existing licensee, or a certified copy of an order or judgment of a court of competent jurisdiction, attesting to the person's right—subject to the licensing requirements of the Act and these regulations—to possession of the spent fuel and the ISFSI involved.

(c) After appropriate notice to interested persons, including the existing licensee, and observance of such procedures as may be required by the Act or regulations or orders of the Commission, the Commission will approve an application for the transfer of a license, if the Commission determines:

(1) That the proposed transferee is qualified to be the holder of the license; and

(2) That transfer of the license is consistent with applicable provisions of the law, and the regulations and orders issued by the Commission pursuant thereto.

§ 72.37 Creditor regulations.

(a) Pursuant to section 184 of the Act, the Commission consents, without individual application, to the creation of any mortgage, pledge, or other lien on special nuclear material contained in spent fuel not owned by the United States that is the subject of a license or on any interest in such special nuclear material in spent fuel: *Provided:*

(1) That the rights of any creditor so secured may be exercised only in compliance with and subject to the same requirements and restrictions as would apply to the licensee pursuant to the provisions of the license, the Atomic Energy Act of 1954, as amended, and regulations issued by the Commission pursuant to said Act; and

(2) That no creditor so secured may take possession of the spent fuel pursuant to the provisions of this section prior to either the issuance of a license from the Commission authorizing such possession or the transfer of the license.

(b) Any creditor so secured may apply for transfer of the license covering such spent fuel by filing an application for transfer of the license pursuant to § 72.36(b). The Commission will act upon such application pursuant to § 72.36(c).

(c) Nothing contained in this regulation shall be deemed to affect the means of acquiring, or the priority of, any tax lien or other lien provided by law.

(d) As used in this section, "creditor" includes, without implied limitation, the trustee under any mortgage, pledge, or lien on spent fuel in storage made to secure any creditor; any trustee or receiver of such spent fuel appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by such mortgage, pledge, or lien; any purchaser of such spent fuel at the sale thereof upon foreclosure of such mortgage, pledge, or lien or upon exercise of any power of sale contained therein; or any assignee of any such purchaser.

§ 72.38 Applications for termination of licenses.

(a) The licensee shall apply to the Commission for authority to surrender a license voluntarily and to decommission the ISFSI and dispose of the materials stored therein. The Commission may

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require information, including information as to proposed procedures for the disposal of radioactive material and decontamination of the site, to determine whether there is reasonable assurance that the decommissioning and disposal will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

(b) Upon a finding of reasonable assurance that the decommissioning of ISFSI and disposal of the materials stored therein will be performed in accordance with the regulations in this chapter and will provide adequate protection to the health and safety of the public, and after notice to interested persons, the Commission will authorize such decommissioning and disposal and terminate the license upon completion of such procedures in accordance with any conditions specified in the authorization.

§ 72.39 Application for amendment of license.

Whenever a holder of a license desires to amend the license, an application for an amendment shall be filed with the Commission fully describing the changes desired and the reasons for such changes, and following as far as applicable the form prescribed for original applications.

§ 72.40 Issuance of amendment.

In determining whether an amendment to a license will be issued to the applicant, the Commission will be guided by the considerations that govern the issuance of initial licenses.

§ 72.41 Modification, revocation, and supension of licenses.

(a) The terms and conditions of all licenses are subject to amendment, revision, or modification by reason of amendments to the Atomic Energy Act of 1954, or by reason of rules, regulations, or orders issued in accordance with the Act or any amendments thereto.

(b) Any license may be modified, revoked, or suspended in whole or in part for any of the following: (i) for any material false statement in the application or in any statement of fact required under Section 182 of the Act; (ii) conditions revealed by such application or statement of fact or any report, record, inspection or other means which would warrant the Commission to refuse to grant a license on an original application; (iii) failure to operate an ISFSI in accordance with the terms of the license; (iv) violation of, or failure to observe any of, the terms and conditions of the Act, or of any applicable regulation, license, or order of the Commission.

(c) Upon revocation of a license, the Commission may immediately cause the retaking of possession of all special nuclear material contained in spent fuel held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission prior to following any of the procedures provided under sections 551–558 of title 5 of the United States Code, may cause the taking of possession of any special nuclear material contained in spent fuel held by the licensee.

§ 72.42 Backfitting.

(a) The Commission may require the backfitting of an ISFSI if it finds that such action will provide substantial additional protection to the environment, or occupational or public health and safety. As used in this section, "backfitting" means the addition, elimination, or modification of structures, systems, or components of an ISFSI after the license has been issued.

(b) The Commission may at any time require a holder of a license to submit such information concerning the backfitting or the proposed backfitting of the ISFSI as it deems appropriate.

Subpart D—Records, Reports, Inspections, and Enforcement

§ 72.50 Safety analysis report updating.

(a) The design, description of planned operations, and other information submitted in the Safety Analysis Report shall be updated by the licensee and submitted to the Commission at least once every six months after issuance of the license during final design and construction, until preoccupational testing is completed, with final completion and submittal to the Commission at least 90 days prior to the planned receipt of spent fuel. This final submittal shall include a final analysis and evaluation of the design and performance of structures, systems, and components that are important to safety taking into account any pertinent information developed since the submittal of the license application. Changes affecting safety margins will require Commission approval prior to the receipt of spent fuel.

(b) After the first receipt of spent fuel for storage, the Safety Analysis Report shall be updated annually and submitted to the Commission by the licensee. This submittal shall include the following:

(1) New or revised information relating to applicable site evaluation factors, including the results of environmental monitoring programs.

(2) A description and analysis of changes in the structures, systems, and components of the ISFSI, with emphasis upon (i) performance requirements, (ii) the bases, with technical justification therefor, upon which such requirements have been established, and (iii) evaluations showing that safety functions will be accomplished.

(3) An analysis of the significance of any changes to codes, standards, regulations, or regulatory guides which the licensee has committed to meeting the requirements that are applicable to the design, construction, or operation of the ISFSI.

§ 72.51 Material balance, inventory, and records requirements for stored materials.

(a) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, and transfer of all spent fuel in storage.

(b) Each licensee shall conduct a physical inventory of all spent fuel in storage at intervals not to exceed twelve months unless otherwise directed by the Commission.

(c) Each licensee shall establish, maintain, and follow written material control and accounting procedures that are sufficient to enable the licensee to account for the spent fuel in storage.

(d) Records of spent fuel in storage shall be kept in duplicate. The duplicate set of records shall be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records. Records of spent fuel transferred out of an ISFSI shall be preserved for a period of five years after the date of transfer.

§ 72.52 Reports of accidental criticality or loss of special nuclear material.

Each licensee shall report immediately to the appropriate NRC regional Office specified in Appendix D of Part 20 of this chapter by telephone and telegram or teletype, any case of accidental criticality and any loss of special nuclear material.

§ 72.53 Material status reports.

Each licensee shall complete and submit Material Status Reports to the Commission on Form NRC–742, in accordance with printed instructions for completing the form. The reports shall provide information concerning the special nuclear material contained in spent fuel possessed, received, transferred, disposed of, or lost by the licensee. All such reports shall be made as of march 31 and September 30 of each year and shall be filed with the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830, within 30 days after the end of the period covered by the report. The Commission may, when good cause is shown, permit a licensee to submit Material Status Reports at other times.

§ 72.54 Nuclear material transfer reports.

Whenever the licensee transfers or receives spent fuel, the licensee shall complete and distribute a Nuclear Material Transaction Report on Form NRC–741. Each licensee who transfers spent fuel shall submit a copy of form NRC–741 to the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830, and three copies to the receiver of the material promptly after the transfer takes place. Each licensee who receives spent fuel shall submit a copy of form NRC–741 to the Department of Energy and to the shipper of the material within 10 days after the spent fuel is received and unloaded and its identity is verified.

§ 72.55 Other records and reports.

(a) Each licensee shall maintain any records and make any reports that may be required by the conditions of the license or by the rules, regulations, and orders of the Commission in effectuating the purposes of the Act.

(b) Each licensee shall furnish a copy of its annual financial report, including the certified financial statements, to the Commission.

(c) Records that are required by the regulations in this part or by the license conditions shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified, such records shall be maintained until the Commission authorizes their disposition.

(d) Any record that must be maintained pursuant to this Part may be either the original or a reproduced copy or microform provided that any reproduced copy or microform is duly authenticated by authorized personnel and that the microform is capable of producing a clear an legible copy after storage for the period specified by commission regulations.

§ 72.56 Inspections and tests.

(a) Each licensee under this part shall permit inspection by duly authorized representatives of the Commission of his records, premises, activities and of spent fuel in possession related to the specific license as may be necessary to effectuated the purposes of the Act, including Section 105 of the Act.

(b) Each licensee under this Part shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to his receipt, possession, or transfer of spent fuel.

(c)(1) Each licensee under this Part shall upon request by the Director, Office of Inspection and Enforcement provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by each licensee. The office shall be convenient to and have full access to the installation and shall provide the inspector both visual and acoustic privacy.

(2) For a site with a single storage installation the space provided shall be adequate to accommodate a full-time inspector, a part-time secretary and transient NRC personnel and will be generally commensurate with other office facilities at the site. A space of 250 sq. ft., either within the site's office complex or in an office trailer, or other on site space, is suggested as a guide. For sites containing multiple facilities additional space may be requested to accommodate additional full-time inspectors. The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies and Commission equipment shall be furnished by the Commission.

(3) Each licensee under this Part shall afford any NRC resident inspector assigned to that site, or other NRC inspectors identified by the Regional Director as likely to inspect the installation, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures for security, radiological protection and personal safety.

(d) Each licensee shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part.

(e) A report of the preoperational test acceptance criteria and test results shall be submitted to the appropriate regional office specified in Appendix D of Part 20 of this chapter with a copy to the Director, Office of Nuclear Material Safety and Safeguards at least 30 days prior to the receipt of spent fuel.

§ 72.57 Violation.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, or title II of the Energy Reorganization Act of 1974, as amended, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act for violation of §§ 53, 57, 62, 63, 81, or 82 of the Atomic Energy Act, or section 206 of the Energy Reorganization Act of 1974, or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Atomic Energy Act. Any person who willfully violates any provision of the Atomic Energy Act, or any regulation or order issued thereunder, may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Subpart E—Siting Evaluation Factors

§ 72.61 General considerations.

(a) Site characteristics that may directly affect the safety or environmental impact of the ISFSI shall be investigated and assessed.

(b) Proposed sites for the ISFSI shall be examined with respect to the frequency and the severity of external natural and man-induced events that could affect the safe operation of the ISFSI.

(c) Design basis external events shall be determined for each combination of proposed site and proposed ISFSI design.

(d) Proposed sites with design basis external events for which adequate protection cannot be provided through ISFSI design shall be deemed unsuitable for the location of the ISFSI.

(e) For each proposed site, pursuant to Part 51 of this chapter, the potential for radiological and other environmental impacts on the region shall be evaluated with due consideration of the characteristics of the population, including its distribution, and of the regional environs, including its historical and esthetic values.

(f) The facility shall be sited so as to avoid to the extent possible the long-term and short-term adverse impacts associated with the occupancy and modification of floodplains.

§ 72.62 Design basis external natural events.

(a) Natural phenomena that may exist or that can occur in the region of a proposed site shall be identified and assessed according to their potential effects on the safe operation of the ISFSI. The important natural phenomena

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that affect the ISFSI design shall be identified.

(b) Records of the occurrence and severity of those important natural phenomena shall be collected for the region and evaluated for reliability, accuracy, and completeness.

(c) Appropriate methods shall be adopted for evaluating the design basis natural events based on the characteristics of the region and the current state of knowledge about such events.

§ 72.63 Design basis external man-induced events.

(a) The region shall be examined for both past and present man-made facilities and activities that might endanger the proposed ISFSI. The important potential man-induced events that affect the ISFSI design shall be identified.

(b) Information concerning the potential occurrence and severity of such events shall be collected and evaluated for reliability, accuracy, and completeness.

(c) Appropriate methods shall be adopted for evaluating the design basis external man-induced events, based on the current state of knowledge about such events.

§ 72.64 Identifying regions around an ISFSI site.

(a) The regional extent of external phenomena, man-made or natural, that are used as a basis for the design of the ISFSI shall be defined.

(b) The potential regional impact due to the construction, operation or decommissioning of the ISFSI shall be identified. The extent of such regional impacts shall be determined on the basis of potential measurable effects on the population or the environment, from ISFSI activities.

(c) Those regions identified pursuant to paragraphs (a) and (b) of this section shall be investigated as appropriate with respect to (i) the present and future character and the distribution of population, (ii) consideration of present and projected future uses of land and water within the region, and (iii) any special characteristics that may influence the potential consequences of a release of radioactive material during the operational lifetime of the ISFSI.

(d) If the distribution of population in any defined region is such that adquate protective action cannot be provided through emergency planning the proposed site shall be unsuitable for the location of an ISFSI.

§ 72.65 Defining potential effects of the ISFSI on the region.

(a) The proposed site shall be evaluated with respect to the effects on populations in the region resulting from the release of radioactive materials under normal and accident conditions during operation and decommissioning of the ISFSI; in this evaluation both usual and unusal regional and site characteristics shall be taken into account.

(b) Each site shall be evaluated with respect to the effects on the regional environment resulting from construction, operation and decommissioning of the ISFSI; in this evaluation both usual and unusual regional and site characteristics shall be taken into account.

§ 72.66 Geological and seismological characteristics.

(a) *Massive Water Basin and Air-Cooled Canyon Types of ISFSI Structures:*

(1) East of the Rocky Mountain Front (east of approximately 104° west longitude), except in areas of known seismic activity including but not limited to the regions around New Madrid, Mo., Charleston, S.C., and Attica, N.Y., sites will be acceptable if the results from onsite foundation and geological investigation, literature review, and regional geological reconnassiance show no unstable geological charactertisics, soil stability problems, or potential for vibratory ground motion at the site in excess of an appropriate response spectrum achored at 0.2 g.

(2) West of the Rocky Mountain Front (west of approximately 104° west longitude), and in other areas of known potential seismic activity, seismicity will be evaluated by the techniques of Appendix A of Part 100 of this chapter. Sites that lie within the range of strong near-field ground motion from historical earthquakes on large capable faults should be avoided.

(3) Sites other than bedrock sites shall be evaluated for their liquefaction potential or other soil instaility due to vibratory ground motion.

(4) Site-specific investigations and laboratory analyses must show that soil conditions are adequate for the proposed foundation loading.

(5) In an evaluation of alternative sites, those which require a minimum of engineered provisions to correct site deficiencies are preferred. Sites with unstable geologic characteristics should be avoided.

(6) The ISFSI design earthquake (ISFSI–DE) for use in the design of structures shall be determined as follows:

(a) For sites that have been evaluated under the criteria of Appendix A of 10 CFR Part 100, the ISFSI–DE shall be equivalent to the safe shutdown earthquake (SSE) for a nuclear power plant.

(b) For those sites that have not been evaluated under the criteria of Appendix A of 10 CFR Part 100, that are east of the Rocky Mountain Front, and that are not in areas of known seismic activity, a standardized ISFSI–DE described by an appropriate response spectrum anchored at 0.25 g may be used. Alternatively, a site-specific ISFSI–DE may be determined by using the criteria and level of investigations required by Appendix A of Part 100 of this chapter.

(c) Regardless of the results of the investigations anywhere in the continental U.S., the ISFSI–DE shall have a value for the horizontal ground motion of no less than 0.10 g with the appropriate response spectrum.

(b) *Other types of ISFSI Designs.* For ISFSI designs that do not use massive water basins or air-cooled canyons, such as canisters, casks, or silos, a site specific investigation is required to establish site suitability commensurate with the specific requirements of the proposed ISFSI.

§ 72.67 Criteria for radioactive materials in effluents and direct radiation from an ISFSI.

(a) During normal operations and anticipated occurrences, the annual dose equivalent to any real individual who is located beyond the controlled area shall not exceed 25 mrem to the whole body, 75 mrem to the thyroid and 25 mrem to any other organ as a result of exposure to (1) planned discharges of radioactive materials, radon and its daughters excepted, to the general environment, (2) direct radiation from ISFSI operations and (3) any other radiation from uranium fuel cycle operations within the region.

(b) Operational restrictions shall be established to meet as low as is reasonably achievable objectives for radioactive materials in effluents and direct radiation levels associated with ISFSI operations.

(c) Operational limits shall be established for radioactive materials in effluents and direct radiation levels associated with ISFSI operations to meet the limits given in paragraph (a) of this section.

§ 72.68 Controlled area of an ISFSI.

(a) For each ISFSI site, a controlled area shall be established.

(b) Any individual located on or beyond the nearest boundary of the controlled area shall not receive a dose greater than 5 rem to the whole body or any organ from any design basis accident. The minimum distance from the spent fuel handling and storage facilities to the nearest boundary of the controlled area shall be at least 100 meters.

(c) The controlled area may be traversed by a highway, railroad or waterway, so long as appropriate and effective arrangements are made to control traffic and to protect the public health and safety.

§ 72.69 ISFSI emergency planning zone.

(a) For each ISFSI site, an ISFSI Emergency Planning Zone (ISFSI–EPZ) shall be established. The ISFSI–EPZ shall provide reasonable assurance that protective actions beyond its outer boundary would not be necessary.

(b) The boundaries of an ISFSI–EPZ for a particular ISFSI will be determined on a case-by-case basis taking into account both the characteristics of the specific facility and local conditions such as demography, topography, land characteristics, access routes and local jurisdictional boundaries.

§ 72.70 Spent fuel transportation.

The proposed ISFSI shall be evaluated with respect to the potential impact on the environment of spent fuel being transported into the area.

Subpart F—General Design Criteria

§ 72.71 General Considerations.

Pursuant to the provisions of § 72.15 of this Part, an application to store spent fuel in an ISFSI must include the design criteria for the proposed storage complex. These design criteria establish the design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to safety as defined in § 72.3. The general design criteria identified in this section establish minimum requirements for the design criteria for an ISFSI. Any omissions in these general design criteria do not relieve the applicant from the requirement of providing the necessary safety features in the design of the ISFSI.

§ 72.72 Overall requirements.

(a) *Quality Standards.*—Structures, systems, and components important to safety shall be designed, fabricated, erected, and tested to quality standards commensurate with the importance to safety of the function to be performed.

(b) *Protection against environmental conditions and natural phenomena.*—(1) Structures, systems, and components important to safety shall be designed to accommodate the effects of, and to be compatible with, site characteristics and environmental conditions associated with normal operation, maintenance, and testing of the ISFSI; and to withstand postulated accidents.

(2) Structures, systems, and components important to safety shall be designed to withstand the effects of natural phenomena such as earthquakes, tornadoes, lightning, hurricanes, floods, tsunami, and seiches, without impairing their capability to perform safety functions. The design bases for these structures, systems, and components shall reflect (i) appropriate consideration of the most severe of the natural phenomena reported for the site and surrounding area, with appropriate margins to take into account the limitations of the data and the period of time in which the data have accumulated, and (ii) appropriate combinations of the effects of normal and accident conditions and the effects of natural phenomena. An ISFSI need not be protected from tornado missiles but should be designed to prevent massive collapse of building structures or the dropping of heavy objects on to the stored spent fuel as a result of building structural failures.

(3) Capability shall be provided for determining the intensity of natural phenomena that may occur for comparison with design bases of structures, systems, and components important to safety.

(4) If the ISFSI is located over an aquifer which is a major water resource, measures shall be taken to preclude the transport of radioactive materials to the environment through this potential pathway.

(c) *Protection Against Fires and Explosions.*

Structures, systems, and components important to safety shall be designed and located so that they can continue to perform their safety functions effectively under credible fire and explosion exposure conditions. Noncombustible and heat-resistant materials shall be used wherever practical throughout the ISFSI, particularly in locations vital to the control of radioactive materials and to the maintenance of safety control functions. Explosion and fire detection, alarm, and suppression systems shall be designed and provided with sufficient capacity and capability to minimize the adverse effects of fires and explosions on structures, systems, and components important to safety. The design of the ISFSI shall include provisions to protect against adverse effects that might result from either the operation or the failure of the fire suppression system.

(d) *Sharing of structures, systems, and components.*—Structures, systems, and components important to safety shall not be shared between an ISFSI and other facilities unless it is shown that such sharing will not impair the capability of either facility to perform its safety functions, including the ability to return to a safe condition in the event of an accident.

(e) *Proximity of sites.*—An ISFSI located near other nuclear facilities shall be designed and operated to ensure that the cumulative effects of their combined operations will not constitute an unreasonable risk to the health and safety of the public.

(f) *Testing and maintenance of systems and components.*—Systems and components that are important to safety shall be designed to permit inspection, maintenance, and testing.

(g) *Emergency capability.*—Structures, systems, and components important to safety shall be designed for emergencies. The design shall provide for accessibility to the equipment of onsite and available offsite emergency facilities and services such as hospitals, fire and police departments, ambulance service, and other emergency agencies.

(h) *Confinement barriers and systems.*—(1) The fuel cladding shall be protected against degradation and gross ruptures.

(2) For underwater storage of spent fuel in which the pool water serves as a shield and a confinement medium for radioactive materials, systems designed for maintaining water purity and the pool water level shall be designed so that any abnormal operations or failure in those systems from any cause will not cause the water level to fall below safe limits. The design shall preclude installations of drains, permanently connected systems, and other features that could by abnormal operations or failure cause a significant loss of water. Pool water level equipment shall be provided to alarm in a continuously manned location if the water level in the fuel storage pools falls below a predetermined level.

(3) Ventilation and off-gas systems shall be provided where necessary to ensure the confinement of airborne radioactive particulate materials during normal or off-normal conditions.

(i) *Instrumentation and control systems.*—Instrumentation and control systems shall be provided to monitor systems that are important to safety over anticipated ranges for normal operation and off-normal operation. Those instruments and control systems that must remain operational under accident conditions shall be identified in the Safety Analysis Report.

(j) *Control room or control areas.*—A control room or control areas shall be designed to permit occupancy and actions to be taken to monitor the ISFSI

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safely under normal conditions, and to provide safe control of the ISFSI under off-normal or accident conditions.

(k) *Utility services.*—(1) Each utility service system shall be designed to meet emergency conditions. The design of utility services and distribution systems that are important to safety shall include redundant systems to the extent necessary to maintain, with adequate capacity, the ability to perform safety functions assuming a single failure.

(2) Emergency utility services shall be designed to permit testing of the functional operability and capacity, including the full operational sequence, of each system for transfer between normal and emergency supply sources; and to permit the operation of associated safety systems.

(3) Provisions shall be made so that, in the event of a loss of the primary electric power source or circuit, reliable and timely emergency power will be provided to instruments, utility service systems, the central security alarm station, and operating systems, in amounts sufficient to allow safe storage conditions to be maintained and to permit continued functioning of all systems essential to safe storage.

§ 72.73 Criteria for nuclear criticality safety.

(a) *Design for criticality safety.*—Spent fuel handling, transfer, and storage systems shall be designed to be maintained subcritical and to prevent a nuclear criticality accident. The design of handling, transfer, and storage systems shall include margins of safety for the nuclear criticality parameters that are commensurate with the uncertainties in the handling, transfer and storage conditions, in the data and methods used in calculations, and in the nature of the immediate environment under accident conditions.

(b) *Methods of criticality control.*—The design of an ISFSI shall be based on either favorable geometry (spacing) or permanently fixed neutron absorbing materials (poisons). Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy. In criticality design analyses for underwater storage systems, credit can be taken for the neutron absorption of rack structures and the water within the storage unit.

§ 72.74 Criteria for radiological protection.

(a) *Exposure control.*—Radiation protection systems shall be provided for all areas and operations where onsite personnel may be exposed to radiation or airborne radioactive materials. Structures, systems, and components for which operation, maintenance, and required inspections may involve such exposure shall be designed, fabricated, located, shielded, controlled, and tested so as to control external and internal radiation exposures to personnel. The design shall include means to:

(1) prevent the accumulation of radioactive material in those systems requiring access;

(2) decontaminate those systems to which access is required;

(3) control access to areas of potential contamination or high radiation within the ISFSI;

(4) measure and control contamination of areas requiring access;

(5) minimize the time required to perform work in the vicinity of radioactive components; for example, by providing sufficient space for ease of operation and designing equipment for ease of repair and replacement; and

(6) shield personnel from radiation exposure.

(b) *Radiological alarm systems.*—Radiological alarm systems shall be provided in accessible work areas to warn operating personnel of radiation and airborne radioactivity levels above a given setpoint and of concentrations of radioactive material in effluents above control limits. Such systems shall be designed with provisions for calibration and testing their operability.

(c) *Effluent and direct radiation monitoring.*—

(1) Effluent systems shall be provided with means for measuring the amount of radionuclides in effluents during normal operations and under accident conditions. A means of measuring the flow of the diluting medium, either air or water, shall also be provided.

(2) Areas containing radioactive materials shall be provided with systems for measuring the direct radiation levels in and around these areas.

(d) *Effluent Control.*

The ISFSI shall be designed to provide means to limit to levels as low as is reasonably achievable the release of radioactive materials in effluents during normal operations; and control the release of radioactive materials under accident conditions. Analyses shall be made to show that releases to the general environment during normal operations and anticipated occurrences will be within the exposure limits given in § 72.67. Analyses of design basis accidents shall be made, to show that releases to the general environment will be within the exposure limits given in § 72.68. Systems designed to monitor the release of radioactive materials shall have means for calibration and testing their operability.

§ 72.75 Criteria for spent fuel and radioactive waste storage and handling.

(a) *Spent Fuel and Radioactive Waste Storage and Handling Systems.*

Spent fuel storage, radioactive waste storage, and other systems that might contain or handle radioactive materials associated with spent fuel, shall be designed to ensure adequate safety under normal and accident conditions. These systems shall be designed with (1) a capability to test and monitor components important to safety, (2) suitable shielding for radiation protection under normal and accident conditions, (3) confinement structures and systems, (4) a heat-removal capability having testability and reliability consistent with its importance to safety, and (5) means to minimize the quantity of radioactive wastes generated.

(b) *Waste Treatment.*

Radioactive waste treatment facilities shall be provided. Provisions shall be made for the packaging of site-generated low level wastes in a form suitable for transfer to disposal sites.

§ 72.76 Criteria for decommissioning.

The ISFSI shall be designed for decommissioning. Provisions shall be made to facilitate decontamination of structures and equipment, minimize the quantity of radioactive wastes and contaminated equipment, and facilitate the removal of radioactive wastes and contaminated materials at the time the ISFSI is permanently decommissioned.

Subpart G—Quality Assurance

§ 72.80 Quality assurance program; Records.

(a) A quality assurance program based on the criteria in Appendix B to Part 50 of this chapter shall be established and implemented for the structures, systems, and components of an ISFSI that are important to safety. The application of the quality assurance program should be commensurate with the importance to safety of identified activities and individual structures, systems, and components.

(b) The quality assurance program shall cover all activities identified as being important to safety throughout the life of the licensed activity—from site selection through decommissioning—prior to termination of the license.

(c) Appropriate records of the design, fabrication, erection, testing, maintenance and occupation of structures, systems, and components important to safety shall be maintained by or under the control of the licensee throughout the life of the ISFSI.

Subpart H—Physical Protection

§ 72.81 Physical security plan.

A plan for detailed security measures for physical protection shall be established. This plan shall consist of two parts. Part I shall demonstrate how the applicant plans to comply with the applicable requirements of Part 73 of this chapter and during transportation to and from the proposed ISFSI and shall include the design for physical protection and the licensee's safeguards contingency plan and guard training plan. Part II shall list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

§ 72.82 Design for physical protection.

The design for physical protection shall show the site layout and ISFSI design features provided to protect the ISFSI from sabotage. It shall include:

(a) The design criteria for the physical protection of the proposed ISFSI;

(b) The design bases and the relation of the design bases to the design criteria submitted pursuant to paragraph (a) of this section; and

(c) Information relative to materials of construction, equipment, general arrangement, and proposed quality assurance program sufficient to provide reasonable assurance that the final security system will conform to the design bases for the principal design criteria submitted pursuant to paragraph (a) of this section.

§ 72.83 Safeguards contingency plan.

(a) The requirements of the licensee's safeguards contingency plan for dealing with threats and industrial sabotage shall be as defined in § 73.40(b) of this Chapter. This plan shall include Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix, the first four categories of information relating to nuclear facilities licensed under Part 50 of this chapter. (The fifth category of information, Procedures, does not have to be submitted for approval.)

(b) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C to 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of the licensee's safeguards contingency plan.

§ 72.84 Change to physical security and safeguards contingency plans.

(a) The licensee shall make no change that would decrease the safeguards effectiveness of the physical security plan or the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in the licensee safeguards contingency plan without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 72.39.

(b) The licensee may, without prior Commission approval, make changes to the physical security plan or the safeguards contingency plan, if the changes do not decrease the safeguards effectiveness of these plans. The licensee shall maintain records of changes to any such plan made without prior approval for a period of 2 years from the date of the change and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A to Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made.

Subpart I—Training and Certification of ISFSI Personnel

§ 72.91 Operator requirements.

Operation of equipment and controls that have been identified as important to safety in the Safety Analysis Report and in the license shall be limited to trained and certified personnel or be under the direct visual supervision of an individual with training and certification in such operation. Supervisory personnel who personally direct the operation of equipment and controls that are important to safety must also be certified in such operations.

§ 72.92 Operator training and certification program.

The applicant for a license under this part shall establish a program for training, proficiency testing, and certification of ISFSI personnel. This program shall be submitted to the Commission for approval with the license application.

§ 72.93 Physical requirements.

The physical condition and the general health of personnel certified for the operation of equipment and controls that are important to safety shall not be such as might cause operational errors that could endanger other in-plant personnel or the public health and safety. Any condition which might cause impaired judgment or motor coordination must be considered in the selection of personnel for activities that are important to safety. Such conditions need not categorically disqualify a person, so long as appropriate provisions are made to accommodate such defect.

Conforming Amendments

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. Section 2.764 is amended by adding the phrase "Except as provided in paragraph (c) of this section," at the beginning of paragraphs (a) and (b), by adding a new paragraph (c) and by revising footnote 1 to read as follows:

§ 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.[1]

(a) Except as provided in paragraph (c) of this section, an initial decision * * *

(b) Except as provided in paragraph (c) of this section, the Director of Nuclear Reactor Regulation or * * *

(c) An initial decision directing the issuance of an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) under 10 CFR Part 72 of this chapter shall not become effective until review by the Commission has been completed. The Director of Nuclear Material Safety and Safeguards shall not issue an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) under 10 CFR Part 72 of this chapter until expressly authorized to do by the Commission.

PART 54—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION.

2. In § 51.5(a) paragraph (10) is redesignated as paragraph (11) and a new paragraph (10) is added. In § 51.5(b) a new subparagraph (4)(iv) and paragraph (9) is added. Paragraph 51.5(b)(5) is changed to include the above additional subparagraph (4)(iv). As amended § 51.5 reads as follow:

§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental impact appraisals; actions excluded.

(a) An environmental impact statement will be prepared and circulated prior to taking any of the following types of actions:

* * * * * *

(10) Issuance of a license pursuant to Part 72 of this chapter for the storage of

[1] The temporary suspension of § 2.764 (a) and (b) in certain proceedings and related matters is addressed in Appendix B to this part.

V 45 NO 12 80 UMI

spent fuel in an independent spent fuel storage installation (ISFSI) at a site not occupied by a nuclear power reactor.

(11) Any other action which the Commission determines is a major Commission action significantly affecting the quality of the human environment.

(b) Many licensing and regulatory actions of the Commission other than those listed in paragraph (a) may or may not require preparation of an environmental impact statement, depending upon the circumstances. In determining whether an environmental impact statement should or should not be prepared for such action, the Commission shall be guided by the Council on Environmental Quality Guidelines, 40 CFR 1500.6. Such other actions include:

* * * * *

(iv) The storage of spent fuel in an independent spent fuel storage installation (ISFSI) pursuant to Part 72 of the chapter.

(5) Renewal of licenses to conduct activities listed in paragraph (b)(4) (i)-(iv) of this section;"

* * * * *

(9) Issuance of a license pursuant to Part 72 of this chapter for the storage of spent fuel in an independent spent fuel storage installation (ISFSI) on the site of a nuclear power reactor.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. Section 70.1 is amended by inserting the following phrase in the beginning of paragraph (a) and by adding a new paragraph to read as follows:

§ 70.1 Purpose.

(a) Except as provided in paragraph (c) of this section, the regulations of this part * * *

* * * * *

(c) The regulations in Part 72 of this chapter establish requirements, procedures, and criteria for the issuance of licenses to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) and the terms and conditions under which the Commission will issue such licenses.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

§ 73.1 Purpose and scope.

4. In § 73.1(b) Scope, add a new paragraph as follows:

* * * * *

(b) *Scope.* This part prescribes requirements for the physical protection of spent fuel stored in an independent spent fuel storage installation (ISFSI) licensed under Part 72 of this Chapter.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

5. Section 150.15(a) is amended by adding a new paragraph (8) to read as follows:

§ 150.15 Persons not exempt.

(a) Persons in agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the following activities:

* * * * *

150.15(a)(7) The storage of spent fuel in an independent spent fuel storage installation (ISFSI) licensed pursuant to Part 72 of this Chapter.

* * * * *

Dated at Washington, D.C., this 3rd day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-34865 Filed 11-10-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program; Briefing

AGENCY: Department of Energy.

ACTION: Notice of briefing.

SUMMARY: The Department of Energy is implementing the Residential Conservation Service (RCS) Program pursuant to Title II, Part I of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619, Stat. 3206 *et seq.*). The purpose of the program is to encourage the installation of energy conservation measures and renewable resource measures in existing houses by residential customers of larger gas and electric utilities and home heating suppliers. On November 7, 1979, DOE issued a final rule for the RCS Program (44 FR 64602).

Under the RCS Program, DOE has established rules and guidelines that affect the energy conserving and renewable resource products manufactured, distributed or installed under the program. The rules address material and installation standards, product labeling, program listing, and warranty requirements.

In order to make manufacturers, suppliers, and contractors aware of the requirements for labeling, warranty, listing, and the material standards, we have scheduled a briefing for trade associations which represent manufacturers, contractors and distributors of energy conserving and renewable resource measures to address these guidelines.

DATES: The briefing will be held November 20, 1980, from 2:00 p.m., to 4:30 p.m. Request for attendence should be received before November 14, 1979. Direct all requests to Gloria Purnell at the address listed under the section entitled "For Further Information Contact:". The briefing will be held at the address listed below:

ADDRESSES: Quality Inn, 415 New Jersey Avenue, N.W., Federal Ballroom, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gloria Purnell, Office of Conservation and Solar Energy, Room GH-068, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9161.

SUPPLEMENTARY INFORMATION: Not available.

Issued in Washington, D.C. on November 7, 1980.

T. E. Stelson,

Conservation and Solar Energy.

[FR Doc. 80-35381 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9089]

Atlantic Richfield Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order, among other things, reopens the proceeding and modifies definition (h)(1) and (2) of the divestiture order issued on October 29, 1979, 44 FR 67643, 94 F.T.C. 1054, so that, upon prior Commission approval, Noranda Mines Ltd., INCO Ltd., the Anglo American Group, or any of their respective subsidiaries (previously designated as "ineligible"), may be considered as "eligible" to purchase properties to be divested or to engage in certain joint ventures with Atlantic Richfield.

DATES: Order issued October 29, 1979. Modifying order issued October 7, 1980.

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580, (202) 523-3601.

SUPPLEMENTARY INFORMATION: In the Matter of Atlantic Richfield Company, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5-20 Federal Trade Commission Act; § 13.7 Joint ventures. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-5 Arbitration; § 13.533-35 Employment of independent agencies.

The Order Reopening Proceeding and Modifying Consent Order is as follows:

By letter dated January 14, 1980, Noranda Mines Ltd. ("Noranda") requested that the Commission reopen this proceeding to reconsider the designation of Noranda as absolutely ineligible to purchase the properties subject to divestiture under the consent order issued in this proceeding on October 29, 1979.[1] One of the principal objectives of the consent order was to promote deconcentration of the copper industry through divestiture of the subject properties to firms that presently are not major producers. Atlantic Richfield may divest the properties to, or engage in certain joint ventures with, any person who is "eligible" under the terms of the order.[2] Because eligibility based solely on market share criteria could not meet the Commission's competition objectives in this instance, three major companies—Noranda, INCO Ltd. and the Anglo American Group—were designated by name as ineligible. Those companies' actual or potential competitive positions were believed to be inadequately reflected by reference solely to market share criteria.

Upon consideration of Noranda's request, the Commission determined that it would be in the public interest to reopen the proceeding for the purpose of modifying the consent order. The Commission was of the opinion that the public interest in improving competition in the copper industry may adequately be served by designating Noranda, INCO Ltd. and the Anglo American Group as eligible upon prior approval of the Commission.[3] On June 19, 1980, the Commission issued an order to show cause why the consent order should not be modified. The show cause order invited interested persons to comment on the proposed change.

Having carefully considered the comments received,[4] the Commission continues to believe that the competitive positions of Noranda, INCO Ltd. and the Anglo American Group are not adequately reflected by reference solely to market share criteria. The Commission has concluded that the public interest would adequately be served by giving each of the three firms an opportunity to present its views in the context of a specific request for prior Commission approval of a proposed divestiture transaction or a proposed joint venture subject to Paragraphs IX and X of the consent order.

Now, therefore, it is hereby ordered, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b), and Rule 3.72(b) of the Commission's Rules of Practice, 16 CFR § 3.72(b) (1979), that the October 29, 1979 consent order be modified in part as follows: (Note: the text of the consent order was not printed in the **Federal Register**. The consent order was filed as part of the original document.)

For purposes of this Order, the following definitions shall apply:

(h) (1) Subject to the provisions of subparagraph (2) of this definition "h", "Eligible Person" means all Persons having *not* more than ten percent (10%) of the Copper Market for any of the three calendar years immediately preceding (i) an attempt by such Person to acquire a property or interest to be divested under the provisions of Paragraphs I through V of this Order, or (ii) an attempt by such Person to enter into a Joint Venture with Respondent which may be subject to the provisions of Paragraphs IX and X of this Order.

(2) *Noranda Mines Ltd., the INCO Ltd., Anglo American Group, and any of their respective subsidiaries, and any* Person otherwise eligible under subparagraph (1) of this definition "h" having between five percent (5%) and ten percent (10%) of the Copper Market for any of the three calendar years immediately preceding any of the events described in sections (i) and (ii) of subparagraphs (1) of this definition "h", shall be considered to be an "Eligible Person" only upon prior approval of the Commission. *The "Anglo American Group" means the Anglo American Corporation of South Africa Limited, Charter Consolidated Ltd., De Beers Consolidated Mines Ltd., Hudson Bay Mining and Smelting Co., Limited, Minerals and Resources Corporation Ltd., Anglo American Corporation of Canada Limited, and Inspiration Consolidated Copper Company and their respective subsidiaries.*

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35135 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-3044]

Benton & Bowles, Incorporated; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York City advertising agency to cease depicting, in advertising, children eight years of age or younger operating non-motorized two- or three-wheeled vehicles in an unsafe or illegal manner. This includes representing children operating such vehicles in traffic thoroughfares without adult supervision, and performing stunts or similar acts which create an unreasonable risk of harm to person or property.

DATES: Complaint and order issued October 10, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Linda J. Lacey, Washington, D.C. 20580 (202) 724-1481.

SUPPLEMENTARY INFORMATION: On Monday, August 4, 1980, there was published in the **Federal Register**, 45 FR

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[1] The Commission has treated Noranda's correspondence as a request that the Commission reopen this proceeding on its own initiative, as authorized by §§ 3.71 and 3.72 of the Commission's Rules of Practice. Rules 3.71 and 3.72(b)(1). 45 FR 21,622 (Apr. 2, 1980).

[2] To determine eligibility, the October 29 consent order defines "Eligible Person" and "Ineligible Person." It designates as absolutely ineligible any person having more than ten percent (10%) of the United States copper market for any of the three calendar years preceding an attempt to purchase the subject properties or to engage in certain joint ventures with Atlantic Richfield. Any person having between five percent (5%) and ten percent (10%) of the United States copper market for any of the three calendar years is eligible to purchase the subject properties or to engage in certain joint ventures with Atlantic Richfield only upon prior approval of the Commission. Three companies, Noranda, INCO Ltd. and the Anglo American Group, are declared absolutely ineligible. Definitions (h) and (i) of the order.

[3] Although Noranda is the only one of the three companies that has requested a reopening of this proceeding, its position is not substantially different from that of INCO Ltd. or the Anglo American Group. Therefore, the Commission has concluded that it would be appropriate to modify the order with respect to all three firms.

[4] Comments were received from Noranda and from respondent Atlantic Richfield. Noranda proposed an alternative modification. Atlantic Richfield stated that it does not object to the Commission's proposed modification.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

51596, a proposed consent agreement with analysis In the Matter of Benton & Bowles, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Negelecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1890 Safety.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 80-35136 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 9105]

Ford Motor Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Dearborn, Mich. motor vehicle manufacturer to cease failing to supply consumers, on request, with "Technical Service Bulletins" which clearly describe engine or transmission problems that could cost over $125; preventative maintenance steps to take; and the extent of any reimbursements or free repairs. The company would be required to establish a toll-free number, and mail to all requesting consumers bulletins that affect their cars. Each car owner must be notified by mail whenever warranty protection covering engine, transmission or other significant problems is extended. The firm would be further required to announce the existence of its automobile information program in various national publications, and copy test all ads before publication to ensure that the required information is communicated as effectively as their regular product advertising. Additionally, the order would require that consumers be advised of the availability of the repair information and possible post-warranty reimbursement for repairs through warranty and owner manuals, dealer showroom posters, and individual mailings to all 1979 and 1980 Ford car owners. Under the terms of the order, the company would be required to follow procedures to ensure reimbursement of each owner who incurred expenses for repairs prior to notification of adjustment programs; make replacement parts available to dealers; and pay all costs for parts and labor incurred by dealers in repairing specified conditions.

DATES: Complaint, Jan. 10, 1978. Decision issued Oct. 2, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500—Mall Building, 118 St. Clair Ave., Cleveland, Ohio 44114. (216) 522-4207.

SUPPLEMENTARY INFORMATION: On Thursday, February 28, 1980, there was published in the **Federal Register**, 45 FR 13115, a proposed consent agreement with analysis In the Matter of Ford Motor Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-40 Furnishing information to media; 13.533-45 Maintain records; 13.533-53 Recall of merchandise, advertising material, etc.; 13.533-55 Refunds, rebates and/or credits. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 80-35137 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-3043]

Smithkline Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Philadelphia, Pa. manufacturer of prescription medicines, proprietary pharmaceuticals, and animal health products, to divest itself of the assets of Sea & Ski, except for its plant and equipment, within six months of the effective date of this order. Respondent is further required, upon request of the buyer, to furnish technical, market and quality control information for a one-year period specified in the order and to maintain the value of the products or assets of Sea & Ski and preserve it as a viable, ongoing business pending divestiture.

DATES: Complaint and order issued October 9, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Monday, August 4, 1980, there was published in the **Federal Register**, 45 FR 51593, a proposed consent agreement with analysis In the Matter of Smithkline Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 80-35138 Filed 11-7-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM81-3]

Statements and Reports (Schedules)

Issued: November 5, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order suspending filing requirement.

SUMMARY: By this Notice, the Federal Energy Regulatory Commission is suspending, until further notice, the 1980 filing and any future filings of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) (18 CFR 141.1) as it applies to Federal authorities. The current filing requirements are under Commission review and a rulemaking proceeding to revise these requirements is anticipated in the near future. Such filings are, therefore, suspended until the Commission review is completed.

DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Office of Program Management, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Rm 3317, Washington, D.C. 20426, (202) 357-8182.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission's "Annual Report for Electric Utilities, Licensees, and Others", FPC Form No. 1, is required to be filed on or before the last day of the third month following the end of the calendar or established fiscal year (18 CFR 141.1).

The annual reporting requirements prescribed in § 141.1 for Federal entities which generate, transmit, distribute or sell electric energy—FPC Form Nos. 1 and 1002—are due on or before December 31, for the previous fiscal year.[1]

The Commission believes that a review of the reporting requirements for Federal entities subject to § 141.1 is necessary in order to reevaluate the regulatory need and justification for these annual reports.[2] The purpose of this review is to ascertain whether a reduction in future reporting burdens may be possible without reducing the effectiveness of our compliance program. Furthermore, it is likely that this review will soon culminate in a rulemaking proceeding—analogous to that now being undertaken in Docket RM80-55—that would seek to reduce unnecessary reporting burdens now imposed on these Federal entities.

In particular, the expeditious completion of this potential rulemaking could obviate the need for the full filing by Federal entities under the current regulations that is due by the end of the year.

Accordingly, in order to delay otherwise required filings until a review of the precise reporting requirements is completed, we find that good cause exists to suspend, until further notice, the 1980 filing and any future filings prescribed for Federal authorities by 18 CFR 141.1.

The Commission Orders

The 1980 filing and any future filings by Federal authorities of annual reports prescribed by 18 CFR 141.1 are suspended until further notice.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35199 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1312

Change of Address for Filing Import and Export Documents

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This action simply changes office designations and addresses which are currently listed in Part 1312 of Title 21 in order to accurately reflect changes in the DEA's structure. It contains no substantial change in Federal regulations pertaining to the import and export of controlled substances. In light of this no comments have been solicited and the action is being issued as a final rule.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance & Regulatory Affairs, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537. Telephone number (202) 633-1321.

SUPPLEMENTARY INFORMATION: Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that Part 1312 of Title 21 of the Code of Federal Regulations be amended as follows:

Sections 1312.12(a) and 1312.22(a): Regulatory Investigations Section, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, is changed to Drug Enforcement Administration, Compliance Division, 1405 Eye Street, N.W., Washington, D.C. 20537.

Sections 1312.14(a) and 1312.25: Distribution Audit Branch is changed to Compliance Division.

§§ 1312.19 and 1312.28 [Amended]

Section 1312.19(a) and 1312.28(c): Registration Branch is changed to Compliance Division.

§§ 1312.16, 1312.24, and 1312.31 [Amended]

Sections 1312.16(b), 1312.24(a) and 1312.31(b): Distribution Audit Branch, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, is changed to Drug Enforcement Administration, Compliance Division, 1405 Eye Street, N.W., Washington, D.C. 20537.

§§ 1312.18, 1312.19, 1312.27, 1312.28, 1312.32 [Amended]

Sections 1312.18(b), 1312.19(b), 1312.27(a), 1312.28(d) and 1312.32(a): Registration Branch, Drug Enforcement Administration, Department of Justice, P.O. Box 28083 Central Station, Washington, D.C. 20537, is changed to Drug Enforcement Administration, Compliance Division, 1405 Eye Street, N.W., Washington, D.C. 20537.

[1] Modified versions of Form No. 1 are filed by a variety of Federal entities, including Power Marketing Administrations within the Department of Energy, and the Water and Power Resources Service and Bureau of Indian Affairs within the Department of Interior. FPC Form No. 1002 is an unofficial version of FPC Form No. 1 which is filed by numerous projects within the Army Corps of Engineers.

[2] A rulemaking proceeding to revise portions of Form No. 1 filed by non-Federal entities, is currently pending at the Commission. *See* Notice of Proposed Rulemaking, issued July 10, 1980, Docket No. RM80-55 (45 FR 47704, July 16, 1980).

V 45 NO 012 80 UMI

Dated: November 3, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-35139 Filed 11-10-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7734]

Income Tax; Taxable Years Beginning After December 31, 1953; Minimum Funding Standards—Asset Valuation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations which define the term "reasonable actuarial method of valuation" for purposes of applying the minimum funding standards for pension plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations provide the public with guidance needed to comply with that Act and apply to all plans that are subject to the minimum funding standards.

EFFECTIVE DATE: Generally, the regulations apply to certain plan years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Harry Beker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6212, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1978, the Internal Revenue Service published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 412(c)(2) of the Internal Revenue Code of 1954 in the Federal Register, 43 FR 38027. The amendments were proposed to conform the regulations to section 1013(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 916) ("ERISA") and were also to apply for purposes of section 302 of ERISA.

A public hearing on the proposed amendments was held January 11, 1979. After consideration of all the comments, both written and oral, regarding the proposed amendments, those amendments are adopted, as revised, by this Treasury decision.

General Explanation of Provisions

Section 412 provides minimum funding requirements with respect to certain pension plans, including the maintaining of a funding standard account. The charges and credits to the funding standard account are generally based upon the assumption that the plan will be continued by the employer. Based upon that assumption, the general purpose of these regulations is to allow defined benefit plans to use reasonable asset valuation methods designed to mitigate the effect on the funding standard account caused by short-run changes in the fair market value of plan assets. This purpose is in accord with H. Rep. No. 93-807, 93d Cong., 2d Sess. 96 (1974).

The rules contained in these regulations provide general standards for acceptable asset valuation methods.

The regulations, as proposed and as adopted, establish a measure for testing actuarial valuation methods by taking into account fair market value as required by section 412(c)(2)(A). The regulations do this mainly by providing a corridor, within which the actuarial value of plan assets must fall under the method of valuation used by the plan, as described below under the headings "reflecting fair market value," "value consistently above or below market," and "corridor limits."

Bond Exception

The final regulations do not change the proposed amendment providing an exception from the valuation rules for certain bonds and other evidences of indebtedness. Questions raised in the comments regarding the application of this provision will be addressed in regulations to be proposed under section 412(c)(2)(B).

Defined Contribution Plan

As suggested in the comments, the final regulations make it clear that money purchase pension plans are the only defined contribution plans to which the rules of these regulations for determining the actuarial value of plan assets apply.

Characterization of Certain Changes

The proposed amendments characterized certain changes as changes in a plan's funding method. Any change in a required feature of an actuarial asset valuation method was treated as a change in funding method. Similar treatment was applied to a deviation from the required statement of a plan's actuarial valuation method and to a change in the date used for determining a plan's actuarial value.

The effect of this treatment would be that the change must first be approved by the Secretary of the Treasury under section 412(c)(5).

Many comments suggested that these changes should be treated as changes in actuarial assumptions. As such, they would not be subject to prior government approval.

In one respect, the final regulations follow the comments' suggestions. The final regulations have eliminated the provision which would have treated as a change in the plan's funding method a deviation from the statement of a plan's valuation method to include a new type or class of plan asset. Therefore, for example, a change in method to include bonds where no bonds had previously been held by the plan would not be subject to prior approval.

Prior approval will not necessarily continue to be required indefinitely in all other cases. As situations involving changes are identified for which prior approval would no longer serve a useful function, the Service may publish a revenue procedure waiving the prior approval requirement in these cases. Other questions regarding changes in funding method will be addressed in regulations to be proposed under section 412(c)(5).

Reporting Statement of Plan's Method

The proposed amendments required the filing of a statement of the actuarial valuation method in the plan's actuarial valuation report for the first plan year for which the method is used and for each later plan year for which the method is changed.

The comments suggested that this requirement is inconsistent with the instructions of Schedule B, Form 5500, the required actuarial report. The instructions require a statement of the actuarial valuation method with each report.

The final regulations change the proposed amendments to be consistent with the instructions for Schedule B, Form 5500.

Reflecting Fair Market Value

Under the proposed amendments, an actuarial valuation method reflects fair market value, as required by section 412(c)(2)(A), in either of two ways. Either it uses fair market value in the direct computation of the actuarial value of the plan's assets, or it uses fair market value indirectly in setting the maximum and minimum limits of the actuarial value. The comments reflected uncertainty regarding the application of this requirement.

The final regulations restructure the form, and alter the substance, of the proposed amendments.

Value Consistently Above or Below Market

Under the propsed amendments, a method did not properly reflect fair market value if it was designed to produce a result that was significantly and consistently above or below fair market value. To provide greater administrative certainty, the final regulations eliminate the "significantly" requirement. Thus, under the final regulations, a method does not properly reflect fair market value if it is designed to produce a result that is consistently above or below fair market value.

Also, the final regulations permit a valuation method, as was the case under the proposed amendments, to take fair market value into account either directly or indirectly. However, the final regulations add a significant element to the proposed amendments by providing that the use of average value, as prescribed under the regulations, also satisfies the requirement that the valuation method must take into account fair market value either directly or indirectly.

A few comments suggested that a valuation method should be permitted under certain circumstances to produce an actuarial valuation that is sometimes below, but never above, fair market value. One comment conceded that such a valuation method accelerates funding and thus also deductibility, but noted that such a conservative valuation method at the same time enhances the security of plan participants.

The final regulations do not alter the "consistently" requirement of the proposed rule. As noted in the preamble to proposed regulations relating to reasonable funding methods (44 FR 57423, 57424, October 5, 1979), it is necessary to strike a balance between the need to prevent underfunding in the interest of plan security and the need to prevent overfunding in the interest of safeguarding tax revenue. The regulations promote such a balance.

The inclusion of the average value concept in the final regulations adds an element of flexibility to the proposal regarding values above and below market. For example, average value or fair market value may serve as a ceiling or floor on the actuarial value produced by a particular method. If the method produces a value that falls between average value and fair market value, it is not treated as producing a result that is consistently above or below fair market value. An example in the regulations describes such a method.

Corridor Limits

Some comments suggested that the corridor limits of the proposed amendments were too narrow.

The final regulations broaden the 80-120 corridor, as stated in the proposed amendments, by integrating it with the use of average values. The corridor, as stated in the description of the plan's actuarial valuation method, may deviate from fair market value by up to 20 percent of fair market value and from average value by up to 15 percent of average value.

Examples in the regulation illustrate the operation of the corridor.

One group of comments emphasized the merits of a valuation method that adjusts systematically toward fair market value without the imposition of corridor limits. These comments suggested that such methods should not be subject to a corridor.

Another group of comments suggested a compromise between the corridor of the proposed regulation and no corridor at all. This would be a phased implementation of a corridor designed to permit the market to adjust itself after a year or two of sharp upward or downward swings in fair market value.

Both groups of comments offered considerable historical data suggesting problems with the proposed corridor when applied to this data. While the recommendations made in these comments were not accepted in their entirety, the historical data submitted with these comments was valuable for testing the operation of the expanded corridor of the final regulations. When evaluated in the context of this historical data, the expanded corridor accomplishes the stated goals of the regulation.

Average Value

The final regulations contain substantial new provisions relating to the computation of average value both for taking fair market value into account and for using the expanded corridor.

The comments favored the incorporation of an average value concept in the final regulations. However, there were different views as to how the average should be computed.

The final regulations adopt a uniform average value concept for evaluating the acceptability of an actuarial valuation method. This concept incorporates an adjustment for changes in the composition of plan assets from year to year.

However, the average value concept of the final regulations is flexible in two important respects. First, for determining average value on a particular valuation date, any number of points in time for performing a valuation within the five most recent plan years may be used. Second, an averaging concept that differs from that of the regulations is not prohibited. Such a different average would, however, be subject to corridor limits definable only in terms of fair market value and average value as prescribed under the regulations.

The examples in the regulations illustrate these principles.

Fair Market Value and Insurance Contracts

Many comments raised serious questions regarding the application of fair market value concepts to insurance contracts. The final regulations reserve the paragraphs that would apply to the valuation of certain contracts held by plans. It is likely that new proposed amendments regarding these provisions will be published at a later date.

Effective Date and Transition Rules

Under the proposed amendments, a plan required to change its asset valuation method to comply with the regulations had to make the change in the year after publication of final regulations. The proposed amendments also provided methods of adjustment for taking into account any difference in actuarial value under the old and new valuation methods.

Some comments questioned whether the prior approval of the Commissioner would be required for adjustments that comply substantively with the regulations, but that are made before a plan is required by the regulations to change methods.

The final regulations clarify the proposed amendments. The regulations now refer to changes made no later than when required. The final regulations also make it clear that prior approval is not necessary for changes made before the time required by the regulations if the method of adjustment satisfies the regulations.

Retroactive Recomputation

The comments suggested that the final regulations clarify the retroactive recomputation method used to account for the difference between an old and a new asset valuation method.

The final regulations make non-substantive clarifying changes in this provision.

Prospective Gain or Loss Adjustment

Under the proposed amendments, the treatment of a gain or loss created by the application of the prospective gain or loss adjustment method differed

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under a spread gain type of funding method and an immediate gain type of funding method. (Methods of the spread gain type are the aggregate cost method, the frozen initial liability method, and the attained age normal method. Methods of the immediate gain type are the unit credit method, the entry age normal method, and the individual level premium method.) The proposed amendments required the spreading of gains and losses over future periods as a part of normal cost under a spread gain type of method. The proposed amendments required the amortization of gains and losses over a fixed number of years under an immediate gain type of method.

Many comments suggested that a uniform rule should apply to both broad types of funding methods. Some of these comments more specifically recommended that amortization under a uniform rule should not be based on treating the amount to be amortized as a gain or loss, but should only be based on treating the amount as arising from a change in actuarial assumptions.

The final regulations adopt the suggested uniform rule approach. Thus, regardless of whether a spread gain or immediate gain method is used, the regulations generally permit the difference in asset value as determined under the old and the new methods of valuing assets to be treated as a gain or loss arising from plan experience or from a change of actuarial assumptions. Whether the amount is to be amortized or spread over future periods as a part of normal cost depends on the particular funding method being used. For example, under the aggregate cost method, the amount could only be spread over future periods as a part of normal cost.

Drafting Information

The principal author of this regulation was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended by adding § 1.412 (c) (2)–1 immediately after § 1.412(b)–5 to read as follows:

§ 1.412(c)(2)–1 Valuation of plan assets; reasonable actuarial valuation methods.

(a) *Introduction*—(1) *In general.* This section prescribes rules for valuing plan assets under an actuarial valuation method which satisfies the requirements of section 412(c)(2)(A). An actuarial valuation method is a funding method within the meaning of section 412(c)(3) and the regulations thereunder. Therefore, certain changes affecting the actuarial valuation method are identified in this section as changes in a plan's funding method.

(2) *Exception for certain bonds, etc.* The rules of this section do not apply to bonds or other evidences of indebtedness for which the election described in section 412(c)(2)(B) has been made, nor are such assets counted in applying paragraphs (b) or (c) of this section. Also, an election under section 412(c)(2)(B) is not a change in funding method within the meaning of section 412(c)(5).

(3) *Money purchase pension plan.* A money purchase pension plan must value assets for the purpose of satisfying the requirements of section 412(c)(2)(A) solely on the basis of their fair market value (under paragraph (c) of this section).

(4) *Defined benefit plans.* (i) To satisfy the requirements of section 412(c)(2)(A), an actuarial method valuing assets of a defined benefit plan must meet the requirements of paragraph (b) of this section.

(ii) In general, the purpose of paragraph (b) of this section is to permit use of reasonble actuarial valuation methods designed to mitigate short-run changes in the fair market value of plan assets. The funding of plan benefits and the charges and credits to the funding standard account required by section 412 are generally based upon the assumption that the defined benefit plan will be continued by the employer. Thus, short-run changes in the value of plan assets presumably will offset one another in the long term. Accordingly, in the determination of the amount required to be contributed under section 412 it is generally not necessary to recognize fully each change in fair market value of the assets in the period in which it occurs.

(iii) The asset valuation rules contained in paragraph (b) produce a "smoothing" effect. Thus, investment performance, including appreciation or depreciation in the market value of the assets occurring in each plan year, may be recognized gradually over several plan years. This "smoothing" is in addition to the "smoothing" effect which results, for example, from amortizing experience losses and gains over 15 or 20 years under section 412(b)(2 (B)(iv) and (3)(B)(ii).

(b) *Asset valuation method requirements*—(1) *Consistent basis.* (i) The actuarial asset valuation method must be applied on a consistent basis. Any change in meeting the requirements of this paragraph (b) is a change in funding method subject to section 412(c)(5).

(ii) A method may satisfy the consistency requirement even though computations are based only on the period elapsed since the adoption of the method or on asset values occurring during that period.

(2) *Statement of plan's method.* The method of determining the actuarial value (but not fair market value) of the assets must be specified in the plan's actuarial report (required under section 6059). The method must be described in sufficient detail so that another actuary employing the method described would arrive at a reasonably similar result. Whether a deviation from the stated actuarial valuation method is a change in funding method is to be determined in accordance with section 412(c)(5) and the regulations thereunder. A deviation to include a type of asset not previously held by the plan would not be a change in funding method.

(3) *Consistent valuation dates.* The same day or days (such as the first or the last day of a plan year) must be used for all purposes to value the plan's assests for each plan year, or portion of plan year, for which a valuation is made. For purposes of this section, each such day is a valuation date. A change in the day or days used is a change in funding method.

(4) *Reflect fair market value.* The valuation method must take into account fair market value by making use of the—

(i) Fair market value (determined under paragraph (c) of this section), or

(ii) Average value (determined under paragraph (b)(7) of this section) of the plan's assets as of the applicable asset valuation date. This is done either directly in the computation of their actuarial value or indirectly in the computation of upper or lower limits placed on that value.

(5) *Results above and below fair market or average value.* A method will not satisfy the requirements of this paragraph (b) if it is designed to produce a result which will be consistently above or below the values described in paragraph (b)(4) (i) and (ii). However, a method designed to produce a result which consistently falls between fair market value and average value will satisfy this requirement. See Example (5) in paragraph (b)(9) of this section for an illustration of a method described in the preceding sentence.

(6) *Corridor limits.* (i) Regardless of how the method reflects fair market value under paragraph (b)(4), the method must result in an actuarial value of the plan's assets which is not less than a minimum amount and not more than a maximum amount. The minimum amount is the lesser of 80 percent of the current fair market value of plan assets as of the applicable asset valuation date or 85 percent of the average value (as described in subparagraph (7)) of plan assets as of that date. The maximum amount is the greater of 120 percent of the current fair market value of plan assets as of the applicable asset valuation date or 115 percent of the average value of plan assets as of that date.

(ii) Under a plan's method, a preliminary computation of the expected actuarial value may fall outside the prescribed corridor. A method meets the requirements of paragraph (b)(6)(i) of this section is such a case only by adjusting the expected actuarial value to the nearest corridor limit applicable under the method. A plan may use an actuarial valuation method with a narrower corridor than the general corridor required under paragraph (b)(6)(i). The adjustment to the nearest corridor limit of such a method for purposes of this subdivision (ii) would be determined by the narrower corridor stated in the description of the plan's method.

(7) *Average value.* the average value of plan assets is computed by—

(i) Determining the fair market value of plan assets at least annually,

(ii) Adding the current fair market value of the assets (as of the applicable valuation date) and their adjusted values (as described in paragraph (b)(8) of this section) for a stated period not to exceed the five most recent plan years (including the current year), and

(iii) Dividing this sum by the number of values (including the current fair market value) considered in computing the sum described in subdivision (ii).

(8) *Adjusted value.* (i) the adjusted value of plan assets for a prior valuation date is their fair market value on that date with certain positive and negative adjustments. These adjustments reflect changes that occur between the prior asset valuation date and the current valuation date. However, no adjustment is made for increases or decreases in the total value of plan assets that result from the purchase, sale, or exchange of plan assets or from the receipt of payment on a debt obligation held by the plan.

(ii) In determining the adjusted value of plan assets for a prior valuation date, there is added to the fair market value of the plan assets of that date the sum of all additions to the plan assets since that date, excluding appreciation in the fair market value of the assets. The additions would include, for example, any contribution to the plan; any interest or dividend paid to the plan; and any asset not taken into account in a prior valuation of assets, but taken into account for the current year, in computing the fair market value of plan assets under paragraph (c) of this section.

(iii) In determining the adjusted value of plan assets for a prior valuation date, there is subtracted from the fair market value of the plan assets on that date the sum of all reductions in plan assets since that date, excluding depreciation in the fair market value of the assets. The reductions would include, for example, any benefit paid from plan assets; any expense paid from plan assets; and any asset taken into account in a prior valuation of assets but not taken into account for the current year, in computing the fair market value of plan assets under paragraph (c) of this section.

(9) *Examples.* This paragraph (b) may be illustrated by the following examples. In each example, assume that the pension plan uses a consistent actuarial method of valuing its assets within the meaning of paragraph (b)(1), (2), and (3) of this section.

Example (1). Plan A considers the value of its assets to be initial cost, increased by an assumed rate of growth of X percent annually. Under the circumstances, the X-percent factor used by the plan is a reasonable assumption. Thus, this method is not designed to produce results consistently above or below fair market value as prohibited by paragraph (b)(5) of this section. Also, the method requires that the actuarial value be adjusted as required to fall within the corridor under paragraph (b) (6) and (7) of this section. Therefore, the method reflects fair market value as required by paragraph (b)(4) of this section.

Example (2). Plan B computes the actuarial value of its assets as follows: It determines the fair market value of the plan assets. Then the fair market value is adjusted to the extent necessary to make the actuarial value fall within a "5 percent" corridor. This corridor is plus or minus 5 percent of the following amount: the fair market value of the assets at the beginning of the valuation period plus an assumed annual growth of 4 percent with adjustments for contributions and benefit payments during the period. This method reflects fair market value in a manner prescribed by paragraph (b)(4) of this section. If the 4 percent factor used by the plan is a reasonable assumption, this method is not designed to produce results consistently above or below fair market value, and thus it satisfies paragraph (b)(5). However, this method is unacceptable because in some instances it may result in an actuarial value outside the corridor described in paragraph (b)(6) of this section. This method would be permitted if a second corridor were imposed which would adjust the value of the total plan assets to the corridor limits as required by paragraph (b)(6).

Example (3). Plan C values its assets by multiplying their fair market value by an index number. The use of the index results in the hypothetical average value that plan assets present on the valuation date would have had if they had been held during the current and four preceding years, and had appreciated or depreciated at the actual yield rates including appreciation and depreciation experienced by the plan during that period. However, the method requires an adjustment to the extent necessary to bring the resulting actuarial value of the assets inside the corridor described in the statement of the plan's actuarial valuation method. In this case, the stated corridor is 90 to 110 percent of fair market value, a corridor narrower than that described in paragraph (b)(7) of this section. This method is permitted.

Example (4). Plan D values its assets by multiplying their fair market value by 95 percent. Although the method reflects fair market value and the results of this method will always be within the required corridor, it is not acceptable because it will consistently result in a value less than fair market value.

Example (5). Plan E values its assets by using a five-year average method with appropriate adjustments for the period. Under the particular method used by Plan E, assets are not valued below 80 percent of fair market value or above 100 percent of fair market value. If the average produces a value that exceeds 100 percent of fair market value, the excess between 100 and 120 percent is recorded in a "value reserve account." In years after one in which the average exceeds 100 percent of fair market value, amounts are subtracted from this account and added, to the extent necessary, to raise the value produced by the average for that year to 100 percent of fair market value. This method is permitted because it reflects fair market value under paragraph (b)(4) of this section by appropriately computing an average value, it satisfies paragraph (b)(5) by producing a result that falls consistently between fair market value and average value, and it properly reflects the corridor described in paragraph (b)(7).

Example (6). All assets of Plan F are invested in a trust fund and the plan year is the calendar year. The actuarial value is determined by averaging fair market value over 4 years. An actuarial valuation is performed as of December 31, 1988.

(i) The average value as of December 31, 1988, is computed as follows:

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	1986		1987		1988	
Fair market value: Jan. 1		$150,000		$196,500		$238,000
Contributions	$65,000		$62,000		$66,000	
Benefit payments	(22,000)		(24,000)		(25,000)	
Expenses	(6,500)		(7,000)		(7,500)	
Interest and dividends	8,000	44,500	7,500	38,500	7,000	40,500
Net realized gains (losses)		(2,000)		6,000		(6,000)
Balancing item [1]		4,000		(3,000)		(42,000)
Fair market value: Dec. 31		196,500		238,000		228,000

[1] This equals the increase (decrease) in unrealized appreciation.

Adjusted values	1985	1986	1987	1988
Fair market value: Dec. 31	$150,000	$196,500	$238,000	$228,000
Net adjustments:				
1988	40,500	40,500	40,500	
1987	38,500	38,500		
1986	44,500			
Total	273,500	275,500	278,500	228,000
Average value: 1988	$273,500+$275,500+$278,500+$228,000÷4=$263,875			

(ii) Plan F properly determines an average value under paragraph (b)(7) of this section for use as an actuarial value. Therefore, the valuation method meets the requirements of this section.

Example (7). Plan G computes the actuarial value of the plan assets as follows: The current fair market value of the plan assets is averaged with the most recent prior adjusted actuarial value. This average value is adjusted up or down toward the current fair market value by 20 percent of the difference between it and the current fair market value of the assets. This value is further adjusted to the extent necessary to fall within the corridor described in the statement of the plan's actuarial valuation method. The lower end of the corridor is the lesser of 80 percent of the fair market value of the plan assets or 85 percent of the average value of the plan assets. The higher end of the corridor is the greater of 120 percent of the fair market value of plan assets or 115 percent of the average value of plan assets. Average value for purposes of the corridor is determined under paragraph (b)(7) of this section. Assuming the numerical data of Example (6), the application of the corridor is as follows. The actuarial asset value as of December 31, 1988, must not be less than $182,400 (80 percent of current fair market value, $228,000) nor greater than $303,456 (115 percent of average value, 263,875). This method is permitted because it reflects fair market value in a manner permitted by paragraph (b)(4) of this section, it produces an actuarial value which is neither consistently above nor consistently below fair market or average value to satisfy paragraph (b)(5), and it is appropriately limited by the corridor described in paragraph (b)(6).

(c) *Fair market value of assets*—(1) *General rules.* Except as otherwise provided in this paragraph (c), the fair market value of a plan's assets for purposes of this section is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

(2) [Reserved]

(d) *Methods for taking into account the fair market value of certain agreements.* [Reserved]

(e) *Effective date and transition rules*—(1) *Effective date.* This section applies to plan years to which section 412, or section 302 of the Employee Retirement Income Security Act of 1974, applies.

(2) *Special rule for certain plan years.* For plan years beginning prior to November 12, 1980, the amounts required to be determined under section 412 may be computed on the basis of any reasonable actuarial method of asset valuation which takes into account the fair market value of the plan's assets, even if the method does not meet all of the requirements of paragraphs (a) through (c) of this section.

(3) *Plan years beginning on or after November 12, 1980.* Paragraphs (a) through (c) of this section apply beginning with the first valuation of plan assets made for a plan year to which section 412 applies that begins on or after November 12, 1980. The statement of the plan's actuarial asset valuation method required by paragraph (b)(2) of this section must be included with the plan's actuarial report for that year, in addition to any subsequent reports.

(4) *Effect of change of asset valuation method.* A plan which is required to change its asset valuation method to comply with paragraphs (a) through (c) of this section must make the change no later than the time when the plan is first required to comply with this section under paragraph (e)(3). A method of adjustment must be used to take account of any difference in the actuarial value of the plan's assets based on the old and new valuation methods. The plan may use either—

(i) A method of adjustment described in paragraph (e)(5) or (e)(6) of this section without prior approval by the Commissioner, or

(ii) Any other method of adjustment if the Commissioner gives prior approval under section 412(c)(5).

(5) *Retroactive recomputation method.* (i) Under this method of adjustment, the plan recomputes the balance of the funding standard account as of the beginning of the first plan year for which it uses its new asset valuation method to comply with paragraphs (a) through (c) of this section. This new balance is recomputed by retroactively applying the plan's new method as of the first day of the first plan year to which section 412 applies.

(ii) Beginning with the first plan year for which it uses its new method, the plan computes the normal cost and amortization charges and credits to the funding standard account based on the retroactive application of its new method as of the first day of the first plan year to which section 412 applies.

(iii) If the recomputed aggregate charges exceed the recomputed aggregate credits to the funding standard account as of the end of the first plan year for which the plan uses its new method, an additional contribution to the plan may be necessary to avoid an accumulated funding deficiency in that year. The use of the retroactive recomputation method may also result in an accumulated funding deficiency for years prior to that first year. In such cases, the rules of section 412(c)(10), relating to the time when certain contributions are deemed to have been made, apply.

(6) *Prospective gain or loss adjustment method.* (i) Under this method of adjustment the plan values its assets under its new method no later than the valuation date for the first plan year beginning after [the publication date of this section]

(ii) Regardless of the type of funding method used by a plan, the difference in the value of the assets under the old and the new asset valuation methods may be treated as arising from an experience loss or gain; or alternatively it may be treated as arising from a change in actuarial assumptions.

(iii) The treatment of this difference as an experience gain or loss or as a change in actuarial assumptions must be consistent with the treatment of such gains, losses, or changes under the funding method used by the plan. Thus, if a plan uses a spread gain type funding method other than the aggregate cost method, the difference in the value of assets under the old and the new asset valuation methods may be either amortized or spread over future periods as a part of normal cost. Examples of this type of funding method are the frozen initial liability cost method and the attained age normal cost method. With an aggregate method, the difference in the value of assets under the old and the new asset valuation methods must be spread over future periods as a part of normal cost.

This Treasury decision is issued under the authority of section 412(c)(2) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 916 and 68A Stat. 917; 26 U.S.C. 412(c)(2) and 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: October 10, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-35066 Filed 11-10-80; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 7735]

Income Tax; Taxable Years Beginning After December 31, 1975; Minimum Participation Standards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the minimum participation standards for qualified retirement plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law, and affect all employees covered by those plans.

DATES: The regulations are effective at varying dates. Most of the effective date rules are dependent upon the time when a retirement plan came into existence. For plans in existence on January 1, 1974, the regulations are effective for plan years beginning after December 31, 1975. For plans not in existence on January 1, 1974, the regulations are effective for plan years beginning after September 2, 1974.

FOR FURTHER INFORMATION CONTACT: Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3250) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Backgound

On April 20, 1979, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 410 of the Internal Revenue Code of 1954 (44 FR 23541). A correction notice was published in the **Federal Register** on May 22, 1979 (44 FR 29679). The amendments were proposed to conform the regulations to section 1011 of the Employee Retirement Income Security Act of 1974 (88 Stat. 898).

Written comments were received. However, a public hearing was neither requested nor held. After consideration of all written comments regarding the proposed amendments, the amendments are adopted without change as final regulations.

The final regulations will complete the Income Tax Regulations under Code section 410, the bulk of which were published on September 20, 1977, in the **Federal Register** (42 FR 47192). In addition, the final regulations supersede § 11.410 (b)-1 (d) (2) of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974.

Coverage Requirements for Certain Plans

Certain governmental plans, church plans, plans not providing for employer contributions after September 2, 1974, and plans established by Code section 501(c) (8) or (9) organizations are considered to satisfy the minimum participation standards if they meet coverage requirements of prior law. The proposed regulation under § 1.410 (a)-1 (c) (2) made it clear that these coverage requirements include regulations under certain provisions of section 410 of the Code that are substantially identical to the coverage provisions of prior law. The proposed regulation is adopted without change as a final regulation.

Nondiscriminatory Coverage Test

Section 1.410 (b)-1 (d) (2) of the final regulations relates to the nondiscriminatory coverage test. The proposed regulations provided that the nondiscrimination test of section 410 (b) (1) is basically a facts and circumstances test, allowing a reasonable difference between the percentage of prohibited group employees covered by the plan and the percentage of nonprohibited group employees covered by the plan.

The commentators suggested that the effect of including in proposed § 1.410 (b)-1 (d) (2) a comparison of the percentage of prohibited group employees participating in the plan with the percentage of nonprohibited group employees participating in the plan will unduly restrict the facts and circumstances test. Also, the commentators expressed concern that a new percentage test is established in the proposed regulations, one which compares the ratios of different groups of participating employees and results in a mathematical formula for qualification determinations.

After consideration of all the comments, § 1.410(b)-1(d)(2) of the proposed regulations is adopted without change as a final regulation. Under the final regulation the determination of whether a plan's coverage requirements discriminate in favor of employees who are officers, shareholders, or highly compensated is to be based on all the facts and circumstances. The final regulations do not establish a mathematical percentage test for satisfying the coverage test of section 410(b)(1)(B). The difference between the ratios of prohibited group employees participating in the plan and nonprohibited group employees participating in the plan is only one factor to be considered in determining whether a plan discriminates as to coverage. Thus, revenue rulings based on an examination of a plan's surrounding facts and circumstances are not intended to be changed by this regulation.

Eligibility Requirements

The dual eligibility requirements under proposed regulation § 1.410(b)-1(d)(7) made it clear most plans are not considered to be discriminatory solely because they have different age and service requirements for present and future employees. The proposed regulation is adopted without change as a final regulation.

Drafting Information

The principal author of this regulation is Kevin W. Cobb of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 410 of the Internal Revenue Code of 1954, as published in the **Federal Register** (44 FR 23541) on April 20, 1979, and corrected on May 22, 1979

(44 FR 29679), are adopted without change.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 22, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Paragraph 1. Section 1.410(a)–1 is amended by adding two new sentences at the end of paragraph (c)(2) and by striking out "(other than § 11.410 (b)–1(d)(2))" in paragraph (d). The amended provision reads as follows:

§ 1.410(a)–1 Minumum participation standards: general rules.

* * * * *

(c) *Application of participation standards to certain plans.* * *

(2) *Participation requirements.* * * * Such coverage requirements include the rules in § 1.410(b)–1(d) (special rules relating to minimum coverage requirements), that interpret statutory provisions substantially identical to section 401(a)(3) as in effect on September 1, 1974. In applying the rules of that paragraph (d) to plans described in this paragraph (c) employees whose principal duties consist in supervising the work of other employees shall be treated as officers, shareholders, and highly compensated employees.

* * * * *

Par. 2. Section 1.410(b)–1 is amended by adding a new paragraph (d)(2) and a new paragraph (d)(7) to read as follows:

§ 1.410(b)–1 Minimum coverage requirements.

* * * * *

(d) *Special rules.* * * *

(2) *Discrimination.* The determination as to whether a plan discriminates in favor of employees who are officers, shareholders, or highly compensated is made on the basis of the facts and circumstances of each case, allowing a reasonable difference between the ratio of such employees benefited by the plan to all such employees of the employer and the ratio of the employees (other than officers, shareholders, or highly compensated) of the employer benefited by the plan to all employees (other than officers, shareholders, or highly compensated). A showing that a specified percentage of employees covered by a plan are not officers, shareholders, or highly compensated, is not in itself sufficient to establish that the plan does not discriminate in favor of employees who are officers, shareholders, or highly compensated.

* * * * *

(7) *Different age and service requirements*—(i) *Application.* The rules of this subparagraph (7) apply to a plan which must satisfy the minimum age and service requirements of section 410(a)(1)(A) in order to be a qualified plan. Accordingly, the rules are inapplicable to plans described in section 410(c)(1) (see § 1.410(a)–1(c)(1)); plans satisfying the alternative minimum age and service requirements of section 410(a)(1)(B) but not satisfying the requirements of section 410(a)(1)(A); and plans which provide contributions or benefits for employees, some or all of whom are owner-employees (see section 401(a)(10)).

(ii) *General rules.* A provision for different age and service requirements for present and future employees either upon establishment or subsequent amendment is not, of itself, discriminatory under section 410(b)(1)(B) even though present employees who are officers, shareholders, or highly compensated cannot meet the age and service requirements for future employees at the time the plan is established or amended and even though present participants who are officers, shareholders, or highly compensated would not have satisfied the age and service requirements for future employees at the time they became participants in the plan. Furthermore, prohibited discrimination will be deemed not to arise in operation, solely because of such different requirements, when future employees are added to the employer's work force.

* * * * *

[FR Doc. 80-35097 Filed 11-10-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management 5774

43 CFR Public Land Order

Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming; Modification of Certain Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies certain withdrawal orders to allow for the opening, on a definitive basis, of approximately 16,865,000 acres of land to the operation of the Geothermal Steam Act of 1970 and, as to specified minerals, the Mineral Leasing Act of 1920.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Keith Corrigall, 202–343–8693 or Evelyn Tauber, 202–343–6486.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. To the extent that any withdrawal order referenced in the general description contained in Paragraph 2 of this order, and not excepted pursuant to Paragraphs 3 or 4 of this order, operates or may operate to prevent any licensing, leasing or permitting to authorize exploration for, or extraction or utilization of, geothermal resources, coal, phosphate, sodium, potassium, oil, gas, native asphalt, potash or sulphur, in accordance with the provisions of the Geothermal Steam Act of 1970, 30 U.S.C. 1001 *et seq.*, or the Mineral Leasing Act of 1920, as amended and supplemented, 30 U.S.C. 181 *et seq.*, each such order is hereby modified so that, henceforth, it shall not operate to withdraw or reserve any public lands included in the order from the operation of the Geothermal Steam Act of 1970, or the Mineral Leasing Act of 1920, as amended and supplemented, with respect to the geothermal resources, or any of the above specified minerals, in such lands. In all other respects, each such order shall remain in full force and effect.

2. Except as otherwise provided in Paragraphs 3 and 4 of this order, Paragraph 1 of this order applies to each withdrawal order currently in force and made during the period from January 1, 1900 through December 31, 1939, if the withdrawal order withdrew, in aid of legislation or for classification, public lands from the operation of the mineral and nonmineral public land laws, because the lands were considered at the time of the withdrawal to be valuable for, or as having potential value for, mineral development, or if the withdrawal order reserved public lands as coal, petroleum, phosphate, sodium, potassium, oil, gas, asphalt, potash or sulphur lands.

3. Paragraph 1 of this order shall not apply to any withdrawal order, the making of which was mandated by an act of Congress, or the modification of which is barred by statute or which may not be ordered by the Secretary of the Interior without obtaining the consent of the head of any Federal department or agency other than the Secretary of the Interior.

4. The public lands that currently are subject to the oil shale withdrawals in the States of Colorado, Nevada, Utah, Montana, and Wyoming, established by Executive Order No. 5327 of April 19, 1930, as modified, and the public lands exempted from leasing in Section 1 of the Mineral Leasing Act of 1920, 30 U.S.C. 181, including but not limited to Naval Petroleum Reserves No. 1–3, the National Petroleum Reserve in Alaska, and the Naval Oil Shale Reserves, and with respect to geothermal resources the public lands exempted from leasing in Section 15(c) of the Geothermal Steam Act of 1970, 30 U.S.C. 1014(c), are excepted from and shall not be affected by this order.

5. Subject to valid existing rights, other existing withdrawals, existing classification orders and the requirements of applicable law, at 10 a.m. on January 1, 1981, the public lands affected by Paragraph 1 of this order shall be open to the operation of the Geothermal Steam Act of 1970, and, as to the mineral resources listed in Paragraph 1, the Mineral Leasing Act of 1920, as amended and supplemented. These lands shall be subject to the filing of applications and offers under the mineral and geothermal leasing laws and the regulations thereunder at 10 a.m. on January 1, 1981. January 1981 shall be considered the first application filing period for geothermal resource leasing under 43 CFR 3210.2–2. All oil and gas lease offers and all applications for prospecting permits filed over the counter during January 1981 shall be considered simultaneously filed under 43 CFR 1821.2–3(a)(2) for the purpose of determining who is the first qualified applicant for a lease, prospecting permit, or coal exploration license for such lands. Because of the general nature of this withdrawal order, all interested persons should contact the various Bureau of Land Management State Offices identified in the last paragraph of this order to ascertain the current status of the lands of interest.

Inquiries concerning this order in relation to any public lands of interest should be addressed to the respective State Directors, Bureau of Land Management at Phoenix, Arizona 95073; Sacramento, California 95825; Denver, Colorado 80202; Boise, Idaho 83724; Billings, Montana 59107; Reno, Nevada 89520; Santa Fe, New Mexico 87501; Salt Lake City, Utah 84111; and Cheyenne, Wyoming 92001.

Guy R. Martin,

Assistant Secretary of the Interior.

November 5, 1980.

[FR Doc. 80-35193 Filed 11-10-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1489]

Car Service; Burlington Northern Inc. Authorized To Operate Over Tracks of Union Pacific Railroad Company at Sterling, Colorado

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1489, and Notice of Modified Hearing Procedure for extension beyond 30 days.

SUMMARY: This order authorizes Burlington Northern Inc. to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado, and establishes a modified hearing procedure to consider extension of the order beyond its initial 30-day period.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,*" (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

DATES: This order shall become effective at 12:01 a.m. on November 7, 1980, and shall remain in effect for 30 days unless otherwise modified, amended, or vacated by order of this Commission. Any interested party may file statements providing information and argument relating to the necessity and appropriateness of continuing this order in effect beyond the initial 30-day period by filing an original and 5 copies of a statement in affidavit form with the Railroad Service Board, by November 13, 1980. Rebuttal statements in affidavit form (original and 5 copies) may be filed by November 20, 1980.

ADDRESS: All filings should be addressed to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Room 7115, Washington, D.C. 20423; and in the lower left hand corner in large letters, should have printed RSB–7115. Interested parties wishing to review the docket file may do so in Room 7225 of the Commission in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decision

Section 226 of the Staggers Rail Act of 1980 (P.L. 96–448) revised 49 U.S.C. 11123(a) by limiting the Commission's authority to act in emergency situations to those where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only after the full Commission, after a hearing, certifies the continued existence of the transportation emergency. This initial issuance contains the Notice of the modified hearing procedures (set forth in the Summary) to be followed with respect to any extension of the order.

It is the opinion of the Commission that the statutory criteria of Section 11123(a) for the issuance of a service order has been met, and more particularly that:

The operation of the Burlington Northern Inc. (BN) between Northport, NE, and Brush, CO, includes a twenty-three mile segment over the Union Pacific Railroad Company (UP) between Sterling and Union, CO, which is operated under trackage rights. This line carries BN's general freight and a substantial amount of BN's coal traffic for export and domestic use, as well as the returning empties. BN estimates this coal traffic at 1,900 unit-coal-trains annually, carrying over 16,000,000 tons of coal.

The connection with the UP at Sterling, CO, has been extended approximately 3,000 feet to accommodate these unit-coal-trains, by reducing the curve which connects the two lines from 13 degrees to five degrees. This reduction permits the operation of BN trains at normal lengths and speeds. The original line of the BN, for which the UP line now substitutes, has been removed.

BN and UP are currently seeking Commission approval of a modification to their existing trackage rights agreement under Finance Docket No. 29357–F. The interim operation, pending Commission decision, was authorized by Service Order No. 1289, which expired October 31, 1980. Continued interruption of BN's operation will significantly affect coal consumption and availability in the midwest, as well as the availability of coal regionally for export.

It is the opinion of the Commission that this emergency situation requires BN to operate over tracks of UP at Sterling, Colorado; that prior notice of this action and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

V 45 NO 012 80 UMI

(a) *Authority. It is ordered, § 1033.1489 Service Order 1489, Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado:* Burlington Northern Inc. (BN) is authorized to operate over tracks of the Union Pacific Railroad Company (UP) between UP milepost 56 plus 236 feet and UP milepost 56 plus 3,128 feet, a distance of approximately 2,892 feet, all at Sterling, CO.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates.* Inasmuch as this operation by BN is deemed to be due to carrier's disability, the rates applicable to traffic moved by BN over this line shall be the rates which were applicable on the traffic when originally routed.

(d) Nothing herein shall be considered as a prejudgement of the application of BN seeking modification of its authority to operate over UP.

(e) *Effective date.* This order shall be effective at 12:01 a.m. on the day following its date of service.

(f) *Expiration date.* The provisions of this order shall expire 30 days following its effective date unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under authority of 49 U.S.C. 10304, 10305, and 11123(a), and 49 CFR 1011.6(c)(6).

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Decided: November 5, 1980.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35398 Filed 11-10-80; 9:14 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 45, No. 220

Wednesday, November 12, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amdt. No. 173]

Food Stamp Program—Authorizing Wholesalers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule further tightens the criteria for authorizing wholesalers to accept and redeem food stamps, based on the Food Stamp Act of 1977. It lists the factors that will allow a wholesaler to be authorized.

The Food Stamp Act of 1977 states that "*no wholesale food concern may be authorized to accept and redeem coupons* unless the Secretary determines that its participation is required for the effective and efficient operation of the Food Stamp Program." (Emphasis added.) This wording contrasts sharply with the language of the Food Stamp Act of 1964, which treats retailers and wholesalers as equally necessary to the program. The new wording was clearly meant to exclude from participation all wholesalers except those needed to operate the program. The regulations which implemented this requirement took effect January 1, 1979. They stated that a wholesaler may be authorized if "the FNS Officer In Charge determines that the firm is needed as a redemption outlet for authorized retail food stores."

Experience has shown that, without clearly defined criteria, FNS officials are not able to apply this judgment uniformly. As a result, in some areas there has been virtually no limit on wholesaler authorization while in others there have been few wholesalers authorized. To correct this defect, the proposed rules specify the kinds of firms that need a wholesaler in order to redeem food stamps, and clarify the need factor expressed in the earlier rules as being a lack of access to a bank.

DATES: Comments should be received by January 12, 1981.

ADDRESS: Comments should be submitted to: Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) in Room 650, 500 12th Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael Rowe, Federal Operations Division, Food and Nutrition Service, Washington, D.C. 20250, 202-447-8969. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Rowe.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant".

The proposed rule states that a wholesaler, to be authorized, must be needed as a redemption outlet by either:

- A drug addiction or alcoholism treatment program (treatment program), or a group living arrangement for the blind or disabled (group living arrangement) (which are not allowed by the Food Stamp Act of 1977, as amended, to redeem food stamps at a bank); or
- A retailer who cannot redeem his/her food stamps through a bank, because the retailer has no access to a bank.

Also, to prevent authorized wholesalers from gaining an advantage over their unauthorized competitors, the proposed rule states that a wholesaler authorized to accept food stamps from a treatment program, group living arrangement or retailer because that organization needs the wholesaler as an outlet through which to redeem food stamps, may only accept food stamps from the treatment program, group living arrangement, or retailer which the wholesaler has been authorized to serve. This does not mean that a wholesaler could serve only one treatment program, group living arrangement, or retailer. Rather, it means that a wholesaler would be able to accept food stamps only from those specific retailers, group living arrangements, and treatment programs that FNS had determined needed the wholesaler as a redemption outlet for food stamps. Nor would this mean that only one wholesaler could be authorized to serve as a redemption outlet for a retailer, group living arrangement, or treatment program. FNS would authorize as many wholesalers as a particular retailer, group living arrangement, or treatment program needed to redeem its food stamps.

FNS has received reports that some banks have charged retailers wholesalers fees for accepting food stamps for deposit. Some banks are reported to have required that food stamps be deposited in bundles of 100 food stamps. FNS invites comments on the extent of these practices, and whether any retailers need wholesalers to cushion them from the effects of the practices.

The rule states that all current wholesaler authorizations expire on *(end of month at least 120 days after publication in the* **Federal Register**). The Department plans to notify all authorized wholesalers of this on (*date of publication in the* **Federal Register**), and will try to process all applications for wholesaler reauthorization by *(end of month at least 120 days after publication).* This will ensure equity in putting into effect the more restrictive authorization criteria for wholesalers. Ending all current wholesaler authorizations at one time will avoid situations in which some wholesalers surrender their authorizations and lose business to other who under normal procedures for handling reveiws of withdrawals of authorization would continue to accept food stamps during the review of their authorizations.

Finally, the proposed rule states that an authorized wholesaler may accept food stamps from a treatment program or a group living arrangement in exchange for eligible food only. The House Report[1] shows that Congress, in drafting the Act, did not intend treatment programs to be able to convert their residents' food stamps to cash.

The Department believes, in retrospect, that to carry out the intent of Congress, the rules must prevent

[1] House Committee on Agriculture (H. Rept. 95-464; June 24, 1977), p.337

treatment programs from redeeming food stamps for anything but food. There is no similar indication of Congress' intent to prevent group living arrangements from redeeming food stamps for cash or nonfood items. However, since Congress restricted group living arrangements, as it did treatment programs, from redeeming through banks, the Department has generalized the policy to restrict group living arrangements to using their residents' food stamps to buy only food.

FNS is concerned that this rule, in restricting participation in the Food Stamp Program by wholesalers, might cause an unanticipated hardship for nonprofit cooperative food-buying organizations, which are not heavily capitalized as a rule and depend on taking their members' food stamps directly to wholesalers to buy food, or on drug addict and alcoholic treatment programs and group living arrangements, which are not allowed to redeem food stamps through banks. Wholesalers which serve these organizations could be authorized to accept food stamps in exchange for eligible food. However, it may be that the organizations would still be injured by the restrictions on wholesaler authorization. It may also be that treatment programs and group living arrangements will be injured by the restriction that wholesalers may give them only eligible food in exchange for foods stamps. FNS would like comments on problems the rules would cause these organizations.

The Department is modifying the definition of accessory foods (in the definition of staple foods) to make it clear that the definition applies to wholesalers as well as to retailers. This has historically been the Department's policy. However, it has been suggested that the current definition of staple and accessory foods appears to apply only to retailers. The amendment makes it clear that the definition also applies to wholesalers.

Accordingly, 7 CFR Parts 271 and 278 are amended as follows:

Part 271—GENERAL INFORMATION AND REGULATIONS

7 CFR part 271 is amended as follows:

§ 271.2 [Amended]

The definition of staple foods in § 271.2 is amended by adding the phrase "or as a wholesale food concern." to the end of the last sentence of the paragraph.

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

7 CFR Part 278 is amended as follows:

1. Paragraph 278.1(c) is revised to read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(c) *Wholesalers.* A wholesale food concern may be authorized to accept coupons from a specified customer or customers if it meets the requirements of paragraphs (a) and (b) of this section, and FNS determines it is required as a redemption outlet (1) for one or more specified authorized drug addict or alcoholic treatment programs, (2) for one or more specified authorized group living arrangements, or (3) for one or more specified authorized retail food stores which are without access to a bank which will redeem their coupons. No firms may be authorized to accept and redeem coupons concurrently as both a retail food store and a wholesale food concern.

Authorizations of wholesale food concerns granted prior to *(date of publication of amendment to regulations)* shall expire on *(end of month at least 120 days after publication of amendment).* Wholesale food concerns desiring to participate in the program after that date must apply for a new authorization.

* * * * *

2. Paragraph 278.3(a) is revised to read as follows:

§ 278.3 Participation of wholesale food concerns.

(a) *Accepting coupons.* An authorized wholesale food concern may accept coupons from one or more specified authorized retail food stores, from one or more specified authorized group living arrangements, or from one or more specified authorized drug addict or alcoholic treatment programs if the coupons are accompanied by a properly filled-out and signed redemption certificate, and are not marked "paid," "canceled," or "specimen." A wholesaler authorized to accept coupons from an authorized drug addict or alcoholic treatment program, or from an authorized group living arrangement may accept coupons from that treatment program or group living arrangement only in exchange for food.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs No. 10.551 Food Stamps)

Dated: October 17, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-35206 Filed 11-10-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1133

Milk in Inland Empire Marketing Area; Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. Suspension of the provisions was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and to maintain producer status under the order for its dairy farmer members regularly associated with the market. The proposed suspension would remove the limit on such movements of milk during the months of November 1980 through February 1981 and would continue a suspension that was in effect during September and October 1980.

DATE: Comments are due not later than November 19, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultureal Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Inland Empire marketing area is being considered for the months of November 1980 through February 1981:

In § 1133.13(c) (1) and (2), the words "70 percent in any of the months of September through February, and ".

All persons who want to comment on the proposed suspension should send two copies of their views to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include November 1980 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (CFR 1.27(b)).

Statement of Consideration

The proposed action would continue through February 1981 a similar suspension that was applicable during September and October 1980. The suspension would remove the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 70 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 80 percent during all other months. Similarly, the operator of a pool plant may divert up to 70 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of September through February and 80 percent during all other months.

Continuation of the suspension was requested by a cooperative association that supplies the market with a substantial part of its fluid needs and handles much of the market's reserve milk supplies. The basis for the request is that the same marketing conditions prevail now, and are expected to prevail through February 1981, that prompted the initial request. The cooperative indicated that a substantial increase in milk production over last year by producers supplying the market coupled with a decline in fluid milk will make it necessary for the cooperative to divert to nonpool plants more reserve milk supplies during November 1980 through February 1981 than would be permitted under the order. Unless the suspension is continued, the cooperative expects that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved in an uneconomical manner. The cooperative indicated that milk that needs to be moved to nonpool plants for manufacturing would have to be moved to such plants by way of pool plants rather than directly from farms in order for the milk to remain eligible for pooling under the order.

Signed at Washington, D.C., on: November 5, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-35072 Filed 11-10-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Proposed Regulations Relating to Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans

Note.—The following document was originally published in the issue of Monday, November 10, 1980. It is being published twice because Tuesday, November 11, 1980, the agency's regular day to publish, was a Federal holiday.

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations relating to individual benefit reporting and recordkeeping under the Employee Retirement Income Security Act of 1974 (ERISA). These regulations, applicable to certain multiple employer pension plans, deal with reports that must be furnished to individual participants and beneficiaries regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 45 FR 52824 (August 8, 1980).

DATES: The hearing will be held on December 4, 1980, beginning at 10 a.m. e.s.t.

ADDRESSES: The hearing will be held in the Auditorium of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523–9595.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on August 8, 1980 (45 FR 52824), the Department proposed regulations relating to individual benefit reporting and recordkeeping. In the notice, the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations.

The Department has received a number of comments concerning the proposed regulations, some of which requested a public hearing. In view of the importance of these regulations, the Department has decided to hold a public hearing on December 4, 1980, beginning at 10 a.m. e.s.t., in the Auditorium of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:00 p.m. e.s.t., December 1, 1980: (1) a written request to be heard, and (2) outline (preferably five copies) of the topics to be discussed, indicating the time to be allotted to each topic. The request to be heard and accompanying outline should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N–4508, Washington, D.C. 20216, Attention: Multiple Employer Individual Benefit Reporting and Recordkeeping Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to made oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allocated ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after December 3, 1980 by telephoning Mary O. Lin, Esq., Washington, D.C. (202) 523–9595 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 6th day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-35086 Filed 11-6-80; 11:06 am]

BILLING CODE 4510-29-M

V 45 NO 220 UMI

29 CFR Parts 2520 and 2530

Proposed Regulations Relating to Individual Benefit Reporting and Recordkeeping for Single Employer Plans

Note.—The following document was originally published in the issue of Monday, November 10, 1980. It is being published twice because Tuesday, November 11, 1980, the agency's regular day to publish, was a Federal holiday.

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations relating to individual benefit reporting and recordkeeping under the Employee Retirement Income Security Act of 1974 (ERISA). These regulations, applicable to single employer pension plans (defined to include plans maintained by groups of employers under common control), deal with reports that must be furnished to individual participants and beneficiaries regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 45 FR 51231 (August 1, 1980).

DATES: The hearing will be held on November 25, 1980, beginning at 10 a.m. e.s.t.

ADDRESSES: The hearing will be held in Room S–4215A and B of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523–9595.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on August 1, 1980 (45 FR 51231), the Department proposed regulations relating to individual benefit reporting and recordkeeping. In the notice, the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations.

The Department has received a number of comments concerning the proposed regulations, some of which requested a public hearing. In view of the importance of these regulations, the Department has decided to hold a public hearing on November 25, 1980, beginning at 10 a.m. e.s.t., in Room S–4215A and B of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:00 p.m. e.s.t., November 21, 1980: (1) a written request to be heard, and (2) outline (preferably five copies) of the topics to be discussed, indicating the time to be allotted to each topic. The request to be heard and accompanying outline should be submitted to the Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, Room N–4508, Washington, D.C. 20216, Attention: Single Employer Individual Benefit Reporting and Recordkeeping Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allocated ten minutes in which to complete his presentation. Information about the agenda may be obtained after 3:00 p.m. e.s.t., November 24, 1980 by telephoning Mary O. Lin, Esq., Washington, D.C. (202) 523–9595 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 6th day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–35087 Filed 11–6–80; 11:08 am]

BILLING CODE 4510–29–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) previously published notice of its intent to propose rulemaking to adopt a permanent program cooperative agreement between the Department of the Interior and the State of Montana for the regulation of surface coal mining operations on Federal lands in Montana under the permanent regulatory program. 45 FR 58377–81, September 3, 1980. Such a cooperative agreement is provided for by Section 523(c) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1273(c). This notice of proposed rulemaking provides additional information on the terms of the proposed cooperative agreement and other issues which have arisen during the rulemaking. This notice also announces the date and location of the public hearing on the proposed cooperative agreement as required under 30 CFR 745.11(d), and extends the comment period in this rulemaking from November 3, 1980 to December 17, 1980.

DATES: The public comment period on this proposed rule will terminate on December 17, 1980. The public hearing will be held on December 10, 1980 at 1:30 p.m. local time. Representatives of OSM will be available to meet with interested persons during office hours upon request between November 12, 1980 and December 17, 1980. Additional information on addresses and persons to contact appears below.

ADDRESSES: Written comments must be mailed or hand delivered to the Regional Director, Region V, Office of Surface Mining, U.S. Department of the Interior, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

In addition, summaries of all meetings and telephone conversations, along with all public comments received and a transcript of the public hearing, will be made available for public review in Region V of the Office of Surface Mining at the address noted above. Duplicate copies of these documents will also be available in the Office of Surface Mining, U.S. Department of the Interior, Administrative Record Room, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

The public hearing will be held on December 10, 1980, beginning at 1:30 p.m. in the Highway Department Auditorium, 2701 Prospect Avenue, Helena, Montana.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8 a.m. to 4 p.m., excluding holidays, at the following addresses:

Montana Department of State Lands, 1625 11th Avenue, Helena, Montana 59601.

Region V, Office of Surface Mining, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colorado 80202.

Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Donald T. Maurer, Chief, Division of Federal Programs, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Phone: (703) 756–6970.

Donald Crane, Regional Director, Region V, Office of Surface Mining, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colorado 80202. Phone (303) 837–5421.

SUPPLEMENTARY INFORMATION:

I. Background

Much of the background information on this rulemaking appears in the prior **Federal Register** notice published on September 3, 1980. 45 FR 58377–81. The purpose of this rulemaking is to adopt a permanent program cooperative agreement between the Department and the State of Montana which will give Montana primacy in the administration of the permanent regulatory program on Federal lands in that State. Section 523(c) of the Surface Mining Act provides for the State and the Secretary to enter into a cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations on non-Federal and non-Indian lands. See discussion of Section 523(c) and the status of the Montana State program at 45 FR 58377–81.

In entering into a permanent program cooperative agreement with the State of Montana, the Secretary will be implementing two other requirements of Section 523 of the Act. These statutory requirements are (1) consideration of the diverse and unique characteristics of Federal lands in Montana, if any, and (2) incorporation of the requirements of the approved State program into the Federal lands program in Montana. See 30 U.S.C. 1273(a).

Public Comment Period

The public comment period on this proposed rule will end on December 17, 1980. All written comments must be received by the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202, by 5 p.m. on that date. Comments received after that hour will not be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than that specified above will be considered and included in the administrative record.

Availability of Copies

Copies of the proposed permanent program cooperative agreement and of the related information provided by the State of Montana are available for inspection at the locations listed under "ADDRESSES" above. Copies of all written comments received, transcript of the public hearing and summaries of all meetings or other correspondence will be available for inspection at the OSM Regional Office in Denver and at Headquarters in Washington, D.C.

Public Hearing

A public hearing on the proposed cooperative agreement will be held on December 10, 1980, to hear all those who wish to testify. The hearing will be held at the address listed above and will begin at 1:30 p.m. local time.

Persons wishing to testify at the public hearing should contact either of the officials listed under the heading "FOR FURTHER INFORMATION CONTACT" on or before December 3, 1980, in order to be scheduled to speak. Individual testimony will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearings would greatly assist OSM officials who will attend the hearings by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

The public hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to speak will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify but who wish to do so assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Public Meetings Generally

Representatives of OSM will be available to meet between (date of Notice) and December 17, 1980, at the request of members of the public and industry and other organizations to receive their recommendations and comments concerning the proposed cooperative agreement. Persons to contact to schedule or attend such meetings are as follows:

Donald Maurer, Chief, Division of Federal Programs, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Donald Crane, Regional Director, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202.

OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be publicly posted in advance at the locations noted above. A written summary of the meetings will be made a part of the administrative record of this rulemaking.

Contacts with State Representatives

The Department has previously announced (45 FR 58378 September 3, 1980) its intention to follow the "Guidelines for Contacts With Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 5444–45, September 19, 1979. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements. The need to reserve the ability of the Department and the States to work together through the stages of the cooperative agreement and the right of the public to be informed and have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperaive agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444–45, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any public representatives—citizens, environmental groups, industry—through the end of the public

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comment period. Notices of scheduled meetings shall be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. Through the end of the public comment period, the meetings will be open unless an OSM or Departmental official decides to hold an executive session. Advance notice of scheduled meetings will be posted in a public place. Both before and after the end of the public comment period, some meetings may be in executive session. Notice of executive sessions will be posted.

3. The Department shall keep a summary record of all discussions and meetings whether in person or by telephone on a proposed cooperative agreement. This record shall include a summary of the discussions and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include a summary of the meeting and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by facts, case law or legislative history.

Statement of Significance and of Environmental Impact

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, OSM determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands is not a significant action and will not require a regulatory analysis."

OSM has reexamined the "Determination of Significance" as it applies to the specific proposal from Montana and concluded that the Montana proposal includes no issues or factors not covered by the blanket determination and that it is therefore not a significant rule. The rulemaking involved in promulgating the permanent program cooperative agreement between the State of Montana and the Department does not incorporate any changes or revisions which would impose a major social, economic, or recordkeeping burden on any level of Federal, State, or local government or industry.

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to Section 523 of the Surface Mining Act. Such proceedings are, therefore, exempted under Section 702(d) of the Surface Mining Act from the requirement to prepare a detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

II. The State of Montana's Application

Section 745.11(b)(1) through (8) of OSM's regulations requires that certain information shall be submitted with a request for a permanent program cooperative agreement if the information has not previously been submitted in the State program. The State of Montana submitted an initial draft of a proposed cooperative agreement and the supporting information required by 30 CFR 745.11(b) on June 4, 1980. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority (Department of State Lands) was described as appearing in Montana's Revised Permanent Coal Program text, a copy of which accompanied the State's request for a cooperative agreement. *See 30 CFR 745.11(b))1), (2), (4), (5), (6).*

Also included with the request were figures showing a comparison of the total non-Federal and Federal acres of mineable coal and the extent of Federal, non-Federal, and mixed Federal/non-Federal surface mining operations in Montana. See 30 CFR 745.11(b)(3). In addition, a written certification from the Attorney General of the State of Montana concluded that "no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of State Lands to fully comply with Section 523(c) of Pub. L. 95–87, as implemented by 30 CFR 745." See 30 CFR 745.11(b)(8).

III. The Text of the Proposed Agreement

Since Montana's submission of the initial draft of a proposed permanent program cooperative agreement on June 4, 1980, several changes to the original draft have been made based on meetings and discussions between representatives of Montana and the Department of the Interior. The terms of the revised proposed agreement submitted by the State of Montana are summarized below. The full text of the revised proposed agreement was previously published at 45 FR 58377–81, September 3, 1980. The Office of Surface Mining emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments or as a result of further discussions with the State of Montana. In general, changes were made throughout the proposed cooperative agreement for clarity and to shorten the text by cross-referencing appropriate sections of 30 CFR Chapter VII. In discussing the proposed agreement, reference may be made to the existing interim program cooperative agreement with Montana (30 CFR 211.77(e)) for comparison and discussion.

Article I: Introduction and Purpose

This article sets forth the legal authority for the cooperative agreement which is contained in Section 523 of the Surface Mining Control and Reclamation Act of 1977, P.L. 95–87, 30 U.S.C. 1273. The purposes of agreement are also listed.

Article II: Effective Date

This article provides that the agreement, "is effective following signing by the Secretary and the Governor, and upon final publication as rulemaking in the **"Federal Register,"** and, "shall remain in effect until terminated as provided in Article X".

Article III: Scope

Article III provides that the laws, regulations, terms and conditions of Montana's State program are applicable to Federal lands in Montana, except as otherwise stated in the agreement, the Federal Act, 30 CFR 745.13, or other applicable laws. The effect of this provision is to adopt the Montana State program as substantive Federal law enforceable by the State and the United States. This provision also specifically implements Section 523(a) of the Surface Mining Act, which provides that "[w]here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a).

The existing Montana interim program cooperative agreement accomplishes this result in an appendix which identifies the laws, regulations and procedures of the State which are incorporated into the agreement. See 30 CFR 211.77(e). The Department requests comments on whether a similar appendix should be prepared for the permanent program cooperative agreement. See 30 CFR 745.12(a).

Article IV: Requirements For Cooperative Agreement

This article mutually binds the Governor and the Secretary to the provisions of the agreement and the conditions and requirements contained in Article IV. Readers should note that the responsible agency in the State of Montana for purposes of administering this agreement is the Department of State Lands (State Lands) and "State Lands has and shall continue to have authority under State law to carry out this agreement." Comments are invited on whether State Lands has sufficient authority to carry out the terms of this agreement. See 30 CFR 745.11(f).

Article IV also contains provisions that require the State of Montana to maintain adequate funds, personnel and equipment to fully implement the agreement. With regard to funding, article IV would require Montana to devote adequate funds to the administration and enforcement of the requirements of the State program on Federal lands in Montana. It further provides that the State may be reimbursed pursuant to Section 705(c) of the Surface Mining Act if the agreement has been implemented to the satisfaction of the Department and if necessary funds have been appropriated (to OSM by Congress). Section 705(c) of the Surface Mining Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on Federal lands. See 30 U.S.C. 1295(c). The reference in Section 705(c) to Section 523(d) is obviously a typographical error. The correct reference is Section 523(c). The regulations implementing Section 705(c) appear at 30 CFR 735.16 through 735.26.

Article V: Policies and Procedures: Mine Plan Review

Under this article, an operator on Federal lands would be required by the Governor and the Secretary to submit an identical mining and reclamation plan and permit application in an appropriate number of copies to State Lands and the Regional Director. The plan shall be in the form required by State Lands; however, it is recognized that certain supplemental information may be required by the Secretary. At a minimum the plan and application shall include the necessary information for State Lands and the Secretary to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and the State program. Comments are invited on whether use of the term "mining and reclamation plan" is appropriate. See 30 CFR 741.12. Comments are also invited on whether more specificity regarding the State Program and other Federal laws which may be applicable is suggested for this agreement.

Article V also describes the procedures for the cooperative review and analysis of mining and reclamation permits on Federal lands. The proposed agreement identifies State Lands as primarily responsible for the analysis and review of permit applications on Federal lands in Montana. Through the Regional Director, the Secretary will assist the State in carrying out its responsibility for the analysis and review. However, this does not preclude an independent determination by the Secretary of whether the State's analysis and conclusions are adequate for the purpose of making a decision regarding the mine plan and permit application. In assuming primary responsibility for review and analysis of permit applications, State Lands will also be the primary point of contact for operators on behalf of both the State and the Secretary. All joint State-Federal determinations will be channeled to the operator through State Lands. However, this does not preclude the Secretary from contacting the operator independently of the State to carry out his responsibilities under laws other than the Federal Act and in instances of disagreement under the Federal Act. Copies of any correspondence with the applicant as well as any information OSM receives from an applicant must be provided to State Lands. In addition, this article makes the Regional Director responsible for obtaining the views and comments of other Department of the Interior agencies with jurisdiction or responsibilities relating to a mine plan and permit application on Federal lands in Montana and for making these views known to State Lands. Briefly the specific steps in formulating a decision on a mining plan and permit application are set forth in the proposed agreement as follows:

a. The operator is required to submit an identical mining and reclamation plan and permit application to State Lands and the Regional Director. Upon receipt of such plan and permit application, the Regional Director and State Lands shall begin a review for apparent completeness.

Providing for a period within which the respective staffs can conduct a preliminary review of the application is consistent with the completeness review conducted by Federal agencies under 30 CFR Part 211 and the completeness review conducted by the State as described in Part 7.a. of Montana's Revised Permanent Coal Program Text. A Memorandum of Understanding among OSM, the Bureau of Land Management and the U.S. Geological Survey describes in detail the completeness review undertaken by these agencies under 30 CFR Part 211. That Memorandum of Understanding was made available to the public on December 5, 1979 (44 FR 70009). Commenters are encouraged to read these doucments in connection with their review of the proposed agreement.

b. One person will be designated by the Regional Director to serve as the OSM manager for the particular application and will be the primary point of contact between OSM and State Lands regarding the detailed technical analysis.

c. Not later than 90 days after an application has been received, a meeting will be held between the Regional Director and State Lands to discuss the application and to agree on a work plan and schedule for the review of the application. During this meeting, the concerns of the Regional Director regarding areas which require special analysis will be identified. State Lands will in turn inform the Regional Director of areas where assistance will be needed from OSM to perform any specific or general analysis or prepare any studies or similar work. Article V. B. 6. provides for the replacement of 30 CFR 741.18 and .21 with Montana ARM 26.4.401 through .411 with the exception that all public meetings and hearings during the period prior to the initial permit decision shall be announced and conducted jointly by State Lands and the Regional Director.

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d. Article V. B. 7. pertains to the cooperative arrangement which will be used to comply with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA), and the Montana Environmental Protection Act (MEPA). State Lands shall have a major role in the preparation of the Environmental Impact Statement (EIS) and/or Environmental Assessment (EA) in compliance with NEPA and MEPA for a proposed mining and reclamation plan. The authority for allowing the State to prepare the necessary EIS or EA is found at 40 CFR 1506.2. The Secretary reserves his authority, and will exercise his obligation, to independently evaluate and approve the final document.

The process involved in completing the technical analysis and review of the mine plan and permit application is described in Article V. B. 8. This article provides for preparation of the technical analysis, environmental analysis, and a proposed written decision on the permit application by State Lands. These documents will be sent to the Regional Director for his review and comment. The Regional Director will advise State Lands within 30 days of any changes that should be made. If no changes are required, the Regional Director shall proceed in accordance with 30 CFR 741.21. If State Lands and the Regional Director disagree on the requested changes or if the Regional Director fails to act within 30 days, the areas of disagreement or delay may be referred to the Governor and Secretary for resolution.

e. Article V. B. 9. states that nothing in the agreement shall be construed to limit the Secretary's authority in 30 CFR 741.16, .17 and .21.

Under the initial Federal lands program (30 CFR Part 211), OSM prepares a mine plan recommendation package which typically consists of a technical analysis environmental analysis (and/or an environmental impact statement), proposed stipulations and other documents (e.g., regional recommendations, comment letters, concurrence letters). See, for example, 45 FR 10909, February 19, 1980, announcing the notice of availability of proposed decision to approve coal mining and reclamation plan with stipulations for Big Sky Mine, Rosebud County, Montana. These documents constitute "the record" upon which the Secretarial officer makes a decision on the mine plan pursuant to Section 523(c) of the Surface Mining Act.

Under the proposed permanent program cooperative agreement State Lands will conduct the review of the mining plan and permit application and, in cooperation with the Regional Director, prepare the recommendation package for the Secretary's consideration. Comments are invited on the overall coordination involved in the mine plan and permit application review and approval process as to whether more specific procedures or information should appear in the agreement.

Article VI: Inspections

This article specifies that State Lands shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with Montana's approved program. Part 7.d. of Montana's Revised Permanent Coal Program Text contains a description of the inspection program to be carried out by State Lands. Montana's inspection and monitoring system is further described in the April 1, 1980, **Federal Register** notice announcing conditional approval of Montana's program, 45 FR 21560–80, under the Section entitled, "Secretary's Findings".

Administrative provisions of this article include designation of State Lands as the principal point of contact with the operator, a provision for reasonable notice to the State prior to a Federal inspection, and coordination of State and Federal representatives as witnesses in enforcement actions as necessary.

The obligation of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement is preserved. In particular, this Article preserves the Department's obligation and authority to conduct inspections pursuant to 30 CFR 743 and 842.

Article VII: Enforcement

Proposed Article VII sets forth the enforcement obligations and authorities of the Secretary and State Lands. State Lands will have enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program. Part 7.e. of Montana's Revised Permanent Coal Program Text discusses Montana's enforcement system. See also the **Federal Register** notice announcing conditional approval of Montana's program, 45 FR 21560–80.

This article also specifies that the parties will consult prior to deciding to revoke or suspend a permit. The Secretary's obligation to enforce violations of Federal law other than the Surface Mining Act is preserved except as specifically stated.

Article VIII: Bonds

Under this article, State Lands and the Regional Director shall jointly require an operator to submit a single performance bond to meet Federal and State requirements. Montana's system of bonds and liability insurance or other equivalent guarantees is generally described in Part 7.c. of Montana's Revised Permanent Coal Program Text and is discussed in detail in the April 1, 1980, **Federal Register** notice, 45 FR 21560–80. Special requirements of the Mineral Leasing Act and other Federal laws appear at 30 CFR 742 and 43 CFR 3504.

Article IX: Designation of Lands as Unsuitable

This article describes the role of State Lands and the Regional Director in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal or non-Federal lands. The authority to designate Federal lands as unsuitable, is reserved to the Secretary or his designated representative. See 30 CFR 745.13(a). Petitions for designation shall be filed in accordance with 30 CFR 769 and the Administrative Procedures Act, 5 U.S.C. 500 *et seq.*

Article X: Termination of Cooperative Agreement

Article X provides for termination of the proposed permanent program cooperative agreement in accordance 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

Article XI provides that the proposed permanent program cooperative agreement may be reinstated under the provisions of 30 CFR 745.16.

Article XII: Amendments of Cooperative Agreement

Article XII provides that the proposed permanent program cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

This article provides that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures.

For those changes which require rulemaking, each party shall have a minimum of six months in which to make such changes, unless mutually extended.

The State is to have a longer time (until the close of the next regular legislative session) within which to make changes which require legislative authorization. This article also requires that State Lands and Interior provide to each other copies of any changes to their respective laws, regulations or standards pertaining to the enforcement and administration of the agreement. The latter requirement is based on 30 CFR 745.12(d).

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12(d), this article requires the State and Interior to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of the agreement.

Article XV: Reservation of Rights

Article XV is mandated by the Surface Mining Act, 30 CFR 745.13, and other authorities which make clear that certain responsibilities of the Secretary may not be delegated to the State. Article XV states that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the agreement or available to the parties under the authorities cited in the proposed article.

Pursuant to 30 CFR 745.13 and the terms of this article, the Secretary reserves authority and responsibility for several Mineral Leasing Act functions (e.g., evaluation of coal resources, release of lease bonds). The Secretary also reserves the authority and responsibility for several specific functions which are an integral part of the mining plan and permit application review procedures discussed earlier. These items include compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA), compliance with the consultation requirements of the Endangered Species Act and Section 106 of the National Historic Preservation Act, and the approval or major modification of any mining plan on Federal lands.

Compliance with NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's guidelines.

40 CFR 1500 *et seq.*, (regulations of the Council on Environmental Quality); 45 FR 27541–48, April 23, 1980 (Department of the Interior Notice of Final Revised Procedures); *See* also 45 FR 10043–45, February 14, 1980, (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a mining and reclamation plan on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his duties concerning compliance with NEPA to the States. However, the Secretary believes this regulation allows for States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved by the Secretary.

The Department invites comment on whether the procedures for compliance with NEPA and its implementing regulations and guidelines are adequately addressed in the proposed cooperative agreement.

The Endangered Species Act

This Federal law requires that the Department take such steps as necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. See also, 50 CFR 402 (regulations on inter-agency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's consultation obligation under Section 7 of the Endangered Species Act for action on Federal lands may not be delegated to a State.

General information relating to Montana's permit system and procedures for consultation with the U.S. Fish and Wildlife Service is described in Part 7.j. of Montana's Revised Permanent Coal Program Text. Comments are invited on whether the Endangered Species Act consultation requirements are adequately addressed in the proposed permanent program cooperative agreement.

The National Historic Preservation Act

Compliance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) is mandatory where the approval of a mine plan on Federal lands may adversely affect sites, buildings, objects or districts listed on or eligible for listing on the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Oder 11593 contains two principal requirements. With respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Federal plans and programs affecting such properties. Secondly, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects which are on Federal property and which may be eligible for inclusion on the National Register of Historic Places. Pending completion of the inventory and nomination process, Federal agencies and departments must take measures to ensure that eligible properties are not substantially altered, and no action affecting an eligible property can be taken without first providing the Advisory Council on Historic Preservation an opportunity to comment. The Archeological and Historic Preservation Act of 1974, 16 U.S.C. 469a–1, provides a means for private parties or the Federal government to perform actual recovery of archeological materials and data through, for example, surveys, excavation and removal to a museum. See Statement of Program Approach of the Heritage Conservation and Recreation Service at 44 FR 18117–23, March 26, 1979.

These responsibilities would be reserved to the Secretary under the proposed cooperative agreement since they are not "expressly addressed." (Article XV).

Floodplain Management and Wetland Protection

The Office of Surface Mining has recently published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872–74, July 25, 1980. Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with the Orders is to be a subject of the permanent program cooperative agreements under 30 CFR 745.

The proposed cooperative agreement does not directly discuss compliance with the Orders. As a result, under Article XV, the obligation for compliance with the Orders and with the published general statement of policy remains with the Secretary and is not delegated to Montana.

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Approval of Mining Plans or Significant Modification to Mining Plans

Under Section 523 of the Surface Mining Act and 30 CFR 745.13(i), the Secretary must retain authority to approve mining plans on Federal lands.

Other Reservations

Section 745.13 of OSM's regulations (30 CFR 745.13), lists other specific responsibilities reserved to the Secretary. Principal among these responsibilities is the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations.

Article XVI: Definitions

This article states that terms and phrases used in the proposed agreement shall have the same meanings as set forth in the definitions in 30 CFR 700 and 701.

IV. Revised Drafts of the Proposed Cooperative Agreement

As noted earlier, the proposed cooperative agreement initially submitted by the State has undergone several changes. Three major areas of change in the most recent revisions of the agreement are highlighted here and the public is invited to comment on these changes.

Article V: Policies and Procedures: Mine Plan Review

Revisions were made to reflect proposed new procedures for substantive review of all or major portions of mine plans and permit applications by the Department of State Lands on behalf of OSM. These procedures include (1) early agreement between the Department of State Lands and OSM on the work plan for the review and on any areas requiring special attention during the review by the State or OSM; (2) designation of an application manager by OSM to maintain cognizance over the review process; (3) joint conduct of environmental analyses by the State and OSM as authorized by 40 CFR 1506.2; and (4) preparation of decision documents by the State which, after review by OSM, may be used as a basis for decision on the mine plan and permit application by the Department of the Interior.

Article VI and Article VII

Revisions were made to clarify the intent of having the Department of State Lands perform primary inspection and enforcement activities on Federal lands with respect to matters covered by the Cooperative agreement. The Secretary will reserve his right to conduct inspections and take enforcement actions under the Surface Mining Act for purposes of monitoring the State Program and enforcement and administration of the cooperative agreement, and in response to citizen complaints. The Secretary may also inspect and take enforcement actions, as necessary, to carry out his responsibilities under other Federal laws.

Article IX

Revisions were made to clarify the intent of the State and the Secretary to coordinate during the review of petitions for designation of lands as unsuitable for surface coal mining while preserving the independence of the Secretary's decision on petitions to designate Federal lands as required by Section 522 of the Surface Mining Act.

In addition, several minor changes to the text of the proposed permanent program cooperative agreement were made in response to a memorandum from State Lands dated September 10, 1980. Persons interested in the changes may review the memorandum at the locations listed under the heading "Addresses."

V. Conflict of Interest Provision

The current interim program cooperative agreement contains a provision requiring that the State "shall require its employees to comply with the requirements of 30 CFR 705." See 30 CFR 211.77(e). Comments are requested on whether this or a similar provision should be addressed in the permanent program cooperative agreement.

Dated: November 5, 1980.

Joan M. Davenport,

Assistant Secretary-Energy and Minerals.

Cooperative Agreement

The State of Montana and the Department of the Interior enter into a State/Federal Cooperative Agreement to read as follows:

This is a Cooperative Agreement between the State of Montana, acting by and through the Governor (referred to as the "Governor") and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the "Secretary").

Article I. Introduction and Purpose

A. This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), Pub. L. 95–87, 30 U.S.C. 1273, which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253, to elect to enter into an agreement for the regulation and control of surface coal mining on Federal lands, and by the Montana Strip and Underground Mine Reclamation Act, Part 2, Chapter 4, Title 82, Montana Code Annotated (hereinafter "State Act"). This agreement provides for State Regulation of surface coal mining and reclamation operations on Federal lands consistent with the State and Federal acts and the Federal lands program.

B. The purpose of the Agreement is to (1) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide effective regulation of surface coal mining operations on Federal lands and uniform regulation or all non-Indian lands.

Article II. Effective Date

This Cooperative Agreement is effective following signing by the Secretary and the Governor, and upon final publication as rulemaking in the **Federal Register.** This Agreement shall remain in effect until terminated as provided in Article X.

Article III. Scope

This Agreement makes the laws, regulations, terms and conditions of Montana's permanent State program conditionally approved effective April 1, 1980, as amended, 30 CFR 926 (State program) for the administration of the Federal Act, applicable to Federal lands within Montana except as otherwise stated in this Agreement, the Federal Act, 30 CFR 745.13, or other applicable laws.

Article IV. Requirements For Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency.* The Montana Department of State Lands (State Lands) is, and shall continue to be, the sole agency responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Office of Surface Mining Reclamation and Enforcement (OSM) shall administer this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency.* State Lands has and shall continue to have authority under State law to carry out this Agreement.

C. *Funds.* The State will devote adequate funds to the administration and enforcement on Federal lands in Montana of the requirements contained in the State program. If the State complies with terms of this Agreement, and if necessary funds have been appropriated, OSM shall reimburse the State as provided in Section 705(c) of the Federal Act and 30 CFR 735.16 for costs associated with carrying out responsibilities under this Agreement.

D. *Reports and Records.* State Lands shall make reports to the OSM Regional Director, Region V (Regional Director), containing information respecting its compliance with the terms of this Agreement as the Regional Director shall from time to time require pursuant to 30 CFR 745.12(c). State Lands and the Secretary shall exchange, upon request, information developed under this Agreement. The Secretary shall provide State Lands with a copy of any approved evaluation report prepared concerning State administration and enforcement of this Agreement.

E. *Personnel.* State Lands shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

F. *Equipment and Laboratories.* State Lands shall have access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

Article V. Policies and Procedures: Mine Plan Review

A. *Contents of Mining Plans and Permits.* The Governor and the Secretary agree and hereby require that an operator on Federal lands shall submit an identical mining and reclamation plan and permit application in an appropriate number of copies to State Lands and the Regional Director. The plan and permit application shall be in the form required by State Lands and include any supplemental forms required by the Secretary. The plan and application shall include the information required by, or necessary for, State Lands and the Secretary to make a determination of compliance with:

(1) Section 82–4–222 MCA;

(2) Title 26, Chapter 4, Subchapter 3, Administrative Rules of Montana;

(3) Applicable terms and conditions of the Federal coal lease; and

(4) Applicable requirements of other Federal laws and the State Program.

(5) A permit applicant on Federal lands in Montana shall satisfy the requirement of 30 CFR 741.12(b)(1), and 30 CFR 741.13(c) by submitting the information required by Montana.

B. Mine Plan Review Procedures.

1. State Lands shall assume primary responsibility for the analysis and review of applications required by 30 CFR 741.13 for surface coal mining reclamation permits on Federal lands in Montana. The Secretary shall, as requested, assist the State through the Regional Director in this analysis and review. The Secretary shall, in addition, evaluate the State's analysis and conclusions as necessary to independently determine whether the Secretary concurs in the State's decision.

2. State Lands will be the primary point of contact for operators regarding the approval of the permit application. State Lands will be responsible for informing the applicant of all joint State-Federal determinations. State Lands shall send a copy of all correspondence with the applicant which have a bearing on decisions regarding the mine plan to the Regional Director. OSM will not independently initiate contacts with applicants regarding completeness or deficiencies of plans and applications with respect to matters which are properly within the jurisdiction of State Lands. The Secretary reserves the right to act independetly of the State to carry out his responsibilities under laws other than the Federal Act and in instances of disagreement under the Federal Act. A copy of all independent correspondence with the applicant shall be sent to the State.

3. The Regional Director is responsible to ensure that any information OSM receives from an applicant is sent to State Lands. The Regional Director and State Lands shall regularly coordinate with each other during the permit review process as needed.

4. The Regional Director shall be responsible for obtaining timely the views of all agencies in the Interior Department with jurisdiction or responsibility over a mine plan and permit application on Federal lands in Montana and for making these views known to State Lands. State Lands shall keep the Regional Director informed of findings during the review which bear on the responsibilities of other Federal agencies. The Regional Director shall take appropriate steps to facilitate discussions between State Lands and the concerned agencies wherever desirable to resolve issues or problems identified in the review.

5. Upon receipt of a permit application, the Regional Director shall begin a review of apparent completeness of the application. The Regional Director shall idenfity a person as the OSM application manager. The OSM application manager shall serve as the primary point of contact between OSM and State Lands throughout the review process and shall be responsible for assuring that avoidable duplication of review and analysis is eliminated. Not later than 90 days after an application has been received, the Regional Director and State Lands shall meet to discuss the application and agree upon a work plan and schedule for the review of the application. The Regional Director shall also inform State Lands of any specific or general areas of concern which require special handling or analysis. State Lands shall inform the Regional Director where OSM assistance will be needed to perform any specific or general analysis or prepare any studies or similar work.

6. Compliance with Montana ARM 26.4.401 through .411 replaces the requirements of 30 CFR 741.18 and .21 except that all public meetings and hearings during the period prior to the initial permit decision shall be announced and conducted jointly.

7. Except as otherwise agreed for a specific mine plan and permit application, all environmental assessments and analyses to comply with NEPA and MEPA shall be conducted as authorized by 40 CFR 1506.2. To the extent allowed by Federal law and regulation, State Lands and OSM will cooperate to the fullest extent possible so that one Environmental Impact Statement and/or Environmental Assessment will be produced to comply with MEPA and NEPA for a proposed mining and reclamation plan. Such document will be prepared by State Lands if the Secretary provides the State with any necessary funding to complete the statement. The Secretary shall independently evaluate and approve the final document.

8. Unless the work plan provides otherwise, State Lands shall prepare a technical analysis, environmental analysis, and proposed written decision on the permit. Copies of drafts of these documents shall be sent to the Regional Director for his review and comment. The Regional Director shall independently evaluate the documents and inform State Lands within 30 days of any changes that should be made. State Lands shall consider the comments of the Regional Director and send a final technical analysis, environmental analysis, and proposed decision to the Regional Director for his written concurrence. If no further changes are required, the Regional Director shall proceed in accordance with 30 CFR 741.21, and inform State Lands of his action. If the Regional

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Director fails to act within 30 days or if the requested changes are not agreeable to State Lands, the areas of disagreement or delay may be referred to the Governor and Secretary for resolution. This duty may not be redelegated except by mutal agreement.

9. Nothing in this agreement shall be construed to limit the Secretary's authority in 30 CFR 741.16, .17 and .21.

Article VI. Inspections

A. State Lands shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the approved State Program.

B. State Lands shall, within 15 days of conducting any inspection on Federal lands, file with the Regional Director, an inspection report describing (1) the general conditions of the lands under the lease, permit, or license; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

C. State Lands will be the point of contact and sole inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and in the Secretary's regulation. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

D. The Department may conduct any inspections necessary to comply with 30 CFR Part 842 and its obligation under laws other than the Act.

E. The Regional Director shall give the State Regulatory Authority reasonable notice of his intent to conduct an inspection in order to provide State inspectors with an opportunity to join in the inspection. When Interior is responding to a citizen complaint of an imminent environmental danger or a threat to human health, pursuant to 30 CFR 842.11 (b)(1)(ii)(C), it will contact the State no less than 24 hours if practicable, prior to the Federal inspection to facilitate a joint Federal/State inspection. The Secretary reserves the right to conduct inspections without prior notice to State Lands if necessary to carryout his responsibilities under the Federal Act.

F. Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII. Enforcement

A. State Lands shall take enforcement action on Federal lands in accordance with the State Program and this Agreement.

B. During any joint inspection by Interior and State Lands, State Lands shall take enforcement action, including issuance of orders of cessation and notices of violation. Interior and State Lands shall consult prior to issuance of any decision to suspend or revoke a permit.

C. State Lands and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

D. This Agreement does not limit the Secretary's authority to enforce violations of Federal law or condition of a permit except as specifically stated.

Article VIII. Bonds

A. State Lands and the Regional Director shall require all operators on Federal lands to submit a single bond to cover the operator's responsibilities under the Federal Act and the State Program, payable to both the United States and State Lands. The bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the bond shall be conditioned upon compliance with all applicable requirements.

B. Prior to releasing the operator from an obligation required under the State Program under the bond for any Federal lands, State Lands shall obtain the consent of the Regional Director. State Lands shall also advise the Regional Director of adjustments to the bond.

Article IX. Designation of Lands as Unsuitable

A. State Lands and the Regional Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition which could impact adjacent Federal or non-Federal lands, respectively, the agency shall (1) notify the other of its receipt and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

B. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative. Petitions for designation shall be filed with the Regional Director and processed in accordance with 30 CFR 769 and the Administrative Procedures Act, 5 U.S.C. 500 *et seq.*

Article X. Termination of Cooperative Agreement

A. This Agreement may be terminated by the State or the Secretary under the provisions of 30 CFR 745.15.

Article XI. Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or part it may be reinstated under the provisions of 30 CFR 745.16.

Article XII. Amendments of Cooperative Agreement

This Agreement may be amended by mutual agreement of Governor and Secretary in accordance with 30 CFR 745.14.

Article XIII. Changes in State or Federal Standards

A. Interior or the State may from time to time revise and promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Interior and the State shall immediately inform each other of any proposed or final changes in their respective laws or regulations as provided in 30 CFR 732.17. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes, unless mutually extended. For changes which require legislative authorization, the State shall have until the close of its next regular legislative session in which to make the changes.

B. The State and Interior shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV. Changes in Personnel and Organization

The State and Interior shall, consistent with 30 CFR 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel including the heads of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. The State and Interior shall advise each other in writing of changes in the location of offices, addresses, telephone number, and changes in the names, location, and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV. Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement, that the State or the Secretary may have under the Mineral Leasing Act, as amended, the Mineral Leasing Act for Acquired Lands, the Stockraising Homestead Act, the Surface Mining Control and Reclamation Act of 1977, the Federal Land Policy and Management Act, the Constitution of the United States, the Constitution of the State, or State laws.

Article XVI. Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700 and 701 shall be given the meanings set forth in said definitions.

Governor of Montana _____
Date _____.
Secretary of the Interior _____
Date _____.

[FR Doc. 80-35241 Filed 11-10-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A4 FRL 1665-6]

Georgia: Plan Revision Relating to Georgia Power Plant Harllee Branch; Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on a State Implementation Plan (SIP) revision submittal made by the Georgia Environmental Protection Division in accordance with the requirements of Section 110 of the Clean Air Act. The revision to Georgia's SIP involves an Enforcement Order for Georgia Power's Plant Harllee Branch which was transmitted to EPA May 13, 1980, and was subjected to a public hearing on January 31, 1980.

DATE: To be considered, comments must be submitted on or before December 12, 1980.

ADDRESS: Written comments should be addressed to Melvin Russell, EPA Region IV's Air Program Branch (see EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.
Air Protection Branch, Envvironmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365. Telephone: 401/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Georgia Power's Plant Branch is at present in compliance with applicable State and Federal air quality standards. The procedure for demonstrating compliance with the mass emission limit contained in Georgia Rule 391-3-1-.02(2)(d) is being altered to enable Units 3 and 4 of Plant Branch an alternative method to demonstrate compliance with the mass emission limit, in the event that a quarterly compliance test of these units indicates emissions of particulate matter that exceed the limit.

The alternate procedure proposed by the Georgia Environmental Protection Division would not alter the mass emission limit, but would allow Units 3 and 4 to demonstrate compliance with Rule 391-3-1-.02(2)(d) by use of a correlated opacity test procedure. Under the alternate procedure Units 3 and 4 must be operated at all times, such that the opacity from the common stack shall not exceed a correlated opacity which corresponds to the mass emission rate which complies with Rule 391-3-1-.02(2)(d).

The correlated opacity was determined through a series of stack tests in which opacity and mass emission rates were measured simultaneously. It was determined that 40% opacity for Units 3 and 4 will assure compliance with the mass emission limit.

This alternate procedure for demonstrating compliance with Georgia Rule 391-3-1-.02(2)(d) will be accepted as an interim procedure, and may not be used beyond December 31, 1982.

EPA has reviewed the data establishing the correlated opacity and found it to be acceptable. EPA, therefore, proposes to approve this revision to Georgia's State Implementation Plan.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: October 28, 1980.

Rebecca W. Hanmer,
Regional Administrator.

[FR Doc. 80-35229 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-7-FRL 1667-2]

Iowa Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region VII.

ACTION: Notice of public hearing and public comment period extension.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Iowa application for phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application. A previous notice was pubished in the November 5, 1980, **Federal Register** stating the public hearing was to be held December 4, 1980. That date has been changed to extend the public comment period. The public hearing has been rescheduled for December 16, 1980.

DATE: Comments on the Iowa interim authorization application must be received by December 16, 1980.

PUBLIC HEARING: EPA will conduct a public hearing on the Iowa interim authorization application at 10:00 a.m., on December 16, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. If you are interested in participating in a public hearing please notify Mr. Rober L. Morby of EPA at the address below no later than Friday, December 12, 1980. The State of Iowa will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Iowa interim authorization application are available during business hours at the following addresses for inspection and copying by the public:

Iowa Department of Environmental Quality, 900 East Grand, Des Moines,

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Iowa 50319, 515/281–8692; business hours: 8:00–4:30.

U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534; business hours: 7:30–4:30.

U.S. Environmental Protection Agency, Office of Solid Waste, 401 M Street SW, Washington, D.C. 20460. Business hours: 7:30–4:30.

Written comments should be sent to: U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534.

The public hearing will be held at: Fifth Floor Conference Room, Iowa Department of Environmental Quality, 900 East Grand, Des Moines, Iowa 50319, December 16, 1980, 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374–6534.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F. (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for phase I interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: November 6, 1980.

Kathleen Camin,

Regional Administrator, Region VII.

[FR Doc. 80-35277 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-38-M

Notices

Federal Register

Vol. 45, No. 220

Wednesday, November 12, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln National Forest Grazing Advisory Board; Meeting

The Lincoln National Forest Grazing Advisory Board will meet at 9:30 a.m., December 9, 1980, in the Chamber of Commerce Building, 1301 White Sands Boulevard, Alamogordo, New Mexico. The purpose of this meeting is to provide grazing permittees of the Lincoln National Forest means for offering advice and recommendations concerning 1) overview of fiscal year 1980–81 range betterment funds and 2) the development of management plans. Other items to be discussed are off-road vehicle use, reforestation, land management planning, and a trial goat grazing project.

The meeting will be open to the public. Persons who wish to attend should notify Don Cunico, Lincoln National Forest Supervisor's Office, Federal Building, 11th & New York, Alamogordo, New Mexico 88310. Telephone (505) 437–6030. Written statements may be filed with the board before or after the meeting.

Rules for public participation will be established at the meeting.

James R. Abbott,

Forest Supervisor.

October 29, 1980.

[FR Doc. 80-35070 Filed 11-10-80; 8:45 am]

BILLING CODE 3410-11-M

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 7:30 p.m., December 9, 1980, at the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The purpose of this meeting will be a general update on planning and research in the Gospel-Hump Multipurpose Development Area.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; telephone 208/983–1950. Written statements may be filed with the committee before or after the meeting.

Don Biddison,

Forest Supervisor.

October 31, 1980.

[FR Doc. 80-35151 Filed 11-10-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Airline Scheduling Committee Agreements; Order

[Order 80–11–6; Docket 20051; Agreements CAB 20560, 20561, 20562 as amended]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of November, 1980.

On October 14, 1980, the Washington Airline Scheduling Committee advised the Federal Aviation Administration that its member carriers were unable to reach an agreement allocating take-off and landing slots at the Washington National Airport for the period December 1, 1980 through April 25, 1981. The Department of Transportation (DOT) shortly thereafter requested comments on temporary methods to allocate slots at National Airport for this period. 45 FR 69403 (October 20, 1980). On October 29, DOT issued an emergency regulation, effective immediately, providing for such an allocation.

In order to implement its plan without delay, DOT asked the Washington Scheduling Committee to reconvene and a meeting has been scheduled for Monday, November 3, 1980. The Air Transportation Association and some air carriers have informally asked whether carriers risk antitrust liability for participating in this meeting. It is not clear to us that air carriers should have any antitrust concerns about participating in the allocation procedure prescribed by DOT. However, to facilitate this procedure, we will clarify that the meeting of the Scheduling Committee falls within the mechanism approved and immunized by us in Order 68–12–11. The antitrust immunity granted in that order is limited to particpation in actual Scheduling Committee meetings.

DOT's rule also provides that "subject to CAB authorization the carriers may * * * exchange slots in any hour." (SFAR No. 43, App. A(f)). Under our order approving the Scheduling Committee mechanism, carriers may engage in discussions within the Scheduling Committee to exchange slots once the overall allocation is achieved. Carriers may also exchange slots throughout the scheduling period using the customary Scheduling Committee procedures.[1]

The DOT provision might be viewed as an invitation to establish an after-market for slots completely outside the committee process. We believe that this issue of broader slot transferability should more profitably be considered within the context of our investigation instituted by Order 80–9–148.

However, in order to gain some experience in market mechanisms for slot distribution, we solicit comments on an experiment limited to National Airport that would liberalize the transferability of slots by allowing a carrier to exchange slots with monetary or other valuable consideration. We are unwilling at this time to propose that carriers may transfer slots for consideration to carriers that are not willing or able to exchange a slot in return. Because complete transferability would be a more drastic departure from the customary practice, our disposition of this issue will be considered in our investigation into the Scheduling Committee Agreements. *See* Order 80–9–148 at 5. We ask that interested persons comment only on whether we should adopt the experimental program to permit carriers at National Airport to exchange slots for slots with other consideration. So that we may act quickly and enable carriers to negotiate slot transfers before the January 5 schedule changes, we will allow three weeks for comments on our proposal.

Accordingly,

1. We interpret Order 68–12–11 to permit intercarrier discussions and agreements under section 412 relating to the implementation of the Special

[1] As described by the ATA staff, its role is "* * * to advise other carriers of the availability of slots released between meetings; to accept requests for use of the released 'slots' when supply exceeds demand and report those changes to FAA; and to arrange for a special meeting if requests exceed the available slots." Statement of the Staff of the Airline Scheduling Committees, served September 11, 1980, Docket 20051.

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Federal Aviation Regulation No. 43 of the Department of Transportation;

2. Participants in the discussions and agreements referred to in paragraph 1 continue to be exempt, under section 414 and Orders 68–12–11 and 80–9–148, from the operations of the antitrust laws;

3. We request comments on an experiment permitting carriers serving National Airport to exchange slots with consideration, either within or outside the Washington National Airport Scheduling Committee. Interested persons may comment within 21 days of the date of service of this order; and

4. We will serve copies of this order on all parties to Docket 20051.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35169 Filed 11-10-80; 8:45 am]

BILLING CODE 6320-01-M

[Order No. 80-11-24; Docket No. 38934]

Blanket Exemption to Persons Who Contract for the Purchase of Blocks of Seats on Scheduled Service Pursuant to Applicable Tariffs for Resale to the Public; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of November, 1980.

We (or our staff, acting under delegated authority) have recently approved the tariff proposals of numerous air carriers to introduce new contract marketing programs for selling large blocks of seats on scheduled service.[1] We granted exemptions to permit all persons (contractors) who contract for the purchase of blocks of scheduled seats under such proposed tariffs to engage in indirect air transportation and to resell the seats to the public without themselves filing tariffs. Several carriers requested that the grant of exemption authority be sufficiently broad to permit the new fares to be offered in other markets which they serve, and the staff has granted exemption applications of this type under delegated authority.

We direct all persons to show cause why we should not grant a blanket exemption from sections 401, 402 and 403 of the Federal Aviation Act to permit U.S. and foreign contractors purchasing scheduled seats under governing tariffs for contract marketing programs which meet the requirements set forth in Order 80–2–112, to engage in indirect air transportation and to resell the transportation at non-tariff prices.

Under current procedures established by Order 80–2–112, our staff has the delegated authority to act on exemption applications of air carriers to implement contract marketing programs. However, review of individual applications results in delay and uncertainty for carriers desiring to establish new low fare programs of this type. We tentatively find that it would be in the public interest to grant a blanket exemption. The grant of this exemption authority would prevent delay in the initiation of new low fare programs that are substantially similar to existing contract marketing programs that we have approved.

The blanket exemption described above would be available only to those contractors who have fulfilled the consumer protection requirements of Order 80–2–112. The conditions that apply to indirect air carriers are detailed below. Of course, airlines offering contract marketing programs will still have to file tariffs covering these programs. The Board will continue to review these tariffs to ensure that the airlines involved conform to the conditions placed on direct air carriers in Order 80–2–112 and are fully capable of assuming responsibility for the provision of transportation and the protection of passengers' funds. Our decision not to impose consumer protection devices like bonding and escrow requirements on group contractor middlemen was premised on the overriding liability of the direct air carriers as reflected in their tariffs. If a filing direct air carrier is encountering unusual service or financial difficulties, rejection or modification of its proposed tariff could be warranted. Consideration of these and other factors indicating whether passengers are receiving the treatment normally afforded scheduled service passengers will continue to be necessary. We will, therefore, closely monitor the tariffs offering contractor bulk fares to insure that this blanket exemption does not change the carefully devised experiment approved in Order 80–2–112.

Our proposal to grant a blanket exemption is intended merely to streamline Board procedures, and involves no change in Board policy. Transamerica Airlines, Inc. has an appeal of Order 80–2–112 pending before the U.S. Court of Appeals for the District of Columbia Circuit, the outcome of which could affect whatever authority may be granted in this proceeding as well as the relevant tariffs. Our proposal to grant a blanket exemption is not intended to affect Transamerica's rights or the continuance of Transamerica's objection to our approval of contract marketing programs. Also, to the extent that any conclusions that may arise out of the *Competitive Marketing Case* are inimical to the grant of blanket exemption authority for contractors, the exemption we propose would be subject to review.

Accordingly:

1. We direct all interested parties to show cause why we should not issue an order finalizing the tentative finding and conclusion that a blanket exemption from sections 401, 402 and 403 of the Act should be granted to persons who contract with airlines to purchase blocks of seats on scheduled service under applicable tariffs that meet the requirements set forth in Order 80–2–112 for resale to the public provided, as follows:

(a) The air carriers implementing contract marketing programs and all contractors operating under this blanket exemption authority ensure that consumers receive clear and conspicuous notice, before payment of deposit, of any special contractual conditions, imposed either by the contractor or by the carrier, applicable to passengers, including, but not limited to, the following: the terms and amount of any cancellation penalties, fees for reservations changes, or other special charges; limits on voluntary refund (specifically, notice that clearly informs the passenger of his risk in the event of voluntary cancellation by stating the exact amount of the applicable refund for voluntary cancellation); limits on involuntary refund, rerouting or ticket reissuance rights; limits on ticket endorsability; special ticket purchase, check-in or reconfirmation requirements; if true, the fact that the passenger may be assessed price increases after ticket purchase; if true, the fact that flight dates and times are not guaranteed at time of purchase; and information on the allocation of responsibility between the contractor and carrier for the passengers' funds and transportation;

(b) Air carriers and any contractor for whom this exemption is granted submit, in Docket 36595, the *Investigation into the Competitive Marketing of Air Transportation,* information regarding the operation and effect of the applicable fares in the manner as required by the Administrative Law Judge in that case; and

(c) The air carriers implementing contract marketing programs file with the Office of the Assistant Director, Fares, Rates and Tariffs, Bureau of Domestic Aviation, and in Docket 36595, the *Investigation into Competitive Marketing of Air Transportation,* the name and address of each contractor operating under this exemption within 30 days after first entering into the contractual arrangement;

2. Any interested party objecting to the issuance of such an order shall, within 30 days after the service of this order, file with us a statement of objection which shall set forth in detail any facts, economic or statistical data, and other evidence relied upon in support of the objection;

3. If timely and properly supported objections are filed, we will consider fully the matters or issues they raise before taking further action; and

4. If no objections are filed, all further procedural steps will be deemed to have been waived, and we will take final action.

This order shall be served on all U.S. certificated air carriers and all parties in the *Investigation into the Competitive Marketing of Air Transportation,* Docket 36595.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board:[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35173 Filed 11-10-80; 8:45 am]

BILLING CODE 6320-01-M

[2] All members concurred.

[1] See Order 80–2–112, February 21, 1980; Order 80–3–58, March 12, 1980; Order 80–3–175, March 26, 1980; Order 80–5–82, May 13, 1980; Order 80–5–216, May 30, 1980; and 80–6–118, June 18, 1980.

[Order 80-11-29; Docket 36595]

Chicago-Texas/Midwest Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80–11–29).

SUMMARY: The Board is proposing to award nonstop air route authority between Chicago, on the one hand, and Albuquerque, Austin, Cincinnati, El Paso, Indianapolis, and San Antonio, on the other hand, to United Air Lines under expidited show-cause procedures.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by December 8, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38711, which we have entitled the Chicago-Texas/Midwest Show-Cause *Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on United Air Lines; Mayor of Chicago; Manager, O'Hare International Airport; Illinois Division of Aeronautics; the mayor and airport manager of each other city to which the pleading refers; and the state aeronautical commission of the state in which such city is situated.

FOR FURTHER INFORMATION CONTACT:
Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–11–29 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–11–29 to that address.

By the Bureau of Domestic Aviation:
November 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35170 Filed 11-10-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-11-25, Docket Nos. 37940 and 38083]

Pan American World Airways, Inc. and the Flying Tiger Line Co.; Order To Show Cause and Instituting an Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Casue and Institutiong an Investigation: Order 80–11–25, Dockets 37940 and 38083.

SUMMARY: The Board proposes to issue certificates to Pan American World Airways, Inc. and The Flying Tiger Line Inc. for all-cargo service between points in the United States and Canada.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusion that this authority should be granted, shall, NO LATER THAN November 28, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Dockets 37940 and 38083, Docket Section Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should be sent to the Ambassador of Canada in Washington, D.C.

A statement of objection must cite the docket number and must include a summary of testimony, statistical data, or other supporting evidence.

If no objections are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:
Ann C. Pongracz (202–673–5203) Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board:
November 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35171 Filed 11-10-80; 8:45 am]

BILLING CODE 6320-01-M

Twin Falls-Boise/Pocatello/Salt Lake City Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80–10–194).

SUMMARY: The Board is instituting the *Twin Falls-Boise/Pocatello/Salt Lake City Subpart Q Proceeding* and is proposing to grant unrestricted authority to Cascade in the Twin Falls-Boise/Pocatello/Salt Lake City markets under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than December 18, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38771, which we have entitled the *Twin Falls-Boise/Pocatello/Salt Lake City Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Cascade

Airways; Idaho Division of Aeronautics & Public Transportation; Utah Department of Transportation, Division of Aeronautics Operations; Mayors of Boise, Pocatello, Salt Lake City and Twin Falls; Manager, Boise Air Terminal; Manager, Pocatello Municipal Airport; Manager, Salt Lake City International Airport; and Manager, Twin Falls Municipal Airport.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428 (202) 673–5384.

SUPPLEMENTARY INFORMATION: The complete text of order 80–10–194 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–10–194, to that address.

By the Bureau of Domestic Aviation:
November 4, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-35172 Filed 11-10-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 38865]

Sun Pacific Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 20, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Order 80–10–117, served October 23, 1980, defined the issues for this proceeding, and determined that requests for additional evidence should be filed no later than November 3, 1980. Matters to be discussed at the prehearing conference will include evidence requested, future procedural dates, and such other matters as will contribute to the orderly and prompt conduct of this proceeding.

Dated at Washington, D.C., November 4, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-35168 Filed 11-10-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Leather Wearing Apparel From Colombia; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: With this notice we inform the public that we are initiating a countervailing duty investigation in order to determine whether the Government of Colombia has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of leather wearing apparel. Unless we extend this investigation, we will make a preliminary determination not later than January 8, 1981.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Anne Hamilton, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–3963.

SUPPLEMENTARY INFORMATION: On October 14, 1980, Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, filed a petition in proper form with the Department of Commerce (the Department), alleging that the Government of Colombia provides to manufacturers, producers, or exporters of leather wearing apparel, certain subsidies which are bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303) (hereinafter referred to as "the Tariff Act"). Because Colombia is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation. The merchandise covered by this investigation is leather wearing apparel provided for in item number 791.76 of the Tariff Schedules of the United States.

The petitioner alleges that the Government of Colombia provides subsidies in the form of the payment of negotiable tax certificates (CAT's) at a fixed percentage of the value of export transactions for the purpose of rebating all indirect taxes paid. Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Tariff Act (93 Stat. 154, 19 U.S.C. 1671b(e)) by reason of massive imports over a relatively short period of time. However, since Colombia is not a "country under the Agreement" and leather wearing apparel is dutiable, this provision does not apply. (Section 103(b) Trade Agreements Act of 1979 (93 Stat. 190)).

Leather wearing apparel from Colombia was part of an earlier countervailing duty investigation on textile products from Colombia. The Treasury Department made a final determination in that investigation on November 16, 1978 (44 Fed. Reg. 3599). (Prior to January 1, 1980, the Treasury Department had responsibility for administering the countervailing duty laws. With respect to the transfer of authority for the administration of the countervailing duty law to the Department of Commerce, see Reorganization Plan No. 3 of 1979, 44 Fed. Reg. 69273). The Treasury Department determined that the net benefits derived from subsidies paid or bestowed by the Government of Colombia on the manufacture/exportation of leather wearing apparel involved "bounties or grants" of 5.94 percent within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The Treasury Department revoked this positive determination (44 Fed. Reg. 26992) when Colombian leather apparel manufacturers certified that they would renounce the "net" bounty of 5.94 percent, voluntarily relinquishing negotiable tax certificates (CAT's) valued in this amount on leather wearing apparel exports to the United States on or after March 1, 1979. The petitioner, Ralph Edwards Sportswear Inc., alleges that the offset of indirect taxes which Treasury permitted in the earlier investigation is inconsistent with the Administrative Guidelines (19 C.F.R. 355, Annex 1, paragraph 2, 45 Fed. Reg. 4949) published by the Department for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its components is not a subsidy. The Commerce Department most recently applied these guidelines in the investigations involving textile and textile mill products (45 Fed. Reg. 55502) and certain iron metal fasteners from India (45 Fed. Reg. 64611).

In light of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of Colombia provides subsidies on the production, manufacture or export of leather wearing apparel. Since Colombia is not a "country under the Agreement" and none of the items covered by the

petition enter the U.S. duty free, the Commerce Department need not have evidence of material injury or likelihood of material injury to a domestic industry before initiating a case nor must the case be referred to the U.S. International Trade Commission for a 45-day preliminary injury review.

Pursuant to section 303(b) of the Tariff Act of 1930, as amended by section 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303(b)), the Commerce Department will make a preliminary determination as to whether a bounty or grant is being paid or bestowed on the manufacture, production or exportation of leather wearing apparel from Colombia not later than January 8, 1981, unless the investigation is otherwise extended.

(Sec. 303(b) of the Tariff Act of 1930, as amended by sec. 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303))

John D. Greenwald,
Deputy Assistant Secretary for Import Administration.

November 5, 1980.

[FR Doc 80-35105 Filed 11-10-80; 8:45 am]
BILLING CODE 3510-25-M

Leather Wearing Apparel From Mexico; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: With this notice we inform the public that we are initiating a countervailing duty investigation in order to determine whether the Government of Mexico has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of leather wearing apparel. Unless we extend this investigation, we will make a preliminary determination not later than January 8, 1981.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–4198.

SUPPLEMENTARY INFORMATION: On October 14, 1980, Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, filed a petition in proper form with the Department of Commerce (the Department), alleging that the Government of Mexico provides to manufacturers, producers or exporters of leather wearing apparel, certain subsidies which are bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (93 Stat. 190, 19, U.S.C. 1303) (hereinafter referred to as "the Tariff Act"). Because Mexico is not a "country under the Agreement," within the meaning of section 701(b) of the Tarrif Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation. The merchandise covered by this investigation is leather wearing apparel provided for in item number 791.76 of the Tariff Schedules of the United States.

The petitioner alleges that the Government of Mexico provides subsidies in the form of a tax rebate certificate program designed to offset the cascade effect of turnover taxes levied at all stages of production.

Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Tariff Act (93 Stat. 154, 19 U.S.C. 1671b(e)) by reason of massive imports over a relatively short period of time. However, since Mexico is not a "country under the Agreement" and leather wearing apparel is dutiable, this provision does not apply. (Section 103(b) Trade Agreements Act of 1979 (93 Stat. 190)).

Leather wearing apparel from Mexico was one of the products included in an earlier countervailing duty investigation. The Treasury Department made a final negative determination concluding that investigation on July 13, 1979 (44 FR 41003). (Prior to January 1, 1980, the Treasury Department had responsibility for administering the countervailing duty law. With respect to the transfer of authority for the administration of the countervailing duty law to the Department of Commerce, see Reorganization Plan No. 3 of 1979, 44 FR 69273). The Treasury Department determined in that investigation that the net benefit derived from government programs was de minimis and that, therefore, benefits paid or bestowed by the Government of Mexico on the manufacture/exportation of leather wearing apparel did not involve "bounties or grants" within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The petitioner, Ralph Edwards Sportswear Inc., however, alleges that the offset of indirect taxes which Treasury permitted in the earlier investigation is inconsistent with the Administrative Guidelines (19 C.F.R. 355, Annex 1, paragraph 2, 45 FR 4949) published by the Department for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its components is not a subsidy. The Commerce Department most recently applied these guidelines in the investigations involving textile and textile mill products (45 FR 55502) and certain iron metal fasteners from India (45 FR 64611).

In light of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of Mexico provides subsidies on the production, manufacture or export of leather wearing apparel. Since Mexico is not a "country under the Agreement" and none of the items covered by the petition enter the U.S. duty free, the Commerce Department need not have evidence of material injury or likelihood of material injury to a domestic industry before initiating a case nor must the case be referred to the U.S. International Trade Commission for a 45-day preliminary injury review.

Pursuant to section 303(b) of the Tariff Act of 1930, as amended by section 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303(b)), the Commerce Department will make a preliminary determination as to whether a bounty or grant is being paid or bestowed on the manufacture, production or exportation of leather wearing apparel from Mexico not later than January 8, 1981, unless the investigation is otherwise extended.

(Sec. 303(b) of the Tariff Act of 1930, as amended by sec. 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303)

John D. Greenwald,
Deputy Assistant Secretary for Import Administration.

November 5, 1980.

[FR Doc. 80-35108 Filed 11-10-80; 8:45 am]
BILLING CODE 3510-25-M

Leather Wearing Apparel From Uruguay; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: With this notice we inform the public that we are initiating a countervailing duty investigation in order to determine whether or not the Government of Uruguay has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation

of leather wearing apparel. Unless we extend this investigation, we will make a preliminary determination not later than January 9, 1981.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Miguel Pardo deZela, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377–5050.

SUPPLEMENTARY INFORMATION: On October 15, 1980, Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, filed a petition in proper form with the Department of Commerce (the Department), alleging that the Government of Uruguay provides to manufacturers, producers or exporters of leather wearing apparel certain benefits which are subsidies within the meaning of section 701, Trade Agreements Act of 1979 (93 Stat. 151, 19 U.S.C. 1671) (hereinafter referred to as "the Tariff Act"). The merchandise covered by this investigation is leather wearing apparel provided for in item number 791.76 of the Tariff Schedules of the United States.

The petitioner alleges that the Government of Uruguay provides subsidies in the form of an export rebate, an income tax exemption for export income, preferential financing for exports, a social security tax deferral and a tanner's compensation.

Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Tariff Act (93 Stat. 154, 19 U.S.C. 1671(e)) by reason of massive imports over a relatively short period of time.

Leather wearing apparel from Uruguay was the subject of an earlier countervailing duty investigation. The Treasury Department made a final determination concluding that investigation on January 30, 1978 (43 FR 3974). (Prior to January 1, 1980, the Treasury Department had responsibility for administering the countervailing duty law. With respect to the transfer of authority for the administration of the countervailing duty law to the Department of Commerce, see Reorganization Plan No. 3 of 1979, 44 FR 69273.) The Treasury Department determined in that investigation that the Government of Uruguay provided subsidies with respect to the manufacture, production, or exportation of leather wearing apparel from Uruguay. The Treasury Department, however, revoked this positive determination on March 22, 1979 (44 FR 17485) based on elimination of a tanner's subsidy and a social security tax deferral and the enactment of an export tax in an amount equal to the remaining subsidy. The petitioner, Ralph Edwards Sportswear Inc., however, alleges that the offset of indirect taxes which Treasury permitted in the earlier investigation is inconsistent with the Administrative Guidelines (19 CFR 355, Annex 1, para. 2, 45 FR 4949) published by the Department for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its components is not a subsidy. The Department applied these guidelines most recently in the investigations involving textiles and textile mill products (45 FR 55502) and certain iron metal fasteners from India (45 FR 64611). The petitioner also alleges that Uruguay has revoked the export tax and has reinstated the subsidy programs which were the subject of the previous countervailing duty investigation.

In light of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of Uruguay provides subsidies on the production, manufacture or export of leather wearing apparel. Since there is evidence that circumstances regarding Uruguayan export incentives have changed subsequent to revocation of the previous affirmative determination, we will include in the present investigation all export programs previously investigated and any new export programs which may have become effective since the previous investigation.

Pursuant to section 702(d) of the Tariff Act (93 Stat. 152, 19 U.S.C. 1671a(d)) the Department is notifying the U.S. International Trade Commission (ITC) and providing it with a copy of the information on which I based this determination to initiate an investigation. The International Trade Administration will make available to the ITC all nonprivileged and nonconfidential information in its files. The International Trade Administration will make available to the ITC all privileged and confidential information in the files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Pursuant to section 703(a) of the Tariff Act, as amended (93 Stat. 152, 19 U.S.C. 1671b(a)), the ITC will determine, no later than December 1, 1980, whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of leather wearing apparel from Uruguay. If that determination is negative, the International Trade Administration will terminate this investigation and will publish no further notice. Otherwise, the investigation will proceed to its conclusion.

If the ITC determination is affirmative, pursuant to section 703(b) of the Tariff Act, as amended (93 Stat. 153, 19 U.S.C. 1671b(b)), the Department will issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a subsidy is being paid or bestowed on leather wearing apparel from Uruguay not later than January 9, 1981, unless the investigation is otherwise extended.

(Sec. 702(b) of the Act (93 Stat. 152, 19 U.S.C. 1671a(b)))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 5, 1980.

[FR Doc. 80-35107 Filed 11-10-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Approval of Federal Information Processing Standard; FORTRAN

Correction

In FR Doc. 80-33135 appearing on page 70530 in the issue of Friday, October 24, 1980, make the following correction:

On page 70532, first column, in item 11.4, the fifteenth line ". . . elements make . . ." should have read ". . . elements may make . . .".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss oversight committee reports for groundfish, lobster, herring, and scallops; Scientific and Statistical Committee report; report of joint meeting of regulatory measures and lobster oversight committees, as well as other business.

DATES: The meetings, which are open to the public will convene on Wednesday, December 3, 1980, at approximately 10 a.m., and will adjourn on Thursday, December 4, 1980, at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: November 6, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35230 Filed 11-10-80; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5 each ($10 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324

Patent application 6–147,417: Dynamic Binary Fourier Filtered Imaging System; filed May 6, 1980.

Patent application 6–149,793: Stable Ultraviolet Bandpass Chemical Filter; filed May 14, 1980.

Patent application 6–150,522: Lens System Having Wide Angle Objectives; filed May 16, 1980.

Patent 4,032,441: Method for Reclaiming Used Hydraulic Fluid; filed June 30, 1976; patented June 28, 1977; not available NTIS.

Patent 4,205,428: Planar Liquid Crystal Matrix Array Chip; filed Feb. 23, 1978; patented June 3, 1980; not available NTIS.

Patent 4,207,495: Means for Improving the Collector Efficiency of an Emitting Sole Crossed Field Amplifier; filed Aug. 30, 1978; patented June 10, 1980; not available NTIS.

Patent 4,207,542: Multiple Shock Aerodynamic Window; filed Apr. 20, 1978; patented June 10, 1980; not available NTIS.

Patent 4,207,547: Reflection Mode Notch Filter; filed Nov. 1, 1978; patented June 10, 1980; not available NTIS.

Patent 4,207,889: Injection System for Suspension and Solutions; filed Oct. 27, 1978; patented June 17, 1980; not available NTIS.

Patent 4,208,129: Sensitive Laser Spectroscopy Measurement System; filed June 30, 1978; patented June 17, 1980; not available NTIS.

Patent 4,208,729: Automatic Data Restore Apparatus for MNOS Temporary Store Memory; filed Mar. 8, 1979; patented June 17, 1980; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, DC 20545

Patent application 6–037,603: Hydrogen Isotope Separation; filed May 10, 1979.

Patent application 6–050,407: Selective Screening Methods for Selecting and Identifying Hyper-Cellulolytic Microbial Mutants; Hyper-Cellulolytic Mutant Microorganisms, and Processes for Their Utilization; filed June 20, 1979.

Patent application 6–061,152: One-Directional Uniformly Coated Fibers, Method of Preparation, and Uses Therefor; filed July 26, 1979.

Patent 4,166,990: Core/Coil Assembly for Use in Superconducting Magnets and Method for Assembling the Same; filed Aug. 12, 1977; patented Sept. 4, 1979; not available NTIS.

Patent 4,173,660: Method of Preparing a Thermoluminescent Phosphor; filed July 13, 1978; patented Nov. 6, 199; not available NTIS.

Patent 4,181,538: Method for Making Defect-Free Zone by Laser-Annealing of Doped Silicon; filed Sept. 26, 1978; patented Jan. 1, 1980; not available NTIS.

Patent 4,190,637: Graphite Having Improved Thermal Stress Resistance and Method of Preparation; filed July 18, 1978; patented Feb. 26, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research Code 302, Arlington, VA 22217

Patent application 6–126,590: Transducer Array Crossover Network; filed Mar. 3, 1980.

Patent application 6–137,066: Multiwavelength Self-Pumped Solid State Laser; filed Apr. 3, 1980.

Patent application 6–138,773: Small Hydrophone that is Directional at Low Frequencies; filed Apr. 10, 1980.

Patent application 6–140,352: Multi-Color Tunable Filter; filed Apr. 14, 1980.

Patent application 6–143,257: Electrical Waveform Synthesizer; filed Apr. 24, 1980.

Patent application 6–143,398: Method and Apparatus for Obtaining Enhanced NMR Signals; filed Apr. 24, 1980.

Patent application 6–147,413: Switching Quadrature Detector; filed May 6, 1980.

Patent application 6–147,992: Low-Barrier-Height Epitaxial GoGaAs Mixer Diode; filed May 8, 1980.

Patent application 6–150,389: Pivotal Support with Independent Adjusting Elements and Locking Means; filed May 27, 1980.

Patent application 6–152,456: Seafloor Attachment Bolts; filed May 22, 1980.

Patent application 6–153,123: Combination Exhaust and Relief/Venting Valve; filed May 27, 1980.

Patent application 6–153,987: Magnetoplasmadynamic Switch, filed May 25, 1980.

Patent application 6–157,126: Phase-Slipped Time Delay and Integration Scanning System; filed June 6, 1980.

Patent application 6–157,750: Burst on Target Simulator Device for Training with Rockets; filed June 9, 1980.

Patent application 6–160,034: Heterojunction and Schottky Barrier EBS Targets; filed June 16, 1980.

Patent application 6–160,050: Melting Method for High-Homogeneity Precise-Composition Nickel-Titanium Alloys; filed June 16, 1980.

Patent application 6–160,697: Dead-Faced Electrical Connector With Electromagnetic Vulnerability Protection; filed June 18, 1980.

Patent application 6–161,183: Integral-Shadow-Grid-Controlled Porosity Dispenser Cathode; filed June 19, 1980.

Patent application 6–162,347: Luminescent Hafnia Composition; filed June 23, 1980.

Patent 4,178,404: Immersed Reticle, filed Feb. 6, 1978; patented Dec. 11, 1979; not available NTIS.

Patent 4,186,190: Method of Treating Burns Using a Polyepsilon-caprolactone; filed Nov. 13, 1978; patented Jan. 29, 1980; not available NTIS

Patent 4,190,327: Deformable Liquid Mirror; filed Oct. 16, 1980; patented Feb. 26, 1980; not available NTIS

Patent 4,195,962: Platform Loading System; filed Jan. 29, 1976; patented Apr. 1, 1980; not available NTIS

Patent 4,197,571: High Speed Frequency Tunable Microwave Filter; filed Nov. 3, 1978; patented Apr. 8, 1980; not available NTIS

Patent 4,197,543: Display Processor for Aircraft Landing System; filed Feb. 13, 1979; patented Apr. 8, 1980; not available NTIS

Patent 4,198,632: Transponder Reply Limiting by Means of Recognition of Fixed Interrogation Periods; filed June 10, 1971; patented Apr. 15, 1980; not available NTIS

Patent 4,200,873: Folded Tapered Coaxial Cavity-Backed Annular Slot Antenna; filed Sept. 5, 1978; patented Apr. 29, 1980; not available NTIS

Patent 4,200,919: Apparatus for Expanding the Memory of a Mini-Computer System; filed Dec. 5, 1978; patented Apr. 29, 1980; not available NTIS

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Patent 4,201,618: Apparatus for Curing Adhesively Joined Fiber Optic Elements; filed July 21, 1978; patented May 6, 1980; not available NTIS

Patent 4,201,955: Method of Producing Population Inversion and Lasing at Short Wavelengths by Charge Transfer; filed Mar. 22, 1978; patented May 6, 1980; not available NTIS

Patent 4,201,987: Method for Determining Antenna Near-Fields from Measurements on a Spherical Surface; filed Mar. 3, 1978; patented May 6, 1980; not available NTIS

Patent 4,203,185: Acoustic Filter; filed Oct. 24, 1956; patented May 13, 1980; not available NTIS

National Aeronautics and Space Administration, Assistant General Counsels for Patent Matters, NASA Code GP–2, Washington, DC 20546

Patent application, 6–153,240: JFET Oscillator; filed May 27, 1980.

Patent application, 6–153,246: An Implantable Electrical Device; filed May 27, 1980

Patent 4,204,307: Method and Automated Apparatus for Detecting Coliform Organisms; filed Apr. 4, 1978; patented May 20, 1980; not available NTIS

Patent 4,204,402: Reduction of Nitric Oxide Emissions from a Combustor; filed Sept. 8, 1977; patented May 27, 1980; not available NTIS

Patent 4,204,544: Simultaneous Muscle Force and Displacement Transducer; filed Sept. 30, 1977; patented May 27, 1980; not available NTIS

Patent 4,205,229: Cooled Echelle Grating Spectrometer; filed Oct. 31, 1978; patented May 27, 1980; not available NTIS

Patent 4,206,383: Miniature Cyclotron Resonance Ion Source Using Small Permanent Magnet; filed Sept. 11, 1978; patented June 3, 1980; not available NTIS

Patent 4,207,024: Composite Seal for Turbomachinery; filed Aug. 4, 1978; patented June 10, 1980; not available NTIS

[FR Doc. 80-35097 Filed 11-10-80; 8:45 am]

BILLING CODE 3510-04-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80-9]

Don's Carpet Barn, Inc., et al.; Flammable Fabrics Act; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Flammable Fabrics Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues under the Flammable Fabrics Act. Printed below is a Complaint in the matter of Don's Carpet Barn, d/b/a Carpet Barn & Tile House, and Donald Plasco and Murray Plasco, individually and as officers of the corporation, issued September 26, 1980.

SUPPLEMENTARY INFORMATION: Nature of Proceedings: The Consumer Product Safety Commission (Commission) has reason to believe that Don's Carpet Barn, Inc., a corporation, d/b/a Carpet Barn & Tile House, and Donald Plasco and Murray Plasco, individually and as officers of the corporation (Respondents), are subject to and have violated provisions of the Flammable Fabrics Act, as amended (FFA); the Federal Trade Commission Act, as amended (FTCA); and the Standard for the Surface Flammability of Carpets and Rugs (FF 1–70) (Standard), 16 CFR Part 1630, Subpart A.

It appears to the Commission, from factual information available to the staff, that it is in the public interest to issue this Complaint to commence an Adjudicative Proceeding in accordance with the Commission's Rules of Practice for Adjudicative Proceedings (Rules of Practice), 45 FR 29215 (to be codified in 16 CFR Part 1025). Therefore, by virtue of the authority vested in the Commission by Section 30 of the Consumer Product Safety Act, as amended, 15 U.S.C. 2051, 2079, the Commission, pursuant to Section 5 of the FFA, 15 U.S.C. 1194, and Section 5 of the FTCA, 15 U.S.C. 45, and in accordance with the Commission's Rules of Practice authorizes issuance of this Complaint, and the staff states its charges as follows:

Charges

1. Respondent Don's Carpet Barn, Inc. (the Corporation) is a corporation organized and doing business under the laws of the State of Ohio, and is engaged in the offering for sale and sale of rugs and carpets, in commerce and after sale and shipment in commerce, with its office and principal place of business located at 4444 Rocky River Drive, Cleveland, Ohio 44135.

2. Respondent Donald Plasco is the chief executive officer of the Corporation. He formulates, directs, and controls the acts, practices and policies of the Corporation.

3. Respondent Murray Plasco is an officer of the Corporation. He is primarily responsible for the day-to-day operation of the Corporation.

4. At the times the infractions and violations charged herein occurred, Respondents were engaged in the offering for sale and sale of "carpet," after sale and shipment "in commerce," as these terms are defined in the Standard, 16 CFR 1630.1(c), and in Section 2(b) of the FFA, 15 U.S.C. 1191(b).

5. Carpet is a "product" and an "interior furnishing" consisting of "fabric" and "related material" as those terms are defined in Sections 2(h), (e), (f), and (g) of the FFA, 15 U.S.C. 1191(h), (e), (f), and (g), respectively. Carpet is therefore subject to the FFA and to the applicable standards and rules and regulations promulgated pursuant to that Act.

6. Respondents have engaged in the sale or offering for sale, in commerce and after sale or shipment in commerce, of carpets—styles "Country Fair" (manufactured by Len-Dal Carpets, Inc., Chatsworth, Georgia) and "S–400" (manufactured by Carpet Specialists, Inc., Dalton, Georgia), which fail to meet the acceptance criterion of the Standard, as defined and set forth in §§ 1630.1(a), 1630.3(c) and 1630.4(f), respectively, of the Rules of Practice, in violation of Section 3 of the FFA, 15 U.S.C. 1192.

7. Pursuant to Section 3 of the FFA, 15 U.S.C. 1192 the aforesaid acts and practices of Respondents are unlawful and constitute unfair methods of competition and unfair and deceptive acts or practices in commerce under the FTCA.

Relief Requested by Staff in the Public Interest

The Commission staff believes that the public interest requires (1) a finding that Respondents have engaged in the violative acts and practices enumerated in paragraph 6 of the charges in this Complaint, and (2) the issuance of the cease and desist order set forth below. If, however, the Commission concludes from the record in this Adjudicative proceeding that this Order would not be appropriate or adequate to fully protect the consuming public, the Commission may order such other relief as it deems necessary and appropriate.

Order I. *It is ordered,* That Don's Carpet Barn's Inc. (Corporation), doing business as Carpet Barn & Tile House, or under any other name, and Donald Plasco and Murray Plasco, individually and as officers of the Corporation, and their agents, assigns, successors, representatives and employees directly or through any corporation, subsidiary, division or other instrumentality, do forthworth cease and desist from selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after a sale of shipment in commerce, any product, fabric, or related material, or selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended (FFA), 15 U.S.C. 1191 *et seq.*, which product, fabric or related material fails to meet the acceptance criterion of the Standard for the Surface Flammability of Carpets and Rugs (FF 1–70), 16 CFR Part 1630.

II. *It is further ordered,* That the Corporation and Donald Plasco and Murray Plasco, their agents, assigns, successors, representatives, and employees, directly or through any corporation, subsidiary, division or other instrumentality, shall conform to all provisions of the Flammable Fabrics Act and applicable regulations issued thereunder in the sale of offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation, or causing to be transported in commerce, or the offering for sale, sale or delivery after sale or shipment in commerce, of any product, fabric or related material subject to the Standard.

III. *It is futher ordered,* That the Corporation and Donald Plasco and Murray Plasco shall process the following carpet, which did not meet the acceptance criterion of the Standard, so as to bring it into conformance with the Standard or destroy such carpet: Len-Dal Carpets, Inc. Style Country Fair, Rolls #2788–A and #2657–B; and Carpet Specialists Style S–400, Rolls #10801, #10803, #10807, #10812, #10816, and #10819.

IV. *It is further ordered,* That the Corporation and Donald Plasco and Murray Plasco shall maintain for a period of one year from the date of service of this Order records/evidence sufficient to establish that the carpet referred to in Paragraph III herein, which may be in inventory, has been:

(a) Processed so as to bring it into conformance with the applicable Standard under the Flammable Fabrics Act, and subsequent disposition, or

(b) Destroyed.

V. *It is further ordered,* That for a period of 10 years from the date of acceptance of this Order by the Commission the Corporation and Donald Plasco and Murray Plasco notify the Commission at least 30 days prior to any proposed change in the Corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the Corporation which may affect compliance obligations arising out of this Order.

IV. *It is further ordered,* That for a period of 10 years from the date of the acceptance of this Order by the Commission Donald Plasco and Murray Plasco promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include their current address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

VII. *It is further ordered,* That the Corporation and Donald Plasco and Murray Plasco shall, within fifteen (15) days after service upon them of this Order, file with the Commission a special report in writing setting forth the manner in which they intend to comply with this Order. They shall submit with their report a complete description of each style of carpet or rug currently in inventory or on order.

VIII. The Commission may, in accordance with the applicable law, conduct inspections or require written reports, or both, to determine compliance with this Order, and may direct the Corporation to submit samples of carpet and rugs being distributed by respondents, or to permit the Commission to collect samples of such carpet and rugs to test in accordance with the Standard. The Commission may, in accordance with the applicable law, examine and/or require the submission of copies of records to establish compliance by the Corporation with all provisions of this Order.

IX. *It is further ordered,* That the Corporation shall distribute a copy of this Order to each of its operating divisions.

Wherefore, the premises considered, the Commission hereby authorizes issuance of this Complaint on the 26th day of September 1980.

David Schmeltzer,

Associate Executive Director, Directorate for Compliance and Enforcement, Consumer Product Safety Commission.

[FR Doc. 80-35098 Filed 11-10-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Panel meeting.

Name of Panel: Army Advisory Panel on ROTC Affairs.

Date of Meeting: December 2, 1980.

Place: Pentagon, Washington, D.C. (Room 2E–687, Secretary of the Army Conference Room).

Time: 0800 hours to 1630 hours.

Proposed Agenda: The meeting will be primarily dedicated to workshop activities where topics concerning the Army Senior ROTC program will be discussed. Initially, the Panel will meet in a general session. Then the Panel members will participate in three workshops; namely, program of instruction, enrollment/retention, and scholarships; current issues/problem areas associated with these subjects will be considered. At the end of the day, the Panel will again meet in a general session to act on workshop responses. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Panel at the time and in the manner permitted by the Panel.

Daniel W. French,

Brigadier General, GS, Deputy Chief of Staff for ROTC.

[FR Doc. 80-35142 Filed 11-10-80; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Enviromental Impact Statement on the Permit Application by Avatar Properties, Inc. (Formerly GAC Properties, Inc.) for a Residential Development Near Orlando, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action consists of the development of a residential community in an approved Planned Unit Development of 24,500 acres including numerous scattered wetland areas, totaling about 1,000 acres of river and lake swamp and cypress heads and strands. About 4,800 acres of such wetlands are designated for preservation.

2. Alernatives under consideration are to issue the permit, deny the permit, or issue the permit with conditions.

3. The Scoping process to identify the significant issues to be analyzed in depth in the DEIS is as follows:

a. *Public involvement program.* A Public Notice was issued on September 11, 1980 describing the permit application and soliciting comments from Federal, State, and local agencies, and identified interested private organizations and individuals. Further scoping will be obtained by letter requesting input into DEIS preparation.

The interested public is invited to respond.

b. *Other review and consultation.* Consultation with appropriate Federal and State agencies is required under provisions of the Endangered Species Act, Section 404b of the Clean Water Act, and the National Historic Preservation Act.

4. A Scoping meeting is not contemplated.

5. The DEIS is expected to be available for review by the public during the third quarter of CY 1981.

ADDRESS: Questions about the proposed action and DEIS may be referred to Dr. Gerald L. Atmar, Chief, Environmental Studies Section, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232. Telephone 904/791–3615.

Dated: November 4, 1980.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80–35152 Filed 11–10–80; 8:45 am]

BILLING CODE 3710–AJ–M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Addition of Hydroelectric Power Generating Capacity, Units 3 and 4, at Existing Norfork Dam, North Fork River, Ark.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed addition of Hydroelectric Power Generating Capacity was based upon the Corps of Engineers participation in the multiagency study which produced a report entitled *Comprehensive Basin Study, White River Basin,* June 1968. The Basin study indicated feasibility in the addition of two conventional generating units to the Norfork Lake project. Funds were made available through the provisions of the 1976 Water and Power Development and Energy Research Appropriation Act (Pub. L. No. 94–180) for the continuation of the feasibility study (The Norfork Dam operational facility houses, two 40,300-kilowatt generating units plus additional power intake facilities (penstocks) for two future units with a capacity of up to 42.5 megawatts each).

2. During Stage II of the feasibility study (Stage II documentation) four reasonable structural alternatives were analyzed. These alternatives are:

a. Revise operation of the authorized project (raise power pool).

b. Add conventional units (limitation of two).

c. Add reversible units and reregulation structure.

d. Add reversible units w/storage in reregulation pool for downstream temperature and flow regulation.

As a result of these analyses it has been concluded that only variations of the last two alternatives and a nonstructural alternative will be studied during Stage III of the feasibility report.

3. A public notice announcing the initiation of the preauthorization planning studies was issued September 22, 1977, requesting participation of interested agencies, organizations, and individuals receiving the notice.

Continuing coordination has been maintained with Southwestern Power Administration, U.S. Department of Energy, U.S. Fish and Wildlife Service, Federal Energy Regulatory Commission and the Environmental Protection Agency. Further participation is invited from any interested parties.

Further investigation and coordination are required concerning the following items:

(1) The evaluation of effects in displacing flood control storage with power storage.

(2) Continuing efforts to formulate an EQ plan.

(3) Continuing water quality studies to be made on the lake and the river downstream of the dam. Water level fluctuations and changes in water quality on the lake could affect fisheries. The trout fishery in the tailwater could be affected also. The Norfork National Trout Hatchery could be affected if there were water quality changes in the lake. The Waterways Experiment Station is presently studying the effects of a pumpback operation on temperature stratification. The Fish and Wildlife Service are concerned with the concentrations of iron and maganese and DO in the water for the trout hatchery. A study of this problem area is underway.

(4) Further coordination with the marketing agency to determine if there is a marketable output and if pumpback energy will actually be available.

4. A formal scoping meeting will not be held due to the previously conducted coordination and accomplishment of milestones but the scoping process will continue. A public meeting is tentatively scheduled for the late fall of 1980.

5. It is estimated that the draft EIS will be available for public review in December 1981. Address: Questions about the proposed action and DEIS can be referred to Mr. David L. Burrough, Chief, Planning Branch, U.S. Army Corps of Engineers, Little Rock District, P.O. Box 867, Little Rock, Arkansas 72203. Telephone [501] 378–5751.

Dated: November 3, 1980.

Dale K. Randels,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80–35096 Filed 11–10–80; 8:45 am]

BILLING CODE 3710–57–M

DEPARTMENT OF ENERGY

Electric Field Effects From Overhead Transmission Lines, Resource Applications/Electric Energy Systems Contractors Review; Meeting

Notice is hereby given that a Review Meeting consisting of all Department of Energy, Office of Electric Energy Systems sponsored contractors on Electric Field Effects from Overhead Transmission Lines, will be held on Tuesday and Wednesday November 18 and 19 at 8:30 A.M. in the Department of Energy Auditorium, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

The agenda will consist of 30 minute presentations by each DOE funded organization on accomplishments and progress made this year, and plans for next year. There will be 5 minutes available for discussion after each presentation and for general discussion at the conclusion. Topics to be covered include: Field Measurements, Exposure Facilities, Cellular and Sub-Cellular Tissue Studies, Physiology, Behavior Investigations, Ecosystem Studies, Modeling and Scaling, and HVDC Field Studies. For further information, contact: A. O. Bulawka (202/633–9296).

Issued in Washington, D.C. November 5, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80–35196 Filed 11–10–80; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Boardman Coal-Fired Generating Plant, Wheeling Contract; Record of Decision

Decision

Bonneville Power Administration (Bonneville) has decided to sign a contract for a permanent interconnection to wheel the output of the Portland General Electric Boardman coal-fired electric generating plant, as authorized by Section 6 of the Federal Columbia River Transmission System Act (16 U.S.C. 838d).

Project Description

The Boardman plant, a 530–MW coal-fired, steam-electric generating station, is located approximately 11 miles southwest of the town of Boardman in Morrow County, Oregon. It is approximately 18 miles from Bonneville's C. J. Slatt Substation which is part of the Federal Columbia River Transmission System. Portland General Electric has constructed a transmission line from the plant to a point adjacent to the C. J. Slatt Substation and has interconnected with the Federal transmission system to allow testing of the generators and other plant components. Commercial operation of the plant requires a wheeling contract for the use of the Federal transmission system. The environmental impacts of the plant, transmission line, and operation of the plant were described in an environmental impact statement (EIS) prepared by the Rural Electrification Administration (REA). Bonneville adopted this EIS prior to making a decision on the permanent interconnection and signing of a wheeling contract.

Alternatives Considered

Two alternatives were considered: (1) to sign a wheeling contract and permit permanent interconnection and use of the Federal transmission system; and (2) not to sign a wheeling contract and disconnect the Boardman plant after plant testing was completed.

Because the plant and transmission line were built and operational, a decision not to sign a wheeling contract would result in a delay of commercial operation until new transmission facilities from the plant to Portland General Electric's customers could be built by the plant owners.

The decision to wheel the plant output on the existing transmission system is the environmentally preferable alternative because it eliminates the need for duplicate facilities and avoids the environmental impacts of constructing one or more new transmission lines.

Factors Relevant to the Decision

Section 4 of the Federal Columbia River Transmission System Act (16 U.S.C. 838b) authorizes Bonneville to wheel non-Federal power. Under Section 6 of the Federal Columbia River Transmission System Act, Bonneville must provide to utilities any capacity in the Federal system which has been determined to be in excess of the capacity required to transmit Federally generated power. Bonneville has excess capacity on its Slatt-Marion 500–kV transmission line.

The addition of the 530 MW of new generation to the Pacific Northwest power supply is necessary in the face of forecasted energy deficits. The environmental impacts of plant operation were reviewed and additional analysis was conducted on: (1) the plant capacity factor; (2) performance standards and limitations on air contaminant discharges as set by the Oregon Department of Environmental Quality; and (3) the cumulative air quality impacts of the Boardman plant, the nearby Wallula pulp and paper mill, and the Alumax-Pacific aluminum plant proposed to be built in the general area.

Bonneville concluded that the plant factor proposed by Portland General Electric, the physical design of the plant, and the mitigation measures and monitoring program described in the EIS would allow the plant to operate without exceeding the increment permitted under the area's Class II Prevention of Significant Deterioration designation.

The availability of capacity on the existing transmission system and the need for the power supply were the major reasons for the decision to sign the wheeling contract. The environmental impacts which would occur as a result of the wheeling contract did not outweigh the benefits from bringing the plant on-line.

The decision is also based upon the unopposed Motion for Order Indicating Modification of Judgment in the case of *NRDC v. Munro,* Civ. No. 75–344 (Dist. Oregon, Jan. 18, 1980). Before this motion, Bonneville was enjoined from interconnecting and wheeling the power from the Boardman plant.

Mitigation and Monitoring

Bonneville's action is limited to the signing of a wheeling contract which will allow permanent interconnection with and use of the Federal transmission system. No mitigation measures were identified as being available to Bonneville.

However, the EIS on the plant and transmission line discussed mitigation measures related to air and water quality, dust control, and noise impacts. Monitoring programs were established for water quality in the reservoir, ground water quality, noise levels, and air pollution. These mitigation measures and monitoring programs have been adopted and were included in the decision made by the REA. An oil spill prevention plan has been filed and standard industrial safety procedures will be followed.

Bonneville does not propose to conduct any additional mitigation measures.

Dated at Portland, Oregon, this 3d day of November 1980.

Sterling Munro,

Administrator.

[FR Doc. 80–35085 Filed 11–10–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Mt. Tom Generating Station Unit 1; Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare environmental impact statement and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Energy Supply and Environmental Coordination Act of 1974 (ESECA) Prohibition Order for the Mt. Tom Generating Station Unit 1. This unit is located near Holyoke, Massachusetts, and is owned and operated by Holyoke Water Power Company, a subsidiary of Northeast Utilities Service Company. The Prohibition order will be effective when a Notice of Effectiveness (NOE) is issued and would prohibit the burning of petroleum or natural gas in this unit. Subsequent operation of this unit would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on December 4, 1980, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register,** at which time further comments will be solicited.

The meeting is scheduled to begin at 3:00 p.m., and will reconvene at 7:00 p.m. Each session will continue until all persons in attendance wishing to speak have had an opportunity to do so. The meeting has been scheduled for both day and evening hours to allow various Federal, state, and local agencies and

private citizens to participate at their convenience.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, Telephone (202) 653-3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252-4600.

Date and Location of Scoping Meeting: December 4, 1980, at Holyoke Community College, Conference Room B309, 303 Homestead Avenue, Holyoke, Massachusetts. The meeting will begin at 3:00 p.m. and will reconvene at 7:00 p.m.

Written Comments Due: January 4, 1981.

SUPPLEMENTARY INFORMATION: On June 30, 1977, the Federal Energy Administration (FEA) published in the **Federal Register** a Notice of Intent to Issue Prohibition Orders for 18 powerplants located at 11 generating stations including Unit 1 (136 MW) of the Mt. Tom Generating Station, located near Holyoke, Massachusetts. The prohibition order was issued pursuant to the ESECA (15 U.S.C. 791 *et seq.*) (Pub. L. 93-319) as amended by the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163) and as further amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70). On October 1, 1977, DOE took over the functions of FEA, including its authorities and responsibilities under ESECA. If made effective, the order would prohibit these units from burning natural gas or petroleum as its primary energy source. The prohibition order was based on an FEA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that this powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing an effective order prohibiting Unit 1 of the Mt. Tom Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. The EIS will also consider the impacts which could occur if the unit were converted under the terms of a Delayed Compliance Order, which Northeast Utilities Service Company has requested from the U.S. Environmental Protection Agency. In addition, the EIS will evaluate methods for meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Mt. Tom Generating Station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions concerning this subject.

Scoring Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Mt. Tom Unit 1 from burning natural gas or petroleum as its primary energy source. The meeting on December 4, 1980, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allotted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writting by January 4, 1981.

Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C., November 5, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-35083 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-035]

Phelps Dodge Corp.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 14, 1980, Phelps Dodge Corporation (Phelps Dodge), 32 North Stone, Suite 607, Tucson, Arizona 85701, filed an application pursuant to 10 CFR Part 595 with the Administrator of the Economic Regulatory Administration (ERA) for recertification of an eligible use of approximately 3.107 billion cubic feet of natural gas per year which is estimated to displace the following volumes of fuel oil at Phelps Dodge's facilities in Arizona and New Mexico: 322,941 barrels of No. 2 fuel oil (0.36 percent sulfur) per year at the Tyrone Branch, 121,533 barrels of No. 2 fuel oil (0.4 percent sulfur) per year at the new Cornelia Branch, 27,531 barrels of No. 2 fuel oil (0.2 percent sulfur) per year at the Copper Queen Branch, 33, 133 barrles of No. 6 fuel oil (1.5 percent sulfur) per year at the Morenci Branch, and 51,560 barrles of No. 6 fuel oil (1.2 percent sulfur) at the Douglas Reduction Works. The eligible seller of the natural gas is Lovelady, Inc. The gas will be transported on interstate pipelines by the El Paso Natural Gas Company and on intrastate pipelines by the Seagull Pipeline Corporation. In addition, El Paso has executed a gas transportation agreement with the Valero Transmission Company, an intrastate pipeline, whereby, Valero transports volumes of natural gas on behalf of El Paso for ultimate delivery to Phelps Dodge. Notice of that application was published in the **Federal Register** (45 FR 70542, October 24, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On November 6, 1979, Phelps Dodge received the original certification (ERA Docket No. 79-CERT-095) of an eligible use of natural gas purchased from Lovelady, Inc. for use at these same facilities for a period of one year. The original certificate expires on November 5, 1980.

The ERA has carefully reviewed Phelps Dodge's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Phelps Dodge's application satisfies that criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on November 5, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-35082 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52727-1011-22-22; Docket No. ERA-FC-80-017]

Southern Indiana Gas and Electric Co.; Permanent Peakload Powerplant Exemption Petition

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On February 12, 1980, Southern Indiana Gas and Electric Company (SIGECO) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum or natural gas in new powerplants.

SIGECO plans to install a 81,440 kilowatt oil/natural gas fired combustion turbine unit to be known as Broadway Unit No. 2 (Broadway 2) in Vanderburgh County, Indiana. SIGECO certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

ERA required the submission of additional information and a revised petition was submitted on April 8, 1980. ERA accepted the petition on June 20, 1980, and published notice of its acceptance in the **Federal Register** on June 25, 1980 (45 FR 42790—. Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended August 11, 1980. Comments on SIGECO's petition were recieved from the United States Environmental Protection Agency—Region V (EPA). No public hearing has been requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Analysis recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to SIGECO. A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed below.

DATES: Written comments on the Tentative Staff Analysis and requests for a hearing are due on or before November 26, 1980.

ADDRESSES: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA-FC-80-017 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, Economic Regulatory Administration, Department of Energy, Room 3012B, 2000 M Street NW., Washington, D.C. 20461, Phone (202) 653-4208.

Douglas F. Mitchell, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B-087, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Southern Indiana Gas and Electric Company (SIGECO) plans to install a 81,440 kilowatt oil/natural gas fired combustion turbine unit to be called Broadway Unit No. 2 (Broadway 2) at its Ohio River Station in Vanderburgh County, Indiana. Based upon estimates by SIGECO, the proposed unit is expected to consume the energy equivalent of approximately 78,000 barrels of petroleum (No. 2 fuel oil) per year (214 bbl/day). Broadway 2 is scheduled for commercial operation in May 1981.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Act. The final rule, published on June 6, 1980 (45 FR 38276), became effective August 5, 1980.

FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

As part of its petition, SIGECO submitted a sworn statement by Mr. N. P. Wagner, President of SIGECO, as required by the final rule § 503.41(b)(1). In his statement, Mr. Wagner certified that Broadway 2 will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the

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unit is 81,440 kilowatts and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 122,160 Kwh.

Under the requirements of final rule § 503.41(b)(1)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, it must obtain a certification from the Administrator of the Environmental Protection Agency or the Director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

On July 30, 1980, the United States Environmental Protection Agency—Region V submitted comments advising ERA that SIGECO may require a permit to construct Broadway 2 under the Federal Rules for the Prevention of Significant Deterioration (PSD), promulgated pursuant to the Clean Air Act Amendments of 1977.

On August 29, 1980, the State of Indiana Air Pollution Control Board issued an exemption from the requirements of these rules and from the Emissions Offset Policy for the Ohio River Station, which includes Broadway 2.

Tentative Staff Analysis

On the basis of sworn statements and other information provided by SIGECO, and the comments of interested parties, the staff recommends that ERA grant the requested permanent peakload powerplant exemption.

Based upon information provided by SIGECO, ERA conducted an analysis which has been reviewed by the DOE's Office of Environment, in consultation with the Office of General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include terms and conditions in any order granting an exemption. Based upon the information submitted by SIGECO the staff of ERA recommends that any order which would grant the requested permanent peakload powerplant exemption should, pursuant to Section 214 of the Act, be subject to the following terms and conditons:

A. SIGECO shall not produce more than 122,160,000 Kwh during any 12-month period with Broadway 2. SIGECO SHALL PROVIDE ANNUAL ESTIMATES OF THE EXPECTED PERIODS (hours during specific months) of operation of Broadway 2 for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June-September period, etc.). Estimates of the hours in which SIGECO expects to operate Broadway 2 during the first 12-month period shall be furnished on or before December 12, 1980.

B. SIGECO shall comply with the reporting requirements set forth at final rule § 503.41(e). In addition, whenever SIGECO operates Broadway 2 in non-specified peakload periods (periods not specified in condition A above) SIGECO shall report annually the reason(s) for such operation.

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. SIGECO shall comply with the terms and conditions which may be imposed pursuant to the environmental requirements set forth at final rule § 503.15(b).

Issued in Washington, D.C. on November 4, 1980.

Robert L. Davies,

Assistant Adminstrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-35081 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-01-M

Tesoro Petroleum Corporation's Application for Permission to Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Issuance of Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on November 4, 1980, a Decision and Order was issued pursuant to the provisions of 10 CFR 205.90 *et seq.* and 211.10(b) denying Tesoro Petroleum Corporation's November 2, 1979, request for permission to use multiple allocation fractions. The multiple allocation fraction request, if granted, would have permitted Tesoro to use three separate allocation fractions for the distribution of motor gasoline within the 48 contiguous states.

A copy of the Decision and Order, with proprietary information deleted, is attached.

For Further Information Regarding This Notice, Please Contact:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104–I, 2000 M Street, NW., Washington, D.C. 20461, Telephone: (202) 653–3701.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 4th day of November 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

November 4, 1980.

Economic Regulatory Administration; Decision and Order

To: Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, Texas 78286

Subject: Tesoro Petroleum Corporation's Application for Permission to Use Multiple Motor Gasoline Allocation Fractions for the Duration of the Mandatory Petroleum Allocation Program Case Number 79–022

I. Introduction

On November 2, 1979, Tesoro Petroleum Corporation (Tesoro) filed an application with the Department of Energy's (DOE) Economic Regulatory Administration (ERA) for permission to use multiple allocation fractions pursuant to 10 CFR 211.10(b). The request, if granted, would permit Tesoro to use one allocation fraction for the distribution of motor gasoline by its wholly-owned subsidiary, Tesoro Petroleum Distribution Company, doing business as Tesoro Marketing Company (Tesoro Marketing) and two separate motor gasoline allocation fractions for the marketing operations conducted by its wholly-owned subsidiary Tesoro Refining, Marketing and Supply Company (Tesoro Refining). (*1*)

II. Legal Authority

Tesoro's application is being processed in accordance with 10 CFR 205.90 *et seq.*, and § 211.10(b).

III. Background

Tesoro is a small and independent refiner as those terms are defined in 10 CFR 211.51. It owns and operates two refineries located near Kenai, Alaska and Carrizo Springs, Texas which have a total refining capacity of 74,600 barrels of crude oil per day. Tesoro alleges that the firm maintains three distribution subsystems for motor gasoline within the 48 contiguous states. They are:

(1) the West Coast subsystem operated by Tesoro Refining, which includes the States of Arizona, California, Idaho, Nevada, Oregon and Washington;

(2) Tesoro Refining's Texas-based operations, which encompasses the States of Florida, Maryland, Illinois, Indiana, Kansas, Louisiana, Oklahoma, Texas and Virginia; and

(3) the subsystem operated by Tesoro Marketing, an enterprise engaged solely in trading operations, which has base period (*2*) supply obligations in the States of Illinois, Louisiana and Texas.

On December 20, 1979, the ERA issued a notice of Tesoro's request to use multiple allocation fractions (44 FR 75452, December 20, 1979). The notice invited written comments from interested persons; none were submitted.

On February 8, 1980, Tesoro submitted an application for the temporary use of multiple allocation fractions. This request was granted, in part, through a telephone conversation on February 29, 1980. The verbal authorization was later confirmed in a Decision and Order which was issued to Tesoro on July 22, 1980. Tesoro Petroleum Corporation, (unpublished decision) No. 80–005. The relief specified in the July 22 Order was based on a specific determination that it would have been impractical and burdensome for Tesoro to use a single allocation fraction throughout its entire motor gasoline distribution system in the months of March and April 1980 without substantially curtailing crude oil runs at the firm's Carrizo Springs refinery during that period. In that decision, we determined that impracticability had been established by Tesoro's inability to arrange product exchanges and the lack of any West Coast suppliers capable of supplying Tesoro with surplus product in those two months in which the firm was experiencing problems. The relief which authorized Tesoro to use a separate allocation fraction for its West Coast distribution subsystem expired on April 30, 1980.

IV. Tesoro's Contentions

Tesoro contends that it should be permitted to use multiple allocation fractions permanently for the three distribution subsystems within the 48 contiguous states described above because these subsystems are separate and independent of one another.

In support of this contention, Tesoro submitted material which described its source of motor gasoline supply, class of purchasers, and transportation facilities in each of the distribution subsystems and the feasibility of redistributing supplies between its subsystems.

According to the firm's submission, Tesoro Marketing obtains its supplies of motor gasoline through large cargo lot purchases on the spot market. This subsidiary does not normally sell gasoline which is produced in the Kenai or Carrizo Springs refineries, or which is obtained through exchange of gasoline so produced. Tesoro Marketing arranges to buy gasoline from third parties for delivery by pipeline, barge, or tanker to its customers. Usually the product does not enter Tesoro Marketing's terminal facilities. Tesoro Marketing's customers include other trading companies and refiners. The cargo lot resales of the type in which Tesoro Marketing is engaged typically involve volumes of XXXXXX barrels or more.

The customers in Tesoro Refining's Texas-based subsystem are principally supplied with motor gasoline which is produced at the Carrizo Springs refinery or through exchange agreements with other firms. (*3*) The Texas-based operation markets to a wide variety of rack customers including retail motor gasoline outlets, jobbers and other bulk purchasers. Gasoline which is received through exchange agreements with other refiners is generally made available at their refineries or at pipeline terminals.

Tesoro Refining's West Coast subsystem is generally supplied by means of exchanges of motor gasoline produced at the Kenai refinery and purchases from other firms. According to the firm, the West Coast subsystem is primarily engaged in rack sales to to independent jobbers and retail outlets.

Tesoro asserts that the West Coast subsystem is geographically isolated from both the Texas-based subsystem and the area where Tesoro Marketing conducts its business operations. There are no product pipelines with which Tesoro can move gasoline between the West Coast and its other marketing subsystems and all other means of transporting product is asserted to be economically infeasible.

The firm also contends that it does not exchange motor gasoline between Tesoro Marketing and either of the Tesoro Refining subsystems. According to Tesoro such exchanges are impractical. In this regard, Tesoro points out that the volumes in one of Tesoro Marketing's transactions is often much larger than Tesoro Refining has need for at a given time in a particular area. Moreover, the exchange balance Tesoro Refining builds up with respect to any exchange partner; i.e., the amount of product owed to Tesoro Refining via exchange agreements, is almost never as large as the volume of gasoline involved in a single transaction conducted by Tesoro Marketing. Tesoro indicates that a small amount of gasoline is exchanged from the West Coast subsystem to supply the Texas-based subsystem's rack sales customers at terminals located in Chicago, Illinois.

Tesoro has advanced an additional argument in its application. The firm contends that the use of a single allocation fraction for its subsystems would be contrary to the principle stated in Section 4(b) of the Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C 753(b)(1)(F), (EPAA) promoting the equitable distribution of refined petroleum products among all sectors of the petroleum industry. Specifically, Tesoro asserts that if the firm would be required to continue to maintain a single allocation fraction by transferring motor gasoline from Tesoro Refining to Tesoro Marketing it would substantially diminish the available supply of gasoline to retail service stations and independent jobbers while increasing supplies to refiners and trading companies.

V. Analysis and Findings

The factors which DOE considers in determining whether to approve requests for the use of multiple allocation fractions were set forth in *Shell Oil Company*, 3 FEA Para. 80,557 (January 22, 1976), and recently in *Powerline Oil Company*, 45 F.R. 47197 (July 14, 1980). For a full discussion of the criteria used in evaluating such applications, see the **Federal Register**.

Notice entitled *Criteria Applicable to Requests for Multiple Allocation Fractions*, 45 FR 50383 (July 29, 1980). An application which is filed under 10 CFR 211.10(b) should generally contain the type of information which is described below:

(1) The relative location of the marketing areas to be included in computing each separate allocation fraction;

(2) The sources of supply for each such area;

(3) The method used in transporting the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either:

(a) between such area; or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area;

(6) The degree to which transfers or exchanges of like product with other firms has been in the past or could reasonably be arranged;

(7) The availability of surplus product; and

(8) The firm's expected allocation fractions, with and without relief, for each region in which a separate fraction is requested.

An applicant is required to make a two part showing. First, an applicant must demonstrate that it has two or more distribution subsystems that are independent of one another. Second, there should be a showing that the use of a single fraction would be impracticable or inconsistent with the objectives of the allocation program. In order to qualify for relief, an applicant must generally establish that:

(a) the firm is unable to improve its supply situation through the purchase of product on the open market;

(b) it is impractical for the firm to transport or exchange product from one subsystem to another;

(c) if the applicant is a refiner, the firm is unable to increase production of the product to alleviate any supply imbalances;

(d) the competitive viability of the class of independent marketers would not be jeopardized in the regions in which the applicant's allocation fraction would be reduced if relief is granted; and

(e) the circumstances justifying relief are likely to continue during the entire period for which the use of multiple allocation fractions is requested.

The policy of maintaining a single allocation fraction will be outweighed only to the extent that a supplier is able to demonstrate that the application of a single allocation fraction is truly impractical and burdensome or inconsistent with the objectives of the Mandatory Petroleum Allocation Program. In the present case, we

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have determined that those standards have not been satisfied.

Tesoro has failed to show that the firm lacks the capability to equalize its allocation fractions between its different subsystems. While Tesoro's West Coast subsystem is isolated geographically from any other subsystem and shares no common pipelines with the other subsystems, Tesoro has presented no information to indicate that adequate supplies of surplus motor gasoline are not currently available or that it would be infeasible for the firm to make purchases on the spot market to maintain a uniform allocation fraction. Similarly, the firm has also failed to establish that it is unable to maintain a uniform allocation fraction through exchanges of motor gasoline between Tesoro Refining's Texas-based and West Coast operations, and Tesoro concedes exchanges of some volumes of product between those subsystems have occurred. We believe such exchanges are generally feasible. For these reasons it is not necessary to determine whether the costs associated with transporting gasoline to the West Coast from its other subsystems are recoverable.

As to the Texas Marketing and Texas Refining subsystems, Tesoro has not shown that these subsystems are separate and independent of each other. Although Tesoro has shown that these subsystems sell to different classes of purchasers, that is insufficient to base a determination that they are independent. They both operate in the same region and the same sources of gasoline may be used for each set of customers. Furthermore, Tesoro has failed to show that surplus motor gasoline is unavailable to equalize fractions. As to the contention raised by Tesoro that transferring product from Tesoro Refining to Tesoro Marketing would frustrate the objectives specified in the EPAA, Tesoro has presented no convincing reason why its burden is significantly greater than any other firm which conducts both bulk trading and gasoline marketing operations. Use of a single allocation fraction promotes equitable distribution of the allocable supply of product among all of a firm's customers, and prevents a firm from treating one part of its operations differently and to the possible detriment of another part. In this regard, the availability of surplus product suggests that Tesoro need not necessarily divert gasoline supplies from Tesoro Refining to Tesoro Marketing in order to comply with the single allocation fraction requirement.

In view of the foregoing considerations set forth above, the ERA has concluded that Tesoro has failed to make a compelling showing that its subsystems are separate and independent or that it is truly impracticable and burdensome for Tesoro to maintain a single, uniform allocation fraction and that for it to do so is inconsistent with the objectives of the Mandatory Petroleum Allocation Program.

VI. Order

This order is issued pursuant to the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Tesoro Petroleum Corporation for permission to use multiple allocation fractions be and hereby is denied.

(2) In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR, Part 205 Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(3) Communication, other than appeals, regarding this directive, should be referred to Alan T. Lockard, Acting Director, Allocated Products Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653-3701.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

References

[1] Pursuant to Ruling 1974-16, issued by the Federal Energy Office, a predecessor of DOE, Tesoro is permitted to use an allocation fraction for Alaska which is different from the single fraction used for the 48 contiguous states.

[2] The base period for motor gasoline as defined in 10 CFR 211.102 means "the month of the period November 1977 through October 1978 corresponding to the current month."

[3] Historically, the customers in Tesoro Refining's Texas-based subsystem were also supplied through a processing arrangement with Champlin Petroleum Company (Champlin) at its Corpus Christi, Texas refinery. According to the agreement, Champlin processed XXXXX barrels of motor gasoline per day for Tesoro. On January 1, 1980 the processing arrangement was terminated.

[FR Doc. 80-35084 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3406]

Blachly-Lane County Coopperative Electric Association; Application for Preliminary Permit

November 6, 1980.

Take notice that Blachly-Lane County Cooperative Electric Association (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3406 to be known as Fern Ridge Project located on the Long Tom River in Lane County, Oregon. Correspondence with the Applicant should be directed to: Mr. Dale C. Swancutt, Manager, Blachly-Lane County Cooperative Electric Association, 90680 Highway 99, Eugene, Oregon 97402.

Project Description.—The proposed project would consist of: (1) an adaptor attached to the existing outlet structure to the Corps of Engineers' Fern Ridge Dam; (2) a steel penstock 8 feet in diameter and 450 feet long; (3) a powerhouse containing a single generating unit with a rated capacity of 2.5 MW; and (4) approximately 2,300-feet of transmission line. The estimated annual average output of the proposed project would be 9 million kWh.

Purpose of Project.—Project power would be used by the Applicant or sold to the Bonneville Power Administration or a nearby utility.

Proposed Scope and Cost of Studies under Permit.—Applicant proposes to consult with Federal, State, and local agencies, conduct a feasibility study of the proposal, and prepare an application for license during the term of the permit. With the exception of test borings there would be no acitivity which would alter or disturb lands or waters in the vicinity of the project.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance witht the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 14, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3406. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35221 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-67-000]

Central Illinois Public Service Co.; Filing

November 5, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on October 30, 1980, tendered for filing proposed Amendment No. 6 to the Interconnection Agreement dated November 1, 1964, between Central Illinois Public Service Company and Commonwealth Edison Company.

The parties have agreed to modify Service Schedule C—Short Term Power.

Copies of the proposed changes were served upon the Illinois Commerce Commission and Commonwealth Edison Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35184 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2762]

Central Vermont Public Service Corp.; Application for Major License

November 6, 1980.

Take notice that an application was filed on September 28, 1979, and revised on December 17, 1979, under the Federal Power Act, 16 U.S.C. Section 791(a)-825(r), by the Central Vermont Public Service Corporation for major license for the East Georgia Project. The proposed project would be located on the Lamoille River in Franklin County, Vermont. Correspondence with the Applicant on this matter should be addressed to: Mr. Donald L. Rushford, Vice President and General Counsel, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701.

Project Description.—The proposed project would consist of: (1) a concrete gravity dam founded on rock with earth abutments, having a maximum height of 80 feet above the river and a length of 715 feet; (2) a 380-acre reservoir having a total gross storage capacity of 7,500 acre-feet at elevation 340 feet m.s.l; (3) a powerhouse adjacent to the south abutment of the dam, containing two turbines and two generators having a total installed capacity of 14,000-KW; (4) an approximately 3.5-mile-long 33-kV overhead transmission line extending from the powerhouse to a tower at the northern corner of the project boundary area adjacent to Highway 104A, and then extending to the St. Albans 33-kV line located northwest of the project; and (5) appurtenant works.

The application was filed during the term of the Applicant's preliminary permit for the East Georgia Project, issued October 20, 1976.

The Applicant proposes to provide recreational facilities at the East Georgia Project consisting of an unlighted boat launching ramp and a canoe portage path.

Project power would be used by the Applicant for public utility purposes either within its distribution system or for sale to other public utilities.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or an intent to file competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 21, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a

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petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 22, 1980. The Commission's address is: 825 North Captiol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35222 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-69-000]

Georgia Power Co.; Filing

November 5, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, Georgia Power Company (Georgia) tendered for filing a proposed change in the charges for Emergency Assistance (Schedule A) and Short-Term Capacity (Schedule B) under its Interchange Contract with Savannah Electric and Power Company (Savannah), Georgia Rate Schedule FERC No. 798. Georgia states that the proposed change in rate schedule continues the interconnected operation of the parties' systems and provides for emergency assistance and short/term capacity transactions, if any, during 1981.

Georgia states that the 1980 charges under the Interchange Contract would be inappropriate during 1981 because of changes in loads, costs and installed generating capacity. Accordingly, Georgia requests an effective date of January 1, 1981.

Georgia states that copies of the proposed modification have been mailed to Savannah and the Presiding Administrative Law Judge and Staff Counsel in Docket No. ER80-222.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35185 Filed 11-10-80; 8:45am]

BILLING CODE 6450-85-M

[Project No. 3430]

Humboldt Bay Municipal Water District; Application for Preliminary Permit

November 5, 1980.

Take notice that Humboldt Bay Municipal Water District (Applicant) filed on September 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3430 to be known as R. W. Matthews Dam Project located on the Mad River in Trinity County, California. The proposed project is located wholly on lands owned by the U.S. Forest Service. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Arthur Bolli, General Manager, Humboldt Bay Municipal Water District, P.O. Box 95, Eureka, California 95501. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) an existing 144-foot high earthfill dam impounding a reservoir with a storage capacity of 48,030 acre-feet; (2) a 45 inch diameter bypass steel pipe connecting the existing 45 inch diameter outlet penstock to the powerplant; (3) a 96 inch diameter steel penstock connecting the existing overflow spillway to the powerplant; (4) a powerplant located near the toe of the dam containing a generating unit with a rated capacity of 4 MW; and (5) a switchyard and transmission line. The R. W. Matthews Dam is owned and operated by the Applicant.

The Applicant estimates that the average annual energy output would be 14.21 million kWh.

Purpose of Projects.—The Applicant proposes to market the power generated by the project to local public utilities.

Proposed Scope and Cost of Studies under Permit.—The Applicant seeks the issuance of a preliminary permit for a term of 36 months, during which time it would conduct technical studies and surveys, perform preliminary designs, quantity and cost estimates, and a feasibility analysis, conduct environmental studies and assessments, and prepare an FERC license application.

The estimated cost of the work to be performed under the preliminary permit is $175,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environment feasibility of the proposed project, the market for power, and all other information necessary for inclusions in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 20, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 22, 1980.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to interview must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in responsive to this notice of application for preliminary permit for Project No. 3430. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the originial and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35175 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3307]

Hydro Corp. of Pennsylvania; Application for Preliminary Permit

November 5, 1980.

Take notice that Hydro Corporation of Pennsylvania (Applicant) filed on September 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3307 to be known as the Tionesta Project located on Tionesta Creek in Forest County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Fred Fiechter, P.O. Box 34, Chatham, Pennsylvania 19318. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: the Tionesta Dam under jurisdiction of the U.S. Army Corps of Engineers and would consist of: (1) a penstock approximately 1,900 feet long leading to; (2) a new powerhouse on the creek's eastern bank housing; (3) turbine/generator units rated at 2.5 MW; (4) new or existing transmission lines; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 10,700,000 kWh.

Purpose of Project.—Project power would be sold to the Pennsylvania Electrice Company.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $55,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 9, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filing must also state that it is made in response to this notice of application for preliminary permit for Project No. 3307. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

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of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35174 Filed 11-10-80; 8:45 am]

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[Project No. 3289]

Hydro Corp. of Pennsylvania; Application for Preliminary Permit

November 6, 1980.

Take notice that Hydro Corporation of Pennsylvania (Applicant) filed on August 4, 1980 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3289 to be known as the Alvin R. Bush Dam Project located on Kettle Creek in Clinton County, Pennsylvania. The proposed project would utilize Federal lands and a Federal dam under the jurisdiction of the U.S. Army Corps of Engineers. Correspondence with the Applicant should be directed to: Mr. Fred Fiechter, President and Treasurer, Hydro Corporation of Pennsylvania, P.O. Box 34, Chatham, Pennsylvania 19318.

Project Description.—The proposed project would utilize the U.S. Army Corps of Engineers existing Alvin R. Bush Dam and Reservoir. The project would consist of: (1) a penstock extending from the outlet conduit to; (2) a powerhouse located on the southwest bank of Kettle Creek; and (3) appurtenant works. The installed generating capacity would be 4,500 kW, with an average annual net generation of 18,530,000 kWh.

Purpose of Project.—Project energy would be sold to local public utilities.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic construction, economic, environmental, historic and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rule of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 14, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35223 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3438]

Hydroelectric Constructors, Inc.; Application for Preliminary Permit

November 5, 1980.

Take notice that Hydroelectric Constructors, Inc. (Applicant) filed on September 4, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3438 to be known as Ruedi Project located at the existing Ruedi Dam owned by the United States Water and Power Resources Service (Township 8 South, Range 84 West N.M.P.M.) in Eagle and Pitkin Counties, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Glen G. Dorman, President, Hydroelectric Constructors, Inc., Box 16, 5353 West Dartmouth Avenue, Denver, Colorado 80227. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would utilize an existing government dam and would consist of a powerhouse with three Ossberger turbines connected to three generators with a total rated capacity of 3,770 kW. A transmission line with a minimum length of 1.6 miles would be required.

The Applicant estimates that the average annual energy output would be 15,440,000 kWh annually, which would save the equivalent of 25,350 barrels of oil or 7,200 tons of coal.

Purpose of Project.—Power generated by the project would be sold to either the Public Service company of Colorado, Colorado-Ute Electric Association or the Holy Cross Electric Association, Inc.

Proposed Scope and Cost of Studies under Permit.—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under this preliminary permit would be $300,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—This application was filed as a competing application to the Ruedi Project No. 3225 filed on June 24, 1980, By Harrison Western Corporation under 18 CFR 4.33 (as amended, 44 FR 61328, October 25, 1979), and therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 12, 1981.

Filing and Service of Responsive Documents.—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3438. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35176 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3471]

Joseph M. Keating; Application for Preliminary Permit

November 6, 1980.

Take notice that Joseph M. Keating (Applicant) filed on September 4, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)) for proposed Project No. 3471 to be known as Footbridge Project located on the Rubicon River in El Dorado County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) a 15-foot high diversion dam; (2) an intake structure; (3) a 9,000-foot long tunnel; (4) a powerhouse containing a generating unit rated at 8 MW; (5) a transmission line; and (6) a new 3,500-foot long road extension. The project would be operated on a run-of-the-river basis. The average annual energy generation is estimated to be 30 million kWh. The proposed project is located on the Rubicon River which is under review for wild and scenic river status.

Purpose of Project.—The energy production of the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of 15 months, during which time it would conduct engineering studies and surveys, perform preliminary designs and do a feasibility analysis, conduct environmental studies, consult with agencies, make a historical review, and prepare an FERC license application. No new roads are required to conduct the studies. Applicant has filed a work plan for the studies for new dam construction. The field studies to be conducted are visual inspections and surveys to select locations of project facilities and to determine the head. No disruptive testing or exploration is proposed.

The estimated cost of the work to be performed under the preliminary permit is $105,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before Jan. 12, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 13, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c)

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(1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 12, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3471. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35224 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-66-000]

Louisville Gas & Electric Co.; Proposed Tariff Change

November 5, 1980.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (LG&E) on October 30, 1980, tendered for filing pursuant to the Interconnection Agreement between LG&E and Public Service Company of Indiana, Inc. (PSI), a Sixth Supplemental Agreement.

The purpose of this filing is to amend said Interconnection Agreement to comply with FERC Orders 84 and 84–B, to increase the demand charge for Short Term Power from 70¢ per kilowatt-week to 85¢ per kilowatt-week, and to delete Service Schedules "C" and "F".

LG&E requests an effective date of January 1, 1981, with respect to the change in Short Term Power demand charge and deletion of Service Schedules "C" and "F". With respect to the modification to comply with Orders 84 and 84–B, LG&E requests an effective date of September 1, 1980, as established in Order No. 84–B.

Copies of the filing were served upon Public Service Company of Indiana, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35186 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3506]

Massachusetts Municipal Wholesale Electric Co.; Application for Preliminary Permit

November 5, 1980.

Take notice that Massachusetts Municipal Wholesale Electric Company (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3506 to be known as Collins Project located on the Chicopee River near the Town of Ludlow, Hampden County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Phillip C. Otness, Massachusetts Municipal Wholesale Electric Company, Stony Brook Energy Center, P.O. Box 426, Ludlow, Massachusetts 01056. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would utilize the existing Collins Dam and adjacent Mill Complex. Applicant proposes to study the feasibility of refurbishing the existing dam and four existing turbine-generators with a total rated capacity of 400 kW and the installation of one or more additional turbine-generators for a total rated capacity of 1,000 kW. All generating equipment would be located within the Mill Complex.

The Applicant estimates that the average annual energy output would be 3,400,000 kWh annually, saving the equivalent of 5,600 barrels of oil or 1,600 tons of coal.

Purpose of Project.—Power generated by the project would be sold by the Applicant to its member cities and towns.

Proposed Scope and Cost of Studies under Permit.—The work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $36,500.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevent to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests.In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 9, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3506. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35177 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-8-000]

Michigan Consolidated Gas Co., Interstate Storage Division; Proposed Changes in FERC Gas Tariff

November 5, 1980.

Take Notice that on October 31, 1980, Michigan Consolidated Gas Company—Interstate Storage Division (ISD) tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2:

Orginal Volume No. 1	Rate Schedule
Second Revised Sheet Nos. 63 & 64	X–7
Second Revised Sheet Nos. 87 & 94	X–9
Second Revised Sheet Nos. 110 & 111	X–11
Second Revised Sheet Nos. 132 & 139	X–13
Second Revised Sheet Nos. 155 & 162	X–15
Fifth Revised Sheet No. 192	X–19
Third Revised Sheet No. 193	X–19
Fourth Revised Sheet No. 216	X–20
Third Revised Sheet No. 217	X–20
First Revised Sheet No. 240	X–21
Second Revised Sheet No. 241	X–21

Orginal Volume No. 2	Rate Schedule
First Revised Sheet Nos. 6 & 7	X–23
First Revised Sheet No. 30	X–24
First Revised Sheet Nos. 51 & 52	X–25
First Revised Sheet Nos. 73 & 74	X–26
First Revised Sheet No. 96	X–27
First Revised Sheet Nos. 117 & 118	X–28
First Revised Sheet Nos. 136 & 137	X–29

The proposed changes would produce increased revenues of $4,168,000 based on the storage and transportation cost of service experienced during the twelve months ended June 30, 1980, as adjusted.

ISD states that the proposed rates are necessary because of increased operating expenses, increased depreciation expense resulting from increased plant in service, increased *ad valorem* and other taxes, and increased return and income tax requirements. ISD's proposed rates include an overall return of 10.77 percent reflecting its imbedded debt cost of 7.60 percent and a return on equity of 14.00 percent.

ISD requests that its proposed rates become effective on December 1, 1980. However, should the Commission decide to suspend the effective date, ISD requests that it be for no more than one day in view of the fact that its currently effective rates for storage service are based on a year-end 1976 rate base and a capital structure as of September 30, 1976 (with minor adjustments), and that since that time, its cost of service has increased by approximately 25 percent.

ISD further states that copies of its filing have been served upon its customers and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Nov. 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35178 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3149]

Muskegon County Wastewater Management System; Application for Preliminary Permit

November 6, 1980.

Take notice that Muskegon County Wastewater Management System (Applicant) filed on April 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3149 to be known as Mosquito Creek Outfall located on the Mosquito Creek in the County of Muskegon, Michigan, near the town of Egelston. Correspondence with the Applicant should be directed to: Ann Conageski, Muskegon County Building,

V 45 N O 12 80 UMI

990 Terrace Street, Muskegon, Michigan 49440.

Project Description.—The project would consist of: (1) a proposed reinforced concrete inlet structure; (2) a proposed 36-inch diameter concrete pipe; (3) a proposed powerhouse containing one generating unit rated at 300 kW; (4) proposed transmission facilities; and (5) appurtenant facilities. The estimated annual output of the proposed project would be 1,200,000 kWh. The proposed project would reuse purified wastewater from the Muskegon County Wastewater system that would flow through a ditch and the proposed concrete pipe into the Mosquito Creek. No reservoir or dam would be associated with the project.

Purpose of Project.—Muskegon County Wastewater Management Sysem would utilize the energy produced for its own system, and reduce its system's load on Consumers Power Company lines.

Proposed Scope and Cost of Studies Under Permit.—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to study and document the physical and environmental setting of the project, identify the economic potential of the proposed facility, along with performing engineering analysis of the design alternatives and develop the optimum design in working detail. In addition, perform an environmental impact analysis of design alternatives during both construction and operations. The Applicant estimates the cost of the proposed studies would be $12,149.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. Since this application was filed during the term of a preliminary permit, any party intending to file a competing application should review 18 CFR 4.33(h). A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), as amended, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 14, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is one file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35225 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-95]

National Fuel Gas Supply Corp.; Informal Settlement Conference

November 5, 1980.

Take notice that an informal settlement conference of all interested parties to this proceeding will be held at 10:00 a.m. on November 25, 1980, in Room 3200 of the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35187 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-71-000]

New England Power Co.; Proposed Changes in Rates and Charges

November 5, 1980.

The filing Company submits the following:

The Federal Energy Regulatory Commission issues notice that on October 31, 1980 New England Power Company ("NEP") filed revised tariff sheets constituting a new Rate W-3 for its Primary Service for Resale and its Contract Demand ("CD") Service, and a new interim Rate W-3(C) for its Primary Service for Resale. NEP requests an effective date of January 1, 1981 for rate W-3. NEP states that its W-3 revised tariff sheets will result in an increase in jurisdictional revenues on the basis of a 1981 test year of approximately $55,551,222. This increase results from a decrease in revenues of $22,893 from CD customers and an increase in revenues of $55,574,115 from the Primary customers. NEP states that its W-3(C) revised tariff sheets will result in an increase in jurisdictional revenues on the basis of a 1981 test year of approximately $20,313,894. This increase is part of the overall increase of $55,574,115 to Primary customers and was filed to permit a one day suspension on the portion of the rate increase associated with the Company's coal conversion program if the basic W-3 rate is suspended from a longer period; CD customers would not be affected by the W-3(C) rate.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before November 26, 1980 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35186 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-64-000]

New England Power Co.; Proposed Tariff Change

November 5, 1980.

The filing Company submits the following:

Take notice that New England Power Company ("NEP") on October 30, 1980 tendered for filing amendments to its FERC Electric Tariff, Original Volume No. 2 between NEP and 21 of is Customers. The proposed effective date is November 1, 1980.

NEP states that the proposed amendment will expand the availability provisions for the sale of System Power-Unreserved to these Customers.

NEP states further that waiver of the Commission's Regulations regarding prior notice is requested due to the agreement of all parties to the tariff to the proposed revision.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35189 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-70-000]

New England Power Co.; Proposed Tariff Change

November 5, 1980.

The filing Company submits the following:

Take notice that New England Power Company ("NEP") on October 31, 1980, tendered for filing a proposed change in its Service Agreement for Primary Service for Resale with The Narragansett Electric Company ("NARRAGANSETT"). The proposed change would decrease the fixed credits allowed Narragansett on its purchased power billing by NEP in the amount of $82,000 annually based on the 12 month period ending December 31, 1981.

NEP, conjunctively with its affiliate Narragansett, reviews annually that part of Narragansett's system which is used by it in troviding all-requirements service to Narragansept, and upon a substantial change in circumstance, refiles with the Commission the revised generation and transmission credits. The instant revision is primarily due to a substantial reduction in book depreciation expense associated with Narragansett's generating facilities.

Copies of the filing were served upon Narragansett and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35190 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3348 and Project No. 3422]

Noah Corp. and the City of Covington, Virginia and Continental Hydro Corp.; Applications for Preliminary Permit

November 5, 1980.

Take notice that Noah Corporation and the City of Covington, Virginia (Applicant/NCCC) jointly, and the Continental Hydro Corporation (Applicant/CHC), filed on August 22, 1980 and September 2, 1980, respectively, competing applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)-825(r)] for proposed hydroelectric projects, each to be known as the Gathright Dam Project, FERC Projects Nos. 3348 and 3422, respectively, located on the Jackson River in Alleghany County, Virginia. Correspondence with Applicant (NCCC) should be directed to: James B. Price, President, Noah Corporation, Post Office Drawer 640, Aiken, South Carolina 29801. Correspondence with Applicant (CHC) should be addressed to: A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description.—The proposed project would utilize the U.S. Army Corps of Engineers' Gathright Dam presently under construction and would consist of: (1) a 100-foot long penstock (NCCC) or a 270-foot long penstock (CHC); (2) a powerhouse containing generating unit(s) having a total rated capacity of 9,000 kW (NCCC) or 2,200 kW (CHC); (3) a short tailrace; (4) a 1.5 to 2-mile long transmission line; and (5) appurtenant facilities. NCCC estimates the annual generation would average approximately 17,000,000 kWh; CHC estimates the annual generation would average 8,500,000 kWh.

Purpose of Project.—Both applicants propose to sell the power output to a public or private utility.

Proposed Scope and Cost of Studies under Permit.—Both Applicants seek issuance of preliminary permits for a period of 36 months. Each Applicant proposes that it would perform data acquisition, investigations, studies, feasibility evaluation, would consult with Federal, State, and local government agencies, and prepare an application for an FERC license, including an environmental report. CHC and NCCC estimate that the cost of studies under the permit would not exceed $45,500 and $100,000 respectively.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be

made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), as amended, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 9, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35179 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2079]

Placer County Water Agency; Application for Amendment of License

November 6, 1980.

Take notice that on August 25, 1980, the Placer County Water Agency of California (Licensee) filed an application for amendment of its license for the existing Middle Fork American River Project No. 2079, located on Middle Fork American River and Rubicon River in Placer County, California. Correspondence concerning the application should be sent to: Mr. Edward Horton, Chairman, Board of Directors, Placer County Water Agency, P.O. Box 3218, Auburn, California 95604.

The Licensee seeks authorization to construct, operate and maintain: (a) a powerhouse with a rated capacity of 550 kW at the outlet of the project's existing Hell Hole Dam; and (b) a 2,300-foot long, 12-kV transmission line connecting the proposed powerhouse to the project's existing 12-kV line, west of the powerhouse.

The proposed powerhouse would utilize fish flow releases required by Article 37 of the license and would not in any way alter the current fish flow release requirements under the license.

The Licensee estimates the capital cost of the proposed action to be $500,000, assuming that construction starts in April 1981, and the plant is in commercial operation by November 1982. The power generated by the proposed powerhouse would sold to Pacific Gas and Electric Company.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for amendment of license. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of an amendment to the license. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35226 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3286]

Puget Sound Power & Light Co.; Application for Preliminary Permit

November 6, 1980.

Take notice that Puget Sound Power & Light Company (Applicant) filed on August 1, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)) for proposed Project No. 3286 to be known as the Bear Creek Project to be located on Bear Creek in Skagit County, Washington. Correspondence with the Applicant should be directed to: Mr. David H. Knight, Vice President, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009 with copies to Perkins, Coie, Stone, Olson & Williams, Attention: Susan K. Donaldson, 1900 Washington Building, Seattle, Washington 98101.

Project Description.—The proposed project would consist of: (1) an existing 20-foot-high by 217-foot-long concrete arch dam (to be rehabilitated) creating a 10-acre-foot pond; (2) a new 2,500-foot-long, 36-inch-diameter penstock serving; (3) a new powerhouse (to replace the abandoned powerhouse) to contain one turbine generator unit having a rated capacity of 2,500 kW; and (4) a new 1.2-mile-long, 12.5-kV transmission line to connect to the Applicant's distribution system.

Purpose of Project.—The power generated at the project would be used to meet the Applicant's load growth in its service area in western Washington. Applicant estimates that the project would produce an annual output of about 14.4 million kWh.

Proposed Scope and Cost of Studies Under Permit.—The Aplicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 24 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agenices, and preparation of an FERC license application are estimated to be about $275,000.

Purpose of Preliminary Permit.—A preliminary permit does ot authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d). (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 9, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3286. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Divisin of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35227 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-65-000]

Southern California Edison Co.; Proposed Tariff Change

November 5, 1980.

The filing Company submits the following:

Take notice that Southern California Edison Company ("Edison") on October 30, 1980, tendered for filing a change of rate scheduling and dispatching services under the provisions of Edison's agreements with the parties listed below as embodied in their FERC Rate Schedules. Edison requests that the new rates for these services be made effective January 1, 1981.

	FERC No	New rate (dollars per month)	Monthly increase over 1980 (dollars)	Total 1981 increase (dollars)
1. Pasadena	88	952	68	816
2. APPA	92	3,927	280	3,360
3. APPA	93	595	42	504
4. Glendale:				
1st supplier:				
Point of Interconnection	97			
Point of Delivery Combination		1,071	76	912
Each additional Combination		595	42	504
5. Los Angeles	102	1,071	76	912
6. SDG&E:				
1st Supplier:				
Point of Receipt	107			
Point of Delivery Combination		1,071	76	912
Each Additional Combination		595	42	504
7. PG&E	109	1,071	76	912
8. PG&E	110	1,071	76	912
9. CDWR:				
Firm Service, 1st Supplier	[1]113			
Point of Receipt, Point of Delivery Combination		1,309	[2]154	[2]1,848
Each Additional Combination		833	[2]98	[2]1,176
Non-Firm Service, 1st Supplier				
Point of Receipt, Point of Delivery Combination		1,071	[2]126	[2]1,512
Each Additional Combination		595	[2]70	[2]840
10. Burbank:				
1st Supplier:				
Point of Receipt	114			
Point of Delivery Combination		1,071	76	912
Each Additional Combination		595	42	504
11. Pasadena:				
1st Supplier:				
Point of Interconnection	115			
Point of Delivery Combination		1,071	76	912
Each Additional Combination		595	42	504
12. PG&E	117	1,904	136	1,632
13. Los Angeles:				
1st Supplier:				
Point of Interconnection	118			
Point of Delivery Combination		1,071	76	912
Each Additional Combination		595	42	504
14. Western	(3)	1,071	76	912

[1] Service will not commence under this Agreement until 1983

[2] Represents increase over *1979* rates.

[3] FERC Rate Schedule No. not yet assigned. Monthly and total 1981 increase are from the rates tendered for filing by letter dated October 10, 1980.

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Said filing is in accordance with the terms of each of these agreements, which state that the rates for these services will be redetermined prior to January 1 of each year based on Edison's annual budget for load dispatching and production section function expenses for that year.

Copies of this filing were served upon all the interested parties and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35180 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-63-000]

Southern Co. Services, Inc.; Notice of Filing

November 5, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company on October 30, 1980, tendered for filing Amendment No. 1 to the Allocation Methodology and Periodic Rate Computation Manual under the Southern Company System Intercompany Interchange Contract (the Manual). The filing also includes informational schedules which detail the charges and derivation of components of the rates to be used during the calendar year 1981. The filing of the informational schedules was made in accordance with the settlement agreement in Docket No. ER80-65 which was approved by Order of this Commission dated October 1, 1980.

Amendment No. 1 to the Manual provides for a change in the pricing of interchange energy between the operating companies of the Southern Company system. The change provides that such energy will be priced at the incremental cost of the generating unit providing the energy instead of the average cost of such generating unit.

Copies of the filing were served upon the parties of record in *Southern Company Services, Inc.*, Docket No. ER80-65.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 25, 1980. Protests will be considered by the commission in determining the appropriate action to be taken, but will no serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

[FR Doc. 80-35191 Filed 11-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-97-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Revised Rate Filing

November 5, 1980.

Take notice that on October 31, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing certain revised tariff sheets in its FERC Gas Tariff to be effective on November 1, 1980, in lieu of the tariff sheets originally filed in Docket No. RP80-97, as follows:

Ninth Revised Volume No. 1: Thirtieth Revised Sheet Nos. 12A and 12B.

Sixth Revised Volume No. 2: Substitute First Revised Sheet Nos. 266J, 268C, 286E, 287E, 288D, 289E, 290E, 291E, 292E, 297D, 297E, 299L9, 299L10, 299, 299M6, 299N5, 299O5, 299Q5, 299R5, 299S9 and 299S10; Substitute Second Revised Sheet Nos. 266I, 273D, 273E and 274E; Substitute Third Revised Sheet Nos. 262D and 262E, Substitute Fourth Revised Sheet Nos. 141A and 252B; Substitute Fifth Revised Sheet Nos. 246D, 247D, 248D, 249H and 249I; Substitute Sixth Revised Sheet No. 245D; Substitute Seventh Revised Sheet Nos. 76 and 215; Substitute Eighth Revised Sheet Nos. 53, 54 and 77; Substitute Ninth Revised Sheet No. 141; and Substitute Eleventh Revised Sheet Nos. 11 and 12.

Tennessee states that the purpose of the revised tariff sheets is to revise the rates suspended until November 1, 1980, in this proceeding to reflect, (1) the elimination of all facilities and related costs which will not have been certificated and placed in service by October 31, 1980; (2) revisions related to advance payments and research and development expenditures in accord with the Stipulation and Agreement (July 18, 1980), in Docket Nos. RP73-113, *et al.;* and (3) the Current Average Cost of Purchased Gas and certain other rate adjustments reflected in Tennessee's filing made effective on July 1, 1980, in Docket Nos. TA80-2-9 (PGA80-2, *et al.*).

Tennessee further states that copies of the revised filing were served on all customers and affected state commissions as well as all parties to Docket No. RP80-97.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file further. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35181 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RM 79-34 and Docket No. ST80-254, et seq.]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and United Gas Pipeline Co., et al.; Self-Implementing Transactions

November 6, 1980.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to Section 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to Section 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to Section 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to Section 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to Section 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to Section 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under Section 284.221 of the Commission's Regulations.

A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

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DOCKET NO.	TRANSPORTER/SELLER	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (CENTS/MCF)
ST80-254	UNITED GAS PIPE LINE CO.	07/08/80	B	-	-
ST80-255	MONTANA-DAKOTA UTILITIES CO.	07/10/80	B	-	-
ST80-256	MISSISSIPI RIVER TRANSMISSION CORP.	07/11/80	G	-	-
ST80-257	COLUMBIA GULF TRANSMISSION CO.	07/11/80	G	-	-
ST80-258	NATURAL GAS PIPELINE CO. OF AMERICA	07/16/80	G	-	-
ST80-259	NATURAL GAS PIPELINE CO. OF AMERICA	07/16/80	G	-	-
ST80-260	TRANSOK PIPELINE CO.	07/16/80	C	12/13/80	18.50
ST80-261	COLUMBIA GULF TRANSMISSION CO.	07/16/80	G	-	-
ST80-262	COLORADO INTERSTATE GAS CO.	07/21/80	G	-	-
ST80-263	DELMI GAS PIPELINE CORP.	07/23/80	C	-	-
ST80-264	PANHANDLE EASTERN PIPE LINE CO.	07/22/80	G	-	-
ST80-265	TRUNKLINE GAS CO.	07/22/80	G	-	-
ST80-266	TRANSCONTINENTAL GAS PIPE LINE CORP.	07/24/80	G	-	-
ST80-267	TEXAS EASTERN TRANSMISSION CORP.	07/25/80	G	-	-
ST80-268	NORTHERN NATURAL GAS CO.	07/24/80	G	-	-
ST80-269	LAUREL VALLEY PIPELINE CO.	07/25/80	D	-	-
ST80-270	MICHIGAN CONSOLIDATED GAS CO.	07/25/80	G(MS)	-	-
ST80-271	COLUMBIA GAS TRANSMISSION CORP.	04/30/80	B	-	-
ST80-272	MOUNTAIN FUEL SUPPLY CO.	07/31/80	G	-	-
ST80-273	LOUISIANA INTRASTATE GAS CO.	07/31/80	D	12/28/80	20.00
ST80-274	ROCKY MOUNTAIN NATURAL GAS CO.	07/30/80	D	-	-
ST80-275	TRANSCONTINENTAL GAS PIPE LINE CORP.	08/05/80	G	-	-
ST80-276	EL PASO NATURAL GAS CO.	08/04/80	F	-	-
ST80-277	LOUISIANA RESOURCES CO.	08/04/80	C	01/08/81	22.25
ST80-278	CONSOLIDATED GAS SUPPLY CORP.	08/07/80	F	-	-
ST80-279	DELMI GAS PIPELINE CORP.	08/07/80	C	01/09/81	29.50
ST80-280	NORTHWEST PIPELINE CORP.	08/06/80	G	-	-
ST80-281	NORTHWEST PIPELINE CORP.	08/08/80	G	-	-
ST80-282	TRANSCONTINENTAL GAS PIPE LINE CORP.	08/08/80	G	-	-
ST80-283	UNITED TEXAS TRANSMISSION CO.	08/08/80	C	-	-
ST80-284	RAEL GAS CO.	08/12/80	C	01/09/81	24.90
ST80-285	MOUNTAIN FUEL RESOURCES, INC.	08/11/80	G	-	-
ST80-286	MOUNTAIN FUEL SUPPLY CO.	08/11/80	G	-	-
ST80-287	EL PASO NATURAL GAS CO.	08/11/80	G	-	-
ST80-288	COLUMBIA GAS TRANSMISSION CORP.	07/27/80	B	-	-
ST80-289	MOUNTAIN FUEL SUPPLY CO.	08/13/80	G	-	-
ST80-290	MOUNTAIN FUEL RESOURCES, INC.	08/13/80	G	-	-
ST80-291	NORTHERN NATURAL GAS CO.	08/12/80	B	-	-
ST80-292	VALERO INTERSTATE TRANSMISSION CO.	08/15/80	B	-	-
ST80-293	TRANSCONTINENTAL GAS PIPE LINE CORP.	08/15/80	F	-	-
ST80-294	LOUISIANA GAS PURCHASING CORP.	08/22/80	C	01/19/81	11.50
ST80-295	TENNESSEE GAS PIPELINE CO.	08/18/80	F	-	-
ST80-296	ALAGASCO PIPELINE CO.	08/18/80	D	01/15/81	1.50
ST80-297	COLUMBIA GAS TRANSMISSION CORP.	08/19/80	B	-	-
ST80-298	MISSISSIPPI FUEL CO.	08/19/80	C	01/16/81	25.00

* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

DOCKET NO.	TRANSPORTER/SELLER	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (CENTS/MCF)
ST80-299	SUGAR BOWL GAS CORP.	08/20/80	C	01/17/81	20.00
ST80-300	TENNESSEE GAS PIPELINE CO.	08/20/80	G	-	-
ST80-301	SOUTHERN NATURAL GAS CO.	08/20/80	G	-	-
ST80-302	MICHIGAN CONSOLIDATED GAS CO.	08/26/80	G(MS)	-	-
ST80-303	NORTHERN NATURAL GAS CO.	08/26/80	B	-	-
ST80-305	TEXAS GAS TRANSMISSION CORP.	08/18/80	G	-	-
ST80-306	NATURAL GAS PIPELINE CO. OF AMERICA	08/25/80	B	-	-
ST80-307	SOUTHWESTERN GAS PIPELINE, INC.	08/26/80	C	-	-
ST80-308	MICHIGAN WISCONSIN PIPE LINE CO.	08/26/80	G	-	-
ST80-309	COLORADO INTERSTATE GAS CO.	08/06/80	G	-	-
ST80-310	PANHANDLE EASTERN PIPE LINE CO.	08/27/80	G	-	-
ST80-311	TEXAS EASTERN TRANSMISSION CORP.	08/26/80	G	-	-
ST80-312	TRANSCONTINENTAL PIPE LINE CORP.	08/29/80	G	-	-
ST80-313	TRUNKLINE GAS CO.	09/02/80	G	-	-
ST80-314	PRODUCER'S GAS CO.	09/03/80	C	01/31/81	25.00
ST80-315	TRANSCONTINENTAL GAS PIPE LINE CORP.	09/02/80	G	-	-
ST80-316	MICHIGAN GAS STORAGE CO.	09/02/80	B	-	-
ST80-317	TRANSCONTINENTAL GAS PIPE LINE CORP.	09/09/80	G	-	-
ST80-318	TENNESSEE GAS PIPELINE CO.	09/09/80	G	-	-
ST80-319	LOUISIANA INTRASTATE GAS CORP.	09/09/80	C	02/06/81	20.00
ST80-321	SOUTHERN NATURAL GAS CO.	09/12/80	B	-	-
ST80-322	UNITED TEXAS TRANSMISSION CO.	09/12/80	C	-	-
ST80-323	NORTHERN NATURAL GAS CO.	09/12/80	G	-	-
ST80-324	TEXAS EASTERN TRANSMISSION CORP.	09/15/80	G	-	-
ST80-325	MICHIGAN CONSOLIDATED GAS CO.	09/15/80	G(MS)	-	-
ST80-326	CONSOLIDATED GAS SUPPLY CORP.	09/15/80	F	-	-
ST80-327	UNITED GAS PIPE LINE CO.	09/19/80	B	-	-
ST80-328	NATURAL GAS PIPELINE CO. OF AMERICA	09/18/80	G	-	-
ST80-329	TENNESSEE GAS PIPELINE CO.	09/18/80	G	-	-
ST80-330	COLUMBIA GAS TRANSMISSION CORP.	09/17/80	B	-	-
ST80-331	COLUMBIA GAS TRANSMISSION CORP.	09/16/80	B	-	-
ST80-332	TRANSCONTINENTAL GAS PIPE LINE CORP.	09/22/80	G	-	-
ST80-333	MICHIGAN WISCONSIN PIPE LINE CO.	09/12/80	B	-	-
ST80-334	OASIS PIPE LINE CO.	09/22/80	C	-	-
ST80-335	HOUSTON PIPE LINE CO.	09/22/80	C	-	-
ST80-336	SUGAR BOWL GAS CORP.	09/12/80	C	02/20/81	20.00
ST80-337	NATURAL GAS PIPELINE CO. OF AMERICA	09/24/80	G	-	-
ST80-338	NORTHERN NATURAL GAS CO.	09/26/80	B	-	-
ST80-339	UNITED GAS PIPE LINE CO.	09/29/80	B	-	-
ST80-340	VALERO TRANSMISSION CO.	09/24/80	C	-	-

* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

DOCUMENT NO.	TRANSPORTER/SELLER	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (CENTS/MCF)
ST81-1	TENNESSEE EASTERN PIPE LINE CO.	10/02/80	G		
ST81-2	EL PASO NATURAL GAS CO.	10/01/80	B		
ST81-3	TRANSCONTINENTAL GAS PIPE LINE CORP.	10/03/80	G		
ST81-4	CONSOLIDATED GAS SUPPLY CORP.	10/03/80	B		
ST81-5	SOUTHERN NATURAL GAS CO.	10/06/80	C	03/06/81	60.00
ST81-6	CABOT CORP.	10/07/80	G		
ST81-7	MOUNTAIN FUEL SUPPLY CO.	10/07/80	K		
ST81-8	CONSUMERS POWER CO.	10/06/80	G		
ST81-9	TENNESSEE GAS PIPELINE CO.	10/08/80	C		
ST81-10	TENNGASCO GAS GATHERING CO.	10/10/80	G		
ST81-11	MOUNTAIN FUEL SUPPLY CO.	10/10/80	B		
ST81-12	TRUNKLINE GAS CO.	10/09/80	G		
ST81-13	UNITED GAS PIPE LINE CO.	10/14/80	G		
ST81-14	MOUNTAIN FUEL SUPPLY CO.	10/15/80	K		
ST81-15	TENNESSEE GAS PIPELINE CO.	10/14/80	G		
ST81-16	COLORADO INTERSTATE GAS CO.				

* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

FR Doc. 80-35220 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-C

[Project No. 3303]

Water Power Development Corp.; Application for Preliminary Permit

November 5, 1980

Take notice that Water Power Development Corporation (Applicant) filed on August 7, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3303 to be known as Blackwater Power Project located on the Blackwater River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Kenneth E. Mayo, P.E., President, Water Power Development Corporation, 23 Temple Street, Nashua, New Hampshire 03060.

Project Description.—The proposed project would utilize the existing Army Corps of Engineers' Blackwater Dam, Little Hill Dike, and Dodge Estate Dike, and the impounded flood control reservior with a surface area of 3,280 acres and storage capacity of 46,000 acre-feet at spillway crest elevation 566 feet m.s.l.

The proposed project would consist of project works and other appurtenances to be developed and constructed in accordance with the most feasible of the following options.

Option 1.—Utilize an existing equipment room at the dam and an existing plugged 16-foot diameter penstock which is integral with the dam, install turbine-generator units with a total capacity of 443 kW and produce an estimated annual generation of 1.77 million kWh.

Option 2.—Construct a penstock about 300 feet long connecting to a new powerhouse about 300 feet downstream, and install turbine-generator units with a total capacity of 886 kW and produce an estimated annual generation of 3.54 million kWh.

Option 3.—Construct a penstock about 2 miles long and a powerhouse about 2 miles downstream at Snyder's Mill, and install turbine-generator unit with a total capacity of 3,249 kW and produce an estimated annual generation of 13 million kWh.

Option 3A.—The option would include the same powerhouse and penstock proposed in Option 3 (above), but at a lower design/operational head, the installed capacity would be 2,800 kW and produce an estimated annual generationof 11.2 million kWh.

Purpose of Project.—Project energy would be sold to the Public Service Company of New Hampshire, the New England Power Company, or the Concord Electric Company.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months. During the term of the permit the Applicant would perform engineering, economic, and environmental feasibility studies and investigations, and if a project is feasible, prepare an application for FERC license. Applicant estimates that cost of work to be performed under the permit would not exceed $50,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protests may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but a person who merely files a portest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 9, 1981.

Filing and Service of Responsive Documents.—Any comments, notices, of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3303. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35162 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3463]

Water Power Development Corp.; Application for Preliminary Permit

November 5, 1980.

Take notice that Water Power Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3463 to be known as Mansfield Hollow Project located on the Natchaug River in Tolland County, Connecticut. Correspondence with the Applicant should be directed to: Kennth

E. Mayo, P.E., Water Power Development Corporation, 23 Temple Street, Nashua, New Hampshire 03060.

Project Description.—The proposed project would utilize the existing U.S. Army Corps of Engineers' Mansfield Hollow Dam and would consist of (1) a penstock which would utilize existing outlet works in the right section of dam; (2) a powerhouse containing generating units having a total rated capacity of 2,000 kW; (3) a tailrace; (4) a new transmission line; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 5,000,000 kWh.

Purpose of Project.—Project energy would be sold to the Connecticut Light and Power Company.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of 3 years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 12, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 13, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 12, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35183 Filed 11-10-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[SA FRL 1665-5]

Science Advisory Board Toxic Substances Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Toxic Substances Subcommittee of the Science Advisory Board will be held on December 2 and 3, 1980, in Conference Room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The meeting will start at 9:00 a.m. on December 2, 1980. Adjournment will be not later than 4:00 p.m. on December 3, 1980, and possibly earlier. To reach Conference Room 503A, take the Corridor A elevator to the 5th floor and follow the Corridor A sign.

The purpose of the meeting will be to consult the Subcommittee on scientific aspects of a draft document titled, "Technical Support Document for Regulatory Action [TSCA: Section 6(a)] Against Friable Asbestos-Containing Materials in School Buildings," dated September 1980. The Agenda will also include a brief discussion of Agency plans for consulting the Subcommittee on other TSCA-related scientific issues over the coming months and other informational items of current interest to the members.

Pertinent background information follows:

If the Administrator finds that the use of a chemical substance or mixture presents an unreasonable risk of injury to human health, section 6(a) of TSCA requires him to apply one or more of a number of requirements to such substances or mixture to the extent necessary to protect against the risk. The Administrator is required to publish a statement on the effects of such substances or mixture on health and the magnitude of exposure of human beings. The draft Technical Support Document is a preliminary statement of these findings in support of a proposed rule, "Friable Asbestos-Containing Materials in Schools; Proposed Identification and Notification," published in the September 17, 1980 issue of the Federal Register (45 FR 61998). The draft document has been released by the Agency for comment on its technical merit and policy implications.

A meeting of the Subcommittee scheduled for November 5, 1980 and announced in the October 16, 1980 issue of the Federal Register (45 FR 68755) was postponded. The postponement was announced in the October 30, 1980 issue of the Federal Register (45 FR 71862). At the time it was also announced that the meeting would be rescheduled. This is the rescheduled meeting.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper or wishing further information should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 25, 1980. Please ask for Ms. Bernadine Davis or Mr. Ernst Linde. The telephone number is (202) 472-0444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

November 5, 1980.

[FR Doc. 80-35192 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-34-M

[PH FRL 1665-2; PP 5G1623/T263A]

Amitraz; Renewal of Temporary Tolerances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This notice corrects a document that published in the Federal Register of August 28, 1980 (45 FR 55270) FR Doc. 80-26435. The tolerance was printed incorrectly, it appeared as "0.1 ppm" and it should have been "1.0 ppm."

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-303, 401 M St., SW., Washington, D.C. 20460, (202-426-2635).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of August 28, 1980 (45 FR 55270) that a temporary tolerance had been renewed for Amitraz in or on the raw agricultural commodities grapefruits, lemons, oranges, and tangerines at 1.0 ppm.

The tolerance was listed incorrectly in the third column, 16th line. Please correct the tolerance to read "1.0 ppm."

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 136 (j)))

Dated: November 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35130 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-32-M

[PH FRL 1665-4; OPP-C31040]

Linda Plastics of Florida, Inc.; Application To Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Linda Plastics of Florida, Inc. has submitted an application to conditionally register a pesticide product, RATTEX, entailing a changed use pattern.

DATE: Written comments must be received by December 10 1980.

ADDRESS: Written comments to: William H. Miller, Product Manager (PM) 16, Registation Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency Rm. E-343, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller (202-426-9458).

SUPPLEMENTARY INFORMATION: Linda Plastics of Florida, Inc., 1207 North 19th St., Tampa, FL 33605, has submitted to the EPA an application to conditionally register the pesticide product RATTEX rodenticide (EPA Reg No. 44776-R) containing the active ingredient Warfarin 3-(A-acetonylbenzyl)-4-hydroxycoumarin at 0.25 percent. The product is proposed for general use on sugarcane, orange groves, and open land. At the present Warfarin is registered basically for the following sites (in and round buildings) and pests (Norway rat, roof rat, and house mice). This registration is for the old pest but new sites, some of which are considerd food or feed.

Notice of approval or denial of this application to conditionally register the pesticide produce will be announced in the Federal Register. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval, under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved. Notice of receipt of this application does not indicate a decision by the agency on the application.

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to the Product Manager. The comments must be received on or before December 10, 1980 and should bear a notation indicating the document control number "[OPP-C30140]" and the registration number "44776-R." Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as written coments filed pursuant to this notice, will be available for public inspection in the product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. (40 CFR 162.5 and 162.6).

Dated: November 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35129 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-32-M

[PH FRL 1665-3; OPP-50504]

Zoecon Industries et al.; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has issued experimental use permits to the following applicants. Such permits are in accordance with and subject to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The designated Product Manager at the telephone number provided with each permit at the address below: Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

2724-EUP-25. Zoecon Industries, 1200 Denton Dr., Dallas, TX 75234. This experimental use permit allows the use of 0.134 pounds of the insecticides methoprene [isopropyl (*E,E,*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate] and permethrin (3-phenoxyphenyl) methyl (±) *Cis-trans*-3-(2,2-dichloroethenyl)2,2-dimethyl-cyclopropanecarboxylate in homes to evaluate control of ticks, fleas, cockroaches, and houseflies. A total of 200 homes are involved. The program is authorized only in the States of California, Florida, and Texas. The permit is issued with the limitation that the insecticide not enter the food chain. This experimental use permit is effective from August 15, 1980 to August 15, 1981. (PM 17, Franklin D.R. Gee, Rm. E-341, 202-755-1150).

2724-EUP-26. Zoecon Industries, 1200 Denton Dr., Dallas, TX 75234. This experimental use permit allows the use of 0.109 pounds of the insecticides methropene and permethrin in homes to evaluate control of ticks, fleas, cockroaches, and houseflies. A total of 200 homes are involved. The program is authorized only in the States of California, Florida, and Texas. The permit is issued with the limitation that the insecticide not enter the food chain. This experimental use permit is effective from August 15, 1980 to August 15, 1981. (PM 17, Franklin D.R. Gee, Rm. E-341, 202-755-1150).

2343-EUP-1. Kerr-McGee Chemical Corp., Kerr-McGee Center, 135/433 Oklahoma City, OK 73125. This experimental use permit allows the use of 4,200 pounds of the desicant sodium chlorate on peas and lentils to evaluate sodium chlorate as a harvest aid in the

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harvesting of peas and lentils. A total of 1,500 acres are involved. The program is authorized only in the States of Idaho, Oregon, and Washington. This permit is issued under the limitation that all treated crops be destroyed or used for research purposes only. The experimental use permit is effective from August 29, 1980 to August 29, 1981. (PM 25, Robert J. Taylor, Rm. E-359, 202-755-2196).

37843-EUP-2. University of Hawaii, Department of Agricultural Biochemistry, 1800 East West Road, Honolulu, HI 96822. This experimental use permit allows the use of 400 pounds of the insecticide acephate on macadamia nut orchards to evaluate control of thrips. A total of 200 acres are involved. The program is authorized only in the State of Hawaii. The experimental use permit is effective from September 22, 1980 to September 22, 1981. A temporary tolerance for residues of acephate on macadamia nuts has been established. (PM 16, William H. Miller, Rm. E-343, 202-426-9458).

100-EUP-64. Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 11422. This experimental use permit allows the use of 2,315 pounds of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-ethyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4,-triazole and its 2,4-dichlorbenzoic acid metabolities in or on almonds, almond hulls, apples, peaches, plums, (fresh prunes) and cherries to evaluate control of disease. A total of 3,420 acres are involved. The program is authorized only in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. This experimental program is effective from October 7, 1980 to December 31, 1982. A temporary tolerance has been issued for residues of the fungicide on the above-named crops. (PM 21, Eugene M. Wilson, Rm. E-349, 202-755-1806.)

Persons wishing to review the experimental use permits are referred to the product manager. Inquiries regarding these permits should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5. 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: November 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticides Programs.

[FR Doc. 80-35131 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-110]

American Federal Savings and Loan Association, Anadarko, Oklahoma; Final Action Approval of Conversion Application

Notice is hereby given that on September 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-575, approved the application of The American Federal Savings and Loan Association, Anadarko, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35155 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-109]

First Federal Savings and Loan Association of Madison, Madison, Connecticut; Final Action Approval of Conversion Application

Notice is hereby given that on September 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-576, approved the application of First Federal Savings and Loan Association of Madison, Madison, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02106.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35154 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-108]

First Federal Savings and Loan Association of Pitt County, Greenville, North Carolina; Final Action Approval of Conversion Application

Notice is hereby given that on August 29, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-558, approved the application of First Federal Savings and Loan Association of Pitt County, Greenville, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35156 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-104]

First Federal Savings and Loan Association of Chickasha, Chickasha, Oklahoma; Final Action Approval of Conversion Application

Notice is hereby given that on September 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-576, approved the application of First Federal Savings and Loan Association of Chickasha, Chickasha, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35160 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-106]

Home Federal Savings and Loan Association, Statesville, North Carolina; Final Action Approval of Conversion Application

Notice is hereby given that on September 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-575, approved the application of Home Federal Savings and Loan Association, Statesville, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Altanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35158 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-105]

Bell County Savings and Loan Association, Belton, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on September 5, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-580, approved the application of Bell County Savings and Loan Association, Belton, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35159 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-107]

Security Federal Savings & Loan Association of Richmond, Richmond, Va.; Final Action Approval of Conversion Application

Notice is hereby given that on September 5, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-581, approved the application of Security Federal Savings and Loan Association of Richmond, Richmond, Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

Dated: October 31, 1980.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-35157 Filed 11-10-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Bank of New York International, Inc.; Corporation To Do a Business Under Section 25(a) of the Federal Reserve Act Establishment of U.S. Branch of a Corporation To Be Organized Under Section 25(a)

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as The Bank of New York International, Incorporated, Miami, Florida. The Bank of New York International, Incorporated would operate as a subsidiary of The Bank of New York, New York, New York. The proposed corporation has also applied for the Board's approval under § 211.4(c)(1) of Regulation K (12 CFR 211.4(c)(1)) to establish branches in Chicago, Illinois, and Houston, Texas. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35091 Filed 11-10-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Shares, Inc.; Formation of Bank Holding Company

Bank Shares, Inc., Lake Havasu City, Arizona, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 32.59 percent of the voting shares of The State Bank, Lake Havasu City, Arizona. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35092 Filed 11-10-80; 8:45 am]

BILLING CODE 6210-01-M

Blythedale Bancshares, Inc.; Formation of Bank Holding Company

Blythedale Bancshares, Inc., Blythedale, Missouri, has applied for the Board's approval under section 3(a)(1) of

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the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Citizens Bank, Blythedale, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35093 Filed 10-10-80; 8:45 am]

BILLING CODE 6210-01-M

Lawrence County Bancshares, Inc.; Formation of Bank Holding Company

Lawrence County Bancshares, Inc., Lawrenceburg, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Lawrence County Bank, Lawrenceburg, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 3, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35094 Filed 11-10-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Mental Health Council; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of December 1980.

National Advisory Mental Health Council

December 1–2; 9:30 a.m.—Open.
Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Contact: Mrs. Ruth Gorin, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.
Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.
Agenda: The entire meeting will be devoted to discussion of NIMH policy issues and will be open to the public. Discussions will include current adminstrative, legislative, and program developments.
Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available. The NIMH Committee Management Office will furnish upon request summaries of the meeting and a roster of Council members. Contact Ms. Val Dowdy, Room 9–95, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–4333.

Dated: November 5, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Adminstration.

[FR Doc. 80-35088 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-88-M

Office of Human Development Services

White House Conference on Aging, National Advisory Committee; Meeting

The 1981 White House Conference on Aging National Advisory Committee was established by the Department of Health and Human Services to provide advice and recommendations to the Secretary of HHS and to the Executive Director of the 1981 White House Conference on Aging in the planning, conducting, and reviewing of the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee, (Public Law 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Full National Advisory Committee will hold a meeting on November 19 and 20, 1980. The meeting on November 19th will convene at 1:30 to 5:00 p.m. in the Lister Hill National Center for Biomedical Communications Auditorium, National Library of Medicine, National Institute of Health, Bethesda, Maryland. On November 20, 1980 the committee will convene from 9:30 a.m. until 12 noon at the above location.

At the meeting the committee will receive an update of Conference activities and progress reports from the subcommittees of the 1981 White House Conference on Aging.

Further information on the National Advisory Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. National Advisory Committee meetings are open for public observation. This notice has been delayed due to the difficulty in obtaining Federal meeting space.

Dated: November 6, 1980.

Mamie Welborne,

Committee Management Officer.

[FR Doc. 80-35115 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference. Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on the Social and Health Aspects of Long Term Care will hold a meeting on December 7 and 8, 1980. The meeting on December 7, 1980 will be held from 11:00 a.m. to 5 p.m., the meeting on December 8, 1980 will be held from 9:00 a.m. to 4:00 p.m., in Rooms 525A and 529A in the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The purpose of the meeting is to discuss key issues of the technical committee report based on a draft staff discussion on themes and issues that frame the national debate on long term care.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 6, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35116 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee Meeting; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Health Maintenance and Health Promotion will hold their meeting on December 8 and 9, 1980 from 9:30 to 5:30 p.m. (each day) in Rooms 337A and 339A of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. The purpose of this meeting is to review the first draft of the Technical Committee's final report on Health Maintenance and Health Promotion.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 6, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35117 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service

National Center for Health Care Technology; Scientific Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is beginning a scientific evaluation of the clincial safety and effectiveness of B-scan ultrasound for the diagnosis of peripheral vascular disease. Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing on or before January 12, 1981. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written materials should be submitted to: National Center for Health Care Technology, Room 17A–29, Parklawn, Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Stephen P. Heyse, M.D., M.P.H., Health Science Analyst, National Center for Health Care Technology, Room 17A–29, Parklawn Building, Rockville, Maryland 20857, (301) 443–4990.

Dated: November 5, 1980.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-35090 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-85-M

National Center for Health Care Technology; Scientific Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is beginning a scientific evaluation of the clinical safety and effectiveness of stereotaxic depth electrode implantation for localization of the epileptic focus prior to surgical ablation of cerebral tissue for the management of drug resistant partial cerebral seizures. Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing on or before January 12, 1981. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written material should be submitted to: National Center for Health Care Technology, Room 17A–29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Stephen P. Heyse, M.D., M.P.H., Health Science Analyst, National Center for Health Care Technology, Room 17A–29, Parklawn Building, Rockville, Maryland 20857, (301) 443–4990.

Dated: November 5, 1980.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-35089 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-84-M

Health Resources Administration

Application Announcement for Grants for Predoctoral Training in Family Medicine

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Predoctoral Training in Family Medicine are now being accepted under the authority of section 786(a) of the Public Health Service Act.

Section 786(a) of the Public Health Service Act authorizes the award of grants to assist in meeting the cost of planning, developing, and operating or participating in approved predoctoral training programs in the field of family medicine. Section 786(a) also provides financial assistance to trainees participating in predoctoral training programs who are in need of financial assistance and who plan to work in the practice of family medicine.

To receive support, programs must meet the requirements of the Final Regulations, published in the **Federal Register** on October 16, 1980, Vol. 45, No. 202. Eligible applicants are accredited public or nonprofit private schools of medicine or osteopathic medicine.

This program is listed at 13.896 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in

V 45 N NO 12 80 0 UMI

the Office of Management and Budget Circular No. A–95.

In the funding of approved applications, preference will be given to projects in which:

1. Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners; and/or

2. Substantial portions of a project are conducted in a primary medical care manpower shortage area(s) designated under section 332 of the PHS Act, or in an Area Health Education Center funded, at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D–15), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6564.

Should additional programmatic information be required, please contact:

Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources Administration, Center Building, Room 3–30, 3700 East West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7350.

The deadline date for receipt of applications is November 21, 1980.

Approximately $6 million is expected to be available in fiscal year 1981 for competitive awards.

Dated: November 6, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-35148 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Physician Assistant Training Programs

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Physician Assistant Training Programs are now being accepted under the authority of section 783(a)(1) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484).

Section 783 authorizes the award of grants to accredited schools of medicine or osteopathy and other public or nonprofit private entities, whose principal functions include health and/or education, to assist in meeting the cost of planning, developing and operating or maintenance programs for the training of physician assistants as defined under section 701(7) of the Public Health Service Act. In addition, grants may include costs of preparing faculty members to teach in programs for the training of physician assistants. To receive support, programs must meet the requirements of sections 701(7) and 783(a)(1) of the Act and Final Regulations implementing these sections published in the **Federal Register** on June 21, 1979, Vol. 44, No. 121 and technical amendment dated June 19, 1980.

Funding preference will be accorded approved applications with projects in which:

1. A program is conducted for training physician assistants to provide primary care patient services under the supervision of a doctor of medicine or osteopathy; and/or

2. Substantial training experience is provided in a health manpower shortage area(s), as defined in section 332 of the PHS Act, or in an area health education center funded, at least in part, under section 781 of the Act; and/or

3. A program is established in a State which does not have such a program; and/or

4. A program is conducted in conjunction with primary care physician education in a manner which shares educational resources, and encourages the utilization of physician assistants by physicians.

This program is listed at 13.886 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Approximately $1.2 million is expected to be available in fiscal year 1981 for competitive awards.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D–21), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6098.

Should additional Programmatic information be required, please contact:

Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7350.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions, Health Resources Administration, at the above address no later than December 8, 1980.

Dated: November 6, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-35149 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Expanded Function Dental Auxiliary Training

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal; year 1981, Grants for Expanded Function Dental Auxiliary (EFDA) Training are now being accepted under the authority of sections 783(a)(2) and 701(8) of the Public Health Service Act, Title VII, Parts A and F.

Section 783(a)(2) authorizes the Secretary to make grants to public and nonprofit private schools of dentistry or other public or nonprofit private entities which have programs for the training of dental auxiliaries, to meet the costs of projects to plan, develop and operate or maintain programs for the educational preparation of these auxiliaries to be efficient members of the dental health care team who, under supervision of the dentist, can perform legally delegated functions to increase the profession's potential to provide high quality dental care to more people.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D–29), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6058.

Should additional programmatic information be required, please contact:

Professional Education Branch, Division of Dentistry, Bureau of Health Professions, Health Resources Administration, Center Building, Room 1–20, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6514.

The dealine date for receipt of applications is November 28, 1980.

Approximately $1.3 million is expected to be available in fiscal year 1981 for competitive awards.

This program is listed at 13.889 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Dated: November 6, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-35150 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Residency Training in the General Practice of Dentistry

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Residency Training in the General Practice of Dentistry are now being accepted under the authority of section 786(b) of the Public Health Service Act.

Section 786(b) of the Public Health Service Act authorizes the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) "to plan, develop and operate an approved residency program in the general practice of dentistry" and "to provide financial assistance to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentisty."

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D–30), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6058.

Should additional programmatic information be required, please contact:

Professional Education Branch, Division of Dentistry, Bureau of Health Professions, Health Resources Administration, Center Building, Room 1–20, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6514.

To be considerd for fiscal year 1981 funding, completed applications must be submitted and postmarked no later than December 12, 1980.

Approximately $2.8 million is expected to be available in fiscal year 1981 for competitive awards.

This program is listed at 13.897 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Dated: November 6, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-35147 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intensive Wilderness Inventory of Units in Southeast Oregon; Decisions in Effect and Decisions Appealed; Correction

This notice is a correction of the announcement which appeared in the **Federal Register** on October 2, 1980, page 65339.

Final decisions on the accelerated intensive wilderness inventory of 30 units in southeast Oregon were announced in the **Federal Register** on March 27, 1980, pages 20166 and 20167. A notice was published in the **Federal Register** on May 21, 1980, page 34075 identifying which decisions were in effect and which had been protested. On August 5, 1980, a notice was published in the **Federal Register**, pages 51925–51926 to explain responses to the protests and to announce a period during which appeals could be filed against the responses to the protests. This notice identifies which decisions or units previously under protest are now in effect and which are under appeal.

A. The decisions on the following units or subunits were previously under protest. No appeals were received and the decisions are now final and in effect.

Unit identified as a Wilderness Study Area

Unit No.	Acreage
5–14	3,144
Total	3,114

Units Eliminated From Further Wilderness Review

Unit No.	Acreage
1–76	20,040
1–77	9,920
1–105	30,000
2–1	62,885
2–11	11,300
2–20A	5,910
2–26	15,045
2–74E	23,140
2–74N	10,470
3–154	6,680
Total	195,390

B. The decisions to identify the following two subunits as wilderness study areas were previously protested, the protests were denied, and the decisions are now under appeal to the Interior Board of Land Appeals.

The Interim Management Policy and Guidelines continue to apply to these areas.

Unit No.	Acreage
2–81L	67,430
2–82H	97,395
Total	164,825

C. One other wilderness inventory unit in Oregon continues under an appeal of an initial inventory decision. It is Unit 11–6 with 720 acres. The appeal on this unit was announced in the **Federal Register** on November 29, 1979, page 68526.

Herbert L. Haglund,

Acting State Director.

[FR Doc. 80-35095 Filed 11-10-80; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 31, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 28, 1980.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Blessed Sacrament Academy (Convent of Perpetual Adoration)* 1525 Cotton Ave., SW.

Montgomery County

Montgomery, *McBryde-Screws-Tyson House,* 433 Mildred St.

ILLINOIS

Cook County

Brookfield, *Grossdale Station,* Prairie and Burlington Aves.

V 45 N 012 80 UMI

INDIANA

Allen County
Fort Wayne, *Reed, Hugh B., Block*, 526 S. Calhoun St.

Harrison County
Laconia vicinity, *Kintner-Withers House*, S of Caconia on Kintner Bottoms Rd.

Knox County
Vincennes vicinity, *Fort Knox II Site*, N of Vincennes

Marion County
Indianapolis, *Sommer, August, House*, 29 E. McCarty St.
Lawrence, *Fort Harrison Terminal Station*, Fort Harrison

KANSAS

Franklin County
Ottawa,, *Ottawa Library*, 5th and Main Sts.

Geary County
Junction City, *Bartell House*, 6th and Washington Sts.

Gove County
Grainfield, *Gratnfield Opera House*, Main and 3rd Sts.

Johnson County
Olathe, *Pickering, I. O., House*, 507 W. Park St.

Marshall County
Marysville, *Koester Block Historic District*, 9th, 10th, Elm and Broadway Sts.

Morris County
Council Grove, *Farmers and Drovers Bank and Indicator Building*, 201 and 203 W. Main St. (boundary increase)

Nemaha County
Baileyville vicinity, *St. Mary's Church*, NE of Baileyville

Riley County
Manhattan, *Anderson Hall*, Kansas State University campus
Manhattan, *Woman's Club House*, 900 Poyntz Ave.

Sedgwick County
Wichita, *Orpheum Theater and Office Building*, 200 N. Broadway St.

Shawnee County
Topeka, *Grand Opera House*, 615 Jackson St.

Wyandotte County
Kansas City, *Gates, Judge Louis, House*, 4146 Cambridge St.

KENTUCKY

Clark County
Winchester, *Winchester Downtown Commercial District*, Roughly bounded by RR tracks, KY 627, Maple and Highland Sts.

Edmonson County
Brownsville vicinity, *Ford, William, House*, S of Brownsville on U.S. 31W

Monroe County
Tompkinsville vicinity, *Kirkpatrick, Moses, I., House*, E of Tompkinsville on U.S. 212

Woodford County
Versailles vicinity, *Lyne, Thomas, House*, S of Versailles on Smith Lane

MAINE

Hancock County
Blue Hill, *Blue Hill Historic District*, ME 15, ME 172, ME 176 and ME 177

MARYLAND

Prince Georges County
Bowie, *Williams Plains*, MD 3
District Heights vicinity, *Concord*, 8000 Walker Mill Rd.
Upper Marlboro vicinity, *Mattaponi, S* of Upper Marlboro at 3499 Mappaponi Rd.

MICHIGAN

Wayne County
Detroit, *Detroit Masonic Temple*, 500 Temple Ave.

MISSISSIPPI

Adams County
Natchez vicinity, *Mount Olive*, NE of Natchez.

Hinds County
Edwards vicinity, *Easter Flood Site (22-HI-583)* W of Edwards.
Jackson, *Fountainhead*, 306 Glen Way.

Monroe County
Aberdeen vicinity, *Crawford Site (22-Mo-902)* NW of Aberdeen.
Nettleton vicinity, *Town Creek Mound and Village Site (22-Mo-942)* S of Nettleton.

Noxubee County
Macon, *Goodwin-Harrison House*, 213 N. Jefferson St.

Pike County
McComb, *White-Alford House*, 845 White Blvd.

MONTANA

Gallatin County
Bozeman, *Barnett, R.T., Company Building*, 13 E. Main St.

NEBRASKA

Antelope County
Neligh, *Antelope County Courthouse*, 501-511 Main St.
Neligh, *Gates College Gymnasium (Antelope County Jail)* 509 L St.

Douglas County
Omaha, *Brandeis-Millard House*, 500 S. 38th St.
Waterloo, *Robinson, J. C., House*, 102 E. Lincoln Ave.

NEW HAMPSHIRE

Belknap County
Belmont, *Belmont Bandstand*, Mill St.

Carroll County
Madison, *Madison School, District No. 1*, NH 113

Coos County
Groveton vicinity, *Stark Covered Bridge*, E of Groveton at NH 10 and Northside Rd.

Grafton County
Lisbon, *Lisbon Inn*, Main St.
Littleton, *Lane, Edward H., House*, 16 Cottage St.

Hillsborough County
Peterborough, *All Saints' Church*, 51 Concord St.

Rockingham County
Newmarket, *Newmarket Industrial and Commercial Historic District*, NH 108

NEW YORK

Albany County
Albany, *Knickerbocker and Arnink Garages*, 72 and 74 Hudson Ave.

NORTH CAROLINA

Forsyth County
Winston-Salem, *Reynolda Historic District*, Reynolda Rd.

OHIO

Erie County
Sandusky, *Hotel Breakers*, Cedar Point.

Gallia County
Patriot vicinity, *Davis Mill*, NE of Patriot on Cora Mill Rd.

Van Wert County
Van Wert, *Marsh, George H., Homestead and the Marsh Foundation School*, Ridge Rd.

OREGON

Curry County
Sixes vicinity, *Hughes, Patrick, House*, Cape Blanco State Park.

SOUTH CAROLINA

Orangeburg County
Eutawville vicinity, *St. Julien Plantation, SC 6*.

UTAH

Emery County
Castle Dale, *Christensen, Paul C., House*, Off UT 10.

Grand County
Harley Dome vicinity, *Westwater Creek (Book Cliffs) Rock Art District*, NW of Harley Dome.
Moab, *Moab L.D.S. Church*, Off U.S. 160.

Summit County
Park City, *St. Luke's Episcopal Church*, 523 Park Ave.

Utah County
Mapleton, *Bird, Roswell Darius, Sr., House*, 115 S. Main St.

VERMONT

Franklin County
St. Albans, *L'Ecole Saintes-Anges*, 247 Lake St.

Lamoille County
Johnson, *Johnson Railroad Depot*, Railroad St.

VIRGINIA

Albemarle County
Covesville vicinity, *Edgemont*, SE of Covesville on VA 712.

Bristol (independent city)
Bristol Railroad Station, State and Washington Sts.

Charles City County
Charles City vicinity, *Upper Weyanoke*, S of Charles City on VA 619.

Nelson County
Shipman vicinity, *Soldier's Joy*, SE of Shipman on VA 626.

Northampton County
Cape Charles vicinity, *Stratton manor*, SE of Cape Charles off VA 642.

Smyth County
Marion vicinity, *Thomas, Abijah, House*, SW of Marion on VA 657.
Seven Mile Ford vicinity, *Aspenvale Cemetery*, Off U.S. 11.

WEST VIRGINIA

Hatfield Cemeteries in Southwestern West Virignia Thematic Resources. Reference—see individual listings in Logan and Mingo counties

Cabell County
Huntington, *Ninth Street West Historic District*, 9th St., Madison and Jefferson Aves.

Greenbrier County
White Sulphur Springs vicinity, *Mountain Home*, SW of White Sulphur Springs on U.S. 60

Hampshire County
Romney vicinity, *Sycamore Dale*, W of Romney off SR 8

Harrison County
Salem, *Salem Historic District*, WV 23

Kanwha County
Charleston, *Kearse Theater*, 161, 165 and 167 Summers St.
Charleston, *Wood, Col. Henry Hewitt, House*, 6560 Roosevelt Ave., SE

Lincoln County
Alum Creek vicinity, *Holley Hills Estate*, S of Alum Creek on Coal River Rd.

Logan County
Sarah Ann vicinity, *Hatfield Cemetery (Hatfield Cemeteries in Southwestern West Virginia Thematic Resources)* S of Sarah Ann on U.S. 119

Mercer County
Princeton, *Mercer County Courthouse*, Courthouse Sq.

Mingo County
New Town vicinity, *Hatfield Cemetery (Hatfield Cemeteries in Southwestern West Virginia Thematic Resources)* S of New Town on SR 6

Morgan County
Berkeley Springs, *Suit, Samuel Taylor, Cottage*, WV 9

Randolph County
Elkins, *Randolph County Courthouse and Jail*, Randolph Ave. and High St.

WISCONSIN

Dane Country
Dane vicinity, *Dunroven House*, 7801 Dunroven Rd.
Madison, *Braley, Judge Arthur B., House*, 422 N. Henry St.
Madison, *Clarke, Bascom B., House*, 1150 Spaight St.
Madison, *Kayser, Adolph H., House*, 802 E. Gorham St.

Dodge County
Beaver Dam, *St. Mark's Episcopal Church*, 130 E. Maple St.

Manitowoc County
St. Nazianz, *Colony of St. Gregory of Nazianzen*, Off VA A and VA c

Sheboygan County
Plymouth, *Huson, Henry H., House and Water Tower*, 405 Collins St.

[FR Doc. 80-34739 Filed 11-10-80; 8:45 am]

BILLING CODE: 4310-03-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The U.S. Advisory Commission on Public Diplomacy will meet on November 19 in Room 1008—1750 Pennsylvania Ave., NW., Washington, D.C. from 9:30 a.m. until 12:00. The topic of discussion will be Commission travel. Because space is limited, please call Miss Elizabeth Fahl, (202) 724-9243, if you are interested in attending the meeting.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 80-35075 Filed 11-10-80; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Modification of Form QL&D-R&M Filing requirements for 1980

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Bureau of Accounts is announcing that carriers subject to QL&D reporting will be permitted to file an annual QL&D-R&M Form for 1980 in lieu of filing four separate quarterly reports.

ADDRESS: Submit written comments to: Mr. Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Room 6113, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Tel. (202) 275-7448.

SUPPLEMENTARY INFORMATION: Under the paperwork reduction program, the Commission's Data Task Force studied the uses made of quarterly freight loss and damage claim data by the Commission (Form QL&D-R&M). It found that the Commission had not used QL&D report data frequently in recent years, and therefore, could no longer justify the quarterly reporting burden imposed on carriers. The QL&D information was not needed for Commission regulatory purposes, but had been used for furnishing data to other government agencies and the public. More specifically, the primary use of the data was to support the claims prevention program of the Office of Transportation Security, Department of Transportation (DOT).

The Commission recently adopted a policy statement on the collection of data. With the adoption of this statement, it is now the Commission's policy to require only data needed to meet its regulatory needs. Data used primarily by other agencies will have to be collected by that agency. The Commission issued a final rule in Docket No. 37117, Elimination of Requirement to File Quarterly Report Form QL&D, on 5/22/80, eliminating the QL&D filing requirements for all carriers effective 1/1/81. DOT will become responsible for the collection of quarterly freight loss and damage claims data at that date.

In order to provide for continuity in the DOT claims prevention program, the Commisison agreed to collect QL&D data for 1980. However, because the Commission anticipated the elimination of the QL&D reporting requirements for 1980, it made no provision to print an ample supply of blank quarterly report forms. As a result, carriers have not

been provided quarterly QL&D report forms to date.

In order to prevent the imposition of an undue burden on carriers by requiring them to complete and file four separate QL&D report forms when they become available, the Commission, Accounting and Valuation Board, on 11/3/80 approved the substitution of an annual QL&D-R&M report for 1980. This single filing will have the effect of reducing the carriers reporting and Commission's processing burden for 1980 while providing continuity of data for DOT.

Dated: November 10, 1980.

Ronald S. Young,

Director.

[FR Doc. 80-35123 Filed 11-7-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 201]

Assignment of Hearings

November 5, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 144122 (Sub-61F), Carretta Trucking, Inc., now assigned for hearing on December 2, 1980 (1 day) at New York, NY in a hearing room to be later designated.

MC 148793 (Sub-3F), M & L Messenger Service, Inc., now assigned for hearing on December 3, 1980 (3 days) at New York, NY in a hearing room to be later designated.

MC 135419 (Sub-1F), Container Carrier Corporation, now assigned for hearing on December 2, 1980 (7 days) at New Orleans, LA in a hearing room to be later designated.

MC 71902 (Sub-72F & 75F), United Transports, Inc., now assigned for hearing on December 4, 1980 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 141532 (Sub-61F), Pacific States Transport, Inc., now assigned for hearing on December 5, 1980 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 135518 (Sub-20F), Western Carriers, Inc., is transferred to Modified Procedure.

MC 136285 (Sub-3M2F), Southern Intermodal Logistics, Inc., now assigned for hearing on October 14, 1980 at Savannah, GA is transferred to Modified Procedure.

MC 100666 (Sub-463F), Melton Truck Lines, Inc., No. MC-114552 (Sub-225F), Senn Trucking Company, now assigned for hearing on October 14, 1980 at Nashville, TN is transferred to Modified Procedure.

MC 114569 (Sub-305F), Shaffer Trucking, Inc., now assigned for hearing on November 13, 1980 at Washington, DC, is transferred to Modified Procedure.

MC 113974 (Sub-69F), Pittsburgh & New England Trucking Co., now assigned for Prehearing Conference on November 24, 1980 at Washington, DC, is transferred to Modified Procedure.

MC 109533 (Sub-119F), Overnite Transportation Company, now assigned for hearing on December 15, 1980 at Indianapolis, IN is transferred to Modified Procedure.

MC 147281 (Sub-2F), Robert G. Willment And Edward J. Blyzwick, Jr. DBA Keystone Air Freight Expediting, now assigned for hearing on November 3, 1980 at Pittsburgh, PA is transferred to Modified Procedure.

MC 61592 (Sub-475F), Jenkins Truck Line, Inc., now assigned for hearing on November 4, 1980 at Chicago, IL is transferred to Modified Procedure.

MC 106674 (Sub-402F), Schilli Motor Lines, Inc., now assigned for hearing on October 28, 1980 at Chicago, IL is canceled and application is dismissed.

MC 119702 (Sub-69F), Stahly Cartage Co., now assigned for hearing on January 6, 1981 (2 days) at St. Louis, MO in a hearing room to be later designated.

MC 104149 (Sub-206 M1F), Osborne Truck Line, Inc., now assigned for hearing on January 8, 1981 (2 days) at St. Louis, MO in a hearing room to be later designated.

MC 67234 (Sub-23F), United Van Lines, Inc. now assigned for hearing on January 12, 1981 (1 week) at St. Louis, MO in a hearing room to be later designated.

MC 105733 (Sub-72F), H. R. Ritter Trucking Co., Inc., is transferred to Modified Procedure.

MC 143662 (Sub-3F), Gene Voigt Trucking, Inc., now assigned for hearing on December 3, 1980 (3 days) at Madison, WI in a hearing room to be later designated.

MC 127651 (Sub-53F), Everett G. Roehl, Inc., now assigned for hearing on October 27, 1980 at Chicago, IL is transferred to Modified Procedure.

MC 121254 (Sub-2F), O'Leary Transportation Co., Inc., is transferred to Modified Procedure.

MC 142207 (Sub-27F), Branna Systems, Inc., now assigned for hearing on November 3, 1980 (5 days) at Mobile, AL, at the Ramada Inn, 600 Beltline Highway South.

MC 144682 (Sub-28F), R. R. Stanley, now assigned for hearing on October 30, 1980 at Fort Worth, TX is transferred to Modified Procedure.

MC 146734 (Sub-1F), Breiten Trucking Company, A Division of Fred J. Breiten, now assigned for hearing on November 13, 1980 (2 days) at Chicago, IL, in Room No. 1221, Everette McKinley Dirksen Building, 219 South Dearborn Street on November 13, 1980 and on November 14, 1980 in Room 280, Everette McKinley Dirksen Building, 219 South Dearborn Street.

MC 141108 (Sub-8F), D & C Express, Inc., now assigned for hearing on November 17, 1980 (2 days) at Chicago, IL, on November 17, 1980 in Room 280, Everette McKinley Dirksen Building, 219 South Dearborn Street on November 18, 1980 in Room 1221, Everette McKinley Dirksen Building, 219 South Dearborn Street.

MC 146874 (Sub-2F), Palwood Transportation, Inc., now assigned for hearing on November 19, 1980 (3 days) at Chicago, IL, in Room 1221, Everette McKinley Dirksen Building, 219 South Dearborn Street on November 19-21, 1980 in Room 280, Everette McKinley Dirksen Building, 219 South Dearborn Street.

MC 144682 (Sub-21F), R. R. Stanley, application is dismissed.

MC 147323 (Sub-10F), Haddad Transportation, Inc., application is dismissed.

MC 146892 (Sub-11F), R & L Transfer, Inc., now assigned for hearing on January 6, 1981 (9 days) at Cincinnati, OH in a hearing room to be later designated.

MC 147408 (Sub-2F), Isadore Hall DBA I. Hall Charter Service, now assigned for hearing on October 27, 1980 (1 week) at Baltimore, MD is transferred to Modified Procedure.

AB-2 (Sub-29F), Louisville and Nashville Railroad Company—Abandonment Between Bruceton and Rose Hill, TN, AB-2 (Sub-30F), Louisville and Nashville Railroad Company—Abandonment Between Dresden and Union City, TN, AB-2 (Sub-31F), Louisville and Nashville, Railroad Company—Abandonment Between Paducah and Murray, KY, AB-43 (Sub-68F), Illinois Central Gulf Railroad Company—Abandonment Between Fordsville & Owensboro, KY, AB-43 (Sub-69F), Illinois Central Railroad Company—Abandonment Between Hopkinsville, KY and Nashville, TN, FD-29362, Illinois Central Gulf Railroad Company—Exemption of Acquisitions, FD-29381, Louisville & Nashville Railroad Co.—Acqusition and Trackage Rights, FD-29382, Tenmet, Inc. and Nashville and Ashland City Railroad Company—Acquisition and Operation, FD-29413F, Louisville & Nashville R. Co.—Acquisition and Trackage Rights-Exemption, MC 86779, Illinois Central Gulf Railroad Company, now assigned for continued on November 17, 1980 at Paducah, KY on November 18, 1980 at Lexington, TN, on November 19, 1980 at Nashville, TN, in a hearing room to be later designated.

MC 135524 (Sub-109F), G. F. Trucking Co., now assigned for Prehearing Conference on November 3, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107012 (Sub-499F), North American Van Lines, Inc., now assigned for Prehearing Conference on November 21, 1980 at Washington, D.C., is canceled and application is dismissed.

MC 147833 (Sub-1F), Flash Transportation & Leasing Company, Inc., now assigned for hearing on November 13, 1980 (2 days) at Buffalo, NY, will be held at the Grover Cleveland Room, Buffalo Statler Hilton, 107 Delaware Avenue.

AB-2 (Sub-29F), Louisville and Nashville Railroad Company—Abandonment Between Bruceton and Rose Hill, TN, AB-2 (Sub-30F), Louisville and Nashville Railroad Company—Abandonment Between Dresden and Union City, TN, AB-2 (Sub-31F), Louisville and Nashville, Railroad Company—Abandonment Between Paducah and Murray, KY, AB-43 (Sub-68F), Illinois Central Gulf Railroad Company—Abandonment Between Fordsville & Owensboro, KY, AB-43 (Sub-69F), Illinois Central Railroad Company—Abandonment Between Hopkinsville, KY and Nashville, TN, FD-29362, Illinois Central Gulf Railroad Company—Exemption of Acquisitions, FD-29381, Louisville & Nashville Railroad Co.—Acquisition and Trackage Rights, FD-29382, Tenmet, Inc. and Nashville and Ashland City Railroad Company—Acquisition and Operation, FD-29413F, Louisville & Nashville R. Co.—Acquisition and Trackage Rights-Exemption, MC 86779, Illinois Central Gulf Railroad Company, MC 86779 (Sub-33F), Illinois Central Gulf Railroad Company, now assigned for hearing on October 20, 1980 at Nashville, TN in Room 405, 6th Circuit Court, Metropolitan Court House, Public Square.

MC 37472, American Tree and Wreath Company, et al Louisville & Nashville Railroad Company, now assigned for hearing on November 5, 1980 at Lexington, KY, in Rhy. Court Room No. 405, State Courthouse, 215 West Main Street.

AB-43 (Sub-62F), Illinois Central Gulf Railroad Company—Abandonment—Between Bemis, TN, And Coffeeville, MS, now assigned for hearing on November 12, 1980 (3 days) at Bolivar, TN is postponed to February 18, 1981 (3 days) at Bolivar, TN and on November 17, 1980 (5 days) at Oxford, MS, is postponed to February 23, 1981 (5 days) at Oxford, MS in a hearing room to be later designed.

MC 134755 (Sub-212F), Charter Express, Inc., now assigned for hearing on January 12, 1981 (1 day) at Chicago, IL, in a hearing room to be later designated.

MC 147422F, Jeffrey M. Kornacker, D/B/A K Transport Co., now assigned for hearing on January 13, 1981 (4 days) at Chicago, IL in a hearing room to be later designated.

MC 118838 (Sub-57F), Gabor Trucking, Inc., now assigned for hearing on January 20, 1981 (9 days) at Seattle, WA in a hearing room to be later designated.

MC 138875 (Sub-255F), Shoemaker Trucking Company, now assigned for hearing on January 8, 1981 (2 days) at Boise, ID in a hearing room to be later designated.

MC 118318 (Sub-44F), Ida-Cal Freight Lines, Inc., now assigned for hearing on January 8, 1981 (2 days) at Boise, ID in a hearing room to be later designated.

MC 142941 (Sub-35F), Scarborough Truck Lines, Inc., now assigned for hearing on January 12, 1981 (1 day) at Salt Lake City, UT in a hearing room to be later designated.

MC 143739 (Sub-34F), Shurson Trucking Co., Inc., now assigned for hearing on January 13, 1981 (1 day) at Salt Lake City, UT in a hearing room to be later designated.

MC 112989 (Sub-127F), West Coast Truck Lines, Inc., now assigned for hearing on January 14, 1981 (1 day) at Salt Lake City, UT in a hearing room to be later designated.

MC 139171 (Sub-4F), Controlled Delivery Service, Inc., now assigned for hearing on January 15, 1981 (2 days) at Salt Lake City, UT in a hearing room to be later designated.

MC 135524 (Sub-109F), G. F. Trucking Co., now assigned for Prehearing Conference on November 3, 1980 at Washington, D.C., is transferred to Modified Procedure.

MC 109708 (Sub-101F), Indian River Transport Company, now assigned for hearing on December 1, 1980 at Indianapolis, IN is canceled and application is dismissed.

MC 107478 (Sub-66F), Old Dominion Freight Line, Inc., now assigned for Prehearing Conference on November 21, 1980 at Washington, D.C., is canceled and application dismissed.

MC 67234 (Sub-23F), United Van Lines, Inc., now assigned for hearing on January 12, 1981 at St. Louis, MO is canceled and application is dismissed.

MC 102567 (Sub-226F), McNair Transport, Inc., is dismissed.

AB-43 (Sub-38), Illinois Central Gulf Railroad Company Abandonment near Rosedale and Greenville, in Washington, and Bolivar Counties, Mississippi, now assigned for hearing on December 2, 1980 (9 days) at Rosedale, MS in the Court Room, Bolivar County Court, Highway One.

MC 123048 (Sub-472F), Diamond Transportation System, Inc., now assigned for hearing on November 14, 1980 at Columbus, OH is transferred to Modified Procedure.

MC 112989 (Sub-116F), West Coast Truck Lines, Inc., is transferred to Modified Procedure.

MC 71652 (Sub-42F), Byrne Trucking, Inc., is transferred to Modified Procedure.

MC 111231 (Sub-277F), Jones Truck Line, Inc., now assigned for hearing on November 4, 1980 (9 days) at Houston, TX at the Downtown Holiday Inn, 801 Calhoun at Travis.

MC 2900 (Sub-425F), Ryder Truck Lines, Lnc., now being assigned for hearing on December 10, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 20992 (Sub-62F), Dotestch Truck Line, Inc., now being assigned for hearing on December 9, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 125433 (Sub-423F), F-B Truck Line Company, now being assigned for hearing on December 11, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138308 (Sub-109F), Kim, Inc., now being assigned for hearing on December 11, 1980 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 35628 (Sub-410F), Interstate Motor Freight System, now being assigned for hearing on December 9, 1980 (9 days) at Albany, NY location of hearing room will be designated later.

MC 123389 (Sub-48F), Crouse, Cartage Company, now being assigned for hearing on January 15, 1981 (2 days) at Omaha, NE location of hearing room will be designated later.

MC 114211 (Sub-410F), Warren Transport, Inc., now assigned for hearing on January 19, 1981 (1 week) at St. Louis, MO location of hearing room will be designated later.

MC 134755 (Sub-212F), Charter Express, Inc., now assigned for hearing on January 12, 1981 at Chicago, IL is transferred to Modified Procedure.

MC 135524 (Sub-44F), G. F. Trucking Company, now being assigned for hearing on December 9, 1980 at Chicago, IL is transferred to Modified Procedure.

MC 52861 (Sub-73F), Willis Trucking, Inc., is transferred to Modified Procedure.

MC 136008 (Sub-114F), Joe Brown Company, Inc., now assigned for hearing on January 22, 1981 (2 days) at Oklahoma City, OK in a hearing room to be later designated.

MC 148648F, Great Plain Transports, Inc., now assigned for hearing on January 26, 1981 (5 days) at Oklahoma City, OK in a hearing room to be later designated.

MC 29079 (Sub-147F), Brada Miller Freight System, Inc., now assigned for hearing on October 29, 1980 at Washington, D.C., is transferred to Modified Procedure.

MC 108937 (Sub-64F), Murphy Motor Freight Lines, Inc., now assigned for hearing on January 6, 1981 at Chicago, IL is transferred to Modified Procedure.

MC 115841 (Sub-709F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on December 9, 1980 at Seattle, WA is canceled and application dismissed.

MC 146892 (Sub-11F), R & L Transfer, Inc., now assigned for hearing on January 6, 1981 at Cincinnati, OH is canceled and application dismissed.

FD 28692, Petition of The Pittsburgh And Lake Erie Railroad Company To Discontinue Trains Nos. 260 and 261 Between Pittsburgh, Pennsylvania, and College, Pennsylvania, now assigned for hearing on January 8, 1981 (2 days) at Pittsburgh, PA in a hearing room to be later designated.

MC 124988 (Sub-14F), Truck Service Company, now assigned for hearing on December 10, 1980 (3 days) at Springfield, MO in a hearing room to be later designated.

MC 114334 (Sub-57F), Builders Transportation Co., A Corp., now assigned for hearing on December 15, 1980 (2 days) at St. Louis, MO in a hearing room to be later designated.

MC 69402 (Sub-3F), Bee Line Trucking Company, Inc., now assigned for hearing on December 17, 1980 (3 days) at St. Louis in a hearing room to be later designated.

MC 149458F, Frank Sherman, D/B/A/ Carter Tours and Dockside Travel Agency, now assigned for hearing on December 16, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 144622 (Sub-178F), Glenn Brothers Trucking, Inc., now assigned for hearing on January 21, 1981 (1 day) at Little Rock, AR in a hearing room to be later designated.

MC 56679 (Sub-164F), Brown Transport Corp., now assigned for hearing on January 22, 1981 (1 day) at Memphis, TN in a hearing room to be later designated.

MC 142743 (Sub-13F), Fast Freight Systems, Inc., now assigned for hearing on January

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23, 1981 (1 day) at Memphis, TN in a hearing room to be later designated.
MC 730 (Sub-507F), Pacific Intermountain Express Co., now assigned for hearing on January 26, 1981 (1 day) at New Orleans, LA in a hearing room to be later designated.
MC 148078 (Sub-1F), Beau Parrish Express Co., Inc., now assigned for hearing on January 27, 1981 (3 days) at Baton Rouge, LA in a hearing room to be later designated.
MC 119774 (Sub-109F), Eagel Trucking Company, now assigned for hearing on December 4, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 136818 (Sub-82F), Sweet Transportation Company, Inc., now assigned for hearing on January 14, 1981 (3 days) at Phoenix, AZ in a hearing room to be later designated.
MC 144606 (Sub-9F), Duncan Sales & Leasing Co., Inc, now assigned for hearing on January 19, 1981 (1 week) at Phoenix, AZ in a hearing room to be later designated.
MC 139482 (Sub-122F), New Ulm Freight Lines, Inc., now assigned for hearing on January 5, 1981 (1 day) at St. Paul, MN in a hearing room to be later designated.
MC 108223 (Sub-31F), Century-Mercury Motor Freight, now assigned for hearing on January 6, 1981 (4 days) at St. Paul, MN in a hearing room to be later designated.
MC 146962F, Mulder Trucking Company, now assigned for hearing on January 14, 1981 (3 days) at Minneapolis, MN in a hearing room to be later designated.
MC 133689 (Sub-322F), Overland Express, Inc. now assigned for hearing on January 19, 1981 (1 week) at St. Paul, MN in a hearing room to be later designated.
MC 133689 (Sub-322F), Overland Express, Inc. now assigned for hearing on January 18, 1981 (1 week) at St. Paul, MN in a hearing room to be later designated.
MC C-10637, Overland Motor Express, Inc. DBA Boulder-Devner Truck Line, Inc., — V— Arkansas Best Freight System, Inc., now assigned for hearing on January 15, 1981 (2 days) at Denver, CO in a hearing room to be later designated.
MC 99234 (Sub-19F) Westway Motor Freight, Inc., now assigned for hearing on January 19, 1982 (1 week) at Denver, CO in a hearing room to be later designated.
MC 60014 (Sub-187F), AERO TRUCKING, INC., now being assigned for hearing on December 4, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 108473 (Sub-52F), St. Johnsbury Trucking Company, Inc. now being assigned for prehearing conference on December 8, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 144713 (Sub-9F), Haulmark Transfer, Inc., now being assigned for hearing on December 9, 1980 at the Office of the Interstate Commerce Commission, Washington, D.C.
MC 92692 (Sub-7F), Freeport Fast Freight, Inc., now being assigned for hearing on December 4, 1980 (2 days) at Chicago, IL location of hearing room will be designated later.
MC 72997 (Sub-27F), Liberty Trucking Company, now being assigned for hearing on December 8, 1980 (5 days) at Chicago, IL location of hearing room will be designated later.
MC 118516 (Sub-4F), Mammoth of Alaska, Inc., now being assigned for hearing on November 4, 1980 at Anchorage, AK is cancelled and reassigned for hearing on November 4, 1980 (1 day) at 9:30 a.m. local time at Fairbanks, AK at the State Court Building, 604 Barnett, Grand Jury Room, and continued to November 5, 1980 (3 days) at the State Court Building, 604 Barnett, Court Room E.
MC 70151 (Sub-56F), United Trucking Service, Inc., now being assigned for hearing on December 2, 1980 (9 days) at Detroit, MI . location of hearing room will be designated later.
MC 14552 (Sub-69F), McNicholas Transportation Co., is transferred to Modified Procedure.
MC 144858 (Sub-9F), Denver, Southwest Express, Inc., is transferred to Modified Procedure.
MC 107 (Sub-11F), Boro Bussess Company, is transferred to Modified Procedure.
MC 1824 (Sub-105F), Preston Trucking Company, Inc., is transferred to Modified Procedure.
MC 100666 (Sub-463F), Melton Truck Lines, Inc., is transferred to Modified Procedure.
MC 144713 (Sub-9F), Haulmark Transfer, Inc., is transferred to Modified Procedure.
MC 91568 (Sub-3F), Phil Wagner Truck Service, Inc., is transferred to Modified Procedure.
MC 111231 (Sub-277F), Jones Truck Lines, Inc., now being assigned for hearing on November 4, 1980 (9 days), at Houston, TX in Room No. 225, Coast Guard Appraisal Building, 7300 Wingate.
MC 147470F, Ray Cobb Transportation Company, now being assigned for hearing on January 13, 1981 (4 days) at San Francisco, CA, Suite 500, 211 Main Street.
MC 37507, Rates on Iron Ore, Randville To Escanaba Via Iron Mountain, No. 37516, The Hanna Mining Company v. Chicago and North Western Transportation Company, et al., now being assigned for prehearing conference on November 5, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 2860 (Sub-191F), National Freight, Inc., now being assigned for hearing on October 15, 1980 at Washington, D.C. is postponed indefinitely.
MC 115311 (Sub-396F), J & M Transportation Co., Inc., now being assigned for prehearing conference on December 2, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 124211 (Sub-378F), Hilt Truck Lines, Inc., now being assigned for prehearing conference on December 3, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 139112 (Sub-21F), Calex Express, Inc., now being assigned for prehearing conference on December 3, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 119991 (Sub-28F), Young Transport, Inc., now being assigned for prehearing conference on November 18, 1980 at the Offices of the Interstate Commerce Commission, at Washington, D.C.
MC 102567 (Sub-226F), McNair Transport, Inc., now assigned for hearing on October 21, 1980 at Houston, TX is postponed indefinitely.
MC 106398 (Sub-1073F), National Trailer Convoy, Inc., now being assigned for hearing on January 7, 1981 (3 days) at Denver, CO location of hearing room will be designated later.
MC 148752 (Sub-2F), H'& H Services, Inc., now being assigned for hearing on January 12, 1981 (1 week) at Casper, WY location of hearing room will be designated later.
FD 29413F, Louisville & Nashville R. Co.—Acquisition and Trackage Rights—Exemption, FD 29382, Tenmet, Inc. and Nashville and Ashland City Railroad Company—Acquisition and Operation, FD 29381, Louisville & Nashville Railroad Co.—Acquistion and Trackage Rights, FD 29362, Illinois Central Gulf Railroad Company—Exemption of Acquisitions, AB 43 (Sub-70F) Illinois Central Gulf Company—Abandonment Between Hopkinsville, KY and Nashville, TN, AB 43 (Sub-69F), Illinois Central Railroad Company—Abandonment Between Elizabeth, KY, 43 (Sub-68F), Illinois Central Gulf Railroad Company—Abandonment Between Fordsville & Owensboror, KY, AB 2 (Sub-31F), Louisville and Nashville, Railroad Company—Abandonment between Paducah and Murray, AB 2 (Sub-30F), Louisville and Nashville Railroad Company—Abandonment between Dresden and Union City, TN, and AB 2 (Sub-29F), Louisville and Nashville Railroad Company—Abandonment between Bruceton and Rose Hill, TN, now assigned for hearing on November 17, 1980 (1 day) at Paducah, KY at the McCracken County Courthouse, Basement Assembly Room, 6th and Washington, and continued to November 18, 1980 (1 day) at Lexington, TN at the Henderson County Courthouse, Court Square, Main Street, and continued to November 19, 1980 (3 days) at Courtroom 874, United States Courthouse, 801 Broadway, Nashville, TN.
FD 29254, Somerset Railroad Corporation Construction and Operation—of a Line of Railroad in Niagara, County, NY, now assigned for continued hearing on November 10, 1980 (5 days) at Lockport, NY in a hearing room to be later designated.
MC 134289 (Sub-7F), Caldwell Truck Rentals, Inc., now assigned for hearing on November 13, 1980 (2 days) at Charlotte, NC in Room No. 215, U.S. Post Office & Court House, 401 WestTrade Street.
MC 147432F, Marine Transit, Inc., now assigned for hearing on November 17, 1980 at Room No. 1217, New Strom Thurmond Federal Building, 1835 Assembly Street.
MC 133689 (Sub-269F), Overland Express, Inc., now being assigned for hearing on January 20, 1981 (9 days) at St. Paul, MN location of hearing room will be designated later.
MC 106398 (Sub-1011), National Trailer Convoy, Inc., now being assigned for hearing on January 5, 1981 (2 days) at Phoenix, AZ location of hearing room will be designated later.
MC 117786 (Sub-81F), Riley Whittle, Inc., now being assigned for hearing on January 7, 1981 (4 days) at Phoenix, AZ location of hearing room will be designated later.
MC 145579 (Sub-8F), D. Irvin Transport, now being assigned for hearing on January 7, 1981 (3 days) at Seattle, WA location of hearing room will be designated later.
MC 11722 (Sub-62F), Brader Hauling Service, Inc., now being assigned for hearing on January 12, 1981 (2 days) at Seattle, WA location of hearing room will be designated later.
MC 63562 (Sub-68F), BN Transport, Inc., now being assigned for hearing on January 14, 1981 (3 days) at Seattle, WA location of hearing room will be designated later.
MC 148629F, Parkhill Pipe Services Company, is transferred to Modified Procedure.
MC 119789 (Sub-700F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on December 11, 1980 (1 day) at Ft. Worth, TX location of hearing room will be designated later.
MC 133591 (Sub-101F), Wayne Daniel Truck, Inc., now being assigned for hearing on December 12, 1980 (1 day) at Ft. Worth, TX location of hearing room will be designated later.
MC C-10770, State of Texas v. Mistletoe Express Service, now being assigned for hearing on December 15, 1980 (3 days) at Ft. Worth, TX location of hearing room will be designated later.
MC 138882 (Sub-370F), Wiley Sanders Truck Lines, Inc., now being assigned for hearing on December 18, 1980 (2 days) at Ft. Worth, TX location of hearing room will be designated later.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35121 Filed 11-10-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78726 by decision of October 7, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to SUPERIOR CARRIERS, INC., of Kenvil, NJ, of Certificate No. MC-119725 issued March 24, 1978, to HILLMAN BULK SERVICE OF NEW JERSEY, INC., of Kenvil, NJ, authorizing the transportation of (1) *castor beans,* from Edgewater, NJ, to Philadelphia, PA, (2) *salt, fuller's earth, pumice, castor beans, linseed cakes,* and *bags* from New York, NY, to Edgewater, NJ, (3) *vegetable oils,* in tank vehicles, from Edgewater, NJ, to points in New York, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Delaware, and Maryland within 175 miles of Edgewater, (4) *vegetable oils,* between Edgewater, NJ, on the one hand, and, on the other, points in New York on and south of U.S. Hwy 202, and east of the Hudson River, and points in Pennsylvania, on and east of U.S. Hwy 122 and south of a line beginning at Reading, PA, and extending through Mount Penn and Bristol, PA to the Delaware River, including points named, and (5) *vegetable oils,* in bulk, in tank vehicles, from Washington, DC, to Edgewater, NJ. Applicant's representative is: Chester A. Zyblut, 366 Executive Building, 1030-15th Street NW., Washington, DC.

Notes.—(1) Transferor and Transferee are affiliated. (2) Transferee presently holds authority in Certificate No. MC-123228. (3) This application is directly related to the application filed concurrently, in No. MC-123226 (Sub-No. 1) to eliminate the gateway of Edgewater, NJ, in order to provide a through service. That latter application is published in this edition of the **Federal Register.**

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, an be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a

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notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in oppostion.

Applicant(s) must comply with all conditions set forth in the grant of grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: October 7, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

MC 123226 (Sub-1), filed September 4, 1980. Applicant: SUPERIOR CARRIERS, INC., P.O. Box K, Kenvil, NY 07847. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street NW., Washington, DC 20005. Applicant seeks authority to operate as a common carrier, by motor vehicle, transporting: *Vegetable oils*, in tank vehicles, from New York, NY, and points in New Jersey within 40 miles of City Hall, New York, NY, and Philadelphia, PA, to points in New York, Connecticut, Rhode Island, Maine, Pennsylvania, Delaware, and the District of Columbia. *Vegetable oils*, between New York, NY, and points in New Jersey within 40 miles of City Hall, New York, NY, on the one hand, and, on the other, points in New York on, south and east of the line beginning at the junction of U.S. Hwy 202 and the boundary line between New York and Connecticut and extending along U.S. Hwy 202 to the Hudson River, and then along the Hudson River to the Atlantic Ocean, and points in Pennsylvania on, south and east of a line beginning at the junction of U.S. Hwy 276 and the boundary line beteeen Pennsylvania and Delaware, extending along U.S. Hwy 276 to junction U.S. Hwy 422 at Norristown, PA, then along U.S. Hwy 422 to junction U.S. Hwy 222 at Reading, PA, and then along U.S. Hwy 222 to its junction with the boundary line between Pennsylvania and Maryland, including Reading, Mount Penn, and Bristol, PA. This application is directly related to the application in MC-FC 78726 filed concurrently and published in this edition of the **Federal Register**, wherein Superior Carriers, Inc. seeks to acquire the operating rights of Hillman Bulk Service of New Jersey, Inc. The purpose of this application is to eliminate the gate way of Edgewater, NJ.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35122 Filed 11-10-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed December 29, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statment in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-025

Decided: October 24, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 8973 (Sub-74F) (correction), filed September 4, 1980, published in the **Federal Register**, issue of September 19, 1980, and republished, as corrected, this issue. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Keil, Suite 1832, 2 World Trade Center, New York, NY 10048. "Restricted to traffic originating at or destined to the facilities used by Alside, Inc." The purpose of this republication is to include a restriction in the territory description.

Volume No. OP4-117

Decided: November 4, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Carleton not participating.

MC 37896 (Sub-35F), filed October 28, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St. NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in FL, on the one hand, and, on the other, those points in the U.S. in and east of MI, IN, KY, TN, and MS.

MC 37896 (Sub-35F), filed October 28, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St. NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in FL, on the one hand, and, in the other, those points in the U.S. in and east of MI, IN, KY, TN, and MS.

MC 65626 (Sub-40F), filed October 17, 1980. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., Washington, DC 20001. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Hammermill Paper Company and/or its subsidiaries.

MC 70557 (Sub-35F), filed October 21, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transport *such commodities* as are dealt in, or used by household cleaning and sanitation manufacturers and distributor, (except commodities in bulk), between Atlanta, GA, on the one hand, and, on the other, points in the U.S.

MC 107006 (Sub-10F), filed October 28, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting (1) *animal bedding*, and (2) *equipment, materials, and supplies* used by distributors of janitorial and building maintenance supplies (except commodities in bulk), between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110817 (Sub-31F), filed October 28, 1980. Applicant: E. L. FARMER & COMPANY, a corporation, P.O. Box 3512, Odessa TX 76760. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701. Transporting (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes and wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes and wells, between points in IN, OH, MI, PA, WV, and KY.

MC 111307 (Sub-12F), filed October 28, 1980. Applicant: ALLTRANS LTD., 5280 Maingate Dr., Mississauga, Ontario, Canada L4W 1G5. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting in foreign commerce only *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between ports of entry on the international boundary line between the U.S. and Canada, at Port Huron, MI, on the one hand, and, on the other, Port Huron, MI. Condition: Issuance of a Certificate in this proceeding is subject to the prior or coincidental cancellation, at applicants written request, of authority held in MC 111307 Sub 2.

MC 124887 (Sub-122F), filed October 22, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in Bay County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128917 (Sub-7F), filed October 27, 1980. Applicant: HANDY TRUCK LINE, INC., P.O. Box 148, Hayburn, ID 83336. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 143236 (Sub-53F), filed November 3, 1980. Applicant: WHITE TIGER TRANSPORTATION COMPANY, INC., 40 Hackensack Ave., Kearney, NJ 07032. Representative: Elizabeth Murphy, 5004 Fox St., College Park, MD 20740. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 146807 (Sub-19F), filed October 21, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Avenue, Moosic, PA 18507. Transporting (1) *plastic film, plastic sheeting, and plastic bags*, from Pottsville, PA, to points in CA, TX, MO, NC, SC, and GA, and (2) *materials and supplies* used in the manufacture, or distribution of the commodities described in (1) above, in the reverse direction.

MC 146807 (Sub-22F), filed October 21, 1980. Applicant: S-n-W Enterprises, Inc., P.O. Box 1131, Wilkes, Barre, PA 18702. Representative: Paul Seleski (same address as above). Transporting (1) *store furnishings, and furniture*, from Terrell, TX, to points in CA, DE, IL, IN, IA, MD, MI, NJ, NY, OH, PA, VA, and DC, and (2) *materials, equipment, and supplies* used in their manufacture and distribution, in the reverse direction.

MC 147536 (Sub-26F), filed October 23, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Transporting (1) *household appliances, television sets, and recorders*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in Pulaski County, AR, on the one hand, and, on the other, Louisville, KY, Chicago, IL, Milwaukee, WI, Baltimore, MD, Portsmouth, VA, Columbia, TN, Decatur, AL, Bloomington, IN, and points in LA, MS, NM, OK, and TX.

MC 148827 (Sub-3F), filed October 28, 1980. Applicant: DAVID ALGER, d.b.a. D & C TRANSPORTATION, Two Chandler Ave., Extention, Orleans, VT 05860. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, between points in the U.S., under continuing contract(s) with Belcher New England, Inc., of Revere, MA.

MC 150567 (Sub-9F), filed October 24, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1) *paper and paper products, lumber, hardboard and particle board*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Publishers Paper Co., of Portland, OR.

MC 150586 (Sub-1F), filed October 27, 1980. Applicant: PALAN TRUCK LINE, INC., 119 Irving Ave., Fairbault, MN 55021. Representative: James M. Christenson, 4444 IDS Center, 80 So. Eighth St., Minneapolis, MN 55402. Transporting (1) *canning company equipment and supplies*, and (2)

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foodstuffs, between points in MN, WI, ND, SD, IA, and IL.

MC 151917 (Sub-1F), filed October 21, 1980. Applicant: PERKINS AUTO SUPPLY & GARAGE, INC., P.O. Box 280, Slaton, TX 79364. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *wrecked or disabled motor vehicles* between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152366F, filed October 21, 1980. Applicant: AMERICAN COLLOID CARRIER CORP., P.O. Box 951, Scottsbluff, NE 69361. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *such commodities* as are dealt in by manufacturers and distributors of corn and soybean products, from points in IL to those points in the U.S. in and west of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of A. E. Staley Manufacturing Co.

By the Commission
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35124 Filed 11-10-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 371]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: October 31, 1980

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) hold operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subjected to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 109320(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 138882 (Sub-368F), filed June 13, 1980, published in the **Federal Register**, issue of August 7, 1980, and republished as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., Post Office Drawer 707, Troy, AL 36081. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting: *Composition board and composition board products*, between the facilities of Kemp Furniture Industries, Inc., at or near Goldsboro, NC, on the one hand, and, on the other, Jasper and Salem, IN; Ft. Smith, AR; Watsontown, PA; Memphis and Knoxville, TN.

Note.—The purpose of this republication is to correct the commodity description.

[FR Doc. 80-35118 Filed 11-10-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 34]

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with special Rule 247(e) of the Commission's *General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.*

MC 106398 (Sub-923F) (Republication), filed July 2, 1979, published in the FR issue of February 12, 1980, and republished this issue. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 525 S. Main, Tulsa, OK 74103. A Decision of the Commission, Review Board Number 2, decided August 14, 1980, and served September 8, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier, by motor vehicle, over irregular routes, transporting (1) construction equipment, construction materials and supplies, and iron and steel articles*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities listed in (1) above, between points in the United States (except AK and HI), restricted in (1) above to the transportation of traffic originating at the facilities of the Mississippi Valley Equipment Co., Inc., or the facilities of its suppliers, and in (2) above to the transportation of traffic destined to the facilities of the Mississippi Valley Equipment Co., Inc., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 110988 (Sub-400F) (Republication), filed September 6, 1979, published in the **Federal Register** issue of February 20, 1980, and republished this issue. Applicant: SCHNEIDER TANK LINES, INC. 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. A Decision of the Commission, Review Board Number 3, decided August 28, 1980, and served February 20, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals, between points in the United States (except AK and HI), limited to the transportation of traffic moving from, to, or between the facilities of Cargill Chemical Products Division of Cargill, Inc., or its suppliers, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 119988 (Sub-199F) (Republication), filed April 27, 1979, published in the **Federal Register** issue of November 23, 1979, and republished this issue. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Ft. Worth, TX 76102. A Decision of the Commission, Review Board Number 2, decided July 1, 1980, and served August 13, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *petroleum products*, in containers, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IN, IL, OH, WI, MI, and KY; and (2) *used petroleum product containers*, from points in AR, IN, IL, OH, WI, MI, and KY, to points in Jefferson County, TX, and Houston, TX, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 59599, filed April 16, 1980. Applicant: PACIFIC CARTAGE & WAREHOUSING, INC., 26318 Corporate Avenue, Hayward, CA 94545. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities as follows: 1. Between all points and places in San Francisco Territory, as described in Note A hereof. 2. Between all points and places on or within twenty (20) statute miles laterally of the following routes. (a) Interstate Highway 80 between Sacramento and its junction with State Highway 17 near Albany. (b) State Highway 17 between its junction with Interstate Highway 80, via the Richmond-San Rafael Bridge, and its junction with U.S. Highway 101. (c) U.S. Highway 101 from Santa Rosa to San Francisco. (d) State Highway 37

between its junctions with U.S. Highway 101, near Ignacio, and with Interstate Highway 80. (e) State Highway 21 between its junction with Interstate Highway 80, near Cordelia, and with Interstate Highway 680, near Benicia. (f) State Highway 12 between its junctions with Interstate Highway 80, near Fairfield, and with State Highway 99, near Lodi. (g) Interstate Highway 680 between its junctions with Interstate Highway 80, near Vallejo, and with Calaveras Road, near Milpitas. (h) State Highway 24 between its junctions with Interstate Highway 680, near Walnut Creek, and Interstate Highway 80. (i) State Highway 4 between its junctions with Interstate Highway 680, near Concord, and with State Highway 99, near Stockton. (j) Interstate Highway 580 between its junctions with State Highway 17, near Emeryville, and with Interstate Highway 5, near the San Joaquin-Stanislaus County Line. (k) Interstate Highway 205 between its junctions with Interstate Highway 580, near Mountain House, and with Interstate Highway 5, near Banta. (l) State Highway 84 between its junctions with Interstate Highway 580, near Springtown, and with Interstate Highway 680 at Scotts Corner. (m) State Highway 99 between Sacramento and Fresno. (n) State Highway 33 between its junctions with Interstate Highway 5, at Lehman Road near the Defense Depot, Tracy, and Interstate Highway 5, near the San Luis Reservoir, and between its junctions with State Highway 152, near Los Banos, and with State Highway 198, at Oil Fields. (o) State Highway 132 between its junctions with Interstate Highway 580, and with State Highway 99, near Modesto. (p) Interstate Highway 5 between Stockton and its junction with State Highway 41, near Kettleman City. (q) Routes served BFL, Docket No. MC–99980, Sub 3 (served 9/21/79 U.S. Highway 101 between San Jose and Salinas, inclusive; (r) State Highway 17 between San Jose and Santa Cruz, inclusive; (s) State Highway 1 between Santa Cruz and Carmel, inclusive, including the off-route point of Carmel Valley; (t) State Highway 9 between Los Gatos and Santa Cruz, inclusive; (u) State Highway 152 between Gilroy and State Highway 1 at Watsonville, inclusive; (v) State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive; (w) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1, inclusive; (x) State Highway 68 between Salinas and Monterey, inclusive.

Exception: Except that pursuant to the authority herein granted, carrier shall not transport any shipments of: 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle. 8. Logs. 9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

San Francisco Territory

Note A.—San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road, northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

California docket No. 59987, filed October 2, 1980. Applicant: CARDEAN, INC., 7571 Dove Creek Trail, Vacaville, CA 95688. Representative Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, CA 94104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Within and between the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacremento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolume, Yolo, and Yuba. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, briefcases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle. 8. Logs. 9. Articles of extraordinary value. 10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. 11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. 12. Explosives subject to U.S. Department of Transportation Regulations governing the Transportation of Hazardous Materials. 13. Transportation of any commodity, the transportation or handling of which because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, streets, in any motor vehicle or combination of vehicles. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–3928, filed September 23, 1980. Applicant: E. T. CLARK CARTING CO., INC., 15 Fairholm Street, Rochester, NY 14624. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: Packing house products, from all points in the Counties of Allegany, Erie, Livingston, Niagara, Ontario, Schuyler, Seneca, Steuben, Wayne and Yates to all points in Monroe County. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus, Building #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Permanent Ex-Water Authority Decision-Notices

Decided: May 21, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the **Federal Register** publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that duel operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes

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unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 115667 (Sub-16F), filed October 23, 1979, and previously noticed in the **Federal Register** issues of March 14, 1980, and July 3, 1980. Applicant: ARROW TRANSPORTATION SYSTEMS, INC., 5658 West Marginal Way S.W., Seattle, WA 98171. Representative: Clyde H. MacIver, 1415 Fifth Ave., Suite 1900, Seattle, WA 98171. Transporting *general commodities* (except classes A and B explosives), between points in the commercial zones of Seattle, WA and Portland, OR, restricted to traffic having a prior or subsequent movement by water.

Note.—The purpose of this republication is to publish this application in the proper section of the **Federal Register.**

Permanent Ex-Water Authority Decision-Notices

Decided: July 1, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the **Federal Register** publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally-sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 142494 (Sub-4F), filed April 8, 1980. Applicant: UNITED CARTAGE, INC., 737 South Stacy Street, Seattle, WA 98134. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities (except Classes A and B explosives)*, between points in the commercial zone of Anchorage, AK, restricted to traffic having a prior or subsequent movement by water.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35120 Filed 11-10-80; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. 35]

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding set forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 41406 (Sub-52 (M1)F) (republication), filed August 8, 1978, published in the **Federal Register** issue of October 5, 1978, and republished this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. A decision of the Commission, Division 2, Acting as an Appellate Division, decided November 13, 1979 and finds that the present and future public convenience and necessity require operations by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *iron and steel articles* and *equipment and supplies* used or useful in the manufacture of iron and steel articles, between the plant site of the Bethlehem Steel Corporation, at or near Burns Harbor, Porter County, IN, on the one hand, and, on the other, points in MI, OH, PA, NY, WV, and those points in that part of KY within 5 miles of the Ohio River, restricted in (1) above, to the transportation of traffic originating at or destined to the plant site of the Bethlehem Steel Corporation, at or near Burns Harbor, Porter County, IN; (2) *plastic pipe and plastic pipe connections*, from Huntington, WV, to points in DE, MD, MI, NJ, NY, WV, PA, (except points on and west of U.S. Hwy 219), and IN, (except points on and east of U.S. Hwy 31 and on and south of U.S. Hwy 40), restricted in (2) above, to the transportation of mixed loads of the same commodities, moving at the same time and with bituminized fibre conduit and conduit connections, which originate at Ironton, OH; (3) *bituminized fibre conduit and conduit connections*, (a) from Ironton, OH, to points in DE, and (b) from Ironton, OH, to points in MD, MI, NJ, NY, PA, IN, and WV, (4) *pallets and other articles* used in the transportation of the above-specified commodities, from points in MD, MI, NJ, NY, PA, IN, and WV, to Ironton, OH, (5) *steel, steel products, and machinery*, (a) from Pittsburgh, PA, and Youngstown, OH, and points within 50 miles of each, Cleveland, Lorain, Zanesville, Cambridge, Mansfield, Cincinnati, Middletown, and Portsmouth, OH, Buffalo, NY, Monroe and Detroit, MI, and those points in that part of KY within 5 miles of the Ohio River, to points in MI, OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, and (b) from Gibralter, MI, to points in OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, (c) from the sites of the Ford Motor Company plant located at the northeast intersection of Mound Road and 17-Mile Road in Sterling Township, Macomb County, MI, to points in OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, and (d) between the site of the Kalsey-Hayes Company plant located at the intersection of North Line Road and Huron River Drive, in Romulus Township, Wayne County, MI, on the one hand, and, on the other, points in MI, OH, PA, NY, WV, and that part of KY within 5 miles of the Ohio River, (6) *paper and paper products*, from Detroit and Monroe, MI, and Cleveland, Columbus, and Middletown, OH, to points in MI, OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, restricted in (6) above, (a) against service from Monroe, and Detroit, MI, and their commercial zones, to points in OH, and (b) against service from Cleveland, Columbus, Middletown, OH, and their commercial zones, to points in Monroe, Wayne, Macomb, Washtenaw, Lenawee, Oakland, Genessee and Livingston Counties, MI, (7) *building materials*, from Bessemer, PA, Steubenville, Fairborn, and Sandusky, OH, and Detroit and Monroe, MI, to the next-above specified destination points, restricted in (7) above, against the transportation of cement and mortar from Fairborn, OH, (8) *steel and steel products*, (a) from points in the Detroit, MI, commercial zone, as defined by the Commission, except Detroit, to points in NY, OH, PA, WV, and those in that part of KY within 5 miles of the Ohio River, (b) from points in the Cleveland, OH, commercial zone, as defined by the Commission, except Cleveland, to points in MI, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, and (c) from points in Lackawanna and Hamburg Townships, Erie County, NY, to points in MI, OH, PA, WV, and those in that part of KY within 5 miles of the Ohio River, (9) *concrete and plastic pipe*, (except those requiring special equipment) and *pipe fittings*, from Springfield, IL, to points in DE, IN, KY, MI, NJ, OH, PA, and WV, (10) *pre-cast concrete slabs and beams*, and *accessories, supplies and materials* incidental to the installation thereof, (a) from Kent and Dayton, OH, to points in NY, and WV, and (b) from points in Wayne Township, in Montgomery County, OH, to points in KY, IN, MI, PA, NY, and WV, restricted in (7) through (10) above. Against tacking with the irregular-route authority presently held by Glenn Cartage Company, except to the extent permitted in *Gateway Elimination*, 119 M.C.C. 530, and (11) *pig iron*, from Buffalo, NY, Muskegon and Detroit, MI, and Portage, IN, to points in MI, OH, PA, NY, WV, IL, IN, IA, MO, WI, and points in KY within 5 miles of the Ohio River.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 74761 (Deviation No. 17), TRAILWAYS TAMIAMI, INC., 315 Continental Ave., Dallas, TX 75207, filed October 21, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Okeechobee, FL over FL Hwy 710 to Riviera Beach, FL, then over US Hwy 1 to West Palm Beach, FL and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Okeechobee, FL, over US Hwy 441 to Canal Point, FL, then over US Hwy 98 to junction US Hwy 441, then over US Hwy 441 to West Palm Beach, FL and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

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Motor Carriers of Property

MC 95540 (Deviation No. 8) Watkins Motor Lines, Inc., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Florida 33802, filed October 23, 1980. Carrier proposes to operate as a *common carrier* by motor vehicle in interstate or foreign commerce, transporting *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Asheville, NC over U.S. Hwy 70 to its junction with U.S. Hwy 65, then over U.S. Hwy 65 to its junction with U.S. Hwy 64, then over U.S. Hwy 64 to its junction with OK Hwy 2, then over OK Hwy 2 to its junction with U.S. Hwy 266, then over U.S. Hwy 266 to its junction with U.S. Hwy 62, then over U.S. Hwy 62 to its junction with U.S. Hwy 66, then over U.S. Hwy 66 to Needles, CA and return over the same route for operating convenience only, (2) from Washington, DC over U.S. Hwy 50 to Jefferson City, MO, then over U.S. Hwy 54 to its junction with U.S. Hwy 65, then over U.S. Hwy 65 to Springfield, MO, then over U.S. Hwy 60 to its junction with U.S. Hwy 66, then over U.S. Hwy 66 to Needles, CA and return over the same route for operating convenience only, (3) from Philadelphia, PA over U.S. Hwy 30 to its junction with U.S. Hwy 19, then over U.S. Hwy 19 to its junction with U.S. Hwy 40, then over U.S. Hwy 40 to its junction with U.S. Hwy 6, then over U.S. Hwy 6 to its junction with U.S. Hwy 50, then over U.S. Hwy 50 to its junction with I.S. Hwy 15, then over I.S. Hwy 15 to Barstow, CA and return over the same route for operating convenience only, and (4) from Newark, NJ over U.S. Hwy 22 to its junction with U.S. Hwy 322, then over U.S. Hwy 322 to its junction with U.S. Hwy 20, then over U.S. Hwy 20 to its junction with U.S. Hwy 34, then over U.S. Hwy 34 to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to its junction with IA Hwy 330, then over IA Hwy 330 to its junction with U.S. Hwy 65, then over U.S. Hwy 65 to its junction with U.S. Hwy 6, then over U.S. Hwy 6 to its junction with U.S. Hwy 34, then over U.S. Hwy 34 to its junction with U.S. Hwy 40, then over U.S. Hwy 40 to its junction with I.S. Hwy 15, then over I.S. Hwy 15 to its junction with U.S. Hwy 6, then over U.S. Hwy 6 to its junction with U.S. Hwy 50, then over 50 to its junction with I.S. Hwy 80, then over I.S. Hwy 80 to Reno, NV and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Asheville, NC over U.S. Hwy 25 to its junction with I.S. Hwy 85, then over I.S. Hwy 85 to Atlanta, GA, then over GA Hwy 85 to its junction with Alt. U.S. Hwy 27, then over Alt. U.S. Hwy 27 to Columbus, GA, then over U.S. Hwy 80 to its junction with U.S. Hwy 95, then over U.S. Hwy 95 to Needles, CA and return over the same route, (2) from Washington, DC over I.S. Hwy 95 to its junction with I.S. Hwy 85, then over I.S. Hwy 85 to Atlanta, GA, then over GA Hwy 85 to its junction with Alt. U.S. Hwy 27, then over Alt. U.S. Hwy 27 to Columbus, GA, then over U.S. Hwy 80 to its junction with U.S. Hwy 95, then over U.S. Hwy 95 to Needles, CA and return over the same route, (3) from Philadelphia, PA over I.S. Hwy 95 to its junction with I.S. Hwy 85, then over I.S. Hwy 85 to Atlanta, GA, then over GA Hwy 85 to its junction with Alt. U.S. Hwy 27, then over Alt. U.S. Hwy 27 to Columbus, GA, then over U.S. Hwy 80 to its junction with U.S. Hwy 95, then over U.S. Hwy 95 to its junction with U.S. Hwy 66, then over U.S. Hwy 66 to Barstow, CA and return over the same route, and (4) from Newark, NJ over I.S. Hwy 95 to its junction with I.S. Hwy 85, then over I.S. Hwy 85 to Atlanta, GA, then over GA Hwy 85 to its junction with Alt. U.S. Hwy 27, then over Alt. U.S. Hwy 27 to Columbus, GA, then over U.S. Hwy 80 to its junction with U.S. Hwy 395, then over U.S. Hwy 395 to Reno, NV and return over the same route.

Permanent Authority Decisions

Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: October 28, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 1010f subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher and Dowell.

MC 14314 (Sub-43F), July 1, 1980. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359 Broadway & Vine, Lima, OH 45082. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. To operate as a *common carrier* by motor vehicle, over regular routes, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) between junction U.S. Hwy 40 and Interstate Hwy 75, and Terre Haute, IN, over U.S. Hwy 40; (2) between Cincinnati, OH and Indianapolis, IN, over U.S. Hwy 52; (3) between Indianapolis, IN and Louisville, KY, over U.S. Hwy 31; (4) between Indianapolis, IN, and junction IN Hwy 37 and IN Hwy 62, over IN Hwy 37; (5) between Indianapolis, IN and Vincennes, IN, over IN Hwy 67; (6) between Indianapolis, IN and Fort Wayne, IN, over IN Hwy 37; (7) between Indianaplis, IN and Fort Wayne, IN: From Indianapolis over IN Hwy 67 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Fort Wayne, and return over the same route; (8) between Gary, IN and Butler, IN, over U.S. Hwy 6; (9) between Gary, IN and junction U.S. Hwy 20 and Interstate Hwy 69, over U.S. Hwy 20; (10) between Evansville, IN and Louisville, KY, over IN Hwy 62; (11) between Indianapolis, IN and Gary, IN, over Interstate Hwy 65; (12) between Indianapolis, IN and South Bend, IN, over U.S. Hwy 31; (13) between Indianapolis, IN, and Veedersburg, IN, over U.S. Hwy 136; (14) between Hammond, IN and Vincennes, IN, over U.S. Hwy 41; in (1) through (14) above, serving all intermediate points, and all points in IN as off-route points. (Hearing site: Columbus, OH.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 71652 (Sub-46F), filed April 12, 1980. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Hwy., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel pipe, fence posts, and conduits*, between points in CA, OR, and WA, restricted to shipments moving for the account of Western Tube and Conduit.

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35119 Filed 11-10-80; 8:45 am]

BILLING CODE 7035-01-M

Office of Proceedings; Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 80-20376, at page 46494, in the issue of Thursday, July 10, 1980, on page 46563, in the middle column, the first full paragraph designated as "MC 136408 (Sub-49F)" for Cargo, Inc, the fourteenth line down, correct "MN" to "NM".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-30613, at page 65345, in the issue of Thursday, October 2, 1980, on page 65350, in the first column, in the first paragraph for Caravan Refrigerated Cargo, Inc., correct the first line now reading "MC 119789 (Sub-F) filed September 5, 1980" to read "MC 119789 (Sub-713F), filed September 5, 1980."

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-29935, published at page 64274, on Monday, September 29, 1980, on page 64282, in the second column, in the paragraph for MC 135640 (Sub-4-5TA), Staley Express, Incorporated, in the twelfth line, "*Products From Corn And Supplies Used In Manufacturing And Distributing Thereof*" should be corrected to read "*Products from corn and soybeans and equipment, materials and supplies used in manufacturing and distributing thereof*".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-30928 appearing on page 66215, in the issue of Monday, October 6, 1980 make the following correction.

On page 66221, in MC 149054 (Sub-3-1TA), Thomas Overland Express, Inc., first column, third complete paragraph, in the fourteenth line "TS" should have read "TX".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-31265, appearing on page 66895, in the issue of Wednesday, October 8, 1980, make the following correction.

On page 66898, in MC 47171 (Sub-3-9TA) COOPER MOTOR LINES, INC., third column, third complete paragraph, in the seventh line, the first word reading "pills," should have read "oil,".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David Frank Micci, M.D.; Denial of Application; Correction

On October 28, 1980, a final order was published in the **Federal Register** (Vol. No. 210, 45 FR 71448) denying the application submitted by Dr. Mucci. That final order included unnecessary language in the sentence denying the application, and this document corrects that error. The final sentence in the order should read, "Accordingly, pursuant to the authority vested in the Attorney General in 21 U.S.C. 824, and redelegated to the Administrator of the

V 45 NO 12 80 UMI

Drug Enforcement Administration, the Administrator hereby denies the application for registration executed by David Frank Micci, M.D., on January 27, 1980, effective December 12, 1980.

Dated: November 5, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-35161 Filed 11-10-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

State of Alabama Department of Industrial Relations and State of Nevada Employment Security Department; Order of the Secretary of Labor Terminating the Proceedings

The following Order of the Secretary of Labor, issued on October 30, 1980, pursuant to Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), is being published in the **Federal Register** so as to inform the public of decisions of the Secretary having a bearing upon the tax credits against the federal unemployment tax available to taxpayers under the Federal Unemployment Tax Act, 26 U.S.C. 3301–3311.

Signed at Washington, D.C., November 5, 1980.

Charles B. Knapp,

Acting Assistant Secretary for Employment and Training.

In the matter of State of Alabama Department of Industrial Relations, 80–CSCP–1 and State of Nevada Employment Security Department, 80—CSCP–4: Order of the Secretary of Labor Terminating the Proceedings.

The Department instituted these proceedings against the States of Alabama and Nevada on June 24, 1980, in order to determine whether the State's unemployment compensation programs had conformed to the requirements for certification for taxable year 1980 contained in the Federal Unemployment Tax Act ("FUTA"), 26 U.S.C. 3301 *et seq.* The underlying issue in the proceedings is whether FUTA requires the states to include the employees of church-related elementary and secondary schools within the coverage of their programs.

That same issue formed the basis for proceedings instituted last year for taxable year 1979. *In the Matter of U.S. Department of Labor* v. *State of Alabama Department of Industrial Relations and State of Nevada Employment Security Department.* The 1979 proceedings culminated in my decision that FUTA does require the states to provide coverage for the employees of church-related schools. Accordingly, since Alabama and Nevada concededly had not provided such coverage, I declined to certify those States for 1979. 44 FR 64,378.

The States sought review of my decision in the United States Court of Appeals for the Fifth Circuit. That court recently handed down its decision, granting, on the basis of the record before it, the States' petition for review, and setting aside my decision. *States of Alabama and Nevada* v. *Marshall,* Nos. 79–3968 and 79–4032 (September 8, 1980). I have asked the Solicitor General to file a petition for certiorari in the United States Supreme Court seeking review of that decision.

In addition to the States of Alabama and Nevada, the Department had initially conformity proceedings for the year 1980 based on the same issue against eight other States: California, Michigan, Ohio, Oregon, Tennessee, Texas, Washington, and Wisconsin. Those States, unlike Alabama and Nevada, requested an opportunity for an evidentiary hearing on the issue. On August 29, 1980, I issued an order terminating the 1980 proceedings against the eight States. The order was based upon the States' contention that there was insufficient time remaining before October 31, 1980, the date on which the statute requires annual certification in which to present their case.

In view of the Fifth Circuit's decision in *States of Alabama & Nevada* v. *Marshall, supra,* and the disposition of the 1980 proceedings involving the other States, I have decided to certify Alabama and Nevada for the year 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-35078 Filed 11-10-80; 8:45 am]

BILLING CODE 4510-30-M

State of California Employment Development Department, et al.; Orderly Staying Proceedings

The following Order of the Secretary of Labor, issued on October 30, 1980, pursuant to Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), is being published in the **Federal Register** so as to inform the public of decisions of the Secretary having a bearing upon the tax credits against the federal unemployment tax available to taxpayers under the Federal Unemployment Tax Act, 26, U.S.C. 3301–3311.

Signed at Washington, D.C., November 5, 1980.

Charles B. Knapp,

Acting Assistant Secretary for Employment and Training.

In the Matter of State of California Employment Development Department, 81–CSCP–2, State of Michigan Employment Security Commission, 81–CSCP–3, State of Ohio Bureau of Employment Services, 81–CSCP–5, State of Oregon Employment Division 81–CSCP–6, State of Tennessee Department of Employment Security, 81–CSCP–7, State of Texas Employment Commission, 81–CSCP–8, State of Washington Employment Security Department, 81–CSCP–9, State of Wisconsin Department of Industry, Labor, and Human Relations, 81–CSCP–10, order staying proceedings.

On August 29, 1980, an order was issued terminating the proceedings which the Department had instituted under Section 3304(c) of the Internal Revenue Code of 1954, to determine whether, during 1980, the unemployment compensation laws of the States of California, Michigan, Ohio, Oregon, Tennessee, Texas, Washington and Wisconsin are in conformity and substantial compliance with the requirements for certification contained in the Federal Unemployment Tax Act ("FUTA"), 26 U.S.C. 3301 *et seq.* The order was based upon the States' contention that there was insufficient time remaining before October 31, 1980, the date on which the statute requires annuals certification, in which to present their case. The order stated that the Department would institute conformity proceedings based on the same issue for the year 1981, and that the States would be notified shortly of hearing date.

The issue in these conformity proceedings is whether FUTA requires the states, as a condition of certification, to include the employees of church-related elementary and secondary schools within the coverage of their unemployment compensation programs. It now appears that the United States Supreme Court may rule on this issue during the coming term. Therefore, the Department does not intend to schedule any hearing on this matter pending review by the Supreme Court.

Two Lutheran schools in the State of South Dakota have filed a petition for certiorari, asking the United States Court to review a decision of the South Dakota Supreme Court holding that FUTA requires the State to include the employees of church-related elementary and secondary schools within the coverage of its unemployment compensation program. *St. Martin Evangelical Lutheran Church and Northwestern Lutheran Academy* v. *The State of South Dakota,* No. 80–120. In addition, the United States Court of Appeals for the Fifth Circuit recently handed down a contrary decision, setting aside my decision finding the State of Alabama and Nevada out of conformity for 1979, and holding that FUTA does not require the states to include church-related schools in the coverage of their programs. *States of Alabama and Nevada* v. *Marshall,* Nos. 79–3768 and 79–4032 (September 8, 1980). The Department has asked the Solicitor General to file a petition for certiorari in the United States Supreme Court in that case.

Because of the conflicting decisions, there is a substantial likelihood that the United States Supreme Court will accept the issue for review. The Department, therefore, will not schedule any hearing until the Court rules on the petitions for certiorari. Assuming the Court grants the petitions and accepts the issue for review, the Department intends to refrain from scheduling a hearing until after the Court hands down its decision on the merits; should it be necessary to hold hearings following the decision, they will be scheduled promptly. However, inasmuch as FUTA requires that I make my certification decisions by October 31, should the Court's decision on the merits be delayed until the end of the term, in June 1981, or beyond, it may be necessary to commence the proceedings before the decision has been handed down. In addition, of course, should the Court deny the petitions for certiorari, hearings will be scheduled promptly.

In sum, the Department will temporarily hold the 1981 proceedings in abeyance, pending the Supreme Court's action. In accordance with my August 29, 1980, Order, proceedings will be commenced at the proper time by transmitting a Notice of Hearing to the States and publishing it in the **Federal Register.**

So order this 30th day of October, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-35077 Filed 11-10-80; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-77]

NASA Advisory Council (NAC); Aeronautics Advisory Committee (AAC); Informal Advisory Subcommittee on Materials and Structures; Meeting

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announced the following meeting:

NAME OF COMMITTEE: NAC AAC Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: December 2, 1980, 8:30 a.m. to 5:30 p.m., December 3, 1980, 8:30 a.m. to 4:00 p.m.

ADDRESS: NASA Langley Research Center, Building 1229, Room 223, Hampton, VA

TYPE OF MEETING: Open

AGENDA:

December 2, 1980

8:30 a.m.—Materials and Structures Overview
9:00 a.m.—Materials and Structures Long-Range Plan
3:30 p.m.—Discussion
5:30 p.m.—Adjourn

December 3, 1980

8:30 a.m.—Numerical Aerodynamics Simulator Report
9:00 a.m.—Aeroelasticity of Turbine Engines Review, Future Actions
11:00 a.m.—Materials and Structures Long-Range Plan, Continued
1:30 p.m.—Committee Discussion
4:00 p.m.—Adjourn.

FOR FURTHER INFORMATION CONTACT: Dr. Leonard A. Harris, Executive Secretary of the Subcommittee, National Aeronautics and Space Administration, Code RTM–6, Washington, DC 20546 (202/755–2364).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assess the NASA program in high temperature materials, structures and structural dynamics. It evaluates the adequacy of current and planned R&T activities in terms of future forecast aircraft requirements and recommends program modifications to support overall NASA future technology objectives. The Subcommittee, chaired by Dr. Martin Goland, is comprised of ten members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

November 5, 1980.

[FR Doc. 80-35109 Filed 11-10-80; 8:45 am]

BILLING CODE 7510-01-M

[Notice 80-78]

NASA Advisory Council (NAC); Subcommittee on Aviation Safety Reporting System (ASRS); Meeting

The Subcommittee on Aviation Safety Reporting System (ASRS) will meet December 2–3, 1980, at the Ames Research Center, Moffett Field, CA, Building 200, Director's Committee Room. The meeting will be open to the public up to the seating capacity of the room (about 30 persons including Subcommittee members and participants).

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to Subcommittee recommendations. The Chairperson is John H. Winant. There are currently 10 members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

December 2, 1980

9:00 a.m.—Chairperson's Opening Remarks
9:00 a.m.—Management Report
10:30 a.m.—Research Report
1:00 p.m.—Discussion of the Evaluation of ASRS Effectiveness
3:00 p.m.—Discussion of Post-September 1981 ASRS Operations
5:00 p.m.—Adjourn

December 3, 1980

9:00 a.m.—Consideration of System Design Modification
11:00 a.m.—Discussion of Subcommittee's Report Schedule
12:00 Noon—Adjourn

For further information, contact Dr. Herman A. Rediess, Code RTE–6, NASA Headquarters, Washington, DC 20546. Telephone 202/755.2243.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

November 5, 1980.

[FR Doc. 80-35110 Filed 11-10-80; 8:45 am]

BILLING CODE 7510-01-M

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[Notice 80-79]

Space Science Steering Committee, Physical Science Spacelab and LDEF Ad Hoc Advisory Subcommittee; Meeting Cancellation

ACTION: Notice of meeting cancellation.

SUMMARY: The scheduled meeting on November 17–19, 1980, of the Space Science Steering Committee, Physical Science Spacelab and Long Duration Exposure Facility (LDEF) Ad Hoc Advisory Subcommittee, published in the **Federal Register** November 3, 1980 (45 FR 72851), has been cancelled.

FOR FURTHER INFORMATION CONTACT:
Dr. Eric Chipman, National Aeronautics and Space Administration, Code ST–5, Washington, DC 20546 (202/755–8490).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

November 5, 1980.

[FR Doc. 80-35111 Filed 11-10-80; 8:45 am]

BILLING CODE 7510-01-M

POSTAL SERVICE

Publication of a Presorting Service Bureau Directory

AGENCY: Postal Service.

ACTION: Notice of intent to publish a Presorting Service Bureau Directory.

SUMMARY: The Postal Service will publish a directory of presorting service bureaus for use by its customer service representatives. Firms interested in being included in the directory should forward to the Postal Sevice the required information and promotional literature as provided in the Supplementary Information below. The directory will be issued in the spring of 1981.

FOR FURTHER INFORMATION CONTACT:
John Hagarty, (202) 245–4456.

SUPPLEMENTARY INFORMATION:
Presorting service bureaus are firms that provide sortation of First-Class Mail by ZIP Code for businesses that wish to earn a reduced postage rate but do not want to sort their own mail. The Presort First-Class Mail postage rate is two cents less than the regular rate. It is not known how many such firms are currently in operation. However, since the implementation of Presort First-Class Mail in 1976, this industry has steadily grown. Today, most major cities have one or more presorting service bureaus.

The purpose of the Postal Service's directory would be to provide postal customer service representatives a reference guide in responding to customer inquiries about presorting bureaus. Inclusion of firms in the directory would not constitute the Postal Service's endorsement. All known firms providing this service will be included in the directory and postal personnel will be instructed to mention each available bureau in their area when customers make an inquiry. The directory will include the following information:

—Name of Firm/Address
—Number of Branches/Addresses
—Firm Representative
—Telephone Number
—Geographical Coverage for each office
—Specific acceptance criteria, including: minimum mail volumes requirement, postage payment method, mailing piece size and weight limits, and any additional customer requirements.

In addition, any bureau that will accept customer mail in volumes of less than 500 pieces will be highlighted in bold type in the directory.

Firms interested in being included in the directory should forward the required information and one copy of their promotional literature to: John Hagarty, Room 5914, United States Postal Service Headquarters, Washington, D.C. 20260.

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-35108 Filed 11-10-80; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1981, shall be at the rate of fourteen and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1981, 20.7 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 79.3 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.
Dated: November 4, 1980.

R. R. Butler,

Secretary of the Board.

[FR Doc. 80-35144 Filed 11-10-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16986B; SR-AMEX-80-13]

American Stock Exchange, Inc.; Order Granting Effectiveness to Proposed Rule Change

November 3, 1980.

On July 28, 1980, Securities Exchange Act Release No. 16986A was issued staying the effective date of the approval of a proposed rule change by the American Stock Exchange, Inc. ("Amex") (SR–Amex–80–13), 86 Trinity Place, New York, New York 10006 until notice was received that all action required for effectiveness was completed.

On October 27, 1980, Amex filed notice with the Commission that the Exchange membership has approved the proposed rule change, completing the necessary requirements.

The rule change will amend the Amex Constitution and rules to eliminate the requirement that the principal purpose of every member and member organization be the transaction of business as a broker or dealer in securities.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35101 Filed 11-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17271; SR-MSE-80-8]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 5, 1980.

On May 13, 1980, the Midwest Stock Exhange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends its recordkeeping requirement regarding transactions effected in margin accounts and amends its advertising rule regarding examination authority.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–17141, September 9, 1980) and by publication in the **Federal Register** (45 FR 61840, September 17, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rules change is consistent with the requirements of the Act and the rule and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35104 Filed 11-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21777; 70-6435]

Columbia Gas System, Inc.; Proposed Intrasystem Financing

November 5, 1980.

In the Matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807, Columbia Gas Transmission Corp., 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215, Columbia Hydrocarbon Corp., the Inland Gas Co., Inc., Columbia Coal Gasification Corp., 340 17th Street, Ashland, Kentucky 41101, Columbia Gulf Transmission Co., 3805 West Alabama Avenue, Houston, Texas 77027, Columbia Gas System Service Corp., Columbia LNG Corp., Columbia Gas Development Corp., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(b), 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated May 28, 1980 (HCAR No. 21593), Columbia, among other things, was authorized to make short-term advances on open account of up to $145,000,000 to Columbia Gas Transmission Corporation ("Columbia Transmission"). It is not proposed that such advances be increased to $170,000,000.

It is also proposed that Columbia Transmission issue and sell, and that Columbia acquire, installment notes and/or floating rate term notes up to the amount of $60,000,000. The issuance and sale of these notes will be subject to the same terms and conditions as those of certain other subsidiaries as described previously in the application-declaration.

It is stated that the increase of $25,000,000 in advance to Columbia Transmission is required in order to provide Columbia Transmission with sufficient funds to finance gas purchases and other normal short-term seasonal requirements. The issuance of $60,000,000 in notes is required to finance Columbia Transmission's Capital expenditures. The additional financing requirements are a result of lower sales volumes.

Notice is further given that any interested person may, not later than December 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35102 Filed 11-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11430; 811-2231]

1st Real Property Securities Fund; Proposal To Terminate Registration

November 5, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), Gregory C. Welton, 1417 Via Arco, Palos Verdes Estates, California 90274, to declare by order on its own motion, that 1st Real Property Securities Fund ("Fund"), registered under the Act as a closed-end, non-diversified management investment company, has ceased to be an investment company as defined by the Act.

The Fund registered under the Act on October 4, 1971. Information contained in the files of the Commission indicates that the Fund's registration statement under the Securities Act of 1933 (File No. 2–42039) was ordered abandoned by the Commission on May 8, 1975. In addition, the Fund has never filed the annual and periodic reports required by Section 30 of the Act. Moreover, efforts by the staff of the Division to contact the Fund have been unsuccessful. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made

V 45 NO 012 80 0 UMI

upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 1, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order imposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-35100 Filed 11-10-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 11428; 812-4739]

Gradison Cash Reserves, Inc.; Filing of an Application

November 4, 1980

Notice is hereby given that Gradison Cash Reserves, Inc. ("Applicant"), 580 Building, Cincinnati, Ohio 45202, registered under the Investment Company Act of 1940 (the "Act"), as an open-end, diversified management investment company, filed an application on September 24, 1980, and an amendment thereto on October 22, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose objective is to seek maximum current income consistent with preservation of capital. The application also states that Gradison & Company Incorporated acts as the investment adviser of the Applicant. As of September 5, 1980, Applicant had net assets of approximately $321,300,000. The minimum initial investment in shares of the Applicant is $1,000.

Applicant represents that its net assets are invested in a variety of short-term money market instruments normally maturing within one year from the date of purchase which include obligations issued or guaranteed by the U.S. Government or its agencies or instrumentalities, obligations of domestic banks which are members of the Federal Deposit Insurance Corporation, obligations of savings and loan associations which are members of the Federal Savings and Loan Insurance Corporation, prime commercial paper, other corporate obligations with remaining maturities of one year or less, floating rate notes and repurchase agreements.

The application represents that permissible commercial paper investments of the Applicant consist only of direct obligations which, when purchased, are rated A–1 by Standard and Poor's Corporation or Prime–1 by Moody's Investors Service, Inc., or which are issued by companies having an outstanding unsecured debt issue currently rated AA or better by Standard and Poor's or Aa or better by Moody's. The application further states that other corporate obligations eligible for investment by the Applicant consist of those with remaining maturities of one year or less which, when purchased, are rated AA or better by Standard and Poor's or Aa or better by Moody's. The application further states that floating rate notes, when purchased by the Applicant, must satisfy the rating standards for other corporate obligations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of the rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that its experience has been that investors in a "money market" fund desire a stable net asset value, preferably at $1.00 per share, and a steady flow of investment income.

Applicant represents that to maintain a net asset value per share of $1.00 and nevertheless employ the amortized cost method of valuation to reflect a more consistent yield, Applicant has found it necessary to invest its assets primarily in securities having remaining maturities of 60 days or less. Applicant further represents that, if it is permitted to do so, the ability purchase securities having remaining maturities of more than 60 days and to value them by means of the amortized cost method of valuation would provide management of the Applicant and its investment adviser substantial additional flexibility in managing the Applicant's portfolio of investments to respond to fluctuating interest rate levels, while at the same time enabling the Applicant to maintain its net asset value per share at $1.00. The application states that the board of directors of the Applicant has determined that an average portfolio maturity of approximately 120 days satisfies the two previously-mentioned requirements of its investors—that is, such an average maturity substantially protects the investors from the possibility of significant volatility in the value of portfolio instruments, while at the same time providing a yield on portfolio instruments commensurate with yields available in the general money market, which yield might not otherwise be available with a portfolio having an average maturity of a shorter duration.

The Applicant consents to the imposition of the following conditions in any order granting the exemptions requested:

(1) In supervising the Applicant's operations and delegating to the Applicant's investment adviser special responsibilities involving portfolio management, the Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its stockholders—to establish procedures reasonably designed, taking into account current market conditions and the Applicant's investment objective, to stabilize the Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included among the procedures to be adopted by the board of directors shall be the following duties and responsibilities:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the Applicant's $1.00 amortized cost price per share from the net asset value per share as determined by using available market quotations, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or any other unfair result to investors or existing stockholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair result, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of the Applicant's portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) The Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) The Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above, and the Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to the maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) The Applicant will limit its portfolio instruments, including repurchase agreements, to those U.S. dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

(6) The Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, such attachment will describe the nature and circumstances of such action.

The Applicant represents that its board of directors has determined in good faith that in light of the facts and circumstances described above, and subject to compliance with the above conditions, the amortized cost method of valuation would be appropriate and preferable for the Applicant. The Applicant further represents that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 28, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request

[1] The Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value. In addition, the Applicant states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market investments published by reputable sources.

[2] In fulfilling this latter condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

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or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George S. Fitzsimmons,

Secretary.

[FR Doc. 80-35103 Filed 11-10-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1945]

Alabama; Declaration of Disaster Loan Area

The area of west side of the square on Pelham Road (known as Alabama State Hwy. No. 21) in the City of Jacksonville, Calhoun County, Alabama, constitutes a disaster area because of damage resulting from a fire which occurred on October 2, 1980. Eligible persons, firms and organizations may file Applications for loans for physical damage until the close of business on January 2, 1981, and for economic injury until the close of business on August 3, 1981, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance program Nos. 59002 and 59008)

Dated: November 3, 1980.

William H. Mauk,

Acting Administrator.

[FR Doc. 80-35132 Filed 11-10-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1942]

Mississippi; Declaration of Disaster Loan Area

The following 72 counties and adjacent counties within the State of Mississippi constitute a disaster area as a result of natural disasters as indicated:

County, Natural Disaster(s), and Date(s)

Adams—Drought and Excessive Heat—6/15/80–9/29/80
Alcorn—Drought and Excessive Heat—5/15/80–9/25/80
Amite—Drought and Excessive Heat—5/22/80–9/29/80
Attala—Drought and Excessive Heat—6/27/80–9/29/80
Benton—Drought and Excessive Heat—5/1/80–9/22/80
Bolivar—Drought and Excessive Heat—5/26/80–9/24/80
Calhoun—Drought and Excessive Heat—6/25/80–9/23/80
Carroll—Drought and Excessive Heat—6/1/80–9/24/80
Chickasaw—Drought and Excessive Heat—6/20/80–9/25/80
Choctaw—Drought and Excessive Heat—6/15/80–9/25/80
Claiborne—Drought and Excessive Heat—6/26/80–9/29/80
Clarke—Drought and Excessive Heat—6/15/80–9/29/80
Clay—Drought and Excessive Heat—7/1/80–9/30/80
Copiah—Drought and Excessive Heat—5/23/80–9/30/80
Covington—Drought and Excessive Heat—6/1/80–9/29/80
Desoto—Drought and Excessive Heat—6/15/80–9/20/80
Forrest—Drought and Excessive Heat—5/25/80–9/30/80
Franklin—Drought and Excessive Heat—6/1/80–9/24/80
Georgia—Drought and Excessive Heat—7/1/80–8/31/80
Hancock—Drought and Excessive Heat—6/5/80–9/29/80
Harrison—Drought and Excessive Heat—5/19/80–9/25/80
Hinds—Drought and Excessive Heat—5/28/80–9/29/80
Humphreys—Drought and Excessive Heat—7/1/80–9/24/80
Itawamba—Drought and Excessive Heat—6/1/80–9/23/80
Jackson—Drought and Excessive Heat—6/1/80–9/24/80
Jasper—Drought and Excessive Heat—6/1/80–9/29/80
Jones—Drought and Excessive Heat—6/1/80–9/29/80
Kemper—Drought and Excessive Heat—6/23/80–9/24/80
Lafayette—Drought and Excessive Heat—5/1/80–9/25/80
Lamar—Drought and Excessive Heat—5/25/80–9/23/80
Lawrence—Drought and Excessive Heat—6/1/80–9/30/80
Leake—Drought and Excessive Heat—5/15/80–9/30/80
Lee—Drought and Excessive Heat—7/1/80–8/31/80
LeFlore—Drought and Excessive Heat—6/23/80–9/24/80
Lincoln—Drought and Excessive Heat—5/15/80–9/24/80
Lowndes—Drought and Excessive Heat—7/1/80–10/1/80
Madison—Drought and Excessive Heat—6/10/80–9/30/80
Marion—Drought and Excessive Heat—6/10/80–9/29/80
Marshall—Drought and Excessive Heat—6/1/80–10/1/80
Monroe—Drought and Excessive Heat—6/1/80–9/30/80
Neshoba—Drought and Excessive Heat—6/15/80–9/29/80
Newton—Drought and Excessive Heat—6/1/80–9/29/80
Noxubee—Excessive Heat—7/1/80–9/15/80
Oktibbeha—Drought and Excessive Heat—6/28/80–9/24/80
Panola—Drought and Excessive Heat—5/22/80–6/22/80, 6/25/80–9/29/80
Pearl River—Drought and Excessive Heat—6/5/80–9/29/80
Perry—Drought and Excessive Heat—6/1/80–9/30/80
Pike—Drought and Excessive Heat—5/22/80–9/29/80
Pontotoc—Drought and Excessive Heat—5/23/80–9/23/80
Prentiss—Drought and Excessive Heat—6/15/80–9/23/80
Quitman—Drought and Excessive Heat—6/25/80–9/29/80
Rankin—Drought and Excessive Heat—6/1/80–9/29/80
Scott—Drought and Excessive Heat—7/1/80–10/1/80
Sharkey—Drought—5/26/80–9/23/80
Smith—Drought and Excessive Heat—6/10/80–10/1/80
Stone—Drought and Excessive Heat—5/19/80–9/25/80
Sunflower—Drought and Excessive Heat—6/10/80–10/1/80
Tallahatchie—Drought and Excessive Heat—6/25/80–9/25/80
Tate—Drought and Excessive Heat—6/1/80–9/30/80
Tippah—Drought and Excessive Heat—6/13/80–8/31/80
Tishomingo—Drought and Excessive Heat—6/1/80–9/22/80
Tunica—Drought and Excessive Heat—6/1/80–8/31/80
Union—Drought and Excessive Heat—6/23/80–10/1/80
Walthall—Drought and Excessive Heat—6/1/80–9/24/80
Warren—Drought and Excessive Heat—6/15/80–9/25/80
Washington—Drought and Excessive Heat—6/1/80–10/1/80
Wayne—Drought and Excessive Heat—5/25/80–9/24/80
Webster—Drought and Excessive Heat—6/15/80–9/25/80
Wilkinson—Drought and Excessive Heat—6/1/80–7/31/80
Winston—Drought and Excessive Heat—7/1/80–9/24/80
Yalobusha—Drought and Excessive Heat—7/1/80–9/29/80
Yazoo—Drought and Excessive Heat—7/1/80–9/16/80

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 27, 1981, and for economic injury until the close of business on July 27, 1981.

Small Business Administration, District Office, New Federal Building, Suite 322, 100 W. Capitol Street, Jackson, Mississippi 39201.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 27, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-35133 Filed 11-10-80; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C. will hold a public meeting at 2:00 p.m. until 6:00 p.m., Friday, December 5, 1980, at the Desert Inn, Terrace Room, 3145 Las Vegas Boulevard South, Las Vegas, Nevada 89109 to discuss such business as may be presented by the Committee members.

The Advisory Committee meeting follows the Nevada Economic Development Companies' Annual Regional Minority Business Conference, enabling Advisory Committee members the opportunity to obtain input from the minority business persons who will be in attendance for the prior conference.

Attendance is open to the interested public, however, available space is limited.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and/or present oral statements should notify Mr. Milton Wilson, Jr., Director, Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, NW., Washington, D.C. 20416, 7 days in advance of the meeting date. The public may present a written statement to the Committee at any time.

Dated: November 4, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-35134 Filed 11-10-80; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 220

Wednesday, November 12, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Thursday, November 13, 1980, 9 a.m.–12 noon; 1:30 –6 p.m. Friday; November 14, 1980, 9 a.m. 12 noon, 1:30–4 p.m.

PLACE: 1121 Vermont Avenue, NW., room 512, Washington, D.C. 20425.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: November 13, 1980:

I. Approval of Agenda.
II. Approval of Minutes of Last Meeting.
III. State Advisory Committee Re-charters:
A. Iowa
B. Kentucky
C. North Dakota
D. Utah
E. Interim Appointment—Illinois
IV. Review of Affirmative Action Statement.
V. Review of Proposed Rules for Educating Limited-English-Proficient Students.

November 14, 1980:

VII. Review of Report to the President—1980.
VIII. Review of Higher Education Desegregation Statement.
IX. Transmittal of Report on *Battered Women and the New Hampshire Justice System.*
X. Transmittal of Consultation Proceedings on *Reinvestment and Housing Equality in Michigan.*
XI. Staff Director's Report:
A. Status of Funds.
B. Personnel Report.
C. Office Directors' Reports.
D. Correspondence:
1. Letter from Representative Carroll Hubbard.
2. Letter from WEAL Legislative Director Patricia B. Reuss.
3. Proposed response to resolution adopted by the Common Council of the City of Buffalo.
4. Letter from Catherine May Haas, Chairperson, Tacoma Human Relations Commission.
5. Letter from and response to Representative Robert Walker.
E. Briefing on Status of Bills Report.
XII. Civil Rights Developments in the New England Region.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division, 254–6697.

[FR Doc. S–2056–80 Filed 11–7–80; 11:14 am]
BILLING CODE 6335–01–M

2

COUNCIL ON ENVIRONMENTAL QUALITY.

November 7, 1980.

TIME AND DATE: 11:30 a.m., November 20, 1980.

PLACE: Conference room, 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Status of Chemical Substance Information Network.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III (202) 395–4616.

[S–2058–80 Filed 11–7–80; 3:18 pm]
BILLING CODE 3125–01–M

3

LEGAL SERVICE CORPORATION.

Appropriations and Audit Committee Meeting.

TIME AND DATE: 9 a.m.–5 p.m., Tuesday, November 18, 1980.

PLACE: Legal Services Corporation, eighth floor conference room 2, 733 15th Street NW., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of minutes of August 21, 1980; meeting.
3. Proposed budget development, review and modification procedures.
4. Status of Legal Services Corporation's fiscal year 1980 annual audit.
5. Preliminary final report of fiscal year 1980 expenditures.
6. Review of preliminary consolidated operating budget for fiscal year 1981.
7. Review of proposed budget for fiscal year 1982.
8. Auditor selection process for fiscal year 1981.
9. Other business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, 202–272–4040.

Issued: November 6, 1980.

Dan J. Bradley,
President.

[S–2058–80 Filed 11–5–80; 5:42 pm]
BILLING CODE 6820–35–M

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METRIC BOARD.

STANDARDS LIAISON COMMITTEE.

TIME AND DATE: 12 p.m., Thursday, November 20, 1980.

PLACE: Metric Board Headquarters, Suite 600, 1815 North Lynn Street, Arlington, Virginia 22209.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Report on current Standards Classification Activity.
Plan for Standards Data Collection (Interviews, Letters).
Other.

Louis F. Polk,
Chairman, United States Metric Board.

[S–2057–80 Filed 11–7–80; 10:06 am]
BILLING CODE 6820–94–M

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NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 10, 1980.

PLACE: Commissioners conference room, 1717 H Street N.W., Washington, D.C

STATUS: Open.

MATTERS TO BE CONSIDERED: Monday, November 10:

10 a.m.

Discussion of Policy on Anticipated Transient Without Scram (public meeting) (as announced).

2 p.m.

Briefing on Inclusion of Steam Generator Transients as an Unresolved Safety Issue (public meeting) (as announced).

Friday, November 14:

10 a.m.

1. Discussion of Instructions to Board on Indian Point Proceeding (approximately 1½ hours, public meeting).
2. Affirmation Session (public meeting):
a. Narrative Explanation of S-3 Table.
b. Reporting of Physical Security Events.
c. EDO Delegation of Authority.
d. Proposed Rulemaking—Post-CP Design Changes.

1:30 p.m.

Discussion of Proposed New Order on Psychological Stress at TMI–1 (closed—Exemption 10).

ADDITIONAL INFORMATION: By a vote of 3–0 on November 3, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the additional Affirmation Item—Extension of Relief from Pat-Down Searches at Power Reactors, held that day, be held on less than one week's notice to the Public.

By a vote of 4–0 on November 6, the Commission determined same as above, that the additional Affirmation Item—Diablo Canyon Physical Security Proceeding—Motions to Move Hearing Site—held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: November 7, 1980.

Walter Magee,
Office of the Secretary.

[FR Doc. S–2060–80 Filed 11–7–80; 3:53 pm]
BILLING CODE 7590–01–M

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federal register

Wednesday
November 12, 1980

Part II

Department of Health and Human Services

Health Care Financing Administration

Validation of Accreditation Surveys of Hospitals

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Validation of Accreditation Surveys of Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final regulation.

SUMMARY: These amendments modify current Medicare regulations dealing with hospitals accredited by the Joint Commission on Accreditation of Hospitals (JCAH) and the American Osteopathic Association (AOA) to restate these regulations more simply and clearly. Specifically, the amendments: (1) provide for consultation with the JCAH or AOA on survey findings prior to placing an accredited hospital under State survey agency monitoring; (2) recognize the JCAH and AOA institutional planning standards for hospitals as equivalent to the Medicare institutional planning requirement; (3) provide for consultation with JCAH and AOA before the Secretary promulgates standards that are higher or more precise than those used by JCAH or AOA; and (4) include reference, in the provision on State agency surveys, to chiropractors, end-stage renal disease treatment facilities, rural health clinics, and physical therapists in independent practice.

DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Janet Harryman, 301–594–9714.

SUPPLEMENTARY INFORMATION:

Background:

Hospitals that wish to participate in the Medicare program must meet the statutory requirements specified in Section 1861(e) of the Social Security Act as well as any additional health and safety requirements the Secretary may require under section 1861(e)(9). These requirements are referred to as "conditions of participation".

Hospitals are surveyed by State health departments or similar agencies, under contract of HCFA (in accordance with Section 1864 of the Act), to ascertain compliance with the conditions of participation and to certify their findings to HCFA. On the basis of these State survey agency certifications, HCFA decides whether the hospital qualifies, or continues to qualify, for participation in the Medicare program, and whether deficiencies exist and how they are to be corrected.

Section 1865 of the Act provide that a hospital which is accredited by JCAH is deemed to meet, by virtue of that accreditation, the Medicare conditions of participation, except those on utilization review, institutional planning, and any requirement promulgated by the Secretary under section 1861(e)(9) which is higher than the JCAH requirements for accreditation. This eliminates the need for State survey agencies to determine routinely whether these hospitals comply with most of the requirements of section 1861(e).

Section 1864(c) of the Social Security Act authorizes the Secretary to enter into agreements with the State survey agencies to determine, through validation surveys, whether hospitals participating in Medicare on the basis of JCAH accreditation are in fact meeting the conditions of participation that they are deemed to meet. In order for a JCAH accredited hospital to be deemed to meet the Medicare conditions of participation, the hospital must agree, if it is included in a validation survey, to authorize JCAH to release to HCFA, on a confidential basis, a copy of the most current JCAH accreditation survey.

Section 1865(b) provides that a hospital which is found after a validation survey to have "significant deficiencies" will no longer be deemed to meet the Medicare conditions of participation.

If the Secretary finds that accreditation of a hospital by AOA or another national accreditation body provides reasonable assurance that the hospital meets some or all of the conditions of participation, HCFA is authorized under section 1865 to treat such an accredited hospital as meeting the conditions of participation. Existing regulations provide that hospitals accredited by AOA are deemed to meet all of the requirements of section 1861(e) except for institutional planning, utilization review, and any requirements the Secretary might impose under section 1861(e)(9) which are higher than the AOA requirements (see 42 CFR 405.1901(b)).

In accordance with regulations 42 CFR 440.10(c), a hospital must meet the requirements of Medicare in order for it to participate in the Medicaid program.

On April 27, 1979, we published a Notice of Proposed Rule Making in the **Federal Register** (44 FR 25186) to announce proposed modifications in the Medicare program procedures dealing with validation surveys of accredited hospitals and related matters. The proposed amendments also made editorial and technical changes to 42 CFR §§ 405.1901, 405.1902, 405.1904 and 405.1905 to include reference to end-stage renal disease facilities, rural health clinics, physical therapists in independent practice, and chiropractors. State survey agencies survey such suppliers of services and certify to HCFA whether they meet the applicable requirements for coverage of their services. We have also sought to restate these regulations more simply and clearly.

Changes From NPRM

The NPRM would have restated the current rule that hospitals accredited by the AOA are deemed to meet all of the Medicare conditions of participation, with certain exceptions including the condition of participation on institutional planning. However, in June, 1980, the AOA adopted an institutional planning standard for accreditation which is substantially identical to HCFA's. We have determined that AOA now has an institutional planning requirement which serves the same purpose as the Medicare condition of participation on institutional planning (42 CFR 405.1021(j)). Accordingly, AOA accredited hospitals will now also be deemed to meet that condition of participation.

The NPRM would have restated existing policy which provides that if a hospital is found after a validation survey to have significant deficiencies, that is, to be out of compliance with a condition of participation, it is no longer deemed to meet the Medicare requirements. The regulations now being adopted have been revised. They provide that a "significant deficiency" will be determined to exist only if a hospital is found out of compliance with a condition of participation, *and* (1) the accrediting body does not accept the State survey agency's findings of deficiencies, does not agree to monitor the correction of those deficiencies, or does not provide HCFA with periodic reports of progress toward correction; or (2) HCFA determines that there is a need for continued full review by the State survey agency. These revisions are intended to minimize duplication in monitoring the correction of deficiencies in accredited hospitals, without interfering with HCFA's ability to validate the effectiveness of relying on the accreditation process for Medicare purposes.

Also included is a definition of the term "substantial allegation".

Scope of These Rules

1. Validation Survey.—Section 244 of the Social Security Amendments of 1972 (Pub. L. 92–603) amended Sections 1864 and 1865 of the Social Security Act. The new Section 1864(c) authorized the Secretary to enter into agreements with State survey agencies to perform validation surveys and thereby determine whether accredited hospitals which are deemed to meet the Medicare conditions of participation actually do. If the validation survey shows that a hospital has "significant deficiencies", the new Section 1865(b) provided that the hospital would no longer be deemed to meet the conditions of participation.

The regulations now in effect define "significant deficiencies" in terms of noncompliance with one or more of the conditions of participation. Hospitals found out of compliance are placed under full review by the State survey agency even if the same deficiencies had been found and appropriate correction monitoring activities had been instituted by the accrediting body. This process is duplicative and non-productive. In order to remedy this and be responsive to the concerns of Congress that validation procedures not duplicate the voluntary accreditation process (see page 291 of the Report of the Committee on Finance of the United States Senate accompanying Pub. L. 92–603, S. Rep. No. 92–1230, 92nd Cong., 2nd Sess., 1972), the definition of a "significant deficiency" adopted in these amendments also takes into consideration the deficiency findings and monitoring efforts of the accrediting body. This change will still permit us to evaluate the JCAH accreditation process, while reducing the burden of duplicative reviews on hospitals.

These final regulations provide that, if an accredited hospital is found to be out of compliance with one or more Medicare conditions of participation, HCFA will promptly discuss the matter with JCAH or AOA to determine if the accrediting body accepts the State agency findings and agrees to monitor the corrections against a specific timetable and provide HCFA periodic status reports. If the accrediting body agrees to the above, the State agency will be afforded an opportunity to justify and need for its continued review. If HCFA determines that there is no justification for continued full review by the State survey agency, the hospital will be subject only to JCAH or AOA monitoring for correction of the deficiencies. If the accrediting body does not accept the State agency findings, or does not submit periodic status reports as specified in the timetable after accepting the responsibility to monitor corrections, then the hospital will be considered to have a "significant deficiency". The hospital will no longer be deemed to meet the conditions of participation. It will be placed under the authority of a State survey agency to be surveyed in the same way as a nonaccredited hospital. The hospital must submit a plan of correction along with acceptable time frames that are reasonable for correcting the cited deficiency or deficiencies. The hospital must come into compliance in order to continue to participate in the Medicare program.

An accredited hospital will no longer be deemed to meet the conditions of participation, and will be subject to State agency surveys, only in those cases where the hospital: fails to authorize the release of its most current accreditation survey (on a confidential basis for JCAH accredited hospitals); refuses to allow a validation survey; is determined to have a "significant deficiency" after a validation survey; or fails to authorize the release of periodic status reports regarding correction of deficiencies. When HCFA, based on the State survey agency recommendations, determines that the hospital again meets all the conditions of participation or other applicable requirements, the hospital will once again be deemed to meet the conditions of participation by virtue of its accreditation.

A finding that an accredited hospital is not in compliance with a condition of participation, and a finding that an accredited hospital is no longer deemed to meet the conditions of participation, are not considered "initial determinations". The hospital therefore does not have the formal appeal rights described in 42 CFR 405.1501–405.1595. This is because the hospital remains in the program and continues to receive Medicare reimbursement. The hospital is, however, eligible for an informal administrative review if it is dissatisfied with such a finding. A review must be requested in writing within 15 days of the date of the notice about the finding.

2. Higher Standards.—Section 1861(e)(9) authorizes the Secretary to promulgate such standards as are necessary in the interest of the health and safety of individuals being furnished services by hospitals participating in the Medicare program. If these standards are higher than those prescribed by either JCAH or AOA, section 1865 provides that accredited hospitals may not be deemed to meet the higher standards. Instead, accredited hospitals must be surveyed periodically to determine their actual compliance with the higher standards. These final regulations provide that HCFA will consult with JCAH and AOA prior to the promulgation of higher health and safety standards to afford accrediting bodies the opportunity to adopt equivalent or higher standards as part of their own accreditation process. This change merely codifies in the regulations what has been HCFA's past practice.

As evidenced in the Senate Finance Committee's report accompanying the 1972 Amendments, Congress expected that if the Secretary proposed more effective standards, JCAH would, in all probability, adopt the standards. Therefore, it would not be necessary to conduct State agency surveys for isolated requirements (see page 291 of S. Rep. No. 92–1230, 92nd Cong., 2nd Sess. 1972).

3. Institutional Planning Standard.—JCAH and AOA accredited hospitals are not currently deemed to meet the Medicare institutional planning requirement in Section 1861(z) of the Act. As amended by Section 234(h) and 244 of Pub. L. 92–603, Section 1865 of the Social Security Act provides, however, that if JCAH establishes a standard which serves substantially the same purpose, an accredited hospital may be deemed to meet that Medicare requirement as well.

Section 1865 also authorizes the Secretary to treat hospitals accredited by AOA in a similar way.

The institutional planning standards of JCAH and AOA now contain substantially identical requirements to Medicare with provisions for an annual operating budget and long-term capital expenditure plan. They also require conformance with the requirements of authorized planning, regulatory, and inspecting agencies, and review and prompt action by accredited hospitals on reports of such agencies. On this basis, the Secretary has determined that the institutional planning standards of JCAH and AOA serve substantially the same purpose as Medicare's standard. Therefore, hospitals accredited by JCAH or AOA will be deemed to meet the Medicare institutional planning standard and will not be subject to State agency review (except for validation surveys).

Analysis of Public Comments

We have received 77 comments from 20 sources (including hospital administrators, State agencies, health professionals, and special interest health related associations) concerned about the validation requirements for accredited hospitals participating in the Medicare program. Several of the comments either addressed typographical errors, gave editorial expressions of opinion or asked clarification on some aspect of the NPRM subject matter. The majority of the comments were judged to be of a substantive nature, and were carefully

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considered in the preparation of these final regulations.

There were comments supporting and opposing the amendments, expressing a diverse range of concerns about the potential impact of the regulations on providers and accrediting bodies. In general, the comments were positive. For example, the JCAH indicated that the proposed regulations reflect a sensitivity to the practical problems associated with implementing Section 244 of Pub. L. 92-603; the Missouri Hospital Association and State of Idaho Department of Health and Welfare stated their approval of the proposed validation provisions; and the State of California Department of Health Services supported the proposed revisions after conducting a study of their impact on the cost of its operations. Other comments are as follows:

1. *Validation Survey.* Comment: The Chairman of the Hospital Licensing and Regulating Council of the Indiana State Board of Health felt that the "main thrust of the proposed regulation is to diminish local authority and strengthen authority on a national basis, which is contrary to maintaining State autonomy". They recommended that the current regulation dealing with validation surveys be unchanged.

Response: We did not accept this comment because the regulation does not detract from State and local authority. Validation surveys are performed by State agencies under contract to the Secretary, as required by statute. The purpose of the surveys is to determine whether accredited hospitals meet the standards they are deemed to meet. This has no impact on the development and enforcement of local requirements.

Comment: The Vice President of the Children's Hospital Medical Center, Cincinnati, Ohio charged that increased surveys, rules and regulations are not in the interest of cost-containment and questioned why HCFA couldn't agree on standards with the JCAH or AOA.

Response: We agree that duplicative surveys should be reduced and that greater uniformity in applicable standards would be desirable. The amendments are designed to achieve this goal. The validation survey, which is conducted on only a fraction of all accredited hospitals, is used to determine whether accredited hospitals do in fact meet the standards that they are deemed to meet. We agree, however, with the thrust of the comment and changes have been made in the regulations which will decrease the number of surveys accredited hospitals are subject to by State survey agencies. These changes provide for: (1) deeming accredited hospitals as meeting Medicare's institutional planning requirements; and (2) only placing accredited hospitals under full State agency review based on the existence of a significant deficiency as redefined in these amendments.

Comment: the JCAH reasoned that the proposed language stating the Secretary's authority to survey an accredited hospital "in response to substantial allegations of a condition adverse to the health and safety of patients" presents unlimited potential for abuse because it could seemingly invite unnecessary harassment from the public. They claim that even an anonymous phone call could constitute sufficient cause for the Department to instigate an investigational survey of an accredited hospital. The JCAH urged the Department to carefully balance the risk of being accused of insensitivity to public interest against that of wasteful harassment. They suggested, as a means to discourage unnecessary harassment, that HCFA specify criteria with which judgments can be made to determine the existence of a "substantial allegation". The Administrator, St. Anthony Hospital, Alton, Illinois, the Commonwealth of Pennsylvania Department of Public Welfare, and the American Hospital Association raised similar concerns on the lack of specificity and the unlimited potential for abuse.

Response: The suggestion to publish criteria in these regulations to assess "substantial allegations" has not been adopted, since each allegation is unique and requires individual attention by the Regional Office. We believe the Regional Offices can be expected to exercise sound judgment in distinguishing between allegations which are substantial, and those which are not. In these final regulations, however, we have included a definition of "substantial allegation" which incorporates the terminology now included in guidelines to Regional Offices and State survey agencies to aid them in determining the validity of a complaint. If it is determined in the future that more specific criteria are needed further amendments to the regulations, the *Regional Office Manual*, and instructional and procedural materials directed to State survey agencies would be considered.

Comment: The American Osteopathic Hospital Association asked that HCFA extend to AOA the same protective measures as afforded the JCAH with respect to confidentiality of survey report forms and accreditation letters.

Response: The request was not adopted in these regulations since the extension of confidentiality to AOA accredited hospitals can only be made through a statutory amendment.

Comment: With regard to § 405.1901(e) which specifies that a hospital must authorize its accrediting body to release a copy of the hospital's most current accreditation survey, the JCAH recommended defining "survey" in terms of "the accreditation letter and attendant recommendations and comments in the case of JCAH accredited hospitals". They also recommended expanding the requirement to allow hospitals to release directly to HCFA their most current accreditation survey; presumably as thus redefined. Their reasons were because of efficiency and economy.

Response: We did not accept these comments since these are statutory requirements.

Comment: The JCAH suggested modifying § 405.1901(e)(3) to allow reinstatement of the effect of accreditation in the case of a hospital which refuses to authorize release of its accreditation survey if HCFA finds that the hospital meets all the Medicare conditions of participation. Their reason was that governing bodies of some hospitals have sincere convictions about the role of the Federal Government and may wish to withhold their accreditation survey report.

Response: Hospitals are not required to be accredited in order to participate in the Medicare program. They are required, however, to meet the conditions of participation in Section 1861(e) of the Social Security Act and in implementing regulations. HCFA contracts with State health departments to survey hospitals for compliance with these requirements. Congress provided, however, that an accredited hospital could be presumed to meet most of the conditions of participation, making a State agency survey unnecessary in most cases. Since determining which hospitals are qualified to participate in the Medicare program is nevertheless a Federal responsibility, Congress required us to validate the JCAH accreditation process to determine if there continues to be reasonable assurance that JCAH accreditation is a valid substitute for surveys conducted by the Medicare State survey agencies. In particular, the law provides that no accredited hospital should be deemed to meet the Medicare conditions of participation unless it agrees to authorize disclosure of the JCAH survey when it is included in a Federal validation survey. It seems entirely

reasonable for a hospital that wants the benefits of being presumed to meet the Medicare conditions of participation because it is accredited, that is, to be free of annual inspections by the State survey agency, to cooperate as the law requires by helping to validate the use of that presumption. If a hospital is unwilling to authorize disclosure of its accreditation survey, it is free to continue to participate in the Medicare program. It must do so, however, without the benefit of the presumption, and be subject to annual inspections by the Medicare State survey agencies.

Comment: The American Hospital Association felt that the loss of deemed status for a significant deficiency is an unwarranted action, and the Colorado Hospital Association asked that the regulations specify a time frame within which hospitals with deficiencies must remain under State agency surveillance during the loss of deemed status.

Response: We agree in principle to the need for more flexible validation procedures which encourage timely correction of deficiencies and eliminate the duplication of survey and monitoring efforts. These final regulations, therefore, have been modified to provide for State agency surveys of accredited hospitals only where a sigificant deficiency is determined to exist and only until such deficiency is corrected. We have changed the concept of what constitutes a significant deficiency, which will now be determined to exist only when the JCAH or AOA does not accept the findings of a State agency survey that a facility is out of compliance with one or more conditions of participation. Previously, a significant deficiency was found to exist whenever the State agency found a condition of participation out of compliance, without reference to any accrediting agency follow up.

Comment: A spokesperson on behalf of one hospital suggested that we discontinue validation surveys because of the cost and the disruptions to and demands made upon hospital staff; or, as an alternative, use smaller validation samples.

Response: We did not accept these comments because validation surveys are a statutory requirement and to use a lesser sampling rate would render the findings statistically insignificant.

2. *Promulgation of Higher Standards.* Comment: The JCAH, American Hospital Association (AHA), Sisters of Providence Institutions, Seattle, Washington, and the Missouri Hospital Association were in support of our position on consulting accrediting agencies prior to issuing standards higher than theirs. The Sisters of Providence Institutions also suggested that the provision be expanded to include consultation with State survey agencies.

Response: The suggestion of additional State agency consultation was rejected because of our current policy, required by Section 1863 of the Social Security Act, to include State agency representatives on all matters of standard setting activities pertaining to Medicare certification. For this purpose, we deal with the Association of State and Territorial Health Officers (ASTHO). ASTHO is the organization of State health officials responsible for implementing Medicare survey and certification policies and procedures. Another review with the same agencies would be duplicative and unwarranted.

Comment: JCAH and AHA noted the potential for disagreements with respect to when a standard may be considered higher than an accrediting body's. AHA recommended review of disagreements by an independent body and JCAH suggested referral to the Health Insurance Benefits Advisory Council (HIBAC). AHA also suggested that standards be judged utilizing specific criteria to ensure objectivity and consistency in the decision making process.

Response: We did not accept these suggestions since any disagreements concerning higher standards are more appropriately resolved on an individual basis through discussion between the affected organizations. In any event, the administration of the Medicare program is a federal responsibility which cannot be abdicated to others.

Comment: The Associate Director of the Association for the Advancement of Psychology opposed the requirement for consultation with JCAH and AOA prior to the promulgation of higher health and safety standards. The commentor charged that the proposed rules substitute for the judgment of the Secretary, the pre-determined rules and regulations of private corporations who are not responsible to public interest and are not subject to public accountability. The commentor further charged that the impropriety of such a delegation of authority is compounded by the failure to require any reciprocal obligations on the part of the private corporations.

Response: We did not accept this comment since the requirements do not redelegate the Secretary's authority. The provision of these regulations which requires the Department to consult with JCAH or AOA prior to promulgating standards applies only to those situations where it has been predetermined by the Department that

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the proposed new standards would be higher than existing accredition standards. Furthermore, all requirements are issued in consultation with State health agencies, and with public participation through the rulemaking process. It is anticipated that such prior consultation will result in JCAH and AOA adopting similar standards and the necessity of survey of accredited hospitals by State agencies to determine compliance with isolated requirements would be reduced.

3. *Institutional Planning Standard.* Comment: The Sisters of Providence Institutions, Seattle, Washington, the American Hospital Association, and the State of Idaho Department of Health supported the granting of "deemed status" to JCAH accredited hospitals in institutional planning.

Response: The provision was retained.

4. *Minor technical changes in the certification procedures (§§ 405.1901, 405.1904, 405.1905).* Comment: One commenter expressed concern that the Civil Rights requirement and Section 504 of the Rehabilitation Act of 1973 are being published inappropriately under § 405.1901, the Certification Process, when they would be more appropriate if incorporated into provider agreements.

Response: This suggestion may be considered when the regulations on provider agreements are revised and recodified. In the meantime, because of the importance attached to these requirements, we concluded that they could appropriately be included among the rules on the certification process.

5. Comment: One comment noted that § 405.1902(c) should be deleted in view of an equivalent provision under § 4054.1908 which addresses the renewal of a skilled nursing facility's agreement.

Response: Comment accepted and incorporated into these final regulations.

42 CFR Part 405 is amended as set forth below:

1. The Table of Contents is amended by revising the headings of §§ 405.1902 and 405.1904 as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

Sec.

405.1902 State survey agency review.
405.1904 Periodic review of compliance and approval.

* * * * *

2. Section 405.1505 is amended by adding a new paragraph (m) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

* * * * *

(m) The finding that a hospital accredited by the Joint Commission on the Accreditation of Hospitals or the American Osteopathic Association is not in compliance with a condition of participation, and a finding that such a hospital is no longer deemed to meet the conditions of participation, are not "initial determinations".

3. Section 405.1901 is revised to read as follows:

Subpart S—Certification Procedure for Providers and Suppliers of Services

Authority: Secs. 1102, 1814, 1861, 1863 through 1866, 1871, and 1881; 42 USC 1302, 1395f, 1395x, 1395z through 1395cc, 1395hh, and 1395rr.

§ 405.1901 The certification process.

(a) *Definitions.* As used in this subpart: *Accredited hospital* means a hospital accredited by the Joint Commission on Accreditation of Hospitals or by the American Osteopathic Association.

Act means the Social Security Act.

AOA stands for the American Osteopathic Association.

Certification is a recommendation made by the State survey agency on the compliance of providers and suppliers with the conditions of participation and conditions of coverage.

Full review means a survey of a hospital for compliance with all conditions of participation for hospitals.

JCAH stands for the Joint Commission on Accreditation of Hospitals.

Provider of services or *provider* means a hospital, skilled nursing facility, home health agency, or provider of outpatient physical therapy or speech pathology services.

State includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

State survey agency means the State health agency or other appropriate State or local agency used by HFCA to perform survey and review functions for Medicare.

Substantial allegation means a complaint which reflects on the health and safety of patients and raises doubts as to a hospital's compliance with the conditions of participation.

Supplier means any of the following: independent laboratory; portable X-ray services; physical therapist in independent practice; ESRD facility; rural health clinic; or chiropractor.

(b) *Conditions of Participation; Conditions for Coverage.* In order to be approved for participation in or

coverage under the Medicare program, a prospective provider or supplier must:

(1) Meet the applicable statutory definition in section 1861 or section 1881 of the Act; and

(2) Be in compliance with the applicable conditions prescribed in Subparts J, K, L, M, N, Q, or U of this part, or Subpart A of Part 481.

(c) *Special Conditions.* (1) The Secretary, after consultation with the JCAH or AOA, may issue conditions of participation for hospitals higher or more precise than those of either accrediting body (see paragraph (d)).

(2) The Secretary may, at a State's request, approve health and safety requirements for providers and suppliers in that State, which are higher than those otherwise applied in the Medicare program.

(3) If a State or political subdivision imposes higher requirements on institutions as a condition for the purchase of health services under a State Medicaid plan approved under Title XIX of the Act, (or if Guam, Puerto Rico, or the Virgin Islands does so under a State plan for Old Age Assistance under Title I of the Act, or for Aid to the Aged, Blind, and Disabled under the original Title XVI of the Act, the Secretary is required to impose similar requirements as a condition for payment under Medicare in that State or political subdivision.

(d) *Effect of JCAH or AOA accreditation.* Institutions accredited as hospitals by the JCAH or AOA are deemed to meet all of the Medicare conditions of participation for hospitals, except: (1) The requirement for utilization review as specified in section 1861(e)(6) of the Act and in Subpart F of 42 CFR Part 482;

(2) The additional special staffing and medical records requirements which are considered necessary for the provision of active treatment in psychiatric and tuberculosis hospitals (section 1861 (f) and (g) of the Act) and implementing regulations; and

(3) Any requirement under section 1861(e) of the Act and implementing regulations which the Secretary, after consulting with JCAH or AOA, identifies as being higher or more precise than the requirements for accreditation (section 1865(a)(4) of the Act).

(e) *Validation survey.* (1) *Basis for survey.* HCFA may require a survey of an accredited hospital to validate the JCAH or AOA accreditation process. These surveys will be conducted on a selective-sample basis, or in response to substantial allegations of significant deficiencies.

(2) *Effect of selection for survey.* A hospital selected for a validation survey must: (i) Authorize its accrediting body to release to HCFA or the State survey agency (on a confidential basis for JCAH hospitals), a copy of the hospital's current accreditation survey. (For the rules on confidentiality, see 20 CFR 422.426 (b)(2) and (c));

(ii) Authorize carrying out the validation survey; and

(iii) Authorize its accrediting body to release periodic status reports to HCFA on correction of deficiencies when HCFA and the accrediting body agree that the latter will monitor the correction of deficiencies.

(3) *Refusal to cooperate with survey.* If a hospital selected for a validation survey fails to comply with the requirements specified in paragraph (e)(2) of this section, it will no longer be deemed to meet the Medicare conditions of participation but will be subject to full review by the State survey agency in accordance with § 405.1902 and may be subject to termination of its provider agreement under 42 CFR 489.53.

(4) *Consequences of finding of noncompliance.* (i) If a validation survey results in a finding that the hospital is out of compliance with one or more conditions of participation and a significant deficiency is determined to exist, the hospital will no longer be deemed to meet the conditions of participation. Specifically, the hospital will be subject to the requirements applied to unaccredited hospitals that are found out of compliance following a State agency survey (see § 405.1907), and to full review by a State agency survey (see § 405.1902).

(ii) A significant deficiency will be determined not to exist if:

(A) The accrediting body accepts the State survey agency finding of deficiencies and agrees to monitor the correction of the deficiencies in accordance with specified time frames; and;

(B) The State survey agency is unable to justify to HCFA the need for continued full review by the State survey agency to assure correction of deficiencies; and

(C) The accrediting body provides HCFA with periodic reports of progress toward corrections.

(5) *Reinstating effect of accreditation.* An accredited hospital will be once again deemed to meet the Medicare conditions of participation in accordance with paragraph (d) of this section if: (i) It withdraws any prior refusal to authorize its accrediting body to release a copy of the hospital's current accreditation survey;

(ii) It withdraws any prior refusal to allow a validation survey;

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(iii) It withdraws any prior refusal to authorize its accrediting body to release periodic status reports on correction progress; and

(iv) HCFA finds that the hospital meets all the Medicare conditions of participation.

(6) *Informal administrative review.* (i) An accredited hospital which is dissatisfied with a finding that it is not in compliance with a condition of participation, or a finding that it is no longer deemed to meet the conditions of participation, is entitled to an informal administrative review. (See § 405.1505(m).)

(ii) The hospital must request informal review in writing within 15 days of the date it received HCFA's notice of the finding.

(iii) The request should state why the finding is considered incorrect and should be accompanied by any supporting evidence and arguments.

(g) *Civil rights requirements.* Providers must meet the requirements of: (1) Title VI of the Civil Rights act of 1964, as implemented by 45 CFR Part 80, which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance (section 601);

(2) Section 504 of the Rehabilitation Act of 1973, as implemented by 45 CFR Part 84, which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance; and

(3) Other pertinent requirements made by the Office of Civil Rights of the Department of Health and Human Services.

(4) Section 405.1902 is revised to read as follows:

§ 405.1902 State survey agency review.

(a) *Statutory provisions.* (1) Section 1864(a) of the Act requires the Secretary to enter into an agreement with any State that is able and willing to do so, under which appropriate State or local survey agencies will determine whether:
(i) Providers or prospective providers meet the Medicare conditions of participation;
(ii) Suppliers meet the conditions for coverage; and
(iii) Rural health clinics meet the conditions of certification.

(2) Section 1865(a) of the Act provides that if an institution is accredited as a hospital by the JCAH, it will be deemed to meet the conditions of participation:
(i) Except those specified in § 405.1901(d)(1);

(ii) Provided that such hospital, if it is included within a validation survey, authorizes the JCAH to release to HCFA (on a confidential basis) upon request a copy of the most current JCAH accreditation survey.

(3) Section 1864(c) of the Act authorizes the Secretary to enter into agreements with State survey agencies for the purpose of conducting validation surveys (see § 405.1901(e)) in hospitals accredited by the JCAH. Section 1865(b) provides that an accredited hospital which is found after a validation survey to have significant deficiencies related to the health and safety of patients will no longer be deemed to meet the conditions of participation.

(4) Section 1865(a) of the Act also provides that if the Secretary finds that accreditation of an institution or agency by the AOA or any other national accreditation body provides reasonable assurance that any or all of the conditions of participation are met, the Secretary may treat such institution as meeting the conditions of participation. The Secretary has found that the accreditation of hospitals by the AOA provides such reasonable assurance, and has extended the same procedures applicable to JCAH accredited hospitals to AOA accredited hospitals.

(b) *Effect of State agency certification.* Certifications by the State survey agency represent recommendations to HCFA.

(1) On the basis of these recommendations, HCFA will determine whether: (i) A provider or supplier is eligible to participate in or be covered under the Medicare program; or

(ii) An accredited hospital is deemed to meet the Medicare conditions of participation or is subject to full review by the State survey agency.

(2) Notice of HCFA's determination will be sent to the provider or supplier.

(c) When a Professional Standards Review Organization (PSRO) is conducting review activities under section 1155(a) of the Act, its activities shall be in lieu of the utilization review and evaluation activities required of health care institutions under sections 1861(e)(6), 1861(j)(8), 1861(j)(12), 1861(k) and 1865 of the Act and will also be in lieu of survey, compliance and assistance activities required of State survey agencies under section 1864(a) with respect to those sections. See Part 463 concerning PSRO review.

5. Section 405.1904 is revised to read as follows:

§ 405.1904 Periodic review of compliance and approval.

(a) Determinations by HCFA to the effect that a provider or supplier is in compliance with the conditions of participation or the conditions for coverage will be for a 12 month period, except for physical therapists in independent practice and chiropractors. Determinations for physical therapists in independent practice and chiropractors will be made as often as HCFA deems necessary and may be for more or less than a 12-month period. (See § 405.1908 for special rules for skilled nursing facilities.)

(b) The responsibilities of State survey agencies in the review and certification of compliance are as follows: (1) Resurvey providers or suppliers as frequently as necessary to ascertain compliance and confirm the correction of deficiencies;

(2) Review reports prepared by a Professional Standards Review Organization (authorized under Part B Title XI of the Act) or a State inspection of care team (authorized under Title XIX of the Act) regarding the quality of a facility's care;

(3) Evaluate reports that may pertain to the health and safety of patients; and

(4) Take appropriate actions that may be necessary to achieve compliance or certify noncompliance to HCFA.

(c) A State survey agency certification to HCFA that a provider or supplier is no longer in compliance with the conditions of participation or conditions for coverage will supersede the State survey agency's previous certification.

6. Section 405.1905 is amended by revising paragraph (b) to read as follows:

§ 405.1905 Certification of noncompliance.

* * * * *

(b) if HCFA determines that an institution or agency does not qualify for participation or coverage because it is not in compliance with the conditions of participation or condition for coverage, or if a provider's agreement is terminated for that reason, the institution or agency has the right to request that the determination be reviewed. (See 42 CFR 405.1501–405.1595, 405.2404(b), and 489.53.)

(Catalog of Federal Domestic Assistance Programs No. 13.714 Medical Assistance Programs; 13.733 Medicare-Hospital Insurance; 13774 Medicare-Supplementary Medicare Insurance)

Dated: June 18, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: October 31, 1980.

Patricia Roberts Harris,

Secretary

[FR Doc. 80-35126 Filed 11-10-80; 8:45 am]

BILLING CODE 4110-35-M

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federal register

Wednesday
November 12, 1980

Part III

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1981; Establishment

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by Sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to Section 2 of the Act that Procurement List 1981 is established as set forth below. Procurement List 1981 supersedes Procurement List 1980, November 27, 1979 (44 FR 67925) and subsequent changes thereto through October 31, 1980.

Any proposed additions or deletions to Procurement List 1980 pending on this date shall be considered as pending and applicable to Procurement List 1981.

By the Committee.

C. W. Fletcher,

Executive Director.

Assignment Codes

Central Nonprofit Agency and Code

National Industries for the Blind—IB
National Industries for the Severely Handicapped—SH

Notes.—Where workshops provide requirements for specific GSA Regions, the new GSA National Capital Region is shown as "W" with the other regions designated by their number.

Commodities

CLASS 1005
Sling, Adjustable, Small Arms (IB)
1005-00-167-4336
Sling, Padded, Adjustable (IB)
1005-00-312-7177
Swab, Small Arms Cleaning (IB)
1005-00-912-4248 1005-00-288-3565

CLASS 1095
Scabbard, Bayonet-Knife (IB)
1095-00-508-0339

CLASS 1220
Case, Carrying (IB)
1220-00-765-5870 1220-00-937-8286

CLASS 1430
Circuit Card Assembly (SH)
1430-00-409-7997
1430-00-471-5375
1430-00-089-9251
1430-00-403-5787
1430-00-421-4036

CLASS 1440
Circuit Card Assembly (SH)
1440-00-454-8574

CLASS 1560
Wire Bundle Assemblies (SH)
1560-00-881-4215
1560-00-884-4209
1560-00-884-3991
1560-00-934-0924
1560-00-919-3706
1560-00-883-4487
1560-00-222-3876
1560-00-826-7752
1560-00-974-5275
1560-00-974-5276
1560-00-998-8594

CLASS 1670
Message Dropper (SH)
1670-00-797-4495

CLASS 1730
Chock Assembly, Wheel Unpainted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (U-shaped)
1730-00-NIB-001E 10" x 20" (U-shaped)
Chock Assembly, Wheel Painted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (U-shaped)
1730-00-NIB-001E 10" x 20" (U-shaped)
Chock Assembly, Wheel Codit Reflecting (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (U-shaped)
1730-00-NIB-001E 10" x 20" (U-shaped)
Chock Assembly, Wheel Reflective Tape (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (U-shaped)
1730-00-NIB-001E 10" x 20" (U-shaped)

CLASS 2090
Weight, Canvas Bag (IB)
2090-00-845-9150

CLASS 2540
Belt, Automobile, Safety (IB)
2540-00-894-1273
2540-00-894-1275
2540-00-894-1274
2540-00-894-1276
Cushion Assembly, Seat Back (SH)
2540-00-678-2965

CLASS 3510
Net, Laundry (IB)
3510-00-273-9738
3510-00-273-9739

CLASS 3920
Truck, Hand (IB)
3920-00-847-1305

CLASS 3990
Pallet, Material Handling (SH)
3990-00-555-0458—Sharpe Army Depot, Lathrop, CA. only
3990-00-599-5326—Mechanicsburg, PA. depot only
3990-00-935-7826—Pine Bluff Arsenal only
Pallet, Wood (SH)
3990-00-366-8806
3990-00-X77-1721— New Cumberland Army depot only
3990-00-NSH-0001 (48x40x36")— SSA, Balto., MD. only

CLASS 4240
Harness, Head (SH)
4240-00-690-8765

CLASS 4910
Creeper, Mechanic's (SH)
4910-00-251-6981 4910-00-106-7834
4910-00-NSH-0001

CLASS 5120
Screwdriver, Cross-Tip (SH)
5120-00-820-2995 5120-00-060-2004
5120-00-224-7370 5120-00-529-3101
5120-00-227-7293 5120-00-234-8913 5120-00-542-3438
5120-00-224-7375 5120-00-596-0866
5120-00-237-8174 5120-00-580-2361
Screwdriver Set, Cross-Tip (SH)
5120-00-357-7175 5120-00-580-0334

Screwdriver, Flat-Tip (SH)
5120-00-278-1269 5120-00-289-9662
5120-00-287-2504 5120-00-287-2505
5120-00-278-1267 5120-00-541-3004
5120-00-288-7803 5120-00-236-2127
5120-00-278-1270 5120-00-227-7356
5120-00-260-4837 5120-00-227-7334
5120-00-278-1268 5120-00-293-0314
5120-00-337-2465 5120-00-540-0563
5120-00-180-0708 5120-00-222-8866
5120-00-596-8502 5120-00-278-1273
5120-00-062-0813 5120-00-293-3311
5120-00-222-8852 5120-00-596-9364
5120-00-293-0315 5120-00-293-3309
5120-00-227-7377 5120-00-180-3490
5120-00-236-2140 5120-00-062-8454
5120-00-720-4969

CLASS 5140
Bag, Tool (IB)
5140-00-772-4142
Bag, Tool (SH)
5140-00-473-6256
Tool Box, Portable (SH)
5140-00-289-8911 5140-00-289-8910

CLASS 5350
Mat, Abrasive (IB)
5350-00-967-5089 5350-00-967-5093
5350-00-967-5092

CLASS 5440
Stepladder (IB)
5440-00-514-4483 Rgn 5,6,7,8,9,10
5440-00-514-4485 Rgn 5,6,7,8,9,10
5440-00-514-4487 Rgn 5,6,7,8,9,10
5440-00-171-9836 5440-00-227-1592
5440-00-227-1593 5440-00-227-1594
5440-00-227-1595 5440-00-227-1596
5440-00-531-2589

CLASS 5510
Stake, Wood (SH)
5510-00-NSH-0001—BLM at five Oregon locations only
Stakes, Wood, Location (SH)
5510-00-171-7701 5510-00-171-7700
5510-00-171-7734
Stakes, Wood, Hub (SH)
5510-00-171-7733 5510-00-171-7732
Wedge, Wood (SH)
5510-00-640-9237

CLASS 5826
Circuit Card Assembly (SH)
5826-00-237-9949

CLASS 5940
Adapter, Battery Terminal (SH)
5940-00-549-6583 5940-00-549-6581

CLASS 6150
Cable Assembly, Power (SH)
6150-00-935-8799 6150-00-507-8852

CLASS 6230
Flashlight (SH)
6230-00-643-3486 6230-00-163-1856
Lantern, Electric, Head (SH)
6230-00-643-3562
Light, Desk (SH)
6230-00-299-7771 6230-00-682-3423
6230-00-643-2077
Light, Marker, Distress (SH)
6230-00-892-5192
Light, Marker, Distress (with pouch) (SH)
6230-00-067-5209
Light, Marker, Distress (without pouch) (SH)
6230-00-938-1778

CLASS 6505
Ammonia Inhalant Solution, Aromatic (SH)
6505-00-106-0875
Iodine Ampoules, NF (SH)
6505-00-664-1408
Thimerosal Tincture, NF (SH)
6505-00-664-6911

CLASS 6510
Bandage, Muslin, Compressed, Camouflaged (SH)
6510-00-201-1755

CLASS 6515
Case, Ear Plug (SH)
6515-00-299-8287
Kit, Shaving Surgical Preparation (IB)
6515-00-676-7372
Tourniquet, Non-Pneumatic (IB)
6515-00-383-0565

CLASS 6520
Toothbrush, Aspiration (SH)
6520-01-085-3438

CLASS, 6530
Bag, Urine Collection (SH)
6530-00-761-0932 6530-00-761-0936
Catheter, Male, External (IB)
6530-01-081-5304 6530-01-081-5303
Cover, Litter (IB)
6530-00-784-1035 6530-00-784-1250
Drape, Surgical (IB)
6530-00-299-9608 6530-00-229-9607
6530-00-299-9605 6530-00-299-9604
Pad, Examining Table (IB)
6530-00-960-6616
Pad, Hospital Stretcher (IB)
6530-00-269-0004
Strap, Webbing Patient Securing (IB)
6530-00-784-4205
Surgical Pack, Disposable (IB)
6530-00-103-6659
Urinal, Incontinent (IB)
6530-01-004-8969 6530-00-290-8292
Wrapper, Sterilization (IB)
6530-00-299-9603 6530-00-197-9223
6530-00-197-9228 6530-00-197-9283
6530-00-926-4902 6530-00-926-4903
6530-00-926-4904 6530-00-926-4905

CLASS 6532
Cap, Operating, Surgical (IB)
6532-00-299-9614 6532-00-299-9613
6532-00-299-9612
Cap, Operating, Surgical (SH)
6532-00-250-5042 6532-00-083-6545
6532-00-250-5041 6532-00-122-0468
Clothing, Operating Room (SH)
6532-00-261-9005 6532-00-290-1687
6532-00-172-3509 6532-00-172-3507
6532-00-172-3506 6532-00-158-9890
6532-00-009-7174
Dress, Operating, Surgical (SH)
6532-00-149-0464 6532-00-149-0465
6532-00-149-0466 6532-00-149-0467
6532-00-149-0472 6532-00-149-0473
Gown, Hospital, Patient's Bedshirt (SH)
6532-01-005-8411 6530-01-005-8412
Gown, Hospital Personnel (SH)
6532-01-045-5380 6530-01-045-5381
Gown, Operating, Surgical (SH)
6532-00-009-2034 6530-00-009-2035
Pillowcase, Disposable (IB)
6532-00-634-9828
Robe, Dressing, Nomex (SH)
6532-00-003-3057 6530-00-006-3482
Shirt, Operating, Surgical (SH)
6532-00-149-0322 6532-00-149-0323
6532-00-149-0324 6532-00-149-0325
Smock, Man's Dental Operating (SH)
6532-00-159-4881 6530-00-926-9964
6532-00-926-9975 6530-00-926-9976
Suit, Convalescent (SH)
6532-01-076-8684 6532-01-076-8683
6532-01-076-7369 6532-01-076-9769
Trousers, Operating, Surgical (SH)
6532-00-149-0327 6530-00-149-0328
6532-00-149-0329 6530-00-149-0330

CLASS 6540
Case, Spectacles (IB)
6540-735-5157

CLASS 6625
Test Set, Lead (SH)
6625-00-553-1442

CLASS 6630
Micro Bleeder (IB)
6630-01-NIB-0002
Tube, Bleeding (ICB)
6639-01-NIB-0001

CLASS 6645
Clock, Wall (IB)
6645-01-046-8848 6645 6645-01-046-8849

CLASS 6695
Kit, Spectrol Oil Analysis (IB)
6695-00-925-2982
Sampling Kit, Spectrometric Oil Analysis (IB)
6695-01-045-9820

CLASS 6840
Disinfectant, Detergent (IB)
6840-00-687-7904 6840-00-584-3129
6840-00-551-8346

CLASS 6920
Circuit Card Assembly (SH)
6920-00-482-8335

CLASS 7105
Frame, Picture (SH)
7105-00-053-0170 7105-00-061-5834
7105-00-052-8697 7105-00-052-8695
7105-00-465-6199 7105-00-149-1277
7105-00-297-3398 7105-00-903-1842
7105-00-903-1843 7105-00-149-1282
7105-00-149-1281 7105-00-641-4385
7105-00-986-7356 7105-00-297-3397
7105-00-052-8696 7105-00-149-1276
Mirror, Glass (SH)
7105-00-260-1390

CLASS 7110
Blackboard (SH)
7110-00-132-6651
Bookcase, Wood, Executive (SH)
7110-00-973-5127
Credenza (SH)
7110-00-762-5513
Table, Wood (SH)
7110-00-958-0780 7110-00-823-7675
7110-00-903-3061 7110-00-902-3052
Tables, Steel (SH)
7110-00-113-0448 7110-00-113-0454
7110-00-149-2044 7110-00-149-2045
Cover, Mattress (IB)
7210-00-291-8419 7210-00-205-3083
7210-00-205-3082 7210-00-067-7969
7210-00-998-7745 7210-00-883-8492
7210-00-171-1091 7210-00-935-6619
7210-00-230-1041 7210-00-241-9718
Insect Bar, Nylon (SH)
7210-00-266-9736
Mattress, Cotton-Felt (IB)
7210-00-139-6517 7210-00-139-6555
7210-00-139-6538
Mattress, Foam (IB)
7210-00-682-6503 7210-00-682-6504
Mattress, Innerspring (IB)
7210-00-205-3585 7210-00-139-6424
7210-00-716-0706 7210-00-139-6411
7210-00-205-3534 7210-00-139-6434
7210-00-139-6428 7210-00-110-8102
7210-00-110-8103
7210-38-75-100 38 × 75"

7210–53–75–100 53 × 75"
Mattress, Innerspring, Plastic-Coated (IB)
7210–00–995–1093 7210–00–682–7146
7210–00–529–3709
7210–00–NIB–0001 36 × 75"—VA requirements only
Pad, Mattress (IB)
7210–00–227–1526 7210–00–753–3042
Pillow, Bed (IB)
7210–00–619–9262
7210–00–205–3205 (Regions 1 thru 7 only)
7210–00–753–6228 7210–00–035–3342
7210–00–894–7144 7210–00–015–5190
7210–00–119–3358
Pillow, Passenger, Headrest (IB)
7210–00–682–6601
Pillowcase (IB)
7210–00–054–7910 7210–00–259–9005
7210–00–259–9006 7210–00–119–7356
7210–00–231–2373 7210–00–259–9004
7210–00–259–8897 7210–00–081–1380
Pillowcase (SH)
7210–00–119–7357 7210–01–030–5311
Protector, Hospital Bed, Mattress (IB)
7210–00–761–1471 7210–00–761–1470
Protector, Hospital Bed, Pillow (IB)
7210–00–958–9118
Sheet, Bed (IB)
7210–00–299–9611
Tablecloth (SH)
7210–00–492–8381
Washcloth (IB)
7210–00–060–6008 7210–00–082–2065
7210–01–013–2824

CLASS 7220

Mat, Floor (IB)
7220–00–205–3099 7220–00–224–6489
7220–00–205–2807 7220–00–205–2808
7220–00–224–6490 7220–00–224–6487
7220–00–238–8852 7220–00–224–6486
7220–00–205–2805 7220–00–238–8854
7220–00–205–2806 7220–00–165–7020
Mat, Floor (SH)
7220–00–205–3192 7220–00–205–3182
7220–00–457–6057 7220–00–457–6063
7220–00–151–6519 7220–00–151–6518
7220–00–151–6517 7220–00–477–3063
7220–00–194–1609 7220–00–457–6046
7220–00–457–6064

CLASS 7230

Curtain, Shower (IB)
7230–00–205–1762 7230–00–247–1280

CLASS 7290

Cover, Ironing Board (IB)
7290–00–130–3271

CLASS 7330

Pad, Bakery (IB)
7330–00–379–4439 (Rgn W, 3,5,6,8)
Tongs, Food Serving (SH)
7330–00–616–0997 7330–00–616–0998
7330–00–616–1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)
7340–00–022–1315 7340–00–1316
7340–00–022–1317 7340–00–401–8041
Flatware, Plastic, Picnic (IB)
7340–00–170–8374 Rgn W,2,3,4,5,6,7
7340–00–205–3187 Rgn W,2,3,4,5,6,7
7340–00–205–3342 Rgn W,2,3,4,5,6,7
Spoon, Picnic, Plastic (IB)
7340–00–J19–1300

CLASS 7350

Cup, Plastic (SH)
7350–00–721–9003 7350–00–082–5741
7350–00–926–1661 7350–00–145–6126
7350–00–761–7467 7350–00–914–5089
7350–00–914–5088 7350–00–145–6127

CLASS 7360

Dining Packet (IB)
7360–00–935–6407
Dining Packet, Inflight (IB)
7360–00–660–0526
Flatware Set, Plastic (IB)
7360–00–634–4800

CLASS 7430

Cover, Typewriter (SH)
7430–00–823–8080 7430–00–823–8081
7430–00–823–8082 7430–00–823–8083
7430–00–823–8084 7430–00–823–8085
7430–00–823–8090 7430–00–823–8086
7430–00–823–8087

CLASS 7510

Binder, Awards Certificate (IB)
7510–00–115–3250 7510–00–482–2994
7510–01–056–1927
Binder, Looseleaf (IB)
7510–00–281–4309 7510–00–281–4314
7510–00–582–4201 7510–00–281–4310
7510–00–281–4311 7510–00–281–4313
7510–00–281–4315 7510–00–286–7792
7510–00–286–7794 7510–00–582–5488
7510–00–286–7791 7510–00–582–3807
7510–00–782–2663 7510–00–782–2664
7510–00–409–8646 7510–00–409–8647
7510–00–984–5787
Binder, Looseleaf, Presentation (IB)
7510–00–582–5398 Rgn W,2,3,4
7510–00–582–5399 Rgn W,2,3,4
7510–00–582–5400 Rgn W,2,3,4
Binder, Note Pad (IB)
7510–00–286–6954 7510–00–145–0296
7510–00–728–8060 7510–01–053–5591
Board, Wall Calendar (IB)
7510–00–789–2455
Calendar Pad (SH)
7510–01–020–7519 (1982)
7510–01–022–4973 (1981)
Clip, Paper (SH)
7510–00–161–4292
Envelope, Crystal Clear Vinyl (IB)
7510–00–NIB–0003 7510–00–NIB–0004
7510–00–NIB–0005 7510–00–NIB–0006
Envelope, Transparent (IB)
7510–00–782–6274 7510–00–782–6275
7510–00–782–6276
File Back (IB)
7510–00–NIB–0002
File Backer, Paper (IB)
7510–00–285–2567
File Front (IB)
7510–00–NIB–0001
Pad, Typewriter (IB)
7510–00–257–2576 7510–00–530–6412
7510–00–849–1137
Pencil (IB)
7510–00–286–5757 7510–00–281–5234
7510–00–281–5235
Pencil, Woodcased, with Imprinting (IB)
7510–00–050–8LP–6521
Portfolio (IB)
7510–00–558–1572 7510–00–616–7241
7510–00–551–9813 7510–00–558–1573
7510–00–616–7239 7510–00–558–1571
7510–00–995–4856 7510–00–995–4857
7510–00–995–4854 7510–00–995–4852
7510–00–995–4853 7510–00–995–4850
7510–00–584–2489 7510–00–584–2490
7510–00–584–2491 7510–00–584–2492
Refill, Ballpoint Pen (IB)
7510–00–543–6792 7510–00–543–6793
7510–00–754–2687 7510–00–543–6795
7510–00–754–2688 7510–00–754–2689
7510–00–754–2690 7510–00–754–2691
Refill, List Finder, Automatic (SH)
7510–00–285–2800

CLASS 7520

Arch Board File (IB)
7520–00–240–5498 7520–00–191–1075
7520–00–255–7081
Ballpoint Pen (IB)
7520–00–935–7136 7520–00–935–7135
7520–00–543–7149
Ballpoint Pen, Stick-type (IB)
7520–01–058–9978 7520–01–058–9977
7520–01–058–9976 7520–01–059–4125
7520–01–060–5820 7520–01–058–9975
7520–01–060–8513 7520–01–060–5821
Ballpoint Pen, with Imprinting (IB)
7520–050–8LP–6520
Book Ends (IB)
7520–00–264–5479 7520–00–139–6158
Box, Filing (SH)
7520–00–285–3147 7520–00–285–3143
7520–00–285–3144 7520–00–285–3145
7520–00–285–3146 7520–00–285–3148
Case, Maintenance and Operational Manuals (IB)
7520–00–559–9618
Clipboard, File (IB)
7520–00–281–5918 7520–00–254–4610
7520–00–240–5503
Easel, Display & Training (IB)
7520–00–579–7013
Holder, Desk Memorandum (IB)
7520–00–139–3802 7520–00–290–6445
Marker, Tube Type (IB)
7520–00–973–1059 7520–00–973–1060
7520–00–079–0285 7520–00–973–1061
7520–00–079–0286 7520–00–079–0287
7520–00–973–1062 7520–00–079–0288
7520–00–558–1501 7520–00–904–1265
7520–00–904–1268 7520–00–935–0979
7520–00–904–1267 7520–00–935–0981
7520–00–935–0982 7520–00–904–1266
7520–00–935–0980 7520–00–051–5031
7520–00–051–5035 7520–00–116–2888
7520–00–051–5036 7520–00–116–2886
7520–00–116–2889 7520–00–051–5033
7520–00–116–2887 7520–00–904–4476
Pen Set, Desk (IB)
7520–00–106–9840
Pencil, Mechanical (IB)
7520–00–223–6672 7520–00–223–6673
7520–00–268–9913 7520–00–223–6675
7520–00–223–6676 7520–00–285–5826
7520–00–285–5822 7520–00–285–5823
7520–00–205–1645 7520–00–285–5817
7520–00–161–5664 7520–00–164–8950
7520–00–268–9915 7520–00–285–5818
7520–00–268–9916 7520–00–724–5606
Perforator, Paper, Desk (SH)
7520–00–139–4101 7520–00–263–3425
Stand, Calendar Pad (IB)
7520–00–162–6153 7520–00–139–4341
Tray, Desk (SH)
7520–00–232–6828 7520–00–286–5801
7520–00–285–5043
Trimmer, Paper (IB)
7520–00–224–7621 7520–00–282–2137

CLASS 7530 Card, Guide, File (IB)
7530–00–989–0184 7530–00–989–2425
7530–00–989–6541 7530–00–988–6542
7530–00–988–6543 7530–00–988–6549
7530–00–988–6550 7530–00–988–6551
7530–00–988–6544 7530–00–988–6545
7530–00–988–6546 7530–00–988–6547
7530–00–988–6548 7530–00–988–6515
7530–00–988–6516 7530–00–988–6520

7530–00–988–6521 7530–00–988p6517
7530–00–988–6518 7530–00–988p6522
Card-Set, Guide, File (IB)
7530–00–989–0698 7530–00–989–0697
7530–00–989–0683 7530–00–082–2635
7530–00–989–0684 7530–00–989–0686
7530–00–989–0692 7530–00–989–0694
7530–00–989–0693 7530–00–989–0695
Folder, File, Military Personnel Records Jacket (IB)
7530—DA Form 201
Folder, File (IB)
7530–00–889–3555 7530–00–559–4512
7530–00–281–5907 7530–00–281–5906
7530–00–926–8978 7530–00–273–9845
7530–00–926–8980 7530–00–286–6924
7530–00–286–8571 7530–00–286–7286
7530–00–926–8982 7530–00–926–8984
7530–00–4043–1194
Folder-Set, File (IB)
7530–00–286–6923 7530–00–286–7090
7530–00–286–7244 7530–00–286–7253
7530–00–286–7287 7530–00–286–8570
7530–00–286–6925
Notebook, Stenographer's (IB)
7530–00–223–7939
Pad, Writing Paper (IB)
7530–00285–3090 Rgn 1, 5 & 6
7530–00239–8479 All Regions
7530–00285–3088 All Regions
7530–00285–3083 Rgn W, 1, 3, 4, 5, 6, 7, 8
7530–01056–0889 Rgn W, 1, 3, 4, 5, 6, 7, 8
7530–00286–6173 Rgn W, 1, 2, 3, 5, 7
Pad, Writing Paper (Easel) (IB)
7530–00–619–8880
Paper Set, Manifold and Carbon (IB)
7530–00–880–9154 Rgn 6, 7
7530–00–401–6910 Rgn 6, 7
7530–01–072–2536 Rgn 6, 7
7530–01–072–2537 Rgn 6, 7
7530–01–072–2538 Rgn 6, 7
7530–01–072–2539 Rgn 6, 7
7530–00–205–0511 Rgn 6, 7
Paper, Looseleaf, Blank (IB)
7530–00–286–5777 7530–00–286–5778
7530–00–286–5782 7530–00–286–5780
7530–00–286–5781 7530–00–286–5779
Paper, Looseleaf, Ruled (IB)
7530–00–286–6366 7530–00–286–4332
7530–00–286–4331 7530–00–286–4333
7530–00–286–4334 7530–00–286–4335
7530–00–198–6265 7530–00–286–4336
7530–00–286–4337 7530–00–286–4338
7530–00–286–4339
Paper, Teletypewriter, Roll (IB)
7530–00–223–7966 7530–00–056–2900
7530–01–721–9691 7530–00–223–7969
7530–00–262–9178
Paper, Writing (IB)
7530–00–285–5836 7530–01–047–3738
Refill, Appointment Book (SH)
7530–01–022–3571 (1982)
7530–01–022–3570 (1981)
Tape, Paper, Computing Machine (IB)
7530–00–286–9052 7530–00–222–3455
7530–00–286–9053 7530–00–286–9054
7530–00–238–8352 7530–00–222–3456
7530–00–286–9055
Decalcomania No Smoking (SH)
7690–00–857–9662 7690–00–857–9574
7690–00–857–9700 7690–00–857–9613
7690–00–858–3403 7690–00–858–3365
7690–00–310–6627 7690–00–311–7272
7690–00–328–9517 7690–00–329–0205
Decalcomania U.S. Army (SH)
7690–00–857–9575 7690–00–857–9663
7690–00–857–9614
7690—Code 600 USPSW
7690—Code 600 USPSW
7690–00–311–7276 7690–00–329–0206
7690–00–858–3405 7690–00–858–3366
7690–00–310–9206
Decalcomania Max Speed (SH)
7690–00–857–9572 7690–00–857–9660
7690—Code 633 USPSW
7690–00–857–9611 7690–00–857–9698
7690–00–328–9504 7690–00–329–0204
Decalcomania No Riders (SH)
7690—Code 635 USPSW
7690–00–857–9573
7690—Code 636 USPSW
7690–00–857–9612 7690–00–857–9699
Decalcomania Lift Here (SH)
7690—Code 622–L–USPSW
Decalcomania For Official Use Only (SH)
7690–00–329–0538
Decalcomania TS (SH)
7690—Code 669–L–USPSW
7690—Code 666–L–USPSW
7690—Code 672–L–USPSW
7690—Code 667–L–USPSW
7690—Code 675–L–USPSW
7690—Code 668–L–USPSW
Decalcomania Numbers and Letters (SH)
7690–00–1½" 7690—2"
7690–00–311–7128 7690—4"

CLASS 7910

Pad, Floor Polishing Machine (IB)
7910–00–685–6686 7910–00–685–6687
7910–00–685–3908 7910–00–685–6671
7910–00–685–3909 7910–00–685–6672
7910–00–685–3910 7910–00–685–6656
7910–00–685–6657 7910–00–685–3912
7910–00–685–6659 7910–00–685–3915
7910–00–685–6660 7910–00–685–3914
7910–00–685–4239 7910–00–685–4240
7910–00–685–4242 7910–00–685–4243
7910–00–685–4241 7910–00–685–4244
7910–00–685–4245
7910–00–820–7991 Rgn 6, 7, 8, 9, 10
7910–00–820–7989 Rgn 6, 7, 8, 9, 10
7910–00–820–7990 Rgn 6, 7, 8, 9, 10
7910–00–820–9926 Rgn 6, 7, 8, 9, 10
7910–00–820–9925 Rgn 6, 7, 8, 9, 10
7910–00–820–9924 Rgn 6, 7, 8, 9, 10
7910–00–820–9898 Rgn 6, 7, 8, 9, 10
7910–00–820–7997 Rgn 6, 7, 8, 9, 10
7910–00–820–7996 Rgn 6, 7, 8, 9, 10

CLASS 7920

Broom, Push (IB)
7920–00–297–297
Broom, Upright(IB)
7920–00–292–4371 7920–00–292–4375
7920–00–292–4372 7920–00–291–8305
Broom, Whisk (IB)
7920–00–240–6350
Brush, Chassis and Running Gear (IB)
7920–00–255.7536
Brush, Cleaning, Aircraft (IB)
7920–00–051–4384
Brush, Dusting (IB)
7920–00–176–8315
Brush, Floor Sweeping (IB)
7920–00–243–3407 7920–00–292–2363
7920–00–292–2367 7920–00–292–4638
7920–00–292–2362 7920–00–292–2365
Brush, Sanitary (IB)
7920–00–772–5800 7920–00–234–9317
Brush, Scrub (IB)
7920–00–240–7174 7920–00–951–8795
7920–00–282–2470 Tampico Fibers
7920–00–282–2470 Styrene Fibers
7920–00–297–1511 7920–00–619–9162
7920–00–061–0038
Brush, Shoe and Stove (IB)
7920–00–852–8170
Brush, Wire, Scratch (IB)
7920–00–291–5815 7920–00–282–9246
7920–00–246–8501 7920–00–233–7649
Brush, Wire, Stainless Steel (IB)
7920–00–958–1157
Brush-Set, Shoe and Stove (IB)
7920–00–205–0200
Cloth, Polishing (IB)
7920–00–205–1656 7920–00–205–3170
7920–00–664–0103
Handle, Mop (IB)
7920–00–205–1168 7920–00–267–1218
7920–00–205–1167 7920–00–550–9902
7920–00–550–9911 7920–00–550–9912
7920–00–998–2485 7920–00–998–2486
7920–00–851–0140 7920–00–851–0142
7920–00–246–0930 7920–00–205–1170
Handle, Paint Roller (IB)
7920–00–682–6512
Handle, Wood (IB)
7920–00–177–5106 7920–00–141–5452
7920–00–263–0328
Mop, Dusting, Cotton (IB)
7920–00–205–0481 7920–00–205–0483
7920–00–205–0484 7920–00–245–8289
Mop, Wet (IB)
7920–00–224–8726
Mop, Wet, Cellulose, Complete (IB)
7920–00–432–7117 7920–00–728–1167
Mop, Wet, Cellulose, Sponge Refill (IB)
7920–00–471–2876
Mophead, Dusting, Cotton (IB)
7920–00–634–0201 7920–00–267–4921
7920–00–998–2482 7920–00–998–2483
7920–00–998–2484 7920–00–851–0141
7920–00–205–0485 7920–00–205–0487
7920–00–205–0488
Mophead, Wet (IB)
7920–00–205–0425 7920–00–205–0426
7920–00–141–5549 7920–00–171–1148
7920–00–141–5550 7920–00–141–5547
7920–00–141–5548 7920–00–141–5544
7920–00–926–5492 7920–00–926–5493
7920–00–926–5494 7920–00–926–5495
7920–00–926–5496 7920–00–926–5497
7920–00–926–5498 7920–00–926–5499
7920–00–926–5501 7920–00–926–5502
Pad, Scouring (IB)
7920–00–753–5242 7920–00–151–6120
Scraper and Squeegee (IB)
7920–00–045–2556
Sponge, Cellulose (IB)
7920–00–161–6219 7920–00–633–9928
7920–00–240–2559 7920–00–884–1116
7920–00–884–1115 7920–00–633–9905
7920–00–240–2555 7920–00–633–9906
Squeegee (SH)
7920–00–224–8339
Towel, Paper (IB)
7920–00–823–9773

CLASS 7930

Detergent, General Purpose (IB)
7930–00–926–5280 7930–00–357–7386
7930–00–068–1669 7930–01–055–6122
7930–00–177–5243 7930–00–985–6945
7930–00–985–6946 7930–00–530–8067
7930–00–527–1207 7930–00–527–1237
Dishwashing Compound, Hand (IB)
7930–00–880–4454 Rgn. W,1,2,3,5,10
7930–00–899–9534 Rgn. W,1,2,3,5,10
Glass Cleaner (IB)
7930–00–664–6910

V 45 N 012 80 UMI

Rinse Additive, Dishwashing (IB)
7930-00-619-9573 7930-00-619-9575
Wax, Floor (IB)
7930-00-205-2870 Rgn. W,1,2,3,5,10
7930-00-141-5888 Rgn. W,1,2,3,5,10
7930-00-205-2871 Rgn. W,1,2,3,5,10

CLASS 8105

Bag, Assembly, Crew Relief (IB)
8105-00-922-9469
Bag, Cloth (IB)
8105-00-282-8183
Bag, Cotton (IB)
8105-00-183-6981 8105-00-281-3924
8105-00-183-6982 8105-00-179-0089
8105-00-271-1511 8105-00-183-6985
8105-00-174-0836 8105-00-183-6989
8105-00-290-3360
Bag, Lunch (SH)
8105-00-664-3715
Bag, Motion Sickness (IB)
8105-00-835-7212
Bag, Plastic (SH)
8105-00-NSH-0001 8105-00-NSH-0002
8105-00-NSH-0003 8105-00-NSH-0004—Rqmts for Naval Weapons Sprt Ctr, crane, IN

CLASS 8115

Box, Set-Up, Mailing Dental (IB)
8115-00-511-5750
Box, Shipping (IB)
8115-00-787-2142 8115-00-787-2147
8115-00-101-7647 8115-00-101-7638
8115-00-787-2146 8115-00-787-2148
8115-01-019-4085 8115-01-019-4084
8115-01-057-1244 8115-01-057-1243
8115-01-057-1245
Box, Wood (SH)
8115-00-935-6526 8115-00-935-6527
8115-00-935-6532 8115-00-935-6531
Box, Wood, Nailed (SH)
8115-00-NOO-0019 Rqmts for Pine Bluff Arsenal, Pine Bluff, AR only

CLASS 8120

Cap, Compressed Gas Cylinder (IB)
8120-00-178-9814 8120-00-179-0076

CLASS 8135

Block, Currency Packing (IB)
BEP Stock #L-1391

CLASS 8315

Buckle, Belt, Trousers (SH)
8315-00-543-3724
Sewing Kit (SH)
8315-01-096-4480 8315-01-090-5823

CLASS 8340

Pin, Tent, Aluminum (SH)
8340-00-261-9749
Pin, Tent, Wood (SH)
8340-00-261-9750 8340-00-261-9751
Pole Section, Tent (SH)
8340-00-233-7849
Shelter Half, Tent (SH)
8340-00-577-4168

CLASS 8345

Case, Flag, Interment (IB)
8345-00-782-3010
Flag, Signal (IB)
8345-00-935-0588 8345-00-935-0589
8345-00-935-0590 8345-00-935-0591
8345-00-935-0592 8345-00-935-0594
8345-00-935-0595 8345-00-935-0597
8345-00-935-0598 8345-00-935-0599
8345-00-935-0602 8345-00-935-0604
8345-00-935-0607 8345-00-935-0608
8345-00-935-0633 8345-00-935-1840
8345-00-935-0634 8345-00-935-0638
8345-00-935-0639 8345-00-935-0640
8345-00-926-9977 8345-00-926-9216
8345-00-926-9978 8345-00-926-6804
8345-00-926-6806 8345-00-926-9979
8345-00-926-6807 8345-00-926-6809
8345-00-926-9980 8345-00-926-9219
8345-00-935-0582 8345-00-926-9984
8345-00-926-6003 8345-00-926-9985
8345-00-935-0619 8345-00-935-1839
8345-00-935-0620 8345-00-935-0623
8345-00-935-0409 8345-00-935-0624
8345-00-935-0445 8345-00-926-6803
8345-00-935-0446 8345-00-926-6805
8345-00-935-0447 8345-00-926-9987
8345-00-935-0448 8345-00-926-6810
8345-00-926-9988 8345-00-935-0450
8345-00-935-0451 8345-00-935-0453
8345-00-926-6002 8345-00-926-6814
8345-00-935-0436 8345-00-935-0437
8345-00-935-0438 8345-00-935-0408
8345-00-935-0441 8345-00-935-0442
8345-00-935-0464 8345-00-935-0465
8345-00-935-0466 8345-00-935-0467
8345-00-935-0468 8345-00-935-0470
8345-00-935-0471 8345-00-935-0473
8345-00-935-0474 8345-00-935-0475
8345-00-935-0478 8345-00-935-0480
8345-00-935-0483 8345-00-935-0484
8345-00-935-0626 8345-00-935-1838
8345-00-935-0627 8345-00-935-0407
8345-00-935-0630 8345-00-935-0631
Flag, Signal, Vehicle, Danger Red (IB)
8345-00-260-2724
Pennant, Signal, and Special Flags (IB)
8345-00-935-0420 8345-00-935-0517
8345-00-935-4755 8345-00-825-1847
8345-00-935-3201 8345-00-935-4756
8345-00-935-0522 8345-00-914-6086
8345-00-935-4753 8345-00-935-4754
8345-00-935-0404 8345-00-935-0514
8345-00-825-1868 8345-00-935-0406
8345-00-935-0509 8345-00-926-5988
8345-00-935-0512 8345-00-921-4497
8345-00-935-3199 8345-00-825-1839
8345-00-935-0526 8345-00-914-6076
8345-00-914-6080 8345-00-914-6083
8345-00-935-0524 8345-00-926-5987
8345-00-926-5989 8345-00-935-0539
8345-00-926-5991 8345-00-825-1840
8345-00-935-0521 8345-00-914-6087
8345-00-926-6026 8345-00-935-0403
8345-00-935-0536 8345-00-926-9210
8345-00-926-9213 8345-00-926-6028
8345-00-935-0508 8345-00-935-0519
8345-00-935-0415 8345-00-914-6085
8345-00-926-9215 8345-00-935-0471
8345-00-926-9212 8345-00-914-7411
8345-00-914-6079 8345-00-914-6082
8345-00-935-0523 8345-00-935-0417
8345-00-926-5990 8345-00-935-0421
8345-00-926-9207 8345-00-935-0542
8345-00-935-0520 8345-00-935-0492
8345-00-935-0493 8345-00-926-9214
8345-00-935-0513 8345-00-935-0490
8345-00-935-0495 8345-00-926-9208
8345-00-935-0518 8345-00-935-0511
8345-00-914-6084 8345-00-935-0405
8345-00-935-0410 8345-00-935-0525
8345-00-914-6075 8345-00-914-6077
8345-00-914-6081 8345-00-935-0419
8345-00-935-0416 8345-00-935-0537
8345-00-935-0538 8345-00-935-0540
8345-00-935-0541 8345-00-926-9211
8345-00-935-0499 8345-00-935-0500
8345-00-935-0501 8345-00-825-1818
8345-00-935-0497 8345-00-935-0504
8345-00-935-1841 8345-00-935-0418
8345-00-825-1819 8345-00-926-1551
8345-00-935-0503 8345-00-935-0534
8345-00-935-1843 8345-00-926-1548
8345-00-926-1549 8345-00-926-1552

CLASS 8405

Cover, Service Cap (IB)
8405-01-046-8544 8405-01-046-8545
Strap, Chin (SH)
8405-00-152-3952

CLASS 8410

Havelock (IB)
8410-00-782-2782 8410-01-013-9109
8410-00-782-2782

CLASS 8415

Apron, Construction Worker's (IB)
8415-00-205-3895 8415-00-257-4290
Apron, Food Handling (IB)
8415-00-255-8577 8415-00-634-0205
8415-00-051-1173 8415-01-045-587
Band, Helmet, Camouflage (IB)
8415-00-576-2873
Cap, Food Handler's (IB)
8415-00-234-7677 8415-00-234-7678
8415-00-234-7679
Cover, Helmet (IB)
8415-00-105-0605
Cover, Helmet, Camouflage Pattern (IB)
8415-01-092-7514 8415-01-092-7515
Cloves, Cloth, Cotton, White (SH)
8415-00-268-8354 8415-00-268-8353
Hood, Spray Painter's Protective (SH)
8415-00-NSH-0001—Pearl Harbor Naval Shipyard, Hawaii only
Traffic Safety Clothing (See Class 8465 also) (IB)
8415-00-177-4978 8415-00-177-4974

CLASS 8430

Footwear Cover (IB)
8430-00-890-2079 8415-00-580-1205
8430-00-580-1206 84-00-591-1359
Slide Fastener Unit, Laced Boot (IB)
8430-00-465-1888 8430-00-465-1889
8430-00-465-1890

CLASS 8440

Neckerchief (IB)
8440-01-076-0779
Necktie (IB)
8440-00-216-6130 8440-00-316-2519
8440-00-555-7194
Scarf, Man's, Wool (SH)
8440-01-005-2558 8440-00-160-6843
8440-00-823-7520

CLASS 8445

Belt, Trousers (IB)
8445-01-068-8339 8445-01-068-8340
Scarf, Neckwear (IB)
8445-00-549-5363

CLASS 8460

Ket Bag, Flyer's (IB)
8460-00-606-8366

CLASS 8465

Bag, Barrack (IB)
8465-00-530-3692
Bag, Laundry (SH)
8465-00-616-9576
Bag, Laundry, Self-Closing, Ropeless (SH)
8465-00-656-0816
Bag, Sleeping, Firefighter's (IB)
8465-00-081-0798
Bag, Soiled Clothes (SH)
8465-00-122-3869
Bag, Soiled Clothes, Submarine (IB)
8465-00-762-7671
Belt, Individual, Equipment, Nylon, LC-1 (IB)
8465-00-001-6488 8465-00-001-6487
Belt, M.P. (IB)
8465-00-527-8843

Carrier, Intrenching Tool (IB)
8465-00-001-6474
Case, Field, First Aid (IB)
8465-00-935-6814
Case, Maintenance Equipment, Small Arms (IB)
8465-00-781-9564
Clipboard, Pilot's (SH)
8465-01-012-9174
Clothes Stop (IB)
8465-00-377-5701
Club, Policeman's (IB)
8465-00-641-8551
Cover, Water Canteen (IB)
8465-00-116-4956
Cover, Water Canteen, Nylon (IB)
8465-00-860-0256
Fieldpack, Canvas (SH)
8465-00-205-3493
Hood, Sleeping Bag (IB)
8465-00-518-2769
Lanyard, Pistol (SH)
8465-00-262-5237 8465-00-965-1705
Necklace, Personnel Identification (SH)
8465-00-261-6629

CLASS 8465

Pocket, Ammunition Magazine (IB)
8465-00-782-2239 8465-00-261-4983
Protector, Trousers, Pistol Holster (IB)
8465-00-682-6741
Strap, Waist, with Pad, LC-2 (IB)
8465-01-075-8164
Strap, Webbing, Cargo, Tie-Down (IB)
8465-00-001-6477
Suspenders, Individual Equipment Belt (IB)
8465-00-001-6471
Traffic Safety Clothing (See Class 8415 also) (IB)
8465-00-177-4977 8465-00-177-4976
8465-00-177-4975
Whistle, Ball, Plastic (IB)
8465-00-254-8803
Headband, Ground Troop, Helmet Liner (IB)
8470-00-153-6671—Mechanicsburg, PA and Richmond, VA only
Headband, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-8493 8470-01-092-8492
Neckband, G.T., Helmet Liner (IB)
8470-00-753-6166
Pad, Parachutists' Helmet (IB)
8470-01-092-8494
Strap, Chin, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-7534
Strap, Retention, Parachutists' Helmet (IB)
8470-01-092-7524
Strap, Solider's Steel Helmet M-1 (IB)
8470-00-030-8003
Suspension Assembly, Liner, Helmet (IB)
8470-00-880-8814
Suspension Assembly, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-7516 8470-01-092-7517
8470-01-092-7518 8470-01-092-7519

CLASS 8520

Soap, Toilet (IB)
8520-00-228-0598 8520-01-058-7463
8520-00-141-2519

CLASS 8940

Condiment Packet (Dietetic) (IB)
8940-00-177-4958 8940-00-177-4959
8940-00-177-4960 8940-00-177-4961
8940-00-177-4962 8940-00-177-4963
8940-00-935-6416 8940-00-935-6417
8940-00-935-6420 8940-00-935-6421

CLASS 8950

Condiment Packet (IB)
8950-00-935-6406 8950-00-935-6409
8950-00-935-6410 8950-00-935-6411
8950-00-935-6412 8950-00-935-6413

CLASS 8970

Food Packet, Survival, Aircraft, Life Raft, Indiv. (SH)
8970-01-028-9406

CLASS 9905

Plate, Marking, Blank (SH)
9905-00-473-6336
Sign, U.S. Property—No Trespassing (IB)
9905-00-559-2971
Sign-Kit, Vehicle (SH)
9905-00-565-6267
Tag, Key (SH)
9905-00-245-7826
Tag, Market (SH)
9905-00-537-8954 9905-00-537-8955
9905-00-537-8956 9905-00-537-8957

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-00-682-6757

U.S. Postal Service Items

Seat Assembly, Complete (SH)
P.S. Item #054-A
Seal, Metal Band (SH)
P.S. Item #0816-A
P.S. Item #0816-B
Market, I.D., Plastic (SH)
P.S. Item #01036
P.S. Item #01036-A
P.S. Item #01036-B
P.S. Item #01036-C
P.S. Item #01036-D
P.S. Item #01036-E
P.S. Item #01036-F
Divider, Separation (SH)
P.S. Item #01037-A
P.S. Item #01037-B
Safety Guard (SH)
P.S. Item #01075-B
Pocket, Leather (SH)
P.S. Item #D-1200-D
Strap, Tie, Mail Carrier's, with Buckle (IB)
P.S. Item #D-1216-D
P.S. Item #D-1216-E
P.S. Item #D-1216-F

Military Resale Commodities

Procedures for ordering millitary resale commodities are contained in Section 51-5.6, Code of Federal Regulations, Title 41.

Stock Number and Item Name

060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)
063 Retractable pen, black (IB)
064 Retractable pen, blue (IB)
065 Ultra fine tip marker, red (IB)
066 Ultra fine tip marker, blue (IB)
067 Ultra fine tip marker, black (IB)
450 Tennis racket, deluxe (IB)
452 Tennis racket, economy (IB)
500 Room Air Freshner (IB)
501 Deodorizer, toilet bowl (IB)
510 Cleaner, all purpose (IB)
544 Scrubber, nylon net over polyurethane pad (IB)
554 Scrubber, nylon, rectangular (IB)
555 Scrubber, kitchen, 4⅝ x 3⅛ x 1⅜" (IB)
556 Scrubber, bathroom, 4⅝ x 3⅛ x 1⅜" (IB)
557 Scrubber, general household, 6⅜ x 3⅛ x 1" (IB)
563 Scrubber, plastic, for teflon (IB)
574 Clothesline, plastic, rayon reinforced, 100-ft. (IB)
575 Sponge, cellulose, 5½ x 3⅝ x 1⅛" (IB)
576 Sponge, cellulose, 7⅜ x 4 x 1¾" (IB)
577 Sponge, cellulose, 5½ x 3⅝ x 1" (IB)
578 Sponge, cellulose, 5½ x 3⅝ x ⅝" (IB)
588 Opener, pour and store (IB)
593 Sponge, bath, circular (IB)
594 Swatter, fly, plastic (IB)
596 Cutlery Set, plastic, heavy duty (6 ea. knives, forks spoons) (IB)
597 Knives, plastic, heavy duty (IB)
598 Forks, plastic heavy duty (IB)
599 Spoons, plastic, heavy duty (IB)
600 Trowel, transplanter (IB)
601 Trowel, regular (IB)
602 Cultivator (IB)
603 Weeder (IB)
604 Grass Shears (IB)
605 Pruning shears (IB)
720 Paint roller cover, economy, 7" (IB)
721 Paint roller cover, economy, 9" (IB)
722 Paint roller cover, all purpose, 7" (IB)
723 Paint roller cover, all purpose, 9" (IB)
724 Paint roller cover, for textured surfaces, 7" (IB)
725 Paint roller cover, for textured surfaces, 9" (IB)
726 Paint roller cover, high pile, 7" (IB)
727 Paint roller cover, high pile, 9" (IB)
728 Paint roller cover, for gloss or semi-gloss, 7" (IB)
729 Paint roller cover, for gloss or semi-gloss, 9" (IB)
730 Paint roller cover, for rough surfaces, 9" (IB)
731 Paint roller cover, for rough serfaces, 7" (IB)
732 Paint roller cover, mohair fiber, 7" (IB)
733 Paint roller cover, mohair fiber, 9" (IB)
735 Trimmer, paint roller, with frame, 3" (IB)
736 Refill, trimmer, paint roller, 3" (IB)
741 Paint roller, frame assembly, 7" (IB)
742 Paint roller, frame assembly, 9" (IB)
901 Broom, mixed fiber (IB)
902 Broom, push, indoor/outdoor, 54" handle (IB)
903 Broom, parlor, corn, medium weight (IB)
904 Broom, corn, plastic cap (IB)
905 Broom, plastic filament, flagged ends (IB)
907 Broom, plastic filament, angle cut (IB)
909 Broom, whisk, corn (IB)
910 Broom, whisk, plastic (IB)
911 Brush, floor, plastic filament, with handle (IB)
912 Brush, lint, plastic filament (IB)
913 Brush, lint 2-row brass filament (IB)
914 Brush, barbecue, with scraper (IB)
915 Brush, counter, plastic (IB)
916 Brush, bowl, sanitary, nylon filament (IB)
918 Brush, scrub, household (IB)
919 Brush, scrub, plastic block, vinyl filament (IB)
920 Handle, mop, spring lever, for wet mopheads (IB)
922 Applicator, wax, foam block (IB)
923 Mop, automatic, block sponge (IB)
924 Mop, block sponge, with scrub strip brush (IB)

V 45 N 012 80 0 UMI

925 Mop, dusting, nylon (IB)
926 Mop, stick, orlon/rayon yarn, wet (IB)
927 Mop, stick, rayon yarn, wet (IB)
928 Mop, stick, cotton yarn, wet (IB)
932 Refill, applicator, wax, foam block, for 922 (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
936 Mophead, orlon/rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted, cotton (IB)
949 Mitt, oven, quilted, cotton (IB)
950 Mop, dish and bottle, wood handle (IB)
951 Mop, glass and dish, plastic handle (IB)
952 Brush, percolator (IB)
955 Brush, vegetable/utility, plastic filament (IB)
956 Brush, bottle, nylon filament (IB)
957 Brush, dish and pan, nylon filament (IB)
959 Brush, pastry and basting (IB)
962 Cover, ironing board, silicone and pad, poly foam (IB)
964 Cover, ironing board, silicone, double coated (IB)
969 Cover, ironing board, teflon coated (IB)
970 Bag, washing machine, nylon with zipper (IB)
980 Cloth, all purpose, cotton (IB)
983 Cloth, dusting (IB)
986 Cloth, wash, face (IB)
995 Dustpan, plastic (IB)

Services

These services are identified by industrial group numbers as provided in the Standard Industrial Classification Manual prepared by the Technical Committee on Industrial Classification, Statistical Policy Division, Office of Management and Budget.

SIC 0782

Grounds Maintenance

Bergstrom Air Force Base, Texas, for the following AFRES units:
Buildings: 1601, 4202, 4526, 4527, 4534, 4535, 4547, 4562 and Apron "D" (SH)
Dept. of Energy, Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Edwards Air Force Base, California, for Chapel 2700; Hospital Areas 5500, 5510, and 5550; Recreation Fields 2201, 5201, 5208, and 5213; Buildings 1200, 1220, 1400, 2650, 2660, 2800, 3940, and P–1 (SH)
Federal Aviation Administration: Leesburg, Virginia; Air Route Traffic Control Center, Ronkonkoma, New York; TRACON Facility, Westbury, New York (SH)
Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
Federal Building, 500 West 12th, Vancouver, Washington (SH)
Ft. Lawton, Washington; Cemetery Grounds (includes opening and closing of graves) (SH)
Fort Ord, California, for Silas B. Hays Army Hospital; Officer's Open Mess; Headquarters Area & Welcome Center; Golf Course (Mowing); Football Field; Multipurpose Field; Durham Field; Soper Field; Bowling Alley; Building #3015 (SH)
Mare Island Housing Areas: Coral Sea Village Bldg. 310D–4; Farragut South Bldg. 302D–3; Farragut Central Bldg. 303E–3; Farragut North; Mare Island Naval Shipyard, Vallejo, California (SH)
Naval Air Station Miramar, Sites A through I, San Diego, California (SH)
Naval Air Station, Whidbey Island, Washington (SH)
Naval Postgraduate School, Monterey, California (SH)
Naval Weapons Station, Yorktown, Virginia for: Kirkpatrick Park; Administration Bldg. No. 31 and Gate No. 1; Missile Park; Dispensary Area; Skiff Creek Area; Officer's Club Bldg. 58; Bldg. 380A, Bldg. 380B, Credit Union; Industrial Areas; Area 10 (Parkway Gate 18 and surrounding area) (SH)
Naval Ordanance Station, Nonindustrial Area, Indian Head, Maryland (SH)
Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
Special Training Building and Complex, U.S. Secret Service, Beltsville, Maryland (SH)
U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)

SIC 0851

Seedling Harvesting

Humboldt Nursery, Forest Service, McKinleyville, California (SH)

SIC 5812

Catered Noon Meals

Armed Forces Examining and Entrance Station, Seattle, Washington (SH)

Food Service

Sheppard Air Force Base, Texas (SH)

SIC 7218

Laundry

Naval Training Center, Great Lakes, Illinois (SH)
U.S. Army Medical Materiel Agency, Fort Detrick, Frederick, Maryland (SH)

SIC 7331

Mailing

Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 117 N. 19th Street, Arlington, Virginia (SH)
Dept. of Education, Office for Civil Rights, Office of Program Review & Assistance, 330 C Street, S.W., Washington, D.C. (SH)
Dept. of Energy, Distribution, 12th & Pennsylvania Avenue, N.W., Washington, D.C. (SH)
Dept. of the Interior, 18th & C Streets, N.W., Washington, D.C. (SH)
Dept. of Transportation, National Highway Traffic Administration, 400 7th Street, S.W. Washington, D.C. (SH)
Federal Trade Commission, Pennsylvania Avenue & 6th Street, N.W, Washington, D.C. (SH)
National Credit Union Administration, Printing Service, 1375 K Street, N.W., Washington, D.C. (SH)
Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. (SH)
President's Committee on Employment of the Handicapped, Washington, D.C. (SH)
Smithsonian Institute, Supply Division, Washington, D.C. (SH)
The Library of Congress, Washington, D.C. (SH)
U.S. Consumer Product Safety Commission, Washington, D.C. (SH)
U.S. Department of Agriculture, Washington, D.C. (D.C. metropolitan area only, excluding Foreign Agriculture Services, Management Services Division) (SH)
U.S. Department of HEW, for following offices only:
National Instutites of Health, Bethesda, Maryland (SH)
Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
Food and Drug Administration, Rockville, Maryland (SH)
Health Resources Administration, Rockville, Maryland (SH)
Office of Assistant Secretary for Health, Rockville, Maryland (SH)
Office of the Secretary, Washington, D.C. (SH)
U.S. Department of HUD, Washington, D.C. (SH)
U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. (SH); Manpower Administration, Washington, D.C. (SH)
U.S. Geological Survey, Publications Division, Branch of Technical Editing, Eastern Region; TOPO Division, 12201 Sunrise Valley Drive, Reston, Virginia (SH)
U.S. Metric Board, 1815 N. Lynn Street, Arlington, Virginia (SH)

Tax Form Order Fulfillment

Internal Revenue Service, Buffalo, New York (SH)

SIC 7349

Campground Cleanup and Trash Removal

Pole Mountain and Centennial Areas, Forest Service, Laramie, Wyoming (SH)

Cardboard and Paper Scrap Recovery

New Cumberland Army Depot, New Cumberland, Pennsylvania (SH)

Janitorial/Custodial

Administration Building; U.S. Post Office; GSA Motor Pool Building; The Charles Building; The Maurice Building; Executive Terminal Building; Salt Lake City, Utah (SH)
Bergstrom Air Force Base, Texas, Buildings: 713, 734, 2004, 2108 and 2600 (Chapel) (SH)
Bridge of the Americas, Paso Del Norte, Good Neighbor Bridge Border Stations; Cotton Classing Building, El Paso, Texas (SH)
Bureau of Land Managment District Building, Roseburg, Oregon (SH)
Department of Energy, for the following:
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Computer Science Center; Technical Support Building; Technical Support Addition, 550 Second Street, Idaho Falls, Idaho (SH)
Fairchild Air Force Base, Spokane, Washington, for: Alert Facility (Bldg. 2080); Alert Trailers; Post Office (Bldg. 644); Military Family Housing Office (Bldg. 2451B); Audit Agency Office (Bldg. 2245); 47th Air Division Headquarters (Bldg. 2285); Civilian Personnel and NAF (Room 209 of Bldg. 2245); Red Cross Office (Bldg. 2245); Base Library (Bldg. 716); Base Chapel (Bldg. 4200); Base Education Center (Bldg. 2365); Family Visitation Center (Bldg. 2092); OSI Bldg., 5025; Social Actions Bldg. 3509 (SH)
Federal Aviation Administration, TRACON Facility, Stewart Avenue, Westbury, Long Island, New York (SH)
Federal Building, 275 Peachtree Street, Atlanta, Georgia (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)
Federal Building (U.S. Post Office and Courthouse), 330 Shawnee, Leavenworth, Kansas (SH)
Federal Building & U.S. Courthouse, Lincoln, Nebraska (SH)
Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
Federal Building, Muskogee, Oklahoma (SH)
Federal Building, U.S. Courthouse, Eugene, Oregon (SH)
Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
Federal Center, 25th & Dover Streets, Moses Lake, Washington (SH)
Federal Center, Corps of Engineers, Walla Walla, Washington (SH)
Federal Office Building, Cass & Stephens Streets, Roseburg, Oregon (SH)
Forest Service Offices, Sequoia National Forest, Porterville, California at: Supervisor's Office, 900 W. Grand; Warehouse Complex, 480 N. Henrahan (SH)
Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
Lloyd Group Buildings, Portland, Oregon, at: 630 N.E. Holladay Street; 830 N.E. Holladay Street; 729 N.E. Oregon Street; 811 N.E. Oregon Street; 827 N.E. Oregon Street (SH)
Naval Air Station Buildings: 12, 18, 22, 100, 103, 108, 110, 113, 116, 119, 124, 126, 180, 220, 243, 365, 369, 371, 374, 375, 376, 377, 380, 381, 385, 386, 960, 961, 975, 994, 2546, 2547, 2551, Whidbey Island, Oak Harbor, Washington (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, D.C. (SH)
U.S. Army Reserve Centers:
Fort Drum, Watertown, New York;
John Williams Street, Attleboro, Massachusetts;
Belmont & Manley Streets, Brockton, Massachusetts;
915 W. Chestnut Street, Brockton, Massachusetts;
Buildings 85 and 90, Hingham, Massachusetts;
675 American Legion Highway, Roslindale, Massachusetts
130 Eldridge Street, Taunton, Massachusetts;
111 Finney Boulevard, Malone, New York (SH)
U.S. Courthouse, Forsythe & Walton Streets, Atlanta, Georgia (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse and Federal Building, Rapid City, South Dakota (SH)
U.S. Federal Building & Courthouse, 436 Dwight, Springfield, Massachusetts (SH)
U.S. Federal Building & Post Office, 202 Harlow, Bangor, Maine (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)

Janitorial/Elevator Operator

Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)

SIC 7369

Food Service Department

Seneca Army Depot, Romulus, New York (SH)

Commissary Shelf Stocking and Custodial Service

Sheppard Air Force Base, Texas (SH)

SIC 7374

Keypunch and Verification

GSA Region 2, Automated Telecommunication Service, Data Services Division overflow requirements (SH)

SIC 7395

Film Developing

Photographic Processing for the GSA Self-Service Store #60, Denver Federal Center, Denver, Colorado (IB)

SIC 7399

Affix Labels—U.S. Patent Documents

U.S. Department of Commerce, Patent and Trademark Office, Crystal City, Arlington, Virginia (SH)

Assembly

Belt, Trousers (IB)
Food Packet, In-flight, Individual (8970–01–060–2899) (SH)
Food Packet, Isolated Site (8 menus) (IB)
Food Packet, Long Range Patrol (8970–00–926–9222) (SH)
Food Packet, Survival, Abandon Ship (8970–00–299–1395) (IB)
Food Packet, Survival, General-Purpose, Individual (8970–00–082–5665) (IB)
General Mechanic's Tool Kit (5180–00–177–7033), GSA, Kansas City, Missouri (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service, Washington, D.C. (SH)

Microfilming Contract Files

Department of the Navy, OICC Trident, Bremerton, Washington (SH)

Microfilm Reproduction

Naval Submarine Base Bangor, Silverdale, Washington (SH)

Packaging

Canteen, Water, Disposable (8465–01–062–5854) General Services Administration, Region 8, Denver, Colorado (IB)

Repair of Field Jackets

Fort Riley, Kansas (SH)

Sewing

Redstone Arsenal, Alabama (Provides specified end items produced through use of customized, heavy-duty sewing service) (SH)

Shrink Wrapping Gift Packages

U.S. Postal Service, Washington, D.C. (SH)

SIC 7538

Rebuilding Automotive Components

GSA Interagency Motor Pool, New York, New York (SH)
GSA Interagency Motor Pool, Newark, New Jersey (SH)

SIC 7641

Furniture Rehabilitation

Eielson Air Force Base, Alaska (SH)
Fairbanks, Alaska, plus 30-mile radius (SH)
Lawton, Oklahoma (including Fort Sill); Altus Air Force Base, Oklahoma (SH)
Monterey, California, plus 10-mile radius, including Fort Ord (SH)
Sacramento, California, plus 60-mile radius, excluding San Joaquin County (SH)
San Antonio, Texas, plus 40-mile radius (SH)
San Francisco, California, and the counties of Alameda, Contra Costa, San Mateo, and Santa Clara (SH)
Seattle, Washington, plus 30-mile radius (SH)
Spokane, Washington, plus 30-mile radius (SH)
Tacoma-Auburn, Washington, plus 30-mile radius, including McChord Air Force Base and Fort Lewis (SH)

Metal Furniture Rehabilitation

Bremerton, Washington, plus 13-mile radius (SH)
Cleveland, Ohio, plus 25-mile radius (SH)
Olympia, Washington, plus 13-mile radius (SH)
Seattle, Washington, plus 13-mile radius (SH)
Tacoma, Washington plus 13-mile radius (including McChord Air Force Base and Fort Lewis) (SH)

SIC 7699

Mattress and Box Spring Rehabilitation (IB)

Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renvotion for GSA Regions W, 2, 3, 4, 5, 6, 7, and 8 only.

Pallet Repair

Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Repair and Maintenance of Electric Typewriters Only

HEW, 300 S. Wacker Drive, Chicago, Illinois (SH)
Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)
Social Security Administration, Chicago, Illinois (SH)

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Syracuse, New York, (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

Federal Court House Building, Syracuse, New York (SH)

Repair and Maintenance of Electric and Manual Typewriters

Rochester, New York (including Monroe County) (SH)
U.S. Customs, Milwaukee, Wisconsin (SH)
U.S. Federal Office Building, Milwaukee, Wisconsin (SH)
Veterans Administration Center and Hospital, Wood, Wisconsin (SH)
Veterans Administration Regional Office, Milwaukee, Wisconsin (SH)

SIC 9199

Administrative Services

Environmental Protection Agency, 26 Federal Plaza, New York, New York (SH)

[FR Doc. 80-35153 Filed 11-10-80 8:45 am]
BILLING CODE 6820-33-M

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federal register

Wednesday
November 12, 1980

Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Ammonium Sulfate Manufacture

V 45 NO 12 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1629-4]

Standards of Performance for New Stationary Sources; Ammonium Sulfate Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for ammonium sulfate manufacturing plants were proposed in the **Federal Register** on February 4, 1980 (45 FR 7758). This action finalizes standards of performance for ammonium sulfate manufacturing plants. These standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that ammonium sulfate manufacturing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed ammonium sulfate manufacturing plants to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: November 12, 1980.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the United States Court of Appeals for the District of Columbia circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Ammonium Sulfate Manufacture—Background Information for Promulgated Emission Standards," EPA-450/3-79-0346b.

Docket. A docket, number A-79-31, containing information used by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5421.

SUPPLEMENTARY INFORMATION:

The Standards

The promulgated standards will limit atmospheric particulate matter emissions from new, modified, and reconstructed ammonium sulfate dryers at caprolactam by-product ammonium sulfate plants, synthetic ammonium sulfate plants, and coke oven by-product ammonium sulfate plants.

Specifically, the promulgated standards limit exhaust emissions from ammonium sulfate dryers to 0.15 kilogram of particulate matter per megagram of ammonium sulfate production (0.30 lb/ton). An opacity emission standard is also promulgated and limits emissions from the affected facility to no more than 15 percent.

The promulgated standards require continuous monitoring of the pressure drop across the control system for any affected facility to help ensure proper operation and maintenance of the system. Flow monitoring devices necessary to determine the mass flow of ammonium sulfate feed material to the process are also required at those plants not equipped with product weigh scales.

Summary of Environmental, Energy, and Economic Impacts

The promulgated standards will reduce projected 1985 particulate emissions from new ammonium sulfate dryers from about 670 megagrams (737 tons) per year, the level of emissions that would occur under a typical State Implementation Plan, to about 131 megagrams (144 tons) per year. This will be an 80 percent reduction of particulate emissions under a typical State Implementation Plan and will bring the overall collection efficiency to nearly 99 percent of the uncontrolled emissions. This reduction in emissions will result in reduction of ambient air concentrations of particulate matter in the vicinity of new, modified, and reconstructed ammonium sulfate plants. The promulgated standards are based on the use of medium energy wet scrubbing to control particulate matter. All captured particulate matter will be reclaimed; therefore, the promulgated standards will have no adverse impact on water quality or solid waste.

The promulgated standards will not significantly increase energy consumption at ammonium sulfate plants and will have a minimal impact on national energy consumption. The incremental energy needed to operate control equipment to meet the standards will range from 0.10 percent of the total energy required to run a synthetic or coke oven by-product ammonium sulfate plant to 0.65 percent of the total energy required to operate a caprolactam by-product ammonium sulfate plant.

Economic analysis indicates that the impact of the promulgated standards will be reasonable. Cumulative capital costs of complying with the promulgated standards for the ammonium sulfate industry as a whole will be about $1.0 million by 1985. Annualized cost to the industry in the fifth year of the promulgated standards will be about $0.5 million. The industry-wide price increase necessary to offset the cost of compliance will amount to less than 0.01 percent of the wholesale price of ammonium sulfate. Costs of emission control required by the promulgated standards are not expected to prevent or hinder expansion or continued production in the ammonium sulfate industry.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (44 FR 45242, August 1, 1979) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the ammonium sulfate manufacturing plant standards recommended for proposal. This meeting occurred on August 28, 1979. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal.

The standards were proposed in the **Federal Register** on February 4, 1980 (45 FR 7758). Public comments were solicited at that time and, when requested, copies of the Background Information Document (BID) were distributed to interested parties.

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on March 6, 1980, at Research Triangle Park, North Carolina. The hearing was open to the public and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from February 4 to April 5, 1980.

Six comment letters were received concerning issues relative to the proposed standards of performance for ammonium sulfate manufacturing plants. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the standards that were proposed.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from ammonium sulfate manufacturers and State air pollution control agencies. Most of the comment letters contained multiple comments. The comments have been divided into the following areas: General; Emission Control Technology; Test Methods and Monitoring; and Other Considerations.

General

One commenter thought that new source performance standards (NSPS) should be applied to any new ammonium sulfate dryer regardless of the manufacturing process used. The commenter referred to one plant which recovers ammonium sulfate from a scrubber controlling the emissions from a sulfuric acid unit at a phosphate fertilizer plant.

The standards regulate new, modified, and reconstructed dryers at three types of ammonium sulfate manufacturing plants: synthetic, caprolactam by-product, and coke oven by-product. Over 90 percent of ammonium sulfate is generated from these types of plants. During the development of the standards, EPA determined that the impact of regulation and potential for emission reduction with new source performance standards is significant only within these industry sectors. These types of plants are the major sources of ammonium sulfate emissions. Only two plants in the U.S. are known to produce ammonium sulfate as a by-product of sulfuric acid manufacture using the Cominco-Swenson process; the trend in the industry is toward using the dual absorption process of manufacturing sulfuric acid which eliminates the output of ammonium sulfate. Since there does not appear to be any growth or replacement potential for plants using the Cominco-Swenson process (this segment is in fact contracting), there is no justification to include this process in the standards.

Ammonium sulfate is also a by-product of the manufacture of nickel from ore concentrates and the manufacture of methyl methacrylate at one existing facility. However, no new plants of either type are expected to be built. Furthermore, new technology for the manufacture of methyl methacrylate now being put in use at existing plants eliminates the production of ammonium sulfate altogether.

It was recommended by one commenter that an emission limit be established for sulfur dioxide and ammonia through specification of a modified Method 5 test procedure.

Study of the ammonium sulfate industry has shown that ammonium sulfate particulate matter is the principal pollutant emitted to the atmosphere from ammonium sulfate plants. Sulfur dioxide and ammonia are not emitted from ammonium sulfate plants in amounts significant enough to warrant regulation. EPA Method 5 provides detailed procedures, equipment criteria, and other considerations necessary to obtain accurate and representative particulate emission data and is the appropriate test procedure to measure ammonium sulfate particulate emissions. EPA Method 5 was used to gather the data which is the basis for the promulgated standards and is therefore specified as the method to be used for compliance testing.

Emission Control Technology

Specification of Control Equipment

One commenter suggested that the proposed standard be "equipment specific" requiring the use of venturi scrubbers. However, Section 111(h) of the Clean Air Act establishes a presumption against design, equipment, work practice, and operational standards. Such standards cannot be promulgated if a standard of performance is feasible. Performance standards for control of ammonium sulfate particulate emissions have been determined as practical and feasible; therefore, design, equipment, work practice, or operational standards are not considered as regulatory options.

Use of Fabric Filters to Meet Proposed Standards

Two comments were received which questioned the feasibility of utilizing fabric filters for the collection of particulate emissions at ammonium sulfate plants. Both commenters noted the fact that frequent and serious operational problems can occur with the use of fabric filter systems at ammonium sulfate plants. One commenter, a synthetic ammonium sulfate producer, pointed out that his company's efforts to utilize a baghouse were totally unsuccessful. The plant discontinued use of the fabric filter system because excessive blinding of the fabric and caking of the collected dust in the baghouse, bins, and discharge chutes occurred which required frequent plant shutdown (an operating pattern considered entirely unacceptable at large scale, continuous process ammonium sulfate plants).

The condensation which causes the blinding and caking results from failure to maintain the temperature of the dryer exhaust and/or baghouse surfaces sufficiently above the dew point at all times. The commenter noted that the presence of even low level sulfuric acid (or hydrocarbon) vapor effectively results in a gaseous mixture that has a dew point considerably higher than would be predicted solely on the basis of the moisture content.

This is considered a reasonable comment. EPA contended in the preamble to the proposed regulation that fabric filters had the potential to meet the proposed emission limits. However, it was felt that none of the facilities coming on-line would elect to install fabric filter systems due to the relative advantages of wet scrubbers. The new information provided regarding the character of the ammonium sulfate dryer exhaust gas, coupled with the operational experience of those plants which have tried fabric filtration as a control technique, leads to the conclusion that fabric filtration is not a viable control alternative applicable to particulate collection at ammonium sulfate plants. This conclusion, however, does not affect the numerical emission limits proposed for ammonium sulfate dryer new source performance standards. The emission limits as well as the estimated environmental, economic, and energy impacts are based on the use of a medium energy wet scrubber. These limits represent the most stringent control level that can be met by all segments of the industry. Therefore, no change has been made in the numerical emission limits from proposal to promulgation.

Volatile Organic Compound Emissions At Caprolactam By-Product Plants

Two commenters were concerned with the effect of using fabric filters on volatile organic compound (VOC) emissions at caprolactam by-product ammonium sulfate plants. Both contended that although the use of fabric filters would reduce particulate emissions, VOC emissions would increase because a fabric filter would capture very little, if any, of the VOC which would be captured by a wet collection method.

Caprolactam is introduced into the ammonium sulfate process from those streams which, in the caprolactum formation reactions, produce ammonium sulfate as a by-product. Caprolactam has a melting point of 60°C and a boiling point of 140°C. This means that the

majority of caprolactam present in the ammonium sulfate dryer at the operating temperature involved (about 85°C) is in the liquid phase. The liquid caprolactam in the dryer adheres to the ammonium sulfate crystals and passes through the drying and classifying process. This residual caprolactam is a solid at ambient storage conditions. Any volatile caprolactam present in the ammonium sulfate dryer (and exit gas) results from the vapor pressure of caprolactam at the operating temperature of the dryer. EPA test data indicate that uncontrolled volatilized caprolactam emissions are relatively low level (about 60 ppm). In addition, wet collection currently in use as particulate control has demonstrated nearly 90 percent removal efficiency of the uncontrolled caprolactam emissions. This results in a controlled emission rate of about 7 ppm which is not considered to contribute significantly to air pollution.

As pointed out in the previous comment concerning fabric filters, there is now adequate evidence to conclude that wet scrubbing will be selected to control particulate emissions from ammonium sulfate plants. Since fabric filters will not be used there is no potential for increase in VOC emission.

Control Equipment Efficiency and Process Variations

One commenter stated it is doubtful that either the venturi scrubber or fabric filter will be able to sustain 99.9 percent efficiency during all variations associated with normal operating conditions at ammonium sulfate plants. The commenter went on to say that EPA has repeatedly failed to consider variations associated with processes, control devices, testing equipment, and laboratory procedures and that EPA has failed to recognize the wide variations obtained from the same plant and pollution control system, as measured by EPA methods, during representative operating conditions.

The new source performance standards for this industry are not based on percent removal efficiency but on the performance level of the best system of continuous emission reduction considering cost and other factors. The percent efficiencies were provided for information purposes only. EPA determined the performance level through direct emission testing at ammonium sulfate plants representative of the full range of operating conditions in the industry. Several plants were selected by EPA for emission testing in order to adequately consider all commonly occurring process and emission control variations found in the industry. The plants tested used the various drying techniques and gas-to-product ratios found in the industry and likely to be used in the future. For instance, both fluidized bed and rotary drum dryers were tested utilizing both direct-fired and steam heated air as the drying medium. Each emission test consisted of three separate test runs conducted during normal or representative operating conditions utilizing EPA Method 5. Results of the test runs were averaged (as would be the case in determining source compliance) to provide for any minor variations in process and test conditions during the plant test. In the future, performance tests for determination of source compliance will be conducted using procedures identical to those used in development of the promulgated standards. Emission test results from these different drying techniques indicate that the performance levels selected for the standards can be met by all segments of the ammonium sulfate industry.

Test Methods and Monitoring

One commenter suggested that § 60.423(a) of the proposed standards, Monitoring of Operations, be changed to provide consistency with § 60.424(d) which states that production rate may be determined by use of product weigh scales, or by material balance calculations. As proposed, § 60.423(a) of the regulation would have required installation of process feed stream flow meters, even if weigh scales were used to measure production rate.

This is a reasonable comment. The emission limit of the regulation is expressed in allowable emissions per unit mass of product. Therefore, production rate must be determinable. Flow meters were required in an effort to provide a means to accurately determine the production rate at those facilities electing not to install weigh scales. It is not EPA's intention that owners or operators of affected facilities who elect to install weigh scales should also be required to install process stream flow monitors. The regulation has therefore been changed to note that if a plant uses weigh scales of the same accuracy as the flow monitoring devices, then flow monitors are not required.

One commenter requested that instead of continuous monitoring of pressure drop, periodic monitoring of pressure drop across the control system for any affected facility be allowed. It was suggested that the pressure drop across the control system should be taken by operating personnel at a frequency no greater than once every 2 hours and entered in an operator log. It was contended that the reliability of venturi scrubbers is such that more frequent measurements or continuous pressure drop monitors could not be justified and would be a waste of both capital and energy. It was stated that imposing more costly or time-consuming monitoring requirements than is necessary to adequately demonstrate emission compliance will, in the long run, be counterproductive.

In EPA's experience, continuous pressure drop monitoring provides a more accurate indication of emission control equipment operation and maintenance than periodic or intermittent readings and thereby facilities enforcement activities. It has also been determined that the costs of continuous pressure drop monitoring at ammonium sulfate plants are reasonable, and that there are no technical or process reasons to monitor periodically. Therefore, no change in the pressure drop monitoring requirements of the proposed regulation was made.

One commenter noted that for caprolactam by-product plants the ammonium sulfate feed streams which require flow monitoring devices for determination of mass product flow are, in some cases, inappropriate. It was pointed out that not all ammonium sulfate solution produced is taken to the solid form; some is sold as solution. Therefore, the total combined feed streams to the ammonium sulfate crystallizer, prior to any recycle streams, would be the most accurate place to measure process input feed.

This is considered a reasonable comment. For those caprolactam by-product ammonium sulfate plants not equipped with product weigh scales, the proposed standards would have required that the oximation ammonium sulfate stream to the ammonium sulfate plant and the oleum stream to the caprolactam rearrangement reactor must be monitored separately as a means of determining the ammonium sulfate production rate. It did not specify that the total combined feed stream leading directly to the crystallizer stage can also be monitored.

Therefore, in response to this comment, § 60.424(d) has been changed to specify monitoring of the total or combined feed streams leading directly to the crystallizer stage for caprolactam by-product plants. A new equation has been developed for § 60.424(d) to allow calculation of ammonium sulfate production rate from the flow rate of the total feed stream.

Another commenter contended that visual opacity measurement is unscientific, inaccurate, and, at best, arbitrary. It was suggested that the proposed opacity standard is unnecessary to adequately monitor ammonium sulfate manufacturing emissions; and since there is no reliable method for its measurement, the opacity standard should be deleted.

An opacity standard of 15 percent was proposed for all affected facilities to ensure proper operation and maintenance of control systems on a day-to-day basis. The proposed method for opacity monitoring is EPA Method 9. The reliability of opacity standards and the reference test method has been rigorously tested in the field and in the courts. In the case of *Portland Cement Association v. Train, 513 F.2d 506 (D.C. Cir. 1975),* the court ruled that plume opacity was not too unreliable to be used either as a measure of pollution or as an aid in controlling emissions. As a basis for the standard, ammonium sulfate dryers were observed to have no opacity readings greater than 15 percent opacity during observation periods totaling more than 19 hours. For these reasons no change was made in the opacity standard.

Other Considerations

One commenter could not find justification for proposing a standard for modified and new sources that is more stringent than the baseline emission level of existing SIP. It was contended that since there was no medical evidence presented showing any harm being created by the ammonium sulfate dryer emissions allowed under existing State regulations, there is no justification for standards requiring additional investment and energy.

On August 21, 1979, ammonium sulfate manufacturing was listed under Section 111(f) of the Clean Air Act as a stationary source category for which standards should be promulgated (44 FR 49222). This listing represents the Administrator's determination that ammonium sulfate manufacturing causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The commenter did not submit any arguments that suggested the Administrator should reconsider this determination.

Under Section 111(a), standards which are promulgated for a category must reflect the degree of emission control achievable through application of the best demonstrated technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and non-air quality health, and environmental and energy impacts) has been adequately demonstrated. Based on a thorough study on control alternatives, including no additional regulatory action, EPA has determined that the promulgated emission limits best satisfy these criteria for ammonium sulfate manufacture.

Furthermore, particulate matter, the principal pollutant emitted to the atmosphere from ammonium sulfate plants, is a criteria pollutant (listed as such under Section 108 of the Clean Air Act) for which national ambient air quality standards have been established. Specific information regarding the health and welfare effects of particulate matter in the atmosphere was provided in association with the listing of particulate matter as a criteria pollutant.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of the rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

The effective date of this regulation is November 12, 1980. Section 111 of the Clean Air Act provides that standards of performance become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (February 4, 1980).

It should be noted that standards of performance for new stationary sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas; i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control tehnnology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology (BACT) must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by an applicable standard established pursuant to Section 111 (or 112) of the Act.

In any event, State Implementation Plans (SIPs) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of National Ambient Air Quality Standards designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent limits than those established under Section 111 or those necessary to

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attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

EPA will review this regulation four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the promulgated regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the promulgated standards to insure that the standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

40 CFR Part 60 is amended by adding a new subpart as follows:

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

Sec.

60.420 Applicability and designation of affected facility.
60.421 Definitions.
60.422 Standards for particulate matter.
60.423 Monitoring of operations.
60.424 Test methods and procedures.

Authority: Section 111, 301(a) of the Clean Air Act as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

§ 60.420 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry.

(b) Any facility under paragraph (a) of this section that commences construction or modification after February 4, 1980, is subject to the requirements of this subpart.

§ 60.421 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A.

"Ammonium sulfate dryer" means a unit or vessel into which ammonium sulfate is charged for the purpose of reducing the moisture content of the product using a heated gas stream. The unit includes foundations, superstructure, material charger systems, exhaust systems, and integral control systems and instrumentation.

"Ammonium sulfate feed material streams" means the sulfuric acid feed stream to the reactor/crystallizer for synthetic and coke oven by-product ammonium sulfate manufacturing plants; and means the total or combined feed streams (the oximation ammonium sulfate stream and the rearrangement reaction ammonium sulfate stream) to the crystallizer stage, prior to any recycle streams.

"Ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate.

"Caprolactam by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate as a by-product from process streams generated during caprolactam manufacture.

"Coke oven by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by reacting sulfuric acid with ammonia recovered as a by-product from the manufacture of coke.

"Synthetic ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by direct combination of ammonia and sulfuric acid.

§ 60.422 Standards for particulate matter.

On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of an ammonium sulfate dryer subject to the provisions of this subpart shall cause to be discharged into the atmosphere, from any ammonium sulfate dryer, particulate matter at an emission rate exceeding 0.15 kilogram of particulate per megagram of ammonium sulfate produced (0.30 pound of particulate per ton of ammonium sulfate produced) and exhaust gases with greater than 15 percent opacity.

§ 60.423 Monitoring of operations.

(a) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate flow monitoring devices which can be used to determine the mass flow of ammonium sulfate feed material streams to the process. The flow monitoring device shall have an accuracy of ± 5 percent over its range. However, if the plant uses weigh scales of the same accuracy to directly measure production rate of ammonium sulfate, the use of flow monitoring devices is not required.

(b) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the emission control system. The monitoring device shall have an accuracy of ± 5 percent over its operating range.

(Section 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.424 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with § 60.422 as follows:

(1) Method 5 for the concentration of particulate matter.

(2) Method 1 for sample and velocity traverses.

(3) Method 2 for velocity and volumetric flow rate.

(4) Method 3 for gas analysis.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes and the volume shall be at least 1.50 dry standard cubic meters (53 dry standard cubic feet).

(c) For each run, the particulate emission rate, E, shall be computed as follows:

$$E = Q_{sd} \times C_s \div 1000$$

(1) E is the particulate emission rate (kg/h),

(2) Q_{sd} is the average volumetric flow rate (dscm/h) as determined by Method 2; and

(3) C_s is the average concentration (g/dscm) of particulate matter as determined by Method 5.

(d) For each run, the rate of ammonium sulfate production, P (Mg/h), shall be determined by direct measurement using product weigh scales or computed from a material balance. If production rate is determined by material balance, the following equations shall be used.

(1) For synthetic and coke oven by-product ammonium sulfate plants, the ammonium sulfate production rate shall be determined using the following equation:

$$P = A \times B \times C \times 0.0808$$

where:

P = Ammonium sulfate production rate in megagrams per hour.
A = Sulfuric acid flow rate to the reactor/crystallizer in liters per minute averaged over the time period taken to conduct the run.
B = Acid density (a function of acid strength and temperature) in grams per cubic centimeter.
C = Percent acid strength in decimal form.
0.0808 = Physical constant for conversion of time, volume, and mass units.

(2) For caprolactam by-product ammonium sulfate plants the ammonium sulfate production rate shall be determined using the following equation:

$$P = D \times E \times F \times (6.0 \times 10^{-5})$$

where:

P = Production rate of caprolactam by-product ammonium sulfate in megagrams per hour.
D = Total combined feed stream flow rate to the ammonium sulfate crystallizer before the point where any recycle streams enter the stream, in liters per minute averaged over the time period taken to conduct the test run.
E = Density of the process stream solution in grams per liter.
F = Percent mass of ammonium sulfate in the process solution in decimal form.
6.0×10^{-5} = Physical constant for conversion of time and mass units.

(e) For each run, the dryer emission rate shall be computed as follows:

$$R = E/P$$

where:

(1) R is the dryer emission rate (kg/Mg);

(2) E is the particulate emission rate (ky/h) from (c) above; and

(3) P is the rate of ammonium sulfate production (Mg/h) from (d) above.

(Section 114 of the Clean Air Act as amended (42 U.S.C. 7414))

[FR Doc. 80-35210 Filed 11-10-80; 8:45 am]

BILLING CODE 6560-26-M

V 45 NO 012 1980 UMI

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federal register

Wednesday
November 12, 1980

Part V

Department of Agriculture

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants and Children

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: These final regulations set forth the requirements for the types and quantities of supplemental foods to be provided under the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These final rules are in compliance with Section 3 of Public Law 95–627 which amends Section 17 of the Child Nutrition Act of 1966 and extends the authorization for the WIC Program through FY 1982.

EFFECTIVE DATE: This regulation is effective November 12, 1980, and must be implemented within 12 months of the publication date.

FOR FURTHER INFORMATION CONTACT: Darrel E. Gray, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8206.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Introduction

On November 30, 1979, the Department published a notice of proposed rulemaking (44 FR 69254–69270) to revise the regulations pertaining to the types and quantities of supplemental foods provided through the WIC Program.

In developing the proposal, the Department sought public participation in policy development by holding public hearings, attending Regional, State and local meetings, requesting public comments on cereal issues, convening a food package advisory panel, and requesting input from the National Advisory Council on Maternal, Infant and Fetal Nutrition.

The Department invited written comments in favor of or in objection to the proposed regulations, and comments recommending alternatives not considered in the proposed regulations. In response to the proposed rulemaking, the Department received 1,074 comment letters from Congressional offices, State agencies, local agencies, government offices, interest groups, the food industry, universities and colleges, participants and the general public. The Department carefully analyzed these 1,074 letters which contained comments supporting and opposing proposed changes in the food package regulations and suggesting changes in the food package regulations which were not considered in the proposal. In some instances comments were vague and many comment letters incorporated several subjects. All numbers of comments relating to specific food package issues are approximations.

The substantive comments received and the actions taken by the Department are discussed in the following preamble. For the purpose of clarity, the food package categories are first discussed briefly, and then specific food package issues are discussed according to food item rather than food package.

This preamble articulates the basis and purpose behind significant changes from the November 30, 1979, proposal. In addition, provisions of the proposed regulations which received a substantial number of comments are discussed. The reasons supporting provisions of the proposed regulations were carefully examined in light of the comments to determine the continued applicability of the justifications. Unless otherwise stated, or unless inconsistent with the final rules or this preamble, the rationales contained in the preamble to the proposed regulations should be regarded as a basis for the pertinent final rules. Therefore, a thorough understanding of the rationales for the final regulations may require reference to the preamble of the November 30, 1979, proposal.

General Discussion. A comprehensive review of comments on the proposed rules in general and on each provision of the proposed rules revealed certain patterns of concern. Commenters repeatedly stated that the WIC Program should remain a supplemental food program, with emphasis on nutrition education to improve eating habits. Additionally, commenters consistently expressed concern about the complexity and costs of the proposed changes. Commenters were concerned that the proposed food packages would be too confusing for local personnel, vendors and participants and create an administrative burden. Commenters believed that the delineation of more food packages and addition of new types of foods would add to administrative problems. The general belief was that the simpler the Program, the better it is understood, and therefore, the easier it is administered and monitored. Additional food costs and/or administrative costs were also of concern to commenters because increased costs would result in fewer participants being served.

The Department's philosophy about the WIC Program is consistent with these concerns expressed by commenters. The WIC Program is aimed at providing supplemental foods to assist participants in obtaining an adequate diet. The foods provided are not intended to provide a complete diet but to provide good sources of nutrients lacking in the diets of the target population. Nutrition education is provided through the WIC Program in order to assist participants in choosing foods, which in addition to the supplemental foods provided in the food package, meet their total dietary needs. Additionally, nutrition education is intended to assist participants in developing sound dietary habits which can be maintained after participation in WIC is terminated. The supplemental nature of the WIC Program and the interrelatedness of the food package with nutrition education were important factors considered in developing this final rule.

The WIC Program serves infants, children, pregnant women, breastfeeding women and non-breastfeeding postpartum women. These categories of participants have differing nutritional needs. Furthermore, participants have different ethnic, cultural and regional backgrounds resulting in varied food preferences. The food packages prescribed in this regulation take into account the different nutritional needs and food preferences of participants while at the same time taking into account feasibility of implementation. The Department realizes that the more complex the Program becomes the more difficult it is to administer and has taken this into account in making its final decisions regarding the food packages.

Cost was another factor taken into consideration in developing the food packages prescribed in this regulation. The WIC Program serves approximately 2.1 million women, infants and children of the estimated 9.1 million potentially eligible on the basis of income. The Department is committed to serving the largest number of eligible persons with the funds available for the Program and realizes that a major increase in the total cost of the food packages would substantially affect the number of participants the WIC Program could serve. Commenters were also concerned about any increase in cost that changes in the food packages would create.

Therefore, the Department decided to stay within the average cost range of the August 1977 food packages. Although there are additional foods in certain packages, the reduction of food quantities in certain packages offsets these cost increases. All changes combined result in a total food package cost that is virtually the same as the previous food packages.

The Department has developed nutritionally appropriate food packages while at the same time containing food costs and administrative burdens. This final regulation responds to WIC participants' needs, administrators' concerns and Program goals.

Sugar, Salt and Fat. Section 3 of Public Law 95–627 specified that, to the degree possible, the Secretary shall assure the fat, sugar and salt content of the prescribed foods is appropriate. In accordance with this legislative mandate, some changes have been made in the kinds and quantities of foods allowed in the WIC Program.

Sugar

Several recent publications have emphasized the need for concern about the amount of sugar in the American diet. The report of the American Society for Clinical Nutrition (*1*) concluded that "evidence is convincing that sucrose, especially when consumed frequently throughout the day, is the dietary component that is most conductive to . . . caries." This report concludes that "reduction in the frequency of sucrose consumption results in reduced dental caries without known risk."

The "Evaluation of Sucrose as a Food Ingredient" prepared for HEW by the Federation of American Societies for Experimental Biology (FASEB) concluded that, "Reasonable evidence exists that sucrose is a contributor to the formation of dental caries when used at the levels that are now current and in the manner practiced." (*2*)

The association between sugar consumption and dental caries was identified as far back as the 18th Century. Thomas Berdmore, dentist to King George III, wrote "* * * where sugar, tea, coffee and sweetmeats are used in excess, the people at an early age are remarkable for the badness of their teeth."(*3*) Nizel has summarized the major studies on nutrition and dental health and concludes, "Wartime restrictions on sugar consumption were associated with dramatic reductions in the activity of dental decay." Nizel also noted that "The most dramatic demonstration of the importance of added sugar in the causation of dental caries was made in a study in which patients used a variety of sugar supplements over periods of one or more years. Clear-cut evidence was produced of a striking relationship between the addition of sugar to the diets and the amount of dental decay which occurred during the experimental periods."(*4*)

The evidence from the literature indicates there is a strong association between sugar consumption and dental caries. However, some commenters suggested dental caries were not a serious concern. For example, one commenter quoted the FASEB report which states that "other than the contribution made to dental caries, there is no clear evidence in the available information on sucrose that demonstrates a hazard to the public when used at the levels that are now current and in the manner now practiced."(*5*)

The Department believes that dental caries are one of the most significant public health problems of children. The Department of Health and Human Services (DHHS) estimates that $13.3 billion was spent in 1978 for dental care.(*6*) The Department would be remiss in not attempting to address this problem given that the WIC Program is aimed at improving the health and well-being of participants. One approach for dealing with dental caries is to ensure moderaton in the sugar content of the food package.

Several commenters pointed out that sugar plays a role in the development of tooth decay but that the amount of sugar in a particular food is but one of many factors involved in dental caries. In their comments, the Kellogg Company stated that "combinations of cereal and milk have a fluid consistency and do not remain in the mouth for sufficient lenghts of time to be a cause of dental caries."(*7*) The Company stated that since the majority of presweetened cereals are eaten with milk, such cereals cannot be implicated in the formation of caries. However, the Company's own marketing research data indicate that ⅙ of children aged 1–5 consume such cereals without milk.(*8*) The Department believes that it is important to consider the effects of such cereal consumption on this substantial proporation of children, since other studies have implicated presweetened cereal consumption with the formation of dental caries.(*9*) While the studies cited by Kelloggs did not illustrate this association, these studies did not control for the frequency of consumption or for the types of other foods in the diets of the children studied.(*10–13*)

The Department recognized that the development of dental caries involves a multiple etiology. The FASEB report noted that although sugar is a contributor to tooth decay, the frequency of sugar consumption, the stickiness of the sugar containing foods and whether the foods are consumed with meals or between meals are also factors to consider.

The Department is not suggesting that limiting consumption of only one or two foods would solve the problem of tooth decay. However, since the total sugar in the diet does influence dental caries, the Department is attempting to moderate sugar consumption in two ways. First, this will be done directly by moderating the level of sugar in the food package. Second, the nutrition education provided in WIC will stress the importance of wise food choices of items not included in the food package.

Several commenters did not dispute the need to decrease the sugar content of the food package but felt cereals were unnecessarily singled out as the main source of sugar. Two commenters noted that fruit juices have more sugar than cereals. Some commenters felt this distinction between cereal and other WIC foods was an arbitrary distinction between "natural" and "artificial" sources of sugar.

The Department is not suggesting that there is any difference in the biological effect between naturally occuring sugar and sugar used in processing. The goal of the final regulations is to reduce the level of sugar in the total package. In order to do this, the Department reviewed the evidence on sources of sugar in the U.S. diet.

Sugar consumption per capita in the U.S. has increased by one-third since 1909–1913. The biggest increase in sugar has been from processed foods. In 1909–1913 only 25 percent of the sugar consumed was from processed foods or beverages. In 1978, over 70 percent of the sugar consumed by the civilian population was in commercially prepared foods or beverages.(*14*) An increasingly large proportion of refined sugar is consumed in processed foods.

At the same time, the amount of naturally occurring sugar consumed has remained almost constant between 1909–1913 (51 g) and 1979 (58 g.)(*15*) These data would indicate that increased sugar in the American diet has been due mainly to consumption of processed foods. One author has noted that "consumers have much less control over the amount of sugar in their diets now than earlier in the century."(*16*)

Since the biggest increase in sugar consumption has been from processed foods, a decrease in consumption of these sources of sugar seems warranted in an effort to reduce sugar consumption

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in general. This is consistent with the Surgeon General's report,(*17*) and the 1980 RDA's(*18*) which suggest cutting down on the sources of excess sugar in the diet.

The Department recognizes that the juice in the food package also contains sugar. Juice contains approximately 3.5 grams of sugar per fluid ounce [a] as compared to 0 to 23.0 grams of sugar per 1-ounce serving of cereal. Since a serving size of juice is generally 4 fluid ounces, juice will provide more sugar per serving than a 1-ounce serving of some cereals. However, the sugar content of juice cannot be easily reduced since sugar is an inherent component of the product. In cereals, on the other hand, much of the sugar is added and can be reduced without simultaneously reducing other nutrients. For example, the range of sugar content in cereals containing 45 percent of the USRDA for iron is 0.2 to 13.3 grams of sugar per ounce of cereal. A cereal containing only 6.0 grams of sugar per ounce contains exactly the same amount of iron as the highest level (13.3 g) sugar cereals.

In addition, highly sugared cereals tend to be more expensive than cereals containing less sugar. As the sugar content of the cereals increases, the average cost of the product also increases. While consumers may choose to add their own table sugar to the cereals authorized by WIC, this is a conscious decision made by the consumer, as well as a more economical way to buy sugar. Therefore, if highly sugared cereals are allowed, the food packages themselves are inconsistent with the goal of teaching participants economical food buying patterns.

The Department proposed setting a maximum limit for sugar in cereals in WIC food packages of 6 grams per 1-ounce serving. Commenters (490) were overwhelmingly in favor of the suggested limit. Many commenters (52) suggested a more stringent limit on sugar than the one proposed. However, there were a minority of commenters (101) including some State (14) and local (53) agencies, the Sugar Association and cereal companies, who opposed the sugar limit. Four of the industry commenters believed the sugar limit of 6 grams per ounce was chosen in an arbitrary and capricious manner. These commenters pointed out that in the recent competitive foods regulation issued by the Department, the Department declined to set a specific sugar limit for individual foods. (*19*) However, in the competitive foods rule, the Department was restricting the sale of foods of minimal nutritional value sold in competition with school lunch. The Department was dealing with all food items, for many of which there is incomplete or inadequate information on the sugar content. However, in the present regulation we are dealing with a limited range of foods on which we do have complete information on sugar. Of primary importance is the fact that cereal manufacturers have made complete food composition information about their products available. Thus, the Department knows the range of sugar content of cereals in general as well as the sugar content of each individual cereal.

There does not appear to be a clear cut-off point to differentiate low sugar cereals from high sugar cereals. Based on information collected from manufacturers, the sugar content of cereals available in the marketplace ranges from 0 to 23.0 grams of sugar per dry ounce of cereal (80 percent by weight). In cereals containing at least 45 percent of the USRDA for iron, the range is somewhat narrower with sugar levels between 0 and 13.3 grams per dry ounce of cereal (47 percent by weight). Sugar as used in this regulation means "sucrose and other sugars." This is the terminology the industry uses to label cereals.

The majority of commenters who recommended a maximum level of sugar for cereals authorized in the WIC Program recommended that this level be established at 15 or 20 percent. Percentage figures were often used to express the recommended level of sugar because they are most easily understood, but for practical purposes they must be converted to correspond to the figures used in nutrition labeling so that information found on cereal packages can be used to identify acceptable cereals. The converted percentages for 15 and 20 percent are, respectively, 4.25 and 5.67 grams of sugar per ounce of cereal, or, rounded to whole numbers, 4 and 6 grams per ounce. These figures are similar to the recommendation of the food package advisory panel that a maximum of 6 grams of sugar per ounce of cereal be allowed.

The Department relied on commenters, the food package advisory panel, the National Advisory Council on Maternal, Infant and Fetal Nutrition and the scientific literature in establishing the cereal sugar limit.

Although the Department found a consistent theme throughout the scientific literature that sugar consumption in the U.S. population should be reduced, it was difficult to suggest a single percentage limitation that could be used for all foods. The recommendations from the scientific literature that sugar should be decreased refer to reduction of sugar in the total diet. However, in order to reduce the daily intake of dietary sugar, it follows that either the sugar content of specific foods eaten must be decreased or the consumption of these foods must be decreased. Given the wide range of sugar content of cereals (0 to 81 percent by weight) and the fact that the major increase in per capita sugar consumption in the U.S. has been from processed foods, it appeared cereals would be a logical point to moderate the sugar content of the food packages. It should be emphasized again that the amount of sugar allowed in the authorized cereals does not affect the levels of other nutrients in the product.

Based on suggestions from commenters and members of the food package advisory panel, it was possible to identify a range within which the sugar level of cereals should fall. The consensus from these two sources on the sugar issue is clear; the sugar content should be decreased to 4 to 6 grams per 1-ounce serving of cereal.

The Department, therefore, has decided to accept the least restrictive limit recommended by the commenters which also corresponds to that suggested by the food package advisory panel. The maximum level of sugar allowed in cereals authorized for use in the WIC Program shall be 6 grams of sugar per ounce of dry cereal, which is equal to a level of 21 percent by weight. This decision reflects the views expressed in the majority of public comments received, is consistent with the food package advisory panel's recommendations, and is consistent with the overall purpose of the Program.

Several commenters suggested that individuals would probably add more sugar to cereals than is normally present in the presweetened product.

This statement assumes that such individuals would not attempt to change behavior patterns, even given the presentation of reasons through nutrition education for the reduction of sugar in the diet. However, such nutrition education efforts are negated if the allowable cereals include those already presweetened.

In conjunction with the sugar limit on cereals, the Department has also decided to eliminate the provision of flavored milk from the food packages. Seventy-eight commenters requested the deletion of flavored milk from the food packages because it also contains added sugar. The commenters indicated that providing flavored milk would be

[a] Source: USDA Handbook No. 8. Based on sugar contained in orange juice, unsweetened, canned.

contrary to nutrition education and the Department's proposal to limit sugar in the food package. No commenters expressed support for its inclusion. There is further discussion of flavored milk in the section of the preamble on flavored milk.

Salt (Sodium)

Several recent reports have examined the association between diet and disease, specifically the over consumption of sodium. Sodium is a naturally occurring factor in many foods, but is also a principal component of salt; salt is about 40 percent sodium. Thus diets can be high in sodium if they contain certain foods naturally high in sodium, or if they contain high levels of salt or both. The American Society for Clinical Nutrition in its symposium report "The Evidence Relating Six Dietary Factors to the Nation's Health" (*20*) found a strong association between salt and hypertension. The Surgeon General's report, "Disease Prevention and Health Promotion; Federal Programs and Prospects," (*21*) recommends reduction of salt intake for the general U.S. population. The Committee on Nutrition of the American Academy of Pediatrics in its 1974 Statement (*22*) indicated that there is a reasonable possibility that a low salt intake begun early in life and continued thereafter may to some extent protect children who are at risk of developing hypertension later in life.

The National Academy of Sciences Food and Nutrition Board's (FNB) recent publication, "Toward Healthful Diets"(*23*) makes a similar recommendation on sodium intake. The Board states: "sodium chloride intakes of many people in this country are excessive, particularly in the 15 percent of the American population at risk for hypertension. There is no reason to believe that reduction of sodium chloride intake to levels of 3 grams per day would be harmful for healthy persons and it may be helpful for the prevention of hypertension in susceptible individuals." In the latest edition of the "Recommended Dietary Allowances" published in January 1980,(*24*) the Food and Nutrition Board states that there are no known benefits of excessive salt consumption to a healthy person. The new text also includes estimated Safe and Adequate Intakes for some nutrients, inlcuding sodium, about which scientific data are less complete than for the 17 nutrients for which precise allowances have been established. The board cautions, "These suggested intakes must be regarded as more tentative and evolutionary than the RDA. They are presented as ranges of intake because the available data do not permit the definition of one intake for these nutrients." In spite of these limitations, the Safe and Adequate Intakes provide the most specific guidance to date. The recommended levels for various age groups in the population inlcude: 115 to 750 mg. sodium per day during the first year of life, 325 to 1350 mg. sodium per day for 1 to 5 year olds, 1169 to 3369 mg. sodium per day for pregnant women, and 1100 to 3300 mg. per day for non-pregnant women.

The safe and adequate levels were used as the standard to assess the sodium content of the WIC food packages when these regulations were proposed. It was clear then that the amount of sodium in the package for children exceeded the suggested range. Calculations done to determine the highest possible sodium content of the food packages [b] showed that such a package for pregnant and breastfeeding women would contain approximately 2470 mg. of sodium and for post partum women, 2140 mg. of sodium. Both of these values fall within the ranges suggested by the Food and Nutrition Board. However, the highest possible sodium value for the 1 to 5 year olds (2245 mg.) in such a package is well above the FNB safe and adequate range.

Some commenters expressed concern about the high level of sodium in the children's package. At the time of the preparation of the proposed regulations, it was difficult to interpret these values because although the Food and Nutrition Board had provided some early guidance in the form of the prescribed ranges, the Board had not yet released the accompanying text.

The text, which became available in January 1980, explains the manner in which the values were calculated:(*25*)

> For older infants, children and adults, the lower level of the suggested sodium intake is based on the average intake of a breast-fed 6 months old infant . . . corrected for body size (surface area). At each age the upper level of sodium suggested is three times the lower level.

The FNB also relied on clinical studies that have been done to make determinations about the sodium requirements for adults. The FNB has indicated that there are few data on which to base the ranges. This is particularly true for children. The children's ranges have therefore been based on values interpolated from studies involving adults and infants.

The Department believes that it is particularly important to be cautious about the interpretation of the ranges set for safe and adequate intakes for children. The comparison of all of the food packages to the ranges indicates that the maximum sodium content of each of the packages, except the children's package, is at the mid-portion of each range. This is appropriate because the safe and adequate levels set by the Food and Nutrition Board are suggested intakes for a day and not simply sodium limits for supplementary foods. Given that other foods will be consumed by participants, the total sodium intake of an individual should not be supplied by the WIC foods. Yet, calculations show that the supplemental foods in the children's package could provide over one and one-half times the amount of sodium that the Food and Nutrition Board suggests children should consume daily. There is a great discrepancy between the way in which the sodium contents of the packages for children and adults compare to the suggested standards for sodium even though similar foods are provided to children and to adult participants. The fact that the sodium value is high for the children's package relative to the values for the adult packages can be partially explained by examining the caloric content of the packages as well; the children's package provides a greater proportion of the calories that children need each day than do the packages for pregnant, breastfeeding and post partum women. Therefore, it is expected that a greater proportion of sodium will be provided for children. However, this still does not explain the fact that the children's values are so high relative to the FNB ranges while the adult values are not.

A similar discrepancy is apparent when nationwide food consumption data are examined. Food consumption data from the Health and Nutrition Examination Survey (HANES) were analyzed for sodium content.(*26*) The data cover only naturally occurring sodium in foods and sodium added by processors. Table salt is not incuded in these data. The data analyses show that the mean daily sodium intake of women 12 to 17 years of age was 1977 mg. Women 18 to 44 years of age had a mean intake of 1838 mg. The values fall well within the range suggested by the Food and Nutrition Board for women of childbearing age. By contrast, the HANES data show that children 1 to 5 years of age have a mean daily sodium intake of 1785 mg. This value exceeds the ranges recommended by the Food and Nutrition Board despite the fact that

[b] Sodium content of high sodium package calculated on the basis of maximum amounts of American cheese, which has the highest sodium content of all authorized cheeses, and peanut butter.

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added tables salt is not included in the calculations.

A survey conducted by the Food and Drug Administration (FDA) also provides some information about the dietary intake of sodium.(*27*) In 1976 the FDA analyzed "market baskets" of food items representative of the retail purchase for a 1300 kilocalorie diet for children 2 years of age. Two market basket collections of foods contained 1928 and 1759 mg. of sodium. These values include naturally occurring sodium and commercially added salt. They do not include salt added at home. Still, the values are well above the FNBV suggested range.

There are many reports that indicate that Americans consume much more sodium then they need. The Food and Nutrition Board reports,

> The average sodium chloride intake in this country is about 10 grams per day, with a range of 4–25 grams. This average intake is 20 times the nutritional requirement.(*28*)

Clearly, a significant reduction in the amount of sodium consumed would require certain changes in the eating habits of Americans. The FNB states, "In practice, for the average adult the estimated safe and adequate intakes suggest a reduction in usual sodium intake by half . . ."(*29*) Adherence to the sodium levels suggested by the FNB would require even more significant changes in children's eating habits.

Dietary sodium occurs naturally in foods or it can be added to foods as salt either at home or in commercial food processing. Cheese, milk, and shellfish are common natural sources of sodium in the diet. Meat, fish, poultry and eggs also contain a significant amount of sodium.(*30*) The addition of salt to foods at home is termed discretionary use of salt. Discretionary use accounts for approximately one-third of the total amount of sodium consumed by adults. In the average diet, salt added in commercial food processing contributes a slightly larger proportion of dietary sodium.(*31*) Salt is added to a variety of processed food products. It is added to dairy products such as cheese, which is also a significant natural source of sodium, as well as to cereals which are naturally low in sodium, but may contain significant amounts of sodium after processing.

One reason that the sodium levels appear relatively high, both in the nutrient analysis of the WIC food package for children and in the analysis of food consumption data for children, is that a large proportion of children's calories are supplied by dairy products. The HANES food consumption data were analyzed to determine the amount of sodium that various food groups contribute to the diet.(*32*) The dietary intake values represent sodium that is naturally occurring in foods as well as sodium that is added in food processing. The discretionary use of salt is not reported. In the HANES analysis, grain products contributed the most sodium, providing an average of 20 percent. The milk and milk products group was the second major source of sodium intake; it provided an average of 14 percent. However, children one to five years of age showed a higher percent of sodium intake from milk and milk products (19 percent) than any other age group did. This pattern is expected because of the higher consumption of milk and milk products by the younger age groups.

The products in the food packages do provide sodium in the diet, but they also provide essential nutrients that are needed by WIC participants and particularly by children. In order to conform to the range for sodium in children's diets suggested by the Food and Nutrition Board, it would be necessary to make some major changes in the types of products offered in the package. For example, cheese generally has a higher sodium content than milk does. Even if the substitution of cheese for milk were not permitted in the children's package, the sodium level for the children's package (910 mg.) would still approach the upper level established by the FNB for young children. This would necessitate some reduction in the amount of dairy products or other products which are significant sources of sodium, such as cereal or peanut butter, in the package. The Department believes that such changes might result in the sacrifice of needed calories and nutrients. One commenter suggested that the high contribution of complete protein and calcium compensates for the high sodium content of milk and cheese.

In view of the fact that there are few data on which to base recommended ranges for sodium intake for children and the fact that conformance to the ranges suggested by the Food and Nutrition Board would necessitate major revisions in the dietary practices of children, the Department believes that it is not appropriate at this time to apply the FNB ranges as a strict standard. However, the ranges do provide some guidance and the Department believes that it is appropriate to be concerned about the amount of sodium in the food packages. The sodium levels in the food packages are not consistent with the recommendations in the scientific literature to reduce the consumption of salt.

One change made in these rules, while its primary purpose is to control the cost of the WIC food package (see section of the preamble on cheese) will also reduce the sodium content of the package. A 4 pound limit will be placed on the amount of cheese that can be substituted for milk in the WIC food packages.[c] (The regulations specify that cheese may be substituted for milk at the rate of one pound of cheese per 3 quarts of milk.) This new limit will not reduce the amount of dairy products that are provided in the package; it simply provides that no more than about half of the milk in the package can be replaced with cheese. This will reduce the maximum sodium content of the packages by approximately 30 percent. The highest possible sodium contents of the food packages which contain a maximum amount of 4 pounds of cheese will be approximately 1645 mg. for pregnant and breastfeeding women, 1480 mg. for post partum women, and 1580 mg. for children. It is important to note that these figures represent the highest possible sodium content of each food package. If a participant chooses beans instead of peanut butter the sodium level in the package would be further reduced.

The sodium content of the package could also be reduced if participants chose certain cheeses with lower sodium contents rather than those higher in sodium. The sodium levels in cheeses that are available to WIC participants vary considerably. The following table illustrates the range of values:

Amount of Sodium per Ounce of Cheese Available to WIC Participants

Types of cheese	Sodium content (mg. per ounce)
Natural Swiss	74
Mozzarella (whole)	106
Mozzarella (skim)	132
Monterey Jack	152
Brick	159
Colby	171
Natural Cheddar	176
Muenster	178
Provolone	248
American	406

It is clear that the sodium content of American cheese is a good deal higher than that of the other cheeses. Some commenters have suggested that American cheese, or other processed cheeses, should not be made available to participants for this reason. One commenter pointed out that while the high quality protein and calcium in milk and natural cheese justify their inclusion in the package, processed cheese, which has such a high sodium level, has no additional attributes that natural cheeses lack.

[c] For individuals determined by the competent professional authority to be lactose intolerant, a larger quantity of cheese can be prescribed.

The report prepared by a DHEW task force on disease prevention and health promotion makes similar recommendations.(*33*) The task force suggests that in order to reduce animal fat, refined carbohydrates and salt in the diet, negotiations with the food industry should be undertaken to reduce the sugar content of foods, especially foods for children, such as breakfast cereals; to reduce animal fat content in processed foods; and to reduce the salt that is added when foods are processed.

The inclusion of such a high sodium food product in the packages has also been discussed in terms of the influence that it may have on nutrition education efforts. There is some concern that participants may be confused if they are advised to moderate their sodium intakes, but at the same time, products that contain large amounts of sodium are made available.

Some advantages of providing American cheese in the food packages were also discussed by those who commented on the list of cheeses that were proposed for inclusion in the packages. Commenters pointed out that American cheese is generally less expensive than the other cheeses that are allowed. Also, some commenters stated that American cheese is a more popular cheese, particularly among children, than the other alternatives provided. They believe that it is important to provide a product in the package that is appealing because participants will not benefit from the nutrients in the cheese if they do not consume it.

Although the Department did not specifically ask for comments on the exclusion of high sodium cheeses from the food packages, some people did discuss the issue. It is obvious from the comments not only that the issue is an important one, but also that it is a very complicated one. The Department wishes to gather additional information on the subject and to provide an opportunity for persons to comment on whether the Department should propose that high sodium cheeses be removed from the food package. Therefore, the second action that the Department is taking in relation to the sodium content of the food package is to request comments on the issue of the exclusion of high sodium cheeses from the food packages. If the Department subsequently decides to pursue regulatory action in this area, a new proposed rule will be issued. The Department is particularly interested in receiving comments that discuss the administrative consequences of such a regulatory change, that provide an indication of the acceptability, availability and cost of types of cheeses on the market, and that discuss standards for sodium content that might be applied in such a rule. Those persons interested in commenting on this issue should submit their comments to the address listed in the first part of the preamble within 60 days of the publication date of this final rule.

Fat

The amount and type of fat in the diet of the general U.S. population is also of concern. The American Society for Clinical Nutrition report (*34*) found a relationship between cholesterol and saturated fat and coronary disease. The Surgeon General's report (*35*) recommends reduction of calories, cholesterol and fat. The 1980 RDA's (*36*) suggest that total fat intake, particularly in diets below 2000 kcal should not contain more than 35 percent of the calories as fat. This suggested level of 35 percent is a standard for the total diet. As with the FNB's safe and adequate levels of sodium, there is also some difficulty in translating the standard of 35 percent of the total calories as fat to assess the appropriateness of the supplemental food packages. The heavy reliance on dairy products in the food packages, some of which contain relatively high levels of fat, is intentional because they are a good source of many of the nutrients shown to be lacking in the diets of the target population and provide needed calories.

The fat content of the WIC food package will vary depending on whether whole or skim mik, cheese and/or peanut butter are included. The lowest fat content will be found in an all skim milk package with beans rather than peanut butter. Conversely the highest amount of fat will be in the package with the maximum amount of cheese (4 pounds) and peanut butter.

The fat content of the food package varies from approximate ranges of 12 [d] to 47 percent [e] for pregnant/breastfeeding women, 11 [d] to 48 percent [e] for the post partum women and 11 [d] to 48 percent [e] for 1 to 5 year olds.

Several commenters indicated the fat content of some of the food packages exceeded the suggested 35 percent of calories from fat. However, there were mixed opinions on how to set a fat level in the food package. Fourteen commenters felt fat should be reduced primarily through nutrition education. One commenter stated that the nutritional value of milk and cheese outweighs their fat content. Only one commenter recommended that fat contribute less than 35 percent of total calories in the WIC food packages.

Although the Department could decrease the fat content of the children's or women's package by eliminating cheese or peanut butter, and/or increasing the use of skim milk, the Department believes that reducing the level of fat for all participants by such a restriction would not be appropriate. Milk products contribute proportionately more fat than most other food groups and these food packages provide less than ¾ of total caloric needs. Given the consumption of other foods containing lesser percentages of fat, the total percent of fat in the diet, which is the real concern, should be less than these stated levels. A range in fat levels in the package is essential because of the varying needs of the population served. A recent study indicates that ⅓ of pregnant women entering WIC were underweight at the time of conception. (*37*) Such women would be in need of a higher fat package to provide necessary calories. Other women in WIC who are obese would need access to lower fat packages. There is also a variance in caloric requirements in preschoolers, with excessively underweight children needing foods dense in calories and high in fat to aid in increasing caloric intake, while overweight children may need access to lower fat foods.

The Department's decision on fat is not inconsistent with its decision on sugar. Although sugar is also a source of calories, sugar, on a per gram basis, contributes only one-half the number of calories as fat does to the diet. In its comments, one food company pointed out that presweetened cereals generally do not contribute more calories than unsweetened cereals, and therefore, the sugar restriction should not affect caloric intake. However, a decrease in the fat content of the food packages could substantially decrease calories. Although some individuals may require a package containing lower amounts of fat, this recommendation cannot be generalized to the majority of women and children participants. A reduction in the fat levels of the food packages will be done on an individual basis by the competent professional authority. For those participants for whom obesity is a

[d] Low-fat package: all skim milk; 2 dozen eggs; beans rather than peanut butter.

[e] High-fat package: whole milk and maximum cheese allotment (Cheddar cheese, which has the highest fat content of all authorized cheeses, was used in determining % fat of the high fat packages); 2½ dozen eggs; peanut butter.

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problem, the nutrition education sessions provided in WIC will stress the higher caloric contribution of fat to the diet (9 calories per gram) as compared to protein or carbohydrate (4 calories per gram).

Summary of Fat, Sugar and Salt Issues

The final food package regulations are designed to provide an appropriate content of sugar, salt and fat in the food items. Several of the commenters believed that the decisions in the proposed regulation to limit the sugar content, but not the fat and salt content, of the food packages were inconsistent. However, the Department does not believe this criticism is valid.

Both salt and sugar in the food package have been constrained to acceptable levels for the participant population. The reduction of sugar and salt in the American diet has been a consistent recommendation from the scientific literature. The reduction in sugar and salt will not harm the WIC population and may indeed provide positive benefits. It is with this in mind that a maximum level of sugar in cereals has been set, flavored milk has been deleted and a maximum level of cheese which will have the effect of decreasing sodium has been included in these recommendations.

A similar restriction has not been proposed for fat. Unlike the sugar and salt, expert opinion suggests that a decrease in fat may indeed have adverse effects on the WIC child population. The Department does not find evidence to suggest that a general decrease in fat would enhance the appropriateness of the food packages. The competent professional authority can identify those individuals who because of hyperlipidemias, obesity and other medical conditions need to modify their fat intake.

Food Package Categories. Present WIC regulations specify three food package categories. The proposal expanded this to seven food package categories as follows:

I. Infants 0 to 2–4 Months
II. Infants 2–4 to 6 Months
III. Infants 6 to 12 Months
IV. Children 1 to 5 Years
V. Children 1 to 5 Years with Special Dietary Needs
VI. Pregnant and Breastfeeding Women
VII. Non-Breastfeeding Post partum Women

Of the 316 comments on the proposal to offer seven different food packages, 176 were generally opposed. Those commenters opposed believed the proposed food packages were too restrictive and complex. The 140 supportive of the seven food packages believed the proposed food packages would emphasize the need for tailoring, reinforce nutrition education and prevent waste.

One hundred and twenty-two (122) commenters criticized the three infant food packages, because of the limit placed on the competent professional authority's flexibility to determine the best time for the introduction of infant cereal and juice. In addition, three separate food packages for infants would require frequent food package changes within a short period of time (12 months), resulting in administrative problems because of data processing restrictions and limited staff at some State and local agencies. Therefore, the Department decided to define two infant food packages instead of three in the final regulations—one for infants 0 through 3 months and one for infants 4 through 12 months. The two infant food packages will ensure that infants under 4 months of age do not receive cereal or juice and will allow flexibility for State and local agencies to establish policies and competent professional authorities to use their judgment regarding the introduction of these foods to infants at or after 4 months of age. The age ranges selected for these food packages were those most frequently suggested by commenters. The Department believes these age ranges are the most appropriate in consideration of recommendations for feeding infants and administrative concerns. (Infant feeding recommendations are discussed in the section of this preamble concerning specific foods.)

The Department did not propose any changes in the food package for children with special dietary needs, except for the proposal to allow an additional 52 fluid ounces of concentrated liquid formula or equivalent amounts of powdered or ready-to-feed formula if needed. According to previous regulations, the food package for children with special dietary needs provided for children with conditions that preclude the use of the supplemental foods defined in the package for children 1 to 5 years. This package was designed for children who need formula for an extended period of time.

In the past, the Department has had requests to provide formula to women with lactose intolerance and phenylketonuria (PKU). These formulas were authorized in previous regulations in the food package for children with special dietary needs. Although the Department encourages the use of conventional foods, such as cheese or small quantities of milk, whenever possible in the dietary management of lactose intolerance, the Department realizes that the nutritional demands imposed by pregnancy and lactation, combined with personal food preferences, may make it difficult for some lactose intolerant women to meet their nutritional needs through the use of conventional foods. Even more importantly, the Department is concerned about providing assistance to pregnant women with PKU. An infant of a mother with PKU may be aborted or born damaged, possibly because of the high levels of phenylalanine in the mother's blood. During pregnancy, returning to a diet low in phenylalanine content which requires the use of a special formula may help prevent these problems.(*38*) Therefore, in order to make provisions to allow women to receive formula, the special dietary needs package is authorized for women and children. Physicians must determine and document the reason for issuing this package.

Approximately 80 commenters recommended that the food package for children with special dietary needs contain additional foods when appropriate. The Department considered adding additional foods including eggs and dry beans or peas or peanut butter to the food package for children and women with special dietary needs. Children and women are put on this package because they cannot consume conventional foods and need formula. Some conditions for which the special package may be prescribed, such as PKU, basically preclude the use of eggs, dry beans, peas or peanut butter. Therefore, it would be inappropriate to include eggs, dry beans or peas and peanut butter in the food package for these participants. Other conditions for which the special package may be prescribed, such as lactose intolerance, do not preclude the use of these foods. However, the dietary management of lactose intolerance can frequently be accomplished through modification of conventional diets. The Department believes it is appropriate to encourage using conventional foods in the dietary management of lactose intolerance rather than foster dependence on formulas. A well balanced diet of conventional foods is the most appropriate means of adequate nutrition. Furthermore, formulas are relatively expensive and it may be difficult for participants to purchase formulas after they are terminated from the WIC Program. Therefore, in an effort to discourage the issuance of the food package for children/women with special dietary needs except when the use of formula is absolutely necessary,

the Department has decided not to authorize additional foods including eggs, dry beans or peas and peanut butter in this food package.

Few commenters addressed the issue of a separate food package for children. However, commenters generally supported the specific provisions of the food package for children. Therefore, the food package for children 1 to 5 years of age will remain as proposed. This package was separated from the packages for women in recognition of the fact that children's nutritional needs differ from the nutritional needs of women.

The separate food packages for women were subject to some criticism. Although commenters supported the enhanced food package for pregnant and breastfeeding women, the non-breastfeeding post partum women's food package was criticized by 171 commenters. Concern for the post partum women at nutritional risk, particularly adolescent mothers, was expressed because of an adolescent mother's need to replenish nutrient stores. Commenters opposed to the separate food package for non-breastfeeding post partum women believed a punitive measure was implied. Additionally, they felt different amounts and types of foods for women participants depending on whether they are pregnant or breastfeeding women or non-breastfeeding post partum women would cause confusion and administrative problems.

The Department supports breastfeeding as the preferred means of infant feeding. Although the enhanced food package for pregnant and breastfeeding women may not be a primary factor in a mother's decision to breastfeed, it does provide her some incentive to breastfeed and support to her commitment once the decision is made. Furthermore, the enhanced food package for pregnant and breastfeeding women recognizes that the nutritional needs of these participants are greater than the nutritional needs of non-breastfeeding post partum women.

The Department is aware that adolescents are at greater risk of health problems during pregnancy and are more likely to have poor pregnancy outcomes than are older women. However, many of the reasons adolescents are considered to be at higher risk are related to socioeconomic rather than biological factors. For example, pregnant adolescents are more likely than the general population of pregnant women to be of low socioeconomic status, to have short interpregnancy intervals and to have less access to prenatal care. (*39*)–(*40*) Since many of the women enrolled in WIC have some of these characteristics, providing the post partum adolescent with an enhanced food package over that of other post partum women is not justifiable.

In comparing the requirements of post partum adolescents to pregnant and breastfeeding women, it is evident that the requirements for most nutrients are substantially greater for the latter group. The enhanced food package for pregnant and breastfeeding women is meant to address those added requirements. The requirements for post partum adolescents and post partum adult women do not differ as much as those of post partum women versus pregnant and breastfeeding women.

The priority system for access to WIC states that pregnant or breastfeeding women should be enrolled in WIC prior to postpartum women of any age. This system was set up because of the increased nutritional needs of the former group. In line with the reasoning behind this priority system, it is appropriate that pregnant and breastfeeding women be given an enhanced food package over postpartum women including adolescents. Additionally, because of the limited funds available, the Department believes that is is necessary to ensure that the participants with the greatest needs who may benefit most by consuming the supplemental foods receive the greatest quantity and variety of foods.

The final food package catagories are defined as follows:

I. Infants 0 through 3 Months
II. Infants 4 through 12 Months
III. Children/Women with Special Dietary Needs
IV. Children 1–5 Years
V. Pregnant and Breastfeeding Women
VI. Non-Breastfeeding Postpartum Women

These package categories are designed to ensure that the types and amounts of food provided to participants more accurately reflect infants' nutritional and development needs, current pediatric feeding recommendations, and the nutritional requirements of pregnant and breastfeeding women. The Department has decided six separate food packages are necessary, because there is little evidence of individual food package tailoring. The 1979 GAO report and management evaluations revealed that tailoring was not a common practice. Specifically, the GAO report stated that "With a few exceptions, the local programs were making little or no attempt to prescribe individual food packages. Instead, the maximum allowable standard quantities of all foods were given to nearly all participants. (*41*) Given the lack of tailoring, these six food packages respond to criticism that the current three food packages may provide too much food in relation to the nutritional needs of certain categories of participants.

The Department will continue to require the competent professional authority at the local agency to tailor food packages on an individual basis taking into consideration the participant's age and dietary needs. It is most important that the types and quantities of food provided be appropriate for the participant. Examples of tailoring include determining the best time, after 3 months, to issue cereal and juice to infants based on individual growth and developmental needs; and determining the types and amounts of food a participant with special dietary needs should receive. In the case of breastfed infants, if supplemental feedings of infant formula are necessary or desired, infants may receive appropriate quantities of infant formula. The Department believes that the six food packages specified in this regulation will serve as a foundation for further tailoring, prevent waste and reinforce nutrition education.

Maximum Quantities

Policy in the area of tailoring the food package to meet an individual's nutritional needs has been continuously issued since the initiation of the WIC Program. The Department approves the tailoring of an individual's food package at the local level to meet an individual's specific needs. However, the Department would like to reinforce and clarify its policy on maximum food quantities. The Department believes that while State agencies have wide discretion concerning the foods provided under the WIC Program, the Department cannot allow a Statewide categorical limitation set by a State agency on the quantity of a specific food. Thus, the State agency cannot specify a maximum quantity, on a Statewide basis, for all participants, that is less than the maximum quantity set forth in this regulation. This does not mean that every participant must receive the maximum quantities of all foods as set forth in the regulations. It does that the maximum quantities must be available to all participants, if needed. It also allows the competent professional authority the flexibility to prescribe specific food quantities based on an individual's particular nutritional needs.

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Foods

Formula—Iron Fortification. Commenters were almost evenly divided on the issue of whether to allow non-iron-fortified formula under special circumstances. Of 619 comments, a slight majority, 54 majority, supported allowing non-iron-fortified formula. Further analysis of the comments on this subject revealed that both the medical and nutrition communities had mixed opinions. Almost equal numbers of physicians, nurses and nutritionists supported and opposed allowing non-iron-fortified formula. Many commenters believed some infants need non-iron-fortified formula and the WIC Program should meet these individual needs. Conversely, many commenters opposed to the allowance of non-iron-fortified formula pointed out that no scientific evidence exists to prove true incidence of intolerance to iron and the provision of non-iron-fortified formula defeats the purpose of the Program. Also, commenters indicated that allowing non-iron-fortified formula would be inconsistent with recommendation of the American Academy of Pediatrics.

The Committee on Nutrition of the American Academy of Pediatrics recommends that either breast milk or iron-fortified formula be fed to healthy infants from birth to 12 months of age.(*42*) Iron deficiency is the most common cause of anemia in infants. Surveys of infants and children indicate that the highest incidence of anemia is found among lower socioeconomic groups. The risk of iron deficiency is greatest after iron stores built up in utero have been depleted. This occurs after about two months in small preterm infants and after four to six months in term infants. "Animal studies indicate that iron deficiency anemia early in postnatal development results in some abnormalities that persist long after the anemia itself has been corrected. Therefore, it appears important to keep the iron intake of infants at a high level to prevent anemia and other clinical manifestations of iron deficiency."(*43*)

The authorization of non-iron-fortified formula for all infants would decrease the iron content of the infant food packages considerably. The iron content of the food package for infants 0 through 3 months would be reduced from approximately 9.4 mg. of iron per day to trace amounts of iron. The iron content of the food package for infants 4 through 12 months would be reduced from approximately 26.3 mg. of iron per day to approximately 16.9 mg. of iron per day. The major source of iron in the food package for infants 4 through 12 months of age, other than iron fortified formula, is infant cereal. In its comments to the proposed food package regulations, the Committee on Nutrition of the American Academy of Pediatrics stated that "it is unlikely that iron-fortified cereal can be relied on to prevent iron deficiency in infants 6–12 months of age who are fed cow's milk."(*44*) Since the iron content of non-iron-fortified formula is about comparable to the iron content of cow's milk, the Department believes this statement is applicable to the decision on authorizing non-iron-fortified formula for healthy infants.

Intolerance to iron-fortified infant formula is a controversial issue. Although some physicians are opposed to the use of iron-fortified formula because of the belief that it causes fussiness, colic, spitting up, diarrhea or constipation, other physicians use iron-fortified formula regularly and consider such manifestations uncommon.(*45*) A recent study supports the view that these problems are not related to the iron in the formula. In this study infants fed iron-fortified formula were compared to similar infants fed non-iron formula from the 3rd day of life for a period of 42 days. A review of daily records kept by the mothers revealed no differences in the number of stools per day, the description of the stools, the number of days without stools, or the incidence or frequency of colic, spitting up, or vomiting.(*46*)

The Department has concluded that available information does not substantiate the authorization of non-iron-fortified formula for healthy infants. Therefore, for healthy infants, only iron-fortified formula is authorized in the final regulations. A small number of infants have medical conditions which necessitate restricting iron intake or using a specific formula which does not meet the iron requirement for formula. In order to meet the needs of these infants, as well as healthy infants, the Department has decided to authorize the provision of non-iron-fortified formula when medically necessary. The authorization of non-iron-fortified formula is discussed under the section of this preamble dealing with special formulas.

Formula—Calorie Requirement. Although the Department did not propose any changes in calorie requirements for formulas, 56 commenters recommended that low-calorie formula no longer be authorized for issuance. They believed that nutrition education is a more effective way to deal with weight management. In consideration of these comments and nutrition education principles, the Department has decided not to authorize low-calorie formula for infants, children and women for the purpose of managing body weight.

Low-calorie formula has been issued in the past primarily to overweight infants, 6 to 12 months of age, and overweight children. The use of low-calorie formula for this purpose appears inconsistent with suggested feeding practices. The American Academy of Pediatrics indicates that there is no evidence that use of skimmed or partially skimmed milk in the absence of other dietary measures results in a decrease in the total caloric intake of children who usually make up the missing calories from other sources. When foods other than milk are introduced, it is suggested that the quantity of milk or formula that is consumed be decreased.(*47*) In addition, the feeding of milk of reduced fat content is not recommended during infancy.(*48*) Forty-three State agencies already restrict the use of low-calorie formula in the infant food package. The Department believes that the preferred strategy for dealing with problems of over-nutrition in infancy and childhood is through a varied and well-balanced diet rather than the use of low-calorie formulas.

Formula—Substitution of Whole Milk—Previously, whole milk could be substituted for formula in the infant food package beginning at 6 months of age. Although the Department did not propose any changes in the substitution of whole milk for formula, 123 comments were received on this provision of the regulations. Fifty-six percent of these commenters were opposed to authorizing the substitution of whole milk for formula in the infant food package beginning at 6 months of age. These commenters stated that feeding infants whole milk at 6 months is not medically sound, is against recommendations of the American Academy of Pediatrics and not consistent with the goals of the WIC Program.

As stated previously, the Committee on Nutrition of the American Academy of Pediatrics recommends that either breastmilk or iron-fortified infant formula be fed to healthy infants from birth to 12 months of age. In reference to the feeding of milk to infants, the Committee further states that "unmodified cow's milk and evaporated milk at usual dilutions do not meet the proposed standards (for infant formulas). Although normal growth occurs with the use of cow's milk, iron deficiency and hyperphosphatemia are common complications. Vitamin C supplements are needed. The high salt and saturated fat content of cow's milk may have adverse effects on later health, although this has not yet been proven. Its high protein and mineral content increase the risk of dehydration and hypernatremia(*49*) whenever diarrhea or other conditions increase the demand for water."

The WIC Program is principally aimed at preventing the development of nutrition/health problems in a high risk population. The Department believes that because the feeding of whole milk to infants may have both immediate and long term health consequences for the individual, the authorization of whole milk in the infant food packages is inappropriate. Therefore, the Department is completely deleting the authorization of whole milk in the food packages for infants.

Formula—Special Formulas—Previously, the Department required that all formulas provided to infants and children with special dietary needs meet the requirements for formula intended for use by infants as defined in the regulations. This definition included a calorie and iron requirement and required that the formula be a complete formula. An exception clause was not included in the regulations to allow the provision of formulas which did not meet these requirements when medically necessary.

Some formulas available on the commercial market for the treatment of medical conditions which may necessitate the use of a special formula, such as some metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndromes, and certain allergies, fulfilled the requirements for formulas as defined in the regulations and were authorized for use in the WIC Program. Other formulas available on the commercial market for the treatment of these types of medical conditions did not meet the requirements for formulas as defined in the regulations and were not authorized for use in the WIC Program. For example, although a formula designed for use by infants and children sensitive to intact protein of milk and other foods was authorized, a formula designed for use by infants with celiac disease was not authorized. The Department has received a number of requests to expand the definition of formulas authorized for use by infants and children with special dietary needs to allow additional types of formulas when needed.

Participants with medical conditions that necessitate the use of a special formula have very individualized needs. The Department believes that the physician caring for these participants is the most appropriate person to determine the specific formula which the participant should receive. As an adjunct to health care, the WIC Program should provide the best available formula to the participant, as determined by the physician. WIC Program regulations should have sufficient flexibility to accomplish this with a minimal burden being placed on physicians and administrators. Therefore, requirements for formulas authorized for use in the WIC Program are modified to allow the provision of formulas used in the treatment of medical conditions which were not previously authorized. Because formula is provided to all infants under one year of age who are not breastfed but is provided to older children and to women only if they have medical conditions which necessitate the use of formula, the manner by which special formulas are authorized in the infant food packages and the food package for children/women with special dietary needs is different. This is intended to minimize the burdens placed on physicians and administrators.

The Department believes that the vast majority of infants who are not breastfed should be fed formulas which meet the requirements for formula as previously defined. This definition has sufficient flexibility to allow both milk base and soy base formulas. Therefore, for healthy infants and lactose intolerant infants who do not have other medical conditions which prohibit the use of formula as previously defined, the requirements for formulas authorized for use in the WIC Program are maintained. For the small number of infants with medical conditions including, but not limited to, medical conditions which contraindicate the use of iron-fortified formulas, metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndromes and allergies, formulas which do not meet the requirements for formulas otherwise authorized, are authorized when the physician caring for the infant determines the need for the formula. Documentation of the physician's determination and the specific formula prescribed must be included in the participant's certification file. For the reasons stated under the section of this preamble concerned with calorie requirements for formulas, infants may not receive low calorie formulas solely for the purpose of managing body weight.

In the past, the Department has required that formulas provided to older children with special dietary needs meet the requirements of formulas provided to infants in the infant food package. However, the Department believes that it would be inappropriate to maintain this requirement. The revised requirements for formulas authorized for infants allow the provision of formulas which do not meet the requirements defined in the regulations when a physician determines and documents that it is medically necessary, as described in the preceding paragraph. The food package for children/women with special dietary needs is authorized *only* when a physician determines that the participant has a medical condition which precludes or restricts the use of conventional foods and necessitates the use of a formula. The Department believes that defining requirements for formulas provided to children and women with special dietary needs, but allowing exceptions when the physician determines and documents the need, would result in undue confusion and an unnecessary burden being placed on both physicians and program administrators. Therefore, formulas authorized under the food package for women and children with special dietary needs are redefined according to conditions rather than formula composition.

Formulas are authorized for children and women under this regulation in the food package for children/women with special dietary needs when a physician determines and documents that the participant has a medical condition which precludes or restricts the use of conventional foods *and* necessitates the use of a formula including, but not limited to, metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndromes, and allergies. The physician's determination and the specific formula prescribed by the physician for the management of the participant's condition shall be documented in the participant's certification file. As stated previously, lactose intolerant infants are not considered to require a special formula because soy formulas are authorized under the definition of formula in the infant food packages. However, since there is no definition of formula, per se, in the food package for children/women with special dietary needs, lactose intolerant children and women may receive soy formula, if needed, in the food package for children/women with special dietary needs. Because the Department believes that the best source of adequate nutrition is a well balanced diet of conventional foods and nutrition, education is provided to

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participants to assist them in meeting their nutritional needs, children and women are not authorized to receive formulas solely for the purpose of enhancing nutrient intake. Additionally, because the Department believes the management of body weight should be approached through modifications in dietary habits rather than reliance on formulas, as described in the section of this preamble on caloric requirements for formulas, children and women are not authorized to receive formula solely for the purpose of managing body weight.

Some commenters expressed concern about the requirement that the physician's determination that non-iron-fortified formula is necessary for the medical management of an infant be documented in the participant's file. These commenters believed that the requirement would present administrative problems. The Department realizes that some additional administrative tasks will occur as a result of the documentation requirements for special formulas. However, because special formulas will be issued to participants rarely, the Department believes the administrative burden will be minimal.

Formula—Additional Quantities. The Department proposed allowing an additional 52 fluid ounces of concentrated liquid formula or equivalent amounts of powdered or ready-to-feed formula for infants and for children with special dietary needs when a physician determines and documents the need for the additional formula. Two hundred and eighty-three (283) commenters generally supported the provision of additional formula, primarily because larger infants may need extra formula and whole milk may be substituted after the month's supply of formula is consumed. Also, infants and children with special dietary needs may need to consume greater quantities of formula than the basic amount authorized and special therapeutic formulas are very expensive. One hundred and thirty-eight (138) commenters objected to adding more formula, particularly in the infants' packages. Their objections were based on the fact that WIC is a supplemental food program; and any extra formula if, in fact, it is necessary should not be supplied by the WIC Program. Also, commenters were concerned about the cost of the additional formula and the possibility of encouraging overfeeding.

In an attempt to contain the cost of the food packages and maintain the supplemental nature of the WIC Program, the Department has decided not to allow the provision of additional formula in the food packages for infants. An additional 52 fluid ounces of concentrated liquid formula or equivalent amounts of powdered or ready-to-feed formula would substantially increase the cost of the infant food packages. Based on prices in the Washington, D.C., metropolitan area in the Spring of 1980, authorizing an additional 52 fluid ounces of concentrated liquid formula would add approximately $3.00 to the cost of the infant food packages. Although every infant on the Program would not receive the additional formula, given the percent of infant participants (approximately 25 percent of all participants), if a large number of infant participants were to receive the additional formula, the increase in cost of this package would eventually result in fewer participants being served.

To better meet the needs of children/women with special dietary needs who may consume greater quantities of formula than previously authorized, the Department is allowing the provision of an additional 52 fluid ounces of concentrated liquid formula or equivalent amounts of powdered or ready-to-feed formula in the food package for children/women with special dietary needs when a physician determines and documents the need. The additional formula for children/women with special dietary needs will be beneficial to participants, since special therapeutic formulas are particularly expensive. Although the cost of the food package will be increased, the number of participants receiving this food package is small. Data from State agencies indicate that approximately 2.6 percent of children receive the food package for children with special dietary needs. Therefore, the impact on overall food package costs will be minimal. To prevent abuse, the competent professional authority shall document the need for the additional formula in the food package for children/women with special dietary needs.

Infant Cereal. Approximately 636 comments were received on the delayed introduction of cereal in the infant food packages. Three hundred and eighty-four (384) comments supported the delayed introduction of cereal in the infant food packages until 2–4 months. Two hundred and fifty-two (252) opposed the delayed introduction of cereal at 2–4 months. Of those opposing, most were critical of the age range; 195 commenters recommended a different age for the introduction of cereal. Many commenters believed that 2 months of age was too early to introduce cereal; the most frequently recommended age was 4 months.

Guidelines on the feeding of solid foods to infants developed by the American Academy of Pediatrics include the recommendation that foods other than breastmilk or infant formula be introduced into the infant's diet when the infant weighs 6 to 7 kilograms and is at least 3 months of age. *(50)* The 50th percentile weight for age is 6 to 7 kilograms for boys between approximately 3 and 4 months of age and for girls between approximately 4 and 5 months of age. *(51)* By 4 months of age, most infants are physically and developmentally ready to begin solid foods. *(52).*

Infant cereal is usually the first solid food introduced into the infant's diet. Therefore, the Department has decided to allow the issuance of infant cereal in the infant food package beginning at 4 months of age. The competent professional authority has the option to further delay the introduction of cereal as appropriate for the nutritional needs and developmental readiness of the infant.

In the proposed regulations, the Department proposed to maintain the current requirement that only infant cereals be provided in the infant food package. One hundred and six (106) commenters believed adult cereal should be allowed for older infants mainly because older infants prefer the texture of adult cereals and often refuse infant cereals. However, almost twice as many commenters (195), believed that only infant cereal should be allowed in the infant food packages. Those supporting the provision of only infant cereal to infants stated that infant cereal was more nutritious for infants. The iron compound used to fortify infant cereals is electrolytically reduced iron of small particle size and is, therefore, highly available. *(53)* The iron compound in adult cereals varies; *(54)* thus, the bioavailability of the iron in adult cereals varies. In order to maintain an infant food package providing optimal sources of specified nutrients, the Department will continue to authorize only infant cereal in the food package for infants.

Clarification on the Department's policy concerning prepackaged cereal/fruit and cereal/formula combination items was requested by 22 commenters. These cereal combinations were not allowed under previous regulations and are not allowed under this regulation. The Department's policy is based on recommendations of the American Academy of Pediatrics and cost concerns. The American Academy of Pediatrics recommends that single ingredient foods be introduced one at a time in an effort to isolate food sensitivities and possibly avert the development of food intolerances. *(55)* Although cereal/fruit combinations may be appropriate once the risk of food sensitivity has diminished, these combination foods are more expensive than regular infant cereal. Therefore, in an effort to contain the cost of the food packages, the Department has not authorized them. In reference to cereal/formula combinations, since infant formula is already provided in the food packages, the Department does not believe it is necessary to provide additional infant formula in combination with infant cereal.

Forty-two (42) commenters requested clarification on the provision of infant cereal to children 1–5 years. Thirty-three (33) pointed out that infant cereal is recommended up to 18 months of age. The requirements for cereals provided to women and children are not intended to preclude the provision of infant cereals to women and children. Any infant cereal which meets the requirements for cereals provided to women and children is authorized for these participants, except as for infants, cereal/formula and cereal/fruit combinations are not authorized for women and children.

Juice to Infants. The Department proposed to delay the issuance of juice in the infant food package until 6 months of age because of a joint recommendation by the American Academy of Pediatrics and the American Academy of Pedodontics which discourages the feeding of juice from a bottle rather than a cup to prevent "bottle caries," a condition resulting from frequent provision of sugar-containing beverages in bottles to infants and children leading to the development of often serve caries. *(56)* Two hundred and twenty-four (224) comments approved delaying juice in the food packages until 6 months. One hundred and sixty (160) opposed the proposal. The Department continues to support recommendations that juice not be given from a bottle. However, the final regulations will allow juice in the food package for infants beginning at 4 months instead of 6 months of age. This change from the proposal was made in view of the comments received criticizing the specification of three separate infant food packages. (See section on Food Package Categories). Although a majority of comments on the introduction of juice supported delaying juice until 6 months, many commenters opposed the three infant food packages, stating that they presented administrative problems. The two infant food packages were defined to help prevent administrative problems and provide some flexibility. Allowing juice starting at 4 months will afford flexibility to State and local agencies to deal with their own systems, and the competent professional authority to make individual determinations. The Department discourages the issuance of juice until the infant can drink from a cup in an effort to discourage mothers from feeding infants juice from a bottle. Since the feeding of juice from a bottle may cause "bottle caries," the competent professional authority shall instruct the participant's parent or guardian to feed the juice to the infant from a cup.

The Department proposed that only adult juice be provided to infants and exceptions to issue infant juice be allowed only when the compentent professional authority documented the need. Opposition to the restriction of infant juice was substantial. Of 423 comments, 277 opposed authorizing only adult juice, while 146 supported the proposal. Commenters noted several problems with the packaging of adult juices. Primarily, the adult juice containers are large. Once the containers are opened nutrients are lost, and the large portions available may lead to overfeeding. The lead content of the juice cans was also a point of concern. Additionally, commenters were concerned that other members of the household may consume the adult juices, leaving an insufficient quantity for the infants.

By restricting the issuance of infant juice, the Department intended to minimize the cost of the infant food package and reinforce the recommendation that juice be fed from a cup rather than a bottle. However, because of the problems cited by commenters, the Department is not placing restrictions on the issuance of infant juice in the food package for infants 4 through 12 months of age. The competent professional authority may continue to issue adult juice, when appropriate, with proper instructions to the participant's parent or guardian on storage and feeding.

Milk—Reduction in Quantities. The Department proposed to reduce the maximum amount of milk authorized for children from 28 quarts to 24 quarts per month. A reduction in the amount of milk was proposed to conform with the American Academy of Pediatrics' recommendation that milk intake should be limited to 720 ml. per day (three 8-ounce glasses) when the intake of solid foods is well established. *(57)* If a major portion of a child's caloric needs is provided from a single food source, such as milk, other foods including those rich in iron may be excluded from the diet. Of 324 comments, 252 agreed with the Department's proposed reduction and thought that 28 quarts of milk per month is not necessary for children. Therefore, the amount of milk authorized for children is reduced to 24 quarts per month. This reduction will still provide slightly more than three glasses of milk per day for those children who may need it.

The Department also proposed reducing the maximum amount of milk for non-breastfeeding postpartum women from 28 quarts to 24 quarts of milk. Of the 337 comments on this proposal, 217 approved of this reduction stating that non-breastfeeding postpartum women do not need as much milk as pregnant and breastfeeding women. Some commenters expressed concern for the non-breastfeeding postpartum adolescent. However, the needs of a pregnant woman or a breastfeeding woman are greater than a non-breastfeeding postpartum adolescent. (The nutritional needs of postpartum adolescents and the Department's philosophy about this issue are discussed in the section on food package categories.) By providing more milk to pregnant and breastfeeding participants, the Department can address the increased nutritional needs of these women. The Department has set a maximum quantity of 24 quarts of fluid milk for non-breastfeeding postpartum women. Pregnant and breastfeeding women can still receive a maximum quantity of 28 quarts of fluid milk.

Milk—Flavored Milk. In the previous regulations, women and children were allowed to receive flavored or unflavored milk. No change in this provision was proposed by the Department. However, 78 commenters requested the deletion of flavored milk from the food packages since flavored milk has a higher sugar content than unflavored milk. They indicated that providing flavored milk contradicts nutrition education and the Department's proposal to limit sugar in the food packages. Furthermore, flavored milk is more expensive than unflavored milk. The Department agrees with these concerns. There are significant differences in the sugar content of fluid whole milk and low fat chocolate milk. Fluid whole milk supplies 12.0 grams of carbohydrate per cup compared to 27.3 grams of carbohydrate per cup provided by low fat chocolate milk. If we assume that the major portion of carbohydrate in milk is

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in the form of simple sugar, fluid whole milk contains 4.9% sugar contrasted with 10.9% sugar in low fat chocolate milk. Therefore, to reinforce nutrition education, for consistency with the Department's philosophy about sugar in the food packages, and to maintain food package costs at economical levels, the Department is deleting flavored milk from the food packages for women and children. Although the deletion of flavored milk was not proposed, the comments and the Department's policy on sugar validate this change.

Milk—Goat Milk. In the preamble to the proposed food package regulations, the Department requested comments on the need for goat milk, its availability and whether or not it is pasteurized or fortified with vitamin D. Approximately 397 commenters addressed this issue; 284 opposed allowing goat milk because of its questionable nutritional value. Much of the commercially available goat milk is not pasteurized, and goat milk is usually not fortified with vitamin D. Additionally, goat milk is a relatively poor source of folacin. Commenters also felt that soy formulas are a satisfactory alternative for those participants who cannot tolerate cow milk. Since a number of formulas for participants with special dietary needs are available, the pasteurization and fortification requirements for milk will not be changed to allow for goat milk.

Cheese — Variety. In the previous food package regulations, the domestic cheeses allowed were processed American, Monterey Jack, Colby, natural Cheddar and Swiss. In response to participant requests for additional cheeses to be provided in the food packages, the Department proposed adding Brick, Edam, Gouda, Muenster, Provolone and Mozzarella, part-skim or whole, to the list of allowable cheeses. Out of approximately 410 commenters addressing this issue, 250 supported the inclusion of additional cheeses in the food packages for women and children. The most popular reasons for support cited by the commenters were the added variety in the cheese selection and the allowance of a more versatile food package recognizing geographic and cultural preferences. However, commenters opposing the additional cheeses cited cost and packaging considerations. They said certain cheeses were very expensive and, therefore, inappropriate for low-income persons learning how to purchase foods on a limited budget. Edam and Gouda are in this category, costing approximately $1.80 more a pound than the next most expensive cheese listed. In addition, these cheeses come packaged in odd sizes which could make issuance difficult. Therefore, the Department is authorizing processed American, Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone and Mozzarella, part-skim or whole, but is not authorizing Edam and Gouda in the food packages for women and children.

Cheese—Quantity. Cheese may be substituted for milk at the rate of one (1) pound of cheese per three (3) quarts of milk in the food packages for women and children. Under the previous regulations, participants could substitute all of the milk portion of their food package with cheese. A total of nine (9) pounds of cheese could be issued in this package. Some State agencies have had policies on the maximum amount of cheese allowed. Five State agencies requested in their comments that a maximum amount of cheese be specified. Although cheese is equivalent nutritionally to milk at the substitution rate of one pound of cheese per three quarts of milk, the costs are not equivalent. One pound of cheese, depending on the type purchased, may cost from approximately $2.09 to approximately $2.79; three quarts of milk cost approximately $1.41. When the milk portion is totally replaced with cheese, the costs of the food packages increase substantially.

In an attempt to contain the costs of the food packages the Department has decided to set a limit on the amount of cheese that can be substituted for milk. Under these regulations, four pounds of cheese is the maximum amount that may be substituted for milk. This will allow participants to replace about half of the milk with cheese. Given concerns over the cost of the package, and the waiting lists of both clinics and participants who cannot currently be served by the Program due to funding limitations, the Department did not feel it could allow for more than half the milk in the food package to be replaced with cheese. Since the WIC Program is a supplemental program and is not intended to provide an entire diet, this amount is considered sufficient.

An exception is made for persons with lactose intolerance. In cases of lactose intolerance, the competent medical professional may issue additional amounts of cheese.

Additionally, some commenters suggested that if the Department restricted the amount of cheese that can be substituted for milk, the sodium content of the food packages could be reduced. Limiting the amount of cheese that can replace milk to four pounds per month (or about one pound per week per WIC participant) also accomplishes this goal. The section of the preamble concerning salt, sugar, and fat provides more information on this matter.

Eggs. The provision of two and one-half dozen eggs under the previous food package regulations has caused problems for many local agencies and participants, primarily due to problems with purchasing one-half dozen eggs. Many grocery stores have policies prohibiting the splitting of egg cartons, or they do not sell eggs in one-half dozen amounts. Information from State agencies indicates that 49 have problems splitting cartons. To alleviate this problem, the Department has allowed local agencies to issue two dozen eggs one month and three dozen eggs the next month when necessary. This monthly quantity variation, however, has caused some problems with food delivery systems, which include maintaining issuance records, pre-printing vouchers and adjusting ADP systems. Further, it contradicts the monthly supplemental nature of the Program. Other local agencies experiencing problems with egg packaging who were unable to vary amounts from month to month, resorted to categorically lowering the egg quantity for women and children. This practice is against Department policy. As a solution to these problems the food package advisory panel recommended that two dozen eggs be the designated maximum quantity in the food packages. Concurring with this recommendation, the Department proposed a maximum amount of two dozen eggs per month in the food packages for women and children.

Two hundred seventy-nine (279) commenters expressed support of the proposed egg reduction and 195 expressed opposition. Two hundred forty-one (241) of the (79 supporting comments originated from State and local agency personnel. The commenters were particularly interested in the elimination of various adminstrative problems associated with food delivery and packaging. Many commenters believed that two dozen eggs per month would be sufficient as a dietary supplement.

One hundred twenty-two commenters opposing the egg reduction expressed concern about participants' decreased intake of eggs. Those opposed to the reduction expressed the opinion that administrative problems are not valid reasons for reducing the egg allotment. Many of these commenters expressed concern that eggs are too acceptable and economical to be reduced in quantity. One hundred and three (103) commenters recommended a three

dozen maximum amount to solve administrative problems and enhance the food packages.

The Department realizes that eggs contain varying amounts of all the target nutrients in the WIC Program except vitamin C, as well as essential vitamins, minerals and fatty acids. The Department also agrees with the comments of those opposing the reduction, who maintain that the egg is an economical, versatile, highly popular and readily available food.

After considering all of the above factors, the Department has decided to change the position taken in the proposed regulations and to allow State agencies the option of establishing a maximum egg allotment of either two or two and one-half dozen eggs for the food packages for women and children.

The practice of issuing two and one-half dozen over the course of two months (i.e., two dozen one month and three dozen the next) will no longer be allowed. Some State agencies that used this approach in the past to avoid the problems of splitting cartons experienced other problems with vouchers, issuance and programming. Since State agencies have the option to issue two dozen eggs as the authorized maximum amount, this practice is no longer necessary. Further, an allotment of three dozen eggs in any one month contradicts the monthly supplemental nature of the Program. Given the supplemental nature of the program, the Department considers 36 eggs in one month excessive since it provides more than one egg a day. For this reason, and to avoid problems with food delivery systems, the Department will not allow the allotment to vary from month to month.

The Department did not raise the allotment to three dozen every month, as 103 commenters recommended, mainly for cost reasons. Raising the allotment to 3 dozen eggs in the packages for women and children would increase the cost of these packages approximately 30 to 50 cents. Costwise, the decrease in the egg allotments of those States lowering their maximum egg quantity along with the decreases in other WIC food allotments as set forth in these regulations, would help offset the cost of adding new foods to the food packages.

A maximum of two or two and one-half dozen eggs per month is in keeping with the supplemental nature of the Program because 24 or 30 eggs per month, along with the other WIC foods, are sufficient as a deitary supplement allowing almost one egg a day. Furthermore, because of the low bioavailability of iron in eggs, there is no significant decrease in available iron in the food packages resulting from allowing States to issue two dozen eggs. Information from the State agencies indicates that for 36 State agencies, this need not result in any change in current operations. These 36 State agencies are already authorizing either two dozen or two and one-half dozen eggs a month. There is currently one State agency issuing only one dozen eggs a month which will be required to at least double its maximum prescription for eggs. Some other State agencies currently prescribing two dozen eggs one month and three dozen the next may either retain the same quantity of eggs by prescribing two and one-half dozen each month, or slightly reduce the egg allotment by prescribing two dozen.

Juice—Quantities. The Department proposed allowing 92 fluid ounces of single strength juice in the food package for infants, 138 fluid ounces of single strength juice in the food package for children with special dietary needs, 276 fluid ounces of single strength juice in the food packages for children and pregnant and breastfeeding women and 184 fluid ounces of single strength juice in the food package for non-breastfeeding post partum women. Frozen concentrated juice was proposed to be allowed in all food packages, the reconstituted volume not exceeding the amount authorized for single strength juice.

One hundred sixty-nine (169) commenters addressed the issue of juice quantities; 112 opposed the proposal as written regarding the amounts of juice provided in the food packages. Most of the opposing commenters cited the discrepancy between the maximum amount of single strength juice a participant may receive and the maximum amount of frozen concentrated juice possible. They were concerned that due to packaging, participants who select frozen concentrated juice would not be able to receive the full authorized amount of juice. The opposing commenters recommended that juice quantities be specified to allow for the difference between single strength juice and reconstituted frozen concentrated juice.

Under previous regulations, participants who chose all single strength juice received slightly more juice than participants who chose all frozen concentrated juice. This was due to differences in packaging. For example, although a pregnant woman could receive the full authorized 276 fluid ounces of juice if single strength juices were used, she could receive only 264 fluid ounces of reconstituted juice if frozen concentrated juice were used. Considering that frozen concentrated juice is usually slightly less expensive than single strength juice, the Department does not believe it is appropriate to authorize a greater quantity of single strength juice than frozen concentraged juice.

In an effort to maxmize food benefits in relation to costs and support nutrition education on economical food buying practices, the Department has decided to make an additional allowance for frozen concentrated juice quantities. The final rule maintains the proposed maximum amounts of single strength juice, but slightly increases the maximum amounts of reconstituted frozen concentrated juice. The maximum amounts of reconstituted frozen concentrated juice authorized were determined based on the reconstituted volume of 12 ounce cans of frozen concentrated juice.

Fifty-three commenters specifically requested that the food package for children with special dietary needs contain the same amount of juice as the package for children. This package is designed to supplement the diets of participants who primarily need formulas. In addition, the amounts of juice and formula provided contain adequate levels of vitamin C for these participants. Therefore, the juice quantity in the special package will remain as proposed.

Maximum Amount of Juice per Package*

Infants 4 through 12 Months:	
Infant juice	63 fluid oz. (1.9 liters).
Frozen concentrated juice	96 fluid oz. (2.8 liters) (reconstituted).
Single strength juice	92 fluid oz. (2.7 liters).
Children/Women with Special Dietary Needs:	
Frozen concentrated juice	144 fluid oz. (4.3 liters) (reconstituted).
Single strength juice	138 fluid oz. (4.1 liters).
Children 1–5 Years:	
Frozen concentrated juice	288 fluid oz. (8.5 liters) (reconstituted).
Single strength juice	276 fluid oz. (8.2 liters).
Pregnant and Breastfeeding Women:	
Frozen concentrated juice	288 fluid oz. (8.5 liters) (reconstituted).
Single strength juice	276 fluid oz. (8.2 liters).
Post partum Women:	
Frozen concentrated juice	192 fluid oz. (5.7 liters) (reconstituted).
Single strength juice	184 fluid oz. (5.4 liters).

*Combinations of single strength and frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

Additional Foods—Peanut Butter and Mature Dry Beans or Peas. The Department proposed adding one pound of mature dry beans or peas or 18 ounces of peanut butter to the food packages for children and pregnant and breastfeeding women. In the past, the Department has received requests to expand the variety of foods in the food package. Mature dry beans and peas

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and peanut butter have been requested frequently. A vast majority of commenters supported the proposal to include these foods. Of the 748 comments on peanut butter, 614 supported its inclusion. Of the 669 comments on mature dry beans or peas 510 supported their inclusion. The primary reasons cited by the commenters in support of the addition of both peanut butter and mature dry beans or peas were their nutritional value and their acceptability to WIC participants.

An approximate cost increase ranging from $0.63–$1.49 (depending on the item purchased) would occur in the packages for children and pregnant and breastfeeding women if mature dry beans or peas or peanut butter were added. This increase in cost would be offset by the reductions in other foods in certain food packages. As the commenters indicated, the addition of those food items to the food packages would supply protein, iron and another source of micronutrients to participants. The expanded variety of foods would also support nutrition education principles. Because peanut butter has a relatively high fat content, the Department carefully considered the issue of the fat content of the food packages, as described in detail in a previous section of this preamble. The Department decided that it would be inappropriate to restrict the fat content of the food packages for all participants. The option of providing dry beans or peas instead of peanut butter provides an alternative for participants who should restrict their consumption of fat.

To increase food variety and enhance the nutrient value of the food packages, the Department has decided to add mature dry beans and peas or peanut butter to the food package for children and the food package for pregnant and breastfeeding women.

Additional Foods—Whole Wheat Bread. In the discussion on the adequacy of some micronutrients and fiber in the food packages in the preamble to the proposed regulations, the Department discussed the possibility of adding 2 pounds of whole wheat bread in the food packages for children and pregnant and breastfeeding women. However, the Department was concerned about the acceptability of whole wheat bread and availability of whole wheat bread in rural areas. Therefore, rather than proposing a change, the Department requested comments on the inclusion of 2 pounds of whole wheat bread in the food packages for pregnant and breastfeeding women and children, especially in relation to acceptability and availability.

Approximately 583 commenters addressed this issue, 395 of whom were in opposition to adding whole wheat bread to the food packages. The major reasons for opposition were administrative considerations such as vendor and participant monitoring. Vendors and participants could be confused by the labeling on various types of bread and it would be easy for them to mistakenly select a bread with a label which implies 100 percent whole wheat, but which does not qualify. Many commenters also questioned the acceptability of whole wheat bread to participants. Commenters emphasized the fact that the WIC Program is a supplemental food program, not a total dietary program. They also expressed concern that the addition of whole wheat bread, along with peanut butter or dry beans, would increase the cost of the food packages substantially, limiting the number of participants served. Commenters also mentioned the short shelf life of bread and storage problems which could result in waste.

Given the considerations mentioned above, the Department has decided not to add whole wheat bread to the food packages. Increased consumption of foods containing whole grains and other foods containing dietary fiber shall be encouraged through nutrition education.

Additional Foods—Vegetables. Out of concern about the adequacy of some micronutrients and fiber in the food packages, the Department discussed the addition of vegetables in the preamble to the proposed regulations. In its discussion on vegetables, the Department requested input from the public on this issue, including comments on the provision of vegetables to pregnant and breastfeeding women and children, the types of vegetables which should be provided and the quantities of vegetables which would be appropriate.

Of the 608 commenters addresssing the vegetable issue, 407 opposed the provision of vegetables in the food packages. Major reasons for opposition were associated with the fact that including vegetables would complicate program administration at all levels. Defining an acceptable vegetables list would be difficult and listing specific vegetables on vouchers would be cumbersome. Monitoring vendors to ensure only authorized vegetables are provided to participants would be difficult and, in areas where dairies are used for home delivery, it might not be possible to provide vegetables.

Commenters also cited the supplemental nature of the WIC Program, stating that the food packages cannot be expected to provide for all nutrient needs. Many commenters expressed concern that vegetables would not be well accepted by participants. They said not only do participants have a variety of taste preferences, but the most nutritious vegetables seem to be the least popular. Commenters were also concerned about the cost of vegetables, which, along with peanut butter and mature dry beans or peas, could increase the cost of the food packages and limit the number of participants served. Vegetable costs and availability fluctuate seasonally. The availability of vegetables also varies in different parts of the country. Storage of fresh and frozen vegetables could present problems, and therefore could result in considerable waste. Other major concerns expressed were that the vegetables received by WIC participants would be consumed by other family members; that canned, frozen and fresh vegetables all vary in nutrient content; and that methods of cooking affect their nutritional value. Some commenters also expressed concern about the high salt content of canned vegetables. The most prevalent recommendation made by the commenters was that nutrition education emphasizing increased vegetable consumption be provided in place of vegetables themselves.

Given the considerations cited above, the Department has decided not to add vegetables to the food packages. Increased consumption of vegetables shall be encouraged through nutrition education.

Adult Cereals. Previously, the Department required the cereals provided to women and children participants contain a minimum of 45 percent of the USRDA for iron. The Department proposed to reduce the iron requirement for cereals to 25 percent of the USRDA for iron for participants who do not exhibit signs of iron deficiency at certification, but to maintain the iron requirement for cereals at 45 percent of the USRDA for iron for participants who do exhibit signs of iron deficiency at certification. Additionally, the Department proposed establishing a limit of 6 grams of sucrose and other sugars per ounce of dry cereal. Other changes in the cereal requirements which the Department considered, but did not propose were discussed in the preamble to the proposed regulations and included restrictions on highly fortified cereals, cereals containing artificial flavors and colors and the provision of whole grain cereals regardless of iron content.

After careful review of the evidence and consideration of all comments, the Department decided to require that cereals provided to all women and children participants contain a minimum of 45 percent of the USRDA for iron and not more than 6 grams of sucrose and other sugars per ounce of dry cereal. In making the decision on the iron and sugar requirements, the Department considered comments and information available on the prevalence of iron deficiency in the target population, the effectiveness of the WIC Program in relation to iron nutriture in the target population, the iron content of the food packages and the bioavailability of iron in cereals, the acceptability and availability of cereals, and the scientific evidence on the association of sugar with dental caries.

Comments on Iron Content of Adult Cereals. The Department received approximately 700 comments on the proposed change in the iron requirement for cereals; 181 in favor and 519 opposed. Commenters opposed to the proposed rule stated that two iron levels would be confusing to participants, vendors and local agency staffs and that there would be administrative problems associated with implementing the rule. Administrative problems cited included voucher issuance, program monitoring and vendor training and monitoring. Furthermore, it would be difficult to ensure that iron deficient participants would purchase or consume cereals containing 45 percent of the USRDA for iron, especially in a family with one iron deficient participant and one non-iron deficient participant. Two hundred and sixty (260) comments were received recommending that the iron requirement be maintained at 45 percent of the USRDA for iron for all participants and 138 comments were received recommending that the iron requirement be reduced to 25 percent of the USRDA for iron for all participants. Commenters in favor of maintaining the iron requirement for cereals at 45 percent of the USRDA for iron stated that lowering the iron requirement is contrary to the WIC Program's goal as a preventive health program. Iron deficiency is a major nutritional problem among the WIC Program target population, and a lower iron requirement may not help boarderline participants. Commenters in favor of lowering the iron requirement for cereals to 25 percent of the USRDA for iron stated that there is a need for a larger variety of cereals and claimed that currently authorized cereals are not acceptable to participants.

Iron Deficiency in the Target Population. Several national studies and surveys have shown that iron deficiency is a major nutritional problem among the WIC Program target population. *The Ten State Nutrition Survey* reported a high prevalence of low hemoglobin levels, particularly among the lowest income groups. Low hemoglobin values were believed to be due primarily to iron deficiency because of the age distribution and low iron consumption indicated by dietary information. (*58*) The study *Nutritional Status of Preschool Children in the United States (Preschool Nutrition Survey)* found evidence of low hemoglobin levels among preschool children of lower socioeconomic status. (*59*)

Impact of WIC on Iron Status. Studies which have been performed to evaluate the effectiveness of the WIC Program indicate improvement in iron nutrition with participation in the program. The University of North Carolina performed a medical evaluation of the WIC Program at 19 local agencies in 14 States. The investigators concluded that there was a consistent increase in hemoglobin levels and a reduction in the prevalence of anemia in infant and children participants. Additionally, an increase in mean hemoglobin concentration and a reduction in the anemia rate was reported for pregnant and postpartum women. (*60*) A study performed on WIC participants in Massachusetts showed similar results. (*61*) A number of State and local agencies have also reported decreases in the prevalence of anemia in the target population after participation in the WIC Program.

At the request of the Department, the Center for Disease Control (CDC) used data from its Nutrition Surveillance System to estimate some nutritional effects of the WIC Program. On the basis of this data, CDC reported that children entering the WIC Program have a high prevalence of anemia, presumably caused by iron deficiency, and that children enrolled in the program for one year experience considerable improvement in their hemoglobin and hemoatocrit values. (*62*)

Based on this information, it appears that WIC has a positive impact on the iron status of participants. Whether this apparent improvement is due to a specific component of the WIC Program or to the freeing up of funds for participants to purchase additional foods which are good sources of iron is not currently known. However, because cereals are the principal source of bioavailable iron in the WIC food package, they may be a significant factor in the reported improvements in iron status of WIC participants.

Iron Content of Food Packages. As stated above, cereals are the major source of iron in the WIC food packages. Therefore, a decrease in the iron requirement for cereals from 45 to 25 percent of the USRDA would have a significant effect on the quantity of iron provided by the food packages. The following calculations of the iron content of the food packages were performed using the iron content of cereals containing 45 percent and 25 percent of the USRDA for iron. Since these levels would be minimum requirements for cereals, the values for the iron content of the food packages expressed below represent minimum values. Participants selecting more highly fortified cereals would obtain a higher percentage of their requirement for iron.

With a minimum iron requirement for cereals of 45 percent of the USRDA for iron, both the previous and proposed food packages for children and pregnant and breastfeeding women provide approximately 11 mg. of iron per day. This is equal to 75 percent of the RDA for iron for children 1–3 years of age, 110 percent of the RDA for iron for children 4 years of age and 37.5 percent of the RDA for iron for pregnant and breastfeeding women.[1] If the iron requirement for cereals were decreased to 25 percent of the USRDA, the proposed food packages for children and pregnant and breastfeeding women would provide approximately 7.5 mg. of iron per day. This is equal to 50 percent of the RDA for children 1–3 years of age, 75 percent of the RDA for children 4 years of age and 25 percent of the RDA for pregnant and breastfeeding women.[1]

Iron deficiency has been identified as a major nutritional problem among the WIC target population. Current evidence suggests that the WIC Program is having a positive impact on the iron status of

[1] The RDA's for iron for pregnant and breastfeeding women in the 1974 edition of the *Recommended Dietary Allowances* are 18+ and 18 mg. of iron per day, respectively. (*63*) The 1980 edition of *Recommended Dietary Allowances* does not specify dietary requirements for iron for pregnant and breastfeeding women. The Food and Nutrition Board states that, "The increased requirement (for iron) during pregnancy cannot be met by the iron content of habitual American diets nor by existing iron stores of many women; therefore, the use of 30–60 mg. of supplemental iron is recommended. Iron needs during lactation are not substantially different form those of non-pregnant women, but continued supplementation of the mother for 2–3 months after parturition is advisable in order to replenish stores depleted by pregnancy."(*64*) Therefore, 30 mg. per day was used as the RDA for iron in the calculations for pregnant and breastfeeding women. If 18 mg. of iron per day is used as the RDA for pregnant and breastfeeding women, the food packages with a minimum iron requirement for cereals of 45 percent of the USRDA would provide 67 percent and the proposed food package with a minimum iron requirement for cereals of 25 percent of the USRDA would provide 44 percent of the RDA for iron for pregnant and breastfeeding women.

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participants. Because the percent of the RDA for iron provided by the food package would be substantially reduced if cereals providing 25 percent of the USRDA for iron rather than 45 percent were offered, the ability of the WIC Program to directly affect the iron status of participants might be significantly weakened under such a rule. Based on these considerations, retaining the requirement that cereals provide at least 45 percent of the USRDA for iron appears to be advantageous from a nutritional standpoint.

Bioavailability of Iron. Although authorizing cereals fortified at 25 percent of the USRDA for iron in the WIC food packages would reduce the iron content of the food packages considerably, several researchers have come to the conclusion that the total iron content of the diet is a relatively poor indicator of the adequacy of the diet with regard to iron. (*65*) This is evidenced by the fact that there is a high prevalence of anemia in some countries where there is also a high intake of dietary iron. (*66*) A high iron intake does not automatically eliminate anemia. The relevant factor to consider in assessing dietary adequacy is not only how much total iron is consumed, but more importantly, how much is absorbed. A recent study found that the addition of an egg to breakfast increased the iron intake of individuals from 2.8 to 4.1 mg.; however, the iron absorption was unchanged. (*67*) Therefore, the iron content in the body was unaffected. These findings affirm the fact that dietary iron has to be evaluated according to its availability rather than solely on the absolute iron content of the food.

The amount of iron in a food that is available for absorption is influenced significantly by the form of iron. The Department has received information on the forms of iron used to fortify cereals from all but one of the major cereal manufacturers. (*68*) Of the 12 cereals fortified at or above 45 percent of the USRDA for iron for which the Department has information on the form of iron used, 8 are fortified with ferric orthophosphate and 4 are fortified with hydrogen reduced iron. Four of the cereals fortified at or above 45 percent of the USRDA with ferric orthophosphate and all of the cereals fortified at or above 45 percent of the USRDA with hydrogen reduced iron contain not more than 6 grams of sucrose and other sugars per ounce. Of the 19 cereals fortified at 25 percent of the USRDA for iron for which the Department has information on the form of iron used, 3 are fortified with ferric orthophosphate, 10 are fortified with hydrogen reduced iron, 5 are fortified with electrolytic iron, and one is fortified with ferrous fumarate. Three of the cereals fortified at 25 percent of the USRDA with hydrogen reduced iron, one of the cereals fortified at 25 percent of the USRDA with electrolytic iron and the cereal fortified at 25 percent of the USRDA with ferrous fumarate contain not more than 6 grams of sucrose and other sugars per ounce.

The bioavailability of iron is generally expressed as a relative biological value (RBV). Ferrous sulfate is used as a standard of comparison and assigned an RBV of 100. The RBV for ferric orthophospate has been reported to be 3 to 46, the RBV or hydrogen reduced iron has been reported to be 18 to 54, the RBV for electrolytic iron has been reported to be 45 to 76, and the RBV for ferrous fumarate has been reported to be 95. (*69*)

Based on the RBV's for different forms of iron and the amount of iron in a cereal fortified at 45 and 25 percent of the USRDA for iron, it is possible to get an indication of the amount of iron available for absorption from cereals. Data provided by industry indicate that some cereals containing 25 percent of the USRDA for iron are fortified with forms of iron which are generally considered to have higher bioavailabilities than the forms of iron used to fortify most cereals containing 45 percent or more of the USRDA for iron. However, because bioavailabilities of the different forms of iron used to fortify cereals vary and bioavailability is affected not only by the form of iron used to fortify the cereals, but also by chemical and physical properties of the iron and other factors such as components of the food, (*70*) it is not possible to make definitive statements about the bioavailability of iron from different cereals. Additional information on specifications for the forms of iron used in fortification would have to be supplied by the industry and research would have to be performed by the Department to substantiate such statements.

Although the Department recognizes that the issue of iron fortification of cereal will remain a controversial one, it has decided to maintain the minimum iron requirement for cereals authorized for use in the WIC Program at 45 percent of the USRDA for iron. The Department does not believe it has sufficient information at this time on the bioavailability of iron from cereals fortified at 25 and 45 percent of the USRDA for iron to lower the iron requirement for cereals on the basis of iron bioavailability. Data provided by industry indicate that some cereals containing 25 percent of the USRDA for iron are fortified with forms of iron which are generally considered to have higher bioavailabilities than the forms of iron used to fortify most cereals containing 45 percent or more of the USRDA for iron. Therefore, FNS has requested the Science and Education Administration, USDA, to perform research needed to make a determination of whether the bioavailability of iron from a number of cereals fortified at 25 percent of the USRDA for iron is better than the bioavailability of iron from most cereals fortified at or above 45 percent of the USRDA for iron. When information from these studies becomes available, the Department will reassess the issue of the iron requirement for cereals provided through the WIC Program.

Acceptability of Cereals. The issue of acceptability of authorized cereals was raised by 147 commenters in response to the proposed change in the iron requirement. Of these, 138 stated that there was a need for more variety in authorized cereals and that the cereals authorized under the previous regulations are not sufficiently acceptable to participants.

The most substantive data on the acceptability of cereals authorized in WIC includes information from a report on the WIC Program delivery system, small scale surveys and interviews with participants.

In 1976, the Urban Institute performed a study to evaluate the WIC Program delivery systems. As part of this study, participants were interviewed to obtain information on satisfaction with the foods in the WIC packages. These interviews revealed some participant dissatisfaction with authorized cereals. According to the report, 23 percent of the participants surveyed requested that cereal be dropped from the food package or that the amount provided be decreased. (*71*)

Small scale surveys conducted by State or local agencies indicate some dissatisfaction with cereals. A survey conducted in Tennessee in 1979 showed that 10 percent of the participants do not use the WIC cereals. (*72*) Another small scale survey from Rhode Island revealed that 13 percent of WIC children participants do not eat the cereals provided. (*73*)

Interviews with participants at local agencies in California, Washington, Oregon, Arizona, and Nevada performed by the FNS Western Regional Office in 1979 also indicate some problems with the acceptability of cereals currently authorized in the WIC Program. When

asked about the food package, some participants criticized the types of cereals provided and expressed a need for a wider selection of cereals.

Since the acceptability of authorized cereals could be a reflection of the acceptability of cereals in general, as well as a reflection of the acceptability of cereals meeting Program requirements, it was important to consider data which are available on cereal consumption in general. An analysis of data from the *Health and Nutrition Examination Survey* on cereal consumption by children 1–5 years of age revealed that 8.4 percent seldom or never eat cereal, 56.7 percent eat cereal 1–6 times per week and 35 percent eat cereal one or more times a day. For adults 18–44 years of age, 53.8 percent seldom or never eat cereal, 38.1 percent eat cereal 1–6 times per week and 8.1 percent eat cereal one or more times a day. (*74*) The WIC food package includes sufficient cereal to provide more than one serving per day. Therefore, lack of acceptability of authorized cereals could at least partially be due to the fact that many adults seldom or never eat cereal and most children and adults do not eat cereal in the quantities provided through the WIC food packages.

Given that the level of acceptance of cereals in general may not be high in some groups, it was important to consider whether the allowance of cereals that meet only 25 percent of the USRDA for iron rather than 45 percent would substantially improve the variety and acceptability of authorized cereals.

The Department examined approximately 100 cereals that are currently available on the commercial market in order to determine the impact the proposed sugar and iron requirements would have on the number of cereals authorized. Of these, 20 contain a minimum of 45 percent of the USRDA for iron. With a sugar limitation of six grams of sucrose and other sugars per ounce of cereal (see Sugar Content of Cereals section), 15 cereals would be authorized at 45 percent of the USRDA for iron and 29 cereals would be authorized at 25 percent of the USRDA for iron. Some of these cereals, however, are not available in all areas of the country. Information from 60 State agencies indicates that with the current requirement that cereals contain a minimum of 45 percent of the USRDA for iron, approximately six cereals are available in at least 50 State agencies. Twenty-nine (29) of these State agencies already restrict the use of highly sugared cereals. With a sugar limit of six grams of sucrose and other sugars per ounce, one cereal previously allowed in at least 20 State agencies would not be authorized. Thus, both the proposed sugar restriction and the 45 percent USRDA iron requirement limit to a substantial degree the total number of authorized cereals.

Data which provide an indication of the effect of lowering the iron requirement and establishing a sugar limit would have on acceptability of cereals are available from two sources, the *WIC Participant Profile Survey* and comments submitted by the Southern Illinois University in response to the proposed regulations.

The *WIC Participant Profile Survey* was conducted by FNS in 1978. As part of this survey, participants were asked to name their two favorite cereals on the market. The ten most frequently named favorite cereals included four cereals fortified at or above 45 percent of the USRDA for iron. If the iron requirement for cereals were lowered to 25 percent of the USRDA for iron, six authorized cereals would be included in the list of ten favorites. With a sugar limitation of six grams of sucrose and other sugars, the list of ten favorite cereals would include four authorized cereals if the iron requirement were maintained at 45 percent of the USRDA for iron and five WIC cereals if the iron requirement were lowered to 25 percent of the USRDA for iron. (*75*)

The Southern Illinois University at Carbondale has provided the Department with information on reported preferred cereal usage by WIC clients in Illinois. Although the cereals which were reported as preferred cereals were not exactly the same as those named as favorites in the *WIC Participant Profile Survey*, the numbers of cereals meeting the iron and sugar requirements considered which were among the ten most frequently reported preferred cereals were the same. Additionally, an analysis of 24-hour dietary recalls of 1,100 WIC participants in Southern Illinois revealed that approximately 48 percent of participants had not consumed cereal in the preceding 24 hours; approximately 26 percent of participants consumed cereals containing 45 percent or more of the USRDA for iron; approximately 10 percent of participants consumed cereals containing 25–44 percent of the USRDA for iron and approximately 17 percent of participants consumed cereals containing less than 25 percent of the USRDA for iron. (*76*) Therefore, if cereals containing 25 percent of the USRDA for iron were authorized, approximately 10 percent of WIC participants in Illinois would probably eat them. However, the authorization of these cereals may not have any effect on cereal consumption by the 65 percent of participants who do not eat cereals or choose to eat cereals fortified at less than 25 percent of the USRDA for iron.

Thus, while reducing the iron requirement for cereals to 25 percent of the USRDA would increase the total number of cereals authorized, the number of most preferred cereals offered would not be substantially increased. Moreover, the improvements in general acceptability that would be brought about by such a change appear to be relatively small. This is particulary true when the significant nutritional reasons for maintaining the higher iron requirement discussed above are taken into consideration.

The principal reason for lowering the iron requirement would be to improve acceptability of cereals. However, although the Department believes lowering the iron requirement for cereals may improve acceptability, at this time the Department does not know whether it actually would, or if it did, to what extent lowering the iron requirement for cereals would improve acceptability. The Department intends to perform a study to assess the impact lowering the iron requirement for cereals would have on acceptability. In the meantime, the significant nutritional reasons for maintaining the higher iron requirement discussed above outweigh the modest improvements in acceptability that might result from a lowered iron requirement. For these and administrative reasons the Department has decided to maintain the minimum iron requirement for cereals authorized for use in the WIC Program at 45 percent of the USRDA for iron.

Comments on Sugar Content of Adult Cereals. Approximately 490 comments were received on the proposed sugar requirement. Of those, 389 favored the establishment of a maximum level for sugar in WIC cereals. Many of these commenters stated that the rule would support the nutrition education goals of the Program. Some commenters reiterated concerns about the association between excessive sugar consumption and obesity and dental caries. Several people commented on the actual sugar level that was proposed. The majority of those who commented on this point felt that a lower sugar level should be established. Some commenters called the "six grams per ounce" value arbitrary. Commenters who were opposed to the proposed sugar requirement argued that the rule is not based on conclusive scientific evidence and cited several studies

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which they said show there is no correlation between tooth decay and the consumption of presweetened cereals. Also, they pointed out that there is no proof that sugar consumption causes obesity. They all discussed the sugar content of presweetened cereals in relation to the sugar content of other foods. They also questioned the Department's authority to impose a sugar limitation and suggested that consumers be allowed to make informed choices on their own, based on product label information. The Department feels that disallowing highly sugared cereals enables the food packages themselves to remain consistent with the goals of nutrition education and teaching participants economical and nutritious food buying patterns. The scientific evidence on the association of sugar and dental caries, and the scientific basis for the sugar requirement are discussed in detail in the section of this preamble dealing with the sugar content of the food packages. The other concerns of commenters are also addressed there and are not repeated in this section.

Adult Cereals—Highly Fortified. In the preamble to the proposed regulations the Department stated it would not restrict highly fortified cereals for 1–3 year olds. The Department asked for comments on this issue. Of 227 comments on the inclusion of highly fortified cereals, 132 opposed including these cereals in the food package, because of labeling problems and nutrition education principles. When it considered restricting the issuance of highly fortified cereals, the Department was mainly concerned about toxicity and nutrition education goals. However, the danger of toxicity from use of these cereals is minimal. FDA did not believe the levels of vitamins A and D in these cereals were high enough to cause concern about toxicity. (*77*) Restricting authorized cereals which contain 100 percent of the USRDA for one or more nutrients would eliminate five cereals for 1–3 year olds to choose from. The Department has decided to continue allowing these cereals and to let the competent professional authority use discretion in issuing them.

Adult Cereals—Artificial Flavors and Colors. In the preamble to the proposed regulations the Department stated it would continue to allow the inclusion in the food packages of cereals containing synthetic flavors and colors. Commenters were almost evenly divided in favor of or in opposition to this decision. At present, the evidence relating artificial flavors and colors to health and behavior problems in children is not sufficient to regulate in this area. Further, the artificial flavors and colors used in cereals on the market have been approved by FDA. The Department, therefore, has decided to continue allowing cereals regardless of whether or not they contain artificial flavors and colors. If the competent professional authority is concerned about a participant's consumption of products which contain synthetic flavors or colors, he can advise the participant of possible alternatives through nutrition education.

Adult Cereals—Provision of Whole Grain Cereals Regardless of Iron Content. In the preamble to the proposed regulations, the Department proposed the authorization of only those whole grain cereals which meet the iron requirement and sugar limitation. Seventy percent of 130 comments on this subject opposed the inclusion of whole grain cereals regardless of iron content, either because the WIC Program is supplemental in nature or the provision of cereals below the required iron level would contradict the purpose of WIC as a preventive and therapeutic program.

Allowing whole grain cereals regardless of iron content would drastically reduce the amount of iron provided by the food packages. Additionally, there are no standards of identity for whole grain cereals, which presents problems when defining acceptable cereals. Therefore, the Department has decided to authorize only those whole grain cereals which meet the iron requirement and sugar limit for all cereals.

Cereals which the Department knows currently meet the iron requirement and sugar limit for cereals authorized for use in the WIC Program are listed.

Cereal [a]	Manufacturer	Iron [1]	Sugar [2]
Buc Wheats	General Mills	50	5
Chocolate Malt-o-Meal	Malt-o-Meal	45	0
Concentrate	Kelloggs	50	3
Corn Total	General Mills	100	3
Country Corn Flakes	General Mills	45	3
Cream of Wheat	Nabisco	45	0
Fortified Oat Flakes	Post	45	6
Kaboom	General Mills	45	6
Kix	General Mills	45	2
Mix and Eat, Regular	Nabisco	45	0
Most	Kelloggs	100	6
Product 19	Kelloggs	100	3
Quick Malt-o-Meal	Malt-o-Meal	45	0
Smart Start	Kelloggs	100	4
Total	General Mills	100	3

[a] Kellogg's 40% Bran Flakes has been reformulated. The reformulated product contains 45% of the USRDA for iron and 5 grams of sugar per ounce. Kellogg's will begin distribution in December 1980.
[1] Percent of USRDA.
[2] Grams per ounce.

The Department acknowledges that this list may be incomplete. Other cereals which meet the iron and sugar requirements for cereals defined in this regulation will be added to the list. Additionally, a change in the formulation of a cereal included in the list will result in that cereal being deleted from the list of acceptable cereals if the change results in the cereal no longer meeting the iron and sugar requirements for cereals defined in this regulation. Therefore, the Department requests industry to keep it updated on the composition of cereals. Information should be sent to the Supplemental Food Programs Division, FNS, at the address provided at the beginning of the preamble.

Substitutions. Public Law 95–627 grants the Secretary the authority to approve a State agency's plan to substitute different foods which are nutritionally equivalent to the authorized supplemental foods in order to allow for different cultural eating patterns. This section of the legislation was written primarily to permit areas outside the continental United States to operate a WIC Program which provides foods indigenous to the area. Accordingly, the proposed regulations contained the provision that any State agency wishing to make such substitutions submit to FNS a plan for the substitution of foods in keeping with the goals of the Program. Since few commenters addressed this issue, the Department has decided to maintain the provisions of the proposal. Substitution requests will be reviewed by FNS in order to be approved.

Commodities. The proposed food package regulations included provisions for the Department to purchase and distribute, at the request of a State agency, commodity foods. Very few commenters addressed this issue. Therefore, the Department has decided to maintain the provisions of the proposal. Funds allocated to the State agency will be used to purchase and distribute commodity foods which are requested. The commodity foods available to State agencies will be equivalent in quantity and quality to those authorized supplemental foods specified in the regulations.

Note.—This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant".

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Section 246.8 is added to read as follows:

§ 246.8 Supplemental foods.

(a) *General.* This section prescribes the requirements for providing supplemental foods to participants.

(b) *State agency responsibilities.* State agencies shall:

(1) Identify foods which are acceptable for use under the Program in accordance with the requirements of this section and provide to local agencies a list of acceptable foods and their maximum monthly quantities as specified in paragraph (c) of this section; and

(2) Ensure that local agencies: (i) make available at least one food from each group in each food package listed in paragraph (c) of this section. However, this does not mean that the local agency must provide each participant with a food from each food group.

(ii) Make available to participants the supplemental foods, as authorized in paragraph (c) of this section; and

(iii) Designate a competent professional authority to prescribe types of supplemental foods in quantities appropriate for each participant, taking into consideration the participant's age and dietary needs. The amounts of supplemental foods shall not exceed the maximum quantities specified in this section:

(c) *Food packages.* There are six food packages available under the Program which may be provided to participants. The authorized supplemental foods shall be prescribed from food packages according to the category and nutritional need of the participant. The food packages are as follows:

Note.—The metric units given are mathematical conversions. If packaging practices change, the authorized food quantities will be revised accordingly.

(1) *Food Package I—Infants 0 through 3 Months.* (i) Iron-fortified infant formula, which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state, and which contains at least 10 milligrams of iron per liter of formula at standard dilution which supplies 67 kilocalories per 100 milliliters; i.e., approximately 20 kilocalories per fluid ounce of formula at standard dilution. Formulas which do not meet these requirements are authorized when a physician determines that the infant has a medical condition which contraindicates the use of infant formula as described above including, but not limited to, medical conditions which contraindicate the use of iron-fortified formula, metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndromes, and allergies. Low-calorie formulas are not authorized solely for the purpose of managing body weight of infants. Documentation of the physician's determination of the need for a formula which does not meet the requirements described above and the specific formula prescribed shall be included in the participant's certification file.

Concentrated liquid or powdered formula shall be provided, except that ready-to-feed formula may be authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration or that the person who is caring for an infant may have difficulty in correctly diluting concentrated liquid or powdered formula.

(ii) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Formula:	
Concentrated liquid formula.	403 fluid oz. (11.9 l).
or	
Powdered formula	May be sustituted at the rate of 8 lb. (3.6 kg) per 403 fluid oz. (11.9 l) of concentrated liquid formula.
or	
Ready-to-feed formula.	May be substituted at the rate of 26 fluid oz. (.8 l) per 13 fluid oz. (.4 l) of concentrated liquid formula.
Infant cereal	24 oz. dry (.7 kg).
Juice*:	
Single strength adult juice.	92 fluid oz. (2.7 l).
or	
Frozen concentrated juice.	96 fluid oz. reconstituted (2.8 l).
or	
Infant juice	May be substituted at the rate of 63 fluid oz. (1.9 l) of infant juice per 92 fluid oz. (2.7 l) of single strength adult juice.

*Combinations of single strength or frozen concentrated juice may be issued as long as the total volume of juice does not exceed the amount specified for single strength juice.

(2) *Food Package II—Infants 4 through 12 Months.* (i) Formula as specified in paragraph (c)(1)(i).

(ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or frozen concentrated fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice; or infant juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters. Issuance prior to the time when the infant can drink from a cup is discouraged. The competent professional authority shall instruct the participant's parent or guardian to feed the juice to the participant from a cup to prevent "bottle caries."

(iv) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Formula:	
Concentrated liquid formula.	403 fluid oz. (11.9 l).
or	
Powdered formula	May be sustituted at the rate of 8 lb. (3.6 kg) per 403 fluid oz. (11.9 l) of concentrated liquid formula.
or	
Ready-to-feed formula.	May be substituted at the rate of 26 fluid oz. (.8 l) per 13 fluid oz. (.4 l) of concentrated liquid formula.
Infant cereal	24 oz. dry (.7 kg).
Juice*:	
Single strength adult juice.	92 fluid oz. (2.7 l).
or	
Frozen concentrated juice.	96 fluid oz. reconstituted (2.8 l).

Food	Quantity
or	
Infant juice	May be substituted at the rate of 63 fluid oz. (1.9 l) of infant juice per 92 fluid oz. (2.7 l) of single strength adult juice.

*Combinations of single strength or frozen concentrated juice may be issued as long as the total volume of juice does not exceed the amount specified for single strength juice.

(3) *Food Package III—Children/Women with Special Dietary Needs.* Children and women with special dietary needs may receive the following supplemental foods if the physician determines that the participant has a medical condition which precludes or restricts the use of conventional foods *and* necessitates the use of a formula including, but not limited to, metabolic disorders, inborn errors of amino acid metabolism gastrointestinal disorders, malabsorption syndrome and allergies. The supplemental foods described below are not authorized solely for the purpose of enhancing nutrient intake or managing body weight of children and women participants. Documentation of the physician's determination of the need for a formula and the specific formula prescribed shall be included in the participant's certification file.

(i) Formula intended for use as an oral feeding and prescribed by a physician.

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (6 grams per ounce).

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or frozen concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and special dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Formula:	
Concentrated liquid formula.	403 fluid oz. (11.9 l).
Addition*	52 fluid oz. (1.5 l).
or	
Powdered formula	May be substituted at a rate of 8 lb. (3.6 kg) per 403 fluid oz. (11.9 l) of concentrated liquid formula.
Addition*	1 lb. (.4 kg).
or	
Ready-to-feed formula.	May be substituted at the rate of 26 fluid oz. (.8 l) per 13 fluid oz. (.4 l) of concentrated liquid formula.
Addition*	104 fluid oz. (3.1 l).
Cereal (hot or cold)	36 oz., dry (1 kg).
Juice:**	
Single strength juice	138 fluid oz. (4.1 l).
or	
Frozen concentrated juice.	144 fluid oz. reconstituted (4.3 l).

* Additional formula may be issued on an individual basis provided the need is demonstrated and documented in the individual's certification file by the competent professional authority.
** Combinations of single strength and frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

(4) *Food Package IV—Children 1 to 5 Years.* (i) Pasteurized fluid whole milk which is unflavored and which contains 400 International Units of vitamin D per quart (.9 liter); or pasteurized fluid skim or lowfat milk which is unflavored and which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or evaporated whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 liter); or evaporated skimmed milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or dry whole milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or nonfat or lowfat dry milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or domestic cheese (pasteurized process American, Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, Mozzarella Part-Skim or Whole).

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (6 grams per ounce).

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or frozen concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) Eggs or dried egg mix.

(v) Peanut butter or mature dry beans or peas, including but not limited to, lentils, black, navy, kidney, garbanzo, soy, pinto, and mung beans, crowder, cow, split and black-eyed peas.

(vi) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Milk:	
Fluid whole milk	24 qt (22.7 l).
or	
Fluid skim or low fat milk.	May be substituted for fluid whole milk on a quart-for-quart (.9 l) basis.
or	
Cultured buttermilk	May be substituted for fluid whole milk on a quart-for-quart (.9 l) basis.
or	
Evaporated whole milk.	May be substituted for fluid whole milk at the rate of 13 fluid oz (.4 l) per qt (.9 l) of fluid whole milk.
or	
Evaporated skimmed milk.	May be substituted for fluid whole milk at the rate of 13 fluid oz (.4 l) per qt (.9 l) of fluid whole milk.
or	
Dry whole milk	May be substituted for fluid whole milk at the rate of 1 lb (.4 kg) per 3 qt (2.8 l) of fluid whole milk.
or	
Nonfat or lowfat dry milk.	May be substituted for fluid whole milk at the rate of 1 lb (.4 kg) per 5 qt (4.7 l) of fluid whole milk.
or	
Cheese	May be substituted for fluid whole milk at the rate of 1 lb (.4 kg) per 3 qt (2.8 l) of fluid whole milk. 4 lbs (1.8 kg) is the maximum amount which may be substituted.*
Eggs:	
Eggs	2 doz or 2½ doz.
or	
Dried egg mix	May be substituted at the rate of 1.5 lb (.7 kg) egg mix per 2 doz fresh eggs or 2 lb (.9 kg) egg mix per 2½ doz fresh eggs.
Cereals (hot or cold)	36 oz. dry (1 kg).
Juice:**	
Single strength juice	276 fluid oz (8.2 l).
or	
Frozen concentrated juice	288 fluid oz. reconstituted (8.5 l).
Legumes:	
Dry beans or peas	1 lb (.4 kg).
or	
Peanut butter	18 oz (.5 kg).

*Additional cheese may be issued on an individual basis in cases of lactose intolerance, provided the need is documented in the participant's file by the competent professional authority.
**Combinations of single strength and frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

(5) *Food Package V—Pregnant and Breastfeeding Women.* (i) Pasteurized fluid whole milk which is unflavored and which contains 400 International Units of vitamin D per quart (.9 liter) or pasteurized fluid skim or lowfat milk which is unflavored and which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or evaporated whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 liter); or

evaporated skimmed milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or dry whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 liter); or nonfat or lowfat dry milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or domestic cheese (pasteurized process American, Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, Mozzarella Part-Skim or Whole).

(ii) Adult cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (6 grams per ounce).

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or frozen concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) Eggs or dried egg mix.

(v) Peanut butter or mature dry beans or peas, including but not limited to lentils, black, navy, kidney, garbanzo, soy, pinto and mung beans, crowder, cow, split and black-eyed peas.

(vi) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Milk:	
Fluid whole milk	28 qt. (26.5 liters).
or	
Fluid skim or low fat milk	May be substituted for fluid whole milk on a quart-for-quart (.9 liter) basis.
or	
Cultured buttermilk	May be substituted for fluid whole milk on a quart-for-quart (.9 liter) basis.
or	
Evaporated whole milk	May be substituted for fluid whole milk at the rate of 13 fluid oz. (.4 liter) per qt. (.9 liter) of fluid whole milk.
or	
Evaporated skimmed milk	May be substituted for fluid whole milk at the rate of 13 fluid oz. (.4 liter) per qt. (.9 liter) of fluid whole milk.
or	
Dry whole milk	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 3 qt. (2.8 liters) of fluid whole milk.
or	
Nonfat or lowfat dry milk	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 5 qt. (4.7 liters) of fluid whole milk.
or	
Cheese	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 3 qt. (2.8 liters) of fluid whole milk. 4 lbs. (1.8 kg.) is the maximum amount which may be substituted.*
Eggs:	
Eggs	2 doz. or 2½ doz.
or	
Dried egg mix	May be substituted at the rate of 1.5 lb. (.7 kg.) egg mix per 2 doz. fresh eggs, or 2 lb. (.9 kg.) egg mix per 2½ doz. fresh eggs.
Cereal (hot or cold)	36 oz., dry (1 kg.).
Juice:**	
Single stength juice	276 fluid oz. (8.2 liters).
or	
Frozen, concentrated juice	288 fluid oz., reconstituted (8.5 liters).
Legumes:	
Dry beans or peas	1 lb. (.4 kg.)
or	
Peanut butter	18 ounces (.5 kg.)

*Additional cheese may be issued on an individual basis in cases of lactose intolerance, provided the need is documented in the participant's file by the competent professional authority.

**Combinations of single strength or frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

(6) *Food Package VI—Non-breastfeeding Postpartum Women.* (i) Pasteurized fluid whole milk which is unflavored and which contains 400 International units of vitamin D per quart (.9 liter); or pasteurized fluid skim or lowfat milk which is unflavored and which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per fluid quart (.9 liter); or evaporated whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 liter); or evaporated skimmed milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or dry whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 liter); or nonfat or lowfat dry milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 liter); or domestic cheese (pasteurized process American, Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, Mozzarella Part-Skim or Whole).

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (6 grams per 1 oz.).

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) Eggs or dried egg mix.

(v) The quantities and types of supplemental foods prescribed shall be appropriate for the participant taking into consideration the participant's age and dietary needs. The maximum quantity of supplemental foods authorized per month is as follows:

Food	Quantity
Milk:	
Fluid whole milk	24 qt. (22.7 liters)
or	
Fluid skim or lowfat milk	May be substituted for fluid whole milk on a quart-for-quart (.9 liter) basis.
or	
Cultured buttermilk	May be substituted for fluid whole milk on a quart-for-quart (.9 liter) basis.
or	
Evaporated whole milk	May be substituted for fluid whole milk at the rate of 13 fluid ounces (.4 liter) per qt. (.9 liter) of fluid whole milk.
or	
Evaporated skimmed milk	May be substituted for fluid whole milk at the rate of 13 fluid ounces (.4 liter) per qt. (.9 liter) of fluid whole milk.
or	
Dry whole milk	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 3 qt. (2.8 liters) of fluid whole milk.
or	
Nonfat or lowfat dry milk	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 5 qt. (4.7 liters) of fluid whole milk.
or	
Cheese	May be substituted for fluid whole milk at the rate of 1 lb. (.4 kg.) per 3 qt. (2.8 liters) of fluid whole milk. 4 lbs. (1.8 kg.) is the maximum amount which may be substituted.*
Eggs:	
Eggs	2 doz. or 2½ doz.
or	
Dried egg mix	May be substituted at the rate of 1.5 lb. (.7 kg.) egg mix per 2 doz. fresh eggs or 2 lb. (.9 kg.) egg mix per 2½ doz. fresh eggs.
Cereal (hot or cold)	36 oz., dry (1 kg.)
Juice:**	
Single strength juice	184 fluid oz. (5.4 liters)
or	
Frozen concentrated juice	192 fluid oz., reconstituted (5.7 liters)

*Additional cheese may be issued on an individual basis in cases of lactose intolerance, provided the need is documented in the participant's file by the competent professional authority.

**Combinations of single strength or frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

(d) *Use of Commodity Foods.* (1) At the request of a State agency, the Department shall purchase commodity foods for the State agency using funds allocated to the State agency. The commodity foods purchased and made available to the State agency shall be

equivalent to the foods specified in paragraph (c) of this section.

(2) The State agency shall: (i) Distribute the commodity foods to the local agency.

(ii) Ensure satisfactory storage conditions for the commodity foods, including documentation of proper insurance.

(iii) Ensure that the local agency has proper storage facilities for the commodity foods.

(e) *Substitute Foods.* (1) The State agency may submit to FNS a plan for substitution of foods acceptable for use in the Program to allow for different cultural eating patterns. The plan shall include the State agency's justification for the proposed substitution, including a specific explanation of the cultural eating patterns which require the proposed substitution and other information necessary for FNS to evaluate the plan as specified in paragraph (e)(2) of this section.

(2) FNS shall evaluate a State agency's plan for substitution of foods for different cultural eating patterns based on the following criteria: (i) *Nutritional equivalence.* Any proposed substitute food must be nutritionally equivalent or superior to the food it is intended to replace.

(ii) *Availability.* The proposed substitute must be widely available to participants in the areas where the substitute is intended to be used.

(iii) *Cost.* The cost of the substitute must be equivalent to or less than the cost of the food it is intended to replace.

(3) FNS shall make a determination on the State plan for substitution of foods for different cultural eating patterns based on the evaluation criteria specified in paragraph (2) above and the State agency's justification for the substitution. The State agency shall use substitute foods only after receiving the written approval of FNS.

(Child Nutrition Amendments of 1978, Pub. L. 95–627, Section 3, 92 Stat. 3611 et seq.)

Note.—The reporting and/or recordkeeping requirements contained herein have been submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and are subject to their clearance.

(Catalog of Federal Domestic Assistance Program No. 10.557, National Archives Reference Service)

Dated: November 3, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–35232 Filed 11–11–80; 8:45 am]

BILLING CODE 3410–30–M

V 45 NO 12 80 UMI

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federal register

Wednesday
November 12, 1980

Part VI

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Establishment of Manatee Protection Areas in Kings Bay, Crystal River, Florida

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Establishment of Manatee Protection Areas in Kings Bay, Crystal River, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This rule establishes three permanent manatee sanctuaries in Kings Bay, Crystal River, Florida. All waterborne activities will be prohibited in these sanctuaries during the period November 15 through March 31 of each year. The purpose of the action is to prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. This action follows the emergency establishment of a manatee refuge in Kings Bay, effective January 11, 1980. The emergency action which was taken to provide temporary protection of manatees from harassment during the 1979–80 winter season has now expired.

EFFECTIVE DATE: This rule becomes effective on November 15, 1980.

ADDRESSES: Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Jim Baker, Jacksonville Area Office, U.S. Fish and Wildlife Service, 15 North Loura Street, Jacksonville, Florida 32202, 904/791–2267 or Robert R. Prather, Senior Resident Agent, U.S. Fish and Wildlife Service, 2639 N. Monroe Street, Box 56, Tallahassee, Florida 32303, 904/386–8079.

SUPPLEMENTARY INFORMATION: On August 12, 1980, the Service published a proposed rulemaking in the **Federal Register** (45 FR 53495). The proposal was to establish three permanent manatee sanctuaries, prohibiting all waterborne activities from November 15 through March 31 each year, in Kings Bay, Crystal River, Florida. That proposal summarized the factors, laws, regulations, and evidence on which the final determination is based. The proposal also specified the prohibitions and exemptions which would be applicable if the three permanent manatee sanctuaries were established. The proposal invited public comment through September 12, 1980. In addition, a public meeting was held on August 26, 1980, at Crystal River for the public to make comments and to ask questions of Service representatives concerning the establishment of the sanctuaries. Prior to publishing the proposed rulemaking, a meeting was held at Crystal River on May 20, 1980, to inform the public about the problems associated with waterborne activities and to explain the forthcoming proposed rulemaking for the sanctuaries.

During the August 26, 1980, public meetings, comments concerning the establishment of sanctuaries were made by 14 people. Five individuals supported the proposal and eight were against the establishment of sanctuaries as proposed. The remaining comment primarily concerned weed control rather than sanctuaries. A considerable number of questions were asked by the public of Service representatives during the meeting. Most of the questions involved the need to establish sanctuaries, manatee movements in the local area, and the impacts of the establishment of sanctuaries on divers and dive shops. There were also several questions concerning aquatic weed control in Crystal River, even though the Service emphasized that this was a separate issue unrelated to the establishment of manatee sanctuaries.

A letter was sent to Governor Graham of the State of Florida on August 18, 1980, notifying him of the proposed rulemaking for the manatee sanctuaries. On August 15 and 25, 1980, letters were sent to appropriate Federal agencies, local governments, and/or other interested parties notifying them of the proposal and soliciting their comments and suggestions. The only official respondents were the Florida Department of Natural Resources and the National Marine Fisheries Service.

Summary of Comments and Recommendations

Three petitions containing 266, 91, and 52 signatures, respectively, in support of the proposal were received during the comment period. One petition received contained 65 signatures requesting that the Service refrain from imposing additional restrictions in Crystal River.

Aside from the petitions, the Service has received a total of 31 comments. Of these, 20 were submitted by individuals primarily from the local area around Crystal River, one was submitted by an attorney representing a landowner asserting ownership claims within one sanctuary, and eight were submitted by conservation, humane, or environmental groups. One comment was received from the State Department of Natural Resources and one comment was received from the National Marine Fisheries Service.

Only a few specific recommendations were made in these comments, and where pertinent are discussed below. None of these recommendations has been adopted.

Of the 20 individuals submitting comments, 18 were in support of the proposal. One homeowner on Kings Bay commented that manatees could be better protected by year around regulations of boat speeds and that "herding" of manatees into the sanctuaries is not beneficial to them. The Service has found that the manatees congregate in Kings Bay during the winter months near the warm springs and thus are susceptible to boating hazards. In addition, harasment by swimmers and divers is a significant disturbance factor. The sanctuary will provide an area free of disturbance to the manatee. The effects on the manatees' normal habits for the periods they may seek refuge will be studied by the Service. Another homeowner on the Bay was opposed to the establishment of sanctuaries in Kings Bay because of the high demand for human water-related activities. The Service did not include all the warm springs in the area, only those most critical to the manatee. Waterborne activities are only affected in the sanctuary area during the winter. This area is a small portion of the total available area.

The attorney opposing the sanctuaries on behalf of his client commented that his client owned property within the proposed Banana Island Sanctuary. The Service is aware of this claim and will resolve the question of ownership prior to the posting of the boundaries of this sanctuary.

Of the environmental groups, Defenders of Wildlife and the Monitor consortium supported the proposal. They both commented that the Main Spring in Kings Bay should also be established as a sancutary for manatees. The Service feels that the three sanctuaries, as proposed, will be sufficient to offer protection to manatees. However, these sanctuaries will be evaluated periodically and the reactions of manatees to the sanctuaries will be documented so that future needs of the manatee can be accommodated if necessary.

Defenders also commented that the Service should establish a boundary of PVC pipe at the Magnolia Springs Sanctuary similar to the boundaries to be established for the other two sanctuaries. The Service believes that signs marking the boundaries of the Magnolia Springs Sanctuary will be adequate, coupled with regular patrol by law enforcement officers, to prevent trespass, particularly since this area is located in a canal blocked at one end by a bridge and therefore has no boat through-traffic.

The Clean Environment Consistent With Property Rights, Inc. commented that speed limits were effective and did not favor the closing of public waters to the public. They also opposed government restrictions and use of private property without providing just compensation. The issue of boat speeds was previously addressed. The Service believes the regulations are needed to prevent harassment in the definition of "take" as defined by the Endangered Species Act of 1973 (16 USC 1532(19)) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(13)); these regulations are consistent with both Acts. The Service is again aware of claims and will resolve the question of ownership prior to posting of the sanctuary boundaries.

Letters of support for the proposal were also received from: National Audubon Society, Southeastern Florida Office; Florida Audubon Society; Orange Audubon Society; Citrus County Audubon Society; Animal Protection Institute of American and Humanitarians of Florida, Inc.; Florida Department of Natural Resources; and the National Marine Fisheries Service.

After a thorough review and consideration of all the available information, this rule establishes the manatee protection areas in Kings Bay, Crystal River, Florida as previously proposed pursuant to the provisions of Title 50, Chapter I, Subchapter B, Part 17, Subpart J. This action is taken under the authority of the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and 50 CFR 17.103.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Jacksonville Area Office, 15 North Laura Street, Jacksonville, Florida 32202, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Primary Author

The primary authors of this rule are Jim Baker, Jacksonville Area Office, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, 904/791–2267, and Robert R. Prather, Senior Resident Agent, U.S. Fish and Wildlife Service, 2639 N. Monroe Street, Box 56, Tallahassee, Florida 32303, 904/386–8079.

Regulations Promulgation

Accordingly Title 50, Chapter I, Subchapter B, Part 17, Subpart J, subsection 17.108, List of Designated Manatee Protection Areas, is amended by adding the following:

§ 17.108 List of Designated Manatee Protection Areas.

(a) *Manatee Sanctuaries.* The following areas are designated as manatee sanctuaries. All waterborne activities are prohibited in these areas during the period November 15–March 31 of each year. The areas which will be posted are described as follows:

(1) That part of Kings Bay, Crystal River, Citrus County, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N–1,653,459/E–308,915) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay near the southwest corner of Lot 9 as accepted on a plat by the Department of the Interior, General Land Office, dated January 10, 1928; thence easterly, along said shoreline, approximately 1240 feet to Corner 2 (N–1,653,762/E/309,641) a point; thence S. 56°58′11″ W., across open water, 776.49 feet to Corner 3 (N–1,653,339/E–308,990) a point; thence N. 32°03′07″ W., across open water, 142.26 feet to the point of beginning, containing 3.41 acres, more or less, to be known as the Banana Island Sanctuary.

(2) That part of Kings Bay, Crystal River, Citrus County, Florida, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N–1,652,684/E–309,396) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay, said point being the northwest corner of Lot 31 Sunset Shores Addition to Woodward Park (Plat Book 2, page 140 Citrus County Property Appraiser's Office); thence N. 35°05′33″ W., across open water, 439.10 feet to Corner 2 (N–1,653,043/E–309,144) a point; thence N. 67°23′28″ E., across open water, 873.45 feet to Corner 3, a point on the shoreline of Kings Bay said point also being a corner in the northerly boundary line of Lot 21 in said subdivision; thence southwesterly along said shoreline and the northerly boundary of Lots 21–31, including a canal, approximately 920 feet to the point of beginning, containing 5.62 acres, more or less, to be known as the Sunset Shores Sanctuary.

(3) That part of Crystal River, Citrus County, Florida, within the Springs O'Paradise subdivision, T. 18 S., R. 17 E., Tallahassee Meridian; located in SE¼ and SW¼ fractional section 21 and NE¼ fractional section 28, more particularly described as follows:

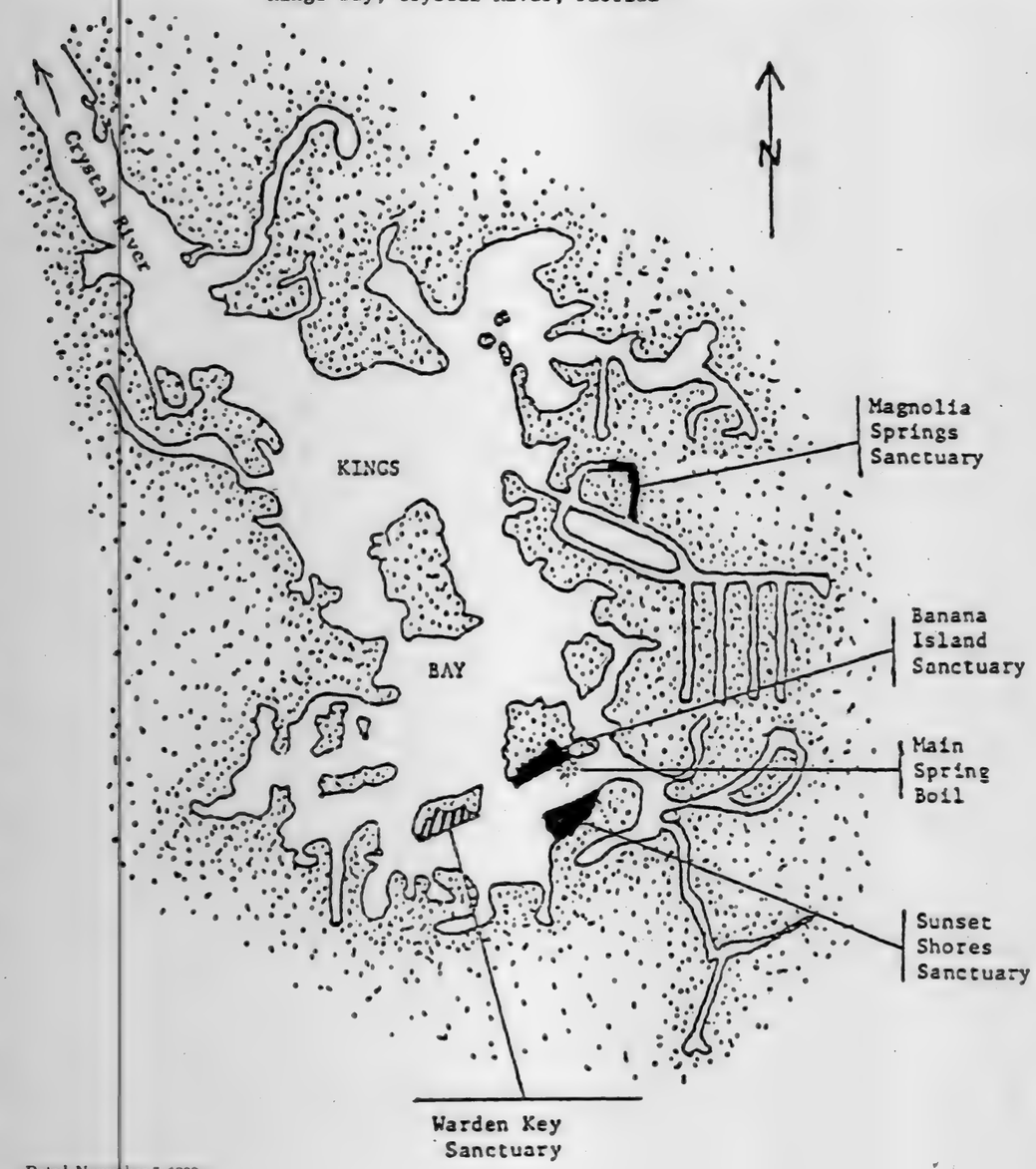
Beginning at Corner 1, the southeast corner of Lot 3 Paradise Isle Subdivision (Plat Book 3, page 88 Citrus County Property Appraiser's Office); thence N. 89°48′30″ E. along an extension of the south line of said Lot 3, across Spring Run, approximately 120 feet to Corner 2, a point in the line of mean high water on the east side of Spring Run; thence northerly along said mean high water line approximately 500 feet to Corner 3, a point in the line of mean high water on the north side of Caspian Canal; thence westerly along said mean high water line approximately 300 feet to Corner 4, a point on the east side of the S.W. 1st Court bridge; thence south along said bridge approximately 50 feet to Corner 5, a point in the line of mean high water on the south side of Caspian Canal; thence easterly along said mean high water line approximately 200 feet to Corner 6, a point in the line of mean high water on the west side of Spring Run; thence southerly along said mean high water line approximately 400 feet to the point of beginning, containing 1.70 acres, more or less, to be known as the Magnolia Springs Sanctuary.

(b) *Exception for Residents*

Boat access to private residences, boat houses, and boat docks through these sanctuaries by the residents and their authorized guests is permitted. Any such authorized boating activity must be conducted by operating motorboats at idle speed/no wake. Residents' boats will be identified by the placement of a sticker provided by the Fish and Wildlife Service in a conspicuous location on each boat. Use of the waters within the sanctuaries by boats will be only for the purpose of access to residences and the storage of such boats in waters adjacent to residences.

V 45 NO 012 80 UMI

MANATEE SANCTUARIES
Kings Bay, Crystal River, Florida



Dated: November 5, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-35198 Filed 11-10-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 N 0 12 80 UMI

federal register

Wednesday
November 12, 1980

Part VII

Environmental Protection Agency

Hazardous Waste Management System; Identification and Listing of Hazardous Waste—Finalizing the Lists of Hazardous Wastes (§§ 261.31 and 261.32) and Proposal To Amend § 261.32

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 1664-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule and interim final rule.

SUMMARY: Pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Environmental Protection Agency (EPA) today is finalizing the listings of eighty hazardous wastes from nonspecific sources (§ 261.31) and specific sources (§ 261.32). These listings were proposed and promulgated in interim final form in the **Federal Register** on May 19, 1980 (45 FR 33123–33127, 33136–33137). In addition, EPA is deleting four wastes from its interim final hazardous waste list,* and deferring final action on two wastes listed in interim final form on May 19, 1980, and on three wastes proposed for listing on May 19.

EPA also is finalizing Appendices VII and VIII to this Part. These appendices list, respectively, the toxic constituents of concern in each listed waste, and the toxic constituents whose presence in a waste is sufficient cause to list a waste as hazardous unless mitigated by other factors enumerated in § 261.11(a)(3).

Finally, EPA is clarifying § 261.30(d) of the regulations to indicate more clearly that the Agency may in the future establish lower small quantity generator exclusion limits for certain hazardous wastes listed in §§ 261.31 and 261.32.

DATES: Effective Dates: Waste listings promulgated in interim final form on May 19, 1980 which are finalized today become effective on November 19, 1980.

Waste listings which were proposed on May 19 for inclusion in the hazardous waste lists, become effective on May 12, 1981.

See Supplementary Information for further details.

ADDRESSES: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. See Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–9187.

SUPPLEMENTARY INFORMATION:

Dates

Waste listings promulgated in interim final form on May 19, 1980 which are finalized today become effective on November 19, 1980. Wastes in this category are § 261.31 Hazardous Waste Nos. F001–012, F014–015, F019 and § 261.32 Hazardous Waste Nos. K002–011, K013–034, K036–052, K060–062, and K064–069.

Waste listings which were proposed on May 19 for inclusion in the hazardous waste lists (§ 261.32), become effective on May 12, 1981. Wastes in this category are distillation light ends from the production of phthalic anhydride from ortho-xylene (Hazardous Waste No. K093), distillation bottoms from the production of phthalic anhydride from ortho-xylene (Hazardous Waste No. K094), distillation bottoms from the production of 1,1,1-trichloroethane (Hazardous Waste No. K095), heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane (Hazardous Waste No. K096), vacuum stripper discharge from the chlordene chlorinator in the production of chlordane (Hazardous Waste No. K097), untreated process wastewater from the production of toxaphene (Hazardous Waste No. K098), untreated wastewater from the production of 2,4–D (Hazardous Waste No. K099), and waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting (Hazardous Waste No. K100).

For those waste listings promulgated in interim final form on May 19 which are not being finalized, the effective date is still November 19, 1980. These waste listings take effect as interim final regulations. Wastes in this category are bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol (§ 261.32 Hazardous Waste No. K001), and wastewater treatment sludges generated in the production of creosote (§ 261.32 Hazardous Waste No. K035).

Compliance Dates:

a. Notification

1. Finalized Waste Listings Promulgated in Interim Final Form on May 19, 1980

Persons who generate, transport, treat, store, or dispose of any hazardous waste listed in interim final form on May 19, 1980, which waste listing is now being finalized in substantively unaltered form are not required to notify as a result of today's action. We do not consider such action to be a "revision" of the Section 3001 regulations within the meaning of Section 3010(b). All such persons of course, should have already notified by or before August 18, 1980.

There is one possible exception. We have altered the listing description of § 261.32 hazardous waste No. K027 ("centrifuge and distillation residues from toluene diisocyanate production") to indicate clearly that wastes from both the centrifuge and distillation columns are included within the scope of the listing. Although we believe that the listing background document clearly reflected our intent to include both types of residues, we recognize that some persons generating only distillation column residues from this process may not have notified based on the May 19, 1980 listing description. We do not intend to penalize any such individual for failure to notify. Therefore, any person generating, transporting, treating, storing, or disposing of distillation column residues from toluene diisocyanate production who has not already notified EPA should now do so. (As explained below, we also do not intend to bar such persons from eligibility for interim status.)

One further clarification. The Agency has added one new listing description in its final list of hazardous wastes from nonspecific sources (§ 261.31), namely "wastewater treatment sludges from the chemical conversion coating of aluminum" (Hazardous Waste No. F019). This waste previously was included within the scope of § 261.31 Hazardous Waste No. F006, which listing was promulgated in interim final form on May 19, 1980. Persons who generate, transport, treat, store, or dispose of waste F019 are not required to notify as a result of today's action. Such persons should already have notified the Agency that they handle waste F006.

2. Finalized Waste Listings Which Were Proposed on May 19, 1980

Persons who generate, transport, treat, store, or dispose of wastes which were proposed for listing on May 19, 1980, which are today being finalized (§ 261.32, wastes K093–100), are not required to notify so long as they previously notified the Agency that they handle a hazardous waste and received an I.D. number.* Persons who have not previously notified EPA and who now generate or handle these wastes must now notify EPA of their activities under Section 3010 no later than February 10, 1981. Notification instructions are set forth in 45 FR 12746 (February 26, 1980).

3. Waste Listings Taking Effect as Interim Final Regulations

Persons who generate, transport, treat, store, or dispose of wastes which were promulgated in the May interim final list and are taking effect as interim final regulations (namely § 261.32 Hazardous Waste Nos. K001 and K035) are not required to notify again since all such persons should have already notified by or before August 18, 1980.

b. Other Compliance Dates

Beginning on November 19, 1980, persons handling wastes listed in final or interim final form in §§ 261.31 and 261.32 which listings were promulgated in interim final form on May 19, 1980, must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124.

Beginning on May 12, 1981, persons handling wastes listed in final form in §§ 261.31 and 261.32 which were proposed for inclusion on May 19, 1980 must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124.

The owners or operators of all existing hazardous waste management facilities which treat, store or dispose of wastes listed in these regulations which were proposed for inclusion on May 19, 1980, and who wish to qualify for interim status under Section 3005(e) of RCRA, must file a notification by February 10, 1981, unless they have notified previously (as described in a. 2. above), and must file a permit application by May 12, 1981 (see 40 CFR § 122.23(a) (1) and (2)).

Owners or operators of facilities who have qualified for interim status and wish to manage wastes listed in the final regulations which wastes were proposed for listing on May 19, 1980 must submit an amended permit application by May 12, 1981 (see 40 CFR § 122.23(c)(1)). Owners or operators of facilities with interim status who do not comply with these requirements are precluded from managing these wastes after May 12, 1981.

Persons handling distillation residues from toluene diisocyanate production (§ 261.32 Hazardous Waste No. K027) who have not notified the Agency of their activities, and (in the case of existing facilities) have not filed a permit application, and who failed to take these actions due to reliance on the listing description of this waste which was promulgated on May 19, 1980, must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124 by May 12, 1981.

The owners or operators of existing facilities which treat, store, or dispose of this waste which have not already qualified for interim status and who wish to qualify for interim status, must file a notification by February 10, 1981, provided that the failure to notify and file a permit application was due to reliance on the listing description of this waste which was promulgated on May 19, 1980.

Address Information Continued

Among other things, the docket will contain background documents which explain, in more detail than the preamble to this regulation, the basis for many of its provisions. These background documents are not available immediately but are expected to become available within the next two weeks. The Agency believes it important to provide notice on the final waste listings to the regulated community as soon as possible before November 19, 1980 and so is publishing this regulation slightly in advance of the availability of revised background documents.

I. Finalization of §§ 261.31 and 261.32 Hazardous Waste Lists

On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes (Subpart D of Part 261) which included 85 wastes from manufacturing processes (§§ 261.31 and 261.32, 45 FR 33123–33124). These lists were published in interim final form to allow the public an opportunity to comment on additional data the Agency had collected on these wastes since the close of the initial public comment period on the proposed Subtitle C regulations (43 FR 58957–58959, December 18, 1978).

At the same time, the Agency also proposed for comment eleven additional hazardous waste listings (45 FR 33136–33137, May 19, 1980). All of these wastes were identified by the Agency in the course of developing the necessary technical data to support the May 19, 1980, interim final hazardous waste list.

The Agency received a large number of comments on both the interim final and proposed hazardous waste listings. We have evaluated these comments carefully and responded in detail in the respective listing background documents. We are setting forth in this preamble our disposition of the listings published in interim final and proposed form on May 19, 1980 and also summarizing the basis for our actions as to each of these listings.

A. Wastes for Which No Comments Were Received and No Changes Were Made to the Hazardous Waste Listings or Respective Background Documents

No comments were received on thirty-five of the hazardous waste listings published on May 19, 1980. In addition, the Agency is not making any substantive changes to either the hazardous waste listings or to the respective background documents as a result of its evaluation of these listings. Included in this category are wastes from the production of organic chemicals, pesticides, explosives, ferrous and nonferrous metals, and wastes from the petroleum refining industry. We therefore are promulgating all of these listings as final regulations.*

B. Wastes for Which Modifications Were Made to the Respective Listing Background Documents as a Result of Independent Agency Re-Evaluation

For sixteen other hazardous waste listings, the Agency decided to revise

*Seven additional wastes promulgated in interim final form on May 19, 1980 were removed from the list of hazardous wastes on October 30, 1980 (45 FR 72037).

*Our authority for this action is the recent amendment to Section 3010(a) of RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (P.L. 96–452, (October 21, 1980)), which amendment leaves the requirement for notification following revision of the Section 3001 regulations to the discretion of the Administrator.

*No comments were received challenging the hazardousness of certain wastes generated during primary copper, lead, and zinc production (Hazardous Waste Nos. K064–068). However, challenges have been raised as to the Agency's authority to regulate these wastes as well as certain wastes from metal recovery operations (Hazardous Waste Nos. F013–015), based upon a recent amendment to RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96–452 (October 21, 1980)) which prohibit EPA from regulating, under Subtitle C of RCRA, solid wastes from the extraction, beneficiation and processing of ores and minerals until certain studies and rulemaking are completed. The Agency is uncertain about whether the scope of the statutory amendment covers the aforementioned listed wastes. Therefore, it is going ahead with the finalization of these listed wastes in this action, but with the understanding that, in a separate rulemaking action, it might void these final listings, in whole or in part, by promulgation of an exclusion under § 261.4(b) to implement the statutory amendment.

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the respective listing background documents largely as a result of our own re-evaluation of these documents, rather than because of public comment. The substantive points addressed in the revised background documents are: (1) retention of chromium as a hazardous waste constituent, (2) removal of chemical tars as a hazardous waste constituent, and (3) removal of quinones as a hazardous waste constituent. No wastes were deleted from the hazardous waste list due to these revisions, but chemical tars and quinones have been deleted as constituents of concern from a number of these waste streams.

(1) *Retention of Chromium as a Hazardous Waste Constituent*—In a previous rulemaking action, the Agency has indicated that its principal regulatory concern in regulating chromium-bearing wastes under the hazardous waste management program is hexavalent chromium rather than total chromium (see 45 FR 72029, (October 30, 1980)). In that action, we proposed to amend the characteristic of EP toxicity to apply to hexavalent chromium rather than total chromium, temporarily excluded certain trivalent chromium-containing wastes from Subtitle C regulation, and deleted (from § 261.32) wastes from the leather tanning and finishing industry and from the production of titanium dioxide by the chloride process.

In taking these actions, we also reviewed all of the other interim final and proposed waste listings which listed chromium as a waste constituent of concern, and re-evaluated these wastes to determine if they should continue to be listed due to the presence of chromium. These chromium-containing wastes are generated in electroplating operations (§ 261.31 Hazardous Waste No. F006), in the manufacture of inorganic pigments (§ 261.32 Hazardous Waste Nos. K002–K008), in petroleum refining operations (§ 261.32 Hazardous Waste Nos. K048–K051), in the iron and steel industry (§ 261.32 Hazardous Waste Nos. K061–K063), and in secondary lead smelting (§ 261.32 Hazardous Waste No. K069 and a proposed listing). The Agency has concluded that all of these chromium-bearing wastes should continue to be listed as hazardous due to their chromium content because all derive from processes which use or produce a waste which contains hexavalent chromium, and all are expected to contain significant concentrations of hexavalent chromium. The basis for this conclusion is explained in the preambles to our respective interim final and final actions dealing with chromium (*see* 45 *FR* at 72035–72039) (October 30, 1980). We also have revised the respective listing background documents to indicate why we believe these wastes contain hexavalent chromium in significant concentrations.*

(2) *Removal of Chemical Tars as a Toxic Constituent*—The Agency listed chemical tars as hazardous constituents of concern in three waste streams: distillation light ends and distillation bottoms from the production of phthalic anhydride from naphthalene (Hazardous Waste Nos. K023 and K024), and centrifuge and distillation residues from toluene diisocyanate production (Hazardous Waste No. K027). In re-evaluating the toxicity of chemical tars, the Agency believes that insufficient data is currently available to consider chemical tars as suspect carcinogens or otherwise toxic. Therefore, the Agency has removed chemical tars as a constituent of concern for these waste streams. We also have deleted chemical tars as constituents from Appendix VII to Part 261, and from the list of toxic chemical constituents in Appendix VIII to Part 261.

(3) *Removal of Quinones as a Hazardous Waste Constituent*—The Agency listed quinones as a hazardous constituent of concern in waste stream No. K094 (distillation bottoms from the production of phthalic anhydride from ortho-xylene). In re-evaluating the toxicity of these compounds, the Agency believes that insufficient data is currently available regarding the acute and chronic effects of the higher molecular weight quinones and their derivatives to support designating them as toxic constituents of a waste. The Agency would only expect to find the higher molecular weight quinones in Waste K094, based on the process chemistry. Therefore, the Agency has removed quinones as a constituent of concern for this waste stream. We also have deleted quinones as a constituent from Appendices VII to Part 261, and from the list of toxic chemical constituents in Appendix VIII to Part 261.

Existing toxicological data do, however, support the listing of benzoquinone and isomers, and these compounds will therefore be added to Appendix VIII of Part 261. Since the Agency's health effects document on quinones (Appendix A to the hazardous waste listing background documents) described the toxic effects of these compounds, we are not reproposing their inclusion.

C. Wastes for Which Comments Were Received But No Changes Were Made to the Hazardous Waste Listings

The Agency received comments disputing the hazardousness of or challenging aspects of the Agency's rationale for listing certain wastes from iron and steel manufacture (§ 261.32 Hazardous Waste No. K062), and from the production of acrylonitrile (Hazardous Waste Nos. K011, K013, K014), carbon tetrachloride (Hazardous Waste No. K016), epichlorohydrin (Hazardous Waste No. K017), ethyl chloride (Hazardous Waste No. K018), ethylene dichloride and vinyl chloride (Hazardous Waste Nos. K019–K020), fluoromethanes (Hazardous Waste No. K021), phenol/acetone from cumene (Hazardous Waste No. K022), 1,1,1-trichloroethane (Hazardous Waste Nos. K028–K029), 2,4,5-T (Hazardous Waste No. K042), 2,4-D (Hazardous Waste No. K043), explosives (Hazardous Waste Nos. K044–K045 and K047), and certain spent halogenated and non-halogenated solvents and the still bottoms from the recovery of these solvents (Hazardous Waste Nos. F001–F004). In evaluating these comments, the Agency did not agree with the substantive criticisms, and did not modify the listing description or the constituents which form the basis for listing the waste.* The applicable background documents now have been revised to respond to each comment.**

D. Wastes for Which Comments Were Received Which Resulted in Modifications to the Hazardous Waste Listings and to the Applicable Background Documents

Comments also were submitted on § 261.31 hazardous wastes F005, F006, F007–F012 and § 261.32 hazardous wastes K027 and K061. EPA has carefully reviewed these comments and concluded that the listing description or basis for listing (or both) should be changed. These amended hazardous waste listings are discussed below. More detailed discussion of the reasons for amending the listings or the basis for listing is contained in the applicable background documents.

(1) *Spent Non-Halogenated Solvents (Hazardous Waste No. F005)*—In our listing of spent non-halogenated solvents and still bottoms from the recovery of those solvents, we listed the solvents methanol and methyl isobutyl ketone as both toxic and ignitable. After reviewing the comments, we now believe that these solvents were erroneously listed as toxic. Methanol has a very low oral toxicity (Sax, N. Irving, *Dangerous Properties of Industrial Materials*, Fifth edition, Van Nostrand Reinhold Co., 1979) and in fact is a government-approved food additive. The principal chronic effects of methyl isobutyl ketone are eye and throat irritation and gastrointestinal upset. The Agency, therefore, will no longer list either solvent as a toxic waste. However, spent methanol and spent methyl isobutyl ketone will continue to be listed as ignitable wastes under Hazardous Waste No. F003 (rather than F005), since both are highly flammable.

(2) *Wastewater Treatment Sludges from Electroplating Operations (Hazardous Waste No. F006)*—A number of commenters argued that the listing "wastewater treatment sludges from electroplating operations" was overbroad, including a number of processes which would not generate a hazardous waste because the hazardous waste constituents of concern—chromium, cadmium, nickel and cyanides—are not used in these processes and thus would not be expected to be present in the sludges.

The Agency agrees with these commenters and has therefore modified this listing to exclude wastes generated by the following electroplating processes: (1) tin plating on carbon steel, (2) zinc plating (segregated basis) on carbon steel, (3) aluminum or zinc-aluminum plating on carbon steel, (4) all cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, (5) sulfuric acid anodizing of aluminum, and (6) chemical etching and milling of aluminum.

The Agency also made one further change to the listing of electroplating wastewater treatment sludges. Certain comments challenged the listing of wastewater treatment sludges from the chemical conversion coating of aluminum. We disagree, largely because this plating process is both cyanide and hexavalent chromium-based. However, we believe that these sludges will not contain cadmium and nickel, two of the constituents of concern in other listed electroplating wastewater treatment sludges. We therefore are adopting in final form a separate listing designation for wastewater treatment sludges from the chemical conversion coating of aluminum (Hazardous Waste No. F019) and indicating in Appendix VII that the waste constituents of concern are complexed cyanides and hexavalent chromium.

(3) *Spent Waste Cyanide Solutions and Sludges (Hazardous Waste Nos. F007–F012)*—A number of commenters have indicated that the Agency, in listing wastes F007 to F012, inadvertantly included wastes generated by processes that do not use cyanide salts or complexes, the sole constituent of concern for these wastes.*

In determining to list these wastes, the Agency intended only to include wastes that may contain cyanide salts or complexes because cyanide compounds are used in the process generating these wastes. Therefore, the hazardous waste listing description has been modified to make it clear that only those processes which use cyanide salts or complexes are covered by the listing.

We also received comments that solutions and sludges from precious metals electroplating and metal heat treating operations presently included within the scope of Hazardous Waste Nos. F007–F012 are not solid wastes because they are not "sometimes discarded" within the meaning of § 261.2 of the regulations. These solutions and sludges are instead always sent to metal recovery operations due to the value of the contained precious metals.

We agree with the commenter that these materials are not "solid wastes" under the current definition. We therefore are revising our listing description of wastes F007 to F012 to exclude solutions and sludges specifically generated by precious metals electroplating and metal heat treating operations.*

(4) *Wastes from the Production of Toluene Diisocyanate (Hazardous Waste No. K027)*—a. *Clarification of Listing*—One commenter indicated that the listing of "Centrifuge residue from toluene diisocyanate production" needed clarification since the listing background document described both centrifuge and distillation residues as hazardous wastes, while the waste listing description in § 261.32 specified only centrifuge residues.

The Agency agrees that a clarification is needed, and has amended the final listing description to clarify that wastes generated from both centrifuge and distillation units in the production of toluene diisocyanate are included. We believe that the original listing background document clearly reflected our intent to include residues from both centrifuge and distillation columns (since the wastes appear to be virtually identical in composition as explained in the initial listing background document), and therefore are not reproposing any aspect of this listing.

b. *Deletion of Certain Bases for Listing*—We are deleting chemical tars (benzidimidazapone) as a waste constituent of concern because of insufficient data as to their toxicity.

(5) *Emission Control Dust/Sludge from Electric Furnace Steel Production (Hazardous Waste No. K061)*—One commenter indicated that it is unclear if the listing of "Emission control dust/sludge from the electric furnace production of steel" applied only to primary steel production or to both primary steel producers and to foundries using steel scrap in their electric furnace production.

In listing this waste stream, we intended only to include wastes from primary steel production. This intent is reflected in the listing background document, which refers throughout to primary steel production. We are uncertain whether foundry electric furnace emission control dusts and sludges are sufficiently similar in composition to warrant inclusion in the same listing, so we are evaluating the protential hazardousness of foundry industry wastes in separate actions. (*See* 44 *FR* at 49404 (August 22, 1979), and 45 *FR* 47836 (July 16, 1979) (proposing various waste streams from the foundry industry).)

E. Wastes for Which Comments Were Received Which Resulted in Deletion of the Wastes From the Hazardous Waste List

Certain of the wastes listed in interim final form were deleted from the list as a result of industry comment. Our basis for removing these wastes are discussed below and in the respective listing background documents. It must be emphasized, however, that it is still the responsibility of the generator of these wastes to evaluate the wastes to see if they exhibit any of the characteristics of hazardous waste.

(1) *Flotation Tailings From Selective Flotation From Mineral Metals Recovery Operations (§ 261.31*

*As explained later in this preamble, however, some of these wastes are being deleted from the hazardous waste list for reasons other than whether they contain trivalent or hexavalent chromium.

*The various listing descriptions of spent solvents (Hazardous Wastes Nos. F001–004) have, however, been amended to correct grammatical errors. The listing description of waste F005 is being amended similarly.

**A summary of our responses are not possible here due to the number and diversity of comments.

*This same comment was also made for Hazardous Waste No. F013, "Flotation tailings from selective flotation from mineral metals recovery operations." In response to other comments, however, this particular listing has been deleted from the hazardous waste list. See Section E for a more detailed discussion.

*We note, however, that we may in the future revise the definition of solid waste (§ 261.2), and that these materials may be included as solid wastes under a revised definition. Should the definition be amended so as to include this type of material, we do not intend to repropose a hazardous waste listing, since this listing has already been proposed and promulgated in interim final form, and the opportunity for public comment has been utilized fully.

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Hazardous Waste No. F013)—In response to comments, the Agency has removed waste F013 from the hazardous waste list. It appears that the Agency overestimated the amount of complexed cyanides present in the waste. Specifically, reliable analytical data indicate that concentrations of complexed cyanides in this waste stream are very low and are present in a stable form, so that migration of free cyanides from this waste is unlikely to occur, and in any case would be quite unlikely to occur in significant concentrations. We thus do not believe that this waste would pose a substantial hazard to human health and the environment if improperly managed.

(2) *Dewatered Air Pollution Control Scrubber Sludges from Coke Ovens and Blast Furnaces (§ 261.31 Hazardous Waste No. F016)*—In response to comments, the Agency also has removed waste F016 from the hazardous waste list. As with flotation tailings, the Agency overestimated the amount of complexed cyanides contained in these wastes. Data also indicate that the cyanide present in this waste stream has low migratory potential. Therefore, the Agency does not believe that this waste, if improperly managed, would be capable of presenting a substantial hazard to human health and the environment.

(3) *Still Bottoms from the Final Purification of Acrylonitrile in the Production of Acrylonitrile (§ 261.32 Hazardous Waste No. K012)*—In re-assessing the ultimate disposition of this particular waste, the Agency has learned, after contacting all the producers of acrylonitrile, that this by-product is always used as an intermediate product in the manufacturing process. It therefore is not a solid waste, as that term currently is defined (see § 261.2(c)(3)). Therefore, waste K012 has been removed from the hazardous waste list.*

(4) *Sludge from Lime Treatment of Spent Pickle Liquor from Steel Finishing Operations (§ 261.32 Hazardous Waste No. K063)*—We have decided to revise our regulatory approach to this waste stream. Several comments indicate that this waste may not be hazardous, particularly if the lime treatment process is conducted effectively. At the same time, however, insufficient data was submitted to warrant a conclusion that these wastes will typically and frequently not be hazardous. Our concern is that these wastes derive from a hazardous waste (spent pickle liquor from steel finishing (K062)) which may contain high concentrations of lead and chromium. These heavy metals not only will be present in the treated sludge, but will be found there in even more concentrated form. Since the waste is generated in large volumes, the potential for hazard appears substantial if uncontrolled leaching occurs. A number of damage incidents caused by improperly neutralized spent pickle liquor treatment sludges bear out our concern.

Under these circumstances, we have decided that these waste sludges still should be regulated as hazardous, but to delete these wastes from the hazardous waste list, and instead to rely on the provisions of § 261.3 to bring these wastes within the hazardous waste management system. Since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they are considered to be hazardous wastes (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous waste and are delisted (§ 261.3(d)(2)).

The delisting provision (§ 260.22) requires petitioners to consider a range of factors in showing why a waste does not meet the criteria for listing contained in § 261.11(a)(3). Since our chief concern with these lime treatment sludges is whether they will leach significant concentrations of lead and chromium, we will consider delisting petitions for these wastes to be adequate if petitioners show that concentrations of lead and chromium in EP waste extracts are significantly less than the maximum concentration levels for lead and chromium contained in § 261.24, without requiring consideration of the other delisting factors. We also will consider an industry-wide rulemaking petition to exclude these wastes from RCRA Subtitle C jurisdiction if industry presents representative data showing the wastes are not hazardous.*

F. Wastes for Which No Final Action Will Be Taken By November 19, 1980

Five of the wastes listed in interim final and proposed form will not be finalized before the effective date of the regulations (November 19, 1980). Included are wastes generated from the wood preserving industry, wastes from the production of creosote, and wastes from the production of methomyl. Our reasons for delaying final action on these waste listings are discussed below:

(1) *Wastes From the Wood Preserving Industry (§ 261.32 Hazardous Waste No. K001 and a proposed listing)*—The American Wood Preservers Institute argued that the listing of wastes generated from the wood preserving industry (bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol (Hazardous Waste No. K001) and wastewater from wood preserving processes that use creosote and/or pentachlorophenol (a proposed listing)), was not adequately supported by the available data and argued further that regulation of these wastes should be deferred pending completion of the Agency's Rebuttable Presumption Against Registration (RPAR) evaluation of creosote and pentachlorophenol.

With respect to the proposed listing of process wastewater, we have decided not to finalize this listing in order to take more time to evaluate data contained in industry comments. With respect to the interim final listing of wastewater treatment bottom sediment sludges, the Agency believes this listing is supported by our present data. EPA also does not believe it should defer regulation of these wastes under RCRA until completion of the RPAR process, since that process is conducted pursuant to a statutory standard different from RCRA's, and moreover does not consider the composition of wood preserving manufacturing process wastes or their potential to cause substantial hazard if mismanaged.

We have decided, however, to allow additional opportunity for comment on the interim final listing of bottom sediment sludges (as well as on the proposed listing of process wastewater). Since the close of the comment period, the Agency has identified additional data which we believe further supports and strengthens our position. We have revised the listing background document to incorporate this informaton as well as additional information on process wastewater. In order to get the benefit of industry comment, we are re-opening the comment period on this additional data and on the revised listing background document.

The listing of bottom sediment wastewater treatment sludges will still take effect on November 19, 1980 as an interim final regulation. We see no prejudice in this action since the industry has had (and utilized) several opportunities for comment, and we believe that the additional data further supports the listing of waste stream K001. As stated above, the proposed listing of process wastewater will not be finalized at this time, and so will not become effective until finalized.

(2) *Wastes from the Production of Creosote (§ 261.32 Hazardous Waste No. K035 and a proposed listing)*—One commentor argued that many of the statements made in the listing background document on creosote production applied to unlisted waste streams or reflected incorrect information regarding the production process. In evaluating these comments, we now believe it more appropriate to speak of an integrated coke oven production process, of which the listed waste stream, wastewater treatment sludge from creosote production, is one of the integrated process wastes. We intend to propose in the near future an expanded listing to include wastes from by-product coke making production. At the same time, however, we believe that the listing background document, as revised to respond to comments, adequately supports the listing of creosote production wastewater treatment sludges, and we therefore are allowing this listing to take effect on November 19, 1980 as an interim final regulation.

We are evaluating more data concerning the proposed listing of creosote production process wastewater, and believe tentatively that this waste stream is more accurately viewed as part of an integrated production process. We therefore will not finalize our proposal at this time.

(3) *Wastewater From the Production of Methomyl (proposed listing)*—The two manufacturers of methomyl objected to the inclusion of this waste stream in the hazardous waste list. Among other things, they argued that methomyl, a principal constituent in the waste and the primary basis for listing, is not persistent in water, and so is unlikely to remain in process wastewater in significant concentrations.* Since the Agency has not had an opportunity to fully evaluate all of the available data on methomyl's persistence, we have decided to delay final action on this particular listing. The Agency expects to make a final decision on wastes from methomyl production within the next several months.

*As we indicated earlier in this preamble, the Agency is contemplating revising the definition of "solid waste" contained in § 261.2, which may have the effect of making these materials subject to Subtitle C regulation.

*Persons who generate, transport, treat, store or dispose of these lime treatment sludges are not required to notify the Agency of this activity, provided an appropriate notice already was filed with respect to waste No. K063.

*Pyridene and methylene chloride are also included as a basis for listing this waste. However, as a result of comments, the Agency learned that pyridine is not expected to be present in the waste while methylene chloride is only expected to be present in the wastewater from one of the two plants.

II. Finalization of Appendices VII and VIII to Part 261

A. Appendix VII

Appendix VII to Part 261 sets forth the hazardous constituents for which each of the wastes in §§ 261.31 and 261.32 are listed. This appendix has been revised to reflect changes made in the underlying listings, and is being finalized in this revised form.

B. Appendix VIII

Appendix VIII to Part 261 contains a list of chemical constituents which have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. A solid waste will be listed as a toxic hazardous waste if it contains any of these designated constituents, unless, after consideration of a number of factors, the Administrator concludes that the waste is not capable of posing a substantial present or potential hazard to human health or the environment when improperly managed (§ 261.11(a)(3)).

The Agency has received a number of comments on this Appendix which resulted in modifications to the list of toxic constituents, and also has made a number of changes to the listed constituents as a result of independent reevaluation. These changes are summarized below.*

A. Constituents Which Were Inadvertently Omitted From the List of Toxic Constituents

The Agency identified a number of toxic chemicals which were indicated as being toxic either in the respective listing background documents, or in §§ 261.24, 261.33, or Appendix VII to Part 261, but were omitted inadvertantly from Appendix VIII. We are correcting these omissions by adding these toxic constituents to Appendix VIII.

B. Constituents for Which Comments Were Received Which Resulted in the Deletion of the Constitutent From the List of Toxic Constituents

As indicated earlier in this preamble, the Agency has re-evaluated the toxicity of the solvent methanol and methyl isobutyl ketone, and has determined that they should not be listed as toxic wastes. We therefore are deleting methanol and methyl isobutyl ketone from Appendix VIII.

C. Constituents for Which No Comments Were Received But Modifications Were Made To The List of Toxic Constituents

Finally, in reviewing the list of toxic constituents, the Agency has made several minor changes to this list to correct typographical errors, to remove duplications, and to clarify the identity of listed chemicals.

III. Technical Amendment to § 261.30(d)

§ 261.30(d) indicates that certain wastes listed in §§ 261.31 and 261.32 are subject to small quantity limitations less than the 1000 kg per month level established in § 261.5(a). The Agency has not, as yet, designated any such wastes.

A number of commenters found this provision confusing. For purposes of clarification, the Agency is therefore modifying the language of § 261.30(d) to indicate that no wastes presently are subject to this provision, but that wastes listed as acutely hazardous in §§ 261.31 and 261.32 in the future may be subject to lower limitation levels.

IV. The Status of Other Listed Wastes and Wastes Which the Agency Intends to List

To better inform the regulated community, the Agency adds a brief summary to its other listing activity (current and prospective) under the Subpart D regulations. Regulations at issue are the list of 361 commercial chemical products and manufacturing chemcial intermediates in § 261.33 (promulgated in interim final form on May 19, 1980 (45 FR 33124–33126)), the interim final and proposed list of wastes from nonspecific and specific sources published on July 16, 1980 (45 FR 47832–47836), and the wastes mentioned in Appendix B of the May 19, 1980 preamble to the hazardous waste regulations (45 FR 33118–33119) which the Agency indicated would be promulgated in final form by Fall, 1980.

The Agency expects to promulgate final or interim final listings according to the following time table:

A. List of Commercial Chemical Products (§ 261.33)

The Agency expects to finalize the list of commercial chemical products and manufacturing chemical intermediates before the November 19, 1980 effective date of these regulations. We anticipate removing ethylenediamine (Hazardous Waste No. P053), N-nitrosodiphenylamine (Hazardous Waste No. P083), oleyl alcohol condensed with 2 moles ethylene oxide (Hazardous Waste No. P086), and 1,2-

*When the Agency finalizes § 261.33 of the regulations, additional compounds also may be removed from Appendix VIII. However, none of the chemicals which may be deleted from § 261.33 are constituents of wastes listed in §§ 261.31 and 261.32, so we believe it appropriate to wait until we act on § 261.33 to make the corresponding changes to Appendix VIII.

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propanediol (Hazardous Waste No. P100) from the § 261.33(e) and (f) lists. Most questions of interpretation of § 261.33 will be deferred, however, until issuance of a regulatory interpretation memorandum which is expected by the end of the year.

B. List of Additional Hazardous Wastes (July 16, 1980)

The Agency contemplates finalizing these listings in December, 1980. The effective date of these listings is January 16, 1981.

C. Appendix B Listings

Due to other priorities, the Agency will not promulgate these listings by the fall of this year, but does expect to take final action by the Spring of 1981.

V. Economic Environmental and Regulatory Impacts:

In accordance with Executive Order 11821, as amended by Executive Order 11949 and Executive Order 12044, EPA has prepared an Economic Impact Analysis and a Regulatory Analysis of the hazardous waste program promulgated on May 19, 1980. The effect of today's action reduces the overall cost economic impact and reporting and recording impact of EPA's hazardous waste management regulations, since the scope of Subtitle C jurisdiction is being reduced. Since this action will decrease the regulatory impact of the Subtitle C regulatory program, we have not prepared a new Economic Impact Analysis or Regulatory Analysis. The Agency has also voluntarily prepared an Environmental Impact Statement on the program under the National Environmental Policy Act, 42 U.S.C. 4321 et. seq.

Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 261 of the Code of Federal Regulations is finalized as follows:

1. § 261.31 (Hazardous waste from nonspecific sources) is revised to read as follows:

§ 261.31 Hazardous waste from nonspecific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations.	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifuloroethane, ortho-dicholorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents.	(T)
F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.	(I)
F004	The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; and the still bottoms from the recovery of these solvents.	(T)
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents.	(I, T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).	(R, T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).	(R, T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).	(R, T)
F010	Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges).	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).	(R, T)
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).	(T)
F014	Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations.	(T)
F015	Spent cyanide bath solutions from mineral metals recovery operations	(R, T)

2. § 262.32 (Hazardous wastes from specific sources) is revised to read as follows:

§ 262.32 Hazardous wastes from specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Wood Preservation:		
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T) **
Inorganic Pigments:		
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	(T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	(T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments	(T)
K005	Wastewater treatment sludge from the production of chrome green pigments.	(T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	(T)
K007	Wastewater treatment sludge from the production of iron blue pigments	(T)
K008	Oven residue from the production of chrome oxide green pigments	(T)
Organic Chemicals:		
K009	Distillation bottoms from the production of acetaldehyde from ethylene	(T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene	(T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	(R, T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	(R, T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	(T)
K015	Still bottoms from the distillation of benzyl chloride	(T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	(T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	(T)
K018	Heavy ends from the fractionation column in ethyl chloride production	(T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	(T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	(T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production	(T)
K022	Distillation bottom tars from the production of phenol/acetone from cumene	(T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	(T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	(T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	(T) *
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	(T) *
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	(T)
K026	Stripping still tails from the production of methyl ethyl pyridines	(T)
K027	Centrifuge and distillation residues from toluene diisocyanate production	(R, T)
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	(T)
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	(T)
K095	Distillation bottoms from the production of 1,1,1-trichloroethane	(T)*
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	(T)*
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene.	(T)
Pesticides:		
K031	By-product salts generated in the production of MSMA and cacodylic acid	(T)
K032	Wastewater treatment sludge from the production of chlordane	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	(T)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	(T)
K097	Vacuum stripper discharge from the chlordene chlorinator in the production of chlordane.	(T)*
K035	Wastewater treatment sludges generated in the production of creosote	(T)**
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	(T)
K037	Wastewater treatment sludges from the production of disulfoton	(T)
K038	Wastewater from the washing and stripping of phorate production	(T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.	(T)
K040	Wastewater treatment sludge from the production of phorate	(T)
K041	Wastewater treatment sludge from the production of toxaphene	(T)
K098	Untreated process wastewater from the production of toxaphene	(T)*
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5–T.	(T)
K043	2,6-Dichlorophenol waste from the production of 2,4–D	(T)
K099	Untreated wastewater from the production of 2,4–D	(T)*
Explosives:		
K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	(R)
K045	Spent carbon from the treatment of wastewater containing explosives	(R)
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.	(T)
K047	Pink/red water from TNT operations	(R)
Petroleum Refining:		
K048	Dissolved air flotation (DAF) float from the petroleum refining industry	(T)
K049	Slop oil emulsion solids from the petroleum refining industry	(T)
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry	(T)
K051	API separator sludge from the petroleum refining industry	(T)
K052	Tank bottoms (leaded) from the petroleum refining industry	(T)

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Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Iron and Steel:		
K060	Ammonia still lime sludge from coking operations	(T)
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.	(T)
K062	Spent pickle liquor from steel finishing operations	(C, T)
Primary Copper:		
K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.	(T)
Primary Lead:		
K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.	(T)
Primary Zinc:		
K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.	(T)
K067	Electrolytic anode slimes/sludges from primary zinc production	(T)
K068	Cadmium plant leachate residue (iron oxide) from primary zinc production	(T)
Secondary Lead:		
K069	Emission control dust/sludge from secondary lead smelting	(T)
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.	(T)*

*These waste listings take effect on (six months after publication).
**These waste listings take effect on November 19, 1980 as interim final regulations.

3. Appendix VII (Basis of Listing Hazardous Wastes) of Part 261, is revised to read as follows:

EPA hazardous waste No.	Hazardous constituents for which listed
F001	Tetrachloroethylene, methylene chloride trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
F002	Tetrachloroethylene, methylene chloride, trichloro-ethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, trichlorofluoromethane.
F003	NA.
F004	Cresols and cresylic acid, nitrobenzene.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine.
F006	Cadmium, hexavalent chromium, nickel, cyanide (complexed).
F019	Hexavalent chromium, cyanide (complexed).
F007	Cyanide (salts).
F008	Cyanide (salts).
F009	Cyanide (salts).
F010	Cyanide (salts).
F011	Cyanide (salts).
F012	Cyanide (complexed).
F014	Cyanide (complexed).
F015	Cyanide (salts).
K001	Pentachlorophenol, phenol, 2-chlorophenol, p-chloro-m-cresol, 2,4-dimethylphenyl, 2,4-dinitrophenol, trichlorophenols, tetrachlorophenols, 2,4-dinitrophenol, creosote, chrysene, naphthalene, fluoranthene, benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, benz(a)anthracene, dibenz(a)anthracene, acenaphthalene.
K002	Hexavalent chromium, lead.
K003	Hexavalent chromium, lead.
K004	Hexavalent chromium.
K005	Hexavalent chromium, lead.
K006	Hexavalent chromium.
K007	Cyanide (complexed), hexavalent chromium.
K008	Hexavalent chromium.
K009	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.
K010	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.
K011	Acrylonitrile, acetonitrile, hydrocyanic acid
K013	Hydrocyanic acid, acrylonitrile, acetonitrile.
K014	Acetonitrile, acrylamide.
K015	Benzyl chloride, chlorobenzene, toluene, benzotrichloride.
K016	Hexachlorobenzene, hexachlorobutadiene, carbon tetrachloride, hexachloroethane, perchloroethylene.
K017	Epichlorohydrin, chloroethers [bis(chloromethyl) ether and bis (2-chloroethyl) ethers], trichloropropane, dichloropropanols.
K018	1,2-dichloroethane, trichloroethylene, hexachlorobutadiene, hexachlorobenzene.
K019	Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K020	Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K021	Antimony, carbon tetrachloride, chloroform.
K022	Phenol, tars (polycyclic aromatic hydrocarbons).
K023	Phthalic anhydride, maleic anhydride.
K024	Phthalic anhydride, 1,4-naphthoquinone.
K093	Phthalic anhydride, maleic anhydride.
K094	Phthalic anhydride.
K025	Meta-dinitrobenzene, 2,4-dinitrotoluene.
K026	Paraldehyde, pyridines, 2-picoline.
K027	Toluene diisocyanate, toluene-2,4-diamine.
K028	1,1,1-trichloroethane, vinyl chloride.
K029	1,2-dichloroethane, 1,1,1-trichloroethane, vinyl chloride, vinylidene chloride, chloroform.
K095	1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane.
K096	1,2-dichloroethane, 1,1,1-trichloroethane, 1,1,2-trichloroethane.
K030	Hexachlorobenzene, hexachlorobutadiene, hexachloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, ethylene dichloride.
K031	Arsenic.
K032	Hexachlorocyclopentadiene.
K033	Hexachlorocyclopentadiene.
K034	Hexachlorocyclopentadiene.
K097	Chlordane, heptachlor.
K035	Creosote, chrysene, naphthalene, fluoranthene benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, benzo(a)anthracene, dibenzo(a)anthracene, acenaphthalene.
K036	Toluene, phosphorodithioic and phosphorothioic acid esters.
K037	Toluene, phosphorodithioic and phosphorothioic acid esters.
K038	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K039	Phosphorodithioic and phosphorothioic acid esters.
K040	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K041	Toxaphene.
K098	Toxaphene.
K042	Hexachlorobenzene, ortho-dichlorobenzene.
K043	2,4-dichlorophenol, 2,6-dichlorophenol, 2,4,6-trichlorophenol.
K099	2,4-dichlorophenol, 2,4,6-trichlorophenol.
K044	NA.
K045	NA.
K046	Lead.
K047	NA.
K048	Hexavalent chromium, lead.
K049	Hexavalent chromium, lead.
K050	Hexavalent chromium.
K051	Hexavalent chromium, lead.
K052	Lead.
K060	Cyanide, naphthalene, phenolic compounds, arsenic.
K061	Hexavalent chromium lead, cadmium.
K062	Hexavalent chromium lead.
K064	Lead, cadmium.
K065	Lead, cadmium.
K066	Lead, cadmium.
K067	Lead, cadmium.
K068	Lead, cadmium.
K069	Hexavalent chromium, lead, cadmium.
K100	Hexavalent chromium, lead, cadmium.

NA—Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity.

4. In Appendix VIII of Part 261, add the following constituents alphabetically:

—Benzoquinone and isomers
—Coal Tars
—Cresol
—Cresylic acid
—Chlorinated fluorocarbons
—Hydrofluoric acid
—Iron Dextran
—Methoxychlor
—2-Picoline
—Resorcinol

5. In Appendix VIII of Part 261, delete the following compound:

—Methanol
—Methyl Isobutyl Ketone

6. In Appendix VIII of Part 261, the following errors are corrected as follows:

a. delete (Acetato)phenylmercury

b. Change trans-2,3,-Dichloroethane to trans-2,3-dichloroethene

c. Change Urethane to Ethyl carbamate (urethan)

d. Change 2,6-Dinitrotoluene Di-n-octyl phthalate to read as two compounds: 2,6-Dinitrotoluene, Di-n-octyl phthalate.

§ 261.30 [Amended]

7. Revised § 261.30(d) to read as follows:

* * * * *

(d) The following hazardous wastes listed in § 261.31 or § 261.32 are subject to the exclusion limits for acutely hazardous wastes established in § 261.5: [Reserved]

[FR Doc. 80-35243 Filed 11-7-80; 11:19 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

(SWH-FRL 1664-8)

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: Pursuant to Sections 3001 and 7004 of the Resource Conservation and Recovery Act (RCRA), as amended, and in response to a petition for rulemaking filed by Envirex, Inc., the Environmental Protection Agency today is proposing to amend the listings of two of the hazardous wastes generated by the petroleum refining industry which the Agency promulgated in "final-final" form in another section of today's **Federal Register**. The amendment would list as hazardous wastes all sludges from primary and secondary oil/solids/water separation in the petroleum refining industry. If this action becomes effective, the scope of the hazardous waste listing for wastes from petroleum refining operations will be broadened, making additional petroleum refining wastes subject to the management standards issued by EPA under Sections 3002 through 3006 and 3010 of RCRA (40 CFR Parts 262 through 265 and 122 through 124 and 45 FR 12746 (February 26, 1980)).

DATES: EPA will accept public comment on this proposal until January 12, 1981. Any person may request a hearing on this proposal by filing a request by December 3, 1980.

ADDRESSES: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460.
Communications should identify the regulatory docket number which is "Petroleum Refining-Section 3001." The public docket for this proposed rulemaking is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.
Hearings requests should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. The request must contain the information prescribed in 40 CFR § 260.20(d).

FOR FURTHER INFORMATION CONTACT: Mr. Matthew A. Straus, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its initial regulations implementing Section 3001 of RCRA, EPA published in interim final form a list of hazardous wastes (Subpart D of this Part), which included five wastes generated by the petroleum refining industry (§ 261.32, 45 FR 33123). Among the listed petroleum refining industry wastes were "Dissolved air flotation (DAF) float from the petroleum refining industry (K048)" and "API separator sludge from the petroleum refining industry (K051)". These wastes are generated as a result of treatment of wastewater from petroleum refineries. These particular listings were promulgated in "final-final" form in another section of today's **Federal Register**.

On September 5, 1980, the Agency received a rulemaking petition from Envirex, Inc.* requesting that the Agency amend these two listings (i.e. of wastes K048 and K051) to read "Secondary (emulsified) oil/solids/water separator sludge in the petroleum refining industry" and "Primary oil/solids/water separation sludge in the petroleum refining industry", respectively.

The petitioner does not dispute the listings of DAF and API separator sludges. Quite the opposite. The petitioner argues that the May 19 listing descriptions are in fact under-inclusive. The fault, according to the petitioner, is that the listings are specific to particular types of equipment, namely the DAF and API separator. In fact (again according to the petitioner), *any* petroleum refinery sludge resulting from primary and secondary oil/solids/water separation will be comparably composed regardless of the type of equipment used in the separation step. For example, the petitioner pointed out that other processes, such as induced air flotation, parallel plate flotation separators, and dual media filters, perform the same function as the DAF and form a similar solids residue. Likewise, the API separator is only one of the many equipment types which function as a primary oil/solids/water separator (other processes producing similar sludges include corrugated plate separators, inclined plate separators, storm equalization lagoons and ballast waterholding tanks.)* The petitioner therefore requests that these two listings be modified to prevent unfair discrimination and possible adverse competitive consequences.

In reviewing and evaluating the petition, the Agency agrees that the listings must be modified to reflect the hazardous character of the wastes themselves, rather than the type of equipment or process generating the waste. More specifically, the Agency is tentatively persuaded that the present listing is too narrow since it specifies API separator sludge and DAF float, thereby omitting other petroleum wastes with similar compositions generated from processes and equipment other than API separators and DAF equipment. To adjust the scope of these listings, therefore, the Agency is proposing to amend the listing to the description recommended by the petitioner. The hazardous constituents of concern in these wastes are chromium and lead.

Economic, Environmental and Regulatory Impacts:

In accordance with Executive Order 11821, as amended by Executive Order 11949 and Executive Order 12044, EPA has prepared an Economic Impact Analysis and a Regulatory Analysis of the hazardous waste program. EPA does not believe that this proposed rule is a major action for the purposes of Executive Order 12044, so that preparation of a revised Economic Impact Analysis is not required. Furthermore, most of the costs to generators for management of these wastes are already covered in the Economic Impact Analysis and Regulatory Analysis cited above and made available for public review. EPA requests, however, that any data commenters have on the generation rates of the wastes listed in the proposal, current management costs and practices for these wastes, and the costs or economic impact of the proposed regulations be sent to the Docket Clerk at the address indicated above. The Agency has also voluntarily prepared an Environmental Impact Statement on the program under the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

Dated: November 4, 1980.

Douglas M. Costle,
Administrator.

*Envirex, Inc. is a manufacturer of sewage, water, waste treatment and water conditioning equipment for many uses, including applications in the petroleum refining industry.

*The petitioner cited "Development Document for Effluent Limitations, Guidelines and Standards for the Petroleum Refining Point Source Category" (EPA No. 440/7-79/014-6) in support of the above comments on process waste identification.

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PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

§ 261.32 [Amended]

It is proposed to amend Title 40 CFR, Part 261, by amending 261.32 as follows:

1. Change the hazardous waste listing (K048), "Dissolved air flotation (DAF) from the petroleum refining industry" to read "Secondary (emulsified) oil/solids/water separator sludge from the petroleum refining industry."

2. Change the hazardous waste listing (K051), "API separator sludge from the petroleum refining industry" to read "Primary oil/solids/water separation sludge from the petroleum refining industry."

[FR Doc. 80-35244 Filed 11-7-80; 11:18 am]
BILLING CODE 6560-30-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

GENERAL SERVICES ADMINISTRATION

67350 10–10–80 / Procurement; contract cost principles and price negotation policy; transfer of functions from GSA to OMB

Deadlines for Comments On Proposed Rules for the Week of November 16 through November 22, 1980

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73498 11–5–80 / Lettuce grown in Lower Rio Grande Valley in South Texas; container pack, and inspection requirements; comments by 11–20–80

69245 10–20–80 / Tomatoes grown in Fla.; handling regulations; comments by 11–19–80

Farmers Home Administration—

62432 9–19–80 / Rural Housing Loans and Grants; low-and moderate income limits adjustment, (Section 502); comments by 11–18–80

Federal Grain Inspection Service—

61637 9–17–80 / Review of regulations concerning inspection and certification of certain agricultural commodities and products thereof under the Agricultural Marketing Act of 1946; comments by 11–17–80

Food and Nutrition Service—

66463 10–7–80 / Food stamp program; demonstration, research, and evaluation projects; comments by 11–17–80

Office of the Secretary—

61309 9–16–80 / Nondiscrimination on basis of age in programs or activities rceiving Federal financial assistance; comments by 11–17–80

Rural Electrification Administration—

62431 9–19–80 / Telephone borrowers; coaxial drop and service entrance cable; (Bulletin 345–60); comments by 11–18–80

CIVIL AERONAUTICS BOARD

66473 10–7–80 / Air carriers; removal of certificate restrictions; comments by 11–17–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

63286 9–24–80 / High seas salmon emergency regulations; comments 11–20–80

64995 10–1–80 / Permit application fees; comments by 11–17–80;

70523 10–24–80 / Modification of amendments to preliminary fishery management plan for Bering Sea and Aleution Islands Groundfish Fishery; comments by 11–21–80

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55469 8–20–80 / Contract market rules and practices for imposition and maintenance of price limits; comments by 11–18–80

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68641 10–16–80 / Proposed phaseout of finders fees; comments by 11–17–80

EDUCATION DEPARTMENT

62856 9–22–80 / Arts in education program; comments by 11–21–80

62859 9–22–80 / Law-related education program; comments by 11–21–80

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62478 9–19–80 / East Coast Residual Fuel Oil Entitlements, extension of domestic crude oil allocation program; comments by 11–18–80

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68978 10–17–80 / Air quality attainment status redesignation, Ohio; comments by 11–17–80

69482 10–21–80 / Approval and promulgation of implementation plans; State of Vermont; lead State implementation plan; comments by 11–20–80

70000 10–22–80 / Approval and promulgation of implementation plans; Ga.: Alternative compliance schedules for Volatile Organic Compound (VOC) sources; comments by 11–21–80

7004 10–22–80 / Approval and promulgation of implementation plans; Maricopa County Urban Planning Area Nonattainment Area Plan and Regulations in the State of Arizona; comments by 11–21–80

70006 10–22–80 / Designation of areas for air quality planning purposes; Alabama: proposed redesignation for Morgan County; comments by 11–21–80

68692 10–16–80 / National Ambient Air Quality Standard; attainment status redesignation for Fitchburg, Mass.; comments by 11–17–80

62172 9–18–80 / Proposed disapproval of portion of New York State implementation plan; comment period extended to 11–17–80

68979 10–17–80 / Submission for approval of Interim Authorization Plan Phase I, Louisiana; comments by 11–17–80

[*See also* 45 FR 33063, 5–19–80]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

62728 9–19–80 / Revision of Guidelines on Discrimination Because of National Origin; comments by 11–18–80

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62480 9–19–80 / Securities of insured nonmember State banks; comments by 11–18–80

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64993 10–1–80 / FM broadcast station in Blairsville, Pa.; changes in table of assignments; comments by 11–20–80

64984 10–1–80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; comments by 11–20–80

63533 9–25–80 / FM broadcast station in Casper, Wyo.; changes in table of assignments; comments by 11–17–80

64994 10–1–80 / FM broadcast station in Denison, Tex.; changes in table of assignments; comments by 11–20–80

63532 9–25–80 / FM broadcast stations in Farmville and Appomattox, Va.; changes in table of assignments; comments by 11–17–80

64988 10–1–80 / FM broadcast station in Hastings, Nebr.; changes in table of assignments; comments by 11–20–80

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63531 9–25–80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; comments by 11–17–80

64990 10–1–80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; comments by 11–20–80

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70922 10–27–80 / FM broadcast stations in Puerto Rico, reply comment period extended to 11–20–80

[*See also* 45 FR 58624, 9–4–80]

64981 10–1–80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; comments by 11–20–80

70920 10–27–80 / Radio broadcasting financial reporting requirements; comment period extended to 11–17–80

[*See also* 45 FR 35370, 5–27–80 and 45 FR 54786, 8–18–80]

65637 10–3–80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; comments by 11–17–80

64983 10–1–80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; comments by 11–20–80

64987 10–1–80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; comments by 11–20–80

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62149 9–18–80 / Establishment of maximum limit on total Development Cost of low-income public housing and Indian housing projects; comments by 11–17–80

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68694 10–16–80 / New performance requirements for padding and buckles used in child restraint system; comments by 11–17–80

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70873 10–27–80 / Italian—type cheese loaves; import quotas; comments by 11–26–80

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68693 10–16–80 / Hazardous Waste Management Program; Oregon's application for interim authorization, Phase I; comments by 11–24–80

68694 10–16–80 / Hazardous Waste Management Plan; Texas; submission for approval of Interim Authorization Plan, Phase I; comments by 11–25–80

71379 10–28–80 / Michigan; ozone control strategy and transportation control plans; comments by 11–28–80

70917 10–27–80 / North Carolina air quality designation areas (2 documents); comments by 11–26–80

63006 9–23–80 / Premanufacture notification requirements and review procedures; clarification of importer reporting responsibilities; comments by 11–24–80

70513 10–24–80 / Revision to Rhode Island State Implementation Plan; comments by 11–24–80

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69496 10–21–80 / FM broadcast stations in Farwell and Morton, Tex.; proposed changes in table of assignments; comments by 11–28–80

63302 9–24–80 / FM broadcast station in Hudson, Mich.; proposed changes in table of assignments; reply comments by 11–28–80

62517 9–19–80 / FM broadcast station in Roy and Clearfield, Utah, proposed changes in table of assignments; reply comments by 11–28–80

61649 9–17–80 / FM broadcast station in Show Low, Ariz., proposed changes in table of assignment; comments by 11–7–80, reply comments by 11–28–80

58150 9–2–80 / 9 kHz channel spacing for AM broadcasting; reply comments by 11–24–80

67399 10–10–80 / Radio broadcast stations (FM) in Louisiana, changes in table of assignment; comments by 11–28–80

67400 10–10–80 / TV broadcast stations in Indiana, changes in table of assignments; comments by 11–28–80

FEDERAL EMERGENCY MANAGEMENT AGENCY

63854 9–26–80 / Collection of claims under the Federal Claims Collection Act of 1966; comments by 11–25–80

FEDERAL TRADE COMMISSION

64597 9–30–80 / Farnam Cos. Inc. et al.; consent agreement with analysis to aid public comment; comments by 11–28–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

63845 9–26–80 / Grants for health education–risk reduction, programs to discourage children and adolescents from smoking; and alcohol use; comments by 11–25–80

Food and Drug Administration—

63876 9–26–80 / Anorectal products (otc); reopening of record for camphor-containing drug products; comments by 11–25–80

63869 9–26–80 / Camphorated oil and camphor-containing drug products for over the-counter human use; comments by 11–25–80

63874 9–26–80 / Cold, cough, allergy bronchodilator, and antiasthmatic products (OTC); reopening of record for camphor-containing drug products, comments by 11–25–80

63878 9–26–80 / External analygesic drug products (OTC); reopening of record for camphor-containing products; comments by 11–25–80

70444 10–24–80 / Food additive regulations; antioxidants and/or stabilizers; objections by 11–24–80

Health Care Financing Administration—

64008 9–26–80 / Medicare, incentive reimbusement for outpatient dialysis and self-care dialysis training; comments by 11–25–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner–Office of the Assistant Secretary for Housing—

64211 9–29–80 / Mortgagor and tenant relationship—mortgagor relationship to tenant activities; comments by 11–28–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

57680 8–28–80 / Designation of critical habitat for the endangered Maryland darter fish; comments by 11–26–80

64113 9–26–80 / Merriam's Montezuma quail, removal from List of Endangered and Threatened Wildlife; petition acceptance and status review; comments by 11–25–80

54111 8–14–80 / Proposed threatened status for the leopard in Sub-Saharan Africa; comment period extended to 11–24–80 [*See also* 45 FR 19007, 3–24–80]

Indian Affairs Bureau—

70284 10–23–80 / Land records and title documents; comments by 11–24–80

64472 9–29–80 / Special education, Indian children; comments by 11–28–80

Surface Mining Reclamation and Enforcement Office—

70480 10–24–80 / Abandoned Mine Lands Reclamation Program, comments by 11–24–80 [Orginally published at 45 FR 63002, 9–23–80]

63002 9–23–80 / State reclamation grants; filing of financial and performance reports, and identification of specific forms; comments by 11–24–80

INTERSTATE COMMERCE COMMISSION

70923 10–27–80 / Motor carriers household goods transportation; revision of operational regulations; comments by 11–26–80

LABOR DEPARTMENT

Employment Standards Administration—

70479 10–24–80 / Labor standards for further service contracts; comments period extended to 11–24–80 [*See also* 44 FR 77036, December 28, 1979]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

63506 9–25–80 / Space transportation system; reimbursement for Spacelab service; comments by 11–24–80

NUCLEAR REGULATORY COMMISSION

67099 10–9–80 / Plan to require licensees and applicants to document deviations from the standard review plan; comments by 11–24–80

67018 10–8–80 / Standards for protection against radiation; comments by 11–24–80

POSTAL SERVICE

70287 10–23–80 / Locks on rural mailboxes; comments by 11–24–80

SMALL BUSINESS ADMINISTRATION

66807 10–8–80 / Revision to business loan and guarantee standards; comments by 11–24–80

STATE DEPARTMENT

Office of the Secretary—

73100 11–4–80 / Appointment of foreign service officers; comments by 11–27–80

TRANSPORTATION DEPARTMENT

Coast Guard—

67708 10–14–80 / Shipment of bulk liquid hazardous waste cargoes by water; comments by 11–28–80

Federal Aviation Administration—

64207 9–29–80 / Aircraft identification and registration; marking, size requirements; comments extended to 11–28–80 [Originally published at 45 FR 50810, 7–31–80]

72020 10–30–80 / Airworthiness Standards; aircraft and products design and procedural standards for type certificates, type certificate amendments, and supplemental type certificates; comments extended to 11–26–80 [Originally published at 45 FR 57688, 8–28–80]

72017 10–30–80 / FAA access to flight data recorder and cockpit voice recorder tapes; comments extended until 11–26–80 [Originally published at 45 FR 57694, 8–28–80]

59295 9–8–80 / Operations review program; reply comments by 11–23–80

70237 10–23–80 / Solicitation and leafletting procedures at Washington National and Dulles International Airports; comments by 11–24–80

Federal Highway Administration—

64468 9–29–80 / Highway beautification; on premise signs; comments by 11–28–80

67107 10–9–80 / Parts and accessories necessary for safe operation; rear-vision mirrors; comments by 11–24–80

National Highway Traffic Safety Administration—

70922 10–27–80 / Motor vehicle safety standards; tire sizes and load factors; comment period extended to 11–28–80 [*See also* 45 FR 57466, 8–28–80]

67106 10–9–80 / Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards; comments by 11–24–80

TREASURY DEPARTMENT

Comptroller of the Currency—

64196 9–29–80 / Adjustable rate mortgages; comments by 11–28–80

Customs Service—

70476 10–24–80 / Personal declarations and exemptions provisions; comments by 11–23–80

64211 9–29–80 / Proposed change in the field organization; extending the existing port limits of Sandusky, Ohio; comments by 11–28–80

Internal Revenue Service—

63879 9–26–80 / Employment taxes; interest-free adjustment for erroneous filing of FICA and RRTA returns; comments by 11–25–80

63297 9–24–80 / Interim rule for determining base prices for tier 2 and tier 3 oil; comments by 11–24–80

Next Weeks Meetings

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

69509 10–21–80 / Cooperative Imported Fire Ant Program; draft environmental impact statement, Hapeville, Ga. (open), 11–18–80

Food and Nutrition Service—

70527 10–24–80 / Material, Infant and Fetal Nutrition Advisory Committee, Washington, D.C. (open), 11–17 through 11–19–80

Forest Service—

69275 10–20–80 / Routt National Forest Grazing Advisory Board, Steamboat Springs, Colo. (open), 11–18–80

Science and Education Administration—

73117 11–4–80 / Food and Agricultural Sciences Executive Committee Joint Council, Atlanta, Ga. (open), 11–19–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

73564 11–5–80 / Arts National Council, Wash., D.C. (partially open), 11–21 and 11–22–80

71868 10–30–80 / Humanities Panel, Washington, D.C. (closed), 11–17, 11–20 and 11–21–80

73564 11–5–80 / Music Panel (Centers Section), Wash., D.C. (partially open), 11–21 and 11–22–80

73204 11–4–80 / Music Section (Opera-Musical Theater), Washington, D.C. (partially open), 11–17 through 11–20–80

69602 10–21–80 / Music Panel (Orchestra Section), Washington, D.C. (closed), 11–17 through 11–19–80

CIVIL RIGHTS COMMISSION

65002 10–1–80 / Maryland Advisory Committee, Baltimore, Md. (open), 11–19–80

70037 10–22–80 / Oklahoma Advisory Committee, Langston, OK (open), 11–20–80

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COMMERCE DEPARTMENT

Census Bureau—

70294 10–23–80 / Census Advisory Committee on Housing for the 1980 Census, Suitland, Md. (open), 11–20–80

Fish and Wildlife Service—

70297 10–23–80 / Joint meeting of Fish and Wildlife Service and National Marine Fisheries Service, to discuss implementation of Emergency Striped Bass Study, Washington, D.C. (open), 11–21–80

International Trade Administration—

73117 11–4–80 / Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 11–18–80

73118 11–4–80 / Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, Washington, D.C. (open), 11–18–80

National Oceanic and Atmospheric Administration—

70297 10–23–80 / Joint meeting of National Marine Fisheries Service and Fish and Wildlife Service to discuss implementation of Emergency Striped Bass Study, Washington, D.C. (open), 11–21–80

50848 7–31–80 / Mid-Atlantic Fishery Management Council, Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 11–21–80

71839 10–30–80 / New England Fishery Management Council's Scientific and Statistical Committee, Saugus, Mass. (open), 11–18–80

National Telecommunications and Information Administration—

72243 10–31–80 / Frequency Management Advisory Council, Washington, D.C. (open), 11–21–80

DEFENSE DEPARTMENT

Air Force Department—

70297 10–23–80 / USAF Scientific Advisory Board, Wright-Patterson Air Force Base, Ohio (closed), 11–20 and 11–21–80

Army Department—

70538 10–24–80 / Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects, San Francisco, Calif. (partially open), 11–18–80

Engineers Corps, Army Department—

67716 10–14–80 / National Hydropower Study, Portland, Oreg. (open), 11–20–80

70539 10–24–80 / National Waterways Study, St. Louis, Mo. and Portland, Ore. (open), 11–18 and 11–19–80

Navy Department—

70538 10–24–80 / Academic Advisory Board to the Superintendent, U.S. Naval Academy, Annapolis, Md., 11–21–80

Office of the Secretary—

70302 10–23–80 / Defense Advisory Committee on Women in the Services, Scottsdale, Ariz. (open), 11–16 through 11–19–80

62177 9–18–80 / DOD Wage Committee, Washington, D.C. (closed), 11–18–80

EDUCATION DEPARTMENT

71643 10–29–80 / Continuing Education National Advisory Council, Tampa, Fla. (open), 11–19 through 11–21–80

71841 10–30–80 / Education Appeals Board, Washington, D.C. (open), 11–21–80

ENERGY DEPARTMENT

66189 10–6–80 / National Petroleum Council, Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources, Los Angeles, Calif. (open), 11–20–80

Economic Regulatory Administration—

72255 10–31–80 / Gasoline Marketing Advisory Committee, Gasoline Decontrol Subcommittee, Denver, Colo. (open), 11–21–80

Federal Energy Regulatory Commission—

70077 10–21–80 / Revision of Rules of Practice and Procedure Advisory Committee, Review of Hearing Procedures, Washington, D.C. (open), 11–18–80

[Rescheduled at 45 FR 72746, 11–3–80]

ENVIRONMENTAL PROTECTION AGENCY

71414 10–28–80 / Administrators' Toxic Substances Advisory Committee, Washington, D.C. (open), 11–20 and 11–21–80

70973 10–27–80 / East Texas Lignite and Gasification Project, scoping meeting, Jacksonville, Tex. (open), 11–20–80

72776 11–3–80 / Science Advisory Board, Ecology Committee, Washington, D.C. (open), 11–20 and 11–21–80

FEDERAL COMMUNICATIONS COMMISSION

70315 10–23–80 / Radio Technical Commission for Marine Services, Executive Committee, Washington, D.C. (open), 11–20–80

72788 11–3–80 / Radio Technical Commission for Marine Services, Special Committee No. 77, Washington, D.C. (open), 11–19–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

70568 10–24–80 / Washington, D.C. (open), 11–20–80

GENERAL SERVICES ADMINISTRATION

69141 10–17–80 / Qualifications Review Panel for position of Director of Gerald R. Ford Library, Washington, D.C. (closed), 11–21–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

73138 11–4–80 / Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, Federal Employee Alcoholism Work Group, Rockville, Md. (open), 11–18–80

67157 10–9–80 / Mental Health Services Manpower Development Review Committee, Arlington, Virginia (partially open), 11–20 and 11–21–80

67157 10–9–80 / Mental Health Small Grant Review Committee, Wash., D.C. (partially open), 11–20 and 11–22–80

67156 10–9–80 / Treatment Development and Assessment Research Review Committee, Bethesda, Md. (partially open), 11–19 thru 11–21–80

Food and Drug Administration—

69556 10–21–80 / Drug Abuse Advisory Committee, Chevy Chase, Md. (open), 11–17–80

69556 10–21–80 / Science Advisory Board, Mutagenesis Subcommittee, Jefferson, Ariz. (open), 11–21–80

69556 10–21–80 / Surgical and Rehabilitation Devices Panel, Orthopedic Device Section, Washington, D.C. (open), 11–19–80

National Institutes of Health—

68467 10–15–80 / Biomedical Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Application, Bethesda, Md. (open and closed), 11–17 and 11–18–80

65316 10–2–80 / Celluar and Molecular Basis of Disease Review Committee, Bethesda, Md. (partially open), 11–18–80

65317 10–2–80 / Maternal and Child Health Research Committee Bethesda, Md. (partially open) 11–18 and 11–19–80

65317 10–2–80 / Mental Retardation Research Committee, Bethesda, Md. (partially open), 11–19 and 11–20–80

72799 11–3–80 / National Cancer Advisory Board, Bethesda, Md. (open), 11–17 through 11–19–80

72799 11–3–80 / National Cancer Advisory Board, Board Activities and Agenda Subcommittee, Bethesda, Md. (open), 11–19–80

63145 9–23–80 / NIDR Special Grants Review Committee, Bethesda, Md. (open and closed), 11–18–80

65318 10–2–80 / Phamacological Sciences Review Committee, Bethesda, Md. (partially open), 11–20 and 11–21–80

59205 9–8–80 / Visual Sciences B Study Section, Washington, D.C. (partially open), 11–15 through 11–18–80

70319 10–23–80 / Womens A Development Perspective, Bethesda, Md. 11–20 and 11–21–80

Office of the Secretary—

72800 11–3–80 / President's Committee on Mental Retardation, Denver, Colo. (open), 11–19 and 11–20–80

INTERIOR DEPARTMENT

Land Management Bureau—

71687 10–29–80 / California Desert Conservation Area Advisory Committee, near Baker Co. (open), 11–20 and 11–21–80

70323 10–23–80 / Canon City District Advisory Council, Salida, Colo. (open), 11–21–80

69296 10–20–80 / Casper District Advisory Council, Casper, Wyo. (open), 11–20–80

67161 10–9–80 / Draft of Grand Gulch Management Plan, Utah, (open), Salt Lake City, Utah, 11–18–80; Moab, Utah, 11–19–80; and Monticello, Utah, 11–20–80

71687 10–29–80 / Prineville Advisory Council, Prineville, Oregon (open), 11–19–80

58962 9–5–80 / Rock Springs District Advisory Council, Rock Springs, Wyo. (open), 11–19–80

National Park Service—

70985 10–27–80 / National Capital Memorial Advisory Committee, Washington, D.C. (open), 11–19–80

71688 10–29–80 / San Antonio Missions Advisory Commission, San Antonio, Texas (open), 11–18–80

69297 10–20–80 / Sleeping Bear Dunes National Lakeshore Advisory Commission, Thompsonville, Mich. (open), 11–21–80

JUSTICE DEPARTMENT

Justice Assistance, Research and Statistics Office—

73186 11–4–80 / Juvenile Justice and Delinquency Prevention National Advisory Committee, Phoenix, Ariz. (open), 11–19 through 11–22–80

Prisons Bureau—

70599 10–24–80 / Advisory Corrections Council, Oakland, Calif., 11–19 and 11–20–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

63883 9–26–80 / Health and safety standards, general and construction industries; machines and equipment, locking out and tagging: requirements, standards, and procedures; Washington, D.C. (open), 11–19 and 11–20–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

71021 10–27–80 / NASA Advisory Council, Aeronautics Advisory Committee, Commuter Air Transport Technology ad hoc Advisory Subcommittee, Moffett Field, Calif. (open), 11–19 through 11–21–80

72851 11–3–80 / Space Science Steering Committee, Physical Sciences, Spacelab and LDEF Ad Hoc Advisory Committee, Greenbelt, Md. (closed), 11–17 through 11–19–80

NATIONAL SCIENCE FOUNDATION

73565 11–5–80 / Physics Advisory Committee; Review of the NSF Theoretical Physics Program, Wash., D.C. (closed), 11–20 and 11–21–80

73565 11–5–80 / NSF—Physics Advisory Committee, Review of the NSF Theoretical Physics Program Subcommittee, Wash., D.C. (closed), 11–20 and 11–21–80

NUCLEAR REGULATORY COMMISSION

72371 10–31–80 / Nuclear Oversight Committee, Washington, D.C. (open), 11–17 and 11–18–80

PENSION POLICY, PRESIDENT'S COMMISSION ON

61058 9–15–80 / Symposium on disability issues, Knoxville, Tenn. (open), 11–21–80

SMALL BUSINESS ADMINISTRATION

72373 10–31–80 / Region III Advisory Council, Clarksburg, W. Va. (open), 11–20–80

71032 10–27–80 / Region III Advisory Council, Monroeville, Pa. (open), 11–19–80

69619 10–21–80 / Region V Advisory Council, Milwaukee, Wis. (open), 11–19–80

72373 10–31–80 / Region VI Advisory Council, San Antonio, Tex. (open), 11–21–80

71033 10–27–80 / Region VII Advisory Council, Omaha, Nebr. (open), 11–21–80

66281 10–6–80 / Region VIII Advisory Council, Fargo, N. Dak. (open), 11–21–80

72854 11–3–80 / Region IX Advisory Council, Los Angeles, Calif. (open), 11–19–80

71462 10–28–80 / Small Business Continuity, Washington, D.C. (open), 11–18–80

STATE DEPARTMENT

72374 10–31–80 / Shipping Coordinating Committee, Safety of Life at Sea Subcommittee, Washington, D.C. (open), 11–18–80

63987 9–26–80 / Shipping Coordinating Committee, Safety of Life at Sea Subcommittee, Washington, D.C. (open), 11–19–80

TRANSPORTATION DEPARTMENT

Coast Guard—

69331 10–20–80 / New York Harbor Vessel Traffic Service Advisory Committee, New York, N.Y. (open), 11–19–80

Federal Aviation Administration—

71033 10–27–80 / Radio Technical Commission for Aeronautics (RTCA) Executive Committee, Arlington, Va. (open), 11–19–80

National Highway Traffic Safety Administration—

71880 10–30–80 / National Accident Sampling System Advisory Committee, Washington, D.C. (open), 11–17 and 11–18–80

Research and Special Programs Administration—

69337 10–20–80 / International Standards on the Transport of Dangerous Goods, Washington, D.C. (open), 11–20–80

TREASURY DEPARTMENT

Office of the Secretary—

70371 10–23–80 / U.S.–Tunisia Tax Treaty (discussion), Washington, D.C. (open), 11–19–80

VETERANS ADMINISTRATION

61845 9–17–80 / Medical Research Service Merit Review Board (partially open)

Miami Beach, Fla.; 11–20–80

Washington, D.C.; 11–21–80

69621 10–21–80 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 11–21–80

WAGE AND PRICE STABILITY COUNCIL

71641 10–29–80 / Pay Advisory Committee, Washington, D.C. (open), 11–17–80

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Next Week's Public Hearings

DELAWARE RIVER BASIN COMMISSION

70039 10–22–80 / Comprehensive Plan, Kulpsville, Pa., 11–18–80

ENERGY DEPARTMENT

73728 11–6–80 / Development policy options, Naval Oil Shale Reserves, Garfield County, Colo., 11–18 and 11–20–80

Economic Regulatory Administration—

58760 9–4–80 / Voluntary Guideline for the Cost of Service Standard Under the Public Utility Regulatory Policies Act of 1978, Washington, D.C. (open), 11–18–80

ENVIRONMENTAL PROTECTION AGENCY

61966 9–17–80 / Friable asbestos-containing materials in schools, Washington, D.C., 11–17–80

68693 10–16–80 / Hazardous Waste Management Program; Oregon's application for Phase I Interim Authorization, Portland, Oregon, 11–17–80

68694 10–16–80 / Hazardous Waste Management Plan, Texas; submission for approval of Interim Authorization Plan, Phase I, Austin, Texas, 11–18–80

68616 10–15–80 / Standards of performance for new stationary sources, sodium carbonate, Triangle Park, N.C., 11–18–80

INTERIOR DEPARTMENT

Land Management Bureau—

65048 10–1–80 / Texas; environmental impact for proposed Camp Swift Lignite Leasing, Bastrop, Tex., 11–18–80; Austin, Tex., 11–19–80; San Antonio, Tex., 11–20–80

68468 10–15–80 / Uinta-Southwestern Utah Region Coal Leasing and Utah Power and Light Co. coal lands exchange hearing, various locations in Utah, 11–18 through 11–21–80

National Park Service—

69296 10–20–80 / Wilderness reevaluation study; Carlsbad Caverns National Park, N. Mex., Carlsbad, N. Mex., 11–18–80

Surface Mining Reclamation and Enforcement Office—

61120 9–15–80 / Surface coal mining and reclamation under Federal program for Georgia, Atlanta, Ga., 11–18–80

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

69598 10–21–80 / Phosphorus management for the Great Lakes; Windsor, Ontario, 11–19–80; Buffalo, N.Y. 11–20–80

INTERNATIONAL TRADE ADMINISTRATION

46261 7–9–80 / Certain electric motors from Japan, Washington, D.C., 11–20–80

TREASURY DEPARTMENT

Internal Revenue Service—

64603 9–30–80 / Qualified disclaimers of property conferred by gift or inheritance, Washington, D.C., 11–18–80

List of Public Laws

Note: The listing of October 24, 1980 of public bills which have become law was the last until Congress reconvenes November 12, 1980. For a complete up to date cumulative listing see **Reader aids** in the issue of Wednesday, November 5, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

Rules Going Into Effect

73054 11–4–80 / CSA—Funding requirements for fiscal year 1981 Energy Crisis Intervention Program; effective 11–4–80

73868 11–6–80 / EPA—Assistance for pesticide enforcement and applicator certification programs; effective 11–6–80

73660 11–6–80 / HHS/PHS—Grants for public health traineeships for students in schools of public health and in other graduate public health programs; effective 11–6–80

73664 11–6–80 / HHS/PHS—Grants for traineeships for the advanced training of allied health personnel, effective 11–6–80

73658 11–6–80 / HHS/PHS—Grants for traineeships in health administration, hospital administration, or health policy analysis and planning at public or nonprofit private educational institutions other than schools of public health; effective 11–6–80

73051 11–4–80 / HHS/PHS—Regulations on grants for educational assistance to individuals from disadvantaged backgrounds; effective 11–4–80

73610 11–5–80 / HUD/CP&D—Clarifications and changes to Urban Development Action Grant rules; effective 11–5–80

73623 11–5–80 / HUD/CP&D—Requirements governing Urban Development Action Grants available to assist communities in revitalizing the economic base of their pockets of poverty; effective 11–5–80

73636 11–6–80 / USDA/FmHA—Industrial development grants; effective 11–6–80

DEADLINES FOR COMMENTS ON PROPOSED RULES

73684 11–6–80 / DOE/SOLAR—Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calculation; Comments by 1–5–81

73514 11–5–80 / ED—Minority Institutions Science Improvement Program (MISIP); grant regulations; comments by 12–5–80

72984 11–3–80 / EPA—Construction of treatment works; cost-effective analysis of Facility Plans; comments by 1–2–81

72691 11–3–80 / HUD/CPD—Community Development Block Grants; small cities program; comments by 1–2–81

Applications Deadlines

74004 11–7–80 / Commerce/NTIA—Planning and construction grants for public telecommunications facilities; apply by 1–19–81

74456 11–7–80 / HHS/HCFA—Solicitation for alcoholism services research and demonstration projects; apply by 1–15–81

73187 11–4–80 / Justice/NIJ—Solicitation of competitive research grant program; mail papers by 12–31–80

MEETINGS

73684 11–6–80 / DOE/SOLAR—Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calculation, Washington, D.C., 11–25–80

74062 11–7–80 / HHS/NIH—Aging Review Committee, Bethesda, Md. (partially open), 12–3 and 12–4–80

72799 11–3–80 / HHS/NIH—Heart, Lung and Blood Research Review Committees A and B, Bethesda, Md. (partially open), 12–5 and 12–6–80 (2 documents)

74063 11–7–80 / HHS/NIH—Large Bowel and Pancreatic Cancer Review Committee, Bethesda, Md. (partially open), 12–4 and 12–5–80

74063 11–7–80 / HHS/NIH—Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 12–4–80

72799 11–3–80 / HHS/NIH—National Cancer Advisory Board, Organ Site Programs Subcommittee, Bethesda, Md. (closed), 11–16–80

73564 11–5–80 / NFAH—Arts National Council, Wash., D.C. (partially open), 11–21 and 11–22–80

73564 11–5–80 / NFAH—Music Panel (Centers Section), Wash., D.C. (partially open), 11–21 and 11–22–80

73204 11–4–80 / NFAH—Music Section (Opera-Musical Theater), Washington, D.C. (partially open), 11–17 through 11–20–80

73564 11–5–80 / NFAH—Visual Arts (Crafts Exhibition), Wash., D.C., (closed) 11–24 and 11–25–80

OTHER ITEMS OF INTEREST

70847 10–27–80 / Commerce/EDA—Public Works and Development Facilities Program; correction to regulations published at 45 FR 67062, 10–9–80

72732 11–3–80 / CSA—Migrant and seasonal farmworkers; decision to fund Emergency Energy Assistance Programs; republication

73530 11–5–80 / DOE—Procurement and financial assistance directorate on alternative fuels production financial assistance; program solicitations available on 11–5–80

74017 11–7–80 / DOE/GRPPO—Announcement of solicitation to the States for proposals to preimplement a ration reserve in each State under standby gasoline rationing plan

74093 11–7–80 / Labor/ETA—Announcement of awards of grants for research on social and institutional processes affecting Hispanic American employment outcomes

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federal register

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Highlights

75100 **Air Traffic Control** DOT/FAA issues a notice of a draft air traffic control contingency plan for potential strikes and other job action by air traffic controllers; comments by 12–15–80 (Part III of this issue)

75138 **Air Carriers** DOT/FAA proposes change which allows for the readily accessible storage of flexible travel canes carried by blind passengers on board aircrafts; comments by 1–12–81 (Part V of this issue)

75098 **Air Transportation** DOT/FAA proposes to clarify flight rules by stating that FAA Notices to Airmen (NOTAMs) are an authorized means by which emergency flight rules are communicated to pilots and operators; comments by 12–29–80 (Part III of this issue)

74934 **Energy** DOE/FERC proposes ruling regarding eligibility, rates and exemptions for qualifying and utility-owned geothermal small production facilities; comments by 12–15–80

75045 **Grant Programs—Education** DOT/FHWA announces the availability of educational grants for graduate level study in Public Service Archeology at the University of South Carolina (USC) for the 1981–82 academic year

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

74928 **Community Services** CSA rules on State agency assistance funding under the Economic Opportunity Act; effective 12–15–80

74906 **Social Security** HHS/SSA describes principles it will use in deciding when to disclose official records and information about individuals; effective 11–13–80

74961 **Grant Programs—Education** ED announces continued grants for FY 81 and new project grants FY 81 under the Strengthening Developing Institutions Program; continued grant applications and new applications by 1–19–81

75046 **Medical Care** VA publishes medical care reimbursement rates for Fiscal Year 1981

75124–75127 **Prisoners** Justice/Bureau of Prisons amends rules relating to the control, custody, care, treatment, and instruction of inmates; various effective dates (4 documents) (Part IV of this issue)

74940 **Housing** HUD/CPD proposes incorporating regulations for the administration of the Community Development Disaster Assistance program; comments by 1–12–81

75144 **Grant Programs—Transportation** DOT/UMTA describes urbanized area formula apportionments for Fiscal Year 1981 (Part VI of this issue)

74927 **Civil Defense** FEMA promulgates final regulation pertaining to Federal Fiscal Year 1981 appropriation amounts available for allocation under section 205 of the Federal Civil Defense Act of 1950; effective 10–1–80

74924 **Archives and Records** GSA/NARS expands regulations dealing with standards and guidelines for establishing and managing directives systems; effective 11–13–80

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75084 Interior/Sec'y (Part II of this issue)

75047 **Sunshine Act Meetings**

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75084 **Part II, Interior/Sec'y**
75098 **Part III, DOT/FAA**
75124 **Part IV, Justice/Bureau of Prisons**
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

[Amdt. No. 2]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Wheat Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for wheat crop insurance effective for the 1981 and succeeding crop years. This rule is promulgated pursuant to the authority contained in the Federal Crop Insurance Act, as amended.

DATE: This final rule is effective November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR 418.1 and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing the final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

On Tuesday, June 1, 1979, the Federal Crop Insurance Corporation (FCIC) published the Wheat Crop Insurance Regulations (7 CFR Part 418) in the **Federal Register** at 44 FR 31599–31610.

In accordance with the provisions of 7 CFR 418.1 of the regulations, FCIC published Amendment No. 1 listing counties where wheat crop insurance is authorized (44 FR 72090, December 13, 1979) for the 1980 crop year as Appendix "B."

Additional counties were approved for wheat crop insurance effective for the 1981 and the succeeding crop years by FCIC's Board of Directors, which necessitated the revision and reissuance of Appendix "B" as Amendment No. 2, published in the **Federal Register** on Monday, August 18, 1980, at 45 FR 54717. Amendment No. 2 was published as an Emergency Final Rule since there was not sufficient time to allow public comment before it would become effective. Sixty days for public comment were provided from the date of publication until October 17, 1980, but no comments were received. In reviewing Amendment No. 2, prior to publishing this confirmation of the Emergency Final Rule, FCIC determined that there were some typographical errors which should be corrected. For this reason, Amendment No. 2 is hereby published in its entirety.

In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 418 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of June 1, 1984.

Final Rule

PART 418—WHEAT CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 418, Wheat Crop Insurance Regulations effective for the 1981 and succeeding crop years, which supersedes Amendment No. 1 (44 FR 72090), to read as follows:

Appendix B

Counties Designated for Wheat Crop Insurance—7 CFR Part 418

In accordance with the provisions of 7 CFR 418.1, the following counties are designated for wheat crop insurance:

Alabama

Autauga, Lawrence, Marengo, Monroe, Mobile

Arizona

Cochise, Graham, Maricopa, Pinal, Yuma

Arkansas

Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Miller, Mississippi, Poinsett, Pulaski, St. Francis

California

Butte, Colua, Fresno, Imperial, Glenn, Kern, Kings, Madera, Merced, Modoc, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Tulare, Yolo

Colorado

Adams, Arapahoe, Baca, Cheyenne, Elbert, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Prowers, Sedgwick, Washington, Weld, Yuma

Florida

Okaloosa

Georgia

Burke, Houston, Jefferson, Macon, Washington

Idaho

Ada, Bannock, Benewah, Bingham

Bonneville
Camas
Canyon
Caribou
Cassia
Elmore
Franklin
Fremont
Gooding
Idaho
Jefferson
Jerome

Adams
Alexander
Bond
Brown
Calhoun
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
Dewitt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Franklin
Fulton
Gallatin
Greene
Hamilton
Hancock
Iroquois
Jackson
Jasper
Jefferson
Jersey
Kane
Kankakee
Lake
Lawrence

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Carroll
Cass
Clark
Clay
Clinton
Daviess
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson

Kootenai
Latah
Lewis
Lincoln
Madison
Minidoka
Nez Perce
Oneida
Owyhee
Power
Teton
Twin Falls

Illinois

Livingston
Logan
McDonough
McLean
Macon
Macoupin
Madison
Marion
Mason
Massac
Menard
Monroe
Montgomery
Morgan
Moultrie
Perry
Piatt
Pike
Pope
Pulaski
Randolph
Richland
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Tazewell
Union
Vermilion
Wabash
Washington
Wayne
White
Will

Indiana

Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Miami
Montgomery
Morgan
Newton
Noble
Orange
Owen
Parke
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Shelby

Spencer
Starke
Steuben
Sullivan
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion

Davis
Des Moines
Fremont
Harrison

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clark
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
Kingman
Kiowa
Labette
Lane
Leavensworth

Ballard
Christian
Hardin

E. Carroll

Caroline
Carroll
Cecil
Dorchester

Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Lee
Mills
Monona
Pottawattamie

Kansas

Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosha
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russel
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson

Kentucky

Hickman
Webster

Louisiana

Maryland

Frederick
Kent
Queen Annes
Washington

Michigan

Allegan
Bay
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
Gratiot
Hillsdale
Huron
Ingham
Ionia
Isabella
Jackson

Becker
Beltrami
Big Stone
Blue Earth
Brown
Carver
Chippewa
Clay
Clearwater
Cottonwood
Dakota
Dodge
Douglas
Faribault
Freeborn
Goodhue
Grant
Hennepin
Hubbard
Kandiyohi
Kittson
Lac qui Parle
Lake of the Woods
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall

Bolivar
Calhoun
Coahoma
Humphreys
Leflore
Lowndes
Noxubee

Adair
Andrew
Atchison
Audrain
Barton
Bates
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Dade
Daviess
De Kalb
Dunklin
Franklin
Gentry

Kalamazoo
Kent
Lapeer
Lenawee
Livingston
Midland
Monroe
Montcalm
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Washtenaw

Minnesota

Meeker
Mower
Nicollet
Norman
Olmsted
Otter Tail
Pennington
Polk
Pope
Red Lake
Redwood
Renville
Rice
Roseau
Scott
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Waseca
Washington
Wilkin
Wright
Yellow Medicine

Mississippi

Quitman
Sharkey
Sunflower
Tallahatchie
Tate
Tunica
Washington

Missouri

Harrison
Henry
Holt
Howard
Jackson
jasper
Johnson
Knox
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mississippi
Moniteau
Monroe
Montgomery
New Madrid
Nodaway
Osage
Pemiscot
Perry

Pettis
Pike
Platte
Ralls
Randolph
Ray
St. Charles
St. Claire

Montana

Big Horn
Blaine
Broadwater
Carbon
Cascade
Chouteau
Custer
Daniels
Dawson
Fallon
Fergus
Flathead
Gallatin
Garfield
Glacier
Golden Valley
Hill
Judith Basin
Lake
Liberty

Nebraska

Adams
Banner
Box Butte
Boyd
Butler
Cass
Chase
Cheyenne
Clay
Dawes
Deuel
Dodge
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Garden
Gosper
Greeley
Hall
Hamilton
Harlon
Hayes
Hitchcock
Jefferson
Johnson

Curry
Luna

New York

Cayuga
Genesee
Livingston
Niagara

North Carolina

Northampton
Pasquotank
Perquimans

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman

Saline
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Warren

McCone
Meagher
Musselshell
Park
Petroleum
Phillips
Pondera
Prairie
Richland
Roosevelt
Rosebud
Sheridan
Stillwater
Teton
Toole
Treasure
Valley
Wheatland
Wibaux
Yellowstone

Kerney
Keith
Kimball
Lancaster
Lincoln
Merrick
Morrill
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Polk
Red Willow
Richardson
Saline
Saunders
Scotts Bluff
Seward
Sheridan
Thayer
Valley
Washington
Webster
York

New Mexico

Roosevelt

Ontario
Yates
Wayne

Rowan
Scotland

Burke
Burleigh
Cass
Cavalier
Dickey
Divide

Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morton
Mountrail
Nelson
Oliver

Allen
Ashland
Auglaize
Butler
Champaign
Clark
Clermont
Clinton
Coshocton
Crawford
Darke
Definance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Holmes
Huron
Knox
Licking
Logan

Alfalfa
Beaver
Beckham
Blaine
Caddo
Canadian
Cimarron
Comanche
Cotton
Craig
Custer
Delaware
Dewey
Ellis
Garfield
Grady
Grant
Greer
Harmon
Harper
Hughes

Gilliam
Jefferson
Klamath
Linn
Malheur
Morrow

Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Ohio

Lorain
Lucas
Madison
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Ottawa
Paulding
Pickaway
Preble
Putnam
Richland
Ross
Sandusky
Seneca
Shelby
Stark
Union
Van Wert
Warren
Wayne
Williams
Wood
Wyandot

Oklahoma

Jackson
Kay
Kingfisher
Kiowa
Logan
Major
Mayes
Noble
Nowata
Osage
Ottawa
Pawnee
Payne
Texas
Tillman
Wagoner
Washington
Washita
Woods
Woodward

Oregon

Sherman
Umatilla
Union
Wallowa
Wasco
Wheeler

Adams
Berks
Chester
Crawford
Cumberland
Dauphin

Aurora
Beadle
Bennett
Bon Homme
Brown
Brule
Buffalo
Butte
Campbell
Charles Mix
Clark
Codington
Corson
Day
Deuel
Dewey
Douglas
Edmunds
Faulk
Grant
Gregory
Haakon
Hamlin
Hand

Coffee
Crockett
Dyer
Hardin
Henry

Baylor
Carson
Castro
Collin
Collingsworth
Colorado
Cooke
Cottle
Dallam
Deaf Smith
Denton
Dickens
Fannin
Fisher
Floyd
Foard
Gray
Grayson
Hale
Hansford

Box Elder
Cache
Davis

Adams
Asotin
Benton
Columbia
Douglas
Franklin
Garfield
Grant

Washington

Pennsylvania

Franklin
Lancaster
Lebanon
Northumberland
Perry
York

South Dakota

Harding
Hughes
Hutchinson
Hyde
Jerauld
Jones
Kingsbury
Lake
Lyman
McCook
McPherson
Marshall
Mellette
Miner
Minnehaha
Perkins
Potter
Roberts
Spink
Stanley
Sully
Tripp
Walworth
Ziebach

Tennessee

Lake
Lauderdale
Obion
Robertson

Texas

Hartley
Howard
Hutchinson
Jones
Knox
Lipscomb
Martin
Moore
Ochiltree
Oldham
Parmer
Randall
Runnels
Sherman
Stonewall
Swisher
Tom Green
Wilbarger
Williamson

Utah

Salt Lake
Utah
Weber

Washington

Klickitat
Lincoln
Okanogan
Spokane
Walla Walla
Whitman
Yakima

Wisconsin

V 45 N 013 80 UMI

Wyoming

Goshen	Platte
Laramie	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,

Acting Manager.

Dated: November 3, 1980.

[FR Doc. 80-35201 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 419

[Amdt. No. 2]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Barley Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for barley crop insurance effective for the 1981 and succeeding crop years. This rule is promulgated pursuant to the authority contained in the Federal Crop Insuance Act, as amended.

DATE: This final rule is effective November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR 419.1 and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing the final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Exectuve Order No. 12044 (March 23, 1978), and has been classified as "not significant."

On Tuesday, June 19, 1979, the Federal Crop Insurance Corporation (FCIC) published the Barley Crop Insurance Regulations (7 CFR Part 419) in the **Federal Register** at 44 FR 35195.

In accordance with the provisions of 7 CFR 419.1 of the regulations, FCIC published Amendment No. 1 listing counties where barley crop insurance is authorized (44 FR 72093, December 13, 1979) for the 1980 crop year as Appendix "B."

Additional counties were approved for barley crop insurance effective for the 1981 and the succeeding crop years by FCIC's Board of Directors, which necessitated the revision and reissuance of Appendix "B" as Amendment No. 2, published in the **Federal Register** on Monday, August 18, 1980, at 45 FR 54720. Amendment No. 2 was published as an Emergency Final Rule since there was not sufficient time to allow public comment before it would become effective. Sixty days for public comment were provided from the date of publication until October 17, 1980, but no comments were received. In reviewing Amendment No. 2, prior to publishing this confirmation of the Emergency Final Rule, FCIC determined that there were some typographical errors which should be corrected. For this reason, Amendment No. 2 is hereby published in its entirety.

In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 419 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of June 19, 1984.

Final Rule

PART 419—BARLEY CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 419 Barley Crop Insurance Regulations effective for the 1981 and succeeding crop years, which supersedes Amendment No. 1 (44 F.R. 72093), to read as follows:

Appendix B

Counties Designated for Barley Crop Insurance—7 CFR Part 419

In accordance with the provisions of 7 CFR 419.1, the following counties are designated for barley crop insurance:

Arizona

Graham	Pinal
Maricopa	Yuma

California

Butte	Monterey
Colusa	Sacramento
Fresno	San Benito
Glenn	San Joaquin
Kern	Solano
Kings	Stanislaus
Madera	Sutter
Merced	Tulare
Modoc	Yolo

Colorado

Boulder	Weld
Larimer	Yuma
Morgan	

Idaho

Ada	Jefferson
Bannock	Jerome
Benewah	Kootenai
Bingham	Latah
Bonneville	Lewis
Camas	Lincoln
Canyon	Madison
Caribou	Minidoka
Cassia	Nez Perce
Elmore	Oneida
Franklin	Owyhee
Fremont	Power
Gooding	Teton
Idaho	Twin Falls

Maryland

Caroline	Frederick
Carroll	Kent
Cecil	Queen Annes
Dorchester	Washington

Minnesota

Becker	Marshall
Beltrami	Norman
Big Stone	Otter Tail
Chippewa	Pennington
Clay	Polk
Clearwater	Pope
Douglas	Red Lake
Grant	Roseau
Hubbard	Stevens
Kittson	Swift
Lake of the Woods	Traverse
Muhnomen	Wilkin

Montana

Big Horn	Hill
Blaine	Judith Basin
Broadwater	Lake
Carbon	Liberty
Cascade	McCone
Chouteau	Meagher
Custer	Musselshell
Daniels	Park
Dawson	Petroleum
Fallon	Phillips
Fergus	Pondera
Flathead	Prairie
Gallatin	Richland
Garfield	Roosevelt
Glacier	Rosebud
Golden Valley	Sheridan
Stillwater	Valley
Teton	Wheatland
Toole	Wibaux
Treasure	Yellowstone

Nebraska

Banner	Platte
Knox	

North Carolina

Rowan	

North Dakota

Adams	Cass
Barnes	Cavalier
Benson	Dickey
Billings	Divide
Bottineau	Dunn
Bowman	Eddy
Burke	Emmons
Burleigh	Foster
Golden Valley	Ramsey
Grand Forks	Ransom
Grant	Renville
Griggs	Richland
Hettinger	Rolette
Kidder	Sargent
La Moure	Sheridan
Logan	Sioux
McHenry	Slope
McIntosh	Stark
McKenzie	Steele
McLean	Stutsman
Mercer	Towner
Morton	Traill
Mountrail	Walsh
Nelson	Ward
Oliver	Wells
Pembina	Williams
Pierce	

Oregon

Gilliam	Sherman
Jefferson	Umatilla
Klamath	Union
Linn	Wallowa
Malheur	Wasco
Morrow	Wheeler

Pennsylvania

Adams	Franklin
Berks	Lebanon
Chester	Northumberland
Cumberland	York
Dauphin	

South Dakota

Aurora	Harding
Beadle	Hughes
Bennett	Hyde
Brookings	Jerauld
Brown	Kingsbury
Brule	Lake
Buffalo	McCook
Butte	McPherson
Campbell	Marshall
Charles Mix	Mellette
Clark	Miner
Codington	Minnehaha
Corson	Perkins
Day	Potter
Deuel	Roberts
Dewey	Spink
Edmunds	Stanley
Faulk	Sully
Grant	Todd
Gregory	Walworth
Hamlin	Ziebach
Hand	

Utah

Box Elder	Salt Lake
Cache	Utah
Davis	Weber

Washington

Adams	Klickitat
Asotin	Lincoln
Columbia	Spokane
Franklin	Walla Walla
Garfield	Whitman
Grant	

Wyoming

Big Horn	Park
Goshen	Washakie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: November 3, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-35202 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 430

[Amdt. No 2]

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Sugar Beet Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for sugar beet crop insurance effective for the 1981 and succeeding crop years. This rule is promulgated pursuant to the authority contained in the Federal Crop Insurance Act, as amended.

DATE: This final rule is effective November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR 430.1 and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing the final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

On Tuesday, June 19, 1979, the Federal Crop Insurance Corporation (FCIC) published the Sugar Beet Crop Insurance Regulations (7 CFR Part 430) in the **Federal Register** at 44 FR 35201.

In accordance with the provisions of 7 CFR 430.1 of the regulations, FCIC published Amendment No. 1 listing counties where sugar beet crop insurance is authorized (44 FR 72094, December 13, 1979) for the 1980 crop year as Appendix "B."

Additional counties were approved for sugar beet crop insurance effective for the 1981 and the succeeding crop years by FCIC's Board of Directors, which necessitated the revision and reissuance of Appendix "B" as Amendment No. 2, published in the **Federal Register** on Monday, August 18, 1980, at 45 FR 54723. Amendment No. 2 was published as an Emergency Final Rule since there was not sufficient time to allow public comment before it would become effective. Sixty days for public comment were provided from the date of publication until October 17, 1980, but no comments were received. In reviewing Amendment No. 2, prior to publishing this confirmation of the Emergency Final Rule, FCIC determined that there were some typographical errors which should be corrected. For this reason, Amendment No. 2 is hereby published in its entirety.

In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 430 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of June 19, 1984.

Final Rule

PART 430—SUGAR BEET CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 430 Sugar Beet Crop Insurance Regulations effective for the 1981 and succeeding crop years, which supersedes Amendment No. 1 (44 FR 72094), to read as follows:

Appendix "B"

Counties Designated for Sugar Beet Crop Insurance—7 CFR Part 430

In accordance with the provisions of 7 CFR 430.1, the following counties are designated for sugar beet crop insurance:

California

Butte, Colusa, Fresno, Glenn, Imperial, Kern, Kings, Madera, Merced, Monterey, Sacramento, San Benito, San Joaquin, Solano, Stanislaus, Sutter, Tulare, Yolo

Colorado

Adams, Boulder, Kit Carson, Larimer, Logan, Morgan, Phillips, Sedgwick, Weld, Yuma

Idaho

Ada, Bannock, Bingham, Bonneville, Canyon, Cassia, Elmore, Franklin, Jerome, Minidoka, Owyhee, Power, Twinn Falls

Kansas

Grant, Sherman, Wallace

Michigan

Bay, Huron, Midland, Saginaw, Tuscola

Minnesota

Chippewa, Clay, Faribault, Grant, Kandiyohi, Kittson, Lac qui Parle, Marshall, Norman, Polk, Redwood, Renville, Swift, Traverse, Wilkin, Yellow Medicine

Montana

Big Horn, Carbon, Dawson, Prairie, Richland, Rosebud, Stillwater, Treasure, Yellowstone

Nebraska

Box Butte, Morrill, Scotts Bluff, Sioux

North Dakota

Cass, Grand Forks, McKenzie, Pembina, Richland, Traill, Walsh, Williams

Ohio

Hancock, Henry, Lucas, Ottawa, Putnam, Sandusky, Wood

Oregon

Malheur

Utah

Box Elder, Cache, Davis, Salt Lake, Utah, Weber

Wyoming

Big Horn, Goshen, Park, Washakie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: November 3, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-35203 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 305, 309

Miscellaneous Amendments Affecting the Public Works and Development Facilities Program

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule publishes in final several amendments to regulations regarding the Public Works and Development Facilities Program. These amendments clarify requirements concerning certain types of projects which EDA may fund under that program.

DATES: Effective date: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Coss, Director, Office of Public Investments, (202) 377–5265.

SUPPLEMENTARY INFORMATION: EDA published interim rules regarding skill training center facilities (§ 305.45) and land assembly projects (§ 305.43(c), § 305.65(a), (d)) on June 10, 1980 (45 FR 39242). EDA published interim rules regarding § 305.65 (error correction) and § 309.4 on July 9, 1980 (45 FR 46065). This rule publishes those interim regulations in final without change. A detailed explanation of the changes made by the interim rules may be found in the publications of June 10 and July 9, 1980.

The amendments made by this rule do not meet the criteria of Executive Order 12044 regarding "significant regulations" and are not subject to the procedural requirements imposed on significant regulations by that Order. EDA published the amendments in interim form and allowed interested persons 60 days to comment. EDA received no comments regarding any of the regulations. The "Catalogue of Federal Domestic Assistance" official number and title for the Public Works and Development Facilities Program is "11.300, Economic Development—Grants and Loans for Public Works and Development Facilities". Projects under this program are subject to the requirements imposed by Office of Management and Budget Circular No. A–95 as set forth in 13 CFR 309.17.

Accordingly, § 305.43, § 305.45, § 305.65, and § 309.4 are amended as follows:

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. Section 305.43 is amended by adding a new subsection (c) to read as follows:

§ 305.43 Industrial parks and sites.

* * * * *

(c) *Land assembly projects and other projects involving the acquisition of land for sale to private parties.* Where the purpose of the project is to assemble land for subsequent resale to private parties in order to attract businesses to an economically distressed area, EDA may provide financial assistance for such projects provided that the Assistant Secretary determines that the project meets the requirements of § 305.65(d) and this part.

2. 13 CFR 305.45 is amended to read as follows:

§ 305.45 Skill training center facilities.

(a) *General policies.* EDA may consider projects to provide for the construction or renovation of skill training centers only if:

(1) The skill center will improve the linkages between economic development activities and employment and training opportunities for the unemployed and underemployed.

(2) The skill center is an integral part of the local economic development strategy.

(3) The skill center program is designed in such a way that a major part of the program is focused on training unemployed and underemployed adults and out-of-school youths (the "target population").

(4) The skill center provides a direct linkage with the CETA program or State or local vocational education programs, and there is assurance of long-term operational support for the center from any of these programs.

(5) The skill center proposal will provide funds for developing skill center facilities by rehabilitating existing structures. Proposals for constructing new buildings will be considered only where there are no appropriate existing buildings or where it is more cost-effective than rehabilitating existing structures.

(6) The proposal does not involve secondary or post-secondary vocational schools or junior or community colleges, unless such institutions are the only ones available to provide training for the target population and the proposal otherwise meets the requirements of this section.

(7) The skill center facilities will be used for direct training purposes, including supporting offices. Unrelated facilities such as recreation buildings and office space for non-related purposes will not be funded as part of EDA's support for skill training centers.

(8) Ths skill center proposal is cost-effective, as determined by amount of EDA funds requested per annual training slots created.

(9) The proposal involves a bona fide skill training center—sheltered workshops will be considered if they are bona fide skill training centers.

(b) *Additional project requirements.* In addition to the general requirements set forth in subsection (a) of this section, a skill center project (or the component thereof funded by EDA) must:

(1) Be a top priority of the area's Overall Economic Development Plan (OEDP) or Comprehensive Economic Development Strategy (CEDS).

(2) Provide more than 50 percent of its hours of training to the EDA skill training target population (i.e., unemployed and underemployed adults and out-of-school youths).

(3) Provide training in needed skills that have been determined to be in short supply in the center's labor market area.

(4) Be included in the State vocational education plan, and, in the case of public institutions, be approved by the State Advisory Council or director for vocational education.

(5) Be located in an area which is easily accessible to the target population.

(6) In the case of sheltered workshops, provide training where at least 75 percent of the people receiving such training will move on to jobs in the private sector, or no more than 25 percent of the persons training will remain permanently in the sheltered workshop, whether or not they are working on "outside" contracts.

(c) *Applications.* Applications for skill training center projects must:

(1) Indicate that a working relationship and link to local private industry (e.g., through Private Industry Councils) has been established in order to maintain an ongoing supply-demand relationship for the trainees of the center.

(2) Include plants for job development and placement by using existing Employment Service programs and by establishing a formal staff function at the center. These plans must identify procedures for contacting potential employers and for placing trainees in appropriate jobs. Such plans must also identify follow-up mechanisms for monitoring recently placed trainees.

(3) Establish the need for the facility by providing evidence sufficient to demonstrate that there are no similar institutions in the area which can provide the necessary services.

(4) Provide signed statements of intent for long-term support for the operation and administration of the Center from the existing CETA or State or local vocational education programs.

(5) Include procedures for recruiting the target population as trainees.

(6) Include a transportation program which will provide adequate, economical and convenient transportation to serve the target population of the area where public transportation is not available.

(7) Provide a systematic plan for training a present and future labor force for identifiable jobs which includes—

(i) Training and retraining programs for the target population in regularly scheduled daytime, as well as afternoon-evening sessions where appropriate to the needs of the area;

(ii) An open entry/open exit program which allows trainees to enter programs at frequent intervals and to complete a course whenever fully trained; and

(iii) Remedial or compensatory programs designed to focus attention on the special needs of the educationally disadvantaged students. These programs should be run prior to, or concurrently with, skill training to allow the student to receive some of the basic educational skills necessary for effective training and gainful employment. The programs should include such services as intake, guidance and counseling and supporting services. In addition, they should provide concentrated courses in English, communication skills, and basic arithmetic.

(8) For a skill center already in existence, describe its past performance record including the number of trainees, the proportion of the trainees which were CETA trainees, the completion rate and the placement rate.

(9) Indicate that students will not be charged tuition fees. If tuition is required by State statute, funds must be made available to ensure that no member of the target population is denied any services of the skill center for economic reasons.

(10) Indicate that a high school diploma will not be an entry requirement.

(d) *Monitoring.* Projects funded under this secton are subject to periodic monitoring by EDA during construction and after completion of the project.

3. 13 CFR 305.65 is amended by revising paragraph (a) and adding new paragraph (d), to read as follows:

§ 305.65 Land, easements, and rights-of-way as eligible costs.

(a) Costs necessary for project site acquisition, including land, rights-of-way, and easements, may be eligible if they meet the requirements of this section and § 305.72, if applicable.

* * * * *

(d) *Land assembly projects and other projects involving the acquisition of land for sale to private parties.* Where the original purpose of the project is to acquire land for sale to private parties, costs associated with the acquisition of land and with site improvement (including demolition) may be eligible if the Assistant Secretary determines that:

(1) Federal assistance for land assembly is necessary for the successful implementation of the project;

(2) Significant economic development impacts will occur and that there are plans to use the land within a reasonable length of time;

(3) Costs for acquisition of the land are not prohibitive;

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(4) The grantee has the capacity to market the land and to reuse successfully the proceeds of the sale;

(5) The sale cost of the land and the grantee's arrangements for the sale are adequate;

(6) The proceeds of the sale of the land will be placed in an escrow account to be used by the grantee for other economic development activities approved by EDA;

(7) The sale of the land will not provide windfall profits to private interests;

(8) When the land is sold it will be used for the original purpose of the project in accord with § 314.3 and § 314.6(a)(2) of this chapter; and

(9) The requirements of Part 314 of this chapter will be met.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

4. 13 CFR 309.4 is amended by deleting paragraph (c)(1) as follows:

§ 309.4 Electric and gas facilities.

* * * * *

(c) * * *

(1) [Deleted]

(Sec. 701, Pub. L. 89–136, 42 U.S.C. 3211; Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: November 6, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-35385 Filed 11–12–80; 8:45 am]

BILLING CODE 3510-24-M

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13 CFR Parts 309, 315

Environmental Requirements and Trade Adjustment Assistance Program

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule publishes in final form two amendments to EDA's program regulations. The first revises EDA's environmental regulation to conform to policies and requirements stated in EDA Directive 17.02–02. The second amendment deletes a procedural requirement regarding withdrawal of petitions for certification of eligibility under the Trade Adjustment Assistance program.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: For information regarding the change to 13 CFR 309.18, Andrew Kauders, Special Assistant for the Environment, (202) 377–4208; for information regarding the change to 13 CFR 315.23(f), Jack Osburn, Chief, Trade Act Certification Division, (202) 377–5005.

SUPPLEMENTARY INFORMATION: 1. 13 CFR 309.18. Regulations promulgated by the Council on Environmental Quality (40 CFR Parts 1500–1508) directed each executive agency to develop procedures to implement the requirements of the National Environmental Policy Act of 1969, as amended, in its programs and activities. EDA's procedures developed in response to CEQ's mandate were published in final form after a public comment period in the **Federal Register** at 45 FR 63310, September 24, 1980 as EDA Directive 17.02–2.

The purpose of the present amendment is to remove any inconsistencies between EDA's CEQ-approved environmental review procedures as contained in Directive 17.02–2 and its previous review policies as contained in the environmental regulation, 13 CFR 309.18. This amendment does not represent any change from EDA policies and procedures concerning the environmental review of its actions as described in Directive 17.02–2.

The present amendment was published in the **Federal Register** (45 FR 55420) on August 21, 1980, as an interim rule with a sixty day public comment period. No comments have been received by EDA concerning this amendment. Accordingly, EDA has determined to issue this amendment, unchanged, as a final rule.

2. 13 CFR 315.23(f). Under the Trade Adjustment Assistance program, certain firms adversely impacted by imports may petition for certification of eligibility to apply for assistance under that program. Section 315.23 sets forth the procedures for processing petitions for certification. Subsection (f) had required petitioners for certification to submit requests for withdrawal of their petitions in writing. Subsection (f) is revised to remove the written withdrawal requirement. The deletion of this written withdrawal requirement will facilitate administration of the program.

This amendment was published in the **Federal Register** (45 FR 46066) on July 9, 1980, as an interim rule with a sixty day public comment period. No comments have been received by EDA concerning this amendment. Accordingly, EDA has determined to issue this amendment, unchanged, as a final rule.

EDA had reviewed both of these regulations at the time of their proposal as interim rules under the criteria of Executive Order 12044. In both cases, EDA determined that the amendment did not constitute a "significant regulation".

The environmental regulation, 13 CFR 309.18, applies to the degree and in the manner specified in EDA Directive 17.02–2 to all EDA programs listed in the *Catalogue of Federal Domestic Assistance*. Projects under these programs are subject to requirements imposed by Office of Management and Budget Circular No. A–95 as set forth in 13 CFR 309.17. The official *Catalogue of Federal Domestic Assistance* number and title for the Trade Adjustment Assistance program is: 11.309, Trade Adjustment Assistance. Projects under this program are subject to requirements of OMB Circular A–95.

Accordingly, EDA amends 13 CFR § 309.18 and 315.23 to read as follows:

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. Section 309.18 is revised to read as follows:

§ 309.18 Environmental requirements.

(a) It is the policy of EDA to insure that proper environmental review of its actions take place; that there is a proper balance between the goals of economic development and environmental enhancement in its actions; and, that adverse environmental impacts from its actions are mitigated or avoided to the extent possible.

(b) Environmental reviews of EDA actions are conducted in accordance with the procedures described in EDA Directive 17.02–2 which is available from any EDA office.

PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES

2. Section 315.23(f) is amended to read as follows:

§ 315.23 Acceptance of petitions.

* * * * *

(f) *Withdrawal of petitions.* A petition may be withdrawn by a petitioner if a request is received by TACD before a decision under § 315.30 of this part is made on the petition. A petitioner who withdraws a petition may submit a new petition at any time thereafter in accordance with the requirements of this section.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211), Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: November 6, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 35288 Filed 11–12–80; 8:45 am]

BILLING CODE 3510-24-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3045]

Binney & Smith Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a manufacturer of art materials, located in Easton, Pa., to cease fixing the prices of its products. The firm is required to establish interest-bearing escrow accounts for the purpose of making restitution to consumers for purchases of certain school art materials. Further, the firm is required to distribute consumer redress funds to any state institutions which purchased said products; the FTC, with the cooperation of the State Attorney General, will distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money.

DATES: Complaint and order issued October 16, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500-Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio 44114. (216) 522–4207.

SUPPLEMENTARY INFORMATION: On Wednesday, May 28, 1980, there was published in the **Federal Register**, 45 FR 35832, a proposed consent agreement with analysis In the Matter of Binney & Smith Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.431 To exchange future price information; § 13.433 To fix prices; [2] § 13.493 To submit collusive bids. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–57 Restitution.[2]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 80-35302 Filed 11–12–80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C–3046]

Milton Bradley Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a manufacturer of art materials, located in Springfield, Mass., to cease fixing the prices of its products. The firm is required to establish interest-bearing escrow accounts for the purpose of making restitution to consumers for purchases of certain school art materials. Further, the firm is required to distribute consumer redress funds to any state institutions which purchased said products; the FTC, with the cooperation of the State Attorney General, will distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money.

DATES: Complaint and order issued October 16, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500—Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio. 44114. (216) 522–4207.

SUPPLEMENTARY INFORMATION: On Wednesday, May 28, 1980, there was published in the **Federal Register**, 45 FR 35832, a proposed consent agreement with analysis In the Matter of Milton Bradley Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.431 To exchange future price information; § 13.433 To fix prices; [2] § 13.493 To submit collusive bids. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–57 Restitution.[2]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 80-35303 Filed 11–12–80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 8827]

Standard Oil Company of California, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modified order.

SUMMARY: In compliance with the decision rendered by the Court of Appeals for the Ninth Circuit on July 3, 1978, 577 F.2d 653 (1978), this modified order amends the Commission's cease and desist orders issued against an oil company and its advertising agency on November 26, 1974, 40 FR 13488, 84 F.T.C. 1401, so that they refer only to future advertising of F–310, a gasoline additive product, rather than to "any product."

DATES: Decision issued Nov. 26, 1974. Modified order issued Oct. 7, 1980.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[2] New.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[2] New.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Wallace S. Snyder, Washington, D.C. 20580. (202) 724-1499.

SUPPLEMENTARY INFORMATION: In the Matter of Standard Oil Company of California, a corporation, and Batten, Barton, Durstine & Osborn, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 and appearing at 40 FR 13488, remain unchanged.

The Modified Order to Cease and Desist, including further order requiring report of compliance therewith, is as follows:

Respondents having filed in the United States Court of Appeals for the Ninth Circuit petitions for review of the Commission's cease and desist order issued herein on November 26, 1974; and the Court having rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the time for filing a petition for certiorari having expired and no petition for certiorari having been filed:

Now, therefore, it is hereby ordered, that the aforesaid order to cease and desist be, and hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

I.

It is ordered that respondent Standard Oil Company of California, a corporation, its successors and assigns, its officers, representatives, agents, employees, directly or through any corporate or other device, in connection with the advertising of the additive F–310, forthwith cease and desist from:

1. Representing directly or by implication that such product:

(a) Will produce or result in motor vehicle exhaust which is pollution free or generally pollution free; or

(b) Will eliminate or reduce air pollution caused by motor vehicles; or

(c) Will eliminate or reduce emissions from all or any number or group of motor vehicles in which it is used;

or that:

(d) Such gasoline additive product has any other quality, performance ability or other characteristic; or

(e) Tests, demonstrations, research or experiments have been conducted which prove or substantiate any of said representations;

Unless and only to the extent that each and every such representation is true and has been fully and completely substantiated by competent scientific tests. The results of said tests, the original data collected in the course thereof and a detailed description of how said tests were performed shall be kept available in written form for at least three years following the final use of the representation.

2. Representing directly or by implication that:

(a) Automotive exhaust has certain observable or measurable characteristics in all or any number or group of motor vehicles when such is not the fact; or

(b) Any machines, measuring devices or technical instruments have particular characteristics or capacities when such is not the fact; or

(c) Such product has any effectiveness in reducing air pollution or any air pollutant or air pollutants without at the same time, in the same advertisement or other form of communication, conspicuously disclosing that not all of the harmful pollutants in automotive exhaust are affected by said product; or

(d) Such product will reduce any emissions of pollutants from automobile exhaust by any percentage or numerical quantity unless in connection therewith there is a clear, accurate and conspicuous disclosure of the type of vehicle which can expect to achieve reductions of such magnitude and the approximate percentage of such vehicles in the general car population.

II

It is ordered that respondent Standard Oil Company of California, a corporation, its succesors and assigns, its officers, representatives, agents, employees, directly or through any corporate or other device, in connection with the advertising of the additive F–310, forthwith cease and desist directly or indirectly from:

1. Advertising by or through the use of or in conjunction with any test, experiment, or demonstration, or the result thereof, or any other information or evidence that appears or purports to confirm or prove, or is offered as confirmation, evidence, or proof of any fact, product characteristic or the truth of any representation, which does not accurately demonstrate, prove, or confirm such fact, product characteristic, or representation.

2. Using any pictorial or other visual means of communication with or without an accompanying verbal text which directly or by implication creates a misleading impression in the minds of viewers as to the true state of material facts which are the subject of said pictures or other visual means of communication.

3. Misrepresenting in any manner or by any means any characteristic, property, quality, or the result of use of such gasoline additive product.

III

It is ordered that respondent Batten, Barton, Durstine & Osborn, Inc., a corporation, its successors and assigns, its officers, representatives, agents, emloyees, directly or through any corporate or other device, in connection with the advertising of the additive F–310, forthwith cease and desist from:

1. Representing directly or by implication that such product:

(a) Will produce or result in motor vehicle exhaust which is pollution free or genrally pollution free; or

(b) Will eliminate or reduce air pollution caused by motor vehicles; or

(c) Will eliminate or reduce emissions from all or any number or group of motor vehicles in which it is used;

or that:

(d) Such gasoline additive product has any other quality, performance ability or other characteristic; or

(e) Tests, demonstrations, research or experiments have been conducted which prove or substantiate any of said representations;

Unless and only to the extent that respondent has a reasonable basis for such representation based upon competent scientific tests. The results of said tests and the data collected in the course thereof relied upon by respondent shall be kept available in written form for at least three years following the final use of the representation.

2. Representing directly or by implication that:

(a) Automotive exhaust has certain observable or measurable characteristics in all or any number or group of motor vehicles when such is not the fact; or

(b) Any machines, measuring devices or technical instruments have particular characteristics or capacities when such is not the fact; or

(c) Such product has any effectiveness in reducing air pollution or any air pollutant or air pollutants without at the same time, in the same advertisement or other form of communications, conspicuously disclosing that not all of the harmful pollutants in automotive exhaust are affected by said product; or

(d) Such product will reduce any emissions of pollutants from automobile exhaust by any percentage or numerical quantity unless in connection therewith there is a clear, accurate and conspicuous disclosure of the type of vehicle which can expect to achieve reductions of such magnitude and the approximate percentage of such vehicles in the general car population.

IV.

It is ordered that respondent Batten, Barton, Durstine & Osborn, Inc., a corporation, its successors and assigns, its officers, representatives, agents, employees, directly or through any corporate or other device, in connection with the advertising of the additive F–310, forthwith cease and desist directly or indirectly from:

1. Advertising by or through the use of or in conjunction with any test, experiment, or demonstration, or the result thereof, or any other information or evidence that appears or purports to confirm or prove or is offered as confirmation, evidence or proof of any fact, product characteristic, or of the truth of any representation which does not accurately demonstrate, prove, or confirm such fact, product characteristic, or representation unless the respondent can establish it neither knew, nor had reason to know, nor upon reasonable inquiry could have known that such was the case.

2. Using any pictorial or other visual means of communication with or without an accompanying verbal text which directly or by implication creates a misleading impression in the minds of viewers as to the true state of material facts which are the subject of said pictures or other visual means of communication unless the respondent can establish it neither knew nor had reason to know nor upon reasonable inquiry could have known the true facts.

3. Misrepresenting in any manner or by any means any characteristic, property, quality, or the result of the use of such gasoline additive product unless the respondent can establish it neither knew nor had reason to know nor upon reasonable inquiry could have known that such representations are false.

It is further ordered that respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered that respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered that respondents shall, within sixty (60) days after service of this order upon them, file with the Commission a written report, signed by the respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

By the Commission, Commissioner. Pitofsky did not participate.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35301 Filed 11-12-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 34-17272, IA-737, IC-11429]

Delegation of Authority to the Director of the Office of Opinions and Review

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its Rules of Organization to delegate to the Director of the Office of Opinions and Review the authority to rule on motions to stay final Commission orders in disciplinary proceedings pending appeal to the federal courts; motions to stay disciplinary action taken by a self-regulatory organization pending review of that action by the Commission; and requests for oral argument in appeals from disciplinary or exclusionary action taken by self-regulatory organizations. The Commission believes that it will facilitate timely disposition of these applications if authority to rule on them is delegated to the Director of the Office of Opinions and Review.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: William S. Stern, Director, Office of Opinions and Review, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2450.

SUPPLEMENTARY INFORMATION: The Commission adjudicates appeals both from disciplinary action assessed by its administrative law judges in cases instituted by the Commission under the securities acts and Rule 2(e) of its Rules of Practice, and from disciplinary action taken by various self-regulatory organizations. It has the authority to stay its orders affirming or modifying such action pending appeal of those orders to the federal courts. It also has the authority to stay disciplinary action taken by a self-regulatory organization pending Commission review of that action. In addition, pursuant to Rule 19d-3(f) under the Securities Exchange Act (17 CFR § 240.19d-3(f)), the Commission has discretion to grant or deny oral argument in connection with appeals from disciplinary or exclusionary action taken by self-regulatory organizations pursuant to Section 19(d)(2) of the Act. The Commission believes that the determination of stay applications and requests for oral argument in the above situation would be greatly facilitated by delegating those determinations to the Director of the Office of Opinions and Review. Accordingly, the Commission, acting pursuant to the Act of August 20, 1962, Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), hereby amends § 200.30-8 (17 CFR § 200.30-8) of the Commission's rules relating to general organization by adding new paragraphs (a)(4), (a)(5) and (a)(6) to delegate to the Director of the Office of Opinions and Review authority to determine stay applications and requests for oral argument as set forth above.

The Commission finds, in accordance with 5 U.S.C. § 553(b)(A) and 5 U.S.C. § 553(d) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. § 553 are not necessary pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraphs (a)(4), (a)(5), and (a)(6) to § 200.30-8, as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

§ 200.30-8 Delegation of authority to Director of Office of Opinions and Review

* * * * *

(a) * * *

(4) With respect to disciplinary proceedings conducted or reviewed pursuant to the provisions of the the Securities Exchange Act of 1934 (15 U.S.C. 78(a), et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1, et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.), and the provisions of Rule 2(e) of the Commission's rules of practice (§ 201.2(e) of this chapter), to determine applications to stay Commission orders imposing, affirming, or modifying sanctions pending appeal of those orders to the federal courts.

(5) With respect to disciplinary review proceedings pursuant to sections 19 (d) and (e) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d) and (e)), to

determine applications for a stay of disciplinary action taken by a self-regulatory organization pending Commission review of that action.

(6) In connection with Commission review of disciplinary and exclusionary actions taken by self-regulatory organizations, pursuant to sections 19(e) and (f) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (e) and (f)), to grant or deny requests for oral argument in accordance with the provisions of § 240.19d–3(f) of this chapter.

* * * * *

(Pub. L. No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2))

By the Commission.

George A. Fitzsimmons,

Secretary.

November 5, 1980

[FR Doc. 80-35283 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 401

42 CFR Part 401

Disclosure of Official Records and Information about Individuals

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This regulation describes the general principles the Social Security Administration will use in deciding when to disclose official records and information about individuals and the limitations on those disclosures. This regulation implements the provisions of the Privacy Act of 1974, the Freedom of Information Act and its amendment by the Government in the Sunshine Act, the Tax Reform Act of 1976, and section 1106 of the Social Security Act.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Armand Esposito, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7455.

SUPPLEMENTARY INFORMATION:

Introduction

The Social Security Administration (SSA) has traditionally followed a policy of strict confidentiality of its records. Since 1939, section 1106 of the Social Security Act has been the basic authority for that policy. Section 1106 prohibited the disclosure of information from SSA's records except as permitted in regulations issued by the Secretary of HHS. Section 1106 gave the Secretary of HHS broad discretion to decide what these regulations should be.

The 1967 Freedom of Information Act (FOIA) directed the Government to make many of its records public, but permitted section 1106 to be recognized as a controlling statute. Therefore, the Secretary's regulations on confidentiality of information continued to provide authority for refusal to disclose even though the FOIA would otherwise require or permit it. As a result, SSA's policies governing the disclosure of personal information continued to be very restrictive. The Privacy Act of 1974 had little effect on SSA's disclosure policies since these policies were generally more strict than those required by the Privacy Act. A major change came, however, when Congress enacted the Government in the Sunshine Act, effective March 12, 1977.

As a result of that Act, the Secretary's discretion to deny disclosure requests under section 1106 of the Social Security Act was greatly reduced. It provided that section 1106 could no longer be the basis for an exemption from disclosure under the FOIA.

The Department has published interim regulations on disclosure which complied with the provisions in the Government in the Sunshine Act. These regulations were published in the **Federal Register** on March 16, 1977 (42 FR 14704). They are quite general and provide for disclosure in most instances under FOIA principles. The rules set out below describe in more detail the principles we will use in determining whether information may be disclosed to someone other than the individual to whom the information relates. These rules also reflect the policies contained in HHS' Privacy Act regulations at 45 CFR Part 5b which are binding on the Social Security Administration under 45 CFR 5b.2(b). Disclosure of nonpersonal information will continue to be governed by the FOIA rules in HHS regulations (45 CFR Part 5) and in SSA's regulations in Subpart E of Part 22 of this chapter.

Affected HHS Components

These regulations replace the interim regulations on disclosure for SSA. Included within SSA is the Office of Family Assistance (OFA) which is responsible for the Aid to Families with Dependent Children (AFDC) program. These regulations apply to information that OFA has. The Federal rules on disclosure of personal information that States, local governments and others have under the AFDC program are in 45 CFR 205.50.

The interim regulations will continue to apply to the Health Care Financing Administration's disclosure of Medicare (title XVIII) program information until HHS publishes new regulations regarding that information. We have modified those regulations to show that they apply only to the Health Care Financing Administration, and we have relocated them to 42 CFR Chapter IV, Part 401.

Basic Rules

Both the proposed and final versions of this regulation follow the same basic rules. When a Federal law requires that we disclose information for a particular reason, we will comply with that requirement (§ 401.205). For example, the law requires us to furnish information to the Federal Parent Locator Service to help locate absent parents having child support obligations, and to the Immigration and Naturalization Service to carry out certain of its duties regarding aliens.

When a Federal law prohibits us from disclosing certain information, we will comply with that prohibition (§ 401.210). For example, the Internal Revenue Code generally prohibits SSA from disclosing tax return information. This includes, for example, amounts of wages and contributions from employers in tax returns which have been filed with the Internal Revenue Service and which SSA receives to maintain individual earnings records.

When no law specifically requires or prohibits disclosure and the individual has not given consent to disclose, we will generally use the principles in the FOIA to decide whether or not to disclose information. We will generally use these principles whether or not the FOIA governs the the handling of a particular disclosure request or question. For example, the FOIA does not apply to requests from another Federal agency, but we will apply the same principles. We have been doing this since the Government in the Sunshine Act became effective in March 1977.

Freedom of Information Act Principles

The basic intent of the FOIA is to require that records be made public, and even when withholding is permitted because one of the exemptions in the FOIA applies, SSA will release records (if not prohibited by another law) unless disclosure could result in demonstrable harm to an individual or interest protected by that exemption. The FOIA exemption which most often applies to SSA disclosure questions is whether the disclosure would result in a "clearly unwarranted invasion of personal privacy." We apply this test by considering—

(1) The sensitivity of the information to the individuals (e.g., whether individuals would suffer harm or embarrassment as a result of disclosure);

(2) The public interest in the disclosure;

(3) The individual's right and expectation to have personal information about him or her kept confidential; and

(4) The public's interest in maintaining general standards of confidentiality of personal information.

For example, we believe that there is a strong public interest in sharing information with other agencies with programs having the same purposes. However, there is usually little or no public interest in disclosing information for disputes between two private parties or for other private or commercial purposes; we generally do not share information for these purposes. We describe these rules in § 401.300 of the regulation.

Other General Rules

The other provisions of the regulation describe how we will use the FOIA principles when the Privacy Act applies. First we determine whether the Privacy Act would permit disclosure. If the Privacy Act permits disclosure, generally we apply FOIA principles to decide whether, to make the disclosure in question. In many cases, application of the FOIA exemption concerning a "clearly unwarranted invasion of personal privacy" results in a more limited disclosure policy than is permitted by the Privacy Act.

(1) *Disclosures within HHS (§ 401.305).* The Privacy Act allows the sharing of information within an agency when needed to carry out its duties. HHS is an agency under both the Privacy Act and the FOIA. Therefore, to the extent disclosure is not prohibited by another law, we will share with other parts of HHS the information they need from our records to carry out their duties.

(2) *Routine use and compatibility (§ 401.310).* The Privacy Act allows an agency to disclose information routinely without an individual's consent if the information is to be used for a purpose which is compatible with the purposes for which the information was collected. Applying FOIA principles we disclose information where necessary to carry out SSA's programs. Under FOIA principles we also disclose information for use in other programs which have the same purposes as SSA programs, if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program.

We consider disclosures for programs whose purpose is, like SSA's programs, income maintenance to involve a strong public interest and to be, therefore, consistent with FOIA principles, since these disclosures help assure that payments and determinations of rights under these vital programs are correct. We consider this public interest to outweigh the individual's expectancy of privacy. Examples of cash income maintenance programs are: veterans' benefits, railroad retirement annuities, worker's compensation, and unemployment compensation. Examples of noncash income maintenance programs are food stamps, social services under title XX programs, and rent subsidy. In addition, SSA still retains many responsibilities for the Medicare program now under the Health Care Financing Administration. Therefore, we consider health insurance or health services programs provided under Federal statutes (e.g., Medicare, Medicaid, or the uniformed services health programs) to be compatible with SSA's programs. We disclose information to such income maintenance and health care programs if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program. For example, we will disclose the amount of an individual's social security benefit where the individual's income bears on his or her eligibility for another income maintenance program. We will disclose evidence concerning an individual's disability if his or her disability is relevant to determining eligibility for benefits in the other program. Under this test, however, we will not generally disclose an individual's social security number or last-known address, since that information does not concern the individual's eligibility or benefit status in the social security program. (However, it has been our policy to verify social security numbers at the request of other agencies, and we will continue to do so under these regulations.)

We will also disclose information under appropriate circumstances for epidemiological and similar research. We consider this health-related activity to be a compatible purpose, since it may help prevent or lessen diseases, and thus may reduce the need for benefits under health maintenance programs.

(3) *Law enforcement (§ 401.315).* The Privacy Act permits a broad range of disclosures for civil or criminal law enforcement activities. However, the Senate Government Operations Committee report on the Privacy Act (Sen. Rep. No. 93–1183, p. 73) states:

> In requiring that the agency rule on each request on a case-by-case basis, it is hoped that secret law enforcement access, that is disclosure without notification to the subject of the file, will only be permitted in the most exigent and essential circumstances.

We believe that disclosure in this area should be limited under FOIA principles because, unless there are clearly defined situations for disclosure, it is often difficult to determine what is in the public interest and what is a "clearly unwarranted invasion of personal privacy" when the public and private interests must be weighed against each other. Generally, we believe that information should be released only in criminal cases involving—

(1) Violent crimes (like murder or kidnapping) where the individual about whom the information is sought has been indicted or convicted of that crime;

(2) Criminal activities involving a social security program; and

(3) Criminal activities involving another program with the same purposes if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program.

In extreme life theatening situations such as those involving a threat to national security, the holding of hostages, and acts of terrorism the Commissioner or designee, after appropriate consultation with the Secretary, will decide under § 401.115 whether to disclose the needed information.

In other situations under our application of FOIA principles we believe a reduced public interest in disclosure will be outweighted by the individual's interest in privacy.

Disclosures and Safeguards for Research and Statistical Purposes

We will continue disclosing information for statistical and research purposes. We will disclose if the following conditions apply—

(1) The requester indicates that it will use the information only for research and statistical purposes and will protect individuals from unreasonable and unwanted contact;

(2) The activity is related to the social security program or other income or health maintenance programs, including epidemiological and similar research; and

(3) The requester meets the rules we have for safeguarding its confidentiality.

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Research about the nation's income, work, age, and health patterns is clearly in the public interest. Since SSA itself uses data in its records for research and statistical purposes, we believe disclosure to requesters for those purposes is permissible under the Privacy Act. Moreover, we will do our best to see that the information is not further disclosed or used for nonresearch purposes. The new regulation would permit disclosure of data identifying specific individuals only in limited circumstances.

Court Orders

The Privacy Act allows disclosure to comply with any court order. However, as in the area of law enforcement, we have applied FOIA principles to limit the scope of these disclosures. Since participation in the social security programs is compulsory, individuals have little choice in the amount or kinds of information which we collect and keep about them. Court testimony generally becomes a matter of public record, so there can be no further protection of its confidentiality. Furthermore, the information requested is often more readily available from other sources or with the consent of the person concerned. These factors all argue for a restrictive position.

Accordingly, we disclose information in response to court orders if no law precludes disclosure and if—

(1) Another section of the regulation would allow the release; or

(2) The Secretary of HHS is a party to the proceeding; or

(3) The information is necessary for due process in a criminal proceeding.

In other cases, we disclose information in response to the needs of the courts while trying, to the extent practicable, to preserve the confidentiality of information.

Obtaining and Correcting Your Record

Sections 401.400 through 401.420 discuss how to request information from your record, and how to correct any information with which you do not agree.

The sensitive nature of medical information causes special problems in guaranteeing individuals the right to all information in an agency's files about them. Sometimes, a person's health might be harmed if he or she knew what was in a medical record.

The Privacy Act guarantees an individual the right to know what records an agency maintains about him or her, with certain exceptions, but also allows an agency to set up special procedures for giving an individual access to medical records. The regulation requires an individual to name a doctor or some other responsible representative whenever the individual wants to have access to a medical record. If we feel that the information might harm the individual, the report will be sent to the representative that the individual named.

We believe this procedure protects the individual from harm that might occur if he or she received the report directly, and also protects the individual's right under the Privacy Act to have access to information in an agency's files about him or her.

Appeals

Sections 401.500 through 401.510 discuss how to appeal any decision in which we refuse to correct a record, refuse to disclose information, or refuse to grant access to a record.

Public Response

We published this regulation with a Notice of Proposed Rule Making on April 10, 1079, at 44 FR 21498. We allowed the public until June 11, 1979, to comment on the regulation. On June 1, 1979, we announced a series of seven public meetings to explain these rules and to obtain public response to them (44 FR 31667). At that time we also extended the period within which the public could submit written comments to August 31, 1979.

We received 18 letters that supported broad disclosure of SSA's records. One of these was signed by 20 individuals. We also received 29 letters making specific comments on our proposed rules. Many similar comments and recommendations were received from the speakers and the audiences at the public meetings. We received two letters expressing support for sharing information with agencies having purposes compatible with those of the Social Security Administration.

Discussion of Comments

Major Changes

§ 401.215 *Freedom of Information Act.*

In response to comments we modified this section to show that an oral request is a valid FOIA request. However, since oral requests are usually handled by oral responses and are not documented, a decision on an oral request is not appealable. Therefore, we modified § 401.500 to show that only decisions made on written requests can be appealed.

§ 401.300 *General principles.*

In response to several comments regarding the intent and clarity of this section, we have restructured the section and modified the language.

§ 401.315 *Law enforcement purposes.*

In response to comments and concerns expressed at several public meetings on the release of information for law enforcement purposes, we have deleted the portion dealing with national security and have modified the material regarding other serious crimes.

§ 401.350 *Deceased persons.*

We modified the language of this section in response to a suggestion that we protect the privacy of a living person when disclosing information about a deceased person.

§ 401.400 *General.*

In response to a comment that we might charge individuals for obtaining information from their records, a possible restriction on their ability to pursue appeals, we have modified § 401.125 to show that we generally do not charge for this type information.

§ 401.405 *How to get your own record.*

One commenter stated that we should limit a parent's access to a minor's records. We followed the Privacy Act in modifying this section to require that the parent must be acting on the child's behalf.

§ 401.510 *Appeals after denial of disclosure or access.*

One commenter stated that, when a requester receives a notice stating that SSA will disclose part of the records requested, he or she will have 30 days from date of receipt of the notice to appeal that decision. The commenter suggested that the time to appeal begins when the released records are received, if this receipt occurs after receipt of the "partial denial" notice. We have modified this section to adopt this suggestion.

General Comments

Comment. Several speakers at the public meetings stated that these regulations should be more restrictive, and several persons submitted written comments making the same suggestion. Conversely, several persons wrote that these rules should be less restrictive. The reason generally given for disclosing more information was to improve the efficiency of Government programs at various levels. The reason given for disclosing less information was to protect individual privacy.

Response. We recognized in drafting these rules that public opinion would be divided on how broad SSA's authority to disclose information from its records should be. We tried to reflect a fair balance between the requirements of the various laws in this area. Many commenters supported this approach

although they suggested modifications which are discussed below.

Comment. Several speakers at the hearings and many of those submitting written comments said some of the proposed rules were vague or should be more specific.

Response. Because we tried to reflect the balance between the requirements of various laws on the disclosure of information in our records, we had to use broad general statements in setting out our rules. For example, the first sentence in § 401.100 states "The Social Security Administration (SSA) generally provides information which individuals request about themselves." Similar types of statements are made about what we do with requests from various agencies, organizations, and other persons for information about an individual. While these statements explain the general principles we will follow in evaluating requests for information from sources other than the individual, they do not cover all situations or provide the details on how we will perform this evaluation in specific cases. Even if we could anticipate every situation that can arise, which we cannot, we do not believe it is desirable to include that level of detail in a regulation. Further information will be contained in the procedures we are developing for SSA employees to follow when evaluating these requests. These procedures will be available for inspection at any social security office in the near future.

Response to Comments by Section

§ 401.105 *When the regulation applies.*

Comment. A law group commented that this section seemed to exclude all information about the acts of SSA officials and employees.

Response. While the proposed rule explained that these rules do not apply to information about the acts of SSA officials and employees, it also cited the rules which do apply to that kind of information. We have restructured § 401.105 to bring this information together so that it clearly states what information is covered by these rules and where to find other rules that apply to information which is not covered here. We also added a new paragraph (e) which clarifies our policy on disclosure by medical, psychological and vocational consultants who examine social security applicants under contracts with State agencies.

§ 401.115 *Situations not specified in this part.*

Comment. Several legal services groups commented on the broad authority vested in the Commissioner by this section. They were concerned that this authority could be used to disclose information in any instance where it was not specifically prohibited. One group suggested this section be deleted or rewritten to set out the situations when this type of disclosure would be made.

Response. We understand the concerns of the commenters. However, reading § 401.115 in the context of the rest of Regulation No. 1, we believe those concerns should be alleviated. The purpose of § 401.115 is to do no more than recognize that disclosure may be permitted even though one of the exemptions in the FOIA applies. SSA, however, does not intend to disclose any information where disclosure would result in significant harm to any individual or interest protected by an exemption and, of course, will not disclose any information where disclosure is prohibted by law. We have added an example of the unique situations in which this authority may be used.

§ 401.120 *Safeguards against unauthorized disclosure or use.*

Comments. We received several different comments on this proposed section. One commenter wanted to know if the onsite inspections were voluntary or enforceable. Another asked if we consider the mechanisms for safeguarding the information rather than the mere assurance that such measures will be taken. A third commenter indicated that the information should be withheld if appropriate safeguards are not present. At the hearing in Denver, an individual pointed out that we should have more control over redisclosures.

Response. While we agree with the point of these observations, no law gives us authority over what happens to information once we disclose it under the FOIA. We can only exercise control over its release. Therefore, we have set up assurances we may properly obtain before releasing information to someone other than the person whom the information concerns. In determining whether appropriate measures to safeguard the requested information will be taken, we may need to know and evaluate what measures or mechanisms are planned by the requestor of the information. Although an individual may assure us prior to release of any information that we would be permitted to conduct an onsite inspection to verify that safeguards are in place, this permission is voluntary. If any of these assurances are not complied with after the information is released, the limited recourse we might have is to deny subsequent requests for information from the individual or organization.

§ 401.205 *Disclosures required by law.*

§ 401.210 *Disclosures prohibited by law.*

Comment. We were asked to list in each of these sections the laws which apply. This commenter also questioned the use of the term information in these sections when in § 401.110 we defined "information about an individual."

Response. We considered listing the laws that apply to these two sections. However, any listing of laws would only be accurate up to a certain point in time. It is possible we could have several new laws in this area each year, and therefore be in a position of either having to update the regulation each time that happens or leave the list incomplete. We therefore chose not to list the various laws. However, whenever we withhold requested information we will include in the denial notice a citation as to any law authorizing us to make that denial. When complying with a request for information, we will generally do no more than release the information, if it is discloseable.

Regarding the use of the term "information," we have modified § 401.110 so that it now defines the term "information" as meaning information about an individual. This will permit us to use the shorter term "information" throughout these regulations, without any question about the definition.

§ 401.215 *Freedom of Information Act.*

Comment. Several commenters pointed out that this section implies that an oral request is not a request under the FOIA. Also, one of these commenters suggested this section be reorganized to make it and subsequent sections easier to understand.

Response. We have deleted the references to written requests from this section so that it now applies to any request for information. However, the time limits for responding to FOIA requests (20 CFR 422.436) and appeal rights set out in § 401.510 will apply only to written requests, and we will continue to furnish written responses only to written requests.

§ 401.220 *Other laws.*

Comment. A commenter stated this section was unclear as to when section 1106 of the Social Security Act applies, and suggested we provide some examples. This commenter also felt that we should discuss in this section the consequences of the Privacy Act on the disclosure of information under the FOIA.

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Response. Section 1106 is the main statute authorizing our regulating disclosure of information in our records, although the other laws mentioned in this regulation, primarily the FOIA and the Privacy Act, govern when we may or may not disclose information. Citing "examples" in the regulation of situations in which section 1106 applies would be useless because it applies to all information covered by the regulation, except information pertaining exclusively to the black lung program.

Regarding the consequences of the Privacy Act on the FOIA, 5 U.S.C. 552a(b)(2) states the Privacy Act shall not prevent any disclosure required by the FOIA. We have modified § 401.215 to reflect that provision.

Comment. A State rehabilitation agency suggested that we add a new section which would permit a State agency to redisclose Social Security Administration information to another State agency which also has an established routine use need for that information.

Response. We have agreements with each State which govern what information we will disclose to the State and how the State may use it. We believe that a policy allowing redisclosure by one agency to another agency within that State should be detailed in these agreements rather than in a uniform nationwide regulation.

§ 401.300 *General principles.*

Comment. One commenter pointed out that in § 401.120 we weigh the requestor's "need to know" against whether there is a "clearly unwarranted invasion of privacy." Yet, in § 401.300 our standard is "the public interest in the disclosure." The commenter asked that we clarify our policy.

Another commenter, who also spoke at the hearing in Atlanta, wrote that this section is somewhat ambiguous, that the criteria for determining whether to disclose are inconsistent with the Privacy Act, and stated that the last phrase in the section, "we generally do not share information for these purposes," is vague.

Response. We have modified this section to show that in weighing the public interest in a disclosure we will also consider the public's expectations that a requestor will preserve the confidentiality of the information he or she may be given.

We have made certain editorial changes which clarify the meaning of this section.

Section 401.300 is entirely consistent with the Privacy Act. It describes how we evaluate questions on whether to disclose information when no law specifically requires or prohibits the disclosure, e.g., the disclosure involves work information which is not prohibited from being disclosed by the Tax Reform Act. The Privacy Act permits, but does not require, disclosure under the circumstances outlined in §§ 401.305–401.345. The Privacy Act says nothing about whether an agency must or should disclose information under these circumstances. We believe that many of these questions will involve FOIA requests which are also excepted from the Privacy Act restrictions against disclosure. Therefore, we will apply the FOIA principles we describe in this section to all questions of disclosure. In this way we will be able to maintain uniform standards in treating disclosure questions.

With regard to the comment that the last phrase of § 401.300 is ambiguous, this phrase must be taken in the context of the sentence in which it appears. However, since there is a question of its meaning, we have modified that sentence's structure to better tie that phrase to the rest of the sentence.

§ 401.305 *Within HHS.*

Comment. Several groups and individuals recommended that SSA should be the agency and not HHS as stated in this section. In addition to citing the Privacy Act definition of agency, they pointed out that the information in question was collected for social security purposes and not for miscellaneous unrelated HHS programs.

Response. HHS is considered to be the "agency" for Privacy Act purposes. As such, the Privacy Act permits disclosure to officers and employees within HHS of SSA records they need to perform their duties. This exchange of records is considered necessary to fulfill the Department's administrative and program responsibilities. However, within the context of those responsibilities, HHS makes every effort practicable to assure the privacy of those records.

§ 401.310 *Compatible purposes.*

Comment. We received many comments on this section, both in writing and at the hearings. They were about evenly divided between suggestions that the criteria for "compatible purposes" be broadened and suggestions that they be more restrictive. Several State rehabilitation agencies requested that this section specifically provide for disclosure to agencies providing vocational rehabilitation services. Several commenters asked that we freely provide information to social services agencies.

Response. This section explains the balance under the law between our responsibility to maintain the privacy of the information in our files and to meet our needs and the information needs of those programs with the same purposes as SSA programs. The regulation provides for disclosure to other income-maintenance or health-maintenance programs only where the information concerns eligibility, benefit amounts, or other matters of benefit status in both the social security and recipient programs. We believe this limitation is necessary to protect the confidentiality of information that is incidental to the individual's social security status while allowing some exchange of information based on the close relationship between eligibility requirements or benefit status in these related government programs.

Rather than maintain an exhaustive listing in this section of the agencies and groups (including State Rehabilitation and social service agencies) to whom we will provide information for "routine uses," we prefer to periodically publish these lists in the **Federal Register** with our notices of systems of records as required by law. Those notices are more detailed than a regulation as to what information will be provided and to whom. They also provide greater flexibility for change. A copy of these notices of systems of records is maintained in each social security office and is available for public inspection.

§ 401.315 *Law enforcement purposes.*

Comment. One commenter suggested this section would open SSA's records to "fishing" expeditions by a variety of law enforcement agencies. Further, this commenter felt this section left open-ended the types of situations in which the FBI and Secret Service could receive information.

Two commenters asked that we broaden paragraph (c) by listing additional crimes as examples of when we would consider disclosing information. One of these commenters pointed out that without a definitive listing there would be delays in responding to requests. We were also asked to set up an office to process information requests from law enforcement agencies. Another commenter expressed the concern of his clients over the potential release of their medical records to law enforcement agencies. We were also asked to make this section more restrictive.

On paragraph (d), one commenter suggested that we limit the disclosures discussed in this paragraph to those involving a substantial, documented basis for the investigation and when the amount in question is significant. Another commenter suggested we clarify the wording of this section.

Response. We recognize that requests from the FBI or Secret Service in matters involving the national security, hostage taking, or acts of terrorism involve always complex, often unique and extremely sensitive factual situations and should not be decided routinely, as perhaps, the proposed regulation suggested. Therefore, we have deleted paragraph (b) (National Security) which now means that decisions to disclose information in these situations will only be made under § 401.115 by the Commissioner or designee after appropriate consultation with the Secretary.

In drafting paragraph (c) we purposely narrowed the range of felonious crimes concerning which we would disclose information. This listing should not be read as precluding us from disclosing information in connection with other serious crimes where the public interest served by disclosure outweighs the privacy interest. However, we agree that disclosing information for what might be considered "fishing" expeditions could violate individual privacy rights. Therefore, we have modified the new paragraph (b) to clarify that information in situations involving violent crimes will be disclosed only where the individual about whom the information is sought has been indicated or convicted of the crime.

Our experience has shown that most "law enforcement" requests, which don't involve income or health maintenance programs, are for an individual's most recent home or work address. Except for up-to-date addresses for persons receiving benefits from SSA, primarily retired and disabled persons, we normally have information about the last location at which a person worked. Beginning with 1978, we receive employer's wage reports only once a year. Since this information is not received until after the close of a year, it is generally several months old. In most situations we cannot disclose this information because of restrictions contained in the Tax Reform Act (see § 401.210). Better information will usually be available from other sources. Consequently, we did not provide a comprehensive list of felonies, since that might encourage many fruitless requests for information.

We have redesignated proposed paragraph (d) as paragraph (c). We have also modified the language to limit the extent of disclosures where a criminal activity involves other programs which have the same purposes as SSA's programs.

We will disclose information for investigation or prosecution of criminal activity if the information concerns eligibility, benefit amounts, or other matters of benefit status in both the social security and other programs. This limitation is the same as the policy on disclosures for compatible purposes discussed in our response to comments on § 401.310. We do not feel there should be dollar limits on when we will release information to protect these programs.

§ 401.325 *Statistical and research activities.*

Comment. Two groups commented that the Privacy Act does not allow the disclosure of records in personally identifiable form for statistical and research purposes. One of these groups also suggested that we provide for more stringent safeguards if we decide to disclose personally identifiable information. Another commenter asked how we will ensure that the stated safeguards are actually followed. A fourth commenter believed this section was quite protective of the individual but suggested we review the safeguards to be taken to protect disclosed information and not merely rely on the requestor's assurances. At the Atlanta hearing an individual also commented that we should do more than just obtain assurances that disclosed information will be safeguarded.

Response. It is true that the Privacy Act, at 5 U.S.C. 552a(b)(5), specifically discusses disclosure of records which are not individually identifiable. It provides for written agreements between an agency and a data user who assures the agency that any released unidentifiable records will be used only as a statistical research or reporting record. We enter into these agreements when disclosure of identifiable information would be unauthorized, and there is a risk that the data user can combine various pieces of unidentifiable information to identify a particular individual. However, paragraph (b)(5) does not prevent an agency from disclosing a record in identifiable format if the record is to be disclosed under another Privacy Act exception. For example, we might provide information in identifiable format to the Census Bureau under paragraph (b)(4), or to the statistical component of another Federal agency which has established a compatible routine use under paragraph (b)(3) and which has agreed to safeguard the information.

We set out only the broad principles we will expect recipients of information to follow in safeguarding that information. The detailed requirements of each principle, and the steps we will take to monitor that the given assurances are actually being followed, will be placed in our detailed instructions to employees. These instructions will be in the SSA Claims Manual and will be available for public inspection at any social security office in the near future. We will consider the above comments in preparing those instructions.

§ 401.330 *Congress.*

Comment. One commenter wanted to know if materials transferred between Congress and agencies within HHS are available for release to the public. Another commenter questioned Congress' need for information about specific individuals. Two commenters asked that we modify paragraph (b) to have the same conditions governing disclosure apply to members of Congress as apply to other third party requestors. We were also asked to require some evidence that the Congressperson had received an inquiry, and to broaden this section to include members of State legislatures.

Response. Any statistical information SSA provides to Congress would normally also be made available to the public. Any information we furnish to a Congressperson about a specific individual would not normally be considered public information as a result of that request.

Section 401.330(a) reflects the Privacy Act provision (5 U.S.C. 552a(b)(9)) permitting disclosure of information, without consent, to both Houses of Congress for purposes of official congressional business (e.g., legislative investigations and hearings).

Section 401.330(b) covers situations in which people ask their Congressperson for assistance when they have a claim for benefits or some other matter pending with SSA. The Congressperson, in requesting information from us, nearly always sends us a copy of the constituent's letter. We treat the Congressperson as the constituent's representative. Since disclosure would not be a "clearly unwarranted invasion of personal privacy" under these circumstances, we release information that should help the Congressperson reply to the constituent.

The Privacy Act provision cited does not apply to State legislatures. However, a request from such a body for information which would help it meet its legislative functions would be carefully considered under the FOIA rules described in the regulation (§§ 401.215 and 401.300). A request from a particular

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State legislator, who has received a request for assistance from a constituent, would receive similar consideration. Such inquiries from State legislatures and their members are quite rare. We do not believe that they warrant a special provision in the regulations.

§ 401.340 *Courts.*

Comment. We received several written comments and a speaker in Atlanta also commented on this section. One commenter asked what situations we meant by "In other cases," in paragraph (b) while another asked that this test be dropped. Another individual suggested that these rules should require that we respond to court orders by advising the court of the Privacy Act's provisions and that, when necessary, we advise the court that under the circumstances the disclosure would be inappropriate. The latter point was also made by the speaker in Atlanta. Two commenters indicated we should require that individuals seek information elsewhere before subpoenaing a record. We were also asked what relationship the Secretary's being a party to a proceeding has to the propriety of disclosing information from SSA's files, and to notify the individual in question before honoring a subpoena requesting information from his or her file.

Response. The sentence in paragraph (b) which reads, "In other cases, we try to satisfy the needs of courts while preserving the confidentiality of information," was included because of SSA's need for some flexibility in dealing with courts. SSA does not automatically comply with every attempt to obtain information through court order or subpoena. For example, SSA will resist subpoenas issued in suits brought by private parties when no other provision of the regulation permits the disclosure (e.g., under the FOIA principles) and the individual about whom the information pertains does not consent to the disclosure. This provision in paragraph (b) allows SSA to work with a court to satisfy the court's needs with a minimum of invasion of privacy. For example, we might ask a judge to examine sensitive personal information in chambers without entering it in the open court record. Judges may also be requested to issue protective orders prohibiting further disclosure of information disclosed during a court proceeding.

We agree in principle that in many cases persons should seek information from other sources before subpoenaing SSA's files. However, in many other cases SSA's information will be more readily available, in a more usable form, and/or more reliable than the same information obtained elsewhere, and when the rules set out in the regulation permit disclosure, we do not object to releasing the information as requested.

We consider subpoenas to be a type of court order for Privacy Act purposes. We have amended paragraph (b) to clarify that we will disclose information in response to a subpoena or other court order if the criteria in paragraph (b) are met. This change merely reflects the policy contained in the last sentence of paragraph (a). When we do honor subpoenas as court orders, we try to comply with the subpoena within the time period stipulated by the court, if possible. Also, as required by the Privacy Act (5 U.S.C. 552a(e)(8)), we will try to notify an individual about a subpoena requesting information about him or her when we disclose information which will become part of a public record. However, time constraints might prevent us from receiving and considering that individual's response before honoring the subpoena.

Regarding the Secretary being a party to a judicial proceeding, the Secretary is the proper defendant in judicial proceedings involving SSA (see 20 CFR 422.210(d)). If the court order involves a proceeding of which the Secretary is a party, the Secretary must, like other parties, respond to the order. While we notify the individual of the subpoena, the court order may not allow us time to receive and consider that individual's response before honoring the court order.

§ 401.350 *Deceased persons.*

Comment. Two commenters indicated that medical information about deceased persons should be kept confidential. These commenters questioned why the cause of death or the person's mental or emotional state should be made public. Another commenter felt we should specify how the privacy rights of living persons who may be affected by disclosure of information about a deceased person would be affected.

Response. This provision sets out the general rule on disclosure of information about deceased persons. We do not usually have information on cause of death or mental and emotional state at death. If a person is receiving benefits from SSA and dies, we generally accept a statement reporting that person's death to terminate his or her benefits, without requiring formal proof of death. When a claim for social security benefits is filed based on a deceased person's work record, we request proof of death, but we do not ordinarily receive any information about the cause of death or the emotional state at death, since this usually is not relevant to any claim for benefits. When we do receive this kind of information, it is usually on a death certificate, which is a public record.

Generally, we have no legal authority to withhold information pertaining only to deceased persons. Neither the FOIA nor the Privacy Act recognizes any privacy interests of a deceased person. However, we can withhold a deceased person's record if disclosure would constitute a "clearly unwarranted invasion of a [living] person's privacy." Therefore, we have modified this section to show that, in deciding whether to release information about a deceased person, we will consider whether the disclosure would directly affect a living person adversely (e.g., cause embarrassment to the decedent's family). We note, however, that the disclosure restrictions in the Internal Revenue Code may require our withholding information on a deceased individual's work history. This is adequately covered in § 401.210.

§ 401.400 *General.*

Comment. A commenter wrote that paragraph (c) was inconsistent with the Privacy Act and HHS implementing regulations. A speaker at the Atlanta hearing said the right of an individual to obtain his or her own records should be unrestricted. Another commenter was concerned that we charge an individual for obtaining information from his or her file. The commenter was especially concerned that these costs could restrict an individual's ability to pursue his or her appeal rights under the Social Security Act.

Response. The Privacy Act requires unrestricted access in most situations, but does permit limitations on access to medical records, and records compiled for possible court action or certain formal administrative proceedings. Subpart D reflects these Privacy Act provisions and the Department's Privacy Act regulation (45 CFR 5b.2(e)(5) and 5b.6). We have amended § 401.125 to show that we do not generally charge an individual for obtaining information from his or her file. We also added to § 401.125 a cross-reference to the fee schedule we follow when responding to requests for information or records.

§ 401.405 *How to get your own record.*

Comment. A commenter recommended that paragraph (a) be amended to limit a parent's right of access to a minor's records. At the San Francisco hearing there was some discussion over requiring identification from individuals before granting them access to a record.

Response. We have amended paragraph (a) to show that, under the Privacy Act, a parent can get nonmedical information about a minor only if the parent is acting on behalf of that minor. We have modified paragraph (b) to show that an individual may have to show documentary proof of his or her identity when he or she requests access to records. This change to paragraph (b) reflects the requirements of 45 CFR 5b.5(b)(2).

§ 401.410 *Medical information.*

Comment. We received numerous written comments on this section. Also, at five of the seven hearings someone addressed the policy in this section. The comments raised the following points:

(a) An individual should be able to get his or her medical records without having to use a representative except in extreme cases;

(b) The criteria when a representative is needed are vague;

(c) SSA should have a doctor on hand to explain medical records to a requestor; and

(d) Appointing a representative to receive medical records is too costly for the poor.

Speakers at the Boston and Denver hearings agreed that an individual's medical records should be partially or wholly withheld from him or her.

Response. This section reflects the provisions of HHS regulation 45 CFR 5b.6, and has been amended to refer to that HHS regulation. While § 401.410 requires that an individual seeking his or her medical records name a representative, the requested information will not always be sent to the representative. In most cases an individual will be given his or her medical records directly. This would be done after a careful review of the material.

We did not list situations when a representative will be used because each request for medical information will require an independent judgment. This judgment will consider such factors as the nature of the individual's condition and whether our file indicates the treating physician has explained the condition to the individual, especially in terminal cases.

We do not believe we should be expected to provide a physician to explain the contents of an individual's medical records when we release them to that individual. Our experience has been that individuals generally request this information in connection with a claim for benefits or a lawsuit. Interpretation and use of these records should be left wholly to the individual or the representative whom the individual appoints.

We are unaware of physicians or other responsible individuals directly charging a person solely for the right to appoint them as a representative to receive any disclosed medical records. That a physician might charge for any office time used to explain the disclosed medical records, though, is understandable. People normally request medical information from our files in connection with a claim for benefits or some lawsuit and often have attorneys representing them.

This section does permit them to designate their attorney to receive the information. Any costs associated with this additional service would normally be included in the attorney's fee and should not result in an immediate expense to the individual. Moreover, a competent adult need not appoint a professional representative who will charge a fee for the service. As the rule in this section states, he or she may appoint any responsible person.

§ 401.420 *How to correct your record.*

Comment. One commenter suggested that individuals be allowed to request a correction in person so that they could get help in preparing their requests. Another commenter felt we did not need to know why an individual wanted to correct or amend his or her record. This commenter also felt that paragraph (b) was unclear.

Response. This section is not intended to preclude an individual from requesting a correction of his or her records in person. However, individuals will normally have to make a written request since the manager of the systems of records they want to correct will normally be in SSA's headquarters in Baltimore, Maryland. We have modified paragraph (a), though, to show that a person can obtain assistance at any social security office in preparing the request.

We need to know why an individual believes that his or her record is not accurate, complete, timely, or relevant in order to understand the request. We have modified paragraph (a)(4) to make this more clear.

To clarify the intent of paragraph (b), we have added an example which describes a situation where we would not change a record.

§ 401.505 *Appeal of refusal to correct a record.*

Comment. One commenter proposed that paragraph (b) be amended so that the time to review an appeal is not extended for 30 days in all cases. It was also recommended that we provide the requester with a reason why we need additional time to reply to the request.

Response. We have modified paragraph (b) to reflect these two suggested changes.

§ 401.510 *Appeals after denial of disclosure or access.*

Comment. One commenter recommended that we provide in paragraph (a) that an appeal may be taken within 30 days of receipt of records which are in partial response to a request for records. This would apply to situations in which the individual receives a notice stating only part of the requested records will be furnished and that those records will be released shortly. As proposed, the individual would have 30 days from the date of the notice to appeal, but the individual has not yet seen the requested records which are being released. Thus when someone receives a notice stating that only part of the requested records will be furnished, and receives the records himself later, the commenter felt that the 30-day appeal period should start from receipt of the records rather than the notice. Another commenter recommended that we include in paragraph (a) whether we will notify a requester of the reasons why we denied his or her request, and of the right to appeal that decision.

Response. We have modified paragraph (a) to reflect these two suggested changes.

Due to the recent redesignation of the Department of Health, Education, and Welfare (HEW) as the Department of Health and Human Services (HHS), we have made the necessary conforming designation changes. We have also made several editorial and clarifying changes.

Accordingly, these rules are adopted as set forth below.

(Catalog of Federal Domestic Assistance Programs No. 13.802–13.805 and 13.807–13.812, Social Security Programs)

Dated: June 5, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

20 CFR Part 401 is amended as follows:

1. Subpart A is transferred to 42 CFR Chapter IV and redesignated as Subpart A in new Part 401. A heading is added for 42 CFR 401 Subpart B. The headings for 42 CFR 401 and for Subparts A and B of 401 read as follows:

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Subpart A—General Provisions

* * * * *

Subpart B—Confidentiality and Disclosure [Reserved]

2. In 42 CFR, § 401.1, paragraph (a) is revised to read as follows:

§ 401.1 Purpose and scope.

(a) The Regulations in this Part implement section 1106(a) of the Social Security Act as it applies to the Health Care Financing Administration. The rules apply to information obtained by officers or employees of the Health Care Financing Administration in the course of administering title XVIII of the Social Security Act, information obtained by Medicare intermediaries or carriers in the course of carrying out agreements under sections 1816 and 1842 of the Social Security Act, and any other information subject to section 1106(a) of the Social Security Act.

* * * * *

§§ 401.1, 401.2 and 401.3 [Amended]

2.a 42 CFR 401 is amended as follows: In §§ 401.1(b), 401.2(a), and 401.3(b)(2) change the references to "Part 422, Subpart E of this chapter" to 20 CFR Part 422, Subpart E." Sections 401.1, 401.2, and 401.3 are redesignated 401.101, 401.102, and 401.105 respectively.

3. In 20 CFR Part 401 Subpart B is redesignated as Subpart F and sections 401.101 to 401.105 are redesignated as 401.600 to 401.604.

4. The table of contents for 20 CFR Part 401 is amended to read as follows:

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Subpart A—General Provisions

Sec.
401.100 Purposes of the regulation.
401.105 When the regulation applies.
401.110 Terms defined.
401.115 Situations not specified in this part.
401.120 Safeguards against unauthorized disclosure or use.
401.125 Fees.

Subpart B—How Laws Apply

401.200 General.
401.205 Disclosures required by law.
401.210 Disclosures prohibited by law.
401.215 Freedom of Information Act.
401.220 Other laws.

Subpart C—Individual Disclosures

401.300 General principles.
401.305 Within HHS.
401.310 Compatible purposes.
401.315 Law enforcement purposes.
401.320 Health or safety.
401.325 Statistical and research activities.
401.330 Congress.
401.335 General Accounting Office.
401.340 Courts.
401.345 Other specific recipients.
401.350 Deceased persons.

Subpart D—Obtaining and Correcting Your Records

401.400 General.
401.405 How to get your own record.
401.410 Medical information.
401.415 Records about two or more individuals.
401.420 How to correct your record.

Subpart E—Appeals

401.500 Which decisions are covered.
401.505 Appeal of refusal to correct a record.
401.510 Appeals after denial of disclosure or access.

Subpart F—Disclosure of Wage Information for Programs of Aid to Families With Dependent Children

401.600 Purpose and scope.
401.601 Definitions.
401.602 When information may be disclosed.
401.603 Information which is necessary.
401.604 Protection of confidentiality.

Authority: Secs. 205, 1102, and 1106 of the Social Security Act; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, sec. 290, 66 Stat. 234; (42 U.S.C. 405, 1302, 1306; 8 U.S.C. 1360); sec. 413(b) of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 794; 30 U.S.C. 923, 5 U.S.C. 552a (Privacy Act); 5 U.S.C. 552 (Freedom of Information Act), as amended by Pub. L. 94-409; 90 Stat. 1241; 26 U.S.C. 6103, as amended by Pub. L. 94-455, 90 Stat. 1667 (Tax Reform Act of 1976).

5. New Subparts A through E are added to read as follows:

Subpart A—General Provisions

§ 401.100 Purposes of the regulation.

The Social Security Administration (SSA) generally provides information which individuals request about themselves. This regulation describes how individuals may get access to their own records. This regulation also describes the rules SSA uses to decide whether to disclose information about individuals without their consent. These rules are set out in Subparts A through E of this part. These rules comply with the Freedom of Information Act, the Privacy Act, section 1106 of the Social Security Act, and other applicable statutes. When required by the Privacy Act, SSA publishes notices of routine use for public information and comment. Procedures for requesting information are in §§ 422.428 and 422.436 of this chapter and 45 CFR Parts 5 and 5b.

§ 401.105 When the regulation applies.

(a) *Scope of rules.* This regulation sets out the general guidelines which we follow in deciding whether to make disclosures. However, we must examine the facts of each case separately to decide if we should disclose the information or keep it confidential.

(b) *Social security records.* This regulation applies to information about an individual contained in SSA's records. Other regulations apply to—

(1) Information which is not about an individual—45 CFR Part 5 and Subpart E of Part 22 of this chapter; or

(2) Information about acts of SSA officials and employees or to SSA's personnel records—45 CFR Parts 5 and 5b; or

(3) Information in the possession of a State or local agency administering a program of Aid to Families with Dependent Children—45 CFR 205.50.

(c) *Health insurance records.* This regulation also applies to health insurance records which SSA maintains for the Health Care Financing Administration's (HCFA) programs under title XVIII of the Social Security Act. SSA will disclose these records to HCFA. HCFA may redisclose these records under the regulations applying to records in HCFA's custody.

(d) *Black lung benefit records.* This regulation also applies to records which SSA maintains for the administration of the Federal Coal Mine Health and Safety Act. However, this information is not covered by section 1106 of the Social Security Act.

(e) *Records kept by consultants.* Information retained by a medical, psychological or vocational professional concerning an examination performed under contract in the social security program shall not be disclosed except as permitted by this part.

§ 401.110 Terms defined.

"Access," as that term is used in the Privacy Act (5 U.S.C. 552a(d)), means the individual's right to review and copy records about that individual.

"Act" means the Social Security Act.

"Disclosure" means the availability or release of a record about an individual to another party.

"FOIA" means the Freedom of Information Act.

"HHS" means the Department of Health and Human Services.

"Individual" means a living natural person; this does not include corporations, partnerships, and unincorporated business or professional groups of two or more persons.

"Information" means information about an individual, and includes, but is not limited to, vital statistics; race, sex,

or other physical characteristics; earnings information; professional fees paid to an individual and other financial information; benefit data or other claims information; the social security number, employer identification number, or other individual identifier; address; phone number; medical information, including psychological or psychiatric information or lay information used in a medical determination; and information about marital and family relationships and other personal relationships.

"Record" means any item, collection, or grouping of information about an individual that SSA maintains (e.g., employment history, medical history (including consultative examinations), education) and that contains his or her name, or an identifying number, symbol, or any other means by which an individual can be identified.

"Secretary" means the Secretary of Health and Human Services and any individual authorized to act for him or her in the administration of a social security program.

"Social Security Administration" (SSA) means (1) that principal operating component of the Department of Health and Human Services which has administrative responsibilities under titles, I, II, IV—Part A, X, XI, XIV, XVI, and XVIII of the Act; and (2) units of State governments which make determinations under agreements made under sections 221 and 1633 of the Act.

"Social security program" means any program or provision of law which SSA is responsible for administering, including the Freedom of Information Act and Privacy Act. This includes our responsibilities under Parts B and C of the Federal Coal Mine Health and Safety Act.

"System of records" means a group of records under our control from which information about an individual is retrieved by the name of the individual or by an identifying number, symbol, or other identifying particular.

"We" means the Social Security Administration.

§ 401.115 Situations not specified in this part.

If no other provision in this regulation specifically allows SSA to disclose information, the Commissioner or designee may disclose this information if not prohibited by Federal law. For example the Commissioner or designee may disclose information necessary to respond to life threatening situations.

§ 401.120 Safeguards against unauthorized disclosure or use.

The FOIA does not authorize us to impose any restrictions on how information is used after we disclose it under that law. However, the FOIA does permit us to withhold information, for example, if disclosure would result in a "clearly unwarranted invasion of personal privacy." In deciding whether this exemption applies in a given case, we must consider all the ways in which the recipient might use the information and how likely the recipient is to redisclose the information to other parties. Thus, before we disclose personal information we may consider such factors as—

(a) Whether only those individuals who have a need to know the information will obtain it;

(b) Whether appropriate measures to safeguard the information to avoid unwarranted use or misuse will be taken; and

(c) Whether we would be permitted to conduct on-site inspections to see whether the safeguards are being met.

§ 401.125 Fees.

We follow HHS regulations (45 CFR 5.60, 5.61 and 5b.13) and § 422.440 of Part 422 of this Chapter to determine the amount of fees, if any, to be charged for providing information under the FOIA and Privacy Act. Generally, we do not charge an individual for obtaining information from his or her file.

Subpart B—How Laws Apply

§ 401.200 General.

This section describes how various laws control the disclosure or confidentiality of personal information which we keep. We must consider these laws in the following order.

(a) Some laws require us to disclose information (§ 401.205); some laws require us to withhold information (§ 401.210). These laws control whenever they apply.

(b) If no law of this type applies in a given case, then we must look to the FOIA. See § 401.215.

(c) When the FOIA doesn't require disclosure, we may disclose information if both the Privacy Act and section 1106 of the Social Security Act permit the disclosure. See § 401.220.

§ 401.205 Disclosures required by law.

We disclose information when a law specifically requires it. The Social Security Act requires us to disclose information for certain program purposes. These include disclosures to the Office of Inspector General, HHS, the Parent Locator Service and to States for the administration of the Aid to Families with Dependent Children program. Also, there are other laws which require that we furnish other agencies information which they need for their programs. These include the Veterans Administration for its benefit programs, the Immigration and Naturalization Service to carry out its duties regarding aliens, and the Railroad Retirement Board for its benefit programs.

§ 401.210 Disclosures prohibited by law.

We do not disclose information when a law specifically prohibits it. The Internal Revenue Code generally prohibits us from disclosing tax return information which we receive to maintain individual earnings records. This includes, for example, amounts of wages and contributions from employers. Other laws restrict our disclosure of certain information about drug and alcohol abuse which we collect to determine eligibility for social security benefits.

§ 401.215 Freedom of Information Act.

The FOIA requires us to disclose any information in our records upon request from the public, unless one of several exemptions in the FOIA applies. When the FOIA requires disclosure, the Privacy Act permits it. "The public" does not include Federal agencies, courts, or the Congress, but does include State agencies, individuals, corporations, and most other parties. The FOIA does not apply to requests that are not from "the public" (e.g., from a Federal agency). However, we apply FOIA principles to requests from these sources for disclosure of information (see § 401.300; also see §§ 401.330 and 401.335 for disclosures to Congress and the General Accounting Office.

§ 401.220 Other laws.

When the FOIA does not apply, we may not disclose any personal information unless both the Privacy Act and section 1106 of the Social Secuity Act permit the disclosure. Sections 401.305 through 401.340 discuss how we apply the various provisions of the Privacy Act that permit disclosure. Section 1106 of the Social Security Act requiries the Secretary of HHS to set out in regulations what disclosures may be made; therefore, any disclosure permitted by this regulation is permitted by section 1106.

Subpart C—Individual Disclosures

§ 401.300 General principles.

When no law specifically requiring or prohibiting disclosure (see § 401.205 and § 401.210) applies to a question of whether to disclose information, we follow the FOIA principles to resolve that question. We do this to insure uniform treatment in all situations. The

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FOIA principle which most often applies to SSA disclosure questions is whether the disclosure would result in a "clearly unwarranted invasion of personal privacy." To decide whether a disclosure would be a clearly unwarranted invasion of personal privacy we consider—

(a) The sensitivity of the information (e.g., whether individuals would suffer harm or embarrassment as a result of the disclosure);

(b) The public interest in the disclosure;

(c) The rights and expectations of individuals to have their personal information kept confidential; and

(d) The public's interest in maintaining general standards of confidentiality of personal information; and

(e) Those factors discussed in § 401.120. We feel that there is a strong public interest in sharing information with other agencies with programs having the same or similar purposes, so we generally share information with those agencies. However, since there is usually little or no public interest in disclosing information for disputes between two private parties or for other private or commercial purposes; we generally do not share information for these purposes.

§ 401.305 Within HHS

The Privacy Act allows an agency to share information inside the agency when necessary for the agency to carry out its duties. For purposes of this provision, HHS considers itself one "agency." SSA, as a part of HHS discloses information to another HHS component when SSA determines that the other component has a legitimate need for the information and no other law prohibits it.

§ 401.310 Compatible purposes.

(a) *General.* The Privacy Act allows us to disclose information, without the consent of the individual, to any other party for "routine uses."

(b) *"Routine use."* This means the disclosure of a record outside HHS for a purpose which is "compatible" with the purpose for which the record was collected. We publish notices of systems of records in the **Federal Register** which contain a list of all "routine use" disclosures.

(c) *Determining compatibility.* We disclose information for "routine uses" where necessary to carry out SSA's programs. It is also our policy to disclose information for use in other programs which have the same purposes as SSA programs if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program. For example, we disclose information to the Railroad Retirement Board for pension and unemployment compensation programs, to the Veterans Administration for its benefit program, to worker's compensation programs, to State general assistance programs, and to other income maintenance programs at all levels of government; we also disclose for health-maintenance programs like Medicare and Medicaid, and in appropriate cases, for epidemiological and similar research.

§ 401.315 Law enforcement purposes.

(a) *General.* The Privacy Act allows us to disclose information for law enforcement purposes under certain conditions. Much of the information in our files is especially sensitive or very personnel. Furthermore, participation in social security programs is mandatory, so people cannot limit what information is given us. Therefore, we generally disclose information for law enforcement purposes only in limited situations. Paragraphs (b) and (c) of this section discuss the disclosures we generally make for these purposes.

(b) *Serious crimes.* SSA may disclose information for criminal law enforcement purposes where a violent crime such as murder or kidnapping has been committed and the individual about whom the information is being sought has been indicted or convicted of that crime.

The Privacy Act allows us to disclose if the head of the law enforcement agency makes a written request giving enough information to show—That these conditions are met; What information is needed; and Why it is needed.

(c) *Criminal activity involving the social security program or another program with the same purposes.* We disclose information when necessary to investigate or prosecute fraud or other criminal activity involving the social security program. We may also disclose information for investigation or prosecution of criminal activity in other income-maintenance or health-maintenance programs (e.g., other governmental pension programs, unemployment compensation, general assistance, Medicare or Medicaid) if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program.

§ 401.320 Health or safety.

The Privacy Act allows us to disclose information in compelling circumstances where an individual's health or safety is affected. For example, if we learn that someone has been exposed to an excessive amount of radiation, we may notify that person and appropriate health officials. If we learn that someone has made a threat against someone else, we may notify that other person and law enforcement officials. When we make these disclosures, the Privacy Act requires us to send a notice of the disclosure to the last known address of the person whose record was disclosed.

§ 401.325 Statistical and research activities.

(a) *General.* Statistical and research activities often do not require information in a format that identifies specific individuals. Therefore, whenever possible, we release information for statistical or research purposes only in the form of aggregates or individual data that cannot be associated with a particular individual. The Privacy Act allows us to release records if there are safeguards that the record will be used solely as a statistical or research record and the individual cannot be identified from any information in the record.

(b) *Safeguards for disclosure with identifiers.* The Privacy Act also allows us to disclose data for statistical and research purposes in a form allowing individual identification when the purpose is compatible with the purpose for which the record was collected. We will disclose personally identifiable information for statistical and research purposes if—

(1) We determine that the requester needs the information in an identifiable form for a statistical or research activity, will use the information only for that purpose, and will protect individuals from unreasonable and unwanted contacts;

(2) The activity is designed to increase knowledge about present or alternative social security programs or other Federal or State income-maintenance or health-maintenance programs, or consists of epidemiological or similar research; and

(3) The recipient will keep the information as a system of statistical records, will follow appropriate safeguards, and agrees to our on-site inspection of those safeguards so we can be sure the information is used or redisclosed only for statistical or research purposes. No redisclosure of the information may be made without SSA's approval. We will also require these safeguards when we disclose personally identifiable information to another HHS component for its own statistical or research functions (see § 401.305).

(c) *Statistical record.* A statistical record is a record in a system of records which is maintained only for statistical and research purposes, and which is not used to make any determination about an individual. We maintain and use statistical records only for statistical and research purposes. We may disclose a statistical record if the conditions in paragraph (b) of this section are met.

(d) *Compiling of records.* Where a request for information for statistical and research purposes would require us to compile records, and doing that would be administratively burdensome to ongoing SSA operations, we may decline to furnish the information.

§ 401.330 Congress.

(a) We disclose information to either House of Congress. We also disclose information to any committee or subcommittee of either House, or to any joint committee of Congress or subcommittee of that committee, if the information is on a matter within the committee's or subcommittee's jurisdiction.

(b) We disclose to any member of Congress the information needed to respond to constituents' requests for information about themselves (including requests from parents of minors, or legal guardians). However, these disclosures are subject to the restrictions in § 401.400ff.

§ 401.335 General Accounting Office.

We disclose information to the General Accounting Office when that agency needs the information to carry out its duties.

§ 401.340 Courts.

(a) *General.* The Privacy Act allows us to disclose information when we receive an order from a court of competent jurisdiction. However, much of our information is especially sensitive. Participation in social security programs is mandatory, and so people cannot limit what information is given to SSA. When information is used in a court proceeding, it usually becomes part of a public record, and its confidentiality cannot be protected. Therefore, we treat subpoenas or other court orders for information under the rules in paragraph (b) of this section.

(b) We generally disclose information in response to a subpoena or other court order if—

(1) Another section of this part would specificially allow the release; or

(2) The Secretary of HHS is a party to the proceeding; or

(3) The information is necessary for due process in a criminal proceeding. In other cases, we try to satisfy the needs of courts while preserving the confidentiality of information.

§ 401.345 Other specific recipients.

In addition to disclosures we make under the "routine use" provision, we also release information to—

(a) The Bureau of the Census for purposes of planning or carrying out a census, survey, or related activity; and

(b) The National Archives of the United States if the record has sufficient historical or other value to warrant its continued preservation by the United States Government. We also disclose a record to the Administrator of General Services for a determination whether the record has such a value.

§ 401.350 Deceased persons.

We do not consider the disclosure of information about a deceased person to be a clearly unwarranted invasion of that person's privacy. However, in disclosing information about a deceased person, we follow the principles in § 401.300 to insure that the privacy rights of a living person are not violated.

Subpart D—Obtaining and Correcting Your Records

§ 401.400 General.

The Freedom of Information Act allows you to request information from SSA whether or not it is in a system of records. The Privacy Act gives you the right to have access to most records about yourself that are in our systems of records. Exceptions to this Privacy Act right include—

(a) Certain medical records (see 5 U.S.C. 552a(f)(3) and section 401.410);

(b) Certain criminal law enforcement records (see 5 U.S.C. 552a(k), and HHS' rule in 45 CFR 5b.11); and

(c) Records compiled in reasonable anticipation of a court action or formal adminstrative proceeding.

We generally follow the HHS rules in 45 CFR 5b.5 and 5b.6 on access to an individual's record. However, in a few situations our rules are somewhat more strict, because of the especially sensitive nature of many of our records. This subpart briefly describes our rules.

§ 401.405 How to get your own record.

(a) *Who may ask.* You may ask for any record about yourself that is in an SSA system of records. If you are a minor, you may get information about yourself under the same rules as for an adult. Under the Privacy Act, if you are the parent or guardian of a minor, or the legal guardian of someone who has been declared legally incompetent, and you are acting on his or her behalf, you may ask for information about that individual. See § 401.410 for the rules which apply to requests for medical records.

(b) *Identification.* When you request access to a record, you must identify yourself. One means of identity is your signature but you may also be requested to show your driver's license, birth certificate, or similar document.

(c) *How to ask.* To request access to a record you may visit your local social security office or write to the manager of the SSA system of records. The name and address of the manager of the system is part of the notice of systems of records which is published annually in the **Federal Register.** Every local social security office keeps a copy of the **Federal Register** containing that notice. That office can also help you get access to your record. You do not need to use any special form to ask for a record about you in our files, but your request must give enough identifying information about the record you want to enable us to find your particular record. This identifying information should include the system of records in which the record is located and the name and social security number (or other identifier) under which the record is filed. We do not honor requests for "all records," "all information," or similar blanket requests.

§ 401.410 Medical information.

(a) *Your own record.* In accordance with 45 CFR 5b.6, when you request medical information about yourself, you must also name a representative in writing. The representative may be a physician, other health professional, or other responsible individual who would be willing to review the record and inform you of its contents at your representative's discretion. If you do not designate a representative, we may decline to release the requested information. In some cases, it may be possible to release medical information directly to you rather than to your representative.

(b) *Requests on behalf of a minor.* If you are the parent or guardian of a minor, we will release the minor's medical record only to a representative that you name in writing. The representative in these cases must be a physician or other health professional (excluding a family member) who would be willing to review the record and inform you of its contents at the representative's discretion. If you do not designate a representative, we will decline to release the requested information. We will also make

reasonable efforts to inform the minor that the record has been given to the representative. We will also tell the representative when further disclosure may be an unwarranted invasion of the minor's privacy. We will also ask the representative to consider the effect that disclosing the record to the parent or guardian would have on the minor in determining whether the minor's record should be made available to the parent or guardian.

(c) *Requests on behalf of an incapacitated adult.* If you are the legal guardian of an adult who has been declared legally incompetent, you may receive his or her records directly.

§ 401.415 Records about two or more individuals.

(a) When information about two or more individuals is in one record filed under your social security number, you may receive the information about you and the fact of entitlement and the amount of benefits payable to other persons based on your record.

You may receive information about yourself or others, which is filed under someone else's social security number, if that information affects your entitlement to social security benefits or the amount of those benefits.

§ 401.420 How to correct your record.

(a) *How to request a correction.* This section applies to all records kept by SSA (as described in § 401.105) except for records of earnings. (Section 422.125 of this chapter describes how to request correction of your earnings record.) You may request that your record be corrected or amended if you believe that the record is not accurate, timely, complete, relevant, or necessary to the administration of a social security program. To amend or correct your record, you should write to the manager identified in the notice of systems of records which is published annually in the **Federal Register** (see § 401.405(c) on how to locate this information). The staff at any social security office can help you prepare the request. You should submit any available evidence to support your request. Your request should indicate—

(1) The system of records from which the record is retrieved;

(2) The particular record which you want to correct or amend;

(3) Whether you want to add, delete or substitute information in the record; and

(4) Your reasons for believing that your record should be corrected or amended.

(b) *What we will not change.* You cannot use the correction process to alter, delete, or amend information which is part of a determination of fact or which is evidence received in the record of a claim in the administrative appeal process. Disagreements with these determinations are to be resolved through the SSA appeal process. (See Subparts I and J of Part 404, and Subpart N of Part 416, of this chapter.) For example, you cannot use the correction process to alter or delete a document showing a birth date used in deciding your social security claim. However, you may submit a statement on why you think certain information should be altered, deleted, or amended, and this will be made part of your file.

(c) *Acknowledgement of correction request.* We will acknowledge receipt of a correction request within 10 working days, unless the request can be reviewed, processed, and an initial determination of denial or compliance given before that time.

(d) *Notice of error.* If the record is wrong, we will correct it promptly. If wrong information was disclosed from the record, we will tell all those who received that information that it was wrong and will give them the correct information. This will not be necessary if the change is not due to an error, e.g., a change of name or address.

(e) *Record found to be correct.* If the record is correct, we will advise you in writing of the reason why we refuse to amend your record and we will also inform you of your right to seek a review of the refusal and the name and address of the official to whom you should send your request for review.

Subpart E—Appeals

§ 401.500 Which decisions are covered.

This subpart describes how to appeal decisions concerning requests for correction of a record, disclosure of a record, or access to a record. These sections apply only to written requests.

§ 401.505 Appeal of refusal to correct a record.

(a) If we deny your request to correct a record, you may request a review of that decision. As discussed in § 401.420(e), our letter denying your request will tell you to whom to write.

(b) The official will review your request within 30 working days from the date of receipt. However, for a good reason and with the approval of the Commissioner, this time limit may be extended up to an additional 30 days. In that case, the official will notify you about the delay, the reason for it, and the date when the review is expected to be completed. If, after review, the official determines that the record should be corrected, the record will be corrected. If, after review, the reviewing official also refuses to amend the record exactly as you requested, the official will advise you—

(1) That your request has been refused and the reason;

(2) That this refusal is SSA's final decision;

(3) That you have a right to seek court review of this request to amend the record; and

(4) That you have a right to file a statement of disagreement with the decision. Your statement should include the reason you disagree. Your statement will be made available to anyone to whom the record is subsequently disclosed, together with a statement of SSA's reasons for refusal to amend the record. Also, prior recipients of the record will be provided a copy of your statement.

§ 401.510 Appeals after denial of disclosure or access.

(a) If we deny your request for disclosure of information about others or for access to your own record, we will advise you in writing of the reason why we are denying your request and of your right to seek a review of that decision. You may appeal that decision to the Commissioner of Social Security, 6401 Security Boulevard, Baltimore, Maryland 21235, within 30 days after you receive the notice denying your request or only partially allowing your request. If any materials are to be sent to you as the result of a partial allowance of your request, they will usually be enclosed with the notice of that decision. If the materials are sent to you after you receive the notice of the decision, you may appeal within 30 days of the date on which you received the materials.

(b) The Commissioner or a designee will mail you a written decision on your appeal. This decision will state why the decision was made and will explain your rights to have the matter heard in court.

(c) If the Commissioner or a designee affirms the denial of a request for records (completely or partially), or fails to comply with the time limits that apply in FOIA cases, you may ask to have the matter reviewed in a Federal district court.

(d) See Part 422, Subpart E, of this Chapter for other procedural rules pertaining to requests and appeals under the FOIA.

[FR Doc. 80-35032 Filed 11-12-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 889

[Docket No. R-80-848]

Section 8 Housing Assistance Payments Program—Computation of Gross Family Contribution

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction of Interim Rule.

SUMMARY: On September 9, 1980 at 45 FR 59309 HUD published an interim rule revising the method of computing the Gross Family Contribution in the Section 8 Program. That rule contained several typographical and editorial errors. This publication corrects those errors.

FOR FURTHER INFORMATION CONTACT: Kathleen Beckwith, Rental and Occupancy Branch, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-5840. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The following errors appeared in 24 CFR Part 889 as published in the **Federal Register** on September 9, 1980:

(a) The effective date of the regulation was incorrectly listed as October 1, 1980. The Supplementary Information Section of the Regulation indicated that "HUD considers it necessary to limit the immediate effect of the statutory changes to families who begin occupancy 60 days after publication of this rule" (p. 59310, first full paragraph). It is our intent to allow 60 days between publication and effective date of the rule to allow adequate time for administrative implementation. Accordingly, the rule is being corrected to show the correct effective date of November 10, 1980.

(b) In the Supplementary Information, on page 59310, second full paragraph, line four, the abbreviation should be [PHAs] instead of [HPHs].

(c) Section 889.105(b). The first word should be "Large" instead of "Larger."

(d) Section 889.105(d)(2). A clause was dropped from the last sentence. The clause "but in no event less than 20 percent of the family's monthly income" should be added.

Accordingly Part 889, published in the **Federal Register** on September 9, 1980 (45 FR 59309) is corrected as follows:

(1) The Effective Date of October 1, 1980 is corrected to read as follows: EFFECTIVE DATE: November 10, 1980.

(2) The Supplementary Information, third paragraph, fourth line, is corrected to read as follows:

* * * * *

* * * Public Housing Agencies (PHAs) and * * *

* * * * * *

(3) 889.105(b) is corrected to read as follows:

(b) Large Very Low-Income Family or any Lower-Income Family with Exceptional Medical or Other Expenses. * * *

(4) 889.105(d)(2) is corrected by changing the period to a comma in the last sentence and adding a clause to read as follows:

(2) * * * At that time, the family will be required to pay 25 percent of the family's monthly income after allowances, but in no event less than 20 percent of the family's monthly income.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 4, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-35382 Filed 11-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 6

[T.D. ATF-74; Corrected]

Unlawful Trade Practices Under the Federal Alcohol Administration Act; Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule; correction.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is issuing this notice to correct two editorial errors which appeared in Treasury Decision ATF-74 published in the **Federal Register** on September 23, 1980, (45 FR 63242). That Treasury decision established four new parts relating to unlawful trade practices under the Federal Alcohol Administration Act. The preamble to that rule listed Internal Revenue and ATF rulings which became obsolete with issuance of those regulations. Three rulings were inadvertently omitted from the list of obsolete rulings. These are: IRS Revenue Rulings 54-151, 1954-1 C.B. 338; 54-577, 1954-2 C.B. 592; and ATF Ruling 74-12, 1974 ATF C.B. 51.

Under the recordkeeping provisions in 27 CFR 6.81(b), industry members are required to keep records for items of restricted value furnished to retailers. Two items, wine lists, § 6.86, and inside signs, § 6.84, were incorrectly included as items for which records must be kept. Both should have been omitted since the regulations place no restrictions on the value of inside signs or wine lists which may be furnished to retailers.

DATE: Treasury Decision ATF-74 is effective November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Authority and Issuance

This correction notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205).

Accordingly, 27 CFR 6.81 is corrected to read as follows:

§ 6.81 General.

(a) *Application* * * *

(b) *Recordkeeping requirements.* Industry members shall keep and maintain records on the permit premises, for a three year period, of all items furnished to retailers under §§ 6.83, 6.85, 6.88, 6.89, 6.90, 6.91, 6.96(a), and 6.100. Commerical records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

* * * * *

Signed: November 5, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-35388 Filed 11-12-80; 8:45 am]

BILLING CODE 4810-31-M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: The Central Intelligence Agency (CIA) revises its regulations relating to fees, reduction in fees, and waiver of fees charged in connection with Freedom of Information and certain declassification requests. Changes in

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manpower and computer costs since the Agency promulgated the current schedule of fees on February 19, 1975, have necessitated a revision of the fee structure. the intended effect of this revision is to reflect more accurately current levels of costs involved in processing requests and to provide greater detail to the public regarding CIA policies and procedures with respect to fees.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Savige, Phone (703) 351-5659.

SUPPLEMENTARY INFORMATION: When this rule was proposed on July 24, 1980 (Vol. 45 No. 144, pp. 49296–49297), comments were solicited. One response was received in which the use of the adjective "tangible" was described as unclear and ambiguous. It had been used as a modifier to the word benefit in sentence 3 of 1900.25(a). In consideration of this comment, the adjective identifiable has been substituted. Three typographical errors have also been corrected.

For reasons set out in the preamble, § 1900.25, Chapter XIX of Title 32, Code of Federal Regulations is revised as set forth below.

Don I. Wortman,
Deputy Director for Administration.

§ 1900.25 Fees for records services.

(a) Search and duplication fees shall be charged according to the schedule set forth in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that a waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Thus, the Coordinator shall determine the existence and extent of any identifiable benefit which would result from furnishing the requested information and he shall consider the following factors in making this determination:

(1) The public or private character of the information sought;

(2) The private interest of the requester;

(3) The numbers of the public to be benefited;

(4) The significance of the benefit to the public;

(5) The usefulness of the information to the public; and

(6) The quantity of similar or duplicative information already in the public domain.

In no case will the assessment of fees be utilized as an obstacle to the disclosure of the requested information. The Coordinator may also waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount, in the aggregate, for a request, or a series of related requests, to less than $6. Denials of requests for fee waivers may be appealed by writing to the Executive Secretary of the Information Review Committee, via the Coordinator.

(b) In order to protect the requester and the Agency from large, unexpected fees, when it is anticipated that the charges will amount to more than $25, the processing of the request shall be suspended until the requester indicates his willingness to pay. The requester shall be notified and asked for his commitment to pay all reasonable search and duplication fees. At his option, the requester may indicate in advance a dollar limitation to the fees. In such an event, the Coordinator shall initiate a search of the system or systems of records deemed most likely to produce relevant records, instructing the system managers to discontinue the search as soon as the stipulated amount has been expended. Where an advance limit has not been stipulated, the Coordinator may, at his discretion or at the behest of the requester, compile an estimate of the search fees likely to be incurred in processing a request, or of such portion thereof as can readily be estimated. The requester shall be promptly notified of the amount and be asked to approve its expenditure. In those cases where the Coordinator estimates that the fees will be substantial, an advance deposit of 50 percent of the estimated fees will be required; in those cases where there is reasonable evidence that the requester may possibly fail to pay the fees which would be accrued by processing his request, an advance deposit of 100 percent of the estimated fees will be required. The notice or request for an advance deposit shall extend an offer to the requester whereby he is afforded an opportunity to revise the request in a manner calculated to reduce the fees. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour, or fraction thereof, spent by clerical personnel in searching for a record, $1.50;

(2) For each one quarter hour, or fraction thereof, spent by professional personnel in searching for a record, $3.50;

(3) For each on-line computer search, $11.00;

(4) For each off-line (batch) computer search of Central Reference files, $27.00;

(5) For all other off-line computer searches of Agency files, $8.00 per minute of Central Processing Unit (CPU) time;

(6) For copies of paper documents in sizes not larger than 8½ × 14 inches, $0.10 per copy of each page;

(7) For duplication of non-paper media (film, magnetic tape, etc.) or any document that cannot be reproduced on a standard office copier, actual direct cost; and

(8) For extra copies of reports, maps, reference aids, and other Agency publications, actual cost.

(d) Inasmuch as the Agency's systems of records are highly decentralized, several computer searches may be required to process a request, depending upon its scope. The computer search costs given in paragraph (c), of this section, do not include whatever professional/clerical search time is needed to determine whether the records located are in fact responsive to the request.

(e) Search fees are assessable even when no records pertinent to the requests, or no releasable records are found, provided the requester has been advised of this fact and he has, that notwithstanding agreed to incur the costs of search.

(f) For requests which have accrued substantial search and duplication fees, or for requests for records which have been previously released, or where there is reasonable evidence that the requester may possibly fail to pay the accrued fees, then, at the discretion of the Coordinator, the requester may be required to pay the accrued search and duplication fees prior to the actual delivery of the requested records; otherwise, the requester shall be billed for such fees at the time that the records are provided. Payment shall be remitted by check or money order, made payable to the Treasurer of the United States, and shall be sent to the Coordinator. No appeals or additional requests shall be accepted for processing until the requester has paid all outstanding charges for services rendered under this part.

(Sec. 102 of the National Security Act of 1947, as amended (50 U.S.C. 430), the Central Intelligence Act of 1949, as amended (50 U.S.C. 403 et seq.), Executive Order 12065 (3 CFR, 1978 Comp., p. 190), and The Freedom of Information Act, as amended (5 U.S.C. 522))

[FR Doc. 80-35206 Filed 11-12-80; 8:45 am]

BILLING CODE 6310-02-M

POSTAL SERVICE

39 CFR Part 224

Organizational Changes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document reflects organizational changes and incorporates statutory references required to bring the changed provisions into conformance with the Contract Disputes Act of 1978, 41 U.S.C. 601 *et seq.*

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: James A. Cohen, Judicial Officer, (202) 245–4912.

Accordingly, part 224 of title 39, Code of Federal Regulations is amended as follows:

PART 224—GROUPS AND DEPARTMENTS

In § 224.1 revise paragraph (c)(4)(v) to read as follows:

§ 224.1 Administration Group.

* * * * *

(c) * * *

(4) * * *

(v) Board of Contract Appeals:

(A) The Board of Contract Appeals is the Postal Service body designated to hear and decide appeals submitted pursuant to the provisions of the Contract Disputes Act of 1978, 41 U.S.C. 601 *et seq.*, and is the authorized representative of the Postmaster General to hear and decide appeals from decisions of contracting officers when and to the extent such appeals are expressly authorized by the terms of any contract to which the Postal Service is a party. The Chairman of the Board of Contract Appeals is authorized to promulgate rules and procedures for the Board of Contract Appeals. The members of the Board may be assigned other consistent duties such as assisting the Judicial Officer in the performance of his functions under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*

(B) The Postal Service Board of Contract Appeals is composed of the Judicial Officer as Chairman, the Associate Judicial Officer as Vice Chairman and such additional members, appointed by the Chairman, as may be necessary to assure the timely disposition of matters pending before the Board. All members of the Board of Contract Appeals shall be Administrative Judges possessing the qualifications required by the Contract Disputes Act of 1978. In general, appeals are assigned to a panel of at least three members of the Board.

(39 U.S.C. 401(2).)

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-35287 Filed 11-12-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 124

[AS-FRL 1664-6]

Consolidated Permit Regulations; NPDES New Dischargers; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule; correction.

SUMMARY: This document corrects a legal citation contained in the notice published October 15, 1980 (45 FR 68391), suspending part of the National Pollutant Discharge Elimination System (NPDES) new discharger provisions in the consolidated permit regulations.

FOR FURTHER INFORMATION CONTACT: Peter D. Holmes, Office of the General Counsel (A–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–0753.

Dated: October 29, 1980.

Michele B. Corash,
General Counsel.

Accordingly, the following corrections are made in FR Doc. 80–31850 appearing at 45 FR 68391, column 2, first full paragraph:

§ 124.66 [Corrected]

§ 122.66 [Corrected]

1. "§ 124.66" is corrected to read "§ 122.66."

2. "40 CFR § 124.66(d)(4)" is corrected to read "40 CFR § 122.66(d)(4)."

[FR Doc. 80-35209 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-36-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-1

Considerations in Selecting an Award Instrument

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations to add a new subpart that addresses considerations in selecting an award instrument.

EFFECTIVE DATE: This amendment is effective November 13, 1980.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Office of Procurement Policy, OGP–OASMB–OS, Department of Health and Human Services, Room 538H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202–245–0481).

SUPPLEMENTARY INFORMATION: The new subpart provides guidance to Departmental personnel on the selection of award instruments consistent with the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95–224) and the Office of Management and Budget implementation of the Act as published in the **Federal Register** on August 18, 1978 (43 FR 36860). The subpart addresses procurement relationships where the award instrument is the contract, and assistance relationships where the award instrument is either a grant or cooperative agreement.

It is the policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendment concerns internal administrative procedures, the public rulemaking process was deemed unnecessary in this instance. The provision of this amendment is issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: November 3, 1980.

Murray N. Weinstein,
Acting Deputy Assistant Secretary for Grants and Procurement.

Under Part 3–1, General, Subpart 3–1.53 Considerations in Selecting an Award Instrument, is added. In addition, the table of contents for Part 3–1 is amended to add the following:

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Subpart 3–1.53 Considerations in Selecting an Award Instrument

Sec.
3–1.5300 Scope of subpart.
3–1.5301 Applicability.
3–1.5302 Purpose.
3–1.5303 Distinction between procurement and assistance.
3–1.5304 Procedures.

Subpart 3–1.53 Considerations in Selecting an Award Instrument

§ 3–1.5300 Scope of subpart.

This subpart provides guidance on the appropriate selection of award instruments consistent with the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95–224) and the OMB implementation of the Act as published in the **Federal Register** on August 18, 1978 (43 FR 36860). This subpart addresses procurement relationships where the award instrument is the contract, and assistance relationships where the award instrument is either a grant or cooperative agreement.

§ 3–1.5301 Applicability.

This subpart applies to the choice of award instrument, contract, grant, or cooperative agreement, for all program and individual transactions, except where specifically prohibited by law.

§ 3–1.5302 Purpose.

This subpart provides guidance to assist in the determination of whether to use the procurement or assistance process to fulfill program needs. The distinction between, and use of, grants and cooperative agreements is not discussed in detail. Detailed guidance may be found in Chapter 1–02 of the Grants Administration Manual.

§ 3–1.5303 Distinction between procurement and assistance.

(a) The Federal Grant and Cooperative Agreement Act of 1977 requires the use of contracts to acquire property or services for the direct benefit or use of the Government and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a public purpose of support or stimulation authorized by Federal statute.

(b) A contract is to be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever:

(1) The principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) The Department determines in a specific instance that the use of a type of contract is appropriate. That is, it is determined in a certain situation that specific needs can be satisfied best by using the procurement process. However, this authority does not permit circumventing the criteria for use of procurement or assistance instruments. Use of this authority is restricted to extraordinary circumstances and only with the prior approval of the Deputy Assistant Secretary for Grants and Procurement.

(c) A grant or cooperative agreement is to be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute.

(1) A grant is the legal instrument to be used when no substantial involvement is anticipated between the Department and the recipient during performance of the contemplated activity.

(2) A cooperative agreement is the legal instrument to be used when substantial involvement is anticipated between the Department and the recipient during performance of the contemplated activity.

(d) As a general rule, contracts are to be used for the following purposes:

(1) Evaluation (including research of an evaluative nature) of the performance of Government programs or projects or grantee activity initiated by the funding agency for its direct benefit or use.

(2) Technical assistance rendered to the Government, or on behalf of the Government, to any third party, including those receiving grants or cooperative agreements.

(3) Surveys, studies, and research which provide specific information desired by the Government for its direct activities, or for dissemination to the public.

(4) Consulting services or professional services of all kinds if provided to the Government or, on behalf of the Government, to any third party.

(5) Training projects where the Government selects the individuals or specific groups whose members are to be trained or specifies the content of the curriculum (not applicable to fellowship awards).

(6) Planning for Government use.

(7) Production of publications or audiovisual materials required primarily for the conduct of the direct operations of the Government.

(8) Design or development of items for Government use or pursuant to agency definition or specifications.

(9) Conferences conducted on behalf of the Government.

(10) Generation of management information or other data for Government use.

(e) As a general rule, grants or cooperative agreements are to be used for the following purposes:

(1) General financial assistance (stimulation or support) to eligible recipients under specific legislation authorizing the assistance.

(2) Financial assistance (stimulation or support) to a specific program activity eligible for assistance under specific legislation authorizing the assistance.

§ 3–1.5304 Procedures.

(a) POC, agency, and regional office program officials should use existing budget and program planning procedures to propose new activities and major changes in ongoing programs. It is the responsibility of these program officials to meet with the principal official responsible for procurement and the principal grants management official, or their designees, to distinguish the relationships and determine whether award is to be made through the procurement process or assistance process. This determination should be made prior to the time when the annual procurement plan is reviewed and approved so that the plan will reflect all known proposed contract actions. The cognizant contracting officer will confirm the appropriateness of the use of the contract instrument when reviewing the request for contract, and document the rationale for the use of the contract instrument in the contract file.

(b) Shifts from one award instrument to another must be fully documented in the appropriate files to show a fundamental change in program purpose that unequivocably justifies the rationale for the shift.

(c) POCs, agencies, and regional offices must ensure that the choice of instrument is determined in accordance with the Federal Grant and Cooperative Agreement Act of 1977 and applicable Departmental policies. If, however, there are major individual transactions or programs which contain elements of both procurement and assistance in such a way that they cannot be characterized as having a principal purpose of one or the other, guidance should be obtained from the Deputy Assistant Secretary for Grants and Procurement, through normal channels, before proceeding with a determination.

(d) Any public notice, program announcement, solicitation, or request for applications or proposals must indicate whether the intended relationship will be one of procurement or assistance and specify the award instrument to be used.

[FR Doc. 80–35397 Filed 11–12–80; 8:45 am]
BILLING CODE 4110–12–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Parts 7–1, 7–4, 7–6

[AIDPR Notice 81–3]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development (AID), International Development Cooperation Agency.

ACTION: Final rule.

SUMMARY: The AID Procurement Regulations (AIDPR) are being amended to:

—Delete an obsolete reference in § 7–1.704–6(b).

—Clarify the definition of "educational institution" now in Subparts 7–4.57 and 7–4.58 to include consortia whose membership consists exclusively of educational institutions. This will formalize existing AID practice, and is considered necessary because exclusion of such consortia from the special selection procedures in Subparts 7–4.57 and 7–4.58 was never AID's intention, and would be disadvantageous to the Agency.

—Clarify nationality, source, and origin requirements applicable to local cost financing as set forth in § 7–6.5104. As originally published, § 7–6.5104 did not make the nationality, source, and origin requirements for goods or services procured by the local cost financing method sufficiently clear; it has been revised to make these requirements more specific.

EFFECTIVE DATE: This AIDPR Notice is effective on the date it is signed. (October 31, 1980.)

FOR FURTHER INFORMATION CONTACT: Mr. James. M. Kelly, CM/SD/POL, Agency for International Development, U.S. International Development Cooperation Agency, Washington, D.C. 20523. Telephone (703) 235–9107.

PART 7–1—GENERAL

Subpart 7–1.4—Procurement Responsibility and Authority

1. Section 7–1.704–6, *Small business screening procedures,* is amended by revising paragraph (b) as follows:

§ 7–1.704–6 Small business screening procedure.

* * * * *

(b) Preparation of AID Form 1410–14 (see AIDPR 7–16.850).

* * * * *

PART 7–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 7–4.57—Educational Institution and International Research Center Selection Procedure

2. Section 7–4.5701, *Definitions* is revised as follows:

§ 7–4.5701 Definitions.

(a) An educational institution, as used in this subpart, is any non-profit corporation, foundation, trust, or state or local governmental entity operated primarily as an institution of higher learning offering a course of general studies leading to the granting of academic degrees. Consortia whose membership consists exclusively of educational institutions, as defined above, are considered to be educational institutions.

(b) An international research center is an organization formally recognized and listed as such by the Assistant Administrator, Bureau for Development Support.

Subpart 7–4.58—Collaborative Assistance Selection Procedure

3. Section 7–4.5801 *Definition.* Paragraph (b) is revised and a new paragraph (c) is added as follows:

§ 7–4.5801 Definition.

* * * * *

(b) It has been determined that the project requires the services of an educational institution or international research center as defined in AIDPR § 7–4.5701.

(c) The collaborative assistance method is fully defined and discussed in AIDPR Appendix H—Use of Collaborative Assistance Method for AID Direct Contracts for technical assistance.

PART 7–6—FOREIGN PURCHASES

Subpart 7–6.51—Source, Origin, and Nationality

4. Section 7–6.5104, *Contract clause—authorization of local cost financing with U.S. dollars.* The contract clause entitled "Authorization of Local Cost Financing With U.S. Dollars" set forth in paragraph (b) of § 7–6.5104 is amended by changing the clause date from "(April 1980)" to "(Oct. 1980)", and by revising paragraphs (b)(4), (d)(2)(i), (d)(2)(ii), and (d)(3) as follows:

§ 7–6.5104 Local Cost Financing With U.S. Dollars (Oct. 1980).

* * * * *

(b) * * *

(4) *Nationality requirements.* (i) Citizens or firms of any country not included in AID Geographic Code 935 are ineligible as suppliers, contractors, subcontractors, or agents in connection with AID-financed contracts for goods or services.

(ii) Local cost financing is the use of appropriated U.S. dollars to obtain local currency for the payment for goods and services purchased *in the Cooperating Country.* Authorization of local cost financing makes the Cooperating Country, in addition to the United States and any other country included in the authorized geographic code for the project, an eligible source for the purchase of goods or services in the Cooperating Country. Goods or services purchased under local cost financing must be located in the Cooperating Country at the time they are purchased; they cannot be imported specifically for the project being implemented by this contract. The supplier from which goods or services are purchased under local cost financing must also be in the Cooperating Country. Suppliers of goods or services under local cost financing must meet the nationality eligibility tests prescribed in paragraph (d) of the clause of this contract entitled "Source and Nationality Requirements for Procurement of Goods and Services" (AIDPR 7–6.5103). When local cost financing has been authorized, the Cooperating Country is deemed to be included in the "authorized geographic code" for purposes of determining nationality eligibility pursuant to paragraph (d) of the clause entitled "Source and Nationality Requirements for the Procurement of Goods and Services."

* * * * *

(d) * * *

(2) * * *

(i) Shelf items are eligible for local cost financing in unlimited quantities up to the total amount available for local cost financing if they have their source in the Cooperating Country, and their origin in a country included in AID Geographic Code 941.

(ii) Shelf items having their source in the Cooperating Country, and their origin in countries in Geographic Code 899 but not in Geographic Code 941 are eligible for financing if the price of one unit does not exceed $2,500 and if the total amount of such imported shelf items purchased does not exceed the

amount specified in the Schedule of this contract. (For goods sold by units of quantity, e.g., tons, barrels, etc., the unit to which the local currency equivalent of $2,500 is applied is that which is customarily used in quoting prices.)

(3) *Goods imported specifically for the project.* Goods imported specifically for the project being implemented by this contract are not eligible for local cost financing; they are subject to the clause of this contract entitled "Source and Nationality Requirements for Procurement of Goods and Services" (AIDPR 7–6.5103).

(41 CFR 7–1.104.4)

Determination

As required by paragraph 4a of OFPP Policy Letter 80–5, I hereby determine that AIDPR Notice 81–3 has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93–44 as amended by Pub. L. 96–83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act. Based on this review, I hereby determine that AIDPR Notice 81–3 is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

Dated: October 31, 1980.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 80–35204 Filed 11–12–80; 8:45 am]

BILLING CODE 4710–02–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101–11

[FPMR Amdt. B–45]

Establishment and Management of Effective Directives Systems

AGENCY: National Archives and Records Service (NARS), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: This regulation expands the regulations of the General Services Administration dealing with the standards and guidelines for establishing and managing effective directives systems. Recent evaluations of agency directives programs and increasing numbers of telephone requests for information and assistance reflect a need to provide standards and guidance for establishing and managing effective directives systems. this regulation addreses these needs.

EFFECTIVE DATE: November 13, 1980

FOR FURTHER INFORMATION CONTACT: Mr. Gerry Whiting, Acting Director, Information Systems Division, Office of Records and Information Management (202–376–8801).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 15, 1980, (45 FR 32012–32013), GSA proposed to amend 41 CFR Part 101–11, Directives Management, to provide agencies with improved standars and guidelines for effectively establishing and managing directives systems.

Discussion of Major Comments

Comments from interested persons were due on or before July 14, 1980. Twenty-four comments were received from 11 agencies.

Generally, the comments were favorable, stating that the amendment prescribes the essentials of a well-managed system and that it will be useful to agencies in developing and maintaining their directives systems. One comment applauded the inclusion of external issuances in the expanded directives definition.

Other more specific suggestions were to amplify or clarify sections or statements, and these were adopted where appropriate. However, some suggested changes were not incorporated because they were unduly restrictive and were not applicable to Government-wide implementation. For example, one suggestion was that the FPMR contain definite timespans for canceling each type of directive; 5 years for permanent directives, 1 year for temporary, and 30 days for bulletins. Another agency suggested the FPMR require each agency to microfilm the complete set of its current directives at the end of each calendar year. Another agency suggested that a lead agency within a department perform periodic audits of internal agencies' directives systems, and NARS would than audit the lead agency. To implement these requirements would place an additional burden on many agencies, and it is not clear what purpose these actions would serve. The intent of the FPMR is to provide general guidance for directives management for use by all Federal agencies. Each agency, regardless of size, must interpret these guidelines to best meet its needs.

One agency objected to the regulation on the grounds that it is a duplication of the Joint Committee on Printing's (JCP) regulations. The JCP does set guidelines for agencies' central printing and publications management organizations responsible for controlling the development, production, procurement, or distribution of materials using conventional printing and binding methods. However, these guidelines do not address the need and actual maintanance of a directives system as does the FPMR amendment. The JCP regulations are concerned with the methods an agency uses to reproduce all printed materials, while the FPMR is concerned with a system of preparing and issuing policies and procedures, and their maintenance and distribution.

Another suggestion involved introducing the relationship between directives management and information resources management. The latter is an envolving concept, initiated by Executive Order 12174 of November 30, 1979, in an effort to establish procedures to eliminate unnecessary paperwork burdens on the public. At this time the Director of the Office of Management and Budget (OMB) has responsibility for establishing and monitoring agencies' functions and reports to meet the requirements outlined in the Order. While NARS agrees that directives management is a part of information management, equally so with reports, forms, and mail management, it is not an area that should be addressed in the directives FPMR only, or at this time.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101–11—RECORDS MANAGEMENT

1. The table of contents for Part 101–11 is amended by revising and adding the following entries:

101–11.209 Directives managment.
101–11.209–1 Scope.
101–11.209–2 Authority.
101–11.209–3 Definitions.
101–11.209–4 Objectives.
101–11.209–5 Agencies' responsibilities.
101–11.209–6 Additional Information.

Subpart 101–11.2—Creation of Records

2. Section 101–11.209 is revised to read as follows:

§ 101–11.209 Directives management.

§ 101–11.209–1 Scope.

Sections 101–11.209–2 through 101–11.209–6 provide Federal agencies with standards and guidelines for establishing and managing effective directives systems. Small or temporary agencies may modify these regulations to meet their specific requirements.

§ 101–11.209–2 Authority

As required by 44 U.S.C. chapter 29, the Administrator of General Services will provide guidance and assistance to Federal agencies on the creation, maintenance, use, and disposition of records.

§ 101–11.209–3 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Directive.* A "directive" means a written communication that initiates or governs action, conduct, or procedure. Directives are often issued as circulars, notices, regulations, orders, and handbooks, and include materials usually issued to multiple addressees in multiple copies for insertion in policy, administrative, and operations manuals.

(1) Both internal and external directives are included in a directives management program.

(i) An "internal directive" means an officially prescribed intraagency policy or procedure, delegation of authority, or assignment of responsibility.

(ii) An "external directive" means officially prescribed guidance issued to a primary audience outside the originating agency.

(2) These definitions do not include news releases, program announcements, catalogs, pricelists, training materials, or correspondence.

(b) *Directives management.* "Directives management" means the effective and efficient development of controlled directives and their distribution, use, maintenance, and disposition.

§ 101–11.209–4 Objectives.

Directives management objectives are to provide agency managers with the means to effectively and efficiently convey written instructions to users and to document agency policies and procedures.

§ 101–11.209–5 Agencies' responsibilities.

Each Federal agency, to provide for effective, continuing directives management, shall:

(a) Assign to all agency managers the responsibility for preparing and maintaining directives needed to carry out their assigned responsibilities.

(b) Assign overall responsibility for planning, organizing, and controlling the directives management program to an office at the department or agency level, and delegate directives management functions, as needed, to lower organizational levels.

(c) Issue a directive(s) that states the purpose, responsibilities, authorities, policies, standards, and procedures of the agency's directives program.

(d) Organize agency directives systematically so that they are readily available to users by:

(1) Developing an integrated directives system that includes all agency policies and procedures;

(2) Classifying directives by subject so that all directives on any subject can be readily identified;

(3) Maintaining current indexes of existing directives and other finding aids, as necessary, so users may easily locate the directives they need;

(4) Establishing distinctive formats for directives so recipients can recognize them as authoritative agency instructions;

(5) Differentiating between permanent and temporary directives and ensuring that temporary directives carry expiration dates; and

(6) Maintaining directives in a form, such as looseleaf binders, where obsolete or revised materials may be easily removed or inserted.

(e) Ensure that directives are clearly written by:

(1) Establishing and implementing writing standards for directives; and

(2) Identifying the audience for each directive, and writing so that the intended readers can easily understand it.

(f) Ensure that directives are useful by:

(1) Providing users with only necessary information;

(2) Keeping directives current by issuing changes as needed; and

(3) Providing for the issuance of supplemental directives. This permits overall agency direction to be adapted to local conditions by field and other organizational components, provided that supplemental directives are consistent with the intent of the originals.

(g) Review each proposed directive to ensure that it is necessary, accurate, complete, and understandable.

(h) Coordinate and clear each proposed directive to avoid issuing conflicting policies or procedures.

(i) Establish and publish effective and efficient procedures for the timely reproduction and distribution of directives.

(j) Furnish copies of directives only to those who need them by:

(1) Requiring originators to identify those with a "need to know" or a "need to act" for each new directive for the purpose of developing accurate distribution lists;

(2) Annually reviewing and updating distribution lists for directives; and

(3) Periodically distributing checklists of current directives so users can determine whether they have received relevant directives.

(k) Require originators to biennially review each directive for need and currentness, and require originators to certify whether to continue, revise, or cancel each directive.

(l) Conduct training, or provide written guidance, as follows:

(1) For managers, on the importance of using the directives system to provide written instructions for accomplishing the agency's objectives;

(2) For directives originators, on the writing style and proper format for directives; and

(3) For users, on how to use the directives system.

(m) Evaluate the effectiveness and cost of the directives system, as follows:

(1) Maintain essential management information on the operation of directives systems. Examples of this information are data on the cost and time required to prepare, clear, and distribute directives; and annual workload data on the number of pages of directives issued, revised, and canceled. This information may be collected on a sampling basis;

(2) Annually review high-cost or high-volume directives activities to find opportunities for improvement;

(3) Evaluate annually the operating performance of the directives system. For example, select a sample of agency directives to find out if the intended recipients (i) received the directive, (ii) received it before its effective date, (iii) needed it, and (iv) understood it and acted correctly; and

(4) Evaluate the application of technologies, such as word processing, automatic data processing, micrographics, photocomposition, and facsimile transmission, as means of improving the efficiency and effectiveness of the directives system.

(n) Maintain an archival collection of directives that documents agency organization, functions, programs, policies, decisions, and procedures. (See §§ 101–11.202–2(c) and 101–11.403.)

§ 101–11.209–6 Additional Information.

For more details on managing a directives system, refer to the "Communicating Policy and Procedures Records Management Handbook" (available through the GSA supply system using the FEDSTRIP/MILSTRIP requisitioning process, National Stock Number 7610–00–935–4176). For instructions on preparing external issuances for publication in the **Federal Register**, consult the "Document Drafting Handbook," 1980 edition, available from the U.S. Government Printing Office.

V 45 N 013 80 UMI

(Sec. 205(c), 63 Stat. 390; 40 USC 486(c))

Dated: October 31, 1980.

R. G. Freeman III,

Administrator of General Services

[FR Doc. 80-35140 Filed 11-12-80; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

[Docket No. FEMA-Gen-2A]

Organization, Functions and Delegations of Authority

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The rule amends FEMA delegations of authority to authorize Regional Directors to issue invitational travel and approve disaster preparedness grants, and to permit the General Counsel to sign corrections to documents submitted to the **Federal Register**.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: William I. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472, Tel: (202) 634-4113.

SUPPLEMENTARY INFORMATION: The FEMA delegations of authority by the Director are contained in 44 CFR Part 2. Presently the Director, and the Director, Finance and Administration, have the authority to issue invitational travel. This authority is now to be provided to the Regional Directors; also, consistent with the practice over the years, the Regional Directors are granted specific authority to award disaster preparedness grants. There is occasional need to make an editorial or similar correction to a **Federal Register** document. Since a correction is non-substantive, to expedite these corrections the General Counsel is provided authority to sign such a regulation modification.

PART 2—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, Part 2 of Chapter 1 Title 44, Code of Federal Regulations is amended as follows:

1. Add paragraph (d)(4) to § 2.63.

§ 2.63 Associate Director, Plans and Preparedness.

* * * * *

(d) * * *

(4) Subsection 201(d)

* * * * *

2. Add paragraph (g) to § 2.69 as follows

§ 2.69 General Counsel.

* * * * *

(g) Sign document making editorial corrections, including changes to regulations in documents to be published in the **Federal Register**.

3. Amend § 2.71(d) and add a new paragraph (h) as set forth below.

§ 2.71 Regional Directors.

* * * * *

(d) Each Regional Director is authorized to exercise the authorities of the Director, FEMA, with respect to sections 201(d), 302(b), 306(a) and 309 of the Disaster Relief Act of 1974.

* * * * *

(h) Each Regional Director is authorized to approve reimbursement, to the extent appropriated funds are available for obligation by the Regional Director, for expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness, provided:

(1) that the Appropriations Act for the fiscal year in which the obligation is incurred contains the same authorizing language that is found in Pub. L. 96-103 with respect to such travel, and

(2) that the authority exercised under this delegation is subject to the Federal Travel Regulations and per diem rates as may from time-to-time be established by the Administrator of General Services.

Authority: Reorganization Plan No. 3 of 1978, 3 CFR Comp. p. 376, Executive Order 12127, 44 FR 19367, Executive Order 12148, 44 FR 43239.

Dated: November 6, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 80-35281 Filed 11-12-80; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 64

[Docket No. FEMA 5944]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
California	Contra Costa	Antioch, city of	060026A	May 1, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	June 28, 1974 Oct. 24, 1975	Do
Do	Orange	Brea, city of	060214A	Aug. 28, 1974, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	May 24, 1974 Nov. 4, 1975	Do
Do	San Bernardino	Ontario, city of	060278A	June 27, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Aug. 9, 1974 Nov. 12, 19765	Do
Florida	Polk	Davenport, town of	120410A	Mar. 1, 1976, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Mar. 4, 1977	Do.
Georgia	Ware	Unincorporated areas	130184	May 5, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Dec. 17, 1976	Do.
Idaho	Clearwater	Orofino, city of	160047B	Mar. 21, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Dec. 10, 1976 May 28, 1976 Nov. 23, 1973	Do
Illinois	Cook	Hazel Crest, village of	170102C	Oct. 20, 1972, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	June 28, 1974 July 11, 1975	Do.
Do	Lake	Winthrop Harbor, village of	170398A	July 10, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Mar. 24, 1975 Oct. 10, 1975	Do.
Iowa	Cerro Gordo	Mason City, city of	190060	Mar. 21, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Mar. 1, 1974	Do.
Kentucky	Boyd	Unincorporated areas	210016	Dec. 12, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Dec. 13, 1974 Dec. 2, 1977	Do.
Do	Hardin	Elizabethtown, city of	210095A	May 23, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Aug. 23, 1974 Apr. 16, 1976	Do
Michigan	Genesee	Genesee, township of	260078A	May 11, 1973, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	May 24, 1974 Aug. 6, 1976	Do
Missouri	Grundy	Trenton, city of	290153A	Aug. 1, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Feb. 15, 1974 Dec. 26, 1975	Do
Nebraska	Wayne	Wayne, city of	310231A	May 30, 1974, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Mar. 22, 1974 Feb. 27, 1976	Do
Oklahoma	Cleveland	Moore, city of	400044A	Apr. 18, 1974, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	June 7, 1974 Apr. 16, 1976	Do
Pennsylvania	Lycoming	Woll, township of	420663	Mar. 30, 1973, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	July 1, 1977	Do.
South Carolina	Greenville	Unincorporated areas	450089	Feb. 12, 1974, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Nov. 19, 1976	Do
Vermont	Franklin	Montgomery, township of	500056A	Sept. 4, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	June 21, 1974 Aug. 13, 1976	Do
West Virginia	Mingo	Unincorporated areas	540133A	June 9, 1975, emergency, Dec. 2, 1980, regular, Dec. 2, 1980, suspended.	Dec. 20, 1974 Aug. 5, 1977	Do

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968): effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128: Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-35282 Filed 11-12-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 302

Civil Defense; State and Local Emergency Management Assistance; Allocation of Funds

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Pursuant to sections 205 and 401(g) of the Federal Civil Defense Act of 1950, as amended, the Director of the Federal Emergency Management Agency promulgates a final regulation pertaining to Federal fiscal year 1981 appropriation amounts available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended.

As this regulation relates to grants, it is therefore exempted from the rulemaking requirements of 5 U.S.C. 553, and because there is a need to allocate

the funds appropriated for section 205 upon the commencement of the new fiscal year, notice and public comment are not being used and the rule is made effective as of October 1, 1980.

DATE: This final rule is effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT:
John W. McConnell, Assistant Associate Director, Population Preparedness Office, Plans and Preparedness, Federal Emergency Management Agency, Washington, DC 20472, (202) 566–0550.

SUPPLEMENTARY INFORMATION: In its Justification of Budget Estimates for FY 1981 for Financial Assistance to States, FEMA included $37,100,000 for State and Local Management (personnel and administrative expenses) and $1,934,000 for State and Local Maintenance and Services (for emergency communications systems). These amounts were combined in the U.S. Budget and will be combined in the Appropriations Act to provide for a sum of not to exceed $39,034,000 from the FY 1981 appropriation to be available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended. Of this amount, $37,100,000 was requested for use in making financial contributions (50/50 matching) to States to enable States and their political subdivisions to develop a capability to carry out civil defense measures required in the event of an attack upon the United States. The $1,934,000 was requested for use in making financial contributions (50/50 matching) to assist States and their political subdivisions in maintaining an operationally ready communications system needed to carry out civil defense measures in the event of an attack upon the United States.

Under section 205 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286), for each fiscal year concerned the Director of FEMA (pursuant to authority delegated in Executive Order 12148, effective July 15, 1979) is required to allocate to each State, in accordance with regulations and the total sum appropriated under section 205, amounts to be made available to the States for the purposes of section 205.

Accordingly, in order to provide for allocation of the total amount appropriated for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended, § 302.3 of Part 302 of Title 44 of the Code of Federal Regulations is hereby amended by addition of a new paragraph, (g), reading as follows:

§ 302.3 Allocation.

* * * * *

(g) For Federal fiscal year 1981, the Director, giving due regard to the (1) criticality of the target and support areas with respect to the development of the total civil defense readiness of the nation, from the standpoint of the need for maintenance and services to assure operable emergency systems to serve such areas, (2) the relative state of development of emergency readiness of each State, and (3) particular circumstances existing in any State which require a greater or lesser expenditure than usual for maintenance and services for Federal fiscal year 1981 (e.g., damage or breakdown of a major direction and control system or recent completion of a new, relatively maintenance free system) shall allocate among all the States funds equal to the full amount by which the total Federal fiscal year appropriation for 1981 available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended, exceeds the total FY 1981 formal allocation for Emergency Management Assistance made under this section. The amounts so allocated under this paragraph shall be available only for contribution (50/50 matching) toward costs incurred by State and local governments during Federal fiscal year 1981 for maintenance and services required to assure operationally ready civil defense emergency direction and control systems and warning systems needed in order to be prepared for an attack upon the United States.

(50 U.S.C. App. 2253; Reorg. Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; E.O. 12127, 3–31–79, 44 FR 19367; E.O. 12148, 7–20–79, 44 FR 43239)

Dated: November 4, 1980.

Frank A. Camm,

Associate Director for Plans and Preparedness, Federal Emergency Management Agency.

[FR Doc. 80-35285 Filed 11-12-80; 8:45 am]

BILLING CODE 6718-01-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Parts 1061, 1075

Character and Scope of Specific Programs; State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is revising its policy statement implementing Section 231 (State Agency Assistance) of the Economic Opportunity Act of 1964 as amended. This rule implements changes in legislation which were included in the Economic Opportunity Amendments of 1978 in addition to changes in administrative requirements.

DATES: Effective date: This rule is effective December 15, 1980.
Implementation date: The provisions of this rule are applicable to any agency funded after December 15, 1980. For existing grantees, the provisions of this rule will be effective for awards made on or after July 1, 1981. Earlier implementation is permitted by mutual agreement between the Governor and the CSA Regional Office.

FOR FURTHER INFORMATION CONTACT:
Ms. Jacqueline G. Lemire, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Telephone (202) 254; 5047, Teletypewriter (202)254–6218.

CSA has determined that under its published criteria implementing Executive order 12044 this is a significant change to a rule. (Catalogue of Federal Domestic Assistance program number 49.013.)

SUPPLEMENTARY INFORMATION:

CSA is revising its existing policy implementing the provisions of Section 231 of the Economic Opportunity Act of 1964, as amended (45 CFR 1075.1). This revision implements legislative changes mandated by the Economic Opportunity Amendments of 1978. In addition the policy reflects the changing role of States in anti-poverty activities in the ten year period since CSA published its current policy.

A proposed rule was published in the **Federal Register** on May 27, 1980 at pages 35363–35366 and a sixty day comment period was provided. Ten written responses were received. In addition CSA officials met on two separate occasions with members of the National Association of State Economic Opportunity Office Directors to discuss issues around this policy. This final rule reflects recommendations made, and addresses issues raised, by both the respondents and the Association members. We wish to thank everyone for their very constructive contribution to this final rule. As a result of these comments and discussions, the final rule contains the following major changes:

(1) Non-Federal share—the majority of respondents supported a continuation of the non-Federal share requirement which the proposed rule would have eliminated. Therefore, the amendatory language in the proposed rule revoking the non-Federal share requirement for Section 231 grants (as currently published in § 1068.20 of 45 CFR Chapter X) has been deleted and the non-Federal share requirement remains at 50%.

(2) Training and Technical Assistance—Nine of the respondents plus members of the Association noted their concerns that in the proposed rule training and technical assistance had not been listed as a mandatory activity which they feel is essential. The final rule includes as a mandatory goal, training and technical assistance *to support the implementation of the other mandatory goals.* Other types of T&TA remain as a supplementary goal.

(3) Intergovernmental Contact—As a result of discussions with the Association it was agreed that Section 231 funded offices would serve as the coordinator for all contact between CSA and State governments except for contact directly between CSA and Governors. This has been added as mandatory goal #4 in the final rule.

A majority of the respondents interpreted § 1061.90–4, *Procedures for selecting a State agency to receive assistance under Section 231 of the EOA,* as requiring the Governor to redesignate the entity which he or she wishes to serve as the agency which will carry out the anti-poverty efforts with Section 231 funds. This is not, and was not, the intent of that section. Rather the section simply describes the selection process to be used when a Governor initially chooses to apply for funds under Section 231 or when he or she has determined that a redesignation should be made due to existing circumstances, organizational realignments, etc.

Several respondents opposed the inclusion of mandatory activities since they eliminate the flexibility of the applicants. CSA believes that it is essential that certain activities be carried out by all States receiving funds under Section 231. These activities assure that each State will support national goals but are flexible and broad enough to be responsive to the unique needs of each state and its communities. Therefore, mandatory goals remain in the final rule.

We would like to emphasize that this rule governs only the goals and activities to be undertaken with funds awarded under Section 231. It does not address, nor does it intend to circumscribe, the activities of the State agency which are provided financial assistance by CSA under other Sections of the Economic Opportunity Act or by non-CSA sources.

The provisions of this rule must be fully implemented by July 1, 1981.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

William W. Allison,

Acting Director.

45 CFR Chapter X is proposed to be amended as follows:

PART 1075—STATE ECONOMIC OPPORTUNITY OFFICES [REVOKED]

1. Part heading 1075 is revoked.

Subpart 1075.1 [Revoked]

2. Subpart 1075.1, Role of State Economic Opportunity Offices (CSA Instruction 7501–1) is revoked in its entirety.

3. Part 1061 is amended by adding subpart 1061.90 to read as follows:

Subpart 1061.90—State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

Sec.
1061.90–1 Applicability.
1061.90–2 Purpose.
1061.90–3 Time frame for implementation of rule.
1061.90–4 Procedures for selecting a State agency to receive assistance under Section 231 of the EOA.
1061.90–5 Goals and eligible activities.
1061.90–6 Application process.
1061.90–7 Post-funding requirements.

Authority: Section 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart 1061.90—State Agency Assistance Funded Under Section 231 of the Economic Opportunity Act

§ 1061.90–1 Applicability.

This subpart is applicable to grants, contracts, and cooperative agreements funded under Section 231 of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.90–2 Purpose.

The purpose of this subpart is to provide to State Governors criteria by which they may choose a State agency as the agency eligible to apply to the Community Services Administration for funds under Section 231 of the Economic Opportunity Act of 1964, as amended (EOA). This subpart also details the goals which are to be addressed with funds provided under Section 231; pre-funding requirements; the application process; and post-funding requirements.

§ 1061.90–3 Timeframe for implementation of rule.

The provisions of this rule are applicable to any agency funded after [30 days following publication in the **Federal Register**]. For existing grantees the provisions of this rule will be effective for awards made on or after July 1, 1981. However, earlier implementation is permitted by mutual agreement between the Governor and the CSA Regional Office which funds and administers the grant.

§ 1061.90–4 Procedures for selecting a State agency to receive assistance under Section 231 of the EOA.

(a) *How a State agency is selected.* The Governor of a State may select a State agency within his or her State as the agency which will carry out those anti-poverty efforts described in this rule. The agency so selected by the Governor will be considered by CSA to be the State agency to receive Section 231 funds and to perform the work program under the policies in this subpart until the Governor notifies CSA of his or her selection of a successor agency. State agencies receiving Section 231 funds as of [30 days following publication in the **Federal Register**] will continue to be recognized by CSA as the State agency selected by the Governor unless CSA is otherwise notified. The agency which the Governor selects will be the agency to whom prior notification of financial assistance under Section 242 will be provided. The agency selected must be one (1) whose Director has direct line authority and responsibility for implementing the goals of a CSA-approved work program; (2) which has direct organizational access to the Governor for the purposes of carrying out the goals of the CSA-approved work program; (3) which has the demonstrated ability to mobilize State and Federal resources in support of the anti-poverty efforts of Community Action Agencies and other anti-poverty groups; and (4) which has proven experience in planning, coordinating, administering or operating programs for the poor.

(b) *Determination of eligibility.* Sixty days prior to submission of an application for funding the agency selected by the Governor will be responsible for providing the appropriate CSA Regional Office with

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documents and other data and information by which the CSA Regional Director can verify eligibility of the agency. These supporting documents must address each of the elements described in (a)(1) through (4) above.

§ 1061.90–5 Goals and eligible activities.

(a) *Mandated goals for all work programs.* CSA recognizes that States differ in their constitutional, statutory and organizational patterns. States also differ in terms of resources available, the causes of poverty, and the resulting programs. However, regardless of these differences CSA believes that the following are valid anti-poverty goals for all States. Therefore, Goals #1 through #5 listed below, along with their selected activities, must be addressed in *all* work programs:

(1) *Goal #1:* To increase the amounts and kinds of Federal, State and private resources available for anti-poverty activities within a State.

(i) Acceptable activities in achieving this goal include but are not limited to:

(A) Seeking out, developing or assisting in the development of every State, local, Federal and non-Federal resource that can be marshalled effectively and/of coordinated to assist poor persons, Community Action Agencies, State commuity action associations, and other anti-poverty efforts within the State.

(B) Developing and carrying out strategies for obtaining additional resources for new and existing anti-poverty activities.

(C) Initiating or stimulating the development and implementation of anti-poverty programs which are needed and not being provided adequately in the State.

(D) Promoting the utilization of all available State resources by making necessary information and support available to poor persons.

(2) *Goal #2:* To strengthen State capabilities for planning and coordinating in order to insure that available assistance related to the elimination of poverty can be more responsive to the needs and conditions of the poor within a State.

(i) Acceptable activities in achieving this goal include but are not limited to:

(A) Promoting the maximum feasible participation of poor people in the planning, conduct and evaluation of other State agency operations and programs which affect the poor.

(B) Developing interagency mechanisms at the State and local program level to insure good communications between State and local agencies, particularly Community Action Agencies and State community action associations, and other agencies and offices whose activities affect the poor.

(C) Developing a formal mechanism by which to advise departments of State government of the capabilities of Community Action Agencies and other CSA-funded anti-poverty groups to assist State agencies in their anti-poverty efforts.

(D) Working for representation of poor persons on State committees and other entities which develop policy, provide advice or operate programs affecting the poor.

(3) *Goal #3:* To assure that the Governor has current and expert advice and information on poverty problems and anti-poverty efforts within the State.

(i) Acceptable activities in achieving this goal include but are not limited to:

(A) Providing the Governor with information and advice with respect to the policies and programs of the Community Services Administration and other anti-poverty resources.

(B) Providing the Governor, the State legislature, and other state agencies with information on the causes and conditions of proverty in the State.

(C) Advising the Governor on the status and impact of State and Federal programs and services affecting poor individuals in the State.

(D) Assisting the Governor in carrying out the provisions of Section 242 of the EOA.

(E) Drafting an Annual Report on Poverty in the State for delivery by the Governor to the State legislature and to the citizens of the State.

(4) *Goal #4:* To serve as the major point of intergovernmental contact between CSA and other State agencies, with the exception of the Governor.

(i) Acceptable activities in achieving this goal include but are not limited to:

(A) Communicating to CSA on a regular basis major state anti-poverty policies, concerns of State government officials about CSA or other Federal anti-poverty efforts, and information about successful state government approaches to anti-poverty problems.

(B) Explaining CSA policies and programs to other state agencies, setting up appropriate meetings between CSA and state officials, and officially advising CSA of program operation capabilities of state agencies which may be designated to receive CSA funds other than those under Section 231.

(5) *Goal #5:* To support the implementation of the mandatory Goals [§ 1061.90–5(a)(1)–(5)] through the provision of training and technical assistance to community action agencies, state community action associations, and other local anti-poverty organizations.

(i) Acceptable activities in achieving this goal include but are not limited to:

(A) Developing and holding workshops and seminars about state anti-poverty program policies and requirements.

(B) Providing on-site assistance to achieve maximum coordination and the fullest benefit of both Federal and state anti-poverty programs.

(C) Developing guidance materials for dissemination to CSA grantees and other appropriate anti-poverty groups or state agencies.

(b) *Supplementary goals and activities.* In those instances where a selected State agency has *funds available* under Section 231 *above and beyond those required to carry out its mandated work program* as described in (a) above, the agency may address one or more of the following in its proposed work program:

(1) *Goal:* To assure that Community Action Agencies and other CSA grantees have available to them the technical expertise and information and other assistance which will enable them to carry out effectively and efficiently their anti-poverty efforts.

(i) Acceptable activities in achieving this goal include:

(A) In consultation with CSA, assisting grantees in implementing corrective actions recommended by CSA as a result of evaluations, pre-reviews, monitoring and/or audit reports.

(B) In consultation with CSA, CSA grantees, and other antipoverty groups, sponsoring or participating in training programs and workshops for staff and board members utilizing state resources and personnel to the extent possible.

(C) Providing information and assistance to CAAs, other CSA grantees, and other anti-poverty groups, in planning, developing and operating programs including volunteer programs.

(2) *Goal:* To assure that the Director of CSA has current and expert information on the impediments to coordinating antipoverty programs at the State level and how these impediments may be eliminated.

(i) Acceptable activities in achieving this goal include:

(A) Advising and assisting CSA in identifying problems posed by Federal and State statutory or administrative requirements that impede state-level coordination of CSA-related programs, and in developing methods or recommendations for overcoming these problems.

(B) Advising CSA on procedures and programs which will promote State agency participation in carrying out the aims and objectives of the Economic Opportunity Act.

(C) Developing an Annual Report to the Director of CSA on the status and impact of Federal and State programs and services affecting low-income individuals within the State.

(c) *Measurable goals and activities in the Work Program.* Goals and activities appearing in the applicant's work program must be stated in terms which are clearly measurable and must include the quantity as well as the quality and character of the improvements to be achieved.

§ 1061.90–6 Application process.

(a) *Funding offices.* The responsibility for application review, grant approval, and monitoring of grants funded under Section 231 lies with the appropriate CSA Regional Office.

(b) *Application requirements.*

(1) Sixty days prior to the submission of an application for funds to CSA, an applicant selected by the Governor must:

(i) submit eligibility documents to CSA as required in § 1061.90–4(b) above; and

(ii) notify the State clearinghouse and the area clearing houses (if appropriate) of its intent to apply for funds. (See § 1067.10 of this Chapter for detailed instructions.)

(2) Ninety days before the expected funding date or, for refundings, ninety days before the end of the grantee's program year, the applicant/grantee must submit to the appropriate CSA Regional Office a formal grant application.

(3) The following documents must be submitted as part of the formal funding request:

(i) SF–424, Federal Assistance (including all comments received from clearinghouses);

(ii) CSA Form 419, Summary of Work Program and Budget; and

(iii) CSA Form 515, Grantee Budget Information (pages 1 and 2) (See OMB Circular A–102.)

(4) If delegating programs, the following additional documents must be submitted as part of the formal funding request:

(i) CSA Form 85, Administering Agency Funding Estimate;

(ii) CSA Form 87, Delegate Agency Basic Information; and

(iii) CAP Form 11, Assurance of Compliance with Civil Rights Act.

§ 1061.90–7 Post funding requirements.

Grantees receiving funds under Section 231 must comply with all CSA rules applicable to grants funded under this Section. See § 1000.1 of this Chapter for a listing of all such rules.

[FR Doc. 80–35292 Filed 11–12–80; 8:45 am]

BILLING CODE 6315–01–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 505 and 540

[General Order 20; Amdt. 7 and General Order 30 Revised; Amdt. 1]

Compromise, Assessment, Settlement and Collection of Civil Penalties; Transfer of Functions and Responsibilities

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Commission's rules regarding civil penalty procedures are amended to reflect that certain functions formerly performed by the Offices of General Counsel and Hearing Counsel now will be performed by the newly created Bureau of Investigation and Enforcement. These changes are necessary because of the Commission's recent reorganization and they reflect the transfer of certain functions resulting from the reorganization.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Commission's rules regarding compromise, assessment settlement and collection of civil penalties currently contemplate that certain functions will be performed by the Offices of General Counsel and Hearing Counsel. The Commission recently has transferred these functions and responsibilities to a newly created Bureau of Investigation and Enforcement. Certain changes in Parts 505 and 540 of Title 46 CFR are required to reflect this transfer. Pursuant to 5 U.S.C. 553 and section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)), Title 46 CFR is amended as follows.

PART 505—COMPROMISE, ASSESSMENT, SETTLEMENT AND COLLECTION OF CIVIL PENALTIES UNDER THE SHIPPING ACT, 1916, AND INTERCOASTAL SHIPPING ACT, 1933

The following changes are made to Part 505 of 46 CFR.

§ 505.2 [Amended]

§ 505.4 [Amended]

Appendix A [Amended]

1. In §§ 505.2(c), 505.4(b)(2), (c)(1), (c)(2), (d) and Appendix A the references to "General Counsel" are amended to read "Director, Bureau of Investigation and Enforcement."

§ 505.3 [Amended]

2. In section 505.3 the reference to "Hearing Counsel" and in section 505.4(a) the reference to "General Counsel's Office" are amended to read "Bureau of Investigation and Enforcement."

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

The following changes are made to Part 540 of Title 46 CFR.

§ 540.32 [Amended]

1. In section 540.32(b) the reference to "Office of the General Counsel" is amended to read "Bureau of Investigation and Enforcement".

§ 540.34 [Amended]

Appendix A [Amended]

2. In section 540.34 and in Appendix A the references to "General Counsel" are amended to read "Director, Bureau of Investigation and Enforcement".

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–35392 Filed 11–12–80; 8:45 am]

BILLING CODE 6730–01–M

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Proposed Rules

Federal Register
Vol. 45, No. 221
Thursday, November 13, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-CE-21]

Transition Area—Hebron, Nebraska; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Hebron, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hebron, Nebraska, Municipal Airport, utilizing the Hebron Nondirectional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before December 20, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles A. Sears, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 20, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by designating a 700-foot transition area at Hebron, Nebraska. To enhance airport usage a new instrument approach procedure is being developed for the Hebron, Nebraska, Municipal Airport utilizing the Hebron Nondirectional Radio Beacon as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Hebron, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445) by adding the following new transition area:

Hebron, Nebraska

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Hebron, Nebraska Airport (Longitude 97° 35' 01"W) Latitude 40° 09' 09"N) and extending 3 miles either side of the 316° bearing of the Hebron, Nebraska NDB (longitude 97° 35' 14" W, Latitude 40° 09' 01" N) from the 5 mile radius to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Since this regulatory action involves an established body of technical requirements for which frequent and rountine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on October 31, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-35128 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace docket No. 80-AEA-40]

Proposed Amendment to Additional Control Area, and Compulsory Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice porposes to expand additional Control Area, control 1149 at its terminus point and make an editorial change to the description of Croak Intersection. Warning areas to the north and south of control 1149 have expanded seaward and this action will provide additional control area airspace in the corridor between the warning areas necessary ensure efficent use of the affected airspace.

DATES: Comments must be received on or before December 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 80-AEA-40, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Adminstration, 800 Independence Avenue SW, Washington, D.C. 20591; telephone: (202) 426-3715

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before December 15, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the applications procedures.

The Proposal

The FAA is considering an amendment to § 71.163 and § 71.209 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend additional Control Area, Control 1149, to provide additional control area airspace within the corridor between warning areas located to the north and south which are being expanded by separate nonregulatory action. This amendment is necessary to realign Control 1149 consistent with the revised warning area boundaries and ensure efficient traffic flow. Croak Intersection would be redescribed using the appropriate geogrpahic reference (Long 73°00'00"W.) in lieu of the term "New York Oceanic CTA/FIR boundary." Additional warning area designations (W-70 and W-71) are proposed concurrently with Control 1149 realignment and consist of establishing warning area airspace collocated with the existing and proposed extension of Control 1149. The priority for use of the collocated airspace will be retained by the FAA Controlling Agency and activation as W-70 and W-71 permitted only where Control 1149 is not required for en route traffic. The following Warning Areas would be established:

1. W-70 Virginia Capes, Virginia

Bondaries. Beginning at Lat. 37°04'53"N., Long. 74°36'00"W.; to Lat. 37°13'39"N., Long. 72°40'00"W.; to Lat. 36°42'08'N., Long. 72°40'00'00"W.; to Lat. 36°47'15"N., Long. 74°36'00'00'W.; to point of beginning.

Altitudes. Surface to but not including FL240.

Times of use. Continuous.

Using agency. Federal Aviation Administration, Washington ARTC Center.

Controlling agency. Federal Aviation Adminstration, Washington ARTC Center.

2. W-71 Virginia Capes, Virginia

Boundaries. Beginning at Lat. 37°04'53"N., Long. 74°36'00"W.; to Lat. 37°13'39"N., Long. 72°40'00"W.; to Lat. 36°42'08"N., Long. 72°40'00"W.; to Lat. 36°47'15"N., Long. 74°36'00W.; to point of beginning.

Altitudes. FL 240 to unlimited.

Times of use. Continuous.

Using agency. Federal Aviation Administration, Washington ARTC Center.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

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Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 and § 71.209 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 349 and 656) as follows:

1. In § 71.163 under Control 1149, the description is deleted in its entirety and the following is substituted therefor:

"That airspace bounded by tangent lines drawn from the circumference of a 5-mile radius circle centered on the Norfolk, Va., VORTAC 088° radial at Long. 75°32'00"W., to the circumference of an 18.1 mile radius circle centered on the Norfolk, Va., VORTAC 088° radial at Long. 72°40'00"W., excluding the portion below 2,000 feet MSL outside the United States."

2. In § 71.209 under Croak, the words "New York Oceanic CTA/FIR boundary." are deleted and the following is substituted therefor:

"Long. 73°00'00"W."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044; as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on November 7, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-35347 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM 81-2]

Eligibility, Rates and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities; Notice of Proposed Rulemaking

Issued: November 6, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission gives notice that it proposes to adopt regulations implementing section 643 of the Energy Security Act. The Energy Security Act contains amendments to the Federal Power Act and the Public Utility Regulatory Policies Act concerning geothermal energy. The proposed regulations would permit utility-owned small power production facilities using geothermal resources as a primary energy source to obtain the rate and exemption benefits of section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The regulations also permit qualifying small power production facilities using geothermal resources of up to 80 megawatts capacity to obtain the exemption benefits of section 210 of PURPA.

DATES: Written Comments by December 15, 1980.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM 81-2).

FOR FURTHER INFORMATION CONTACT:

Adam Wenner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033;

or

Glenn Berger, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

Issued: November 6, 1980.

Background

On June 19, 1980, the Congress enacted section 643 of the Energy Security Act of 1980 (ESA),[1] which contains six amendments concerning geothermal energy to the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 (PURPA). These proposed rules would implement four of those amendments.

Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) mandates that the Federal Energy Regulatory Commission (Commission) prescribe rules under which small power production facilities and cogeneration facilities can obtain "qualifying" status, and thus become eligible for the rates and exemptions set forth in the commission's rules implementing section 201 of PURPA.

Section 201 of PURPA defines a "small power production facility" as a facility which:

(1) Produces electric energy soley by the use, as a primary energy source, of biomass, waste, renewable resouces, or any combination thereof; and

(2) Has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts.

A cogeneration facility is defined as a facility which produces electric energy and steam or form of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

Thus cogeneration facilities produce sequentially two forms of useful energy, namely electric power and heat. Cogeneration facilities can use significantly less fuel to produce electricity and steam (or other forms of energy) than would be needed to produce the two separately. By using fuels more efficiently, cogeneration facilities can make a significant contribution to the Nation's efforts to conserve its energy resources.

Small power production facilities as defined in the Act use biomass, waste, or renewable resouces, including wind, solar, geothermal or hydroelectric energy, to produce electric power. Reliance on these sources of energy can reduce the need to consume fossil fuels to generate electric power.

Prior to the enactment of PURPA, a congenerator or small power produced seeking establish interconnected operation with a utility faced three major obstacles. first, a utility was not generally willing to purchase the electric output at an attractive rate. Second, some utilities charged discriminatorily high rates for back-up service to cogenerators and small power producers. Third, a cogenerator or small power producer that provided electricity to a utility's grid ran the risk of being considered an electric utility and thus being subjected to extensive State and Federal regulation.

Sections 201 and 210 of PURPA are designed to remove these obstacles.

[1] Pub. L. No. 96-294, 94 Stat. 611 (1980).

Each electric utility is required under section 210 to offer to puchase available electric energy from congeneration and small power production facilities that obtain qualifying status under section 201 of PURPPA, and to provide back-up power and other services to such facilities on a non-discriminatory basis. For such purchases, electric utilities are required to pay rates that are just and reasonable to the ratepayers of the utility, that are in the public interest, and that do not discriminate against cogenerators and small power produces.

Section 210(e) of PURPA provides that the Commission can exempt qualifying facilities from State regulations regarding utility rates and financial organization, from Federal regulation under the Federal Power Act (other than licensing under Part I and sections 210-212 of Part II), and from the Public Utility Holding Company Act. However, the Commission can not extempt qualifying facilities from local, State, or Federal licensing, siting, or environmental laws or regulations. Finally, under section 206(c)(3) of the Natural Gas Policy Act of 1978 (NGPA), the Commission could exempt qualifying congeneration facilities from the incremental pricing program under Title II of the Natural Gas Policy Act of 1978 (NGPA).

The Commission issued proposed regulations implementing sections 201 and 210 in 1979. After a series of public hearings, analysis of the extensive written comments received, and consultation with State public utility regulatory commissions, final rules were issued under section 210 on February 19, 1980 [2] and Section 201 on March 13, 1980.[3] On October 23, 1980, the Commission issued a rule, subject to Congressional review, exempting mechanical cogeneration facilities from incremental pricing under Title of the NGPA.[4]

Section 643(a) of the Energy Security Act is intended to clarify the authority of the Federal Energy Regulatory Commission (FERC or Commission) to classify geothermal resources as a "primary energy source" for purpose of eligibility for use by a small power production facility under section 3(17)(A) of the Federal Power Act, as amended by section 201 of PURPA. The conference report indicates that the legislation does not intend "to cast the FERC's present regulations under section 3(17) into doubt by reason of this amendment."[5]

Section 643(b) of ESA contains three amendments to section 210 of PURPA. Subsection 643(b)(1) amends section 210(a) of PURPA. Section 210(a) requires the Commission to prescribe rules "as it determines necessary to encourage cogeneration and small power production . . . which rules [shall] require electric utilities to offer to sell electric energy to and purchase electric energy from qualifying cogeneration and small power production facilities." The amendment to this section adds "geothermal small power production facilities of not more than 80 megawatts capacity" to the list of technologies which the Commission must issue rules to encourage; but not to the class of energy-production facilities to and from which electric utilities are statutorily required to sell and purchase.

The requirement to purchase from and sell to cogeneration and small power production facilities appears to be extended only to "qualifying" facilities. The difference between a qualifying and non-qualifying cogeneration or small power production facility is that a "qualifying" facility must be owned by a person "not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration and small power production facilities)."[6]

Utility-owned geothermal small power production facilities do not meet this requirement. Thus, it is not clear, on the face of the statute, that the Commission is authorized to require electric utilities to purchase from or sell to geothermal small power production facilities which are wholly owned by electric utilities, or that it can price their purchases according to the purchasing utility's "avoided costs." [7]

However, the legislative history of ESA indicates that it was the intent of Congress that the Commission, under the "broad authority of section 210 to encourage geothermal small power production," have the authority to make "some or all of the section 210 rate benefits applicable to such facilities in the same manner as such benefits are available to non-utility owned facilities." [8]

In Order No. 69, the Commission noted that section 210(a) of PURPA "provides a general mandate for the Commission to prescribe rules necessary to encourage cogeneration and small power production.[9] While the specific requirement that the Commission issue rules requiring electric utilities to offer to sell to and buy from cogeneration and small power production facilities is limited in sections 210(a)(1) and (2) to "qualifying" facilities, the legislative history and the Commission's interpretation of the general mandate to encourage cogeneration and small power production lead the Commission to believe that it has the authority to extend these privileges to utility-owned geothermal small power production facilities. Therefore, the Commission believes that it has the authority to require electric utilities to purchase from and sell to utility-owned geothermal small power production facilities, and to price these purchases on an avoided cost basis.

Section 643(b)(2) of ESA amends sections 210(e)(1) of PURPA to authorize the Commission to exempt "geothermal small power production facilities of not more than 80 megawatts capacity" from the Federal Power Act, the Public Utility Holding Company Act, and State laws and regulations respecting the rates or the financial or organizational regulation of electric utilities, if the Commission determines such exemption is necessary to encourage cogeneration and small power production. The Commission's exemptive authority under this amendment is not limited to "qualifying" geothermal small power production facilities. As a result, the Commission may exempt utility-owned geothermal small power production facilities from these laws and regulations.

Finally, section 210(e)(2) of PURPA limited the Commission's authority to exempt qualifying small power production facilities to those with a capacity of 30 megawatts of less.[10] Section 643(b)(3) of ESA increases the limit of "80 megawatts for a qualifying small power production facility using geothermal energy as the primary

[2] 45 Fed. Reg. 12214 (Feb. 25, 1980).

[3] 45 Fed. Reg. 17959 (March 20, 1980).

[4] Docket No. RM80-62, issued October 23, 1980, 45 Fed. Reg. ————, October —, 1980).

[5] S. Rep. No. 96-824, 96th Cong., 2nd Sess. 312 (1980). It is the Commissions's position that the geothermal facilities were eligible for qualificationas small power production facilities. This view is based on the legislative history of PURPA. 124 Cong. Rec. S. 17806 (daily ed. October 9, 1978) (remarks of Senators Durkin and Jackson).

[6] Sections 3(17)(C)(ii) and 3(18)(B)(ii), Federal Power Act, 18 C.F.R. § 292.206.

[7] "Avoided costs" are defined in § 292.101(b)(6) of the Commission's rules as "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

[8] 126 Cong. Rec. S. 7423 (daily ed. June 26, 1980) (remarks of Sen. McClure). 126 Cong. Rec. H5718, 5724 (daily ed. June 26, 1980) (remarks of Reps. Dingell, Sharp).

[9] 45 Fed. Reg. 12214, 12221 (Feb. 25, 1980).

[10] Small power production facilities between 30 and 80 megawatts which use biomass as a primary energy source are exempt from the Public Utility Holding Company Act, and from State regulation of wholesale rates and financial organization. See § 292.602 of the Commission's rules.

energy source . . ." Thus, the Commission may exempt any "qualifying" small power production facility using geothermal energy as the primary energy source from the laws and regulations specified in section 210(e)(1) of PURPA.

Summary of the Proposed Rules

§ 292.204 Primary energy source.

Section 3(17)(A) of the Federal Power Act, as amended by section 201 of PURPA, defines a "small power production facility" as a facility which produces energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof; and which has a power production capacity which, together with any other failities located at the same site (as determined by the Commission), is not greater than 80 megawatts. The amendment contained in section 643(a)(1) of ESA states that geothermal resources are an eligible primary energy source for small power production facilities.

Section 292.204 of the Commission's rules sets forth crtieria for qualifying small power production facilities. To reflect section 643(a)(1) of ESA, the Commission proposes to amend this section of its rules to make it clear that small power producton facilities using geothermal resources as a primary energy source can be qualifying facilities. This change appears in § 292.240(b)(1)(i), where "geothermal resources" is added to the list setting forth the eligible primary energy sources of a qualifying small power production facility.

Definitions

§ 292.202 "Utility geothermal small power production facility."

The Commission proposes to amend § 292.202 by adding a new paragraph (o) which defines "utility geothermal small power production facility" (UGC) as a small power production facility which uses geothermal energy as the primary energy source, and of which an electric utility or electric holding company, or any combination thereof, owns more than 50 percent of the outstanding voting securities.[11]

[11] Section 292.206 presently permits cogeneration and small power production facilities of which utilities own up to 50 percent of the equity to be qualifying facilities. For purposes of this discussion, a geothermal company of which electric utilities own more than 50 percent of the equity or voting securities is considered to be "wholly-utility owned," and is referred to as a utility geothermal company" or UGC.

§ 292.101 "Qualifying facility."

Section 292.101(b)(1) would include a "utility geothermal small power production facility" within the definition of "qualifying facility" set forth in the Commission's rules. This inclusion would make utility geothermal small power production facilities eligible for all of the rate and exemption benefits provided for non-utility owned cogeneration and small power production facilities.[12]

In proposing these changes, the Commission is attempting to make available to the utility industry the same benefits for geothermal projects that are provided to non-utility owned cogeneration and small power production facilities. As indicated in the following discussion, the Commission recognizes that, in certain respects, utilities participating in alternative energy development do face different risks and opportunities than does the non-regulated sector. It seeks comment on the specific proposals set forth in these rules, and on the general issues raised in these discussions.

§ 292.601 Exemption of qualifying facilities from the Federal Power Act.

Non-Utility Owned Facilities

Section 643(b)(3) of ESA amends section 210(e)(2) of PURPA by permitting the Commission to exempt qualifying small power production facilities of up to 80 megawatts capacity using geothermal resources from regulation under the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting rates or the financial or organizational regulation of electric utilities.

Section 292.601 of the Commission's rules sets forth exemptions of qualifying facilities from provisions of the Federal Power Act. This rule presently exempts qualifying small power production facilities of 30 megawatts or less from certain provisions of the Federal Power Act. The Commission proposes to amend this section to exempt qualifying small power production facilities using geothermal energy to the maximum extent permitted under ESA. This would be accomplished by amending § 292.601, to provide that exemption from the Federal Power Act applies to all qualifying facilities, other than small power production facilities with a capacity which exceeds 30 megawatts, and which use a primary energy resource other than geothermal resources.

[12] In light of the previously discussed legislative history, it may appear to be inconsistent to classify utility-owned geothermal facilities as "qualifying facilities." One result of that legislation is to permit the Commission to treat utility-owned geothermal facilities the same way as non-utility owned facilities. The Commission rules on cogeneration and small power production are replete with references to "qualifying facilities"; as a drafting matter, rather than revising virtually every rule to include utility-owned facilities, it is less confusing to include UGC's within the definition of qualifying facilities.

Utility-Owned Facilities—Rate Regulation of Sales to Parent Utilities

As discussed previously, the legislative history of section 643(b) of the ESA indicates that the Commission may provide some or all of the section 210 rate benefits to utiltiy-owned geothermal facilities in the same manner as such benefits are available to qualifying (*i.e.*, non-utility-owned) facilities.

Regulated Transactions

In most instances, if no exemption from the Federal Power Act were provided, sales of power by a UGC subsidiary to its utility parent would be sales for resale in interstate commerce, and would be subject to Commission regulation under Part II of the Federal Power Act. Sections 205 and 206 of the FPA provide that rates shall be just and reasonable; the Commission has interpreted these sections to mean that, in general, rates should be based on the cost of providing service, including operating costs and a reasonable return on investment. Unlike non-utility small power producers and cogenerators, utility parent companies, and their UGC subsidiaries are, for the most part, already subject to public disclosure and scrutiny of their costs. The use of cost-of-service pricing should not be a disincentive to these types of transactions—at least not to the same extent that it would be to non-utility companies.

Approval by this Commission of rates for transactions between a UGC subsidiary and its parent may be viewed favorably by the institutions which might finance the UGC. This is so because, if this Commission approves the rates, the utility has reasonable assurance that neither the States nor this Commission will challenge (or permit challenge) to the pass through of the purchased power costs in retail and wholesale rates.[13]

[13] *See, e.g.,* Narragansett Electric Company v. Burke *et al.*, 2431 A.2d 1358, cert. denied 435 U.S. 972 (1977). The Federal Power Commission had established a rate for sales of power from New England Power Company (NEPCO) to Narragansett Electric Company (Narragansett). The Rhode Island Public Utilities Commission (PUC) investigated the costs underlying the wholesale rate and attempted to prevent Narragansett from passing through some of the purchased power expenses to its retail

Footnotes continued on next page

In addition, in the event that the UGC facility does not perform up to expectations, regulation of a sale from the UGC to its parent under the FPA may provide greater assurance of cost recovery. There are several avenues by which a jurisdictional utility might recover its investment in a geothermal project. The Commission has allowed the recovery of costs through amortization for plants which did not become operational.[14] A geothermal facility may qualify for treatment as research, development and demonstration expenses (RD&D) under Commission Order No. 556.[15] If it does, the expenses associated with the project would be included within the utility's cost of service, and passed through to the ratepayer, regardless of its actual operation.[16]

Thus, in the case of a regulated sale from a UGC subsidiary to its utility parent, there is significant assurance of recovery of expenditures. The return on investment to the UGC will, on the other hand, be regulated, and will be limited to a level which the Commission determines to be just and reasonable. As will be discussed later, in the case of an unregulated sale, a UGC would take greater risks of non-recovery of costs, but would have the opportunity to receive a greater return on its investment.[17]

Footnotes continued from last page

customers. The Rhode Island Supreme Court held that the PUC lacks jurisdiction to inquire into the reasonableness of NEPCO's wholesale rate because the Federal Power Act gave sole jurisdiction over sales for resale in interstate commerce to the Federal Power Commission. The Supreme Court had earlier held that regulation over the transmission and sale of electric energy at wholesale in interstate commerce is not within the authority of the States. Connecticut Light and Power Co. v. FPC, 324 U.S. 515 (1945), Public Service Commission of Rhode Island v. Attleboro Steam and Electric, 273 U.S. 83 (1927).

[14] Order No. 49, New England Power Company, Docket Nos. ER76-304, ER76-317, El276-498, issued July 19, 1979.

[15] Order Prescribing Changes in Accounting and Rate Treatment for Research, Development and Demonstration Expenditures, Docket No. RM76-17, issued June 3, 1977.

[16] See *id., mimeo* at 7. In such instances, however, any revenue obtained from successful operation of the facility must similarly be credited to the ratepayer.

[17] The relationship between risk-taking and opportunity for profit is discussed in the Conference Report accompanying PURPA. The conferees recognized that "cogenerators and small power producers are different from electric utilities, not being guaranteed a rate of return on their activities generally or on the activities vis a vis the sale of power to the utility and where risk in proceeding forward in the cogeneration or small power production enterprise is not guaranteed to be recoverable." Conference Report in H.R. 4018, Public Utility Regulatory Policies Act of 1978, H.R. Rept. No. 1750, 97, 95th Cong., 2d Sess. (1978).

Exempt Transactions—Sales From UGC Subsidiary to Its Parent Company

If the Commission were to exempt UGC's from the Federal Power Act, the rate for purchases of power by the parent from its UGC subsidiary would not be established under the just and reasonable standards of section 205 or 206 of the FPA. Instead it would be based on the pricing provisions set forth in § 292.101—§ 292.308 of the Commission's rules. These rules establish a right for a qualifying facility to receive rates based on the "avoided costs" of the purchasing utility, in the case of purchases from "new capacity."[18] For purchasers from existing capacity, the State regulatory authority or nonregulated electric utility may establish rates lower than avoided cost levels, if it finds that the lower rate is "sufficient to encourage cogeneration and small power production."[19]

Finally, the rules provide that rates or terms established by agreement between an electric utility and a qualifying facility do not violate the Commission's rules under section 210 of PURPA, even if they differ from the avoided cost principles established in the rules.[20] This section permits parties to use negotiated rates and terms, rather than State-established rates, for purchases. However, this provision does not divest a State regulatory authority, or this Commission, of its authority to review contracts for purchases as part of its regulation of the purchasing electric utility.[21]

Accordingly, if the Commission exempted UGC's from the FPA, the rate would be established according to the principles described above. For purposes of this discussion, it is assumed that an avoided cost rate is higher than a rate which is "just and reasonable" on the basis of the selling utility's cost of service. This may not always be a valid assumption. On the one hand, the avoided cost rates established by a State regulatory authority or non-regulated electric utility may exceed the delivered cost of power from a geothermal facility.

On the other hand, by definition, a utility's "avoided costs" are "the incremental costs . . . of electric energy or capacity which, but for the purchase from the qualifying facility . . . , such utility would generate itself or purchase from another source." A statutory limitation on the rate that utilities can be compelled to pay for power from cogeneration and small power production facilities is that the rate must be "just and reasonable to the electric consumers of the electric utility and in the public interest."[22]

The Conference Report indicates that this requirement is to be interpreted in a manner which "looks to protecting the interest of the electric consumer in receiving electric energy at equitable rates."[23]

In establishing the full avoided cost pricing standard, the Commission was cognizant of the need to avoid ratepayer subsidies to cogenerators and small power producers, observing that, under that standard, "the utilities' customers are kept whole, and pay the same rate as they would have paid had the utility not purchased energy and capacity from the qualifying facility."[24]

It appears to the Commission that, in most cases, if the geothermal facility is the lowest-cost power supply alternative, the parent utility's avoided costs should be calculated on the basis of the cost of the geothermal facility. There may, however, be instances in which the avoided cost rates established by the State regulatory authority are higher than these costs. In such cases, the rates paid by a parent utility to its UGC subsidiary would be the same as the rates that are available to non-affiliated cogenerators and small power producers. If the rates established by the State regulatory authority fall within the previously discussed statutory parameters, the Commission does not believe that use of these rates for transactions between affiliated companies will be troublesome.

The receipt by the UGC of such avoided costs, rather than cost-of-service based rates, will not benefit the parent utility company unless the parent is permitted to flow through to its customers these purchased power expenses. That issue will be determined by the regulatory authorities which establish rates for sales by the parent utility. For sales for resale in interstate commerce, the FERC makes that determination; for retail sales, the State regulatory authorities could determine whether they should be included in the cost of service and passed through to the ratepayers. In contrast to the holding in *Narragansett, supra,* in the case of an unregulated sale, there would be no Federal imprimatur on the expenditure for the purchase by the parent from the

[18] See n. 7, *supra.* "New capacity" means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978 (§ 292.304(b)(1)).

[19] § 292.304(b)(3).

[20] § 292.301(b)(1).

[21] 45 Fed. Reg. 12214, 12233 (Feb. 25, 1980).

[22] Section 210(b)(1) of PURPA.

[23] Conference Report on H.R. 4018, Public Utility Regulatory Policies Act of 1978, H. Rep. No. 1750, 97, 95th Cong., 2d. Sess. (1978).

[24] 45 Fed. Reg. 12214, 12222 (Feb. 25, 1980).

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UGC subsidiary. As a result, a State commission might refuse to permit the pass-through of some or all of the parent utility's purchased power costs from its UGC subsidiary. The investment community may regard the lack of Federal assurance of cost recovery as increasing the risk associated with the project. In that case, the costs of financing the project would increase.

Moreover, in an unregulated transaction, in the case of failure of the UGC, there would be no provision for the recovery of costs through amortization, as in the procedure for regulated sales under the precedent cited above. In most instances, if a purchasing utility fails to receive power, it will not be able to avoid costs. The avoided cost payment to the UGC in such a case would be zero. Since the costs of the UGC are not a part of the business of regulated parent company, they would be borne by the stockholders, rather than the ratepayers.[25]

Conversely, in the case of a successful project, the unregulated UGC subsidiary could receive a greater profit than it would otherwise have obtained. In sum, as a reward for taking the risk that expenses may not be recovered, the UGC would have the opportunity to retain the benefits of its venture.

In order to accommodate utilities which prefer to have their utility geothermal subsidiaries regulated under the Federal Power Act, the Commission proposes in § 292.601(d) to allow a UGC to elect such regulation. Section 292.601(d) states that upon request of a utility geothermal small power production facility the exemption from the Federal Power Act set forth in § 292.601(c) shall not apply.

Purchases by Nonaffiliated Utilities—Obligation To Purchase

The previous discussion was premised on a transaction between a UGC subsidiary and its parent utility. As stated previously, the legislative history of ESA indicates that the Commission has the authority to compel electric utilities to purchase electric power produced by UGC's. Under this provision, one utility might be required to purchase the output of another, unaffiliated utility's geothermal facility, and to pay avoided cost rates for such power.

This type of transaction raises an issue that was not raised in transactions between affiliated companies. Transactions between a parent and subsidiary can be assumed to be voluntary, as they are between companies ultimately controlled by the same persons. Transactions between non-affiliated companies, however, might not be voluntary. A utility might construct a geothermal facility and, under the authority provided in § 292.303 of the Commission's rules, compel another utility to purchase the energy and capacity of the geothermal facility.

In most instances, transactions between utilities under the FPA are voluntary. Permitting UGC's to compel other utilities to purchase their power would be a deviation from these principles.

Avoided Cost Pricing

With regard to the pricing of purchases from UGC's, it is probable that use of avoided-cost pricing would provide for greater development of geothermal resources than would occur if cost-of-service pricing were used. Conversely, in cases where the cost of power from the UGC is less than the avoided cost, the ratepayers of the purchasing utility will not benefit from these lower costs. The Commission seeks comment on the appropriateness of avoided cost pricing for transactions between UGC's and non-affiliated utilities, and the ramifications for the affected utilities' ratepayers.

The Commission perceives the potential for *de facto* exclusion of competition resulting from sales between utilities and their geothermal subsidiaries. It has not, however, determined that this potential limitation on competition is a sufficient basis to deny exemption for this type of transaction. The Commission is particularly interested in obtaining comment on this point.

Obligations To Sell to Qualifying Facilities

The preceding discussion was directed to the obligation of electric utilities to purchase power from UGC "qualifying facilities." The Commission's rules also require, subject to certain restrictions, electric utilities "to sell energy and capacity requested by a qualifying facility." [26] With regard to UGC's, the Commission interprets this requirement to require only that an electric utility provide power required by the geothermal facility itself. The parent of the UGC could not use this provision to compel another electric utility to provide power to the parent's entire system.

§ 292.602 Exemption of qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

Non-utility-Owned Facilties

The Commission similarly proposes to exempt "qualifying geothermal facilities" from the Public Utility Holding Company Act, and from State laws regarding rates of electric utilities and their financial and organizational regulation.

The Commission believes that exemption from these laws is necessary to encourage small power production using geothermal energy. The Commission is aware of no reason to distinguish between geothermal facilities smaller than 30 megawatts and those larger than that size but under 80 megawatts—the statutory maximum—for purposes of providing these exemptions. As noted previously, the Commission proposes to amend § 292.601(a) to apply both to utility-owned and non-utility owned small power production facilities using geothermal resources as a primary energy source. In the existing rules, the applicability of § 292.602 includes those facilities described in § 292.601(a). Therefore, exemption of both utility-owned and non-utility owned facilities from the Public Utility Holding Company Act is accomplished by the change in § 292.601(a) described above.

Utility-Owned Facilities

As noted previously, section 643(b)((2) of ESA amends section 210(e)(1) of PURPA to authorize the Commission to exempt "geothermal small power production facilities of not more than 80 megawatts capacity" from the laws and regulations specified in section 210(e)(1). As discussed previously, the geothermal facilities included in this provision are not limited to "qualifying" facilities—that is, they are not limited to facilities "owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities)." Thus, the Commission has the authority to exempt geothermal facilities of 80 megawatts or less that are up to 100 percent utility-owned from the Federal Power Act from the Public Utility Holding Company Act, and from State laws or regulations respecting utility wholesale rate and financial organization regulation.

Rather than directly owning a geothermal facility, utilities sometimes find it advantageous to organize a separate corporation or partnership to own a geothermal facility. The principal advantage of this form of ownership is the ability to utilize "project financing" by the entity organized to build or acquire the generating facility. The advantages of this form of organization were described by the Securities and Exchange Commission recently:

> This permits the sponsoring utilities to finance the facility through issuance of long-term securities [by the entity organized to acquire or build the facility] that are not subject to the mortgage bond indentures of the sponsoring companies. It also provides flexibility with respect to the kind of security issued and the amount of debt used to finance the project. In addition, [for jointly-owned projects] the proportionate interests of the participants in the new facility can be altered as load forecasts change and new participants in the project can be admitted by a transfer of the voting securities, which avoids the delay and expense of obtaining a release under a sponsoring utility's indenture, a step that is always necessary in cases involving the transfer of an undivided ownership interest.[27]

An added advantage which is especially important in the development of an experimental and relatively high-risk technology such as geothermal generation is the ability of a sponsoring utility company to insulate itself from the consequences of a default on the obligations issued to finance the geothermal facility under the cross-default provisions in the sponsoring utilities' own mortgage.

To obtain these advantages, a utility or group of utilities considering addition of a geothermal facility might seek to establish a separate subsidiary corporation which owns the facility. However, if a utility company acquires 10 percent or more of the voting securities of a separate company established to construct or operate a geothermal facility, it may become a "public utility holding company" within the meaning of section 2(a)(7)(A) of the Public Utility Holding Company Act [28] (Holding Company Act or PUHCA). In addition, the acquisition of the voting securities of a company which owns a geothermal small power production facility may require approval from the Securities and Exchange Commission under sections 9 and 10 of PUHCA, if the acquiring company is an "affiliate," within the meaning of section 2(a)(11)(A) of PUHCA, of another public utility company.

Many utility companies, especially those that are currently organized only as operating companies, are reluctant to undertake an activity which would subject them to regulation as holding companies. This reluctance may make infeasible the use of the subsidiary form of corporate organization which is necessary for project financing.

The authority granted the Commission by section 643(b)(2) of ESA can remove these disincentives. Regulation under PUHCA is triggered by the acquisiton and ownership of the voting securities of an "electric utility company," defined generally in section 2(a)(3) of PUHCA. Thus, if a UGC is exempt from classification as an "electric utility company", the parent company would not require SEC approval for the acquisition of voting securities of a UGC (unless such parent company were a registered holding company under the PURPA, or a subsidiary of such holding company) and would not become a holding company as a result of that acquisition.

Effect on SEC Regulation

In proposed rules recently issued by the SEC, that Commission also observed that some utilities find it useful to establish separate subsidiary companies which own or operate generating plants to supply power to the sponsoring utilities. As noted by the SEC, the acquisition of the voting securities of this type of generating company permits the sponsoring company to secure a source of supply to serve existing or future needs. It does not enlarge the service area of an electric utility company, nor frustrate effective local regulation.[29]

The SEC noted further that some electric utilities may be deterred from ownership of generating subsidiaries because of their reluctance to become holding companies, or because of the need for case-by-case approvals of the acquisition of voting securities of a separate generating company under sections 9(a)(2) and 10 of PUHCA.

To remove these disincentives, the SEC proposed rules which would exempt electric utilities from obtaining approval for the acquisition of securities of such affiliate generating companies, and which would classify a sponsoring utility company as an "exempt" holding company with respect to one or more eligible generating subsidiaries.

The grant of exemption would, however, require: (1) authorization to acquire voting securities by "the regulatory authorities having jurisdiction over the rates and service" of the parent utility; (2) the subsidiary generating company to supply all of the electricity it generates to its parent company or companies (with certain noted exceptions); and (3) that the issuance of securities by the generating company be "expressly authorized by a regulatory authority having jurisdiction over its rates and service."[30]

As indicated, the exemption under section 210(e) of PURPA eliminates the basis for the SEC's jurisdiction over the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should refer to Docket No. RM81-2 on the outside of the envelope and on all documents submitted to the Commission. In order that the Commission be able to take into account as many comments as possible, the Commission requests that persons submitting comments assist in two ways. First, persons should identify specifically the section or subpart they are addressing. Secondly, where comments urge a different approach from one presented, specific alternative language should be proposed to the extent practicable.

Fifteen (15) copies should be submitted. All comments and related information received by the Commission by December 15, 1980, will be considered prior to the promulgation of final regulations.

(Energy Security Act, Pub. L. No. 96-294, 94 Stat. 611 (1980), Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601, *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. § 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. § 792 *et seq.*, Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 292.204 is amended by revising paragraph (b) to read as follows:

§ 292.204 Criteria for qualifying small power production facilities.

* * * * *

(b) *Fuel Use.* (1)(i) The primary energy source of the facility must be biomass, waste, renewable resources, geothermal

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[25] *See, e.g.*, Opinion No. 7, in which the Commission concurred with the holding by the Federal Power Commission that ". . . a utility should be regulated on the basis of its being an independent entity, that is, a utility should be considered as nearly as possible on its own merits and not on those of its affiliates. (47 FPC at 363)." Opinion and Order Approving in Part and Modifying in Part Decision of Administrative Law Judge, Kentucky West Virginia Gas Company, Docket No. RP73-97 issued February 16, 1978, *mimeo* at 11.

[26] § 292.303(b).

[27] Holding Company Act Release No. 21661, July 22, 1980, 45 FR 49954 (July 28, 1980).

[28] 15 U.S.C. § 701b(a)(7)(A).

[29] Holding Company Act Release No. 21661, n. 7, *supra*.

[30] *Id.* The exemptions are intended to facilitate joint ownership of conventional base-load generation plants, but have broader application.

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resources, or any combination thereof, and 75 percent or more of the total energy input must be from these sources.

2. Section 292.202 is amended by adding a new paragraph (o), to read as follows:

§ 292.202 Definitions.

* * * * *

(o) "Utility geothermal small power production facility" means a small power production facility which uses geothermal energy as the primary energy resource, and of which an electric utility or electric utility holding company, or any combination thereof, owns more than 50 percent of the outstanding voting securities.

3. Section 292.101 is amended by revising paragraph (b)(1) to read as follows:

§ 292.101 Definitions.

* * * * *

(b) *Definitions.* The following definitions apply for purposes of this part.

(1) "Qualifying facility" means a cogeneration facility or small power production facility which is a qualifying facility, or a utility geothermal small power production facility, under Subpart B of this part of the Commission's regulations.

* * * * *

4. Section 292.601 is revised to read as follows:

§ 292.601 Exemption of qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to qualifying facilities, other than those described in paragraph (b).

(b) *Exclusion.* This section does not apply to a small power production facility with a power production capacity which exceeds 30 megawatts if such facility uses any primary energy source other than geothermal resources.

(c) *General rule.* Any qualifying facility described in paragraph (a) shall be exempt from all sections of the Federal Power Act, except:

(1) Sections 1–18, and 21–30;

(2) Sections 202(c), 210, 211, and 212;

(3) Section 305(c); and

(4) Any necessary enforcement provision of part III with regard to the sections listed in paragraphs (c)(1), (2) and (3) of this section.

(d) Upon request of a utility geothermal small power production facility, the exemption set forth in paragraph (c) shall not apply.

[FR Doc. 80-35391 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625, 652 and 663

[FHWA Docket No. 79-3, Notice 3]

Design and Construction Criteria for Bikeway Construction Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the notice of proposed rulemaking published on August 4, 1980 (45 FR 51720) requesting comments by November 3, 1980 on bikeway design and construction criteria. The comment period is being extended to December 3, 1980 in order to provide interested parties additional time to respond to the notice of proposed rulemaking.

DATE: Comments will be received until December 3, 1980.

ADDRESS: FHWA Docket No. 79-3, Federal Highway Administration HCC-10, Room 4205, 400 Seventh Street, SW., Washington D.C. 20590. All comments received will be available at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Jeanette Kloos, Highway Design Division, Offfice of Engineering (202-426-0314), or Reid Alsop, Office of Chief Counsel (202-426-0800), Federal Highway Adminstration, 400 Seventh St. SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(Sec. 141, Pub. L. 95-599, 92 Stat. 2711; 23 U.S.C. 315; 49 CFR 1.48(c)(1))

Issued on: November 4, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-35205 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-887]

Community Development Block Grants, Community Development Disaster Assistance Program

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the current regulations governing the Community Development Disaster Assistance program. The regulations now in effect do not include all of the policies presently used by HUD to administer the program. Since the issuance of regulations additional policies have been articulated in the form of administrative guidelines. These policies need to be expressed in the regulations to provide the necessary guidance to HUD personnel, disaster staff in other agencies, and eligible applicants. The proposed regulations also include the applicable requirements of Executive Order 11988 regarding floodplain management.

COMMENT DUE DATE: Comments are due on or before January 12, 1981.

ADDRESS: Comments should be sent to: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., 20410.

FOR FURTHER INFORMATION CONTACT: Liza Bowles, Office of Policy Planning, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-7673 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Section 107 of the Housing and Community Development Act of 1974, as amended allows the Secretary of HUD to make grants to States, units of general local government, and Indian tribes for the purpose of meeting emergency community development needs caused by federally recognized disasters.

Current regulations do not clearly state HUD's policies governing the program. Therefore, guidance is inadequate for HUD personnel, disaster staff in other agencies, and eligible applicants. The purpose of these regulation changes is to provide the necessary guidance by incorporating the governing policies into regulations.

Given the chronic shortage of disaster assistance funds, it is the policy of this Department to make applications for these funds competitive in nature so that those most in need of the funds will receive them.

The funds available for Community Development Disaster Assistance are limited; and, in any particular fiscal year, the incidence of major disasters and emergencies create demands far in excess of the assistance available from HUD. A further purpose of these revisions is to clarify the supplementary funding relationship of Community Development Disaster Assistance to funds available under the Disaster Relief Act of 1974; the Small Business Act of 1958, as amended; and other pertinent statutes. An intention of these revisions is to simplify for applicants the use of Community Development Disaster Assistance resources as a supplement to primary disaster recovery programs for long term recovery and mitigation.

In addition, the regulations have been revised to reflect the requirements of Executive Order 11988 regarding floodplain management.

SPECIAL INFORMATION: A finding of inapplicability with respect to environmental impact has been prepared in accordance with HUD procedures for Protection and Enhancement of Environmental Quality. Copies of the finding are available for inspection and copying in the Office of the Rules Docket Clerk at the above address. This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, the Department proposes to revise 24 CFR 570.407 to read as follows:

§ 570.407 Community development disaster assistance.

(a) *General.* Grants under this section shall be for the purpose of meeting emergency community development needs which have been caused by federally recognized disasters.

These funds may only be used if no other resources are available in a timely manner.

(b) *Definitions.* For the purpose of this section:

(1) "Federally recognized disaster" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstrom, drought, fire, explosion, or other natural or man-made catastrophe in any part of the United States which is declared a disaster by the President or a Federal agency.

(2) "A Presidentially declared disaster" is a catastrophe declared by the President to be a major disaster or an emergency pursuant to the Disaster Relief Act of 1974 (42 U.S.C. 5121).

(3) "an agency declared disaster" means a catastrophe which in the determination of a Federal agency requires disaster or emergency assistance pursuant to the statutory authority of such Federal agency.

(4) "emergency community development need" means unforeseen immediate needs resulting from property damage or a threat to property, public health or safety, which can be appropriately addressd through community development activities eligible for assistance under this section.

(c) *Eligible applicants.* Eligible applicants are States, Indian Tribes, and units of general local government as defined in § 570.3(v). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b)(1), (2).

(d) *Program Objectives.* The Community Development Disaster Assistance Program provides assistance in meeting the immediate needs of communities affected by Presidentially declared or federally recognized disasters and emergencies, as defined in § 570.407(b). Grants may be awarded to eligible applicants—as defined in § 570.407(c)—for establishing and implementing short term efforts of an emergency nature which inititate and are directed toward longer term mitigation of the effects of a disaster or emergency. Funding is provided for such efforts only if no other Federal, State, local or private resources are available during the period of emergency need.

(e) *Criteria for funding.* Within the limits of available funds, and in consideration of potential subsequent disaster assistane needs, applications will be funded on the basis of the following criteria:

(1) The severity and magnitude of the federally recognized disaster, with priority given to needs caused by Presidentially declared major disasters.

(2) The extent to which the community development needs identified are essential for the immediate restoration or maintenance of community health, safety, or economic stability; and resources are not available from other sources to meet these community development needs.

(3) The extent to which the proposed activities will benefit those low- and moderate-income persons in most serious need of assistance as a result of the disaster.

(4) Where there is a substantial likelihood of a recurrence, the extent to which the activities to be assisted take into account alternatives incidental to the immediate community development needs to avert or lessen the threat of a recurrence.

(f) *Eligible activities.* The activities eligible for assistance under this section are the same as those listed in Subpart C but only to the extent that funds for the proposed activities cannot be provided under the Disaster Relief Act of 1974 or by other Federal, State or local resources. Activities must also principally benefit low-moderate income persons in accordance with the provisions of § 570.302(d). Applicants proposing any activities eligible, for assistance under other Federal programs must follow the procedures of § 570.607.

(g) *Application requirements.* An application may be submitted at anytime provided it is submitted to the appropriate HUD Area Office along with five (5) copies within 150 days after either the Presidential or federal agency declaration that disaster or emergency assistance is required. Applications for grants under this section shall meet the following application requirements:

(1) Standard Form 424 Federal Assistance, prescribed by OMB Circular No. A-102.

(2) The Community Development Program required by § 570.305 which shall specifically describe and identify the emergency community development needs, explain how these needs are caused by the disaster, and show how the proposed activities will meet those needs.

In addition, the Community Development Program shall indicate the applicant's priorities for funding, identify alternative plans or projects in each priority area, and identify adverse impacts for each proposal.

(3) The applicant must identify if the proposed activities are within a floodplain or wetland or if the activity will impact on a floodplain or wetland. The FEMA/FIA maps are the minimum standard for making this determination.

(4) The applicant shall provide the certifications required by § 570.307 except paragraphs (c), (d) and (f) respectfully are modified as follows:

(i) The applicant is exempt from the normal OMB Circular No. A-95 process. However, applicants are required to submit an information copy of their application to the appropriate State and areawide clearinghouses at the time the application is submitted to HUD.

(ii) The applicant must certify that citizens likely to be affected by the project have been provided an opportunity to comment on the application.

(iii) The applicant must certify that the activities will principally benefit persons of low-moderate income.

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(5) Where there is an approved HAP the applicant is required to submit an amended HAP, to reflect the housing conditions, needs and revised goals related directly to the disaster or emergency.

(6) Where there is a Community Development and Housing Plan the applicant is required to submit an amended Plan to reflect the changes related to disaster or emergency.

(7) The applicant must describe the disaster assistance activities that are being funded by the Federal Emergency Management Agency, the Small Business Administration, the Red Cross, or any other Federal, State or local agencies.

(h) *Reduction or Termination of Grants.* When the Secretary determines on the basis of a review of the recipient's performance that the objectives set forth in § 570.909(a) have not been met, the Secretary may reduce or terminate the grant. Funds already expended on eligible activities will not be withdrawn.

No reduction or termination will be made until at least one of the corrective or remedial actions specified in § 570.910(b) have been taken, and only then if the recipient has not made an appropriate and timely response. Prior to making such grant reduction or termination, the recipient shall also be notified and given an opportunity within a prescribed time for an informal consultation regarding the proposed action.

Authority: Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307).

Issued at Washington, D.C., November 4, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-35285 Filed 11-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 357]

Multi-Vintage Dates Under the Labeling and Advertising Regulations for Wine Under the Federal Alcohol Administration Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) has been petitioned by a wine industry member to amend the regulations to allow different vintage dates and percentages from each to be stated on labels of blended wine. The petitioner contends that this information is truthful, accurate and should be disseminated to the consumer. At present, ATF regulations allow vintage statements. A vintage wine is wine labeled with the year of harvest of the grapes. To qualify as vintage wine, at least 95 percent of the volume of the wine must have been derived from grapes harvested in the labeled calendar year, and the wine must be labeled with an appellation of origin other than a country.

ATF wishes to gather information by inviting comments from the public and industry on the desirability of allowing multi-vintage dates and percentages on labels and in advertisements of blended wine.

DATES: Comments must be received on or before January 12, 1981.

ADDRESS: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, Research and Regulations Branch, 202-566-7626.

SUPPLEMENTARY INFORMATION: The Bureau, historically, has not allowed multi-vintage dates and percentages from each on labels or in advertisements. This position was clearly stated in Revenue Ruling 54-250. A more recent Ruling, ATF Ruling 78-4, held that, except for vintage wine, harvest or picking dates could not be stated as they could likely mislead the consumer into thinking the wine was a vintage wine.

The Bureau has now been petitioned to amend the regulations to allow these statements, that is, the distinct vintages and percentages comprising a blended wine's components. However, before issuing proposed regulations, ATF invites persons to submit comments, opinions, or other data so we can determine:

1. Is there sufficient need to state the distinct vintages and percentages of each for blended wine?

2. Would the consumer be misled or confused with two or more vintage dates and percentages on labels and in advertisements?

3. Would such multi-vintage dates and percentages detract from what has traditionally been applied to the word "vintage" and vintage wines?

4. Is there another term that can be substituted for "multi-vintage", such as multi-harvest dates, which would not detract from "vintage" or tend to mislead consumers? What term or phrase do you suggest?

5. If allowed, what restrictions should be placed on the labels? For example, must the components of the blend be qualified to be labeled as vintage wine themselves since a vintage date would be stated for each component? Should such statements be restricted to the back label where such additional information is normally found on a container?

6. The European Economic Community (EEC) prohibits the use of multi-vintage dates. If final regulations are issued, the Bureau will alert American producers, bottlers, and exporters through the use of industry circulars and press releases that wines labeled with multi-vintage dates will be denied entry into these countries. Do you feel these measures are sufficient? What other measures do you recommend?

Diclosure of Comments

Comments on this advance notice may be inspected during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 1200 Pennsylvania Avenue, Washington, DC.

ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting comments is not exempt from disclosure.

Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This advance notice of proposed rulemaking is issued under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended, 27 U.S.C. 205).

Signed: October 14, 1980.

G. R. Dickerson,

Director.

Approved: October 28, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-35380 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 884 and 938

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of intent and proposed rule.

SUMMARY: On November 3, 1980, the Commonwealth of Pennsylvania submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the Commonwealth's plan.

DATES: Written comments on the plan must be received on or before 5:00 p.m., January 3, 1981. Written comments on whether OSM should hold a public hearing on the plan must be received by 5:00 p.m., November 26, 1980. A public hearing will be held on December 17, 1980 at 10:00 a.m. and will continue until all discussions have been completed. The hearing may be cancelled, as discussed under Supplementary Information, below.

ADDRESSES: Written comments should be sent to: Patrick R. Boggs, Regional Director, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston West Virginia 25301. The public hearing, if held, will be in Harrisburg, Pennsylvania at the Department of Environmental Resources, Fulton Bank Building, Third and Locust Street, 2nd Floor Conference Room.

The hearing may be cancelled, as discussed under Supplementary Information, below. Copies of the full text of the proposed Pennsylvania Abandoned Mine Reclamation plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region I, 603 Morris Street, Charleston, West Virginia 25301;

Department of Environmental Resources, Office of Resources Management, Third and Reily Street—Evangelical Press Building, 2nd Floor, Harrisburg, Pennsylvania 17120.

The Administrative Record will be available for public review at the OSM Region I office above, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Earl R. Cunningham, Assistant Regional Director, AML, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 342-8125.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the provisions of the approved program.

On November 3, 1980, OSM received a proposed abandoned mine reclamation plan from the Commonwealth of Pennsylvania. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Lands (AML) Reclamation Program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (F.R.) on October 25, 1978, 43 FR 49932-49952.

This notice describes the proposed program and sets forth information concerning public participation in the Director's determination of whether or not the submitted plan may be approved. The public participation requirements for the consideration of a State AML Reclamation Plan are found in 30 CFR Sections 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OSM's AML Reclamation Program Final Rules (43 FR 49932-49940 (1978)).

The receipt of the Pennsylvania Reclamation Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in Pennsylvania.

By submitting a propsed plan, Pennsylvania has indicated that it wishes to be primarily responsible for this program. If the submission as hereafter modified, is approved by the Director of OSM, the Commonwealth will have primary responsibility for the reclamation of abandoned mine lands in Pennsylvania. If the program is disapproved and the Commonwealth does not choose to revise the plan, a Federal AML program will be implemented and OSM will have primary responsibility for these activities.

All written comments must be mailed or hand carried to the Regional Director's Office above or may be hand carried to the public hearing, if a public hearing is found to be necessary and submitted as exhibits to the proceedings.

If the Regional Director finds that the Commonwealth has given the public adequate notice and opportunity to comment in public hearings, and that the record of such hearing does not reflect major unresolved controversies and there are not a significant number of requests during the comment period on the need for a hearing, the hearing may be cancelled by a notice published in the **Federal Register** cancelling the scheduled hearing.

Written comments on the issue of waiver of the public hearing must be received by 5:00 p.m., November 26, 1980.

Pursuant to 30 CFR 884.13, OSM will continue the period of review of the proposed Pennsylvania Reclamation Plan at least until a final decision is made by the Secretary of the Interior on the Pennsylvania permanent regulatory program.

The comment period will close at 5:00 p.m., on January 3, 1981. Comments received after that time will not be considered. Representatives of the Regional Director's Office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed Commonwealth AML reclamation program.

Persons wishing to meet with representatives of the Regional

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Director's Office during this time period may place such request with Richard Leonard, Public Information Officer, telephone 304/342-8125 at the Regional Director's Office above.

Meetings may be scheduled between 8 a.m. and 4:00 p.m. Monday through Friday excluding holidays at the Regional Director's Office.

The Department intends to continue to discuss the Commonwealth's plan with representatives of the Commonwealth throughout the review process. All contacts between Departmental personnel and representatives of the Commonwealth will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed program. The approval of State AML reclamation plans does not have significant environmental impact, but is only a procedural change in terms of the governmental entity that will be performing the work.

The Director has determined that this is not a significant rule within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the Pennsylvania Reclamation Plan for Abandoned Mine Lands.

The Pennsylvania Reclamation Plan for Abandoned Mine Lands can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The Commonwealth has the legal authority, policies and administrative structure to carry out the plan.
4. The plan meets all the requirements of the OSM, AML Reclamation Program Provisions.
5. The Commonwealth has an approved Regulatory Program, and
6. It is determined that the plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the Pennsylvania Reclamation Plan submission:

The Department of Environmental Resources has been designated by the Governor of the Commonwealth of Pennsylvania to implement and enforce the Abandoned Mine Lands Program in accordance with SMCRA (P.L. 95-87). The Department of Environmental Resources has developed Commonwealth regulations to carry out Commonwealth mandate. Contents of the State Plan submission include:

(a) Designation of authorized Commonwealth Agency to administer the program.

(b) Commonwealth's Chief Legal Officers opinion of designated Agency to operate the program.

(c) Description of the policies and procedures to be followed in conducting the program including:

(1) Goals and objectives

(2) Project ranking and selection procedures

(3) Coordination with other reclamation programs

(4) Land acquisition, management and disposal

(5) Reclamation on private land

(6) Rights of Entry

(7) Public participation in the program

(d) Description of the Administrative and Management structure to be used in the program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the program.

(2) Personnel staffing policies.

(3) Purchasing and procurement systems and policies.

(4) Description of the accounting system including specific procedures for operation of the reclamation fund.

(e) Description of the public's participation in preparation of the plan.

(f) A general description of activities to be conducted under the reclamation plan including:

(1) Know or suspected eligible lands and water requiring reclamation, including a map.

(2) General description of the problems identified and how the plan proposes to deal with them.

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses.

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the plan.

(5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) The economic base.

(ii) Sociologic and demographic characteristics.

(iii) Significant aesthetic, historic or cultural, and recreational values.

(iv) Hydrology including water quality and quantity problems associated with past mining.

(v) Flora and fauna including endangered or threatened species and their habitat.

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction.

(vii) Anticipated benefits from reclamation.

Dated: November 7, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-35386 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL 1666-4]

Approval and Promulgation of Implementation Plans; Statutory Restriction on New Sources Under Certain Circumstances for Nonattainment Areas; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of comment period extension.

SUMMARY: On September 22, 1980 (45 FR 62850) EPA proposed to exempt from application of the construction moratorium required by section 110(a)(2)(I) of the Clean Air Act, sources locating in those political subdivisions within a nonattainment area where a State Implementation Plan (SIP) meeting the requirements of Part D of the Act is in effect and being implemented. We received a request to extend the comment period beyond the October 14 deadline. The purpose of this notice is to extend the public comment for this proposed rule from October 14, 1980 to November 25, 1980.

DATES: Written comments must be received by November 25, 1980.

ADDRESS: Comments should be directed to Nancy Mayer, Control Programs Development Division, (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Nancy Mayer, Control Programs Development Division, (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. (919) 541-5497.

This notice is issued under the authority granted in Section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7601(a).

Dated: November 6, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-35279 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 123

[SW-4-FRL 1666-7]

Georgia's Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the Federal Register on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Georgia application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Georgia interim authorization application must be received by December 22, 1980.

Public hearing: EPA will conduct a public hearing on the Georgia interim authorization application at 7:00 p.m. on Monday, December 15, 1980. The State of Georgia will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Main Auditorium, Richard B. Russell Federal Building, 75 Spring Street S.W., Atlanta, Georgia 30303.

Copies of the Georgia interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Land Protection Branch, Georgia Environmental Protection Division, 270 Washington Street SW., Room 822, Atlanta, Georgia 30334, Telephone: 404/656-2833

(2) Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-4216

(3) EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments, requests to speak at the hearing, and requests for further information should be addressed to: Heather M. Ford, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881-3016.

FOR FURTHER INFORMATION CONTACT: Heather M. Ford, (404) 881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste mangement programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have been in existence prior to August 17, 1980, and

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479).

The State of Georgia has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Georgia interim authorization for Phase I of the RCRA program.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by EPA personnel to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to five minutes.

Dated: November 5, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-35278 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 720

[OPTS-50018; TSH-FRL 1666-6]

Premanufacture Notification Requirements and Review Procedures; Availability of Proposed Economic Impact and Draft Regulatory Analyses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: ICF Incorporated, under contract to EPA, has prepared an Economic Impact Analysis of the Premanufacture Notification Rules Proposed under section 5 of the Toxic Substances Control Act (TSCA). In addition, EPA has developed a Regulatory Analysis of the section 5 rules in accordance with Executive Order 12044. Both ICF's proposed Economic Impact Analysis and draft of EPA's Regulatory Analysis are available upon request from the Industry Assistance Office of the EPA Office of Toxic Substances. The Agency is soliciting comments on these documents.

DATE: Written comments should be submitted by December 15, 1980.

ADDRESS: All written comments should bear the identifying notation [OPTS-

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50018) and be addressed to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–429, 401 M St. SW, Washington, DC 20460, Toll Free: 800–424–9065, in Washington: 554–1404.

A copy of the draft Regulatory Analysis and the proposed Economic Impact Analysis will be available for public review in each of the ten regional offices of EPA.

SUPPLEMENTARY INFORMATION: EPA proposed premanufacture notification rules, published in the **Federal Register** of January 10, 1979 (44 FR 2242), to implement section 5 of the Toxic Substances Control Act (TSCA). As a result of public comments, EPA reproposed a portion of these regulations in the **Federal Register** of October 16, 1979 (44 FR 59764). EPA also proposed processor notification rules under TSCA section 5 on August 15, 1980 (45 FR 54642).

EPA published a preliminary economic impact analysis of the section 5 rules, prepared by Arthur D. Little, Inc., with the January 10 proposal. This analysis estimated the costs of preparing section 5 notices and briefly examined the potential impact of the proposed rules on new-chemical development. Arthur D. Little also prepared a unit-cost analysis for the notice form reproposed on October 16, 1979. These documents, "Impact of TSCA Proposed Premanufacturing Notification Requirements" (December 1978) and "Estimated Costs for Preparation and Submission of Reproposed Premanufacture Notice Form" (September 1979), are available from the Industry Assistance Office of the EPA office of Toxic Substances.

In the October 16 reproposal and the proposed processor notification rule of August 15, 1980, EPA announced that a further economic analysis of the general section 5 rulemaking was being conducted (44 FR 59782; 45 FR 54652). In November 1979, EPA issued a task order to ICF Incorporated to carry out this analysis. The Agency published a notice in the **Federal Register** of June 10, 1980, (45 FR 39450) soliciting comments on ICF's proposed methodology. EPA received several comments, which it is considering in developing the final Economic Impact Analysis. EPA will publish its response to these comments along with the final economic analysis in early 1981.

The proposed ICF analysis, "Economic Impact Analysis of Proposed Section 5 Notice Requirements," is now available from the Industry Assistance Office. ICF concludes that although there are readily measurable costs associated with notifying EPA, these costs are *not* the major source of the economic impact. Rather, the uncertainty about EPA's action on a notice (which is a function of the very existence of TSCA not just Section 5) and the other "difficult to quantify" consequences only indirectly related to the notification rule (e.g., the decision to undertake a health and safety study, protection of trade secrets revealed in the notice, potential restrictive action) will be the major source of impact. ICF also concludes that there is likely to be a short-run drop in the number of new chemicals introduced as chemical companies shift their activities into "safe" chemicals. Current data, however, do not allow a quantitative estimate of the effect of the proposed rules on chemical innovation.

A draft Regulatory Analysis of the premanufacture notification rules, prepared by EPA, is also available from the Industry Assistance Office. In the draft Reglatory Analysis, EPA discusses the major issues raised by the rules and describes the different alternatives for resolving these issues. The analysis also explains the basis for EPA's proposed choices among the alternatives.

EPA is mailing copies of the draft Regulatory Analysis and the main report of the proposed Economic Impact Analysis to persons who submitted comments on the January 10 or the October 16 proposed rules. Other interested persons should contact the Industry Assistance Office for these analyses. Because of the size of the Economic Impact Analysis, the Agency is not mailing two volumes of appendices. Volume I consists of Appendix A, "Cost of Forms"; Appendix B, "Assessment of the Feasibility of Developing a Methodological Framework for Formal Economic Impact Analysis"; Appendix C, "Discounted Cash Flow Analysis"; and Appendix D, "Discussion of the Economic Burden of Section 5 Notice Requirements on EPA and Society." Volume II consists of Appendix E, "Chemical Segment Profiles." These appendices, which provide useful background to the proposed economic analysis, are available in limited quantities from the Industry Assistance Office.

The proposed Economic Impact Analysis evaluates the potential impact of the proposed section 5 regulations without taking into account other TSCA regulations. EPA, however, has recently initiated a multiyear study under contract with Meta Systems, Inc., of Cambridge, Massachusetts, to assess the overall economic impact of TSCA on the chemical industry. This study will further analyze the economic impact of the premanufacture review program and its role in TSCA regulation as a whole.

Public Participation. EPA does not intend to hold public meetings on the proposed Economic Impact Analysis and the draft Regulatory Analysis because of the technical nature of the issues they raise. The Agency encourages interested persons to submit written comments. Comments on the Economic Impact Analysis may address policy and other noneconomic issues of the rulemaking insofar as decisions on these issues should be influenced by the economic findings and conclusions. However, commenters on the proposed Economic Impact Analysis and the draft Regulatory Analysis should not resubmit or repeat in detail previous comments on the proposed section 5 rules. Comments already submitted on these rules will continue to be a part of the official record of the rulemaking.

EPA will consider all comments when preparing the final versions of these documents and the final section 5 rules. The final analyses will be published when the section 5 rules are promulgated early in 1981. Comments will be available for public inspection in Room 447, East Tower, Environmental Protection Agency, 401 M Street SW, Washington, DC, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: October 23, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-35275 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSIONS

47 CFR Part 73

[Docket No. 80-658; RM-3584]

TV Broadcast Station in East St. Louis, Illinois; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a noncommercial educational television channel to East St. Louis, Illinois in response to a petition filed by International Black Baptist Bible College. The proposed station could bring a first local television service to East St. Louis.

DATES: Comments must be filed on or before December 15, 1980, and reply comments on or before January 4, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations (East St. Louis, Illinois) BC Docket No. 80–658, RM–3584. Notice of proposed rule making.

Adopted: October 15, 1980.

Released: October 23, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making,[1] filed by International Black Baptist Bible College ("petitioner"), which seeks the amendment of Section 73.606(b) of the Commission's Rules (the Television Table of Assignments) by assigning UHF television Channel *46 to East St. Louis, Illinois, for noncommercial educational use. Petitioner states that it will apply for the channel, if assigned. No comments have been received on the proposal.

2. East St. Louis (pop. 69,996 [2]), in St. Clair County (pop. 285,199) is located in southwest Illinois, directly across the Mississippi River from St. Louis, Missouri. It has no local television service.

3. Petitioner claims that the proposed assignment would benefit the community by creating a new programming source directed toward the cultural and social needs of the community. It notes that there are several universities and educational centers in the area. In addition, East St. Louis is one of 63 model cities in the nation and only 5 minutes from St. Louis, Missouri. Petitioner further states that the programming would be directed toward the needs and interests of the minority community.

4. The Commission finds that the proposed assignment should be considered in a rule making proceeding. The proposal would provide the opportunity for a first local TV station to serve the needs of East St. Louis, Illinois.

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. census.

5. In view of the above, comments are invited on the following proposal to amend the Television Table of Assignments, 73,606(b) of the Commission's Rules, with regard to the following community:

City	Channel Number	
	Present	Proposed
East St. Louis, Ill		*46

6. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before December 15, 1980, and reply comments on or before January 4, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making to* which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Numbers of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

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Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-35539 Filed 11-12-80; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations; Fee Schedule

AGENCY: National Ocanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: For the past ten months, NOAA has reviewed the foreign fishing fees. As a result of this review, NOAA proposed a new fee schedule for foreign fishing in 1981; sets the surcharge level at 20 percent; proposes new fee collection procedures; proposes a format for the Effort Plan; and announces a public hearing on these issues.

DATES: A public hearing will be held beginning at 10:00 a.m. on December 8, 1980. Persons wishing to attend should notify the National Marine Fisheries Service at the address given below no later than December 3, 1980. If interest warrants, an additional hearing will be scheduled. Written comments on these proposed regulations must be postmarked no later than midnight, December 15, 1980.

ADDRESSES: The public hearing will be held in Room B–100 of the Page Building #1, 2001 Wisconsin Avenue, N.W., Washington, D.C.

Notification of attendance and written comments may be addressed to: Denton R. Moore, Chief, Regulations and Permits Division, F/CM7, National Marine Fisheries Service, 33000 Whitehaven Street, N.W., Washington, D.C. 20235. Telephone (202) 634–7432 or 653–5526.

FOR FURTHER INFORMATION CONTACT: Miss Susan Jelly, telephone (202) 634–7432 or 653–5526.

SUPPLEMENTARY INFORMATION: The four substantive issues presented in this proposed rulemaking are related and pertain to the requirements outlined in Section 204 (b)(10) of the Fishery Conservation and Management Act of 1976, as amended (the FCMA), 16 U.S.C. 1801 *et seq.* That section requires the Secretary of Commerce to establish and publish a schedule of reasonable fees which may take into account the cost of carrying out the provisions of the FCMA. A proposed rulemaking to amend the vessel permit application fee was published on October 1, 1980 (45 FR 64995).

Proposed Poundage Fee Schedule for 1981

The fees charged foreign fishermen for fishing in the fishery conservation zone (FCZ) have been reviewed by NOAA for more than a year. A national conference was convened in Washington, D.C. in the summer of 1978 expressly to review the fee structure and its underlying philosophy. This was followed by an intensive inhouse review comparing the U.S. system with systems used elewhere. This study culminated in an advance notice of proposed rulemaking which appeared in the **Federal Register** on May 30, 1980 (45 FR 36460). That notice solicited public notice advice and comment regarding the fee system.

One option suggested in the Notice was an "effort" fee based on vessel days on the grounds. The proposal was opposed by virtually all commenters for various reasons.

Another issue raised in that Notice concerned the level of fees which should be charged. Public sentiment, reflected in recent Congressional activity, clearly favors significantly increased fee levels for a variety of reasons. Fees should be set at a level which defrays a significant portion of the costs incurred while administering the Act as it pertains to foreign fishing. The practice in previous years has been to charge a flat 3.5 percent of the published U.S. price for all species for which domestic markets exist. It has been pointed out that the U.S. price for certain species may not accurately reflect the international value of those species. Moreover, the flat-fee approach, while administratively appealing, did not reflect the economic variables associated with some fisheries. Thus, for 1981, we have departed from the practice of charging 3.5 percent of the value of the fish to a practice of setting a fee that reflects our best estimate of a reasonable level for the fishery, and blends U.S. and foreign prices when the U.S. price does not reflect the international value. The proposed fees are roughly twice those charged in 1980, although there are some exceptions.

The proposed fee for each allocated species is set forth in Table 1 below. Explanation of certain fees are included:

1. *Butterfish.* NMFS proposes a fee of $65/mt. This species is highly valued overseas and is a fishery the United States wish to develop.

2. and 3. *Hake (red and silver).* NMFS proposes fees of $7/mt for each. These are the same fees paid in 1979. The fee is not increased because NMFS suspects the fishery is only marginally profitable even at these low fees.

5. *Atlantic mackeral.* NMFS proposes $37/mt since mackeral are a highly desirable species in the United States and overseas.

8. *Illex squid.* NMFS proposes $36/mt. While $36 is six times the present fee, the foreign countries paid $16.50/mt for this desirable species in 1979.

9. *Loligo squid.* NMFS proposes $70/mt, since *Loligo* squid is a very desirable species and one the U.S. industry wishes to export.

16. *Pacific Ocean Perch.* NMFS proposes $44/mt. This is a species already almost fully utilized by U.S. fishermen, and higher fees are entirely appropriate.

19. *Sablefish.* NMFS proposes $55/mt for all sablefish. NMFS proposes to charge the same fee for longline-caught and trawl-caught sablefish, instead of different fees as in the past.

23. *Pacific whiting.* NMFS proposes $8/mt. NMFS does not believe that a higher fee will be economical.

Table I.—*1981 Poundage Fees*

Species	1980 dollar value	1980 fee (dollars per metric ton)	1981 dollar value	Proposed 1981 fee (dollars per metric ton[6])	Percent of 1981 dollar value
1. Butterfish	927	32.454	[1]1,019	65	6
2. Hake, red	315	11.03	[1]266	7	2.6
3. Herring, silver	369	13.92	[1]378	7	1.9
4. Herring, river	113	3.96	[1]138	8	6
5. Mackerel, Atlantic	530	18.55	[1]341	37	11
6. Other finfish (Atlantic)	930	32.55	[1]853	56	7
7. Sharks (Atlantic)	1,091	38.19	[2]423	30	7
8. Squid, *Illex*	176	6.16	[1]522	36	7
9. Squid, *Loligo*	993	34.76	[1]736	70	10
10. Shrimp, royal red			[3]5,445	191	3.5
11. Atka mackerel	223	7.81	[1][5]114	8	7
12. Cod, Pacific	419	14.67	[1][5]586	41	7
13. Crab, Tanner	862	30.87	[4]627	50	8
14. Flounders	397	13.90	[3]550	30	5
15. Jack mackerel	154	5.39	[6]198	20	10
16. Pacific ocean perch	397	13.90	[6]440	44	10
17. Other groundfish (Pacific)	56	1.96	[6]220	8	3.5
18. Alaskan pollock	220	7.70	[1][2]241	16.50	7
19. Sablefish	1,587	55.55	[3]705	55	7.8
20. Rockfish	397	13.90	[6]375	30	8
21. Snails	658	23.03	[7]	46	
22. Squid, Pacific	324	11.34	[7]	23	
23. Whiting, Pacific	176	6.16	[6]178	8	5
24. Dolphinfish (Mahi mahi)	4,354	152.39	[10]5,635	197	3.5
25. Other billfish	1,111	38.89	[10]1,477	52	3.5
26. Precious coral			[8]	Reserved	
27. Seamount groundfish	397	13.90	[7]	14	
28. Sharks, Pacific	825	28.88	[11]123	4	3.5
29. Striped marlin	2,816	98.56	[10]3,693	129	3.5
30. Swordfish	3,036	106.26	[11]3,201	112	3.5
31. Wahoo	2,968	103.88	[10]5,071	177	3.5

[1] Maine, Massachusetts, Rhode Island, New York, New Jersey, and Virginia landings, January–May 1980.
[2] NMFS Southeast Region estimate.
[3] Gulf of Mexico landings, January–June 1980.
[4] NMFS Alaska Region estimate.
[5] NMFS Northwest Region estimate based on negotiated prices of West Coast Fishermen's Marketing Association and actual prices reported by Washington Department of Fisheries.
[6] NMFS Market New, Seattle.
[7] No U.S. prices are available.
[8] Survey by NMFS Northwest Region of processing firms.
[9] To be determined if an application is received.
[10] Hawaii landings, January–March 1979.
[11] Hawaii landings, year of 1979.
[12] Averaged 1980 U.S. and 1979 Japan prices.

Fee Collection Procedures

The foreign fishing regulations pertaining to fee collection present several serious administrative problems both for the United States and the foreign nations involved.

Two modifications to the present system are proposed. The first is to require foreigners to establish and maintain a letter of credit for at least 25 percent of the annual poundage fee (based on the 1980 allocations where applicable; otherwise set by NMFS) and surcharge required by the Fishermen's Protective Act of 1967, as amended, rather than paying for the annual allocation in advance of fishing.

Each foreign nation will be responsible for maintaining its letter of credit at the required level at all times. This is a condition of continuing in the fishery.

Congress is now considering legislation which may provide for the transfer of foreign fishing fees paid to the Secretary of Commerce to a fisheries loan fund. If this legislation is enacted in 1980, the NOAA will amend these proposed fee collection procedures in order to adequately capitalize the fisheries loan fund. This amendment would require foreign nations to pay 20 percent of their 1981 poundage fees (effective January 1, 1981) and the related surcharge in advance of catching operations. The 20 percent cash payment (and surcharge) will be credited to that country's account in equal amounts at the end of the second quarter (after June 30) and at the end of the third quarter (after September 30), where appropriate.

The second proposal would amend the regulations so that foreign fishermen would pay poundage fees on a quarterly basis for fish actually caught in the previous three months. This procedure would be a significant improvement both for foreign nations and the United States. One reason is purely economic. By deferring cash settlements until after fish are actually caught, the debt service (now approximately 15 percent) is minimized. Refunds are no longer required. Fishing can be conducted on a more orderly and predictable basis. For the United States this change will reduce the bookkeeping burden, lessen the chance of error, and save about 1,200 staff hours per year.

A second, related problem arises because of in-season adjustments to the foreign allocations. These adjustments almost invariably involve making additional fish available to foreign fishermen so that operations may be continued. Again, the existing processes which involve prepayment tend to inhibit the orderly conduct of the fisheries. In 1979, 104 separate collection actions were initiated. These tended to overlap, partly because of the time required for their processing, but also as a result of the dynamics of the fisheries involved.

This amendment will also reduce international disagreements over catches. Discrepencies between foreign and NOAA estimates of the foreign catch would be resolved every three months, instead of being allowed to accumulate over an entire year. This will give the NOAA and the Regional Fishery Management Councils a better opportunity to manage foreign fishing on a real-time basis.

The new process would be to bill each nation for its actual catch in the fishery conservation zone during the following periods: January–March, April–June, July–September, and October–December. Countries would have 45 days to resolve catch figures with the Regional Director, and NMFS would then draw on the letter of credit for instantaneous payment.

Fishing Vessel and Gear Damage Compensation Fund

The NMFS proposes to collect the full 20 percent surcharge authorized by the Fishermen's Protective Act of 1967, as amended. The surcharge will be assessed against actual poundage fees and permit application fees, rather than fees paid for the allocation. The surcharge will be collected when vessel permit application fees are submitted, and when quarterly bills are prepared, unless the 20 percent advance payment is required.

Effort Plan

A format for the effort plan is proposed.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that these proposed amendments do not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended, since the amendments will not affect the quantity of fish harvested by foreigners. Therefore, no environmental assessment or environmental impact statement is required. The Assistant Administrator also has determined that these proposed amendments do not constitute a significant action under Executive Order 12044, and therefore do not require the preparation of a regulatory analysis.

Authority: 16 U.S.C. 1801 *et seq.*

Signed in Washington, D.C., this 28th day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The NMFS proposes to amend 50 CFR Part 611 as follows:

1. Section 611.15(a) is amended by adding a new paragraph (8) to read as follows:

§ 611.15 Fishery closure procedures.

(a) * * *

(8) A nation has not established and maintained a letter of credit as required in paragraph 611.22(a).

* * * * *

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2. Section 611.15(a)(6) is amended by deleting the word "or".

3. Section 611.15(a) is amended by replacing the period in paragraph (7) with "; or".

§ 611.20 Total Allowable Level of Foreign Fishing. [Amended]

4. Section 611.20 is amended by removing paragraph (c).

5. Section 611.21 is amended by revising paragraph (b)(1) to read as follows:

§ 611.21 Allocations.

* * * * *

Name of Country

Fishing area (BAS, NWA, etc.)

Gear type	Type/size of vessel	Main target species	Number of vessels	Approximate dates of fishing in FCZ	Estimated catch per vessel per day

6. In § 611.22 strike paragraphs (a)(2), (a)(3), (b), and (c) and replace them with the following:

§ 611.22 [Amended]

(a)(2)(i) *Poundage fees.* The owner or operator of each foreign vessel that catches fish in the fishery conservation zone must pay a poundage fee at the rate specified in Table I plus the surcharge required by paragraph (b) of this section.

Table I

[Dollars per metric tons]

	Species	Poundage fees
1	Butterfish	65
2	Hake, red	7
3	Hake, silver	7
4	Herring, river	8
5	Mackerel, Atlantic	37
6	Other finfish	56
7	Sharks, Atlantic	30
8	Squid, *Illex*	36
9	Squid, *Loligo*	70
10	Shrimp, royal red	191
11	Atka mackerel	8
12	Cod, Pacific	41
13	Crab, Tanner	50
14	Flounders	30
15	Jack mackerel	20
16	Pacific Ocean Perch	44
17	Other groundfish	8
18	Pollock, Alaskan	16.50
19	Sablefish	55
20	Rockfish	30
21	Snails	46
22	Squid, Pacific	23
23	Whiting, Pacific	8
24	Dolphinfish	197
25	Other billfish	52
26	Precious coral	(1)
27	Seamount groundfish	14
28	Sharks, Pacific	4
29	Striped marlin	129
30	Swordfish	112
31	Wahoo	177

[1] Reserved

(ii) *Method of Payment of Poundage Fees.* The owner or operator of each foreign vessel that catches fish in the fishery conservation zone must establish and maintain an irrevocable letter of credit, and pay all service charges. The Department of Commerce, NOAA, must be designated as the beneficiary. The letter of credit must be confirmed by a Federally chartered bank in the United States. The letter of credit must be for at least 25 percent of the poundage fee for the total annual allocation of the previous year, or as determined by the Assistant Administrator, plus the surcharge required by paragraph (b) of this section. No catching will be permitted unless (1) the letter of credit is established, and (2) authorized written notice of its issuance and confirmation are provided to the Assistant Administrator at the address in subparagraph 611.22(a)(1). No catching will be permitted if the amount of the letter of credit falls below 25 percent of the poundage fee plus the surcharge required by paragraph (b) of this section.

(iii) *Assessment of Poundage Fees.* Poundage fees will be assessed quarterly for the actual catch during January–March, April–June, July–September, and October–December. The appropriate Regional Director will reconcile catch figures with each country, following the procedures of paragraph 611.15(b). When the catch figures are agreed upon, NOAA will present a bill as the documentary demand for payment to the confirming bank. If, after 45 days from the end of the quarter, catches have not been reconciled, the estimate of the Regional Director will stand and a bill will be issued for that amount. If necessary, the catch figures may be refined by the Regional Director during the next 60 days, and any modifications will be reflected in the next quarter's bill.

(b)(1) After the Secretary of State notifies each foreign nation of its allocation or reallocation of target species, each such nation must prepare and submit an effort plan to the Assistant Administrator for Fisheries, NOAA, Washington, D.C. 20235. Effort plans may be submitted after fishing begins if adequate time to prepare the plan does not exist between the allocations or reallocations and the start of fishing, but the plan must be submitted before 30 days have elapsed after a corresponding allocation or reallocation. The effort plan should follow this format:

(b) The owner or operator of each foreign vessel who submits a vessel permit application under subparagraph (a)(1) of this section or who accepts and pays poundage fees under subparagraph (a)(2) of this section must pay a surcharge equal to 20 percent of the fees. The Assistant Administrator may reduce or waive the surcharge if he determines that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently.

[FR Doc. 80-35317 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 642

South Atlantic Fishery Management Council, South Atlantic Scientific and Statistical Committee, and the Advisory Panel; Scoping Meeting

AGENCY: National Oceanic Atmospheric Administration/Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council, South Atlantic Scientific and Statistical Committee, and the Advisory Panel announce a scoping meeting to discuss the preparation of a fishery management plan for shrimp.

The scoping process is the initial step in preparing a fishery management plan and notice hereof is intended to satisfy the Notice of Intent to Prepare an Enivronmental Impact Statement for the plan involving this fishery. The scoping process is discussed in Section 1501.7 of the regulations (43 FR 55978) implementing the National Environmental Policy Act.

DATE: The meeting will be held on December 9, 1980, from 9:00 a.m. to 5:00 p.m.

ADDRESS: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

FOR FURTHER INFORMATION CONTACT:
Mr. David Gould, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407. Telephone (803) 571–4366.

Dated: November 5, 1980.

Robert K. Crowell,
Deputy Exective Director, National Marine Fisheries Service.

[FR Doc. 80-35211 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 674

North Pacific Fishery Management Council; High Seas Salmon Fishery Management Plan; Correction of Notice of Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction of notice of public hearings.

SUMMARY: On October 24, 1980, a notice in the **Federal Register** (45 FR 70525–70526) announced public hearings on proposed amendments to the High Seas Salmon Fishery Mangement Plan and regulations for the 1981 season. The notice has been corrected as follows:

DATES: The hearings scheduled for Novermber 6 and 9 will be held on December 6 and 9.

FOR FURTHER INFORMATION CONTACT:
Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, Box 3136DT, Anchorage, Alaska 99510, (907) 271–4064.

Dated: November 6, 1980.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35212 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; High Seas Salmon Fishery Management Plan; Revised Hearings Schedule

50 CFR Part 674

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Partial Postponement of Public Hearings.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), announced public hearings (45 FR 70525) for the purpose of public input on its proposed amendments to the High Seas Salmon Fishery Management Plan and regulations for the 1981 season. The public hearings schedule has been revised only for Juneau and Sitka. All other hearings places and dates remain as originally published. The period for the receipt of written comments has also been extended.

DATES: Written comments may be submitted on or before 5:00 p.m. on January 7, 1981. Those wishing to comment in Sitka or Juneau on the 1981 salmon amendments may do so at the following public hearings:

(a) Sitka, Alaska, Centennial Building, 2:00 p.m.–5:00 p.m. and 7:00 p.m.–9:00 p.m., November 12, 1980.

(b) Juneau, Alaska Gastineau Room, Baranof Hotel, 2:00 p.m.–7:00 p.m., November 13, 1980.

Limited numbers of the proposed amendment package will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, Alaska 99501 (P.O. Box 3136DT, Anchorage, Alaska 99510) and the National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT:
Jim H. Branson, Executive Director, (907) 274–4563.

Dated: November 7, 1980.

Robert K. Crowell,
Deputy Executive Director.

[FR Doc. 80-35387 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 681

Spiny Lobster Fisheries of the Western Pacific Region; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Western Pacific Fishery Management Council (the Council) will hold public hearing for the purpose of public input on the Draft Environmental Impact Statement/Fishery Management Plan (DEIS/FMP) for the spiny lobster fisheries of the Western Pacific Region.

DATES: Written comments on the Spiny Lobster DEIS/FMP from members of the public may be submitted no later than January 7, 1981.

Individuals or organizations wishing to comment on the FMP may do so at public hearings to be held as follows:

December 8, 1980—Honolulu, Hawaii
December 11, 1980—Pago Pago, American Samoa
December 18, 1980—Agana, Guam

All of the above hearings will start at 7:00 p.m.

ADDRESS: Send comments to: Chairman, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

Public hearing locations:

December 8, 1980—Amfac Marine Center, Kewalo Basin, Honolulu, Hawaii
December 11, 1980—Conference Center, Pago Pago, American Samoa
December 18, 1980—Guam Reef Hotel, Agana, Guam

Copies of the fishery management plan are available at the following locations:

Guam:
1. Division of Aquatic and Wildlife Resources, Government of Guam, P.O. Box 2367, Guam, M.I. 96921

Honolulu:
1. Division of Fish and Game, State of Hawaii, 1151 Punchbowl Street, Honolulu, Hawaii 96813
2. Honolulu Laboratory, Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 3830, Honolulu, Hawaii 96816
3. Western Pacific Fishery Management Council, 1164 Bishop Street, Honolulu, Hawaii 96816

Pago Pago:
1. Office of Marine Resources, Government of American Samoa, P.O. Box 3730, Pago Pago, American Samoa 96799

Saipan:
1. Division of Marine Resources Development, Commonwealth of the Northern Mariana Islands, Saipan, C.M. 96950

Terminal Island:
1. National Marine Fisheries Service, Southwest Regional Office, 300 S. Ferry Street, Terminal Island, California 90731

FOR FURTHER INFORMATION CONTACT:
Mr. Svein Fougner, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Honolulu, Hawaii 96813, Tel: (808) 523–1368 or Western Pacific Program Office, National Marine Fisheries Service, Southwest Regional Office, P.O. Box 3830, Honolulu, Hawaii 96812, Tel: (808) 946–2181

SUPPLEMENTARY INFORMATION: The Fishery Conservation and Management Act of 1976 (FCMA) as amended, (16 USC 1801 *et seq.)* established a Fishery Conservation Zone (FCZ) extending seaward from the territorial sea to a distance of 200 nautical miles offshore. Except for highly migratory species, the FCMA claims jurisdiction over all living marine resources within the FCZ of the United States. The Council is responsible for the FCZ of American Samoa, Guam, and Hawaii.

The proposed action is to adopt and implement an FMP for the spiny lobster fisheries in the FCZ of the Western Pacific Region between 3 and 200 nautical miles off the Hawaiian Islands, American Samoa, and Guam. The purpose of the plan is to encourage proper use of the spiny lobster resources of the Western Pacific region, making it possible to achieve the optimum yield from the fishery.

Dated: November 5, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35401 Filed 11-12-80; 8:45 am]

BILLING CODE 3519-22-M

Notices

Federal Register

Vol. 45, No. 221

Thursday, November 13, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

Hugh Watson Stockyard, Gainesville, Georgia; Posted Stockyards

On November 4, 1980, a notice was published in the **Federal Register** (45 FR 73113) giving notice of the facility no., name and location of stockyard, and date of posting for certain stockyards.

This notice is to correct the facility no. assigned to Hugh Watson Stockyard, Gainesville, Georgia.

The notice should have read:

Georgia

GA-189, Hugh Watson Stockyard
Gainsville—November 14, 1979

Done at Washington, D.C., this 6th day of November 1980.

Jack W. Brinckmeyer,

Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80-35280 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Advisory Committee on State and Private Forestry; Meeting

The Advisory Committee on State and Private Forestry will meet in Washington, D.C., on December 4 and 5, 1980. The meeting will convene at 9:00 a.m. on December 4 in Room 3840, U.S. Department of Agriculture, South Building, Independence Avenue and 14th Street, Washington, D.C.

This Committee, comprised of 15 members from a broad spectrum of geographic and special interest areas, advises the Secretary of Agriculture and various agencies of the Department on the protection, management, and development of the Nation's non-Federal forest land resources. Dr. Ned D. Bayley, Acting Assistant Secretary for Natural Resources and Environment, will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

Discussion will center on preparation of a report containing advice and guidance to the Secretary of Agriculture on USDA State and Private Forestry programs.

The meeting will be open to the public for participation as time permits. Persons who wish to attend should notify the Committee's Executive Secretary, Howard W. Burnett, USDA—Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 472-5580. Written statements may be filed with the Executive Secretary before or after the meeting.

Douglas R. Leisz,

Associate Chief.

[FR Doc. 80-35258 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Conclusion That the Cahaba River Does Not Qualify for Inclusion in the National Wild and Scenic Rivers System

Notice is hereby given in accordance with section 7(b)(i) of the Wild and Scenic Rivers Act, Pub. L. 90.542, October 2, 1968, (as amended), that the Secretary of Agriculture has concluded, on the basis of study, that the Cahaba River, Alabama, should not be included in the national wild and scenic rivers system.

Bob Bergland,

Secretary of Agriculture.

November 7, 1980.

[FR Doc. 80-35257 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-01-M

Renewal of the Citizens Advisory Committee on Equal Opportunity

Notice is hereby given that the Secretary of Agriculture has renewed the Citizens' Advisory Committee on Equal Opportunity.

The purpose of the Committee is to advise the Secretary and other officials of the Department on all aspects of the Department's policies, practices, and procedures which promote equal opportunity. Meetings of the Committee will be open to the public.

The renewal of the Committee is in the public interest in connection with the duties of the Department.

Notice is also being given that a meeting has been scheduled for December 14-16, 1980, in Washington, D.C. The meeting will begin at 2:00 p.m., on December 14, 8:30 a.m., on December 15, and 8:30 a.m., on December 9. The agenda will include program initiatives for the coming years.

Persons wishing additional information concerning this meeting may contact Elda Inoue, Office of the Assistant Secretary for Administration, U.S. Department of Agriculture, Washington, D.C., 20250 (telephone 202-447-3291).

Joan S. Wallace,

Assistanty Secretary for Administration.

November 7, 1980.

[FR Doc. 80-35259 Filed 11-12-80; 8:45 am]

BILLING CODE 3410-05-M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on December 2, 1980, at the St. John's Baptist Rectory, 315 4th Avenue, Longmont, Colorado 80501.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575-2621 or the Rocky Mountain Regional Office, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35294 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m., and will end at

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3:00 p.m., on November 24, 1980, at the Midwestern Regional Office, Conference Room 3619, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Miss Theresa F. Cummings, 2636 W. Lawrence Avenue, Springfield, Illinois 62704, (217) 525–1117, or the Midwestern Regional Office, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35295 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on November 24, 1980, at the Gary City Hall, Council Chambers, 2nd Floor, 401 Broadway Street, Gary, Indiana 46402.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Harriette B. Conn, 501 State Office Building, Indianapolis, Indiana 46204, (317) 633.6723 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353.7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35296 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on November 25, 1980, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, P.O. Box 95, E. Falmouth, Massachusetts 02536, (617) 548–5123 or the New England Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35297 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee; Amended Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Jersey Advisory Committee of the Commission originally scheduled to be held on November 13 at the Ramada Inn, School House Lane, (FR Doc. 80–32924 on page 70037) has been changed.

The meeting now will be held at Johnson and Johnson, Inc. New Brunswick, New Jersey. Kilmer House meeting room.

Dated at Washington, D.C. November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35298 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee Meeting

Notice is hereby given, pursuant ot the provisions to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 2:00 p.m., and will end at 8:00 p.m., on November 21, 1980, at the Pacific Gas and Electric Building, Conference Room A, 121 S.W. Salmon, Portland, Oregon 97204.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Mr. Thomas J. Sloan, 215 N.W. Orchard Drive, Portland, Oregon 97229, (503) 644–0161 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35299 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Advisory Committee to the Commission will convene at 5:00 p.m., and will end at 6:30 p.m., on December 10, 1980, at the Third World Center, 96 Angell Street, Providence, Rhode Island.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Miriam E. Satterfield, 54 Arbor Drive, Providence, Rhode Island 20908, (401) 277–6920 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 7, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-35300 Filed 11-12-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Cornell University Medical College, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importations Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00202. Applicant: Cornell University Medical College, Department of Ophthalmology, The New York Hospital-Cornell Medical Center, 525 East 68th Street, New York, New York 10021. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of pathological human and animal tissues associated with various ocular diseases, particularly tumors. The objectives of the research to be conducted are:

(1) To discover the ultrastructural features of various ocular diseases as well as the mechanisms of their occurrences, and

(2) to find out the relation between the ultrastructural morphology and the ultrasonographic patterns.

All the studies are aimed at the future achievement of a more accurate diagnosis and a better treatment of ocular diseases than those at the present time. The article will also be used to teach the ultrastructural pathology of the eye to the residents and staff. Application received by Commissioner of Customs: February 22, 1980.

Docket No. 80–00203. Applicant: University of Minnesota Hospitals, 420 S.E. Delaware, Minneapolis, MN 55455. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used in studies of tissues from animals and human subjects with experimental and clinical vascular diseases, primarily studies of kidney disease and diabetes mellitus. Specimens will be both thin sections of fixed embedded biopsy material and coated dried specimens for scanning EM. Animal experiments will include experimental glomerulonephritis and diabetes in rats, mice, and dogs. Human material will be obtained from clinical cases of various diseases by biopsy, nephrectomy and autopsy. The article will be used in training additional members of the faculty, graduate students and technicians in electron microscopy. Article ordered: January 14, 1980.

Docket No. 80–00204. Applicant: St. Louis University Medical School, 1402 S. Grand Blvd., St. Louis, Missouri 63104. Article: Electron Microscope, Model JEM 100CX with Water Recirculation and Specimen Rotating holder. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cells and tissues from plant, animal and human organisms. Both prokaryotic and eucaryotic cells will be examined. Experiments will be carried out to determine the effects of disease, drugs, and physiologic modulation on the structure and elemental content of organelle cells and tissues *in vivo* and *in vitro*. The objectives of these investigations are to gain a thorough knowledge of the behavior of cells and tissues under altered circumstances in order to provide the information necessary to appropriately avoid and treat diseased states in plants, animals and humans. In addition, the article will be used for educational purposes in courses PT–535 Introduction to Electron Microscopy and PT–353 Basic ELectron Microscopy. Article ordered: January 2, 1980.

Docket No. 80–00205. Applicant: DHEW, PHS, National Institutes of Health, National Institute of Dental Research, Building 30, Room B–20, 9000 Rockville Pike, Bethesda MD 20205. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the structural and functional organization of the primary neurons of trigeminal and spinal nerves as well as those portions of the brain and spinal cord which receive the axonal endings of these primary neurons and contain second order neurons in trigeminal and spinal pain pathways. Several different kinds of experiments will be conducted to provide detailed knowledge about the function of neurons which make up trigeminal and spinal pain pathways in terms of their structure, development, synaptic connections, their sources of input, the kinds of neurotransmitters they use, and the effects of loss of inputs on their integrity. These experiments are designed to provide knowledge of the basic mechanisms which underlie the sensation of pain as well as the mechanisms which might explain chronic pain states which result following loss of inputs subsequent to disease related and traumatic peripheral nerve injury. Article Ordered: December 27, 1979.

Docket No. 80–00209. Applicant: Yale University, CMHC, 34 Park Street, New Haven, CT 06508. Article: Electron Microscope, model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of actions (on the brain) of drugs which are used in the treatment of major psychiatric disorders. Experiments will include investigations on antiphyschotic drugs, antidepressant drugs, antianxiety drugs, and drugs of abuse. Article ordered: February 19, 1980.

Docket No. 80–00212. Applicant: Parkview Memorial Hospital, 2200 Randalia Drive, Fort Wayne, Indiana 46805. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the ultrastructural characteristics of tissues, viruses and cellular inclusions associated with diseases. Experiments to be conducted will involve obtaining material from a variety of diseases and correlating the ultrastructural appearance of the tissue with aspects of the disease and that seen under experimental conditions such as cultures. In addition, the article will be used to instruct residents and staff in the ultrastructure of neoplastic and renal diseases. Article ordered: September 18, 1979.

Docket No. 80–00213. Applicant: Albert Einstein College of Medicine, Eastchester Road & Morris Park Avenue, F–650, Department of Anatomy, Bronx, New York 10461. Article: Electron Microscope, Model JEM 100 CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for molecular analysis of cell membrane components and proteins, such as actin, myosin, tubulin, dynein and clathrin, involved in cell motility and cell surface change. Localization of ions such as Ca^{2+} and vanadium on various cell structures will be sought. Article ordered: December 31, 1979.

Docket No. 80–00222. Applicant: Geisinger Medical Center, N. Academy Ave., Danville, PA 17821. Article: Electron Microscope Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the study of kidney, selected tumors and other tissue derived from human sources. Investigations will be conducted to:

(1) Describe the morphology of pathologic tissues at the cellular and subcellular level.

(2) Arrive at pathologic diagnoses, otherwise unattainable through light microscopy, in order to provide data for prevention of further disease processes or describe disease end-points.

(3) Classify disease processes at the subcellular level.

(4) Provide data for publication, evaluation, and application within the medical community.

In addition, the article will be used to prepare pathology residents in the application of electron microscopy as a diagnostic tool. Article ordered: February 26, 1980.

Docket No. 80–00224. Applicant: Baylor College of Medicine, 1200 Moursund, Houston, Texas 77030. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article:

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The article is intended to be used for comprehensive studies of the ultrastructure of various muscle cells including culture human muscle cells from normal subjects and patients with neuromuscular diseases. The article will also be used for training of post doctoral fellows who wish to do high resolution transmission or scanning microscopy. Application received by Commissioner of Customs: March 5, 1980.

Docket No. 80–00233. Applicant: Scott and White Clinic, 2401 S. 31st, Temple, Texas 76501. Article: Electron Microscope, Model H–600–3 and Accessory. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for studies of human tissues in health and disease as seen in a diagnostic pathology service and related to investigation of disease processes in tissues, i.e., kidney, muscle and soft tumors. Experiments will consist of actual case studies and analysis, the search for viruses, crystalline inclusions and other ultrastructure bodies. In addition, the article will be used in the teaching of medical students as well as pathology interns and residents technique applications, limitations and interpretative results of electron micrographs. Article ordered: November 30, 1979.

Docket No. 80–00235. Applicant: State University of New York at Buffalo, Capital Equipment Division, 434 Crofts Hall, Amherst Campus, Amherst, New York 14260. Article: Electron Microscope, Model H–500–L and Accessories. Manufacturer: Hitachi Scientific Instruments Limited, Japan. Intended use of article: The article is intended to be used to study a wide range of biological material during the following investigations:

(1) Functional topology of the cell nucleus—elucidation of the association between nuclear function and matrix structure.

(2) Insect neurobiology—study of the role played by the nervous system in controlling behavior.

(3) Nuclear division in eukaryotic cells—combined biochemical and electron microscopic study to clarify important aspects of cell division.

(4) Yeast nucleic acid—study to provide verification of biochemical molecular weight determinations.

The article will also be used for demonstration purposes in the courses: (a) Cell Biology Laboratory, 211; (b) Molecular Genetics, 329; (c) General Biology Laboratory, 121. Article ordered: January 30, 1980.

Docket No. 80–00237. Applicant: University Hospital, State University of New York, Stony Brook, Stony Brook, New York 11794. Article: Electron Microscope, Model H–500–L and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for studies of human tissues, human cells, body fluids, and excreta for understanding of the etiology and pathogenesis of human diseases. The article will be used by predoctoral and postdoctoral students in the course of Ultramicroscopy for Practicing Pathologists. Article ordered: March 30, 1979.

Docket No. 80–00238. Applicant: University of California, Berkeley, Lawrence Laboratory, One Cyclotron Road, Berkeley, CA 94720. Article: Electron Microscope, Model JEM–200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for producing photographic images of specimens at very high resolution in the Atomic Resolution Microscopy project within the Materials and Molecular Research Division, and will eventually be utilized as a "feeder" instrument to the Atomic Resolution Microscope (ARM). Article ordered: December 14, 1979.

Docket No. 80–00242. Applicant: The University of Mississippi Medical Center, 2500 North State Street, Jackson, Mississippi 39216. Article: Electron Microscope, Model EM 10C. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biological tissues, including: brain, internal organs, muscle specimens, bone and skin. The investigations to be conducted include:

(a) Studies of experimentally induced cardiac myopathies.

(b) Experiments designed to clarify the morphological properties of the microvascular in central and peripheral nervous tissue.

(c) Studies directed toward an analysis of synaptic architecture in sensory and motor pathways in mammalian brain and spinal cord tissue.

(d) Investigations of muscle ultrastructure and properties of neuromuscular relationships.

(e) Studies of bone transformations as a function of dietary and nutritional factors.

The article will also be used in the course Techniques in Electron Microscopy to instruct students and faculty in the use of ultrastructural methods in the analysis of structure-function relationships in mammalian, biological tissue. Article ordered: September 26, 1979.

Docket No. 80–00246. Applicant: Research Foundation of the State U of NY, P.O. Box 9, Albany, NY 12201. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the study of the melt phase produced during very small percentages of partial melting of periodite. Under the conditions, the melt phase which is generated occurs along grain boundaries. Of special interest is the examination of the compositional relationships at the melt/crystal interface to measure mineral/melt distribution coefficients and to assess the effects of high flux thermal neutron radiation on the crystal structures of amphibole, plagioclase, pyroxene, and biotite. Other studies will include the analysis of fine-exsolution lamellae in pyroxenes and amphiboles where the size of the lamellae precludes their analysis by electron microprobe. Article ordered: August 30, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–35327 Filed 11–12–80; 8:45 am]

BILLING CODE 3510–25–M

National Center for Toxicological Research, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00415. Applicant: National Center for Toxicological Research, Jefferson, AR 72079. Article: Tissue Processor for Electron Microscopy. Manufacturer: Max Zollinger, Inc., Canada. Intended use of article: The article is intended to be used for studies of biological tissues which are derived mainly from mammalian sources. A wide variety of experiments will be conducted, including experiments on the carcinogenicity of saccharin. The general aim of the planned investigations is the better understanding of the processes involved in carcinogenesis, and how the individual environmental substances can influence the development of cancer. Application received by Commissioner of Customs: August 15, 1980.

Docket No. 80–00416. Applicant: Calvin College, 3201 Burton Street, S.E., Grand Rapids, MI 49506. Article: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article is intended to be used for studies of ultrastructure of cells and cellular processes from a variety of organisms. Of special interest are the bovine and human hepatocyte structure and function, turtle heart structure and function, freshwater snail structure and function, and carnivorous plant structure and function. The following experiments which all feature the cellular exploration of various cellular processes will be conducted:

1. Gross hepatocyte morphology will be analyzed as to changes occurring during the inflammatory response with particular note on alterations of mitochondria ultrastructure and the deposition of glycogen stores;

2. Hepatocyte rough endoplasmic reticulum, smooth endoplasmic reticulum and Golgi apparatus will be analyzed to find the site of fibrinogen assembly;

3. Turtle heart will be examined to determine whether smooth muscle cells are present which might account for the observations that slow tonic contractions may appear in electrocardiograms of turtle hearts;

4. Freshwater snails will be studied to observe their gross ultrastructure as well as the events surrounding the biosynthesis and secretion of components of the shell;

(5) Venus fly traps will be studied to elucidate their gross ultrastructure and, in greater detail, the events surrounding the biosynthesis and secretion of proteolytic enzymes found in the trap liquor.

In addition the article will be used for educational purposes in various biology courses. Application received by Commissioner of Customs: August 15, 1980.

Docket No. 80–00417. Applicant: University of California, Davis, Department of Anatomy, School of Veterinary Medicine, Davis, California 95616. Article: Electron Microscope, Model H-600-3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended for analytical electron microcopy of lungs from air pollution exposed animals. Pulmonary cell biology and the reactions of the respiratory system to injury following exposure to ambient levels of air pollutants will be investigated. The article will also be used to train graduate students working for the Ph. D. degree in Anatomy and Comparative Pathology. Application received by Commissioner of Customs: August 15, 1980.

Docket No. 80–00418. Applicant: University of California, Chemistry Department B-017, La Jolla, California 92093. Article: Ion Source. Manufacturer: Eidgenossische Technische, Hochschule, Switzerland. Intended use of article: The article is intended to be used for research on lunar samples regarding the age of the moon, the ages of lunar craters and of the composition of the solar wind and the solar flares; and studies on meteorites regarding the history of the solar system. Application received by Commissioner of Customs: August 15, 1980.

Docket No. 80–00419. Applicant: U. S. National Bureau of Standards (Department of Commerce), Quince Orchard Road and Rte. 270, Gaithersburg, MD 20760. Article: Excimer Laser, TE-861. Manufacturer: Lumonics, Ltd., Canada. Intended use of article: The article is intended to be used to irradiate certain gas molecules such as CH_3NO_2, causing them to undergo reactions such as $CH_3NO_2 \rightarrow CH_3 + NO_2$ or $CH_3NO_2 \rightarrow CH_3O + NO$ or $CH_3^+ + NO_2^-$. The article will generate these unstable, chemical reactive radicals such as CH_3, CH_3^+, and CH_3O. After these species are generated, they will be studied spectroscopically using infrared absorption spectroscopy or laser-excited fluorescence spectroscopy to determine the geometry (bond lengths, angles) of these laser-produced unstable molecules. Application received by Commissioner of Customs: August 15, 1980.

Docket No. 80–00420. Applicant: University of North Carolina, Department of Environmental Sciences and Engineering, School of Public Health 201H, Chapel Hill, North Carolina 27514. Article: Gas Chromotograph/Mass Spectrometer/Data System, Model MM 70/70. Manufacturer: VG-Micromass, United Kingdom. Intended use of article: The article is intended to be used for the study and application of gas phase ion chemistry to problems in environmental sciences and engineering. The particular phenomena to be studied include: unimolecular gas phase reactions of excited ions and gas phase ion-molecule reactions with particular emphasis on developing an understanding of chemical ionization mass spectrometry and studying novel ion-molecule reactions which might have utility for the analysis of materials of interest to environmental scientists and engineers. These materials include polycyclic aromatic hydrocarbons, their phenolic derivatives, chlorinated and brominated aromatic compounds, chlorinated phenols, plasticizers, metabolities, conjugates and transformation products of the above, soil or water extracts and so forth. Experiments will be conducted with the following objectives:

1. To identify the water borne effluents resulting from various coal gasification technologies.

2. To identify the biodegradation products of various coal gasification effluents.

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3. To identify physical/chemical treatment products of coal gasification effluents.

4. To monitor the time-course of the biodegradation of compounds in coal gasification effluents.

5. To identify the chemical degradation products of aquatic humic acid.

6. To identify the chlorination products of humic acid model compounds.

7. To identify the volatile compounds resulting from the chlorination of humic acid.

Application received by Commissioner of Customs: August 18, 1980.

Docket No. 80-00422. Applicant: Southwest Research Institute, 6220 Culebra road, P.O. Box 28510, San Antonio, TX 78284. Article: Scanning Attachment with Camera, Lens, Film Holder and Adapters. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is an accessory to an existing electron microscope which will be used to perform chemical analysis on very small areas, such as interfaces and grain boundaries and to study localized plasticity by making electron channeling patterns over small areas, for such purposes as studying crack tip plasticity in ceramics and stainless steels. Application received by Commissioner of Customs: August 19, 1980.

Docket No. 80-00423. Applicant: Mount Zion Hospital and Medical Center, 1600 Divisadero, San Francisco, CA 94115. Article: Electron Microscope, EM 10 CA. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine a variety of biological systems including liver, pancreas, brain, human cultured lymphocytes, pituitary tumor-derived growth hormone secreting cells, hepatoma cells, and others. The unifying objective of the many research projects is to define the action and mechanisms(s) of action of a variety of hormones in normal and abnormal cells. Hormones to be studied include insulin, cholecystokinin, thyroid hormones, and others. Hormone effects on target cell structure will be assessed by both qualitative and quantitative electron microscopy (stereology). Application received by Commissioner of Customs: August 19, 1980.

Docket No. 80-00424. Applicant: Buffalo General Hospital, Department of Pathology, 100 High Street, Buffalo, New York 14203. Article: electron Microscope, JEM 100s. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used to examine ultrastructural aspects of various types of biological specimens. The majority of human tissues that will be studied will consist of kidney biopsies and tissue samples of tumors. In addition, the ultrastructure of organs of laboratory animals with experimental diseases will be evaluated. Electron microscopy will be performed to establish or confirm diagnosis of human diseases where light microscopy is inadequate. The article also may be used as an educational tool for pathology residents and research fellows. Application received by Commissioner of Customs: August 19, 1980.

Docket No. 80-00425. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, TX 77030. Article: Electron Microscope, JEM 200CX. Manufacturer: Japan Electron Optical Labs., Ltd., Japan. Intended use of article: The article is intended to be used for the study of macromolecular protein structures in the Z band and the cytoskeleton in cardiac skeletal muscle. This project includes an *in vivo* and an *in vitro* study of Z bands, microtubules and associated structures using high voltage electron microscopy, optical diffraction and optical reconstruction techniques and various biochemical methods for extraction, purification, and reassembly of these components. A second project involves morphological analysis of components associated with the sarcoplasmic reticulum-glycogenolytic complex in cardiac and skeletal muscle. This project includes studies of isolated cell fractions prepared using standard fixation techniques, freeze-drying methods, and freeze-fracture, and freeze-etching techniques. A third project is an analysis of the lipid protein interactions in cell membranes of the sarcoplasmic reticulum. Application received by Commissioner of Customs: August 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-35328 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting, which is open to the public, will convene on Wednesday, December 3, 1980, at approximately 10 a.m., and adjourn at approximately 5:30 p.m.

ADDRESS: The meeting will take place at the Sheraton Beach Resort, Woodmere West Room 1031 South First Street, Jacksonville Beach, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: November 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35365 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico and South Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet jointly to review research programs in relation to Councils' needs; review methodology and costs for southeast recreational billfish survey; and present reports on the Council Chairpersons' and the Gulf and Atlantic States Marine Fisheries Commission conferences.

DATES: The meetings, which are open to the public, will convene on Monday, December 1, 1980, at approximately 1:30 p.m., and will adjourn at approximately 5 p.m., reconvene on Tuesday, December 2, 1980, at approximately 8:30 a.m., and adjourn at approximately 1 a.m.

ADDRESS: The meetings will take place at the Sheraton Beach Resort, Woodmere South Room, 1031 South First Street, Jacksonville Beach, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815;

or:

South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: November 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35366 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss amendments to the Squid, Mackerel and Butterfish Fishery Management Plans (FMP's), status of other FMP's, foreign fishing applications, and other fishery management and administrative matters.

DATES: The meetings, which are open to the public, will convene on Wednesday, December 10, 1980, at approximately 1 p.m., and will adjourn on Friday, December 12, 1980, at approximately noon. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the Quality Inn Airport, 20th Street and Penrose Avenue, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: November 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35367 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review the Spiny Lobster Fishery Management Plan (FMP) for possible changes; discuss the upcoming Billfish FMP hearing; update current FMP endeavors, and discuss other management and administrative matters as necessary.

DATES: The meetings will convene on Wednesday, December 3, 1980, at approximately 1:30 p.m., and adjourn at approximately 5 p.m.; reconvene on Thursday, December 4, 1980, at approximately 9 a.m., and adjourn at approximately noon. These meetings are open to the public.

ADDRESS: The meetings will take place at the Sheraton Beach Resort, Woodmere East Room, 1031 South First Street, Jacksonville Beach, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: November 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35368 Filed 11-12-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare Environmental Documents for Construction of a Binary Chemical Munitions Facility and Related Programs

Part 1. Construction of a 155mm Binary Munitions Facility at Pine Bluff Arsenal, Arkansas

1. Summary: By Pub. Laws No. 94-418 and No. 96-436, the Congress of the United States recently authorized and appropriated, respectively, the funds for construction of a binary munitions production facility at Pine Bluff Arsenal, Jefferson County, Arkansas. Notice is hereby given that the Department of the Army is gathering information in order to analyze, in an appropriate environmental document, the potential impacts of implementing the Congressional action by constructing the proposed 155mm facility at Pine Bluff Arsenal (PBA). Pine Bluff Arsenal is an established installation with missions to produce or manufacture chemical, smoke, riot control, incapacitating, incendiary and other pyrotechnic mixes and munitions; to operate limited production facilities for chemical defensive equipment; to receive, store, perform surveillance of, renovate, demilitarize, and ship chemical, conventional, riot control, smoke, and incendiary agents and/or munitions, industrial components and strategic materials.

2. The 155mm artillery binary munition is a device containing two less toxic chemcial compounds, each contained in separate canisters, which react in flight to a target to produce the nerve agent GB.

3. The proposed 155mm projectile facility will manufacture only one of the chemical compounds for the binary munition; load this compound into a canister; and then assemble the canister into a projectile. The assembled projectile cannot function due to the absence of the second canister containing the other chemical compound. This second compound will be procured and filled into canisters by industry at another location. Thus, the proposed facility at PBA will not produce nor store nerve agent. The construction project will renovate an existing building; install standard chemical plant process equipment (including pollution abatement devices); and construct two pre-engineered, non-combustible additions to an existing building to house canister-filling operations and the steam boilers. The proposed facility, as planned, is a total production entity which is independent of any future facilities, if authorized. The Congressional action is limited to facilitization at PBA only. Production was not authorized and the Department of the Army has not requested funds for production.

4. Under current law, production of lethal binary chemical munitions may not occur unless the President certifies to the Congress that such production is essential to the national interest. While fully recognizing this restriction, the Army recognizes the need under the National Environmental Policy Act (NEPA), to discuss and analyze in the environmental document the potential impacts of possible future production and storage at PBA of binary munition components, as well as the immediate impacts of construction of the facility. Notice is also given that a public scoping meeting will be held at White Hall High School, White Hall, Arkansas, on December 8, 1980, at 7:00 P.M. The purposes of the scoping process are (1) to provide a description of the proposed project; (2) to identify potential impacts and issues that should be included in the environmental document; (3) to identify other environmental review, coordination or permit requirements associated with the project; (4) to discuss the role of the environmental impact analysis in the planning and decision making process; and (5) to

discuss the anticipated time frame for preparation of the environmental document and the proposed construction. Prior to the scoping meeting and continuing until January 5, 1981, written comments and questions regarding the subjects to be discussed and analyzed in the environmental document may be addressed to Dr. F. Prescott Ward, Chemical Systems Laboratory, ATTN: DRDAR-CLT-E, Aberdeen Proving Ground, MD 21010, AC (301) 671-2586. Interested persons and agencies may, by contacting Dr. Ward, obtain an information packet containing a draft outline of the proposed environmental document.

Part 2. Binary Chemical Munitions Program

5. Other binary agents and munitions are being studied by the Department of the Army as part of a binary munitions research and development program. The decision to construct the 155mm binary facility at Pine Bluff Arsenal is independent of any future decisions regarding other binary agents and munitions or production facilities, if authorized by the Congress. The Army will, in the near future, be initiating the environmental analysis process to develop a programmatic environmental impact statement (EIS) for the binary munitions program. Proposals, if any, for future site-specific aspects of the program will be analyzed in appropriate tiered documents in accordance with the Council on Environmental Quality regulations, 40 CFR Parts 1500-1508, implementing the National Environmental Policy Act.

6. Notice is hereby given of the initiation of scoping for this programmatic EIS. Questions and comments regarding the scope of and issues to be analyzed in this programmatic EIS may be addressed to Headquarters, US Army Materiel Development and Readiness Command, ATTN: DRCNC, Colonel Clarence Griffin, 5001 Eisenhower Ave., Alexandria, VA 22333. As specific issues are identified through the receipt of comments, seminars and workshops will be scheduled so that interested agencies may assist the Department of Army in scoping the environmental document. Written comments would be appreciated by January 31, 1981, so that plans for scoping seminars may progress.

Dated: November 7, 1980.

John T. Nash,

Assistant for Safety, Office of Environmental Safety and Occupational Health, Office of the Assistant Secretary of the Army (Installations, Logistics, and Financial Management).

[FR Doc. 80-35329 Filed 11-12-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Review Panel on Anti-Submarine Warfare; Advisory Committee Meeting

An Anti-Submarine Warfare Review Panel under the Defense Science Board will meet in closed session on 10 December 1980 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Anti-Submarine Warfare Review Panel will review the technical aspects of Anti-Submarine Warfare programs in the 10 December meeting.

In accordance with 5 U.S.C. App. 1 § 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 7, 1980.

[FR Doc. 80-35370 Filed 11-12-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session December 11, 1980, at the Institute for Defense Analysis, 400 Army Navy Drive, Arlington, Virginia, 22202.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military proposed to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 7, 1980.

[FR Doc. 80-35371 Filed 11-12-80; 8:45 am]

BILLING CODE 3810-70-M

Organization of the Joint Chiefs of Staff; National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School; Meeting

The President of the National Defense University has rescheduled the meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, from Tuesday, November 25, 1980, to Tuesday, December 2, 1980. The meeting will be held from 0830-1145 and 1330-1600 in the Hill Conference Center, Theodore Roosevelt Hall, (Building 61), Fort Lesley J. McNair, Washington, D.C. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces and the National War College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693-1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 7, 1980.

[FR Doc. 80-35369 Filed 11-12-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Strengthening Developing Institutions Program; Applicable Notice for Noncompeting Continuation Applications for Fiscal Year 1981

Grantees who were awarded noncompeting continuation grants in fiscal year 1979 for project periods extending beyond one full year of operation under the Strengthening Developing Institutions Program are advised that their application to continue their grant with Fiscal Year 1981 funds is due January 19, 1981.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is estimated that the appropriation for the Strengthening Developing Institutions Program will be between $110,000,000 and $120,000,000 in Fiscal Year 1981. Of that amount approximately $3.5 million will be available for noncompeting continuation projects.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 19, 1980. They may be obtained by writing to the Division of Institutional Development, U.S. Department of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Strengthening Developing Institutions Program (45 CFR Part 169); and

(b) Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

(The changes made to the Strengthening Developing Institutions program by the Education Amendments of 1980 are not effective until Fiscal Year 1982.)

Further information: For further information contact Dr. Reginald Pearman, Chief, Program Operations Branch, Division of Institutional Development, U.S. Department of Education, (Room 3052, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 755-1254.

(20 U.S.C. 1051-1056)

(Catalog of Federal Domestic Assistance Number: 84.031—Strengthening Developing Institutions Program)

Albert H. Bowker,

Assistant Secretary for Postsecondary Education.

November 4, 1980.

[FR Doc. 80-35344 Filed 11-12-80; 8:45 am]

BILLING CODE 4000-01-M

Strengthening Developing Institutions Program; Application Notice for New Projects for Fiscal Year 1981

Applications are invited for new projects under the Strengthening Developing Institutions Program (SDIP).

Authority for this program is contained in Sections 301-306 of Title III of the Higher Education Act of 1965 as amended. (20 U.S.C. 1051-1056)

Applicants are advised that grants awarded during the Fiscal Year 1981 funding cycle will be selected under the procedures set forth under the existing program regulations 45 CFR Part 169 Subpart F, and the grants awarded will be subject to the other provisions of the existing program regulations. Changes made in the Strengthening Developing Institutions program by the Education Amendments of 1980 will not take effect until Fiscal Year 1982.

This program issues awards to two-year and four-year, public and private developing institutions of higher education.

The purpose of the awards is to assist developing institutions of higher education to strengthen their academic quality, administrative capacity, and student services.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 19, 1981.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3,

7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on January 19, 1981.

Program information: Applications for new grants will be accepted from (1) institutions not currently receiving Title III funds, and (2) Title III grantees (under either the Advanced Institutional Development Program or the Strengthening Developing Institutions Program) whose grants expire on or before December 31, 1981.

Requests for designation as developing: Potential applicants are strongly urged to submit a request for designation as a developing institution as soon as possible. All such requests submitted separately and not as part of an official application for funds should be addressed to the Division of Institutional Development, U.S. Department of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The conversion tables, which explain how the Secretary assigns points to institutions applying for designation as developing are published as an appendix to this notice.

Available funds: It is estimated that the appropriation for the Strengthening Developing Institutions Program will be between $110,000,000 and $120,000,000 in fiscal year 1981.

Two-year colleges: No more than 24 percent of the appropriation will be available for two-year institutions. Depending on the level of the appropriation approximately $22.9 million to $25.3 million will be available for new projects. For the most part, awards will be for between $100,000 and $300,000 and will be for a one year period.

Four-year colleges: Approximately $83.6 million to $91.2 million will be available for four-year institutions in fiscal year 1981. Awards will be for between $200,000 and $500,000 annually, the majority of which will be for a one year period.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Secretary's points: During the fiscal year 1981 grantee selection process the Secretary will not evaluate applicants under § 169.53(b) and thus will not award the 25 points permitted under that paragraph to applicants having certain institutional characteristics.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 19, 1980. They may be obtained by writing to the Division of Institutional Development, U.S. Department of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials; (2) the budgets be prepared based on a proposed performance period of July 1 to June 30 or October 1 to September 30; and (3) applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Strengthening Developing Institutions Program (45 CFR Part 169); and

(b) Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c)

Further information: For further information contact Dr. James Ormiston, Chief, Program Development Branch, Division of Institutional Development, U.S. Department of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 755–1254.

(20 U.S.C. 1051–1056)

November 4, 1980.

(Catalog of Federal Domestic Assistance Number: 84.031–Strengthening Developing Institutions Program)

Albert H. Bowker,

Assistant Secretary for Postsecondary Education.

Tables to be used in determining eligibility for participation in the strengthening developing institutions program.

Educational and General Expenditures Tables.—Point tables: To assist in determining designation as a developing institution for fiscal year 1981 (based upon 1978–79 data).

Points for EAG Expenditures Per FTE Student

Points	2-yr colleges		4-yr colleges	
	Public	Private	Public	Private
0	$14,202+	$21,830+	$32,945+	$29,364+
1	7,741–14,201	13,694–71,829	29,746–32,944	27,140–29,363
2	6,150–7,740	7,659–13,693	13,262–29,745	22,691–27,139
3	5,604–6,149	7,577–7,658	12,174–13,261	22,265–22,690
4	4,949–5,603	6,567–7,576	11,824–12,173	21,938–22,264
5	4,665–4,948	6,272–6,566	10,271–11,823	19,625–21,937
6	4,388–4,664	5,955–6,271	10,197–10,270	19,372–19,624
7	4,208–4,387	5,726–5,954	9,510–10,196	19,119–19,371
8	4,076–4,207	5,526–5,725	8,641–9,509	18,321–19,118
9	3,991–4,075	5,159–5,525	8,498–8,640	17,965–18,320
10	3,926–3,990	4,965–5,158	8,437–8,497	17,917–17,964
11	3,846–3,925	4,881–4,964	8,152–8,436	17,869–17,916
12	3,754–3,845	4,747–4,880	8,056–8,151	14,735–17,868
13	3,668–3,753	4,707–4,746	8,022–8,055	14,494–14,734
14	3,612–3,667	4,670–4,706	7,994–8,021	14,254–14,493
15	3,535–3,611	4,597–4,669	7,649–7,993	14,183–14,253
16	3,453–3,534	4,409–4,596	7,566–7,648	14,237–14,182
17	3,417–3,452	4,389–4,408	7,417–7,566	14,074–14,236
18	3,343–3,416	4,325–4,388	7,318–7,416	13,564–14,073
19	3,329–3,342	4,256–4,324	7,220–7,317	13,116–13,563
20	3,305–3,328	4,187–4,255	7,087–7,219	12,890–13,115
21	3,254–3,304	4,167–4,186	7,046–7,086	12,564–12,889
22	3,206–3,253	4,100–4,166	6,963–7,045	12,440–12,563
23	3,184–3,205	4,063–4,099	6,958–6,962	12,098–12,439
24	3,152–3,183	4,061–4,062	6,832–6,958	11,756–12,097
25	3,134–3,151	3,865–4,060	6,755–6,831	11,677–11,755
26	3,112–3,133	3,781–3,864	6,740–6,755	11,565–11,676
27	3,072–3,111	3,760–3,780	6,738–6,739	11,454–11,564
28	3,043–3,071	3,756–3,759	6,675–6,737	11,305–11,453
29	3,000–3,043	3,666–3,755	6,584–6,674	11,304–11,304
30	2,989–2,999	3,545–3,665	6,486–6,583	11,287–11,303
31	2,964–2,988	3,391–3,544	6,479–6,485	11,271–11,286
32	2,940–2,963	3,339–3,390	6,383–6,478	10,351–11,270
33	2,902–2,939	3,318–3,338	6,348–6,382	10,201–10,350
34	2,882–2,901	3,249–3,317	6,294–6,347	10,051–10,200
35	2,855–2,881	3,217–3,248	6,094–6,293	10,038–10,050
36	2,833–2,854	3,253–3,216	6,067–6,093	8,913–10,037
37	2,818–2,832	3,106–3,152	6,032–6,066	8,746–8,912
38	2,807–2,817	3,088–3,105	5,949–6,031	8,579–8,745
39	2,784–2,806	3,037–3,087	5,865–5,948	8,474–8,578
40	2,768–2,783	2,996–3,036	5,781–5,864	8,241–8,473
41	2,744–2,767	2,952–2,995	5,733–5,780	8,040–8,240
42	2,726–2,743	2,890–2,951	5,575–5,732	8,007–8,039
43	2,708–2,725	2,812–2,889	5,573–5,574	7,894–8,006
44	2,690–2,707	2,775–2,811	5,523–5,572	7,681–7,893
45	2,663–2,689	2,731–2,774	5,480–5,522	7,379–7,680
46	2,645–2,662	2,709–2,730	5,377–5,479	6,467–7,378
47	2,627–2,644	2,690–2,708	5,327–5,376	6,404–6,466
48	2,607–2,626	2,657–2,689	5,226–5,326	6,342–6,403
49	2,578–2,606	2,642–2,656	5,161–5,225	6,247–6,341
50	2,557–2,577	2,625–2,641	5,065–5,160	6,234–6,246
51	2,530–2,556	2,567–2,624	5,051–5,064	6,222–6,233
52	2,514–2,529	2,547–2,566	4,936–5,050	6,195–6,221
53	2,503–2,513	2,507–2,546	4,825–4,935	6,115–6,194
54	2,481–2,502	2,422–2,506	4,727–4,824	6,035–6,114
55	2,460–2,480	2,384–2,421	4,690–4,726	5,917–6,034
56	2,439–2,459	2,346–2,383	4,547–4,689	5,880–6,916
57	2,422–2,438	2,316–2,345	4,527–4,546	5,866–5,879
58	2,410–2,421	2,298–2,315	4,431–4,526	5,852–5,865
59	2,394–2,409	2,278–2,297	4,398–4,430	5,305–5,851
60	2,382–2,393	2,252–2,277	4,344–4,367	5,212–5,304
61	2,357–2,381	2,239–2,251	4,301–4,343	5,119–5,211
62	2,340–2,356	2,220–2,238	4,294–4,300	5,030–5,118
63	2,322–2,339	2,213–2,219	4,240–4,293	5,024–5,029
64	2,307–2,321	2,160–2,212	4,163–4,239	5,018–5,023
65	2,293–2,306	2,142–2,159	4,153–4,162	4,786–5,017
66	2,279–2,292	2,132–2,141	4,140–4,152	4,694–4,785
67	2,262–2,278	2,105–2,131	4,004–4,139	4,650–4,693
68	2,250–2,261	2,095–2,104	3,975–4,003	4,596–4,649
69	2,230–2,249	2,082–2,094	3,957–3,974	4,535–4,595
70	2,212–2,229	2,060–2,081	3,927–3,956	4,491–4,534
71	2,197–2,211	2,012–2,059	3,906–3,926	4,448–4,490
72	2,182–2,196	1,978–2,011	3,897–3,905	4,416–4,447
73	2,172–2,181	1,921–1,977	3,779–3,896	4,398–4,415
74	2,161–2,171	1,896–1,920	3,756–3,778	4,337–4,397
75	2,135–2,160	1,846–1,895	3,730–3,755	4,278–4,336
76	2,108–2,134	1,758–1,845	3,680–3,729	4,231–4,277
77	2,093–2,107	1,738–1,757	3,652–3,679	4,208–4,230

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Points for EAG Expenditures Per FTE Student—Continued

Points	2-yr colleges		4-yr colleges	
	Public	Private	Public	Private
78	2,072–2,092	1,706–1,737	3,583–3,651	4,186–4,207
79	2,056–2,071	1,688–1,707	3,558–3,584	4,029–4,185
80	2,035–2,055	1,668–1,687	3,517–3,557	3,927–4,028
81	2,016–2,034	1,603–1,667	3,479–3,516	3,865–3,926
82	1,998–2,015	1,563–1,602	3,478–3,478	3,845–3,864
83	1,968–1,997	1,517–1,562	3,446–3,477	3,804–3,844
84	1,941–1,967	1,508–1,516	3,408–3,445	3,785–3,803
85	1,921–1,940	1,433–1,507	3,353–3,407	3,755–3,784
86	1,906–1,920	1,419–1,432	3,329–3,352	3,692–3,754
87	1,882–1,905	1,373–1,418	3,312–3,328	3,689–3,691
88	1,844–1,881	1,341–1,372	3,227–3,311	3,676–3,688
89	1,804–1,843	1,273–1,340	3,152–3,226	3,585–3,675
90	1,780–1,803	1,237–1,272	3,078–3,151	3,524–3,584
91	1,758–1,779	1,167–1,236	3,013–3,077	3,464–3,523
92	1,735–1,757	1,075–1,166	2,936–3,012	3,456–3,463
93	1,702–1,734	988–1,074	2,871–2,935	3,241–3,455
94	1,680–1,701	942–987	2,762–2,870	3,105–3,240
95	1,637–1,679	865–941	2,743–2,761	2,968–3,104
96	1,606–1,636	777–864	2,708–2,742	2,958–2,967
97	1,557–1,605	743–776	2,548–2,707	2,916–2,957
98	1,507–1,556	644–742	6,534–2,547	2,875–2,915
99	1,395–1,506	604–643	2,381–2,533	1,377–2,874
100	0–1,394	0–603	0–2,380	0–1,376

Basic Education Opportunity Grants Tables.—Point tables: To assist in determining designation as a developing institution for fiscal year 1981 (based upon 1978–79 data).

Points for Total BEOG Divided by FTE Undergraduate Enrollment

Points	2-yr colleges		4-yr colleges	
	Public	Private	Public	Private
0	$0–17	$0–37	$0–44	$0–10
2	18–25	38–42	45–51	11–49
4	26–27	43–57	52–63	50–52
6	28–31	58–62	64–69	53–56
8	32–34	63–77	70–74	57–61
10	35–39	78–80	75–80	62
12	40–41	81–86	81–84	63
14	42–43	89–91	85–86	64
16	44	92–93	87	65–67
18	45–47	94–101	87	68–70
20	48–50	102–106	87–89	71–72
22	51–52	107–110	90	73–76
24	53–55	111–114	90–94	77–79
26	56	115–123	95–97	80–82
28	57	124–132	98–101	83
30	58	133–141	102–103	84
32	59	142–144	104–105	84
34	60–61	145–148	106	85
36	62–64	149–151	107–109	85
38	65–66	152–155	110	86
40	67	156–163	111	87–88
42	68–69	164–169	112	89–92
44	70–71	170–171	113	93–95
46	72–74	172–180	113	96–98
48	75	181–183	114	99–100
50	76–77	184–187	115	101
52	78–79	188–192	115–116	102–103
54	80–81	193–196	117	104
56	82	197–199	118	104
58	83–84	199–201	118–119	105
60	85–86	202–208	120	105–106
62	87	209–211	121–122	107–108
64	88	212–218	123	109–110
66	89	219–222	124	111
68	90–93	223–234	124	112
70	94–96	235–236	125	113
72	97–98	237	126	114
74	99–102	238–248	127	115
76	103	249	128	116
78	103–104	250–256	129	117–118
80	105–106	257–258	130	119–121
82	107–108	259–266	131	122–123
84	109	267–270	131–132	124–128
86	110–111	271–280	133	129–130
88	112–113	281	134–135	131–132
90	114	282–286	136	133
92	115–117	287	137	134–137
94	118–119	288–289	138	138–140

Points for Total BEOG Divided by FTE Undergraduate Enrollment—Continued

Points	2-yr colleges		4-yr colleges	
	Public	Private	Public	Private
96	120–121	290–294	139	141
98	122–123	295–304	139–143	142
100	124–6	305–7	144–6	143
102	127–8	308–12	142–6	144
104	129	313–6	149	145
106	130–1	317–21	150–1	146
108	132–4	322–27	152	147
110	135	328–37	153–7	148–9
112	136	338	158	150–1
114	137–9	339–40	159	152–4
116	140–3	341–8	160–4	155–8
118	144–6	347–52	165	159–61
120	147–9	353–5	165	162
122	150–2	356–65	165	163–73
124	153–4	366–70	166	174–6
126	155–6	371–80	167–71	177–8
128	157	381–99	172–3	179–91
130	158–9	400–2	174	182–3
132	160–2	403–7	175–6	184
134	163–4	408	177	185
136	165–7	409	178	186
138	168–70	410–26	179	187
140	171–3	427–34	180–1	188
142	174–6	435–42	182–7	189
144	177–9	443–6	188	190–6
146	180–1	447–51	189	197–209
148	182–5	452–6	190–2	210–5
150	186–9	456–75	193	216–20
152	190–2	476–81	193	221–3
154	193–5	482–95	194–8	224
156	196–200	495–503	199	225–7
158	201–7	504–8	200–7	228–30
160	208–12	509–39	208–18	231–46
162	213–17	540–60	219–23	247–51
164	218–9	561–84	224–6	252–7
166	220–9	585–608	227–35	258–63
168	230–4	609–14	236	264–74
170	235–9	615–23	237–52	275–9
172	240–3	624–66	253–68	280–2
174	244–9	667–715	269–77	283–95
176	250–6	716–51	278–89	296–319
178	257–62	752–9	290–5	319–23
180	263–9	760–89	296–326	324–8
182	270–7	790–810	327–34	329–37
184	278–86	811–27	335–7	338–40
186	287–97	828–48	338–438	341–4
188	298–322	849–96	439–41	345–7
190	323–34	897–954	442–518	348–77
192	335–54	955–1,000	519–88	378–447
194	355–435	1,001–85	589–92	448–547
196	436–506	1,086–170	593–694	548–78
198	507–90	1,171–571	695–748	579–828
200	591+	1,572+	749+	829+

[FR Doc. 80-35345 Filed 11-12-80; 8:45 am]
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DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission
(Vol. 312)
Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978
Issued: November 5, 1980.

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********						
*ADOBE OIL & GAS CORPORATION		RECEIVED: 10/24/80 JA: TX				
8102784	21267	4210500000 108	HENDERSON A #1	OZONA (CANYON)	18.0	NORTHERN NATURAL GAS
8102783	21266	4210500000 108	HENDERSON C #1	OZONA (CANYON)	11.0	NORTHERN NATURAL GAS
*AMERADA HESS CORPORATION		RECEIVED: 10/24/80 JA: TX				
8102959	07016	4216531392 103	ADAIR SAN ANDRES UNIT #1904R	ADAIR	4.0	PIONEER NATURAL GAS
*AMERICAN PETROFINA COMPANY OF TEXAS		RECEIVED: 10/24/80 JA: TX				
8102944	22921	4205430837 103	IRMA MAY SMITH ET AL GU NO 2U	SHERIFF EAST (6800)	0.0	UNITED TEXAS TRANSMI
8102945	22923	4205730837 103	IRMA MAY SMITH NO 2M	SHERIFF (6900)	0.0	UNITED TEXAS TRANSMI
*AMERICAN PUBLIC ENERGY CO		RECEIVED: 10/24/80 JA: TX				
8102796	21477	4221131081 103	RAY WILSON ESTATE #1	FELDMAN (LOWER MORROW)	1200.0	TRANSWESTERN PIPELIN
*AMOCO PRODUCTION CO		RECEIVED: 10/24/80 JA: TX				
8102845	22146	4218930139 103	ANTON IRISH CLEARFORK UNIT #366	ANTON IRISH	2.6	PIONEER NATURAL GAS
8102844	22145	4218930142 103	ANTON IRISH CLEARFORK UNIT #367	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102846	22147	4218930150 103	ANTON IRISH CLEARFORK UNIT #370	ANTON IRISH	13.9	PIONEER NATURAL GAS
8102847	22149	4227930195 103	ANTON IRISH CLEARFORK UNIT #385	ANTON IRISH	8.4	PIONEER NATURAL GAS
8102823	21895	4227930061 103	ANTON IRISH CLEARFORK UNIT #389	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102913	22755	4227930053 103	ANTON IRISH CLEARFORK UNIT #390	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102946	22965	4227930227 103	ANTON IRISH CLEARFORK UNIT #406	ANTON IRISH	3.5	PIONEER NATURAL GAS
8102938	22904	4227930226 103	ANTON IRISH CLEARFORK UNIT #409	ANTON IRISH	4.2	PIONEER NATURAL GAS
8102843	22144	4227930224 103	ANTON IRISH CLEARFORK UNIT #412	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102939	22905	4227930223 103	ANTON IRISH CLEARFORK UNIT #427	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102825	21907	4236531006 103	CARTHAGE GAS UNIT 10 NO 5	CARTHAGE (TRAVIS PEAK)	3.6	TENNESSEE GAS PIPELI
8102896	22650	4218930290 103	E K HUFSTEDLER #3	ANTON IRISH	1.6	PIONEER NATURAL GAS
8102765	21107	4239131165 103	EL OSO CATTLE #22	WOODSBORO 8/4200/	9.1	LA RUSA CORP
8102764	21105	4235531470 103	G M MCCANN #37-T	LUBY (G SAND)	17.8	VALLEY GAS TRANSMISS
8102894	22648	4227930197 103	I L ELLWOOD A #2	ANTON IRISH	1.0	PIONEER NATURAL GAS
8102755	21058	4239131348 103	J M OBRIEN A #8-T	GRETA/1250/	125.0	TRANSCONTINENTAL GAS
8102754	21057	4239131343 103	J M OBRIEN B #11-C	GRETA /950/	15.0	TRANSCONTINENTAL GAS
8102756	21060	4239131347 103	J M OBRIEN B #12-C	GRETA/700/	125.0	TRANSCONTINENTAL GAS
8102911	22752	4223531427 103	JANE ELIZABETH CHARLTON #2	BROOKS (CANYON-GAS)	365.0	NORTHERN NATURAL GAS
*8102998	14277	4203931187 103	L F MCKIBBEN A NO 6	HASTINGS WEST	1.0	TEXAS EASTERN TRANSM
*8103009	15600	4203931428 103	LAURA D SHAW NO 21	HASTINGS WEST	31.0	TEXAS EASTERN TRANSM
8103008	15552	4234900000 102	LILLIAN COOPER #1	CHENEYBORO (COTTON VALLE	109.5	LONE STAR GAS CO
8102937	22903	4213533239 103	NORTH COWDEN UNIT #1061	COWDEN NORTH	9.5	PIONEER NATURAL GAS
8102936	22902	4213533234 103	NORTH COWDEN UNIT #1063	COWDEN NORTH	7.7	PIONEER NATURAL GAS
8102935	22901	4213533249 103	NORTH COWDEN UNIT #1070	COWDEN NORTH	3.6	PIONEER NATURAL GAS
8102934	22900	4213533248 103	NORTH COWDEN UNIT #1071	COWDEN NORTH	97.2	PIONEER NATURAL GAS
8102933	22899	4213533253 103	NORTH COWDEN UNIT #1073	COWDEN NORTH	19.7	PIONEER NATURAL GAS
8102947	22973	4213533262 103	NORTH COWDEN UNIT #1078	COWDEN NORTH	23.4	PIONEER NATURAL GAS
8102948	22974	4213533252 103	NORTH COWDEN UNIT #1081	COWDEN NORTH	0.4	PIONEER NATURAL GAS
8102949	22975	4213533293 103	NORTH COWDEN UNIT #1082	COWDEN NORTH	20.1	PIONEER NATURAL GAS

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8102842	22069	4213533002 103	D B HOLT J #5	COWDEN NORTH	5.5	PIONEER NATURAL GAS
8102912	22754	4222732081 103	R GUTHRIE #1	COAHOMA N (PUSSEL)	22.0	GETTY OIL CO
8102895	22649	4227930207 103	S N TWILLEY A #2	ANTON-IRISH	1.0	PIONEER NATURAL GAS
8102940	22910	4222731962 103	TEX LAND/MTGE CO /A/R/A/A/ #109	IATAN EAST/HOWARD/	0.4	GETTY OIL CO
8102897	22651	4222732034 103	TEX LAND/MTGE CO /A/R/A/A/ #112	COHOMA N (FUSSEL)	35.0	GETTY OIL CO
8102898	22652	4222731921 103	TEXAS LAND & MTGE A R/A A #98	COAHUMA N (PUSSELMAN)	60.0	GETTY OIL CO
8102941	22912	4213532773 103	W E COWDEN G #1	COWDEN SOUTH/CANYON 6790	7.7	PIONEER NATURAL GAS
*ANDERSON PETROLEUM INC		RECEIVED: 10/24/80 JA: TX				
8102835	22023	4210532505 103	AUSTIN C MILLSPAUGH B #3-32	OZONA (CANYON SAND)	65.0	ANDERSON PIPELINE CO
8102871	22569	4210532562 103	AUSTIN MILLSPAUGH B #4-32	OZONA (CANYON SAND)	35.0	ANDERSON PIPELINE CO
*ARCO OIL AND GAS COMPANY		RECEIVED: 10/24/80 JA: TX				
8102917	22807	4200332175 103	EMMA COWDEN #79	EMMA	10.0	EL PASO NATURAL GAS
8102918	22808	4200332176 103	EMMA COWDEN #80	EMMA	10.0	EL PASO NATURAL GAS
8102828	21932	4229530721 102	FRED LOESCH #3	KIOWA CREEK N (MORROW U)	730.0	TRANSWESTERN PIPELIN
8102868	22522	4213500051 108	M E CUMMINS A #5	GOLDSMITH (5600)	6.0	PHILLIPS PETROLEUM C
8102995	14017	4236530709 103	J T BRUSTER GAS UNIT NO 6	CARTHAGE (COTTON VALLEY)	64.0	SOUTHERN NATURAL GAS
*ART MACHIN & ASSOCIATES INC		RECEIVED: 10/24/80 JA: TX				
8102781	21242	4220330676 103	HOWARD HEIRS #1-A	WASKOM N (PAGE)	75.0	MISSISSIPPI RIVER TR
*BELCO PETROLEUM CORPORATION		RECEIVED: 10/24/80 JA: TX				
8102832	21980	4223531383 102	BUGG 07768 115 3	BUGG (ELLENBURGER)	79.0	EL PASO NATURAL GAS
*BRITTANY DRILLING CO		RECEIVED: 10/24/80 JA: TX				
8102890	22624	4202130244 103	E A ROITSCH #1 ID-12445	GIDDINGS (AUSTIN CHALK)	18.0	PHILLIPS PETROLEUM C
8102891	22625	4202730413 103	ELBERT BECKER #1 ID-12149	GIDDINGS (AUSTIN CHALK)	12.0	PHILLIPS PETROLEUM C
8102872	22599	4202130242 103	ERWIN SCHULZE ET AL #1 ID-12437	GIDDINGS (AUSTIN CHALK)	2.0	PHILLIPS PETROLEUM C
*BTA OIL PRODUCERS		RECEIVED: 10/24/80 JA: TX				
8102862	22434	4238331566 103	COATES A #5	SPRABERRY TREND	57.0	EL PASO NATURAL GAS
*CABOT CORPORATION		RECEIVED: 10/24/80 JA: TX				
8102804	21534	4223330747 103	YAKE CABOT FAULCONER #2-A	PANHANDLE HUTCHINSON	15.0	PANHANDLE EASTERN PI
8102805	21535	4223330746 103	YAKE CABOT-FAULCONER #3-A	PANHANDLE HUTCHINSON	22.0	PANHANDLE EASTERN PI
*CAMPANA PETROLEUM CO		RECEIVED: 10/24/80 JA: TX				
8102922	22862	4222731980 103	READ NO 10 ID #25303	COAHOMA NORTH (FUSSELMAN	31.9	GETTY OIL CO
8102930	22870	4222732017 103	READ NO 2-A ID #25448	COAHOMA NORTH (FUSSELMAN	32.9	GETTY OIL CO
8102929	22869	4222732111 103	READ NO 3-A ID #25448	COAHOMA NORTH (FUSSELMAN	36.5	GETTY OIL CO
8102928	22868	4222731966 103	READ NO 4 ID #25303	COAHOMA NORTH (FUSSELMAN	38.5	GETTY OIL CO
8102927	22867	4222732039 103	READ NO 4-A ID #25448	COAHOMA NORTH (FUSSELMAN	34.3	GETTY OIL CO
8102926	22866	4222731910 103	READ NO 5 ID #25303	COAHOMA NORTH (FUSSELMAN	39.6	GETTY OIL CO
8102925	22865	4222732075 103	READ NO 5A ID #25448	COAHOMA NORTH (FUSSELMAN	33.2	GETTY OIL CO
8102924	22864	4222731949 103	READ NO 6 ID #25303	COAHOMA NORTH (FUSSELMAN	38.3	GETTY OIL CO
8102923	22863	4222732099 103	READ NO 6A ID #25448	COAHOMA NORTH (FUSSELMAN	32.8	GETTY OIL CO
*CANUS PETROLEUM INC		RECEIVED: 10/24/80 JA: TX				
*8102992	12665	4235531331 102	#2 CECILIA KELLY	CORPUS CHRISTI WEST (117	365.0	UNITED GAS PIPELINE
8102991	12662	4235531330 102	#3 ELEANOR KELLY 82490	CORPUS CHRISTI WEST (125	365.0	UNITED GAS PIPELINE
*CENTEX OIL & GAS INC		RECEIVED: 10/24/80 JA: TX				
8102799	21520	4270830236 103	HIGH ISLAND 10 NO 6	HIGH ISLAND 10-GULF (SIP	750.0	TRANSCONTINENTAL GAS
*CENTURA INCORPORATED		RECEIVED: 10/24/80 JA: TX				
8102971	12209	4212700000 103	MCLEAN BOWMAN B #1	GOOD LUCK (SAN MIGUEL)	4.0	ESPERANZA TRANSMISSI
8102970	12208	4212700000 103	MCLEAN BOWMAN B #2	GOOD LUCK (SAN MIGUEL)	4.0	ESPERANZA TRANSMISSI
8102973	12213	4212700000 103	MCLEAN BOWMAN C #1	GOOD LUCK (SAN MIGUEL)	4.0	ESPERANZA TRANSMISSI
8102972	12212	4212700000 103	MCLEAN BOWMAN C #2	GOOD LUCK (SAN MIGUEL)	4.0	ESPERANZA TRANSMISSI
*CHAMPLIN PETROLEUM COMPANY		RECEIVED: 10/24/80 JA: TX				
8102813	21698	4223531506 103	A M DUFF ESTATE NO 5	DOVE CREEK (CANYON D)	91.0	NORTHERN NATURAL GAS
8102829	21934	4236500000 103	CARTHAGE GAS UNIT 29 NO 2	CARTHAGE (COTTON VALLEY)	1.5	TENNESSEE GAS PIPELI

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JD NO	TA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102849	>2179	4221932767	103	P E DEMNEL NO 1	WHITHARRAL (CLEARFORK LO	1.0	
=CHEVRON U S A INC				RECEIVED: 10/24/80 JA: TX			
8102806	>1538	4249531081	103	M E LOVETT 9CU	KEYSTONE	185.0	TRANSWESTERN PIPELIN
=CHRISTI CO INC				RECEIVED: 10/24/80 JA: TX			
8102852	>2143	4204932251	103	BAILEY #1	BROWN COUNTY REGULAR (MA	125.0	ODESSA NATURAL CORP
=COBA PETROLEUM INC				RECEIVED: 10/24/80 JA: TX			
*8102759	>1072	4222700000	103	DEVANEY #1	COAHOMA N (PUBSEL)	90.0	GETTY OIL CO
*8102878	>2611	4238331463	103	MOLT 136 #1	CALVIN (DEAN)	30.0	UNION TEXAS PETROLEU
8102962	n8280	4241330638	103	WHITTEN A NO 1 (#74478)	ELDORADO (6000)	177.0	PRODUCERS GAS CO
8102961	n8279	4241330701	103	WHITTEN B NO 1-26 (#77519)	ELDORADO (6000)	116.0	PRODUCERS GAS CO
=COLORADO INTERSTATE GAS CO				RECEIVED: 10/24/80 JA: TX			
8103013	15874	4234100000	108	KILGORE A-16	WEST PANHANDLE	19.0	COLORADO INTERSTATE
=CONOCO INC				RECEIVED: 10/24/80 JA: TX			
8103011	15846	4232330497	108	N J CHITTIM NO 9909 (02062)	SACATOSA (SAN MIGUEL NO	0.4	LOVACA GATHERING CO
=CONVEST ENERGY CORP				RECEIVED: 10/24/80 JA: TX			
8102791	>1428	4226330665	102	G B CLARK ET AL NO 2	POLLAN/ELLENBURGER	0.0	EL PASO NATURAL GAS
8102792	>1429	4226330660	102	WAYNE WILLIAMS ET AL NO 4	POLLAN/ELLENBURGER	0.0	EL PASO NATURAL GAS
=COURSON OIL & GAS INC				RECEIVED: 10/24/80 JA: TX			
8102812	>1685	4235730933	102	MCGARRAUGH NO 1-42	HANNA LAKE (MORROW MIDDL	275.0	TRANSWESTERN PIPE LI
=DALLAS PRODUCTION INC				RECEIVED: 10/24/80 JA: TX			
8102761	>1083	4212130301	102	VOTH NO 1	NEW DISCOVERY (SEE FORM	158.0	LONE STAR GAS CO
=DAVIS OIL COMPANY				RECEIVED: 10/24/80 JA: TX			
8102793	>1430	4223931405	102	JANELLE PARIS UNIT #1	APPLING POINT F-22	63.0	ALUMINUM CO OF AMER
=DELTA DRILLING CO				RECEIVED: 10/24/80 JA: TX			
8102814	>1704	4236531023	102	HOWE #1	CARTHAGE (COTTON VALLEY)	1191.0	NATURAL GAS PIPE LIN
8102814	>1704	4236531023	103	HOWE #1	CARTHAGE (COTTON VALLEY)	1191.0	NATURAL GAS PIPE LIN
=DIAMOND SHAMROCK CORPORATION				RECEIVED: 10/24/80 JA: TX			
8102850	>2185	4221131169	103	CARL CANSLER NO 1	CANADIAN SE	100.0	NORTHERN NATURAL GAS
8102836	>2026	4229530653	103	JOHN R WASSELL NO 3	BRADFORD	320.0	
8103004	14882	4239300000	108	L A MADDOX NO 3	QUINDUNO	12.0	NATURAL GAS PIPELINE
8103005	14886	4239300000	108	L A MADDOX NO 8	QUINDUNO	12.0	NATURAL GAS PIPELINE
8102851	>2186	4229530654	103	MARTIN MANDALEK NO 2	BRADFORD	100.0	
=DISCOVERY OPERATING INC				RECEIVED: 10/24/80 JA: TX			
8102864	>2463	4241330706	103	BAILEY #1	GWYN (CANYON)	36.0	NORTHERN NATURAL GAS
*8102865	>2466	4241330813	103	LIN A #2	W O D (CANYON)	144.0	CRA INC
=E L SMITH III				RECEIVED: 10/24/80 JA: TX			
8102838	>2061	4236730166	103	L B BYRD #1	H & W (BEND CONGL)	273.0	NATURAL GAS PIPELINE
8102795	>1470	4233731277	103	LEON DAUBE ET AL #1	NEWPURT SOUTH (BEND CONG	273.0	LONE STAR GAS CO
=ECHO PRODUCTION INC				RECEIVED: 10/24/80 JA: TX			
8102818	>1755	4223732899	103	CLAYTON LEASE #1	PLEMONS (CONGLOMERATE)	110.0	LONE STAR GAS CO
=ENERGY RESERVES GROUP INC				RECEIVED: 10/24/80 JA: TX			
8102876	>2608	4223531468	103	ELA C SUGG 71 #3	SPRABERRY TREND AREA	25.2	NORTHERN NATURAL GAS
=ENSERCH EXPLORATION INC				RECEIVED: 10/24/80 JA: TX			
8102910	>2741	4216100000	103	C A NEWSOM NO 2	FREESTONE	270.0	TEXAS UTILITIES FUEL
=ERGON ENERGY CORP				RECEIVED: 10/24/80 JA: TX			
8102752	>0985	4235730904	103	BATMAN 1-21	SHARE (MISSISSIPPI)	124.1	HIGH PLAINS NATURAL
8102751	>0984	4219530699	103	BRILLHART 1-28	WILDCAT	257.0	HIGH PLAINS NATURAL
=ESTATE OF WM D MCREE				RECEIVED: 10/24/80 JA: TX			
8103017	16050	4220330584	102	RUDD GAS UNIT #1 WELL #1	LONGWOOD (COTTON VALLEY)	400.0	ARKANSAS LOUISIANA G
=EXXON CORPORATION				RECEIVED: 10/24/80 JA: TX			
8102815	>1708	4229732060	103	CHARLES L MCCASLIN 15 D (86539)	RAMIRENA SW (YEGUA #2 SA	55.0	NATURAL GAS PIPELINE
8102869	>2358	4236530996	103	DR L H PIRKLE C #3	CARTHAGE (COTTON VALLEY)	554.8	ARKANSAS LOUISIANA G

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JD NO	TA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8102887	>2621	4200332165	103	FULLERTON CLEARFORK UNIT #2335	FULLERTON	26.0	PHILLIPS PETROLEUM C
*8102886	>2620	4200332157	103	FULLERTON CLFK UNIT #1633	FULLERTON	10.0	PHILLIPS PETROLEUM C
8102884	>2617	4210332213	103	J B TUBB A/C 1 #214L	SAND HILLS (TUBB)	107.0	EL PASO NATURAL GAS
8102881	>2614	4210332213	103	J B TUBB A/C 1 #214U	SAND HILLS (JUDKINS)	44.0	EL PASO NATURAL GAS
8102883	>2616	4210332009	103	J B TUBB A/C 1 #215L	SAND HILLS (TUBB)	13.0	EL PASO NATURAL GAS
8102767	>1125	4210332172	103	J B TUBB A/C 2 #211	SAND HILLS (JUDKINS)	35.0	EL PASO NATURAL GAS
8102856	>2345	4210332210	103	J B TUBB A/C 2 #213L	SAND HILLS (TUBB)	49.0	EL PASO NATURAL GAS
8102885	>2618	4210332182	103	J B TUBB B #22L	SAND HILLS (TUBB)	150.0	EL PASO NATURAL GAS
8102882	>2615	4210332212	103	J B TUBB C #22L	SAND HILLS (TUBB)	151.0	EL PASO NATURAL GAS
8102758	>1067	4204730777	103	MCGILL BROS 457 (86134)	KELSEY DEEP (ZONE 19-K N	100.0	TRUNKLINE GAS CO
8102826	>1911	4224130549	102	MRS B K EAST 110 (09510)	RITA (9-I II A)	15.0	NATURAL GAS PIPELINE
8102757	>1066	4242731340	103	N R & E A MONTALVO 27 (86085)	SUN (F-1-M 4950)	270.0	TENNESSEE GAS PIPELI
8102880	>2613	4216531732	103	ROBERTSON CLEARFORK UNIT #2602	ROBERTSON N (CLEARFORK 7	15.0	PHILLIPS PETROLEUM C
8102807	>1570	4216531688	103	ROBERTSON CLFK UNIT #50	ROBERTSON N (CLFK 7100)	3.0	PHILLIPS PETROLEUM C
8102798	>1510	4213133917	103	V KOHLER A-127 06096	VIGGO (QUEEN CITY #1)	15.0	TENN GAS PIPELINE CO
=FLORIDA GAS EXPLORATION COMPANY				RECEIVED: 10/24/80 JA: TX			
8102834	>2009	4200300000	103	UNIVERSITY A NO 1	FLORHILL (STRAWN) FIELD	18.0	
=FOREST OIL CORPORATION				RECEIVED: 10/24/80 JA: TX			
*8102833	>1985	4247932593	102	VAQUILLAS RANCH CO LTD NO 3	GATO CREEK	240.0	E I DU PONT DE NEMOU
=GERONIMO OIL CO				RECEIVED: 10/24/80 JA: TX			
8102859	>2365	4240931350	103	MARILYN M EVANS NO 2-A	MIDWAY (6200)	36.0	GERONIMO OIL CO
=GETTY OIL COMPANY				RECEIVED: 10/24/80 JA: TX			
8102943	>2918	4217331037	103	L B MCDOWELL 32 #1	DEADWOOD WEST (STRAWN)	19.0	EL PASO NATURAL GAS
8102794	>1458	4236500000	103	W F MOUSE #2	CARTHAGE (COTTON VALLEY)	0.0	TEJAS GAS CORP
=GRACE PETROLEUM CORPORATION				RECEIVED: 10/24/80 JA: TX			
8102867	>2509	4216130422	103	G F SIMS #1	WEST TEAGUE TRAVIS PEAK	3060.0	LONE STAR GAS CO
=GULF OIL CORPORATION				RECEIVED: 10/24/80 JA: TX			
8102921	>2856	4232930861	103	C A MCCLINTIC ET AL NO 21	SPRABERRY (TREND AREA)	5785.2	PECOS CO
8102846	>2175	4237132937	103	DEMA SMITH ET AL NO 1	U S M (QUEEN)	18.6	NORTHERN NATURAL GAS
8102909	>2732	4247531943	103	HUTCHINGS STOCK ASSN NO 1048	WAGON WHEEL (PENN)	132.0	CABOT CORP
8102769	>1154	4224531335	103	I R BORDAGES ET AL A #30	FANNETT	100.0	TEXAS EASTERN TRANSM
8102873	>2600	4249531112	103	KEYSTONE CATTLE CO NO 350	KEYSTONE (COLBY)	52.0	CABOT CORP
8102753	>1021	4244530156	108	MALLET LAND & CATTLE CO NO 45	SLAUGHTER	1.9	AMOCO PRODUCTION CO
8102981	12452	4217900000	108	REST #11	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102982	12453	4217900000	108	REST #12	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102983	n12459	4217900000	108	REST #13	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102984	12455	4217900000	108	REST #14	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102985	12456	4217900000	108	REST #15	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102986	12457	4217900000	108	REST #16	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102987	12458	4217900000	108	REST #17	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102974	12444	4217900000	108	REST #2	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102988	12460	4217900000	108	REST #20	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102989	12461	4217900000	108	REST #21	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102990	12462	4217900000	108	REST #24	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102975	12445	4217900000	108	REST #3	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102976	12446	4217900000	108	REST #4	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102977	12447	4217900000	108	REST #6	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102978	12448	4217900000	108	REST #7	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102979	12449	4217900000	108	REST #8	PANHANDLE GRAY	7.0	KERR MCGEE CORP
8102980	12450	4217900000	108	REST #9	PANHANDLE GRAY	7.0	KERR MCGEE CORP
=M-M OIL CO				RECEIVED: 10/24/80 JA: TX			
8102861	>2416	4248131935	103	LOU ALICE ELLIS #1-T	TWIN BASIN (7175) (PROPO	400.0	TENNESSEE GAS PIPELI

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JC NO	TA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102787	21395	4239131364	103		T F WEST #1	BLANCO CREEK (3750)	0.0	HOUSTON PIPELINE CO
=HERRMANN PARTNERSHIP					RECEIVED: 10/24/80 JA: TX			
8102954	03936	4206500000	108		BURNETT #2 (#BW 25768)	WEST PANHANDLE FIELD	18.9	GETTY OIL CO
8102953	03936	4234100000	108		SNEED R C #1 (#BW 35141)	WEST PANHANDLE FIELD	6.9	COLORADO INTERSTATE
=HILLIARD OIL & GAS INC					RECEIVED: 10/24/80 JA: TX			
8102837	22050	4206730304	102		G B JOHNSON NO 1	KILDARE (SMACKOVER)	700.0	TEXAS EASTERN TRANSM
=HOUSTON OIL & MINERALS CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102870	22564	4238331536	103		MERCHANT ESTATE 13 #6	SPRABERRY (TREND AREA)	45.0	UNION TEXAS PETROLEU
=HYDROCARBON GATHERING INC					RECEIVED: 10/24/80 JA: TX			
8102879	22612	4206931075	103		W N LEHRER NO B-1	LEHRER (1750) FIELD	55.0	HOUSTON PIPE LINE CO
=IKE LOVELADY INC					RECEIVED: 10/24/80 JA: TX			
8102762	21099	4249500000	103		SEALY SMITH 31 NO 1	PALADIN (PENN)	108.0	EL PASO NATURAL GAS
8102808	21574	4241330420	103		VIRGIL J POWELL NO 1-C 72403	TILLERY (CANYON UPPER)	100.0	ATLANTIC RICHFIELD C
=J CLEO THOMPSON & JAMES CLEO THOMPS					RECEIVED: 10/24/80 JA: TX			
8102942	22916	4243500000	103		MAYER NO 1 = RRC #87093	SAWYER CANYON FIELD	155.0	NORTHERN NATURAL GAS
=J M HUBER CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102969	12151	4223330646	103		JOHNSON J NO LA	PANHANDLE WEST	78.0	COLORADO INTERSTATE
=KAISER-FRANCIS OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102827	21921	4248330637	103		FRANKLIN #1	WHEELER-PAN (HUNTON)	1000.0	PIONEER NATURAL GAS
=KEITH O GRAHAM					RECEIVED: 10/24/80 JA: TX			
8102853	22201	4205130489	102		J LYONS #1 (#12705)	GIDDINGS (AUSTIN CHALK)	215.0	CHAMPLIN PETROLEUM C
8102816	21710	4205130473	102		LACINA-SCHULTZ UNIT #2 (#12619)	GIDDINGS (AUSTIN CHALK)	259.0	CHAMPLIN PETROLEUM C
8102817	21711	4205130474	102		WEICHERT UNIT #2 (#12695)	GIDDINGS (AUSTIN CHALK)	142.0	CHAMPLIN PETROLEUM
=KEN ELLIS OIL CO					RECEIVED: 10/24/80 JA: TX			
8102966	10864	4242932015	103		GANN #1	IVAN NE (CONGL 4000)	530.0	LONE STAR GAS COMPAN
=KILROY CO OF TEXAS					RECEIVED: 10/24/80 JA: TX			
8102931	22872	4229732034	103		PATRICIA P CROCKER #1	SOL WEST (MACKHANK)	269.0	UNITED TEXAS TRANSMI
=L & L PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
8103014	15894	4246931383	103		C K MCCAN JR #5			
8102967	10985	4246931383	103		C K MCCAN JR #5 (81751)	SALEM	90.0	TEXAS EASTERN TRANSM
8102951	00573	4246931278	102		C K MCCAN JR ET AL #3	SALEM	90.0	TEXAS EASTERN TRANSM
=L & M OIL CO					RECEIVED: 10/24/80 JA: TX	SALEM	91.0	TEXAS EASTERN TRANSM
8102854	22219	4213331883	103		GROVES #1			
=L B SHERMAN					RECEIVED: 10/24/80 JA: TX		10.0	LONE STAR GAS CO
8102965	09082	4209330536	103		VETA MAY #1-A			
=LACY & BYRD INC					RECEIVED: 10/24/80 JA: TX	SIPE SPRINGS (MARBLE FAL	44.0	LONE STAR GAS CO OF
8102819	21762	4232930863	103		MIDKIFF 34 NO 1			
=LEEDE OIL & GAS INC					RECEIVED: 10/24/80 JA: TX	SPRABERRY (TREND AREA CL	65.0	EL PASO NATURAL GAS
8102875	22605	4210532593	103		UNIVERSITY 50A #8			
8102874	22604	4210532599	103		UNIVERSITY 50A #9	FARMER (SAN ANDRES)	10.0	J L DAVIS
=MATTHEWS JIM & CAROLYN					RECEIVED: 10/24/80 JA: TX	FARMER (SAN ANDRES)	10.0	J L DAVIS
8102914	22760	4213332130	103		MCGOUGH #1			
=MAY PETROLEUM INC					RECEIVED: 10/24/80 JA: TX	LAKE LEON (DUFFER) FIELD	62.0	LONE STAR GAS CO
8102889	22623	4229530741	103		NEIL #1 (87837)			
=MCCORMICK OIL & GAS CO					RECEIVED: 10/24/80 JA: TX	FOLLETT (MORROW)	365.0	NORTHERN NATURAL GAS
8102763	21100	4234931091	102		ROBERT MCGEHEE #1			
=MEADCO PROPERTIES					RECEIVED: 10/24/80 JA: TX	CHENEYBORO (COTTON VALLE	200.0	LONE STAR GAS CO
8102831	21969	4223531465	103		#1 A SUGG 3085 A (#85949)	ELA SUGG (WOLFCAMP)	73.0	NORTHERN NATURAL GAS
=MEMBOURNE OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102950	23792	4229530705	102		GEORGE E TRAVIS #1 ID #87239	LADY (UPPER MORROW)	0.0	NORTHERN NATURAL GAS
8102950	23792	4229530705	103		GEORGE E TRAVIS #1 ID #A7239	LADY (UPPER MORROW)	0.0	NORTHERN NATURAL GAS
=MOBIL PROD TEXAS & NEW MEXICO INC					RECEIVED: 10/24/80 JA: TX			

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JC NO	TA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8102766	21116	4250100000	103		M O MAHONEY NO 53	WASSON	46.7	SHELL OIL CO ET AL
*8102858	22357	4224900000	108		LA GLORIA GAS UNIT NO 2-T	LA GLORIA (CULPEPPER)	3.0	TRANSCONTINENTAL GAS
=MORAN EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
8102877	22609	4238331494	103		ROCKER B 84	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
=MOSBACHER PRODUCTION CO					RECEIVED: 10/24/80 JA: TX			
8102811	21648	4228730535	103		MRS JOHN CARMEAN ET AL NO 4	GIDDINGS (AUSTIN CHALK)	230.0	CLAJON GAS CO
=MURJO OIL & ROYALTY CO					RECEIVED: 10/24/80 JA: TX			
8102963	08803	4236700000	108		LADD-CARR A #1	BRAZOS EAST (STRAWN)	8.0	LONE STAR GAS CO
=NICO ENERGY CORP					RECEIVED: 10/24/80 JA: TX			
8102863	22441	4205130458	102		WHITENER #1 ID-12551	GIDDINGS (AUSTIN CHALK)	2737.0	CLAJON GAS CO
=NIGAS SUPPLY INC					RECEIVED: 10/24/80 JA: TX			
8102893	22635	4206530747	103		KEITH #6	PANHANDLE CARSON	52.2	PANHANDLE EASTERN PI
=NORTH STAR PETROLEUM CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102996	14104	4223300000	108		W A CARVER A-22 (00985)	PANHANDLE HUTCHINSON COU	4.9	PANHANDLE PRODUCING
=NORTHERN NATURAL GAS PRODUCING CO					RECEIVED: 10/24/80 JA: TX			
8102855	22260	4206530654	103		KIRBY NO 2	PANHANDLE-CARSON COUNTY	10.0	NORTHERN NATURAL GAS
=PANHANDLE PRODUCING COMPANY					RECEIVED: 10/24/80 JA: TX			
8102993	13622	4206500000	108		BURNETT B-1 (01639)	PANHANDLE CARSON COUNTY	5.0	GETTY OIL CO
8102994	13623	4206500000	108		BURNETT B-2 (01639)	PANHANDLE CARSON COUNTY	5.0	GETTY OIL CO
8103007	15129	4223300000	108		KINGSLAND NO 8 (01934)	PANHANDLE HUTCHINSON COU	0.2	PHILLIPS PETROLEUM C
=PAN OIL CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102824	21903	4236531015	103		MILL MEIRS NO 1	BETHANY (TRAVIS PEAK)	0.0	ARKANSAS LOUISIANA G
=PARKER & PARSLEY INC					RECEIVED: 10/24/80 JA: TX			
8102920	22826	4232930883	103		BROWN NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEUM C
8102919	22824	4246131520	103		MORGAN E NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEUM C
=PENNZOIL PRODUCING COMPANY					RECEIVED: 10/24/80 JA: TX			
8102857	22352	4235500000	103		E A KINSEY NO B-2-D	AGUA DULCE	55.0	UNITED GAS PIPE LINE
8102786	21383	4250331149	102		JENNINGS NO 39-D	JENNINGS W	550.0	NATURAL GAS PIPELINE
8102768	21142	4235531390	103		TALBERT NO 20	AGUA DULCE	365.0	UNITED GAS PIPE LINE
=PETROLEUM TECHNICAL SERVICE CO					RECEIVED: 10/24/80 JA: TX			
8102782	21255	4246131508	103		COWDEN ET AL NO 4	SPRABERRY (TREND AREA)	18.3	PHILLIPS PETROLEUM C
=PETROMARK MINERALS INC					RECEIVED: 10/24/80 JA: TX			
8102802	21525	4204100000	102		DIETRICH UNIT I NO 1	KURTEN (WOODBINE) FIELD	178.0	PRODUCERS GAS CO
8102802	21525	4204100000	103		DIETRICH UNIT I NO 1	KURTEN (WOODBINE) FIELD	178.0	PRODUCERS GAS CO
8102800	21521	4204100000	102		J D CONLEE NO 1	KURTEN (WOODBINE) FIELD	170.0	PRODUCERS GAS CO
8102800	21521	4204100000	103		J D CONLEE NO 1	KURTEN (WOODBINE) FIELD	170.0	PRODUCERS GAS CO
8102801	21523	4204100000	102		J D CONLEE NO 2		57.0	PRODUCERS GAS CO
8102801	21523	4204100000	103		J D CONLEE NO 2		57.0	PRODUCERS GAS CO
=PETROSIL RESOURCES INC					RECEIVED: 10/24/80 JA: TX			
8102760	21077	4228500000	103		HOWELL MILLER UNIT NO 1	SPEAKS N (FRIO)	58.0	SEAGULL PIPELINE COR
=PHILCON DEVELOPMENT CO					RECEIVED: 10/24/80 JA: TX			
8102892	22629	4235700000	108		MEKEEL #1	PARSELL (MORROW UPPER)	21.0	DIAMOND SHAMROCK COR
8102900	22672	4229500000	108		PETERSON #1	HORSE CREEK NW (MORROW L	15.0	DIAMOND SHAMROCK COR
=PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/24/80 JA: TX			
8103001	14845	4213507256	108		(04868) MILLARD-C NO 5	PENWELL (ELLENBURGER)	0.7	EL PASO NATURAL GAS
8102955	04538	4213504595	108		(15204) SLAT NO 8	TXL (WOLFCAMP NORTH)	4.5	SHELL OIL CO
8103018	16151	4223330582	103		PHILLIPS-EAGLE NO 2	W PANHANDLE	78.0	EL PASO NATURAL GAS
8103019	16152	4234130487	103		REEDER W H NO 3	W PANHANDLE	120.0	EL PASO NATURAL GAS
=PICKENS CO INC					RECEIVED: 10/24/80 JA: TX			
8102960	07701	4227331204	102		LEHMAN 5580 GAS UNIT NO 3	WICANDO SOUTH (5580)	180.0	HOUSTON PIPE LINE CO
=R L BURNS CORP					RECEIVED: 10/24/80 JA: TX			
8102797	21508	4247932040	103		PALAFOX 21-1	SEGUNDO (OLMOS)	55.0	TEJAS GAS CORP
=SANCHEZ-O'BRIEN MINERALS CORP					RECEIVED: 10/24/80 JA: TX			

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JD NO	RA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103006	15011	4229732036	102		GEORGE WEST TOWNSITE NO 2	GEORGE WEST TOWNSITE	900.0	UNITED TEXAS TRANSMI
*SAXON OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102997	14255	4239330849	103		UNIVERSITY 29 #1	SPRABERRY (TREND AREA)	12.8	PHILLIPS PETROLEUM C
8103002	14857	4238330854	103		WEATHERBY J #1	SPRABERRY (TREND AREA)	14.6	PHILLIPS PETROLEUM C
8103003	14858	4238330855	103		WEATHERBY J #2	SPRABERRY (TREND AREA)	16.1	PHILLIPS PETROLEUM C
*SHELL OIL CO					RECEIVED: 10/24/80 JA: TX			
8102840	02109	4242731349	102		MARTINEZ-STATE NO 3	RINCON N (VICKSBURG Y2)	100.0	LONE STAR GAS CO
*SIGNOR CORP					RECEIVED: 10/24/80 JA: TX			
8102957	06399	4208300000	103		LAMAR TURNER #3	BETLIN (FRY) FIELD	180.0	BRADY TEXAS MUNICIPA
*SOUTHLAND ROYALTY CO					RECEIVED: 10/24/80 JA: TX			
8102789	01416	4210532382	103		TODD 33 #1	WYATT	70.0	PERMIAN CORP
8102790	01419	4210532326	103		TODD 70A #1	HOWARD DRAW	70.0	PERMIAN CORP
8102788	01415	4210532438	103		TODD 70B #1	WYATT	75.0	PERMIAN CORP
*SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/24/80 JA: TX			
8102821	01811	4213500000	108		B H BLAKENEY -N- NO 1	GOLDSMITH EAST (GLORIETA	1.5	PHILLIPS PETROLEUM C
8102904	02680	4208130766	103		CENTRAL NATIONAL BANK NO 10	LYGAY	25.0	LONE STAR GAS CO
8102903	02679	4208130816	103		CENTRAL NATIONAL BANK NO 12	LYGAY	13.0	LONE STAR GAS CO
8103012	15859	4218300000	108		J C MCKINLEY NO 14	EAST TEXAS	0.7	UNITED GAS PIPE LINE
8102780	01186	4238300000	108		JOHN D CARR NO 1	SPRABERRY TREND AREA	9.0	EL PASO NATURAL GAS
8102770	01166	4222700000	108		M & B ROB NO 2	HOWARD-GLASSCOCK	1.0	PHILLIPS PETROLEUM C
8102822	01813	4213500000	108		PAUL MOSS UNIT NO 150	COWDEN SOUTH	2.0	ODESSA NATURAL CORP
8102779	01179	4213500000	108		PAUL MOSS UNIT NO 38	COWDEN SOUTH	1.0	ODESSA NATURAL CORP
8102778	01178	4213500000	108		PAUL MOSS UNIT NO 39	COWDEN SOUTH	1.0	ODESSA NATURAL CORP
8102777	01177	4213500000	108		PAUL MOSS UNIT NO 42	COWDEN SOUTH	0.6	ODESSA NATURAL CORP
8102776	01176	4213500000	108		PAUL MOSS UNIT NO 55	COWDEN SOUTH	1.5	ODESSA NATURAL CORP
8102775	01175	4213500000	108		PAUL MOSS UNIT NO 56	COWDEN SOUTH	1.5	ODESSA NATURAL CORP
8102774	01174	4213500000	108		PAUL MOSS UNIT NO 57	COWDEN SOUTH	1.5	ODESSA NATURAL CORP
8102773	01173	4213500000	108		PAUL MOSS UNIT NO 58	COWDEN SOUTH	2.0	ODESSA NATURAL CORP
8102772	01172	4213500000	108		PAUL MOSS UNIT NO 61	COWDEN SOUTH	1.0	ODESSA NATURAL CORP
8103020	16177	4235531379	102		STATE TRACT 423 NO 11	REDFISH BAY	1770.0	UNITED GAS PIPE LINE
8102899	02670	4233531577	103		V T MCCABE A NO 16	JAMESON NORTH (STRAWN)	19.0	LONE STAR GAS CO
8102905	02682	4233531576	103		V T MCCABE NO 25	JAMESON N (ELLEN)	5.0	LONE STAR GAS CO
8102932	02882	4208931068	103		M R FRNKA NO 4	MUSTANG CREEK	0.0	TEXAS EASTERN TRANSM
8102771	01171	4222700000	108		M R SETTLES NO 10	HOWARD-GLASSCOCK	0.4	PHILLIPS PETROLEUM C
*TENNECO OIL COMPANY					RECEIVED: 10/24/80 JA: TX			
8102906	02722	4239330771	103		CHAMBERS 2-10	MENDOTA NW (GRANITE WASH	198.0	PIONEER NATURAL GAS
*TEXACO INC					RECEIVED: 10/24/80 JA: TX			
8102841	02063	4224731117	102		A K EAST FEE #17	BLACK DIAMOND EAST (PETT	144.2	VALERO TRANSMISSION
8102839	02062	4224731115	102		A K EAST FEE #18	BLACK DIAMOND EAST (PETT	131.4	VALERO TRANSMISSION
8102820	01783	4210532478	103		A R KINCAID TRUST #6	DIONA (CANYON SAND)	144.0	NORTHERN NATURAL GAS
8102956	06092	4217900000	108		B H LOVE (NCT-1) #3	PANHANDLE EAST	10.6	COLTEXO CORP (1)
8102908	02730	4210532129	103		HELEN HENDERSON WILKINS #8	DAVIDSON RANCH (PENN 789	29.0	NORTHERN NATURAL GAS
8102916	02806	4216531638	103		SAM C JENKINS #4	JENKINS (SAN ANDRES)	17.0	PHILLIPS PETROLEUM C
8102915	02805	4216531668	103		SAM C JENKINS #5	JENKINS (SAN ANDRES)	8.6	PHILLIPS PETROLEUM C
8102958	06863	4226130437	102		YTURRIA L & C CO NCT-1 NO 40	CABAZOS	0.0	TENNESSEE GAS PIPELI
*TEXAS OIL & GAS CORP					RECEIVED: 10/24/80 JA: TX			
8103015	15898	4224531255	102		GILBERT #1	SOUTH BROUSSARD (2ND NUD	300.0	UNITED GAS PIPE LINE
8103015	15898	4224531255	103		GILBERT #1	SOUTH BROUSSARD (2ND NUD	300.0	UNITED GAS PIPE LINE
8102964	09077	4246931277	102		MIEBEL GAS UNIT #1	PRIDHAM LAKE (4400)	160.6	
8102860	02383	4207330351	102		NEW BIRMINGHAM MINERALS GU 2 #1	WHITE OAK CREEK (TRAVIS	150.0	
8102860	02383	4207330351	103		NEW BIRMINGHAM MINERALS GU 2 #1	WHITE OAK CREEK (TRAVIS	150.0	
8102809	01581	4223500000	103		WINTERBOTHAM C #2	DOVE CREEK (CANYON D)	400.0	COLUMBIA GAS TRANSMI

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JD NO	RA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*TOM BROWN INC					RECEIVED: 10/24/80 JA: TX			
8102785	01274	4232930841	103		ERWIN B #1	SPRABERRY (TREND AREA)	2.8	EL PASO NATURAL GAS
*TRINITY OIL & GAS CORP					RECEIVED: 10/24/80 JA: TX			
8102830	01952	4213332030	103		KYLE RICH B #3 (#15703)	FOSTER (MARBLE FALLS)	20.0	ODESSA NATURAL CORP
*TRIPLE L OIL CO INC					RECEIVED: 10/24/80 JA: TX			
8102968	11001	4248131588	102		CELESTINA NO 1 (77319)	NEW TAITON WEST (3350)	10.0	TENNESSEE GAS PIPELI
8102999	14641	4246931450	102		JOHN KEERAN 83155	KEERAN EAST (6940)	300.0	DELMI PIPELINE CO
8103000	14642	4246931450	102		JOHN KEERAN 83156	KEERAN EAST (7180	300.0	DELMI GAS PIPELINE C
*U S OPERATING INC					RECEIVED: 10/24/80 JA: TX			
8102866	02497	4228730570	103		BRENDA #1	GIDDINGS (AUSTIN CHALK)	180.0	PGP GAS PRODUCTS INC
8102907	02726	4228730558	103		CHERYL NO 1 (LEASE #12606)	GIDDINGS (AUSTIN CHALK)	0.0	PGP GAS PRODUCTS INC
*WAY & MILLER					RECEIVED: 10/24/80 JA: TX			
8102810	01640	4238331459	103		UNIVERSITY 11 #11	FARMER (SAN ANDRES)	11.5	NORTHERN NATURAL GAS
*WAYMAN W BUCHANAN					RECEIVED: 10/24/80 JA: TX			
8103010	15685	4236731106	103		NEAL UNIT #1	WEATHERFORD (ATOKA UPPER	52.9	ALEDO GAS CO LTD
*WES-MOR DRILLING INC					RECEIVED: 10/24/80 JA: TX			
8102952	01071	4242931945	103		J Q CORBETT JR NO 1	CORBETT (MARBLE FALLS)	40.0	PETROLEUM CORP OF TX
*WESTELY ENERGY CORPORATION					RECEIVED: 10/24/80 JA: TX			
8102888	02622	4210532571	103		SHANNON ESTATE NO 1	ENCONTRADO (PENN DETRITA	30.0	PHILLIPS PETROLEUM C
*WESTELY EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
8102803	01532	4203730193	103		FEAZELL UNIT NO 1-A (015844)	BEDFORD WYNNE (SHACKOVER	30.0	NATURAL GAS PIPELINE
*WHB EXPLORATION INC					RECEIVED: 10/24/80 JA: TX			
8103016	16021	4241900000	102		DAVIS-JONES	JOAQUIN SOUTHEAST (PALUX	365.0	TEXAS EASTERN TRANSM
*WILSON ENERGY INC					RECEIVED: 10/24/80 JA: TX			
8102901	02673	4210500000	103		UNIVERSITY 8 A #2	FARMER (SAN ANDRES)	17.0	BIG LAKE GASOLINE PL
8102902	02674	4210500000	103		UNIVERSITY 8 A #3	FARMER (SAN ANDRES)	2.0	BIG LAKE GASOLINE PL

OTHER PURCHASERS VOLUME NO 0312

8102759	EL PASO NATURAL GAS CO
8102833	UNITED TEXAS TRANS CO
8102858	NATURAL GAS P L CO OF AMER
8102865	LONE STAR GAS CO
8102878	EL PASO NATURAL GAS CO
8102886	AMOCO PRODUCTION CO
8102887	AMOCO PRODUCTION CO
8102992	TENNGASCO GAS GATHERING CO
8102998	AMOCO GAS CO
8103009	AMOCO GAS CO

BILLING CODE 8450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days after the date of publication of this notice in the **Federal Register**.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35213 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-7-000]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges

November 5, 1980.

Take notice that on October 31, 1980, Florida Gas Transmission Company (FGT) tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Original Volumes No. 1, 2 and 3.

The proposed rate changes would increase FGT's revenues from resale sales and transportation services by $20,228,541 based on the twelve months ended August 31, 1980, as adjusted.

FGT states that the increased rates are required to reflect higher levels of all costs of operation including the cost of labor, materials, depreciation and capital.

FGT states that copies of its rate filing were served on all the Company's jurisdictional customers and the Florida Public Service Commission. Also FGT states that Statement P will be filed within fifteen days of its filing.

Any person desiring to be heard or to make any protests with reference to said filing should on or before Nov. 20, 1980 file with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35214 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-2761, et al.]

Kerr-McGee Corporation, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

November 5, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-2761, June 19, 1979 [1]	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Phillips Petroleum Company, Hugoton Field, Texas County, Okla., and Sherman County, Tex.		
G-9224, Sept. 11, 1980 [2]	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Northern Natural Gas Company, Lee Plant located in Sections 30 and 31, Township 17S, Range 35E, Lea County, N. Mex.	(3)	14.65
CI62-507-000, D, Oct. 20, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Tex 77001.	Natural Gas Pipeline Company of America, Escobas and Martinez Fields, Zapeta and Jim Hogg Counties, Tex.	Leases have been released to the land owners by an Out of Court Settlement between the land owner and Gulf.	
CI67-1619-000, C, Oct. 27, 1980	Amoco Production Company, 1670 Broadway, Denver, Colo. 80202.	El Paso Natural Gas Company, Mocane Field, Beaver County, Okla.	(4)	14.65
CI77-334-001, C, Oct. 22, 1980	Southland Royalty Company, 1000 Fort Worth Club Tower, Forth Worth, Tex. 76102.	Transcontinental Gas Pipe Line Corporation, OCS-G-3119 Well No. 1 located in Vermilion Block 21, Offshore Louisiana.	(5)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-335-001, C, Oct. 22, 1980	....do	Florida Gas Transmission Company, OCS-G-3119 Well No. 1 located in Vermilion Block 21, Offshore Louisiana.	(5)	15.025
CI77-719-001, C, Oct. 24, 1980	Conoco, Inc., P.O. Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Company, East Cameron Block 33, Field, East Cameron Block 42, Cameron Parish, Offshore Louisiana.	(5)	15.025
CI78-473, Feb. 8, 1980 [6]	Texaco, Inc., P.O. Box 2100, Denver, Colo. 80201.	Colorado Interstate Gas Company, Table Rock Field, Sweetwater County, Wyo.	(5)	15.025

[1] Applicant is filing to notify the Commission that Docket No. G-2761 should be vacated and its FERC Gas Rate Schedule No. 8 should be rejected because it is being changed from a fixed rate sale to a percentage rate sale.
[2] Applicant requests a change in delivery point from the Lovington Plant to the Lee Plant.
[3] Applicant is filing under Amendatory Agreement dated 6-23-80.
[4] Applicant is filing under Gas Sales Contract dated 3-26-59, amended by Amendment dated 9-11-80.
[5] Applicant is filing under Gas Sale and Purchase Contract dated 9-1-76, amended by Amendment dated 9-29-80.
[6] Applicant is filing under Gas Sale and Purchase Contract dated 9-14-76, amended by Amendment dated 7-1-80.
[7] Applicant is filing under Gas Purchase and Sales Agreement dated 6-24-77, amended by Amendment dated 9-25-80.
[8] Applicant requests a change in delivery point from the Central Point in the Field to the Champlin Petroleum Company Processing Plant.
[9] Applicant is filing to amend its Contract under Amendment dated 1-16-80 and FERC G.R.S. No. 561.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-35215 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-514]

Mid Louisiana Gas Co.; Amendment to Application

November 5, 1980.

Take notice that on October 14, 1980, Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP80-514 an amendment [1] to its application filed August 22, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to include an additional condition that would attach to the certificate when issued, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its pending application it is requesting authorization to deliver natural gas to United Gas Pipe Line Company (United) for redelivery to Liquid Carbonic Corporation (Liquid Carbonic) at a plant in Geismar, Ascension Parish, Louisiana. It is stated that in the original proposal the certificate for service would have been conditioned in two respects: first, the service would be fully interruptible, and second, it would be subject to United's delivery of the gas to the Geismar plant. It is stated that in view of the priorities established in Sections 401 and 402 of the Natural Gas Policy Act of 1978, Applicant does not propose that the service be accorded priority for deliveries ahead of Applicant's other customers up to each customer's daily contract volume for other than interruptible service. Applicant proposes, therefore, that the authorization issued herein would condition the service to Liquid Carbonic as interruptible service under Section 13 of Applicant's FERC Gas Tariff, and that the service not be classified as an essential agricultural use or essential industrial process and fuel stock use, or otherwise be given priority ahead of Applicant's other customers.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35216 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The amendment was initially tendered for filing on October 14, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 27, 1980; thus, the filing was not completed until the later date.

[Docket No. CP80-548-001]

Texas Eastern Transmission Corp.; Amendment to Application

November 5, 1980.

Take notice that on October 30, 1980 Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521 Houston, Texas 77001, filed in Docket No. CP80-548-001 an amendment to its application filed September 15, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect an extension of a transportation agreement with Public Service Electric and Gas Company (Public Service), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that there is a currently effective transportation agreement between Applicant and Public Service dated September 11, 1980, which would provide for the transportation of natural gas. It is stated that Public Service purchases said gas up to 50,000 dekatherms equivalent per day from East Tennessee Natural Gas Company for the purpose of electrical generation. The transportation service, it is stated, is due to terminate on October 31, 1980.

It is stated that Applicant and Public Service have extended their gas purchase agreement until November 30, 1980. Applicant requests authorization for the extension in order to allow Public Service to reduce its reliance on imported oil for electric generation. It is stated that the extension would have no impact on Applicant's ability to render service to its customers under existing sales agreements, would not affect high priority needs, and would not result in curtailments for November 1980.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before

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November 17, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35217 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-16-000]

Toy Enterprizes; Filing of Petition for Review Under 42 U.S.C. 7194

Issued November 5, 1980.

Take notice that Toy Enterprizes on October 24, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 20, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 20, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb.

Secretary.

[FR Doc. 80-35218 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-106-001]

Trunkline Gas Co.; Proposed Changes

November 5, 1980.

Take notice that Trunkline Gas Company (Trunkline) on October 28, 1980, tendered for filing and revised tariff sheets as listed on the attached Appendices (1) and (2).

These revised tariff sheets were filed in compliance with the Commission's Orders dated June 27, 1980 and August 22, 1980 in Docket No. RP80-106. The Commission's Order of June 27, 1980, as amended August 22, 1980 conditionally accepted Trunkline's proposed revised tariff sheets as filed on May 30, 1980, subject to certain conditions. Trunkline states that the revised tariff sheets on the attached Appendices (1) and (2) are in compliance with those conditions.

Copies of this filing were served on Trunkline's jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35219 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-416]

ANR Storage Co.; Petition To Amend

November 6, 1980.

Take notice that on October 8, 1980, ANR Storage Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-416 a petition to amend the order issued August 22, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the expansion of a storage field boundary, the reconditioning of the existing production well, and the drilling of an additional well in Kalkaska County, Michigan, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order issued August 22, 1980, authorized it to develop the Cold Springs 31 Reservoir and the Excelsior 6 Reservoir, both located in Kalkaska County, Michigan, to provide 11,500,000 Mcf of gas storage to Southern Natural Gas Company. In developing these reservoirs, Petitioner states that it rehabilitated two existing wells, drilled nine new injection/withdrawal wells, and constructed a field meter station, a 7,500 horsepower compressor station, and 3.5 miles of various diameter pipeline.

Petitioner proposes herein to expand the storage field boundary to include the East Kalkaska 1 Reservoir in the east half of Kalkaska Township, Kalkaska County, Michigan, as a part of the storage reservoir. It is stated that the expansion is predicated on additional seismic information and data on bottom hole pressures which show a distinct possibility for communication on the western side of the Excelsior 6 Reservoir with the eastern side of the east Kalkaska Reservoir. Petitioner asserts that it is acquiring all necessary storage and mineral rights and gas producing property in the East Kalkaska 1 Reservoir. Petitioner further proposes to recondition the existing production well at East Kalkaska 1 to be used only as an observation well and to drill one additional well from the Excelsior II drilling pad which would be used for observation and possible injection/withdrawal, if required.

Applicant estimates the total cost of constructing the facilities to be $1,751,000 which would be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35333 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-20-000]

Columbia Gas Transmission Corp. and Transcontinental Gas Pipe Line Corp.; Application

November 6, 1980.

Take notice that on October 17, 1980, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-20-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas in interstate commerce and the construction and operation of the facilites necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose the exchange of natural gas in accordance with the terms of a gas exchange agreement dated October 10, 1980. It is stated that in order to effectuate said agreement it would be necessary for both Columbia and Transco to construct and operate natural gas facilities.

Applicants state that in Docket No. CP80-430 Columbia has requested authorization to increase Pennsylvania Gas and Water Company's (Penn Gas) contract demand by 10,000 dekatherm (dt) equivalent effective November 1, 1980. It is stated that under Subpart G of Part 284 of the Commission's Regulations the three companies have agreed to one-year transportation arrangement beginning November 1, 1980, which would provide for the transportation and delivery of volumes to Penn Gas by Transco for the account of Columbia. Columbia, it is stated, would reduce its receipts from Transco at an existing interconnection at Downingtown, Pennsylvania, and Transco would deliver equivalent volumes, up to 10,300 dt equivalent for Columbia's account to Penn Gas in Luzerne County, Pennsylvania.

It is further stated that the Applicants have agreed to a long-term exchange arrangement in order to continue the delivery of increased volumes to Penn Gas after October 31, 1981. Applicants state that Columbia would deliver natural gas to Transco during the storage injection period from April 1 through October 31 at an interconnection to be constructed between Applicants' systems near Renovo, Clinton County, Pennsylvania. It is stated that deliveries during the storage withdrawal period from November 1 through March 31 would be made at an interconnection to be constructed between Applicant's systems near Easton, Northampton County, Pennsylvania.

Applicants state that Transco would construct a tap on its Leidy Line in Clinton County for the Renovo exchange and a tap on its Leidy Line in Northampton County for the Easton exchange at an estimated total cost of $103,500, which cost would be reimbursed by Columbia.

Furthermore, Columbia proposes the construction and operation of the following:

(1) 8.9 miles of 24-inch transmission pipeline looping an existing 12-inch section of transmission Line No. 1804 in York and Lancaster Counties, Pennsylvania.

(2) A 650 horsepower compressor unit at Easton compressor station, 1.2 miles of 8-inch interconnecting pipline and appurtenant measuring and regulating facilities extending from Easton compressor station to Transco's Leidy Line, all in Northampton County, Pennsylvania. These facilities are necessary, it is stated, to have the required pressure to deliver volumes to Transco near the Easton compressor station during the winter period.

(3) A 375 horsepower compressor unit at Renovo compressor station, 0.5 mile of 8-inch interconnecting pipeline and appurtenant measuring and regulating facilites extending from Renovo compressor station to Transco's Leidy Line, all in Clinton County, Pennsylvania. It is stated that these facilities are necessary to provide the pressure required to deliver volumes to Transco near Renovo compressor station during the summer period.

It is stated that the estimated total construction cost for Columbia's proposed facilities would be $7,163,000. Columbia proposes to finance the facilities with funds on hand and with money provided by The Columbia Gas System, Inc., the sole owner of Columbia's outstanding securities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant ot the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35334 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP81-2-000]

Compass Petroleum Industries, Inc.; Application for Production-Related Cost Allowance

November 6, 1980.

Take notice that on October 6, 1980, Compass Petroleum Industries, Inc. (Applicant), P.O. Box 264, Beaver Dam, Kentucky 4230, filed an application in the form prescribed by §§ 271.1104 and 271.1105 of the Federal Energy

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Regulatory Commission Rules under the Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 et seq., (NGPA) to be allowed to collect $1.222 per Mcf in addition to the applicable NGPA maximum lawful price for certain sales of natural gas to Equitable Life Assurance Society of the United States.

Applicant asserts that this amount is necessary to recoup its losses due to shrinkage, Btu adjustment, compression/transportation, and cleaning (scrubbing) and without which applicant, a small producer, cannot continue to operate.

Any person desiring to be heard or to make any protest in this docket should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the action to be taken herein but will not serve to make the protestants parties to this proceeding. Any person wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with Commission Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35335 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-31-000]

Consolidated Gas Supply Corp.; Application

November 6, 1980.

Take notice that on October 24, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP81-31-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities at its Lost Creek Storage Pool, in Lewis and Harrison Counties, West Virginia, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant asserts that in recent weeks it has detected gas which has begun to emanate from an unused water well located near the southwestern boundary of its Lost Creek Storage Pool. Although the water well is stated to be only approximately 150 feet deep in contrast to the gas storage formation which is said to be approximately 1,600 feet deep, Applicant asserts that in cooperation with the West Virginia Office of Oil and Gas and other state agencies it has endeavored to determine whether storage gas has migrated into the shallow water-bearing formation and if not the source of the water-well gas.

To this end, Applicant submits that it has reduced the operating pressures in the affected area of the storage pool, collected and analyzed samples of the gas produced through the water well, conducted an on-the-ground survey of the area to ascertain whether gas is or has been detected at other points on the surface, closely monitored the pressures on wells in the area, and undertaken a well logging program designed to gather information concerning the condition of its active production and storage wells in the area. Applicant further submits that it has also begun to locate and re-enter several abandoned wells in the area in order to determine whether natural gas could be migrating into the shallow water-bearing formation by way of a casing rupture or a defective or damaged well plug.

Applicant proposes, herein, to recondition four wells on the southwestern boundary of the pool and utilize three of these wells for storage observation purposes. Applicant also proposes to recondition three abandoned wells in the protective area of the pool and to retain one of those wells for storage observation. Applicant asserts that retention of wells for observation purposes would permit it to monitor more closely the pressures and water levels in the southwestern portion of the pool.

The proposed construction is estimated to cost $1,643,248, which cost would be met by funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35336 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-2-000]

El Paso Natural Gas Co.; Application for Approval of an Extension of a Transportation Agreement

November 6, 1980.

Take notice that on October 1, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. ST81-2-000 an application pursuant to Section 284.106(c) of the Commission's Regulations under the Natural Gas Policy Act of 1978 for approval of an extension of a transportation agreement with Pioneer Corporation (Pioneer), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has agreed to a two-year extension of its transportation agreement with Pioneer to commence on January 1, 1981.

According to Applicant, it would receive natural gas purchased by Pioneer from Phillips Petroleum Company's Dumas Plant in Moore County, Texas. Applicant would transport up to 20,000 Mcf of natural gas per day with delivery to Pioneer at Mobil Oil Corporation's Waha Plant in Pecos County, Texas. Applicant contends that the total volume to be transported is currently inestimable.

Applicant would charge Pioneer a back-haul rate of 1.0 cent per Mcf of natural gas transported to recover operating costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before

November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35337 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-22-000]

El Paso Natural Gas Co.; Application

November 6, 1980.

Take notice that on October 17, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-22-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing March 3, 1981, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in transportation and sales service presently rendered by Applicant.

Applicant requests waiver of the total cost limitation of $300,000. It proposes to increase the total project limitation to $500,000. Applicant contends that such an increase is commensurate with the increases in the cost of equipment and expenses incident to the proposed facilities due to inflation. Such costs, it is asserted, would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35394 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-28-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

November 6, 1980

Take notice that on October 22, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-28-000 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(c) and § 157.7(e) of the Regulations thereunder (18 CFR 157.7(c) and 157.7(e)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1981, and operation of facilities to make miscellaneous rearrangements on its system and for permission and approval to abandon, during the calendar year 1981, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of the budget-application pursuant to § 157.7(c) is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant. It is stated that the total cost of such rearrangements would not exceed $300,000 which cost would be financed from cash on hand.

The stated purpose of the budget-application pursuant to § 157.7(e) of the Commission's Regulations is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

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application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35395 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-21-000]

Orange and Rockland Utilities, Inc.; Application

November 6, 1980.

Take notice that on October 17, 1980, Orange and Rockland Utilities, Inc. (Applicant), One Blue Hill Plaza, Pearl River, New York 10965, filed in Docket No. CP81-21-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to New York State Electric & Gas Corporation (NYSE&G) at a rate of 3,300 Mcf of gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in Docket No. G-9439 it was authorized to sell natural gas to NYSE&G for use in NYSE&G's Goshen, New York franhise area. It is stated that Applicant and NYSE&G entered into a service agreement dated January 31, 1973, providing that NYSE&G would take its entire requirements for gas for NYSE&G's own use and resale in the Goshen, New York, franchise area up to 2,900 Mcf of gas per day.

Applicant states that it has entered into a revised service agreement with NYSE&G dated September 12, 1980, which increases the volume of gas sold and purchased to 3,300 Mcf of gas per day. Applicant states that said increase is necessary to meet the demand in the relevant NYSE&G franchise area. It is stated that the demand represents increased high-priority load in the area.

No change in the tariff rate is herein proposed, it is stated. Applicant states that the requested increase would be available from Applicant's suppliers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35336 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-16-000]

Southern Natural Gas Co.; Application

November 6, 1980.

Take notice that on October 16, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in docket No. CP81-16-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of an interest in certain existing pipeline and related facilities presently owned and operated by Michigan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire a 16.67 percent interest in 0.8 mile of existing 10-inch diameter pipeline and related facilities which extends from the production platform in Vermilion Block 242 to a pipeline jointly owned by Mich Wis and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., in Vermilion Block 241, offshore Louisiana (Vermilion 242 lateral). Although Mich Wis presently owns 100 percent of the Vermilion 242 lateral, it has recently agreed to sell a 16.67 percent undivided interrest to United Gas Pipe Line Company subject to Commission approval, it is stated. Applicant asserts that Mich Wis would continue to operate and maintain the Vermilion 242 lateral.

Applicant states that it requires an interest in the Vermilion 242 lateral because it has acquired the purchase rights of one-sixth of the reserves underlying Vermilion Block 242 attributable to the interest of Getty Oil Company.

Applicant estimates the cost of the proposed acquisition of the Vermilion 242 lateral to be $500,000 which would be financed initially through short-term financing and/or cash from current operations and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35339 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-388]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Amendment to Application

November 6, 1980.

Take notice that on September 30, 1980,[1] Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-388 an amendment to its pending application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize transportation and delivery of all or a portion of gas dedicated to Orange and Rockland Utilities, Inc. (Orange and Rockland) to Texas Gas Transmission Company (Texas Gas) for injection into Texas Gas' storage facilities for the account of Orange and Rockland and to deliver equivalent volumes to Orange and Rockland during the period from November 1, 1980, through April 30, 1981, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application herein sought authorization to transport up to 50,000 Mcf of natural gas per day for Orange and Rockland which volume was to be purchased by Orange and Rockland from East Tennessee Natural Gas Company for use in Orange and Rockland's electric generating stations to displace fuel oil with such requested authorization to extend through August 31, 1980, the then termination date of the fuel shortage emergency period. It is further stated that the transportation service has been rendered during such period pursuant to temporary certificate authorization issued to Applicant on June 5, 1980, as extended by order issued August 12, 1980, and again by order issued September 17, 1980, which extended the period through October 21, 1980. The volumes being transported pursuant to such temporary certificate authorization are presently being delivered to Orange and Rockland at Applicant's existing Pearl River delivery point in Rockland County, New York, it is said.

It is further stated that Orange and Rockland has now advised Applicant that it would be unable to receive all of the total volume of 50,000 Mcf per day at Pearl River during the period ending October 31, 1980. Applicant, therefore, proposes to transport and deliver all or a portion of said volume of 50,000 Mcf per day during the remainder of such period to Texas Gas for injection into Texas Gas' storage facilities for the account of Orange and Rockland during the period from November 1, 1980, through April 30, 1981. Applicant agrees to transport and deliver to Orange and Rockland at Pearl River volumes equivalent to such stored volumes up to 50,000 Mcf per day for use by Orange and Rockland to displace fuel oil in its electric generating stations.

Applicant asserts that it would deliver the gas to Texas Gas for injection into storage at Applicant's existing Greenville, Mississippi, delivery point to Texas Gas in Washington County, Mississippi. The receipt point from Texas Gas for the storage withdrawal gas would be at Applicant's existing Egan D interconnection with Texas Gas located in Acadia Parish, Louisiana, it is asserted.

Applicant further asserts that the total of the volumes to be transported for Orange and Rockland would not exceed 50,000 Mcf on any day and estimates that during the injection period ending October 31, 1980, it would deliver approximately 35,000 Mcf per day to Texas Gas for injection into storage with the remaining approximately 15,000 Mcf per day to be delivered directly to Orange and Rockland at Pearl River, New York.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35340 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This amendment was initially tendered for filing on September 30, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 9, 1980; thus the filing was not completed until the latter date.

[Docket No. CP81-25-000]

United Gas Pipe Line Co.; Application

November 6, 1980

Take notice that on October 22, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-25-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tenneco Oil Company, a Division of Tenneco Inc. (Tenneco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 20,000 Mcf of natural gas per day for Tenneco pursuant to a gas transportation agreement dated September 26, 1980. It is stated that Tenneco has said gas available in the Haynesville Field, Claiborne Parish, Louisiana. It is stated that under the agreement, Applicant would receive the gas by or for Tenneco's account at a mutually agreeable point near the Stephen's Plant, Claiborne Parish, Louisiana, and would deliver equivalent volumes, less 2.3 percent for fuel and unaccounted for gas, to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) for Tenneco's account at the existing points of interconnection between Applicant and Tennessee at (i) Vinton, Cameron Parish, Louisiana, (ii) Cocodrie, Terrebonne Parish, Louisiana, (iii) Bayou Sale, St. Mary Parish, Louisiana, and/or (iv) at any other mutually agreeable existing points.

Applicant states that it would construct and operate any facilities necessary to receive the gas under its budget-type authorization. Applicant states that Tenneco would reimburse Applicant for 64 percent of the expense of installing these facilities. The measuring facilities for delivery of the gas to Tennessee are in existence, it is stated.

It is stated that Tenneco would pay Applicant an amount per Mcf equal to

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Applicant's jurisdictional transportation rate in effect from time to time in Applicant's Northern Rate Zone as such may be determined by Applicant based on rate filings made from time to time with the Commission. Applicant states that the current jurisdictional transportation rate is 19.32 cents per Mcf.

Applicant states that the transportation agreement would be for a term of five years beginning on the date deliveries commence and continuing from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35341 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-24]

United Gas Pipe Line Co. and Arkansas Louisiana Gas Co.; Petition To Amend

November 6, 1980.

Take notice that on October 10, 1980, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Arkansas Louisiana Gas Company (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP77-24, a joint petition to amend the order issued January 13, 1977,[1] as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize additional points of exchange between United and Arkla, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that they have been authorized to exchange up to 1,185 Mcf of natural gas per day at eleven points pursuant to the gas exchange agreement between United and Arkla dated March 14, 1976, as amended. Petitioners herein request the following additional points of exchange pursuant to an amendatory letter agreement between them dated July 21, 1980.

Proposed Delivery Points

(1) 200 Mcf per day attributable to Arkla Exploration Company's (AEC) interests in the Triton O. B. Clinton No. 1 well and the Triton H. P. Clinton No. 1 well would be delivered to United at a mutually agreeable point in Jackson Parish, Louisiana.

(2) 1,000 Mcf per day, attributable to AEC's interests in the Triton L. James Oxford No. 1 well, the Triton Kavanaugh No. 1 well and the AEC Kavanaugh No. 1 well would be delivered to United at a mutually agreeable point in Jackson Parish, Louisiana.

Proposed Redelivery Points

(1) 260 Mcf per day from Amoco's 26.15 percent interest in the Bartlett and Bailey Unit #1 well located in the southeast corner of the C. Yarborogh Survey, A-816, Harrison County, Texas.

(2) 1,000 Mcf per day attributable to Amoco's interest in the John D. Brooks No. 1 well, would be delivered to Arkla at a mutually agreeable point on Arkla's pipeline in the vicinity of the Robert Maxwell Survey, A-266, Marion County, Texas.

(3) The quantity of gas that would be redelivered by United to Arkla at Bistineau Storage Field in Bienville Parish, Louisiana, at which point United injects gas into such storage facility, would be the difference between (i) the sum of the deliveries by Arkla to United at the herein proposed and previously authorized delivery points and (ii) the sum of the redeliveries by United to Arkla at the herein proposed and previously authorized redelivery points. United would credit Arkla's account of gas in storage each month with a volume of gas equal to the sum of the differences hereinabove stated, less compressor fuel required for injection. In the event the volume redelivered by United exceeds the volume delivered by Arkla to United, then Arkla would deliver to United a volume equal to the difference of redelivered and delivered volumes prior to injection at Bistineau Storage.

Petitioners state that the metering and regulating equipment required at the delivery points in Jackson Parish, Louisiana, and redelivery point in Marion County, Texas, would be installed and operated by United under its budget-type authority. It is stated that the required facilities at the proposed redelivery point in Harrison County, Texas, are in existance and would be owned and operated by Arkla. Petitioners state that they do not propose any increase in total volumes to be exchanged.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35342 Filed 11-12-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By point regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180518; PH-FRL 1666-8]

California Department of Food and Agriculture; Issuance of Specific Exemption To Use Ethephon as a Plant Regulator

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use ethephon to hasten maturity of grapes grown for fresh market and raisin production on 82,000 acres of grapes in California. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, ethephon is needed to accelerate the maturity of table grapes (Emperor, Tokay, and Thompson seedless) and raisin grapes (Thompson seedless) in order to avoid damage from rainfall and frost. In addition to early maturation, use of Ethrel, which contains the active ingredient (a.i.) ethephon, will ensure a more uniform development of color in table grapes which is essential for fresh market acceptance, the Applicant claims. Grapes with a less than desirable color must often be sold to wineries at a reduced price. Growers often leave fruit on the vines longer so that acceptable coloring is developed. However, this increases the chances of losses due to rainfall (which favors fungal infections) or frost.

California ranks number one in production of grapes in the United States with 576,000 acres producing nearly 4 million tons of grapes annually, valued at $543 million. In 1978, the Applicant estimated that use of ethehon could have averted from 40-50 percent of the losses incurred because of rainfall and/or frost. It is estimated that 150,000 tons of raisins with a market value of $240 million were lost in 1978.

The Applicant proposed to make one application of ethephon at a dosage rate of 0.25-0.5 pound a.i. per acre using ground equipment, with a preharvest interval of 30 days. The standard California requirements for obtaining a permit from a County Agricultural Commissioner, before applying a pesticide under a specific exemption, will apply here also. Application will be made in accordance with California closed mixing system regulations.

EPA has determined that residue levels of ethephon are not likely to exceed 2 parts per million (ppm) in or on grapes, 8 ppm in grape juice, 10 ppm in grape pomace, 12 ppm in raisins, and 65 ppm in raisin waste from the proposed use. These levels have been judged adequate to protect the public health. There are established tolerances for ethephon ranging from 0.1 ppm on coffee to 30 ppm on blackberries and peppers. EPA has also determined that this use of ethephon is not likely to have any adverse environmental effects.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the growth regulator noted above until October 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Union Carbide product Ethrel (EPA Reg. No. 264-267), which contains the a.i. ethephon [(2-chloroethyl) phosphonic acid] may be applied at a dosage rate of 0.25 pound to 0.50 pound a.i. per acre. A given acreage may be treated only once. Applications are to be made with ground equipment using from 30 to 300 gallons of water per acre.

2. Up to 55,000 acres of Thompson seedless grapes grown for raisin production may be treated with ethephon. Up to 6,000 acres of Tokay and 21,000 acres of Emperor grapes may also be treated with ethephon. A total of 41,000 pounds a.i. are authorized.

3. All applicable label directions, precautions, and restrictions must be followed. Before ethephon is used under this exemption, a permit must be obtained from the Country Agricultural Commissioner. A written recommendation, which substantiates the need for treatment, shall be obtained from a licensed agricultural pest control advisor or a University of California farm advisor before a permit is requested.

4. Pesticide dealers must not sell ethephon for use on grapes unless such a permit is presented. Dealers shall also maintain records of sale of ethephon for use under this specific exemption.

5. All applications of ethephon under this specific exemption shall be made by, or under the supervision of, an applicator State-certified for this particular category of pest control and shall be made in accordance with California closed mixing system regulations.

6. Applicators shall submit a report to the County Agricultural Commission within 7 days of treatment.

7. The County Agricultural Commission, under the Applicant's auspices, shall monitor use of ethephon under this exemption.

8. The following commodities with residues of ethephon not exceeding the indicated levels may enter interstate commerce: fresh grapes—2.0 ppm; grape juice—8.0 ppm; grape pomace—10.0 ppm; raisins—12.0 ppm; and raisin waste—65.0 ppm. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

9. A 14-day pre-harvest interval must be observed.

10. The EPA shall be immediately informed of any adverse effects resulting from the use of ethephon under this specific exemption.

11. The Applicant is responsible for ensuring that all of the provisions and restrictions of this specific exemption are met and must submit a final report which summarizes the results of this program by the end of March, 1981.

Dated: November 6, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35273 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180521; PH-FRL 1666-1]

Minnesota and North Dakota; Issuance of Specific Exemptions To Use Asulox on Flax

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued specific exemptions to the Minnesota and North Dakota Departments of Agriculture (hereafter referred to as "Minnesota," "North Dakota," or the "Applicants") to use Asulox on 32,000 acres of flax in five counties in northwest Minnesota and on 68,600 acres in six counties in North Dakota to control wild oats, wild buckwheat, and foxtails. These specific exemptions are issued under the Federal Insecticide Fungicide and Rodenticide Act.

DATE: The specific exemptions expire on October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs.

Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460. (202-426-223).

SUPPLEMENTARY INFORMATION: Flax does not compete well with weeds; weed infestations result in poor stands of flax by reducing germination and competing with the developing flax plants. Wild oats and foxtails are common weed pests of flax. According to the Applicants, these weeds are present in all areas where flax is produced, and due to heavy snowfall this past winter, heavy weed growth delayed planting and shortened the time for use of preplant herbicides.

Eptam, Avadex, Dalapon, Carbyne, MCP Amine and Bromoxynil are registered for selective weed control in flax. According to the Applicants, the registered alternative pesticides are either not effective or are not acceptable control methods for wild oats, wild buckwheat and foxtails for this season's wet conditions.

Minnesota reports that Kittson, Lake of the Woods, Marshall, Pennington, and Roseau Counties, where flax is a major crop, grow from 75,000 to 95,000 acres of flax annually. Significant losses in agricultural income may be incurred, the Applicants claimed, if the exemptions were not granted.

North Dakota reports that Bottineau, Cavalier, Pierce, Pembina, Rollette, and Towner Counties annually grow about 98,000 acres of flax.

The Applicants proposed to use an asulam formulation, Asulox, EPA Reg. No. 359-662, in a single post-emergence application when wild oats are in the three- to four-leaf stage. Applications will be made by both private and commercial State-certified applicators using both ground and air equipment in Minnesota and ground equipment only in North Dakota in the counties named above.

EPA has determined that the available data are adequate to support the proposed use of Asulox on flax. Residues of the active ingredient (a.i.) asulam are not likely to exceed 2.0 parts per million (ppm) in flax seed and its fractions or 2.5 ppm in flax straw. EPA has deemed these levels to be adequate to protect the public health. Appropriate crop rotation restrictions have been imposed. No unreasonable adverse effect on the environment from this use of asulam is anticipated.

After reviewing the application and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until October 31, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single post-emergence application of Asulox (EPA Reg. No. 359-662) is authorized.
2. Application shall be made by air and/or ground equipment in Minnesota and by ground equipment in North Dakota, at a rate not to exceed 1.25 pounds a.i. per acre.
3. A maximum of 10,000 gallons of formulation may be applied to 32,000 acres of flax in the five Minnesota counties mentioned above; a maximum of 68,000 acres of flax in the six North Dakota counties named above may be treated.
4. Applications will be made when wild oats are in the 3-4 leaf stage.
5. All applications shall be made by State-certified private and commercial applicators.
6. Precautions shall be taken to avoid or minimize spray drift from target area. Application may not be made when weather conditions favor spray drift.
7. Residue levels of asulam are not expected to exceed 2.0 ppm in flaxseed and its fractions (meal, oilseed cake, refined oil, and soapstock) and 2.5 ppm in the flax straw. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of these actions. Any resulting residues in meat, milk, poultry, and eggs will be well below detectable levels (0.05 ppm in meat, 0.025 ppm in milk, and 0.1 ppm in poultry tissues and eggs).
8. Crops other than small grains may not be planted in the treated area within 12 months of application. Small grain crops may not be planted within ten months of application. Root crops may not be planted in the treated area within 18 months of application. Fodder from grain crops rotated to treated flax fields may not be grazed or cut for forage.
9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed.
10. Application of Asulox to flax may result in crop injury and reduction in yield under stress conditions or if the herbicide is applied at stages of growth other than those specified.
11. The EPA shall be immediately informed of any adverse effects resulting from the use of Asulox in connection with these exemptions.
12. Each Applicant is responsible for ensuring that all of the provisions of its specific exemption are met and each must submit a report summarizing the results of this program by January 15, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 6, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35270 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-32-M

[RP FRL 1563-2]

Mutagenicity Risk Assessments; Proposed Guidelines

October 30, 1980.

AGENCY: Environmental Protection Agency.

ACTION: Proposed guidelines for Mutagenicity Risk Assessments.

SUMMARY: The Environmental Protection Agency has developed Guidelines for Mutagenicity Risk Assessments (Guidelines). These Guidelines will be used within the policy and procedural framework provided by the various statutes which EPA administers, to guide Agency analysis of mutagenicity data.

These guidelines were developed by an Agency-wide working group, under the direction of the Reproductive Effects Assessment Group (REAG). REAG is an advisory body located within the Agency's Office of Research and Development, which serves as the senior Agency technical review group for mutagenicity assessment performed by Agency program offices. A preliminary draft of the Guidelines was sent for review to approximately 30 scientists in the field of chemical mutagenesis within government, universities in the United States and abroad, and the private sector. In general, the comments received were favorable, and changes in the draft were made, as appropriate, in response to them. In addition to soliciting public comments on the Guidelines by publication of this **Federal Register** Notice, the Agency is providing them to the Agency's Science Advisory Board for review.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Kuroda, 202/426-2275.

DATES: Comments must be submitted by February 11, 1980.

ADDRESS: Reproductive Effects Assessment Group (RD-689), Office of Health and Environmental Assessment, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTAL INFORMATION:

I. Introduction

As a result of the progress in the control of infectious diseases, increase in average human lifespans, and better procedures for identifying genetic disorders, a considerable heritable genetic disease burden has been recognized in the human population. It is estimated that at least 10% of all human disease is genetically related, resulting from changes in the composition or arrangement of genes and chromosomes (1, 2). Such genetic diseases can lead to structural or functional health impairments. Moreover, many of these diseases are expressed in infancy and in early childhood and are chronic in nature. As a result, they cause a severe impact upon the affected individuals and their families in terms of physical and mental suffering and economic losses, and upon society in general, which may often become responsible for institutional care. Some examples of genetic diseases and syndromes genetically based include Down's syndrome and Klinefelter's syndrome, cystic fibrosis, hemophilia, sickle cell anemia, and achondroplastic dwarfism. Other commonly recognized diseases which are likely to have a genetic basis include hypercholesterolemia, rheumatic fever, hypertension, pyloric stenosis, glaucoma, allergies, and several types of mental retardation. These diseases are only a few of the thousands which are associated with genetic errors (3).

Mutations are largely recognized as being deleterious to the organisms receiving them. The adverse effects may be manifested at the biochemical, cellular, and physiological levels of organization. Although mutations are the building blocks for further evolutionary change of species, it is believed that increases in the mutation rate above the spontaneous level will lead to an accumulation of deleterious mutations in the human population (4). Since the existing incidence of human genetic disease is already sizable, the Agency wants to control exposures to chemicals which may add to this existing burden.

Because of the technical and industrial expansion during the last two decades, a large number of chemicals have been released into our environment. Some have been shown to have mutagenic activity in mammalian and submammalian test systems, and thus have the potential to increase genetic damage in the human population. Chemicals with mutagenic activity in various test systems have been found widely distributed among drugs, food additives, cosmetics, industrial compounds, pesticides, and consumer products. As our knowledge of genetics and disease etiology increases, it is reasonable to believe that we will become aware of some chemically-induced human genetic effects. The extent to which exposure to these natural and man-made environmental agents may have increased the amount of genetic damage in the present human population and contributed to the mutational "load" that will be transmitted to future generations is unknown at this time. Since the prospect of curing most heritable diseases caused by mutagens in the near future is unlikely, minimizing exposure to mutagens is among the best available means to protect against further deterioration of the human gene pool.

This document describes the procedures that the Environmental Protection Agency (EPA) will follow to evaluate the risk associated with the exposure of humans to chemical mutagens. Previously, the Agency indicated its intent to develop procedures in the "Criteria for Evaluating the mutagenicity of chemicals" which describe the basic concerns and need for such a document (5). These procedures will ensure quality and consistency in the Agency's scientific risk assessments for mutagenic effects. The necessity for a consistent approach to evaluate the mutagenic risk from chemical substances arises from the authority conferred upon the Agency by a number of statutes to regulate potential mutagens. These statutes include the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances Control Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act.

The mutagenicity risk assessments prepared pursuant to these guidelines will be utilized within the requirements and constraints of the applicable statutes to arrive at regulatory decisions concerning mutagenicity. The standards of the applicable statutes and regulations may dictate that additonal considerations, e.g., the economic and social benefits associated with use of the chemical substance, will come into play in reaching appropriate regulatory decisions.

In order to ensure the quality and consistency of the Agency's scientific risk assessments, EPA has created the Reproductive Effects Assessment Group (REAG) in its Office of Research and Development. This group will have the responsibility for carrying out an oversight function for the Agency's risk assessment activities to ensure consistent application of mutagenicity risk assessment procedures, as well as the responsibility to conduct mutagenicity risk assessments for program offices when deemed necessary. The REAG will utilize, as appropriate, expert consultants and advisors from various Federal agencies, academia, and the private sector to assist in reviewing mutagenicity risk assessments performed by the program offices or to assist REAG in performing risk analyses at the request of the program offices.

The assessment of heritable mutagenic risk to humans involves a two-step process. First of all, the mutagenicity of the chemical must be determined, and secondly, evidence must be evaluated to determine if the chemical reaches or affects gonadal organs. Results from such an evaluation can be combined with expected human exposure information, when available, and the impact of the mutagenic risk for human populations can be estimated to the extent possible.

II. Concepts Relating to Heritable Mutagenic Risk

For the purposes of these guidelines, a mutagen is defined as a chemical substance or mixture of substances that can induce alterations in the DNA of either somatic or germinal cells of organisms. The Agency is concerned with the risk associated with both germ cell mutations and somatic mutations. Mutations carried in germ cells can be inherited by future generations and contribute to genetic disease, whereas mutations occurring in somatic cells may be implicated in the etiology of several disease states, including cancer (6,7). These guidelines, however, only concern genetic damage as it relates to germ cell mutations. The position on the use of mutagenicity test results in the assessment of carcinogenic risk has been described in the Agency's Interim Cancer Assessment Procedures (8).

The potential for mutagenic risk to germ cells can be identified on the basis of tests involving either germ or somatic cells. In the case of somatic cell tests, however, the quantitation of mutagenic risk depends on evidence that the chemical or its metabolites reaches or affects a critical target (DNA) in germinal tissue.

There are several mutagenic endpoints of concern to the Agency. These include point mutations (i.e., change in the base sequence of DNA) and structural and numerical chromosome aberrations. Structural aberrations include deficiencies, duplications, inversions, and translocations, whereas numerical aberrations refer to gains or losses of whole chromosomes (aneuploidy) or sets of chromosomes (haploidy, polyploidy). The Agency's Office of Pesticide Programs already has

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published various testing standards for the detection of mutagenic effects (9).

For some mutagenic mechanisms, it is conceivable that only one or a few molecules of the active compound may cause heritable changes in DNA. Mutagenic effects may also arise by mechanisms not directly related to chemical alterations of DNA, such as interference with DNA synthesis, DNA repair, or nuclear division processes.

III. Rationale for Using Nonhuman Test Systems

The virtual universality of DNA as the genetic material and of the genetic code provides a rationale for using various non-human test systems to predict the intrinsic mutagenicity of test chemicals. Additional support is provided by the observation that chemicals causing genetic effects in one species or test system frequently cause similar effects in other species or systems. Although cells of any species could theoretically be used to detect and predict genetic change in other species, certain test systems offer notable advantages, such as increased sensitivity; ease and speed of conducting the tests; low cost; anatomical, histological, and/or metabolic similarities to humans; suitability for handling large numbers of test organisms; a large data base; and a basis for characterizing genetic events.

Nonhuman test systems must be used because of the lack of suitable epidemiological data on germ cell mutations in humans. Clear epidemiological evidence for an increased mutation rate in humans due to exposure to a chemical substance is unavailable at this time. Presently only a very few of the estimated many thousands of genes in the human genome are useful as markers in determining the point mutation rates within human populations; there is a huge amount of genetic variability in the human population; and humans have a long generation time. Dominant and sex-linked recessive mutations can be detected in the first generation following treatment; however, autosomal recessive mutations and those affecting multifactorial traits largely go unnoticed because they are not recognized in the heterozygous state. Information on chromosomal aberrations induced in humans can be obtained with cytological techniques, but this information is limited. Thus, in most cases, although mutational changes occur in humans, they will be unobserved or unexpressed until future generations.

IV. Risk Assessment

A. Testing Systems

Assessing risks as a result of exposure to chemical mutagens is a complex task because of the diversity in chemical structure of mutagens and the various ways they can interfere with genetic processes. Therefore, in order to adequately assess the mutagenic potential of a chemical, data from several test systems may be needed to evaluate the ability of a chemical to produce chromosomal alterations, point mutations, and primary DNA damage (manifested by DNA repair or recombinational events). There are many testing systems currently available which can contribute information about the mutagenic potential of a test compound.

Test systems for detecting point mutations include those in bacteria, eukaryotic microorganisms, insects, and mammalian somatic cells in culture, as well as tests for detecting germinal mutations in intact mammals (e.g., the mouse specific locus test). Positive results in a mouse specific locus test argue strongly that a chemical is a potential human mutagen because the test demonstrates the mutation occurs in germinal cells and is transmitted to the next generation. However, since the development of mouse specific locus data is limited by the requirements for special strains of mice and a large number of test animals, it is not expected that many chemicals will be tested using this system. To obtain data on a large number of environmental pollutants, it will be necessary to rely on other tests to assess the risk of point mutations. Although prokaryotes, lower eukaryotes, and mammalian cells in culture do not have the ability to carry out all types of metabolic conversions that occur in intact mammals, the addition of a metabolic activation system derived from mammalian tissues has made these systems a valuable tool for detecting mutagens.

For detecting chromosomal aberrations, the following test systems have been employed: *in vitro* and *in vivo* mammalian cytogenetic tests, insect tests for heritable chromosome effects, dominant lethal tests in rodents, the heritable translocation test in rodents, and the mouse sex chromosome loss test. The heritable translocation test in rodents is among the best available tests for detecting heritable chromosomal rearrangements in mammals; the mouse X-chromosome loss test is a value in detecting the unequal distribution of chromosomal material during gametogenesis.

Other tests have been designed to detect nondisjunction (unequal distribution of chromosomes during cell division) in such diverse systems as the mouse, *Drosophila*, fungi, and mammalian cells in culture. The present data base for these systems, however, is limited at this time. Primary DNA damage which provides information bearing on the mutagenicity of a chemical can also be detected by a variety of test systems, such as unscheduled DNA repair synthesis in mammalian cells, mitotic recombination in yeast, and sister-chromatid exchange in mammalian somatic and germ cells.

The test systems mentioned above are not necessarily the only test systems that will provide the best evidence of mutagenicity. These systems are enumerated merely to demonstrate the breadth of the available techiques for assessing mutagenic potential, and to indicate the types of data which the Agency will consider in its evaluation of mutagenic potential. Most systems possess certain limitations which must be taken into account. The selection and performance of appropriate tests for evaluating the risks associated with human exposure to any suspected mutagen will depend on sound scientific judgment and experience, and may necessitate consultation with geneticists familiar with the sensitivity and experimental design of the test system in question. In view of the rapid advances in test methodology, the Agency expects that more relevant tools for predicting human mutagenic potential will become available with time. The Agency will closely monitor developments in mutagenicity evaluation and will refine its risk assessment scheme as better test systems become available.

B. Weight-of-Evidence Approach

The judgment as to whether a chemical substance is likely to be a potential human mutagen will be based on a weight-of-evidence approach that involves and considers the quality and adequacy of all the available data.

A positive response in the mouse specific locus test alone can provide strong evidence to regard a chemical as a potential human mutagen. As an alternative to the mouse specific locus test, positive responses in any two different point mutation test systems plus evidence for the presence of the test substance and/or its metabolites in mammalian gonadal organs also provides strong evidence that a compound is a potential human mutagen. Positive results in at least two systems are desirable because of the possibility of obtaining false positive or species-specific positives.

The heritable translocation test or the X chromosome loss test for chromosomal alterations in mice can provide equally strong evidence that a chemical is a potential human mutagen. Both tests detect events that are induced in treated mammals and transmitted to progeny where they are scored. In the absence of positive findings in these two test systems, positive results in two *in vivo* somatic cell cytogenetic test systems or in an *in vitro* cytogenetic test system and an *in vivo* somatic cell cytogenetic test system, coupled with evidence for the presence of the test substance and/or its metabolites in mammalian gonadal organs, will provide strong evidence that a compound is a potential human mutagen.

The test systems described here may not detect all the genetic events that are of concern to humans. Furthermore, the sensitivity of some of these systems to detect mutations is not known and may be low for certain chemical classes. Nevertheless, positive responses in these tests currently provide the best experimental evidence that a chemical has the potential to produce genetic damage in people.

If data suitable for applying the criteria just described are not available, then the chemical substance under consideration will be assessed by examining all data that give insight to its mutagenic activity. The following factors will be considered:

1. Genetic endpoints (e.g., point mutations, chromosomal mutations) detected by the test systems.
2. Sensitivity and predictive value of the test systems for various classes of chemical compounds.
3. Number of different test systems used for detecting each genetic endpoint.
4. Consistency of the results obtained in different test systems and different species.
5. Whether the tests are conducted in accordance with appropriate test protocols agreed upon by experts in the field.
6. Evidence that a chemical reaches or affects the germinal tissue, as provided by such sources as data demonstrating the alkylation of DNA or other cellular macromolecules, unscheduled DNA synthesis, sister chromatid exchange, or chromosome aberrations, in germinal cells; and non-specific accumulation of radioactive label in the gonads following administration of the labeled chemical. Other relevant evidence includes adverse gonadal effects following acute, subchronic or chronic toxicity testing; and adverse reproductive effects, such as decreased fertilization index, reduced sperm count, or abnormal sperm morphology.

Data on these factors will be used to determine whether there is strong, substantial, or only suggestive evidence that a particular chemical may be potentially mutagenic to humans.

Although definitive proof of non-mutagenicity is not possible, it seems appropriate that a chemical could be classified operationally as a non-mutagen if it gives a negative response in an adequate number of test systems that are together capable of detecting all genetic endpoints of concern, namely, point mutations, chromosomal effects, and primary DNA damage. Furthermore, if a chemical does not reach or affect gonadal organs, it can be considered not to cause heritable mutations. Stringent scientific criteria (e.g., adequate sample size, suitable experimental design, appropriate concentration range, proper controls, and adequate number of tests) should be required for acceptance of negative results to assure that the failure to detect genetic activity or the presence of the chemical in the gonadal tissue is not based on inadequacies of the test procedures.

C. Quantitative Assessment of Results

The degree of risk can be estimated by combining the preceding qualitative evaluation for mutagenicity with the potential for human exposure. When there is a lack of appropriate mutagenicity data to make a quantitative estimate, risk can still be expressed in meaningful descriptive terms. To do this, the strength of evidence that the agent possesses intrinsic mutagenic activity, that it reaches or affects gonadal organs, and the extent and pattern of human exposure to the chemical, must be examined. From these elements a judgment as to the degree of human risk may be derived. When appropriate mutagenicity data are available for making a quantitative estimate of genetic risk to humans, two major approaches are available. One approach uses only experimental data on germinal alterations induced in intact mammals. Test systems providing such data are the heritable translocation, X-chromosome loss, and specific locus tests. These tests are complete in that they directly measure genetic damage in germ cells which is observed in a subsequent generation. In this approach, information on the level of human exposure is used with experimental data on induced mutation frequency, usually obtained at much higher exposure levels. An estimate of human risk is obtained by extra polating the induced mutation frequency downward to the approximate level of anticipated human exposure. With point mutational effects, there is a strong theoretical basis for the use of the linear or no-threshold models for this extrapolation (10, 11, 12). For certain chromosomal alterations , the biological mechanisms are generally thought to fit a multiple-hit model. Other mathematical models for extrapolation should, therefore, be considered when the dose-response data are able to fit an appropriate model. Linear extrapolation of the experimental data on translocations, for example, are likely to overestimate the risks present at lower levels of exposure and a model other than the one-hit model should be considered.

The other experimental approach for assessing genetic risk uses biochemical data from intact mammals and mutagenicity data from validated test systems (13, 14, 15). The intact mammal is used primarily for relating the exposure level for a chemical to germ cell dose. This involves relating the level of mutagen-DNA interactions in germ cells to the specific exposure level by an appropriate route of administration. This information is then used with results obtained from mutagenicity test systems in which the relationship between the induction of mutations and interactions with DNA can be made. Using mutagen-DNA interactions as the common denominator, a relationship can be constructed between exposure and the induced mutation frequency. In some cases, measurements of DNA binding induced by a particular chemical agent can be determined at levels of exposures which may affect human populations, and potential human risk can be determined without the extrapolation of the data to lower levels. Such results would not require a high to low exposure level extrapolation to determine potential human risk. In those instances where the lowest experimental exposure level is greatly above those levels to which humans are exposed, it will be assumed that DNA binding is directly proportional to the exposure level unless there are compelling reasons to believe otherwise.

For some mutagenic events, DNA may not necessarily be the critical target. Interaction of chemicals with other macromolecules, such as tubulin which is involved in the separation of chromosomes during nuclear division, can lead to chromosomal nondisjunction. At present the means are not available to make strictly quantitative assessments for these types of mutagenic mechanisms. Ongoing research should provide the means to

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make future quantitative risk assessments for mutagens acting through these mechanisms.

In performing mutagenicity risk assessments, it is important to account for the sensitivity of the tests in detecting specific mutagenic endpoints. For example, although chemical substances which interact with DNA are likely to cause both point and chromosomal mutations, it is expected that point mutations may be relatively more frequent than chromosomal mutations at lower exposure levels. The former event can be initiated by a single interaction with DNA, whereas the latter may involve more than one interaction. Therefore, when assessing the mutagenic risk associated with low human exposures to the chemical, the point mutation data would generally be the more sensitive and appropriate information source.

Any risk assessment should clearly delineate the strengths and weakness of assumptions made, the uncertainties in the methodology, and the rationale used in reaching the conclusion, e.g., similar or different routes of exposure, metabolic difference between humans and test animals. The results should be expressed in terms of the excess of genetic disease per year or per lifetime, or the fractional increase in the assumed background spontaneous mutation rate of humans, or the radiation equivalency.

VI. References

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Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–34958 Filed 11–12–80; 8:45 am]

BILLING CODE 6560–35–M

[OPP–180523; PH–FRL 1668–2]

New York; Issuance of Specific Exemption for Fenvalerate on Cabbage

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New York Department of Environmental Protection (hereinafter referred to as the "Applicant") to use fenvalerate (Pydrin) on 12,000 acres of cabbage in New York to control the cabbage looper. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: The Applicant anticipates that an emergency situation will develop with respect to cabbage loopers on cabbage in upstate counties of New York. The Applicant contends that if the cool weather sets in during the last 35 days of cabbage growth, the cabbage looper will not be controllable. The Applicant claims that use of the pesticides registered for control of the cabbage looper is not practicable because:

1. The pesticide Phosdrin is not very effective against the pest and its residual action is short.

2. The pesticide Diazinon has not been effective in New York for many years.

3. Methomyl and *Bacillus thuringiensis* do not control the cabbage looper when temperatures are low.

4. While Monitor generally controls the pest, it may not be used within 35 days of harvest. This 35-day preharvest interval is a critical period for cabbage due to the unusually high infestation of the cabbage looper.

The Applicant estimates that the cabbage industry in New York could lose up to $12 million without adequate control.

The Applicant proposes to use fenvalerate at a rate of 0.1 to 0.2 pounds active ingredient (a.i.) per acre on up to 12,000 acres of cabbage. More than 50 percent of the fields checked in a county would have to be infested with cabbage loopers in numbers greater than one to two loopers per plant, as determined by research on Cooperative Extension personnel. Application would be made only when anticipated average daily temperature during the spray period is below 8° F during the day and/or 55–60° F at night.

EPA has determined that residues of fenvalerate in or cabbage should not exceed 2 parts per million (ppm) from the proposed use. EPA has judged this level to be adequate to protect the public health. No unreasonable hazard to the environment is anticipated from this program. Since fenvalerate is highly toxic to aquatic vertebrates and invertebrates and to bees, appropriate conditions to protect them having been imposed.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin (EPA Reg. No. 201–401), manufactured by Shell Chemical Co., may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. Total acreage of cabbage to be treated may not exceed 12,000 acres.

3. A maximum of 9,600 pounds of a.i. may be applied at a maximum rate of 0.2 pound a.i. per acre.

4. A maximum of four applications are authorized.

5. A 7-day preharvest interval is imposed.

6. All applications must be made by, or under the supervision of, State-certified commercial applicators or by qualified growers.

7. Root crops may not be planted for 12 months after the last application. No other crop may be planted for 60 days after last application.

8. Fenvalerate will be applied by ground or aerial equipment in a spray volume of not less than 3 gallons per acre.

9. Fenvalerate may be applied to cabbage fields only when fields are to be harvested within 35 days and a State entomologist has determined that:

a. A major infestation of cabbage loopers exists.

b. Registered pesticides are not controlling the cabbage looper.

c. Significant economic losses to cabbage growers will occur.

10. It is recommended that fenvalerate not be applied any closer to fish-bearing fresh waters than 200 feet (at the 0.1 pound a.i. rate), and 300 feet (at the 0.2 pound a.i. rate) by ground, and 750 feet (at the 0.1 pound a.i. rate), and 1,250 feet (at the 0.2 pound a.i. rate) by air. Applications closer than these may result in fish and/or other aquatic organism kills.

11. Participants are to be notified of their obligation to report all adverse effects on non-target organisms arising from the use of this product. The EPA must be immediately informed of any adverse effects resulting in connection with this specific exemption.

12. Precautions must be taken to avoid or minimize spray drift to non-target areas. It is recommended that pesticide application be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour.

13. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds or crops in bloom if bees are actively visiting the treatment area. Protective information may be obtained from the State Cooperative Agricultural Extension Service.

14. Fenvalerate is extremely toxic to fish and aquatic invertebrates. It may not be applied directly to any body of water. Drift reduction precautions must be observed. It may not be applied where excessive runoff is likely to occur. Care must be taken to prevent contamination of water by cleaning of equipment or disposing of wastes or excess pesticides.

15. Cabbage with residues of fenvalerate not exceeding 2 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

16. Cabbage trimmings from treated fields must not be fed to livestock.

17. All applicable directions, restrictions, and precautions on the EPA registered product label must be adhered to.

18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by May 1, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C 136))

Dated: November 6, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–35271 Filed 11–12–80; 8:45 am]

BILLING CODE 6560–32–M

[OPP–180522; PH FRL 1665–8]

Oregon; Issuance of Specific Exemption for Chlorpyrifos on Mint

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use chlorpyrifos to control the mint root borer on 20,000 acres of peppermint in Oregon. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: The mint root borer (*Fumibotys fumalis* (Guenee)) causes damage to the rhizomes of the peppermint. The main damage occurs after the harvesting of the peppermint (August, September, October). Larvae feed in the rhizomes for 70 to 80 days and then emerge to form prepupa in the soil. The following spring pupation occurs and the adults emerge from early to mid-June. Eggs are then deposited on the peppermint and upon hatching, the larvae enter the rhizomes. Larvae leave damaged rhizomes and seek fresh ones. Damage to the rhizomes severely weakens the peppermint plants and renders them extremely susceptible to winter injury, resulting in reduced stands the following season. Oregon estimates that the production lifetime of a peppermint field infested with mint root borer is reduced by one-half (4–5 years compared with 8–10 years). The mint root borer has become a serious pest of peppermint in the United States. Oregon reports that it was discovered in that State in 1971 and that now approximately 24,000 acres are infested. Washington reports it was first detected in that State in 1976 and is now established in 4,000 acres of peppermint. No pesticide is currently registered for the control of the mint root borer. Oregon estimates that an annual loss of up to $10 million could occur, if there is not effective control of the mint root borer.

The Applicant proposes to make a single post-harvest application of Lorsban 4 EC, EPA Reg. No. 464–448 which contains the active ingredient (a.i.) chlorpyrifos. Oregon will treat 20,000 acres of peppermint in north central Oregon, western Oregon which includes the Willamette Valley, southwestern Oregon and Josephine County. The proposed dosage rate is 4 pints product (2 pounds a.i.) in no less than 10 gallons of water per acre per season.

EPA has determined that residues of chlorpyrifos and its metabolite, 3,5,6-trichloro-2-pyridinol, are not likely to exceed 0.1 part per million (ppm) in or on fresh or spent peppermint hay, and 0.35 ppm in mint oil from the proposed use. These levels have been judged adequate by EPA to protect the public health. EPA anticipates no unreasonable adverse effect on the environment as a result of this program.

After reviewing the application and other available information, EPA has determined that the criteria for an

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exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Use of the Dow product Lorsban 4 EC insecticide (EPA Reg. No. 464–448) is authorized. If an unregistered label is used in connection with this product, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. A single application is authorized at a dosage rate of four pints of product (2 pounds a.i.) per acre. A total of 10,000 gallons of product (40,000 pounds a.i.) are authorized.

3. Applications are to be made by ground application using no less than 10 gallons of water per acre. The pesticide will be incorporated into the soil by application of 0.5–1.0 inch of irrigation water immediately after treatment.

4. Only one post-harvest application/acre/season is to be made. Either growers or commercial State-licensed applicators may apply chlorpyrifos. Oregon State University extension specialists and agents shall provide information about rates and procedures.

5. Up to 20,000 acres of peppermint in the areas indicated above, may be treated with chlorpyrifos.

6. Mint oil with a residue level of chlorpyrifos and its metabolite, 3,5,6-trichloro-2-pyridinol, not exceeding 0.35 ppm may enter interstate commerce. Fresh or spent hay with residues of chlorpyrifos and its metabolite not exceeding 0.1 ppm may also enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

7. All applicable directions, precautions, and restrictions on the EPA-registered label must be adhered to.

8. Any adverse effects resulting from the use of chlorpyrifos under this specific exemption must be immediately reported to the EPA.

9. There must be a 400-foot buffer zone between peppermint fields and any fish-bearing area.

10. The Applicant must submit a report to EPA summarizing the results of this program by the end of March, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136)).

Dated: November 6, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35289 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C31027B; PH-FRC 1667-1]

Sumitomo Chemical America, Inc.; Approval of Application to Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Sumitomo Chemical America, Inc. has received approval to conditionally register the pesticide product SUMITHION 40% WDP entailing a changed used pattern.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–343, 401 M St., SW., Washington, D.C. 20460, (202–426–9458).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 1, 1979 (44 FR 25507) that Sumitomo Chemical America, Inc., 1330 Dillion Heights Ave., Baltimore, MD 21228 had submitted an application to register the pesticide product SUMITHION 40% WDP. Active ingredient: *O- O*-dimethyl-*O*-(4-Nito-m-tolyl)phosphorothioate 40% (w/w). The application proposed that the use pattern of this pesticide be changed to include indoor use for control of mosquitoes. The proposed classification was for general use.

On October 8, 1980 Sumitomo was granted approval to conditionally register the pesticide product for control of mosquitoes in residential buildings for malarial control only.

The product has been assigned EPA Registration No. 39398–9. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the product manager.

The data and other scientific information used to support registration, except for material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Rm. EB–35, EPA, 202–426–8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of October 8, 1980. Requests for data must be made in accordance with provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product by name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(5), 92 Stat. 842, (7 U.S.C. 136)).

Dated: November 6, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35288 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180517; PH FRL 1666-5]

Wyoming; Issuance of Specific Exemption for Use of Strychnine Baits for Control of Rabid Skunks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Wyoming Department of Agriculture (hereafter referred to as the "Applicant") to use strychnine baits to control rabid skunks in Campbell and Crook Counties, Wyoming. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Office of Pesticide Programs, Evironmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: The section 18 regulations provide that the Administrator may grant an emergency exemption to a Federal or State agency when the following conditions exist:

(a) A pest outbreak has [occurred] or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. 40 CFR 166.1.

The exemption is also subject to the provisions of 40 CFR Part 164, specifically, Subpart D, published in the **Federal Register** of March 18, 1975, (40 FR 12261). In cases such as the one presented by this Applicant, if the request is for the use of a pesticide which has been finally cancelled or suspended, then the application constitutes a petition for reconsideration of such cancellation or suspension order. On March 9, 1972, Administrator Ruckelshaus cancelled and suspended the registration of strychnine, sodium cyanide, and 1080 (sodium fluoroacetate) for predator control. However, the Administrator's order banned the use of these pesticides for predator control without distinguishing between rabid and nonrabid predators, the former a human health problem and the latter an economic problem. Therefore, the exemption cannot be granted without the treatment of a prior public hearing, unless certain conditions are found to exist.

Subpart D of the section 6 regulations provides that in emergency circumstances the Administrator may rule on the application without convening a formal hearing and without making a finding as to the question of substantial new evidence when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk: (i) to human health, or (ii) to fish or wildlife populations when such use would not pose a human health hazard; and (2) That there is no other feasible solution to such risk; and (3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by § 164.131; and (4) That the public interest requires the granting of the requested use as soon as possible. 40 CFR 164.133.

The Administrator has determined that this exemption met the above criteria and a formal hearing was not necessary.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing strychnine which are registered for outdoor, aboveground use (see **Federal Register** of December 1, 1976, p. 52810); however, a final decision has not yet been made by EPA as to appropriate regulatory action in this matter.

The Applicant reported that two rabid skunks have been confirmed, one in Campbell County, the other in Crook County, Wyoming. Rabies is caused by a virus which affects the central nervous system. It is present in the saliva of infected animals and is transmitted by contamination of a wound with the saliva. People and domestic animals, especially dogs, may become infected.

Rabies epidemics normally are associated with an animal species which has a high population and serve to reduce the high population. The disease is fatal and of short duration.

Attempts to control rabies involve reducing the animal population carrying the virus, thus reducing the chance of coming in contact with the infected animal.

The value of man's control of an infected population has been questioned. It has been suggested that a combination of preventive measures, posting of warning signs, and vaccination of pets, would be as effective in preventing the spread of rabies and would not pose a threat to non-target species.

The control of a rabid animal population may be useful in high contact areas. If an outbreak occurs which threatens public health, then elimination or removal of the target animal along with posting of warning signs and vaccination of pets may be necessary. The finding of rabid animals in Campbell and Crook Counties, Wyoming, indicates that an immediate public health problem exists in these areas.

The Applicant proposes to apply a maximum of 500 egg or paraffin-larded strychnine baits within a 3-mile radius of the site where a confirmed-rabid skunk was found.

Some non-target species are expected to be taken, but with careful placement of baits, specific animal populations are not expected to be adversely affected. According to the Fish and Wildlife Services, Billings, Montana, the Black-footed ferret is the only endangered species in the area to be treated, but there should be no problem if baits are kept away from prairie dog towns.

In light of the above and pursuant to the controlling regulations, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use strychnine baits in Campbell and Crook Counties, Wyoming, until October 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The areas to be treated are presently limited to a circle within a 5-mile radius around a confirmed rabid skunk found within a 2-mile radius of areas of human habitation in the counties named above.

2. When the Applicant receives a report of skunk, cat, dog, raccoon, or weasel which is behaving abnormally and is located within 2 miles of an area of human habitation, personnel of the Department may place a maximum of 100 strychnine-treated baits within a 5-mile radius of the area of human habitation pursuant to taking specimens of skunks to determine whether rabid skunks are present in the area. If no rabid skunks are found, the unconsumed strychnine baits will be retrieved. If one or more rabid skunks are found, a maximum of 400 additional baits may be placed in areas of skunk habitation within the 5-mile radius circle around the location of the rabid skunk.

3. Strychnine baits may not be placed within the vicinity of a prairie dog colony or within 10 miles of a known ferret sighting.

4. Exposure of any bait station within a 5-mile radius circle (to survey for presence of rabies or suppress rabid skunk populations) may not exceed 30 days.

5. Each strychnine paraffin-lard bait will contain approximately 28 milligrams of actual strychnine alkaloid and each egg bait approximately 34 milligrams.

6. Personnel of the Wyoming Department of Agriculture are responsible for preparing the strychnine baits, selecting bait stations, posting warning signs, securing premise entry agreements, checking bait stations periodically for kills, and retrieving all unconsumed baits at the termination of the control program.

7. A maximum of two strychnine baits per site will be placed in the following skunk habitats: skunk dens, holes, garbage dumps, road culverts, junk piles, and unoccupied buildings.

8. Strychnine baits will be placed only on those lands where premise entry agreements have been signed by the landowner, lessee, or administrator.

9. Warning signs will be posted at entries to all premises and other visible positions near locations where treated baits have been placed. Eggs will be stamped with the word "Poison."

10. Each bait station will be checked as often as possible for kills but, in any case, no less than once a week.

11. All retrieved or excess strychnine baits will be disposed of by burial at least 18 inches deep in an approved sanitary landfill or burned in an incinerator. Containers to be destroyed will be handled in a similar manner.

12. Animals poisoned in the control program will be submitted for laboratory analysis for presence of rabies virus if possible. Otherwise they will be buried on the premises to prevent possible secondary non-target species poisonings.

13. The Applicant must follow any more stringent requirements imposed by State pesticide law or regulation applied by the State pesticide regulatory officials.

14. The Applicant must notify the State Fish and Wildlife authorities concerning areas to be baited.

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15. The Applicant is responsible for reporting to EPA on a monthly basis the number of baits placed, retrieved, consumed, or missing. Total fatalities including non-target species, must be reported. Adverse effects must be reported immediately.

16. A final report summarizing the entire program must be submitted by December 31, 1980.

(Sec. 18, as amended 92 Stat. 819; (7 U.S.C. 136)).

Dated: November 6, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35272 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-59035A; TSH-FRL 1665-7]

1,2-Substituted-1,1,2,2-Tetramethyl Disilane; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 5, 1980 EPA received an application for a test marketing exemption (TM–80–40) from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA). The manufacturer has claimed its identity confidential.

EPA has determined that the manufacturer's test marketing of this chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted this manufacturer an exemption from the TSCA premanufacture reporting requirements for test marketing of the substance in the manner described in the application.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460 (202–426–2601).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

The application was assigned test marketing exemption number TM 80–40; receipt of the application was announced in the **Federal Register** on September 29, 1980 (45 FR 64244).

The manufacturer claimed its identity, specific chemical identity, and the specific use as confidential business information.

The substance is described generically as *1,1,2-substituted-1,1,2,2,-tetramethyl disilane;* its generic use is as a coating. Three hundred pounds of the substance will be manufactured during a maximum test marketing period of 9 months.

EPA has established that the test marketing of TM 80–40, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below.

In its risk assessment, the manufacturer cited the low exposure of this substance to personnel and the environment as its major basis for concluding that there will be no risk of injury to human health and the environment. Results from preliminary tests conducted on the substance indicate that the LD_{50} is greater that 5 g/kg and that the substance is a mild skin and eye irritant. While the potential exists that this substance may be a possible lung carcinogen and could produce kidney damage, the Agency has determined that such risks are unlikely considering the small production volume, limited worker exposure and the use of specific safety equipment. In the Agency's analysis of this application we learned that the substance is very volatile, and reacts both in air and in water. For this reason the substance will be manufactured in a closed system. As a further precaution for ensuring worker safety, the Company has indicated that protective equipment (i.e. goggles, gloves and respirators) will be used by those individuals involved in the manufacturing and processing of the substance during this test market period.

Based on the facts and information obtained and reviewed, EPA grants the manufacturer a test marketing exemption for TM 80–40, effective immediately, but subject to all conditions set out in the exemption application, and in particular those enumerated below:

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the one customer specified in the application who will test market the substance, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 300 pounds described in the test market application.

5. The test marketing activity approval in this notice is limited to the 9-month period commencing on the date of publication of the notice in the **Federal Register.**

6. The substance will be manufactured in a closed system as specified in the application.

7. The number of workers, both manufacturers and processors will not exceed that specified in the application, and the exposure levels and duration of exposure will not exceed that specified.

8. A material safety data sheet will be developed for this substance and will be distributed to those individuals who come into contact with the substance.

9. The results of the test currently being run on the test market substance will be forwarded to EPA as soon as they are completed. The Agency reserves the right to rescind its decision to grant this exemption should the test results differ from those predicted by the Agency.

Dated: October 31, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-35274 Filed 11-12-80; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51169; TSH-FRC 1666-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by: PMN 80–283, December 14, 1980. PMN 80–286, December 20, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M Street SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M Street SW., Washington, DC 20460, (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identitiy of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agnecy will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "(OPTS–51169)" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 5, 1980

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–283.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 13, 1981.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—East-North central U.S.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information. Generic name provided, Styrene methacrylate acrylate polymer.

Use. Claimed confidential business information. Generic name provided: Chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that: There will be no direct exposure during manufacture, use, or disposal operations since the new substance is not isolated as an entity but is used as a solution in an organic solvent; exposure, if any, will be as a result of an

accidental spill which would involve 3 workers, 2 hours/day intermittently during processing, and 2 workers, 1 hour/day intermittently during disposal of the PMN substance.

Environmental Release/Disposal. The submitter states that: Less than 30 Kilograms of the PMN substance may be released to the environment per year; there are no release points during manufacture or use; any accidental spill will be absorbed by an inert media and disposed of in an approved site; and liquid solutions of the new substance will be disposed of by burning in an approved site.

PMA 80-286.

The following summary is taken from data submitted by the manufacturer in the PMN.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m³)	
			Hours/day	Day/year	Average	Peak
Manufacture	Inhalation	2	1	40	1-10	10-100

Consumer and commercial use exposure. The manufacturer states that the use of the product is limited to user prepared solutions generally containing less than 5% solids of the product.

Environmental Release/Disposal. The manufacturer states that environmental release of the substance to the air will occur 24 hours a day, 60 days per year during manufacture and that sludge is filtered and disposed of through a waste water system.

Close of Review Period. January 19, 1980.

Manufacturer's Identity. East Shore Chemical Co., Inc., 1221 E. Barney Ave., Muskegon, MI 49443.

Specific Chemical Identity. N(4-Diazo phenyl) morpholine hexafluorophosphate.

Use. Reprographics.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	100	1,000
2d year	100	2,000
3d year	100	4,000

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

[FR Doc. 80-35276 Filed 11-12-80; 8:45 am]
BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-19]

TV Broadcast Application Ready and Available for Processing Pursuant to Section 73.3572(c) of the Commission's Rules

Released: November 10, 1980.

Cut-Off Date: December 22, 1980.

Notice is hereby given that the application listed below, having been accepted for filing on May 16, 1979, will be considered to be ready and available for processing after December 22, 1980. An application, in order to be considered with the application listed below or with any other application on file by the close of business on December 22, 1980 which involves a conflict necessitating a hearing with the application listed below, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. not later than the close of business on December 22, 1980.

Petitions to deny the application listed below must be on file with the Commission not later than the close of business on December 22, 1980.

BPET-781130KH, (new), Knoxville, Tennessee, Tennessee State Board of Education, Channel 15, ERP: Vis. 1271 kW; HAAT: 1683 feet.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-35354 Filed 11-12-80; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Director, Office of Individual Assistance; Delegation of Authority

The Director, Office of Finance and Administration, has been delegated the power and authority to issue determinations of excess property and to transfer such excess property as required. In this Delegation of Authority the Director, Office of Finance and Administration, redelegates to the Director, Office of Individual Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, his authority to issue determinations of excess property in the Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as required.

Section A. Authority Delegated. The Director, Office of Individual Assistance, Disaster Response and Recovery, is authorized to exercise the authority of the Director, Office of Finance and Administration, to issue determinations of excess property in the Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as required.

Section B. Authority to Redelegate. The Director, Office of Individual Assistance, Disaster Response and Recovery, is authorized to redelegate to employees of the Federal Emergency Management Agency the authority delegated in this document.

Dated: October 21, 1980.

Robert Volland,

Director, Office of Finance and Administration.

[FR Doc. 80-35289 Filed 11-12-80; 8:45 am]
BILLING CODE 6718-01-M

Regional Directors; Delegation of Authority

The Director, Office of Finance and Administration, has been delegated the power and authority to issue determinations of excess property and to transfer such excess property as required. In this Delegation of Authority the Director, Office of Finance and Administration, redelegates to the Regional Directors of the Federal Emergency Management Agency his authority to issue determinations of excess property in Disaster Field Offices and to transfer such excess property as required.

Section A. Authority Delegated. The Regional Directors are authorized to exercise the authority of the Director, Office of Finance and Administration, to issue determinations of excess property in the Federal Emergency Management Agency's Disaster Field Offices in their respective regions and to transfer such excess property as required. Mobile homes will be excessed only in accord with Federal Emergency Management Agency mobile home disposition instructions.

Section B. Authority to Redelegate. The Regional Directors are authorized to redelegate to employees of the Federal Emergency Management Agency the authority delegated in this document.

Dated: October 21, 1980.

Robert Volland,

Director, Office of Finance and Administration.

[FR Doc. 80-35290 Filed 11-12-80; 8:45 am]
BILLING CODE 6718-01-M

Privacy Act of 1974; Annual Notice of Systems of Records; Correction

In FR Doc. 80-31359 appearing at page 67830 in the issue for Tuesday, October 14, 1980, make the following change:

On page 67857, in the first column, the system number which currently reads "FEMA/T&E-2" should read "FEMA/T&E-1".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 3, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 10265-2.

Filing party: Neal M. Mayer, Esquire, Coles & Goertner, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.

Summary: Agreement No. 10265-2 modifies the basic agreement of the Association Agreement No. 10265 between Companhia de Navegacao Lloyd Brasileiro and Companhia Maritima Nacional to delete the reference to its approval being coextensive with Agreement No. 10346.

Agreement No.: T-2925-2.

Filing party: Cyrus C. Guidry, Port Counsel, Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T-2925-2, between Port of New Orleans and Armasal Lines modifies the basic agreement which provides for the construction and lease to United Brands Company (assigned to Armasal) of a roll-on/roll-off platform and related properties at New Orleans, Louisiana for the berthing of vessels and for the marshalling, receipt, and delivery of container and breakbulk cargoes. The purpose of the modification is to decrease from the leased premises approximately 10,800 square feet of land area, consisting of a building with adjacent parking area, which was added by Agreement No. T-2925-1.

Agreement No.: T-3929.

Filing party: Joe H. Hamner, Jr., Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No T-3929, between the Board of Commissioners of the Port of New Orleans (Board) and Coordinated Caribbean Transport, Inc. (CCT), provides for the lease by the Board to CCT of certain premises and facilities for the purpose of berthing vessels owned or chartered by CCT and for other terminal activities related to CCT's operation. Further provision is made for the assignment by the Board of outside vessels to these leased premises under certain specified conditions. CCT will compensate the Board for the use of the premises and facilities according to a rental schedule as mutually agreed and as set forth in the agreement. The term of the agreement is one year with provisions for extension periods.

Agreement No.: T-3931.

Filing party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3931, between Global Terminal and Container Services, Inc. (Global) and Hafskip, Ltd. (Hafskip) establishes an arrangement whereby Global provides stevedoring, LCL cargo handling (container freight station) and various terminal services at its marine terminal facility at Jersey City, New Jersey (Port of New York), for Hafskip's vessels in the trade between Iceland and New York. Hafskip will compensate Global for its services according to a rate schedule as mutually agreed and as filed with the Commission. The term of the agreement is indefinite, and it may be cancelled on either 30 or 90 days' notice, as provided in the agreement.

By Order of the Federal Maritime Commission.

Dated: November 7, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35323 Filed 11-12-80; 8:45 am]
BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on November 4, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the FTC request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 1, 1980, and should be addressed to Mr. John M Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Trade Commission

The FTC requests an extension without-change clearance of the Quarterly Financial Report, Forms MC and TR. Forms MG and TR request profits data and balance sheet data quarterly from a sample of manufacturing, mining, retail trade and wholesale trade corporations. The survey group consists of approximately 15,000 corporations of all sizes, out of a universe of approximately 1,080,000. The FTC estimates that reporting burden will average 1.75 hours for each quarterly report filed by a respondent.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-35281 Filed 11-12-80; 8:45 am]
BILLING CODE 1610-01-M

V 45 NO 13 80 0 UMI

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives and Records Service Advisory Committee on Preservation Steering Subcommittee will meet on December 4, 1980, from 10:00 a.m. to 4:00 p.m., McGraw-Hill Conference Room, 1221 Avenue of the Americans, New York City. The meeting will be devoted to the development of work plans for the Advisory Committee's three working subcommittees.

The meeting will be open to the public.

Dated: November 6, 1980.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 80-35268 Filed 11-12-80; 8:45 am]

BILLING CODE 6820-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health

Chronic Effects of Physical Trauma on the Skin; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Chronic Effects of Physical Trauma on the Skin

Date: November 25, 1980.
Time: 9:00 a.m. to 1:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B-56, Cincinnati, Ohio 45226.
Purpose: To discuss protocols for determining the extent of problems associated with chronic physical and mechanical trauma to the skin.

Additional information may be obtained from: Allan S. Susten, Ph.D., Division of Biomedical and Behavioral Science, National Institute, for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684-8394.

Dated: November 6, 1980.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 80-35316 Filed 11-12-80; 8:45 am]

BILLING CODE 4110-87-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-32]

Beckett Ridge Subdivision, Ohio; Intended Environmental Impact Statement; Scoping Meeting

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Beckett Ridge Subdivision, Union Township, Butler County, Ohio. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. November 5, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

EIS on Beckett Ridge Subdivision, Union Township, Butler County, Ohio

The Columbus, Ohio Area Office of the U.S. Department of Housing and Urban Development (HUD) intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Beckett Ridge Subdivision. The purpose of this notice is to solicit from all interested persons, local, state and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed EIS.

Description. HUD has received a request from Beckett Ridge Joint Venture of West Chester, Ohio for the availability of home mortgage insurance under Section 203(b) of the Housing Act of 1934. This subdivision, located in Union Township, southeastern Butler County, Ohio and bounded by State Route 747, Tylersville Road, LeSourdsville-West Chester Road and Rialto Road, will consist of a total of approximately 4,000 new single family and multifamily units on a 1,700 acre tract of land. Parts of the area have been set aside for schools, commercial and industrial development, open space, and utility easements. To date 500 housing units have been completed (without HUD/FHA assistance) and construction of 200 additional housing units has received HUD/FHA approval prior to completion of the EIS. Construction began in 1973 and should be completed by 1990.

Need. An EIS is being prepared because the project size exceeds the threshold level for EIS; as established by HUD in its Departmental Procedures for Protection and Enhancement of Environmental Quality (24 CFR 50).

Alternatives. Alternatives available to HUD are to: (1) accept the project as submitted; (2) accept the project with conditions and/or modifications; and, (3) reject the project.

Scoping. A Preliminary Scoping Report has been prepared which identifies major probable environmental impacts and issues as now perceived. These include the locally unique "Beckett Ridge End Moraine" which is visually characterized by an abrupt rise in the locally flat relief and a mature, secondary growth, hardwood forest; slumping and erosion of steeper areas; a two acre wetland, a 100-year floodplain and wet soils; a high voltage transmission line; noise, air quality and traffic congestion; and, limited school capacity.

Copies of this Notice and of the Preliminary Scoping Report are being distributed to all local, regional, state and Federal agencies, local news media, groups, and individuals who are scheduled to receive the Draft EIS.

A Scoping Meeting has been scheduled for 1:00 p.m. EST, December 10, 1980, at the Beckett Ridge Country Club, 5595 Beckett Ridge Blvd., West Chester, Ohio. All Interested parties are invited to attend.

This Notice, the Preliminary Scoping Report, the Scoping Meeting and comments received therefrom will be used to: (1) determine significant environmental issues; (2) identify data that the EIS should address; and, (3) identify cooperating agencies.

The Draft EIS is expected to be published in March 1981.

Comments. Comments regarding this proposal should be sent to Dwight Adams, Environmental Officer, Ohio Area Office, Department of Housing and Urban Development, 200 North High Street, Columbus, Ohio 43215; phone: (614) 469-5179. Such written comments should be mailed on or before December 10, 1980.

[FR Doc. 80-35321 Filed 11-12-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-1039]

Public Housing Development; Invitation for Applications

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Develpment (HUD).

ACTION: Notice.

SUMMARY: The final rule for the revised public housing program (24 CFR 841) became effective October 1. The final rule establishes two different procedures for submitting proposals under the public housing program. This Notice applies only to Public Housing Agencies (PHAs) located outside central cities which have been established by HUD as separate allocation areas. These PHAs are being invited to submit applications which provide a means of allowing PHAs, which must compete for funding, to express their interest in developing public housing. The applications will be used by HUD Field Offices to target funds based on interest, local housing need and priority. Pipeline applications that are consistent with the HUD Field Office allocation plan will be selected on the basis of their ratings and, if funds became available, the Field Office will invite the PHAs to submit PHA proposals.

FOR FURTHER INFORMATION CONTACT: PHAs should contact the HUD Field Office for their jurisdication.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Title 24, Code of Federal Regulations, Part 841, as amended effective October 1, 1980 (45 FR 60836), that the Department of Housing and Urban Development is currently accepting applications to develop public housing projects under the provisions of the United States Housing Act of 1937, as amended, from those eligible PHAs which are located outside HUD-established central city allocation areas. Informaiton regarding eligible PHAs and the application format are available at the applicable HUD Field Office.

Eligible PHAs are invited to submit applications for the development of public housing projects in accordance with this Invitation and the public housing development regulation, 24 CFR 841, revised effective October 1, 1980.

Authority: Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437.

Issued at Washington, D.C. on November 6, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-35322 Filed 11-12-80; 8:45 am]

BILLING CODE 4210-01-M

General Manager, New Community Development Corporation

[Docket No. D-80-626]

Surplus Real Property; Redelegation of Authority

AGENCY: Department of Housing and Urban Development, Area Manager and Deputy Area Manager, Minneapolis Area Office.

ACTION: Redelegation of Authority with Respect to Surplus Real Property.

SUMMARY: The Area Manager and Deputy Area Manager, Minneapolis Area Office, each is authorized to exercise the authority of the Secretary of Housing and Urban Development, pursuant to Section 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484(b), as amended, with respect to the below described property, together with any improvements and related personal property located thereon.

Family Housing Area, Baudette Air Force Station, Baudette, Minnesota, identified more particularly in the GSA Determination of Surplus (Excess Real Property and Related Personal Property) of June 3, 1980 (GSA Control Number 5-D-MN-503C) (Sec. 7(d), Department of HUD Act (42 U.S.C. 3434(d))).

EFFECTIVE DATE: This delegation shall be effective on November 14, 1980.

Authority.—Section 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484(b). Delegation with authority to General Manager, New Community Development Corporation. 45 FR 63360 (9/24/80).

Issued in Washington, D.C., November 3, 1980.

A. Russell Marane,

General Manager.

[FR Doc. 80-35242 Filed 11-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

School Construction Priorities List—Fiscal Year 1982

November 4, 1980.

This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The school construction priority list has been revised for Fiscal Year 1982 as required by Pub. L. 95-561, 92 Stat. 2319, Section 1125(c) requires that: "At the time any budget request for school construction is presented, the Secretary shall publish in the **Federal Register** and submit with the budget request the current list of all school construction priorities".

On Wednesday, May 7, 1980 a notice was published, in Vol. 45, No. 90 of the **Federal Register**, to inform all concerned parties that for FY 1982 the list of all school construction priorities would be published as one inclusive list. This combines the B.I.A. schools and schools operated under contracts with the Bureau into one list.

This notice for FY 1982 provides the current list of proposed construction projects.

Construction of these projects is subject to the availability of funds and/or status of currently committed construction projects approved by Congress. These proposed projects are also subject to further review in terms of either replacement or rehabilitation.

BIA School and Bureau Contract School Construction Ranking—FY 1982

Ranking	School name	State
1	Laguna Middle School	NM.
2	Little Eagle Day School	SD.
3	Nenahnezad Boarding School	NM.
4	San Simon Day School	AZ.
5	Alamo	NM.
6	Ft. Wingate Elementary School	NM.
7	Taos Day School	NM.
8	Canoncito Day School	NM.
9	Ramah Middle School	NM.
10	Nazlini Boarding School	AZ.
11	Kinlichee Boarding School	AZ.
12	Ch-Chil-Tah Boarding School	NM.
13	Paschal Sherman Indian School	WA.
14	Low Mountain Boarding School	AZ.
15	Bullhead Day School	SD.
16	St. Frances Boarding School	SD.
17	Coeur d'Alene Day School	ID.
18	Pinon Boarding School	AZ.
19	Albuquerque Indian School	NM.
20	San Juan Day School	NM.
21	Spring Creek Elementary School	SD.
22	Santa Clara Day School	NM.
23	Standing Pine Day School	MS.
24	O'Kreek Elementary School	SD.
25	Marty Indian School	SD.
26	Ojibwa Indian School	ND.
27	Tucker Elementary School	MS.
28	Tuba City Elementary School	AZ.
29	Red Lake Day School	AZ.
30	Ahfachkee Day School	FL.
31	Lake Valley Boarding School	AZ.
32	Huerfano Dormitory	NM.
33	Jones Academy	OK.

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BIA School and Bureau Contract School Construction Ranking—FY 1982—Continued

Ranking	School name	State
34	Carter Seminary	OK.
35	Wahpeton Boarding School	ND.
36	Cove Day School	AZ.
37	Rocky Ridge Boarding School	AZ.
38	Kayenta Boarding School	AZ.
39	Rosebud Elementary School	SD.
40	Ft. Thompson Community School	SD.
41	Many Farms High School	AZ.

This current list of school construction projects applies only to FY 1982. A revised list is developed and published for each succeeding year.

Further information regarding this list or the ranking process may be obtained from the Chief, School Facilities Staff, Bureau of Indian Affairs, P.O. Box 2147, Albuquerque, NM 87103, Telephone: (505) 766–2985.

Thomas W. Fredericks,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-35307 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Intent to Prepare Environmental Impact Statement

The Department of the Interior, Bureau of Land Management, New Mexico State Office is responsible for preparing Environmental Impact Statements for four related actions in the San Juan Basin of northwestern New Mexico.

Listed below is a summary of each action proposed under the San Juan Basin Project with the contact for each.

1. San Juan Basin Cumulative Overview

The overview will address the cumulative impacts of numerous site-specific federal actions proposed in the San Juan Basin, including the proposed Multiple Resource Program which would provide on-the-ground management for the area.

Contact: Robert Armstrong, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501 (505) 988–6467, FTS 476–1467.

2. New Mexico Generating Station EIS

Public Service Company of New Mexico proposes to construct a 2,000 megawatt coal-fired generating station near the Bisti Trading Post in San Juan County, New Mexico. The coal source will be an existing lease.

Major ancillary facilities involved with the proposed project include construction of a water pipeline to serve as the primary source of cooling water; construction of two 500 kv transmission lines from the plant site to Albuquerque, New Mexico; and the possible development of either a construction camp or new townsite.

Both 100-year floodplains and wetland-riparian habitat may be impacted by the proposal.

Alternative sites, sources of water, and routes for the pipeline and transmission lines along with other alternatives to the proposal will be identified and considered in the EIS.

Contact for the NMGS EIS is: Robert Armstrong, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501 (505) 988–6467, FTS 476–1467.

3. Accelerated Wilderness Study Areas (WSA's) EIS

The schedules for three WSA's in the San Juan Basin have been accelerated to merge with the on-going planning effort and the regional coal leasing schedule in order to address conflicts with potential coal leasing in the area.

The EIS will address the Denazin (NM–010–004), Ah-shi-sle-pah (NM–010–009) and Bisti (NM–010–057) Wilderness Study Areas.

Contact: Angie Berger, Albuquerque District Office, 3550 Pan American Freeway, Albuquerque, New Mexico 87107 (505) 766–2455, FTS 474–2455.

4. San Juan River Regional Coal Leasing EIS

The EIS will address leading of federal coal in the San Juan River Region. This proposed leasing is needed to meet the Department of Interior's (DOI) federal leasing target and the Department of Energy's (DOE) regional production goal in accordance with the federal coal management program as announced by the Secretary of the Interior on June 4, 1979. In addition the document will include analysis of impacts resulting from the coal lease exchange as authorized by Pub. L. 96–475, dated October 19, 1980.

Contact: Ralph Sena, Albuquerque District Office, 3550 Pan American Freeway, Albuquerque, New Mexico 87107 (505) 766–2455, FTS 474–2455.

The tentative schedule for release of the Draft Environmental Impact Statements is December 1982.

Scoping meetings will be held in several cities and towns in New Mexico. The times and locations of scoping meetings will be announced through the local media and in subsequent **Federal Register** Notices.

Scoping for the San Juan Basin Cumulative EIS and the New Mexico Generating Station EIS is scheduled to begin in early January 1981.

Ed Hastey,

Associate Director.

November 7, 1980.

[FR Doc. 80-35291 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board North Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

Name: North Atlantic Technical Working Group.
Date: 8 December 1980.
Place: Garden Room, Biltmore Plaza Hotel, Providence, Rhode Island.
Time: 10:00 a.m. to 6:00 p.m.

Committee membership consists of representatives from federal agencies, the coastal states from Maine through New Jersey, the petroleum industry, and other private interests.
Agenda: Update on U.S. Coast Guard's proposed Port Access Routes; Lease Sale No. 52 Environmental Statement Issues (Scoping).
The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding matters on the agenda should contact Richard Barnett of the New York OCS Office (212–264–1061) by 1 December. Written statements should be submitted by 15 December to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by 2 February 1981 at the above address.

Judith Gresham,

Acting Manager, New York OCS Office.

[FR Doc. 80-35235 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 80–68]

Uinta-Southwestern Utah Regional Coal Leasing and Utah Power and Light Company Coal Lease Exchange Clarification and Notice of Hearings

The purpose of this notice is to supplement the draft Uinta-Southwestern Utah Regional Coal environmental impact statement (EIS) notice of availability (45 FR 68468–68470, October 15, 1980) which did not include a comprehensive statement enumerating the subfactors considered by the Regional Coal Team (RCT) in the ranking and selection of the tracts considered for leasing, and did not expressly solicit comments on tract lease sale scheduling as required by 43 CFR 3420.4–6.

The following subfactors were considered by the RCT in ranking the tracts for leasing:

1. *Coal economics:* production rate, estimated mine life, total coal reserves, recoverable reserves, coal quality (sulfur content and BTU value), surface ownership, type of mine (surface versus underground), coal transportation needs, and coal access;

2. *Impacts on the natural environment:* air quality, soils, hydrology, surface and underground water resources, vegetation, endangered and threatened species, reclamation potential, wildlife, cultural and historical values, recreation values, visual resources, and noise;

3. *Socio-economic impact:* effect on local population, infrastructure, social services, public safety, culture and well being, and agriculture; and

4. *Unsuitability criteria:* rights-of-ways and easements; land use for scientific studies, historic lands and sites, federally listed endangered and threatened species, eagle nests, state residents fish and wildlife, floodplains, and municipal watersheds.

Regarding a tract lease sale schedule, when the Federal Coal Management Program was adopted, it was envisioned that any tract selected by the Secretary for competitive sale could be offered over a four-year period. As a general startup consideration, however, lease sale schedules are being planned for periods shorter than four years. Should the preferred alternative analyzed in the draft Uinta-Southwestern Utah Regional EIS eventually be adopted by the Secretary, it is anticipated that the tract would be offered for sale over a three- to nine-month period beginning in July 1981. This schedule is preferred over a longer schedule, because the lead time between leasing and anticipated regional production deficiencies approximates the time it takes to bring a new mine into production. Comments on sales scheduling are encouraged during the comment period on this EIS, especially as different schedules may affect impacts. Upon the close of the comment period on the draft EIS, the Regional Coal Team will analyze the comments and make any revisions in ranking, selection, and scheduling they feel are necessary prior to preparation and completion of the final EIS.

In accordance with the requirements of 43 CFR 3420.4–6, the public is invited to make comments on these matters. Public hearing are scheduled as follows:

- November 18, 1980, Escalante High School Gymnasium, Escalante, Utah, 7:00 p.m.
- November 19, 1980, Emery County Court House, Castle Dale, Utah, 7:00 p.m.
- November 20, 1980, Room 7, Municipal Building, Price, Utah, 7:00 p.m.
- November 21, 1980, Room 220, Salt Place, Sale Lake City, Utah, 7:00 p.m.

Written comments may be submitted to: Ronald Bolander, EIS Team Leader, Bureau of Land Management, Utah State Office, 136 East South Temple, Salt Lake City, Utah 84111.

Comments must be submitted by December 9, 1980. Copies of the EIS are available upon request from Mr. Bolander at the address listed above.

Dated: November 5, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: November 6, 1980

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 80-35348 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-84-M

North Atlantic Outer Continental Shelf Oil and Gas Lease Sale; Intent To Prepare an Environmental Impact Statement for Proposed OCS Lease Sale No. 52

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's New York Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 52. This proposed sale, which would be the second in the North Atlantic, is tentatively scheduled for October 1982. A total of 540 lease blocks, comprising approximately 3.1 million acres (1.2 million hectares), have been selected for leasing consideration and further environmental study. These blocks range from 81 to 164 statute miles southeast of Cape Cod and Nantucket Island, Massachusetts, and range in water depths from 171 to 9285 feet (52 to 2,830 meters).

Alternatives to be considered in the environmental impact statement will include options to modify, delay, or withdraw the proposed lease offering. The draft environmental impact statement is scheduled for publication in September 1981.

A series of meetings have been scheduled to promote public participation in defining the significant issues that relate to the proposed leasing action. Interested persons are encouraged to attend and present their views at one of the following meetings:

November 18, 1980—Council Chambers, Dale Avenue, Gloucester, Massachusetts, 2–4 p.m. and 5–7 p.m.

November 19, 1980—New Bedford Whaling Museum Theater, 18 Johnny Cake Hill, New Bedford, Massachusetts, 2–4 p.m. and 7–9 p.m.

November 24, 1980—Executive Legislature Building Auditorium, Building No. 20, Veterans Memorial Highway, Hauppauge, Long Island, New York, 2–4 p.m. and 7–9 p.m.

While any forms of public comment are welcome, written statements (which may be read at the meeting if the author wishes) are encouraged. Supplemental information or additional comments may be sent to New York OCS Office no later than December 1, 1980.

For further information regarding the public meetings or the Sale No. 52 EIS, contact Mr. Jose Natario, New York OCS Office, Federal Building, 26 Federal Plaza, Suite 32–120, New York, New York 10278, telephone: (212) 264–5580.

Dated: November 7, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 80-35245 Filed 11-12-80; 8:45 am]

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Fish and Wildlife Service

Availability of Revised Migratory Bird Disease Contingency Plan and Related Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has prepared a revised Migratory Bird Disease Contingency Plan and related Environmnetal Assessment. The Plan establishes guidelines for responding to disease outbreaks. It supercedes the Service's Duck Virus Enteritis Contingency Plan which dealt only with response to disease outbreaks caused by that virus. An earlier draft of the Migratory Bird Disease Contingency Plan was made available for public comment as announced in the Federal Register (43 FR 5304). As a result of the public comments, significant changes have been made to the draft Plan. Comments on the revised Plan and Environmental Assessment are invited.

DATE: Comments should be submitted on or before January 12, 1981.

ADDRESSES: Copies of the drafts may be obtained from the Division of Wildlife Ecology Research, U.S. Fish and Wildlife

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Service, Department of the Interior, Washington, D.C. 20240, Telephone: 202–343–7557. Comments should be sent to Associate Director—Wildlife Resources, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, Telephone: 202–343–5333.

FOR FURTHER INFORMATION CONTACT:
Dr. Charles W. Dane, Division of Wildlife Ecology Research, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, Telephone: 202–343–7557.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service has the responsibility for protecting and managing migratory birds as authorized in the Migratory Bird Treaty Act and other legislation and Executive orders. Control of migratory bird diseases is one aspect of this responsibility. Some disease loss is natural and inevitable; however, response to certain serious disease problems has demonstrated that migratory bird losses can be greatly reduced by timely, aggressive, well-planned, and coordinated control efforts. The key factors for reducing these losses are adequate preparation, early detection, rapid and accurate diagnosis, and rapid initiation of appropriate control activities.

The plan assigns specific responsibilities for responding to disease outbreaks and establishes notification procedures for Service personnel. The procedures and information provided are designed for use in combating major migratory bird disease problems. Since disease outbreaks also occur on non-Service lands, the plan provides guidelines for cooperation by Service personnel with other Federal agencies, States and the private sector in responding to disease outbreaks.

The plan supersedes the Service's Duck Virus Enteritis Contingency Plan issued July 19, 1973, which dealt only with DVE. The present plan covers all diseases of migratory birds and accommodates the administrative organizations of the Service that have occurred since 1973, including the development of the National Wildlife Health Laboratory at Madison, Wisconsin. Additionally, this plan requires a disease plan be prepared for each Service region and for designated National Wildlife Refuges.

Review of Public Comments and the Service's Response

The availability of the draft Megratory Bird Disease Contingency Plan was announced in the Federal Register, 43 FR 53064 dated November 15, 1978; the public comment period was subsequently extended to January 31, 1979 (44 FR 2203). Forty-one public comments were received by the Service. These originated from the Canadian Wildlife Service, 4 Federal agencies, 20 State conservation agencies, 1 national conservation organization, 3 national animal welfare organizations, 2 game breeder associations and 10 individuals, several of whom were associated with disease study centers and veterinary science departments.

Twenty-seven of the respondents were in general agreement with the plan, but 12 of these proposed that areas of additional cooperation with States or regional disease groups be included. An additional 2 of the 27 requested further clarification or assurance of humane control methods. Another of the 27 supported the plan but felt that additional training be required for the regional disease biologists. One supporting the plan recommended clarifying parts of the prevention section and expanding the monitoring aspect. Another respondent that supported the plan questioned the certification section as did two others who had also proposed additional cooperation.

Three of the respondents opposed all or some aspects of the portion dealing with certification of birds before release.

Two of the respondents felt that the prevention portion of the plan including the certification aspect should be reevaluated.

Six of the respondents felt that the entire plan should be revised because of a combination of concers about wildlife epidemiological concepts, inadequate justifcation, lack of consultation or the certification aspect. Of those opposed to the entire plan, or the prevention and/or certification portions, three recommended that the plan be divided into two parts which would allow the prevention portion to be reevaluated and the response portion to be revised and implemented. Six of those opposed to the entire plan or parts of the plan proposed an advisory group for evaluating and developing the plan and/or the disease program. In addition, three of those opposed to the plan also believed that additional training should be required for the regional disease biologist.

Three respondents acknowledged receipt of this plan and although they indicated only cursory review, they stated no objections to the plan.

After review of the comments, the Service decided to divide the plan into two parts: one dealing with preparation for and response to disease outbreaks and the other dealing with the prevention aspects, including the certification portion. The prevention portions will be reevaluated. The revised plan is now available for review and consists only of preparations for and response to disease outbreaks. Since the prevention aspects of the plan are not included in the revised plan, individual responses to comments dealing with prevention or certification aspects will not be discussed in this summary. Comments dealing with the preparation for and response to disease outbreaks have been processed and responses provided for each comment. These responses also indicate where some aspects of the draft plan have been modified or additions made to the draft plan.

Comment: The Maryland Department of Natural Resources (Maryland), Southeastern Cooperative Wildlife Disease Study (Southeastern), the North American Game Breeders and Shooting Preserve Operators Association (N. Am. Game Breeders) and Mr. William B. Stark recommended separating the preventive management part of the draft plan from the portions dealing with the response to disease outbreak with corollary comment that the part dealing with response could be implemented at an earlier date.

Response: The Draft Migratory Bird Disease Contingency Plan as it appeared in the **Federal Register** consisted of a disease prevention aspect and a description of protocols for responding to disease outbreaks. The Service now intends to issue only that portion of the plan dealing with preparation for and response to disease outbreaks. The portions of the draft plan dealing with prevention of disease outbreaks and the associated provisions for certification of birds for release on Service-owned lands by non-Service persons will be reconsidered and will not be part of the initial Migratory Bird Disease Contingency Plan.

Comment: The National Audubon Society (Aubudon), N. Am. Game Breeders, Mr. Jack Frost, Dr. Louis Leibovitz, and Mr. William B. Stark raised conceptual questions about the preventative management portion of the draft plan and recommended that the epidemiological aspects of disease among migratory bird populations should be better documented before implementation of this portion of the plan.

Response: The Service has separated the prevention aspect of the plan from those portions dealing with preparation for and response to disease outbreaks. The prevention and certification portions of the plan will be dealt with later, after further assessment of the issues identified in the prevention

portion of the draft plan by scientists from outside the Service.

Comment: Dr. Leibovitz felt that the state of knowledge of migratory bird disease was not developed to the point that effective control measures could be implemented and that the intent of the plan should be directed at increasing our knowledge of migratory bird disease problems, through (1) investigating disease outbreaks; (2) establishing specific diagnosis for outbreaks; and (3) setting priorities as to which diseases are most important. In a corollary comment, Dr. Kocan noted that specific efforts must be place on monitoring and surveillance.

Response: Our present avian disease knowledge is not as advanced as our medical knowledge. However, with prompt response and correct diagnoses, implementation of control measures will reduce migratory bird losses. Additional information about the occurrence, distribution and significance of migratory bird diseases is desirable. Establishment of the National Wildlife Health Laboratory and implementation of the Migratory Bird Disease Contingency Plan provide for broader monitoring of migratory bird disease losses than previously existed.

Comment: Audubon expresses the concern that the plan does not clearly recognize and distinguish the difference between disease prevention and disease control.

Response: The preventive management portion of the draft plan has been withdrawn from the revised plan and will be reconsidered. The portion dealing with response to disease outbreaks, i.e. disease control, is dealt with in the revised plan.

Comment: The State conservation agencies of California, Maryland, Michigan, New Jersey, New Mexico, Oklahoma, Utah, and Virginia; the Northeastern Research Center for Wildlife Diseases (Northeastern); the Southeastern, Dr. Delmar R. Cassidy of the National Veterinary Services Laboratories, and Dr. Louis Leibovitz discussed the importance of State and Federal cooperation in responding to disease problems, and offered recommendations to improve cooperation and coordination with other Federal, State, and Private diagnosticians and facilities.

Response: Several changes dealing with greater cooperation with State, regional and other Federal diagnostic experts, and/or earlier coordination with the States during disease outbreaks have been made to the plan by including procedural details for earlier notification; active consultation; and use of State, regional, university, and other Federal diagnostic experts and facilities for primary or confirmatory diagnosis, and for field response to migratory bird disease outbreaks whenever appropriate.

Effective disease detection, diagnosis and control will require cooperative efforts by all agencies. While the National Wildlife Health Laboratory is assigned the lead for outbreaks on Service lands, coordination and cooperation with State conservation agencies will be a responsiblity of Service personnel, and the Service will assist with disease outbreaks on non-Service lands to extent that manpower, facilities, and funds permit. A Memorandum of Understanding between Animal Plant and Health Inspection Service (APHIS) of U.S. Department of Agriculture and the Fish and Wildlife Service has been developed to strengthen cooperative efforts between these two agencies in combatting disease problems of mutual concern.

Comment: The Animal and Plant Health Inspection Service (APHIS) and Audubon amplified on the importance of cooperating with APHIS and recommended earlier notification of that agency as well as continued cooperation in related activities.

Response: The importance of coordination with other Federal and State health and environmental agencies is recognized and additional liaison is provided for in the revised plan. The National Wildlife Health Laboratory and the National Veterinary Sciences Laboratories of APHIS have collaborated in the diagnosis of several important avian disease problems. This plan provides for notification of appropriate agencies including APHIS, the Center for Disease Control of the U.S. Public Health Service, and State agriculture and conservation agencies as soon as major disease problems for which these agencies have responsibility are encountered by the National Wildlife Health Laboratory.

Comment: The State conservation agencies of Maryland, New Mexico, and Virginia either inquired as to who would be notified at the State level or suggested specific individuals to be notified.

Response: Provisions to notify appropriate State personnel have been incorporated into the revised plan. The Regional Disease Biologist will contact State conservation agencies to determine which State employee they wish designated as the primary contact between the State agency and the Regional Disease Biologist, Disease Control Specialist, and the National Wildlife Health Laboratory (Section I–D–2).

Comment: The Florida Game and Fresh Water Fish Commission (Florida) expressed the concern that if local and regional diagnostic facilities were not used, especially for outbreaks on non-Service lands, diagnosis, activation of the response team and implementation of effective control activities would be delayed.

Response: The Service fully recognizes the expertise available at other diagnostic laboratories. The National Wildlife Health Laboratory was established to meet the needs of the Service relative to disease problems, not to replace existing expertise. Non-Service disease experts and diagnostic facilities will be utilized to the extent appropriate and feasible, and this cooperation is addressed in the plan.

Activation of the response team involves considerable expenditure of Federal resources and this accountable decision requires a more detailed evaluation that the diagnosis alone. The decision for activation lies with the Regional Directors.

Comment: The State conservation agencies of Colorado, North Carolina, and Virginia recommended that the Service disease training workshops be available for State wildlife personnel, and Dr. Cassidy recommended that disease training of Service and State personnel be coordinated with USDA training activities.

Response: The Service recognizes the desirability of conducting workshops to familiarize field biologists with disease problems, and, within the resources available, has and will continue to provide training to State and other Federal personnel. This subject is discussed in Sections I and II of the plan. The Service has also participated in disease workshops conducted by other agencies and groups, and will continue this cooperative effort in the future.

Comment: The Virginia Commission of Game and Inland Fisheries (Virginia) requested that diagnostic services of the National Wildlife Health Laboratory be readily available to States.

Response: When requested, the Service will assist with disease outbreaks on non-Service lands to the extent that manpower, facilities and funds permit. However, since resources are limited and the Service will not be able to deal with all disease problems, the use of limited resources must be weighed against the potential risk to migratory bird resources. The decision to provide diagnostic services support rests with the National Wildlife Health Laboratory Director, and the decision to

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provide support in controlling disease outbreaks lies with the Service's Regional Directors.

Comment: Virginia inquired as to the procedures for a State agency to request diagnostic services from the National Wildlife Health Laboratory.

Response: A State or other Federal agency may request field assistance by contacting the Regional Disease Biologist and may request diagnostic service support directly by contacting the Disease Control Specialist at the National Wildlife Health Laboratory as addressed in the plan.

Comment: The State conservation agencies of Florida, New Mexico, and Utah recommended that the plan define specific responsibilities of the Service's Public Affairs Officer to keep the appropriate State agencies apprised of the disease outbreak.

Response: The State public affairs officer(s) and designated State employee will be kept informed of response team activities including progress of the die-off and control activities and this has been addressed in the revised plan.

Comment: Virginia inquired as to whether the Service's Public Affairs Officer would arrive automatically or only when requested by State agencies in disease outbreaks on non-Service lands.

Response: The decision to assign a Service Public Affairs Officer to the site of the disease outbreak is made by the Regional Director or designated representative. Whether on-site or not, the Service's Public Affairs Officer is directed to work cooperatively with State Public Affairs Officers. If a Service Public Affairs Officer is not on-site, the Response Team Leader will provide information about the cause and extent of the die-off.

Comment: The New Jersey Division of Fish, Game and Shellfisheries (New Jersey) recommended that copies of the regional and/or station plans be made available to the appropriate States.

Response: The plan has been revised to direct the distribution of Regional Migratory Bird Disease Contingency Plans to appropriate State conservation agencies. Station plans will be available upon request.

Comment: Audubon recommended that the plan discuss how implementation of the plan would avoid delays in implementing control measures such as were encountered at the 1973 duck plague outbreak at Lake Andes, South Dakota.

Response: The procedures and responsibilities outlined in the plan ensure that detection and control of disease outbreaks are responded to as quickly as possible. Furthermore, expanded cooperation with APHIS as expressed in the Memorandum of Understanding (Appendix IV of the revised plan) was implemented in part to increase understanding of each agency's responsibility and to reduce delays in responding to disease outbreaks.

Comment: Mr. Stark expressed the belief that the plan represents a duplication of APHIS emergency programs.

Response: The Migratory Bird Disease Contingency Plan fulfills part of the Service's responsibility to protect and manage migratory birds as authorized in the Migratory Bird Treaty Act and other legislation and Executive orders. APHIS is responsible for diseases of agricultural plants, domestic livestock and poultry. APHIS emergency programs are designed to protect domestic livestock and poultry and do not duplicate responsibilities outlined in the Migratory Bird Disease Contingency Plan.

Comment: Dr. C. W. Beard, Director of the Southeast Poultry Reseach Laboratory suggested that the Service objectives might include the issue of preventing severe losses of domestic poultry in situations where migratory waterfowl are involved.

Response: The Service has a Memorandum of Understanding with the APHIS and will aid that agency in the prevention of losses of domestic poultry, when migratory birds are involved in such losses. However, it is not felt that Service objectives should include a responsibility that is a statutory authority of another agency.

Comment: Virginia and Audubon recommended that the plan include the criteria used to determine that exotic pathogens are believed to endanger livestock or poultry and the meaning of USDA jurisdiction in the event of exotic outbreaks.

Response: The Secretary of Agriculture, advised by APHIS, has authority for determining that an exotic pathogen is believed to endanger domestic livestock or poultry. It is not the function of the Migratory Bird Disease Contingency Plan to define what criteria are used by that Department in reaching their determination.

Comment: Florida pointed out that there may be situations such as diagnosis of an exotic pathogen that might warrant immediate activation of the response team.

Response: Some situations may require activation of the response team before all pre-conditions in the plan are met. This has been addressed in the revised plan. The Regional Disease Biologist will respond to the scene if an exotic pathogen is suspected of being the cause of the die-off.

Comment: Virginia and Audubon requested further clarification of the Service responsibilities on State and other non-Service lands.

Response: While the Service has the authority for protecting and managing migratory birds as provided in the Migratory Bird Treaty Act and other legislation and Executive orders, management of this resource is also a State responsibility. This plan seeks to effect a cooperative approach for dealing with migratory bird disease problems whenever they occur. It is general Service policy not to become involved in the control of migratory bird disease problems on State lands unless assistance is requested by the appropriate State agency, nor on private lands without the cooperation of the landowner and the State conservation agency, although specific major outbreaks on non-Service lands may warrant direct Service involvement. The successful control of disease outbreaks rests with the cooperation among all involved. State conservation agencies will be kept informed of outbreaks on Service lands and asked to assist in the control effort. In outbreaks on State-managed lands, the States may elect to control the outbreaks with their resources, or the Service can be asked to assist.

Comment: The Minnesota Department of Natural Resources requested a clarification of jurisdictional responsibilities relative to disease outbreakes among resident waterfowl populations.

Response: When disease outbreaks among resident waterfowl populations may effect wild, free-flying, migratory birds the Service has a responsibility to address disease problems with those private, local, or State agencies involved.

Comment: The Tennessee Valley Authority expressed the viewpoint that disease outbreaks may be a symptom of inadequate amounts of suitable habitat and expressed the concern that the Service not shift program priorities away from habitat acquisition and/or development.

Response: The establishment of the National Wildlife Health Laboratory and implementation of the Migratory Bird Disease Contingency Plan does not constitute a shift of either funds or emphasis away from habitat acquisition and/or development. Funding for the wildlife disease program and land acquisition and development are from different appropriations and thus are not directly competitive with one another.

Comment: Mr. Stark expressed the viewpoint that the plan is inconsistent with other current bird management plans.

Response: It is not clear which specific migratory bird management plans the writer addresses. However, the Migratory Bird Disease Contingency Plan is considered to be consistent with the Service's responsibility for protecting the migratory bird resource.

Comment: Audubon, Friends of Animals, and Mr. Frost expressed the viewpoint that an environmental impact statement should be prepared before implementation of the draft plan.

Response: An environmental assessment has been prepared on implementation of the Migratory Bird Disease Contingency Plan proposed by the Service.

Comment: Audubon, the Wisconsin Bird and Game Breeders Association and Mr. Frost recommended that the plan should describe the nature and magnitude of the migratory bird disease problem including the effectiveness of the proposed program. In expanding on this concern, Audubon indicates the need to identify the cost of implementing the plan relative to the reduced size of migratory bird disease losses and to what degree the objectives are possible and feasible. Friends of Animals suggested that the nature and magnitude of the migratory bird disease problem and the effectiveness of control measures be discussed in an environmental impact statement.

Audubon expressed the expectation of the plan providing an estimate of how much disease losses might be reduced by implementation of the plan.

Response: An overview of the nature and magnitude of migratory birds disease problems and control techniques is addressed in the environmental assessment of the plan. The impact of implementation of the plan is also discussed in that assessment.

It should be noted that the costs of implementing and executing the plan are not the same as those associated with the National Wildlife Laboratory because (1) Regional Disease Bilogists and control activities are supported with Regional funds and (2) implementation of the plan is only one aspect of responsibilities assigned to the National Wildlife Health Laboratory.

Objectives listed in the plan represent goals towards which Service activities should be directed. The fact that strategies for accomplishing them have not specifically been identified does not make the objectives invalid. In fact, the specific strategies may differ from one location or situation to another because of the varying factors that effect the occurrence of disease.

Diseases have the capability of debilitating or killing enormous numbers of waterfowl and other migratory birds. Since the Service has the responsibility for the continued welfare of this resource, the Service has the responsibility for implementing measures to reduce disease-related mortality. Decisions to implement disease control activities include an assessment of our expectation to reduce losses since an exact estimate of how many birds might be saved is impossible.

Comment: Friends of Animals suggested that a list of the various diseases, and methods of diagnosis be included in an environmental impact statement.

Response: The Service plans to continue preparing information on specific diseases including general information on the identification, and control of diseases. Service staff have prepared technical articles on several diseases, and general information for use at workshops has been prepared on botulism, and duck virus enteritis (DVE).

Comment: Friends of Animals recommended that a cost effectiveness analysis of each control technique be discussed in an environmental impact statement.

Response: Because the control technique cannot be selected ahead of time and because the type of technique and magnitude of the effort will vary with each situation, it is not possible in this plan to provide a cost estimate for controlling each disease outbreak acted upon.

Comment: Dr. Cassidy and Mr. Stark expressed the concern for use of dispersal as a valid disease control technique, and the former referred to the dispersal of birds from Lake Andes, South Dakota duck plague outbreaks.

Response: The methods selected for reducing losses depends upon a number of factors including characteristics of the particular disease, species involved, species at risk, and timing of bird movements into or out of the area. The selection of the dispersal effort at Lake Andes National Wildlife Refuge was made after careful consideration of the alternatives available.

Comment: The Colorado Division of Wildlife discussed some concerns about carcass burial and recommended that the Service endeavor to obtain open date and place burning permits from EPA. However, Friends of Animals recommended that the environmental effects of mass carcass burning versus burying be discussed in an environmental impact statement.

Response: The Service will explore the possibility of obtaining open burning permits from appropriate State agencies and the U.S. Environmental Protection Agency.

Burning of carcasses and materials is preferred over burying, but where burning is not feasible, carcasses will be buried in a manner to discourage digging by predators. An environmental comparison between burning and burying was not made in the environmental assessment because site situations and volume of carcasses will often determine which method is most environmentally appropriate.

Comment: The Animal Protection Institute of America recommended the inclusion of further information on environmental impacts of chemical disinfectants, and Friends of Animals recommended that the effect of each different chemical proposed be discussed in an environmental impact statement.

Response: When chemicals are proposed for use in depopulating groups of infected birds or disinfecting disease contaminated areas and these might significantly affect the environment, an environmental assessment would be prepared.

Comment: The Animal Protection Institute of America and the Society for Animal Protective Legislation recommended that the plan discuss the humaneness and relative advantages and disadvantages of any methods which might be employed if it were necessary to depopulate a group of infected birds.

Response: Techniques to kill disease-infected birds are chosen to minimize the suffering of those birds affected and to decrease the number of birds that might become infected and die if control activities are not implemented.

Comment: The Animal Protection Institute of America recommended that the plan fully describe the effect of pyrotechnics on hearing loss, and Friends of Animals recommended that the effect of all dispersal techniques be described and discussed in an environmental impact state.

Response: Several dispersal techniques may be used and many of these have been discussed in the Service's Pollution Response Plan for Oil and Hazardous Substances. Birds dispersed by use of pyrotechnics and propane exploders are usually some distance from the "exploders", and if the adaptation of certain species to sitting on exploders is any indication, these sounds are not painful to the birds.

Comment: Flordia, N. Am. Game Breeders, Mr. Frost, and Dr. Vorhies recommended that the Service seek

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input from disease experts outside the Service in the development of the plan, and Dr. M. L. Sunde of the University of Wisconsin's Department of Poultry Science stated his belief that all poultry science departments in the United States should have been made aware of the fact that the plan was being developed.

Response: The Service submitted the Migratory Bird Contingency Plan to the Federal Register for the purpose of obtaining public comments from all sectors.

Comment: Mr. Frost recommended that public comments on the plan be analyzed by an independent board of recognized avian disease authorities.

Response: Evaluation of the public comments on the Migratory Bird Disease Contingency Plan is the responsibility of the Service, and the Service has the expertise to assess these comments. APHIS staff have also been involved in the review of comments relating to the response portion of the draft plan.

Comment: Audubon, N. Am. Game Breeders, Dr. Leibovitz, and Mr. Stark proposed establishment of an advisory board either for development of the plan and/or the disease program.

Response: That aspect of the draft plan dealing with disease prevention and the provision for certification of birds by non-Service persons will be reconsidered and is not part of the revised plan. The Service will consult with avian disease experts, avicultural industry representatives and others when the prevention and certification portions are reconsidered. However, the Service believes that establishment of an advisory board for disease control procedures outlined in the revised plan is unnecessary.

Comment: The Maryland Department of Natural Resources, Virginia, Audubon, Dr. L. P. E. Choquette of the Canadian Wildlife Service's National Wildlife Research Centre, Dr. M. W. Vorhies of the South Dakota State University Diagnostic Laboratory, Dr. A. Kocan, and Mr. Stark stated their belief that the minimum training required for the Regional Disease Biologist was insufficient to qualify a biologist as a disease diagnostician and some noted specific instances where responsibilities assigned to the Regional Disease Biologist required more training than the minimum required.

Response: The training required for the Regional Disease Biologist is considered adequate for the role assigned to this position. The Regional Disease Biologist responds to disease outbreaks and ensures that specimens are properly selected, collected and shipped to diagnostic laboratories. While the regional Disease Biologist may make provisional diagnoses, his/her main diagnostic function is rapid response to the problem area and on-site communications with National Wildlife Health Laboratory. Positive diagnosis and recommendations for disease control measures are the responsibility of the diagnostic laboratory and Disease Control Specialist.

Furthermore, the Regional Disease Biologist position removes some of the administrative workload from the Disease Control Specialist, provides individuals who will have continuity in the knowledge of refuges and history of disease outbreaks in the region, and provides for prompt and proper submission of specimens. Some changes were incorporated into the revised plan so that duties assigned conform with this concept.

Comment: Audubon recommended that the plan discuss why the Response Team Leader was not a professional medical person.

Response: The Response Team Leader is responsible for coordinating and mobilizing the support necessary for an effective disease control operation. A Disease Control Specialist with professional training as a wildlife disease biologist or veterinarian provides the technical support needed by the Response Team Leader for an effective control operation.

Comment: Audubon recommended that the professional and technical capabilities of the National Wildlife Health Laboratory as well as the training and qualifications of specific positions at the National Wildlife Health Laboratory be detailed in the plan.

Response: The National Wildlife Health Laboratory's professional staff is comprised of wildlife biologists, wildlife disease experts, and veterinarians capable of performing the diagnostic and research tasks assigned to them and recommending migratory bird disease control activities.

Comment: Audubon recommended that the criteria by which field stations were identified and required to prepare station disease contingency plans be described.

Response: The revised plan includes some of the factors which Regional Directors should consider in identifying those stations for which Station Disease Contingency Plans will be prepared.

Comment: Virginia, New Jersey, and Audubon, recommended that definitions of several terms be included in the plan. Requested definitions included such terms as concentration, species diversity, high risk of disease, magnitude of the problem, unusual mortality, disease, relocation, significant numbers of birds, chronic diseases situation, periods of high potential for outbreaks, criteria for identification of areas susceptible to disease outbreaks, times of high risk, approved laboratory, standard laboratory tests, specific pathogens to be tested for, criteria for unhealthy situation, excessive losses, and others.

Response: Several of these terms were in the prevention portion of the draft plan which is being reconsidered, and some are discussed in the environmental assessment. Some terms or phrases have been reworded to make their meaning clearer, and the meaning of others will be clarified during training workshops.

Comment: Virginia inquired as to whether emergency procedures for operation of the National Wildlife Health Laboratory had been established for weekends and holidays in order to expedite response to outbreaks.

Response: Procedures have been established at the National Wildlife Health Laboratory so that the Disease Control Specialist on duty can be contacted at any time.

Comment: The Kentucky Department of Fish and Wildlife Resources recommended that the notification procedure be simplified.

Response: A notification chart for penciling in the names and numbers of persons to be notified by the project leader has been included [Appendix II of the revised plan). Similar notifications procedures are outlined at the National Wildlife Health Laboratory.

Comment: Audubon recommended that the plan cite the specific statutes and provisions under which Endangered Species permits and Section 7 Consultations were required.

Response: Statutes and regulations governing Endangered Species permits and Section 7 consultations and more specific information on responsibilities related to activities affecting endangered species have been cited in the revised plan.

Comment: Audubon recommended that the plan discuss how migratory bird disease outbreaks would be handled on station for which station disease contingency plans had not been reported.

Response: Reponsibilities for notification and response to migratory bird disease die-offs will be the same regardless of the existence of a Station Disease Contingency Plan. When Stations Plans are not available, information needed for implementation of control efforts will obviously have to be gathered as quickly and accurately as possible.

Comment: Audubon recommended that the plan outline the provision for updating the station contingency plans.

Response: Responsibilities have been assigned for ensuring that Station Contingency Plans remain current.

NEPA Considerations

A draft Environmental Assessment of the revised Migratory Bird Disease Contingency Plan has been prepared. The public is invited to review and comment on the draft Environmental Assessment. Copies are available from the Division of Wildlife Ecology Research, U.S. Fish and Wildlife Service, Department of Interior, Washington, D.C. 20240, Telephone: 202-343-7557.

Authorship

The Plan was prepared by the U.S. Fish and Wildlife Service personnel assigned to the Migratory Bird Disease Contingency Plan Development Team. The Environmental Assessment was prepared by the Service's Office of Migratory Bird Management.

The primary author of this notice is Charles W. Dane, Division of Wildlife Ecology Research.

Dated: September 15, 1980.

Lynn A. Greenwalt,

Director.

FR Doc. 80-35331 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-55-M

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes items added to the provisional agenda of the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora which were suggested by several Parties. The Service requests information and comments on these items and announces a public meeting with regard to them, and with regard to proposals to amend the lists of species in Appendices I and II of the Convention.

The Service also announces a change in the time of the third regular meeting, sets a cutoff date for receipt of requests for observer status, and gives a status report on the formation of the U.S. delegation to the meeting.

ADDRESSES: Information and comments on additional provisional agenda items should be sent to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Written information and comments received by the Service are open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

DATES: A public meeting will be held on November 13, 1980. The Service will consider information and comments concerning additional provisional agenda items received by November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-2418.

SUPPLEMENTARY INFORMATION:

Background

The United States is a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention) which is an international agreement designed to control trade in certain animal and plant species which are or may become threatened with extinction. CITES provides for biennial (regular) meetings of the Conference of the Parties to review its implementation. This notice is one in a series of notices designed to inform the public of the preparations being made for the next regular meeting (New Delhi 1981) thus enabling the public to participate in the process. In previous **Federal Register** notices, the Service published the provisional agenda for the meeting (45 FR 3100), accepted some suggestions for additions to the provisional agenda (45 FR 53238), published its acceptance of several proposed U.S. negotiating positions (45 FR 58413) and modified that acceptance (45 FR 74569).

Provisional Agenda of Third Regular Meeting of the Conference of the Parties with Additional Items

The United States by virtue of its membership on the Standing Committee (see 45 FR 3100 for a description of the Standing Committee's functions) has received advance notice of the provisional agenda, as amended by the addition of items suggested by some of the Parties and by the re-arrangement by the Secretariat of some of the items. This amended provisional agenda is printed here in full with additional items indicated by the names of the Parties in parentheses which suggested them.

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Third Meeting of the Conference of the Parties, New Delhi (India), 25 February through 6 March 1981

Agenda (provisional)

I Opening by the Indian Authorities
II Welcoming Addresses
III Appointment of the Credentials Committee
IV Adoption of the Agenda and Working Programme
V Report of the Credentials Committee
VI Adoption of the Rules of Procedure
VII Admission of Observers
VIII Report of the Standing Committee.
IX Report of the Secretariat.
X Financing of the Secretariat and of meetings of the Conference of the Parties.
1. Budget.
XI Relationship with other international agreements and organizations.
XII Committee reports and recommendations.
1. Technical Expert Committee on Harmonization of Permit Forms and Procedures.
2. Identification Manual Committee.
3. Nomenclature Committee.
4. Ranching Committee.
XIII Study and project reports.
1. Guidelines for the preparation and transport of live animals and plants.
2. Status of subspecies included in the appendices.
3. Species thought to be extinct included in the appendices.
4. Exemptions under Article VII of the Convention.
5. Index of species mentioned in legislation.
6. Report of IUCN/SSC Threatened Plants Committee.
7. Technical cooperation, training, and implementing legislation.
XIV Interpretation and implementation of the Convention.
1. Analysis of national reports under Article VIII, paragraph 7, of the Convention by Tec.
2. Effects of reservations
3. Disposal of Appendix I specimens.
4. Parts and derivatives of animal species listed on Appendix III and of plant species listed on Appendix II or III.
5. Regulation of trade in Appendix II wildlife (Australia).
6. Interpretation of the Convention with regard to the exploitation of wild species (Australia).
7. The treatment of species included in Appendix I or II in order to control trade in other listed species (U.S.).
8. Scientific Authority review of applications for importation of Appendix I specimens (U.S.).
9. Other Reports by the Parties.
XV General Matters of Principle relating to the appendices.
1. Ten year review of the appendices (Canada).
2. Criteria for addition to and deletion from the appendices of species in accordance with Art. II 2b. (Canada).

3. Reverse listing concept for the appendices (Australia).

XVI Consideration of proposals for amendment of Apendices I and II.

XVII Conclusion of the meeting.

1. Election of the new members of the Standing Committee.
2. Determination of the time and venue of the next regular meeting of the Conference of the Parties.
3. Closing remarks.

Explanation of Additional Provisional Agenda Items

Items suggested by the United States

The items added to the provisional agenda on the suggestion of the United States (items XIV. 7 and 8) were explained in previous **Federal Register** notices (45 FR 53238 and 45 FR 74569) and will not be discussed here.

Items suggested by Australia

The three items added to the provisional agenda on the suggestion of Australia (Items XIV. 5 and 6 and Item X. 3) need no further explanation, since the proposals which formed the basis of these items were published in full in the **Federal Register** of November 10, 1980 (45 FR 74569).

Items suggested by Canada

Although the Service has not received written documentation of the details of the two items suggested by Canada, informal discussions with Canadian officials and written information, enables the Service to present a summary of the substance of these two items:

1. Ten year review of the appendices (item XV.1)—Canada believes that in order to assure the integrity of the lists of species subject to the controls of CITES (Appendices I, II and III), the Parties should review the lists once every ten years. The Parties at their last regular meeting (San Jose 1979) conducted such a review. Canada is proposing that the Parties conduct a similar review once every ten years. It is believed that Canada wants the first of these reviews to take place at the fourth regular meeting of the Conference of the Parties.

2. Criteria for addition to and deletion from the appendices of species in accordance with Art. II 2(b) (item XV. 2)—The basic rules for determining whether a species warrants inclusion on the appendices to CITES are found in Article II (entitled "Fundamental Principles"). Article II not only provides for inclusion of species which are to some degree of probability threatened with extinction, but also provides for the inclusion (and thereby regulation) of other species which, although not so threatened, would enable more effective control of trade in those that are. These are the so-called "II 2(b)" or "lookalike" species. The first regular meeting of the Conference of the Parties (Berne 1976) adopted two resolutions which set forth more detailed criteria for addition and deletion of species to Appendices I and II. One of the resolutions, although it mentions lookalike species, only does so in order to provide parameters for listing taxa higher than species level containing a mix of lookalike and threatened species. There are no specific parameters in these "Berne Criteria" which clarify the meaning of the language of Article II 2(b), or establish the type of information necessary for adding or deleting species to Appendices I and II pursuant to Article II 2(b). Canada apparently wants the Parties to rectify this omission. If this proposal were adopted it might have some impact on the decisions made under item XVI, Consideration of proposals for amendment of Appendices I and II.

Request for Information and Comments

The Service invites information and comments on the items added to the provisional agenda on the suggestion of the United States, Australia and Canada. Information and comments on the items added on the suggestion of the United States were requested by the Service in a previous notice (45 FR 53238). The Service re-opens the comment period for such items.

Public Meeting

The Service announces that a public meeting will be held November 13, 1980 at 9:30 a.m. in room 5160 of the main Interior Building, 18th and C Streets, N.W., Washington, DC. for the following purposes:

1. To receive information and comments on the proposed agenda items added on the suggestion of the United States, Australia and Canada.

2. To discuss proposals by the United States and other Parties to amend the list of species in Appendices I and II. A **Federal Register** notice appeared on November 6, 1980 which summarized these proposals and invited public comment on them.

Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Federal Wildlife Permit Office, Washington, DC. 20240, telephone 703/235–2418. Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

Observers

Rule 2(3) of the provisional rules of procedures for the third regular meeting of the Conference of the Parties requires national nongovernmental agencies or bodies which have been approved for the purpose of being represented by observers at the meeting to submit evidence of such approval to the Secretariat at least one month prior to the opening of the meeting. In order to enable the timely and orderly consideration and processing of such requests, the service will not consider any such request received after December 1, 1980. For an explanation of the procedures for obtaining observer status, see the Service's May 9, 1980 **Federal Register** notice (45 FR 31004).

U.S. Delegation Selection

The Service has selected eleven persons to be members of the United States delegation to the third regular meeting of the Conference of the Parties and has sent a request to the State Department that the delegation be accredited. Presuming their accreditation and acceptance the members of the U.S. delegation will be introduced to the public at the meeting on November 13, 1980.

Change of New Delhi Meeting Dates

Previous notices have stated that the Third regular meeting of the Conference of the Parties to CITES would be held in New Delhi, India on February 2–13, 1981. In another subsequent notice, the pubilc was informed that the meeting dates might be changed to February 16–27 due to a time conflict with another international meeting. The Service has recently been authoritatively informed that the dates for the meeting are February 25 through March 8, 1981.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: November 7, 1980.

Joan C. Anthony,

Chief, Management Operations Branch, Federal Wildlife Permit Office.

[FR Doc. 80–35240 Filed 11–12–80; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–52 (Sub-No. 12F)]

Atchison, Topeka & Santa Fe Railway Co.—Abandonment—Near Mentone and Patton in San Bernardino County, Calif.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 5, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka and Santa Fe Railway Company of a portion of the line of railroad on the Redlands District of the Los Angeles Division, extending from railroad milepost 13.4 near Mentone to railroad milepost 13.4 near Mentone to railroad milepost 19.9 near Patton, San Bernardino County, state of CA, approximately 6.5 miles in length, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that application shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from November 5, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting the abandonment was issued to the Atchison, Topeka and Santa Fe Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after the such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents use in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than November 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(a)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–35254 Filed 11–12–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–52 (Sub-No. 11F)]

Atchison, Topeka & Santa Fe Railway Co.—Abandonment—Near Laton in Lanare, Fresno and Kings Counties, Calif; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 5, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka and Santa Fe Railway Company of a portion of the line of railroad known as the Laton District of the Valley Division, extending from railroad milepost 0.0 at Laton to railroad milepost 17.56 near Lanare, Fresno and Kings Counties, State of CA, approximately 17.56 miles in length. A certificate of public convenience and necessity permitting the abandonment was issued to the Atchison, Topeka and Santa Fe Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decision in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, to no later than November 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(a)(2)(3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–35253 Filed 11–12–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-No. 97F)]

Chicago & North Western Transportation Co.—Abandonment—Between Florence and Blair, Nebr.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 5, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.*—Abandonment Goshen, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad extending from railroad milepost 117.5 near Florence, NE to railroad milepost 99.2 near Blair, NE, a distance of 18.3 miles, in Douglas and Washington Counties, NE, and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from November 5, 1980, to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting the abandonment was issed to the Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular working hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than November 24, 1980. The offer, as filed shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment

shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

FR Doc. 80-35252 Filed 11-12-80; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-064]

Permanent Authority; Decision-Notice

Decided: October 31, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 29, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Agatha L. Mergenovich,

Secretary.

MC 38170 (Sub-31F), filed October 21, 1980. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield Road, Lincoln Park, MI 48146. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 146300 (Sub-3F), filed October 21, 1980. Applicant: JERRY L. GUDGEL and LARRY GUDGEL, d.b.a. J-LOR TRUCKING, 1512 15th St., N.W., Auburn, WA 98002. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152340F, filed October 21, 1980. Applicant: FREDERICK C. IPPOLITO, 797 Webster Rd., Webster, NY 14580. Representative: Frederick C. Ippolito (same address as applicant). Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

[FR Doc. 80-35255 Filed 11-12-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-29115, published at page 63176, on Tuesday, September 23, 1980, on page 63184, in the second column, in paragraph "MC 134336 (Sub-10F)", the tenth line, "* * * MT, MN, NE * * *" should be corrected to read "* * * MT, NM, NE * * *".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 80-32216, appearing at page 68772 in the issue of Thursday, October 16, 1980, make the following correction:

On page 68775 first column, paragraph MC 113158 (Sub-II-4TA), Todd Transport Co. Inc., the destination states in paragraphs (1) and (2) were reversed. For the convenience of the reader the complete sentence should read: *Foodstuffs* (except frozen foods and commodities in bulk), (1) from points in Lincoln County, NC to points in AL, AR, FL, GA, LA, MS, OK, SC, TN, and TX, and (2) from points in Frederick and Rockingham Counties, VA and Berkeley County, WV to points in AL, AR, LA, MS, OK, TN, and TX, for 270 days.

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3 These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which is is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount

and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-71

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 21866 (Sub-II-35-TA), filed October 22, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Phila., PA 19110. *General commodities,* except Classes A and B explosives and household goods as defined by the Commission, between East Greenville and Sounderton, PA, on the one hand, and, on the other, Atlanta, GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Knoll International, Water St., E. Greenville, PA 18041.

MC 152317 (Sub-II-1-TA), filed October 23, 1980. Applicant: W. & W. TRUCKING CO., INC., Route 1, Box 177, Big Stone Gap, VA 24219. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Contract Carrier, Irregular routes, *STCC Group 24, Lumber or Wood Products, except furniture,* between points in GA, IL, IN, KY, NY, NC, OH, PA, SC, TN, VA, and WV, under contract with Hamer Lumber Company, A Division of The Celotex Corp. Supporting shipper(s): Hamer Lumber Company, A Division of The Celotex Corporation, P.O. Box 418, Kenova, WV 25530.

MC 143300, (Sub-II-2-TA), filed October 31, 1980. Applicant: J. C. WOOLDRIDGE, INC., Rt. 7, Box 43, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New furniture,* between points in Henry County, VA, on the one hand, and, on the other, points in New York, Nassau, Queens, and Westchester Counties, NY, Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties, NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Furniture Company, Inc., Hairston St., Martinsville, VA 24112.

MC 129086 (Sub-II-5TA), filed October 23, 1980. Applicant: SPENCER TRUCKING CORPORATION, Route 2, Box 254A, Keyser, WV 26726. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Aplite from Montpelier, VA, including its commercial zone, to Baltimore, MD, Connellsville, PA, and Clarksburg, WV, including their respective commercial zones, for 270 days. Supporting shipper: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130.

MC 152403 (Sub-II-1-TA), filed October 27, 1980. Applicant: V & F COACH LINES, INC., 5000 Thompson Rd., Gahanna, OH 43230. Representative: David A Turano, 100 E. Broad St., Columbus, OH 43215. *Passengers and their baggage, in the same vehicles with passengers,* between The Ohio Valley Mall at Richland Towship, Belmont County, OH and Wheeling, WV over Interstate Highway 70 and return over the same route, serving no intermediate pts, for 270 days. Supporting shippers: There are 139 statements in support attached to this application which may be examined at the ICC Regional office in Philadelphia, PA.

MC 152425 (Sub-II-1-TA), filed October 30, 1980. Applicant: SHIRK FREIGHT AGENCY, INC., Box 47, 417 S. Maple St., Marysville, OH 43040. Representative: Gary L. Shirk (same as applicant). Contract carrier: Irregular routes: *General commodities* except those of unusal value, A and B explosives, household goods as defined by the Commission commodities in bulk, and those that require special equipment, between Columbus, OH, on the one hand and Canton, OH, Chicago, IL, New York, NY and Phila., PA and within their respective commercial zones on the other hand, for 270 days. Under continuing contract(s) with Central Ohio Shippers Coordinated Corp., of Columbus, OH. Supporting shipper(s): Central Ohio Shippers Coordinated Corp., P.O. Box 2622, Columbus, OH 43216.

MC 116763 (Sub-II-47-TA), filed October 27, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant), *Paper and paper products and such materials, equipment and supplies used in the manufacturing, processing and distribution of paper and paper products* (except commodities in bulk, in tank vehicles), between Appleton, WI, on the one hand and on the other, points in the United States in and east of MN, IA, MO, OK and TX (except WI) for 270 days. Supporting shipper(s): FOX RIVER PAPER CO., 100 West Water St., P.O. Box 2215, Appleton, WI 54513.

MC 61825 (Sub-II-11-TA), filed October 27, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, (same as applicant). *Salt and salt products, in packages,* from Fairport Harbor, OH to points in NC and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morton Salt Division of Morton Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606.

MC 150724 (Sub-II-3-TA), filed October 30, 1980. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Such merchandise as is dealt in by wholesale, retail, and discount stores (except commodities in bulk), from Franklin County, OH to points in TX, OK, AR, CA, UT, NV, CO, FL, and GA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ross Laboratories, 625 Cleveland Ave., Columbus, OH.

MC 107012 (Sub-II-102TA), filed October 31, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *ranges, prefabricated fireplaces, and heaters;* (2) *parts accessories, and materials used in the manufacture of (1) above,* between the facilities of Preway, Inc., at or near Perris, CA and points in the US (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Preway, Inc., 1420 2nd St. North, Wisconsin Rapids, WI 54494.

Note.—Common control may be involved.

MC 107012 (Sub-II-103TA), filed October 31, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *Plastic articles and materials and* (2) *equipment and supplies used in the manufacture and distribution of plastic articles and supplies (except commodities in bulk),* between points in the US (except AK and HI). Restricted to traffic originating at or destined to the facilities of Mobil Chemical Co., Plastics

Division for 270 days. Supporting shipper: Mobil Chemical Co., Plastics Division, Main St., Macedon, NY 14502.

Note.—Common control may be involved.

MC 152431 (Sub-II–1TA), filed October 31, 1980. Applicant: HARVIE BLACK, JR., d.b.a. BLACK TRUCKING CO., 2149 Johnstown Rd., Huntington, WV 25701. Representative: Robert G. Malone (same as applicant). Contract, irregular: *General commodities, except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and those requiring special equipment,* between pts. and places in the US, except HI. Restricted to traffic moving under continuing contract(s) with Connors Steel Co.; Midwest Corp.; Blumberg Electric Co.; Cardinal Steel Co.; Lilly Electrical Sales & Equip; Terrell Industries; Goodwill Industries; Benham Coal, Inc., Div. International Harvester, Tram Inc., for 270 days. Supporting shippers: There are 9 supporting shippers. Their statements may be examined at the ICC Reg. Ofc., Phila., PA.

MC 129625(Sub-II–1TA), filed October 31, 1980. Applicant: ROBERT COLE TRUCKING CO., P.O. Box M, Falls Creek, PA. 15840. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Salt, in bulk, in dump vehicles,* from Pts. in Sandy Township, Clearfield County, and Bell Township, Jefferson County, PA, to pts. in Bedford, Blair, Fulton, Huntingdon, and Somerset Counties, PA, restricted to the transportation of shipments having a prior interstate movement by rail for 270 days. An underlying ETA seeks 120 days. Supporting shipper: International Salt Co., Morgan Hwy., Clarks Summit, PA 18411.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 113434 (Sub-4–5TA), filed October 29, 1980. Applicant: GRA-BELL TRUCK LINE, INC., P.O. Box 1001, A–5253–144th Avenue, Holland, Michigan 49423. Representative: Roger Van Wyk, P.O. Box 1001, A–5253–144th Avenue, Holland, Michigan 49423. *Glass containers and accessories* between Burlington, WI and the states of IL, KY, MI, and MO. An underlying ETA seeks 120 days authority. Supporting shipper: National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631.

MC 107295 (Sub-4–24TA), filed October 29, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). (1) *Roofing and roofing materials* from Phillipsburg, KS and Joplin, MO to points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA, and WY, and (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacture and distribution of commodities named in (1) above in the reverse direction. Supporting shipper: Tamko Asphalt Products, Inc., 220 West 4th St., Joplin, MO 64801.

MC 145485 (Sub-4–TA), filed October 29, 1980. Applicant: DAVIS CARTAGE COMPANY, P.O. Box 96, Corunna, MI 48817. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Automobile and appliance parts and materials and supplies used in connection with the manufacture, distribution, and repair of such parts* between points in Clinton and Shiawassee Counties, MI, and Bennington County, VT, on the one hand, and, on the other, points in and east of MN, IA, and MO, and in and north of KY and VA, restricted to traffic originating at or destined to the plantsites of Schmelzer Corporation. Supporting shipper: Schmelzer Corporation; 201 Vinewood Avenue; Durand, MI 48429.

MC 125894 (Sub-4–3TA), filed October 29, 1980. Applicant: J & R SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Salt and salt products* from the plant site of Cargill, Inc. at Sioux City, IA to points in MN on and east of U.S. Highway 71 and on and south of U.S. Highway 12, and points in Wisconsin on and south of Interstate Highway 94. An underlying ETA seeks 120 days authority. Supporting shipper: Cargill, Incorporated, Central-Area Transportation Manager, P.O. Box 930, Minneapolis, MN. 55440.

MC 144645 (Sub-4–4TA), filed October 29, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract,* Irregular, *Pet food and materials, equipment and supplies used in the manufacture or distribution of pet food* between points in the United States under continuing contracts with Landon Company, Inc., of Delavan, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Landon Company, Inc., Route 3, Box 457, Delavan, WI 53115.

MC 143002 (Sub-4–11TA), filed October 28, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *General commodities (except household goods as defined by the Commission and class A and B explosives)* between various points in the United States under continuing contract(s) with Herman Miller, Inc., of Zeeland, MI. Supporting shipper: Herman Miller, Inc., 8500 Byron Road, Zeeland, MI 49464.

MC 144030 (Sub-4–3), filed October 28, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass, P.O. Box 264, U.S. 50, Lawrenceburg, IN 47025. *General Commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, Commodities in bulk and those requiring special equipment, Between Points in the United States. An underlying E.T.A. seeks 120 days authority. There are 9 supporting shippers.

MC 144527 (Sub-4–6TA), filed October 27, 1980. Applicant: BULS EYES TRANSPORT, INC., Suite 2424, 33 N. Dearborn St., Chicago, IL 60602. Representative: Patrick H. Smyth, Smyth & Guth, P.C., 19 South LaSalle St., Suite 401, Chicago, IL 60603. *Contract* irregular: *Non-Alcoholic Beverages,* between Van Wert County, OH, and, on the other hand, points in IA, IL, IN, KY, MI, MN, MO, TX and WI under a continuing contract(s) with New England Apple Products, Inc. Supporting shipper: New England Apple Products, Inc., Harvard Road, Littleton, MA 01460.

MC 125777 (Sub-4–8TA), filed October 28, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Duane C. O'Donnell (same as above). *Ferrous Sulphate in Bulk* from St. Louis and St. Louis County, MO to the 3M Plant at or near Cordova, IL and from at or near Clinton, IA to the 3M Plant at or near Cordova, IL. Supporting shipper: Minnesota Mining & Mfg. Corp., 3M Center, St. Paul MN 55144.

MC 125777 (Sub-4–9TA), filed October 28, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Duane C. O'Donnell (same as above). *Coke in Bulk and in Containers on Flatbed Trailers* between Toledo, OH, on the one hand and points in IN & MI on the other. Supporting shipper: Koppers Company, Inc. 850 Koppers Bldg. Pittsburgh, PA 15219.

MC 146821 (Sub-4–3TA), filed October 28, 1980. Applicant: RON BESTEMAN TRANSPORT, INC., 2240 Byron Center

Rd. SW., Wyoming, MI 49509. Representative: Edward Malinzak, 900 Old-Kent Bldg., Grand Rapids, MI 49503. *Apple juice, cider and vinegar and other apple products and glass and paper containers (except in bulk)* between Grand Rapids and Belding, MI, and points in IL, IA, MN, and WI, in mechanically refrigerated vehicles. Supporting shipper: Indian Summer, Inc., 700 Kideville, Belding, MI 48809.

MC 148753 (Sub-4–6TA), filed October 27, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: Norman T. Fowlkes III, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Such commodities* as are dealt in or used by discount chain department stores (except commodities in bulk), between points in the U.S. Restricted to traffic moving from, to, or between the facilities of Venture Stores. Supporting shipper: Venture Stores, Division of May Company, 615 Northwest Plaza, St. Ann, MO 63074.

MC 152387 (Sub-4–1TA), filed October 29, 1980. Applicant: ELDON ARMSTRONG TRUCKING, INC., 4222 Old Forge Road, Port Huron, MI 48060. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Such commodities as are dealt in or used by manufacturers and converters of paper and paper products* (except commodities in bulk), between points in WI on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and Canada in MI. Supporting shipper(s): There are seven (7) statements in support of this application. An underlying ETA seeks 120 days authority.

MC 146994 (Sub-4–2TA), filed October 28, 1980. Applicant: MOTOR RAIL DELIVERY, INC., 600 Fern Street, Ferndale, MI 48220. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Hosuehold appliances* from Greenville and Belding, MI to Detroit, MI. (Restriction: The above authority is restricted to the movement of piggyback trailers having a subsequent movement by rail or water beyond the territory involved). Supporting shipper: Gibson International Company, Gibson Appliance Center, Greenville, MI 48838.

MC 52665 (Sub-4–1TA), filed October 28, 1980. Applicant: GEM CITY TRANSFER LINE, INC., 1811 North 30th Street, P.O. Box 1207, Quincy, IL 62301. Representative: Douglas G. Brown, P.C., the INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. *Contract,* Irregular: *General commodities (except household goods, Classes A and B explosives, and commodities in bulk in tank vehicles),* between all points in the U.S. except AK and HI, restricted to traffic moving to, from or between facilities utilized by Donaldson Company, Inc., its subsidiaries, divisions, and vendors, under continuing contract or contracts with Donaldson Company, Inc., Minneapolis, MN. Supporting shipper: Donaldson Company, Inc., 1400 West 94th Street, Minneapolis, MN, 55431.

MC 152395 (Sub-4–1TA), filed October 28, 1980. Applicant: KRUEGER TRUCKING, INC., 1330 Bellevue St., Green Bay, WI 54308. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract,* irregular: *Furniture or fixtures and equipment, supplies, and materials* between points in the U.S. under contract to Krueger Metal Products, Inc. and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Krueger Metal Products, Inc., 1330 Bellevue St., Green Bay, WI 54308, and subsidiaries. Under continuing contract(s) with supporting shipper.

MC 152385 (Sub-4–1TA), filed October 29, 1980. Applicant: DAVID D. MARTIN, d.b.a. DAVID D. MARTIN TRUCKING, 103 Tuttle Ave., Mandan, ND 58554. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract,* irregular: *Used and reconditioned machinery, equipment, parts and attachments for such machinery and equipment,* Between points in the United States, (except Alaska and Hawaii), for the account of General Tractor, Inc. An underlying ETA seeks 120 day authority. Supporting shipper: General Tractor, Inc., 7750 State Highway 101, Shakopee, MN 55379. Under continuing contract(s) with supporting shipper.

MC 133689 (Sub-4–41TA), filed October 28, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Fruit Juices,* from Evanston, IL to points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Ventura Coastal Corporation, 2113 Greenleaf Street, Evanston, IL 60202.

MC 133689 (Sub-4–40TA), filed October 28, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Electrical accessories, electrical articles, and materials, equipment and supplies used in the manufacture and distribution of electrical accessories and related articles,* between Greenville and Jefferson City, TN, on the one hand, and, on the other, points in the United States in and east of ND, SD, KS, NE, OK, and TX. Supporting shipper: Magnovox Consumer Electronics, Snapp Ferry Road, Greenville, TN 37743.

MC 108859 (Sub-4–7TA), filed October 28, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI, 54303. *General commodities (except household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment),* between the facilities of MTD Products, Inc., and its divisions or subsidiaries located at Shelby (Richland County), Willard (Huron County), and Wooster, (Wayne County), OH, on the one hand, and on the other, points presently served by applicant in its regular route operations. Supporting shipper: MTD Products, Inc., 979 South Conwell Avenue, Willard, OH 44890.

MC 35628 (Sub-4–9TA), (Republication), filed September 2, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 110 Ionia Avenue, NW., Grand Rapids, MI 39501. Representative: Michael P. Zell (address same as applicant). Common: *Regular; General Commodities,* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all points in Todd and Logan Counties, KY, as off route points in connection with applicant's presently authorized regular route service. Applicant intends to tack and interline with present authority. An underlying ETA was filed. There are fourteen supporting shippers.

MC 152419 (Sub-4–1TA), filed October 31, 1980. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. (1) *Pasta products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of pasta products, between the facilities of Noodles by Leonardo, Inc., at or near Cando, ND, on the one hand, and, on the other, points in the U.S. Supporting shipper: Noodles by Leonardo, Inc., Cando, ND 58324.

MC 145195 (Sub-4–6TA), filed October 30, 1980. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58047. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Non-alcoholic beverages and materials, equipment and supplies used in the production, bottling,*

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and distribution of non-alcoholic beverages, From the facilities of Gold Medal Beverages at or near Minneapolis, MN, to points in MT. An underlying ETA seeks 120 days authority. Supporting shipper: Gold Medal Beverage Company, 553 North Fairview, St. Paul, MN 55104.

MC 146643 (Sub-4–33TA), filed October 31, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Contract;* Irregular; *air conditioners, heating equipment, air cleaners, humidifying equipment and furnaces and materials, equipment and supplies used in the manufacture, distribution and repair of the above named commodities,* between the facilities of Fedders Corporation at or near Effingham, IL, on the one hand, and, on the other, points in IN, MI, NY, OH, PA and WI. Supporting shipper: Fedders Corporation, Woodbridge Avenue, Edison, NJ 08817. An underlying ETA seeks 120 days authority.

MC 105269 (Sub-4–3TA), filed October 31, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49503. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49005. *Paper, paper products, and materials and supplies used in the manufacture and distribution thereof (except in bulk)* between Kalamazoo, MI, on the one hand, and, on the other, points in NY, restricted to traffic on behalf of International Paper Company. Supporting shipper: International Paper Co., 77 W. 45th St., New York, NY 10036.

MC 152388 (Sub-4–1TA), filed October 28, 1980. Applicant: DOUGLAS BROTHERS TRUCKING, INC., 7530 Pulaski Road, Concord, MI 49237. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. (1) *Mineral wool and fiberglass products and insulation produced from fiberglass materials and/or rock, slag, clay or glass* from Huntington, IN and Albion, MI and their respective commercial zones to various points in the U.S. in the east of MN, IA, MO, AR and LA; (2) *Materials, equipment and supplies used in the manufacture of (1)* from various points in the United States in and east of MN, IA, MO, AR and LA, to Huntington, IN and Albion, MI and their respective commercial zones. Supporting shipper: Guardian Insulation, 1000 E. North Street, Albion, MI 49224.

MC 149546 (Sub-4–5TA), filed October 28, 1980. Applicant: D & TRUCKING, INC., 498 First Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses,* as described in Section A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) between Minneapolis, MN, on the one hand, and on the other hand all points in the U.S. in the east of NE, ND, SD, KS, AR and LA. Supporting shipper: Goldberger Foods, Inc., Minneapolis, MN).

MC 124078 (Sub-4–43TA), filed October 27, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Cement clinker,* from West Des Moines, IA to Nazareth, PA and Jersey City, NJ. An underlying ETA seeks 120 days authority. Supporting shipper: Chem Tech Services, 4251 Main Street, Skokie, IL 60076.

MC 152396 (Sub-4–1TA), filed October 28, 1980. Applicant: OSCAR G. BJUGSTAD, OSCAR L. BJUGSTAD, AND AUGUST D. BJUGSTAD d.b.a., BJUGSTAD TRUCKING CO., Route 2—Hwy. 51, Stoughton, WI 53589. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. *Contract;* Irregular; *Pump jacks* from Evansville, WI to points in KS and PA. An underlying ETA seeks 120 days authority. Supporting shipper: Baker Manufacturing Company, 133 Enterprise Street, Evansville, WI 53536.

MC 40978 (Sub-4–9TA), filed October 29, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Expanded plastic articles,* from Indianapolis, IN, to points in IA, IL, KY, MI, MN, MO, OH, and WI. Supporting shipper: W. R. Grace Co., Formpac Division, P.O. Box 295, Tuckerton Road, Reading, PA, 19605.

MC 143356 (Sub-4–2TA), filed October 29, 1980. Applicant: MIRACL MOTOR SERVICE LTD., 1825 N. California Ave., Chicago, IL 60647. Representative: Stanley Phillips, 5527 N. Central Ave., Chicago, IL 60630. *Composition board, accessories and materials used in the installation thereof* from Plant-site and warehouse facilities of Abitibi-Price Corp. at or near Toledo, OH to pts. in IL and WI and rejected shipments on return. Supporting shipper: Abitibi-Price Corporation, 3250 W. Big Beaver Rd., Troy, MI 48012.

MC 151087 (Sub-4–2TA), filed October 29, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15344 Dixie Highway, HARVEY, Ill. 60426. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract,* irregular, *bedding, new furniture and materials, supplies and equipment used in the manufacture, sale and distribution of new furniture,* between Harvey, IL on the one hand, and, on the other, Columbia, PA and points in OH. Supporting shipper: Harris Hub Company, Inc., 15600 South Commercial Avenue, Harvey, IL. 60426.

MC 52657 (Sub-4–4TA), filed October 29, 1980. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril, 16 W. 151 Shore Court, Burr Ridge, IL 60521. *Motor vehicles, in truckaway service, in secondary movements,* from Little Ferry, NJ to points in CT, NJ, NY and RI; from Pittsburgh, PA to points in MD, OH, PA and WV. Restricted to the transportation of vehicles having a prior movement from the facilities of Regie Nationale-Des-Usiness Renault, France. An underlying ETA seeks 120 day authority. Supporting shipper: American Motors Corporation, 14250 Plymouth Rd., Detroit, MI 48232.

MC 106674 (Sub-4–35TA), filed October 29, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (address same as applicant). *Interior building products for walls, ceilings, floors and related supplies (except commodities in bulk)* from Westlake, OH; Medina, OH; Baltimore, MD; Red Lion, PA; to points in the U.S. (except AK & HI). An underlying ETA seeks 120 days authority. Supporting Shipper: Donn Corporation, 1000 Crocker Road, Westlake, Ohio 44145.

MC 123294 (Sub-4–14TA), filed October 29, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Paper and paper products* from Indianapolis, IN, to Quincy, IL. Supporting shipper: Irwin Paper Company, 300 Main Street, Quincy, IL 62301. An underlying ETA seeks 120 days authority.

MC 148993 (Sub-4–1TA), filed October 29, 1980. Applicant: TILMON YEARWOOD (an individual), 14921 South Kedzie Ave., Markham, IL 60426. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *(a) anti-freeze, fuel additives, toilet preparations and beauty aids and (b) commodities used in the manufacturing and distribution of commodities in (a)* between Chicago and Coal City, IL and their commercial zones, on the one hand, and, on the other, points in MI, IN, WI, IA, MN, MO, and OH. Restricted to the transportation of traffic from, to or between the facilities of DeMert & Dougherty. An underlying ETA seeks 120 days authority. Supporting shipper: DeMert & Dougherty, 5000 W. 51st Street, Chicago, IL 60650.

MC 112893 (Sub-4–3TA), filed October 29, 1980. Applicant: BULK TRANSPORT COMPANY, 100 Waukegan Road, P.O. BOX 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Transformer oil,* between Waukesha Co., WI on the one hand and points in the U.S. on the other. Supporting shipper: RTE-ASEA Corporation, 400 South Prairie Avenue, Waukesha, WI 53186.

MC 148779 (Sub-4–1TA), filed October 29, 1980. Applicant: RON FOX TRUCKING, INC., 22N–675W, Valparaiso, IN 46383. Representative: Paul D. Borghesani, 300 Communicana Building, 421 South Second Street, Elkhart, IN 46516. *Contract* irregular: *Plastic materials* from Toledo, OH and Ringwood, IL to San Francisco, CA and its commercial zone. Supporting shipper: Fairchild Camera and Instrument Corporation, 464 Ellis Street, Mountain View, CA 94042.

MC 108223 (Sub-4TA), filed October 28, 1980. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Common regular: General commodities* (except household goods as defined by the Commission and classes A and B explosives, (1) Between Davenport, IA and St. Louis, MO and points in its Commercial Zone: from Davenport over Interstate Hwy 80 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction IL Hwy 121, then over IL Hwy 121 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route, serving no intermediate points: (2) Between Chicago, IL and St. Louis, MO and points in its Commercial Zone: from Chicago over Interstate Hwy 55 to St. Louis, MO and return over the same route, serving no intermediate points; (3) Between Chicago, IL and Cleveland, OH and points in its Commercial Zone: from Chicago over U.S. Hwy 20 to Cleveland, and return over the same route, serving the intermediate point of Toledo, OH and points in Cuyahoga, Lorain, Lucas, Medina and Summit Counties, OH as off-route points. There are 21 supporting shippers. Applicant intends to tack this authority with its existing regular route authority. An underlying ETA seeks 120 days authority.

MC 119619 (Sub-4–5TA), filed October 29, 1980. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, Queens Office Building, 95–25 Queens Boulevard, Rego Park, NY 11374. *Foodstuffs (except commodities in bulk).* From points in Jefferson County, KY, to points in CT, DE, DC, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Louisville Freezer Center, 2000 S. Ninth St., Louisville, KY 40208.

MC 123407 (Sub-4–8TA), filed October 29, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Plastic pipe, fittings, and accessories* from Macon, GA, to points in AL, GA, IL, IN, KY, LA, MO, MS, NC, NJ, OH, SC, TN, TX, and VA. *Supporting shipper: Dyka U.S.A., Inc., P.O. Box 10246, Macon, GA 31297. *An underlying ETA seeks 120 days authority.

MC 115651 (Sub-4–11TA), filed October 29, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. *Carbonized ink liquid,* from Sycamore, IL to Emigsville and York, PA, Goshen, IN, and Temple, TX. An underlying ETA seeks 120 day authority. Supporting shipper: Duplex Products Inc., 228 W. Page St., Sycamore, IL 60178.

MC 67111 (Sub-4–2TA), filed October 28, 1980. Applicant: KAIN'S MOTOR SERVICE CORP., West End of Bates St., Logansport, IN 46947. Representative: Frank M. Cook, 616 Circle Tower Building, Indianapolis, IN 46204. *Common* regular: (with the usual exceptions) serving Leiters Ford, IN as an off-route point in connection with presently authorized regular routes between Chicago, IL and Logansport, IN. Supporting shipper: Switches Div. of Dura Corp., 516 High St., Logansport, IN 46947.

MC 148930 (Sub-4–4TA), filed October 30, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Dr., Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Contract Irregular: *Such merchandise as is marketed by home products distributors (except in bulk)* between Chicago, IL, and points in IA, KS, MI, MN, MO, NE, ND, and SD, under a continuing contract with Shaklee Corporation. Supporting shipper: Shaklee Corporation, 1900 Powell St., Emeryville, CA 94680.

MC 152412 (Sub-4–1TA), filed October 30, 1980. Applicant: VANEERDEN TRUCKING COMPANY, INC., 1150 Freeman SW., Grand Rapids, MI 49503. Representative: J. Michael Smith, 465 Old Kent Building, Grand Rapids, MI 49503. *Contract,* irregular *Transporting commodities as dealt in by wholesale and retail food business houses* between points in the U.S. under a continuing contract with VanEerden Produce Company Grand Rapids, MI. Supporting shipper: VanEerden Produce Company, 1245 Terminal Crescent, SW., Grand Rapids, MI 49503.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–66TA), filed October 29, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, (same as applicant). *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between points in U.S. Restricted to shipments originating at or destined to facilities used by Morse Electro Products, its affiliates, suppliers, or vendors. Supporting shipper: Morse Electro Products Corp. Mfg., 3433 Morse Dr., Dallas, TX 75236.

MC 200 (Sub-5–67TA), filed October 29, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, (same as applicant). *Chemicals, NOI, (except in bulk),* between Ashtabula, OH and Hopkinton, MA. Restricted to shipments originating at or destined to facilities utilized by Monson Chemicals, Inc., its suppliers, or vendors. Supporting shipper: Monson Chemicals, Inc., 84 South St. Hopkinton, MA 01748.

MC 41849 (Sub-5–3TA), filed October 29, 1980. Applicant: KEIGHTLEY BROS., INC., 1305 Gratiot Street, St. Louis, MO 63103. Representative: Patrick M. Browne (same as applicant). *Lime, in bulk,* from the plant site of the United States Gypsum Company at New Orleans, LA to AL, AR, MS, and TX.

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Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606.

MC 41849 (Sub-5–4TA), filed October 29, 1980. Applicant: KEIGHTLEY BROS., INC., 1305 Gratiot Street, St. Louis, MO 63103. Representative: Patrick M. Browne (same as applicant). *Line, in bulk,* from Pelican Lime Company at or near Amelia, LA to points in AL, AR, MS, and TX. Supporting shipper(s): Pelican Lime Company, P.O. Box 1637, Morgan City, LA 70380.

MC 41849 (Sub-5–5TA), filed October 29, 1980. Applicant: KEIGHTLEY BROS., INC., 1305 Gratiot Street, St. Louis, MO 63103. Representative: Patrick M. Browne (same as applicant). *Ferrous sulphate, in bulk,* from St. Louis and St. Louis county, MO to the plant of the 3M Company at or near Cordova, IL. Supporting shipper(s): Minnesota Mining and Manufacturing Company (3M), 3M Center, St. Paul, MN 55144.

MC 106398 (Sub-5–50), filed October 29, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Building materials:* from the facilities of Jo-Moco Products Company at Tulsa, OK to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Jo-Moco Products Company, 1102 East 2nd Street, Tulsa, OK 74120.

MC 107064 (Sub-5–2TA), filed October 29, 1980. Applicant: STEERE TANK LINES, INC., Post Office Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Soda ash,* in bulk, from Sweetwater County, WY to Dimmitt, TX. Supporting shipper: Amstar Corp.—Spreckels Sugar Div., Post Office Box 169, Dimmitt, TX 79027.

MC 129908 (Sub-5–34TA), filed October 29, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S. W. 15th Street, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. *Such commodities as are dealt in by Grocery and Food Business Houses and Materials, supplies and equipment used in connection with or incidental to the manufacturing or distribution of such commodities* (1) between IN on the one hand and on the other points in CA, TX and TN. And (2) Between points in CA, ID, OR and WA. Supporting shipper: Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036.

MC 138469 (Sub-5–26TA), filed October 29, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK, 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Av., Park Ridge, IL 60068. *Such commodities as are dealt in or used by business machine manufacturers (except commodities in bulk),* (1) from Chicago, IL and MI to El Paso, TX, and (2) From El Paso TX to points in the United States (except AK and HI). Supporting shipper: Victor Business Products, 9555 Plaza Circle, El Paso, TX 79907.

MC 138627 (Sub-5–6TA), filed October 29, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Masonry Products,* From Adel and Sergeant Bluff, IA and points in OH to points in IL, KS, MN, MO, NE, ND, SD, WI, and WY. Supporting shipper: Sioux City Brick and Tile Company, P.O. Box 807, 222 Commerce Building, Sioux City, IA 51106.

MC 140364 (Sub-5–9TA), filed October 28, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 79105. Representative: R. L. Gordon, Manager-Transportation, 111 West Clarendon, Phoenix, AZ 85013. Contract, Irregular: *Meats, meat products, dairy products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, B, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk),* between points in the U.S. restricted to the transportation of traffic originating at or destined to the facilities utilized by National Beef Packing Company. Supporting shipper: National Beef Packing Company, 1501 East Eight Street, Liberal, KS 67901.

MC 144622 (Sub-5–57TA), filed October 29, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, LIttle Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *General commodities (except household goods as defined by the Commission and Classess A and B explosives)* from the facilities of Charter Oak Shippers Cooperative Association, Inc., and its members located in CT, MA, RI, NY, and NJ to points in the United States. Supporting shipper: The Charter Oak Shippers Cooperative Association, Inc., One Parkland Drive, Box 1147, Darien, CT 06820.

MC 146448 (Sub-5–13TA), filed Octobert 29, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timonthy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, Va 22101. *Ball bearings, roller bearings and pillow blocks* from Allentown, Altoona, Hanover, King of Prussia, Kulpsville and the Commercial Zone of Philadelphia, PA, Hornell, NY and Glasgrow, KY, to Reno, NV. Supporting shipper: SKF Industries, Inc., P.O. Box 515, King of Prussia, PA 19406.

MC 146703 (Sub-5–3TA), filed October 10, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. *Dog food and related products* from Kansas City, MO to EL Paso, TX. Supporting shipper: Economy Cash & Carry, Inc., 1000 E. Overland, El Paso, TX 79901.

MC 146194 (Sub-5–2), filed October 29, 1980. Applicant: LARRY D. AND PATRICIA CHICK, 1319 San Miguel, Springdale, AR 72764. Representative: Michael H. Mashburn, Blair, Cypert, Waters & Roy, P.O. Box 869 Springdale, AR 72764. *Foodstuffs and food additives,* from Bridgeton, MO to Fargo, ND; St. Paul and Minneapolis, MN; Milwaukee, WI; Glendale, CA; Orlando and Miami, FL; and Denver, CO. Supporting shipper: Consolidated Flavor Corporation, 264 Boulder Industrial Drive, Bridegeton, MO, 63044.

MC 150142 (Sub-5–2), filed October 29, 1980. Applicant: LARRY D. AND PATRICIA CHICK, 1319 San Miguel, Springdale, AR 72764. Representative: Michael H. Mashburn, Blair, Cypert, Waters & Roy, P.O. Box 869, Springdale, AR 72764. Contract; Irregular. *Foodstuffs and food additives,* between Bridgeton, MO on the one hand, and, on the other, points within the U.S., restricted to operations performed pursuant to a continuing contract or contracts with Consolidated Flavor Corporation and restricted against contract carrier operations from Bridgeton, MO to Fargo, ND; St. Paul and Minneapolis, MN; Milwaukee, WI; Glendale, CA; Orlando and Miami, FL; and Denver CO. Supporting shipper: Consolidated Flavor Corporation, 264 Boulder Industrial Drive, Bridgeton, MO, 63044.

MC 150578 (Sub-5–13TA), filed October 29, 1980. Applicant: STEVENS TRANSPORT, a DIVISION OF STEVENS FOODS, INC., 2944 Motley Dr., Mesquite, TX 75150. Representative: S. Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Mellamine plastic materials and urea molding compound,* from Dallas, TX to Gardenia, Valencia and Los Angeles, CA; Morganton and West Jefferson, NC; Lake City, PA; Lynnbrook, NY; Providence, RI; Fort

Gibson, MS; Minneapolis, MN; Laredo and Del Rio, TX and Fredonia, WI. Supporting shipper: Plastics Mfg. Co., 2700 S. Westmoreland, Dallas, TX 75223.

MC 151154 (Sub-5–11TA), filed October 28, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *(1) Foodstuffs and (2) equipment, materials and supplies used in the manufacture and distribution of foodstuffs (except commodities in bulk in tank or hopper vehicles).* Between Detroit, MI, Chicago, IL, Lowell, MA, Pennsauken, NJ and St. Paul, MN on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to facilities at The Prince Company. Supporting shipper: The Prince Company, 115 W. Plato Blvd., St. Paul, MN 55107.

MC 151154 (Sub-5–12TA), filed October 28, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *Automotive parts and accessories,* between points in Dakota, Hennepin and Ramsey Counties, MN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to points in Dakota, Hennepin and Ramsey Counties, MN. Supporting shipper: Midwest Wholesale Tire, 1454 Sibley Memorial Highway, Mendota, MN 55150.

MC 151154 (Sub-5–13TA), filed October 28, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *(1) Caulking compounds and adhesives, and, (2) materials, equipment and supplies used in the manufacture and distribution of caulking compounds and adhesives (except commodities in bulk in tank or hopper vehicle).* Between Minneapolis and St. Paul, MN, Westwego, LA and Houston, Beaumont and Corpus Christi, TX on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to Minneapolis and St. Paul, MN, Westwego, LA, and Houston, Beaumont and Corpus Christi, TX. Supporting shipper: Gulf Seal Specialties, Inc., 601 Jefferson, Suite 535, Houston, TX 77002.

MC 151154 (Sub-5–14TA), filed October 29, 1980. Applicant: LENERTZ, INC., OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *(1) Vending machines and (2) equipment, materials and supplies used in the manufacturing and distribution of commodities in (1) above.* Between St. Paul, MN on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to St. Paul, MN. Supporting shipper: Gross Given Manufacturing Co., 75 W. Plato Blvd., St. Paul, MN 55107.

MC 151154 (Sub-5–15TA), filed October 29, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *(1) Adhesives, sealants, expoxies, urethanes and coatings, and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank or hopper vehicles),* between St. Paul, MN, Madison, WI, and Port Byron, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to St. Paul, MN, Madison, WI and Port Byron, IL. Supporting shipper: Technical Sealants and Adhesives, Inc., 43 East Water Street, St. Paul, MN 55107.

MC 151154 (Sub-5–16TA), filed October 29, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *Chemicals, and materials, equipment and supplies used in the manufacturing and distribution of chemicals (except commodities in bulk in tank or hopper vehicles),* between Minneapolis, MN on the one hand, and, on the other, all points in the U.S in and east of ND, SD, NE, CO, OK and TX. Supporting shipper: Industrial Chemical & Equipment Co., 2205 Hennepin Avenue East, Minneapolis, MN 55414.

MC 151201 (Sub-5–2TA), filed October 28, 1980. Applicant: CARY TRANSIT, INC., 1606 Camero Box 130, Carrollton, TX 75006. Representative: Ronald Wigington, 3410 S. W. 11th St., Lawton, OK 73501. *(1) Malt beverages; (2) materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between points in Jefferson and Denver Counties, CO on the one hand, and, on the other, points in TX and OK. Supporting shippers: Southwest Sales, Inc., 726 F. Ave., Box 1586, Lawton, OK 73502; Golden Distributing Co., 5353 Kell, Wichita Falls, TX; Adolph Coors Co., Golden, CO 80401.

MC 152117 (Sub-5–2TA), filed October 28, 1980. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 824 27th Ave., S.W., Cedar Rapids, IA 52404. Representative: Virginia A. Wilson (same). *Toilet preparations, shampoo & permanent hair waving kits, and materials, supplies, and equipment used in the manufacture thereof,* between the facilities utilized by Proctor & Gamble Distributing Co. in IA, on the one hand, and, on the other, points in the states of AZ, CA, CO, ID, NV, OR, WA, UT, TX, OK, AR & TN. Supporting shipper: The Proctor & Gamble Company, P.O. Box 599, Cincinnati, OH 45201.

MC 152136 (Sub-5–1TA), filed October 28, 1980. Applicant: DANE TRUCKING & CARTAGE COMPANY, 7816 Noneman Street, Fort Worth, TX 76180. Representative: Sam Hallman, Phinney, Hallman, Pulley & Coke, 4555 First National Bank Building, Dallas, TX 75202. Contract; Irregular. *Rubber coated tire fabric,* between Tyler, TX and Lawton, OK. Supporting shipper: Kelly Springfield Tire Company, 300 Cumberland Road, P.O. Box 30, Cumberland, MD 21501.

MC 152378 (Sub-5–1TA), filed October 28, 1980. Applicant: RAIL-HIGHWAY TRANSPORTATION COMPANY, a Division of AJF, INDUSTRIES, INC., 11960 Westline Industrial Dr., Suite 330, St. Louis, MO 63141. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between points in AR, IL, IN, IA, KS, KY, MO, TN, restricted to transportation incidental to trailer-on-flatcar or container-on-flatcar service by a rail carrier. Supporting shippers: 15.

MC 152386 (Sub-5–1TA), filed October 28, 1980. Applicant: LACINDA LYNN, INC., d.b.a. LADD TRUCKING CO., P.O. Box 1011, Canadian, TX 79401. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. *Drilling mud, in sacks, bags, or other containers* between points in Hemphill, Wheeler, Lipscomb, Ochiltree, Collingsworth, Gray, Roberts and Hansford Counties, TX, on the one hand, and, on the other, (1) points in OK West of IH 35; (2) points in Morton, Stevens, Seward, Meade and Clark Counties, KS; and (3) points in NM. Supporting shippers: Barker & Taylor Drilling Co., Amarillo, TX, Dotco Fishing Tools, Canadian, TX, Mid-West Mud Co., Inc., Canadian TX.

MC 152402 (Sub-5–1TA), filed October 29, 1980. Applicant: DALE KOTTWITZ, d.b.a. KOTTWITZ HAULING SERVICE, 1710 West Eighth Street, Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Feed ingredients,* between Shickley, NE, and points in its commercial zone, on the one hand, and,

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on the other, points in NM. Supporting shipper: Biegert Bros. Fertilizer Co., P.O. Box 197, Shickley, NE 68436.

MC 152406 (Sub-5–1TA), filed October 29, 1980. Applicant: TEXAS WESTERN EXPRESS, INC., 5713 Azle Avenue, Fort Worth, TX 76106. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract: Irregular. *Auto parts* between points in Tarrant and Dallas Counties, TX, on the one hand, and, on the other, points in CA, AZ, CO, NM, UT, NV, WA, OK, AR and LA. Supporting shipper: Don Crofford Auto Parts, Inc., 3822 N. Grove St., Fort Worth.

MC 152407 (Sub-5–1TA), filed October 29, 1980. Applicant: SKIP'S TRUCKING CO., INC., P.O. Box 460, Allen, TX 75002. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Contract, irregular: *Construction and Material Handling Machines and Machinery;* between points in the U.S. Supporting shipper: Pettibone Corporation, Southwest Sales Branches, 1401 S. Loop, Irving, TX 75060.

Republication

MC 119399 (Sub-5–28TA), filed October 9, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Liquid resin solution, in drums and pails (except in bulk),* from Mayes County, OK to points in CO, FL, GA and IA. Supporting shipper: Interplastic Corporation, Commercial Resins Division, Bartlesville, OK.

MC 2095 (Sub-5–4TA), filed October 31, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Iron and Steel Articles (except "Mercer" commodities as defined in 74MCC 459, 548 or earth drilling commodities as described in Roy L. Jones, et al. 103MCC 825),* From Clinton County and Lycoming County, PA to points in WI; TN; MS; AR; MO; IA; NE; FL; KS; OK; TX; CO and CA. Supporting shipper: Jersey Shore Steel Company, P.O. Box 5055, Jersey Shore, PA 17740.

MC 9291 (Sub-5–4TA), filed October 31, 1980. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Such commodities as are dealt in or used by manufacturers and distributors of containers (except commodity in bulk).* Between the facilities of Hoover Universal, Inc., Beverage Bottling Div., at or near Lenexa, KS. on the one hand, and points in MO, AR, IA and MN, on the other hand. Supporting shipper: Hoover Universal, Inc., 9939 Widmer, Lenexa, KS 66215.

MC 30844 (Sub-5–28TA), filed October 30, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 East 67th Street, Tulsa, OK 74121. Representative: Robert Kroblin, P.O. Box 21222, Tulsa, OK 74121. *Such Merchandise as dealt in by wholesale and retail stores,* from Jersey City, NJ to Tulsa, OK. Supporting shipper: Tulsa Shippers Association, Inc., 15 S. Frankfort, Tulsa, OK 74420.

MC 30844 (Sub-5–29TA), filed October 31, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Plastic articles, materials and supplies used in the manufacture of plastic articles,* between Omaha, NE, on the one hand, and, on the other, points in the United States, restricted to shipments originating at or destined to the facilities of Plastilite Corporation. Supporting shipper: Plastilite Corporation, 9409 North 45th, Omaha, NE 68112.

MC 30844 (Sub-5–30TA), filed October 31, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Binders, boards, printed forms, ruled indexes, corrugated boxes KD, envelopes, indexes, and carbonized paper* between points in Black Hawk County, IA, on the one hand, and, on the other, points in Los Angeles County, CA, restricted to shipments originating at or destined to facilities of Control-O-Fax Corp. Supporting shipper: Control-O-Fax Corp., 3070 W. Airline Hwy., Waterloo, IA.

MC 30844 (Sub-5–31TA), filed October 31, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Oil Filters, Air Cleaner Cartridge* and *Fuel Filters,* from Edison, NJ to points in the U.S., restricted to the transportation of traffic originating at or destined to the facilities of Filter Dynamics Co., Lee Division. Supporting shipper: Filter Dynamics Co., Lee Division, Talmadge Road, Edison, NJ.

MC 30844 (Sub-5–32TA), filed October 31, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Paper and plastic bags* from the facilities of Equitable Bag Co., Inc. at Florence, KY; Orange, TX and Long Island City, NY to points in the U.S., restricted to the transportation of traffic originating at or destined to the facilities of Equitable Bag Co., Inc., Supporting shipper: Equitable Bag Co., Inc., 45–50 Van Dam Street, Long Island City, NY 11101.

MC 52460 (Sub-5–17TA), filed October 30, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga, 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. *Meat, Meat Products, Meat By-Products, and Packing-house Products,* at or near Liberal, KS., to points in the states of AL, AR, GA, IA, LA, MS, MO, NC, OK, SC, and TX. Supporting shipper: National Beef Packing Co.,—P.O. Box 1358—Liberal, KS 67901.

MC 52460 (Sub-5–18TA), filed October 30, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga, 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. *Pneumatic Tires and Accessories* from points in AR, LA, and TX, to points in OK. Supporting shipper: Burggraff Tires, Inc., 329 Main St., Quapaw, OK 74363.

MC 60066 (Sub-5–6TA), filed October 31, 1980. Applicant: BEE LINE MOTOR FREIGHT, 1804 Paul Street, Omaha, NE 68102, Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Refined beet and cane sugar and articles used in the manufacture and packaging of refined beet and cane sugar* from Bayard, Gering, Mitchell and Scottsbluff, NE to Chicago, IL and its commercial zone; Hodgkins, Lansing, North Lake, Plainfield, Peoria and Streator, IL and Milwaukee, WI and its commercial zone. Supporting shipper: The Great Western Sugar Company, P.O. Box 5308, Denver, CO 80217.

MC 60271 (Sub-5–7TA), filed October 31, 1980. Applicant: HARPER TRUCK LINE, INC., P.O. Box 288, Monroe, LA 71201. Representative: Sherri L. Roberts (same as above). *Lumber, Building Materials, Wood, Pallets, Plywood and/or Particleboard,* between points and places in Union Parish, LA on the one hand, and, on the other, points and places in AR, MS, OK, TX. Supporting shipper: C. A. Reed Lumber Company, P.O. Box 267, Bernice, LA 71222.

MC 105566 (Sub-5–15TA), filed October 30, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Adhesives, and materials and supplies used in the manufacture and distribution of adhesives,* between the facilities of Gulf Oil Chemicals Company at High Point, NC; Hatfield, PA; Griffith, IN; Freeport, NY; Hutchinson, KS; Chatsworth, CA; Cleveland, OH; and Baltimore, MD, on the one hand, and, on the other, points and places in the U.S., except AK and HI. Supporting shipper: Gulf Oil Chemicals Company, P.O. Box 3706, Houston, TX 77001.

MC 111231 (Sub-5–15TA), filed October 30, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. *Frozen foods,* from the facilities of Pet, Inc. at or near Frankfort, MI to points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MO, MS, NE, OH, OK, TN, and TX. Supporting shipper: Pet, Inc., Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102.

MC 111401 (Sub-5–19TA), filed October 31, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Methyl diolkil amine, in bulk, in tank vehicles,* from Memphis, TN to Brownsville, TX, in foreign commerce only. Supporting shipper: Humko Chemical, Division of Witco Chemical Corp., P.O. Box 125, Memphis, TN 38101.

MC 113651 (Sub-5–27TA), filed October 31, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Madison Packing, Inc., Waterloo, WI to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Madison Packing, Inc., 333 Portland Road, Waterloo, WI 53594.

MC 115730 (Sub-5–3TA), filed October 30, 1980. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Building materials,* from Chicago, IL, St. Louis, MO, and Kansas City, MO, and points in their commercial zones, to points in IA and NE. Supporting shipper: Lumbermans Wholesale Co., 621 S.W. 7th, Des Moines, IA 50309.

MC 117686 (Sub-5–5TA), filed October 31, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st Street, P.O. Box 155, South Sioux City, NE 68776. Representative: George L. Hirschbach, 920 West 21st Street, P.O. Box 155, South Sioux City, NE 68776. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as Described in Sections A and C of Appendix I to the Report in Descriptions on Motor Carrier Certificates, 61 MCC 209 and 766 (except commodites in bulk and hides)* from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI and WY. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 118431 (Sub-5–8TA), filed October 31, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Contract, irregular: *Foodstuffs, (except in bulk),* from Greenville, MI to points in the United States (except AK and HI). Restriction: Restricted to traffic handled under a continuing contract or contracts with Ore-Ida Foods, Inc. Supporting shipper: Ore-Ida Foods, Inc., 200 Parkcenter Boulevard, P.O. Box 10, Boise, ID 83707.

MC 119700 (Sub-5–9TA), filed October 30, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Iron and steel articles* from Harris County, TX to points in AR, KS, MO and OK. Supporting shipper: Armco, Inc., 703 Curtis St., Middletown, OH 45043.

MC 119789 (Sub-5–38TA), filed October 30, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses; as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the U.S. (except AK and HI). Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE, 68731.

MC 119988 (Sub-5–24TA), filed October 31, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. *General commodities* between points in San Diego and Los Angeles Counties, CA, Bergen County, NJ, Cook County, IL, and St. Francis County, AR, on the one hand, and, on the other, points in the U.S. Supporting shipper: Sanyo Electric, Inc., 1200 W. Artesia Blvd., Compton, CA 90220.

MC 123805 (Sub-5–1TA), filed October 30, 1980. Applicant: LOMAX TRUCKING SERVICE, INC., R.R. #1, Hannibal, MO 63401. Representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, MO 65102. *Coal, in bulk, in dump vehicles,* from Ralls County, MO to IA and IL. Supporting shipper: Wyoming Fuel Company, P.O. Box 15625, Lakewood, CO 80215.

MC 123807 (Sub-5–1TA), filed October 30, 1980. Applicant: RENNOLDS POTTERFIELD, 425 Park Street, Monroe City, MO 63456. Representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, MO 65102. *Coal, in bulk, in dump vehicles,* from Ralls County, MO to IA and IL. Supporting shipper: Wyoming Fuel Company, P.O. Box 15625, Lakewood, CO 80215.

MC 123808 (Sub-5–1TA), filed October 30, 1980. Applicant: GEORGE C. POTTERFIELD TRUCKING, INC., P.O. Box 296, Monroe City, MO 63456. Representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, MO 65102. *Coal, in bulk, in dump vehicles,* from Ralls County, MO to IA and IL. Supporting shipper: Wyoming Fuel Company, P.O. Box 15265, Lakewood, CO 80215.

MC 124174 (Sub-5–29TA), filed October 31, 1980. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. *Scrap, metal, and metal articles,* between all points in the USA for the account of Aaron Ferer and Sons Co. Supporting shipper(s): Aaron Ferer and Sons Co., 909 Abbot Drive, Omaha, NE 68130.

MC 129908 (Sub-5–35TA), filed October 30, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. *Foodstuffs or kindred products* between OR on the one hand, and on the other hand points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MS, MO, NC, OK, SC, TN and TX. Supporting shipper: Agripac, Box 5346, 325 Patterson, N.W., Salem, OR 97304.

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MC 134319 (Sub-5–2TA), filed October 30, 1980. Applicant: BRAAFLADT TRANSPORT COMPANY, 501 North Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Propane, in bulk, in tank vehicles,* between points in TX and NM. Supporting shipper: Nelson Energy, Inc., P.O. Box 879, Plainview, TX 79072.

MC 134501 (Sub-5–11TA), filed October 30, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75601. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. (1) *New furniture,* from Bennettsville, SC to points in AL, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TX, VT, VA, WV, WI, and TN (except Shelby County); and (2) *fixtures,* from Bennettsville, SC to points in the U.S. (except AK and HI). Supporting shipper: Boro Wood Products, Inc., P.O. Box 636, Bennettsville, SC 29512.

MC 134501 (Sub-5–12TA), filed October 31, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75601. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Furniture,* from Ashesville, NC to points in the U.S. (except Shelby County, TN, and points in AK, HI, WA, OR, ID, MT, CA, NV, UT, WY, CO, AZ, NM, KS, OK, TX and AR). Supporting shipper: David Morgan, Ltd., P.O. Box 5616, Asheville, NC 28803.

MC 134501 (Sub-5–13TA), filed October 31, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75601. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture,* from Borden, IN, to points in the U.S. (except AK and HI). Supporting shipper: Kimball Office Furniture, Inc., P.O. Box C, Borden, IN 47106.

MC 136786 (Sub-5–38TA), filed October 31, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Printing paper,* between Cook County, IL, on the one hand, and, on the other, Douglas County, NE. Supporting shipper: Rapid Printers & Lithographers, Inc., 9320 "J" Street, Omaha, NE 68127.

MC 138384 (Sub-5–1TA), filed October 30, 1980. Applicant: GOLDEN PRINGLE EXPRESS, LTD., 310 Patton Street, Moberly, MO 65270. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Contract, irregular: *Malt beverages,* from Milwaukee, WI and NE to Moberly, MO 65270.

MC 139923 (Sub-5–4TA), filed October 31, 1980. Applicant: MILLER TRUCKING COMPANY, INC., P.O. Drawer D, 105 South 8th Avenue, Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Foodstuffs (except commodities in bulk),* from Rosemead, CA to points in IL. Supporting shipper: La Victoria Foods, Incorporated, 9133 East Garvey Boulevard, Rosemead, CA 91770.

MC 140635 (Sub-5–7TA), filed October 30, 1980. Applicant: ADAMS LINES, INC., P.O. Box 7343, Omaha, NE 68107. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. *Paints, paint products and food products* from Chicago, IL and its commercial zone to Davenport, and Des Moines, IA and Omaha and Lincoln, NE, and points in their commerical zones. Supporting shippers: The Sherwin Williams Company, 11541 S. Champlain Avenue, Chicago, IL 60628; Standard Brands, Inc., 7001 S. Harlem Avenue, Chicago, IL; The Enterprise Co., 1191 S. Wheeling Road, Wheeling, IL 60090.

MC 140665 (Sub-5–43TA), filed October 30, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *(A) Locomotive replacement parts and electrical equipment and parts, and (B) materials and supplies used in the manufacture of diesel electric locomotives and motorized wheel drives and propulsion equipment.* Commodities in (A) from Erie and Grove City, PA to points in AZ, CA, LA, MO, OK, TX, WA and WY; and commodities in (B) from points in AL, AR, CA, IL, KS, MO, SC, TX and WI to Erie and Grove City, PA. Supporting shipper: General Electric Company, 2901 E. Lake Rd., Erie, PA 16531.

MC 141597 (Sub-5–2TA), filed October 30, 1980. Applicant: RIVERSIDE TRUCK LINE, INC., 919–4th Avenue South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract, irregular: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Dubuque Packing Co., at Denison, IA to points in FL, GA, IL, KS, KY, MO, TN and WI, under continuing contract(s) with Dubuque Packing Co. Supporting shipper(s): Dubuque Packing Co., Denison, IA 51442.

MC 144227 (Sub-5–2TA), filed October 31, 1980. Applicant: CARMIL, INC., P.O. Box 225, Hershey, NE 69143. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Animal feed and animal feed ingredients* (1) from Sioux City and Sergeant Bluff, IA, and points in their commercial zones, to Ogden, UT, Phoenix, Flagstaff, Prescott and Tucson, AZ, and points in their commercial zones, and (2) from Phoenix and Casa Grande, AZ to points in CO, NE, KS, TX, WY and Guymon, OK and points in its commercial zone. Supporting shippers: The Pillsbury Company, P.O. Box 2908, Shawnee Mission, KS 66201 and Wilbur-Ellis Company, P.O. Box 429, Greeley, CO 80632.

MC 144592 (Sub-5–2TA), filed October 30, 1980. Applicant: WAYDENS HEAVY HAULERS, INC., 1400 North 6th Avenue, Hiawatha, IA 52233. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *(1) Machinery and machine parts, (2) electrical and electronic components, and (3) materials and supplies used in the production and distribution of the commodities named in (1) and (2) above,* between all points in the U.S., under continuing contract(s) with Thomas and Betts, Inc. Supporting shipper(s): Thomas and Betts, Inc., P.O. Box 1369, Iowa City, IA 52240.

MC 146051 (Sub-5–2TA), filed October 30, 1980. Applicant: WITTENBURG TRUCK LINE, INC., Box 99, Readlyn, IA 50668. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. (1) *snow plows and parts therefor and* (2) *materials and supplies used in the manufacture of snow plows,* between Waverly, IA, on the one hand, and, on the other, points in CO, CT, DE, DC, ID, IL, IN, KS, MA, MD, MI, MN, MO, MT, NE, NJ, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, VA, WA, WV, WI and WY. Supporting shipper: Henke Manufacturing Co., Waverly, IA 50677.

MC 147196 (Sub-5–16TA), filed October 30, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, La. 70150. Contract: Irregular. *Iron and Steel Pipe, Casings, Fittings and Accessories* between Harrison County, TX, on the one hand, and, on the other, the 48 states under a continuing contract or contracts with En-Tube, Inc., Houston, TX. Supporting shipper: En-Tube, Inc., 11511 Katy Freeway, Houston, TX 77079.

MC 147289 (Sub-5–1TA), filed October 31, 1980. Applicant: GEM CITY

STORAGE & TRANSFER, INC., P.O. Box 786, Keokuk, IA 52632. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Auto parts and accessories,* from Circleville, OH, to Keokuk, IA; and *Empty Containers,* from Keokuk, IA, to Circleville, OH. Supporting shipper: Sheller Globe Corporation, 3200 Main Street, Keokuk, IA 52632.

MC 148060 (Sub-5–5TA), filed October 30, 1980. Applicant: STOVER LINES, INC., 5636 NW 17th, Topeka, KS 66618. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 11OL, Topeka, KS 66612. *Boots, shoes and accessories,* from the facilities of Volume Shoe Co. Distribution Center at Topeka, KS to NM; TX and OK. Supporting shipper: Volume Shoe Corporation, Director of Import/Domestic Traffic, 3231 E. Sixth St., Topeka, KS 66607.

MC 148512 (Sub-5–2TA), filed October 31, 1980. Applicant: WESTERN TANK LINE, INC., 2222 North 11 Street, Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Sulphuric acid* from Sioux City, IA to points in ND, SD, MN, NE and IA. Supporting shipper: Van Waters & Rogers Division of Univar, 3002 F Street, Omaha, NE 68107.

MC 149553 (Sub-5–1TA), filed October 30, 1980. Applicant: VALLEY TRANSPORTATION SERVICE, INC., P.O. Box 1527, Mission, TX 78572. Representative: Mr. Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Food or kindred products* between points in Lucas County, OH; Sandusky County, OH; Allegheny County, PA; Muscatine County, IA; Johnson County, IA; and Ottawa County, MI on the one hand, and, on the other, points in TX. Supporting shipper: Heinz USA, Division of H.J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 150425 (Sub-5–9TA), filed October 31, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Cleaning compounds, foodstuffs and toilet preparations,* from the facilities of Lever Brothers Co. at or near St. Louis, MO to points in TX, LA, MS, GA, TN, AR, NC, NY, NJ, MI, OH, and CA. Supporting shipper: Lever Brothers Co., 1400 North Pennsylvania, St. Louis, MO 63133.

MC 150440 (Sub-5–5TA), filed October 31, 1980. Applicant: UNIVERSAL EXPRESS, LTD., 536 S. 19th Street, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Paper and fiberboard tubes and containers, including metal ends,* from New Berlin, WI, to Des Moines, IA. Supporting shipper: Midwest Paper Tube & Can Corp., 2800 S. 163rd Street, New Berlin, WI 52151.

MC 152417 (Sub-5–1TA), filed October 30, 1980. Applicant: WHITE BROS., INC., R.R. #1, Box 566, Oakwood Station, Hannibal, MO. 63401. Representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, MO 65102. *Coal, in bulk, in dump vehicles,* from Ralls County, MO to IA and IL. Supporting shipper: Wyoming Fuel Company, P.O. Box 15625, Lakewood, Co 80215.

MC 152418 (Sub-5–1TA), filed October 30, 1980. Applicant: FLOUR TRANSPORT, INC., 5218 Denison Street, Muskogee, OK 74401. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Contract, Irregular. *Flour, in bulk,* from Shawnee, OK to points in AR and TX. Supporting Shipper: Shawnee Milling Company, 201 S. Broadway, Shawnee, OK. 74801.

MC 152432 (Sub-5–1TA), filed October 31, 1980. Applicant: PEAKE, INC., 2022 Avenue A, Midtown Business Center, Kearney, NE 68847. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. Contract Irregular; *waste water, in bulk,* from Davenport, IA to Livingston, Al. Supporting shipper: Chemical Waste Management, Inc., 2121 Kingston Count S.D., Ste 112, Marietta, GA 30067.

MC 152433 (Sub-5–1TA), filed October 31, 1980. Applicant: RIVER CITY FURNACE, LTD., P.O. Box 1434, Mason City, IA. 50401. Representative: Attorney Joesph E. Ludden, P.O. Box 1567, La Crosse, WI. 54601. Contract, irregular; *General Commodities, except those of unusual value, and except high explosives, household goods, (when transported as a separate and distinct service in connection with so-called "household movings".)* between Mason City, IA. and points in the continuntal forty-eight (48) states. Supporting shipper: Schneider Metal Manufacturing Company, Mason City, IA. 50401.

MC 152434 (Sub-5–1TA), filed October 31, 1980. Applicant: HOOD RAILWAY SERVICES, INC., P.O. Box 7481, Tyler, TX 75711. Representative: William Sheridan, 1025 Metker, P.O. Drawer 5049, Irving, TX 75062. *Trailers (empty or loaded) having prior or subsequent movement by rail transportation on trailer on flat car service (TOFC).* Between railroad ramping facilities located in Dallas and Tyler, TX, on the one hand, and, on the other, points in Anderson, Cherokee, Gregg, Smith and Wood Counties, TX. Supporting shipper: Sunbelt Consolidators, Inc., P.O. Box 201044, Dallas, TX 75220.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION, REGION 6 MOTOR CARRIER BOARD, P.O. BOX 7413, SAN FRANCISCO, CA 94120.

MC 152379 (Sub-6–1TA), filed October 27, 1980. Applicant: AAVON MOVING & STORAGE, INC., 1900 Wyott Drive, Cheyenne, WY 82001. Representative: Mary H. Rohde (same address as applicant). *Contract* carrier: *irregular* routes: *Used household goods* between WY and NE for 270 days. Underlying ETA filed seeking 120 days authority. RESTRICTED: to transportation having a prior or subsequent movement in containers, beyond points authorized. Operations are restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating, and decontainerization of such traffic. Under continuing contract with Warren Air Force Base, Cheyenne, WY. Supporting shipper: Warren Air Force Base, Cheyenne, WY.

MC 115931 (Sub-6–2TA), filed October 27, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Lumber,* from points in MT to points in OR and WA, for 270 days. Supporting shipper: Richland Lumber Co., P.O. Box 189, Richland, WA 99352.

MC 152380 (Sub-6–1TA), filed October 27, 1980. Applicant: CECIL T. MCLAIN d.b.a. C.T.M. REFRIGERATED SERVICE, Route 10, Box 381, Shelton, WA 98584. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. *Contract Carrier,* Irregular Routes: *Meat and Meat By-Products, as defined by the Commission, and Related Products,* from Seattle, Tacoma, Ellensburg and Toppenish, WA to points in CA, under a continuing contract or contracts with Superior Packing Company of Ellensburg, WA for 270 days. Supporting shipper: Superior Packing Company, P.O. Box 277, Ellensburg, WA 98926.

MC 152370 (Sub-6–1TA), filed October 27, 1980. Applicant: TIMOTHY R. FERGUSON, d.b.a. COLOROW TRUCKING, 932 Colorado Ave., Glenwood Springs, CO 81601. Representative: (same as applicant). *Beer* to points in Garfield County, CO from Fort Worth, TX for 270 days. Supporting shipper: Tim Orrison, Orrison Distributors, 302 West 8th St.

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P.O. Box 128, Glenwood Springs, CO 81601.

MC 147385 (Sub-6–2TA filed October 27, 1980. Applicant: D & B TRUCKING, INC., 5315 E. Belmont, Fresno, CA 93727. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakerfield, CA 93306. *New furniture in packages* from Fresno, CA to AZ, CO, NV, OR, UT and WA, for 270 days. Supporting shipper: The Sherwood Corp., 1816 G St., Fresno, CA 93706.

MC 140315 (Sub-6–1TA), filed October 27, 1980. Applicant: DEES TRANSPORTATION, INC., P.O. Box 446, Worland, WY 82401. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Non-alcoholic beverages and machinery, equipment and supplies used in the manufacture and distribution thereof,* from Salt Lake City, UT to points in NE, CO, WY, ID, and SD, for 270 days. Supporting shipper: Shasta Beverages, Inc., 2370 S. 900 W., Salt Lake City, UT 84119.

MC 125433 (Sub-6–39TA), filed October 27, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, (same address as applicant). *Mixed automotive parts, tools, machines and machine repair parts,* between points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Michigan Export, 1040 Hurst, Jackson, MI 49201.

MC 152369 (Sub-6–1TA), filed October 27, 1980. Applicant: GEE TRUCKING, 8831 Oroville Hwy. Box 21, Marysville, CA 95901. Representative: (same as applicant). *Contract Carrier,* Irregular Route: *Salt and salt products for human and Agricultural needs,* from Newark, CA. to NV, for 270 days. Supporting shipper: Leslie Salt Company, P.O. Box 364, Newark, CA 94560.

MC 152381 (Sub-6–1TA), filed October 27, 1980. Applicant: CHARLES B. GEIER, 1900 Grant, Helena, MT 59601. Representative: John H. Grant, 203 North Ewing, Helena, MT 59601. *Contract Carrier,* Irregular routes: *Building materials, lumber, roofing materials, and wood products,* between points in MT, WA, OR, CA, ID, UT, WY, SD, MN and ND, for the account of Missoula Forest Products, Inc., for 270 days. Supporting shipper: Missoula Forest Products, Inc., 1702 Rankin Street, Missoula, MT 59806.

MC 147832 (Sub-6–4TA), filed October 27, 1980. Applicant: JIM EDDLEMAN, d.b.a. J & J CATTLE COMPANY, 3395 Wright St., Wheat Ridge, CO 80033. Representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, CO 80203. (1) *Inedible meat and meat by-products and articles distributed by meat packinghouse* (except hides and commodities in bulk) from Potter County, TX to points in CA, CO, OR, IL, NE and FL, and (2) *meats, meat products and meat by-Products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Ford County, KS to points in the U.S. (except AK and HI), for 270 days. An underlying ETA seek 120 days authority. Supporting shippers: Consolidated Pet Foods, Inc., Box 30488, Amarillo, TX 79105; Hyplains Dressed Beef, Inc., Dodge City, KS.

MC 108380 (Sub-6–1TA), filed October 27, 1980. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, WY 82701. Representative: Truman A. Stockton, JR., The 1650 Grant St. Bldg., Denver, CO 80203. *Petroleum and petroleum products,* between points in CO, WY and NE, for 270 days. An underlying ETA seeks 120 days authority. Shippers: Century Petroleum Corp., 688 S. Monroe Way, Denver, CO 80206, Direct Sales Tire Co., 2929 Cy Ave., Casper, WY 82601.

MC 152393 (Sub-6–1TA), filed October 28, 1980. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *General commodities, except Classes A and B explosives, commodities of unusual value, livestock, green hides, household goods as described by the Commission, commodities in bulk, and those requiring special equipment,* between points in the U.S. excluding AK and HI, for 270 days. Supporting shipper: There are 19 supporting shippers. Their statements may be examined at the Regional office listed.

MC 152398 (Sub-6–1TA), filed October 28, 1980. Applicant: PAN ALASKA TRUCKING, INC., 7010 Old Seward Highway, Anchorage, AK 99502. Representative: Conner C. Thomas, 7010 Old Seward Highway, Anchorage, AK 99502. (1) *General Commodities,* except Class A and B explosives between all points in AK, except Southeastern AK, excluding Haines, Alaska for 270 days. Supporting shipper: Sea-Land Service, Inc., P.O. Box 1939, 1717 Tidewater Ave., Anchorage, AK 99510.

MC 98964 (Sub-6–2TA), filed October 27, 1980. Applicant: P.B.I. FREIGHT SERVICE, 960 North 1200 West, Orem, UT 84057. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Common carrier,* regular routes; *general commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between Tonopah, NV, and San Bernardino, Riverside, Orange, and Los Angeles Counties, CA, from Tonopah, NV over U.S. Hwy 6 to its junction with U.S. Hwy 395, then over U.S. Hwy 395 to its junction with CA Hwy 14, then over Hwy 14 to its intersection with Los Angeles County, CA, and return over the same route. Operations in Orange, San Bernardino, Riverside, and Los Angeles Counties, CA, are over irregular routes. For 270 days. Supporting shipper: Applicant has elected to file this application without shipper support in accordance with 49 CFR § 1062.2.

MC 95920 (Sub-6–5TA), filed October 27, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Transformers and parts, materials, machinery and supplies used in the manufacture of transformers, plastic molding compound and copper wire,* between Waukesha, WI, and points in MN, IN, IL, MO, AR, IA, TX, OK, KA, NE, SD, ND, MN, WY, CO, NM, AZ, UT, ID, NV, CA, OR and WA; (2) between Portland, OR commercial zone and points in CA, ID & WA, for the account of RTE Corp., for 270 days. Supporting shipper: RTE Corp., 1900 E.N., Waukesha, WI 53186.

MC 95920 (Sub-6–6TA), filed October 27, 1980. Applicant: SANTRY TRUCKING CO., 10505 NE. 2nd Ave., Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Malt beverages, (2) materials, equipment and supplies used in the manufacture and distribution of malt beverages (except commodities in bulk),* between San Antonio, TX, and points in CA under contract with Lone Star Brewing Co., for 270 days. Supporting shipper: Lone Star Brewing Co., 600 Lone Star Blvd., P.O. Box 2060, San Antonio, TX 78297.

MC 124180 (Sub-6–5TA), filed October 27, 1980. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Lime, in bulk,* from Millard County, UT (Bloom Siding, UT) to the Carlin Gold Mine at or near Carlin, NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Continental Lime

Co., 268 West 400 South, Suite 202, Salt Lake City, UT 84101.

MC 138875 (Sub-6–28TA), filed October 27, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Nonexempt food and kindred products,* between Ulster County, NY on the one hand, and, on the other, points in CA. Restricted to traffic originating at and destined to the facilities of Heinz, USA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 151471 (Sub-6–3TA), filed October 28, 1980. Applicant: STEINBECKER BROS., INC., P.O. B 852, Greeley, CO. 80632. Representative: Charles J. Kimball, Kimball, Willaims & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street Denver, CO. 80203. *Paper and paper products* from Portland and West Linn, OR and Seattle and Tacoma, WA and points in their commercial zones, and the facilities of Crown Zellerbach Corp. at or near Wauna, OR and Port Angeles, WA to Denver, CO and points in its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Zellerbach Corp., 1500 Southeast First, Portland, OR 97208. Applicant seeks to interline.

MC 147083 (Sub-6–1TA), filed October 27, 1980. Applicant: TANKS, INC., P.O. Drawer 1179, Gillette, WY 82716. Representative: Leon L. Brady (same as applicant). *Machinery, equipment, materials, and supplies, used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their by-products. Between points in WY and points in NE West of US Highway 83, for 270 days.* An underlying ETA seeks 120 days authority. Supporting shipper: Prairie Drilling Company, 5720 W. Yellowstone, Casper, WY 82601.

MC 147315 (Sub-6–7TA), filed October 27, 1980. Applicant: TRIWAYS, INC., 2455 E. 27th. St., Los Angeles, CA 90058. Representative: William Davidson, P.O. Box 58408, Los Angeles, CA 90058. *Contract Carrier,* Irregular routes; *Wearing apparel, on hangers, loose and or in mixed loads with wearing apparel in packages, or all other department store merchandise,* from Los Angeles, CA Commercial Zone tq all points in Oregon, except Portland and all points in Washington except Seattle, for 270 days. An underlying ETA seks 120 days authority. Supporting shippers: Montgomery Ward, 3600 Rosemead Blvd. Rosemead, CA 91770 and Sears Roebuck & Co. 2650 E. Olympic Blvd., Los Angeles, CA 90051.

MC 145999 (Sub-6–4TA), filed October 27, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Norman A. Sorensen (same as address applicant). *Ground Limestone,* from Lucerne Valley, CA to Clearfield, UT, for 270 days. Supporting shipper: Aftex Company, Inc. 507 Green Island Rd., Vallejo, CA 94590.

MC 123329 (Sub-6–6TA), filed October 27, 1980. Applicant: H.M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary Alberta, Canada T2P 2P9. Representative: D. S. Vincent, P.O. Box 3500, Calgary Alberta T2P 2P9. *Drilling Mud and Drilling mud additives,* From points in WA, NV ID, UT, WY, ND, SD, TX, to ports of entry on the US/Canada International Boundary Line, for 270 days. Supporting shipper: Milchem Canada Ltd., 102–309 2Ave. SW., Calgary Alberta T2P 0C5.

MC 141804 (Sub-6–87TA), filed October 27, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Plastic articles, sanitary and deodorizing products,* (1) From UT and VA to points in the U.S. (except AK and HI), and (2) From WI to UT, WY, NE, CO, SD, IA, ID, NV, CA, OR, WA and AZ, restricted to the facilities of Presto Products, Inc., for 270 days. Supporting shipper: Presto Products, Inc., 670 North Perkins Street, Appleton, WI 54913.

MC 141804 (Sub-6–88TA), filed October 27, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Absorbent cotton or rayon balls, bandages or dressings,* from Dayville, CT to points in AL, AR, CA, FL, GA, IL, IN, LA, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, TX, WA and WV, for 270 days. Supporting shipper: National Patent Development Corp. Acme Chaston Division, Lake, Road, Box 419, Dayville, CT 06241.

MC 143775 (Sub-6–30TA), filed October 27, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Roofing materials and related products,* from the facilities of or used by the Elk Corporation at Ennis, Waxahatchie and El Paso, TX, to points in AZ and CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Elk Corporation, 8625 King George Drive, Suite 102, Dallas, TX.

MC 151132 (Sub-6–4TA), filed October 27, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, D.C. 20005. *Waterbeds and materials and supplies used in the manufacture and distribution of waterbeds,* between Salt Lake City, UT, on the one hand, and, on the other, points in and West of MN, MO, IA, AR and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morning Surf West, Salt Lake City, UT 84119.

MC 57880 (Sub-6–1TA), filed October 29, 1980. Applicant: ASHTON TRUCKING CO., 1245 North Hwy., 1245 North Hwy., Monte Vista, CO 81144. Representative: Leslie R. Kehl, Suite 1600, 1660 Lincoln St., Denver, CO 80264. *Fabricated metal products* (STCC 34) *Primary metal products* (STCC 33) between CO on the one hand, and on the other, AZ, NM, UT, and WY, for 270 days. Supporting shippers: Wheeling Corrugating Co., 2749 Hwy. 50 E, Grand Junction CO 81501.

MC 63562 (Sub-6–11TA), filed October 27, 1980. Applicant: BN TRANSPORT INC., P.O. Box 22694—Wellshire Station, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. *Commodities dealt in by retail department stores* between points in Phoenix, AZ and its commercial zone on the one hand, and on the other, points in CO, NM, and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Modern Merchandising, Inc., P.O. Box 900, Hopkins, MN 55343.

MC 146041 (Sub-6–2TA), filed October 27, 1980. Applicant: CAL–TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC. *Containers and container parts, and items used in the manufacture and distribution thereof,* from Kent, WA; Los Angeles, CA; and Phoenix, AZ; and their commercial zones, to Denver, CO, and West Memphis, AR, and their commercial zones for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: National Can Corporation, 1657 Rollins Rd., Burlingame, CA 94010.

MC 124679 (Sub-6–33TA), filed October 30, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Foodstuffs* from points in

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OR to points in IL, EN, IA, KS, MN, MO, ND, SD, TX, and WI. An underlying ETA seeks 120 days authority. Supporting shippers: Chef Franciso, Inc., P.O. Box 1187, Eugene, OR 97440.

MC 125952 (Sub-6–6TA), filed October 27, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St. SW., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract;* irregular routes: *Industrial chemicals, cleaning compounds, fertilizers, paper bags, upholstery materials, feed, insecticides, weed killer, baler twine, pumps, compressed gasses and acids, parafin wax and petroleum oils in drums and packages except commodities in bulk,* between pints in WA, OR, ID, CA, on the one hand, and points in WA, OR, ID, MT, CA, UT, CO, AZ, NM, and TX, on the other hand, for the account of Van Waters & Rogers, for 270 days. Supporting shippers: Van Waters & Rogers, 3950 N.W. Yeon, Portland, OR 97210.

MC 43685 (Sub-6–4TA), filed October 29, 1980. Applicant: MERCER TRUCKING COMPANY, INC., P.O. Box 11585, Spokane, WA 99211. Representative: Marshall Hanning (same as above). (1) *Lumber, veneer, forest products, and building materials,* between points in Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Orielle, Spokane, Stevens, Walla Walla, and Whitman counties, WA; Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone counties, ID; and the international boundary with BC, on the one hand; And, on the other hand, points in AZ, IL, IN, IA, KS, MN, MO, NE, NM, OK, TX and WI, for 270 days. Supporting shippers: There are 8 shippers. Their statements of support may be examined at the Regional Office listed.

MC 142688 (Sub-6–20TA), filed October 29, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes: *Food Products,* Between points in the U.S., for 270 days. Supporting shipper: Lowrance Food Products, Lowrance Equipment Company, 3601 Security, Garland, TX 75042.

MC 1977 (Sub-6–7TA), filed October 29, 1980. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5601 Holly St., Commerce City, CO 80022. Representative: Leslie R. Kehl, 1660 Lincoln Street, No. 1600, Denver, CO 80264. *General commodities* (except household goods as defined by the Commission, classes A & B explosives), between points in Spokane County, WA, on the one hand, and, on the other, points in the states of AZ, CA, MT, NV, NM, TX, UT, and WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Columbia Operation, GTE Products Corp., N. 3808 Sullivan, T.A. 2787, Spokane, WA 99220.

MC 126514 (Sub-6–6TA), filed October 29, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. La Salle St., Chicago, IL 60603. *General Commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Bayport, TX and the facilities of Eastman Kodak Company at Rochester, NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14580.

MC 126514 (Sub-6–7TA), filed October 29, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Such commodities as are dealt in by Retail Department Stores including garments on hangers,* from all points in the U.S. to the facilities of Diamond's, Inc. in Tempe, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Diamonds, Inc., 1616 S. Priest Dr., Tempe, AZ 85281.

MC 152410 (Sub-6–1TA), filed October 29 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Ave., Kansas City, MO 64105. *Contract carrier,* transporting *general commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between points in the U.S., under continuing contract(s) with Hercules, Incorporated, of Wilmington, DE, for 270 days.

MC 143812 (Sub-6–2TA), filed October 27, 1980. Applicant: VAN DIEST TRUCKING, INC., P.O. Box 418, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Liquid foodstuffs,* in bulk, from points in Yakima County, WA, to points in Salt Lake County, UT, for 270 days. An underlying ETA seeks 120-days authority. Supporting shipper: Valley Juice Products, Inc., 1819 West J St., Yakima, WA 98902.

MC 145999 (Sub-6–5TA), filed October 30, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Norman A. Sorensen (same as applicant). *Gypsum wallboard and materials and supplies used in the installation of gypsum wallboard;* from the plant site of Gold Bond Building Products at or near Phoenix, AZ to points in UT, for 270 days. Supporting shipper: Gold Bond Building Products, P.O. Box 1888 Long Beach, CA 90801.

MC 141804 (Sub-6–89TA), filed October 30, 1980. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant), (1) *Paper and paper articles, plastic and plastic articles* and (2) *material, equipment and supplies used in the manufacture and distribution of the commodities named part (1) above,* from Chicago and Shelbyville, IL to points in the U.S. (except AK, HI, AL, AR, FL, GA, KY, LA, MS, NC, SC and TN). Restricted to traffic originating at the facilities of Continental Diversified Industries, Bondware Division, for 270 days. Supporting shipper: Continental Diversified Industries, Bondware Division, 800 E. Northwest Highway, Palatine, IL 60067.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35256 Filed 11-12-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349.* These rules provided among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must folllow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be constued as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 5, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

MC–F–14469, filed October 14, 1980. CENTRAL TRANSFER CO. (Central) (100 Kellogg Street, Jersey City, New Jersey 07306)—Control—MONAHAN TRANSPORTATION CO. (Monahan) (99 Colorado Avenue, Warwick, Rhode Island 01888). Representative: Ronald I. Shapps, 450 7th Avenue, New York, New York 10123. Central, seeks authority to acquire control of the interstate operating rights and properties of Monahan through the purchase of all of the issued and outstanding capital stock. Pat Allanese, who controls Central seeks to control the operating rights of Monahan through the merger. All of the 496 shares of common voting stock are owned by John J. Rigney, Sr. The interstate operating rights to be controlled are contained in MC–60203 which authorize the transportation, as a motor common carrier, of *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular and irregular routes between points in Maine, Rhode Island, and Connecticut. Central is authorized to operate as a motor common carrier pursuant to a permit issued in MC–1403, authorizing transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Middlesex County, NJ, on the one hand, and, on the other, Philadelphia, Chester and Easton PA, points in Richmond, Kings, Queens, Nassau, Suffolk, Bronx and Westchester Counties, NY: (2) between points in Passaic, Bergen, Essex, Hudson, Union and Somerset Counties, NJ, on the one hand, and, on the other, Philadelphia, Chester, and Easton, PA, and points in Suffolk County, NY: (3) between Philadelphia, Chester and Easton, PA, on the one hand, and, on the other, points in Orange, Rockland, Westchester and Nassau Counties, NY and New York, NY. It also holds regular route general commodity authority between Philadelphia and Princeton, NJ and certain specific commodity authority in the New York, New Jersey, Maryland area: (4) *general commodities* between Manheim and Philadelphia, PA, over regular routes, serving intermediate points including Lancaster, PA; (5) *general commodities,* over irregular routes, between New York, NY and points in Orange, Rockland, Westchester and Nassau Counties, NY, on the one hand, and, on the other, points in that part of New Jersey north of a line beginning at Trenton, NJ and extending in a southeasterly direction through Lakehurst and Toms River, NJ to the Atlantic Ocean. In addition, pursuant to temporary authority in MC–F–13434, Central is temporary operator of Emanuel's Express as a common carrier by motor vehicle, over irregular routes, to transport *general explosives* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment) between points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware, Maryland, and the District of Columbia, restricted to the transportation of shipments weighting 5,000 pounds or less from one consignor at one location to one consignee at another location during a single day.

Note.—*Impediment:* Central has failed to show that it has the financial ability to be able to consummate the proposed transaction and continue to provide service under its own authority and that of the carrier to be controlled. As of August 31, 1980, its current liabilities, exclusive of currently maturing long term debt, exceeded current assets by some $37,000. In addition its projected cash flow for a year based upon its income statements for the first 8 months of 1980, would amount to only $571,076 or $137,810 less than its long term debt due within one year. Under the proposed transaction it would pay out $20,000 at the consummation of the transaction and approximately $36,000 during the next year, thus increasing its debt burden during the next year by $56,000.

An application for temporary authority has been filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35558 Filed 11-12-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Wednesday, November 19, 9 a.m., 722 Jackson Place, NW., Washington, D.C.

The Commission will consider work plan implementation, domestic procedures for implementation of the Convention, applications for

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international trade in species protected by the Convention, and miscellaneous business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Washington, D.C. 20240, telephone 202/343–7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5 p.m., November 17, 1980.

Dated: November 7, 1980.

Jane H. Yarn,

Chairman, International Convention Advisory Commission.

[FR Doc. 80-35276 Filed 11-12-80; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Addition of Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Addition of Phelps Dodge Corporation as a respondent.

SUMMARY: On October 23, 1980, the Commission voted to add the Phelps Dodge Corporation as a respondent in the above-referenced investigation.

SUPPLEMENTARY INFORMATION: This investigation, under section 337 of the Tariff Act of 1930, was insituted by notice published in the **Federal Register** on August 13, 1980 (45 FR 53923). Southwire Company of Carollton, Ga. is the complainant in this investigation. Krupp G.m.b.H. of the Federal Republic of Germany and Krupp International, Inc. of Harrison, N.Y. were named as respondents in the August 13 notice of investigation. On October 23, 1980, the Commission voted to issue a temporary exclusion order, having found that there is reason to believe that section 337 is being violated.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0359.

Issued: November 7, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-35375 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Determination, Order, and Opinion

AGENCY: U.S. International Trade Commission.

ACTION: Determination, Order, and Opinion regarding the issuance of a temporary exclusion order.

SUMMARY: On October 23, 1980, the Commission voted to issue a temporary exclusion order in the above-referenced investigation. The temporary exclusion order prohibits the importation into the U.S. of any rolling mill described by claims 7, 9, 11, or 12, of U.S. Letters Patent 4,129,170 and components of such rolling mills.

SUPPLEMENTARY INFORMATION: This investigation, under section 337 of the Tariff Act of 1930, was instituted by notice published in the **Federal Register** on August 13, 1980 (45 FR 53923). Southwire Company of Carollton, Ga. is the complainant in this investigation. Krupp G.M.B.H. of the Federal Republic of Germany and Krupp International, Inc. of Harrison, N.Y. were named as respondents in the August 13 notice of investigation. On October 23, 1980, the Commission voted to issue a temporary exclusion order, having found that there is reason to believe that section 337 is being violated.

A public version of the Commission's Determination and Order and the Opinion in support thereof is available in the Office of the Secretary, USITC, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0359.

Issued: November 6, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-35379 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-54A]

Certain Multicellular Plastic Film; Designation of Commission Investigative Attorney

Notice is hereby given that Harold Brandt is designated as Commission investigative attorney in the above-captioned investigation, effective this date. The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: November 5, 1980.

Talbot S. Lindstrom,

Chief, Unfair Import Investigations Division.

[FR Doc. 80-35377 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-54A]

Certain Multicellular Plastic Film; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 4, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-35378 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

[TA-131(b)-5, TA-503(a)-7 and 332-113]

Probable Economic Effects of Possible Tariff Reductions Under Section 124 of the Trade Act of 1974 and Designation of Certain Articles as Eligible Articles for Purposes of the Generalized System of Preferences

AGENCY: United States Internal Trade Commission.

ACTION: As a result of a request from the U.S. Trade Representative (USTR) received on October 29, 1980, the Commission has reduced the scope of Investigation Nos. TA–131(b)–5, TA–503(a)–7, and 332–113 by deleting from the scope of investigation imports of articles provided for in items 161.71 and 700.58 of the Tariff Schedules of the United States. The USTR request indicated that imports of articles provided for in these items were inadvertently included in their initial investigation request to the Commission of August 5, 1980.

SUPPLEMENTARY INFORMATION: The Commission's initial notice of Investigation Nos. TA–131(b)–5, TA–503(a)–7, and 332–113, containing information on investigation coverage, the public hearing, and related information, was published in the **Federal Register** of August 27, 1980 (45 FR 57221). On November 6, 1980, the Commission published a second **Federal Register** notice (45 FR 73627) indicating additional TSUS items to be included in the investigation pursuant to a USTR request of September 24, 1980.

Issued: November 6, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-35376 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

Closing of New York City Field Office

AGENCY: U.S. International Trade Commission.

ACTION: Notice of closing of New York City field office.

SUMMARY: Notice is hereby given, pursuant to 5 U.S.C. 552(a), that the U.S. International Trade Commission is closing the Commission's New York City field office located in 6 World Trade Center, Suite 629, New York, N.Y. 10048, effective close of business Friday, November 7, 1980. All functions and personnel, with the exception of two employees of the Energy and Chemicals Division, are being transferred to the Commission's Washington, D.C., office located at 701 E Street NW., Washington, D.C. 20436. The two employees of the Energy and Chemical Division are in the process of being relocated within the World Trade Center.

Services previously provided by the Commission at its New York City field office will terminate effective close of business Friday, November 7, 1980, and will henceforth be provided at the Commission's Washington, D.C., office. The Commission will no longer post formal notice of the receipt of properly filed documents, of the institution of investigations, of public hearings, and other formal Commission actions in the New York City field office and is closing the reading room previously located in Room 629 of the World Trade Center.

Any persons desiring copies of formal Commission notices or seeking information from the Commission should contact the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0161. The Commission will continue to operate reading rooms in Washington, D.C., in the Office of the Secretary and in the Commission Library for interested members of the public.

In view of the changes in the Commission's organizational structure resulting from the closing of its New York City field office, the Commission hereby gives notice of its intention in due course to publish separately a revised Commission organizational statement pursuant to 5 U.S.C. 552(a)(1)(E).

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0143.

Issued: November 4, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-35380 Filed 11-12-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Attorney General Order No. 915-80]

Application of the Times Printing Company and the Chattanooga News-Free Press Company for Approval of a Joint Newspaper Operating Arrangement; Order.

November 6, 1980.

This application for approval of a joint newspaper operating arrangement was the subject of detailed consideration in Attorney General Order No. 910–80. In that Order, I concluded that approval could be granted for those elements of the applicants' proposal which have not yet been put into operation. The Antitrust Division was directed to investigate the matter, and to submit a Report indicating which elements of the proposed joint operating arrangement have not yet been implemented. Other interested persons were given an opportunity to file memoranda addressed to this issue, both before and after the submission of the Antitrust Division's Report.

Having reviewed all relevant filings, I have determined that the Antitrust Division's findings, set out at length in its Supplemental Report of September 23, 1980, are correct. The following elements of the proposed joint operating agreement have already been implemented:

(1) Joint physical production of the *Chattanooga Times* and *Chattanooga News-Free Press;*

(2) Discontinuation of the Sunday *Chattanooga Times;* and

(3) Change in the edition time of the Saturday *Chattanooga News-Free Press* from morning to afternoon.

No other elements of the proposed agreement have been implemented.

Accordingly, for the reasons specified in Attorney General Order No. 910–80, the application of the Times Printing Company and the Chattanooga News-Free Press Company for approval of a joint newspaper operating arrangement is granted in all respects, with the exception of the three elements of the proposed arrangement specified above. This approval shall become effective on the tenth day after the filing of this order. 28 CFR 48.14(b).

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-35330 Filed 11-12-80; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Panel to the National Council on the Arts will be held December 4, 1980 from 8:30 a.m.–5:00 p.m. and December 5, 1980 from 8:30 a.m.–5:30 p.m., in room 1422, Columbia Plaza Office Complex, 2401 E St. N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 4, 1980, from 8:30 a.m.–5:00 p.m. and December 5, 1980 from 8:30 a.m.–9:00 a.m. and 10:00 a.m.–5:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on December 5, 1980 from 9:00 a.m.–10:00 a.m.

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80-35308 Filed 11-12-80; 8:45 am]

BILLING CODE 7537-01-M

Expansion Arts Panel (Summer Projects and Tour Events); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Panel (Summer Projects & Tour Events) to the National Council on the Arts will be held December 1–3, 1980, from 9:00 a.m.–5:30 p.m., in room 1340, Columbia Plaza Office Complex, 2401 E St. N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9) (b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35309 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

Literature Panel (Literary Magazines and Small Presses); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Panel (Literary Magazines and Small Presses) to the National Council on the Arts will be held December 5–6, 1980, from 9:00 a.m.–6:00 p.m. in room 1422 Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 6, 1980 from 4:30 p.m.–6:00 p.m. to discuss policy.

The remaining sessions of this meeting on December 5, 1980 from 9:00 a.m.–6:00 p.m., and December 6, 1980 from 9:00 a.m.–4:30 p.m.,

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35310 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Panel (Production: Radio); Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Production: Radio) to the National Council on the Arts on December 1–2, 1980, from 9:00 a.m.–5:30 p.m., in room 1422 Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35311 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

Office for Partnership Panel (State Programs); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office for Partnership Panel (State Programs) to the National Council on the Arts, will be meeting on December 3–5, 1980, from 9:00 a.m.—5:30 p.m., in room 2000, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 3, 1980, from 9:00 a.m.—2:00 p.m., December 4, 1980, from 9:00 a.m.—10:00 a.m. and 4:45 p.m.—5:30 p.m., December 5, 1980, from 9:00 a.m.—5:30 p.m., for the discussion of full panel applications recommendations.

The remaining sessions of this meeting on December 3, 1980, from 2:00 p.m.—5:30 p.m., and December 4, 1980 from 10:00 a.m.—4:45 p.m.

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35312 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

Special Projects Panel (Folk Arts); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Special Projects Panel (Folk Arts) to the National Council on the Arts will be held on December 6, 1980 from 2:00 p.m.–4:00 p.m., December 7, 1980 from 8:30 a.m.–6:00 p.m., December 8, 1980 from 8:30 a.m.–6:00 p.m., and December 9, 1980 from 8:30 a.m.–6:00 p.m., in room 1422, Columbia Plaza Office Complex, 2401 E St. N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 9, 1980, from 8:30 a.m.–11:00 a.m. to discuss policy.

The remaining sessions of this meeting on December 6, 1980 from 2:00 p.m. to 4:00, December 7, 1980 from 8:30 a.m.–6:00 p.m., December 8, 1980, from 8:30 a.m.–6:00 p.m., and December 9, 1980 from 11:00 a.m.–6:00 p.m.

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35313 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Panel (Artists Spaces, Ongoing Workshops); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Artists Spaces, Ongoing Workshops) to the National Council on the Arts will be held on December 3–6, 1980 from 9:00 a.m.—5:30 p.m., and on December 8, 1980 from 9:00 a.m.—5:30 p.m., in room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 5, 1980.

[FR Doc. 80–35314 Filed 11–12–80; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Subcommittee for the Review of the Biological Investigations of Hydrothermal Vents, Advisory Committee for Ocean Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee for the Review of the Biological Investigations of Hydrothermal Vents, Advisory Committee for Ocean Sciences.

Date and time: December 1 and 2, 1980, 9:00 a.m. to 5:00 p.m.

Place: Room 628, National Science Foundation, 1800 G St., N.W., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Robert S. Carney, Division of Ocean Sciences, Room 611, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9600.

Purpose of Ad Hoc Subcommittee: To provide the Subcommittee for Ocean Sciences Research with additional expertise in the review and evaluation of proposals for oceanographic research related to Biological Investigations of Hydrothermal Vents Project.

Agenda: Detailed review and evaluation of proposals for support of the Biological Investigations of Hydrothermal Vents.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 7, 1980.

[FR Doc. 80–35284 Filed 11–12–80; 8:45 am]

BILLING CODE 7555–01–M

Availability of Advisory Committee Reports

The National Science Foundation has filed with the Library of Congress reports of two NSF Advisory Committees.

The reports were filed as required by the Federal Advisory Committee Act and are available for public inspection and use at the Library of Congress, Federal Documents Section, Washington, D.C. and at the Committee Management Office, NSF, Room 248, Washington, D.C. The titles of the reports are:

(1) Advisory Committee for Social and Economic Science:

• FY 1980 External Oversight Review of the Sociology Program and the Political Science Program.

(2) DOE/NSF Nuclear Science Advisory Committee:

• Recommendations for FY 1982 Facility Construction.

M. R. Winkler,

Committee Management Coordinator.

November 7, 1980.

[FR Doc. 80–35282 Filed 11–12–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Science and Technology To Aid the Handicapped of the Advisory Committee for Engineering and Applied Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Science and Technology to Aid the Handicapped of the Advisory Committee for Engineering and Applied Science.

Date/Time: December 11, 1980 9:00 A.M. to 5:00 P.M. December 12, 1980 9:00 A.M. to 5:00 P.M.

Place: Park Central Hotel, 705 18th St., N.W., Washington, D.C. (Room number will be posted in lobby).

Type of meeting: Closed—9:00 A.M. to 5:00 P.M. December 11; 9:00 A.M.–2:30 P.M. on December 12; Open—2:30 P.M.–5:00 P.M. December 12.

Contact person: Dr. Marvin E. Stephenson, Deputy Division Director, Program for Science and Technology to Aid the Handicapped, Room 1136, NSF, 1800 G Street, NW., Washington, D.C. 20550, (202) 357–7311.

Summary of minutes: May be obtained from the contact person, Dr. Stephenson, at the above address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research and research-related projects.

Agenda: Thursday 12/11 all day: Friday 12/12 9:00–2:30; Review and Evaluation of unsolicited research proposals. (CLOSED)

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Friday 12/12 2:30–5:00; Discussion of program objectives and directions to be undertaken in the coming year. (OPEN)

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 9, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 7, 1980

[FR Doc. 80–35283 Filed 11–12–80; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 80–46]

Reports, Recommendations and Responses; Availability

Marine Accident Reports

Now available are two investigation reports released by the National Transportation Safety Board on November 5. In both instances these marine accidents were investigated jointly by the Safety Board and the United States Coast Guard. The Board's analyses and recommendations are made independently of the Coast Guard.

Collision of Liberian Tankship M/V PINA and the Towboat MR. PETE and its Tow Mile 99.3, Lower Mississippi River, December 19, 1979 (NTSB–MAR–80–17).—About 2058 c.s.t. last December 19 the tankship and the towboat collided at about mile 99.3 in the Mississippi River, at New Orleans, La. On impact, slop oil from the No. 1 port wing tank of the PINA spilled into the river, ignited, and set fire to the port side of the PINA. Burning oil spilled on the MR. PETE's lead barge and contaminated some cargo. The PINA was maneuvered to the west bank of the river, where it collided with the barge ACO 121B. Burning oil also spilled on this barge and contaminated some of its cargo. The total damage, including oilspill cleanup, was estimated at $3,265,000.

The Safety Board has determined that the probable cause of this accident was the attempt of the unlicensed operator of the M/V MR. PETE to execute an improper starboard-to-starboard meeting with the M/V PINA, which resulted in the MR. PETE's being navigated directly in the path of the approaching PINA. Contributing to the cause of this accident were the deficient visibility of the barge navigation lights and the failure of the operator of the MR. PETE and the pilot of the PINA to establish a passing agreement and to take timely action to slow or stop their vessels after repeated attempts to establish radio communications were unsuccessful.

As a result of investigation of this accident, the Safety Board on October 21 forwarded letters containing the following recommendations:

—to the *U.S. Coast Guard:*

Expand and intensify the vessel boarding program in New Orleans to enforce the requirements of 46 U.S.C. 405(b) and the requirements of the Pilot Rules for Inland Waters regarding navigation lights to be displayed on barges on the Mississippi River. (M–80–99)

—to *The American Waterways Operators, Inc.:*

Notify member companies of the need for each company to establish procedures whereby it can insure that only properly licensed personnel are employed to operate towboats on the inland waterways and western rivers of the United States. (M–80–100)

Notify member companies of the availability of manufactured portable barge navigation lights acceptable to the U.S. Coast Guard as meeting the requirements of the Rules of the Road and of the need to use only such portable lights on their barges. (M–80–101)

Explosion and Fire On Board the SS CHEVRON HAWAII with Damages to Barges and to the Deer Park Shell Oil Company Terminal, Houston Ship Channel, September 1, 1979 (NTSB–MAR–80–18).—While discharging cargo at 1412 c.d.t. at the company terminal, the American tankship SS CHEVRON HAWAII exploded, burned, and sank after it was struck by lightning. A hull fragment from the exploding vessel penetrated a petroleum product tank at the terminal and caused the tank to explode and the contents to burn. The vessel fire spread into a barge slip where four barges were discharging cargo; all four caught fire, three of which exploded and sank. One crewmember and 2 radar repairmen aboard the vessel were killed, and 13 persons were injured. Damage to the CHEVRON HAWAII was estimated at $50,000,000. Damages to the terminal, barges, and other vessels, and accident-related claims exceeded $27,000,000.

The Safety Board determined that the probable cause of the accident was the ignition by lightning of accumulated flammable cargo vapors on the deck of the CHEVRON HAWWAII and the propagation of the resulting fire into a cargo tank through an open or improperly secured tank opening cover plate or ullage opening. The explosion of the Shell Oil Company terminal petroleum tank on shore was caused by ignition of the contained ethyl alcohol when a heated projectile from the exploding vessel ruptured its roof and fell into the tank. The barge fires and explosions were caused when the waterborne cargo fire from the vessel spread into the barge slip and ignited the barge cargoes. Contributing to the accident was the failure to remove the barges from the slip with available tugs or towboats, and the failure to properly maintain the barges' cargo tank closures. Contributing to the loss of life was the lack of a safe gangway or brow between the vessel's crew accommodations and the cargo terminal or facility.

As a result of its investigation, the Safety Board on October 16 issued the following recommendations:

—to the *U.S. Coast Guard:*

Include in Coast Guard and terminal operator fire contingency plans emergency procedures which provide for the removal of barges from threatened berths and the safe evacuation of personnel from vessels when normal ship-to-shore transit routes are severed or hazardous. (M–80–90)

Require that waterway terminal operators provide a gangway or brow between vessel accommodations and the terminal facility which does not require crewmembers to cross vessel cargo tanks or decks. (M–80–91)

Correct design deficiencies which limit the capability of the 32-foot boats to use their firefighting equipment or keep their engines operating properly in water thickly polluted with petroleum product. (M–80–92)

—to the *Shell Oil Company/Shell Chemical Company, at Deer Park, Texas:*

Strengthen company procedures and practices concerning the indoctrination, training, and experience of personnel assigned to supervise or monitor tank vessel operations with emphasis on the importance of strictly observing safety directives during cargo transfer operations. (M–80–93)

Establish more effective operational control of tugs and towboats relative to standby procedures and the movement of endangered tank vessels in emergencies. (M–80–94)

Provide for safer stowage and rapid deployment of pollution control booms to be used about tank vessels at the crude oil dock and across the barge slip. (M–80–95)

Evaluate the advisability of keeping the booms deployed during cargo transfer operations. (M–80–96)

—to the *Chevron Shipping Company:*

Institute more stringent supervisory control and inspection procedures to insure that moisture control or tank washing deck covers, flame screens, and cargo tank vent closures are properly secured and maintained on fleet sister-ship tank vessels, and that damaged or missing gaskets, flame screens and securing fittings related to the tank vapor control system are immediately replaced. (M–80–97)

Require that tanker terminal operators provide for a safe gangway or brow between tanker crew accommodation locations and the terminal for the use of crew and authorized visitors, clear of tank decks and cargo transfer areas. (M–80–98)

Each of the above marine safety recommendations is classified "Class II, Priority Action."

Responses to Safety Recommendations

Aviation

A–76–64, from the Federal Aviation Administration, October 30, 1980.—Letter is in response to the Safety Board's inquiry of July 30, 1980, concerning a recommendation issued April 1, 1976—one of six recommendations which stemmed from the Overseas National Airways DC–10 accident at John F. Kennedy International Airport on March 11, 1976. The accident resulted from a rejected takeoff after a number of large birds were ingested into the No. 3 engine. The recommendation asked FAA to amend 14 CFR 33.77 to increase the maximum number of birds in the various size categories required to be ingested into turbine engines with large inlets, the increased numbers and sizes to be consistent with the birds ingested during service experience of these engines. (See 41 FR 15922, April 15, 1976.)

In response, FAA reports that several attempts have been made by examining Safety Board, FAA, and industry engine records to determine the numbers and sizes of birds being ingested into turbine engines with large inlets. FAA has made three such examinations since these engines entered airline service early in 1970. The most recent study of available records was made by an ad hoc committee of the Aerospace Industries Association. All these efforts, FAA states, show available records do not provide the information necessary to enable FAA to make an intelligent revision of the sizes and numbers of birds required to be ingested for engine type certification. Furthermore, the service experience with these engines does not indicate any serious deficiency in existing bird ingestion requirements. FAA notes that U.S. operators have accumulated over 27,000,000 flight-hours with these engines, and operations by foreign airlines bring the total experience to over 40,000,000 flight-hours. In all that operating time, there has been but one accident similar to that experienced by Overseas National Airlines wherein three or more large birds were ingested in the engine.

FAA acknowledges the need for better data relating to the number and sizes of birds being ingested. Because normal reporting activity does not usually provide sufficient information of this kind, FAA has taken steps to establish a special project to obtain the needed data and will take appropriate action if amendment of existing standards is justified.

A–80–49, from the Federal Aviation Administration, October 22, 1980.—Letter is in response to Board inquiry of September 23 concerning FAA's September 9 response to a recommendation issued last June 11. (See 45 FR 63585, September 24, 1980.) The recommendation stemmed from Board investigation of an Aerospatiale Alouette III helicopter accident near Ogden, Utah, on December 14, 1978, and asked FAA to issue an Operations Alert Bulletin to remind operators of Aerospatiale helicopters of the requirement to set altimeters to read actual altitude above mean sea level for reference during all flight operations below 18,000 feet m.s.l., as specified in 14 CFR 91.81.

FAA's October 22 letter provides a copy of a change to Order 8430.17, Chapter 10, paragraph 1002, Air Carrier Operations Bulletin, A080–3, Altimeter Setting, Aerospatiale Alouette III Helicopters. The change to the order outlines action taken by FAA regarding recommendation A–80–49.

A–80–76 and –77, from the Federal Aviation Administration, October 30, 1980.—Response is to recommendations issued August 14 following investigation of an incident occurring last March 8 near Albany, N.Y., involving N720R, a Swearingen SA–226AT aircraft. Part of the aft cargo compartment door separated in flight at 16,000 feet, resulting in rapid decompression. (See 45 FR 55878, August 21, 1980.)

Recommendation A–80–76 asked FAA to issue a telert maintenance bulletin to alert operators of Swearingen Models SA226–AT and SA226–TC aircraft of the dangers of machining or filing any component of the latch or receptacle to ease the engagement, and recommendation A–80–77 called for issuance of an addition to the General Aviation Airworthiness Alerts, Advisory Circular 43–16, to alert operators of SA226 aircraft to the unsafe condition which can result from forcing the latching mechanism while the latches are not properly engaged.

FAA concurs with these recommendations and reports that FAA's Southwest Region has issued a telert maintenance bulletin advising all regions to notify operators who are operating Swearingen Models SA–226AT and SA226TC aircraft of the dangers of machining or filing any component of the latching mechanisms to ease engagement. Further, FAA has included in this bulletin instructions to advise operators of the unsafe conditions which can result from forcing the latching mechanism during operations, when the latches are misaligned or not properly adjusted. Also, a General Aviation Airworthiness Alert has been prepared for insertion in Advisory Circular 43–16 which will reflect the information contained in both recommendations. FAA provided copies of these documents.

Marine

M–80–18 through –21, from the U.S. Coast Guard, October 6, 1980.—Response is to recommendations issued following investigation of the collision of the M/V STUD and four-barge tow with the Southern Pacific Railroad bridge near Berwick Bay, La., April 1, 1978. (See 45 FR 26186, April 17, 1980.)

Coast Guard's response indicates concurrence with all four recommendations. Specific to recommendation M–80–18, which called on Coast Guard, in cooperation with the U.S. Army Corps of Engineers, to establish methods to measure and to make available continually updated information on river stage and curent velocity to vessels transiting the Berwick Bay bridges, Coast Guard reports that it has initiated action with the Corps of Engineers in Louisiana to evaluate various methods to measure river stage and current velocity and to make this information, continually updated, available to vessels in the area.

In response to recommendation M–80–19, which asked for improved navigational aids for vessels transiting the Berwick Bay bridges, Coast Guard reports that the Commander, Eighth Coast Guard District, has directed his engineering staff to consider redesigning the existing range in Berwick Bay. He is stressing increased sensitivity, upgraded light signals, and conspicuousness, if possible. Coast Guard says these improvements should aid push towboat operators from a point just west of Conrad's Point through the highway bridges and through the railroad bridge. Additionally, Coast Guard is investigating the possibility of using various range configurations mounted on the two highway bridges to assist the mariner to judge his orientation or "shape" with respect to the best track through the highway bridges. Coast

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Guard notes that by placing the front marks on the upriver highway bridge and the after marks on the downriver highway bridge, it would appear possible to construct: (1) a precise track range and (2) accurate lateral ranges showing the bounds of the visual funnel into the highway bridge opening. In these ways it should be possible to give the mariner the information he needs to be in shape for the railroad bridge even before he transits beneath the first highway bridge. Coast Guard says another potential improvement is a range to aid mariners in passing close to the east bank near the Conrad Shipyard. Coast Guard will investigate these possibilities through range design analysis, and subjective testing which will be accomplished either in field or ship simulator experiments. Coast Guard expects to complete the redesign of present range in fiscal year 1980, the investigation of range for Conrads Point in fiscal year 1981, and the construction based on the above in fiscal year 1983.

With respect to recommendation M–80–20, which asked Coast Guard to reassess the criteria used to commence high water limitations in the Berwick Bay Vessel Traffic Service area and implement limitations based on the reassessment, Coast Guard says the criteria have been reassessed. The activation criteria for imposing the limitations on vessels require a sustained elevated river stage of 3 feet above mean sea level or more for 5 consecutive days, plus the prediction that the river stage will remain at 3 feet above mean level or more for an additional five consecutive days. The criterion of 3 feet above mean sea level or more has been lowered to 2.5 feet and is now in effect. Coast Guard says the rest of the criteria remains the same.

With regard to recommendation M–80–21, which asked Coast Guard to expedite the issuance of the notice of proposed rulemaking to codify the Berwick Bay Vessel Traffic Service operating procedures, Coast Guard reports that the proposal to codify the Berwick Bay VTS operating procedures will be published in the **Federal Register** later this year under Docket No. 73–186.

Railroad

R–80–25, from the National Railroad Passenger Corporation (Amtrak), October 22, 1980.—Letter is in further response to a recommendation issued June 3 as a result of investigation of the Amtrak derailment at Lawrence, Kans., October 2, 1979. The Safety Board on September 17 commented on Amtrak's initial response of June 20 (45 FR 52521, August 7, 1980). The recommendation asked Amtrak to redesign automatic train stop equipment to provide an audible and visual alarm which will indicate that the system is functioning during both preacknowledgement and postacknowledgment procedures.

Amtrak's October 22 letter reports the with the cooperation of the Atchison, Topeka and Santa Fe, Amtrak has developed a modification to the train stop system that will provide an audible and visual alarm which will indicate that the system is functioning during both preacknowledgment and postacknowledgment. The train stop system modification was applied to Amtrak SDP40 locomotive #515 on September 4, 1980, at Amtrak's Redondo Shop at Los Angeles. Both Amtrak and AT&SF personnel were involved in the modification and tests that followed, and all tests were successful. Attached to Amtrak's letter is a copy of the train stop modification details and wiring diagram developed for this project. Instructions to implement this modification will be released immediately, Amtrak reports.

R–80–37, from Amtrak, October 6, 1980.—Response is to a recommendation issued September 15 as a result of investigation of the accident which occurred at Linden, N.J., July 9, 1980, when Amtrak Train 225 was struck by a 15-foot piece of buffer rail. One passenger was killed, and 19 passengers were injured. (See 45 FR 63584, September 25, 1980.)

Amtrak reports that protective measures for moving all maintenance-of-way equipment were immediately established after the incident, except for the movement of continuous welded rail trains. Instructions for the movement of these trains were issued on March 31, 1980 (copies provided). Amtrak also reports that two employees have been dismissed for their failure to adhere to these instructions.

In addition, Amtrak notes, to date 508 supervisors of all levels were given classes on the proper protection and movement of maintenance-of-way equipment. These classes were conducted in Amtrak's safety training mobile classroom which was moved to various locations on the Northeast Corridor. A slide presentation of all maintenance-of-way equipment was given to the supervisors with the usual question and answer period. Amtrak also states that plans are being formulated for establishment of a permanent location for the education and training of maintenance-of-way supervision in all phases of operations and safety.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 7, 1980.

[FR Doc. 80-35361 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the Three Mile Island Nuclear Power Plant, Unit No. 1; Meeting

The ACRS Subcommittee on the Three Mile Island Nuclear Power Plant, Unit No. 1 (TMI–1) will hold a meeting on November 28–29, 1980, in Room 1046, 1717 H St., NW, Washington, DC to review the modification made to TMI–1 in preparation for a restart following the TMI–2 accident. Notice of this meeting was published October 24.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for the subject meeting shall be as follows:

Friday, November 28, 1980—11:00 a.m. until the conclusion of business.

Saturday, November 29, 1980—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, the Metropolitan Edison Company, their consultants, and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634–1414 between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: November 6, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-35360 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–261]

Carolina Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Technical Specifications related to the setpoints, calibrations, and surveillance requirements associated with the degraded voltage protection system for Class 1E equipment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 19, October 7, and October 17, 1980, (2) Amendment No. 52 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md. this 22nd day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-35358 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Admendment No. 64 to Facility Operating License No. DPR–26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of November 1, 1980.

The amendment consists of changes to the Technical Specifications to reflect additional systems required by the January 31, 1979 Fire Protection Safety Evaluation Report.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 23, 1980, (2) Amendment No. 64 to License No. DPR–26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 31st day of October, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-35356 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–73]

General Electric Co.; Consideration of Application for Renewal of Amended Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Amended Facility Operating License No. R–33, issued to General Electric Company (the licensee), for operation of the Nuclear Test Reactor located at the licensee's Vallecitos Nuclear Center near Pleasanton, California.

The renewal would extend the expiration date of Amended Facility Operating License No. R–33 to October 31, 1997, in accordance with the licensee's timely application for renewal dated June 13, 1979.

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Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 15, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (General Electric Company Nuclear Test Reactor); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to General Electric Company, ATTN: Mr. R. W. Darmitzel, Irradiation Processing Production Section, Vallecitos Nuclear Center, P.O. Box 460, Pleasanton, CA 94566.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated June 13, 1979, as supplemented June 19, 1979, and as may be further supplemented by future submittals, which is available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 5th day of November, 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 80-35373 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-596, 50-597]

New York State Electric & Gas Corp. and Long Island Lighting Co. (New Haven Station, Units 1 and 2); Order Dismissing Application and Terminating Proceeding

November 6, 1980.

Applicants New York State Electric & Gas Corporation and Long Island Lighting Company by motions served on October 16, 1980, have moved to withdraw their application for a license for a nuclear-fueled generation station at the New Haven or Stuyvesant sites and to terminate this proceeding.

The Applicants' request follows the action of the New York State Board on Electric Generation Siting and Environment dismissing the companion Case 80008 in which the Applicants sought a certificate of Environmental Compatibility and Public Need for the New Haven Units as required under New York Public Service Law Article VIII.

The Staff of the Nuclear Regulatory Commission has responded that it has no objection to the granting of these motions. No other responses have been received.

Accordingly, the motions of the Applicants are granted, the application herein is dismissed, and the proceeding is terminated.

It is so ordered.

The Atomic Safety and Licensing Board.

Seymour Wenner,

Chairman.

Oscar H. Paris.

Walter H. Jordan.*

Dated at Bethesda, Md., this 6th day of November 1980.

[FR Doc. 80-35359 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

*Dr. Jordan participated in the formulation of this order and verbally concurred in the result.

Topical Report; Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG/CR-1621, "A Characterization of Faults in the Appalachian Foldbelt." The report was prepared for the NRC by Florida State University.

NUREG/CR-1621 summarizes available data on geologic faults in the Appalachian foldbelt. These faults were found to fall into groups that can be defined on their temporal, genetic, or descriptive properties and the hazards they present. The report discusses the characteristics of the faults and fractures and identifies the groups that could pose potential geological or seismic hazards in the siting of nuclear power plants in the Appalachian foldbelt.

NUREG/CR-1621 is available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Copies may be purchased for $8.00 directly from NRC by sending check or money order, payable to the Superintendent of Documents, to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their order by calling (301) 492-9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Va. 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 4th day of November 1980.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 80-35357 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to authorize replacement of existing pressure switches that sense reactor pressure and water level with analog loops; installation of an ATWS recirculation pump trip; and modification of testing requirements for containment isolation valve tests to reflect changes brought about to permit post-accident hydrogen sampling capability.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 17, 1980, and August 28, 1980, as supplemented May 9, August 13, September 23, and October 14, 1980, (2) Amendment No. 58 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 3rd day of November 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-35355 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Change of Meeting Place

November 10, 1980.

Notice is hereby given that the location of the November 17–18, 1980, meeting of the Nuclear Safety Oversight Committee, previously announced on October 31, 1980 (45 FR 72371) has been changed from Room 7008 of the New Executive Office Building to the CAB Hearing room 1003 D of the Universal Building-North, 1875 Connecticut Avenue, N.W. (at the corner of Connecticut Avenue and T Street), Washington, D.C. The meeting times remain the same: from 9:00 am to 12:30 pm and 2:00 pm to 5:00 pm on November 17, and from 9:00 am to 11:30 am and 2:30 pm to 5:00 pm on November 18, 1980.

For further information, contact Margo von Kaenel at 202–653–8468.

Margo W. von Kaenel,

Executive Assistant.

[FR Doc. 80-35524 Filed 11-12-80; 8:45 am]

BILLING CODE 6820-01-M

Nuclear Safety Information and Activities; Memorandum of Understanding Between the Nuclear Safety Oversight Committee and the Federal Emergency Management Agency with Respect to the Acquisition of Information and the Monitoring of Activities

1. The Nuclear Safety Oversight Committee (NSOC) was established pursuant to Executive Order 12202 (March 18, 1980) to advise "on the progress of Federal and State authorities and the nuclear power industry in improving the safety of nuclear power and in implementing the approved recommendations of the President's Commission on the Accident at Three Mile Island (Kemeny Commission)" set forth in the President's announcement and White House Fact Sheet of December 7, 1979 (copy attached to this memorandum). On September 26, 1980 the President issued Executive Order 12240, which extended the life of NSOC to September 30, 1981.

NSOC is responsible for the preparation and periodic submission of reports to the President, the Secretary of Energy, and the Secretary of Health and Human Services on the progress being made in each area. In addition, NSOC is specifically responsible to advise on the progress and activities of the Federal Emergency Management Agency (FEMA) in a variety of substantive and procedural areas identified in the Executive Order, Sec. 1–2. These include, but are not limited to, the following:

- The Federal program in safety research (Sec. 1–204);
- A coordinated program to improve worker and public health and safety (Sec. 1–205);
- A review of state and local off-site emergency planning and preparedness,

and the progress of state and local governments in establishing emergency response plans (Sec. 1–206); and

• Improving public information on nuclear safety and FEMA's progress in coordinating any Federal response to potential nuclear emergencies (Sec. 1–207).

NSOC's acquisition or inspection of technical, scientific, legal and policy related information in FEMA's possession, the monitoring of FEMA's functions and activities, the availability and responsiveness of FEMA personnel, and NSOC's access to FEMA operated, financed or approved facilities or programs are essential to the effective and timely preparation and submission of its reports (see Sec. 1–208, and 1–304). Additionally, the President has directed NSOC to "include in its reports the Committee's advice as to the adequacy of the information it has received from Federal . . . agencies . . . ; and, its assessment of the cooperation it has received from them." (Sec. 1–201).

2. The Federal Emergency Management Agency, pursuant to Reorganization Plan No. 3 of 1978, Executive Order 12148 of July 20, 1979 and other laws and regulations, is responsible for, and coordinates civil emergency planning, management, mitigation and assistance functions of the executive agencies of the United States, and it works with state and local governments and the private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response and recovery programs.

In the President's announcement and White House Fact Sheet of December 7, 1979, referred to in paragraph 1 above and attached to this memorandum, the FEMA was directed to, *inter alia*, address the need for improved advance preparation for emergencies and public education programs in the context of state emergency response plans. Specifically, FEMA was directed to: (1) take the lead in off-site emergency planning and response; (2) complete by June 1980 the review of state emergency plans in those states with operating reactors; (3) complete as soon as possible the review of state emergency plans in those states with plants scheduled for operation in the near future; (4) develop and issue an updated series of interagency assignments which would delineate respective agency capabilities and responsibilities and clearly define procedures for coordination and direction for both emergency planning and response; (5) assure that DOE resources and capabilities for responding to radiological emergencies are made available and augmented as needed to service civilian related radiological emergencies; and (6) assure the development of programs to address the recommendations for additional research and public education needs.

3. The Federal Emergency Management Agency, in recognition of NSOC's responsibility and essential need for information as described in paragraph 1, above, agrees to cooperate fully to assure that NSOC has complete and full access to all information, facilities, and personnel NSOC determines is required to fulfill its responsibility in an effective and timely manner. In order to effectuate this agreement in an orderly fashion, the NSOC and FEMA also agree to the following principles and arrangements:

a. *Informal and Formal Arrangements*

The NSOC, its staff and its properly designated consultants may regularly contact FEMA personnel at all levels to develop and implement informal or formal arrangements for complete and full access and/or acquisition to all information, facilities and personnel in the general and specific areas identified in paragraph 1, above. To the extent possible, the use of informal arrangements to implement this provision is preferred;

b. *Designated Information Coordinator*

FEMA shall designate a person to serve as information coordinator who will be directly responsible for providing, or for causing others to provide, the information requested by NSOC personnel. Contacts described in a. above shall be made only after the FEMA Information Coordinator has been informed that such a contact will be made. Any formal arrangements for providing FEMA information to NSOC shall be coordinated through the Designated Information Coordinator;

c. *"Legal" Information Defined*

The term "legal," as used in paragraph 1 of this memorandum includes, but is not limited to, (1) all briefs or memoranda filed by FEMA and the United States, in any Federal or state judicial proceeding, in a controversy involving nuclear safety, emergency planning or preparedness, or a subject matter which, in FEMA's view, relates to the responsibilities of NSOC; (2) opinions or memoranda issued by any Federal or state judicial tribunal in a controversy in which FEMA is a party and which involves the subject matter identified in subparagraph c (1), above; and (3) proposed legislation affecting FEMA's responsibility. FEMA agrees to arrange for the regular transmission of these materials to NSOC;

d. *Operation not Materially Affected*

The implementation of this memorandum shall not materially impede or disrupt the operation, routine or regularized conduct of FEMA procedures and programs;

e. *Authority not Affected*

Nothing in this memorandum, or in its implementation, or in any subsequent formal or informal arrangement is intended to restrict, modify or limit the authority of FEMA or the responsibility of the NSOC under Executive Order 12202, Executive Order 12240 and other applicable laws;

f. *Classified Documents, Devices of Facilities*

Nothing in this memorandum, or in its implementation, is intended to alter, modify or change applicable requirements concerning the personal security clearance of individuals or the informational or physical security of classified documents, devices or facilities;

g. *Responsible Agency Official and the Process of Amendment*

The General Counsel of the FEMA and the General Counsel of the NSOC will periodically review the effectiveness of this memorandum of understanding, particularly as it relates to NSOC's fulfillment of its responsibilities under Executive Order 12202 and Executive Order 12240 and develop formal and informal arrangements to correct any impediments, deal with problem areas or resolve disputes. The responsibilities agreed to in this memorandum may be amended by the exchange of letters between the General Counsel of NSOC and the General Counsel of FEMA.

4. This memorandum of understanding shall take effect upon its signing by authorized representatives of the respective agencies.

For the Nuclear Safety Oversight Committee.

Dated: November 7, 1980.

Bruce Babbitt,

Chairman, Nuclear Safety Oversight Committee.

For the Federal Emergency Management Agency.

Dated: October 28, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 80-35319 Filed 11-12-80; 8:45 am]

BILLING CODE 6820-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21779; 70-6361]

Appalachian Power Co. et al; Proposal of Holding Company To Issue and Sell Short-Term Notes to Banks and To Make Cash Capital Contributions to Subsidiaries

November 6, 1980.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Columbus and Southern Ohio Electric Company, 215 North Front Street, Columbus, Ohio 43215; Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Michigan Power Company, Post Office Box 367, Three Rivers, Michigan 49093; Ohio Power Company, 301 Cleveland Avenue, SW., Canton, Ohio 44701; Wheeling Electric Company, 51 Sixteenth St., Wheeling, West Virginia 26003; American Electric Power Company, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Columbus and Southern Ohio Electric Company ("CSOE"), Indiana & Michigan Electric Company ("I&M"), Kentucky Power Company ("KPCO"), Kingsport Power Company ("Kingsport"), Michigan Power Company ("Michigan"), Ohio Power Company ("Ohio Power") and Wheeling Electric Company ("Wheeling"), AEP's subsidiary public utility companies, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By prior order in this proceeding (HCAR No. 21352, December 21, 1979), AEP was authorized to issue and sell, from time to time, prior to January 1, 1981, short-term notes and commercial paper, to banks, and to a dealer in commercial paper respectively, in an amount of up to $165,000,000, such notes maturing no later than June 30, 1981. AEP was also authorized to make cash capital contributions prior to January 1, 1981 to certain of its subsidiaries. By supplemental order in this proceeding (HCAR No. 21442, February 20, 1980), AEP was authorized to issue and sell such short-term notes to 11 banks with lines of credit in an aggregate amount of $229,000,000 subject to the previously ordered limit on outstanding notes. By further supplemental order in this proceeding (HCAR No. 21488, March 25, 1980), AEP was authorized to make cash capital contributions to Michigan from time to time prior to January 1, 1981 in an aggregate amount of $10,000,000. Also by further supplemental order in this proceeding (HCAR No. 21596, May 29, 1980), AEP was authorized to issue and sell short-term notes to 14 banks with lines of credit in an aggregate amount of $274,000,000, subject to the previously ordered limit on outstanding notes.

By post-effective amendment AEP proposes to issue and sell, from time to time prior to January 1, 1982, short-term notes to 14 banks with lines of credit in an aggregate amount of $239,000,000, maturing no later than June 30, 1982. AEP also requests authority to make cash capital contributions from time to time subsequent to December 31, 1980 and prior to January 1, 1982, to Appalachian in the amount of $60 million, to CSOE in the amount of $40 million, to I&M in the amount of $90 million, to KPCO in the amount of $20 million and to Ohio Power in the amount of $60 million. The currently estimated construction program of Appalachian for 1981 is $215 million, for CSOE is $143 million, for I&M is $320 million, for KPCO is $47 million and for Ohio Power is $225 million.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $500. It is stated that the proposed cash capital contributions to be made during 1981 by AEP to Appalachian are subject to authorization by the State Corporation Commission of Virginia and the Public Service Commission of West Virginia. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 8, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35247 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11431; 811-443]

Coca-Cola International Corp.; Filing of Application of the Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased to be an Investment Company.

November 6, 1980.

Notice is hereby given that Coca-Cola International Corporation ("Applicant") registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified, management investment company, filed an application on October 15, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the respresentations contained therein, which are summarized below.

Applicant was incorporated under the laws of the State of Delaware on November 18, 1922. It registered under the Act on May 19, 1941, and was exempted from the provisions of

Sections 8(b) and 30(d) of the Act by an order of the Commission dated August 12, 1941 (Investment Company Act Release No. 188). Applicant has never filed a registration statement pursuant to the Securities Act of 1933, and thus has never made a public offering of its securities. As of March 31, 1980, Applicant's assets, other than approximately $1,247,802 in cash and cash equivalents, consisted of 17,981,376 shares of the common stock of The Coca-Cola Company ("Coca-Cola"), a Delaware Corporation. As of August 7, 1980, Applicant had outstanding 92,991 shares of its common stock with an aggregate net asset value, exclusive of the value of its shares of common stock of Coca-Cola ($657,260,388), of $348,294.40, or 3.74546 per share. Such shares were held by 560 stockholders of record.

Applicant states that its Board of Directors on March 5, 1980, adopted a Plan of Complete Liquidation (the "Plan"), and that, in accordance with the requirements of Delaware law, Applicant's stockholders approved the Plan at a special meeting of stockholders held on July 31, 1980. Pursuant to the Plan, Applicant transferred $22,825.90 to the trustees of a liquidating trust (the "Trustees"), who will use the assets to satisfy any contingent or unascertained obligations of Applicant which may become payable in the future. The application states that expenses in connection with its liquidation, aggregating approximately $260,000, were paid by Applicant. Applicant, in early August, 1980, distributed to its stockholders 17,854,272 shares of Coca-Cola and $325,468.50 in cash. The distribution to stockholders was effected by a transfer to Trust Company Bank, which is acting as Exchange Agent under the Plan on behalf of the stockholders (the "Exchange Agent"). The application states that upon surrender of his certificate, or certificates, representing shares of common stock in Applicant to the Exchange Agent, each stockholder will receive his pro rata portion of the assets transferred to the Exchange Agent. In addition, Applicant states that the Trustees will terminate the liquidating trust to the Exchange Agent, for distribution pro rata to Applicant's stockholders.

Applicant asserts that it currently has no assets, that to the best of its knowledge its outstanding debts and liabilities do not exceed the amount transferred to the Trustees under the liquidating trust, and that it is not currently a party to any litigation or administrative proceedings. The application also states that Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs. Finally, Applicant states that it filed a Certificate of Dissolution with the Secretary of State of Delaware on August 6, 1980, thereby effecting Applicant's formal dissolution.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later that November 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36248 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6255; 18-67]

Filing of an Application of the Securities Act of 1933 for an Order Exempting From the Provisions of Section 5 of the Act Interests or Participations Issued in Connection With O'Melveny & Myers Retirement Plan and Trust Agreement for Partners

November 6, 1980.

Notice is hereby given that the law firm of O'Melveny & Myers (the "Firm" of "Applicant"), 611 West Sixth Street, Los Angeles, CA 90017, a California partnership, has by letter dated December 6, 1979, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for any participations or interests issued in connection with its Retirement Plan and Trust Agreement for Partners (the "Plan") for qualifying partners of the Applicant. All interested persons are referred to the application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers all of Applicant's qualifing partners, of whom there were 66 active and 8 retired as of August 2, 1979. The Plan provides that a partner is eligible to participate as of the date he or she becomes a member of the Partnership. Participation is voluntary and each partner becomes a Plan "participant" on the December 31st following his or her satisfaction of the eligibility requirements.

The Plan is of a type commonly referred to as a "Keogh" plan, which covers persons (in this case certain partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"). Therefore, even though the Plan is qualified under Section 401 of the Code, the exemption provided by Section 3(a)(2) is inapplicable to the interests in the Plan, absent an order of the Commission.

In relevant part, Section 3(a)(2) provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

The Plan became effective on January 1, 1963, and was amended effective January 1, 1976 and further amended on December 31, 1977, August 14, 1978 and August 1, 1979. Applicant further states that the Internal Revenue Service ("IRS") has issued a ruling to the effect that the Plan is a qualified one under Section 401(a) of the Internal Revenue Code of 1954 ("Code"). The Plan is an employee pension benefit plan subject to the full fiduciary, reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 ("ERISA").

Participation in the Plan is voluntary. To become a participant a Partner may contribute, or cause the Partnership to contribute on his or her behalf to the Plan, up to a certain percentage of his or her behalf to the Plan, up to a certain percentage of his or her Partner's Earnings each year. Subject to certain limitations under the Plan, participants may further contribute up to, an amount equal to 10 percent of his or her aggregate earnings during his or her participation in the Plan, less the amount of the deductible contribution described in the preceding sentence.

The plan is administered by a committee (the "Committee") appointed by the Management Committee of the Partnership. The Committee has overall responsibility and authority in connection with the Plan, including the right to determine all questions relating to eligibility to participate, to determine, compute and certify to the Trustee under the Plan the amount and kind of benefits payable to participants, to authorize all disbursements by the Trustee from the Trust and to make rules for the regulation of the Plan.

The trust agreement contains provisions for separate investment funds. Fund A is an equity fund, Fund B is a fixed income fund, Fund C is a cash equivalent fund, Fund D is a managed equity fund, and Fund E consists of individually managed accounts. The Trustee is solely responsible for investment of amounts contributed to the Plan and held in Fund A and in Fund B. The Committee is responsible for the investment of amounts held in Fund C and in Fund D, except to the extent, pursuant to the Plan, the Committee delegates the management of such Fund assets to a separate Investment Manager. The investment of amounts in Fund E accounts is directed by individual participants. Each participant designates whether and to what extent his or her contributions are to be credited to Fund A, Fund B, Fund C, Fund D or Fund E.

Applicant contends that were the Firm a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant also states that it is engaged in furnishing legal services which involve financially sophisticated and complex matters, exercises extensive administrative control over the Plan, and believes that it is able to represent adequately its own interests and those of its partners without the protection of the registration requirements of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to the participants.

Finally, Applicant argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Applicant argues that its Plan is distinguishable from multi-employer plans or uniform prototype plans designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons and that these latter plans are the type of plans Congress intended to exclude from the Section 3(a)(2) exemption.

For all of the foregoing reasons, Applicant believes that the Commission should issue an order finding that an exemption from the provisions of Section 5 of the Act for interests or participations issued in connection with the Plan is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 2, 1980 at 5:30 p.m., submit to the Commission a request for a hearing on the matter, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following December 2, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35249 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11434; 812-2280]

Putnam Convertible Fund, Inc., et al; Filing of Application for an Order Amending Certain Orders of Exemption

November 6, 1980.

In the Matter of Putnam Convertible Fund, Inc., Putnam International Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, Putnam High Yield Trust, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Option Income Trust, Putnam Tax Exempt Income Fund, Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc., Putnam Fund Distributors, Inc., 265 Franklin Street, Boston, MA 02110, and Chemical Fund, Inc., Surveyor Fund, Inc., 61 Broadway, New York, NY 10006.

Notice is hereby given that Putnam Convertible Fund, Inc., Putnam International Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, Putnam High Yield Trust ("High Yield"), The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Option Income Trust, Putnam Tax Exempt Income Fund ("Tax Exempt"), Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc. (collectively,

"Putnam Funds"), Chemical Fund, Inc. ("Chemical"), and Surveyor Fund, Inc. ("Surveyor"), diversified, open-end, management investment companies registered under the Investment Company Act of 1940 ("Act"), and Putnam Fund Distributors, Inc. ("Distributor") (collectively, "Applicants"), filed an application on April 11, 1980, with an amendment thereto on August 1, 1980, for an order, pursuant to Section 6(c) of the Act, amending the following orders of exemption from Section 22(d) of the Act and Rule 22d–1 thereunder: *Putnam Convertible Fund, Inc., et al.*, Investment Company Act Rel. No. 9794 (June 2, 1977); *Putnam Convertible Fund, Inc., et al.*, Investment Company Act Rel. No. 9918 (Sept. 7, 1977); *Putnam Convertible Fund, Inc., et al.*, Investment Company Act Rel. No. 10535 (Dec. 22, 1978). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Distributor serves as principal underwriter for the Putnam Funds, Chemical and Surveyor, and that it is a wholly-owned subsidiary of Marsh & McLennan Management Company, a holding company whose other subsidiaries include The Putnam Management Company, Inc., which serves as investment manager for the Putnam Funds, and Eberstadt Asset Management, Inc., whose subsidiary, Eberstadt Fund Management, Inc., serves as investment manager of Chemical and Surveyor. According to the application, Marsh & McLennan Management Company is a wholly-owned subsidiary of Marsh & McLennan Companies, Inc., a publicly-owned company.

Applicants state that Eberstadt Fund Management, Inc., became a subsidiary of Marsh & McLennan Companies, Inc., in April, 1979, following the transfer of the investment management business of F. Eberstadt & Co., Inc., and that Distributor subsequently became principal underwriter for Chemical and Surveyor.

Investment Company Act Release No. 9794 permits sales at net asset value of the securities of the Putnam Funds (other than High Yield) to tax-qualified employee benefit plans for employees of Distributor and its affiliates. For a summary of the reasons asserted for the issuance of that order, see Investment Company Act Release No. 9759. Applicants request an amendment of the order contained in Release No. 9794 to permit such sales of the securities of High Yield, Chemical, Surveyor and any new open-end management investment company ("New Fund") having Putnam Management Company, Inc., or Eberstadt Fund Management, Inc. (or their successors or corporate affiliates) as its investment manager or having Distributor (or its successors or corporate affiliates) as its principal underwriter.

Investment Company Act Release No. 9918 permits sales of the securities of the Putnam Funds (other than Tax Exempt and High Yield) at net asset value plus a sales charge of 4.5% of the offering price (without variance regardless of the quantity purchased) to members of qualified groups (as defined in application 812–4082). For a summary of the reasons asserted for the issuance of the order contained in Release No. 9918, and of the definition of qualified groups, see Investment Company Act Release No. 9878. Applicants request an amendment of that order to permit such sales of the securities of High Yield, Tax Exempt, Chemical, Surveyor and any new Fund.

Investment Company Act Release No. 10535 permits sales of the securities of the Putnam Funds at net asset value to employees of Marsh & McLennan Asset Management Company and of its subsidiaries which provide investment management and related services who are participants in a non-tax qualified employee benefit plan described in application 812–4367. For a summary of the reasons asserted for the issuance of the order contained in Release No. 10535 and a description of the employee benefit plan, see Investment Company Act Release No. 10491. Applicants request an amendment of that order to permit such sales of the securities of Chemical, Surveyor and any new Fund.

Section 22(d) of the Act provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a princial underwriter, or the issuer except at a current public offering price described in the prospectus. Rule 22d–1 provides an exemption from Section 22(d) to the extent necessary to permit the sale of redeemable securities of a registered investment company at prices which reflect reductions in or eliminations of the sales load under certain stated circumstances.

Section 6(c) of the Act provides that the Commission, by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that amendment of the existing exemptions from Section 22(d) of the Act and Rule 22d–1 thereunder, as requested in the application, is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act, and that Applicants are entitled to such amendments for reasons identical to those set forth in the applications on which such exemptions originally were based. Applicants assert that they are entitled to the amendment of such Section 22(d) exemptions to include sales of New Funds because such amendments would preclude the need for future applications of this nature seeking only to extend prior orders to cover securities of investment companies that have been organized by or have engaged, a common investment manager or principal underwriter since the date of such prior orders and would thus save the Commission and its staff and the Applicants and such investment companies unnecessary and duplicative effort and expense.

Notice is further given that any interested person may, not later than December 1, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35250 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17277; File No. SR-MSRB-80-11]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1), of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows:

Statement of the Terms of Substance of the Proposed Rule Changes

The Municipal Securities Rulemaking Board (the "Board") is filing herewith an amendment to rule G–15 relating to customer confirmations (hereafter referred to as the "proposed rule changes"). The text of the proposed rule changes is as follows: [1]

Rule G–15. Customer Confirmations

(a)(i) through (vii) No change.

(viii) yield and dollar price, as follows:

(A) No change.

(B) for transactions effected on the basis of dollar price, the dollar price at which transaction was effected, and the lowest of the resulting yield to premium call, yield to par option, or yield to maturity shall be shown[.]; *provided, however, that yield information for transactions in callable securities effected at a dollar price in excess of par, other than transactions in securities which have been called or prerefunded, is not required to be shown until October 1, 1981.*

(C) No change.

(a)(ix) through (xiii) No change.

(b) through (g) No change.

[(h) The requirements of this rule shall become effective on December 8, 1977.]

[1] *Italics* indicate new language; [brackets] indicate deletions.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes are as follows:

Purpose of Proposed Rule Changes

On March 28, 1980, the Commission approved certain amendments to the provisions of rule G–15 relating to customer confirmations (Securities Exchange Act Release No. 16707; File No. SR–MSRB–79–6). The amendments modified rule G–15 to require that a confirmation of a transaction effected on the basis of dollar price include not only the dollar price at which the transaction was effected, but also the lowest of the resulting yield to premium call, yield to par option, or yield to maturity. In addition, the amendments require municipal securities dealers, when confirming transactions involving callable securities, to include on the confirmation a statement indicating that the yield shown may be affected by the exercise of a call provision, and that information concerning call provisions will be provided upon request.[2] In response to the request of the Board, the Commission delayed the effective date of the amendments for six months from the date of commission approval, or until September 24, 1980. The Board provided for a delayed effective date in order to permit municipal securities dealers sufficient time to make necessary changes to their customer confirmation forms and to their data processing systems.

On May 27, 1980, the Commission approved certain amendments to rules G–12 and G–15, which modified these rules to require that, in circumstances where a transaction is effected on a yield price which is calculated to a premium call or par option feature, the call or option date and price be stated on the confirmation (Securities Exchange Act Release No. 16844; File No. SR–MSRB–80–1). These amendments were also scheduled to become effective on September 24, 1980.

On August 4, 1980, the Board filed with the Commission a request that the effective date of the amendments be extended to December 1, 1980 (File No. SR–MSRB–80–7). In that filing the Board noted that subsequent to the approval of the amendments the Board had been contacted by several municipal securities dealers who had apparently encountered unforeseen difficulties in modifying their computer processing systems. These dealers indicated that the six-month delayed effective date would not provide sufficient time to make the necessary modifications and requested the Board to consider extensions of the effective date for periods ranging from two months to eighteen months. Those dealers who requested extensions of six months or more indicated that they intended to make substantial, system-wide changes in their computer systems in order to comply with the information retrieval aspects of the amendments.

The Board considered these requests and concluded that an extension of the effective date to December 1, 1980 would provide enough additional time for municipal securities dealers to complete those technical computer reprogramming tasks associated with the mathematical computations required by the amendments. With respect to the more extensive computer systems changes planned by some dealers, the Board concluded, based upon the information provided to the Board at that time, that these dealers could devise interim measures which would permit them to comply with all of the new requirements while their systems changes were in process. The Commission approved the extension of the effective date to December 1, 1980 (Securities Exchange Act Release No. 17150).

The Board is filing the proposed rule changes as a result of its consideration of additional information provided by municipal securities dealers subsequent to the Board's previous filing. These dealers have indicated that while in individual instances they could manually research the call features of a particular security, given the volume of transactions which they effect on a dollar basis, it would not be feasible for them to retrieve call information for all of these transactions without the use of data processing systems. These dealers have further informed the Board that their computerized security description and related files do not presently distinguish among callable securities having the same issuer, coupon rate, and maturity date but different call features. The Board has been advised that they are currently in the process of implementing procedures which would permit their computer systems to identify call features but that it will take several more months to complete this task.

The Board has considered these comments and believes that it is necessary and appropriate to defer the effective date of that provision of the amendments which will require

[2] Reference should be made to the text of the amendments contained in File No. SR–MSRB–79–6 for the precise changes effected by the amendments; a discussion of the purpose of the amendments is also contained in that filing.

municipal securities brokers and municipal securities dealers to identify certain yield information on transactions in callable bonds as a normal part of processing customer confirmations. Accordingly, the proposed rule changes would delay until October 1, 1981, the effective date of the provisions of the amendments insofar as they would require the disclosure of yield to premium call or to par option on customer confirmations. The proposed rule changes, however, retain the December 1, 1980 effective date for the requirement to show yield to maturity in circumstances where such yield is the lowest, or the only appropriate, yield. Since yield to maturity would not necessarily be the lowest yield in the case of a callable bond purchased or sold at a dollar price in excess of par, the proposed rule changes provide that yield to maturity need not be shown for such a transaction. The requirement to show yield to maturity would, however, apply to transactions in callable securities which have been "called" or "prerefunded" because, in effect, a maturity date has been established with respect to such securities.

The Board does not believe that any further extension of the effective date of the other amendments to rule G–15 (or of the related amendment to rule G–12) is warranted. As noted above, the Board is providing for extension of the effective date of the requirement to disclose the yield to premium call or yield to par option for all transactions effected on a dollar basis because of difficulties relating to the need to identify the applicable call features. The Board does not believe that comparable problems exist with respect to the remaining amendments. The amendment to rule G–15 requiring customer confirmations to contain a legend indicating, in part, that the specifics of a call feature will be provided to a customer upon request, would, of course, require identification of call features under certain circumstances. The Board believes, however, that a problem of identification would arise only if the customer requests information about a holding of securities to which several different call features might apply. The Board believes that the need for reference to the actual certificates in the case of such requests during the period when call information is not yet retrievable by computer will not be unduly burdensome. The Board notes further that rule G–15 currently provides a significant peirod of time (a minimum of five business days) for a dealer to respond to a request for this information.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

Comments Received from Members, Participants or Others on Proposed Rule Changes

Subsequent to the Board's filing requesting extension to December 1, 1980 of the effective date of the amendments, several municipal securities dealers have, both orally and in writing, requested a further extension of the effective date. Certain of these dealers also provided comments to the Commission. *See*, for example, the comment letters of E. F. Hutton & Company, Inc.; Merrill Lynch, Pierce, Fenner & Smith, Inc.; Smith Barney, Harris Upham & Co. Incorporated; and the Public Securities Association. As indicated above, these commentators stressed the problem of identifying the applicable call feature as a necessary part of confirmation processing and indicated that significant changes in their data processing systems, requiring additional time, would be needed to make such information readily available.

Burden on Competition

The proposed rule changes, to the extent that they provide additional time to all municipal securities brokers and municipal securities dealers to implement one provision of the amendments, would lessen any burden on competition. The Board recognizes, however, that retaining the December 1, 1980 effective date for the remaining provisions of the amendments may have a different impact on different municipal securities brokers and municipal securities dealers. The Board believes that, to the extent that the retention of the December 1, 1980 date has such an impact, it is necessary and appropriate in view of the important purposes served by the amendments. *See* File No. SR–MSRB–79–6 and File No. SR–MSRB–80–1.

On or before December 18, 1980, or within such longer period (i) as the Commission may designate up to February 11, 1981 if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 4, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 7, 1980.

[FR Doc. 80-35374 Filed 11-12-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 139—Airborne Equipment Standards for Microwave Landing Systems (MLS); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 139 on Airborne Equipment Standards for Microwave Landing System (MLS) to be held on December 3–5, 1980 in Conference Rooms 5A–B, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Ninth Meeting Held on October 8–10, 1980; (3) Review of Sections 1 and 2 of the Draft Minimum Operational Performance Standards for Airborne MLS Equipment; (4) Review and Comparison of SC–139 and European Organization for Civil Aviation Electronics (EUROCAE) Standards for Airborne MLS Equipment; (5) Review of Sections 3 and 4 of the Draft Minimum Operational Performance Standards for Airborne MLS Equipment; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–4084. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 3, 1980.

Karl F. Bierach,
Designated Officer.

[FR Doc. 35076 Filed 11–12–80; 8:45 am]

BILLING CODE 4910–13–M

Invitation for Comment Regarding Systemwide Implementation Strategies for Microwave Landing Systems

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) invites all interested parties to comment on alternative strategies for the implementation of Microwave Landing Systems which are proposed for installation in the National Airspace System. These comments will be considered in selection of an implementation strategy to guide future FAA actions.

To acquaint the public with several alternative implementation strategies and with the relative economic merits of the existing Instrument Landing System (ILS) and new Microwave Landing System (MLS), two analyses are being made available. These are the "Microwave Landing System Transition Plan—Draft" and the report, "An Analysis of the Requirements for and the Benefits and Costs of the National Microwave Landing System."

To facilitate comments, four public meetings will be held.

Comments/Publications

The Federal Aviation Administration invites comments and suggestions on the alternative MLS implementation strategies. To facilitate such comment, public meetings will be held as follows:

Monday, January 5, 1981
Location: The Hacienda Hotel, 525 N. Sepulveda Boulevard, El Segundo, California 90245,
Time: 2:00 p.m. to 6:00 p.m.

Wednesday, January 7, 1981
Location: Stouffers Denver Inn, 3203 Quebec Street, Denver, Colorado 80207,
Time: 2:00 p.m. to 6:00 p.m.

Friday, January 9, 1981
Location: Sheraton O'Hare Hotel, 6810 North Mannheim Road, Rosemont, Illinois 60018,
Time: 2:00 p.m. to 6:00 p.m.

Tuesday, January 13, 1981
Location: Department of Transportation, Room 2230, 400 Seventh Street, S.W., Washington, D.C. 20590,
Time: 2:00 p.m. to 6:00 p.m.

Those wishing to speak at a public hearing should submit written notification to: Mr. Marvin Olson, APO–320, Chairman, MLS Transition Plan Working Group, Federal Aviation Administration, Room 939, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The notifier's name should be indicated, as well as the location at which participation is desired. To aid any necessary further communication, the notification should also indicate address, telephone number and, if appropriate, organizational affiliation.

Requests for copies of the MLS Transition Plan and the benefit/cost study should be sent to the above address.

Written comments received on or before February 10, 1981, will be considered when selecting an MLS implementation strategy. Comments should be sent to the above address with the notation: Attention: MLS Transition Plan Comments.

SUPPLEMENTARY INFORMATION: In March 1977 the Federal Aviation Administration (FAA) initiated a process for system acquisition management which established the management framework and procedures to be used in the agency's acquisition of major systems. The process provides for executive involvement at critical points and specifies the documentation required to support management action. A key decision to be made by the FAA Administrator is the transition from development to implementation. For designated systems which involve a large number of facilities and services or which require substantial capital investment over several budget years, a transition plan is developed. The transition plan provides an integrated package to support the decision process.

The Microwave Landing System Transition Plan Draft is the first transition plan developed under the System Acquisition Management process. It consists of an Executive Summary and four chapters: Background; Analysis of System Transition Strategies; Related Program Considerations; and Recommendations. (Recommendations will be developed after public input.) The draft plan is being made available to acquaint the public with alternative strategies for transition to the new MLS and to facilitate public input to the Department of Transportation-Federal Aviation Administration regarding such a transition. A second study, "An Analysis of the Requirements for and the Benefits and Costs of the National Microwave Landing System" is being made available to indicate the relative economic merits of ILS and MLS to satisfy the identical national requirement for precision guidance service.

It should be noted that the transition plan is *not* an implementation plan. After an implementation decision is made, a detailed plan will be developed using the approved implementation strategy and providing specific location identifications, schedules and program accomplishment methodology.

MLS Transition Plan—Background: There is a basic requirement to provide precision approach guidance to permit approach and landing operations under reduced visibility conditions at airports with appropriate levels of aircraft activity. This requirement derives principally from the need to provide reliable and economically viable air transportation services during all weather conditions.

The operational requirements for a precision approach and landing system had their beginning in the United States and have been further defined by the International Civil Aviation Organization (ICAO). The ICAO operational requirements, which have been endorsed by the United States, specify those operational and technical characteristics required of a new system. Four essential features of such a system are: (1) a common system for civil/military use; (2) a frequency band that will be free of frequency congestion problems; (3) a system that provides a high quality guidance signal that is relatively free from local terrain and structure effects; and (4) an ability to

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provide multiple approach paths for various classes of aircraft.

Two precision approach and landing systems, (1) the existing Instrument Landing System (ILS), and (2) the new proposed Microwave Landing System (MLS), have been operationally and economically analyzed. The analyses show that the MLS is operationally superior to ILS because it overcomes most of the technical limitations of ILS. The dollar value estimated to result from the removal of these limitations is shown in the economic evaluation of the MLS versus ILS equipment options which is contained in the report: "An Analysis of the Requirements for and the Benefits and Costs of the National Microwave Landing System" (Report No. FAA–EM–80–7). This report concludes that, based upon those economic factors that could be quantified, substantial increases in dollar benefits accrue to the aviation system users by their choice to install MLS equipment in place of ILS. Not all aviation user groups were estimated in this study to benefit equally from the implementation of MLS. The commercial airlines and commuter air carriers were estimated to derive a significant economic advantage, but a small disbenefit (costs exceed benefits) was estimated to accrue to the comprehensive class of general aviation users. Some segments of this class of users were estimated, however, to derive substantial benefits from the use of MLS.

MLS has been found to be both technically and econmically superior to ILS. Therefore, MLS has been designated to satisfy the precision approach and landing requirement of the United States and the International Civil Aviation Organization to the year 2000 and beyond.

To provide operational continuity, as well as lessen the cost impact, ILS will operate for an indefinite period until MLS is operationally cost effective. No ILS will be decommissioned at designated international airports until 1995 under an agreement with the International Civil Aviation Organization.

To operationally test MLS in the United States, a Service, Test and Evaluation Program is being conducted to extend the scope of the MLS evaluation work to a limited number of operational airports. This evaluation program will provide the FAA and aviation users the opportunity to obtain "real world" MLS operational experience.

MLS Transition Plan—Analysis of System Transition Strategies: Most of the existing ILS ground facilities will be collocated with a new MLS for a substantial period. As of June 30, 1980, there are 621 full, commissioned ILS's at 430 airports and an additional 150 ILS's in the procurement pipeline. This will require a substantial investment of additional maintenance manpower for these dual ILS/MLS facilities. Dual ILS/MLS avionics will also be required in many aircraft during the transition period. Based upon forecasts of activity, it is estimated that there will be a need for at least 1,250 precision approach systems by 2000. Thus, the transition to MLS will require a significant planning effort by both the aviation community and FAA to assure that the need for expanded levels of service will be met efficiently.

To accomplish the transition to MLS, ten strategies have been evaluated to determine the best technique (operationally and economically). Nine of the strategies are made up of various combinations of the following options:

1. *Baseline MLS Deployment*—MLS's are installed in order of runway annual instrument approaches at runways (whether or not they are ILS-equipped) that meet the MLS establishment criteria for Category I, II, or III [1] MLS.

2. *New-Qualifier Airports*—One Category I (only) MLS is installed at each non-ILS airport that either meets the Category I MLS establishment criteria or has sustained scheduled air-carrier turbojet service. Installation priority is in order of runway annual instrument approaches.

3. *Noise-Sensitive Runways*—An MLS is installed at each runway identified as being noise sensitive. Installation priority is in the order or runway annual instrument approaches. Category I, II, or III MLS's are installed in accordance with MLS establishment criteria.

4. *Network Airports*—An MLS is installed at each airport in a network served by particular fleets, where a fleet consists of aircraft of a single type, e.g., three-engine wide body jets operated by a specific user, e.g., United Air Lines.

5. *New-Qualifier Runways at Equipped Airports*—A Category I, II, III MLS is installed in accordance with MLS establishment criteria and in order of runway annual instrument approaches, at newly qualified (non-ILS) runways at airports that already have at least one precision landing system (ILS or MLS).

6. *Upgrading to Category II/III*—A Category II or Category III MLS is installed in accordance with MLS establishment criteria and in the order of runway annual instrument approaches at airports that qualify for upgrading from Category I to Category II or III or from Category II to Category III.

7. *ILS Tube-Type Replacement*—MLS is installed at locations where tube-type ILS is scheduled for replacement because of obsolescence in accordance with MLS establishment criteria and in order of runway annual instrument approaches.

These seven (7) options were combined to form nine strategies which are assessed and ranked in terms of their attributes. The strategies and analysis of the results are:

Strategy 1

New Qualifier Airports and Baseline Deployment.[1]

—$20 million annual F&E [2] funding limit.[3]

—Install one Category I MLS at each non-ILS airport that meets Category I MLS establishment criteria. Installation priority is in order of runway annual instrument approaches.

—Once each non-ILS airport that meets the criteria has an MLS, install MLS's at airports that meet the establishment criteria for Category I, II or III MLS, whether or not they are ILS equipped. Installation priority is in order of runway annual instrument approaches, i.e., baseline deployment.

Analysis

Since the first option in this strategy is to install MLS ground systems at new-qualifier airports, most of the early ground systems will be installed at general aviation or small air carrier airports. This will encourage early general aviation MLS avionics equipage and very little initial air carrier equipage. The early ILS decommissioning rate will be slow because the initial option of the strategy excludes collocated ILS and MLS ground systems.

Strategy 2

New Qualifier Airports, New-Qualifier Runways at Equipped Airports, and Baseline Deployment.

—$20 million annual F&E funding limit.

—Install one Category I MLS at each non-ILS airport that meets Category I MLS establishment criteria. Installation priority is in order of runway annual instrument approaches.

—Once each non-ILS airport that meets the criteria has an MLS, install a Category I, II or III MLS in accordance with MLS establishment criteria; and, in order of runway annual instrument approaches, install MLS's at newly qualified (non-ILS) runways at airports that already have at least one precision landing system (ILS or MLS).

—Once the first two options have been fulfilled, install MLS's in order of runway annual instrument approaches at airports (whether or not they are ILS-equipped) that meet the establishment criteria for Category I, II, or III MLS, i.e., baseline deployment.

Analysis

The early implications of this strategy are very similar to Strategy 1 since the first option is the same, to install MLS ground systems at new-qualifier airports. This will encourage early general aviation MLS avionics equipage and very little air carrier equipage. The ILS decommissioning rate will be slow because the first two options exclude collocated ILS and MLS ground systems on the same runway.

Strategy 3

Upgrading to Category II/III, New-Qualifier Airports and Baseline Deployment.

—$20 million annual F&E funding limit.

—Install a Category II or Category III MLS, in accordance with MLS establishment criteria and in order of runway annual instrument approaches, at airports that qualify for upgrading from Category I to Category II and from Category II to Category III.

—One each airport that qualified has been ugraded, install one Category I MLS at each non-ILS airport that meets the Category I MLS establishment criteria. Installation is in order of runway annual instrument approaches.

—Once the first two options have been fulfilled intall MLS's in order of runway annual instrument approaches at runways (whether or not they are ILS equipped) that meet the MLS establishment criteria for Category I, II, or III MLS, i.e., baseline deployment.

Analysis

Since the first option of this strategy is to upgrade qualified Category I and II runways with MLS ground systems, the initial ground systems will be installed at large air carrier airport. This will encourage early air carrier aircraft MLS avionics equipage but will provide very little initial incentive for general aviation aircraft to equip. After the initial option has been satisfied, however, MLS ground systems will be installed at new-qualifier airports which will encourage general aviation MLS avionics equipage. ILS decommissioning will occur at a relatively fast pace since the first MLS ground systems installed will be collocated with ILS systems.

Strategy 4

Funding Split Among Network Airports, New-Qualifier Airports, and Baseline Deployment.

—$20 million annual F&E funding limit. One-third of the annual funds is allocated to each of the three following options:

—Install MLS's at each airport in a network served by particular fleets. A fleet consists of aircraft of a single type, e.g., three-engine wide-body jets, operated by a specific user, e.g. a specific commercial airline.

—Install one MLS at each non-ILS establishment criteria or has sustained scheduled air-carrier turbojet service. Installation priority is in order of runway annual instrument approaches at runways (whether or not they are ILS equipped) that meet the MLS establishement criteria for Category I, II, or III MLS.

Analysis

This strategy provides for establishment of MLS ground systems at locations throughout the transistion period which will encourage both air carrier and general aviation MLS avionics equipage. There will be a moderate amount of early ILS decommissioning because many of the first MLS ground systems installed will be collocated with ILS systems.

Strategy 5

Upgrading to Category II/III, New-Qualifier Airports, and Baseline Deployment.

—50) million annual F&E funding limit.

This strategy is the same as Strategy 3 discussed previously except that the annual F&E funding limit has been increased from $20 million to $50 million.

Analysis

The higher F&E funding limit provides for a faster pace of MLS ground system installation and thus provides a greater incentive for MLS avionics equipage. The faster pace of MLS ground system installation and MLS avionics equipage will accelerate the ILS decommissioning rate.

Strategy 6

New-Qualifier Airports, New-Qualifier Runways at Equipped Airports, and Baseline Deployment.

—$50 million annual F&E funding limit.

This strategy is the same as Strategy 2 discussed previously except that the annual F&E funding limit has been increased from $20 million to $50 million.

Analysis

This enables ground systems to be installed at a faster rate and thus provides a greater incentive for air carriers and general aviation aircraft to equip with MLS avionics equipment. This in turn will enable the ILS ground systems to be decommissioned at a faster rate.

Strategy 7

Upgrading to Category II/III, New-Qualifier Airports, New-Qualifier Runways, and Baseline Deployment.

—$20 million annual F&E funding limit.

This strategy is the same as Strategy 3 discussed earlier except that the option to install MLS ground systems on new-qualifier runways has been introduced as the third option.

Analysis

This will slow the ILS decommissioning rate because of the introduction of another option that precludes MLS establishment on runways which already have an ILS.

Strategy 8

New-Qualifier Airports, Noise-Sensitive Runways, New-Qualifier Runways, and Baseline Deployment.

—$20 million annual F&E funding limit.

This strategy is the same as Strategy 2 except that the option to install MLS ground systems on noise-sensitive runways has been added. In this option MLS ground systems are installed at each runway identified as being noise sensitive. Installation priority is in the order of runway annual instrument approaches. Category I, II, or III MLS's are installed in accordance with MLS establishment criteria.

Analysis

The early implications of this strategy are very similar to Strategy 1 since the first option is the same, to install MLS ground systems at new-qualifier airports. This will encourage early general aviation MLS avionics equipage and very little initial air carrier

[1] Reference is made to Categorys I, II or III of landing minima in the context associated with ILS notwithstanding the fact that introduction of MLS may permit redefinition of minima.

[1] Installation of MLS's in order of annual instrument approach ranking.

[2] The F&E funding is the Facilities and Equipment (F&E) appropriation used by the FAA to finance capital programs, e.g., MLS.

[3] $20 million and $50 million annual MLS programs are hypothesized for analytical purposes and do not represent a commitment or plan of funding.

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equipage. The ILS decommissioning rate will be slow because the first two options exclude collocated ILS and MLS ground systems on the same runway.

Strategy 9

New-Qualifier Airports, New-Qualifier Runways, Installation at Problem ILS Tube-Type Locations, Upgrading to Category II/III and Baseline Deployment.

—$20 million annual F&E funding limit.

This strategy has three phases:

Phase I

—Install one Category I MLS at each non-ILS airport that meets the Category I MLS establishment criteria. Installation priority is in order of runway annual instrument approaches.
—Install a Category I, II or III MLS in accordance with MLS establishment criteria and in order of runway annual instrument approaches, at newly qualified (non-ILS) runways at airports that already have at least one precision landing system (ILS or MLS).
—Install MLS's on runways with problem ILS tube-type equipment in order of annual instrument approaches ranking.
—Install MLS's in order of runway annual instrument approaches at airports (whether or not they are ILS equipped) that meet the establishment criteria for Category I, II or III MLS, i.e., baseline deployment.

Phase II

The first three options are the same as the initial phase. The *fourth option* of this phase is to install a Category II or Category III MLS, in accordance with MLS establishment criteria and in order of runway annual instrument approaches, at airports that qualify for upgrading to Category II or Category III. The fourth option of the initial phase (baseline deployment) becomes the *fifth option.*

Phase III

The options in this phase are the same as in phase II except the option to install MLS's on runways with problem tube-type ILS's has been removed, since this option would have been accomplished by the end of phase II.

Analysis

Since the first option in this strategy is to install MLS ground systems at new-qualifier airports, most of the early ground systems will be installed at general aviation or small air carrier airports. This will encourage early general aviation MLS avionics equipage and very little initial air carrier equipage. Precision landing aids will be provided initially at airports where none currently exist. The early ILS decommissioning rate will be slow because the first two options exclude collocated ILS and MLS ground systems on the same runway. There will be fewer new-qualifier airports after the initial phase of implementation; therefore, during the last two implementation phases, there will be substantial MLS ground installation at air carrier airports. This will encourage MLS air carrier avionics equipage and speed up the ILS decommissioning rate.

A tenth strategy, the Aviation User Strategy, was proposed by the Radio Technical Commission for Aeronautics (RTCA).

This strategy was developed by RTCA Special Committee 125. The committee consisted of a wide spectrum of prospective users and manufacturers of MLS and government representatives. The committee was established in June 1974 for the purpose of providing user recommendations for a national implementation policy for MLS, assuming MLS will be the primary system in service by the year 2000.

The strategy is divided into three periods: short-term, middle-term, and long-term. The rules of the three periods are discussed below:

Short-Term Period—Develop a list of hub airports with wide-body aircraft service, rank ordered on the basis of total itinerant operations. Around each of these hub airports, develop a network of airports within approximately 500 miles of the hub. Beginning with the highest ranking hub airport network, implement MLS ground installations at the network airports in the following order:

—The hub airport around which the network is developed.
—Network airports served by commuter and/or regional air carriers.
—Small community airports that do not have precision approach guidance instrumentation and have 400 or more annual instrument approaches.
—Airports with trunk service.

When 50 percent of the airports in the network are MLS equipped, begin implementing the next ranking hub airport network.

During the short-term, implementation should be limited to one MLS installation per airport.

Middle-Term Period—The Committee recognized that it will be very difficult, if not impossible, for the implementing authority to determine exactly when the objectives of the short-term strategy have been met and a change in strategy should be initiated. It was, therefore, concluded that when implementation authorities believe the short-term strategy has served its purposes, i.e., when the users have been convinced of the benefits of MLS, a middle-term strategy would be accomplished by utilizing the following as guidance:

—Install MLS systems at network airports that did not receive systems in short-term strategy due to the 50 percent cutoff criteria. Equipage will be in order of annual instrument approaches ranking.
—Install MLS systems at locations with 400 or more annual instrument approaches rank-ordered by annual instrument approaches.
—Install MLS systems at ILS sites.

Long-Term Period—When implementing authorities are convinced that the objectives of the middle-term strategy have been fully met, i.e., when distribution of ground systems has become so widespread that there is little likelihood of having an isolated MLS if installation is accomplished in order of annual instrument approaches ranking, the long-term strategy should be put into effect. One way of measuring the relative benefits of MLS on different runways would be to measure the usage of these runways by equipped aircraft (the more runway usage, the more benefits). Runway annual instrument approaches appear to be an acceptable measurement of potential runway usage of equipped aircraft. The long-term implementation strategy would, therefore, be to install MLS at runway ends with 400 or more annual instrument approaches in rank-order of their annual instrument approaches or any other acceptable measurement of runway usage by equipped aircraft.

Analysis

This strategy provides for installing MLS's in networks around hub airports with the initial installations at hub airports and airports in the hub areas served by commuter and/or regional air carriers. MLS installations at small community airports would be completed at locations with as few as 400 annual instrument approaches (AIA's). Because of this qualifying level of annual instrument approaches, 20 percent of the MLS locations would not be cost beneficial. FAA analysis indicates the MLS ground systems at locations with fewer than approximately 1,600 general aviation annual instrument approaches or 100 trunk air carrier annual instrument approaches would not be cost beneficial. This is the case because the establishment and operational costs would exceed the safety, flight disruption, curved approach and noise abatement benefits which would be obtained by the system users. However, other elements of this strategy are considered desirable, particularly the installation of MLS's in networks that feed hub airports.

The analysis shown in the Transition Plan is for the purpose of evaluating ten alternative strategies proposed for the selected system alternative, the MLS. This analysis reveals that based on the study methodology employed in this plan, there is no statistically significant difference in the dollar amounts estimated for the individual strategies; a ten percent difference separates the highest from the lowest estimates. Therefore, the plan concludes that there is no clear-cut economic rationale for choosing between the MLS implementation strategies.

The choice between strategies must depend upon operational considerations or on the special opportunities for improved precision guidance service created by the installation of MLS equipment. Areas of ILS limitations, which provide the more likely opportunities for improvement with MLS, are identified in this plan and in the benefit/cost study referenced earlier.

This draft MLS transition plan and companion benefit/cost study will be used as a means of acquainting the public with the potential economic advantages from using MLS and with several alternative MLS transition strategies. The intention is to solicit comments and recommendations from the public regarding the timing and implementation of MLS.

It should be pointed out that the benefit/cost study which accompanies the MLS Transition Plan assesses the investment opportunities provided by MLS equipment compared to the option of continuing to install and maintain ILS equipment. All benefits and costs for MLS shown in the benefit/cost study are in addition (incremental) to those estimated for the ILS. On the other hand, MLS benefits and costs shown in the Transition Plan are aggregate values associated with each MLS implementation strategy itself. They are not incrementally related to ILS levels and should be used only to compare the relative economic effectiveness of alternative MLS implementation strategies.

Therefore, the dollar amounts shown in the Transition Plan and benefit/cost study are not comparable. Benefits, (positive or negative) cannot be matched one against the other. The reader interested in comparing the investment in MLS to the option of continuing to invest in ILS, should consult the benefit/cost study.

Issued at Washington, D.C., November 5, 1980.

Bill Wilkins,

Associate Administrator for Policy and International Aviation.

[FR Doc. 80-35238 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Public Service Archeology Grant Program Academic Year 1981–82

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is providing notice of the availability of FHWA educational grants for graduate level study in Public Service Archeology at the University of South Carolina (USC) for the 1981–82 academic year.

The FHWA's National Highway Institute (NHI) is responsible for developing and administering this training program for FHWA employees and State and local highway agency employees or students or employees of other organizations who agree to work for such agencies after completion of study. The student may choose a 14-week, 28-week, or 2-year program.

The FHWA has issued Notice N 4910.18, dated September 30, 1980, describing the program and furnishing the pertinent information. Copies of this notice are available at the NHI for public inspection and will be furnished on request.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry E. Jones, National Highway Institute, 202–426–3100, or Ms. Virginia I. Cherwek, Office of the Chief Counsel, 202–426–0786, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. §§ 307, 315, 321; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.215, Highway Training and Education)

Issued on: November 4, 1980.

George M. Shrieves,

Director, National Highway Institute, Federal Highway Administration.

[FR Doc. 80-35195 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Petitions To Commence Defect Investigations; Denials

This notice sets forth the reasons for the denials of petitions to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On May 7, 1980, Sharon Morrison, an attorney in Missoula, Montana, petitioned NHTSA to commence a defect proceeding with respect to engine compartment fires in 1977 and 1978 Subaru vehicles, representing the estate of a decedent, who died when his vehicle caught fire while the engine was idling. Subaru reported to NHTSA that only 4 other complaints of fire had been received covering the 173,000 1977 and 1978 Subaru vehicles in the United States. Each was attributable to a different cause. The petitioner had cited a warning placard on the driver's door cautioning against allowing the exhaust post system to overheat. Subaru conducted a series of tests to duplicate a continuous high speed idle which may have existed on decedent's vehicle, but no problems occurred and at no time did any engine or other parts ignite. There was no pattern to suggest a specific condition resulting in engine compartment fires. Since there was no reasonable possibility that a defect order would be issued, the agency denied the petition on September 26, 1980.

Another attorney, Paul G. Fargo of Wilmette, Illinois, asked the agency on May 30, 1980, on behalf of a client to determine whether front wheel bearing failures on Dodge Omni vehicles constituted a safety-related defect, the vehicle in question having had repairs made several times in less than a year. The manufacturer, Chrysler Corporation, cognizant of a general problem, has announced a warranty extention with provision for reimbursement, and will notify owners in writing, but since it knows of no accidents or lawsuits, does not plan a formal remedial campaign on the basis that the problem is not safety-related. NHTSA has received 12 complaints of front wheel bearing problems on Horizon/Omni vehicles but no reports of accidents or control problems. Because of the vehicles front wheel design, wheel retention is not dependent solely on the wheel bearings. Since the data examined did not indicate that the front wheel bearings on these vehicles presented a safety risk, the petition was denied on September 26, 1980.

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(Secs. 124, 152, Pub. L. 93–492, 88 Stat. 1470 [15 U.S.C. 1410a, 1412]; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on November 5, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-35372 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on December 9–10, 1980, at 9 a.m. in Room 4234, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to discuss the following:

Part I—Docket PS–64, Notice 1, Qualification of Metallic Components (45 FR 13783; March 3, 1980).

Part II—Informal discussion of the following:

(A) Docket PS–66, Notice 1, ANPRM on "Placing Longitudinal Weld Seams in Upper Half of Pipe" (45 FR 20142; March 27, 1980).

(B) Proposed Safety Regulatory Projects on:

(1) Excess flow valves in gas distribution lines/services.

(2) Reporting LNG facility events.

Attendance is open to the public, but limited to the space available. With approval of the chairman of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Toni Reed, Room 6101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202–426–2392, of the topics to be addressed and the time requested to address each topic. The chairman may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

The opportunity for public participation at the meeting is intended to provide information for the Committee to consider in formulating its recommendations to the Materials Transportation Bureau, and not as an extension of the respective times allowed for public participation in the above proceedings.

Dated: November 5, 1980.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-35349 Filed 11-12-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-RRUEE]

"American Machine & Tool Co., Inc."; Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "AMERICAN MACHINE & TOOL CO., INC.," a corporation organized under the laws of the State of Pennsylvania, located at Fourth Avenue and Spring Street, Royersford, Pennsylvania 19468.

The application states that the trade name is used in connection with power tools, manufactured in the United States. The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person, in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C., 20229, in time to be received not later than December 15, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the **Federal Register.**

Dated: November 6, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-35234 Filed 11-12-80; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Medical Care Reimbursement Rates for Fiscal Year 1981

In accordance with 38 U.S.C. 616 and OMB Circular A–11, § 13.5(a), revised reimbursement rates have been established by the Veterans Administration for inpatient and outpatient medical care furnished to beneficiaries of other Federal Agencies during Fiscal Year 1981. These rates will be charged for such medical care provided at health care facilities under the direct jurisdiction of the Administrator on and after October 1, 1980.

Hospital care per inpatient day:	
General medical and surgical	$200
Psychiatric	123
Nursing home care	79
Outpatient visit	47
Hemodialysis:	
Hospital component	141
Physician component	37

The hospital component for hemodialysis will be charged in addition to the inpatient per diem rate except when billing Medicare for maintenance dialysis, in which case the hospital component will be charged in addition to the outpatient visit rate.

When medical services for beneficiaries of other Federal Agencies are obtained by the Veterans Administration from private sources, the charges to the other Federal Agencies will be the actual amounts paid by the Veterans Administration for such medical services.

Dated: November 4, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-35280 Filed 11-12-80; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedures and Hearing Rules, Station Committee on Educational Allowances that on December 9, 1980, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Draughon's Junior College, 6204 Baum Drive, Knoxville, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place. This supersedes the notice previously published which scheduled the hearing on November 21, 1980.

Dated: November 5, 1980.

R. S. Bielak,

Director, VA Regional Office.

[FR Doc. 80-35315 Filed 11-12-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 221
Thursday, November 13, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Federal Home Loan Bank Board	11—13
Federal Maritime Commission	14
Federal Reserve System (Board of Governors)	15
Parole Commission	16, 17

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:15 a.m., Tuesday, November 18, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–2075–80 Filed 11–10–80; 4:10 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, November 18, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Minimum financial rules.
Speculative position limits.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–2076–80 Filed 11–10–80; 4:10 pm]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 21, 1980.

PLACE: 2033 K Street, NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–2077–80 Filed 11–10–80; 4:10 pm]

BILLING CODE 6351–01–M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, November 12, 1980.

PLACE: Commission Conference Room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Technical Changes to EEOC Order 365.
2. Proposed Section 603 of Volume II of the Compliance Manual: "Identifying and Processing Charges which Raise Issues Not Covered by a Commission Decision Precedent."
3. Report on Commission Operations by the Executive Director.

Closed to the Public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued November 5, 1980.

[S–2065–80 Filed 11–10–80; 8:45 am]

BILLING CODE 6570–06–M

5

FEDERAL COMMUNICATIONS COMMISSION.

The following items have been deleted from the list of agenda items scheduled for consideration at the November 6, 1980, Open Meeting, at the request of Common Carrier Bureau, and previously listed in the Commission's Public Notice of October 30, 1980 (# 01042).

Agenda, Item Number, and Subject

Common Carrier—*Title:* In re Bell System Procurement Practices, Docket 80–53; In re Bell Operating Company Procurement of Telecommunications Equipment, RM No. 3381. *Summary:* The Commission will consider a Bell proposal submitted in response to its Final Decision in Docket 19129 regarding the procurement practices of the Bell Operating Companies. In addition, the Commission will consider a petition from ITT requesting it to order the Bell Companies to acquire one-third of their telecommunications equipment from General Trade suppliers.

Common Carrier—6—*Title:* License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems. *Summary:* The Commission will consider whether to initiate an inquiry and proposed rulemaking regarding license contracts and other intrasystem arrangements of the major telephone systems.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone (202) 254–7674.

Issued: November 5, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S–2061–80 Filed 11–7–80; 4:18 pm]

BILLING CODE 6712–01–M

6

FEDERAL COMMUNICATIONS COMMISSION.

The following item has been deleted at the request of the Private Radio Bureau from the list of agenda items scheduled for consideration at the November 6, 1980, Special Open Meeting, and previously listed in the Commission's Public Notice of October 30, 1980 (#01040).

Agenda, Item Number, and Subject

Private Radio—2—*Title:* Report and Order to amend Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communication systems on frequencies allocated for trunked systems. *Summary:* The Commission will consider whether to amend its rules generally to permit wide-area mobile radio communication systems to operate on frequencies designated for use by trunked land mobile communications systems.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 5, 1980.

V 45 N 013 80 UMI

Federal Communications Commission.
William J. Tricarico,
Secretary.
[S-2062-80 Filed 11-7-80; 4:18 pm]
BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will consider this additional item on the subject listed below at the Open Meeting scheduled for Thursday, November 6, 1980, following the Special Open Meeting, in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Television—1—Application filed by Midcontinent Broadcasting Co., for authority to construct a new 1000 watt television translator station at Rapid City, South Dakota. Petitions to deny the applications filed by Duhamel Broadcasting Enterprises and by Dakota Broadcasting Co., Inc.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.
November 5, 1980.
William J. Tricarico,
Secretary.
[S-2063-80 Filed 11-7-80; 4:19 pm]
BILLING CODE 6712-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 17, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed consolidation of Pacific National Bank of Washington, Seattle, Washington, and Northshore First National Bank, Bothell, Washington.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the liquidation of First State Bank of Northern California, San Leandro, California.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of First State Bank of Northern California, San Leandro, California.

Francis, Doval, Munoz, Acevedo, Otero & Trias, Hato Rey, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44, 538-SR—Sharpstown State Bank, Houston, Texas.

Case No. 44,543-SR—Surety Bank and Trust Company, Wakefield, Massachusetts.

Memorandum and Resolution re: Statement Regarding Eligibility to Make Application to Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act.

Memorandum and resolution proposing final amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct."

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 10, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-2070-80 Filed 11-10-80; 3:32 pm]
BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 17, 1980, the Federal Deposit Insurance Corporation's Board of directors will meet in closed session, by vote of the Board of directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Bank of Mammoth, a proposed new bank, to be located at 473399 Highway 203, Mammoth Lakes, California, for Federal deposit insurance.

Panhandle State Bank, a proposed new bank, to be located at the southeast corner of Third and Oak Streets, Sandpoint, Idaho, for Federal deposit insurance.

Reading Savings Bank, Reading, Massachusetts, an operating noninsured mutual savings bank, for Federal deposit insurance.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,533-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,551-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Memorandum and Resolution re: Franklin National Bank, New York, New York.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 10, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-2071-80 Filed 11-10-80; 3:32 pm]
BILLING CODE 6714-01-M

10

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, November 18, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, November 20, 1980 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1980-123: Armistead I. Selden
Draft AO 1980-125: John M. Cogswell
Draft AO 1980-131: Larry D. Sharp, National Unity Campaign for John Anderson and National Unity Campaign 441a(d) Committee
1980 election and related matters
Certifications
Appropriations and budget
Pending legislation
Classification actions
Routine administrative matters

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.
[S-2069-80 Filed 11-10-80; 3:25 pm]
BILLING CODE 6715-01-M

11

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., November 10, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED: Request For FSLIC Approval to Retain Employees Pursuant to Section 407 (p)(2) of the National Housing Act.

[S-2066-80 Filed 11-10-80; 10:42 am]
BILLING CODE 6720-01-M

12

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 217, 73849, November 6, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., November 10, 1980.

PLACE: 1700 G Street NW., Washington, D.C., Board Room.

STATUS: Open meeting.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the open meeting:

Holding Company Acquisition—Jim Walter Corporation, Tampa, Florida; First Brentwood Corporation, Los Angeles, Cal. and Brentwood Savings and Loan Association Los Angeles, California; To Purchase 15 Branch Offices from Mutual Savings and Loan Association Pasadena, California.
Merger Application—Northwestern Federal Savings and Loan Association Washington, D.C. into Capital City Federal Savings and Loan Association Washington, D.C.
Investment in Consumer Loans, Commercial Paper, and Corporate Debt Securities.
Maturity of Time Deposits.
Real Estate Lending Regulations.
Technical Amendments Relating to Supervisory Action.

[S-2067-80 Filed 11-10-80; 10:42 am]
BILLING CODE 6720-01-M

13

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 217, November 6, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 10, 1980.

PLACE: 1700 G Street NW., Washington, D.C., board room.

STATUS: Open meeting.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The meeting for November 10, 1980 was scheduled for 9:30 a.m. has been changed to 10:30 a.m.

No. 418, November 7, 1980.

[S-2064-80 Filed 11-7-80; 5:06 pm]
BILLING CODE 6720-01-M

14

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 74141, November 7, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., November 12, 1980.

CHANGES IN THE MEETING: The date of the meeting will be changed from November 12, 1980 to November 13, 1980 at 9 a.m.

Addition of the following item to the closed session: 1. Antitrust Litigation (S.D.N.Y. No. MDL 395 M21-26).

[S-2074-80 Filed 11-10-80; 3:56 pm]
BILLING CODE 6730-01-M

15

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Monday, November 17, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal by the Federal Reserve Bank of San Francisco to increase the construction budget for its new building.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 462-3204.

Dated: November 7, 1980.
Theodore E. Allison,
Secretary of the Board.
[S-2068-80 Filed 11-10-80; 11:04 am]
BILLING CODE 6210-01-M

16

[1P0401]

UNITED STATES PAROLE COMMISSION.

TIME AND PLACE: 12 noon to 3 p.m., Sunday, November 16, 1980.

PLACE: Fifth floor; 330 Primrose Road; Burlingame, CA 94010.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Clarification of rulings on executing warrants on parole violator terms.
2. Search and Seizure.
3. Ancient Prior Record—Definition and effect.
4. Administrative Reviews—Method of handling.
5. Refusal of inmates to accept parole conditions and/or sign parole release agreements.

V 45 N 0 13 80 0 UMI

6. Proposed revisions of 28 CFR § 2.23—Examiner recommendations.

7. Proposed revisions of 28 CFR § 2.24—Allowing for a rehearing prior to a final decision to assess adverse information.

CONTACT PERSON FOR MORE INFORMATION: Barbara Meierhoefer, Acting Director of Research, U.S. Parole Commission, (202) 724–3095.

[S–4410–01 Filed 11–10–80; 3:44 pm]

BILLING CODE 4410–01–M

17

[1PO401]

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: 11 a.m.–12 noon, Sunday, November 16, 1980.

PLACE: 330 Primrose Road; Burlingame, CA 94010.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Witness protection program—policy, planning and relationship to cases.

CONTACT PERSON FOR MORE INFORMATION: Barbara Meierhoefer, Acting Director of Research, U.S. Parole Commission (202) 724–3095.

[S–2072–80 Filed 11–10–80; 3:43 pm]

BILLING CODE 4410–01–M

V 45 NO 13 80 UMI

federal register

Thursday
November 13, 1980

Part II

Department of the Interior

Office of the Secretary

Privacy Act of 1974; Annual Publication of Systems of Records

V 45 NO 013 80 0 UMI

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Annual Publication of Privacy Act of 1974; Systems of Records

Federal agencies are required by the Privacy Act of 1974 to give annual notice of records they maintain. On April 11, 1977, a complete compilation of notices was published for this Department (42 FR 18968). Completely updated annual supplements were subsequently published on October 23, 1978, (43 FR 49480) and December 13, 1979, (44 FR 72240). This notice includes a complete publication of those notices published between November 16, 1979, and October 15, 1980.

This document fulfills the annual notice requirements of the Privacy Act of 1974. For additional information contact the Privacy Act Officer, Office of Administrative Services, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: October 31, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

New Records Systems (November 16, 1979 to October 15, 1980):

1. Real Estate Comparable Sales Data Storage System—Interior, Water and Power Resources Service—43. Published on March 11, 1980, (45 FR 15684).
2. Employee Counseling Services Program Records—Interior, Office of the Secretary—100. Published on September 10, 1980, (45 FR 59642).

Revised Records Systems (November 16, 1979 to October 15, 1980):

1. Integrated Records Management System—Interior, Bureau of Indian Affairs—25. Published on July 3, 1980, (45 FR 45381).
2. Emergency Defense Mobilization Files—Interior, Office of the Secretary—15. Published on August 21, 1980, (45 FR 55832).
3. Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45. Published on August 21, 1980, (45 FR 55833).
4. Secretarial Subject Files—Interior, Office of the Secretary—46. Published on August 21, 1980, (45 FR 55834).
5. Parking Assignment Records—Interior, Office of the Secretary—47. Published on August 21, 1980, (45 FR 55834).
6. Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50. Published on August 21, 1980, (45 FR 55835).
7. Property Management Accountability—Interior, Office of the Secretary—51. Published on August 21, 1980, (45 FR 55835).
8. Travel Management Records—Interior, Office of the Secretary—52. Published on August 21, 1980, (45 FR 55836).
9. Classified Documents—Interior, Office of the Secretary—53. Published on August 21, 1980, (45 FR 55836).
10. Privacy Act Files—Interior, Office of the Secretary—57. Published on August 21, 1980, (45 FR 55837).
11. Safety Management Information System—Interior, Office of the Secretary—60. Published on August 21, 1980, (45 FR 55837).
12. Freedom of Information Appeal Files—Interior, Office of the Secretary—69. Published on August 21, 1980, (45 FR 55838).
13. Applicant Files—Interior, Office of the Secretary—70. Published on August 21, 1980, (45 FR 55838).
14. Unfair Labor Practice Charges/Complaints—Interior, Office of the Secretary—77. Published on August 21, 1980, (45 FR 55839).
15. Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78. Published on August 21, 1980, (45 FR 55840).

Deleted Records Systems (November 16, 1979 to October 15, 1980):

1. Employee Identification Card Files—Interior, Office of the Secretary—48. Published on August 21, 1980, (45 FR 55831).
2. Safety Career Opportunity Plan for Employees—Interior, Office of the Secretary—61. Published on August 21, 1980, (45 FR 55831).
3. Government of American Samoa Administrative Management and Fiscal Records—Interior, Office of the Secretary—96. Published on August 21, 1980, (45 FR 55831).

System Notices for new and revised records systems, as noted above, are published in their entirety below.

Interior/LWP–43

SYSTEM NAME:

Real Estate Comparable Sales Data Storage—Interior, WPRS–43

SYSTEM LOCATION:

This system of records is located only in the Regional Headquarters of the Mid-Pacific Region, 2800 Cottage Way, Sacramento, California 95825. See United States Directory of Federal Regional Structure, May 8, 1979.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who use or lease property adjacent to or within the vicinity of property owned or leased by the Water and Power Resources Services (WPRS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain data on the physical and nonphysical characteristics of properties having transferred ownership within the vicinity of Federal reclamation projects. Ownership transfers are defined herein as a transfer by deed, agreements to sell or purchase, leases, and contracts. In addition to the property characteristics, the records contain the terms, names, addresses, and telephone numbers of the parties involved, plus other official recorded data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Reclamation Act of 1902, as amended and acts supplemental thereto, 43 U.S.C. 371, et seq., (2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4651, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To make available to the Department of the Interior, data concerning real estate which has transferred ownership within the vicinity of a reclamation project.

(2) For use as comparable data involving real estate appraisals in connection with acquisition programs, land disposals or leases of land owned by the United States, or appraisals of excess land in compliance with the acreage limitation.

(3) To make available to independent appraisers, which are under contract with the Water and Power Resources Service or the Department of Justice, comparable data for use in connection with an appraisal assignment.

(4) Transfer to the United States Department of Justice in the event of litigation involving the records or the subject matter of the records.

(5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order, or license whether civil, criminal, or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with enforcing or implementing the statute, regulation, rule, order or license violated or potentially violated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintain in manual, magnetic disk, magnetic tape, and printout form.

RETRIEVABILITY:

Records are indexed by Service assigned document control number and data field codes which identify property characteristics.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Data stored on magnetic media is retained as permanent record. Manual records are disposed of when superseded.

SYSTEM MANAGER(S) AND ADDRESS:

The System Manager for this system of records is as follows: Regional Real Estate Officer, United States Department of the Interior, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to Regional Director, Water and Power Resources Service, Mid-Pacific Regional, 2800 Cottage Way, Sacramento, California 25825. A written, signed request, stating that the requestor seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, County Recorder, Title Companies, and Appraisers.

INTERIOR/06—100

SYSTEM NAME:

Employee Counseling Services Program Records—Interior, Office of the Secretary—100

SYSTEM LOCATION:

This system of records is located:

(1) Office of Personnel, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

(2) Contractor(s), providing counseling services.

(3) Bureau Headquarters Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Interior employees and their families who seek, are referred, and/or receive assistance through the Employee Counseling Services Program (ECSP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the problem assessment, recommended plan of action to correct the major issue, referral to community or private resource for assistance with personal problems, referral to community or private resource for rehabilitation or treatment, results of referral, and other notes or records of discussions held with the employee made by the ECSP counselor. Additionally, records in this system may include documentation of treatment by a therapist or at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 7901, 21 U.S.C. 1101 and 1108, 42 U.S.C. 4541 and 4561, 44 U.S.C. 3101, OMB Circular A–72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the Employee Counseling Services Program Counselor to document the nature of an individual's work performance problem and progress made to correct the problem. The primary uses of these records are: (1) For the ECSP counselor to document the nature of an individual's work performance problem and progress made to correct the problem, and, (2) Record an individual's participation in, and the results of, community or private referrals for solution of personal problems, rehabilitation, or treatment programs.

These records and information may be used:

(1) To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Department in connection with the individual.

(2) To disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by DOI, all patient identifying information will be removed).

(3) Transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of the records.

(4) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

(5) Disclosure to a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(6) Disclosure to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant of other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Note.—Disclosure of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2. Disclosure of records pertaining to the physical and mental fitness of employees are, as a matter of Department policy, afforded the same degree of confidentiality.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to employees directly involved in the Department's Employee Counseling Service Program alcohol and drug abuse prevention function as that term is defined in 42 CFR Part 2.

RETENTION AND DISPOSAL:

Records are maintained for three to five years after the employee or family member's last contact with the ECSP prevention function or until the employee's separation or transfer, whichever come first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) ADDRESS:

Department: Program Administrator, Employee Counseling Services Program, Office of Personnel, Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

Bureaus: Bureau Headquarters Personnel Officers or other officials designated by the bureau head or Assistant Secretary—Policy, Budget and Administration as appropriate, after consultation with the Program Administrator. Addresses for such officials are listed in the appendix to the publication containing these system notices.

NOTIFICATION PROCEDURE:

Department employees wishing to inquire whether this system of records contains information about them should contact the Department of the Interior Employee Counseling Services Program Coordinator who arranged for counseling or referral. Individuals must furnish their name and date of birth for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification above. Any individual must also follow the Department Privacy Act Regulations regarding verification of identity and access to records (See 43 CFR 2.62).

CONTESTING RECORDS PROCEDURES:

Department employees wishing to request amendment to these records should contact the Department Employee Counseling Services Program Coordinator who arrange for counseling or referral. An individual must follow the Department's Privacy Act Regulations regarding verification of identity and amendment of records (See 43 CFR 2.70).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program staff who records the counseling session, and therapists or institutions used as referrals or providing treatment.

INTERIOR/BIA-25

SYSTEM NAME:

Integrated Records Management System—Interior, BIA–25

SYSTEM LOCATION:

(1) Division of Systems Operation, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, New Mexico 87103;

(2) Central, Area, Agency and Field Offices, Schools of the BIA (see appendix for addresses) or contractors providing time-share services to the BIA:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian Tribal Groups that are owners of real property held in trust by the Government, individuals or groups that are potential or actual lessees of that property, individuals who have been assigned interests of any in Indian Tribes, Pueblos or corporations, and individual Indians who have money accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Land description, current ownership, dower and life estate interest, information on all types of leases or other land uses including grazing, farming, minerals mining, timber and business, etc. Information on individuals including name, address, aliases, sex, date of birth, tribal membership and blood quantums, etc. General ledgers showing deposits and withdrawals from Indian accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are:
(a) To control individual Indians money accounts and disclose to them the status of those accounts.
(b) Identification of individual Indians and Indian and Indian Tribal groups with interest in lands held in trust.
(c) Control of leases on Indian trust lands and real property, and collection and distribution of lease income.
(d) Bill individual owners or lessees for irrigation.
(e) Determination of eligibility of individuals to participate in or enjoy benefits from an interest in a tribal group.
(f) Lists of approved enrollees used to distribute funds or income, or as a base to gather consensus or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made.

(1) To the Tribe, band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder.
(2) To a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
(3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency's decision on the matter.
(4) To the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records.
(5) Transfer, in the event there is indicated a violation or a potential violation of a statute, regulation, rule, order or license whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether federal, state, local or foreign, charged with the responsibility of enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

POLICIES AND PRACTICES FROM STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files, computer readable media, input forms and computer printouts. Computer: mag tape and disk files.

RETRIEVABILITY:

(a) Indexed by name, identification numbers, family numbers, lease numbers, tract numbers, etc.
(b) Retrieved by manual search or computer inquiry.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Permanent records are retrieved. Closed or inactive records are transferred to GSA storage. Prior information on mag tape erased as updated information is added to the system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Administrative Services Center, 500 Gold Ave, SW., Albuquerque, NM 87103.

NOTIFICATION PROCEDURE:

System Manager or with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as for Notification. The request must be in writing and be signed by the requester, and must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Enrollees or claimants. Birth, marriage and death certificates, and family and tribal histories. Owners and lessees. Titles, deeds, probates, all types of land and water rights and usages documents. Individual Indians, depositors in the accounts and claimants against the accounts.

INTERIOR/OS-15

SYSTEM NAME:

Emergency Defense Mobilization Files—Interior, Office of the Secretary—15.

SYSTEM LOCATION:

(1) Office of the Assistant Secretary—Energy and Minerals. (2) Office of the Assistant Secretary—Land and Water Resources. Address for all locations: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and related records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer the NDER program. Disclosures outside the Department of the Interior may be made (1) to officials of participating departments and agencies relevant to reservists assigned to their units; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records held for two years after individual's resignation or death.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records maintained in the Office of the Secretary, the Assistant Secretary—Policy, Budget and Administration. (2) For records maintained in the Office of the Assistant Secretary—Energy and Minerals, the Assistant Secretary—Energy and Minerals. (3) For records maintained in the Office of the Assistant Secretary—Land and Water Resources, the Assistant Secretary—Land and Water Resources.

NOTIFICATION PROCEDURE:

A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. The request shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals.

INTERIOR/OS-45

SYSTEM NAME:

Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Division of Enforcement and Security Management, U.S. Department of the Interior, 18th and C Steets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office of the Secretary personnel, Heads of Bureaus, and their respective Bureau Security Officers whose duties have been designated critical sensitive or non-critical sensitive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of SF–85 or SF–86 and/or SF–171 supplied by individual concerned as well as copies of letters of transmittal between Interior and the Office of Personnel Management concerning the individual's background investigation. Further, contains copy of certification of clearance status and briefing and/or debriefing certificate signed by individual as appropriate. Card file reflects summary, case number and disposition of the case number and disposition of the case file following review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for the identification of (a) Office of the Secretary personnel and Heads of Bureaus and their respective Security Officers who have been granted a security clearance; (b) persons in a pending clearance status awaiting the results and adjudication of Office of Personnel Management investigations; and (c) persons whose clearance has been terminated in the last five years due to an administrative down-grading, transfer to other agencies, employment retirement, or death. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing

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or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safes. Access granted only to cleared personnel on official business.

RETENTION AND DISPOSAL:

Records are maintained in active status until the individual is debriefed; held for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Enforcement and Security Management, Office of Administrative Services (PMO), Office of the Secretary, Department of the Interior, 18th and C Streets, N.W., Washingfton, D.C. 20240.

NOTIFICATION PROCEDURE:

Same as the above. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as the above. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

INTERIOR/OS–46

SYSTEM NAME:

Secretarial Subject Files—Interior, Office of the Secretary—46.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Secretary's Mail and Files Section, Room 6013, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have had correspondence with the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Index cards containing the name, dates, and subject codes for retrieval of subject files, subject files of correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior. Solicitor, Assistant Secretaries, Deputy Assistant Secretaries, and their immediate staff, disclosures outside the department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3" x 5" index cards correspondence filed in folder.

RETRIEVABILITY:

Indexed by subject.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services (PMO) Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requestor seeks information concerning records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Correspondence or documents signed at the Secretarial level.

INTERIOR/OS–47

SYSTEM NAME:

Parking Assignment Record—Interior, Office of the Secretary—47.

SYSTEM LOCATION:

Office of Administrative Services (PMO), Division of General Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual requesting a parking permit or joining a carpool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, social security number, telephone number at work, service computation date, vehicle make and model, state of registration, license tag number, residence address, location of employment, parking space location and number, number of carpool riders, and the applicant's parking payment record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471, et seq., FMC 74–1 FPMR Temporary Regulation D–43.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) internal control over the assignment of parking permits (b) assistance to individuals in locating carpools. Disclosures outside the department are (1) to a Federal agency that has jurisdiction over parking space, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer printout.

RETRIEVABILITY:

Indexed by name of individual, social security number, zip code of individual's residence, organization location and license tag number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL:

Records maintained on a current basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of General Services, Office of Administrative Services (PMO), U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requestor seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requiremen0ts of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data furnished by the individual.

INTERIOR/OS–50

SYSTEM NAME:

Motor Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50.

SYSTEM LOCATION:

Office of the Secretary—(1) Division of General Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240. (2) Division of Personnel Services, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in the Office of the Secretary and other Departmental offices who have been issued government driver identification cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, title, sex, date of birth, place of birth, physical characteristics, social security number, past driving record, traffic citations, accidents for past three years, medical history, state driver license number, and road test results when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491(j); 5 U.S.C. 1302, 3301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is internal control over the issuance of government driver identification cards. Disclosures outside the Department are, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on form DI.–131–Rev. and Standard Form 47.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Subject to general records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services, Division of Personnel Services, Office of Secretarial Operations, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees applying for a government driver identification card.

RETENTION AND DISPOSAL:

Destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Responsible Officer who is assigned the property by code.

INTERIOR/OS–51

SYSTEM NAME:

Property Management Accountability—Interior, Office of the Secretary—51.

SYSTEM LOCATION:

Division of General Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals designated as Responsible Officers who are charged with the care, utilization, recordkeeping, etc., for property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system contains computer identification codes for each Responsible Officer and descriptive data about each piece of property (excluding supplies) assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal control of property assigned to offices. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to respond to General Accounting Office audits and Congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

System is indexed by code assigned to each Responsible Officer or by various property system codes.

SAFEGUARDS:

Maintained with safeguards meeting the "Computer Security Guidelines for Implementing the Privacy Act of 1974."

INTERIOR/OS-52

SYSTEM NAME:

Travel Management Records—Interior, Office of the Secretary—52.

SYSTEM LOCATION:

Branch of Travel, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Employees or individuals who travel on behalf of the Department on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains passports, visas, printouts of airline ticket payment reports, Government transportation requests; and travel tickets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are making reservations, generating tickets, and transferring travel tickets to fiscal services for payment. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printouts and tickets maintained in folders. Government transportation requests are maintained in log books. Each passport and visa maintained in separate book.

RETRIEVABILITY:

Printouts filed by bureau. Government transportation requests filed by number and name. Passports and visas filed by name.

SAFEGUARDS:

Passports, visas, and Government transportation log books stored in a locked room in manipulation proof three way combination lock steel safes. Printouts stored in a locked office. Access granted only to designated personnel.

RETENTION AND DISPOSAL

General Records Schedule No. 9, Item No. 4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Travel, Office of Administrative Services, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees and individuals who travel on behalf of the Department.

INTERIOR/OS-53

SYSTEM NAME:

Classified Documents—Interior, Office of the Secretary—53.

SYSTEM LOCATION:

Branch of Office Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of U.S. Department of the Interior authorized to receive classified documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individuals name, security clearance, employment address, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450 and 10865.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal transmittal of classified documents to individuals. Disclosure outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in standard file folders.

RETRIEVABILITY:

Indexed by bureau and name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safe.

RETENTION AND DISPOSAL:

Records are maintained in active status subject to general record schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services (PMO) Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

List of employees who have a security clearance and have needs for specified classified data.

INTERIOR/OS-57

SYSTEM NAME:

Privacy Act Files—Interior, Office of the Secretary—57.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Offices of Privacy Act Officers of each bureau of the Department. (See Appendix for addresses of bureau headquarters offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have submitted requests for notification, access or amendment of records under the Privacy Act. (2) Individuals who have filed Privacy Act appeals with Assistant Secretary—Policy, Budget, and Administration under the department's regulations. (3) Offices of Systems Managers and other officials authorized to receive requests for notification and access and petitions for amendments, (See system notices for addresses.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, appeals, decisions and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for action on requests and appeals of Privacy Act matters. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on access are destroyed two years after date of reply. Final decisions on agreements or refusals to amend records are destroyed four years after final decision, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records in the Office of Administrative Services: Privacy Act Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) For other records: Bureau Privacy Act Officers. (See Appendix for addresses of bureau headquarters offices.)

NOTIFICATION PROCEDURE:

The System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to any office or offices to which the requester has submitted a request for access or an appeal. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS-60

SYSTEM NAME:

Safety Management Information System—Office of the Secretary—60.

SYSTEM LOCATION:

(1) Division of Safety Management, Office of Administrative Services, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) All field offices and bureau headquarters retain copies of source document. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Interior facilities who have been involved in an accident resulting in personal injury, and/or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employees only), occupation, date and location of accident; data elements about the accident for analytical purposes; and descriptive narrative concerning the reason for the loss producing event.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2671–2680, (3) 31 U.S.C. 240–243, (4) Executive Order 12196 (1980), (5) 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provide summary data of injury, illness and property loss information to bureaus in a number of formats for analytical purposes in establishing program to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to bureaus to insure that accidents occuring are reported through the Safety Management Information System, and (c) adjudicating tort and employee claims. Disclosures outside the Department of the Interior may be made, (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide to the Department of Labor quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, with copies of source document maintained at bureau safety management headquarters, regional, and field offices where accident is reported.

RETRIEVABILITY:

System is indexed by bureau assigned document control number.

SAFEGUARDS:

Maintained with safeguards meeting the Computer Security Guidelines for Implementing the Privacy Act of 1974.

RETENTION AND DISPOSAL:

Data stored on magnetic tape is retained as a permanent record. Source documents are to be retained at the field level for five years following end of the calendar year to which the record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Safety Management, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

System manager or the field office in which the source document pertaining to the individual would be filed. The source document contained in the field office need not be maintained more than five calendar years past the date of the record as indicated in records disposal. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or the field safety office in which the source document for the individual would be filed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisor of employee involved in accident. Investigation conducted by supervisor of employee and may include safety professionals and other management officials of the involved bureau or office.

INTERIOR/OS–69

SYSTEM NAME:

Freedom of Information Appeal Files—Interior, Office of the Secretary—69.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, of U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (2) Office of Public Affairs, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed appeals under Department of the Interior Freedom of Information appeal procedures. (2) Individuals whose Freedom of Information requests to bureaus and offices have required longer than 10 days to process. (3) Individuals whose Freedom of Information requests to bureaus and offices have been denied in whole or part.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeals, recommendations of Solicitor, Director of Public Affairs, Program Assistant Secretaries and other officials, decisions of Assistant Secretary—Policy, Budget, and Administration, extension of time and initial decisions issued by bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to support review and decisionmaking for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are destroyed four years after final determination by agency, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Appeals Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Bureaus and offices of the Department, appellants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS–70

SYSTEM NAME:

Applicant Files—Interior, Office of the Secretary—70.

SYSTEM LOCATION:

(1) Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, (2) Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, (3) Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203, (4) Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicants, recommendations, interview notes and other documents utilized to determine eligibility, suitability and qualifications for Federal civilian employment maintained subject to applicable Office of Personnel Management requirements, including Office of Personnel Management Rule VI and Chapter 302 of the Federal Personnel Manual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1457, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the hiring of applicants. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Current applications retained.

SYSTEM MANAGER(S) AND ADDRESS:

For the Office of the Secretary: Staff Assistant, Office of the Assistant Secretary—Policy, Budget, and Administration, U.S. Department of the Interior, Washington, D.C. 20240. (3) For the Office of Hearings and Appeals: Directors, Office of Hearings and Appeals, Office of the U.S. Department of the Interior, Washington, D.C. 20240. (2) For the Office of the Solicitor: Administative Officer, Office of the Solicitor, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203. (4) For the Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate systems manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation, 43 CFR 2.79(c), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (1) and (f) to the extent that it consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/OS–77

SYSTEM NAME:

Unfair Labor Practice Charges/ Complaints—Interior, Office of the Secretary—77.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W. Washington, D.C. 20245. c. For Employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of

Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FFWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS: Water & Power Resources Service, Division of Personnel, 19th & C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For Employees of OSM: Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing unfair labor practice charges/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal information about complainant, transcript of hearing (if held), and information about other personnel in complainant's work unit, as relevant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer charges or complaints of unfair labor practices. Disclosures outside the Department of the Interior may be made (1) to the Department of Labor and to the Federal Labor Relations Council for settlement of the complaint or appeal; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and docket or case number.

SAFEGUARDS:

Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f): Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water and Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation and Recreation Service, 440 G Street, N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

INTERIOR/OS-78

SYSTEM NAME:

Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. c. For Employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS: Water & Power Resources Service, Division of Personnel, 19th and C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For employees of OSM: Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing grievances/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal information about complainant, transcript of hearing (if held), and information about other personnel in complainant's work unit, as relevant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer employee grievances. Disclosures outside the Department of the Interior may be made (1) to the Federal Labor Relations Council, or to the Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and Docket or Case number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water & Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530) 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation & Recreation Service, 440 G St., N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.63.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

[FR Doc. 80-35012 Filed 11-12-80; 8:45 am]
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federal register

Thursday
November 13, 1980

Part III

Department of Transportation

Federal Aviation Administration

General Operating and Flight Rules: Proposed Issuance of Notices to Airmen for Communicating Emergency Flight Rules; Draft National Air Traffic Control Contingency Plan for Potential Strikes and Other Job Actions by Air Traffic Controllers

V 45 N 013 80 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 21022; Notice No. 80-19]

General Operating and Flight Rules; Proposed Issuance of Notices to Airmen for Communicating Emergency Flight Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to up-date and clarify the general flight rules by expressly stating that FAA Notices to Airmen (NOTAMs) are an authorized means by which emergency flight rules are communicated to pilots and operators. Such a use of regulatory NOTAMs is contemplated under the FAA's "Draft National Controller Strike Contingency Plan" published elsewhere in today's Federal Register. NOTAMs have been used for many years to communicate information critical to immediate flight safety and to regulate certain aspects of flight operations as rapidly as changing conditions require. However, the existing regulatory provisions expressly authorizing the use of this effective means of immediate communication are limited to specific situations.

When the Administrator determines that emergency conditions exist that are not adequately covered by the existing rules and regulations, the FAA has the ability to announce immediately appropriate flight rules, including flight restrictions and prohibitions, that prescribe the terms and conditions under which flight operations may be conducted within the designated area during the emergency. The proposed rule would clarify the use of NOTAMs for those purposes and provide express authority for their use during a declared emergency.

DATES: Comments must be received on or before: December 29, 1980.

ADDRESSES: Send comments on the proposal in duplicate to:
Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022, 800 Independence Avenue, SW., Washington, DC 20591;
OR deliver comments in duplicate to:
FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21222." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

New situations occur, including emergencies, that are not always adequately addressed by existing rules. Whenever necessary, those rules are amended or new rules are adopted to meet changing circumstances. However, not all circumstances warrant a general, "permanent" rule, particularly if it would cover elusively defined or very infrequent situations, or if it would require too much generalization in the rule to be effective under the specific conditions that can actually develop. This proposed amendment would clarify the basis for prompt, direct, and responsive action that can be tailored for any type of emergency condition.

Some contingency planning for emergencies must precede the need to react to ensure preparedness with a variety of well-developed, potential actions that, in whole or in part, can be taken under the circumstances that arise. For example, in today's Federal Register, the FAA is publishing its "Draft National Controller Strike Contingency Plan." Under that plan, NOTAMs would be used for specific regulatory purposes responding to existing or developing conditions. Widespread or local emergencies, accidents, natural disasters, sabotage, equipment failures, and other similar events can trigger the need for timely reaction locally, regionally, or nationally. Even in those cases not covered by extensive contingency planning, the proposed rule would recognize the FAA's need and ability to communicate immediately the necessary emergency information and flight rules that provide the requisite levels of safe and efficient use of the navigable airspace by aircraft without undue burdens to airspace users.

For many years the FAA has fulfilled its need to communicate immediately to pilots and operators information critical to flight safety or of regulatory significance by issuing Notices to Airmen (NOTAMs) through the National Flight Data Center. Those telegraphic messages receive nationwide, all-circuit dissemination within the FAA communications system to its facilities and personnel and are thereby available to persons using the National Airspace System. Under § 91.5 of the Federal Aviation Regulations, pilots are required, before beginning a flight, to familiarize themselves with all available information concerning that flight. An important element of that preflight action is the available Notices to Airmen. In addition to preflight briefings, NOTAM information may be obtained through two-way radio communications with air traffic control and flight service stations.

In that regard, the NOTAM is an invaluable means of providing pilots and operators the current, specific information. It also provides the means of communicating matters of regulatory significance which prescribe the conduct of flight operations when prior rulemaking through notice and public procedure in the Federal Register is not only impracticable but unresponsive to fast developing and changing conditions not adequately covered by existing rules. When necessary, it provides the pilot with actual knowledge of the changes in the rules and regulations affecting that operation.

Several existing regulations expressly authorize the use of NOTAMs as the means of communicating information under their provisions. Those regulations deal with specific situations in which NOTAMs are used whenever necessary. However, there is no express regulatory authorization for the more general use of NOTAM for other emergency situations even though the Federal Aviation Act of 1958, as amended, authorizes and directs the Administrator to respond to all matters affecting flight safety and contemplates exercise of that authority to effect timely and necessary results. The emergency conditions to which response is needed vary so greatly and dictate varying types of responses. Thus, it is not possible to anticipate them and provide specific regulatory provisions to cover each before the need arises. An express regulatory basis for timely and appropriate action in response to emergency situations is needed to clarify FAA's responsibility and authority to augment or supplant the existing flight rules. This proposed amendment fulfills that need by providing in the rules notice to pilots and operators that whenever found necessary, the Administrator, or the Director, Air Traffic Service, issues appropriate information and rules by means of a NOTAM.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart B of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by adding a new § 91.100 to read as follows:

§ 91.100 Emergency flight rules.

(a) This section prescribes a process for issuing emergency air traffic rules and designates that Service head authorized to act for the Administrator under this section.

(b) Whenever the Administrator determines that an emergency condition exists, or will exist, in which normal flight operations under this subchapter cannot be conducted consistent with the required levels of safe and efficient use of the navigable airspace, the Administrator, or the Director, Air Traffic Service, issues Notices to Airmen (NOTAMs). Those Notices to Airmen prescribe appropriate rules and regulations to govern flight operations (including flight restrictions) and designate the airspace areas within which the rules and regulations apply.

(c) When a Notice to Airmen (NOTAM) has been issued under this section, no person may operate an aircraft, or other device governed by the Notice to Airmen, within the designated airspace area except in accordance with the authorizations, terms, and conditions prescribed in the Notice to Airmen.

(Secs. 307, 313(a), 601, 602, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.45.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves agency procedure for communicating regulatory decisions when an emergency is found to exist, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Issued in Washington, DC, on November 7, 1980.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 80-35305 Filed 11-12-80; 8:45 am]
BILLING CODE 4910-13-M

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft National Air Traffic Control Contingency Plan for Potential Strikes and Other Job Action By Air Traffic Controllers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of contingency plan; request for comments.

SUMMARY: Recent statements published by the Professional Air Traffic Controllers Organization (PATCO), the air traffic controller union, indicates that a nationwide strike and other job action is being contemplated and is a very distinct possibility in 1981. While the FAA will continue to do everything it can to preclude those actions, satisfaction of some of the PATCO demands would require the enactment of new legislation, by the Congress and the president. Consequently, in light of the recognized effect a strike or job acitn would have on the national air transportation and air traffic control systems, it is essential that the FAA has and is prepared to implement a thorough contingency plan to respond to the conditions that can quickly develop. The plan will help to minimize the adverse effects on the national and international air transportation system if a local, regional, or national strike or other job action by the air traffic controllers occurs.

The draft National Controller Strike Contingency Plan is intended to ensure the FAA's ability to provide a safe and orderly operation of Air traffic control system with the available, qualified manpower. It will be implemented if a national strike occurs or if any job action is expected to become sufficiently widespread to reduce the system's ability to sustain operations above those that can be achieved by implementing the contingency plan. The basic objective of the plan is to maximize the number of aircraft that can be accommodated with the reduced work force. That can be achieved, in part, by reducing the number of controller actions in handling air traffic consistent with ensuring flight safety. The plan uses rigid flight schedules, routes, and altitudes and the reduction or elimination of some services not directly affecting the flight safety provided under the air traffic contol system. Since the plan involves both terminal and enroute capacities for civil and military operations, the plan requires the use of priorities among aircraft movements, including operations under visual flight rules (VFR) as well as instrument flight rules (IFR). A decision to implement the contingency plan would be announced at least 12 hours before becoming effective on midnight Eastern time. Specific implementing actions would be issued at least four hours in advance and disseminated to the public as widely as possible. Appropriate regulatory actions will be taken to implement actions under the plan having regulatory significance.

DATES: Comments on the draft plan must be received on or before: December 15, 1980.

ADDRESSES: Send comments on the draft plan in duplicate to: Federal Aviation Administration, Air Traffic Service, ATC Automation Division (AAT–500), 800 Independence Avenue SW., Washington,DC 20591;

Or deliver comments in duplicate to: FAA Air Traffic Service, Room 429A, 800 Independence Avenue SW., Washington, DC.

Comments may be examined in the Room 429A weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Throne, ATC Automation Division (AAT–500), Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 426–8548.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit their written data, views, or arguments on the draft contingency plan as they may desire. Comments that provide the factual basis supporting the matters presented in the comments are particularly helpful in developing reasoned decisions on the issues. Communications should identify the submission as being in response to this notice. All communications received before the specified closing date for comments will be considered before taking action on the proposal. The proposals contained in this notice may be changed in the light of comments received. ALL comments submitted will be available for examination in the ATC Automation Division office both before and after the closing date for comments.

Synopsis of the FAA's National Controller Strike Contingency Plan

I. Purpose

Job actions by the air traffic control system's controller work force have occurred in the past. Those actions have varied from local facility actions by controllers to nationwide actions, and from so-called "by the book" operational slowdowns to full walkouts.

All such actions are extremely costly to system users, to those who depend on aviation, and to the public as a whole. The cost of such actions far exceed mere dollar figures. They cover an almost unlimited scope, including wasted fuel, disrupted supplies to business, consumers, and hospitals, inconvenience to individuals dependent upon air transportation for business, family emergencies, and vacations and can impact on military efficiency and preparedness. These actions can, if carried out on a widespread basis and for prolonged periods, cause business down-turns and failures and subsequent job losses to thousands. The costs of such controller actions are not always recoverable when the controllers return to work, but can represent permanent losses to the country.

Recent publications by the Professional Air Traffic Controllers Organization (PATCO), the air traffic controller union, indicates that a nationwide job action is being contemplated and is a very distinct possibility in 1981. While the Federal Aviation Administration (FAA) will do everything it can to preclude such an action, the demands of the controllers, for wages in excess of the Federal wage scale, exceed the FAA's authority to negotiate or approve. Indeed, demands like those require combined Congressional and Presidential action in the form of the passage of new, special legislation. Consequently, it is incumbent upon the FAA to develop and to be prepared to implement a contingency plan to minimize the impact on the nation if a national job action by the air traffic controllers occurs.

The FAA draft National Controllers Strike Contingency Plan consists of three phases:

Phase 1 contains those preparatory administrative actions by the FAA's regional offices and facilities that must be completed before activation of the plan and implementing activities. Accordingly, Phase 1 does not directly affect the public and is not included in this notice.

Phase 2 commences when the Administrator determines that the contingency plan should be activated and sets the time for its implementation. It includes those activities which must be accomplished during the period between the decision to activate the plan and its actual implementation.

Phase 3 consists of those activities taken by each affected FAA element while the contingency plan is in effect, including any actions necessary for transition to reinstatement of full air traffic control capability and termination contingency plan operations.

II. Objectives

The FAA National Controller Strike Contingency Plan is intended to provide a safe and orderly operation of the air traffic control system with the remaining available manpower resources in the event of a national job action by air traffic controllers. The plan is not intended for use in response to sporadic or limited job actions by controllers. It will be implemented only if job actions are, or are expected to become, widespread enough to reduce the system's capabilities and capacities to levels below those which can be sustained by implementation of the plan.

The plan is geared to provide service for critical activities, to provide service to the extent possible for needs which cannot be reasonably met through alternative means, and to provide service to as many other aviation needs as can be accommodated. It will be carried out with a work force made up only of supervisors, other qualified (nonbargaining unit) employees, and controllers who do not participate in the strike or other job action.

III. Concept

The basic concept of the contingency plan is to maximize the number of aircraft which can be accommodated with a severely limited work force by reducing the number of controller actions required to ensure safe flight for each aircraft from takeoff to landing. This concept is achievable through the use of limited aircraft operations, rigid schedules, routes, and altitudes and the reduction or elimination of some services not affecting the safety of the ATC system users.

The ATC facility staffing throughout the country is normally predicted upon accommodating, to the extent possible, the users' requests for departure times, routes, altitudes, and additional services. That approach best meets the nation's air transportation needs by permitting cost effective and competitive business operations, efficient military activity, and flying geared to public and individual convenience. The accommodation of random user wishes does, however, result in traffic volume peaks and valleys, particularly at ATC center facilities, which vary widely and somewhat unpredictably. During peaks, many more controller activities per aircraft are needed to ensure air safety, efficiency, and convenience, thus, requiring more air traffic controllers. During periods of low traffic volume, the system capacity is not fully utilized. The contingency plan will eliminate peaks and valleys and result in a reasonably constant traffic flow consistent with available capability.

A full nationwide controller strike would reduce the qualified air traffic control work force by about 85%. The remaining work force would consist of operationally qualified supervisors and nonbargaining unit employees. It is not possible to sustain a normal level of air traffic control services with only 15% of the normal work force even with the elimination of traffic volume peaks and valleys. The service which would be available would, therefore, be provided on a predetermined priority basis intended to meet the nation's needs as best as possible.

The order of priority in general terms is as follows:

a. Air traffic movement required for national defense.

b. Medical emergency flights.

c. Long-range flights for which no reasonable alternative means of transportation exist.

d. Shorter-range flights capable of serving the most people or national needs.

Any remaining unused capacity or additional capacity resulting from less than full participation of controllers in the job action will be used, to the extent possible, to accommodate those aircraft movements not included in those four priorities.

IV. System Operation

A. IFR Flight Approval

1. *Day and Evening Shifts.* There are four basic categories of IFR flight approval under the controller strike contingency plan. They are (1) priority flights; (2) preapproved, scheduled flights; (3) approved, scheduled flights within the first hour of a shift; and (4) approved flight within the second hour of a shift. The last two priority levels are designed to use any increased capacity which will be available if some controllers report for duty.

a. *Priority 1: Priority Flights.* Priority flight approval will apply to flights that are military necessity, medical emergency flights, Presidential flights, flights transporting critical FAA employees, etc. Flight plans for these flights will be filed in a normal manner; however, they will contain a predetermined indicator of the flight's priority status. Clearance requests and issuances will occur in the normal manner. Flights falling within this category will be accommodated before flights in the lower categories.

b. *Priority 2: Preapproved Flights.* A daily national flight schedule reflecting facility capacity assuming only supervisory staffing, will be published as soon as they are completed. That schedule, based on long-range (500 miles or more), nonstop flight service between city pairs being served as of February 11–12, 1980, and short-range flight service added to bring facility workload up to capacity, will cover between 16 and 18 hours of the 24-hor day. The same schedule will be applicable each day the contingency plan is in effect.

The national flight schedule is being developed to assure traffic balance at all operating positions at FAA air traffic control facilities. That balance increases significantly the number of aircraft which can be accommodated by the available 15% (base level) of the work force. Scheduled flights may be canceled on a daily basis or on a permanent basis by the user. Flights cannot be added to the schedule or adjusted to different departure times. Unused capacity created by cancellations of scheduled flight will become additional second hour approval capacity.

Flight plans will be stored at air route traffic control centers (ARTCCS) for all priority 2 flights and flight plan filing will not be required. IFR clearances will be requested and issued in a normal manner. Priority 2 flights will be designated as long range or short range. In unusual situations (such as severe weather, poor runway conditions, unexpected lack of supervisory personnel available for duty, or either minor or major equipment outages which reduce facility capacity below the planned levels), flights will be canceled to reduce service to existing capacity. Short-range flights will be canceled in lieu of long-range flights to achieve that result whenever possible.

c. *Priority 3: First Hour Approval Flights.* This priority level is established to make use of a limited amount of additional capacity which can be quickly identified after the start of the day and evening shifts. The flights which may be approved during the first hour of the day and evening shifts will be identified in the same manner as those on the priority 2 national schedule. Unlike the priority 2 flights, however, flight approval will not be given until some time during the first hour of the shift during which the flight is to be conducted.

Approval for the first hour flights will be called to the user as soon as possible after the work force reports on duty. No IFR flight plan will be filed by the user; however, the user is requested to provide the type equipment to be used on the flight when the approval call is received. IFR clearances will be requested and issued in a normal manner. The first hour approvals will be made by the flow control position in the

air route traffic control center (ARTCC) in which the departure airport is located. Adjustments to first hour flights may be permitted after the contingency plan has been in effect for several days.

d. *Priority 4: Second Hour Approval Flights.* This priority level is established to make as much use as possible of the controllers who report for duty on the day and evening shifts. Flight plans will be accepted from all users; however, when the demand exceeds capabilities of the on-duty work force, flight plans will be approved on a first-come, first-served basis consistent with available facility capability. Flight plans for the day shift must be filed between 0000 and 0800 local time and flight plans for the evening shift must be filed between 0800 and 1600 local time. IFR clearance will be requested and issued in a normal manner; however, operators should be prepared to state their assigned flight approval number, if requested.

2. *Mid Shift.* The mid-shift capacity will be greatly reduced due to minimum staffing at each facility. Priorities 1 and 2 remain in effect; however, there will be very few priority 2 flights scheduled. No priority 3 or 4 flights will be approved. The existing capacity of the mid-shift will be devoted to aircraft relocation for maintenance and to accommodate required military flights which were deferred during the day and evening shifts. Flight plan approval for relocation flights will be from the Central Flow Control Facility for long-range flights and from the ARTCC flow control position for short-range flights.

B. System Restrictions

1. Routes, altitudes, and departure times for each IFR flight will be determined before the flight is approved. The primary consideration will be the maintenance of an even level of workload at each ATC operational position. Even if an airport tower might permit more operations, that capacity may not be fully utilized because of restrictions in the ARTCC.

2. Long-range flights (500 miles or more) will operate between FL 260 and FL 370. Deviations will be considered only in the case of severe weather, aircraft capabilities, or to accommodate Priority 1 flights.

3. Short-range flights will operate at and below FL 230.

*4. VFR flight in terminal control areas (TCAs) will be restricted to departures only.

*5. VFR traffic, except for departures, will be prohibited or restricted at some major airports.

6. Some control towers may be temporarily closed.

7. Some portions of airspace will be delegated to military control facilities in order to reduce the impact to the national defense needs.

*These restrictions may be lifted at some point as experience/additional staffing permits.

C. Operational Methodology

1. Long-range flights will be assigned predetermined routes and altitudes. One route and two altitudes have been established for flight from one city to another. Aircraft departing on the same route will be separated by a minimum of 4 minutes at departure. Once the aircraft have reached assigned altitudes, a minimum of 20 miles in-trail separation will be established between aircraft on the same route at the same altitude. That separation may be decreased to the normal five-mile separation in the case of severe weather; however, it must be reestablished within 50 miles after leaving those conditions. That separation will permit the use of the DME separation in lieu of radar separation in the event of equipment impairment.

2. Short-range flights will be assigned routes and altitudes which are most consistent with the traffic flows and ARTCC sectorization established to support long-range flights. Short-range flights will not be cleared to operate above FL 230.

3. The traffic balance established by preapproved routes, altitudes, and takeoff times will be disrupted unless takeoff times are adhered to. While some deviation can, of course, be tolerated, extensive deviations cannot. The departure airport tower personnel cannot assess the impact at the arrival airport. Therefore, except in the case of air traffic control delays in getting to takeoff position, flights not airborne within 10 minutes of their approved takeoff time will be considered canceled for the day. In the case of unusual weather or airport conditions, the Central Flow Control Facility may extend the cancellation time for a specific airport until the condition is no longer considered a factor.

4. The entire plan concept is based on not holding airborne operations. Therefore, whenever two or more aircraft must hold simultaneously, the ARTCC flow control position must be notified. That information must be immediately coordinated with the Central Flow Control Facility so that appropriate action can be taken. If extensive holding is anticipated, the same coordination is required.

V. Plan Implementation

A. The decision to activate the contingency plan will be made at least 24 hours before the plan goes into effect. Users will be notified via direct calls or the news media at least 12 hours in advance of the implementation. Appropriate NOTAMs will be issued at least 4 hours before implementation. The implementation information will be as widely disseminated to the public as possible.

B. Flight schedules and other necessary information will be provided to all users on the schedules at least 48 hours before the implementation.

(c) The plan will be implemented at midnight Eastern time. Flights, other than international arrivals and necessary military operations requesting IFR clearances, will be disapproved the evening before the plan is placed into effect unless the flight can be completed before 11 p.m. local time at the arrival airport.

D. No first or second hour (priority 3 and 4) flights will be approved the first day the plan is in effect. That action will permit an assessment of the workload involved in priority 1 and 2 flights before approval of lower priority flights.

E. Aircraft relocation flight plans may be filed the evening prior to the plan's implementation.

VI. Plan Termination

A. Termination of the contingency plan operation will be announced at least 48 hours in advance. The plan will be terminated as soon as the level of operation that can be accommodated by the available work force exceeds that achieved under the plan.

B. There is a possibility of a limited or phased termination of the plan at specific ARTCCs not significantly impacted by the strike. Should that occur, those facilities excluded from the plan would still be required to adhere to the plan with respect to flights entering ARTCCs still operating under the plan. No locations will be excluded from the plan during the first 3 days after the plan's implementation.

Availability of National, Daily Flight Schedules And Certain Appendixes To the Contingency Plan

As indicated in the previous discussion, part of FAA's draft Air Traffic Control (ATC) Contingency Plan involves a national, daily schedule for flights between over 100 airports matched in "city pairs" for air transportation service. The schedule is based on the identified base level of available ATC work force at the terminal and, particularly, the enroute facilities (supervisory staffing of ATC positions); the long range (500 miles or more) nonstop flight service between city pairs being served as of February 11–12, 1980; and short range (less than 500 miles) flight operations necessary to fill the remaining ATC facilities capacities.

Increases in the number of operations between city pairs, or new city pairs added, since February 12, 1980, will not be accomodated under the schedule in the contingency plan. In determining the level of service that the system can accommodate under the exigencies of controller action, the FAA is exercising its authority to provide for the safe and efficient use of the nagivable airspace under § 307 of the Federal Aviation Act of 1958. The allocation of which of the various operators will be authorized to provide service between city pairs under the schedule is a more complex and difficult matter. It could be handled on a first-come, first-served basis which would be cumbersome, chaotic, and not necessarily equitable or some other mechanism must be employed to achieve the necessary results. Any comments and suggestions on this important matter are specifically invited, including use of the operator schedules as they existed on February 12, 1980, or any other reasonable basis. It should be noted that if necessary § 1005 of the Federal Aviation Act of 1958, as amended, authorizes the Administrator to take the necessary emergency actions to provide the levels of safety in air commerce and efficient use of the navigable airspace.

The development of the schedule to date reflects the designation of daily takeoff and landing times for authorized long-range flights between specific city pairs. It also contains the daily takeoff and landing times which are available for short range flights. By January 15, 1981, the specific short-range city pairs will be designated in the schedule. The "first-hour approval flights" will also be identified by that date. The completed schedule, including, if possible, the identification of operators and flight number for each scheduled flight, will be available by February 9, 1981.

Because of the complexities and interrelationships among the terminal and enroute ATC facilities, the schedule is essential to maximizing use of existing capacity and ensuring traffic balance at all ATC operating positions at those facilities without interjecting undue dalays or derogating flight safety. The availability of additional, qualified ATC personnel above the base level can be reflected in increased capacity in the system and more flight operations under the plan.

In addition, the contingency plan includes numerous appendixes, some of which involve national security matters (which cannot be made public) or matters of limited public interest. Due to the large number of pages in the schedules and appendixes and the limited number of persons who would be interested in the detailed schedules in their incomplete form or in most of the appendixes, the expense of publishing them in the **Federal Register** would not be cost-effective. However, any person interested may request a copy of the national, daily schedules for one or more specific airports or certain, unrestricted, appendixes by contacting the person identified above under the caption For Further Information Contact.

Regulatory Actions

If it becomes necessary to implement the contingency plan, appropriate regulatory actions will be taken to complement the operational and administrative aspects of the plan. A notice of proposed rulemaking proposing adoption of a general flight rule is being published elsewhere in today's **Federal Register**. If adopted, that rule will expressly recognize the use of regulatory Notices to Airmen to communicate information critical to immediate flight safety or regulatory significance. That rule will clarify the rules to provide a means for prompt action as conditions dictate under the contingency plan, as well as other situations when the Administrator determines that emergency conditions require augmenting or supplanting the existing rules and regulations to ensure the safe and efficient use of the navigable airspace by aircraft.

The Draft National Controller Strike Contingency Plan

Accordingly, the Federal Aviation Administration proposes to adopt and implement, if necessary, the following contingency plan.

Issued in Washington, DC, on November 7, 1980.

R. J. Van Vuren,

Director, Air Traffic Service.

Department of Transportation, Federal Aviation Administration

Draft National Controller Strike Contingency Plan

Phase I

* * * * *

Definitions

Acceptance Rates. Hourly arrival/departure capacities of airport traffic control towers and TRACONS/RAPCONS based upon available staffing and airport constraints.

Aircraft Relocation. Flights between long-range airports during the hours of 1:00 a.m. to 7:00 a.m. local time for the purpose of aircraft maintenance.

Approval Number. A number assigned to a flight plan indicating approval by the center flow controller for second hour flights.

EXAMPLE: N123 flight plan assigned SH25 in remarks indicates November 123 is the twenty-fifth flight approved during the second hour of the shift.

Assistant Controllers. Employees designated to perform assistant controller duties.

Capacity. Maximum number of aircraft that can safely be handled by a facility in a given time period.

City Pairs. Two airports that have scheduled nonstop service between them.

Contingency Charts. Locally prepared charts depicting the contingency routes.

Air Traffic Operations Status NOTAM Code. A code developed in Headquarters to reduce NOTAM dissemination workload. The primary use of this code will be to encode/decode air traffic services that may not be available and/or facility closures during Phase III of this plan.

Contingency Routes. An airway structure throughout the country using one-way airways when possible and, in most cases, built-in altitude separation at airway crossing points.

Controllers. For the purpose of this plan, team supervisors and other operationally current employees.

Departure Time. Takeoff time.

Facility Status Report. A reporting system established to enable Central Flow Control to keep abreast of the capability of the air traffic system.

First-Hour Approval Flights. Round trip, short-range flights that are scheduled prior to implementation of this plan and approved on a daily basis during the first hour of each shift.

Long-Range Airports. An airport that has a control tower operated by the FAA and had nonstop air carrier and air taxi service identified in the January 15, 1980, Official Airline Guide that met the long-range criteria.

Long-Range Flights. Long-range flights between two long-range airports. These flights are divided into two categories:

LR–I are flights where the distance is 500 nautical miles or more and transits three or more ARTCC areas.

LR–II are flights where the distance is 500 nautical miles or more and transits no more than two ARTCC areas.

Long-Range Flight Schedule. Flights between long-range airports that are

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scheduled prior to implementation of this plan and are preapproved to operate daily for the duration of the contingency plan.

Long-Range International Flight Schedule. Long-range flights between long-range airports and airports outside the conterminous United States that are scheduled prior to implementation of this plan and are preapproved to operate daily for the duration of the contingency plan.

Non-Long-Range Airports. All airports not identified as long-range airports.

Phase I. Prepare for implementing Phases II and III.

Phase II. Transition from present-day traffic to the contingency traffic level.

Phase III. Operational mode.

Prescheduled Flights. Flights between long and/or short-range airports that are scheduled prior to implementation of this plan and are preapproved to operate daily for the duration of the contingency plan.

Round Trip. Two-way nonstop service between city pairs.

Second-Hour Approval Flights. Short-range flights which are requested on a daily basis after implementation of the plan and are normally approved during the second hour of the day and evening shifts, traffic permitting.

Shifts. Midnight to 8:00 a.m.; 8:00 a.m. to 4:00 p.m.; 4:00 p.m. to midnight.

Short-Range Airport. An airport that has air carrier/air taxi service that does not meet the long-range criteria.

Short-Range Flights (S–R Flights). Nonstop flights between long and/or short-range airports where the straight line distance is less than 500 nautical miles and transgresses no more than two centers' areas.

Slot Times. Predetermined landing/takeoff times based on airport acceptance rates that are used while scheduling flights at long/short-range airports.

Terminal Facility. Airport Traffic Control Tower, RAPCON, TRACON, and CIFRR.

Trip Code Number. A number which identifies in numerical order the departures and arrivals between paired airports.

Tower En Route Flights. Flights between and remaining within two approach controls' airspace where letters of agreement define procedures for their handling.

International Flights. A flight entering, exiting, or overflying the conterminous United States.

* * * * *

(The remainder of Phase I deals with the development of the contingency plan and thus is not included for purposes of this notice.)

Phase II

Chapter 7. Phase II—Headquarters

31. *AOA–1 Responsibilities.*

a. The decision to commence Phase III is the responsibility of the Administrator. Once the decision is made, Phase II is automatically implemented.

b. Notify the Associate Administrators; Offices of Aviation Medicine, Chief Counsel, Civil Rights, and Public Affairs; Regional Directors; and appropriate military authorities of the date/time Phase III will be implemented.

32. *Associate Administrator Responsibilities.* When notified by the Administrator, advise staffs and service directors to commence Phase II and the date/time Phase III will be implemented.

33. *Service Directors' Responsibilities.* When notified by the Administrator or Associate Administrator, advise staffs and divisions to commence Phase II and the date/time Phase III will be implemented.

34. *Air Traffic Division and Staff Chiefs' Responsibilities.*

a. Within 1 hour of notification by AAT–1, advise division and staff personnel to commence Phase II and the time to commence Phase III.

b. Establish appropriate work schedules and notify subordinates.

c. Assess Phase III personnel requirements and advise AAT–10 of surplus people or additional personnel required not later than 20 hours prior to commencing Phase III.

d. Forward names of staff specialists with data systems specialist (DSS) experience within the past 6 months to AAT–500 not later than 20 hours prior to commencing Phase III.

e. Forward completed NOTAMs/GENOTs to AAT–400 18 hours prior to commencing Phase III.

35. *AAT–10 Responsibilities.*

a. Assess regional manpower requirements.

b. Assess Headquarters manpower requirements and available personnel.

c. Assign and take action to relocate Headquarters surplus personnel to meet Phase III requirements.

d. Coordinate with AFO–1 for personnel relocation assistance using FAA aircraft.

e. Complete actions in items a through d above not later than 12 hours prior to commencement of Phase III.

Note.—AAT–20 and AAT–500 will manage their own personnel resources and will not identify surpluses but will require AAT–10 assistance for personnel relocation.

f. Notify affected divisions of flight arrangements for personnel transportation as soon as possible.

g. Notify regions of additional resources being flown to facilities and request transportation and accommodations for those personnel no later than 6 hours prior to the commencement of Phase III.

36. *AAT–400 Responsibilities.*

a. Collect, coordinate, and disseminate all Headquarters Air Traffic Service NOTAMs/GENOTs.

b. Transmit implementation NOTAMs/GENOTs and other messages as required. (See Appendix 36 for NOTAM/GENOT and special messages.)

c. Ensure that Central Flow Control:

(1) Has additional personnel assigned and assigns duties and shifts as appropriate.

(2) Has a current contingency route chart available.

d. Direct ARO to discontinue service.

e. Coordinate with the appropriate military authority to ensure military representation will be available in the Central Flow Control Facility 4 hours before Phase III commences.

f. Notify the users of the date and time of Phase III commencement by:

(1) NOTAM.

(2) ATCSSC advisory.

(3) Telephone calls to users not subscribing to ARINC.

g. Ensure all actions in paragraph 36 are completed not later than 8 hours prior to commencement of Phase III.

37. *Central Flow Control Responsibilities.* When notified by CARF, notify the facilities of any preapproved military Priority 1A and 1B flights (see Appendix 41) that will be operating in their areas during Phase III. ALL OTHERS THEY HAD PREVIOUSLY APPROVED ARE CANCELED.

38. *CARF Responsibilities.*

a. Coordinate previously approved military operations scheduled for the first week of Phase III with the originator, establish their priorities, and:

(1) Cancel preapproved missions that are not Priority 1A or 1B.

(2) Forward Priority 1A and 1B flights to Central Flow Control at least 4 hours prior to the commencement of Phase III. (See Appendix 41.)

b. Do not approve any other flights unless approved by Central Flow Control.

39. *AAT–500 Responsibilities.*

a. Primary office for providing assistance and personnel support for ATC automated facilities.

b. Direct AAT–550 to commence Phase II activity.

c. *Automation Staffing Assistance.* Regions will forward facility data systems staffing assistance requests, if any, to Headquarters 15 hours before Phase III commencement.

(1) Identify Headquarters personnel provide data systems support at ARTCCs and terminals using the following resources:

(a) AAT–520.

(b) AAT–530.

(c) AAT–550.

(d) List provided by AAT–10 of other specialists with recent data systems experience (within past 6 months).

(2) Request assistance from AAT–10 for relocation transportation not later than 13 hours before the commencement of Phase III.

40. *AFO–1 Responsibilities.*

a. Establish a command center staffed for 24 hours of operation until Phase III is terminated.

b. Direct operational elements to provide movement data reports on FAA aircraft locations nationwide.

c. Support FAA personnel and equipment relocations as requested by ATT–10 with AFO flight crews and aircraft. Provide AAT–10 all flight schedules.

d. Issue termination notice on flight checks except for support of accidents/incidents until plan termination.

e. Complete actions a through d not later than 8 hours prior to commencement of Phase III.

41. *AEE–1 Responsibilities.* Forward noise abatement/curfew NOTAM/GENOT to AAT–400 for transmission not later than 12 hours prior to commencement of Phase III.

42. *ACS–1 Responsibilities.*

a. Establish a command center staffed for 24 hours of operation until Phase III is terminated.

b. Coordinate with region and Headquarters key elements and provide support where required.

43. *APA–1 Responsibilities.* Release preprepared press releases and coordinate with regions and Headquarters elements as required not later than 16 hours prior to commencement of Phase III.

Chapter 8. Phase II–Regions

46. *Regional Directors' Responsibilities.* When notified by the Administrator, advise staffs and divisions to commence Phase II and the date/time Phase III is to commence.

47. *Divisions' and Staffs' Responsibilities.* When notified by the Regional Director, advise division and staff personnel and all facilities to commence Phase II and the date/time Phase III is to commence.

48. *Air Traffic Division Responsibilities.*

a. *Personnel Resource Management.*

(1) Tabulate region and facility resources and requirements by job titles.

(2) Assign and initiate action to relocate surplus personnel to meet Phase III requirements.

(3) Forward personnel staffing shortages to AAT–10, including job titles and qualifications, at least 15 hours prior to commencement of Phase III. (Shortages are those required to operate the plan.)

(4) Give the highest priority to ARTCC flow controllers and terminal positions identified in Appendices 7 through 12. (ASO–500: See Appendix 10 for additional requirements.)

Note 1.—Evaluation Branches shall be held in reserve until Phase III completion to support accident/incident requirements. (See Appendix 38.)

Note 2.—Regional automation personnel shall be held in reserve until Phase III completion to support field automation functional requirements. (See b below.)

(5) Advise facilities as soon as possible which shortages will or will not be filled.

b. *ATC Automation Support.* Each regional automation branch/staff shall evaluate each automated facility's ability to provide and maintain automated ATC operational support. Assign surplus qualified personnel from field sites or qualified regional office personnel to facilities with automation personnel shortages. Each region shall notify Headquarters, AAT–500, of remaining data systems staffing needs within its region not later than 15 hours prior to the commencement of Phase III.

c. *User Notification.* Ensure that all appropriate NOTAMs are issued at least 6 hours prior to Phase III commencement.

d. *Security.* See Appendix 40.

e. *Terminal Facility Hours of Operations.* After completion of terminal staffing assessment, coordinate with facility chiefs to determine facility hours of operation if lack of staffing requires shorter hours.

f. *Status Report.* Provide AAT–1 with a brief overview of regional and facility status and readiness at least 2 hours prior to Phase III commissioning.

49. *Flight Standards Responsibilities.* Support FAA personnel and equipment relocations as requested by AFO–1 with flight crews and aircraft.

50. *Public Affairs Responsibilities.* Release preprepared press releases and provide public affairs support to field facilities.

Note.—Field facilities have been directed to refer all public affairs inquiries to regional public affairs office.

Chapter 9. Phase II—ARTCC

55. *Facility Chief Responsibilities.* Cease any activity that would degrade the facility's ability to support Phase III operational requirements. Initiate action to recall all supervisors and staff members on leave or official business.

a. *Initial Facility Status Report.* Assess the center's capability to support the long- and short-range traffic. This assessment shall include:

(1) Staffing. Advise the region if the available nonbargaining unit employee contingency staffing is more or less than the minimum required to fill the planned assistant chief, controller, assistant controller, flow controller, and automation support positions. Include the number of people and positional data, i.e., short two data systems specialists, one extra controller (team supervisor), etc. (See Appendices 10, 11, and 12.) Assign nonbargaining unit employees to the work schedules developed in Phase I and issue schedules.

(2) Operational Equipment.

(3) Automation Capabilities.

Note.—Upon completion of this assessment, forward the initial facility status report to the regional Air Traffic Division not later than 18 hours prior to commencement of Phase III.

b. *Military Coordination.*

(1) Verify that the contingency letters of agreement with the military can be implemented during Phase III and established an effective time.

(2) Coordinate the release of airspace with the military and ensure that they are aware that the airspace will not be released until Phase III commences.

(3) Apprise the region and request the issuance of appropriate NOTAMs at least 8 hours prior to the commencement of Phase III.

c. *Prepared Materials.* Ensure that all materials prepared during Phase I are available for distribution to appropriate positions within 15 minutes AFTER PHASE III commences. It is important that these prepared materials are safeguarded until AFTER the commencement of Phase III. The materials include:

(1) SOP briefing packages.

(2) Contingency route structure charts.

(3) Flight data crib sheets.

(4) Contingency flight schedules.

(5) Restoration priority listings.

(6) First hour flight plans.

(7) Phase III work schedules.

(8) Appropriate NOTAMs/GENOTs.

(9) Contingency letters of agreement.

(10) Telephone listings and contingency labels/dial code charts.

(11) Facility flight plan handling procedures.

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(12) Contingency bulk store printouts.
(13) ATC service level NOTAM code.
(14) City pair route and altitude listings.

d. *Chart Changes.* Charts that are current at the time of Phase II commencement shall be used until notified by GENOT action. Ensure that charts are marked to plainly depict airspace delegated to military organizations as well as any other changes. These charts include methods of coordination.

e. *Operational Equipment and Communications.*

(1) Coordinate with Airway Facilities and implement the restoration priorities developed in Phase I.

(2) Check the equipment and communications that will be used in Phase III and ensure operational readiness.

f. *Security.* (See Appendix 40.)

g. *Public Affairs.* Refer all media inquiries to regional Public Affairs.

56. *Assistant Chief Responsibilities.*

a. Direct supervisors to approve all departure clearances commencing 7 hours prior to Phase III commencement. Approval will be based on the flight's ability to be completed 1 hour prior to Phase III commencement.

Note.—In the case of flights which cannot be approved, direct the tower to advise the aircraft that an IFR clearance cannot be issued due to the pending contingency plan implementation.

b. At least 1 hour prior to commencing Phase III, direct the data systems officer:
(1) To shut off normal bulk store.
(2) At what time the normal computer operation can be interrupted to bring up the contingency disk.
(3) When to turn on the contingency bulk.

c. Direct a transition to contingency plan sector configuration starting 30 minutes before Phase III is to commence.

57. *Flow Controller Responsibilities.*

a. Begin a periodic review of all arrivals 2 hours prior to Phase III commencement to ensure that all arrivals will be on the ground before Phase III starts.

b. Coordinate action to divert aircraft which will not arrive before Phase III commencement to airports which can be reached before that time. This action need not be taken if the sector manning will be adequate to safely accommodate the late arrival.

58. *DSO Responsibilities.*

a. Audit local patches and contingency bulk store to ensure the integrity of any automated system that will be used in Phase III.

b. Ensure that the redundant set of contingency system disks are secured as a precautionary measure.

c. Ensure that, in addition to operational responsibilities, and as directed by the assistant chief, the following are accomplished:
(1) Shut off the normal bulk store.
(2) Terminate normal system operations by shutting down the computer.
(3) Bring up the contingency disk prior to commencing contingency scheduled operations.
(4) Turn on contingency bulk.
(5) Ensure that contingency sectorization is set up properly.
(6) Ensure that contingency system is certified.

Chapter 10. Phase II—Terminal

60. *Facility Chief Responsibilities.* Cease any activity that would degrade the facility's ability to support Phase III operational requirements. Initiate action to recall all supervisors and staff members on leave or official business.

a. *Initial Facility Status Report.* Assess the terminal's capability to support the long- and short-range traffic. This assessment shall include:

(1) Staffing. Advise the region if the available nonbargaining unit employee contingency staffing is more or less than the minimum required to fill the planned supervisory, controller, assistant controller, or automation support positions. Include the number of people and positional data, i.e., short two data systems specialists, one extra controller (team supervisor), etc. (See Appendices 7, 8, 9, and 12.) Assign nonbargaining unit employees to the work schedules developed in Phase I and issue schedules.
(2) Operational Equipment.
(3) Automation Capabilities.

Upon completion of this assessment, forward the initial facility status report to the regional Air Traffic Division not later than 18 hours prior to commencement of Phase III. If appropriate, recommend changes to facility hours of operation.

b. *Prepared Materials.* Ensure that all materials prepared during Phase I are available for distribution to appropriate positions within 15 minutes after Phase III commences. It is important that these packages and charts are safeguarded until after commencement of Phase III. The materials may include:
(1) SOP briefing packages.
(2) Contingency gate hold procedures.
(3) Phase III work schedules.
(4) Restoration priority listings.
(5) Contingency letters of agreement.
(6) ATC service level NOTAM code.
(7) Special parking charts.
(8) Contingency taxi pattern charts.
(9) Contingency departure/arrival transition charts.
(10) Special frequency/telephone listings.
(11) Appropriate NOTAMs/GENOTs.

c. *Chart Changes.* Charts that are current at the time of Phase II commencement shall be used until notified by GENOT action. Ensure that charts are marked to plainly depict airspace delegated to military organizations as well as any other changes. These charts include methods of coordination.

d. *Operational Equipment and Communications.*

(1) Coordinate with Airway Facilities and implement the restoration priorities developed in Phase I.

(2) Check equipment and communications that will be used in Phase III and ensure operational readiness.

e. *Security.* (See Appendix 40.)

f. *Public Affairs.* Refer all media inquiries to regional Public Affairs.

61. *Terminal Supervisor Responsibilities.*

a. Terminate the approval or issuance of tower en route control IFR clearances commencing 3 hours before Phase III will become effective.

b. At automated facilities NOT interfaced with the center, ensure the flight plan is dropped from the computer for any flight the center has diverted or advised an IFR clearance cannot be issued.

c. At least 1 hour prior to Phase III, direct the data systems officer:

(1) Shut off bulk store flight plan inputs if the facility is not interfaced with the center or uses a local bulk flight plan tape for tower en route or local operations.

(2) At what time the normal computer operation can be interrupted to bring up the contingency operational system.

c. Direct a transition to contingency plan position configuration starting 30 minutes before Phase III is to commence.

62. *DSO Responsibilities.*

a. Audit local patches and contingency operational program to ensure the integrity of the automated system that will be used in Phase III.

b. Ensure the redundant copies of the contingency operational program are secured as a precautionary measure.

c. Ensure that, in addition to operational resonsibilities, and as directed by the assistant chief, the following are accomplished:

(1) Shut off bulk flight plan input, if applicable.

(2) Terminate normal system operations by shutting down the computer.
(3) Bring up the contingency operational program prior to commencing contingency scheduled operations.
(4) Ensure that contingency configuration is set up properly.
(5) Ensure that contingency system is certified.

Chapter 11. Phase II—Flight Service Station

70. *Facility Chief Responsibilities.* Cease any acitivity that would degrade your facility's ability to support Phases II and III operational requirements.

a. Review watch schedules and modify as necessary to support Phase III.

b. Recall personnel on annual leave or official business if necessary.

c. Brief all employees.

d. Ensure that all materials prepared during Phase I are available for distribution to appropriate positions within 15 minutes after Phase III commences. It is important these prepared materials are safeguarded until after the commencement of Phase III. The materials may include:
(1) Specialist briefing packages.
(2) Contingency route structure charts.
(3) Restoration priority listings.
(4) Phase III work schedules.
(5) Special NOTAMs pertinent to Phase III.
(6) Telephone listings/contingency dial codes.
(7) Facility flight plan handling procedures.
(8) ATC service level NOTAM code.

e. Chart Changes. Use charts current at the time of Phase II commencement notified by GENOT action.

f. Ensure that contingency plan NOTAMs are reviewed by all specialists.

g. Ensure that contingency plan NOTAMs are located where all pilots filing flight plans have ready access to them and that they are separated from other NOTAMs.

Chapter 12. Phase III—Headquarters

80. *AAT–1 Responsibilities.*

a. Keep appropriate offices/organizations aware of the system status.

b. Recommend changes to policy or request additional support as deemed necessary.

c. Conduct a system status ATSCON at 1400 daily.

d. Direct AAT–400 to send NOTAMs/GENOTs advising users of appropriate changes to facility status or national procedures.

81. *AAT–10 Responsibilities.* Personnel resource management: Continue to provide personnel assistance as outlined in Phase II.

82. *AAT–20 Responsibilities.* Provide accident/incident investigation support and guidance to regional offices. (See Appendix 38.)

83. *AAT–400 Responsibilities.*

a. Analyze regional and Central Flow Control Facility recommendations of changes to facility status or to national procedures included in the contingency plan.

b. Coordinate with the Central Flow Control Facility or regions to determine any potential impact on the total system.

c. Recommend a course of action to AAT–1.

d. Inform regions of AAT–1 decision and coordinate an effective time.

e. Transmit appropriate NOTAMs/GENOTs when directed by AAT–1.

f. Provide AAT–1 with a daily briefing of system performance/problems.

84. *Central Flow Control Responsibilities.*

a. Notify AAT–1 of any significant system problems as soon as possible.

b. *Daily Evaluation.* Evaluate the impact of national schedule flights on the system on a shift-by-shift basis, and record the following specific problems on facility log:
(1) Facilities affected.
(2) Time of occurrence.
(3) Immediate corrective action taken.
(4) Follow-up action necessary to prevent recurrence.

c. *System Status.*

(1) One hour after the start of each shift in each time zone, conference the appropriate ARTCCs for a long-range system status report.

Note.—The terminal facilities serving long-range airports have been instructed to be prepared to forward airport status reports to their respective ARTCC 30 minutes after the start of each shift. The ARTCCs have been instructed to wait for Central flow Control's call unless there are constraints to long-range traffic. In that case, they will notify Central Flow Control immediately. The center flow controller has the option to request that Central Flow Control use conference capabilities to reduce communication/coordination time (i.e., New York Center, CIFRR, JFK, LGA, EWR, PHL).

(2) Monitor the system to determine if there are any constraints such as equipment, weather, or personnel shortages or if there are any special aircraft movements that will reduce or are reducing the contingency's long-range airport's planned capacity. If the long-range airport's capacity will be or is being reduced, estimate the duration of time you believe the constraints will exist and take the following action(s) if necessary.

(a) confirm facilities have canceled necessary short-range traffic to relieve the impacted area before taking other actions.

(b) Selectively reroute some or all over-traffic around a center's area if the constraint is in the en route environment and the rerouting will not adversely impact another route or center's area.

(c) Assist the facilities to honor requests from the airlines for an alternate airport for flights that are AIRBORNE en route to an impacted airport which cannot accommodate the arrival within a reasonable delay time (i.e., MKE as an alternate for ORD). Do not approve alternate airport requests for flights which are not yet airborne. Instead, cancel the flights.

Note.—Once the aircraft is at his alternate airport, every effort should be made to get the aircraft back into the system.

(d) Cancel flights to the impacted airport to accommodate the revised capacity. If selective reroutes are not feasible in the en route environment, cancel long-range departures that will transit the impacted center's area and proposed departures and arrivals within the impacted center's area. (See Cancellation Method, paragraph e.) When the weather is forecast to SIGNIFICANTLY impact routes, some flights proposed to transit these routes should be canceled to reduce the demand to a level that can be safely handled unless the approval of reroutes to avoid weather impacted areas will not impact another route or center area.

Note.—If any flight must be rerouted, existing contingency routes should be used where possible. In every case, reroutes must be coordinated with all centers whose airspace is affected prior to approval.

d. *Flight Schedules.*

(1) Each airport's capacity has been predetermined. No additional arrivals or departures shall be scheduled. Schedule times shall not be changed, but flights may have to be canceled due to higher priority traffic and system constraints. This does not preclude the use of airports as alternate airports or for emergency diversions.

(2) The schedule has been developed with a "no airborne delay" philosophy; however, departure delays UP TO 10 MINUTES should be accommodated. Cancellations by field facilities may be necessary to flights that cannot meet these criteria.

Note.—Some of the contingency scheduled departure times are less than 4 minutes apart. Additionally, aircraft may depart slightly late for various airport-related reasons. Whatever the case, the facilities will ensure that a departure following a preceding departure on

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the same route will have a minimum of 4 minutes separation.

(3) Delete flights identified by the user as permanent contingency plan flight cancellations from the master flight schedule; tabulate and forward via teletype to center flow controllers on a daily basis during the mid-watch.

e. *Flight Cancellation Method.*

(1) When the system's capacity is reduced below the planned capacaity, cancel traffic in excess of the revised capacity that cannot be accommodated by rerouting.

(2) To avoid an adverse impact to the user, every attempt should be made not to cancel flights that are within 30 minutes of departure time. Give ground delays to these flights if the system can accommodate them.

(3) Proper planning is essential when constraints are imposed to avoid an adverse impact both to our facilities and users. Determine a revised capacity for the impacted area or airport and estimate the duration of time the constraints will exist.

(4) When the revised capacity has been determined, add the number of flights, if any, that will be accommodated at alternate airports or through rerouting to determine the total system capacity. Keep in mind that flights already airborne will have to be absorbed in the system and may have to hold; determine the number of flights that will need to be canceled to return the system to a no airborne delay posture.

(5) Cancellation priorities:

(a) First confirm cancellation of short-range flights.

(b) Then cancel a portion of the flights from airports providing most service to the impacted airport.

(c) Then cancel flights from remaining airports as necessary.

(6) Arrival constraints: There may be circumstances when the constraints imposed on the system only affect the arrivals to an airport, i.e., airport below minimum for arrival but not departure, slippery runways affecting an aircraft's turn-off capacity, etc. When conditions such as these exist, it may be sufficient to only reduce arrivals at an impacted airport. To accomplish this, cancel proposed departures to the impacted airport.

(7) Arrival/departure constraints: When circumstances such as one runway operation or personnel shortage will affect the entire operation, cancel both the proposed flights to the impacted airport and the departures from an impacted airport.

Note.—Once a flight is canceled, it shall remain canceled until the next day even though canceling conditions change.

f. *Flight Cancellation Notification Procedures.* Notify appropriate operator and advise center flow controller to remove flight plan from computer.

g. *Air Traffic Service Priorities.*

(1) Do not approve flight operations requested by CARF except for Priority 1 aircraft. (See Appendix 41.)

(2) Ensure that all military priority 1 flights are coordinated with the military representative on duty in the Central Flow Control Facility.

(3) Notify the ARTCC serving the departure airport as soon as a priority 1 flight is approved.

h. *Long-Range Traffic.* Route, altitudes, and speeds listed in Appendix 3 will be used.

Note.—Short-range flights will be handled "in-house" between facilities. Facilities have been instructed to cancel the short-range traffic as soon as constraints warrant.

i. *Aircraft Relocation (1:00 a.m. to 7:00 a.m. local).*

(1) All relocation flight plans will be filed with the Central Flow Control Facility. The flight plan will only include the flight identification, aircraft type, point of departure, arrival point, ETE, and remarks if required.

(2) Relocation flight plans will not be accepted after 2:00 p.m. Eastern time the day before the proposed departure.

Note.—Nonroutine relocations due to equipment failure may be accepted at later times and will be accommodated if possible.

(3) Schedule the relocation flights in accordance with the below restrictions:

(a) Flights should commence and be completed between 0100 and 0700 local times.

(b) Flights should be approved in a manner which does not cause the capacity of any facility to be exceeded.

(c) A minimum of 20 minutes shall be provided between departure times for flights between identical city pairs.

(d) Long-range routes (and altitudes if possible) shall be used unless there is no long-range route established between the city pairs.

(4) Approvals of aircraft relocation flights shall be forwarded to the requester and the departure center flow controller by 9:00 p.m. Eastern time.

(a) The requester shall be given the flight identification and approved departure time.

(b) The departure center flow controller shall be given:

1. Flight identification.

2. Type aircraft.

3. Assigned departure time.

4. Assigned route including departure point and destination.

5. Remarks (if filed).

j. *CARF Responsibilities.*

(1) Coordinate with Central Flow Control prior to approving military operations and include as a minimum:

(a) Priority filed for mission/flight.

(b) Number of aircraft.

(c) Duration of time (start and end).

(d) Area(s) affected.

(2) Not approve any other flights unless approved by Central Flow Control.

(3) Coordinate with facilities and military as required.

k. *ARO Responsibilities.* ARO shall not approve any airport reservations. 85. *AAT–500 Responsibilities.* Continue to provide personnel or other required assistance to regions/facilities in order to maintain the automated air traffic system.

86. *AFO–1 Responsibilities.* Flight operations: Support the requirements of AAT–10 in the movement of personnel via FAA aircraft.

87. *ACS Responsibilities.* Continue to support regions as required.

Chapter 13. Phase III—Regions

110. *Air Traffic Division Responsibilities.*

a. *Personnel Resource Management.* Continue to provide personnel assistance as outlined in Phase II.

b. *Accident/Incident Procedures.* See Appendix 38.

c. *ATC Automation Support.* Continue to provide automation support as outlined in Phase II.

d. *Security.* See Appendix 40.

e. *Facility Operations Analysis.* Analyze regional facility operations and recommend changes in the contingency plan procedures/requirements to AAT–400 if appropriate.

f. *Nonimpacted Center(s).*

(1) Analyze facility input and determine if the procedures for a nonimpacted center(s) as described in Appendix 42 can be implemented.

(2) Notify AAT–400 of any center(s) you believe can operate with these procedures.

(3) If Headquarters approved nonimpacted center(s) operation, notify appropriate facility(s).

Chapter 14. Phase III—ARTCC Operations

110. *Facility Chief Responsibilities.*

a. *Facility Status/Recommendations.* Keep the regional Air Traffic Division apprised of facility status and problems. Make recommendations on changes to facility status or contingency plan operations if appropriate.

b. *Accident/Incident.* See Appendix 38.

c. *Security.* Ensure that the security measures and personnel security restrictions are adhered to. (See Appendix 40.)

111. *Assistant Chief Position Responsibilities.* The following position responsibilities are additional to those normally required.

a. *Preapproved Flight Evaluation.* Evaluate the impact of preapproved flights on the system, on a shift-by-shift basis, and record the following on facility log:

(1) Specific problems:

(a) Facilities/sectors affected.

(b) Time of occurrence.

(c) Immediate corrective action taken.

(d) Follow-up action necessary to prevent recurrence.

(2) Light traffic periods include:

(a) Facility/sector(s).

(b) Times.

(c) Type/amount of traffc that might be added.

(3) These problems should be reviewed daily and actions taken as necessary.

b. *Status Reporting.*

(1) Assess the center's capability to support the long-range scheduled traffic and include:

(a) Personnel resources (nonbargaining unit employees).

(b) Equipment status.

(c) Weather.

(d) An estimate of what can be anticipated during the next 8-hour shift.

(2) Thirty minutes after the start of each shift, call the long-range airports and obtain their status.

Note.—Where Central Flow Control has conference capabilities, the center may, at its option, request that Central Flow Control conference terminal facilities so these reports can be given simultaneously to reduce communications/coordination time (i.e., ZNY ARTCC, CIFRR, JFK, LGA, EWR, PHL).

(3) One hour after each shift commences, be prepared to forward ARTCC/terminal status reports to Central Flow Control.

c. *Manual Flight Data Processing.* In the event of FDP failure, direct all available personnel to assist controllers in manual flight data processing and flight data coordination. Ensure that the prepared "crib" sheets are used during the manual flight data processing.

112. *Flow Controller Position Responsibilities.* The following position responsibilities are additional to those normally required.

a. Immediately notify Central Flow Control of any constraints that will reduce or are reducing long-range planned capacity. Give the nature of the constraints and estimated duration of the problem. In addition, advise Central Flow Control whenever two or more aircraft are holding in your center's airspace or one of your terminal's airspace.

b. *Contingency Traffic Management.*

(1) Air Traffic Priorities. See Appendix 41.

(2) Contingency Separation.

(a) Departure: At least 4 minutes separation between departures from the same airport cleared on the same route.

(b) En Route: At least 20 miles in-trail separation between aircraft at the same cruising altitude along the same route except:

1. Between Priority 1 and other traffic: Can be reduced to standard separation minima if required to accommodate Priority 1 operations.

2. Aircraft deviations due to weather: If aircraft deviate around weather and reduce the 20 miles in-trail separation, the 20 miles in-trail separation shall be reestablished within 50 miles after the aircraft complete their deviation.

Note.—Twenty miles in-trail separation must be maintained to provide for transition to nonradar procedures in the event of radar failure.

(3) Military Operations. (See Appendix 2.)

(4) Long-Range Traffic.

(a) Routes, altitudes, and speed are listed in Appendix 3.

(b) Procedures.

1. Advise Central Flow Control whenever long-range traffic is or will be adversely affected by higher priority operations.

2. Coordinate with Central Flow Control and use flow control procedures as required for oceanic traffic.

3. Advise Central Flow Control of any reduction in long-range facility acceptance rates/capacity.

4. If you receive any permanent cancellations to the long-range flight schedule, refer the caller to Central Flow Control.

5. Ensure that contingency routes, altitudes, and speeds are used to the maximum extent possible. This does not preclude step climbs to final altitude (i.e., assigned FL 290 until the aircraft is able to climb to FL 370).

6. IFR Departure Releases.

a. Ensure that departures are not released more than 5 minutes prior to scheduled departure time.

b. Ensure that departures are not released more than 10 minutes after their scheduled/assigned departure time unless the reason for the late departure is determined by the terminal to be an ATC delay that occurred between the time the pilot called for taxi clearance to the time he reached the end of the runway.

(5) Short-Range Traffic.

(a) Short-range flights shall meet the following criteria:

1. Restricted to FL 230 and below.

2. Transit no more than two centers' airspace.

3. Not be scheduled or approved to operate between midnight and 8:00 a.m. local time.

4. IFR Departure Releases.

a. Ensure that departures are not released more than 5 minutes PRIOR to scheduled departure time.

b. Ensure that departures are not released more than 10 minutes after their scheduled/assigned departure time unless the reason for the late departure is determined by the terminal to be an ATC delay that occurred between the time the pilot called for taxi clearance to the time he reached the end of the runway.

(b) Short-Range cancellation method:

1. Cancellation objective is to ensure no airborne delay.

2. Monitor the system to determine if there are any constraints such as equipment, weather, or personnel shortages or if there are any special aircraft movements that will reduce or are reducing the contingency range airport planned capacity. If the center/airport capacity will be or is being reduced, estimate the duration of time you believe the constraints will exist and cancel flights.

3. Cancel flights in the following order:

a. Second hour approval flights.

b. First hour approval flights.

c. Prescheduled short-range flights.

4. To avoid an adverse impact to the user, every attempt should be made not to cancel flights that are within 30 minutes of departure time. Give ground delays to these flights if the system can accommodate revised capacities. When the weather is forecast to SIGNIFICANTLY impact routes, some flights proposed to transit these routes should be canceled to reduce the demand to a level that can be safely handled unless the approval of reroutes to avoid weather impacted areas will not impact another route or center area. Keep in mind that flights already airborne will have to be absorbed in the system and may have to hold or divert.

5. Advise the adjacent center flow controller to initiate the cancellation activity when the flight originates in an adjacent center.

(c) Arrival Constraints. There may be circumstances when the constraints imposed on the system only affect the arrivals to an airport, i.e., airport below minimum for arrival but not departure, slippery runways affecting an aircraft's turn-off capability, etc. When conditions such as these exist, it may be sufficient

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to only reduce arrivals at an impacted airport. To accomplish this, cancel proposed departures to the impacted airport.

(d) Arrival/Departure Constraints. When circumstances such as a one-runway operation or personnel shortage will affect the entire operation, cancel both proposed flights to the impacted airport and the departures from an impacted airport.

(e) Notify users, advise adjacent facilities, and cancel flight plans in computer, when appropriate.

Note.—Once a flight is canceled, it shall remain canceled until the next day.

(6) First Hour Short-Range Approvals. Do not approve first hour flights prior to the second full day of contingency flight operations. Use this time period to assess long and short-range scheduled traffic operations. Identify light over-traffic periods and identify over-traffic causing system overloads, if any.

(7) First Hour Short-Range Traffic. Using first hour flight worksheet (completed during Phase I):

(a) Determine if adequate staffing exists within your center and appropriate terminals within your airspace area to enable approving first hour short-range traffic.

Note.—This should be one additional controller per affected area of specialization.

(b) Coordinate with adjacent ARTCCs to determine if they and their terminals can approve first hour short-range traffic.

(c) Complete (a) and (b) within the first half hour of the shift and approve first hour flights accordingly.

(d) Notify the first hour users of the approvals before the end of the first hour of the shift.

(8) Second Hour Short-Range Approvals. Do not approve second hour flights prior to the second full day of contingency flight operations. Use this time period to assess long- and short-range scheduled traffic operations. Identify slow over-traffic periods and identify over-traffic causing system overloads, if any.

(9) Second Hour Short-Range Traffic. Prior to approving:

(a) Determine center staffing within each area of specialization and associated terminals and determine if second hour flights can be permitted.

(b) If flights can be permitted, coordinate with adjacent centers to determine if their resources will permit second hour intercenter flights.

(10) Second Hour Flight Approval Guidelines.

(a) After receiving staffing information and flight plan requests, the center flow controller shall determine which flights will be approved.

(b) Flights shall only be approved if they can depart and arrive within the last 6 hours of the shift. Consider time zone differences between concerned facilities.

(c) Assign a route, altitude, and departure time. For tower en route flights, assign only a departure time (tower will assign route and altitude).

Note.—Coordinate with adjacent center if required.

(d) For those flights that have been approved, an approval number (SH1, SH2, etc.) shall be assigned to each flight for insertion into remarks in field 11. If the flight is to be made via tower en route, add "TWR ENRT" to the flight plan remarks section. Forward flight plan approvals to the primary A/flight data position.

(e) Log flight identification, filing FSS, departure airport, and approval number on the second hour log (Appendix 34).

(11) Tower En Route Traffic. Approve en route flights only if adequate staffing exists in the towers and the flights meet the following criteria:

(a) Shall operate only between those towers where tower en route service is covered in a letter of agreement.

(b) First or second hour tower en route traffic shall not be approved if doing so would adversely impact the handling of long- or short-range prescheduled flights.

Note.—Second hour approval flights shall be coordinated with the affected towers before approval.

(12) Initiate cancellation of short-range flights departing from airports within your area when requested to do so by an adjacent center flow controller.

(13) In the case of tower en route flights, approvals or cancellations, provide the departure tower with the flight identification, departure time, and destination. First and second hour approvals must be given to the tower as a group rather than one at a time.

c. *Aircraft Relocation.* Review the flight plans approved for relocation purposes to determine if they will have any significant impact on your operation. Notify Central Flow Control of any flights that your ARTCC cannot handle.

Note.—Aircraft relocations are defined as flights during the hours of 1:00 a.m. to 7:00 a.m. local time for the purpose of aircraft maintenance.

Note.—Central Flow Control will schedule relocation flights using a minimum of 20 minutes in-trail separation between city pairs and forward the approved flight plans to the departure center by 8:00 p.m. Eastern time on the day before the proposed departure.

113. *ARTCC Flight Data Monitor.* The following responsibilities are additional to those normally required.

a. *Primary A/Flight Data Position.*

(1) Forward to the flow controller any flight plans received via landlines from FSSs covering operations defined in Handbook 7110.65B, paragraphs 24a through h. Date/time stamp, upon receipt, and ensure that they have been entered into the computer.

(2) Forward to the flow controller for second hour approval, flight plans that were received as information text messages from the FSS. Do not accept any flight plans from other sources. Date, time stamp, or annotate each flight plan when received.

(3) Enter ARTCC flow controller approved flight plans into the computer or forward to the departure tower if tower en route control and there is no FDEP interface. Include second hour approval number/designator in remarks.

(4) Relay flow controller second hour flight plan approvals, via landline, to the FSS which originated the flight plan message.

(5) Do not accept composite flight plans for other than those operations defined in Handbook 7110.65B, paragraphs 24a through h.

114. *Center Controller Position Responsibilities.* The following position responsibilities are in addition to those normally required for positions of operation.

a. *Contingency Traffic Management.* Air Traffic Priorities. Provide air traffic control service based on the priorities in Appendix 41.

b. *Departure Separation at Airports Without Terminal IFR Departure Service.* Use at least 4 minutes separation between departures from the same airport flight planned along the same route.

c. *In-Trail Spacing.*

(1) Use at least 20 miles in-trail separation between aircraft at the same cruising altitude along the same route. Establish separation as soon as possible after aircraft reaches cruising altitude. (See (2) and (3) for exceptions.)

Note.—Twenty miles in-trail separation must be maintained to provide for a transition to nonradar procedures in the event of a radar failure.

(2) Weather Deviations. If aircraft deviate around weather and rduce the 20 miles in-trail separation, the 20 miles in-trail separation shall be reestablished within 50 miles after the aircraft complete their deviations.

(3) Between Priority 1 and other traffic. Can be reduced to standard separation minima if required to accommodate Priority 1 operations.

d. *Military Operations.* (See Appendix 2.)

e. *Use of Routes, Altitudes, and Speeds.* Ensure that contingency plan routes, altitudes, and speeds are used except when weather conditions are causing deviations or deviations are necessary due to Priority 1 flights. (This does not preclude step climbs to final altitude, i.e., assigned FL 290 until the aircraft is able to climb to FL 370.)

Note.—International flights will transition to/from normal and contingency plan routes when they enter/exit the conterminous United States.

f. *Departure Releases at Airports Without Terminal IFR Departure Service.*

(1) Do not release departures more than 5 minutes PRIOR to scheduled/assigned departure time.

(2) Do not release departures more than 10 minutes AFTER scheduled/assigned departure time unless the reason for the late departure can be attributed to an ATC delay at the departure airport. Cancel flights not meeting these criteria.

g. *Flight Cancellation Phaseology.* (AIRCRAFT IDENT) your flight plan is canceled because ("reason").

Examples: N12345, your flight plan is canceled because of traffic congestion at your destination airport.

N12345, your flight plan is canceled because you were unable to make your takeoff time as scheduled.

h. *Flight Plan Handling.* Do not accept any flight plans except in the case of an in-flight emergency.

i. *System Constraints.* Inform the flow controller whenever:

(1) You are or are about to hold aircraft.

(2) Priority 1 traffic will impact other traffic.

(3) You recognize potential conditions that may cause delays.

(4) No flight plan is in the computer for a flight which the pilot says has been approved. (Secure the flight priority or flight plan approval number from the pilot for the flow controller's use.)

115. *DSO Responsibilities.*

a. The DSO is responsible to ensure that the following guidelines are adhered to:

(1) The primary use of automation resources is to maintain and support the operational systems.

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(2) The ATC computers shall be run in an operational mode as much as possible.

(3) The ATC computers are not shut down (placed in a nonoperational status) unless there is a compelling reason to do so.

(4) Any actions that can cause program interruptions, such as reconfiguration of equipment components, should be avoided unless deemed absolutely necessary.

(5) Normal bulk store is not used.

(6) Contingency bulk store is used.

(7) AAT–550 is notified by phone of all program outages/problems within 1 hour after they occur.

(8) All data reduction and other type printout activities are postponed.

Note.—For accident/incident or high PTR problems, send the tapes to AAT–550 for data reduction.

Chapter 15. Phase III—Terminal Operations

130. *Terminal Facility Chief Responsibilities.* The following responsibilities are additional to those normally required.

a. *Facility Status/Recommendations.* Keep the regional Air Traffic Division apprised of facility status and problems. Make recommendations on changes to facility status or contingency plan operations if appropriate.

b. *Facility Closures/Reduced Hours of Operation.* Coordinate with the region if staffing is reduced to where you believe the facility should reduce its hours of operation or be closed.

c. *Accident/Incident.* See Appendix 38.

d. *Security.* Ensure that security measures and personnel security restrictions are adhered to. (See Appendix 40.)

131. *Terminal Supervisor Responsibilities.* The following responsibilities are additional to those normally required.

a. *Status Reporting to ARTCC.*

(1) Thirty minutes after the start of each shift, be prepared to forward a status report to the ARTCC. Assess your capability to support the contingency plan and include:

(a) Hours of operation.

(b) Personnel resources (nonbargaining unit employees)/adjusted hourly capacity rates.

(c) Equipment status.

(d) Airport status, i.e., runways, taxiways.

(e) Weather.

(f) Any other factors that could affect or is affecting scheduled traffic.

(g) An estimate of what can be anticipated during the current 8-hour shift.

(2) At locations where the tower and approach control are separate facilities, the tower shall forward its status report to the facility providing approach control services for relay to the center.

(3) If there are any constraints that will reduce or are reducing the scheduled planned capacity, take the following action:

(a) Estimate how long the constraints will exist.

(b) Determine the adjusted hourly capacity rates (Appendix 7).

(c) Forward this information immediately to your ARTCC flow controller.

b. *Facility Closures/Reduced Hours of Operation.* Coordinate facility closures and reduced hours of operation as directed by the facility chief with your ARTCC flow controller and servicing FSS.

c. *Contingency Traffic Management.*

(1) *Additional Flight Operations.* Assess your ability to support additional flight operations. Forward this information to your ARTCC flow controller upon request.

(2) *Air Traffic Priorities.* See Appendix 41.

(3) *Constraints.* Advise your ARTCC flow controller:

(a) Whenever your scheduled traffic is or will be adversely affected.

(b) Any time your facility is holding.

(4) *IFR Departure Releases (Tower En Route)*

(a) Ensure that departures are not released more than 5 minutes prior to scheduled departure time.

(b) Ensure that departures are not released more than 10 minutes after their scheduled departure time unless the reason for the late departure is an ATC delay that occurred between the time the pilot called for taxi clearance and the time he reached the end of the runway.

(5) *TCA Operations.*

(a) When the contingency plan is implemented, VFR operations in TCA will not be permitted except VFR departures.

(b) VFR departures shall not be given priority over IFR operations.

(c) Facilities that have TCAs shall place the following on the ATIS: "Unable to approve clearances for aircraft operating VFR through or into the (name) TCA until further advised."

(6) *Taxi Priority for Scheduled Aircraft.* Ensure that priority is given to taxiing scheduled aircraft in accordance with the procedures developed in Phase I.

(7) *TRSA Operations.* Stage III service may not be provided or may be discontinued at the controller's discretion. However, VFR aircraft should be provided Stage III service when the aircraft is expected to operate within close proximity to an IFR aircraft. Place the following on the ATIS: "Stage III service may not be available or may be terminated at the controller's discretion due to IFR traffic workload."

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(8) *Military Operations.* See Appendix 2.

(9) *Flight Plan Cancellations.* When notified by a user of a contingency plan schedule flight permanent cancellation, refer the caller to Central Flow Control.

(10) *Automation Operations.* Air traffic control computers shall be run in an operational mode as much as possible while this plan is in effect. Do not shut down the computer unless there is a compelling reason to do so.

132. *Terminal Controller Position Responsibilities.* The following responsibilities are additional to those normally required.

a. *Contingency Traffic Management.* Air Traffic Priorities. Provide air traffic control service based on the priorities in Appendix 41.

(1) *Contingency Separation.* Provide at least 4 minutes separation between departures from the same airport flight planned along the same departure route, except Prority 1 aircraft can be released with standard separation.

(2) *IFR Departure Clearances.* Issue full route clearances in all cases. Cleared as filed shall not be used while the contingency plan is in effect.

Note.—SID names may be used if appropriate.

(3) *IFR Departure Releases.*

(a) Ensure that departures are not cleared for takeoff more than 5 minutes prior to scheduled departure time.

(b) Ensure that departures are not cleared for takeoff more than 10 minutes after their scheduled/assigned departure time unless the reason for the late departure is ATC delay that occurred between the time the pilot called for taxi clearance and the time he reached the end of the runway.

(4) *Flight Cancellation Phraseology.* (AIRCRAFT IDENT), your flight plan is canceled because ("reason").

Examples: N12345, your flight plan is canceled because of traffic congestion at your destination airport.

N12345, your flight plan is canceled because you were unable to make your departure time as scheduled.

(5) *IFR Clearance Requests—No Flight Plan Available.* When a flight requests clearance and there is no flight plan available:

(a) If an air carrier, advise the center controller.

(b) If other than an air carrier, request the aircraft to provide a flight priority code or a flight approval number. Advise the center controller including the pilot's response to the request.

(6) *TCA Operations.*

(a) Disapprove requests for VFR operations through or into the TCA using the following phraseology:

1 Through TCA. "Unable to approve clearance THROUGH TCA. See NOTAM (number).

2 Landing at Airport in TCA. "Unable to approve clearance into TCA. See NOTAM (number)."

(b) Approve VFR departues from the TCA if and when workload permits. If a departure cannot be approved when requested, use the following phraseology: "Unable to approve departure from TCA at the present time; expect departure clearance (time)."

(c) When departures are approved, issue clearances in the order requested.

(7) *TRSA Operations.* Stage III service has been made optional at the controller's discretion dependent upon workload by national NOTAM; however, provide State III service when the aircraft will operate within close proximity to an IFR aircraft if possible.

PHRASEOLOGY: "Unable to provide State III service."

(8) *VFR Operations—Non-TCA Airports.*

(a) Give IFR traffic priority over VFR traffic and delay VFR traffic as necessary.

(b) Discontinue local aircraft operations, as required.

(9) *Flight Plan Handling.* Refer all requests to process flight plans to your servicing flight service station.

(10) *Gate Hold.* Ensure that pilots of departing aircraft receive their IFR clearances before they start taxiing.

(11) *Tower En Route.* Do not approve tower en route operations unless they have been approved by the center flow controller.

Note.—A list of approved tower en route flights will be provided by the center flow control position at the end of the first hour of the shift. The list will be updated at the end of the second hour of the shift. The list will include flight call sign, departure time, and destination for each approved flight.

(12) *Holding.* Notify your supervisor when holding is imminent.

(13) *Taxi Priority.* Give priority to taxiing scheduled traffic in accordance with the procedures developed in Phase I.

133. *DSO (or Chief's Designee) Responsibilities.* The DSO is responsible to ensure that the following instructions are adhered to by personnel performing the operational data systems duties.

a. The primary use of automation resources is to keep the automation system operational.

b. The ATC computers shall be run in an operational mode as much as possible.

c. The ATC computers are not shut down (placed in a nonoperational status) unless maintenance MUST be performed. If it is necessary to shut down, adjust hours of computer operation to cover busiest contingency traffic periods if possible.

d. Any actions that can cause program interruptions, such as reconfiguration of equipment components, should be avoided unless deemed absolutely necessary.

e. Problem reporting: Notify AAT-550 by phone of all program outages/problems within 1 hour after they occur.

f. No data reduction and other type printout activities shall be performed. For accident/incident or high PTR problems, send the charts/tapes to AAT-550 for data reduction, if requested.

Chapter 16. Phase III—Flight Service Station

140. *Facility Chief Responsibilities.*

a. *Flight Plan Handling.*

(1) Accept and process in a normal manner flight plans on the following:

(a) FAA aircraft.

(b) Operations covered in Handbook 7110.65B, paragraphs 24a through h. In addition, call the departure center primary "A" flight data position on these flights via landline and forward the call sign, proposed departure point, proposed departure time, and destination.

(2) DO NOT accept composite flight plans for other than those operations defined in Handbook 7110.65B, paragraphs 24a through h.

(3) DO NOT accept second hour approval flight plans unless they are filed:

(a) Between 0000 and 0800 local time for flights departing between 1000 and 1600 local time.

(b) Between 0800 and 1600 local time for flights departing between 1800 and 2400 local time.

(4) Inform the person filing the flight plan that acceptance does not constitute approval, and if an approval is not received by 10:00 a.m. or 6:00 p.m. as appropriate, the flight plan is automatically disapproved. Also:

(a) Record the caller's name/telephone number to enable forwarding of center flow controller approvals, if and when received.

(b) Teletype to appropriate centers as information text messages and include the time the flight plan was filed.

(c) Relay center flow controller flight plan approvals to points of contact/telephone numbers that were recorded.

Note.—Second hour approval aircraft will not fly the first day the plan is in effect.

(5) DO NOT accept IFR flight plans on "fast file" systems. Include instructions on fast file tape to call another number with IFR flight plans.

(6) Ensure that all priority 1 flight plans are transmitted to the center upon receipt. Ensure that all second hour flight plans are transmitted to the center no later than 30 minutes after the close of the filing period, i.e., 0830 or 1630.

b. *Military Operations.* See Appendix 2.

Appendices to Phases II and III

2. Airports Expected to Generate Priority Military Operations.[1]

3. Assigned Long-Range Routes, Altitudes, and Speeds.[4]

5. Coded Route Between Long-Range City Pairs.[2]

7. Acceptance Rate at ATCTs.[3]

8. Terminal Staffing and Acceptance Rates.[3]

9. Terminal EPDSs Used for Staffing.[3]

10. Center Staffing.[3]

11. Flow Control Staffing and Schedule.[3]

12. Data Systems Personnel Shift Coverage.[3]

34. Second Hour Flight Log.[3]

36. NOTAM/GENOT and Specal Messages.[4]

38. Incident/Accident Handling Procedures.[4]

40. Security.[1]

41. Air Traffic Priorities[2]

42. Procedures for Nonimpacted Center(s).[3]

Appendix 41

Air Traffic Service Priorities

Priority 1 (a) (Code Word) *CRITICAL*—Critical Movement of military aircraft for national defense, Presidential, Vice Presidential, FAA aircraft, NEACP, FLYNET, GARDEN PLOT, SAMP, SAR, EMERGENCY AIR EVAC, EMERGENCY.

Handling Method—Cleared via the routes, altitudes, speeds and at the time requested, without regard to scheduled traffic.

Priority 1 (b) (Code Word) URGENT—Priority movement of military aircraft in the NATIONAL INTEREST.

Handling Method—The flight must be handled; however, adjustments may be made to the requested flight plan.

Note.—The maximum adjustments possible are being coordinated with the military and will be provided in an update to the plan.

Priority 1 (c)—AIR EVAC, MEDEVAC, other medically required flights.

Handling Method—The flight must be handled; however, adjustments may be made to the requested flight plan. Departures can be delayed up to 30 minutes and route and altitude adjustments can be made unless the pilot advises the proposed change will adversely affect the medical aspect of the flight.

Priority 2—National flight schedule air carrier and air taxi flights. (1) Long-Range I operations. (2) Long-Range II operations. (3) Short-Range operations.

Handling Method—Cleared via contingency plan routes, altitudes, speeds to depart not earlier than 5 minutes prior to and not later than 10 minutes after scheduled departure time.

Note.—Late departures will be permitted if lateness is attributed to an ATC delay between the time he requests clearance to taxi and the aircraft arrival at the runway.

Priority 3—Prescheduled first hour approval flights.

Handling method—Cleared via contingency plan routes, altitudes, speeds to depart not earlier than 5 minutes prior to and not later than 10 minutes after scheduled departure time.

Note.—Late departures will be permitted if lateness is attributed to an ATC delay between the time he requests clearance to taxi and the aircraft arrival at the runway.

Priority 4—Second hour approval flights (all other military and civil flight operations).

Handling Method—Cleared via routes, altitudes, and speeds based on available personnel resources. Aircraft shall not depart earlier than 5 minutes prior to and not later than 10 minutes after the approved departure time.

Note.—Late departures will be permitted if lateness is attributed to an ATC delay between the time he requests clearance to taxi and the aircraft arrival at the runway.

Appendix 5

Coded routes between city pairs.

The contingency routes are coded by number. Associated direction designators for each airway are assigned elsewhere in this plan. Altitudes are assigned by distance and direction to coded routes generally as follows:

Airway direction		Altitude assignments
370	E	Over 800 miles.
350	W	Over 800 miles.
330	N	Over 800 miles.
310	S	Over 800 miles.
290	E	Between 500 and 800 miles.
280	W	Between 500 and 800 miles.
270	N	Between 500 and 800 miles.
260	S	Between 500 and 800 miles.

[1] Not available for security reasons.

[4] Not complete at this time. Copies may be obtained at a later date.

[2] Included in published material.

[3] Copies may be obtained in Room 429, 800 Independence Avenue, S.W., Washington, D.C.

From—	To—	Coded route	Route
		New York ARTCC	
ABE	ORD	4-16	J80 J89 ORD.
EWR	ATL	36-34	J37 ATL.
EWR	BNA	36-34A-14	J37 GVE J147 BKW J42 BNA.
EWR	DEN	2-12	RBV J80 MCI J24 SLN J102 J17 DEN.
EWR	DFW	36-34A-14	J37 GVE J147 BKW J42 DFW.
EWR	FLL	32	J37 CYN J79 ILM CLB AR1 BSY FLL.
EWR	IAH	36-34A-14-40A.	J37 GVE J147 BKW J42 J180 IAH.
EWR	IND	2	RBV J80 IND.
EWR	LAS	2-22A	RBV J80 MCI J24 SLN J102 ALS J64 FMN J110 BLD LAS.
EWR	LAX	2-18-18A-10.	RBV J80 IND J24 STL J19 LVS J8 INW J96 PRC J10 TNP J4 LAX.
EWR	MCI	2	RBV J80 MCI.
EWR	MCO	36-3	J37 GVE J75 J45 JAX J53 MCO.
EWR	MEM	35-34A-14	J37 GVE J147 BKW J42 BNA.
EWR	MIA	32	J37 CYN J79 ILM CLB AR1 BSY MIA.
EWR	MSP	6	J95 BUF J547 ECK J38 GRB J106 MSP.
EWR	MSY	36-34	J37 MSY.
EWR	ORD	6-6B	J95 BUF J547 ORD.
EWR	PBI	32	J37 CYN J79 ILM CLB AR1 COBIN PBI.
EWR	SDF	2-J39	RBV J80 J39 SDF.
EWR	SFO	4	RBV J80 ILC J198 MVA J84 OAK SFO.
EWR	SRQ	36	J37 GVE J75 PIE SRQ.
EWR	STL	2-18	RBV J80 IND J24 STL.
EWR	TPA	36	J37 GVE J75 TPA.
ISP	ORD	Direct-JFK-6-6B.	J95 BUF J547 ORD.
JFK	ATL	36-34	J37 ATL.
JFK	CAE	36	J37 GVE J75 CAE.
JFK	CHS	36-36	J37 GVE J75 CAE J47 CHS.
JFK	DEN	2-12	RBV J80 MCI J24 SLN J102 J17 DEN.
JFK	DFW	36-34A-14	J37 GVE J147 BKW J42 DFW.
JFK	FLL	32	J37 CYN J79 ILM CLB AR1 BSY FLL.
JFK	FMY	36-5	J37 GVE J75 PIE SRQ J58 FMY.
JFK	IAH	36-34A-14-40A.	J37 GVE J147 BKW J42 J180 IAH.
JFK	IND	2	Direct RBV J80 IND.
JFK	JAX	36-3	J37 GVE J75 J45 JAX.
JFK	LAS	2-22A	Direct RBV J80 MCI J24 SLN J102 ALS J64 FMN J110 BLD LAS.
JFK	LAX	2-18-18A-10.	Direct RBV J80 IND J24 STL J19 LVS J8 INW J96 PRC J10 TNP J4 LAX.
JFK	MCO	36-3	J37 GVE J75 J45 JAX J53 MCO.
JFK	MIA	32	J37 CYN J79 ILM CLB AR1 BSY MIA.
JFK	MSP	6	J95 BUF J547 ECK J38 GRB J106 MSP.
JFK	MSY	36-34	J37 MSY.
JFK	ORD	6-6B	J95 BUF J547 ORD.
JFK	PBI	32	J37 CYN J79 ILM CLB AR1 COBIN PBI.
JFK	PHX	2-18	Direct RDV J80 IND J24 STL J19 LVS J18 PHX.
JFK	SAN	2-18	Direct RDV J80 IND J24 STL J19 LVS J18 SAN.
JFK	SEA	6	J95 BUF J547 ECK J38 GRB J106 MSP J70 ABR J90 SEA.
JFK	SFO	4	Direct RBV J80 ILC J198 MVA J84 OAK SFO.
JFK	SLC	6-24-44	J95 BUF J547 ECK J38 GRB J106 MSP J70 ABR J32 SLC 360°R SLC.
JFK	SRQ	36	J37 GVE J75 PIE SRQ.
JFK	STL	2-18	Direct RBV J80 IND J24 STL.
JFK	TPA	36	J37 GVE J75 PIE TPA.
LGA	ATL	36-34	J37 ATL.
LGA	BHM	36-34-20	J37 ATL J52 BHM.

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From—	To—	Coded route	Route
LGA	BNA	36-34A-14-A	J37 GVE J147 BKW J42 BNA.
LGA	CAE	36	J37 GVE J75 CAE.
LGA	CVG	2-50B	Direct RBV J80 J39 CVG.
LGA	DAB	36-3-JAX-J45.	J37 GVE J75 J45 DAB.
LGA	DFW	36-34A-14-D	J37 GVE J147 BKW J42 DFW.
LGA	FLL	32	J37 CYN J79 ILM CLB AR1 BSY FLL.
LGA	IAH	36-34A-16-40A.	J37 GVE J147 BKW J42 J180 IAH.
LGA	IND	2	Direct RBV J80 IND.
LGA	JAX	36-3	J37 GVE J75 J45 JAX.
LGA	MCI	2	Direct RBV J80 MCI.
LGA	MCO	36-3	J37 GVE J75 J45 JAX J53 MCO.
LGA	MEM	36-34A-14-D	J37 GVE J147 BKW J42 MEM.
LGA	MIA	32	J37 CYN J79 ILM CLB AR1 BSY MIA.
LGA	MKE	6-60-39A	J95 BUF J547 J34 MKE.
LGA	MSP	6	J95 BUF J547 ECK J38 GRB J106 MSY.
LGA	MSY	36-34	J37 MSY.
LGA	OKC	36-34A-14-20.	J37 GVE J147 BKW J42 J14 OKC.
LGA	ORD	6-60	J95 BUF J547 ORD.
LGA	PBI	32	J37 CYN J79 ILM CLB AR1 COBIN PBI.
LGA	SDF	2-50B	Direct RBV J80 J39 SDF.
LGA	STL	2-18	Direct RBV J80 IND J24 STL.
LGA	TPA	36	J37 GVE J75 TPA.
MDT	ORD	J152-2A-4-16.	J152 J61 PSB J60 J89 ORD.
PHL	ATL	Direct-ENO-36-34.	Direct ENO J37 ATL.
PHL	BNA	Direct-ENO-36-34A-14.	Direct ENO J37 GVE V147 BKW J14 BNA.
PHL	DEN	2A-2-12	J110 J80 MCI J24 SLN J102 J17 DEN.
PHL	DFW	14	Direct EWT J42 DFW.
PHL	FLL	Direct-SIE-32.	Direct SIE J79 ILM CLB AR1 BSY FLL.
PHL	IAH	14-40A	Direct EWT J42 J180 IAH.
PHL	IND	2A-2	J110 J80 IND.
PHL	JAX	Direct-ENO-36-3.	Direct ENO J37 GVE J75 J45 JAX.
PHL	LAX	2A-2-10	J110 J80 MCI J24 SLN J102 ALS J64 LAX.
PHL	MCI	2A-2	J110 J80 MCI.
PHL	MCO	Direct-ENO-36-3.	Direct ENO J37 GVE J75 J45 JAX J53 MCO.
PHL	MIA	Direct-SIE-32.	Direct SIE J79 ILM CLB AR1 BSY MIA.
PHL	MKE	2A-4-39A	J110 J61 PSB J60 CLE J34 MKE.
PHL	MSP	2A-4-39A-33.	J110 J61 PSB J60 CLE J34 BAE J70 MSP.
PHL	MSY	Direct-ENO-36-34.	Direct ENO J37 MSY.
PHL	ORD	2A-4-16	J110 J61 PSB J60 J89 ORD.
PHL	PBI	Direct-SIE-32.	Direct SIE J79 ILM CLB AR1 CORBIN PBI.
PHL	PHX	2A-2-18	J110 J80 IND J24 STL J19 LVS J18 PHX.
PHL	SDF	2A-2-50B	J110 J80 J39 SDF.
PHL	SFO	2A-4	J110 J61 J60 ILC J196 MVA J84 OAK SFO.
PHL	STL	2A-2-18	J110 J80 IND J24 STL.
PHL	TPA	Direct-ENO-36.	Direct ENO J37 GVE J75 PIE TPA.
DEN	ALO	11-9	J114 ONL J94 ALO.
DEN	ATL	48-3	J20 LBL J98 OKC J78 TUL J46 J41 MEM J66 RME ATL.
DEN	BAL	15-13	J80 MCI J24 STL J134 ILM J24 CRW J8 BAL.
DEN	BNA	15-36	J80 MCI J24 STL J134 J73 BNA.
DEN	BOS	11-9-17A-18A-17.	J114 ONL J94 OBK J584 CRL J554 JHW J82 ALB J16 BOS.
DEN	CAK	15-18-17A	J80 GLD J192 PWE J64 BDF J18 JOT J146 J34 CLE CAK.
DEN	CID	11-9-ALO Direct.	J114 ONL J94 ALO CID.
DEN	CLE	15-1-17A	J80 GLD J191 PWE J64 BDF J18 JOT J146 J34 CLE.
DEN	DFW	48	J20 LBL J98 OKC J21 DFW.
DEN	DTW	11-9-7A	J114 ONL J94 OBK J584 CRL DTW.
DEN	EWR	15-1	J80 GLD J192 PWE J64 BDF J18 JOT J146 EWR.
DEN	FAT	22-22A-8	J126 J110 FAT.
DEN	FWA	15-1-8	J80 GLD J192 PWE J64 BDF J18 JOT J146 J89 J30 FWA.
DEN	GEG	13-12A	J116 EKR J173 SLC J15 BOI J517 GEG.
DEN	GRR	11-9-7B-MKG-Direct.	J114 ONL J94 FOD J132 MCW J16 MKG GRR.
DEN	IAD	15-13	J80 MCI J24 STL J134 ILM J24 CRW J8 CSN IAD.
DEN	IAH	48-42	J20 LBL J98 OKC J21 DFW J67 IAH.
DEN	JFK	15-1	J80 GLD J192 PWE J64 BDF J18 JOT J146 JFK.
DEN	LIT	48-3-J101	J20 LBL J98 OKC J78 TUL J46 J101 LIT.
DEN	MBS	11-9-7B	J114 ONL J94 FOD J132 MCW J16 MBS.
DEN	MEM	48-3	J20 LBL J98 OKC J78 TUL J46 J41 MEM.
DEN	MIA	48-19-38-36-5.	J20 LBL J98 OKC J21 DFW J4 MGM J20 TLH J43 PIE SRQ J58 BSY MIA.
DEN	MKE	11-9-7B	J114 ONL J94 FOD J132 MCW J16 MKE.
DEN	MLI	15-1-LMN-Direct.	J80 GLD J192 PWE J64 MLI.
DEN	MSY	48-19-40	J20 LBL J98 OKC J21 DFW J4 JAN J35 MSY.
DEN	OAK	4	J80 ILC J196 MVA J84 OAK.
DEN	ORD	11-9	J114 ONL J94 OBK ORD.
DEN	PDX	12	J116 EKR J173 SLC J15 PDX.
DEN	PHL	15-1-MIP-Direct.	J80 GLD J192 PWE J64 BDF J18 JOT J146 MIP PHL.
DEN	PIA	15-1-BDF-Direct.	J80 GLD J192 PWE J64 BDF PIA.
DEN	PIT	15-39B	J80 MCI J24 STL J134 ILM J24 J91 AIR PIT.
DEN	RNO	4-57	J80 ILC J196 MVA J92 RNO.
DEN	SAT	48-42A	J20 LBL J98 OKC J21 DFW J25 SAT.
DEN	SBN	15-1	J80 GLD J192 PWE J64 BDF J18 JOT J146 SBN.
DEN	SDF	15-36-J8	J80 MCI J24 STL J134 J73 J8 SDF.
DEN	SEA	12-45	J116 EKR J173 SLC J15 PDX J1 SEA.
DEN	SFO	4	J80 ILC J196 MVA J84 OAK SFO.
DEN	SJC	4-LIN-Direct.	J80 ILC J196 MVA J84 LIN SJC.
DEN	SMF	4-LIN-Direct.	J80 ILC J196 MVA J84 LIN SMF.
DEN	TOL	15-1	J80 GLD J192 PWE J64 BDF J18 JOT J146 TOL.
DEN	TPA	48-19-38	J20 LBL J98 OKC J21 DFW J4 MGM J20 TLH J43 PIE TPA.
COS	DFW	1-48	J146 J20 LBL J98 OKC J21 DFW.
COS	ORD	12-11-9	J17 DEN J114 ONL J94 OBK ORD.

Denver ARTCC LR-II

DEN	BOI	12	J116 EKR J173 SLC J15 BOI.
DEN	BUR	22-2	J128 TBC J64 LAX BUR.
DEN	ELP	54-54A	J17 PUB J104 ONM J57 TCS J13 J66 ELP.
DEN	LAX	22-2	J128 TBC J64 LAX.
DEN	LAS	22-22A	J128 J110 BLD LAS.
DEN	MSP	11	J114 MSP.
DEN	ONT	22-2	J128 TBC J64 ONT.
DEN	PHX	54-18	J17 PUB J104 LVS J18 PHX.
DEN	SAN	54-18	J17 PUB J104 LVS J18 SAN.
DEN	STL	15	J80 MCI J24 STL.
DEN	TUS	54-10	J104 SSO TUS.

Albuquerque ARTCC

ABQ	ATL	3	ABQ J78 TUL J46 J41 MEM J66 RMS–ATL.
ABQ	ORD	51-11-7A	ABQ J13 DEN J114 FSD J16 MCW J90 OBK–ORD.
ABQ	SAT	54A-5	ABQ J57 TCS J13 J86 ELP J2 FST J138–SAT.
ABQ	SFO	16-8-45	ABQ J16 SJN J106 INW J86 BLD J110 OAK–SFO.
ELP	SFO	51-8-45	J86 J13 TCS J106 INW J86 BLD J110 SNS J110 OAK–SFO.
TUS	HOU	5	J2 FST J138 HUB–HOU.
TUS	JFK	5-13	J2 ELP J50 ABI J4 DFW J86 LIT J6 CRW J8 RBV J150 JFK.
TUS	ORD	47-5A-3-51-11-7A.	J11 PHX J19 ZUN J78 ABQ J13 DEN J114 FSD J16 MCW J90 OBK–ORD.
TUS	SFO	47-57-8-45.	J11 PRC J92 BLD J110 SNS J110 OAK–SFO.
PHX	ATL	5A-3	J19 ZUN J78 TUL J46 J41 MEM J66 RMG–ATL.
PHX	CLE	5A-3-3A-35-1-7A.	J19 ZUN J78 TUL J66 SGF J105 BDF J18 JOT J146 J34–CLE.
PHX	DSM	5A-3-51-1-LMN-Direct.	J19 ZUN J78 ABQ J13, J146 GLD J192 PWE J64 LMN–DSM.
PHX	DTW	5A-3-51-11-7A.	J19 ZUN J78 ABQ J13 DEN J114 FSD J16 MCW J90 OBK J584 CRL–DTW.
PHX	HOU	44-5	J11 J2 FST J138 HUB–HOU.
PHX	IAD	5A-3-13	J19 ZUN J78 TUL J46 J41 J6 CRW J8 CSN–IAD.
PHX	IAH	44-5-17	J11 J2 FST J138 SAT J2 IAH.
PHX	IND	5A-3-3A-15-33.	J19 ZUN J78 TUL J98 SGF J6 STL J134 J89 IND.
PHX	JFK	5A-3-13	J19 ZUN J78 TUL J46 J41 J6 CRW J8 RBV J150 JFK.
PHX	MKE	5A-3-51-11-7A-7B.	J19 ZUN J78 ABQ J13 DEN J114 FSD J16 MKE.
PHX	MSP	5A-3-51-11.	J19 ZUN J78 ABQ J13 DEN J114 MSP.
PHX	OAK	47-57-8-45.	J92 BLD J110 OAK.
PHX	ORD	5A-3-51-11-7A.	J19 ZUN J78 ABQ J13 DEN J114 FSD J16 MCW J90 OBK–ORD.
PHX	PDX	47-12	J11 SLC J15 PDX.
PHX	PHL	5A-3-13	J19 ZUN J78 TUL J46 J41 J6 CRW J8 RBV–PHL.
PHX	PIT	5A-3-3A-15-39B	J19 ZUN J78 TUL J98 SGF J8 STL J134 FLM J24 J91 AIR–PIT.
PHX	RNO	47-57	J92–RNO.
PHX	SAT	44-5	J11 J2 FST J138 SAT.
PHX	SFO	47-57-8-45.	J92 BLD J110 OAK SFO.
PHX	SJC	47-57-8-45.	J92 BLD J110 SNS–SJC.
PHX	SMF	47-57-4-LIN-Direct.	J92 J84 LIN SMF.

Albuquerque LR-II

ABQ	DFW	3-48	J78 OKC J21 DFW.
ABQ	LAX	18-10	J18 J4 J64 LAX.
ABQ	MCI	3-37-15	J78 OKC J21 J80 MCI.
ABQ	STL	3-3A	J78 TUL J98 SGF J8 STL.
ELP	DEN	51	J13 DEN.
ELP	LAX	10	J4 J64 LAX.
ELP	SAN	10-18	J4 J18 SAN.
PHX	DEN	5A-3-51	J19 ZUN J78 ABQ J13 DEN.
PHX	DFW	44-5-13	J11 J2 ELP J50 TQA J4 DFW.
PHX	MCI	5A-3-37-15.	J19 ZUN J78 OKC J21 J80 MCI.
PHX	OKC	5A-3	J19 ZUN J78 OKC.
PHX	STL	5A-3-3A	J19 ZUN J78 TUL J98 SGF J8 STL.

From—	To—	Coded route	Route
PHX	DEN	CIE SSO J166 TCS 51.	CIE SSO J166 TCS J13 DEN.
PHX	DFW	5-13	CIE J2 ELP J50 TQA J4 DFW.
PHX	STL	5-13-35-3A.	CIE J2 ELP J50 TQA J4 DFW J105 SGF J8 STL.

Chicago Center

ALO	DEN	Direct DSM–4.	Direct DSM J25 J60.
CID	DEN	Direct DSM–4.	Direct DSM J25 J60.
CMI	BAL	Direct LEU–38-15-13.	Direct LEU J73 J134 FLM J24 CRW J8 CSN Direct.
DSM	PHX	42-18	J25 BUM J19 LVS J18.
DSM	LAX	4-22-2	J60 DEN J128 TBC J64.
FWA	ATL	9-50-34	J149 J65 SPA J37.
FWA	DEN	16A-4	J64 WHETT J30 JOT J60.
GRR	DEN	39A-30-22	J34 BAE J16 FSD J114.
MKE	ATL	36-3	J89 OBK J73 BNA J73 J66 RMG Direct.
MKE	BOS	7B-7	J16 ECK J547 BUF J16 BOS.
MKE	DCA	38-9-FRR-Direct.	J89 J30 FRR Direct.
MKE	DEN	30-32	J16 FSD J114.
MKE	DFW	30-42	J16 MCW J25.
MKE	LAX	30-22-2-10.	J16 FSD J114 DEN J128 TBC J64.
MKE	LGA	7A-1	J584 CRL J34 J146 JFK LGA.
MKE	MIA	38-36-5	J89 OBK J73 TLH J43 PIE Direct SRQ J58 BSY Direct.
MKE	PHX	30-22-54-18.	J16 FSD J114 DEN J17 PUD J104 LVS J18.
MKE	SFO	30-22-4	J16 FSD J114 DEN J60 ILC J196 MVA J84 OAK SFO.
MKE	TPA	38	J89 OBK J73 TLH J43 PIE–TPA.
MLI	DEN	4	Direct IOW J60 DEN.
MLI	DFW	4-42	Direct IOW J60 J25 DFW.
ORD	ABE	1-ETG-Direct.	J89 J146 ETG Direct ABE.
ORD	ABQ	40-18	J71 J24 STL J19 LVS J18 ABQ.
ORD	ALB	7A-1A	J584 CRL J554 JHW J82 ALB.
ORD	ATL	38-3	J73 J66 RMG Direct ATL.
ORD	BAL	9-EMI-Direct.	J89 J30 FRR J6 EMI Direct BAL.
ORD	BDL	7A-1A-ALB-Direct.	J584 CRL J554 JHW J82 ALB Direct BDL.
ORD	BHM	38-20	J73–J52 BHM.
ORD	BIL	33-6-MLS-Direct.	J89 BAE J70 ABR J90 MLS Direct BIL.
ORD	BOI	33-6-24-12.	J89 BAE J70 ABR J32 J15 BOI.
ORD	BOS	7A-1A-7	J584 CRL J554 JHW J82 ALB J16 BOS.
ORD	CLT	9-50	J89 J30 J85 SPA Direct CLT.
ORD	COS	4-54	JOT J60 DFW J17 COS.
ORD	DCA	9-FRR-Direct.	J89 J30 FRR Direct DCA.
ORD	DEN	4	JOT J60 DEN.
ORD	DFW	40-18-42	J71 J24 STL J19 BWM J25 DFW.
ORD	EWR	1	J89 J146 EWR.
ORD	FAT	4-MVA-Direct.	JOT J60 ILC J196 MVA Direct FAT.
ORD	FLL	38-36-5	J73 TLH J43 PIE SRQ J58 BSY Direct FLL.
ORD	FMY	36-36-5	J73 TLH J43 PIE SRQ J58 FMY.
ORD	GSO	9-50-17B	J89 J30 J85 SPA J14 GSO.
ORD	IAD	9-FRR-Direct.	J89 J30 FRR Direct IAD.
ORD	IAH	40-40A	J71 MEM J42 J180 IAH.
ORD	ISP	1-JFK-Direct.	J89 J146 JFK Direct ISP.
ORD	JAX	36-3	J73 J66 RMG Direct ATL J45 JAX.
ORD	JFK	1	J89 J146 JFK.
ORD	LAS	4-22-22A	JOT J60 DFN J128 J110 BLD LAS.
ORD	LAX	4-22-2-10	JOT J60 DEN J128 TBC J64 LAX.
ORD	LGA	1	J89 J146 LGA.
ORD	MCO	38-55	J73 TLH J43 PIE J103 MCO.
ORD	MDT	1-ETG-Direct.	J89 J146 ETG Direct MDT.
ORD	MIA	38-36-5	J73 TLH J43 PIE SRQ J58 BSY MIA.
ORD	MRY	4-LIN-Direct SNS Direct.	JOT J60 ILC J196 MVA J84 LIN SNS MRY.
ORD	MSY	40	J71 MEM J35 MSY.
ORD	OAK	4-LIN-Direct.	JOT J60 ILC J196 MVA J84 LIN OAK.
ORD	OKC	40-18-42-20.	J71 J24 STL J19 BUM J25 J14 OKC.
ORD	ONT	4-22-2	JOT J60 DEN J128 TBC J64 ONT.
ORD	ORF	36-15-RIC Direct ORF.	J73 J134 FLM J24 RIC ORF.
ORD	PBI	38-36-SRQ PHK Direct.	J73 TLH J43 PIE SRQ PHK PBI.
ORD	PDX	33-6-46	J89 BAE J70 ABR J90 SBA J189 PDX.
ORD	PHF	36-15-RIC-Direct.	J73 J134 FLM J24 RIC PHF.
ORD	PHL	1-MIP Direct.	J89 J146 MIP PHL.
ORD	PHX	40-18	J71 J24 STL J19 LVS J18 PHX.
ORD	PSP	40-18-18A-TNP-Direct.	J71 J24 STL J19 LVS J6 INW J96 PRC J10 TNP PSP.
ORD	PVD	7A-1A-7-BOS-Direct.	J584 CRL J554 JHW J82 ALB J16 BOS PVD.
ORD	RDU	38-15-36-DRAIK-Direct.	J73 J134 FLM J24 J75 DRAIK RDU.
ORD	RIC	38-15	J73 J134 FLM J24 RIC.
ORD	RNO	4-57	JOT J60 ILC J196 MVA J84 J92 RNO.
ORD	ROA	38-15-CRW-Direct.	J73 J134 FLM J24 CRW ROA.
ORD	SAN	40-18	J71 J24 STL J19 LVS J18 SAN.
ORD	SAT	40-18-42-42A.	J71 J24 STL J19 BUM J25 SAT.
ORD	SEA	33-6	J89 BAE J70 ABR J90 SEA.
ORD	SFO	4	JOT J60 ILC J196 MVA J84 OAK SFO.
ORD	SJC	4-LIN-Direct.	JOT J60 ILC J196 MVA J84 LIN SJC.
ORD	SLC	4-12	JOT J60 DEN J116 EKR J173 SLC.
ORD	SMF	4-LIN-Direct.	JOT J60 ILC J196 MVA J84 LIN SMF.
ORD	SRQ	38-36	J73 TLH J43 PIE SRQ.
ORD	SYR	7A-1A-J29	J584 CRL J554 JHW J29 SYR.
ORD	TPA	38	J73 TLH J43 TPA.
ORD	TUL	40-18-42	J71 J24 STL J19 BUM J25 TUL.
ORD	TUS	40-18-54-SSO-J104.	J71 J24 STL J19 LVS J104 TUS.
ORD	ACA	International.	
ORD	AMS		
ORD	ANC		
ORD	BRU		
ORD	FRA		
ORD	HNL		
ORD	LHR		
ORD	MEX		
ORD	NAS		
ORD	SJU		
ORD	YMX		
ORD	YVR		
ORD	YWG		
ORD	YYC		
PIA	ATL	38-3	Direct DNV J73 J66 RMG ATL.
PIA	DEN	Direct IOW–4.	Direct IOW J60 DEN.
SBN	DEN	Direct GSH–4.	JOT J60 DEN.

From—	To—	Coded route	Route
		Chicago Center L–II	
ORD	ICT	40-18	J71 STL J19 ICT.
		Kansas City ARTCC	
STL	BAL	15-13	J134 FLM J24 CRW J8 CSN BAL.
STL	BOS	15-53-7	J134 FLM J24 CRW J78 PSB J49 ALB J16 BOS.
STL	BUF	43-35-7B-7.	J45 J105 BAE J16 ECK HL547 BUF.
STL	CLT	15-50-SPA-Direct.	J134 FLM J24 CRW J85 SPA CLT.
STL	DCA	15-13	J134 FLM J24 CRW J8 CSN DCA.
STL	EWR	15-13	J134 FLM J24 CRW J8 RBV EWR.
STL	FLL	58-36-5	J45 BNA J73 TLH J43 PIE SRQ J58 BSY FLL.
STL	HOU	58-40-40A	J45 J71 MEM J42 J180 HOU.
STL	IAH	58-40-40A	J45 J71 MEM J42 J180 IAH.
STL	JFK	15-13	J134 FLM J24 CRW J8 RBV JFK.
STL	LAS	43-2-22A	J45 J80 MCI J24 SLN J102 ALS J64 FMN J110 BLD LAS.
STL	LAX	18-18A-10	J19 LVS J8 INW J96 PRC J10 TNP J4 J64 LAX.
STL	LGA	15-13	J134 FLM J24 CRW J8 RBV JFK.
STL	MCO	58-36-55	J45 BNA J73 TLH J43 PIE J103 ORL MCO.
STL	MIA	58-36-5	J45 BNA J73 TLH J43 PIE SRQ J58 BSY MIA.
STL	MSY	58-40	J45 J71 MEM J35 MSY.
STL	PDX	43-2-12	J45 J80 MCI J24 SLN J102 J17 DEN J116 EKR J173 SLC J15 PDX.
STL	PHL	15-13	J134 FLM J24 CRW J8 EWT PHL.
STL	PIT	15-39B	J134 FLM J24 J91 AIR PIT.
STL	RNO	43-2-22A-57.	J45 J80 MCI J24 SLN J102 ALS J64 FMN J110 BLD J92 RNO.
STL	SAN	18	J19 LVS J18 SAN.
STL	SAT	18-42-42A	J19 BUM J25 SAT.
STL	SEA	43-2-12-45.	J45 J80 MCI J24 SLN J102 J17 DEN J116 EKR J173 SLC J15 PDX J1 SEA.
STL	SFO	43-2-22A-8-45.	J45 J80 MCI J24 SLN J102 ALS J64 FMN J110 OAK SFO.
STL	SLC	43-2-12	J45 J80 MCI J24 SLN J102 J17 DEN J116 EKR J173 SLC.
STL	SYR	15-39-7-J29.	J134 FLM J24 J83 CLE J545 XU J547 BUF J29 SYR.
STL	TPA	58-36	J45 BNA J73 TLH J43 PIE TPA.
MCI	ATL	15-58-38-3.	J24 STL J45 BNA J73 J66 RMG ATL.
MCI	BAL	15-13	J24 STL J134 FLM J24 CRW J8 CSN Direct BAL.
MCI	BOS	15-53-7	J24 STL J134 FLM J24 CRW J78 PSB J49 ALB J16 BOS.
MCI	CLE	15-39	J24 STL J134 FLM J24 J83 CLE.
MCI	DTW	15-35-9-7A-CRL-Direct.	J24 J105 J94 OBK J584 CRL DTW.
MCI	EWR	15-13	J24 STL J134 FLM J24 CRW J8 RBV EWR.
MCI	IAD	15-13	J24 STL J134 FLM J24 CRW J8 CSN IAD.
MCI	IAH	42	J25 DFW J87 IAH.
MCI	LAS	2-22A	J24 SLN J102 ALS J64 FMN J110 BLD LAS.
MCI	LAX	26-18-18A-10.	J26 ICT J19 LVS J8 INW J96 PRC J10 TNP J4 J64 LAX.
MCI	LGA	15-13	J24 STL J134 FLM J24 CRW J8 RBV LGA.
MCI	MIA	15-58-38-5.	J24 STL J45 BNA J73 TLH J45 PIE SRQ J58 BSY MIA.
MCI	MSY	15-58-40	J24 STL J45 J71 MEM J35 MSY.

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From—	To—	Coded route	Route
MCI	PDX	2–12	J24 SLN J102 J17 DEN J116 EKR J173 SLC J15 PDX.
MCI	PHL	15–13	J24 STL J134 FLM J24 CRW J8 EWT PHL.
MCI	PIT	15–396	J24 STL J134 FLM J24 J91 AIR PIT.
MCI	SAN	2–3–18	J26 ICT J19 LVS J18 SAN.
MCI	SEA	2–12–45	J24 SLN J102 J17 DEN J116 EKR J173 SLC J15 PDX J1 SEA.
MCI	SFO	2–22A–8–45.	J24 SLN J102 ALS J64 FMN J110 OAK SFO.
MCI	SLC	2–12	J24 SLN J102 J17 DEN J116 EKR J173 SLC.
ICT	ATL	Direct-TUL–3.	Direct TUL J46 J41 MEM J66 RMG ATL.
Kansas City ARTCC LR–II			
ICT	ORD	37–1	J21 PWE J64 BDF J18 JOT ORD.
MCI	ABQ	42–18	BUM J19 LVS J18 ABQ.
MCI	CMH	15–39	J24 STL J134 J83 CMH.
MCI	PHX	42–18	BUM J19 LVS J18 PHX.
STL	ABQ	18	J19 LVS J18 ABQ.
STL	DEN	43–4	J45 J60 DEN.
STL	PHX	18	J19 LVS J18 PHX.
STL	TUS	18–54–10	J19 LVS J104 SSO TUS.
Houston ARTCC			
AUS	ATL	17–19–19A–33.	Direct IAH J2 LCH J22 J4 MGM J40 J89 ATL.
AUS	IAD	Direct–IAH–17.	Direct IAH J2 LCH J22 GVE IAD.
HOU	LAS	10–47–57	J86 JCT J15 INK J4 J11 PRC J92 BLD LAS.
HOU	MIA	5	J37 PEKON J86 SRQ J58 BSY MIA.
HOU	PHX	10–47	J86 JCT J15 INK J4 J11 PHX.
HOU	STL	35–3A	J33 DFW J105 SFG J8 STL.
HOU	TUS	10–SSO–J104.	J86 JCT J15 INK J4 SSO J104 TUS.
IAH	ATL	17–19–19A–33.	J2 LCH J22 MEI J20 MGM J40 J89 ATL.
IAH	BAL	17	J2 LCH J22 GVE BAL.
IAH	BOS	17–39–13–33–7.	J2 LCH J22 TYS J91 J6 J78 PSB J49 ALB J16.
IAH	CLE	17–39	J2 LCH J22 TYS J91 J83
IAH	CLT	17–17B	J2 LCH J22 CHA J118 SPA Direct.
IAH	CVG	17–59	J2 LCH J22 TYS J43 FLM Direct.
IAH	DEN	35–12	J33 DFW J58 AMA J17 DEN.
IAH	DTW	35–9–7A	J33 DFW J105 J94 OBK J584 CRL DTW.
IAH	EWR	17–31–PLUME–Direct.	J2 LCH J22 GVE J150 J55 SIE J121 PLUME EWR.
IAH	FLL	5	IAH HUB J37 PEKON J86 SRQ J58 BSY FLL.
IAH	IAD	17	J2 LCH GVE IAD.
IAH	JFK	17–31–PLUME–Direct.	J2 LCH J22 GVE J150 J55 SIE J121 PLUME EWR.
IAH	LAS	10–47–57	J86 JCT J15 INK J4 J11 PRC J92 BLD LAS.
IAH	LAX	10	J86 JCT J15 INK J4 J64 LAX
IAH	LGA	17–31–PLUME–Direct.	J2 LCH J22 GVE J150 J55 SIE J121 PLUME LGA.
IAH	MCI	35–SFG J41.	J35 DFW J105 SGF J41 MCI.
IAH	MCO	5–SRQ–TPA–55.	IAH HUB J37 PEKON J86 SRQ PIE J103 MCO.
IAH	MIA	5	HUB J37 PEKON J86 SRQ J58 BSY MIA.
IAH	ORD	35–0	J33 DFW J105 SGF J18 JOT Direct ORD.
IAH	PHL	17–31–SIE–Direct.	J2 LCH J22 GVE J150 MARBY J55 SIE Direct PHL.
IAH	PHX	10–47	J86 JCT J15 INK J4 J11 PHX.
IAH	PIT	17–396	J2 LCH J22 TYS J91 AIR Direct PIT.
IAH	SAN	10–18	J86 JCT J15 INK J4 J18 SAN.
IAH	SDF	17–33	J2 LCH J22 CHA J22 J89 SDF.
IAH	SEA	35–12	J33 DFW J58 AMA J17 DEN J116 EKR J173 SLC J15 PDX J1 SEA.
IAH	SFO	10–51–8–45.	J86 JCT J15 INK J4 EWM J86 J13 TCS J108 INW J86 BLD J110 OAK SFO.
IAH	STL	35–3A	J33 DFW J105 SGF J86 STL.
IAH	TPA	5–SRQ–Direct.	HUB J37 PEKON J86 SRQ TPA.
MSY	BAL	43–17	J35 MCB J22 GVE J37 MARBY BAL.
MSY	BOS	43–17–39–13–53–7.	J35 MCB J22 TYS J91 J83 CRW J78 PSB J49 ALB J16 BOS.
MSY	DEN	8–12	J58 AMA J17 DEN.
MSY	DTW	43–17–39–39A.	J35 MCB J22 TYS J91 J83 CLE J34 DTW.
MSY	EWR	17–31–PLUME–Direct.	J35 MCB J22 GVE J150 J55 SIE J121 PLUME EWR.
MSY	FLL	17A–5	J55 J86 SRQ J58 BSY FLL.
MSY	IAD	43–17	J35 MCA J22 GVE IAD.
MSY	JFK	17–31–PLUME–Direct.	J35 MCB J22 GVE J150 J55 SIE J121 PLUME JFK.
MSY	LAS	10–47–57	J37 J86 JCT J15 INK J4 J11 PRC J92 BLD LAS.
MSY	LAX	10	J37 J86 JCT J15 INK J4 J64 LAX.
MSY	LGA	43–17–31–PLUME–Direct.	J35 MCB J22 GVE J150 J55 SIE J121 PLUME LGA.
MSY	MCI	43–2	J35 STL J45 J80 MCI.
MSY	MIA	17A–5	J55 J86 SRQ J58 BSY MIA.
MSY	ORD	43–35–1	J35 STL J45 J105 BDF J18 JOT ORD.
MSY	PHL	43–17–31–SIE–Direct.	MSY J35 MCB J22 GVE J150 MARBY J55 SIE PHL.
MSY	PIT	43–17–398	J35 MSB J22 TYS J91 BELAIR Direct PIT.
MSY	SFO	34–10–51–6–45.	J37 J86 JCT J15 INK J4 EWM J86 J13 TCS J108 INW J86 BLD J110 OAK SFO.
MSY	STL	43	J35 STL.
SAT	ABQ	37–10–51	J23 J86 JCT J15 INK J4 EWM J86 J13 ABQ.
SAT	ATL	17–19–19A–33.	J2 LCH J22 MEI J4 MGM J40 J89 ATL.
SAT	DEN	37–12	J23 J58 AMA J17 DEN.
SAT	LAX	37–10	J23 J86 JCT J15 INK J4 J64 LAX.
SAT	ORD	37–13–35–1.	J23 J4 DFW J105 BDF J18 JOT ORD.
SAT	PHX	37–10–47	J23 J86 JCT J15 INK J4 J11 PHX.
SAT	SFO	37–10–51–6–45.	J23 J86 JCT J15 INK J4 EWM J86 J13 TCS J108 INW J86 BLD J110 OAK SFO.
SAT	STL	37–13–35–3A.	J23 J4 DFW J105 SFG J98
Houston ARTCC LR–II			
IAH	JAX	17–19	J2 LCH J22 MEI J4 MGM J20 TLH J2 JAX.
Seattle Center			
EUG	LAX	Direct LMT–46.	LMT J189 AVE J1 LAX.
GEG	DEN	46A–48	J517 J20 DEN.
GEG	LAX	6–46	J90 SEA J189 AVE J1 LAX.
GEG	MSP	46A–7	J517 J16 DPR J32 ABR J70 MSP.
GEG	ORD	46A–7–58–7A	J517 J16 MCW J90 OBK ORD.
PDX	BUR	46	J189 AVE J1 BUR.
PDX	DEN	7–48	J16 PDT J20 DEN.
PDX	DFW	7–48	J16 PDT J20 LBL J98 OKC J21 DFW.
PDX	LAS	46–9–52	J189 J80 OAL J92 LAS.
PDX	LAX	46	J189 AVE J1 LAX.
PDX	MCI	7–48–15	J16 PDT J20 DEN J80 MCI.
PDX	ORD	7–58–7A	J16 MCW J90 OBK ORD.
PDX	PHX	46–3–5–5A	J189 AVE J1 LAX J78 TRM J189 BLH J50 GBN J18 PHX.
PDX	STL	46–9–52–LIN Direct.	J189 J80 OAL J92 LAS.
PDX	SAN	46–9–52–LIN Direct.	J189 J80 OAL J92 LAS.
PDX	SEA	46	J189 AVE J1 LAX.
PDX	SFO	46–4	J189 LIN J84 OAK.
PDX	SLC	7–48–44	J16 PDT J20 SLC 360° r SLC.
SEA	BIL	48–7	J20 PDT J16 BIL.
SEA	OAK	46–4	J189 LIN J84 OAK.
SEA	SFO	46–4	J189 LIN J84 OAK SFO.
SEA	SJC	46–LIN Direct.	J189 LIN SJC.
SEA	SLC	48–44	J20 SLC 360°R SLC.
SEA	SMF	46	J189 J7 SMF.
Salt Lake Center			
BIL	ORD	7–58–7A	J16–MCW J90 OBK ORD.
BOI	LAX	46A–46	J7 LIN J189 AVE J1 LAX.
BOI	ORD	49–7–58–7A.	J7 HIE J16 MCW J90 OBK ORD.
SLC	ATL	21–48–3–J154	RKS J20 LBL J98 OKC J78 TUL J46 J41 MEM J66 RMG ATL.
SLC	DFW	21–48–J154.	RKS J20 LBL J98 OKC J21 DFW.
SLC	JFK	21–48–9–7A–1.	J154 RKS J20 J148 ONL J94 OBK J94 OBK J584 CRL J34 J146 JFK.
SLC	MCI	21–48–15	J154 RKS J20 DEN J80 MCI.
SLC	MSP	21–51A–7	J154 RKS J202 CPR J158 ABR J70 MSP.
SLC	ORD	21–48–9	J154 RKS J20 J148 ONL J94 OBK ORD.
SLC	STL	21–48–15	J154 RKS J20 DEN J80 MCI J24 STL.
Salt Lake Center LR–II			
BIL	MSP	7	J16 DPR J32 ABR J70 MSP.
BIL	SEA	51–6	J13 J90 SEA.
BOI	DEN	49–48	J7 J20 DEN.
SLC	BUR	44–2	J11 J84 LAX BUR.
SLC	LAX	44–2	J11 J84 LAX.
SLC	OAK	12–24–4	J15 J158 MVA J84 OAK.
SLC	ONT	44–2	J11 J84 LAX.
SLC	SAN	44–18	J11 PHX J18 SAN.
SLC	SEA	12–46	J15 PDX J1 SEA.
SLC	SFO	12–24–4	J15 J158 MVA J84 OAK SFO.
SLC	SJC	12–24–4–LIN Direct.	J15 J158 MVA J84 LIN SJC.
SLC	SMF	12–24–4–LIN Direct.	J15 J158 MVA J84 LIN SMF.
SLC	PDX	12	J15 PDX.
Jacksonville ARTCC			
CAE	JFK	55B–55c–31–PLUME–Direct.	J51 ORF J121 PLUME JFK.

From—	To—	Coded route	Route
CAE	LGA	55B–55c–31–PLUME–Direct.	J51 ORF J121 PLUME LGA.
CHS	JFK	55–31–PLUME–Direct.	J121 PLUME JFK.
DAB	LGA	55–31–PLUME–Direct.	J103 STARY J121 PLUME LGA.
JAX	DFW	26–8	J2 CEW J50 AEX J58 DFW.
JAX	JFK	55–31–PLUME–Direct.	J103 STARY J121 PLUME JFK.
JAX	LGA	55–31–PLUME–Direct.	J103 STARY J121 PLUME LGA.
JAX	ORD	26–33	J2 J89 ORD.
JAX	PHL	55–31–SIE–Direct.	J103 STARY J121 SIE PHL.
Jacksonville ARTCC LR–II			
JAX	DCA	55A–55B	J121 STARY J103 J57 CAE J52 RIC Direct DCA.
JAX	IAH	26–40A	J2 CEW J50 J180 IAH.
CAE	MIA	36–3	J75 J45 JAX J53 BSY MIA.
Fort Worth ARTCC			
DFW	ATL	19–19A–33	J4 MGM J40 J89 ATL.
DFW	BAL	13	J66 LIT J6 CRW J8 BAL.
DFW	BDL	13–53–ALB–Direct.	J66 LIT J6 CRW J78 PSB J49 ALB Direct BDL.
DFW	BHM	19–17	J4 MEI J22 BHM.
DFW	BOS	13–53–7	J66 LIT J6 CRW J78 PSB J49 ALB J16 BOS.
DFW	CLE	35–1	J105 BDF J18 JOT J146 J34 CLE.
DFW	CLT	19–17–17B	J4 J22 CHA J118 SPA CLT.
DFW	CMH	35–3A–15–39.	J105 SGF J8 STL J134 FLM J24 J83 CMH.
DFW	COS	12	J58 AMA J17 COS.
DFW	CVG	35–3A–15	J105 SGF J8 STL J134 FLM CVG.
DFW	DAY	35–3A–15–59.	J105 SGF J8 STL J134 FLM J43 DAY.
DFW	DEN	12	J58 AMA J17 DEN.
DFW	DTW	35–9–7A	J105 J84 OBK J584 CRL DTW.
DFW	EWR	13	J66 LIT J6 CRW J8 RBV EWR.
DFW	FLL	42–5	J87 IAH–HUB J37 PEKON J86 SRQ J58 BSY FLL.
DFW	GSO	19–17–17B	J4 MEI J22 CHA J118 SPA J14 GSO.
DFW	IAD	13	J66 LIT J6 CRW J8 CSN IAD.
DFW	IND	35–3A–15–33.	J105 J6 STL J134 J89 IND.
DFW	JAX	19	J4 MGM J20 TLH J2 JAX.
DFW	JFK	13	J66 LIT J6 CRW J8 RBV JFK.
DFW	LAS	14–8	J4 ABI J65 TCS J108 INW J86 BLD LAS.
DFW	LAX	14–10	J4 J64 LAX.
DFW	LGA	13	J66 LIT J6 CRW J8 RBV LGA.
DFW	MCO	42–5–SRQ–TPA–55.	J87 IAH HUB J37 PEKON J86 SRQ–TPA J103 MCO.
DFW	MIA	42–5	J87 IAH HUB J37 PEKON J86 SRQ J58 BSY–MIA.
DFW	MKE	35	J105 BAE–MKE.
DFW	MLI	36–BDF–Direct.	J105 BDF Direct MLI.
DFW	MSP	12–37	J58 J23 OKC J21 MSP.
DFW	ONT	14–10	J4 J64 ONT.
DFW	ORD	35–1	J105 BDF J18 JOT ORD.
DFW	PDX	12	J58 AMA J17 DEN J116 EKR J173 SLC J15 PDX.
DFW	PHL	13	J66 LIT J6 CRW J8 EWT PHL.
DFW	PIT	13–398	J66 LIT J6 J91 AIR PIT.
DFW	PSP	14–10–J74	J4 J74 PSP.
DFW	RDU	19–19A–55A–55B.	J4 MGM J40 J51 RDU.
DFW	RNO	8–57	J4 ABI J65 TCS J108 INW J86 BLD J92 RNO.
DFW	SAN	14–10–18	J4 J18 SAN.
DFW	SDF	13–33	J66 LIT J6 J89 SDF.
DFW	SEA	12–45	J58 AMA J17 DEN J116 EKR J173 SLC J15 PDX J1 SEA.
DFW	SFO	14–8–45	J4 ABI J65 TCS J108 INW J86 BLD J110 OAK SFO.
DFW	SJC	14–8–45	J4 ABI J65 TCS J108 INW J86 BLD J110 SNS SJC.
DFW	SLC	12	J58 AMA J17 DEN J116 EKR J173 SLC.
DFW	TPA	42–5–SRQ–Direct.	J87 IAH HUB J37 PEKON J86 SRQ TPA.
OKC	ATL	3	J78 TUL J46 J41 MEM J66 RMG ATL.
OKC	LAX	20–18A–10	J20 J8 INW J86 PRC J10 TNP J4 J64 LAX.
OKC	LGA	3–13	J78 TUL J46 J41 MEM J6 CRW J8 RBV LGA.
OKC	ORD	3–3A–35–1	J78 TUL J98 SGF J105 BDF J18 JOT ORD.
OKC	TPA	48–42–5–SRQ–Direct.	J21 DFW J87 IAH–HUB J37 PEKON J86 SRQ TPA.
TUL	ATL	3	J46 J41 MEM J66 RMG ATL.
TUL	IAD	3–13	J78 TUL J46 J41 J6 CRW J8 CSN IAD.
TUL	LAX	Direct–OKC–20–18A–10.	OKC J20 J8 INW J86 PRC J10 J64 LAX.
TUL	ORD	3A–35–1	J98 SGF J105 BDF J18 JOT ORD.
Fort Worth ARTCC LR–II			
DFW	ABQ	12–20–18	J58 J8 LVS J18 ABQ.
DFW	BNA	13	J66 LIT J6 J45 LIT.
DFW	PHX	8–18	J4 TOA J65 TCS J108 SJN J18 PHX.
DFW	TUS	14–10	J4 SSO TUS.
OKC	PHX	20–18	J8 LVS J18 PHX.
Minneapolis Center			
MSP	ATL	38–3	J36 BAE J89 OBK J73 J66 RMG ATL.
MSP	BOS	7	J106 GRB J38 ECK HL547 BUF J16 BOS.
MSP	BUF	7	J106 GRB J38 ECK HL547 BUF.
MSP	CLE	7–50	J106 GRB J38 ECK HL547 XU J545 CLE.
MSP	DCA	7–50–7A	J106 GRB J38 ECK HL547 XU J545 CLE J518 EMI DCA.
MSP	DFW	42	J25 DFW.
MSP	EWR	7–50–1	J106 GRB J38 ECK HL547 XU HL545 J146 EWR.
MSP	GEG	6	J70 ABR J90 GEG.
MSP	JFK	7–50–1	J106 GRB J38 ECK HL547 XU HL545 J146 JFK.
MSP	LAS	22–22A	J114 DEN J128 J110 BLD LAS.
MSP	LAX	22–2	J114 DEN J128 TBC J64 LAX.
MSP	LGA	7–50–1	J106 GRB J38 ECK HL547 XU HL545 J146 JFK.
MSP	MEM	42–58–40	J25 DSM J45 J71 MEM.
MSP	MIA	38–36–5	J36 BAE J89 OBK J73 TLN J43 PIE SRQ J58 BSY MIA.
MSP	PHL	7–50–1–MIP–Direct.	J106 GRB J38 ECK HL547 XU HL545 J146 MIP PHL.
MSP	PHX	22–2–44	J114 DEN J128 TBC J64 J11 PHX.
MSP	PIT	7–50–7A	J106 GRB J38 ECK HL547 XU J545 CLE J578 PIT.
MSP	RNO	6–24–4–57	J70 ABR J32 MLD J158 MVA J84 J92 RNO.
MSP	SEA	6	J70 ABR J90 SEA.
MSP	SFO	6–24–4	J70 ABR J32 MLD J158 MVA J84 OAK SFO.
MSP	SLC	6–24–44	J70 ARB J32 SLC 360°R SLC.
MSP	TPA	36	J36 BAE J89 OBK J73 TLH J43 PIE TPA.
MSP	YEG		
OMA	LAX	4–22–2	J60 DEN J128 TBC J64 LAX.
OMA	SLC	4–12	J60 DEN J116 EKR J173 SLC.
OMA	SFO	4	J60 ILC J198 MVA J84 OAK SFO.
Minneapolis Centre LR–II			
MSP	BIL	6–MLS–Direct.	J70 ABR J90 MLS BIL.
MSP	DEN	22	J114 DEN.
Cleveland ARTCC			
BUF	ATL	6–50–34	J547 XU J545 CLE J85 SPA J37 ATL.
BUF	MCO	6–50–3	J547 XU J545 CLE J85 AMC J45 JAX J53 MCO.
BUF	MEM	6B–50–50B–14.	J547 XU J545 CLE J29 ROD J39 BNA J42 MEM.
BUF	MIA	6–50–3	J547 XU J545 CLE J85 AMG J45 JAX J53 BSY MIA.
BUF	MSP	6	J547 ECK J36 GRB J106 MSP.
BUF	PBI	6–50–3	J545 XU J545 CLE J85 AMG J45 JAX J53 270°/ PBI PBI.
BUF	STL	6–50–50B–18.	J545 XU J545 CLE J29 ROD J39 J80 IND.
BUF	TPA	6–50–36	J545 XU J545 CLE J85 TAY J75 PIE TPA.
CAK	DEN	Direct–CLE–4.	CLE J60 DEN.
CAK	TPA	50–36	J85 TAY J75 PIE TPA.
CLE	BOS	39–1A–7	J545 J554 JHW J82 ALB J16 BOS.
CLE	DEN	4	J60 DEN.
CLE	DFW	50B–18–42	J29 ROD J39 J80 IND J24 STL J19 BUM J25.
CLE	FLL	50–3	J85 AMG J45 JAX J53 BSY FLL.
CLE	IAH	50B–14	CRL J34 CLE J29 ROD J39 BNA J42 J180 IAH.
CLE	LAS	4–22–22A	J60 DEN J128 J110 BLD LAX.
CLE	LAX	4–22–2	J60 DEN J128 TBC J64 LAX.
CLE	MCI	50B–2	J29 ROD J39 J80 MCI.
CLE	MCO	50–3	J85 AMG J45 JAX J53 ORL MCO.
CLE	MEM	50B–14	J29 ROD J39 BNA J42 MEM.
CLE	MIA	50–3	J85 AMG J45 JAX J53 BSY MIA.
CLE	MSP	39A–33	J34 BAE J70 MSP.
CLE	PBI	50–3	J85 AMG J45 JAX J53 270°/PBI PBI.
CLE	PHX	50B–18	J29 ROD J39 J80 IND J24 STL J19 LVS J18 PHX.
CLE	SAN	50B–18	J29 ROD J39 J80 IND J24 STL J19 LVS J18 SAN.
CLE	SFO	4	J60 ILC J198 MVA J84 OAK SFO.
CLE	TPA	50–36	J85 TAY J75 PIE TPA.
DTW	ATL	7A–50–34	CRL J34 CLE J85 SPA J37 ATL.
DTW	BOS	Direct–CRL–1A–7.	CRL J554 JHW J82 ALB J16 BOS.
DTW	DEN	J43–4	J43 J60 DEN.
DTW	DFW	J43–4–42	J43 J60 J25 DFW.
DTW	FLL	7A–50–3	CRL J34 CLE J85 AMG J45 JAX J53 BSY FLL.
DTW	IAH	7A–50B–14–40A.	CRL J34 CLE J29 ROD J39 BNA J42 J180 IAH.
DTW	LAS	J43–4–22–22A.	J43 J60 DEN J128 J110 BLD LAS.
DTW	LAX	J43–4–22–2	J43 J60 DEN J128 TBC J64 LAX.
DTW	MCI	7A–50B–2	CRL J34 CLE J29 ROD J39 J80 MCI.
DTW	MCO	7A–50–3	CRL J34 CLE J85 AMG J45 JAX J53 ORL MCO.
DTW	MEM	7A–50B–14	CRL J34 CLE J29 ROD J39 BNA J42 MEM.
DTW	MIA	7A–50–3	CRL J34 CLE J85 AMG J45 JAX J53 BSY MIA.
DTW	MSY	7A–50B–14–40.	CRL J34 CLE J29 ROD J39 BNA J42 MEM J35 MSY.
DTW	PBI	7A–50–3	CRL J34 CLE J85 AMG J45 JAX J53 270°/PBI PBI.
DTW	PHX	Direct–CRL–J43–4–40–18.	CRL J43 J60 J71 J24 STL J19 LVS J18 PHX.
DTW	SFO	J43–4	J43 J60 ILC J198 MVA J84 OAK SFO.
DTW	SRQ	7A–50–36	CRL J34 CLE J85 TAY J75 PIE SRQ.

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From—	To—	Coded route	Route
DTW	TPA	7A-50-36	CRL J34 CLE J85 TAY J75 PIE TPA.
MBS	DEN	6-22	J38 GRB J106 MSP J114 DEN.
PIT	BHM	50A-50-34-20.	J145 CRW J85 SPA J37 ATL J52 BHM.
PIT	DEN	Direct-EWC-Direct-CLE-4.	EWC-CLE J80 DEN.
PIT	DFW	50A-2-18-42.	J145 J80 IND J24 STL J19 BUM J25 DFW.
PIT	FLL	50A-50-3	J145 CRW J85 AMG J45 JAX J53 BSY FLL.
PIT	FMY	50A-50-36-5.	J145 CRW J85 TAY J75 PIE-SRQ J58 FMY.
PIT	IAH	50A-50-14-40A.	J145 CRW J85 J42 J180 IAH.
PIT	LAS	50A-2-22A	J145 J80 MCI J24 SLN J102 ALS J64 FMN J110 BLD-LAS.
PIT	LAX	50A-2	J145 J80 MCI J24 SLN J102 ALS J64 LAX.
PIT	MCI	50A-2	J145 J80 MCI.
PIT	MCO	50A-50-3	J145 CRW J85 AMG J45 JAX J53 ORL-MCO.
PIT	MEM	50A-50-14	J145 CRW J85 J42 MEM.
PIT	MIA	50A-50-3	J145 CRW J85 AMG J45 JAX J53 BSY-MIA.
PIT	MSP	39A-33	J51 CLE J34 BAE J70 MSP.
PIT	MSY	50A-50-34	J145 CRW J85 SPA J37 MSY.
PIT	PBI	50A-50-3	J145 CRW J85 AMG J45 JAX J53 PBI/270° PBI.
PIT	PHX	50A-2-18	J145 J80 IND J24 STL J19 LVS J18 PHX.
PIT	SFO	Direct-EWC-Direct-CLE-4.	EWC-CLE J80 ILS J198 MVA J84 OAK-SFO.
PIT	SRQ	50A-50-36	J145 CRW J85 TAY J75 PIE-SRQ.
PIT	STL	50A-18	J145 J80 IND-J24 STL.
PIT	TPA	50A-50-36	J145 CRW J85 TAY J75 TPA.
ROC	ATL	6-50-34	BUF J547 XU J545 CLE J85 SPA J37 ATL.
ROC	FLL	6-50-3	BUF J547 XU J545 CLE J85 AMG J45 JAX J53 BSY-FLL.
ROC	MCO	6-50-3	BUF J547 XU J545 CLE J85 AMG J45 JAX J53 ORL MCO.
ROC	MEM	6B-50-50B-14.	BUF J547 XU J545 CLE J29 ROD J39 BNA J42 MEM.
ROC	MIA	6-50-3	BUF J547 XU J545 CLE J85 AMG J45 JAX J53 BSY-MIA.
ROC	TPA	6-50-36	BUF J547 XU J545 CLE J85 TAY J75 TPA.
TOL	DEN	4	J80 DEN.

Washington ARTCC

DCA	BNA	14	J42 BNA.
DCA	HSV	14-Direct-HSV.	J42 BNA HSV.
DCA	MCO	36-3	J37 GVE J75 J45 JAX J53 ORL MCO.
DCA	MEM	14	J42 MEM.
DCA	MIA	Direct RIC ORF 32.	RIC ORF J79 ILM CLB AR1 BSY MIA.
DCA	MKE	16-33	CSN J149 FWA J64 J89 BAE MKE.
DCA	MSP	16-33	CSN J149 FWA J64 J89 BAE J70 MSP.
DCA	ORD	16	CSN J149 FWA J64 J89 ORD.
DCA	PBI	Direct RIC ORF 32.	RIC ORF J79 ILM CLB AR1 PBI/090° PBI.
DCA	STL	16	CSN J149 J80 IND J24 IND.
DCA	TPA	36	J37 GVE J75 PIE TPA.
IAD	AUS	14-42A	CSN J42 DFW J25 AUS.
IAD	DEN	16-2-12	CSN J149 J80 MCI J24 SLN J102 J17 DEN.
IAD	DFW	14	CSN J42 DFW.
IAD	IAH	14-40A	CSN J42 J180 IAH.
IAD	LAX	16-18A-10	CSN J149 J80 IND J24 STL J19 LVS J8 INW J86 PRC J10 TNP J4 J64 LAX.
IAD	MCI	18-2	CSN J149 J80 MCI.
IAD	MIA	Direct RIC ORF 32.	RIC ORF J79 ILM CLB AR1 BSY MIA.
IAD	MSY	36-34	J37 MSY.
IAD	ORD	16	CSN J149 FWA J64 J89 ORD.
IAD	PHX	18	CSN J149 J80 IND J24 STL J19 LVS J18 PHX.
IAD	SAN	18	CSN J149 J80 IND J24 STL J19 LVS J18 SAN.
IAD	SEA	18-2-43-6	CSN J149 J80 J45 ABR J90 SEA.
IAD	SFO	16-16A-4	CSN J149 J64 J89 J60 ILC J196 MVA J84 OAK SFO.
IAD	TUL	18-42	CSN J149 J80 IND J24 STL J19 BUM J25 TUL.
BAL	CMI	14-18 IND Direct.	J42 CSN J149 J80 IND CMI.
BAL	DEN	14-18-2-12.	J42 CSN J149 J80 MCI J24 SLN J102 J17 DEN.
BAL	DFW	14	J42 DFW.
BAL	FLL	Direct RIC ORF 32.	RIC ORF J79 ILM CLB AR1 FLL/090° FLL.
BAL	IAH	14-40A	J42 J180 IAH.
BAL	MCI	14-18-2	J42 CSN J149 J80 MCI.
BAL	MCO	36-3	J37 GVE J75 J45 JAX J53 ORL MCO.
BAL	MEM	14	J42 MEM.
BAL	MIA	Direct RIC ORF 32.	RIC ORF J79 ILM CLB AR1 BSY MIA.
BAL	MSY	36-34	J37 MSY.
BAL	ORD	14-16	J42 CSN J149 FWA J64 J89 ORD.
BAL	STL	14-18	J42 CSN J149 J80 IND J24 STL.
BAL	TPA	36	J37 GVE J75 PIE TPA.
ORF	MEM	Direct RIC GVE 34A-14.	RIC GVE J147 BKW J42 MEM.
ORF	ORD	Direct RIC CSN-16.	RIC CSN J149 FWA J64 J89 ORD.
RIC	MEM	Direct GVE-34A-15.	GVE J147 BKW J42 MEM.
RIC	ORD	Direct CSN-16.	CSN J149 FWA J64 J89 ORD.
RDU	BOS	55C-31	J51 ORF J121 PVD J55 BOS.
RDU	DFW	Direct GSO 34-20-14.	GSO GSO/270° J37 ATL J52 BHM J14 J42 DFW.
RDU	MEM	Direct GSO 34-20-43.	GSO GSO/270° J37 ATL J52 BHM J14 J35 MEM.
RDU	MIA	Direct ILM 32.	ILM CLB AR1 BSY MIA.
RDU	ORD	55B RIC-CSN-16.	J52 RIC CSN J149 FWA J64 J89 ORD.
RDU	TPA	Direct-GSO-36.	GSO J75 PIE TPA.
ROA	ORD	Direct EKN-16.	EKN J149 FWA J64 J89 ORD.
PHF	ORD	Direct RIC-CSN 16.	RIC CSN J149 FWA J64 J89 ORD.

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BAL	ATL	36-34	J37 ATL.
DCA	JAX	36-3	GVE J75 J45 JAX.
RIC	MEM	Direct GVE-34A-14.	GVE J147 BKW J42 MEM.

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FLL	ATL	33	J85 LAL J89 ATL.
FLL	BAL	31 ORF RIC 55B.	Direct ZBB AR7 HAH J79 ORF RIC J40 MARBY BAL.
FLL	BDL	31-HTO-Direct.	Direct ZBB AR7 HAH J79 ORF J121 HTO BDL.
FLL	BNA	33-14	J85 LAL J89 J42 BNA.
FLL	BOS	31	Direct ZBB AR7 HAH J79 ORF J121 PVD J55 BOS.
FLL	BUF	55A-39-7	J79 DAB J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
FLL	CLE	55A-39	J79 DAB J103 SAV J51 CAE J47 SPA J83 CLE.
FLL	CMH	55A-39	J79 DAB J103 SAV J51 CAE J47 SPA J83 CMH.
FLL	DFW	10-8	J86 NEPTUNE J58 DFW.
FLL	DTW	55A-39-39A.	J79 DAB J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
FLL	EWR	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME EWR.
FLL	HSV	33-41-BHM Direct.	J85 LAL J89 J20 TLH J41 BHM.
FLL	IAH	10	J86 IAH.
FLL	JFK	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME JFK.
FLL	LAX	10	J86 JCT J15 INK J4 J64 LAX.
FLL	LGA	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME LGA.
FLL	MSY	10-8	J86 NEPTUNE J58 MSY.
FLL	ORD	33	J85 LAL J89 OBK ORD.
FLL	PHL	31 SIE Direct.	Direct ZBB AR7 HAH J79 ORF J121 SIE PHL.
FLL	PIT	55A-39B	J79 DAB J103 SAV J51 CAE J47 SPA J83 J91 AIR PIT.
FLL	ROC	55A-39-7 BUF Direct.	J79 DAB J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF ROC.
FLL	STL	33-41-43	J85 LAL J89 J20 TLH J41 VUZ J151 FAM J35 STL.
FMY	JFK	Direct-LAL 55-31 PLUME Direct.	Direct LAL J75 J103 STARY J121 PLUME JFK.
FMY	ORD	Direct LAL 33.	Direct LAL J89 OBK ORD.
FMY	PIT	Direct LAL 55-55A-39B.	Direct LAL J75 J103 SAV J51 CAE J47 SPA J83 J01 AIR PIT.
MCO	BAL	55-55A-55B.	J103 SAV J57 CAE J52 RIC J40 MARBY BAL.
MCO	BDL	55-31-HTO Direct.	J103 STARY J121 HTO BDL.
MCO	BOS	55-31	J103 STARY J121 PVD J55 BOS.
MCO	BUF	55-55A-39-7.	J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
MCO	CLE	55-55A-39	J103 SAV J51 CAE J47 SPA J83 CLE.
MCO	CMH	55-55A-39	J103 SAV J51 CAE J47 SPA J83 CMH.
MCO	CVG	28-33-39-59.	J103 J89 ATL J91 TYS J43 FLM CVG.
MCO	DCA	55-55A-55B.	J103 SAV J57 CAE J52 RIC J40 MARBY DCA.
MCO	DFW	28-36-8	J103 PIE SRQ J86 NEPTUNE J58 DFW.
MCO	DTW	55-55A-39-39A.	J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
MCO	EWR	55-31 PLUME Direct.	J103 STARY J121 PLUME EWR.
MCO	IAH	55-36-10	J103 PIE SRQ J86 IAH.
MCO	IND	28-33	J103 J89 IND.
MCO	JFK	55-31 PLUME Direct.	J103 STARY J121 PLUME JFK.
MCO	LGA	55-31 PLUME Direct.	J103 STARY J121 PLUME LGA.
MCO	MEM	28-33-41-20-43.	J103 J89 J20 TLH J41 BHM J14 J35 MEM.
MCO	MSY	28-36-10-8.	J103 PIE SRQ J86 NEPTUNE J58 MSY.
MCO	ORD	28-33	J103 J89 OBK ORD.
MCO	PHL	55-31 SIE Direct.	J103 STARY J121 SIE PHL.
MCO	PIT	55-55A-39B.	J103 SAV J51 CAE J47 SPA J83 J91 AIR PIT.
MCO	ROC	55-55A-39-7.	J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF ROC.
MCO	SDF	28-33	J103 J89 SDF.
MCO	STL	28-33-41-43.	J103 J89 J20 TLH J41 VUZ J151 FAM J35 STL.
MIA	ATL	33	J85 LAL J89 ATL.
MIA	BAL	31 ORF-RIC 55B.	Direct ZBB AR7 HAH J79 ORF RIC J40 MARBY BAL.
MIA	BDL	31 HTO Direct.	Direct ZBB AR7 HAH J79 ORF J121 HTO BDL.
MIA	BOS	31	Direct ZBB AR7 HAH J79 ORF J121 PVD J55 BOS.

From—	To—	Coded route	Route
MIA	BUF	55A-39-7	J79 DAB J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
MIA	CLE	55A-39	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE.
MIA	CLT	55A-17B	J79 OMN J103 SAV J51 CAE J47 SPA CLT.
MIA	CMH	55A-39	J79 OMN J103 SAV J51 CAE J47 SPA J83 CMH.
MIA	CVG	33-39-59	J85 LAL J89 ATL J91 TYS J43 FLM CVG.
MIA	DCA	31 ORF Direct RIC 55B.	Direct ZBB AR7 HAH J79 ORF RIC J40 MARBY DCA.
MIA	DEN	10-8-12	J86 NEPTUNE J58 AMA J17 DEN.
MIA	DFW	10-8	J86 NEPTUNE J58 DFW.
MIA	DTW	55A-39-39A.	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
MIA	EWR	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME EWR.
MIA	GSO	55A-17B	J79 OMN J103 SAV J51 CAE J47 SPA J14 GSO.
MIA	HOU	10	J86 HOU.
MIA	IAD	31 ORF Direct RIC 55B.	Direct ZBB AR7 HAH J79 ORF RIC J40 MARBY IAD.
MIA	IAH	10	J86 IAH.
MIA	IND	33	J85 LAL J89 IND.
MIA	JFK	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME JFK.
MIA	LAX	10	J86 JCT J15 INK J4 J64 LAX.
MIA	LGA	31 PLUME Direct.	Direct ZBB AR7 HAH J79 ORF J121 PLUME LGA.
MIA	MCI	33-41-43-2.	J85 LAL J89 J20 TLH J41 BHM J151 FAM J35 STL J45 J80 MCI.
MIA	MEM	33-41-20-43.	J85 LAL J89 J20 TLH J41 BHM J14 J35 MEM.
MIA	MKE	33	J85 LAL J89 BAE.
MIA	MSP	33-41-43-37.	J85 LAL J89 J20 TLH J41 BHM J151 FAM J35 STL J45 J21 MSP.
MIA	MSY	10-8	J86 NEPTUNE J98 MSY.
MIA	ORD	33	J85 LAL J89 OBK ORD.
MIA	PHL	31 SIE Direct.	Direct ZBB AR7 HAH J79 ORF J121 SIE PHL.
MIA	PIT	55A-39B	J79 OMN J103 SAV J51 CAE J47 SPA J83 J91 AIR PIT.
MIA	PVD	31	Direct ZBB AR7 HAH J79 ORF J121 PVD.
MIA	RDU	55A-55B	J79 OMN J103 SAV J51 CAE J52 RDU.
MIA	ROC	55A-39-7-BUF Direct.	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF ROC.
MIA	SFO	10-8-45	J86 NEPTUNE J58 DFW J4 TQA J65 TCS J108 INW J86 BLD J110 OAK SFO.
MIA	STL	33-41-43	J85 LAL J89 J20 TLH J41 BHM J15 FAM J35 STL.
PBI	BOS	31	PBI 090°R AR7 HAH J19 ORF J121 PVD J55 BOS.
PBI	BUF	55A-39-7	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
PBI	CLE	55A-39	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE.
PBI	DCA	31 ORF Direct RIC 55B.	PBI 090°R AR7 HAH J79 ORF RIC J40 MARBY DCA.
PBI	DTW	55A-39-39A.	J79 OMN J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
PBI	EWR	31 PLUME Direct.	PBI 090°R AR7 HAH J79 ORF J121 PLUME EWR.
PBI	JFK	31 PLUME Direct.	PBI 090°R AR7 HAH J79 ORF J121 PLUME JFK.
PBI	LGA	31 PLUME Direct.	PBI 090°R AR7 HAH J79 ORF J121 PLUME LGA.
PBI	ORD	33	PBI 270°R J85 LAL J89 OBK ORD.
PBI	PHL	31 SIE Direct.	PBI 090°R AR7 HAH J79 ORF J121 SIE PHL.
PBI	PIT	55A-39B	J79 OMN J103 SAV JAV J51 CAE SPA J83 J91 AIR PIT.
SRQ	DTW	Direct LAL 55-55A-39-39A.	Direct LAL J75 J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
SRQ	EWR	Direct LAL 55-31-PLUME Direct.	Direct LAL J75 J103 STARY J121 PLUME EWR.
SRQ	JFK	Direct LAL 55-31-PLUME Direct.	Direct LAL J75 J103 STARY J121 PLUME JFK.
SRQ	ORD	55-33	Direct LAL J89 OBK ORD.
SRQ	PIT	Direct LAL 55-55A-39B.	Direct LAL J75 J103 SAV J51 CAE J47 SPA J83 J91 AIR PIT.
TPA	BAL	55-55A-55B.	J103 SAV J57 CAE J52 RIC J40 MARBY BAL.
TPA	BDL	55-31-HTO Direct.	J103 STARY J121 HTO BDL.
TPA	BNA	55-33-14	J103 J89 J42 BNA
TPA	BOS	55-31	J103 STARY J121 PVD J55 BOS.
TPA	BUF	55-55A-39-7.	J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
TPA	CAK	55-55A-39-CMH Direct.	J103 SAV J51 CAE J47 SPA J83 CMH CAK.
TPA	CLE	55-55A-39	J103 SAV J51 CAE J47 SPA J83 CLE.
TPA	CMH	55-55A-39	J103 SAV J51 CAE J47 SPA J83 CMH.
TPA	CVG	55-33-39-59.	J103 J89 ATL J91 TYS J43 FLM CVG.
TPA	DCA	55-55A-55B.	J103 SAV J51 CAE J52 RIC J40 MARBY DCA.
TPA	DEN	36-8-12	Direct SRQ J86 NEPTUNE J58 AMA J17 DEN.
TPA	DFW	36-8	Direct SRQ J86 NEPTUNE J58 DFW.
TPA	DTW	55-55A-39-39A.	J103 SAV J51 CAE J47 SPA J83 CLE J34 CRL DTW.
TPA	EWR	55-31 PLUME Direct.	J103 STARY J121 PLUME EWR.
TPA	IAH	10	Direct SRQ J86 IAH.
TPA	IND	55-33	J103 J89 IND.
TPA	JFK	55-31 PLUME Direct.	J103 STARY J121 PLUME JFK.
TPA	LGA	55-31 PLUME Direct.	J103 STARY J121 PLUME LGA.
TPA	MEM	55-33-41-20-43.	J103 J89 J20 TLH J41 BHM J14 J35 MEM.
TPA	MKE	55-33	J103 J89 BAE.
TPA	MSP	55-41-43-37.	J103 J89 J20 TLH J41 BHM J151 FAM J35 STL J45 J21 MSP
TPA	OKC	28-41-20	J103 J89 J20 TLH J41 BHM J14 OKC.
TPA	ORD	55-33	J103 J89 OBK ORD.
TPA	PHL	55-31-SIE Direct.	J103 STARY J121 SIE PHL.
TPA	PIT	55-55A-39B.	J103 SAV J51 CAE J47 SPA J83 J91 AIR PIT.
TPA	RDU	55-55A-55B.	J103 SAV J51 CAE J52 RDU.
TPA	ROC	55-55A-39-7 BUF Direct.	J103 SAV J51 CAE J47 SPA J83 CLE J545 XU J547 BUF.
TPA	SDF	55-33	J103 J89 SDF.
TPA	STL	55-33-41-43.	J103 J89 J20 TLH J41 BHM J151 FAM J35 STL.

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MIA	CAE	55A	J79 OMN J103 SAV J51 CAE.

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ATL	ABQ	20-18	J52 BHM J14 OKC J20 J8 LVS J18 ABQ.
ATL	AUS	34-10	J37 PEKON J86 AUS.
ATL	BDL	39-17-31	J91 TYS J22 GVE J37 J55 SIE J121 HTO BDL.
ATL	BOS	39-17-31	J91 TYS J22 GVE J37 J55 SIE J121 PVD J55 BOS.
ATL	BUF	39-7	J91 J83 CLE J545 XU J547 BUF J16 BOS.
ATL	DEN	20-12	J52 BHM J14 OKC J20 J8 J17 DEN.
ATL	DFW	20-14	J52 BHM J14 J42 DFW.
ATL	DTW	39-39A-CRL-Direct.	J91 J83 CLE J34 CRL DTW.
ATL	EWR	39-17-31 PLUME Direct.	J91 TYS J22 GVE J37 J55 SIE J121 PLUME EWR.
ATL	FLL	3	J45 JAX J53 FLL/270° FLL.
ATL	IAH	34-10	J37 PEKON J86 IAH.
ATL	ICT	20-41-43-18.	J52 BHM J151 FAM J35 STL J19 ICT.
ATL	JFK	39-17-31 PLUME-Direct.	J91 TYS J22 GVE J37 J55 SIE J121 PLUME JFK.
ATL	LAS	20-18A-	J52 BHM J14 OKC J20 J8 INW J86 BLD LAS.
ATL	LAX	20-18A-10	J52 BHM J14 OKC J20 J8 INW J86 PRC J10 TNP J4 J64 LAX.
ATL	LGA	39-17-31-PLUME-Direct.	J91 TYS J22 GVE J37 J55 SIE J121 PLUME LGA.
ATL	MCI	20-41-43-2.	J52 BHM J151 FAM J35 STL J45 J80 MCI.
ATL	MIA	3	J45 JAX J53 BSY MIA.
ATL	MKE	33	J89 BAE MKE.
ATL	MSP	20-41-43-37.	J52 BHM J151 FAM J35 STL J45 J21 MSP.
ATL	OKC	20	J52 BHM J14 OKC.
ATL	ORD	33	J89 ORD.
ATL	PHL	39-13	J91 J6 CRW J8 EWT PHL.
ATL	PHX	20-18	J52 BHM J14 OKC J20 J8 LVS J18 PHX.
ATL	PIA	20-41-43-35.	J52 BHM J151 FAM J35 STL J45 J105 PIA.
ATL	PVD	39-17-31	J91 TYS J22 GVE J37 J55 SIE J121 PVD.
ATL	ROC	39-7 BUF Direct.	J91 J83 CLE J545 XU J547 BUF ROC.
ATL	SAT	34-10-42A	J37 PEKON J86 AUS J42 SAT.
ATL	SEA	20-41-43-6.	J52 BHM J151 FAM J35 STL J45 ABR J90 SEA.
ATL	SFO	20-18A-8-45.	J52 BHM J14 OKC J20 J8 INW J86 BLD LAS J110 OAK SFO.
ATL	SLC	20-12	J52 BHM J14 OKC J20 J8 J17 DEN J116 EKR J173 SLC.
ATL	SYR	39-13-53-J63.	J91 J6 CRW J78 PSB J49 HNK J63 SYR.
ATL	TUL	20 STICK-TUL.	J52 BHM J14 STICK TUL.
BHM	DFW	20-14	J14 J42 DFW.
BHM	LAX	20-18A-10	J14 OKC J20 J8 INW J86 PRC J10 TNP J4 J64 LAX.
BHM	LGA	17-31 PLUME Direct.	J22 GVE J37 J55 SIE J121 PLUME LGA.
BHM	ORD	17-33	J22 J89 ORD.
BHM	PIT	17-39B	J22 J91 AIR PIT.
CLT	BDL	Direct GSO 17B-55B-17-31 HTO Direct	Direct GSO J14 RIC J40 J55 SIE J121 HTO BDL.
CLT	DFW	Direct SPA 50-20-14.	Direct SPA J85 AGS J52 BHM J14 J42 DFW.
CLT	IAH	Direct SPA 34-10.	Direct SPA J37 PEKON J86 IAH.
CLT	MIA	36-3	J75 J45 JAX J53 BSY MIA.
CLT	ORD	Direct SPA 55A-16.	Direct SPA J83 J149 FWA J64 J89 ORD.
CLT	STL	Direct SPA Direct TYS J46 BNA 14-41-43.	Direct SPA TYS J46 BNA J42 J151 FAM J35 STL.
GSO	BOS	17B-55B-17-31.	J14 RIC J40 J55 SIE J121 PVD J55 BOS.
GSO	DFW	34-20-14	J37 ATL J52 BHM J14 J42 DFW.
GSO	MIA	36-3	J75 J45 JAX J53 BSY MIA.
GSO	ORD	Direct SPA 55A-16.	Direct SPA J83 J149 FWA J64 J89 ORD.

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ATL	BAL	39-39B-13	J91 J6 CRW J8 CSN BAL.

Indianapolis ARTCC

CMH	BOS	39-7	J83 CLE J545 XU J547 BUF J16 BOS.

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From—	To—	Coded route	Route
CMH	DFW	16-42	J80 IND J24 STL J19 BUM J25 DFW.
CMH	FLL	9-50-3	J30 J85 AMG J45 JAX J53 BSY FLL.
CMH	MCO	9-50-3	J30 J85 AMG J45 JAX J53 ORL MCO.
CMH	MIA	9-50-3	J30 J85 AMG J45 JAX J53 BSY MIA.
CMH	TPA	9-50-36	J30 J85 TAY J75 PIE TPA.
CVG	DFW	Direct-LOU-50B-14.	Direct LOU J39 BNA J42 DFW.
CVG	IAH	Direct LOU-50B-14-40A.	Direct LOU J39 BNA J42 " J180 IAH.
CVG	LGA	15-13	Direct FLM J24 CRW J8 RBV LGA.
CVG	MCO	15-50-3	Direct FLM J24 CRW J85 AMG J45 JAX J53 ORL MCO.
CVG	MIA	15-50-3	Direct FLM J24 CRW J85 AMG J45 JAX J53 BSY MIA.
CVG	TPA	Direct LOU 50B-38.	Direct LOU J39 BNA J73 TLH J43 PIE TPA.
DAY	DFW	16-42	J39 J80 IND J24 STL J19 BUM J25 DFW.
IND	DFW	16-42	J24 STL J19 BUM J25 DFW.
IND	EWR	224-CVG-15-13.	J24 CRW J8 RBV EWR.
IND	JFK	224-CVG-15-13.	J24 CRW J8 RBV JFK.
IND	LAX	2	J80 MCI J24 SLN J102 ALS J64 LAX.
IND	LGA	224-CVG-15-13.	J24 CRW J8 RBV LGA.
IND	MCO	16-38-55	J24 J73 TLH J43 PIE J103 ORL MCO.
IND	MIA	16-38-3	J24 J73 J66 RMG ATL J45 JAX J53 BSY MIA.
IND	PHL	224-CVG-15-13.	J24 CRW J8 EWT PHL.
IND	PHX	16	J24 STL J19 LVS J16 PHS.
IND	TPA	16-38	J24 J73 TLH J43 PIE TPA.
SDF	DEN	9-12	J89 J80 NCI J24 SLN J102 J17 DEN.
SDF	DFW	50B-14-20	J39 BNA J42 DFW.
SDF	EWR	Direct FLM-15-13.	Direct FLM J24 CRW J8 RBV EWR.
SDF	IAH	50B-14-40A.	J39 BNA J42 J180 IAH.
SDF	LGA	Direct FLM-15-13.	Direct FLM J24 CRW J8 RBV LGA.
SDF	MCO	50B-38-55	J39 BNA J73 TLH J43 PIE J103 ORL MCO.
SDF	TPA	50B-38	J39 BNA J73 TLH J43 PIE TPA.
CMH	MCI	2	J80 MCI.

Memphis ARTCC

BNA	DCA	13	Direct BWG J6 CRW J8 CSN DCA.
BNA	DEN	14-20-12	J42 J14 OKC J20 J8 J17 DEN.
BNA	EWR	13	Direct BWG J6 CRW J8 RBV EWR.
BNA	FLL	36-36-5	J73 TLH J43 PIE SRQ J58 BSY FLL.
BNA	LAX	14-20-18A-10.	J42 J14 OKC J20 J8 PRC J10 J64 LAX.
BNA	LGA	13	Direct BWG J6 CRW J8 RBV LGA.
BNA	PHL	13	Direct BWG J6 CRW J8 EWT PHL.
BNA	TPA	36	J73 TLH J43 PIE TPA.
HSV	DCA	Direct-CHA-17.	Direct CHA J22 GVE DCA.
HSV	LAX	J118-MEM-14-20-18A-10.	J118 MEM J42 J14 OKC J20 J8 PRC J10 J64 LAX.
LIT	DEN	20-12	J14 OKC J20 J8 J17 DEN.
MEM	BAL	43-13	J35 J8 CRW J8 CSN BAL.
MEM	BOS	43-13-57-7.	J35 J8 CRW J78 PSB J49 ALB J16 BOS.
MEM	BUF	43-13-39-7.	J35 J8 J83 CLE J545 XU J547 BUF.
MEM	CLE	43-13-39	J35 J8 J83 CLE.
MEM	DCA	43-13	J35 J8 CRW J8 CSN DCA.
MEM	DEN	14-20-12	J42 J14 OKC J20 J8 J17 DEN.
MEM	DTW	43-13-39A.	J35 J8 J83 CLE J63 CLE J34 DTW.
MEM	EWR	48-13	J35 J8 CRW J8 RBV EWR.
MEM	LAS	14-20-18A-8.	J42 J14 OKC J20 J8 INW J86 BLD LAS.
MEM	LAX	14-20-18A-10.	J42 J14 OKC J20 J8 PRC J10 J64 LAX.
MEM	LGA	43-13	J35 J8 CRW J8 RBV LGA.
MEM	MCO	3	J66 RMG ATL J45 JAX J53 ORL MCO.
MEM	MIA	3-38-36-5	J66 J73 TLH J43 PIE SRQ J58 BSY MIA.
MEM	MSP	43-37	J35 STL J45 J21 MSP.
MEM	ORF	3-3B-55B-55C.	J66 RMG ATL J52 RDU J51 ORF.
MEM	PIT	43-13-398	J35 J6 J91 AIR PIT.
MEM	RDU	3-3B-55B	J66 RMG ATL J52 RDU.
MEM	RIC	3-3B-55B	J66 RMG ATL J52 RIC.
MEM	SAN	14-20-18	J42 J14 OKC J20 J8 LVS J18 SAN.
MEM	SEA	43-6	J35 STL J45 ABR J80 SEA.
MEM	SFO	14-20-18A-8-45.	J42 J14 OKC J20 J8 INW J86 BLD J110 OAK SFO.
MEM	TPA	3-38	J66 J73 TLH J43 PIE TPA.

Memphis ARTCC LR-II

BNA	DFW	14	J42 DFW.
MEM	RIC	13-15	J71 J6 CRW J24 RIC.

Boston Center

ALB	ORD	Direct-SYR-6B.	Direct SYR J547 OBK ORD.
BDL	ATL	36-34	J48 JFK J37 ATL.
BDL	DFW	Direct CTR-J68-HNK 56-50-14.	Direct CTR J68 HNK J49 PSB J78 CRW J85 J42 DFW.
BDL	FLL	36-32	J48 JFK J37 CYN J79 ILM CLB AR1 O90°/FLL FLL.
BDL	MCO	36-3	J48 JFK J37 GVE J75 J45 JAX J53 MCO.
BDL	MIA	36-32	J48 JFK J37 CYN J79 ILM CLB AR1 BSY MIA.
BDL	ORD	Direct ALB-Direct SYR-6B.	Direct ALB SYR J547 OBK ORD.
BDL	TPA	36	J48 JFK J37 GVE J75 PIE TPA.
BOS	ATL	36-34	J48 JFK J37 ATL.
BOS	CLE	6B-50	J97 J547 XU J545 CLE.
BOS	CMH	Direct CTR-J68-HNK-56-2.	Direct CTR J68 HNK J49 PSB J78 J80 AIR CMH.
BOS	DEN	6B-6-22	J97 J547 ECK J38 GRB J106 MSP J114 DEN.
BOS	DFW	Direct-CTR-J68-HNK-56-50-14.	Direct CTR J68 HNK J49 PSB J78 CRW J85 J42 DFW.
BOS	DTW	6B-ECK-Direct.	J97 J547 ECK DTW.
BOS	FLL	36-32	J48 JFK J37 CYN J79 ILM CLB AR1 FLL/090° FLL
BOS	GSO	36	J48 JFK J37 GVE J75 GSO.
BOS	IAH	Direct-CTR-J68-56-50-14-40A.	Direct CTR J68 HNK J49 PSB J78 CRW J85 J42 J180 IAH.
BOS	LAX	6B-6-22-2-10.	J97 J547 ECK J38 GRB J106 MSP J114 DEN J128 TBC J64 LAX.
BOS	MCI	Direct-CTR-J68-56-2.	Direct CTR J68 HNK J49 PSB J78 J80 MCI.
BOS	MCO	36-3	J48 JFK J37 GVE J75 J45 JAX J53 ORL MCO.
BOS	MEM	Direct CTR-J68-56-50-14.	Direct CTR J68 HNK J49 PSB J78 CRW J85 J42 MEM.
BOS	MIA	36-32	J48 JFK J37 CYN J79 ILM CLB AR1 BSY MIA.
BOS	MKE	6B-39A	J97 J547 J34 BAE MKE.
BOS	MSP	6B-6	J97 J547 ECK J38 GRB J106 MSP.
BOS	MSY	Direct-CTR-J68-56-50-34.	Direct CTR J68 HNK J49 PSB J78 CRW J85 SPA J37 MSY.
BOS	ORD	6B	J97 J547 OBK ORD.
BOS	PBI	36-32	J48 JFK J37 CYN J79 ILM CLB AR1 PBI/090° PBI.
BOS	RDU	36-32-ORF-55C-RDU.	J48 JFK J37 CYN J79 ORF J51 RDU.
BOS	SFO	6B-6-24-4	J97 J547 ECK J38 GRB J106 MSP J70 ABR J32 MLD J158 MVA J84 OAK SFO.
BOS	STL	Direct CTR-J68-56-2-18.	Direct CTR J68 HNK J49 PSB J78 J80 IND J24 STL.
BOS	TPA	36	J48 JFK J37 GVE J75 PIE TPA.
BOS	BDA	International.	
BOS	SJU		
BOS	FRA		
BOS	YHZ		
BOS	CDG		
BOS	AMS		
BOS	TER		
BOS	LHR		
BOS	PIK		
BOS	ZRH		
BOS	MXP		
BOS	SNN		
PVD	ATL	Direct HFD 36-34.	Direct HFD J48 JFK ATL.
PVD	MIA	Direct HFD 36-32.	Direct HFD J48 JFK J37 CYN J79 ILM CLB AR1 BSY MIA.
PVD	ORD	Direct CTR-Direct ALB-Direct SYR-6B.	Direct CTR ALB SYR J547 OBK ORD.
SYR	ATL	J63 HNK-56-50-34.	J63 HNK J49 PSB J78 CRW J85 SPA J37 ATL.
SYR	ORD	6B	J547 OBK ORD.
SYR	STL	J63-HNK-56-2-18.	J63 HNK J49 PSB J78 J80 IND J24 STL.

Los Angeles ARTCC

LAX	ATL	3	Direct SNA J78 TUL J46 J41 MEM J66 RMG ATL.
LAX	BHM	3-MEM-J41.	Direct SNA J78 TUL J46 J41 BHM.
LAX	BNA	3-13-J46	Direct SNA J78 TUL J46 J41 J8 J46 BNA.
LAX	BOI	45-49	J86 SNS OAK J7 BOI.
LAX	BOS	1-11-9-7B-7.	J146 GUC J10 DEN J114 ONL J94 FOD J132 MCW J16 ECK J547 BUF J16 BOS.
LAX	CLE	1-7A	J146 GDC J192 PWE J64 BDF J18 JOT J146 J34 CLE.
LAX	DFW	3-5-13	SNA J78 PSP J169 BLH J50 GBN J2 ELP J50 TQA J4 DFW.
LAX	DSM	1-PWE Direct.	J146 GLD J199 PWE DSM.
LAX	DTW	1-11-9-7A	J146 GLD J10 DEN J114 ONL J94 OBK J584 CRL DTW.
LAX	EUG	45	J86 SNS J110 OAK J1 MFR EUG.
LAX	EWR	1	J146 GLD J192 PWE J64 BDF J18 JOT J148 EWR.
LAX	FLL	3-5	SNA J78 PSP J169 SLH J50 GBN J2 FST J138 HUB J37 PEKON J86 SRQ J58 BSY FLL.
LAX	GEG	45-7-12A	J86 SNS J110 OAK J1 PDX J16 J517 PDX.
LAX	HSV	3-MEM-Direct.	J78 TUL J46 J41 MEM HSV.
LAX	IAD	1-15-13	J146 GLD J80 MCI J24 STL J134 FLM J24 CRW J8 CSN IAD.
LAX	IAH	3-5-17	SNA J78 PSP J169 BLH J50 GBN J2 FST J138 SAT J2 IAH.
LAX	IND	1-15-33	J146 GLD J80 MCI J24 STL J134 J89 IND.
LAX	JFK	1	J146 GLD J192 PWE J64 BDF J18 JOT J146 JFK.
LAX	MCI	1-15	J146 GLD J80 MCI.
LAX	MEM	3	J78 TUL J46 J41 MEM.
LAX	MIA	3-5	SNA J78 PSP J169 BLH J50 GBN J2 FST J138 SAT PEKON J86 SRQ J58 BSY MIA.
LAX	MKE	1-11-9-7B	J146 GUC J10 DEN J114 ONL J94 FOD J132 MCW J16 BAE MKE.
LAX	MSP	1-11	J146 GUC J10 DEN J114 MSP.
LAX	MSY	3-5-17-17A.	SNA J78 PSP J169 BLH J50 GBN J2 FST J138 SAT J2 MSY.
LAX	OKC	3	J78 OKC.
LAX	OMA	1-37	J146 GLD J192 PWE J21 OMA.
LAX	ORD	1	J146 GLD J129 PWE J64 BDF J18 JOT OBK ORD.
LAX	PDX	45	J86 SNS J110 OAK J1 PDX.
LAX	PHL	1-MIP Direct.	J146 GLD J192 PWE J64 BDF J18 JOT J146 MIP PHL.
LAX	PIT	1-7A	J146 GLD J192 PWE J64 BDF J18 JOT J146 J34 CLE J518 PIT.
LAX	SAT	3-5	SNA J78 PSP J169 BLH J50 GBN J2 FST J138 SAT.
LAX	SEA	45	J86 SNA J110 OAK J1 SEA.
LAX	STL	1-15	J146 GLD J80 MCI J24 STL.
LAX	TPA	3-5-SRQ Direct.	SNA J78 PSP J169 BLH J50 GBN J2 FST J138 HUB J37 PEKON J86 SRQ TPA.
LAX	TUL	3	J78 TUL.
ONT	DFW	3-5-13	J78 PSP J169 BLH J50 GBN J2 ELP J50 TQA J4 DFW.
ONT	ORD	1	Direct DAG J146 GLD J129 PWE J64 BDF J18 JOT OBK ORD.
LAS	ATL	52-3	Direct BLD J92 PRC J78 TUL J46 J41 MEM J66 RMG ATL.
LAS	CLE	1-7A	J146 GLD J192 PWE J64 BDF J18 JOT J146 J34 CLE.
LAS	DFW	52-3-48	Direct BLD J92 PRC J78 OKC J21 DFW.
LAS	DTW	1-11-9-7A	J146 GUC J10 DEN J114 ONL J94 OBK J584 CRL DTW.
LAS	EWR	1	J146 GLD J192 PWE J64 BDF J18 JOT J146 EWR.
LAS	HOU	52-44-5-17.	Direct BLD J92 PRC J11 J2 FST J138 SAT J2 HOU.
LAS	IAH	52-44-5-17.	Direct BLD J92 PRC J11 J2 FST J138 SAT J2 IAH.
LAS	JFK	1	J146 GLD J192 PWE J64 BDF J18 JOT J146 JFK.
LAS	MCI	1-15	J146 GLD J80 MCI:
LAS	MEM	52-3	Direct BLD J92 PRC J78 TUL J46 J41 MEM.
LAS	MSP	1-11	J146 GUC J10 DEN J114 MSP.
LAS	MSY	52-44-5-17-17A.	Direct BLD J92 PRC J11 J2 FST J138 SAT J2 MSY.
LAS	ORD	1	J146 GLD J192 PWE J64 BDF J18 JOT OBK ORD.
LAS	PDX	8-45	J110 OAK J1 PDX.
LAS	PIT	1-7A	J146 GLD J192 PWE J64 BDF J18 JOT J146 J34 CLE J518 PIT.
LAS	SEA	8-45	J110 OAK J1 SEA.
LAS	STL	1-15	J146 GLD J80 MCI J24 STL.
SAN	CLE	5A-3-3A-35-1-7A.	J18 PHX J19 ZUN J78 TUL J98 SGF J105 BDF J18 JOT J146 J34 CLE.
SAN	DFW	5A-5-13	J18 GBN J2 ELP J50 INK J4 DFW.
SAN	IAD	5A-5-13	J18 GBN J2 ELP J50 TQA J4 DFW J66 LIT J6 CRW J8 CSN IAD.
SAN	IAH	5A-5-17	J18 GBN J2 FST J138 SAT J2 IAH.
SAN	JFK	5A-5-13	J18 GBN J2 ELP J50 TQA J4 DFW J66 LIT J6 CRW J8 RBV JFK.
SAN	MCI	5A-3-37-15.	J18 PHX J19 ZUN J78 OKC J21 J80 MCI.
SAN	MEM	5A-3	J18 PHX J19 ZUN J78 TUL J46 J41 MEM.
SAN	ORD	5A-3-3A-35-1.	J18 PHX J19 ZUN J78 TUL J98 SGF J105 BDF J18 JOT OBK ORD.
SAN	PDX	45	J1 LAX J110 OAK J1 PDX.
SAN	SEA	45	J1 LAX J110 OAK J1 SEA.
SAN	STL	5A-3-3A	J18 PHX J19 ZUN J78 TUL J98 SGF J8 STL.
BUR	PDX	45	J110 OAK J1 PDX.
PSP	DFW	5-13	J169 BLH J50 GBN J2 ELP J50 TQA J4 DFW.
PSP	ORD	3-3A-35-1	J169 BLH J78 TUL J98 SGF J105 BDF J18 JOT OBK ORD.

Los Angeles ARTCC LR-II

LAX	ABQ	3	SLI J78 ABQ.
LAX	DEN	1-11	J146 GUC J10 DEN.
LAX	ELP	3-5	SLI J78 TRM J169 BLH J50 GBN J2 ELP.
LAX	SLC	1-47	J146 J11 SLC.
SAN	DEN	5A-3-51	J18 PHX J19 ZUN J78 ABQ J13 DEN.
SAN	ELP	5A-5	J18 GBN J2 ELP.
SAN	SLC	5A-47	J18 PHX J11 SLC.
BUR	DEN	1-11	J146 GUC J10 DEN.
BUR	SLC	1-47	J146 J11 SLC.
ONT	DEN	1-11	DAG J146 GUC J10 DEN.
ONT	SLC	1-47	DAG J146 J11 SLC.
LAS	DEN	1-11	J146 GUC J10 DEN.

Oakland Center

FAT	DEN	Direct OAL-9-48.	Direct OAL J148 J20 DEN.
FAT	ORD	Direct OAL-9.	Direct OAL J148 ONL J94 OBK ORD.
MRY	ORD	9	Direct OAK J80 OAL J148 ONL J94 OBK ORD.
OAK	DEN	9-48	J80 OAL J148 J20 DEN.
OAK	ORD	9	J80 OAL J148 ONL J94 OBK ORD.
OAK	PHX	9-46-3-5-5A.	J80 J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J18 PHX.
RNO	DEN	52-9-48	J92 OAL J148 J20 DEN.
RNO	DFW	52-3-48	J92 PRC J78 OKC J21 DFW.
RNO	MSP	49-7	J7 HIA J16 DPR J32 ABR J70 MSP.
RNO	ORD	52-9	J92 OAL J148 ONL J94 OBK ORD.
RNO	PHX	52-44	J92 PRC J11 PHX.
RNO	STL	52-9-48-15	J92 OAL J148 J20 DEN J80 MCI J24 STL.
SFO	ABQ	9-52-3	OAK J80 OAL J92 PRC J78 ABQ.
SFO	ATL	9-52-3	OAK J80 OAL J92 PRC J78 TUL J46 J47 MEM J66 RMG ATL.
SFO	BOS	9-11-7	OAK J80 OAL J148 ONL J114 MSP J106 GRB J38 ECK HL547 BUF J16 BOS.
SFO	CLE	9-7A	OAK J80 OAL J148 ONL J94 OBK J584 CRL J34 CLE.
SFO	DEN	9-48	OAK J80 OAL J148 J20 DEN.
SFO	DFW	9-52-3-48	OAK J80 OAL J92 PRC J78 OKC J21 DFW.
SFO	DTW	9-7A	OAK J80 OAL J148 ONL J94 OBK J584 CRL DTW.
SFO	ELP	9-46-3-5	OAK J80 J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J2 ELP.
SFO	EWR	9-7A-1	OAK J80 OAL J148 ONL J94 OBK J584 CRL J34 J146 EWR.
SFO	IAD	9	OAK J80 OAL J148 ONL J94 OBK J89 J30 FRR IAD.
SFO	IAH	9-52-44-5-17	OAK J80 OAL J92 PRC J11 J2 FST J138 SAT J2 IAH.
SFO	JFK	9-7A-1	OAK J80 OAL J148 ONL J94 OBK J584 CRL J34 J146 JFK.
SFO	MCI	9-48-15	Direct OAK J80 OAL J148 J20 DEN J80 MCI.
SFO	MEM	9-52-3	Direct OAK J80 OAL J92 PRC J78 TUL J46 J41 MEM.
SFO	MIA	9-52-44-5	Direct OAK J80 OAL J92 PRC J11 J2 FST J138 HUB J37 PEKON J86 SRQ J58 BSY MIA.
SFO	MKE	9-7B	Direct OAK J80 OAL J148 ONL J94 FOD J132 MCW J16 MKE.
SFO	MSP	49-7	Direct OAK J7 HIA J16 DPR J32 ABR J70 MSP.
SFO	MSY	9-52-44-5-17-17A.	Direct OAK J80 OAL J92 PRC J11 J2 FST J138 SAT J2 MSY.
SFO	OMA	9-ONL-OMA.	Direct OAK J80 OAL J148 ONL OMA.
SFO	ORD	9	Direct OAK J80 OAL J148 ONL J94 OBK ORD.
SFO	PHL	9-7A-1-MIP-Direct.	Direct OAK J80 OAL J148 ONL J94 OBK J584 CRL J34 J146 MIP PHL.
SFO	PHX	9-46-3-5-5A.	Direct OAK J80 J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J18 PHX.
SFO	PIT	9-7A	Direct OAK J80 OAL J148 ONL J94 OBK J584 CRL J34 CLE J518 PIT.
SFO	SAT	9-52-44-5	Direct OAK J80 OAL J92 PRC J11 J2 FST J138 SAT.
SFO	STL	9-48-15	Direct OAK J80 OAL J148 J20 DEN J80 MCI J24 STL.
SFO	TUS	9-46-3-5	Direct OAK J80 J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J2 J11 TUS.
SFO	YYZ	(International).	
SFO	HNL		
SFO	MEX		
SFO	YVR		
SFO	YYC		
SFO	MZT		
SFO	NRT		
SFO	HKG		
SFO	YEG		
SFO	ITO		
SJC	DEN	9-48	Direct OAK J80 OAL J148 J20 DEN.
SJC	DFW	9-52-3-48	Direct OAK J80 OAL J92 PRC J78 OKC J21 DFW.
SJC	ORD	9	Direct OAK J80 OAL J148 ONL J94 OBK ORD.
SJC	PHX	9-46-3-5-5A.	Direct OAK J80 J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J18 PHX.
SJC	HNL	(International).	
SMF	DEN	9-48	Direct LIN J189 J80 OAL J148 J20 DEN.
SMF	ORD	9	Direct LIN J189 J80 OAL J148 ONL J94 OBK ORD.
SMF	PHX	9-46-3-5-5A.	Direct LIN J189 AVE J1 LAX J78 TRM J169 BLH J50 GBN J18 PHX.

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SFO	GEG	49-12A	OAK J7 BOI J577 GEG.
SFO	SEA	45	J1 PDX J189 SEA.
SFO	SLC	9-47	OAK J80 OAL J148 J11 SLC.
OAK	SEA	45	J1 PDX J189 SEA.
OAK	SLC	9-47	J80 OAL J148 J11 SLC.
SMF	SEA	J-95-RBL-45.	J95 RBL J1 PDX J189 SEA.
SMF	SLC	SCK-9	SCK J80 OAL J148 J11 SLC.

[FR Doc. 80-35306 Filed 11-12-80; 8:45 am]
BILLING CODE 4910-13-M

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federal register

Thursday
November 13, 1980

Part IV

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 523, 544

Control, Custody, Care, Treatment, and Instruction of Inmates; Extra Good Time and Social Education Guidelines

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: This document contains final rules relating to the control, custody, care, treatment, and instruction of inmates. This document contains the Bureau's amended rule on Extra Good Time and final rule on Social Education Guidelines. The rule on Extra Good Time is revised to clearly indicate the Bureau's policy in regards to a retroactive award of meritorious good time. The rule on Social Education Guidelines requires the Warden to make available programs to allow an inmate to improve interpersonal relationship, communication, self-motivation, realistic goal setting, and a positive self-concept. The rule is intended to provide the opportunity to improve each inmate's knowledge and skills in the area of Social Education.

DATE: Effective date: (1) Extra Good Time—October 1, 1980; (2) Social Education Guidelines—December 15, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 762, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons final rule on "Extra Good Time" was published in the **Federal Register** June 29, 1979 (at 44 FR 38245 et seq.). The present amendment places no increased burden on either the inmate or the public and is intended to clarify Bureau policy in regards to a retroactive award of extra good time. For these reasons, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The present Bureau rule on Extra Good Time states that meritorious good time may be retroactively awarded for three months, excluding the month in which the approval is made. As amended, the rule substitutes the word "recommendation" for "approval". This amendment allows the inmate, once approved for the award, to receive meritorious good time retroactive to the month following the recommendation, rather than the month following approval.

On January 12, 1979, the Bureau of Prisons published its proposed rule relating to Guidelines for Social Education Activities (See 44 FR 2983 et seq.). Interested persons were invited to submit comments on the proposed rule. On the basis of comments received and internal staff review, changes were made in the rule. Members of the public may submit further comments concerning the final rule by writing to the previously cited address. These comments will be considered, but will receive no formal response in the **Federal Register**. Comments which were received and changes which were made are discussed below.

Summary of Changes/Other Comments

Part 554—Subpart J—Social Education Guidelines

(1) The final rule is retitled "Social Education Guidelines".

(2) Section 544.90—The final rule recognizes that inmates should be provided the "opportunity to increase skills". The final rule deletes the word "basic" in reference to self-concept as the intent is to allow opportunity for the development of a "positive self-concept". The phrase "develop with the passage of time" in proposed § 544.90 is extraneous and is deleted from the final rule. Proposed § 554.91(a) becomes the last sentence of final § 544.90. The final rule deletes language requiring the Warden to establish procedures for social education activities, as its general purpose is now expressed in new § 544.91(a).

(3) Section 544.90—This section is retitled "Program Characteristics". Section 554.91(a) is new language and requires the Warden to ensure that an inmate with the need, capacity, and desire has the opportunity to complete one or more organized social education activities. The rule recognizes the importance of staff encouraging an inmate to identify needs, set goals, and decide on appropriate activities to reach those goals. Final § 544.91(b)(4) substitutes "strengthens" for "develops" in recognition that the skill may be present. Section 544.91(b)(5) is new and requires that an inmate be provided the opportunity to strengthen skills in community-oriented areas, such as problems faced as consumers, wage earners, etc.

(4) A comment stated that it was "virtually impossible" to comment on this subpart without a description or presentation of the Bureau's educational program and its goals. On December 21, 1977 the Bureau of Prisons published its proposed rules (at 42 FR 64084) relating to Education Program Goals and Characteristics. These rules were finalized October 29, 1979 (at 44 FR 62251).

(5) A comment suggested that the Bureau provide an inmate with correspondence courses when the educational subject matter is not available at the institution. While correspondence courses may be taken, social education programs primarily emphasize person-to-person or group-oriented activities.

(6) While we agree with the intended purpose of a comment that staff who administer social education activities be bilingual, it is not appropriate to make this a requirement. The social education coordinator may, where a need is evident, arrange for a social education program to be offered in a language other than English.

(7) A commenter, expressing concern over the potential for abuse in providing social education skills "which delve into the personality and internal functioning of individuals", suggested that each facility require appropriately trained persons to either conduct or supervise such activities. The Bureau concurs with this concept: social education activities are under the supervision of appropriately trained staff and/or consultants.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR Chapter V is amended as set forth below.

Dated: November 6, 1980.

Norman A. Carlson,

Director, Bureau of Prisons.

1. In Subchapter B, Part 523, Subpart B is revised as follows:

PART 523—COMPUTATION OF SENTENCE

The authority citation for Part 523, Subpart B reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3568, 4001, 4042, 4081, 4082, 4161–4166, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

By revising § 523.11(b) to read as follows:

* * * * *

Subpart B—Extra Good Time

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§ 523.11 Meritorious good time.

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(b) Meritorious good time may be retroactively awarded for three months, excluding the month in which the recommendation is made, provided staff substantiate the inmate's eligibility. Meritorious good time may not be awarded prior to the beginning date of the sentence.

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2. In Subchapter C, Part 544, Subpart J is added.

PART 544—EDUCATION

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Subpart J—Social Education Guidelines

Sec.

544.90 Purpose and scope.

544.91 Program characteristics.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0–99.

Subpart J—Social Education Guidelines

§ 544.90 Purpose and scope.

The Bureau of Prisons recognizes that inmates should have an opportunity to increase skills to improve their interpersonal relationships, communication, self-motivation, realistic goal setting, and positive self-concept. The Warden shall make available to an inmate throughout the term of the inmate's commitment programs to foster such skills, reinforced by staff contacts. The Warden shall designate staff to serve as Social Education Coordinator(s).

§ 544.91 Program characteristics.

(a) The Warden shall ensure that during confinement an inmate with the need, capacity, and desire has the opportunity to complete one or more organized social education activities (see 28 CFR 544.81). Staff shall encourage each inmate to accept the responsibility for identifying any specific social education needs, setting personal goals, and deciding on involvement in activities, programs and/or work experiences which will assist the inmate in reaching those goals.

(b) Staff shall qualify an activity as social education if it meets any of the following criteria:

(1) Teaches or reinforces self-development and personal growth;

(2) Helps to increase self-knowledge;

(3) Fosters the development of a realistic self-concept;

(4) Strengthens appropriate skills in interpersonal relationships; or

(5) Strengthens appropriate skills in coping with the problems to be faced as consumers, family members, wage earners, and responsible citizens.

[FR Doc. 80-35350 Filed 11-12-80; 8:45 am]

BILLING CODE 4410-05-M

28 CFR Part 540

Control, Custody, Care, Treatment, and Instruction of Inmates; Incoming Publications

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: This document contains an interim rule relating to the control, custody, care, treatment, and instruction of inmates. Section 540.71(b)(7) of the Bureau's rule on "Incoming Publications" presently allows for rejection of a publication which "advocates or may lead to prohibited sexual activity in the institution". The interim rule deletes this language and substitutes language allowing rejection of "sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity". The interim rule is intended to provide more specific criteria for the rejection of sexually explicit material.

DATE: Effective date: November 17, 1980. Public comments on § 540.71(b)(7) must be received on or before January 19, 1981.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 762, 320 1st Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is amending § 540.71(b)(7) of its rule on "Incoming Publications". The final rule was published in the **Federal Register** June 29, 1979 (at 44 FR 38259 et seq.).

The present amendment places no increased restriction on either the inmate or the public and is intended to clarify the scope of the Bureau's present rule. For these reasons, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Section 540.71(b)(7) of the Bureau's present rule on Incoming Publications allows rejection of a publication which advocates or may lead to prohibited sexual activity in the institution. This language has been criticized as being overly broad, or vague. As further clarification, the Bureau has agreed to revise § 540.71(b)(7) to provide staff with more specific guidelines for determining whether a publication containing sexual material may be rejected. As amended, the interim rule provides that the Warden may reject sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity. Internal staff instructions provide examples of sexually explicit material which is subject to rejection. These include homosexual material of the same sex as the institution population, material which is sado-masochistic, material depicting bestiality, and that involving children. The internal instructions specify that explicit heterosexual material is ordinarily to be admitted, as well as material of a news or information type (for example, publications covering the activities of gay rights organizations), and literary publications containing homosexual themes or references (provided these are not sexually explicit). The internal instruction authorizes the Warden to allow admission into the institution of sexually explicit material upon determination that the material has scholarly value, or general social or literary value. While the Bureau believes that the amended rule more clearly defines what sexually oriented material is admissible, and therefore meets the initial concern with this particular rule, it has been decided to publish the revision as an interim rule and to solicit public comment. Accordingly, public comment on the interim approach or submission of an alternative approach for admitting sexually oriented material into the institution is invited. Comments received on or before January 19, 1981 will be considered before final action is taken.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR, Chapter V, is amended as set forth below.

Dated: November 6, 1980.

Norman A. Carlson,

Director, Bureau of Prisons.

1. Subchapter C, Part 540, Subpart F is revised to read as follows:

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PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

* * * * *

Subpart F—Incoming Publications

The authority citation for Part 540, Subpart F reads as follows:

Authority: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

By revising § 540.71(b)(7) to read as follows:

§ 540.71 Procedures.

* * * * *

(b) * * *

(7) It is sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity.

* * * * *

[FR Doc. 80-35351 Filed 11-12-80; 8:45 am]

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28 CFR Parts 544, 548

Control, Custody, Care, Treatment, and Instruction of Inmates; Apprentice Training in Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: This document amends final rules relating to the control, custody, care, treatment, and instruction of inmates. The rule on Apprentice Training in Institutions emphasizes Bureau of Prisons policy to establish approved apprenticeship training programs for inmates where the requirements and standards of the Bureau of Apprenticeship and Training can be met. The rule on Religious Beliefs and Practices of Committed Offenders accommodates the intent of Pub. L. 95–341 (American Indian Religious Freedom Act). The rule on Education, Training and Leisure-Time Program Standards expands the scope of the Bureau's rule in this area and specifies that an inmate with the need, capacity, and desire is to have the opportunity to complete one or more adult continuing education activities.

DATE: Effective date: (1) Religious Beliefs and Practices of Committed Offenders—June 3, 1980; (2) Education, Training and Leisure-Time Program Standards—July 24, 1980; (3) Apprentice Training in Institutions—August 13, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 762, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is amending rules relating to the following:

(1) Apprentice Training in Institutions;

(2) Religious Beliefs and Practices of Committed Offenders; and

(3) Education, Training and Leisure-Time Program Standards;

Each subject has been published in the **Federal Register** previously as a final rule. Rules (1) and (2) were published as final rules June 29, 1979 (at 44 FR 38236 et seq.). Rule (3) was published as a final rule October 29, 1979 (at 44 FR 62251).

The present amendments place no increased burden on an inmate or the public. For this reason, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public paticipation, and delay in effective date are inapplicable.

The present Bureau rule on Apprentice Training in Institutions states that the Bureau of Apprenticeship and Training (BAT), U.S. Department of Labor will make its personnel available to Bureau staff for the development of registered apprenticeship training programs. The present rule requires the Warden to "determine the feasibility" of establishing an apprenticeship system in the institution. This language does not adequately reflect the Bureau's emphasis on apprenticeship training. Accordingly, amended § 544.50 specifies that it is Bureau of Prisons policy to establish approved apprenticeship training programs where the requirements and standards of the Bureau apprenticeship and Training can be met.

The present Bureau rule on Religious Beliefs and Practices does not clearly encompass the intent of Pub. L. 95–341 (American Indian Religious Freedom Act). As amended, the rule, now entitled Religious Beliefs and Practices of Committed Offenders, is expanded to include spiritual advisors, religious ceremonies, ceremonial apparel, and ceremonial standards, terms which cover more accurately the religious activities of native American offenders.

The present Bureau rule on Education, Training and Leisure-Time Program Standards is amended to specifically add the term "leisure-time" needs to § 544.80. This section deletes the phrase "to provide a climate in which an inmate can maximize his potential for change" as its inclusion added no substance to the rule. Other rule amendments include, in § 544.81(a)(1), insertion of the abbreviation "ABE" after Adult Basic Education and, in § 544.81(a)(2), substitution of the phrase "Complete a General Educational Development (GED) program leading to a high school equivalency certificate and/or a high school diploma" for "Complete an Adult Secondary Education Program." The revised language better identifies what is meant by an "Adult Secondary Education Program." § 544.81(a)(6) is new and states that the Warden is to ensure that an inmate with the need, capacity, and desire has the opportunity to complete one or more Adult Continuing Education activities. Present § 544.81(a)(6) becomes new § 544.81(a)(7).

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR, Chapter V, is amended as set forth below.

Dated: November 6, 1980.

Norman A. Carlson,

Director, Bureau of Prisons.

Subchapter C is amended as follows:

A. Part 544, Subparts F and I are amended.

B. Part 548, Subpart B is amended

PART 544—EDUCATION

The authority citation for Part 544 reads as follows:

Authority: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart F—Apprentice Training in Institutions

By revising § 544.50 to read as follows:

§ 544.50 Purpose and scope.

The Bureau of Prisons provides an inmate the opportunity to participate in apprenticeship training programs to prepare the inmate for career employment in various trades. It is the policy of the Bureau of Prisons to establish approved apprenticeship training progams for inmates in those program areas of its institutions which have the potential to meet the requirements and standards of the Bureau of Apprenticeship and Training (BAT), U.S. Department of Labor.

Subpart I—Education, Training and Leisure-Time Program Standards

1. By revising § 544.80 to read as follows:

§ 544.80 Purpose and scope.

In consideration of inmate educational, occupational, and leisure-time needs, the Bureau of Prisons affords inmates the opportunity to improve their knowledge and skills. These needs are met by providing clear goals and precise program definitions. Except for such camps, Community Treatment Centers, Detention Centers and Metropolitan Correctional Centers where full education programs are not feasible, the Warden shall operate an education department in each institution.

2. By revising § 544.81(a)(1), (a)(2), and (a)(5), by adding a new § 544.81(a)(6), and by renumbering present § 544.81(a)(6) new § 544.81(a)(7) to read as follows:

§ 544.81 Program goals.

(a) * * *

(1) Complete an Adult Basic Education (ABE) program;

(2) Complete a General Education Development (GED) program leading to a high school equivalency certificate and/or a high school diploma;

(3) * * *

(4) * * *

(5) Complete one or more organized Social Education activities;

(6) Complete one or more Adult Continuing Education Activities; or

(7) Complete one or more prescribed leisure activities.

* * * * *

PART 548—RELIGIOUS PROGRAMS

* * * * *

1. The authority citation for Part 548, Subpart B is amended as follows:

Authority: 18 U.S.C. 4001, 4042; 28 U.S.C. 509, 510; 42 U.S.C. 1996; 28 CFR 0.95–0.99.

2. By revising the title of Part 548, Subpart B to read as follows:

Subpart B—Religious Beliefs and Practices of Committed Offenders

* * * * *

3. By revising § 548.10 (b) and (c) to read as follows:

§ 548.10 Purpose and scope.

* * * * *

(b) When it is considered necessary for the security or good order of the institution, the Warden may limit attendance at or discontinue completely a religious activity, service, ceremony, or meeting. The Warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious activity, service, ceremony, or meeting on the basis of race, color, nationality, or creed.

(c) All religious services, activites, ceremonies, and meetings must comply with institutional schedules and guidelines.

* * * * *

4. By revising § 548.11 (b), (c), (f), and (g) to read as follows:

§ 548.11 Procedures.

* * * * *

(b) Institution Chaplains shall schedule religious services of worship, activities, ceremonies and meetings. All religious services, meetings, ceremonies, and activities are coordinated by the Chaplain, under the general supervision of the Warden. If an institution has no staff chaplian, a staff member designated by the Warden shall exercise the authority of the Chaplain.

(c) Institution staff may contract with clergy, spiritual advisors, or representatives of faith groups in the community and may also accept the services of volunteers to help inmates pursue their religious beliefs.

* * * * *

(f) Attendance at all religious worship services, activities, ceremonies and meetings is voluntary.

(g) An inmate may wear, during a religious serivce, appropriate personal, liturgical, or ceremonial apparel. An inmate may retain this apparel within the context of maintaining security, safety, and orderly conditions in the institution and it may be worn or used only during scheduled religious services, ceremonies or in private devotional observances.

* * * * *

5. By revising § 548.12(b) to read as follows:

§ 548.50 Diet.

* * * * *

(b) As a once-a-year accommodation, staff may make arrangements with an inmate religious group to have a special meal which meets liturgical or ceremonial standards of the religion. In most situations, all or most food items to be served are from the main serving line. If the inmates representing the organization request, based upon documented necessity, staff may purchase from a food supplier specially prepared food items which meet religious requirements. Funds for the purchase of special food items are provided from:

(1) Funds from Chaplain's budget;

(2) Inmates' commissary accounts; or

(3) Funds provided by the community organization.

* * * * *

6. By revising the title of § 548.13 and the language of § 548.13(b) to read as follows:

§ 548.13 Scheduling to observe religious holidays, services, meetings, ceremonies, and activities.

* * * * *

(b) The Warden may relieve an inmate from a work assignment if a religious activity, service, ceremony or meeting is also scheduled at that time. The Warden may schedule the inmate to make up work at another time. The Warden shall take into consideration the availability of staff and space within the institution when scheduling religious services, ceremonies, activities, or meetings.

* * * * *

[FR Doc. 80-35352 Filed 11-12-80; 8:45 am]

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28 CFR Parts 551, 552, and 570

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: This document contains final rules relating to the control, custody, care, treatment, and instruction of inmates. Included are final rules on (1) Pre-trial Inmates; (2) Work/Study Release; and (3) Searches of Housing Units, Inmates, and Inmate Work Areas. The rule on Pre-trial Inmates discusses Bureau procedures and practices required for the care, custody, and control of persons awaiting trial. The rule on Work/Study Release discusses eligibility procedures, limitations to program participation, and other work/study program aspects. The rule on Searches of Housing Units, Inmates, and Inmate Work Areas describes the types of searches and the conditions under which they may be conducted. The final rules are intended to provide to the public notice of the rules in these areas, not just changes from prior policy.

DATE: Effective Date: December 15, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 762, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing final rules relating to the following:

(1) Pre-trial Inmates; (2) Work/Study Release; and (3) Searches of Housing Units, Inmates, and Inmate Work Areas. Each subject has been published in the **Federal Register** as a proposed rule. Final rules (1)–(2) were published as proposed rules on January 12, 1979 (at 44

FR 2978 et seq.). Final rule (3) was published as a proposed rule April 4, 1980 (at 45 FR 23367–23368).

Interested persons were invited to submit comments on the proposed rules and public comments were received from various sources. On the basis of these comments and internal staff review of Bureau policies, some changes have been made. Members of the public may submit further comments concerning these rules by writing the previously cited address. These comments will be considered, but will receive no further response in the **Federal Register**. Public comments which were received and changes which were made are discussed below.

Summary of Changes/Other Comments

I. Part 551, Subpart J—Pre-Trial Inmates

1. Proposed Part 551, Subpart I becomes final Part 551, Subpart J. Proposed §§ 555.90–91 become final §§ 551.100–101. Proposed §§ 551.92–102 become final §§ 551.102–112.

2. Section 551.100—The final rule deletes the phrase "commencement or completion of" as its intent is reflected in the remaining phrase "awaiting trial". A commenter states the proposed rule does not adequately recognize the rights of pre-trial detainees, that the pre-trial inmate is protected by the due process clause of the Constitution and for prison authorities to justify any condition or treatment during confinement, they must demonstrate "a compelling necessity or that such a practice or policy is the least restrictive alternative." Subsequent to these comments, the standards proposed by this commenter were rejected by the U.S. Supreme Court, which held, in the case of *Bell* v. *Wolfish*, that "the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention * * *". The Supreme Court held that security restrictions and practices did not of themselves constitute "punishment" in violation of the rights of pre-trial detainees under the due process clause of the Fifth Amendment. Bureau rules, as evidenced in this section, provide distinct procedures relevant to the care, custody, and control of pre-trial inmates. In other areas, effective management of the institution necessitates Bureau policies and standards being applicable to all persons confined within Bureau institutions.

In a similar vein, one commenter, concerned that Bureau regulations provide only minimal protection to pre-trial inmates, suggested the addition of various elements, including two advisory councils (one comprised of representatives of federal courts and lay persons, the other of inmates), the right to outside counsel at disciplinary hearings, and encouraging staff to assist the inmate in efforts to secure pre-trial release under the Bail Reform Act of 1966. Bureau rules adequately protect the rights of pre-tiral inmates, while allowing effective management of the institution. The present rule identifies areas where the care, custody, and control of pre-trial inmates may differ from those established for convicted inmates. While the Bureau is receptive to suggestions from the court and other interested persons, we see no need for the formal establishment of advisory councils. Nor is it appropriate to allow outside counsel at disciplinary hearings. Bureau rules on inmate discipline ensure due process considerations. We do not consider it appropriate to encourage staff to give counsel and assistance to the pre-trial inmate in that individual's efforts to secure release. While staff may provide access to institution resources (for example, the telephone), Bureau staff do not have the legal expertise necessary to advise in this area.

3. Section 551.101—The final rule clarifies the terms "pre-trial" and "convicted". A pre-trial inmate is an individual who is legally detained but not convicted. A judgment of conviction is ordinarily evidenced by receipt of a Judgment and Commitment from a federal court. The final rule considers a detained person who has pleaded or been found guilty but is awaiting sentence to be in pre-trial status. Proposed § 555.91(a)(1) becomes final § 551.101(a)(1). The final rule requires that both the material witness and the detained alien be considered pre-trial inmates. Proposed § 555.91(a)(3) is deleted and final § 551.101(a)(1) states that inmates committed under 18 USC 4244 and 4246 are considered in pre-trial status. Proposed § 555.91(a)(2) becomes final § 551.101(a)(2). This section, which states that an inmate serving a state or federal sentence is not considered a pre-trial inmate, alternately supports the comment that a pre-trial inmate with a detainer for an unproved charge is treated as a pre-trial inmate. Proposed § 555.91(b) is renumbered final § 551.101(b). This section is reworded to state that ordinarily the Judgment and Commitment is the document which evidences the status of conviction.

4. Section 551.102—The final rule is modified to require that the institution have appropriate detention facilities to house the pre-trial inmate.

5. Section 551.103—Final § 551.103 is reworded and now contains the phrase "in institutions with detention-unit operations" to clearly identify where pre-trial inmates are admitted. Proposed § 551.93(a)(8) becomes final § 551.103(a)(3). Proposed § 551.93(a)(3) becomes final § 551.103(a)(4). Proposed § 551.93(a)(4) and (a)(7) are combined into new final § 551.103(a)(5), "Intake Screening". This provision now includes a social interview, medical screening, and evaluation of both an inmate's general physical appearance and emotional condition. As revised, the rule is consistent with the Bureau's rule on "Intake Screening", published in the **Federal Register** June 30, 1980 (at 45 FR 44229). Proposed § 551.93(a)(5) becomes final § 551.103(a)(6) and now requires staff provide advice as to the institution guidelines governing telephone calls. Final § 551.103(a)(7), "Provision for personal hygiene", is new and provides for pre-trial inmates to receive personal hygiene items, clean clothing, and the opportunity for shower and hair care.

We disagree with a comment that pre-trial inmates not be fingerprinted until convicted. This procedure is necessary for identification purposes. In response to another comment, a pre-trial inmate is provided, as specified in § 551.117, access to his attorney. This provision and the Bureau rule on Telephone Regulations for Inmates (see 28 CFR Part 540) provide Bureau policy on attorney calls and insure against "arbitrary application". Placement in segregation of itself is not a basis for denying an inmate such access. Another comment suggests that the institution's admission procedure provide for psychological screening. The required intake screening accommodates the comment's general purpose. Where warranted, and as evident from the results of this screening, the individual can be referred for a full psychological assessment.

6. Section 551.104—A comment questioned whether separate housing for pre-trial inmates satisfies constitutional principles and whether complete physical separation is required. The Bureau of Prisons Metropolitan Correctional Centers (MCC's) were constructed and designed to house pre-trial inmates. Some of the Federal Correctional Institutions (FCI's) have adopted detention-unit operations to accommodate pre-trial commitments. These detention-units are functional units and provide for physical separation from convicted prisoners housed in other areas within the institution. The Bureau allows pre-trial inmates to interact with convicted inmates provided this is consistent with

institution security and good order and the inmate consents. It is also recognized that conditions may occur (for example, an influx of pre-trial inmates) which will necessitate temporary commingled housing arrangements to ensure the effective management of the institution.

7. Section 551.105—Final § 551.105(a) deletes the term "close", since "in" custody is the current term for the inmate authorized to leave the institution only with handcuffs and with staff escort. Use of other restraints is at the option of the escorting officer. Within the institution, "in" custody allows the inmate to be assigned to all regular work assignments and activities; under a normal level of supervision. In response to a comment that staff supervise pre-trial inmates according to procedures for other custody levels, we note that staff may consider other custody levels where circumstances warrant and verifiable information is available to justify such action.

8. Section 551.106—Final § 551.106(a) substitutes the phrase "in the community living area" for living unit. We agree with a comment, and have reworded the final rule to better recognize, that pre-trial inmates should be provided the opportunity, though not required, to participate in work programs and other activities. Such participation may be more limited for the pre-trial inmate due to security considerations. Even with limitations, however, some opportunities can be provided in the areas of work, education, recreation, counseling, etc.

9. Section 551.108—Final § 551.108 authorizes the Warden to approve a pre-trial inmate for special awards, in addition to performance pay. The final rule deletes the non-essential phrase "(see Rule 545, Subpart C)".

10. Section 551.109—We disagree with a comment on § 551.109(b) that the term "attorney of record" be deleted and replaced with "attorney". The specific section identifies the Bureau contact for an individual's release from custody or an escorted trip. The "attorney of record" is the person knowledgeable about the pre-trial inmate's case, on which the inmate is being held. If the "attorney of record" is not available, provisions may be made for contact with another attorney. Final § 551.109(c) is reworded and requires an order by the court before a pre-trial inmate is authorized to participate in community programs. A commenter stated that, if a pre-trial inmate is classified pursuant to rules for community activities (for example, work release), such participation should occur. The commenter fails to recognize that the Bureau's authority to approve inmates for community programs is limited under 18 USC 4082 to convicted, not pre-trial inmates. The Bureau's rule is not intended to preclude pre-trial inmates from community programs, but recognizes the interests of the court.

11. Section 551.110—Final § 551.110(a) inserts the phrase "and when consistent with institution security and good order" as a necessary consideration in determining a pre-trial inmate's participation in religious programs with convicted inmates. Where participation is not possible (either because the inmate declines to sign a waiver or where it is not consistent with institution security and good order), the pre-trial inmate is provided the opportunity to practice his religious faith within the housing area.

12. Section 551.111—The final rule deletes reference to "Rule 551, Subpart B," and inserts "in accordance with current Bureau of Prisons policy for convicted inmates." We agree with a comment suggesting deletion of the term "clearance" and have reworded the rule to require designated offices be advised and their comments requested.

13. Section 551.112—Final § 551.112(b) inserts the phrase "and when consistent with institution security and good order" as a necessary consideration in determining when a pre-trial inmate may participate in education programs with convicted inmates. Final § 551.112(a) allows for participation in correspondence and self-study courses, in addition to contracting for the use of contract personnel or community volunteers.

14. Section 551.113—Final § 551.113, "Counseling", is new. This section states that when the pre-trial inmate signs a waiver of separation and when consistent with institution security and good order, that inmate may receive counseling services with convicted inmates. Final § 551.113(b) recognizes that staff may provide or enlist the aid of contract personnel for counseling services within the area where the pre-trial inmate is confined.

15. Section 551.114—Proposed §§ 551.103–551.109 become final §§ 551.114–551.120. The language of final § 551.114 now provides for the pre-trial inmate to receive basic medical (including dental), psychiatric, and psychological care provided convicted inmates. Final § 551.114(b) substitutes the phrase "advise the court, through the U.S. Marshal," for "notify the court". The notification in final § 551.114(c) is expanded to include the U.S. Marshal and the inmate's attorney of record. Deleted is the phrase "Part 549, Subpart B." The Bureau's rule ensures that pre-trial inmates receive medical attention. We do not agree with another comment that the pre-trial inmate have the opportunity to have a medical examination by his own physician. In proposing the suggestion for outside medical examination, the commenter alludes to persons being "beaten severely by officers" and believes such medical attention is necessary to ensure that inmates get adequate protection. The Bureau does not agree with either the commenter's premise or conclusion. Bureau staff are expected and trained to use only minimal force necessary for a given situation. Any violation of this practice is investigated and appropriate disciplinary action is taken. As for medical treatment, the rule requires staff to provide the pre-trial inmate with basic medical care. Additional treatment is provided as warranted by the individual situation.

16. Section 551.115—As in previous sections, the final rule recognizes institution security and good order as considerations in determining whether a pre-trial inmate in the regular population may participate in recreation activities with convicted inmates. Final § 551.115 (d) and (e) are new. Subsection (d) requires § 551.115 (b) and (c) be carried out unless there are compelling security or safety reasons. Documentation of such reasons is required. Final § 551.115(e) provides that pre-trial inmates in special housing units receive exercise as provided in the Bureau's rules on Inmate Discipline (see 28 CFR, Part 541, Subpart B).

17. Section 551.116—Final § 551.116(a) is reworded and inserts reference to 28 CFR Part 541, Subpart B. This section contains Bureau rules on inmate discipline and meets the intent of a comment that pre-trial inmates receive due process safeguards. The final rule is reworded to require the pre-trial inmate to abide by Bureau of Prisons rules on inmate discipline as opposed to the phrase "disciplinary rules of the institution".

18. Section 551.117—Final § 551.117(a) substitutes "Warden" for "Staff". A commenter believed that the provisions of this section are too restrictive. Two concerns of the commenter, attorney access at any reasonable time and opportunity for confidential interviews, are covered in the internal instructions implementing this rule. A commenter suggested that the pre-trial inmate be provided two free phone calls at initial booking and that the phone number of a local federal defender's office be posted at the institution. The Bureau provides a pre-trial inmate with access to pay telephones at the earliest convenient

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time, normally upon assignment to a housing unit. Where circumstances warrant (for example, lack of funds), the pre-trial inmate may request to place the call without charge. In reference to posting the telephone number of a local federal defender's office, this decision is left with the Warden. A final comment advocated that the Bureau provide the inmate's attorney with the same information the Bureau can provide the inmate. This is inappropriate as it is the inmate's, not the Bureau's, responsibility to authorize such access.

19. Section 551.118—The final rule deletes reference to Rule 552, Subpart E and allows pre-trial inmates to retain personal property as authorized for convicted inmates in administrative detention units. Final § 551.118(b) substitutes the phrase "Staff may store" for "Staff shall store". While it is expected that staff will be able to store some of the pre-trial inmate's unauthorized personal property, the amount stored is dependent upon storage space available at the institution.

20. Section 551.119—Final § 551.119(a) requires staff establish procedures for release of funds and personal property to pre-trial inmates released at times other than normal business hours. Deleted is "on a 12 hour basis, Monday through Friday". Final § 551.119(b) is expanded to require pre-trial inmates to be informed of existing policy relative to the deposit of funds. A comment suggested that the pre-trial inmate receive negotiable funds at the time of release. While it is possible for the inmate to receive cash upon release, the lack of sufficient funds held at the institution may necessitate issuance of a check drawn from the U.S. Treasury and sent to the inmate through a Regional Disbursing Office.

21. Section 551.120—The final rule deletes reference to Rule 540, Subpart D and now references the Bureau rule and local institution guidelines on visiting. A commenter stated that pre-trail inmates have constitutional rights to visitation above and beyond rights afforded convicted prisoners. Such a constitutional right has not been clearly established, and is dubious in light of *Bell* v. *Wolfish*. The final rule recognizes the pre-trial status of the individual and provides expanded visiting opportunities, specifically as this pertains to preparation for trail and protection of the pre-trial inmate's business. In addition, § 551.117(a) authorizes pre-trail inmate-attorney visits on a seven-day-a-week basis. The internal language on visiting recognizes that the pre-trial inmate's transient status may not allow staff to obtain background information as provided in the Bureau's rule on inmate visiting. In such situations, staff are expected to make a determination based on available information and whether the visit could reasonably be expected to create a threat to the security or good order of the institution.

2. Part 552, Subpart B—Searches of Housing Units, Inmates, and Inmate Work Areas

1. Section 552.10—A commenter believes this rule fails to recognize that inmates retain some measure of constitutional rights under the Fourth Amendment to privacy and to be free from unreasonable searches and seizures. Also expressed was the belief that the Bureau policy does not adhere to American Correctional Association (ACA) Standards (Standard 4163 and Revised Draft Standard 4173.01) and Department of Justice (DOJ) Draft Standards (Security and Control 013). Section 552.10 expresses the Bureau of Prisons rule as this pertains to searches of inmates and of inmate housing and work areas. Internal instructions implementing this rule recognize the commenter's concerns and specify that non-intrusive sensors should be used whenever feasible, and that staff avoid unnecessary force and strive to preserve the dignity of the individual being searched. The Bureau is well aware of the Fourth Amendment protections which are involved in searches of individuals. There are special security concerns in correctional institutions, particularly with respect to the introduction of contraband, which require searches. If the search procedure is professionally and routinely conducted, as is required by the implementing policies of the Bureau, there should not be a question of abuse. The safe, secure, and orderly running of the institution necessitates searches of inmates, inmate housing units and work areas. In reference to the aforementioned Standards, the Bureau meets the only standard (ACA Standard 4163) currently in effect.

2. Section 552.11—Final § 552.11(b)(1) is revised to read "may be" as opposed to "has been" concealed on the person to better describe the intent of the rule. The "reason to believe" (now identified as "reasonable belief") expectation is the basis for conducting a visual search. The final rule also includes the additional example of placement in a special housing unit (administrative detention, disciplinary segregation) as a situation where a visual search is warranted. The phrase "and/or removal of" is deleted from the first sentence of final § 552.11(c) as this intent is expressed later in § 552.11(c). A comment on § 552.11(c) states "reasonable belief" is violative of applicable correctional standards, citing revised ACA and draft DOJ Standards which call for "probable cause". As noted, the cited Standards are in draft format and the Bureau has submitted its comments on these. The Bureau believes the "probable cause" standard is too high, and would exclude the type of search which is an important deterrent to the introduction of contraband. Section 552.11(c) provides adequate constraints as pertains to digital or simple instrument searches, prohibits such searches if likely to result in physical injury to the inmate, and requires documentation for all such searches. A comment on § 552.11(c)(2) which related to the phrase "injury to the inmate" is reflected in the final rule by revising the language to read "physical injury". This insertion clearly indentifies the type of injury and is a determination made by a medically trained person.

3. Section 552.12—A commenter accurately describes § 552.12 to specify that the inmate's consent is required prior to a major instrument or surgical intrusion, and that performance of an X-ray examination may be provided without the inmate's consent only where such an examination is determined necessary to the security, good order, or discipline of the institution. For purposes of clarity, final § 552.12(b) is expanded to encompass the use of X-rays in both medical and non-medical instances. Based on this revision, reference to X-rays in proposed § 552.12(a) is deleted from final § 552.12(a). The intent of the language on X-rays is unchanged. The final rule is revised to require that documentation of the X-ray examination and the reasons for the examination be placed in the inmate's medical file, as well as the inmate's central file. Final § 552.11(b)(1) provides that where the Warden or Regional Director is not available, a decision on whether an X-ray examination may occur is made only by a person officially acting in the capacity of Warden or Regional Director.

4. Section 552.13—Final § 552.13(a) is revised to read "without notice to or prior approval from the inmate". This insertion more clearly recognizes the Bureau's right to conduct a search of an inmate's housing and work areas as necessary to maintain the security, good order, and discipline of the institution. A commenter believed that this section fails to take into account recognized correctional standards. The commenter

specifically cites provisions which call for "Attendance of two officers doing a cell search" and "Conduct of searches no more frequently than necessary to control contraband * * * respect * * * an inmate's right to any property authorized by institutional regulations." The Bureau sees no incompatibility between its rule and points raised by the commenter. While the Bureau recognizes the desirability of having two officers in attendance during a cell search, this is not always possible. Where necessary to ensure institution security and good order, one staff member may conduct such a search. As pointed out in an earlier response, the Bureau is in compliance with the commenter's referenced standard (ACA Standard 4163). It is further noted that the April 1980 discussion language on the revised draft Standard deletes the reference to the presence of two officers during cell searches. The internal instructions to staff do require written documentation of each housing unit search. The actual search, be it of a housing unit or work area, is intended to detect contraband, prevent escapes, maintain sanitary standards, and to eliminate fire and safety hazards. There is no intent or authorization to confiscate property of the inmate authorized by institution guidelines.

3. Part 570, Subpart B—Work/Study Release

1. Section 570.10—The final rule reflects that an inmate may not work under working conditions at less than acceptable minimum standards (for example, at less than acceptable community wage standards) or in any other situation which could evoke adverse public response. A commenter objected to the phrase "could evoke adverse public response", suggesting its sole purpose was to protect the Bureau from public criticism or embarrassment. A Work/Study Release program requires a close alliance with the local community. It is necessary that the Warden be able to modify situations which may adversely impact on the community's participation and support for a Work/Study Release program. To clarify the extent of the Warden's responsibility the final rule is revised to read "in the Warden's judgment and discretion". The final rule clarifies the phrase "evoke adverse public response" by adding the language, "towards the inmate, the Bureau of Prisons, or the government". Another comment suggested § 570.10 be broadened to embrace the "rehabilitative" value of Work/Study Release opportunities. The Bureau believes the phrase "in preparation for release from confinement" adequately describes the intent of Work/Study Release, as this program provides an inmate opportunity to secure release funds and/or serves as an extension of an inmate's institutional training or education. Our experience has shown that the optimum period for Work/Study Release placement is three to six months prior to a probable release date.

2. Section 570.12—§ 570.12 is retitled "Administration". Proposed § 570.13(a) becomes final § 570.12(a). The proposed rule's reference to § 570.15 becomes § 570.16 in the final rule. Final § 570.12(a) further recognizes the Warden's authority to remove an inmate from program participation. Proposed § 570.12(a) becomes final § 570.12(b). A comment to § 570.12 correctly assumes an inmate is entitled to notice of the charges and an opportunity to be heard prior to disciplinary action against him.

3. Section 570.13—The final section is retitled "Program Participation", Proposed § 570.13(b) becomes the first paragraph of final § 570.13. Proposed § 570.13(b)(1) and (2) becomes final § 570.13(a) and (b). Final § 570.13(a) is revised to read "the inmate makes written application for placement". Proposed § 570.13(b)(3) is deleted. Proposed § 570.13(b)(4)–(7) becomes final § 570.13(c)–(f). A commenter raised several questions regarding criteria for program participation. Specifically the commenter requested a definition of "community custody status" and how a prisoner obtains it. Community custody allows an inmate to work on outside details with minimal supervision. It also recognizes the inmate as eligible for community based program activities. An inmate may obtain community custody upon recommendation of the unit team. The Bureau's guiding principle is that each inmate should be in the lowest custody level appropriate to adequately supervise that inmate. Factors considered include, but are not limited to, the inmate's past involvement with drugs and alcohol, mental and psychological stability, types and frequency of disciplinary action, and escape history.

Other comments question the criteria used in determining an inmate's "physical and mental" capability, whether the prisoner has "demonstrated a level of responsibility" providing "reasonable assurance of compliance with the requirements of placement" and finally whether the proposed placement is "appropriate". The rule provides a framework in which an inmate may be considered for Work/Study Release participation. There are no general restrictions on the types of jobs or study programs for which an inmate may be considered. The candidate needs to be in good health and mentally and physically able to perform the proposed assignment. The inmate's demonstrated acceptance of responsibility (work performance, commitment to areas of interest, etc.) prior to entry into the institution, and within the institution, provides staff a basis on which an inmate may be evaluated for program participation. At the same time, the rule does not preclude the use of Work Release for a physically handicapped person or for those persons mentally or emotionally handicapped, but who are not dangerous to others, when it is apparent that community employment will significantly aid the inmate's post-release adjustment and is consistent with the inmate's capabilities.

4. Section 570.14—Proposed § 570.14(a)(5) is deleted from this section "Limitations to Program Participation". Its intent is encompassed within final § 570.16 "Cases Requiring Special Approval". This modification recognizes the need for closer review prior to program placement, and deletes the proposed rule language that such persons be excluded from program participation.

One commenter on § 570.14 suggested that proposed § 570.14(a)(3) be reworded to state "an inmate evaluation cannot confidently predict self-control of the behavior". We see no necessity for this change, as the phrase "a history of violent or assaultive behavior" is a guide, rather than a conclusive statement of future predictability.

Other comments objected to requiring an inmate to be within six months of a probable date of release. Comments suggested that an inmate serving a longer sentence has an advantage, that requiring an inmate to be "within a six month release date comes too late in the form of meaningful application to re-enter society", and that decisions on an inmate's program participation be made on the basis of "rehabilitative potential, not whether an inmate is so many months from a release date, committed a certain type of crime, etc.". A comment that asked how staff could know or judge the probability of parole release fails to recognize that U.S. Parole Commission guidelines establish an inmate's presumptive parole date early in the sentence. The Bureau of Prisons utilizes this as a probable date of release. The Bureau does not consider "rehabilitative potential" in selection of an inmate for a Work/Study Release Program. Neither does the Bureau automatically exclude an inmate from

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participation based on the type of crime, length of sentence, central inmate monitoring designation, etc. Nor do we believe it appropriate to provide special consideration for inmates in the Witness Security Program. Section 570.13 presents the procedure and conditions for Work/Study Release participation. Certain situations (as discussed in §§ 570.14 and 570.16) warrant a closer scrutiny prior to a decision on an inmate's program participation. This review is consistent with the Bureau's responsibility for the control, custody, care, treatment, and instruction of inmates, and protection of the public.

Work/Study Release provides an inmate, as one commenter said, the opportunity to work and attend classes in a community setting, to earn and save wages, to pay taxes, etc. It assists the inmate's re-entry (not rehabilitation) into the community. The six month time period recognizes both the transitional intent of the program and the limitation on available resources. It focuses on the time when an inmate may receive the most benefit from such a program. It provides more inmates a greater opportunity to participate in the program. To a comment that implies six months will not help an inmate develop good spending habits and develop financial savings, and to another which says that Work/Study Release helps an inmate avoid total isolation from the most basic aspects of non-prison life, we emphasize that Work/Study Release is not, and never has been, intended as a separate entity. Work/Study Release is only one segment of the total operation of the institution. Other segments include institutional training, employment, furloughs, pre-release programs, counseling, etc. The concerns of the commenters are addressed within the total operational sphere.

A commenter to subsection (a)(2) misreads the intent of that section, as the Bureau does not prohibit an inmate from participating in a program within the "inmate's area of release". In such instances, the intent is to establish a suitable contract Work/Study Release facility, rather than utilize the institution program. We agree with the thrust of a comment on subsection (a)(3) and (a)(4) stating that individuals in these categories may be dealt with on a case-by-case basis. As indicated by final § 570.14(b) the Warden may allow an inmate in either of these categories to participate in a Work/Study Release program when it is determined that the inmate needs such a placement and that the community is not endangered thereby. A commenter suggests that subsection (b) provides no guidance or criteria and could lead to arbitrary decision-making. We disagree. Final § 570.13 establishes the procedure and conditions under which an inmate is eligible. Final § 570.14 provides the Warden with the discretion to approve selected inmates for participation on an individual case-by-case basis. An individual basis precludes establishment of guidance or criteria more specific than that offered in final § 570.14(b) and final § 570.13. An inmate who disagrees with the decision may file a complaint under the Administrative Remedy Procedure.

5. Section 570.15—Final § 570.15 "Transfers" is new. It provides for an inmate to transfer from an institution which does not have Work/Study Release to an institution which offers such a program.

6. Section 570.16—Proposed § 570.15 becomes final § 570.16. The language of proposed § 570.14(a)(5) is clarified and is now included in final § 570.16(a). This section specifies that an inmate convicted of a serious crime against persons, and whose presence in the community could attract undue public attention, create unusual concern, or depreciate the seriousness of the offense, must have approval of the Regional Director prior to program participation. These individuals are not precluded from program participation, but are provided an additional level of review. Proposed § 570.15 becomes final § 570.16(b). The phrase "tentatively designated or confirmed" is substituted for "designated or tentatively designated". Reference in the proposed rule to Part 524 Subpart C is reworded to state "the Bureau of Prisons rule on Central Inmate Monitoring Cases".

7. Section 570.17—Proposed § 570.16 becomes final § 570.17. Section 570.17(a) contains a recognition that all transportation arrangements require approval of the Warden. Deleted from the final rule is the specific language which recognized that the Warden may authorize use of institution vehicles and charge an inmate a fee comparable to the cost of commercial transportation. The final rule requiring the Warden's approval encompasses this intent. Deleted from final § 570.17(b) is the amount of fixed charges the inmate must pay and a statement that there is no charge made for the first 30 calendar days of community employment. This language is better contained in the Bureau of Prisons rule on Reimbursement by Inmates Confined in Federal Facilities Participating in Community Employment Programs. Subsection (c) is expanded to require staff to document a waiver of transportation or subsistence payments.

8. Section 570.18—Proposed § 570.17 becomes final § 570.18. The final rule is expanded to state that an inmate may purchase supplemental or replacement clothing with personal funds through either regular institutional commissary procedures or directly from outside commercial sources. The final rule also requires that the Warden make special arrangements for an inmate to have access to a locker and a change of clothing.

9. Section 570.19—Proposed § 570.18 becomes final § 570.19. In response to a comment, § 570.19(b) is revised to specify that the Bureau of Prisons may participate in payment for educational courses in accordance with the provisions of the Bureau of Prisons rule on Postsecondary Education Programs for Inmates.

10. Section 570.20—The final rule is reworded to state that staff monitor (as opposed to supervise) an inmate in a work or study release placement to ensure the appropriateness of the placement and to assess (as opposed to monitor) the performance of the inmate.

11. Sections 570.21 and 570.22 are new. Section 570.21, "Guidance and Counseling", states that staff shall make guidance and counseling services available to a Work/Study Release inmate. Section 570.22, "Work/Study Release Good Time", states the Bureau policy in regard to extra good time for an inmate in Work/Study Release. This language coincides with language contained in 28 CFR 523.12.

12. Section 570.23—Proposed § 570.21 becomes final § 570.23. The final rule authorizes the Warden to use his discretion in determining whether an inmate is removed from Work/Study release. Final § 570.23(d) reflects this intent and is inserted to clarify the phrase "in the Warden's judgment" in proposed and now final § 570.10. A comment on subsection (b) stated there was no definition of "misconduct" or "willful negligence". Another comment suggested the Bureau ensure that a hearing is provided before revocation of an inmate's program participation. Subsection (b) recognizes instances where an inmate's work performance is reported to be unsatisfactory and, as occurs in some cases, where the inmate is fired from the job assignment. The Bureau of Prisons has an obligation to monitor an inmate in a work or study release placement and to ensure that the arrangement is satisfactory for all concerned. An inmate who believes the removal is for an invalid reason may file a complaint under the Administrative Remedy Procedure. Violation of the conditions of a community program is a prohibited act and subjects the inmate to disciplinary action in accordance with the Bureau of Prisons rule on Inmate Discipline.

13. Section 570.24—Proposed § 570.19 becomes final § 570.24.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR Chapter V is amended as set forth below. The effective date of these rules is December 15, 1980.

Dated: November 6, 1980.

Norman A. Carlson,

Director, Bureau of Prisons.

1. Subchapter C is amended as follows:

A. Part 551, Subpart J is added.

B. Part 552, Subpart B is added.

PART 551—MISCELLANEOUS

* * * * *

Subpart J—Pre-Trial Inmates

Sec.

551.100 Purpose and scope.
551.101 Definitions.
551.102 Commitment prior to arraignment.
551.103 Procedure for admission.
551.104 Housing.
551.105 Custody.
551.106 Institutional employment.
551.107 Good time.
551.108 Peformance pay.
551.109 Community activities.
551.110 Religious programs.
551.111 Marriage.
551.112 Education.
551.113 Counseling.
551.114 Medical, psychiatric, and psychological.
551.115 Recreation.
551.116 Discipline.
551.117 Access to legal resources.
551.118 Property.
551.119 Release of funds and property of pre-trial inmates.
551.120 Visiting.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart J—Pre-Trial Inmates

§ 551.100 Purpose and scope.

The Bureau of Prisons houses, in addition to convicted inmates, persons awaiting trial. Procedures and practices required for the care, custody, and control of such inmates may differ from those established for convicted inmates. (Except as limited by this rule, policies and standards applicable to persons committed to the custody of the Attorney General apply to detainees designated Pre-Trial Inmates.)

§ 551.101 Definitions.

(a) *Pre-Trial Inmate:* A person who is legally detained but not convicted. Conviction occurs upon entry of a judgment of conviction. This ordinarily is evidenced by receipt of a Judgment and Commitment from a federal court. Pre-trial status includes an individual who is detained while awaiting trial, while in the process of trial, or while awaiting a verdict, or a detained person who has pleaded or been found guilty but is awaiting sentence.

(1) For purposes of this rule, an inmate committed for civil contempt, or as a detained alien, or as a material witness is considered a pre-trial inmate. An inmate who is committed under 18 U.S.C. 4244 and 4246 is also considered a pre-trial inmate.

(2) For purposes of this rule, an inmate in a status described in paragraphs (a) or (a)(1) of this section and who is at the same time serving a state or federal sentence is not considered a pre-trial inmate.

(b) *Convicted Inmate:* An individual a court has found guilty of an offense punishable by law, as evidenced by a judgment of conviction. The Judgment and Commitment is the form customarily used by federal courts to signify officially the status of conviction.

§ 551.102 Commitment prior to Arraignment.

On receipt of a U.S. Marshal's Remand, the Bureau of Prisons shall accept an individual who has not been arraigned for commitment as a pre-trial inmate provided that the institution has appropriate detention facilities available for the individual.

§ 551.103 Procedure for admission.

(a) Staff institutions with detention-unit operations shall establish procedures for admitting a pre-trial inmate which include, but are not limited to:

(1) Verification of commitment papers;

(2) Search of the inmate;

(3) Photographing and fingerprinting;

(4) Disposition of clothing and personal possessions;

(5) Intake screening, to include:

(i) Social interview to include obtaining identifying data and information relevant to possible separatees;

(ii) Medical screening, including tests for infectious diseases; and

(iii) Evaluation of both the general physical appearance and emotional condition of the inmate;

(6) Providing advice as to institution guidelines governing telephone calls;

(7) Provision for personal hygiene, to include:

(i) Issue of personal hygiene items;

(ii) Issue of clean clothing; and

(iii) Opportunity for shower and hair care;

(8) Orientation; and

(9) Assignment to an appropriate housing unit.

(b) [Reserved]

§ 551.104 Housing.

Unless a threat is posed to institution security or good order, staff shall house pre-trial inmates separately from convicted inmates.

§ 551.105 Custody.

(a) Staff may supervise a pre-trial inmate as if classified "in" custody.

(b) Where circumstances warrant, staff may supervise a pre-trial inmate according to procedures for other custody levels.

§ 551.106 Institutional employment.

(a) The Warden may not require a pre-trial inmate to work in any assignment or area other than housekeeping tasks in the inmate's own cell and in the community living area.

(b) Unless the pre-trial inmate signs a waiver, the Warden may not permit the pre-trial inmate to work with convicted inmates or in any assignment or area other than housekeeping tasks as specified in paragraph (a) of this section.

§ 551.107 Good time.

A pre-trial inmate does not earn good time.

§ 551.108 Performance pay.

The Warden may approve a pre-trial inmate for performance pay and special awards.

§ 551.109 Community activities.

(a) The Warden may not grant a furlough to a pre-trial inmate (18 U.S.C. 4082).

(b) In an emergency, staff shall facilitate contact with the pre-trial inmate's attorney of record, who may seek from the court a decision concerning release from custody or an escorted trip.

(c) Except by order of the court, a pre-trial inmate may not be considered for participation in community programs.

§ 551.110 Religious programs.

(a) If a pre-trial inmate signs a waiver of separation, and when consistent with institution security and good order, that pre-trial inmate may participate in religious programs with convicted inmates.

(b) Staff may enlist the aid of contract or volunteer chaplaincy personnel for

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religious programs within the area where pre-trial inmates are confined.

§ 551.111 Marriage.

A pre-trial inmate may request permission to marry in accordance with current Bureau of Prisons policy for convicted inmates. Staff shall contact the court, U.S. Attorney, and in the case of an alien, the Immigration and Naturalization Service, to advise of the marriage request of the pre-trial inmate and to request their comments.

§ 551.112 Education.

(a) A pre-trial inmate may participate in correspondence and self-study educational courses. Institutional staff may also arrange educational assistance to the pre-trial inmate through the use of contract personnel or community volunteers.

(b) If pre-trial inmate signs a waiver of separation, and when consistent with institution security and good order, that pre-trial inmate may have full access to the institution's educational program.

§ 551.113 Counseling.

(a) If a pre-trial inmate signs a waiver of separation, and when consistent with institution security and good order, that pre-trial inmate may receive counseling services with convicted inmates.

(b) Staff may provide or enlist the aid of contract personnel for counseling services within the area where the pre-trial inmate is confined.

§ 551.114 Medical, psychiatric, and psychological.

(a) Staff shall provide the pre-trial inmate with the same level of basic medical (including dental), psychiatric, and psychological care provided convicted inmates.

(b) Staff shall advise the court, through the U.S. Marshal, of medication the pre-trial inmate receives which may alter the inmate's courtroom behavior.

(c) In event of serious illness or death of a pre-trial inmate, staff shall notify the committing court, U.S. Marshal, U.S. Attorney's office, the inmate's attorney of record, and the designated family member or next of kin.

§ 551.115 Recreation.

(a) If a pre-trial inmate signs a waiver of separation, and when consistent with institution security and good order, that pre-trial inmate may participate with convicted inmates in recreational activities.

(b) At a minimum, staff shall provide the pre-trial inmate in regular population with the following recreational opportunities:

(1) One hour daily of outside recreation, weather permitting; or

(2) Two hours daily of indoor recreation.

(c) Staff shall make recreation equipment available to the pre-trial inmate including, but not limited to, physical exercise equipment, books, table games, and television.

(d) Provisions of paragraphs (b) and (c) of this section must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons.

(e) Staff shall provide the pre-trial inmate housed in Administrative Detention or Disciplinary Segregation with exercise as provided by the Bureau of Prisons rules on Inmate Discipline (See 28 CFR Part 541, Subpart B).

§ 551.116 Discipline.

(a) Staff shall require the pre-trial inmate to abide by Bureau of Prisons rules on Inmate Discipline (See 28 CFR Part 541, Subpart B), subject to the limitations of §§ 551.106(a) and 551.107.

(b) Staff shall advise the court, through the U.S. Marshal, of repeated or continuing disruptive behavior by a pre-trial inmate.

§ 551.117 Access to legal resources.

(a) The Warden shall provide the opportunity for pre-trial inmate-attorney visits on a seven-day-a-week basis.

(b) Staff shall provide pre-trial inmates with access to legal materials in the institution.

(c) Staff shall allow the pre-trial inmate, upon his request, to telephone his attorney as often as resources of the institution allow.

§ 551.118 Property.

(a) A pre-trial inmate may retain personal property as authorized for convicted inmates housed in administrative detention units (See Part 541, Subpart B).

(b) Staff may store the pre-trial inmate's unauthorized personal property until the individual is released, transferred to another facility, or sentenced and committed to a federal institution.

(c) Staff may supply the pre-trial inmate with clothing for court appearances or the inmate may supply his own.

§ 551.119 Release of funds and property of pre-trial inmates.

(a) Staff shall establish procedures which allow for the release of funds and personal property to pre-trial inmates released during other than normal business hours.

(b) Staff shall ensure that pre-trial inmates are informed of existing policy relative to the commissary account and the deposit/release of funds.

§ 551.120 Visiting.

Staff shall allow pre-trial inmates to receive visits in accordance with the Bureau's rule and local institution guidelines on visiting. Staff may allow a pre-trial inmate special visits to protect the inmate's business interests or to help prepare for trial.

PART 552—CUSTODY

Subpart B—Searches of Housing Units, Inmates, and Inmate Work Areas

Sec.
552.10 Purpose and scope.
552.11 Body searches of inmates.
552.12 X-ray, major instrument, fluoroscope, or surgical intrusion.
552.13 Search of inmate housing and work areas.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

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Subpart B—Searches of Housing Units, Inmates, and Inmate Work Areas

§ 552.10 Purpose and scope.

In order to further the safe, secure, and orderly running of its institutions, the Bureau of Prisons conducts searches of inmates and of inmate housing and work areas to locate contraband and to deter its introduction and movement. Staff shall employ the least intrusive method of search practicable, as indicated by the type of contraband and the method of suspected introduction.

§ 552.11 Body searches of inmates.

(a) Pat search—an inspection of a fully-clothed inmate, using the hands, including a search of the inmate's clothing and personal effects. A metal detector search may be done under the same circumstances.

(1) Staff may conduct a pat search of an inmate on a routine or random basis to control contraband.

(2) Ordinarily, staff of the same sex as the inmate shall make the search, except where circumstances are such that delay would mean the likely loss of contraband, or where it would be operationally inconvenient to arrange for a member of the same sex.

(b) Visual search—a visual inspection of all body surfaces and body cavities.

(1) Staff may conduct a visual search where there is reasonable belief that contraband may be concealed on the person, or a good opportunity for concealment has occured. For example, a placement in a special housing unit (See Part 541, Subpart B) or re-entry into an institution after contact with the public (after a community trip or after a "contact" visit in a visiting room) is sufficient to justify a visual search. The visual search shall be made in a manner designed to assure as much privacy to the inmate as practicable.

(2) Staff of the same sex as the inmate shall make the search, except where circumstances are such that delay would mean the likely loss of contraband. Where staff of the opposite sex makes a visual search, staff shall document the reasons for the opposite sex search in the inmate's central file.

(c) Digital or simple instrument search—inspection for contraband or any other foreign item in a body cavity of an inmate by use of fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forcep. A digital or simple instrument search may be conducted only by medical staff upon approval of the Warden and only if the Warden has reasonable belief that an inmate is concealing contraband in or on his person. If located, the contraband or foreign item may be removed immediately by medical staff if such removal can easily be effected by use of fingers or the simple instruments referred to above. Staff shall document all digital and simple instrument searches and the reasons for the searches in the inmate's central file.

(1) Staff shall solicit the inmate's written consent prior to conducting a digital or simple instrument search. However, the inmate's consent is not required.

(2) Staff may not conduct a digital or simple instrument search if it is likely to result in physical injury to the inmate.

§ 552.12 X-ray, major instrument, fluoroscope, or surgical intrusion.

(a) The institution physician may authorize use of a fluoroscope, major instrument (including anoscope or vaginal speculum), or surgical intrusion for medical reasons only, with the inmate's consent.

(b) The institution physician may authorize use of an X-ray for medical reasons and only with the consent of the inmate. When there exists no reasonable alternative, and an X-ray examination is determined necessary for the security, good order, or discipline of the institution, the Warden, upon approval of the Regional Director, may authorize the institution physician to perform a non-repetitive X-ray examination for the purpose of determining if contraband is concealed in or on the inmate (for example: in a cast or body cavity). The X-ray examination may not be performed if it is determined by the institution physician that it is likely to result in serious or lasting medical injury or harm to the inmate. Staff shall place documentation of the examination and the reasons for the examination in the inmate's central file and medical file.

(1) The Warden and Regional Director or persons officially acting in that capacity may not redelegate the authority to approve an X-ray examination for the purpose of determining if contraband is present. An Acting Warden or Acting Regional Director may, however, perform this function.

(2) Staff shall solicit the inmate's consent prior to the X-ray examination. However, the inmate's consent is not required.

(c) The Warden may direct X-rays of inanimate objects where the inmate is not exposed.

§ 552.13 Search of inmate housing and work areas.

(a) Staff may search an inmate's housing and work area, and personal items contained within those areas, without notice to or prior approval from the inmate and without the inmate's presence.

(b) Staff conducting the search shall leave the housing or work area as nearly as practicable in its original order.

2. Subchapter D is amended by adding Subpart B to Part 570.

PART 570—COMMUNITY PROGRAMS

* * * * *

Subpart B—Work/Study Release

Sec.
570.10 Purpose and scope.
570.11 Definitions.
570.12 Administration.
570.13 Program participation.
570.14 Limitations to program participation.
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570.17 Transportation and subsistence.
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570.20 Supervision of an inmate on work or study release.
570.21 Guidance and counseling.
570.22 Work/study release good time.
570.23 Termination.
570.24 Compensation for injury.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Work/Study Release

§ 570.10 Purpose and scope.

The Bureau of Prisons uses Work and Study Release programs to allow selected inmates, in preparation for release from confinement, to attend school or to work in the local community during the day, returning to the institution at night. An inmate may not work as a strikebreaker or under working conditions at less than acceptable minimum standards, or in any other situation which, in the Warden's judgment and discretion, could evoke adverse public response towards the inmate, the Bureau of Prisons, or the government.

§ 570.11 Definitions.

The term "Work and Study Release" means an inmate's authorized absence from an institution other than a community treatment center, for the purpose of employment or to participate in an academic or vocational education activity.

§ 570.12 Administration.

(a) Except as provided in § 570.16, the Warden may approve an inmate's placement for Work or Study Release, or may remove the inmate from such participation. The Warden may not further delegate this authority.

(b) An inmate participant in a community program remains in the custody of the Attorney General. The Warden shall credit time during which an inmate participates in a community program toward service of the inmate's sentence. The Warden shall process an inmate who absconds from a community placement as an escaped federal prisoner. The Warden may subject an inmate who violates the conditions of a community program to disciplinary action as provided in Part 541, Subpart B.

§ 570.13 Program participation.

The Warden may consider an inmate for placement in a Work or Study Release program under the following procedure and conditions:

(a) The inmate makes written application for placement;

(b) The inmate has community custody status;

(c) The Warden determines that the inmate is physically and mentally capable of performing the proposed work or study;

(d) The Warden determines that the inmate has demonstrated a level of responsibility which provides reasonable assurance that the inmate will comply with the requirements of a placement;

(e) The Warden finds the proposed placement appropriate under this subpart; and

(f) The Warden verifies the conditions of the proposed placement.

§ 570.14 Limitations to program participation.

(a) Except as provided in paragraph (b) of this section, the Warden may not consider for placement in a Work or Study Release program:

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(1) An inmate who will not be within 6 months of a probable date of release from confinement at the time of the program placement;

(2) An inmate who is to be transferred to a community program facility, such as a community treatment center or work release facility, in the inmate's area of release;

(3) An inmate who has a history of violent or assaultive behavior; or

(4) An inmate convicted of an offense which involved a violation of financial trust.

(b) When the Warden determines that an inmate needs a Work or Study Release program placement and that the community will not be endangered thereby, the Warden may make an exception to any of the limitations in paragraph (a) of this section.

(c) An inmate may not participate in Study Release on a full-time basis in excess of one academic year without the approval of the Warden and Regional Director.

§ 570.15 Transfers.

When an institution does not have a Work/Study Release program, the Warden may recommend an inmate for transfer to another institution which does operate a Work/Study Release program, provided all other eligibility requirements for transfer are met.

§ 570.16 Cases requiring special approval.

(a) An inmate convicted of a serious crime against persons, and whose presence in the community could attract undue public attention, create unusual concern, or depreciate the seriousness of the offense, must have approval of the Regional Director prior to participation in Work or Study Release.

(b) An inmate tentatively designated or confirmed as a Central Monitoring Case must have approval as authorized in the Bureau of Prisons rule on Central Inmate Monitoring Cases in order to participate in a Work or Study Release program.

§ 570.17 Transportation and subsistence.

(a) All transportation arrangements require approval of the Warden. An inmate shall use and pay for commercial transportation to and from the program placement. Other arrangements for transportation to and from the program placement require prior approval of the Warden.

(b) Under 18 U.S.C. 4082(c)(iii),

"* * * A prisoner authorized to work at paid employment in the community under this subsection may be required to pay, and the Attorney General is authorized to collect, such costs incident to the prisoner's confinement as the Attorney General deems appropriate and reasonable. Collections shall be deposited in the Treasury of the United States as miscellaneous receipts."

(c) The Warden may waive transportation and subsistence costs under paragraphs (a) and (b) of this section when the Warden determines that the costs would unduly burden the inmate financially. Such waivers of transportation and/or subsistence requirements shall be documented.

(d) An inmate may not reimburse the Government for expenses of Work or Study Release except as provided in paragraphs (a) and (b) of this section.

§ 570.18 Clothing.

The Warden shall provide an inmate who is approved for Work or Study Release placement with appropriate attire for the placement. The inmate may purchase supplemental or replacement clothing with personal funds through regular institutional commissary procedures or directly from outside commercial sources. The inmate may not wear clothing acquired through the program placement inside the institution unless authorized by the Warden to do so. The Warden shall make special arrangements for an inmate to have access to a locker and change of clothing.

§ 570.19 Expenses.

(a) The inmate, his family, or other sources approved by the Warden shall bear all expenses incidental to a Work or Study Release program, such as the cost of meals in the community, laundry fees for clothing, cost of special equipment, etc.

(b) An inmate who has sufficient personal financial resources shall bear the cost of his Study Release program. The Bureau of Prisons may participate in payment for educational courses which lead directly to the development or increase of viable occupational skill in accordance with the provisions of the Bureau of Prisons rule on Postsecondary Education Programs for Inmates.

§ 570.20 Supervision of an inmate on Work or Study Release.

Staff shall monitor an inmate on a Work or Study Release placement to ensure the appropriateness of the placement and to assess the performance of the inmate.

§ 570.21 Guidance and counseling.

Staff shall make guidance and counseling services available to a Work/Study Release inmate.

§ 570.22 Work/Study release good time.

Extra good time for an inmate in work or study release programs is awarded automatically, beginning on the date the inmate is assigned to the program and continuing without further approval as long as the inmate is participating in the program, unless the award is disallowed.

§ 570.23 Termination.

The Warden in his discretion may terminate an inmate's participation in a Work or Study Release program for any of the following causes;

(a) Completion of the program by the inmate;

(b) The inmate's misconduct or willful negligence;

(c) Cancellation of a placement for reasons beyond the inmate's control, e.g., budget cutbacks, job layoffs, etc.; or

(d) Other sound correctional reasons, documented in the record.

§ 570.24 Compensation for injury.

The Federal Government assumes no responsibility for injury received by an inmate on Work or Study Release. However, the Government shall provide needed medical treatment so long as the inmate remains in the custody of the Attorney General.

[FR Doc. 80-35353 Filed 11-12-80; 8:45 am]
BILLING CODE 4410-05-M

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Thursday
November 13, 1980

Part V

Department of Transportation

Federal Aviation Administration

Air Carrier—Carry-On Baggage; Accessible Storage of Flexible Travel Canes Carried by Blind Passengers

V 4 5 N O 1 3 8 0 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 17320; Notice No. 80-18]

Air Carrier—Carry-On Baggage

AGENCY: Federal Aviation Administration (FAA, DOT).

ACTION: Notice of proposes rule making.

SUMMARY: This proposed amendment would allow the readily accessible storage of flexible travel canes carried by blind passengers while on board air carrier aircraft. The proposed amendment is in response to a petition of the National Federation of the Blind (NFB).

DATE: Comments must be received on or before January 12, 1981.

ADDRESS: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 17320, 800 Independence Ave. SW, Washington, DC 20591; or delivered in duplicate to: Room 916, 800 Independence Ave., SW, Washingfon, DC.

All comments delivered must be marked: "Docket No. 17320". Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Harold E. Smith, Safety Regulations Staff (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 17320, 800 Independence Ave., SW., Washington, DC 20591. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 17320." The postcard will be dated and time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave., SW, Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Background

By letter dated September 14, 1977, Mr. James Gashel, Chief, Washington Office, the National Federation of the Blind ("NFB"), Suite 212, Dupont Circle Building, 1346 Connecticut Avenue, NW, Washington, D.C. 20026, petitioned the Administrator to revoke those portions of Parts 121 and 123 of the Federal Aviation Regulations which deal with air transportation of persons who may need evacuation assistance. The Federal Aviation Administration ("FAA") denied the petition on March 10, 1978 (Docket No. 17320). Subsequently, the NFB sought review of FAA's denial in the United States Court of Appeals for the District of Columbia Circuit. On January 10, 1979, the Court granted an FAA motion giving the agency time in which to reconsider the NFB petition for rule making. The motion was, in part, based upon a request by FAA's Deputy Administrator that the Civil Aeromedical Institute ("CAMI") in Oklahoma City conduct additional tests regarding the feasibility and safety of allowing blind persons to keep long rigid canes at their seats during takeoff and landing. CAMI accomplished the requested additional testing and on May 3, 1979, the FAA published in the **Federal Register** (44 FR 25869) a copy of the petition and a summary of the CAMI report for public comment. The petition and summary of the CAMI report were published as part of the agency's policy to maximize public involvement in the regulatory process. In addition, this enabled the agency to solicit all available information before a review of the issues presented by the NFB petition was completed to insure that all regulatory alternatives were considered. This publication was also consistent with Executive Order 12044, signed by President Carter on March 23, 1978.

The NFB petition requested the following:

1. The repeal of § 121.13(a) which inserts the phrase "121.586" after the phrase "121.575."
2. The repeal of § 121.586 of Part 121.
3. The amendment of § 121.589(a) to exclude from those items which must be stowed away from the passenger the flexible travel canes of blind persons.
4. The repeal of the amendment of § 123.27(k) which deleted the phrase "and § 121.574 and inserted, instead, the phrase "121.574 and 121.586."

Section 121.13(a) specifies the Part 121 rules which are applicable to helicopter operations.

Section 121.586 states, in pertinent part, that no certificate holder may refuse transporation to a person who may need evacuation assistance unless the certificate holder has established procedures (including reasonable notice requirements) and the passenger fails to comply with the notice requirements or cannot be carried in accordance with the certificate holder's procedures.

Section 121.589(a) states, in pertinent part, that no certificate holder may permit an airplane to take off or land unless each article of baggage is properly stowed.

Section 123.27 specifies the rules of Part 121 which are applicable to holders of air travel club certificates.

For purposes of the petition it was assumed that the term "flexible travel canes" does not include folding or telescoping canes since those canes can presently be carried in accordance with § 121,589(a).

The NFB stated the following in support of its petition:

"Our interest in the repeal of the above-listed FAR sections is as follows: The sections enforce procedures for the carriage of the handicapped on air carriers. The procedures work unreasonable hardship on the blind citizens of the United States in pursuit of their constitutionally protected activities for the following reasons:

(1) The sections require blind citizens to follow procedures set up arbitrarily by private air carriers, which procedures are kept secret from those who must follow them.

(2) The sections enforce humiliating, discriminatory, and unnecessary procedures to ensure "safety," although there is no evidence that the safety hazards cited actually exist.

(3) The sections do not prohibit illegal discrimination in treatment of the handicapped by private air carriers.

(4) The sections were published by the FAA after a long rule-making process. The FAA published proposed regulations and elicited comments and held hearings on the proposed rules. The sections published as final regulations, however, bore so little similarity to the proposed rules as to nullify the validity of the process leading to their publication. These sections have not been submitted for public comment."

Published with the NFB petition was a summary of a CAMI report entitled "Considerations Relative To the Use of Canes by Blind Travelers in Air Carrier Cabins". This report was completed in 1979 and reported the results of tests accomplished to reveal some of the safety implications of allowing blind travelers to retain rigid canes at their seats during takeoff and landing. Among the issues considered in establishing the test program were the impact cane retention would have on an emergency evacuation, the relative utility of folding or telescoping canes versus rigid ones, the movement of an unsecured cane during high "g" decelerations and the potential of canes for injuring passengers or damaging evacuation slides.

On January 18, 1980, the FAA issued a grant of the petition which initiated rule making on the petition submitted by NFB. (The "grant" and petition with background material are contained in the docket.)

In the "grant", the FAA stated that "the petition is granted to allow the initiation of rule making to permit the readily accessible stowage of flexible travel canes." In addition, the FAA stated:

Further, with appropriate stowage, the special utility that canes have for the blind passengers can be preserved while at the same time any conceivable safety hazard posed by their near-seat placement in readily accessible locations can be minimized.

Stowage of Baggage

Under § 121.589, each article of baggage carried aboard by passengers must be stowed in a suitable baggage or cargo stowage compartment; in a cargo bin approved in accordance with § 121.285; or under a passenger seat. This stowage requirement only applies during takeoff or landing.

Before discussing proposed methods of stowage, it would be beneficial to discuss carry-on baggage requirements in general. All items carried on aircraft by passengers are consideed to be "carry-on baggage". This includes articles of loose clothing, pocketbooks, attaché cases, umbrellas and canes. All these items must be stowed during takeoff and landing in accordance with § 121.589.

Most cargo stowage compartments will not accommodate items the length of a cane. Canes also will not fit under "a passenger seat" as specified in § 121.285 and therefore, on most aircraft, canes must be stowed in an appropriate cargo bin that is not always accessible to a blind passenger during flight.

As pointed out by many commenters on the NFB petition, this imposes a restriction on the mobility of blind passengers during flight since they must first obtain assistance from a flight attendant before they can obtain their cane.

While the FAA agrees with many commenters, including the United States Architectural Transportation Barriers Compliance Board, that canes should be stowed near blind passengers, it is necessary that any method of stowage take into consideration the safety of all passengers and crewmembers.

Proper stowage of baggage is directly related to the ability of individuals to evacuate an aircraft in the event of an emergency. Improper stowage of baggage could result in blocked aisles or emergency exists and could injure passengers or crewmembers. In this connection, the following statement was made in Operations Review Program Notice No. 8 (43 FR 20452, 5/11/78):

During hard or crash landings carry-on baggage has become dislodged from stowage areas, inflicting injuries to passengers and hampering the emergency evacuations of the aircraft. The FAA believes that all carry-on baggage should be screened before being allowed aboard the aircraft to prevent loading of baggage which cannot be properly stowed.

As a result of these concerns, the final rule, (Amendment 121-159, 45 FR 41586, 5/19/80) made several changes to the carry-on baggage stowage requirements. These changes included: the installation of aisle seats with a means to prevent baggage from sliding sideward into the aisle; limitation of items which may be placed in overhead racks; and a requirement that passengers must comply with these requirements. These rules should lessen the number of problems crewmembers face and enable them to concentrate on their safety-related duties.

As a result of the preceding, it is essential that any modification to the regulations [1] pertaining to carry-on baggage be consistent with the safety considerations which resulted in Amendment 121-159.

Based upon the FAA's extensive examination of this subject, stowage of flexible travel canes in the following manner would be consistent with the agency's safety mandate and would ensure that they are readily accessible to blind passengers.

1. In accordance with § 121.589(a) (1), (2), or (3);
2. In an overhead rack with a solid bottom;
3. Under a series of passenger seats in the same row of the aircraft as long as the cane does not protrude into the aisle;
4. Between a window passenger seat and the fuselage as long as the cane is flush with the floor and is not in an exit row;
5. Beneath any window passenger seat and the seat directly in front of the passenger as long as the cane is flush with the floor;
6. In accordance with any other method approved by the Administrator.

A brief discussion of these alternatives follows:

1. Current § 121.589 requires stowage of all carry-on baggage including canes. Therefore canes can be properly stowed in suitable closet or baggage or cargo stowage compartments, in a cargo bin or under a passenger seat. This proposal would not affect stowage in accordance with these requirements.

2. Section 121.589(b), effective on 8/31/80, states that the only baggage that may be placed in an overhead rack without restraining devices or doors are articles of loose clothing. Under this proposal, flexible travel canes could also be placed in such racks if they have solid bottoms. These racks are immediately above the passengers and would place the canes within the reach of passengers. Flexible travel canes are light enought not to cause any danger to passengers if they are in such a rack. In addition, in most cases they would be placed below other items in the racks,

[1] Amendment 121.589, effective 8/31/80, reads in part as follows:

§ 121.589 Carry-on baggage.

(a) No certificate holder may allow the boarding of carry-on baggage on an aircraft unless the baggage can be stowed in accordance with this section. No certificate holder may allow an aircraft to take off or land unless each article of baggage aboard the aircraft is stowed—

(1) In a suitable closet or baggage or cargo stowage compartment placarded for its maximum weight and providing proper restraint for all baggage or cargo stowed within, and in a manner that does not hinder the possible use of any emergency equipment; or

(2) As provided in § 121.285(c) [stowage bins]; or

(3) Under a passenger seat.

(b) Baggage, other than articles of loose clothing, may not be placed in an overhead rack unless that rack is equipped with approved restraining devices or doors.

lessening the posibility that they woud come out of the rack. The cane would have to be flush with the bottom of the rack. The FAA is aware that stowage in this manner might not be feasible in all overhead racks. Therefore, comments are specifically solicited as to whether canes can be stowed in overhead racks without some method of securing them.

3. Current § 121.589 allows carry-on baggage to be stowed "under a passenger seat." This requires that the stowage be under a single seat. While a cane would not fit under one seat, it would fit under a series of seats. This proposal would allow a blind passenger to place his or her cane under a series of adjoining seats in the row immediately in front of him or her. This would make the cane readily accessible to the passenger. Any can stowed in this manner would have to be flush with the floor and could not protrude into an aisle. This would lessen the possibility that the can would come dislodged.

4. This proposal would allow canes to be placed between the window seat and the fuselage of the aircraft. A can placed in such a location would be secure and should not interfere with passengers in the event of an emergency. This proposal requires the can to be flush with the floor and would not allow such stowage in an exit row.

5. As mentioned above, carry-on baggage can be placed under a single seat, however, canes are too long to be stowed in this manner. This proposal would allow blind passengers sitting at a window seat to place their flexible travel canes underneath the seat in front of them and underneath their seat if the cane is adjacent or as close as possible to the fuselage and the passenger is not in an exit row. Canes placed in this manner should be secure and should not interfere with any passenger in the event of an emergency.

6. The proposal would allow other methods of stowage if approved by the Administator. Under this proposal, the particular carrier would be required to submit a plan showing a method of stowage which would be secure and which would not interfere with evacuation in the event of an emergency. One possible method would be the use of clips secured to a bulkhead.

Stowage in accordance with these proposals would give blind passengerrs ready access to their canes. This proposal has to be read in conjunction with an NPRM (SPDR–70) issued by the Civil Aeronautics Board on this subject (44 FR 32401, 6/6/79). Under proposed § 328.13 contained in that NPRM, carriers would be required to return canes to passengers other than during takeoff or landing. Therefore, the complaints made by some commenters on the NFB petition that it was difficult to get flight attendants to return canes to them should be alleviated.

In addition to submission of comments on these proposals, commenters are invited to suggest alternate methods of stowage. Certain commenters submitted stowage suggests with their comments on the NFB petition. These suggestions have been reviewed and in some cases incorporated into the proposal set forth above. Other suggestions have not been adopted since they either were not fully explained or did not provide for secure, safe stowage.

Several comments continued to advocate the passengers be allowed to hold canes during takeoff and landing while securing them under their seat belts. This method was examinated by the CAMI in its report, "Considerations Relative to the Use of Canes by Blind Travelers in Air Carrier Aircraft Cabins." This report is in the docket and was published with the NFB petition in the **Federal Register** (44 FR 25869, 5/3/79). The results of the test demonstrated the injury accentuating effect of an unavoidably slack seatbelt. During a crash, an occupant with a slack seatbelt will tend to impact the belt with sufficient speed to cause some injury, perhaps to internal organs. As a result of this finding (more fully discussed in the CAMI Report), this method of stowage will not be allowed.

One further point relating to stowage of canes which must be addressed is whether individuals carrying canes should be restricted to certain seats on the aircraft. Every effort was made in the development of this proposal to afford blind passengers the same rights as all others traveling by air. Similar to restrictions placed on other items utilized by passengers, certain restrictions were necessary as to the locations in which canes could be stowed. The Association of Flight Attendents (AFA) in their well-thought-out comments perhaps best addressed this issue by stating:

> The Association does not advocate the unrestricted right of a blind passenger to retain his cane with him during flight, under any conditions he alone determines. Such a situation where one individual can make an arbitrary decision which may adversely affect the safety of others is intolerable. AFA does assert, though, that the various alternatives discussed above [this refers to the alternatives discussed in their comments not necessarily to the alternatives set forth in this notice] are consistent with both the safety of all passengers and a blind traveler's desire to retain his cane. If a blind passenger is given the choice of either carrying a folding cane or carrying a rigid can, but being seated in particular seat, it seems obvious that reasonable efforts have been made to accommodate the particular needs of these travelers.

The fact that a limitation on seat selection may be incidential to one of these options is immaterial for three reasons. First, a blind passenger could effectively avoid the seat limitation by opting to carrying a folding cane. Second, only those seats located in exit rows or lacking the physical constraints for securing canes would be affected by the restriction. An adequate selection of seats would still be available. Third, no passenger—blind or not blind—is ever guaranteed that he will have the seat he wants on the flight he wants on the day he wants. The realities of high passenger volume in air travel simply do not permit such guarantees. Thus the question of whether a blind passenger is "willing" to sit in certain seats need not even be considered if adequate alternatives, as indicated above, are available.

Passengers Needing Assistance

The second area addressed in the "Grant of Petition" concerned 14 CFR 121.586 which relates to the transportation of individuals. The grant included the following discussion of that issue:

> In addition, that portion of the NFB petition that requires the initiation of rule making concerned the amendment of § 121.586 which governs the carriage of persons who may need the assistance of others in the event of an emergency evacuation is granted. Inasmuch as § 121.586 was promulgaated for the benefit of an airline passenger population that greatly exceed the potential airlines passengers currently represented by the NFB, and since there was virtually no comment from the public on that section when the NFB petition was published, comment will be sought from the public before any action is taken to amend or repeal its protection provisions.

The FAA has received some complaints about inequities existing in the air carriers' procedures. The CAB, as part of SPDR–70, is currently reviewing the procedures for all air carriers to determine whether they are discriminatory. Included in this notice are questions relating to refusal of service and availability of service and equipment. Rather than asking for the public and air carriers to resubmit this information to the FAA and have a second agency review it, the FAA will not engage in rule making on this subject unless the CAB review shows a need for further FAA regulatory action. The FAA does, however, seek comments on whether blind individuals should be excluded from the requirement of § 121.586. The NFB, in requesting that rule making be initiated concerning § 121.586, has questioned the need for this section. The NFB has also pointed out that passengers have had difficulty in obtaining information from the carriers concerning the procedures established in accordance with § 121.586.

The FAA agrees that this point has merit and therefore Proposes to amend § 121.586 to add a requirement that all procedures established by the certificate holder under this section be made available to the public at each airport served by that certificate holder. A carrier would meet this requirement by having one complete set of these procedures available for inspection by any interested individual. Comments are invited as to whether these procedures should also be available at other locations and whether they should be available in braille.

The Proposed Rule

Accordingly, it is proposed to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERICIAL OPERATORS OF LARGE AIRCRAFT

1. By adding a new paragraph (d) to § 121.586 to read as follows:

§ 121.586 Authority to refuse transportation.

* * * * *

(d) Each certificate holder shall make available to the public at each airport it serves a copy of each procedure it established in accordance with paragraph (a)(1) of this section.

* * * * *

§ 121.589 [Amended]

By amending § 121.589 as follows:

2. By adding paragraph (4) to § 121.589(a) and by revising § 121.589(b) to read as follows:

(a) * * *

(4) In addition to the methods of stowage set forth above, flexible travel canes carried by blind individuals may be stowed—

(i) Under any series of connected passenger seats in the same row if the cane does not protrude into an aisle; or

(ii) Between a non-emergency exit window seat and the fuselage if the cane is flush with the floor; or

(iii) Beneath any two non-emergency exit window seats if the cane is flush with the floor; or

(iv) In accordance with any other method approved by the Administrator.

(b) Baggage, other than articles of loose clothing or a flexible travel cane carried by a blind passenger placed in a rack with a solid bottom, may not be placed in an overhead rack unless that rack is equipped with approved restraining devices or doors. A cane carried in such a rack must be flush with the bottom of the rack.

* * * * *

(Sections 313(a), 601, 602, and 609 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1334 Cal. 1421, 1422, and 1429), and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1055 (c))

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on November 6, 1980

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 80-35304 Filed 11-12-80; 8:45 am]

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Thursday
November 13, 1980

Part VI

Department of Transportation

Urban Mass Transportation Administration

Urbanized Area Formula Apportionments

V 45 NO 13 80 UMI

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Urbanized Area Formula Apportionments

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: This notice: 1. Describes the formual apportionment mechanism of Section 5 of the Urban Mass Transportation Act of 1964, as amended.

2. Present uniform terms for the subcategories of the Section 5 program.

3. Provides the apportionment under Section 5 for fiscal year 1981. The apportionments presented here are in the format of the new uniform terms mentioned above.

4. Indicates the fixed-guideway/commuter rail data audit reports which have been received to date. These reports, submitted by the urbanized areas, are required in order for grants of some of the Section 5 funds to be made.

FOR FURTHER INFORMATION CONTACT: John Barber, Office of Program Analysis, UMTA, 400 Seventh Street SW., Washington, D.C. 20590, Phone: 202–472–7100.

SUPPLEMENTARY INFORMATION:

I—Background

A program of federal assistance to urban mass transportation systems through grants on a formula basis for capital an operating assistance was enacted November 26, 1974 as Section 5 of the Urban Mass Transportation Act of 1964, as amended (UMT Act). An aggregate amount of $3,975 million was authorized for this program for fiscal years 1975 through 1980. The Surface Transportation Assistance Act of 1978 (STAA) authorized $6,525 million for Section 5 for fiscal years 1979 through 1982 of which a total of $1,665 million is authorized for fiscal year 1981. The Department of Transportation and Related Agencies Appropriations Act, 1981 (Public Law 96–400) appropriates $1,455 million for apportionment in fiscal year 1981.

II—Previous Apportionment Mechanism

The legislation in effect from fiscal years 1975 through 1978, Section 5(b)(1) of the Urban Mass Transportation Act of 1964, as amended, directed the Secretary of Transportation to apportion authorized funds "on the basis of a population and population density formula" as follows:

A. One-half of the funds apportioned according to population. Each urbanized area's share is proportional to the ratio of that area's population to the total population of all urbanized areas.

B. The other half of the funds are apportioned according to the product of population and population density. Each urbanized area's share is proportional to the ratio of the product of population and population density for that area to the total of the products of population and population density for all the uranized areas.

III—New Apportionment Mechanism

The Surface Transportation Assistance Act of 1978 changed the formula for the operating assistance program. Section 5(a) of the UMT Act, as amended, (the "Act") directs the Secretary to apportion the funds appropriated to the urbanized areas on the basis of several factors. These factors, and the amount attributable to each in fiscal year 1981, are as follows:

A. Under paragraph (a)(1) of Section 5 of the UMT Act, $850 million is to be apportioned among all the urbanized areas on the basis of their populations and population densities. These funds are available for capital or operating purposes, are apportioned by population and population density as in the previous legislation, and are referred to in the new uniform terms as the "First Tier" or "Tier I."

B. Under paragraph (a)(2) of Section 5 of the UMT Act, $165 million is to be apportioned on the basis of population and population density. These funds are referred to in the new uniform terms as the "Second Tier" or "Tier II." These funds, which are available for capital or operating purposes, are apportioned as follows:

1. 85% of the funds are apportioned among urbanized areas with populations greater than 750,000. Each urbanized area's share is determined in a manner identical to that described in III A, with the exception that the population and population density of each such urbanized area is compared to the totals for those urbanized areas over 750,000 population instead of for all urbanized areas in the country.

2. 15% of the funds are apportioned among urbanized areas with populations less than 750,000. Each such urbanized area's share is determined in a manner identical to that described in III A, with the exception that population and population density of each such urbanized area is compared to the totals for those urbanized areas under 750,000 population instead of for all urbanized areas in the country.

C. Under paragraph (a)(3) of Section 5 of the UMT Act, $90 million is to be apportioned among all the urbanized areas on the bases of their fixed guideway and commuter rail route mileages and commuter rail train mileages. These funds, including both fixed guideway and commuter rail amounts, are referred to in the new uniform terms as the "Third Tier" or "Tier III." Data used to determine these appropriations are supplied by the Metropolitan Planning Organizations of the urbanized areas, pursuant to the reporting requirements presented in 49 CFR Part 630, Subpart D.

These funds which are available for capital and operating expenses related to both fixed guideway and commuter rail systems, are apportioned as follows:

1. Two thirds of the appropriation is to be apportioned based upon the commuter rail service serving each urbanized area. No single eligible state's portion of an urbanized area shall receive more than 30% nor less than ½ of 1% of the amount apportioned under this subcategory. The funds are apportioned as follows:

a. One-half of this amount is to be apportioned according to commuter rail route miles. Each eligible urbanized area's share is proportional to the ratio of the commuter rail route miles within or serving the area to the total of all such commuter rail route miles within or serving all the urbanized areas.

b. One-half of this amount is to be apportioned according to commuter rail train miles. Each eligible urbanized area's share is proportional to the ratio of the commuter rail train miles operated within or serving the area to the total of all such commuter rail train miles operated within or serving all the urbanized areas.

2. The remainder of the amount appropriated is to be apportioned according to the number of fixed guideway route miles in each urbanized area. Each eligible urbanized area's share is proportional to the ratio of the fixed guideway route miles (excluding commuter rail) within the urbanized area to the total of all such fixed guideway route miles in all the urbanized areas. No single urbanized area shall receive more than 30% of amount apportioned under this subcategory.

D. Under paragraph (a)(4) of Section 5 of the UMT Act, $350 million is to be apportioned among all the urbanized areas on the basis of their populations and population densities, in the same manner as described in III. A above. These funds are available only for the purchase of buses and related equipment, or the construction of bus related facilities. These funds are referred to in the new uniform terms as the "Fourth Tier" or "Tier IV."

This apportionment procedure is consistent with previous practice. The current authorization legislation, the UMT Act, does not specify an apportionment mechanism beyond fiscal year 1980. Lacking Congressional instruction on this matter, the decision was made to follow, for fiscal year 1981, the precedent set for Tier IV apportionments in fiscal years 1979 and 1980.

IV—Apportionment for Fiscal Year 1981

This notice contains the apportionment for fiscal year 1981. Values are presented in the format of the new uniform terms described in III, above. The funds shown in this notice will remain available to be granted by UMTA for three fiscal years following fiscal year 1981.

The Third Tier apportionments were determined on the basis of certified data submitted to UMTA by the urbanized areas under the reporting requirements set forth in 49 CFR Part 630, Subpart D.

The fiscal year 1979 apportionments of Third Tier funds, presented in the **Federal Register** of September 20, 1979 (44 FR 54662), contained errors due to incorrect data reported by several urbanized areas. This incorrect data resulted in reduced apportionments in fiscal year 1979 for all the other urbanized areas receiving Third Tier apportionments. Corrected fiscal year 1979 apportionments, utilizing data received at that time, were calculated for all urbanized areas and compared with the amounts published in 44 FR 54662. The differences between these corrected apportionments and the amounts published in 44 FR 54662 were determined and the excesses and deficiencies were added to the fiscal year 1980 apportionments published in the **Federal Register** of December 20, 1979 (44 FR 75580). The same situation has prevailed for fiscal year 1980. Corrections to the data from some urbanized areas used to compute the fiscal year 1980 apportionments, as well as further corrections to data used to compute the fiscal year 1979 apportionments, have been received. These corrected data have been used to recalculate the fiscal year 1979 and 1980 apportionments for all urbanized areas. The differences between these most recently corrected apportionments and the previously published apportionments have been determined, and further corrections necessary have been made by adding the appropriate excesses and deficiences to the apportionments presented here for fiscal year 1981. Thus, the values presented here are the fiscal year 1981 apportionments with the resulting adjustments for fiscal years 1979 and 1980 and, subject to other statutory and regulatory limitations, are available for grants. Grants already awarded for fiscal years 1979 and 1980 apportionments are not affected, and any funds remaining from the previously published fiscal year 1979 (44 FR 54662) and 1980 (44 FR 75580) apportionments are still available.

Amounts apportioned to urbanized areas greater than 200,000 in population are available directly to those urbanized areas. Amounts apportioned to urbanized areas under 200,000 in population are available to the Governors of the state(s) in which the urbanized area or a portion of an urbanized area is located. Amounts for these areas are listed under their states, and a state total is shown. Such amounts may be allocated among these urbanized areas within each state in a fair and equitable manner by the Governor, utilizing the proposed requirements indicated in the Notice of Proposed Rulemaking published in the **Federal Register** on August 25, 1980 (45 FR 56742).

The tables in this Notice contain round-off errors for some items of information. In cases of differences, the controlling apportionments will be the urbanized area aggregate for multi-state urbanized areas over 200,000 in population and the state aggregate for urbanized areas under 200,000 in population.

Fiscal year 1975–77 Section 5 funds which were not awarded in a grant as of November 6, 1978, or which were awarded in a grant by that date and were not used by the grantee (i.e., unspent during the life of the grant and returned to UMTA upon close-out of the project), are no longer available to the urbanized area or Governor to which they were apportioned. The funds in the latter category (granted as of November 6, 1978 and not subsequently used), and fiscal year 1977 funds which have never been granted, will be reapportioned among all the urbanized areas on the basis set forth for the First Tier in Section III. A of this Notice. This reapportionment will be conducted and made public at such time as the magnitude of these funds is fully determined.

V—Status of Third Tier Data Audit Reports

As stated in 49 CFR Part 630 Subpart D, Appendix A, published in the December 18, 1978 **Federal Register** (43 FR 58928), an audit of the fixed guideway and commuter rail data used in calculating the Section 5 Third Tier funds is required. After the publication of the Third Tier apportionments based upon the submitted data, but prior to receipt of the audit report, one half of the Third Tier amounts apportioned to each area will be available. If the urbanized area's audit report confirms the data submitted, the remaining half of the Third Tier funds will be made available to that area. If the audit report provides data which would have caused an apportionment greater than the amount actually apportioned, the amounts made available will be limited to that actually apportioned. If the audit report provides data which would have caused an apportionment which is less than the amount actually apportioned, only the amount resulting from the data verified by the audit report shall be made available. Excess funds resulting from such a restriction will be added to the total amount for the next year's apportionment to all areas in this category.

To date, audit reports for data used in fiscal year 1979 apportionments have been received from the following urbanized areas, or state parts of urbanized areas:

Allentown-Easton-Bethlehem, NJ–PA (NJ part only)
Bridgeport, CT
New Haven, CT
New York, NJ–NY (NJ and NY parts)
Philadelphia, NJ–PA (NJ and PA parts)
Pittsburgh, PA
San Diego, CA
Trenton, NJ
Stamford, CT
Chicago, IL–IN (IL part only)
Aurora-Elgin, IL
Joliet, IL
Detroit, MI
Boston, MA
Washington, D.C.
Los Angeles, CA
Madison, WI
Seattle, WA
Norwalk, CT
Danbury, CT
Waterbury, CT
Atlantic City, NJ

To date, audit reports for data used in fiscal year 1980 apportionments have been received from the following urbanized areas, or state parts of urbanized areas:

Aurora-Elgin, IL
Bridgeport, CT
Chattanooga, TN
Chicago, IL–IN (IL part only)
Detroit, MI
Madison, WI
New Haven, CT
New Orleans, LA
New York, NY–NJ (NY part only)
Philadelphia, NJ–PA (NJ and PA parts)
San Diego, CA
Seattle-Everett, WA
Stamford, CT
Norwalk, CT

Danbury, CT
Waterbury, CT
Joliet, IL
Washington, D.C.
Pittsburgh, PA

To date, audit reports for data used in fiscal year 1981 apportionments have been received from the following urbanized areas, or state parts of urbanized areas:

Allentown-Bethlehem-Easton NJ–PA (NJ and PA parts)
Atlanta, GA
Chattanooga, TN
Chicago, IL–IN (IL and IN parts)
Detroit, MI
Madison, WI
New Orleans, LA
New York, NY–NJ (NJ part only)
Philadelphia, NJ–PA (NJ and PA parts)
Pittsburgh, PA
Trenton, NJ
Washington, D.C.
Wilmington, DE
Reading PA
Atlantic City, NJ

Also as stated in 49 CFR Part 630 Subpart D, Appendix A, fixed guideway and commuter rail data for the Third Tier Section 5 apportionments are to be submitted to the UMTA regional offices by the urbanized areas by May 1, for the apportionments for the fiscal year beginning October 1 of that calendar year. In addition, the audit reports for the data are to be submitted within two months of the specified date for submittal of the data (i.e., by July 1). Adherence to this schedule for submittal of the data and of the audit reports will enhance the timely and accurate calculation and publication of the apportionments, and will expedite the awarding of grants against those apportionments.

Dated: November 10, 1980.

Theodore C. Lutz,

Administrator.

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FISCAL YEAR 1981 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)

	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
URBANIZED AREA	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
Akron, Ohio	3,157,719	302,159		1,300,238
Albany—Schenectady—Troy, New York	3,070,930	299,506		1,264,501
Albuquerque, New Mexico	1,713,082	163,515		705,387
Allentown—Bethlehem—Easton, PA—NJ	2,439,889	241,112	691,299	1,004,661
(Part: New Jersey)	171,952	17,050	391,299	70,804
(Part: Pennsylvania)	2,267,937	224,062	300,000	933,857
Atlanta, Georgia	6,852,606	1,664,298	313,783	2,821,662
Aurora—Elgin, Illinois	1,429,488	138,536	233,135	588,613
Austin, Texas	1,634,865	158,697		673,180
Baltimore, Maryland	12,551,158	2,966,845	778,549	5,168,124
Baton Rouge, Louisiana	1,512,737	146,196		622,892
Birmingham, Alabama	3,158,174	300,117		1,300,425
Boston, Massachusetts	18,501,007	4,419,705	6,326,628	7,618,062
Bridgeport, Connecticut	2,444,918	234,893	306,071	1,006,731
Buffalo, New York	8,615,771	2,036,906		3,547,671
Canton, Ohio	1,527,163	148,625		628,832
Charleston, South Carolina	1,255,955	118,471		517,164
Charlotte, North Carolina	1,620,861	154,972		667,414
Chattancoga, Tennessee—Georgia	1,154,109	106,990	42,150	475,222
(Part: Georgia)	151,095	14,052		62,216
(Part: Tennessee)	1,003,014	92,938	42,150	413,006
Chicago, Illinois, Northwestern Indiana	54,249,398	12,807,189	14,746,000	22,337,988
(Part: Illinois)	51,264,445	12,079,569	13,426,953	21,108,889
(Part: Indiana)	2,984,953	727,620	1,319,047	1,229,099
Cincinnati, Ohio—Kentucky	7,088,076	1,706,784		2,918,620
(Part: Kentucky)	1,186,476	287,289		488,549
(Part: Ohio)	5,901,599	1,419,495		2,430,071
Cleveland, Ohio	12,028,422	2,907,202	1,517,396	4,952,880
Colorado Springs, Colorado	1,121,182	105,637		461,664
Columbia, South Carolina	1,337,774	126,394		550,855
Columbus, Georgia—Alabama	1,085,609	100,871		447,017
(Part: Alabama)	117,254,	10,519		48,282
(Part: Georgia)	968,355	90,352		398,735
Columbus, Ohio	5,080,395	1,222,489		2,091,928
Corpus Christi, Texas	1,045,974	95,572		430,696
Dallas, Texas	6,992,046	1,718,526		2,879,078
Davenport—Rock Island—Moline, IA—IL	1,450,842	136,541		597,407
(Part: Illinois)	806,527	77,013		332,100
(Part: Iowa)	644,315	59,528		265,307
Dayton, Ohio	4,226,022	409,917		1,740,127
Denver, Colorado	6,925,190	1,662,159		2,851,549
Des Moines, Iowa	1,416,384	133,842		583,217
Detroit, Michigan	29,638,846	7,040,444	476,304	12,204,231
El Paso, Texas	2,010,170	193,453		827,718
Flint, Michigan	2,139,106	209,825		880,809
Fort Lauderdale—Hollywood, Florida	3,692,036	356,134		1,520,251
Fort Wayne, Indiana	1,427,450	139,351		587,774
Fort Worth, Texas	3,371,399	309,280		1,388,224
Fresno, California	1,680,358	164,337		691,913
Grand Rapids, Michigan	1,973,395	186,986		812,575

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FISCAL YEAR 1981 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS Tier I Operating and Capital Support Sect. 5(a)(1)	Tier II Operating and Capital Support Sect. 5(a)(2)	Tier III Fixed Guideway and Commuter Rail Support Sect. 5(a)(3)	Tier IV Bus Capital Support Sect. 5(a)(4)
Harrisburg, Pennsylvania	1,485,556	144,148		611,700
Hartford, Connecticut	3,069,066	302,228		1,263,734
Honolulu, Hawaii	3,029,588	300,613		1,247,478
Houston, Texas	10,417,733	2,515,101		4,289,655
Indianapolis, Indiana	4,403,173	1,078,962		1,813,071
Jacksonville, Florida	2,545,016	230,931		1,047,948
Kansas City, Missouri—Kansas	5,993,314	1,466,507		2,467,836
(Part: Kansas)	2,007,476	488,510		826,608
(Part: Missouri)	3,985,838	977,997		1,641,228
Lansing, Michigan	1,427,466	138,760		587,781
Las Vegas, Nevada	1,229,382	114,170		506,217
Lawrence—Haverhill, MA—NH	1,113,758	105,366		458,607
(Part: Massachusetts)	1,030,258	97,853		424,224
(Part: New Hampshire)	83,501	7,513		34,383
Little Rock—North Little Rock, Arkansas	1,230,777	116,260		506,791
Los Angeles—Long Beach, California	67,881,147	16,018,124	1,434,525	27,951,060
Louisville, Kentucky—Indiana	4,848,471	476,800		1,996,430
(Part: Indiana)	490,469	47,318		201,958
(Part: Kentucky)	4,358,003	429,482		1,794,472
Madison, Wisconsin	1,252,524	121,198	56,200	515,746
Memphis, Tennessee—Mississippi	4,285,501	420,010		1,764,619
(Part: Mississippi)	56,028	5,457		23,071
(Part: Tennessee)	4,229,473	414,553		1,741,548
Miami, Florida	9,276,823	2,200,313		3,819,869
Milwaukee, Wisconsin	7,370,670	1,788,832		3,034,982
Minneapolis—St. Paul, Minnesota	9,463,425	2,310,549	206,067	3,896,705
Mobile, Alabama	1,244,159	113,041		512,301
Nashville—Davidson, Tennessee	2,075,978	186,120		854,815
New Haven, Connecticut	2,202,671	214,911	306,072	906,983
New Orleans, Louisiana	7,744,940	1,828,871	636,932	3,189,093
Newport News—Hampton, Virginia	1,374,453	127,143		565,952
New York, N.Y., Northeastern, New Jersey	151,121,410	35,318,634	33,678,188	62,226,460
(Part: New Jersey)	30,223,057	7,292,241	8,156,569	12,444,788
(Part: New York)	120,898,348	28,026,393	25,521,619	49,781,672
Norfolk—Portsmouth, Virginia	3,635,666	341,967		1,497,039
Oklahoma City, Oklahoma	2,888,544	265,013		1,189,401
Omaha, Nebraska—Iowa	3,112,233	303,712		1,281,509
(Part: Iowa)	305,486	27,545		125,789
(Part: Nebraska)	2,806,748	276,167		1,155,720
Orlando, Florida	1,684,634	159,025		693,673
Oxnard—Ventura—Thousand Oaks, California	1,322,277	124,152		544,467
Peoria, Illinois	1,361,941	128,543		560,800
Philadelphia, Pennsylvania—New Jersey	32,810,617	7,740,191	12,538,265	13,510,255
(Part: New Jersey)	4,657,968	1,123,666	1,387,871	1,917,987
(Part: Pennsylvania)	28,152,649	6,616,525	11,150,394	11,592,268
Phoenix, Arizona	4,691,820	1,148,161		1,931,926
Pittsburgh, Pennsylvania	11,429,704	2,760,160	1,729,564	4,706,349
Portland, Oregon—Washington	5,105,340	1,232,938	51,516	2,102,199
(Part: Oregon)	4,703,373	1,134,685	51,516	1,936,683
(Part: Washington)	401,967	98,253		165,516

FISCAL YEAR 1981 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS Tier I Operating and Capital Support Sect. 5(a)(1)	Tier II Operating and Capital Support Sect. 5(a)(2)	Tier III Fixed Guideway and Commuter Rail Support Sect. 5(a)(3)	Tier IV Bus Capital Support Sect. 5(a)(4)
Providence—Pawtucket—Warwick, RI—MA	5,037,340	1,213,845	600,000	2,074,199
(Part: Massachusetts)	343,822	84,526	300,000	141,574
(Part: Rhode Island)	4,693,517	1,129,319	300,000	1,932,625
Richmond, Virginia	2,501,293	241,176		1,029,945
Rochester, New York	4,265,224	426,156		1,756,269
Rockford, Illinois	1,326,889	129,976		546,367
Sacramento, California	3,692,514	352,504		1,520,447
Salt Lake City, Utah	2,761,058	263,553		1,136,907
San Antonio, Texas	5,033,251	1,209,685		2,072,516
San Bernardino—Riverside, California	2,996,191	277,323		1,233,726
San Diego, California	7,474,834	1,803,814	853,490	3,077,873
San Francisco—Oakland, California	21,870,026	5,203,346	4,338,636	9,005,305
San Jose, California	6,888,691	1,651,030	396,496	2,836,520
San Juan, Puerto Rico	8,568,697	1,988,472		3,528,287
Scranton, Pennsylvania	1,082,448	101,097		445,714
Seattle—Everett, Washington	7,559,746	1,828,056	56,199	3,112,837
Shreveport, Louisiana	1,327,762	126,186		546,726
South Bend, Indiana—Michigan	1,714,112	164,851		705,812
(Part: Indiana)	1,594,652	153,815		656,622
(Part: Michigan)	119,460	11,036		49,190
Spokane, Washington	1,392,811	134,615		573,511
Springfield—Chicopee—Holyoke, MA—CN	2,765,759	259,332		1,138,843
(Part: Connecticut)	326,912	31,011		134,611
(Part: Massachusetts)	2,438,847	228,321		1,004,232
St. Louis, Missouri—Illinois	13,290,875	3,171,812		5,472,714
(Part: Illinois)	1,759,873	429,326		724,654
(Part: Missouri)	11,531,002	2,742,486		4,748,060
St. Petersburg, Florida	3,061,436	297,194		1,260,592
Syracuse, New York	2,596,744	258,077		1,069,248
Tacoma, Washington	1,910,418	182,239		786,643
Tampa, Florida	2,196,438	211,378		904,416
Toledo, Ohio—Michigan	2,957,089	285,765		1,217,625
(Part: Michigan)	54,635	4,891		22,497
(Part: Ohio)	2,902,453	280,874		1,195,128
Trenton, New Jersey—Pennsylvania	1,959,987	196,131	789,683	807,055
(Part: New Jersey)	1,769,055	177,677	789,683	728,435
(Part: Pennsylvania)	190,932	18,454		78,620
Tucson, Arizona	1,748,218	168,149		719,855
Tulsa, Oklahoma	1,965,345	183,456		809,260
Washington, D.C.—Maryland—Virginia	19,530,925	4,620,045	3,565,435	8,042,146
(Part: Maryland)	6,267,363	1,513,058	1,987,158	2,580,679
(Part: District of Columbia)	8,877,159	2,046,656	946,030	3,655,301
(Part: Virginia)	4,386,403	1,060,331	632,247	1,806,166
West Palm Beach, Florida	1,532,587	143,352		631,066
Wichita, Kansas	1,814,338	174,915		747,081
Wilkes—Barre, Pennsylvania	1,302,980	124,837		536,522
Wilmington, Delaware—New Jersey	2,391,406	234,272	300,000	984,697
(Part: Delaware)	2,286,067	224,669	300,000	941,322
(Part: New Jersey)	105,339	9,603		43,375
Worcester, Massachusetts	1,496,436	144,533		616,180
Youngstown—Warren, Ohio	2,442,410	237,032		1,005,699

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FISCAL YEAR 1981 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)

URBANIZED AREA	APPORTIONMENT BASIS Tier I Operating and Capital Support Sect. 5(a)(1)	Tier II Operating and Capital Support Sect. 5(a)(2)	Tier III Fixed Guideway and Commuter Rail Support Sect. 5(a)(3)	Tier IV Bus Capital Support Sect. 5(a)(4)
ALABAMA				
Governors Apportionment for Alabama	2,822,553	259,731		1,162,231
(Huntsville, Alabama)	663,774	59,076		273,319
(Montgomery, Alabama)	814,998	78,138		335,588
(Tuscaloosa, Alabama)	446,957	41,532		184,042
(Gadsden, Alabama)	308,760	27,544		127,137
(Florence, Alabama)	301,853	27,374		124,293
(Anniston, Alabama)	286,211	26,067		117,852
ALASKA				
Governors Apportionment for Alaska	583,169	54,362		240,129
(Anchorage, Alaska)	583,169	54,362		240,129
ARIZONA				
Governors Apportionment for Arizona				
ARKANSAS				
Governors Apportionment for Arkansas	823,371	76,808		339,037
(Fort Smith, Arkansas—Oklahoma)	337,412	30,178		138,935
(Pine Bluff, Arkansas)	368,222	35,561		151,621
(Texarkana, Texas—Arkansas)	117,738	11,069		48,481
CALIFORNIA				
Govenors Apportionment for California	6,165,463	599,033		2,538,726
(Bakersfield, California)	1,088,350	105,637		448,145
(Stockton, California)	1,039,437	101,965		428,004
(Santa Barbara, California)	849,159	83,469		349,654
(Modesto, California)	656,772	63,774		270,436
(Seaside—Monterey, California)	640,775	63,621		263,849
(Santa Rosa, California)	390,853	36,320		160,940
(Santa Cruz, California)	395,420	37,046		162,820
(Salinas, California)	444,995	44,501		183,234
(Antioch-Pittsburg, California)	346,910	33,202		142,846
(Simi Valley, California)	312,793	29,498		128,798
COLORADO				
Governors Apportionment for Colorado	1,187,380	118,019		488,922
(Pueblo, Colorado)	656,175	64,087		270,190
(Boulder, Colorado)	531,204	53,932		218,732
CONNECTICUT				
Governors Apportionment for Connecticut	5,283,109	499,002	1,224,284	2,175,401
(Stamford, Connecticut)	1,074,072	102,739	306,071	442,265

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CONNECTICUT—*(Continued)*				
(Waterbury, Connecticut)	906,997	86,642	306,071	373,470
(New London—Norwich, Connecticut)	709,510	65,545		292,152
(New Britain, Connecticut)	843,522	82,582		347,333
(Norwalk, Connecticut)	611,848	58,337	306,071	251,938
(Meriden, Connecticut)	463,252	41,754		190,751
(Bristol, Connecticut)	370,716	34,378		152,648
(Danbury, Connecticut)	303,192	27,025	306,071	124,844
DELAWARE				
Governors Apportionment for Delaware				
DISTRICT OF COLUMBIA				
Governors Apportionment for Dist. of Columbia				
FLORIDA				
Governors Apportionment for Florida	4,769,603	443,923		1,963,951
(Melbourne—Cocoa, Florida)	886,218	81,162		364,914
(Sarasota—Bradenton, Florida)	850,436	78,490		350,179
(Pensacola, Florida)	946,357	90,016		389,676
(Daytona Beach, Florida)	538,111	48,390		221,575
(Tallahassee, Florida)	449,177	42,894		184,955
(Gainesville, Florida)	386,628	36,604		159,199
(Fort Myers, Florida)	337,343	30,756		138,905
(Lakeland, Florida)	375,332	35,611		154,548
GEORGIA				
Governors Apportionment for Georgia	2,833,584	270,044		1,166,768
(Savannah, Georgia)	936,656	89,251		385,681
(Augusta, Georgia—South Carolina)	748,659	71,901		308,271
(Macon, Georgia)	725,926	69,014		298,910
(Albany, Georgia)	422,344	39,878		173,906
HAWAII				
Governors Apportionment for Hawaii				
IDAHO				
Governors Apportionment for Idaho	512,779	49,472		211,144
(Boise, Idaho)	512,779	49,472		211,144
ILLINOIS				
Governors Apportionment for Illinois	4,135,207	404,804	330,482	1,702,729
(Joliet, Illinois)	926,383	89,156	330,482	381,451

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ILLINOIS—*(Continued)*				
(Springfield, Illinois)	801,791	79,051		330,149
(Champaign—Urbana, Illinois)	831,471	85,375		342,370
(Decatur, Illinois)	581,119	55,634		239,284
(Alton, Illinois)	528,816	49,905		217,747
(Bloomington—Normal, Illinois)	453,391	44,553		186,690
(Dubuque, Iowa—Illinois)	12,237	1,130		5,038
INDIANA				
Governors Apportionment for Indiana	2,987,403	291,315		1,230,106
(Evansville, Indiana)	934,761	91,935		384,901
(Muncie, Indiana)	606,937	59,978		249,915
(Terre Haute, Indiana)	463,141	44,140		190,705
(Anderson, Indiana)	412,644	38,149		169,912
(Lafayette—West Lafayette, Indiana)	569,921	57,113		234,673
IOWA				
Governors Apportionment for Iowa	2,096,934	195,901		863,441
(Cedar Rapids, Iowa)	705,971	66,096		290,693
(Waterloo, Iowa)	554,200	50,621		228,199
(Sioux City, Iowa—Nebraska—South Dakota)	423,859	38,603		174,530
(Dubuque, Iowa—Illinois)	412,904	40,581		170,019
KANSAS				
Governors Apportionment for Kansas	754,950	71,743		310,861
(Topeka, Kansas)	749,535	71,274		308,632
(St. Joseph, Missouri—Kansas)	5,415	469		2,229
KENTUCKY				
Governors Apportionment for Kentucky	1,860,659	183,543		766,152
(Huntington—Ashland, WV—KY—OH)	282,097	26,333		116,157
(Lexington, Kentucky)	1,113,571	110,914		458,529
(Clarksville, Kentucky—Tennessee)	72,457	6,774		29,835
(Owensboro, Kentucky)	392,534	39,522		161,631
LOUISIANA				
Governors Apportionment for Louisiana	1,908,525	181,675		785,861
(Monroe, Louisiana)	494,628	46,571		203,670
(Lake Charles, Louisiana)	511,006	48,839		210,414
(Lafayette, Louisiana)	490,349	47,706		201,908
(Alexandria, Louisiana)	412,541	38,559		169,869
MAINE				
Governors Apportionment for Maine	832,255	75,704		342,692
(Portland, Maine)	550,072	50,988		226,500
(Lewiston—Auburn, Maine)	282,183	24,716		116,192

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MARYLAND				
Governors Apportionment for Maryland				
MASSACHUSETTS				
Governors Apportionment for Massachusetts	4,395,030	424,080	600,000	1,809,715
(Lowell, Massachusetts)	1,107,119	106,974	300,000	455,872
(Brockton, Massachusetts)	887,770	85,642	300,000	365,552
(Fall River, Massachusetts—Rhode Island)	812,670	79,978		334,628
(New Bedford, Massachusetts)	929,257	92,483		382,635
(Fitchburg—Leominister, Massachusetts)	359,695	32,199		148,109
(Pittsfield, Massachusetts)	298,519	26,984		122,919
MICHIGAN				
Governors Apportionment for Michigan	4,897,146	471,774		2,016,468
(Ann Arbor, Michigan)	1,242,136	123,631		511,467
(Kalamazoo, Michigan)	806,160	75,292		331,948
(Saginaw, Michigan)	951,830	93,275		391,929
(Muskegon—Muskegon Hgts., Michigan)	555,393	51,743		228,691
(Jackson, Michigan)	423,492	39,733		174,379
(Bay City, Michigan)	475,760	46,028		195,901
(Battle Creek, Michigan)	442,374	42,072		182,153
MINNESOTA				
Governors Apportionment for Minnesota	1,406,298	133,505		579,062
(Duluth—Superior, MN—WI)	496,770	44,765		204,552
(Fargo—Moorhead, ND—MN)	205,681	20,136		84,692
(La Crosse, Wisconsin—Minnesota)	14,793	1,333		6,091
(Rochester, Minnesota)	381,551	37,738		157,109
(St. Cloud, Minnesota)	307,502	29,533		126,618
MISSISSIPPI				
Governors Apportionment for Mississippi	1,726,864	163,212		711,060
(Jackson, Mississippi)	1,099,909	105,112		452,903
(Biloxi—Gulfport, Mississippi)	626,955	58,100		258,157
MISSOURI				
Governors Apportionment for Missouri	1,333,929	123,918		549,263
(Springfield, Missouri)	627,093	58,152		258,214
(St. Joseph, Missouri)	427,259	40,542		175,930
(Columbia, Missouri)	279,577	25,224		115,119
MONTANA				
Governors Apportionment for Montana	861,750	83,282		354,837
(Billings, Montana)	412,961	39,486		170,042
(Great Falls, Montana)	448,788	43,796		184,795

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NEBRASKA				
Governors Apportionment for				
Nebraska	970,269	93,584		399,522
(Lincoln, Nebraska)	929,939	89,860		382,916
(Sioux City, Iowa—Nebraska—South Dakota)	40,331	3,724		16,606
NEVADA				
Governors Apportionment for				
Nevada	579,169	55,401		238,481
(Reno, Nevada)	579,169	55,401		238,481
NEW HAMPSHIRE				
Governors Apportionment for				
New Hampshire	843,626	79,208		347,374
(Manchester, New Hampshire)	534,058	50,646		219,906
(Nashua, New Hampshire)	309,567	28,562		127,468
NEW JERSEY				
Governors Apportionment for				
New Jersey	1,013,418	92,404	510,782	417,289
(Atlantic City, New Jersey)	701,263	65,259	510,782	288,755
(Vineland—Millville, New Jersey)	312,156	27,145		128,534
NEW MEXICO				
Governors Apportionment for				
New Mexico				
NEW YORK				
Governors Apportionment for				
New York	3,046,115	291,384	65,868	1,254,282
(Utica—Rome, New York)	1,010,042	95,727		415,899
(Binghamton, New York)	1,050,256	102,316		432,458
(Poughkeepsie, New York)	526,374	48,703	65,868	216,742
(Elmira, New York)	459,445	44,638		189,183
NORTH CAROLINA				
Governors Apportionment for				
North Carolina	5,799,284	542,520		2,387,936
(Fayetteville, North Carolina)	873,284	82,023		359,587
(Raleigh, North Carolina)	818,555	76,741		337,052
(Greensboro, North Carolina)	861,964	81,920		354,926
(Winston—Salem, North Carolina)	766,391	71,851		315,572
(Durham, North Carolina)	557,710	52,696		229,645
(Gastonia, North Carolina)	464,399	42,400		191,223
(High Point, North Carolina)	473,083	43,596		194,798
(Asheville, North Carolina)	372,786	34,526		153,500
(Burlington, North Carolina)	310,984	28,877		128,052
(Wilmington, North Carolina)	300,127	27,890		123,581

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NORTH DAKOTA				
Governors Apportionment for				
North Dakota	363,720	36,048		149,767
(Fargo—Moorhead, ND—MN)	363,720	36,048		149,767
OHIO				
Governors Apportionment for				
Ohio	3,623,529	344,152		1,492,037
(Lorain—Elyria, Ohio)	974,163	89,822		401,125
(Huntington—Ashland, WV—KY—OH)	156,198	14,617		64,316
(Springfield, Ohio)	629,489	62,224		259,201
(Wheeling, WV—OH)	242,783	24,529		99,969
(Hamilton, Ohio)	506,118	47,894		208,401
(Steubenville—Weirton, Ohio—West Virginia)	273,797	26,035		112,739
(Mansfield, Ohio)	399,275	36,979		164,407
(Lima, Ohio)	402,758	38,393		165,841
(Parkersburg, West Virginia—Ohio)	38,950	3,659		16,038
OKLAHOMA				
Governors Apportionment for				
Oklahoma	524,190	49,108		215,842
(Lawton, Oklahoma)	515,573	48,368		212,294
(Fort Smith, Arkansas—Oklahoma)	8,618	740		3,548
OREGON				
Governors Apportionment for				
Oregon	1,322,025	125,811		544,362
(Eugene, Oregon)	792,030	75,362		326,129
(Salem, Oregon)	529,995	50,449		218,233
PENNSYLVANIA				
Governors Apportionment for				
Pennsylvania	5,505,306	543,350	300,000	2,266,887
(Erie, Pennsylvania)	1,223,790	121,901		503,913
(Reading, Pennsylvania)	1,185,065	118,288	300,000	487,967
(York, Pennsylvania)	784,243	76,642		322,923
(Lancaster, Pennsylvania)	717,947	69,562		295,625
(Johnstown, Pennsylvania)	623,745	61,199		256,836
(Altoona, Pennsylvania)	583,426	58,355		240,234
(Williamsport, Pennsylvania)	387,088	37,403		159,389
PUERTO RICO				
Governors Apportionment for				
Puerto Rico	2,505,208	262,555		1,031,554
(Ponce, Puerto Rico)	1,292,012	136,465		532,004
(Mayaguez, Puerto Rico)	538,113	54,628		221,575
(Chauas, Puerto Rico)	675,083	71,462		277,975

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RHODE ISLAND				
Governors Apportionment for				
Rhode Island	69,115	6,063		28,459
(Fall River, Massachusetts—Rhode Island)	69,115	6,063		28,459
SOUTH CAROLINA				
Governors Apportionment for				
South Carolina	1,344,935	125,724		553,795
(Greenville, South Carolina)	851,813	80,051		350,746
(Augusta, Georgia—South Carolina)	105,033	9,485		43,248
(Spartanburg, South Carolina)	388,089	36,188		159,801
SOUTH DAKOTA				
Governors Apportionment for				
South Dakota	449,319	43,162		185,012
(Sioux City, Iowa—Nebraska—South Dakota)	3,805	336		1,566
(Sioux Falls, South Dakota)	445,513	42,826		183,446
TENNESSEE				
Governors Apportionment for				
Tennessee	1,551,678	143,720		638,924
(Knoxville, Tennessee)	1,032,767	97,048		425,256
(Kingsport, Tennessee—Virginia)	313,324	28,284		129,015
(Clarksville, Kentucky—Tennessee)	205,587	18,388		84,653
TEXAS				
Governors Apportionment for				
Texas	8,947,224	832,586		3,684,140
(Lubbock, Texas)	779,709	72,405		321,056
(Amarillo, Texas)	675,139	63,104		277,998
(Waco, Texas)	551,819	49,521		227,219
(Port Arthur, Texas)	568,687	51,856		234,165
(Beaumont, Texas)	564,627	51,389		232,493
(Wichita Falls, Texas)	537,357	50,708		221,264
(McAllen—Pharr—Edinburg, Texas)	539,784	51,875		222,263
(Abilene, Texas)	407,337	36,166		167,726
(Texas City—La Marque, Texas)	367,826	32,348		151,457
(Odessa, Texas)	516,767	50,430		212,786
(Killeen, Texas)	374,060	34,522		154,024
(Laredo, Texas)	439,588	42,796		181,006
(San Angelo, Texas)	328,650	30,437		135,326
(Galveston, Texas)	363,906	34,923		149,843
(Midland, Texas)	310,103	28,706		127,688
(Tyler, Texas)	334,427	31,686		137,705
(Texarkana, Texas—Arkansas)	183,881	16,873		75,715
(Sherman—Denison, Texas)	270,600	24,685		111,423
(Brownsville, Texas)	342,704	33,651		141,113
(Bryan—College Station, Texas)	248,379	22,577		102,273
(Harlingen—San Benito, Texas)	241,877	21,928		99,596

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UTAH				
Governors Apportionment for				
Utah	1,352,218	126,463		556,795
(Ogden, Utah)	843,354	80,047		347,263
(Provo—Orem, Utah)	508,865	46,416		209,532
VIRGINIA				
Governors Apportionment for				
Virginia	1,814,314	170,832		747,068
(Roanoke, Virginia)	869,056	82,168		357,846
(Petersburg—Colonial Heights, Virginia)	559,532	52,933		230,395
(Lynchburg, Virginia)	364,941	33,811		150,269
(Kingsport, Tennessee—Virginia)	20,786	1,920		8,558
WASHINGTON				
Governors Apportionment for				
Washington	720,096	67,236		296,509
(Richland—Kennewick, Washington)	329,440	29,524		135,651
(Yakima, Washington)	390,656	37,712		160,858
WEST VIRGINIA				
Governors Apportionment for				
West Virginia	2,400,576	231,647		988,470
(Huntington—Ashland, WV—KY—OH)	588,314	58,497		242,246
(Charleston, West Virginia)	901,265	85,865		371,109
(Wheeling, West Virginia—Ohio)	352,804	33,750		145,272
(Steubenville—Weirton, OH—WV)	188,561	17,384		77,642
(Parkersburg, West Virginia—Ohio)	369,632	36,151		152,201
WISCONSIN				
Governors Apportionment for				
Wisconsin	3,870,144	378,052		1,593,585
(Duluth—Superior, MN—WI)	136,695	11,819		56,286
(Appleton, Wisconsin)	846,784	83,218		348,675
(Green Bay, Wisconsin)	638,024	58,393		262,715
(Racine, Wisconsin)	837,959	83,824		345,041
(Kenosha, Wisconsin)	648,260	65,746		266,930
(LaCrosse, Wisconsin—Minnesota)	355,553	34,143		146,404
(Oshkosh, Wisconsin)	406,870	40,909		167,534

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BILLING CODE 4910-57-C

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

67353 10–10–80 / Radio broadcast stations (FM) in Maine, changes in table of assignments

67353 10–10–80 / Radio broadcast stations (FM) in Minnesota, changes in table of assignments

67352 10–10–80 / TV Broadcast stations in Kentucky, changes in table of assignments

FEDERAL RESERVE SYSTEM

68633 10–16–80 / Collection of checks and other items and transfer of funds (Regulation J)

69879 10–22–80 / Reserve requirements of depository institutions

56009 8–22–80 / Reserve requirements of depository institutions

58099 9–2–80 / Reserve requirements of depository institutions; required reserve balance pass-through rules

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

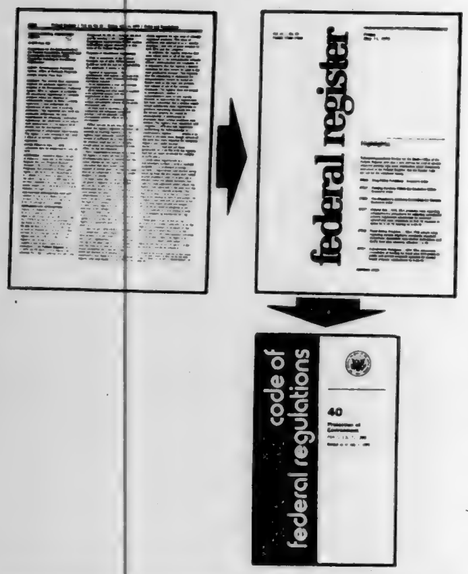
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Highlights

75159 **Blocking Iranian Government Property** Presidential notice

75161 **Wright Brothers Day** Presidential proclamation

75536 **Nuclear Power Plants and Reactors** NRC proposes amending regulations which specify fracture toughness requirements for nuclear power reactors and its requirements for reactor vessel material surveillance programs; comments by 1–13–81 (Part V of this issue)

75166 **Immigration** Justice/INS publishes regulations regarding petition to classify alien as immediate relative of a U.S. citizen or as a preference immigrant and revises requirements for petitions based on adoptive relationships; effective 12–15–80

75610 **Grant Programs** HUD/NVACP publishes regulations regarding Neighborhood Self-Help Development program; effective 1–15–81 (Part XI of this issue)

75568 **Handicapped** OPM publishes regulations forbidding discrimination against qualified handicapped persons in employment and in operation of programs receiving Federal financial assistance; effective 12–15–80 (Part IX of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

75564 **Education** ED/Sec'y publishes notice of intent to develop regulations authorizing of Federal financial assistance for postsecondary and certain other education programs (Part VIII of this issue)

75217 **Retirement** OPM proposes to revise regulations to reflect current survivor benefit provisions of the Civil Service Retirement law and to establish spouse notification; comments by 12–15–80

75356 **Unemployment Compensation** Labor/ETA publishes special notice of change in beginning dates of extended benefit periods in States of Illinois, Tennessee, and Washington; effective June and July 1980

75488 **Pesticides** EPA provides interested parties with idea as to the fashion in which EPA will prioritize the various pesticide active ingredients under the Registration Standards Program; comments by 12–15–80 (Part III of this issue)

75324 **Human Drugs** HHS/FDA announces clinical guidelines for investigating certain drugs in humans to determine drug safety and effectiveness

75301 **Loan Programs—Natural Gas** DOE/SOLAR establishes program to provide loan guarantees to alcohol fuels, biomass energy and municipal waste energy projects to reduce the dependence of the United States on imported petroleum and natural gas; apply by 12–31–80

75225 **Improving Government Regulations** Commerce/Sec'y announces delay of semiannual agenda of regulations to 11–28–80

75225 **Old-Age, Survivors, and Disability Insurance** HHS/SSA proposes extension of trial work period and reinstates disability benefits

75329 **Privacy Act Document** HUD

75414 **Sunshine Act Meetings**

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Friday, November 14, 1980

Presidential Documents

Title 3—

The President

Notice of November 12, 1980

Blocking Iranian Government Property

On November 14, 1979, by Executive Order No. 12170 I declared a national emergency to deal with the threat to the national security, foreign policy and economy of the United States constituted by the situation in Iran. Since that situation continues, the national emergency declared on November 14, 1979, must continue in effect after November 14, 1980. Therefore, pursuant to section 202(d) of the National Emergencies Act (50 U.S.C. Sec. 1622(d)) I am signing this notice of the continuance of the national emergency and causing this notice to be published in the **Federal Register** and transmitted to the Congress.

Jimmy Carter

THE WHITE HOUSE,
November 12, 1980.

[FR Doc. 80–35785
Filed 11–12–80; 4:13 pm]
Billing code 3195–01–M

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Presidential Documents

Proclamation 4802 of November 12, 1980

Wright Brothers Day, 1980

By the President of the United States of America

A Proclamation

Seventy-seven years ago on December 17, at Kitty Hawk, North Carolina, the Wright Brothers launched man into the age of powered flight. Though their historic first flight lasted but 12 seconds, inventors Orville and Wilbur Wright accomplished what mankind had dreamed of for centuries.

The development of the airplane is one of the most remarkable achievements of the Twentieth Century. Because of it, barriers of time and distance have lost much of their social and political significance to the world family of nations.

In the three generations since that historic flight in 1903, aviation has grown to become one of America's greatest enterprises; one of its largest employers; a fundamental ingredient in the national economy; a mighty deterrent against aggression and a prime defender of peace. Our air transportation system is the greatest in the world and the primary public carrier in the United States. Moreover, some eighty-five percent of the aircraft in use throughout the world are of United States manufacture, and the free world's seven largest airlines are United States flag carriers.

To commemorate the historic achievement of the Wright Brothers, the Congress, by joint resolution of December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby call upon the people of this Nation, and their local and national government officials, to observe Wright Brothers Day on December 17, 1980, both to perpetuate the memory of the Wright Brothers' single achievement and to stimulate American pride in the furtherance of this Nation's aeronautical progress.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of November, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-35840
Filed 11-13-80; 10:50 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 222
Friday, November 14, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 496]

Navel Oranges Grown in Arizona and Designated Part of California; Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh California-Arizona navel oranges shipped from District 1, 3, or 4 to be of a size not smaller than 2.59 inches in diameter for the period November 14, 1980, through January 1, 1981, except that during the period November 14 through November 20, 1980, oranges of a size not smaller than 2.45 inches in diameter may be shipped. This requirement is necessary to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This regulation is issued under the marketing agreement and Order No. 907, (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time. A notice will be published as soon as possible in the **Federal Register** providing further opportunity for public comment on the regulation and a proposal to extent its effective time for the balance of the shipping season.

The committee met on November 4, 1980, to consider crop and market conditions and other factors affecting the need for regulation, and recommended that navel oranges shipped from District 1, 3, or 4 be limited to sizes not smaller than 2.59 inches in diameter during the period November 14, 1980, through January 1, 1981, except for the period November 14–20, 1980 shipment of oranges smaller than 2.59 inches in diameter would be allowed provided such oranges are not smaller than 2.45 inches in diameter. The 1980–81 season crop of navel oranges is currently estimated by the committee at 76,700 carlots, compared to 68,601 carlots utilized during the past season. The committee reports that demand in regulated fresh market channels is expected to require about 57 percent of this volume. The remaining 43 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navel oranges are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing. In the circumstances, elimination of sizes smaller than those specified is appropriate in the interest of growers and consumers.

Therefore, § 907.796 is added to read as follows (§ 907.796 expires January 1, 1981, and will not be published in the annual Code of Federal Regulations):

§ 907.796 Navel Orange Regulation 496.

(a) Except as otherwise provided in paragraph (b), during the period November 14, 1980, through January 1, 1981, no handler shall handle any navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.59 inches in diameter.

(b) During the period November 14 through 20, 1980, any handler may handle navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That such smaller oranges shall be not smaller than 2.45 inches in diameter, except not to exceed 5 percent, by count, of the oranges in any container of such oranges may measure smaller than 2.45 inches in diameter.

(c) As used in this section, "handler," "handle," "District 1," "District 3," and "District 4" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 7, 1980 to become effective November 14, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–35534 Filed 11–13–80; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 279]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 16–22, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 16, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malivn E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 10, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is steady.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E. O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 910.579 is added as follows:

§ 910.579 Lemon Regulation 279.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 16, 1980, through November 22, 1980, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 13, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-35832 Filed 11-13-80; 11:51 am]

BILLING CODE 3410-02-M

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Changes In Subparts—Supplementary Regulations and Conversion Factors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action includes Golden Seedless and Dipped and Related Seedless raisins under a weight dockage system for immaturity, deletes obsolete provisions, and makes a needed conforming change in provisions prescribing conversion factors for computing weight lost in reconditioning raisins. It is based on a unanimous recommendation of the Raisin Administrative Committee. The Committee works with USDA in administering the Federal marketing order for California raisins.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA Washington, D.C. 20250 (202) 447–5053. The Final Impact Statement describing the options considered in developing this action and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "non-significant". Notice of this action was published in the October 16, 1980, issue of the **Federal Register** (45 FR 68659). Comments were invited until October 31, 1980. Two favorable comments were received.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that: (1) Handlers are acquiring and processing 1980 crop Golden Seedless and Dipped and Related Seedless raisins and this action should be effective promptly to cover as many 1980 crop acquisitions as possible; (2) for several years handlers have been utilizing the weight dockage system in acquiring Natural (sun-dried) Seedless raisins and need no advance preparation to acquire Golden Seedless and Dipped and Related Seedless raisins in this manner; and (3) no useful purpose would be served by delaying the effective date of this action.

This action pertains to an amendment of the Subpart—Supplementary Regulations (7 CFR 989.202–989.233), and Subpart—Conversion Factors (7 CFR 989.601). The subparts are issued under the marketing agreement and Order No. 989, both as amended (7 CFR Part 989) regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of Subpart—Supplementary Regulations would include Golden Seedless and Dipped and Related Seedless raisins under the weight dockage system for immaturity prescribed in § 989.210. Section 989.210 is authorized by § 989.58(a) of the order. The inclusion of these two varietal types of raisins under the dockage system would permit handlers of Golden Seedless and Dipped and Related Seedless raisins to acquire them as natural condition standard raisins even though the raisins have been determined to be off-grade because of an excess of immature raisins. The immature raisins usually can be removed from the lot of raisins by the handler during normal processing so the balance of the lot meets grade requirements. Currently, for Natural (sun-dried) Seedless raisins, the creditable weight of any such lot is computed by multiplying the net weight of the lot by a dockage factor. The factor would reduce the weight of the lot by an amount approximating the weight of the immature raisins needed to be removed from the lot in order for the balance of the lot to meet grade requirements.

Although there is more control of maturity in selecting grapes for dehydration than in sun-drying, makers of Golden Seedless and Dipped and Related Seedless raisins encounter maturity problems, especially in a year of poor grade maturity. Permitting handlers to acquire low maturity Golden Seedless and Dipped and Related Seedless raisins as standard raisins under this system would speed up acquistions, would save inspection costs, and would save the makers of such raisins additional reconditioning costs.

The quality control provisions in § 989.202 of Subpart—Supplementary Regulations are obsolete and are deleted.

On August 1, 1980, the term "Dipped Seedless" was changed to "Dipped and Related Seedless". That change in terms appeared on page 64397 of the **Federal Register** (44 FR 64397) and necessitates a minor wording change in § 989.601 of Subpart—Conversion Factors.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is hereby further found that the changes in Subpart—Supplementary Regulations and Subpart—Conversion Factors, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, these two subparts are amended as follows:

Subpart—Supplementary Regulations

§ 989.202 [Deleted]

1. Section 989.202 is deleted.

2. In § 989.210, paragraphs (a) through (f) are revised to read:

§ 989.210 Handling of Natural [sun-dried] Seedless, Golden Seedless, and Dipped and Related Seedless raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins containing more than 8 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of such lot acquired shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the dockage table prescribed in paragraph (g) of this section.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage system.

(c) *Reserve tonnage.* A handler may hold as reserve tonnage raisins any lot, or portion thereof, of Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins acquired pursuant to a weight dockage system: *Provided,* That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins acquired by a handler pursuant to a weight dockage system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by him with respect to reserve tonnage Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins acquired pursuant to a weight dockage system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of Subpart—Schedule of Payments.

(f) *Identification.* Any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped and Related Seedless raisins acquired by a handler pursuant to a weight dockage system shall be so identified by the inspection service affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of an inspector of the inspection service, or authorized Committee personnel.

* * * * *

Subpart—Conversion Factors

§ 989.601 [Amended]

3. The conversion factor table in § 989.601 is revised by changing the term "Dipped seedless" to "Dipped and Related seedless".

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: November 10, 1980.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-35611 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1250

Rules of Practice and Procedure Governing Proceedings to Formulate An Order Under Egg Research and Consumer Information Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: On June 17, 1980, the Egg Research and Consumer Information Act was amended to provide for an increase in the rate of assessment and the addition of two consumers to the Egg Board if approved by producers in a referendum. This document amends the rules of practice and procedure governing proceedings to formulate an order under the Egg Research and Consumer Information Act. This amendment revises the definition of the term "Act" and revises the section pertaining to ex parte communications.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: W. David Spalding, AMS, 202–447–2068.

SUPPLEMENTARY INFORMATION: The Egg Research and Consumer Information Act (7 U.S.C. 2701–2718) provides for formal rulemaking actions to be initiated for the purpose of formulating an Egg Research and Promotion Order. The rules of practice, first published in the **Federal Register** on March 25, 1975, are being amended for currency in light of the recent amendments to the Act. It has been determined that under the administrative procedure provisions in 5 U.S.C. 553, it is impractical and unnecessary to allow opportunity for public comment or to delay the effectiveness of these rules of practice until 30 days after publication in the **Federal Register** for the reasons that: (1) These amendments apply only to agency rules of practice;

(2) No substantive change of the rules in involved; and (3) The amendments are patterned directly after existing rules that have been effectively used in similar programs. Accordingly, Part 1250, Title 7, Code of Federal Regulations is amended as follows:

Authority: Secs. 2-21, 88 Stat. 1171 et. seq., (7 U.S.C. 2701 et seq.), as amended, Pub. L. 96–276, 94 Stat. 541.

Subpart—Rules of Practice and Procedure Governing Proceedings to Formulate an Order Under the Egg Research and Consumer Information Act

1. The table of contents is amended by revising it to read as follows:

Sec
1250.1 Words in the singular form.
1250.2 Definitions.
1250.3 Proposals.
1250.4 Institution of proceedings.
1250.5 Docket number.
1250.6 Judges.
1250.7 Motions and requests.
1250.8 Conduct of the hearing.
1250.9 Oral and written arguments.
1250.10 Certification of the transcript.
1250.11 Copies of the transcript.
1250.12 Administrator's recommended decision.
1250.13 Submission to Secretary.
1250.14 Decision by the Secretary.
1250.15 Execution of the order.
1250.16 Filing; extensions of time; effective date of filing; and computation of time.
1250.17 Ex parte communications.
1250.18 Additional documents to be filed with hearing clerk.
1250.19 Hearing before Secretary.

2. Section 1250.2 is amended by revising paragraph (a) to read as follows:

§ 1250.2 Definitions

* * * * *

(a) The term "Act" means the Egg Research and Consumer Information Act, as amended, Pub. L. 93–428, 88 Stat. 1171, et seq., 7 U.S.C. 2701–2718.

* * * * *

3. Section 1250.17 is amended by deleting the existing section and replacing it with a new section to read as follows:

§ 1250.17 Ex parte communications.

(a) At no stage of the proceeding following the issuance of a notice of a hearing and prior to the issuance of the Secretary's decision therein shall an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding discuss ex parte the merits of the proceeding with any person having an interest in the proceeding or with any representative of such person; *Provided,* That procedural matters and status reports shall not be included within this limitation: *And, provided further,* That an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding may discuss the merits of the proceeding with such a person if all parties known to be interested in the proceeding have been given notice and an opportunity to participate. A memorandum of any such discussion shall be included in the record of the proceeding.

(b) No person interested in the proceeding shall make or knowingly cause to be made to an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding an ex parte communication relevant to the merits of the proceeding except as provided in paragraph (a) of this section.

(c) If an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding receives or makes a communication prohibited by this section, the Department shall place on the public record of the proceeding:

(1) All such written communications,

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda stating the substance of all oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Department may, to the extent consistent with the interest of justice and the policy of the underlying statute, take whatever steps are deemed necessary to nullify the effect of such communication.

(e) For the purposes of this section, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all interested parties is not given, but which shall not include requests for status reports (including requests on procedural matters) on a proceeding.

Done at Washington, D.C., on November 10, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-35609 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revision of Requirements for Petitions Based on Adoptive Relationships

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service concerning filing a petition for classification as an immediate relative of a United States citizen on behalf of an alien orphan, submitting a request for advance processing of such a petition, and filing a relative petition based upon an adoptive relationship. These revisions clarify and add to existing regulations and establish uniform procedures within the Service.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT:

For general information—Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C., 20536. Telephone: (202) 633–3048.

For specific information—Alice Strickler, Immigration Examiner Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C., 20536. Telephone: (202) 633–5015.

SUPPLEMENTARY INFORMATION: On August 28, 1980, at 45 FR 57432, the Service published a notice of proposed rulemaking in the **Federal Register** setting forth, §§ 204.1(b), 204.2(c)(7), 204.2(e), and 204.2(f) of Title 8 of the Code of Federal Regulations, new requirements and procedures regarding petitions for immigration benefits through adoptive and prospective adoptive relationships. The amendments were made to afford increased uniformity as well as increased flexibility in the filing and processing of orphan petitions and requests for advance processing of orphan petitions. Changes were also made to explain the existing requirements and procedures relating to immigration benefits resulting from adoptive and prospective adoptive relationships more clearly. In addition, editorial changes were made to improve readability through a clearer format.

An opportunity was provided to interested parties to submit written comments by October 27, 1980 to allow the Service to consider any suggestions or objections carefully and to amend the rules if warranted. Since there were no comments, the proposed rule will be adopted as published.

In view of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is amended as set forth below.

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. § 204.1(b) is revised to read as follows:

§ 204.1 Petition.

* * * * *

(b) *Orphan.*—(1) *Jurisdiction.*—(i) *Petitioner residing in the United States.* A petition in behalf of a child defined in § 101(b)(1)(F) of the Act or a request for advance processing of such a petition must be filed with the office of the Service having jurisdiction over the place where the petitioner is residing, if the petitioner is residing in the United States.

(ii) *Petitioner residing abroad.* If the petitioner resides outside of the United States, the petition or request for advance processing must be filed with the overseas or stateside office of the Service designated to act on the petition or request. This can be ascertained by consulting an American consul.

(iii) *Petitioner proceeding abroad when advance processing request is on file at a stateside office.* When a request for advance processing is already on file at a stateside office and the petitioner and/or spouse, if married, are/is traveling abroad to locate or adopt a child, the petition in behalf of the child may be filed at the stateside office if it will facilitate the processing of the petition. Otherwise it should be filed at the Service office which has jurisdiction over the place where the child is residing.

(iv) *Petitioner residing in Canada.* Since no Service office in Canada is designated for processing orphan cases, a petitioner residing in that country shall file an orphan petition or request for advance processing with the office of the Service having jurisdiction over the place of the child's intended residence in the United States.

(2) *Petition.*—(i) *Filing the petition.* A petition for a child as defined in § 101(b)(1)(F) of the Act must be filed on Form I–600 by a United States citizen. It must identify the child and must be accompanied by the fee required under § 103.7(b)(1) of this chapter. If the petitioner is married, the Form I–600 must also be signed by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-five years of age at the time of the adoption and when the petition is filed.

(ii) *Decision.* The petitioner shall be notified of the decision. If the petition is denied, the petitioner shall be advised of the reasons for the denial and of the right to appeal in accordance with the provisions of Part 103 of this chapter. When the petition is denied, the fee will not be refunded.

(iii) *Child in the United States.* A child is in parole status and who has not been adopted in the United States is eligible for the benefits of an orphan petition and adjustment of status to permanent residence when all the requirements of §§ 101(b)(1)(F) and 204(e) of the Act have been met. A child in the United States either illegally or as a nonimmigrant, however, is ineligible for the benefits of an orphan petition and adjustment of status on that basis.

(3) *Advance processing request.*—(i) *Circumstances where advance processing request may be submitted.* A prospective petitioner may request advance processing of a petition for a child as defined in § 101(b)(1)(F) of the Act when—

(A) a prospective orphan has not been located and identified; or

(B) the prospective petitioner and/or spouse, if married, are/is going abroad to adopt or locate a child.

(ii) *Submitting the request.*

(A) *General.* A request for advance processing shall be submitted by a United States citizen on Form I–600 with block I and the affadavit of petitioner completed. It shall be accompanied by the fee specified in § 103.7(b)(1) of this chapter. If the petitioner is married, Form I–600 shall also be signed by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-four years of age provided that he/she will be at least twenty-five at the time of the adoption and of filing the completed petition in behalf of a child.

(B) *Properly filed petition.* The petition in an advance processing case will not be regarded as properly filed until the orphan has been identified and the biographical information and documentary evidence concerning the child are furnished to this Service. When the child has been identified, a completed duplicate Form I–600 shall be submitted with all necessary documentary evidence relating to him/her.

(iii) *Disposition of the request for advance processing.* The petitioner will be informed that the request for advance processing will be retained for one year from the date of completion of all advance processing, that if a child is not identified to this Service within that year, the request will be considered abandoned, and that any further proceedings will require the filing of a new Form I–600. If the request for advance processing is considered abandoned, the fee will not be refunded.

2. Section 204.2(c)(7) is revised to read as follows. The following paragraphs (e) and (f) are added, and the former paragraphs (e) and (f) are redesignated as paragraphs (g) and (h) respectively. The new paragraphs read as follows:

§ 204.2 Documents.

* * * * *

(c) * * *

(7) *Relationship by adoption.* If the petitioner and the beneficiary are related to each other by adoption, a certified copy of the adoption decree must accompany the petition. Immigration benefits may be obtained under §§ 101(b)(1)(E) or 101(b)(2) of the Act by virtue of an adoptive relationship provided that the child was adopted while under the age of fourteen if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years. While the legal custody must be after the adoption, residence occurring prior to the adoption can satisfy the residence requirement.

* * * * *

(e) *Preliminary processing of orphan petition without full documentation or home study.* When a child has been identified but the documentary evidence relating to him/her or the home study is not yet available, an orphan petition may be filed without such evidence or home study. All other evidence and the fingerprints required in paragraph (d)(1) of this section, however, must be submitted. The petition will not be considered properly filed until complete documentary evidence relating to the child and the home study are furnished. If the necessary evidence and home study are not submitted within one year from the date of submission of the petition, the petition will be considered abandoned, and the fee will not be refunded. Any further proceedings will require the filing of a new petition.

(f) *Evidence and information to be furnished with request for advance processing of orphan petition.*—(1) *Evidence.* A request for advance processing of an orphan petition in behalf of a child who has not been identified made pursuant to § 204.1(b)(3) must be accompanied by—

(i) fingerprints on Form FD–258 of the United States citizen petitioner and spouse, if married;

(ii) documentary evidence relating to the petitioner and spouse, if married, as provided in paragraph (d)(1) of this section; and

(iii) a valid home study as described in paragraph (d)(2) of this section, if available. If not yet available, it shall be submitted within one year from the date of submission of the request for advance processing or the request shall be considered abandoned.

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(2) *Information.* The petitioner must furnish the following information with a request for advance processing:

(i) Whether the child is coming to the United States for adoption after compliance with the preadoption requirements, if any, of the state of proposed residence or whether the child will be adopted abroad after having been personally seen and observed by the petitioner and spouse, if married.

(ii) Name and address of the organization or individual assisting the petitioner in locating or identifying an eligible orphan.

(iii) City, province or state and country of intended destination if the petitoner and/or spouse are/is proceeding abroad to locate or adopt a child.

(iv) Date of intended departure of the petitioner and/or spouse, if traveling abroad.

* * * * *

(Secs. 101(b)(1) (E) and (F), 103, 204; 8 U.S.C. 1101(b)(1) (E) and (F), 1103, 1154)

Dated: November 7, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-35400 Filed 11-13-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Fort Bend County in Texas because of the existence of exotic Newcastle disease and to release a portion of Klamath County in Oregon from the areas quarantined because of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Fort Bend County, Texas, on November 3, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected area. Further surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, Md. 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Fort Bend County in Texas, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

These amendments also release a portion of Klamath County in Oregon from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(3)(i), is added to read:

§ 82.3 Areas quarantined.

(a) * * *

* * * * *

(3) *Texas.* (i) The premises of Tim Beghard, 18 Windsor Court, Missouri City, Fort Bend County.

* * * * *

2. In § 82.3(a)(17), relating to the State of Oregon, paragraph (i) relating to the premises of White Whale Pet Shop, 2848 C. Jefferson Mall, Klamath Falls, Klamath County, is deleted.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined area relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevent information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 7th day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-35536 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to release a portion of Volusia County in Florida, portions of Harris County and a portion of Fort Bend County in Texas, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments exclude a portion of Volusia County in Florida, portions of Harris County and a portion of Fort Bend County in Texas, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

§ 82.3 [Amended]

1. In § 82.3(a)(1), relating to the State of Florida, paragraph (iii) relating to the premises of Reef Imports (Garald Smith), Takoma Farms, Halifax Drive, Daytona Beach, Volusia County is deleted.

2. In § 82.3(a)(3), relating to the State of Texas, paragraphs (i), (iii), and (iv) relating to the following premises are deleted.

(i) Sam Wisialowski, 10206 Golden Sunshine Street, Houston, Harris County.

* * * * *

(iii) George A. Gamblin, 2911 Burning Tree Lane, Missouri City, Fort Bend County.

(iv) Clay Pot Nursery, (Phillip Baker), 207 Wahl, Crosby, Harris County.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C. this 7th day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-35535 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 761

Share Draft Accounts and Procedures on Share Draft Operations for Federally Insured State Chartered Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: On July 17, 1980, the National Credit Union Administration (NCUA) published for public comment proposed rules on share draft accounts and procedures on share draft operations for federally insured state chartered credit unions (45 FR 47846). The period for comments expired on September 1, 1980. On June 10, 1980, NCUA published for public comment a proposed rule that would permit a grace period of up to 7 days on all share certificate accounts (45 FR 39279). The period for comments expired on July 23, 1980. On July 25, 1980, NCUA published for public comment a proposed rule that would set a maximum mandatory penalty for premature withdrawal from a share certificate account (45 FR 42628). The period for comments expired on August 18, 1980.

After reviewing and considering all comments received and views expressed, the NCUA Board has decided to:

1. Repeal present Section 701.34 of NCUA Rules and Regulations (12 CFR § 701.34—Share Draft Accounts) and integrate it into Section 701.35 (Share, Share Draft and Share Certificate Accounts).

2. Amend Section 701.35 to include various regulatory requirements concerning share draft accounts.

3. Adopt a new Part 761 (Operational Procedures for Share Draft Accounts; Federally Insured State Chartered Credit Unions).

4. Adopt, as proposed, the published rule concerning the authority for Federal credit unions to adopt grace periods of up to 7 days on all share certificate accounts. (See Section 701.35(d)(2)(ii)).

5. Defer consideration of the proposed rule concerning penalties for premature withdrawal from a share certificate account. The proposed rule is not adopted at this time. (See Section 701.35(e)).

The three proposals are being addressed together as they involve similar subject matter incorporated into the same regulation.

EFFECTIVE DATE: Effective November 10, 1980, except that the first clause in Section 701.35(l)(1)(iii) and Sections 701.35(l)(1) (viii) and (xi) are effective March 1, 1981.

ADDRESS: National Credit Union Administration, 1776 G St., N.W., Washington D.C. 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel or Todd A. Okun, Senior Attorney, both at the above address; telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: This discussion will track the order of the issues discussed in the proposed rules. Of the three separate publications, discussion is in the following order: share drafts, grace periods, share certificate penalties.

I. Share Draft Accounts

Of the approximately 50 comments received, all supported the change in the definition of "share draft account" that deletes the requirement that it be a "regular share account." Thus, the prohibition against minimum balance

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requirements no longer applies to share draft accounts. The majority of commenters did, however, object to the proposed Section 701.35(b)(4) which would prohibit the conversion by a Federal credit union of a regular share account to any other type of account without the express authorization of the account holder. It was suggested that this authorization requirement not be mandated as it would be costly and inefficient to maintain certain types of accounts for a few members who do not give such authorization. Other commenters suggested that express member authorization simply diminishes credit union flexibility. The NCUA Board has determined that changes in member accounts should be a subject of negotiation between members and the credit union and, therefore, the prohibition has been deleted. The NCUA Board has, however, added a provision, § 701.35(l)(ix), requiring disclosure when an account is opened as to whether member approval of changes is required. Federal credit unions should recognize their potential liability in making unilateral changes, and that resolution of problems will be between the credit union and the member. In any event, reasonable notice should be provided to an account holder whenever any changes are made. In this regard, share draft accounts that currently meet the definition of regular share accounts may be converted without member approval to share draft accounts that do not qualify as regular share accounts, unless, of course, the agreement provides otherwise. Depending upon the nature of the change made, notice to the member may be required under § 701.35(l)(2). Even where notice is not required, the NCUA Board strongly recommends prior notification of any such change.

Truncation

Of the comments received on the subject of truncation, that is, the process whereby the original draft is not returned to the member, the majority, while agreeing that truncation is the most effective and most efficient method of implementing a share draft program, nonetheless objected to mandatory truncation as over-regulation. Some commenters also felt that mandatory truncation would cause competitive disadvantages for credit unions.

While the Board is of the opinion that deregulation is desirable in many areas, when evaluating a particular matter, the Board considers not only the interests of credit unions and their members, but also its own role as a regulatory agency and overall national policy. As credit unions become more involved in the national economy and financial marketplace, they become more and more subject to national policy considerations. Share draft programs entail an increased awareness by credit unions of their overall national impact and attendant responsibilities.

It must be remembered that truncation is not new for Federal credit unions. Truncation was an integral part of the experimental share draft programs approved in October of 1974 and was a requirement of the original share draft regulation, § 701.34. With the advent of direct deposit programs and electronic funds transfer technology, share drafts were seen as a method for members to more conveniently access share accounts and thus allow Federal credit unions to more effectively compete for direct deposit funds. The overall national concern for the increasing flow of paper through the payment process provided the impetus to the development of direct deposit and EFT programs. They in turn prompted the development of share draft programs, with the innovative process of truncation. Even truncation in its present form is only the first phase. It eventually will be introduced in the payment process at differing stages, the point of first deposit for instance, and will be utilized by other types of financial institutions, thereby increasing its cost efficiency and further reducing paper flow which is a goal in accord with national policy. Cost benefits can be realized by Federal credit unions through truncated systems and, because of their cooperative nature, these benefits flow to their members.

Comments opposing mandatory truncation provided no substantive basis for the NCUA Board to remove truncation as a regulatory requirement. At best, it was argued that such a requirement would cause competitive disadvantages for credit unions. However, that has not been supported by credit union experience. Federal credit union share draft programs have flourished and mandatory truncation has not been presented to the NCUA Board as causing problems in competition by those credit unions presently offering these programs. The NCUA Board is also concerned that by eliminating truncation now, credit unions could seriously endanger their future operations, in terms of cost and efficiency, as truncation is implemented by other financial institutions. Rather, credit unions should be directing their energies toward improved truncation systems, reducing paper flow and improving cost and efficiency benefits.

Therefore, in light of national policy, consumer benefits, the fact that truncation has been an existing requirement that has not been shown to cause competitive disadvantages, and that commenters offered no substantive basis for its deletion while agreeing to its desirability, the NCUA Board has retained truncation as a requirement as set forth in § 701.35(c)(1)(i).

Procedural requirements

The majority of commenters supported the minimal procedural requirements necessary for share draft accounts as described at Section 701.35(c)(1). Again, it is emphasized that in addition to these requirements, it is the responsibility of a board of directors to ensure that sound operational and control procedures are implemented to safeguard the integrity of a share draft program. The NCUA Board strongly advises that a credit union obtain a written opinion of counsel assuring that the particular program undertaken by any given credit union not only comports with Federal law and regulation, but also any state law requirements or other requirments, such as clearinghouse rules for those credit unions choosing to use their own routing and transit numbers.

While various commenters discussed the merits of the use of a credit union's own routing and transit number, that is, the "payable at" method, other commenters extolled the virtues of credit unions retaining the "payable through" method in the clearing process. All were agreed, however, that the choice of methods be left to the board of directors of an individual credit union. The relative costs and convenience of the two methods should be thoroughly investigated before a method is selected. Credit unions should be aware that use of their own routing and transit numbers will result in certain responsibilities for the credit union. The NCUA Board recommends that prior to implementing a "payable at" system, a credit union assure itself that it can effectively undertake such a program, that it is aware of any liabilities that might arise, and that it is familiar with appropriate clearinghouse rules common to the payment mechanism system and applicable to all financial institutions.

The majority of commenters supported the requirement of surety bond coverage. Surety bond coverage is already required under §§ 701.20 and 741.1. It is restated here in § 701.35(c)(1)(ii) to assure that the board of directors reviews the adequacy of coverage and that the operational aspects of its share draft program do not jeopardize coverage. Also fully supported were the requirements of a full, complete and detailed share draft agreement delineating the duties, responsibilities and possible liabilities of both the credit union and member and of a required written document developed by the credit union that sets forth the operational and program specifications of the share draft program to be implemented. These requirements are set forth in Section 701.35(c)(1)(iii). The requirement that copies of paid orders be retained for five years or as required by state law, whichever is greater, by any method that does not jeopardize the ability to properly authenticate a document was not generally commented upon. However, credit unions may use any type of photo reproduction to meet this requirement. This has been added to the regulation at Section 701.35(c)(1)(iv).

Fees

Very few commenters expressed opinions concerning fees for share draft use except to indicate that the statement in the preamble that reasonable fees could be charged for overdrafts, stop payment orders and failure to maintain required balances should not be read to limit fees just to those eventualities. Comments were evenly split on limiting other fees to costs incurred by the credit union. While some agreed to the principle of not permitting fees to exceed cost, others felt that in difficult economic times a minimal amount of overhead or profit should be permitted and that, generally, fees should be dictated by the marketplace.

It is the view of the NCUA Board, in the spirit of deregulation and in recognition of the difficulty of establishing with certainty what constitutes actual cost, that fee structures should be within the purview of the board of directors of a credit union implementing a share draft program and should reflect both equity and the spirit of cooperative principles. While it is still hoped that fees will approximate cost, the NCUA Board believes that the ultimate success of a share draft program may well depend on the reasonableness of fees imposed for which a board of directors will ultimately have to answer. The NCUA Board is also cognizant of the fact, for example, that a small fee for overdrafts may not discourage overdrafts as much as a larger fee not directly tied to the cost of providing overdraft protection. It is absolutely necessary that *all* fees be disclosed to members prior to signing a share draft agreement so that all members are aware of their rights and responsibilities. The authority to provide for fees is set forth in Section 701.35(c)(2)(i).

Experimental Programs

Commenters generally concurred in the availability of a one year experimental share draft program that would serve as a barometer for a continuing program available to the membership as a whole. The ability to designate a limited group of members, including board members and officials, has been maintained, as well as the requirement that all required disclosures and advertising requirements remain in force during the experimental period. Some commenters expressed concern over the requirement that, during the experimental period, the dividend rate paid on share draft accounts could not exceed the rate paid on regular share accounts. The purpose of an experimental program, however, is to test operational feasibility for the credit union, *not* to provide a monetary benefit to a select group of members. Of course, in share draft programs *not* in an experimental phase, this dividend limitation is *not* a requirement. Those involved in experimental programs may be notified that once a program is no longer experimental, the dividend rate may become higher. The experimental program authority is set forth in Section 701.35(c)(2)(ii).

Disapproval Criteria

The majority of commenters professed confusion at the discussion in the preamble of disapproval criteria. The preamble indicated that criteria relating to credit history and previous loan delinquency would generally be acceptable, but that standards tending to eliminate from share draft participation a group of persons (women, low wage earners, persons living in one part of town) would be impermissibly discriminatory. While all commenters agreed that discrimination among members should be prohibited, they suggested that it would be futile for the NCUA Board to establish meaningful guidelines because of the geographic and membership diversity among credit unions. For example, a military credit union with branches overseas might find that the use of share drafts by its overseas members would make a share draft program impractical or costly to implement. However, the declaration in the preamble that disapproval criteria would be impermissible if their *effect* would be to discriminate against a class of members was, in the view of most commenters, too broad and lacking in effective guidance.

It remains the view of the NCUA Board that disapproval criteria should generally be based upon past credit history, loan delinquencies, bad check history, overdrafts and the like; that is, factors that specifically relate to operational feasibility and cost efficiency. Groups or classes of the membership should normally not be excluded from an important service. Thus, criteria that result in exclusion of an identifiable class of persons will be considered violative of the regulation unless extenuating circumstances exist. Generally, extenuating circumstances are those that impact on the operational feasibility of a share draft program, such as cost effectiveness in a geographically disparate credit union. Criteria for disapproval should involve aspects of creditworthiness, operational feasibility and cost efficiency and should be equitable and reflect the spirit of cooperative principles. Such criteria must be kept on file at the credit union and be available to NCUA on request. Section 701.35(b)(2) has been modified accordingly.

Guarantees

All commenters stressed the need to permit credit unions to guarantee share drafts through the issuance of guarantee cards without the cumbersome guarantee procedure for each share draft currently delineated at Section 701.34(g). That provision prohibits a Federal credit union from waiving its right to require notice of withdrawal pursuant to Article III, Section 5(a) of the Federal Credit Union Bylaws and, hence, permits share draft guarantees for each individual share draft only if authorized by the Federal credit union and the share draft account is immediately earmarked to prevent withdrawal of shares needed to pay that particular share draft. Commenters suggested, however, that share drafts cannot be competitive and effective instruments for third party payments, if, when presented to a merchant, for example, a share draft must be guaranteed through the procedure previously described, e.g., initiated by a telephone inquiry to the credit union to verify sufficient funds in the share draft account. The potential problems are obvious, especially when the credit union is not open for business. The effectiveness of the ability to guarantee share drafts pursuant to Section 701.34(g) is flawed and may not serve as an effective and "on-the-spot" guarantee necessary in today's marketplace.

The crux of the problem lies in Article III, Section 5(a) of the Federal Credit Union Bylaws which gives Federal credit unions the right to require up to 60 days notice of intent to withdraw. That particular bylaw provision effectively

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precludes an absolute guarantee of a share draft by a Federal credit union if the bylaw were to be invoked prior to payment of the draft.

The NCUA Board believes that share drafts must compete equally with instruments issued by other financial institutions. When the practice of other financial institutions in the local market place so requires, Federal credit unions must be in a position to guarantee share drafts through the use of a guarantee card or other method, in such a manner that third parties, without a cumbersome and sometimes unsuccessful process, may be immediately satisfied that a share draft accepted as payment is guaranteed.

The Consumer Checking Account Equity Act of 1980 amended Section 205 of the Federal Credit Union Act to give all insured credit unions the express power to issue share draft accounts in accordance with regulations issued by the NCUA Board. This, in effect, has authorized the establishment of a new kind of account, separate and distinct from other types of accounts. The NCUA Board has determined that the establishment of an account that represents shares redeemable upon demand is now permissible under the Federal Credit Union Act and in recognition of share drafts as third party payment instruments, Federal credit unions will be permitted to adopt an amendment to Article III, Section 5(a) of the Federal Credit Union Bylaws that will remove the right of the board of directors to impose a notice of withdrawal on share draft accounts. Assuming adoption of an amendment to Article III, Section 5(a) of the Federal Credit Union Bylaws, a Federal credit union may issue guarantee cards which, on presentment to a third party, will assure payment of the share draft. A Federal credit union should, however, determine that the use of a guarantee is competitively necessary and the amount of the guarantee is reasonable. Of course, when a Federal credit union binds itself to pay the draft, it should be assured, through a proper share draft agreement with its member, that the rights and liabilities of each member are clearly delineated, especially in the area of overdrafts, accessing lines of credit, and ultimate liability on guaranteed share drafts.

Use of Share Drafts

Several commenters expressed confusion over the mandate of Section 205(f) of the Federal Credit Union Act that authorizes the establishment of share draft accounts for use by an organization which is operated "primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profits." Essentially, the language in Section 205(f) parallels the provision regarding NOW accounts for other depository institutions in the Consumer Checking Account Equity Act of 1980. The impact of the above quoted language will have only a minimal effect on Federal credit unions. All individuals or corporations that are members of any credit union, *regardless* of whether or not those corporations are non-profit or operated primarily for religious, philanthropic, charitable, educational or other similar purposes, are eligible for share draft accounts. This would include "organizations of such persons" as such organizations are members. This would not permit establishment of a share draft account in the name of a corporation or business owned by a member unless that business or corporation became a member. It should be pointed out, however, that the impact of the statutory language may be felt by those credit unions designated as "low income" credit unions. That is, while those designated credit unions may permit the purchase of shares by various entities within the community, those entities are not considered members of that credit union. Hence, they may not establish share draft accounts unless they are organizations operated primarily for "religious, philanthropic, charitable, educational, or other similar purposes and [are] not operated for profit."

It is noted that Section 107(6) of the Federal Credit Union Act specifically delineates who may make payments on share draft accounts while referencing Section 205(f). Section 205(f) merely defines the scope of share draft authority and was not intended to expand the field from which Federal credit unions could accept payment on share draft accounts. Thus, the language of Section 205(f) does *not* permit organizations meeting the requirements therein to establish share draft accounts unless they are members or are otherwise authorized to purchase shares.

As stated in the premable to the proposed rule, Federal credit unions that are members of corporate centrals would be eligible for share draft accounts offered by corporate centrals because of their membership status.

Credit Union Share Draft Accounts

A majority of commenters indicated that Federal credit unions should be permitted to establish their own internal share draft accounts as this would enhance internal disbursement procedures. It is the view of the NCUA Board that a Federal credit union may not establish its own share draft account. It may, however, draw drafts upon itself as already outlined in the *Accounting Manual for Federal Credit Unions* (NCUA Pub. No. 8022) at pages 5–55 *et seq.* The particular type of draft permissible would be the functional equivalent of a cashier's check which is a draft drawn by a bank against itself. The bank is both the drawer and the drawee of the instrument. It becomes the bank's primary obligation and constitutes its written promise to pay on demand. It has previously been the position of NCUA that a Federal credit union could not issue cashier's checks because it could not provide checking services. However, Federal credit unions may issue what might be termed "treasurer's drafts" to enable Federal credit unions to make payments. Proper accounting procedures must be used and the Federal credit union must maintain its ability to honor such drafts.

The ability of the Federal credit union to draw drafts on itself differs significantly from the ability to set up its own internal share draft account. While commenters requested authority for Federal credit unions to establish internal share draft accounts, it appears that they were actually requesting the above mentioned "treasurer's draft" authority. The existence of a share draft account *presupposes* the existence of an account representing an equity or ownership interest in the credit union. In effect, a Federal credit union would be redeeming its own shares by using a share draft account, i.e., reducing its ownership interest in itself. Instead, what is actually desired is the ability of a Federal credit union to issue drafts drawn against its assets.

Therefore, while a Federal credit union may draw drafts on itself, assuming proper accounting procedures and an awareness of any liability that may be incurred by doing so, it may not have its own internal share draft account.

Overdrafts

Comment was solicited on both the method and timing of overdraft notices. All commenters supported the NCUA Board's position that overdrafts may be cleared by a transfer of shares from another account, by accessing a line of credit, special loan plan or any other arrangement established with the member whether they be preauthorized or contingent upon member approval at the time an overdraft occurs. All commenters also agreed that overdraft notices must be provided in any reasonable form that advises the member of any overdraft and actions

taken to cover it. Differences among commenters centered around the frequency of overdrafts. A few commenters felt that the interests of the members are best served by immediate notification. Others believed that urgency of notification is lessened where preauthorized overdraft arrangements have already been established. A majority of the commenters urged the NCUA Board to consider the benefit of notice to members given separate from periodic statements when weighed against the rising costs to credit unions of providing such notice.

Taking all factors into consideration, the NCUA Board has determined that the method and timing of notice is properly left to the discretion of the board of directors of each credit union (except for certain plastic debit card orders that will be subject to the Federal Reserve Board's Regulation E notice requirements). The NCUA Board suggests that such notice occur no less frequently than monthly.

Disclosures and Advertising

All comments presented a basic issue concerning disclosures: What is the benefit of any given disclosure to a member and is that disclosure of such importance that it justifies the cost to the credit union of providing it? The NCUA Board has analyzed each proposed disclosure for clarity and necessity with this issue in mind. The NCUA Board is dismayed, however, at the suggestion of some commenters that while certain existing disclosure requirements could certainly be made clearer, such clarification would only result in an unwillingness to place funds in the credit union. The NCUA Board rejects the notion that disclosures that cannot be construed as clear should be *deliberately* left as they are based on the premise that if members were to clearly understand the terms and conditions of any given account, establishment of such account by a member might become less likely.

The proposed regulation suggested as a required disclosure a statement of applicable grace periods, if any (i.e., periods, such as the first ten days of a dividend period, during which funds deposited at any time will receive dividends from the start of the dividend period). The majority of commenters believed that the existence of grace periods is a material condition of any account and that its disclosure enables a member to plan for the establishment of, additions to and disposition of, any account to which grace periods are relevant. The NCUA Board agrees that the existence of a grace period is of material benefit to a member and should be disclosed. Therefore, Section 701.35(l)(1)(viii) has been adopted as proposed, but its effective date has been delayed until March 1, 1981, to permit the drawing down of existing stock of disclosure forms.

It should be noted that the required disclosure involves not only a delineation of the dividend earning ability of funds deposited during a grace period, but also of funds deposited *after* the grace period. Comments were evenly split on this latter requirement. Many commenters felt that common sense dictated that if a consumer is told that funds deposited during a grace period earn dividends for that period, funds deposited *after* that grace period would not earn dividends for that period. Other commenters indicated that it was just as logical to conclude that the grace period was a consumer benefit to help earn dividends during a grace period and that it had no effect on dividend earning once the grace period expired. It is the view of the NCUA Board that as long as some confusion appears to exist on this subject, full disclosure of all pertinent material facts surrounding the earning of dividends should be clearly disclosed. As stated earlier, Section 701.35(l)(1)(viii) has been amended to include disclosure of grace periods and their "terms and conditions" which would include an explanation on the dividend earning capacity of funds deposited during *and* after any grace period. Again, the effective date for this disclosure will be March 1, 1981 in order for credit unions to draw down existing stock of disclosure forms.

Also proposed was a disclosure of the possibility of the imposition of up to sixty days notice of withdrawal pursuant to the Federal Credit Union Bylaws. Comments received were overwhelming against the requirement of such a disclosure. The commenters felt that while the possibility of imposition of this bylaw certainly exists, the frequency of its use was quite rare and the circumstances of its use were during a liquidity crisis or when the credit union was on the brink of insolvency or liquidation. Therefore, the commenters felt that this particular disclosure of a remote possibility would be unduly and unnecessarily alarming to members who might tend to believe that the very fact of disclosure indicated poor financial condition, the ultimate result being a lack of confidence in, or lingering misgivings about, the credit union. The benefit of this disclosure to the member was viewed as minimal while the possible detriment to the credit union would be great. The NCUA Board views this disclosure as necessary for a full appreciation of all of the possibilities attendant to a Federal credit union account. It is incumbent upon the Federal credit union to inform its members of the purpose, frequency and likelihood of such imposition if it feels that simple disclosure of this material aspect of Federal credit union accounts will have a deleterious effect upon the membership. The requirement is noted at Section 701.35(l)(1)(xi) but it will not become effective until March 1, 1981, to allow the use of existing stock.

Comment was solicited on the possibility of modifying the required disclosure that "Federal regulations prohibit payment of dividends in excess of available earnings" to "Dividends are not guaranteed" in order to clarify the possibility that *no* dividend may be paid during a given dividend period. The vast majority did not support this proposed change. It was felt that the present disclosure was clear on its face and that the possibility that *no* dividend would be paid was too remote to require that this possibility constitute the thrust of the disclosure. Commenters indicated that members are aware that dividends are dependent upon earnings and that no earnings will result in *no* dividends. The NCUA Board is nonetheless persuaded that the present disclosure may not be clear and generally understood because of the fact that, on its face, it is subject to more than one interpretation. Therefore, taking all factors into account, the NCUA Board is adopting a new required advertising statement that will state:

"NOTICE: Dividends are based on the credit union's earnings at the end of a dividend period and thus cannot be guaranteed."

This information must also be included in the disclosure statement under § 701.35(l)(1)(iii) but the effective date will be March 1, 1981 to allow the use of existing stock.

Many comments were received on the possibility of requiring disclosure of the actual effective dividend yield on share draft accounts after an appropriate dividend has expired. While most commenters admitted that the actual effective yield differed from any specified rate, they were constrained to point out that it is generally understood that specified yield will be modified downward by the amount of funds *not* remaining in an account for an entire dividend period. This fact, and the reality that this disclosure would be costly because of the necessity of computer reprogramming and the fact that each member has unique transactions during a given dividend period, would, according to the

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comments, render this disclosure difficult, costly and not beneficial to a decision on whether or not to open an account. The NCUA Board believes that while a member should know exactly what effective dividend yield was received, it is not necessary to make this a requirement. It is well to keep in mind that the cost of computer reprogramming would be quite high for most credit unions (perhaps resulting in an even lower effective yield) and, for those credit unions *not* on computer, the labor involved for each account holder would be great. The NCUA Board believes that every credit union should make effective yield known to its members. However, if all other required disclosures are made correctly, members should understand that the effective yield for any given dividend period will likely be less than the specified rate depending upon the activity in the account and the amount left in the account during an entire dividend period. Accordingly, the NCUA Board is not adopting the proposed disclosure as a requirement but strongly encourages that boards of directors consider adopting such a disclosure voluntarily. In advertising and disclosing share draft account dividend rates, however, it *must* be clearly and conspicuously stated, if applicable, that such a yield will probably be less than stated and that it is applicable only to funds remaining in the account during a dividend period or whatever computation method is used. To simply state a rate, without further explanation, would be especially misleading to the membership and the public in what is designed as a high activity transaction account. Any disclosure on share draft accounts that does not explain the basis upon which dividend rates are based will violate the regulation as will any share draft advertising that does not make that disclosure. These requirements are at Section 701.35(k)(1)(i) and 701.35(l)(1)(xii), and are effective without delay.

Some comments were received concerning the advertising of share draft programs. The preamble to the proposed regulation reminded the public that NCUA regulations do not permit misleading advertising. Therefore, it was suggested that while credit unions could use the word "chek" or "cheque" or even "check" in advertising a share draft program, any statement that a share draft is, in fact, a check is technically incorrect and impermissible as it is a bank instrument only pursuant to Section 3–104 of the Uniform Commercial Code. Nearly all commenters agreed but some indicated that the requirement that if words like "chek," "cheque," or "check" are used, it must be stated with equal prominence that the program is a share draft program would tend to leave less room for effective promotional advertising. Nonetheless, the NCUA Board continues to believe that the policy stated in the preamble ensures truthful and accurate advertising and it will continue to be the NCUA policy.

Accounting and Operational Procedures

The NCUA Board solicited comments on twelve separate accounting and operation issues involving share draft accounts. The issue of a credit union using its own routing and transit number has been dealt with earlier. Only two commenters discussed the other items mentioned including posting, overdraft accounting, stop payment requirements, storage of paid drafts, posting exceptions and return items, forgeries and unauthorized drafts, settlement accounts, separate general ledger accounts and trial balances for individual share draft ledgers, and monetary reserve reporting (dependent on Federal Reserve Board action). Each commenter believed that the handling of each of these items must be considered by any credit union prior to implementing a share draft program but that the needs and peculiarities of each individual credit union would generally dictate which specific procedures are to be implemented. The NCUA Board concurs in this assessment and urges credit unions to obtain assistance of counsel in determining how their particular procedures, tailored to their own needs, effect their legal rights and liabilities. However, each commenter believed that the requirement that copies of paid drafts be retained could be accomplished through the use of photo reproduction copies. As stated earlier, the NCUA Board concurs and Section 701.35(c)(1)(iv) has been modified accordingly.

II. Part 761—Operational Procedures for Share Draft Programs; Federally Insured State Chartered Credit Unions

Three comments were received concerning proposed Part 761. One commenter suggested that the proposed regulation did not take into account the fact that some states may authorize the equivalent of share draft accounts but under differing names such as, for example, share deposit accounts. It should be noted that Part 761.1(a) specifically defines share draft account to include equivalent accounts under state law.

A significantly larger question, however, has been raised by two state credit union leagues which indicated that, in their states, share draft authority had been in existence before the promulgation of the Consumer Checking Account Equity Act of 1980, that neither state has promulgated implementing regulations, and that each state questions the authority of the NCUA Board to mandate the adherence of state chartered federally insured credit unions in their states to the strictures of Section 701.35.

It is the opinion of the staff of the Office of General Counsel that Title 305 of the Consumer Checking Account Equity Act of 1980, which added Section 205(f) to the Federal Credit Union Act (12 U.S.C. 1785(f)), clearly gives the NCUA Board the requisite authority, if necessary or desirable, to pre-empt state regulation of share drafts. Section 205(f)(1) now says, in pertinent part:

> Every insured credit union is authorized to maintain . . . share draft accounts in accordance with rules and regulations prescribed by the [NCUA] Board.

The NCUA Board, however, chooses not to exercise the totality of the pre-emptive power bestowed upon it by Section 205(f)(1). Rather, it shall be the policy of the NCUA Board that those state chartered federally insured credit unions offering share drafts that derive such authority solely from Section 205(f)(1) of the Federal Credit Union Act, and this would include those credit unions operating under state conformity or "wild card" statutes, must implement that authority pursuant to Section 701.35 of the NCUA Rules and Regulations. However, those state chartered federally insured credit unions deriving their share draft authority from state statutes, regulations or judicial interpretation (all encompassed in the word "law" at Section 761.2(b)) need not comply with Section 701.35 of NCUA Rules and Regulations. The NCUA Board believes that this policy gives state authorities the widest latitude in regulating the entities they charter. It is noted, however, that the NCUA Board, as the ultimate insurer of all federally insured credit unions, has a strong interest in the safety and soundness of all federally insured credit unions and reserves the right at some future date to exercise to a greater extent the authority granted to it pursuant to Section 205(f) of the Federal Credit Union Act, should conditions so warrant.

Miscellaneous Comments

The NCUA Board invited comments on the entirety of Section 701.35. The following is a discussion of significant comments not addressed above.

1. Many commenters suggested that Federal credit unions should have the authority to offer share certificate accounts with maturities of 14 days. This would give them authority already available to banks that are Federal Reserve members. Because the NCUA Board believes that Federal credit unions must have the tools to compete on equal footing with other financial institutions, Section 701.35(d)(1) has been amended to permit issuance of share certificates of at least 14 days maturity.

2. One commenter indicated that the requirement of retaining paid share drafts was ambiguously drawn in that it appeared to subject Federal credit unions to state law and require a retention period of greater than five years. Section 701.35(c)(1)(iv) provides for a minimum retention period of five years. Where state law requires more, the regulation adopts the state law period. It does not subject Federal credit unions to the state law itself.

3. One commenter pointed out that since the definition of share draft account goes beyond the actual share draft itself to include access by telephone transfer, ACH, debit card and other "orders," the retention requirement becomes problematical if no physical paper is generated. Every transaction accessing a share draft account must have an appropriate record noting the pertinent aspects (date, amount, etc.) of the transaction. In the case of actual drafts, copies or photo reproductions are required. For other types of orders, the actual method of so noting is left to the discretion of the board of each individual credit union. As long as the information is available, even if stored in a computer, for example, the retention requirement will be satisfied.

4. The preamble to the proposed regulation indicated that a credit union service corporation would not be eligible for share draft accounts. This was inadvertently overstated. If a credit union service corporation is a member of a credit union or, if not a member, is nonetheless permitted to purchase shares in a low income credit union *and*, by the services it offers, fits the criteria in Section 205(f)(2) of the Federal Credit Union Act, it could qualify for a share draft account.

5. Comment was also solicited on deleting the requirement that a regular share account qualify for a dividend. The NCUA Board is not unmindful of the thrust of many comments received which indicated that excessive activity in a low balance regular share account involves costs to a Federal credit union that are not outweighed by the Federal credit union's use of the shares remaining in the regular share account. However, the profitability of any given account or service provided to the membership is not the sole barometer by which any given account characteristic or service should be judged. The cornerstone of credit unions remains the saver of modest means. A large portion of credit union members maintain low balance accounts and may actively use such accounts. The NCUA Board believes, in the absence of compelling reasons otherwise, that permitting the non-payment of a dividend on a regular share account, the only account a Federal credit union is required to offer, would be to turn its back on the small saver and to permit a Federal credit union to act simply as a "safe keeper" of the funds of those persons needing dividend assistance most. It should be remembered that within this mandate, a board of directors has wide latitude. That is, the amount of the required dividend is not mandated and, based upon costs in any particular Federal credit union, a low dividend could be declared. However, it is the hope of the NCUA Board that increasing Federal credit union expenses will not result in the use of a remedy that will inordinately burden those members who can least afford it.

6. Although not contained in the proposed regulation, a new subparagraph 701.35(b)(1)(ii) has been added. It does not impose a new requirement but instead clarifies what is already required, i.e., dividends cannot be paid unless sufficient earnings are available. Similar language was inadvertently omitted from Section 701.35(f) when the section was amended in May, 1979. It is the substantive provision to which Sections 701.35(k)(1)(ii) and 701.35(l)(1)(iii) relate.

III. Grace Periods

On June 10, 1980, the National Credit Union Administration invited public comment on a proposed rule concerning grace periods of share certificate accounts (45 FR 39279). This proposal dealt with a dividend earning period *after* the maturity date of a share certificate, not to be confused with the previous discussion of grace periods at the beginning of a dividend period. The period for receipt of comments expired on July 23, 1980. After consideration of the comments and views expressed, the Administration has decided to amend Section 701.35(d)(2)(ii) of the National Credit Union Administration's Rules and Regulations (12 C.F.R. § 701.35(d)(2)(ii)) to provide for a voluntary grace period on all share certificate accounts of up to 7 days. Previously, the 7 day grace period was applicable only to money market share certificates.

In response to the notice of proposed rulemaking, 14 written comments were received. Seven commenters expressed support for the proposed regulation that would give Federal credit unions authority to institute up to a 7 day grace period on share certificate accounts. This proposal complements a final regulation authorized on May 15, 1980, that permits a 7 day grace period on 26 week money market share certificates where previously no grace period on such certificates was permitted. Prior to the proposed regulation discussed herein, non-money market share certificates could have been subject to a voluntary grace period determined by the individual Federal credit union. This proposal was issued for comment to parallel a uniform rule already adopted by the Depository Institutions Deregulation Committee (Committee) that is now applicable to commercial banks, mutual savings banks and savings and loan associations.

Those commenters opposing the proposed amendment generally felt that limiting share certificate grace periods to 7 days where previously no limit had existed impaired the flexibility that had been available to each individual Federal credit union to tailor a grace period program to fit its own needs. In addition, these commenters suggested that the rule adopted by the Committee did not reflect its mandate to deregulate and that, in any event, NCUA's desire for uniformity in this regard did not provide a proper basis for placing a new restriction on Federal credit unions. One commenter agreed with the concept of a uniform grace period but felt that 10 days, rather than 7, would be the appropriate period.

Grace periods are permitted to allow for unexpected problems that may arise where a member cannot notify the Federal credit union of his or her intention of what should be done with funds in a share certificate account on the maturity date. Grace periods are *not* designed to allow for an extension of a certificate maturity date. Therefore, the NCUA Board continues to believe that a voluntary grace period of up to 7 days should be adopted as proposed. The 7 day limit will ensure that grace periods are not used to extend maturities. In addition, since money market share certificates, already subject to up to a 7 day grace period, are simply share certificates of a certain maturity and amount, the dividend rate of which is based upon a special standard (the discount rate), the NCUA Board finds no justification for imposing a guideline on money market share certificates, applicable to all financial institutions,

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and not on other share certificates. Indeed, one commenter indicated that confusion among his members existed over this type of dichotomous treatment. All share certificates should be subject to the same grace period. In this manner, all members will have uniform knowledge of the nature and terms of their accounts.

In addition, since Federal credit unions are required to notify members of an approaching maturity date 10 days prior to maturity even for automatic renewals under Section 701.35(d)(2)(i), the NCUA Board finds that such a 10 day period and a possible additional 7 days provides ample time in which a member can decide what course of action to instruct the Federal credit union to take with his funds.

The NCUA Board also notes the voluntary nature of grace periods. They need not be implemented. If they are, however, this rule simply prohibits them from being open-ended. The NCUA Board does not find the rule to be burdensome to Federal credit unions or to present troublesome inflexibility. Yet, it does promise to ensure that members will be aware of a uniform time period in which decisions can be made and that its purpose is for emergency or unexpected situations and not for the purpose of extending maturities. Accordingly, the NCUA Board adopts Section 701.35(d)(2)(ii) as proposed.

IV. Penalty Provisions

On June 25, 1980, comment was invited on a proposed rule concerning penalties for premature withdrawal of share certificate accounts (45 FR 42628). The period for receipt of comments expired on August 18, 1980. After consideration of the comments and views expressed, the NCUA Board has decided at this time not to amend Section 701.35(e) of NCUA Rules and Regulations (12 CFR § 701.35(e)) to set a maximum penalty that may be imposed for premature withdrawal.

The rule proposed also would have superseded the present penalty rule. It would have required, as a *mandatory* penalty, a forfeiture of an amount equal to three months of dividends on the funds withdrawn where the share certificate has an original maturity of between 90 days and one year, and six months of dividends on the funds withdrawn where the share certificate has an original maturity of more than one year, regardless of the length of time funds have remained on deposit. In the case of share certificates of maturities of less than ninety days, the proposed premature withdrawal penalty was to be an amount equal to all dividends that *could have been earned* had the share certificate been held to maturity. The proposal would authorize, under certain circumstances, a penalty resulting in an invasion of principal.

The forty five comments received ran two to one against its implementation as a *mandatory* penalty. Many commenters felt that there is not sufficient data available to indicate that credit unions are experiencing sufficient premature withdrawals to conclude that the present penalty provisions are not serving as an adequate deterrent. In any event, many commenters noted that the present penalty provisions are only a minimum penalty thus allowing any Federal credit union to counter premature withdrawals by establishing any penalty it deems fit, as long as the principal amount is not invaded. Hence, such a harsh new mandatory penalty would be unjustified. Many commenters indicated a strong theoretical objection to invading principal under *any* circumstances in a cooperative like a credit union.

Of those supporting the proposal, some indicated that a harsh and mandatory penalty is entirely appropriate for persons breaking the contract between themselves and their credit unions. Others indicated that even if abuses did not now exist, a harsh deterrent would assure future compliance. However, approximately half of those supporting the proposal indicated that their support was based upon the granting of the bare authority to invade principal and would have no objection to having the mandatory minimum of the present regulation remain in force as long as it was coupled with authority to invade principal.

The NCUA Board has decided to retain the existing penalty provisions at this time. Of course, if it becomes evident that premature withdrawals are becoming a widespread problem, the NCUA Board stands ready to review its position.

While the decision does not follow penalty provisions adopted for other financial institutions by the Depository Institutions Deregulation Committee, it is the understanding of the NCUA Board that those penalty provisions mandated for other financial institutions may be subject to review. Therefore, the NCUA Board has decided to retain its current penalty provisions and review its proposed rule in this area at a later date.

Rosemary Brady,

Secretary to the Board, National Credit Union Administration.

November 6, 1980.

Authority: Sec. 107, 94 Stat. 132 (12 U.S.C. § 1757); Sec. 120, 73 Stat. 635 (12 U.S.C. § 1766); Sec. 205, 94 Stat. 132 (12 U.S.C. § 1785); and Sec. 209, 84 Stat. 1104 (12 U.S.C. § 1789).

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

§ 701.34 [Removed]

1. 12 CFR Part 701 is amended by removing § 701.34 and by revising § 701.35 to read as follows:

§ 701.35 Share, share draft and share certificate accounts.

(a) Definitions—as used in this section:

(1) Share Account means:

(i) Regular Share Account—an account which does not require the holder to maintain a balance greater than the par value of a share or to give notice of intent to withdraw, except as may be imposed in accordance with the Federal Credit Union Bylaws, and that qualifies for a dividend; or

(ii) Any other account that is not, by definition, either a regular share, share draft or share certificate account.

(2) Share Draft Account means an account from which the holder is authorized to withdraw shares by means of a negotiable or transferable instrument or other order.

(3) Share Certificate Account means:

(i) An account that will earn dividends at a particular rate if held to maturity and on which a penalty shall be assessed for any premature withdrawal. Additions shall reset the maturity of the entire account for a term equal to the original qualifying period; or

(ii) An account that will earn dividends at a particular rate provided:

(A) A notice of a minimum of 90 days of intent to withdraw on a specified date is required;

(B) A penalty is assessed for failure to provide a minimum of 90 days notice; and

(C) Regular additions are made to the account for the duration of the qualifying period pursuant to a written contract or savings plan. Additions to this type of account shall not reset the maturity of the entire account for a term equal to the original qualifying period.

(4) Premature Withdrawal means:

(i) The withdrawal of all or any portion of the principal amount prior to maturity, or

(ii) The withdrawal of all or any portion of the principal amount prior to providing any required notice.

(5) Truncation means the original negotiable or transferrable instrument is not returned to the drawer.

(b) *Issuance of Share, Share Draft and Share Certificate Accounts.* (1) The board of directors, by resolution, may establish share and share draft accounts with different dividend rates and share certificate accounts with different dividend rates and maturities in conformance with the following:

(i) Any terms and conditions prescribed by the board of directors concerning the issuance and maintenance of share, share draft and share certificate accounts must be consistent with the requirements of this section;

(ii) No dividend may be paid unless sufficient earnings are available at the end of the dividend period; and

(iii) A regular share account as defined in paragraph (a)(1)(i) must be available to all members, either as a separate account or in combination with other account features adopted by the Board.

(2) Share and share certificate accounts offered shall be made available to all members on an equal basis. Share draft accounts shall be made available to members subject to operational feasibility and reasonable disapproval criteria as described in written board policy. Special share certificate accounts may be established for funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh Plan as provided for by Section 721.4. Such special share certificate accounts shall be made available on an equal basis to all members who qualify. No officer, director, member of the credit or supervisory committees, employee, or other official appointed or elected, shall be holder of a share, share draft or any type of share certificate account unless all qualifying members of the credit union are given an equal opportunity to become holders of such accounts.

(3) Share, share draft and share certificate accounts shall be subject to any notice which may be imposed pursuant to the Federal Credit Union Bylaws.

(c) *Share Draft Accounts.* (1) In addition to the general requirements set forth in this Section applicable to the establishment and maintenance of share draft accounts the board of directors shall provide for:

(i) Truncation;

(ii) Surety bond coverage;

(iii) Establishing a share draft account agreement with each member that outlines both credit union and member responsibilities;

(iv) Retaining copies or photo reproductions of paid share drafts or other evidence of paid orders of withdrawal on file for a period of five years or as required by applicable state law, whichever is greater; and

(v) Written operational and program specifications on file at the credit union's principal office.

(2) The board of directors may provide for:

(i) Fees to be assessed for share draft account usage;

(ii) An experimental share draft program with terms and conditions that restrict the number of share draft accounts and are otherwise not inconsistent with the requirements of this section for a period not to exceed one year; except, however, the advertising and disclosure requirements shall not be waived and the maximum dividend rate for share draft accounts shall not exceed the rate paid on its regular share account; and

(iii) Participation in guarantee arrangements, provided, however, that a Federal credit union participating in a guarantee arrangement adopts an appropriate amendment to Article III, Section 5(a) of the Federal Credit Union Bylaws.

(d) *Limitations on Share Certificate Accounts.* (1) Qualifying periods shall not be less than 14 days nor more than 6 years.

(2)(i) Upon maturity, share certificate accounts may be automatically renewed at the same terms and conditions as initially issued, or as may be otherwise provided for in accordance with a written agreement between the holder and the credit union. Notice of any such renewal, changes in the terms and conditions, or expiration of the qualifying period (in addition to the disclosure requirements set forth in subsection (1)) shall be provided at least 10 days prior to the expiration of the qualifying period, except accounts with qualifying periods of less than 90 days.

(ii) The share certificate account agreement may provide for the payment of dividends on withdrawals made not more than 7 days after the maturity date. The agreement may specify that the dividends will be paid at the originally specified dividend rate or at a lower rate but in no event may the rate specified be less than the current rate paid on regular share accounts.

(3)(i) In case of a premature withdrawal of the principal amount which reduces the balance below any required minimum amount, the account shall be cancelled and a penalty pursuant to subsection (e) of this section shall be imposed upon the entire amount evidenced by the share certificate account. If the required minimum amount continues to be met, a penalty pursuant to subsection (e) of this section shall be imposed upon the amount withdrawn (and not upon the remaining balance) and either:

(1) An appropriate notation may be made on the account indicating the amount and date of the withdrawal and the remaining balance, or

(2) The account may be cancelled and a new account issued.

(ii) A share certificate account holder may withdraw any and all dividends previously paid on a share certificate account during its current qualifying period without incurring a penalty. If the share certificate account is automatically renewed at the same terms and conditions (including the same dividend rate), a Federal credit union may permit a share certificate account holder to withdraw dividends paid during the preceding qualifying period or periods at any time during the renewal period without penalty, unless the share certificate agreement provides otherwise. If any term or condition of the renewal certificate is different, dividends in the account at the commencement of the renewal period shall be treated as principal and subject to the penalty provisions for early withdrawal. Any amendment to a share certificate account that results in an increase in the dividend rate or a reduction in the qualifying period constitutes a payment of the account before maturity.

(e) *Penalty provisions.* (1) Penalties imposed shall be on the actual dividends earned, and shall not be imposed on the principal amount held in a share account or share certificate account. In assessing any applicable penalty, however, the amount of the penalty may be deducted from the principal amount if the dividends upon which the penalty is assessed have been previously withdrawn.

(2) The board of directors may establish a penalty to be imposed for failure to comply with any terms or conditions of a share account, other than a regular share account, and a share certificate account.

(3) The board of directors shall establish a penalty to be imposed for premature withdrawal from a share certificate account. The penalty established shall, at a minimum, require:

(i) If the qualifying period is one year or less the member shall forfeit an amount equal to the lesser of:

(A) All dividends for 90 days on the amount withdrawn, or

(B) All dividends on the amount withdrawn since the date of issuance or renewal.

(ii) If the qualifying period is greater than one year, the member shall forfeit an amount equal to the lesser of:

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(A) All dividends for 180 days on the amount withdrawn, or

(B) All dividends on the amount withdrawn since the date of issuance or renewal.

(f) Exceptions to the Penalties—Penalties shall not be applied if:

(1) The withdrawal is made subsequent to the death of any owner of the share, share draft or share certificate account or is made pursuant to Article III, Section 5(e) of the Federal Credit Union Bylaws;

(2) The share or share certificate account is part of a pension plan which qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code and withdrawal is made following the participant's death or disability (as determined under 26 U.S.C. 72(m)(7)) or upon attaining not less than 59½ years of age; or

(3) Such withdrawal is made as a result of the voluntary or involuntary liquidation of the Federal credit union issuing the account.

(g) *Rate Specified or Contracted For In Advance.* (1) If specified or contracted for in advance, the dividend rate shall:

(i) For regular share accounts, be expressed as either a single dividend rate or for regular share accounts that earn differing rates for differing balances, each rate shall be expressed; and

(ii) For the remaining types of share, share draft and share certificate accounts, be expressed as

(A) A percentage above or below the dividend rate declared for regular share accounts, or

(B) A single dividend rate.

(h) *Maximum Dividend Rate.* A Federal credit union may pay a maximum dividend, expressed as an annual rate, as follows:

(1) 7% on a share or share draft account;

(2) On a share certificate account, except as otherwise provided in this subsection, that is issued on or after Thursday of every other week up to the greater of (1) 9⅛%, or (2) the lesser of 12% or the average 2½-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury immediately prior to such Thursday;

(3) On a share certificate account, except as otherwise provided in this subsection, which represents an investment of retirement account funds pursuant to Section 721.4 or of public unit funds pursuant to Section 701.32, that is issued on or after Thursday of every other week, up to the greater of (1) 9½, or (2) the lesser of 12% or the average 2½-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury immediately prior to such Thursday;

(4) A rate determined by money market conditions on a share certificate account of $100,000 or more: or

(5) In the case of a share certificate account of $10,000 or more having a fixed term or qualifying period of 26 weeks, the maximum dividend rate, which may be rounded off only by rounding down, shall be the greater of the rate authorized in paragraph (2) of this subsection or one quarter of one percent above the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills issued on or immediately prior to the date of purchase of the share certificate. If such dividend rate is based upon the discount rate, no compounding of dividends is permitted.

(i) *Dividend Periods.* The board of directors may vary dividend periods for differing share, share draft and share certificate accounts. Share certificate accounts which mature between dividend periods shall be entitled to dividends at the rate declared for that type of certificate at the close of the last dividend period before maturity.

(j) *Dividends Calculated on Par Value or Actual Value.* A Federal credit union may calculate dividends to be paid on share, share draft and share certificate accounts either upon the par value of shares or upon the actual value held in the accounts.

(k) *Advertising.* In addition to the advertising requirements established in Part 740 of the Rules and Regulations (12 CFR Part 740) and elsewhere in this section, the following rules shall apply to every advertisement, announcement, or solicitation relating to share, share draft, and share certificate accounts.

(1) Where a dividend rate is specified or contracted for in advance:

(i) Any terms and conditions necessary to earn that dividend at that rate shall be stated, including, for share draft accounts, a clear and conspicuous statement that effective yield may be less than the rate stated depending upon account activity or the actual amount of shares upon which dividends will be paid;

(ii) A clear and conspicuous notice shall be included indicating that the specified or contracted rate shall not be paid if available earnings are insufficient. Such notice shall state "NOTICE: Dividends are based on the credit union's earnings at the end of a dividend period and cannot be guaranteed.";

(iii) The basis upon which dividends will be paid;

(iv) A clear and conspicuous notice stating that Federal regulations prohibit the compounding of dividends during the qualifying period shall be included in the case of share certificates issued pursuant to paragraph (h)(5) which are based upon the discount rate.

(2) Where a penalty will be imposed for failure to comply with any term or condition, a clear and conspicuous notice shall be included. Such notice may state "A substantial penalty is required for failure to comply with these requirements."

(3) Where a percentage yield achieved by compounding dividends during one year is stated, the annual rate of dividends without the effect of compounding shall be stated with equal prominence, together with a reference to the basis of compounding and the basis for calculating dividends (either on par value or actual value). The percentage yield based on the effect of grace periods shall not be stated.

(l) *Disclosures.* (1) At the time that a Federal credit union issues any share, share draft or share certificate account, the holder of the account shall be individually provided, to the extent applicable, with a written statement setting forth the following which shall be in addition to any other disclosures required by law or regulation:

(i) Any terms or conditions which must be met for the share, share draft or share certificate account to earn dividends at a particular rate, including the fact that shares withdrawn before the end of a dividend period may not earn dividends for that entire dividend period;

(ii) The basis of compounding, the basis upon which dividends will be paid and the effect of premature withdrawal;

(iii) That Federal regulations prohibit the guarantee of dividends as dividends are based upon available earnings at the end of a dividend period, and in the case of share certificates issued pursuant to paragraph (h)(5) which are based upon the discount rate, the Federal regulations prohibit the compounding of dividends during the qualifying period;

(iv) Any penalty imposed for the failure to comply with any terms and conditions;

(v) Any provisions relating to automatic renewal of share certificate accounts;

(vi) The disposition of the funds in a share certificate account if it is not renewed;

(vii) Membership in the Federal credit union will terminate upon maturity of a share certificate account, unless renewed, if the holder does not have or establish a share, share draft or share certificate account in addition to the share certificate account which is maturing;

(viii) Applicable grace period, if any, and its terms and conditions, including the fact that shares purchased during a grace period will earn dividends for the entire grace period and, if applicable, that shares purchased after the grace period will receive no dividends for a specified period.

(ix) Whether or not changes in accounts require member approval and the time in which a member must be notified of any changes in account.

(x) Any fees that may be imposed for use of a share draft account.

(xi) Federal Credit Union Bylaws give the Federal credit union the authority to impose a notice of up to 60 days for withdrawal of shares.

(xii) For share draft accounts, a clear and conspicuous statement that a specified dividend rate may result in a lower effective yield based upon either account activity or the actual amount of shares on which dividends will be paid.

(2) A Federal credit union need not provide a written disclosure statement in connection with the renewal of an existing account. Notice must be sent to affected account holders of any change in any provision required to be disclosed.

(3) A copy of a standard disclosure statement for each class or type of account offered by a Federal credit union shall be provided upon request. If accounts other than regular share accounts are offered, a listing of the accounts available shall be prominently displayed in the Federal credit union's offices and shall indicate that a copy of a standard disclosure statement for each class or type of account is available upon request.

2. A new Part 761 is established to read as follows:

PART 761—OPERATIONAL PROCEDURES FOR SHARE DRAFT PROGRAMS; FEDERALLY INSURED STATE CHARTERED CREDIT UNIONS

Sec.
761.0 Scope.
761.1 Definitions.
761.2 Authority.

Authority: Sec. 205, 94 Stat. 132 (12 U.S.C. § 1785).

§ 761.0 Scope.

This Part sets forth the procedures necessary for insured credit unions to implement and operate share draft programs.

§ 761.1 Definitions.

(a) Share draft account means an account from which the holder is authorized to withdraw shares by means of a negotiable or transferable instrument or other order or the equivalent of such account, under state law, as determined by the Board.

(b) Insured credit union means any federally insured state chartered credit union.

§ 761.2 Authority.

(a) Insured credit unions may offer share draft accounts consistent with the requirements of this Part.

(b) Any insured credit union that offers share draft accounts must comply with applicable substantive and procedural rules governing the implementation and operation of such accounts as may be promulgated by the State. In the absence of State law authorizing share draft accounts, § 701.35 of this Charter is applicable, to the extent it involves share draft accounts, except to the extent that any requirement set forth in § 701.35 conflicts with State law.

[FR Doc. 80-35421 Filed 11-13-80; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3047]

The Mentholatum Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Buffalo, N.Y. producer of denture cushions to use advertisements which are consistent with labeling information included with the product concerning health, safety or efficacy; to disclose, in those instances where the firm makes claims of duration of use, such labeling warnings in a clear and conspicuous manner; and, further, to affirmatively state that its product is intended for short-term use only.

DATES: Complaint and order issued Oct. 22, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Tuesday, July 29, 1980, there was published in the **Federal Register**, 45 FR 50357, a proposed consent agreement with analysis In the Matter of The Mentholatum Company, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; 13.170–30 Durability or permanence; § 13.195 Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements. § 13.533 Corrective Actions and/or requirements; 13.533–20 Disclosures. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1863 Limitations of product; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,
Secretary.

[FR Doc. 80-35674 Filed 11-13-80; 8:45 am]

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16 CFR Part 13

[Docket No. 9046]

SKF Industries, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modified order.

SUMMARY: In accordance with the settlement agreement reached by respondents and Commission counsel without adjudication, and filed with the Court of Appeals for the Second Circuit on July 23, 1980, this modified order revises the "final order" issued by the Commission on July 5, 1979 (44 FR 47926, 94 F.T.C. 6), by changing, among other things, the amount of TRB that SKF may sell to Federal Mogul and the

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requirements for publishing the provisions of the order.

DATES: Decision issued July 5, 1979. Modified order issued Oct. 21, 1980.

FOR FURTHER INFORMATION CONTACT: FTC/CS 2, K Keith Thurman, Washington, D.C. 20580. (202) 254–8854.

SUPPLEMENTARY INFORMATION: In the Matter of SKF Industries, Inc., a corporation; Aktiebolaget SKF, a corporation; and Federal-Mogul Corporation, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 and appearing at 44 FR 47926, remain unchanged.

The Modified Order to Cease and Desist, including further order requiring report of compliance therewith, is as follows:

Respondents SKF Industries, Inc. ("SKF"), and Federal-Mogul Corporation ("FM") having filed in the United States Court of Appeals for the Second Circuit petitions for review of the Commission's "Final Order" herein dated July 5, 1979; and a stipulation dated July 23, 1980, by and among SKF, FM and counsel for the Commission having been entered into and filed with the Court of Appeals, pursuant to which the parties agreed and consented to entry by the Court of Appeals, without adjudication of any issue of law or fact, of an order modifying said "Final Order" in accordance with said stipulation and directing that said "Final Order," as so modified, be enforced; and the Court of Appeals having thereupon entered an Order, dated August 25, 1980, remanding the proceeding to the Commission with directions to modify said "Final Order" in accordance with said stipulation:

Now, therefore, it is hereby ordered that the aforesaid "Final Order" be, and hereby is, modified in accordance with the order of the Court of Appeals to read as follows:

Final Order

I

This Order shall be deemed to be final as of December 31, 1979, and be binding on Federal-Mogul Corporation ("FM"), SKF Industries, Inc. ("SKF"), their subsidiaries or any person under the control of FM or SKF, their successors and assigns, and their officers, agents, representatives and employees.

II

It is ordered that the agreement signed by SKF and FM on December 17, 1974, and any similar arrangements between or among respondents, including the understandings reflected in the exchange of documents on January 27, 1972, shall be cancelled as of the date as of which this Order becomes final.

III

It is ordered that, for purposes of this Order, the following definitions shall be applicable:

(i) 0"–4" TRB—tapered roller bearings having an outside diameter of zero to four inches.

(ii) Automotive Aftermarket—the domestic replacement market, including all intermediate suppliers to such market (but excluding FM and the manufacturers of original equipment who purchase 0"–4" TRB for distribution to service customers through their dealers and franchisees), for 0"–4" TRB for use in passenger cars, light and heavy trucks, buses, trailers, tractors, self-propelled agricultural equipment and vehicles, such as trailers, and agricultural equipment pulled by self-propelled vehicles.

(iii) FM TRB Requirements—the total dollar value of purchases of 0"–4" TRB by FM from all sources (including sources owned or controlled by FM) for distribution in the United States. The Value of purchases of 0"–4" TRB by FM from sources which it owns or controls shall be either cost to FM or the fair market value, whichever is less.

(iv) FM TRB Purchases from SKF—the total dollar value of direct or indirect purchases by FM of 0"–4" TRB from SKF, Aktiebolaget SKF ("AB SKF"), or any person under the control of SKF or AB SKF for distribution in the United States, which shall include (A) purchases by FM or 0"–4" TRB manufactured by SKF, AB SKF, or any person under the control of SKF or AB SKF, and (B) purchases by FM under the arrangement to which SKF, AB SKF, or any person under the control of SKF or AB SKF is a party or from a supplier in which SKF, AB SKF, or any person under the control of SKF or AB SKF has an interest.

(v) TRB Units—0"–4" TRB as purchased by Automotive Aftermarket customers of SKF. Purchases may be (i) an assembled TRB, (ii) a TRB outer ring (cup), or (iii) a TRB inner ring (cone), each being a single TRB unit.

(vi) SKF Net Aggregate Sales to the Automotive Aftermarket—that number of TRB Units which is the difference between (i) the aggregate number of TRB Units sold by SKF to the Automotive Aftermarket and (ii) the number of TRB Units, if any, which must be subtracted therefrom so that of the resulting number of TRB Units sold by SKF to the Automotive Aftermarket no more than 15% represents TRB Units sold by SKF to or through any national organization of independent warehouse distributors by or through which, as of the effective date of this Order, all the members of such organization secure all of their needs of 0"–4" TRB from the same single source, other than SKF.

IV

With respect to FM TRB Purchases from SKF, IT IS ORDERED that the following limitations shall apply during the periods described below:

(i) The time period covered by any given purchase order or related agreement concerning FM TRB Purchases from SKF shall not exceed twelve (12) months.

(ii) The aggregate dollar value of any FM TRB Purchases from SKF during the first thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1980, 1981 and 1982) shall not exceed 60% of the FM TRB Requirements during that period. The allowable percentage under this subparagraph shall include any 0"–4" TRB purchased, but not sold, by FM from SKF, AB SKF, or any person under the control of SKF or AB SKF prior to the date as of which this Order becomes final.

(iii) The aggregate dollar value of any FM TRB Purchases from SKF during the second thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1983, 1984 and 1985) shall not exceed 50% of the aggregate FM TRB Requirements during that period.

(iv) The aggregate dollar value of any FM TRB Purchases from SKF during the third thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1986, 1987 and 1988) shall not exceed 40% of the aggregate FM TRB Requirements during that period: *Provided, however,* that if the SKF Net Aggregate Sales to the Automotive Aftermarket shall have been 1,250,000 or more TRB units during the second thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1983, 1984 and 1985), the aggregate value of any FM TRB Purchases from SKF shall not exceed 50% of the aggregate FM TRB Requirements during the third thirty-six (36) month period (calendar years 1986, 1987 and 1988).

(v) The aggregate dollar value of any FM TRB Purchases from SKF during the fourth thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1989, 1990 and 1991) shall not exceed 40% of the aggregate FM TRB Requirements during that period: *Provided, however,* that if the SKF Net Aggregate Sales to the Automotive Aftermarket shall have been 1,250,000 or more TRB Units during the third thirty-six (36) month period following the date as of which this Order becomes final (calendar years 1986, 1987 and 1988), the aggregate value of any FM TRB Purchases from SKF shall not exceed 50% of the aggregate FM TRB Requirements during the fourth thirty-six (36) month period (calendar years 1989, 1990 and 1991).

(vi) This Order shall automatically terminate as of December 31, 1991.

V

It is further ordered that each respondent shall notify all persons having sales and policy responsibilities in its organization of the terms of this Order, and respondents together shall publish same in a major trade journal or periodical within six months following the conclusion of the first twelve (12) month period (calendar year 1980) and again within six months following the conclusion of the second twelve (12) month period (calendar year 1981) following the date as of which this Order becomes final: *Provided, however,* that if during either such twelve (12) month period (calendar year 1980 or 1981) the aggregate dollar value of any FM TRB Purchases from SKF shall not have exceeded 50% of the aggregate FM TRB Requirements during that period, then such publication following the conclusion of that period may be omitted.

VI

It is further ordered that each respondent shall notify the Commission at least thirty (30) days prior to any proposed change in said respondent which may affect compliance obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or joint ventures.

VII

It is further ordered that within sixty (60) days after the date of issuance of this Order, and within sixty (60) days after the end of each calendar year during which this Order is effective, each respondent shall file with the Federal Trade Commission a written report setting forth in detail the manner and form of its compliance with this Order.

VIII

It is further ordered that after the end of calendar year 1984, after the end of each quarter during calendar year 1985, and after the end of calendar year 1985, respondent SKF shall report to the Commission the SKF Net Aggregate Sales to the Automotive Aftermarket during the period beginning January 1, 1983, to and including the effective date of the report. These reports shall be filed within forty-five (45) days after the end of the respective reporting periods and shall be made available to respondent FM at the time they are filed with the Commission. This reporting obligation shall automatically terminate upon the filing by SKF of such a report indicating that the SKF Net Aggregate Sales to the Automotive Aftermarket have equalled or exceeded 1,250,000 TRB Units during such period.

IX

It is further ordered that after the end of calendar year 1987, after the end of each quarter during calendar year 1988, and after the end of calendar year 1988, respondent SKF shall report to the Commission the SKF Net Aggregate Sales to the Automotive Aftermarket during the period beginning January 1, 1986, to and including the effective date of the report. These reports shall be filed within forty-five (45) days after the end of the respective reporting periods and shall be made available to respondent FM at the time they are filed with the Commission. This reporting obligation shall automatically terminate upon the filing by SKF of such a report indicating that the SKF Net Aggregate Sales to the Automotive Aftermarket have equalled or exceeded 1,250,000 TRB Units during such period.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35649 Filed 11-13-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-2908]

Zayre Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the order issued against the firm on October 27, 1977 (42 FR 60138, 90 F.T.C. 329), in connection with the availability and pricing of advertised specials. In conformity with the modification allowed on April 9, 1980 to the order issued against Pay'N Pak Stores, Inc., Docket C–2780, the order requires only a limited disclosure of availability where closeout merchandise is involved (merchandise whose entire inventory is being disposed of at a reduced price and which is not planned to be restocked).

DATES: Decision issued Oct. 27, 1977. Modifying order issued Oct. 8, 1980.

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114. (617) 223–6621.

SUPPLEMENTARY INFORMATION: In the Matter of Zayre Corp., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 and appearing at 42 FR 60138, remain unaltered.

The Order Reopening the Proceeding and Modifying Decision and Order is as follows:

On October 27, 1977, the Commission issued a Decision and Order against Zayre Corp. in connection with the availability and pricing of advertised specials. The Order includes a provision to prevent Zayre from representing in its advertisements that merchandise is available at its stores at any price unless each advertised item is readily available for sale at or below the advertised price and that each advertised item is properly marked. There are certain exceptions to the availability and pricing requirements of the Order.

On July 18, 1980, Zayre Corp. petitioned the Commission pursuant to Section 5(b) of the Federal Trade Commission Act, as amended on May 28, 1980, and § 2.51 of the Commission's Organization, Procedures and Rules of Practice, 16 CFR 2.51, to reopen the proceeding for the limited purpose of modifying the consent order in conformity with the modification allowed on April 9, 1980, to the Order issued against *Pay'N Pak Stores, Inc.*, Docket C–2780, dealing with "closeout" merchandise. On August 15, 1980, Zayre filed supplemental papers with respect to its petition.

"Closeout" merchandise was defined in the modified Pay'N Pak order as merchandise whose entire inventory is being disposed of at a reduced price and which is not planned to be restocked. Zayre's proposal embodies the same definition. It would, as the Pay'N Pak order, require only a limited disclosure of availability where closeout merchandise is involved.

After due consideration, the Commission believes that the public interest will be served by modifying the Zayre Corp. Decision and Order to allow a general availability limitation on "closeout" merchandise.

It is ordered, That the proceeding is reopened.

It is further ordered, That Zayre Corp. Decision and Order issued on October 27, 1977, is modified as follows:

The following paragraph is to be inserted after the first subparagraph in Section 2(b) of the Order which concludes with the words "rain check.":

"For closeout items, in instances where an advertisement is for more than one store, the quantity limitation will be deemed to be complied with by disclosures that the items are closeout items and that the 'quantities are limited to stock on hand'. Closeout designation is only appropriate for items where Zayre both is disposing of the entire inventory of an item at a reduced price and is not planning on restocking the item."

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35650 Filed 11-13-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 239

[Release No. 33-6256; File No. S7-863]

Adoption of Interim Notice-of-Sales Form for Transactions Pursuant to Section 4(6)

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of interim form.

SUMMARY: The Commission is adopting, on an interim basis, a notice-of-sales form to be used by issuers that sell their securities in reliance upon new Section 4(6) of the Securities Act of 1933. Section 4(6) provides an exemption from registration under the Securities Act of 1933 for offers and sales of securities by any issuer solely to one or more "accredited investors" if the aggregate offering price does not exceed the amount allowed under Section 3(b) of that Act. The exemption requires the issuer to file a notice of such sales with the Commission on such forms as the Commission shall prescribe. The form adopted today is in response to the legislative amendments included in the Small Business Investment Incentive Act of 1980. The Commission is also soliciting public comment on whether the interim form should be adopted as the final form.

EFFECTIVE DATE: November 14, 1980. Comments on the interim form must be received on or before December 31, 1980.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-863 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Paula Chester (202/272-2644), Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is adopting, on an interim basis, Form 4(6), a notice-of-sales form to be used by issuers that sell their securities in reliance upon Section 4(6) [1] of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.]. Section 4(6) was included in the Securities Act pursuant to the recently enacted Small Business Investment Incentive Act of 1980 (the "Act") [Pub. L. No. 96-477 (October 21, 1980)]. It provides an exemption from the registration provisions of the Securities Act for transactions involving offers and sales of securities by an issuer solely to one or more "accredited investors"[2] if the aggregate offering price does not exceed the amount allowed under Section 3(b) of that Act.[3] No advertising or public solicitation is permitted in connection with such transactions, and the issuer is required to file a notice of such sales with the Commission on such forms as the Commission shall prescribe. In order to permit issuers immediately to utilize Section 4(6), the Commission is adopting Form 4(6) on an interim basis and seeking public comment with respect to the form and content of a final notice.

The enactment of Section 4(6) is intended to reflect Congressional concern that small businesses should have an adequate market to raise capital.[4] In this regard, the new statutory exemption conforms in many respects to the Commission's recently adopted Rule 242 [17 CFR 230.242].[5] Rule 242, promulgated under Section 3(b) of the Securities Act, provides an exemption from registration for sales of securities by domestic or Canadian corporate issuers to an unlimited number of accredited persons as defined in the rule, and to 35 non-accredited persons.

Similar to the adoption of the accredited investor concept in Rule 242, the rationale underlying the adoption of Section 4(6) is that financial institutions and other sophisticated investors purchasing securities in a small private offering are able to "fend for themselves." Consequently, as in Rule 242, Section 4(6) does not specify what information the issuer must furnish to accredited investors. However, any issuer relying on the exemption must file a notice of such sales with the Commission. The primary purpose of the notice requirement is to elicit information which the Commission expects will be necessary in assessing the effectiveness of the exemption as a capital raising device for small business in a manner that is consistent with the public interest and the protection of investors.[6]

Form 4(6) is substantially similar to Form 242 [17 CFR 239.242] except certain information has been deleted that would be inapplicable to a Section 4(6) offering. For example, Item 2 under Section D in Form 242 has been modified to eliminate the reference to sales to nonaccredited persons since those investors are not permitted to purchase securities in Section 4(6) transactions. In addition, Item 3 under Section D of Rule 242, which elicits information about the type and dollar amount of other Section 3(b) exemptive offerings within the preceding six months, has also been eliminated, since such information was designed to elicit information regarding the somewhat complex calculation of the aggregate dollar limit that is permitted to be sold under the Rule.[7] Finally, the undertaking in Section E of Form 242 to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer to any non-accredited person has been deleted since non-accredited persons may not purchase in a Section 4(6) offering. Other technical amendments have been made relating primarily to the identification of the form.

Form 4(6) must be filed by the issuer no later than 10 days after the first sale of securities is made in reliance on the exemption. The issuer must also make a final filing no later than 10 days after the completion date of the issue. If, however, the issue is completed within 10 days after the first sale, a single notice may be filed. The issuer must also file periodic updates every six months until a final notice is filed. Copies of the form may be obtained from the Commission's regional offices or the Commission's headquarters at 500 North Capitol Street, Washington, D.C. 20549.

Form 4(6) will be effective until December 31, 1981 absent further action by the Commission. The Commission is soliciting comment on the efficacy of Form 4(6) before it adopts a final form. Specific comment is requested as to whether the information called for by the form is necessary or appropriate for implementing an effective monitoring program.

Procedural Matters

For the reasons stated above, the Commission believes that it is appropriate to adopt interim Form 4(6), effective until December 31, 1981, in view of the enactment of the Small Business Investment Incentive Act of 1980. Accordingly, the Commission, pursuant to Section 553(d) of the Administrative Procedures Act ("APA"), 5 U.S.C. 553(b), for good cause finds that prior notice and comment are not required, and that to provide for prior notice and comment is unnecessary and contrary to the public interest. In addition, the Commission, pursuant to Section 553(d) of the APA, 5 U.S.C. 553(d) finds good cause to adopt the foregoing interim Form effective immediately, in view of the recent enactment of the Small Business Investment Incentive Act, since any delay in such action by the Commission would, in the Commission's view, frustrate the intent of Congress to provide a vehicle by which small businesses may raise capital.

In view of the foregoing Part 239 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 239.246 to read as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.246 Form 4(6), notice of sales of securities pursuant to section 4(6) of the Securities Act of 1933.

(a) Five copies of a notice on this form shall be filed with the Commission:

(1) No later than 10 days after the first sale of securities in any issue is made in reliance on section 4(6) of the Securities Act of 1933.

(2) No later than 10 days after the completion date of the offering of such issue; *Provided, however,* That only one notice need be filed if the offering of the issue is completed within the 10-day period described in paragraph (a)(1) of this section and this form is filed not later than at the conclusion of that period but subsequent to the completion of the offering of the issue; and

(3) Every six months after the first sale of securities in the issue made in reliance on section 4(6) unless the final notice required by paragraph (a)(2) of this section has been filed.

(b) If more than one notice is required to be filed as to any issue of securities offered in reliance on section 4(6), notices other than the original notice need only report the issuer's name and the information in response to Part D and any material changes in Parts A through C from the facts previously reported.

(c) A notice on this form shall be deemed to be filed with the Commission:

(1) As of the date on which it is received at the Commission's principal office in Washington, D.C., or

(2) If the notice is delivered to the Commission after the date on which it is required to be filed, as of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C.

EFFECTIVE DATE: Form 4(6) is effective November 14, 1980 and will expire on December 31, 1981, absent further action by the Commission.

Authority: The Commission hereby adopts Form 4(6) pursuant to Sections 4(6) and 19(a) of the Securities Act of 1933. [Sec. 602, Pub. L. No. 96-477; Sec. 19(a), 48 Stat. 85; Sec. 209, 48 Stat. 908; Sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77s(a).]

By the Commission.

George A. Fitzsimmons,

Secretary.

November 7, 1980.

BILLING CODE 8010-01-M

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[1] The provisions of Section 4 of the Securities Act provide in pertinent part:

The provisions of Section 5 shall not apply to—

(6) transactions involving offers or sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.

[2] New Section 2(15) of the Securities Act provides:

(15) the term "accredited investor" shall mean—

(i) a bank as defined in section 3(a)(21) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; or an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Securities Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser; or

(ii) any person who, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets, under management qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.

[3] As amended by Section 302 of the Small Business Act, the ceiling amount of Section 3(b) is increased to $5,000,000.

[4] S. Rep. No. 958, 96th Cong., 2d Sess, at 45 (1980).

[5] Securities Act Release No. 6180 (January 17, 1980) [45 FR 6362].

[6] In its report on S. 2990, which proposed Section 4(6) as finally adopted by the House, the Senate Committee on Banking, Housing and Urban Affairs stated that it ". . . anticipates that the Commission will monitor the effectiveness of the exemption to evaluate whether it is consistent with the underlying objectives of the federal securities laws to protect the integrity of the securities markets and fosters investor confidence in the capital formation process." S. Rep. No. 958, *supra* note 4, at 45.

[7] Paragraph (c) of Rule 242 limits the amount of each issue of securities sold pursuant to the rule to $2,000,000. For purposes of calculating the dollar limit, an issuer must include the aggregate gross proceeds for all Section 3(b) sales, other than Regulation A sales under an employee plan, in the six months preceding the commencement of and during the Rule 242 issue.

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FORM 4(6)

U. S. SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549

SEC USE ONLY
SERIAL
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SEC USE ONLY

NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) OF THE SECURITIES ACT OF 1933

Nature of this filing with respect to this issue.

INSTRUCTION: Circle "N" for a new filing or "A" for an amended filing.

ORIGINAL 1 N A COMBINED ORIGINAL AND FINAL 2 N A SIX-MONTH UPDATE 3 N A FINAL 4 N A

INSTRUCTIONS: Five copies of this notice are to be filed with the Commission: (a) no later than 10 days after the first sale of securities in any issue is made in reliance on Section 4(6) (original); (b) no later than 10 days after the completion date of the offering of such issue (final), *except that only one notice need be filed if the offering of the issue is completed within the 10-day period described in "(a)" above and this notice is filed no later than at the conclusion of that period but subsequently to the completion of the issue* (combined original and final); and (c) every six months after the first sale of securities in the issue is made in reliance on Section 4(6), unless a final notice has been filed in accordance with "(b)" above (6-month up-date). If more than one notice is required to be filed as to any issue of securities offered in reliance on the exemption notices other than the original notice need only report the issuer's name and information in response to Part D and any material changes from the facts previously reported in Parts A through C. This notice shall be deemed to be filed with the Commission for purposes of the exemption as of the date on which the notice is received by the Commission, or, if delivered to the Commission after the date on which it is due, as of the date on which it is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office at 500 North Capitol Street, Washington, D.C. 20549.

INSTRUCTION: State the address of the issuer's executive offices and, if different, the address at which the issuer's principal business operations are conducted or proposed to be conducted.

NAME			
ADDRESS OF EXECUTIVE OFFICES			
CITY		STATE	ZIP ◀2
AREA CODE	TELEPHONE NUMBER		
ADDRESS OF PRINCIPAL BUSINESS OPERATIONS			
CITY		STATE	ZIP
AREA CODE	TELEPHONE NUMBER		

GENERAL INSTRUCTIONS: Please check the box(es) for the appropriate response(s) to each item or fill in the blanks. Please answer all items. If additional space is required, indicate the answer on the attached continuation sheet.

A. Basic Identification of Issuer.

1. Has the issuer filed any periodic reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934? YES ☐ NO ☐

   If yes, please indicate the file number of the docket in which the periodic reports are filed. _____

2. Please indicate the issuer's IRS employer identification number. If an application for such number is pending, please enter "00-0000000." ☐☐-☐☐☐☐☐☐☐

SEC 1831 (11-80)

FORM 4(6) NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) **Page 2**

3. Has the issuer been assigned a CUSIP number for its securities? YES ☐ NO ☐ ◀3

   If yes, please specify the first six (6) digits. If no, please enter "000000." ☐☐☐☐☐☐

4. Please check the appropriate box for each exchange or market, if any, where the issuer's securities are traded.

   American Stock Exchange . . . a. ☐
   Boston Stock Exchange . . . b. ☐
   Cincinnati Stock Exchange . . . c. ☐
   Midwest Stock Exchange . . . d. ☐
   Over-the-Counter (including National Association of Securities Dealers Automated Quotations System) . . . e. ☐
   New York Stock Exchange . . . f. ☐
   Philadelphia Stock Exchange . . . g. ☐
   Pacific Stock Exchange . . . h. ☐
   Other *Please Specify* . . . i. ☐

   SEC USE ONLY

   _____

   _____

   None . . . j. ☐

5. Please indicate the issuer's Standard Industrial Classification (SIC) at the 3 or 4 digit level. If the issuer has more than one SIC, please enter the issuer's primary SIC. If a 3 digit SIC is given, enter "X" in the left-most box. ☐☐☐☐

B. Statistical Information About the Issuer

INSTRUCTION: Please enter the letter for the appropriate response to each item in Part B in the box indicated. If the issuer's first fiscal year has not yet ended, furnish the requested information as of a date, or as to a period ending on a date, no more than 90 days prior to the first sale of securities in this issue.

1. What were the issuer's gross revenues for its most recently ended fiscal year? ☐

   a. Less than $500,000 b. $500,001 – $1,000,000 c. $1,000,001 – $3,000,000
   d. $3,000,001 – $5,000,000 e. $5,000,001 – $10,000,000 f. $10,000,001 – $25,000,000
   g. $25,000,001 – $100,000,000 h. Over $100,000,000

2. What were the issuer's total consolidated assets as of the end of its latest fiscal year? ☐

   a. Less than $50,000 b. $50,000 – $250,000 c. $250,001 – $500,000
   d. $500,001 – $1,000,000 e. $1,000,001 – $3,000,000 f. $3,000,001 – $5,000,000
   g. $5,000,001 – $10,000,000 h. Over $10,000,000

3. What was the issuer's net income for its most recently ended fiscal year? ☐

   a. None or net loss b. $1 – $50,000 c. $50,000 – $250,000 d. $250,001 – $500,000
   e. $500,001 – $1,000,000 f. $1,000,001 – $3,000,000 g. $3,000,001 – $5,000,000
   h. $5,000,001 – $10,000,000 i. Over $10,000,000

4. What was the issuer's shareholders' equity at the end of its latest fiscal year? ☐

   a. Less than $25,000 b. $25,000 – $125,000 c. $125,001 – 250,000
   d. $250,001 – $500,000 e. $500,001 – $1,000,000 f. $1,000,001 – $3,000,000
   g. $3,000,001 – $5,000,000 h. $5,000,001 – $10,000,000 i. Over $10,000,000

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FORM 4(6) NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) Page 3

5. How many shareholders did the issuer have at the end of its latest fiscal year? ☐

a. 0 – 10 b. 11 – 25 c. 26 – 50 d. 51 – 99 e. 100 – 199
f. 200 – 299 g. 300 – 399 h. 400 – 499 i. 500 or more

6. How many shares were held by non-affiliated shareholders at the end of the issuer's latest fiscal year? ☐

a. Less than 500,000 b. 500,001 – 1,500,000 c. 1,500,001 – 2,500,000
d. 2,500,001 – 3,500,000 e. 3,500,001 – 5,000,000 f. Over 5,000,000

7. How many shares were outstanding at the end of the issuer's latest fiscal year? ☐

a. Less than 500,000 b. 500,001 – 1,500,000 c. 1,500,001 – 2,500,000
d. 2,500,001 – 3,500,000 e. 3,500,001 – 5,000,000 f. Over 5,000,000

8. How many full-time employees did the issuer have at the end of its latest fiscal year? ☐

a. 0 b. 1 – 5 c. 6 – 10 d. 11 – 20 e. 21 – 30 f. 31 – 40
g. 41 – 50 h. 51 – 100 i. 101 – 250 j. 251 – 500 k. 501 – 750 l. Over 750

9. How many part-time employees did the issuer have at the end of its latest fiscal year? ☐

a. 0 b. 1 – 5 c. 6 – 10 d. 11 – 20 e. 21 – 30 f. 31 – 40
g. 41 – 50 h. Over 50

C. Brief Narrative Information About the Issuer.

1. In what year was the issuer incorporated; or organized? ☐☐☐☐

2. In what state is the issuer incorporated or organized? Please enter the standard two-letter U.S. Postal Service abbreviation. Enter "CN" if the issuer is organized in Canada. ☐☐

3. Please briefly describe the issuer's business.

_____

_____

_____

_____

4. Please list the full name and address of the following persons: each promoter of the issuer involved in the offering of securities as to which sales pursuant to Section 4(6) are reported on this notice, the issuer's chief executive officer, and each of the issuer's affiliates. Indicate the status of each person named by placing an "X" in the applicable box(es) opposite such person's name. The term "promoter" includes

(a) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; or

(b) Any person who, in connection with the founding or organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more or any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as brokerage commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

FORM 4(6) NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) Page 4

NAME			
ADDRESS	CITY	STATE	ZIP
NAME			
ADDRESS	CITY	STATE	ZIP

CEO	Aff	Pro

CEO	Aff	Pro

5. Please list the full name and address of each person who has been or will be paid or given directly or indirectly any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in any offering pursuant to Section 4(6).

NAME			
ADDRESS	CITY	STATE	ZIP
NAME			
ADDRESS	CITY	STATE	ZIP

SEC USE ONLY
8 -

SEC USE ONLY
8 -

D. Section 3(b) Sales Limit and Other Information About the Offering

INSTRUCTION: If a response to any item is "none" or "zero," please enter zero ("0") in the corresponding space.

1. Type and aggregate offering price of securities intended to be sold pursuant to Section 4(6) in this issue.

a. Debt . . . . . $ _____

b. Equity . . . . . $ _____

c. Convertible . . . . . $ _____

	Number of Purchasers (A)	Aggregate Dollar Amount (B)
2. Number of accredited persons who have purchased securities in this issue in transactions in reliance on Section 4(6) and aggregate dollar amounts of their purchases to date.	_____	$ _____

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FORM 4(6) NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) Page 5

3. Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being offered in this issue. Insofar as practicable, give amounts for the categories listed below. The information may be given as subject to future contingencies. If the expenditure in any category is not known, furnish an estimate and place an "X" in the box to the left of the amount given.

a.	Blue Sky Fees and Expenses	$ ☐
b.	Transfer Agents' Fees	☐
c.	Printing and Engraving Costs	☐ ◀5
d.	Legal Fees	☐
e.	Accounting Fees	☐
f.	Engineering Fees	☐
g.	Sales Commissions *(including Finders' Fees)*	☐
h.	Other Expenses *(Identify)*	
	_____	☐ ◀6
	_____	☐
	Total	$ ☐

4. Indicate below the amount of the gross proceeds to the issuer *(other than amounts specified in Item D.4 above)* proposed to be used or used for each of the purposes listed below. If the amount to be used for any purpose is not known, furnish an estimate and place an "X" in the box to the left of the amount given.

		Payments to officers, directors and affiliates (A)	Payments to others (B)
a.	Salaries and fees	$ ☐	$ ☐
b.	Purchase of real estate	☐	☐ ◀7
c.	Purchase and installation of machinery and equipment	☐	☐
d.	Construction of plant building and facilities	☐	☐
e.	Development expense *(product development, research, patent costs, etc.)*	☐	☐ ◀8
f.	Purchase of raw materials, inventories, supplies, etc.	☐	☐
g.	Selling, advertising, and other sales promotion	☐	☐
h.	Acquisition of other businesses	☐	☐ ◀9
i.	Repayment of loans	☐	☐
j.	Working capital	☐	☐
	Other – please specify		
k.	_____	☐	☐ ◀10
l.	_____	☐	☐
m.	_____	☐	☐
n.	_____	☐	☐ ◀11
	Total	$ ☐	$ ☐

FORM 4(6) NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6) Page 6

The issuer has duly caused this notice to be signed on its behalf by the undersigned duly authorized officer or person acting in a similar capacity.

DATE OF NOTICE _____

ISSUER _____

SIGNATURE _____

NAME _____

TITLE _____

INSTRUCTION: Print the name and title of the signing representative under his signature. At lease one copy of the notice filed with the Commission's principal office in Washington, D.C. shall be manually signed. Any copies not manually signed shall bear typed or printed signatures.

ATTENTION

Intentional misstatements or omissions of fact constitute Federal Criminal Violations (See 18 U.S.C. 1001).

V 45 NO14 80 UMI

FORM 4(6) Continuation Sheet

NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6)

Page 7

Item of Form (identify)	Answer

FORM 4(6) Continuation Sheet

NOTICE OF SALES OF SECURITIES PURSUANT TO SECTION 4(6)

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Item of Form (identify)	Answer

[FR Doc. 80-35713 Filed 11-13-80; 8:45 am]
BILLING CODE 6010-01-C

V 45 N 014 80 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

Interim Rule Revising Annual Report of Gas Supply for Certain Natural Gas Pipelines; Form No. 15

Issued November 6, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim rule.

SUMMARY: By this interim rule, the Federal Energy Regulatory Commission amends Form No. 15, Annual Report of Gas Supply for Certain Natural Gas Pipelines, to eliminate reporting requirements which the Commission no longer needs to carry out its regulatory functions. This interim rule will be effective for reports covering calendar year 1980 and subsequent calendar years, until certain issues relating to proposed further changes in the content, format and instructions of Form No. 15, are resolved. The changes are a product of the Commission's ongoing effort to eliminate unnecessary reporting burdens and to update its forms.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne Thompson, Chief, Gas Supply Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 4402–B, Washington, D.C. 20426, (202) 357–9077.

A. Background

Form No. 15, Annual Report of Gas Supply for Certain Natural Gas Pipelines, was instituted to obtain an annual report of the total gas supply of each pipeline company under the jurisdiction of the Federal Power Commission (Commission).[1] This gas supply reporting requirement—which continues today under this Commission's authority—covers each interstate pipeline company's owned reserves, producer contracts for which the producer has received a certificate to sell the gas to the pipeline,[2] gas purchase contracts with other jurisdictional pipelines,[3] purchases of gas from foreign suppliers, purchases of Liquefied Natural Gas (LNG), Synthetic Natural Gas (SNG),[4] and short-term or other purchases over which the Commission has regulatory authority.

Form No. 15 provides the Commission with information needed to address gas supply issues in certificate applications, to perform depreciation analyses in rate cases, and to make determinations concerning new or increased sales, the extension of facilities, or the abandonment of services.

On August 7, 1980, the Commission issued a Notice of Proposed Rulemaking to revise Form No. 15 (45 FR 54082, August 14, 1980), as part of its program to review the collection of data which the Commission uses for making decisions in the regulatory process. The rulemaking proposed to amend the content, format, and instructions of Form No. 15 in order to make the form more concise, better facilitate its use, and reduce unnecessary respondent reporting burdens. The schedules were to be redesignated to better facilitate completion by hand, and definitions and data requests were to be standardized and made to conform with changes resulting from passage of the Natural Gas Policy Act (NGPA). The changes were proposed to be implemented in time for the report due on April 1, 1981, which covers gas supplies during the 1980 calendar year period.

B. Analysis of Comments.

In response to the Notice of Proposed Rulemaking, the Commission received fourteen comments from sixteen parties.[5] Of these, twelve were from interstate pipelines which are required to file the form,[6] one was from a natural gas user, and one was from an industry association.

1. *Format Revisions*

In general, the commenters supported the Commission's intention to reduce reporting burdens through the deletion of certain data items in Form No. 15.[7] However, the reaction was almost universal that the revised format, content, and instructions would actually result, initially, in an *increased* burden to respondents. Among the specific complaints was that the Commission indicated that it would prefer that respondents file a magnetic tape (computer copy) of the form in the current format, as well as a "hard copy" (computer printout) in the proposed format. Commenters argued that this "dual system" would be duplicative and that it would be expensive to devise and maintain. Furthermore, it would be impossible to reprogram computers pursuant to the new format, instructions and contents in time for the April 1, 1981 filing.

A suggestion was made to simply retain Form No. 15 with its present format and instructions because that would be less burdensome than the proposal. Another proposed that a revised form should become effective in time to be filed by April 1, 1982.

Comments also alleged that revisions in the instructions as a result of clarifications and changes to conform with recently-passed legislation, created greater reporting requirement—in conflict with the Commission's purpose to lessen the reporting burden. Some commenters also alleged that certain of the definitions were inconsistent with each other as a result of the proposed revisions.

Because various problems arose with respect to the proposed format changes to Form No. 15, the Commission has determined that extensive revision of Form No. 15 would be inappropriate at this time. However, the Commission is satisfied that certain information described below, should be eliminated immediately. Therefore, for the present, Form No. 15 is revised only insofar as those items originally proposed for deletion will be eliminated; no new instructions, clarifications, reformating or other requirements are imposed by these amendments.[8] Further changes will be considered in the near future. At time further public comment will be solicited.

2. *Deletion of Reporting Requirements.*

General Motors Corporation (GM) opposed the deletion of reporting requirements in Form No. 15. In general, GM noted the importance of the Commission's collecting and considering reliable data on future gas supplies and deliveries. GM urged that no important information be omitted, that clarification of data be provided where necessary and that new information be collected where it would be useful. Specifically, GM suggested that the 20 year annual projection of total pipeline system gas requirements (Schedule 1) be retained instead of the one year of requirements data to be reported under the proposed rule. In addition, the proposed elimination of curtailment data for the current report year was, according to GM, unexplained and undesirable. Finally, GM suggested several additional reporting requirements for the form.

The Commission believes that the 20 year annual projection of total pipeline system gas requirements should not be retained. Because of gas shortages, effects of conservation, fuel switching and fluctuations in the weather, total annual requirements are rarely fulfilled; therefore, the direct relevance of the reporting of annual requirements has become limited. In addition, the long-term projection of requirements data tends to be inaccurate. Finally, pipeline system requirements data are now reported in Schedule I of FERC Form No. 16 (*see* 18 CFR § 260.12), and the requirements profile of jurisdictional companies has been developed in the "Omnibus" proceedings (Docket No. TC80–60, *et al.*, September, 1980). The Commission considers this information to be sufficient to evaluate jurisdictional company requirements.

Finally, the Commission has eliminated the requirement to report curtailment data during the report year in Schedule No. 1 of Form No. 15 because this information is available in greater detail in the Commission's Form No. 16 (revised May 30, 1980. Order No. 88, RM80–20, 45 *FR* 37812, June 5, 1980).

3. *Informal Conferences.*

Commentors generally suggested that the Commission should not make extensive changes to the format or instructions to Form No. 15 until informal conferences have been held between interested members of the public and the Commission to discuss problems regarding contemplated changes. As noted above, the amendments made in this interim rule do not include any of the proposed changes to the format. The Commission does intend to further consider such changes in the forthcoming weeks. Interested persons are invited to a series of conference meetings with Commission staff beginning in early December in order to discuss and revise Form No. 15 in the light of legal, regulatory and industry considerations. An announcement specifying the dates and times of these meetings will be issued in the near future.

A final rule, to further amend Form No. 15, will be issued subsequent to the above-mentioned conference meetings.

C. Revisions to Form 15.

Form 15 is revised by deleting the following requirements:

General. The requirement to report "Class Code" on each statement and schedule is deleted. Also eliminated is the requirement to file individual reservoir area outline maps.

Statements. In the first substantive statement, "Synopsis of Pipeline Company Gas Supply" (p. 0047), items 04 through 10 which pertain to information from the last certificate application are deleted because they are available elsewhere.

Schedules. The following items in Schedule Nos. 1 through 4 are deleted:

Schedule No. 1, "System Deliverability Summary".

Entry Nos. 104–122—Annual Requirements Curtailments.
Entry No. 123—Total Volumes Scheduled (Annual Requirements)*
Entry No. 125—Firm Gas Sales Interruptible Gas Sales Other use Gas Reserve Life Index.

Schedule No. 2, "Reservoir Data and Dedicated Remaining Recoverable Salable Reserves".

Line No. 1—FPC Natural Gas Area.
Line No. 2—Type Calculation, Total-Producing Completions, Total Net Completions, Dedicated Percentage of Sellers Reserves, Decline Factor MMcf Per PSI, Cumulative Wet Gas Production at Current Pressure, Current Z Value, Terminal Z Value, Depth Classification, Basic Lithology.
Line No. 4—Recovery Factor, Productive Area—Acres, Average Net Thickness—Feet Reservoir Volume—Acre/Feet, Porosity, Porosity By (How porosity is determined), Connate Water, Connate Water By (How connate water is determined), Initial Z Value, Yield, Barrels Per MMcf, Mole Percent H_2S, Mole Percent N_2, Mole Percent CO_2, Initial Formation Volume Factor (FVF).

Schedule No. 3, "Deliverability Estimate For Each Supply Source".

Line No. 2—All Data Elements
Line No. 3—Pc (Shut-in pressure), Pf (Flowing pressure), Pf (Formation pressure), Ps (Sandface pressure), C (Coefficient C in back pressure equation), n (value of slope n), Q (rate of flow), Duration Flow, Wellhead Open Flow, Absolute Open Flow, Daily Productive Capacity—Non-Associated Gas, Daily Productive Capacty—Associated and Solution Gas, Gas Volume Not Scheduled*
Line No. 4—Net Completions*

Schedule No. 4, "Committed Reserves and Deliverability Estimates for Other Supply Sources".

Line No. 1—FPC Natural Gas Area.
Line No. 2—Pipeline Code*, Seller Code*, Daily Productive Capacity for Undesignated Gas, Daily Productive Capacity for Non-Associated Gas, Daily Productive Capacity for Associated and Solution Gas, Volume Curtailed, MMcf*
Line No. 3—Gas Volume Not Scheduled.

The form, as revised by this Interim Rule, shall be filed on or before April 1 for each calendar year ending December 31 of the previous year as is currently required, beginning with April 1, 1981.

In addition, the Commission has sent a memorandum to the Energy Information Administration (EIA) (*see*, Attachment B to the document) [9] regarding clarification of the instructions for Form No. 15.

D. Public Procedure and Effective Date.

The Commission has complied with 5 U.S.C. § 553 by having provided the public with notice and an opportunity to participate in this rulemaking. Immediate adoption of the revisions to Form No. 15 will promote an expeditious reduction of unnecessary reporting burdens. Therefore, under 5 U.S.C. § 553(d), the Commission is making these changes effective immediately for reports covering calendar year 1980, to be filed on or before April 1, 1981.

(Administrative Procedure Act, 5 U.S.C. § 553; Natural Gas Act, 15 U.S.C. §§ 717–717w; Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432.)

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[1] Form No. 15 was initially promulgated in 1964: Order No. 279, Docket No. R–239, 29 FR 4874 (April 7, 1964). It has undergone four revisions since that date: Order No. 337, Docket No. R–308, 32 FR 3292 (February 25, 1967), revised the form to allow companies with comparatively small volumes of reserves to file an abbreviated report, and made certain conforming amendments; Order No. 399, Docket No. R–308, 35 FR 8982 (May 1, 1970), amended the form to require respondents to submit estimates of productive capacity Mcf/day, maximum daily quantity Mcf/day for each source of gas supply, and gas reserves by independent producer rate schedules, and made other minor changes; Order No. 476, Docket No. R–308, 38 FR 6810 (March 13, 1973), amended the form with reference to the reserves report; and Order No. 546, Docket No. R–308, 41 FR 9868 (March 8, 1976), revised the form to require that respondents disclose gas reserves filings with other Federal agencies.

[2] Pursuant to the Natural Gas Policy Act (NGPA), producers are no longer required to obtain certificates in certain instances. (*See* sections 302, 312, and 601 of the NGPA.)

[3] We note that pursuant to the NGPA, pipelines are also permitted to purchase gas from intrastate pipeline companies. (*See* sections 302, 303, 311, and 601 of the NPGA.)

[4] Also known as "Substitute" Natural Gas.

[5] Columbia Gas Transmission Corporation, El Paso Natural Gas Company, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company and Trunkline Gas Company, Southern Natural Gas Company, Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation and Transwestern Pipeline Company, Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, United Gas Pipe Line Company, General Motors Corporation and Interstate Natural Gas Association of America.

[6] A total of 93 interstate gas pipelines are currently required to file Form No. 15.

[7] Most comments were in agreement with respect to the Commission's proposed deletions of data items.

[8] Companies filing computerized versions of the Form No. 15 may submit it in the current format, retaining the items deleted herein to alleviate the burden of reprogramming.

* Item inadvertently omitted from the Preamble to the Notice of Proposed Rulemaking—deletion of this item was noted in the schedule attached to the notice.

* Items inadvertently omitted in the Preamble to the Notice of Proposed Rulemaking—deletion of these items was noted in the schedules attached to the Notice.

[9] The memorandum sent to EIA and revised Form No. 15 (Attachment A) are not being printed by the **Federal Register**. Copies are available in the Commission's Office of Public Information.

For the foregoing reasons, FPC Form No. 15, is revised as set forth in Attachment A to this Interim Rule, and Part 260 of Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately as an interim rule.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 260.7 is amended in the note following the text by adding at the end thereto the following:

§ 260.7 Form No. 15, Annual report of gas supply for certain natural gas pipelines

* * * * *

Note.— * * * Docket No. RM80–69, 45 FR, Nov. 14, 1980.

[FR Doc. 80–35424 Filed 11–13–80; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 431, 436, 450

[Docket No. 80N–0293]

Antibiotic Drugs; Daunorubicin Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the antibiotic drug regulations to provide for the certification of a new antibiotic drug, daunorubicin hydrochloride. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective November 14, 1980; comments by December 15, 1980.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic drug, daunorubicin hydrochloride. The agency concludes that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 431, 436, and 450 (21 CFR Parts 430, 431, 436, and 450) to provide for its certification.

The agency has determined pursuant to 21 CFRF 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 430, 431, 436, and 450 are amended to read as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.4 by adding paragraph (a)(46), to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(46) *Daunorubicin.* Each of the antibiotic substances produced by the growth of *Streptomyces coeruleorubidus* and each of the same substances produced by any other means is a kind of daunorubicin.

b. In § 430.5 by adding paragraphs (a)(68) and (b)(68) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(68) *Daunorubicin.* The term "daunorubicin master standard" means a specific lot of daunorubicin that is designated by the Commissioner as the standard of comparison in determining the potency of the daunorubicin working standard.

(b) * * *

(68) *Daunorubiciin.* The term "daunorubicin working standard" means a specific lot of a homogeneous preparation of daunorubicin.

c. In § 430.6 by adding paragraph (b)(70) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(70) *Daunorubicin.* The term "microgram" applied to daunorubicin means the daunorubicin activity (potency) contained in 1.0965 micrograms of the daunorubicin master standard.

* * * * *

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. Part 431 is amended in § 431.53 by alphabetically inserting a new item in the fee schedule in paragraph (b)(1) to read as follows:

§ 431.53 Fees.

* * * * *

(b) * * *

(1) * * *

Test	Chargeable fee per test
* * * * *	*
Daunorubicin potency (special turbidimetric)	19.00
* * * * *	*

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

3. Part 436 is amended:

a. In § 436.35(c) by alphabetically inserting a new item in the table to read as follows:

§ 436.35 Histamine test.

* * * * *

(c) * * *

Antibiotic	Diluent (diluent number as listed in § 436.31(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)
* * * * *			
Daunorubicin hydrochloride	4	1.5	1.0
* * * * *			

* * * * *

b. In § 436.101 by adding paragraph (a)(18) to read as follows:

§ 436.101 Solutions.

(a) * * *

(18) *Solution 18 (0.054M sodium phosphate buffer, pH 6.9).*

Sodium dihydrogen phosphate monohydrate: 3.97 gm.

Disodium hydrogen phosphate anhydrous: 3.55 gm.

Distilled water, q.s.: 1,000.0 mL.

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

4. Part 450 is amended:

a. In Subpart A by adding new § 450.22 to read as follows:

§ 450.22 Daunorubicin hydrochloride.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Daunorubicin hydrochloride is the monohydrochloride salt of (1*s*,3*s*)-3-acetyl-1,2,3,4,6,11-hexahydro-3,5,12-trihydroxy-10-methoxy-6,11-dioxo-1-naphthacenyl-3-amino-2,3,6-trideoxy-α-L-*lyxo*-hexopyranoside. It is a red-orange, hygroscopic powder. It is so purified and dried that:

(i) Its potency is not less than 842 micrograms and not more than 1,030 micrograms of daunorubicin per milligram.

(ii) Its moisture content is not more than 3.0 percent.

(iii) Its pH in an aqueous solution containing 5 milligrams per milliliter is not less than 4.5 and not more than 6.5.

(iv) It is crystalline.

(v) It passes the identity test for daunorubicin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, crystallinity, and identity.

(ii) Samples required: 14 packages, each containing approximately 40 milligrams.

(b) *Tests and methods of assay.* Daunorubicin hydrochloride is toxic. It must be handled with care in the laboratory. Transfer all dry powders in a suitable hood. Wear rubber gloves, protective gowns, head coverings, and protective eye goggles when handling dry powders. Avoid inhaling fine particles of powder. Solutions should not be pipetted by mouth. If the substance contacts the skin, promptly wash with soap and water. Dispose of all waste material by dilution with large volumes of sodium hypochlorite solution.

(1) *Potency.* Use either of the following methods; however, the results obtained from the high-pressure liquid chromatograph shall be conclusive.

(i) *High-pressure liquid chromatography.* Proceed as directed in § 436.322 of this chapter, except in lieu of the mobile phase and pH described in paragraph (b)(2) of that section, use a mixture of water: acetonitrile (62:38) adjusted to pH 2.2 ± 0.2 with phosphoric acid. Prepare the sample and standard solutions and calculate the daunorubicin content as follows:

(*a*) *Preparation of sample and working standard solutions.* Accurately weigh approximately 25 milligrams of the sample and of the daunorubicin working standard and dissolve each in 25 milliliters of the internal standard solution prepared as directed in § 436.322(b)(3) of this chapter.

(*b*) *Calculations.* Calculate the daunorubicin content as follows:

$$\text{Micrograms of daunorubicin per milligram} = \frac{\frac{R_u}{} \times \frac{W_s}{} \times \frac{P}{} \times 100}{\frac{R_s}{} \times \frac{W_u}{} \times (100 - M)}$$

where:

R_u = Area of the daunorubicin sample peak/Area of the internal standard peak;

R_s = Area of the daunorubicin standard peak/Area of the internal standard peak;

W_s = Weight of the daunorubicin working standard in milligrams;

W_u = Weight of the sample in milligrams;

M = Moisture content of the sample in percent;

P = Potency of the daunorubicin working standard in micrograms per milligram.

(ii) *Microbiological turbidimetric assay for daunorubicin—*(*a*) *Preparation of working standard stock solutions and standard response line concentrations.* Dissolve an acurately weighed portion of the working standard with sufficient 0.054*M* sodium phosphate buffer, pH 6.9 (solution 18), as described in § 436.101(a)(18) of this chapter, to obtain a stock solution containing 1 milligram of daunorubicin activity per milliliter. The working standard stock solution may be stored under refrigeration for 1 week. Further dilute an aliquot of the stock solution with solution 18 to obtain standard response line concentrations of 4, 8, and 16 micrograms of daunorubicin activity per milliliter. The 8-micrograms-per-milliliter concentration is the reference concentration of the assay.

(*b*) *Preparation of sample solution.* Dissolve an accurately weighed portion of the sample with sufficient 0.054*M* sodium phosphate buffer, pH 6.9 (solution 18), as described in § 436.101(a)(18) of this chapter, to obtain a stock solution containing 1 milligram of daunorubicin activity per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 18 to the reference concentration of 8 micrograms of daunorubicin activity per milliliter (estimated).

(c) *Procedure for assay.* Place 1.0 milliliter of each concentration of the standard response line and of the sample solution in each set of replicate tubes (as described in § 436.100(b)(1) of this chapter). Eighteen tubes are used for the three-point standard response line and six for each sample. To each tube, add 9 milliliters of medium 3 (as listed in § 436.102(b)(3) of this chapter), inoculated with 2 milliliters of a suspension of test organism I per liter of medium 3. The suspension of test organism I is prepared as described in § 436.103 of this chapter, except incubate the slants and Roux bottle for 16 to 18 hours at 37° C. Place the inoculated tubes immediately in a water bath at 37° C for approximately 3 hours. The absorbance value for the growth control should be approximately 0.70–0.75 and the absorbance values for the 16 and 4 micrograms per milliliter standard doses should be approximately 0.25–0.35 and 0.55–065, respectively. An adjustment of the inoculum may be necessary in order to obtain absorbance values to these approximate levels in a 3-hour time period. Remove the tubes from the water bath and add 0.5 milliliter of a 12-percent formaldehyde solution to each tube. Determine the absorbance value of each tube in a suitable spectrophotometer, at a wavelength of 530 nanometers. Set the instrument at zero absorbance with an uninoculated blank composed of the same amounts of medium 3, solution 18, and formaldehyde used in the assay.

(d) *Estimation of potency.* Estimate the potency of the sample as follows: Using the three x values and the three corresponding y values, calculate Σx, Σx^2,$(\Sigma x)^2$, Σy and Σxy. Calculate b, the slope (regression coefficient), and a, the Y-intercept of the standard response line by the following equations:

$$b = \frac{n\Sigma xy - (\Sigma x)(\Sigma y)}{n\Sigma x^2 - (\Sigma x)^2}$$

$$a = \frac{\Sigma y - b\,\Sigma x}{n}$$

where:
n = Number of standard doses;
x = Logarithm of the concentration in micrograms per milliliter of each dose of the standard curve;
y = Mean response of the six absorbance values for each dose of the standard.

Calculate the concentration of the sample solution X corresponding to the observed mean response of the sample solution Y by the following equation:

$$X = \text{antilog } \frac{Y - a}{b}$$

where:
X = The concentration of the sample solution in micrograms per milliliter;
Y = The mean response of the six absorbance values for reference concentration sample solutions.

Calculate the potency of the daunorubicin sample as follows:

$$\text{Potency of daunorubicin sample in micrograms per milligram} = \frac{(X)(F)}{W}$$

where:
F = 125, the appropriate dilution factor of the daunorubicin sample;
W = Weight of sample in milligrams.

The following example illustrates the mathematical calculations of the potency of a sample solution:

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Standard doses (micrograms per milliliter)	16.0	8.0	4.0	n = 3
Log doses (x)	1.20412	0.90309	0.60206	Σx = 2.70927
				$(\Sigma x)^2$ = 7.34014
x^2	1.4499	0.81557	0.36248	Σx^2 = 2.62795
Absorbance readings:	0.247	0.483	0.583	
	0.236	0.414	0.584	
	0.241	0.446	0.574	
	0.236	0.423	0.555	
	0.233	0.416	0.578	
	0.243	0.413	0.559	
Mean responses (y)	0.239	0.433	0.572	Σy = 1.244
xy	0.28778	0.39104	0.34438	Σxy = 1.0232

$$b = \frac{3(1.0232) - (2.70927)(1.244)}{3(2.62795) - 7.34014} = -0.553$$

$$a = \frac{1.244 - (-0.553)(2.70927)}{3} = 0.914$$

Mean response, Y, of sample solution = 0.405

Calculated concentration, X, sample solution =

$$\text{antilog } \frac{0.405 - 0.914}{-0.553} = 8.32 \text{ micrograms per milliliter}$$

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(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

(4) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(5) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1)(i) of this section compares qualitatively to that of the daunorubicin working standard.

b. In Subpart B by adding new § 450.222 to read as follows:

§ 450.222 Daunorubicin hydrochloride for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Daunorubicin hydrochloride for injection is a freeze-dried powder whose components are daunorubicin hydrochloride mannitol. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of daunorubicin that it is represented to contain. It is sterile. It is nonpyrogenic. It contains no histamine nor histamine-like substances. Its moisture content is not more than 3.0 percent. When reconstituted as directed in the labeling, its pH is not less than 4.5 and not more than 6.5. It passes the identity test. The daunorubicin hydrochloride used conforms to the standards prescribed by § 450.22(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The daunorubicin hydrochloride used in making the batch for potency, moisture, pH, crystallinity, and identity.

(*b*) The batch for potency, sterility, pyrogens, histamine, moisture, pH, and identity.

(ii) Samples required:

(*a*) The daunorubicin hydrochloride used in making the batch: 14 packages, each containing approximately 40 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 34 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.* Daunorubicin hydrochloride is toxic. It must be handled with care in the laboratory. Solutions should not be pipetted by mouth. Transfer all dry powders in a suitable hood. Wear rubber gloves, protective gowns, head coverings, and protective eye goggles when handling dry powders. If the substance contacts the skin, wash with soap and water. Dispose of all waste material by dilution with larger volumes of sodium hypochlorite solution.

(1) *Daunorubicin content (high-pressure liquid chromatography).* Proceed as directed in § 436.322 of this chapter, preparing the sample and standard solutions and calculating the daunorubicin content as follows:

(i) *Preparation of working standard solution.* Accurately weigh approximately 25 milligrams of the daunorubicin working standard and dissolve in 25 milliliters of the internal standard solution prepared as directed in § 436.322(b)(3) of this chapter.

(ii) *Preparation of sample solution.* Prepare the sample solution by rinsing the contents of the vial into an appropriate-sized volumetric flask with a sufficient amount of internal standard solution prepared as directed in § 436.322(b)(3) of this chapter, to obtain a concentration of 1.0 milligram of daunorubicin per milliliter.

(iii) *Calculations.* Calculate the daunorubicin content as follows:

$$\text{Daunorubicin content per vial in milligrams} = \frac{R_u}{R_s} \times \frac{W_s}{V} \times V \times P \times \frac{R_u}{R_s} \times 25 \times 1{,}000$$

where:

R_u = Area of the daunorubicin sample peak/Area of the internal standard peak;

R_s = Area of the daunorubicin standard peak/Area of the internal standard peak;

W_s = Weight of the daunorubicin working standard in milligrams;

V = Volume in milliliters of the internal standard solution added to the vials;

P = Potency of the daunorubicin working standard in micrograms per milligram.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 2.25 milligrams of daunorubicin per milliliter.

(4) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(5) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the sample preparation method described in paragraph (d)(4) of that section.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using the sample obtained after reconstituting the drug as directed in the labeling.

(7) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the daunorubicin working standard.

Because the conditions that must be met prior to providing for certification of this drug have been complied with and because the matter is noncontroversial, the Food and Drug Administration finds that notice and public procedure and delayed effective date are unnecessary, and that the amendment may become effective upon the date of publication in the **Federal Register.** However, interested persons may, or or before December 15, 1980, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this regulation. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before December 15, 1980, a written notice of participation and request for hearing, and (2) on or before January 13, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective November 14, 1980.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: October 31, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 80-35286 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Iron Dextran Oral Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ralston Purina Co. providing for safe and effective use of iron dextran oral suspension for preventing iron deficiency anemia in baby pigs.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188, filed an NADA (113–748) providing for orally administering iron dextran complex to baby pigs for preventing iron deficiency anemia.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Docket's Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1182 to read as follows:

§ 520.1182 Iron dextran oral suspension.

(a) *Specifications.* Each 1.8 milliliter contains 100 milligrams of elemental iron as ferric hydroxide in complex with a low molecular weight dextran and 0.2 percent phenol as a preservative.

(b) *Sponsor.* See 017800 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 100 milligrams of elemental iron to each pig.

(2) *Indications for use.* Prevention of iron deficiency anemia in baby pigs.

(3) *Limitations.* Treat each pig within 24 hours of farrowing. Administer 1.8 milliliters orally by automatic dose dispenser.

Effective date. This regulation is effective November 14, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 3, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-35646 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 31g

Education Personnel; Leave System

October 31, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule which (1) corrects a typographical error in § 31g.12(a)(2)(v) concerning restoration of sick leave in order to comply with the requirements of 5 CFR 630.502; and (2) amends § 31g.12(d) by changing the requirements from holding of annual leave credited to an employee to permitting the employee to use leave transferred.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Philip S. DeLoria, Deputy Assistant Secretary for Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343–7163.

SUPPLEMENTARY INFORMATION: The authority to issue regulations is vested in the Secretary of the Interior and has been redelegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

On November 8, 1979 (44 FR 65008), the Bureau of Indian Affairs published a final rule to add a new Part 31g, Education Personnel, to Subchapter E, Chapter I, Title 25 of the Code of Federal Regulations. Section 12(a)(2)(v) contained a typographical error concerning the termination of sick leave. The previous erroneous time limit of 5 years is hereby corrected to read 3 years. Section 12(d) contained erroneous information concerning the "banking" of annual leave to the credit of an employee who is converted or appointed under the contract personnel system. This requirement does not comply with the requirements of 5 U.S.C. 5551. Section 12(d) is hereby amended to comply with 5 U.S.C. 5551.

The Bureau of Indian Affairs is waiving pursuant to 5 U.S.C. 553(b)(B) the proposed rulemaking requirements of Section (b) of 5 U.S.C. 553 because of the minor effect of this document and the compliance factor involved with the Pub. L. 95–561 and 5 U.S.C. 5551 heretofore not complied with. Since this rulemaking document corrects previously published material, the 30 days deferred effective date is dispensed with under the provisions of 5 U.S.C. 53(d)(3). Accordingly, these regulations will become effective November 14, 1980.

The primary author of this document is Pattie Fulgham, Chief, Staffing and Manpower Branch, Bureau of Indian Affairs, telephone number 202–343–9306.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Section 31g.12 of Subchapter E, of Chapter I, Title 25 of the Code of Federal Regulations, Part 31g, Education

Personnel is hereby amended by revising paragraphs (a)(2)(V) and (d) as follows:

§ 31g.12 Leave system for education personnel.

(a) * * *

(2) * * *

(v) An employee, who terminates his/her contract with sick leave to his/her credit, will have such sick leave restored to his/her credit upon reemployment within 3 years.

* * * * *

(d) *Leave transferred in.* Annual leave credited to an employee's balance immediately before conversion or appointment under this part will be carried over and made available to the employee. Sick leave credited to an employee's balance immediately before conversion or appointment under this part shall be credited to the employee's sick leave account under the system in § 31g.12(a)(2) and (b)(2).

Philip S. Deloria,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-35551 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 11

[T.D. 7733]

Income Tax; Taxable Years Beginning After December 31, 1953; Minimum Funding Standards for Pension Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the determination of actuarial costs under the minimum funding standards for defined benefit pension plans. These regulations implement provisions of the Employee Retirement Income Security Act of 1974. The regulations provide necessary guidance to the public for compliance with that Act, and affect many employers with collectively bargained defined benefit plans.

DATES: The regulations are effective generally for plan years beginning after 1975, but earlier (or later) in the case of some plans as provided by the Employee Retirement Income Security Act of 1974.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3651) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1977, the Internal Revenue Service published in the **Federal Register** (42 FR 39382) temporary regulations amending the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (ERISA) (26 CFR Part 11). These temporary regulations also served as proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 412(c)(1) of the Internal Revenue Code of 1954. No public hearing was held regarding the proposals.

After consideration of all the comments received regarding the proposed amendments, those amendments are adopted, as revised, by this Treasury decision. These final regulations conform the Income Tax Regulations to section 1013 of ERISA (88 Stat. 914). They also apply for purposes of section 302 of ERISA.

The final regulations under this document supersede the temporary regulations that served as proposed amendments to the Income Tax Regulations (26 CFR 11.412(c)(1)-1 and 11.412(c)(1)-2).

Explanation of Provisions in General

Section 412 of the Internal Revenue Code of 1954, contained in section 1013 of ERISA, provides minimum funding requirements with respect to certain pension plans. These requirements include the maintenance of a minimum funding standard account, to which the normal cost of the plan and certain amortization amounts are charged, and contributions to the plan and certain other amortization amounts are credited for each plan year.

In the conference report accompanying ERISA, the conferees noted that, in the case of many collectively bargained plans, annual contributions were negotiated in terms of a specified amount per hour of service or some other unit of production. The conferees expressed the belief that in those cases employers generally must be allowed to base their contributions on the bargained and agreed-upon basis during the period to which the agreement relates. H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 285 (1974), 1974-3 C.B. 446.

In general, in order to reflect the intent of the conferees, these regulations contain detailed rules which allow collectively bargained plans to use a special method termed the "shortfall method" for computing the charges to the funding standard account. Under the shortfall method, the charge is computed on the basis of an estimated number of units of service or production (for which a certain amount per unit is to be charged). The difference between the net amount charged or credited under this method and the net amount that otherwise would have been charged or credited under section 412 for the same period is termed a "shortfall gain or loss" and is to be amortized during certain subsequent plan years.

Provisions Changed in Final Regulations: Reasonable Funding Method References

The final regulation contains references to principles applicable to funding methods in general. These principles are to be published at a future date as part of a regulation describing a reasonable funding method.

Descriptive Language Changes

In response to the comments, the final regulation has been clarified by changes in two descriptive terms introduced in the proposal.

The "net charge" under the shortfall method is now referred to as the "net shortfall charge." This change eliminates ambiguous references in the proposal where it was not clear whether the net charge was computed under the shortfall method, or under section 412 without regard to the shortfall method.

Also, the final regulation changes the term "anticipated annual charge" under the proposals to "annual computation charge." This change in descriptive language eliminates confusion regarding the time when a computation is to be made. The source of confusion was the use of the word "anticipated."

Eligibility For Use Of Shortfall

The final regulation revises the provision describing a plan that may elect to use shortfall. It makes it clear that the use of shortfall applies only to plans with a contractually binding contribution rate. Also, as suggested in the comments, the regulations extend eligibility for using shortfall to the plans of some tax-exempt labor organizations.

Estimated Base Units

The proposed regulations listed hours, days, and tons as examples of estimated base units. The final regulations add dollars of compensation to this illustrative list.

Plans With More Than One Contribution Rate, Contract, Employer, or Benefit Level

Under the proposed regulations, if a single plan maintained by more than one employer had more than one contribution rate, the plan could compute a separate net charge for each employer or each benefit level, provided that the specific method of computation of the net charge was reasonable under the facts and circumstances. (Even so, only one actuarial valuation would be made for the single plan on each actuarial valuation date.)

The final regulations broaden this option somewhat to permit a plan to compute a separate net shortfall charge for each contract, each contribution rate, each employer, or each benefit level. However, under the final regulations a plan so computing a separate net shortfall charge must determine the base unit estimation date without regard to any collectively bargained agreement that does not relate to the contract, contribution rate, employer, or contract level for which the net shortfall charge is separately computed. This new restriction has a deferred effective date.

Single Employer Plans

The comments urged that the final regulation treat single employer plans the same as plans maintained by more than one employer. The final regulation does this by modifying provisions for single employer plans relating to the base unit estimation date and to the deferral of shortfall and experience gains and losses.

Base Unit Estimate Date

The final regulation changes the base unit estimation date rules.

As previously announced by the Internal Revenue Service in Announcement 77-142, 1977-38, I.R.B. 47, the final rules do not contain a special transition rule of the proposal, under which the base unit estimation date could not be earlier than the last valuation date of the plan occurring on or before January 1, 1976.

Also, the final regulation describes the circumstances under which expectations will be found to be unreasonable when used to estimate base units. Generally, these expectations will be unreasonable if, for example, they do not reflect a consistent pattern of substantial decline or growth in actual base units that has occurred over a period of years from sources which are likely to recur after the base unit estimation date.

It is anticipated that, when regulations under section 412(c)(9) are proposed, they may require an actuarial valuation of plan liabilities more frequently than once every three years. Among the approaches being considered for the proposed regulations are (1) a rule requiring annual valuations for all plans using the shortfall method and (2) a rule requiring a valuation whenever expected base units exceed actual base units by more than 20 percent.

The final regulation does not follow the suggestion of the comments that one year be added to the earliest permissible base unit estimation date. The suggested rule would have unnecessarily increased the already lengthy period between the time for determining estimated base units and the current plan year for which charges are being determined under the shortfall method.

Amortization Period

In addition to treating single employer plans the same as plans maintained by more than one employer, the final regulation changes the proposed regulation with respect to the amortization period for shortfall and experience gains and losses in two significant ways.

First, the final regulation eliminates the discretion of administrators to select a starting date for amortization. Some comments suggested that such flexibility would be desirable. However, the final regulation reflects the view that such flexibility would create a potential for abuse by manipulating the deferral of gains and losses.

Second, the final regulation shortens the deferral period in the case of some plans maintained by more than one employer. Under the final regulation, amortization must begin in the first year beginning after the latest scheduled expiration date of any contract in effect when the gain or loss occurred, or, if earlier, in the fifth plan year after the gain or loss occurred.

These two rules apply to gains and losses arising in plan years beginning after December 31, 1980. For gains and losses arising in plan years beginning before 1981, plans may use the amortization starting date and deferral options of the temporary regulations.

Shortfall Gain or Loss

The final regulation clarifies the provision for amortizing shortfall gains or losses by stating that the amortization requirement applies to all types of funding methods, including those that do not amortize experience gains or losses by establishing separate bases.

The final regulation also adjusts the numbers in the example illustrating the computations under the shortfall method. The example shows interest adjustments over a period of five years, not four as under the proposed amendments.

Experience Gain or Loss

The final regulation clarifies the provisions for amortizing experience gains or losses. The regulation provides that this amortization requirement applies only to plans using a funding method that normally amortizes experience gains and losses by establishing separate bases. A plan that uses a funding method that spreads experience gains and losses over future normal costs is not required to amortize the experience gains or losses merely because it uses the shortfall method.

It is also clear under the final regulation that the normal cost portion of the annual computation charge is used in determining experience gains or losses when the shortfall method is used.

Finally, the final regulation contains an example illustrating the computation of experience gains or losses under a plan using the shortfall method.

Drafting Information

The principal author of these regulations was Thomas F. Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly:

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

§§ 11.412(c)(1)-1 and 11.412(c)(1)-2 [Deleted]

1. The Temporary Income Tax Regulations Under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) are amended by deleting §§ 11.412(c)(1)-1 and 11.412(c)(1)-2, which are superseded by the regulations adopted below.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

2. The Income Tax Regulations, 26 CFR Part 1, are amended by the addition of the following new sections 1.412(c)(1)-1 and 1.412(c)(1)-2 immediately after § 1.412(b)-5:

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§ 1.412(c)(1)–1 Determinations to be made under funding method—terms defined.

(a) *Actuarial cost method and funding method.* Section 3 (31) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides certain acceptable (and unacceptable) actuarial cost methods which may (or may not) be used by employee plans. The term "funding method" when used in section 412 has the same meaning as the term "actuarial cost method" in section 3 (31) of ERISA. For shortfall method for certain collectively bargained plans, see § 1.412(c)(1)–2; for principles applicable to funding methods in general, see regulations under section 412(c)(3).

(b) *Computations included in funding method.* The funding method of a plan includes not only the overall funding method used by the plan but also each specific method of computation used in applying the overall method. However, the choice of which actuarial assumptions are appropriate to the overall method or to the specific method of computation is not a part of the funding method. For example, the decision to use or not to use a mortality factor in the funding method of a plan is not a part of such funding method. Similarly, the specific mortality rate determined to be applicable to a particular plan year is not part of the funding method. See section 412(c)(5) for the requirement of approval to change the funding method used by a plan.

§ 1.412(c)(1)–2 Shortfall method.

(a) *In general*—(1) *Shortfall method.* The shortfall method is a funding method that adapts a plan's underlying funding method for purposes of section 412. As such, the use of the shortfall method is subject to section 412(c)(3). A plan described in paragraph (a)(2) of this section may elect to determine the charges to the funding standard account required by section 412(b) under the shortfall method. These charges are computed on the basis of an estimated number of units of service or production (for which a certain amount per unit is to be charged). The difference between the net amount charged under this method and the net amount that otherwise would have been charged under section 412 for the same period is a shortfall loss (gain) and is to be amortized over certain subsequent plan years.

(2) *Eligibility for use of shortfall.* No plan may use the shortfall method unless—

(i) The plan is a collectively bargained plan described in section 413(a), and

(ii) Contributions to the plan are made at a rate specified under the terms of a legally binding agreement applicable to the plan.

For purposes of this section, a plan maintained by a labor organization which is exempt from tax under section 501(c)(5) is treated as a collectively bargained plan and the governing rules of the organization (such as its constitution, bylaws, or other document that can be altered only through action of a convention of the organization) are treated as a collectively bargained agreement.

(b) *Computation and effect of net shortfall charge*—(1) *In general.* The "net shortfall charge" to the funding standard account under the shortfall method is the product of (i) the estimated unit charge described in paragraph (c) of this section that applies for a particular plan year, multiplied by (ii) the actual number of base units (for example, units of service or production) which occurred during that plan year. When the shortfall method is used, the net shortfall charge is a substitute for the specific charges and credits to the funding standard account described in section 412 (b)(2) and (3)(B).

(2) *Example.* Paragraph (b)(1) of this section may be illustrated by the following example:

Example. A pension plan uses the calendar year as the plan year and the shortfall method. Its estimated unit charge applicable to 1980 is 80 cents per hour of covered employment. During 1980, there were 125,000 hours of covered employment. The net shortfall charge for the plan year is $100,000, (*i.e.*, 125,000 × $.80) regardless of the amount which would be charged and credited to the funding standard account under section 412 (b)(2) and (3)(B) had the shortfall method not applied. The funding standard account for 1980 will be separately credited for the amount considered contributed for the plan year under section 412 (b)(3)(A). The other items which may be credited, if applicable, are a waived funding deficiency and the alternative minimum funding standard credit adjustment under section 412(b)(3)(C) and (D) because these items are not credits under section 412(b)(3)(B).

(3) *Plans with more than one contract, contribution rate, employer, or benefit level*—(i) *General rule.* A single plan with more than one contract, contribution rate, employer, or benefit level may compute a separate net shortfall charge for each contract, contribution rate, each employer, or each benefit level. The sum of these charges is the plan's total net shortfall charge. under § 1.412(c)(1)–1(b), the use of separate computations would be a specific method of computation used in applying the overall funding method. See also paragraph (f)(5) of this section.

(ii) *Single valuation.* Only one actuarial valuation shall be made for the single plan on each actuarial valuation date.

(iii) *Reasonableness test.* The specific method of computation of the net shortfall charge must be reasonable, determined in the light of the facts and circumstances.

(c) *Estimated unit charge.* The estimated unit charge is the annual computation charge described in paragraph (d) of this section divided by the estimated base units of service or production described in paragraph (e) of this section.

(d) *Annual computation charge.* The annual computation charge for a plan year is the sum of the following amounts:

(1) The net charges and credits which, but for using the shortfall method, would be made under section 412 (b)(2) and (b)(3)(B).

(2) The amount described in paragraph (g)(3) of this section, if applicable, for amortization of shortfall gain or loss.

(e) *Estimated base units*—(1) *In general.* The estimated base units are the expected units of service or production for a plan year (hours, days, tons, dollars of compensation, etc.), determined as of the base unit estimation date for that plan year under paragraph (f) of this section. This estimate must be based on the past experience of the plan and the reasonable expectations of the plan for the plan year. The specific type of unit used must be described in the statement of funding method for the plan year. (See paragraph (i)(3) of this section for reporting requirements.)

(2) *Reasonable expectations.* The reasonableness of expectations used under paragraph (e)(1) of this section is determined under the facts and circumstances of the plan for each plan year as of the relevant base unit estimation date. Expectations will be considered unreasonable if, for example, they do not reflect a consistent and substantial decline or growth in actual base units that has occurred over the course of recent years and that is likely to continue beyond the base unit estimation date. This determination of reasonableness is independent of determinations made under section 412(c)(3) of the reasonableness of actuarial assumptions.

(f) *Base unit estimation date*—(1) *In general.* The base unit estimation date for the current plan year is determined under this paragraph (f). This date shall be an actuarial valuation date no earlier than the last actuarial valuation date occurring at least one year before the earliest date any current collectively bargained agreement in existence during the plan year came into effect.

(2) *Four-month rule.* For purposes of this paragraph (f), a current collectively bargained agreement is one in effect during at least four months of the current plan year.

(3) *Effective date of agreement.* For purposes of this paragraph (f), a collectively bargained agreement shall be deemed to have come into effect on the effective date of the agreement containing the currently effective provision for contributions to the plan or the benefits provided under the plan.

(4) *Long-term contract rule.* The effective date of a collectively bargained agreement shall be deemed not to occur prior to the first day of the third plan year preceding the current year.

(5) *Special rule for plans computing separate net shortfall charge.* A plan that computes a separate net shortfall charge for each contract, contribution rate, employer, or benefit level under paragraph (b)(3) of this section shall determine the base unit estimation date for each separate charge without regard to any collectively bargained agreement that does not relate to that contract, contribution rate, employer, or benefit level. If a collective bargaining agreement requiring contributions by a certain employer, or prescribing a certain benefit level, is in effect on December 31, 1980, the preceding sentence shall not apply to the computation of a separate net shortfall charge for that employer or benefit level until the earlier of—

(i) The first plan year beginning after the date on which expires the collective bargaining agreement requiring contributions by that employer (or the last collective bargaining agreement relating to that benefit level), or

(ii) The first plan year beginning after December 31, 1983.

(6) *Example.* The rules contained in paragraph (f) of this section are illustrated by the following table. In the table, "V" signifies actuarial valuation date (January 1 in each case shown); "B" signifies beginning of a contract; and "E" signifies end of a contract. The table shows the resulting earliest base unit estimation date with respect to the following assumed items:

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COMPUTATION OF EARLIEST BASE UNIT ESTIMATION DATE

Example

Plan year (calendar year basis)

	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Plan A	V			V		V		V		V		
Contract 1	----	----	E/B	----	----	E/B	----	E/B	----	----	E/B	----
Base unit estimation date 1/				1973	1973	1973	1976	1976	1976	1976	1979	1979
Plan B	V			V		V		V		V	V	V
Contract 2	No Contract			B*	----	E/B	----	E/B*	----	E/B*	----	E/B
Contract 3	E/B	----	----	E/B*	----	E/B*	----	E/B	----	E/B	----	----
Base unit estimation date 1/				1973	1973	1973	1976	1976	1976	1976	1979	1979
Plan C	V	V	V	V	V	V	V	V	V	V	V	V
Contract 4	----	----	E/B	----	----	E/B*	----	E/B*	----	E/B	----	E/B
Contract 5	----	----	E/B	----	----	E/B*	----	E/B	----	E/B*	----	E/B
Base unit estimation date 1/				1974	1974	1977	1977	1977	1977	1978	1979	1981

1/ The base unit estimation date may be on or any time after the actuarial valuation date in the year indicated on this line.

* Denotes that a prior contract ends and a new contract begins prior to the fifth month of a plan year.

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(g) *Amortization of shortfall gain or loss*—(1) *Definition.* The shortfall gain for a plan is the excess for the plan year of—

(i) The net shortfall charge computed under paragraph (b) of this section over

(ii) The annual computation charge described in paragraph (d) of this section.

The shortfall loss for a plan is the excess for the plan year of the annual computation charge over the net shortfall charge.

(2) *Shortfall amortization period*—(i) *First year.* The plan year in which the amortization of a shortfall gain or loss must begin is the earlier of two years: the fifth plan year following the plan year in which the shortfall gain or loss arose, or the first plan year beginning after the latest scheduled expiration date of a collectively bargained agreement in effect with respect to the plan during the plan year in which the shortfall gain or loss arose. For purposes of this subparagraph, a contract expiring on the last day of a plan year shall be deemed to be renewed on such last day for the same period of years as the contract that succeeds the expiring contract.

(ii) *Last year.* The plan year in which the amortization of a shortfall gain or loss must end is the 15th plan year following the plan year in which the shortfall gain or loss arose. For a multiemployer plan described in section 414(f), the amortization must end with the 20th plan year instead of the 15th.

(3) *Annual amortization amount.* The shortfall gain or loss must be amortized in equal annual installments. The total amount to be amortized must be adjusted for interest at the rate used for determining the plan's normal cost.

(4) *Shortfall gain or loss under spread gain type of funding method*—(i) *In general.* A spread gain type of funding method spreads experience gains and losses over future periods as part of a plan's normal cost. (Examples of spread gain types of funding methods are the aggregate cost method, the frozen initial liability method, and the attained age normal method.) However, a shortfall gain or loss is not an experience gain or loss. Therefore, a plan using a spread gain type of funding method together with the shortfall method must amortize shortfall gains and losses and otherwise meet the requirements of paragraph (g) of this section.

(ii) *Asset adjustment for aggregate method.* A plan using the shortfall method with the aggregate cost method of funding must adjust its plan assets for a shortfall gain or loss in calculating normal cost. The unamortized portion of any shortfall gain is subtracted from plan assets. The unamortized portion of any shortfall loss is added to plan assets.

(5) *Reconciliation of shortfall gain or loss with funding standard account.* At the beginning of each year, the actual unfunded liability under the method used by the plan must equal the outstanding balance of all amortization bases, including bases for shortfall gains and losses, less the credit balance under the funding standard account at the end of the prior year.

(6) *Example.* This paragraph is illustrated by the following examples:

Example (1). A multiemployer plan described in section 414 (f) is maintained with the calendar year as the plan year and uses the shortfall method. The plan uses the frozen initial liability funding method. A five percent interest assumption is used by the plan, with payments computed as of the first day of each plan year for all items. The expiration dates of contracts in effect during plan years 1976, 1977, and 1978 are such that the amortization of gains or losses for each year must begin in the fifth following plan year. The assumed plan costs and estimated base units for selected years, and the computations under this section which follow from such assumptions are shown in the following table. In the table, "*" denotes an assumed item. The remaining figures have been calculated on the basis of these assumptions.

(a) Computation of net shortfall charge and shortfall gain or loss

Plan year	1976	1977	1978
1. Normal cost*	$100,000	$100,000	$100,000
2. Amortization of unfunded liability*	50,000	50,000	50,000
3. Total annual computation charges	$150,000	$150,000	$150,000
4. Estimated base units*	100,000	100,000	100,000
5. Estimated unit charge (line 3÷line 4)	$1.50	$1.50	$1.50
6. Actual units during year*	80,000	90,000	110,000
7. Net shortfall charge for year (line 5×line 6)	$120,000	$135,000	$165,000
8. Shortfall (gain) or loss (line 3−line 7)	$30,000	$15,000	($15,000)

(b) Annual amortization amount

	1976	1977	1978
9. Year of shortfall gain or loss	1976	1977	1978
10. First year of amortization	1981	1982	1983
11. Last year of amortization	1996	1997	1998
12. (Gain) or loss adjusted for interest to year amortization begins (1-1-76 to 1-1-81, etc.)	$38,286	$19,144	($19,144)
13. Annual amortization (16 years)	$3,364	$1,682	($1,682)

(c) Computation of net shortfall charges for selected years (including shortfall amortization)

Plan year	1981	1982	1983
14. Normal cost*	$120,000	$125,000	$130,000
15. Amortization of unfunded liability*	50,000	50,000	50,000
16. Shortfall amortization (see line 13) from:			
1976	3,364	3,364	3,364
1977		1,682	1,682
1978			(1,682)
17. Total annual computation charges	$173,364	$180,046	$183,364
18. Estimated base units*	110,000	110,000	110,000
19. Estimated unit charge (line 17÷line 18)	$1.576	$1.637	$1.667
20. Actual units during year*	105,000	110,000	105,000
21. Net shortfall charge for year (line 19×line 20)	$165,480	$180,070	$175,035
22. Shortfall (gain) loss (line 17−line 21)	$7,884	($24)	$8,329

The amounts in line 22 will be amortized beginning 1986, 1987, and 1988, respectively. The $24 gain in 1982 results from rounding the estimated unit charge.

Example (2). Assume the facts in Example (1). Also assume that the plan uses the frozen initial liability funding method, that the unfunded liability as of January 1, 1976 (corresponding to a 40-year charge of $50,000 due at the beginning of the year) is $900,850, and that actual contributions at the rate of $1.75 per unit are paid at mid-year in 1976.

(a) Computation of the Unfunded Liability as of December 31, 1976

1. Unfunded liability as of 1/1/76	$900,850
2. Normal cost (that used in the calculation of the total annual computation charges)	100,000
3. Interest at 5% due on items 1 and 2	50,043
4. Contribution with interest: $1.75×80,000×1.025 (actual contribution rate times acutal base units times interest adjustment from mid-year)	143,500
5. Unfunded liability as of 12/31/76: item 1+item 2+item 3 −item 4	907,393

(b) Computation of the Outstanding Balance of the Bases as of December 31, 1976

1. Original base: ($900,850−$50,000)×1.05	$893,393
2. Shortfall loss $30,000×1.05	31,500
3. Total	924,893

(c) Computation of the Credit Balance as of December 31, 1976

1. Net shortfall charge (§ 1.412 (c) (1)-2 (b)) adjusted for interest: $120,000×1.05	$126,000
2. Actual contributions with interest	143,500
3. Credit balance as of 12/31/76: item 2 −item 1	17,500

(d) *Reconciliation of computations.* As of January 1, 1977, the unfunded liability ($907,393) equals the outstanding balance of the bases minus the credit balance ($924,893−$17,500=$907,393).

(h) *Amortization of experience gain or loss*—(1) *General rule.* In the case of a plan using an immediate gain type of funding method, an experience gain or loss shall be amortized pursuant to

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section 412 (b)(2)(B)(iv) or (b)(3)(B)(ii). (Examples of the immediate gain type of funding method are the unit credit method, the entry age normal cost method, and the individual level premium cost method.) For purposes of this section, a shortfall gain or loss is not an experience gain or loss. The amount of the experience gain or loss must be adjusted for interest at the rate used for determining the plan's normal cost.

(2) *Experience amortization period under shortfall method*—(i) *First year.* The plan year in which the amortization of an experience gain or loss must begin in the case of a plan using the shortfall method is the earlier of two years: the fifth plan year following the plan year in which the experience gain or loss arose, or the first plan year beginning after the last scheduled expiration date of a contract in effect during the plan year in which the experience gain or loss arose. For purposes of this subparagraph a contract expiring on the last day of the plan year shall be deemed to be renewed on such last day for the same period of years as the contract that succeeds the expiring contract.

(ii) *Last year.* The plan year in which the amortization of an experience gain or loss must end in the case of a plan using the shortfall method is the 15th plan year following the plan year in which the experience gain or loss arose. For a multi-employer plan described in section 414 (f), the amortization must end with the 20th plan year instead of the 15th.

(3) *Use of annual computation charge in determining experience gain or loss.* In the case of a plan using an immediate gain type of funding method, an experience gain or loss is the difference between the expected unfunded liability and the actual unfunded liability under the plan. The expected unfunded liability as of the end of a plan year equals the actual unfunded liability as of the beginning of the year plus normal cost, minus contributions, all adjusted for interest. If the plan adopts the shortfall method, the expected unfunded liability is computed by using the normal cost applicable for the plan year in determining the annual computation charge under paragraph (d) of this section. The same normal cost is used in computing the unfunded liability under the frozen initial liability funding method.

(4) *Example.* This paragraph is illustrated by the following example:

Example. Assume the facts in Example (2) from paragraph (g) (6) of this section, except that the entry age normal funding method is used. Also assume that as of December 31, 1976, the actual unfunded liability is $900,000.

(a) Computation of Expected Unfunded Liability

1. Actual unfunded liability as of 1–1–76	$900,850
2. Normal cost portion of annual computation charge as of 1–1–76	100,000
3. Interest at 5% due on items 1 and 2	50,043
4. Contribution received with interest: $1.75 × 80,000 × 1.025 (actual contribution rate times actual base units times interest adjustment at mid-year)	143,500
5. Expected unfunded liability as of 12–31–76 (item 1 + item 2 + item 3 − item 4)	907,393

(b) Computation of Gain or Loss

1. Expected unfunded liability as of 12–31–76	$907,393
2. Actual unfunded liability as of 12–31–76	900,000
3. Gain (or loss) (item 1 − item 2)	7,393

(i) *Election procedure—(1) In general.* To elect the shortfall method, a collectively bargained plan must attach a statement to the annual report required under section 6058 (a) for the first plan year to which it is applied. The statement shall state that the shortfall method is adopted, beginning with the plan year covered by such report. Advance approval from the Internal Revenue Service is not required if the shortfall method is first adopted on or before the later of—

(i) The first plan year to which section 412 applies or

(ii) The last plan year commencing before December 31, 1981.

However, approval must be received pursuant to section 412(c)(5) prior to the adoption of the shortfall method at a later time, or the discontinuance of such method, once adopted.

(2) *Use of specific computation method.* A specific method of computation under the shortfall method is described in paragraph (b)(3) of this section, regarding the treatment of more than one contract, employer, or benefit level under the plan. This specific method may be adopted with respect to any plan year to which the shortfall method applies. Approval from the Commissioner must be received under section 412(c)(5) prior to the adoption of this specific computation method for a plan year subsequent to the first plan year to which the shortfall method applies, or prior to the discontinuance of a specific computation method, once adopted.

(3) *Reporting requirements.* Each annual report required by section 6058(a) and periodic report of the actuary required by section 6059 must include all additional information relevant to the use of the shortfall method as may be required by the applicable forms and the instructions for such forms.

(j) *Transitional rule.* In lieu of paragraphs (g)(2) and (h)(2) of this section relating to the amortization period for shortfall and experience gains and losses, for gains and losses arising in plan years beginning before January 1, 1981, a plan may rely on the prior published position of the Internal Revenue Service with respect to the amortization period for shortfall and experience gains and losses.

(k) *Supersession.* This section and § 1.412 (c) (1)–1 supersede §§ 11.412 (c) (1)–1 and (c) (1)–2 of the Temporary Income Tax Regulations Under the Employee Retirement Income Security Act of 1974.

(Secs. 412, 7805, Internal Revenue Code of 1954 (68 Stat. 914 and 68A Stat. 917; (26 U.S.C. 412 and 7805)), and sec. 3 (31) of the Employee Retirement Income Security Act of 1974 (88 Stat. 837; (29 U.S.C. 1002)).)

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: October 17, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-35065 Filed 11-13-80; 8:45 am]

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26 CFR Part 150

[T.D. 7738]

Crude Oil Windfall Profit Tax Act of 1980; Temporary Excise Tax; Clarification of Rules Relating to Base Prices of Tier 2 and Tier 3 Oil

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations previously published relating to base prices of tier 2 and tier 3 oil for purposes of the windfall profit tax on oil imposed by title I of the Crude Oil Windfall Profit Tax Act of 1980. The amendments in this document clarify that a base price determination is made on a property-by-property basis and provide rules for making that determination.

In addition, the text of the temporary regulations set forth in this document serves as the text of proposed regulations cross-referenced on the Proposed Rules section of this issue of the **Federal Register**.

DATES: The temporary regulations are effective with respect to tax liability for windfall profit tax upon crude oil removed from the premises after September 30, 1980. However, persons required to withhold or deposit the windfall profit tax may, at their option, withhold or deposit under either the interim base price rules through December 14, 1980, or the rules contained in Treasury Decision 7721.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC: LR: T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 4989 (d) (1) of the Internal Revenue Code of 1954, relating to permanent base prices for tier 2 and tier 3 oil. On September 30, 1980, temporary and proposed regulations under section 4989 (d) were published in the **Federal Register** (45 FR 64574, 64603). The rules in this document clarify and modify the rules set forth in those temporary regulations.

Need For Clarification

The temporary regulations published September 30, 1980, stated, in § 150.4989–1 (c)(2), that "[t]he base price for tier 2 or tier 3 oil produced from a reservoir that produced oil sold by or for the taxpayer in uncontrolled base period sales * * *" is determined by reference to "the weighted average removal price per barrel of oil from the reservoir sold by or for the taxpayer in uncontrolled sales during the base period * * *" However, comments have pointed out that this provision did not state whether or not the base price was to be determined on a property-by-property basis. Concern was also expressed that administrative problems will occur for withholding agents if more than one base price applies to oil of the same tier from the same property.

Explanation of Provisions

The regulations have been modified to clarify that a base price is determined on a property-by-property basis by reference to the removal prices of tier 2 and tier 3 oil from a property sold in uncontrolled base period sales. The rule for determining a base price for a property that did not have uncontrolled base period sales has been modified to reflect the property concept, to clarify the representative price to be used, and to eliminate the use of the minimum base price where the representative price is higher. The base price of oil from a property does not change due to changes in the identity of a producer, operator, or first purchaser.

The regulations require certain persons who may have information about removal prices from a property to provide it upon request by the operator. In addition, rules are provided for cases where information on these prices is insufficient.

The regulations also provide that where multiple reservoirs are subject to a single right to produce, a reservoir that did not produce oil pursuant to that right before November 14, 1980 must be treated as a separate property for purposes of determining base prices.

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the necessity of allowing sufficient time for those who must compute or withhold the windfall profit tax to ascertain the applicable base price. For this reason, Philip E. Coates, Acting Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations was Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, Part 150, Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980, is amended by revising paragraph (c)(1), (2), (3), and (7) of § 150.4989–1 to read as follows:

§ 150.4989–1 Adjusted base price.

* * * * *

(c) *Base prices for tier 2 and tier 3 oil*—(1) *In general.* The base price rules contained in this paragraph are designed to approximate the price at which oil would have sold in December 1979, taking into account the quality, grade, and field of the oil, if it is assumed that all domestic crude oil was uncontrolled and the average removal price of all domestic crude oil (other than Sadlerochit oil) was $15.20 a barrel for tier 2 oil and $16.55 a barrel for tier 3 oil. Except as otherwise provided in the minimum base price and interim rules set forth in paragraph (c) (6) and (8) of this section, the base price of oil is determined by multiplying the uncontrolled base period price per barrel (as defined in paragraph (c) (2) and (3) of this section) by the tier 2 multiplier in the case of tier 2 oil or by the tier 3 multiplier in the case of tier 3 oil. See paragraph (c) (5) for definitions of those multipliers. The base prices shall attach to all tier 2 or tier 3 oil produced from a property and do not change due to changes in the identity of a producer, operator, or purchaser. In the case of a change in the identity of an operator of a property after February 29, 1980, if the former operator made a determination of the same base price of oil from the property that the new operator must determine, the former operator shall provide the new operator with all books, records, and other documents upon which the former operator based that determination. For purposes of this paragraph, references to operators include any persons making determinations of base price in place of the operator.

The term "property" has the meaning set forth in § 150.4996–1 (i); however, solely for purposes of this paragraph, in the case of multiple reservoirs subject to a single right to produce, a reservoir from which no oil was removed pursuant to that right before November 14, 1980, shall be treated as a separate property. This applies even if oil from the reservoir is produced or sold commingled with other oil. See paragraph (c) (7) for effective date provisions.

(2) *Uncontrolled base period price of oil from a property with uncontrolled base period sales.* The uncontrolled base period price per barrel of oil from a property that produced oil sold in uncontrolled sales during the base period is the weighted average removal price per barrel of oil from the property sold in such sales. For this purpose, price adjustments shall not be taken into account in the absence of clear and convincing evidence that the adjustments were fixed before March 1, 1980. The weighted average is obtained by multiplying the number of barrels sold at each price by the price at which the barrels were sold, adding the products, and dividing by the total number of barrels sold in such sales. In the absence of information from which the removal prices of oil sold in uncontrolled base period sales can be ascertained with reasonable certainty, the uncontrolled base period price shall be determined under the rules set forth in paragraph (c)(3) of this section. For purposes of operator certifications of the adjusted base price of oil pursuant to paragraph (b)(3) of § 150.6050C–1 the removal prices shall be treated as

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ascertained with reasonable certainty if—

(i) The operator has books and records maintained by the operator (or by a former operator) which the current operator reasonably believes to be correct and which contain sufficient information to enable the operator to accurately compute such price for the property; or

(ii) The operator receives a written statement or statements under the penalties of perjury (from a person or persons who were purchasers or producers of oil removed from the property during December 1979 or the operator or holder of a division order with respect to the property during such month) from which the uncontrolled base period price for the property can be accurately computed. Every person who was a purchaser, producer, operator, or division order holder with respect to oil removed from the property in December 1979 shall submit to the current operator, within 2 weeks of receipt of a request therefore in writing by the operator, such a statement setting forth all facts known to such person that bear on the uncontrolled base period price. In the absence of books and records that meet the requirements of paragraph (c)(2)(i) the operator shall promptly request such statements from appropriate persons in order to have statements in hand from which to compute the property's uncontrolled base period price.

(3) *Uncontrolled base period price of oil from a property with no uncontrolled base period sales.* The uncontrolled base period price for oil removed from a property that did not produce oil sold in uncontrolled sales during the base period is the price that would have been obtained for the oil if it had been sold in uncontrolled sales during the base period. In making this determination of uncontrolled base period price:

(i) If oil of similar grade and quality was produced from the same reservoir and sold in uncontrolled sales during the base period, then the uncontrolled base period price is the representative price of such oil for such sales.

(ii) If paragraph (c)(3)(i) does not apply, then the uncontrolled base period price is the representative price of oil of similar grade and quality, from the nearest reservoir from which such oil was produced and sold in uncontrolled sales during the base period, for such sales.

Price adjustments shall not be taken into account in the absence of clear and convincing evidence that the adjustments were fixed before March 1, 1980.

* * * * * *

(7) *Effective dates.* The rules of paragraph (c) (1) through (6) of this section are effective with respect to tax liability for crude oil removed from the premises after September 30, 1980. However, persons required by § 150.4995–1 to withhold windfall profit tax or by § 150.4995–3 to deposit payments of that tax may, at their option, use through December 14, 1980, either (i) the interim rule set forth in paragraph (c)(8) of this section for purposes of determining the amount to be withheld or deposited, or (ii) the rules of paragraph (c) (1) through (6) as in effect under Treasury Decision 7721. After December 14, 1980, withholding and depositing under the new rules are mandatory and adjustments to withholding for prior inaccuracies in withholding, taking account of the new rules in the case of oil removed after September 30, 1980, shall be made pursuant to paragraph (c) of § 150.4995–1.

* * * * * *

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 4989 (d)(1), 4997, 7805, Internal Revenue Code of 1954 (94 Stat. 233, 249, 68A Stat. 917; (26 U.S.C. 4989 (d)(1), 4997, 7805))

P. E. Coates,

Acting Commissioner of Internal Revenue.

Approved: November 7, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-35739 Filed 11-12-80; 12:13 pm]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2601

Bylaws of the Pension Benefit Guaranty Corporation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to change the bylaws of the Pension Benefit Guaranty Corporation to delegate authority to the Executive Director to approve amendments to the PBGC's Valuation of Benefits regulation establishing new interest rates and factors.

EFFECTIVE DATE: This amendment to the bylaws was effective on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW, Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION: On February 6, 1975, the Pension Benefit Guaranty Corporation ("PBGC") published its bylaws in the **Federal Register** (29 CFR, Part 2601), as required by section 4002(f) of the Employee Retirement Income Security Act of 1974. Section 2601.3(b) of the bylaws reserves certain powers to the PBGC's Board of Directors and prohibits the delegation of those powers. One of these powers is the authority to approve proposed and final substantive regulations of the PBGC prior to their publication in the **Federal Register.**

On June 9, 1980, the PBGC published a notice in the **Federal Register** (45 FR 39415) relating to its proposal to change the method by which it sets the interest rate and factors used to value pension plan benefits under its Valuation of Plan Benefits regulation 29 CFR, Part 2610. Under the proposed method, the PBGC would establish and publish the interest rates and factors prior to the period of time for which they would be effective. Under the current method, the rates are established retroactively.

As explained in greater detail in that notice, in order for the PBGC to be able to set the interest rate and factors on a prospective basis, it must be able to establish and issue the rates in a short period of time. In order to facilitate this, the PBGC's Board of Directors has decided to delegate to the PBGC's Executive Director the authority to issue the interest rate and factors.

In order to accomplish this delegation, it is necessary to amend § 2601.3(b)(1) of the bylaws. Accordingly, by resolution of its members, the Board of Directors has amended the bylaws of the PBGC as set forth below.

Because the bylaws involve agency organization and procedure, notice and opportunity for public comment on this amendment is not required.

In consideration of the foregoing, Part 2601 of Chapter XXVI of Title 29, Code of Federal Regulations, is amended by revising paragraph (b)(1) of § 2601.3 as follows:

§ 2601.3 Board of Directors

* * * * *

(b) * * *

(1) Approval of all proposed and final substantive regulations prior to publication in the **Federal Register,** except for amendments to the regulation on Valuation of Plan Benefits establishing new interest rates and factors, which may be approved by the Executive Director.

* * * * *

(Sec. 4002 (f), Pub. L. 93–406, 88 Stat. 1004, (29 U.S.C. § 1302(f)))

Effective date: This amendment is effective on September 15, 1980.

Issued at Washington, D.C., on this 10th day of November, 1980.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this amendment to the bylaws.

Mitchell Strickler,

Acting Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-35710 Filed 11-13-80; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim Regulation, amendment.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits adopts the proposed method of determining interest rates and factors on a prospective basis. It also contains the first interest rates and factors determined under this method. The interest rates and factors are to be used to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after December 1, 1980, and enables the PBGC to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes a notice revising them.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before September 1, 1980. (29 CFR Part 2610 (1979), 44 FR 42180, 44 FR 58908, 45 FR 2026, 45 FR 21228, 45 FR 43164, 45 FR 64907). These rates were all issued on a retrospective basis, that is, after the time period for which they were effective.

On June 9, 1980, the PBGC published a notice of a proposed change in the method of setting the interest rates and factors (45 FR 38415). Under the proposed new method, PBGC would issue new interest rates and factors before the period of time for which they would be effective. All the comments received regarding the proposed change were favorable. However, a couple of comments indicated that the 15-day period between the time the rates are issued and the date the rates become effective should be longer. These comments suggested that PBGC provide 30- or 60-day advance notice of rate changes, because, in general, "a 15 day lead time is not sufficient for plan sponsors (and administrators) to take full advantage of the benefits inherent in prospective establishment of rates."

The PBGC has carefully considered these comments and has decided that the benefits derived from the greater accuracy in its interest rates that is achieved by setting the rates only 15 days before their effective date outweighs any benefits that might accrue from giving plan administrators and employers greater advance notice. In this context, PBGC points out that under this system, where it will normally[1] publish a change in the interest rates by the 15th of the month to be effective on the first day of the following month, plan administrators will have more than 15 days to work with the rates before submitting a Notice of Intent to Terminate for a plan within that rate period. The interest rates and factors will normally remain in effect for at least one month. A Notice of Intent to Terminate must be received by PBGC no less than 10 days before the proposed termination date. Thus, a plan administrator could submit the Notice on the 20th of the month for which the rates are effective, proposing a termination date of the 30th, thereby having approximately 35 days to work with the new rates before taking any action. In addition, the plan administrator will know no later than the 15th of that month whether those rates are going to change or remain in effect for the following month.

Moreover, under the new system, PBGC will normally change its interest rates only in ¼% increments. This will enable plan administrators and employers to make fairly accurate valuation calculations more than two months prior to a proposed termination date.

One comment focused on the need for knowing the PBGC's interest rates well in advance of their effective date so that a plan administrator of a sufficient plan would be able to give participants an accurate statement of the amount of a lump sum benefit that they would receive if they so elected. PBGC believes that the preceding discussion is equally applicable to the concerns expressed in this comment. In addition, PBGC notes that plan administrators of sufficient plans are not required to use PBGC's rates to compute the value of lump sum benefits; nor is the plan administrator required to notify participants of the

[1] Under exceptional circumstances where the financial markets are changing so rapidly that it would be inappropriate to leave the interest rates in effect for an entire month, PBGC would change the rates more frequently; in this event, the new rates would be published on a date other than the 15th of the month. However, PBGC does not anticipate this occurring.

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exact amount of a lump sum distribution prior to the distribution being made. PBGC requires only that participants be given a reasonable estimate of the amount of a lump sum benefit, and plan administrators should be able to do this under the prospective rate system as proposed by the PBGC.

The PBGC is therefore adopting, as proposed, the new method of setting its interest rates and factors. The adoption of this proposal requires no amendment to the Valuation of Plan Benefits regulation. Rather, the adoption of the proposal only affects the timing of when new interest rates will be issued and the method under which they will be determined.

As under the old method, the interest rates and factors will be set forth in Appendix B to the regulation. Appendix B is amended by this document to add the first set of interest rates and factors promulgated under the new method. These new rates apply to plans that terminate on or after December 1, 1980. These rates and factors will remain in effect until such time as PBGC publishes another notice which changes the rates.

As a rule, the rates will be in effect for at least one month. If these new rates are to be changed for the month of January, 1981, PBGC will publish a notice to that effect no later than the 15th of December. If no change is to be made, no notice will be published, and the December, 1980 rates will remain in effect at least through the month of January, 1981.

The previous set of interest rates and factors, issued under the old, retrospective method, covered the period from June 1, 1980 through August 31, 1980 (45 FR 64907). This amendment applies to plans that terminate on or after December 1, 1980. Thus, no interest rates and factors have been published for plans that terminate on or after September 1, 1980 but before December 1, 1980. These rates will be issued shortly.

Because of the need to determine and issue new interest rates and factors within a very tight time frame, so that the rates can be as accurate as possible and issued on a prospective basis, the PBGC finds that notice of and public comment on this amendment are impracticable and contrary to the public interest. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after December 1, 1980, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the interim regulation effective less than 30 days after publication.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by adding a new Table XXI to Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Benefits

* * * * *

XXI. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after December 1, 1980.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 9¼ percent shall be used to value immediate annuities, to compute the quantity "G_i" in § 2610.6 and to value both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.085$
(2) $k_2 = 1.0725$
(3) $k_3 = 1.04$
(4) $n_1 = 7$
(5) $n_2 = 8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 10th day of November 1980.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 80-35711 Filed 11-13-80; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim regulation, Amendment.

SUMMARY: This amendment establishes new mortality rates for use by plan administrators of terminating pension plans to value benefits for disabled plan participants who are receiving Social Security disability benefit payments. Title IV of the Employee Retirement Income Security Act of 1974 requires the Pension Benefit Guaranty Corporation to determine whether the assets of a terminating pension plan covered by Title IV of the Act will be sufficient to discharge all obligations of the plan with respect to guaranteed benefits. The PBGC has published an interim regulation which establishes the procedure for valuing plan benefits. This regulation contains mortality rates from which mortality tables are constructed. These mortality tables are then used with current interest assumptions to value plan benefits. This amendment changes the PBGC mortality rates for disabled participants who are receiving Social Security disability benefits in pension plans that terminate on or after December 1, 1980.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; 202-254-3010.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484). Appendix A of the regulation contains mortality rates to be used to construct mortality tables for various classes of participants.

On April 20, 1979, the PBGC published for comment in the **Federal Register** revised mortality rates for valuing plan benefits of disabled plan participants who are receiving Social Security disability benefit payments. (44 FR 23542 *et seq.*). No written comments were received regarding this proposed amendment.

The proposed rates were based on then-current Social Security Administration ("SSA") disability termination rates. In the preamble to the proposed amendment, the PBGC indicated that it would adopt future SSA rate revisions as they become available. However, the PBGC has now decided to adopt SSA rate changes only when the new rates are significantly different from the existing rates. This decision is based on a comparison of the relative gains in the accuracy of benefit valuations that would be derived from more frequent changes in PBGC rates with the administrative costs to pension plans and PBGC that would be occasioned by more frequent changes.

Normally, in any given pension plan, only a few plan participants are receiving plan disability payments based on their receipt of Social Security disability payments. Therefore, even substantial changes in the mortality rates for these participants have a very small impact on the total value of the plan benefits. Each change in the rates, however, necessitates the production of additional tables of actuarial factors in order to value plan benefits. If the PBGC changed its disability mortality rates with every SSA rate change, the impact on the total values of plan benefits would be slight, while the administrative burden would be relatively large. Accordingly, the PBGC has determined that only those changes in SSA rates which produce significant changes in benefit costs will warrant revising the PBGC rates.

SSA has produced additional rates since PBGC published the proposed amendment. However, because the new SSA rates are not significantly different from the proposed rates, PBGC is not adopting the new SSA rates. The PBGC is, therefore, adopting the rates stated in the proposed amendment, with two changes to correct typographical errors: in Table Va for Disabled Male Participants, the number at age 34 is changed from .0228 to .0288; and in Table VIa for Disabled Female Participants, the number at age 51 is changed from .0259 to .0264.

The PBGC has determined that this amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (1978), and the PBGC's Statement of Policy implementing the Order, 43 FR 58237 (1978). The reasons for this determination are that this amendment is not likely to create substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Because changes in mortality rates, like changes in interest rates, require the construction of new tables of actuarial factors, it would create extra administrative burdens for pension plans if these new mortality rates were to become effective on a different date than the date on which new interest rates become effective. In addition, this amendment does not require ongoing plans to make any adjustment, but only affects the valuation of benefits under plans that terminate after the effective date of this amendment. For these reasons, the PBGC finds that good cause exists to waive the thirty day delay in effective date and to make this amendment effective on December 1, 1980, the same date that new interest rates for valuing plan benefits become effective. Accordingly, plans terminating on or after December 1, 1980, will use the new rates in Tables Va and VIa, and plans terminating before December 1, 1980 will use Tables V and VI.

In consideration of the foregoing, Appendix A of Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

Appendix A of Part 2610 is amended by revising the headings of Tables V and VI and by adding two new tables, Va and VIa, at the end of the Appendix, as follows:

Appendix A—Mortality Rates

* * * * *

Table V—*Mortality Rates for Disabled Male Participants Receiving Social Security Disability Benefit Payments* (For Plans That Terminate Before December 1, 1980)

* * * * *

Table VI—*Mortality Rates for Disabled Female Participants Receiving Social Security Disability Benefit Payments* (For Plans That Terminate Before December 1, 1980)

* * * * *

Table Va.—*Mortality Rates for Disabled Male Participants Receiving Social Security Disability Benefit Payments*

[For plans that terminate on or after Dec. 1, 1980]

Age	q_x	Age	q_x
11	0.0000	60	0.0603
12	.0000	61	.0624
13	.0000	62	.0643
14	.0000	63	.0657
15	.0000	64	.0668
16	.0000	65	.0678
17	.0000	66	.0687
18	.0000	67	.0697
19	.0000	68	.0709
20	.0483	69	.0723
21	.0483	70	.0739
22	.0483	71	.0757
23	.0483	72	.0776
24	.0483	73	.0796
25	.0483	74	.0818
26	.0461	75	.0842
27	.0436	76	.0869
28	.0411	77	.0908
29	.0386	78	.0962
30	.0362	79	.1043
31	.0339	80	.1128
32	.0320	81	.1221
33	.0302	82	.1322
34	.0288	83	.1432
35	.0276	84	.1551
36	.0272	85	.1682
37	.0271	86	.1825
38	.0273	87	.1980
39	.0276	88	.2150
40	.0282	89	.2330
41	.0288	90	.2525
42	.0297	91	.2739
43	.0305	92	.2972
44	.0314	93	.3226
45	.0322	94	.3495
46	.0330	95	.3789
47	.0340	96	.4109
48	.0353	97	.4458
49	.0367	98	.4838
50	.0383	99	.5243
51	.0401	100	.5684
52	.0420	101	.6164
53	.0439	102	.6687
54	.0460	103	.7257
55	.0482	104	.7865
56	.0506	105	.8527
57	.0531	106	.9247
58	.0555	107	1.0000
59	.0581		

Table VIa.—*Mortality Rates for Disabled Female Participants Receiving Social Security Disability Benefit Payments*

[For plans that terminate on or after Dec. 1, 1980]

Age	q_x	Age	q_x
11	.00000	61	.0339
12	.0000	62	.0347
13	.0000	63	.0355
14	.0000	64	.0362
15	.0000	65	.0370
16	.0000	66	.0378
17	.0000	67	.0386
18	.0000	68	.0394
19	.0000	69	.0402
20	.0263	70	.0411
21	.0263	71	.0421
22	.0263	72	.0433
23	.0263	73	.0447
24	.0263	74	.0465
25	.0263	75	.0492
26	.0257	76	.0529
27	.0253	77	.0578
28	.0247	78	.0631
29	.0242	79	.0686
30	.0237	80	.0746
31	.0232	81	.0813
32	.0227	82	.0885
33	.0222	83	.0962
34	.0218	84	.1043
35	.0214	85	.1126
36	.0212	86	.1221
37	.0210	87	.1322
38	.0208	88	.1432
39	.0208	89	.1551
40	.0209	90	.1682
41	.0210	91	.1825
42	.0213	92	.1980
43	.0216	93	.2150
44	.0219	94	.2330
45	.0224	95	.2525
46	.0229	96	.2739
47	.0235	97	.2972
48	.0242	98	.3226
49	.0249	99	.3495
50	.0257	100	.3789
51	.0264	101	.4109
52	.0272	102	.4458
53	.0281	103	.4838
54	.0288	104	.5243
55	.0295	105	.5684
56	.0301	106	.6164
57	.0307	107	.6687
58	.0315	108	.7257
59	.0323	109	.7865
60	.0331	110	1.0000

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(Secs. 4002(b)(3), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1344, 1362(b)(1)(A)))

Issued at Washington, D.C., on this 10th day of November 1980.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

Mitchell Strickler,

Acting Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-35709 Filed 11-13-80; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4 FRL-1650-5]

Approval and Promulgation of Implementation Plans, Florida; Public Notification and Participation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of the implementation plan revision which Florida has submitted to meet the requirements of Section 127 of the Clean Air Act with regard to public notification and participation. Implementation of this revision will help citizens to be aware of opportunities to participate in decisionmaking related to air quality; citizens will also be kept informed of violations of the national ambient air quality standards and associated health hazards.

DATE: This action is effective December 15, 1980.

ADDRESSES: The Florida submittal may be examined during normal business hours at the following offices:

Public Information Reference Unit, Library Systems Branch, EPA, 401 M Street SW., Washington, DC 20460;
Library, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365;
Department of Environmental Regulation, Twin Towers Office Buildir g, 2600 Blair Stone Road, Tallahassee, Florida 32302.

In addition, the material may be examined at EPA Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Archie Lee, EPA Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 127 of the Clean Air Act, as amended in 1977, requires that states submit a plan which will notify the public on a regular basis when air quality violations occur, enhance public awareness of air pollution preventive measures and encourage and provide for the public to participate in regulatory and other efforts to improve air quality (40 CFR 51.286). The State of Florida has responded by preparing a revision to the implementation plan and has formally submitted the revision to EPA. Florida has included in the plan specific provisions relative to Public Notification and measures to enhance public awareness of measures which can be taken to prevent violations of NAAQS. Such provisions contain newsletters, news releases, articles, interviews, public service announcements, slide shows, films and film strips, and exhibits. The plan also provides for measures regarding regulatory efforts. This has been proposed to be accomplished through workshops, conferences, public hearings and responding to public inquiries and public hearings and public information programs.

This revision to the SIP addresses the daily and annual public notification of ambient primary pollutant standard violations by using the modified form of the Pollutant Standard Index (PSI). Those violations not covered by the PSI will be reported annually to the public in the "Annual SLAMS Air Quality Information Report" which is sent to EPA on a yearly basis.

EPA publications concerning the health hazards associated with specific primary pollutant violations will be made available to the public and advisement to the public will be made through the PSI with explanatory index ranges.

Action

Based on review, EPA proposed approval of the submittal on June 26, 1980 (45 FR 43228). No comments were received on Florida's submittal, therefore EPA is approving the submittal from Florida as satisfying Section 127 of the Clean Air Act.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: October 29, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

1. In § 52.520, paragraph (c) is amended by adding subparagraph (22) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(22) Pursuant to Section 127 of the Clean Air Act, the Florida Department of Environmental Regulation submitted on April 15, 1980 a revision to the SIP concerning provisions for public notification and awareness.

[FR Doc. 80-35620 Filed 11-13-80; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

Department Hearings and Appeals Procedures; Processing Appeals of Decisions Under OMB Circular A-76

AGENCY: U.S. Department of the Interior, Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule establishes an administrative procedure for processing appeals of decisions made by any agency of the Department of the Interior under the provisions of OMB Circular A-76 (Revised, March 29, 1979) and Supplement No. 1 thereto, "Cost Comparison Handbook." Appealable decisions are limited to those concerning method of performance of a commercial or industrial type requirement, i.e., contract or in-house performance.

DATE: This rule is effective November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Joel Greenstein, telephone (202) 343-5914.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

This is a rule of agency procedure and practice and, therefore, public participation in its development has been determined to be unnecessary and impracticable.

The primary author of this rule is Rob Stockwell, Division of Acquisition and Grants, Office of Acquisition and Property Management, U.S. Department of the Interior, telephone (202) 343-5914.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Title 43 of the Code of Federal Regulations is amended by adding a new Subpart to Subtitle A, Part 4, as set forth hereinafter.

Dated: September 9, 1980.

James A. Joseph,

Under Secretary.

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart M—Special Procedural Rules Applicable to Appeals of Decisions Made Under OMB Circular A-76

Sec.

4.1300 Purpose and nature of the appeal process.
4.1301 Basis for appeal.
4.1302 Who may appeal under this procedure.
4.1303 Appeal period.
4.1304 Method of filing an appeal.
4.1305 Action by the Office of Hearings and Appeals.
4.1306 Department representation.
4.1307 Processing the appeal.
4.1308 Oral presentations.
4.1309 Multiple appeals.
4.1310 Decision of the appeals official.

Subpart M—Special Procedural Rules Applicable to Appeals of Decisions Made Under OMB Circular A-76

§ 4.1300 Purpose and nature of the appeal process.

(a) This appeals procedure embodies an informal administrative review of agency decisions made under OMB Circular A-76, and is intended to assure that such decisions are fair, equitable, and in compliance with the provisions of the Circular. This procedure provides affected parties an opportunity to request that such decisions be objectively reviewed by a party independent of the A-76 decision process.

(b) This appeals procedure is administrative rather than judicial in nature, and does not provide for a judicial review or for further levels of appeal. The decisions of the Appeals Official are final.

(c) This procedure is intended to protect the rights of all affected parties and, therefore, neither the procedure nor agency determinations may be subject to negotiation, arbitration, or agreements with any one of the parties.

§ 4.1301 Basis for appeal.

(a) An appeal may be based only on a specific alleged material deviation (or deviations) by the agency from the provisions of OMB Circular A-76 or Supplement No. 1 thereto, the "Cost Comparison Handbook." Appeals may not be based on other factors, such as the economic impact of the agency's decision on a community, or other socioeconomic issues.

(b) This appeals procedure shall be used only to resolve questions of the determination between contract and in-house performance of a commercial or industrial type requirement, and shall not apply to questions concerning award to one contractor in preference to another.

§ 4.1302 Who may appeal under this procedure.

An appeal may be filed by any affected party, viz, employees of the Federal activity under review, authorized employee representative organizations, contractors, and potential contractors.

§ 4.1303 Appeal period.

An appeal may be submitted at any time within 45 calendar days after announcement of an agency decision regarding the method of performance of a commercial or industrial type requirement.

§ 4.1304 Method of filing an appeal.

An appeal must be in writing, and must be submitted to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, Room 1111, Ballston Towers Building No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

§ 4.1305 Action by the Office of Hearings and Appeals.

(a) Upon receipt of an appeal, the Director, Office of Hearings and Appeals shall designate an Appeals Official, who shall process the appeal.

(b) The Appeals Official shall promptly docket the appeal and send copies of the docketing notice to the appellant, the director or other appropriate official of the bureau or office involved, and the Solicitor of the Department.

§ 4.1306 Department representation.

(a) Upon receipt of the docketing notice, the Solicitor shall appoint counsel to represent the Department in the appeal action, and so notify the appellant and the Appeals Official.

(b) Within seven calendar days of his designation the Department Counsel shall assemble and transmit to the Appeals Official a file containing the appealed agency decision and all documents relevant thereto, including the detailed analysis upon which the agency decision was based. At the same time, the Department Counsel shall send to the appellant a copy of the transmittal document, containing a table of contents of the file.

§ 4.1307 Processing the appeal.

(a) The Appeals Official shall arrange such conferences with the concerned parties as are necessary, including (if requested by the appellant) an oral presentation.

(b) The Appeals Official may require either party to submit any additional documents, oral or written testimony, or other items of evidence which he considers necessary for a complete review of the agency decision.

(c) All documentary evidence submitted by one party to the appeal action shall be made available to the other party (or parties), except that availability of proprietary information may be restricted by the party holding the proprietary interest in such information.

§ 4.1308 Oral presentations.

(a) Upon request of the appellant, an opportunity for an oral presentation to the Appeals Official shall be granted. The purpose of an oral presentation shall be to permit the appellant to discuss or explain factual evidence supporting his allegations, and/or to obtain oral explanations of pertinent evidence. The time and place of each oral presentation shall be determined by the Appeals Official, after consultation with the appropriate parties.

(b) The appellant may, but is not required to, be represented by legal counsel at an oral presentation.

(c) The Department Counsel and the bureau/office involved shall be invited to attend any oral presentation. The Appeals Official may require the attendance and participation of an official or employee of the Department, whether or not requested by the appellant, if, in the Appeals Official's judgment, such official or employee may possess knowledge or information pertinent to the agency decision being appealed, and if this knowledge or information is unobtainable elsewhere.

(d) An oral presentation shall not constitute a judicial proceeding, and no such judicial proceeding or hearing shall be provided for in this appeals process. There shall be no requirement for legal briefs, sworn statements, interrogation under oath, official transcripts of testimony, etc., unless the Appeals Official determines such are necessary for effective disposition of the appeal.

§ 4.1309 Multiple appeals.

If two or more appellants submit appeals of the same agency decision, which are based on the same or similar allegations, the Appeals Official may, at his discretion, consider all such appeals concurrently and issue a single written

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decision resolving all of the several appeals.

§ 4.1310 Decision of the Appeals Official.

(a) Within 30 calendar days after receipt of an appeal by the Office of Hearings and Appeals, the Appeals Official shall issue a written decision, either affirming or denying the appeal. This decision shall be final, with no judicial review or further avenue of appeal.

(b) If the Appeals Official affirms the appeal, his decision regarding further action by the agency shall be binding upon the agency.

(c) If it proves impracticable to issue a decision within the prescribed 30 calendar days, the Appeals Official may extend this period, notifying all concerned parties of the anticipated decision date.

[FR Doc. 80-35870 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Public Land Order 5771

[U-43907]

Utah; Partial Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Stock Driveway Withdrawal No. 130, Utah No. 8, dated March 29, 1920. The purpose of this order is to clear the official public land status records of a withdrawal no longer needed.

EFFECTIVE DATE: December 11, 1980.

FOR FURTHER INFORMATION CONTACT: J. K. Latimer, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's Order of March 29, 1920, creating Stock Driveway No. 130, Utah No. 8, is hereby revoked so far as it affects the following described lands:

Salt Lake Meridian

T. 3 N., R. 18 W. (partially surveyed),
Sec. 7, All;
Sec. 18, W½;
Sec. 19, W½;
Sec. 30, W½;
Sec. 31, W½.
T. 4 N., R. 18 W.,
Sec. 6, All;
Sec. 31, Lots 1, 4, E½, E½W½.
T. 5 N., R. 18 W.,
Sec. 30, All.
T. 2 N., R. 19 W. (partially surveyed),
Sec. 12, All;
Sec. 13, All;
Sec. 24, All;
Sec. 25, W½;
Sec. 26, E½, SW¼
Sec. 34, E½;
Sec. 35, N½, W½SW¼.
T. 3 N., R. 19 W.,
Sec. 24, E½;
Sec. 25, E½.

The areas described aggregate approximately 7,768.01 acres in Box Elder and Tooele Counties.

2. At 10 a.m. on December 11, 1980, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 11, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Guy R. Martin,
Assistant Secretary of the Interior.
November 5, 1980.

[FR Doc. 80-35672 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5772

[S-2708]

California; Public Land Order No. 5672; Correction

AGENCY: Bureau of Land Management, Interior

ACTION: Public Land Order.

SUMMARY: This action corrects Public Land Order No. 5672 to delete any reference to the bed of the Merced River in the land description. The navigability of this reach of the river has not yet been determined by the courts.

EFFECTIVE DATE: November 14, 1980

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of lands in paragraph 2 of Public Land Order No. 5672 of July 19, 1979, as published in 44 FR 43727 of the issue of July 26, 1979, is corrected to read as follows:

Mount Diablo Meridian

T. 4. S., R. 15 E.,
Sec. 14, E½SE¼SE¼;
Sec. 23, NE¼SE¼.
T. 5 S., R. 15 E.,
Sec. 3, Lots 7 through 15 (formerly lot 2 in SW¼SE¼).

The areas described above aggregate 121.50 acres in Mariposa County.

Guy R. Martin,
Assistant Secretary of the Interior.
November 5, 1980.

[FR Doc. 80-35671 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5773

[I-8872]

Idaho; Withdrawal for Reclamation Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 80.19 acres of public land needed to facilitate the operation, maintenance, and management protection of the American Falls Reservoir irrigation facility.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Livesay, Idaho State Office 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, and reserved to facilitate operation, maintenance, and management protection of the American Falls Reservoir Irrigation Facility:

Boise Meridian

T. 6 S., R. 31 E.,
Sec. 1, Lot 1.
T. 7 S., R. 30 E.,
Sec. 13, SW¼SE¼.

This area described contains 80.19 acres in Bingham and Power Counties.

2. This withdrawal shall remain in effect for a period of 100 years from the date of this order.

Guy R. Martin,
Assistant Secretary of the Interior.
November 6, 1980.

[FR Doc. 80-35673 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1464]

Railroads Required To Hold Empty Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Freight Equipment Bearing Reporting Marks RI, ROCK, ROCX and WOV

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1464.

SUMMARY: Service Order No. 1464 requires various railroads to hold empty Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee) freight equipment. Railroads must not place such equipment for loading and will hold such cars without car hire charges. Railroads holding such equipment shall provide the Rock Island Trustee with a complete listing of such cars by initial, number, and location. Carriers holding such equipment, upon receipt of disposition from the RI Trustee, forward those cars in accordance with the disposition furnished.

EFFECTIVE DATE: 12:01 a.m., November 7, 1980, and continuing in effect until 11:59 p.m., November 30, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION: Decided November 5, 1980.

The enactment of the Staggers Rail Act of 1980 places additional restrictions on the Commission with respect to the issuance of service orders. The Commission's Policy Statement regarding the revised authority requires that existing service orders be allowed to expire on their own terms and that new orders would be issued under more exacting standards and restrictions.

Recent negotiations with the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI) have provided an expanded basis for the return of cars currently being stored off-line under this order, including the points at which cars may be returned. This return would further expedite the final stages of the RI's car relocation and would eliminate any continuing obligation for connecting railroads to store RI equipment on their own lines.

This revision emphasizes the need for the return, the mechanism by which this return can be accomplished, and the subsequent elimination of any need for further action on the part of the Commission.

It is the opinion of the Commission that an emergency exists requiring railroads to retain RI equipment on their lines to facilitate redistribution in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.146 Revised Service Order No. 1464.

(a) *Railroads required to hold empty Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee) freight equipment bearing reporting marks RI, ROCK, ROCX and WOV.* Any carrier having empty Chicago, Rock Island and Pacific Railroad Company (RI) equipment on its lines bearing reporting marks RI, ROCK, ROCX, AND WOV is prohibited from placing such cars for loading; and shall hold such cars at any location on its lines without car hire charges.

(b) Any connecting carrier currently storing such equipment described in paragraph (a) may return this equipment at the following RI locations: Blue Island, Illinois; South Chicago, Illinois; Council Bluffs, Iowa; Clinton, Oklahoma; and Howe, Oklahoma. Carriers wishing to return equipment to any of the above named locations shall coordinate that movement with Mr. Henry W. Metz, Chicago, Rock Island and Pacific Railroad Company, 332 South Michigan Avenue, Chicago, Illinois 60604, telephone (312) 435-7327; and shall provide Mr. Metz with at least five (5) days advance notice of that return.

(c) Carriers holding such equipment will, upon coordination with Mr. Metz, forward those cars in accordance with the disposition furnished.

(d) This order does not apply to any RI equipment on which either the RI or the Association of American Railroads (AAR) has previously given disposition instructions under CSD 97, Amendments Nos. 1, 2 and 3.

(e) *Effective date.* This order shall become effective at 12:01 a.m., November 7, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35200 Filed 11-13-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), in consultation with the Department of State, finds that the Government of the Cayman Islands is in substantial conformance with U.S. regulations governing the taking of marine mammals (i.e. porpoise) incidental to commercial fishing operations. In finding that this nation is not fishing in a manner proscribed for persons subject to the jurisdiction of the United States, the Assistant Administrator for Fisheries exempts this nation from the importation prohibition provisions affecting yellowfin tuna and tuna products.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brumsted, Permit Program Manager, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, telephone: (202) 634-7529.

SUPPLEMENTARY INFORMATION: The NMFS published regulations in the **Federal Register** on December 23, 1977, 42 FR 64551-64560, governing the taking of marine mammals incidental to commercial fishing operations. These regulations include provisions concerning the importation of yellowfin tuna and tuna products from nations known to be involved in the tuna purse seine fishery in the eastern tropical

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Pacific Ocean (ETP). Importation of yellowfin tuna and tuna products from these countries is contingent upon certain findings by the Assistant Administrator for Fisheries in accordance with Section 216.24(e)(5).

Since 1977, fifteen nations have supplied the NMFS with adequate information to indicate that their tuna purse seine operations in the ETP are in substantial conformance with U.S. regulations. Subsequently, the Assistant Administrator for Fisheries published in the **Federal Register** (42 FR 56617, October 21, 1977, 42 FR 64121, December 22, 1977; 43 FR 1093, January 6, 1978; 43 FR 5521, February 9, 1978; 43 FR 31145, July 20, 1978; 43 FR 36263, August 16, 1978; 43 FR 40025, September 8, 1978; and 44 FR 57100, October 4, 1979) notice that yellowfin tuna and tuna products from those fifteen nations are exempted from the importation prohibition provisions. Two of these findings were later rescinded (45 FR 9284, February 12, 1980; and 45 FR 13094, February 28, 1980). The Cayman Islands are hereby being given a similar exemption to the prohibition provisions.

This finding by the Assistant Administrator for Fisheries, made in accordance with Section 216.24(e)(5)(i), exempts the Cayman Islands from the import provisions concerning yellowfin tuna and tuna products listed in Section 216.24(e)(2)(ii). However, the requirements listed in Section 216.24(e)(4) will continue to apply. The Assistant Administrator considered all available information in making this finding. Information submitted by the Cayman Islands is available to the public at the information contact address set out above, and is summarized in the following:

Cayman Islands

(a) *Fleet*—The Cayman Island tuna purse seine fleet in 1980 consists of nine vessels of which four are expected to fish in the ETP in 1980. Two vessels are fishing in the Atlantic, one in the western Pacific, and two have not fished in over one year. Those vessel which are fishing in the eastern tropical Pacific Ocean are equipped with a Medina porpoise safety panel and apron in the net. The Governor of the Caymans expects that approximately 3,250 short tons of yellowfin tuna will be exported to the U.S. in 1980. The Government has stated that the owners of the vessels are aware of U.S. requirements regarding porpoises and have assured the government that the vessels will be operated in conformance with the standards of the Marine Mammal Protection Act and the regulations. They will continue to keep logbooks and provide statistical information on porpoise related sets and mortality, and have agreed to allow Cayman Island or international observers on board their vessels.

(b) *Porpoise mortality*—In 1979, 313 marine mammals (146 offshore spotted porpoise, 117 whitebelly spinners; 9 other species and 41 unidentified species) were killed or injured during fishing operations by the nine vessels while under Costa Rican or U.S. flag.

This finding which permits the exportation of yellowfin tuna to the United States until December 31, 1981, will be subject to annual review in which NMFS will require an update of the items listed in Section 216.24(e)(5)(ii) to insure that the conditions which supported the original finding continue to exist.

Dated: November 7, 1980.

Robert K. Crowell,

Deputy Executive Director

National Marine Fisheries Service.

[FR Doc. 80-35648 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 222

Friday, November 14, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing revised regulations to reflect current survivor benefit provisions of the Civil Service Retirement law and to establish spouse notification requirements pursuant to recent amendment.

DATE: Comments must be received on or before December 15, 1980.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044

FOR FURTHER INFORMATION CONTACT: Doris Reeves (202) 632-4634.

SUPPLEMENTARY INFORMATION: The Civil Service Retirement law provides that at the time of retirement a married employee may elect a reduction in annuity to provide survivorship protection for his/her spouse. Also, an unmarried empolyee in good health may elect an annuity reduction to provide a survivor annuity to a person having an insurable interest in the employee's life. Should the spouse or named person predecease the annuitant, the reduction in annuity payments is eliminated. If a previously married annuitant (who elected a reduction at the time of retirement) remarries, or if an unmarried annuitant marries, he/she has an opportunity to elect an annuity reduction once again in order to benefit the new spouse. The statutory provisions allowing elimination of the survivorship reduction in annuity, and providing the opportunity to elect not to provide survivorship protection for a new spouse after already electing a survivor benefit at retirement, have not been incorporated in current regulations. OPM proposes to delete out of date regulations and incorporate reference in the regulations to the statutory provisions governing such elections.

Pub. L. 96-391, approved October 7, 1980, amends the Civil Service Retirement law to require that before a married employee's election of an annuity without survivorship protection may be considered valid, the employee (or Member) must establish to the satisfaction of OPM that either the spouse has been notified that the employee elected not to provide him/her with survivor benefits or the employee (or Member) has complied with notification requirements prescribed by OPM. The law imposes the same notification requirement in cases where a survivor annuity is elected based on less than the full amount of the employee's annuity. It is applicable to all annuities commencing on and after January 5, 1981.

In complying with Pub. L. 96-391, OPM will accept a signed and witnessed declaration from the spouse to be submitted with the retirement application, in which the spouse acknowledges his/her understanding of the employee's or Member's election of other than a fully reduced annuity for survivor annuity purposes. The employee/Member is ineligible to be a witness to the declaration. It is expected that such a statement will be received with the retirement application in the majority of cases. Where an employee/Member elects other than a fully reduced annuity but cannot obtain the spouse's signature acknowledging the loss of or reduction in benefits, the proposed regulation will require the employee/Member to submit the spouse's last known mailing address to OPM. OPM will then send the spouse an explanatory letter by certified mail with return receipt requested and delivery restricted to the addressee. The spouse will be asked to sign the letter acknowledging his/her understanding of the employee's or Member's election and return to OPM. If the letter is not signed by the spouse or returned to OPM, notification will be considered properly made upon return of the certified mail receipt to OPM; and the employee's or Member's election to exclude the spouse from benefits, either fully or partially, will become effective by final adjudication of the retirement application. On the other hand, where the employee/Member fails to cooperate in furnishing either (1) the spouse's witnessed acknowledgment of less than maximum survivor annuity protection or (2) the spouse's last known mailing address, OPM is required to complete final adjudication of the retirement application with the full reduction for survivor annuity benefits provided by statute (5 U.S.C. 8339(j)).

The Director of OPM has determined that good cause exists for shortening the comment period of this proposed regulation, in order to give timely effect to Pub. L. 96-391, requiring notification to spouses of retiring employees when the employee does not elect full survivorship protection for the spouse.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 831 as follows:

(1) Section 831.601 (c) and (e) are revised to read as follows:

§ 831.601 Survivor benefits.

* * * * *

(c) The employee or Member shall communicate his/her choice or option over his/her signature on Standard Form 2801, Application for Retirement, for use in filing claim for annuity. Receipt of the communication in OPM constitutes prima facie evidence of the existence of all the elements of an election, except that an election by a married employee or Member of a life annuity, or an election to base the benefit payable to the surviving spouse on less than the full amount of annuity, is not valid unless:

(1) The employee or Member provides OPM with the spouse's signed and witnessed declaration (the employee or Member may not witness the declaration) acknowledging the loss of or reduction in survivor benefits; or

(2) The employee or Member provides OPM with the spouse's mailing address (or last known mailing address) in order for OPM to attempt to notify the spouse about the loss of or reduction in survivor benefits. The election is considered made when the prima facie evidence becomes conclusive by final adjudication of the claim by OPM.

* * * * *

(e) When an election has been conclusively made under this section, the employee or Member may not revoke or change the election or name another survivor, except as provided under 5 U.S.C. 8339 (j) and (k).

* * * * *

(2) Paragraph (f) of § 831.601 is deleted and paragraphs (g) and (h) are redesignated as (f) and (g), respectively.

(5 U.S.C. 8347(a))

[FR Doc. 80-35538 Filed 11-13-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Official Standards of the United States for the Grades of Sea Island Cotton and Tentative Standards for the Preparation of Long-Staple Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rescission.

SUMMARY: It is proposed that the regulations (7 CFR Part 28) under the United States Cotton Standards Act (7 U.S.C. 51–65) be amended through rescission of (1) the Official Standards of the United States for the Grades of Sea Island Cotton (7 CFR 28.551 through 28.560, and § 28.303(c)), and (2) the Tentative Standards for the Preparation of Long-Staple Cotton (7 CFR 28.591 through 28.584). The maintenance of these standards presently serve no purpose.

DATE: Deadline for comment: Comments must be received on or before January 15, 1981.

ADDRESSES: Comments may be mailed to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–2167).

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–2167). The Draft Impact Analysis detailing the options considered in developing this proposed rule and the impact of implementing each option is published in its entirety below in "Supplementary Information."

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." In light of the following, it has been determined that no impact would result:

(1) No production of Sea Island cotton has been reported since 1949.

(2) The USDA-AMS Cotton Division has not classed cotton against Sea Island cotton types, has not issued Sea Island Cotton standards, and has not reported Sea Island cotton production or carry-over for at least 15 years (the last reference was in combination with Sealand cotton, in a 1965 Market News footnote).

The maintenance of Sea Island cotton standards therefore, presently serves no purpose. In the event that Sea Island cotton production should again become significant, new standards would have to be prepared. The standards now maintained by the USDA were prepared and officially adopted in 1939 and are no longer useful.

The tentative standards for preparation of long staple cotton have not been used, nor prepared, for at least 15 years. Improvements in ginning technology have removed the need for separate standards for the preparation of long staple cotton.

Accordingly, it is proposed that the regulations (7 CFR Part 28) under the United States Cotton Standards Act (7 U.S.C. 51–65) be amended through rescission of (a) the Official Standards of the United States for the Grades of Sea Island Cotton, and (b) references to Sea Island Cotton. The following actions are therefore proposed:

(1) 7 CFR 28.551 through 7 CFR 28.560 are proposed for rescission.

(2) 7 CFR 28.303 (c) is proposed for rescission.

(3) 7 CFR Part 28 is amended by revising § 28.2 (o) and (p) to read as follows:

§ 28.2. [Amended]

* * * * *

(o) *Upland Cotton.* All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding American Pima growths.

(p) *Official cotton standards.* Official cotton standards of the United States for the grade of American upland cotton, and America Pima cotton, for length of staple, and for fiber fineness and maturity, adopted by or established pursuant to the act, or any change or replacement thereof.

It is further proposed that the regulations (7 CFR Part 28) under the United States Cotton Standards Act (7 U.S.C. 51–65) be amended through rescission of the Tentative Standards for the Preparation of long staple cotton. In accordance it is proposed that the following sections be rescinded: 7 CFR 28.591 through 28.594.

Dated: November 3, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-35754 Filed 11-13-80; 8:45 am]
BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 282

[Amendment No. 167]

Food Stamp Program; Demonstration, Research, and Evaluation Projects; Correction

AGENCY: Food and Nutrition Service.

ACTION: Proposed rule; correction.

SUMMARY: This document deletes language in a proposed rulemaking and corrects various project timeframes in an attached Notice of Intent which was published by the Food and Nutrition Service, USDA, on October 7, 1980 in the **Federal Register** (45 FR 66463). The October 7 proposed rulemaking announced the Departments of Agriculture and Labor's intention to conduct a demonstration project on the work registration and job search provisions of the Food Stamp Act of 1977.

FOR FURTHER INFORMATION CONTACT: Bob Davis, Program Development Division, Family Nutrition Programs, USDA, Room 672, GHI Building, Washington, D.C. 20250. Telephone (202) 447–8332.

The following corrections are made in FR 45–196 to language appearing on pages 66463, 66467, 66468, and 66469 of the October 7, 1980 rulemaking:

1. On page 66463, column 1, "Summary", the word "proposed" is deleted from the second sentence. The sentence is revised to read: "A Notice of Intent has also been included for public comment."

2. On page 66467, column 2, the last sentence of the first paragraph currently calls for project operations to start . . . "on or about December 1, 1980." This sentence is revised to read: "Actual project operations are scheduled to begin on or about April 1, 1981."

3. On page 66468, column 3, under "F. Applications", the next-to-last sentence of paragraph 1, "Preliminary Applications." is revised by deleting the word "final", so that the sentence now reads: "Such letters shall be postmarked no later than 45 days from the date of publication of this Notice."

4. On page 66469, column 1, top paragraph, the second sentence is revised to read: "The completed Application for Federal Assistance must be submitted in original and two copies to DOL or USDA, at the addresses noted above, no later than 30 days following the deadline for submission of the Letter of Intent."

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

November 7, 1980.

[FR Doc. 80-35435 Filed 11-13-80; 8:45 am]
BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Proposed Determinations of Marketing Quotas For the 1981–82, 1982–83 and 1983–84 Marketing Years For Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder, and Cigar-Filler and Binder Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture must announce by February 1, 1981, national marketing quotas for fire-cured, (types 21 and 22–24), dark air-cured (types 35–36), Virginia sun-cured (type 37), cigar-binder (types 51 and 52), and cigar-filler (types 42–44) and binder (types 53–55) kinds of tobacco for the 1981-82 marketing year. Interested persons are invited to submit written comments, views and recommendations concerning the proclamation and announcement of quotas, the referendums to be held, and other related matters.

DATES: Written comments must be received by January 13, 1981 in order to be sure of consideration.

ADDRESSES: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submission made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741, South Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS. Room 3754, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733. The draft impact analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "not significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) it is determined after review of these and related regulations contained in 7 CFR Part 724 for need, currency, clarity, and effectiveness that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in development of the final rule.

The title and number of the Federal Assistance Program that this proposed Rule applies to is: Title—Commodity Loan and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

The Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "Act"), requires the Secretary (1) with respect to cigar-binder (types 51 and 52) and cigar-filler and binder (types 42–44; 53–55) tobaccos, to proclaim national marketing quotas for the 1981–82, 1982–83, and 1983–84 marketing years and to conduct, within 30 days after proclamation of such national marketing quotas, referendums of farmers engaged in the 1980 production of such respective kinds of tobacco to determine whether they favor or oppose marketing quotas of such years; and (2) with respect to fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), and cigar-filler and binder (types 42–44 and 53–55) tobacco, to determine and announce the amounts of the national marketing quotas for each of such kinds of tobacco for the 1981–82 marketing year; to convert such marketing quotas into national acreage allotments and announce the allotments; to apportion such allotments, less reserves of not to exceed 1 per centum of each respectively, through local county ASC committees among old farms; and to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments.

Section 312(a) of the Act (7 U.S.C. 1312 (a)) requires the Secretary to proclaim marketing quotas, not later than February 1, 1981, for cigar-binder (types 51 and 52) and cigar-filler and binder (types 42–43; 53–55) tobacco for the three marketing years beginning October 1, 1981, because the 1980–81 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for these kinds of tobaccos. Quotas were previously proclaimed, referendums conducted, and quotas approved by growers as follows: fire-cured and dark air-cured tobacco for the 1979–80, 1980–81, and 1981–82 marketing years (44 FR 7109); Virginia sun-cured tobacco for the 1980–81, 1981–82 and 1982–83 marketing years 45 FR 9578 and cigar-binder tobacco (types 51 and 52) and cigar-filler and binder tobacco (types 42–44 and 53–55) for the 1978–79, 1979–80, 1980–81 marketing years (43 FR 16410).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco comprising type 32;
Cigar-filler and cigar-binding tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 FR 367) that cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing

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year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1981 with respect to kinds of tobacco other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1981–82 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) of the Act provides further that the amount of the 1981–82 national marketing quota so announced may, not later than March 1, 1981, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Section 301(b) of the Act (7 U.S.C. 1301(b)) defines the "total supply" of any kind of tobacco (except type 46) for any marketing year as the carryover at the beginning of the marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production in the United States during the calendar year in which such marketing begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity of tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's" exports is defined as the yearly average quantity of tobacco produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

Section 312(c) of the Act (7 U.S.C. 1312(c)) requires that within 30 days after a national marketing quota is proclaimed under § 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kinds of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect, but such results shall in no way affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in § 312, of a national marketing quota.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments)

Proposed Rule

The Secretary is preparing to determine and announce for the 1981–82 marketing year for the minor kinds of tobacco:

1. The amount of the reserve supply level for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52) and cigar-filler and binder (types 42–44 and 53–55) tobaccos.

2. The amount of the national marketing quota for each of these kinds of tobacco for the 1981–82 marketing year.

3. The national factors for apportioning national acreage allotments to old farms.

4. The amounts of the national acreage allotments to be reserved for new farms and for making corrections and adjusting inequities in old farm allotments.

5. The date or period of the referendum on quotas for the 1981–82, 1982–83, and 1983–84 marketing year for cigar-binder (types 51 and 52) and cigar-filler and binder (types 42–44; 53–55) tobaccos, and whether the referendum should be conducted at polling places rather than by mail ballot (31 F.R. 12011).

Signed at Washington, D.C. on: November 6, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-35612 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Preliminary Free and Reserve Percentages for the 1980–81 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on preliminary marketing percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins from the 1980 production. The estimated 1980 production of these raisins is in excess of domestic and Western Hemisphere market needs, and the proposal is intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

DATES: Comments must be received by November 28, 1980.

PROPOSED EFFECTIVE DATES: August 1, 1980 through July 31, 1981.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053. The Final Impact Statement describing the options considered in developing this proposal and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant".

J. S. Miller has determined that an emergency situation exists which warrants less than a 60-day comment period. Handlers are in the process of acquiring Natural (sun-dried) Seedless and Dipped and Related Seedless raisins from the 1980 crop and will begin processing and marketing them in volume soon. Therefore, they must know as soon as possible what preliminary marketing percentages will apply to the 1980 crop so they can plan their operations accordingly. Moreover, upon designation of the proposed marketing percentages raisin handlers will begin paying producers for their raisins. Producers have a considerable amount of time, energy, and funds invested in the production of the 1980 raisin crop and should be paid for their efforts as promptly as possible.

The proposal under consideration pertains to designating preliminary free tonnage percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins of 56 percent and 39 percent, respectively, for the 1980–81 crop year. Also proposed for that crop year are preliminary reserve tonnage percentages for these raisins of 44 percent and 61 percent, respectively. The 1980–81 crop year began August 1, 1980.

These designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to work with USDA in administering its terms and provisions.

Under § 989.54(b) of the order, the Committee is required to recommend on or before October 5, a preliminary free tonnage percentage for any varietal type of raisin for which a free tonnage has been computed. If the Committee determines that the field price is firmly established for a particular varietal type, the Committee is required to recommend a preliminary free tonnage percentage which when applied to the estimated production of that varietal type, would release 85 percent of the computed free tonnage for that varietal type. In accordance with § 989.54(a), the Committee computed free tonnages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins of 170,917 natural condition tons and 11,132 natural condition tons, respectively. The field price for each of these varietal types has been firmly established and the 1980 production of Natural (sun-dried) Seedless and Dipped Seedless and Related Seedless raisins is estimated to 257,000 natural condition tons and 24,000 natural condition tons, respectively.

Eighty-five percent of the free tonnage quantity (170,917 tons) for Natural (sun-dried) Seedless raisins would be 145,279 tons. Dividing this by the estimated production (257,000 tons) results in a preliminary free tonnage percentage of 56 percent. Eighty-five percent of the free tonnage quantity (11,132 tons) for Dipped and Related Seedless raisins would be 9,462 tons. Dividing 9,462 tons by the estimated production (24,000 tons) results in a preliminary free percentage of 39 percent.

Section 989.54(b) also provides that any difference between the preliminary or final free tonnage percentages and 100 percent should be the reserve percentage. Thus, the preliminary reserve percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins would be 44 percent and 61 percent, respectively.

The proposed preliminary free tonnage percentages would make 145,279 tons of the estimated 1980 production of Natural (sun-dried) Seedless raisins, and 9,462 tons of the Dipped and Related Seedless raisins production available for immediate sale in any marketing channel. No later than February 15, the Committee is required to recommend free tonnage percentages when applied to the final production estimate which will tend to release the full free tonnage for those varietal types. By then, the Committee will have firmer estimates of the 1980 raisin production.

The proposal is as follows:

Section 989.234 is proposed to be added as follows:

§ 989.234 Free and reserve percentages for the 1980–81 crop year.

The preliminary percentages of standard Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during the crop year beginning August 1, 1980, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	56	44
Dipped and Related Seedless	39	61

Dated: November 10, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-35610 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y]

Amended Order for Hearing Regarding Application To Engage in Certain Data Processing and Electronic Funds Transfer Activities and Possible Rulemaking With Respect Thereto

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of hearing regarding application and proposed rule.

SUMMARY: This amends the Board's Order of June 10, 1980 (45 FR 41533 (July 19, 1980)), that granted the request by protestants to an application by Citicorp, New York, New York, that a hearing be held with respect to Citicorp's application to engage in data processing activities through a subsidiary to be known as Citishare Corporation. The Board has granted a request by Citicorp to amend its application by adding certain activities related to data processing and transmission, including electronic funds transfer activities, to the activities proposed to be engaged in through Citishare Corporation. The additional proposed activities are generally not authorized by Regulation Y, and Citicorp has requested the Board to add them to the list of activities permissible for bank holding companies.

DATES: Requests to give testimony, present evidence, or otherwise participate in these proceedings must be filed on or before December 15, 1980. People interested in the date of the hearing should contact the **FOR FURTHER INFORMATION CONTACT** person listed below.

ADDRESSES: Requests to give testimony, present evidence, or otherwise participate in these proceedings should be filed with the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. People interested in the place the hearing will take place should contact the **FOR FURTHER INFORMATION CONTACT** person listed below.

FOR FURTHER INFORMATION CONTACT: Micheal L Kadish, (202) 452–3428.

The Board has amended its Order for Hearing of June 10, 1980, to expand the scope of the hearing to consider the additional activities and the proposed rule. The amended Order follows.

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Board of Governors of the Federal Reserve System, November 5, 1980.

Theodore E. Allison,

Secretary of the board.

Federal Reserve System—Citicorp

Order for Hearing

Citicorp, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act (the "Act"), has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)) to engage in certain data processing and transmission activities through a subsidiary to be known as Citishare Corporation.

Under section 4(c)(8) of the Act, a bank holding company or its subsidiaries may engage, with the Board's prior approval, in any activity that the Board has determined "to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board must also consider whether the performance of a particular activity by a bank holding company can reasonably be expected to produce public benefits that outweigh possible adverse effects. This section authorizes the Board to make the determination of whether an activity is closely related to banking by regulation. The Board used this authority in 1971 when it issued section 225.4(a)(8) of Regulation Y (12 CFR 225.4(a)(8)), permitting a bank holding company to engage in the following activities:

(i) Providing bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries, and

(ii) Storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable, or billing services.

In 1975, the Board issued an interpretation (12 CFR 225.123(e)), stating that the purpose of § 225.4(a)(8) of Regulation Y is to permit a bank holding company to process data for others of the kinds banks have traditionally processed, both in conducting their internal operations and in accommdating their customers, and to perform incidental activities necessary to carry on permissible data processing activities. The interpretation provides that such incidental activities include, among others:

(1) Making excess computer time available to anyone so long as the only involvement by the holding company system is furnishing the facility and necessary operating personnel; and

(2) Selling a byproduct of the development of a program for a permissible data processing activity.

The Board interpretation excludes from the scope of permissible activities the development of programs either upon a holding company's own initiative or upon request, unless the data involved are financially oriented.

Citicorp's amended application indicates that the activities proposed to be engaged in by Citishare consist of the following:

1. Providing data processing and transmission services for the internal operations of Citicorp and its subsidiaries.

2. Providing to financial and other institutions data processing and transmission services with respect to financial, banking, or other related economic data, such as financial models, loan analysis, accounting and bookkeeping, budget and profitability analysis, portfolio record-keeping and analysis, foreign exchange exposure, general ledger, bond analysis, international trade settlement, and economic forecasting. These services may be provided by engaging in remote computer time-sharing services.

3. Providing packaged financial systems for installation at the site of a depository or other institutional customer, for the purpose of facilitating traditional banking or banking-related activities. In such case, Citishare would provide the software for such systems together with processing and terminating hardware. The customer may be linked to one or more data bases of Citishare or its subsidiary bank, Citibank, N.A.

4. Providing electronic data processing and transmission systems designed to facilitate banking transactions among financial or other institutions or to facilitate the exchange of banking, financial or other related economic data among them. Transaction processing services include systems for the processing of money transfer, foreign exchange, check clearing and collection and other normal and usual interbank transactions. Information exchange services include the processing of money market, trade information or other information typically exchanged among financial institutions. These data processing and transmission systems would be designed for use by other banks and financial institutions and would be provided primarily, but not exclusively, to such institutions.

5. Providing consumers with banking-related services and the capability to access traditional banking services and related information, utilizing the services proposed in activities 3 and 4 above. This could include providing a customer with the capability to perform budgeting, accounting, and tax analysis, as well as direct banking services such as funds transfer, at the customer's home or business establishment, by linking the consumer with a depository institution.

6. Providing hardware and software for authentication of interbank and intrabank identifiers for funds transfers and other electronic transmissions requiring authentication of origin or content. Citishare proposes to provide data processing and transmission services for the distribution and administration of code keys required in connection with the authentication process.

7. Providing to others byproducts resulting from permissible data processing and transmission activities.

8. Selling to others for any purpose any excess capacity on data processing and transmission facilities used in connection with any of the above-mentioned activities. With respect to this excess capacity, the only involvement of Citishare will be the furnishing of the facilities necessary to the utilization of the excess capacity.[1]

Following publication of notice of the initial application, the Association of Data Processing Service Organizations, Inc., Arlington, Virginia, and other interested organizations (collectively "Protestants") jointly filed written submissions in opposition to the application, and requested that the Board either deny the application or order a formal hearing on the application.[2] Protestants contended that the data processing activities originally proposed, other than providing services for Citicorp's internal operations, were not within the scope of those data processing activities that the Board has previously determined to be permissible and were not otherwise "so closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c)(8) of the Act. Protestants also alleged that the proposal would result in adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices, that would not be outweighed by any benefit to the public.

[1] These eight items summarize Citicorp's proposal. Interested persons are invited to inspect the application at the offices of the Board of Governors or at the Federal Reserve Bank of New York for more detail.

[2] Other Protestants to the original application were ADP Network Services, Inc.; Comshare, Inc; National CSS, Inc.; On-Line Systems, Inc.; Quantum Computer Services, Inc.; and Tymshare, Inc.

With regard to the permissibility of the data processing activities originally proposed, Protestants challenged, for example, the proposed sale of excess computer time and time-sharing services as means for evading restrictions on processing non-financially related data. Protestants contended that data processing technology has progressed over the past few years so as to enable a data processor to tailor its computer capacity to eliminate the need for any significant amount of excess capacity. Furthermore, Protestants contended that since a purchaser of the proposed time-sharing service would have a computer terminal on its own site, it would not be possible to monitor the purchaser's use of the computer services to prevent the impermissible processing of non-financially oriented data. Although Citicorp disputed Protestants' claims, neither Citicorp nor Protestants presented sufficient evidence to prove or disprove these contentions. In the Board's judgment, these questions of fact, material to the Board's decision on the application, remained in dispute and unresolved by the parties' written submissions. Accordingly, the Board believed it appropriate to order a formal hearing on the original application.

In addition, Protestants claimed that many of the proposed data processing services were not the kinds of activities traditionally performed by banks. Protestants asserted that technological developments in the industry have advanced the scope of data processing activities, including those proposed by Citicorp, beyond that contemplated by the Board in 1971 when it determined such activities to be permissible for bank holding companies. The Board stated that is would be appropriate to address this issue at a hearing.

Finally, Protestants alleged that consummation of the proposal would result in adverse effects, especially unfair competition and conflicts of interests, that would not be outweighed by any benefit to the public. While these allegations would not, standing alone, warrant a hearing, the Board concluded that all outstanding issues in this matter should be resolved in one proceeding.

The proposed activities of transmitting data and of providing facilities such as hardward in connection with data processing and transmission services were proposed in an amendment to Citicorp's application filed after the Board had ordered a hearing to be held on the application. These activities have not previously been determined by the Board to be permissible for bank holding companies. Section 225.4(a) of Regulation Y (12 CFR § 225.4(a)), provides that a bank holding company may file an application to engage in activities, other than those previously determined to be permissible for bank holding companies, if it is of the opinion that the proposed activity in the circumstances surrounding a particular case is closely related to banking or managing or controlling banks. The regulation further provides that the Board will publish in the **Federal Register** a notice of opportunity for hearing regarding the proposed activity only if it believes that there is a reasonable basis for the bank holding company's opinion.

Under guidelines established by a federal circuit court,[3] an activity may be found to be closely related to banking if it is demonstrated (1) that banks generally have in fact provided the proposed service; or (2) that banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed service; or (3) that banks generally provide services that are so integrally related to the proposed service as to require their provision in a specialized form.[4] The Board has previously found the *National Courier* guidelines useful in determining whether there is a reasonable basis for an applicant's opinion that a proposed new nonbanking activity is closely related to banking.[5]

Since the Board has determined that a hearing should be held with respect to other aspects of Citicorp's proposal, and since many of the proposed new activities are comprised of several services, and there does appear to be a reasonable basis for concluding that some of these services are closely related to banking, the Board believes that it would also be desirable to address the question of whether these activities are "so closely related to banking or managing or controlling banks as to be a proper incident t[illegible]o." Under the Board's Regulation Y, [illegible]e Board's decision to publish notice of, or hold a hearing with respect to, a proposed new activity does not obligate the Board to ultimately determine that the activity is closely related to banking or that the activity is permissible for bank holding companies.

Accordingly, it is hereby ordered, That a hearing with respect to this application and proposed rule be held before an Administrative Law Judge to be designated by the Office of Personnel Management. Such hearing shall be conducted in compliance with the Board's Rules of Practice for Hearings (12 CFR Part 263); however, the Administrative Law Judge shall establish a schedule whereby Citicorp and Protestants shall submit their direct and rebuttal testimony in written form. Public, oral cross examination shall then commence on a date designated by the Administrative Law Judge at the offices of the Board of Governors, Washington, D.C., or at any other place that the Administrative Law Judge may designate in the interest of fairness. The Administrative Law Judge may, in his discretion, convene a prehearing conference or conferences at any convenient time or place.

It is further ordered, That the issues to be considered at such hearing are: (1) whether each of the activities proposed by Citicorp is "so closely related to banking or managing or controlling banks as to be a proper incident thereto," within the meaning of § 225.4(a) of Regulation Y (12 CFR § 225.4(a)) and section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)); and (2) whether each of the proposed activities "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before December 15, 1980, a written request containing a statement of the nature of the petitioner's interest in the proceedings, the extent of the participation desired, a summary of the matters upon which the petitioner desires to give testimony or submit evidence, and the name and identity of each witness who proposes to appear. Such requests will be

[3] *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1976) (hereinafter referred to as *"National Courier"*).

[4] These guidelines have been followed by other Federal Circuit Courts of Appeals. *NCNB Corporation* v. *Board of Governors of the Federal Reserve System*, 599 F.2d 609 (4th Cir. 1979); *Association of Bank Travel Bureaus, Inc.* v. *Board of Governors of the Federal Reserve System*, 568 F.2d 549, 551 (7th Cir. 1978); *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 553 F.2d 224, 241 (5th Cir. 1976), *rehearing denied* 558 F.2d 729 (1977), *cert. denied* 435 U.S. 904 (1978).

[5] *E.g., NCNB Corporation* (Superior Insurance Company and Superior Claim Service), 64 Federal Reserve Bulletin 506, 507 (1978); *aff'd sub nom. NCNB Corporation* v. *Board of Governors of the Federal Reserve System*, 599 F.2d 609 (4th Cir. 1979).

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submitted to the designated Administrative Law Judge for his disposition.

By order of the Board of Governors,[*] effective October 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-35643 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The proposed rule would consider a premium or gift given by a Federal credit union for establishing an account or adding to an existing account to be a promotional or advertising expense, and not a dividend for purposes of 12 CFR 701.35(g), if (1) the premium or gift is given only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) no more than two premiums per account are given within a 12-month period; and (3) the value of the premium or gift (including shipping, warehousing, packaging and handling) does not exceed $10 for share purchases of less than $5,000 or $20 for share purchases of $5,000 or more. The costs of the premium may not be averaged. Prior to the beginning of a premium program, an official of the credit union must certify that the total cost of the premium or gift, including shipping, warehousing, packaging and handling does not exceed the applicable $10/$20 limitations and that no portion of the total cost of any premium has been attributed to development, advertising, promotional or other expenses. Certification and supporting documents must be retained in the files of the Federal credit union and be made available to NCUA upon request.

DATES: Comments must be received by December 10, 1980.

ADDRESS: Send comments to Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

[*] Voting for this action: Chairman Volcker and Governors Schultz, Wallich, Partee, Teeters, Rice and Gramley.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel or Todd A. Okun, Senior Attorney, both at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: On May 27, 1980, NCUA published for public comment (45 FR 35346) an Advance Notice of Proposed Rulemaking concerning premiums, finders fees, prepayment of dividends and payment of dividends in merchandise. Comments were to be received by June 28, 1980. By notice published on June 19, 1980 (45 FR 41438), the time period in which comments could be received was extended to July 16, 1980.

Based upon the comments received, and in order to parallel, to the extent applicable, similar action taken by the Depository Institutions Deregulation Committee (Committee) concerning other financial institutions, the NCUA Board believes that rulemaking procedures concerning the issue of premiums is necessary.

Finder's fees, also the subject of the Advance Notice of Proposed Rulemaking, which are fees paid to a person introducing a prospective depositor to a financial institution, are a rare practice in Federal credit unions and few comments were received on this subject. Therefore, the NCUA Board has decided at this time that neither a regulation nor a policy statement in this area is necessary.

The subjects of prepayment of dividends and payment of dividends in the form of merchandise were also discussed in the Advance Notice of Proposed Rulemaking. Based upon the comments received and the fact that established policy in these areas has already been widely publicized, the NCUA Board does not consider rulemaking necessary. However, that policy should be restated. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) and § 701.35 of NCUA Rules and Regulations (12 CFR 701.35) prohibit the payment of dividends until earnings for that dividend period have been determined to be sufficient to pay such dividends. Therefore, the prepayment of dividends is prohibited. However, it is the policy of the NCUA Board that dividends may be paid in the form of merchandise as long as the total cost of the merchandise equals the value of dividends earned on any account. Of course, since dividends may not be prepaid, merchandise in lieu of dividends may not be given until the requisite value is earned.

It has been the policy of the financial regulatory agencies, including NCUA, to limit the cost of premiums to $5 for share purchases or deposits of less than $5,000 and $10 for share purchases or deposits of $5,000 or more. Premiums may be in the form of cash or merchandise, but merchandise is used more commonly. In the case of merchandise, the $5 and $10 limits apply to the cost to the institution, excluding shipping and packaging costs. Depository institutions can offer premiums at any time to members or depositors who open new accounts or add to existing accounts. These current premium rules were adopted by the agencies in 1970 in order to establish what constituted a *de minimis* amount that would not be regarded as the payment of dividends or interest. The rules were intended to clarify this matter and reduce time spent by the agencies in reviewing individual programs. This has not been accomplished, however, because in practice the rules are difficult to enforce since they can be circumvented by attributing an inflated portion of the total cost of the premium to shipping and packaging, rather than to the direct cost of the premium. In view of these considerations, NCUA is proposing a premium rule that would lessen the potential for abuses and parallel rules adopted for other financial institutions by the Committee.

The proposed rule permits Federal credit unions to continue to offer premiums at the time of opening a new account or adding to, or renewing, an existing account. However, a Federal credit union may not give any person more than two premiums per each account during a 12-month period. It is emphasized that this restriction applies on a *per account* basis and a person with multiple accounts at a Federal credit union may receive up to two premiums for each account in a 12-month period. For purposes of determining compliance with this restriction, a premium given for an account held by more than one person (for example, a joint account) must be attributed to one of those persons. The 12-month period begins on the date the person receives the first premium. In addition, the dollar limitations on the permissible cost of premiums has been raised to $10 for share purchases of less than $5,000 and to $20 for share purchases of $5,000 or more. All costs associated with a premium, including its cost and all other charges such as shipping, warehousing, handling and packaging, must be included in determining compliance with the $10/$20 limitations. The expenses associated with developing, advertising or promoting a premium program need not be included in determining the cost of a premium and such expenses may not be used to absorb any of the cost of a premium. In addition, repackaging and return freight expenses may not be used to defray the cost of a premium. Any averaging of the cost of various items of merchandise offered in a premium program is prohibited. An official of the Federal credit union will be required to certify, prior to the beginning of a premium program, that the program complies with these requirements and that no portion of the cost of a premium has been attributed to development, advertising, promotional, or other expenses. This certification and supporting documents must be retained in the Federal credit union's files and must be made available to NCUA upon request.

Accordingly, it is proposed that § 701.35 be amended by adding a new paragraph (m) to read as set forth below.

Rosemary Brady,

Secretary to the Board, National Credit Union Administration.

November 6, 1980.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)).

§ 701.35 [Amended]

* * * * *

(m) *Premiums.*

(1) Premuiums given by a Federal credit union, whether in the form of merchandise or cash, are regarded as an advertising or promotional expense rather than the payment of a dividend if:

(i) The premium is given only at the time of the establishment of a new account or an addition to, or renewal of, an existing account; and

(ii) No more than two premiums per account are given within a 12-month period; and

(iii) The value of a premium, including shipping, warehousing, packaging and handling costs does not exceed $10 for share purchases of less than $5,000 or $20 for share purchases of $5,000 or more; and

(iv) The costs of premiums are not averaged; and

(v) An official of the credit union, prior to the inception of a premium program, certifies in writing that the total cost of a premium, including shipping, warehousing, packaging and handling costs does not exceed the applicable $10/$20 limitations and that no portion of the total cost of the premium has been attributed to development, advertising, promotional or other expenses. The certification and supporting documents must be maintained in the Federal credit union files.

[FR Doc. 80-35434 Filed 11-13-80; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

13 CFR Chs. III and V

15 CFR Chs. I-III, VIII, and XII

37 CFR Ch. I

46 CFR Ch II

50 CFR Chs. II and VI

Semiannual Agenda of Regulations

November 12, 1980.

AGENCY: Department of Commerce.

ACTION: Delay of Semiannual Agenda of Regulations.

SUMMARY: The Department's Semiannual Agenda of Regulations, required by Executive Order 12044, "Improving Government Regulations", will be published in the **Federal Register** on or before November 28, 1980 instead of November 14, as originally scheduled.

FOR FURTHER INFORMATION CONTACT: Questions relating to the Department's forthcoming Semiannual Agenda of Regulations should be directed to Robert T. Miki, Deputy Assistant Secretary for Regulatory Policy (Acting), on (202) 377-2482.

Robert T. Miki,

Deputy Assistant Secretary for Regulatory Policy (Acting).

[FR Doc. 80-35753 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-BT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits and Supplemental Security Income for the Aged, Blind, and Disabled; Extension of the Trial Work Period and Reinstatement of Disability Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration plans publication of a Notice of Proposed Rulemaking to implement section 303 of Pub. L. 96-265. This section is effective on December 1, 1980, and applies to any person whose disability has not been determined to have ceased before then. Section 303 provides for a 15-month period after the trial work period (TWP) during which payments can be restarted if a disabled person stops work. It also provides the TWP to title II disabled widows and widowers.

Under existing regulations, when a person completes 9 months of trail work (the months do not have to be continuous) and in a subsequent month demonstrates the ability to perform substantial gainful activity (SGA), benefits are terminated. Payments are continued through the first month in which SGA is performed after the TWP and for the 2 months immediately following. If the person's work attempt later fails, he or she must file a new application, and a new determination of disability must be made, before payments can be resumed.

The proposed regulations are based on section 303 of Pub. L. 96-265, the Social Security Disability Amendments of 1980. They will provide an additional period of reentitlement to cash benefits status after the TWP to severely impaired person whose payments stop because of their work activity. Payments can be reinstated without the need for a new application and disability determination in this period if a work attempt fails. The proposed regulations will also explain that under the amendments title II disabled widows and widowers get a TWP and the additional period the same as other disabled persons.

The proposed regulations would require revisions to Subparts D, E, J and P of Part 404 and to Subparts I, M and N of Part 416 of title 20 of the Code of Federal Regulations. The Departmennt of Health and Human Services has classified the proposed regulation changes as policy significant.

FOR FURTHER INFORMATION CONTACT: John Troch, Room 3-G-10 Operations Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: (301) 594-9616.

Dated: October 6, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-35528 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-07-M

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration plans to publish a notice of proposed rulemaking to amend Subparts J, K, and L of Part 416 of Title 20 of the Code of Federal Regulations to include provisions of recently enacted legislation. Section 504 of Pub. L. 96–265 adds new sections 1614(f)(3) and 1621 to title XVI of the Social Security Act. The provisions are effective October 1, 1980, and affect aliens who first apply for SSI on or after that date.

The regulations will provide that the income and resources of a sponsor of an alien and of a sponsor's spouse will be deemed to be available to an alien for a period of 3 years after the alien's entry in the United States. The proposed regulations will not affect refugees admitted under sections 203(a)(7), effective prior to April 1, 1980; 207(c)(1), effective after March 31, 1980; and 212(d)(5) of the Immigration and Nationality Act, those granted asylum by the Attorney General, and those (regardless of age) who become disabled or blind after entry into the United States.

Under the proposed regulations, before a sponsor's resources are deemed to an alien they will be subject to the same exclusions that apply to the resources of an individual eligible for SSI. A sponsor's income, however will be subject to fewer exclusions than apply to that of an eligible individual. The new deeming provisions differ from other deeming rules in that a deduction from a sponsor's income will be made for each dependent. Under other deeming rules, deductions (allocations) are limited to ineligible spouses and children who live in the household of the person whose income and resources are deemed. The statute also departs from current practice by authorizing SSA to recover overpayments of SSI benefits from any future benefits payable under any provision of the Act to the sponsor or the alien.

The Department of Health and Human Services classifies these regulations as policy significant.

FOR FURTHER INFORMATION CONTACT:
Ms. Lisa Ferro, Social Security Administration, Room 3111 West High Rise, Building, 6401 Security Boulevard, Baltimore, Maryland 21253, Telephone 301 594–5166.

Dated: October 7, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80–35529 Filed 11–13–80; 8:45 am]

BILLING CODE 4110–07–M

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Determination of Overpayment/ Underpayment Period

AGENCY: Social Security Administrion, DHHS.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration (SSA) plans to publish amended regulations which will permit the making of a determination of overpayment for a period which includes excess payment of supplemental security income (SSI) benefits for the calendar quarter in which the determination of overpayment will be made. Present regulations require us to wait until after the last month of the calendar quarter in which excess payments have been made before recovery may be attempted.

By making the overpayment determination and notifying the recipient immediately, instead of waiting until the end of the quarter, the recipient is more likely to recall and understand the cause of the overpayment and be in a better position to repay the overpayment.

The proposed policy will amend 20 CFR 416.538. The Department of Health and Human Services has classified the proposed regulation as policy significant.

FOR FURTHER INFORMATION CONTACT:
George Schmittle, 2–C–15 Meadows Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–8284.

Dated: October 9, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80–35530 Filed 11–13–80; 8:45 am]

BILLING CODE 4110–07–M

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N–0366]

Provisionally Listed Color Additives; Proposal To Postpone the Closing Date for the Provisional List of Certain Color Additives

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: In response to three citizen petitions, the Food and Drug Administration (FDA) is proposing to postpone the closing date for the use of certain provisionally listed color additives beyond January 31, 1981. The postponement would be conditioned upon the timely completion of ongoing scientific investigations and the submission of data to FDA on a prescribed schedule.

DATE: Comments by January 13, 1981.

ADDRESS: Written comments (preferably four copies) to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Kenneth J. Falci, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5741.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 established a system of premarket approval for all color additives used in foods, drugs, and cosmetics. Under the amendments the sponsor of a color additive has the burden of demonstrating prior to marketing that the additive is safe for its intended use.

Recognizing that many colors were already in use at the time the amendments were enacted, Congress established transitional provisions to allow for the provisional listing and continued use of those colors where completion of studies were necessary to determine whether they should be permanently listed under the standards established in the new amendments.

Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed under section 203(b) of the transitional provisions to the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note)), along with their respective "closing dates." A "closing date" is the last day upon which a provisionally listed color can be legally used, absent an approval of the color additive petition and its permanent listing.

A color additive may be permanently listed only if data established that it is safe under its permitted conditions of use. The transitional provisions permit the provisional listing of color additives for aperiod of time necessary to complete scientific investigations needed to establish their safety. The closing date for such colors can be extended if, in the Commissioner's judgment, such action is consistent with the objective of carrying to completion in good faith and as soon as reasonably practicable the scientific investigations necessary for making the safety determination with respect to the provisionally listed colors. See *Health Research Group* v. *Califano,* Civil No. 77–293 (D.D.C. 1977). It was under these provisions that the 23 color additives discussed in this document were provisionally listed.

As a safeguard to assure the protection of the public health, the agency reviews progress reports on the scientific investigations. If it is determined that a color additive is unsafe, the Commissioner will terminate the provisional listing of the color additive. Additionally, petitioners are required to notify FDA immediately of any findings that indicate a potential for a color additive to cause adverse effects.

Under Title II of the Color Additive Amendments of 1960 and under authority delegated to the Commissioner of Food and Drugs, FDA is authorized to postpone the closing date of a provisional listing of a color additive on the Commissioner's own initiative or upon the application of an interested person. Section 203(d)(1) of Title II requires the issuance of regulations or amended regulations establishing, insofar as practicable, a current listing of color additives and the particular uses considered to be provisionally listed. In April 1980, FDA received three citizen petitions from the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), 1133 15th St. NW., Washington, DC 20005, Pharmaceutical Manufacturers Association, Inc. (PMA), 1155 15th St. NW., Washington, DC 20004, and Certified Color Manufacturers Association, Inc. (CCMA), 900 17th St. NW., Washington, DC 20006, requesting the Commissioner to amend §§ 81.1 and 81.27 to postpone the closing dates for the provisional listing of 23 color additives for which they have submitted color additive petitions requesting "permanent" listing. The current closing date for the 23 color additives, January 31, 1981, was established by a regulation published in the **Federal Register** of February 4, 1977 (42 FR 6392). That regulation established new closing dates for 52 provisionally listed color additives based upon FDA's conclusion that the postponement was consistent with the objective of carrying to completion, in good faith, and as soon as reasonably practicable, the scientific investigations necessary for making a determination as to listing these color additives under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). This action was part of the agency's publicly stated commitment, published in the **Federal Register** of January 5, 1976 (41 FR 754), to make final determinations about the "permanent" listing of the provisionally listed colors and to take steps to resolve the status of each of the provisionally listed color additives. Since February 4, 1977, final action has been taken on 24 provisionally listed color additives.

The CTFA, PMA, and CCMA have initiated new chronic-feeding studies on the 23 color additives which are the subject of this proposal so that a final determination as to their listing can be made. New chronic feeding studies for the 23 color additives were considered by FDA to be necessary because the earlier chronic studies on these colors were done during the 1950's and 1960's and those studies are no longer considered adequate to determine safety when judged by contemporary standards for toxicological studies. The petitioners of these 23 color additives undertook promptly and in good faith the chronic feeding studies required by § 81.27 (21 CFR 81.27) of the February 4, 1977 regulation. Below the agency explains the events which have led to this proposal to postpone the closing date for the 23 color additives at issue.

The time period from the initial announcement in the February 4, 1977 **Federal Register** through August 4, 1980, provided 42 months for conducting the studies. In their letter to FDA dated December 10, 1976, the petitioners expressed concern that there were insufficient laboratory facilities and personnel available to ensure the timely completion of the studies. The February 4, 1977 **Federal Register** announcement permitted petitioners from March 7, 1977, until April 7, 1977, to submit a protocol for conducting studies to FDA. This protocol was accepted, in general, the last week of April 1977, thus reducing by 3 months the time for conducting the study. Before the studies could be initiated, the petitioners needed an additional 4 months to arrange the $13 million financing necessary to fund the studies, find appropriate and adequate animal testing laboratories that could meet FDA's Good Laboratory Practice (GLP) requirements under 21 CFR Part 58, contract with the laboratories, develop specific protocols for the rat and mouse studies, obtain FDA approval of each specific protocol, obtain FDA certification of the colors, and purchase and acclimatize the animals. The fact that the petitioners accomplished all these tasks in a 4-month time span demonstrated their good faith in attempting to satisfy FDA's stringent time requirements. Nonetheless, this reduced the time period available for actually conducting the studies to 35 months.

With regard to the required in utero rat studies, 4 months are required for the in utero phase and 30 months for the subsequent lifetime feeding phase. The petitioners assert that the 1 month remaining is totally inadequate for sacrificing the animals from the 36 studies, performing necropsies, preparing approximately 1 million histopathological slides, reviewing and verifying the results, and writing the final report. The agency agrees.

There have arisen unforeseen and unavoidable delays in petitioners' chronic feeding studies which justify postponement of the closing date to allow for the completion and evaluation of these studies. For example:

1. FDA needed additional time to approve the protocols and dosage levels.
2. FDA changed the high dose levels after the studies were initiated, necessitating the addition of another dose level to some studies.
3. There were laboratory delays in preparing the test protocols and final reports.
4. There were shortages of color additives midway through the testing program.

Because of the novel protocols involved in these studies, one source of unexpected delay was the lack of historical data to assist the petitioners and FDA toxicologists in accurately predetermining the dose levels that should be fed to the test animals, including the in utero exposure. The stringent timetable forced the petitioners to begin the chronic feeding studies before FDA had approved the dose levels to be fed. FDA later disagreed with the choice of dose levels involving 13 of the color additives (example 2, above). The petitioners and FDA agreed at that time that an additional higher dose level with a concurrent control group would be initiated for each of the color additives involved as soon as possible. In each case, however, the data on the first three dose levels were to be submitted to FDA by August 4, 1980. FDA would then evaluate the data on the three dose levels submitted to determine whether provisional listing should continue until the final report containing the data on the fourth and highest dose was submitted.

Moreover, unavoidable delays were also caused by the tremendous shortage of adequate animal testing laboratories and, especially trained pathologists in this country and abroad at a time when Congress and many Federal agencies are requiring more and more animal safety testing. This shortage has caused large work backlogs in these laboratories. In addition, the implementation of FDA's GLP

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requirements has increased this backlog by decreasing the number of acceptable testing facilities.

The staggered final report dates now being proposed would allow the four animal testing laboratories involved sufficient time, considering their available resources, to evaluate and prepare the final reports. These staggered report dates should also help alleviate difficulties that FDA is experiencing in reviewing such data in a timely manner because of severe employee shortages by spreading the influx of data over a 2-year time span.

Based on the available evidence relating to the safety of the 23 colors, FDA believe they can continue to be used safety during the testing and review period and that the proposed extension of the provisional listings for these colors is therefore consistent with the protection of the public health.

The current issue of Title 21 of the Code of Federal Regulations (revised as of April 1, 1980) incorrectly gives a closing date of "January 31, 1981" and restrictions of "surgical sutures use only" for lakes (D&C) under § 81.1(b) and a closing date of "October 31, 1977" for lakes (Ext. D&C) under § 81.1(c).

These closing dates in the restrictions were inadvertently left in the compiled regulation as the color additive for which they were intended or listed. Those errors are deleted in the proposed regulation set forth below. FDA is currently considering comments on the lakes received in response to the notice of intent to propose rules published in the **Federal Register** of June 22, 1979 (44 FR 36411). The agency expects to make a decision and publish in the **Federal Register** in the near future a proposal concerning lakes of color additives.

In the regulation of February 4, 1977 (42 FR 6992), the agency found that publication of a postponement of the closing date for 52 provisionally listed color additives would not have a significant effect on the quality of the human environment. This proposed action would likewise have no significant effect on the quality of the human environment because it would simply permit a continuation of the use of 23 of those 52 provisionally listed color additives while scientific studies are being completed and evaluated. This action involves only continuation of ongoing scientific investigations and the submission of data on a prescribed schedule. Thus, the potential environmental effects of this proposed action will not have a significant impact on the human environment and no environmental impact statement is required.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376 (note))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 81 of Subchapter A of Title 21 of the Code of Federal Regulations be amended as follows:

1. In § 81.1(a), (b) and (c) by revising the tables therein to read as follows:

§ 81.1 Provisional lists of color additives.

* * * * *

(a) * * *

	Closing date		Restrictions
	Food use	Drug and cosmetic use	
FD&C Blue No. 1 (sec. 74.101 of this chapter).	Oct. 30, 1982.[1]	Oct. 30, 1982.	
FD&C Blue No. 2 (sec. 74.1102 of this chapter).	Oct. 30, 1982.	....do.....	Food an ingested drugs.
FD&C Green No. 3 (sec. 82.203 of this chapter).	Nov. 16, 1982.	Nov. 16, 1982.	
FD&C Red No. 3 (sec. 74.303 of this chapter).	Oct. 2, 1983.[1]	Oct. 2, 1983.	
FD&C Yellow No. 5 (sec. 74.705 of this chapter).	Oct. 7, 1983.[1]	Oct. 7, 1983.	
FD&C Yellow No. 6 (sec. 82.706 of this chapter).	Feb. 28, 1984.	Feb. 28, 1984.	
Lakes (FD&C) (sec. 82.51 of this chapter).			

[1] Lakes only.

(b) * * *

	Closing date	Restrictions
D&C Green No. 5 (sec. 74.1205 of this chapter).	May 30, 1982.....	
D&C Green No. 6 (sec. 74.1206(a) and (b) of this chapter).	Jan. 31, 1981.....	
D&C Orange No. 5 (sec. 82.1255 of this chapter).	Oct. 30, 1982.....	Sec. 81.25.
D&C Orange No. 10 (sec. 82.1260 of this chapter).	Jan. 31, 1981.....	
D&C Orange No. 11 (sec. 82.1261 of this chapter).	.....do.....	
D&C Orange No. 17 (sec. 82.1267 of this chapter).	Mar. 31, 1983	Do
D&C Red No. 6 (sec. 82.1306 of this chapter).	Dec. 31, 1982.....	
D&C Red No. 7 (sec 82.1307 of this chapter).	.....do.....	
D&C Red No. 8 (sec 82.1308 of this chapter).	Sept. 30, 1983....	Sec. 81.25.
D&C Red No. 9 (sec 82.1309 of this chapter).	.....do.....	Do.
D&C Red No. 19 (sec. 82.1319 of this chapter).	Feb. 28, 1983.....	Do.
D&C Red No. 21 (sec. 82.1321 of this chapter).	Nov. 30, 1982.....	
D&C Red No. 22 (sec. 82.1322 of this chapter).	.....do.....	
D&C Red No. 27 (sec. 82.1327 of this chapter).	Oct. 30, 1982.....	
D&C Red No. 28 (sec. 82.1328 of this chapter).	.....do.....	
D&C Red No. 30 (sec. 82.1330 of this chapter).	May 30, 1982.....	
D&C Red No. 33 (sec. 82.1333 of this chapter).	Mar. 31, 1983.....	Sec. 81.25
D&C Red No. 36 (sec. 82.1336 of this chapter).	Sept. 30, 1984....	Do.
D&C Red No. 37 (sec. 82.1337 of this chapter).	Feb. 28, 1983.....	Do.
D&C Yellow No. 10 (sec. 82.1710 of this chapter).	Apr. 30, 1983.....	Do.
Lakes (D&C) (sec. 82.1051 of this chapter).		

(c) * * *

	Closing date	Restrictions
Lakes (ext. D&C) (sec. 82.105(1) of this chapter).		

* * * * *

2. In § 81.27 by revising the introductory text of paragraph (d), paragraph (d)(3), the introductory text of paragraph (e), and paragraph (e)(2) and by adding paragraph (d)(5), to read as follows:

§ 81.27 Conditions of provisional listing.

* * * * *

(d) The closing dates and dates for final reports for the following 23 color additives are postponed in accordance with the following list while chronic toxicity feeding studies are conducted and evaluated and subject to compliance with the requirements of this paragraph:

	Final report due	closing date
FD&C Blue No. 1.....	Oct. 30, 1981.....	Oct. 30, 1982
FD&C Blue No. 2.....	Oct. 30, 1981.....	Oct. 30, 1982
FD&C Green No. 3.....	Nov. 16, 1981.....	Nov. 16, 1982
D&C Green No. 5.....	May 30, 1981	May 30, 1982
D&C Orange No. 5.....	Oct. 30, 1981.....	Oct. 30, 1982
D&C Orange No. 17.....	Mar. 31, 1982.....	Mar. 31, 1983
FD&C Red No. 3	Oct. 2, 1982.....	Oct. 2, 1983
D&C Red No. 6.....	Dec. 31, 1981.....	Dec. 31, 1982
D&C Red No. 7.....	Dec. 31, 1981.....	Dec. 31, 1982
D&C Red No. 8.....	Sept. 30, 1982.....	Sept. 30, 1983
D&C Red No. 9.....	Sept. 30, 1982.....	Sept. 30, 1983
D&C Red No. 19.....	Feb. 28, 1982.....	Feb. 28, 1983
D&C Red No. 21.....	Nov. 30, 1981.....	Nov. 30, 1982
D&C Red No. 22.....	Nov. 30, 1981.....	Nov. 30, 1982
D&C Red No. 27.....	Oct. 30, 1981.....	Oct. 30, 1982
D&C Red No. 28.....	Oct. 30, 1981.....	Oct. 30, 1982
D&C Red No. 30.....	May 30, 1981	May 30, 1982
D&C Red No. 33.....	Mar. 31, 1982.....	Mar. 31, 1983
D&C Red No. 36.....	Sept. 30, 1983.....	Sept. 30, 1984
D&C Red No. 37.....	Feb. 28, 1982.....	Feb. 28, 1983
FD&C Yellow No. 5.....	Oct. 7, 1982.....	Oct. 7, 1983
FD&C Yellow No. 6.....	Feb. 28, 1983.....	Feb. 28, 1984
D&C Yellow No. 10.....	Apr. 30, 1982.....	Apr. 30, 1983.

* * * * *

(3) An initial progress report of the studies on the color additives shall be submitted to the Division of Food and Color Additives by December 31, 1977. Further progress reports shall be submitted at 6-month intervals thereafter.

* * * * *

(5) The closing date for the color additive, caramel is postponed until January 31, 1981, while a lifetime mouse skin painting study is conducted and evaluated, and subject to compliance with the requirements of this paragraph.

(e) The closing dates for FD&C Red No. 3 and D&C Red No. 33 are postponed until October 2, 1983 and March 31, 1983, respectively, while multigeneration reproduction studies are conducted and evaluated, and subject to compliance with the requirements of this paragraph.

* * * * *

(2) An initial progress report of the studies on the color additives shall be submitted by July 1, 1978 and at 6-month intervals thereafter. A full report of the studies conducted on the color additives shall be submitted to the Division of Food and Color Additives in accordance with the scheduled dates in paragraph (d) of this section.

* * * * *

Interested persons may, on or before January 13, 1981 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: November 10, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-35532 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 610

[Docket No. 79N-0408]

General Biological Products Standards; Pyrogen Test Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise the biologics regulations to conform with the requirements of the latest revision of the Pyrogen Test appearing in the United States Pharmacopeia (U.S.P.) XX which became official July 1, 1980. There is no substantive change in the requirements or procedures of this test. The agency is also proposing to amend the regulations to clarify that the requirement for testing each lot of a product for pyrogenic substances means testing of the product when packaged in final containers and not as bulk material and to permit the use of a different test for pyrogenic substances equal or superior to the U.S.P. test, provided that such test has been approved for use by the Director, Bureau of Biologics.

DATES: Comments by January 13, 1981; proposed effective date of final order is 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Fisher, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: The biologics regulations in § 610.13(b) (21 CFR 610.13(b)) require that each lot of any product intended for use by injection shall be tested for pyrogenic substances, unless specifically exempted. The regulation also describes the test procedure and the requirements for analysis of the test results. With the exception of specific test doses for certain biological products, the pyrogen test procedure and the requirements for analysis of the test results prescribed by the regulation are basically a reprint of the Pyrogen test requirements appearing in the U.S.P. XIX, which was "official" from July 1, 1975 through June 30, 1980. The latest revision of the official compendium, the U.S.P. XX, became official on July 1, 1980. This revision includes several editorial modifications in the description of the pyrogen test procedure. No substantive changes were made in the test procedure or analysis of test results.

To simplify, shorten, and expedite its regulation development process, the agency has determined that incorporating these revised procedures by reference, rather than reprinting them, is appropriate. This action is consistent with Executive Order 12044 for improving government regulations by making the resulting regulation clearer and simpler.

Accordingly, FDA is proposing to amend § 610.13(b)(2) to reference the requirements of the Pyrogen Test of the current edition of the U.S.P. FDA is also proposing to amend § 610.13(b) to clarify that the requirement for testing each lot of a product for pyrogenic substances means testing of the product when packaged in final containers and not as bulk material; and § 610.13(c) to permit the use of a different test for pyrogenic substances equal or superior to the U.S.P. test, provided that such test has been approved for use by the Director, Bureau of Biologics.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Public Health Service Act (section 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 610 be amended in § 610.13 by revising the introductory text of paragraph (b), and by revising paragraphs (b)(2), and (c) to read as follows:

§ 610.13 Purity.

* * * * *

(b) *Test for pyrogenic substances.* Each lot of final containers of any product intended for use by injection shall be tested for pyrogenic substances by intravenous injection into rabbits as provided in paragraph (b)(1) and (2) of this section: *Provided,* That notwithstanding any other provision of subchapter F of this chapter, the test for pyrogenic substances is not required for the following products: Products

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containing formed blood elements; Cryoprecipitated Antihemophilic Factor (Human); Single Donor Plasma (Human); Source Plasma (Human); Normal Horse Serum; bacterial, viral, and rickettsial vaccines and antigens; toxoids; toxins; allegenic extracts; venoms; diagnostic substances and trivalent organic arsenicals.

. . . . .

(2) *Test procedure, results, and interpretation standards to be met.* The test for pyrogenic substances shall be performed according to the requirements specified in United States Pharmacopeia XX.

(c) *Different tests equal or superior.* A different test for residual moisture or pyrogenic sustances may be performed provided that prior to its performance the manufacturer submits data which the Director, Bureau of Biologics, finds adequate to establish that the different test is equal or superior to the test described in paragraph (a) or (b) of this section and makes the finding a matter of official record.

Interested persons may, on or before January 13, 1981, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch (formerly the Hearing Clerk's office), Food and Drug Administration.

Dated: November 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-35645 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 890

[Docket No. 78N–1183]

Physical Medicine Devices, Classification of Powered Myoelectric Biofeedback Equipment; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing its proposal of August 28, 1979, that would have classified physical medicine powered myoelectric biofeedback equipment into class II (performance standards). The agency has determined that this device is essentially the same as another device, the neurological biofeedback device, which the agency already has classified into class II as part of the proceeding to classify neurological devices. Because the two regulations concern the same generic type of device, the agency is withdrawing the proposal of August 28, 1979. The administrative record for this proposal shall be included with the administrative record for the final regulation classifying the neurological biofeedback device into class II.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1979 (44 FR 50464), FDA proposed that physical medicine powered myoelectric biofeedback equipment be classified into class II (performance standards). This action was taken as part of the agency's overall implementation of the Medical Device Amendments of 1976 (the amendments) that established a system for the regulation of medical devices for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending upon the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: class I (general controls), class II (performance standards), and class III (premarket approval). The amendments also established a procedure for the agency to promulgate regulations classifying each generic type of device into one of these three classes. Because the same generic type of device may be used in different medical specialty areas (anesthesiology, neurology, general and plastic surgery, etc.) under different names, the agency continues to consolidate its list of generic types of devices.

After publication of the proposal to classify powered myoelectric biofeedback equipment as part of the physical medicine device classification proceeding, the agency determined that biofeedback devices already had been proposed for classification into class II as part of the neurological device classification proceeding. The final regulation classifying biofeedback devices into class II was published in the **Federal Register** of September 4, 1979 (44 FR 51762). The agency has determined that physical medicine powered myoelectric biofeedback equipment are essentially the same as neurological biofeedback devices.

The one comment that was received on the proposed classification regulation for powered myoelectric biofeedback equipment stated that the identification of the device was incorrect. The comment stated that the device monitors muscle contraction/relaxation and does not apply an electrical current to the body and does not measure the electrical properties of nerves, skin temperature, or skin resistance. The comment said the device only measures the intrinsic electrical properties of muscles. The comment did not disagree with the proposal to classify the myoelectric biofeedback equipment into class II. The agency partially agrees with the comment. The identification of the physical medicine biofeedback device was not consistent with the name of the device. Also, paragraph 3 of the physical medicine proposal incorrectly stated that the biofeedback device applies an electrical current to the body. However, the agency believes that some kinds of biofeedback devices included in the neurological biofeedback devices regulation do monitor skin temperature and other physiological parameters besides muscle activity. Therefore, the agency believes that generic biofeedback devices are correctly identified in that regulation.

Accordingly, to avoid unnecessary device classification regulations, the agency hereby withdraws the August 28, 1979 proposal to classify physical medicine powered myoelectric biofeedback equipment. The administrative record for the August 28, 1979 proposal, including the one comment recieved on it, will be included in the administrative record for the September 4, 1979 rule classifying neurological biofeedback devices into class II (Docket No. 78N–1076).

Persons who disagree with the final classification of a device may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: November 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-35651 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR–152–80]

Windfall Profit Tax; Clarification of Rules Relating to Base Prices of Tier 2 and Tier 3 Oil

AGENCY: Internal Revenue Service, Treasury

ACTION: Amendment of proposed rulemaking by cross-reference to amended temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary excise tax regulations that clarify rules previously published relating to base prices of tier 2 and tier 3 oil for purposes of the windfall profit tax on oil imposed by title I of the Crude Oil Windfall Profit Tax Act of 1980. The temporary regulations clarify that a base price determination is made on a property-by-property basis and provide rules for making that determination. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and reguests for a public hearing must be delivered or mailed by January 13, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–152–80), 1111 Constitution Avenue, NW, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Cross Reference

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amends 26 CFR Part 150. The final regulations which are proposed to be based on the temporary regulations would amend 26 CFR Part 51.

For the text of the temporary regulations, see FR Doc. 35739 (T.D. 7738) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Comments and Public Hearing

Before the adoption of these regulations (the text of which is the same as the temporary regulations), consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Request For Comments Upon Specific Issue

Persons submitting comments are specifically invited to discuss the merits of alternatives to the prescribed methods of determining base prices, such as by reference to posted prices.

Drafting Information

The principal author of these proposed regulations was Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

P. E. Coates,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-35738 Filed 11-12-80; 12:13 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Labor-Management Standards Enforcement

29 CFR Parts 402 and 403

Responsibility of Labor Organizations To Make Available to Members Information Contained in Reports Filed With the Department of Labor; Denial of Petition To Amend Regulations

AGENCY: Department of Labor.

ACTION: Denial of petition.

SUMMARY: The Department of Labor has determined that further action on a petition to require labor organizations to mail directly to all members copies of their current constitutions and bylaws together with information from annual financial and information reports filed with the Department under the Labor-Management Reporting and Disclosure Act of 1959, as Amended, is unnecessary and inappropriate. The Department denies the petition because of the lack of evidence that labor organizations fail to make the required information available to their members and because there are in any case existing remedies available to correct occurrences of such failure as they may occur. Consequently, the cost to labor organizations for implementing the proposal are not justified.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin, Room N–5109, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210; 202–523–7373.

SUPPLEMENTARY INFORMATION: The Department of Labor received a petition pursuant to the Administrative Procedure Act, 5 U.S.C. 553(e), to amend the Department regulations at 29 CFR 402.10 and 403.8. The current regulations set forth the requirement of subsection 201(c) of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA) that labor organizations make information available to members from the reports which are submitted to the Department under subsections 201(a) and (b) of the LMRDA.

The petition proposes that the regulations be amended to require every labor organization to mail to each member a copy of its current constitution and bylaws together with information from its annual financial reports and from its current information report. The petition states that the current regulations make it possible for labor organizations to circumvent their disclosure obligations under the LMRDA and that members may be subject to expense, inconvenience and intimidation if they can obtain the information only by request and/or by inspection at labor organization offices.

A notice was published in the **Federal Register** on February 9, 1979 (44 FR 8294) inviting comments from the public concerning the petition. The sixty day comment period was extended thirty days in a notice published in the **Federal Register** of April 10, 1979 (44 FR 21302). Press releases on the petition were distributed to the media and copies of the notices were sent to national and international labor organizations, organizations of rank and file members, public interest and employer

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organizations, universities with labor education programs, and professors prominent in the field of labor-management relations.

The Department received 108 comments from the public on the petition, most of which were from union officials who were opposed to the proposal. These comments cited the extensive costs to unions in implementing the proposal with regard to both the direct costs for duplicating and mailing the documents in question and the indirect costs of the time of union officers and employees. They also argued that there was no evidence that unions are not meeting their obligation under the LMRDA to make information available to their members, that any member who wants reports can easily obtain them from his or her union and from the Department of Labor, that there are sufficient remedies available to the Department and to individual members to take action against a union which fails to make information available, that Congress did not intend to require unions to mail copies of the reports to their members, and that the Department does not have the authority under the LMRDA to impose such an obligation.

The comments in support of the petition made general observations regarding the importance of members having information concerning their unions in order to maintain union democracy, the general lack of information that members have concerning their unions, and the difficulty of obtaining information from their unions. Two of these comments referred to specific cases. One commenter discussed a problem he had several years ago in obtaining a copy of his union's collective bargaining agreement (a situation that is covered by another provision of the LMRDA and would not be affected by the proposal under consideration), and another commenter discussed problems he once had when he distributed information to his fellow members from a report which was filed by his union under the LMRDA. Neither the petition nor any of the comments, however, referred to specific instances in which a union refused to make information from the reports available to a member.

The Department's Evaluation of the Petition

The LMRDA does not specifically require unions to mail or otherwise make directly available to every member copies of the reports filed under the LMRDA. The LMRDA, in fact, deleted a provision of the Labor-Management Relations Act of 1947 that required unions to "furnish" members the annual financial reports required under the Act. In its place the LMRDA set forth the more general requirement that unions "make available" to members the information contained in reports filed under the LMRDA and provided that the Secretary shall make the reports available for inspection and shall furnish copies upon request. However, the broad rulemaking and enforcement authority granted the Secretary of Labor undr sections 208, 209 and 210 would enable him to issue regulations requiring unions to mail or otherwise distribute the reports if it were found that violations of the "make available" requirement were extensive and could not be remedied by other means available under the LMRDA.

The petition and the comments have not provided evidence of violations of the "make available" requirement of section 201(c) of the LMRDA. The assertion that the current regulations enable unions to evade their obligations and may result in inconvenience, expense and intimidation for union members, and the general references to the problems members have with their unions is not sufficient to justify imposing extensive costs on unions which must ultimately be borne by the members themselves. Further, the two specific cases cited in the comments do not deal with the failure of a union to make information from reports available to a member. In order for the Department to adopt the amendments set forth in the petition, there must be clear evidence that there is a problem which cannot be alleviated by other means.

The analysis and arguments offered in the petition, the observations made in the comments, and the experience of the Department in administering the LMRDA do not provide the requisite evidence that there is such a problem.

There are sufficient remedies at present if a labor organization fails to make information from the reports available to members. Under sections 209 and 210 of the LMRDA, the Secretary of Labor may bring criminal or civil action, respectively, for any such violation. Under subsection 201(c), a member may for just cause bring private civil action against the labor organization in order to examine any records necessary to verify the reports. In addition, the reports are public information and are available for examination and purchase from the Department of Labor. All reports are maintained in the National Office in Washington, and each of the 24 area offices of the Labor-Management Services Administrtion (LMSA) maintains copies of the reports for all labor organizations within its geographic jurisdiction.

After considering all the evidence and arguments, the Department has concluded that the current regulations at 29 CFR 402.10, 403.8 should not be amended. The Department is of course concerned that members have information concerning their labor organizations so that they can be active and knowledgeable participants in union affairs and so that they may be able to take action against any improper activities. In this regard, any member who has difficulty in obtaining information from his or her union, or who has any other question or problem regarding the LMRDA, should contact the National Office or any area office of LMSA. Although there is insufficient evidence to justify the costs of requiring unions to mail copies of reports to all members, the Department is prepared to take appropriate action, including amending the present regulations, to insure full compliance with the LMRDA.

(Secs. 201, 208, 73 Stat. 524, 529; 29 U.S.C. 431, 438; Secretary's Order No. 9–77)

Signed at Washington, D.C. this 7th day of November 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations

[FR Doc. 80–35613 Filed 11–13–80; 8:45 am]

BILLING CODE 4510–29–M

Occupational Safety and Health Administration

29 CFR Parts 1903 and 1977

[Docket No. W005]

Walkaround Compensation

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rulemaking

SUMMARY: This notice proposes to add two new OSHA regulations requiring employers to compensate employees who participate in walkaround inspections or related activities. These requirements would protect the statutory right of employees to participate in inspections of their working conditions together with the OSHA inspector and would ensure that employees are not discouraged from participation in these inspections by fear of loss of compensation.

DATES: Comments on these proposed rules must be postmarked by December 29, 1980.

ADDRESS: Comments are to be sent to: Docket Officer, Docket No. W005, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–6212, Washington, D.C. 20210, Telephone (202) 523–8151.

FOR FURTHER INFORMATION CONTACT: Mark J. Lerner, Room S–4004, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–6569.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Framework

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) ("the Act"), was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." In order to carry out these purposes, section 8(a) of the Act authorizes the Secretary of Labor to conduct inspections and investigations of workplaces in order to determine whether violations of the Act are present. An essential feature of such inspections is set forth in section 8(e) of the Act, which provides:

> Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

Thus, the Act grants employers and employees an express right to accompany an OSHA inspector for the purpose of aiding the inspection. The Act also grants employees the right to complain to OSHA compliance officers prior to or during an inspection about possible violations of the Act (section 8(f)(2)). It also provides that OSHA compliance officers may question employees about workplace conditions (section 8(a)(2)) and may, as noted, consult with a reasonable number of employees about occupational safety and health matters where there is no employee representative. The right to accompany an OSHA inspector may be implemented by the promulgation of regulations pursuant to section 8(e). In addition, this right, as well as the other rights under sections 8(a)(2), 8(e) and 8(f)(2), may be implemented pursuant to section 8(g)(2) of the Act, which provides:

> The Secretary and the Secretary of Health, Education and Welfare shall each prescribe such rules and regulations as he may deem necessary to carry out their responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

Also relevant is section 11(c) of the Act, which proscribes discharge of, or discrimination against, any employee because the employee has, inter alia, filed an OSHA complaint, instituted OSHA proceedings, testified in such proceedings, or exercised any right afforded by the Act. Section 11(c)(1) is enforced by the institution of civil actions in federal district courts by the Secretary of Labor. As set forth in more detail below, pursuant to its authority under sections 8(e), 8(g)(2) and 11(c), OSHA is proposing regulations requiring employers to compensate employees for time spent in walkaround inspections and related activities.

B. History of Walkaround Compensation Regulations

In 1973, the Assistant Secretary of Labor for Occupational Safety and Health, relying in part upon the then Solicitor of Labor's opinion that walkaround time was not "hours worked" under the Fair Labor Standards Act (FLSA), 29 U.S.C. 203(o) (1976), concluded that an employer's failure to pay employees for time spent with the OSHA inspector was not a per se violation of section 11(c). This conclusion was subsequently promulgated as a regulation interpreting section 11(c). See 38 FR 2681, 2684 (January 29, 1973) (codified at 29 CFR 1977.21(a) (1975)).

In a civil action brought by employees to recover wages lost because of participation in an OSHA inspection, the United District Court for the District of Columbia upheld the Department of Labor's interpretation. "Leone v. Mobil Oil Corp.," 377 F. Supp. 1302 (D.D.C. 1974), aff'd 523 F.2d 1153 (D.C. Cir. 1975). Affirming that decision, the United States Court of Appeals for the District of Columbia Circuit held that because walkaround time primarily benefits employees and because the walkaround is conducted beyond the employer's control, walkaround time does not constitute "hours worked" under the FLSA. "Leone," supra, 523 F.2d 1153, 1163–64. Furthermore, the court held that a walkaround payment requirement could not be inferred from the provisions of the Occupational Safety and Health Act. Id. at 1159–61.

In 1977 the Solicitor of Labor reevaluated the original legal position and issued a new opinion in September, 1977, based on further study and the agency's experience, which stated that walkaround time was "hours worked" under the FLSA, that an employer's failure to pay employees for that time was inherently destructive of the walkaround right, and that therefore the failure to pay was discrimination prohibited by section 11(c)(1) of the Act. On September 20, 1977, the Assistant Secretary promulgated an "interpretive rule and general statement of policy" declaring that "an employer's failure to pay employees for time during which they are engaged in walkaround inspections is discriminatory under section 11(c)." This rule was issued without utilizing the notice-and-comment procedures set forth in the Administrative Procedure Act (APA), 5 U.S.C. 553, and was published at 42 FR 47344, (September 20, 1977), as an amendment to 29 CFR 1977.21.

On October 25, 1977, the Chamber of Commerce of the United States of America (Chamber) filed an action in the United States District Court for the District of Columbia challenging the validity of the new regulation and asking for declaratory and injunctive relief. The district court concluded that the regulation was interpretive and therefore exempt from the notice-and-comment procedures of the APA. The court held that OSHA did not exceed its statutory authority in issuing the new regulation. The Chamber appealed.

On July 10, 1980 the United States Court of Appeals for the District of Columbia Circuit reversed the judgment of the district court and remanded the case to that court with instructions to vacate the new regulation. Initially, relying on its decision in "Leone," supra, the court of appeals held that walkaround time did not constitute "hours worked" within the meaning of the FLSA because the employer did not select or regulate the employee representative during the walkaround, nor was the employer the primary beneficiary of the walkaround. The court also held that the Act itself neither prohibited nor compelled pay for walkaround time. Therefore, according to the court, the new OSHA regulation was not interpretive, but legislative. Because OSHA did not comply with the notice-and-comment procedures under the APA for the promulgation of legislative rules, the new walkaround pay regulation was invalid and should be vacated, the court of appeals concluded. The court, however, expressed no view on whether the Assistant Secretary could reissue the same rule after complying with the notice-and-comment procedures of 5 U.S.C. 553.

On remand the district court vacated the regulation on August 14, 1980. The Assistant Secretary has deleted the prior regulation (45 FR 72118).

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II. Basis and Purpose of the Proposal

A. Introduction

OSHA is proposing two regulations requiring pay for walkaround activity in order to assure that employees will effectively participate in walkaround inspections. One regulation, which adds to 29 CFR 1903.8 (Representatives of employers and employees), would be promulgated pursuant to sections 8(e) and 8(g)(2) of the Act. The other, which adds a new 29 CFR 1977.21 to Part 1977, would be issued as a regulation implementing section 11(c) of the Act pursuant to section 8(g)(2). It should be noted here that although we respectfully disagree with the "Chamber" decision that walkaround time is not "hours worked" under the Fair Labor Standards Act (FLSA), this proposal is not based on any determination that walkaround time is "hours worked" under the FLSA.

B. Basis and Purpose of the Addition to 29 CFR 1903.8

1. Statutory Basis.—As noted above, section 8(e) expressly authorizes the Secretary to issue regulations implementing the walkaround requirements of that section. In addition, section 8(g)(2) empowers the Secretary to promulgate regulations as he may deem necessary to carry out his responsibilities under the Act, including regulations dealing with inspections. The proposed regulation, an addition to 29 CFR 1903.8, which details procedures for selection of employer and employee walkaround representatives, is based on the Secretary's authority under section 8(e). Furthermore, since compensation for time spent by employee representatives and by employees engaged in related activities under sections 8(a)(2), 8(e), and 8(f)(2) during the walkaround inspection is essential to assuring such participation and since this employee participation is vital to an OSHA inspection, as discussed below, this proposed regulation is needed to carry out OSHA's responsibility to conduct occupational safety and health inspections. Thus, the proposed regulation is also based on the Secretary's authority under section 8(g)(2).

2. Reasons for the Addition to 29 CFR 1903.8.—Employee involvement in the inspection process is crucial to the successful enforcement of the Act. More particularly, employee participation in the walkaround is intended to aid the Secretary in the performance of his duties and responsibilities under the Act to conduct comprehensive and effective inspections. Employees often are the best sources of information concerning hazardous areas in a workplace, how machinery operates, and potential or actual exposure of employees to workplace hazards. This information is essential to enable representatives of the Secretary to determine whether violations of the Act exist and what enforcement action should be taken. This view of section 8(e) is strongly supported by the legislative history of the Act. Thus, in the development of the Act, Members of Congress repeatedly emphasized the crucial importance of employee participation in the walkaround process. For example, Senator Williams, Chairman of the Senate Labor Committee, and one of the main sponsors of the OSHA bill, stated:

> During the field hearings held by the Subcommittee on labor, the complaint was repeatedly voiced that under existing safety and health legislation, employees are generally not advised of the content and results of a Federal or State inspection. Indeed, they are often not even aware of the inspector's presence and are thereby deprived of an opportunity to inform him of alleged hazards. Much potential benefit of an inspection is therefore never realized, and workers tend to be cynical regarding the thoroughness and efficacy of such inspections. Consequently, in order to aid in the inspection and provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment, the committee has concluded that an authorized representative of employees should be given an opportunity to accompany the person who is making the physical inspection * * * [T]he inspector should have an opportunity to question employees in private so that they will not be hesitant to point out hazardous conditions which they might otherwise be reluctant to discuss" Committee Print, Legislative History of the Occupational Safety and Health Act of 1970, 92d Cong. 1st Sess. (June 1971)" (hereinafter "Leg. Hist."), p. 151.
>
> Certainly no one knows better than the working man what the conditions are, where the failures are, where the hazards are, and particularly where there are safety hazards. The opportunity to have the working man himself and a representative of other working men accompanying inspectors is manifestly wise and fair, and in arriving at the objectives of this legislation I think it is one of the key provisions of the bill * * * "Leg. Hist.," p. 430.

See also "Leg. Hist.," pp. 852, 1216–17.

Further, other provisions of the Act underscore the overriding importance of employee walkaround in facilitating a free and open exchange of information between the representative of the Secretary and employees. The Act expressly provides in section 8(f)(2) that employees have the right to notify the OSHA inspectors prior to or during the inspection itself of violations which they have reason to believe exist in the workplace. The likelihood and effectiveness of this notification would be greatly increased where an employee representative accompanies the compliance officer during the inspection.

The wisdom of the Congressional judgment to ensure open channels of communication between the Secretary and employees has been continually reinforced throughout the nine years of enforcement experience. During these years, employee participation and cooperation at the inspection stage have proved to be critically important to enforcement efforts under the Act. Information provided by employees often makes the difference between success and failure in the effort to eliminate workplace hazards.

For example, there are many hazardous conditions which cannot be adequately evaluated by OSHA without information from employees who are familiar with the particular condition in the context of the particular workplace and who transmit this information to the compliance officer during the walkaround. Employees are particularly helpful in accident inspections because they may know about the conditions which caused the accident. In addition, there have been many instances where employees have informed OSHA during the inspection of hazards which might otherwise not have been detected by the compliance officer. Moreover, the increasingly complex nature of workplace hazards, as in the health area, has imposed greater burdens on the Secretary in detecting these hazards and has correspondingly made the need for employee involvement at the inspection stage even more compelling. Finally, there have been situations in which employees have explained their work procedures in a manner which establishes that a certain condition is not actually hazardous and that accordingly OSHA should not issue citations.

In particular, authorized employee representatives, who, in many cases, are employees serving on safety and health committees, frequently have a comprehensive understanding of such matters in the workplace, including knowledge of employer policies and practices, prior statements by management representatives, and the interrelationship between various portions of the manufacturing or construction process. This information is essential, for example, in determining whether or not an employer has violated the general duty clause, section 5(a)(1) of the Act, which contains the element of recognition of a hazard; in ascertaining whether or not the employer had actual or constructive

knowledge of a violation, which is an element of serious (section 17(k)) and willful (section 17(a)) violations; and in assessing an argument that a violative condition was the result of isolated employee misconduct.

It is plain that the failure of an employer to pay an employee for time spent during the walkaround would constitute a sufficient economic disincentive to an employee from acting as a representative of employees during a walkaround. This is especially true when lengthy inspections are conducted and significant amounts of compensation would be lost. Moreover, the failure to pay for time spent would discourage employees from engaging in such related activities as notifying compliance officers of hazards during inspections as set forth in section 8(f)(2) of the Act, in consulting with compliance officers on occupational safety and health matters during an inspection where there is no employee representative, as set forth in section 8(e), and in responding to a compliance officer's questions as set forth in section 8(a).

The agency is aware that in some cases unions pay employees who participate in walkaround inspections. However, employees who participate in walkaround may not be unionized and, even where unions are present in the plant, they do not necessarily compensate employees for walkaround time. It would therefore be inequitable to rely on unions as a means of payment.

When employee representatives are discouraged from present and future participation in the walkaround and related activities because of the loss of benefits, the open channels of communication between employees and the Secretary are seriously impaired. OSHA compliance personnel would be substantially limited to reliance on information obtained from the employer representative and through observation of the workplace at the time of the inspection and as a result the likelihood of their obtaining complete and useful information on workplace hazards would be reduced.

C. Basis and Purpose of the New 29 CFR 1977.21

OSHA's proposed regulation adding a new 29 CFR 1977.21 to Part 1977 implements section 11(c) of the Act. As noted previously, section 11(c) proscribes discrimination against, or discharge of, an employee because the employee has, inter alia, filed an OSHA complaint, instituted an OSHA proceeding, or exercised any right afforded by the Act. These rights include, inter alia, the right of an employee representative to accompany an OSHA compliance officer during a walkaround inspection, under section 8(e), as well as the right of employees to discuss occupational safety and health matters with OSHA compliance officers during an inspection as set forth in sections 8(a)(2), 8(e) and 8(f)(2).

Forcing employees to suffer economic loss through a loss of pay or other benefits constitutes a serious disincentive to exercise of these rights and as such is inherently destructive of these rights, as explained previously. Accordingly, an employer's failure to pay for such activity should be treated as per se discrimination against the exercise of employee rights, and therefore violative of section 11(c)(1) of the Act. The specific rule making authority to implement section 11(c) is section 8(g)(2), which, as noted previously, authorizes OSHA to promulgate regulations it deems necessary to carry out its responsibilities under the Act, including its responsibility to carry out the provisions of section 11(c). The implementation of section 11(c)(1) through this proposed regulation will assist OSHA in the carrying out of its section 11(c) enforcement responsibilities by delineating the employer's walkaround compensation obligatons under that section.

III. Summary and Explanation of the Proposed Addition to 29 CFR 1903.8

(1) Requirements

(i) Under the proposed regulation the employer would be required to provide walkaround benefits, described below, to an authorized representative of the employees. The basis for requiring compensation of employee representatives has already been discussed. It should be noted that walkaround benefits would be provided for any type of OSHA inspection.

The intent of the proposal is that as a general matter one employee representative accompanying the compliance officer(s) during a walkaround inspection would be entitled to walkaround benefits. In some situations a group of two or more compliance officers will conduct an inspection jointly. In such circumstances, only one employee representative would be entitled to walkaround benefits. However, as discussed below under subparagraph (iii), in certain circumstances more than one employee representative will be entitled to walkaround benefits.

The proposal provides that opening and closing conferences are part of the physical inspection. These conferences are integral and vital parts of the inspection process. During the opening conference the purpose of the inspection and the ground rules for the inspection are set forth, and employer and employee representatives are identified. This conference is held to assure that the rest of the inspection will be more thorough and expeditious. During the closing conference the compliance officer, employer representative, and employee representative discuss conditions discovered during the inspection which may be violations of the Act. This discussion may prompt the employer to take quick action to abate the hazards. In addition, abatement dates to be set forth in any citations, and the procedures for informal conferences and contests after the issuance of a citation are discussed.

(ii) Under the proposal, if a new employee representative replaces an employee representative then on the inspection team, the employer would be required to provide walkaround benefits to each representative for that portion of the walkaround in which each representative participated.

(iii) If compliance officers, either individually or in groups, inspect different parts of a workplace at the same time or at different times—for example, in a large facility—one employee representative for each inspection team would be entitled to walkaround benefits. It should also be noted here that on a multi-employer worksite, e.g. a construction site, an employee representative from each employer will be entitled to walkaround benefits if such a representative accompanies the compliance officer(s) on the inspection.

As described above, the proposal does not provide walkaround benefits for additional employee representatives from a single employer for a single inspection team. (Compare, Sec. 103(f) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 813(f)). However, it may be argued that since additional representatives of the employees may accompany the compliance officer only if he or she determines that such representatives "will further aid the inspection," 29 CFR 1903.8(a), these additional representatives should also be entitled to walkaround benefits. For example, on a construction site, where a single employer employs a number of trades, it may be necessary for the compliance officer to select more than one employee representative for the inspection. The issue then is whether each employee representative is entitled

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to walkaround benefits. Comments are specifically invited on this issue.

(iv) The employer would also be required to provide to any employee walkaround benefits for time spent by employees in other activities related to the inspection.

As noted previously, one related activity is consultation by the compliance officer with employees at the workplace under section 8(e). Pursuant to that section, when there is no authorized employee representative, an OSHA compliance officer must consult with a reasonable number of employees on matters of safety or health in the workplace. Similarly, during any inspection, an OSHA compliance officer may question any employee about safety or health in the workplace, pursuant to section 8(a)(2). Moreover, under section 8(f)(2) of the Act any employee may notify an OSHA compliance officer during an inspection of any possible violation of the Act. All of these activities aid the OSHA compliance officer to accomplish the central purpose of the inspection, i.e. determining whether or not violations exist in the workplace. Like walkaround representatives, these employees should not suffer economic loss for engaging in activities which are expressly authorized by the Act and which are vitally important to the inspection process. There is no limit on the number of employees entitled to walkaround benefits under this provision. However, it is not the intention of OSHA to require as a general matter that employers compensate employees for time spent in discussions with OSHA or Department of Labor personnel outside the workplace as, for example, in the informal conference pursuant to 29 CFR 1903.19.

(v) The requirement that the employer provide walkaround benefits is defined to include maintenance not only of the earnings which the employee would have received if he had performed his work duties, but also of all other benefits, such as seniority and insurance, to which an employee would otherwise be entitled for working. The purpose of this provision is to ensure that the employee suffers no economic loss of any kind because of his participation in the inspection.

(vi) Under the proposed regulation, employee walkaround representatives and employees engaged in related activities will be entitled to receive walkaround benefits only for time spent in the walkaround inspection during their regular working hours, or overtime hours which were assigned or would have normally been assigned by the employer for purposes other than the inspection. Thus, for example, an employer would not be required to provide walkaround benefits to a representative whose regular working day has ended and who returns to the workplace or remains in the workplace solely for the purpose of participating in a walkaround inspection. In such a case the employee would not be losing benefits which he expected. However, if an employee is scheduled to work overtime for purposes other than the inspection or would otherwise normally have been scheduled for such overtime, and during the overtime he participates in the walkaround inspection, he would be entitled to walkaround benefits. On the other hand, while the proposed regulatory language thus does not provide for the payment of walkaround benefits in all situations, an argument could be made that employees should be entitled to walkaround benefits for *any* period of time during which they participate in walkaround inspections because the sacrifice of their personal time without pay constitutes a disincentive to the exercise of their rights. Comments are specifically invited on this issue.

(2) This regulation would be enforced like other OSHA regulations, such as those in Part 1904 on recordkeeping and reporting. If violations of the regulation are found, citations would be issued under section 9(a) and civil penalties, if appropriate, would be proposed. The employer would have the right to contest these citations before the Occupational Safety and Health Review Commission (see section 10), whose decisions are subject to review in the courts of appeals (see section 11(a)). The Secretary also has the right to seek enforcement of final Review Commission orders in the courts of appeals (section 11(b)).

(3) The proposed regulation would be effective with respect to walkaround benefits for time spent in walkaround or related activities on or after the thirtieth day after the promulgation of this regulation. This provision should give employers sufficient time to prepare for compliance with the new regulation as well as satisfy the legitimate expectations for compensation of employees who participate in inspections.

IV. Summary and Analysis of the New 29 CFR 1977.21

Under this proposal a failure to provide walkaround benefits, as specified, would constitute per se discrimination under section 11(c). The requirements of the regulation are identical to those found in the proposed 29 CFR 1903.8(e)(1). The previous explanation of those specific requirements set forth in this notice is hereby incorporated by reference. It should also be noted here that appropriate conforming amendments to 29 CFR 1977.2, which discusses the purpose of Part 1977 (the section 11(c) regulations), would be made to describe the relationship between this regulation and the other provisions of Part 1977.

Cases involving the proposed regulation would be handled like any other section 11(c) case; i.e., in appropriate cases, a civil action would be brought in a federal district court.

The provision on the effective date is the same as that contained in the proposed 29 CFR 1903.8(e).

V. Regulatory Assessment

In accordance with Executive Order No. 12044 (43 FR 12661, March 24, 1978), OSHA has assessed the potential economic impact of this proposal. Based on the economic identification guidelines of the Department of Labor (44 FR 5570, January 26, 1979), OSHA has concluded that the subject matter of this proposal is not a "major" action which would necessitate further economic impact evaluation and the preparation of a regulatory analysis.

In general, the guidelines provide that a regulatory analysis should be performed if the regulation is likely to cause or result in:

(1) An increased cost of $100 million or more in any one year for the national economy;

(2) A $50 million or larger increase in costs or total revenues in any one year for a specific segment of the economy such as a specific industry, geographic regions or state or local government;

(3) A direct dislocation of 10,000 jobs or more;

(4) A substantial limitation on competition, marketing, market information or an increase in concentration in a market doing $100 million of business a year or more.

44 FR 5576.

The third and fourth factors are not relevant to the proposed regulations. With regard to the first two factors, OSHA estimates that walkaround benefits will amount to approximately $5.3 million a year. This estimate has been made on the basis of statistics which take into consideration average wage rates, the number of federal and state OSHA inspections a year, and the average length of a federal OSHA inspection. It also assumes that the only increased cost, as a general matter, will be compensation for the employee representative's walkaround time because, according to OSHA's experience, employers generally do not deduct from wages for time spent by employees (who are not walkaround representatives) in the discussion of occupational safety and health matters with compliance officers during inspections. The average hourly earnings of a production of nonsupervisory worker on a private nonagricultural payroll during June, 1980, was $6.61. Bureau of Labor Statistics, "Employment and Earnings, September, 1980," Vol. 27, No. 9. According to OSHA statistics, there were 146,288 federal and state OSHA safety inspections during fiscal year 1979, the latest year for which figures are available; there were 19,272 federal and state health inspections during that time. The average length of a federal safety inspection during that year was 4.4 hours; the average length of a federal health inspection was 8.3 hours. (For this preliminary analysis, the average length of state inspections is assumed to be the same). On the basis of these figures, the maximum cost of the proposed regulations would be approximately $5.3 million per year, which is clearly below the threshold for classifying a proposal as a major regulation. Moreover, this is a worst-case estimate since many employers already provide walkaround benefits to employee representatives and thus the increased cost to employers from these regulations should be much less than $5.3 million. Accordingly, it is determined that preparation of a regulatory analysis is not necessary. The benefits of the proposal are significant. As discussed previously, the proposal will encourage walkaround participation, thus increasing the effectiveness of inspections and thereby promoting occupational safety and health.

VI. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal and all issues involved therein, including the regulatory assessment. These comments must be postmarked on or before December 29, 1980 and submitted in quadruplicate to: Docket Officer, Docket No. W005, Room S-6212, 200 Constitution Ave., NW, Washington, D.C. 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

Although Executive Order 12044 and the Department of Labor guidelines generally require a sixty-day comment period, a somewhat shorter comment period is being provided. The full sixty days are unnecessary in light of the fact that the issues relating to pay for walkaround have already been subject to extensive public discussion since the agency's original interpretation several years ago and that a notice was published by OSHA on October 31, 1980 (45 FR 72118) deleting the walkaround pay interpretive regulation and stating that OSHA was planning to propose a walkaround compensation regulation shortly.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding and will be considered in formulating the final rules.

VII. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 8(e) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(e) and 657(g)(2)), 5 U.S.C. 553, and Secretary of Labor's Order 8–76 (41 FR 25059), it is proposed to amend Part 1903 of Title 29 of the Code of Federal Regulations by adding a new paragraph (e) to § 1903.8, as set forth below. In addition, pursuant to sections 11(c) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(c) and 657(g)(2)), 5 U.S.C. 553, and Secretary of Labor's Order 8–76 (41 FR 25059), it is proposed to amend Part 1977 of Title 29 of the Code of Federal Regulations by adding a new § 1977.21, as set forth below.

Signed at Washington, D.C. this 6th day of November 1980.

Eula Bingham,

Assistant Secretary, Occupational Safety and Health.

PART 1903—INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

1. It is proposed to amend 29 CFR 1903.8 by adding a new paragraph (e) to read as follows:

§ 1903.8 Representatives of employers and employees.

* * * * *

(e) *Walkaround compensation*—(1) *Requirements.* (i) The employer shall provide to the authorized representative of the employees walkaround benefits for the time during which the representative accompanies the Compliance Safety and Health Officer(s) in a walkaround inspection team during any physical inspection of a workplace, including attendance at the opening and closing conferences.

(ii) If a new employee representative replaces an employee representative during a walkaround inspection, each representative is entitled to walkaround benefits for the portion of the inspection in which each representative participated.

(iii) If more than one walkaround inspection team is utilized, the employee representative for each team is entitled to the walkaround benefits required by this section.

(iv) In addition, the employer shall provide walkaround benefits to any employee for the time during which (A) a Compliance Safety and Health Officer, in conducting the inspection, consults with or questions the employee concerning matters of safety or health in the workplace; or (B) the employee notifies the Compliance Safety and Health Officer, while conducting the inspection, of an occupational safety or health hazard or violation of the Act which the employee has reason to believe exists in such workplace.

(v) For the purposes of this section, the requirement that an employer provide walkaround benefits means that the employer shall maintain the earnings, seniority, and other employment rights and benefits of an employee as though the employee had been performing work for the employer.

(vi) For the purposes of this section, the time spent by an employee for which the employer shall provide walkaround benefits includes only the regular working hours of the employee, or overtime hours which were assigned or would otherwise normally have been assigned by the employer for purposes other than the walkaround inspection.

(2) *Enforcement.* Any employer who fails to comply with paragraph (e)(1) of this section shall be subject to citations, civil penalties, and enforcement of Occupational Safety and Health Review Commission orders in the courts of appeals, in accordance with sections 9, 10, 11 (a) and (b), and 17 of the Act. A failure to provide walkaround benefits may also be regarded as a violation of 29 CFR 1977.21 and as such the subject of enforcement proceedings under section 11(c) of the Act.

(3) *Effective date.* This regulation will be effective with respect to time spent in walkaround or related activities on or after the thirtieth day after promulgation of this regulation.

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PART 1977—DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

2. It is proposed to add a new 29 CFR 1977.21 to read as follows:

§ 1977.21 Walkaround compensation.

(a) It is a violation of section 11(c) for an employer not to comply with the following requirements:

(1) The employer shall provide to the authorized representative of the employees walkaround benefits for the time during which the representative accompanies the Compliance Safety and Health Safety Officer(s) in a walkaround inspection team during any physical inspection of a workplace, including attendance at the opening and closing conferences.

(2) If a new employee representative replaces an employee representative during a walkaround inspection, each representative is entitled to walkaround benefits for that portion of the inspection in which the representative participated.

(3) If more than one walkaround inspection team is utilized, the employee representative for each team is entitled to the walkaround benefits required by this section.

(4) In addition, the employer shall provide walkaround benefits to any employee for the time during which (i) a Compliance Safety and Health Officer, in conducting the inspection, consults with or questions the employee concerning matters of safety or health in the workplace; or (ii) the employee notifies the Compliance Safety and Health Officer, while conducting the inspection, of any occupational safety or health hazard or violation of the Act which the employee has reason to believe exists in such workplace.

(5) For the purposes of this section, the requirement that an employer provide walkaround benefits means that the employer shall maintain the earnings, seniority, and other employment rights and benefits of an employee as though the employee had been performing work for the employer.

(6) For the purposes of this section, the time spent by an employee for which the employer shall provide walkaround benefits includes only the regular working hours of the employee, or overtime hours which were assigned or would otherwise normally have been assigned by the employer for purposes other than the walkaround inspection.

(b) Any employer who fails to comply with paragraph (a) of this section shall be subject to an investigation and civil action pursuant to section 11(c)(2) of the Act. A failure to provide walkaround benefits may also be regarded as a violation of 29 CFR 1903.8(e) and as such the subject of enforcement proceedings under sections 9, 10, 11(a) and (b), and 17 of the Act.

(c) This regulation will be effective with respect to time spent in walkaround or related activities on or after the thirtieth day after the promulgation of this regulation.

(Secs. 8(e) and (g)(2), 11(c); 84 Stat. 1600, 1603 (29 U.S.C. 657(e) and (g)(2), 660(c)); (5 U.S.C. 553); Secretary of Labor's Order 8–76 (41 FR 25059))

[FR Doc. 80–35383 Filed 11–13–80; 8:45 am]

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29 CFR Part 1910

[Docket No. S–201]

Occupational Safety and Health Standard for Conveyors; Notice of Reopening of Record to Introduce New Information and to Provide Opportunity to Comment

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule; reopening of rulemaking record.

SUMMARY: This document reopens the rulemaking record on the proposed OSHA conveyor standard to introduce into the record new information related primarily to the injury reduction potential and the costs of compliance of the proposed standard. Interested persons are invited to submit written comments concerning this new information.

DATES: Comments on the new information must be submitted by December 29, 1980.

ADDRESSES: Comments should be sent to: Docket Officer, Docket No. S–201, Room S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Carrol E. Burtner, Director, Office of Mechanical Engineering Safety Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3506, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523–7202.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Administration (OSHA) published a Notice of Proposed Rulemaking for a permanent occupational safety standard on conveyors used in general industry (29 CFR 1910.186) on June 3, 1974 in the **Federal Register** (39 FR 19507). Interested persons were given until August 2, 1974 to submit comments with respect to the proposal and to file objections and request a hearing thereon. In view of the complexity of the issues raised and the breadth of application of the proposed standard, the period for submission of written comments was extended until October 9, 1974, pursuant to a notice in the **Federal Register** on September 9, 1974 (39 CFR 32562), which also announced scheduling of an informal rulemaking hearing in Washington, D.C., on October 15, 1974. Approximately 130 comments were received in response to the proposal, and 14 parties testified at the public hearing. The Administrative Law Judge who presided at the public hearing directed that the record be kept open after the close of the hearing, until November 15, 1974, for the submission of posthearing comments and documents. The record of the public hearing was closed on December 1, 1974, and was certified by the Administrative Law Judge to the Assistant Secretary for Occupational Safety and Health on December 2, 1974.

II. Injury and Economic Data

In 1976, to gather further information to prepare the final rule, OSHA contracted with Safety Sciences, Inc. for a study to analyze the injury reduction potential, the technological and economic feasibility, and the preliminary economic impact of a final conveyor standard.

Safety Sciences constructed a data set of all workers' compensation claims specifically coded as conveyor-related, using 1974 and 1975 injury data from seven states to assess the injury reduction potential of the proposed standard. Selected industries were sampled as a control to ascertain the accuracy of the number of accidents coded as conveyor-related. The data were tabulated by number, severity and type of conveyor, and four major conveyor accident patterns (caught-in conveyor, struck-by conveyor, struck-against conveyor and overexertion) were identified.

OSHA's Office of Regulatory Analysis has recently updated and expanded the data on injury reduction potential provided by Safety Sciences, together with the injury data available when the standard was first proposed, in a report investigating more fully the nature and extent of conveyor-related injuries. Using occupational injury and illness data from the Bureau of Labor Statistics Supplementary Data System, the OSHA report indicates that the proposed conveyor standard would substantially

reduce the hazards primarily responsible for the major types of conveyor-related accidents. Caught-in accidents, the most frequent and severe type, will be covered comprehensively in the standard. The standard will also cover struck-by, struck-against and overexertion types of accidents, as well as accidents caused by falls. Overexertion and struck-against accidents are not always related to the safe operation of conveyors and thus not all of these accidents could be eliminated by any conveyor standard.

Once full compliance with the standard is reached, it is reasonable to expect that most caught-in accidents, struck-by accidents and falls will be eliminated. There will also be a reduction in struck-against and overexertion accidents. These reductions in conveyor-related injuries will eliminate a considerable number of lost workdays and permanently disabling injuries. Thus, it appears that the primary benefit of the implementation of the standard will be a significant reduction in occupational injuries.

The OSHA report also pinpoints secondary benefits, such as reduced social and financial costs, to be gained from a final standard. A reduction in conveyor-related injuries will increase annual productivity and significantly reduce workers' compensation and medical costs. This will be true even if struck-against accidents and overexertions are not eliminated entirely.

To assess feasibility and economic impact, Safety Sciences studied nine companies in four major conveyor-reliant industries. The study determined that the proposed standard was feasible and that the economic impact on each of the four industries would be minimal. At the time of the study, the projected annualized costs of compliance were estimated to be less than one-tenth of one percent of sales for any of these four industries. However, due to the Agency's need for more current and more complete feasibility and economic impact information than was contained in the Safety Sciences study, detailed studies of thirteen conveyor-dependent industries have since been conducted by OSHA.

The 13 industries studied are among the largest contributors to the yearly total of conveyor-related injuries, accounting for 34 percent of the national total of conveyor-related lost workday injuries. Ten of the selected industries ranked among the top twelve industrial sources of conveyor-related injuries. The three other industries examined by OSHA ranked between 21st and 32nd in total number of conveyor-related injuries.

Using data provided by material handling consultants, OSHA's Office of Regulatory Analysis prepared a report estimating the costs and economic impact of a conveyor standard on these industries. Capital costs, annual capital charges, annual operating costs, and total annualized costs have been estimated for provisions in the proposed standard and for alternatives based on information in the record and under consideration for incorporation in the final rule. These alternative provisions have been entered into the record.

OSHA's report indicates that the proposed standard or one containing the alternative provisions is economically feasible for the thirteen industries studied. Under the standard as proposed, no industry studied is expected to incur annual compliance costs greater than approximately three-tenths of one percent of its annual sales. On the average, annual compliance costs for these industries are estimated at approximately two-hundredths of one percent of sales. This ratio of compliance costs to sales is extremely low and suggests that even if industry were to pass all compliance costs through to consumers, the resulting price increases would be negligible. In addition, any decrease in output and employment resulting from these price increases is likely to be negligible as well.

The OSHA report also examines the ability of the industries studied to raise the funds needed to comply with the proposed standard. For this purpose only, the report assumes that compliance costs will not be passed on to consumers. Capital costs (including installation) for the standard are estimated as approximately 2.44% of new capital expenditures and 2.58% of after-tax profits. These estimates indicate that conveyor-using firms will have the financial resources necessary to comply with the proposed standard without undue hardship even when the costs of compliance are absorbed by these firms. The assumptions made in the OSHA report as to full pass-through of costs on the one hand, and no pass-through on the other, establish a range of potential impacts.

Costs and impacts for the standard containing the alternatives under consideration are estimated in the OSHA report to be less than costs and impacts for the proposed standard. For a standard containing these alternatives, annual compliance costs for the industries studied are estimated to average approximately one-hundredth of one percent of sales. Capital costs, including installation, are estimated at approximately 2.34% of new capital expenditures and 2.48% of after-tax profits.

The industry selection procedure used in the OSHA study is an effective way to detect major costs; however, this procedure may not provide a sound basis for extrapolation to determine total compliance costs for all conveyor-using industries. Of the 288 industries reporting conveyor injuries in 1976, only 13 (5%) were studied. However, the mean number of conveyor-related injuries in the same year for the 13 industries chosen was 433, approximately 10 times the mean number of injuries (41) for the remaining conveyor-using industries. It may be anticipated, therefore, that the mean compliance costs estimated for the industries studied would be considerably higher than the mean costs for the remaining conveyor-using industries. For this reason, extrapolation of compliance costs from the sample studied to all conveyor-using industries may not be valid. Further, since the proposed standard has been determined by the OSHA study to be economically feasible for those industries incurring the greatest number of conveyor-related injuries, it is likely to be feasible for other conveyor-using industries as well.

Total annualized costs, listed by provision, are also aggregated in the OSHA report for each of the thirteen industries studied. In addition, the OSHA report compares provisions of the proposed standard to cost categories in the report. Some provisions of the conveyor proposal contained requirements already found in other OSHA standards. Costs for these redundant provisions were included in the OSHA report, although they are not properly attributed to the conveyor proposal.

In addition, although the proposal was published before Executive Order 12044 (43 FR 12661, March 24, 1978), OSHA has decided to conduct a regulatory analysis because a large number of establishments in a wide variety of industries will be affected by this standard. Reports and other materials used to estimate compliance costs and benefits, in addition to any material received in response to this notice, will form the basis for a final regulatory analysis, which will be made available to the public when the final rule is published. The reports, studies and data discussed in this section are listed below and have been placed in the reopened record of this rulemaking.

Safety Sciences, Inc. Injury Data Analysis and Technological Feasibility

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and Preliminary Economic Impact Evaluation:

Benefits Analysis of Proposed Standard, prepared by OSHA's Office of Regulatory Analysis;

Compliance Cost Estimation and Economic Impact Assessment, prepared by OSHA's Office of Regulatory Analysis;

Summaries of material handling consultants' reports, prepared by OSHA's Office of Regulatory Analysis;

Material handling consultants' reports on each of the thirteen industries surveyed;

A bibliography of available source materials on conveyors, including copies of the 1972 and 1976 ANSI B20.1 standards;

A preliminary report of the fatality investigation of a U.S. Postal Service Facility, Jersey City, New Jersey, dated December 31, 1979, in which the victim was caught between moving parts of conveyors;

A list of alternative provisions under consideration for adoption in the final rule;

Accident investigation reports of conveyor fatalities, and conveyor cases from an OSHA publication entitled "Occupational Fatalities Related to Fixed Machinery as Found in Reports of OSHA Fatality/Catastrophe Investigations";

Conveyor accident and injury data from several states;

A letter from Victor D. Petershack, Chairman of the ANSI B20.1 Drafting Subcommittee, dated January 2, 1979, concerning the economic impact of the proposed OSHA conveyor regulation on the affected industries.

Coleman et al., *Human Factors Analysis of Material Handling Equipment* (1977);

The Texas Safety Standards for Conveyors, Cableways and Related Equipment; and

The Michigan Department of Labor Safety Standards for Conveyors.

All material evaluated or generated by OSHA since the close of the record has now been placed into the conveyor rulemaking record and is available for inspection and copying at the address below. OSHA is providing a comment period to allow public written comments on the additional material on conveyors obtained subsequent to the certification of the record in 1974. The Assistant Secretary of Labor has given the public until December 29, 1980, to submit written comments related to the new material.

A public hearing has already been conducted on the conveyor proposal under section 6(b)(3) of the Act. In the event requests are received for an additional public rulemaking hearing, OSHA will evaluate the substance of the requests to determine whether such a hearing should be scheduled.

III. Public Participation

Interested persons are invited to submit written comments. These comments must be received by December 29, 1980 and be submitted in quadruplicate to the Docket Officer, Docket S–201, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210.

Comments submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

IV. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

Accordingly, under section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, the record in the rulemaking proceeding on an occupational safety and health standard for conveyors is reopened for the purpose of introducing certain new information and allowing written submission on this new material.

Signed at Washington, D.C. this 10th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–35669 Filed 11–13–80; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW–H–FRL–1669–6]

Alabama's Application for Interim Authorization, Phase I; Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Alabama application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Alabama interim authorizaiton application must be received by December 22, 1980.

Public Hearing

EPA will conduct a public hearing on the Alabama interim authorization application at 7:30 p.m. on Tuesday, December 16, 1980. The State of Alabama will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Main Auditorium, Beard Building, 1445 Federal Drive, Montgomery, Ala.

Copies of the Alabama interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Division of Solid and Hazardous Waste, State Department of Public Health, Suite 1212, Union Bank Tower, 60 Commerce Street, Montgomery, Ala., Telephone: 205/832–6728.

(2) Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone 404/881–4216.

(3) EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments, requests to speak at the hearing, and requests for further information should be addressed to: John D. Sullivan, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Ga. 30365.

FOR FURTHER INFORMATION CONTACT: John D. Sullivan, (404) 881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: The initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have been in existence prior to August 17, 1980, and

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorizaiton is included in 40 CFR Part 123, Subpart F (45 FR 33479).

The State of Alabama has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Alabama interim authorization for Phase I of the RCRA program.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. questions may be posed by EPA personnel to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to five minutes.

Dated: November 10, 1980.

John A. Little,

Deputy Regional Administrator.

[FR Doc. 80–35766 Filed 11–13–80; am]

BILLING CODE 6560–38–M

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40 CFR Part 123

[SW–3–FRL 1668–5]

Delaware Application for Interim Authorization, Phase I; Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Delaware application for Phase I Interim Authorization, inviting public comment, and giving notice of a Public hearing to be held on the application.

DATE: Comments on the Delaware Interim Authorization application must be received by December 22, 1980.

Public Hearing: EPA will conduct a Public hearing on the Delaware Interim Authorization application at 7:00 p.m. on Monday, December 15, 1980. EPA reserves the right to cancel the Public hearing if significant public interest in a hearing is not expressed. The State of Delaware will participate in any Public hearing held by EPA on this subject.

ADDRESSES: Copies of the Delaware Interim Authorization application are available at the following addresses for inspection and copying by the public:

Delaware Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dover, Delaware (302) 736–4761.

U.S. EPA, Region III, Air, Toxics and Hazardous Materials Division, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597–7239.

The public hearing will be held at: The City-County Building, Counsel Chambers, 1st floor, 800 French Street, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Robert L. Allen, U.S. EPA, Air, Toxics and Hazardous Materials Division, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597–0980.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of Interim Authorization, the State hazardous waste program must:

(1) have been in existence prior to August 17, 1980, and

(2) submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). As noted in the May 19, 1980 **Federal Register** copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a Public hearing is to be held on the submittal, unless significant interest is not expressed.

Dated: October 15, 1980.

Jack Schramm,

Regional Administrator.

[FR Doc. 80–35644 Filed 11–13–80; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 228

[WH–FRL 1667–3]

Ocean Dumping, Proposed Designation of Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate five ocean disposal sites off Hawaii for continuing use for the disposal of dredged material. This action is necessary to provide ocean dumping sites for the disposal of dredged material from Hawaiian harbors. Dredging of these harbors is necessary to maintain adequate navigational depths. This action will propose changing the interim

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designation of some sites to a permanent designation based upon environmental and other considerations and will also change, the location of some sites to more environmentally acceptable locations.

DATES: Comments must be received on or before January 13, 1981.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–548), Oil and Special Materials Control Division, EPA, Washington, DC 20460

FOR FURTHER INFORMATION CONTACT:
Mr. T. A. Wastler, 202/472–2836.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management. These proposed site designations are being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and extended on January 16, 1980 (45 FR 3053 et seq.). That list established these sites as interim sites, pending completion of an Environmental Impact Statement (EIS) evaluating environmental effects of dumping dredged material at those locations. As explained more fully below, a Draft EIS regarding these sites is now available.

The purpose of this notice is to provide the public an opportunity to comment on the proposed final designation, as EPA Approved Ocean Dumping Sites, of five deep-ocean sites off Hawaiii for the continuing disposal of dredged material.

The proposed sites are located off the islands of Oahu (South Oahu), Kauai (Nawiliwili and Port Allen), Maui (Kahului), and Hawaii (Hilo). The Proposed South Oahu Site is located approximately 4.8 kilometers south of Oahu. It is 2 kilometers wide and 2.6 kilometers long with center coordinates of 21d 15′ 10″ north latitude and 157d 56′ 50″ west longitude. Water depths range from 400 to 475 meters.

The remaining four proposed sites are circular with radii of approximately 920 meters.

The proposed Nawiliwili Site is approximately 6.3 kilometers southeast of Nawiliwili Harbor, Kauai, with center coordinates of 21°55′00″ north latitude and 159°17′00″ west longitude. Water depths range from 840 meters to 1,120 meters.

The proposed Port Allen Site is approximately 7 kilometers south of Port Allen, Kauai, with center coordinates of 21°50′00″ north latitude and 159°35′00″ west longitude. Water depths range from 1,460 meters to 1,610 meters.

The proposed Kahului Site is approximately 11.8 kilometers north of Kahului, Maui, with center coordinates of 21°04′42″ north latitude and 159°29′00″ west longitude. Water depths range from 345 meters to 365 meters.

The proposed Hilo Site is approximately 9.3 kilometers northeast of Hilo, Hawaii, with center coordinates of 19°48′30″ north latitude and 154°58′30″ west longitude. Water depths range from 330 meters to 340 meters.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., (hereinafter "NEPA") requires that Federal agencies prepare EIS's on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions.

The EPA has prepared a Draft EIS entitled "Draft Environmental Impact Statement for Hawaii Dredged Material Disposal Site Designation." The Draft EIS was filed with the EPA Office of Environmenal Review on November 9, 1979, and a notice of availability for public review and comment was published in the **Federal Register** on November 19, 1979 (44 FR 66244). The public comment period on this Draft EIS closed January 15, 1980. The Final EIS was filed with the EPA Office of Environmental Review on October 1, 1980.

Based on the information reported in the Draft EIS, EPA proposes to designate these five sites for continuing disposal of dredged materials. These materials result from the maintenance dredging of six harbors in Hawaii, which generally becomes necessary in each harbor every five to ten years. For additional information regarding these sites and the anticipated environmental consequences of dumping dredged material at the sites, interested parties should examine the available EIS.

The designation of the five Hawaii dredged material disposal sites as EPA Approved Ocean Sites is being published as proposed rulemaking. Management authority on these sites will be delegated to the Regional Administrator of EPA Region IX.

EPA regulations provide for ambient site monitoring programs as deemed necessary by the Regional Administrator and the District Engineer, and for evaluation of disposal site impacts based on the results of such programs. See 40 CFR 228.3 and 228.9–228.10. The regulations further provide for modifications in site use or designation based upon the results of the analyses of impact or upon changed circumstances concerning use of the site. See 40 CFR § 228.11.

Interested persons may participate in this proposed rulemaking by submitting written comments within 60 days of the date of this publication to the address given above. A final decision concerning designation of these sites is scheduled for January 30, 1981.

Although these proposed site designations may have substantial local impacts in the vicinity of the dump sites and to those who use them, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

(33 U.S.C. Sections 1412 and 1418)

Dated: November 7, 1980.

James N. Smith,

Associate Assistant Administrator for Water and Waste Management.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding to Section 228.12(b) (9) through (13) five ocean dumping sites for Region IX as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(9) South Oahu Site—Region IX.
Location (center point): Latitude—21d 15′ 10″ N. Longitude—157d 56′ 50″ W.
Size: 2 kilometers wide and 2.6 kilometers long.
Depth: Ranges from 400 to 475 meters.
Primary Use: Dredged material.
Period of Use: Continuing use.
Restriction: Disposal shall be limited to dredged material.

(10) Nawiliwili Site—Region IX.
Location (center point): Latitude—21d 55′ 00″ N. Longitude—159d 17′ 00″ W.
Size: Circular with a radius of approximately 920 meters.
Depth: Ranges of 840 to 1,120 meters.
Primary Use: Dredged material.
Period of Use: Continuing use.
Restriction: Disposal shall be limited to dredged material.

(11) Port Allen Site—Region IX.
Location (center point): Latitude—21d 50′ 00″ N. Longitude—159d 35′ 00″ W.
Size: Circular with a radius of approximately 920 meters.
Depth: Ranges from 1,460 to 1,610 meters.
Primary Use: Dredged materials.
Period of use: Continuing use.
Restriction: Disposal shall be limited to dredged material.

(12) Kahului Site—Region IX.
Location (center point): Latitude—21d 04′ 42″ N. Longitude—156d 29′ 00″ W.
Size: Circular with a radius of approximately 920 meters.
Depth: Ranges from 345 to 365 meters.
Primary Use: Dredged material.
Period of Use: Continuing use.
Restriction: Disposal shall be limited to dredged material.

(13) Hilo Site—Region IX.
Location (center point): Latitude—19d 48′ 30″ N. Longitude—154d 58′ 30″ W.
Size: Circular with a radius of approximately 920 meters.
Depth: Ranges from 330 to 340 meters.
Primary Use: Dredged material.
Period of Use: Continuing use.
Restriction: Disposal shall be limited to dredged material.

[FR Doc. 80–35533 Filed 11–13–80; 8:45 am]

BILLING CODE 6560–29–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare and Medicaid Programs; Reimbursement for Services Furnished by Rural Health Clinics; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects omissions and technical errors in a proposed rule on Medicare and Medicaid reimbursement for services in rural health clinics that was published in the **Federal Register** on September 10, 1980. In that rule, we inadvertently omitted paragraphs that described the conditions for paying a clinic that is part of a hospital or other provider of services, and specified the appeal rights of independent clinics. The proposed rule also contained several incorrect citations.

DATE: To assure consideration, comments on the proposed rule should be received by November 10, 1980.

FOR FURTHER INFORMATION CONTACT:
George Morey, 301–594–9779.

SUPPLEMENTARY INFORMATION: On September 10, 1980, we published a proposed rule that would establish a prospective method of Medicare and Medicaid payment for services of rural health clinics (45 FR 59734). The following corrections to that rule should be made.

1. On page 59743, in the first column, under § 405.2425 *Payment for rural health clinic services*, the following paragraph should be added immediately after paragraph (a)(1): (2) The clinic is operated with other departments of the provider under common licensure, governance, and professional supervision.

2. On page 59743, in the third column, the section number in the heading "§ 105.2477 *Retrospective method of payment*" should be § 405.2427.

3. On page 59745, in the second column, in paragraph (g)(1), the references to paragraphs (h)(2), (h)(3), and (h)(4) should read (g)(2), (g)(3), and (g)(4).

4. On page 59746, in the second and third columns, § 405.2431 *Clinic appeals* should read as follows:

§ 405.2431 Clinic appeals.

(a) *Reimbursement appeals of provider clinics.*

(1) If a provider clinic is dissatisfied with the payment received for covered services furnished during a reporting period, the provider that operates the clinic may, after the end of the period, request a hearing.

(2) The hearing will be held by the carrier or the Provider Reimbursement Review Board, as appropriate, subject to the procedures set forth in subpart R of this part for intermediary and Provider Reimbursement Review Board hearings.

(b) *Reimbursement appeals of independent clinics.*

(1) If an independent rural health clinic is dissatisfied with the payment received for covered services furnished during a reporting period and the amount in controversy is at least $1,000, the clinic may, either during the reporting period or after the end of the reporting period, request a hearing.

(2) Notwithstanding any provision in subpart R of this part to the contrary, the hearing will be before the carrier (if the amount in dispute is less than $10,000) or the Provider Reimbursement Review Board (if the amount is $10,000 or more), and will be conducted in accordance with the procedures set forth in subpart R of this part. However, § 405.1877 of this part dealing with judicial review does not apply to these appeals.

(3) A hearing for a clinic paid under the retrospective method (§ 405.2427) concerns whether the clinic has received the amount to which it is entitled for the period under this subpart.

(4) A hearing for a clinic paid under the prospective method (§ 405.2428) concerns one or more of the following issues:

(i) Whether the rate calculated for the period under § 405.2428(c) was accurate based on the facts available to the carrier when it was calculated:

(ii) Whether the clinic had reasonably justified to the carrier costs disallowed under screening guidelines;

(iii) Whether the rate recalculated by HCFA under § 405.2428(f) was accurate based on the facts available to HCFA when it was recalculated;

(iv) Whether the clinic had adequately demonstrated to HCFA that it is entitled to an exception for excess costs under § 405.2428(g); or

(v) Whether HCFA acted properly in recovering amounts it previously paid to a clinic based on inadequate reporting, under § 405.2429(d)(3).

(Sections 1102, 1833, 1861(aa), 1871, 1902(a) and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395l, 1395x(aa), 1395hh, 1396a(a), and 1396d(a))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medicare Insurance; No. 13.761 Medical Assistance Program)

Dated: November 5, 1980.

Robert F. Sermier,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 80–35527 Filed 11–13–80; 8:45 am]

BILLING CODE 4110–35–M

Social Security Administration

45 CFR Part 205

Aid to Families With Dependent Children; Adjustment of Federal Share for Uncashed or for Cancelled Checks

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to publish regulations which would reinforce long established policy by specifying that the Federal share of checks voided or cancelled by the agency must be returned to the Federal government on the State's quarterly expenditure report for the quarter in which a check is voided or cancelled. The regulations will also require States to refund to the Federal government its share of all uncashed checks after 90 days from the date of issue.

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The Federal share is the Government's matching funds the State has received for checks issued by the State either to recipients or for administrative expenses. Under present policy, States have the discretion to establish their own procedure for refunding the Federal share of uncashed, uncancelled checks. The proposed regulations will establish a uniform requirement for refund to the Federal government of its portion of checks outstanding after 90 days, as well as reinforce existing policy requiring refund of the Federal portion of checks voided or cancelled.

The proposed regulations will amend 45 CFR Part 205.

The Department of Health and Human Services has classified these regulations as policy significant.

FOR FURTHER INFORMATION CONTACT:
Mr. John B. McDonald, Office of Family Assistance, 2100 2nd Street, S.W., Washington, D.C. 20024, telephone (202) 245-2056.

Dated: October 15, 1980.

William J. Driver

Commissioner of Social Security.

[FR Doc. 80-35531 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-07-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Docket No. 80-70]

Status of Bulk Commodities

AGENCY: Federal Maritime Commission.

ACTION: Proposed interpretative rule: time for comments.

SUMMARY: Request of counsel for North European Conferences for an additional 30 days to comment on proposed rules on status of bulk commodities (45 FR 67711; October 14, 1980) is granted. Recent Commission rulemakings of equal importance provided 60 days for comment. A similar period is warranted here and that is accomplished by this action.

DATE: Comments due on or before December 12, 1980.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:
Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35402 Filed 11-13-80; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 45, No. 222
Friday, November 14, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Adam's Rib Recreation Area, White River National Forest, Eagle County, Colo.; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Adam's Rib Recreation Area was published in the **Federal Register**, Volume 45, No. 21, p. 6813, January 30, 1980.

The estimated dates for filing the draft and final environmental impact statements with the Environmental Protection Agency and release to the public have been postponed. The draft environmental impact statement is now expected in June 1981, and the final environmental impact statement is proposed for release in October 1981.

All other conditions of the original notice of intent remain the same.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35428 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Bighorn National Forest, Sheridan, Johnson, Big Horn, and Washatie Counties, Wyo.; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Bighorn National Forest was published in the **Federal Register**, Volume 44, No. 97, p. 28833, May 17, 1979.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected in March 1982, and the final environmental impact statement is proposed for release in December 1982.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Bighorn National Forest, Columbus Building, 23 North Scott, P.O. Box 2046, Sheridan, Wyoming 82801, telephone (307) 672-2457.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and, analysis of the management situation are currently scheduled to be available for public review around September 1981.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact Jack Booth, Forest Supervisor, Bighorn National Forest, Columbus Building, 23 North Scott, P.O. Box 2046, Sheridan, Wyoming 82801, telephone (307) 672-2457, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35423 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Grand Mesa, Uncompahgre, and Gunnison National Forests, Delta, Garfield, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, San Juan, and San Miguel Counties, Colo.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the Forest Land and Resource Management Plan (Forest Plan) for the Grand Mesa, Uncompahgre, and Gunnison National Forests. This Forest Plan will be developed in accordance with Section 6 of the National Forest Management Act of 1976 and regulations issued pursuant to the Act.

The Grand Mesa, Uncompahgre, and Gunnison National Forests are located in Delta, Garfield, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, San Juan, and San Miguel Counties, Colorado. The Forest Supervisor has administrative authority over approximately 3,000,000 acres of National Forest System lands.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Grand Mesa, Uncompahgre, and Gunnison National Forests, P.O. Box 138, Delta, Colorado 81416, telephone (303) 874-7691.

The Forest Plan will provide management direction for these National Forest System lands and will replace the existing Forest and District multiple use plans and timber management plans.

Preliminary public issues have been identified through analysis of the comments received on previous planning efforts initiated by the Forest. These issues focus on recreation, wilderness management, water quantity and quality, access to National Forest System lands, maintenance of roads and trails, impact of mineral operations, conflicts between various resource uses, protection of scenic quality and cultural resources, reforestation and supply of wood products. The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and analysis of the management situation are currently scheduled to be available for public review around December 1981.

Alternatives will consider different ways of managing the Forests' resources within the scope of the Regional Plan. Alternatives will address public issues, management concerns and the Forests' resource use and development opportunities. Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

The Forest Service is beginning to gather and organize data and information for the planning effort as well as develop procedures for analyzing, evaluating and updating planning information.

The Forest Service will publish a media notice and validate the preliminary issues and management

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concerns using a variety of public participation techniques including news releases, brochures, posters, office displays, personal letters, open houses, and/or workshop type meetings for interested publics including individuals, groups and other agencies.

The draft environmental impact statement is tentatively scheduled to be transmitted to the Environmental Protection Agency June 1982. A 90-day period for public review and comment will follow. The final environmental impact statement is tentatively scheduled to be transmitted to the EPA in March 1983 with implementation of the Forest Plan to begin in April 1983.

Craig W. Rupp, Regional Forester, Rocky Mountain Region, is the responsible official. Michael C. Johnson, Grand Mesa, Uncompahgre, and Gunnison National Forests, Delta, Colorado, will lead the interdisciplinary team in preparing the Forest Plan and environmental impact statement.

Please contact Jimmy R. Wilkins, Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forests, P.O. Box 138, Delta, Colorado 81416, telephone (303) 874–7691, for further information and any adjustments in the scheduled availability of planning action documentation or for comments on this Notice of Intent and the Forest Plan.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35430 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Medicine Bow National Forest and Thunder Basin National Grassland; Revised Notice of Intent to Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Medicine Bow National Forest was published in the **Federal Register**, Volume 45, No. 30, p. 9305, February 12, 1980.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected in June 1982, and the final environmental impact statement is proposed for release in March 1983.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070, telephone (307) 745–8971.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and, analysis of the management situation are currently scheduled to be available for public review around December 1981.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact Donald L. Rollens, Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070, telephone (307) 745–8971, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35432 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Nebraska National Forest and Associated Units; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Nebraska National Forest was published in the **Federal Register**, Volume 44, No. 80, p. 24118, April 24, 1979.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected to be completed in June 1981, and the final environmental impact statement is proposed for release in March 1982.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Nebraska National Forest, 270 Pine Street, Chadron, Nebraska 69337, telephone (308) 432–3367.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and, analysis of the management situation are currently scheduled to be available for public review by December 31, 1980.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact Deen Boe, Forest Supervisor, Nebraska National Forest, 270 Pine Street, Chadron, Nebraska 69337, telephone (308) 432–3367, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: October 30, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35422 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Pike and San Isabel National Forests and Associated Units in Colorado and Kansas; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Pike and San Isabel National Forests was published in the **Federal Register**, Volume 44, No. 92, p. 27462, May 10, 1979.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected in June 1982, and the final environmental impact statement is proposed for release in March 1983.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Pike and San Isabel National Forests, 910 Highway 50 West, Pueblo, Colorado 81008, telephone (303) 544–5277 ext. 321.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and, analysis of the management situation are currently scheduled to be available for public review around December 1981.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact Bruce H. Morgan, Forest Supervisor, Pike and San Isabel National Forests, 910 Highway 50 West, Pueblo, Colorado 81008, telephone (303) 544–5277, ext. 321 for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: October 30, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35429 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the Routt National Forest, Moffat, Routt, Jackson, Grand, Rio Blanco, and Garfield Counties, Colo.; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the Routt National Forest was published in the **Federal Register**, Volume 45, No. 80, p. 27459, April 23, 1980.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environmental impact statement is now expected in December 1982, and the final environmental impact statement is proposed for release in September 1983.

The work plan for completing the Forest Plan is available for public review at the Forest Supervisor's Office, Routt National Forest, P.O. Box 1198, Steamboat Springs, Colorado 80477, telephone (303) 879–1722.

The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; and analysis of the management situation are currently scheduled to be available for public review on or before October 1981; December 1981; and, June 1982, respectively.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact Jack Weissling, Forest Supervisor, Routt National Forest, P.O. Box 1198, Steamboat Springs, Colorado 80477, telephone (303) 879–1722, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: November 3, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35433 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plan for the San Juan National Forest, Archuleta, Conejos, Dolores, Hinsdale, La Plata, Mineral, Montezuma, Rio Grande, San Juan, and San Miguel Counties, Colo., Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Forest Land and Resource Management Plan (Forest Plan) for the San Juan National Forest was published in the **Federal Register**, Volume 44, No. 139, p. 41900, July 18, 1979.

The estimated dates for transmitting the draft and final environmental impact statements to the Environmental Protection Agency and the public have been postponed. The draft environment impact statement is now expected in June 1982, and the final environmental impact statement is proposed for release in March, 1983.

The work plan for completing the Forest Plan and planning action documentation for public issues, management concerns, and management opportunities and planning criteria are available for public review at the Forest Supervisor's office, San Juan National Forest, 701 Camino Del Rio, Room 200, Durango, Colorado 81301, telephone (303) 247–4874.

The planning action documentation for data bases and analysis of the management situation are currently scheduled to be available for public review around December 1981.

Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

Please contact P. C. Sweetland, Forest Supervisor, San Juan National Forest, 701 Camino Del Rio, Room 200, Durango, Colorado 81301, telephone (303) 247–4874, for further information and any adjustments in the scheduled availability of planning action documentation.

Dated: October 30, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35431 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Little Annie Winter Sports Site, White River National Forest, Pitkin County, Colo.; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an environmental impact statement for the Little Annie Winter Sports Site was published in the **Federal Register**, Volume 44, No. 92, p. 27463, May 10, 1979.

The estimated dates for filing the draft and final environmental impact statements with the Environmental Protection Agency and release to the public have been postponed. The draft environmental impact statement is now expected in January 1981, and the final environmental impact statement is proposed for release in June 1981.

All other conditions of the original notice of intent remain the same.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35427 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan for the Shoshone National Forest, Park, Fremont, Hot Springs, Sublette, and Teton Counties, Wyo.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for development of a Land and Resource Management Plan (Forest Plan) to cover National Forest System lands in the Shoshone National Forest. The Shoshone National Forest, located in northwestern Wyoming, contains 2,464, 927 acres. The Forest extends south from the Montana border to the vicinity of South Pass. On the west it is bordered by Yellowstone National Park and the Continental Divide. The eastern boundary abuts a combination of private, Bureau of Land Management, and Wind River Indian Reservation lands. Included within the Forest boundary are portions of Park, Fremont, Hot Springs, Sublette, and Teton counties.

The Forest Plan will be developed according to Secretary of Agriculture Regulations that were developed to implement the National Forest Management Act of 1976. These Regulations were published in the **Federal Register** on September 17, 1979, became effective October 17, 1979, and are part 219 of Title 36 of the Code of Federal Regulations.

The work plan for completing the Forst Plan is available for public review at the Forest Supervisor's Office, West Yellowstone Highway, P.O. Box 2140, Cody, Wyoming.

An interdisciplinary planning team on the Forest will develop a preliminary list of public issues and management

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concerns from responses to previous planning efforts, and unscheduled public involvement activities which will then be verified through citizen contacts. Based on these preliminary issues and concerns, the interdisciplinary team will develop preliminary planning criteria, collect data and information, and prepare a preliminary management situation statement. The planning action documentation for public issues, management concerns, and management opportunities; planning criteria; data bases; and, analysis of the management situation are currently scheduled to be available for public review around March 1982.

Alternatives will be developed by the interdisciplinary team to respond to public issues and management concerns. Each alternative will represent to the extent practicable, the most cost-efficient combination of management practices that can meet the objectives established in the alternative. The alternatives will reflect a range of resource outputs and expenditure levels. Each alternative will be capable of being achieved. Each alternative will state: the condition and uses that will result from long-term application of the alternative; the goods and services to be produced, and the timing and flow of those goods and services; resource management standards and guidelines; and the purposes of the management direction proposed.

A "no action" alternative will be formulated. It will represent the most likely condition expected to exist in the future if current management direction would continue unchanged. Each alternative will provide for the orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple use objectives of that alternative. The Forest Plan will be selected from the reasonable range of alternatives. Documentation for alternatives, effects of alternatives, and evaluation of alternatives will be available for public review as part of the draft environmental impact statement.

The Forest Service will publish a media notice and validate the preliminary issues and management concerns using a variety of public participation techniques including news releases, brochures, posters, office displays, personal letters, open houses, and/or workshop type meetings for interested publics including individuals, groups, and other agencies.

Craig W. Rupp, Regional Forester for Region Two of the Forest Service, is the responsible official. Randall R. Hall, Forest Supervisor of the Shoshone National Forest, will direct the environmental analysis and preparation of the environmental impact statement. Don I. Campbell, Planning Staff Officer, will be the team leader for conducting the planning effort.

The draft environmental impact statement is tentatively scheduled for completion in September 1982. A 90-day period for public review and comments will follow. The final environmental impact statement is tentatively scheduled for filing with the Environmental Protection Agency in April 1983 with implementation of the Forest Plan to begin in May 1983.

Please contact Randall R. Hall, Forest Supervisor, Shoshone National Forest, West Yellowstone Highway, P.O. Box 2140, Cody, Wyoming 82414, telephone (307) 587–2274, for further information and any adjustments in the scheduled availability of planning action documentation or for comments on this Notice of Intent and the Forest Plan.

Dated: October 31, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35409 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

Readjustment of Coal Lease Terms, Gunnison National Forest Gunnison County, Colo. and White River National Forest Pitkin County, Colo.; Intent to Apply Coal Unsuitability Criteria to Lease Areas

Pursuant to the Mineral Leasing Act of 1920, the Surface Mining Control and Reclamation Act of 1977 and the Memorandum of Understanding Between the Department of Agriculture and the Department of the Interior Providing for Coordination of Activities Pursuant to the Federal Coal Management Program, the Forest Service, Department of Agriculture will apply the unsuitability criteria set forth in 43 CFR 3461.1 to the following non-producing coal leases, which are being reviewed for readjustment of lease terms and conditions:

C–0125456:T.10S., R.90W., 6th P.M., part of Section 24
C–030345:T.10S., R.90W., 6th P.M., part of Section 25
C–09004:T.10S., R.89W., 6th P.M., part of Sections 6, 7, 18, and 19. T.10S., R.90W., 6th P.M., parts of Sections 1, 12, 13, and 24.
C–068389:T.14S., R.90W., 6th P.M., parts of Sections 16 and 21.

The purpose of applying the unsuitability criteria is to determine if all or part of the lease areas are still available for continued leasing. In applying the criteiral the Forest Service will consider the potential surface impacts from the anticipated underground operations.

Maps and rationale for application of the unsuitability criteria will be available for public review starting on December 1, 1980, in Forst Serivce Offices at 11th and Main Street, Delta, CO. and at the Old Federal Building, 9th and Grand, Glenwood Springs, CO. The public will be given 30 days for review and comment.

Comments on the application of the unsuitability criteria should be sent to Jimmy R. Wilkins, Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forests, P.O. Box 138, Delta CO. 81416, prior to the close of business on December 30, 1980.

For further information contact Nils A. Arneson, U.S. Forest Service, 11th and Main Street, Delta, CO. 81416. Phone (303) 874–7691.

Dated: November 4, 1980.

Craig W. Rupp,

Regional Forester.

[FR Doc. 80-35541 Filed 11-13-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 80–11–30; Docket 38524]

Air Fleets International, Inc.; Revocation of the Charter Air Carrier; Order To Show Course Certificates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of November, 1980.

By Orders 79–12–151, November 28, 1979, and 79–11–200, November 28, 1979, we issued certificates of public convenience and necessity to Air Fleets International, Inc. (AFI) authorizing it to engage in interstate, overseas and foreign charter air transportation.[1] AFI entered into an escrow agreement with the Irving Trust Company of New York City and obtained liability insurance through Southern Marine and Aviation Underwriters, Inc. in Atlanta. It filed public charter programs with us for a variety of domestic and international flights.[2]

On May 9, 1980, we received notice from Irving Trust that the bank was terminating its escrow agreement with AFI, effective July 28, 1980, because it believed the carrier to be operating in violation of our charter regulations.[3]

On May 27, 1980, counsel for AFI met with our staff to discuss AFI's problems. The attorneys acknowledged that there had been severe management and financial problems which the carrier was attempting to resolve. They explained that AFI obtained an equity investor which agreed to provide the necessary management and financial assistance to AFI in return for a 51 percent stock interest.[4]

On June 11, 1980, Southern Marine and Aviation Underwriters, Inc. notified the staff that AFI's liability insurance was being cancelled as of July 11, 1980, for nonpayment of premiums. The company extended its coverage several times; however the carrier's insurance finally expired on July 22, 1980.[5]

Throughout June and July the staff continued to receive reports concerning AFI's financial and operational problems. On July 22, 1980, a team of CAB staff members visited AFI's offices in Fort Lauderdale. They discovered that only a skeleton staff was on duty; the aircraft were not airworthy; and there was still a dispute over control of the company.

Because of these problems, and the staff's concern over the continuing fitness of AFI to operate pursuant to its certificates, we directed AFI to submit certain information to the Bureau of Domestic Aviation (BDA) to enable BDA to determine whether the carrier remained fit, willing and able to conduct charter operations.[6] AFI has not submitted the requested information.[7]

On September 9, 1980, we received notice that AFI had voluntarily surrendered its operating certificates to the FAA.

We have decided to issue an order to show cause why we should not revoke the charter certificates of AFI for failure to comply with the continuing fitness requirements of the Act.

Section 401(r) of the Act requires every air carrier to comply with the requirement that it continue to be fit, willing and able. It directs us, after notice and hearing, to modify, suspend, or revoke a carrier's authority for its failure to comply with this continuing fitness requirement or for its failure to file reports to enable us to determine its fitness.[8] The purpose of section 401(r) is to insure that the initial fitness requirement is a continuing one.[9]

Upon review of all the facts of this case, we have tentatively determined that we should revoke the certificates of AFI for its failure to comply with section 401(r) of the Act. The carrier has allowed its liability insurance to lapse. Its depository bank has terminated its escrow arrangement because of the bank's belief that the carrier was violating section 208.40(a)(1) of our Economic Regulations. It has no management team in clear control of the airline. Its FAA operating certificate has been surrendered. Based on these facts, we tentatively find that AFI is unfit. We also directed AFI to file specific information concerning its financial, managerial and operational fitness,[10] which it failed to do. Because of this inaction, and its failure to file any of the normal and routine reports required by Part 241 of our Economic Regulations, we tentatively conclude that it lacks a satisfactory compliance disposition and is in violation of section 401(r).

We regard the burden of proving fitness to be a continuing one; *i.e.*, when facts adverse to a carrier's fitness come to our attention, we consider it to be the burden of the carrier to present evidence which rebuts those facts.[11] We will usually direct the carrier to file information which can clarify its position. Where, as in this case, the carrier fails to respond to our request, we view this failure not only as a direct violation of both our order and section 401(r), but also as a failure to sustain its burden of proving that it continues to be fit.

We tentatively conclude that there are no material, determinative issues of fact which require an oral hearing for their resolution. We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth her should not be made final; replies will be due five days after that. If AFI requests an oral hearing, it should state in detail why it considers an oral hearing to be necessary and what material issues of decisional fact it would expect to establish that cannot be established in written pleadings. If no objections are filed, we will enter an order which will make final our tentative findings and conclusions and revoke the certificates of AFI.

Accordingly: 1. We direct interested persons to show cause why we should not make final our tentative findings and conclusions and revoke the certificates of Air Fleets International for failure to comply with the continuing fitness requirements of section 401(r) of the Act;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings or conclusions, to file in Docket 38524, and serve upon all persons listed in ordering paragraph 5, no later than December 8, 1980 a statement of objections, together with the evidence expected to be relied upon to support the objections; answers to objections shall be filed no later than December 15, 1980;

3. If timely and properly supported objections are filed, we will give full consideration to the matters or issues raised by the objections before we take further action;

4. In the event no objections are filed, we will enter an order making final our tentative findings and conclusions and revoking the certificates of AFI; and

5. We will serve a copy of this order on AFI, A.K. Rozawick, Charles F. Willis, Milton A. Fried, Floyd Anderson, Albert F. Bietel, James Burger, Joseph S. Norman, II, Bernard Berman, Shipp D. Harris, Lawrence H. Schaefer, John Anderson, Robert Kneisley, Alan W. Markham, Jerry W. Ryan, Federal Aviation Administration, and Gene C. Lange.

We will publish this order in the **Federal Register.**

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[1] A fitness hearing was held as part of the *Former Large Irregular Service Investigation*, Docket 33363, before Administrative Law Judge Rudolf Soberheim. His recommended decision was adopted by us in Order 79–11–200.

[2] AFI filed public charter prospectuses jointly with numerous charterers: Charter Tours, Elliott Tours, Hamilton, Miller, Hudson and Fayne, Travelers Choice, Crimson Travel, Linkletter Travel, and Ulster Maple Leaf Club.

[3] Specifically, Irving Trust stated that some of the payment dates listed in AFI's charter contracts has passed without the payments having been deposited into the proper escrow account. In addition, the bank stated that it had received no payments from either Elliott Tours or its depository bank although AFI had operated flights for that operator. It learned that funds had been deposited in the depository bank and paid at AFI's direction directly to AFI. Irving Trust cites this as a violation of 14 CFR 208.40(a)(1).

[4] The staff later learned from AFI's counsel that this proposed acquisition was being challenged in court by one of AFI's original investors. It remains unresolved.

[5] On July 23, 1980, the staff advised AFI that it could not operate unless its insurance was reinstated, and that any operations conducted prior to that time would constitute a violation of the conditions set forth in its charter certificates.

[6] Order 80–7–162, July 25, 1980.

[7] By order 80–7–162, we directed AFI to comply with our request by August 7, 1980. The carrier requested two extensions of time, the latter until September 28, 1980. This last deadline has passed with no response.

[8] Section 401(r) reads as follows:

"(r) The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing and able to perform properly the transportation covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able."

[9] *See generally* S. Rep. No. 95–631, 95th Cong., 2d Sess. 98 (1978).

[10] Order 80–7–162, July 25, 1980.

[11] Section 401(d)(9)(A); section 401(r).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[12]

Secretary.

[FR Doc. 80-35628 Filed 11-13-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38939]

Dallas/Ft. Worth-Yucatan Service proceeding; Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Tuesday, November 25, 1980, at 10:00 A.M. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before Tuesday, November 18, 1980* together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., November 7, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35630 Filed 11-13-80; 8:45 am]

BILLING CODE 1320-01-M

Lone Star Airways, Inc., Fitness Investigation; Postponement of Hearing

[Docket 38185]

Notice is hereby given that, pursuant to the request of the applicant, the hearing in the above-titled proceeding now assigned to be held on November 13, 1980 (45 FR 70292, October 23, 1980) is postponed until November 19, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., November 7, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-35629 Filed 11-13-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials; Termination

AGENCY: Office of the Assistant Secretary for Productivity, Technology, and Innovation.

ACTION: Notice of termination.

SUMMARY: The committee has concluded its work. The results are reflected in the criteria that were established for accrediting laboratories that test thermal insulation materials. The original criteria were published January 18, 1979 (44 FR 3886–3905) and revised and published January 23, 1980 (45 FR 5572–5600).

SUPPLEMENTARY INFORMATION: The National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials was established in 1977 under the procedures of the National Voluntary Laboratory Accreditation Program, and in accord with the Federal Advisory Committee Act. The committee developed and recommended to the Secretary of Commerce criteria for accreditation of laboratories that test thermal insulation materials; evaluated public comment derived from publication of proposed criteria, and recommended to the Secretary approriate actions covering such criteria.

EFFECTIVE DATE: The effective date of termination is October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, telephone (202) 377–3221, or the Department's Committee Management Analyst, Mrs. Yvonne Barnes, telephone (202) 377–4217.

Dated: November 6, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35559 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

Economic Development Administration

Import Determinations; Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Robertson Shake Mill, Inc., 365 N.W. Chehalis Avenue, Chehalis, Washington 98532, a producer of cedar shakes, shingles and ridges (accepted October 21, 1980); (2) Victoria Fabrics Corporation, 12845 N.W. 45th Avenue, Opa Locka, Florida 33054, a producer of fabrics (accepted October 21, 1980); (3) Ljutic Industries, Inc., 918 North 5th Avenue, Yakima, Washington 98902, a producer of shotguns and accessories (accepted October 23, 1980); (4) Danzero, Inc., 1705 West 32nd Place, Hialeah, Florida 33012, a producer of men's suits (accepted October 24, 1980); (5) Feuer Leather Corporation, 3 Park Avenue, New York, New York 10016, a processor of leather (accepted October 27, 1980); (6) Lawrence E. Brackin, R.D. No. 1, 19 Landenberg Manor, Landenberg, Pennsylvania 19350, a producer of mushrooms (accepted October 27, 1980); (7) Ruth Robbins Sportswear, Inc., 3711 W. Rosecrans Avenue, Hawthorne, California 90250, a producer of women's athletic apparel (accepted October 27, 1980); (8) Bantamlite, Inc., 271 Buffalo Avenue, Paterson, New Jersey 07503, a producer of flashlights, office accessories and first aid kits (accepted October 30, 1980); (9) StyleMart, Inc., 15 East 3rd Avenue, Lexington, North Carolina 27292, a producer of men's and women's shirts, tops and pants (accepted November 3, 1980); (10) Circle Knit, Inc., 7110 Center Drive, Spartanburg, South Carolina 29303, a producer of knit fabrics (accepted November 3, 1980); (11) National Curtain Corporation, 31 West 27th Street, New York, New York 10001, a producer of curtains and draperies (accepted November 3, 1980); (12) D & L Shake & Ridge Company, Route 3, Box 1355F, Hoquiam, Washington 98550, a producer of cedar shakes, hips and ridges (accepted November 4, 1980); (13) Carl Gutmann & Company, Inc., 32 33rd Street, Brooklyn, New York 11232, a producer of men's shirts (accepted November 4, 1980); (14) North Vernon Forge, P.O. Box 220, North Vernon, Indiana 47265, a producer of wheel wrenches and other forgings (accepted November 5, 1980); and (15) Woodward Manufacturing and Sales Company, Inc., P.O. Box 507, Appleton, Wisconsin 54912, a producer of hand trucks (accepted November 5, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice (November 24, 1980).

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-35525 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: December 2, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 1626, 14th Street and Constitution Ave., NW, Washington, D.C.

AGENDA: General Session:

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Briefing by Department of Commerce on existing controls affecting export of automatic test equipment (ATE) and software.

(4) Feedback and discussion on electronics manufacturing model.

(5) Discussion on calibration equipment trends and needs for new technology support.

(6) Equipment in the electronics manufacturing process.

(7) New Business.

Executive Session

(8) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

Dated: November 10, 1980.

Saul Padwo,

Director of Licensing.

[FR Doc. 80-35636 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Argentina; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: With this notice we inform the public that we are initiating a countervailing duty investigation in order to determine whether or not the Government of Argentina has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of leather wearing apparel. Unless we extend this investigation, we will make a preliminary determination not later than January 8, 1981.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Fred Howell, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–4804.

SUPPLEMENTARY INFORMATION: On October 14, 1980, Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, filed a petition in proper form with the Department of Commerce (the Department), alleging that the Government of Argentina provides to manufacturers, producers or exporters of leather wearing apparel, certain subsidies which are bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303) (hereinafter referred to as "the Tariff Act"). Because Argentina is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation.

The merchandise covered by this investigation is leather wearing apparel provided for in item number 791.76 of the Tariff Schedules of the United States.

The petitioner alleges that the Government of Argentina provides subsidies in the form of a reembolso or export rebate in the amount of 20 percent of the f.o.b. value on export shipments of leather apparel and a preferential export finance program allowing the exporting manufacturer liberal financing terms, including the borrowing of 40 percent of the value of a letter of credit at 1 percent per annum. We will also examine any income tax reduction based on export related income.

[12] All Members concurred except Member Smith who was not here.

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Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Tariff Act (93 Stat. 154, 19 U.S.C. 1671b(e)) by reason of massive imports over a relatively short period of time. However, since Argentina is not a "country under the Agreement" and leather wearing apparel is dutiable, this provision does not apply. (Section 103(b) Trade Agreements Act of 1979 (93 Stat. 190)).

Leather wearing apparel from Argentina was the subject of an earlier countervailing duty investigation. The Treasury Department made a final negative determination concluding that investigation on January 17, 1979 (44 FR 3599). (Prior to January 1, 1980, the Treasury Department had responsibility for administering the countervailing duty law. With respect to the transfer of authority to the Department of Commerce, see Reorganization Plan No. 3 of 1979, 44 FR 69273). The Treasury Department determined in that investigation that the net benefits derived from government programs was de minimis and that, therefore, benefits paid or bestowed by the Government of Argentina on the manufacture/exportation of leather wearing apparel did not involve "bounties or grants" within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The petitioner, Ralph Edwards Sportswear, Inc., however, alleges that the offset of indirect taxes which was permitted in the earlier investigation is inconsistent with the Administrative Guidelines (19 CFR 355, Annex 1, paragraph 2, 45 FR 4949) published by the Department for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its components is not a subsidy. The Commerce Department most recently applied these guidelines in the investigations involving textile and textile mill products (45 FR 55502) and certain iron metal fasteners from India (45 FR 64611). In light of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of Argentina provides subsidies on the production, manufacture or export of leather wearing apparel. Since Argentina is not a "country under the Agreement" and none of the items covered by the petition enter the U.S. duty free, the Commerce Department need not have evidence of material injury or likelihood or material injury to a domestic industry before initiating a case nor must the case be referred to the U.S. International Trade Commission for a 45-day preliminary injury review. Pursuant to section 303(b) of the Tariff Act of 1930, as amended by section 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303(b)), the Commerce Department will make a preliminary determination as to whether a bounty or grant is being paid or bestowed on the manufacture, production or exportation of leather wearing apparel from Argentina not later than January 8, 1981, unless the investigation is otherwise extended. The Commerce Department publishes this notice pursuant to section 303(b) of the Tariff Act of 1930, as amended by section 103 of the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-35556 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor and Importers and Retailers' Textile Advisory Committees; Open Joint Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Management-Labor textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel. The Secretary of Commerce established the Importers and Retailers' Textile advisory Committee on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and manmade fiber textile agreements.

TIME AND PLACE: December 3, 1980 from 1:30 p.m. to 3:00 p.m. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, N.W.)

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other Business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the D.A.S. for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737

Dated: November 10, 1980.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 80-35602 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will hold its 32nd regular meeting to consider status reports on fishery management plans (FMP's) under development; draft FMP framework for shallow-water reef fishes; draft regulations for the Spiny Lobster FMP; National Marine Fisheries Service (NMFS) policy on joint preparation of FMP's; work plan for deep-water reef fishes and mollusks (conch and whelk); progress on preparation of a color-slide narrated presentation; administrative matters as well as other Council business.

DATES: The meetings, which are open to the public, will convene on Tuesday, December 9, 1980, at approximately 9:30 a.m., and will adjourn on Thursday, December 11, 1980, at approximately noon.

ADDRESS: The meetings will take place at the Government House, Conference Room, Municipality of Culebra, Commonwealth of Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: November 10, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35635 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: The National Marine Fisheries Service will hold a public hearing for the purpose of public input on the Draft Fishery Management Plan (DFMP) for the Western Alaska King Crab, and amendments for 1981 to the Tanner Crab Fishery Management Plan (FMP) the Bering Sea Groundfish FMP, and the High Seas Salmon FMP.

DATE: Written comments on the DFMP for western Alaska king crab, and the amendments to the plans for Tanner crab, Bering Sea Groundfish and High Seas Salmon from members of the public may be submitted no later than December 9, 1980. Individuals or ogranizations wishing to comment on any of the above fishery management plans may do so at a public hearing to be held at the time and location listed below:

December 9, 1980: Sheraton-Renton Inn, Renton, Washington 98055, 9:30 a.m. to 5:00 p.m.

ADDRESS: Send comments to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510. Public hearing location: Sheraton-Renton Inn, 800 Ranier Avenue, South Renton, Washington 98055.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Regional Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska, Telephone 907-274-4563.

Dated: November 11, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-35634 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324

Patent 4,207,388: Copper (II) Chloride-Tetrachlorioaluminate Battery. Filed November 29, 1978, patented June 10, 1980, not available NTIS

Patent 4,207,407: Aromatic Heterocyclic Polymer Alloys and Products produced therefrom. Filed May 3, 1978, patented June 10, 1980, not available NTIS

Patent 4,207,460: Low Power Frequency Modulated Hybrid Fiber Optic Data Acquisition System. Filed October 12, 1978, patented June 10, 1980, not available NTIS

Patent 4,207,560: R F Area Intruder Detection and Tracking System. Filed August 23, 1978, patented June 10, 1980, not available NTIS

Patent 4,207,594: Electronic Indirect Measuring System. Filed July 21, 1977, patented June 10, 1980, not available NTIS

Patent 4,207,764: Precision-Fin Indexing Device for Wind Tunnel Models. Filed March 5, 1979, patented June 17, 1980, not available NTIS

U.S. Department of Energy , Assist. Gen. Couns. for Patents, Washington, D.C. 20545

Patent application 6,025,639: Energy Recovery System. Filed March 30, 1979

Patent application 6,028,780: Communications System Using a Mirror Kept in Outer Space by Electromagnetic Radiation Pressure. Filed April 10, 1979

Patent application 6,033,076: Process for Changing Caking Coals to Noncaking Coals. Filed April 25, 1979

Patent application 6,061,167: Improved Method for Producing Small Hollow Spheres. Filed July 26, 1979

Patent application 6,076,528: Method of Fabricating Thin-Walled Articles of Tungsten-Nickle-Iron Alloy. Filed September 18, 1979

Patent 4,159,757: Bulk Material Handling System. Filed May 4, 1977, patented July 3, 1979, not available NTIS

Patent 4,161,687: Method for Locating Underground Anomalies by Diffraction of Electromagnetic Waves. Passing between Spaced Boreholes. Filed September 12, 1977, patented July 17, 1979, not available NTIS

Patent 4,169,283: Step-Control of Electromechanical Systems. Filed April 4, 1977, patented September 25, 1979, not available NTIS

Patent 4,171,644: Means for Ultrasonic Testing when Material Properties Vary. Filed February 28, 1978, patented October 23, 1979, not available NTIS

Patent 4,172,398: Present Pivotal Tool Holder. Filed February 28, 1978, patented October 30, 1979, not available NTIS

Patent 4,174,145: High Pressure Electrical Insulated Feed Thru Connector. Filed December 29, 1976, patented November 13, 1979, not available NTIS

Patent 4,174,510: Rf Transformer. Filed December 28, 1977, patented November 13, 1979, not available NTIS

Patent 4,175,048: Gaseous Insulators for High Voltage Electrical Equipment. Filed September 6, 1977, patented November 20, 1979, not available NTIS

Patent 4,183,744: Method of Foaming a Liquid Metal. Filed July 28, 1978, patented January 15, 1980, not available NTIS

Patent 4,189,647: Open Cycle Ocean Thermal Energy Conversion System. Filed August 17, 1978, patented February 19, 1980, not available NTIS

Patent 4,189,660: Electron Beam Collector for a Microwave Power Tube. Filed November 16, 1978, patented February 19, 1980, not available NTIS

U.S. Department Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent 4,209,860: System and Method for Multifunctional Control of Upper Limb Prosthesis via EMG Signal Identification. Filed February 13, 1978, patented July 1, 1980, not available NTIS

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6,122,335: Fiber Optic System for Transmission of Video Signals by Pulse-Frequency-Modulation. Filed February 19, 1980

Patent application 6,139,077: Soil Stabilization Materials and Methods. Filed April 10, 1980

Patent application 6,140,398: Two Color Narrow Bandwidth Detector. Filed April 14, 1980

Patent application 6,143,399: Pulse Compression System. Filed April 24, 1980

Patent application 6,144,462: A Method and Apparatus for Boresighting an Aircraft. Filed April 28, 1980

Patent application 6,147,412: Thermochemical Energy Transport Process. Filed May 6, 1980

Patent application 6,150,381: Closed Torque Test Machine. Filed May 16, 1980

Patent application 6,153,114: Developer for Dry Silver Paper. Filed May 27, 1980

Patent application 6,153,473: Precision Laser Pulse Radiometer. Filed May 27, 1980.

Patent application 6,155,719: Fuseless Explosive Propellant Cartridge. Filed June 2, 1980

Patent application 6,157,723: Electromagnetic Arming Rate Regulator. Filed June 9, 1980

Patent application 6,157,925: Micro-Power Magnetometer. Filed June 6, 1980.

Patent 4,144,540: Tunable Infrared Detector with Narrow Bandwidth. Filed February 6, 1978, patented March 13, 1979, not available NTIS

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Patent 4,174,177: False Target Warning System. Filed August 14, 1978, patented November 13, 1979, not available NTIS

Patent 4,178,855: Explosive Actuated Arming Switch Device. Filed March 20, 1978, patented December 18, 1979, not available NTIS

Patent 4,185,497: Adiabatic Laser Calorimeter. Filed October 30, 1980, not available NTIS

Patent 4,185,537: Stress Reducing Liner and Method of Fabrication. Filed April 28, 1972, patented January 29, 1980, not available NTIS

Patent 4,196,055: Method of Determining the Presence of Stray Electrical Currents in a Solution. Filed August 25, 1975, patented April 1, 1980, not available NTIS

Patent 4,198,775: Shock-Mounted, Liquid Cooled Cold Plate Assembly. Filed September 19, 1977, patented April 8, 1980, not available NTIS

Patent 4,199,809: Programmable Data Terminal Set. Filed April 5, 1976, patented April 22, 1980, not available NTIS

Patent 4,200,669: Laser Spraying. Filed November 22, 1978, patented April 29, 1980, not available NTIS

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, D.C. 20546

Patent application 6,116,310: Autocatalytic Coal Liquefaction Process. Filed January 28, 1980

Patent application 6,161,253: Low Temperature Cross Linking Polyimides. Filed June 20, 1980

Patent application 6,161,254: A Silicon-Slurry/Aluminide Coating. Filed June 20, 1980

Patent application 6,161,255: Cell and Method for Electrolysis of Water and Anode Therefor. Filed June 20, 1980

Patent application 6,161,257: Improved Method for Driving Two-Phase Turbines with Enhanced Efficiency. Filed June 20, 1980

Patent application 6,163,838: Preparation of Perfluorinated 1,2,4 Oxadiazoles. Filed June 27, 1980

Patent application 6,163,839: Preparation of Perfluorinated Imidolyamidoximes. Filed June 27, 1980

Patent application 4,203,723: Vitra-Violet Process for Producing Flame Resistant Polyamides and Products Produced Thereby. Filed December 6, 1976, patented May 20, 1980, not available NTIS

Patent application 4,204,154: Portable Device for Use in Starting Air-Start-Units for Aircraft and Having Cable Lead Testing Capability. Filed March 9, 1978, patented May 20, 1980, not available NTIS

Patent application 4,204,899: Cork-Resin Abiative Insulation for Complex Surfaces and Method for Applying the Same. Filed September 12, 1978, patented May 27, 1980, not available NTIS

Patent application 4,206,970: Chromatically Corrected Virtual Image Visual Display. Filed October 23, 1978, patented June 10, 1980, not available NTIS

[FR Doc. 80-35413 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

[Dept. Organization Order Revocation Notice]

Appeals Board; Revocation

Effective Date: October 14, 1980.

This order effective October 14, 1980 supersedes the material appearing at 44 FR 63127 of November 2, 1979.

Revocation

Department Organization Order 20–11, dated October 12, 1979, is hereby revoked.

Explanation

The contract appeals functions of the Appeals Board have been transferred to the Department of Interior under the Governmentwide centralization program for such activities. The remaining functions of the Board have been returned to the International Trade Administration.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35569 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10–5]

Assistant Secretary for Administration; Statement of Organization and Functions and Delegations of Authority

Effective Date: October 1, 1980.

This order effective October 14, 1980 supersedes the material appearing at 43 FR 12354 of March 24, 1978 and 44 FR 3303 of January 16, 1979.

Section 1. Purpose

.01 This Order prescribes the scope of authority and the duties and responsibilities of the Assistant Secretary for Administration (the "Assistant Secretary" hereinafter), and provides for the organizational structure of the Assistant Secretary's office.

.02 The purpose of this revision is to abolish the position of Deputy Assistant Secretary for Administration; establish the positions and prescribe the responsibilities of the Deputy Assistant Secretary for Resources Management, Deputy Assistant Secretary for Acquisition, Grants, and Information Management (Sections 4., 5.); delete the requirement to provide administrative support for the Appeals Board, which is being abolished, since its functions have been transferred to the Department of Interior or otherwise reassigned; and delete certain functions which have been transferred to the Office of the Inspector General.

Section 2. Administrative Designation

The position of Assistant Secretary of Commerce established by Section 304 of Pub. L. 83–471 of July 2, 1954 (68 Stat. 430; 15 U.S.C. 1506) shall continue to be designated as the Assistant Secretary for Administration. The Assistant Secretary is appointed by the President by and with the advice and consent of the Senate.

Section 3. Scope of Authority.

.01 Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Assistant Secretary is hereby delegated the authority of the Secretary on administrative management matters of the Department. This delegation shall include the conduct of all administrative management functions required in the overall management of the Department as well as the provision of administrative management services directly to the Office of the Secretary and, as may be determined, to all or some organizational units of the Department, or to other governmental organizations for which the Secretary may be assigned responsibility.

.02 The authority delegated to the Assistance Secretary in paragraph .01 above shall include:

a. Serving as "agency head" with respect to the authorities in Chapter 4, Title 41 of the U.S. Code, which deal with purchases and contracts for property or services, and other authorities of the Secretary relating to procurement.

b. Carrying out the Secretary's responsibilities for fulfilling the objectives and effecting compliance throughout the Department with the requirements of Title VI of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, and all other statutes, Executive Orders and regulatory provisions relating to equal opportunity under which the Secretary or the Department may have responsibilities. For purposes of carrying out these responsibilities, and as required by the applicable Executive Orders or implementing regulations of the Office of Personnel Management, the Equal Employment Opportunity Commission, the Department of Justice, and the Department of Health and Human Services, the Assistant Secretary is designated as the Director of Equal Employment Opportunity for the Department and is authorized to (1) upon recommendations of the heads of operating units, and with the approval of the respective Program Secretarial Officers involved, designate Equal Employment Opportunity Officers for the operating units; and (2) designate Equal Employment Opportunity Officers for the Office of the Secretary.

c. Carrying out the Secretary's responsibilities under the Federal Advisory Committee Act (5 U.S.C. appendix), and implementing directives of the General Services Administration and the Department of Justice.

d. Coordinating Departmentwide the preparation of the national emergency plans and the development of the preparedness programs required by section 901 of Executive Order 11490, as amended.

e. Carrying out the Secretary's responsibilities with respect to gifts and bequests under 15 U.S.C. 1525–1527 (Pub. L. 91–412).

.03 Subject to applicable laws and regulations, the Assistant Secretary for Administration may redelegate the authorities under this section to any officer or employee of the Department subject to such conditions in the exercise of the authority as the Assistant Secretary may prescribe; however, the Assistant Secretary's authority to designate Equal Employment Opportunity Officers may not be redelegated.

Section 4. Office of Assistant Secretary for Administration

The Office of the Assistant Secretary shall consist of:

a. The Deputy Assistant Secretary for Operations.

b. The Deputy Assistant Secretary for Resources Management, who shall act as the Assistant Secretary during the latter's absence.

c. The Deputy Assistant Secretary for acquisition, Grants, and Information Management.

d. Such Departmental offices as the Assistant Secretary may establish to assist in carrying out the administrative management functions prescribed by this Order. A list of these Departmental Offices shall be maintained current by the Assistant Secretary in an appendix to this Order.

Section 5. Duties and Responsibilities

.01 The Assistant Secretary shall serve as the principal adviser to the Secretary and as the chief officer of the Department on administrative management. As such, the Assistant Secretary shall be concerned with:

a. Personnel programming and management, including labor-management relations, employee occupational health, the direction, administration, and processing of all personnel matters, and development and implementation of programs and activities to assist managers in the area of human development/work improvement.

b. The improvement of management structures, systems, tools and practices towards achieving the highest practical degree of effectiveness, efficiency and economy in programs of the Department.

c. The planning, budgeting and management of financial resources so as to assure optimum utilization of funds in carrying out programs of the Department.

d. The interpretation of Presidential directives in matters of program planning, management control, and operational evaluation; and the initiation of appropriate actions (including studies) relevant thereto.

e. The policy, planning, procurement, and management of the Department's automatic data processing (ADP) and associated telecommunications systems and resources to assure their optimum utilization in carrying out Commerce programs.

f. The efficient provision of common administrative and related support services required for the effective conduct of programs of the Department. These services shall include procurement, property, space, safety, motor vehicle, mail, communications, library, and related activities.

g. The achievement by the Department of a high state of planning and readiness for responding to national emergencies and major disasters.

h. The conduct of certain investigations, security matters and physical protection assignments, as set forth in Department Organization Order 20–6.

i. The provision of printing (including micropublishing), design, graphics, editorial and related promotional, distribution and publishing control services as will contribute to the effectiveness of the Department's programs, and other printed materials, with due regard for reasonable costs.

j. The conduct of activities to ensure equal employment opportunity in the Department, including affirmative action for employees and job applicants; and nondiscrimination in Federally-assisted programs, activities and projects.

k. The provision of grants and acquisition policy and guidance, and the conduct of related services within the Department.

l. The conduct of activities to provide a focal point in the Department for foreign intelligence matters to support the requirements of Commerce officials and organizational units.

.02 In carrying out the above responsibilities, the Assistant Secretary shall:

a. Develop and issue policies, standards and procedures for administrative management functions throughout the Department, and provide functional appraisal and supervision in the conduct of such functions by organizational units.

b. Directly provide the administrative management services required by the Office of the Secretary and, as determined by the Secretary or by agreement (e.g., between the Assistant Secretary and the Secretarial Officer concerned), directly provide particular administrative management services to specified organizational units of the Department or to other organizations.

c. Conduct a centralized procurement function that shall serve the Office of the Secretary and, as determined by the Assistant Secretary, various organizational units of the Department, and other Government organizations as may be arranged.

d. Provide central publications, printing, and related services for organizational units of the Department, and other organizations as may be arranged, except as the Secretary may authorize particular organizations to provide some such services, as specified, for themselves.

e. Take appropriate action, in accordance with law and pertinent Department orders, with respect to claims and claim procedures involving the Department.

.03 The Assistant Secretary shall be responsible for coordination and liaison with the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, the General Accounting Office, the House Operations Committee, and the Government Printing Office on all applicable matters of administrative management, provide central liaison for the Department with the Budget Committees and Appropriations Committees of the Congress, coordinate administrative management matters with other departments and agencies, and otherwise represent the Department on such matters with public or private groups.

.04 The Assistant Secretary shall be assisted in performing the duties and responsibilities prescribed in this section, as follows:

a. The Deputy Assistant Secretary for Operations shall manage and deliver a wide range of administrative support services for the Office of the Secretary and certain other organizational units, to include:

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1. Providing a full range of administrative services for the Department, including supply, property, library, motor vehicle, occupational safety and health, telecommunications, mail, historic preservation, energy conservation, traffic, word processing, certain aspects of records managment, space management and utilization.

2. Providing publications, printing (both microform and conventional), and related management services for the Department.

3. Providing accounting and related services for the Office of the Secretary, Regional Action Planning Commissions, and other assigned organizational units; establishing policies and procedures on official travel; and administering the Working Capital Fund and the General Administration budget account.

4. Conducting certain Departmental investigations; serving as the focal point for personnel security matters; establishing policies and procedures for documentary security and physical security; advising on security matters and representing the Department as appropriate on security matters; and carrying out physical protection assignments for officials of the Department.

5. Serving as the focal point in the Department for foreign intelligence support, and establishing policies and procedures for providing such support to officials and organizations of the Department.

6. Providing personnel services to the Office of the Secretary and other assigned oganizational units.

b. The Deputy Assistant Secretary for Resources Management shall have Departmentwide responsibility for the development, integration, and administration of policies, processes, and procedures which facilitate the efficient and effective use of resources pursuant to the mission and goals of the Department. Specifically, the Deputy Assistant Secretary shall be concerned with:

1. Personnel policy, planning, and management, including work force planning, labor-management relations, employee health, management training and personnel systems design, implementation, and evaluation.

2. Planning, budgeting, and management of financial resources, including budget guidance, formulation, presentation, justification and execution, establishment of fiscal policies and procedures, and the monitoring and control of resource utilization.

3. Planning and management of Department program evaluation activities to ensure effective service delivery of Departmental programs.

4. Performing management consulting, organizational review, management improvement, directives management, information policy, and emergency preparedness functions. In support of information management activities, the Commerce Information Policy Issues Committee, chaired by the Assistant Secretary, shall consider and seek solutions for a wide range of information policy issues within, or impacting from outside the Department.

5. Conducting activities to ensure equal employment opportunity in the Department, including affirmative action; nondiscrimination in Federally-assisted programs; and signing final decisions on EEO complaints.

6. Integration of the above functions and the linkage of these with other administrative functions in order to improve service to Departmental top management as well as program offices.

c. The Deputy Assistant Secretary for Acquisition, Grants, and Information Management shall have Departmentwide responsibility for the development, coordination, and implementation of policies and practices to assure effective and efficient acquisition through contract of goods, services, and equipment in support of the Department's mission and programs; assure implementation of an effective grants management program consistent with the objectives of the activities which the grants support; and provide effective information resources and automated management systems to support management at all levels of the Department. Specifically, the Deputy Assistant Secretary shall be concerned with:

1. Development, coordination, and implementation of policies and procedures, and programs which assure the effective use of the Department's ADP resources and information systems.

2. Assuring Departmentwide planning for ADP and information management resources and facilitating linking the development of such plans with the plans for the programs which they support.

3. Providing a full range of ADP and information management system support for the Office of the Secretary and designated operating units; including the effective operation of a central ADP facility.

4. Conducting procurement activities in support of program goals and objectives and consistent with procurement laws and regulations, and with the objective of obtaining necessary goods, services, and equipment at a minimum cost to the Government.

5. Cooperating with appropriate organizations to achieve socio-economic program objectives, such as those of the Small Business Program, through the procurement process.

6. Providing a focal point for grant administration policies and practices.

7. Providing the opportunity for full participation from all interested organizations within the Department in the performance of the above activities so that policies and services fully support Departmental line management.

Section 6. Savings Provisions

Appropriate Department Organization and Department Administrative Orders, circulars or memoranda which prescribe the Assistant Secretary's administrative authority and functions, are hereby constructively amended or superseded accordingly.

The Assistant Secretary will schedule and accomplish all transfers of personnel, funds, records, and property pursuant to the implementation of the provisions of this Order.

Elsa A. Porter,

Assistant Secretary for Administration.

Appendix—Deputy Assistant Secretaries and Departmental Offices and Units In the Office of the Assistant Secretary for Administration

Deputy Assistant Secretary for Operations

Office of Administrative Services.
Office of Budget Operations.
Office of Financial Operations.
Office of Intelligence Liaison.
Office of Investigations and Security.
Office of Personnel Operations.
Office of Publications.

Deputy Assistant Secretary for Resources Management

Office of Budget.
Office of Civil Rights.
Office of Financial Management.
Office of Organization and Management Systems.
Office of Personnel.
Office of Program Evaluation.

Deputy Assistant Secretary for Acquisition, Grants, and Information Management

Office of Acquisition and Grants Management.
Office of Information Management.

[FR Doc. 80-35560 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-17]

Office of Acquisition and Grants Management; Statement of Organization and Functions and Delegations of Authority

Section 1. Purpose

.01 This Order establishes and prescribes the functions and organization of the Office of Acquisition and Grants Management.

.02 This Order also reflects the division of the former Office of Procurement and ADP Management into two separate offices and transfer of grants functions from the former Office of the Controller (see Section 4.); and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and establishment of the position of Deputy Assistant Secretary for Acquisition, Grants and Information Management (DOO 10-5).

Section 2. Status and Line of Authority

The Office of Acquisition and Grants Management (OAGM), a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Acquisition, Grants, and Information Management. The Director shall be assisted by a Chief, Acquisition and Grants Policy Division, a Chief, ADP and Equipment Procurement Division, a Chief, Research and Services Procurement Division, and a Chief, Contract Administration and Support Division, one of whom may act in the Director's absence, as determined by the Director. The Director shall also have a Cost and Price Analysis Staff and an Industry Relations Staff.

Section 3. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Acquisition, Grants, and Information Management may prescribe, OAGM shall:

Develop, coordinate, and implement the policies and programs which govern acquisition of all equipment, materials and services (including ADP and construction) required by the Department. The Office shall be responsible for developing, coordinating, and promulgating grant and cooperative agreement administrative policies for the Department; and shall be responsible for award and administration of grants and cooperative agreements entered into on behalf of the Office of the Secretary and designated organization units. The Office shall be the Deputy Assistant Secretary's principal source of assistance in managing the centralized contracting organization for all elements of the Department in the Washington metropolitan area; and shall ensure proper liaison with appropriate Executive Branch central management agencies and the Congress on all grant and acquisition matters. Under the direction and supervision of the Director, the functions of OAGM shall be organized and carried out as follows:

a. The *Acquisition and Grants Policy Division* shall develop, coordinate and implement grant and cooperative agreement administrative policies, and acquisition policy, including implementation of OMB Circular A-109; provide policy guidance to operating units for grant, cooperative agreement, and acquisition matters; and serve as the principal Departmental external liaison in grant, cooperative agreement, and acquisition policy matters. The Division shall develop and implement training programs for Department personnel engaged in the grants or acquisition processes; prepare general and special provisions, and standard schedule articles for contracts; review and revise where appropriate, all forms and financial assistance documents for compliance with applicable requirements; and provide oversight on audit report recommendations. The Division shall provide assistance to the Director in the management of the Department's grant, cooperative agreement, and acquisition programs; and manage the Department's data base requirements for conducting grant and acquisition programs. The Division shall be responsible for functional management review programs, including the review of operating unit grants administrative systems for compliance with Departmental and central agency requirements.

b. The *ADP and Equipment Procurement Division* shall provide procurement services for the acquisition of equipment and supplies and for acquisition of ADP equipment, software and services.

c. The *Research and Services Procurement Division* shall provide procurement services for the acquisition of construction, research and development, and similar services or studies; and be responsible for the preparation of grant awards for the Office of the Secretary and for designated operating units.

d. The *Contract and Grants Administration and Support Division* shall administer approved contracts and shall process contract terminations and claims actions. The Division shall also be responsible for the Departmental satellite procurement offices.

e. The *Cost and Price Analysis Staff* shall perform cost and price analyses of proposals, when appropriate, and provide recommendations to the responsible contract or grant official. The Staff shall be the principal assistant to the Director in the development, control and reporting of the office's budget and disbursement accounts.

f. The *Industry Relations Staff* shall serve as the primary industry interface for the Office. The Staff will implement and maintain contractor source files and performance evaluation records. The Staff shall have responsibility for Federal socio-economic programs, such as, small and small disadvantaged businesses, women-owned businesses, labor surplus area firms, and the socio-economic subcontracting program.

Savings Provisions

All Department Orders which refer to procurement functions under the Office of Procuarement and ADP Management, or OP&ADPM, are hereby constructively amended to refer to the Office of Acquisition and Grants Management, or OAGM.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35575 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-1]

Office of Administrative Services; Statement of Organization and Functions and Delegations of Authority

Effective Date: October 14, 1980.

This order effective October 14, 1980 supersedes the material appearing at 44 FR 2412 of January 11, 1979 and 45 FR 6145 of January 25, 1980.

Section 1. Purpose.

.01 This Order prescribes the functions and organization of the Office of Administrative Services.

.02 This revision reflects the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration and the establishment of the position of the Deputy Assistant Secretary for Operations (DOO 10-5). This revision also incorporates the outstanding amendment to the Order.

Section 2. Status and Line of Authority.

The Office of Administrative Services (OAS), a Departmental office, shall be

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headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Operations. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

Section 3. Functions.

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Operations may prescribe, OAS shall:

a. Have Departmentwide staff management responsibility for: supply (other than procurement), space and property, library facilities, motor vehicles, occupational safety and health, telecommunications, mail facilities, historic preservation, energy conservation, traffic, office automation (including word processing), and certain aspects of records management.

b. Provide services in the functional areas, enumerated in subparagraph a. above, required by the Office of the Secretary and as relevant to other organization units located in the Main Commerce Building; and

c. Within the scope of services, provided under a., above, develop, implement, and maintain a Commerce "Facility Self-Protection Program" in accordance with the provisions of the General Services Administration's Federal Property Management Regulations (Subpart 101–20.5).

d. Coordinate and participate with the Departmental Office of Information Management in the development and implementation of policies and procedures pertaining to data communications, and textual (word) processing computer based systems, networks, and equipment.

Section 4. Specified Authority.

In addition to the authority implicit in and essential to carrying out the functions assigned OAS and related to the exercise of such functions, the Director is hereby designated Claims Officer and delegated the authority vested in the Assistant Secretary for Administration by Department Administrative Order 203–22 to settle and pay claims for damage to, or loss of personal property incident to an employee's service, under the provisions of 31 U.S.C. 240–243, filed by an employee (or the employee's duly authorized representative) of the Office of the Secretary.

Section 5. Organization.

Under the direction and supervision of the Director, the functions of OAS shall be organized and carried out as provided below:

a. The *Library Division* shall provide library services for the Office of the Secretary and organization units located in the Main Commerce Building, and serve as a reference source for other libraries of operating units Departmentwide.

b. The *Communications and Transportation Division* shall be responsible for Departmentwide review and approval of word processing acquisition and implementation; review of major changes to telecommunications systems as defined by FPMR 101–37; and shall be the focal point in the Department for coordination, and be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility. The Division shall be responsible for the coordination, supervision, and implementation of policies and procedures pertaining to the following services provided by OAS for the Office of the Secretary and organization units in the Main Commerce Building, assigned Commerce annexes, the Regional Commissions and, upon request, other outlying and independently operated buildings not regularly serviced by the Division: word processing, telecommunications services, including the centralized Departmental phase of the State Department's telecommunications network, mail and messenger services, travel arrangements, receiving and shipping services in the Main Commerce Building, motor pool services, imprest fund services, and distribution of publications for the Department and its component units. The Division is also responsible for preparation of the Commerce Telephone Directory.

c. The *Property and Buildings Management Division* shall serve as the principal liaison between operating units and the GSA headquarters and regional offices on all real property and space management matters, including Fedeal Building Fund transactions. The Division shall be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for the assignment of space and assuring compliance with Departmental policies for space assignments and utilization practices by the Office of the Secretary and operating units in the Washington, D.C. area; exercising personal property utilization surveillance over all operating units nationwide; providing labor services and building liaison services with GSA and all organization units in the Main Commerce Building; and operating an automated personal property system for the Office of the Secretary and designated operating units. The Division shall also be responsible for the implementation and maintenance of a Commerce "Facility Self-Protection Program", as required by subparagraph 3.c. of this Order, and administering the Combined Federal Campaign, and Savings Bond Campaign.

d. The *Records Management Division* shall exercise Departmentwide responsibility, in accordance with the provisions of 101–11.102 of the Federal Property Management Regulations, for establishment and maintenance of an active, continuing, program for the economical and efficient management of records of the Department. The Division shall, among other things, provide for the effective control over the creation, organization, maintenance and use, and disposition of all Department records; cooperation with GSA in developing and applying standards, procedures, and techniques designed to improve the management of records, assure the maintenance and security of records of continuing value, and facilitate the segregation and disposal of all records of temporary value; and for assuring compliance with the provisions of the Federal Records Act of 1950 and with regulations issued thereunder. The Chief, Records Management Division is responsible for maintaining Departmental liaison with the National Archives and Records Service. The Division shall perform files, records disposition, forms and correspondence management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units. The Division is also responsible for operation of a central Departmental forms supply store and arranges for the disposition and retrieval of retired records for those operating units for which the Division has operational responsibilities.

e. The *Policy and Program Analysis Division* is responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for advising and supporting other OAS divisions in development of policy and procedures initiated by these divisions; and for the issuance and implementation of all Departmentwide policy and procedures developed by OAS. The Division plans the overall framework of Department programs in administrative services areas to include systems, standards, methods, procedures, reports and controls; reviews and prepares recommendations pertaining to proposed Federal/Military Specifications; when requested, prepares comments on legislation; and provides specialists, in OAS' areas of responsibility, to represent the Department on interagency study groups, committees, and task groups established by OMB, GSA, or other Executive agencies or public and private organizations. The Division reviews, evaluates, and advises the Director, Deputy Director, and other OAS division Chiefs on matters concerning newly established Governmentwide regulations and procedures, Executive orders, or OMB Circulars relating to all areas of OAS staff and line responsibilities; and observes and studies the implementation of new or existing policies or procedures for impact on operating activities. The Division is also responsible for management and operations of a variety of special programs to include Energy Conservation, Historic Preservation, and Occupational Safety and Health.

Section 6. Department of Commerce Administrative Services Council

There shall be a Department of Commerce Administrative Services Council, which shall consist of the Director, OAS, as Chairperson, the Deputy Director, and the chief administrative services officers of the operating units of the Department. The Council will meet on a call from the Chairperson for the purpose of advising and assisting in the development of policy and programs for the maximum effectiveness of administrative services throughout the Department.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80–35581 Filed 11–13–80; 8:45 am]

BILLING CODE 3510–17–M

[Dept. Organization Order 20–16]

Office of Budget Operations; Statement of Organization and Functions and Delegation of Authority

This order is effective October 14, 1980.

Section 1. Purpose

.01 This Order establishes and prescribes the functions and organization of the Office of Budget Operations.

.02 This Order also reflects a reallocation of the functions of the former Office of the Controller (see Section 5.); and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Operations (DOO 10–5).

Section 2. Status and Line of Authority

The Office of Budget Operations, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Deputy Assistant Secretary for Operations. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

Section 3. Functions

.01 The Director shall be the advisor to, and representative of, the Assistant Secretary for Administration for financial management and control of all dollar and personnel resources in the Office of the Secretary. This shall include the Salaries and Expenses appropriation, Advances and Reimbursements, the Working Capital Fund, appropriations connected with Special Foreign Currency, Participation in U.S. Expositions, Trust Funds, and the Gift and Bequest account. The Director shall also serve as advisor to other Secretarial Officers and office directors with respect to these matters.

.02 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Operations may prescribe, the Office shall:

a. Provide budgetary services for the Office of the Secretary, other organizational units of Commerce, and other government agencies; as assigned.

b. Provide financial management oversight and control of all Working Capital Fund operations. This shall include, but not be limited to, establishing rates for services, rebating surpluses or recovering deficits, controlling purchases of capital equipment, approving budget levels, and distributing and collecting charges.

c. Provide management oversight and control of all end-of-year employment authorities ("ceiling slots") assigned to the Office of the Secretary.

d. Exercise other such authorities of the Assistant Secretary for Administration as are implicit in and essential to carrying out the functions assigned by this Order.

e. Act as approval authority, within limitations established by the Assistant Secretary for Administration, for all requests to use the Office of Secretary Gift and Bequest account; and review and recommend appropriate action on all requests by other Commerce elements, which exceed the approved dollar thresholds for this account.

Section 4. Organization

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Budget Division* shall be responsible for budget administration for the Office of the Secretary, including budget formulation and preparation and monitoring of operating budgets; shall administer the Office of the Secretary trust funds (consisting of contributions from non-public sources and payments from private sources), and the special foreign currency and U.S. expositions programs; and shall develop, negotiate, and execute, subject to the approval of the Deputy Assistant Secretary for Operations, reimbursable agreements with the Executive Office of the President, other Departments and agencies, and the Departmental offices and operating units of Commerce with regard to services to be performed by or for the Office of the Secretary. The Division shall also monitor employment levels and allocation of hiring authorities.

.02 The *Management Division*, headed by the Working Capital Fund Administrator, shall be responsible for financial management of the Office of the Secretary Working Capital Fund and for financial services to other Office of the Secretary accounts, as appropriate. The Division shall assure that the Working Capital Fund is being operated in accordance with the authority, guidelines, and procedures laid down for its operation and that the results of its operation are fairly shown and consonant with sound management practices. This shall include periodic analysis of cash flows; establishment of rate setting functions; consultation with clients and managers of the Fund; evaluation of budgets, programs, and proposed changes; establishment of recapitalization policies; and development of productivity measurement systems.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80–35574 Filed 11–13–80; 8:45 am]

BILLING CODE 3510–17–M

[Dept. Organization Order 20–3]

Office of Budget: Statement of Organization and Functions and Delegation of Authority

Effective Date: October 14, 1980.

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This order effective October 14, 1980 supersedes the material appearing at 42 FR 39695 of August 5, 1977.

Section 1. Purpose

.01 This Order establishes and prescribes the functions and organization of the Office of Budget.

.02 This revision reflects the division of the former Office of Budget and Program Evaluation into two separate offices: the Office of Budget, and the Office of Program Evaluation; and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Resources Management (DOO 10–5).

Section 2. Status and Line of Authority

The Office of Budget, a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Resources Management. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director in the latters' absence. The Director shall conduct the budget process in a manner which identifies the major issues, provides analysis of these issues, and permits Department officials to consider and make decisions; and shall provide guidance for the execution of the Department's budget.

Section 3. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Resources Management may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters relating to budget formulation, presentation, justification and execution, including the development of multi-year budget/program plans and the analysis, monitoring and reporting of fiscal and program status;

b. Have Departmentwide responsibility for the development and operation of selective aspects of comprehensive planning and management processes, such as the Integrated Planning and Management (IPM) effort.

c. Serve as the Department's principal contact with OMB, the Budget and Appropriations Committees of the Congress, and other government agencies on budget and related matters. Operating units of the Department shall work through the Office for all contacts with OMB, the Committees or members of the Committees on these matters.

Section 4. Organization

.01 Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

a. The *Budget Coordination and Reports Division* shall:

1. Establish standards, criteria and procedures for preparing budget estimates and justifications, including the maintenance of necessary budget and program analysis handbook(s); and develop standards, procedures and operational instructions for resource allocation systems in the Department, such a zero-base budgeting;

2. Coordinate budget programs and activities that require consolidated action by the Department, and coordinate the preparation of budget estimates;

3. Interpret OMB directives on budget matters;

4. Maintain information on the status of Congressional actions on the Department's budget;

5. Prepare budget summaries and analyses;

6. Maintain the Department's budget history;

7. Maintain liaison with OMB staff and with staffs of Budget and Appropriations Committees on budget matters as necessary to carry out the Division's responsibilities;

8. Coordinate the establishment of reporting requirements from operating units on fiscal plans and status, budget execution, and program accomplishments; and analyze, consolidate or otherwise treat the reports as will best meet the needs of the Secretary and Secretarial Officers, incorporating material furnished by the program divisions and other offices;

9. Prepare special reports or briefings for the Secretary and Secretarial Officers on significant fiscal, budget and program execution problems, incorporating material furnished by the program divisions and other offices;

10. Examine and recommend appropriate action on apportionment requests;

11. Maintain control numbers on employment ceilings and outlay estimates;

12. Provide technical assistance to operating units on budget matters; and

13. Maintain multi-year plans, ceilings, and estimates.

b. The *Business and Economics Programs Division* and the *Science and Environment Programs Division*, for their respective areas of responsibility, shall:

1. Cooordinate the development of advance program guidance and plans for resource allocation in accordance with policy goals of the Department and recommend new or revised policy positions which are associated with program development and budgeting;

2. Examine and analyze all budget proposals in terms of effective allocation of Departmental resources, conformance to policies, adequacy of justification and appropriation language, existence of statutory authorization, feasibility and economy of operations, accuracy and consistency of schedules, and conformity with instructions governing submission of budget estimates, out-year plans, and impacts;

3. Review zero-based decision packages for consistency with Departmental policy goals and priorities and make recommendations for changes in content and levels of resources to policy officials, including the Secretary and Deputy Secretary;

4. Participate in identifying and setting priorities on major issues and problems and, where appropriate, participate in the conduct of special studies and evaluations;

5. Monitor, on a selective basis, various operational and long-range planning issues under the Department's Integrated Planning and Management effort;

6. Review and evaluate the Department's program budget structure and recommend modifications as necessary;

7. Participate in the development of selective legislative proposals affecting the Department's plans and programs; review all legislative proposals; review and comment on proposed testimony by officials of the Department on plans and programs; and review and comment on Congressional and other agency requests for Departmental positions on pending or draft legislation concerning plans and programs;

8. Examine and recommend appropriate action on apportionment requests;

9. Provide technical assistance to operating units on budget matters;

10. Analyze fiscal and program plans and reprogramming proposals for continuous review of the status of obligations, expenditures and program progess;

11. Evaluate budgeting policies and programs and make recommendations to appropriate officials for improvements;

12. Provide continuous liaison and be the point of contact between officials in assigned program areas and appropriate staff of the Office of the Secretary and OMB on budget matters;

13. Review and comment on GAO reports, Departmental audits, and Congressional surveys and investigations as appropriate; and

14. Analyze and recommend changes to multi-year budget/program plans.

.02 Respective areas of organizational responsibility for these Divisions shall be assigned by the Director. Current areas of responsibility are shown in Appendix A.

Elsa A. Porter,

Assistant Secretary for Administration.

Appendix A—Areas of Responsibility for the Business and Economics Program Division and the Science and Environment Programs Division

Business and Economics Programs Division

Office of the Secretary.
Bureau of Economic Analysis.
Bureau of the Census.
Bureau of Industrial Economics.
Economic Development Administration.
Regional Development Program.
International Trade Administration.
Minority Business Development Agency.
United States Travel Service.
Maritime Administration.

Science and Environment Programs Division

National Oceanic and Atmospheric Administration.
National Bureau of Standards.
Patent and Trademark Office.
National Technical Information Service.
National Telecommunications and Information Administration.
Office of Productivity, Technology, and Innovation.

[FR Doc. 80–35562 Filed 11–13–80; 8:45 am]
BILLING CODE 3510–17–M

[Dept. Organization Order 20–10]

Office of Civil Rights; Statement of Organization and Functions and Delegations of Authority

This order effective October 14, 1980 supersedes the material appearing at 43 FR 3608 of January 26, 1978.

Section 1. Purpose.

.01 This Order prescribes the functions and organization of the Office of Civil Rights.

.02 This revision reflects the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration and the establishment of the position of Deputy Assistant Secretary for Resources Management (DOO 10–5), and generally updates the Order.

Section 2. Status and Line of Authority.

The Office of Civil Rights, a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Resources Mangement. The Director shall be the Deputy Assistant Secretary's and the Assistant Secretary for Adminstrations's adviser with respect to these officials' responsibilities for fulfilling the objectives of, and effecting compliance throughout the Department with, the requirements of Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights of 1964, as amended by the Equal Employment Act of 1972, Title IX of the Education Amendments of 1972, Sections 501 and 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, as amended, Section 7151 of the Civil Service Reform Act of 1978, Executive Orders 11764, 11914, 11948 and all other statues, Executive Orders, and regulatory provisions relating to equal opportunity, nondiscrimination, and civil rights.

Section 3. Functions.

.01 The functions of the Office of Civil Rights relate generally to two major areas of responsibility. These are:

a. Insuring equal employment opportunity, including affirmative action for employees and job applicants within the Department of Commerce.

b. Insuring nondiscrimination in activities and projects supported by Department of Commerce, including Title VI, nondiscrimination for the handicapped, and all other civil rights mandates.

.02 In carrying out these responsibilities the Director and the Office of Civil Rights shall:

a. Develop, direct, and coordinate Departmental programs policies and activities to insure the effective fulfillment by the Department and all elements of its EEO and civil rights responsibilities and evaluate the implementation of these actions.

b. Advise and assist the operating units in the performance of their EEO and civil rights responsibilities.

c. Develop and administer evaluation programs to determine the effectiveness of Departmental operating units in the area of EEO and civil rights, and report the results of such evaluations to the Deputy Assistant Secretary for Resources Management and the head of the operating unit.

d. Recommend to the Deputy Assistant Secretary for Resources Management final decisions on EEO complaints within the Department.

e. In consultation with the General Counsel, and the Legal Advisor, Office of Civil Rights, advise the Assistant Secretary of any violations of civil rights or EEO statutes, Executive Orders, or regulations over which the Department has jurisdiction and for which legally sufficient corrective action has not been initiated, and recommend such corrective action by the Assistant Secretary.

f. Represent the Department and the Assistant Secretary with other Federal agencies, including the Equal Employment Opportunity Commission, Office of Personnel Management, Department of Justice, Department of Health and Human Services, Department of Education, and with States, municipalities, labor unions, and other public and private groups, with respect to equal opportunity and affirmative action policies and programs of the Department.

g. Maintain liaison with, and solicit the views of, minority groups and women's organizations within and outside of the Department, with respect to equal opportunity and affirmative action policies and programs of the Department.

Section 4. Organization.

Under the supervision and direction of the Director, the functions of the Office will be organized and carried out as follows:

.01 *Equal Employment Opportunity (EEO) Division.* The EEO Division shall:

a. Provide policy direction, advice, and guidance to the Departmental Office of Personnel and the operating units in establishing and maintaining effective affirmative action employment programs.

b. Review and assess policies and practices throughout the Department relating to affirmative action and equal employment opportunity and, on the basis of such study, develop and recommend the adoption of new or revised Department programs and policies.

c. Develop policy and provide technical assistance in the special emphasis programs, such as the Federal Women's Program, Hispanic Program, and Program for the Handicapped.

d. Develop orders, policy statements, regulations and other directives relating to affirmative action and monitor the effectiveness of their implementation.

e. Develop and operate a program to evaluate the EEO programs and activities of the operating units. Provide the results of evaluation and, as appropriate, corrective recommendations to the Assistant Secretary for Administration and heads of operating units.

f. Provide leadership and guidance to operating units in the development of Affirmative Action Plans (including the

Federal Equal Opportunity Recruitment Program); take appropriate measures to assure their adequacy; and arrange for the submission of plans requiring approval by the Equal Employment Opportunity Commission and the Office of Personnel Management.

g. Provide information; gather and synthesize materials for reports; and review proposed and existing legislation and make recommendations for implementation with respect to EEO and affirmative action policies and programs of the Department.

h. As designated, represent the Department and the Deputy Assistant Secretary for Resources Management in meetings and conferences with other government agencies and private groups with respect to EEO an affirmative action policies and programs of the Department.

i. Perform such other functions as the Director may assign.

j. The EEO Division shall include Program Coordinators assigned responsibility for the following programs.

Federal Women's Program;
Hispanic Program;
Program for the Handicapped; and
Upward Mobility Program.

The coordinators shall be responsible for the development and coordination of their programs within the Office of Civil Rights and operating units.

.02 *Compliance Division.* The Compliance Division shall:

a. Program policy direction, advice and assistance to the operating units with respect to their implementation of external civil rights and equal opportunity programs, including Title VI, Title IX, the aged, and handicapped.

b. Maintain technical review of, and provide guidance to, the operating units in the implementation of the Department's external civil rights responsibilities, policies and regulations with respect to the conduct of compliance reviews, complaint investigations, and other matters related to negotiation, conciliation, and enforcement. Develop recommendations to improve the processing, investigation, and adjudication of such complaints.

c. Assist operating units in establishing a uniform internal EEO complaint processing system, including arranging for the training of EEO Officers and Counselors.

d. Review and assess policies and practices throughout the Department related to internal EEO complaints, and evaluate their effectiveness. Develop and recommend new or revised policies and programs, and corrective action.

e. Provide staff assistance to the Director and the Deputy Assistant Secretary with respect to the investigation, adjustment, and adjudication of EEO complaints, and the preparation of reports on the status of complaints. Develop recommended final determinations on EEO complaints within the Department.

f. In consultation with the General Counsel and the Legal Advisor, Office of Civil Rights, advise the Director of any apparent violations of civil rights or EEO statutes, Executive Orders, or regulations over which the Department has jurisdiction and, as directed, prepare recommendations for corrective action of such violations.

g. Work closely with the Departmental Office of Internal Security in matters relating to that Office's responsibility for investigating internal EEO complaints. Provide training and information to the EEO investigators in the area of EEO policy, procedures and requirements.

h. Provide information; gather and synthesize materials for reports; and review proposed and existing legislation and make recommendations concerning implementation, with respect to equal opportunity and affirmative action policies and programs of the Department.

i. As designated, represent the Department and the Deputy Assistant Secretary for Resources Management in meetings and conferences with other government agencies and private groups with regard to internal EEO complaints and external civil rights matters.

j. Perform such other functions as the Director may assign.

.03 The *Legal Advisor* shall, under the professional supervision of the Assistant General Counsel for Administration, serve in the immediate Office of the Director as the adviser on law and policy; and have responsibility for legal services in the Office of Civil Rights.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35568 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-5]

Office of Financial Management; Statement of Organization and Functions and Delegations of Authority

This order effective October 14, 1980, supersedes the material appearing at 43 FR 6132 of February 13, 1978.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions and organization of the Office of Financial Management.

.02 This Order also reflects a reallocation of the functions of the former Office of the Controller to four new offices (see Section 5.); and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Resources Management (DOO 10-5).

Section 2. Status and Line of Authority.

The Office of Financial Management, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Deputy Assistant Secretary for Resources Management. The Director shall be assisted by a Chief Accountant in performing the accounting functions of the Office.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Resources Management may prescribe, the Office shall:

a. Have Departmenwide staff responsibility for all matters related to carrying out the Secretary's responsibility, under the Budget and Accounting Act of 1950, for establishing and maintaining adequate systems of accounting and internal control.

b. Formulate and monitor the implementation of policies on matters pertaining to the effectiveness and efficiency of the Department's financial management operations and practices.

c. Develop control systems to support the Department's planning and management processes, and to carry out initiatives promulgated by central agencies.

d. Evaluate the financial management aspects of the Department's management and administrative systems, and assist in formulating methods of administering management information resources.

.02 The Director shall be the adviser to, and representative of, the Assistant Secretary for Administration and the Deputy Assistant Secretary for Resources Management for financial management and control matters; and shall provide Departmental leadership and coordination in setting financial management policy, and in the resolution of financial management issues and problems.

.03 The Director shall advise and assist Department officials in fulfilling their respective functions in matters relating to financial management and coordinate with them the activities of the Office in matters of mutual concern.

.04 The Director shall advise and assist the offices under the Deputy Assistant Secretary for Resources Management in the fulfillment of their respective functions in matters relating to financial management and coordinate with them the activities of the Office in matters of mutual concern.

Section 4. Organization.

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The *Chief Accountant* shall be the Department's principal technical authority on accounting, and shall:

a. Formulate standards applicable to accounting practices.

b. Review accounting systems design and coordinate approval of such systems with the Office of Management and Budget and the General Accounting Office.

c. Advise the Office of Personnel on accounting and financial management training for program managers and staffs.

d. Participate in the review of proposed legislation affecting the Department's accounting and financial management policies.

.02 The *Systems and Review Division* shall:

a. Conduct evaluations of management and internal controls with respect to budget systems, obligations systems, limitation systems, and accounting systems, including costs systems, payrolling, and vouchering.

b. Participate in revies of Commerce financial management functions.

c. Develop systems for utilizing budgeting, accounting, and performance measurement information to support the Department's planning and management processes.

d. Participate in the design of and major modifications to Commerce financial systems.

e. Conduct analyses of financial management policies, practices, and information support mechanisms.

f. Manage task forces and special studies related to the Department's financial management.

g. Coordinate machine systems planning and technology with the Departmental Office of Information Management.

h. Provide central agencies and oversight bodies with timely and accurate financial data.

i. Prepare management accounting reports and conduct analyses to assist in monitoring budget and program performance.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35564 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-13]

Office of Financial Operations; Statement of Organization and Functions and Delegation of Authority

This order is effective October 14, 1980.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions and organization of the Office of Financial Operations.

.02 This Order also reflects a reallocation of the functions of the former Office of the Controller (see Section 5.); and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Operations (DOO 10-5).

Section 2. Status and Line of Authority.

The Office of Financial Operations, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Deputy Assistant Secretary for Operations. The Director shall be assisted by a Deputy Director who shall act as Director during the latter's absence.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Operations may prescribe, the Office shall provide accounting and related services for the Office of the Secretary, Regional Action Planning Commissions, and operating units as assigned; be responsible for the consolidated billings of the Department, and for preparation of consolidated accounting statements required of the Department; and shall exercise staff responsibility for Departmentwide policies and procedures on official travel.

.02 The Director shall also provide accounting guidance and certain management support for the Working Capital Fund of the Office of the Secretary, which shall consist of proposing accounting policies on operating the Fund, giving accounting instruction to heads of Departmental offices responsible for services being financed through the fund, and advising on actions to be taken to maintain liquidity of the Fund.

Section 4. Organization.

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Systems and Procedures Division* shall design, coordinate, and maintain financial systems required to furnish accounting and payrolling services. The Division shall also be the principal contact of the Office with the data processing support units of the Office of the Secretary, and shall be responsible for processing and implementing Departmentwide policies and procedures on official travel.

.02 The *Accounting Operations Division* shall be responsible for the recording of reservations, obligations, accrued expenditures, and disbursements; and shall process payrolls and travel vouchers, and prepare all reports dealing with personnel services.

.03 The *Accounting Control Division* shall be responsible for the maintenance of general ledgers, the preparation of all internal and external accounting reports, control of cash and accounts receivable, and providing accounting analysis services.

.04 The *Commissions Coordination Staff* shall be responsible for all coordination between the Office and the Regional Action Planning Commissions, the Appalachian Regional Commission, the offices of the Federal Co-Chairman, and the Departmental Office of Regional Development. This shall include providing accounting guidance to the various entities, preparing and issuing special reports, and furnishing analysis and advice as requested.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35571 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-14]

Office of Information Management; Statement of Organization and Functions and Delegations of Authority

Effective Date: October 14, 1980.

This order effective October 14, 1980 supersedes the material appearing at 44 FR 47973 of August 16, 1979.

Section 1. Purpose

.01 This Order establishes and prescribes the functions and

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organization of the Office of Information Management.

.02 This Order also reflects the division of the former Office of Procurement and ADP Management into two separate offices (see Section 4.); and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and establishment of the position of Deputy Assistant Secretary for Acquisition, Grants, and Information Management (DOO 10–5).

Section 2. Status and Line of Authority

The Office of Information Management (OIM), a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Acquisition, Grants, and Information Management. The Director shall be assisted by the Chief, Information Technology Policy Division; the Chief, Information Management and Application Development Division, and the Chief, Computer Services Division, one of whom may be designated by the Director to act in the latter's absence.

Section 3. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5, and subject to such policies and directives as the Assistant Secretary and Deputy Assistant Secretary for Acquisition, Grants, and Information Management may prescribe, OIM shall:

Develop, coordinate and implement policies and programs which govern the development, use and management of the Department's ADP resources and information systems; and shall be the Deputy Assistant Secretary's principal source of assistance in providing information technology operations, coordination, and related support for the Office of the Secretary and other designated organization units. OIM shall be the Department's focal point for and ensure proper liaison with central management agencies and Congressional oversight committees concerning Federal ADP policies and issues. The Director shall serve as the Executive Director of the Information Management Committee, the Department's review and steering group for uniform management information and administrative systems; and shall also coordinate and participate with the Director, Office of Administrative Services (OAS) in the development of policies and implementation of the procedures pertaining to data communications, textual (word) processing computer based systems, networks, and equipment. Under the direction and supervision of the Director, the functions of OIM shall be organized and carried out as follows:

a. The *Information Technology Policy Division* shall develop and monitor the execution of plans, policies, and procedures for the management and use of automatic data processing and information management resources within the Department. In carrying out these functions, the Division shall provide consultation and assistance to Department units and contracting officials in ADP requirements definition, specifications development, acquisition procedures, contract negotiations, and evaluation and selection. The Division shall review and make appropriate recommendations regarding ADP information systems requirements and associated budget requests submitted by Department units; develop and monitor Department procedures relating to ADP equipment, data and physical security and information systems activities; develop, implement and monitor Departmentwide ADP standards; implement and monitor Federal Information Processing Standards (FIPS), for information systems and computer facility management; conduct an evaluation program for computer facility performance and management; review and refine proposed Department specifications for ADP resource acquisitions; and interface with the central management agencies on ADP matters. The Chief, Information Technology Policy Division shall be responsible for providing the coordination and participation with OAS on the Department policies, procedures of data communications, textual (word) processing computer based systems, networks, and equipment as required.

b. The *Information Management and Application Development Division* shall provide central project and programmatic management, analysis design, development, research, data base administration and application software maintenance of ADP systems supporting the Office of the Secretary and other designated organization units. This includes the initiation, development, and implementation of plans, policies, directives, and procedures required to provide such support.

The Division shall serve as a resource to these users for the administration of automated data information systems, data base administration, development methodology, project/programmatic control and technical administration of application systems software throughout their life cycles. This Division shall also provide the information management planning system service for the Office of the Secretary and other designated organization units.

c. The *Computer Center Services Division* shall operate a central ADP resource facility to support the Office of the Secretary and for other designated organization units; provide computer resources for the selected automated applications of other government agencies. The Division shall make available the information technology resources necessary to support the information requirements of the Office of the Secretary and certain other designated organization units. These services include, but are not limited to, on-line/real-time interactive processing; batch processing, teleprocessing services/systems for textual (word) processing, data conversion/entry, technical data base management and interactive program development.

The Division also provides the Office of the Secretary and certain designated organization units with a central ordering/control of all necessary information technology equipment which will use the Computer Center's technical facilities in order to assure that computer capability will exist to support this equipment; provides technical resources for the overflow capacity from the other organization units; and acquires resources that are shared by these other organization units.

Section 4. Savings Provisions

All Department Orders which refer to ADP functions, except for those related to ADP procurement, under the Office of Procurement and ADP Management, or OP&ADPM, are hereby constructively amended to refer to the Office of Information Management, or OIM.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80–35572 Filed 11–13–80; 8:45 am]

BILLING CODE 3510–17–M

Dept. Organization Order 20–15]

Office of Intelligence Liaison; Statement of Organization and Functions and Delegation of Authority

This order effective October 14, 1980 supersedes the material appearing at 43 FR 15476 of April 13, 1978.

Section 1. Purpose.

.01 This Order prescribes the organization and functions of the Office of Intelligence Liaison.

.02 This revision reflects the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Operations (DOO 10–5). This revision also adds the intelligence support functions prescribed in subparagraph 4.05c., and generally updates the language of the Order.

Section 2. Status and Line of Authority.

The Office of Intelligence Liaison (the "Office"), a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Operations.

Section 3. Definitions.

Appendix A provides further information on the terminology and acronyms used in this Order.

Section 4. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Operations may prescribe, and as further provided for in the Memorandum of Understanding of May 5, 1977 between the Department and the participating member agencies of the National Foreign Intelligence Board (NFIB):

a. The Director, Office of Intelligence Liaison shall be the Foreign Intelligence Control Officer (FICO) for the Department and as such will be responsible for the administration of all requirements for foreign intelligence products in the Department, and will control the receipt and dissemination of foreign intelligence materials within the Department.

b. The Office shall serve as the focal point for foreign intelligence support within the Department, and establish policies and procedures for providing foreign intelligence support to officials and organization components throughout the Department. To implement these responsibilities, the Office shall perform the functions enumerated in paragraphs .02 through .07 of this section.

.02 *Foreign Intelligence Support, Requirements, and Tasking.* The Office shall:

a. Provide day-to-day foreign intelligence support to the Secretary, the Deputy Secretary, and other key officials of the Department having policy or program responsibilities in the international area. This support shall include the "tasking" of the Intelligence Community with special requests and requirements for support through briefings, the preparation of special analytical papers, and/or the collection of additional foreign intelligence information.

b. Coordinate and serve as the channel for the levying of Departmental foreign intelligence requirements on the Intelligence Community. This function shall generally include but not be limited to the transmittal of significant, periodic collection and/or analytical tasking requirements as determined by the Director, Office of Intelligence Liaison in conjunction with the affected Departmental offices and operating units. The performance of this function shall be consistent with, and in no way supersede, the authorities and responsibilities of such Departmental offices and operating units to maintain routine working relationships and contacts with the Intelligence Community.

c. Maintain a continuing assessment of the Department's foreign intelligence needs.

d. Provide the channel for Departmental requests for existing foreign intelligence reports and materials from the Intelligence Community, including memoranda, maps, and similar data.

e. Act as the Department's central referent on all foreign biographic information; this function includes requesting and distributing biographic reports, and maintaining the central storage files and distribution system for such reports.

f. Prepare a daily Departmental foreign intelligence summary for key Department officials covering major international developments.

g. Promote and facilitate relationships and working level contacts between Department analysts and desk officers who have responsibilities for international affairs matters, with their counterparts in the Intelligence Community to ensure that the Department is fully aware of and utilizing the capabilities of the foreign intelligence agencies to provide foreign intelligence support.

h. Provide, as required, special foreign intelligence support for key Department officials traveling abroad.

.03 *Intelligence Registry, Screening and Dissemination.* The Office shall:

a. Act as the *only* accredited initial receiving point and registry for foreign intelligence materials in the Main Commerce Building. This foreign intelligence registry shall serve as the control point for all foreign intelligence materials received at the Main Commerce Building.

b. In coordination with the Departmental Office of Internal Security (OIS), concur in the selection of foreign intelligence primary control centers and officers for Department facilities not located in the Main Commerce Building, which are to receive foreign intelligence reports and materials, and provide, as required, guidance and coordination of their activities.

c. In coordination with OIS, concur in the selection of foreign intelligence secondary control centers and officers in the Department, which are to receive foreign intelligence reports and materials through the registry or a primary control center, and provide, as required, guidance and coordination of their activities.

d. Be responsible for the procedures by which foreign intelligence reports and materials received by the Department are screened and disseminated to the appropriate Department organization components and officials.

.04 *Vault Storage and Classified Reading Room.* The Office, in accordance with the provisions of the Memorandum of Understanding, shall:

a. Provide vault storage for all Sensitive Compartmented Information (SCI) foreign intelligence reports and materials received at the Main Commerce Building from NFIB intelligence agencies.

b. Maintain a classified reading room and reference library for appropriately cleared Department officials. This includes alerting appropriate Departmental officials of the receipt at the library of sensitive intelligence reports pertinent to their area of responsibility.

.05 *Advice, Liaison, and Representation.* The Office shall:

a. Serve as the principal source of advice within the Department with respect to foreign intelligence support matters.

b. Serve as the Department's principal point of liaison with the Intelligence Community on foreign intelligence matters.

c. Provide appropriate briefings and support to the Department's representative to the NFIB, and provide the Department's alternate representative at NFIB meetings.

d. Represent the Department, or coordinate the representation of the Department, as required, on NFIB committees or subcommittees, and other interagency intelligence committees dealing with national foreign intelligence matters, as appropriate.

e. Coordinate and serve as the channel for intelligence community requests to the Department (as an NFIB participant) for substantive contributions to NFIB publications and requirements when appropriate.

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.06 *Compartmented Security Clearances.* The Office and OIS shall coordinate on SCI security clearance matters.

.07 *Miscellaneous.* The Office shall:

a. Maintain a secure telephone service in the Main Commerce Building available for use by Department officials needing to carry on classified telephone conversations with other agencies.

b. In conjunction with the Departmental Office of Information Management and OIS, review and approve all existing uses and proposals for the use of any ADP equipment (including computers, word processing devices, and related equipment) in the processing of classified foreign intelligence.

c. In consultation with the Departmental Office of Information Management, provide, operate, and maintain specialized information retrieval systems in support of its mission to the Department.

Elsa A. Porter,

Assistant Secretary for Administration.

Appendix A—List of Definitions

1. *Memorandum of Understanding (MOU):* The interagency agreement of May 5, 1977, signed by the Department of Commerce, the Central Intelligence Agency (CIA), the State Department (Bureau of Intelligence and Research—IRN), the Defense Intelligence Agency (DIA) and the National Security Agency (NSA) which establishes the procedures and conditions under which the "Intelligence Community" will provide foreign intelligence to the Department of Commerce and the procedures by which the Department will receive, process and store it.

2. *National Foreign Intelligence Board (NFIB):* Formerly called the United States Intelligence Board (USIB), it is the formal structure of the "Intelligence Community". It is composed of representatives from CIA, State/INR, DIA, NSA, FBI, Department of Energy and Treasury. The Chiefs of Intelligence for the three military services also sit on it as observers. It is chaired by the Director of Central Intelligence, and has some 12 committees and numerous subcommittees.

3. *Foreign intelligence:* (For the purposes of this order), information collection and/or produced by the NFIB agencies, relating to the capabilities, intentions and activities of foreign powers, organizations, or persons. Foreign intelligence materials include "Sensitive Compartmented Information" (SCI) and collateral classified intelligence from NFIB agencies.

4. *Foreign intelligence support:* (For purposes of this order), this includes the control of foreign intelligence; administration and coordination of foreign intelligence requirements; dissemination of advice and information on foreign intelligence matters; and other appropriate activities necessary for the full Departmental implementation of the MOU. It does not, however, include responsibility for the security of foreign intelligence which, in the Department, is assigned to OIS.

5. *Foreign intelligence registry:* The only point in the Main Commerce Building accredited, according to MOU criteria, for the initial reception, logging, and control of foreign intelligence materials.

6. *Primary control center:* A secretariat in Department offices geographically separate from the Main Commerce Building (which cannot be served in timely fashion by the foreign intelligence registry) approved, according to MOU criteria, for receipt of foreign intelligence materials directly from the NFIB agencies.

7. *Secondary control center:* A subsidiary secretariat for processing foreign intelligence materials. According to MOU criteria, a secondary control center may receive or send foreign intelligence materials only through a primary control center or the foreign intelligence registry.

8. *Sensitive Compartmented Information (SCI):* Special categories of classified intelligence, which require special security clearances for access, special handling and special storage facilities not normally covered by Confidential, Secret and Top Secret classification procedures.

9. *Collateral intelligence:* All other Top Secret, Secret and Confidential intelligence.

[FR Doc. 80-35573 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-1]

Office of Organization and Management Systems; Statement of Organization and Functions and Delegations of Authority

This order effective October 14, 1980 supersedes the material appearing at 41 FR 50321 of November 15, 1976, 42 FR 1368 of March 1, 1977, 43 FR 6132 of February 13, 1978, 43 FR 21498 of May 18, 1978 and 44 FR 2413 of January 11, 1979.

Section 1. Purpose.

.01 This Order prescribes the functions and organization of the Office of Organization and Management Systems.

.02 This revision reflects the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration and the establishment of the position of Deputy Assistant Secretary for Resources Management (DOO 10-5). This revision also changes the title of the Information Management Division to the Information Policy Division, and incorporates outstanding amendments to the Order.

Section 2. Status and Line of Authority.

The Office of Organization and Management Systems (OOMS), a Departmental office, shall be headed by a Director, who shall report and be responsible to the Deputy Assistant Secretary for Resources Management. The Director shall be assisted by a Deputy Director, who shall perform the functions of the Director during the latter's absence.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Resources Management may prescribe, the Office shall:

a. Perform, on a Departmentwide basis, management consulting, organizational review, management improvement, directives management, information policy, and related management service functions, as specified in Section 4. of this Order.

b. Serve as the principal staff component within the Department for coordinating and assisting in the development, implementation, and continuation of a Departmentwide emergency preparedness program, particularly as applicable to the requirements of Executive Order 11490, excluding the functions under GSA's FPMR, Subpart 101-20.5, (which are assigned, in DOO 20-1 to the Office of Administrative Services).

.02 The Director shall be the adviser to, and representative of, the Assistant Secretary for Administration and the Deputy Assistant Secretary for Resources Management on organization and management systems matters, and shall serve as adviser to other Department officials with respect to these matters.

Section 4. Organization.

Under the direction and supervision of the Director, assisted by the Deputy Director as determined by the Director, the functions of the Office shall be organized and carried out as provided below:

.01a The *Management Analysis Division* shall plan and conduct management studies and surveys of the Department or of specific organization units or functions; direct or participate in joint management task force activities involving other elements of Administration or of the Department; conduct activities to promote management improvement efforts by organization of the Department and to stimulate the use and extension of effective management tools and techniques; and, as directed, develop and institute new or revised policies, requirements, standards, and procedures on Departmentwide management and administrative matters. The Division is also responsible for analyzing proposed changes to the Department's primary organization structure and for reviewing proposed legislation and proposals within the Executive Branch involving organizational matters affecting the Department. The Division shall work with its counterpart organizations within the operating units to improve and coordinate the management analysis function throughout the Department.

b. The Division's *Directives Management Staff* shall serve as the principal staff component of the Department on directives management; assuring compliance with Governmentwide directives from the Executive Office of the President, including the assignment of responsibility for response and/or implementation; and for managing the system for promulgating the Department's primary organization structure.

.02 The *Information Policy Division* shall develop policies, procedures, standards, and relevant rules and orders to assure Department compliance with the provisions of the Freedom of Information Act as amended, the Privacy Act of 1974, the Federal Advisory Committee Act, The Government in the Sunshine Act, and the public access provisions of the Ethics in Government Act; monitor policy compliance by units of the Department; review the units' implementation of relevant rules and orders; function as the focal point in coordination with the Department's Office of the General Counsel in the administration of the referenced statutes; operate the Department's Central Reference and Records Inspection Facility for the public inspection and copying of information and records under these statutes; supplement and support the functions of the Commerce Information Policy Issues Committee, which will consider major information policy issues within or impacting upon the Department; and serve as the principal staff component of the Department on information policy and committee management functions.

.03a. The *Emergency Planning and Coordination Division* shall serve as the principal staff component concerning all emergency plans and programs in the field of continuity of government, natural disaster recovery assistance, civil preparedness, and domestic crises; assist operating units in the development of their emergency plans and review these plans for adequacy in terms of assigned functions; administer the Department's National Defense Executive Reserve Program; manage emergency assignments for the Secretary, Secretarial Officers and others, as required, and brief these officials on the current status of the Department's emergency functions; establish and maintain an emergency alerting procedure for headquarters and field personnel, including emergency tests and exercises conducted by the Department; coordinate all disaster assistance and crises management programs, including Departmental reports to the Federal Emergency Management Agency (FEMA) and other Federal agencies; evaluate budget requests of other units of the Department concerned with emergency activities; manage the acquisition, maintenance, staffing, and operations of all emergency operating facilities. The Division Chief shall also perform the functions of Emergency Coordinator for the Department, as prescribed in Federal Preparedness Circular No. 10 of August 20, 1976, and issue instructions and guidance to the Department's Regional Emergency Coordinators, as provided for in Appendix A to this Order.

b. The Division shall serve as the Department's focal point for the clearance of public use reports, as required by the Federal Reports Act of 1942, and participate in the implementation of Executive Order 12174 concerning the reduction of the paperwork burden on the public.

Savings Provisions

All outstanding Department Orders, delegations, memoranda, agreements, proceedings, investigations, or other such actions affecting the former Departmental Office of Emergency Readiness shall continue and remain in force until they expire, are amended, or are revoked by appropriate authority.

Elsa A. Porter,

Assistant Secretary for Administration.

Appendix A—Regional Emergency Coordinators

Emergency programs at the field level shall be coordinated by the Bureau of Field Operations District Office Directors selected to represent the Secretary in each of the ten Federal Regional Council cities (e.g., Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle).

The Bureau of Field Operations District Office Directors in the ten cities are hereby designated Regional Emergency Coordinators and as such they shall be the principal advisers and contact points for the Department in their respective regions, and shall provide staff liaison concerning activities of interest to the Department. Also, they shall maintain a list of specialists from other Commerce field elements whom they can call on for expertise related to a particular plan or program.

Acting in accordance with instructions and guidance issued by the Chief, Emergency Planning and Coordination Division, OOMS, through the Bureau of Field Operations, ITA, the Regional Emergency Coordinators shall:

1. Represent the Department on regional, State and local government committees, boards and working groups involved in emergency preparedness plans and programs, including continuity of essential functions, emergency management of resources, civil preparedness, disaster assistance, and related activities;

2. Provide guidance and assistance to those elements of State governments charged with preparedness planning for the emergency management of resources for which the Department has been assigned responsibilities;

3. Serve as the Department's principal advisers to the Directors of the respective FPA/GSA Defense Civil Preparedness Agency (DCPA) regions on matters relating to the functions of the operating units of the Department;

4. Serve as liaison between the field installations of the Department and the FPA/GSA/DCPA Regional Directors in emergency preparedness matters;

5. Establish and maintain an emergency essential records file at the FPA/GSA/DCPA Federal Regional Centers, and provide guidance and advice to field installations on provisions for emergency essential records;

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6. Establish and maintain a Regional Alerting Procedure for Commerce regional emergency cadres;

7. Participate, as directed by national headquarters, in planning and evaluating periodic regional, State and local government emergency preparedness tests and exercises;

8. Prepare, as necessary or required by the Emergency Planning and Coordination Division, OOMS, reports on the status of emergency preparedness plans, programs and operations; and

9. Inform the Emergency Planning and Coordination Division, OOMS, of their activities and emergency programs to enable that Division to fulfill its Department wide liaison and coordinating role.

[FR Doc. 80-35585 Filed 11-13-80; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order 20-8]

Office of Personnel; Statement of Organization and Functions and Delegations of Authority

This order effective October 14, 1980 supersedes the material appearing at 44 FR 72111 of December 13, 1980.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions and organization of the Office of Personnel.

.02 This revision reflects the division of the former Office of Personnel into two offices: the Office of Personnel, and the Office of Personnel Operations; and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration and the establishment of the position of the Deputy Assistant Secretary for Resources Management (DOO 10-5).

Section 2. Status and Line of Authority.

The Office of Personnel, a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Resources Management. The Director shall be assisted by a Deputy Director for Personnel Administration and a Deputy Director for Personnel Development. The Director shall designate one of these officials to perform the functions of the Director during the latter's absence.

Section 3. Delegation of Authority.

In addition to the authority implicit in and essential to carry out the functions assigned to the Office and related to the exercise of such functions, the Director, Office of Personnel:

a. Is delegated all authorities and responsibilities vested in the Assistant Secretary for Administration pertaining to personnel programming and management, other than equal employment opportunity, including the direction, administration, processing, and authority to take final action on all personnel actions and other personnel matters;

b. Is authorized to redelegate such authority to appropriate officials of the Office of Personnel and other officials of the Department, subject to such conditions in the exercise of such authority as may be prescribed; and

c. As Director of Personnel for the Department, shall be the adviser to and serve as the representative of, the Assistant Secretary and the Deputy Assistant Secretary for Resources Management in all matters of personnel utilization, management, and administration, except for equal employment opportunity policies and programs.

Section 4. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Resources Management may prescribe, the Office shall have Departmentwide staff responsibility for all matters, other than equal employment opportunity, relating to personnel management and administration, including executive resources management, staffing controls, recruitment, employee utilization and development, classification and position management, performance appraisal, human development/work improvement, pay administration, labor relations, training, employee benefits and services, personnel management evaluation, occupational health, incentives programs, prevention of prohibited personnel practice, and compliance with and enforcement of applicable civil service laws, rules, and regulations; and establish and maintain close working relationships with the Office of Personnel Management (OPM) and other Government agencies, as appropriate.

Section 5. Organization

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Policy Support Staff* shall provide staff assistance and technical advice on policy, regulatory, and procedural matters, including personnel management aspects of the Freedom of Information Act, Privacy Act, and Ethics in Government Act, to the Director, other components of the Office, and the operating units; coordinate comments on and clearance of proposed legislation, issuances, and other materials; and plan, develop, and oversee a variety of special projects or studies peculiar to the overall functions of the Office. In conjunction with other components of the Office, the Staff shall plan the development and issuance of Department personnel policy, regulations, and instructions. The Staff shall plan, direct, and review the labor-management relations policies and programs of the Department, and shall provide technical advice, guidance, and assistance to the Director, to other components of the Office, and to operating units on all aspects of labor-management relations.

.02 The *Deputy Director for Personnel Administration* shall be the Director's principal assistant for personnel administration matters and shall supervise the following organizational units:

a. The *Information Systems Staff* shall be responsible for the personnel management information system; for oversight of automated personnel systems in use throughout the operating units; for ensuring compliance with the OPM requirements for the Central Personnel Data File—and ultimate conversion to the Federal Personnel Management Information System; and shall serve as the control point for all Departmentwide personnel management forms, reports, statistical evaluations, and analyses.

b. The *Classification and Position Management Division* shall plan and coordinate Departmentwide programs and activities in the areas of position classification and position management for employees other than executive employees; administer and monitor the Department's average grade control efforts, including the vacancy review and maintenance review programs; maintain liaison with the OPM on matters dealing with job evaluation and related program activities; formulate and issue policy guidance on matters peculiar to non-executive excepted positions, overseas allowances and differentials, and hours of duty; develop and issue a variety of special non-executive salary and wage schedules applicable to Department organizations throughout the country; and coordinate classification and qualification standard activites. The Division shall provide Departmental review on all non-executive job classification appeals.

c. The *Staffing and Employee Relations Division* shall plan and develop career management programs and programs pertaining to staffing, employee utilization, employee relations, and a variety of programs peculiar to the health and welfare of the work force (e.g., alcoholism and drug abuse). It shall provide staff assistance, policy guidance, and interpretation to operating units on all matters pertaining to employment, recruitment, placement, employee relations, career management programs, and reduction in force, with particular emphasis on the mandatory and priority placement programs associated with the Department's saved grade program maintain contacts with colleges, outside organizations, and other Federal agencies on matters pertaining to these programs; and monitor a variety of employee services programs, serving as the Department's liaison between the OPM and the operating units' personnel offices. The Division shall administer the Department's special employment programs, and coordinate such programs closely with the OPM; provide staff guidance to personnel officers of the Department on the implementation, special funding and reporting requirements of these programs; and monitor or prepare the Department's narrative and statistical reports pertaining to these programs.

d. The *Employee Development and Awards Division* shall plan, direct, and review Department programs for employee training and development, and shall work in conjunction with the Deputy Director for Personnel Development to administer and coordinate executive development and awards programs for the Department. In this capacity, the Division shall plan and operate the Department's management training center; provide staff assistance to operating units on interpretation and implementation of the Government Employees Training Act; and coordinate and approve Department nominations for special programs. The Division shall administer the Department's awards and recognition programs and provide staff assistance to operating units' personnel offices on all phases of the suggestions, awards and recognition programs; provide the Executive Secretary to the Incentive Awards Board; plan, schedule, and oversee the Department's annual and special award and employee-recognition ceremonies as required; and shall represent the Department with the OPM on all matters of training, employee development, and awards.

e. The *Medical Division* shall plan and coordinate Departmentwide policies and programs in employee health services, represent the Director of Personnel in maintaining professional medical liaison with the U.S. Public Health Service, the OPM and other appropriate agencies; and provide advice, assistance, and consultative services to operating units in employee health matters as requested. The Division shall be responsible for planning and administering the employee health service program for the Department's central health unit.

.03 The *Deputy Director for Personnel Development* shall be the Director's principal assistant for all performance appraisal systems and specified compensation programs and for executive personnel management and development policy matters and shall supervise the following organizational units:

a. The *Performance Appraisal and Compensation Division* shall be responsible for the development of policy and guidance concerning performance appraisal systems for senior executives, merit pay employees, and the general work force, and shall oversee the planning, development, and administration of such systems; develop and administer the Department's pay and compensation policy and guidance for the Senior Executive Service (SES) and other executive positions and for merit pay employees; and assure that compensation and performance appraisal systems are integrated with other Departmental management systems. The Division shall provide technical advice and assistance to the Department's Executive Resources Board (ERB), operating units, and Performance Review Boards (PRB's) on the above matters; provide administrative support to PRB's; develop and administer means of training executives and managers regarding these matters; evaluate the effectiveness of performance appraisal systems in operating units; and maintain coordination with the OPM and other organizations outside the Department.

b. The *Executive Resources Management Division* shall plan, organize, and administer executive resources management systems and activities; control executive position authorizations; advise and make recommendations to the Assistant Secretary for Administration as to the designation of positions in the SES and the classification of those executive positions outside the SES; compile data on SES positions and submit it biennially to OPM; develop and implement means for executive search, location, and recruitment and for qualification determination and approval; monitor performance related reassignments, transfers, and removals; develop and manage an executive mobility clearinghouse, including consultation with intra-agency and inter-agency placement of SES executives; provide technical advice and assistance to the Department's ERB, PRB's, and operating units; provide administrative support to ERB's; and maintain coordination with the OPM, OMB, GAO, and other organizations outside the Department regarding these matters. The Division shall evaluate overall executive resources programs as implemented within operating units; review executive development activities and conduct and test experimental and innovative executive development programs and one-time projects; and develop and implement programs and activities to assist executives and managers in the area of human development/work improvement and advise and assist operating units in establishing such programs.

Elsa A. Porter,
Assistant Secretary for Administration.

[FR Doc. 80-35586 Filed 11-13-80; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order 20-12]

Office of Personnel Operations: Statement of Organization and Functions and Delegations of Authority

This order is effective October 14, 1980.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions and organization of the Office of Personnel Operations.

.02 This revision reflects the division of the former Office of Personnel into two offices: the Office of Personnel and the Office of Personnel Operations; and the change in reporting line of authority resulting from the establishment of the position of Deputy Assistant Secretary for Operations (DOO 10-5).

Section 2. Status and Line of Authority.

The Office of Personnel Operations, a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Operations.

Section 3. Functions.

The Office of Personnel Operations shall plan, organize, and administer a complete operating personnel management program responsive to the needs of the Office of the Secretary and various other organizational units as

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specified by the Assistant Secretary for Administration and the Deputy Assistant Secretary for Operations. The program shall include all activities relating to recruitment, placement, position management and classification, pay determinations, employee utilization, employee relations, special programs (e.g., summer employment, handicapped, and employee assistance programs), labor-management relations, employee recognition and awards, workforce effectiveness, performance appraisal, employee/supervisory development and training, executive development, employee records and processing systems, and other employee service and benefit programs. The Office also shall assure compliance with applicable Civil Service laws, rules, regulations, and Executive Orders; carry out the policies and directions initiated by the Assistant Secretary for Administration, and the Deputy Assistant Secretary for Operations, and the Departmental Office of Personnel.

Section 4. Organization.

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The *Policy and Special Programs Staff* within the immediate Office of the Director, shall develop the policies, directives, and operating instruction necessary to implement personnel management in the Office of the Secretary and in serviced organizational units. The Staff shall represent serviced organizations in labor-management relations, provide assistance to these units relative to proposed contracts for services, and implement and coordinate special employment and assignment programs, e.g., affirmative action, employment of handicapped, cooperative education, veterans programs, alcohol/drug abuse, minority recruitment and upward mobility; administer systems for the Office regarding the Freedom of Information and Privacy Acts; and shall process financial disclosure statements required under the Ethics in Government Act and other conflict-of-interest statutes or regulations. The Staff shall also provide technical guidance and assistance to serviced organizations and to other units within the Office regarding the interpretation or impact of Federal personnel statutes and regulations and Comptroller General decisions.

.02 The *Personnel Management Division* shall provide a full range of services in the areas of recruitment and staffing, position management and classification, and pay determinations, and shall advise and provide assistance regarding reorganizations, reductions-in-force, employee utilization, employee relations, adverse actions, appeals and grievances. The Division shall provide retirement counseling and services involving workers' compensation claims; and serve as a liaison with other Office units on matters involving training, awards, labor-management relations, merit assignment and affirmative action.

.03 The *Employee Development and Incentive Awards Division* shall be responsible for a comprehensive employee development, training and awards program encompassing supervisory, management, and executive development and the identification of training and orientation needs for employees at all grade levels. The Division shall manage the incentive awards program, which includes both monetary and honorary recognition; and administer systems for employee appraisals, performance and career counseling. The Division shall also provide administrative and technical support to Executive Resource and Performance Review Boards; and administer the Intergovernmental Personel Act and various other programs such as the President's Executive Interchange Program.

.04 The *Recruitment and Merit Assignment Division* shall conduct general recruitment with special emphasis on the employment, placement, and effective utilization of secretarial and clerical employees. Recruitment activities shall support affirmative action programs and special employment programs, such as summer, stay-in-school and work-study employment. The Division shall coordinate Merit Assignment Program activities and ensure that program activities adhere to competitive requirements prescribed by the Office of Personel Management and the Department; and administer programs which afford special consideration for the re-employment or repromotion of involuntarily separated and demoted employees, i.e., Re-employment Priority Lists and the Department's Priority Placement Program.

.05 The *Processing and Records Division* shall process all personel actions, ensure proper documentation (for legality and propriety), and maintain control over the content and disposition of Official Personnel Folders. The Division shall coordinate with ADP personnel and officials concerning processing and records documentation, improvements, or needs relating to personnel management and administration; and provide ADP input necessary to generate SF–13 Reports and a variety of statistical, personnel and employee information reports. The Division shall provide advice and assistance to serviced organizations concerning employment benefits/entitlements, e.g., health plans and insurance programs. The Division also arranges for the National Agency checks by the Office of Personnel Management and assists the Office of Internal Security to update employee security clearances.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35570 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-4]

Office of Program Evaluation; Statement of Organization and Functions and Delegations of Authority

This order is effective October 14, 1980.

Section 1. Purpose

.01 This Order establishes and prescribes the functions and organization of the Office of Program Evaluation.

.02 This revision reflects the division of the former Office of Budget and Program Evaluation into two separate offices: the Office of Budget (DOO 20–3) and the Office of Program Evaluation; and the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration, and the establishment of the position of Deputy Assistant Secretary for Resources Management (DOO 10–5).

Section 2. Status and Line of Authority

.01 The Office of Program Evaluation, a Departmental office, shall be headed by a Director who shall report and be responsible to the Deputy Assistant Secretary for Resources Management.

.02 The Director for Program Evaluation shall advise and assist the Deputy Assistant Secretary in the area of program evaluation, including its relationship to the budget process, shall develop an annual program evaluation plan, and shall supervise the Program Evaluation Divisions. The Director for Program Evaluation also shall provide support and assistance to strengthen and improve evaluation capabilities at both the Departmental and operating unit level; and advise and assist the Deputy Assistant Secretary in the application of program evaluation techniques and systems analysis to the program planning and budget process.

Section 3. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5, and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Resources Management may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters pertaining to program evaluations, including issuance of guidance, development of Departmental evaluation plans, and review of proposed program evaluation plans to assure coordination among programs and responsiveness to Secretarial concerns.

b. Have Departmentwide responsibility for the development and operation of certain comprehensive planning and management processes such as the Integrated Planning and Management (IPM) effort.

c. Serve as the Department's principal contact with the OMB, Committees of the Congress, and other government agencies on program evaluation and certain comprehensive planning and management matters. Operating units of the Department shall work through the Office for all contacts with OMB on these matters.

Section 4. Organization

.01 Under the direction and supervision of the Director for Program Evaluation, the functions of the program evaluation division shall be organized and carried out as provided below.

a. The *System Support Division,* the *Economic Development, Information, and Trade Division,* and the *Science and Technology Division,* for their respective areas of responsibility, shall:

1. Assemble and provide analytically based information pertinent to major planning and other program management decisions;

2. Plan and conduct special studies and evaluations of the impact, effectiveness, and efficiency of Department programs. Prepare recommendations based on such studies, including the examination of alternate program approaches;

3. Conduct activities to promote program evaluation efforts by organizations of the Department and to stimulate the use and extension of effective evaluation tools and techniques;

4. Develop evaluation plans for the Department. Issue guidance to the operating units on evaluation programs, survey the operating units on their evaluation programs, identify gaps in the use of resources for evaluation, provide operating units with technical assistance on evaluations;

5. Develop and institute new or revised policies, requirements, standards, and procedures on Departmentwide program evaluation matters, including the issuance and maintenance of Departmental Evaluation Guidelines;

6. Monitor and/or participate in selected evaluations and studies conducted by the operating units which are of interest to the Office of the Secretary;

7. Review evaluation-related services purchased through procurement by operating units of the Department;

8. Monitor, on a selective basis, various operational and long-range planning issues under the Department's Integrated Planning and Management effort;

9. Review and comment on GAO reports, Departmental audits, and Congressional surveys and investigations as appropriate; and

10. Assist in developing program planning requirements and selectively analyze and monitor plans submitted by operating units of the Department.

b. The *System Support Division,* in addition shall have responsibility for matters relating to the development, implementation, operation and monitoring of certain comprehensive Departmental planning and program management processes such as the IPM effort. This responsibility includes coordinating the development of Departmental policies and procedures for integrating strategy development and long-range program planning with budget formulation and operational planning as well as linking individual performances with organizational/program performance. The Division provides technical assistance to Departmental offices and operating units in determining these linkages; assists in the identification of critical policy, program, and management issues for inclusion in the Department's planning and management processes; and, reviews proposed administrative systems to determine the extent of support to Departmental planning and management policy. These respnsibilities will be carried out in cooperation with the affected elements of the Department.

.02 Respective areas of organizational responsibility shall be assigned by the Director for Evaluation. Current areas of responsibility are shown in Appendix A.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35563 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 20-9]

Office of Publications; Statement of Organization and Functions and Delegations of Authority

This order effective October 14, 1980 supersedes the material appearing at 43 FR 31058 of July 19, 1978.

Section 1. Purpose

.01 This Order prescribes the functions and organization of the Office of Publications.

.02 This revision reflects the change in reporting line of authority resulting from the reorganization of the Office of the Assistant Secretary for Administration and the establishment of the position of Deputy Assistant Secretary for Operations (DOO 10–5). This revision also adds functions transferred from the Office of Public Affairs (paragraph 5.07); establishes the Editorial Policy and Review Division; and abolishes the position of Staff Assistant.

Section 2. Status and Line of Authority

The Office of Publications, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Deputy Assistant Secretary for Operations.

Section 3. Functions

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as the Assistant Secretary and the Deputy Assistant Secretary for Operations may prescribe, the Office of Publications shall provide publishing, printing (both conventional and microform), and related services to Departmental offices or operating units of the Department. To carry out this responsibility, the Office shall perform the following functions:

a. Formulate policies on publishing (e.g., use of color and tastefulness, as distinct from Department policies related to agency mission), and develop standards for essentiality, utility, content, format, style, and design of all publications; and advise officials of the Department on these matters.

b. Provide printing and publications management services, which shall consist of performing composition, design, graphics and photographic

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services, determining the method of printing for particular publications, operating a central printing plant and a central micrographic service, providing final editorial review of all publications prior to printing, managing the Working Capital Fund for printing and related activities, requisitioning and/or approving for procurement all printing and related work, and performing or overseeing publications mailing services.

c. Conduct or coordinate, on behalf of all elements of the Department, all contacts with the Joint Committee on Printing and with the Government Printing Office, including the Superintendent of Documents, directly related to its authority as defined herein.

d. Conduct or coordinate, on behalf of all elements of the Department, all contacts with the Office of Management and Budget (OMB) on matters involving OMB approval of Department periodicals.

e. Review for approval all requests for the purchase or rental of printing (conventional or microform), binding, photographic, composing, and related equipment, including copying machines.

f. Carry out principal Departmental responsibility for coordinating and processing all requirements for seals and emblems (as prescribed in DAO 201–1), and for stationery specifications (as prescribed in DAO 214–2).

.02 In order to assure Departmentwide conformance with printing and publishing regulations, the authority of the Office described in this Order shall apply to all Departmental publications, defined as any material printed by request of a Departmental office or operating unit intended for distribution to the public.

Section 4. Specified Authority.

In addition to the authority implicit in and essential to carrying out the functions assigned the Office and related to the exercise of such functions, the Director, Office of Publications is hereby expressly delegated the authority to approve or disapprove prices proposed by Departmental offices or operating units of the Department for the sale of Commerce publications which are not sold through the Superintendent of Documents, except that the authority shall not apply to publications sold by the National Technical Information Service. (15 U.S.C. 1152 *et. seq.*)

Section 5. Organization.

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 *Office of Director.* The Director shall be the advisor to and serve as the representative of the Deputy Assistant Secretary for Operations on publishing, printing and related activities. In managing the Office, the Director shall be assisted by a *Deputy Director* who shall be the Director's principal assistant in day-to-day operations, and shall perform the functions of the Director during the latter's absence.

.02 The *Program Analysis and Support Staff* shall plan and direct the financial control operations related to the Department's central printing plant; develop guidelines for cost controls for all printing, composition, binding and related activities; review and evaluate costs of printing, binding and related activities and develop uniform price schedules; and prepare required reports relating to the printing activities of the Office.

.03 The *Design and Graphics Division* shall, for all Departmental offices or operating units of the Department, provide central art direction; prepare necessary design, illustration, photographic, art, and graphics services for all general audience publications, printed materials, and visual presentations; approve or provide, requisition, or approve for procurement, all design, illustration, photographic, art, and graphic services; provide related technical support where necessary; and photographically record all newsworthy or historic subjects or occasions.

.04 The *Printing Division* shall requisition and/or approve for procurement all printing and binding, and related services for all Departmental offices or operating units of the Department; control and schedule all printing operations; operate the Department's central printing plant including its addressing and mailing services; perform periodic surveys and inspect printed material produced by all Departmental Printing and Duplicating plants; manage a coordinated system of copying machine installations; prescribe guidelines, policies and procedures for establishing microform programs, acquiring microform equipment, and using microforms in the Department; and investigate and analyze new printing methods.

.05 The *Micrographic Division* shall operate the Department's central microform and related reproduction services facility.

.06 The *Composition Division* shall requisition and/or approve for procurement all composition, and/or contractor services for composition involving machine readable input and related services, for all Departmental offices and operating units of the Department; control and schedule all composition; provide planning and preplanning services; operate the Department's computerized composition system and peripheral equipment; conduct GPO liaison for all photocomposition requirements; and investigate and evaluate all new composition systems.

.07 The *Editorial Policy and Review Division* shall formulate policies on publishing and develop standards for the essentiality, utility, content, format, and style for all publications; provide final review, for conformance, with these policies and standards, for all publications prior to printing; monitor compliance with government publishing regulations; conduct or coordinate all Department contacts with the Superintendent of Documents on matters concerning pricing or distribution of Department publications; conduct or coordinate all Department contacts with OMB on matters concerning approval of Department periodicals; review stationery requests for compliance with government regulations; and review requests for seals and emblems, and coordinate other Department clearances required for approval of such requests.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-35567 Filed 11-13-80; 8:45 am]

BILLING CODE 3510-17-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, December 9, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., November 6, 1980.

Charles H. Atherton,

Secretary.

[FR Doc. 80-35408 Filed 11-13-80; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 4, 1980.

The USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group will meet at Kirtland Air Force Base, New Mexico, on December 11 and 12, 1980. The meeting will convene at 8:00 a.m. with no scheduled adjournment time on December 11 and will convene at 8:00 a.m. and adjourn at 2:00 p.m. on December 12.

The Group will receive classified briefings on AFTEC's role in evaluating nuclear survivability. The meetings will be closed to the public in accodance with Section 552b(c) of this Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-35428 Filed 11-13-80; 8:45 am]

BILLING CODE 3910-01-M

Chief of Engineers; Department of the Army

Environmental Advisory Board; Open Meeting

Pursuant to Section 10(a)92) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the next meeting of the Chief of Engineers Environmental Advisory Board (EAB) will be held December 2–5, 1980, at the Sheraton-Atlanta Hotel, Atlanta, Georgia, concomitant with a Recreation Resources/Environmental Management Conference. The initial EAB session will be held at 0800, December 2, in the Georgian Ballroom. Times and subjects of all EAB sessions are as follows:

Tuesday, December 2

0800—Meeting convened.
0800–1000—Briefing on Recreation Resources/Environmental Management Conference (RR/EMC).
1000–1015—Public comments.
1015—Meeting adjourned.

Wednesday, December 3

1900—Meeting convened.
1900–2045—Civil Works R&D Research Needs System.
2045–2100—Public comments.
2100—Meeting adjourned.

Thursday, December 4

1300—Meeting convened.
1300–1450—OCE response to EAB report on Corps R&D Program.
1450–1505—Break.
1505–1700—RR/EMC, panel discussion on conference topics.
1700–1715—Public comments.
1715—Meeting adjourned.

Friday, December 5

0800—Meeting convened.
0800–1200—EAB prepares report to COE.
1200–1315—Lunch.
1315–1400—EAB meets with division engineers for general discussions.
1400–1500—EAB reports to COE.
1500–1515—Public comments.
1515—Meeting adjourned.

Meeting room(s) has limited seating capacity. Written statements, to be made part of the minutes, may be submitted prior to or up to 10 days following the meeting. Persons planning to attend or desiring further information should contact LTC George F. Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers. Telephone: 202–272–0103.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 80-35396 Filed 11-13-80; 8:45 am]

BILLING CODE 3710-92-M

Department of the Army

Military Traffic Management Command, Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on December 10, 1980, at Headquarters, Military Traffic Management Command, Nassif Building, Room 714, 5611 Columbia Pike, Falls Church, Virginia 22041. The meeting will convene at 0930 hours and adjourn at approximately 1500 hours.

Proposed agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on mutual problems arising from claims for loss, damage or destruction of personal property while in transit or storage.

This Symposium will be open to the public. Due to limited seating capacity, interested parties are requested to make reservations by contacting the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315, telephone (202) 756–1808.

Topics recommended for discussion should be submitted in writing to the address given in the preceding paragraph. Topics to be discussed should be received on or before December 1, 1980.

Dated: November 3, 1980.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 80-35399 Filed 11-13-80; 8:45 am]

BILLING CODE 3710-08-M

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of committee: Executive Committee of the National Board for the Promotion of Rifle Practice (NBPRP)
Date of meeting: 5 December 1980
Place: Chief of Staff Conference Room, Room 3E635, The Pentagon
Time: 0900 Hours

Proposed Agenda

1. Five Year NBPRP Budget Program
2. Membership for the NBPRP
3. Development of Program Objectives
4. Improved Accuracy for Service Ammunition 7.62mm
5. Small Arms Firing School for Pistol
6. Establishment of a President's Match for Pistol
7. Awards for President's Match
8. Pit Change During the National Trophy Rifle Team Match
9. Support of State Rifle and Pistol Teams
10. Improvement of Camp Perry Ranges
11. Lease for Camp Perry
12. Support for Junior Shooters Attending International Matches
13. New Shooter Rule for Junior Teams

This meeting is open to the public.

Persons desiring to attend the meeting should contact the Office of the Director of Civilian Markmanship (202) 272–0810 prior to 5 December 1980 to arrange entry into the Pentagon.

Persons unable to make prior arrangements should call X75673 *upon* arrival at the Pentagon.

Jack R. Rollinger,

Colonel, Infantry Executive Officer.

[FR Doc. 80-35548 Filed 11-13-80; 8:45 am]

BILLING CODE 3710-08-M

United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Blood Products and Preservation; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

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Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Blood Products and Preservation
Date of meeting: 5 December 1980
Time and place: 0900 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presidio of San Francisco, CA

Proposed Agenda

This meeting will be open to the public on 5 December 1980 from 0900–0930 hrs to discuss the scientific research program on Blood Products and Preservation at Letterman Army Institute of Research. Attendance by the public at open session will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 0930–1715 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

J. Ryan Neville, Ph. D., Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129, (415) 561–4367, will furnish summary minutes, roster of Committee members and substantive program information.

For the Commander.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 80-35547 Filed 11-13-80; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Intent To Prepare a Draft Environmental Impact Statement for Proposed Construction of a Fuel Pier and Associated Structures on the Terminal Island Mole, Long Beach, Ca.

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

PURPOSE: The Defense Logistics Agency will serve as the lead agency in the preparation of a Draft Environmental Impact Statement (DEIS) prepared in connection with the proposed construction of a fuel pier at the Terminal Island Mole, Long Beach, California. This Notice of Intent (NOI) to prepare the statement is published pursuant to the regulations of the Council on Environmental Quality, Title 40, Code of Federal Regulations, § 1501.7.

SUMMARY: 1. *Description of the Proposed Action:* The action proposed is the construction of approximately 1,800 feet of berthing for use as a fuel handling pier at the Terminal Island Mole, Long Beach, California. The construction also includes associated structures, such as submarine and buried land pipelines, operating tanks, pumps and manifold system and a reclamation plant. The pier will serve as a loading and off-loading point for tankers and a filling point for military vessels. Submarine and buried land pipelines will connect the pier to the Defense Fuel Support Point San Pedro.

2. *Proposed Alternatives:* a. No action. This alternative would require the continued use of berths 37, 38, 39 and 40 presently leased at the City of Los Angeles harbor in San Pedro, California.

b. Long-term lease of a commercial pier with associated facilities which lie within a two-mile radius of the existing San Pedro pier and which meet DLA and Navy refueling needs.

c. Consideration of various siting and design alternatives.

3. *Scoping Process:* a. Lead Agency: The Defense Logistics Agency is the lead agency responsible for the preparation of the DEIS. The Naval Facilities Engineering Command (Western Division) and the U.S. Army Corps of Engineers, Los Angeles District will be participating as cooperating agencies.

b. Scoping Meeting: A scoping meeting will be held on December 18, 1980 in the Activity Room at the Bixby Park Community Center, 1st Street and Cherry Avenue, Long Beach, California 90802 at 7:30 p.m. The issues to be addressed include: Air quality, water quality, vessel traffic patterns, land use and permit requirements.

c. Interested agencies, organizations and the general public are invited to attend the scoping meeting and to assist DLA/DFSC during the scoping process, in identifying significant environmental issues and concerns.

d. Timing: The estimated date for availability of the DEIS is June 1981.

FOR FURTHER INFORMATION CONTACT: Mr. F. H. Khattat, Ecologist, Defense Fuel Supply Center (DFSC), Defense Logistics Agency, Cameron Station, Alexandria, VA 22314, ATTN: DFSC–AE, Telephone: (202) 274–6989.

Lawrence R. Smith,

Colonel, USA, Staff Director, Installation Services and Environmental Protection.

[FR Doc. 80-35410 Filed 11-13-80; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission
[Volume 313]
Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978
November 7, 1980.

JD NO	FA DKT	API NO	SEC U WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
*ADOBE OIL & GAS CORPORATION			RECEIVED: 10/24/80	BRAWBERRY (TREND AREA)	30.0	PHILLIPS PETROLEUM C
0103302	23055	4246131501 103	WILKINSON NO 1			
*AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED: 10/24/80	SHERIFF EAST (9400)	355.0	UNITED TEXAS TRANSMI
0103270	22925	4205730637 103	IRMA MAY SMITH ET AL GU NO 2L			
*AMERICAN PUBLIC ENERGY CO		4229530690 103	RECEIVED: 10/24/80	KIOWA CREEK (CLEVELAND)	450.0	NORTHERN NATURAL GAS
0103113	20144		M C BRILLHART A NO 1			
*AMERICAN QUASAR PETROLEUM CO			RECEIVED: 10/24/80	MIRAM W BAILEY SURVEY A-	2737.0	DOW CHEMICAL CO
0103184	21478	4216130646 103	PETRO LEWIS-RUSCH #1	SEC 3 RUSK TRANSP CO SUR	73.0	EL PASO NATURAL GAS
0103231	22378	4243532291 103	SHURLEY RANCH 153			
*AMOCO PRODUCTION CO			RECEIVED: 10/24/80	CARTHAGE (TRAVIS PEAK)	328.5	TENNESSEE GAS PIPELI
0103054	16428	4236530739 103	BURNETT BROS NO 13	BLAUGHTER	2.0	AMOCO PRODUCTION CO
*0103265	22909	4207931129 103	C S DEAN C #20	HOUSTON SOUTH (OLIGOCENE	12.0	AMOCO GAS CO
0103219	22239	4220130772 103	DRILLING DISTRICT 24 #4	HOUSTON SOUTH (OLIGOCENE	12.0	AMOCO GAS CO
0103278	22981	4213532116 103	E F COWDEN D #7	CONDEN SOUTH/CANYON 8790	41.0	PIONEER NATURAL GAS
0103266	22908	4225531471 103	ELA C BUGG #2	ELA BUGG (WOLFCAMP)	137.0	CRA INC
*0103092	19336	4205931313 103	FANNIE DRAKE #26	HASTINGS WEST	58.0	TEXAS EASTERN TRANSM
0103162	21104	4235531470 103	G W MCCANN #37-C	ARNOLD-DAVID (CHAPMAN)	122.0	VALLEY GAS TRANSMISS
0103283	22967	4221530899 103	J J SWEENY #5	DONNA/7560/	139.0	CELANESE CHEMICAL CO
0103131	20552	4203931319 103	J M LEGARE #3	HASTINGS WEST	50.0	TEXAS EASTERN TRANSM
0103208	22066	4216930304 103	J T HOWELL #4	ANTON IRISH	1.0	PIONEER NATURAL GAS
0103190	21663	4239130587 103	M E OCONNOR #42	MARY ELLEN OCONNOR/FB-30	32.0	LA ROSA CORP
0103156	21052	4239130508 103	M E OCONNOR #45	M E OCONNOR/FB-40/	67.5	LA ROSA CORP
0103160	21052	4239131216 103	M E OCONNOR #50	M E OCONNOR/STRAY A/	5.5	LA ROSA CORP
*0103282	22985	4216730753 103	HARRS MCLEAN A N/A D NO 11	HIGH ISLAND	17.5	WINNIE PIPELINE CO
0103211	22006	4200331809 103	MIDLAND FARMS N GRAYBURG UNIT #69	MIDLAND FARMS N (GRAYBUR	0.7	PIONEER NATURAL GAS
0103067	17123	4219530690 103	RILEY GAS UNIT WELL #2	HANSFORD/MIDDLE MORROW	183.0	NORTHERN NATURAL GAS
0103228	22290	4203931476 102	STANGER GAS UNIT #1	OLD OCEAN ME (10800)	547.0	AMOCO GAS CO
0103065	17032	4222731741 103	TEX LAND/MTGE CO /A/ R/A /B/ #52	IATAN EAST/HOWARD/	1.5	GETTY OIL CO
0103279	22982	4213532798 103	W E COWDEN B #2	CONDEN SOUTH/CANYON 8790	11.0	PIONEER NATURAL GAS
0103280	22983	4213532095 103	W E COWDEN E #1	CONDEN SOUTH/CANYON 8790	31.4	PIONEER NATURAL GAS
0103281	22984	4213532160 103	W E COWDEN F #1	CONDEN SOUTH/CISCO 8660/	2.0	PIONEER NATURAL GAS
*ANGIL T FULLER			RECEIVED: 10/24/80	EAST ANITA (6200 FRIO) F	183.0	UNITED GAS PIPELINE
0103069	17537	4223931337 102	KOOP GAS UNIT #1			
*ARCO OIL AND GAS COMPANY			RECEIVED: 10/24/80	LEVELLAND (SAN ANDRES)	19.6	CITIES SERVICE GAS C
0103204	21350	4207931075 103	F D HASTEN #13	LEVELLAND (SAN ANDRES)	19.2	CITIES SERVICE GAS C
0103202	21327	4207931074 103	F D HASTEN #14	LEVELLAND (SAN ANDRES)	10.9	CITIES SERVICE GAS C
0103203	21328	4207931073 103	F D HASTEN #17	LEVELLAND (SAN ANDRES)	5.6	CITIES SERVICE GAS C
0103205	21981	4207931146 103	F D HASTEN #16	TILLERY	140.0	ARCO OIL AND GAS CO
0103107	20006	4241330852 103	VIRGIL J POWELL TR A #10			
*ARGONAUT ENERGY CORPORATION			RECEIVED: 10/24/80			

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JD NO	TA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
8103257	p2626	4229530696	102	STUART RANCH #4	STUART RANCH (MORROW LOW	1656.0	NORTHERN NATURAL GAS
=ATAPCO				RECEIVED: 10/24/80 JAS TX			
8103197	p1869	4237132879	102	UNIVERSITY A-1-16 25691	ATAK (PENN DETRITAL)	5.0	
8103197	p1869	4237132879	103	UNIVERSITY A-1-16 25691	ATAK (PENN DETRITAL)	5.0	
=BAR-MAC & MOLLUB DRILLING CO				RECEIVED: 10/24/80 JAS TX			
8103057	j6573	4205130414	103	MORTON NO 1 ID #12466	INEZ JAMESON (NAVARRO)	22.0	FERGUSON CROSSING PI
=BASS ENTERPRISES PRODUCTION CO				RECEIVED: 10/24/80 JAS TX			
8103290	p3013	4230130242	103	BASS STATE Z NO 2	WHEAT (DELAWARE)	50.0	
8103291	p3014	4230130243	103	BASS STATE Z NO 3	WHEAT (DELAWARE)	55.0	
8103292	p3015	4230130245	103	BASS STATE Z NO 4	WHEAT (DELAWARE)	55.0	
8103300	p3035	4247532004	103	J F MATHAWAY NO 30	ESTES BLOCK 34 (PENN)	300.0	CABOT CORP
=BELCO PETROLEUM CORPORATION				RECEIVED: 10/24/80 JAS TX			
8103071	j8179	4210531114	108	UNIVERSITY 13-2 71656	INGHAM (DEVONIAN)	0.0	EL PASO NATURAL GAS
=BLADE OIL CO				RECEIVED: 10/24/80 JAS TX			
8103111	p0065	4223300000	103	SANFORD #4 (04278)	PANHANDLE	0.0	PHILLIPS PETROLEUM C
=BRIGHT & COMPANY				RECEIVED: 10/24/80 JAS TX			
8103175	p1247	4224731116	102	F W STROMAN #1	ALBERCAS (JACKSON 1200)	0.0	NATURAL GAS PIPELINE
8103175	p1247	4224731116	103	F W STROMAN #1	ALBERCAS (JACKSON 1200)	0.0	NATURAL GAS PIPELINE
=BRITTANY DRILLING CO				RECEIVED: 10/24/80 JAS TX			
8103249	p2491	4214930345	102	C H HARRIS #1 ID=12407	GIDDINGS (AUSTIN CHALK)	142.0	PHILLIPS PETROLEUM C
8103248	p2490	4214930315	102	LEWIS P LEHMANN #1 ID=12189	GIDDINGS (AUSTIN CHALK)	10.0	PHILLIPS PETROLEUM C
=CANUS PETROLEUM INC				RECEIVED: 10/24/80 JAS TX			
8103163	p1144	4235500000	102	#1 CARROLL UNIT	NORTH INEZ (PROPOSED)	73.0	TEJAS GAS CORP
8103235	p2418	4235500000	102	#3 TALBERT	CORPUS CHRISTI WEST (110	365.0	UNITED GAS PIPE LINE
8103186	p1583	4223900000	103	FELICE B FRANEK #6L	CORDELE EAST (2800) & (3	219.0	CFM GAS GATHERING CO
8103187	p1584	4223900000	103	FELICE B FRANEK #6U	CORDELE EAST (2800) & CO	219.0	CFM GAS GATHERING CO
=CARHCO ENERGY CORPORATION				RECEIVED: 10/24/80 JAS TX			
8103188	p1634	4218500000	102	BEULAH YEAGER NO 1	IOLA (GLEN ROSE) FIELD	146.0	LONE STAR GAS CO
8103188	p1634	4218500000	103	BEULAH YEAGER NO 1	IOLA (GLEN ROSE) FIELD	146.0	LONE STAR GAS CO
=CAVALLA ENERGY EXPLORATION CO				RECEIVED: 10/24/80 JAS TX			
8103072	j8180	4228500000	102	S A LOWRANCE NO 1 = ID#85078	LOWRANCE (3100) FIELD	182.5	TEXAS EASTERN TRANSM
8103072	j8180	4228500000	103	S A LOWRANCE NO 1 = ID#85078	LOWRANCE (3100) FIELD	182.5	TEXAS EASTERN TRANSM
=CENTEX OIL & GAS INC				RECEIVED: 10/24/80 JAS TX			
8103217	p2199	4224500000	102	HIGH IS BLOCK 10-L GULF #6	HIGH ISLAND BLOCK 10-L G	1277.0	TRANSCONTINENTAL GAS
=CHAMPLIN PETROLEUM COMPANY				RECEIVED: 10/24/80 JAS TX			
8103120	p0247	4240130783	102	BAILEY SHEPPARD NO 4	E EASON (COTTON VALLEY)	308.0	HYDROCARBON TRANSFER
8103120	p0247	4240130783	103	BAILEY SHEPPARD NO 4	E EASON (COTTON VALLEY)	308.0	HYDROCARBON TRANSFER
8103199	p1904	4236500000	103	CARTHAGE GAS UNIT 4 NO 2	CARTHAGE (COTTON VALLEY)	547.5	TENNESSEE GAS PIPELI
=CITIES SERVICE COMPANY				RECEIVED: 10/24/80 JAS TX			
8103161	p1071	4249700146	108	SLAY #6	BOONSVILLE (BEND CONGL G	15.7	CITIES SERVICE CO
=CONOCO INC				RECEIVED: 10/24/80 JAS TX			
8103110	p0021	4238900000	108	FORD GERALDINE UNIT #312 (#21021)	GERALDINE FORD	0.0	EL PASO NATURAL GAS
8103096	j9385	4238900000	108	G E RAMSEY JR 7 #11 ID #21019	GERALDINE FORD	6.1	EL PASO NATURAL GAS
8103108	p0017	4213500000	108	KLOH A #8 ID #00818	COWDEN NORTH	0.1	AMOCO PRODUCTION CO
8103109	p0018	4243300000	108	W FLOWERS UNIT #51 ID #11787	FLOWERS WEST	0.1	CITIES SERVICE OIL C
8103121	p0271	4247932357	103	WILLIAM HUBBERD-D NO 17 (85963)	LAREDO (8060)	1825.0	VALERO TRANSMISSION
=CONVEST ENERGY CORP				RECEIVED: 10/24/80 JAS TX			
8103181	p1427	4226330625	102	WAYNE WILLIAMS ET AL NO 8-1	POLLAN/ELLENBURGER	0.0	EL PASO NATURAL GAS
=CROWERA OIL & GAS CO				RECEIVED: 10/24/80 JAS TX			
8103176	p1253	4223732842	103	J R HALSELL A #1	ARCO (CONGLOMERATE) FIE	105.0	SOUTHWESTERN GAS PIP
=CROWN CENTRAL PETROLEUM CORP				RECEIVED: 10/24/80 JAS TX			
8103200	p1908	4203931233	103	A P GEORGE NO 1	WEST COLUMBIA (FRIO 1030	190.0	NATURAL GAS PIPELINE

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JD NO	TA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
=DALLAS PRODUCTION INC				RECEIVED: 10/24/80 JAS TX			
8103226	p2292	4236731626	103	GURSKY-SNOWDEN NO 1	MUIR (STRAWN 6400)	134.0	SOUTHWESTERN GAS PIP
8103189	p1661	4222130384	102	RANDLE NO 1	NEW DISCOVERY	63.0	ALEDO GAS CO LTD
=DAVIS OIL COMPANY				RECEIVED: 10/24/80 JAS TX			
8103182	p1461	4232130938	103	HANS J NELSON #1	N PHEASENT NELSON SAND	219.0	HOUSTON PIPELINE CO
=DELRAY OIL INC				RECEIVED: 10/24/80 JAS TX			
8103258	p2686	4208332030	103	BERTIE E STONE NO 5	BURT-OGDEN-MABEE	100.0	LONE STAR GAS CO
=DIAMOND SHAMROCK CORPORATION				RECEIVED: 10/24/80 JAS TX			
8103313	p3125	4235730963	103	CARL ELLIS D NO 3	ELLIS RANCH	100.0	NATURAL GAS PIPELINE
8103090	j9313	4239330715	103	VERNON M FLOWERS EST NO 3	MENDOTA NW	20.0	
=DISCOVERY OPERATING INC				RECEIVED: 10/24/80 JAS TX			
*8103317	p6601	4241330775	103	DELONG #1	KA-ZE-BA (CANYON)	180.0	CRA INC
*8103240	p2467	4241330803	103	LIN #1	WILDCAT	216.0	CRA INC
*8103242	p2470	4241330803	102	LIN #1	W O D (CANYON)	180.0	CRA INC
*8103243	p2471	4241330813	102	LIN A #2	W O D (CANYON)	180.0	CRA INC
=DORCHESTER EXPLORATION INC				RECEIVED: 10/24/80 JAS TX			
8103207	p2045	4243130815	103	TERRY 17 NO 2	W A M RUSSELMAN	941.0	ESPERANZA PIPELINE C
=EDWIN L COX				RECEIVED: 10/24/80 JAS TX			
8103132	p0656	4247531956	103	EDWARDS NO 6	CRAWAR (GLORIETA)	12.0	WARREN PETROLEUM CO
=EL PASO NATURAL GAS COMPANY				RECEIVED: 10/24/80 JAS TX			
8103157	p0926	4217923737	108	WILSON #1	PANHANDLE WEST-BROWN DOL	13.8	EL PASO NATURAL GAS
8103260	p2721	4208726316	108	WISCHKAEMPER A #1	PANHANDLE EAST-BROWN DOL	21.0	EL PASO NATURAL GAS
=ENERGY EXPLORATION INC				RECEIVED: 10/24/80 JAS TX			
8103146	p0689	4223700000	108	ALLISON YATES NO 4	BOONSVILLE	2.0	LONE STAR GAS CO
8103139	p0681	4223700000	108	DURHAM KEMPNER NO 1	BOONSVILLE	16.0	LONE STAR GAS CO
8103143	p0686	4249700000	108	E L VAUGHT NO 1	BOONSVILLE	5.0	LONE STAR GAS CO
8103137	p0679	4249700000	108	G H COCANOUGHER NO 2	BOONSVILLE	7.0	LONE STAR GAS CO
8103133	p0674	4249700000	108	G R TAYLOR NO 1	BOONSVILLE	14.0	LONE STAR GAS CO
8103138	p0680	4249700000	108	KATE CHANDLER NO 1	BOONSVILLE	20.0	LONE STAR GAS CO
8103122	p0273	4220330699	103	LEDBETTER-JONES NO 2	NMELAN	260.0	TEXAS EASTERN TRANSM
8103141	p0684	4223700000	108	MILDRED DURHAM NO 11	BOONSVILLE	7.0	LONE STAR GAS CO
8103142	p0685	4223700000	108	MILDRED DURHAM NO 8	BOONSVILLE	7.0	LONE STAR GAS CO
8103148	p0691	4249700000	108	MYRTLE ARWINE NO 1	BOONSVILLE	9.0	LONE STAR GAS CO
8103147	p0690	4223700000	108	ORNEE STEWART NO 1	BOONSVILLE	4.0	LONE STAR GAS CO
8103145	p0688	4249700000	108	R A HUDSON NO 1	NMOME	6.0	LONE STAR GAS CO
8103144	p0687	4249700000	108	R F MCDERMOTT NO 1	BOONSVILLE	13.0	LONE STAR GAS CO
8103136	p0677	4249700000	108	ROSIE BOAZ NO 1	BOONSVILLE	5.0	LONE STAR GAS CO
8103135	p0676	4249700000	108	TARRANT CTY WATER BD UNIT 4 #1	BOONSVILLE	15.0	LONE STAR GAS CO
8103134	p0675	4249700000	108	TARRANT CTY WATER BD UNIT 5 #1	BOONSVILLE	13.0	LONE STAR GAS CO
8103140	p0682	4249700000	108	W J DURHAM NO 1	BOONSVILLE	19.0	LONE STAR GAS CO
=ERGON ENERGY CORP				RECEIVED: 10/24/80 JAS TX			
8103233	p2394	4235730866	103	BENNETT #1	FARNSWORTH-CONNER (DES M	14.4	PHILLIPS PETROLEUM
=ERSO INC				RECEIVED: 10/24/80 JAS TX			
8103230	p2393	4236500000	103	CARTHAGE UNIT #33	CARTHAGE	365.0	TENNESSEE GAS PIPELI
=ESENJAY PETROLEUM CORP				RECEIVED: 10/24/80 JAS TX			
8103273	p2933	4202531194	103	JOYCE NOLEN NO 1	BLANCONIA VICKSBURG (500	91.0	UNITED GAS PIPELINE
=EXXON CORPORATION				RECEIVED: 10/24/80 JAS TX			
8103272	p2931	4207330151	103	BRISBY STATE NO 3	NECHES (WOODBINE)	5.9	UNITED GAS PIPELINE
8103252	p2548	4215731013	103	C C NELSON #25	SUGARLAND	90.0	UNITED TEXAS TRANSMI
8103271	p2930	4200130640	103	CARRIE E SMITH #11	NECHES (WOODBINE)	38.0	UNITED GAS PIPELINE
8103130	p0630	4222731993	103	DOUTHIT UNIT #311	HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEUM C
8103296	p3028	4235730967	103	DUDE WILSON GAS UNIT 6 #3	ELLIS RANCH (CLEVELAND)	76.0	TRANSWESTERN PIPELIN

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JD NO	TA DKT	API NO	SEC D	WELL NAME
*8103299	p3029	4200332194	103	FULLERTON CLFK UNIT #2425
8103070	;8139	4247531792	107	GULF #1
8103297	p3027	4210332209	103	J S TUBB A/C 1 #215U
8103112	p0120	4200331707	108	J E PARKER A/C 2 #87
8103296	p3026	4216531687	103	ROBERTSON CLFK UNIT #76
8103316	p5005	4226130533	102	SARITA FIELD D&G UNIT 151-D
8103103	;9906	4213133918	103	V KOHLER A-128 ID #06096
*FLOURNOY PRODUCTION COMPANY				RECEIVED: 10/24/80 JA: TX
8103234	p2415	4248930616	102	TODD GAS UT 1 #1 C(WEBER)
8103245	p2476	4248930616	102	TODD OIL UT 1 #1 (FURLOW)
*FOUR C OIL & GAS CORP				RECEIVED: 10/24/80 JA: TX
8103151	p0831	4250131768	103	MAPLES PLATTER #1
*GARY D TURNER DBA TURNER PROPERTIES				RECEIVED: 10/24/80 JA: TX
8103227	p2293	4208130618	103	TURNER PROPERTIES TUBB NO 2
*GAS PRODUCING ENTERPRISES INC				RECEIVED: 10/24/80 JA: TX
8103201	p1913	4237530686	103	BIVINS 54-18
8103210	p2090	4237530671	103	MASTERSON 83-16RO
*GENE POWELL				RECEIVED: 10/24/80 JA: TX
8103125	p0384	4240130852	103	GLADNEY GAS UNIT #1
*GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED: 10/24/80 JA: TX
*8103062	;6908	4213133363	103	WELDER HEIRS B-3
*GETTY OIL COMPANY				RECEIVED: 10/24/80 JA: TX
8103212	p2124	4236530961	103	S S HARRIS NO 3
8103127	p0413	4236530969	103	VELMA FRANCIS NO 1
*GOLDKING PRODUCTION COMPANY				RECEIVED: 10/24/80 JA: TX
8103193	p1785	4208931050	103	A M JANDA #1 (85155)
8103194	p1787	4208931100	103	JACKSON NO 2-C
*GREAT PLAINS EXPLORATION CO III				RECEIVED: 10/24/80 JA: TX
8103099	;9590	4246730386	102	BASS J W SR NO 1 (80923)
*GULF OIL CORPORATION				RECEIVED: 10/24/80 JA: TX
8103269	p2920	4236531043	103	CARTHAGE UNIT 110 WELL NO 2
8103268	p2919	4236531034	103	CARTHAGE UNIT 111 WELL NO 2
8103309	p3044	4215702549	103	F I BOOTH ET AL A NO 46
8103253	p2607	4249531114	103	KEYSTONE CATTLE CO NO 351
8103308	p3093	4260230021	103	STATE TR 888-B #1-A #71978
*H & L OPERATING COMPANY				RECEIVED: 10/24/80 JA: TX
8103215	p2140	4235730927	103	BRILLHART #1 (04496)
*HANOVER MANAGEMENT CO				RECEIVED: 10/24/80 JA: TX
8103263	p2852	4249731528	103	E L SCHOOLING #1-A
*HARRISON INTERESTS LTD				RECEIVED: 10/24/80 JA: TX
8103061	;6881	4210532350	102	NO 12 UNIVERSITY LANDS 19-33
8103061	;6881	4210532350	103	NO 12 UNIVERSITY LANDS 19-33
*HI-PLAINS PRODUCTION INC				RECEIVED: 10/24/80 JA: TX
8103196	p1863	4248300000	108	1A BELL
*HINTON PRODUCTION COMPANY				RECEIVED: 10/24/80 JA: TX
8103128	p0416	4240130822	102	CHANNEL UNIT NO 1 WELL NO 1
8103225	p2291	4240130878	102	TEMPLE NO 1
*HOOVER & BRACKEN ENERGIES				RECEIVED: 10/24/80 JA: TX
8103259	p2710	4219530724	103	TRUEBLOOD #1-33
*HOU-TEX OIL & GAS CO				RECEIVED: 10/24/80 JA: TX
8103055	;6505	4235531407	103	JOHN SOMMERS HEIRS NO 2
*HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 10/24/80 JA: TX

FIELD NAME	PROD	PURCHASER
FULLERTON	0.7	PHILLIPS PETROLEUM C
WILDCAT	2306.6	
SAND HILLS (MCKNIGHT)	251.0	EL PASO NATURAL GAS
GOLDSMITH NORTH	5.0	NORTHERN NATURAL GAS
ROBERTSON N (CLFK 7100)	9.0	PHILLIPS PETROLEUM C
SARITA (6-8)	88.0	NATURAL GAS PIPELINE
VIGGO (QUEEN CITY #1)	24.0	TENNESSE GAS PIPELIN
CHESS SW	0.2	TENNESSEE GAS PIPELI
CHESS SW	0.2	TENNESSEE GAS PIPELI
HASSUN	10.0	AMOCO PRODUCTION CO
JAMESON (STRAWN)	43.9	SUN GAS CO
N PANHANDLE (RED CAVE)	19.0	COLORADO INTERSTATE
WEST PANHANDLE	23.0	COLORADO INTERSTATE
OAKHILL (COTTON VALLEY)	730.0	UNITED GAS PIPE LINE
NE LUNA NOVIA (WILCOX)	65.0	TENNESSEE GAS PIPELI
CARTHAGE (COTTON VALLEY)	728.0	UNITED GAS PIPELINE
CARTHAGE (TRAVIS PEAK 64	750.0	UNITED GAS PIPELINE
MUSTANG CREEK (2050)	172.0	HOUSTON PIPE LINE CO
EATON (MIOCENE 2000)	160.0	HOUSTON PIPE LINE CO
MARTINS MILL (RODESSA)	450.0	LONE STAR GAS CO
CARTHAGE (COTTON VALLEY)	0.0	UNITED GAS PIPE LINE
CARTHAGE (COTTON VALLEY)	0.0	UNITED GAS PIPE LINE
THOMPSON	11.0	UNITED TEXAS TRANSMI
KEYSTONE (COLBY	78.0	CABOT CORP
MUSTANG ISL BLK 883 (990	300.0	HOUSTON PIPE LINE CO
PERRYTON (MORROW LOWER)	12.0	PHILLIPS PETROLEUM C
BOONSVILLE (BEND) CONGL	182.0	NATURAL GAS PIPELINE
HOWARDS CREEK (PENN)	110.0	INTRATEX GAS CO
HOWARDS CREEK (PENN)	110.0	INTRATEX GAS CO
PANHANDLE WHEELER COUNTY	2.2	RAEL GAS CO
TRAWICK NE (TRAVIS PEAK)	0.0	TEJAS GAS CORP
TRAWICK	0.0	TEJAS GAS CORP
SHARE SE (MONROW UPPER)	450.0	HIGH PLAINS NATURAL
SOMMER	219.0	DELHI GAS PIPELINE C

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JD NO	TA DKT	API NO	SEC D	WELL NAME
8103241	p2468	4238331526	103	ONA WELLS NO 2
*HUNT OIL COMPANY				RECEIVED: 10/24/80 JA: TX
8103246	p2482	4246131507	102	AMACKER-HALFF 81 #3
8103056	;6506	4236530771	102	MATTHEW HARRIS UNIT WELL NO 2
8103253	p2557	4246131504	102	V T AMACKER 76 #3
*HYDROCARBON GATHERING INC				RECEIVED: 10/24/80 JA: TX
8103216	p2157	4208931099	103	W N LEHRER NO C-1
*IKE LOVELADY INC				RECEIVED: 10/24/80 JA: TX
8103180	p1394	4207931122	103	MABEL FIELD NO 2 (62570)
*INTERNORTH INC				RECEIVED: 10/24/80 JA: TX
8103277	p2979	4238931007	107	HERSHENSON 11 #1
*J A LEONARD				RECEIVED: 10/24/80 JA: TX
8103068	;7566	4205130394	103	COOKSEY NO 2
*J CLEO THOMPSON				RECEIVED: 10/24/80 JA: TX
8103266	p2915	4241300000	103	ROUSSELOT A 1
8103267	p2917	4241300000	103	ROUSSELOT A 2
*J M HUBER CORPORATION				RECEIVED: 10/24/80 JA: TX
8103150	p0809	4223330727	103	ARCO READ NO 2
*JOHN G MIDDLETON				RECEIVED: 10/24/80 JA: TX
8103262	p2819	4208930655	103	R L STEGER NO 1 (75079)
*JOHN L COX				RECEIVED: 10/24/80 JA: TX
8103314	p3131	4246131551	103	TURNER-BARNET NO 1
*KIRBY EXPLORATION CO				RECEIVED: 10/24/80 JA: TX
8103301	p3042	4248100000	103	NORRIS RAUN #1-L
*L&M OIL CO				RECEIVED: 10/24/80 JA: TX
8103077	;8471	4208331590	103	W C HENDERSON B #3
*LEEDE OIL & GAS INC				RECEIVED: 10/24/80 JA: TX
8103294	p3024	4210532619	103	UNIVERSITY 50 #4
8103303	p3056	4210532597	103	UNIVERSITY 50 #5
8103304	p3057	4210532596	103	UNIVERSITY 50 #6
8103305	p3058	4210532610	103	UNIVERSITY 50 #12
8103288	p3005	4210532595	103	UNIVERSITY 50 #7
8103307	p3060	4210532592	103	UNIVERSITY 50 #9
8103287	p3004	4210532601	103	UNIVERSITY 50A #11
8103254	p2603	4210532532	103	UNIVERSITY 50A #5
8103295	p3025	4210532531	103	UNIVERSITY 50A #6
8103289	p3006	4210532568	103	UNIVERSITY 50A #7
8103306	p3059	4210532677	103	UNIVERSITY 508 #2
*MCCORD EXPLORATION				RECEIVED: 10/24/80 JA: TX
*8103088	;9187	4208900000	102	HEINSOHN UNIT NO 1
*MCCORMICK OIL & GAS CORP				RECEIVED: 10/24/80 JA: TX
8103118	p0207	4204730749	102	GLORIA GARCIA LOPEZ #1
8103119	p0218	4204730772	102	GLORIA GARCIA LOPEZ #2
*MCMORAN EXPLORATION CO				RECEIVED: 10/24/80 JA: TX
8103251	p2532	4235531495	102	STATE TRACT 89 WELL #2-A
*MGF OIL CORP				RECEIVED: 10/24/80 JA: TX
8103261	p2796	4232930851	103	STIMSON-BURLEY NO 1
*MITCHELL ENERGY CORPORATION				RECEIVED: 10/24/80 JA: TX
8103315	p3138	4249731572	103	ADELE CLOUGH #4 (87010)
8103066	;7059	4249700000	108	J B WARDEN #1 (10297)
8103059	;6754	4249731525	103	JESSIE LOVELL #1
8103149	p0723	4249700000	108	OLIVER BOND #1 (80868)

FIELD NAME	PROD	PURCHASER
SPRABERRY (TREND AREA)	36.0	UNION TEXAS PETROLEU
AMACKER-TIPPETT SW (9000	91.5	EL PASO NATURAL GAS
CARTHAGE (COTTON VALLEY)	360.0	UNITED GAS PIPELINE
AMACKER-TIPPETT SW (WOLF	125.0	EL PASO NATURAL GAS
WILDCAT (ABOVE 9500 FEET	73.0	HOUSTON PIPE LINE CO
BUCKSHOT (8950)	11.0	WARREN PETROLEUM CO
HERSHEY W (DEV - MONT)	88.2	INTERNORTH INC
INEZ JAMESON (NAVARRO A)	27.3	
SAWYER (CANYON)	147.0	NORTHERN NATURAL GAS
SAWYER (CANYON)	126.0	NORTHERN NATURAL GAS
PANHANDLE	48.0	COLORADO INTERSTATE
ROCK ISLAND W (WILCOX 97	324.0	HOUSTON PIPE LINE CO
BENEDUM (RUSSELMAN)	50.0	EL PASO NATURAL GAS
GOLDEN ROD (3800)	110.0	TRUNKLINE GAS CO
BURKETT SW (DUFFER OIL)	55.0	WEST CENTEX GAS CO
FARMER (SAN ANDRES)	10.0	J L DAVIS - BIG LAKE
FARMER (SAN ANDRES)	10.0	J L DAVIS BIG LAKE G
FARMER (SAN ANDRES)	10.0	J L DAVIS BIG LAKE G
FARMER (SAN ANDRES)	10.0	J L DAVIS BIG LAKE G
FARMER	10.0	J L DAVIS
FARMER (SAN ANDRES)	10.0	J L DAVIS BIG LAKE G
FARMER (SAN ANDRES)	10.0	J L DAVIS
FARMER (SAN ANDRES)	10.0	J L DAVIS
FARMER (SAN ANDRES)	10.0	J L DAVIS - BIG LAKE
FARMER (SAN ANDRES)	10.0	J L DAVIS
FARMER (SAN ANDRES)	10.0	J L DAVIS BIG LAKE G
FRELSBURG (Z-15-B)	200.0	TEXAS EASTERN TRANSM
RUCIAS NORTH - FAULT BLO	900.0	TRANSCONTINENTAL GAS
NORTH RUCIAS - FAULT BLO	250.0	TRANSCONTINENTAL GAS
ENCINAL CHANNEL NE (7900	140.0	
SPRABERRY (TREND AREA)	15.6	NORTHERN NATURAL GAS
BOONSVILLE (BEND CONG GA	500.0	NATURAL GAS PIPELINE
MEANDER W (CADDO CONGL)	9.0	NATURAL GAS PIPELINE
BOONSVILLE (BEND CONGL G	200.0	NATURAL GAS PIPELINE
BOONSVILLE (BEND CONG GA	20.0	NATURAL GAS PIPELINE

JD NO	RA DKT	API NO	SEC	D	WELL NAME
-MOBIL PROD TEXAS & NEW MEXICO INC					RECEIVED: 10/24/80 JA: TX
8103229	p2318	4216531748	103		M & J SECTION 127-B NO 17
8103206	p1988	4240900000	108		RACHAL NO 73
-MOLE OPERATING COMPANY INC					RECEIVED: 10/24/80 JA: TX
8103293	p3017	4246131907	103		DUCKETT NO 1 ID #87126
-MORAN EXPLORATION INC					RECEIVED: 10/24/80 JA: TX
8103159	p0937	4237131618	108		J L NUTT ESTATE NO B-4
8103158	p0936	4237100000	108		J L NUTT ESTATE NO C-1
-MUELLER ENGINEERING CORP					RECEIVED: 10/24/80 JA: TX
8103123	p0287	4227300000	103		V T COLLINS NO 1
-OMNI-EXPLORATION INC					RECEIVED: 10/24/80 JA: TX
8103183	p1471	4217531189	103		LOUIS M HEINRICH NO 1
-ONG EXPLORATION INC					RECEIVED: 10/24/80 JA: TX
8103082	i8972	4229530681	103		WESLEY #1
-ONG PETROLEUM CO					RECEIVED: 10/24/80 JA: TX
8103104	i9925	4223900000	102		WILLIAM BORCHERS NO 2-T
-PARAFFINE OIL CORP					RECEIVED: 10/24/80 JA: TX
8103244	p2475	4246931535	102		KEERAN NO 4
8103244	p2475	4246931535	103		KEERAN NO 4
-PARKER & PARSLEY INC					RECEIVED: 10/24/80 JA: TX
8103089	i9218	4217331028	103		HUTCHISON A NO 1
-PENNZOIL PRODUCING COMPANY					RECEIVED: 10/24/80 JA: TX
8103152	p0843	4235500000	108		HELEN P AUSTIN NO 2
8103275	p2939	4250531196	103		JENNINGS NO 45
-PETROLEUM TECHNICAL SERVICE CO					RECEIVED: 10/24/80 JA: TX
8103129	p0429	4241330820	103		MRS J F RUNGE ESTATE #1
-PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/24/80 JA: TX
8103084	i9062	4213502859	108		(19297) B COWDEN UNIT NO 3-01
8103213	p2131	4213520671	108		(21556) N PENWELL UNIT NO 6
8103058	i6720	4229530714	103		BALLENTINE A NO 1
8103165	p1155	4236531033	103		PITTS A NO 1
-R C BLACK					RECEIVED: 10/24/80 JA: TX
8103117	p0164	4249500000	108		BROWN & ALTMAN A #4
8103115	p0160	4249500000	108		BROWN & ALTMAN A/C 1 #13
8103116	p0161	4249500000	108		BROWN & ALTMAN A/C 1 #15
-REALITOS ENERGY CORP					RECEIVED: 10/24/80 JA: TX
8103164	p1153	4223931447	103		E C LABAUVE NO 1
-RICHARD PHILLIPS					RECEIVED: 10/24/80 JA: TX
*8103105	i9980	4240931343	102		KIRK GAS UNIT NO A-1U
*8103105	i9980	4240931343	103		KIRK GAS UNIT NO A-1U
-RK PETROLEUM CORP					RECEIVED: 10/24/80 JA: TX
8103284	p2997	4231732174	103		ANCHOR #2
8103285	p2999	4231732075	103		PAISANO WOLCOTT #2
-ROCKWOOD RESOURCES INC					RECEIVED: 10/24/80 JA: TX
8103073	i8214	4245530313	102		EHLERT NO 1 (85160)
-SAXON OIL COMPANY					RECEIVED: 10/24/80 JA: TX
8103086	i9141	4236331452	103		HUNT A NO 2
8103124	p0375	4236331405	103		MCLEAN NO 3
8103087	i9142	4236300000	103		WAYLE TRUST NO 2
-SHELL OIL CO					RECEIVED: 10/24/80 JA: TX
8103185	p1930	4221530947	103		W J DAVIS A NO 1
8103214	p2138	4213133358	102		HEATHERBY-HEATHERBY GAS UNIT NO 1
-SOUTHLAND ROYALTY CO					RECEIVED: 10/24/80 JA: TX

FIELD NAME	PROD	PURCHASER
G-M-K SOUTH (SAN ANDRES)	5.0	PHILLIPS PETROLEUM C
WHITE POINT EAST/1850	19.2	UNITED GAS PIPE LINE
JONES CREEK (4850) FIELD	146.0	FLORIDA GAS
BARBASAL (QUEEN)	5.5	PRODUCERS GAS CO
BARBASAL (QUEEN)	10.6	PRODUCERS GAS CO
WILDCAT	110.0	VALERO TRANSMISSION
GO-WITT (WILCOX 7700)	146.0	HOUSTON PIPE LINE CO
DARREN (MORROW MIDDLE)	150.0	NORTHERN NATURAL GAS
MCDANIEL (3750)	0.0	TEXAS EASTERN TRANSM
KEENAN EAST (7550)	40.0	FLORIDA GAS TRANSMIS
KEENAN EAST (7550)	40.0	FLORIDA GAS TRANSMIS
SPRAGBERRY (TREND AREA)	15.0	PHILLIPS PETROLEUM C
AGUA DULCE	9.0	UNITED GAS PIPE LINE
JENNINGS WEST	150.0	NATURAL GAS PIPELINE
COX-BROWN (STRAWN)	547.5	LONE STAR GAS CO
COWDEN SOUTH	0.9	ODESSA NATURAL GAS C
PENWELL	2.0	EL PASO NATURAL GAS
N MAMMOTH CREEK CLEVELAN	190.0	PANHANDLE EASTERN PI
CARTHAGE	365.0	UNITED GAS PIPELINE
EMPEROR	0.0	WEST TEXAS GATHERING
EMPEROR	0.0	WEST TEXAS GATHERING
EMPEROR	0.0	WEST TEXAS GATHERING
SWAN LAKE NE (8800)	365.0	CHANNEL INDUSTRIES G
WHITE POINT E DEEP (QUED	50.0	FLORIDA GAS TRANSMIS
WHITE POINT E DEEP (QUED	50.0	FLORIDA GAS TRANSMIS
HOLTON (STRAWN)	58.4	NORTHERN NATURAL GAS
SPRAYBERRY TREND	9.1	NORTHERN NATURAL GAS
RED BRANCH (2380)	50.0	UNITED GAS PIPE LINE
SPRABERRY (TREND AREA)	202.9	PHILLIPS PETROLEUM C
SPRABERRY (TREND AREA)	14.9	NORTHERN NATURAL GAS
SPRABERRY (TREND AREA)	11.3	NORTHERN NATURAL GAS
MCCOOK E (VICKSBURG LO-Y	400.0	LONE STAR GAS CO
NORITA NW (WILCOX W)	200.0	

JD NO	RA DKT	API NO	SEC	D	WELL NAME
8103102	i9824	4210300000	108		EDWARDS GRAYBURG UNIT #8-4
8103154	p0862	4247500000	108		F G SMITH #10
8103153	p0852	4249500000	108		J C LOVETT #14
8103076	i8366	4247531965	103		JANELLE EDWARDS #4
8103080	i8572	4238300000	108		O F BOYD B #1-6
8103079	i8571	4238300000	108		O F BOYD B #2-6
8103078	i8570	4238300000	108		O F BOYD B #3-6
8103106	i9996	4238300000	108		W E BOYD #2-9
8103096	i9529	4211300000	108		WILLIE DAVIS #2
-SUBURBAN PROPANE GAS CORP					RECEIVED: 10/24/80 JA: TX
8103276	p2940	4241330832	103		R L MCWHORTER NO 1
-SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/24/80 JA: TX
8103081	i8575	4217900000	108		BROWN DOLOMITE NO 3-2
8103021	i6190	4218300000	108		C BROWN NO 11
8103220	p2273	4208130395	103		CENTRAL NATIONAL BANK A NO 8
8103022	i6193	4240100000	108		DEASON A NO 2
8103168	p1168	4222700000	108		DORA B D & E ROBERTS NO 2-2
8103023	i6194	4218300000	108		EDDIE MITCHELL NO 1
8103024	i6197	4209700000	108		FRED SNUGGS NO 30
8103223	p2283	4242731328	102		I V MONTALVO C NO 39-L
8103222	p2282	4242731328	102		I V MONTALVO C NO 39-U
8103025	i6198	4218300000	108		J C MCKINLEY NO 5
8103026	i6199	4218300000	108		J C MCKINLEY NO 8
8103043	i6240	4240100000	108		J E ARNOLD NO 3
8103044	i6241	4240100000	108		J E ARNOLD NO 4
8103166	p1160	4249731434	103		J L WOMACK A NO 3
8103174	p1185	4238300000	108		JOHN O CARR NO 3
8103027	i6200	4218300000	108		L ALEXANDER NO 1
8103028	i6201	4218300000	108		LENA GAINES NO 7
8103031	i6207	4218300000	108		M T COLE NO 14
8103032	i6208	4218300000	108		M T COLE NO 16
8103033	i6213	4218300000	108		M T COLE NO 26
8103034	i6214	4218300000	108		M T COLE NO 31
8103036	i6217	4218300000	108		M T COLE NO 41
8103035	i6216	4218300000	108		M T COLE NO 50
8103037	i6218	4218300000	108		M T COLE NO 54
8103029	i6203	4218300000	108		M T COLE NO 6
8103030	i6204	4218300000	108		M T COLE NO 7
8103312	p3120	4200331910	103		NELLIE C MARTIN NO 12
8103038	i6219	4218300000	108		P TAYLOR CA NO 5
8103172	p1183	4213500000	108		PAUL MOSS UNIT NO 18
8103311	p3113	4213533190	103		PAUL MOSS UNIT NO 186
8103171	p1182	4213500000	108		PAUL MOSS UNIT NO 25
8103170	p1181	4213500000	108		PAUL MOSS UNIT NO 28
8103169	p1180	4213500000	108		PAUL MOSS UNIT NO 36
8103173	p1184	4213500000	108		PAUL MOSS UNIT NO 9
8103053	i6251	4240100000	108		R J HENDON NO 17
8103042	i6234	4240100000	108		R J HENDON NO 4
8103049	i6247	4240100000	108		R J HENDON NO 5
8103050	i6248	4240100000	108		R J HENDON NO 6
8103051	i6249	4240100000	108		R J HENDON NO 7
8103052	i6250	4240100000	108		R J HENDON NO 9

FIELD NAME	PROD	PURCHASER
EDWARDS	0.9	PHILLIPS PETROLEUM C
HARD SOUTH	0.7	CABOT CORP
KERMIT	1.8	CABOT CORP
CRAWAR	70.0	WARREN PETROLEUM CO
CALVIN	6.0	UNION TEXAS PETROLEU
CALVIN	6.0	UNION TEXAS PETROLEU
CALVIN	6.0	UNION TEXAS PETROLEU
CALVIN	10.0	UNION TEXAS PETROLEU
ACKERLY	3.4	GETTY OIL CO
HENRY-SPECK (CANYON)	55.0	INTRATEX GAS CO
PANHANDLE GRAY	0.1	PHILLIPS PETROLEUM C
EAST TEXAS	0.7	MOBIL OIL CORP
E P PENN	34.0	LONE STAR GAS CO
EAST TEXAS	0.2	ATLANTIC RICHFIELD C
HOWARD-GLASSCOCK	0.4	PHILLIPS PETROLEUM C
EAST TEXAS	0.5	WARREN PETROLEUM CO
WALNUT BEND/WINGER/	0.7	UNION TEXAS PETROLEU
SUN NORTH	476.0	
SUN NORTH	1688.0	
EAST TEXAS	0.2	UNITED GAS PIPE LINE
EAST TEXAS	0.4	UNITED GAS PIPE LINE
EAST TEXAS	0.2	ATLANTIC RICHFIELD C
EAST TEXAS	0.2	ATLANTIC RICHFIELD C
BOONSVILLE (BEND CONGL G	723.0	NATURAL GAS PIPELINE
SPRABERRY TREND AREA	5.5	EL PASO NATURAL GAS
EAST TEXAS	0.4	EXXON CORP
EAST TEXAS	0.1	ATLANTIC RICHFIELD C
EAST TEXAS	0.7	ATLANTIC RICHFIELD C
EAST TEXAS	0.7	ATLANTIC RICHFIELD C
EAST TEXAS	1.0	ATLANTIC RICHFIELD C
EAST TEXAS	0.6	ATLANTIC RICHFIELD C
EAST TEXAS	0.7	ATLANTIC RICHFIELD C
EAST TEXAS	0.6	ATLANTIC RICHFIELD C
EAST TEXAS	0.4	ATLANTIC RICHFIELD C
EAST TEXAS	0.7	ATLANTIC RICHFIELD C
EAST TEXAS	0.7	ATLANTIC RICHFIELD C
MARTIN (TUBB)	66.0	PHILLIPS PETROLEUM C
QUITMAN	1.0	CRA INC
COWDEN SOUTH	1.0	ODESSA NATURAL CORP
COWDEN SOUTH (13800)	84.0	ODESSA NATURAL CORP
COWDEN SOUTH	1.5	ODESSA NATURAL CORP
COWDEN SOUTH	1.5	ODESSA NATURAL CORP
COWDEN SOUTH	1.0	ODESSA NATURAL CORP
COWDEN SOUTH	1.0	ODESSA NATURAL CORP
EAST TEXAS	0.3	ATLANTIC RICHFIELD C
EAST TEXAS	0.3	ATLANTIC RICHFIELD C
EAST TEXAS	0.3	ATLANTIC RICHFIELD C
EAST TEXAS	0.3	ATLANTIC RICHFIELD C
EAST TEXAS	0.3	ATLANTIC RICHFIELD C
EAST TEXAS	0.3	ATLANTIC RICHFIELD C

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JD NO	TA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103039	j6220	4216300000	108	SCHUYLER & SCHUYLER A NO 2	EAST TEXAS	0.2	ATLANTIC RICHFIELD C
8103045	j6243	4216300000	108	W L FULLER NO 13	EAST TEXAS	0.7	WARREN PETROLEUM CO
8103046	j6244	4216300000	108	W L FULLER NO 21	EAST TEXAS	0.7	WARREN PETROLEUM CO
8103046	j6246	4216300000	108	W L FULLER NO 210	EAST TEXAS	0.1	WARREN PETROLEUM CO
8103047	j6245	4216300000	108	W L FULLER NO 29	EAST TEXAS	0.1	WARREN PETROLEUM CO
8103167	p1165	4222700000	108	WARDER NO 10	HOWARD-GLASSCOCK	0.4	PHILLIPS PETROLEUM C
8103041	j6225	4216300000	108	WILLIAM PENTECOST NO 21	EAST TEXAS	0.3	MOBIL OIL CORP
8103040	j6224	4216300000	108	WILLIAM PENTECOST NO 9	EAST TEXAS	0.3	MOBIL OIL CORP
8103221	p2279	4216730726	102	ZINN AND FORMAN NO 20	CAPLEN	135.0	TEXAS GAS PIPE LINE
*SUNNYBROOK OIL & GAS INC				RECEIVED: 10/24/80 JA: TX			
8103196	p1801	4240100000	108	JULIAN JONES RRC ID #55571	MINDEN/TRANSITION	15.0	TEXAS UTILITIES FUEL
8103195	p1796	4240100000	108	TROY WELCH RRC #30517	MINDEN/TRAVIS PEAK	12.0	TEXAS UTILITIES FUEL
*SUPRON ENERGY CORPORATION				RECEIVED: 10/24/80 JA: TX			
8103192	p1777	4200130920	102	#1 WOODBURN	WILDCAT	182.5	
*TEE OPERATING CO				RECEIVED: 10/24/80 JA: TX			
8103063	j6932	4228930324	102	HOLMES NO 1	BEAR GRASS (PETTET 8847)	1000.0	TEXAS UTILITIES FUEL
*TENNECO OIL COMPANY				RECEIVED: 10/24/80 JA: TX			
8103191	p1719	4242731236	103	T B SLICK ESTATE NO 66	MINDE (VICKSBURG 11 SEG	150.0	TENNESSEE GAS PIPELI
*TEXACO INC				RECEIVED: 10/24/80 JA: TX			
8103274	p2936	4221932781	103	I P DELOACHE #7	LEVELLAND	18.9	AMOCO PRODUCTION CO
8103232	p2380	4232930870	102	ZULA B HYLIE #1	BRADFORD RANCH (ATOKA)	190.0	EL PASO NATURAL GAS
*TEXAS INTERNATIONAL PET CORP				RECEIVED: 10/24/80 JA: TX			
8103095	j9375	4233531263	103	EDWIN PARKS #14	DIXON (STRAWN)	0.0	SUN GAS CO
8103093	j9365	4233530790	103	EDWIN PARKS #3	DIXON (STRAWN)	6.0	SUN GAS CO
8103094	j9366	4233500000	103	EDWIN PARKS #4	DIXON (STRAWN)	0.0	SUN GAS CO
*TEXAS OIL & GAS CORP				RECEIVED: 10/24/80 JA: TX			
8103091	j9329	4226130525	102	ERCK #19	MCGILL (10010)	300.0	DELMI GAS PIPELINE C
8103126	p0411	4245930439	102	LONE STAR STEEL #1	SAND HILL	250.0	DELMI GAS PIPELINE C
8103126	p0411	4245930439	103	LONE STAR STEEL #1	SAND HILL	250.0	DELMI GAS PIPELINE C
8103155	p0875	4245930454	102	PARRISH A #1	BETTIE (COTTON VALLEY LI	1000.0	
8103155	p0875	4245930454	103	PARRISH A #1	BETTIE (COTTON VALLEY LI	1000.0	
8103060	j6859	4237100000	102	REED D #1	SADDLE BUTTE N (GRAN WAS	55.0	DELMI GAS PIPELINE C
8103083	j8992	4216130536	102	TEAGUE GU #3-1	TEAGUE S (COTTON VALLEY	0.0	
8103083	j8992	4216130536	103	TEAGUE GU #3-1	TEAGUE S (COTTON VALLEY	0.0	
8103224	p2285	4216130563	103	THOMAS #1	PERSONVILLE NE (COTTON V	500.0	
*TEXAS PACIFIC OIL COMPANY INC				RECEIVED: 10/24/80 JA: TX			
8103208	p2058	4213331087	102	O M DELAND #11-L	GAILEY ALLEN (MARBLE FAL	230.0	SOUTHWESTERN GAS PIP
*TEXON PETROLEUM CORP				RECEIVED: 10/24/80 JA: TX			
8103247	p2483	4217300000	102	UNDERWOOD NO 1	UNDERWOOD (STRAWN)	131.4	PHILLIPS PETROLEUM C
*THE SUPERIOR OIL COMPANY				RECEIVED: 10/24/80 JA: TX			
8103097	j9451	4216730381	103	COOPER-WILLIAMS OIL UT 1 #1	ALEDA (24)	18.0	FLORIDA GAS TRANSMIS
*TOTAL PETROLEUM INC				RECEIVED: 10/24/80 JA: TX			
8103100	j9769	4216730710	103	STATE TRACT 195 #3	HANNAH NW (P-1)	730.0	SEAGULL PIPELINE COR
*TUCKER & RAUMGARDNER				RECEIVED: 10/24/80 JA: TX			
*8103085	j9065	4222732025	103	BLACK BASS NO 2	COAHOMA NORTH (FUSSELMAN	38.9	PHILLIPS PETROLEUM C
8103101	j9770	4200332012	103	MOURNING DOVE NO 1	WEMAC (WOLFCAMP)	29.2	EL PASO NATURAL GAS
*TUCKER DRILLING COMPANY INC				RECEIVED: 10/24/80 JA: TX			
8103256	p2610	4241330690	103	GLASS A 50-2	REG (LIME 5900)	220.0	NORTHERN NATURAL GAS
*TWF OIL & GAS INC				RECEIVED: 10/24/80 JA: TX			
8103064	j6997	4213331929	103	TINDALL A NO 1-A	WILDCAT	91.0	SOUTHWESTERN GAS PIP
*U B OPERATING INC				RECEIVED: 10/24/80 JA: TX			
8103239	p2445	4228730595	102	DORIS #1	GIDDINGS (AUSTIN CHALK)	120.0	PGP GAS PRODUCTS INC

BILLING CODE 6450-85-C

JD NO	TA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103237	p2429	4228730503	102	LAURA #1 (ID 84089)	GIDDINGS (AUSTIN CHALK-G	200.0	PGP GAS PRODUCTS INC
8103238	p2431	4228730526	102	MARJORIE NO 1 (ID #86616)	GIDDINGS (AUSTIN CHALK G	150.0	PGP GAS PRODUCTS INC
8103250	p2494	4247730330	102	MARLA J #1 (ID #85732)	GIDDINGS (AUSTIN CHALK G	200.0	PGP GAS PRODUCTS INC
*UNIT DRILLING & EXPLORATION CO				RECEIVED: 10/24/80 JA: TX			
8103236	p2424	4229530747	103	BOOTH #639-2	BRADFORD (TUNKAWA)	55.0	PHILLIPS PETROLEUM C
*UNITED CO				RECEIVED: 10/24/80 JA: TX			
8103074	j8220	4207900000	103	SEABOARD WRIGHT #20A	LEVELLAND (SAN ANDRES)	60.0	EL PASO NATURAL GAS
8103075	j8222	4207900000	103	STUART P WRIGHT #2	LEVELLAND (SAN ANDRES)	60.0	EL PASO NATURAL GAS
*VIKING ENERGY CORP				RECEIVED: 10/24/80 JA: TX			
8103286	p3002	4241330833	103	DONALD COX #1	HENRY SPECK (CANYON) FIE	73.0	
*W R EDWARDS JR				RECEIVED: 10/24/80 JA: TX			
8103114	p1156	4223330734	103	MELANIE NO 1	PANHANDLE HUTCHINSON	0.0	
*WARREN PETRO CO A DIV OF GULF OIL CO				RECEIVED: 10/24/80 JA: TX			
8103177	p1276	4210332145	103	W N WADDELL TR 1 NO 1110	DUNE	6.0	EL PASO NATURAL GAS
8103178	p1277	4210332146	103	W N WADDELL TR 1 NO 1111	DUNE	17.0	EL PASO NATURAL GAS
8103179	p1278	4210332149	103	W N WADDELL TR 1 NO 1112	DUNE	1.0	EL PASO NATURAL GAS
*WAY RALPH				RECEIVED: 10/24/80 JA: TX			
8103310	p3107	4238331576	103	UNIVERSITY 98 #4	FARMER (SAN ANDRES)	9.7	NORTHERN NATURAL GAS

OTHER PURCHASERS VOLUME NO 1313

8103062	EXXON COMPANY USA
8103085	NORTHERN NATURAL GAS COMPANY
8103088	SHELL OIL CO
8103092	AMOCO GAS CO
8103105	VALERO TRANSMISSION CO
8103240	LONE STAR GAS CO
8103242	LONE STAR GAS CO
8103245	LONE STAR GAS CO
8103265	EL PASO NATURAL GAS CO
8103282	SOUTHWESTERN GAS P L INC
8103299	AMOCO PRODUCTION CO
8103317	NORTHERN NATURAL GAS CO

BILLING CODE 6450-85-M

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 1, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35691 Filed 11-13-80; 8:45 am]

[Docket Nos. RP80-53, et al.]

Arkansas Louisiana Gas Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

November 7, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 24, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing Date, Company, Docket No., and Type Filing

8/25/80, Arkansas Louisiana Gas Company, RP80-53, Report.

10/30/80, Midwestern Gas Transmission Company, RP61-19, *et al.*, Report.

[FR Doc. 80-35675 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-68-000]

Central Illinois Public Service Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on October 30, 1980, tendered for filing Modification No. 5 to the Interconnection Agreement dated August 31, 1976, between Central Illinois Public Service Company and Central Illinois Light Company.

The parties have agreed to modify Service Schedule B—Maintenance Power, Service Schedule D—Short Term Firm Power and Service Schedule E—Short Term Non-Firm Power.

Copies of the proposed changes were served upon the Illinois Commerce Commission and Central Illinois Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35683 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3498]

Chester Water Authority; Application for Preliminary Permit

November 7, 1980.

Take notice that Chester Water Authority (Applicant) filed on September 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3498 to be known as the Pine Grove Hydro Project located on the Octoraro Creek in Lancaster County, Pennsylvania. The Pine Grove Dam and Reservoir is owned by the Chester Water Authority. The application is on file with the Commisison and is available for public inspection. Correspondence with the Applicant should be directed to: J. Newton Pew, Chairman, Chester Water Authority, Fifth & Welsh Streets, Chester, Pennsylvania 19016. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would be run of the river and would consist of: (1) an existing dam which is of earth and rockfill construction and is approximately 640 feet long and 65 feet high; (2) a reservoir which has an area of 669 acres and negligible pondage; (3) a penstock which is 72 inches in diameter; (4) a new powerhouse which would contain a generating unit having a total rated capacity of 408 kw; (5) a tailrace; (6) a new transmission line; and (7) appurtenant facilities. Applicant estimates the annual generation would average about 2,246,000 kWh.

Purpose of Project.—Project Energy would be primarily for the Authority's water treatment plant. Excess energy might be sold to the Philadelphia Electric Company.

Proposed Scope and Cost Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies would be $27,500.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examination to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules or Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before Janaury 14, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3498. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35678 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-430]

Columbia Gas Transmission Corp.; Amendment to Application

November 7, 1980.

Take notice that on October 8, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP80-430 an amendment to its pending application filed July 1, 1980, pursuant to Section 7(c) of the Natural Gas Act so as to reflect interim service agreements, nomination of certain service, use of an additional delivery point, and the operation of certain facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant proposes revised service agreements for four wholesale customers located within Applicant's Eastern market area. It is stated that the revised service agreements in the subject application were conditioned on the availability of Applicant's Cove Point liquefied natural gas supply. Applicant states that the date of resumption of said supply is uncertain and that the four customers have an urgent need for increased total daily entitlements. It is stated that Applicant's customers have re-evaluated their requirements and have lowered the requested increases by a total of 46,400 dekatherms (dt) equivalent. Applicant states that therefore it could deliver the following proposed interim increases in total daily entitlements, assuming the completion of the facilities proposed in this proceeding. Applicant states that the following interim agreements would have an effective date of November 1, 1980:

(1) With Washington Gas Light Company (Washington) effectuating an increase in Washington's contract demand under Applicant's Rate Schedule CDS from 382,400 dt equivalent per day to 395,800 dt equivalent per day.

(2) With UGI Corporation (UGI) effectuating an increase in Applicant's Rate Schedules CDS and WS from 237,800 dt equivalent to 270,000 dt equivalent. UGI has requested that this be accomplished by increasing its contract demand under Applicant's Rate Schedule CDS from 179,100 dt equivalent per day to 230,000 dt equivalent per day and by decreasing its existing maximum daily quantity under Applicant's Rate Schedule WS from 58,700 dt equivalent to 40,000 dt equivalent. In addition, UGI has requested a reduction in its winter contract quantity under Applicant's Rate Schedule WS from 2,935,000 dt equivalent to 2,000,000 dt equivalent.

(3) With Pennsylvania Gas and Water Company (Penn Gas) effectuating an increase in Penn gas' contract demand under Applicant's Rate Schedule CDS from 29,700 dt equivalent per day to 36,400 dt equivalent per day.

(4) With Baltimore Gas & Electric Company reducing its winter contract quantity under Applicant's Rate Schedule WS to 6,440,000 dt equivalent instead of the 8,280,000 dt eqivalent stated in the subject application.

Furthermore, Applicant proposes that in response to a request by Columbia Gas of Ohio, Inc. (Columbia of Ohio), Applicant would terminate service under Applicant's Rate Schedule SGS effective November 1, 1980, and that the existing SGS delivery point would be included as an additional delivery point for service to Columbia of Ohio under Applicant's Rate Schedule CDS in Zone 4. Applicant states that it is willing to accommodate Columbia of Ohio's request and would waive the prescribed six-month notice period.

Applicant also proposes the operation of certain facilities whose construction and relocation were authorized by temporary certificate issued on August 20, 1980. It is stated that said facilities would have to be completed and in operation by December 1, 1980, in order for Applicant to servew the existing requirements of its Eastern market area customers without the Cove Point supply as well as the interim increased total daily entitlements requested herein. Applicant states that while its existing system could transport 38,600,000 Mcf of replacement volumes to the required delivery points within the Eastern market area, it has determined that it would require approximately 4,600,000 Mcf of replacement volumes at its Loudoun Compressor Station, the normal receipt point for the Cove Point supply, which cannot be transported via existing facilities. In order to correct the deficiency, it is stated, Applicant has negotiated a transportation arrangement with Consolidated System LNG Company (Consolidated) from a new interconnection between Applicant's Line 1804 and Consolidated's Loudoun pipeline to be located approximately 8.1 miles east of Greencastle Compressor Station to Applicant's Loudoun Compressor Station.

Applicant states that the use of the Consolidated agreement with the increased 1804 System capacity would permit Applicant to transport an average of 63,000 Mcf per day to Loudon during the months of December 1980 and January and February 1981. On a design

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day during the 1980–81 winter period, Applicant would transport approximately 55,000 Mcf to Loudoun via the Consolidated arrangement, it is asserted.

Furthermore, Applicant states that the total daily entitlement increase requested by Penn Gas is dependent on authorization of certain arrangements between Applicant, Penn Gas and Transcontinental Gas Pipe Line Corporaiton (Transco) for the delivery of natural gas by Transco to Penn Gas for Applicant's account. This transportation, it is stated, would be accomplished by means of existing facilities and through existing points of delivery from Transco to Penn Gas. Applicant states that the three companies have entered into a one-year arrangement effective November 1, 1980, pursuant to blanket authorization to Transco. It is stated, also, that Applicant and Transco have entered into a long-term exchange arrangement in order to continue the above deliveries after November 1, 1981, the application for which will be filed jointly.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35677 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-517]

Connecticut Light and Power Co.; Order on Remand

Issued: November 7, 1980.

By a decision of May 30, 1980,[1] the United States Court of Appeals for the District of Columbia Circuit vacated and remanded our prior order of August 31, 1978, in this docket. In the previous order we stated that we had found that the rates filed by Connecticut Light and Power Company (CL&P) in this docket had "not been shown to be just and reasonable" and that the rates might "be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful." On the basis of that finding, the preliminary analysis underlying it, and our consideration of the pleadings, we suspended the revised rates for five months and allowed them to become effective thereafter subject to refund.

CL&P appealed the order, specifically challenging the absence of stated reasons for the choice of the length of the suspension period. In its opinion of May 30, 1980, the court remanded the case, directing the Commission to articulate the rationale for its decision to suspend the rates for five months. The court acknowledged "that Congress intended that the Commission have utmost freedom in exercising its discretion as to the length of rate suspensions." [2] However, according to the court, the conclusion that rates may be unjust and unreasonable, while a sufficient basis for the decision *to suspend*, is not itself an adequate justification for determinations concerning the *length* of a suspension period. While indicating that "the Commission [could] settle on giving uniform suspsensions," [3] the court expressed its opinion that suspension periods of differing lengths must be independently supported by reasoned statements.

Following the *Connecticut Light & Power Co.* decision, the Commission reevaluated the considerations underlying rate suspensions under the Federal Power Act, the Natural Gas Act, and the Interstate Commerce Act. Our rationale and conclusions were set forth in several recent suspension orders [4] as follows (citations omitted):

> Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.
>
> The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that *"any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful." This declaration places on the Commission a general obligation to minimize the incidence of such illegality.
>
> Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.
>
> * * * * *
>
> Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results.

In the latter circumstances, we have shortened the suspension period, explaining the reasons in each case.[5]

In addition to considering the fundamental goals of the applicable legislation and the respective interests of jurisdictional entities and their customers, we also evaluated the internal workload of this agency. Considerable time was being consumed in the effort to fine-tune preliminary analyses necessary to draw reasoned conclusions concerning suspension periods of varying lengths from one to five months in each case. Moreover, further expenditures of scarce resources would have been required in order to explain the nature of such fine-tuned analyses in each of the many suspension orders which the Commission issues to the degree required to provide guidance for future filings and to avoid constant challenges on rehearing that the fine-tuning was incorrect, discriminatory or otherwise wrong.

For all of the reasons given above, the Commission determined to modify its existing suspension practices in a manner which we believe is within our discretion and consistent with the intent of the statutes administered by the Commission. As noted above, we concluded that rate schedule filings should generally be suspended for the maximum statutory period where preliminary study indicates that the submittal may be unjust and unreasonable or that it may conflict with other statutory standards. Where circumstances unique to a particular case suggest that a shorter suspension is warranted, we shall identify the specific reasons for departing from the general policy of maximum suspensions.

Whether considered under the suspension policy followed prior to *Connecticut Light and Power Co.*, or under the new practice discussed above, the Commission continues to believe that CL&P's rate filing should be suspended for five months. As was Commission practice when we originally considered CL&P's filing, the Commission's advisory technical staff made a preliminary analysis of the submittal and determined the percentage of revenues from the increased rates that appeared to be excessive under this preliminary evaluation. The Commission then ordered the rates to be suspended in accordance with principles consistently applied, in the absence of extraordinary circumstances, to all electric rate filings. This approach related the length of the suspension period to the percentage of the rate increase found to be excessive under the preliminary analysis. The policy of tying the length of a suspension to the amount of the revenues preliminarily believed to be excessive was designed to encourage less excessive rate filings to the benefit of the utilities' customers, whom the suspension period was designed to protect.

In the case of CL&P's rate increase at issue in this docket, our preliminary analysis showed that over 40% of the requested rate increase was excessive. On this basis, we ordered a five month suspension.

In its answer, filed August 25, 1978, to the protest and request for a five-month suspension of the intervening customers, CL&P contended that a lengthy suspension period would aggravate CL&P's purportedly serious financial problems. To support its contention that CL&P is "one of the most financially weakened utilities in the United States," the company asserted, *inter alia*, that: (1) the May 1978 indenture coverage ratio of the company was only 1.64; (2) Northeast Utilities (CL&P's parent) had not increased its dividend on its common stock since 1973; (3) its June 30, 1978 market/book ratio was only .75; and (4) as recently as the twelve-month period ending May 31, 1978, earnings per share were less than the per share amount of dividends paid to shareholders.

It is the Commission's responsibility under the Federal Power Act to determine a rate of return, as well as other rate features, appropriate to recover the legitimate costs incurred by a utility. This determination is a complex one to make, one that cannot normally be made with the requisite precision with the appropriate due process to all parties in the short time in which the Commission must make its decision whether and for how long to suspend a filed rate. We note that to the degree available financial information affects the rate of return portion of our preliminary review of tendered rates, we have already considered CL&P's financial condition in our initial decision to suspend the filed rates, and have found that those rates may be unlawful even taking such financial conditions into account. In the absence of a clear financial emergency, further consideration of the allegations of financial hardship as an independent basis for determining the appropriate suspension period is not warranted.[6]

On the basis of our preliminary analysis, we could not find that a clear financial emergency existed in CL&P's case, although we acknowledge that the information cited by the company indicates that CL&P has been experiencing substantial financial difficulties. Evidence of its financial condition is a matter which is relevant to the rate of return allowed to CL&P. We could not and cannot conclude on the basis of the filings before us that our suspension of the rate for the full statutory period would itself significantly worsen the company's financial condition or imperil its solvency.

In view of the foregoing discussion, we shall reaffirm our prior determination and reinstate the five month suspension.

The Commission orders:

(A) The five month suspension of the rates filed by CL&P in this docket is hereby reaffirmed and reinstated for the reasons set out above.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35655 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-78-000]

Connecticut Light and Power Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, The Connecticut Light and Power Company ("CL&P") filed a Transmission Service Agreement dated as of September 25, 1980, between The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and The Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities companies") and the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), a public corporation organized under the laws of the State of Connecticut, which presently provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City. Certificates of concurrence were filed by The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and the Holyoke Power and Electric Company.

The Transmission Service Agreement is an initial service arrangement between the Northeast Utilities companies and CMEEC and provides CMEEC with broad rights to use the Transmission system of the Northeast Utilities companies.

The parties to the Transmission Service Agreement have requested that the Commission waive its notice requirements and permit the Transmission Service Agreement to become effective as of October 1, 1980.

Any person desiring to be heard to make any protest with reference to the Transmission Service Agreement should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35656 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

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[1] *Connecticut Light and Power Co.* v. *FERC*, No. 78-2312, ——F. 2d —— (D.C. Cir. 1980).

[2] *Id.* at 12.

[3] *Id.*

[4] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Idaho Power Co.*, Docket No. ER80-492 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[5] *See, e.g., Alabama Power Co.* and *Cleveland Electric Illuminating Co., supra* at note 4.

[6] The Commission recently articulated this policy in *Public Service Company of Colorado*, Docket No. ER80-447, order issued September 15, 1980, mimeo at 3.

[Docket No. ER81-80-000]

Connecticut Light and Power Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, The Connecticut Light and Power Company ("CL&P") filed a Memorandum of Understanding dated as of September 25, 1980, between The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities companies") and the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), a public corporation organized under the laws of the State of Connecticut, which presently provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City.

The Memorandum of Understanding describes a number of electric service arrangements which are to be formulated by CMEEC and the Northeast Utilities companies. Generally, these service arrangements are intended to permit CMEEC to function as an independent electric utility in serving mumicipal electric systems. CL&P states that these service arrangements will be the subject of separate filings with the Commission. In addition to these future service arrangements, the Memorandum of Understanding contains several changes in the terms and conditions in CL&P's "R-4" rate schedule, which are intended to facilitate initial service during a short-term interim period to CMEEC, as a NEPOOL participant. The filing includes a statement by CMEEC which states that it intends to become a NEPOOL participant as of October 1, 1980.

CL&P and CMEEC have requested that the Commission waive its notice of requirements and permit those provisions of the Memorandum of Understanding which affect other rate schedules to become effective as of October 1, 1980. CL&P and CMEEC have also requested that the Commission waive information filing requirements of Section 35.13(b) of its regulations.

CL&P states that copies of the Memorandum of Understanding have been mailed to all customers served under its "R-4" rate.

Any person desiring to be heard or to make any protest with reference to the Memorandum of Understanding should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35657 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-79-000]

Connecticut Light and Power Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, The Connecticut Light and Power Company ("CL&P") filed an Exchange Agreement dated as of October 1, 1980, between The Connecticut Light and Power Company, The Hartford Electric Light Company, and the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), a public corporation organized under the laws of the State of Connecticut, which presently provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City. A certificate of concurrence was filed by The Hartford Electric Light Company.

The Exhange Agreement is an initial service arrangement between The Connecticut Light and Power Company, The Hartford Electric Light Company and CMEEC and provides for an exchange by CMEEC of a 15,926 kw unit contract entitlement from the Norwich system gas turbine generating unit for 15,926 kw in entitlements in nine specific internal combustion generating units of The Connecticut Light and Power Company and The Hartford Electric Light Company. The parties have entered into the Exchange Agreement in order to improve the operating characteristics of their respective electric systems and to reduce their respective system risks.

The parties to the Exchange Agreement have requested that the Commission waive its notice requirements and permit the Transmission Service Agreement to become effective as of October 1, 1980.

Any person desiring to be heard or to make any protest with reference to the Exchange Agreement should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests files with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35658 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-89-000]

Connecticut Light and Power Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on November 3, 1980, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule entitled: Exchange Agreement between CL&P and Massachusetts Municipal Wholesale Electric Company (MMWEC) dated November 1, 1979.

CL&P states that the Exchange Agreement provides for an exchange of an entitlement in CL&P's Montville Unit No. 6 generating unit for an equivalent entitlement from MMWEC's interest in the Hartford Electric Light Company's Middletown Unit No. 4 during the period November 1, 1979 through October 31, 1980.

CL&P requests the Commission waive the customary notice period and permit the rate to become effective on November 1, 1979.

CL&P states that a copy of the rate schedule has been delivered to MMWEC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35665 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL 80-34]

Detroit Edison Co.; Order Waiving Commission Regulation and Declaring Sale of Electric Facility Nonjurisdictional

Issued: November 6, 1980.

On July 16, 1980, the Detroit Edison Company (Edison) submitted a request for a declaratory order stating that the sale of its Delaware Substation to the Thumb Electric Cooperative (TEC), is exempt from the provisions of section 203(a) of the Federal Power Act and the regulations promulgated thereunder.[1] Edison contends that the substation is a facility used exclusively for local distribution and is therefore exempt from Commission jurisdiction under section 201(b)(i) of the Act.

Edison is a public utility incorporated under the laws of the States of New York and Michigan. It is engaged in the generation, purchase, transmission, distribution, and sale of electricity in a service area of approximately 7,600 square miles in southeastern Michigan. Edison is interconnected with several neighborhood utilities with which it participates in various interchange power transactions. Facilities owned and operated by Edison include 13 fossil-fueled steam generating units, 20 oil or gas-fueled peaking units, and a 49% ownership interest in one pumped-storage hydroelectric generating facility. Edison had an aggregate system capability of 3,964 megawatts as of December 31, 1979.

TEC, one of Edison's seven wholesale customers, is a non-profit electric cooperative serving approximately 8,860 customers in Huron, Sanilac, and Tuscula counties in Michigan. TEC owns and operates two electric generating plants with a maximum capacity of approximately 7.0 megawatts.

The facility known as the Delaware Substation is located in Delaware Township, Sanilac County, Michigan. The substation is comprised of four 500 KVA 40-12.5 kV electrical transformers, three single-phase 57.2 KVA regulators, and supporting equipment and structures, situated on .110 acres of land. Electrical energy is delivered by Edison to TEC at the Delaware Substation at 40 kV, and is transformed to a nominal distribution voltage of 12.5 kV.

On December 28, 1978, Edison sold and conveyed the Delaware Substation to TEC for the purchase price of $49,800. The original cost of the substation was $57,092.

Public notice of Edison's submittal was issued on July 23, 1980, with protests or petitions to intervene required to be filed on or before August 18, 1980. No responses have been received.

Discussion

The Commission finds that Edison is a public utility interconnected with several other public utilities, and is engaged in the sale-for-resale of electric energy in interstate commerce. The Delaware Substation is a part of Edison's energy transmission and distribution system, and is the point at which Edison delivers electricity to TEC, a wholesale-for-resale customer. Consequently, the Delaware Substation constitutes a facility used for the sale of electrical energy at wholesale in interstate commerce within the meaning of section 201 of the Federal Power Act.[2] Therefore, the Commission finds that the Delaware Substation does not all within the exemption for local distribution facilities provided under section 201(b)(1) of the Act.

However, the Commission recognizes that this transaction involves relatively small quantities of money and equipment, and appears not to jeopardize consumers supplied by either Edison or TEC. TEC is the only wholesle customer of Edison that is supplied with electricity through the Delaware Substation. Moreover, the value of the substation is very close to the $50,000 jurisdictional threshold of section 203 of the Federal Power Act.[3] The sale price of the Delaware Substation was $49,800 and its original cost was $57,092. Although value for the purpose of section 203 is defined in a Commission regulation [4] as original cost, the Commission finds it appropriate to waive the regulation for this transaction, in light of the specific circumstances presented. For determining the question of jurisdiction, the Commission deems the value of the Delaware Substation to be its sale price of $49,800.

The Commission orders:

(A) The Commission waives section 33(1)(b) of its regulations for the purpose of determining the value of the Delaware Substation under section 203 of the Federal Power Act.

(B) The Commission deems the value of the Delaware Substation for the purpose of deciding the question of jurisdiction, to be its sale price of $49,800, and therefore finds that the sale of the Delaware Substation is not subject to the jurisdiction of the Commission.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35659 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP72-6 et al.]

El Paso Natural Gas Co.; Shortening Time for Answers

November 7, 1980.

On November 5, 1980, pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure, El Paso Natural Gas Company filed a petition for Waiver of Commission Regulations to Facilitate Filing of Settlement Agreement. In its petition, El Paso requests that the Commission grant appropriate declaratory relief waiving Section 1.18(e)(1)(ii) of the Commission's regulations, to facilitate the anticipated filing of a comprehensive settlement agreement by El Paso and other parties, that will resolve some twenty-five docketed proceedings now pending before the Commission. The company has further requested that the Commission shorten the period for filing comments on this petition in order that parties have adequate notice of the procedures to be followed for the filing of the comprehensive settlement agreement.

Pursuant to Section 1.9 of the Commission's Rules of Practice and Procedure, notice is hereby given that comments on the Petition for Waiver of Commission Regulations to Facilitate Filing of Settlement Agreement shall be filed on or before November 17, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35666 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

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[1] 18 CFR Part 33.

[2] *See FPC* v. *Florida Power & Light Co.*, 404 U.S. 453 (1972).

[3] Federal Power Act, § 203(a), 16 U.S.C. 824b(a).

[4] 18 CFR 33.1(b).

V 45 N 0 14 80 UMI

Exxon Corporation, et al., Order on Rehearing and Appeal

[Docket Nos. CI79-178, et al.]

Issued: November 6, 1980.

Applications for rehearing and petitions for appeal of certain Commission [1] and staff letter orders issuing certificates of public convenience and necessity and accepting rate schedule filings have been filed by a number of natural gas producers.[2] The subject orders were conditioned to provide that § 154.93 of the Commission's Regulations was being waived to permit the filing of contracts containing impermissible pricing provisions, but that such waiver did not constitute approval of the pricing provisions and that rate increases based thereon would be subject to rejection. The applicants contend that the condition imposed by the Commission is not a reasonable condition and is therefore unlawful. The applications and petitions were granted for purposes of further consideration.

The contracts involved here generally contain NGPA, variant area rate,[3] deregulation, or excess royalty clauses.

In Order No. 23, Docket No. RM79-22, issued March 13, 1979, we made clear that § 154.93 does not prohibit contractual clauses which provide for rates established by Congress. Similarly, there is nothing inappropriate about pricing provisions which provide for rates prescribed by this agency or another governmental authority. Moreover, the Commission has never considered § 154.93 to bar deregulation clauses since such clauses take effect, if at all, at a time after Commission jurisdiction ceases. Accordingly, neither § 154.93 nor the subject condition is applicable to NGPA, variant area rate and deregulation clauses. However, we are not by this order interpreting the intent of the parties in individual contracts.

Excess royalty clauses and other indefinite pricing provisions are covered by the prohibition in Section 154.93 and the subject condition. However, in view of the maximum ceiling rates established in the Natural Gas Policy Act of 1978 for first sales of natural gas, the subject condition is no longer appropriate or necessary for new contracts and contract amendments, inasmuch as a producer, absent specific authorization from this Commission, is limited to the applicable ceiling rate specified by Title I of the NGPA. We shall therefore delete the condition.

Texaco in Docket No. CI79-522 and Exxon in Docket Nos. CI79-552 and CI79-553 have raised other issues in their applications for rehearing which are not discussed in this order. Docket No. CI79-522 involves Section 109 of the NGPA and Docket Nos. CI79-552 and CI79-553 involve the five year makeup requirement in Section 154.103. The tolling orders in each case remain in full force and effect with respect to these issues. Action will be taken thereon by separate order.

The Commission orders

The applications for rehearing and petitions for appeal are granted and the Section 154.93 condition is eliminated from the certificate and letter orders involved here.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix

Independent producer	Docket No. or Rate Schedule No.	Issuance date of letter or order
Exxon Corp	CI79-178	Jan. 31, 1979.
Exxon Corp	CI78-1268	Feb. 12, 1979.
Exxon Corp	CI79-200	Feb. 14, 1979.
Exxon Corp	CI78-1251	Feb. 26, 1979.
Exxon Corp	CI78-1272	Jan. 15, 1979.
Exxon Corp	CI78-816	Mar. 13, 1979.
Exxon Corp	G11083, *et al*	Apr. 11, 1979.
Exxon Corp	CI75-16, *et al*	Apr. 11, 1979.
Texaco Inc	CI78-180, *et al*	June 15, 1979.
Texaco Inc	CI78-532	June 13, 1979.
Texaco Inc	CI79-519	July 26, 1979.
Texaco Inc	CI79-522	July 26, 1979.
Exxon Corp	G-5010, *et al*	Aug. 9, 1979.
Exxon Corp	CI79-512	Aug. 8, 1979.
Texaco Inc	CI79-593	Aug. 31, 1979.
Champlin Petroleum Co.	CI78-713	Sept. 24, 1979.
Gulf Oil Corp	CI79-309	Oct. 15, 1979.
Gulf Oil Corp	CI79-153	Oct. 18, 1979.
Exxon Corp	CI79-620	Nov. 5, 1979.
Gulf Oil Corp	CI77-797	Oct. 11, 1979.
Exxon Corp	CI80-55	Dec. 12, 1979.
Gulf Oil Corp	CI79-461	Dec. 31, 1979.
Gulf Oil Corp	CI79-529	Dec. 31, 1979.
Gulf Oil Corp	CI79-485	Dec. 31, 1979.
Gulf Oil Corp	CI78-736	Jan. 4, 1980.
Gulf Oil Corp	CI79-126	Jan. 4, 1980.
Texaco Inc	CI79-537	Jan. 17, 1980.
Gulf Oil Corp	CI79-44	Jan. 17, 1980.
Gulf Oil Corp	CI78-519	Jan. 17, 1980.
Gulf Oil Corp	CI79-631	Jan. 15, 1980.
Gulf Oil Corp	Rate Sch. 89	Feb. 7, 1980.
Exxon Corp	CI80-59	Feb. 15, 1980.
Gulf Oil Corp	Rate Sch. 12, *et al*	Feb. 5, 1980.
Gulf Oil Corp	CI78-1232	Feb. 14, 1980.
Gulf Oil Corp	CI78-1173	Feb. 14, 1980.
Gulf Oil Corp	CI78-604	Feb. 14, 1980.
Gulf Oil Corp	G-14515	Feb. 19, 1980.
Gulf Oil Corp	CI77-123	Feb. 15, 1980.
Gulf Oil Corp	CI78-674	Feb. 26, 1980.
Gulf Oil Corp	CI78-993	Feb. 14, 1980.
Gulf Oil Corp	G-12154	Feb. 19, 1980.
Gulf Oil Corp	CI75-22	Feb. 15, 1980.
Gulf Oil Corp	Rate Sch. 9	Mar. 4, 1980.
Gulf Oil Corp	Rate Sch. 271	Mar. 6, 1980.
Gulf Oil Corp	Rate Sch. 316, *et al*	Mar. 6, 1980.
Gulf Oil Corp	Rate Sch. 590	Mar. 6, 1980.
Gulf Oil Corp	CI79-249	Feb. 15, 1980.

Appendix—Continued

Independent producer	Docket No. or Rate Schedule No.	Issuance date of letter or order
Gulf Oil Corp	CI76-215	Mar. 14, 1980.
Louisiana Land Offshore Exploration Co., Inc.	CI80-147	Mar. 10, 1980.
Gulf Oil Corp	CI76-239	Mar. 14, 1980.
Arkla Exploration Co.	CI76-783	Mar. 11, 1980.
Champlin Petroleum Co.	CI79-848	Mar. 11, 1980.
Gulf Oil Corp	Rate Sch. 599	Mar. 25, 1980.
Gulf Oil Corp	Rate Sch. 624	Mar. 25, 1980.
Gulf Oil Corp	CI77-263	Mar. 28, 1980.
Gulf Oil Corp	Rate Sch. 272	Mar. 25, 1980.
Exxon Corp	CI79-522	Apr. 4, 1980.
Exxon Corp	CI79-553	Apr. 4, 1980.
Gulf Oil Corp	CI80-189	Apr. 18, 1980.
The Louisiana Land and Exploration Co.	CI79-514	Apr. 30, 1980.
Aminoil of Louisiana Inc.	CI80-204	Apr. 16, 1980.
Arkla Exploration Co.	CI78-1128	Apr. 4, 1980.
Exxon Corp	CI80-43	May 5, 1980.
Gulf Oil Corp	Rate Sch. 273, *et al.*	Apr. 24, 1980.
Warren Petroleum Co., a Division of Gulf Oil Corp.	Rate Sch. 42, *et al*	May 7, 1980.
Exxon Corp	CI79-103	Jan. 22, 1979.
Exxon Corp	CI79-199	Jan. 26, 1979.
Exxon Corp	CI64-349	Jan. 31, 1979.
Gulf Oil Corp	Rate Sch. 150, 348, and 533.	May 7, 1980.
Exxon Corp	CI80-237	May 20, 1980.
Texaco Inc	CI80-306	May 23, 1980.
Warren Petroleum Co.	Rate Sch. 42, 55, 67 and 22.	May 7, 1980.
Gulf Oil Corp	Rate Sch. 49	June 11, 1980.
Exxon Corp	CI77-689	June 4, 1980.
Exxon Corp	G-15058, *et al*	June 10, 1980.
Gulf Oil Corp	Rate Sch. 84, 93, 110, 311, 426, 455 and 594.	June 19, 1980.
Texaco Inc	CI80-324	June 12, 1980.
Texaco Inc	CI80-332	July 1, 1980.
Exxon Corp	CI80-298	July 2, 1980.
Exxon Corp	CI79-220	July 23, 1980.
Aminoil USA, Inc	CI80-457	Aug. 28, 1980.
Gulf Oil Corp	CI80-325	Aug. 18, 1980.
Gulf Oil Corp	Rate Sch. 502 and 543.	Aug. 20, 1980.
Gulf Oil Corp	Rate Sch. 87	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 92	Sept. 18, 1980.
Gulf Oil Corp	Rate Sch. 130	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 142	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 159	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 160	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 197	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 498	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 503	Sept. 15, 1980.
Gulf Oil Corp	Rate Sch. 530	Sept. 15, 1980.
Texaco Inc	CI80-294	Sept. 12, 1980.
Exxon Corp	CI80-177	June 10, 1980.
Exxon Corp	CI80-248	June 10, 1980.

[FR Doc. 80-35660 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The term "Commission" when used in the context of action taken prior to October 1, 1977, refers to the Federal Power Commission; when used otherwise, the reference is to the Federal Energy Regulatory Commission.

[2] See Appendix.

[3] These provisions provide for rates prescribed by this agency or another governmental authority.

[Docket No. ER81-81-000]

Florida Power & Light Co.; Notice of Filing

November 7, 1980.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on November 3, 1980, tendered for filing proposed changes in its Fuel Adjustment Clause set forth on Sheet No. 9 of its Electric Tariff, Original Volume No. 1 and a proposed Amendment No. 1 to the November 19, 1979 Agreement to Provide Specified Firm Power Electric Service between FPL and Seminole Electric Cooperative, Inc., containing a corresponding fuel adjustment clause. The proposed changes would increase revenues from sales-for-resale customers by approximately $2.5 million for the twelve-month period ending December 31, 1981.

The purpose of the proposed fuel clause changes is to achieve a more accurate and timely recovery of the Company's fuel costs by more closely synchronizing fuel expenses and revenues.

FPL states that copies of the filing were served upon FPL's sales-for-resale customers and upon the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35694 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3480]

Fluid Energy Systems, Inc.; Application for Preliminary Permit

November 7, 1980.

Take notice that Fluid Energy Systems, Inc. (Applicant) filed on September 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3480 to be known as Piru Creek Diversion No. 1 Project located on Piru Creek in Ventura County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: K. Thomas Miller, President, Fluid Energy Systems, Inc., 2210 Wilshire Boulevard, Suite 699, Santa Monica, California 90403; and Joseph M. Keating, 847 Pacific Street, Placerville, California 95667. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) a 50-foot high and 200-foot long earthfill dam and spillway, impounding; (2) a reservoir with a surface area of 20 acres and a capacity of approximately 1,150 acre-feet; (3) a 7,300-foot long, 36-inch diameter penstock; (4) a powerhouse containing a generating unit rated at 1880 kW; and (5) a 2-mile long transmission line. The proposed project could provide peaking capacity or firm energy to the power purchaser.

The Applicant estimates that the average annual energy output would be 8.2 million kWh.

Purpose of Project.—The energy output from the project would be sold to the Southern California Edison Company.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct geotechnical and engineering studies, make a historical review, do preliminary designs and a feasibility analysis, consult with agencies, conduct environmental studies, and prepare a FERC license application. Applicant has filed a work plan for the studies for the new dam construction. The field studies to be done would consist of soil borings, trenches, geophysical surveys, and visual inspections. No new roads would be required to conduct the studies.

The cost of the work to be done under the preliminary permit is estimated to be $95,800.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 14, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3480. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent

to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35679 Filed 11-13-80 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-16-000]

Kansas-Nebraska Natural Gas Co., Inc.; Tariff Filing

November 6, 1980.

Take notice that on November 4, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. TC81-16-000, Third Revised Sheet Nos. 33 through 37 and First Revised Sheet Nos. 38 through 49 which revise its FERC Gas Tariff, Third Revised Volume No. 1 pursuant to Part 281 of the Regulations under the Natural Gas Policy Act of 1978.

Section 281.204 of the Regulations required interstate pipelines to file annually tariff sheets containing an updated index of the high-priority and essential agricultural use entitlements of each of their customers. Kansas-Nebraska states that Third Revised Sheet Nos. 33 through 37 and First Revised Sheet Nos. 38 through 49 contain the updated Index of Entitlements required under Section 281.204 of the Regulations.

Kansas-Nebraska also states that this filing includes a copy of the Final Report of its Data Verification Committee.

The effects of the tariff revisions are described by Kansas-Nebraska as follows:

(1) Reclassification of Hilltop Nurseries from Step 7 of Priority 3 to Priority 2; (2) reclassification of Norfolk Regional Center from Priority 1 to Step 4 of Priority 3; (3) reclassification of Baxter/Travenol Labs, Inc. from Step 4 of Priority 3 to Step 6 of Priority 3 and the revision of its Peak Day Requirement from 362 Mcf to 253 Mcf; (4) deleting the reference to Marvin C. Westcott under Priority 2 and substituting therefor Agri-Hol, Incorporated both under Step 6 of Priority 3 with a Peak Day Requirement of 288 Mcf and under Priority 2 with a Peak Day Requirement of 98 Mcf; (5) deleting Pawnee Retirement Hotel from Step 7 of Priority 3; (6) reclassification of Farmland Industries' boiler fuel usage from Step 3 of Priority 3 to Priority 2 and revising Farmland Industries' Peak Day Requirement to 18,000 Mcf under Priority 2; (7) reclassification of State Building Division from Step 7 of Priority 3 to Priority 1; and (8) revision of Nucor Steel's Peak Day Requirement from 3,110 Mcf to 4,079 Mcf.

In addition, although not requiring a revision of the Index of Requirements, Kansas-Nebraska takes this opportunity to advise the Commission that it has adopted the recommendations of the Data Verification Committee concerning the annual volumetric limitation applicable to both Agri-Hol, Incorporated and Nucor Steel under Section 13.b(1) of Kansas-Nebraska's FERC Gas Tariff, as more fully set out in the enclosed Data Verification Committee Report and Minutes. As to the DVC's computation of the volumetric limitation applicable to Nucor, Kansas-Nebraska notes that it has compared the hours of interruption Nucor experienced in 1979 to the maximum hours service to Nucor was interrupted in 1975 and has concluded that the DVC's allowance for this factor was more than reasonable.

Any person desiring to be heard or to make any protest with reference to said filing should on or before November 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35681 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3509]

Little Falls Hydroelectric Associates; Application for Preliminary Permit

November 7, 1980.

Take notice that Litte Falls Hydroelectric Associates (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3509 to be known as the Little Falls Project located on the Mohawk River and the Erie Barge Canal in the City of Little Falls, Herkimer County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Goodman, Little Falls Hydroelectric Associates, 1777 Broadway, Suite 2404, New York, N.Y. 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of three developments:

The Middle Falls Development would consist of: (1) a dam on the Mohawk River; (2) and intake structure on the left (north) bank; (3) an intake canal; (4) a powerhouse containing generating units having a rated capacity of 3,500 kW to 4,650 kW and operated under an 18-foot head; (5) an electrical substation; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be about 18,900,000 kWh to 22,100,000 kWh.

The Gilbert Development would consist of: (1) a 12-foot high concrete gravity dam on the Mohawk River; (2) an intake structure on the left (north) bank; (3) an intake canal; (4) generating units having a rated capacity of 2,320-kW to 3,300-kW and operated under a 12-foot head; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be about 12,100,000 kWh to 14,200,000 kWh.

The Barge Canal Development would consist of: (1) a 5-foot high overflow gravity dam in two sections with spillway crest elevation 362 m.s.l. on the Mohawk River; (2) a portion of the New York State Barge Canal (to be used as an intake channel from the Mohawk River); (3) an intake structure located on the left (north) bank of the Barge Canal; (4) two penstocks; (5) a powerhouse containing generating units having a rated capacity of 8,400 kW to 11,200 kW and operated under a 41-foot head; (6) a discharge structure located on the right (south) bank of the Mohawk River; (7) a substation; (8) a short 46-kV transmission line; and (9) appurtenant facilities. Applicant estimated that the average annual energy output would be about 42,000,000 kWh to 49,100,000 kWh.

Purpose of Projects.—Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform an economic feasibility study, negotiate contracts, prepare documents, and prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $170,000 to $230,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFF 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in §1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 14, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3509. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35680 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-91-000]

Louisville Gas and Electric Co.; Proposed Tariff Change

November 7, 1980.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (LG&E) on November 3, 1980, tendered for filing pursuant to the Interconnection Agreement between LG&E and Kentucky Utilities Company (KU), a Fifth Supplemental Agreement.

The purpose of this filing is to amend said Interconnection Agreement to comply with FERC Orders 84 and 84-B, and to increase the demand charge for Short Term Power from 70¢ per kilowatt-week to 85¢ per kilowatt-week.

LG&E requests an effective date of January 1, 1981, with respect to the change in Short Term Power demand charge. With respect to the modification to comply with Orders 84 and 84-B, LG&E requests an effective date of September 1, 1980, as established in Order No. 84-B.

Copies of the filing were served upon Kentucky Utilities Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35687 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP81-13-000 and CI81-13-001]

Michigan Wisconsin Pipe Line Co. and Union Oil Co. of California; Application

November 7, 1980.

Take notice that on October 14, 1980, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP81-13-000 and Union Oil Company of California (Union), Union Oil Center, Los Angeles, California 90051, filed in Docket No. CI81-13-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas purchase contract dated November 9, 1967, it is stated that Mich Wis purchases gas from Union in the Creole Field, West Cameron Area, offshore Louisiana, an area which is nearing its final stages of depletion. Union has installed a supplemental gas lift system to maximize recovery of oil reserves. This requires additional natural gas of up to 3,000 Mcf per day for a maximum of three consecutive days from time to time, it is contended.

Applicants request that Mich Wis be authorized to deliver these needed quantities which Union would return in kind at either the contracted delivery point or any mutually agreeable interconnection points pursuant to a letter exchange agreement dated June 27, 1980.

Union avers that it would install the needed facilities to effectuate the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said

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application should on or before December 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35681 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-9-000]

MIGC, Inc., Formerly McCulloch Interstate Gas Corp.; Purchased Gas Adjustment Clause

November 6, 1980.

Take notice that on September 15, 1980, MIGC, Inc. (formerly) McCulloch Interstate Gas Corporation (MIGC, Inc.) tendered for filing copies of First Revised Sheet No. 31a and Twentieth Revised Sheet No. 32 to its FERC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

MIGC, Inc.'s Twentieth Revised Sheet No. 32 provides for a Purchased Gas Adjustment rate increase of 36.39¢ per MMBtu effective November 1, 1980. MIGC, Inc.'s filing is made in order to: (1) recover the balance in MIGC, inc.'s Unrecovered Purchased Gas Cost Account as of July 31, 1979, and July 31, 1980, (2) to provide for a current Gas Cost Adjustment in order to permit MIGC, Inc. to reflect the higher cost of gas purchases, and (3) to recover a carrying surcharge as permitted under FERC Order No. 47 (Table VI), as set forth in MIGC, Inc.'s First Revised Sheet No. 31a to its FERC Gas Tariff Original Volume No. 1.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 21, 1980. Protests will not be considered to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35666 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-6-000]

Montana-Dakota Utilities Co.; Application

November 6, 1980.

Take notice that on October 23, 1980, Montana-Dakota Utilities Company (Applicant), filed an application pursuant to Section 204 of the Federal Power Act, seeking an order for authority to issue up to $50,000,000 of short-term indebtedness that will either be in the form of ordinary unsecured promissory notes representing bank borrowings and/or in the form of commercial paper.

The proceeds from the issuance of the promissory notes and/or commercial paper is to provide temporary financing for a portion of Applicant's 1980, 1981 and 1982 utility capital requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35685 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-90-000]

New England Power Pool; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that the New England Power Pool (NEPOOL) on November 3, 1980 tendered for filing a NEPOOL Agreement dated September 1, 1971, as amended, signed by the Connecticut Municipal Electric Energy Cooperative. The Connecticut Municipal Electric Energy Cooperative has its principal office in Groton, Connecticut. NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

It is proposed that the tendered agreement, as related to the Connecticut Municipal Electric Energy Cooperative electric system commence on October 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35686 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3452]

Niagara Mohawk Power Corp.; Application for Short-Form License (Minor)

November 7, 1980.

Take notice that Niagara Mohawk Power Corporation (Applicant) filed on September 10, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for reconstruction and operation of a water power project to be known as the Oak Orchard Project No. 3452. The project would be located on the New York State Barge Canal at Oak Orchard Creek in the Village of Medina, Orleans County, New York. Correspondence with the Applicant should be directed to: Mr. John H. Terry, Esq., Senior Vice President, General Counsel and Secretary, Niagara Mohawk Power Corporation, Syracuse, New York 13202.

Project Description.—The proposed project would redevelop the existing but inoperative Oak Orchard hydroelectric plant and would consist of: (1) a gated intake located in a New York State Barge Canal water control structure on the south bank of the Barge Canal; (2) a new 7-foot diameter and 85-foot long steel pipeline; (3) a brick power house containing a generating unit having a rated capacity of 350-kW; (4) a short tailrace located on the left (west) bank of Oak Orchard Creek; (5) a new 1,000-foot long 4.8-kV transmission line; and (6) appurtenant facilities. Operation of the facility would be totally dependent upon New York State's release of surplus water from the Barge Canal. Applicant estimates the annual generation would average about 1,500,000 kWh.

Purpose of Project.—All power generated by the project would be incorporated into the Applicant's interconnected system.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must summit to the Commission, on or before January 28, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 29, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), as amended, 44 FR 61328, (October 25, 1979).

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Comission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before January 28, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35662 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-33-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

November 7, 1980.

Take notice that on October 24, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81–33–000 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for the 12-month period commencing the date of the order and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed $3,000,000 and the cost for any single project would not exceed $500,000. Such costs, it is asserted, would be financed from cash on hand and funds from operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35663 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket Nos. ER77-5 and E-8152]

Otter Tail Power Co.; Filing

November 6, 1980.

The filing company submits the following:

Take notice that on October 15, 1980, Otter Tail Power Company submitted for filing revised cost of service and tariff sheets pursuant to Commission Opinion No. 93, in the above referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35687 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-15-000]

Panhandle Eastern Pipe Line Co.; Tariff Sheet Filings

November 6, 1980.

Take notice that on October 30, 1980, Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Avenue, Houston, Texas 77001, filed in Docket No. TC81-15-000 tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective December 1, 1980, consisting of Second Revised Sheet Nos. 2 through 38 to its FERC Gas Tariff, Original Volume No. 1-A.

Panhandle states that the purpose of this filing is to reflect changes of entitlements of natural gas reflecting reclassification of essential agricultural uses.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before November 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35685 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-88-000]

Public Service Co. of Indiana, Inc.; Proposed Tariff Change

November 7, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on November 3, 1980, tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and the Cincinnati Gas & Electric Company a Seventh Supplemental Agreement to become effective December 30, 1980.

Said Supplemental Agreement increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week and deletes Service Schedules C (Coordination of Scheduled Maintenance of Generating Facilities) and D (Energy Transfer).

Copies of the filing were served upon the Cincinnati Gas & Electric Company, the Public Utilities Commission of Ohio, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties of the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35686 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3535-000]

Saranac Energy Corp.; Application for Preliminary Permit

November 7, 1980.

Take notice that Saranac Energy Corporation (Applicant) filed on October 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the proposed Buckhorn Dam, Project No. 3535-000 to be located at the U.S. Army Corp of Engineers' Buckhorn Dam and Reservoir, a flood control project, on the Middle Fork Kentucky River near Buckhorn, Perry County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Charles Mierck, P.E., Cortland Assos., Inc., 838 Arlington Drive, Tucker, Georgia 30084. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3535-000 would consist of: (1) a proposed penstock extending from the outlet conduit; (2) a proposed powerhouse located on the western bank of the river; (3) transmission lines; and (4) appurtenant facilities. The Applicant estimates that the capacity of the proposed project would be 2.9 MW, and the average annual energy output would be 19 GWH.

Purpose of Project—Energy produced at the proposed project would be sold to Kentucky Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated to be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Continental Hydro Corporation Project No. 3400 on Buckhorn Dam Project in Buckhorn, Kentucky under 18 CFR 4.33 (1980), and, therefore, no further competing applications of notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 14, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3535-000. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35682 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-9-000]

South Carolina Electric & Gas Co.; Application

November 7, 1980.

On October 29, 1980, South Carolina Electric & Gas Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204(a) of the Federal Power Act to issue from time to time up to $125 million of short-term notes and commercial paper with a final maturity date of not later than December 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35687 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER-81-82-000]

Southern California Edison Co.; Filing

November 6, 1980.

The filing Company submits the following:

Take notice that on October 6, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement dated June 1, 1980, with Imperial Irrigation District ("IID"). The Agreement is entitled "Brawley Geothermal Project, Unit 1 (10 MWe) Power Sales Agreement Between Imperial Irrigation District and Southern California Edison Company".

The Agreement, in relevant part, sets forth the terms and conditions under which Edison will deliver to IID, and IID will pay Edison for, energy generated by Edison's Brawley Geothermal Project Unit 1 which is excess to the project's requirements during the research and development phase of the project.

Edison has requested that the prior notice requirement be waived and that the Agreement be made effective as an initial rate schedule as of June 1, 1980.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Imperial Irrigation District.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35691 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER-81-87-000]

Southern California Edison Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on November 3, 1980, Southern California Edison Company ("Edison") tendered for filing, as a rate schedule change, a letter agreement dated October 15, 1980, with the City of Riverside ("Riverside").

Under the terms of the Agreement, Edison will provide to Riverside interruptible transmission service for energy purchased by Riverside from Western Area Power Administration ("Western") under the same terms and conditions Edision currently provides interruptible transmission service to Riverside for energy purchased from Nevada Power Company pursuant to Rate Schedule FERC Nos. 84 or 98, as

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appropriate, modified as necessary to provide for multiple scheduling and dispatching contacts.

Edison has requested that the prior notice requirement be waived and that the Agreement be made effective as a change of rate schedule as of November 1, 1980, to enable Riverside to take advantage of short term economy energy purchases from Western.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35689 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-13-000]

Southwest Gas Corp.; Tariff Sheet Filing

November 6, 1980.

Take notice that on October 28, 1980, Southwest Gas Corporation (Southwest), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. TC81-13-000 a tariff sheet pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective December 1, 1980, consisting of Second Revised Sheet No. 25C to its FERC Gas Tariff, Original Volume No. 1.

Southwest states that the purpose of this filing is to update its Index of End-Use Volumes to reflect changes in its customers' essential agricultural use requirements.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before November 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35688 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-14-000]

Trunkline Gas Co.; Tariff Sheet Filings

November 6, 1980.

Take notice that on October 30, 1980, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. TC81-14-000 tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective December 1, 1980, consisting of Third Revised Sheet Nos. 21-C.3 through 21-C.7 to its FERC Gas Tariff, Original Volume No. 1.

Trunkline states that the purpose of this filing is to update its index of entitlements reflecting reclassification of essential agricultural uses.

Any person desiring to be heard of to make any protest with reference to said tariff sheet filings should on or before November 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35690 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-56]

Valero Interstate Transmission Co.; Purchased Gas Cost Adjustment Filing

November 6, 1980.

Take notice that on October 31, 1980, Valero Interstate Transmission Company (VITCO) tendered for filing Original Supplement No. 30 (purchased gas cost adjustment) to Rate Schedule 1 superseding previous purchased gas cost adjustments. VITCO stated that Exhibit A to Original Supplement No. 30 reflected the annualized change in purchased gas costs based on the twelve months ended August 31, 1980. VITCO requested waiver of any Commission regulation which would prohibit implementation of Supplement No. 30. The change in rate provided in Exhibit A to Original Supplement No. 30 includes an increase in purchased gas costs of 13.69 cents/Mcf and a surcharge of 45.51 cents/Mcf designed to eliminate the balance in the deferred purchased gas account. It is stated that these rates include no incremental pricing feature because VITCO was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for Original Supplement No. 30 is December 1, 1980. VITCO states that copies of the filing have been served to the only customer served under Rate Schedule 1, Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35690 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3504]

Virginia Electric and Power Co.; Application for Preliminary Permit

November 7, 1980.

Take notice that Virginia Electric and Power Company (Applicant) filed on September 26, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3504 to be known as the Twelfth Street Hydroelectric Project located on the James River in the City of Richmond, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. S.C. Brown Jr., Senior Vice President, Virginia Electric and Power Company 23261. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing, diversion dam approximately 1,708 feet long and 10 feet high; (2) an existing headrace canal approximately 2,240 feet long with an average width of 48 feet; (3) an existing powerhouse with a proposed installed generating capacity of 8,850 kW; (4) an existing reservoir without usable storage capacity; (5) an existing short tailrace; and (6) appurtenant facilities. The applicant estimates that the average annual energy output would be 35,000 MWh.

Purpose of Project—Virginia Electric and Power Company proposes to develop the hydroelectric potential and utilize the power output to reduce the amount of power produced by nonrenewable fossil fuels.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $70,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasiblity of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 14, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 16, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any heaing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 14, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3504. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35683 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3425]

Water Power Development Corp.; Application for Preliminary Permit

November 7, 1980.

Take notice that Water Power Development Corporation (Applicant) filed on September 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3425 to be known as Thomaston Project located on the Naugatuck River in Litchfield County, Connecticut. Correspondence with the Applicant should be directed to: Mr. Kenneth E. Mayo, P.E., President, Water Power Development Corporation, 23 Temple Street, Nashua, New Hampshire 03060.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Thomaston Dam and would consist of: (1) a penstock which would utilize existing outlet works; (2) a powerhouse containing generating units having a total rated capacity of 2,750 kW; (3) a tailrace; (4) a new transmission line; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 9,700,000 kWh.

V 45 N0 14 80 0 UMI

Purpose of Project—Project energy would be sold to Connecticut Light and Power Company. Other markets including sale to another utility or to a private customer would be investigated.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Purpose of Preliminary Permit. A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 21, 1981. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3425. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35684 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-567]

Wisconsin Electric Power Co.; Order Denying Motion for Production of Documents and Application for Rehearing

Issued November 6, 1980.

By order issued September 30, 1980, the Commission accepted for filing and suspended for one day proposed rate increases submitted by Wisconsin Electric Power Company (WEPCO) in this docket. One of the bases for the one day suspension was that our preliminary analysis revealed that the proposed rates may not be substantially excessive.

On October 3, 1980, the municipal intervenors [1] filed a motion requesting that they be provided a copy of the "preliminary analysis" of WEPCO's filing referred to in the order together with copies of all other analysis, momoranda and other documents considered by the Commission in making it suspension decision or upon which such decision was based in whole or in part. The municipal intervenors further moved that an order be issued "recognizing and designating the preliminary analysis and other documents covered by the above request as parts of the formal record in this proceeding."

On October 14, 1980, the municipal intervenors filed an application for rehearing of the September 30, 1980 order issued in this docket. In their application the municipal intervenors requested that the suspension period be lengthened from one day to five months with respect to the all-requirements (TR-1), partial requirements (PR-1), and Kaukauna-Menasha rates. They further requested that if the reasons set forth in the application do not support a five month suspension, the Commission nonetheless should grant rehearing for the purposes of considering and application which will be amended after they receive documents relating to the Commission's preliminary analysis.

Discussion

1. Motion for Production of Documents and Placement in Formal Record

The primary argument relied upon by municipal intervenors in support of their motion is that there is no way to gauge the validity of the Commission's conclusion that the rates may not be substantially excessive without examination of the preliminary analysis. This argument and other subsidiary

[1] Cedarburg, Clintonville, Deerfield, Elkhorn, Florence, Hartford, Jefferson, Kaukauna-Menasha, Kiel, Lake Mills, New London, Oconto Falls, Oconomowoc, Shawano, Slinger, and Waterloo.

ones set out in the motion do not justify the production of the requested documents. Accordingly, the motion will be denied.

The municipal intervenors have been provided the opportunity, both in their initial protest and on rehearing, to bring to the Commission's attention all of the elements of the rate filing which they believe to be excessive. Taking these into account for purposes of a "first cut" review,[2] the Commission nevertheless believes preliminarily that the filed rate is not substantially excessive. However, this belief is, as the Courts have stated, "no more than a prognosis."[3] Our suspension determination is not an adjudication on the merits and is without prejudice to any argument or evidence which would lead to a contrary conclusion after a hearing. In the interim, the municipal intervenors will be protected to the extent that the increased rates will be collected subject to refund. We believe a one day suspension represents an appropriate balancing of customer and utility interests where our preliminary review of the filed rate reveals that it may not be substantially excessive.[4]

The data underlying the suspension determination is thus no part of the formal record on the basis of which an adjudication will be made and does not fall within the scope of § 1.36(c)(2) of our regulations as contended by the municipal intervenors.

Moreover, the documents requested are internal, non-public documents relating to the deliberative process of this agency on matters committed to its nonreviewable discretion.[5] In order for the Commission to function effectively and quickly in the short time in which it must make its suspension decisions, there must be a free flow of ideas and facts between the Commission and its advisory staff. Production of the requested internal documents and of future similar documents would seriously disrupt this free flow and the ability of the Commission to operate quickly and effectively.[6]

[2] *Pagago Tribal Utility Authority* v. *FERC*, 410 F.2d 914, 918, (D.C. Cir. 1979-80); *Municipal Light Boards* v. *FPC*, 450 F.2d 1341, 1348 (D.C. Cir. 1971).

[3] *Pagago Tribal Utility Authority, supra*, 410 F.2d at 918, n. 29. *See also, Connecticut Light and Power Co., supra*, slip opinion at 11.

[4] *See Toledo Edison Co.*, Docket No. ER80-571, order issued September 29, 1980; *Cleveland Electric Illuminating Co.*, Docket No. ER80-488, order issued August 22, 1980.

[5] *Connecticut Light and Power Company* v. *FERC*, No. 78-2312 (D.C. Cir. May 30, 1980) slip opinion at 10; *Municipal Light Boards* v. *FPC*, 450 F.2d 1351 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

[6] The Supreme Count in *Federal Open Market* v. *Merrill*, 443 U.S. 340, 359-60 (1979) recognized this by stating that: "A government agency cannot always operate effectively if it is required to disclose documents or information which it has received or generated before . . . issuing an order. . . ." *See also U.S.* v. *Morgan*, 313 U.S. 409, 421-2 (1941); *Braniff Airways, Inc.* v. *C.A.B.*, 379 F.2d 453, 462 (D.C. Cir. 1967); *Lead Industries Assoc., Inc.* v. *OSHA*, 610 F.2d 70, 86 (2nd Cir. 1979). See also 18 CFR § 1.36(c)(15)(v).

[7] *See Florida Power Corporation*, Docket No. ER80-206, Order issued May 29, 1980, *appeal dismissed*, No. 80-1689 (D.C. Cir. Sept. 29, 1980).

2. Application for Rehearing

The application for rehearing raises no facts or arguments which would cause us to modify our prior order or to grant rehearing for further consideration. Accordingly, we will deny the request for rehearing and for modification of the prior order.

The application for rehearing, however, does raise a number of points which we feel should be addressed. First, municipal intervenors have asserted that the order does not discuss the particular areas of concern raised in their petition to intervene. They believe that this indicates that the Commission did not give any consideration to these concerns. This belief is incorrect. We considered all of the concerns raised for purposes of our preliminary review.

Second, the filing changes the time for payment of the bills from 60 to 15 days. Municipal intervenors have asserted that this change in billing will cause them "significant hardship," particularly during the transitional period. They state that they will have difficulty paying their bills and "(f)unds will have to be borrowed, if available." The Company, in a response filed on October 22, 1980, states: (1) that it intends to operate its billing provision so that no late charges will be owed if bills are paid within 30 days of the bill date, rather than 15 days; and (2) to assist the Cities, the Company "is prepared to waive its late payment charges for bills payable during the balance of 1980 (that is, bills rendered on or before December 16, 1980)." This we feel should eliminate the transitional problems associated with the change in billing.[7] Accordingly, we shall direct the Company to file as part of its rate schedule a statement setting forth the intended operation of its billing provision and its waiver of late payment charges for bills rendered on or before December 16, 1980.

Third, the filing introduces a time-of-day feature into the Company's wholesale rate design. The municipal intervenors have asserted that a five month suspension is necessary for them to adjust their retail rates to this major rate design change. However, they also contend that WEPCO's filed rate design is unreasonable and should be rejected. Since the intervenors are apparently not seeking a transitional period in which to adjust their rates to track WEPCO's rate design, but are protesting the rate design itself, a longer suspension would not alleviate the problem. We note further that the Company in testimony submitted with the filing stated that the time of use rate design submitted herein is identical to that used for its retail customers.[8] This Commission does not wish to discourage the filing of time-of-day rates, and other innovative rate designs, and the municipal intervenors have not convinced us that the implementation of the new rate design should be delayed.

The Commission orders:

(A) Municipal intervenor's motion for production of documents and for placement of such documents in the formal record is hereby denied.

(B) Municipal intervenors' application for rehearing is hereby denied.

(C) Wisconsin Electric Power Company shall file as a part of its rate schedule a statement setting out its intended operation of the 15-day billing provision and its waiver of late payment charges for bills rendered on or before December 16, 1980, with respect to the municipal intervenors.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35684 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-85-M

[8] Direct testimony of Richard A. Abdoo (Ass't V.P.—Corporate Planning), p. 3, L 6-8.

Office of Alcohol Fuels and Office of Conservation and Solar Energy

Loan Guarantees for Alcohol Fuels and Biomass Energy Projects

AGENCY: Office of Alcohol Fuels and Office of Conservation and Solar Energy, Department of Energy.

ACTION: Solicitation announcemnt for loan guarantee applications.

SUMMARY: Title II of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611, authorizes the Department of Energy (DOE) to establish a program to provide loan guarantees to alcohol fuels, biomass energy and municipal waste energy projects to reduce the dependence of the United States on imported petroleum and natural gas.

On October 8, 1980, DOE published a final rule in the **Federal Register** (45 FR 67022) which implements the loan guarantee authority of Title II of the Act.

The rule specifies a closing date for receipt of applications in the initial competition cycle of October 20, 1980 for alcohol and biomass energy projects and November 14, 1980 for municipal waste energy projects. The rule also requires the issuance of a new Solicitation Announcement within fifteen days after closing of each previous cycle. This Announcement is issued pursuant to 799.2 and 799.3(c) of the final rule and is applicable only to alcohol fules and biomass energy projects.

Alcohol Fuels Projects

The Office of Alcohol Fuels received fifty-seven applications for loan guarantees before the close of the initial competition cycle. The applications were evaluated on a competitive basis by the Application Evaluation Panel in accordance with 799.3(c) and other relevant provisions of the rule. Selection of seven applications for competitive negotiations was announced on October 29, 1980. Award of conditional commitments for these applications will depend on whether the applicants selected agree to specific terms and conditions required by DOE. The seven selected applicants have requested a total of $431 million in guarantees which is somewhat more than the commitment authority available under the initial Solicitation Announcement.

The Office of Alcohol Fuels has determined that a solicitation of proposals under a second competition cycle will not be announced unless and until it is clear that loan guarantee commitment authority is available to assist other alcohol fuel projects. Such commitment authority may become available if negotiations with any of the selected applicants are unsuccessful or if additional funds are made available for loan guarantees. Information regarding a further solicitation of applications for alcohol fuel projects will be announced in the **Federal Register.** It is presently expected that this information will be published in January 1981.

Biomass Energy Projects

Title II of the Act also provides loan guarantee authority to the Department of Energy to assist in the financing of biomass energy projects which produce biomass energy, other than alcohol fuels, from a biomass feedstock other than municipal waste. On September 16, 1980, the Department announced in the **Federal Register** (45 FR 61348) that it may award up to $15,000,000 in loan guarantees for biomass energy projects in the initial competition cycle. One application was received in response to that announcement. No selection decision regarding this application has been made by the Department.

The Department of Energy hereby announces the second competition cycle with respect to loan guarantees for biomass energy projects. The Department may award up to $30,000,000 in loan guarantes for biomass energy projects as described above. For those projects utilizing aquatic plants as a feedstock or having an annual energy production capacity equivalent to at least 15,000,000 gallons of ethanol (1.266 trillion Btu of energy output), priority will be given in evaluating the applications for those projects which (a) use a minimum of petroleum or natural gas in the production of biomass fuel; (b) apply new technologies that expand possible feedstocks or produce new forms of energy, or produce energy, other than alcohol, using improved or new technologies; (c) appear to be commercially viable; and (d) will have the greatest impact in achieving programmatic goals.

Presubmission Conference

A presubmission conference will be held on Tuesday, December 9, 1980 at 2000 M St., N.W., in the Auditorium at 9:00 a.m. The purpose of the conference will be to provide an opportunity for prospective applicants to ask any questions they may have regarding the preparation and submission of an application for a loan guarantee to assist in construction of a non-alcohol biomass energy project.

Applications

Applications for non-alcohol biomass energy projects submitted under this second competition cycle must be received by the Department not later than 4:30 p.m. on December 31, 1980 to be eligible for consideration.

Applications should be submitted as follows: Department of Energy, Manager, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83402, and should be marked "Application for Biomass Energy Loan Guarantee."

The Regional Offices listed below are also eligible submittal locations for Alcohol Fuel and Biomass Energy Project loan guarantee applications. However, for ease in tracking and prompt evaluation of applications DOE suggests the above address be used by applicants.

Region I

Department of Energy, Regional Representative 150 Causeway Street, Analex Building, Room 700 Boston, MA 02114.

Region II

Department of Energy, Regional Representative, 26 Federal Plaza, Room 3206 New York, NY 10007.

Region III

Department of Energy, Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, PA 19102.

Region IV

Department of Energy, Regional Representative 1651 Peachtree St., N.E., 8th Floor, Atlanta, GA 30309.

Region V

Department of Energy, Regional Representative, 175 West Jackson Blvd, Room A–333, Chicago, IL 60604.

Region VI

Department of Energy, Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235.

Region VII

Department of Energy, Regional Representative, Twelve Grand Building, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142.

Region VIII

Department of Energy, Regional Representative, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226.

Region IX

Department of Energy, Regional Representative, 111 Pine Street, Third Floor, San Francisco, CA 94111.

Region X

Department of Energy, Regional Representative, 1992 Federal Building, 915 Second Ave., Seattle, WA 98174.

Applicants submitting an application to a Regional Office should simultaneously forward a copy of such application to DOE's Idaho Falls Operations Office.

(Federal Domestic Assistance Catalog Number: 81.068—Biomass Loan Guarantees)

Issued in Washington, D.C. on November 7, 1980.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 80-35195 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Volume 314]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 7, 1980.

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS					
*ANADARKO PRODUCTION COMPANY		3001523178 102	RECEIVED: 10/29/80 JAI NM	NORTH TURKEY TRACK MORRO	730.0 LLANO INC
0103391			NEW MEXICO STATE AC COM #1		
*HARALD INC		3002500000 102	RECEIVED: 10/29/80 JAI NM		11.0 EL PASO NATURAL GAS
0103386			HARALD 16 STATE #10		
*PERRY R BASS		3001522398 102	RECEIVED: 10/29/80 JAI NM	BIDUX TANSILL YATES	
0103388			BIG EDDY UNIT NO 60		
*W B YARBOROUGH		3002526765 102	RECEIVED: 10/29/80 JAI NM	EDDY	182.5 NATURAL GAS PIPELINE
0103385			L E GRIZZELL NO 4		
*YATES PETROLEUM CORPORATION		3001523353 102	RECEIVED: 10/29/80 JAI NM	BRUNSON FUSSELMAN	202.0 EL PASO NATURAL GAS
0103387			RIO PENASCO KD COM NO 2		
0103389		3001500000 102	SIEGREST JS STATE COM #1	BOYD MORROW	0.0 TRANSWESTERN PIPELIN
*ZIA ENERGY INC			RECEIVED: 10/29/80 JAI NM	WILDCAT MORROW	0.0 TRANSWESTERN PIPELIN
0103390		3002510336 102	STATE C NO 1		
OKLAHOMA CURPORATION COMMISSION				SOUTHWEST EUNICE-SAN AND	102.0 EL PASO NATURAL GAS
*AL MCCORD INC		3502727290 103	RECEIVED: 10/29/80 JAI OK		
0103379	05903		PORTER #1	N W NORMAN	365.0 SUN GAS CO
*ANSON CORPORATION		3512920431 103	RECEIVED: 10/27/80 JAI OK		
0103330	05858		LESTER A #2	W CHEYENNE	1080.0 MICHIGAN-WISCONSIN P
*ARCO OIL AND GAS COMPANY		3504722022 103	RECEIVED: 10/27/80 JAI OK		
0103331	05860		NORTH N HOWARD #2	BOONER TRENO	13.9 PANHANDLE EASTERN PI
*B R CARTER		3513120967 102	RECEIVED: 10/29/80 JAI OK		
0103349	05859		OERTEL #2		35.0 DIAMOND S GAS SYSTEM
*BEARD OIL COMPANY		3510920351 102	RECEIVED: 10/28/80 JAI OK	CHOCTAW	
0103339	04428		BULLA #1		100.0 OKLAHOMA NATURAL GAS
*BERRY PETROLEUM CORP		3504721938 103	RECEIVED: 10/29/80 JAI OK	BOONER TRENO	
0103360	05861		LITTLE #31-1		150.0 CITIES SERVICE GAS C
*CLIFFORD RESOURCES INC		3509321672 103	RECEIVED: 10/30/80 JAI OK	SOUTH RINGWOOD	
*0103417	05300		MASON NO 1		125.0 PIONEER GAS PRODUCTS
*COMBINED RESOURCES CORP		3504719e3 103	RECEIVED: 10/29/80 JAI OK	SOUTHEAST ENID	
0103367	05508		HORNER 3-25		365.0 ARKANSAS LOUISIANA G
*CULP & COPPLE OIL CO		3511921013 103	RECEIVED: 10/30/80 JAI OK	BRUYLES	
0103395	05791		JOHNSTON #4		12.0 SUN GAS CO
0103394	05790	3511920869 103	WILLIAMS A #1	BRUYLES	16.0 SUN GAS CO
*DALCO PETROLEUM INC		3507322172 103	RECEIVED: 10/29/80 JAI OK		
0103369	05874		BEECHER #1	BOONER TRENO	91.3 DALCO PETROLEUM US L
0103364	05873	3507322175 103	BEECHER #2	BOONER TRENO	91.3 DALCO PETROLEUM US L
0103370	05876	3507322576 103	ERWIN #1	BOONER TRENO	91.3 CITIES SERVICE GAS C
0103364	05871	3507322573 103	HELLWEGE #1	BOONER TRENO	91.3 DALCO PETROLEUM US L
0103361	05866	3507322306 103	KATY #1	BOONER TRENO	91.3 CITIES SERVICE GAS C

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JC NO	JA DKT	API NO	SEC	D	WELL NAME
8103363	A5870	3507322174	103		MARTIN #1
8103362	A5869	3507322194	103		MUEGGENBORG #1
8103365	A5872	3507322175	103		RAY #2
8103383	A5864	3507322316	103		STORM #1
8103382	A5865	3507322328	103		THEO #1
*EARLSBORO OIL AND GAS CO INC					RECEIVED: 10/30/80 JA: OK
8103416	A4990	3515112031	108		OLSON-BIXLER NO 1
*ENERGY RESERVES GROUP INC					RECEIVED: 10/27/80 JA: OK
8103327	A5820	3509321770	103		J B LOMRENZ #2
*ENERGY RESERVES GROUP INC					RECEIVED: 10/29/80 JA: OK
8103350		3515320864	102		SMART A #1
*ENERGY RESOURCES OIL & GAS CORP					RECEIVED: 10/29/80 JA: OK
8103366	A5846	3507920319	103		COWLINGTON NO 8-1
*ENSERCH EXPLORATION INC					RECEIVED: 10/29/80 JA: OK
8103346	A5867	3514920074	103		EDDIE C WALTERS NO 1
*ENSERCH EXPLORATION INC					RECEIVED: 10/30/80 JA: OK
8103396	A5848	3514920061	103		G D GRAY NO 1
*FERGUSON OIL & GAS CO INC					RECEIVED: 10/29/80 JA: OK
8103381	A5850	3504700000	103		MUSMANN NO 1
*HOOVER & BRACKEN ENERGIES					RECEIVED: 10/27/80 JA: OK
8103329	A5853	3501121018	103		GRASSMOMAN #1-17
*JACKABB FLATS OIL & GAS CO					RECEIVED: 10/27/80 JA: OK
8103325	A4890	3507720169	102		WHITE #1
8103336		3507758643	102		WHITE NO 5
*JACKABB FLATS OIL & GAS CO					RECEIVED: 10/29/80 JA: OK
8103352	A4887	3507720194	102		WHITE #4A
8103351	A4779	3507720170	102		WHITE NO 2
8103341	A4888	3507758643	102		WHITE NO 3
*JONES & PHILLOW OIL CO					RECEIVED: 10/29/80 JA: OK
8103347	A5852	3501921938	103		MUNSUCKER #11-1
*L B WILLIAMS OIL COMPANY INC					RECEIVED: 10/29/80 JA: OK
8103359	A5917	3501721218	102		MORRIS 15-1
*L B WILLIAMS OIL COMPANY INC					RECEIVED: 10/30/80 JA: OK
8103397	A5918	3504320941	102		GRAYBILL 16-1
*LADD PETROLEUM CORPORATION					RECEIVED: 10/30/80 JA: OK
*8103411	A5941	3505120854	103		EVANS NO 1 (MUNTON)
*8103410	A5939	3505120854	103		EVANS NO 1 (TONKAWA)
*8103412	A5942	3505120885	103		PEERY NO 1
*LILES OIL & GAS CO					RECEIVED: 10/29/80 JA: OK
8103348	A5857	3508321142	103		LATTIMORE NO 1
*LPCX CORPORATION					RECEIVED: 10/27/80 JA: OK
8103333	A8798	3512920468	107		HOPE #1
*MACKELLAR INC					RECEIVED: 10/29/80 JA: OK
8103345	A5837	3510320942	103		MENTGES #1
8103380	A5904	3510320815	103		JIROUS #1
8103353	A5905	3510320629	103		MAGGIE KEATING #1
8103354	A5906	3508321179	103		SCHRAMMEL #1-8
*MAGUIRE OIL COMPANY					RECEIVED: 10/29/80 JA: OK
8103355	A5907	3500300000	103		EBERSOLE A #2
8103357	A5909	3500300000	103		HEISE #2
8103358	A5910	3500300000	103		HOOD #2
8103356	A5908	3509300000	103		SIMS #2

FIELD NAME	PROD	PURCHASER
BOONER TREND	91.3	DALCO PETROLEUM US L
BOONER TREND	91.3	DALCO PETROLEUM US L
BOONER TREND	91.3	DALCO PETROLEUM US L
BOONER TREND	91.3	CITIES SERVICE GAS C
BOONER TREND	91.6	CITIES SERVICE GAS C
NORTHEAST WAYNOKA	16.0	PANHANDLE EASTERN PI
RINGWOOD	169.0	PANHANDLE EASTERN PI
NORTHWEST SEILING	126.0	PANHANDLE EASTERN PI
	110.0	ARKANSAS LOUISIANA G
BURNS FLAT	486.0	NATURAL GAS PIPELINE
BURNS FLAT	123.0	NATURAL GAS PIPELINE
W PIEDMONT	35.0	PHILLIPS PETROLEUM C
S W CANTON	365.0	DELMI GAS PIPELINE C
SOUTH QUINTON	70.0	ARKANSAS-LOUISIANA G
	0.0	ARKANSAS-LOUISIANA G
S QUINTON	70.0	ARKANSAS-LOUISIANA G
	0.0	
	0.0	ARKANSAS-LOUISIANA G
	170.0	MOBIL OIL CORP
NW RICHLAND	0.0	PHILLIPS PETROLEUM C
PUTNAM	0.0	PHILLIPS PETROLEUM C
MINCO WEST (MUNTON)	116.0	MICHIGAN-WISCONSIN P
MINCO WEST (TONKAWA)	0.0	MICHIGAN WISCONSIN P
MINCO WEST	492.7	MICHIGAN-WISCONSIN P
E HULL	25.0	GABON OIL CO
W REYDON	730.0	
EAST GREEN VALLEY	0.0	ATLANTIC RICHFIELD C
EAST GREEN VALLEY	0.0	AMINOIL
SOUTH POLO	35.0	AMINOIL USA INC
WEST OKLAHOMA	36.0	AMINOIL USA INC
CHANEY DELL	0.2	PANHANDLE EASTERN PI
CHANEY DELL	0.2	PANHANDLE EASTERN PI
CHANEY DELL	0.2	PANHANDLE EASTERN PI
CHANEY DELL	0.2	PANHANDLE EASTERN PI

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JC NO	JA DKT	API NO	SEC	D	WELL NAME
*MAY PETROLEUM INC					RECEIVED: 10/30/80 JA: OK
8103392	A5370	3505920748	103		PRICE A 1C
8103393	A5827	3505920748	103		PRICE A 1T
*NORTHWEST PRODUCTION INC					RECEIVED: 10/27/80 JA: OK
8103335	A5723	3501721075	103		WINDY WYNN 36 NO 1
*NRM PETROLEUM CORPORATION					RECEIVED: 10/30/80 JA: OK
8103406	A5933	3509321570	103		MARTENS NO 1
*OKLA OIL & GAS ROYALTIES INC					RECEIVED: 10/27/80 JA: OK
8103328	A5843	3503100000	103		COSGROVE #1
*PERRY OIL CO					RECEIVED: 10/30/80 JA: OK
8103413	A5944	3504721620	103		BAKER #2
*8103414	A5945	3509321556	103		PERRY #1
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/29/80 JA: OK
8103340	A5113	3501720691	103		WHITE FARMS A #1
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/30/80 JA: OK
8103415	A5946	3500700000	108		CUSTER B #3
*READING & BATES PETROLEUM CO					RECEIVED: 10/29/80 JA: OK
8103374	A5882	3501900000	108		PRUITT BA LEASE M A PRUITT #1
8103373	A5881	3501900000	108		PRUITT BA LEASE M A PRUITT #2
8103372	A5880	3501900000	108		PRUITT BA LEASE PRUITT AB #4
8103371	A5879	3501900000	108		PRUITT BA LEASE PRUITT BA #5
*RED EAGLE OIL CO					RECEIVED: 10/29/80 JA: OK
8103376	A5884	3509321783	103		EDNA NO 1
8103344	A5833	3509321617	103		ESTHER NO 1
8103378	A5886	3509321736	103		FYFFE NO 1
8103375	A5883	3509321764	103		HOUK NO 1
8103377	A5885	3509321763	103		SMART NO 1
8103342	A5823	3509321592	103		W D R NO 1
*RED EAGLE OIL CO					RECEIVED: 10/30/80 JA: OK
8103408	A5937	3509300000	103		CHESTNUT NO 1
*8103409	A5938	3509321840	103		MABEL #1
*8103407	A5936	3509321758	103		REEBE #1
*SHARP-ALAN OIL CO					RECEIVED: 10/29/80 JA: OK
8103343	A5831	3509321718	103		KECK A 2
*SOUTHWEST EXPLORATION INC					RECEIVED: 10/27/80 JA: OK
8103337	A5822	3501721445	103		MORRIS NO 1
*SPECTRA ENERGY CORP					RECEIVED: 10/27/80 JA: OK
8103326	A5832	3509321803	103		UMDENSTOCK NO 1
*TRIGG DRILLING COMPANY INC					RECEIVED: 10/27/80 JA: OK
*8103332	A8797	3514920075	107		FINNELL #2
*WESTERN CONTINENT OIL CORP					RECEIVED: 10/30/80 JA: OK
8103399	A5920	3507121086	102		CARRINGER 2-21
8103405	A5930	3507121089	103		CARRINGER 3-21
8103401	A5923	3507121224	103		COURTNEY 2-30
8103402	A5924	3507121225	102		COURTNEY 3-30
8103404	A5926	3507121333	103		JOHNSON 2-33
8103403	A5925	3507121332	103		SMITH 1-33
8103400	A5921	3507121142	102		SMITH 24-3
*WILLIS EXPLORATION INC					RECEIVED: 10/27/80 JA: OK
*8103336	A5268	3510920346	103		WINDS WEST #1
*WILLIS EXPLORATION INC					RECEIVED: 10/29/80 JA: OK
8103368	A4662	3501721248	102		MCINTYRE #1

FIELD NAME	PROD	PURCHASER
	182.0	NORTHERN NATURAL GAS
UNASSIGNED	182.0	NORTHERN NATURAL GAS
BOONER TREND	0.0	PHILLIPS PETROLEUM C
	100.0	AMINOIL USA INC
NEW FIELD	8.0	ARKLA GAS CO
BOONER TREND	82.0	PHILLIPS PETROLEUM C
BOONER TREND	26.0	PANHANDLE EASTERN PI
UNION CITY	0.0	TRANSOK PIPELINE CO
S E COMO (MORROW)	6.0	EL PASO NATURAL GAS
CADDO	11.4	UNION OIL CO OF CALI
CADDO	11.4	UNION OIL CO OF CALI
CADDO	11.4	UNION OIL CO OF CALI
CADDO	11.4	UNION OIL CO OF CALI
EAST CHEYENNE VALLEY	292.0	PHILLIPS PETROLEUM C
CHEYENNE VALLEY	365.0	DELMI GAS PIPELINE C
NORTH AMES	36.0	
EAST CHEYENNE VALLEY	365.0	PHILLIPS PETROLEUM C
NORTH AMES	100.0	
FAIRVIEW	912.0	DELMI GAS PIPELINE C
NORTH AMES	100.0	PIONEER GAS PRODUCTS
NORTH AMES	140.0	OKLAHOMA NATURAL GAS
NORTHEAST FAIRVIEW	75.0	OKLAHOMA NATURAL GAS
WEST FAIRVIEW	75.0	DELMI GAS PIPELINE C
	273.0	MOBIL OIL CORP
AMES	100.0	PIONEER GAS PRODUCTS
ELK CITY	2190.0	MICHIGAN WISCONSIN P
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
PERMIAN	35.0	CORONADO TRANSMISSIO
WILDCAT	127.0	MOBIL OIL CORP
N E MUSTANG	612.0	MOBIL OIL CORP

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JD NO	JA DK?	API NO	SEC U WELL NAME	FIELD NAME	PROD	PURCHASER
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**WOOD PETROLEUM CORPORATION			RECEIVED: 10/30/80		3000.0	MICHIGAN WISCONSIN P
0103306	05919	3504321019 102	CALKINS-FRAZEE #25-1			
**ZIA PIPELINE INC			RECEIVED: 10/27/80	JAI OK		
0103336	05840	3507520363 108	WICKIZER #1			
**********	**********	**********	**********	**********	**********	**********
** BUREAU OF INDIAN AFFAIRS, USAGE AGENCY, PAWHUSKA,OK						
**********	**********	**********	**********	**********	**********	**********
**HOLT OIL CO			RECEIVED: 10/24/80	JAI OK		
0103319		3511300000 108	WELL #1 NW1/4 SEC 21-27-11			
0103318		3511300000 108	WELL #1A NE1/4 SEC 20-27-11			
0103320		3511300000 108	WELL #10 SW1/4 SEC 21-27-11			
0103324		3511300000 108	WELL #3 NE1/4 SEC 20-27-11			
0103323		3511300000 108	WELL #7 NE1/4 SEC 29-27-11			
0103321		3511300000 108	WELL #8 SW1/4 SEC 21-27-11			
0103322		3511300000 108	WELL #80 NE1/4 SEC 29-27-11			

OTHER PURCHASERS	VOLUME NO 1314

0103332	EL PASO NATURAL GAS
0103336	ANSON TRANSPORTATION
0103407	PIONEER GAS PRODUCTS COMPANY
0103409	PIONEER GAS PRODUCTS COMPANY
0103410	TRANSOK PIPELINE CO
0103411	TRANSOK PIPELINE CO
0103412	TRANSOK PIPELINE CO
0103414	GAS PROCESSING ASMT-UNION TEXAS PET
0103417	OKLAHOMA NATURAL GAS GATH COMP

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 1, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-35601 Filed 11-13-80; 8:45 am]

BILLING CODE 6450-01-C

ENVIRONMENTAL PROTECTION AGENCY

[A-2-FRL 1667-7]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on July 9, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Chevron, U.S.A. relative to a proposed modification (replacement of existing Claus Sulfur Recovery units and one tail gas treating unit with two parallel two-stage Claus Sulfur Recovery units and two new paralled Wellman Lord tail gas treating units) of its Perth Amboy, New Jersey plant. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 9, 1980, from Charles S. Warren, Region II Administrator, to Mr. P.E. Ruhter, General Manager of the Chevron, U.S.A., Perth Amboy plant. The text of the letter is as follows:

U.S. Environmental ProtectionAgency, Region II
26 Federal Plaza, New York, N.Y.
July 9, 1980.

Mr. P. E. Ruhter,
General Manager, Perth Amboy Refinery, Chevron, U.S.A., Inc., 1200 State Street, Perth Amboy, N.J.

Dear Mr. Ruhter: This letter is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has determined that the proposed modification (replacement of existing Claus Sulfur Recovery units and one tail gas treating unit with two parallel two-stage Claus Sulfur Recovery units and two new parallel Wellman-Lord tail gas treating units) of the Chevron, U.S.A., Inc. refinery in Perth Amboy, New Jersey, is *not* subject to federal Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978 (hereinafter, the 1978 PSD regulations). On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 73–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertient sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion (hereinafter, the proposed 1979 PSD regulations). On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the 1978 PSD regulations. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed 1979 PSD regulations. This order will in effect until the date of promulgation of final PSD regulations which conform to the court mandate.

On November 19, 1979, the EPA made a determination that the Chevron project was subject to PSD review under the 1978 PSD regulations. Such a determination was made based upon our calculation that the potential emissions of carbon monoxide (CO) and sulfur dioxide (SO_2) associated with the project would be in excess of 100 tons per year (the threshold emission limitation at and above which the 1978 PSD regulations apply to petroleum refineries). It should be noted that in calculating the potential emissions of the above two pollutants, the emissions reductions of both pollutants associated with proposed shutdowns of certain existing facilities were not considered. A review of the Chevron project in accordance with the requirements of the abovementioned administrative order indicates, however, that the project is *not* subject of PSD review. The administrative order stays the application of the 1978 PSD regulations as to any source or modification which would not be major under the proposed 1979 PSD regulations. The Chevron project is not considered major under the proposed 1979 PSD regulations because there will be no significant net increase (exceeding the applicable *de minimis* levels) of any pollutant for which the existing source is major. Specifically, the existing Chevron plant is major for CO and SO_2. The proposed Chevron project, however, is expected to effectuate a net *reduction* in the amount of CO and SO_2 emissions at the plant. Based upon this finding, the proposed 1979 PSD regulations do not apply and in accordance with the administrative order, the Chevron project qualifies to be exempt from total PSD review. Accordingly, the EPA finds the Chevron project *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date on which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection upon request at the following location:

Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711

Sincerely yours,

Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35510 Filed 11-13-80; 8:45 am]

BILLING CODE 6560-38-M

[A-2-FRI 1667-8]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on July 2, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Air Products & Chemicals, Inc. (APC) relative to a new sulfur trioxide storage

tank APC constructed in Middlesex, New Jersey. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATE: This determination is effective on November 14, 1980. (See Supplemental Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 2, 1980, from Charles S. Warren, Region II Administrator, to Mr. Joseph M. Wrba, Plant Superintendent of APC. The text of the letter is as follows:

U.S. Environmental Protection Agency,
Region II
26 Federal Plaza, New York, N.Y.
July 2, 1980.

Mr. Joseph M. Wrba,
Plant Superintendent, Air Products & Chemicals, Inc., P.O. Box 95, Middlesex, N.J.

Dear Mr. Wrba: In a letter dated July 10, 1979, the United States Environmental Protection Agency ("EPA"), Region II Office, issued a determination that the new sulfur trioxide ("SO_3") storage tank at the Air Products & Chemicals, Inc. ("APC") plant in Middlesex, New Jersey was subject to the Federal Prevention Significant Air Quality Deterioration ("PSD") regulations. The facility was found to be subject to the PSD regulations based upon our finding that the potential emissions of SO_3 were greater than 100 tons per year ("TPY") (applicable PSD threshold level for chemical process plants). However, in that July 10, 1979, letter you were advised that if APC limited the hours of operation of the affected facility such that the attendant potential emissions were less than 100 TPY, then this facility would not be subject to the PSD regulations.

This office has received information from the New Jersey Department of Environmental Protection (a construction permit for the tank) which legally binds your company to an operating schedule which results in a potential emissions rate of not more than 100 TPY. On this basis, since the threshold limit of PSD review is not reached, the SO_3 tank is not subject to the PSD regulations.

If you have any questions concerning the contents of this letter, please call Ms. Carol Casazza at (212) 264–4333.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35511 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-1]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on July 9, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Polytherm Kassel Corporation (PK) relative to a vinyl wallpaper manufacturing and printing plant located in Ramsey, New Jersey. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 9, 1980, from Charles S. Warren, Region II Administrator, to Mr. James Johnson, Plant Engineer of PK. The text of the letter is as follows:

U.S. Environmental Protection Agency,
Region II
26 Federal Plaza, New York, N.Y.
July 9, 1980.

Mr. James Johnson,
Plant Engineer, Polytherm Kassel Corporation, 16 Arrow Road, Ramsey, N.J.

Dear Mr. Johnson: This letter is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has determined that the Polytherm Kassel Corporation (PK) plant (involved in the manufacturing and printing of vinyl wallpaper) located in Ramsey, New Jersey, is *not* subject to federal Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978 (hereinafter, the 1978 PSD regulations). On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion (hereinafter, the proposed 1979 PSD regulations). On December 14, 1979, the court issued its final opinion on the subject and on Janauray 30, 1980, the Administrator of the EPA issued an administrative order partially staying the 1978 PSD regulations. In essence, this order states that a new source or modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed 1979 PSD regulations. This order will be in effect until the date of promulgation of final PSD regulations which conform to the court mandate.

Specifically, the January 30, 1980, order stays the application of the 1978 PSD regulations as to any source or modification which either (1) would not be major under the proposed 1979 regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the proposed 1979 regulations. Ramsey, New Jersey, is not attaining the NAAQS for the pollutant hydrocarbons (the only applicable pollutant emitted from the referenced project). PK satisfies the latter requirement of the administrative order. Based upon this finding, and in accordance with the administrative order, the PK project qualifies to be except from total PSD review. Accordingly, the EPA finds the PK project *not* subject to PSD review.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All of the information used in making this determination is available for public inspection at the following location:

Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng, (212) 264–4711

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35512 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-2]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on July 11, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Weldon Asphalt Company (WAC) relative to a new drum mix asphalt plant (including a fines silo and a fines hopper) WAC proposes to construct in Linden, New Jersey. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng., Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 11, 1980, from Charles S. Warren, Region II Administrator, to Mr. Richard N. Meyers, General Manager of WAC. The text of the letter is as follows:

U.S. Environmental Protection Agency's
Region II
26 Federal Plaza, New York, N.Y.
July 11, 1980.

Mr. Richard N. Meyers, General Manager, Weldon Asphalt, 141 Central Avenue, Westfield, N.J.

Dear Mr. Meyers: This letter is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has determined that the new drum mix asphalt plant (including a fines silo and a fines hopper with a baghouse) proposed by Weldon Asphalt Company (WAC) in Linden, New Jersey, is *not* subject to federal Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978 (hereinafter, the 1978 PSD regulations). On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion (hereinafter, the proposed 1979 PSD regulations). On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the 1978 PSD regulations. In essence, this order states that a new source modification will be PSD affected only in it is subject to PSD review under *both* the 1978 PSD regulations and the proposed 1979 PSD regulations. This order will be in effect until date of promulgation of final PSD regulations which conform to the court mandate.

On July 20, 1979, the EPA made a determination that the WAC project was subject to PSD review under the 1978 PSD regulations. Such a determination was made based upon our calculation that the potential emissions of particulate matter (PM) associated with the project would be in excess of 250 tons per year (TPY), the level at or above which the 1978 PSD regulations apply to asphalt plants. A review of the WAC project in accordance with the requirements of the above-mentioned administrative order indicates, however, that the project is *not* subject to PSD review. The administrative order stays the application of the 1978 PSD regulations as to any source or modification which would not be major under the proposed 1979 PSD regulations. The WAC project is not considered major under the proposed 1979 PSD regulations because the potential to emit PM (after control equipment) is *not* in excess of 250 TPY (the level at or above which the proposed 1979 PSD regulations apply to asphalt plants). Based upon this finding, the proposed 1979 PSD regulations do not apply and in accordance with the administrative order, the WAC project qualifies to the exempt from total PSD review. Accordingly, the EPA finds the WAC project *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 13, 1981. Under section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

A copy of this determination is available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35513 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-3]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on July 18, 1980, the EPA Region II Office issued a determination of PSD non-applicability to FGI Fibers, Inc. (FGI) relative to a new fiber glass production plant FGI proposes to construct in Amsterdam, New York. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* in the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13,

1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 18, 1980, from Charles S. Warren, Region II Administrator, to Mr. George L. Scavelli, Vice President of FGI. The text of the letter is as follows:

U.S. Environmental Protection Agency, Region II

26 Federal Plaza, New York, N.Y.
July 18, 1980.

Mr. George L. Scavelli, Vice President, FGI Fibers, Inc., Homestead Place, Amsterdam, N.Y.

Dear Mr. Scavelli: This is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has reviewed the information that FGI Fibers, Inc. (FGI) submitted dated May 22, 1980, relative to a new fiber glass production plant FGI is proposing to construct in Amsterdam, New York. Based upon this review, it is the EPA determination that the proposed FGI project is *not* subject to federal Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

The PSD regulations have changed significantly since their inital promulgation on June 19, 1978 (hereinafter, the 1978 PSD regulations). On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion (hereinafter, to proposed 1979 PSD regulations). On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the 1978 PSD regulations. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed 1979 PSD regulations. This order will be in effect until the date of promulgation of final PSD regulations which conform to the court mandate.

Specifically, the administrative order stays the applicantion of the 1978 PSD regulations as to any source or modification which would not be major under the proposed 1979 PSD regulations. The new FGI plant is not considered major under the proposed 1979 regulations because the controlled emissions of each pollutant that would be emitted from the FGI project were calculated to be less than 100 tons per year (the threshold limitation of PSD affectability). Based upon this finding, the proposed 1979 PSD regulations do not apply and, in accordance with the administrative order, the FGI project qualifies to be exempt from total PSD review. Accordingly, the EPA finds the FGI project *not* subject to PSD review.

Please note that the EPA determination of PSD non-applicability relative to the FGI project is based upon information contained in the applicable New York State Department of Environmental Conservation (NYSDEC) permit to construct. If FGI makes application to the NYSDEC to amend this permit or if this permit expires prior to commencement of construction (thus requiring application to the NYSDEC for a new permit), then the project would be reviewed by this office again pursuant to the PSD regulations in effect at such time.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,

Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35514 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1667-6]

Prevention of Significant Air Quality Deterioration (PSD); Modification of PSD Permit

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on June 16, 1980, the EPA Region II Office issued a determination to approve of a request dated June 2, 1980, made by Hooker Chemicals & Plastics Corporation to modify its PSD permit issued on May 11, 1979, for two new refuse-derived fuel (RDF) fired boilers in Niagara Falls, New York. This modification extends the period in which the project is permitted to burn coal from 30 days to 135 days after the start-up of the project and permits the use of oil during such extended period. This determination to revise the existing PSD permit was issued under EPA's prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kennth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination to revise the Hooker Chemicals & Plastics' PSD permit is contained in a letter dated June 16, 1980, from Charles S. Warren, Region II Administrator, to Mr. Robert D. Luss, Division Counsel of Hooker Chemicals & Plastics Corp. The text of the letter is as follows:

U.S. Environmental Protection Agency, Region II,
Federal Plaza, New York, N.Y.

June 16, 1980.

Mr. Robert D. Luss, Division Counsel, Operations Division, Hooker Chemicals & Plastics Corp., 345 Third Street, Box 728, Niagara Falls, N.Y.

Dear Mr. Luss: This is to inform you that the United States Environmental Protection Agency ("EPA"), Region II Office, has completed its review of the Hooker Chemicals & Plastics Corp ("Hooker") request dated June 2, 1980 (amended by a letter dated June 7, 1980), to modify Hooker's May 11, 1979, Prevention of Significant Air Quality Deterioration ("PSD") permit to construct two new refuse-derived fuel ("RDF") fired boilers in Niagara Falls, New York. (See enclosed copy of the permit). This request concerns the modification of the PSD permit to include the provision to burn oil during the 135 day start-up period; the May 11, 1979, PSD permit currently allows Hooker, to burn RDF and coal (only for a maximum of 30 days per calendar year). For the purpose of this letter, the 135 day startup period shall be defined (relative to each boiler) as that period beginning with commencement of operation of that facility and concluding 135 consecutive days thereafter.

Pursuant to the May 11, 1979, PSD permit, the allowable sulfur dioxide ("SO_2") emissions that would be generated from the two RDF boilers during the start-up period (assuming 105 days of burning RDF and 30 days of burning coal—"worst case" scenario) were calculated to be 768 tons per year ("TPY"). Be advised that the PSD permit is hereby amended to include the capability of burning oil during the 135 day start-up period subject to the following conditions:

1. Should the EPA determine that the SO_2 emissions during the start-up period exceed 768 TPY, Hooker shall provide offsets, on an equivalent basis, from other boilers within its Niagara Falls, New York plant. Hooker shall submit its offset proposal within 30 days from receipt of the EPA determination and shall offset the designated quantity of emissions no later than 60 days thereafter.

2. SO_2 emissions for this start-up period shall not exceed 868 TPY.

3. Upon commencement of operation, Hooker shall submit biweekly reports to the EPA for each new RDF fired boiler which include the type of fuel burned, the amount, the sulfur content and the British Thermal Unit content during this two-week period. These reports shall be submitted within 5 days of the end of each two-week period. Such reporting is required for the entire start-up period.

4. Hooker shall meet all of the specifications contained in its June 2, 1980, letter (amended by its June 7, 1980, letter).

All reports required herein shall be submitted to Mr. Kenneth Eng, Chief of the Air and Environmental Applications Section, Permits Administration Branch—Room 432 at this address. Should you have any questions relative to this letter, please call Mr. Eng or Mr. Barry Tornick at (212) 264–4711 and (212) 264–9579, respectively.

Sincerely yours,

Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35509 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-6]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on July 28, 1980, the EPA Region II Office issued a determination of PSD non-applicability to EPA's Edison, New Jersey, proposed mobile incinerator and carbon regenerator to be located at Edison, New Jersey. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 28, 1980, from Charles S. Warren, Region II Administrator, to Mr. L. Sproul, of Mason and Hanger—Silas Mason Co., EPA Edison's Consultants. The text of the letter is as follows:

Environmental Protection Agency
New York, New York 10007
July 28, 1980.

Mr. M. L. Sproul,
Manager, Environmental Emergency Response Unit, Mason and Hanger—Silas Mason Co., Inc., P.O. Box 1316, Edison, New Jersey 08817.

Dear Mr. Sproul: This is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has completed its revies of all information submitted relative to the proposed mobile incinerator and carbon regenerator to be constructed at the *EPA Edison* facility located in Edison, New Jersey for applicability to the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21). On the basis of this review, it is the determination of the EPA that this project is *not* subject to the PSD regulations.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978 (hereinafter, the 1978 PSD regulations). On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations (hereinafter, the proposed 1979 PSD regulations) in response to court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the 1978 PSD regulations. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed 1979 PSD regulations. This order will be in effect until the date of promulgation of the final PSD regulations which conform to the court mandate.

The potential (uncontrolled) emissions of each applicable pollutant that would be emitted from the proposed project were calculated to be above the PSD threshold level of 250 tons per year (TPY) and therefore, subject to PSD review under the 1978 PSD regulations. However, the proposed 1979 PSD regulations apply to new sources which have the potential to emit any pollutant regulated under the Clean Air Act (the Act) in the amount of 250 TPY or greater after the application of control equipment (controlled emissions). The controlled emissions of each applicable pollutant that would be emitted from this proposed project were calculated to be less than 250 TPY; thus, the project is not subject to the proposed 1979 PSD regulations. Based on the requirements of the administrative order, the proposed Edison mobile incinerator and carbon regenerator are *not* subject to PSD review.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date on which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection at the following location:

Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Sincerely yours,

Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35516 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-7]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on August 21, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Cornell University relative to a new coal-fired boiler (117 MMBtu Zurn Boiler) proposed by Cornell University to replace in kind an existing coal-fired boiler at their Ithaca, New York campus site. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43

FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 15, 1980. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278 (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated August 21, 1980, from Charles S. Warren, Region II Administrator, to Mr. Henry E. Doney, Director of Utilities, Cornell University. The text of the letter is as follows:

Environmental Protection Agency
New York, New York 10007
August 21, 1980.
Mr. Henry E. Doney,
Director of Utilities, Humphreys Service Building, Cornell University, Ithaca, New York 14853.

Dear Mr. Doney: This is to inform you that the U.S. Environmental Protection Agency (EPA) has received a request from Governor Hugh L. Carey to exempt the new coal-fired boiler (117MMBTU Zurn Boiler—Emission Point #2, Unit #1) proposed by Cornell University, a replacement in kind for an existing coal-fired boiler, from federal Prevention of Significant Air Quality Deterioration (PSD) requirements. As provided for in the PSD regulations, specifically 40 CFR 52.21(i)(6), the EPA will exempt a non-profit educational institution (such as Cornell University) from the PSD requirements upon written request from the Governor of the state. Accordingly, the EPA acknowledges Governor Carey's request and hereupon exempts Cornell University from having to comply with the PSD requirements relative to the new coal-fired boiler it proposes to construct at the university.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date on which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection upon request at the following location:

Permits Administration Branch, Rm. 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.
Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35517 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1668-8]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on September 4, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Rochester Gas & Electric (RG&E) relative to a proposed fuel conversion of the Russell Station plant from coal to a mixture of refuse-derived fuel and coal. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Informational.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278 (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated September 4, 1980, from Charles S. Warren, Region II Administrator, to Mr. Scott M. Turner of Nixion, Hargrave, Devans & Doyle, RG&E's consultants. The text of the letter is as follows:

Environmental Protection Agency
New York, New York 10278
September 4, 1980.
Mr. Scott M. Turner, Esq.,
Nixon, Hargrave, Devans & Doyle, Lincoln First Tower, P.O. Box 1051, Rochester, New York 14603.

Dear Mr. Turner: On May 15, 1979, you submitted to the U.S. Environmental Protection Agency (EPA), Region II Office, a copy of a letter you had written to Mr. Ed Reich of the EPA's Division of Stationary Source Enforcement in Washington, D.C. In that letter you requested that the proposed fuel conversion of your client's electric utility plant (Rochester Gas & Electric, Russell Station—RG&E) from coal to a mixture of refuse-derived fuel (RDF) and coal be found *not* subject to review under the June 19, 1978, Prevention of Significant Air Quality Deterioration (PSD) regulations. Your stated position was that the utility was capable of accommodating (burning) RDF prior to January 6, 1975, and as such, could avail itself of the exemption in the 1978 PSD regulations for just such modifications to methods of plant operation (found at 40 CFR 52.21(b)(2)(ii)(d)).

Although your contention that the conversion should not be subject to PSD review on the basis of the above exemption provision may have merit, a review of your presentation supporting this approach appears to be time-consuming and would probably require the submission of additional information. Pursuant to the final decision in the case of *Alabama Power* v. *Costle* (No. 78–1006, D.C. Cir.) (a consolidation of numerous challenges to the 1978 PSD regulations), the EPA promulgated amendments to the PSD regulations on August 7, 1980. One of the provisions contained in the 1980 amendments exempts from PSD review any modification to a steam generating plant which results in a fuel change to the extent that the fuel is generated from municipal solid waste (reference 40 CFR 52.21(b)(2)(iii)(d) of the 1980 PSD regulations). Since the proposed RG&E fuel conversion includes burning RDF, it satisfies this exemption; thus, the PSD regulations do not apply to this project.

Please note that the EPA determination of PSD non-applicability relative to the proposed modification is based upon the information provided by RG&E and the New York State Department of Environmental Conservation (NYSDEC) permit to construct (PC) approving the proposed modification. Please note that if, in the future, RG&E makes an application to the NYSDEC to amend the referenced PC so as to change considerably the specific conditions upon which this determination was based or if the PC expires prior to commencement of construction (thus requiring application to the NYSDEC for a new PC), the project may require a review by this office again pursuant to the PSD regulations.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date on which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection upon request at the following location:

Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.
Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35518 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1669-1]

Prevention of Significant Air Quality Deterioration (PSD); Modification of PSD Permit

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on July 23, 1980, the EPA Region II Office issued a determination to approve of a request made by the Caribbean Gulf Refining Corporation (CGR) to modify its PSD permit issued on November 26, 1979, for a Fluid Catalytic Cracking Unit Modernization Program (FCCUMP) in Bayamon, Puerto Rico. The permit modification entails the replacement of two existing crude oil heaters with a larger, more efficient gas and oil fired heater. This determination to revise the existing PSD permit was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination to revise the CGR PSD permit is contained in a letter dated July 23, 1980, from Charles S. Warren, Region II Administrator, to Mr. James A. King, Refinery Manager of CGR. The text of the letter is as follows:

Environmental Protection Agency
New York, New York 10007
July 23, 1980.
Mr. James A. King,
Refinery Manager, Caribbean Gulf Refining Corp., G.P.O. Box 1988, San Juan, Puerto Rico 00936.

Dear Mr. King: This is to inform you that the United States Environmental Protection Agency ("EPA"), Region II Office, has completed its review of the Caribbean Gulf Refining Corporation ("CGR") request to modify its federal Prevention of Significant Air Quality Deterioration ("PSD") permit issued November 26, 1979 (copy enclosed), for a Fluid Catalytic Cracking Unit Modernization program ("FCCUMP") in Bayamon, Puerto Rico. The request to modify your PSD permit is to include the replacement of two existing crude oil heaters (Heaters CH–1 and CH–3) with a larger, more efficient gas and oil fired heater designated as Heater CH–6. This new replacement heater is expected to effectuate a net decrease in emissions due to the greater combustion efficiency of the new unit.

Please be advised that the existing PSD permit is hereby ameneded to include the addition of Heater CH–6 subject to the following conditions:

1. Heater CH–6 shall have a maximum operating heat input of 66.16 million British thermal units per hour.

2. Heater CH–6 shall be limited to maximum hourly fuel combustion rates of 2246 pounds of fuel gas (sulfur content not to exceed 0.025 percent by weight) *and* 109.5 gallons of fuel oil (sulfur content not to exceed 1.5 percent by weight).

3. The operation of Heater CH–6 is permitted only upon the condition that Heaters CH–1 and CH–3 will be shut down on a permanent basis. Such shutdown shall occur no later tha 30 days after commencement of operation of Heater CH–6. The date that the operation of Heater CH–6 was commenced and the dates that Heaters CH–1 and CH–3 were permanently shut down shall be reported to the EPA within 10 days after such activities occur.

Failure to comply with any of the aforementioned conditions may invalidate this amendment and cause Heater CH–6 to be reviewed for full applicability under the PSD regulations.

If you have any questions regarding this amendment, please feel free to call Mr. Kenneth Eng or Mr. Steven Riva at (212) 264–4711 and (212) 264–8684, respectively.

Sincerely yours,
Charles Warren,
Regional Administrator.

Dated: October 17, 1980.
Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35519 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[A-2-FRL 1669-2]

Prevention of Signlficant Air Quality Deterioration (PSD); Determination of PSD Applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on July 2, 1980, the EPA Region II Office issued a determination of PSD applicability to Broome County (BC) relative to a new refuse-fired energy (RFE) facility BC proposes to construct in Endicott, New York. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278 (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD applicability is contained in a letter dated July 2, 1980, from Charles S. Warren, Region II Admninistrator, to Mr. Robert W. Hornaday of Barton Brown Clyde & Loguidice, BC's consultants. The text of the letter is as follows:

U.S. Environmental Protection Agency,
Region II,
New York, N.Y., July 2, 1980.
Mr. Robert W. Hornaday, P.E.,
Senior Project Engineer
Barton Brown Clyde & Loguidice, P.C.,
Liverpool, N.Y.

Dear Mr. Hornaday: This is to inform you that the United States Environmental

Protection Agency ("EPA"), Region II Office, has completed its review of information submitted by Mr. Clair Fancy of the New York State Department of Environmental Conservation dated February 29, 1980, pertaining to the proposed Broome County refuse-fired energy ("RFE") facility in Endicott, New York. This review was necessary to ascertain whether the Broome County RFE facility is subject to federal Prevention of Significant Air Quality Deterioration Regulations ("PSD") (40 CFR 52.21).

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to the regulation (consolidated in *Alabama Power Company* v. *Costle* (No. 76–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a per curiam opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under both the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations (this order will be in effect until promulgation of final PSD regulations which conform to the court mandate). A review of your proposed RFE facility in accordance with the administrative order indicates that it is subject to the PSD regulations relative to both the June 19, 1978, regulations and the September 5, 1979, proposed regulations by virtue of the fact that both the potential (uncontrolled) and allowable (controlled) emissions of nitrogen oxides ("NO_x") and particulate matter ("PM") exceed 100 tons per year.

Since the proposed facility is subject to PSD review relative to both sets of PSD regulations, you will have to submit an application for a PSD permit addressing the NO_x and PM emissions. The PSD permit application should include a best available control technology presentation and ambient air quality impact analyses for both NO_x and PM. Refer to the attached guidance packages for additional information. Please submit four copies of this application to Mr. Kenneth Eng, Chief of the Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division—Room 432. Be advised that the EPA is not constrained from asking for additional information or from imposing additional requirements should final regulations require such.

Should you have any questions relative to the determination, please call Mr. Kenneth Eng at (212) 264–4711.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80–35520 Filed 11–13–80; 8:45 am]
BILLING CODE 6560–38–M

[A–2–FRL 1669–3]

Prevention of Significant Air Quality Deterioration (PSD); Modification of PSD Permit

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that on September 4, 1980, the EPA Region II Office issued a determination to approve of a request dated June 17, 1980 (and supplemented with additional information dated July 17, 1980), made by Hooker Chemicals & Plastics Corporation to modify its PSD permit issued on May 11, 1979 (and subsequently modified on June 16, 1980), relative to two new refuse-derived fuel (RDF) fired boilers in Niagara Falls, New York. The proposed modification entails the increasing of the permissible amounts of fossil fuel (both coal and oil) burned at the subject facility. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388, codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on November 14, 1980 (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination to revise the Hooker Chemicals & Plastics' PSD permit is contained in a letter dated September 4, 1980, from Charles S. Warren, Region II Administrator, to Mr. Robert D. Luss, Division Counsel of Hooker Chemical & Plastics Corp. The text of the letter is as follows:

U.S. Environmental Protection Agency,
Region II,
New York, N.Y., September 4, 1980.

Mr. Robert D. Luss,
Division Counsel—Operations Division, Hooker Chemicals and Plastics Corporation, Niagara Falls, N.Y.

Dear Mr. Luss: This is to inform you that the United States Environmental Protection Agency (EPA), Region II Office, has completed its review of the Hooker Chemicals and Plastics Corporation (HCP) request dated June 17, 1980 (and supplemented with additional information dated July 17, 1980), to modify its federal Prevention of Significant Air Quality Deterioration (PSD) permit issued on May 11, 1979 (copy enclosed) for the Energy-from-Waste (EFW) facility at the HCP Niagara Falls chemical processing plant. The EFW facility project entails the replacement of 4 fossil fuel-fired boilers (3 boilers will be dismantled and 1 boiler will be maintained on standby) with 2 refuse-derived fuel (RDF) fired boilers to generate steam for the chemical processing facilities at the plant. The PSD permit allows for the burning of coal at each of the 2 boilers for a period not to exceed 30 days per year. In a letter dated June 2, 1980 (and subsequently amended by a letter dated June 7, 1980), HCP requested that the May 11, 1979, PSD permit be revised to allow for the burning of oil during the 135-day start-up period of the 2 RDF-fired boilers. The EPA granted this request and amended the PSD permit accordingly in a letter dated June 16, 1980. HPC's most recent request, which is the subject of today's letter, is to amend the May 11, 1979, PSD permit to *increase* the amount of fossil fuel (both coal and oil) allowed to be burned at the 2 RDF-fired boilers during operation following the start-up period; this request was made because of outages and other events anticipated by HCP which could make it very difficult, if not impossible, to obtain and use RDF. The purpose of this letter is to inform you that the May 11, 1979, PSD permit is hereby revised to accommodate the increased use of fossil fuel. The new permit and attendant conditions are delineated in *Attachment I.*

Failure to comply with any of the conditions listed in *Attachment I* may invalidate this permit and result in the project's being reviewed under the August 7, 1980, PSD regulations (PSD amendments promulgated pursuant to the final decision in the case of *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)).

The revisions contained herein represent changes to a final action (permit) reached by EPA relative to this source. As such, these revisions must be published in the **Federal Register.** Under Section 307(b)(1) of the Clean Air Act (the Act), judicial review of this determination (permit modification) is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date on which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y., Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,
Charles S. Warren,
Regional Administrator.

Attachment I

As amended on September 4, 1980, construction on and operation of the 2 RDF-fired boilers are subject to the following conditions (please note that this permit supercedes the May 11, 1979, PSD permit):

A. *Sulfur Dioxide Emissions*

1. HCP shall limit sulfur dioxide (SO_2) emissions so as not to exceed 1.2 pounds per million British thermal units (MMBtu) heat input when burning coal. The sulfur content shall be determined from an average of each 3,000 tons of coal burned using the ASTM method of analysis.

2. HCP shall limit SO_2 emissions so as not to exceed 0.8 pounds per MMBtu input when burning oil. The sulfur content shall be determined from an average of each one million gallons of oil burned using the ASTM method of analysis.

B. *Nitrogen Oxides and Carbon Monoxide Emissions*

1. HCP shall maintain furnace temperatures between 1600° and 1800° F. and shall maintain excess air supplied to the furnaces between 40 and 45 percent by volume when firing RDF or a combination of RDF and fossil fuel.

2. HCP shall limit nitrogen oxides (NO_x) emissions so as not to exceed 0.7 lb per MMBtu heat input when firing coal.

3. HCP shall limit NO_x emissions so as not to exceed 0.3 pounds per MMBtu heat input when firing oil.

C. *Combinations of Fossil Fuels Burned**

1. HCP shall, when different fossil fuels are to be burned simultaneously in any combination, meet the applicable performance standards (PS) (in pounds per MMBtu), determined by the following equations:

$$PS\ (\text{particulate matter (PM)}) = \frac{(0.07)y + (0.1)z}{y + z}$$

$$PS\ (SO_2) = \frac{(0.8)y + (1.2)z}{y + z}$$

$$PS\ (NO_x) = \frac{(0.3)y + (0.7)z}{y + z}$$

Where y is the percentage of total heat input derived from oil, z is the percentage of total heat input derived from coal.

D. *Compliance With the Emission Offset Policy*

1. HCP shall comply with the requirements contained in the New York State Department of Environmental Conservation (NYSDEC) permits to construct (which were reviewed in accordance with the requirements of the emission offset policy) for emissions of PM and hydrocarbons (HC). These requirements are as follows:

a. When firing RDF or a combination of RDF and fossil fuel

i. PM emissions shall be reduced by the electrostatic precipitator by an amount of 99.7 percent or greater;

ii. PM emissions shall not exceed 0.03 grains per dry standard cubic foot;

iii. Opacity shall not exceed 20 percent.

b. When firing coal only

i. PM emissions shall not exceed 0.1 pounds per MMBtu heat input;

ii. Opacity shall not exceed 20 percent, except for one six minute period per hour of not more than 27 percent opacity.

c. When firing oil only

i. PM emissions shall not exceed 0.07 pounds per MMBtu heat input;

ii. Opacity shall not exceed 20 percent, except for one six minute period per hour of not more than 27 percent opacity.

d. Stack tests shall be performed to ensure that the above PM emissions limitations will be achieved.

e. HC emissions shall be minimized by certain design features: the firing configuration for solid fuel which is comprised of distributor feeders, air swept spouts and traveling grates shall ensure efficient combustion of fuel; the distribution and volume of excess air shall promote complete combustion.

E. *Fuel Use*

1. HCP shall, during the first year of operation (which commences immediately following the 135 day start-up period), limit the total heat input of the EFW facility to 16 percent from coal, 4 percent from oil and the remainder from RDF.

2. HCP shall, during the second year of operation, limit the total heat input of the EFW facility to 15 percent from fossil fuel (coal or oil or any combination of coal and oil) and the remainder from RDF.

3. HCP shall, during each subsequent year, limit the total heat input of the EFW facility to 12 percent from fossil fuel (coal or oil or any combination of coal and oil) and the remainder from RDF.

F. *Stack Testing Requirements*

1. HCP shall within 180 days of initial start-up of the facility, perform stack tests to determine emissions of SO_2, NO_x and carbon monoxide while the facility is using RDF. Test methods published in 40 CFR Part 60 (New Source Performance Standards (NSPS)) or a test method specifically approved by EPA Region II shall be used.

2. HCP shall, within 180 days of initial start-up of the facility, perform stack tests to determine emissions of SO_2 and NO_x while the facility is using coal. Test methods required by 40 CFR Part 60 or a test method specifically approved by EPA Region II shall be used.

3. HCP shall, within 180 days of initial start-up of the facility, perform stack tests to determine emissions of SO_2 and NO_x while the facility is using oil. Test methods required by 40 CFR Part 60 or a test method specifically approved by EPA Region II shall be used.

G. *Monitoring Requirements*

1. HCP shall install, calibrate, test and operate continuous monitors which record emissions of SO_2, NO_x, cabron monoxide, oxygen and the opacity of emissions. All monitors must be tested and installed in conformance with 40 CFR Part 60 or after receiving specific EPA Region II approval. The monitors shall be installed within 60 days of initial startup of the facility.

2. HCP shall equip the EFW facility with monitors and/or recorders which accurately maintain the following records:

a. combustion chamber temperatures;

b. air flow to the combustion chamber;

c. combustion air temperatures.

3. HCP shall maintain log books on the following:

a. quantities of fuel burned on a daily basis;

b. hours per day of operation of each furnace;

c. sulfur and Btu content of the coal and oil burned.

H. *Reporting Requirements*

1. HCP shall submit copies of all test reports to the EPA within 30 days after the test is conducted;

2. HCP shall submit copies of the results of fuel analyses for sulfur and BTU content to the EPA within 2 weeks after the burning of each one million gallons of oil and each 3,000 tons of coal;

3. HCP shall, if for any reason the EFW facility is unable to burn RDF for a period of ten days of more, provide the EPA and the NYSDEC with the following information, in writing, within five days of the start of such condition:

a. A description of the cause requiring the burning of fossil fuel;

b. The period of time HCP expects to burn fossil fuel and the steps being taken by HCP to minimize the time fossil fuel will be utilized.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80–35521 Filed 11–13–80; 8:45 am]
BILLING CODE 6560–38–M

*Note: The PS for PM supplements the New York State emission offset policy requirements.

[A–2–FRL 1668–4]

Prevention of Significant Air Quality Deterioration (PSD); Determination of PSD Non-applicability

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on July 21, 1980, the

EPA Region II Office issued a determination of PSD non-applicability to Corl Corporation relative to a new fiberglass processing plant Corl Corporation proposes to construct in Oriskany, New York. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codified at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATE: This determination is effective on November 14, 1980. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by January 13, 1981. Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

This determination of PSD non-applicability is contained in a letter dated July 21, 1980, from Charles S. Warren, Region II Administrator, to Mr. R. D. Harward, Executive Vice President of Corl Corporation. The text of the letter is as follows:

U.S. Environmental Protection Agency,
Region II,
New York N.Y., July 21, 1980.

Mr. R. D. Harward,
Executive Vice President, Corl Corporation, Ft. Wayne, Ind.

Dear Mr. Harward: This is to inform you that the United States Environmental Protection Agency ("EPA"), Region II Office, has completed its review of all available information relative to the Corl Corporation ("Corl") proposal to construct a fiberglass processing plant in Oriskany, New York for applicability to the Prevention of Significant Air Quality Deterioration ("PSD") regulations (40 CFR 52.21). On the basis of this review, it is the determination of the EPA that the Corl project is *not* subject to the PSD regulations.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as non-attainment (not attaining the National Ambient Air Quality Standards ("NAAQS")) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments.

Under the June 19, 1978, PSD regulations, the proposed Corl fiberglass plant *is* subject to PSD review for the pollutants particulate matter ("PM") and hydrocarbons ("HC") since the uncontrolled emissions of these pollutants are above the threshold limitation of PSD applicability. However, the Corl plant is *not* subject to PSD review under the September 5, 1979, proposed PSD regulations because the only pollutant for which the source is major is HC and the source is located in an area, Oriskany, which is classified as non-attainment relative to such a pollutant. Since the Corl project satisfies the applicable requirements of the administrative order, it is exempt from having to comply with the requirements of the PSD regulations.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date in which this determination is published in the **Federal Register.** Under Section 307(b)(2) of the Act, this determination shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

All information used in making this determination is available for public inspection at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Sincerely yours,

Charles S. Warren,
Regional Administrator.

Dated: October 17, 1980.

Charles S. Warren,
Regional Administrator.

[FR Doc. 80-35522 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-38-M

[W-FRL 1667-4]

Water Quality Standards; Navigable Waters of the State of North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Revision Approval.

SUMMARY: The Environmental Protection Agency (EPA) has approved water quality standards revisions adopted on August 14, 1980, by the North Carolina Environmental Management Commission. These revisions become part of the State's "Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina.

FOR FURTHER INFORMATION CONTACT: R. F. McGhee, Water Division, Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, GA 30365, 404/881-4793.

SUPPLEMENTARY INFORMATION: On October 7, 1980, EPA approved revisions to North Carolina's water quality standards in accordance with the provisions of Section 303(c) of the Clean Water Act. The EPA-approved revisions reclassify segments of Drowning Creek and the Eno River to protect them as sources of water supply. These revisions become part of the State's "Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina."

Copies of the revisions may be obtained from the North Carolina Department of Natural Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611.

(Sec. 303(c), Clean Water Act (33 U.S.C. 1313(c))

Dated: November 4, 1980.

Eckardt C. Beck,
Assistant Administrator for Water and Waste Management.

[FR Doc. 80-35515 Filed 11-13-80; 8:45 am]
BILLING CODE 6560-29-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-9]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: November 4, 1980.

Cut-Off Date: December 19, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on December 19, 1980. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on December 19, 1980. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,
Secretary.

BPH–800229AE, WSVS–FM, Crewe, Virginia, Southern Virginia Broadcasting Corp. Has: 104.7 MHz; Channel No. 284C; ERP: 40 kW; HAAT: 450 ft. (lic); Req: 104.7 MHz; Channel No. 284C; ERP: 100 kW; HAAT: 450 ft.

BPH–800407AG, KMIT, Mitchell, South Dakota, Mitchell Broadcasting, Ltd.; Has: 105.9 MHz; Channel No. 290C; ERP: 3 kW; HAAT: 300 ft. (Lic); Req: 105.9 MHz; Channel No. 290C; ERP: 64.5 kW; HAAT: 291 ft.

BPH–800529AF, WFFF–FM, Columbia, Mississippi, Haddox Enterprises, Inc.; Has: 96.7 MHz; Channel No. 244A; ERP: 3 kW; HAAT: 100 ft. (Lic); Req: 96.7 MHz; Channel No. 244A; ERP: 3 kW; HAAT: 300 ft.

BPH–800530AF, WAOR, Niles, Michigan, Niles Broadcasting Company; Has: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: 160 ft. (Lic); Req: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: 300 ft.

BPH–800619AG (new), Whitehall, Wisconsin, Intercontinental Communications Corp.; Req: 102.3 MHz; Channel No. 272A; ERP: 1.55 kW; HAAT: 400 ft.

BPH–800807AG (new), Bentonville, Arkansas, Elvis L. Moody; Req: 98.3 MHz; Channel No. 252A; ERP: 3 kW; HAAT: 300 ft.

BPH–800808AB (new), Monroe City, Missouri, Lynnlee Broadcasting Company, Inc.; Req: 101.7 MHz; Channel No. 269A; ERP: 2.4 kW; HAAT: 330 ft.

BPH–800811AH (new), Kingsville, Texas, Megahype Broadcasting; Req: 92.7 MHz; Channel No. 224A; ERP: 3 kW; HAAT: 210 ft.

BPH–800813AC (new), Port Henry, New York, Peter Edward Hunn; Req: 106.3 MHz; Channel No. 292A; ERP: .818 kW; HAAT: −77 ft. (allocated to Moriah, N.Y.).

BPH–800814AB (new), Iron Mountain, Michigan, Iron Mountain-Kingsford B/CTING Co.; Req: 93.1 MHz; Channel No. 226C; ERP: 100 kW; HAAT: 635 ft.

BPH–800815AA (new), Madison, Florida, Madison Communications Corp.; Req: 104.9 MHz; Channel No. 285A; ERP: 3 kW; HAAT: 300 ft.

BPH–800819AE, KWLF, Oakdale, California, Goldrush Broadcasting, Inc.; Req: 95.1 MHz; Channel No. 236B; ERP: 11.2 kW; HAAT: 912 ft.

BPH–800821AB, WRKT–FM, Cocoa Beach, Florida, Triplett B/CTING Co. of Georgia, Inc.; Has: 104.1 MHz; Channel No. 281C; ERP: 30 kW; HAAT: 165 ft. (Lic); Req: 104.1 MHz; Channel No. 281C; ERP: 100 kW; HAAT: 1392 ft.

BPH–800822AE, KFDI–FM, Wichita, Kansas, Wichita Great Empire B/CTING, Inc.; Has: 101.3 MHz; Channel No. 267C; ERP: 100 kW; HAAT: 440 ft. (Lic); Req: 101.3 MHz; Channel No. 267C; ERP: 100 kW; HAAT: 1130 ft.

BPH–800910AN (new), Chelan, Washington, the Northcentral B/CTING Company; Req: 93.5 MHz; Channel No. 228A; ERP: .165 kW; HAAT: 1040 ft.

BPH–800922AA, WDDD, Marion, Illinois, 3–D Communications Corporation; Has: 107.3 MHz; Channel No. 297B; ERP: 50 kW; HAAT: 500 ft. (lic); Req: 107.3 MHz; Channel No. 297B; ERP: 20 kW; HAAT: 720 ft.

BMPH–800930AG, KIJK, Prineville, Oregon, High Lakes Broadcasting Company; Has: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: −98 ft. (CP); Req: 95.3 MHz; Channel No. 237A; ERP: 1.12 kW; HAAT: 456 ft.

BPED–791026AJ, WCVY, Coventry, Rhode Island, Coventry Rhode Island Public Schools; Has: 91.5 MHz; Channel No. 218DS; ERP: .01 kW; HAAT: ft. (lic); Req: 91.5 MHz; Channel No. 218A; ERP: .200 kW; HAAT: 36 ft.

BPED–791121AC, KKUP, Cupertino, California, Assurance Science Foundation; Has: 91.5 MHz; Channel No. 218D; ERP: .042 kW; HAAT: 2290 ft. (lic); Req: 91.5 MHz; Channel No. 218A; ERP: .041 kW; HAAT: 2270 ft.

BPED–791123AB (new), Kalamazoo, Michigan, Bd. of Educ. School Dist. of Kalamazoo; Req: 89.9 MHz; Channel No. 210A; ERP: .140 kW; HAAT: 127 ft.

BPED–791221AL, KVFG, Thibodaux, Louisiana, Nicholls State University; Has: 91.5 MHz; Channel No. 218DS; ERP: .01 kW; HAAT: ft. (lic); Req: 91.3 MHz; Channel No. 217A; ERP: 3 kW; HAAT: 286 ft.

BPED–791226BB, KLHS–FM, Lewiston, Idaho; Independent School District No. 1; Has: 89.1 MHz; Channel No. 206D; TPO: .01 kW. (lic); Req: 88.9 MHz; Channel No. 205A; ERP: .153 kW; HAAT: −810 ft.

BPED–791226CF, KDUR, Durango, Colorado, Fort Lewis College, Has: 91.9 MHz; Channel No. 220D; TPO: .01 kW. (lic); Req: 91.9 MHz; Channel No. 220A; ERP: .223 kW; HAAT: −447 ft.

BPED–791226CH, WONY, Oneonta, New York, State University of New York; Has: 90.9 MHz; Channel No. 215D; TPO: .01 kW. (lic); Req: 90.9 MHz; Channel No. 215A; ERP: .177 kW; HAAT: −72 ft.

BPED–791226CR, KICC, International Falls, Minnesota, Rainy River Community College; Has: 91.5 MHz; Channel No. 218D; TPO: .01 kW. (lic); Req: 91.5 MHz; Channel No. 218A; ERP: .18 kW; HAAT: 99 ft.

BPED–791226CS, WIUV, Castleton, Vermont, Vermont State College; Has: 91.3 MHz; Channel No. 217D; TPO: .01 kW. (lic); Req: 91.3 MHz; Channel No. 217A; ERP: .124 kW; HAAT: −235 ft.

BPED–791226CU, WUTM, Martin, Tennessee, University of Tennessee at Martin; Has: 90.3 MHz; Channel No. 212DS; ERP: .01 kW; HAAT: ft. (lic); Req: 90.3 MHz; Channel No. 212A; ERP: .185 kW; HAAT: 250 ft.

BPED–791226CW, WRMC–FM, Middlebury, Vermont, Middlebury College; Has: 91.7 MHz; Channel No. 219D; TPO: .01 kW. (lic); Req: 91.7 MHz; Channel No. 219A; ERP: .100 kW; HAAT: −37 ft.

BPED–791226CX, WUTS, Sewanee, Tennessee, University of the South; Has: 91.5 MHz; Channel No. 218DS; ERP: .01 kW; HAAT: ft. (lic); Req: 91.3 MHz; Channel No. 217A; ERP: .205 kW; HAAT: 658 ft.

BPED–791226CZ, WWLC, Lynchburg, Virginia, Lynchburg College, Has: 90.3 MHz; Channel No. 212DS; ERP: .01 kW; HAAT: ft. (lic); Req: 90.3 MHz; Channel No. 212A; ERP: .114 kW; HAAT: 35 ft.

BPED–791226DH, KSDB–FM, Manhattan, Kansas, Kansas State University; Has: 88.1 MHz; Channel No. 201DS; ERP: .01 kW; HAAT: ft. (lic); Req: 88.1 MHz; Channel No. 201A; ERP: .102 kW; HAAT: −38 ft.

BPED–791227AD, WETD, Alfred, New York, State University of New York; Has: 91.3 MHz; Channel No. 217D; TPO: kW. (lic); Req: 90.9 MHz; Channel No. 215A; ERP: .360 kW; HAAT: 285 ft.

BPED–791227AP, WDUB, Granville, Ohio, Denison University; Has: 90.9 MHz; Channel No. 215DS; ERP: .01 kW; HAAT: ft. (lic); Req: 91.1 MHz; Channel No. 216A; ERP: .100 kW; HAAT: 169 ft.

BPED–791227AW, WSYC–FM, Shippensburg, Pennsylvania, Shippensburg State College; Has: 88.7 MHz; Channel No. 204D; TPO: .01 kW. (lic); Req: 88.7 MHz; Channel No. 204A; ERP: .129 kW; HAAT: −157 ft.

BPED–791231BB, WBOR, Brunswick, Maine, the Bowdoin College; Has: 91.1 MHz; Channel No. 216D; TPO: .01 kW. (lic); Req: 91.1 MHz; Channel No. 216A; ERP: .300 kW; HAAT: 166 ft.

BPED–800610AA (new), Batavia, Ohio, WCNE Educational Community Radio Inc.; Req: 88.7 MHz; Channel No. 204B; ERP: 3.5 kW; HAAT: 190 ft.

BMPED–800918, KAZI, Austin, Texas, Austin Community Radio; Has: 88.7 MHz; Channel No. 204A; ERP: .13 kW; HAAT: 1120 ft. (CP); Req: 88.7 MHz; Channel No. 204A; ERP: 1.62 kW; HAAT: 345 ft.

[FR Doc. 80-35576 Filed 11-13-80; 8:45 am]
BILLING CODE 6712-01-M

[Report No. B-9]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: November 4, 1980.

Cut-Off Date: December 19, 1980.

NOTICE is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for

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filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on December 19, 1980. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on December 19, 1980. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH–791012AH (New), South Burlington, Vermont, South Burlington Communications Corp.; Req: 95.3 MHz; Channel No. 237A; ERP: 1.6 kW; HAAT: 394 ft.

BPH–800130AI (New), Winnsboro, Texas, Winnsboro Broadcasting Co.; Req: 104.9 MHz; Channel No. 285A; ERP: 3 kW; HAAT: 300 ft.

BPH–800213AD (New), Russellville, Arkansas, River Valley Broadcasting Company; Req: 100.9 MHz; Channel No. 265A; ERP: 3 kW; HAAT: 212.2 ft.

BPH–800214AG (New), Russellville, Arkansas, Judy K. Purtle; Req: 100.9 MHz; Channel No. 265A; ERP: 3 kW; HAAT: 300 ft.

BPH–800220AL (New), Dubach, Louisiana, Dubach Broadcasting Company; Req: 97.7 MHz; Channel No. 249A; ERP: 3 kW; HAAT: 300 ft.

BPH–800312AG (New), Pittston, Pennsylvania, Charles T. & Genevieve R. Morgan; Req: 102.3 MHz; Channel No. 272A; ERP: 3 kW; HAAT: –29 ft.

BPH–800418AL (New), Sedona, Arizona, Red Rock Broadcasting Company; Req: 100.1 MHz; Channel No. 261A; ERP: .347 kW; HAAT: 764 ft.

BPH–800507AC (New), Laramie, Wyoming, Charlesco, Inc.; Req: 95.1 MHz; Channel No. 236C; ERP: 100 kW; HAAT: 1096 ft.

BPH–800529AB (New), Blue Earth, Minnesota, Logos Communications, Inc.; Req: 100.9 MHz; Channel No. 265A; ERP: 3 kW; HAAT: 245 ft.

BPH–800627AB (New), Thomaston, Georgia, Sunbelt Communications, Inc.; Req: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: 300 ft.

BPH–800701AB (New), Reform, Alabama, Rego Broadcasting Company; Req: 101.7 MHz; Channel No. 269A; ERP: 3 kW; HAAT: 300 ft.

BPH–800703AB (New), Warrensburg, Missouri, Grapevine Communications, Inc.; Req: 105.5 MHz; Channel No. 288A; ERP: 3 kW; HAAT: 300 ft.

BPH–800708AB (New), Brownfield, Texas, Brownfield Radio, Inc.; Req: 103.9 MHz; Channel No. 280A; ERP: 3 kW; HAAT: 227.7 ft.

BPH–800708AC (New), Grundy Center, Iowa, Starrwhite Broadcasting Company; Req: 97.7 MHz; Channel No. 249A; ERP: 3 kW; HAAT: 300 ft.

BPH–800710AA (New), Lewiston, Idaho, Nez Perce Broadcasting; Req: 106.9 MHz; Channel No. 295C; ERP: 87.8 kW; HAAT: 960.3 ft.

BPH–800714AJ (New), Bridgeport, Texas, Golden Venture, Inc.; Req: 96.7 MHz; Channel No. 244A; ERP: 3 kW: HAAT: 300 ft.

BPH–800715AC (New), Pinconning, Michigan, Wigwam Bay Broadcasting, Inc.; Req: 100.9 MHz; Channel No. 265A; ERP: 3 kW; HAAT: 300 ft.

BPH–800731AC (New), Tahoe City, California, Cascade Communications Company; Req: 96.5 MHz; Channel No. 243B; ERP: 3 kW; HAAT: 300 ft.

BPH–800808AF (New), Guymon, Oklahoma, High Plains Broadcasting Corporation; Req: 92.7 MHz; Channel No. 224A; ERP: 3 kW; HAAT: 300 ft.

BPH–800811AG (New), Calexico, California, Hispanic Broadcasting Company; Req: 97.7 MHz; Channel No. 249A; ERP: 3 kW; HAAT: 190 ft.

BPH–800813AA (New), Yucca Valley, California, Shoblom Broadcasting, Inc.; Req: 106.9 MHz; Channel No. 295B; ERP: 5.7 kW; HAAT: 1176 ft.

BPH–800825AG (New), Yucca Valley, California, Corinthians XIII Broadcasting Co.; Req: 106.9 MHz; Channel No. 295B; ERP: 4.7 kW; HAAT: 1275 ft.

BPH–800827AA (New), Yucca Valley, California, Buena Vista Broadcasting Co.; Req: 106.9 MHz; Channel No. 295B; ERP: 5.89 kW; HAAT: 1175 ft.

BPH–800827AB (New), Kirksville, Missouri, Admiral Broadcasting Corporation; Req: 93.5 MHz; Channel No. 228A; ERP: .908 kW; HAAT: 505 ft.

BPH–800828AA (New), Havre, Montana, Hi-Line Radio Fellowship, Inc.; Req: 95.1 MHz; Channel No. 236C; ERP: 100 kW; HAAT: 793 ft.

BPH–800828AB (New), South Haven, Michigan, Sound Media Incorporated; Req: 98.3 MHz; Channel No. 252A; ERP: 3 kW; HAAT: 300 ft.

BPH–800828AC (New), Enid, Oklahoma, Haskin Broadcasting Corp.; Req: 103.1 MHz; Channel No. 276A; ERP: 3 kW; HAAT: 300 ft.

BPH–800828AD (new), Blue Earth, Minnesota, Minn-Iowa Radio, Inc. Req: 100.9 MHz; Channel No. 265A; ERP: 3 kW; HAAT: 216 ft.

BPH–800828AF (new), Breckenridge, Texas, Breckenridge Broadcasting Co. Req: 93.5 MHz; Channel No. 228A; ERP: 3kW; HAAT: 298 ft.

BPH–800828AG (new), La Follette, Tennessee, La Follette Broadcasters, Inc. Req: 104.9 MHz; Channel No. 285A; ERP: .120 kW; HAAT: 1,240 ft.

BPH–800828AI (new), Homosassa Springs, Florida, Oz Broadcasting Co. Req: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: 300 ft.

BPH–800828AJ (new), Elizabeth City, North Carolina, Cambell Broadcasting, Inc. Req: 96.7 MHz; Channel No. 244A; ERP: 3 kW; HAAT: 291 ft.

BPH–800828AL (new), Gillette, Wyoming, Sears B/CTING of Wyoming, Inc. Req: 100.7 MHz; Channel No. 264C; ERP: 100 kW; HAAT: 517 ft.

BPH–800829AA (new), Tahoe City, California, Felicia F. Mindte & Robert F. Mindte. Req: 96.5 MHz; Channel No. 243B; ERP: 1.8 kW; HAAT: 2,187 ft.

BPH–800829AB (new), Lewiston, Idaho, Seaport Broadcasters, Inc., Req: 106.9 MHz; Channel No. 295C; ERP: 100 kW; HAAT: 1,230 ft.

BPH–800829AC (new), La Follette, Tennessee, Primo Communications, Inc., Req: 104.9 MHz; Channel No. 285A; ERP: .794 kW; HAAT: 600 ft.

BPH–800829AD (new), Tahoe City, California, Tahoe City Wireless, Ltd. Req: 96.5 MHz; Channel No. 243B; ERP: 1.38kW; HAAT: 2,107 ft.

BPH–800829AE (new), Tallulah, Louisiana, Mia Broadcasting Co. Req: 104.9 MHz; Channel No. 285A; ERP: 3 kW; HAAT: 290 ft.

BPH–800829AF (new), Elizabeth City, North Carolina, Town & Country Broadcasting, Inc. Req: 96.7 MHz; Channel No. 244A; ERP: 3 kW; HAAT: 290.5 ft.

BPH–800829AG (new), Yucca Valley, California, Total Desert Broadcasting, Inc. Req: 106.9 MHz; Channel No. 295B; ERP: 5.7 kW; HAAT: 1,190 ft.

BPH–800829AH (new), Knob Noster, Missouri, Warrensburg Broadcasters, Inc. Req: 105.5 MHz; Channel No. 288A; ERP: 3 kW; HAAT: 300 ft. Allocated to Warrensburg, Mo.

BPH–800829AI (new), Tahoe City, California, Minority B/Cters of Tahoe, Inc. Req: 96.5 MHz; Channel No. 243B; ERP: 1.8 kW; HAAT: 2,181 ft.

BPH–800829AJ (new), Guymon, Oklahoma, Texas County Broadcasting. Req: 92.7 MHz; Channel No. 224A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829AK (new), Fairbanks, Alaska, Prime Time of Alaska, Inc., Req: 102.5 MHz; Channel No. 273C; ERP: 25 kW; HAAT: – 89.5 ft.

BPH–800829AL (new), South Burlington, Vermont, Champlain Valley B/Cting Corp. Req: 95.3 MHz; Channel No. 273A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829AM (new), Tahoe City, California, North Tahoe Broadcasting Co. Req: 96.5 MHz; Channel No. 243B; ERP: 1.8 kW; HAAT: 2,170 ft.

BPH–800829AN (new), Crookston, Minnesota, Agassiz Broadcast Group, Inc. Req: 96.1 MHz; Channel No. 241C; ERP: 100 kW; HAAT: 455 ft.

BPH–800829AO (new), Desert Hot Springs, California, Royce International B/Cting Co. Req: 106.9 MHz; Channel No. 295B; ERP: 1.6 kW; HAAT: 2000 ft. (Allocated to Yucca Valley, Ca.)

BPH–800829AP (new), Wickenburg, Arizona, Shoblom Broadcasting, Inc. Req: 105.5 MHz; Channel No. 288A; ERP: 3 kW; HAAT: – 156 ft.

BPH–800829AR (new), Crookston, Minnesota, Joyce L. Hagen. Req: 96.1 MHz; Channel No. 241C; ERP: 100 kW; HAAT: 442 ft.

BPH–800829AS (new), Laramie, Wyoming, Curt Gowdy Broadcasting Corp. Req: 95.1 MHz; Channel No. 236C; ERP: 100 kW; HAAT: 1,011 ft.

BPH–800829AT (new), Havre, Montana, Havre Broadcasting Corp. Req: 95.1 MHz; Channel No. 236C; ERP: 100 kW; HAAT: 545 ft.

BPH–800829AU (new), Crookston, Minnesota, Tex-Linc Media, Inc. Req: 96.1 MHz; Channel No. 241C; ERP: 100 kW; HAAT: 446 ft.

BPH–800829AV (new), Nevada, Missouri, Nevada Broadcasting Corp. Req: 97.7 MHz; Channel No. 249A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829AW (new), Tahoe City, California, The Women's Network. Req: 96.5 MHz; Channel No. 243B; ERP: 1.9 kW; HAAT: 2,155 ft.

BPH–800829AY (new), Gillette, Wyoming, Octagon Corporation. Req: 100.7 MHz; Channel No. 264C; ERP: 100 kW; HAAT: 610 ft.

BPH–800829BA (new), I Cline Village, Nevada, North Lake Tahoe B/Cting Co. Req: 93.5 MHz; Channel No. 228A; ERP: .7 kW; HAAT: 629 ft.

BPH–800829BB (new), Homosassa Springs, Florida, Seven Rivers Broadcasting, Inc. Req: 95.3 MHz; Channel No. 237A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829BC (new), Gillette, Wyoming, Quality Communications, Inc. Req: 100.7 MHz; Channel No. 264C; ERP: 98.3 kW; HAAT: 617 ft.

BPH–800829BD (new), Dubach, Louisiana, Dubach Radio, Inc. Req: 97.7 MHz; Channel No. 249A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829BE (new), Tahoe City, California, North Shore Broadcasters. Req: 96.5 MHz; Channel No. 243B; ERP: 1 kW; HAAT: 2,852 ft.

BPH–800829BF (new), Covington, Indiana, Covington Area Broadcasting, Inc. Req: 103.1 MHz; Channel No. 276A; ERP: 3 kW; HAAT: 300 ft.

BPH–800829AL (new), Taos, New Mexico, Community Broadcasting Co. of Taos. Req: 101.7 MHz; Channel No. 269A; ERP: 3 kW; HAAT: – 894 ft. (Mutually exclusive with renewal of KXRT)

[FR Doc. 80–35577 Filed 11–13–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Agreement No. T–2745–1]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not consititue a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. T–2745, between Canton Company of Baltimore (and its subsidiaries Canton Railroad Company and The Cottman Company) (Lessor), and the Transamerican Trailer Transport, Inc. (TTT) (now known as Puerto Rico Maine Management, Inc.), provides for the lease to TTT of of Pier 10 and two parcels of improved inland areas at Canton, Baltimore Harbor, for use as a waterfront shipping terminal, trucking and rail freight handling and forwarding terminal and uses incidental thereto. Due to condemnation proceedings by the City of Baltimore of certain portions of the leased property under the original agreement, Agreement No. T–2745–1 was filed to (1) delete from the lease property that which has been condemned; (2) provide for the rental of adjacent substitute property and for certain construction and improvement work to be performed on such property; and (3) adjust the rental payments to indicate the changed circumstances occasioned by the condemnation as indicated in the Agreement.

The OEA concludes the Commission's final resolution of Agreement No. T–2745–1 should cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment December 4, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80–35594 Filed 11–13–80; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Fastway Forwarders, Inc., 7226 NW 79th Avenue, Medley, FL 33166.
Officers: Roy Leon, Chairman of the Board, Manuel Leon, President, Leonor A. Ferreiro, Vice President, Oscar Ferreiro, Secretary/Treasurer.

Transnational Forwarding Co., Inc., 98 Poinier Street, Newark, NJ.
Officers: Armand Ventura, President/Treasurer, Stephen Larzelere, Secretary.

Hirdes International (David Edward McDermott, dba), 5097 N. Elston Avenue, Chicago, IL 60630.

Harbour International, Inc., 86 Maple St., P.O. Box 4, Sugar Grove, IL 60554.
Officers: Robert C. Masterson, Jr., President, Nancy S. Masterson, Vice President.

Jeong Ha Shinn, c/o Korea Shipping America, Inc., 71 Broadway, New York, NY 10006.

MIA International Forwarders, Inc., 7119 SW 105th Ct., Miami, FL 33173.
Officers: Rodolfo D. Gonzales, President, Concepcion G. Gonzalez, Secretary, Teresa Santana, Vice President, Rodolfo L. Gonzales, Vice President.

Harold Lloyd Burke, 14017 Barner Avenue, Sylmar, CA 91342.

John Victor Garolia, 5465 E. 2nd St., #16, Long Beach, CA 90803.

Inter-Commerce Enterprises, Inc., P.O. Box 53294, Houston, TX 77052.
Officers: David W. Gray, President, Janis M. Gray, Secretary, Gary Fidelman, Vice President, Sandra K. Fidelman, Treasures.

Ross Freight Company, Inc., 10402 S. La Cienega Blvd., Inglewood, CA 90304.
Officers: Aida S. Gallanders, Director, Philip B.R. Gallanders, Director, David Gallanders, Director, Aida Caballero, Director.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

Dated: November 10, 1980.

[FR Doc. 80–35595 Filed 11–13–80; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1733]

Interlands Traffic Consultants, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Interlands Traffic Consultants, Inc., 8000 NW 56th St., Miami, FL 33166, FMC No. 1733, was cancelled effective November 2, 1980.

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By letter dated October 8, 1980, Interlands Traffic Consultants, Inc., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1733 would be automatically revoked or suspended unless a valid bond was filed with the Commission.

Interlands Traffic Consultants, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1733 be and is hereby revoked effective November 2, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1773, issued to Interlands Traffic Consultants, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Interlands Traffic Consultants, Inc.

Daniel J. Connors,

Director, Bureau of Certification & Licensing.

[FR Doc. 80-35596 Filed 11-13-80; 8:45 am]

BILLING CODE 6730-01-M

Lykes Bros. Steamship Co., Inc./ African Coasters (Pty/Ltd.), Connecting Carrier Agreement; Notice of Cancellation

Filing Party: R. J. Finnan, Chief Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 9229.

Summary: On October 17, 1980, the Commission received notice of the termination of participation of Lykes Bros. Steamship Co., Inc., in Agreement No. 9299. The agreement will be cancelled effective October 17, 1980, the date the notice of cancellation was received by the Commission.

Filing Party: R. J. Finnan, Chief Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 9303.

Summary: On October 17, 1980, the Commission received notice of the termination of participation of Lykes Bros. Steamship Co., Inc., in Agreement No. 9303. The agreement will be cancelled effective October 17, 1980, the date the notice of cancellation was received by the Commission.

Portnica Shipping Company, Inc./ Seatrain Lines, Inc., Connecting Carrier Agreement; Notice of Cancellation

Filing Party: Peter J. King, Esquire, Coles & Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement No. 9556.

Summary: On September 15, 1980, the Commission received notice of the termination of Seatrain International, S.A., in Agreement No. 9556. The agreement will be cancelled effective September 15, 1980, the date the notice of cancellation was received by the Commission.

Seatrain Lines/Seatrain Lines of Puerto Rico, Connecting Carrier Agreement: Notice of Cancellation

Filing Party: Peter J. King, Esquire, Seatrain International, S.A., 1000 Connecticut avenue, N.W., Washington, D.C. 20036.

Agreement No. 9759.

Summary: On September 15, 1980, the Commission received notice of the termination of participation of Seatrain International S.A. in Agreement No. 9759. The agreement will be cancelled effective September 15, 1980, the date the notice of cancellation was received by the Commission.

A. P. Moller-Maersk Line/Japan Line, Ltd., Connecting Carrier Agreement; Notice of Cancellation

Filing Party: David Snow, Manager, Japan Line (U.S.A.). Ltd., One California Street, San Francisco, California 94111.

Agreement No. 9868.

Summary: On October 6, 1980, the Commission received notice of the termination of participation of Japan Line (U.S.A.) Ltd., in Agreement No. 9868. The agreement will be cancelled effective October 6, 1980, the date the notice of cancellation was received by the Commission.

American Export Lines, Inc./Seatrain Lines, Inc., Connecting Carrier Agreement; Notice of Cancellation

Filing Party: Peter J. King, Esquire, Seatrain International, S.A., 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement No. 9996.

Summary: On September 15, 1980, the Commission received notice of the termination of participation of Seatrain International, S.A., in Agreement No. 9996. The agreement will be cancelled effective September 15, 1980, the date the notice of cancellation was received by the Commission.

The Scindia Steam Navigation Co., Ltd./Seatrain Lines, Inc., Connecting Carrier Agreement; Notice of Cancellation

Filing Party: Peter J. King, Esquire, Seatrain International, S.A., 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement No. 10011.

Summary: On September 15, 1980, the Commission received notice of the termination of participation of Seatrain International, S.A. in agreement No. 10011. The agreement will be cancelled effective September 15, 1980, the date the notice of cancellation was received by the Commission.

Nedlloyd America Service/Green R Line (Pty) Ltd., Connecting Carrier Agreement; Notice of Cancellation

Filing Party: M. J. Alberga, General Agent, Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

Agreement No. 10180.

Summary: On September 16, 1980, the Commission received notice of the termination of participation of Needlloyd America Service in Agrrement No. 10180. The agreement will be cancelled effective September 16, 1980, the date of the notice of cancellation was received by the Commission.

East Coast South America/New York Free Time Agreement; Notice of Cancellation

Filing Party: Paul B. Thornquist, Chairman, East Coast South America/New York, Free Time Agreement, 17 Battery Place, New York, New York, 10004.

Agreement No. 7525.

SUMMARY: On October 7, 1980, the Commission received notice of the cancellation of Agreement No. 7525, East Coast South America/New York Free Time Agreement, effective November 15, 1980.

By order of the Federal Maritime Commission.

Dated: November 10, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35597 Filed 11-13-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or

gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 5, 1980.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

Country Bank Shares Corp., Janesville, Wisconsin, (general insurance activities; Wisconsin): to continue to act as an agent or broker for the sale of general insurance in a community of less than 5,000 people. These activities would continue to be conducted from an office in The Montello State Bank, 24 West Street, Montello, Wisconsin, and service the community of Montello, Wisconsin, and the surrounding area within a 15-mile radius. Comments on this application must be received by December 1, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Wells Fargo & Company, San Francisco, California (credit property, casualty and homeowners insurance agency activities; Arizona, Arkansas, Kansas, Louisiana, Missouri, Nevada, New Mexico, Oklahoma, Texas, and Utah): proposes to engage through its subsidiary, Wells Fargo Insurance Services, in acting as agent for credit property, casualty and homeowners insurance and associated liability insurance, related to extensions of credit or the provision of other financial services by Wells Fargo & Company or its subsidiaries, to the extent permissible under applicable state insurance laws or regulations. These activities would be conducted from an office in Scottsdale, Arizona, serving Arizona, Oklahoma, Nevada, Utah, Texas, Kansas, Missouri, Arkansas, New Mexico and Louisiana.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35503 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

European American Bank International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act Establishment of U.S. Branch of a Corporation To Be Organized Under Section 25(a)

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as European American Bank International, Miami, Florida. European American Bank International would operate as a subsidiary of European American Bank & Trust Company, New York, New York. The proposed corporation has also applied for the Board's approval under § 211.4(c)(1) of Regulation K (12 CFR 211.4(c)(1)) to establish a branch in Los Angeles, California. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 cFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35507 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

First Breck Holding Company; Formation of Bank Holding Company

First Breck Holding Company, Breckenridge, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of First National Bank of Breckenridge, Breckenridge, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. An person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35508 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Harrisburg Bancshares, Inc.; Formation of Bank Holding Company

Harrisburg Bancshares, Inc., Harrisburg, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.73 per cent or more of the voting shares of The Harrisburg National Bank, Harrisburg, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35508 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

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Marine National Bancorporation; Formation of Bank Holding Company

Marine National Bancorporation, Jacksonville, Flordia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.6 per cent or more of the voting shares of Marine National Bank of Jacksonville, Jacksonville, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35499 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Morning Sun Bank Corp.; Formation of Bank Holding Company

Morning Sun Bank Corporation, Morning Sun, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.3 percent or more of the voting shares of Iowa State Bank, Morning Sun, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35502 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Nimrod Enterprises, Inc.; Formation of Bank Holding Company

Nimrod Enterprises, Inc., Foley, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.2 percent or more of the voting shares of State Bank of Foley, Foley, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35504 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Old Kent Financial Corp.; Acquisition of Bank

Old Kent Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent or more of the voting shares of Old Kent Bank of Kalamazoo, Kalamazoo, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 6, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35550 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Pacific Western Bancshares; Formation of Bank Holding Company

Pacific Western Bancshares, San Jose, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of Pacific Valley Bank, San Jose, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Goevernor's of the Federal Reserve System, November 4, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35501 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorp, Inc.; Acquisition of Bank

Peoples Bancorp, Inc., Marietta, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The First National Bank of Caldwell, Caldwell, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of

Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 7, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35549 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Pipestone Bancshares, Inc.; Formation of Bank Holding Company

Pipestone Bancshares, Inc., Pipestone, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 87.57 percent of the voting shares of First National Bank of Pipestone, Pipestone, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35505 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Southwest Security, Inc., Formation of Bank Holding Company

Southwest Security, Inc., Natchez, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Natchez Bank, Natchez, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 4, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35500 Filed 11-13-80; 8:45 am]

BILLING CODE 6210-01-M

Amended Order for Hearing Regarding Application To Engage in Certain Data Processing and Electronic Funds Transfer Activities and Possible Rulemaking With Respect Thereto

CROSS REFERENCE: For a document amending FRS's order for hearing regarding application to engage in certain data processing, see FR Doc. 80-35643 published in the Proposed Rules section of this issue. The document amends an order which was previously published as a Notice on June 19, 1980 (45 FR 41533). Refer to the table of contents at the front of this issue under "Federal Reserve System" to determine the correct page number.

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[H-80-1]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to dispose of surplus real property at the Wappapello Lake and Reservoir Project on the St. Francis River, Missouri, to owners of adjoining privately owned land who have encroached thereon.

2. *Effective date.* The delegation of authority is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by section 205(d) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(d)), authority is delegated to the Secretary of Defense to determine that excess real property and related personal property under the control of the Department of the Army at the Wappapello Lake and Reservoir Project on the St. Francis River, Missouri, which owners of adjoining privately owned lands have encroached upon in the development of their properties, is not required for the needs and responsibilities of Federal agencies, and where he considers such action appropriate, to dispose of that property by negotiated sale to the encroaching private property owners.

b. The Secretary of Defense may redelgate this authority to any officer, official, or employee of the Department of the Army.

c. The authority conferred in this delegation shall be exercised in accordance with the Federal Property and Administrative Services Act of 1949, as amended, other applicable statutes, and regulations issued pursuant thereto. In this regard, explanatory statements of the circumstances of the transactions, where required, shall be submitted to the General Services Administration (GSA) for transmittal to the Senate Committee on Governmental Affairs and the House Committee on Government Operations as prescribed by Federal Property Management Regulations (FPMR) 101-47.304-12.

d. The Department of Defense, as the disposal agency, shall be responsible for complying with the following: (1) the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.), Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality," as amended by Executive Order 11991, Relating to Protection and Enhancement of Environmental Quality; (2) section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); (3) Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment"; (4) Executive Order 11988 of May 24, 1977, entitled "Floodplain Management"; (5) Executive Order 11990 of May 24, 1977, entitled "Protection of Wetlands"; (6) 40 CFR 761 entitled "Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions"; (7) regulations issued by the Council on Environmental Quality (40 CFR 800); (8) the recommendation contained in House Report No. 95-1053, "FAA Determination of 'No Hazard' For Structures Near Airports," concerning the protection of navigable airspace; and (9) for securing, in accordance with FPMR 101-47.303-4, any appraisal

deemed necessary by the Secretary, if appropriate.

e. A copy of any documents executed under this delegation shall be forwarded immediately to the General Services Administration (DR), Washington, DC 20408.

Dated: November 4, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-35425 Filed 11-13-80; 8:45 am]

BILLING CODE 6820-96-M

National Archives Advisory Council; Qualifications Review Panel for the Position of Assistant Archivist for the National Archives Subcommittee

Notice is hereby given that the Qualifications Review Panel for the position of Assistant Archivist for the National Archives, will meet on December 12, 1980 from 9:30 a.m. to adjournment in Room 105, National Archives and Records Service, 8th and Pennsylvania Avenue, N.W., Washington, DC 20408.

The Panel will:

1. Develop selection criteria for ths position of Assistant Archivist for the National Archives.

2. Review applications for position, rank applicants, and make recommendations to the Archivist of the United States.

The meeting on December 12 will be open to the public during the discussion of item 1, above. Panel deliberations under item 2, above, are closed in accordance with exemption (6) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). For further information contact Robert R. Brookhart, General Services Administration (NS), Washington, DC 20408 (202–523–3616).

Issued in Washington, D.C., on November 4, 1980.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 80-35414 Filed 11-13-80; 8:45 am]

BILLING CODE 6820-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80D-0417]

Investigation of Drugs in Humans; Availability of Clinical Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a clinical guideline which outlines procedures and standards for investigating certain drugs in humans to determine drug safety and effectiveness. This notice concerns the guideline for clinical evaluation of lipid-altering agents in adults and children. The guideline is intended to inform interested persons of what the Bureau of Drugs views as acceptable procedures and standards for conducting clinical investigations of a specific class of drugs.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4330.

SUPPLEMENTARY INFORMATION: FDA is making available a guideline on the investigation of drugs in humans. The guideline has been prepared by the Bureau of Drugs with assistance from FDA scientific advisory committees and other consultants to the agency. The guideline contains current acceptable approaches to the study of a specific class of investigational drugs in humans.

This notice of availability of a guideline is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to outline procedures or standards of general applicability that are acceptable to FDA for a subject matter that falls within the laws administered by FDA. Although this guideline does not contain legal requirements, a person may be assured that in following an agency guideline the procedures and standards will be acceptable to FDA. A person may also choose to use alternative procedures or standards for which there is scientific rationale even though they are not provided for in the guideline. A person who chooses to use procedures or standards not in a guideline may discuss the matter further with the agency to prevent an expenditure of money and effort on work that FDA may later determine to be unacceptable.

The guideline subject to this notice is entitled "Guidelines for the Clinical Evaluation of Lipid-Altering Agents in Adults and Children," HHS (FDA) No. 80–3103.

Copies of the guideline can be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402, at the cost of $1.50 for each document. Orders for copies must include the GPO stock number 017–012–00288–9.

Interested persons may submit written comments on the guideline to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville MD 20857. Such comments will be considered in determining whether further amendments to or revisions of the guideline are warranted. Comments should be in four copies (except that individuals may submit single copies), identified with the docket number found in brackets in the heading of this document. The guideline and comments received may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-35239 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. December 1 and 2, 9 a.m., Conference Rm. I and J, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 1, 9 a.m. to 10 a.m.; open committee discussion, December 1, 10 a.m. to 5 p.m., December 2, 9 a.m. to 5 p.m.; Joan C. Standaert, Bureau of Drugs (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Prostaglandin E_1, (PGE_1), Prostin VR, Sterile Solution (NDA 18–484) proposed for treatment to maintain patent ductus arteriosis by Upjohn Co.; Nifedipine (NDA 18–482), a coronary vasodilator proposed for use in angina by Pfizer; Verapamil (Isoptin) (NDA 18–485) a coronary vasodilator proposed for use as an anti-arrhythmic agent by Knoll; and Bumex (Bumetanide) (NDA 18–255 tablets and NDA 18–266 injectable) proposed for use as a diuretic by Hoffman-LaRoche.

Application for reimbursement. Must be received by November 14, 1980.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. December 4 and 5, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, December 4, 9 a.m. to 12 m.; open public hearing, December 4, 12:45 p.m. to 1:45 p.m.; open committee discussion, December 4, 1:45 p.m. to 5 p.m., December 5, 9 a.m. to 1 p.m.; Timothy A. Ulatowski, Bureau of Drugs (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss subcommittee status reports; NDA 18–454, Hepato-Scan (Tc 99m Lidofenin Kit), and NDA 18–467, Hepatolite (Tc 99m Disofenin Kit).

Application for reimbursement. Must be received by November 26, 1980.

Miscellaneous Internal Drug Products Panel

Date, time, and place. December 13 and 14, 9 a.m., Sheraton Inn, Silver Spring, MD.

Type of meeting and contact person. Open public hearing, December 13, 9 a.m. to 10 a.m.; open committee discussion, December 13, 10 a.m. to 4:30 p.m., December 14, 8 a.m. to 3 p.m.; John R. Short, Bureau of Drugs (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6156.

General function of the Committee. The Committee reviews and evaluates data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who wish to make such a presentation should notify the contact person before December 8, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by December 1, 1980.

Miscellaneous External Drug Products Panel

Date, time, and place. December 14 and 15, 9 a.m., Pennsylvania Room, Holiday Inn, Bethesda, MD (December 14), Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (December 15).

Type of meeting and contact person. Open committee discussion, December 14, 9 a.m. to 4:30 p.m.; open public hearing, December 15, 9 a.m. to 10 a.m.; open committee deliberations, December 15, 10 a.m. to 4:30 p.m.; John T. McElroy, Bureau of Drugs (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1430.

General function of the Committee. The Committee reviews and evaluates data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who wish to make such a presentation should notify the contact person before December 9, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Application for reimbursement. Must be received by December 1, 1980.

Ophthalmic Device Section of the Ophthalmic: Ear, Nose, and Throat: and Dental Devices Panel

Date, time, and place. December 18 and 19, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and contact person. Open public hearing, December 18, 9 a.m. to 10 a.m.; open committee discussion, December 18, 10 a.m. to 5 p.m.; open public hearing, December 19, 9 a.m. to 10 a.m.; open committee discussion, December 19, 10 a.m. to 5 p.m.; Max W. Talbott, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7538.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to intraocular lenses and the intraocular lens investigation (December 18) and contact lenses and contact products (December 19). Those desiring to make formal presentations should notify the contact person listed above by December 10, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Section will conduct reviews of premarket approval applications of intraocular lenses and will discuss other statistical/epidemiological questions pertaining to intraocular lenses (December 18); and will conduct reviews of premarket approval applications for contact lens products and prototype package inserts, and patient information booklets. Fitting guides for contact lenses and solution will also be presented.

Applications for reimbursement. Must be received by December 4, 1980.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee

discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of the meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE–90), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–3170.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: November 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–35416 Filed 11–13–80; 8:45 am]

BILLING CODE 4110–03–M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. December 8 and 9, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 8, 9:30 a.m. to 10:30 a.m.; open committee discussion, December 8, 10:30 a.m. to 4:30 p.m., December 9, 9 a.m. to 10 a.m.; closed presentation of data, December 9, 10 a.m. to 12:30 p.m.; open committee discussion, December 9, 1:30 p.m. to 3 p.m.; Conrad J. Ledet, Bureau of Drugs (HFD–160), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301–443–3500.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the action report on Theophylline/Ephedrine combinations; Beta$_2$ agonists/Theophylline combinations; Beta$_2$ agonists tumorigenicity; bronchodilator testing guidelines; dosage reproducibility in aerosol delivery systems; Vanceril for croup; Beta$_2$ Agonists/Theophylline combinations; and Oral Cromolyn Sodium.

Closed presentation of data. The Committee will discuss the action report on Lodoxamide; Lodoxamide (Upjohn IND's 10,570; 11,151; 11,258; and 13,871); Proventil (albuterol) Inhaler (Schering NDA 17–559); and Ventolin (albuterol) Inhaler (Glaxo NDA 18–473). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by November 26, 1980.

Anesthetic and Life Support Drugs Advisory Committee

Date, time, and place. December 11 and 12, 9:30 a.m., Conference Rm. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 11, 9:30 a.m. to 10:30 a.m.; open committee discussion, December 11, 10:30 a.m. to 5 p.m.; closed presentation of data, December 12, 9:30 a.m. to 12 m.; John M. Singer, Bureau of Drugs (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–4434–3560.

General function of the Committee. The Committee reviews and evaluates data on the safety the effectiveness of marketed and investigational prescription drugs for use in the fields of anesthesiology and surgery.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss a subcommittee report on perinatal effects of drugs; the adverse experiences of intended epidural injection of chloriprocaine; and the labeling of anesthetic drugs and adjuncts with regard to malignant hyperthermia.

Closed presentation of data. The Committee will discuss IND 17,269. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by November 28, 1980.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE–90), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch (formerly the Hearing Clerk's office) as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–3170.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: November 6, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80–35417 Filed 11–13–80; 8:45 am]

BILLING CODE 4110–03–M

American Cyanamid Co., Enheptin Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of Enheptin Premix (containing 2-amino-5-nitrothiazole) in turkey feed as an aid in prevention of blackhead. The sponsor, American Cyanamid Co., requested this action.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, is sponsor of NADA 7–409 which provides for use of Enheptin Premix in turkey feed as an aid in prevention of blackhead (histomoniasis). The application was originally approved May 11, 1950. In a letter dated April 18, 1979, the firm requested that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 7–409 and all supplements for Enheptin Premix is

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hereby withdrawn, effective November 24, 1980.

Dated: November 5, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-35415 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-03-M

Office of Human Development Services

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Creating An Age Integrated Society—Implications for Societal Institutions will hold their meeting on Tuesday, November 18 and Wednesday, November 19, 1980 from 9:30 to 5:00 p.m. each day in Town and Country Hotel, The Esquire Room, 500 Hotel Circle North, San Diego, California 92138.

The purpose of this meeting is to review drafts of papers that the Technical Committee members and consultants have developed.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation. This notice has been delayed due to a necessity awaiting release of meeting space in San Diego.

Dated: November 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35578 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Employment is holding their meeting on November 23, 1980 from 2:30 to 4:00 p.m. in Town and Country Hotel, Fashion Valley Road, Island Room, San Diego, California.

The purpose of this meeting is to exchange views with interested persons on the major issues affecting the employment of older workers over the next thirty years.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation. This notice has been delayed due to a necessity awaiting release of meeting space in San Diego.

Dated: November 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35579 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Media will meet on December 2, 1980 from 9:30 a.m. until 3:30 p.m. at the Equitable Life Assurance Building, 1285 Avenue of America, New York City 10019.

The purpose of this meeting is to bring together media specialists-television, print media, advertising, marketing and research for a discussion of media and the aging and to gather the best available information.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-34580 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Research is holding their meeting on Monday, December 1, 1980 and Tuesday December 2, 1980 from 9:00 a.m. to 4:00 p.m. each day in Rooms 525A and 529A in the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of this meeting is to work on Technical Committee report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35581 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conferernce on Aging and to the Executive Director of the 1981 White House Conference in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical on Creating an Age-Integrated Society—Implications for the Economy will hold their meeting on December 16, 1980 from 9:00 a.m. to 4:00 p.m., at 1600 L Street, N.W., Suite 1100, Washington, D.C.

The purpose of this meeting is to report to the committee the outcome of macro and micro econimic simulations of various policy options in the areas of employment, transfer payments, and saving. Based on the results of the simulations, the committee will determine appropriate recommendations to make to the White House Conference on Aging.

For information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35582 Filed 11-13-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1040]

Privacy Act of 1974; System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of system of records.

SUMMARY: The Department is giving notice of a system of records it maintains which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective December 14, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The system is the Consumer Register Mailing List. It contains the names of consumers having an interest in HUD programs or in publications produced by the Department. Pertinent sections of the Register are used by other Federal and non-government agencies for mailings. The Consumer Register will also further the Department's outreach program by involving the consumer directly in the decisionmaking process on certain proposed regulations within the Department. Timely information on these regulations will be mailed out to Register participants.

Members of the Register will be invited periodically to participate in policy related Local and National Consumer Forums. Summaries of these Forums will often be provided to the Register membership in the form of a Consumer Notice or Consumer Bulletin. Attachment A, which lists the addresses of HUD's field offices, was published at 45 FR 67626 (October 10, 1980). A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on September 29, 1980.

HUD/NVACP-1

SYSTEM NAME:

Consumer Register Mailing List.

SYSTEM LOCATION:

Headquarters and Field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have expressed an interest in HUD programs, users of HUD programs, and persons wishing to comment on various policymaking issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and telephone number of the participant; organization name and type; issues of interest to participants,

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 4(a) of the Department of Housing and Urban Development Act, 42 U.S.C. 3531; Executive Order 12160.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other Federal agencies and private organizations for purposes of mailing information relevant to the use or benefits of HUD programs or related public or private programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address and telephone number of the participant; organization name and type; issues of interest to participants.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area. Computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual and automated records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGERS AND ADDRESS:

Director, Consumer Liaison Division
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection
Department of Housing and Urban Development 451 7th Street SW., Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix. A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is

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needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individuals who have expressed an interest in HUD programs; persons wishing to comment on various policymaking issues; members of the Register who provide names of other possible participants.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 7, 1980.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-35320 Filed 11-13-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-6451; AR-09229 WR]

Arizona: Proposed Continuation of Withdrawals and Opportunity for Public Hearing

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, U.S. Department of the Interior, proposes to continue the existing withdrawals made by Public Land Order Nos. 5263 and 5359 of September 28, 1972 and July 23, 1973, respectively.

The withdrawn land is described as follows:

Gila and Salt River Meridian, Arizona

Virgin River Gorge Recreation Lands

A-6451

T. 41 N., R. 13 W.,
Sec. 1, W½SW¼;
Sec. 3, Lot 1, S½NE¼, S½;
Sec. 4, Lots 3, 4, S½NW¼, S½;
Secs. 5, 6, 7, 8, 9, 10, all;
Sec. 11, N½, N½S½;
Sec. 12, W½NW¼, SE¼NW¼, SW¼, SW¼SE¼;
Sec. 15, N½NW¼;
Secs. 17, 18 all;
Sec. 19, Lots 1-4, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 30, Lots 1-4.
T. 42 N., R. 13 W.,
Sec. 31, Lot 6, SE¼SW¼, SW¼SE¼;
Sec. 32, E½SW¼, SE¼;
Sec. 33, SW¼;
T. 40 N., R. 14 W.,
Sec. 5, Lot 4;
Sec. 6, Lots 1, 2, 3.
T. 41 N., R. 14 W.,
Sec. 1, all;
Sec. 3, S½SE¼;
Sec. 9, E½;
Secs. 10, 11, 12, 13, 14, 15, all;
Sec. 20, NE¼SE¼, S½SE¼, SE¼NE¼;
Secs. 21, 22, 23, 24, 25, all;
Secs. 27, 28, 29, all;
Sec. 30, Lots 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, Lots 1, 2, NE¼, E½NW¼, E½SE¼;
Sec. 32 all;
Sec. 33, N½NE¼, SW¼NE¼, W½;
Sec. 34, N½N½;
Sec. 36, N½N½.
T. 42 N., R. 14 W.,
Sec. 35, E½SE¼;
Sec. 36, S½.

AR-09229

T. 41 N., R. 13 W.,
Sec. 1, S½N½.
T. 41 N., R. 15 W.,
SEc. 25, N¼SE¼, SW¼SE¼;
Sec. 35, E½, SE¼NW¼.

The areas described aggregate 21, 669.61 acres in Mohave County.

The purpose of the withdrawals is protection of recreation and public values in connection with the Virgin River Gorge Recreation Lands area. No change is proposed in the purpose of the withdrawals.

The land described under serial number A-6451 is currently segregated from all forms of appropriation under the public land laws, including the U.S. mining laws, but not the mineral leasing laws. The land described under serial number AR-09229 is withdrawn only from appropriation under the mining laws. No change is proposed in the segregative effect of the withdrawals.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed continuation of withdrawal. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer. Upon determination by the Arizona State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place scheduled for the hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigation sas are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal justification to ensure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for, and agreement is reached on concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether the withdrawals will be continued and if so, for how long. The final determination on the contunuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Requests for public hearing, comments, suggestions, or objections to this proposed continuation of withdrawal must be submitted in writing on or before December 15, 1980. All communications should be directed to the undersigned authorized officer, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-35406 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet on December 16, 1980 at 10:00 a.m. to discuss range improvement plans for Fiscal Year 1981.

DATE: December 16, 1980.

ADDRESS: The Four-Seasons Convention Center—Suite 8, 747 East St. George Blvd., St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton, 196 E. Tabernacle St., St. George, Utah 84770—(801) 673-3545.

SUPPLEMENTARY INFORMATION: The Arizona Strip District Grazing Advisory Board will meet at 10:00 a.m. on Tuesday, December 16, 1980 in Suite 8 of the Four Seasons Convention Center at 747 East St. George Blvd. in St. George, Utah. The primary topic on the agenda will be road maintenance and range improvement plans to implement Allotment Management Plans on the Arizona Strip District. Additionally, the allotment management planning strategy for the Shivwits Resource Area will be discussed. The meeting is open to the public. Anyone wishing to make a presentation to the Board should contact the District Manager of the Arizona Strip District at 196 E. Tabernacle St. in St. George, Utah or call (801) 673-3545 at least 5 days prior to the meeting.

Billy R. Templeton,

District Manager, Arizona Strip District.

[FR Doc. 80-35407 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

BLM Resource Management Plan and Environmental Impact Statement for the Northeast Resource Area and Fountain Creek Planning Unit; Canon City District, Colorado

Pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA) and in accordance with 43 CFR Part 1600, notice is hereby given that the Bureau of Land Management (BLM), Canon City District has begun preparation of a resource management plan (RMP) and associated environmental impact statement (EIS) covering the federal surface lands and reserved minerals administered by the BLM in northeast Colorado.

Let the following be known:

1. Description of the proposed planning action: Preparation of the RMP/EIS will meet requirements of the FLPMA and the National Environmental Policy Act (NEPA). Regulation derived from these acts will be adhered to throughout the process. As a comprehensive land use plan the final decisions will establish land areas for varying levels of use or protection and set the allowable resource use levels. In addition, the resource condition goals, constraints, and practices needed will be identified. An implementation schedule will be set for initiation of the above decisions, development of activity planning, support actions needed, and monitoring progress. The RMP/EIS is scheduled for completion by September 1984.

2. Identification of the geographic area to be planned for: The federal surface lands and reserved federal mineral estate administered by the BLM generally located in northeast Colorado. Counties within the planning area include Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Douglas, Elbert, El Paso, Gilpin, Jefferson, Kit Carson, Larimer, Lincoln, Logan, Morgan, Park, Phillips, Sedgwick, Washington, Weld, and Yuma. Approximately 42,250 acres of surface management and 599,750 acres of subsurface reserved mineral estate are involved.

3. The general types of issues anticipated: Issues in response to allocations are expected on most if not all of the resources present in the area. Included as a minimum will be oil, gas and coal production, recreational uses, animal use, realty actions, timber and firewood production, and the protection of soil, water, vegetation, cultural minerals, and areas of critical environmental concern.

4. The disciplines to be represented on the interdisciplinary team: Archeology, economics, forestry, geology, hydrology, minerals, range, realty, recreation, sociology, soils, and wildlife will be included as a minimum.

5. The kind and extent of public participation activities to be provided: Individual contacts, workshops, meetings, and hearings will be utilized at key points to obtain needed input, coordination, and comment as necessary. If appropriate, mass mailings will be used to solicit participation. Contacts will be made with local governments, state agencies, and federal agencies to assure coordinated goals and objectives. Surface land owners will be consulted where suitable coal resources exist and the subsurface coal rights are reserved by the federal government.

A mailing list will be maintained of all those interested in the RMP/EIS. A newsletter will be published at least twice a year to inform the public and request assistance.

6. The times, dates, and locations scheduled or anticipated for any needed public meetings, hearings, conferences, or other gatherings as of this publication: In general, meetings will begin at 7:00 PM during the working week and winter season at desirable locations so that the public will have sufficient opportunity to participate. The first set of meetings to identify issues and planning criteria will be held during January-February 1981 in Denver, Idaho Springs, Fort Morgan, Limon, Colorado Springs, and Fort Collins.

Further meetings will be scheduled where needed for estimation of effects of alternatives in February-March 1983, and for review of the draft RMP/EIS in February-March 1984. The District Advisory Council will assist in all phases of the process. Hearings will be scheduled as needed.

7. The name, title, address, and telephone number of the BLM official who may be contacted for further information:

Melvin Clausen, District Manager, P.O. Box 311, 3080 East Main Street, Canon City, Colorado 81212; (303) 275-7494; or
Francis Young, Area Manager, 10200 West 44th Avenue, Wheatridge, Colorado 80033, (303) 234-4988

8. The location and availability of documents relevant to the planning process: Generally the documents will be available as they are accepted by the District Manager in the district or area offices listed above.

Melvin D. Clausen,

District Manager.

[FR Doc. 80-35411 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

[S567, S487,S856,S572,S857]

California; Classification of Public Lands for Multiple Use Management: Termination of Mineral Segregation

November 6, 1980.

The following classifications of public land for multiple use management are hereby modified to terminate the segregation from appropriation under the United States mining laws insofar as they affect the lands described below. Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), and the regulations set forth in 43 CFR 2461.5(c)(2), the mineral estate is hereby relieved of any segregative effect by the subject classification as of 7:30 a.m., December 16, 1980.

1. S 487, published in Vol. 32, No. 168, **Federal Register**, Wednesday, August 30, 1967, page 12565:

Mount Diablo Meridian, California

T. 1 N.,R. 14 E.,
Sec. 17, W½NE¼;
Sec. 19, N½SE¼ and SW¼SE¼;
Sec. 20, SW¼SW¼ NE¼, SW¼NW¼, S½SE¼NW¼, and N½SW¼.
The land aggregates 350 acres.

2. S 567, published in Vol. 32, No. 193, **Federal Register**, Thursday, October 5, 1967, pages 13873 and 13874:

Mount Diablo Meridian, California

T. 6 N., R. 12 E.,
Sec. 34, NW¼SE¼.
T. 4 N., R. 13 E.,
Sec. 6, SE¼NW¼.
The land aggregates 80 acres.

3.S 572, published in Vol. 32, No. 246, **Federal Register**, Thursday, December 21, 1967, page 20660:

Mount Diablo Meridian, California

T. 12 N., R. 8 E.,
Sec. 25, North Extension of Mineral Survey 6091, NW¼NW¼ (exclusive of Mineral Survey 6091 and North Extension of Mineral Survey 6091), SW¼NW¼ (exclusive of Mineral Survey 6091), and S½SE¼NW¼ (exclusive of Mineral Survey 6091).
T. 8 N., R. 9 E.,
Sec. 13, E½SE¼;
Sec. 24, Lots 1, 2, and 3, and unpatented portion of New Virginia Quartz Mine of Mineral Survey 3904.
T. 13 N., R. 9 E.,
Sec. 1, Fractional portion of lLot 51;
Sec. 2, Lots 2 and 7, N½SW¼, SW¼SW¼, N½SE¼SW¼, and SW¼SE¼SW¼;

V 45 N 0 14 80 UMI

Sec. 11, S½SW¼;
Sec. 13, SE¼SE¼;
Sec. 22, N½SW¼ and SW¼SW¼;
Sec. 23, Lot 11;
Sec. 24, Lot 1 (exclusive of Mineral Survey 5487), Lot 2 (exclusive of Mineral Surveys 5487, 5488, 4962, and 5209), and SE¼SW¼ (exclusive of Mineral Survey 5488);
Sec. 25, Mineral Survey 4343;
Sec. 28, NE¼NE¼, S½NW¼NE¼, SE¼NW¼, NW¼SW¼, N½SW¼SW¼, E½SW¼SW¼SW¼, and W½SE¼SW¼ SW¼;
Sec. 34, Lot 4;
Sec. 36, Lots 1, 2, and 3.
T. 14 N., R. 9 E.,
Sec. 1, Lot 5;
Sec. 24, SW¼;
Sec. 25, Lot 1 (exclusive of Mineral Survey 5816) and W½SW¼;
Sec. 35, Lots 1 and 3, NE¼, E½NW¼, SW¼, and NE¼SE¼;
Sec. 36, NW¼.
T. 15 N., R. 10 E.,
Sec. 22, SE¼ exclusive of Lot 104;
Sec. 23, S½S½NE¼, NW¼SE¼, NW¼SE¼SE¼, and NE¼SE¼.
T. 9 N., R. 11 E.,
Sec. 7, E½NW¼ and NE¼SW¼;
Sec. 18, E½NW¼.
T. 9 N., R. 12 E.,
Sec. 14, SW¼SW¼;
Sec. 15, S½S½;
Sec. 17, E½NE¼ and N½SE¼;
Sec. 19, NE¼SW¼;
Sec. 20, SE¼NE¼;
Sec. 22, N½NE¼, SW¼NE¼, S½SE¼ NE¼, and NE¼NW¼;
Sec. 23, NW¼NW¼, S½NW¼, and NE¼SW¼;
Sec. 24, Lots 1 and 2, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 25, E½NE¼SW¼;
Sec. 26, S½NE¼, NW¼NW¼, and SE¼NE¼.
T. 8 N., R. 10 E.,
Sec. 2, Lots 2, 6, 7, and 39 (exclusive of Mineral Survey 5421);
Sec. 18, Lots 1 through 4 inclusive and E½SW¼;
Sec. 19, Lots 1 through 4 inclusive and E½W½;
Sec. 30, Lots 1 and 2 and NE¼NW¼.
T. 9 N., R. 10 E.,
Sec. 13, Lot 1 (exclusive of Lot 55, Minerals Surveys 5423 and 5552), Lots 8, 9, and 15;
Sec. 24, N½NW¼ (exclusive of Mineral Survey 4749).
T. 11 N., R. 10 E.,
Sec. 2, Lot 13.
T. 12 N., R. 10 E.,
Sec. 1, Lot 2 (exclusive of Mineral Survey 6312) and SW¼NE¼ (exclusive of Mineral Survey 6312);
Sec. 17, Lots 11, 19, 20, 21, 22, 23, and 26, and E½SW¼NW¼.
T. 13 N., R. 10 E.,
Sec. 2, Lots 1, 5 through 7 inclusive, and Lots 10 through 14 inclusive;
Sec. 3, Lots 4, 5, 8, 9, 10, 11, and 12;
Sec. 9, Lots 8, 12, and 13, and SW¼NE¼;
Sec. 10, Lots 1, 2, and 3, Lots 5 through 9 inclusive, E½NE¼, E½NW¼, and SW¼NW¼;
Sec. 18, Lots 1, 2, 3, and 4, S½ Lot 5, S½ Lot 8, and Lots 11 and 13;
Sec. 19, Lot 24;
Sec. 20, Lot 1 and N½NE¼.
T. 14 N., R. 10 E.,
Sec. 18, Lots 2, 7, 10, and 15;
Sec. 30, Lots 8 and 16, NE¼, E½NW¼, SE¼SW¼, and SW¼SE¼.
The land aggregates approximately 6,590 acres.

4. S 856, published in Vol. 32, No. 251, **Federal Register**, Friday, December 29, 1967, page 20988:

Mount Diablo Meridian, California

T. 19 N., R. 6 E.,
Sec. 13, NW¼NW¼ and E½SW¼NW¼.
T. 17 N., R. 8 E.,
Sec. 1, Lots 8 and 11;
Sec. 5, Lots 10, 11, 12, and 13;
Sec. 6, Lots 18, 19, 20, 21, and 22;
Sec. 11, NE¼NW¼NE¼, W½NW¼NE¼, and SW¼NW¼.
T. 18 N., R. 9 E.,
Sec. 34, SNE¼SW¼, S½SW¼, and W½W½SE¼.
The land aggregates 612 acres.

5. S 857, published in Vol. 32, No. 246, **Federal Register**, Thursday, December 21, 1967, page 20664:

Mount Diablo Meridian, California

T. 7 S., R. 4 E.,
Sec. 25, 26, 32, 34, and 35.
T. 8 S., R. 4 E.,
Secs. 1 through 13 inclusive, 18, and 23.
T. 9 S., R. 4 E.,
Sec. 18, NW¼NE¼.
T. 7 S., R. 5 E.,
Sec. 31.
T. 8 S., R. 5 E.,
Secs. 6, 7, 18, and 19.
The land aggregates 6,214 acres.

This action shall in no way affect the continued classification of the land for multiple use management and segregation from appropriation under the remaining public land laws.

James B. Ruch,
State Director.

[FR Doc. 80-35554 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

[Serial Nos. I-1639, I-2834]

Idaho; Partial Termination of Classification for Multiple-Use Management

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), I hereby terminate the Bureau of Land Management Multiple-Use Classifications Orders dated November 9, 1967, and December 4, 1970 (Serial Nos. I-1639 and I-2834) published in the **Federal Register** November 16, 1967, 32 FR 15767 and December 11, 1970, 35 FR 18883, insofar as they segregated the lands described below from mineral entry:

Boise Meridian, Idaho

(I-1639)

T. 18 N., R. 24 E.,
Sec. 12, SW¼NE¼;
The area described aggregates 40 acres in Lemhi County, Idaho.

(I-2834)

T. 11 N., R. 17 E.,
Sec. 6, NW¼SE¼;
The area described aggregates 40 acres in Custer County, Idaho.

2. The segregative effect (closure to entry under the Mining Laws) on the lands described in this order will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2461.5(c)(2). The lands remain closed to entry under the agricultural land laws.

Robert O. Buffington,
State Director.

[FR Doc. 80-35600 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

Coal Leasing for West-Central North Dakota; Notice Offering Opportunity to File Intention to Consent or Refusal to Consent

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice.

SUMMARY: With this **Federal Register** notice, the Montana State Office of the Bureau of Land Management (BLM) offers the opportunity for surface owners over Federal coal to indicate unilaterally whether they have the intention to consent to the surface mining of their land or whether they intend to refuse to consent to mining. The areas in question are those identified as suitable for further consideration for coal leasing in the Management Framework Plan (MFP) for West-Central North Dakota, which is a portion of the Fort Union Federal Coal Production Region.

Surface owners who already have made written agreements with industry to consent to mining need not respond to this **Federal Register** notice. (A valid written consent with industry takes precedence over both of the items described here.) At the present BLM is asking coal companies for initial information regarding existing leasing agreements that they have with surface owners. (The information includes location, transferrability, and expiration date.) At a later time, BLM will ask for full documentation of contracts with surface owners.

Forms for filing an Intention to Consent Statement or a Refusal to Consent Statement may be requested

from either the Montana State Office or the Dickinson District Office (addresses given below.) In the case of both forms, the first portion asks that surface owners validate that they are legally qualified as surface owners, as defined in the Code of Federal Regulations. The government forms are optional; if he wishes, the surface owner may write a letter as a substitute.

The surface owner should be aware that there is a third option, which is to do neither of the above. Although this possibility will not be discussed here in detail, it might be mentioned that the effect of not responding would be essentially to keep a surface owner's options open during the remainder of BLM's activity planning process, an effect which is similar in this regard to filing an Intention to Consent. It is BLM's role, of course to make a surface owner's options clear to him and not to encourage or discourage him in any particular course of action. The options and questions dealt with in this **Federal Register** notice are complicated, and a surface owner should feel free to contact BLM for explanations.

The written statements of refusal to consent and intention to consent by qualified surface owners will become part of the public record, and these statements will be made available for public inspection in the Montana State Office and at the Dickinson District Office.

Note.—Most of the Federal regulations relevant to Refusals to Consent and to Intentions to Consent can be found in 43 Code of Federal Regulations 3427.2.

DATES: The Code of Federal Regulations (CFR) say that statements of Refusal to Consent "shall be accepted for filing only during activity planning," which means for West-Central North Dakota that the refusals should be submitted sometime after November 1, 1980; the Regulations do not say when the Intention to Consent might be filed. For both items, however, BLM is requesting an early submission—*by January 7, 1981.* If a surface owner decides to declare for consent or refusal, an early filing is desirable because this information is important for the activity planning process and because surface owner wishes are key factors for helping the Fort Union Regional Coal Team (RCT) determine which Federal coal lands might be offered for lease.

ADDRESSES: The above information should be sent to Mr. Michael Penfold, State Director, Bureau of Land Management, Attn: MSEL, P.O. Box 30157, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Steele, Dickinson District Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, ND 58601 (701) 225-9148, or contact Mr. Bill Frey, Bureau of Land Management, Montana State Office, 222 North 32nd St., P.O. Box 30157, Billings, MT 59107 (406) 657-6632.

Maps showing the areas acceptable for further coal leasing consideration in the West-Central North Dakota Area are also available from the above two addresses.

ADDITIONAL INFORMATION ON INTENTION TO CONSENT: From surface owners who have not already entered into a coal leasing agreement with a private party, BLM will accept from them unilateral statements expressing their desire or intention to permit the surface mining of the Federal coal under their land. Either in the form of a letter or by filing an Intention to Consent Statement, the qualified surface owner may declare, among other things, any special conditions he wants to set before he would allow someone to enter and commence surface mining of coal.

It is important for a surface owner to know that his unilateral expression of Intention to Consent does not in itself guarantee that the Federal coal under his land will actually be leased. In fact, before the Federal government can lease his lands, the qualified surface owner must sign a contract for surface mining with a private party (typically a coal company). It should be emphasized that without this legal contract for surface mining, the Federal government (BLM) cannot put the surface owner's land up for lease. The surface mining contract with a private party must be sent to BLM at least 30 working days prior to the publication of a lease sale notice for the coal area in question. (The first lease sale notice for the Fort Union Coal Region is anticipated for April, 1983.)

Since a surface owner's land will not ultimately be leased without a valid contract with a private party, what is the effect of filing at this time with BLM an Intention to Consent Statement? Primarily, filing an Intention to Consent allows the Fort Union Regional Coal Team and BLM to consider surface owner desires when they are determining where coal should be leased. The lack, however, of a valid Intention to Consent Statement on record will not preclude consideration of sub-surface Federal coal during activity planning. Nevertheless, all other factors being nearly equal, a tract with a surface owner Intention to Consent will be given priority for lease sale consideration over a tract on which no such statement has been filed.

ADDITIONAL INFORMATION ON REFUSAL TO CONSENT: Written statements from qualified surface owners who refuse to consent to coal leasing will be accepted at the Montana State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner will eliminate pressure from parties seeking to enter into a consent agreement with the surface owner and will make further inquiries by BLM unnecessary.

Upon receipt of the Refusal to Consent form, BLM will remove from further leasing consideration the Federal coal underlying the qualified surface owner's land until such time as the *West-Central North Dakota Management Framework Plan* (MFP) is revised, amended, or until the ownership of the surface estate changes. (Regulations require that an MFP be reviewed in not more than 5 years for currency and adequacy, at which time an amendment or revision might be done. A MFP must be revised after 10 years.) The surface owner who has submitted a refusal should be aware that his decision is irreversible during the years that the MFP stays in effect. Upon revision or amendment of the *West-Central North Dakota MFP*, the qualified surface owner will be notified that the prior written refusal to consent is about to expire and that he has a new opportunity to exercise his option to consent or to refuse.

Kannon Richards,
Acting State Director.

[FR Doc. 80-35598 Filed 11-13-80; 8:45 am]
BILLING CODE 4310-84-M

[Coal Lease Applications C-0127832, C-0127833, C-0127834]

Coal Leasing; Garfield County, and Mesa County, Colorado; Public Hearing, Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on December 16, 1980 at 7:00 p.m. in the Bureau of Land Management's District Office Building, Third Floor Conference Room, 764 Horizon Drive, Grand Junction, Colorado. Applications by the Dorchester-ColoMine Joint Venture have been made to the United States that it lease non-competitively certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) the method of mining to be employed

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to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment. Written requests to testify orally at the December 16, 1980 public hearing should be received at the Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, prior to the close of business December 15, 1980. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Grand Junction District Office at the above address, prior to close of business on December 22, 1980. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

Any written comments not presented at the hearing should be sent to both the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and to the Deputy Conservation Manager—(RE), C/R USGS Consv. Div. (MS 609), Box 25046, Denver, Colorado 80225, to arrive no later than December 22, 1980.

The federal coal resources to be offered is limited to underground mining methods from the Cameo and Anchor Coal seams in the following lands located approximately 12 miles north of Fruita, Colorado:

Colorado–0127832; Garfield County, Colorado

Township 7 South, Range 101 West, 6th P.M.
Sec. 29: NW¼NW¼, S½NW¼, SW¼
Sec. 30: E½NE¼, Lots 5, 6, 7, 8, 9, 10 & Tract 44 (all-fractional)
Sec. 31: Lots 5, 6, 7, 8, (all-fractional)
Sec. 32: Lots 1, 2, 3, W½NE¼, N½NW¼
Township 7 South, Range 102 West, 6th P.M.
Sec. 25: All
Sec. 26: All
Sec. 35: All
Sec. 36: All
Township 8 South, Range 101 West, 6th P.M.
Sec. 5: Lots 3, 4, S½NW¼, SW¼
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (All)
Containing 4,521.60 acres of land, more or less.

Colorado–0127833; Carfield County, Mesa County, Colorado

Township 8 South, Range 101 West, 6th P.M.
Sec. 7: Lots 1, 2, 3, 4, E½W½, E½ (All)
Sec. 8: W½, SE¼
Sec. 9: S½SW¼, SW¼SE¼
Sec. 14: SW¼NW¼
Sec. 15: S½N½, S½
Sec. 16: S½NE¼, NW¼NE¼, NW¼, S½
Sec. 17: All
Sec. 18: Lots 1, 2, 3, 4, E½W½, E½ (All)
Sec. 20: All
Sec. 21: All
Sec. 28: N½N½
Containing 5,087.06 acres of land, more or less.

Colorado–0127834; Garfield County, Mesa County, Colorado

Township 8 South, Range 101 West, 6th P.M.
Sec. 13: S½/SW¼
Sec. 14: SE¼NW¼, SW¼, W½SE¼, SE¼SE¼
Sec. 22: All
Sec. 23: All
Sec. 24: All
Sec. 25: All
Sec. 26: All
Sec. 27: E½, N½NW¼
Sec. 35: N½, SE¼
Sec. 36: All
Containing 5,120.00 acres of land, more or less.

The Draft Environmental Assessment will be available for review in the Grand Junction District Office. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environmental Assessment, the case file and the comments submitted by the public will be available for public inspection at the Colorado State Office, Bureau of Land Management at the address set out above.

Edward Koeteeuw,

Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 80-35540 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Proposed Continuation of Withdrawal of Land

November 6, 1980.

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 1485 on September 9, 1957, be continued in part for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land proposed for continuation is described as follows:

Mount Diablo Meridian

T. 21 S., R. 61 E.,
Sec. 1, E½SE¼SE¼SW¼ except the north 70 feet.

The area described contains 4.47 acres in Clark County, Nevada.

The purpose of the withdrawal is to protect the Las Vegas U.S. Army training center. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, and the mineral leasing laws. A change is proposed in the segregative effect to open the land to the mineral leasing laws.

For a period of 30 days, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 30 days. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Chief, Division of Technical Services, Bureau of Land Management,

Department of the Interior, P.O. Box 12000, Reno, Nevada 89520.

William J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-35552 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the West Cameron Block 17 Federal Unit Agreement No. 14–08–0001–8927, submitted on October 30, 1980, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the West Cameron Block 17 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:

U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 7, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-35598 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-31-M

Outer Continental Shelf (OCS) Oil and Gas Information Program; Availability of Gulf of Alaska (Including Lower Cook Inlet) Summary Report

SUMMARY: The fourth in a series of reports that provide affected States with current planning information on OCS oil and gas activities has been published in accordance with Section 26 of the OCS Lands Act Amendments of 1978 and 30 CFR 252.4. The report focuses on the Gulf of Alaska (including Lower Cook Inlet) and provides summary information to States regarding current oil and gas resource estimates, reserves, and production levels; the magnitude and timing of OCS exploration, development, and production; strategies for transporting oil and gas; and the location and nature of onshore facilities. Other Summary Reports are planned or being written for the Gulf of Mexico, the North Atlantic, and the Beaufort Sea.

EFFECTIVE DATE: November 12, 1980.

ADDRESSES: Copies of the report may be obtained upon request from the Office of OCS Information, U.S. Geological Survey, 640 National Center, Reston, VA 22092.

FOR FURTHER INFORMATION CONTACT:

David A. Nystrom, Chief, Office of OCS Information, U.S. Geological Survey, 640 National Center, Reston, VA 22092, (703) 860–7166.

Lowell G. Hammons,

Acting Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

[FR Doc. 80-35712 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., November 28, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was estabished by Public Law 95–625, Section 704 (f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.
2. New Business.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council, c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764, phone 914–252–3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

Dated: October 31, 1980.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 80-35632 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Oil Shale Environmental Advisory Panel; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A–63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 94–463), the Secretary has determined that renewal of the Oil Shale Environmental Advisory Panel is necessary and in the public interest.

The purpose of the Panel is to assist the Department of the Interior in the performance of functions in connection with the supervision of oil shale leases issued pursuant to section 21 of the Mineral Leasing Act as amended (30 U.S.C. 241) and pursuant to the policies enunciated in the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347). The General Services Administration has concurred in the renewal of this committee.

Further information regarding this renewal may be obtained from Mr. Jeffrey F. Zabler, Office of the Assistant Secretary, Land and Water Resources, Room 6621, Department of the Interior, 18th and C Sts. N.W., Washington, D.C., telephone: (202) 343–4612; or Mr. Hank Ash, Chairman, Oil Shale Environmental

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Advisory Panel, Room 690, Bldg. 67, Denver Federal Center, Denver, Colorado 80225; telephone: (303) 234–3275).

Dated: November 9, 1980.

Guy R. Martin,

Assistant Secretary.

[FR Doc. 80-35556 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-10-M

[516 DM 6, Appendix 2]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised instructions for the U.S. Geological Survey.

SUMMARY: This notice proposes an appendix to the Department's NEPA procedures for the U.S. Geological Survey. The Departmental procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: Comments due by December 15, 1980.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–3891. For U.S. Geological Survey, contact Daniel Krinsley, Telephone: (703) 860–7455.

SUPPLEMENTARY INFORMATION: This proposed appendix to the Departmental Manual (516 DM 6, Appendix 2) provides more specific NEPA compliance guidance to the U.S. Geological Survey. In particular, it provides information about organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an environmental statement, and categorical exclusions. The appendix should be taken in conjunction with the Departmental procedures (516 DM 1–6) which were published in the **Federal Register** on April 23, 1980 (45 FR 27541). In addition, the service will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Previously published proposed appendices include:

Heritage Conservation and Recreation Service, August 23, 1980 (44 FR 49523)
Bureau of Indian Affairs, July 24, 1980 (45 FR 49368)
Bureau of Mines, February 14, 1980 (45 FR 10043)
National Park Service, May 15, 1980 (45 FR 32126)
Office of Surface Mining, February 14, 1980 (45 FR 10043)

Final appendices have been published for:

Appendix 1. Fish and Wildlife Service (45 FR 47941)
Appendix 9. Water and Power Resources Service (45 FR 47944)

The proposed appendix for the Bureau of Land Management will be published as a notice for 30-day public comment at a later date.

Comment on the proposed appendix are invited. To be considered in the preparation of the final appendix, comments must be received by December 15, 1980.

Dated: November 6, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Geological Survey

2.1 *Responsibility*

A. *Director*

Is responsible for NEPA compliance for U.S. Geological Survey (GS) activities.

B. *Assistant Director, Resource Programs*

Is responsible for providing scientific leadership, and for approving or concurring with all EISs for GS actions. The Assistant Director is also responsible for approving reviews of environmental documents prepared by other agencies.

C. *Chief, Environmental Affairs Office (Washington)*

Is the Service focal point for all NEPA matters and develops NEPA-related policy and guidance for the GS. The Chief is responsible for: assuring the quality control of NEPA documents; monitoring Service-wide activities to assure NEPA compliance; reviewing and commenting on other bureaus' and agencies' environmental documents; managing GS personnel assigned to other agencies' EISs; preparing environmental documents at the request of other agencies; assisting in the performance of specialized studies in support of ongoing environmental analyses; and conducting research to improve the NEPA process. Information about GS NEPA documents or the NEPA process can be obtained by contacting this office.

D. *Chief of Divisions and Independent Offices*

Are responsible within their respective organizations for ensuring compliance with NEPA and other environmental review and consultation requirements.

2.2 *Information to Applicants*

The following regulatory documents of the Geological Survey include information to applicants as to the environmental information required to be submitted as part of or to accompany their applications relating to Federal or Indian mineral leases. The documents are available on request from the appropriate regional Conservation Manager.

A. *Oil and Gas*

(1) Onshore—Notice to Lessees and Operators—NTL–6 (Approval of Operations).

(2) Offshore—30 CFR 250.34.

—30 CFR 251.

—Guidelines for Preparing Outer Continental Shelf (OCS) Environmental Reports.

B. *Geothermal Resources*

—30 CFR 270.34.

—Geothermal Resources Operational Order No. 4.

C. *Coal Exploration*

—30 CFR 211.

2.3 *Major Actions Normally Requiring an EIS*

A. The following proposals will normally require the preparation of an EIS:

(1) Approval of studies and investigations that would result in liberation of radioactive tracer materials, or nuclear stimulation.

(2) Approval of an OCS oil and gas development and production plan in a frontier area, when the plan is declared to be a major Federal action in accordance with Section 25 of the OCS Lands Act Amendments of 1978 (30 CFR 250.34–4).

(3) Approval of a new surface mine plan which would disturb a total of 640 acres or more.

(4) Approval of a new commercial surface oil shale mine plan, regardless of size.

(5) Approval of a new underground uranium mine plan in which 640 acres or more would be mined.

B. If, for any of these proposals, it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2).

2.4 *Categorical Exclusions*

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 506 DM 2, many of which the Survey also performs, the following Geological Survey actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3).

A. *Internal Program Initiatives*

(1) Topographic, land use and land cover, geologic, mineralogic, resource evaluation, and hydrologic mapping activities including aerial topographic surveying, photography, and geophysical surveying.

(2) Rendering formal classification of Federal lands in the United States as to their mineral character and waterpower and waterstorage values.

(3) Collection of data and samples for geologic, paleontologic, mineralogic, geochemical, geophysical investigations, and resource evaluation, including contracts therefor.

(4) The acquisition of existing geological or geophysical data from otherwise private exploration ventures.

(5) Well loggin, aquifer response testing, digital modeling, inventory of existing wells and water supplies, water-sample collection, operation/installation of water-level recording devices in wells, and installation and operation of stream-gaging stations, including contracts therefor.

(6) Establishment of survey marks, emplacement and operation of field instruments, and installation of any research/monitoring devices.

(7) Exploratory or observation well drilling operations, including contracts therefor.

(8) Establishment of seasonal and temporary field camps.

(9) Digging of exploratory trenches.

(10) Offroad travel to drilling or data collection or observation sites.

(11) Test or exploration drilling and downhole testing.

(12) Hydraulic fracturing of rock formations.

B. Permit and Regulatory Functions

(1) Determination and designation of logical mining units (LMU's).

(2) Recommendation to the Office of Surface Mining for approval of coal mining and operation plans (30 CFR 211.10) filed under the Surface Mining Control and Reclamation Act (SMCRA).

(3) Minor modification of or variance from activities described in approved mineral exploration plans or approved development/production plans, such as the relocation of a drill site(s).

(4) Development of reporting forms to collect data required by regulations.

(5) Approval of Sundry Notices and Reports on Wells.

(6) Approval of wells as capable of producing in paying quantities.

(7) Approval of unitization agreements, pooling, or communitization agreements.

(8) Approval of suspensions of operations and suspensions of production.

(9) Approval for commingling of production.

(10) Approval of applications for pricing determinations under the Natural Gas Policy Act.

(11) Inspections and investigations.

(12) Issuance of Notices to Lessees and Operators, and field rules.

(13) Administrative decisions and actions and recordkeeping, such as:

(a) Approval of royalty oil contracts.

(b) Approvals of underground gas storage agreements from a presently or formerly productive reservoir.

(c) Issuance of paying well determinations and participating area approvals.

(d) Issuance of drainage determinations.

(14) Reports to Surface Management agencies concerning mineral appraisals and applications for rights-of-way, small tract leases, lease consolidation applications, lease assignments, and bond terminations.

(15) Approval of royalty payment procedures and determinations concerning royalty quantities and values, such as audits, royalty reductions, collection procedures, cash handling procedures, reporting procedures, and any actions taken with regard to royalty collections (includes similar actions relating to net profit and windfall profit taxes).

(16) Decisions made and enforcement actions taken as a result of inspections made to assure compliance with the applicable laws and regulations, Orders, lease terms, and all requirements imposed as conditions of approval.

(17) Conversion of an unsuccessful oil and gas or geothermal well or an exhausted producer to a water source well or observation well.

(18) Approval of off-lease storage in existing facilities.

(19) Approval of production measurement methods, facilities and procedures.

(20) Approval of surface facilities for the disposal of produced water.

(21) Conversion of an existing well for disposal of produced water.

(22) Approval of OCS geological and geophysical exploration activities, except where the proposed activity includes the drilling of deep stratigraphic test holes.

(23) Minor revisions of or variances from activities described in an approved OCS development/production plan and of approved exploration plans relating to OCS leases.

(24) Approval of an Application for Permit to Drill (APD) an OCS oil and gas exploration or development well when said well is described in an approved exploration plan, development plan, or production plan.

(25) Approval of mineral prospecting permits or exploration plans on Federal or Indian lands.

(26) Approval of of minor modifications to, or variances from, activities described in existing approved underground and surface mine plans.

(27) Approval of an APD for exploratory oil and gas wells prior to the completion of the first confirmation drilling.

(28) Approval of an APD for exploratory oil and gas wells subsequent to the first confirmation drilling.

(29) Approval of an APD for a new water source, observation or produced-water disposal well.

(30) Approval of an APD for a new injection or withdrawal well pursuant to an approved gas storage project.

(31) Approval of proposals for the enhanced recovery of proven oil and gas resources.

(32) Approval of geothermal plans of operation for exploration.

(33) Approval of plans for injection of geothermal fluids.

(34) Approval of plans for geothermal production.

(35) Approval of geophysical exploration for oil and gas and geothermal resources.

(36) Approval of OCS exploration plans in the Western Gulf of Mexico (30 CFR 250.2).

(37) Approval of OCS development/production plans in the Western Gulf of Mexico (30 CFR 250.2).

[FR Doc. 80-35403 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–30462, appearing at page 65352 in the issue of Thursday, October 2, 1980, make the following correction:

On page 65355, third column, fourth paragraph in the application for C & E Transport Inc. in the 15th line, "LA" should read "IA".

BILLING CODE 1505-01-M

[Docket No. AB–19 (Sub-No. 50F)]

Baltimore and Ohio Railroad Co., Abandonment Near South Webster and Edmunds, OH; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and

Decision decided November 7, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Baltimore and Ohio Railroad Company of a line of railroad known as Portsmouth Branch from Valuation Station 1927+00 (milepost 37.20), at or near South Webster, OH to Valuation Station 2055+15 (milepost 39.63), at or near Edmunds, OH, a distance of 2.43 miles in Scioto County, OH and between Valuation Stations 2831+30.5 (milepost 48.99) and 2856+50 (milepost 49.47), at or near Portsmouth, OH, a distance of 0.48 mile in Scioto County, OH. A certificate of public convenience and necessity permitting the abandonment was issued to The Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, on or before November 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35622 Filed 11-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 51F)]

Baltimore and Ohio Railroad Co., Abandonment Near Spelter and Clarksburg, W. Va.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 7, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Baltimore and Ohio Railroad Company of a line of railroad known as Monongahela River Branch, from Valuation Station 1229+08.1 (milepost 24.39), at or near Spelter, W.Va., to Valuation Station 1594+73.6 (milepost 31.32), at or near Clarksburg, W.Va., a total distance of 6.93 miles in Harrison County, W.Va. and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from November 7, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting the abandonment was issued to the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirements of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, on or before November 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35623 Filed 11-13-80; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

November 10, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 1, 1980. No. 43867, Southwestern Freight Bureau, Agent (No. B-95), reduced rate on iron or steel bars, in carloads, from Coalton, KY to Houston, TX, as published in Supplement 522 to its Tariff ICC SWFB 4850, scheduled to become effective November 16, 1980. SWFB advises that the proposed effective date will be postponed to November 28, 1980. Grounds for relief—origin rate relationship and market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35624 Filed 11-13-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers—Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 29, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-065

Decided: October 31, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 200 (Sub-503F) filed, October 21, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Bergen County, NJ, on the one hand, and, on the other, points in Milwaukee County, WI, restricted to traffic originating at or destined to the facilities used by J. C. Penney Co., its affiliates, suppliers, and vendors.

MC 2770 (Sub-25F), filed October 16, 1980. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Ave., Portland, ME 04101. Representative: Lawrence S. Burstein, Suite 2373, One World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

MC 2860 (Sub-210F), filed October 15, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Gerald S. Duzinski (same address as applicant). Transporting (1) *foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between points in Mecklenburg County, NC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, UT, and AZ, restricted to traffic originating at or destined to the facilities of H. J. Heinz Company.

MC 2860 (Sub-211F), filed October 15, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Gerald S. Duzinski (same address as applicant). Transporting (1) *foodstuffs and pet food products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Nabisco, Inc., of East Hanover, NJ.

MC 2900 (Sub-440F), filed October 22, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *classes A, B and C explosives, blasting materials and supplies, weapons, ammunition, and component parts of ammunition and explosives and articles designated by the U.S. Government as sensitive*, between points in the U.S. Condition: To the extent that the certificate in this proceeding authorized the transportation of dangerous commodities, it will expire 5 years from the date of issuance.

MC 7361 (Sub-17F), filed October 16, 1980. Applicant: WEBB'S TRANSFER, INC., P.O. Box 1189, Suffolk, VA 23434. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in cargo containers or trailers, and (2) *empty cargo containers or trailers*, between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, restricted to traffic having a prior or subsequent movement by water.

MC 8771 (Sub-73F), filed October 9, 1980. Applicant: S M TRANSPORT, INC., Hemlock Bldg. 5000 Lenker Street, Mechanicsburg, PA 17055. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting (1) machinery, machinery parts, contractor's equipment, commodities which because of size and weight require the use of special equipment, and self-propelled vehicles, each weighing 15,000 pounds or more, and (2) *accessories* for the commodities in (1) above, between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 29910 (Sub-299F), filed October 23, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. *Over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Lawrence, KS, as an intermediate point in connection with applicant's otherwise authorized regular-route operations between Kansas City, MO, and Salina, KS.

MC 29910 (Sub-300F), filed October 21, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). *Over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Sussex, Warren, Morris and Passaic Counties, NJ, as intermediate or off-route points in connection with applicant's otherwise authorized regular-route operations between New York, NY, and Raleigh, NC.

MC 56270 (Sub-47F), filed October 27, 1980. Applicant: LEICHT TRANSFER & Storage Co., a corporation, P.O. Box 2385, Green Bay, WI 54306. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission) between the facilities of Allis-Chalmers Corporation at or near (a) Harrisburg and York, PA, (b) Zion, Harvey, Matteson, and Batavia, IL, (c) St. Louis, Columbia, and Independence, MO, (d) Brownsville and Elizabethton, TN, (e) Dallas, TX, (f) Fayetteville, AR, (g) City of Industry, CA (h) Louisville, KY, (i) Appleton, Milwaukee, and Port Washington, WI, and (j) La Porte, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, KS, OK, and TX.

MC 56270 (Sub-48F), filed October 21, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401

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State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Joel H. Steiner, 39 South LaSalle Street, Suite 600, Chicago, IL 60603. Transporting *flour*, between Omaha, NE, and points in Otter Tail County, MN, on the one hand, and, on the other, Chicago, IL. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 65491 (Sub-12F), filed October 22, 1980. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd St., New York, NY 10469. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001., New York, NY 10001. Transporting (1) *iron and steel articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Pittsburg, PA, on the one hand, and, on the other, New York, NY.

MC 65920 (Sub-10F), filed October 22, 1980. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Ave. SW., Grand Rapids, MI 49503. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in Allegan, Ionia, Kent, Mecosta, Montcalm, Muskegon, Newaygo, and Ottawa Counties, MI, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 74761 (Sub-22F), filed October 17, 1980. Applicant: TRAILWAYS TAMIMI, INC., 200 Spring Street, NW., Atlanta, GA 30303. Representative: George W. Hanthorn, 1500 Jackson Street, Dallas, TX 75201. Over regular routes, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Waycross, GA, and Callahan, FL, over U.S. Hwy 1, serving no intermediate points.

MC 103490 (Sub-84F), filed October 21, 1980. Applicant: PROVAN TRANSPORT COPR., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *liquid commodities*, in bulk, (1) between Delaware City, DE, on the one hand, and on the other, points in MD, GA, WV, CH, and MI, and (2) between Eldorado, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108460 (Sub-72F), filed October 20, 1980. Applicant: PETROLEUM CARRIERS COMPANY, a corporation, 5104 West 14th St., Sioux Falls, SD 57101. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *petroleum products*, in bulk, from points in Minnehaha County, SD to points in MN and IA.

MC 111401 (Sub-606F), filed October 17, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). In foreign commerce only, transporting *cottonseed oil*, in bulk, between points in Harris County, TX, on the one hand, and, on the other, points in Lubbock, Hardeman, and Nolan Counties, TX.

MC 111401 (Sub-607F), filed October 20, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). Transporting *petroleum*, in bulk, from points in Dundy, Hitchcock, and Red Willow Counties, NE, to points in Decatur and Scott Counties, KS.

MC 114211 (Sub-479F), filed October 23, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). Transporting (1) *experimental and show display construction, earthmoving, and material handling equipment*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, (a) between the facilities used by JCB, Inc., at points in the U.S., and (b) between the facilities used by JCB, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 118130 (Sub-121F), filed October 21, 1980. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S.

MC 120770 (Sub-3F), filed October 20, 1980. Applicant: KANSAS CARTAGE CO., a corporation, P.O. Box 15277, 712 Sunshine Rd., Kansas City, KS 66115. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *concrete pipe, concrete manholes, prestressed concrete and prestressed concrete accessories*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, from Kansas City, MO, to Columbia and St. Louis, MO.

MC 120910 (Sub-50F), filed October 20, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *chemicals*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between points in Tuscaloosa County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 124170 (Sub-158F), filed October 21, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in or used by food business houses, between Cincinnati, OH, on the one hand, and, on the other, points in the U.S.

MC 125551 (Sub-20F), filed October 23, 1980. Applicant: K & W TRUCKING CO., INC., P.O. Box 1415, 101 Cooper Ave. North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in AK, on the one hand, and, on the other, points in the U.S.

MC 135760 (Sub-22F), filed October 17, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting (1) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift & Company, and Swift Independent Packing Company, both of Chicago, IL.

MC 138941 (Sub-46F), filed October 20, 1980. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir St., Pomona, CA 91766. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *paper and paper products*, (2) *plastic and plastic articles*, (3) *woodpulp*, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2) and (3) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with International Paper Company, of New York, NY.

MC 138960 (Sub-18F) filed October 21, 1980. Applicant: ROKO EXPRESS, INC., P.O. Box 169, 819 West Fifth Ave., Columbus, OH 43212. Representative: H. Barney Firestone, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting (1) *pet foods, and pet food ingredients*, and (2) *materials and supplies* used in the manufacture of pet foods, between points in Franklin County, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, and TN.

MC 147911 (Sub-4F) filed October 23, 1980. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37419. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Transporting (1) *malt beverages*, and (2) *materials, equipment and supplies* used in the manufacture of malt beverages, between Detroit, MI, on the one hand, and, on the other, points in KY.

MC 148060 (Sub-5F) filed October 21, 1980. Applicant: STOVER LINES, INC., 5636 N.W. 17th, Topeka, KS 66618. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *malt beverages*, from Fort Worth, TX, Milwaukee, WI, and Peoria and Belleville, IL, to Topeka and Manhattan, KS.

MC 149100 (Sub-5F) filed October 15, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1)(a) *agricultural implements*, (b) *farm equipment* (except those in (a)), *and industrial equipment*, and (2) *parts* and *attachments* for the commodities in (1) above, from points in IL, WI, IN, KS, MO, MN, MI, OH, GA, MS, IA, TX, and WA to points in OR, WA, ID, and UT.

MC 149280 (Sub-2F) filed October 23, 1980. Applicant: M & A TRANSPORT, INC., 4117 Terminal Drive, Box 395, McFarland, WI 53558. Representative: Michael S. Varda, 121 S. Pinckney Street, Madison, WI 53703. Transporting *asphalt products*, in bulk, between points in the U.S., under continuing contract(s) with G. J. Payne Co., of St. Paul, MN.

MC 150660 (Sub-1F), filed October 20, 1980. Applicant: BALVANZ TRUCKING, INC., Hubbard, IA 50122. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *straw mats used for grass lawns*, from Toledo, OH, Denver, CO, Salem, OR, Reno, NV, Kansas City, MO, Pleasantville, IA, Dallas, TX, and Atlanta, GA, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 151430 (Sub-1F), filed October 21, 1980. Applicant: SAN-DEE TRUCKING CORP., 19–41 Chapel Street, Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *malt beverages, and nonalcoholic beverages*, and (2) *materials and supplies* used in the manufacture, packaging and distribution of the commodities in (1) above (except commodities in bulk), between Newark and Hammonton, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, and RI.

MC 151740 (Sub-1F), filed October 23, 1980. Applicant: LARRYMAR CORPORATION, P.O. Box 5, Rt. 541, Mt. Holly, NJ 08060. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting (1) *building materials, petroleum products and coal products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Owens-Corning Fibreglas Corporation, of Toledo, OH.

MC 151740 (Sub-4F), filed October 21, 1980. Applicant: LARRYMAR CORPORATION, P.O. Box 5, Rt. 541, Mt. Holly, NJ 08060. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting (1) *containers and containing devices*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Burlington Metal Products, Inc., of Lumberton, NJ.

MC 152320F, filed October 20, 1980. Applicant: VERSPEETEN CARTAGE LIMITED, 67 Dalton Rd., Delhi, Ontario, Canada N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under continuing contract(s) with AgroSpray Chemicals Limited and Tripp-Vogt Trottier Limited, both of Tillsonburg, Ontario, Canada, and Delhi Division of General Instrument of Canada Ltd., and Taylor Tobacco Enterprises (Ont.), Inc., both of Delhi, Ontario, Canada.

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Decided: November 3, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 113843 (Sub-287F), filed October 22, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St, 5th floor, Boston, MA 02210. Representative: Lawrence T. Shells (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Ralston Purina Company.

MC 125433 (Sub-436F), filed October 10, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *iron and steel articles and commodities which because of size or weight require the use of special equipment* between Tulsa, OK, and Amarillo, TX, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-437F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *plastic bags and plastic film*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 125433 (Sub-439F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *store fixtures and store equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 125433 (Sub-440F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *glass and metal containers*, (2) *containers, closures*, and (3) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Ball Corporation and its

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subsidiaries in the U.S., on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-441F), filed October 20, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AR, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-441F), filed October 20, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *aircraft passenger seats*, (2) *cooling and freezing boxes* and *parts* for cooling and freezing boxes, (3) *food cabinets and counters*, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) to (3) above, between points in Cooke County, TX, on the one hand, and, on the other, points in the U.S.

MC 128302 (Sub-16F), filed October 21, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Rd., Newbury, OH 44065. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *concrete additives, air entraining agents, mortar, concrete mix, cement compounds, iron borings, surface curing compounds, grout, and paint compounds*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Master Builders, Division of Martin-Marietta Corporation.

MC 133262 (Sub-3F), filed October 21, 1980. Applicant: TIGGES TRUCKING, INC., 5071 JFK Rd., Dubuque, IA 52001. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *dry cement*, in bulk, (1) from Rock Island, IL, and Buffalo, IA, to points in WI, and (2) from La Crosse, WI, to Waukon and Monona, IA.

MC 133542 (Sub-19F), filed October 17, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) *cabinets and vanity sets*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cabinets and vanity sets, between points in the U.S. (except AK and HI), under continuing contract(s) with StarMark, Inc., of Sioux Falls, SD; Mid Continent Millwork, Inc., of Cottonwood, MN; and Decorá Division of Beatrice Foods, of Zumbrota, MN.

MC 134922 (Sub-336F), filed October 21, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from points in Shelby County, TN, to points in the U.S. (except AK and HI.)

MC 135962 (Sub-5F), filed October 22, 1980. Applicant: MAR-KAT CARTAGE, INC., 5275 Naiman Parkway, Solon, OH 44139. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under continuing contract(s) with Joseph Horne Co., of Pittsburgh, PA, and J.C. Penny Company, Inc., of New York, NY.

MC 134922 (Sub-337F), filed October 17, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, N. Little Rock, AR 72118. Representative: Diane Price (same as applicant). Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, and classes A and B explosives), between points in the U.S. (except AK and HI). Condition: Issuance of this certificate is subject to prior or coincidental cancellation of all certificates of applicant. Applicant shall submit a list of all existing certificates and dates of issue to be cancelled.

MC 142672 (Sub-156F), filed October 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulburry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting (1) *stainless steel tubing*, from points in Johnson County, AR, to points in the U.S. (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of stainless steel tubing, in the reverse direction.

MC 144052 (Sub-1F), filed October 21, 1980. Applicant: INTERMODAL FREIGHT SYSTEMS, INC., 144 Pennsylvania Ave., P.O. Box 423, Kearny, NJ 07032. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between those points in the U.S. in and east of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic having a prior or subsequent movement by rail.

MC 144153 (Sub-2F), filed October 20, 1980. Applicant: OSCAR G. BJUGSTAD, OSCAR L. BJUGSTAD, and AUGUST D. BJUGSTAD, d.b.a. BJUGSTAD TRUCKING CO., Rte. 2, Highway 51, Stoughton, WI 53589. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Baker Manufacturing Company, of Evansville, WI.

MC 145102 (Sub-68F), filed October 23, 1980. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting *dairy products and synthetic dairy products*, from points in MN, IL, ND, SD, IA, and WI, to points in AZ, CA, and NV.

MC 145802 (Sub-7F), filed October 21, 1980. Applicant: RONALD E. REED, d.b.a. TRIPLE R. TRUCKING, R.F.D., Laurens, IA 50554. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *frozen concentrated and canned juices*, from points in FL to points in IA.

MC 146853 (Sub-5F), filed October 23, 1980. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOOD SHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *wooden windows, sliding glass doors, wooden folding doors, partitions, and lumber*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from Pella, IA, to points in UT, MT, WY, CO, and SD.

MC 150432 (Sub-8F), filed October 21, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with T. Marzetti Company, of Columbus, OH.

MC 151162 (Sub-5F), filed October 21, 1980. Applicant: LOWELL E. CAWOOD d.b.a. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72701. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting (1) *metal shelving*, and (2) *parts* and *accessories* used in the manufacture and distribution of metal

shelving, from points in OH to points in TX, restricted to traffic originating at or destined to the facilities of Austin Material Handling Company.

MC 151533 (Sub-6F), filed October 21, 1980. Applicant: BESTWAY FREIGHT LINES LTD., 1749 Wilbur Cross Hwy., Berlin, CT 06037. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *electronic equipment, radar equipment, radio equipment, transformers, metal weldments, and metal fabrications*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Radio Research Instrument Company, Inc., at (a) Danbury and Waterbury, CT, (b) New York, NY, (c) Sacramento and San Diego, CA, and (d) Williamsport, PA, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 151693 (Sub-3F), filed October 17, 1980. Applicant: SPECIAL SERVICE DELIVERY CO., INC., 2514 Bridge Ave., Cleveland, OH 44113. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetics (except commodities in bulk), and between points in Lucas County, OH, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 151742 (Sub-1F), filed October 18, 1980. Applicant: TEAM TRANSPORT, INC., 132 Phillips Avenue, Niles, OH 44446. Representatives: Samuel P. DeLisi, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting (1) *primary metal products*, as described in Item 33 of the Standard Transportation Commodity Code Tariff; (2) *fabricated metal products*, as described in Item 34 of the Standard Transportation Commoditiy Code Tariff; (3) *machinery and supplies*, as described in Item 35 of the Standard Transportation Commodity Code Tariff; (4) *electrical machinery or equipment and supplies*, as described in Item 36 of the Standard Transportation Commodity Code Tariff; and (5) *materials, equipment and supplies* used in the manufacture, sale or distribution of the commodities in (1) and (2) above, between points in the U.S. in and east of MT, WY, CO and NM.

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Decided: October 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 45194 (Sub-27TA) filed, October 15, 1980. Applicant: LATTAVO BROTHERS, INC., 2230 Shepler-Church Ave., SW., Canton, OH 44706. Representative: M. Diane Neal (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in OH, PA, and WV, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 67485 (Sub-21F), filed October 9, 1980. Applicant: TEXAS TEX-PACK EXPRESS, INC., P.O. Box 9325, San Antonio, TX 78204. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Houston and Junction, TX, over Interstate Hwy 10; (2) between Dallas and Laredo, TX, over Interstate Hwy 35; (3) between San Antonio and Corpus Christi, TX, over Interstate Hwy 37; (4) between Eagle Pass and Moore, TX, over U.S. Hwy 57; (5) between Houston and Laredo, TX, over U.S. Hwy 59; (6) between Dallas and Brownsville, TX, over U.S. Hwy 77; (7) between Round Rock and Hearne, TX, over U.S. Hwy 79; (8) between Hillsboro and Laredo, TX, over U.S. Hwy 81; (9) between Brownsville and Leakey, TX, over U.S. Hwy 83; (10) between Junction and Eden, TX, over U.S. Hwy 83; (11) between Gatesville and Collidge, TX, over U.S. Hwy 84 serving the intermediate points between McGregor and Collidge, TX; restricted against service at Gatesville; (12) between Goldthwaite and Mullin, over U.S. Hwy 84; (13) between Eden and Victoria, over U.S. Hwy 87; (14) between Houston and Sanderson, TX, over U.S. Hwy 90; (15) between Seguin and Belmont, TX, over alternate U.S. Hwy 90; (16) between San Antonio and Corpus Christi, TX, over U.S. Hwy 181; (17) between Gonzales and Mullin, TX, over U.S. Hwy 183; (18) between Brady and Hearne, TX, over U.S. Hwy 190; (19) between Del Rio and Carrizo Springs, TX, over U.S. Hwy 277; (20) between Lampasas and Brownsville, TX, over U.S. Hwy 281; serving all intermediate points, including Hidalgo; (21) between Brady, TX and junction U.S. Hwy 283 and F.M. Road 504, over U.S. Hwy 283; (22) between Junction and Giddings, TX, over U.S. Hwy 290, serving all intermediate points, including Butler and McDade; (23) between Junction and Brady, TX, over U.S. Hwy 377; (24) between Rocksprings and junction U.S. Hwy 377 and TX Hwy 41, over U.S. Hwy 377; (25) between Waco and Hearne, TX, over TX Hwy 6; (26) between Kosse and Eddy, TX, over TX Hwy 7; (27) between Corpus Christi, TX and junction TX Hwy 9 and U.S. Hwy 281 near Three Rivers, TX, over TX Hwy 9; (28) between between Fredericksburg and Zapata, TX, over TX Hwy 16; (29) between Llano and Goldthwaite, TX, over TX Hwy 16; (30) between San Marcos and junction TX Hwy 21 and F.M. Road 141 near Dime Box, over TX Hwy 21; (31) between Hillsboro and Blooming Grove, TX, over TX Hwy 22; (32) between Comfort and Mountain Home, TX, over TX Hwy 27; (33) between Georgetown and Fort McKavett, TX, over TX Hwy 29; (34) between Dawson, TX and junction TX Hwy 31 and U.S. Hwy 84 near Waco, over TX Hwy 31; (35) between Gregory and Hilliday Beach, TX, over TX Hwy 35; (36) between Cameron and Gatesville, TX, over TX Hwy 36; serving all intermediate points including North Fort Hood, excluding service at Gatesville, except for the purpose of interline with other carriers; (37) between Hunt and Ingram, TX, over TX Hwy 39; (38) between Mountain Home and junction TX Hwy 41 and U.S. Hwy 377, over TX Hwy 41; (39) between Corpus Christi and Freer, TX, over TX Hwy 44; (40) between Seguin and junction TX Hwy 46 and TX Hwy 16 near Pipe Creek, over TX Hwy 46; (41) between Brownsville and Port Isabel, TX, over TX Hwy 48; (42) between Temple and Rosebud, TX, over TX Hwy 53; (43) between Uvalde and Rocksprings, TX, over TX Hwy 55; (44) between Bastrop and Brady, TX, over TX Hwy 71; (45) between Kenedy and Fowlerton, TX, over TX Hwy 72; (46) between San Marcos and Karnes City, TX, over TX Hwy 80; (47) between Carrizo Springs and Dilley, TX, over TX Hwy 85; (48) between Temple and Bastrop, TX, over TX Hwy 95; (49) between Charlotte and Waelder, TX, over TX Hwy 97; (50) between Cotulla and Fowlerton, TX, over TX Hwy 97; (51) between Port Isabel, TX and junction TX Hwy 100 and U.S. Hwy 77 near Olmito over TX Hwy 100; (52) between Combes and Mission, TX, over TX Hwy 107; (53) between San Marcos and Karnes City, TX, over TX Hwy 123; (54) between Sabinal and Concan, TX, over TX Hwy 127; (55) between Kingsville and junction TX Hwy 141 and U.S. Hwy 281, over TX Hwy 141; (56) between Lockhart and Martindale, TX, over TX Hwy 142; (57) between Waco and Groesbeck, TX, over TX Hwy 164; (58) between Hillsboro and Groesbeck, TX, over TX Hwy 171; serving all intermediate points except those between Coolidge and Groesbeck; (59) between Jourdanton and Kerrville, TX, over TX Hwy 173; (60) between Linn-San Manuel and Port Mansfield, TX,

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over TX Hwy 186; serving all intermediate points, including San Perita; (61) between junction TX Hwy 195 and U.S. Hwy 183 and junction TX Hwy 195 and U.S. Hwy 81, via Florence, over TX Hwy 195; (62) between Beesville and Refugio, TX, over TX Hwy 202; (63) between Randolph A.F.B. near San Antonio and Live Oak, TX, over TX Hwy 218; (64) between Bluffton and Buchanan Dam, TX, over TX Hwy 261; (65) between Corpus Christi and Chapman Ranch, TX, over TX Hwy 286; (66) between Gonzales and Bastrop, TX, over TX Hwy 304; (67) between Belton and McGregor, TX, over TX Hwy 317; (68) between junction TX Hwy 320 and TX Hwy 7 near Chilton and junction TX Hwy 320 and TX Hwy 53 near Barclay, over TX Hwy 320; (69) between Freer and Benavides, TX, over TX Hwy 339; (70) between Red Oak, TX and junction TX Hwy 342 and U.S. Hwy 77 over TX Hwy 342;

(71) Between San Benito and Rio Hondo, TX, over TX Hwy 345; (72) between Laredo and Skidmore, TX, over TX Hwy 359; (73) between Gregory and Port Aransas, TX, over TX Hwy 361; (74) between San Marcos and Wimberly, TX, over F.M. Road 12; (75) between Fentress and junction F.M. Road 20 and TX Hwy 71 near Bastrop, over F.M. Road 20; (76) between Crystal City and Brundage, TX, over F.M. Road 65; (77) between Champan Ranch and Bishop, TX, over F.M. Road 70; (78) between Coolidge and Prairie Hill, TX, over F.M. Road 73; (79) between San Antonio and Seguin, TX, over F.M. Road 78; (80) between Panna Maria, TX and junction F.M. Road 81 and TX Hwy 123, over F.M. Road 81; (81) between Luling and Red Rock, TX, over F.M. Road 86; (82) between Progreso and junction F.M. Road 88 and TX Hwy 186, over F.M. Road 88; (83) between Harlingen, TX and junction F.M. Road 106 and TX Hwy 345 east of Rio Hondo, over F.M. Road 106; (84) between Moody and Eddy, TX, over F.M. Road 107; (85) between Artesia Wells and Caterina, TX, over F.M. Road 133; (86) between Gregory and Woodsboro, TX, over F.M. Road 136; (87) between Charlotte and Campbellton, TX, over F.M. Road 140; (88) between Giddings and junction F.M. Road 141 and TX Hwy 21 near Dime Box, over R.M. Road 141; (89) between Sabinal and Vanderpool, TX, over F.M. Road 187; (90) between Asherton and Brundage, TX, over F.M. Road 190; (91) between Elm Mott and Milford, TX, over F.M. Road 308; (92) between Vanderpool and Camp Wood, TX, over F.M. Road 337; (93) between Birome and junction F.M. Road 339 and TX Hwy 164 east of Mart, over F.M. Road 339; (94) between Rosebud and Kosse, TX, over F.M. Road 413; (95) between Waco and Chilton, TX, over F.M. Road 434; (96) between Belton and Heidenheimer, TX, over F.M. Road 436; (97) between Temple and Belfalls, TX, over F.M. Road 438; (98) between Killeen and Florence, TX, over F.M. Road 440; (99) between Moore and Tarpley, TX, over F.M. Road 462; (100) between Utopia and Bandera, TX, over F.M. Road 470; (101) between San Antonio and Natalia, TX, over F.M. Road 471; (102) between Florence and Bartlett, TX, over F.M. Road 487; (103) between La Villa and Lyford, TX, over F.M. Road 491; (104) between Donna, TX, and junction F.M. Road 493 and TX Hwy 186 north fo Hargill, over F.M. Road 493; (105) between Pontotoc and Bend, TX, over F.M. Road 501; (106) between Lohn, TX and junction F.M. Road 504 and U.S. Hwy 283 north of Brady, over F.M. Road 504, (107) between San Benito and Laguna Vista, TX, over F.M. Road 510; (108) between Sandia, TX, and junction F.M. Road 534 and F.M. Road 3162, over F.M. Road 535; (110) between San Saba and Lampass, TX, over F.M. Road 580; (111) between Lometa and Bend, TX, over F.M. Road 581; (112) between Bee Cave and Round Rock, TX, over F.M. Road 620; (113) between Mirando City and junction F.M. Road 649 and TX Hwy 359, over F.M. Road 649; (114) between Roma-Los Saenz and Fronton, TX, over F.M. Road 650; (115) between Italy and Frost, TX, over F.M. Road 667; (116) between McQueeny and New Braunfels, TX, over F.M. Road 725; (117) between Rio Grande City and Rachal, TX, over F.M. Road 755; (118) between New Berlin, TX, and junction F.M. Road 775 and Interstate Hwy 10, over F.M. Road 775; (119) between Red Rock, TX and junction F.M. Road 812 and U.S. Hwy 183 near Austin, over F.M. Road 812; (120) between Fort McKavett, TX and junction F.M. Road 864 and TX Hwy 29, over F.M. Road 864; (121) between Sinton and Rockport, TX, over F.M. Road 881; (122) between Troy, TX, and junction F.M. Road 935 and U.S. Hwy 77 near Chilton, over F.M. Road 935; (123) between Buda, TX, and junction F.M. Road 967 and Interstate Hwy 35, over F.M. Road 967; (124) between Austin and Webberville, TX, over F.M. Road 969; (125) between Granger and Georgetown, TX, over F.M. Road 971; (126) between junction F.M. Road 972 and Interstate Hwy 35 north of Georgetown and F.M. Road 972 and TX Hwy 95 north of Barlett, over F.M. Road 972; (127) between Manor and Del Valle, TX, over F.M. Road 973; (128) between Waco and Aquilla, TX, over F.M. Road 993; (129) between Lasara, TX and junction F.M. Road 1015 and F.M. Road 1422, over F.M. Road 1015; (130) between La Gloria and Linn-San Manuel, TX, over F.M. Road 1017; (131) between Eagle Pass and El Indio, TX, over F.M. Road 1021; (132) between Utopia, TX, and junction F.M. Road 1050 and U.S. Hwy 83, over F.M. Road 1050; (133) between Reagan Wells, TX and junction F.M. Road 1051 and U.S. Hwy 83, over F.M. Road 1051; (134) between Katemcy, TX and junction F.M. Road 1222 and U.S. Hwy 87, over F.M. Road 1222; (135) between Troy, TX, and junction F.M. Road 1237 and TX Hwy 36, over F.M. Road 1237; (136) between Bynum and Abbott, TX, over F.M. Road 1242; (137) between Pipe Creek, TX, and junction F.M. Road 1283 and F.M. Road 471, over F.M. Road 1283; (138) between Aquilla, TX, and junction F.M. Road 1304 and Interstate Hwy 35, over F.M. Road 1304; (139) between San Antonio and La Vernia, TX, over F.M. Road 1346; (140) between Monte Alto, TX, and junction F.M. Road 1422 and F.M. Road 491, over F.M. Road 1422; (141) between Penitas and junction F.M. Road 1427 and U.S. Hwy 83, over F.M. Road 1427; (142) between junction F.M. Road 1431 and TX Hwy 29 and F.M. Road 1431 and U.S. Hwy 281, via Kingsland, over F.M. Road 1431; (143) between Jonestown and Cedar Park, TX, over F.M. Road 1431; (144) between Schertz, TX, and junction F.M. Road 1518 and U.S. Hwy 87, over F.M. Road 1518; (145) between junction F.M. Road 1604 and U.S. Hwy 87 and F.M. Road 1604 and Interstate Hwy 10 east of San Antonio, TX, over F.M. Road 1604; (146) between Manchaca, TX and junction F.M. Road 1626 and Interstate Hwy 35, over F.M. Road 1626; (147) between Alcoa, TX, and junction F.M. Road 1786 and U.S. Hwy 79, over F.M. Road 1786; (148) between Hutto, TX and junction F.M. Road 1825 and Interstate Hwy 35, over F.M. Road 685; (149) between Mendoza and Dale, TX, over F.M. Road 1854; (150) between West, TX, and junction F.M. Road 2114 and F.M. Road 933, over F.M. Road 2114; (151) between Rockdale and Alcoa, TX, over F.M. Road 2116; (152) between Devine and D'Hanis, TX, over F.M. Road 2200; (153) between Sunrise Beach, TX, and junction F.M. Road 2233 and TX Hwy 71, over F.M. Road 2233; (154) between Llano and Tow, TX, over F.M. Road 2241; (155) between Lake Victor, TX, and junction F.M. Road 2340 and U.S. Hwy 281, over F.M. Road 2340; (156) between Carrizo Springs and El Indio, TX, over F.M. Road 2644; (157) between Kingsland, TX, and junction F.M. Road 2900 and F.M. Road 2233, over F.M. Road 2900; (158) between Corpus Christi and Padre Island, TX, over Park Road 22; (159) between Lake Hills, TX, and junction Park Road 37 and TX Hwy 16, over Park Road 37; (160) between Port Aransas, TX, and junction Park Road 53 and Park Road 22, over Park Road 53; (161) between Port Isabel and South Padre Island, TX, over Park Road 100; (162) between New Berlin, TX, and junction unnumbered Hwy and Interstate Hwy 10, over unnumbered Hwy, serving all intermediate points in routes (1) through (162), except as otherwise noted, restricted to the transportation of packages or articles weighing in the aggregate in any one shipment, 500 pounds.

MC 106674 (Sub-510F), filed October 15, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of Standard T Chemical Company, Inc.

MC 112595 (Sub-94F), filed October 18, 1980. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. Transporting *commodities in bulk,* between points in Marengo County, AL, Tehama and Alameda Counties, CA, Kent County, DE, Polk, Manatee, and Hillsborough Counties, FL, Damden, Cobb, and Spalding Counties, GA, Kane, La Salle, and Sangamon Counties, IL, Marion County, IN, Logan County, KY, Ascension, East Baton Rouge, and West Baton Rouge Parishes, LA, Anne Arundel County, MD, Essex, Middlesex, and Worcester Counties, MA, Kalamazoo, Lenawee, Ottawa, and Saginaw Counties, MI, Missoula County, MT, Bergen, Middlesex, and Union Counties, NJ, Chenango, New York, Kings, Richmond, Nassau, and Queens Counties, NY, Beaufort, Cumberland, Lenoir and New Hanover Counties, NC, Delaware, Scioto, and Shelby Counties, OH, Lane and Union Counties, OR, Montgomery County, PA, Angelina County, TX, Chesapeake and Pittsylvania Counties, VA, Clark and King Counties, WA, Sheboygan and Winnebago Counties, WI, and Los Angeles, CA, Atlanta, GA, Chicago, IL, Louisville, KY, St. Louis, MO, Camden, NJ, Cincinnati, Columbus, and Toledo, OH, Portland, OR, Dallas and Fort Worth, TX, and Norfolk, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121654 (Sub-41F), filed October 22, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., a Corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor/Lewnox Towers South, Atlanta, GA 30326. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA, CT, RI, NY, NJ, PA, MD, DE, OH, WV, VA, NC, TN, SC, GA, FL, AL, MS, LA, TX, and DC.

MC 123285 (Sub-12F), filed October 15, 1980. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1) *lime,* between points in TX, on the one hand, and, on the other, points in MS, and (2) *flyash,* between points in TX, on the one hand, and, on the other, points in AR, LA, OK, NM, and MS.

MC 141024 (Sub-2F), filed filed October 14, 1980. Applicant: CLARK TRUCKING, INC. 711 Clymer Rd., P.O. Box 207, Marysville, OH 43040. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except articles of unusual value, explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in Union County, OH, on the one hand, and, on the other, points in IN, KY, MI, OH, PA, and WV.

MC 144714 (Sub-2F), filed September 12, 1980. Applicant: UPPER CUMBERLAND FREIGHT, INC., Route 5, Box 196, Cookeville, TN 38501. Representative: Harlan Dodson, 900 Nashville City Bank Bldg., P.O. Box 2524, Nashville, TN 37219. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Thomas Industries, Inc., of Sparta, TN. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 146754 (Sub-6F), filed October 15, 1980. Applicant: TENNANT TRUCK LINES, INC., R. R. 1, P.O. Box 233, Orion, IL 61273. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of building materials and building supplies, between Coal Valley and Moline, IL, and McKinney, TX, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, and WI.

MC 148064 (Sub-1F), filed October 15, 1980. Applicant: M. T. TRUCKING, INC., Route 2, Zimmerman, MN 55398. Representative: John B. Van De North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101. Transporting *cabinets,* and *materials, equipment and supplies* used in the manufacture of cabinets, between points in the U.S., under a continuing contract(s) with Crystal Cabinet Works, Inc., of Princeton, MN.

MC 148404 (Sub-3F), filed October 16, 1980. Applicant: UNITED CHEMICAL CARRIERS, INC., 15812 La Monde St., Hacienda Heights CA 91745. Representative: Bobbie F. Albanese, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. Transporting *aluminum plates, aluminum sheets, and aluminum blanks,* between points in Lancaster County, PA, on the one hand, and, on the other, points in AR, CA, CO, MS, OK, OR, TX, and WA.

Volume No. OP3-063

Decided: October 31, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 107445 (Sub-38F), filed October 18, 1980. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., Indianapolis, IN 46203. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *machinery and supplies* for machinery, (2) *metal products,* and (3) *commodities* requiring the use of special equipment, between points in IN, on the one hand, and, on the other, points in U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidential cancellation of Certificate MC 107445 Sub-20F.

MC 113855 (Sub-516F), filed October 16, 1980. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *talc,* between points in MT, on the one hand, and, on the other, points in the U.S. (excluding AK and HI).

MC 116254 (Sub-317F), filed October 2, 1980, previously noticed in the **Federal**

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Register issue of October 23, 1980. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, P.O. Box 339, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant). Transporting (1) *metallic ores* as described in Item 10 of the Standard Transportation Commodity Code Tariff (STCCT), (2) *non-metallic minerals* (except fuels) as described in Item 14 of STCCT, (3) *clay, concrete, glass or stone products,* as described in Item 32 of STCCT, (4) *primary metal products,* including galvanized, as described in Item 33 of STCCT, (5) *fabricated metal products* (except ordnance, machinery and transportation equipment), as described in Item 34 of STCCT, and (6) *waste or scrap materials,* as described in Item 40 of STCCT, between points in the U.S. in and east of MN, IA, MO, AR, and LA.

Note.—This republication correctly states the commodities.

MC 123255 (Sub-223F), filed October 16, 1980. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: A. Charles Tell, 100 E. Borad St., Columbus, OH 43215. Transporting *general commodities* except classes A and B explosives and household goods as defined by the Commission, between points in IL, IN, KY, MI, OH, PA, WV and WI.

MC 129124 (Sub-31F), filed October 16, 1980. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *sand,* from points in Geauga County, OH, to points in NY and PA.

MC 140945 (Sub-5F), filed October 18, 1980. Applicant: JAMES W. CROWE, INC., 307 Brennan Road, Columbus, GA 31903. Representative: C. E. Walker, Suite 235, Martin Building, P.O. Box 1085, Columbus, GA 31902. Transporting (A)(1) *dry fertilizer* and *dry fertilizer materials,* (2) *farm seed and animal feed,* in containers, and (3) *crop-protection chemicals* in mixed loads with fertilizer and fertilizer materials, between points in AL, GA (except Clyo, Metter, and Port Wentworth), and FL, restricted in parts (1) and (3) above against the transportation of commodities in bulk, in tank vehicles, under continuing contract(s) with USS Agri-Chemicals Division at Atlanta, GA, and International Minerals and Chemical Corporation, of Atlanta, GA, and (b) *liquid fertilizer and liquid fertilizer materials,* in bulk, in tank vehicles, from points in Barbour County, AL, to points in FL and GA, under continuing contract(s) with USS Agri-Chemicals Division at Atlanta, GA.

Note.—Issuance of a permit in this proceeding is conditioned upon prior or coincidental cancellation of Permit No. MC 140945 Sub 1, at applicant's written request.

MC 141205 (Sub-49F), filed October 16, 1980. Applicant: HUSKY OIL TRANSPORTATION COMPANY, a Corporation, 600 South Cherry Street, Denver, CO 80222. Representative: James M. Elegante, P.O. Box 11898, Salt Lake City, UT 84147. Transporting *crude oil, scrubber oil* and *condensate,* between points in the U.S., under continuing contract(s) with Husky Oil Company, Denver, CO.

MC 148404 (Sub-5F), filed October 16, 1980. Applicant: UNITED CHEMICAL CARRIERS, INC., 15812 La Monde St., Hacienda Heights, CA 91745. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting (1) *advertising matter, magazines, periodicals,* and (2) *equipment, materials and supplies* used in printing and publishing business, between points in Greene County, OH, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, LA, MS, MT, NM, NV, OK, OR, TX, WA, and WY.

MC 148404 (Sub-4F), filed October 16, 1980. Applicant: UNITED CEHMICAL CARRIERS, INC., 15812 La Monde St., Hacienda Heights, CA 91745. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting *insecticides* and *pet supplies* (except in bulk), between points in Dallas County, TX, on the one hand, and, on the other, points in the U.S.

Volume No. OP3-065

Decided November 3, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier, and Hill.

MC 2245 (Sub-15F), filed October 21, 1980. Applicant: THE O. K. TRUCKING COMPANY, a Corporation, 3000 E. Crescentville Road, Cincinnati, OH 45241. Representative: Rober H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Macon County, IL as off-route points in connection with carrier's authorized regular routes.

Note.—Applicant intends to tack this authority with its existing authority and interline with connecting carriers.

MC 20824 (Sub-48F), filed October 18, 1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 2141 South High School Rd., Indianapolis, IN 46241. Representative: C. C. Boyd (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Danville, IL and Moline, IL: From Danville over Interstate Hwy 74 to junction Interstate Hwy 80, and then over Interstate Hwy 80 to Moline, and return over the same route; (2) Between Chicago, IL and East Dubuque, IL, over U.S. Hwy 20; (3) Between Danville, IL and Kansas City, MO: From Danville over Interstate Hwy 74 to junction Interstate Hwy 72, then over Interstate Hwy 72 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 24, and then over U.S. Hwy 24, to Kansas City, and return over the same route; (4) Between Terre Haute, IN and Kansas City, MO, over Interstate Hwy 70; (5) Between Evansville, IN and St. Louis, MO: From Evansville over U.S. Hwy 41 to junction Interstate Hwy 64, and then over Interstate Hwy 64 to St. Louis, and return over the same route; (6) Between Chicago, IL and Sikeston, MO, over Interstate Hwy 57; (7) Between Chicago, IL and St. Louis, MO, over Interstate Hwy 55; (8) Between Dayton, OH and Toledo, OH over Interstate Hwy 75; (9) Between Columbus, OH and Ashtabula, OH: From Columbus over Interstate Hwy 71 to Cleveland, OH, then over Interstate Hwy 90 to junction OH Hwy 11, and then over OH Hwy 11 to Ashtabula, and return over the same route; (10) Between Columbus, OH and Bridgeport, OH, over Interstate Hwy 70; (11) Between Columbus, OH and Portsmouth, OH, over U.S. Hwy 23; (12) Between Columbus, OH and Marietta, OH: From Columbus, over U.S. Hwy 33 to Athens, OH, then over U.S. Hwy 50 to junction OH Hwy 7, and then over OH Hwy 7 to Marietta, and return over the same route; (13) Between Fort Wayne, IN and Toledo, OH, over U.S. Hwy 24; (14) Between Fort Wayne, IN and Youngstown, OH: From Fort Wayne over U.S. Hwy 30 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 80, and then over Interstate Hwy 80 to Youngstown, and return over the same route; (15) Between Evansville, IN and Cairo, IL: From Evansville over U.S. Hwy 41 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Wickliffe, KY, and then over U.S. Hwy 51 to Cairo, and return over the same route; (16) Between Evansville, IN and Chattanooga, TN, over U.S. Hwy 41; (17) Between Evansville, IN and Owensboro, KY: From Evansville over IN Hwy 66 to junction U.S. Hwy 231, and then over U.S. Hwy 231 to Owensboro, and return over the same route; (18) Between Louisville, KY and Memphis, TN: From Louisville over Interstate Hwy 65 to Nashville, TN, and then over Interstate Hwy 40 to Memphis, and return over the same route; (19) Between Cincinnati, OH and Chattanooga, TN, over Interstate Hwy 75; (20) Between Louisville, KY and Ashland, KY: From Louisville over Interstate Hwy 64 to junction U.S. Hwy 60, and then over U.S. Hwy 60 to Ashland, and return over the same route; (21) Between junction Interstate Hwys 57 and 24, and Chattanooga, TN, over Interstate Hwy 24; (22) Between St. Louis, MO and Joplin, MO, over Interstate Hwy 44; (23) Between St. Louis, MO and Sikeston, MO: From St. Louis over Interstate Hwy 55 to junction U.S. Hwy 60, and then over U.S. Hwy 60 to Sikeston, and return over the same route; (24) Between St. Louis, MO and Hannibal, MO, over U.S. Hwy 61; (25) Between Kansas City, MO and Saint Joseph, MO, over Interstate Hwy 29; (26) Between St. Louis, MO and Memphis, TN, over Interstate Hwy 55; (27) Between Rockville, IN and Saint Joseph, MO, over U.S. Hwy 36; (28) Between Louisville, KY and Springfield, MO, over U.S. Hwy 60; (29) Between Cincinnati, OH and Ashland, KY: From Cincinnati over U.S. Hwy 52 to Portsmouth, OH, and then over U.S. Hwy 23 to Ashland, and return over the same route; and (30) in (1) through (29) above (a) serving all intermediate points and (b) serving all points in IL, IN, KY, MO, OH, and TN as off-route points in connection with Routes (1) through (29) above and carrier's presently authorized regular route operations.

Note.—Applicant intends to tack and interline this authority with existing authority.

MC 56244 (Sub-111F), filed October 17, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 73165 (Sub-529F), filed October 15, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *commodities,* which because of size or weight require the use of special equipment, (2) *self-propelled articles,* and (3) *materials* and *supplies* used in the manufacture of commodities in (1) and (2), between points in Jefferson County, AL, Los Angeles, and Tulare Counties, CA, Mesa, Denver, and El Paso Counties, CO, Jefferson and McHenry Counties, IL, LaPorte County, IN, Sullivan County, NH, Erie and Queens Counties, NY, Wilson and Lenoir Counties, NC, Cuyahoga and Tuscarawas Counties, OH, Venango, Washington, and Indiana Counties, PA, Harris and Ellis Counties, TX, Salt Lake and Carbon Counties, UT, Tazewell and Scott Counties, VA, Clark County, WA, and Ohio County, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 74695 (Sub-15F), filed October 20, 1980. Applicant: SOUTHERN TRUCKING COMPANY, P.O. Box 5008, Jersey City, NJ 07305. Representative: Robert B. Peper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *compressed industrial gases,* in gas cylinders and tube trailers, between points in the U.S., under continuing contract(s) with Liquid Air Corporation of North America, King of Prussia, PA.

MC 77424 (Sub-53F), filed October 22, 1980. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, OH 44104. Representative: James Johnson (same address as applicant). Transporting *automobile accessories,* from Centralia, IL to points in MI and OH.

MC 83835 (Sub-171F), filed October 18, 1980. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting (A) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (B) *commodities* which, because of their size or weight, require the use of special equipment, and related parts when their transportation is incidental to the transportation of commodities, which by reason of size or weight require the use of special equipment; (C) *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities on trailers, between points in DE, MD, NY, NJ, and WV, on the one hand, and, on the other, points in AR, AZ, CA, CO, KS, LA, MO, MT, NM, OK, UT, WY, and TX, restricted against the transportation of commodities in bulk, in tank vehicles.

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

MC 107295 (Sub-998F), filed October 21, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *glass,* from points in Preble County, OH to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 107934 (Sub-43F), filed October 22, 1980. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *wood stoves* and *accessories* for wood stoves, from points in Henderson County, NC, to points in VA.

MC 110325 (Sub-162F), filed October 17, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), (1) between Waco and San Antonio, TX, over Interstate Highway 35; (2) between San Antonio and Houston, TX, over Interstate Hwy 10; (3) between San Antonio, TX and Denver, CO, over Interstate Hwy 10 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Denver; (4) between Waco, TX and Memphis, TN, over TX Hwy 31 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis; (5) between Hearne and Marshall, TX, over U.S. Hwy 79 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Marshall; (6) between Houston and Austin, TX over U.S. Hwy 290; (7) between San Antonio, TX and Raton, NM over U.S. Hwy 87; (8) serving all intermediate points in (1) through (7) above and the off-route points in Hill, McLennan, Bell, Falls, Caldwell, Milam, Williamson, San Patricio, Nueces, Travis, Hays, Robertson, Brazos, Burleson, Comal, Guadalupe, Bexar, Hidalgo, Willacy and Cameron Counties, TX.

Note.—Applicant intends to tack this authority with its existing authority.

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MC 110325 (Sub-163F), filed October 17, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg.,1212 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) Between Denver, CO and Houston, TX: From Denver over Interstate Hwy 25 to junction U.S. Hwy 87, then over U.S. Hwy 87 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Houston, and return over the same route; (2) Between Dallas, and Port Arthur, TX: From Dallas over U.S. Hwy 175 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Port Arthur, and return over the same route; (3) Between Houston, TX and Memphis, TN: From Houston over U.S. Hwy 59 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (4) Between Houston and Beaumont, TX, (a) over Interstate Hwy 10, (b) over U.S. Hwy 90; (5) Between Corsicana, TX and Texarkana, AR: From Corsicana over TX Hwy 31 to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction TX Hwy 155, then over TX Hwy 155 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction Interstate Hwy 30, then over Interstate Hwy 30 to Texarkana, and return over the same route; (6) Between Gilmer, TX and junction U.S. Hwy 259 and Interstate Hwy 30: From Gilmer over U.S. Hwy 271 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 259, and return over the same route; (7) serving all intermediate points in (1) through (6) and the off-route points in Kaufman, Van Zandt, Henderson, Smith, Anderson, Cherokee, Houston, Nacogdoches, Angelina, Polk, Tyler, Jasper, Hardin, Orange, and Jefferson Counties, TX.

Note.—Applicant intends to tack this authority with its existing authority.

MC 110325 (Sub-164F), filed October 17, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg.,1212 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) Between Houston, TX and Lake Charles, LA, (a) over Interstate Hwy 10; and (b) over U.S. Hwy 90; (2) Between Beaumont and Marshall, TX: From Beaumont over U.S. Hwy 96 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Marshall, and return over the same route; (3) Between Lake Charles, LA and Memphis, TN: From Lake Charles over U.S. Hwy 171 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route; (4) Between Shreveport, LA and Birmingham, AL, over Interstate Hwy 20; (5) Between Houston, TX and Texarkana, AR, over U.S. Hwy 59; (6) Between Marshall, TX and Shreveport, LA, over Interstate Hwy 20; (7) serving all intermediate points in (1) through (6) above, and the off-route points in Jefferson, Orange, Hardin, Polk, Tyler and Jasper Counties, TX.

Note.—Applicant intends to tack this authority with its existing authority.

MC 114045 (Sub-576F), filed October 23, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *general commodities*, between points in the U.S. under continuing contract(s) with Swift & Company, of Chicago, IL. CONDITION: To the extent the authority granted herein authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from the date of issuance.

MC 117815 (Sub-340F), filed October 20, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods and classes A and B explosives), between points in AR, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, OK, SD, TN, TX, and WI.

MC 123054 (Sub-29F), filed October 21, 1980. Applicant: R & H CORPORATION, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Transporting (1) *paper and paper products, lumber, forest products, janitorial equipment and supplies, packaging material and equipment, and printing equipment and supplies*, and (2) *material, equipment, and supplies* used in the manufacture, conversion or distribution of the commodities in (1), between points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to facilities used by Hammermill Paper Company.

MC 124964 (Sub-67F), filed October 21, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *foodstuffs* (except commodities in bulk, in tank vehicles) and (2) *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs, from the facilities of Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI).

MC 133805 (Sub-59F), filed October 1, 1980, previously noticed in the **Federal Register** issue of October 21, 1980 as MC 133808 (Sub-59F). Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701.

Note.—This republication correctly states the docket number, which is MC 133805 (Sub-59F).

MC 138634 (Sub-3F), filed October 24, 1980. Applicant: MARSHALL MOTOR COACH, INC., 1409 East Anson, Marshalltown, IA 50158. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *foodstuffs*, (2) *meats, meat products, and meat byproducts*, and *articles distributed by meat packing houses*, (except foodstuffs), and (3) *materials and supplies* used in the manufacture and distribution of commodities in (1) and (2), between Marshalltown, IA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, WY, CO, and NM.

MC 140294 (Sub-17F), filed October 21, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting *such commodities* as are used by or dealt in by grocery and drug manufacturers, and drug stores, grocery stores and food business houses (except commodities in bulk), between points in Cumberland County, PA, on the one hand, and, on the other, points in MD, VA, WV, and DC.

MC 140665 (Sub-115F), filed October 20, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, houshold goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Los Angeles, CA, Seattle, WA, Salt Lake City, UT, Cleveland, OH, Dallas, TX, and Springfield and Portland, OR.

MC 142974 (Sub-4F), filed October 22, 1980. Applicant: SURE TRANSPORT, INC., Industrial Center, P.O. Box G, Lincoln, RI 02865. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Transporting (1) *printed matter* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter (except in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Rand McNally & Company.

MC 143594 (Sub-28F), filed October 23, 1980. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *chemicals*, in bulk, between Nashville, TN, on the one hand, and, on the other, those points in that part of the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 148875 (Sub-2F), filed October 20, 1980. Applicant: KELLEY H. WATSON ENTERPRISES, d.b.a. WATSON TRUCKING, 8477 Aero Drive, San Diego, CA 92123. Representative: William R. Daly, 4340 Vandever, Suite S, P.O. Box 20521, San Diego, CA 92120. Transporting *games and toys*, between points in the U.S., under continuing contract(s) with Gremlin Industries, of San Diego, CA.

MC 150425 (Sub-2F), filed October 21, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *paper, paper products and plastic articles*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. in and east of WI, IA, MO, KS, OK and TX.

MC 150464 (Sub-5F), filed October 21, 1980. Applicant: C. E. MELTON TRANSPORT, Route 4, Highway 280 East, Americus, GA 31709. Representative: Carl E. Melton (same address as above). Transporting *general commodities* (except materials in bulk and classes A and B explosives), between those counties in GA in and south of Troup, Meriwether, Spalding, Lamar, Monroe and Bigg, and in and west of Houston, Pulaski, Wilcox, Ben Hill, Coffee and Ware, on the one hand, and, on the other, points in AL, AR, KY, MS, MO, KS, OK, LA, TN, and TX.

MC 150674 (Sub-1F), filed October 21, 1980. Applicant: IMR TRANSPORTATION, INC., P.O. Box 573, Casa Grande, AZ 85222. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with International Metal Recycling Corp., of Casa Grande, AZ.

MC 150784 (Sub-1F), filed October 18, 1980. Applicant: JEFFREY & JON TRUCKING CO., INC., 3241 Fox St., Philadelphia, PA 19129. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *automotive parts, and materials and supplies* used in the manufacture and distribution of automotive parts, between points in the U.S., under continuing contract(s) with Mack Trucks, Inc.

MC 150954 (Sub-2F), filed October 27, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. Transporting (1) *dragline, dipper buckets, skidder blades* and (2) *equipment and supplies* used in the manufacture and distribution of the commodities in (1), between Baltimore, MD, and points in Multnomah County, OR, Roosevelt County, MT, Vermillion and Cook Counties, IL, Cuyahoga County, OH, Newton County, MS, Philadelphia County, PA, and Essex County, NJ, on the one hand, and, on the other, points in Roosevelt County, MY, Vermillion County, IL, Newton County, MS and Multnomah County, OR.

MC 151395 (Sub-5F), filed October 22, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Colbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *containers, container ends* and *closures* for containers, and tin plate, and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1), between points in the U.S., restricted to traffic originating at or destined to a facility of Crown Cork and Seal Company.

MC 151545 (Sub-1F), filed October 20, 1980. Applicant: C. R. JOHNSON, d.b.a. C. R. JOHNSON TRUCKING, 10700 Forest, P.O. Box 3327, Santa Fe Springs, CA 90670. Representative: Milton W. Flack, 8383 Wilhsire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting (1) *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in CA and NV.

MC 151594 (Sub-1F), filed October 16, 1980. Applicant: SHILOH TRANSPORTATION, INC., 143 Pickwick Rd., Savannah, TN 38372. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. Over regular routes, transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), (1) between Nashville, TN and Savannah, TN: (a) from Nashville over U.S. Hwy 31 to junction U.S. Hwy 43, then over U.S. Hwy 43, to junction TN Hwy 20, then over TN Hwy 20 to junction unnumbered hwy known as the Summertown Pike, then over said Summertown Pike to junction U.S. Hwy 64, then over U.S. Hwy 64 to Savannah, and return over the same route, serving all intermediate points in Hardin and Wayne Counties, TN and serving all points in Hardin and Wayne Counties, TN, and Deerfield, TN as off-route points; (b) from Nashville over Interstate Hwy 65 to junction TN Hwy 99, then over TN Hwy 99 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 43, then over U.S. Hwy 43 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Savannah, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (c) from Nashville over TN Hwy 100 to junction TN Hwy 69, then over TN Hwy 69 to junction TN Hwy 114, then over TN Hwy 114 to junction TN Hwy 128, then over TN Hwy to Savannah, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; and (d) from Nashville over Interstate Hwy 40 to junction TN Hwy 22, then over TN Hwy 22 to junction U.S. Hwy 64 then over U.S. Hwy 64 to Savannah, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (2) Between Memphis and Selmer, TN, over U.S. Hwy 64, serving all intermediate points in McNairy County, TN, and serving points in McNairy County as off-route points; (3) between Nashville, TN and Selmer, TN: (a) from Nashville over Interstate Hwy 40 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Selmer, and return over the same route, serving all intermediate points in McNairy County, TN, and serving all points in McNairy

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County as off-route points; (b) from Nashville over TN Hwy 100 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Selmer, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (4) between Selmer and Savannah, TN: (a) over U.S. Hwy 64, serving all intermediate points, and serving all points in hardin and McNairy Counties, TN as off-route points; (b) from Selmer over U.S. Hwy 45 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction MS Hwy 25, then over MS Hwy 25 to the MS–TN State line, then over TN Hwy 57 to junction TN Hwy 128, then over TN Hwy 128 to Savannah, and return over the same route, serving all intermediate points; (5) between Memphis and Savannah, TN: from Memphis over U.S. Hwy 72 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction MS Hwy 2, then over MS Hwy 2 to the MS–TN State line, then over TN Hwy Hwy 22 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Savannah, and return over the same route, serving all intermediate points in Hardin and McNairy Counties, TN; (6) between Nashville and Waynesboro, TN: (a) from Nashville over TN Hwy 100 to junction TN Hwy 13, then over TN Hwy 13 to Waynesboro, and return over the same route, serving all intermediate points in Wayne County, TN and serving all points in Wayne County as off-route points; (b) from Nashville over Interstate Hwy 40 to junction TN Hwy 13, then over TN Hwy 13 to Waynesboro, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (7) between Savannah, TN, and the Yellow Creek State Inland Port Authority and Industrial Park, MS: from Savannah over TN Hwy 128 to junction TN Hwy 57, then over TN Hwy 57 to the TN–MS State line, then over MS Hwy 25 to the Yellow Creek State Inland Port Authority and Industrial Park, and return over the same route, serving all intermediate points, and serving the Yellow Creek Nuclear Plant as an off-route point.

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Decided: November 4, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2304 (Sub-40F), filed October 28, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, a corporation, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *foodstuffs* and (2) *materials and supplies* used in the manufacture, sales and distribution of foodstuffs, between Hoopeston and Princeville, IL, Mayville, WI, and Turkey, NC, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, MS, AL, GA, FL, SC, NC, TN, VA, KY, WV, IN, IL, MI, OH, PA, MD, DE, NJ, NY, CT, RI, MA, NH, VT, and ME.

MC 52484 (Sub-14F), filed October 17, 1980. Applicant: EVANS TRUCKING CO., a corporation, 2773 Darlington Rd., Beaver Falls, PA 15010. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *primary and fabricated metal products* (except ordnance), between points in CT, IN, MD, NJ, NY, OH, PA, and WV.

MC 60014 (Sub-194F), filed October 26, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *aluminum and aluminum articles*, between the facilities of Martin Marietta Aluminum, Inc., at Lewisport, KY, The Dallas, OR, Cliffs, WA, and Torrance, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 60014 (Sub-195F), filed October 28, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *metal articles*, from the facilities of Feralloy Corp., at Birmingham, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 94265 (Sub-367F), filed October 27, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to the transportation of traffic from or to the facilities of SCM Corporation.

MC 109265 (Sub-28F), filed October 20, 1980. Applicant: W. L. MEAD, INC., P.O. Box 31, Norwalk, OH 44857. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *non-exempt food or kindred products*, and (2) *chemicals or allied products* between points in Lake McHenry, Kane, DeKalb, Du Page, Cook, Kendall, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in MD, NJ, NY, PA, VA, WV, and DC.

MC 112595 (Sub-95F), filed October 27, 1980. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. Transporting *commodities in bulk*, between points in KY, OH, MI, VA and WV.

MC 117765 (Sub-303F), filed October 28, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan, (same address as applicant). Transporting *flour* (except in bulk), from points in Blaine County, OK to points in TX.

MC 118535 (Sub-161F), filed October 27, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr., (same address as applicant). Transporting *non-ferrous metals and scrap, plastic and rubber scrap, junk batteries, burned-out battery plates, drosses and residues*, between points in Carroll County, IL, on the one hand, and, on the other, points in AR, AZ, CO, IA, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, NM, OH, OK, SD, TN, TX, WI, and WY.

MC 123294 (Sub-88F), filed October 20, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *animal and poultry feed and feed ingredients, premixes, and feed preservatives*, from Pittsfield, IL, to those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 136234 (Sub-5F), filed October 20, 1980. Applicant: BURKHART ENTERPRISES, INC., P.O. Box 6131, Knoxville, TN 37914. Representative: Jess D. Campbell, 205 Clinch Ave., Knoxville, TN 37902. Transporting *salt and salt products*, from points in Knox and Loudon Counties, TN, on the one hand, and, on the other, points in TN, VA, NC, SC, GA, and KY.

MC 136315 (Sub-136F), filed October 27, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *primary metal products*, between points in Orange County, TX, on the one hand, and, on the other, points in Orleans Parish, LA.

MC 138635 (Sub-51F), filed October 27, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *automotive parts* and (2) *equipment, supplies and material used in the manufacture of automotive parts*, between points in the U.S. (except AK and HI).

MC 143394 (Sub-36F), filed October 21, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Road, P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop, (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in the U.S., under continuing contract(s) with Streamline Shippers Association, Inc., of Los Angeles, CA.

MC 144034 (Sub-3F), filed October 20, 1980. Applicant: PAUL M. PUCKETT, 603 North Walnut St., Pana, IL 62557. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *aluminum greenhouses*, and *materials, supplies, and tools* used in the manufacture, distribution and construction of aluminum greenhouses, between points in the U.S., under a continuing contract(s) with National Greenhouse Company, of Pana, IL.

MC 144184 (Sub-4F), filed October 27, 1980. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Ave., Lancaster, OH 43130. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *commodities in bulk* between points in the U.S., under continuing contract(s) with Anchor Hocking Corporation, of Lancaster, OH.

MC 148314 (Sub-5F), filed October 31, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting (1) *fireplace logs* and (2) *materials, equipment and supplies* used in the manufacture and distribution of fireplace logs, between points in Trumbull County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–118

Decided: November 5, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 119496 (Sub-19F), filed October 21, 1980. Applicant: THE JAMES GIBBONS COMPANY, a corporation, P.O. Box 253, Annapolis Junction, MD 20701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting (1) *plastic containers* and (2) *materials, equipment and supplies* used in the manufacture of commodities in (1) above, between points in Anne Arundel County, MD and Columbia County, PA, on the one hand, and, on the other, points in DE, MD, NC, NJ, NY, OH, PA, VA, WV and DC.

MC 144698 (Sub-7F), filed October 20, 1980. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom St., Zeeland, MI 49464. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *pet foods*, and *materials and supplies* used in the manufacture of pet foods, between points in the U.S., under continuing contract(s) with Benco Pet Foods, Inc., of Zanesville, OH.

MC 145637 (Sub-4F), filed October 28, 1980. Applicant: B & B EXPRESS, INC., P.O. Box 5552, Station B, Greenville SC 29608. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of Fiber and Plastics Co., a Division of Allied Chemical Co.

MC 146457 (Sub-3F), filed October 20, 1980. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *malt beverages*, from the vacilities of Joseph S. Pickett & Sons, Inc., at Dubuque, IA (a) to the facilities of Berk Distributing Co., at Chicago, IL, Associated Beverage, at Lockport, IL, and Gorski Distributing Co., at Lemont, IL, and (b) to East St. Louis, IL, and points in MO, and (2) *empty cans and lids*, from the facilities of Chicago National Can, at Chicago, IL to the facilities of Joseph S. Pickett & Sons, Inc., at Dubuque, IA.

MC 147316 (Sub-1F), filed October 21, 1980. Applicant: CRESTON TRANSPORTATION, INCORPORATED, East Highway 34, Creston, IA 50801. Representative: David L. Charles, 2600 Ruan Center, Des Moines, IA 50309. Transporting *general commodities*, between points in NE, KS, MO, IL, MN, OK, and TX, on the one hand, and, on the other, points in IA. Condition: The certificate to be issued in this proceeding to the extent it authorizes the transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 148736 (Sub-2F), filed October 17, 1980. Applicant: A & W CONTRACT CARRIERS, INC., Hwy 51 S at Downs Circle, Pineville, NC 28134. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204. Transporting *bottled water*, between points in the U.S., under continung contract(s) with Carolina Mountain Spring Water Company, Inc., of Cashiers, NC.

MC 150806 (Sub-2F), filed October 28, 1980. Applicant: WECO, INC. 500 Scott St., P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Transporting *newspaper supplements, magazines, printed matter and catalogs*, between points in the U.S., under continuing contract(s) with Henry Wurst, Inc., of Kansas City, MO.

Volume No. OP4–119

Decided: November 5, 1980

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 64806 (Sub-16F), filed September 25, 1980, previously noticed in the **Federal Register** of October 14, 1980. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *containers*, and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of containers, between points in Vigo County, IN, and Monmouth County, NJ, on the one hand, and, on the other, points in NC, SC, and VA.

Note.—The purpose of this republication is to correctly describe the commodity description.

MC 119366 (Sub-4F), filed October 10, 1980, previously noticed in the **Federal Register** issue of October 23, 1980, and republished this issue. Applicant: MOTOR CITY CARTAGE COMPANY, a corporation, 175 12th St., Detroit, MI 48216. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *meats, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and frozen foods, between Detroit MI, on the one hand, and, on the other, points in MI.

Note.—The purpose of this republication is to correctly state the commodity description.

By the Commission.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80-35627 Filed 11-13-80; 8:45 am]

BILLING CODE 7020-02-M

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Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before December 15, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before December 15, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 365

Decided: October 31, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 119634 (Sub-47F) filed, March 17, 1980, previously noticed in the **Federal Register** on June 24, 1980. Applicant: DICK IRVIN, INC., Hwy. 2 West, P.O. Box F, Shelby, MT 59474. Representative: Joe Gerbase, 100 Transwestern Bldg., Billings, MT 59101. Transporting *cement*, between points in MT, on the one hand, and, on the other, points in WY and ND.

Note.—This republication corrects the commodity description inasmuch as the deletion of "in bags".

Volume No. 366

Decided: October 31, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 109124 (Sub-106F) filed, April 10, 1980, previously noticed in the **Federal Register** issue of July 10, 1980. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. Transporting (1) *lime, limestone, and limestone products*, and (2) *materials, supplies and equipment* used in the manufacture of the commodities in (1) above, between Huron, OH, and points in IL, IN, KY, MI, PA, and WV.

Note.—This republication corrects the commodity description.

MC 146264 (Sub-2F) filed, February 8, 1980. Applicant: J. HOWARD AND DORIS M. JONES, d.b.a., RFP TRANSPORT, P.O. Box 1697, Pendleton, OR 97801. Representative: J. Howard Jones, Route 2, Box 90, Pendleton, OR 97801. Transporting *lumber*, from the facilities of Tru Stud, Inc., at North Powder, OR, to points in WA, CA, MT, ID, NV, UT, WY, OK, CO, AZ, NM, and TX.

MC 150724 (Sub-2F) filed, December 31, 1979, (Republication). Applicant: DONALD SANTISI TRUCKING COMPANY, a Corporation, 1024 North Main Street, Niles, OH 44446. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Transporting *plasticizers* (except in bulk), from Cleveland, OH to points in AZ, CA, NV, OR, TX, and WA.

Note.—This republication broadens the application by changing from contract to common as published in MC 143218 (Sub-8F) on March 27, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35625 Filed 11-13-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before December 29, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verfied statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3–064

Decided: October 31, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 45875 (Sub-11F), filed October 17, 1980. Applicant: AIR FREIGHT SPECIALISTS, INC., 333 North 25th Street, Milwaukee, WI 53233. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–066

Decided: November 3, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill

MC 73165 (Sub-530F), filed October 20, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in LeFlore and Pushmataha Counties, OK, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 130805 (Sub-1F), filed October 20, 1980. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan St., Kokomo, IN 46901. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 133485 (Sub-32F), filed October 24, 1980. Applicant: INTERNATIONAL ARMORED SERVICE, INC., 34 Dike Street, Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth Street, NW., Suite 701, Washington, DC 20036. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, except in emergency situation, between points in the U.S.

Volume No. OP3–068

Decided: November 4, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 127834 (Sub-126F), filed October 18, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Sexton, Spiceland, New Lisbon and Milton, IN, Davis City and Giles, IA, Garvin and Burchard, MN, Albany Junction, Worth and Helena, MO, and Cottonport, Rosewood, Legonier, Jenkins and Clifton, LA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service. To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 127834 (Sub-127F), filed October 18, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, between Thurman, NY, Belspur, FL, Dent and Bridgetown, OH, Farmer, SD, Kiamichi and Moyers, OK, Kurth, WI,

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and Troy Grove, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service. To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the named corporation intends to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524 (b).

1. Parent corporation: ACF Industries, Incorporated, 750 Third Avenue, New York, New York 10017.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices are:

Corning Distribution Company, 830 Meredith Way, Sparks, Nevada 89431.
Corning Distribution Company, Highway 67, Corning, Arkansas 72422.
Carter Automotive Products Corp., 600 Coolidge Road, Lafayette, Tennessee 37083.
CDC Parts Distribution Center, 8015 Dixie Road, Brampton, Ontario, Canada 16T4B2.
Carter Carburetor Division, ACF Canada, Limited, 109 East Drive, Bramalea, Ontario, Canada L6T1B8.
Corning Distribution Company, 320 Hughes Street, Houston, Texas 77023.
Carter Precision Parts, Inc., 6393 East Washington Blvd., City of Commerce, California 90040.
Carter Precision Parts, Inc., 320 Hughes Street, Houston, Texas 77023.
Carter Carburetor Division, ACF Industries, Inc., 2840 N. Spring, 9315 Olive Street, 9666 Olive Street, 3637 St. Louis Avenue, 1528 Page Industrial Court, St. Louis, Missouri.

1. Parent Corporation is: Acco World Corporation, 770 S. Acco Plaza, Wheeling, Illinois 60090.

2. Wholly owned subsidiaries which will participate in the operations are:

Acco International Inc., 770 S. Acco Plaza, Wheeling, Illinois 60090.
Acco Canadian Company Ltd., 501 McNicoll Avenue, Willowdale, Ontario, Canada M2H2E2.
Polyblend Corporation, 3300 S. Shield St., Chicago, Illinois 60616.

1. Parent corporation and address of principal office: The Bendix Corporation, 20650 Civic Center Drive, Southfield, Michigan 48037.

2. Wholly Owned Subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Bass and Company, Inc., P.O. Box 553, Hopkinsville, Kentucky 42240.
(b) Bendix Autolite Corporation, P.O. Box 880, Fostoria, Ohio 44830.
(c) Bendix Automotive of Canada, Ltd., 945 Prince Road, Walkerville P.O. Box 2400, Windsor, Ontario, N8Y 4S3, Canada.
(i) Aviation Electric Limited, P.O. Box 2140 St. Laurent, Montreal, Quebec, H4L 4X8, Canada.
(d) Bendix Field Engineering Corporation, 9250, Route 108, Columbia, Maryland 21045.
(e) Bendix Forest Products Corporation, P.O. Box 3498, San Francisco, CA 94119.
(i) Amador Central Railroad Company,, Martell, CA 95654.
(ii) Bendix Forest Products Corporation (Alabama), P.O. Box 905, Selma, Alabama 36701.
(iii) Bendix Forest Products Corporation of Florida, P.O. Box 21310, Fort Lauderdale, Florida.
(iv) Bendix Forest Products Corporation of Oregon, P.O. Box 369, Prineville, Oregon.
(v) Caradco Corporation, P.O. Box 920, Rantoul, Illinois 61866.
(vi) Modern Materials Corporation, Suite 3000 South Unit, Clausen Building, 16000 W. Nine Mile Road, Southfield, MI 48075.
(f) Bendix Heavy Vehicle Systems, Ltd., P.O. Box 5710, 1005 Wilton Grove Road, London, Ontario, N6A 45C, Canada.
(g) Bendix Machine Tool Corporation, 11449 Timken Avenue, Warren, Michigan 48089.
(i) BMT Engineering Corporation, 11440 Timken Avenue, Warren, Michigan, 48089.
(ii) Drillunit, Inc., 11450 Stephens Drive, Warren, Michigan 48089.
(h) Bendix Products Corporation, c/o The Bendix Corporation, 401 North Bendix Drive, P.O. Box 4001, South Bend, Indiana 46620.
(i) Bendix Space Technology & Navigation, Inc., c/o The Bendix Corporation, Guidance and Systems Division, Teterboro, New Jersey 07608.
(j) Bendix Technology, Inc., c/o The Bendix Corporation, Guidance Systems Division, Teterboro, New Jersey 07608.
(k) Bendix Wind Power Products Company, Aircraft Service Center, Bldg. 401, Grant City Airport, Moses Lake, Washington 98837.
(l) Continental Controls Corporation, 11661 Sorrento Valley Road, San Diego, California 92121.
(m) Courter, Inc., 375 North Lake Road, Boyne City, Michigan 49712.
(n) Fram Corporation, 105 Pawtucket Avenue, East Providence, Rhode Island 02916.
(i) Fram Canada Limited, 305 Romeo Street, P.O. Box 550, Stratford, Ontario, N5A GV4, Canada.
(a) Canadian Fram Limited, 540 Park Avenue East, P.O. Box 2014, Chatham, Ontario, N7M 5M7, Canada.
(b) Superior Machine & Tool (Chatham) Ltd., 277 William Street, Chatham, Ontario, Canada.
(o) Texas Pipe Bending Company, P.O. Box 5188, Houston, Texas 77012.
(p) Toledo Stamping & Manufacturing Company, P.O. Box 596, Toledo, Ohio 43693.
(q) United Geophysical Corporation, 2650 East Foothill Boulevard, Pasadena, California 91109.
(i) United Geophysical Company of America, 2650 East Foothill Boulevard, Pasadena, California 91109.
(r) The Warner & Swasey Company, 11000 Cedar Avenue, Cleveland, Ohio 44106.
(i) Midwest Machine & Tool Co., 15593 Brookpark Road, Cleveland, Ohio 44142.
(ii) The G. A. Gray Company, 3611 Woodburn Avenue, Cincinnati, Ohio 45207.
(111) The Warner & Swasey Textile Machine Company, Route 1, Bessemer City, North Carolina 28016.

1. Parent corporation and address of principal offices: E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Remington Arms Company, Inc., 939 Barnum Avenue, Bridgeport, Conn. 06602.
(b) Remington Arms of Canada Limited, 172 Sheldon Drive, Cambridge, Ontario, NIR 6T3.
(c) Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, N.Y. 11530.
(d) Endo Pan American Corporation, 1000 Stewart Avenue, Garden City, N.Y. 11530.
(e) Endo Drugs (Canada) Ltd., d.b.a. Endo Laboratories, 7000 Park Avenue, Room 407, Montreal, Quebec, HcN 1X1.
(f) Endo Inc., P.O. Box 12, Manati, Puerto Rico 00701.
(g) Endo Pharmaceuticals, Inc., Highway 686, Km. 2.3, P.O. Box 363, Manati, Puerto Rico 00701.

1. Parent corporation and address of principal office: Esmark, Inc., 55 East Monroe Street, Chicago, Illinois 60603.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices.

Swift & Company, 115 West Jackson Boulevard, Chicago, Illinois 60604.
Swift Independent Packing Company, 115 West Jackson Boulevard, Chicago, Illinois 60604.
International Playtex, Inc., 700 Fairfield Avenue, Stamford, Connecticut 06902.
Estech General Chemicals Corporation, 30 North La Salle Street, Chicago, Illinois 60602.
Estech Specialty Chemicals Corporation, 30 North La Salle Street, Chicago, Illinois 60602.
STP Corporation, 1400 West Commercial Boulevard, Ft. Lauderdale, Florida 33310.
International Jensen Incorporated, 4136 North United Parkway, Schiller Park, Illinois 60176.
Danskin, Inc., 1114 Avenue of the Americas, New York, New York 11036.
Danskin Florida, Inc., 1114 Avenue of the Americas, New York, New York 10036.
Danskin Texas, Inc., 1114 Avenue of the Americas, New York, New York 10036.
Pennaco Hosiery, Inc., 350 Fifth Avenue, New York, New York 10001.

Virginia Maid Hosiery Mills, Inc., 28 South Jefferson Avenue, Pulaski, Virginia 24301.
Playtex Export Corporation, Playtex Park, Dover, Delaware 19901.
Milky Way Products Company, Playtex Park, Dover, Delaware 19901.
BG Marketing Corp., Playtex Park, Dover, Delaware 19901.
Mayfield Laboratories, Inc., Playtex Park, Dover, Delaware 19901.
Tailby-Nason Company, Inc., Playtex Park, Dover, Delaware 19901.

1. Parent Corporation: Ford Motor company, The American Road, Dearborn, MI 48126.

2. Wholly-owned subsidiaries which will participate in the operations:

Ensite Limited, Windsor, Ontario, Canada.
Ford Aerospace & Communications Corp., 20th Flr., 300 Rennaissance Center, Detroit, MI.
General Services Division—Transportation, Ford Motor Credit Company building, The American Road, Dearborn, MI.
Electrical & Electronics Division-Transportation, P.O. Box 412, Ypsilanti, MI 48197.

1. Parent Corporation and Address of Principal Office: Glenmore Distilleries Company, P.O. Box 900, Louisville, Kentucky 40201.

2. Wholly Owned Subsidiaries which will Participate in the Operations, and Address of their Respective Principal Offices:

(a) Bourbon Cooperage Company, P.O. Box 485, Lebanon, Kentucky 40033.
(b) Glenmore International, Inc., P.O. Box 900, Louisville, Kentucky 40201.
(c) Foreign Vintages, Inc., 333 Jericho Turnpike, Jericho, New York 11753.
(d) Mr. Boston Distiller Corporation, 1010 Massachusetts Avenue, Boston, Massachusetts 02118.
(e) The Viking Distillery, Inc., 1101 E. Broad Avenue, Albany, Georgia 31701.
(f) Ben-Burk Corporation, 1010 Massachusetts Avenue, Boston, Massachusetts 02118.
(g) Mint Springs Distillery Company, P.O. Box 900, Louisville, Kentucky 40201.
(h) Yellowstone, Inc., 3000 Seventh Street Road, Louisville, Kentucky 40216.

1. Parent corporation and address of principal office: The Lamson & Sessions Co., 2000 Bond Court/1300 East Ninth Street, Cleveland, Ohio 44114.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Expert Automation, Inc., 40675 Mound Road, Sterling Heights, Michigan 48078.
(b) Lamson & Sessions of Canada Limited, 20 Rangemore Road, Toronto, Ontario, Canada M8Z 5H7.
(c) Valley-Todeco, Inc., 12975 Bradley Avenue, Sylmar, California 91342.
(d) Zimmer Manufacturing Industries, Inc., 12601 Marlin Avenue, Detroit, Michigan 48239.
(e) The Youngstown Steel Door Company, 2000 Bond Court/1300 East Ninth Street, Cleveland, Ohio 44114.
(i) Camel Company Limited, 332 So. Michigan Avenue, Chicago, Illinois 60604.
(ii) RPC Corporation, U.S. Highway 501 So., Roxboro, North Carolina 27573.
(f) United-American Car Co., 1870 The Exchange, Suite 260, Atlanta, Georgia 30339.
(g) Midsco, Incorporated, 14600 Detroit Avenue, Suite 800, Lakewood, Ohio 44107.
(h) Midland Steel Products Co., 10615 Madison Avenue, Cleveland, Ohio 44102.
(i) Permold Corp., P.O. Box P, 820 W. Liberty Street, Medina, Ohio 44256.
(j) Slagle Manufacturing Corporation, 907 North Wheeling, Tulsa, Oklahoma 74110.
(i) Slagle Tube Bundle Corporation, 909 North Wheeling, Tulsa, Oklahoma 74110.

1. Parent corporation and address of principal office: Saco Steel Company, Saco Industrial Park, Lund Road, Saco, Maine 04072.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: H & M Trucking Company, Saco Industrial Park, Lund Road, Saco, Maine 04072

1. Parent corporation: Wetterau Incorporated, 8920 Pershall Road, Hazelwood, Missouri.

2. Wholly-owned subsidiaries and divisions:

Wetterau Food Services, Hazelwood Division, Hazelwood, Missouri.
Wetterau Food Services, Mexico Division, Mexico, Missouri.
Wetterau Food Services, Scott City Division, Scott City, Missouri.
Wetterau Food Services, Bloomington Division, Bloomington, Indiana.
Wetterau Food Services, Greenville Division, Greenville, Kentucky.
Wetterau Food Services, Charleston Division, Charleston, South Carolina.
Wetterau Food Services, Keene Division, Keene, New Hampshire.
W. T. Sistrunk & Co., Lexington Division, Lexington, Kentucky.
G. H. Delp Co., Reading Division, Temple, Pennsylvania.
G. H. Delp Co., Bellmawr Division, Bellmawr, New Jersey.
G. H. Delp Co., Schuylkill Haven Division, Schuylkill Haven, Pennsylvania.
Wetterau General Merchandising, Charleston Division, Charleston, South Carolina.
Wetterau General Merchandising, Desloge Division, Desloge, Missouri.
Consolidated Toy Company, Hazelwood, Missouri.
Toy City Toy Stores, Chattanooga, Tennessee.
Toy City Toy Stores, Cincinnati, Ohio.
Toy City Toy Stores, Kansas City, Missouri.
Toy City Toy Stores, Little Rock, Arkansas.
Toy City Toy Stores, Memphis, Tennessee.
Toy City Toy Stores, Minneapolis, Minnesota.
Toy City Toy Stores, Mission, Kansas.
Toy City Toy Stores, Omaha, Nebraska.
Toy City Toy Stores, Tulsa, Oklahoma.
Toy City Toy Stores, Wichita, Kansas.
Toy City Toy Stores, Oklahoma City, Oklahoma.
Wetterau Bakery Products Division, Hazelwood, Missouri.
Wetterau Bakery Products Division, Atlanta, Georgia.
Wetterau Development and Construction Company, Hazelwood, Missouri.
Wetterau Printing Division, Hazelwood, Missouri.
Milliken, Tomlinson Company, Portland Division, Portland, Maine.
Milliken, Tomlinson Company, Presque Isle Division, Presque Isle, Maine.
Wetterau Purchasing Group of Salinas, Salinas, California.
Wetterau Information Services Center, Florissant, Missouri.

1. Parent Corporation: Wyle Laboratories with its principal office located at 128 Maryland Street, El Segundo, California 90245.

2. The divisions of the parent corporation and/or wholly owned subsidiaries which will participate in the operation and the addresses of their respective offices are:

(a) Wyle Distribution Group—Los Angeles, 124 Maryland Street, El Segundo, California 90245.
(b) Wyle Distribution Group—Seattle, 1750 132nd Avenue, N.E., Bellevue, Washington 98005.
(c) Wyle Distribution Group—Phoenix, 8155 North 24th Avenue, Phoenix, Arizona 85017.
(d) Wyle Distribution Group—San Diego, 9525 Chesapeake Drive, San Diego, California 92123.
(e) Wyle Distribution Group—Irvine, 17872 Cowan Avenue, Irvine, California 92714.

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(f) Burton Electrical Engineering, 111 Maryland and 121 Maryland Street, El Segundo, California 90245.
(g) Electronic Enclosures, 225 South Aviation Boulevard, El Segundo, California 90245.
(h) Electronic Enclosures, 6995 Airport Highway Lane, Pennsauken, New Jersey 08109.
(i) Wyle Data Services, Inc., 15302 Bolsa Chica Avenue, Huntington Beach, California 92649.
(j) Wyle Distribution Group—Denver, 6777 East 50th Street, Commerce City, Colorado 80222.
(k) Wyle Distribution Group—Santa Clara, 3000 Bowers Avenue, Santa Clara, California 95051.
(l) Lewis Machine Company, 3441 East 76th Street, Cleveland, Ohio 44127.
(m) Lewis Machine Company, 3442 East 78th Street, Cleveland, Ohio 44127.
(n) Pal-Vin Machine Company, 1415–1423 and Rear 1425, East 40th Street, Cleveland, Ohio 44103.
(o) Wyle Laboratories, 3200 Magruder Boulevard, Hampton, Virginia 23666.
(p) Wyle Laboratories, 1841 Hillside Drive, Norco, California 91760.
(q) Wyle Laboratories, 7800 Governors Drive, West, Huntsville, Alabama 35807.
(r) Wyle Laboratories, 4620 Edison Street, Colorado Springs, Colorado 80915.
(s) Redwing Carriers, Inc., 8515 Palm River Road, Tampa, Florida 33601.
(t) Burton Electrical Engineering, 122 Lomita Street, El Segundo, California 90245.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35621 Filed 11-13-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C., this 5th day of November 1980.

Glenn M. Zech,
Acting Director, Office of Program Services.

Applications Received During the Week Ending November 8, 1980

Name of applicant and location of enterprise	Principal product or activity
Janoush Marine, Inc., Rosedale, Mississippi.	Manufacture inland river towboats and repairing towboats and barges.

[FR Doc. 80-35346 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Special Notice of Change in Beginning Dates of Extended Benefit Periods in States of Tennessee, Illinois, and Washington

Notices were previously published in the **Federal Register** announcing the beginning of Extended Benefit Periods on July 6, 1980, in Tennessee, and on June 22, 1980, in Illinois and Washington. This notice announces a change in the beginning dates of the Extended Benefit Periods in these three States. Because of a recomputation of the rates of insured unemployment in these States required by a judicial decision, it has been determined that in Tennessee the Extended Benefit Period began one week earlier, on June 29, 1980; in Illinois the Extended Benefit Period began one week later, on June 29, 1980; and in Washington, the Extended Benefit Period began two weeks later, on July 6, 1980. The amended Extended Benefit Periods continued without interruption through the week beginning July 20, 1980, when a national Extended Benefit Period began in all States.

Background

Extended Benefits are payable only during an Extended Benefit Period, which is triggered on in a State, or nationally in all States, when the rate of insured unemployment in the State (or in all States) reaches the trigger levels set in the Federal-State Extended Unemployment Compensation Act of 1970 (Pub. L. 91–373, Title II; 26 U.S.C. 3304 note). Regulations implementing the Act appear in 20 CFR Part 615, and prescribe the method of calculating the insured unemployment rates that trigger the Extended Benefit Period on and off.

Prior to February 3, 1980, the regulations provided that insured unemployment rates were to be calculated by including claims for Extended Benefits and State additional benefits as well as claims for regular benefits in the calculation. Effective on February 3, 1980, the regulations were amended (see 45 FR 797 and 1015) to exclude claims for Extended Benefits and State additional benefits from the calculation. The earlier notices announcing the beginning of Extended Benefit Periods in Tennessee, Illinois, and Washington, were based on the amended regulations. Had the regulations not been amended, the Extended Benefit Periods in those States would have begun on June 29, 1980, in the case of Tennessee and Illinois, and on July 6, 1980, in the case of Washington.

In a suit brought by the AFL–CIO and others, contesting the validity of the change in the regulations, the United States District Court for the District of Columbia held that the amended regulations were invalid, and in effect restored the regulations as they read prior to the amendment made earlier this year. *AFL–CIO* v. *Marshall*, No. 80–1360 (D.D.C., August 7, 1980). As a result it is necessary to issue this notice announcing a change in the beginning dates of the previously announced Extended Benefit Periods in Tennessee, Illinois, and Washington.

Redetermination of "on" Indicators

The heads of the employment security agencies of the States of Tennessee, Illinois, and Washington, upon being advised of the ruling of the United States District Court for the District of Columbia and of the reinstatement of the regulations as they read prior to amendment, have recalculated the insured unemployment rates in those States for the weeks beginning subsequent to February 2, 1980, in accordance with the State law and 20 CFR 615.12(e), and have determined that Extended Benefit Periods triggered "on" and in the States of Illinois and Tennessee beginning on June 29, 1980, and in the State of Washington, beginning on July 6, 1980.

Information for Claimants

In the cases of the States of Illinois and Washington, the redeterminations of the beginning dates of the Extended Benefit Periods in force in these States have the effect of establishing overpayments. Under the invalid regulations, the beginning date of the Extended Benefit Period in each State was determined to be June 22, 1980, whereas in Illinois it has not been determined to be June 29, 1980, and in Washington it has now been determined to be July 6, 1980. This means that individuals in Illinois who claimed and received Extended Benefits for the week beginning June 22, 1980, have received a payment of Extended Benefits to which they were not entitled, and individuals in Washington, who claimed and received Extended Benefits for weeks of unemployment beginning June 22 and June 29, 1980, have received payments of Extended Benefits to which they were not entitled. Under 20 CFR 615.8(a)(7), the provisions of the State unemployment compensation laws of Illinois and Washington relating to overpayments, and the recovery thereof, are applicable with respect to these overpayments.

In the case of Tennessee, the beginning date of the Extended Benefit Period was determined under the invalid regulation to be July 6, 1980, whereas it should have been determined to be June 29, 1980. This means that individuals who were otherwise eligible for extended benefits for the week beginning June 29, 1980, in Tennessee are now entitled to file claims for them.

The employment security agency of each State has been notified of its responsibility to identify individuals who have received Extended Benefit overpayments and individuals who have been erroneously denied or are now eligible for benefits and to notify them of their rights. There should also be widespread publicity in each State with respect to the change in the beginning date of the Extended Benefit Period, and the effect of the change on individual rights.

Individuals who wish to inquire about their rights under this program should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on November 4, 1980.

Charles B. Knapp,
Acting Assistant Secretary for Employment and Training.

[FR Doc. 80-35588 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-146-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, Camp No. 1, P.O. Box 350, Morganfield, Kentucky 42437, has filed a petition to modify the application of 30 CFR 75.303 (preshift examination) to its mine located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns a request by the petitioner to monitor the air passing the old South Seals at a point outby the present seals due to two massive roof falls which prohibit the physical examination of these two seals.
2. The seals are located approximately 1,200 feet from the main track entry in an area of the mine developed about seven years ago. The roof in this area is badly deteriorated; additional roof support has been added in the area of these seals with very little satisfactory results toward stabilizing the roof.
3. Because of these adverse conditions, rehabilitation of these areas would expose miners to hazardous roof conditions which would result in a diminution of safety for the miners affected.
4. As an alternate method, petitioner proposes to monitor the air passing these seals outby the present seals until such a time that a new set of seals approximately 1,000 feet outby the present seals can be constructed.
5. If the alternate method outlined above is allowed, petitioner states that any new developments or increased methane readings will be reported immediately to MSHA, as no appreciable amounts of methane have been detected from the sealed area previously.

For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1980. Copies of the petition are available for inspection at that address.

Dated: November 5, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-35580 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Wyoming State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes

procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under the delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the Federal Register (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming plan, under Section 27–11–105 of the Wyoming Occupational Health and Safety Act provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under Section 6 of the Occupational Safety and Health Act of 1970. The Public Hearing was held on May 2, 1980 and the Vertical Rules and Regulations Governing Anchor Testers were promulgated by the Wyoming Occupational Health and Safety Commission per Section 27–11–105 of the Wyoming Occupational Health and Safety Act 1957 as amended 1973.

2. *Decision.* As a State-initiated change, pursuant to Subpart E of Part 1953, the standard has been reviewed in the context of the whole plan and has been determined to have no adverse impact on the "at least as effective as" status of the State program.

3. *Location of supplements for inspection and copying.* A copy of the letter, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82002; and the Technical Data Center, Room N2439R, 200 Constitution Ave., N.W., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective November 14, 1980.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this 9th day of June, 1980.

H. C. Borchelt,

Assistant Regional Administrator.

[FR Doc. 80–35582 Filed 11–13–80; 8:45 am]

BILLING CODE 4510–26–M

[V–80–5]

Block 259/260 Joint Venture

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of Block 259/260 Joint Venture, for variance and interim order pending a decision on the application for variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning the design requirements of powered platforms for exterior building maintenance.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is November 14, 1980. The last date for interested persons to submit comments is December 15, 1980. The last date for affected employers and employees to request a hearing on the application is December 15, 1980.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. & Constitution Ave., N.W., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: 202–523–7144.

of the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building—Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1100 #505 NASA Road I, Houston, Texas 77058.

Notice of Application

Notice is hereby given that Block 259/260 Joint Venture, 1100 Louisiana Street, Houston, Texas 77002, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) and powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: 1100 Louisiana Street, Houston, Texas 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Part II and III of ANSI A120.1–1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1–1980, since the building height is approximately 700 feet. The applicant proposes to use an intermittent tie-in-system using suspension rope restraints at every third floor to restrict the horizontal movement, and to require that powered platforms used in the building be equipped with building face rollers. The applicant contends that this would provide a suspension rope restraint device at a maximum vertical distance of forty foot intervals in the areas served. The applicant states that the tie-in device would consist of an anchor secured to the concrete building column and projecting out to the face of granite cladding. A quick connect, quick disconnect attachment will be used to attach the suspension rope restraints to the tie-in anchor fastener. The applicant contends that the lower wing of the building is less than 130 feet high and, therefore, does not require the guides.

The applicant also contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to sumbit written data, views, and arguments relating to the pertinent application no later than December 15, 1980. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than December 15, 1980, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a decision is made on the application for variance.

It has been determined that an interim order from 29 CFR 1910.66(b)(3) shall be issued. Therefore, it is ordered, pursuant to the authority in section (6)(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059) that Block 259/260 Joint Venture is hereby subject to the following conditions in lieu of complying with 29 CFR 1910.66(b)(3) of the Occupational Safety and Health Standards:

1. The employer shall assure that all procedures required for the proper functioning of the intermittent stabilization system are carried out, in particular the requirement for connecting the lanyards attached to the suspension ropes to the building anchors during the descent of the platform.

2. The platform shall be no greater than 32 feet in length nor 3 feet in width.

3. The weight of the platform (no load) shall be no less than 1500 pounds.

4. The platform shall have openings or gaps to facilitate upward air flow.

5. The suspension rope angulation shall be designed into the suspension system and the tie-in lanyard so tha the platform shall exert a minimum pressure of approximately 10 pounds against the face of the building.

6. The anchors in the face of the building shall be spaced vertically a maximum distance of 43 feet apart.

7. The powered platform shall not be operated when the wind velocity is 25 miles per hour or greater.

8. Operators shall be provided with full-body harnesses, which include leg straps, connected to a lanyard of no greater than 3 feet in length. This lanyard shall, in turn, be connected by means of an automatic locking rope grab to a horizontal wire rope fastened in a taut manner across the rear of the platform. The ends of this wire rope shall be secured to structural members of the platform, and the mid-point of the rope secured to the rear guardrail. This system, consisting of the harness, the lanyard, the anchorage points, and any additional hardware involved, shall at a minimum be capable of withstanding a static load of 5,000 pounds.

9. The platform shall be provided with a sensing device that will interrupt its power supply in the event that the platform contacts the tie-in lanyard assembly, to prevent further ascent and ensure that the lanyard assembly can be disengaged from the building anchor.

10. The intermittent stabilization system including its building anchor, shall have a factor of safety of 4 against failure.

11. Operators shall have knowledge of and training in the operation of the intermittent stabilization system.

12. The employer shall comply with all provisions in this interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of 29 CFR 1910.66.

Block 259/260 Joint Venture shall give notice of this grant of interim order to employees affected thereby by the same means required to be used to inform them of the application for variance.

This interim order shall become effective November 14, 1980. The Assistant Secretary may revoke this interim order at any time if the applicant does not comply with any requirement of the interim order or the relevant standards; or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C. this 7th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–35580 Filed 11–13–80; 8:45 am]

BILLING CODE 4510–26–M

[V–80–4]

U.I.D.C. of Texas, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of U.I.D.C. of Texas, Inc., for variance and interim order pending a decision on the application for variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning the design requirements of powered platforms for exterior building maintenance.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is November 14, 1980. The last date for interested persons to submit comments is December 15, 1980. The last date for affected employers and employees to request a hearing on the application is December 15, 1980.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. & Constitution Ave., N.W., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: 202–523–7144.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building—Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1100 #505 NASA Road I, Houston, Texas 77058.

Notice of Application

Notice is hereby given that U.I.D.C. of Texas, Inc., 1021 Main Street, Suite 1220, Houston, Texas 77002, has made application pursuant to section (6)(d) of the Occupational Safety and Health Act

of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: First City Tower, 1001 Fannin (Block 135), Houston, Texas 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Part II and III of ANSI A120.1–1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continous T-rails or indented mullions required by ANSI A120.1–1980, since the building height is approximately 700 feet. The applicant proposes to use an intermittent tie-in system using suspension rope restraints at every third floor to restrict the horizontal movement, and to require that powered platforms used on the building be equipped with building face rollers. The applicant contends that this would provide a suspension rope restraint device at a maximum vertical distance of forty foot intervals in the areas served. The applicant states that the tie-in device would consist of an anchor secured to the building facade. A quick connect, quick disconnect attachment will be used to attach the suspension rope restraints to the tie-in anchor fastner.

The applicant also contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than December 15, 1980. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than December 15, 1980, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a decision is made on the application for variance.

It has been determined that an interim order from 29 CFR 1910.66(b)(3) shall be issued. Therefore, it is ordered, pursuant to the authority in section (6)(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059) that U.I.D.C. of Texas, Inc. is hereby subject to the following conditions in lieu of complying with 29 CFR 1910.66(b)(3) of the Occupational Safety and Health Standards:

1. The employer shall assure that all procedures required for the proper functioning of the intermittent stabilization system are carried out, in particular the requirement for connecting the lanyards attached to the suspension ropes to the building anchors during the descent of the platform.

2. The platform shall be no greater than 32 feet in length nor 3 feet in width.

3. The weight of the platform (no load) shall be no less than 1500 pounds.

4. The platform shall have openings or gaps to facilitate upward air flow.

5. The suspension rope angulation shall be designed into the suspension system and the tie-in lanyard so that the platform shall exert a minimum pressure of approximately 10 pounds against the face of the building.

6. The anchors in the face of the building shall be spaced vertically a maximum distance of 43 feet apart.

7. The powered platform shall not be operated when the wind velocity is 25 miles per hour or greater.

8. Operators shall be provided with full-body harnesses, which include leg straps, connected to a lanyard of no greater than 3 feet in length. This lanyard shall, in turn, be connected by means of an automatic locking rope grab to a horizontal wire rope fastened in a taut manner across the rear of the platform. The ends of this wire rope shall be secured to structural members of the platform, and the mid-point of the rope secured to the rear guardrail. This system, consisting of the harness, the lanyard, the anchorage points, and any additional hardware involved, shall at a minimum be capable of withstanding a static load of 5,000 pounds.

9. The platform shall be provided with a sensing device that will interrupt its power supply in the event that the platform contacts the tie-in lanyard assembly, to prevent further ascent and ensure that the lanyard assembly can be disengaged from the building anchor.

10. The intermittent stabilization system including its building anchor, shall have a factor of safety of 4 against failure.

11. Operators shall have knowledge of and training in the operation of the intermittent stabilization system.

12. The employer shall comply with all provisions in this interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of 29 CFR 1910.66.

U.I.D.C. of Texas, Inc. shall give notice of this grant of interim order to employees affected thereby by the same means required to be used to inform them of the application for variance. This interim order shall become effective November 14, 1980. The Assistant Secretary may revoke this interim order at any time if the applicant does not comply with any requirement of the interim order or the relevant standards; or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C. this 7th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-35560 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-26-M

[V-80-3]

United States Metals Refining Co.; Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of Variance.

SUMMARY: OSHA has granted the United States Metals Refining Company application for a temporary variance from the standards prescribed in 29 CFR 1910.1018(g)(1)(i) concerning the utilization of engineering and work practice controls for limiting exposure to inorganic arsenic.

DATES: The effective date of the interim order is November 14, 1980. The last date for interested persons to submit comments is December 15, 1980. The last date for affected employers and employees to request a hearing on the application is December 15, 1980.

ADDRESS: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Room N–3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: (202) 523–7144, of the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Building T3, Belle Mead GSA Depot, Belle Mead, New Jersey 08502.

I. Background

On December 21, 1979, the United States Metals Refining Co., 400 Middlesex Avenue, Carteret, New Jersey 17008 made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.1018(g)(1)(I) which require that engineering and work practice controls be utilized where feasible, to control exposure to inorganic arsenic.

An interim order was granted on May 29, 1980 (45 FR 37559, June 3, 1980). However, due to a strike of its bargaining unit employees which occurred on July 1, 1980, neither the work on the Sample Finishing Trailer in the Inventory Control Department nor the work on the Dore Furnace Charging Area in the Precious Metals Department could be completed.

The strike was terminated on October 6, 1980, and the Company will continue the work in the two aforementioned areas by November 1, 1980. They have, of course, scheduled new completion dates from those in the interim order and have requested that OSHA grant a temporary variance based upon these amended dates.

The address of the place of employment that will be affected by application is as follows: 400 Middlesex Avenue, Carteret, New Jersey 07008.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is unable to comply with the requirements of § 1910.1018(g)(1)(i) by the date required by the standard.

The applicant states that the two segments of his operation that cannot meet the timetable required by the standard, for reasons to be delineated below, are the Sample Finishig Trailer in the Inventory Control Department and the Dore Furnace Charging Area in the Precious Metals Department.

The Sampling Finishing Trailer is used for blending, screening, and crushing samples as a control for sampling related to the slimes operation (dust residues containing arsenic). The applicant had originally intended to consolidate all sampling operations but, due to a variety of reasons, has decided against it. Engineering improvements are presently being carried out and will include the installation of a small bag house and accompanying ventilation equipment in the trailer. Completion is set for December 1, 1980.

The applicant states that in the interim, employees will were appropriate (powered air-purifying) respirators and will continue to utilize protective clothing and remain in the medical surveillance program.

The Dore Furnace is used for treating the slimes to recover any precious metals. The applicant states that the initial dust recovery system which was proposed was not considered adequate for all anticipated needs and, therefore, a new engineering study was initiated. A new dust/fume collecting system consisting of new hoods, additional ducting, and the expansion of an existing baghouse will be installed by February 1, 1981, to control fugitive emissions from the furances during charging and tapping. The applicant states that in the interim, the employees will wear appropriate (powered air-purifying) respirators and protective clothing, and continue in the medical surveillance program.

In both instances noted above, the use of powered air-purifying respirators of the type cited in the inorganic arsenic standard as approved for use in the presence of up to 10,000 micrograms of inorganic arsenic (as AS) per cubic meter of air (10,000 $\mu g/m^3$), provides adequate protection for the employees. The actual exposure of these employees, as determined by the Belle Mead Area Office, was far below the approved level of these respirators.

The OSHA Belle Mead (New Jersey) Area Office is aware of the request made by United States Metals Refining Co. and, based upon their direct knowledge of the company and the situation, is in agreement with the granting of this order and with its terms.

II. Order

It appears from the application for a temporary variance and interim order that, as required by section 6(b)(6)(A) of the Act, United States Metals Refining Co., is unable to comply with the requirements of 29 CFR 1910.1018(g)(1)(i) by the date required by the standard. It appears that the applicant is taking all available steps to safeguard its employees during the time needed to come into compliance with the standard. It further appears that the variance is necessary to prevent undue hardship to the applicant and its employees.

Therefore it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059), that United States Metals Refining Co. be, and it is hereby, authorized to conduct its sampling and recovery operations prior to coming into compliance with the requirements of 29 CFR 1910.1018(g)(1)(i), by complying with the following:

1. Each employee in the Sample Finishing Trailer and in the Dore Furnace Charging Area shall be provided with, and required to wear, powered air-purifying respirators approved for use in atomspheres containing not more than 10,000 micrograms of inorganic arsenic per cubic meter of air (10,000 $\mu g.m^3$).

2. Each of the above noted employees will also continue to be provided with appropriate protective equipment and to

be included in the medical surveillance program.

United States Metal Refining Co. shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This Order shall remain in effect as follows:

For the Sample Finishing Trailer until December 1, 1980; and for the Dore Furnace Charing Area until February 1, 1981.

Signed at Washington, D.C. this 7th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-35501 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-88; Exemption Application No. D-1666]

Exemption from the Prohibitions for Certain Transactions Involving the Consolidated Pension Plan Located in Dallas, Tex.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the sale for cash of property and improvements (the Property) by Penrod Drilling Company (the Employer), a party in interest, to the Consolidated Pension Plan (the Plan) and subsequent leaseback to the Employer.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the **Federal Register** (45 FR 61403) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in an application filed by the Employer and the Plan trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Property by the Employer to the Plan provided the price paid is no more than the fair market value on the date of sale, and to the subsequent leaseback of the Property to the Employer provided the lease payments are not less than fair market rental value.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 6th day of November 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-35324 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1809]

Proposed Exemption for Certain Transactions Involving the Keebler Retirement Plan for Salaried and Certain Hourly Paid Employees of Keebler Company Located in Elmhurst, Ill.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain sanctions imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the contribution of two improved parcels of real property (the Properties) to the Keebler Retirement Plan for Salaried and Certain Hourly Paid Employees (the Plan) by the Keebler Company (the Employer), a party in interest with respect to the Plan; (2) a lease of the Properties by the Plan to the Employer; and (3) a guarantee by the Employer to the Plan with respect to future disposition of the Properities by the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Plan, the Employer, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 19, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-1809. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan and has been determined by the Internal Revenue Service to meet the requirements of section 401(a) of the Code. As of February 1, 1979, the Plan had approximately 3,150 participants. As of December 31, 1978 the Plan had net assets of approximately $21,065,000. The trust which funds the Plan is divided into three subfunds. A subfund in the amount of approximately $11,000,000 is managed by Kemper Financial Services, Inc.; a subfund in the amount of approximately $10,000,000 is managed by M. D. Sass, Investment Advisors; and the remaining subfund in the amount of approximately $400,000 is managed by the Northern Trust Company (Northern). Northern maintains custodial responsibility for all the assets of the Plan. Northern maintains a banking relationship with the Employer.

2. The Employer is in the business of producing and marketing various food products. As of December 29, 1979, the Employer had a net worth of approximately $75,500,000. In 1979, the Employer had net income of approximately $13,000,000.

3. The Properties are improved by warehouses and office and distribution facilities and are located in Grand Prairie, Texas (the Texas Property) and Versailles, Kentucky (the Kentucky Property). The Texas Property is a 3.610 acre tract of land is located at 1302 Avenue "R", Great Southwest Industrial District (Great Southwest), Grand Prairie, Texas. The Kentucky Property is approximately three acres of land and is described as lot #4, unit 9, in the Central Kentucky Development Company Subdivision of Versailles, Kentucky. The applicant represents that the Properties are highly marketable because they are both located in viable trade areas and are suitable for a variety of uses.

4. The Employer seeks to contribute the Properties to the Plan, lease back the Properties, and take federal income tax deductions for such contributions pursuant to section 404 of the Code. The contribution of the Properties would not exceed the maximum deduction of the Employer is entitled to pursuant to the Code. The deductions taken pursuant to the contributions will not exceed the appraised fair market value of the Properties. The Properties will be contributed free and clear of any mortgages, liens, or encumbrances. The investment by the Plan in the Properties is consistent with the Plan's diversification and investment policy.

5. A complete appraisal by an independent, MAI appraiser, M. P. Christensen (Christensen), located in Dallas, Texas, determined that the Texas Property, as of December 4, 1979, had a fair market value of $810,000 and a fair market rental value of $72,900 per year. A complete appraisal by an independent appraiser, John F. Girsch, S.I.R., located in Hillside, Illinois, determined that the Kentucky Property, as of August 15, 1980, had a fair market value of $800,000, and a fair market rental value of $72,000 per year. The total fair market value of the Properties will comprise approximately six percent (6%) of the Plan's net assets.

6. After the contribution of the Properties, the Plan intends to lease each Property to the Employer. The leases, except for the rental amounts to be received, contain similar terms. Both leases are for an initial term of five years and provide the lessee an option to renew the leases for two additional terms of five years each. The initial rental payable to the Plan with respect to each Property will be equal to its appraised fair market rental value. Both leases are "absolute net" and the Plan as lessor will not be required to provide any services or incur any expenses with respect to its holding of the Properties. The Employer as lessee will maintain insurance coverage on the Properties. Both leases provide that, if, upon the default by the lessee of any of its obligations pursuant to a lease, the Plan as lessor may, upon ten days written notice, terminate the lease.

7. The applicant represents that if the Plan decided to dispose of a Property the prospects for a quick sale would be good. Christensen represents that there is a very strong demand for industrial property in Great Southwest. The Employer guarantees that upon the sale of a Property to a bona fide purchaser for a purchase price (Purchase Price) which is less than the fair market value of the Property when originally contributed to the Plan, the Employer will contribute to the Plan an amount equal to the difference between the Purchase Price and the fair market value of the Property when originally contributed to the Plan.

8. The Chicago Title and Trust Company (Chicago) will enter into a subtrust agreement with Northern, and will serve as the trustee with respect to

the Properties. Chicago is independent of the Employer, has reviewed the appraisals of the Properties and the leases, and represents that the contribution of the Properties and the subsequent leasing of the Properties is in the best interests of the Plan. Chicago will have exclusive authority to hold, manage, and perform any act necessary or appropriate to protect the Plan with respect to the Properties. Chicago will make an annual determination whether the retention of the Properties remains in the best interests of the Plan and its participants. Chicago will ensure that upon the end of the fifth and tenth year of the leases that the rental will be adjusted to reflect the fair market rental value of the Property. In no event will the adjusted rental be less than the rental being received by the Plan in the preceding five (5) year term.

9. Both Properties will initially provide an annual rate of return equal to approximately nine (9) percent of their appraised value. The rates of return are expected to increase as rental payments are adjusted every five years to reflect the fair market rental value of the Properties. The applicant estimates that the average annual return to the Plan from the Properties over the terms of the leases will be at least 11.7%.

10. In summary, the appliant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the fair market values of the Properties and the initial rentals to be received pursuant to the leases have been determined pursuant to complete appraisals by independent appraisers; (b) the Properties will be contributed free and clear of any liens, mortgages or other encumbrances; (c) the Properties are located in viable trade areas, are suitable for a variety of uses, and would be highly marketable if they were to be sold; (d) the Employer guarantees that upon the sale of a Property to a bona fide purchaser for a Purchase Price which is less than the fair market value of the Property when originally contributed to the Plan, the Employer will contribute to the Plan an amount equal to the difference between the Purchase Price and the fair market value of the Property when originally contributed to the Plan; (e) the investment in the Properties is consistent with the Plan's diversification and investment policy; (f) after contribution the Properties will comprise approximately six percent (6%) of the Plan's assets; (g) the rental received by the Plan will be adjusted every five years to reflect the fair market rental value of the Properties; (h) an independent party, Chicago, has reviewed the appraisals of the Property and the leases and represents that the contribution of the Properties and the subsequent leasing of the Properties is in the best interests of the Plan; (i) Chicago will maintain complete fiduciary responsibility with respect to the Properties and will completely monitor the terms of the leases; and (j) Chicago will make an annual determination whether the retention of the Properties is in the best interests of the Plan.

Notice to Interested Persons

Notice will be provided to participants and beneficiaries of the Plan within five (5) business days after the date of the publication of the notice of pendency in the **Federal Register**. Such notice will include a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing the pending exemption within the period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the contribution of the Properties by the Employer to the Plan; (2) the lease of the Properties by the Plan to the Employer; and (3) a guarantee by the Employer to the Plan with respect to the future disposition of the Properties by the Plan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of November 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-35325 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application Nos. D-2007 and D-2008]

Withdrawal of Proposed Exemption Involving the St. Paul Electrical Construction Pension Fund and the St. Paul Electrical Workers Vacation Fund

In 45 FR 64769 of the **Federal Register**, dated September 30, 1980, the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974. The notice of pendency concerned an application filed by the Secretary of the Board of Trustees of the St. Paul Electrical Construction Pension Fund and the St. Paul Electrical Workers Vacation Fund.

By letter dated October 28, 1980, the applicant's representative notified the Department that the applicant no longer sought an exemption for the transaction described in the above cited notice. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

Signed at Washington, D.C. this 6th day of November 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-35328 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-29-M

Proposed Class Exemption for Guaranteed Investment Contract Separate Accounts; Hearing

By notice published in the **Federal Register** on August 1, 1980 (45 FR 51303) the Department of Labor (the Department) proposed a class exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by The Internal Revenue Code of 1954. The proposed exemption would apply to certain transactions engaged in by life insurance company separate accounts that are maintained in connection with contracts issued by life insurance companies under which the insurance company guarantees repayment of funds deposited by plans together with a stated rate of interest for a specified period.

A hearing on the proposed class exemption has been requested. Accordingly, a public hearing will be held on December 8, 1980 beginning at 9:30 a.m. in Room N–5437A and B of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:30 p.m., December 1, 1980: (1) A written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application D–780 Hearing. Individuals who did not file written comments regarding the proposed class exemption may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allotted 10 minutes in which to complete his presentation. Information about the agenda may be obtained on or after December 4, 1980, by telephoning William A. Schmidt, Plan Benefits Security Division, Office of the Solicitor, (202) 523–8610 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 6th day of November, 1980..

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-35246 Filed 11-13-80; 11:30 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-11,073]

Henry S. Levy & Son, Inc., Brooklyn, New York; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a worker petition received on September 10, 1980 which was filed on behalf of workers at Henry S. Levy & Son, Inc., Brooklyn, New York. The workers at Henry S. Levy & Son, Inc. bake bread and rolls.

During the course of the investigation, it was established that all workers of Henry S. Levy & Son, Inc. were separated from employment in May, 1979. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is September 6, 1980 and, thus, workers terminated prior to September 6, 1979 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 6th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35162 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9399]

Michigan Plating and Stamping Division, Gulf and Western Manufacturing Co., Grand Rapids, Mich.; Termination of Investigation; Correction

In FR Doc. 80–29091 appearing on page 62588 in the **Federal Register** of September 19, 1980 the second paragraph, third line, should be corrected to read "(TA–W–9673)."

Signed at Washington, D.C. this 3rd day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35163 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,096]

Wallace Murray Corp., Richmond Gear Division, Richmond, Ind.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a worker petition received on September 22, 1980 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers

producing gears at the Richmond Gear Division of Wallace Murray Corporation, Richmond, Indiana (TA-W-11,096).

On August 15, 1980 a petition was filed on behalf of the same group of workers (TA-W-10,380).

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,380, a new investigation would serve no purpose. Consequently, the investigation has been terminated. Signed at Washington, D.C. this 3rd day of November 1980.

Harold A. Bratt,

Acting, Director Office of Trade Adjustment Assistance.

[FR Doc. 80-35164 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9139, 9139A]

Walworth Co., Columbus, Ohio, Greensburg, PA; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 80-30862 appearing on page 65700 in the **Federal Register** October 3, 1980 the third column, paragraphs 6 and 7, on page 65703 should be corrected to read as follows:

"TA-W-9139; Walworth Company, Columbus, Ohio

A certification was issued covering all workers of the firm separated on or after December 1, 1979.

"TA-W-9139A; Walworth Company, Creensburg, Pennsylvania

A certification was issued covering all workers of the firm separated on or after November 1, 1979."

Signed at Washington, D.C. this 3rd day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35165 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10, 386]

Wolff Shoe Manufacturing Co., Union, Mo.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on August 25, 1980 in response to a petition which was filed on behalf of workers at Wolff Shoe Manufacturing Company, Union, Missouri.

U.S. imports of women's nonrubber footwear, except athletic, increased absolutely and relative to domestic production in 1979 compared with 1978.

A survey of the manufacturer which provides contract work to Wolff Shoe Manufacturing Company revealed that the manufacturer ceased contracting with the subject firm in September 1980. The manufacturer stated that the company increased its purchases of imported shoes in August-September 1980 compared with the same period of 1979.

According to the manufacturer, declining sales combined with continued and increased company imports have eliminated the need for further contracts with Wolff Shoe Manufacturing Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes produced at Wolff Shoe Manufacturing Company, Union, Missouri contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wolff Shoe Manufacturing Company, Union, Missouri who became totally or partially separated from employment on or after August 12, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of October 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-35166 Filed 11-13-80; 8:45 am]

BILLING CODE 4510-28-M

Airco Industrial Gases, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 24, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 24, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Industrial Gases (workers)	Butler, PA	10-20-80	10-15-80	TA-W-11,408	Industrial gases.
Gardner Denver Cooper Ind. (workers)	Reed City, MI	10-20-80	10-11-80	TA-W-11,409	Pneumatic wire wrap tools—wire wrap bits.
Hercules, Inc. (UPIU)	Covington, VA	10-20-80	10-13-80	TA-W-11,410	Polypropylene film used for packaging.
Joseph Dyson & Sons, Inc. (company)	Painesville, OH	10-20-80	10-13-80	TA-W-11,411	Forged fasteners.
Monsanto Company, Springfield Plant (workers).	Indian Orchard, MA	10-20-80	10-9-80	TA-W-11,412	Plastic and resins.
N. L. Fasteners (USWA)	Statesville, NC	10-20-80	10-16-80	TA-W-11,413	Screws, fasteners, bolts, and nuts.
Northern Tube Div. (workers)	Pinconning, MI	10-20-80	10-1-80	TA-W-11,414	Customized fabricated tubing.
Vogue Rattan Mfg. Co., Inc. (teamsters)	Lexington, KY	10-20-80	10-9-80	TA-W-11,415	Rattan furniture.
Wyandotte Indus. (workers)	Waterville, ME	10-20-80	10-15-80	TA-W-11,416	High quality camel hair cashmere.
A & A Mfg. (workers)	Springfield, MO	10-20-80	10-15-80	TA-W-11,417	Men's jeans, jackets, vests.
Bird & Son, Inc. (workers)	Lewiston, ME	10-20-80	10-7-80	TA-W-11,418	Shoe boxes.
CM American, Div. of Columbus McKinnon Corp. (UAW).	McKees Rocks, PA	10-20-80	10-13-80	TA-W-11,419	Forgings, ratchets, load bindings.
Federal-Mogul Corp. & Transmission, Products Group (FMWA).	Greenville, MI	10-20-80	10-15-80	TA-W-11,420	Engine bearings.
GAF Corporation (workers)	Beaverton, OR	10-20-80	10-15-80	TA-W-11,421	View master, pana vue.
GTE Sylvania (IUE)	Batavia, NY	10-17-80	10-14-80	TA-W-11,422	Hi Fi, Stereo, TV's.
Garden State Motors, Inc. (workers)	Pennsauken, NJ	10-20-80	10-6-80	TA-W-11,423	Manufacturing auto and truck engines.
Life Savers, Inc. (workers)	Canajohane, NY	10-20-80	10-10-80	TA-W-11,424	Gum and Candy.
Permold Corp. (AIW)	Medina, OH	10-20-80	10-16-80	TA-W-11,425	Aluminum castings.
Walworth Company (USWA)	Greensburg, PA	10-14-80	10-7-80	TA-W-11,426	Industrial valves.
Bethlehem Steel Corp. (workers)	Seattle, WA	10-17-80	10-14-80	TA-W-11,427	Steel products.
CAM—2 (workers)	Detroit, MI	10-17-80	10-10-80	TA-W-11,428	Order and repair center sold gasoline.
CAM—2 (workers)	Southfield, MI	10-17-80	10-10-80	TA-W-11,429	Order and repair center sold gasoline.
Chatham Dresses Co. (ILGWU)	Garden City, GA	10-17-80	10-14-80	TA-W-11,430	Dresses and pant suits.
Cheraw Mfg. Co. (ILGWU)	Cheraw, SC	10-17-80	10-14-80	TA-W-11,431	Dresses and pant suits.
Chesterfield (ILGWU)	Chesterfield, SC	10-17-80	10-14-80	TA-W-11,432	Dresses and pant suits.
Detroit Gasket (UAW)	Alpena, MA	10-17-80	10-8-80	TA-W-11,433	Molded carpet assemblies for interior trim assembly.
Paragon Woven Label Co., Inc. (workers)	Haskell, NJ	10-17-80	10-10-80	TA-W-11,434	Woven labels for the garment industry.
Rotary Lift Co. (company)	Madison, IN	10-17-80	10-13-80	TA-W-11,435	Manufactures and distributes auto lifts.
Waterboro Dress (ILGWU)	Waterboro, SC	10-17-80	10-14-80	TA-W-11,436	Dresses and pant suits.
Carpenter Steel Div. (workers)	Bridgeport, CT.,	10-17-80	10-14-80	TA-W-11,437	Specialty steel.
General Electric Co., Wiring Device, Business Dept. (IUE).	Providence, RI	10-20-80	10-15-80	TA-W-11,438	Wiring devices.
John Deere Component Parts Co. (UAW)	Waterloo, IA	10-17-80	10-13-80	TA-W-11,439	Components for large tractors.
John Deere Engine Works (UAW)	Waterloo, IA	10-17-80	10-13-80	TA-W-11,440	Engines, engine component parts.
John Deere Foundary (UAW)	East Moline, IL	10-17-80	10-13-80	TA-W-11,441	Iron castings.
John Deere Tractor Works (UAW)	Waterloo, IA	10-17-80	10-13-80	TA-W-11,442	Machines and assembly parts for tractors.
Massey-Ferguson, Inc., Tractor Div., Perkins Engines, Inc. (company).	Wayne, MI	9-18-80	9-15-80	TA-W-11,443	Diesel engines.
Ranco Controls Div. (workers)	Columbus, OH	10-20-80	10-16-80	TA-W-11,444	Electrical mechanical devices
Thomson Steel Co. (USW)	Franklin Park, IL	10-20-80	10-17-80	TA-W-11,445	Cold rolled steel, tempered steel.
Vulcan Corporation (ACTWU)	Blancester, OH	10-20-80	10-17-80	TA-W-11,446	Sample orders only, no production orders.
John Deere Dubuque Works (UAW)	Dubuque, IA	10-17-80	10-13-80	TA-W-11,447	Machined, fabricated, and assembled farm tractors.
Bertsch & Co. (workers)	Cambridge City, IN	10-21-80	10-17-80	TA-W-11,448	Iron castings.
Chrysler Credit Corp. (company)	Troy, MI, Tower Drive	10-20-80	10-10-80	TA-W-11,449	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Charleston, WV	10-20-80	10-10-80	TA-W-11,450	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Greensboro, NC	10-20-80	10-10-80	TA-W-11,451	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Hartsdale, NY	10-20-80	10-10-80	TA-W-11,452	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Falmouth, ME	10-20-80	10-10-80	TA-W-11,453	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Jacksonville, FL	10-20-80	10-10-80	TA-W-11,454	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Orlando, FL	10-20-80	10-10-80	TA-W-11,455	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Tallahassee, FL	10-20-80	10-10-80	TA-W-11,456	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Southfield, MI	10-20-80	10-10-80	TA-W-11,457	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Toledo, OH	10-20-80	10-10-80	TA-W-11,458	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Marquette, MI	10-20-80	10-10-80	TA-W-11,459	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Edina, MN	10-20-80	10-10-80	TA-W-11,460	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Fort Wayne, IN	10-20-80	10-10-80	TA-W-11,461	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Mobile, AL	10-20-80	10-10-80	TA-W-11,462	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Huntsville, AL	10-20-80	10-10-80	TA-W-11,463	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Baton Rouge, LA	10-20-80	10-10-80	TA-W-11,464	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Knoxville, TN	10-20-80	10-10-80	TA-W-11,465	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Oklahoma City, OK	10-20-80	10-10-80	TA-W-11,466	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	El Paso, TX	10-20-80	10-10-80	TA-W-11,467	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Portland, OR	10-20-80	10-10-80	TA-W-11,468	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Spokane, WA	10-20-80	10-10-80	TA-W-11,469	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Boise, ID	10-20-80	10-10-80	TA-W-11,470	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Kansas City, MO	10-20-80	10-10-80	TA-W-11,471	Promotion, sale, and administration of automotive credit.
Chrysler Credit Corp. (company)	Englewood, CO	10-20-80	10-10-80	TA-W-11,472	Promotion, sale, and administration of automotive credit.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Cape Girardeau, MO	10-20-80	10-10-80	TA-W-11,473	Promotion, sale, and administration of automotive credit.
Penn State Textile Mfg. (ACTWU)	Clifton Heights, PA	10-21-80	10-20-80	TA-W-11,474	Uniforms and aprons.
Singer Mfg. & M. Richard Singer Co. (ACTWU).	Philadelphia, PA	10-21-80	10-20-80	TA-W-11,475	Men's pants and jackets.
TRW Cinch (workers)	Chicago, IL	10-21-80	10-15-80	TA-W-11,476	Electrical devices.
Butte, Anaconda & Pacific Railway (UTU 887)	Anaconda, MT	10-15-80	10-3-80	TA-W-11,477	Haul copper bodies for Anaconda
Dayton-Walther Corp. (Muncie Div.) (USWA)	Muncie, IN	10-22-80	10-20-80	TA-W-11,478	Truck wheels, tandem castings, assemblies.
Endicott Johnson (workers)	Forest City, PA	10-20-80	10-13-80	TA-W-11,479	Produce shoes.
Hoover Universal Inc. (company)	Charlotte, MI	10-22-80	10-20-80	TA-W-11,480	Aluminum parts.
Messenger Cedar Products (workers)	Elma, WA	10-22-80	10-13-80	TA-W-11,481	Shakes, shingles.
Mica Products Corp. of America (company)	Wingdale, NY	10-22-80	10-21-80	TA-W-11,482	Architectural woodwork.
Miami Menstogs Inc. (company)	Hialeah, FL	10-20-80	10-9-80	TA-W-11,483	Men's shirts.
National Fiber Glass Corp. (workers)	Yonkers, NY	10-22-80	10-16-80	TA-W-11,484	Fiber glass.
Nissan Tile Distrib. Corp. (workers)	Bayside, NY	10-22-80	9-9-80	TA-W-11,485	Tiles.
Parco Inc (workers)	Marlette, MI	10-22-80	10-15-80	TA-W-11,486	Brake lines.
Sparatan Die Co (IDSC)	Lansing, MI	10-22-80	10-17-80	TA-W-11,487	Dies.
Vicky Sportswear (workers)	McAdoo, PA	10-22-80	10-14-80	TA-W-11,488	Blouses.
A & A Mfg (workers)	Aurora, MO	10-20-80	10-15-80	TA-W-11,489	Men's jeans, jackets, vests.
General Electric Co. Wiring Device Dept. (IUE)	Middletown, RI	10-20-80	10-15-80	TA-W-11,490	Wiring devices.
Joseph M. Herman (workers)	Scarborough, ME	10-20-80	9-8-80	TA-W-11,491	Footwear.
Kooling Products Co., Inc. (workers)	Mt. Clemens, MI	8-11-80	8-7-80	TA-W-11,492	Install air-conditioning units on new cars.
Look Top Leather LTD (workers)	New York, NY	10-2-80	9-12-80	TA-W-11,493	Men's and womens' leather jackets.
RCA Consumer Electronics (workers)	Indianapolis, IN	10-23-80	10-21-80	TA-W-11,494	Component parts for TV.
Supreme Cedar Products Inc. (workers)	Concrete, WA	10-22-80	10-14-80	TA-W-11,495	Red cedar shades, shingles.
White Motor Corp. White Truck Group (workers)	Eastlake, OH	10-20-80	10-16-80	TA-W-11,496	Engineering and administrative.

[FR Doc. 80-35584 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-10,368]

Allied Chemical Corp., Semet Solvay Division, Ashland, Kentucky; Negative Determination Regarding Eligibility to Apply For Worker Adjustment Assistance; Correction

In FR Doc. 80-30862 appearing on page 65700 in **Federal Register** of October 3, 1980, the TA-W-number in Allied Chemical Corporation, Ashland, Kentucky appearing on page 65703 should be corrected to read TA-W-10,638.

Signed at Washington, D.C. this 3rd day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35585 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-9026; 9246-48; 9250-51; 9253; 10,733; 10,735; 10,743-44; 10,748; 10,757; 10,761; 10,763; 10,766; 10,771-72; 10,775; 10,778; 10,781; 10,797; 10,799; 10,801-14; 10,818-44; 10,846-48]

General Motors Corp., Detroit, Michigan; Amended Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued Certifications of Eligibility to Apply for Adjustment Assistance on October 10, 1980, applicable to all workers of certain designated support facilities of General Motors Corporation, Detroit, Michigan. The Certifications were published in the **Federal Register** on October 21, 1980, (45 FR 69600).

State employment security officials advised the Department of several layoffs at the General Motors Proving Grounds in Mesa, Arizona, TA-W-10,733, immediately before its June 1, 1980 impact date. On the basis of additional information from General Motors, the Office of Trade Adjustment Assistance, on its own motion reviewed the certification. The additional information showed several layoffs occurring just prior to the June 1, 1980 impact date. These layoff were not covered by the original impact date set in the certification for workers at the General Motor Proving Ground, Mesa, Arizona.

The intent of the certification is to cover all workers at General Motors Proving Grounds in Mesa, Arizona who were affected by the decline in production of import impacted GM vehicles. The Notice of Certifications, therefore, is amended to include a new impact date of May 1, 1980 for workers at the General Motors Proving Grounds in Mesa, Arizona.

The certification applicable to TA-W-10,733 is hereby amended and issued as follows:

"All workers of General Motors Corporation's General Motors Proving Grounds, Mesa, Arizona, who became totally or partially separated from employment on or after May 1, 1980 and before November 1, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 7th day of November 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-35586 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-10,928]

Vassar Manufacturing Co., Vassar, Michigan; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 22, 1980 in response to a worker petition received on September 11, 1980 which was filed on behalf of workers and former workers producing automotive stampings at Vassar Manufacturing Company, Vassar, Michigan.

On September 8, 1980, an investigation (TA-W-10,583) was initiated on behalf of the same group of workers as (TA-W-10,983).

Since the identical group of workers is the subject of the ongoing investigation (TA-W-10,583) a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 6th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35587 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506:

Date: December 1-2, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for the Research Resources Program: Literature projects Division of Research Programs, for projects beginning after March 1, 1981

Date: December 2-3, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review applications submitted for Pilot grants, Division of Education, for projects beginning after April 1, 1981

Date: December 4-5, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review applications submitted for Pilot grants, Division of Education, for projects beginning after April 1, 1981

Date: December 4-5, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for the research Resources Program: Arts, Architecture, and Music projects, Division of Research Programs for projects beginning after March 1, 1981.

Date: December 4-5, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 911
Program: This meeting will review applications submitted for Special Projects, Division of Special Programs, for projects beginning after March 1, 1981.

Date: December 4-5, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Elementary and Secondary Education, Division of Education Programs, for projects beginning after April 1, 1981.

Date: December 8-9, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Elementary and Secondary Education, Division of Education Programs, for projects beginning after April 1, 1981.

Date: December 11-12, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for the Research Resources Program: World Cultures and Thought projects, Division of Research Programs, for projects beginning after March 1, 1981.

Date: December 11-12, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Program Development, Division of Special Programs for projects beginning after March 1, 1981.

Date: December 16, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review applications for Summer Stipend in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 18, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted by state humanities committees, Division of State programs, for activities beginning after March 1, 1981.

The proposed meeting is for the purpose of Panel reviews, discussions, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implimentation of proposed agency action;

pursuant to authority granted by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 274-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-35633 Filed 11-13-80; 8:45 am]
BILLING CODE 7536-01-M

Music Panel (Orchestra Section); Meeting; Amended Notice

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Orchestra Section) to the National Council on the Arts will be held on November 17-19, 1980 from 9:00 a.m.-5:30 p.m. and November 20, 1980, from 9:00 a.m.-4:00 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on November 20, 1980, from 2:00 p.m.-4:00 p.m. for the discussion of Guidelines.

The remaining sessions of this meeting on November 17-19, 1980, from 9:00 a.m.-5:30 p.m., and November 20, 1980, from 9:00 a.m.-2:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 7, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-35553 Filed 11-13-80; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

Alabama Power Co., (Joseph M. Farley Nuclear Plant, Unit No. 1); Order for Modification of License

I. Alabama Power Company (the licensee) is the holder of Facility

Operating License No. NPF–2, which authorizes the operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 at steady state reactor power levels not in excess of 2652 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site near the City of Dothan, Alabama.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended; and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. NPF–2 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF–2 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80–35439 Filed 11–13–80; 8:45 am]

BILLING CODE 7590–01–M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50–313]

Arkansas Power & Light Co. (Arkansas Nuclear One, Unit No. 1); Order for Modification of License

I. The Arkansas Power & Light Company (licensee) is the holder of Facility Operating License No. DPR–51, which authorizes the operation of the Arkansas Nuclear One, Unit No. 1 at steady state reactor power levels not in excess of 2568 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Pope County, Arkansas.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition of Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regardng the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR–51 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR–51 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nicholas S. Reynolds, Debevoise & Liberman, 1200 17th Street, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings in the Order.

For the Nuclear Regulatory Commission.

Effective Date: October 24, 1980, Bethesda, Maryland.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35440 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power and Light Co., (Arkansas Nuclear One—Unit 2); Order for Modification of License

I. Arkansas Power and Light Company (licensee) is the holder of License No. NPF-6, which authorizes the operation of the Arkansas Nuclear One—Unit 2 nuclear power plant at steady state reactor power levels not in excess of 2815 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Pope County, Arkansas.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered*, That effective immediately Facility Operating License No. NPF-6 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF-6 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nick Reynolds, Esq., DeBevoise & Liberman, 1200 Seventeenth Street NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35441 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co. (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2); Order for Modification of Licenses

I. Baltimore Gas and Electric Company (licensee) is the holder of License Nos. DPR-53 and DPR-69 which authorize the operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 2,700 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site in Calvert County, Maryland.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide by-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License Nos. DPR–53 and DPR–69 are hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of Licenses DPR–53 and DPR–69 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the license should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35442 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co. (Pilgrim Nuclear Power Station, Unit 1); Order for Modification of License

I. The Boston Edison Company (licensee), is the holder of Facility Operating License No. DPR–35 which authorizes the operation of the Pilgrim Nuclear Power Station, Unit 1, at steady state reactor power levels not in excess of 1,998 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site near Plymouth, Massachusetts.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series by letters and meetings during the months of February and March, 1980.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR–35 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–35 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the envorinmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 01581, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

For the Nuclear Regulatory Commission.

Effective Date: October 24, 1980, Bethesda, Maryland.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35443 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-325]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Unit 1); Order for Modification of License

I. The Carolina Power & Light Company (licensee) is the holder of Facility Operating License No. DPR–71 which authorizes the operation of the Brunswick Steam Electric Plant, Unit 1 at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site Brunswick County, North Carolina.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to ad these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the USC Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered*, That effective immediately Facility Operating License No. DPR–71 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–71 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20035, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulations.

[FR Doc. 80-35444 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power & Light Co., (Brunswick Steam Electric Plant, Unit 2); Order for Modification of License

I. The Carolina Power & Light Company (licensee) is the holder of Facility Operating License No. DPR–62 which authorizes the operation of the Brunswick Steam Electric Plant, Unit 2, at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Brunswick County, North Carolina.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed,

for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered*, That effective immediately Facility Operating License No. DPR–62 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–62 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20035, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 80-35445 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co. (H. B. Robinson Steam Electric Plant, Unit No. 2); Order for Modification of License

I. Carolina Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR–23, which authorizes the operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 at steady state reactor power levels not in excess of 2300 megawatts thermal (rated power). The facility consists of a presurized water reactor located at the licensee's site in Darlington County, South Carolina.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR–23 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–23 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35446 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-237]

Commonwealth Edison Co., Dresden Nuclear Power Station, Unit No. 2; Order for Modification of License

I. Commonwealth Edison Company (the licensee) is the holder of Provisional Operating License No. DPR–19, which authorizes the operation of the Dresden Nuclear Power Station, Unit No. 2 at steady state reactor power levels not in excess of 2527 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to,"keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documenation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Provisional Operating License No. DPR–19 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–19 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln & Beale, Counselors at Law, One First National

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

Plaza, 42nd Floor, Chicago, Illinois, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35447 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-295]

Commonwealth Edison Co. (Zion Station, Unit No. 1); Order for Modification of License

I. Commonwealth Edison Company (the licensee) is the holder of Facility Operating License No. DPR-39, which authorizes the operation of the Zion Station, Unit No. 1 at steady state reactor power levels not in excess of 3250 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Zion, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. USC filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered,* That effective immediately Facility Operating License No. DPR-39 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-39 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Phillip P. Steptoe, Esquire, Isham, Lincoln and Beale, Suite 4200, Firest National Plaza, Chicago, Illinois 60603, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35446 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-304]

Commonwealth Edison Co. (Zion Station, Unit No. 2); Order for Modification of License

I. Commonwealth Edison Company (the licensee) is the holder of Facility Operating License No. DPR-48, which authorizes the operation of the Zion Station, Unit No. 2 at steady state reactor power levels not in excess of 3250 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Zion, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission'r rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR-48 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–48 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Phillip P. Steptoe, Esquire, Isham, Lincoln and Beale, Suite 4200, First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35449 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit 3); Order for Modification of License

I. The Commonwealth Edison Company (the licensee) is the holder of Facility Operating License No. DPR–25 which authorizes the operation of the Dresden Nuclear Power Station, Unit No. 3, at steady state reactor power levels not in excess of 2,527 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site near Morris, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered*, That effective immediately Facility Operating License No. DPR–25 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–25 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorneys for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35450 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 50-254

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co. (Quad Cities Nuclear Power Station, Unit 1); Order for Modification of License

I. The Commonwealth Edison Company, et al (licensee) is the holder of Facility Operating License No. DPR–29 which authorizes the operation of the Quad Cities Nuclear Power Station, Unit 1, at steady state reactor power levels not in excess of 2511 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site near Cordova, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, *It is ordered,* That effective immediately Facility Operating License No. DPR–29 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–29 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replace, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorneys for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

For the Nuclear Regulatory Commission.

Effective Date: October 24, 1980, Bethesda, Maryland.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35451 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co. (Quad Cities Nuclear Power Station, Unit 2); Order for Modification of License

I. The Commonwealth Edison Company, et al (licensee) is the holder of Facility Operating License No. DPR–30 which authorizes the operation of the Quad Cities Nuclear Power Station, Unit 2, at steady state reactor power levels not in excess of 2511 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site near Cordova, Illinois.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Comission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide compelte and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered,* That effective immediately Facility Operating License No. DPR–30 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluation Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–30 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records mbust be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorneys for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order. 1Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35452 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co., Haddem Neck Plant; Order For Modification of License

I. Connecticut Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR–61, which authorizes the operation of the Haddem Neck Plant at steady state reactor power levels not in excess of 1825 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Middlesex County, Connecticut.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: Fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions., UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR–61 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–61 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

For the Nuclear Regulatory Commission.

Effective Date: October 24, 1980, Bethesda, Maryland.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35453 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50–245]

Connecticut Light and Power, Hartford Electric Light Co., Western Massachusetts Electric Co. and Northeast Nuclear Energy Co., Millstone Nuclear Power Station, Unit No. 1; Order for Modification of License

I. Connecticut Light and Power, Hartford Electrical Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees) are the holders of Provisional Operating License No. DPR–21, which authorizes the Millstone Nuclear Power Station, Unit No. 1 at steady-state reactor power levels not in excess of 2011 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Waterford, Connecticut.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Provisional Operating License No. DPR–21 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors 'Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors' (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–21 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35454 Filed 11-13-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Company of New York, Inc. (Indian Point Station, Unit No. 2); Order for Modification of License

I. Consolidated Edison Company of New York, Inc. (the licensee) is the holder of Facility Operating License No. DPR-26, which authorized the operation of Indian Point Station, Unit No. 2 at steady state reactor power levels not in excess of 2758 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Westchester County, New York.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Envionmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in alloperating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Facility Operating License No. DPR-26 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR-26 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Brent L. Brandenburg, Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10019, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35455 Filed 11-13-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Plant; Order for Modification of License

I. Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6, which authorizes the operation of the Big Rock Point Plant at steady state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Charlevoix, Michigan.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered,* That effective immediately Facility Operating License No. DPR-6 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment,"

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–6 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35456 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co., Palisades Plant; Order for Modification of License

I. Consumers Power Company (the licensee) is the holder of Provisional Operating License No. DPR–20, which authorizes the operation of the Palisades Plant at steady state reactor power levels not in excess of 2530 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Covert Township, Van Buren County, Michigan.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

the Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* that effective immediately Provisional Operating License No. DPR–20 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License NO. DPR–20 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980.

Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35457 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative, LaCrosse Boiling Water Reactor; Order for Modification of License

I. Dairyland Power Cooperative (the licensee) is the holder of Provisional Operating License No. DPR–45 which authorizes the operation of La Crosse Boiling Water at steady-state reactor power levels not in excess of 165 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Vernon County, Wisconsin.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* That effective immediately Provisional Operating License No. DPR–45 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–45 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35458 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; (Oconee Nuclear Station, Units Nos. 1, 2 and 3); Order for Modification of Licenses

I. The Duke Power Company (licensee) is the holder of Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, which authorize the operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, at steady state reactor power levels not in excess of 2568 megawatts thermal (rated power) for each unit. The facilities consist of pressurized water reactors located at the licensee's site in Oconee County, South Carolina.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: Fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered,* That effective immediately Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55 are hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facilities shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of Licenses DPR–38, DPR–47 and DPR–55 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William S. Porter, Duke Power Company, P.O. Box 2178, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35459 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413A, 50-414A]

Duke Power Co., North Carolina Electric Membership Corp. and the Saluda River Electric Cooperative; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated October 29, 1980, with respect to Catawba Nuclear Station, Units No. 1 and No. 2.

"You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act of 1954, as amended, in connection with the purchase of ownership interests in Duke Power Company's (Duke) Catawba Nuclear Station, Unit 1 by North Carolina Electric Membership Corporation (NCMEC) and the Saluda River Electric Cooperative (Saluda River).

"Duke's participation in the above captioned nuclear units was the subject of an antitrust review conducted by the Department of Justice (Department) in 1973. As a result of that review, the Department recommended that a hearing be held to determine whether Duke's proposed activities under the subject license would create or maintain a situation inconsistent with the antitrust laws. Because Duke was willing to have certain conditions attached to its license for the Catawba plant, the Department recommended that the antitrust proceeding it had initiated be terminated. The sale of 75% ownership in Unit 1 (56.25% to NCMEC, and 18.75% to Saluda River) was the result of the discussions between Duke and the cooperative systems in its service area that occurred after the cessation of those proceedings.

"Our review of the information submitted for antitrust review purposes, including responses to our requests for relevant data from over seventy neighboring electric systems, provides no basis at this time to conclude that the participation in the Catawba Station, Unit 1, by NCMEC and Saluda River would create or maintain a situation inconsistent with the antitrust laws. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the subject transfer of ownership interests."

Any person whose interest may be affected by this proceeding may,

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by December 15, 1980, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Md., the 6th day of November, 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35360 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. (Beaver Valley Power Station, Unit No.1); Order for Modification of License

I. Duquesne Light Company (the licensee) is the holder of Facility Operating License No. DPR-66, which authorizes the operation of Beaver Valley Power Station, Unit No. 1 at steady state reactor power levels not in excess of 2652 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Beaver County, Pennsylvania.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: Fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by not later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It Is Ordered*, That effective immediately Facility Operating License No. DPR-66 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-66 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systemaic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35460 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Unclear Generating Plant); Order for Modification of Lincense

I. Florida Power Corpoaration (licensee) and elven other co-owners are the holders of Facility Operating License No. DPR-72, which authorizes the operation of the Crystal River Unit No. 3 Nuclear Generating Plant, at steady state reactor power levels not in excess of 2,452 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Citrus County, Florida.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two area: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertaken certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary , the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmetal qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any futher findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provdide by-monthly progress reports to the Commission.

The Commission further directed that, "in order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragrph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licesee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered*, that effective immediately Facility Operating License No. DPR-72 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meeting during the months of February and March, 1980.

(a) "By no late than June 30, 1982, all safety-related electrical equipment in the facilty shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment of Operating Reactors" (DOR Guidelines): or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR–72 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of the Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to S. A. Brandimore, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For The Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35461 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co. (St. Lucie Nuclear Power Plant, Unit No. 1); Order for Modification of License

I. Florida Power and Light Company (the licensee) is the holder of License No. DPR–67 which authorizes the operation of St. Lucie Nuclear Power Plant Unit 1 at steady state reactor power levels not in excess of 2560 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in St. Lucie County, Florida.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by not later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the U.C.S. Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memoradum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered,* That effective immediately Facility Operating License No. DPR–67 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–67 dated October 24, 1980.

(b) "By no later than December 1, 1980, comlete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esq., Newman, Reis and Alexrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35462 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-250]

Florida Power and Light Co., Turkey Point Plant, Unit No. 3; Order for Modification of License

I. The Florida Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR–31, which authorizes the operation of the Turkey Point Plant, Unit No. 3 at steady state reactor power levels not in excess of 2200 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Dade County near Miami, Florida.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is Ordered*, That effective immediately Facility Operating License No. DPR–31 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–31 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 4, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Robert Lowenstein, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35463 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358]

Wm. H. Zimmer Nuclear Power Station, Unit 1, Cincinnati Gas & Electric Co., Columbus & Southern Ohio Electric Co., Dayton Power & Light Co.; Supplementary Antitrust Review of Operating License Application

On May 10, 1975, the Cincinnati Gas and Electric Company (CG&E), Columbus & Southern Ohio Electric Company (C&SOE), and the Dayton Power & Light Company (DPL) tendered their joint application to obtain an operating license for the Wm. H. Zimmer Nuclear Power Station, Unit 1. Antitrust information, dated April 27, 1977, was submitted in accordance with NRC Regulatory Guide 9.3 for evaluation by the NRC staff. Based upon procedures then in effect, the NRC staff conducted an internal review of this information and concluded "that changes in the Applicants' activities occurring since the construction permit antitrust review do not represent significant changes that would now warrant another antitrust review at the operating license stage."

In its evaluation, the staff took note of, among other things, the pending application by the American Electric Power Company, Inc. (AEP) to acquire C&SOE and the Initial Decision of an Administrative Law Judge of the Securities and Exchange Commission (SEC) on July 18, 1973, denying the proposed acquisition, based in part on competitive considerations. The staff also noted the SEC's taking of review of the Initial Decision. The NRC staff was interested in the possible impact of the acquisition on the competitive situation in Ohio, should it be ultimately approved by the SEC. The staff analysis, dated November 28, 1977, is available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and in the local public document room at Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

Since the completion of the staff's operating license antitrust review for this facility, the SEC has approved the acquisition. American Electric Power Co., Inc., Docket 70–4596, Opinion of the Commission, dated July 21, 1978, and Supplemental Memorandum and Order Approving Acquisition of Common Stock of Columbus and Southern Ohio Electric Company by American Electric Power Company, Inc., dated February 13, 1980.

The staff is reevaluating its earlier finding of "no significant change" under Section 105c(2) of the Atomic Energy Act of 1954, as amended, in light of the acquisition of C&SOE by AEP. The results of this reevaluation will be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

Any person who wishes to express his views regarding the matter covered by this notice should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation on or before January 13, 1981.

Dated at Bethesda, Md., this 6th day of November, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 80-35362 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric and Gas Co.; Availability of Supplement to the Draft Environmental Statement for Virgil C. Summer Nuclear Station, Unit No. 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Supplement to the Draft Environmental Statement (NUREG–0534) has been prepared by the Commission's Office of Nuclear Reactor Regulation. The DES Supplement relates to accident considerations relative to the proposed operation of the Virgil C. Summer Nuclear Station in Fairfield County, South Carolina. Copies are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Richland County Public Library, 1400 Sumter Street, Columbia, South Carolina 29202. The DES Supplement is also being made available at the State Clearinghouse, Office of the State Auditor, P.O. Box 11333, Columbia, South Carolina and the metropolitan Clearinghouse at Central Midlands Regional Planning Council, 800 Dutch Square Boulevard, Suite 155, Columbia, South Carolina 29210. Requests for copies of the Supplement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

The Applicant's Environmental Report, as supplemented, submitted by South Carolina Electric and Gas Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the **Federal Register** on April 18, 1977 (42 FR 20203).

Pursuant to 10 CFR Part 51, interested persons may submit comments on this Supplement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of this Supplement. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Richland Public Library in Columbia, South Carolina. Upon consideration of comments submitted with respect to this Supplement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

Comments on the Supplement to the Draft Environmental Statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Comments are due by December 29, 1980.

Dated at Bethesda, Maryland, this 6th day of November 1980.

A. Schwencer,

Chief Licensing Branch No. 2, Division of Licensing.

[FR Doc. 80-35482 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for awarding Senior Executive Service bonuses.

DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph E. Nordsieck, Career Management Branch, Office of Personnel, Office of Personnel Management, 1900 "E" Street, NW, Washington, DC 20415 (202–632–7484).

SUPPLEMENTARY INFORMATION: Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Schedule for Awarding Senior Executive Service Bonuses

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Office of Personnel Management intends to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1979, through September 30, 1980, with payouts scheduled by December 1, 1980.

[FR Doc. 80-35537 Filed 11-13-80; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Proclamation Regarding Railroad Unemployment Insurance Account

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board has determined, and hereby proclaims, that the balance to the credit of the railroad unemployment insurance account as of the close of business September 30, 1980, was $45,084,954.86. Based on this balance and pursuant to the table in section 8(a) of the Railroad Unemployment Insurance Act, the contribution rate to finance the railroad unemployment insurance program for calendar year 1981 shall be 8.0 percent.

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Illinois, this 7th day of November 1980.

William P. Adams,

Chairman.

Earl Oliver,

Member.

C. J. Chamberlain,

Member.

Dated: November 7, 1980.

By the Railroad Retirement Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-35601 Filed 11-13-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21780; 70-5503]

Appalachian Power Co.; Proposed Issuance of Refunding Bonds by County Authority in Connection With Pollution Control Financing

November 7, 1980.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009 (70–5503).

Notice is hereby given that Appalachian Power Company ("Appalachian"), an electric utility subsidiary of Amercian Electric Power

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Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration in this proceeding pursuant to Sections 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44(b)(3) promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order in this proceeding dated December 10, 1974 (HCAR No. 18703), Appalachian was authorized to enter into an agreement of sale ("Agreement") with the Industrial Development Authority of Russell County, Virginia (the "Authority") concerning the financing of pollution control facilities ("Facilities") at Appalachian's Glen Lyn and Clinch River plants. Under the Agreement the Authority is to issue and sell its pollution control revenue bonds ("Revenue Bonds"), in one or more series, the proceeds from which sales are to be deposited by the Authority with the trustee ("Trustee") under the indenture ("Indenture") entered into between the Authority and Trustee pursuant to which Indenture the Revenue Bonds are issued and secured. The proceeds will then be applied to the payment of the costs of construction of the Facilities, originally estimated at $45,000,000, or, in the case of proceeds from the sale of refunding bonds, to the payment of principal, premium (if any), and interest on Revenue Bonds to be refunded. Appalachian conveyed an undivided interest in a portion of the Facilities to the Authority, which portion the Authority sold to Appalachian under an installment sale arrangement requiring Appalachian to pay as the purchase price semi-annual installments in such an amount (together with other monies held by the Trustee under the Indenture for that purpose) as to enable the Authority to pay, when due, the interest and principal on the Revenue Bonds. Jurisdiction was reserved in the order of December 10, 1974, with respect to the payment of the purchase price of the Facilities by installment payments insofar as such payments were affected by the interest rate or rates of the Revenue Bonds to be issued and sold by the Authority.

By orders dated December 27, 1974, and December 17, 1975 (HCAR Nos. 18736 and 19303), such jurisdiction was released concerning the sales of Revenue Bonds in the principal amounts of $24,000,000 and $17,000,000, respectively, as such sales affected the purchase price to Appalachian. By order dated November 14, 1979 (HCAR No. 21295), jurisdiction was also released concerning the sale of a series of refunding bonds in the aggregate principal amount of $11,000,000, the net proceeds of which were to be used for the refunding at their maturity on December 1, 1979, of $10,500,000 principal amount of Revenue Bonds previously issued by the authority.

By post-effective amendment, it is now stated that the Authority intends to issue and sell in 1980 a series of refunding bonds ("Series D Bonds") in the aggregate principal amount of $6,240,000, the proceeds of which will be used to provide for the principal and interest payments required for the refunding, at their stated maturity on December 1, 1980, of $6,000,000 aggregate amount of Revenue Bonds of the Authority which were issued and sold by the Authority on December 30, 1975. It is contemplated that the Series D Bonds will be issued and sold by the Authority to Manufacturers Hanover Trust Company for cash consideration equal to the principal amount of the Series D Bonds. The Series D Bonds are to mature by their terms on April 1, 1981, and are to bear interest at an annual rate equal from time to time to 70% of the then effective prime commercial loan rate of Manufacturers Hanover Trust Company.

It is further stated that subsequent to the issue and sale of the Series D Bonds, the Authority will issue and sell a series of refunding bonds ("Series E Bonds") in the aggregate principal amount of up to $6,500,000, the proceeds of which will be used to provide for the refunding, at or prior to their stated maturity on April 1, 1981, of the Series D Bonds. The Series E Bonds will be issued pursuant to the Indenture and a Fourth Supplemental Indenture of Trust between the Authority and the Trustee. The Series E Bonds will bear interest semi-annually, will mature at a date or dates not less than five years nor more than 30 years from the date of their issuance, and will not be redeemable at the option of the Authority within 10 years from the date of their issuance except under certain circumstances. The Series E Bonds will be sold by the Authority pursuant to arrangements with an underwriter.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by further amendment. It is represented that the State Corporation Commission of Virginia has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than December 4, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will recieve any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35605 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 2-56919 (22-8919), et al.]

Chrysler Financial Corp.; Application and Opportunity for Hearing

November 10, 1980.

In the matter of Chrysler Financial Corporation: File Nos. 2-56919 (22-8919), 2-57639 (22-9047), 2-41542 (22-6832), 2-43097 (22-7067), 2-49615 (22-7714), 2-56398 (22-8854), 2-59061 (22-9229), 2-59629 (22-9310), 2-58322 (22-9149).

Notice is hereby given that Chrysler Financial Corporation has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the successor trusteeship of United States Trust Company of New York ("U.S. Trust") under certain existing indentures of Chrysler Financial Corporation which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify U.S. Trust from acting as Trustee under any such indenture.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. Chrysler Financial Corporation, a Michigan corporation, had outstanding on July 31, 1980 the following described securities in the following dates with the following indenture trustees, which were filed under the following file and exhibit numbers and which were declared effective for registration under the Securities Act of 1933 and for qualification under the Trust Indenture Act of 1939 on the following dates, the terms and conditions of each of the said indentures being incorporated herein by reference;

Description	Principal amount	As of date of indenture	Indenture trustee	File and exhibit No.	Effective date
9¼% notes due 1983.	$100,000,000	Aug. 15, 1976	Bankers Trust Co.	2-56919, exhibit 2-A.	Aug. 16, 1976.
9% notes due 1986.	125,000,000	Dec. 1, 1976	Irving Trust Co.	2-57639, exhibit 2-A.	Dec. 1, 1976.
8.35% debentures due 1991.	60,000,000	Sept. 1, 1971	Morgan Guranty Trust Co.	2-41542, exhibit 4-A.	Sept. 9, 1971.

2. Each of the above-named indenture trustees has notified Chrysler Financial Corporation of its resignation as indenture trustee under the indenture set forth next to its name above, such resignations to become effective upon acceptance of appointments of successor trustees. Subject to the receipt by Chrysler Financial Corporation of an affirmative order in respect to this application, United States Trust Company of New York ("U.S. Trust") has agreed to act as successor indenture trustee under each of the above-described indentures, to become effective upon execution of appropriate documentation by Chrysler Financial Corporation, U.S. Trust and respective trustees.

3. Each of the indentures described in paragraph 1 above contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

4. The terms of the indentures described in paragraph 1 above vary as to interest rates and maturity, and the indenture relating to the 8.35% Debentures Due 1991 provides for a sinking fund, with various redemption prices.

5. The unpaid principal, accrued interest and premiums, if any, on the securities described in paragraphs 1, 6 and 7 hereof are secured by the grant of a security interest in all personal property and fixtures of Chrysler Financial Corporation, a Michigan corporation, Chrysler Credit Corportion, a Delaware corporation, Chrysler Leasing Corporation, a Delaware corporation, and Chrysler Financial Oversees Capital N.V., a Netherlands Antilles corporation, pursuant to a Security Agreement dated as of May 15, 1980 among those corporations and Wilmington Trust Company, a Delaware corporation.

6. The Company had outstanding as of July 31, 1980, $125,000,000 principal amount of 8⅞% Notes Due 1982 which were issued under an indenture dated as of March 15, 1977 between Chrysler Financial Corporation and U.S. Trust, as Indenture Trustee (the "U.S. Trust Indenture"), a copy of which indenture is incorporated herein by reference and was declared effective by the Commission on March 23, 1977, for registration under the Securities Act of 1933 and for the qualification of said indenture under the Trust Indenture Act of 1939.

7. Effective March 26, 1980, pursuant to an Order of the Securities and Exchange Commission, U.S. Trust became Successor Trustee under the following described trust indentures hereinafter referred to collectively as "Successor Indentures":

Description, Principal Amount, File and Exhibit No.

7.70% Debentures Due 1992, $60,000,000, 2-43097—Exhibit 4-A.
Medium-Term Notes Due From 9 Months to 5 Years From Date of Issue, $33,800, 2-49615—Exhibit 2-A.
10% Notes Due 1981, $125,000,000, 2-56398—Exhibit 2-A.
Medium-Term Notes Due From 9 Months to 5 Years From Date of Issue, $9,459,000, 2-59061—Exhibit 2-A.
8⅞% Notes Due 1984, $50,000,000, 2-59629—Exhibit 2-A.

8. The terms of the U.S. Trust Indenture and the Successor Indentures vary from the Indentures described in paragraph 1 hereof as to interest rates and maturity, and, with one exception, do not provide for a sinking fund as does the indenture relating to the 8.35% Debentures Due 1991.

9. Under the terms of the U.S. Trust Indenture and the indentures described in paragraphs 1 and 7 hereof, each ranks equally, *pari passu*, with the other senior debt of Chrysler Financial Corporation.

10. Each of the indentures described in paragraphs 1 and 7 hereof and the U.S. Trust Indenture provided that any event of default or any event which with notice of lapse of time or both would constitute such an event of default, under any obligations for borrowed money of Chrysler Financial Corporation which results in the indebtedness becoming due prior to its stated maturity constitutes an event of default thereunder, and the Trustee under each such indenture has the right to declare all of the securities outstanding thereunder due and payable immediately.

11. For this reason, if Chrysler Financial Corporation should default on its obligations under the U.S. Trust Indenture and should the Trustee accelerate payment of the indebtedness thereunder, there would exist an event of default under all of the indentures described in paragraphs 1 and 7 above and the Trustee under each could accelerate payment of the indebtedness thereunder. Conversely, if Chrysler Financial Corporation should default on

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its obligations under any one of the indentures described in paragraphs 1 and 7, above, and should the Trustee accelerate payment of the indebtedness thereunder, there would exist an event of default under all of the other indentures and the U.S. Trust Indenture, and the Trustee under each could accelerate payment of the indebtedness thereunder.

12. Because of the cross-default provisions described in paragraphs 10 and 11 above, should an event of default occur under any one of the indentures, including the U.S. Trust Indenture and should the Trustee accelerate payment thereunder, this would constitute a default under the provisions of each of the other indentures, including the U.S. Trust Indenture, and the Trustee under each could accelerate payment of the indebtedness thereunder.

13. Each of the indentures requires the Trustee to use the same degree of care and skill in the exercise of its right and powers as a prudent man under the circumstances. Further, the Trustee is not relieved from liability for its own negligent action, negligent failure to act or its own willful misconduct. Thus, there cannot realistically be either a race of diligence or a studied delay which, in any case, might result in holders of any one issue of securities being favored or prejudiced as against holders of the other issue of securities.

14. The Chairman of the Board of U.S. Trust is Tom Killefer, a member of the Board of Directors of Chrysler Corporation which owns all the issued and outstanding stock of Chrysler Financial Corporation. Prior to joining U.S. Trust, Mr. Killefer was an officer of Chrysler Corporation and a member of the Board of Directors of Chrysler Financial Corporation. As of July 31, 1980, the outstanding balances owned to U.S. Trust by Chrysler Corporation was $1.8 million and by Chrysler Financial Corporation was $4.9 million. The loan from U.S. Trust to Chrysler Financial ranks *pari passu* with the debt described in paragraph 1 hereof.

15. Such differences as exist between the U.S. Trust Indenture, the Successor Indentures and the other indentures and the facts set forth in paragraph 14 above are not so likely to involve the U.S. Trust in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the U.S. Trust from acting as indenture trustee under each of the other indentures.

Chrysler Financial Corporation has waived notice of hearing, any right to a hearing in connection with matters referred to in the application, and any and all right to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than December 1, 1980, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing hereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issue of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35607 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11435, 812-4403]

Investors Mutual Inc. et al.; Filing of Application

November 7, 1980.

In the matter of Investors Mutual, Inc., Investors Stock Fund, Inc., Investors Selective Fund, Inc., Investors Variable Payment Fund, Inc., IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc., IDS Growth Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS Tax-Free Money Fund, Inc., 100 Roanoke Building, Minneapolis, Minnesota 55402, and Investors Diversified Services, Inc., IDS Tower Minneapolis, Minnesota 55402 (812-4403).

Notice is hereby given that Investors Mutual, Inc. ("Mutual"), Investors Stock Fund, Inc. ("Stock"), Investors Variable Payment Fund, Inc. ("Variable"), Investors Selective Fund, Inc. ("Selective"), IDS New Dimensions Fund, Inc. ("New Dimensions"), IDS Progressive Fund, Inc. ("Progressive"), IDS Growth Fund, Inc. ("Growth"), IDS Cash Management Fund, Inc. ("Cash Management"), IDS Tax-Exempt Bond Fund, Inc. ("Tax-Exempt"), IDS Bond Fund, Inc. ("Bond"), IDS High Yield Tax-Exempt Fund, Inc. ("High Yield"), and IDS Tax-Free Money Fund, Inc. ("Tax-Free Money Fund") (collectively referred to as the Funds), open-end, management investment companies registered under the Investment Company Act of 1940 ("Act"), and Investors Diversified Services, Inc. ("IDS"), each Fund's investment adviser and principal underwriter (collectively referred to with the Funds as "Applicants"), filed an application on September 18, 1980, and an amendment thereto on October 20, 1980, requesting an order of the Commission amending in the manner described below earlier orders of the Commission. (See Investment Company Act Release No. 9807, June 7, 1977; Investment Company Act Release No. 10742, June 20, 1979; Investment Company Act Release No. 10954, November 27, 1979; Investment Company Act Release No. 11128, April 11, 1980). These earlier orders, pursuant to Section 11(a) of the Act, permitted certain transfers among the Funds on a basis other than their relative net asset value per share at the time of transfer and, pursuant to Section 6(c) of the Act, exempted such transfers from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS, as principal underwriter for the Funds, maintains a continuous public offering of shares of each of the Funds at their respective net asset value plus a sales charge. IDS is registered as a broker/dealer under the Securities Exchange Act of 1934 and as an investment adviser under the Investment Advisers Act of 1940. On purchases of less than $15,000, the sales charge is 3½% for Cond, 7% for Selective, 8% for Mutual, Stock, Variable, New Dimensions, Progressive and Growth. Tax-Exempt and High Yield have a 4% sales charge on pruchases of less than $50,000. For each of the Funds, the sales charge is reduced on larger pruchases, except Bond which has a level 3½% sales charge. There is no sales chage for purchases of Cash Management or Tax-Free Money Fund.

All of the Funds permit reinvestment of capital gains distributions without payment of a sales charge. All of the Funds, except Bond, permit reinvestment of dividends without a sales charge.

Applicants represent that pursuant to the earlier orders of the Commission dated June 7, 1977, June 20, 1979, November 27, 1979, and April 11, 1980, the shareholders of Mutual, Stock, Variable, Progressive, New Dimensions and Growth currently have the privilege of transferring their shares into shares of each of the Funds, except Bond, at net asset value without paying a sales charge. Applicants further state that the shareholders of Selective, Bond, Tax-Exempt and High Yield who have held their shares for eight months or more have the same transfer privilege described above, except that shareholders of High Yield, Selective and Tax-Exempt may transfer their shares at net asset value into Tax-Exempt or High Yield at any time. The shareholders of each of the Funds, except Cash Management and Tax-Free Money Fund, who have held their shares eight months or more may transfer into Bond at net asset value without paying a sales charge.

Applicants further represent that the shareholders of each of the Funds, except Cash Management and Tax-Free Money Fund, who have held their shares for less than eight months may transfer into Bond upon paying an additional sales charge, if any. Shareholders of Bond, Tax-Exempt and High Yield who have held their shares for less than eight months have the privilege of transferring into Mutual, Stock, Variable, Progressive, Growth, New Dimensions, Selective, Tax-Exempt, and High Yield upon paying any additional sales charge. Applicants further state that shareholders of Selective who have held their shares for less than eight months may transfer into Mutual, Stock, Variable, Progressive, Growth, and New Dimensions, upon paying any additional sales charge.

Shareholders of Cash Management who acquire their shares with redemption proceeds from one of the other Funds may transfer their shares into shares of each of the Funds, except for Bond, at net asset value without paying a sales charge. Those shareholders of Cash Management seeking to transfer into Bond who acquired their shares with proceeds redeemed from one of the other Funds: (1) where the sales charge assessed by the other Fund is less than the charge that would have been assessed had the investment been in Bond originally; and (2) where the time span invested in Cash Management plus the time span of any prior investment in such Fund is less than eight months must pay an additional sales charge upon transferring into Bond. Shares of Cash Management that were purchased directly, and dividends earned on such investments, may be redeemed and the redemption proceeds invested in shares of each of the Funds by paying the applicable sales charge. Shares of Cash Management that were acquired with redemption proceeds from one of the other Funds will be transferred first.

Applicants state that in the past record keeping restrictions prohibited transfers from Bond, Tax-Exempt, High Yield and Selective into Cash Management and Tax-Free Money Fund prior to an eight-month investment in any of such Funds. However, it is now possible to track the investments of shareholders of Bond, Tax-Exempt, High Yield and Selective, and thus Applicants state that such transfers are now permitted.

In each instance of a transfer in which an additional sales charge is assessed, the charge is equal to the difference between the sales charge actually paid and that which would have been imposed had the original investment been in the Fund into which the subsequent transfer was made.

Each Applicant now proposes to offer its shares, according to the following plan, to the shareholders of Tax-Free Money Fund and Cash Management who redeem their shares and immediately reinvest the proceeds of such redemption in the shares of one of the other Applicants. If the shares of Tax-Free Money Fund or Cash Management were purchased directly, the transfer will be on the basis of the net asset value at the time of transfer, plus any sales charge described in the prospectus of the Fund into which the transfer is made. Any reinvested dividends earned on this original direct investment will be transferred in the same manner. If the shares of Tax-Free Money Fund or Cash Management were acquired with proceeds redeemed from one of the other Funds, and both:

(1) the sales charge assessed by such other Fund is less than the charge that would have been assessed had the investment originally been in the Fund transferred to from Tax-Free Money Fund or Cash Management; and

(2) the time span invested in Tax-Free Money Fund or Cash Management, plus the time span invested in such other Fund is less than eight months;

then each Applicant will accept such transfers from Cash Management or Tax-Free Money Fund upon payment of an additional sales charge equal to the difference between the sales charge actually paid and the charge that would have been paid had the investment been made in the succeeding Fund originally. No sales charge will be assessed by any Applicant upon transfers (including both principal and dividends earned on that principal) accepted from shareholders of Tax-Free Money Fund or Cash Management who acquired their shares with proceeds redeemed from one of the other Funds and whose total time of investment in the Funds exceeds eight months.

Applicants state that the purpose of the transfer privileges and the eight-month restriction is to discourage attempts to unfairly circumvent higher sales charges. Shares of Tax-Free Money Fund and Cash Management that were acquired with the redemption proceeds from one of the other Funds will be transferred first. Appropriate disclosure of the terms of the proposed transfer privleges will be made in the prospectuses of Cash Management and Tax-Free Money Fund.

Applicants further represent that pursuant to the distribution agreements between IDS and each of the Funds, except Cash Management and Tax-Free Money Fund, IDS receives a sales charge equal to the difference between the total amount received upon each sale of shares and the net asset value of such shares at the time of sale, a portion of which is paid to IDS sales representatives as commissions. With respect to those transfers described above which involve the payment of any additional sales charge, Applicants state that IDS will pay to the applicable sales representative that portion of the additional sales charge which he would have received if the sale of shares of the higher load Fund had been made initially. Applicants further state that they believe that there is not sufficient financial incentive for an IDS sales representative to initiate such transfers for his own benefit. Applicants represent that IDS has established sufficient internal monitoring and review procedures to ensure that such transfers are made at the request of the customer and not for the IDS sales representative's personal gain (including monitoring the frequency of transfers handled by individual representatives).

Section 11(a) of the Act provides that it shall be unlawful for any registered, open-end company or any principal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his

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security for a security in the same or another such company on any basis other than the relative net asset value of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds is normally greater than the sales charge which would be applicable to a proposed transfer. Rule 22d–1 permits certain variations in sales load, noe of which it is alleged are applicable to the proposed transfer privileges.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

On the basis of the foregoing, Applicants submit that the proposed exemption is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 1, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35604 Filed 11–13–80; 8:45 am]

BILLING CODE 8010–01–M

Applications of Midwest Stock Exchange, Inc. for Unlisted Trading Privileges in Certain Securities and Opportunity for Hearing

November 7, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks: CSX Corporation, Common Stock, $1 Par Value (File No. 7–5778); General Re Corporation, Common Stock, $.50 Par Value (File No. 7–5779); Moore Corp., Limited, Common Stock, No Par Value (File No. 7–5780); and Collins Food International Inc. (Delaware), Common Stock $.10 Par Value (File No. 7–5781). These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 2, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35606 Filed 11–13–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21781, 70–6507]

Georgia Power Co., Proposed Sale of Undivided Ownership Interests in Combustion Turbine Electric Generating Unit

November 10, 1980.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, a public-utility subsidiary of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Georgia is currently the sole owner of a 50 MWe nominally rated combustion turbine electric generating unit ("Combustion Turbine") located at Plant Hal Wansley ("Plant Wansley") in Heard and Carroll Counties, Georgia, and the owner of a 53.5% undivided ownership interest in Plant Wansley as a tenant in common with Oglethorpe Power Corporation ("OPC"), an electric membership generation and transmission corporation, the Municipal Electric Authority of Georgia ("MEAG"), a public body corporate and politic and an instrumentally of the State of Georgia, and the City of Dalton, Georgia ("Dalton"), an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners, which own, respectively, 30%, 15.1%, and 1.4% undivided ownership interests in Plant Wansley.

Georgia proposes to sell to OPC, MEAG, and Dalton 30%, 15.1%, and 1.4% undivided ownership interests, respectively, in the Combustion Turbine pursuant to proposed Plant Hal Wansley Combustion Turbine Agreements ("Combustion Turbine Agreements") between Georgia and OPC, Georgia and MEAG, and Georgia and Dalton. Georgia will obtain a release of such undivided ownership interests in the Combustion Turbine to be sold to OPC, MEAG, and Dalton from the lien of Georgia's First Mortgage Bond Indenture.

The closing of such sales to OPC, MEAG, and Dalton is scheduled to take place on or about December 15, 1980. The closing is subject to, among other things, the receipt by the parties of all requisite approvals of all applicable regulatory agencies. At the closing, OPC, MEAG, and Dalton will pay to Georgia, in consideration for the sale of such property, an amount equal to 30%, 15.1%, and 1.4%, respectively, of the costs incurred by Georgia to construct the Combustion Turbine and to provide the initial fuel oil stock. In addition, OPC, MEAG, and Dalton will pay to Georgia an amount in respect of Georgia's cost of long-term borrowings incurred to finance such construction. Assuming the closing of such sales were to take place on December 15, 1980, Georgia estimates that it would receive approximately $4,536,178 from OPC, $2,283,210 from MEAG, and $211,688 from Dalton. Georgia expects to apply the proceeds of such sales toward the cost of its construction program.

Construction of the Combustion Turbine has been completed. After the closing of such sales, the Combustion Turbine will be considered by Georgia, OPC, MEAG, and Dalton as part of Plant Wansley, and the rights and obligations of Georgia, OPC, MEAG, and Dalton with respect to the Combustion Turbine will be governed as to most matters by certain agreements. The proposed Combustion Turbine Agreements will provide that Georgia is to purchase from OPC, MEAG, and Dalton their entire respective entitlements to capacity and energy from the Combustion Turbine. Georgia will pay OPC, MEAG, and Dalton monthly in respect of such entitlements to capacity, an amount equivalent to the effective amount which a partial requirements customer of Georgia would pay to Georgia for an equivalent amount of reserve capacity pursuant to Georgia's FERC Electric Tariff, Original Volume No. 2, and Georgia will pay OPC's, MEAG's and Dalton's respective shares of operating costs and will replace their respective shares of fuel and material stock consumed in connection with the Combustion Turbine, except that if the Combustion Turbine is used in connection with the Plant Wansley coal-fired generating units, OPC, MEAG, and Dalton will pay 30%, 15.1% and 1.4%, respectively, of the operating and fuel costs associated therewith. Such purchases from OPC, MEAG, and Dalton must be made regardless of the availability of capacity and energy from the Combustion Turbine. Georgia's obligation to purchase another co-owner's entitlement to energy and capacity may be terminated by either Georgia or such other co-owner at any time after five years following such other co-owner's purchase of an interest in the Combustion Turbine.

The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transactions are to be filed by amendment. It is stated that no state and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 8, 1980, request in writing that a hearing be held on such matter stating the nature of this interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney by law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such othe action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35640 Filed 11–13–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 6257; 16–82]

H.R. 10 Plan of Blank, Rome, Comisky & McCauley; Application

November 10, 1980.

Notice is hereby given that the law firm of Blank, Rome, Comisky & McCauley, Four Penn Center Plaza, Philadelphia, PA 19103, (hereinafter the "Firm" or "Applicant"), a Pennsylvania partnership, has, by letters dated June 27, 1980 and October 29, 1980, applied for an exemption from the registration requirements of the Securities Act of 1933 ("Act") for any participations or interests issued in connection with the H.R. 10 Plan of Blank, Rome, Comisky & McCauley, as amended (the "Plan"). All interested persons are referred to those documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers partners and employees of the Firm who were participants in the Plan as of February 1, 1976 and all other employees and partners of the Firm, other than owner-partners, who have both attained age 25 and completed three years of service without a break in service. However, employees of the Firm as of February 1, 1976 who have completed five years of service, without a break in service, may participate before attaining age 25. As of February 1, 1980, the participants consisted of 48 partners and 14 associates as well as clerical, secretarial and other staff personnel.

The Plan is of a type, commonly referred to as a "Keogh" plan, which covers persons (in this case the Firm's partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"). Therefore, even though the Plan is qualified under Section 401 of the Code, the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan absent an order of the Commission issued under Section 3(a)(2).

In relevant part, Section 3(a)(2) provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant states that the Plan was adopted in 1968 and was amended and restated in its entirety, effective as of February 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a

ruling to the effect that the Plan, as so amended and restated, continues to be a qualified plan under Section 401 of the Code. The Plan is an employee pension benefit plan subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA.

Administration of the Plan is the responsibility of the Plan Administrator and such persons or committees as the Plan Administrator may choose. The Plan Trustees have the responsibility of managing and supervising all funds, securities and other property of the Trust.

The Plan has a mandatory Firm contribution feature and a voluntary participant contribution feature, both of which are based on a percentage of compensation. In general the Firm's annual contribution on behalf of a participant is an amount equal to the lesser of $7,500 or 7-½% of his compensation or earned income for the year. A participant may voluntarily contribute an amount which does not exceed 10% of his total compensation or earned income for all plan years during which he has been eligible to participate; provided that the amount of contribution in excess of the greater of 6% of his compensation or earned income for the year, or 50% of his contribution, cannot exceed 17-½% of his compensation or earned income for any given plan year. Voluntary contributions may be invested together with Firm contributions or invested separately.

Distributions may be made in accordance with one or more options approved by the Plan Administrator, including lump sum payment, installment payments, and purchase of an insurance company contract providing for installment payments. The amount distributed each year shall be at least equal to the aggregate accrued benefit of the participant divided by his life expectancy. Undistributed portions shall be deposited in a savings account or invested in a certificate of deposit.

The assets of the Plan will not be commingled in collective investment funds with the assets of the plans of other employers. In this connection it should be noted that, while the Trust Agreement does not prohibit investment in any common collective or commingled trust fund maintained by a corporate trustee, the Applicant, through the Trustees, retains adminstrative control of the Plan, including ultimate control over the investment policies. Applicant states that no investment in a common trust fund where Plan trust funds would be commingled with those of others is or will be authorized by the Plan Administrator.

The Applicant may at any time modify, amend or terminate the Plan, in whole or in part, or discontinue contributions to the Trust, so long as no action by the Firm shall divert Trust assets for purposes other than for the exclusive benefit of the participants or their beneficiaries, or cause Trust assets to revert to the Firm, or retroactively deprive any participant or his beneficiary of any benefit to which he was entitled under the Plan by reason of Firm contributions prior to the modification or amendment, unless required by law, or impose additional duties on the Trustees without their consent. The Plan shall terminate automatically upon the termination of the partnership, unless otherwise agreed by the successor to the Applicant's business and the Trustees.

The Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan to participants (other than such material as the Firm is required to distribute under ERISA) and has not made and does not intend to make any solication of contributions under the Plan.

The Plan is subject to ERISA and the Firm has complied and will comply with all of the ERISA reporting and disclosure requirements. A Summary Plan Description, written in language understandable to the average participant, is delivered to each participant. In addition, a Summary Annual Report is delivered to each participant and also to persons currently receiving benefits. Each participant and person receiving benefits is informed that the full annual report for the Plan is available upon request. Further, each participant is furnished, upon request, on an annual basis, a statement of his or her accrued benefit under the Plan.

III. Discussion

Applicant states that the Plan is not a uniform prototype plan of a type marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. The Plan was prepared by attorneys in the Firm and covers only the legal and support staff of the Applicant. Accordingly, Applicant contends that the Plan does not present the risks associated with the sale of interests or participations in multi-employer plans marketed by sponsoring financial institutions. Also, Applicant contends that the registration requirement exists only because the Firm does business in the form of a partnership, rather than a corporation, and that if the Firm were incorporated, its partners would not be considered "employees" within the meaning of Section 401(c)(1) of the Code and there would be no question as to the availability of the exemption from registration.

Further, Applicant states that it maintains substantial administrative control over the Plan with a Plan Administrator who has overall responsibility and authority for administration of the Plan, including interpretation of the provisions of the Plan, establishment and enforcement of rules and regulations relating to administration of the Plan, determination of the amount of benefits payable to any person in accordance with the provision of the Plan, and authorization of payment of such benefits and of the proper expenses related to the administration of the Plan.

Applicant also argues that the Plan covers partners and associate lawyers of the Firm, who are professionals generally sophisticated in investments and financial analysis and able to protect their interests adequately without the protection of the registration requirements of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to all participants, including the non-professional participants.

Finally, Applicant contends that the reason Congress did not exempt plans in which self-employed persons are participants was to prevent the sale, without registration, of participations or interests in pre-packaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves. Applicant also submits that Congress inserted the provision giving the Commission authority to exempt, upon application, a stock bonus, pension, profit-sharing, or annuity plan covering employees, some or all of whom are "employees" within the meaning of Section 401(c)(1) of the Code, in order to exempt from registration partnership plans where such plans are comparable to those exempted by Section 3(a)(2) and where the dangers created by the lack of registration are not present.

For all of the foregoing reasons, Applicant believes that the Commission should issue an order finding that an exemption from the provisions of Section 5 of the Act for interests or participations issued in connection with the Plan is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 4, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following December 4, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35637 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11436; 812-4728]

Shearson Daily Dividend Inc. and Shearson Government and Agencies, Inc.; Application

Notice is hereby given that Shearson Daily Dividend Inc. ("Daily Dividend") and Shearson Government and Agencies Inc. ("SGA") 14 Wall Street New York, New York 10005, (collectively, "Applicants"), registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, filed an application on September 2, 1980, for an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicants to value their respective portfolio securities using the amortized cost method of valuation. All interested person are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Daily Dividend is a "money market fund" that invests in a variety of money market instruments with the primary objective of seeking safety, liquidity, and, to the extent consistent with the foregoing, a high income return. Applicants state that Daily Dividend currently computes its net asset value per share by rounding to the nearest one cent on a share value of one dollar, pursuant to a conditional order of exemption (Investment Company Act Release No. 10743) issued by the Commission on June 21, 1979.

Applicants state that SGA originally was organized as a "money market fund" under the name Shearson Cash Reserve Inc., with an investment objective substantially identical to that of Daily Dividend, sales of the shares of which were restricted as a result of the Credit Control Program adopted by the Board of Governors of the Federal Reserve System. Applicants further state that, when that program was discontinued, shareholders of SGA became shareholders of Daily Dividend or else redeemed their interests, with the exception of Shearson Loeb Rhoades Inc. With the written consent of that sole remaining shareholder, SGA's investment objective was changed to limit its investments to money market instruments issued or guaranteed by the United States government, its agencies or instrumentalities.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors.

Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicants state that the experience of their adviser and administrator indicates that two qualities are helpful in order to attract investment in a "money market" fund: (1) stability of principal and (2) steady flow of investment income. Applicants assert that by utilizing high quality money market instruments of short maturities combined with a stable net asset value, preferably $1.00 per share, it would be possible to provide those features to a variety of investors. Applicants' boards of directors believe that given the nature of Applicants' policies and operations, there normally will be a relatively negligible discrepancy between market value and amortized cost value of Applicants' portfolio securities. Applicants' boards of directors have determined in good faith that in light of the characteristics of each Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicants and reflects fair value of those securities. Accordingly, Applicants request an order, pursuant to Section 6(c) of the Act, exempting them from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit their assets to be valued using the amortized cost valuation method.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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Applicants assert that their application meets the standards of Section 6(c) of the Act in light of their management policies, and have agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising each Applicant's operations and delegating special responsibilities involving portfolio management to each Applicant's investment adviser, each Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and each fund's investment objectives, to stabilize each fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the respective boards of directors shall be the following:

(a) Review by each fund's board of directors, as its deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the fund's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, each Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value. The quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten the fund's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Each Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that neither Applicant will (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the affected fund will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Each Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and each Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Each Applicant will limit its portfolio investments, including repurchase agreements if any, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that it not rated, of comparable quality as determined by the board of directors.

6. Each Applicant will include in each quarterly report, as an attachment to Form N–IQ, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than December 1, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–35638 Filed 11–13–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 6258; 18–66]

Skadden, Arps, Slate, Meagher & Flom Retirement Plan; Application

November 10, 1980.

Notice is hereby given that Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, NY 10022, (the "Applicant"), a law firm organized as a partnership under the laws of the State of New York, has, by letter dated November 29, 1979, and amended by letter dated October 24, 1980, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Skadden, Arps, Slate, Meagher & Flom Retirement Plan (the "Plan"). All interested persons are referred to that application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

All partners and employees automatically become participants in the Plan if they are at least 25 years of age and have completed one year of service with the Firm. As of March 31, 1980, 49 partners and 138 other employees were participants in the Plan.

The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, the Firm's partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"). Therefore, even though it is anticipated that the Plan will continue to be qualified under Section 401 of the Code, the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan.

In relevant part, Section 3(a)(2) provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant represents that the Plan became effective as of April 1, 1975, and was amended effective April 1, 1980. Applicant has applied for, but has not yet received, a letter from the Internal Revenue Service ("IRS") determining that the Plan, as amended, is a qualified plan under Section 401 of the Code. The Plan is an employee retirement plan subject to the full reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 ("ERISA").

The Plan has a mandatory Firm contribution feature and a voluntary participant contribution feature, both of which are based on a percentage of compensation. Applicant states that it contributes annually to the Plan an amount equal to 7% of each participant's annual compensation in excess of the Applicable Social Security Wage Base (as defined in the Plan) plus an additional percentage (calculated according to a formula in the Plan) of total compensation of "Legal Employees" (as defined in the Plan). Applicant further states that each participant may elect to make voluntary contributions to the Plan in an amount of up to 10% of their annual compensation.

Applicant exercises administrative and ministerial functions in connection with the Plan. A committee of four of the Applicant's partners ("New Trustees"), appointed by Applicant, administers the Plan and interprets its provisions. Applicant has no power to invest or direct the investment of firm or individual contributions to the Plan. However, the New Trustees may exercise limited investment discretion with respect to the assets of the Plan as amended.

Prior to the adoption of the Plan amendment effective April 1, 1980, all funds contributed to the Plan were promptly delivered to the Trustees (the "ABRA Trustees") of the American Bar Retirement Association Master Trust for Self-Employed Retirement Plans (the "ABRA Trust"). The ABRA Trustees, in turn, have entered into an agreement with the Equitable Life Assurance Society of the United States ("Equitable") providing for two separate investment vehicles: (i) a fixed income account, and (ii) an equity account invested in common stocks. The ABRA Trust is a sub-trust under the Plan as amended. The New Trustees will be empowered to either invest firm contributions in the ABRA Trust, or invest such contributions in other investments permitted under the Plan and selected by the New Trustees. Applicant presently contemplates that the New Trustees initially will invest only in either the ABRA Trust fixed income account or direct obligations of the United States Government. Participants in the Plan who make voluntary contributions will be permitted to direct the investment of such voluntary contributions in the ABRA Trust fixed income or equity accounts or in such other permitted investments as may be selected by the New Trustees. Applicant represents that interests or participations in the ABRA Trust are registered under the Act. The ABRA Trust prospectus is made available by Applicant to all participants in the Plan.

Applicant contends that were it a corporation rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant also maintains that were the Firm's partners not permitted to participate in the Plan, the interests or participations issued in connection with such Plan, would be exempt under Section 3(a)(2) since no other persons covered by such Plan would be "employees" within the meaning of Section 401(c)(1) of the Code. Applicant argues that there is no valid basis for a contrary result merely because the Plan also covers partners in the Firm.

Applicant also states that it is engaged in furnishing legal services which involve financially sophisticated and complex matters, exercises administrative control over the Plan, and believes that it is able to represent adequately its own interests and those of its partners and employees without the protection of the registration requirements of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to Plan participants.

Finally, Applicant argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Applicant argues that it Plan is distinguishable from multi-employer plans or uniform prototype plans designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self employed persons and that these latter plans are the type of plans Congress intended to exclude from the Section 3(a)(2) exemption. Applicant states that the Amended Plan will cover partners and employees of a single firm and will not be a uniform prototype plan of a type designed to be marked by a sponsoring financial institution or promoter to numerous unrelated self-employed persons.

For all of the foregoing reasons, Applicant believes that the Commission should issue an order finding that an exemption from the provisions of Section 5 of the Act for interests or participations issued in connection with the Plan is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 2, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her

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interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following December 2, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35639 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17280, SR-CBOE-80-21]

Chicago Board Options; Order Approving Proposed Rule Change

November 7, 1980.

In the matter of Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Illinois 60604 (SR-CBOE-80-21)

On August 13, 1980, the Chicago Board Options Exchange, Inc. filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which amends its Rule 4.4 to increase the limits of any compensation or gratuity given by any member in any one year without the prior consent of the employer and the Exchange to $50.00 for an employee of the Exchange, and $100.00 for an employee of any other member, or non-member broker, dealer, bank or institution.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17088, August 25, 1980) and by publication in the **Federal Register** (45 FR 57802, August 29, 1980). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35608 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17275; File No. SR-NSCC-80-30]

Proposed Rule Change by National Securities Clearing Corp.; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 23, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Amend Section II.B. of National Securities Clearing Corporation's SCC Division Consolidated Rate Structure by adding the following after the first unnumbered paragraph:

In addition to the fees charged in II.A. above, the following fees will be applicable to OTC Demand Advisories:

1. *For DKed (Don't Know) or Rejected Demand Advisories*

a. For a response on the first day the Demand Adivosory first appears on contract sheets (Day 1)—no charge to the responder:

b. For a response on the day after the Demand Advisory first appears on the contract sheets (Day 2)—a $.50 charge to the responder.

c. For a response on the second day after the Demand Advisory first appears on the contract sheets—a $1.00 charge to the responder.

2. *For Accepted Demand Advisories (Stamped):*

a. For a response on Day 1—a $.15 charge to the responder.

b. For a response on Day 2—a $.50 charge to the responder.

c. For a response on Day 3—a $1.00 charge to the responder.

3. *For Automatic Acceptance (No Response by Day 3):* A $5.00 charge to the participant that failed to respond.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change provides a fee structure for the acceptance or rejection of Demand Advisories, a part of the Demand As Of Service. NSCC will put the proposed fee changes into effect subsequent to the effectiveness of the Demand As Of Service which NSCC will implement in the near future. The implementation of the proposed rule change by NSCC will result in the more equitable allocation of fees among its participants.

The proposed change in NSCC's rate structure relates to NSCC's carrying out the purposes of Section 17A of the Securities and Exchange Act of 1934 by equitably allocating fees among its participants and the implementation of the proposed rule change will achieve this purpose.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions

should refer to the file number referenced in the caption above and should be submitted by December 5, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 6, 1980.

[FR Doc. 80-35603 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17276; File No. SR-PSE-80-20]

Proposed Rule Change By Pacific Stock Exchange Inc., Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on October 28, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follows:

SRO's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") proposes to amend Options Floor Options Procedure Advice A-1. The amendment is explained below.

Options Floor Procedure Advice A-1

Subject: Responsibility of Floor Brokers at the Opening

Pursuant to the amendment, Floor Brokers who are holding market orders at the opening will no longer be required to remain in the trading crowd in order to have these orders matched with other orders by the Order Book Official during the opening rotation. A Floor Broker must remain on the trading floor during the rotation unless he has appointed another Floor Broker to act on his behalf.

The purpose of the amendment is to relieve Floor Brokers of the obligation to remain at the trading post during the opening rotation.

The basis for the amendment to the Floor Procedure is Section 6(b)(5) of the Act since the change facilitates transactions in securities.

Comments have neither been solicited nor received from members, participants, or others on the proposed rule change.

The proposed rule change does not impose a burden upon competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549, Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 5, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 6, 1980.

[FR Doc. 80-35641 Filed 11-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17281; File No. SR-NASD-80-20]

Proposed Rule Change by National Association of Securities Dealers, Inc.; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 28, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendments to paragraphs B.3.j., B.3.k., C.2.h., and C.2.i. of Part II and paragraph C.2.a.ii. of Part XII of Schedule D of the Association's By-Laws. (New material is italicized; deleted material is in brackets)

II

* * * * *

B. Rules for Authorized Domestic Securities

* * * * *

3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension of authorization, if:

* * * * *

j. The issuer's total assets shall be less than [$1,000,000] *$2,000,000* in the case of an eligible security not yet authorized or [$500,000] *$750,000* in the case of an authorized security.*

k. The issuer's total capital and surplus shall be less than [$500,000] *$1,000,000* in the case of an eligible security not yet authorized or [$250,000] *$375,000* in the case of an authorized security.*

* * * * *

C. Rules for Authorized Foreign Securities and American Depository Receipts.

* * * * *

2. An eligible security shall not be authorized, and an authorized security shall be subject to suspension or termination of authorization, if:

* * * * *

h. The issuer's total assets shall be less than [$1,000,000] *$2,000,000* in the case of an eligible security not yet authorized or [$500,000] *$750,000* in the case of an authorized security.*

* * * * *

i. The issuer's total capital and surplus shall be less than [$500,000] *$1,000,000* in the case of an eligible security not yet authorized or [$250,000] *$375,000* in the case of an authorized security.*

* * * * *

XII

* * * * *

C. National Incluston Standards

* * * * *

2.a.ii. the issuer reports total assets not less than [$1,000,000] *$2,000,000* and capital and surplus not less than [$500,000] *$1,000,000* and may continue to be included so long as it continues to report total assets not less than [$500,000] *$750,000* and capital and surplus not less than [$250,000] *$375,000.**

* * * * *

The NASD's Purpose of Proposed Rule Change

The proposed rule change would increase the requirements for initial

*Until [twelve months after the effective date,] the minimum amounts for authorized securities shall be $500,000 total assets and $250,000 total capital and surplus.

inclusion in the NASDAQ System to $2 million in total assets and $1 million in total capital and surplus and would increase the NASDAQ System maintenance requirements to $750,000 in total assets and $375,000 in total capital and surplus. This increase is being made to account for the effects of inflation since the existing requirements were instituted in 1971.

The increase in the maintenance requirements will be delayed for twelve months following the effective date of the rule change to allow companies additional time to comply with the increased standards.

The amendment to Part XII of Schedule D would continue to permit companies not on NASDAQ to be included on local lists without regard to price of such companies report no less than the minimum assets and capital and surplus required for inclusion in NASDAQ.

The NASD's Basis Under the Act for the Proposed Rule Change

Section 15A(b)(11) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association contain provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange, which may be distributed or published by any member or other persons associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing and publishing quotations.

Comments Received From Members, Participants or Others on the Proposed Rule Change

Article XVI of the NASD By-Laws provides that the Board of Governors may amend Schedule D without recourse to the membership. In Notice to Members 80–30 (July 7, 1980), comments were solicited from Association members and companies quoted in NASDAQ. Twenty-one comment letters were received as summarized below:

	In support	Opposed	No objection but comments	Other
NASDAQ Companies	10	2	3	1
Members	2	2		
State Commission			1	

Copies of the Notice and the comment letters are attached as Exhibit 1 to the filing.

The NASD's Statement on Burden on Competition

The proposed rule change may result in certain NASDAQ companies being deleted from the System. In addition, certain issuers which would qualify under the existing inclusion requirement may not qualify under the proposed inclusion requirements. The proposed rule change may, therefore, be a burden on competition as to those issuers.

However, a study of annual, audited financial reports by the Association revealed that less than 2 percent of all securities quoted in NASDAQ would be adversely effected by the rule change. The procedure for obtaining a temporary exception to the qualification requirements contained in Part VI of Schedule D will be available to the issuers of these securities.

Finally, the Association believes that the increase in the requirements is required to preserve the integrity of the NASDAQ System as a source for quotations of established over-the-counter securities. The increase is designed to restore, taking inflation into consideration, the requirements previously approved by the Commission in the early 1970's.

For all of the above reasons, the Association believes that any burden on competition is incidental and the proposed rule change is in furtherance of purposes of the Act.

Within 35 days of the date of publication of this notice in the **Federal Register**, (December 19, 1980) or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 5, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 10, 1980.

[FR Doc. 80-35642 Filed 11-13-80 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5177]

Metro Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as a SBIC under the provisions of Section 301(d) of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et. seq.) has been filed by Metro Capital Corporation, 5403 Aloha Place, Holiday, Florida 33590, with the Small Business Administration (SB) pursuant to (13 CFR 107.102(1980)).

The officers and directors of the applicant are as follows:

Harris E. Long, 601 Florida Ave., Clearwater, Florida 33516, President, Director, 50%.

Ray M. Speer, 3401 Ancolte Blvd., Seven Springs, Florida 33516, Vice President, Director, 50%.

Shirley I. Goodwin, 1254 Caracas Avenue, Clearwater, Florida 33516, Secretary, Director.

The applicant will begin operations with a capitalization of $1,005,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The applicant will conduct its operations principally in the State of Florida.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may on or before December 1, 1980 submit written comments on the proposed company to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Holiday, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: November 9, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-35404 Filed 11-13-80 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1946]

Texas; Declaration of Disaster Loan Area

Brazoria, Calhoun, Hays, Refugio, Travis and Webb Counties within the State of Texas constitute a disaster area as a result of damage caused by high wind, rain, flooding and tornadoes from Hurricane Allen beginning on or about August 10, 1980. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties only. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 5, 1981, and for economic injury until the close of business on August 3, 1981, at:

Small Business Administration, District Office, One Allen Center—Suite 705, 500 Dallas, Houston, Texas 77002, or

Small Business Administration, District Office, 727 East Durango—Room A513, Federal Building, San Antonio, Texas 78206

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 4, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-35405 Filed 11-13-80 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-81343]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State announces that the Working Group on International Data Flows of the Advisory Committee on International Investment, Technology, and Development will meet on December 2, 1980 at 10:00 a.m. in the Loy Henderson Conference Room, Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The Working Group provides advice on matters of policy and positions in preparing for U.S. participation in international meetings where international data flows and information technology are under discussion.

The purpose of the meeting will be to discuss preparations for U.S. participation in the December 8–9 meeting of the Experts Group, Working Party on Information, Computers and Communications Policy (ICCP) of the Organization for Economic Cooperation and Development (OECD) and to discuss steps for publicizing the OECD guidelines for harmonizing privacy protection.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: November 5, 1980.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 80-35436 Filed 11-13-80 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Delegation Order No. 165 (Rev.2)]

Authority Delegation; Assistant Commissioner (Technical); Administrative Appeals

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This revised delegation order grants the authority to respond to administrative appeals filed under the Freedom of Information Act to the Assistant Commissioner (Technical). The text of this delegation order appears below.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: David Kuchions, CC:D, 1111 Constitution Ave., N.W. Room 3559, Washington, D.C., 20224, Telephone (202) 566–3229 (Not a Toll-Free telephone number).

SUPPLEMENTARY INFORMATION: This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

David M. Kuchions,

Attorney, Disclosure Litigation Division, Office of Chief Counsel.

Date of issue: November 5, 1980.
Effective Date: November 5, 1980.

Subject: Responses to Appeals Filed Pursuant to the Freedom of Information Act, 5 U.S.C. 552 (FOIA).

The authority vested in the Commissioner of Internal Revenue by 31 CFR 1.5(h) and Appendix B(4) to respond to administrative appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, is hereby delegated to the Assistant Commissioner (Technical). This authority may not be redelegated.

In addition, the authority vested in the Commissioner by 31 CFR 1.5(h)–(i) to acknowledge receipt of FOIA appeals and assert mandatory extensions of FOIA appeal time limits is hereby delegated to the Director, Disclosure Litigation Division. This authority may be redelegated to the level of Branch Chief, Disclosure Litigation Division.

Delegation Order No. 165 (Rev. 1), issued July 20, 1977, is superseded.

William E. Williams,

Acting Commissioner.

[FR Doc. 80-35616 Filed 11-13-80 8:45 am]

BILLING CODE 4830-01-M

V 45 N 0 1 4 8 0 0 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 222
Friday, November 14, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

[M-299; Nov. 6, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., November 13, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Air carrier credit card refund practices. (Memo No. 059, BCP)
3. Docket 35578, Texas International Airlines, Inc., enforcement proceeding to assess civil penalties for failure to meet service obligations at Carlsbad, Clovis, and Hobbs, New Mexico. (Memo No. 028, OGC, BDA)
4. Docket 29044, Amendments to the Board's smoking rule, Part 252. (BCP, BDA, OGC)
5. Dockets 37724 and 37725, *Applications of Pacific American Airlines*, Order on Reconsideration, Order Amending Certificates. (OGC)
6. Docket 38787, *New York Air Fitness Investigation*, and Docket 38688, *Application of New York Air Lines, Inc. for an exemption*. Request for instructions. (OGC)
7. Docket EAS–122, Appeal of the Essential Air Transportation Determination of Atka, Alaska filed by the Alaska Transportation Commission. (OGC, OCCR, BDA)
8. Dockets EAS–491, 493, 494, 495—Appeal of the essential air service determinations of Columbus, Hastings, Kearney, and McCook, Nebraska; Docket 36244, Notice of Pioneer Airways of intent to suspend service at Columbus, Hastings, Kearney, and McCook, Nebraska. (Memo No. 056, OGC, OCCR, BDA)
9. Docket EAS–370, Appeal of essential air service determination for Pueblo, Colorado. (Memo No. 052, BDA, OGC, OCCR)
10. Docket EAS–597 and EAS–598; Appeals of the Essential Air Service Determinations for Montpelier/Barre and Rutland, Vermont. (BDA, OGC, OCCR)
11. Dockets 37501, EAS–565, and 38224, Essential air service at Hazleton, PA, and notice of Perkiomen Airways to terminate service at Hazleton. (BDA)
12. Docket 37972, Notice of Cascade Airways to suspend service at Moses Lake/Ephrata, Washington. Dockets 38705 and 38706—Exemption and notice of Cascade to suspend service at Wenatchee, Washington, before the expiration of the 90-day notice period. (BDA, OCCR)
13. Docket 38779, Republic Airlines notice under section 401(j) to discontinue service at Greenwood and University/Oxford, Mississippi, on or after January 1, 1981. (Memo No. 053, BDA, OCCR)
14. Docket 37351, Carrier selection for essential air service at Kirksville, Missouri. (BDA, OCCR OGC, OC)
15. Dockets EAS–549, EAS–552, and 38140, Ponca City's appeal and Enid's comments on their essential air transportation determination and Air Midwest's notice for its intention to suspend service at Enid and Ponca City, Oklahoma. (BDA, OCCR, OGC)
16. Docket 38617, Pan American's notice to reduce its Guam-Honolulu service from six to five flights per week. (BDA, OCCR)
17. Docket 38507, Notice of Intent of WestAir Commuter Airlines, Inc. to suspend service at Santa Rosa, Century's petition for selection to provide interim essential air transportation pending review of essential air service determination and petition for Board review of staff action in Order 80–10–25. (BDA)
18. Docket 38507 and EAS–360, Notice of WestAir Airlines to suspend service at Santa Rosa and Petition for Modification of Essential Air Service Determination at Santa Rosa, filed by WestAir Airlines and supported by the community. (BDA, OCCR, OGC)
19. Docket 34291, *Revised Certificates for Truck and Local Service Carriers*, Petition of Greensboro-High Point Airport Authority for Review of Staff Action in issuing Order 80–5–41 which, *inter alia*, de-hyphenated Greensboro-High Point from Winston-Salem. (BDA)
20. Docket 38019, Establishment of temporary two tiered mail rates for Wien's intra-Alaska service and procedures to fix final rates. (BDA, OGC)
21. Docket 32660, IATA agreements proposing increases in U.S./Guam/Saipan-Japan excess-baggage charges and a new North/Central Pacific fares structure. (Memo No. 057, BIA, BDA)
22. Docket 32660, IATA agreement proposing a Guam/Saipan-Japan fares structure. (Memo No. 058, BIA, BDA)
23. Docket 36916, Application of Redcoat Air Cargo Limited for a foreign charter air carrier permit to carry cargo between the United States and the United Kingdom. (BIA, OGC, BALJ)
24. Docket 38630, Application of Bonavair Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (BIA, OGC, BALJ)
25. Docket 38539, Application of Nighthawk Flying Club, Inc. for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (BIA, OGC, BALJ)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–2079 Filed 11–12–80; 8:55 am]

BILLING CODE 6320–01–M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 2:30 p.m., November 21, 1980.

PLACE: 1700 G Street NW., Washington, D.C., sixth floor.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Application to Acquire Control of—Central Plains Savings Association, Tulia, Texas, and
Application to Assume Indebtedness by—Central Plains, Inc., Plainview, Texas.
Travel Request December 1–3, 1980—Federal Savings & Loan Advisory Council.
Mortgage Futures Transactions—Northern Federal Savings & Loan Association, St. Paul, Minnesota.
Branch Office Application—Peninsula Federal Savings & Loan Association, Miami, Florida.
Proposed Merger and Increase in Accounts of an Insurable Type—Ozark Building & Loan Association, Ozark, Missouri, into Great Southern Savings & Loan Association, Springfield, Missouri.
Service Corporation Activity—Western Federal Savings & Loan Association of Denver, Denver, Colorado.

[S–2084–80 Filed 11–12–80; 2:15 pm]

BILLING CODE 6720–01–M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., November 18, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Paulssen & Guice, Ltd. and Paulssen & Guice Midwest, Inc.—Possible violations of the Shipping Act, 1916.
2. Contract Marine Carriers, Inc.—Possible Violation of sections 16, Second, and 18(b)(3), Shipping Act, 1916.
3. Agreement No. 6190–33; Modification of the United States Atlantic and Gulf/Venezuela and Netherlands Antilles Conference—To establish special admission fees.
4. Agreement No. 7100–24: Modification of the North Atlantic United Kingdom Freight Conference—To establish substitute service at ports in Great Britain, Northern Ireland and the Republic of Ireland.
5. Agreement No. 8900–16: Modification of the "8900" Lines Rate Agreement—To extend its inland authority for three years.
6. Agreement No. 10027–9: Modification of the Brazil/U.S. Atlantic Coast Ports Pool Agreement; and Agreement No. 10397: Modification of Association Agreement of the Argentine-flag carriers in the Brazil/U.S. Atlantic Coast trade to provide for the admission of A. Bottachi S.A. de Navigacion C.F.Le L.
7. Exemption of minutes of routine rate actions from reporting requirements.
8. Informal Docket No. 699(I): Gladish & Associates v. Sea-Land Service, Inc.—Consideration of claimant's petition for reconsideration.
9. Special Docket No. 741: Application of Seatrain International, S.A. for the Benefit of Florists Transworld Delivery Association—Review of Initial Decision.
10. Trade Study Program.
11. Tariff System Inquiry.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–2081–80 Filed 11–12–80; 12:09 pm]

BILLING CODE 6730–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

November 5, 1980.

TIME AND DATE: 2 p.m., Wednesday, November 12, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Mulzer Crushed Stone, Co., Docket No. LAKE 80–201–M. (Petition for Discretionary Review—issues include the proper interpretation of 30 CFR §57.6–177, regarding the reporting and disposition of misfired blasting holes.)
2. Council of the Southern Mountains v. Martin County Coal Corporation, Docket No. KENT 80–222–D. (Petition for Discretionary Review—Issues include whether the mine operators refusal to permit non-employee representatives of miners to attend on-site miner training session violates section 105(c)(1) of the 1977 Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–2082–80 Filed 11–12–80; 11:13 am]

BILLING CODE 6820–12–M

5

FEDERAL RESERVE SYSTEM.

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, November 19, 1980

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be resolved with a single vote unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed reinstatement of the System Pricing Policy Committee and Pricing Task Force.

Discussion Agenda:

1. Any agenda items announced for the meeting on Wednesday, November 12, 1980, on which final action was not taken. (45 FR 74675, November 10, 1980.)
2. Proposed revision of Regulation Z (Truth in Lending) in connection with the passage of the Truth in Lending Simplification and Reform Act. (Proposed earlier for public comment; Docket No. R–0288.)

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684, or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board. (202) 452–3204.

Dated: November 10, 1980.

Theodore E. Allison

Secretary of the Board.

[S–2078–80 Filed 11–10–80; 4:44 pm]

BILLING CODE 6210–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Wednesday, November 19, 1980.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of an increase in the Federal Credit Union loan interest rate ceiling above the current 15%.
3. Statement of Interpretation and Policy: State Chartered Federally Insured Credit Unions As Most Favored Lenders (Interest Rates).
4. Development of Regulation Permitting Federal Credit Unions to Offer Alternative Mortgages.
5. Regulatory review of Records Preservation, Part 749 of the NCUA Rules and Regulations.
6. Consideration of preliminary review memo regarding the month-end reporting forms for use by credit unions (Section 701.13 of NCUA Rules and Regulations).
7. Proposed Rule—Removal of regulatory restraints which prohibit Federal Credit Unions with assets of less than $2 million from granting long term real estate loans and removal of regulatory restraints which limit the amount of loan origination fees which can be assessed when granting real estate loans.
8. Report on actions taken under delegations of authority.
9. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

* * * * * *

TIME AND DATE: 10:30 a.m., Wednesday, November 19, 1980.

PLACE: 7th floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Issuance of Subpoenas duces tecum. Closed pursuant to exemptions (8), (9)(B) and (10).
2. Report of mergers approved under delegated authority. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Consideration of Action under Section 201(c)(2) of the Federal Credit Union Act. Closed pursuant to exemption (9)(A)(ii).
5. Administrative Action under Section 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
6. Request for special assistance under Section 208 of the Federal Credit Union Act for federally insured credit unions. Closed pursuant to exemptions (8) and (9)(A)(ii).
7. Request for special assistance under Section 116 and Section 208 of the Federal Credit Union Act for federally insured credit unions. Closed pursuant to exemptions (8) and (9)(A)(ii).
8. Proposed change of station actions. Closed pursuant to exemptions (2) and (6).

The November 13, 1980, Open Board Meeting was postponed. The open agenda items for that meeting have been rescheduled for this meeting.

V 45 NO 14 80 UMI

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant; telephone (202) 357–1100.

[S–2089–80 Filed 11–12–80; 4:07 pm]

BILLING CODE 7535–01–M

7

NATIONAL SCIENCE BOARD.

DATE AND TIME:

November 20, 1980:
2 p.m. Open Session.
4 p.m. Closed Session.
November 21, 1980:
9 a.m. Open Session.
10 a.m. Closed Sessin.

PLACE: 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: Thursday, November 20, 2 p.m.:

1. Minutes—open session—220th meeting.
2. Chairman's items.
3. Director's report:
a. Report on Grant and Contract Activity—October 16–November 19, 1980;
b. Organizational and staff changes;
c. Congressional and legislative matters;
d. NSF budget for fiscal year 1981;
e. Status of proposed reorganization of NSF; and
f. Other items.
4. Board Committees—Reports on meetings.
5. NSF Advisory groups and other events—Reports on meetings.
6. Presentation on ocean margin drilling program.

Friday, November 21, 9 a.m.:

7. Grants, contracts, and programs.
8. Other business.
9. Next meeting National Science Board: January 15–16, 1981.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSIONS: Thursday, November 20, 4 p.m.:

A. Minutes—closed session—220th meeting.
B. NSF budgets for fiscal year 1982 and subsequent years.
C. NSB and NSF staff nominees.
D. NSB annual reports.
E. Personnel implications of proposed reorganization of NSF.

Friday, November 21, 10 a.m.:

F. Grants, contracts, and programs.

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary (202) 357–9582.

[S–2080–80 Filed 11–12–80; 9:04 am]

BILLING CODE 7555–01–M

8

NUCLEAR REGULATORY COMMISSION.

DATE: November 17 and 18, 1980.

PLACE: Commissioners conference room, 1717 H Street NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Monday, November 17:

9:30 a.m.

Discussion and Vote on Resolution of the Pat-Down Search Issue at Power Reactors and Status of Related Safeguards Activities (approximately 1½ hours, public meeting).

2 p.m.

Briefing on Environmental Impact Statement for the Summer Nuclear Plant (approximately 1½ hours, public meeting).

Tuesday, November 18:

10 a.m.

Commission Meeting on Iodine Release; and Estimates of Consequences of Nuclear Accidents (approximately 2 hours, public meeting).

2 p.m.

Continuation of 10 a.m. Meeting (approximately 2½ hours, public meeting).

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

November 7, 1980.

[S–2085–80 Filed 11–12–80; 2:49 pm]

BILLING CODE 7590–01–M

9

POSTAL SERVICE.

Board of Governors.

On November 6, 1980, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of its meeting currently scheduled for December 2, 1980. Each of the members of the Board present voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Babcock, Camp, Ching, Hardesty, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Senior Assistant Postmaster General (Employee/and Labor Realtions Group) Ulsaker.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1978 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1981.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and section 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and 552b(c)(9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and sections 7.3(c) and 7.3(i) of title 39, Code of Federal Regulations.

Louis A Cox,

Secretary.

[S–2088–80 Filed 11–12–80; 3:17 pm]

BILLING CODE 7710–12–M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 4, 1980

CHANGES IN THE MEETING: Additional items. The following additional item will be considered at an open meeting scheduled for Thursday, November 13, 1980, at 10 a.m.:

Consideration of whether to send a letter to Congressman John D. Dingell, Chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce which addresses various concerns which the Commission has with a provision in H. R. 8157, the "Pacific Northwest Electric Power Planning and Conservation Act," which would provide an exemption from the Public Utility Holding Company Act of 1935. For further information, please contact Andy MacDonald at (202) 272–2427.

The following item will not be considered at an open meeting scheduled for Thursday, November 13, 1980, at 10 a.m.:

Consideration of whether to send a letter to Senator William Proxmire, Chairman of the Senate Committee on Banking, Housing and Urban Affairs, expressing the Commission's views on S. 3188, the "Tender Offer Improvements and Investor Protection Act of 1980." For further information, please contact Alan Rosenblat at (202) 272–2428.

The following additional items will be considered at a closed meeting scheduled for Thursday, November 13, 1980, following the 10 a.m. open meeting:

Formal orders of investigation.

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

November 10, 1980.

[S–2083–80 Filed 11–12–80; 12:07 pm]

BILLING CODE 8010–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 17, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, November 18, 1980, at 10:00 a.m. An open meeting will be held on Thursday, November 20, 1980, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain Staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 18, 1980, at 10:00 a.m., will be:

Formal orders of investigation.
Regulatory matters bearing enforcement implications.
Freedom of Information Act appeal.
Litigation matters.
Consideration of *amici* participation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of injunctive action.
Institution of administrative proceeding of an enforcement nature.
Personnel matter.

The subject matter of the open meeting scheduled for Thursday, November 20, 1980, at 2:30 p.m., will be :

1. Consideration of whether to (1) adopt amendments modifying Securities Exchange Act Rule 10a–1 to permit a broker or dealer to effect short sales under certain specified circumstances, and (2) withdraw proposed Securities Exchange Act Rules 10a–3(T)[A], 10a–3(T)[B] and 10a–3(T)[C]. For further information, please contact Suzanne Brannan at (202) 272–2889.
2. Consideration of whether to amend Securities Act Rules 17a–1 and 17a–6 to extend the record retention, production, and destruction requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board. For further information, please contact Judith W. Axe at (202) 272–2398.
3. Consideration of whether to grant Louis M. Kornman relief from a bar imposed upon him in connection with a prior administrative proceeding.

On March 13, 1973, the Commission entered an order barring Louis M. Kornman from having any authority, responsibility or duties with respect to the back office or operations department of a broker or dealer or the maintenance or supervision of records relating to the capital of a broker or dealer, unless he obtained the prior approval of the Commission. For further information, please contact Larry E. Bergmann at (202) 272–2985.

4. Consideration of whether to issue a release announcing the undertaking of a comprehensive review of the Commission's statistical program and soliciting public comment on needs for making more useful the date published by the Commission. For further information, please contact Jeffry L. Davis at (202) 272–2850.
5. Consideration of whether to grant the appeal of William Nortman from the determination of the Freedom of Information Act Officer denying him access to certain intra-agency memoranda. For further information, please contact Donald C. Langevoort at (202) 272–2426.
6. Consideration of whether to grant an extension until November 30, 1980, of the deadline for public comments concerning proposed amendments to Form X–17A–5, the Financial and Operational Combined Uniform Single ("FOCUS") Report and Rule 17a–5 under the Securities Exchange Act of 1934. For further information, please contact either James G. Moody at (202) 272–2370 or William J. Atkinson at (202) 523–5493.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Marcia MacHarg at (202) 272–2468.

November 12, 1980.

[S–2086–80 Filed 11–12–80; 3:07 pm]

BILLING CODE 8010–01–M

12

[Meeting No. 1256]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 7:30 p.m. CST, Thursday, November 19, 1980.

PLACE: Civic Center on Garfield Street, McMinnville, Tennessee.

STATUS: Open.

Discussion Item

1. Proposed policy for dispersed power production.
2. Preliminary rate review.

Action Items

A—Project authorizations
1. Project Authorization No. 3241.3—Amendment to project authorization for wet-process phosphoric acid pilot-plant processes.
2. Project Authorization No. 3425.2—Amendment to project authorization for feasibility studies, site acquisition, construction, and related work to complete a Chattanooga office complex.

B—Purchase awards
1. Req. No. 56976—Office of Power buildings for Chattanooga office complex.

C—Power items
1. Lease and amendatory agreement with Sheffield, Alabama, covering lease of TVA's Mulberry Substation.
2. Letter agreement with Dickson, Tennessee, covering establishment of 13-kV delivery point at TVA's new Charlotte Substation.
3. Renewal of power contract with Board of Mayor and Aldermen of the City of Sparta, Tennessee.

D—Personnel actions
*Temporary change of status for J. Frederick Weinhold from Director of Energy Demonstrations and Technology, Office of Power, to Program Manager, Office of Coal Gasification, Chattanooga, Tennessee.
*2. Temporary change of status for Michael D. High from Assistant Director of Energy Demonstrations and technology to Director of Energy Demonstrations and Technology, Office of Power, Chattanooga, Tennessee.
3. Renewal of consulting Contract with Dr. Marvin Goldman, Davis, California, for advice and assistance in connection with radiological hygiene issues requested by the Division of Occupational Health and Safety.
4. Consulting contract with Kibbs & Associates, Salt Lake City, Utah, for advice and assistance in connection with uranium exploration efforts, requested by the Office of Power, Division of Fuels.

E—Real property transactions
1. Sale of permanent easement to South Central Bell for a telephone equipment site affecting approximately 0.03 acre of Pickwick Reservoir land near the Wright community in Lauderdale County, Alabama—Tract No. XPR-413U.
2. Abandonment of easement rights to Ted J. Moore affecting approximately 0.07 acre of Douglas Reservoir land located in Jefferson County, Tennessee—Tract No. DR-725F.
3. Filing of Condemnation Suite.

F—Unclassified
*1. Contract between Ruhrkohle, AG, and Ruhrchemia, AG, and TVA to perform a test program of the Texaco coal gasification process at Ruhrkohle, AG, and Ruhrchemia, AG's gasification facility in Oberhausen Holten, Federal Republic of Germany.
*2. Agreement Between TVA and U.S. Department of the Interior, National Park Service, covering arrangements for participation in a riverbank Stabilization Project at Shiloh National Military Park in Hardin County, Tennessee.

DATED: November 12, 1980.

CONTACT PERSON FORM MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-2087-80 Filed 11-12-80; 3:19 pm]

BILLING CODE 8120-01-M

*Approved by individual Board members. This would give formal ratification to the Board's action.

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V 45 NO 14 80 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

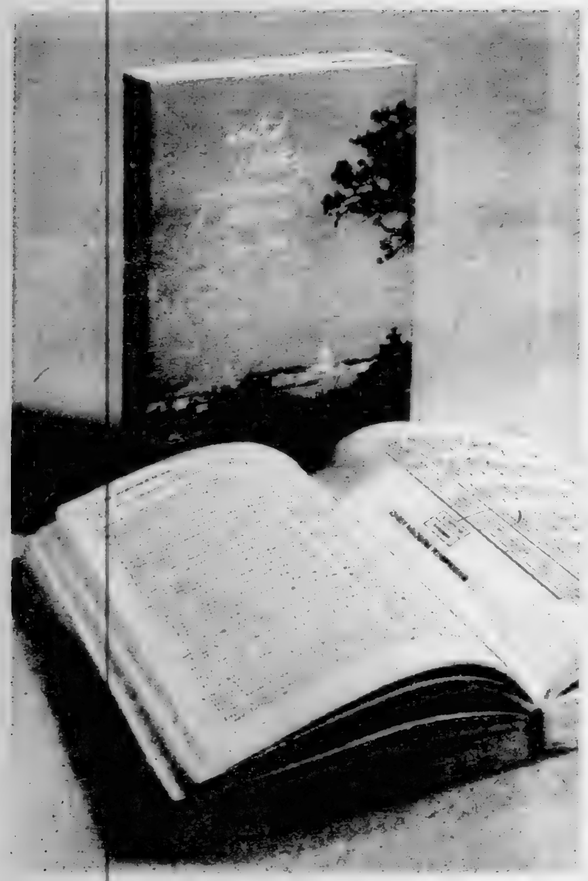
List of Public Laws

Last Listing October 24, 1980

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

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11-14-80
Vol. 45—No. 222
BOOK 2:
Pages
75451-75632

federal register

Book 2 of 2 Books
Friday, November 14, 1980

75454 **Part II—USDA:**
Semiannual Decision Calendar

75488 **Part III—EPA:**
Proposed Registration Standards Ranking Scheme; Pesticide Chemical Active Ingredients

75500 **Part IV—OPM:**
Post Employment Conflict of Interest

75536 **Part V—NRC:**
Fracture Toughness Requirements for Nuclear Power Reactors

75542 **Part VI—Commerce:**
National Voluntary Laboratory Accreditation Program; Report Accreditation Actions

75550 **Part VII—Labor/ETA:**
Minimum Wages for Federal and Federally Assisted Construction Workers

75564 **Part VIII—ED:**
Education Amendments of 1980; Intent to Develop Regulations

75568 **Part IX—OPM:**
Nondiscrimination on the Basis of Handicap

75574 **Part X—Interior/BLM:**
Wilderness Inventory Decisions

75610 **Part XI—HUD/NVACP:**
Neighborhood Self-Help Development Program

75618 **Part XII—Labor/OSHA:**
Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work

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federal register

Friday
November 14, 1980

Part II

Department of Agriculture

Office of the Secretary

Semi-Annual Decision Calendar

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Chs. I–VII, IX–XII, XIV–XVIII, XXI, XXIV–XXIX

9 CFR Chs. I–IV

36 CFR Ch. II

41 CFR Ch. 4

Semi-Annual Decision Calendar: Significant Actions and Regulation Review Activity Pending and Planned for November 1980 Through May 1981

AGENCY: U.S. Department of Agriculture, Office of the Secretary.

ACTION: Semi-annual agenda of regulations and other actions.

SUMMARY: This calendar provides summary descriptions of each significant regulation and other action being developed in all agencies of the U.S. Department of Agriculture under the procedures described in the report "Improving USDA Regulations" (published at 43 FR 50988 on November 1, 1978). The purpose of the calendar is to inform the public and other government agencies of all significant actions and regulation review activities as early as possible so interested parties may get background information and comment on these decisions while they are being developed.

FOR FURTHER INFORMATION CONTACT: For further information on any specific decision shown in this calendar, please contact the person listed for that decision.

Requests for copies of this calendar should be directed to: Mr. Linley E. Juers, OBPE, Office of the Secretary, Room 118–A, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6667. If you requested a copy of a previous calendar, we have placed you on our mailing list and you will receive a copy as soon as they are available.

SUPPLEMENTARY INFORMATION:

Purpose of This Calendar

The purpose of publication of the decision calendar is to provide the public and other government agencies early notice of pending major actions under consideration by USDA. The calendar also provides an overview of all Departmental decisionmaking. The projected schedules shown for each action make it possible for interested individuals or groups to plan ahead, acquire background information, and prepare to provide information and comments at appropriate steps in the decisionmaking process (i.e., when proposals are published for comment, or when pre-notices are published).

This decision calendar is an update of the calendar published in the **Federal Register** on May 15, 1980.

Organization of This Calendar

To help the public understand the status of significant USDA decisions, this calendar is organized into 4 sections including:

- A list of the titles of significant actions completed since publication of the last calendar;
- A list of significant actions planned or under development between November 1980 and May 1981. Actions are organized under headings identifying the USDA agency responsible and include descriptions, projected schedules, etc.;
- A list of regulations scheduled for review, i.e. review is ongoing or will be initiated between now and May 1981; and
- A list of regulations proposed for review on which the public is invited to assist USDA in planning by commenting on the appropriateness of actually reviewing the listed regulations during the period May 1981 through November 1981.

Be sure to review each of these sections to identify decisions on which you may want to comment. If additional information is desired on an entry, contact the person identified in that entry.

Administrative Background of Calendar

This decision calendar is published and updated in May and November each year as part of USDA's response to Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978). Secretary's Memorandum Number 1955, August 25, 1978, sets forth USDA's full response to the Executive Order, including the criteria used to determine whether a decision is "significant" or "not significant". A more detailed description of USDA's overall Departmental Decision System was presented in a report published at 43 FR 50988 on November 1, 1978.

In this calendar, we have attempted to list all significant actions pending at the time of the calendar, but some may have been inadvertently missed. There is no legal significance to an item not appearing on this listing.

The dates shown for the steps of each action are estimated and are not commitments to act on, or by the date shown. The "pre-notice" date, when given, is an indication the agency intends to seek public input prior to the "notice of proposed rulemaking."

How To Influence Decisions

The purpose of comment periods and other forms of public participation is to get information and varying points of view which may not be available to decisionmakers at USDA. All comments are useful in the decisionmaking process. However, the more substantive, well-reasoned, and well-documented a comment is, the more likely it is that it will have a strong influence on the decision.

Comments on the following topics are of particular value:

(1) Alternatives that have been overlooked;

(2) Redefinition of the problem being addressed or assumptions as to what the basis of the problem is;

(3) Suggested changes in the Department's goals in dealing with the problem; and

(4) Other inadequacies in the Department's analysis.

If comments are supported with any of the folowing types of information, they will be particularly effective:

(1) Identification of major factors that should be considered in the decision;

(2) Costs or benefits or other positive or negative impacts on specific groups, sectors of the economy or parts of the country, etc., whether direct or indirect, quantifiable or not;

(3) Validity or reliability problems with data or information used, if any;

(4) Data not considered;

(5) Problems with the analytical technique employed, if any;

(6) New analytical techniques;

(7) Different interpretations of the intent of the law, citing the documents on which such interpretations are based;

(8) Case law which USDA may not have considered and explanations of how it bears on the decision;

(9) Other governmental directives or regulations which may overlap or be in conflict with the decision; and

(10) Attitudes, opinions and other comments relevant to the decision.

In view of the above, it is clearly an advantage to have a good understanding of what is behind a "pre-notice" or "proposal." This Decision Calendar not only describes the decisions so you can select the ones of interest to you, it provides the projected schedules so you can plan to review any background material in time to comment.

Even before a "pre-notice" or "proposal" is published, there are often articles, studies, preambles to earlier versions of the regulations or decisions, etc., which are helpful in understanding the contemplated action. The "contact" listed for the decision can provide these. When the action is proposed, a Draft Impact Analysis is made available, usually from this same contact. The analysis describes the options considered in developing the proposal and the impacts of implementing each option. Use of this type of material will help you understand the rationale for the proposal and increase the influence your comments have on USDA decisionmaking.

Review of Existing Regulations

USDA is conducting a comprehensive review of all its existing regulations. Executive Order 12044 requires periodic reviews, and Secretary's Memorandum Number 1955 stipulates that no USDA regulation may exist more than 5 years without being reviewed under the same procedures that are required to develop new regulations. This involves making certain that:

- The regulations are reviewed to assure that they are as clearly and simply stated as possible;
- Public comments are solicited to broaden the information basis used for considering possible changes to the regulation;
- An impact analysis is completed assessing the continued need for the regulation, the continued appropriateness of the regulatory approach given changing conditions and possible new alternatives, as well as describing the options considered and the impact of implementing each option.

Review of an existing regulation is differentiated from the revision of a regulation because the entire regulation must be subjected to impact analysis, public comment, and clear language review, not just the specific provisions being changed.

The regulations review process also differs from the new regulation process in that Planning and scheduling is necessary to assure that the review workload is spread over time to minimize peak load. USDA agencies have screened, or are screening, all of the regulations for which they are responsible and have developed, or are developing, "Regulations Review Plans" to assure that all regulations are reviewed within the required time period. The plans are time-phashed, spreading the work over several years, beginning with the regulations most in need of review. When new regulations are promulgated or old ones reviewed, a Sunset Evaluation Plan must be developed to assure that the regulation will be reviewed in 5 years or less.

The two regulation review lists and the Regulations Review Plan discussed above are planning and public information activities which precede more substantive review activity. Each item is initially listed on the "List of Regulations Proposed for Review" and six months later on the "list of Regulations Scheduled for Review." substantive review follows in the subsequent six-month period and requires the developent of a Draft Impact Analysis and a Notice of Proposed Rulemaking in the **Federal Register** solicting comments, whether substantive changes are contemplated or not. A Final Impact Statement and an FR announcement confirming the regulation or making any needed changes completes the review process.

Dated: November 6, 1980.

Bob Bergland,

Secretary.

Summary of Actions Completed, Withdrawn, or Redesignated Not Significant Since the Last Calendar

AMS 099–92; Completed; Proposed California Desert Grape Marketing Agreement and Order

AMS 040–14; Completed; Warehouse Examination Policy to Study Federal/State Warehouse Examination Functions

AMS 040–22; Completed; Marketing Policy Statement for Florida Tomatoes Under M.O. No. 966

AMS 040–23; Completed; Marketing Policy Statement for Florida Celery Under M.O. 967

AMS 040–25; Withdrawn; Marketing Policy Statement for California Dried Prunes Under M.O. No. 993

AMS 040–27; Withdrawn; Marketing Policy Statement for California Almonds Under M.O. No. 981

AMS 040–28; Completed; Set Annual Marketing Policy for Olives Grown in California Under M.O. 937

AMS 040–29; Completed; Set Annual Marketing Policy for Lemons Grown in California and Arizona Under M.O. 910

AMS 040–31; Completed; Set Annual Marketing Policy for Cherries Grown in Eight Designated States

AMS 070–64; Completed; Salable Quantity and Allotment Percentage/Spearmint Oil Marketing Order

AMS 070–65; Completed; Amendment of Regulation Governing Quality of Imported Filberts

AMS 070–66; Withdrawn; Undersized Prune Regulation; Marketing Order for California Dried Prunes

AMS 090–80; Withdrawn; Temporary Change in Minimum Grade Standards Applicable to California Packed Raisins (combined with AMS 040–26)

APHIS 039–26; Completed; Revise Brucellosis Indemnity Regulations

APHIS 070–36; Completed; Quarantine Facilities for Imported Horses

APHIS 080–39; Withdrawn; Scrapies in Sheep—Wisconsin Quarantined

ASCS 099–1; Completed; Beekeeper Indemnity Payment Program

ASCS 109–2; Completed; 1981-Crop Wheat

ASCS 040–14; Completed; Price Support Level for Milk, 1980–81 Marketing Year

ASCS 050–31; Withdrawn; Flue-Cured Tobacco Stabilization—Direct Foreign Sales

ASCS 060–32; Withdrawn; Farmer-Owned Soybean Reserve Program

ASCS 070–34; Withdrawn; Price Support for 1980-Crop Sugar Beets and Sugarcane

ASCS 080–35; Completed; Farmer-Owned Grain Reserve Program—Wheat

ASCS 090–36; Completed; Farmer-Owned Grain Reserve—Corn

ASCS 090–37; Completed; Regulations Governing Recourse Loans on 1980-Crop Corn

ESCS 108–1; Withdrawn; BLS Data Series

ESCS 040–6; Withdrawn; Implementation of Rice Objective Yield and Sunflower Statistics

FAS 108–35; Completed; Implementation of Public Law 96–177, Meat Import Law

FAS 039–1 (Formerly OGSM 039–1); Completed; Intermediate Credit for Market Facility Projects

FGIS 010–1; Completed; Fee Increase for Federal Rice Inspection Services

FmHA 108–4; Completed; Change in FmHA 430.2 Exhibit F—Rural Rental Housing "Rent Increase."

FmHA108–18; Redesignated; Review of Present Priorities for B&I Loans

FmHA 108–26; Completed; Community Facility Loans for Small Hydroelectric Projects

FmHA 108–66; Withdrawn; Section 502 Loan Income Limitations; Replaced by FmHA 020–25; Revision of Definition of Low Income for Section 502, 504, and 515

FmHA 108–83; Withdrawn; Small Business Enterprise Loans

FmHA 079–44; Withdrawn: Lender Eligibility and Qualifications for B&I Loans

FmHA 079–46; Completed; Restricting the Sale of the Unguaranteed Portion of Loans

FmHA 079–47; Completed; Loan Policy Pertaining to Local Lender for B&I Loans

FmHA 099–79; Withdrawn: Establish "Formula Rate" of Interest for Insured EM Annual Production and Major Adjustment Loans

FmHA 119–91; Withdrawn; Revisions of Management Assistance to Borrowers and Applicants, FmHA Instruction 1924–B

FmHA 129–108; Redesignated; Revision of the Definition of a Family Farm

FmHA 040–32; Withdrawn; Business and Industry Loan Program Proposed to Limit Size of Loans

FmHA 040–33; Withdrawn: Review of Regulations—Section 502 Rural Housing Weatherization Loan (RHW)

FmHA 050–37; Redesignated; Alcohol Still Construction on Farms Using FmHA–DOE Funds

FmHA 070–44; Completed; Biomass Energy and Alcohol Fuels Loans and Loan Guarantees

FNS 118–13; Completed; Assessment, Improvement and Monitoring System for School Nutrition Programs

FNS 118–26; Withdrawn; Food Distribution Program: Review and Republication of Regulations (superseded by FNS 090–50 and FNS090–51)

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FNS 118–69; Redesignated; Food Stamp Program: Regulations Concerning Administrative Cost Allocations for States
FNS 080–38; Withdrawn; National School Lunch Program—Nutritional Requirements—Milk Choice
FS 108–1; Completed; Title V Regulations of Federal Land Policy and Management Act of 1976
FS 108–6; Completed; Draft 1980 RPA Assessment and Program
FS 108–8; Withdrawn; Regulations for Administering Forest Highways
FS 108–9; Completed; Public Participation Procedures
FS 108–11; Completed; Secretary Review of Rate Redetermination for Alaska Lumber and Pulp Co. Sale
FS 128–17; Redesignated; Shawnee Hills National Recreation Area
FS 020–9; Withdrawn; State and Private Forests; Cooperative Renewable Resource Mgmt. and Utilization
FSQS 108–30; Completed; Proteolytic Enzyme Regulation
FSQS 108–42; Completed; Revise Meat Grade Standards and Regulations
FSQS 059–20; Completed; Voluntary Meat and Poultry Plant Quality Control Systems
FSQS 020–9; Completed; Prohibition of All New and Replacement Equipment and Machinery Containing Liquid PCBs
FSQS 030–16; Completed; Maine Potato Diversion Program
FSQS 050–21; Completed; Broiler Sales to the Soviet Union
SCS 108–1; Completed; 7 CFR Chapter VI, Part 624, and Watershed Memorandum No. 124, Emergency Flood Protection
SCS 059–3; Transferred to SEC oversight (SEC 059–3)
SCS 069–5; Completed; Mozingo Creek Watershed, Missouri
SCS 069–14; Withdrawn; Limestone-Muddy Creek Watershed, North Carolina
SCS 109–20; Completed; Nonstructural Measures for Flood Damage Reduction
SCS 020–1; Completed; Watershed Protection and Flood Prevention; Great Plains Conservation Program; and Resource Conservation & Development Program
SCS 040–5; Withdrawn; Review of Regulations—Conservation Operations—Snow Survey & Water Supply Forecasting; Duplicate of SCS 109–25
SEC 119–5; Completed; USDA Policy on Fish and Wildlife
SEC 059–4; Completed; Tax Treatment of Certain Federal/State Payments for Conservation

AGRICULTURAL MARKETING SERVICE

REVIEW OF REGULATIONS UNDER THE FEDERAL SEED ACT. 7 CFR PART 201 (AMS 108–7)

DESCRIPTION: Update and clarify provisions such as definition of variety rules for assigning variety names, add new kinds, add new rules for testing, amend standards for certified seed, and amend rules for sampling unusual containers. Last major revision of regulationa was in 1973.

AUTHORITY: Federal Seed Act, 7 U.S.C. 1551 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: Spring 1981
b. Public Hearing: Fall 1981
c. Final Decision: Winter 1981/82
d. Regulation Effective: Spring 1982

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Vern Herink, (202) 447–9340, USDA, AMS, Room 2611S, Washington, D.C. 20250.

AMENDMENT OF NEBRASKA-WESTERN IOWA MILK ORDER (AMS 108–44)

DESCRIPTION: Key proposals would change the pooling standards for supply plants and increase the Class I price at certain locations.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*); 7 CFR Part 1065.

PROJECTED SCHEDULE

a. Date of pre-notice: 7/78
b. Date of proposed: 7/79
c. Date of revised proposal: 7/80
d. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Maurice Martin, (202) 447–7183, USDA, AMS, Room 2751S, Washington, D.C. 20250.

NEW FEDERAL MILK ORDER FOR BOISE, IDAHO, AREA (AMS 108–49)

DESCRIPTION: Establish a new Federal milk order covering 18 southwestern Idaho and 5 eastern Oregon counties. The principal cities in the proposed marketing area are Boise, Nampa, and Twin Falls, Idaho. The provisions of the order would be patterned after those commonly used in most other Federal orders.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended. (7 U.S.C. 601 *et seq.*); 7 CFR Part. (Pending).

a. Date of pre-notice: 9/78
b. Date of proposed: 8/79
c. Date of revised proposal: 10/80
d. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Maurice Martin, (202) 447–7183, USDA, AMS, Room 2751S, Washington, D.C. 20250.

REGULATORY TREATMENT OF RECONSTITUTED MILK IN ALL FEDERAL MILK ORDERS (AMS 099–90)

DESCRIPTION: If a hearing is found to be warranted, a public hearing would be held on a proposal to have reconstituted fluid milk products removed from the Class I pricing provisions of all milk orders.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*); 7 CFR Parts, 1001, 1002, 1004, 1006, 1007, 1011–1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1075, 1076, 1079, 1094, 1096–1099, 1102, 1104, 1106, 1106, 1120, 1124–1126, 1131–1134, 1136–1139.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/13/79
b. Public Hearing: Depends on Decision to Proceed
c. Recommended Decision: Undetermined
d. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Robert F. Groene, (202) 447–4824, USDA, AMS, Room 2753S, Washington, D.C. 20250.

PROPOSED NEW MILK MARKETING ORDER FOR ALABAMA-WEST FLORIDA (AMS 129–111)

DECRIPTION: The proposed new order would extend Federal regulation to milk handling in Alabama and the Pensacola, Florida, area. The provisions of the order would be patterned after those commonly used in most other Federal orders.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et. seq.*); 7 CFR Part 1093.

PROJECTED SCHEDULE

a. Date of pre-notice: 2/80
b. Date of Hearing: 6/80
c. Recommended Decision: 6/81
d. Final Decision: 8/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Richard Glandt, (202) 447–5443, USDA, AMS, Room 2746S, Washington, D.C. 20250.

AMENDMENT OF THE EASTERN SOUTH DAKOTA FEDERAL MILK ORDER (AMS 020–5)

DESCRIPTION: Various proposals would revise the diversion,transfer, pooling, and location adjustment provisions of the order. Revision of the charge on overdue accounts and adoption of a marketing service provision are also proposed.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended; 7 CFR Part 1076. Producers requested order changes.

PROJECTED SCHEDULE

a. Date of pre-notice: 1/80
b. Date of Proposal: 10/80
c. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Clayton H. Plumb, (202) 447–6273, USDA, AMS, Room 2740S Washington, D.C. 20250.

PLAN FOR REVIEW OF EXISTING REGULATIONS AND POLICY STATEMENTS ISSUED UNDER THE PACKERS AND STOCKYARDS ACT—FIRST PHASE (AMS 040–16)

DESCRIPTION: Proposed revocation of regulation on accommodations for the public at livestock auctions and of policy statements on lamb buying practices and voluntary filing of surety bonds. Also, review of regulations on definitions, administrative matters, posting of stockyards, bond coverage, handling of sales proceeds due consignors, contracts and annual reports, several statements of general policy dealing with practices of meat packers and a number of P&S reports and forms.

AUTHORITY: Procedures are described in the report "Improving USDA Regulations" 43 FR 50988 (11/1/78) in response to Executive Order 12044.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of Proposal: 4/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John Sands (202) 447–6771, Room 3422S, & Harry, Williams, (202) 447–6951, USDA, AMS, Room 3408S, Washington, D.C. 20250.

MARKETING POLICY STATEMENT FOR CALIFORNIA WALNUTS UNDER M.O. NO. 984 (AMS 040–24)

DESCRIPTION: To establish a basis for recommending volume regulation for California walnuts for the 1980–81 season beginning August 1, 1980, and ending the following July 31.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended. 7 CFR Part 984, U.S.C. 601–674. Recommended by the Walnut Marketing Board.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of Proposal: None
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5697, USDA, AMS, Room 2525S, Washington, D.C. 20250.

MARKETING POLICY STATEMENT FOR CALIFORNIA RAISINS UNDER M.O. NO. 989 (AMS 040–26)

DESCRIPTION: To establish a basis for recommending volume regulation for California raisins for the 1980–81 crop year beginning August 1, 1980, and ending the following July 31.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended. 7 CFR Part 989, U.S.C. 601–674. Recommended by the Raisin Administrative Committee.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5697, USDA, AMS, Room 2525S, Washington, D.C. 20250.

SET ANNUAL MARKETING POLICY F OR NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA (AMS 040–30)

DESCRIPTION: The marketing policy includes an analysis of the supply and demand outlook for navel oranges. The marketing policy sets forth the basis for regulating of the 1980/81 crop of navel oranges.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: M. E. McGaha, (202) 447–5975, USDA, AMS, Room 2532S, Washington, D.C. 20250.

AMENDMENT OF 29 MILK ORDERS (AMS 040–33)

DESCRIPTION: A U.S. Appeals Court has ruled that the present method of announcing the Class II milk prices for the orders is invalid. Producers and handlers propose that the Class I and Class II milk prices for a particular month be announced by the 15th day of the preceding month. Also, they propose that a Class II differential be provided that will maintain, on the average, the Class II price level that would have prevailed under the announcement procedure that was found invalid.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended. (7 U.S.C. 601 *et seq.*); 7 CFR Parts 1007, 1011, 1030, 1032, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1076, 1079, 1094, 1096, 1097, 1098, 1099, 1102, 1104, 1106, 1108, 1120, 1126, 1131, 1132, and 1138.

PROJECTED SCHEDULE

a. Date of pre-notice: 5/80
b. Date of proposal: 12/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Martin Dunn, (202) 447–5661 USDA, AMS, Room 2761S, Washington, D.C. 20250.

PROPOSED AMENDMENT TO FILBERT MARKETING ORDER (AMS 050–57)

DESCRIPTION: Notice of public hearing on proposed amendment to filbert marketing order will include proposals to adopt a new method for setting the marketing policy and to make minor changes.

AUTHORITY: Authorization by Agricultural Marketing Agreement Act. Requested by Filbert Control Board. 7 U.S.C. 601 *et seq.* 7 CFR Part 982.

PROJECTED SCHEDULE

a. Date of pre-notice: 4/9/80
b. Date of proposal: 11/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5697, USDA, AMS, Room 2525S, Washington, D.C. 20250.

NOTICE OF HEARING ON PROPOSED FURTHER AMENDMENT OF CALIFORNIA DRIED PRUNE MARKETING ORDER (AMS 090–75)

DESCRIPTION: Notice of public hearing to receive evidence from all interested persons regarding a proposed amendment to add a public member to PAC, establish permanent undersized regulation, change the name of the PAC, provide for sharing Committee representation among cooperative marketing associations, and other conforming changes required by this amendment.

AUTHORITY: Authorized by Agricultural Marketing Agreement Act. Amendment requested by the Prune Administrative Committee (PAC) 7 U.S.C. 601 *et seq.* 7 CFR 900.1 *et. seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: 8/80
b. Date of proposal: 2/81
c. Final Decision: 4/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5053, USDA, AMS, Room 2525S, Washington, D.C. 20250.

PROPOSED FREE AND RESTRICTED PERCENTAGES FOR THE 1980–81 MARKETING POLICY YEAR—FILBERTS (AMS 090–76)

DESCRIPTION: This proposes volume regulation for filberts grown in Oregon and Washington for the 1980–81 marketing policy year beginning August 1, 1980.

AUTHORITY: Authorized by Agricultural Marketing Agreement Act. Recommended by Filbert Control Board. 7 U.S.C. 601 *et. seq.* 7 CFR Part 982.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5053, USDA, AMS, Room 2525S, Washington, D.C. 20250.

REVIEW OF REGULATIONS: AMENDMENT OF FLUE-CURED TOBACCO GROWER

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DESIGNATION REGULATIONS (AMS 090–78)

DESCRIPTION: After review of impact resulting from emergency rulemaking procedures to assess appropriate penalties upon violators of grower designation regulations, propose amendment of regulations to incorporate Department's decision to continue or amend penalties for 1981 and succeeding marketing years.

AUTHORITY: The Tobacco Inspection Act of 1935. Requested by the Flue-Cured Tobacco Advisory Committee to impose appropriate penalties for violators of sales schedules. 7 CFR Part 29 7 U.S.C. 511 *et seq.*

PROJECTED SCHEDULE

a. Emergency Rulemaking: 10/2/80
b. Review of Impact: 11/80–81
c. Emergency Review Completed: 3/81
d. Proposal: 4/81
e. Final: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: T. A. VonGarlem, (202) 447–2567, USDA, AMS, Room 502 Annex, Washington, D.C. 20250.

REVIEW OF EXISTING REGULATIONS—PHASE 2 (AMS 100–85)

DESCRIPTION: Review Regulations—201.10, .11, .12, .44, .45, .46(a), .47, .49, .50, and .52. Procedures for (1) regulations of market agencies and dealers, and (2) accounts and records for market agencies, dealers, and stockyard owners.

AUTHORITY: Procedures are described in the report "Improving USDA Regulations" 43 FR 50988 (11/1/78) in response to Executive Order 12044.

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal: 1/81
d. Final Decision: 7/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Jack Brinckmeyer, (202) 447–4366, USDA, AMS, Room 3038S Washington, D.C. 20250.

MARKETING POLICY FOR HOPS OF DOMESTIC PRODUCTION UNDER M.O. 991 FOR 1981–82 (AMS 100–86)

DESCRIPTION: To set the volume regulation for hops of domestic production for the 1981–82 marketing year beginning August 1, 1981, and ending July 31, 1982.

AUTHORITY: Authorized by Agricultural Marketing Agreement Act. Recommended by Hop Administrative Committee. (7 U.S.C. 601–674) Marketing Order No. 991 (CFR Part 991)

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal: 11/80
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5053, USDA, AMS, Room 2525S, Washington, D.C. 20250.

MARKETING POLICY FOR VALENCIA ORANGES GROWN IN CALIFORNIA AND ARIZONA FOR 1980 (AMS 100–87)

DESCRIPTION: The marketing policy includes an analysis of the supply and demand outlook for California-Arizona Valencia oranges. The marketing policy sets forth the basis for regulation of the 1980 crop of Valencia oranges.

AUTHORITY: Agricultural Marketing Agreement Act of 1937 of 1973, as amended (7 U.S.C. 601–674)—Marketing Order No. 908 (7 CFR Part 908)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Malvin E. McGaha, (202) 447–5975, USDA, AMS, Room 2532S, Washington, D.C. 20250.

MARKETING POLICY FOR CRANBERRIES GROWN IN 10 DESIGNATED STATES FOR 1981 (AMS 100–88)

DESCRIPTION: The marketing policy includes an analysis of the supply and demand outlook for cranberries. The marketing policy sets forth the basis for regulation for the 1981 crop of cranberries.

AUTHORITY: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674); Marketing Order No. 929 (1 CFR Part 929)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Malvin E. McGaha, (202) 447–5975, USDA, AMS, Room 2532S, Washington, D.C. 20250.

REVISION OF MARKETING POLICY FOR HOPS OF DOMESTIC PRODUCTION UNDER M.O. 991 (AMS 100–90)

DESCRIPTION: To revise the volume regulation for hops of domestic production for the 1980–81 marketing year beginning August 1, 1980 and ending July 31, 1981.

AUTHORITY: Authorized by Agrucultural Marketing Agreement Act. Recommended by Hop Administrative Committee. (7 U.S.C. 601–674) Marketing Order No. 991 (7 CFR Part 991)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 11/8 0

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James S. Miller, (202) 447–5053, USDA, AMS, Room 2525S, Washington, D.C. 20250.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

REVISION OF EXPORT LIVESTOCK HANDLING REQUIREMENTS (APHIS 108–10)

DESCRIPTION: Amendments would delete specific maximum length requirements for container pens for animals on ocean vessels and would relax restrictions on the type of roof which may be used to cover pens carrying animals on exposed decks aboard oceans vessels.

AUTHORITY: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612–614, 618; 46 U.S.C. 466a, 466b. Research studies performed indicate that certain modifications in shipping practices would not result in relaxed humane handling standards or disease control measures. This would amend 9 CFR 91.8 through 91.32

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/1/81
c. Final Decision: 5/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. Harold Waters, (301) 436–8383, USDA, APHIS, Room 815A, Federal Bldg., Hyattsville, Md. 20782

REVISED CATTLE SCABIES REGULATIONS (PROPOSAL DOCKET 78–76) (APHIS 039–12)

DESCRIPTION: Revision would propose standards for approved facilities for the treatment of cattle required to be dipped before moving interstate, and would clarify conditions under which cattle may be moved interstate.

AUTHORITY: 21 U.S.C. 111–113, 115, 117, 120–1 123–8. Revision would give added support to the State-Federal cooperative cattle scabies eradication efforts. This would revise 9 CFR Part 73

PROJECTED SCHEDULE

a. Date of pre-notice: 1/26/78
b. Date of proposal: 3/4/80
c. Final Decision: 6/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. G. Schubert, (301) 436–8322, USDA, APHIS, Room 737, Federal Bldg., Hyattsville, Md. 20782

REVISE BRUCELLOSIS REGULATIONS TO PARALLEL UNIFORM METHODS AND RULES (APHIS 039–25)

DESCRIPTION: To consider revision of the regulations to conform to the Uniform Methods and Rules (UM&R) as administered within the States. This action would be responsive to the

Secretary's Brucellosis Technical Commission's report recommending changes to the UM&R. Those recommendations adopted as resolutions by the U.S. Animal Health Association in 1978 and 1979 and subsequently made part of the UM&R have resulted in some contradictions with USDA regulations. This action is designed to remove those conflicts.

AUTHORITY: 21 U.S.C. 111–114a–1, 115, 120; 121, 125, 134b, 134f.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 6/1/81
c. Final Decision: 10/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. A. D. Robb, (301) 436–8713, USDA, APHIS, Room 805A, Federal Bldg., Hyattsville, Md. 20782

EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY (DOCKET #79–95) (APHIS 099–45)

DESCRIPTION: This document amends the regulations to set forth Veterinary Services policy and procedures for the control and eradication of exotic Newcastle disease from populations of poultry and birds including the release of areas quarantined after the disease has been eliminated.

AUTHORITY: 21 U.S.C. 111–113, 114a, 115, 117, 120, 123–126, 134b, 134f. Amends regulations in 9 CFR Part 82.

PROJECTED SCHEDULE

a. Emergency Final: 10/9/80
b. End of Comment Period: 12/8/80
c. Response to Comments: 2/8/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. W. Buisch, (301) 436–8091, USDA, APHIS, Room 746, Federal Bldg., Hyattsville, Md. 20782

PROPOSAL TO INCREASE SWINE BRUCELLOSIS INDEMNITY RATES IN 9CFR 51 (APHIS 020–2)

DESCRIPTION: To amend Section 51.3(b) to increase the maximum indemnity for swine destroyed because of brucellosis from the current rate of $10 for grade and $25 for registered, inbred and hybrid swine to $25 for grade and $50 for registered, inbred and hybrid swine.

AUTHORITY: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b. Experience since 1977, when indemnity rate was first set, has shown that many owners are reluctant to dispose of diseased swine at the current indemnity rates. This has adversely affected the swine brucellosis program whose progress depends on the prompt elimination of such foci of infection. Regulations: 9 CFR 51.3(b)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/15/80
c. Final Decision: 4/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. Granville Frye, (301) 436–8713, USDA, APHIS, Room 813, Federal Bldg., Hyattsville, Md. 20782

PSEUDORABIES TESTING OF EXPORT SWINE (APHIS 030–4)

DESCRIPTION: This proposed rulemaking adds the specific requirement that all swine for export, except swine destined for immediate slaughter, would have to be tested and found negative to a serological test for pseudorabies.

AUTHORITY: 21 U.S.C. 105, 112, 113, 114a, 120, 121. To be certain that swine intended for export are free from and have not been exposed to pseudorabies, herd and/or individual testing is necessary. Regulations: 9 CFR 91.5(c)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/15/80
c. Final Decision: 3/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. Harold Waters, (301) 436–8383, USDA, APHIS, Room 815A, Federal Bldg., Hyattsville, Md. 20782

ENDANGERED SPECIES REGULATIONS (APHIS 070–33)

DESCRIPTION: This action will establish regulations concerning the enforcement of provisions of the Endangered Species Act of 1973 and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which pertain to the importation and exportation of terrestrial plants. Regulations are being drafted relating to permission to engage in business, including licensing; filing of declarations; inspection and clearance of plants; seizure and forfeiture proceedings; recordkeeping and access; and Rules of Practice for assessment of civil penalties.

AUTHORITY: The Endangered Species Act of 1973, as amended [16 U.S.C. 1531 *et seq.*], P.L. 93–205, Sections 3, 4, 9, and 11, 87 Stat. 884 (1973); 7 CFR Part 355.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: H. V. Autry, (301) 436–8247, USDA, APHIS, Room 635 Federal Building, Hyattsville, Md. 20782.

MEDITERRANEAN FRUIT FLY (APHIS 070–35)

DESCRIPTION: An emergency regulation, 7 CFR 331.1, was established under the Federal Plant Pest Act in July, 1980 to control the interstate movement of certain articles from regulated areas in California because of the presence of Mediterranean fruit fly. This emergency action was taken to prevent the artifical spread of Mediterranean fruit fly into noninfested parts of the United States. APHIS is now proposing a non-emergency quarantine and regulation under the Plant Quarantine Act.

AUTHORITY: Federal Plant Pest Act, as amended, (7 U.S.C. 150ee), P.L. 85–36, HHeI, Sections 105 and 106, 71 Stat. 32 and 33, (1957). Plant Quarantine Act, as amended (7 U.S.C. 151.165, 167).

PROJECTED SCHEDULE

a. Emergency Final: 7/29/80
b. Proposal Non-Emergency Quarantine: 12/1/80
c. Final Decision: 4/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: H. V. Autry, (301) 436–8247, USDA, APHIS, Room 635 Federal Building, Hyattsville, Md. 20782.

ORIENTAL FRUIT FLY (APHIS 080.36)

DESCRIPTION: To establish an emergency regulation, 7 CFR 331.4, to regulate the interstate movement of certain articles from regulated areas in California because of the presence of Oriental fruit fly. This emergency action is taken to prevent the artifical spread of the Oriental fruit fly into noninfested parts of the United States.

AUTHORITY: Federal Plant Pest Act, as amended (7 U.S.C. 150ee), P.L. 85–36, Title I, Sections 105 and 106, 71 Stat. 32 and 33 (1957).

PROJECTED SCHEDULE

a. Emergency Final: 11/80
b. Proposed Non-Emergency Quarantine: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: H. V. Autry, (301) 436–8247, USDA, APHIS, Room 635 Federal Building, Hyattsville, Md. 20782.

BRUCELLOSIS INDEMNITY (APHIS 100–49)

DESCRIPTION: The amendment will terminate the flat rate formula for determining registered indemnity rates and institute an appraisal requirement. Brucellosis indemnity for registered cattle at flat rates has been demonstrated to be unfair to the herd owner and to the federal government. It is significantly overcompensating the owner for the usual registered animal found in affected herds. This results in management practices not conducive to eradication and depletes the funds appropriated. In rare cases, it undercompensates the owner of an

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unusually valuable animal causing resistance to eradication practices.

AUTHORITY: 21 U.S.C. 111, 114, 114a. This would amend 9 CFR 51.1 *et seq.*

PROJECTED SCHEDULE

a. Emergency Final: 11/80
b. End of Comment Period: 1/81
c. Response to Comments: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dr. Arthur D. Robb, (301) 436–8713, USDA, APHIS, Room 805 Federal Bldg., Hyattsville, Md. 20782.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

1981 FEED GRAIN AND SOYBEAN PROGRAMS (ASCS 040–11)

DESCRIPTION: Proclamation of national program acreage (NPA), set-aside and diversion levels, recommended reduction for the 1981 feed grain crops, target and loan levels, loan and purchase program for soybeans, and other provisions.

AUTHORITY: Agricultural Act of 1949, as amended by Food and Agriculture Act of 1977, the Act of May 15, 1978, and the Agriculture Adjustment Act of 1980.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 8/15/80
c. Final Decision: 11/17/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Orville I. Overboe, (202) 447–7987, USDA, ASCS, Room 3607S, Washington, D.C. 20250.

1981 RICE SET-ASIDE AND LAND DIVERSION PAYMENT PROGRAM AND THE 1981 RICE LOAN PURCHASE AND PAYMENT PROGRAM (ASCS 040–12)

DESCRIPTION: Announce the national acreage allotment, the set-aside and the land diversion payment program determinations, the loan and purchase rate and target price for rough rice.

AUTHORITY: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, the Emergency Farm Credit Act of 1979 and the Agriculture Adjustment Act of 1980.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 10/24/80
c. Final Decision: 3/27/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: George H. Schaefer, (202) 447–8480, USDA, ASCS, Room 3619S, Washington, D.C. 20250.

1981 UPLAND COTTON PROGRAM PROVISIONS (ASCS 040–13)

DESCRIPTION: Announce the preliminary target price, NPA, voluntary reduction percentage, set-aside requirement, voluntary diversion requirement, and limitation on planted acreage.

AUTHORITY: Agriculture Act of 1949, as amended by the Food and Agriculture Act of 1977, and the Act of May 15, 1978, and the Agricultural Adjustment Act of 1980.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 9/15/80
c. Final Decision: 12/15/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Charles V. Cunningham, (202) 447–7873, USDA, ASCS, Room 3629S, Washington, D.C. 20250.

1981 CROP PEANUTS—NATIONAL ACREAGE ALLOTMENT AND NATIONAL POUNDAGE QUOTA (ASCS 040–15)

DESCRIPTION: Establish for 1981 crop peanuts a national acreage allotment which determines maximum planted acres, and a national poundage quota which determines the quantity of peanuts eligible for loans at the domestic edible support level.

AUTHORITY: Agricultural Act of 1938, as amended, including amendments contained in Food and Agricultural Act of 1977. Action is mandatory.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 10/7/80
c. Final Decision: 12/1/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Gypsy Banks, (202) 447–6733, USDA, ASCS, Room 3752S, Washington, D.C. 20250.

1981 CROP FLUE-CURED TOBACCO MARKETING QUOTA (ASCS 040–25)

DESCRIPTION: Establish 1981 crop National Marketing Quota for Flue-Cured Tobacco.

AUTHORITY: Required by Agricultural Adjustment Act of 1938, as amended.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 9/18/80
c. Final Decision: 10/31/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Robert Tarczy, (202) 447–7601, USDA, ASCS, Room 3754S, Washington, D.C. 20250.

1981 CROP BURLEY TOBACCO MARKETING QUOTA (ASCS 040–29)

DESCRIPTION: Establish 1981 crop national marketing quota for burley tobacco.

AUTHORITY: Required by Agricultural Adjustment Act of 1938, as amended.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/10/80
c. Final Decision: 2/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Robert Tarczy, (202) 447–7601, USDA, ASCS, Room 3754S, Washington, D.C. 20250.

1980 CROP OIL SUNFLOWER SEED PRICE SUPPORT PROGRAM (ASCS 070–33)

DESCRIPTION: Establish a price support program for oil sunflower seed, starting with the 1980 crop.

AUTHORITY: The Agricultural Act of 1949, Section 301, 7 U.S.C. Section 1447.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 9/15/80
c. Final Decision: 10/30/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Harry Sullivan, (202) 447–7951, USDA, ASCS, Room 3611S, Washington, D.C. 20250.

1981 CROP PEANUTS—NATIONAL AVERAGE PRICE SUPPORT LEVELS AND GENERAL PROGRAM PROVISIONS (ASCS 100–42)

DESCRIPTION: Establish a 1981 national average support level for quota peanuts at not less than $420 a ton; a national average support level for additional peanuts; and CCC sales policy for sales of additional peanuts for edible export use.

AUTHORITY: Agricultural Act of 1949, as amended, Section 108 (7 U.S.C. 1445c). Action is mandatory.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of Proposal: 11/5/80
c. Final Decision: 2/13/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Gypsy Banks, (202) 447–6733, USDA, ASCS, Room 3752S, Washington, D.C. 20250.

SEMIANNUAL ADJUSTMENT OF THE MILK SUPPORT PRICE (ASCS 100–43)

DESCRIPTION: To adjust the support price for milk to reflect the estimated change in the parity index between October 1, 1980 and March 31, 1981.

AUTHORITY: Agricultural Act of 1949, as amended, Section 201(c), 7 U.S.C. Section 1446(c); 7 CFR Part 1430.

PROJECTED SCHEDULE

a. Date of Pre-notice: None
b. Date of proposal: 12/15/80
c. Final Decision: 3/31/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Donald Friedly, (202) 447–3571, USDA, ASCS, Room 5757S, Washington, D.C. 20250.

FOREIGN AGRICULTURAL SERVICE

PROPOSED ESTABLISHMENT OF SELECTED AREA AGRICULTURAL TRADE OFFICES (FAS 108–3)

DESCRIPTION: On-the-spot surveys are being made where necessary; and financial, personnel and overseas position limitations are being explored with a view to developing proposals for opening additional trade offices during 1981.

AUTHORITY: Agricultural Trade Act of 1978, P.L. 95–501, Section 401, 92 Stat. 1688 (1978). Amended Title VI of the Agricultural Act of 1954.

PROJECTED SCHEDULE

a. Date of Pre-notice: None
b. Date of proposal: None
c. Final Decision: by 3/31/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Jimmy Minyard, (202) 447–4761, USDA, FAS, Room 5089A, South Bldg., Washington, D.C. 20250.

PROPOSED DESIGNATION OF AGRICULTURAL COUNSELORS (FAS 108–38)

DESCRIPTION: Identify those positions in the field which should be upgraded from Attaché to Counselor and submit to Department of State for concurrence. Select foreign country attaché posts which will be upgraded during FY 81.

AUTHORITY: Agricultural Trade Act of 1978, P.L. 95–501, Section 301, 92 Stat. 1687 (1978); Amended Title VI of the Agricultural Act of 1954.

PROJECTED SCHEDULE

a. Date of Pre-notice: None
b. Date of proposal: 1/15/81
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Richard S. Welton, (202) 447–3253, USDA, FAS, Room 5092S, Washington, D.C. 20250.

IMPLEMENTATION OF MEAT IMPORT ACT OF 1979, P.L. 96–177 (FAS 100–3)

DESCRIPTION: Estimate of adjusted base quantity of meat subject to the Act that may be entered or withdrawn from warehouse for consumption in the United States during 1981, and the first quarterly estimate of 1981 U.S. import of meat subject to the Act.

AUTHORITY: Meat Import Act of 1979, P.L. 96–177, 93 Stat. 1291 (1979); (The Meat Import Act of 1979 amended Section 2 of P.L. 88–482, 78 Stat. 594 (1964), 19 U.S.C. 1202 note.)

PROJECTED SCHEDULE

a. Date of Pre-notice: None
b. Date of proposal: None
c. Final Decision: 12/30/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Alan Hemphill, (202) 447–7400, USDA, FAS, Room 6616S, Washington, D.C. 20250.

FEDERAL GRAIN INSPECTION SERVICE

DUST PARTICLE SIZE LIMITS (FGIS 108–3)

DESCRIPTION: Establish dust particle size limits as guidelines on the grain dust that should be removed from grain and the size dust particles that may be allowed to remain within the grain.

AUTHORITY: U.S. Grain Standards Act, Section 4 and 24 (7 U.S.C. 76, 76 Note).

PROJECTED SCHEDULE

a. Date of Pre-notice: None
b. Date of proposal: 12/31/80
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: George Lipscomb, (202) 447–4851, USDA, FGIS, Room 3117, Auditors Bldg. Washington, D.C. 20250.

PROPOSED AMENDMENT TO THE OFFICIAL U.S. STANDARDS FOR GRAIN (WEEVILY) (FGIS 108–6)

DESCRIPTION: Presently, the standards for various grains require varying sizes of samples used for determining insect infestation and different tolerances for insects between grains. We are evaluating the need for providing uniform requirements as to sample size and procedures used in order to reflect actual grain quality in a more uniform and useful manner.

AUTHORITY: Section 4 of U.S. Grain Standards Act. (7 U.S.C. 76)

PROJECTED SCHEDULE

a. Date of Pre-notice: 12/28/79
b. Date of proposal: 1/31/81
c. Final Decision: 3/31/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James L. Driscoll, (816) 348–2861, FTS, 753–6861 Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030

REVIEW OF THE PART 68 REGULATIONS UNDER THE AGRICULTURAL MARKETING ACT OF 1946 (FGIS 109–61)

DESCRIPTION: Review and propose amendments or revisions as necessary to the regulations governing inspection of commodities which include the grading of rice, pulses and hay/straw; factor analysis of hops, and the certification of processed grain products for contract compliance.

AUTHORITY: 7 U.S.C. 1621 *et seq.*; 7 CFR Part 68.

PROJECTED SCHEDULE

a. Date of pre-notice: 9/17/80
b. Date of proposal: 3/31/81
c. Final Decision: 8/31/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Edith Christensen, (202) 447–8801, USDA, FGIS, Room 0637S, Washington, D.C. 20250.

REVIEW OF REGULATIONS—U.S. STANDARDS FOR CORN, SOYBEANS, AND MIXED GRAIN (FGIS 040–7)

DESCRIPTION: This review is being made to comply with the Department's policy for periodic review of existing regulations and will provide FGIS the opportunity to investigate the possibility of incorporating factors that would be better indicators of end-use properties.

AUTHORITY: U.S. Grain Standards Act, Section 4, 7 U.S.C. 76 7 CFR 810.301 *et seq.*; 810.601 *et seq.*; 810.451 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: 5/8/80
b. Date of proposal: 1/1/81
c. Final Decision: 4/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: J. Driscoll, (816) 348–2861, Bldg. 221, Richards-Gebaur AFB, Grandview, Missouri 64030.

REVIEW OF REGULATIONS—U.S. STANDARDS FOR BARLEY (FGIS 080–13)

DESCRIPTION: The U.S. Standards for Barley will be reviewed to determine the effectiveness, responsiveness to current marketing needs, clear language, and continued appropriateness. The need for more effective grading factors which give end-use information will also be investigated. This review has been Proposed on FGIS' 5 year plan for 11/80.

AUTHORITY: Section 4, U.S. Grain Standards Act (7 U.S.C. 76) 7 CFR 810.201–810.211 (formerly 7 CFR Part 26).

PROJECTED SCHEDULE

a. Date of pre-notice: 9/12/80
b. Date of proposal: 5/1/81
c. Final Decision: 11/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: D. Fulk, (816) 348–2861, USDA, FGIS, Bldg. 221, Richards-Gebaur AFB, Grandview, Mo. 64030.

FARMERS HOME ADMINISTRATION

REVIEW OF THERMAL INSULATION STANDARDS FOR MASONRY CONSTRUCTION (FMHA 108–1)

DESCRIPTION: Review of technical and economic data on the effect of building mass upon energy consumption to determine the optimum level of thermal performance which should be required in FmHA financed masonry homes. The study will be completed in June 1980. Changes in FmHA rules may be proposed as a result of this study.

AUTHORITY: Action by House-Senate conference committee on FY 79 Agriculture Appropriations Act. The Housing Act of 1949, Section 510, 42 U.S.C. 1480; 7 CFR Part 1804, Subpart A,

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Exhibit D (proposed redesignation as 7 CFR Part 1924, Exhibit D, published at 44 FR 39432 (1979)).

PROJECTED SCHEDULE

a. Date of pre-notice: 11/13/78
b. Date of proposal: 1/81
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Daniel J. Ball, (202) 447–3394, USDA, FmHA, Room 6309S, Washington, D.C. 20250.

PLANNING AND PERFORMING SITE DEVELOPMENT WORK 424.5.(1924–D) (FMHA 108–2)

DESCRIPTION: Revision of requirements for site development in areas which have steep slopes. Standards apply to streets, grading, drainage, and other aspects of residential site development

AUTHORITY: Requests by Appalachian Regional Commission, State agencies and FmHA field staff for more flexibility in standards. The Housing Act of 1949, Section 510, 42 U.S.C. 1480; 7 CFR Part 1804, Subpart D.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/80
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Glendon D. Deal, (202) 447–3394, USDA, FmHA, Room 6309S, Washington, D.C. 20250.

SOLAR DEMONSTRATION RETROFIT (FMHA 108–3)

DESCRIPTION: Select 2 FmHA inventory houses in each of six regions for retrofit utilizing Wilke Solar collector and monitor system over 2 heating seasons. Houses similar in design and orientation—one as control, other for solar. Audio-visual aids for training and demonstration are planned.

AUTHORITY: Departmental Initiative to offset high cost of heating Sec. 502 housing through application of low-cost solar energy hardware. The Housing Act of 1949, Section 506, 42 U.S.C. Section 1476.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 4/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dan Ball (202) 447–3394, USDA, FmHA, Room 6309S, Washington, D.C. 20250.

REVISION OF POLICY AND PROCEDURES RELATING TO SELF-HELP TECHNICAL ASSISTANCE GRANTS (FMHA 108–10)

DESCRIPTION: Revision of policy and procedures relating to Self-Help Technical Assistance Grants to : (1) facilitate repairs and rehabilitation of existing housing units; (2) increase the use of the program through greater flexibility in the family labor required; (3) expand the authority and responsibility of the Board; (4) revise technical assistance reporting requirements; (5) update the recommended salary schedules for technical assistance staff; (6) renumber FmHA Instruction 1933–I in accordance with Executive Order 12044; and (7) reassign program responsibilities from County to District offices in accordance with FmHA Instruction 2003–A.

AUTHORITY: Housing Act of 1949, Section 510(j), 42 U.S.C. Departmental Initiative.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: C. Herron, (202) 447–7207, USDA, FmHA, Room 5333S Washington, D.C. 20250.

HOME OWNERSHIP ASSISTANCE PROGRAM (FMHA 108–12)

DESCRIPTION: Development and promulgation of instructions to implement a Home Ownership Assistance subsidy program as requested by the Administration and passed by Congress.

AUTHORITY: Housing and Community Development Amendments of 1978. The Housing Act of 1949, Sections 510(j) and 521(a)(1)(c); 42 U.S.C. 1480(j) and 1490a(a)(1)(c).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: Unknown
c. Final Decision: Unknown

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Matt Felber, (202) 447–4295, USDA, FmHA, Room 5339S, Washington, D.C. 20250.

COORDINATED USE OF LOAN AND GRANT PROGRAMS TO MEET LOW-INCOME NEEDS (FMHA 108–14)

DESCRIPTION: Deny community program assistance in prescribed circumstances, and to accelerate repayment in certain instances when communities arbitrarily prohibit or restrict low-income housing.

AUTHORITY: Consolidated Farm and Rural Development Act, Section 339; 7 U.S.C. Section 1989; Housing Act of 1949, Section 510(j), 42 U.S.C. Section 1480(j) 7 CFR 2.23; 7 CFR 2.70

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/80
c. Final Decision: 9/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Art Collings, (202) 447–8448, USDA, FmHA, Room 5303S, Washington, D.C. 20250.

PHASE II, NATIONAL RURAL COMMUNITY FACILITIES ASSESSMENT STUDY (FMHA 108–44)

DESCRIPTION: Major feasibility study currently underway with ABT Assoc. to determine the data requirements, collection and analysis plans for making the assessments. Performance criteria and types of communities to be included will be presented to FmHA, prior to the initiation of Phase II. Supplemental study to be conducted by Agency.

AUTHORITY: The Consolidated Farm and Rural Development Act, as amended, Section 331(c), 7 U.S.C. 1981(c). Agency initiative to develop national and state assessments of the current status of community facilities relative to acceptable performance standards.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 8/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Richard Long, (301) 436–7725, USDA, FMHA, Room 522 Presidental Bldg., Hyattsville, Md. 20782.

NEEDS ASSESSMENT CAPABILITY STUDY (FMHA 108–56)

DESCRIPTION: The Needs Assessment Component will be designed to be nationally applicable, to be used at the national level in assessing the relative needs of States, and within assessing the relative needs of counties. Center for Census Use Studies has contracted to develop a Needs Assessment Component to help FmHA assess relative levels of need for its loan programs.

AUTHORITY: Rural Development Act of 1972, P.L. 92–419, Section 603, 86 Stat. 1675 (1972).

PROJECTED SCHEDULE

a. Date of pre-notice: Completed
b. Date of proposal: Completed
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Mark Nestle, (301) 436–7748, USDA, FmHA, Room 539A, Presidential Bldg. Hyattsville, Md. 20852.

THAT PART OF OPERATING LOAN POLICIES, PROCEDURES AND AUTHORIZATION COVERING YOUTH LOANS (FMHA 059–28)

DESCRIPTION: This action will insure that loan amounts that are larger than necessary for program purposes are not approved which can result in unnecessary reduction in the total number of eligible applicants served with limited loan funds.

AUTHORITY: Administrative change made because the Youth Loan Program needs to be revised to limit the size of individual loans. Authority to issue administrative changes found in the Consolidated Farm and Rural Development Act, Section 339, 7 U.S.C. 1989.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Leroy Jones, (202) 447–4669, USDA, FmHA, Room 5317S, Washington, D.C. 20250.

INSTRUCTION FOR FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION (FMHA 069–37)

DESCRIPTION: Initial procedure FmHA 1940 M was published in the **Federal Register** on September 14, 1978, for public comment. This is the final rule.

AUTHORITY: This procedure has been written to comply with Executive Order 11988, 42 FR 26951 (1977) and Executive Order 11990.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 2/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John Hansel, (202) 447–3394, USDA, FmHA, Room 6305S, Washington, D.C. 20250.

FEES AND CHARGES FOR B&I LOANS (FMHA 079–45)

DESCRIPTION: Revise FmHA regulation, § 1980.22 to provide for specific limits of fees, charges or yields that would be permitted for the B&I loan. Requirement for full disclosure at application and loan closing time would be established.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 310B, 7 U.S.C. 1932. Considerable experience at this time indicates that lenders and other interested parties are charging expensive fees on B&I loans.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/10/79
c. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dean Moore/Darryl H. Evans, (202) 447–4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250.

REVIEW OF MINIMUM PROPERTY STANDARDS TO ASSESS APPLICABILITY TO RURAL HOUSING (FMHA 089–53)

DESCRIPTION: Conduct study of standards for housing in rural areas to determine if changes can be made which would permit the use of lower cost innovative technologies.

AUTHORITY: Housing Act of 1949, Sections 506 (a) and 510 (j), 42 U.S.C. Section 1476(a), and 1480(j).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/80
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dan Ball, (202) 447–3394, USDA, FmHA, Room 6309S, Washington, D.C. 20250.

DEVELOP IMPROVED LOAN SERVICING REGULATIONS AND PROCEDURES (FMHA 099–59)

DESCRIPTION: After the B&I division has analyzed a sampling of State Office operations and consolidated current administrative procedures, the division will develop procedures designed to more effectively monitor the program and provide for more contact with lenders and borrowers. This action will formalize and codify servicing procedures.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 310B, 7 U.S.C. 1932.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 9/80
c. Final Rule: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Leigh Nalley, (202) 447–4924, USDA, FmHA, Room 5428S, Washington, D.C. 20250.

REVIEW AND STRENGTHEN B&I PROGRAM OPERATIONS (FMHA 099–63)

DESCRIPTION: Revise procedures to strengthen the loan making, including such areas as equity, Personal/corporate guarantees and refinancing.

AUTHORITY: The Consolidated Farm and Rural Development Act, as amended, Section 310B, 7 U.S.C. 1932.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 6/20/80
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Darryl Evans, (202) 447–4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250.

REVISION OF COMMUNITY PROGRAMS LOAN AND GRANT APPROVAL AUTHORITIES, FMHA INSTRUCTION 1901–A, EXHIBIT B (FMHA 099–66)

DESCRIPTION: Exhibit B will be revised to increase the loan limits for community facility loans requiring National Office concurrence, from $500,000 to $1,000,000. Delegate to District Directors grant approval authority commensurate with loan authority.

AUTHORITY: 7 U.S.C. Section 1989, 7 CFR 2.23; 7 CFR 2.70.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: None
c. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Dwight Sewell, (202) 447–7667, USDA, FmHA, Room 6312S, Washington, D.C. 20250.

IMPLEMENTATION OF THE PRESIDENT'S WATER POLICY MESSAGE TO CONGRESS (FMHA 099–67)

DESCRIPTION: This proposed action will result in additions to FmHA Instruction 1942–A. The proposal includes: (1) the discouragement of luxury consumption of water by assuring equitable rate structures; (2) requiring recipients to educate users in regards to water conservation, (3) reduce water loss on existing systems, and (4) incorporate water conservation measure in the design and operation of facilities when feasible.

AUTHORITY: 7 U.S.C. Section 1989, 7 CFR 2.23; 7 CFR 2.70.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Gary J. Morgan (202) 447–5717, USDA, FmHA, Room 6316S, Washington, D.C. 20250.

ELIMINATE THE REQUIREMENT THAT THE FMHA COUNTY COMMITTEE MUST CERTIFY TO THE AMOUNT OF EACH EM LOAN. (FMHA 099–75)

DESCRIPTION: Change the law to provide that the FmHA County Committee need certify only to each EM applicant's eligibility and not also the amount of each loan. This change is to be sought simultaneously with FmHA's legislative proposal to introduce credit ceilings on EM loans.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 333(b), 7 U.S.C. Section 1983(b). Eliminate a processing step and conform processing procedure with OL and FO loans.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date f proposal:
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James E. Vollmer, (202) 447–6257, USDA, FmHA, Room 5336S, Washington, D.C. 20250.

ISSUANCE OF REVISED INSURED AND GUARANTEED EE LOAN REGULATIONS TO IMPLEMENT MAJOR POLICIES PERTAINING TO NEW LEGISLATION. (FMHA 099–77)

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DESCRIPTION: (1) Phase I: Revise EE loan regulations *to extend* program from May 15, 1980, through September 30, 1981; (2) Phase II: Revise EE loan regulations (1945–C and 1980–F) *to fully implement* Public Law 96–220, enacted on 3/30/80; and (3) Phase III: Conduct comprehensive study as mandated by P.L. 96–220 for submission to Congress re: extension of EE program beyond Sept. 30, 1981.

AUTHORITY: The Emergency Agricultural Credit Adjustment Act of 1978, (P.L. 95–334) as amended by P.L. 96–220.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 5/80
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: W. Campbell, (202) 447–6257, USDA, FmHA, Room 5346S, Washington, D.C. 20250.

ESTABLISH NEGOTIATED INTEREST RATES FOR GUARANTEED EM ANNUAL PRODUCTION AND MAJOR ADJUSTMENT LOANS. (FMHA 099–78)

DESCRIPTION: Change the law to allow EM annual production and major adjustment guaranteed loans to be made at a negotiated rate of interest agreed upon by the applicant and the lender.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 324, 7 U.S.C. Section 1964. Make EM guaranteed loans more attractive to lenders.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal:
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James E. Vollmer, (202) 447–6257, USDA, FmHA, Room 5336S, Washington, D.C. 20250.

REVIEW REGULATIONS PERTAINING TO APPRAISAL OF NON-FARM TRACTS AND SMALL FARMS FOR RURAL HOUSING (FMHA 119–99)

DESCRIPTION: Review, rewrite and revise to update content and to institute modern appraisal techniques.

AUTHORITY: The Housing Act of 1949, Section 510(j); 2 U.S.C. Section 1480(j).

PROJECTED SCHEDULE:

a. Date of pre-notice: 12/79
b. Date of proposal: 3/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Stan Reed, (202) 447–3766, USDA, FmHA, Room 5309S, Washington, D.C. 20250.

THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES PROCEDURAL CHANGE 1901–F (FMHA 119–104)

DESCRIPTION: Change will adopt Advisory Council's procedural requirements, definitions, and compliance criteria as well as USDA's proposed rule, 44 FR No. 132, p. 40258. More guidance on procedural steps is emphasized along with a mandated 30–day review for State Historic Preservation officer.

AUTHORITY: Advisory Council on Historic Preservation regulations. Protection of Historic and Cultural Properties, 36 CFR 800, dated 01–30–79.

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of Proposal: 1/81
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John Hansel, (202) 447–3394, USDA, FmHA, Room 6305S, Washington, D.C. 20250.

REVISION OF DEFINITION OF LOW INCOME FOR SECTION 502, 504, AND 515 AS REQUIRED BY PUBLIC LAW 96–153 (FMHA 020–25)

DESCRIPTION: Will establish low-income limits at 80 percent of area median income or as adjusted when justified by housing costs as required by P.L. 96–153. The existing moderate and above-moderate income limits will have to be adjusted to reflect the required change to low-income limits.

AUTHORITY: Housing and Community Development Amendments of 1979, P.L. 96–153, Section 502(a), 93 Stat. 1101, Amending Section 501(b) of the Housing Act of 1949, 42 U.S.C. 1471.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 9/19/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: M. J. Felber, (202) 447–4295, USDA, FmHA, Room 5339, Washington, D.C. 20250.

BUSINESS AND INDUSTRY LOAN PROGRAM PROPOSES TO BROADEN APPLICANT ELIGIBILITY FOR LOAN ASSISTANCE (FMHA 040–34)

DESCRIPTION: To amend FmHA, B&I regulation, § 1980.403 "Citizenship of Applicant" to broaden eligibility of applicants to include foreign ownership provided 85% of the employees hired are U.S. citizens.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 310B, 7 U.S.C. 1932, 7 CFR Part 1980 Subpart E.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/81
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Darryl H. Evans, (202) 447–4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250.

RURAL HOUSING ALLOCATION FORMULAS (FMHA 070–43)

DESCRIPTION: The allocation formulas used to distribute Rural Housing Program funds to the states is being reviewed.

AUTHORITY: Housing Act of 1949, Section 510(j), 42 U.S.C. 1480(j), P.L. 94–375, 7 CFR Part 1822 Subpart A.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Reed J. Petersen, (202) 447–4295, USDA, FmHA, Room 5349S, Washington, D.C. 20250.

BUSINESS AND INDUSTRY LOAN PROGRAM PROPOSES TO REVISE THE LIST OF INELIGIBLE LOAN PURPOSES (INSTRUCTION 1980–E) (FMHA 080–46)

DESCRIPTION: To amend FmHA, B&I § 1980.412, "Ineligible Loan Purposes," to define the term "Agriculture Production" and include other ineligible purposes such as gambling, commercial media projects, charitable organizations, church, etc.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 310b, 7 U.S.C. 1932.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 10/30/80
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Darryl H. Evans, (202) 447–4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250.

MOBILE HOME LOAN PROCEDURE (FMHA INSTRUCTION) (FMHA 080–47)

DESCRIPTION: Invite public input for draft regulations for mobile home loans to implement Section 527 of Title V of the Housing Act of 1949.

AUTHORITY: Section 510(j) of the Housing Act of 1949, 42 U.S.C. 1480(j); section 527 of the Housing Act of 1949, 42 U.S.C. 1490g.

PROJECTED SCHEDULE

a. Date of pre-notice: 10/80
b. Date of proposal: 1/81
c. Final Decision: Unknown

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Reed J. Petersen, (202) 447–4295, USDA, FmHA, Room 5349S, Washington, D.C. 20250.

INTEREST CREDITS (SUBSIDY) TO MODERATE INCOME BORROWERS (INSTRUCTION 444.1) (FMHA 080–48)

DESCRIPTION: This action will reduce the interest rate paid by moderate income borrowers and increase the number who will be able to afford homeownership. It is necessary to eliminate a present gap in affordability wherein many applicants have income too low to afford the market rate of interest and too high to be considered low-income.

AUTHORITY: Section 521(a)(1)(B) of the Housing Act of 1949, 42 U.S.C. 1490a(a)(1)(B); Section 510(j) of the Housing Act of 1949, 42 U.S.C. 1480(j).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 10/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Mathias J. Felber (202) 447–4295, USDA, FmHA, Room 5339S, Washington, D.C. 20250.

INSURED FARM OWNERSHIP AND OPERATING LOAN POLICIES, PROCEDURES, AND AUTHORIZATION (FMHA 090–52)

DESCRIPTION: Clarify the definition of a limited resource applicant so that the general public and the FmHA staff will be able to more easily understand the objectives of the program and identify the characteristics of a limited resource OL and FO loan applicant. It provides more definite guidelines for the program.

AUTHORITY: The Consolidated Farm and Rural Development Act, Section 339, 7 U.S.C. 1989; (Secretary's general authority to issue rules and regulations necessary to carry out the purposes of the Act and this would include clarifying and providing for better guidance and a more simplified definition for the administration of the program.)

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 3/27/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Ed Yaxley, (202) 447–4572, USDA, FmHA, Room 5328S, Washington, D.C. 20250.

FOOD AND NUTRITION SERVICE

SCHOOL BREAKFAST PROGRAM: GRAIN-FRUIT PRODUCT—LIMITS ON UTILIZATION, PART 220 TO USE THE PRODUCT IN THE SCHOOL BREAKFAST PROGRAM (FNS 118–8)

DESCRIPTION: Limitations on the utilization of formulated grain/fruit products from the Breakfast Program to promote development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods.

AUTHORITY: Child Nutrition Amendments of 1978, P.L. 95–627, Section 6(d), 92 Stat. 3621 (1978).

PROJECTED SCHFDULE

a. Date of pre-notice: None
b. Date of reproposal: 2/81
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Margaret Glavin, (202) 447–5548, USDA, FNS, Room 754 GHI Washington, D.C. 20250.

FOOD STAMP PROGRAM: WORK REGISTRATION AND JOB SEARCH JOINT RULEMAKING (FNS 116–70)

DESCRIPTION: Changes some current work registration rules and establishes requirement for work registrants to search for jobs. Defines and assigns the responsibility for administering the food stamp work registration requirement, including job search activities, to the appropriate agencies within the Departments of Labor and Agriculture. Additionally the responsibilities and penalties for failure to comply with work requirements by participating households will be delineated.

AUTHORITY: The Food Stamp Act of 1977, P.L. 95–113, Section 6(d), 91 Stat. 958 (1977).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 8/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Claire Lipsman, (202) 447–8325, USDA, FNS, Room 658 GHI, Washington, D.C. 20250

CHANGES IN WIC FOOD PACKAGES (FNS 039–1)

DESCRIPTION: Final regulations—Part 246.8—changing the food packages for the WIC participants. Current research of the nutritional needs of the target population indicate some changes should be made in the nutrients and levels provided.

AUTHORITY: Child Nutrition Amendments of 1978, P.L. 95–627, Section 3, 92 Stat. 3616, (1978).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/79
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Jane McNeil, (202) 447–8421, USDA, FNS, Room 4405 Auditors Bldg., Washington, D.C. 20250

AMENDMENTS TO PART 250 ON PROCESSING OF DONATED FOODS BY COMMERCIAL FIRMS (FNS 109–11)

DESCRIPTION: Revise regulations to reflect OIG recommendations for stricter contracts, improved accountability, and increased monitoring. Changes will limit permissible substitution of commercial foods for those donated, strengthen labeling requirements for processed products, tighten inventory controls, and mandate cooperation between distributing agencies and the agencies which administer FNS child nutrition programs.

AUTHORITY: Act of August 24, 1935, P.L. 74–320, Section 32, 49 Stat. 774, 7 U.S.C. 612(c); Agricultural Act of 1949, P.L. 81–439, Section 416, 63 Stat. 1058, 7 U.S.C. 1431; National School Lunch Act, Section 6, 42 U.S.C. 1755.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 6/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Darrel E. Gray, (202) 447–8371, USDA, FNS, Room 610 GHI, Washington, D.C. 20250

PROCEDURES FOR REDUCING FOOD STAMP ALLOTMENTS (FNS 030–2)

DESCRIPTION: Establishes procedures to follow to reduce food stamp benefits if funding runs out during a fiscal year.

AUTHORITY: Food Stamp Act of 1977, as amended, P.L. 96–58, Section 1, 93 Stat. 389 (1979).

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal: 4/2/80
c. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Claire Lipsman, (202) 447–8325, USDA, FNS, Room 658 GHI, Washington, D.C. 20250

AUTHORIZATION OF WHOLESALERS (FNS 060–16)

DESCRIPTION: The proposed rule on wholesaler authorization states that wholesalers may be authorized only if a treatment and rehabilitation program for drug addicts or alcoholics, or a retailer who has no access to a bank, needs the wholesaler as a redemption outlet for food stamps. Those wholesalers who are authorized will only be allowed to accept food stamps from those specific firms which are found to need them.

AUTHORITY: To tighten authorization requirements and clarify certain policies. The Food Stamp Act of 1977, as amended. 7 CFR 278.1 *et seq.*

PROJECTED SCHEDULE

a. Date of pre–notice: None
b. Date of proposal: 11/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Mike Rowe, (202) 447–2303, USDA, FNS, Room 650 GHI, Washington, D.C. 20250

FOOD STAMP PROGRAM: QUALITY CONTROL SANCTION AND INCENTIVE SYSTEM (FNS 070–24)

DESCRIPTION: Rules mandated by P.L. 96–249 would; (1) make States liable for

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erroneous payments to households if the rate of payment errors were not reduced below prescribed targets within a specific period of time; (2) increase the Federal share of administrative costs for States with error rates below certain levles and States which reduce their error rates by 25 percent or more.

AUTHORITY: Food Stamp Act of 1977, as amended by P.L. 96–249, Sections 125 and 126, 94 Stat. 364 (May 26, 1980), 7 CFR 275, 277.

PROJECTED SCHEDULE

a. Date of pre–notice: None
b. Date of proposal: 10/3/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Maurice C. Tracy, (202) 447–4002, USDA, FNS, Room 678 CHI, Washington, D.C. 20250

FOOD DELIVERY SYSTEM AMENDMENTS TO WIC REGULATIONS (FNS 070–26)

DESCRIPTION: Proposed amendments would improve efficiency and effectiveness of food delivery systems, especially by increased vendor monitoring by the State agencies. Vendor authorization, monitoring and guidance would be strengthened, as would supervision of food instruments. This would save funds, so that more was available for participants in WIC.

AUTHORITY: Child Nutrition Amendments of 1978, P.L. 95–627, Section 3, 92 Stat. 3611 (1978).

PROJECTED SCHEDULE

a. Date of pre–notice: None
b. Date of proposal: 12/80
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Jane McNeil, (202) 447–8421, USDA, FNS, Room 4301 Auditors Bldg., Washington, D.C. 20250

PART 210—NATIONAL SCHOOL LUNCH PROGRAM—PROPOSED AMENDMENT ON LUNCH PATTERN MONITORING (FNS 080–30)

DESCRIPTION: Proposed system to allow local, State, and Federal reviewers and auditors to determine if lunches served by a school meet federal meal pattern requirements.

AUTHORITY: The National School Lunch Act, as amended, Section 9(a), 42 U.S.C. 1758(a); NSLP regulations, 7 CFR 210.2, .4a, .8, .14, .15, .16, .19a and new 210.10a.

PROJECTED SCHEDULE

a. Date of pre–notice: 1/18/80
b. Date of proposal: 1/81
c. Date of Interim: 6/81
d. Final Decision: 2/82

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Sally MacKenzie, (202) 447–9069, USDA, FNS, Room 4300B Auditors Bldg., Washington, D.C. 20250

FOREST SERVICE

COST RECOVERY POLICY ISSUE (FS 105–3)

DESCRIPTION: No uniform policy among Federal agencies on collecting costs incurred in processing applications for use of Federal lands. Upon advice of OMB, a uniform policy between FS/BLM will be developed for costs incurred in processing applications for use of Federal lands.

AUTHORITY: Federal Land Policy and Management Act of 1976, P.L. 94–579 Sections 304 and 504(g); 90 Stat. 2743 (1976).

PROJECTED SCHEDULE

a. Date of pre–notice: 7/1/80
b. Date of proposal: 7/1/81
c. Final Decision: 12/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: William Boring, (703) 235–8212, USDA, FS, Box 2417, Washington, D.C. 20013

IMPLEMENTATION OF P.L. 95–313, THE COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978 (FS 108–5)

DESCRIPTION: Update and clarify Forest Service Manual program guidelines and existing regulations.

AUTHORITY: The Cooperative Forestry Assistance Act of 1978, P.L. 95–313, 92 Stat 365 (1978).

PROJECTED SCHEDULE

a. Date of pre–notice: None
b. Date of proposal: 12/80
c. Final Decision: 3/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John H. Ohman, (202) 447–3331, USDA, FS, Box 2417, Washington, D.C. 20013

EVALUATION OF FOREST PEST MANAGEMENT PROGRAMS (FS 049–2)

DESCRIPTION: Review the rationale for our present program direction and recommend program adjustments where appropriate. Will concentrate on examining operating procedures including: policy, decisionmaking processes, program mnagement, adequacy of analysis, and program coordination.

AUTHORITY: Requested by Assistant Secretary.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 8/15/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Tom Roederer, (202) 447–2775, USDA, FS, Box 2417, Washington, D.C. 20013.

REVISION OF SECRETARY'S LOG EXPORT REGULATIONS (FS 119–7)

DESCRIPTION: Review 36 CFR 223.10 to clarify definition of export and substitution provision; and incorporate reporting requirements which will permit monitoring of both the level of exports by purchasers and changes in activity.

AUTHORITY: Act of April 12, 1926, 44 Stat. 242, 16 U.S.C. Section 616, 36 CFR 223.10.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/79
b. Date of proposal: 5/80
c. Final Decision: 11/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Norman E. Gould, (202) 447–6893, USDA, FS, Room 3207, Washington, D.C. 20013.

FOOD SAFETY AND QUALITY SERVICE

VOLUNTARY QUALITY CONTROL REGULATIONS—SANITATION AND CARCASS CLEANLINESS (FSQS 108–3)

DESCRIPTION: USDA will propose to permit firms to implement company-operated quality control programs regarding sanitation and carcass cleanliness. This would permit FSQS to shift more responsibility to industry with FSQS monitoring industry performance.

AUTHORITY: 21 U.S.C. 601 *et seq.*; 21 U.S.C. 451 *et seq.* Additional information: To supplement system of inspection while holding down costs as outlined in report on Strengthening Meat and Poultry Inspection. Would amend 9 CFR Parts 301–335 and 9 CFR Part 381.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250.

POULTRY CHILLER WATER REGULATION (FSQS 108–4)

DESCRIPTION: Comments received concerning a regulation proposed in April 1978 to reduce the volume of replacement water during poultry chilling indicated the issue needed to be restudied before further action could be considered.

A protocol prepared by FSQS is presently being considered by the Science and Education Administration of USDA and representatives of the poultry industry.

AUTHORITY: 21 U.S.C. 463. Additional information: This regulation will conserve water, reduce the energy necessary for chilling, and reduce waste water pollution. This would amend 9 CFR 381.66.

PROJECTED SCHEDULE

a. Date of pre-notice: Undetermined
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250.

REGULATORY PLAN FOR CURED PORK PRODUCTS (FSQS 108–7)

DESCRIPTION: Cured pork products contain varying amounts of water introduced with the curing agents. The amount of added water is limited by regulation. The new regulatory plan would establish a standard for these products based on protein content rather than added water, and establish more effective enforcement procedures.

AUTHORITY: 21 U.S.C. 601 *et seq.* Additional information: Better method to enforce added water requirements. Would amend 9 CFR Part 319.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/21/80
c. Final Decision: 5/22/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250.

WORK WEEK REGULATIONS (FSQS 108–8)

DESCRIPTION: USDA will issue regulations which provide for uniform requirements and procedures in establishments operating under Federal meat or poultry inspection relative to the days and hours inspectors may be engaged in the performance of duty, schedules of operations, number of shifts, overtime and holiday inspection service and charges, and billing.

AUTHORITY: 21 U.S.C. 621; 21 U.S.C. 463. Additional Information: This would amend §§ 307.4, 307.5 and 307.6, and add a new Section 307.7 to the Federal meat inspection regulations (9 CFR 307.4–307.7). This would also amend §§ 381.37, 381.38 and 381.39 and add a new § 381.40 to the poultry proucts inspection regulations. (9 CFR 381.37–381.40).

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/4/79
c. Final Decision: 12/19/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250.

STUDIES ON UNIFORM GRADE NOMENCLATURE (FSQS 108–12)

DESCRIPTION: The Department is considering options to modify the food grading program to address consumer needs while at the same time maintaining the program's original intent of facilitating agricultural commerce.

Several options have been proposed by the Department and a series of public hearings have been held to provide an opportunity for public comment on these options. Based on these and other comments, the Department may develop and publish a formal proposal in the Federal Register.

AUTHORITY: 7 U.S.C. 1621 *et seq.* 7 CFR 2853

PROJECTED SCHEDULE

a. Date of pre-notice: 5/20/80
b. Date of proposal: 2/1/81
c. Final decision: 11/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: E. F. Kimbrell, (202) 447–5231, USDA, FSQS, Room 350E, Washington, D.C. 20250

MICROBIOLOGICAL CRITERIA FOR HEAT PROCESSED MEAT & POULTRY PRODUCTS (FSQS 108–18)

DESCRIPTION: USDA will propose to establish guidelines and standards for microbiological agents that may be present in selected meat and poultry products and will describe enforcement procedures.

AUTHORITY: 21 U.S.C. 601 *et seq.*; 21 U.S.C. 451 *et seq. Would amend 9 CFR Part 318 and 9 CFR Part 381.*

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/28/80
c. Final decision: 3/10/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: R. E. Engel, (202) 447–2326, USDA, FSQS, Room 402, Annex Bldg., Washington, D.C. 20250

MECHANICALLY DEBONED POULTRY (FSQS 108–32)

DESCRIPTION: A study on the safety of the product has been completed; a notice of its availability has been published and public comments have been solicited and reviewed. The Agency has evaluated these comments and other relevant material, and is developing a proposal.

AUTHORITY: 21 U.S.C. 451 *et seq.* This would amend 9 CFR Part 381.

PROJECTED SCHEDULE

a. Date of pre-notice: 6/29/79
b. Date of proposal: 12/15/80
c. Final decision: 4/30/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: L. L. Gast, (202) 447–8803, USDA, FSQS, Room 344E, Washington, D.C. 20250

U.S. UNGRADED PROPOSAL (FSQS 108–37)

DESCRIPTION: The Department has conducted a survey to determine consumer perceptions of USDA quality grades and the possible use of a meaningful term on meat that is inspected but not graded. The survey included alternative terms and would provide the basis for decisions on whether to withdraw the proposal requiring the use of the term "Ungraded," substituting some other more meaningful term. Its results are presently being analyzed.

AUTHORITY: 21 U.S.C. 601 *et seq.* Additional information: A previous proposal on the "Ungraded" designation was published on January 23, 1978. The comments raised significant questions concerning consumer perception of this term. This would amend 9 CFR 316.17, 317.20.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/23/78
c. Final decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: L. L. Gast, (202) 447–8803, USDA, FSQS, Room 344E, Washington, D.C. 20250

NET WEIGHT REGULATION (FSQS 108–45)

DESCRIPTION: This action would make changes in net weight regulations to require that the net weight statements on meat and poultry products be accurate at all points in the distribution chain from processing plant to retail store.

AUTHORITY: Federal Meat Inspection Act, Sections 1(n)(5) and 21, 21 U.S.C. 601(n)(5), 621; Poultry Products Inspection Act, Sections 4(h)(5) and 14, 21 U.S.C. 453(h)(5), 463. Would amend 9 CFR Parts 317.2, 317.18, 381.121, and 381.121a. Additional Information: Proposal was in response to petition from State Weights and Measures Officials.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/2/77
c. Solicitation of Information on ESCS Study: 10/30/79
d. Reproposal: 8/8/80
e. Final Decision: 6/2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250

CHANGE IN REPORTING FREQUENCY (MP FORM 404) FROM WEEKLY TO ANNUALLY OF PROCESSING OPERATIONS AT OFFICIAL ESTABLISHMENTS (FSQS 039–13)

V 45 NO 0140 80 0 UMI

DESCRIPTION: USDA will issue regulations changing the reporting frequency of the amounts of products processed under inspection at official establishments from weekly to annually. This is based on an internal assessment of the Government's need for information, and is in support of the President's program to reduce the paperwork burden on the public and industry.

AUTHORITY: 21 U.S.C. 677; 15 U.S.C. 46; 9 CFR Part 320

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 3/25/80
c. Final decision: 11/19/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: J. McCutcheon, (202) 447–6525, USDA, FSQS, Room 327E, Washington, D.C. 20250

U.S. STANDARDS FOR GRADES OF MAJOR CANNED FRUITS (FSQS 029–4)

DESCRIPTION: USDA will issue revised standards for the major canned fruits. The purpose is to improve the standards by including sampling plans based on attributes in order to make them equally applicable to lot or on-line inspection.

AUTHORITY: 7 U.S.C. 1622, 1624.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 3/21/80
c. Final Decision: 4/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
E. F. Kimbrell, (202) 447–5231, USDA, FSQS, Room 350E, Washington, D.C. 20250.

SALE, TRANSPORTATION AND MARKING OF PRODUCTS (FSQS 079–27)

DESCRIPTION: USDA will propose to relieve certain certification requirements for the sale and transportation of both edible and inedible meat products and to modify certain labeling requirements for inedible meat products and pet foods.

AUTHORITY: Federal Meat Inspection Act, Section 21, 21 U.S.C. 621. (To reduce unnecessary paperwork and labeling burdens on the affected industry.)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/2/80
c. Final Decision: 3/27/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E, Washington, D.C. 20250.

STANDARDS FOR COOKED POULTRY SAUSAGE (FSQS 089–32)

DESCRIPTION: USDA will reopen the comment period on the proposal of July 27, 1976 (41 FR 31228) to establish standards for cooked poultry sausage. Development of this proposal is being held in abeyance pending consideration of the Mechanically Deboned Poultry proposal. (FSQS 108–32).

AUTHORITY: Poultry Products Inspection Act, Section 14, 21 U.S.C. 463. (To assure uniformity and consistency in such products.)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
Robert Hibbert, (202) 447–6042, USDA, FSQS, Room 204 Annex Bldg., Washington, D.C. 20250.

ACCREDITED LABORATORY PROGRAM (FSQS 089–33)

DESCRIPTION: USDA will propose to establish standards for the accreditation of non-USDA chemistry laboratories with respect to the testing of meat and poultry products under the FSQS Accredited Laboratory Program. Accreditation would be for the testing of meat and poultry products for (1) protein, moisture, salt and fat content and (2) chemical residue analysis.

AUTHORITY: Federal Meat Inspection Act, Section 21, 21 U.S.C. 621; Poultry Products Inspection Act, Section 14, 21 U.S.C. 463. (To offer public comment on proposed standards for accrediting non-USDA laboratories.)

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/7/80
c. Final Decision: 2/20/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
R. E. Engel, (202) 447–2326, USDA, FSQS, Room 402 Annex Bldg., Washington, D.C. 20250.

REVIEW OF REGULATIONS—STANDARDS FOR COMPOSITION AND IDENTITY (FSQS 119–40)

DESCRIPTION: A Regulatory Review Task Force is reviewing the regulations relating to official marks, the marking of products and their containers, the standards of composition and identity of meat and poultry products, and the labeling of such products.

AUTHORITY: Regulations 9 CFR 312, 316, 317, 319 and 9 CFR 381, Subparts M, N, and P. Compliance with E.O. 12044; 5 year review. Statutes: Federal Meat Inspection Act, (21, 21 U.S.C. 601 *et seq.*); Poultry Products Inspection Act, (21 U.S.C. 451 *et seq.*).

PROJECTED SCHEDULE

a. Date of pre-notice: Undetermined
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
Paul Ragan, (202) 447–3317, USDA, FSQS, Room 2940S, Washington, D.C. 20250.

FOOD LABELING (FSQS 119–43)

DESCRIPTION: On December 21, 1979, USDA, FDA, and the FTC published a joint document in the **Federal Register** specifying a number of initiatives to be undertaken in the food labeling area in coming months. These include regulatory proposals to be made by FSQS in the following areas:

1. To require that foods containing 10 percent or more total fat on a dry weight basis declare the specific source of the fat or oil—Proposal: 2/20/80
2. To require nutrition labeling—including information on calories, fat, carbohydrate, protein, cholesterol, sugars, sodium and other nutrients of public health concern—on foods about which nutrition claims are made or to which nutrients are added—Proposal: 3/10/81
3. To propose serving sizes for various foods—Proposal: 3/10/81

AUTHORITY: Federal Meat Inspection Act, Poultry Products Inspection Act, 21 U.S.C. 601 *et seq.*, 21 U.S.C. 451 *et seq.*, 9 CFR Parts 301–335, 9 CFR Part 381.

PROJECTED SCHEDULE

a. Date of pre-notice: 12/21/79
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT:
Robert Hibbert, (202) 447–6042, USDA, FSQS, Room 204 Annex Bldg., Washington, D.C. 20250.

STANDARDS OF COMPOSITION (FSQS 010–5)

DESCRIPTION: The Agency conducts a label-by-label prior approval program for meat and poultry products to be distributed in commerce. Through this process, informal standards for numerous products evolve which are primarily geared toward the establishment of a minimum content of meat or poultry ingredients. Approximately 200 of these informal standards are to be proposed for public comment prior to establishment in the regulations.

AUTHORITY: 21 U.S.C. 457(b); 21 U.S.C. 607(c); 9 CFR Parts 319 and 381, Subpart P.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/15/81

c. Final Decision: 6/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: L. L. Gast, (202) 447–8803, USDA, FSQS, Room 344E, Washington, D.C. 20250.

BACON MADE WITH DRY CURING MATERIALS (FSQS 030–17)

DESCRIPTION: USDA will issue regulations which provide that bacon made with dry-curing materials does not contain confirmable levels of nitrosamines. The regulations will also clarify that bacon preparation regulations issued May 16, 1978, pertain only to "pumped bacon."

AUTHORITY: Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; 9 CFR 318.7.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 8/5/80
c. Final Decision: 1/2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: V. H. Berry, (202) 447–3473, USDA, FSQS, Room 341E Washington, D.C. 20250.

ORDER OF PREDOMINANCE (FSQS 040–19)

DESCRIPTION: The Department is developing a proposal to require a statement that ingredients are listed in descending order of predominance for meat, poultry, and egg products.

AUTHORITY: Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.*; 9 CFR Part 317, 9 CFR Part 381, 7 CFR Part 2859. Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: 12/21/79
b. Date of proposal: 1/2/81
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Robert Hibbert, (202) 447–6042, USDA, FSQS, Room 204 Annex, Washington, D.C. 20250.

PROHIBITION OF PCB-CONTAINING EQUIPMENT OR MACHINERY AND LIQUID POLYCHLORINATED BIPHENYLS (PCBS) IN FEDERALLY INSPECTED MEAT ESTABLISHMENTS, POULTRY PRODUCT ESTABLISHMENTS, AND EGG PRODUCT PLANTS (FSQS 040–20)

DESCRIPTION: Development of a rule requiring the removal of existing liquid PCBs and/or PCB-containing equipment or machinery from federally inspected meat establishments, poultry product establishments and egg product plants.

AUTHORITY: Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.*; and Egg Products Inspection Act, 21 U.S.C. 1031–1056 *et seq.* 9 CFR 308.5, 381.56; 7 CFR 2859.502.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 5/9/80
c. Final Decision: 3/13/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: M. Nelson, (202) 447–2709, USDA, FSQS, Room 341E, Washington, D.C. 20250.

QUANTITATIVE INGREDIENT LABELING (FSQS 050–23)

DESCRIPTION: The Department proposes to require mandatory percentage labeling for certain ingredients for meat, poultry, and egg products.

AUTHORITY: Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.* 9 CFR Part 317, 9 CFR Part 381.115 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: 12/21/79
b. Date of proposal: 1/2/81
c. Final Decision: 7/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: R. G. Hibbert, (202) 447–6042, USDA, FSQS, Room 204 Annex, Washington, D.C. 20250.

OPEN DATE LABELING (FSQS 050–24)

DESCRIPTION: The Department proposes to require open date labeling, such as "sell by," "used by," and "packed on" on perishable and semi-perishable meat and poultry products.

AUTHORITY: Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.* 9 CFR 317.8(32); 9 CFR 381.129(c).

PROJECTED SCHEDULE

a. Date of pre-notice: 12/21/79
b. Date of proposal: 1/2/81
c. Final Decision: 6/9/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: R. G. Hibbert, (202) 447–6042, USDA, FSQS, Room 204 Annex, Washington, D.C. 20250.

REVIEW OF REGULATIONS—SLAUGHTER INSPECTION STANDARDS AND PROCEDURES, MEAT AND POULTRY INSPECTION REGULATIONS (FSQS 080–33)

DESCRIPTION: Regulatory Review Task Force is reviewing those meat inspection regulations relating to exemptions; ante-mortem and post-mortem inspection; disposal of diseased or otherwise adulterated carcasses and parts; handling and disposal of condemned or other inedible products; official marks, devices and certificates; humane slaughter of livestock; rendering or other disposal of carcasses and parts passed for cooking; marking products and their containers; special services relating to meat and other products; and corresponding poultry products inspection regulations.

AUTHORITY: 9 CFR Parts 303, 309–316, 350, 354 and 9 CFR Part 381, Subparts C, I, J, K, L, M, and S.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/14/80
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Paul Ragan (202) 447–3317, USDA, FSQS, Room 2940S, Washington, D.C. 20250.

LABELING MEAT AND POULTRY PRODUCTS CONTAINING CHEESE-LIKE INGREDIENTS AND PIZZA STANDARD (FSQS 100–40)

DESCRIPTION: Propose to amend the Federal meat and poultry inspection regulations regarding the use and labeling of cheese-like ingredients in meat and poultry products. Also, proposed to amend the regulations regarding pizza standards to provide for minimum cheese content requirements and to permit lesser amounts of meat provided the products are properly labeled.

AUTHORITY: 21 U.S.C. 601 *et seq.*, 21 U.S.C. 451 *et seq.*, 9 CFR Parts 317, 319, and 381.

PROJECTED SCHEDULE

a. Dated of pre-notice:
b. Date of proposal: 12/15/80
c. Final Decision: 5/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: L. L. Gast, (202) 447–8803, USDA, FSQS, Room 341E, Washington, D.C. 20250.

OFFICE OF EQUAL OPPORTUNITY

AGE DISCRIMINATION (OEO 089–1)

DESCRIPTION: Regulations to implement the Age Discrimination Act as it pertains to USDA programs.

AUTHORITY: Age Discrimination Act of 1975, 42 U.S.C. 6101 and 45 CFR Part 90

PROJECTED SCHEDULE

a. Date of pre-notice: 10/79
b. Date of proposal: 9/80
c. Final Decision: 2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: William C. Payne, Jr., (202) 447–7327, USDA, OEO, Room 4119 Auditors Bldg., Washington, D.C. 20250.

COMPREHENSIVE CIVIL RIGHTS REGULATION (OEO 129–2)

DESCRIPTION: Review and consolidate into one comprehensive civil rights regulation four existing regulations prohibiting discrimination in USDA assistance programs on the basis of race, color, sex, national origin, age and handicap. Incorporate changes recommended by DOJ.

AUTHORITY: Title VI, Civil Rights Act of 1964, 42 U.S.C. 200d–1; Title IX,

V 45 N 0140 80 0 UMI

Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1683, 1685, and 1686; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, the Age Discrimination Act of 1975, 42 U.S.C. 6101 and 5 U.S.C. 301.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/80
b. Date of proposal: 4/81
c. Final Decision: 9/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: William C. Payne, (202) 447-7327, USDA, OEO, Room 4119 Auditors Bldg., Washington, D.C. 20250.

RURAL ELECTRIFICATION ADMINISTRATION

PART 2 TO EXHIBIT A OF BULLETIN 20-21; 320-21 FLOODPLAIN AND WETLANDS PROCEDURES (REA 108-3)

DESCRIPTION: Addendum to REA Bulletin 20-21, 320-21, providing procedures with respect to protecting Floodplains and Wetlands.

AUTHORITY: Rural Electrification Act of 1936, 7 U.S.C. Section 901 *et. seq.*; National Environmental Policy Act of 1969, 42 U.S.C. Section 4321 *et seq.*; Executive Order 11988 42, F.R. 26951 (1977) and 11990, 42 FR 26961 (1977).

PROJECTED SCHEDULE:

a. Date of pre-notice:
b. Date of proposal: 8/29/78
c. Final Decision: 12/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTRACT: Joseph R. Binder, (202) 447-3228, USDA, REA, Room 2859S, Washington, D.C. 20250.

ENDANGERED SPECIES PROCEDURES (REA 049-2)

DESCRIPTION: Addendum to REA Bulletin 20-21, 320-21, providing procedures with respect to protecting Endangered Species.

AUTHORITY: Endangered Species Act of 1973, 16 U.S.C. Section 1531 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: 1/81
b. Date of proposal: 3/81
c. Final Decision: 7/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Joseph R. Binder, (202) 447-3228, USDA, REA, Room 2859S, Washington, D.C. 20250.

PROTECTION OF HISTORIC AND CULTURAL PROPERTIES (REA 049-4)

DESCRIPTION: Addendum to REA Bulletin 20-21, 320-21, providing procedures with respect to protecting Historic and Cultural Resources.

AUTHORITY: National Historic Preservation Act of 1966, 16 U.S.C. Section 470 *et seq.*, Advisory Council on Historic Preservation Regulations, 36 CFR Part 800; Executive Order 11593 36, FR 8921 (1971).

PROJECTED SCHEDULE

a. Date of pre-notice: 11/80
b. Date of proposal: 1/81
c. Final decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Joseph R. Binder, (202) 447-3228, USDA, REA, Room 2859S, Washington, D.C. 20250.

REVIEW AND POSSIBLE REVISION OF THE REGULATIONS REGARDING LOAN TERMS AND CONDITIONS. (BULLETINS 20-2, 20-9 & 20-14) (REA 060-23)

DESCRIPTION: Review as to whether REA and concurrent lenders should have common terms as to principal deferment, maturity, and method of computing the quarterly interest and principal repayments so as to facilitate REA borroweers in obtaining necessary capital needs with acceptable terms and conditions.

AUTHORITY: Rural Electrification Act of 1936, 7 U.S.C. Section 901 *et seq.*; REA Loan Procedures, 7 CFR Part 1700.

PROJECTED SCHEDULE

a. Date of pre-notice: 7/80
b. Date of proposal: 11/80
c. Final Decision: 1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Milton E. Wright, (202) 447-5755, USDA, REA, Room 3859S, Washington, D.C. 20250.

SOIL CONSERVATION SERVICE

7 CFR CHAPTER VI, PART 622, WATERSHED PROJECTS (SCS 108-2)

DESCRIPTION: Review rules and regulations for Watershed projects carried out under authority of Public Law 83-566, 68 Stat. 666, as amended.

AUTHORITY: Selected pursuant to E.O. 12044, Improving Government Regulations. The Watershed Protection and Flood Prevention Act of 1954, as amended, Sections 1-12, 16 U.S.C. 1001-1009, E.O. 12044, 7 CFR 622.1, *et seq.* (Improving Government Regulations).

PROJECTED SCHEDULE

a. Date of pre-notice: 10/3/80
b. Date of proposal: 4/1/81
c. Final Decision: 9/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James W. Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

SCS PUBLIC PARTICIPATION PLAN (SCS 108-4)

DESCRIPTION: SCS will adopt the policy plan that will guide public participation activities related to making decisions.

AUTHORITY: Required by Secretary's Memorandum 1955, The Watershed Protection and Flood Prevention Act of 1954, as amended Section 3, 40 FR 12475 (1975), 7 CFR 622.10(3); Soil and Water Resources Conservation Act of 1977, Section 4 (c)(3), 5(c), 16 U.S.C. 2003, 04.

PROJECTED SCHEDULE

a. Date of pre-notice: 7/18/79
b. Date of proposal: 12/1/80
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Ida Cuthbertson, (202) 447-3929, USDA, SCS, P.O. Box 2870, Washington, D.C. 20013.

PLAN FOR COMPLETING SOIL MAPPING NATIONWIDE (SCS 108-13)

DESCRIPTION: Evaluate workload remaining to complete the onceover soil mapping and set target date for completing. Evaluate soil survey publication needs in survey areas having few individual landowners with the objective of reducing publication costs.

AUTHORITY: Soil mapping nationwide is about 67% completed. Need a plan for orderly completion of remaining areas. The Soil Erosion Act of 1935, P.L. No. 74-46, 16 U.S.C. 590a-g; Soil Surveys, P.L. 89-560; 39 CFR 7415 (1974).

PROJECTED SCHEDULE

a. Date of pre-notice: 11/15/78
b. Date of proposal: 9/81
c. Final Decision: 3/82

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: R. I. Diderikson, (202) 447-7245, USDA, SCS, Room 6250S, Washington, D.C. 20250.

REVISION OF SCS POLICY RELATING TO ENDANGERED SPECIES (SCS 108-16)

DESCRIPTION: The current SCS policy 7 CFR 650.22 will be revised.

AUTHORITY: Compliance with NEPA. National Environmental Policy Act, 42 U.S.C. Section 4332(2)(c); Endangered Species Act of 1973, 16 U.S.C. 1531, *et seq.* as amended in 1978; 50 CFR Part 81; 7 CFR 650.22 (Revision).

PROJECTED SCHEDULE

a. Date of pre-notice: 8/80
b. Date of proposal: 11/80
c. Final Decision: 5/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: T. N. Shiflet, (202) 447-2587, USDA, SCS, Room 6143S, Washington, D.C. 20250.

REVISION TO COMPLY WITH NEW HISTORIC PRESERVATION REGULATIONS (SCS 108-20)

DESCRIPTION: Current SCS rules will be revised to comply with new regulations to be published June 30, 1979.

AUTHORITY: Compliance with NEPA and National Historic Preservation Act. 42 U.S.C. Section 4332(2)(c), Executive Order No. 11514, 35 FR 4247; 16 U.S.C. Section 470 *et seq.* Sec. 1(3); Executive Order 11593; 7 CFR 2.62; 36 FR 89211; 3 CFR 1971, p. 154; 7 CFR Part 656.

PROJECTED SCHEDULE

a. Date of pre-notice: 6/79
b. Date of proposal: 5/80
c. Final Decision: 1/2/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Gary A. Margheim, (202) 447-4912, USDA, SCS, Room 5203S, Washington, D.C. 20250.

7 CFR CHAPTER VI, SUBCHAPTER E—RESOURCE CONSERVATION AND DEVELOPMENT (SCS 069-1)

DESCRIPTION: SCS will publish final rules for the Resource Conservation and Development Program.

AUTHORITY: Need published rules for the RC&D Program Resource Conservation and Development Act, Sec. 102 Food and Agriculture Act of 1962, P.L. 87-703, 7 U.S.C. 1010, 1011; and 16 U.S.C. 590(a-f).

PROJECTED SCHEDULE

a. Date of pre-notice: 2/1/80
b. Date of proposal: 3/1/80
c. Final Decision: 10/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John Miner, (202) 447-5107, USDA, SCS, Room 6133S, Washington, D.C. 20013.

SOUTHEAST CHOCTAWHATCHEE RIVER WATERSHED, ALABAMA (SCS 069-10)

DESCRIPTION: Transmit watershed plan to the Office of Management and Budget.

AUTHORITY: Public Law 83-566, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/1/79
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

HACKLEBARNEY WATERSHED, IOWA (SCS 069-11)

DESCRIPTION: Transmit watershed plan to the Office of Management and Budget.

AUTHORITY: Public Law 83-566, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/1/79
c. Final Decision: 3/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

INDIAN-VAN BUREN WATERSHED, IOWA (SCS 069-12)

DESCRIPTION: Transmit watershed plan to the Office of Management Budget.

AUTHORITY: Public Law 83-566, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 11/1/79
c. Final Decision: 2/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

SAN BOIS CREEK WATERSHED, OKLAHOMA (SCS 069-15)

DESCRIPTION: Transmit watershed plan to the Office of Management and Budget.

AUTHORITY: Public Law 83-566, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/1/79
c. Final Decision: 2/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

CALAPOOYA WATERSHED, OREGON (SCS 069-16)

DESCRIPTION: Transmit watershed plan to the Office of Management and Budget.

AUTHORITY: Public Law 83-566, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 12/15/79
c. Final Decision: 1/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

SOUTH FORK LICKING RIVER WATERSHED, OHIO (SCS 109-22)

DESCRIPTION: Transmit the watershed plan to the Office of Management and Budget.

AUTHORITY: Watershed Protection and Flood Prevention Act of 1954, as amended, Public Law 83-566, Section 5(3), 68 Stat. 667, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 1/1/80
c. Final Decision: 1/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

DOUGLAS WATERSHED, WYOMING (SCS 109-24)

DESCRIPTION: Transmit watershed plan to Office of Management and Budget.

AUTHORITY: Watershed Protection and Flood Prevention Act of 1954, as amended; Public Law 83-566, Section 5(3) 68 Stat. 667, 16 U.S.C. 1001-1008.

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 7/3/79
c. Final Decision: 12/1/80

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: James Mitchell, (202) 447-3587, USDA, SCS, Room 5229S, Washington, D.C. 20250.

CFR, CHAP. VI CONSERVATION OPERATION, PART 612, SNOW SURVEY AND WATER SUPPLY FORECASTING (SCS 109-25)

DESCRIPTION: SCS will make an indepth study of alternative ways to handle the program ranging from continuation of the program as now operated to a transfer of management and/or financing of some or all of the program activities to non-Federal entities. The public will be involved in helping to develop alternatives, and by comments on the selected alternative.

AUTHORITY: Departmental recommendation that SCS develop a plan for the phased and orderly transfer of the program to non-Federal control.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/30/79
b. Date of proposal: 1/4/81
c. Final Decision: 6/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Jerry S. Lee (202) 447-8578, USDA, SCS, Room 5235S, Washington, D.C. 20250.

PLANT MATERIALS CENTERS (SCS 109-26)

DESCRIPTION: SCS will prepare an in depth study of alternative ways of operating the PMC program. Alternatives will range from continuing the on-going program to a transfer of management and/or financing of some or all of the PMC program activities to non-Federal entities.

AUTHORITY: 7 CFR Agriculture, Chapter VI, Soil Conservation Service, Subchapter-B, Conservation Operations, Part 613. The Department has instructed SCS to develop a plan for the phased & orderly transfer of Plant Materials Center (PMC's) to non-Federal control.

PROJECTED SCHEDULE

a. Date of pre-notice: 1/16/80
b. Date of proposal: 7/1/80
c. Final Decision: 2/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Thomas N. Shiflet, (202) 447-2587, USDA, SCS, Room 6143S, Washington, D.C. 20250.

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REVIEW OF REGULATION—WATER RESOURCES—RIVER BASIN INVESTIGATIONS & SURVEYS (SCS 040–4)

DESCRIPTION: SCS will review policies, requirements and procedures governing the U.S. Department of Agriculture's investigations and surveys of watersheds of rivers and other waterways as a basis for the development of coordinated programs.

AUTHORITY: Executive Order 12044, 7 CFR Part 621.

PROJECTED SCHEDULE

a. Date of pre-notice: 5/15/81
b. Date of proposal: 10/1/81
c. Final Decision: 4/1/82

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Joseph W. Haas, (202) 447–4527, USDA, SCS, Room 511S, Washington, D.C. 20250.

REVIEW OF REGULATION—GREAT PLAINS CONSERVATION PROGRAM (SCS 040–6)

DESCRIPTION: Recent legislation to extend the Great Plains Conservation Program was signed into law June 6, 1980. Rules will need to be reviewed and revised to continue the program as directed by Congress and guided by public participation.

AUTHORITY: P.L. 75–430, 49 Stat. 1151 (U.S.C. 590d); P.L. 84–1021, 70 Stat. 1115 (16 U.S.C. 590p(b)); P.L. 91–118, 83 Stat. 194 (16 U.S.C. 590d), 7 CFR Part 631.

PROJECTED SCHEDULE

a. Date of pre-notice: 11/1/80
b. Date of proposal: 5/1/81
c. Final Decision: 9/1/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Guy D. McClaskey (202) 447–2324, USDA, SCS, Room 6109S, Washington, D.C. 20250.

SCIENCE AND EDUCATION ADMINISTRATION

NATIONAL AGRICULTURAL RESEARCH AWARD (SEA 039–1)

DESCRIPTION: Develop guidelines for making the award.

AUTHORITY: Food and Agriculture Act of 1977, P.L. 95–113, Section 1418, 91 Stat. 997 (1977).

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal: 11/16/79
c. Final Decision: Indefinite

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: John G. Stovall, (202) 447–8662, USDA, SEA, Room 304A, Admin. Bldg., Washington, D.C. 20250.

NUTRITION STATUS MONITORING PROGRAM (SEA 039–A)

DESCRIPTION: Develop steps to implement the Nutrition Status Monitoring Program submitted to Congress in 1978.

AUTHORITY: Food and Agriculture Act of 1977, P.L. 95–113, Section 1428, 91 Stat. 1001 (1977).

PROJECTED SCHEDULE

a. Date of pre-notice:
b. Date of proposal: 8/80
c. Final Decision: 7/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Donald Therriault, (202) 426–7627, USDA, SEA, Room 6039S, Washington, D.C. 20250.

GREEN THUMB PROJECT (SEA 039–7)

DESCRIPTION: Evaluate Green Thumb project for expansion beyond pilot counties. This project more specific local weather, market, and other agricultural information to farmers through a device that connects between the farmer's television receiver and telephone line and accesses a county computer. An evaluation of this project is planned during FY 1981.

AUTHORITY: Smith-Lever Act, as amended, 7 U.S.C. 341 *et seq.*

PROJECTED SCHEDULE

a. Date of pre-notice: None
b. Date of proposal: 8/80
c. Final Decision: 6/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Howard Lehnert, (202) 447–4681, USDA, SEA, Room 5533S, Washington, D.C. 20250.

OFFICE OF THE SECRETARY

IMPLEMENTATION OF THE RESOURCES CONSERVATION ACT OF 1977 (SEC 059–3)

DESCRIPTION: Develop: (1) An appraisal of the resource base; and (2) a program establishing the direction of future soil and water conservation efforts of the Department.

AUTHORITY: P.L. 95.192—The Soil and Water Resources Conservation Act of 1977.

PROJECTED SCHEDULE

a. First Public Comment Period: 1/28/80–3/28/80
b. Date of proposal: 12/31/80
c. Final Decision: 3/31/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Ernest Todd, (202) 447–2467, USDA, SCS, Room 5123S, Washington, D.C. 20250.

UNIFORM REGULATIONS TO IMPLEMENT THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979 (SEC 040–1)

DESCRIPTION: Interagency regulations to be jointly developed by USDA, DOI, DOD, and TVA to provide direction for protection of heritage resources from vandalism and theft to implement the ARPA.

AUTHORITY: Archaeological Resources Protection Act of 1979, Section 10, P.L. 96–95, 93 Stat 721.

PROJECTED SCHEDULE

a. Date of pre-notice: 3/19/80
b. Date of proposal: 12/15/81
c. Final Decision: 3/15/81

FOR FURTHER INFORMATION ON THIS DECISION, CONTACT: Janet Friedman,, (202) 447–4751, USDA, SEC/OEQ, Room 412–A, Washington, D.C. 20250.

BILLING CODE 3410-01-M

LIST OF REGULATIONS SCHEDULED FOR REVIEW

This list provides an overview of the USDA regulations undergoing review between November 1980 and May 1981. All "significant" regulation review actions are listed first, with each entry shown under the name of the responsible USDA agency along with the CFR parts affected, a brief description, and an agency contact. Following the "significant" items, all "not significant" items are listed in a similar fashion. However, this particular list is not a request for comments. "Significant" regulations are also listed in the preceding section of this calendar, which shows a projected schedule of activity.

Regulations are reviewed and announced in the Federal Register (FR) using the same procedural rules which apply to new regulations. Each item listed is to be analyzed in a Draft Impact Analysis and announced for comment in the FR, whether substantive changes are contemplated or not. A Final Impact Statement and an FR announcement confirming the regulation or making any needed changes completes the review process.

If you wish to comment and influence decisionmaking, get in touch with the "contact" identified for the item of interest to you. Even before the Draft Impact Analysis is completed and the regulation is proposed, i.e. announced for comment, there are often background papers available that can help you understand the issues involved. The "contact" can provide you this information to help you prepare your comments.

Parts Affected	Subject	Description	Contact
Agricultural Marketing Service – Significant, Scheduled			
7 CFR 29-G (AMS 090-78)	Amendment of Flue-Cured Tobacco Grower Designation Regulations	After review of the impact resulting from emergency rulemaking procedures to assess appropriate penalties upon violators of grower designation regulations, an amendment will be proposed to incorporate the Department's decision to continue or amend penalties for 1981 and succeeding marketing years.	T. A. VonGarlem AMS, USDA, Room 502 Annex Washington, D.C. 20250 (202) 447-2567
9 CFR 201.10, .11, .12, .44, .45, .46(a), .47, .49, .50, .52 (AMS 100-85)	Registration and Recordkeeping	Second phase. This continues the Plan for Review of Existing Regulations and Policy Statements issued under the Packers and Stockyards Act. This phase will review procedures for (1) Registration of Market Agencies and Dealers, and (2) Accounts and Records of Market Agencies, Dealers, and Stockyard owners.	Jack W. Brinkmeyer AMS, USDA, Room 3038S Washington, D.C. 20250 (202) 447-4366
Agricultural Marketing Service – Not Significant, Scheduled			
7 CFR 28-0 (AMS 100-83)	Cotton Classification and Market News Survey	Defines procedures for the classification of samples of cotton in accordance with the official cotton standards of the United States. The regulations also establish procedures for providing timely information on prices for various grades and staple length of cotton.	Loyd Frazier, AMS USDA, Rm. 304 Annex Washington, D.C. 20250 (202) 447-2147
7 CFR 1250.1-.19, .250-.252 (AMS 100-84)	Egg Research and Promotion – Rules of Practice for Formulating	These rules describe the formal rulemaking process. The Egg Research and Consumer Information Act was amended on June 17, 1980. Minor changes in the Rules of Practice noting the Act has been amended, as well as revising wording relating to ex parte communications, are needed before formal rulemaking actions can be initiated should the industry submit a proposed amendment to the Order.	Ralph Tapp, AMS USDA, Room 2614S Washington, D.C. 20250 (202) 447-2088
7 CFR 34.1-.11 (AMS 100-92)	Tobacco Seed and Plant Exportation Act	AMS proposed repeal of this legislation to the Congress on April 24, 1980; if no action is taken by the Congress, AMS will review the accompanying regulations. The regulations describe permit procedures and conditions for the export of tobacco seed and live tobacco plants.	T.A. VonGarlem, AMS USDA, Room 502 Annex Washington, D.C. 20250 (202) 447-2567
7 CFR 29-D (AMS 100-93)	Tobacco Inspection	A complete review will be conducted of the procedure for automatic termination of designation of those markets no longer conducting sales of tobacco at auction.	T.A. VonGarlem, AMS USDA, Room 502 Annex Washington, D.C. 20250 (202) 447-2567
7 CFR 160 (AMS 100-94)	Naval Stores Act of 1923	AMS proposed repeal of this legislation to the Congress on April 24, 1980; if no action is taken by the Congress, AMS will review the accompanying regulations. The Act provides regulations and standards for naval stores, including provision for analysis, inspection and grading on request.	T.A. VonGarlem, AMS USDA, Room 502 Annex Washington, D.C. 20250 (202) 447-2567
7 CFR 29-C (AMS 100-97)	Official Standard Grades for Dark Air-Cured Tobacco (U.S. Types 35, 36, and 37)	A clear language review will be conducted of the dark-air cured standards, along with on-site review of quality of tobacco by Standards Specialists. Industry concerns will also be evaluated before the Department recommends any changes in the current standards for types 35, 36, and 37.	T.A. VonGarlem, AMS USDA, Room 502 Annex Washington, D.C. 20250 (202) 447-2567

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Parts Affected	Subject	Description	Contact
	Animal and Plant Health Inspection Service – Not Significant, Scheduled		
7 CFR 301.80 (APHIS 100-50)	Witchweed	Pursuant to the Plant Quarantine Act of 1912 and the Federal Plant Pest Act, this quarantine restricts the movement of certain regulated articles from North and South Carolina in order to prevent the spread of witchweed, a parasitic plant which causes a dangerous disease of corn, sorghum, and other crops of the grass family.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 319.41 (APHIS 100-51)	Indian Corn or Maize, Broomcorn, and Related Plants	Regulates the importation into the United States of Indian corn, broomcorn, and related plants which may carry dangerous plant pests and diseases.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 319.8 (APHIS 100-52)	Foreign Cotton and Covers	This regulation restricts the importation into the United States of certain cotton parts or products and second-hand burlap and other fabrics used for containing cotton, grains, field seeds, and underground crops. The quarantine, pursuant to the Plant Quarantine Act of 1912, is designed to prevent entry into the U.S. of the pink bollworm, the golden nematode of potatoes, flag smut disease, and other injurious diseases and pests.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 319.24 (APHIS 100-53)	Corn Diseases	Regulates the importation from several Southeast Asian and Pacific countries of Indian corn and closely related plants subject to certain injurious diseases.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 319.47 (APHIS 100-54)	Cotton, Cottonseed, and Cottonseed Products	This regulation restricts the movement of cotton, cottonseed, and cottonseed products from Hawaii, Puerto Rico, and the Virgin Islands into the United States to prevent the spread of the pink bollworm and the cotton blister mite.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
9 CFR 113.65-.67 (APHIS 100-55)	Live Bacterial Vaccines	Sets forth testing requirements for Brucella Abortus Vaccine, Anthrax Spore Vaccine-Nonencapsulated, and Erysipelothrix Rhusiopathiae Vaccine.	R.J. Price, APHIS USDA, Room 827 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8245
9 CFR 83 (APHIS 100-56)	Screwworms	Regulation provides for the effective suppression and extermination of screwworm by prohibiting interstate movement of affected livestock and prescribing inspection and treatment procedures.	F.E. Smith, APHIS USDA, Room 733 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8233
9 CFR 80 (APHIS 100-57)	Paratuberculosis in Domestic Animals	Regulation sets forth requirements for identification and destruction of cattle reacting to a recognized test for paratuberculosis; requirements for interstate movement of paratuberculosis reactors.	R. Bennett, APHIS USDA, Room 802 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8715
9 CFR 82 (APHIS 100-58)	Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry	Regulation provides for restricting interstate dissemination of exotic Newcastle disease and psittacosis.	Irvin L. Peterson APHIS, USDA, Room 712 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8438
9 CFR 81 (APHIS 100-59)	European Fowl Pest and Similar Poultry Diseases	Provides for restricting the interstate movement of poultry infected with or exposed to Fowl Pest or other similar poultry diseases and possible spread of these infectious agents through contaminated conveyances or other accessories.	Irvin L. Peterson APHIS, USDA, Room 712 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8438

Parts Affected	Subject	Description	Contact
	Farmers Home Administration – Not Significant, Scheduled		
7 CFR 1822 (Subpart H) (FmHA 019-1)	Rural Housing Conditional Commitments	This regulation provides the policies, procedures and delegation of authority for issuing conditional commitments by FmHA to qualified developers and sellers to finance single family dwellings with rural housing loans.	A. Jennings Orr FmHA, USDA Room 5310S Washington, D.C. 20250 (202) 447-5668
7 CFR 1901 (Subpart D) (FmHA 089-55)	Davis – Bacon Act	This regulation identifies those types of loans and grants made by FmHA to which the Davis – Bacon Act applies and provides the procedures to comply with the Act. The Act applies to wage determinations.	Dan Ball, FmHA USDA, Room 6309S Washington, D.C. 20250 (202) 447-3394
7 CFR 1901 (Subpart G) (FmHA 119-105)	Environmental Impact Statements	This regulation provides FmHA policies, procedures and guidelines for compliance with Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines for Environmental Impact Statements, the Secretary of Agriculture's Memorandum 1695, Supplement 4 (revised) and Executive Office of the President Letter of 10-28-77, regarding functions of EPA.	Dan Ball, FmHA USDA, Room 6309S Washington, D.C. 20250 (202) 447-3394
7 CFR 1809 (422.1) (FmHA 100-62)	Appraisal of Farms and Leasehold Interests	This regulation prescribes the policies and procedures for the appraisal of farms securing various individual loans on other than non-farm tracts or small farms.	A. Brock, FmHA USDA, Rm. 5013S Washington, D.C. 20250 (202) 447-4671
7 CFR 1901 (Subpart I) (FmHA 100-63)	Truth in Lending – Real Estate Settlement Procedures	This regulation provides procedures for compliance with the Truth in Lending Act and Regulation Z (regarding Truth in Lending) of the Federal Reserve System as they apply to applicants for FmHA assistance.	A. Jennings Orr FmHA, USDA, Room 5310S Washington, D.C. 20250 (202) 447-5668
7 CFR 1901 (Subpart H) (FmHA 100-65)	A-95 Review, Evaluation and Coordination of Projects	This regulation provides policies and procedures regarding applicability of OMB Circular A-95 to FmHA programs. This provides regulations for federal programs having a significant impact on area and community development requiring review, evaluation and clearance by State and Area-wide clearinghouses.	Dan Ball, FmHA USDA, Room 6309S Washington, D.C. 20250 (202) 447-3394
	Farmers Home Administration – Scheduled		
FmHA has scheduled the following regulation for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 1841, 1843	Guaranteed Loans	This regulation provides policy and procedure for servicing certain FmHA guaranteed loans (farmer program loans).	A. Brock, FmHA USDA, Room 5013S Washington, D.C. 20250 (202) 447-4671
	Federal Crop Insurance Corporation – Scheduled		
FCIC has scheduled the following regulations for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 424	Rice	Prescribes regulations for insuring rice. (Regulations proposed for review in light of insuring experience and current farming practices.)	Peter Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 (202) 447-3325
7 CFR 406	California Oranges	Regulations scheduled for review in light of insuring experience.	Peter Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 (202) 447-3325
7 CFR 409	Arizona-Desert Valley Citrus	Regulations scheduled for review in light of insuring experience.	Peter Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 (202) 447-3325
7 CFR 410	Florida Citrus	Regulations scheduled for review in light of insuring experience.	Peter Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 (202) 447-3325

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Parts Affected	Subject	Description	Contact
	Federal Grain Inspection Service – Scheduled		
FGIS has scheduled this calendar.	the following regulation for review for which the significance was not yet determined as of the publication deadline for		
7 CFR 800.70-.73 (FGIS 100-16)	Review of Regulations – Fees	FGIS will conduct a review of that section of the regulations dealing with fees charged for official services performed by official agencies and FGIS; including the explanation of fees and the computation and payment of fees under the regulations under the U.S. Grain Standards Act.	J.W. Marshall, FGIS USDA, Room 0627S Washington, D.C. 20250 (202) 447-8497
	Food Safety and Quality Service – Significant, Scheduled		
9 CFR 303, 309, 310, 311, 312, 313, 314, 315, 316, 350, 354, and 9 CFR 381 Subpart C, I, J, K, L, M, S (FSQS 080-33)	Slaughter Inspection Standards and Procedures: Meat Inspection Regulations, Poultry Products Inspection Regulations	Regulations relating to exemptions, ante-mortem inspection, post-mortem inspection, disposal of diseased or otherwise adulterated carcasses and parts, handling and disposal of condemned or other inedible products at official establishments, rendering or other disposal of carcasses and parts passed (by inspection) for cooking, marking products and their containers, and transportation of products.	G.R. Snyder, FSQS USDA, Room 4444S Washington, D.C. 20250 (202) 447-3219
	Food Safety and Quality Service – Scheduled		
FSQS has scheduled this calendar.	the following regulations for review for which the significance was not yet determined as of the publication deadline for		
7 CFR 2842.101-.142	Fruit and Vegetable (Fresh). Standards for condition of food containers	Regulations relating to purpose, definitions, procedures for stationary lot sampling and inspection, skip lot sampling and inspection procedures and miscellaneous.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
7 CFR 2843.101-.106	Standards for Sampling Plan (for fresh fruits and vegetables).	Regulations relating to definitions, purpose and scope of sampling plans.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
7 CFR 2850.1-.40	Rules of Practice Governing Withdrawal of Inspection and Grading Services (for fresh fruits and vegetables)	Regulations relating to temporary withdrawal of service (until certain conditions are met), proceedings and rules applicable to disciplinary withdrawal proceedings.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
7 CFR 2851.1-.61	Fresh Fruits, Vegetables and Other Products (inspection and standards)	Regulations relating to administration of regulations, definitions, inspection service, appeal inspection, licensing of inspectors, schedule of fees and charges at destination markets and at shipping point areas, miscellaneous, and requirements of plants operating under continuous inspection on a contract basis.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
7 CFR 2851.100-.4594	United States Standards for Fresh Fruits, Vegetables, Nuts and Other Special Products (153 individual standards for 82 different commodities)	Regulations relating to quality, condition and evaluations of fresh produce.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
7 CFR 2851.6000-.6005	United States Specifications for Classification of Damaged or Repaired Packages of Fresh Fruits and Vegetables	Regulations relating to classification of packages and contents.	J.J. Vollman, FSQS USDA, Room 2069S Washington, D.C. 20250 (202) 447-5272
	Foreign Agricultural Service – Not Significant, Scheduled		
7 CFR 17.1-.4 (FAS 080-2)	Sales of Agricultural Commodities Made Available Under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended	General program statement, definition of terms, description of purchase authorizations, and sub-authorizations.	Leo D. Wallace, FAS USDA, Room 4526S Washington, D.C. 20250 (202) 447-6211

Parts Affected	Subject	Description	Contact
	Forest Service – Not Significant, Scheduled		
36 CFR 251.17 (FS 100-16)	Grantor's Right to Occupy and Use Lands Conveyed to the United States	Describes grantor's rights and obligations on said lands.	Richard Hull, FS USDA, Rm. 1010 RP-E Washington, D.C. 20013 (703) 235-8212
36 CFR 251.14 (FS 100-17)	Conditions, Rules, and Regulations to Govern Exercise of Timber Rights Reserved in Conveyances to the United States	Describes timber rights that must be made part of the deed of conveyance to the United States.	Richard Hull, FS USDA, Rm. 1010 RP-E Washington, D.C. 20013 (703) 235-8212
36 CFR 212.20 (FS 100-21)	National Forest Development Trail System Operation	Prescribes the use and protection of and maintenance of good conduct on the National Forest Development Trail System on lands within the exterior boundaries of the National Forests.	Roy Feuchter, FS USDA, Rm. 4241S Washington, D.C. 20250 (202) 447-3706
	Forest Service – Scheduled		
FS has scheduled this calendar.	the following regulations for review for which the significance was not yet determined as of the publication deadline for		
36 CFR 212.21	Pacific Crest National Scenic Trail	The Forest Service shall administer the Pacific Crest National Scenic Trail primarily as a foot path and horseback riding trail.	Roy Feuchter, FS USDA, Rm. 4241S Washington, D.C. 20250 (202) 447-3706
36 CFR 251.35	Petersburg Watershed	Limits anyone from entering the Tongass National Forest without permit from the proper town officials.	Robert Tracey, FS USDA, Rm. 810 RP-E Washington, D.C. 20013 (703) 235-8096
	Rural Electrification Administration – Significant, Scheduled		
Bulletin 20-14 (REA 060-23)	Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act	REA loan policy for supplemental loans to electric borrowers.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
	Rural Electrification Administration – Not Significant, Scheduled		
Bulletin 40-7 (REA 090-31)	National Electrical Safety Code ANSI C2, 1977 Edition	Regulation adopting specific edition of the National Electrical Safety Code as minimum standard for REA-financed construction.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 80-11 (REA 090-34)	Reports of Progress of Construction and Engineering Services	Outlines the progress reports required from engineers and architects engaged in contract construction of borrowers' facilities.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 345-3 (REA 060-22)	Acceptance of Standards, Standard Specifications, Drawings, Materials, and Equipment for the Telephone Program	Establishes the policy and procedures for the determination of standards, specifications, materials and equipment acceptable for REA financing for the telephone program.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985

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Parts Affected	Subject	Description	Contact
	Rural Electrification Administration - Scheduled		
REA has schedules this calendar.	the following regulations for review for which the significance was not yet determined as of the publication deadline for		
Bulletin 2-1	Guiding Statement of REA Policy Concerning Its Relationship with Borrowers	Sets forth policy concerning the relationship between REA and its borrowers.	B. Stockton, REA USDA, Room 4024S Washington, D.C. 20250 (202) 447-4512
Bulletin 20-6	Loans for Generation and Transmission	REA loan policy for electric generation and transmission facilities.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 20-22	Guarantee of Loans for Bulk Power Supply Facilities	REA loan policy for guarantees of loans made by legally organized lenders for electric bulk power supply facilities.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 60-2	Electric System Capacity	States policy with respect to electrical capacity of systems financed with loan funds. Requires each system to have reasonably current long-range system engineering plans.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 80-8	Construction, Operation, and Maintenance of Electric Lines on Land Administered by the U.S. Forest Service	States requirements for borrowers who construct and operate electric lines on national forest lands.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 81-6:381-6	Payment to Contractor for Materials Delivered	Provides a method of payment to contractor for material delivered to the job site but not incorporated into the project due to conditions beyond the contractor's control.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 81-6:381-13	Bidders' Qualifications	Places responsibility on the borrower to determine that prospective bidders are qualified. Provides sample forms for compiling qualification information.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 100-1	Selection of an Attorney by an REA Borrower	REA policy for approval by REA of the selection of an attorney by a borrower.	B. Stockton, REA USDA, Room 4024S Washington, D.C. 20250 (202) 447-4512
Bulletin 100-2	Minutes of the Meetings of Boards of Directors, Members or Stockholders	REA requirements for borrowers with regard to the submission of minutes of board meetings when certain actions are taken.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 100-4	Financial Security of REA Distribution Borrowers	REA policy and procedures for assisting borrowers identified as having financial problems.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 112-4	Large Power Rates and Contracts	REA policies regarding large power rates and contract provisions and approvals.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 114-2:414-1	Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers	REA policy and requirements with respect to minimum insurance and fidelity coverage for electric and telephone borrowers.	J.V. Montague, REA USDA, Room 4316S Washington, D.C. 20250 (202) 447-2800
Bulletin 115-1	Sales of Capital Assets by Electric Borrowers	REA policies and procedures to be followed in the sale of mortgaged property.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900

Parts Affected	Subject	Description	Contact
	Rural Electrification Administration - Scheduled (cont.)		
Bulletin 180-6:460-2	Selection of Depositories for Funds of REA Borrowers	REA policies and procedures regarding the selection of depositories by borrowers.	Sheldon Chazin, REA USDA, Room 4307S Washington, D.C. 20250 (202) 447-7221
Bulletin 182-1	Evaluation and Enforcement of Internal Control of Borrowers' Enterprises	Discusses need for internal control procedures, sets forth characteristics of satisfactory system to include all actions to be taken if breach of internal control measures is discovered.	Sheldon Chazin, REA USDA, Room 4307S Washington, D.C. 20250 (202) 447-7221
Bulletin 300-5	General Funds	Sets forth policy with respect to general funds of telephone borrowers and establishes an appropriate level of working capital and reserve funds to be used as a guide for borrowers and REA in approving loans and advances.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 300-7	Member Service Program - Telephone	Covers the policy of REA concerning the expansion and improvement of services and benefits to subscribers of telephone cooperative borrowers. Provides guidelines for use by borrowers in developing and executing comprehensive member service programs.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-1	Working Capital in Loans to Telephone Borrowers	Outlines REA policy with respect to including funds for working capital in loans to telephone borrowers if requested and found necessary.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-11	Loans for Switched Facilities	Sets forth REA's policy with respect to loans for switched (service station) facilities.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 322-2	Rural Area Coverage-Telephone Loans	Sets forth REA policy covering the provision of telephone service to rural users on an area coverage basis as directed by the Rural Electrification Act.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 323-1	Determination by Administrator with Respect to Non-Duplication of Lines, Facilities, or Systems	Provides guidelines to prevent duplication of lines, facilities or systems in a state with no public service commission. No loan can be made unless the Administrator makes a determination of non-duplication in these states.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 328-1	Community Antenna Television (CATV) Financing Under the Consolidated Farm and Rural Development Act	Offers guidance to persons interested in obtaining financing under the Consolidated Farm and Rural Development Act for CATV services or facilities in rural areas.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 342-1	Architectural Services for Telephone Borrowers	Sets forth the policy on the selection of architects by telephone borrowers and the procedures to be followed in contracting for architectural services.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 344-1	Methods of Purchasing Materials and Equipment for Use on System of Telephone Borrowers	Outlines the methods and procedures to be employed by borrowers in purchasing materials and equipment with REA loan funds for the construction of telephone facilities.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 345-5	Defective and Non-Standard Materials and Equipment	Covers the responsibilities of telephone borrowers, borrowers' engineers and contractors with regard to the proper inspection of materials and equipment and the replacement of defective or non-standard materials and equipment.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985

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Parts Affected	Subject	Description	Contact
	Rural Electrification Administration - Scheduled (cont.)		
Bulletin 345-4 (REA 100-36)	Field Trials of Telephone Construction Materials and Equipment	Sets forth the REA policy and procedure concerning the use of telephone construction materials and equipment prior to their consideration for inclusion in the "List of Materials Acceptable for Use On Telephone Systems of REA Borrowers."	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 402-1	Mortgage Restrictions on Dividends and Other Distributions - Telephone	Outlines the typical mortgage restrictions on dividends and other distributions of capital in order to stress that any proposed distribution of capital is allowable under a borrower's agreement with REA as well as all applicable laws.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
	Soil Conservation Service - Significant, Scheduled		
7 CFR 613 (SCS 109-26)	Conservation Operations - Plant Materials Centers	Provides Soil Conservation Service policy on the operations of plant materials centers for the assembly, testing, and release of plant materials needed in resource conservation and development programs.	Paul Howard, SCS USDA, Room 5207S Washington, D.C. 20250 (202) 447-4630
	Soil Conservation Service - Scheduled		
SCS has scheduled the following regulations for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 610	Conservation Operations (CO) - Technical Assistance	Sets forth Soil Conservation Service policies and procedures for furnishing technical assistance in conservation operations.	Cletus Gilman, SCS USDA, Room 5002S Washington, D.C. 20250 (202) 447-7145
7 CFR 663	Wellton-Mohawk Irrigation Improvement Program	Provides for cost sharing and technical assistance through contracts with landowners and operators for irrigation system improvement in the Wellton-Mohawk Irrigation and Drainage District (WMIDD), Arizona, to increase irrigation efficiencies and reduce return flows.	Joe Haas, SCS USDA, Room 5111S Washington, D.C. 20250 (202) 447-4527

LIST OF REGULATIONS PROPOSED FOR REVIEW

The following USDA regulations are proposed for review to be initiated between May 1981 and November 1981. The regulations are listed by USDA agency, along with the CFR parts affected, a brief description, and an agency contact.

Public comment is requested as to whether these regulations should be reviewed in the May 1981 - November 1981 time period, or whether other regulations deserve higher priority and should be reviewed then. Suggestions regarding meaningful groupings of regulations or emphasis on specific aspects of a regulation would be particularly helpful. Comments should be sent to the individual shown as the "contact" on the list no later than January 23, 1981.

The agency responsible for the regulation may initiate review at any time after the close of the above comment period. This is done by sending forward a Decision Log providing a projected schedule for the action, briefly summarizing the nature and extent of the impact of the regulation, etc.

Parts Affected	Subject	Description	Contact
	Agricultural Marketing Service - Proposed		
9 CFR Chapter II Part 201	Rates and Charges	Third phase. This continues the Plan for Review of Existing Regulations and Policy Statements issued under the Packers and Stockyards Act. This phase will review procedures for filing and amending schedules of rates and charges filed by market agencies and stockyard operators.	Jack Brinckmeyer AMS, USDA, Room 3038S Washington, D.C. 20250 (202) 447-4366
7 CFR 1250.200-207	Amendment of Egg Research and Promotion Order	This Order provides for the conduct of research and promotion activities on behalf of eggs and egg products, funded by assessments paid by commercial egg producers. If the egg industry submits to USDA an appropriate proposed amendment to the Order based on the June 17, 1980 amendment to the Egg Research and Consumer Information Act, a formal rulemaking procedure could begin which would include a public hearing, recommended and final decisions on an amended Order, as well as a referendum on an amended Order.	Ralph L. Tapp, AMS USDA, Room 2614S Washington, D.C. 20250 (202) 447-2908
7 CFR 104	Tobacco Warehouses	These regulations are applicable to tobacco warehouses applying for license or licensed under provisions of the United States Warehouse Act. They define acceptable warehousing practices and specify basic responsibilities of licensees.	Orval Kercheiner, AMS USDA, Room 2720S Washington, D.C. 20250 (202) 447-3821
7 CFR 104	Wool Warehouses	These regulations are applicable to wool warehouses applying for license or licensed under provisions of the United States Warehouse Act. They define acceptable warehousing practices and specify basic responsibilities of licensees.	Orval Kercheiner, AMS USDA, Room 2720S Washington, D.C. 20250 (202) 447-3821
7 CFR 35	Regulations Under the Export Grape and Plum Act	These regulations require that, prior to shipment, any person shipping or offering for shipment, vinifera species table grapes to any foreign destination must have the fruit inspected by the Federal or Federal-State Inspection Service and certified as meeting specified quality and other requirements. Copies of the "Export Form Certificate" or Memorandum of Inspection issued by the inspector must be retained by the export carrier for a period of not less than three years after the date of export.	M. E. Hoadley, AMS USDA, Room 2532S Washington, D.C. 20250 (202) 447-5975
7 CFR 46	Regulations for the Enforcement of the Produce Agency Act	This regulation imposes accounting requirements on consignment transactions involving fresh produce received in interstate commerce. It specifies the evidence needed to justify dumping of produce.	M.D. Price, AMS USDA, Room 2095S Washington, D.C. 20250 (202) 447-4180
	Animal and Plant Health Inspection Service - Proposed		
7 CFR 319.56	Fruits and Vegetables	In order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies, this regulation restricts the importation of fruits and vegetables and of plants used as packing material in shipments of fruits and vegetables.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 318.58	Fruits and Vegetables from Puerto Rico or Virgin Islands	This regulation limits the movement of raw or unprocessed fruits and vegetables from Puerto Rico and the U.S. Virgin Islands to prevent the spread of certain dangerous insect infestations, including certain fruit flies and the bean pod borer. It also restricts the movement of cactus plants from the U.S. Virgin Islands to the U.S. to prevent the spread of a cactus borer.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 318.13	Hawaiian Fruits and Vegetables	This regulation prescribes the conditions under which Hawaiian fruits and vegetables, cut flowers, rice straw, mango seeds and cactus plants are allowed into the continental United States. This quarantine is designed to prevent the spread of several dangerous plant diseases and insect infestations, including the Mediterranean fruit fly.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247

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Parts Affected	Subject	Description	Contact
	Animal and Plant Health Inspection Service – Proposed (cont.)		
7 CFR 318.13	Sugarcane	This section quarantines Hawaii, Puerto Rico, and the U.S. Virgin Islands to prevent the spread of certain dangerous plant diseases and insect infestations of sugarcane.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 319.15	Sugarcane	Prohibits the importation into the United States of canes, cuttings, or leaves of sugarcane and bagasse from all foreign countries and localities to avoid pest risk.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
7 CFR 322	Importation of Adult Honeybees into the United States	Places restrictions upon the importation of adult honeybees from any country other than Canada in an effort to prevent the introduction of diseases dangerous to the adult honeybee.	H.V. Autry, APHIS USDA, Room 635 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8247
9 CFR [illegible]	Cattle Destroyed Because of Anaplasmosis	Provides agreement with State of Hawaii to enforce quarantine restrictions for control and eradication of anaplasmosis. Provides 50% of expenses to purchase and dispose of affected cattle.	J.D. Kopec, APHIS USDA, Room 810 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8713
9 CFR 113.50-.98	Ingredient Requirements	Gives standards of purity and quality for all ingredients used in a licensed biological product.	R.J. Price, APHIS USDA, Room 827 Federal Bldg. Hyattsville, Md. 20782 (301) 436-8245
	Farmers Home Administration – Proposed		
7 CFR 1806 -.20.1	Real Property Insurance	Prescribes the authorizations, methods and procedures for obtaining and servicing property insurance.	George Moore, FmHA USDA, Room 5310S Washington, D.C. 20250 (202) 447-4597
7 CFR 1905-K	Certificates of Beneficial Ownership and Insured Notes	Prescribes policies and procedures for certificates of beneficial ownership and insured notes.	LaVerne Isenberg FmHA, USDA Room 6325S Washington, D.C. 20250 (202) 447-4871
7 CFR 1843 -.11	Loans to Indian Tribes and Tribal Corporations	Provides policies and procedures for making initial and subsequent insured loans to Indian tribes or tribal corporations for the acquisition of land within tribal reservations and Alaskan communities.	George Moore, FmHA USDA, Room 5310S Washington, D.C. 20250 (202) 447-4597
7 CFR 1944-C	Section 504 Rural Housing Loans and Grants	Sets forth policies and procedures and delegates authority for making initial and subsequent Rural Housing loans and/or grants.	A. Jennings Orr FmHA, USDA Room 5335C Washington, D.C. 20250 (202) 447-5668
7 CFR 1927-A	Federal Statute of Limitations	Outlines procedures for preventing the Federal Statute of Limitations from being asserted as a defense in suits on FmHA claims.	George Moore, FmHA USDA, Room 5310S Washington, D.C. 20250 (202) 447-4597
7 CFR 1965-E	Business and Industrial Loan Program	Contains regulations for Business and Industrial loans guaranteed by FmHA.	Robert Butler, FmHA USDA, Room 5420S Washington, D.C. 20250 (202) 447-5243
7 CFR 1980-A	General – Guaranteed Loan Programs	Contains regulations for FmHA guaranteed loan programs.	Robert Butler, FmHA USDA, Room 5240S Washington, D.C. 20250 (202) 447-5243

Parts Affected	Subject	Description	Contact
	Federal Grain Inspection Service – Proposed		
7 CFR 800.0	Review of Regulations – Meaning of Terms	FGIS will conduct a review of that section of the regulations under the U.S. Grain Standards Act dealing with the definitions of terms used throughout the regulatons.	J.T. Abshier, FGIS USDA, Room 2405 Auditors Bldg. Washington, D.C. 20250 (202) 447-8262
7 CFR 800.2-.8	Review of Regulations – Administrative Procedures	FGIS will conduct a review of that section of the regulations under the U.S. Grain Standards Act dealing with the administration of responsibilities and policies as outlined in the reglations.	J.T. Abshier, FGIS USDA, Room 2405 Auditors Bldg. Washington, D.C. 20250 (202) 447-8262
7 CFR 810.201 -.211	Review of Regulations – United States Standards for Barley	FGIS will conduct a review of the United States Standards for Barley.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030 (816) 348-2861
7 CFR 68.101 -.122 and 7 CFR 68.130 -.138	Review of Regulations – United States Standards for Beans	FGIS will conduct a review of the United States Standards for Beans.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030 (816) 348-2861
7 CFR 68.201 -.213	Review of Regulations – United States Standards for Rough Rice	FGIS will conduct a review of the United States Standards for Rough Rice.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030 (816) 348-2861
7 CFR 68.251 -.264	Review of Regulations – United States Standards for Brown Rice for Processing	FGIS will conduct a review of the United States Standards for Brown Rice for Processing.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030 (816) 348-2861
7 CFR 68.301-.316	Review of Regulations – United States Standards for Milled Rice	FGIS will conduct a review of the United States Standards for Milled Rice.	J. Driscoll, FGIS USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030 (816) 348-2861
	Food and Nutrition Service – Proposed		
7 CFR 230	Child Nutrition Programs – Food Service Equipment Assistance	Food Service Equipment Assistance rules define priorities for awarding funds to local school districts to purchase or upgrade equipment used to prepare school meals.	Vicky Urcuyo, FNS USDA, Room 754 CAI Washington, D.C. 20250 (202) 447-5568
	Forest Service – Proposed		
36 CFR 200.3	Forest Service Functions	Defines broad responsibilities of the Forest Service	Charles Teague, FS USDA, Room 4218S Washington, D.C. 20250 (202) 447-3716
36 CFR 292.14-.16 Subpart C	Sawtooth National Recreation Area – Private Lands	Establishes standards for the use, subdivision and development of privately owned property within the boundaries of the Sawtooth National Recreation Area in Idaho.	Roy Feuchter, FS USDA, Room 4241S Washington, D.C. 20250 (202) 447-3706
	Rural Electrification Administration – Proposed		
Bulletin 20-5:320-2	Extensions of Payments of Principal and Interest	Sets forth provision under Section 12 of Rural Electrification Act which permits borrowers to request extensions of principal payments under certain conditions.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900

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Parts Affected	Subject	Description	Contact
	Rural Electrification Administration - Proposed (cont.)		
Bulletin 20-20	Deferment of Principal Repayments for Investment in Supplemental Lending Institutions	Sets forth criteria for providing assistance to borrowers to aid investment in supplemental financing organizations	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 42-1	Architectural Services for Electric Borrowers	States the REA policy regarding selection of architects by REA electric borrowers, and the procedures to be followed in contracting for architectural services.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 60-10	Construction Work Plans, Electric Distribution Systems	Requires that each electric borrower follow the practice of having two-year construction work plans prepared, and provides guidance in the preparation, use and approval of construction work.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 20-8	Purchase of Real Estate by Electric Borrowers	Sets forth requirements and procedures concerning the purchase of real estate by electric borrowers with REA loan funds or borrowers' general funds.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 81-7:381-11	Changes or Corrections in Line Construction	Provides a procedure and a sample form for use for authorizing changes in contract construction (construction change order) where the cost of the change is to be borne by the borrower.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 86-2	Pre-Construction Activities for Headquarters Facilities for Electric Borrowers	Sets forth REA requirements and procedures for the contract construction of borrower headquarters facilities.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 86-3	Headquarters Facilities for Electric Borrowers	Sets forth REA policy and procedures under which borrowers may obtain financing for headquarters facilities.	Archie Cain, REA USDA, Room 1270S Washington, D.C. 20250 (202) 447-3813
Bulletin 111-1	Wholesale Contracts for Purchase and Sale of Electric Energy	Sets forth REA policy concerning wholesale power supply contracts.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 111-4	Electric Wholesale Rates - Power Supply Borrowers	Sets forth REA policy and general recommendations with respect to electric wholesale rates charged by REA power supply borrowers. Wholesale rates include all rates and charges for electric power sold for resale.	C.R. Weaver, REA USDA, Room 3344S Washington, D.C. 20250 (202) 447-5900
Bulletin 320-4	Preloan Procedures for Telephone Loan Applicants	Sets forth REA policy and procedures relating to applications for financing the improvement and extension of telephone service to the widest practicable number of rural users.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-9	Organization and Capital Structure of Telephone Borrowers	Sets forth REA policy relating to the organization and capital structure of loan applications in order to minimize legal complications affecting loan security.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-14	Loans for Telephone System Improvements and Extensions	Sets forth procedures and requirements for supplemental loans to existing borrowers for telephone system improvements and extensions.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 320-23	Construction Certification Procedures for Designated Telephone Borrowers	Establishes the REA policies and requirements relating to post-loan procedures for telephone borrowers with substantial and continuing construction programs.	Joseph Flanigan, REA, USDA, Room 1355S Washington, D.C. 20250 (202) 447-6985

Parts Affected	Subject	Description	Contact
	Rural Electrification Administration - Proposed (cont.)		
Bulletin 324-1	Loans for Refinancing Outstanding Indebtedness of Telephone Borrowers	Outlines REA policy on the provision of loan funds to refinance outstanding indebtedness of telephone borrowers.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 325-1	Financing Lines, Facilities on Systems Outside of Rural Areas	Sets forth guidelines to be used by the Administrator of REA in determining that loans for the improvement, expansion, acquisition, and operation of telephone lines, facilities or systems outside of rural areas are necessary to furnish or improve telephone service in rural areas.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 326-1	Acquisitions of Telephone Facilities and Systems	Sets forth factors to be considered by telephone borrowers (loan applicants) planning to acquire existing telephone lines, facilities, or systems with REA loan funds.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252
Bulletin 381-8	Contract Construction Telephone Borrowers' Initial System Outside Plant Facilities	Sets forth the requirements and procedures pertaining to the contract construction of telephone borrowers' initial system outside plant facilities. Initial system meaning the basic system to be constructed in each central office area to serve the subscribers estimated to be taking service at time of cutover.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 383-1	Preparation of Plans and Specifications for Construction of Outside Plant Facilities	Furnishes telephone borrowers and their engineers with a guide for preparing the plans and specifications for the construction of telephone systems outside plant facilities.	Joseph Flanigan REA, USDA, Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 383-4	Post-Loan Engineering Design Requirements for Supplemental Loans	Presents the post-loan engineering design requirements and procedures for loans to existing telephone borrowers (supplemental loans).	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 384-3	Central Office Equipment Contracts and Specifications	Announces the issuance of new or revised central office equipment, contracts, or specifications. It also provides a list of current editions of central office equipment contracts and specifications.	Joseph Flanigan REA, USDA Room 1355S Washington, D.C. 20250 (202) 447-6985
Bulletin 385-1	Preloan Procedures and Requirements for Two-way Radiotelephone Service	Sets forth considerations, requirements and procedures for loan applications to provide two-way radiotelephone equipment.	John N. Rose, REA USDA, Room 2913S Washington, D.C. 20250 (202) 447-5252

[FR Doc. 80-35228 Filed 11-13-80; 8:45 am]

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federal register

Friday
November 14, 1980

Part III

Environmental Protection Agency

Pesticide Chemical Active Ingredients; Proposed Registration Standards Ranking Scheme

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[OPP 30040; FRL 1625-6]

Pesticide Chemical Active Ingredients; Proposed Registration Standards Ranking Scheme

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed registration standards ranking scheme.

SUMMARY: This informational notice is not a proposal that will result in rulemaking, but rather is an attempt to provide interested parties with an idea as to the fashion in which EPA will prioritize the various pesticide active ingredients under the Registration Standards Program. Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA is required to review the more than 38,000 pesticide products currently registered in order to determine whether they pose unreasonable effects on man or the environment. EPA announced in an advanced notice of proposed rulemaking entitled "Registration Standards for the Registration of Pesticides" that it would review these products based on their active ingredients, allowing many products with the same active ingredient to be registered under the same standard (44 FR 76311, published in the **Federal Register** of December 26, 1979).

This document discusses in detail EPA's proposed method to order the registration standards review of these active ingredients based on their production and exposure.

DATES: Written comments should be submitted on or before December 15, 1980.

ADDRESS: Written comments should be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Rm. E-447, Environmental Protection Agency, 401 M St, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ann Dizard or Emily White, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Rm. 1002-B, Crystal Mall #2, Environmental Protection Agency, 401 M St. SW, Washington, D.C., (703-557-1127).

SUPPLEMENTARY INFORMATION: This document sets out EPA's proposal to group the more than 600 active ingredients into "clusters" according to similarity of major uses (e.g., herbicides, insecticides, fungicides, disinfectants) and in cases when clusters are very large, to disaggregate them further according to the sites on which they are applied. Once the chemicals are assigned to clusters, a ranking equation, based on chemical production and exposure, will be used to assign point values to clusters. Clusters with high point values (i.e., high exposure and production) will be ranked high priority and will be reviewed ahead of lower-ranked clusters; however, EPA reserves the right to bypass the ranking order for single chemicals or entire clusters when such action seems appropriate based on new data, public concern, or other circumstances. EPA simultaneously will develop standards for each chemical included in the clusters; thus standards for alternative chemicals will be consistent and available within the approximate same time frame. During the development of the standards, data on the risks and uses of alternative chemicals will be collected which will facilitate subsequent, more detailed reviews if a chemical poses a substantial risk to humans and the environment. EPA feels that this approach will fulfill its Congressional mandate to review and reregister pesticides in an efficient, responsible way. A second **Federal Register** notice describing the ranking results will be prepared at a later date.

I. Introduction to the Registration Standards Ranking Scheme

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is responsible for registering all new pesticide products and reviewing the acceptability of each of the 38,000 currently registered pesticide products, imposing restrictions on these products when necessary to protect human health and the environment. This authority has been described in detail in the advance notice of proposed rulemaking entitled "Registration Standards for the Registration of Pesticides" published in the **Federal Register** of December 26, 1979 (44 FR 76311). The reader should consult this notice for specific details of EPA's review and reregistration process.

Of particular relevance to this **Federal Register** document is EPA's approach to the review and reregistration of the 38,000 currently registered pesticide products. EPA has proposed to organize, review, and reregister these products according to their generic chemical ingredients. EPA intends to develop a document called a "registration standard" which states the agency's regulatory position with respect to a group of pesticide products containing the same active ingredient. This approach greatly reduces the number of items requiring detailed review; approximately 600 generic chemicals have been identified to date.

Even though this approach greatly reduces the number of items requiring review, EPA still must address the problem of how to order the chemicals for review. EPA has estimated that it could take 10 to 15 years to process all Registration Standard chemicals. Thus, some scheme to order the review of these chemicals must be developed.

II. The Cluster Concept

A. Definition

EPA has responded to the problem of ordering chemicals for review by developing the cluster concept of ranking. Under this scheme, EPA has grouped the approximately 600 generic chemicals into 48 clusters.

A cluster is a group of chemicals and a group of sites that are closely correlated, e.g., 10 insecticides used on citrus and grapes. Chemicals were first divided into major classes according to use, such as insecticides, herbicides, growth regulators, preservatives, and others. Some classes, such as the growth regulators and preservatives, contained a small number of chemicals which were assigned to these groups based on documentation in common published sources. The chemicals in each of the three classes of insecticides, herbicides, and fungicides, however, were too numerous to be contained in one cluster; therefore EPA used pesticide use data to break them down into smaller groups. Chemicals and sites were assigned to the same cluster when both of the following criteria were met:

1. More of each chemical in the cluster is used on one or more of the sites identified in the cluster than on any other cluster of sites, and

2. Each site in the cluster is treated with more of one or more of the chemicals within the cluster than with chemicals in any other cluster. The number of chemicals within each cluster group ranges between one and 26, with most clusters limited to less than 20. This limitation was necessary to preserve the aim of clustering, which is to provide for the review and reregistration of major chemical alternatives in the same approximate time frame.

B. Advantages to the Cluster Approach

The cluster approach presents three main advantages:

1. *Equity to the registrant.* Chemicals within the same cluster would be reviewed at about the same time. Thus no single registrant would have a commercial advantage over registrants of pesticides used to treat similar problems.

2. *Advantages to user.* Labels of all products containing the chemicals in the clusters would be revised and made consistent at about the same time. In addition, due to the grouping of chemicals in clusters, alternative treatments for a common pest problem would receive simultaneous review. Users would have maximum flexibility to choose the pesticide best suited for their needs.

3. *Expeditious reregistration system.* EPA's proposed approach allows review to proceed on a variety of similar use compounds within a common time frame. Data on alternatives will be available at the same time; if one or more of the chemicals hits a Rebuttable Presumption Against Registration (RPAR) trigger, the RPAR review will be expedited by enabling risk data on alternative chemicals to be compared to see whether lower risk compounds can be substituted for the high risk one undergoing RPAR.

C. Detailed Discussion of the Cluster Concept

1. *Methodology.* As stated earlier, pesticide use data were employed to break down the three large classes of insecticides, herbicides, and fungicides into smaller groups that could be reviewed more easily. Chemicals and sites were assigned to the same cluster when the usage data showed that: (1) more of the chemicals were used to treat the sites in the cluster and (2) the sites were treated most often by those chemicals. For example, a cluster might originally include only grapes as a site. Initially, chemicals most heavily used to treat grapes would be assigned to that cluster. In the second iteration, citrus and grapes might both be heavy users of the same chemical, and so the cluster would be expanded to include both sites. In subsequent iterations, large clusters, such as corn (which is treated by many chemicals), tended to bring in other site/applications; therefore EPA had to limit the number of iterations when the clusters were becoming too large. This limitation was necessary to preserve the aim of the cluster concept, which is to create small groups of alternative chemicals used to treat similar sites, thus allowing simultaneous review of these chemicals.

2. *Limitations of the analysis.* EPA had to strike a balance between cluster error, defined as out of cluster use, and cluster size. Thus, if corn, citrus, and grapes all were treated by one of the same chemicals, but at the same time also were treated with other chemicals more specifically tailored to pest problems at the individual sites, EPA had to choose between assigning the chemical to only one of the sites on which it was used, or consolidating clusters. In some instances EPA consolidated clusters, but when it seemed appropriate to maintain the divisions of certain clusters, EPA would assign the chemical to the cluster of sites on which it was most heavily used.

The accuracy of this approach is reflected in the following examples. Insecticide use within cluster groups varied from 50 to 87 percent, i.e., individual chemicals within the clusters represented from 50 to 87 percent of the chemicals used to treat those sites. On a weighted average basis, the chemicals grouped with the sites represented 82.5 percent of the chemicals actually used. The overall error rate for the broad category of insecticides, then, is indicated by the remaining 17.5 percent, which represents the percentage of chemicals used at the sites, but which are not included in the cluster.

Similarly, the average error rate for herbicides is 14.6 percent. An error rate for the fungicides could not be determined because the usage data were not in an accessible format. Error rates for other groupings are not applicable, since uses were determined from common published sources rather than by a quantified analysis of use data.

The main result of these error rates is that in some cases a cluster will not include the major chemicals used on the sites listed. For example, this problem occurred with Cluster H-2, Corn, and Cluster H-4, Sorghum, Rice, and Small Grains. A major chemical was used most often to treat problems in both clusters; however, it was used most heavily on corn and was therefore assigned to that cluster. As a result, chemicals listed in Cluster H-4 represented the minor chemicals used to treat that cluster. Alternatively, Cluster H-4 could have been included in Cluster H-2, but as stated earlier, this would have made the cluster for corn too large and would have defied the purpose of clustering, which is to group chemicals in a way that allows for judicious and expeditious review. In addition, it should be noted that all uses of a chemical undergoing review will be considered, not just the use related to the cluster in which the chemical is grouped. Consideration of all uses for a chemical at one time will greatly alleviate any problems raised by incorrect clustering. For the most part, chemicals and sites were closely correlated and the major alternative chemicals are included in the same cluster.

3. *Review of cluster groupings.* Once chemicals were assigned to clusters, either by computer analysis or literature review, the logic of the groupings was reviewed by scientists within EPA.

4. *Resulting clusters.* As a result of EPA's effort, more than 600 chemicals have been grouped into 48 clusters. A chemical is placed in the most appropriate cluster, even if it is used to treat several other sites. However, in a few, limited circumstances, a chemical may be used substantially to treat many sites. Chemicals falling in this category and having similar uses are grouped in a cluster with across the board sites (e.g., Cluster F-1 of the fungicides, which includes the EBDC's, benomyl, captan, copper compounds, thiram, and chlorothalonil). Under IV of this notice is a list of the chemicals contained in each of the 48 clusters. EPA invites comments on the assignment of chemicals into clusters, particularly if the placement of a chemical seems inappropriate.

5. *Review schedule for clusters.* In order to determine the review schedule for clusters, EPA has developed an equation, based on pesticide production and exposure, to assign point values to each cluster. The equation and, particularly, the rationale for including production and exposure as the major determinants of priority, are discussed in detail in III of this notice.

III. The Ranking Equation

A. Selection of the Equation

EPA has developed the following equation to assign point values to chemicals within each cluster:

$X = (2E_1 + E_2)\ (P)$

P = Production
E_1 = Human Exposure
E_2 = Fish and Wildlife Exposure

Human and fish and wildlife exposure were computed as a summation of the various elements which comprise the exposure estimate (see the following pages for an explicit breakdown of each item and range of point values).

A factor for risk originally was included in the ranking equation; however, several problems arose that precluded its inclusion in the final equation. The primary reason was that detailed data on the toxicity of most chemicals were not available. In addition, during preliminary runs of the equation, EPA found that the inclusion or exclusion of risk did not affect the overall results of the equation, primarily because exposure was weighted heavily. The fish and wildlife portion of the equation, however, does include a factor for toxicity because such information was readily available for most

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chemicals. Human exposure is multiplied by two because of the greater risk involved with direct hazards to human health rather than indirect hazards to human health resulting from fish and wildlife exposure. Therefore, direct human exposure should receive greater emphasis in determining the order in which to review chemicals. EPA will maintain a certain amount of flexibility once the equation is adopted and reserves the right to bypass the ranking order for chemicals in cases when new data reveal hazards formerly unknown, public concern for a chemical warrants attention, or other situations when EPA determines it appropriate to review a chemical or an entire cluster ahead of its scheduled review time.

B. Detailed Discussion of Point Values in the Equation

The following paragraphs discuss the way production and exposure values (both human and fish and wildlife) were determined for each chemical.

1. *Production.* Chemicals are ranked high, medium, or low according to how many pounds of active ingredient are produced on an annual basis. 20 percent of the pesticide active ingredients fall into the high priority category, 40 percent in medium and 40 percent in low.

Ranking

>1 million lbs/year=high=5
25,000 to 1 million lbs/year=medium=3
<25,000 lbs/year=low=1

2. *Human exposure* (E_1). For each chemical, overall point values for human exposure were derived from the food uses of the chemical, product formulation, reentry potential, bystanders potentially affected, home uses, agricultural uses, and human residue/environmental contamination. Each of these parameters is discussed below.

a. *Food uses.* Food use chemicals were ranked according to the percent of acceptable daily intake (ADI) which had been met or, when that information was unavailable, the number of tolerances. Numerical values were assigned as follows:

Ranking

81%—100% ADI=4
41%—80% ADI=2
0.1%—40% ADI=1
<0.1% ADI=0
or
>20 tolerances=4
11 to 20 tolerances=2
1 to 10 tolerances=1
No tolerances=0

b. *Applications.* Exposure will be affected by the form of application of a chemical, e.g., a dust or aerosol formulation will result in higher exposure than a granular or closed system formulation. Point values are:

Ranking

Liquid, dust, aerosol, gas=4
Granular=2
Limited Application [1]=0

c. *Reentry.* People may be exposed to a chemical after it has been applied, e.g., workers harvesting a chemically treated crop may inhale or have physical contact with the chemical residue on the crop.

This parameter considers reentry only from phosphate or carbamate chemicals used on fruits or vegetables or other uses because of the likelihood that the chemicals would be sufficiently persistent to result in exposure to harvesters. In addition, these chemicals are most acutely toxic because of cholinesterase inhibition and reentry exposure likely would occur because fruits and vegetables are often picked manually.

The following values were assigned:

Ranking

Phosphate or carbamate used on fruits or vegetables=4
Phosphate or carbamate only=2
Other categories=0

d. *Bystanders.* This category assigns point values for non-target human exposure in outdoor chemical applications:

Ranking

Aerial sprays=4
Other outdoor applications=2
Virtually no non-target exposure=0

e. *Home uses.* This category assigns values to exposure resulting from home/closed working space uses of a chemical:

Ranking

Aerosol, dust, or spray=4
Weed & feed, flea collars, other low concentration products=2
Enclosed traps, etc.=1
No home uses=0

f. *All agricultural uses (to account for mixing, loading, and cleaning).* This category was included to account for incidental agricultural exposure occurring when people mix, load, or clean with pesticide chemicals for both crop and non-crop farm use. It also helps implement section 3(g) of the Act which requires that special consideration be given to pesticides that result in post-harvest residues in or on food or feed crops.

[1] Limited application refers to those methods which would result in little or no exposure to applicators. Examples of such applications include fumigation, Japanese beetle traps, roach traps, and fly paper.

Ranking

Any agricultural uses=2
No agricultural uses=0

g. *Human data.* Chemicals which are persistent in human tissue or in air, soil, and water, present a higher level of exposure opportunity. In cases where data are known to exist, point values were assigned as follows:

Ranking

Residue found in humans=10
Known environmental contamination=5
No residues found in humans=0

3. *Fish and wildlife exposure* (E_2). Fish and wildlife exposure was measured by the toxicity of a given chemical and the extent to which exposure might occur. The information on toxicity was taken from the pesticide labels. Other parameters included were: application site data, cultural practices, frequency of application, application rate (lbs/acre), and method of application. Each of these criteria is discussed below.

a. *Toxicity.* Toxicity to mammals, birds, fish and aquatic invertebrates was determined by information on individual pesticide labels as follows:

(1) Mammals:

Ranking

Symbol of Skull & Crossbone appears on the label=3
Word "Danger" "Warning" or "Caution" appears on the label=1
The above symbol or words do not appear on the label=0

(2) Birds:

Ranking

Bird warning appears on label=3
No bird warning on label=0

(3) Fish:

Ranking

Fish warning appears on label=3
No fish warning on label=0

(4) Aquatic Invertebrates:

Ranking

Aquatic invertebrate (shrimp, crabs, oysters) warning appears on label=3
No aquatic inverterbrate warning on label=0

b. *Site of application.* Three factors were used to determine exposure resulting from different site/application characteristics: (1) cropland as percentage of total land resource, (2) average potential annual direct runoff, and (3) cultural practices. Factors one and two represent situations in which a chemical is used on a large portion of land and/or heavy precipitation occurs in that area, thus increasing the potential for fish and wildlife exposure. Factor three reflects exposure differences in field crops (rotational) versus nonrotational crops, e.g., orchards.

(1) Cropland as percentage of total land resource area.[2]

Ranking

76—100%=2.0
51—75%=1.5
26—50%=1.0
0.1—25%=0.5
0%=0

(2) Average potential annual direct runoff:[2]

Ranking

>7"=2.0
3.1 to 7"=1.5
1.1 to 3"=1.0
0.1 to 1"=0.5
0"=0

(3) Cultural practices:

Ranking

Rotational annual crops=1
Nonrotational (perennial) crops only=2
No crops use=0

c. *Frequency of application.* This parameter ranks chemicals on how frequently they are applied to the site:

Ranking

High application rate (5 or more times/year)=4
Medium application rate (2 to 4 times/year)=3
Low application rate (one time/year or less)=2
No outdoor application=0

d. *Application volume.* This parameter ranks chemicals on amount of active ingredient applied:

Ranking

High (>5 lb/acre)=4
Medium (1–5 lb/acre)=3
Low (<1 lb/acre)=2
No outdoor application=0

e. *Method of application.* This parameter assigns point values for the likelihood that non-target species will be affected by the application of the chemical:

Ranking

Aerial spray (including thermal fogging)=3
Other outdoor applications=2
No outdoor applications=0

C. Use of Point Values

Based on the equation described in III. A., point values will be assigned to each chemical within a cluster. For each cluster, these values will be summed and then divided by the number of chemicals in the cluster to produce an average. Clusters with the highest average will be reviewed ahead of clusters with lower averages, and standards for each of the generic chemicals within these clusters will be developed. The final assignment of chemicals to clusters will follow receipt of comments to this notice. To be considered, comments should be received within 30 days of publication of this notice. Once chemical assignments to clusters are finalized, the final ranking of clusters will be made and a second notice describing the ranking will be published.

[2] This information was taken from maps showing average annual potential direct runoff and croplands as percentages of total land resource areas appearing in B.A. Steward, Woolhiser, D.A., Wischmeier, W.H., Caro, J.H., and Frere, M.H., "Control of Water Pollution Runoff from Cropland," Vol. 1. November 1975. EPA–600/2–75–026a.

IV. List of Clusters

The master listing of chemicals indicating the placement of individual chemicals in the 48 clusters, and itemized listing of each cluster follows:

Master Chemical List

Chemical Name and Group

Abietylamine, R–11
Acephate (orthene), I–1
Acetic Acid, R–6
Acifluorfen, H–3
Acrolein, H–7
Alachlor, H–2
Aldicarb (Temik), I–1
Aldrin, I–10
Aliquat 21, R–4
Alklyl Bis (Hydroxyethyl) Methyl Ammonium Chloride, R–8
Alkyl Bis (2-Hydroxyethyl) Sodium Ammonium Acetate, R–4
Alkyl (5-Hydroxy-4 Oxo-2 (4H) Pyranyl Methyl) Dimethyl Ammonium Chloride, R–8
Alkyl Monoethanol Amide, R–8
Allethrin, I–8
Allyl Alcohol F–10
Allyl isothiocyanate (mustard oil), R–14
Aluminum Chloride R–11
Aluminum Hydroxy Benzene Sulfonate, R–4
Aluminum Phosphide (phostoxin), I–9
Aluminum Powder, R–8
Aluminum Sulfate, R–9
Ametryn, H–5
Amical, R–1
Aminocarb (matacil), I–11
4-Aminopyridine (Avitrol), R–13
Amitraz (BAAM), I–3
Amitrol, H–7
Ammonium Arsenite, R–7
Ammonium Fluosilicate (Dri-Die), I–8
Ammonium Polysulfide, F–2
Ammonium Sulfamate (AMS), H–7
Amyl Acetate (banana oil), R–14
Ancymidol, R–10
Anethole (anise camphor), R–14
Anilazine, F–3
Antu, R–15
Arbanol Dee, R–5
Arsenic Acid, R–10
Arsenic Pentoxide, R–7
Aspon (o,o,o,o-tetrapropyl dithiopyrophosphate), I–11
Asulam, H–5
Atrazine, H–2
Azinphos-methyl (Guthion), I–3
Bacillus Popillae and B-lentimarbus, I–11
Bacillus thuringiensis, I–5
Barban, H–4
Baygon (Propoxur), I–8
Bayluscide, R–12
Bendiocarb (Ficam), I–8
Benefin, H–8
Benomyl, F–1
Bensulide, H–6
Bentazon, H–3
Benzaldehyde, I–7
Benzalkonium Chlorine, R–1
Benzene, I–6
Benzoic Acid, R–6
Benzyl Benzoate, I–6
O-Benzyl-p-chlorophenol, R–6
Bifenox, H–3
Bioallethrin (D-Trans allethrine), I–8
Bioban 1487, R–3
Biobor, R–1
Biomet 4, R–1
Biomet—12 (tri-n-butytin chloride), R–15
Biomet 204, R–8
Biphenyl, F–4
Bis (trichloromethyl) sulfone, R–2
1,4-Bis (Bromoacetoxy) -2-Butene, R–2
2,6-Bis (dimethylamino) methyl cyclohexanone, R–2
Bisethylxanthogen, H–9
Bitrex (Benzyl diethyl 2,6 xylylcarbamoylmethyl Ammonium benzoate), R–14
Blood, R–14
Bomyl, I–6
Bone oil (Dippel's oil), I–6
Boric Acid, I–6
Bromacil, H–5
4-Bromoacetoxymethyl-M-Dioxolane, R–2
Bromophos (nexion), I–11
Bromoxynil, H–4
BTC–E–2125, R–4
Bufencarb (Bux), I–2
Busan 40, R–2
Busan 77, R–2
Busan 90, R–2
Butachlor (Machete), H–4
Butanoic Anhydride, R–4
Butonate, I–6
Butoxy Polypropylene glycon (Stabilene) (Crag Fly Repellent), I–6
Butralin, H–8
Butylate, H–2 3
Cacodylic Acid, R–10
Cadmium Compounds, F–9
Calcium Arsenate, R–7
Calcium Cyanamide, F–3
Calcium Cyanide (cyonogas), I–9
Calcium Hypochlorite, R–8
Calcium Sulfate, R–5
Camphor, I–7
Capsaicin, R–14
Captafol, F–3
Captan, F–1
Carbaryl (Sevin), I–2
Carbofuran (Furadan), I–2
Carbon disulfide, I–9
Carbon Tetrachloride, I–9
Carbonates: Mg, K, Am, Na, R–4
Carbophenothion (Trithion), I–2
Carboxin, F–5
Castor oil, R–13
CDAA, H–9
CDEC, H–9
Cetyl Pyridinium Bromide, R–1
Chloramben (Amiben), H–3
Chlordane, I–10
Chlordimeform (Galecron, Fundal), I–1
Chlordimeform hydrochloride (Galecron SP, Fundal SP), I–1
Chlorfenethol (Dimite, Qikron), I–11

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Chlorfenvinphos (Supona), I–6
Chlorflurenol (Maintain), R–10
Chlorhexidine, R–8
Chlorinated glycoluril, R–9
Chlorinated isocyanurates, R–9
Chlorinated levulinic Acids, R–2
Chlorine-B, R–8
Chlorine Dioxide, R–9
Chlorobenzene, R–11
Chlorobenzilate (Acaraben), I–4
Chlorobromuron, H–3
Chloroform, I–9
Chloroneb, F–15
Chloronitropropane, F–5
Chlorophacinone (Rozol), R–15
2-Chlorophenol, R–1
2-(3-Chlorophenoxy) Propanoic Acid, R–10
Chloropicrin, I–9
Chloropropylate (Acaralate), I–3
Chlorothalonil, F–1
Chlorothene (1,1,1-Trichloroethane), R–5
Chloroxuron, H–7
Chlorpropham (CIPC), H–9
Chlorpyrifos (Lorsban, Dursban), I–2
Chromic Acid, R–11
Citral, R–14
Citronella, oil of, I–7
Citrus oil, R–14
Coal Tar Oils, R–7
Cobalt Naphthenate, R–7
Copper Acetoarsenite (Paris Green), I–12
Copper Compounds, F–1
Copper Oxalate, R–13
Coumaphos (Co-Ral), I–6
Creosote, R–7
Cresylic Acid, R–14
Crotoxyphos (Ciodrin), I–6
Crufomate (Ruelene), I–6
Cryolite (Kryocide), I–4
Cyanazine (Ethiolate), H–2
Cycloate, H–6
Cycloheximide, F–9
Cyhexatin (plictran), I–3
Cyprazine, H–2
2,4-D (plus salts and esters), H–1
Dalapon, H–6
Daminozide, R–10
Dazomet, H–6
2,4-DB, H–3
DCNA, F–3
DCPA (Dacthal), H–9
DDT, I–13
DEET, I–7
DEF, R–10
Demeton (Systox), I–1
Desmediphen, H–6
Dialifor (Torak), I–3
Dialkyl Methyl Benzyl Ammonium Chloride, R–9
Diallate, H–6
Diamidfos, I–13
Diazinon (Spectracide), I–3
Dibromochloropropane (DBCP), I–9
2,3-Dibromopropionaldehyde, R–2
4,5-Dibromosalicylanicide, R–4
3,5-Dibromosalicylanilide, R–4
Dicamba, H–2
Dichlobenil, H–5
Dichlofenthion (Mobilawn), I–11
Dichlofop Methyl, H–3
Dichlone, F–3
Dichloroethyl Ether, F–8
Dichlorophene, R–1
Dichloropropane, I–9
Dichlorprop, H–7
Dichlorvos (DDVP), I–6
Dicofol (Kelthane), I–4
Dicrotophos (Bidrin), I–1
Dieldrin, I–10
Diethanolamide, R–14
Difenzoquat, H–4
Diflubenzuron (Dimilin), I–1
Diisobutyl Phenoxyethanol (Flys-off), I–6
Dimethoate (Cygon, Defend), I–4
Dimethoxane, R–1
Dimethrin, I–12
Dimethyl Phthalate (DMP), I–6
Dimetilan (Snip), I–13
Dinitramine, H–3
Dinocap (Karathane), I–3
Dinoseb, H–6
Dioxathion (Delnav), I–4
Diphacinone (Diphacin), R–15
Diphacinone, Sodium Salt, R–15
Diphenamid, H–9
Diphenylamine (DPA), I–6
Dipropetryn, H–4
Diquat, H–7
Disparlure, I–11
Disulfoton (Di-Syston), I–2
Ditalimfos, F–10
Dithianon, F–2
2,2-Dithiobisbenzothiazole, F–2
Diuron, H–5
Dodecyl Dimethyl Benzyl Ammonium Chloride, R–1
Dodine, F–2
Dormant oils, I–3
Dowicides, R–11
Dowicil A–40, R–11
DPX 1108, R–10
DSMA, H–3
EBDC's (6), F–1
EDTA, R–4
EGT, H–3
Endosulfan (thiodan), I–3
Endothall, H–9
Endrin, I–1
EPIC liquid algacide, R–9
Epichlorohydrin, I–9
EPN, I–1
Epsom salts, R–12
EPTC, H–2
Erbon, H–10
Ethephon, R–10
Ethion (Nialate), I–4
Ethofumesate, H–6
Ethoprop (Mocap), I–2
Ethoxyquin, R–10
Ethyl Formate, I–9
Ethyl hexanediol (Rutgers 612), I–7
Ethylene, R–10
Ethylene dibromide (EDB), I–9
Ethylene Dichloride (EDC), I–9
Ethylene glycol ether of pinene (DHS activator), I–8
Ethylene Oxide (ETO), I–9
Ethylenediamine, R–8
Eucalyptus, R–14
Eugenol, I–11
Famphur (Famophos), I–6
Fatty Alcohols, R–10
Fenac, H–7
Fenaminosulf, F–5
Fenamiphos, I–9
Fenchlorphos (Ronnel), I–6
Fenitrothion (Sumithion), I–11
Fensulfothion (Dasanit), I–2
Fenthion (Baytex), I–12
Fentin hydroxide, F–2
Fenvalerate (Pydrin), I–1
Ferbam, F–2
Ferrous Sulfate heptahydrate, H–8
Fluchloralin, H–3
Fluometuron, H–3
Fluoroacetamide (Fluorakil 100), R–15
Fluorosalan, R–1
Folpet, F–2
Fonofos (Dyfonate), I–2
Formaldehyde, R–8
Formetanate hydrochloride (carzol SP), I–4
Fosamine, H–7
Fumaric Acid, R–8
Fumarin (Coumafuryl), R–15
Furfural, R–8
Geranium Oil, R–14
Gibberellic Acid, R–10
Gluconic Acid, R–8
Glutaraldehyde, R–8
Glycolic Acid, R–8
Glyodin, F–2
Glyphosate isopropylamine salt, H–3
Gophacide (Phosacetin), R–15
Gossyplure, I–1
Grandlure Mixture, I–1
Groton, R–3
Gypchek, I–11
Halazone, R–9
HCl, R–4
Heliothis Polyhedrosis (virus elcar), I–1
Heptachlor, I–10
HEX, I–1
Hexachloroacetone, R–10
Hexachlorobenzene, F–5
Hexachlorophene, F–3
Hexahydro–1,3,5-Tris (2-Hydroxypropyl)-S-Triazine, R–8
Hexazinone, H–5
Hexylene glycol, R–11
Hyamine 3500, R–4
Hydrogen cyanide (cyclon), I–9
Indalone, I–7
Indole 3-Butyric Acid, R–10
Iodine Compounds, R–8
Iprodione, F–9
Isobutyric Acid, F–7
Isooctyl Phenoxy Polythoxy Ethanol, R–8
Isopropalin, H–9
Isothan, F–8
Isothymyl Chloroethyl ether, I–8
2-Isovaleryl 1,3 Indandione, Calcium Salt, R–15
Karathane, F–2
Karbutilate, H–7
Kathon 886, R–1
Kerosene, I–12
Kinoprene (Enstar), I–11
Lamprecide, R–12
Landrin I–2
Lavender oil R–14
Lead Arsenate, Acid, I–13
Lead Arsenate, basic, I–13
Lemongrass oil, R–14
Lethane 384, I–8
Lethane 60+Lethane A–70, I–8
Lime, R–11
Lindane, I–6
Linseed oil, I–6
Linuron, H–3
Magnesium Chloride, R–8
Malathion, I–5
Maleic Hydrazide, R–10
MAMA, H–7
MCPA, H–4
MCPB, H–6
Mecoprop, H–8
Menthol, R–14
Mercaptobenzothiazole, R–1

Merphos, R–10
Metabromuron, H–9
Metaldehyde, R–12
Metam-Sodium, I–9
Metasol J–26, R–2
Methamidophos (Monitor), I–5
Methazole, H–4
Methidathion (Supracide), I–2
Methiocarb (Mesurol), R–12
Methomyl (lannate, Nudrin), I–1
Methoprene (Altosid), I–12
Methoxychlor, I–5
Methyl bromide, I–9
Methyl-2-3-Dibromopropionate, R–2
Methyl Esters of fatty acids, R–10
Methyl Eugenol, I–11
Methyl Nonyl Ketone, R–14
Methyl Parathion, I–1
Methyl P-Hydroxybenzoate, R–6
Methyl Salicylate (Wintergreen), R–4
Methyl Trithion, I–13
Methylene Bis (thiocyanate), R–1
Methylene Chloride, I–9
Metolachlor, H–2
Metribuzin, H–3
Mevinphos (Phosdrin), I–5
Mexacarbate (zectran), I–11
MG Silicate, R–4
MGK 264, I–8
MGK Repellent eleven, I–7
MGK Repellent 326, I–7
MGK Repellent 874, I–8
Mitin FF, I–8
Mobam, I–13
Molinate, H–4
Monocrotophos (Azodrin), I–1
Monohydrate, R–1
Monuron, H–7
Morpholine, R–8
MSMA, H–7
Muscalure, I–6
NAA, R–10
NAAM, R–10
Nabam, R–2
Naled (Dibrom), I–4
N-Alkyl-N-Ethyl Morpholinium Ethyl Sulfate, R–8
2-Naphthol Beta-Naphthol, I–3
Napropamide, H–5
Naptalam (Alanap), H–3
Naphthalene, I–8
Neburon, H–10
Neomycin, R–4
Nickel Sulfate, F–9
Nicotine, I–5
Nicotine Sulfate, I–5
Nitralin, H–3
Nitrapyrin, R–11
Nitrofen, H–9
N-Laurel Diethylenetriamme, R–4
NMPD, R–3
Norea (Herbam), H–9
Norflurazon, H–4
N-Propyl Isome, R–5
Nuclear polyhedrosis virus of Douglas fir tussock moth, I–11
Nvosept 95, R–1
Omadine Sodium, R–11
Onyxide, R–1
Ornitrol, R–13
Ortho-dichlorobenzene, I–13
Oryzalin, H–3
Ovex (Chlorfenson), I–3
Oxadiazon, H–4
Oxamyl (vydate L), I–5
10, 10 Oxybisphenoxarsine, R–1
Oxydemeton-methyl (metasystox-R), I–5
Oxyfluorfen (Goal), H–3
Oxythioquinox, F–2
Paloja, R–13
Para-dichlorobenzene, I–8
Paraquat, H–5
Parathion, I–1
Parinol, F–8
P-Chlorophenoxyacetic Acid, R–10
Pebulate, H–6
Pendimethalin, H–3
Pentac (Dienochlor), I–11
Pentachloronitrobenzene-(PCNB), F–5
Pentachlorophenol, R–7
Pentanethiol, R–14
Pentasodium diethylenetriamine pentaacetate, R–5
Perchloroethylene, I–9
Perfluidone, H–3
Permethrin (Ambush, Pounce), I–1
Phenmedipham, H–6
Phenol, R–4
Phenothiazine, I–6
Phorate (thimet), I–2
Phosalone (Zolone), I–3
Phosmet (Imidan, Prolate), I–3
Phosphamidon (Dimecron), I–1
Phosphorus, R–15
Phyomone, R–10
Picloram, H–4
Pine Tar, I–13
Piperalin, F–8
Piperazine dihydrochloride, I–6
Piperonyl butoxide, R–5
Pirimicarb (pirimor), I–5
Pirimiphos-ethyl (primicid), I–5
Pival (Pivalyn), R–15
PMP (Valone) , R–15
Polybutene, R–13
Polychlorobicyclopentadiene, H–8
Polyethylene, R–13
Polyethylene Polyamine N-Oleylamine Hydrochloride, R–3
Polyisobutylene, R–13
Potassium Bifluoride, R–7
Potassium Bisulfate, R–2
Potassium Bromide, R–4
Potassium Chromate, R–2
Potassium Cyanate, H–8
Potassium Iodate, R–11
Potassium Permanganate, R–11
Profenofos (Curacron), I–1
Profluralin, H–3
Prolin (Warfarin+Sulfaquinoxaline), R–15
Prometon (Pramito)l, H–10
Prometryn, H–10
Pronamide, H–3
Propachlor, H–3
Propazine, H–4
Propham, H–6
Propanil, H–4
Propargite (Omite), I–3
Propionic Acid, F–7
Propylene Oxide, I–9
Propylene Glycol, R–8
Proxel, R–6
Pyrazon, H–6
Pyrethrins, I–8
Pyridine, R–14
Quinone (1,4 benzoquinone), R–13
R–55 (tert-butyl dimethyltrithioperoxycarbamate), R–15
Red Squill, R–15
Resmethrin, I–8
Rotenone, I–5
Ryanodine (Ryania), I–5
Sabidilla, I–5
Saltpeter, I–13
Sec-butylamine, F–4
Sesame Oil, R–5
Siduron, H–8
Silica gel, I–8
Silicon Dioxide, I–8
Silver, R–9
Silvex, H–7
Simazine, H–2
Slimitrole, R–2
Soap, I–13
Sodium Acetate, R–11
Sodium and potassium hydroxide, R–4
Sodium Arsenate, I–13
Sodium Arsenite, R–7
Sodium Bisulfate, R–4
Sodium Bisulfite, R–4
Sodium Bromide, R–9
Sodium Chloride, R–11
Sodium Chromate, R–2
Sodium Cyanide, R–15
Sodium Dehydroacetate, F–6
Sodium Diacetate, R–6
Sodium Fluoride, I–8
Sodium Fluoroacetate, R–15
Sodium Fluosilicate, I–8
Sodium Hypochlorite, F–6
Sodium Lauryl Sulfate, R–4
Sodium N-Methyl-N-Oleoyltaurate, R–1
Sodium Pentachlorophenate, I–13
Sodium Persulfate, R–9
Sodium Phosphates, R–11
Sodium Polysulfide, F–2
Sodium Pyroarsenate, R–7
Sodium Sulfate, R–4
Sodium TCA, H–6
Sodium Thiosulfate, F–2
Sorbic Acid, F–10
Starlicide, R–13
Streptomycin, F–2
Strychnine, R–15
Strychnine Sulfate, R–15
Sulfonated Cresol, R–2
Sulfonated Vegetable oil, R–5
Sulfotepp, I–9
Sulfoxide, R–5
Sulfur, F–2
Sulfuric Acid, R–10
Sulfuryl Fluoride (Vikane), I–10
Sulprofos (Bolstar), I–1
Sumithrin (d-phenothrin), I–8
Summer oil, I–4
2,4,5-T, H–7
Tabutrex, I–6
Talon (brodifacoum), R–15
Tar, R–7
TCBC, H–2
TCC, R–4
Tebuthiuron, H–7
Temephos (Abate), I–12
TEPP, I–2
Terbacil, H–5
Terbufos (Counter), I–2
Terbutol, H–8
Terbutryn, H–4
Terrazole, F–5
4-Tert-Amylphenol, R–8
Tetrachlorvinphos (Gardona, Rabon), I–6
Tetradifon (Tedion), I–4
Tetramethrin (Neo-Pyanamin), I–8
Tetrasul (Animert), I–3
TFM, R–12
Thanite (isobornyl thiocyanoacetate), I–8
Thiabendazole, F–4
Thidiazuron (Dropp), R–10

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Thiophanates, F–9
Thiram, F–1
Thymol, R–14
TIBA, R–10
Toxaphene, I–1
Trans-1,2,bis (Propylsulfonyl) ethylene, F–5
Triallate, H–4
Triadimefon (Bayleton), F–3
3,4,5-Tribromosalicylanilide, R–8
Tributyltin Chloride, R–6
Trichlopyr, H–7
Trichlorfon (Dylox), I–2
Trichloroethylene, R–14
2,4,5 Trichlorophenol, R–1
2,4,6 Trichlorophenol, R–2
Tridemorph (Calixin), F–7
Triethanolamine salt of lauryl sulfate, R–14
Trifluralin, H–3
Triforine, F–8
Trisodium Nitrilotriacetate, R–4
Trisodium Phosphate, R–8
Tropital, R–5
Vendex (Hexakis), I–3
Vernolate, H–3
Vinyzene, R–1
Visco P–25–F, R–1
Warfarin, R–15
Warfarin, Sodium Salt, R–15
XD–1603, R–2
Zinc Fluosilicate, I–8
Zinc Oxide, R–13
Zinc Phosphide, R–15
ZIP, R–12
Ziram, F–2

Insecticides, Group I–1

This group contains 23 chemicals for use on cotton, soybeans, peanuts, wheat, and tobacco.

Acephate (Orthene)—Registration Standard.[1]
Aldicarb (Temik)
Chlordimeform (Galecron, Fundal)
Chlordimeform hydrochloride (Galecron SP, Fundal SP)
Demeton (Systox)
Dicrotophos (Bidrin)—Registration Standard
Diflubenzuron (Dimilin)
Endrin—RPAR review completed
EPN—RPAR [2]
Fenvalerate (Pydrin)
Gossyplure
Grandlure Mixture
Heliothis polyhedrosis virus (Elcar)
HEX
Methomyl (Lannate, Nudrin)—Registration Standard
Methyl parathion
Monocrotophos (Azodrin)
Parathion
Permethrin (Ambush, Pounce)
Phosphamidon (Dimecron)
Profenofos (Curacron)
Sulprofos (Bolstar)
Toxaphene—RPAR

Insecticides, Group I–2

This group contains 15 chemicals for use on corn, alfalfa, and sorghum.

Bufencarb (Bux)
Carbaryl (Sevin)—pre-RPAR
Carbofuran (Furadan)
Carbophenothion (Trithion)
Chlorpyrifos (Lorsban, Dursban)
Disulfoton (Di-Syston)
Ethoprop (Mocap)
Fensulfothion (Dasanit)
Fonofos (Dyfonate)
Landrin
Methidathion (Supracide)—Registration Standard
Phorate (Thimet)
Terbufos (Counter)
Trichlorfon (Dylox)—Pre-RPAR
TEPP

Insecticides, Group I–3

This group contains 16 chemicals to be used on fruit and nut trees, excluding citrus and grapes.

Amitraz (BAAM)—RPAR review completed
Azinphos methyl (Guthion)
Chloropropylate (Acaralate)
Cyhexatin (Plictran)
Dialifor (Torak)—Registration Standard
Diazinon (Spectracide)
Dinocap (Karathane)
Endosulfan (Thiodan)—Registration Standard
2-Naphthol (Beta-naphthol)
Ovex (Chlorfenson)
Phosalone (Zolone)—Registration Standard
Phosmet (Imidan, Prolate)
Propargite (Omite)
Tetrasul (Animert)
Vendex (Hexakis)
Dormant oils

Insecticides, Group I–4

This group contains 10 chemicals for use on citrus and grapes.

Chlorobenzilate (Acaraben)—RPAR review completed
Cryolite (Kryocide)
Dicofol (Kelthane)—Registration Standard
Dimethoate (Cygon, Defend)—RPAR
Dioxathion (Delnav)
Ethion (Nialate)
Formetanate hydrochloride (Carzol SP)
Naled (Dibrom)—pre-RPAR
Summer oils
Tetradifon (Tedion)

Insecticides, Group I–5

This group contains 14 chemicals for use on vegetables.

Bacillus thuringiensis
Malathion
Methamidophos (Monitor)—Registration Standard
Methoxychlor
Mevinphos (Phosdrin)
Nicotine
Nicotine sulfate
Oxamyl (Vydate L)
Pirimicarb (Pirimor)
Rotenone—Pre-RPAR
Ryanodine (ryania)
Sabidilla
Oxydemeton-methyl (Metasystox-R)
Pirimiphos-ethyl (Primicid)

Insecticides, Group I–6

This group contains 24 chemicals for use on livestock and domestic animals.

Benzene—Pre-RPAR
Benzyl Benzoate
Bomyl
Bone oil (Dippel's Oil)
Butonate
Butoxy polypropylene glycol (Stabilene)
(Crag Fly Repellent)
Chlorfenvinphos (Supona)
Coumaphos (Co-Ral)—Registration Standard
Crotoxyphos (Ciodrin)
Crufomate (Ruelene)
Diisobutyl phenoxyethanol (Flys-Off)
Dichlorvos (DDVP)—pre-RPAR
Dimethyl phthalate (DMP)
Diphenylamine (DPA)—pre-RPAR
Famphur (Famophos)
Fenchlorphos (Ronnel)
Lindane—RPAR
Linseed Oil
Muscalure
Phenothiazine
Piperazine dihydrochloride
Proban (Cythioate, Cyflee)
Tetrachlorvinphos (Gardona, Rabon)
Tabutrex

Insecticides, Group I–7

This group contains 9 chemicals for use as insect repellents at non-agricultural sites.

Camphor
Citronella, oil of
Deet—Registration Standard
Ethyl hexanediol (Rutgers 612)—Registration Standard
Indalone
MGK Repellent eleven
MGK Repellent 326
Benzaldehyde
N–butyl Acetanilide

Insecticides, Group I–8

This group contains 25 chemicals for use as domestic bug control and in food processing plants.

Allethrin
Ammonium fluosilicate (Dri-Die)
Baygon (Propoxur)
Bendiocarb (Ficam)
Bioallethrin (D-trans allethrin)
Boric acid—Registration Standard
Para-dichlorobenzene—Pre-RPAR
Ethylene glycol ether of pinene (DHS activator)
Isothymyl chloroethyl ether
Lethane 384
Lethane 60 + Lethane A–70
MGK Repellent 874
MGK 264
Naphthalene—Registration Standard
Thanite (isobornyl thiocyanoacetate)
Mitin FF
Pyrethrins
Resmethrin
Silica Gel
Silicon dioxide
Sodium fluoride (Florocid) Ethylene
Sodium fluosilicate
Sumithrin (d-phenothrin)
Tetramethrin (Neo-pyanamin)
Zinc fluosilicate

Insecticides, Group I–9

This group contains 21 chemicals for use as fumigants and nematicides.

Aluminum phosphide (Phostoxin)—Registration Standard
Calcium cyanide (Cyanogas)
Carbon disulfied
Carbon tetrachloride—Pre-RPAR
Chloroform—RPAR
Chloropicrin—Registration Standard
Dibromochloropropane (DBCP)—RPAR review completed
Dichloropropane—Pre-RPAR
Ethyl formate
Ethylene dibromide (EDB)—RPAR
Ethylene dichloride (EDC)—Pre-RPAR
Ethylene oxide (ETO)—RPAR
Fenamiphos
Hydrogen cyanide (Cyclon)
Methyl bromide
Methylene chloride
Propylene oxide
Sulfotepp
Epichlorohydrin—Pre-RPAR
Perchloroethylene—Pre-RPAR
Metam-Sodium

Insecticides, Group I–10

This group contains 5 chemicals used for termite control.

Aldrin—Most uses cancelled
Chlordane
Dieldrin—Most uses cancelled
Heptachlor
Sulfuryl fluoride (Vikane)

Insecticides, Group I–11

This group contains 15 chemicals for use on lawns, ornamentals, and forest trees.

Aspon (o,o,o,o-tetrapropyl dithiopyrophosphate)—Registration Standard
Bacillus popillae and B-lentimorbus
Bromophos (Nexion)
Methyl eugenol
Chlorfenethol (Dimite, Qikron)
Eugenol
Dichlofenthion (Mobilawn)
Disparlure
Fenitrothion (Sumithion)
Gypchek
Mexacarbate (Zectran)
Pentac (Dienochlor)
Aminocarb (Matacil)
Nuclear polyhedrosis virus of Douglas fir tussock moth
Kinoprene (Enstar)

Insecticides, Group I–12

This group contains 6 chemicals for use as mosquito larvacides.

Copper acetoarsenite (Paris Green)—RPAR; some products cancelled
Fenthion (Baytex)
Kerosene
Methoprene (Altosid)—Registration Standard
Temephos (Abate)—Registration Standard
Dimethrin

Insecticides, Group I–13

This group contains 13 chemicals for miscellaneous uses.

DDT
Dimetilan (Snip)
Sodium pentachlorophenate
Lead arsenate, acid—RPAR
Lead arsenate, basic—RPAR
Saltpeter
Soap
Pine tar
Diamidfos
Ortho-dichlorobenzene
Methyl trithion
Mobam Sodium Arsenate—RPAR

Herbicides, Group H–1

This group contains 1 chemical with a broad spectrum of uses.

2,4-D (plus salts and esters)

Herbicides, Group H–2

This group contains 10 chemicals for use on corn.

Atrazine
Alachlor
EPTC
Dicamba
Cyanazine
Metolachlor—Registration Standard
Cyprazine
TCBC
Simazine
Butylate

Herbicides, Group H–3

This group contains 26 chemicals for use on soybeans, cotton, peanuts, and alfalfa.

Propachlor
Glyphosate isopropylamine salt
Trifluralin—RPAR
DSMA
Bifenox—Registration Standard
Metribuzin
Bentazon
Chloramben
Naptalam
Dinitramine
Nitralin
Oryzalin
Pendimethalin
Profluralin
Pronamide—RPAR review completed
Fluometuron—Registration Standard
Fluchloralin
Linuron—Registration Standard
Vernolate
EGT
Oxyfluorfen
Acifluorfen
Dichlofop methyl
Perfluidone
2,4–DB
Chlorobromuron—Registration Standard

Herbicides, Group H–4

This group contains 15 chemicals for use on sorghum, rice, and small grains.

Bromoxynil
Difenzoquat
Dipropetryn
Methazole—Pre-RPAR
Propanil
Picloram
Barban
MCPA—Registration Standard
Norflurazon
Terbutryn
Propazine
Triallate—Pre-RPAR
Butachlor
Molinate
Oxadiazon

Herbicides, Group H–5

This group contains 9 chemicals for use on citrus, tree fruits, nuts, and surgarcane.

Ametryn
Terbacil—Registration Standard
Paraquat—Pre-RPAR
Dichlobenil
Bromacil—Registration Standard
Diuron—Registration Standard
Napropamide
Asulam
Hexazinone

Herbicides, Group H–6

This group contains 12 chemicals for use on sugarbeets, beans, and peas.

Dalapon
Pyrazon
Sodium TCA
Phenmedipham
MCPB
Dinoseb
Ethofumesate
Cycloate
Pebulate
Diallate—RPAR
Propham—Pre-RPAR
Desmediphen

Herbicides, Group H–7

This group contains 16 chemicals for use on drainage ditches, rights of way, forestry, and ponds.

(AMS) Ammonium Sulfamate—Registration Standard
Acrolein
Amitrole—Pre-RPAR
Karbutilate—Registration Standard
2,4,5–T—RPAR review completed; some uses suspended
Chloroxuron—Registration Standard
Diquat
Silvex—Some uses suspended
Dichlorprop
Fosamine
Trichlopyr
MSMA—Pre-RPAR
Fenac
Monuron—Registration Standard
Tebuthiuron—Registration Standard
MAMA—Pre-RPAR

Herbicides, Group H–8

This group contains 10 chemicals for use on turf.

Butralin
Benefin
Potassium cyanate
Polychlorobicyclopentadiene
Terbutol
Siduron—Registration Standard
Bensulide
Ferrous sulfate heptahydrate
Dazomet
Mecoprop

Herbicides, Group H–9

This group contains 11 chemicals for use on vegetables and tobacco.

Nitrofen—Pre-RPAR
Endothall
Diphenamid
Norea (Herbam)—Registration Standard
DCPA—Pre-RPAR
Chlorpropham
CDEC—Registration Standard
Bisethylxanthogen
Isopropalin—Registration Standard
CDAA
Metabromuron—Registration Standard

Herbicides, Group H–10

This group contains 4 chemicals for unclassified uses.

[1] These chemicals have been selected for Registration Standard Review.
[2] Now undergoing Rebuttable Presumption Against Registration (RPAR) review.

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Neburon—Registration Standard
Prometryn
Erbon—Pre-RPAR
Prometon (Pramitol)

Fungicides, Group F–1

This group contains 11 chemicals with a broad spectrum of uses.

EBDC's (6)—RPAR
Benomyl—RPAR
Captan—Pre-RPAR
Copper Compounds
Thiram—Pre-RPAR
Chlorothalonil

Fungicides, Group F–2

This group contains 15 chemicals for use on walnuts, pecans, almonds, apples, pears, peaches, cherries, plums, prunes, and grapes.

Sodium Thiosulfate
Sulfur—Registration Standard
Dodine
Karathane
Ferbam
Dithianon
2,2'-Dithiobisbenzothiazole
Ammonium Polysulfide
Glyodin
Sodium Polysulfide
Streptomycin
Folpet—Pre-RPAR
Oxythioquinox
Fentin hydroxide
Ziram

Fungicides, Group F–3

This group contains 7 chemicals for use on vegetables.

Dichlone—Registration Standard
DCNA
Anilazine
Hexachlorophene
Calcium cyanamide
Captafol
Triadimefon (Bayleton)

Fungicides, Group F–4

This group contains 3 chemicals for use on citrus.

Sec-butylamine
Thiabendazole
Biphenyl

Fungicides, Group F–5

This group contains 8 chemicals for use as seed treatments.

Hexachlorobenzene—Pre-RPAR
Trans-1,2,bis(propylsulfonyl) ethylene
Fenaminosulf
Chloroneb—Registration Standard
Chloronitropropane
Carboxin—Registration Standard
Terrazole—Registration Standard
Pentachloronitrobenzene (PCNB)—RPAR

Fungicides, Group F–6

This group contains 3 chemicals for use on post-harvest fruit and vegetables.

Isothan
Sodium Hypochlorite—Registration Standard
Sodium Dehydroacetate

Fungicides, Group F–7

This group contains 3 chemicals for use on grain storage.

Propionic Acid
Isobutyric Acid
Tridemorph

Fungicides, Group F–8

This group contains 4 chemicals for use on ornamentals.

Piperalin
Parinol
Triforine
Dichloroethyl Ether

Fungicides, Group F–9

This group contains 5 chemicals for use on turf.

Cadmium Compounds—RPAR
Nickel Sulfate
Thiophanates—RPAR
Cycloheximide—Registration Standard
Iprodione

Fungicides, Group F–10

This group contains 3 chemicals for unclassified uses.

Allyl Alcohol
Sorbic Acid
Ditalimfos

Industrial Preservatives, Group R–1

This group contains 21 chemicals for use in plastics, paints, textiles, paper, and adhesives.

Amical
Dimethoxane
Dodecyl Dimethyl Benzyl Ammonium Chloride
Fluorosalan
Monohydrate
Visco P–25–F
Nuosept 95
Vinyzene
2,4,5 Trichlorophenol—RPAR; some products cancelled
Dichlorophene
Benzalkonium Chlorine
Sodium N-Methyl-N-Oleoyltaurate
Kathon 886
Cetyl Pyridinium Bromide
Mercaptobenzothiazole
Biomet 4
Biobor
Methylene Bis (Thiocyanate)
10,10 Oxybisphenoxarsine—Registration Standard
Onyxide
2-Chlorophenol

Slimicides, Group R–2

This group contains 19 chemicals for use in pulp and paper, cooling towers, and sugar mills.

1,4-Bis (Bromoacetoxy)–2-Butene
2,6-Bis [(Dimethylamino) methyl] cyclohexanone
Bis (Trichloromethyl) Sulfone
4-Bromoacetoxymethyl-M-Dioxolane
Busan 90
Chlorinated Levulinic Acids
XD–1603
2,3-Dibromopropionaldehyde
Metasol J–26
Busan 40
Sodium Chromate
Potassium Chromate
Busan 77
Potassium Bisulfate
Sulfonated Cresol
Methyl-2-3-Dibromopropionate
Nabam
Slimitrole
2,4,6 Trichlorophenol

Industrial Microbiocides, Group R–3

This group contains 4 chemicals for use as cutting oils and oil well additives.

Grotan
NMPD
Polyethylene Polyamine N-Oleylamine Hydrochloride
Bioban 1487

Sanitizers, Group R–4

This group contains 24 chemicals for use in dairies, food processing, restaurants, and air treatment.

Potassium Bromide
Sodium Bisulfate
Sodium Bisulfite
Sodium Lauryl Sulfate
Sodium Sulfate
3,5-Dibromosalicylanilide
Sodium & Potassium Hydroxide
EDTA
Hyamine 3500
Phenol
Aliquat 21
Aluminum Hydroxy Benzene Sulfonate
Butanoic Anhydride
Carbonates: Mg, K, Am, Na
HCl
Alkyl Bis (2-Hydroxyethyl) Sodium Ammonium Acetate
Trisodium Nitrilotriacetate
TCC
Mg Silicate
BTC–E–2125
N-Laurel Diethylenetriamine
Neomycin
4',5-Dibromosalicylanicide
Methyl Salicylate (wintergreen oil)

Synergists, Group R–5

This group contains 10 chemicals used as insecticide synergists, surfactants, cheleating agents, and carriers.

N-Propyl Isome
Piperonyl Butoxide—Pre-RPAR
Sulfoxide
Tropital
Sesame Oil
Arbanol Dee
Sulfonated Vegetable Oil
Calcium Sulfate
Pentasodium Diethylenetriamine Pentaacetate
Chlorothene (1,1,1-trichloroethane)

Food Preservatives, Group R–6

This group contains 7 chemicals for use in food.

Tributyltin Chloride
Sodium Diacetate
Methyl P-Hydroxybenzoate
Acetic Acid
Proxel
Fumaric Acid
Benzoic Acid

Wood Preservation, Group R–7

This group contains 11 chemcials for industrial, commercial, and marine use.

Cobalt Naphthenate

Potassium Bifluoride
Pentachlorophenol—RPAR
Tar
Coal Tar Oils—RPAR
Arsenic Pentoxide—RPAR
Ammonium Arsenite—RPAR
Sodium Pyroarsenate—RPAR
Calcium Arsenate—RPAR
Sodium Arsenite—RPAR; some products cancelled
Creosote—RPAR

Disinfectants, Group R–8

This group contains 25 chemicals for medical, industrial, institutional, household, veterinary, poultry, and livestock uses.

Alkyl Bis (Hydroxyethyl) Methyl Ammonium Chloride
N-Alkyl-N-Ethyl Morpholinium Ethyl Sulfate
Alkyl (5-Hydroxy-4-Oxo-2(4H) Pyranyl Methyl) Dimethyl Ammonium Chloride
Alkyl Monoethanol Amide
Aluminum Powder
Calcium Hypochlorite
Chlorine-B
Ethylenediamine
Gluconic Acid
Glutaraldehyde
Glycolic Acid
Isooctyl Phenoxy Polythoxy Ethanol
Magnesium Chloride
Iodine Compounds
3,4,5-Tribromosalicylanilide—Pre-RPAR
O-Benzyl-p-Chlorophenol
4-Tert-Amylphenol
Propylene Glycol
Formaldehyde
Biomet 204
Furfural
Morpholine
Trisodium Phosphate
Chlorhexidine
Hexahydro-1, 3, 5-Tris (2-Hydroxypropyl)-S-Triazine

Water Disinfection, Group R–9

This group contains 10 chemicals for use in swimming pools, sewage effluents, and potable water.

Chlorinated Glycoluril
Sodium Bromide
Chlorine Dioxide
EPIC Liquid Algacide
Sodium Persulfate
Halazone
Chlorinated Isocyanurates
Aluminum Sulfate
Silver
Dialkyl Methyl Benzyl Ammonium Chloride

Plant Regulators, Defoliants, and Desiccants, Group R–10

This group contains 25 chemicals for all uses.

NAA-Registration Standard
NAAM
Maleic Hydrazide—RPAR
Daminozide—Pre-RPAR; Registration Standard
Ethephon
Gibberellic Acid
P-Chlorophenoxyacetic Acid
Indole-3-Butyric Acid
Phyomone
DPX 1108
Hexachloroacetone
Sulfuric Acid
Arsenic Acid—RPAR
Methyl Esters of Fatty Acids
DEF—Pre-RPAR
Ethoxyquin—Registration Standard
Fatty alcohols
Cacodylic Acid—Pre-RPAR
Merphos—Pre-RPAR
Chlorflurenol
Thidiazuron
2-(3-chlorophenoxy) Propanoic Acid
Ethylene
Ancymidol
TIBA

Preservatives, Disinfectants, Slimicides, Group R–11

This group contains 15 unclassified chemicals.

Chromic Acid
Chlorobenzene
Omadine-Sodium
Dowicil A–40
Sodium Acetate
Dowicides
Nitrapyrin
Sodium Chloride
Hexylene Glycol
Aluminum Chloride
Abietylamine
Lime
Potassium Iodate
Potassium Permanganate
Sodium Phosphates

Molluscides and Miscellaneous Vertebrate Control Agents, Group R–12

This group contains 7 chemicals for all uses.

Bayluscide
Epsom Salts
Lamprecide
Metaldehyde
Methiocarb (Mesurol)
TFM
ZIP

Bird Chemosterilants, Toxicants and Repellents, Group R–13

This group contains 11 chemicals for all uses.

4-Aminopyridine (Avitrol)—Registration Standard
Castor Oil
Copper Oxalate
Ornitrol
Paloja
Polybutene
Polyethylene
Polyisobutylene
Quinone (1,4 benzoquinone)
Starlicide
Zinc Oxide

Dog and/or Cat Repellents, Group R–14

This group contains 21 chemicals for all uses.

Allyl Isothiocyanate (mustard oil)
Amyl Acetate (banana oil)
Anethole (anise camphor)
Bitrex (benzyl diethyl 2,6-xylylcarbamoylmethyl ammonium benzoate)
Blood
Capsaicin
Citral
Citrus Oil
Cresylic Acid
Diethanolamide
Eucalyptus
Geranium Oil
Lavender Oil
Lemongrass Oil
Menthol
Methyl Nonyl Ketone
Pentanethiol
Pyridine
Thymol
Trichloroethylene—pre-RPAR
Triethanolamine Salt of Lauryl Sulfate

Rodent Toxicants, Anticoagulants, and Predator Control, Group R–15

This group contains 23 chemicals for all uses.

Antu (Alpha-napthylthiourea)
Biomet-12 (tri-n-butytin chloride)
Chlorophacinone (Rozol)
Diphacinone (Diphacin)
Diphacinone, Sodium Salt
Fluoroacetamide (Fluorakil 100)
Fumarin (Coumafuryl)—Registration Standard
Gophacide
2-Isovaleryl-1, 3-Indandione, Calcium Salt
Phosphorus—pre-RPAR
Pival (Pivalyn)
PMP (Valone)
Prolin (warfarin + sulfaquinoxaline)
R–55 (tert-butyl dimethyltrithioperoxycarbamate)
Red Squill
Sodium Fluoroacetate (1080)–RPAR
Strychnine—RPAR
Strychnine Sulfate—RPAR
Talon (brodifacoum)
Warfarin—Registration Standard
Warfarin, Sodium Salt
Zinc Phosphide—Registration Standard
Sodium Cyanide

Interested persons may, on or before December 15, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments should be submitted if possible, although single copies of comments will be accepted. The comments are to be identified with the document control number "[OPP–30040]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

Dated: September 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–31009 Filed 11–13–80; 8:45 am]
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November 14, 1980

Part IV

Office of Personnel Management

Regulations Concerning Post Employment Conflict of Interest; Final Regulations

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Regulations Concerning Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management is issuing a final regulation under the Ethics in Government Act of 1978 which (1) designates certain positions subject to the post employment conflict of interest regulations applicable to "Senior Employees," and (2) designates certain statutory and non-statutory agencies/bureaus for the purpose of limiting the application of 18 U.S.C. 207(c).

DATE: Effective date: November 14, 1980.

ADDRESS: Office of Government Ethics, Room 436H, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: H. Lawrence Garrett or Gary Davis at (202) 632–7642.

SUPPLEMENTARY INFORMATION: Subsection 207(d)(1)(C) of title 18 U.S.C., contained in Title V of the Ethics in Government Act of 1978, as amended ("the Act"), (Pub. L. 95–521), gives the Director of the Office of Government Ethics ("OGE") authority to designate (1) certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c), and (2) agencies and bureaus, within a parent department or agency, having separate and distinct subject matter jurisdiction, i.e., "separate non-statutory agencies/bureaus." Regulations implementing this authority were published April 3, 1979 (44 FR 19974) and February 1, 1980 (45 FR 7402). Those regulations designated as "Senior Employees" all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS–17 of the General Schedule, as prescribed by 5 U.S.C. 5332, or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to specific exemptions to be made by OGE. The regulations also set forth those separate statutory (18 U.S.C. 207(e)) agencies and bureaus and those separate non-statutory agencies/bureaus (18 U.S.C. 207(d)(1)(C)) as determined by the Director, OGE, qualified for designation at the time of publication.

Regarding "Senior Employee" designations, upon review of agency recommendations, made pursuant to the requirement set forth in § 737.25(b)(1), the Director, OGE, determined that only those non-exempted positions, i.e., those subject to the prohibitions of 18 U.S.C. 207(b)(ii) and (c), would be published in the **Federal Register.** A partial list of such "designated" positions was contained in the February 1, 1980 **Federal Register** publication (45 FR 7402). That list was followed by another partial list which published on February 8, 1980 (45 FR 8544). The combined lists represented all section 207(d)(1)(C) positions which were not exempted by the Director, OGE. This regulation consolidates and amends the previously published lists and is based upon a review of agency annual submissions made pursuant to section 737.25(b)(1). All positions designated pursuant to § 207(d)(1)(C) not previously designated are marked by an asterisk. In accordance with 5 CFR 737.25(d), designation of such positions shall not become effective until the last day of the fifth full calendar month after this publication. Those positions marked by a double asterisk are former Executive level positions which were converted to SES positions. Such positions were designated by law effective July 1, 1980.

Section 737.25 of the final regulations sets forth the standards and procedures to be applied in determining which positions shall be designated. OGE also issued a memorandum to heads of departments, independent agencies, commissions and Government corporations/designated agency ethics officials dated April 26, 1979, giving additional information and guidance on this subject. Section 737.11 sets forth the standards and procedures to be applied in determining which separate statutory and non-statutory agencies and bureaus shall be designated.

The Director, OGE, in consultation with each department or agency concerned, has determined that the positions set forth below qualify for designation as "Senior Employee" positions. 5 CFR 737.33 is hereby amended accordingly. The Director has further determined, in consultation with each department or agency concerned, the separate statutory and non-statutory agencies/bureaus set forth below qualify for such designation.

The "Senior Employee" positions listed constitute all such positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 737.25(d), subsequent designation of positions within the departments or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not apply to subsequent designations made under the rule concerning position shifting set forth in 5 CFR 737.25(i).

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation above minimum OGE standards. As OGE conducted the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between post employment restrictions and impact or recruiting and retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by 18 U.S.C. 207(d)(1)(A) and (B) are not included in this publication.

This is a final, not a proposed regulation. It is interpretive in nature, exempt from 5 U.S.C. 553. The Director of the Office of Personnel Management, Alan K. Campbell, acting pursuant to 5 U.S.C. 553(b)(3)(B), has found good cause for dispensing with the notice of proposed rulemaking. The Director has determined this to be a nonsignificant regulation within the meaning of Executive Order 12044.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management is revising 5 CFR 737.31, 737.32, and 737.33 to read as follows:

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and § 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Comptroller of the Currency
- Internal Revenue Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Components:
- United States Fire Administration

Parent Agency: OFFICE OF PERSONNEL MANAGEMENT
Separate Statutory Components:
- Office of Government Ethics

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Education Division
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- *Law Enforcement Assistance Administration
- *National Institute of Justice
- *Bureau of Justice Statistics
- *Office of Justice Assistance, Research and Statistics
- Immigration and Naturalization Service
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Civil Preparedness Agency
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Components:
- Federal Energy Regulatory Commission

Parent Agency: DEPARTMENT OF COMMERCE
Separate Statutory Components:
- Economic Development Administration
- Patent and Trademark Office
- Maritime Administration
- National Oceanic and Atmospheric Administration
- Bureau of the Census

*These four components shall not, for purposes of 18 U.S.C. 207(c), be considered separate from one another but only from other separate components of the Department of Justice.

§ 737.32 Separate components of agencies or bureaus: designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for purposes of 18 U.S.C. 207(c) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Components:
- Health Care Financing Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Components:
- Alaska Railroad

Parent Agency: DEPARTMENT OF LABOR
Separate Components:
- Employment and Training Administration
- Employment Standards Administration
- Labor-Management Services Administration

Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
- Defense Communications Agency
- Defense Intelligence Agency
- Defense Nuclear Agency
- National Security Agency

Parent Agency: DEPARTMENT OF STATE
Separate Components:
- Foreign Service Grievance Board
- International Joint Commission, United States and Canada (American Section)

Parent Agency: DEPARTMENT OF JUSTICE
Separate Components:
- Office of United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshal for the same judicial district.
- Office of United States Marshal (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.
- Antitrust Division
- Civil Rights Division
- Land and Natural Resources Division
- Tax Division
- Civil Division
- Criminal Division
- Office for Improvements in the Administration of Justice

Parent Agency: DEPARTMENT OF COMMERCE
Separate Components:
- National Telecommunication and Information Administration
- Bureau of Industrial Economics

§ 737.33 "Senior employee" designations.

(a) In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18, U.S.C., as amended.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF ADMINISTRATION)

Positions: No section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (DOMESTIC POLICY STAFF)

Positions:
- AD Associate Directors (14)
- AD Expert/Drug Policy

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON ECONOMIC ADVISERS)

Positions: No section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions:
- GS–18 General Counsel
- GS–18 Executive Director

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE)

Positions: No section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF MANAGEMENT AND BUDGET)

Positions: Grade and Title
- ES–04 General Counsel
- ES–4 Deputy Associate Director, Regulatory and Information Policy
- ES–4 Deputy Associate Director, Intergovernmental Affairs
- ES–4 Domestic Reorganization Coordinator
- ES–4 Deputy Associate Director for Economic and Regional Development Organization
- ES–4 Deputy Associate Director for Natural Resources, Energy and Environment Reorganization
- ES–4 Deputy Associate Director for General Government Reorganization
- ES–5 Deputy Associate Director for Budget Review
- ES–4 Deputy Associate Director for International Affairs
- ES–4 Deputy Associate Director for National Security
- ES–4 Deputy Associate Director for Management, National Security and International Affairs
- ES–4 Deputy Associate Director for Health and Income Maintenance
- ES–4 Deputy Associate Director for Transportation, Commerce and Housing
- ES–4 Deputy Associate Director for Natural Resources
- ES–4 Deputy Associate Director for Energy and Science
- ES–4 Assistant to the Director for Public Affairs
- ES–1 *Assistant to the Director for Civil Rights

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ES–4 Assistant to the Director for Administration
ES–6 Assistant Director for Legislative Affairs
ES–5 Deputy Assistant Director for Legislative Reference
GS–17 Deputy Assistant Director for Economic Policy
ES–4 Deputy Associate Director for Regulatory Policy and Reports Management
ES–4 Chief, Financial Management Branch, Budget Review
ES–3 Chief, Fiscal Analysis Branch, Budget Review
ES–4 Deputy Chief, International Affairs Division
ES–4 Deputy Chief, National Security Division
ES–6 *Associate Deputy Chief, National Security Division
ES–4 Deputy Associate Director for Labor, Veterans and Education
ES–4 Deputy Division Chief (Labor) Labor, Veterans and Education
ES–4 Deputy Associate Director for Management, Human Resources, Veterans and Labor
ES–4 Deputy Division Chief, Transportation, Commerce and Housing
ES–4 Deputy Associate Director for Justice, Treasury and General Management
ES–4 Deputy Associate Director for Management, Economics and Government
ES–4 Deputy Division Chief, Energy and Science
ES–4 Deputy Associate Director for Management, Natural Resources, Energy and Science
ES–2 Deputy General Counsel
ES–6 *Executive Director, President's Commission on National Agenda for the 1980's
ES–6 **Executive Associate Director for Budget
ES–6 **Executive Associate Director for Management
ES–6 **Associate Director, Management and Regulatory Policy
ES–6 **Associate Director, National Security and International Affairs
ES–6 **Associate Director, Human Resources, Veterans and Labor
ES–6 **Associate Director, National Resources, Energy and Science
ES–6 **Associate Director, Economics and Government
ES–5 **Associate Director, Economic Policy
ES–5 **Assistant Director, Budget Review
ES–5 **Assistant Director, Legislative Reference
ES–5 **Assistant Director, Management Improvement and Evaluation
ES–5 **Assistant Director, Federal Personnel Policy

OFFICE OF FEDERAL PROCUREMENT POLICY

ES–4 Associate Administrator for Systems and Technology
ES–4 Associate Administrator for Regulations and Procedure
ES–4 Associate Administrator for Acquisition Law
ES–4 Assistant Administrator for Logistics
SES/V Assistant Administrator for Regulations
ES–3 Assistant Administrator for Commercial Products
ES–4 Director, Federal Acquisition Institute

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (NATIONAL SECURITY COUNCIL)

Positions:

GS–18 *Staff Member (Foreign Affairs Officer)
GS–18 *Foreign Affairs Officer—Staff Member, Strategic Planning
GS–18 *Foreign Affairs Officer (Western Europe)
GS–18 *Staff Member, International Affairs (Foreign Affairs Officer)
GS–18 *Director for Policy Analysis
GS–17 *Strategic Technology Specialist

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:

SES Associate Director for National Security, International and Space Affairs
SES Associate Director for Human Resources and Social and Economic Services
SES Associate Director for Natural Resources and Commercial Services
SES Senior Policy Analyst (3)

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS)

Positions:

ES–6 General Counsel
ES–5 Assistant U.S. Trade Representative—Trade Policy Development
ES–6 *Associate STR—Interagency Coordination
ES–4 *Assistant U.S. Trade Representative—Interagency Coordination
ES–5 *Assistant U.S. Trade Representative—Bilaterial Affairs
ES–5 *Assistant U.S. Trade Representative—Bilaterial Affairs
ES–5 *Assistant U.S. Trade Representative—Industrial Trade Policy
ES–5 *Assistant U.S. Trade Representative—Tariff Agreements
ES–4 *Assistant U.S. Trade Representative—Textiles
ES–2 *Assistant U.S. Trade Representative—Agricultural Trade Policy
ES–5 *Assistant U.S. Trade Representative—Congressional and Public Affairs
ES–2 *Deputy General Counsel
ES–3 *Director, Computer Operations
ES–2 *Deputy Assistant U.S. Trade Representative—Trade Policy
ES–2 *Assistant U.S. Trade Representative—GATT Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:

AD Chief of Staff
AD Counsel to the Vice President and Deputy Chief of Staff
AD Executive Assistant to the Vice President
AD Assistant to the Vice President for National Security Affairs
AD Assistant to the Vice President and Press Secretary
AD *Assistant to the Vice President for Domestic Policy

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON WAGE AND PRICE STABILITY)

Positions:

SES Deputy Director
SES General Counsel
SES Deputy General Counsel
SES *Assistant Director for Public Affairs
SES Assistant Director, Office of Government Programs and Regulations
SES *Assistant Director for Administration and Management
SES Assistant Director, Office of Price Monitoring
SES *Deputy Assistant Director, Office of Price Monitoring
GS–17 *Consultant, Office of Price Monitoring

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (THE WHITE HOUSE OFFICE)

Positions: No section 207(d)(1)(C) designations

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

SES **Director, Economics, Policy Analysis and Budget
SES **Assistant Secretary for Administration
SES Executive Assistant to the Secretary
SES Deputy Assistant Secretary for Administration
SES Deputy Assistant Secretary for Food and Consumer Services
SES Deputy Assistant Secretary for Natural Resources and Environment
SES Deputy Assistant Secretary for Rural Development
SES Deputy Under Secretary for International Affairs
SES Deputy Under Secretary for Commodity Programs
SES Deputy Assistant Secretary for Marketing and Transportation Services
SES Deputy Director for Economics, Policy Analysis, and Budget
SES Special Assistant for International Scientific and Technical Cooperation

OFFICE OF THE INSPECTOR GENERAL

SES *Deputy Inspector General
GS–17 Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Auditing
SES Deputy Assistant Inspector General for Investigations

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

SES Associate Director

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

OFFICE OF ADMINISTRATIVE LAW JUDGES

No section 207(d)(1)(C) designations

OFFICE OF PERSONNEL

SES Director

OFFICE OF EQUAL OPPORTUNITY

No section 207(d)(1)(C) designations

OFFICE OF OPERATIONS AND FINANCE

SES Director
SES Director, National Finance Center

OFFICE OF BUDGET, PLANNING AND EVALUATION

SES Director
SES Deputy Director for Management and Budget

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

SES Chairperson

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

SES Administrator
SES Deputy Administrator for Statistics
SES Deputy Administrator for Cooperatives
SES Deputy Administrator for Economics

RURAL ELECTRIFICATION ADMINISTRATION

SES Deputy Administrator

FARMERS HOME ADMINISTRATION

SES Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
SES Deputy Administrator, Rural Development
SES Deputy Administrator, Farm and Family Programs
SES Associate Administrator for Rural Development Policy Management and Coordination

SCIENCE AND EDUCATION ADMINISTRATION

SES **Director
SES Associate Director
SES Administrator, Human Nutrition Center
SES Associate Administrator, Human Nutrition Center
SES Assistant Director for Program Management
SES Chief, International Programs
SES Deputy Director for Extension
SES Associate Deputy Director for Extension
SES Deputy Director, Cooperative Research
SES Associate Deputy Director, Cooperative Research
SES Deputy Director for Administrative Management
SES Administrator for Agricultural Research
SES Associate Deputy Director for Agricultural Research

SOIL CONSERVATION SERVICE

SES **Administrator
SES Associate Administrator
SES Deputy Chief for Administration
SES Deputy Chief for Natural Resource Assessments
SES Deputy Chief for Technology Development and Application

FOREST SERVICE

SES **Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Research
SES Associate Deputy Chief for Research (2)
GS–18 Deputy Chief, National Forest System
SES Associate Deputy Chiefs, National Forest System (2)
SES Deputy Chief, State and Private Forestry
GS–17 Associate Deputy Chief, State and Private Forestry
GS–18 Deputy Chief for Programs and Legislation
GS–17 Associate Deputy Chief for Programs and Legislation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SES **Administrator
SES Associate Administrator
SES Deputy Administrator, State and County Operations
SES Deputy Administrator, Management
SES Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

SES Manager
SES Deputy Manager

FOREIGN AGRICULTURAL SERVICE

SES **Administrator
SES Associate Administrator
SES Deputy Assistant Administrator, Commodity Programs
SES General Sales Manager

FOOD SAFETY AND QUALITY SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Commodity Services
SES Deputy Administrator, Meat and Poultry Inspection, Field Operations
SES Deputy Administrator, Administrative Management

FOOD AND NUTRITION SERVICE

SES Administrator
SES Associate Administrator

AGRICULTURAL MARKETING SERVICE

SES **Administrator
SES Deputy Administrator, Marketing Program Operations
SES Deputy Administrator, Packers and Stockyards

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SES **Administrator
SES Associate Administrator
SES Deputy Administrator, Veterinary Services
SES Deputy Administrator, Plant Protection and Quarantine
SES Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

AGENCY: DEPARTMENT OF COMMERCE

Positions:

OFFICE OF THE SECRETARY

SES Special Assistants to the Secretary of Commerce (2)
SES Assistant to the Secretary of Commerce
SES Counsellor to the Secretary of Commerce
SES **Chief Economist

Office of Regional Affairs and Regional Coordination

SES Associate Deputy Secretary
SES Chairperson, Federal Regional Council, Region V

Office of Congressional Affairs

SES Deputy Assistant Secretary for Congressional Affairs

Office of Public Affairs

SES Director, Public Affairs

Office of General Counsel

SES Deputy General Counsel

Office of Assistant Secretary for Policy

SES Deputy Assistant Secretary for Ocean, Resource and Scientific Policy
SES Deputy Assistant Secretary for International Policy Coordination
SES Deputy Assistant Secretary for Domestic Economic Policy and Coordination

Office of Assistant Secretary for Tourism

SES Deputy Assistant Secretary

Minority Business Development Administration

SES Director, Minority Business Development Administration
SES Deputy Director, Minority Business Development Administration
SES Special Assistant for Minority Enterprise

OFFICE OF ASSISTANT SECRETARY FOR MARITIME AFFAIRS

SES Deputy Assistant Secretary

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Policy and Administration

SES Assistant Administrator for Policy and Administration

Maritime Aids

SES Assistant Administrator for Maritime Aids
SES Deputy Assistant Administrator for Maritime Aids (Trade)

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SES Deputy Assistant Administrator for Maritime Aids (Finance)

Operations

SES Assistant Administrator for Shipbuilding and Ship Operations
SES Deputy Assistant Administrator
SES Director, Office of Ship Construction
SES Director, Office of Shipbuilding Costs

Commercial Development

SES Assistant Administrator for Commercial Development
SES Deputy Assistant Administrator for Commercial Development

Regional Offices

No section 207(d)(1)(C) designations

U.S. Merchant Marine Academy

SES Superintendent

INTERNATIONAL TRADE ADMINISTRATION

Office of the Under Secretary for International Trade

SES Deputy Under Secretary

Office of the Assistant Secretary for International Economic Policy

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Textiles and Apparel
SES Deputy Assistant Secretary for Trade Agreement
SES Deputy Assistant Secretary for Finance, Investment and Services
SES Deputy Assistant Secretary for Policy Planning and Analysis

Office of the Assistant Secretary for Trade Administration

SES Deputy Assistant Secretary for Import Administration
SES Deputy to the Deputy Assistant Secretary for Import Administration
SES Deputy Assistant Secretary for Export Administration
SES Deputy to the Deputy Assistant Secretary for Export Administration

Office of the Assistant Secretary for Trade Development

SES Deputy Assistant Secretary for U.S. Commercial Service
SES Deputy to the Deputy Assistant Secretary for U.S. Commercial Service
SES Deputy Assistant Secretary for Export Development
SES Deputy to the Deputy Assistant Secretary for Export Development

OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary

Office of the Controller

SES Controller

Office of Budget and Program Evaluation

SES Director
SES Deputy Director, Budget

Office of Procurement and Automatic Data Processing Management

SES Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SES Deputy Assistant Secretary

Office of Planning and Policy Coordination

SES Director
SES Chief Counsel

Office of International Affairs

SES Director

Office of Federal Systems and Spectrum Management

SES Associate Administrator for
SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator
SES Deputy Associate Administrator

Office of Telecommunications Applications

SES Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator
SES Deputy Associate Administrator

OFFICE OF THE CHIEF ECONOMIST

SES Chief Economist
SES Deputy Chief Economist
SES Director for Federal Statistical Policy & Standards

Bureau of Industrial Economics

SES Director
SES Deputy Director

Bureau of Economic Analysis

SES Director
SES Deputy Director

Bureau of the Census

SES Deputy Director

Demographic Fields

SES Associate Director

Information Technology

SES Associate Director

Statistical Standards and Methodology

SES Associate Director

Field Operations

SES Associate Director

Economic Fields

SES Associate Director

OFFICE OF ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

SES Deputy Assistant Secretary

Office of Environmental Affairs

SES Deputy Assistant Secretary

Office of Product Standards

SES Deputy Assistant Secretary

National Technical Information Service

SES Director
SES Deputy Director

NATIONAL BUREAU OF STANDARDS

SES Deputy Director
SES Associate Director for International Affairs
SES Associate Director for Programs, Budget and Finance

Institute for Basic Standards

SES Director
SES Deputy Director

National Measurement Laboratory

SES Director
SES Deputy Director for Resources & Operations

National Engineering Laboratory

SES Director
SES Deputy Director

Institute for Computer Sciences and Technology

SES Director
SES Deputy Director
SES Associate Director for Teleprocessing and Supporting Communications Technology
SES Associate Director for Automatic Data Processing Standards

OFFICE OF ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT (ECONOMIC DEVELOPMENT ADMINISTRATION)

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Development Finance

Office of Chief Counsel

SES Chief Counsel

Office of Special Projects

SES Director

Economic Development Policy and Planning

SES Deputy Assistant Secretary

Economic Development Operations

SES Deputy Assistant Secretary
SES Director, Office of Public Works

PATENT AND TRADEMARK OFFICE

GS–18 Deputy Commissioner

Board of Patent Interferences

No section 207(d)(1)(C) designations

Office of Assistant Commissioner for Patents

GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS–17 Assistant Commissioner

Office of the Solicitor

SES Solicitor
SES Deputy Solicitor

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GS–17 4500 Special Counsel for Law of the Sea

Office of the General Counsel

SES **General Counsel
SES Deputy General Counsel

Office of Policy and Planning

SES **Assistant Administrator for Policy and Planning

Coastal Zone Management

SES **Assistant Administrator

National Marine Fisheries Service

SES **Assistant Administrator for Fisheries
SES Deputy Assistant Administrator

Office of Research and Development

SES **Assistant Administrator for Research and Development

Environmental Research Laboratories

SES Director

Office of Sea Grants

SES Director

Oceanic and Atmospheric Services

SES **Assistant Administrator
SES Deputy Assistant Administrator

National Weather Service

SES Director
SES Deputy Director

National Ocean Survey

O7–O8 Director
SES Deputy Director

Environmental Data and Information Service

SES Director
SES Deputy Director

National Earth Satellite Service

SES Director
SES Deputy Director

NOAA CORPS

O7–O8 Director

AGENCY: DEPARTMENT OF DEFENSE

Positions:

ASSISTANT SECRETARY OF DEFENSE (MANPOWER, RESERVE AFFAIRS, AND LOGISTICS)

SES Principal Deputy Assistant Secretary
SES Special Assistant for Weapons Support Improvement
SES Director, Office of Economic Adjustment (OEA)
SES Deputy Director, OEA
SES Deputy Assistant Secretary, Equal Opportunity (EO)
SES Director for Equal Opportunity (Military)
SES *Director for Equal Opportunity (Civilian)
SES Deputy Assistant Secretary, Program Management (PM)
SES Staff Director, (PM)
SES Director for Department of Defense Dependent Schools (DODDS) (PM)
SES Deputy Assistant Secretary; Supply, Maintenance, and Transportation (SM&T)
SES Director for Supply Management Policy (SM&T)
SES Director for Transportation and Distribution Policy (SM&T)
SES Director for Maintenance Policy (SM&T)
SES Deputy Assistant Secretary, Installations & Housing (I&H)
SES Director for Installation Management and Planning (I&H)
SES Director for Construction and Design (I&H)
SES Director for Facilities Programming (I&H)
O–7 Director for Construction Operations & Facilities Management (I&H)
SES Special Assistant to the DASD, Reserve Affairs (RA)
O–8 *Deputy Assistant Secretary, Military Personnel Policy
SES Director for Accession, Policy, Military Personnel Policy (MP)
SES Deputy Assistant Secretary, Civilian Personnel Policy (CP)
SES Staff Director/Director for Personnel Managment (CP)
SES Director for Compensation & Position Management (CP)
SES Director for Staffing and Career Development (CP)
SES Director for Labor/Management Relations (CP)
SES *Director, Overseas & Nonappropriated Funds Personnel Policy (CP)
SES Deputy Assistant Secretary, Energy, Environment, and Safety (EES)
SES Director for Energy Policy (EES)
SES Director for Safety Policy (EES)
SES Deputy Assistant Secretary, Requirements, Resources & Analysis (RRA)
SES Director for Resource Management & Analysis (RRA)
SES Director for Logistics Programs, Budget & Analysis (RRA)
SES Director for Research & Data (RRA)
SES Director for International Logistics & Support Analysis (RRA)
SES *Director, Special Projects
SES Director, Organizational Development

OFFICE OF THE UNDER SECRETARY OF DEFENSE (POLICY)

SES *Deputy Under Secretary of Defense (Policy Planning), OUSD/P
SES *Deputy Under Secretary of Defense (Policy Review), OUSD/P
SES *Principal Deputy Assistant Secretary of Defense (ISA)
FSO Deputy Assistant Secretary of Defense, Inter-American Affairs, OASD/ISA
SES Deputy Assistant Secretary of Defense, European & NATO Affairs
FSO Deputy Assistant Secretary of Defense, East Asia & Pacific Affairs
SES Deputy Assistant Secretary of Defense, Near Eastern, African and South Asian Affairs
SES Deputy Assistant Secretary of Defense, International Economic and Technology Affairs
SES Director, Near Eastern & South Asian Region
SES *Director, Foreign Military Rights Affairs, OASD/ISA
SES *Director, Africa Region, ODASD/NEASA, OASD/ISA
SES *Director, International Economic Affairs, ODASD/IETA, OASD/ISA
SES *Director, Technology and Arms Transfer Policy, OSASD/IETA, OASD/ISA
SES *Director, European and NATO Affairs, ODASD/EUR/NATO, OASD/ISA
SES Assistant Deputy Under Secretary of Defense (Policy Planning), ODUSD/PP
O–8 *Principal Director, Plans and Policy, ODUSD/PP
SES *Director, General Purposes Forces, Policy, ODUSD/PP
SES Director, Theater Nuclear Policy, ODUSD/PP
SES *Director, Strategic Policy, ODUDS/PP
SES *Deputy Director, DOD SALT Task Force
SES *Deputy Director, Plans and Programs, ODASD/SA
O–8 *Director, Intelligence Policy, ODUSD/PR
SES Assistant Deputy Under Secretary of Defense (Policy Review), ODUSD/PR
SES Director for Communications, Command and Control Policy
SES Director for Counterintelligence and Security Policy
SES *Director, Net Assessment
SES *Deputy Director, Net Assessment
AD Deputy Director, DSAA
AD Comptroller, DSAA
AD Director, Operations, DSAA
AD Director, Plans & Programs, ODASD/SA

ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)

SES Principal Deputy Assistant Secretary (Comptroller)
SES Deputy Assistant Secretary (Program/Budget)
GS–17 Director for Program & Financial Control
GS–17 Director for Construction
GS–17 Director for Procurement
GS–17 Director for Research and Development
GS–17 Director for Operations
GS–18 Deputy Assistant Secretary (Management Systems)
GS–17 Principal Assistant to Deputy Assistant Secretary (Management Systems)

UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING AND ASSISTANT SECRETARY OF DEFENSE (COMMUNICATIONS, COMMAND, CONTROL AND INTELLIGENCE)

SES Deputy Under Secretary R&E (Acquisition Policy)
SES Deputy Under Secretary R&E (International Programs and Technology)
SES Deputy Under Secretary R&E (Research and Advanced Technology)
SES Deputy Under Secretary R&E (Strategic and Space Systems)
SES Deputy Under Secretary R&E (Tactical Warfare Programs)
SES Director, Defense Test & Evaluation

ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)

GS–17 Director for Accounting Policy
SES Deputy Assistant Secretary (Audit)/Director, Defense Audit Service
SES Deputy Controller for Audit Policy
GS–18 Deputy Assistant Secretary (Administration)
SES *Director for Data Automation
SES *Director for Management Information Control and Analysis
SES *Director for Banking, International Finance and Professional Development

ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

SES Principal Deputy Assistant Secretary of Defense (Program Analysis and Evaluation)
SES Deputy Assistant Secretary of Defense (General Purpose Programs)

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SES Deputy Assistant Secretary of Defense (Strategic Programs)
SES Deputy Assistant Secretary of Defense (Regional Programs)
SES *Deputy Assistant Secretary of Defense (Resource Analysis)
SES Director, Land Forces Division
SES *Director, Mobility Forces Division
SES Director, Naval Forces Division
SES *Director, Tactical Air Division
SES *Special Assistant for Air Defense Programs
SES Director, Asia Division
SES Director, Europe Division
SES *Director, Special Regional Studies Division
SES Director, Cost & Economic Analysis
SES Director, Strategic Offensive Forces & Arms Limitations Division
SES *Director, Strategic Defensive & Theater Nuclear Forces Division

ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS)

SES *Principal Deputy Assistant Secretary (Public Affairs)
O–8 Deputy Assistant Secretary (Public Affairs)
SES Director, American Forces Information Service
SES Director for Freedom of Information and Security Review

ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)

SES Principal Deputy Assistant Secretary of Defense
O–8 *Deputy Assistant Secretary of Defense (Health Resources & Programs)
O–7 *Deputy Assistant Secretary of Defense (Drug and Alcohol Abuse Prevention)

ASSISTANT TO THE SECRETARY OF DEFENSE (ATOMIC ENERGY)

O–8 *Deputy Assistant to the Secretary of Defense (Atomic Energy) (Military Applications)
SES *Deputy Assistant to the Secretary of Defense (Atomic Energy) (Assessment)

DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

AD Director, Tactical Technology Office
AD Director, Strategic Technology Office
AD *Director, Defense Sciences Offices
AD *Director, Information Processing Techniques Office
AD *Director, Directed Energy Office

DEFENSE AUDIT SERVICE

SES *Deputy Director

DEFENSE CONTRACT AUDIT AGENCY

SES *Director
SES *Deputy Director

JOINT CHIEFS OF STAFF

O–7/O–8 Vice Director, Joint Staff
O–7/O–8 Vice Director, Plans and Policy Directorate
O–7/O–8 Deputy Director for Tactical/Theater Systems, Command Control and Communications Systems Directorate

DEPARTMENT OF THE AIR FORCE (CIVILIAN)

SAF/AA

SES Administrative Assistant to the Secretary of the Air Force

SAF/AL

SES *Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics)
SES Principal Deputy Assistant Secretary for Research and Development
SES Deputy Assistant Secretary for Logistics
SES Deputy Assistant Secretary for Programs and Acquisitions
SES Deputy for Programs and Production
SES Deputy for Acquisition
SES Deputy for Supply and Maintenance
SES *Deputy for Transportation and Civil Aviation

SAF/FM

SES Principal Deputy Assistant Secretary
SES Deputy for Financial Systems and Analysis
SES Principal Deputy Assistant Secretary for Programs and Budget

SAF/GC

SES **The General Counsel
SES Deputy General Counsel
SES Assistant General Counsel, Procurement

SAF/MI

SES Principal Deputy Assistant Secretary for installations
SES Principal Deputy Assistant Secretary for Manpower Resources and Military Personnel
SES Deputy Assistant Secretary (Reserve Affairs)

SAF/US

SES Deputy Under Secretary (Space Systems)
SES Director, Office of Space Systems

AF/AC

SES Deputy Comptroller
SES Assistant Director of Budget
SES Deputy Director of Accounting and Finance Center

AF/MPK

SES Deputy Assistant Secretary (Civilian Personnel Policy) and Director of Civilian Personnel

AF/LE

SES Associate Director, Engineering and Services
SES Associate Director, Logistics Plans and Programs

AF/PA

SES Associate Director, Directorate of Programs

AF/RD

SES Associate Director, Procurement Policy
SES Director, Office of Small and Disadvantaged Business

AFLC

SES Assistant DCS/Maintenance
SES Assistant DCS/Logistics Operations
SES Assistant DCS/Procurement and Production
SES Assistant DCS/Plans and Programs
SES Deputy Director, Materiel Management (SA–ALC)
SES Deputy Director, Materiel Management (OC–ALC)
SES Deputy Director, Materiel Management (WR–ALC)
SES Deputy Director, Materiel Management (OO–ALC)
SES *Director of Materiel Requirements and Financial Resource Management
SES *Deputy for Contracting and Manufacturing
SES Deputy Director, Materiel Management (SM–ALC)
SES Chairman, AFLC Procurement Committee

AFAA

SES *The Auditor General
SES Deputy Auditor General

AFSC

SES Principal Assistant, DCS/Procurement and Manufacturing
SES Chairman, Procurement Committee
SES Director of Manufacturing (HQ/AFSC)
SES Assistant Deputy for Procurement and Manufacturing (ASD)
SES Assistant Deputy for Procurement and Manufacturing (ESD)
SES Deputy Chief, Procurement and Manufacturing (SAMSO)
SES Deputy, Command and Management Systems (ESD)
SES Research and Development Executive (Director)(AFWL)
SES Research and Development Executive (Director)(AFML)
SES Research and Development Executive (Director)(AFOSR)
SES Director of Aerospace Sciences (AFOSR)
SES Director of Chemical Sciences (AFOSR)
SES Director of Life Sciences (AFOSR)
SES Director of Math and Information Sciences (AFOSR)
SES Director of Electronics and Solid State Sciences (AFOSR)

MILITARY

Office of the Secretary of the Air Force

O–7/O–8 *Deputy Auditor General and Commander, Air Force Audit Agency
O–7/O–8 Director of Special Projects and Deputy Commander for Satellite Programs, SAMSO

Office of Air Force Reserve

O–7/O–8 Chief of Air Force Reserve and Commander, AFRES

National Guard Bureau

O–7/O–8 Director, Air National Guard

Office of the Judge Advocate General

O–7/O–8 The Judge Advocate General
O–7/O–8 The Assistant Judge Advocate General

Comptroller of the Air Force

O–7/O–8 Director of Budget

O–7/O–8 Deputy Director of Budget
O–7/O–8 Commander, Air Force Accounting and Finance Center; Director, Accounting and Finance; and Assistant Director, Defense Security Assistance Agency for Foreign Military Sales

Deputy Chief of Staff, Logistics and Engineering

O–7/O–8 Director, Logistics Plans and Programs
O–7/O–8 Director, Engineering and Services
O–7/O–8 Director, Transportation
O–7/O–8 *Commander, Air Force Commissary Service

Deputy Chief of Staff, Programs and Evaluation

O–7/O–8 Director of Programs
O–7/O–8 Director of International Programs

Deputy Chief of Staff, Research, Development and Acquisition

O–7/O–8 Assistant Deputy Chief of Staff, Research, Development and Acquisition
O–7/O–8 Director, Development and Programming
O–7/O–8 Director of Space Systems and Command, Control, Communications
O–7/O–8 Director, Contracting and Acquisition Policy
O–7/O–8 Assistant Deputy Chief of Staff, Research, Development and Acquisition for Space Shuttle Development and Operations
O–7/O–8 Special Assistant for MX Matters

Deputy Chief of Staff, Operations, Plans and Readiness

O–7/O–8 Director, Plans

Studies and Analysis

O–7/O–8 Assistant Chief of Staff, Studies and Analysis

Air Force Communications Service

O–7/O–8 Commander, Air Force Communications Command

Air Force Logistics Command

O–7/O–8 Chief of Staff
O–7/O–8 Deputy Chief of Staff, Logistics Operations
O–7/O–8 Deputy Chief of Staff, Maintenance
O–7/O–8 Deputy Chief of Staff, Contracting and Manufacturing
O–7/O–8 Deputy Chief of Staff, Plans and Programs
O–7/O–8 Staff Judge Advocate
O–7/O–8 Commander, San Antonio Air Logistics Command
O–7/O–8 Commander, Oklahoma City Air Logistics Center
O–7/O–8 Commander, Warner Robins Air Logistics Center
O–7/O–8 Commander, Ogden Air Logistics Center
O–7/O–8 Commander, Sacramento Air Logistics Center
O–7/O–8 Vice Commander, Air Force Acquisition Logistics Division
O–7/O–8 Commander, International Logistics Center

Air Force Systems Command

O–7/O–8 Deputy Chief of Staff, Systems
O–7/O–8 Director, Science and Technology
O–7/O–8 Deputy Chief of Staff, Procurement and Manufacturing
O–7/O–8 Staff Judge Advocate
O–7/O–8 Commander, Armament Division
O–7/O–8 Commander, Air Force Contract Management Division
O–7/O–8 Deputy for F–16, ASD
O–7/O–8 Deputy Commander, Development and Acquisition Armament Division
O–7/O–8 Vice Commander, Aeronautical Systems Division
O–7/O–8 Vice Commander, Space Division
O–7/O–8 Vice Commander, Electronics Systems Division
O–7/O–8 Deputy for AWACS
O–7/O–8 Deputy for Communications and Information Systems, ESD
O–7/O–8 Commander, Ballistic Missile Office
O–7/O–8 *Deputy for Reconnaissance and Electronic Warfare Systems, ASD
O–7/O–8 *Deputy for Airlift and Trainer Systems and C–X System Program Director
O–7/O–8 Vice Commander, Armament Division

Military Airlift Command

O–7/O–8 Deputy Chief of Staff, Air Transportation

DEPARTMENT OF THE ARMY

Office, Secretary of the Army

SES Administrative Assistant to the Secretary of the Army
SES Deputy Administrative Assistant

Office of the General Counsel

SES **General Counsel
SES Principal Deputy General Counsel

Office of the Under Secretary

SES Deputy Under Secretary of the Army (Operations Res)
SES Assistant Deputy Under Secretary of the Army (Operations Res)

Office, Assistant Secretary of the Army (Installations, Logistics & Financial Management)

SES Principal Deputy ASA (IL&FM)
SES Deputy for Installations & Housing
SES Deputy for Logistics
SES Assistant Deputy for Installations & Housing
SES Assistant Deputy for Logistics
SES Deputy for Resource Analysis
SES Deputy for Management System
SES Assistant Deputy for Resource Analysis
SES Assistant for Small Business & Economic Utilization
SES *Deputy for Environment Safety & Occupational Health

Office, Assistant Secretary of the Army (Manpower & Reserve Affairs)

SES Principal Deputy & Deputy ASA for Reserve Affairs (M&RA)
SES Deputy ASA (DA Review Boards and Personnel Security)

Office, Small & Disadvantaged Business Utilization

SES *Director, Small & Disadvantaged Business Utilization

Office, Assistant Secretary of the Army (Civil Works)

SES Principal Deputy ASA (CW)

Office, Assistant Secretary of the Army (Research, Development & Acquisition)

SES Deputy ASA (R&D)
SES Deputy ASA (Acquisition)
SES Deputy for Science & Technology
SES Deputy for Materiel Acquisition Management
SES Deputy for Procurement Policy
SES Deputy for Management & Budget
SES Deputy for Air & Missile Defense
SES Deputy for Communications & Target Acquisition
SES *Associate Director for Procurement & Management Review

Ballistic Missile Defense Program Office (Washington)

SES Deputy BMD Program Manager
SES Director, BMDPO

Ballistic Missile Defense Systems Command (Huntsville)

SES Chief, Contracts Office
SES Director, Systems Technology Project Office

Ballistic Missile Defense Advance Technology Center (Huntsville)

SES Director, BMD Advance Technical Center

Office of the Chief of Staff

SES *Director, Study Management Program

U.S. Army Operational Test and Evaluation Agency (OCSA)

SES Scientific Advisor

Assistant Chief of Staff for Automation and Communications

SES Deputy Assistant Chief of Staff Auto & Commo
SES Director, USA Management Systems Spt Agency
SES *Director, U.S. Army Computer Systems Selection Acquisition Agency

Deputy Chief of Staff for Logistics

SES *Special Assistant to the DCSLOG/Chief Aviation Logistics

Program Analysis and Evaluation Directorate (OCSA)

SES Deputy Director for Programming

Comptroller of the Army

SES Deputy Comptroller

Army Audit Agency (OSA)

SES The Auditor General (OCSA)
SES Deputy Auditor General (OSA)
SES Director, Logistical and Financial Audits (OSA)
SES Director, Acquisition and Force Management Audits (OSA)

Office of the Judge Advocate General

SES Special Assistant for Comm, Trans & Utilities

U.S. Army Materiel Development & Readiness Command (DARCOM) Headquarters

SES Deputy Comptroller

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SES Command Counsel
SES Deputy Command Counsel
SES Chief, Patent Law Division
SES Director, Management Information Systems
SES Director for Quality Assurance
SES Principal Assistant Deputy for Materiel Development
SES *Assistant Deputy for Resource Management
SES Assistant Deputy for Science & Technology
SES Assistant Deputy for International Research, Development and Standardization
SES Chief, Office of Manufacturing Technology
SES Deputy Director for Development & Engineering
SES Assistant Deputy for Materiel Readiness
SES Deputy Director for Materiel Management
SES Associate Director for Requirements & Resources
SES Associate Director for Procurement
SES Deputy Director, Security Assistance
SES Deputy Director for Procurement & Production

Nuclear Munitions Project Office

SES Deputy Project Manager

Project Office (PATRIOT)

SES Deputy Project Manager
SES Assistant Project Manager for Development and Acquisition Operations

BETA Joint Project Office

SES Director, Beta Joint Project Office

U.S. Army Materiel Systems Agency Analysis (AMSAA)

SES Director, Army Materiel Systems Analysis Agency

U.S. Army Materiels and Mechanics Research Center (AMMRC)

SES *Director

Army Research Office (ARO) Durham

SES Technical Director
SES Director, Electronics Division
SES Director, Metallurgy & Materials Science
SES Director, Physics Division
SES Director, Mathematics Division
SES Director, Engineering Sciences Division

U.S. Army Armament Research & Development Command (ARRADCOM) Headquarters

SES Technical Director

ARRADCOM

SES Associate Technical Director (R&T) & Director, BRL

U.S. Army Armament Material Readiness Command (ARRCOM)

SES *Deputy for Procurement and Production

Chemical Systems Lab

SES Deputy Director

Large Caliber Weapon Systems Laboratory

SES Deputy Director

Small Caliber Weapon Systems Lab

SES Deputy Director

U.S. Army Aviation R&D Command (AVRADCOM) Headquarters

SES Technical Director
SES Director, Aeromechanics Lab
SES Director, Structures Lab
SES Director, Propulsion Lab
SES Director, Research & Technology Lab

U.S. Army Communication and Electronics Material Readiness Command (CERCOM)

SES *Chief Counsel

U.S. Army Communications R&D Command (CORADCOM)

SES Technical Director
SES *Director, Communications System Center
SES *Director, Tactical Computer Systems Center
SES *Director, Systems Engineering and Integration Center
SES Technical Director, (SATCOMA)
SES Deputy Project Manager, (ARTADS)

U.S. Army Depot Systems Command (DESCOM)

SES *Deputy for Tactical Operations

U.S. Army Electronics R&D Command (ERADCOM) Headquarters

SES Technical Director
SES Director, Night Vision & Electronic Optics Lab
SES Director, Signals Warfare Lab
SES Director, Electronic Warfare Lab
SES Director, Electronics Technology & Devices Lab
SES Deputy Director, Combat Surveillance & Target Acquisition Lab
SES Technical Director, Harry Diamond Lab

Mobility Equipment Research and Development Command (MERADCOM)

SES Technical Director

U.S. Army Missile Command (MICOM)

SES *Director, Army Missile Lab
SES Director, Engineering Lab
SES Director, Technology Lab
SES *Director for Procurement and Production
SES *Chief, Counsel
SES Deputy Project Manager, High Energy Laser
SES Deputy Project Manager, Roland

Natick Research & Development Command (NARADCOM)

SES Technical Director
SES Deputy Technical Director, Clothing & Equipment Systems Program
SES Director, Clothing Equipment & Materiel Engineering Lab
SES Director, Food Sciences Lab
SES Director, Food Engineering Lab
SESSES Deputy Technical Director, Food Service System Program

XM-1 Tank systems Project Office

SES Chief Engineer/Chief Systems Engineering Division

Office of the Project Manager, Fighting Vehicle Systems (FVS)

SES Deputy Project Manager

U.S. Army Tank-Automotive Materiel Readiness Command (TARCOM)

SES *Chief Counsel
SES Director, Procurement & Production

Army Tank-Automotive Research and Development Command (TARADCOM)

SES Technical Director

U.S. Army Test and Evaluation Command (TECOM)

SES *Technical Director
SES Director for Analysis
SES Associate Director, Materiel Test Dir (APG)
SES Scientific Director (DPG)
SES Technical Director, Elec Prov Grnd (EPG)
SES *Technical Director, National Range Opinions (WSMR)
SES Technical Director & Chief Scientist (WSMR)

U.S. Army Troop Support and Aviation Materiel Readiness Command (TSARCOM)

SES Director for Procurement & Production

Foreign Science and Technology Center

SES Deputy Director, FSTC

U.S. Army Human Engineering Laboratory

SES Director, HEL

Army Materiel and Mechanics Research Center (AMMRC)

SES Director, AMMRC

TRADOC System Analysis Activity (WSMR)

SES Director, TRASANA

The Army Staff

O–8 Director, Management
O–8 Chief, Army Force Modernization Coordination Office
O–8 Director, Program Analysis and Evaluation
O–8 Assistant Deputy Chief of Staff for Personnel
O–8 *Assistant Deputy Chief of Staff for Operations and Plans
O–8 Assistant Deputy Chief of Staff for Operations and Plans for Joint Affairs
O–8 Assistant Deputy Chief of Staff for Logistics (Acting DCSLOG)
O–8 ADCSRDA & ADCSRDA for International Programs
O–8 Director, of Army Budget
O–8 Chief, Army Reserve
O–7 Deputy Chief, Army Reserve
O–8 Chief, National Guard Bureau
O–8 Director, Army National Guard
O–8 Assistant Chief of Staff for Automation and Communications
O–7 Director of Systems Integration
O–8 Assistant Chief of Staff for Intelligence
O–7 Deputy Assistant Chief of Staff for Intelligence
O–8 The Adjutant General
O–7 Deputy TAG
O–8 Chief of Chaplains
O–8 The Judge Advocate General
O–8 The Assistant Judge Advocate General
O–8 The Deputy Surgeon General

O–7 *Assistant Surgeon General (Research & Development)
O–8 Deputy Chief of Engineers and Chairman, Board of Engineers for Rivers and Harbors

Army Staff Field Operating Agencies

Office, Chief of Staff

O–8 Commanding General, Ballistic Missile Defense Systems Command, Huntsville, Alabama
O–8 Commanding General, U.S. Army Operational Test and Evaluation Agency, Falls Church, Virginia

Office, Deputy Chief of Staff for Personnel

O–8 Commanding General, USA Military Personnel Center, Alexandria, Virginia
O–8 Commanding General, USA Recruiting Command, Fort Sheridan, Illinois
O–7 Deputy Commanding General, USA Recruiting Command, Fort Sheridan, Ilinois (2)
O–7 Deputy Superintendent, U.S. Military Academy—West Point, New York

Office, Deputy Chief of Staff for Logistics

O–7 Commanding General, U.S. Army Troop Support Agency, Fort Lee, Virginia

Office, Assistant Chief of Staff for Automation and Communications

O–8 Commanding General, U.S. Army Computer Systems Command, Fort Belvoir, Virginia
O–7 Deputy Commanding General, U.S. Army Computer Systems Command, Fort Belvoir, Virginia

Office, The Adjutant General

O–7 Commanding General, U.S.Army Reserve Components Personnel and Administration, St. Louis, Missouri

Office, The Judge Advocate General

O–7 Commanding General, Chief Judge, U.S. Army Legal Services Agency/United States Court of Military Review, Falls Church, Virginia

Office, The Surgeon General

O–7/O–8 Commanding General, U.S. Army Medical Research and Development Command, Fort Detrick, Maryland

U.S. Army Training and Doctrine Command—Fort Monroe, Virginia

O–8 Chief of Staff
O–8 Deputy Chief of Staff, Combat Developments
O–7 Commanding General, Combat Developments Experimentation Command, Fort Ord, California
O–8 Commanding General, TRADOC Combined Arms Test Activity, Fort Hood, Texas

U.S. Army Materiel Development and Readiness Command, Alexandria, Virginia

O–8 Deputy Commander For Resources and Management
O–7/O–8 Director, Development & Engineering
O–8 Director, Procurement & Production
O–7 Director, Materiel Management
O–7/O–8 Director, U.S. Army Security Assistance Center
O–8 Comptroller
O–7 Director, Battlefield Systems Integration
O–8 Commanding General, U.S. Army Tank-Automotive Materiel Readiness Command, Warren, Michigan
O–7 Deputy Commanding General, U.S. Army Tank-Automotive Materiel Readiness Command, Warren, Michigan
O–8 Commanding General, U.S. Army Tank-Automotive Research and Development Command, Warren, Michigan
O–8 Commanding General, U.S. Army Aviation Research and Development Command, St. Louis, Missouri
O–8 Commanding General, U.S. Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missouri
O–7 Deputy Commanding General, U.S. Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missouri
O–8 Commanding General, U.S. Army Armament Materiel Readiness Command—Rock Island, Illinois
O–7 Deputy Commanding General, U.S. Army Armament Materiel Readiness Command—Rock Island, Illinois
O–8 Commanding General, U.S. Army Armament Research and Development Command—Picatinny Arsenal, New Jersey
O–7 Deputy Commanding General, U.S. Army Armament Research and Development Command—Picatinny Arsenal, New Jersey
O–8 Commander, U.S. Army Missile Command—Redstone Arsenal, Alabama
O–7 Deputy Commander/Deputy for Readiness and Procurement, U.S. Army Missile Command—Redstone Arsenal, Alabama
O–7 *Deputy Commander/Deputy for Research and Development, U.S. Army Missile Command
O–7 Commanding General, U.S. Army Missile Research and Development Command—Redstone Arsenal, Alabama
O–7 Project Manager, Roland U.S. Army Missile Command—Redstone Arsenal, Alabama
O–8 Commanding General, U.S. Army Communications & Electronics Materiel Readiness Command
O–7 Deputy Commander/Deputy for Procurement, U.S. Army Communications & Electronics Materiel Readiness Command
O–7 Project Manager, ARTADS/Deputy Commander, U.S. Army Communications & Electronics Materiel Readiness Command
O–8 Commanding General, U.S. Army Electronics Research & Development Command—Adelphi, Maryland
O–8 Commanding General, U.S. Army Test & Evaluation Command—Aberdeen Proving Grounds, Maryland
O–7 Deputy Commander, TECOM, Commanding General, White Sands Missile Range—White Sands, New Mexico
O–8 Commanding General, U.S. Army Communication Research & Development Command, Fort Monmouth, New Jersey
O–7 Commanding General, U.S. Army Depot System Command—Chambersburg, Pennsylvania
O–8 Project Manager, Separate Project Managers XM–1 Tank—Warren, Michigan
O–8 Project Manager, Patriot—Redstone Arsenal, Alabama
O–7 Project Manager, Fighting Vehicle Systems—Warren, Michigan
O–7 Program Manager, Advanced Attach Helicopter Program—St. Louis, Missouri
O–7 Project Manager, Saudi Arabian National Guard Modernization—Saudi Arabia

U.S. Army Communications Command

O–8 Commanding General, U.S. Army Communications Command, Fort Huachuca, Arizona
O–7 Commanding General, U.S. Army Communications Systems Agency, Fort Monmouth, New Jersey

Other Commands

O–8 Commander, Military Traffic Management Command, Washington, D.C.
O–8 Commanding General, U.S. Army Intelligence and Security Command, Arlington, Virginia
O–8 Commanding General, U.S. Army Military District of Washington, Washington, D.C.
O–8 Commanding General, U.S. Army Criminal Investigation Command, Falls Church, Virginia
O–8 Commanding General, U.S. Army Health Services Command, Fort Sam Houston, Texas

Major Overseas Commands

U.S. Europe and Seventh Army

O–8 Chief of Staff
O–8 Deputy Chief of Staff, Engineer
O–8 Commanding General, U.S. Army Southern European Task Force

U.S. Army Japan/IX Corps

O–7/O–8 Chief of Staff, United States Army, Japan/IX Corps

U.S. Army Western Command

O–8 Commanding General, U.S. Army Western Command

Special Activities

American Battle Monuments Commission

Army and Air Force Exchange Service

O–8 *Commander, Army and Air Force Exchange Service—Dallas, TX

DEPARTMENT OF THE NAVY (CIVILIAN)

Secretariat

SES Deputy Under Secretary of the Navy
SES Principal Deputy Assistant Secretary of the Navy (Logistics)
SES Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs)
SES Director of Navy Laboratories
SES Deputy Assistant Secretary of the Navy (Research and Applied & Space Technology)
SES Deputy Assistant Secretary of the Navy (Command, Control, Communications and Intelligence)
SES Deputy Assistant Secretary of the Navy (Manpower)
SES Deputy Assistant Secretary of the Navy (Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (Equal Opportunity)
SES Director, Office of Small and Disadvantaged Business Utilization

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SES Associate Deputy Assistant Secretary of the Navy (Systems Engineering)
SES **General Counsel
SES Principal Deputy General Counsel
SES Director, Resources and Policy Evaluation
SES Deputy General Counsel, Procurement
SES *Principal Deputy Assistant Secretary of the Navy (Research, Engineering and Systems)
SES *Special Assistant to ASN(FM) for Data Automation
SES *Deputy Assistant Secretary for Advanced Concepts

Office of the Navy Comptroller

SES Director of Banking and Contract Financing
SES Deputy Assistant Comptroller, Financial Management Systems

Naval Audit Service

SES Deputy Audit General/Deputy Director
SES *Auditor General of the Navy

Office of Naval Research

SES Director, Acquisition

Office of the Chief of Naval Operations

SES Assistant Deputy Chief of Naval Operations (CP/EEO)
SES Financial Director, Navy Programs Planning Office

Office of the Chief of Naval Operations Organizations

SES Principal Civilian Adviser for Education and Training

Navy Data Automation Command

SES Technical Director

Naval Security Group Command, Headquarters

PL Technical Director

Military Sealift Command

SES Deputy Executive Director

Marine Corps

SES Assistant Deputy Chief of Staff for Installations and Logistics
SES Director, Contracts Division
SES Fiscal Director of the Marine Corps

Naval Supply Systems Command

SES Assistant Deputy Commander, Plans and Systems Design

Naval Material Command, Headquarters

SES Head, Tri-Service Negotiation Staff
SES Executive Director for Contracts and Business Management
SES Assistant Deputy Chief of NAVMAT (Operations and Logistics)
SES *Deputy Chief of Naval Material
SES Director, Procurement Control and Clearance Division
SES Assistant Deputy Chief of Naval Material (Reliability and Engineering)

Strategic Systems Project Office

SES Director, Plans and Programs Division

Naval Air Systems Command

SES Executive Director for Procurement Management

Naval Electronic Systems Command

SES Technical Director, Material Acquisition Engineering Directorate
PL Technical Director
SES Executive Director, Contracts

Naval Sea Systems Command

SES Assistant Deputy Commander for Contracts

Naval Facilities Engineering Command

SES Deputy Assistant Commander for Contracts

Navy Resale System

SES Financial Management Group Director
SES Division Director, Industrial Relations Division

MILITARY

Flag Officers

O-7/O-8 Vice Commander, Naval Air Systems Command
O-7/O-8 Deputy Commander for Plans and Programs, Naval Air Systems Command
O-7/O-8 Assistant Commander for Contracts, Naval Air Systems Command
O-7/O-8 Assistant Commander for Logistics and Fleet Support, Naval Air Systems Command
O-7/O-8 Assistant Commander for Systems and Engineering, Naval Air Systems Command
O-7/O-8 Assistant Commander for Test and Evaluation, Naval Air Systems Command
O-7/O-8 Commander, Naval Aviation Logistics Center, Naval Air Systems Command
O-7/O-8 Deputy Chief of Naval Material for Logistics, HDQTRS NAVMATCOMD
O-7/O-8 Deputy Chief of Naval Material for Development/Chief of Naval Development
O-7/O-8 Deputy Chief of Naval Material for Acquisition HDQTRS NAVMATCOMD
O-7/O-8 Project Manager, TRIDENT System, Naval Material Command
O-7/O-8 *Major Project Manager, LAMPS, NAVAIRSYSCOM
O-7/O-8 *Director, Saudi Naval Expansion Program, NAVMAT
O-7/O-8 *Project Manager, Navy Space Project, NAVELECSYSCOM
O-7/O-8 Director, Joint Cruise Missile Project, Joint Cruise Missiles Project Office (JPM-3)
O-7/O-8 Director, Strategic Systems Project Office, SSPO
O-7/O-8 Technical Director, Strategic Systems Projects, SSPO
O-7/O-8 Commander, ASW Systems Project Office (Manager, ASW Systems Project Office) Anti-Submarine Warfare Systems Project Office
O-7/O-8 Vice Commander, Naval Sea Systems Command
O-7/O-8 Deputy Commander for Plans, Programs and Financial Management/ Comptroller, Naval Sea Systems Command
O-7/O-8 Deputy Commander for Contracts, NAVSEASYSCOM
O-7/O-8 NAVSEA Principal Deputy Commander for Acquisition, NAVSEASYSCOM
O-7/O-8 Principal Deputy Commander for Logistics, NAVSEASYSCOM
O-7/O-8 Deputy Commander for Combat Systems (ADDU to CNO as Executive Manager for Explosive Ordnance Disposal Technology and Training), NAVSEASYSCOM
O-7/O-8 Assistant Deputy Commander for Anti-Submarine Warfare and Underwater Systems, NAVSEASYSCOM
O-7/O-8 Commander, Military Sealift Command
O-7/O-8 Project Manager, AEGIS Shipbuilding Project, NAVSEASYSCOM
O-7/O-8 Deputy Commander for Industrial and Facility Management, NAVSEASYSCOM
O-7/O-8 Deputy Commander for Submarines, NAVSEASYSCOM
O-7/O-8 Deputy Commander for CV/ AMPH/AUX Ships, NAVSEASYSCOM
O-7/O-8 Deputy Commander for Surface Combatant Ships, NAVSEASYSCOM
O-7/O-8 Supervisor of Shipbuilding, Conversion and Repair, Newport News
O-7/O-8 Deputy Commander for Ship Design and Integration, Naval Sea Systems Command
O-7/O-8 Commander, Naval Supply Systems Command and Chief of Supply Corps
O-7/O-8 Vice Commander, Naval Supply Systems Command
O-7/O-8 Deputy Commander, Plans, Policy and Programs Development, Naval Supply Systems Command
O-7/O-8 Commanding Officer, Navy Ships Parts Control Center, Mechanicsburg, PA
O-7/O-8 Supervisor of Shipbuilding, Conversion and Repair, USN, Pascagoula, MS
O-7/O-8 Commanding Officer, Navy Resale and Services Support Office, Brooklyn, NY
O-7/O-8 Commanding Officer, Navy Aviation Supply Office, Philadelphia, PA
O-7/O-8 Commander, Naval Electronics Systems Command Headquarters
O-7/O-8 Vice Commander, Naval Electronics Systems Command
O-7/O-8 Project Manager, Command, Control and Communications, Naval Electronics Systems Command
O-7/O-8 Naval Deputy to the Administrator, National Oceanic and Atmospheric Administration
O-7/O-8 Assistant Oceanographer of the Navy for Ocean Engineering and Development
O-7/O-8 Assistant Oceanographer of the Navy for Oceanographic Operations
O-7/O-8 Oceanographer of the Navy, Office of the Oceanographer of the Navy/ ADDU: Navy Deputy Administrator National Oceanic and Atmospheric Administration
O-7/O-8 Commander, Naval Telecommunications Command, Naval Telecommunications
O-7/O-8 Commander, Naval Facilities Engineering Command
O-7/O-8 Vice Commander, Naval Facilities Engineering Command
O-7/O-8 Deputy Commander for Planning, Naval Facilities Engineering Command
O-7/O-8 Commander, Atlantic Division, Naval Facilities Engineering Command

O-7/O-8 Commander, Pacific Division, Naval Facilities Engineering Command
O-7/O-8 Commanding Officer, Northern Division, Naval Facilities Engineering Command
O-7/O-8 Commanding Officer, Western Division, Naval Facilities Engineering Command
O-7/O-8 Director, Multilateral Support Force, Amphibious, Mine and Advanced Naval Vehicles Ships Division, CNO
O-7/O-8 Director, Logistics Plans Division, CNO
O-7/O-8 Director, Material Division, CNO
O-7/O-8 Director, Ships Maintenance and Modernization Division, CNO
O-7/O-8 Director, Shore Facilities Programing Division, CNO
O-7/O-8 Deputy Director, Research, Development, Test and Evaluation, CNO

Office of the Comptroller of the Navy

O-7/O-8 Deputy Comptroller of the Navy
O-7/O-8 Director of Budget and Reports
O-7/O-8 *Assistant Comptroller, Financial Management Systems/Commander, Navy Accounting and Finance Center

Other Officers

O-7/O-8 Inspector General, HQMC
O-7/O-8 Assistant Deputy Chief of Staff for Plans and Policies
O-7/O-8 Deputy Chief of Staff for Installations and Logistics, Headquarters, Marine Corps
O-7/O-8 Deputy Chief of Staff for Research and Development, HQMC
O-7/O-8 Deputy Chief of Staff for Requirements and Programs, HQMC
O-7/O-8 Director, Personnel Procurement, HQMC
O-7/O-8 Director of Material Division, HQMC
O-7/O-8 Director, Facilities and Services Division, HQMC
O-7/O-8 Director, Command, Control, Communications and Computer Systems Division, HQMC
O-7/O-8 Commanding General, Marine Corps Logistics Base, Albany, Georgia
O-7/O-8 Commanding General, Marine Corps Logistics Base, Barstow, California
O-7/O-8 Director of the Development Center, Marine Corps Development and Education Command

DEFENSE COMMUNICATIONS AGENCY

O-7 USA Deputy Director, Plans and Programs
O-7 *Commander, White House Communications Agency
SES Deputy WWMCCS System Engineer—WSEO
O-7 USAF Director, Command and Control Technical Center (CCTC)
SES Assistant Manager (Technology & Standards)—NCS
SES *Assistant Manager, (Plans and Operations), NCS
SES *Deputy Director, WWMCCS, ADP, Technical Support, CCTC
SES Comptroller, DCA
SES WWMCCS System Engineer—WSEO
O-8 USAF Vice Director, Defense Communications Agency
SES Chief Scientist—Associate Director, Technology—DCA
SES Deputy Director, DCEC
SES *Chief, Systems Engineering Division, DCEC
SES *Deputy Director, Command and Control Technical Center
O-7 USA Deputy Director, Operations and Readiness
SES Assistant Deputy Director, WWMCCS, ADP Directorate—CCTC
SES Associate Director/Senior Advisor for Technology—DCEC
SES Deputy Manager, National Communications System—DCA
SES Chief, Interoperability and Standards Office—DCEC
SES General Counsel, DCA

DEFENSE INTELLIGENCE AGENCY

GS-18 *Deputy Director for Defense Intelligence
GS-17 Assistant Director for Resources and Systems
O-8 Director
O-8 Deputy Director

DEFENSE LOGISTICS AGENCY

O-8 Deputy Director
O-8 Deputy Director, Contract Administration Services
O-8 Assistant Director, Plans, Programs and Systems
O-7 Executive Director, Supply Operations
O-7/O-8 Executive Director, Quality Assurance
O-8 Commander, Defense Construction Supply Center
O-7 Commander, Defense Electronics Supply Center
O-8 Commander, Defense Fuel Supply Center
O-7 Commander, Defense General Supply Center
O-7 Commander, Defense Industrial Supply Center
O-8 Commander, Defense Personnel Support Center
O-7 Commander, Defense Property Disposal Service
O-7 Commander, Defense Contract Administration Services Region, Los Angeles
O-7 Commander, Defense Contract Administration Services Region, New York

Headquarters

SES Comptroller, DLA
SES Counsel, DLA
SES Executive Director, Technical and Logistics Services
SES Executive Director, Contracting
SES Deputy Executive Director, Supply Operations
SES Executive Director, Contract Management
SES Associate Counsel, DLA
SES Chief, Logistics/Programs Division
SES Chief, Contracts Division, Directorate of Contracting

DEFENSE MAPPING AGENCY

SES Deputy Director, Management & Technology
SES Deputy Director, PP&O
SES Deputy Director for Systems and Techniques
SES Comptroller
O-8 Director, Defense Mapping Agency
O-8 Deputy Director, Defense Mapping Agency
O-7 Deputy Director for Plans and Requirements
SES Staff Director of Personnel
SES Assistant Deputy Director for Programming
SES Assistant Deputy Director for Production and Distribution
SES Chief, Advanced Technology Division (STT)
SES Chief, Acquisitions Systems Development

DEFENSE NUCLEAR AGENCY

O-8 **Director
AD Deputy Director, Science and Technology
AD Scientific Assistant to the Deputy Director, Science and Technology
AD Assistant to the Deputy Director (Science and Technology) for Theoretical Research
AD Assistant to the Deputy Director (Science and Technology) for Experimental Research
AD Assistant to the Deputy Director (Science and Technology) for Testing
AD *Assistant to the Director for Biomedical Effects
O-8 Deputy Director (Operations and Administration)
O-7 Commander, Field Command

NATIONAL SECURITY AGENCY

Military Positions

O-8 Assistant Deputy Director, NSA, for Plans and Policy
O-7 Deputy Director, NSA, for Operations
O-7 Chief of A Research and Engineering Group

AGENCY: DEPARTMENT OF EDUCATION

Positions:

OFFICE OF THE UNDER SECRETARY

SES *Assistant Commissioner for Regional Liaison

OFFICE OF PUBLIC AFFAIRS

SES *Deputy Assistant Secretary for News
SES *Deputy Assistant Secretary for Policy and Planning

OFFICE OF PLANNING AND BUDGET

SES *Deputy Assistant Secretary for Policy Development
SES *Deputy Assistant Secretary for Budget Systems and Services
SES *Deputy Assistant Secretary for Analytic Systems and Services
SES *Deputy Assistant Secretary for Program Budget Analysis

OFFICE OF GENERAL COUNSEL

SES *Deputy General Counsel

OFFICE OF THE INSPECTOR GENERAL

SES *Assistant Inspector General for Investigation
SES *Assistant Inspector General for Policy, Planning and Management Services
SES *Assistant Inspector General for Audit

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OFFICE OF MANAGEMENT

SES *Deputy Assistant Secretary for Evaluation and Program Management
SES *Deputy Assistant Secretary for Human Resources
SES *Deputy Assistant Secretary (Comptroller)
SES *Director, Office of Grants and Procurement

OFFICE OF LEGISLATION

SES *Deputy Assistant Secretary
SES *Deputy Assistant Secretary for Congressional Services
SES *Deputy Assistant Secretary

OFFICE OF CIVIL RIGHTS

SES *Deputy Assistant Secretary
SES *Deputy Assistant Secretary for Legal Standards, Program Support and Litigation
SES *Deputy Assistant Secretary for Program Review and Assistance
SES *Deputy Assistant Secretary for Planning and Compliance Operations

OFFICE OF PUBLIC EDUCATION

SES *Assistant Secretary for Non-Public Education

OFFICE OF BILINGUAL EDUCATION & MINORITY LANGUAGES

SES *Director, Office of Bilingual Education and Minority Languages Affairs
SES *Deputy Director

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SES *Administrator of Education for Overseas Dependents

OFFICE OF VOCATIONAL AND ADULT EDUCATION

SES *Deputy Assistant Secretary
SES *Deputy Assistant Secretary for Education and Employment
SES *Deputy Assistant Secretary for Adult Learning and School Community Relations
SES *Deputy Commissioner for Occupational & Adult Education

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SES *Deputy Assistant Secretary
SES *Deputy Assistant Secretary for Indian Education
SES *Deputy Assistant Secretary for Migrant Education
SES *Deputy Assistant Secretary for Compensatory Education
SES *Deputy Assistant Secretary for Equal Educational Opportunity
SES *Deputy Assistant Secretary for Educational Support

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SES *Deputy Assistant Secretary for Program Planning and Managment
SES *Deputy Assistant Secretary for External Affairs
SES *Deputy Assistant Secretary for Special Education
SES *Deputy Commissioner, Rehabilitation Services Administration

OFFICE OF EDUCATIONAL RESEARCH & IMPROVEMENT

SES *Deputy Assistant Secretary for Program Planning and Integration
SES *Deputy Assistant Secretary for Operations
SES *Deputy Assistant Secretary for School Improvement
SES *Deputy Assistant Secretary for Libraries and Learning Technologies
SES *Deputy Assistant Secretary for Dissemination and Professional Improvement
SES *Deputy Director, National Institute of Education
SES *Administrator, National Center for Educational Statistics
SES *Deputy Administrator, NCES
SES *Director, Fund for the Improvement of Postsecondary Education

OFFICE OF POSTSECONDARY EDUCATION

SES *Deputy Assistant Secretary
SES *Deputy Assistant Secretary for Institutional Support
SES *Deputy Assistant Secretary for Higher Education Incentive Programs
SES *Deputy Assistant Secretary for International Education
SES *Deputy Assistant Secretary for Student Financial Assistance

AGENCY: DEPARTMENT OF ENERGY

Positions:

SES **Director, Office of the Secretary
SES **The Special Assistant, Office of the Secretary
SES **Executive Assistant to the Secretary, Office of the Secretary
SES **Deputy Under Secretary (2), Office of the Under Secretary
SES **Director of Administration, Office of the Directorate of Administration
SES **Deputy Assistant Secretary, Office of Assistant Secretary, Policy and Evaluation
SES **Deputy Assistant Secretary (2), Office of Assistant Secretary, Resource Applications
SES **Director, Intergovernment Affairs, Office of Assistant Secretary, Intergovernmental and Institutional Relations
SES **Deputy Administrator, Energy Information Administration
SES **Controller, Office of the Controller
SES **Administrator, Bonneville Power Administration
SES **Program Director, Fossil Energy, Assistant Secretary for Energy Technology
SES **Deputy General Counsel (1), Office of the General Counsel

ECONOMIC REGULATORY ADMINISTRATION

SES Deputy Administrator for Operations & Emergency Management
SES Deputy Administrator for Policy
SES Assistant Administrator for Enforcement
SES Assistant Administrator for Regulations and Emergency Planning
SES Assistant Administrator for Fuels Conversion
SES Assistant Administrator for Petroleum Operations
SES Assistant Administrator for Utilities Systems
SES Deputy Assistant Administrator for Enforcement
SES Deputy Assistant Administrator for Regulations and Emergency Planning
SES Director, Regulatory Interventions Division
SES Director, Regulatory Assistance Division
SES Director, Office of Field Operations, Office of Special Counsel
SES Special Counsel, Office of Special Counsel
SES Deputy Special Counsel, Office of Special Counsel
SES Solicitor, Office of Special Counsel
SES *Deputy Assistant Administrator for Petroleum Operations
SES *Assistant Administrator for Energy Contingency Planning
SES *Deputy Assistant Administrator for Energy Contingency Planning
SES *Director, Office of Management and Program Coordination
SES *Director, Office of Field Operations
SES *Deputy Assistant Administrator for Fuels Conversion
SES *Director, Natural Gas Division

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND EVALUATION

SES *Deputy Assistant Secretary for Coal, Nuclear and Electrical Systems
SES *Deputy Assistant Secretary for Conservation & Renewable Sources
SES *Deputy Assistant Secretary for Oil & Gas
SES *Deputy Assistant Secretary for Systems Analysis
SES *Principal Deputy Assistant Secretary for Policy & Evaluation

OFFICE OF ENERGY RESEARCH

SES Deputy Director
SES Associate Director, Office of Program Analysis
SES Associate Director, Office of Basic Energy Sciences
SES Associate Director, Office of High Energy and Nuclear Physics
SES Associate Director, Office of Field Operations Management
SES Associate Director, Office of Nuclear Non-Proliferation
SES Deputy Associate Director, Office of Field Operations Management
SES Deputy Associate Director, Office of Basic Energy Sciences
SES *Deputy Director, Office of Fusion Energy
SES *Director, Office of Fusion Energy

OFFICE OF THE ASSISTANT SECRETARY FOR CONSERVATION AND SOLAR APPLICATIONS

SES Director, Office of Commercialization
SES Director, Office of Policy, Planning and Evaluation
SES *Deputy Assistant Secretary for Conservation
SES *Deputy Assistant Secretary for Solar Energy
SES *Deputy Assistant Secretary for State & Local Assistance Programs
SES *Deputy Assistant Secretary for Field Operations & International Programs

OFFICE OF THE ASSISTANT SECRETARY FOR ENVIRONMENT

SES Deputy Assistant Secretary (2)
SES Director, Office of Technology Impacts
SES Deputy Director, Office of Technology Impacts
SES Director, Office of Health and Environmental Research
SES Deputy Director, Office of Health and Environmental Research
SES Director, Office of Environmental Compliance and Overview
SES Deputy Director, Office of Environmental Compliance and Overview
SES Director, Office of Program Coordination

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS

SES Deputy Assistant Secretary for International Nuclear and Technical Programs
SES Deputy Assistant Secretary for International Energy Resources
SES Deputy Assistant Secretary for International Energy Analysis
SES Director, Office of Energy Consuming Nations
SES Director, Office of Energy Producing Nations
SES Director, Office of Nuclear Affairs
SES Director, Office of Technical Cooperation
SES Deputy Director, Office of Nuclear Affairs
SES Deputy Director, Office of Technical Cooperation
SES Director, International Market Analysis
SES *Principal Deputy Assistant Secretary for International Affairs
SES *Deputy Assistant Secretary for International Intelligence Analysis
SES *Director, Office of Strategic Assessments
SES *Director, Office of Market Analysis
SES *Director, Office of Country Energy Assessments
SES *Director, Office of Senior Intelligence Officer Support Staff
SES *Petroleum Markets Program Manager, Office of Market Analysis
SES *Director, Office of International Program Support

OFFICE OF THE ASSISTANT SECRETARY FOR RESOURCE APPLICATIONS

SES *Deputy Assistant Secretary for Industrial Utility Applications and Operations
SES *Deputy Assistant Secretary for Resource Development & Operations
SES *Deputy Assistant Secretary for Industrial Planning & Development
SES *Deputy Assistant Secretary for Strategic Petroleum Reserve
SES *Deputy Director for Strategic Petroleum Reserve
SES *Director, Policy & Program Planning
SES *Director, Technical Information Center

OFFICE OF THE ASSISTANT SECRETARY FOR DEFENSE PROGRAMS

SES Deputy Assistant Secretary
SES Director, Office of Classification
SES Director, Office of International Security Affairs
SES Director, Office of Inertial Fusion
SES Director, Office of Safeguards and Security
SES Director, Office of Nuclear Materials Production
SES Deputy Director, Office of Nuclear Materials Production
SES Deputy Director, Office of Classification
SES Deputy Director, Office of Safeguards and Security
SES Deputy Director, Office of Military Applications
SES Deputy Director, Office of International Security Affairs
SES Deputy Director, Office of Inertial Fusion
SES Director, Division of Political-Military Security Affairs

ENERGY INFORMATION ADMINISTRATION

SES Assistant Administrator, Energy Information Validation
SES Assistant Administrator, Applied Analysis
SES Assistant Administrator, Program Development
SES Assistant Administrator, Energy Systems Support
SES Assistant Administrator, Energy Data Operations
SES Deputy Assistant Administrator, Energy Systems Support
SES Deputy Assistant Administrator, Energy Data Operations
SES *Deputy Assistant Administrator for Applied Analysis
SES *Deputy Assistant Administrator for Energy Information Validation
SES *Assistant Administrator for Energy Data Validation
SES *Director, Financial Reporting System
SES *Director, Oil & Gas Information System

PROCUREMENT AND CONTRACTS MANAGEMENT DIRECTORATE

SES Director
SES Deputy Director
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Policy Office
SES Director, Program Support Office
SES Director, Procurement Management Office
SES Director, Procurement Operations Office
SES Deputy Director, Program Support Office/Director, Conservation, Solar and Institutional Support Division
SES Deputy Director, Procurement Operations Office
SES Director, Policy and Procedures Division, Office of Policy

OFFICE OF THE INSPECTOR GENERAL

SES Assistant Inspector General for Audits
SES Assistant Inspector General for Inspections
SES Assistant Inspector General for Investigations
SES *Deputy Assistant Inspector General for Investigations
SES *Deputy Assistant Inspector General for Inspections

DIRECTORATE OF ADMINISTRATION

SES Deputy Director
SES Director, Office of Personnel
SES Director, Office of Organization and Management Systems
SES Director, Office of Administrative Services
SES Director, Office of Computer Services and Telecommunications Management
SES Deputy Director, Office of Personnel
SES Deputy Director, Office of Organization and Management Systems
SES Deputy Director, Office of Administrative Services
SES Deputy Director, Office of Computer Services and Telecommunications Management
SES Deputy Controller
SES Director, Office of Budget
SES Director, Office of Finance and Accounting
SES Director, Office of Financial Policy, Analysis, GAO Liaison
SES Director, Office of Program and Project Management Assessment
SES *Director, Office of Management Information Systems

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel, Regulations
SES Deputy General Counsel, Enforcement and Litigation
SES Deputy General Counsel, Programs
SES Deputy General Counsel, Legal Services

OFFICE OF EQUAL OPPORTUNITY

SES Director
SES Deputy Director

FIELD OFFICES

SES Regional Representative of the Secretary, Region I
SES Regional Representative of the Secretary, Region II
SES Regional Representative of the Secretary, Region III
SES Regional Representative of the Secretary, Region IV
SES Regional Representative of the Secretary, Region V/Manager, Chicago Operations Office
SES Regional Representative of the Secretary, Region VI
SES Regional Representative of the Secretary, Region VII
SES Regional Representative of the Secretary, Region VIII
SES Regional Representative of the Secretary, Region IX
SES Regional Representative of the Secretary, Region X
SES Deputy Manager, Chicago Operations Office
SES Chief Counsel, Chicago Operations Office
SES Manager, Oak Ridge Operations Office
SES Deputy Manager, Oak Ridge Operations Office
SES Chief Counsel, Oak Ridge Operations Office
SES Manager, Richland Operations Office
SES Deputy Manager, Richland Operations Office
SES Chief Counsel, Richland Operations Office

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SES Manager, Nevada Operations Office
SES Deputy Manager, Nevada Operations Office
SES Chief Counsel, Nevada Operations Office
SES Manager, San Francisco Operations Office
SES Deputy Manager, San Francisco Operations Office
SES Chief Counsel, San Francisco Operations Office
SES Manager, Albuquerque Operations Office
SES Deputy Manager, Albuquerque Operations Office
SES Chief Counsel, Albuquerque Operations Office
SES Deputy Manager, Idaho Operations Office
SES Manager, Savannah River Operations Office
SES Deputy Manager, Savannah River Operations Office
SES Chief Counsel, Savannah River Operations Office
SES Administrator, Southeastern Power Administration
SES Administrator, Western Area Power Administration
SES Administrator, Southwestern Power Administration
SES Administrator, Alaska Power Administration
SES Deputy Administrator, Western Area Power Administration
SES Deputy Administrator, Bonneville Power Administration
SES Assistant Administrator, Engineering and Construction, Bonneville Power Administration
SES Assistant Administrator, Power Management, Bonneville Power Administration
SES *Deputy Administrator, Southwest Power Administration

OFFICE OF THE UNDER SECRETARY

SES *Deputy Under Secretary
SES *Director, Office of Program Planning & Integration
SES *Director, Office of Project Management & Field Operations

CHIEF FINANCIAL OFFICER

SES *Chief Financial Officer
SES *Deputy Financial Officer for Special Projects
SES *Deputy Chief Financial Officer for Resource Management
SES *Deputy Chief Financial Officer for Project & Business Management

GASOLINE RATIONING PREIMPLEMENTATION PROJECT OFFICE

SES *Special Administrator, Gasoline Rationing Preimplementation Project Office
SES *Deputy Special Administrator Gasoline Rationing Preimplementation Project Office

NUCLEAR ENERGY

SES *Principal Deputy Assistant for Nuclear Energy
SES *Deputy Assistant Secretary for Nuclear Reactor Programs
SES *Deputy Assistant Secretary for Nuclear Waste Management
SES *Executive Director
SES *Deputy Director, Nuclear Reactor Programs
SES *Deputy Director, Nuclear Waste Management Programs
SES *Deputy Director, Naval Reactors Division
SES *Director, Office of Resource Management
SES *Director, Office of Plans and Analysis

FOSSIL ENERGY

SES *Principal Deputy Assistant Secretary for Fossil Energy
SES *Deputy Assistant Secretary for Oil, Gas & Shale Technology
SES *Deputy Assistant Secretary for Management
SES *Deputy Assistant Secretary for Coal Technology
SES *Program Director for Project Management

MINORITY ECONOMIC IMPACT

SES *Deputy Director, Office of Minority Economic Impact

CONGRESSIONAL AFFAIRS

SES *Director, Office of Congressional Affairs
SES *Deputy Director, Office of Congressional Affairs

CONSUMER AFFAIRS

SES *Director, Office of Consumer Affairs
SES *Deputy Director, Office of Consumer Affairs

PUBLIC AFFAIRS

SES *Director, Office of Public Affairs
SES *Deputy Director, Office of Public Affairs
SES *Assistant Director, Office of Public Affairs

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Positions:

OFFICE OF THE SECRETARY

Immediate Office of the Secretary

SES Executive Assistant to the Secretary
SES Executive Secretary to the Department
SES Deputy Executive Secretaries to the Department (2)

Immediate Office of the Under Secretary

SES Deputy Under Secretary
SES *Deputy Under Secretary for Special Projects
SES Deputy Under Secretary/ Intergovernmental Affairs
SES Principal Regional Official—Region I
SES Principal Regional Official—Region II
SES Principal Regional Official—Region III
SES Principal Regional Official/ Chairperson, Federal Regional Council—Region IV
SES Principal Regional Official—Region V
SES Principal Regional Official—Region VI
SES Principal Regional Official—Region VII
SES Principal Regional Official—Region VIII
SES Principal Regional Official—Region IX
SES Principal Regional Official/ Chairperson, Federal Regional Council—Region X
SES *Director, Office of Refugee Affairs
SES Chairman, Departmental Grant Appeals Board
SES *Special Assistant to the Under Secretary/Director, Office of Small and Minority Business Utilization

Office of Planning and Evaluation

SES Deputy Assistant Secretary for Planning and Evaluation
SES Deputy Assistant Secretary for Income Security
SES Deputy Assistant Secretary for Health
SES Deputy Assistant Secretary for Program Systems
SES Deputy Assistant Secretary for Social Services
SES Deputy Assistant Secretary for Evaluation and Technical Analysis

Office of Inspector General

SES Assistant Inspector General for Auditing
SES Deputy Inspector General for Auditing
SES *Senior Assistant Inspector General for Auditing and Systems
SES Assistant Inspector General for Health Care and Systems Review
SES Assistant Inspector General for Investigations
SES *Deputy Assistant Inspector General for Investigations
SES Executive Assistant Inspector General

Office of Management and Budget

SES **Assistant Secretary for Management and Budget
SES Deputy Assistant Secretary for Policy Coordination
SES Deputy Assistant Secretary for Budget
SES Deputy Assistant Secretary for Finance
SES Deputy Assistant Secretary, Management Analysis and Systems
SES Deputy Assistant Secretary, Grants and Procurement

Legislation

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Legislation (Health)
SES Deputy Assistant Secretary for Legislation (Welfare)
SES Director of Program Coordination
SES *Deputy Assistant Secretary for Legislation (Appropriations)

Office for Civil Rights

SES Special Assistant to the Secretary for Civil Rights, Director, Office for Civil Rights
SES Deputy Special Assistant to the Secretary/Deputy Director, Office for Civil Rights

Office for Personnel Administration

SES **Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Personnel
SES *Principal Deputy Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Equal Employment Opportunity

Office of Public Affairs

SES Deputy Assistant Secretary for Operations Management

SES Deputy Assistant Secretary for Communication Planning
SES *Deputy Assistant Secretary for Issue and Policy Analysis

Office of the General Counsel

SES Deputy General Counsel
SES Deputy General Counsel for Regulation Review
SES Deputy General Counsel, Legal Counsel
SES Assistant General Counsel, Legislation Division
SES Assistant General Counsel, Public Health Division
SES Assistant General Counsel, Social Security
SES Assistant General Counsel, Food and Drug Administration
SES Assistant General Counsel, Health Care Financing and Human Development
SES Assistant General Counsel, Civil Rights Division
SES Assistant General Counsel, Business and Administration Law Division
SES Associate General Counsel, (Regional Operations)

Office of Consumer Affairs

SES Deputy Director, Office of Consumer Affairs

OFFICE OF HUMAN DEVELOPMENT SERVICES

SES Deputy Commissioner, Administration on Aging
SES Deputy Assistant Secretary, Human Development Services
GS–18 Commissioner, Administration for Children, Youth and Families
SES *Deputy Commissioner, Administration for Children, Youth and Families
SES *Commissioner, Administration for Native Americans
SES *Commissioner, Administration on Developmental Disabilities
SES *Director, Office of Program Coordination and Review

HEALTH CARE FINANCING ADMINISTRATION

SES **Administrator, Health Care Financing Administration
SES **Deputy Administrator, Health Care Financing Administration
SES Director, Bureau of Program Operations, Medicare
SES Director, Health Care Standards and Quality Bureau
SES Director, Office of Intergovernmental Affairs
SES Director, Office of Management and Budget
SES Director, Office of Research, Demonstrations and Statistics
SES Director, Office of Executive Operations
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region IX
SES Director, Bureau of Program Policy
SES Director, Bureau of Quality Control
SES Director, Office of Legislation and Policy
SES Director, Bureau of Support Services

PUBLIC HEALTH SERVICE

Office of the Assistant Secretary for Health

SES Deputy Assistant Secretary, Health Operations
SES Deputy Assistant Secretary, Health Policy Research, Statistics and Technology
SES Deputy Assistant Secretary, Planning and Evaluation
SES Director, Office of International Health
SES Deputy Assistant Secretary, Population Affairs
SES/O–7 Regional Health Administrators—Regions I–X
SES Executive Director, President's Council on Physical Fitness and Sports
SES Director, National Center for Health Statistics
SES Deputy Director, National Center for Health Statistics
SES Director, National Center for Health Services Research
O–8 Deputy Surgeon General and Chief Dental Officer, Public Health Service
O–8 Chief Nurse Officer, Public Health Service
O–8 Senior Advisor for Environmental Affairs

Center for Disease Control

O–8 Director, Center for Disease Control
O–7 Director, Bureau of Laboratories
SES Deputy Director, Bureau of Laboratories
O–7 Director, Bureau of State Services
SES Director, Bureau of Training
SES Director, Bureau of Health Education
SES Director, National Institute for Occupational Safety and Health
SES Deputy Director, National Institute for Occupational Safety and Health

Health Resources Administration

SES Administrator, Health Resources Administration
SES Deputy Administrator, Health Resources Administration
SES Director, Bureau of Health Facilities, Financing Compliance and Conversion
SES Director, Bureau of Health Planning
O–8 Director, Bureau of Health Professions

Health Services Administration

O–8 Administrator, Health Services Administration
SES Deputy Administrator, Health Resources Administration
O–7 Director, Bureau of Medical Services
O–7 Deputy Director, Bureau of Medical Services
O–7 Director, Bureau of Community Health Services
SES Deputy Director, Bureau of Community Health Services
O–8 Director, Indian Health Service
SES Deputy Director, Indian Health Service

Alcohol, Drug Abuse, and Mental Health Administration

SES Deputy Administrator, ADAMHA
SES Associate Administrator for Extramural Programs
SES Director, Programs, Planning and Coordination
SES Director, National Institute on Alcohol Abuse and Alcoholism
SES Deputy Director, National Institute on Alcohol Abuse and Alcoholism
O–8 Director, National Institute of Mental Health
SES Deputy Director, National Institute of Mental Health
O–8 Director, National Institute on Drug Abuse
O–8 Deputy Director, National Institute on Drug Abuse

National Institutes of Health

O–8 Director, NIH
SES Deputy Director, NIH
O–7 Deputy Director for Science
SES Associate Director for Extramural Research Training
SES Associate Director for Program Planning and Evaluation
SES Associate Director for Administration
SES Associate Director for Communications
SES *Associate Director for Research Services
SES Associate Director for Clinical Care, NIH and Director of Clinical Center
SES Director, Division of Computer Research and Technology
SES Director, Division of Research Grants
SES Deputy Director, Division of Research Grants
O–8 Director, National Cancer Institute
SES Deputy Director, National Cancer Institute
SES Director, Division of Research Resources
SES Deputy Director, Division of Research Resources
SES Director, Division of Research Services
SES Director, National Eye Institute
SES Director, National Heart, Lung, and Blood Institute
O–8 Director, National Institute of Allergy and Infectious Diseases
SES Deputy Director, National Institute of Allergy and Infectious Diseases
SES Director, National Institute of Arthritis, Metabolism and Digestive Diseases
O–7 Deputy Director, National Institute of Arthritis, Metabolism and Digestive Diseases
O–7 Director, National Institute on Aging
SES Deputy Director, National Institute on Aging
SES Director, National Institute on Child Health and Human Development
SES Deputy Director, National Institute on Child Health and Human Development
O–7 Director, National Institute on Dental Research
O–8 Director, National Institute on Environmental Health Sciences
SES Deputy Director, National Institute on Environmental Health Sciences
SES Director, National Institute of General Medical Sciences
O–7 Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Deputy Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Director, National Library of Medicine
SES Deputy Director, National Library of Medicine

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FOOD AND DRUG ADMINISTRATION

SES **Commissioner for Food and Drugs
SES Deputy Commissioner of Food and Drugs
SES Associate Commissioner for Consumer Affairs
SES *Associate Commissioner for Legislative Affairs
SES Associate Commissioner for Health Affairs
SES Deputy Associate Commissioner for Health Affairs (Science)
SES Deputy Associate Commissioner for Health Affairs (Medicine)
SES Deputy Associate Commissioner for Health Affairs (Education and Professional Training)
SES Associate Commissioner for Policy Coordination
SES Associate Commissioner for Planning and Evaluation
SES Associate Commissioner for Regulatory Affairs
SES Deputy Associate Commissioner for Regulatory Affairs
SES Associate Commissioner for Management and Operations
SES Associate Commissioner for Public Affairs

BUREAU OF FOODS

SES Director, Bureau of Foods
SES Deputy Director, Bureau of Foods
O–7 *Associate Director for Sciences
SES *Deputy Associate Director for Sciences
SES Director, Division of Pathology
SES Director, Division of Toxicology
SES Associate Director, for Regulatory Evaluation
SES Associate Director, for Laboratory Investigations
SES Director, Division of Chemistry and Physics
SES Director, Division of Microbiology
SES Deputy Director, Division of Microbiology
SES Associate Director for Compliance
SES Director, Division of Food and Color Additives
SES Director, Office of Technology
SES Deputy Associate Director Technology
SES Director, Division of Food Technology
SES *Director, Division of Chemical Technology
SES Associate Director for Nutrition and Consumer Sciences
SES *Deputy Associate Director for Nutrition and Consumer Sciences
SES Director, Division of Nutrition

BUREAU OF DRUGS

O–7 Director, Bureau of Drugs
SES Director, Office of Planning and Evaluation
SES Associate Director for Compliance
SES Associate Director for New Drug Evaluation
SES Director, Division of Oncology and Radio-Pharmaceutical Drug Products
SES Director, Scientific Investigations Staff
SES Director, Division of Anti-Infective Drug Products
SES Director, Division of Cardio-Renal Drug Products
SES *Director, Division of Metabolism and Endocrine Drug Products
SES *Director, Division of Surgical-Dental Drug Products
SES Associate Director for Pharmaceutical Research and Testing
SES *Deputy Associate Director for Pharmaceutical Research and Testing
SES Director, Division of Drug Biology
SES Director, Division of Drug Chemistry
SES Chief, Drug Pharmacology Branch
SES *Director, National Center for Antibiotics Analysis
SES *Associate Director for Information Systems
SES *Associate Director for Biometrics and Epidemiology
SES Deputy Associate Director for Biometrics and Epidemiology
SES Director, Division of Biometrics
SES Director, Division of Drug Experience
SES Deputy Associate Director for Drug Monographs
SES Director, Division of Biopharmaceutics

BUREAU OF VETERINARY MEDICINE

SES Director, Bureau of Veterinary Medicine
SES *Deputy Director, Bureau of Veterinary Medicine
SES *Associate Director for Scientific Evaluation
SES Director, Division of Drugs for Avian Species
SES Director, Division of Drugs for Non-Food Animals
SES Director, Division of Drugs for Swine and Minor Species
SES Director, Division of Drugs for Ruminant Species
SES Associate Director for Surveillance and Compliance
SES *Associate Director for Research
SES Director, Division of Veterinary Medical Research

BUREAU OF MEDICAL DEVICES

SES Director, Bureau of Medical Devices
SES Deputy Director, Bureau of Medical Devices
SES Associate Director for Device Evaluation
SES Associate Director for Standards
SES Associate Director for Compliance
SES *Associate Director for Device Research and Testing

BUREAU OF RADIOLOGICAL HEALTH

O–8 *Director, Bureau of Radiological Health
SES Deputy Director, Bureau of Radiological Health
SES Director, Division of Biological Effects

BUREAU OF BIOLOGICS

O–8 Director, Bureau of Biologics
SES *Deputy Director, Bureau of Biologics
SES *Associate Director for Compliance
SES *Director, Division of Pathology
SES Director, Division of Control Activities
SES Assistant to the Director for Medical Programs
SES *Director, Division of Blood and Blood Products

NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH

SES *Director, National Center for Toxicological Research
SES Associate Director for Biometry and Experimental Design
SES *Associate Director for Scientific Research
SES Director, Division of Molecular Biology
SES *Associate Director for Chronic Studies

EXECUTIVE DIRECTOR OF REGIONAL OPERATIONS

SES Executive Director of Regional Operations
SES Deputy Executive Director of Regional Operations
SES Associate Director for Field Support
SES Regional Food and Drug Director, Region I
SES Regional Food and Drug Director, Region II
SES Regional Food and Drug Director, Region III
SES Regional Food and Drug Director, Region IV
SES Regional Food and Drug Director, Region V
SES Regional Food and Drug Director, Region VI
SES Regional Food and Drug Director, Region VII
SES Regional Food and Drug Director, Region VIII
SES Regional Food and Drug Director, Region IX
SES Regional Food and Drug Director, Region X
O–7 Regional Medical Officer, Region X

SOCIAL SECURITY ADMINISTRATION

SES Deputy Commissioner for Operations
SES Deputy Commissioner for Programs
SES Associate Commissioner for Policy
SES Associate Commissioner for Assessment
SES Associate Commissioner for Systems
SES Associate Commissioner for Central Operations
SES Associate Commissioner for Family Assistance
SES Associate Commissioner, Office of Operational Policy and Procedures
SES Deputy Associate Commissioner for Policy
SES Deputy Associate Commissioner for Central Operations
SES Deputy Associate Commissioner, Office of Operational Policy and Procedures
SES Associate Commissioner, Office of Hearings and Appeals
SES Deputy Associate Commissioner for Appeals, OHA
SES Associate Commissioner for Management, Budget, and Personnel
SES Director, Division of Policy, Office of Family Assistance
SES Deputy Director, Office of Child Support Enforcement
SES Regional Commissioner, Boston—Region I
SES Regional Commissioner, New York—Region II
SES Regional Commissioner, Philadelphia—Region III
SES Regional Commissioner, Atlanta—Region IV
SES Regional Commissioner, Chicago—Region V
SES Regional Commissioner, Dallas—Region VI
SES Regional Commissioner, Kansas City—Region VII
SES Regional Commissioner, Denver—Region VIII
SES Regional Commissioner, San Francisco—Region IX
SES Regional Commissioner, Seattle—Region X

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES Executive Assistants to the Secretary (2)
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations
SES *Assistant to the Secretary for Growth Issues
SES *Assistant to the Secretary for Public Affairs
SES *Deputy Under Secretary for Field Coordination

Office of the Assistant Secretary for Housing

SES Deputy Assistant Secretary for Multifamily Housing Programs
SES Deputy Assistant Secretary for Single-Family Housing and Mortgagee Activities
SES Deputy Assistant Secretary for Public Housing and Indian Programs
SES Director, Office of Policy and Program Development
SES *General Deputy Assistant Secretary for Housing/Deputy Federal Housing Administrator

Office of the Assistant Secretary for Community Planning and Development

SES Deputy Assistant Secretary for Interprogram and Areawide Concerns
SES Deputy Assistant Secretary for Urban Policy
SES *General Deputy Assistant Secretary for Community Planning and Development

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

SES General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection
SES Deputy Assistant Secretary for Neighborhoods and Consumer Affairs
SES Deputy Assistant Secretary for Regulatory Functions/Office of Interstate Land Sales Registration

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

SES Deputy Assistant Secretary for Operations and Management
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity
SES *Associate Deputy for Enforcement and Compliance

Office of the Assistant Secretary for Policy Development and Research

SES Deputy Assistant Secretary for Research
SES Director, Division of Housing Assistance Research
SES Director, Division of Energy, Building Technology and Standards
SES Director, Division of Evaluation
SES Director, Division of Community Conservation Research
SES Deputy Assistant Secretary for Policy Development
SES Director, Division of Government Capacity Building
SES Deputy Assistant Secretary for Economic Affairs
SES Director, Office of Management and Program Control

OFFICE OF THE GENERAL COUNSEL

SES *Deputy General Counsel

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS

SES *Deputy Assistant Secretary for Legislation and Congressional Relations.
SES *Deputy Assistant Secretary for Intergovernmental Relations

OFFICE OF THE INSPECTOR GENERAL

SES *Deputy Inspector General

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President, (Mortgage Finance)
SES Vice President, (Mortgage Backed Securities)
SES *Executive Vice President

NEW COMMUNITY DEVELOPMENT CORPORATION

SES Deputy General Manager for New Community Development Corporation

FIELD OFFICES

Region I

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Boston Area Office

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, New York Area Office
SES Area Manager, Newark Area Office

Region III

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator
SES Area Manager, Philadelphia Area Office
SES *Area Manager, Pittsburgh Area Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Atlanta Area Office
SES *Area Manager, Greensboro Area Office
SES *Area Manager, Jacksonville Area Office

Region V

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Detroit Area Office
SES Area Manager, Chicago Area Office
SES Area Manager, Columbus Area Office
SES *Area Manager, Minneapolis/St. Paul Area Office
SES *Area Manager, Indianapolis Area Office

Region VI

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Dallas Area Office
SES *Area Manager, New Orleans Area Office
SES *Area Manager, Oklahoma City Area Office

Region VII

SES Regional Administrator
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator

Region IX

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, San Francisco Area Office
SES Area Manager, Los Angeles Area Office

Region X

SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF THE INTERIOR

Positions:

OFFICE OF THE SECRETARY

SES **Assistant and Science Advisor
SES Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES *Director, Office of Small and Disadvantaged Business Utilization
SES Assistant to the Secretary and Director, Office of Congressional Affairs
SES Executive Assistant to the Secretary
SES Assistant to the Secretary and Director of Public Affairs
SES *Assistants to the Secretary (4)
SES Director, Office of Youth Programs
SES Deputy Under Secretaries (3)
SES *Assistant to the Under Secretary
SES Director, Office for Equal Opportunity
SES Legislative Counsel
SES *Deputy Director—Senate
SES *Deputy Director—House
SES *Assistant Director—Federal EEO
SES *Assistant Director—Title VI

OFFICE OF HEARINGS AND APPEALS

SES Director, Office of Hearings and Appeals
SES *Chairman, Board of Land Appeals
SES *Chairman, Board of Surface Mining and Reclamation Appeals
SES *Chairman, Board of Contract Appeals

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SES *Vice Chairman, Board of Contract Appeals

OFFICE OF ASSISTANT SECRETARY—TERRITORIAL AND INTERNATIONAL AFFAIRS

SES Director, Office of Territorial Affairs
SES *Director, Technical Assistance
SES Deputy Director for Finance and Administration
SES High Commissioner of the Trust Territory
SES *Deputy Director, Territorial Affairs
SES *Deputy High Commissioner of the Trust Territory
SES *Chief Justice, Trust Territory

OFFICE OF THE SOLICITOR

SES Deputy Solicitor
SES Associate Solicitor—Energy and Resources
SES Associate Solicitor—General Law
SES Associate Solicitor—Conservation and Wildlife
SES Associate Solicitor—Indian Affairs
SES Associate Solicitor—Surface Mining
SES *Regional Solicitors (7)

OFFICE OF THE ASSISTANT SECRETARY—FISH AND WILDLIFE AND PARKS

SES Deputy Assistant Secretaries (2)

NATIONAL PARK SERVICE

SES **Director (FNP)
SES Deputy Director (FNP)
SES *Associate Directors (2)
SES *Assistant Directors (3)
SES Director, National Capital Region
SES Regional Directors (8)
SES Area Director (Alaska)
SES *Associate Director, Administration

HERITAGE CONSERVATION AND RECREATION SERVICE HCRS

SES Director, HCRS
SES *Deputy Director, HCRS
SES *Associate Directors (2)
SES *Regional Directors (7)

FISH AND WILDLIFE SERVICE

SES Deputy Director
SES Associate Directors (5)
SES *Associate Director for Research
SES *Associate Director for Fisheries Resources
SES Regional Directors (5)
SES Area Director (Alaska)
SES *Assistant Director—Planning and Budget

OFFICE OF THE ASSISTANT SECRETARY—ENERGY AND MINERALS

SES *Deputy Assistant Secretaries (2)

BUREAU OF MINES

SES *Deputy Directors (2)
SES *Assistant Director, Program Development and Evaluation

U.S. GEOLOGICAL SURVEY

SES Associate Director
SES Assistant Directors (6)

OFFICE OF SURFACE MINING

SES Deputy Director
SES Assistant Directors (5)
SES *Regional Directors (5)

OFFICE OF THE ASSISTANT SECRETARY—LAND AND WATER RESOURCES (LWR)

SES Deputy Assistant Secretaries (LWR) (2)

OFFICE OF WATER AND POWER RESOURCES

SES **Commissioner
SES Deputy Commissioner
SES *Assistant Commissioners (4)
SES *Regional Directors (7)
SES *Deputy Assistant Commissioner—Engineering and Research

BUREAU OF LAND MANAGEMENT (LLM)

SES Associate Director—LLM
SES *Assistant Directors (5)
SES *Deputy Directors (3)

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SES Director
SES Deputy Director
SES Assistant Directors (2)
SES *Interagency Water Research Coordinator

OFFICE OF THE ASSISTANT SECRETARY—POLICY, BUDGET AND ADMINISTRATION

DEPUTY ASSISTANT SECRETARIES (3)

OFFICE OF ACQUISITION AND PROPERTY MANAGEMENT

SES *Director
SES Chief, Division of Acquisition and Grants

OFFICE OF INFORMATION RESOURCES MANAGEMENT

SES *Director

OFFICE OF ENVIRONMENTAL PROJECT REVIEW

SES Director

OFFICE OF ADMINISTRATIVE SERVICES

SES Director

OFFICE OF BUDGET

SES Director
SES *Deputy Director

OFFICE OF OUTER CONTINENTAL SHELF PROGRAM COORDINATION

SES Director
SES *Assistant Directors (2)

OFFICE OF POLICY ANALYSIS

SES Director
SES *Assistant Directors (3)

OFFICE OF PERSONNEL

SES Director
SES *Deputy Director

OFFICE OF THE ASSISTANT SECRETARY—INDIAN AFFAIRS

SES Deputy Assistant Secretaries (2)

BUREAU OF INDIAN AFFAIRS

SES *Area Directors (11)
SES Director, Indian Services
SES Director of Trust Responsibilities
SES Director of Administration
SES Director of Indian Education Programs
SES *Director of Tribal Resources
SES *Assistant Director of Administration

AGENCY: DEPARTMENT OF JUSTICE

Positions:

OFFICE OF THE ATTORNEY GENERAL

SES Counselor to the Attorney General
SES Assistant to the Attorney General

Office of the Deputy Attorney General

SES All Associate Deputy Attorneys General

Office of the Associate Attorney General

SES All Deputy Associate Attorneys General

Office of the Solicitor General

SES All Deputy Solicitors General

LEGAL DIVISIONS: ANTITRUST, CIVIL, CIVIL RIGHTS, CRIMINAL, LAND AND NATURAL RESOURCES, AND TAX

SES All Deputy Assistant Attorneys General in legal divisions
SES Director of Operations, Antitrust Division
SES Chief, Organized Crime and Racketeering Section, Criminal Division

OFFICE OF LEGAL COUNSEL

SES All Deputy Assistant Attorneys General

OFFICE OF LEGISLATIVE AFFAIRS

No section 207(d)(1)(C) designations

OFFICE FOR IMPROVEMENTS IN THE ADMINISTRATION OF JUSTICE

SES All Deputy Assistant Attorneys General
SES Administrator, Federal Justice Research Program

JUSTICE MANAGEMENT DIVISION

SES **Assistant Attorney General for Administration
SES All Deputy Assistant Attorneys General
SES Staff Directors

OFFICE OF INFORMATION LAW AND POLICY

No section 207(d)(1)(C) designations

OFFICE OF PUBLIC INFORMATION

SES Director

BOARD OF IMMIGRATION APPEALS

No section 207(d)(1)(C) designations

OFFICE OF THE PARDON ATTORNEY

No section 207(d)(1)(C) designations

UNITED STATES PAROLE COMMISSION

SES All Commissioners

UNITED STATES MARSHALS SERVICE

SES Director
SES Deputy Director
SES Assistant Director for Operations
SES Assistant Director for Administration

DRUG ENFORCEMENT ADMINISTRATION

GS–18 All Assistant Administrators
GS–17 All Regional Directors

UNITED STATES ATTORNEYS

SES All United States Attorneys
GS–17 Director, Office of Science and Technology
GS–17 Director, Office of Compliance and Regulatory Affairs
GS–17 Director, Office of Training
GS–17 Director, Office of Program Planning and Evaluation
GS–17 Chief Counsel

FEDERAL BUREAU OF INVESTIGATION

GS–18 Executive Assistant Directors
GS–18 All Assistant Directors
GS–18 Inspector in Charge—Public Affairs Office
GS–17 All Inspectors/Deputy Assistant Directors
GS–18 or GS–17 All Special Agents in Charge of Field Offices above GS–16

IMMIGRATION AND NATURALIZATION SERVICE

SES Deputy Commissioner
SES Executive Assistant to the Commissioner
SES Associate Deputy Commissioner for Planning and Evaluation
SES All Associate Commissioners
SES All Regional Commissioners
SES General Counsel

BUREAU OF PRISONS

SES **Director
SES All Assistant Directors
SES All Regional Directors
SES Associate Commissioner for Prison Industries
SES General Counsel

COMMUNITY RELATIONS SERVICE

SES Associate Director

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

SES Comptroller
SES Assistant Administrator, Office of Operations Support
SES General Counsel
SES Assistant Administrator, Office of Audit and Investigations
SES Assistant Administrator, Office of Planning and Management

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SES Deputy Administrator
SES Assistant Administrator, Office of Criminal Justice Programs
SES Deputy Assistant Administrator, Office of Criminal Justice Programs
SES Deputy Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention
SES Assistant Administrator, Office of Community Anti-Crime Programs

NATIONAL INSTITUTE OF JUSTICE

SES Assistant Administrator
SES Deputy Director
SES Director, Office of Development Testing and Dissemination
SES Director, Office of Research Programs

BUREAU OF JUSTICE STATISTICS

SES Director, Systems Development Division
SES Director, Statistics Division
SES Deputy Director

AGENCY: DEPARTMENT OF LABOR

Positions:

OFFICE OF THE INSPECTOR GENERAL (OIG)

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Audit
SES *Director, Office of Loss Prevention and Analysis

Women's Bureau

SES Director
SES Deputy Director

OFFICE OF LEGISLATION AND INTERGOVERNMENTAL RELATIONS (OLIR)

SES Deputy Under Secretary for Legislation and Intergovernmental Relations

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

SES Deputy Assistant Secretary
SES Director, Office of Administrative Programs and Services
SES Comptroller for the Department
SES Deputy Comptroller
SES **Assistant Secretary for Administration and Management

OFFICE OF ADMINISTRATIVE LAW JUDGES (ALJ)

No section 207(d)(1)(C) designations

OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS (LMSA)

SES Deputy Assistant Secretary for Labor-Management Relations
SES Deputy Administrator for Pension and Welfare Benefit Programs (PWBP)
SES Director, Office of Labor-Management Standards Enforcement (LMSE)
SES Deputy Director, LMSE

OFFICE OF THE ASSISTANT SECRETARY FOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

SES Deputy Assistant Secretary for Occupational Safety and Health Administration
SES Director, Policy Analysis, Integration and Evaluation

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SES Director, Federal Compliance and State Programs
SES Director, Safety Standards Programs
SES Director, Health Standards Programs
SES Director, Training, Education, Consultation and Federal Agency Programs (TECFAP)
SES Director, Technical Support, TECFAP

OFFICE OF THE ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

SES Deputy Assistant Secretary for Mine Safety and Health Administration
SES Administrator for Metal and Nonmetal Mine Safety and Health
SES Deputy Administrator for Metal and Nonmetal Mine Safety and Health
SES Administrator for Coal Mine Safety and Health
SES Deputy Administrator for Coal
SES Director, Technical Support
SES Director of Education and Training
SES Director of Assessments
SES Chief, Standards, Regulations and Variances

OFFICE OF THE ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS ADMINISTRATION (ESA)

SES Deputy Assistant Secretary for Employment Standards
SES Director, Office of Federal Contract Compliance Programs (OFCCP)
SES Deputy Director, OFCCP
SES Deputy Administrator, Wage and Hour Division (WH)
SES Director, Office of Workers' Compensation Programs (OWCP)
SES Deputy Director, OWCP for Operations

BUREAU OF LABOR STATISTICS (BLS)

SES Deputy Commissioner

OFFICE OF THE SOLICITOR OF LABOR

SES Deputy Solicitor

OFFICE OF THE ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

SES *Administrator, Office of Management Assistance
SES Deputy Assistant Secretary, ETA
SES Deputy Assistant Secretary for Veterans' Employment

OFFICE OF POLICY EVALUATION AND RESEARCH (OPER)

SES Administrator
SES Director, Office of Research and Development

OFFICE OF COMPREHENSIVE EMPLOYMENT DEVELOPMENT (OCED)

SES Administrator

OFFICE OF NATIONAL PROGRAMS (ONP)

SES Administrator

UNEMPLOYMENT INSURANCE SERVICE (UIS)

SES Administrator
SES Deputy Administrator

UNITED STATES EMPLOYMENT SERVICES (USES)

SES Administrator
SES Deputy Administrator

BUREAU OF APPRENTICESHIP AND TRAINING (BAT)

SES Administrator
SES Deputy Administrator

OFFICE OF ADMINISTRATION AND MANAGEMENT (OAM)

No section 207(d)(1)(C) designations

OFFICE OF YOUTH PROGRAMS (OYP)

SES Administrator

OFFICE OF FIELD OPERATIONS (OFO)

No section 207(d)(1)(C) designations

OFFICE OF THE DEPUTY UNDER SECRETARY FOR INTERNATIONAL LABOR AFFAIRS (ILAB)

SES **Deputy Under Secretary for International Affairs
SES Associate Deputy Under Secretary for International Labor Affairs

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY, EVALUATION AND RESEARCH (ASPER)

SES Deputy Assistant Secretary for Policy, Evaluation and Research
SES Deputy Assistant Secretary for Economic Policy and Research

MINIMUM WAGE STUDY COMMISSION

AD Commissioners (6)
AD Executive Director

NATIONAL COMMISSION FOR EMPLOYMENT POLICY (NCEP)

GS-18 Director

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION (NCUC)

AD Executive Director

PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED (PCEH)

SES Executive Director
SES Deputy Executive Director

AGENCY: DEPARTMENT OF STATE

Positions:

FOO1 Deputy Assistant Secretary, A/SY
ESOO Deputy Special Representative, S/AR
FOO1 Assistant Chief of Mission, Berlin
FOO1 Deputy Chief of Mission, Warsaw
FOO1 Principal Officer, Sao Paulo
FOO1 *Deputy Director, RP
ESOO *Director, INR/EEA

FOO1 *Deputy Chief of Mission, Madrid
FOCM *Director General, M/DGP
FOO1 Deputy Assistant Secretary, EUR
RUO1 Director Political Military, PM/OD
ESOO Deputy Director for Programming, INR/AR
FOO1 *Principal Officer, Amsterdam
FOO1 *Deputy Principal Officer, Hong Kong
FOO1 *Coordinator of Population Affairs, OES/CP
FACM *United States Representative, Brussels NTO
FRO1 Deputy Director for Planning, S/P
FOO1 *Principal Officer, Frankfurt
FOO1 Deputy Chief of Mission, New Delhi
FOO1 *Deputy Chief of Mission, Kathmandu
FOO1 Director Foreign Service Ins, M/FSI
FAO1 Chief of Mission, Berlin
FOO1 Inspector General, S/IG
FOO1 *Principal Officer, Dusseldorf
RUO1 Deputy Assistant Secretary, OES
FOO1 *Deputy Chief of Mission, Tel Aviv
FOO1 Principal Officer, Leningrad
FOO1 Deputy Assistant Secretary, ARA
RUO1 *Principal Officer, St. Johns
FOO1 *Deputy Chief of Mission, Colombo
FOO1 Deputy Assistant Secretary, EB/ORF
FOO1 *Deputy Chief of Mission, Buenos Aires
FOO1 Deputy Chief of Mission, Paris
ESOO Deputy Assistant Secretary for H R & H Affairs, HA/HR
ESOO Deputy Assistant Secretary, EU
FOO1 Deputy Assistant Secretary, NEA
FOO1 *Deputy Chief of Mission, Caracas
FOO1 Deputy Chief of Mission, Bern
FOO1 Deputy Assistant Secretary, H
FOO1 Principal Officer, Sydney
FOO1 United States Representative, MBFR Vienna
FOO1 Principal Officer, Rio De Janeiro
FOO1 Deputy Chief of Mission, Ankara
FOO1 Deputy Assistant Secretary, NEA
FOO1 Deputy Chief of Mission, The Hague
RUO1 Deputy Assistant Secretary, M/MED
FOO1 Deputy Assistant Secretary, PA
FOO1 Deputy Chief of Mission, Tripoli
FOO1 Deputy Assistant Secretary, ARA
FOO1 *Deputy Chief of Mission, Nicosia
FOO1 Director, Asian Development Bank
RUO1 Deputy U.S. Representative, US Mis Gen
ESOO Deputy Legal Adviser
ESOO Deputy Assistant Secretary, M/COMP
FOO1 *Deputy Chief of Mission, Mexico D.F.
FOO1 *Deputy Chief of Mission, Quito
FOO1 Deputy Inspector General, S/IG
FOO1 *Deputy Chief of Mission, Dakar
FOO1 Deputy Chief of Mission, Jakarta
FOO1 Deputy Chief of Mission, Moscow
FOO1 Deputy Assistant Secretary, DGP/PER
FOO1 Deputy Chief of Mission, Brussels NTO
ESOO Deputy Director PM/SP
FOO1 Principal Officer, Jerusalem
ESOO Deputy Assistant Secretary, ARA
FOO1 Deputy Assistant Secretary, CA/VO
FOO1 Deputy Assistant Secretary, AF
FOO1 Deputy Assistant Secretary, OES/E
FAO1 United States Representative, US Mis Gen
FOO1 Principal Officer, Munich
ESOO Deputy Assistant Secretary for Transportation, EB/TT
FRO1 Deputy US Representative, MBFR Vienna
FOO1 Deputy Assistant Secretary, EUR
FOO1 Deputy Assistant Secretary, CA
FOO1 Principal Officer, Istanbul
FOO1 Principal Officer, Johannesburg
FOO1 Deputy Assistant Secretary, EB
RUO1 Deputy Director, PM/AC
FOO1 Deputy Assistant Secretary, AF
FOO1 Principal Officer, Naples
FOO1 Deputy Chief of Mission, Islamabad
FOO1 Deputy US Representative, IAEA Vienna
FOO1 *Deputy Director Policy Analysis and Resources, S/P
FRO1 *Office Director, S/P
ESOO Deputy Legal Adviser, L
FOO1 Deputy Chief of Mission, Brussel–EC
ESOO Deputy Assistant Secretary for Congressional Relations, H
FRO1 Deputy Assistant Secretary, AF
FOO1 United States Representative, Vienna
FOO1 Deputy Assistant Secretary, H
FOO1 Principal Officer, Dhahran
ESOO Deputy Assistant Secretary for International Nar MA, INM
ESOO *Deputy US Special Representative, Non-Profl Mat, S/As
FRO1 *Deputy Coordinator, S/R
FOO1 *Principal Officer, Capetown
FOO1 *Deputy Director of Management Operations, M/MO
FRO1 Deputy Director INR
FOO1 *Deputy Director, FSI
FOO1 Deputy Chief of Mission, Cairo
ESOO Deputy Director for Coordination, INR/INC
FOO1 Deputy Assistant Secretary, CA/OCS
FRO1 Deputy Assistant Secretary, A/CDC
FRO1 Deputy Assistant Secretary, EB/IFD
ESOO Deputy Legal Adviser, L
FOO1 Director of Management Operations, M/MO
FOO1 *Deputy Chief of Mission, Kabul
FOO1 *Deputy Chief of Mission, Rabat
FOO1 Deputy Chief of Mission, Seoul
FOO1 Principal Officer, Vancouver
FOO1 Deputy Chief of Mission, Vientiane
FOO1 Deputy Assistant Secretary, EA
FRO1 United States Representative, Unesco PRS
FOO1 Deputy Assistant Secretary, IO
RUO1 Deputy Assistant Secretary, OES/N
FOO1 Deputy Director, PM
FOO1 Deputy US Representative, Geneva
FRO1 *Deputy US Representative, Montreal
FOO1 Deputy Assistant Secretary for HR&H Affairs
FOO1 Deputy Assistant Secretary, DGP/PER
FOO1 Deputy US Representative, USUN
FOO1 Deputy Chief of Mission, Vienna
FOO1 *SA to Sec & Coord Intl Lab Af, S/IL
FOO1 Principal Officer, Karachi
FOO1 Deputy Chief of Mission, Lima
FOO1 *Office Director, O/CT
FOO1 Deputy Inspector General, S/IG
ESOO Deputy Assistant Secretary
FOO1 Principal Officer, Montreal
FRO1 United States Representative, EA/PIA
FOO1 *Deputy Chief of Mission, Lisbon
FOO1 Deputy Chief of Mission, CEOD Paris
FANC *United States Representative, OEOD Paris
FOO1 *Deputy Chief of Mission, Belgrade
ESOO Deputy Legal Adviser, L
FRO1 *US Rep to Tex Sur Body of Gat, US Mis Gen
FOO1 Deputy Chief of Mission, Tokyo
FOO1 Principal Officer, Hong Kong
ESOO *Spec Adv to the Sec for Sov Affairs
FOO1 *Deputy Director of Management Operations
FRO1 Deputy Assistant Secretary for Bldg
RUO1 Principal Officer, Toronto
FOO1 United States Representative USM FAO Rome
FOO1 Deputy Chief of Mission, Canberra
FOO1 Deputy Assistant Secretary, NEA
FOO1 *Deputy Chief of Mission, London
FOO1 Principal Officer, Rotterdam
FOO1 *SA to Sec & Exec Sec of Dep
FRO1 Deputy Assistant Secretary, OES/S
FOO1 Deputy Assistant Secretary, NEA
ESOO Deputy Legal Adviser
FOO1 *Deputy Chief of Mission, Monrovia
FOO1 Deputy Assistant Secretary, AF
FOO1 *Deputy Chief of Mission, Copenhagen
FOO1 *Deputy Chief of Mission, Bonn
FOO1 *Deputy Chief of Mission, Lagos

AGENCY: DEPARTMENT OF TRANSPORTATION

Positions:

OFFICE OF THE SECRETARY OF TRANSPORTATION

SES Deputy General Counsel
SES Deputy Assistant Secretary for Plans and International Affairs
SES Deputy Assistant Secretary for Policy and Program Development
SES Deputy Assistant Secretary for Budget and Programs
SES Deputy Assistant Secretary for Governmental Affairs
SES Deputy Assistant Secretary for Administration
SES Deputy Assistant Secretary for Administration
SES Departmental Director of Civil Rights

UNITED STATES COAST GUARD

SES Deputy Chief Counsel
O–7/O–8 Chief of Staff (Real Admiral)
O–7/O–8 Chief, Office of Boating Safety (Real Admiral)
O–7/O–8 Comptroller (Rear Admiral)
O–7/O–8 Chief Counsel (Rear Admiral)
O–7/O–8 Chief, Office of Engineering (Rear Admiral)
O–7/O–8 Chief, Office of Marine Environment and Systems (Rear Admiral)
O–7/O–8 Chief, Office of Merchant Marine Safety (Rear Admiral)
SES *Chief, Office of Navigation (Rear Admiral)
O–7/O–8 Chief, Office of Operations (Rear Admiral)
O–7/O–8 Chief, Office of Research and Development (Rear Admiral)
O–7/O–8 District Commanders (Rear Admiral) (10)

FEDERAL AVIATION ADMINISTRATION

SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration

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SES Associate Administrator for Airports
SES Deputy Associate Administrator for Airports
SES Associate Administrator for Air Traffic and Airway Facilities
SES Associate Administrator for Aviation Standards
SES Associate Administrator for Engineering and Development
SES Deputy Associate Administrator for Engineering and Development
SES Associate Administrator for Policy and International Aviation Affairs
SES Federal Air Surgeon
SES Deputy Federal Air Surgeon
SES Chief Counsel
SES Deputy Chief Counsel
SES Eastern Regional Director (New York)
SES Eastern Deputy Regional Director (New York)
SES New England Regional Director (Boston)
SES New England Deputy Regional Director (Boston)
SES Southern Regional Director (Atlanta)
SES Southern Deputy Regional Director (Atlanta)
SES Southwest Regional Director (Fort Worth)
SES Southwest Deputy Regional Director (Fort Worth)
SES Central Regional Director (Kansas City)
SES Central Deputy Regional Director (Kansas City)
SES Great Lakes Regional Director (Chicago)
SES Great Lakes Deputy Regional Director (Chicago)
SES Western Regional Director (Los Angeles)
SES Western Deputy Regional Director (Los Angeles)
SES Rocky Mountain Regional Director (Denver)
SES Rocky Mountain Deputy Regional Director (Denver)
SES Northwest Regional Director (Seattle)
SES Northwest Deputy Regional Director (Seattle)
SES Alaska Regional Director (Anchorage)
SES Alaska Deputy Regional Director (Anchorage)
SES Pacific-Asia Regional Director (Honolulu)
SES Pacific-Asia Deputy Regional Director (Honolulu)
SES Assistant Administrator for Europe-Africa-Middle East Region

FEDERAL HIGHWAY ADMINISTRATION

SES Associate Administrator for Planning
SES Associate Administrator for Research and Development
SES Associate Administrator for Right-Of-Way and Environment
SES Associate Administrator for Engineering and Traffic Operations
SES Associate Administrator for Safety
SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration
SES Chief Counsel
SES Deputy Chief Counsel
SES Regional Federal Highway Administrators (9)
SES **Deputy Administrator
SES **Executive Director

FEDERAL RAILROAD ADMINISTRATION

SES Associate Administrator for Administration
SES Chief Counsel
SES Associate Administrator for Federal Assistance
SES Director, Northeast Corridor Project Office
SES Deputy Director, Northeast Corridor Project Office
SES Associate Administrator for Research and Development
SES Associate Administrator for Policy and Program Development
SES Associate Administrator for Safety
SES Deputy Associate Administrator for Safety
SES Director, Transportation Test Center (TTC)
SES General Manager, Alaska Railroad
SES *Director, Minority Business Resource Center
SES *Deputy Associate Administrator for Policy and Program Development
SES **Deputy Administrator

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SES Chief Counsel
SES Associate Administrator for Rulemaking
SES Deputy Associate Administrator for Rulemaking and Director, Engineering Systems Staff
SES Associate Administrator for Traffic Safety Programs
SES Associate Administrator for Research and Development
SES Associate Administrator for Enforcement
SES Associate Administrator for Plans and Programs
SES Associate Administrator for Administration
SES **Deputy Administrator

URBAN MASS TRANSPORTATION ADMINISTRATION

SES *Executive Director
SES Associate Administrator for Administration
SES Chief Counsel
SES Associate Administrator for Technology Development and Deployment
SES Associate Administrator for Transit Assistance
SES Associate Administrator for Policy, Budget, and Program Development
SES Associate Administrator for Planning, Management, and Demonstrations
SES **Deputy Administrator

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SES Associate Administrator and Resident Manager

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SES Deputy Administrator
SES Chief Counsel
SES Associate Administrator, Office of Policy, Plans, and Program Management
SES Director, Material Transportation Bureau
SES Director, Transportation Programs Bureau
SES Director, Transportation Systems Center
SES Deputy Director, Transportation Systems Center
SES **Administrator

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

OFFICE OF THE SECRETARY

ES-4 Inspector General

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE

ES-4 Deputy Assistant Secretary, Debt Management
ES-4 Deputy Assistant Secretary, Capital Markets Policy
ES-4 Deputy Assistant Secretary, State and Local Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFAIRS

ES-4 Deputy Assistant Secretary for International Monetary Affairs
ES-4 Deputy Assistant Secretary for Developing Nations Finance
ES-4 Deputy Assistant Secretary, Trade and Investment Policy
ES-4 Deputy Assistant Secretary, Commodities and Natural Resources

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY

ES-4 Deputy Assistant Secretary, Tax Policy
ES-4 Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

OFFICE OF THE ASSISTANT SECRETARY FOR ENFORCEMENT AND OPERATIONS

SES **Assistant Secretary

OFFICE OF THE FISCAL ASSISTANT SECRETARY

SES **Assistant Secretary

LEGAL DIVISION

ES-4 Deputy General Counsel, Office of the General Counsel
ES-4 Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
ES-4 International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel
ES-4 Chief Counsel, Customs Department
ES-4 Deputy Chief Counsel, Customs Department
ES-4 Chief Counsel, Comptroller of the Currency
ES-4 Deputy Chief Counsel, Comptroller of the Currency
ES-4 Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
ES-4 Deputy Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
ES-4 Legal Counsel, U.S. Secret Service
ES-4 Deputy Chief Counsel (General), Internal Revenue Service

ES-4 Deputy Chief Counsel (Litigation), Internal Revenue Service
ES-4 Deputy Chief Counsel (Technical), Internal Revenue Service

CUSTOMS SERVICE

SES **Commissioner
ES-4 Deputy Commissioner
ES-4 Assistant Commissioner
ES-4 Assistant Commissioner, Regulations and Rulings
ES-2 Director, Office of Investigations
ES-4 Comptroller
ES-4 Assistant Commissioner, Commercial Support
ES-4 Assistant Commissioner, Management Integrity

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

ES-5 Director
ES-4 Deputy Director
ES-2 Assistant Director, Regulatory Enforcement
ES-4 Assistant Director, Criminal Enforcement
ES-1 Assistant Director, Internal Affairs

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

GS-18 Commissioner

BUREAU OF THE MINT

GS-18 Director
ES-4 Deputy Director

BUREAU OF PUBLIC DEBT

GS-18 Commissioner of Public Debt

OFFICE OF REVENUE SHARING

SES **Director

U.S. SECRET SERVICE

SES **Director
SES **Deputy Director

OFFICE OF THE COMPTROLLER OF THE CURRENCY

ES-4 Deputy Comptroller for Special Examinations
ES-4 Chief National Bank Examiner
ES-4 Deputy Comptroller of the Currency, Special Surveillance
ES-4 Deputy Comptroller, Multinational Banking
ES-4 Deputy Comptroller, Research and Economic Programs
ES-4 Deputy Comptroller for Administration/Special Assistant to the Deputy Comptroller for Operations
ES-4 Assistant to the Comptroller/Senior Advisor to the Comptroller
ES-3 Director, Bank Organization and Structure
ES-2 Deputy Comptroller, Customer and Community Programs
ES-4 Deputy Comptroller of the Currency for Interagency Coordination
SES **Senior Deputy Comptroller for Operations
SES **Senior Deputy Comptroller for Policy
SES **Senior Deputy Comptroller
SES **Senior Deputy Comptroller for Bank Supervision

INTERNAL REVENUE SERVICE

SES **Deputy Commissioner
ES-4 Assistant Commissioner (EP/EO)
SES Assistant Commissioner (Compliance)
ES-4 Assistant Commissioner (Technical)
ES-5 Assistant Commissioner (Resources Management)
ES-4 Assistant Commissioner (Planning & Research)
SES Assistant Commissioner (Taxpayer Service & Returns Processing)
ES-4 Assistant Commissioner (Inspection)
ES-4 Assistant Commissioner (Data Services)
ES-4 Regional Commissioner, North Atlantic Region
ES-4 Regional Commissioner, Midwest Region
ES-4 Regional Commissioner, Western Region
ES-4 Regional Commissioner, Southeast Region
ES-4 Regional Commissioner, Central Region
ES-4 Regional Commissioner, Southwest Region
ES-4 Regional Commissioner, Mid-Atlantic Region

BUREAU OF ENGRAVING AND PRINTING

ES-4 Director
GS-17 Deputy Director
ES-2 *Assistant Director (Administration)
ES-1 *Assistant Director (Operations)
ES-1 *Assistant Director (Research and Engineering)

TREASURER OF THE UNITED STATES

GS-18 *Treasurer and National Savings Bond Director, Office of the Secretary

AGENCY: ACTION

Positions:

FR-1 *Assistant Director for Office of Voluntary Citizen Participation
FR-1 Assistant Director for Policy and Planning
FR-1 Assistant Director for Compliance
FR-1 Regional Director for Latin America
FR-1 Regional Director for Africa
FR-1 Regional Director, North Africa, Near East, Asia and Pacific Regional Office
FR-1 *Counsel and Associate Director for Planning and Evaluation
FR-1 *Associate Director for Development Education
SES General Counsel
SES Deputy Associate Director for Domestic and Anti-Poverty Operations
SES **Assistant Director for Administration and Finance
SES Executive Assistant for Programs

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:

SES Executive Secretary
SES Executive Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:

SES Executive Director

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions

0-8 Secretary

AGENCY: BOARD FOR INTERNATIONAL BROADCASTING

Positions:

ES-6 *Executive Director
ES-5 *Director of Engineering

AGENCY: CENTRAL INTELLIGENCE AGENCY

Positions:

AD General Counsel
AD Inspector General
AD Legislative Counsel
AD Deputy Director for Administration
AD Associate Deputy Director for Administration
AD Deputy Director for Operations
AD Associate Deputy Director for Operations
AD Deputy to the Director of Central Intelligence for Resource Management
AD Associate Deputy to the Director of Central Intelligence for Resource Management
AD Deputy to the Director of Central Intelligence for Collection Tasking
AD Deputy to the Director of Central Intelligence for National Intelligence
AD *Associate Deputy to the Director of Central Intelligence for Collection Tasking
AD Deputy Director of the National Foreign Assessment Center
AD Deputy Director for Science & Technology
AD Associate Deputy Director for Science & Technology
AD *Director—Technical Services
AD *Director—Data Processing
AD *Director—Sigint Operations
AD *Director—Security
AD *Director—Research and Development
AD *Director—Personnel Policy, Planning & Management
AD Comptroller
AD Deputy Comptroller
AD *Director—Development and Engineering
AD *Director—Logistics
AD *Director—Finance
AD *Deputy Director—Development and Engineering
AD *Deputy Director—Research & Development
AD *Deputy Director—Personnel Policy, Planning & Management
AD *Deputy Director—Finance
AD *Deputy Director—Logistics
AD *Deputy Director——Data Processing
AD Director, Office of Public Affairs
AD Deputy Legislative Counsel
AD Deputy General Counsel
AD Deputy Inspector General

AGENCY: CIVIL AERONAUTICS BOARD

Positions:

SES Managing Director, Office of Managing Director
SES Director, Bureau of Carrier Accounts & Audits

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SES Director, Bureau of Domestic Aviation
SES Deputy Director, Bureau of Domestic Aviation
SES Director, Bureau of International Aviation
SES Deputy Director, Bureau of International Aviation
SES Director, Office of Economic Analysis
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Director, Bureau of Consumer Protection
SES Deputy Director, Bureau of Consumer Protection
SES Director, Office of Human Resources
SES Comptroller, Office of Comptroller
SES Director, Office of Community & Congressional Relations

AGENCY: COMMISSION ON CIVIL RIGHTS

Positions:
SES Solicitor
SES Assistant Staff Director for Regional Programs
SES Assistant Staff Director for Administration
SES Assistant Staff Director for Program Planning and Evaluation
SES Acting Assistant Staff Director for Program and Policy Review
SES Assistant Staff Director for Civil Rights Evaluation
SES Assistant Staff Director for Congressional and Public Affairs
SES *Deputy Staff Director
SES *General Counsel

AGENCY: COMMISSION OF FINE ARTS

Positions: No section 207(d)(1)(C) designations

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:
SES *Executive Director
SES *Executive Assistant to the Chairman
SES Deputy Executive Director (2)
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement (2)
SES Chief Economist, Division of Economics and Education
SES Deputy Chief Economist, Division of Economics and Education (2)
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets (2)
SES Director, Division of Management, Program Planning and Evaluation
SES Deputy General Counsel, Office of General Counsel (2)

AGENCY: COMMUNITY SERVICES ADMINISTRATION

Positions:
SES Regional Director, Region I
SES Regional Director, Region II
SES Regional Director, Region III
SES Regional Director, Region IV
SES Regional Director, Region V
SES Regional Director, Region VI
SES Regional Director, Region VII
SES Regional Director, Region VIII
SES Regional Director, Region IX
SES Regional Director, Region X
SES Associate Director for Economic Development
SES Director, Regional Operations
SES Director, for Program Development
SES Deputy General Counsel
SES Deputy Associate Director for Economic Development
SES Deputy Assistant Director for Community Action
SES Controller
SES Deputy Inspector General
SES Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:
SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Excecutive Director for Engineering and Science
SES Associate Executive Director for Hazard Identification and Analysis
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Enforcement
SES Associate Executive Director for Communications
SES Director, Office of Program Management
SES Director, Office of Budget, Program Planning and Evaluation
SES *Deputy Associate and Executive Director for Engineering and Science
SES *Deputy Associate Executive Director for Health Sciences
SES *Deputy Associate Executive Director for Epidemiology

AGENCY: COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Positions: No section 207(d)(1)(C) designations

AGENCY: DISTRICT OF COLUMBIA GOVERNMENT

Positions:
SES Corporation Counsel
SES Director, Department of Transportation
SES Director, Department of Human Resources
SES Commissioner of Public Health
SES Principal Deputy Corporation Counsel
SES Director, Department of Environmental Services
SES Finance Officer
SES Deputy Director, Department of Human Services
SES Director, Department of Corrections
SES Director of Personnel
SES Director, Department of Housing and Community Development
SES Deputy Director, Department of Housing and Community Development
SES Director, Department of Licenses, Investigations and Inspections
SES Superintendent of Schools
SES President, University of the District of Columbia
SES Director, Public Defender Service
SES Deputy Director, Public Defender Service
GS–17 *Commission of Social Services

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:
SES Regional Administrator, Region I, Boston
SES Regional Administrator, Region II, New York
SES Regional Administrator, Region III, Philadelphia
SES Regional Administrator, Region IV, Atlanta
SES Regional Administrator, Region V, Chicago
SES Regional Administrator, Region VI, Dallas
SES Regional Administrator, Region VII, Kansas City
SES Regional Administrator, Region VIII, Denver
SES Regional Administrator, Region IX, San Francisco
O–7 Regional Administrator, Region X, Seattle
SES Associate Assistant Administrator for Planning and Management
SES Associate Assistant Administrator for Management Reform
SES Associate Assistant Administrator for Program Management and Policy
SES *Associate Assistant Administrator for Enforcement
SES *Associate Assistant Administrator for Air, Noise, and Radiation
SES *Associate Assistant Administrator for Water and Waste Management
SES *Associate Assistant Administrator for Toxics Integration
SES *Associate Assistant Administrator for Pesticides and Toxic Substances
SES *Deputy Assistant Administrator for Water and Waste Management
SES Deputy Assistant Administrator for Management and Agency Services
SES Deputy Assistant Administrator for Resource Management
SES Deputy Assistant Administrator for Planning and Evaluation
SES Deputy Assistant Administrator for Water Enforcement
SES Deputy Assistant Administrator for Mobile Source and Noise Enforcement
SES Deputy Assistant Administrator for General Enforcement
SES DAA/Mobile Source Air Pollution Control
SES Deputy Assistant Administrator for Radiation Programs
SES Deputy Assistant Administrator for Noise Abatement and Control
SES Deputy Assistant Administrator for Water Program Operations
SES Deputy Assistant Administrator for Water Regulations and Standards

SES Deputy Assistant Administrator for Solid Waste
SES Deputy Assistant Administrator for Drinking Water
SES Deputy Assistant Administrator for Pesticides Programs
SES Deputy Assistant Administrator for Chemical Control Division
SES Deputy Assistant Administrator for Monitoring and Technical Support
SES Deputy Assistant Administrator for Health and Ecological Effects
SES Deputy Assistant Administrator for Air, Land and Water Use
SES Deputy Assistant Administrator for Energy, Minerals, and Industry
SES *Deputy Assistant Administrator for Toxic Substances
SES *Deputy Assistant Administrator for Air Quality Planning and Standards
SES General Counsel
SES Deputy General Counsel
SES Deputy Inspector-General for Audits
SES Deputy Inspector-General for Inspection
SES Executive Assistant (technical) to the Administrator
SES *Assistant to the Administrator
SES Assistant to the Deputy Administrator
SES Director of Environmental Review
SES Director of Legislation
SES Director, Criteria and Assessment Office—RTP (ORD)
SES Staff Director, Regulatory Council
SES Deputy Staff Director, Regulatory Council

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:
SES Associate General Counsel, Trial Division
SES Executive Director
SES Deputy Executive Director
SES Director, Office of Special Projects and Programs
SES Director, Office of Program Planning and Evaluation
SES Deputy General Counsel

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:
GS–18 General Counsel
GS–17 Deputy General Counsel
GS–17 Senior Vice President, Exporter Credits, Guarantees and Insurance
GS–17 Senior Vice President, Policy
GS–17 Senior Vice President, Direct Credits and Financial Guarantees
GS–17 Senior Vice President, International Relations

AGENCY: FARM CREDIT ADMINISTRATION

Positions:
SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision
SES *Associate Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor and Chief Examiner
SES *Associate Deputy Governor and Chief Examiner
SES Deputy Governor, Office of Administration
SES Director, Administrative Division

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:
SES General Counsel
SES Chief, Broadcast Bureau
SES Chief Scientist
SES Chief, Common Carrier Bureau
SES Chief, Field Operations Bureau
SES Deputy Chief, Broadcast Bureau
SES Executive Director
SES Chief, Private Radio Bureau
SES *Deputy Chief, Private Radio Bureau
SES *Assistant Chief, Private Radio Bureau (Policy)
SES Chief, Opinions and Review
SES Deputy Chief Scientist (Technology)
SES *Deputy Chief Scientist (Policy)
SES Deputy Chief, Common Carrier Bureau (Operations)
SES *Deputy Chief, Common Carrier Bureau (Policy)
SES Chief, Office of Plans and Policy
SES *Deputy Chief, Office of Plans and Policy
SES Deputy General Counsel
SES Chief, Cable Television Bureau
SES Deputy Chief, Field Operations Bureau

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:
AD–18 Deputy to the Chairman
AD–8 Assistant to the Director (Appointive)
GG–17 Director, Office of Employee Relations
GG–17 Director, Office of Personnel Management
AD–18 Controller
AD–18 Director, Division of Management Systems and Financial Statistics
GG–16(17) Deputy Director, Division of Management Systems and Financial Statistics
GG–17 Director, Office of Corporate Audits
AD–18 General Counsel
AD–18 Director, Division of Bank Supervision
GG–17 Deputy Directors, Division of Bank Supervision (3)
GG–17 Deputy Director, Division of Liquidation
AD–18 Director, Division of Liquidation
AD–18 Director, Division of Research
GG–17 Deputy General Counsel

AGENCY: FEDERAL ELECTION COMMISSION

Positions: No section 207(d)(1)(C) designations

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:
SES Director, Public Affairs
SES General Counsel
SES Director, Operations Support
SES Inspector General
SES Director, Program Analysis and Evaluation
SES Director, Finance & Administration
SES Director of Personnel
SES Director, Training & Education
GS–18 *Associate Director, Mitigation and Research

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:
SES Executive Director, Office of the Executive Director
SES *Deputy Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation
SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES *Deputy Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Enforcement
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Positions:
GS–18 Executive Secretary

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:
SES General Counsel
SES Director, Office of District Banks
SES Director, Office of Community Investment
SES Director, Office of Policy and Economic Research
SES Director, Federal Savings and Loan Insurance Corporation
SES Executive Assistant to the Chairman
SES *Director, Office of Examinations and Supervision
SES *Director, Internal Evaluation and Compliance Office

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:
AD President—Chief Executive Officer
AD Executive Vice President—Chief Operating Officer
AD Executive Vice President—Chief Administrative Officer
AD Senior Vice President—General Counsel
AD Regional Senior Vice President—Los Angeles

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AD Executive Vice President—Chief Financial Officer
AD *Special Assistant to the President

AGENCY: FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Positions:

SES Deputy Federal Inspector
SES Executive Officer
SES General Counsel
SES Director, External Affairs
SES Director, Environmental Review
SES Director, Engineering Review
SES Director, Cost Control and Audit
SES Director, Compliance and Permitting
SES Director of Administration
SES Deputy Director for Administration
SES Director, Procurement and Contracts
SES Spread Team Leaders (Project Officers) (3)

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:

GS–18 Members of the Federal Service Impasses Panel (7)
SES Executive Director of the Authority
SES Deputy Executive Director of the Authority
SES *Chief Counsel, Office of Case Handling
SES *Director, Office of Operations and Technical Assistance
SES *Deputy General Counsel
SES *Associate General Counsel
SES *Assistant General Counsel (Field Management)(3)
SES *Assistant General Counsel for Appeals
SES *Regional Director, Washington Region
SES *Executive Director, Federal Service Impasses Panel

AGENCY: FEDERAL MARITIME COMMISSION

Positions:

SES General Counsel
SES Managing Director
SES Director, Bureau of Ocean Commerce Regulation
SES Deputy Director, Bureau of Ocean Commerce Regulation
SES Deputy General Counsel, Division of Reports, Opinions and Decisions
SES Deputy General Counsel, Division of Legislation, Orders and Legal Research and Assistance
SES Director, Bureau of Hearing Counsel
SES Director, Bureau of Certification and Licensing
SES Director, Bureau of Enforcement
SES Director, Bureau of Industry Economics
SES Secretary
SES *Deputy Managing Director

AGENCY: FEDERAL MEDIATION AND CONCILIATION SERVICE

Positions:

SES Deputy Director
SES Director of Mediation Services
SES Associate Director of Mediation Services
SES Director of Administration
SES Director of Arbitration Services
SES Director of Special Services
SES General Counsel
SES Director of the Office of Special Services
SES Regional Directors(8)

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:

FRO–I *Secretary of the Board
FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Management
FRO–I Director, Division of Research and Statistics
FRO–I General Counsel
FRO–I Director, Division of Banking Supervision and Regulation
FRO–I Director, Division of International Finance
FRO–I Staff Director for Federal Reserve Bank Activities
FRO–II Assistants to the Board (3)
FRO–II Deputy Staff Director for Monetary and Financial Policy
FRO–II Director, Division of Federal Reserve Bank Examination and Budgets
FRO–II Director, Division of Consumer and Community Affairs
FRO–II Director, Division of Data Processing
FRO–II Director, Division of Federal Reserve Bank Operations
FRO–II Executive Secretary, Federal Financial Institutions Examination Council
FRO–II Deputy General Counsel
FRO–II Director, Division of Personnel
FRO–III Controller
FRO–III Assistant to the Board

AGENCY: FEDERAL TRADE COMMISSION

Positions:

SES Director, Office of Policy Planning
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection
SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Executive Director
SES Assistant to the Chairman
SES Deputy Director, Office of Policy Planning
SES Deputy Director, Bureau of Economics (1)
SES *Director of Public Information

AGENCY: FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Position: No section 207(d)(1)(C) designations

AGENCY: GENERAL ACCOUNTING OFFICE

Positions:

SES Director, Program Analysis Division (PAD)
SES Deputy Director, PAD
SES Director, Energy and Minerals Division (EMD)
SES Deputy Director, EMD
SES Director, Community and Economic Development Division (CEDD)
SES Deputy Director, CEDD
SES Director, Federal Personnel and Compensation Division (FPCD)
SES Deputy Director, FPCD
SES Director, Field Operations Division (FOD)
SES Deputy Director, FOD
SES Director, Financial and General Managment Studies Division (FGMSD)
SES Deputy Director, FGMSD
SES Director, General Government Division (GGD)
SES Deputy Director, GGD
SES Director, International Division (ID)
SES Deputy Director, ID
SES Director, Logistics and Communications Division (LCD)
SES Deputy Director, LCD
SES Director, Procurement and Systems Acquisitions Division (PSAD)
SES Deputy Director, PSAD
SES Director, Human Resouces Division
SES Deputy General Counsel
SES Director, Office of Internal Review
SES Director, Office of Policy
SES *Director of Personnel
SES *Director, General Services and Controller

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES **Deputy Administrator
SES Executive Assistant to the Administrator
SES Executive Assistant to the Deputy Administrator

OFFICE OF EXTERNAL AFFAIRS

SES Assistant Administrator for External Affairs
SES Deputy Assistant Administrator for External Affairs

INFORMATION SECURITY OVERSIGHT OFFICE

SES Director, Information Security Oversight Office
SES *Deputy Director, Information Security Oversight Office

OFFICE OF ACQUISITION POLICY

SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director, Acquisition Management and Review
SES Director of Contract Clearance
SES Director of Acquisition Policy

OFFICE OF PLANS, PROGRAMS, AND FINANCIAL MANAGEMENT

SES Director of Finance
SES Director of Budget
SES Director of Data Systems
SES Director of Planning and Analysis
SES Director of Program Coordination
SES Assistant Administrator for Plans, Programs, and Financial Management
SES Deputy Assistant Administrator for Plans, Programs, and Financial Management

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE (ADTS)

SES **Commissioner, ADTS
SES Deputy Commissioner, ADTS
SES Assistant Commissioner, Office of Policy and Planning Program Management Officer
SES Assistant Commissioner, Office of Agency Services and Procurement, Program Management Officer
SES Assistant Commissioner, Office of Systems Engineering and Operations, Supervisory Electronics Engineer
SES Executive Director, ADTS, Program Management and Policy Planning Officer
SES Director, Voice Communications Systems Division Supervisory Electronics Engineer (Communications)
SES Director, Advanced Planning and Research Division Supervisory Electronics Engineer
SES Director, Data Communications Systems Division Supervisory Electronics Engineer
SES Director, Software Development Office

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
SES Deputy Commissioner, Federal Property Resources Service
SES Assistant Commissioner, Office of Stockpile Management
SES Assistant Commissioner, Office of Stockpile Transactions

FEDERAL SUPPLY SERVICE (FSS)

SES **Commissioner, FSS
SES Deputy Commissioner for Procurement, FSS
SES Deputy Commissioner for Requirements and Supply
SES Associate Commissioner for Management
SES Special Assistant to the Commissioner
SES Assistant Commissioner, Office of Contracts
SES Assistant Commissioner, Office of Contract Management
SES Assistant Commissioner for Supply
SES Assistant Commissioner, Office of Programs and Requirements
SES Director, Office of Supply Policy
SES Assistant Commissioner, Office of Property Management
SES Director, Acquisition Planning Office

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES **Archivist of the United States
SES Deputy Archivist of the United States
SES Executive Director, NARS

PUBLIC BUILDINGS SERVICE (PBS)

SES Commissioner, PBS
SES Deputy Commissioner, PBS
SES Assistant Commissioner, for Buildings Management
SES Assistant Commissioner, for Construction Management
SES *Deputy Assistant Commissioner for Buildings Management
SES Assistant Commissioner, for Program Support
SES Assistant Commissioner, for Design and Construction
SES Deputy Assistant Commissioner for Design and Construction
SES Assistant Commissioner, for Space Management
SES Assistant Commissioner for Contracts

TRANSPORTATION AND PUBLIC UTILITIES SERVICE (TPUS)

SES **Commissioner, TPUS
SES Deputy Commissioner, TPUS
SES Assistant Commissioner, Office of Transportation and Travel Management
SES Assistant Commissioner, Office of Public Utilities
SES Assistant Commissioner, Office of Motor Equipment
SES Assistant Commissioner for Transportation Audits

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

GS–18 *Chairman and Chief Administrative Judge of Board of Contract Appeals
GS–17 *Vice Chairman, Board of Contract Appeals
GS–17 *Vice Chairman and Chief Administrative Judge of the Judicial Division, Board of Contract Appeals

REGIONAL OFFICES

SES Regional Administrator, Program Management Officer, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES *Deputy Regional Administrator
SES Regional Administrator, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Regional Administrator, National Capital Region (Washington, D.C.)
SES *Deputy Regional Administrator, National Capital Region

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General

OFFICE OF HUMAN RESOURCES AND ORGANIZATION

SES Assistant Administrator for Human Resources and Organization
SES *Executive Assistant to the Assistant Administrator for Human Resources and Organization

AGENCY: INTER-AMERICAN FOUNDATION

Positions: No section 207(d)(1)(C) designations

AGENCY: INTERNATIONAL COMMUNICATION AGENCY

Positions:

GS–17 Executive Assistant to the Director
FSIO–1 Director, Congressional and Public Liaison
FSIO–1 Chief, Congressional Liaison Office
SES General Counsel
SES Deputy General Counsel
FSIO–1 Deputy Associate Director
GG–18 Director for Institutional Relations
FSIO–1 Director of Cultural Centers and Resources
GG–17 Director, Office of Academic Programs

THE DIRECTORATE FOR BROADCASTING (THE VOICE OF AMERICA)

FSIO–1 Deputy Associate Director
SES Director of Administration
FSIO–1 Director, Office of Programs
SES Director of Engineering and Technical Operations

THE DIRECTORATE FOR MANAGEMENT

FSIO–1 Director of Administrative Services
SES Director of Comptroller Services
SES Director of Personnel Services
SES Director, Office of Systems Technology

THE DIRECTORATE FOR PROGRAMS

SES Director of Exhibits Service
FSIO–1 Director of Press and Publication Services
FSIO–1 Director of Television and Film Service
FSIO–1 Deputy Associate Director
SES Executive Officer

Area Offices

FSIO–1 Director of African Affairs
SES Deputy Director of African Affairs
FSIO–1 Director of European Affairs
FSIO–1 Deputy Directors of European Affairs (2)
FSIO–1 Deputy Director of European Affairs (Exchanges)
FSIO–1 Director of East Asian and Pacific Affairs
FSIO–1 Deputy Directors of East Asian and Pacific Affairs (2)
FSIO–1 Director of American Republic Affairs
FSIO–1 Deputy Director of American Republic Affairs
FSIO–1 Director of North African, Near Eastern and South Asian Affairs
FSIO–1 Deputy Director of North African and Near Eastern Affairs
FSIO–1 Deputy Director of South Asian Affairs
FSIO–1 Public Affairs Officers of Class I Posts (6)

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AGENCY: INTERNATIONAL TRADE COMMISSION

Positions:
SES Director of Operations
SES General Counsel
SES Senior Adviser
SES Director of Industries
SES *Director of Investigations
SES Director, Economic Research

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:
SES Managing Director
SES General Counsel
SES Director, Bureau of Operations
SES Director, Bureau of Investigations and Enforcement
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Policy and Analysis/Rail Services Planning Office
SES Assistant Managing Director
SES Deputy General Counsel
SES Associate Director, Office of Proceedings
SES Associate Director, Office of Policy and Analysis/Rail Services Planning Office

AGENCY: JAPAN–UNITED STATES FRIENDSHIP COMMISSION

Positions:
SES Executive Director

AGENCY: MERIT SYSTEMS PROTECTION BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Deputy General Counsel, Trial
SES Deputy General Counsel, Appellate
SES Director, Office of Appeals
SES Director, Office of Merit Systems Review and Studies
SES *Director, Office of Administration
SES *Director, Office of Special Decisions
SES *Chief Appeals Officer (Seven positions, one each at these field locations: Atlanta, Chicago, Dallas, New York, Philadelphia, San Francisco, Washington, D.C.)

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR
SES **Associate Deputy Administrator

OFFICE OF THE COMPTROLLER
SES Deputy Comptroller
SES **Associate Administrator/Comptroller

OFFICE OF LEGISLATIVE AFFAIRS
SES Director, Legislative Affairs
SES Deputy Director, Legislative Affairs

OFFICE OF THE CHIEF ENGINEER
SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE AND TERRESTRIAL APPLICATIONS
SES **Associate Administrator for Space and Terrestrial Applications
SES Deputy Associate Administrator for Space and Terrestrial Applications

OFFICE OF GENERAL COUNSEL
SES **General Counsel
SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT
SES Director of Procurement
SES Deputy Director of Procurement

OFFICE OF EXTERNAL RELATIONS
SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE TRANSPORTATION SYSTEM ACQUISITION
SES **Associate Administrator for Space Transportation Systems
SES Deputy Associate Administrator for Space Transportation System Acquisition

OFFICE OF MANAGEMENT OPERATIONS
SES **Associate Administrator for Management Operations
SES Deputy Associate Administrator for Management Operations

OFFICE OF SPACE TRANSPORTATION OPERATIONS
SES *Deputy Associate Administrator for Space Transportation Operations

OFFICE OF THE CHIEF SCIENTIST
SES **Associate Administrator (Chief Scientist)

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY
SES **Associate Administrator for Aeronautics and Space Technology
SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF SPACE SCIENCE
SES **Associate Administrator for Space Science
SES Deputy Associate Administrator for Space Science

OFFICE OF SPACE TRACKING AND DATA SYSTEMS
SES **Associate Administrator for Space Tracking and Data Systems
SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS
SES Director of Equal Opportunity Programs
SES Deputy Director of Equal Opportunity Programs

INSPECTOR GENERAL
SES **Inspector General
SES Deputy Inspector General

AMES RESEARCH CENTER
SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

DRYDEN FLIGHT RESEARCH CENTER
SES Director, NASA Dryden Flight Research Center
SES Deputy Director, NASA Dryden Flight Research Center

GODDARD SPACE FLIGHT CENTER
SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER
SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER
SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER
SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER
SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER
SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES
SES Manager, National Space Technology Laboratories
SES Deputy Manager, National Space Technology Laboratories

WALLOPS FLIGHT CENTER
SES Director, NASA Wallops Flight Center
SES Associate Director, NASA Wallops Flight Center

AGENCY: NATIONAL CAPITAL PLANNING COMMISSION

Positions:
SES Executive Director
SES Associate Executive Director for Regional Affairs
SES Associate Executive Director for District of Columbia Affairs
SES General Counsel
SES Assistant Executive Director for Administration

AGENCY: NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Positions:
SES O–4 Executive Director

AGENCY: NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

Positions:
SES Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:
SES General Counsel
SES Director, Office of Examination and Insurance
SES Director, Office of Administration
SES Comptroller
SES Director, Office of Internal Audit and Investigation
SES Regional Directors (6)
SES Director, Office of Policy Analysis
SES Deputy Director, Examination and Insurance
SES Deputy General Counsel
SES *President, Central Liquidity Facility

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:
GS–18 Deputy Chairman for Policy and Planning
GS–17 Deputy Chairman for Programs
GS–17 Deputy Chairman, Federal Council on the Arts and the Humanities
SES Director of Media Arts
SES Director of Architecture, Planning and Design
SES Director of Federal-State Partnership
SES Director of Expansion Arts
SES Director of Museums
SES General Counsel
SES Director of Program Coordination

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Positions:
SES Deputy Chairman for Programs
SES Assistant Chairman for Institutional Relations
SES Deputy Chairman for Management
SES Director, Division of State Programs
SES General Counsel
SES Director, Office of Planning and Policy Assessment
SES *Director, Division of Public Programs

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:
SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES *Associate General Counsel, Division of Enforcement Litigation

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:
SES Director, Office of Audit and Oversight
SES Director, Office of Government & Public Programs
SES Director, Office of Planning & Resources Management
SES Director, Office of Small Business Research & Development
SES Deputy Assistant Director, Science Education
SES Deputy Assistant Director, Astronomical, Atmospheric, Earth & Ocean Sciences
SES Deputy Assistant Director, Scientific, Technological & International Affairs
SES Deputy Assistant Director, Administration
SES Deputy Assistant Director, Biological Behavioral & Social Sciences
SES General Counsel
SES *Assistant Director, Engineering and Applied Science
SES *Deputy Assistant Director, Engineering and Applied Science
SES *Assistant Director, Scientific, Technological & International Affairs
SES *Assistant Director for Administration

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology
SES *Director, Bureau of Administration

AGENCY: NUCLEAR REGULATORY COMMISSION

Positions:

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
SES Executive Director, ACRS
SES Deputy Executive Director, ACRS
SES Assistant Executive Director for Project Review, ACRS

OFFICE OF ADMINISTRATION
SES Director, Office of Administration
SES Deputy Director, Office of Administration
SES Director, Division of Organization & Personnel
SES Director, Division of Contracts
SES Director, Division of Tech Information & Document Control

OFFICE OF THE CONTROLLER
SES Controller

OFFICE OF THE SECRETARY
SES Secretary of the Commission
SES Assistant Secretary of the Commission

OFFICE OF INSPECTOR AND AUDITOR
SES Director, OIA
SES Assistant Director for Investigations
SES Assistant Director for Audits

OFFICE OF STATE PROGRAMS
SES Director, State Programs

OFFICE OF STANDARDS DEVELOPMENT
SES Director, Office of Standards Development
SES Deputy Director, Office of Standards Development

ATOMIC SAFETY AND LICENSING BOARD PANEL
SES Executive Secretary, ASLBP
SES Chairman, ASLBP

ATOMIC SAFETY AND LICENSING APPEAL PANEL
SES Vice Chairman, ASLAP
GG–17 Permanent Legal Members, ASLAP (3)
SES Chairman, ASLAP

OFFICE OF THE GENERAL COUNSEL
SES **General Counsel
SES Solicitor, OGC
SES Deputy General Counsel for Dom Lic & Rul
SES Deputy General Counsel for International Legislation
SES Assistant General Counsel

OFFICE OF PUBLIC AFFAIRS
SES Director, Office of Public Affairs
SES Deputy Director, Office of Public Affairs

OFFICE OF CONGRESSIONAL AFFAIRS
SES Director, Office of Congressional Affairs

OFFICE OF POLICY EVALUATION
SES Director, Office of Policy Evaluation
SES A/D for Technical Review, OPE
SES A/D for Management & Program Evaluation, OPE

EXECUTIVE DIRECTOR FOR OPERATIONS
SES Executive Director for Operations
SES Deputy Executive Director for Operations
SES Assistant for Operations

OFFICE OF THE EXECUTIVE LEGAL DIRECTOR
SES Executive Legal Director
SES Deputy Executive Legal Director
SES Director & Chief Counsel, Regulations Division
GG–17 Special Assistants to the Executive Legal Director (2)
SES Director/Chief Counsel, Operations and Administration Division
SES Director & Chief Counsel, Hearing Division
SES Assistant Chiefs, Hearing Counsel (4)
SES Deputy Chief, Hearing Counsel, Deputy Director, Hearing Division
SES Director & Chief Counsel, Rulemaking and Enforcement Division
SES Director & Chief Counsel, Antitrust Division

OFFICE OF INTERNATIONAL PROGRAMS
SES Director, Office of International Programs
SES Deputy Director for International Programs & A/D for International Cooperation
SES A/D for Export/Import & International Safeguards

OFFICE OF NUCLEAR REACTOR REGULATION
SES **Director, NRR
SES **Deputy Director, Office of Nuclear Reactor Regulation
SES Program Director, TMI Program Office
SES Deputy Program Director, TMI Program Office
SES Director, Planning & Program Analysis Staff
SES Program Director, Emergency Preparedness Program Office
SES Deputy Program Director, Emergency Preparedness Program Office
SES Chief, Emergency Preparedness Licensing Branch

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SES Director, Division of Licensing
SES Deputy Director, Division of Licensing
SES Assistant Director for Operating Reactors
SES Chief, Operating Reactors Branch 1
SES Chief, Operating Reactors Branch 2
SES Chief, Operating Reactors Branch 3
SES Chief, Operating Reactors Branch 4
SES Assistant Director for Licensing
SES Chief, Licensing Branch 1
SES Chief, Licensing Branch 2
SES Chief, Licensing Branch 3
SES Chief, Standardization and Special Projects Branch
SES Assistant Director for Safety Assessment
SES Chief, Operating Reactors Branch 5
SES Chief, Systematic Evaluation Program Branch
SES Chief, Operating Reactors Assessment Branch
SES Director, Division of Engineering
SES Assistant Director for Components & Structures Engineering
SES Chief, Mechanical Engineering Branch
SES Chief, Structural Engineering Branch
SES Chief, Geosciences Branch
SES Chief, Hydrologic and Geotechnical Engineering Branch
SES Assistant Director for Materials & Qualifications Engineering
SES Chief, Materials Engineering Branch
SES Chief, Chemical Engineering Branch
SES Chief, Equipment Qualification Branch
SES Chief, Quality Assurance Branch
SES Assistant Director for Environmental Technology
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SES Chief, Physical Security Licensing Branch
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SES Director, Division of Fuel Cycle & Material Safety
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SES Assistant Director for Field Coordination
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SES Director, Division of Reactor Operations Inspection
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SES Director, Division of Fuel Facility and Materials Safety Inspection
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SES A/D, Division of Safeguards Inspection
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SES Deputy Director, Region I
SES Director, Region II
SES Deputy Director, Region II
SES Director, Region III
SES Deputy Director, Region III
SES Director, Region IV
SES Director, Region V
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SES *Deputy Director, Office for Analysis and Evaluation of Operational Data
SES *Director, Division of Engineering Standards, Office of Standards Development
SES *Director, Division of Siting, Health and Safeguards Standards Branch, Office of Standards Development
SES *Director, Probabilistic Staff, Office of Nuclear Regulatory Research
SES *Director, Division of Reactor Safety Research, Office of Nuclear Regulatory Research
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SES Assistant Director, Office of Labor-Management Relations
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SES Executive Director, President's Commission on Personnel Interchange
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SES *Deputy General Counsel, Office of the General Counsel
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SES **Associate Director, Compensation Group
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SES *Counselor, Office of Government Ethics

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SES *Associate Special Counsel for Prosecution

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GS–18 Director of Technical Analysis and Planning

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SES Director, Division of Market Regulation
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SES Deputy Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
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SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Director, Division of Enforcement
SES *Deputy Regional Administrator, New York

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SES *Associate Director, Management Information Systems
SES *Associate Director, Policy Development and Administrative Legal Systems

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SES Assistant Administrator for Data and Management Services
SES *Assistant Administrator for Women's Business Enterprise
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Special Assistant to the Administrator and Director, Equal Employment Opportunity and Compliance
SES General Counsel
SES Deputy General Counsel
GS–18 Chief Counsel for Advocacy
SES **Associate Deputy Administrator for Support Services
SES *Associate Deputy Administrator for Programs
SES **Associate Administrator for Financial Assistance
SES *Associate Administrator for Investment
SES **Associate Administrator for Procurement Assistance
SES Associate Administrator for Management Assistance
SES **Associate Administrator for Minority Small Business & Capital Ownership Development
SES *Deputy Associate Administrator for Business Development
SES *Assistant Administrator for Management Services
SES Director, Office of Field Management

AGENCY: TENNESSEE VALLEY AUTHORITY

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No section 207(d)(1)(C) designations

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

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SES U.S. Commissioner, SCC
SES Public Affairs Adviser
SES The Special Assistant to the Director
SES The Counselor
SES *Deputy Assistant Director, NP
SES *Deputy Assistant Director, ISP
SES *Deputy Assistant Director, WEC
Vacant/0–7 *Senior Military Adviser, D
SES Administrative Director
SES Chief of Operations Analysis
SES Ambassador to CD, D
SES Deputy Assistant Director, MA

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AGENCY: U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

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AD–18 General Counsel

OFFICE FOR ADMINISTRATION

SES Assistant Director

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OFFICE FOR POLICY AND BUDGET

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SES Director of Equal Opportunity Programs
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SES Deputy Assistant Administrator for Legislative Affairs, LEG
SES Director, Office of Public Affairs, OPA
SES *General Counsel, OGC
SES Deputy General Counsel, GC
SES Controller, OFM
SES *Deputy Controller, OFM
FR–01 Director of the Office of Personnel Management
SES Deputy Director of the Office of Personnel Management
SES Deputy Assistant Administrator for the Bureau for Program and Management Services, AA/SER
FR–01 Coordinator, Italian Earthquake Reconstruction Program, SER
SES Director, Office of Commodity Management, SET/COM
SES *Director, Office of Management Planning
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SES Director, Office of Agriculture, DS/AGR
SES Director, Office of Nutrition, DS/N
SES Deputy Assistant Administrator for Development Technology, DAA/DS/DT
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SES Director, Office of Engineering, DS/ENGR
SES Director, Office of Energy, DS/EY
SES Deputy Assistant Administrator for Human Resources Development, DAA/DS/HRD
SES Director, Office of Health, DS/HEA
SES Director, Office of Population, DS/POP
FR–01 Deputy Assistant Administrator for the Bureau for Private and Development Cooperation, DAA/PDC
SES Director for the Office of Private and Voluntary Cooperation, PDC/PVC
SES Coordinator for the Office of Food for Peace, PDC/FFP
SES *Deputy Coordinator, Office of Food for Peace
SES Coordinator, Office of U.S. Foreign Disaster Assistance, PDC/OFDA
SES Coordinator, Office of Reimbursable Development Programs, DC/RDP
SES *Deputy Coordinator, Office of Reimbursable Development Programs
FR–01 Deputy Assistant Administrator for the Bureau for Africa, DAA/AFR
SES Deputy Assistant Administrator for the Bureau for Near East, DAA/NE
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SES Director, Office of Project Development, NE/PD
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FR–01 Director, Senegal
FR–01 Director, Somalia
FR–01 *Director, Sudan
FR–01 Director, Swaziland
FR–01 Director, Tanzania
FR–01 *Director, Upper Volta
FR–01 Regional Development Officer, West Africa, REDSO/WA
FR–01 *Regional Development Officer, East Africa

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FR–01 *Deputy Director, India
FR–01 Deputy Director, Indonesia
FR–01 Director, Nepal
FR–01 Deputy Director, Pakistan
FR–01 Deputy Director, Philippines
FR–01 *Director, Sri Lanka

EUROPE

No section 207(d)(1)(C) designations

LATIN AMERICA AND THE CARIBBEAN

FR–01 Director, Bolivia
FR–01 Director, Regional Development Office, Caribbean
FR–01 AID Representative, Chile
FR–01 Director, Costa Rica
FR–01 *Assistant Director, Dominican Republic
FR–01 Director, El Salvador
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FR–01 *Director, Guyana
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FR–01 Director, Jamaica
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FR–01 Director, Panama
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FR–01 AID Representative, Lebanon
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FR–01 Director, Tunisia
FR–01 Director, Yemen

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Positions:

SES Director, Office of Research, Planning and Coordination
SES Director, Office of Public Awareness and Education
SES General Counsel

AGENCY: U.S. POSTAL SERVICE

Positions:

No section 207(d)(1)(C) designations

AGENCY: UNITED STATES RAILWAY ASSOCIATION

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AD Vice President—Finanace
AD Vice President—Operations and Marketing
AD Vice President—Law
AD *Vice President—Administration
AD *Vice President—Governmental Affairs

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SES Assistant Deputy Administrator for Financial Management and Construction
SES Assistant Deputy Administrator for Administration and Logistics

OFFICE OF THE GENERAL COUNSEL

SES **General Counsel
SES Deputy General Counsel

DEPARTMENT OF MEMORIAL AFFAIRS

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SES Deputy Chief Memorial Affairs Director

DEPARTMENT OF VETERANS' BENEFITS

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SES Assistant Administrator for Data Management & Telecommunications
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DEPARTMENT OF MEDICINE AND SURGERY

AD Deputy for Operations
AD Deputy for Program Management
SES Director, Supply Service

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SES Deputy Inspector General for Intergovernmental Policy & Coordination

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SES Deputy Assistant Administrator

OFFICE OF INFORMATION SERVICES

SES Deputy Assistant Administrator

OFFICE OF PERSONNEL

SES Deputy Assistant Administrator

OFFICE OF DATA MANAGEMENT AND TELECOMMUNICATIONS

SES Deputy Assistant Administrator

AGECNY: WATER RESOURCES COUNCIL

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SES Chairman, New England River Basin Commission
SES Chairman, Ohio River Basin Commission
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SES Chairman, Upper Mississippi River Basin Commission

(18 U.S.C. 207(d)(1)(C))

[FR Doc. 80–35318 Filed 11–13–80; 8:45 am]
BILLING CODE 6325–01–M

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Friday
November 14, 1980

Part V

Nuclear Regulatory Commission

Domestic Licensing of Production and Utilization Facilities; Fracture Toughness Requirements for Nuclear Power Reactors

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Fracture Toughness Requirements for Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its regulations which specify fracture toughness requirements for nuclear power reactors and its requirements for reactor vessel material surveillance programs. The amendments would clarify the applicability of these requirements to old and new plants, modify certain requirements as described below, and shorten and simplify these regulations by more extensively incorporating by reference appropriate National Standards.

DATES: Comment period expires January 13, 1981.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Dr. P. N. Randall, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–443–5997.

SUPPLEMENTARY INFORMATION: When 10 CFR Part 50 was amended by adding Appendix G, "Fracture Toughness Requirements," and Appendix H, "Reactor Vessel Material Surveillance Program Requirements," on July 17, 1973 (38 FR 19012), the ASME Boiler and Pressure Vessel Code (the ASME Code) provisions pertaining to nuclear power plant components were being extensively revised. Some requirements that had not yet become effective in the ASME Code were included in Appendix G. Now that experience has shown that the ASME Code requirements are adequate, Appendix G is being condensed by more extensively incorporating the ASME Code by reference.

Appendix H incorporated by reference the 1973 edition of ASTM E 185.[1] Now there is a new edition, E 185–79. As amended, Appendix H would specify the earliest edition of E 185 that could be used for each part of the surveillance program, and would delete paragraphs that are now covered by specific provisions of E 185–79.

Paragraph 50.55a(i), which makes the provisions of Appendices G and H conditions of a construction permit for a utilization facility (e.g., a nuclear power plant), would be deleted and a new § 50.47 would be added for this purpose. This change would avoid any confusion that might occur when § 50.55a is amended for purposes not relevant to the appendices. The new § 50.47 also would describe when an exemption must be requested of the Commission for acceptance of a proposed alternative to the requirements of Appendices G and H. Conversely, several paragraphs of Appendices G and H would be amended to state that a proposed alternative may be accepted by the Director of Nuclear Reactor Regulation if the proposed alternative provides a margin of safety equivalent to that achieved by the specified requirement.

Significant differences between the existing regulations in Appendix G and the proposed amendments are: [2]

¶II.G. The definition of "adjusted reference temperature" would be changed to make the definition applicable to test data over a broader range of severity of radiation damage.

¶II.H. The definition of "beltline" would be changed to more clearly delineate which parts of the vessel are of concern from the standpoint of surveillance of radiation damage.

¶II.J. The definition of "integrated surveillance program" would be removed from Appendix G and a more complete discussion of such a program would be included in paragraph II.C. of Appendix H.

§ III. Section III, "Fracture Toughness Tests," would be reduced in length because most of the pertinent requirements could be incorporated by referencing the ASME Code.

¶III.A. Language would be added to paragraph III.A. to clarify how the fracture toughness test requirements would be applied to "old" plants, those for which the reactor vessel was constructed to an ASME Code earlier than the Summer 1972 Addenda to the 1971 Edition. This language would clarify the Commission's intention that all plants must meet the required margins of safety and the other fracture prevention requirements of Appendices G and H; but the owners of "old" plants may, when approved by the Director of Nuclear Reactor Regulation, use fracture toughness tests and fracture analyses other than those required by Appendices G and H to demonstrate that the required margins of safety have been met.

§ IV. As amended, Section IV, "Fracture Toughness Requirements" would incorporate by reference the fracture toughness requirements of the ASME Code and then give certain supplemental requirements, thereby deleting much technical detail from the regulation.

¶IV.A.2.b. As an alternative to the existing general requirement for fracture toughness of nozzles, flanges and shell regions near structural discontinuities, a specific pressure-temperature requirement would be added.

¶IV.A.2.c. For boiling water reactors, the criticality limit would be reduced to permit them to go critical earlier during startup. A systems analysis has shown that the existing limit is more restrictive than is necessary to provide the required safety margin.

¶IV.A.2.d. The minimum permissible temperature for system hydrostatic pressure tests would be reduced when performed when there is no fuel in the reactor (and thus no radiological hazard to the public) to improve the efficiency of the inspection operation.

¶IV.B. The 50 ft lb requirement for Charpy upper-shelf energy would be stated explicitly. Language would be added to permit acceptance of a lower value by the Director of Nuclear Reactor Regulation if a fracture analysis showed that the margin of safety against ductile fracture was equivalent to the margin of safety against fracture in the transition region required by Appendix G of the ASME Code.

¶V.B. A requirement would be added that material toughness values to be used in fracture analyses are those predicted for the material near the tip of the assumed flaw at its deepest part.

Significant differences between the existing regulations in Apendix H and the proposed amendments are:

¶II.B. As revised, paragraph II.B. would incorporate by reference ASTM E 185, and reference to the 1973 edition of ASTM E 185 would be deleted. Language would be added to permit the use of the 1979 edition or an earlier edition if it was the current edition at the time the action was taken. For example, the earliest edition of ASTM E 185 that could be used in the selection of surveillance materials, preparation of specimens, and construction of surveillance capsules would be the edition that was current on the issue date of the ASME Code to which the reactor vessel was purchased.

¶II.C.3. Most of this paragraph would be deleted, because the requirements for withdrawal schedules contained in the 1979 edition of ASTM E 185 provide satisfactory criteria for scheduling surveillance information gathering.

¶II.C.4. Expanded criteria would be given for an integrated surveillance program for a set of reactors of similar design and operating features. In an integrated program, surveillance capsules from one or more reactors are irradiated in other reactors in the set.

§III. Section III would be deleted because its provisions are covered in Appendix G, Section V.

§IV. Reporting requirements for the test results from each capsule withdrawal would be clarified and a time limit for submittal of the report would be specified.

Staff of the Commission's Office of Standards Development has prepared a value/impact statement for the proposed amendment, which provides additional technical details and justification. This statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Single copies of the value/impact statement may be obtained by request addressed to the Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: P. N. Randall, (301) 443–5997.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganizaiton Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by Janaury 13, 1981. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Section 50.55a is amended by deleting paragraph (i) and inserting the word "Reserved" in its place.

2. A new § 50.47 is added to 10 CFR Part 50 to read as follows:

§ 50.47 Acceptance criteria for Fracture Prevention Measures for Light Water Nuclear Power Reactors.

(a)(1) Except as provided in paragraph (a)(2) of this section all light-water nuclear power reactors shall meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary set forth in Appendices G and H to this part.

(2) Proposed alternatives to the described requirements or portions therof may be used when an exemption is granted by the Commission as authorized by § 50.12. In addition, the applicant must demonstrate that (i) compliance with the specified requirements would result in hardships or unusual difficulties without a compensating increase in the level of quality and safety and (ii) the proposed alternatives would provide an adequate level of quality and safety.

(b) [Reserved]

* * * * *

§ 50.12 [Amended]

3. Paragraph (a) of § 50.12 is amended by adding the following sentence at the end of the paragraph:

* * * To obtain an exemption to Appendices G and H to this part, the requirements of paragraph 50.47(a)(2) must be met in addition to the requirements of this paragraph.

4. Appendices G and H to 10 CFR Part 50 are revised to read as follows:

Appendix G—Fracture Toughness Requirements

Table of Contents

I. Introduction and Scope
II. Definitions
III. Fracture Toughness Tests
IV. Fracture Toughness Requirements
V. Inservice Requirements—Reactor Vessel Beltline Materials

I. Introduction and Scope

This appendix specifies fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime.

The requirements of this appendix apply to the following materials:

A. Carbon and low-alloy ferritic steel plate, forgings, castings, and pipe with specified minimum yield strengths not over 50,000 psi (345 MPa), and to those with specified minimum yield strengths greater than 50,000 psi (345 MPa) but not over 90,000 psi (621 MPa) if qualified by using methods equivalent to those described in paragraph G–2110 of the ASME Code.[1]

B. Welds and weld heat-affected zones in the materials specified in section I.A.

C. Materials for bolting and other types of fasteners with specified minimum yield strengths not over 130,000 psi (896 MPa).

Adequacy of the fracture toughness of other ferritic materials shall be demonstrated to the Director of Nuclear Reactor Regulation on an individual case basis.

II. Definitions

A. "ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. If no section is specified, the reference is to Section III, Division 1, "Rules for Construction of Nuclear Power Plant Components." "Section XI" means Section XI, Division 1, "Rules for Inservice Inspection of Nuclear Power Plant Components." If no edition or addenda is specified, the applicable ASME Code edition and addenda [2] and any limitations and modifications thereof are specified by § 50.55a, Codes and Standards.

B. "Ferritic material" means carbon and low-alloy steels, higher alloy steels including all stainless alloys of the 4xx series, and maraging and precipitation hardening steels with a predominantly body-centered cubic crystal structure.

C. "System hydrostatic tests" means all preoperational system leakage and hydrostatic pressure tests and all system leakage and hydrostatic pressure tests performed during the service life of the pressure boundary in compliance with the ASME Code, Section XI.

D. "Specified minimum yield strength" means the minimum yield strength (in the unirradiated condition) of a material specified in the construction code under which the component is built pursuant to § 50.55a.

E. "Reference temperature" means the reference temperature, RT_{NDT}, as defined in the ASME Code.

F. "Adjusted reference temperature" means the reference temperature as adjusted for irradiation effects (see Section V of this Appendix) by adding to RT_{NDT} the temperature shift in the average Charpy curve for the irradiated material relative to that for the unirradiated material, measured at the 30 ft lb (41J) level.

G. "Beltline" or "Beltline region of reactor vessel" means the region of the reactor vessel (shell material including welds, heat affected zones, and plates or forgings) that directly surrounds the effective height of the active core and adjacent regions of the reactor vessel that are predicted to experience sufficient neutron radiation damage to be considered in the selection of the most limiting material with regard to radiation damage.

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[1] Standard Recommended Practice for Surveillance Tests for Light Water Cooled Nuclear Power Reactor Vessels. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, Pa. 19103.

Copies will be available for inspection at the Commission's Public Document Room, 1717 H St., NW., Washington, D.C.

[2] Listed according to existing paragraph numbers. See Enclosure 3.

[1] Defined in paragraph II.A. The latest Edition and Addenda permitted by paragraph 50.55a(b) at the time the analysis is made shall be used for the purposes of paragraph I.A.

[2] Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017. Copies are available for inspection at the Commission's Public Document Room, 1717 H St. N.W., Washington, D.C.

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III. Fracture Toughness Tests

A. To demonstrate compliance with the fracture toughness requirements of Sections IV and V of this appendix, ferritic materials shall be tested in accordance with the ASME Code and, for the beltline materials, the test requirements of Appendix H. For a reactor vessel that was constructed to an ASME Code earlier than the Summer 1972 Addenda of the 1971 Edition (pursuant to § 50.55a), the fracture toughness data and data analyses shall be supplemented in a manner approved by the Director of Nuclear Reactor Regulation to demonstrate equivalence with the fracture toughness requirements of this appendix.

B. Test methods for supplemental fracture toughness tests described in paragraph V.C.2 shall be submitted to and approved by the Director of Nuclear Reactor Regulation prior to testing.

C. All fracture toughness test programs conducted in accordance with paragraphs A and B of this Section shall comply with ASME Code requirements for calibration of test equipment, qualification of test personnel, and retention of records of these functions and of the test data.

IV. Fracture Toughness Requirements

A. The pressure-retaining components of the reactor coolant pressure boundary that are made of ferritic materials shall meet the requirements of the ASME Code supplemented as follows for fracture toughness during system hydrostatic tests and any condition of normal operation, including anticipated operational occurrances.

1. Reactor vessel beltline materials shall have minimum Charpy upper-shelf energy of 75 ft lb (102J) initially and shall maintain minimum upper shelf energy throughout the life of the vessel of 50 ft lb (68J), unless it is demonstrated in a manner approved by the Director of Nuclear Reactor Regulation that lower values of upper-shelf energy will provide margins of safety against fracture equivalent to those required by Appendix G of the ASME Code.[3]

2. When the core is not critical, pressure-temperature limits for the reactor vessel shall be at least as conservative as those obtained by following the methods of analysis and the required margins of safety of Appendix G of the ASME Code[3] supplemented by the requirements of Section V of this Appendix. In addition, when pressure exceeds 20 percent of the preservice system hydrostatic test pressure, the temperature of the stressed regions of nozzles, flanges and other structural discontinuities shall be at least 150° F above (83 C above) the reference temperature of the material in those regions unless a lower temperature can be justified by showing that the margins of safety for those regions are equivalent to those required for the beltline when it is controlling. The justification submitted for the pressure temperature limits shall describe the methods of analysis used.

3. When the core is critical (other than for the purpose of low-level physics tests) the temperature of the reactor vessel shall not be lower than 40° F above (22 C above) the minimum permissible temperature of paragraph 2. of this section nor lower than the minimum permissible temperature for the inservice system hydrostatic pressure test. An exception may be made for boiling water reactor vessels when water level is within the normal range for power operation and the pressure is less than 20 percent of the preservice system hydrostatic test pressure, in which case the minimum permissible temperature is 60° F above (33 C above) the reference temperature of the closure flange regions that are highly stressed by the bolt preload.

4. If there is no fuel in the reactor during system hydrostatic pressure tests or leak tests, the minimum permissible test temperature shall be $RT_{NDT}+60°$ F ($RT_{NDT}+33$ C).

5. If there is fuel in the reactor during system pressure tests or leak tests, the requirements of paragraphs 2 or 3 shall apply, depending on whether the core is critical during the test.

B. Reactor vessels for which the predicted value of upper shelf-shelf energy at end of life is below 50 ft lb or the predicted value of adjusted reference temperature at end of life exceeds 200° F (93 C) shall be designed to permit a thermal annealing treatment to recover material toughness properties of ferritic materials of the reactor vessel beltline.

V. Inservice Requirements—Reactor Vessel Beltline Material

A. The effects of neutron radiation on the reference temperature and upper-shelf energy of reactor vessel beltline materials, including welds, shall be predicted from the results of pertinent radiation effects studies in addition to the results of the surveillance program of Appendix H.

B. Reactor vessels may continue to be operated only for that service period within which the requirements of Section IV are satisfied using the predicted value of the adjusted reference temperature and the predicted value of the upper-shelf energy at the end of the service period to account for the effects of radiation on the fracture toughness of the beltline materials. These predictions shall be made for the radiation conditions at the tip of the assumed flaw at its deepest part. The highest adjusted reference temperature and the lowest upper-shelf energy level of all the beltline materials shall be used to verify that the fracture toughness requirements are satisfied.

C. In the event that the requirements of Section V.B. cannot be satisfied, reactor vessels may continue to be operated provided all of the following requirements are satisfied:

1. A volumetric examination of the beltline materials that do not satisfy the requirements of Section V.B. including 100 percent of any associated welds shall be made and any flaws evaluated according to Section XI of the ASME Code and as otherwise specified by the Director of Nuclear Reactor Regulation.

2. Additional evidence of the fracture toughness of the beltline materials after exposure to neutron irradiation shall be obtained from results of supplemental fracture toughness tests.

3. An analysis shall be performed that conservatively demonstrates, making appropriate allowances for all uncertainties, the existence of equivalent margins of safety for continued operation.

D. If the procedures of section V.C. do not indicate the existence of an equivalent safety margin, the reactor vessel beltline may, subject to the approval of the Director of Nuclear Reactor Regulation, be given a thermal annealing treatment to recover the fracture toughness of the material. The degree of recovery shall be measured by testing additional specimens that have been withdrawn from the surveillance program capsules and that have been annealed under the same time-at-temperature conditions as those given the beltline material. The results shall provide the basis for establishing the adjusted reference temperature and upper shelf energy after annealing. The reactor vessel may continue to be operated only for that service period within which the predicted fracture toughness of the beltline region materials satisfies the requirements of Section IV.A. using the values of adjusted reference temperature and upper-shelf energy that include the effects of annealing and subsequent irradiation.

E. The proposed programs for satisfying the requirements of Sections V.C. and V.D. shall be reported to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, for review and approval on an individual case basis at least 3 years prior to the date when the predicted fracture toughness levels will no longer satisfy the requirements of Section V.B.

Appendix H—Reactor Vessel Material Surveillance Program Requirements

Table of Contents

I. Introduction
II. Surveillance Program Criteria
III. Report of Test Results

I. Introduction

The purpose of the material surveillance program required by this appendix is to monitor changes in the fracture toughness properties of ferritic materials in the reactor vessel beltline region of light water nuclear power reactors resulting from their exposure to neutron irradiation and the thermal environment. Under this program, fracture toughness test data are obtained from material specimens exposed in surveillance capsules, which are withdrawn periodically from the reactor vessel. These data will be used as described in Sections IV and V of Appendix G.

II. Surveillance Program Criteria

A. No material surveillance program is required for reactor vessels for which it can be conservatively demonstrated by analytical methods applied to experimental data and tests performed on comparable vessels, making appropriate allowances for all uncertainties in the measurements, that the peak neutron fluence (E<1MeV) at the end of the design life of the vessel will not exceed 10^{17} n/cm^2.

B. Reactor vessels that do not meet the conditions of paragraph II.A. shall have their beltline materials monitored by a surveillance program complying with ASTM E 185,[1] except as modified by this Appendix. ASTM E 185 was approved for incorporation by reference by the Director of the Federal Register, on May 29, 1973.

1. That part of the surveillance program conducted prior to the first capsule withdrawal shall meet the requirements of the edition of ASTM E 185 that is current on the issue date of the ASME Code to which the reactor vessel was purchased. For each capsule withdrawal, the test procedures and reporting requirements shall meet the requirements of the edition of E 185 in effect on the date of capsule withdrawal, to the extent practical for the configuration of the specimens in the capsule. For any part of the surveillance program, later editions of E 185 may be used instead of the editions previously specified, but including only those editions through 1979.

2. Surveillance specimen capsules shall be located near the inside vessel wall in the beltline region, so that the specimen irradiation history duplicates to the extent practicable, within the physical constraints of the system, the neutron spectrum, temperature history, and maximum neutron fluence experienced by the reactor vessel inner surface. If the capsule holders are attached to the vessel wall or to the vessel cladding, construction and inservice inspection of the attachments and attachment welds shall be done according to the requirements for permanent structural attachments to reactor vessels given in the ASME Code, Sections III and XI. The design and location of the capsules shall permit insertion of replacement capsules. Accelerated irradiation capsules may be used in addition to the required number of surveillance capsules specified in ASTM E 185.

3. Proposed withdrawal schedules shall be submitted with a technical justification therefor to the Director of Nuclear Reactor Regulation for approval. The proposed schedule shall not be implemented without prior approval.

C. An integrated surveillance program may be considered for a set of reactors that have similar design and operating features. The representative materials chosen for surveillance from each reactor in the set may be irradiated in one or more of the reactors, but there must be an adequate dosimetry program for each reactor. No reduction in the requirements for number of materials to be irradiated, specimen types, or number of specimens per reactor is permitted, but the amount of testing may be reduced if the initial results agree with predictions. Integrated surveillance programs must be approved by the Director of Nuclear Reactor Regulation on a case-by-case basis. Criteria for approval include the following considerations:

1. The design and operating features of the reactors in the set shall be sufficiently similar to permit accurate comparisons of the predicted amount of radiation damage as a function of total power output.

2. There shall be adequate arrangements for data sharing between plants.

3. There shall be a contingency plan to assure that the surveillance program for each reactor will not be jeopardized by operation at reduced power level or by an extended outage of another reactor from which data are expected.

4. There shall be substantial advantages to be gained in reduced power outages or personnel exposure to radiation, achieved by not requiring surveillance capsules in all reactors in the set.

III. Report of Test Results

A. Each capsule withdrawal and the results of the fracture toughness tests shall be the subject of a summary technical report to be submitted for approval to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 90 days after completion of testing. The Director shall be notified at least 30 days in advance of the capsule withdrawal, giving the expected date of completion of testing and submittal of report.

B. The report shall include the data required by ASTM E 185, as required by paragraph II.B.1, and the results of all fracture toughness tests conducted on the beltline materials in the irradiated and unirradiated conditions.

C. If a change in the operating pressure-temperature limits given in the Technical Specifications is required, the revised limits shall be submitted with the report, including any changes made in operating procedures required to meet the limits.

* * * * *

(Secs. 103, 104, 161i, Pub. L. 83–703; 68 Stat. 936, 937, 948; Sec. 201, Pub. L. 93–438, 88 Stat. 1242; (42 U.S.C. 2133, 2134, 2201(i), 5841))

Dated at Washington, D.C. this 5th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-35207 Filed 11-13-80; 8:45 am]

BILLING CODE 7590-01-M

[3] The latest Edition and Addenda permitted by paragraph 50.55a(b) at the time the analysis is made shall be used for the purposes of paragraphs IV.A.1 and IV.A.2.

[1] Standard Recommended Practice for Surveillance Tests for Light Water Cooled Nuclear Power Reactor Vessels. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, Pa. 19103. Copies will be available for inspection at the Commission's Public Document Room, 1717 H St., NW., Washington, D.C.

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federal register

Friday
November 14, 1980

Part VI

Department of Commerce

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

DEPARTMENT OF COMMERCE

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation.

ACTION: Announcement of the granting of accreditation to laboratories for specific tests on thermal insulation materials, freshly mixed field concrete, and carpet.

SUMMARY: The Department of Commerce announces the granting of accreditation to laboratories named herein which were determined to be competent to perform specific tests on thermal insulation materials, freshly mixed field concrete, and carpet under the National Voluntary Laboratory Accreditation Program (NVLAP). These laboratories are accredited only for the specific tests identified in this notice. Users of these laboratories may verify that a laboratory is accredited for a specific test method by identifying the NVLAP Code for each test method of interest in Table 1 and by consulting the tabulation of test methods for which each laboratory is accredited in Table 2.

TERM: These accreditations were granted during the month of October and are valid for one year, except that an accreditation may be revoked before the expiration date due to violation of the criteria or other conditions of the laboratory's accreditation, or otherwise terminated at the request of the laboratory.

FOR FURTHER INFORMATION CONTACT:
Mr. John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230; (202) 377-2054.

SUPPLEMENTARY INFORMATION:

Background

The general and specific crtieria used in determining the competence of laboratories to test thermal insulation materials, freshly mixed field concrete, or carpet were published on January 23, 1980 (45 FR 5572-5600). Applications in response to that notice were received by April 1980. The assessment process for most of the applicant laboratories was completed by early October. The assessment process for the rest of the applicants is expected to be completed by December 1980. The balance of the accreditation actions should be announced by January 1981.

Insulation LAP

The Laboratory accreditation program (LAP) for thermal insulation materials (Insulation LAP or NVLAP-01) has 56 test methods for which accreditation may be sought (see Table 1). A total of 36 laboratories have been accredited to perform one or more of these test methods including 29 renewal accreditations and 7 new accreditations under the Insulation LAP.

Concrete LAP

The LAP for freshly mixed field concrete (Concrete LAP or NVLAP-02) has 7 test methods for which accreditation may be sought (see Table 1). A total of 22 laboratories have been accredited under the Concrete LAP.

Carpet LAP

The LAP for carpet (Carpet LAP or NVLAP-03) has 12 test methods for which accreditation may be sought (see Table 1). A total of 22 carpet laboratories have been accredited under the Carpet LAP.

Accreditation Actions (October 1980)

A total of 71 laboratories were accredited or reaccredited under NVLAP in October 1980. An alphabetical listing of the laboratories showing the NVLAP Codes for the test methods for which each laboratory is accredited is shown in Table 2. This accreditation shall in no way relieve the laboratories from the necessity of observing and being in compliance with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws.

Dated: November 7, 1980.

Howard I. Forman,
Deputy Assistant Secretary for Product Standards Policy.

Table 1.—*List of Test Methods for Which Accreditation May Be Sought*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
Insulation lap:		
01/C01	ASTM C739 (para. 7.7 in 77 version)	Corrosiveness; Cellulosic fiber (loose-fill).
01/C02	HH-I-515 (para. 4.8.5 in D version, Amendment 1).	Corrosiveness; Cellulosic fiber (loose-fill).
01/D01	ASTM C136	Sieve or screen analysis.
01/D02	ASTM C167	Thickness and density; Blanket and batt.
01/D03	ASTM C209 (para. 6 in 72 version)	Thickness; Board (cellulosic fiber).
01/D04	ASTM C209 (para. 13 in 72 version)	Water absorption, 2 hour; Board (cellulosic fiber).
01/D05	ASTM C209 (para. 13 in 72 version) by D1037 (para. 100-106 in 72 version.	Water absorption, 24 hour; Board (cellulosic fiber).
01/D06	ASTM C209 (para. 13 in 72 version) by D1037 (para. 107-110 in 72 version).	Linear expansion; Board (cellulosic fiber)
01/D07	ASTM C272	Water absorption; Core materials.
01/D08	ASTM C302	Density; Preformed pipe insulation.
01/D09	ASTM C303	Density; Preformed block insulation.
01/D10	ASTM C355	Water vapor transmission; Thick materials; Desiccant method.
01/D11	ASTM C356	Linear shrinkage; Soaking heat; Preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; High temperature insulation.
01/D13	ASTM C519	Density; Loose-fill (fibrous).
01/D14	ASTM C520	Density; Granular loose-fill.
01/D15	ASTM D756	Weight and shape changes; Accelerated service (proc. A); Plastics.
01/D16	ASTM D756	Weight and shape changes; Accelerated service (proc. B); Plastics.
01/D17	ASTM D756	Weight and shape changes; Accelerated service (proc. E); Plastics.
01/D18	ASTM D1622	Apparent density; Rigid cellular plastics.
01/D19	ASTM D2126	Response to thermal and humid; Aging (proc. B); Rigid cellular plastics.
01/D20	ASTM D2126	Response to thermal and humid; Aging (proc. D); Rigid cellular plastics.
01/D21	ASTM D2126	Response to thermal and humid; Aging (proc. E); Rigid cellular plastics.
01/D22	ASTM D2126	Response to thermal and humid; Aging (proc. F); Rigid cellular plastics.
01/D23	ASTM D2842	Water absorption; Rigid cellular plastics.
01/D24	ASTM C739 (para. 7.5 in 77 version)	Moisture absorption; Cellulosic fiber (loose-fill).
01/D25	HH-I-515 (para. 4.8.3 in D version, Amendment 1).	Moisture absorption; Cellulosic fiber (loose-fill).
01/D26	HH-I-515 (para. 4.8.1 in D version, Amendment 1).	Settled density; Cellulosic fiber (loose-fill)
01/F01	ASTM D777 (as modified by HH-B-100B)	Flammability; Paper and paperboard.
01/F02	ASTM E84	Surface burning characteristics; Building materials.
01/F05	ASTM E136	Behavior of Materials in a Vertical Tube Furnace.
01/F06	ASTM C739 (para. 10.4 in 77 version)	Flame resistance permanency; Cellulosic fiber (loose-fill).
01/F07	HH-I-515 (para. 4.8.7 in D version, Amendment 1).	Critical radiant flux; Radiant Panel (cellulosic fiber, loose-fill).
01/F08	HH-I-515 (para. 4.8.8 in D version, Amendment 1).	Smoldering combustion; Cellulosic fiber (loose-fill).
01/S01	ASTM C165	Compressive properties; Thermal insulation (proc. A).
01/S02	ASTM C203	Breaking load/flexural strength; Preformed block insulation.
01/S03	ASTM C209 (para. 9 in 72 version)	Transverse strength; Board (cellulosic fiber).
01/S04	ASTM C209 (para. 10 in 72 version)	Deflection at specified load; Board (cellulosic fiber).

Table 1.—*List of Test Methods for Which Accreditation May Be Sought—Continued*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
Insulation lap:		
01/S05	ASTM C209 (para. 11 in 72 version)	Tensile strength; Parallel to surface; Board (cellulosic fiber).
01/S06	ASTM C209 (para. 12 in 72 version)	Tensile strength; Perpendicular to surface.
01/S07	ASTM C273	Shear test; Sandwich construction.
01/S08	ASTM C446	Breaking load/modulus of rupture; Preformed pipe insulation.
01/S09	ASTM D781	Puncture test; Paperboard and fiberboard.
01/S10	ASTM D828	Tensile breaking strength; Paper and paperboard.
01/S11	ASTM D1621	Compressive properties; Rigid cellular plastics (proc. A-Crosshead).
01/T01	ASTM C177	Thermal transmission properties; Low-temperature guarded hot plate.
01/T04	ASTM C236	Thermal conductance; Guarded hot box.
01/T05	ASTM C335	Thermal conductivity; Pipe insulation.
01/T06	ASTM C518	Thermal transmission properties; Heat flow meter.
01/T09	ASTM C653	Thermal resistance (Rec. Practice); Blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (Rec. Practice); Loose-fill (fibrous).
01/V02	ASTM D591	Starch in paper; Qualitative test.
01/V03	ASTM D2020	Mildew (fungus) resistance; Paper and paperboard.
01/V04	ASTM E96	Water vapor transmission; Thin sheets (proc. A).
01/V05	HH-I-515 (para. 4.8.6 in D version, Amendment 1).	Fungus; Cellulosic fiber (loose-fill).
01/V06	HH-I-515 (para. 4.8.9 in D version, Amendment 1).	Starch; Cellulosic fiber (loose-fill).
Concrete lap:		
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.
02/A02	ASTM C173	Air Content of Freshly Mixed Concrete by the Volumetric Method.
Carpet lap:		
03/C01	AATCC 16E	Colorfastness to Light (Xenon Arc).
03/C02	AATCC 8	Colorfastness to Crocking.
03/D01	ASTM D418	Methods of Testing Woven and Tufted Pile Floor Coverings: Pile Weight—Uncoated (Para. 10-19). Pile Weight—Coated (Para. 20-29) as modified by UM 44C. Pile Thickness—(Para. 30-36). Tuft Height—(Para. 37-45) as modified by UM 44C.
03/D02	DDD-C-95A	Shrinkage.
03/S01	ASTM D1335	Tuft Bind of Floor Coverings.
	Federal Test Method: Standard 191-5100	Textile Test Method—Breaking Strength.
	Standard 191-5950	Textile Test Method—Delamination.
03/E01	AATCC 134/CRI 102	Electrostatic Propensity of Carpets.
03/F01	ASTM E84	Surface Flammability (Carpet).
03/F02	UL 992	Surface Flammability.
03/F03	DoC FF1-70	Methenamine Pill Test.
03/F04	ASTM E648	Radiant Panel (Carpet).
03/B01	UM 44C, Addendum 3	Attached Cushion Tests.
03/B02	UM 44C, Addenda 2 and 3	Attached Cushion Tests.

[FR Doc. 80-35332 Filed 11-13-80; 8:45 am]
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TABLE 2

ALPHABETICAL LIST OF LABORATORIES
SHOWING TEST METHODS FOR WHICH EACH IS ACCREDITED

Aguirre Engineers, Inc. 14 Inverness Drive East Unit 8H Englewood, CO 80112	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
American Admixtures Corp. 5909 N. Rogers Avenue Chicago, IL 60646	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
American Carpet Laboratories, Inc. P.O. Box 357 111 W. Nashville Street Ringgold, GA 30735	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03, 03/B01, 03/B02
Armstrong World Industries, Inc. Route 441 Marietta, PA 17547	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03
Bigelow-Sanford, Inc. Georgia Rug Mill Quality Control Laboratory Lyerly Street Summerville, GA 30747	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03, 03/B01
Bigelow-Sanford, Inc. Technical Services Interstate 85 & White Horse Road Greenville, SC 29602	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/E01, 03/F03, 03/F04, 03/B01
Bowser-Morner Testing Labs, Inc. (Dayton, Ohio Laboratory) 420 Davis Avenue P.O. Box 51 Dayton, OH 45401	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Bowser-Morner Testing Labs, Inc. (Toledo, Ohio Laboratory) 122 South St. Clair Street P.O. Box 838 Toledo, OH 43696	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Butler Manufacturing Company Research Center 135th St. and Botts Road Grandview, MO 64030	01/T04, 01/T06
C. H. Masland & Sons P. O. Box 40 Carlisle, PA 17013	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03
Central Ready Mixed Concrete Research & Technical Center 4350 S. 13th Street Milwaukee, WI 53221	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01
CertainTeed Corporation, Research & Development Laboratory 1400 Union Meeting Road Blue Bell, PA 19422	01/C02, 01/D01, 01/D02, 01/D08, 01/D09, 01/D13, 01/D25, 01/D26, 01/F01, 01/F05, 01/F07, 01/F08, 01/S01, 01/S08, 01/S09, 01/S10, 01/T01, 01/T04, 01/T05, 01/T06, 01/T09, 01/T10, 01/V04
Certified Testing Laboratories, Inc. 1105 Riverbend Drive P.O. Box 2041 Dalton, GA 30720	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/V06, 03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/E01, 03/F03, 03/F04, 03/B02
Chisholm Trail Testing and Engineering Company, Inc. 302 South Miller Street Decatur, TX 76234	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03
Commercial Testing Company, Inc. 1215 S. Hamilton Street P.O. Box 985 Dalton, GA 30720	01/C02, 01/D25, 01/D26, 01/F02, 01/F07, 01/F08, 01/T06, 01/V06, 03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F01, 03/F03, 03/F04, 03/B01, 03/B02
Controlled Concrete Methods, Inc. Foot of Main Street Tarrytown, NY 10591	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Coronet Carpets Cleveland Road P.O. Box 1248 Dalton, GA 30720	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03
Donald S. Gilmore Laboratories The Upjohn Company 410 Sackett Point Road North Haven, CT 06473	01/D10, 01/D18, 01/D19, 01/D20, 01/D23 01/S02, 01/S07, 01/S11, 01/T06, 01/V04
DOW Chemical U.S.A. Granville R & D Center Route 16, P.O. Box 415 P.O. Box 515 Granville, OH 43023	01/D07, 01/D10, 01/D18, 01/D19, 01/D20 01/D21, 01/D22, 01/D23, 01/S01, 01/S02 01/S11, 01/T01, 01/T06

TABLE 2 -- Continued

Dynatech R/D Company 99 Erie Street Cambridge, MA 02139	01/C02, 01/D25, 01/D26, 01/T01, 01/T04 01/T05, 01/T06, 01/V06
Dynatherm Engineering 595 Marshan Lane Lino Lakes, MN 55014	01/T04
Engineering Testing Laboratory 1420 Triplett Blvd. -- Bldg. #2 Akron, OH 44306	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01
Engineers Testing Laboratories, Inc. P.O. Box 21387 3737 East Broadway Road Phoenix, AZ 85040	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Evans & Black Carpet Mills, Inc. 1020 Riverbend Drive Dalton, GA 30720	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03
Factory Mutual Research Corp. 1151 Boston-Providence Turnpike Norwood, MA 02062	01/C02, 01/D25, 01/D26, 01/F02, 01/F07, 01/F08, 01/V06, 03/F01, 03/F04
Flintkote Stone Products Co. Quality Control Laboratories 10300 Pulaski Highway White Marsh, MD 21162	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Galaxy Carpet Mills, Inc. Testing Laboratory P.O. Box 800 Industrial Blvd. Chatsworth, GA 30705	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03, 03/B02
GARCO Testing Laboratories 41 West Central Avenue P.O. Box 7006 Murray, UT 84107	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
General Testing Laboratories, Inc. 1517 Walnut Street Kansas City, MO 64108	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01
Geoscience Ltd. 410 South Cedros Avenue Solana Beach, CA 92075	01/T01
The H. C. Nutting Company 4120 Airport Road Cincinnati, OH 45226	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01
Hardwood Plywood Manufacturers Association 1825 Michael Faraday Drive P.O. Box 2789 Reston, VA 22090	01/F02, 01/F07, 03/F01, 03/F04
Hauser Laboratories 5680 Central Avenue P.O. Box G Boulder, CO 80306	01/C02, 01/D12, 01/D25, 01/D26, 01/F05, 01/F07, 01/F08, 01/T06, 01/T09, 01/T10, 01/V05, 01/V06
Herron Consultants, Inc. 5555 Canal Road Cleveland, OH 44125	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Independent Textile Testing Service, Inc. P.O. Box 1948 1499 Murray Avenue Dalton, GA 30720	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/E01, 03/F03, 03/F04, 03/B01, 03/B02
INTEST Laboratories, Inc. 2920 Anthony Lane South Minneapolis, MN 55418	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/V06
Jim Walter Research Corp. 10301 9th Street N. St. Petersburg, FL 33702	01/D03, 01/D04, 01/D05, 01/D06, 01/D09, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S11, 01/T01, 01/T04, 01/T05, 01/T06
Johns-Manville Sales Corp., R & D Center 10100 W. Ute Avenue P.O. Box 5108 Denver, CO 80217	01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D08, 01/D09, 01/D10, 01/D11, 01/D12, 01/D13, 01/D14, 01/F01, 01/F02, 01/F05, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S08, 01/S09, 01/S10, 01/T04, 01/T05, 01/T06, 01/T09, 01/T10, 01/V04
Lander Thermal Conductivity Laboratory 1320 West 28th Street Minneapolis, MN 55408	01/T01, 01/T05,
Louisiana-Pacific Corporation PABCO R & D Laboratory 1110 16th Road Fruita, CO 81521	01/T05

TABLE 2 -- Continued

Materials Testing Consultants, Inc. 693 Plymouth, N.E. Grand Rapids, MI 49505	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Monasco Corporation Physical Testing Laboratory 57 Lyon Street Amsterdam, NY 12010	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/E01, 03/F03, 03/F04
NAHB Research Foundation, Inc. 627 Southlawn Lane P.O. Box 1627 Rockville, MD 20850	01/D02, 01/D13, 01/T06, 01/T09
Northern Testing Laboratories, Inc. (Billings, Montana Laboratory) 600 South 25th Street P.O. Box 30615 Billings, MT 59107	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Northern Testing Laboratories, Inc. (Boise, Idaho Laboratory) 370 Benjamin Lane P.O. Box 7867 Boise, ID 83707	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Olin Corporation Physical Testing Lab Bldg. 117C 275 S. Winchester Avenue New Haven, CT 06511	01/D18, 01/D19, 01/D21, 01/S07, 01/T06
Owens-Corning Fiberglas Corp. Technical Center Laboratory Route 16, P.O. Box 415 Granville, OH 43023	01/C01, 01/C02, 01/D02, 01/D03, 01/D04 01/D05, 01/D06, 01/D07, 01/D08, 01/D09, 01/D10, 01/D11, 01/D12, 01/D13, 01/D15, 01/D16, 01/D17, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/D24, 01/D25, 01/D26, 01/F01, 01/F02, 01/F05, 01/F07, 01/F08, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S08, 01/S09, 01/S10, 01/S11, 01/T01, 01/T04, 01/T05, 01/T06, 01/T09, 01/T10, 01/V02, 01/V03, 01/V04, 01/V05, 01/V06
Owens-Corning Fiberglas Corp. (Barrington, NJ Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/D09, 01/T06

TABLE 2 -- Continued

Owens-Corning Fiberglas Corp. (Delmar, NY Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/T06
Owens-Corning Fiberglas Corp. (Fairburn, GA Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/T06
Owens-Corning Fiberglas Corp. (Kansas City, Kansas Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/D09, 01/T06
Owens-Corning Fiberglas Corp. (Newark, Ohio Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/D09, 01/T06
Owens-Corning Fiberglas Corp. (Santa Clara, CA Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/D09, 01/T06
Owens-Corning Fiberglas Corp. (Waxahachie, Texas Plant Laboratory) Route 16, P.O. Box 415 Granville, OH 43023	01/D02, 01/D09, 01/T06
Portland Cement Association Construction Technology Laboratories 5420 Old Orchard Road Skokie, IL 60077	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Shaw Industries, Inc. Quality Control Laboratory P.O. Drawer 2128 Dalton, GA 30720	03/C01, 03/C02, 03/F03
Southwestern Laboratories 222 Cavalcade P.O. Box 8768 Houston, TX 77009	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Sparrell Engineering Research Corp. Bristol Road P.O. Box 130 Damariscotta, ME 04543	01/T01, 01/T04, 01/T06

TABLE 2 -- Continued

Technical Micronics Control, Inc. 210 Wynn Drive P.O. Box 1330 Huntsville, AL 35805	01/C02, 01/D26, 01/F07, 01/F08, 01/T01, 01/T06, 01/V05, 03/F04
Testing Engineers, Inc. P.O. Box 24075 Oakland, CA 94623	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Testing Engineers, Inc. 401 Aldo Avenue Santa Clara, CA 95050	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Texas Testing Laboratories, Inc. 1526 S. Good-Latimer Exp. P.O. Box 2144 Dallas, TX 75221	02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02
Thermtron Research Laboratory 11400 Bluffton Road P.O. Box 9146 Fort Wayne, IN 46809	01/C02, 01/D26, 01/F07, 01/F08
Trend/Roxbury Divisions of WWG Industries, Inc. P.O. Box 162 Redmond Road Rome, GA 30161	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03, 03/B02
Twin City Testing & Engineering Laboratory, Inc. 662 Cromwell Avenue St. Paul, MN 55114	01/D10, 01/D18, 01/T04
Underwriters Laboratories, Inc. 333 Pfingsten Road Northbrook, IL 60062	01/C01, 01/C02, 01/D01, 01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D08, 01/D09, 01/D13, 01/D14, 01/D18, 01/D24, 01/D25, 01/D26, 01/F02, 01/F06, 01/F07, 01/F08, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S08, 01/S11, 01/T06, 01/T09, 01/T10, 01/V02, 01/V03, 01/V05, 01/V06, 03/F01, 03/F02, 03/F03, 03/F04
Underwriters Laboratories, Inc. (Santa Clara, California Laboratory) 333 Pfingsten Road Northbrook, IL 60062	01/D13, 01/D26, 01/F02, 01/F07

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TABLE 2 -- Continued

U.S. Testing Company, Inc. 1415 Park Avenue Hoboken, NJ 07030	01/C02, 01/D10, 01/D25, 01/D26, 01/F02, 01/F05, 01/F07, 01/F08, 01/T06, 01/V04, 01/V05, 01/V06, 02/M01, 02/M03, 02/P01, 02/W01, 02/A01, 02/S01, 02/A02, 03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F01, 03/F03, 03/F04, 03/B02
U.S. Testing Company, Inc. California Branch Laboratory 1415 Park Avenue Hoboken, NJ 07030	01/C02, 01/D18, 01/D21, 01/D25, 01/D26, 01/F02, 01/F05, 01/F07, 01/F08, 01/S11, 01/V04, 01/V06, 03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F01, 03/F03, 03/F04, 03/B01
U.S. Testing Company, Inc. Tulsa Branch Laboratory 1415 Park Avenue Hoboken, NJ 07030	01/C02, 01/D10, 01/D18, 01/D25, 01/D26, 01/F08, 01/V05, 01/V06
World Carpets, Inc., R & D One World Plaza Dalton, GA 30720	03/C01, 03/C02, 03/D01, 03/D02, 03/S01, 03/F03

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federal register

Friday
November 14, 1980

Part VII

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona	AZ80-5116	June 13, 1980.
Georgia	GA80-1066	Apr. 25, 1980.
Hawaii	HI80-5134	Oct. 3, 1980.
Nevada	NV80-5100	Feb. 1, 1980.
	NV79-5131	Aug. 31, 1979.
New Jersey	NJ79-3029	Jan. 4,, 1980.
Oklahoma	OK80-4067	July 25, 1980.
Pennsylvania	PA80-3026	Apr. 11, 1980.
	PA80-3055	Oct. 3, 1980.
Wisconsin	WI80-2013	Apr. 2, 1980.
	WI80-2029	Apr. 25, 1980.
	WI80-2039	May 23, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama	AL79-1081 (AL80-1120)	May 11, 1979.

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determination:

FL80-1041, Suwannee County, Florida—Building Construction in 45 FR 1344 dated January 4, 1980.

The general wage decision listed below is cancelled:

WA80-5125, Clallam, King, Kitsap, Pierce, Snohomish and Thurston Counties, Washington—Residental Construction in 45 FR 56302 dated August 22, 1980.

Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF-308. See Regulations Part 1 (29 CFR), § 1.5

Signed at Washington, D.C., this 7th Day of November 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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Modification Page 1

DECISION NO.AZ80-5116, Mod. #2 (45 FR 40424 - June 13, 1980)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
STATEWIDE ARIZONA					
ADD:					
UNDER ELECTRICIANS AREA 2:					
AREA & ZONE DEFINITIONS:					
Area 2: Coconino County; Navajo County (north and west of a boundary line beginning at a point where Clear Creek crosses the Coconino/Navajo County Line and then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line)					
ELECTRICIANS-TECHNICIANS-CABLE SPLICERS					
ZONE A 5 Miles North-South, East & West of the Post Offices of Williams, Sedona & Winslow	$14.55	.96	3%+.88		½%
ZONE B Remainder of Area 2 Not Covered by Zone A	17.67	.96	3%+.88		½%

Modification Page 2

DECISION #AZ80-5116 - MOD # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payment: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers:					
Northern Area	$17.10	1.54	2.37		.11
Southern Area	14.35	1.54	2.57		.11
Elevator Constructors:					
Elevator Constructors	14.88	1.045	.82		.035
Sheet Metal Workers:					
Area 1					
Zone 1	14.68	1.05	1.68		.13
Zone 2	15.93	1.05	1.68		.13
Zone 3	18.68	1.05	1.68		.13
Area 2					
Zone A	13.44	1.20	1.92		.07
Zone B	14.66	1.20	1.92		.07
Zone C	17.32	1.20	1.92		.07
DECISION NO. GA80-1066 - Mod. #5 (45 FR 28062 - April 25, 1980) Clayton, DeKalb & Fulton Counties, Georgia					
CHANGE:					
Glaziers	$12.00	.90	.63		.11
Plumbers & Pipefitters	12.65	1.00	.85		.11

Modification Page 3

DECISION #HI 80-5134 Mod. #2
(45 FR 65879 October 3, 1980

STATEWIDE, HAWAII

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.48	1.30	2.00		.15
Elevator Constructors	15.63	1.195	.95	a	.035
Ironworkers	12.00	1.05	1.15	1.40	.12
Marble Setters and Tile Layers; Terrazzo Workers	11.52	1.30	2.00		.15
Terrazzo Base Grinders	10.31	1.30	2.00		.15
Terrazzo Floor Grinders	9.22	1.30	2.00		.15
Roofers	12.45	1.15	1.70	.50	.15
Truck Drivers:					
Flatbed	9.53	1.35	2.80	.90	.10
Dump, 8 yards and under; Water Truck (up to and including 2000 gallons)	9.80	1.35	2.80	.90	.10
Water Truck (over 2000 gallons)	10.11	1.35	2.80	.90	.10
Semi-Trailer or Semi-Dump	10.76	1.35	2.80	.90	.10
Slip-in or Pup	11.08	1.35	2.80	.90	.10
End Dumps, unlicensed (Euclid, Mack, Caterpillar or Similar); Tractor (hauling equipment)	11.19	1.35	2.80	.90	.10
Power Equipment Operators Group 9-A should read: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-Propelled Compactor with Dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)					

Modification Page 4

DECISION #NV80-5100 - Mod. #5
(45 FR 7451 -February 1, 1980)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators: (Except Piledriving and Steel Erection): Area 2: Area between 50 and 150 road miles of the Washoe County Courthouse					
DECISION NO. NV79-5131 - Mod. #4 (44 FR 51501 - Aug. 31,1979)					
Washoe County, Nevada					
Omit: All Power Equipment Operators Schedules					
Add: All Power Equipment Operators Schedules (See attached schedules)					

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DECISION NO. NV79-5131 (Cont'd)

	AREA 1	AREA 2	AREA 3		
(Except Piledriving and Steel Erection):	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Group 1-A	$11.64	$12.89	$13.39		
Group 2	12.08	13.33	13.83		
Group 3	12.31	13.56	14.06		
Group 4	12.93	14.18	14.68		
Group 5	13.18	14.43	14.93		
Group 6	13.32	14.57	15.07		
Group 7	13.53	14.78	15.28		
Group 8	14.02	15.27	15.77		
Group 9	14.29	15.54	16.04		
Group 10	14.59	15.84	16.34		
Group 10-A	14.74	15.99	16.49		
Group 11	14.95	16.20	16.70		
Group 11-A	16.31	17.56	18.06		

FRINGE BENEFITS:

Health and Welfare	$2.14
Pensions	2.75
Vacation	1.87
Apprenticeship Tr.	0.08

AREA DEFINITIONS:

Area 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse
Area 2: Area between 50 and 150 road miles of the Washoe County Courthouse
Area 3: Area not included in Areas 1 or 2

DECISION NO. NV79-5131 (Cont'd)

Group 1-A: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power agitated)

Grup 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphalt or concrete paving); Bobcat or similar Loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper (multi-purpose); Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar) (asphalt or concrete paving)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machine; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small rubber-tired tractors; Trooper Crane, Paxton-Mitchell or similar; Stationary Pipe wrapping, cleaning and bending Machine; Auger-type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

DECISION NO. NV79-5131 (Cont'd)

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Crusher Plant Engineer; Generators; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (Asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe cleaning Machines (tractor propelled and supported); Pipe wrapping machines (tractor (propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highways); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine (Wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn scraper; Tractor; Tractor-mounted compressor drill combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (Gunite); Lull Hi-lift (20 ft. or over); Mucking Machine; Subgrader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving machine (single engine with tandem scrapers)

DECISION NO. NV79-5131 (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Carylift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple-engine Earth-moving Machines (Euclid, Dozers, etc); Pre-stress Wire-wrapping Machines; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled reservoir-debris equipment floating (200 H.P. and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine, multi-engine with sloping attachments (Jefco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual-lane, Auto-grades SP300 and similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to push pull); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired earthmoving machine (with tandem Scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Universal Liebher and Tower Cranes(and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Bank Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes, and Gradealls (over 7 cu. yds. M.R.C.); Remote-controlled earthmoving equipment; Wheel Excavator (over 750 cu. yds. per hour)

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DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Piledriving:					
Remaining Counties:					
Group 1	$11.63	$2.14	$2.75	$1.87	.08
Group 1-A	12.04	2.14	2.75	1.87	.08
Group 1-B	12.29	2.14	2.75	1.87	.08
Group 2-A	12.29	2.14	2.75	1.87	.08
Group 2-B	12.98	2.14	2.75	1.87	.08
Group 2-C	13.37	2.14	2.75	1.87	.08
Group 2-D	13.19	2.14	2.75	1.87	.08
Group 3	13.55	2.14	2.75	1.87	.08
Group 3-A	14.07	2.14	2.75	1.87	.08
Group 4	14.73	2.14	2.75	1.87	.08
Group 5	14.94	2.14	2.75	1.87	.08
Group 6	16.31	2.14	2.75	1.87	.08
Steel Erection:					
Remaining Counties:					
Group 1	12.20	2.14	2.75	1.87	.08
Group 2	12.65	2.14	2.75	1.87	.08
Group 3	13.88	2.14	2.75	1.87	.08
Group 4	14.05	2.14	2.75	1.87	.08
Group 4-A	14.42	2.14	2.75	1.87	.08
Group 5	15.02	2.14	2.75	1.87	.08
Group 6	15.54	2.14	2.75	1.87	.08
Group 7	15.90	2.14	2.75	1.87	.08
Group 8	16.25	2.14	2.75	1.87	.08
Group 9	17.51	2.14	2.75	1.87	.08

DECISION NO. NV79-5131 (Cont'd)

Piledriving

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Fork Lift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, Flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type driver (Raymond or similar type); Truck Crane Operator (over 25 tons)(hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

DECISION NO. NV79-5131 (Cont'd)

Steel Erection

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over) (Structural steel or tank erection only); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Forklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons m.r.c. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.); Single drum hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons m.r.c.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

DECISION NO. NJ79-3029 - MOD. #6 (44 FR 1350 - January 4, 1980) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
BOILERMAKERS:					
Journeyman	$13.34	8%	20%+.25	10%	.02
Helper	12.81	8%	20%+.25	10%	.02
BRICKLAYERS					
Zone 5	12.20	1.00	.95		
CARPENTERS					
Zone 5					
Carpenters & Insulators	12.57	8%	7%		.005%
Millwrights	12.82	8%	7%		.005%
ELECTRICIANS					
Zone 5	15.35	12%	9%+.58		.75%
Zone 11	15.00	14%	9%		.02
LABORERS, BUILDING CONSTRUCTION					
Zone 6					
Laborers, Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers (concrete and clay)	8.50	.75	1.25		.10
LINE CONSTRUCTION (excluding railroad construction)					
Zone 2					
Lineman & Equipment Operator	15.70	7%	10%		.75%
Cable Splicer	16.77	7%	10%		.75%
Zone 4					
Linemen, Cablesplicers, Line Equipment Operators & Groundmen	14.88	7%	6%+1.50		.75%
Zone 7					
Linemen & Equipment Operators	15.30	8%	3%+1.00		.75%
Groundmen & Line Truck Operators	13.46	8%	3%+1.00		.75

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DECISION NO. NJ79-3029 CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Zone 10					
Linemen, Cable Splicers & Groundmen	15.05	7%	3%+1.90		.75%
Zone 11	15.05	7%	3%+1.90		.02
Zone 12					
Linemen, Cablesplicers & Equipment Operators	15.00	14%	7%		.75%
Groundmen Winch Operators	14.10	14%	7%		.75%
LINE CONSTRUCTION: (Railroad work only):					
All Counties:					
Linemen	12.75	11%	8.7%		.2%
Line Equipment Operator	12.18	11%	8.7%		.2%
Groundman Winch & Groundman Truck Operator	9.82	11%	8.7%		.2%
Groundman	8.31	11%	8.7%		.2%
Dynamite Man	10.67	11%	8.7%		.2%
Transit Man	12.56	11%	8.7%		.2%
Street Light Mechanic	9.75	11%	8.7%		.2%
MARBLESETTERS, TERRAZZO WORKERS & TILESETTERS:					
Zone 1	12.45	.95	.75		.03
SHEET METAL WORKERS:					
Hunterdon County	12.63	3%+1.33	1.04		.04

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DECISION #OK80-4067-Mod. #1
45 FR 49834-July 25, 1980
Latimer, Leflore, Haskell, Sequoyah and Pushmataha Counties, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.95	.55	.90		.03
CARPENTERS:					
AREA II					
Carpenters	9.80	.55	.85		.05
Millwrights & Piledrivermen	11.15	.55	.85		.05
PAINTERS:					
Brush & roller	10.55		.40	.20	.10
Highwork and stage	11.15		.40	.20	.10
Sandblasting & spray painting	11.40		.40	.20	.10
Hot or bituminous	12.55		.40	.20	.10
POWER EQUIPMENT OPERATORS:					
Group I	13.20	.70	.75		.12
Group II	12.70	.70	.75		.12
Group III	12.20	.70	.75		.12
Group IV	11.95	.70	.75		.12
Group V	11.70	.70	.75		.12
Group VI	11.45	.70	.75		.12
Group VII	11.20	.70	.75		.12
Group VIII	10.20	.70	.75		.12

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DECISION NO. PA80-3026 MOD. NO. 5 (45 FR 25017 - April 11, 1980) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons	$11.30	1.00	1.25		.01
Ironworkers:					
Structural	13.45	1.34	1.36		
Reinforcing	13.45	1.34	1.36		
Ornamental	13.45	1.34	1.36		
Lathers	11.61	.65	.35		.01
Line Construction:					
Linemen & Cable Splicers	12.67	.60	3%		3/8%
Groundman	7.55	.60	3%		3/8%
Winch truck operators	8.86	.60	3%		3/8%
Marble Setters	10.35	1.00	1.15		
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
Plumbers	13.53	.85	1.40		.14
Steamfitters	13.56	.80	1.45		.11
Terrazzo Workers	10.60	1.00	1.15		
Tile Setters	10.35	1.00	1.15		

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DECISION NO. PA80-3055 MOD. NO. 1 (45 FR 65902 - October 3, 1980) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers					
Zone 1	$13.21	1.00	1.35		.08
Bricklayers:					
All Other Work:					
Zone 1	12.38	1.10	1.25		.02
Zone 3	12.21	1.07	1.45		.01
Dry Wall Finishers:					
All Other Work	11.03	1.91	.75	1.00	.03
Electricians:					
Zone 2					
Commercial	14.84	5%	9%		1.5%
Ironworkers					
Zone 1	12.20	1.34	2.86	1.05	.05
Zone 2	12.95	1.34	1.36		.05
Line Construction:					
Zone 1					
Linemen	14.38	.60	3%		1%
Groundman	8.57	.60	3%		1%
Winch truck op.	10.03	.60	3%		1%
POWER EQUIPMENT OPERATORS:					
Group 1	13.71	7.9%	10.3%	a	1.8%
Group 2	13.45	7.9%	10.3%	a	1.8%
Group 3	12.58	7.9%	10.3%	a	1.8%
Group 4	12.37	7.9%	10.3%	a	1.8%
Group 5	12.06	7.9%	10.3%	a	1.8%
Group 6	11.89	7.9%	10.3%	a	1.8%
Group 7	11.38	7.9%	10.3%	a	1.8%
Group 8	10.64	7.9%	10.3%	a	1.8%
Pointer, Caulkers and Cleaners	12.78	1.00	1.10		
Plumbers					
Zone 1	13.93	.85	1.40		.14
Steamfitters					
Zone 1	13.96	.80	1.45		.11

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PAGE 2

DECISION NO. PA80-3055
~~MOD. NO. 1, CONT'D~~

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Soft Floor Layers:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	9.08	2.63	1.40		.11
Stonemasons					
Zone 2	12.21	1.07	1.45		.01
Truck Drivers:					
Building Construction:					
Class I	9.50	.9175	.975	a+b	
Class II	9.60	.9175	.975	a+b	
Class III	9.80	.9175	.975	a+b	
Truck Drivers:					
Site Preparation, Paving and Utilities:					
Class I	9.35	.9175	.975	a+b	
Class II	9.45	.9175	.975	a+b	
Class III	9.65	.9175	.975	a+b	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI80-2013 - MOD. #3 (45 FR 23282 - April 2, 1980) Milwaukee, Ozaukee, Washington and Waukesha Counties, Wisconsin					
Change:					
Elevator Constructors	$14.48	1.195	.82	a+b	.035
Soft Floor Layers	12.13	1.35	1.15	.51	.08
Add:					
Elevator Constructor Helper	10.14	1.195	.82	a+b	.035
Insulator	11.63	1.35	1.15	.51	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI80-2029 - MOD. #1 (45 FR 28075 - April 25, 1980) Barron, Dunn, Polk, and St. Croix Counties, Wisconsin					
Change:					
Asbestos Workers	$14.68	.60	1.00		.15
Boilermakers	13.87	1.375	1.10		.05
Bricklayers	11.40	.85	.60		.04
Carpenters:					
Carpenters	11.72	.60	.80		.05
Millwrights & Pile-drivermen	12.12	.60	.80		.05
Cement Masons	11.40	.85	.60		.04
Electricians	13.55	5%	3%		¼%
Ironworkers	12.95	.85	.90		.04
Laborers: General,					
Mason Tenders	9.58	.55	.50		.02
Mortar Mixer, Plasterer Laborer, Air Spade & Air Hammer Operator	9.73	.55	.50		.02
Jackhammer Operator	9.83	.55	.50		.02
Painters:					
Brush	10.90		.15	5%	
Structural Steel & Swing Stage	11.15		.15	5%	
Sandblaster & Spray	11.40		.15	5%	
Plumbers	12.47	.75	.75	1.50	
Roofers	12.32		3%		
Sheet Metal Workers	12.99	.75	.60		.06

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI80-2039 - MOD. #2 (45 FR 35152 - May 23, 1980) Calumet, Fond Du Lac, Manitowoc, Outagamie and Sheboygan Cos., Wisconsin					
Change:					
Asbestos Workers	$13.51	1.05	.50	1.00	.10
Boilermakers	13.87	1.375	1.10		.05
Bricklayers & Tile Setters	11.35	.85	.85		.05
Carpenters: (for all counties)	11.67	.60	.80		.05
Milwrights & Pile-drivermen	12.07	.60	.80		.05
Cement Masons	10.85	.85	.85		.05
Electricians:					
Calumet & Outagamie Cos.	13.50	.80	4%		1.5%
Manitowoc	13.45	.75	3%		1.5%
Ironworkers:					
Western Part of Fond Du Lac and Outagamie	12.31	1.25	1.00		.07
Remainder of the Area	12.06	1.30	1.00	1.21	.15
Laborers:					
General & Air Space Op.	9.61	.55	.50		.03
Mason Tender, Plasterer Laborer	9.71	.55	.50		.03
Mortar Mixer, Air Hammer and Jack Hammer Operators	9.86	.55	.50		.03
Painters:					
Fond Du Lac, Outagamie & Northwest corner of Calumet Counties -					
Brush	11.35	.85	.25		.03
Spray	11.85	.85	.25		.03
Manitowoc and the remainder of Calumet Cos.	10.20				
Brush	10.70				
Sheboygan County:					
Brush and Drywall Finishing	9.50	.50	.30	.40	
Spray	10.00	.50	.30	.40	

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DECISION NO. WI80-2039 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterer	11.35	.85	.85		.05
Plumbers & Steamfitters:					
Outagamie Co. and the Northwestern Corner of Calumet County	13.70	1.00	1.11		.05
Manitowoc and the Northeastern part of Calumet County	13.83	.85	1.12		.05
Fond Du Lac, Sheboygan and the remainder of Calumet Cos.	12.33	.80	1.47	1.08	.03
Roofers:					
Calumet, Manitowoc, and Sheboygan Cos.	12.13	.57	.05		
Fond Du Lac County	10.60	1.40	.65		
Outagamie County	9.83	.80	.65	.45	
Sheet Metal Workers:					
Outagamie County	12.31	.85	.72	1.78	.04
Remainder of Counties	12.34	1.00	1.10	1.32	.04

[FR Doc. 80-35364 Filed 11-13-80; 8:45 am]
BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTIES: COLBERT, FRANKLIN, LAUDERDALE, LAWRENCE, MARION, & WINSTON.
DECISION NUMBER: ALSO-1120 DATE: DATE OF PUBLICATION
Supersedes Decision Number AL79-1081, dated May 11, 1979, in 44 FR 27852.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 8.30				
CARPENTERS	7.17				
CEMENT MASONS	8.00				
ELECTRICIANS	7.29				
LABORERS	4.54				
PAINTERS	5.50				
PLUMBERS & PIPEFITTERS	6.00				
ROOFERS	6.15				
SHEET METAL WORKERS	6.67				
TRUCK DRIVERS	5.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	10.53				
Bulldozer	10.53				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a) (1) (ii)).

federal register

Friday
November 14, 1980

Part VIII

Department of Education

Office of the Secretary

Education Amendments of 1980; Intent To Develop Regulations

V 45 NO 014 80 0 UMI

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitle A

Education Amendments of 1980; Intent to Develop Regulations

AGENCY: Department of Education.

ACTION: Notice of intent to develop regulations.

SUMMARY: On October 3, 1980, the President signed into law the Education Amendments of 1980. This statute authorizes Federal financial assistance for postsecondary and certain other education programs. The purpose of this notice is to invite comments that will assist the Department of Education in developing regulations to implement the education programs affected by the new law.

DATES: Comments regarding a particular program must be received before proposed regulations for that program are published in the **Federal Register.**

ADDRESSES: All written comments should be submitted to the contact person for the program. A complete list of addresses appears in the Supplementary Information section of the document.

FOR FURTHER INFORMATION CONTACT: A list of the appropriate contact person for each program appears in the Supplementary Information section of the document.

SUPPLEMENTARY INFORMATION: The postsecondary education programs and certain other programs of the Education Department are the subjects of comprehensive legislation enacted by the Congress and signed by the President on October 3, 1980.

The Department has begun to review the regulations that currently govern programs covered by the new legislation and to develop regulations for the newly created programs. The review of current regulations has two purposes—first, to prepare for the regulatory changes that are required by the legislation and, second, to reexamine the format, style, and content of the existing regulations. This notice invites the public to participate and assist in the Department's review of existing regulations and development of regulations for the new programs.

The Education Amendments of 1980 has thirteen titles. These titles amend many education program statutes and in some cases enact new authorities.

Title I authorizes programs for comprehensive Statewide planning, continuing education, and student information services. Title II amends and reauthorizes the library programs under Title II of the Higher Education Act. Title III authorizes programs of assistance for strengthening institutions, for institutions with special needs, and challenge grants for those institutions. Title IV extends and revises the student financial assistance programs, the special programs for students from disadvantaged backgrounds (the "TRIO" programs), special programs for migrant and seasonal farmwork students, and the veterans' cost-of-instruction program. Title V amends and reauthorizes the Teacher Corps, Teacher Centers, and other teacher training programs. Title VI consolidates and reauthorizes international education programs. Title VII amends and reauthorizes programs of construction, reconstruction, and renovation of academic facilities. Title VIII reauthorizes cooperative education programs. Title IX amends and reauthorizes graduate programs. Title X transfers authority for the Fund for the Improvement of Postsecondary Education into the Higher Education Act. Title XI authorizes a new program of grants to urban universities. Title XII includes a new Federal-State agreement that will cover several programs, including the State-administerd program under Title I. Title XIII contains various miscellaneous provisions and authorities, including science education programs, the National Institute of Education, and a special impact aid program for certain refugees.

A list of the programs and existing regulations likely to be affected substantially by the new legislation is attached as Appendix A.

The Department's internal review process will include the existing regulations for the education programs affected by the new law, regardless of whether or not there are substantial legislative changes affecting the program. The review will cover several topics:

- Could the regulations be written more clearly?
- Would the format of the regulations be improved by adopting a chronological order that follows the assistance process from pre-award procedures to post-award conditions?
- Do the regulations impose unnecessary paperwork on the education community? How can the burden be decreased?
- How can the regulations be amended to eliminate other burdensome requirements?

The public is invited to comment on all regulations for programs affected by the new legislation and to suggest ways of improving existing regulations. These suggestions will be particularly valuable with respect to pre-existing education programs that were not substantially revised by the Act. If the Department's internal review does not suggest a need for policy changes, these regulations may be edited for clarity and published in final form without further public comment. Accordingly, it is important for the public to address these regulations at this stage and to identify the paperwork or other burdens that should be eliminated and any policy changes that should be made. A tentative list of existing program regulations that might fall into this category includes:

- 45 CFR Part 132, Grants for Training in Librarianship.
- 45 CFR Part 136, Strengthening Research Library Resources.
- 45 CFR Parts 146, 146a, International and Foreign Language Studies.
- 45 CFR Part 178, Student Consumer Information Services.
- 45 CFR Part 190, Basic Educational Opportunity (PELL) Grants Program.
- 45 CFR Part 197, Teacher Centers.

The Department is required under the Education Amendments of 1980 to determine whether any regulations it publishes affecting institutions of higher education require information that is already being gathered by or is available from any other agency or authority of the United States. Institutions of higher education are therefore particularly urged to advise the Department whether this is the case under any of the regulations listed in Appendix A.

Early Public Involvement

The Department encourages early public involvement in the regulations process. In some cases, workshops will be held to discuss policy and drafting options with the public. In other cases, drafts of proposed regulations may be made available to all interested members of the public before publication in the **Federal Register.** In order to be sure of obtaining a draft or notice of workshops as soon as possible, readers should send a written request stating specifically the program or programs they are interested in to the appropriate contact persons. Requests will be held until a workshop is scheduled or an appropriate draft is completed.

Invitation to Comment

Written comments and information may be submitted in any form, including letters, position papers, or memoranda. There are no special rules concerning format. For most of the regulations, further public comment will be invited before final regulations are adopted. Comments received before proposed rules for a program are published will be carefully considered in the development of those proposed regulations. These comments will not be acknowledged with a formal response.

ADDRESSES

All written comments should be submitted to the following contact persons:

Library Programs (Title II; see Appendix A): Ray M. Fry, U.S. Department of Education, (Room 3124 ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Student Financial Aid Programs (Title IV (Student assistance); see Appendix A): James Moore, U.S. Department of Education, (Room 4100 ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Special Program for Migrant and Seasonal Farmwork Students (Title IV; see Appendix A: John Ridgway, U.S. Department of Education, (Room 3608, ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Teacher Centers (Title V; see Appendix A): Bruce Gaarder, U.S. Department of Education, (819 Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Training for Higher Education Personnel (Title V; see Appendix A): Norman Hearn, U.S. Department of Education, (Room 2025 FOB–6), 400 Maryland Avenue SW., Washington, D.C. 20202.

Training for Teachers of Handicapped Children in Areas with a Shortage (Title V; see Appendix A): Donald Thayer, U.S. Department of Education, (Room 3006 Switzer Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Teacher Corps (Title V; see Appendix A): Robert Mulligan, U.S. Department of Education, (Room 1725 Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Fund for the Improvement of Postsecondary Education (Title X; see Appendix A): Rusty Garth, U.S. Department of Education, Room 3123 FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Minority Institutions Science Improvement Program (Title XIII; see Appendix A): Dr. Argelia Velez-Rodriguez, U.S. Department of Education, Room 3036 FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Pre-College Teacher Development in Science Program (Title XIII; see Appendix A): Mary Lewis, U.S. Department of Education, Room 4123 FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

National Institute of Education (Title XIII; see Appendix A): June Schuckardt, National Institute of Education, Room 639, 1200 19th Street, NW., Washington, D.C. 20208.

Special Impact Aid Program (Title XIII: Part E; see Appendix A): Carroll U. Dexter, U.S. Department of Education, (Room G660 North Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

All Other Programs (see Appendix A): John Rison Jones, U.S. Department of Education, (Room 4062 ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

CONTACT PERSONS

Library Programs: Ray M. Fry, Telephone: (202) 245–9687.

Student Financial Aid Programs: Anita Allen, Telephone: (202) 245–2247.

Special Program for Migrant and Seasonal Farmwork Students: John Ridgway, Telephone: (202) 245–2222.

Teacher Centers: Bruce Gaarder, Telephone: (202) 653–5839.

Teacher Corps: Robert Mulligan, Telephone: (202) 245–8272.

Funds for the Improvement of Postsecondary Education: Rusty Garth, Telephone: (202) 245–8091.

Training for Higher Education Personnel: Norman Hearn, Telephone: (202) 472–7960.

Training for Teachers of Handicapped Children in Areas with a Shortage: Donald Thayer, Telephone: (202) 245–2727.

Minority Institutions Science Improvement Program: Dr. Argelia Velez-Rodriguez, Telephone: (202) 282–7760.

Pre-College Teacher Development in Science Program: Mary Lewis, Telephone: (202) 472–5123.

National Institute of Education: June Schuckardt, Telephone: (202) 254–7924.

Special Impact Aid: Carroll U. Dexter, Telephone: (202) 472–4014.

All Other Programs: John Rison Jones, Telephone: (202) 245–9750.

Dated: November 3, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Appendix A

List of programs affected by the Education Amendments of 1980. (References are to titles of the Education Amendments of 1980).

Existing regulations (45 CFR Pt. Nos.)	Programs
	Title I
173, 137	Continuing Postsecondary Education Program and Planning.
	Title II
131	College Library resources.
131	Special Purpose Grants.
132	Grants for Training in Librarianship.
133	Library Research and Demonstration.
136	Strengthening Research Library Resources.
	Title III
(None compare existing P. 169).	Strengthening Institutions.
None	Aid to Institutions with Special Needs.
None	Challenge Grants.
	Title IV (student assistance)
190	Basic Educational Opportunity (PELL) Grants.
176	Supplemental Educational Opportunity Grants.
192	Grants to States for State Student Incentives.
177	Guaranteed and Insured Student Loans.
175	Work-Study Programs.
174	National Direct Student Loans.
178	Student Consumer Information Services.
178a	Training in Financial Aid and Student Support Services.
168	General Provisions Relating to Student Assistance Programs.
	Title IV (institutional assistance)
159	Talent Search.
155	Upward Bound.
157	Special Services for Disadvantaged Students.
154	Educational Opportunity Centers.
None	Staff Development.
None	Special program for Migrant and Seasonal Farmwork Students.
189	Veterans Cost-of-Instruction Payments.
	Title V
172	Teacher Corps.
197	Teacher Centers.
196	Training for Higher Education Personnel
None	Training for Teachers of Handicapped Children in Areas with a Shortage.
	Title VI
146, 146a	International and Foreign Language Studies. ● Graduate and Undergraduate Language and Area Centers. ● International Studies Centers. ● Undergraduate International Studies and Foreign Language Programs. ● Research and Studies.
None	Business and International Education.
	Title VII
170	Construction, Reconstruction, and Renovation of Academic Facilities.
	Title VIII
182	Cooperative Education.
	Title IX
179	● Grants to Institutions of Higher Education.

Existing regulations (45 CFR Pt. Nos.)	Programs
None (Compare existing pts. 179, 194, and 196).	● Fellowships for Graduate and Professional Study.
None	National Graduate Fellowships.
None	Assistance for Training in the Legal Program.
150	Law School Clinical Experience Program.
	Title X
1501	Fund for the Improvement of Post-secondary Education.
	Title XI
None	Urban Grant University.
	Title XII
149	General Provisions.
	Title XIII
	Miscellaneous Provision.
None	● Science Education.
Various parts in 1400-1499.	● National Institute of Education.
None	● Special Impact Aid Program.

[FR Doc. 80-35343 Filed 11-13-80; 8:45 am]
BILLING CODE 4000-01-M

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federal register

Friday
November 14, 1980

Part IX

Office of Personnel Management

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance; Final Rule

V 45 NO14 80 UMI

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

Intergovernmental Personnel Act Programs; Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation implements section 504 of the Rehabilitation Act of 1973. It forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving Federal financial assistance from the Office of Personnel Management.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Hohman, (202) 632–6274.

SUPPLEMENTARY INFORMATION:

Background

Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The rule applies to all recipients of Federal assistance from OPM (the Intergovernmental Personnel Act (IPA) grant program is the only grant-in-aid program administered by OPM). These rules are intended to ensure that recipients of Federal assistance from OPM operate their programs without discrimination on the basis of handicap. The rules define and forbid acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving financial assistance from OPM.

Under Executive Order 11914 (41 FR 17871, April 29, 1976) HEW (Department of Health, Education and Welfare) was required to issue general standards for other agencies and departments to follow in writing their regulations to implement section 504. The standards were published at 43 FR 2132, January 13, 1978. Generally, the standards set forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practices are discriminatory.

This rule forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving Federal financial assistance from the Office of Personnel Management. As employers, recipients must make reasonable accommodation to the handicaps of employees or job applicants, unless the accommodations would cause the recipient undue hardship. Recipients are not required to waive bona fide employment requirements (e.g., residency or citizenship) in implementing the provisions of these regulations. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons and to operate their programs is a nondiscriminatory manner.

The major program in the Office of Personnel Management to which this rule applies is the Intergovernmental Personnel Act (IPA) grant program. The IPA (Pub. L. 91–648) was enacted in 1970 to reinforce the Federal system by strengthening the personnel and management resources of State and local governments. The IPA grant program provides financial assistance on a matching fund basis to State, general purpose local, and Indian tribal governments for personnel management and training projects.

Rulemaking History

On September 26, 1978, the Office of Personnel Management (then the U.S. Civil Service Commission) published a Notice of Proposed Rulemaking (at 43 FR 43465) setting forth a proposed regulation for public comment. Fifteen sets of comments were received in response to the September 26 Notice of Proposed Rulemaking: they have been considered and analyzed. Copies of these written comments are available for public inspection in Room 2308, 1900 E Street, NW., Washington, D.C. Set forth below is an analysis of the final regulation explaining the changes from the proposed regulation.

Analysis

Subpart G of Part 900 of the regulation is divided into 10 sections.

Section 900.701 states the purpose of the regulation. Many commenters suggested that the coverage of the entire section be extended to all programs covered by OPM not just Intergovernmental Personnel Act (IPA) grants as stated in the proposed regulations. As suggested, the coverage language of the provision of the regulations has been extended to include any OPM programs extending Federal financial assistance even though the IPA program is currently the only grant-in-aid program administered by OPM.

Some commenters, primarily recipient governments, expressed concern about the cost of complying with these regulations, as proposed. OPM is sympathetic to the concerns of recipient governments with respect to the cost of implementation of section 504. Executive Order 11914 requires that, in matters of substance, OPM regulations must be consistent with the HEW guidelines.

We emphasize that the employment provisions of the guidelines and the OPM regulations affecting recipient governments place an emphasis on reasonableness. Only qualified handicapped individuals are protected from discrimination, and to be required, accommodations must both be reasonable and not impose an undue hardship on recipient governments on the basis of cost or otherwise. Any action which would create an undue hardship on a recipient government (on the basis of cost or otherwise) may not be resonable and therefore may not be required.

Section 900.702 describes the applicability of the subpart. Many commenters made the same observations as were made on § 900.701 regarding extending the coverage of the regulations. As stated above, the regulations have been extended to cover all OPM programs which grant Federal financial assistance.

In addition, one commenter suggested that the duration of the obligation under the regulations be changed from the period of time for which the assistance is authorized to the period of time for which property is retained or as long as OPM assistance is given. Since few IPA grants result in the acquisition of any property and OPM's authority to oversee the use of such property would terminate when the grant ended, we do not consider it practical to extend the duration of any obligations beyond what OPM could control by termination of funding. For this reason the commenter's suggestion is not being adopted.

Section 900.703 outlines the specific definitions used in this subpart. With regard to the definition of "recipient" one commenter asked that "subrecipient" be included and another asked that the term "ultimate beneficiary" be clarified. This definition includes the concept of subrecipient by including the words "* * * any entity * * * directly or through another recipient * * *" Therefore it is not necessary to define subrecipient separately. The term "ultimate beneficiary" is now defined separately in these regulations. Several commenters suggested that the proposed definition of "Federal financial assistance" was not broad enough.

Therefore, this definition has been revised and is the same definition used by HEW in its regulations. Many commenters asked that "qualified handicapped person" be defined and HEW's definition used. This definition has been added to the regulations.

A commenter pointed out that "respiratory system" was not included in the list of disorders defining "physical impairment." This was omitted in error and has been added to the list. Several commenters noted that drug addiction and alcoholism were not listed as examples of mental or psychological disorders and requested that they be included. These two examples have been added as requested. A commenter suggested that the phrase "an interest in such property" be changed to "controlling interest" in the definition of "facility." This change has been made.

Section 900.704, which was entitled "program consistency with merit principles" in the proposed regulations has been deleted. It was pointed out by one commenter that this section was in excess of what was required by HEW regulation and could be confusing to readers in distinguishing "fair" treatment from those policies and practices which will ensure nondiscrimination. To avoid any confusion in this matter the section has been deleted. Subsequent sections have been appropriately renumbered. In the new § 900.704, "Discrimination Prohibited," one commenter requested that the term "significant assistance" be defined. It is used here in the same context as the HEW regulations which do not define the term separately. It is not specifically defined in these regulations either. A commenter suggested that paragraph (a) should be changed to specifically extend the prohibition against discrimination to programs or activities which benefit from Federal financial assistance. It was suggested that paragraph (b) (1) (iv) extend the prohibition against different or separate aid to any class of handicapped persons. It was also suggested that language be added to ensure that recipients will make their communication with applicants, employees and beneficiaries available to people with impaired vision and hearing. The first three suggestions have been adopted.

Several commenters pointed out that § 900.705, "Program Accessibility," did not include a provision requiring a transition plan when structural changes to facilities are required. Others pointed out that it failed to illustrate the types of actions recipients may use as alternatives to structural changes and to suggest adoption of the ANSI standards. Another commenter suggested that reference should be made to the Architectural Barriers Act. All the suggestions made regarding this section, with the exception of the reference to the Architectural Barriers Act, have been adopted. Since the Office of Personnel Management provides no financial assistance to build or alter facilities, the reference to the Architectural Barriers Act is not appropriate in these regulations. In addition, HEW required that a time limit be established for transition plans.

Section 900.706, "Employment Practices," was the subject of many comments. The commenters requested that reasonable accommodation be defined and that there be a more detailed explanation of "undue hardship." These terms are explained to the same extent that they are in the HEW regulations and further discussion would be more appropriate in guidance material rather than in the regulations. Therefore, these suggestions were not adopted. Several commenters suggested that the regulations provide that recipients may make pre-employment inquiry into an applicant's ability to perform job-related functions rather than his/her ability to meet medical qualifications, as stated in the proposed regulations. This suggestion has been adopted. Several commenters stated problems with the organization of this section and with some of the language used. The former paragraph (a)(2) has been moved to paragraph (d) and portions of the section revised based on these comments. One commenter stated that the Commission (OPM), in its proposed regulations, failed to include the provisions required by §§ 85.52, 85.53, 85.54 and 85.55 of HEW's regulations on Executive Order 11914. Those requirements were contained in the proposed regulations in § 900.707 and are in the final regulations in § 900.706.

Some commenters expressed confusion over the coverage of employment practices as described in this subpart. OPM financial assistance (currently only in the form of IPA grants) is awarded to various State and local government agencies. The employment practices outlined in this subpart apply to positions in those organizations which administer such grants. This applies to all recipients administering IPA grant funds unless a recipient government demonstrates by clear and convincing evidence that a program or activity with respect to which discrimination is alleged, is not funded in whole or in part with IPA grant funds.

One commenter suggested that the coverage of § 900.707, "certification required," is too narrow. Another stated it believed the whole organization should be required to certify compliance, not just those portions receiving Federal financial assistance. This section has not been changed based on these comments. OPM authority and enforcement ability in this regard are limited to those programs to which Federal financial assistance is extended. In § 900.708, HEW required that all recipients prepare self-evaluations. OPM's proposed limitation to those recipients employing 25 or more persons has been deleted.

Several commenters stated that § 900.709, "Notice and Consultation," should be more detailed and require more specific actions of recipients. The regulations have not been made more specific in this regard to enable recipients to comply in whatever way will cause the least administrative difficulties in specific programs. For the same reason, the phrase "as appropriate" has not been deleted as suggested by one commenter.

Regarding § 900.710, "Procedure for Effecting Compliance" one commenter requested that an individual complaints procedure and agency compliance reviews be initiated. According to HEW guidance, OPM should use the same compliance procedure used for Title VI violations. This change has been made in the regulations. The same complaints procedure and compliance review schedule will be used.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly OPM is adding Subpart G to 5 CFR Part 900 to read as follows:

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

Subpart G—Nondiscrimination on the Basis of Handicap in Federally Assisted Programs of the Office of Personnel Management

Sec.

900.701 Purpose.
900.702 Applicability.
900.703 Definition.
900.704 Discrimination prohibited.
900.705 Program accessibility.
900.706 Employment practices.
900.707 Certification required.
900.708 Self-evaluation.
900.709 Notice and consultation.
900.710 Procedure for effecting compliance.

Authority: Secs. 503, 507, Pub. L. 91–648, 84 Stat. 1909 and 29 U.S.C. 794.

Subpart G—Nondiscrimination on the Basis of Handicap in Federally Assisted Programs of the Office of Personnel Management

§ 900.701 Purpose.

The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973, to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance from the Office of Personnel Management (OPM).

§ 900.702 Applicability.

This subpart applies to each activity, program or project receiving Federal financial assistance from the Office of Personnel Management from the date this subpart is approved. The duration of the applicability is the period of time for which the assistance is authorized.

§ 900.703 Definitions.

Unless the content requires otherwise, in this subpart:

(a) "Recipient" means any State or its political subdivisions, any instrumentality of a State or its political subdivisions, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(b) "Federal financial assistance" means any grant, loan, contract, (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(c) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(d) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(1) As used in paragraph (d) of this section, the phrase: "physical or mental impairment" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (d) of this section but is treated by a recipient as having such an impairment.

(e) Qualified handicapped person means:

(1) With respect to employment, a handicapped person who with reasonable accommodation, can perform the essential functions of the job in question.

(2) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(f) Ultimate beneficiary means one among a class of persons who are entitled to benefit from or otherwise participate in, programs receiving Federal financial assistance and to whom the protections of this subpart apply.

§ 900.704 Discrimination prohibited.

(a) No qualified handicapped person shall, on the basis of handcap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance from the Office of Personnel Management.

(b)(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap,

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or

(iii) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(4) A recipient may not, in determining the site or location of a facility, make selections:

(i) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance, or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees and beneficiaries are available to persons with impaired vision and hearing.

§ 900.705 Program accessibility.

(a) No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity to which this subpart applies.

(b) A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of the regulation.

(c) A recipient may comply with the requirements of paragraph (b) of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, alteration of facilities or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

(d) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(e) In the event that structural changes to facilities are necessary to meet the requirements of this section, a recipient shall develop within 12 months of the effective date of this subpart a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons.

(f) OPM will adopt the Architectural and Transportation Barriers Compliance Board's "Minimum Guidelines and Requirements for Accessible Design" when they are issued in final form. (See 45 FR 55010 for the proposed version.) It is suggested that, in the interim, design construction or alteration of facilities be in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" published by the American National Standards Institute, Inc. (ANSI A117.1—1961 (R1971)). Copies obtainable from American National Standards, Inc., 1430 Broady, New York, N.Y. 10018.

§ 900.706 Employment practices.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under a program or activity that receives or benefits from Federal financial assistance from OPM.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) The prohibition against discrimination in employment applies to the following activities:

(i) Recruitment, advertising, and the processing of applications for employment;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Employer sponsored activities, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Reasonable accommodation.* (1) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee under any program or activity receiving Federal financial assistance from OPM unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(2) Reasonable accommodation may include, but shall not be limited to, making facilities readily accessible to and usable by handicapped persons, acquisition or modification of equipment or devices, appropriate adjustment or

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modification of examinations, the provision of readers and interpreters, job restructuring and providing part-time or modified work schedules and other similar actions.

(3) In determining pursuant to paragraph (b)(i) of this section whether an accommodation would impose an undue hardship on the operation of the recipient in question, factors to be considered by OPM include:

(i) The overall size of the recipient's program with respect to the number of employees, number and type of facilities and size of budget;

(ii) The type of operation, including the composition and structure of the work force; and

(iii) The nature and the cost of the accommodation.

(c) *Employment criteria.* (1) A recipient involved in activities receiving Federal financial assistance may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons in any program or activity that receives Federal financial assistance unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped persons are not shown by the Office of Personnel Management's Personnel Research and Development Center to be available.

(2) A recipient shall select and administer tests concerning employment so as to ensure that, when administered under any program or activity that receives Federal financial assistance from OPM, to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's ability to perform the duties of the type of position in question rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(d) *Preemployment inquiries.* (1) Except as provided in paragraph (d)(2) of this section, a recipient, when considering an applicant for employment under any program or activity receiving Federal financial assistance from OPM, may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(2) Nothing in this section shall prohibit an organization from conditioning an offer of employment under any program or activity receiving Federal financial assistance from OPM on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided,* That (i) All entering employees are subjected to such an examination regardless of handicap or when a preemployment medical questionnaire used for positions which do not routinely require medical examination indicates a condition for which further examination is required because of the job-related nature of the condition; and

(ii) The results of such an examination are used in accordance with the requirements of this subpart.

§ 900.707 Certification required.

(a) *General.* Each application to OPM for financial assistance, as a condition to its approval and the extension of financial assistance, shall contain or be accompanied by, a certification from the applicant in a form prescribed by OPM that the program will be conducted in compliance with the requirements of this subpart. The assurance shall obligate the recipient for the period during which the financial assistance is extended to the program.

(b) *Certification from subgrantees.* A certification shall be required of all subgrantees receiving financial assistance from OPM to the effect that all programs or parts thereof carried out by subgrantees shall be in compliance with the requirements of this subpart. The recipient shall be responsible for securing the certification from subgrantees.

§ 900.708 Self-evaluation.

(a) Each recipient shall, within one year of the receipt of financial assistance, conduct or have conducted an evaluation of its compliance with this subpart with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each such recipient shall evaluate its current policies and practices and their effects, and modify any that do not meet the requirements of this part. Each such recipient shall permit the Office of Personnel Management, during normal business hours, to examine its self-evaluation along with its books, records, accounts, facilities and other sources of information as may be useful to determine whether there has been compliance with this subpart. Self-evaluation required under other Federal programs may be accepted by OPM if the information pertaining to activities receiving financial assistance from OPM is included and the records are available to OPM representatives.

(b) Each recipient shall modify, after consultation with interested persons and organizations, including handicapped persons, any policies and practices that do not meet the requirements of this subpart; and

(c) Each recipient shall take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

§ 900.709 Notice and Consultation.

(a) Programs and activities receiving OPM financial support shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of Section 504 and this subpart.

(b) As appropriate, a recipient shall consult with interested persons, including handicapped persons or organizations representing handicapped persons, in achieving compliance with this subpart.

§ 900.710 Procedure for effecting compliance.

When the Office of Personnel Management determines that a recipient has failed or threatens to fail to comply with this subpart and the noncompliance or threatened noncompliance cannot be corrected by informal means, OPM may suspend or terminate or refuse to grant or continue financial assistance as provided in § 900.408 of Title 5 of the Code of Federal Regulations.

[FR Doc. 80-35526 Filed 11-13-80; 8:45 am]
BILLING CODE 6325-01-M

V 45 N 0 14 80 UMI

federal register

Friday
November 14, 1980

Part X

Department of the Interior

Bureau of Land Management

Wilderness Review Decision

V 45 NO 14 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Wilderness Inventory Results for Public Lands Under Administration of the Bureau of Land Management in the Contiguous Western States

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Results of Wilderness Inventory.

SUMMARY: The Bureau of Land Management (BLM) has completed the wilderness inventory of public lands under its administration in 14 contiguous Western States. BLM State Directors have made final decisions identifying a total of 23,772,000 acres, in 919 separate areas, as wilderness study areas (WSA's), out of a total 174 million acres of public lands that were subject to wilderness inventory under provisions of the Federal Land Policy and Management Act of 1976 (FLPMA). Public lands not identified as wilderness study areas—a total of 149,262,000 acres—have been released from further wilderness review. These figures reflect decisions issued by BLM State Directors on November 14, 1980, as well as other decisions previously issued.

The wilderness study areas represent lands that were determined by the BLM to have wilderness characteristics as described in the Wilderness Act of 1964. These WSA's will be studied by the BLM, with public participation, to determine whether they are suitable for preservation as wilderness or more suitable for other uses. Recommendations resulting from the studies will be reported through the Secretary of the Interior and the President to the Congress, which has sole authority to designate public lands as wilderness.

FOR FURTHER INFORMATION CONTACT: Questions about wilderness inventory decisions in particular States should be directed to the appropriate BLM State Directors, whose addresses appear in separate **Federal Register** notices on or about November 14, 1980, announcing wilderness inventory decisions. Questions about the nationwide aspects of the program should be directed to Robert Lund, Division of Wilderness and Environmental Areas (430), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240. Telephone (202) 343–6064.

Background

In the Federal Land Policy and Management Act of 1976 (FLPMA), Congress gave the Bureau of Land Management a mandate to examine the wilderness potential of certain public lands administered by the Bureau. Approximately 174 million acres in the contiguous Western States are subject to wilderness inventory. The wilderness review provision of FLPMA, section 603, directs the BLM to conduct an inventory to identify all roadless areas of 5,000 acres or more and all roadless islands of any size that have wilderness characteristics as described in the Wilderness Act of 1964. Once those areas and islands have been identified, they must be studied to determine whether each is suitable for preservaton as wilderness, or is more suitable for other uses. The findings of these studies lead to recommendations through the Secretary of the Interior and the President to the Congress. The law requires the Secretary to report his recommendations from time to time; all areas must be reported on by October 21, 1991. The President must report to Congress on all areas by October 21, 1993. Only Congress has authority to designate public lands as wilderness.

To carry out this statutory mandate, the Bureau of Land Management has developed a process consisting of three phases: wilderness inventory, wilderness studies, and reporting to Congress.

The BLM wilderness inventory began in 1978, using criteria and procedures described in the BLM *Wilderness Inventory Handbook*, dated September 27, 1978. The inventory consisted of two major steps. The first was an "initial inventory," which was completed by December 1979 in the contiguous Western States. Its purpose was to identify and eliminate from further consideration those public lands that clearly and obviously lacked wilderness characteristics. It was based on examination of data already available in BLM field offices concerning roads, structures, and other developed features present on the land; extensive new field observation was not involved at this stage. BLM State Directors published their proposed initial inventory decisions and asked for comments from the public before reaching their final decisions.

The second major step in the wilderness inventory was the "intensive inventory," which has largely been completed as of November 14, 1980, in the contiguous Western States. The intensive inventory began with public lands about which it was not clear and obvious from readily available data that the area lacked wilderness characteristics. The purpose of the intensive inventory is to further examine these areas and sort the lands into two categories: (1) lands determined to have wilderness characteristics, which are therefore identified as wilderness study areas, and (2) lands determined to lack wilderness characteristics, which therefore will not be considered further.

The criteria used in the intensive inventory were also applied ahead of the regular inventory schedule on certain public lands in the West. This was done in connection with particular proposed projects or areas of development interest, such as the proposed Intermountain Power Project and the Overthrust Belt. The final decisions resulting from such special inventories were previously announced by BLM State Directors. Wilderness review of the California Desert Conservation Area also proceeded on an accelerated schedule in response to the statutory mandate to complete a comprehensive plan for the Conservation Area by September 30, 1980. In addition, the intensive inventory elsewhere in California was completed by January 1980 and the results were announced at that time. As a result of all these efforts, approximately 12 million acres had been identified as wilderness study areas prior to November 14, 1980, and approximately 126 million acres had been determined to lack wilderness characteristics.

The term "wilderness characteristics" used above refers to the following factors which must be present for public lands to be identified as a wilderness study area:

1. Size. The area must have at least 5,000 contiguous roadless acres. Roadless islands may be of smaller size. (Smaller roadless areas may also be considered under special circumstances described in the *Wilderness Inventory Handbook*.) The definition of "roadless" used by the BLM was drawn from the legislative history of the Federal Land Policy and Management Act, as follows:

"The word 'roadless' refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road."

2. Naturalness. The area must generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.

3. Outstanding Opportunities. The area must have either outstanding opportunities for solitude, or outstanding opportunities for a primitive and unconfined type of recreation.

RESULTS OF THE INVENTORY: On November 14, 1980, BLM State Directors are announcing final intensive inventory decisions on approximately 36 million acres of public lands.

As a result of all wilderness inventory efforts to date, BLM State Directors have now issued final decisions identifying 919 areas, containing 23,772,000 acres, as wilderness study areas. Their decisions also identify 149,262,000 acres as lacking wilderness characteristics; these will not be considered further in the wilderness review. The results of the inventory are summarized in Table 1.

The final decisions just issued are subject to protest and appeal, so there may be changes in acreage at a later date as a result of decisions on protests and appeals.

Table 1 shows 693,000 acres as areas on which the final inventory decision has not been announced. These are either areas on which appeals are still pending on initial inventory decisions, or cases in which additional time was required for interagency coordination.

The Bureau of Land Management will soon publish a comprehensive list of wilderness study areas identified to date, with their locations and acreages, to facilitate public participation in future consideration of the areas. A notice will be published in the **Federal Register** when this is available.

PUBLIC PARTICIPATION: The public has made very effective contributions to the completion of the wilderness inventory. First, the public commented upon the Bureau's draft inventory criteria and procedures, and these comments were used in developing the *Wilderness Inventory Handbook*. Then, during the inventory itself, each inventory decision was made only after an opportunity for public review and comment. In most cases there was active participation by the public, and the information provided was used by BLM State Directors in reaching their inventory decisions. The Bureau greatly appreciates the efforts devoted to the wilderness inventory by the public.

FUTURE ACTION: Each wilderness study area identified as a result of the wilderness inventory will now be the subject of a wilderness study, in which the BLM land-use planning system will be used to analyze all the values, resources, and uses—both existing and potential—of the WSA. The public will be invited to participate, as it is in all BLM planning. The central question of the wilderness study is whether the area is suitable for preservation as wilderness, or more suitable for other resource uses.

The end product of the wilderness study is a recommendation submitted through the Secretary of the Interior and the President to Congress as to whether the area is suitable or nonsuitable for preservation as wilderness. For any area recommended as "suitable," a mineral survey must be conducted by the U.S. Geological survey and Bureau of Mines to determine the mineral values, if any, that may be present.

Under FLPMA, recommendations on all wilderness study areas must reach the President no later than October 21, 1991, and must reach Congress by October 21, 1993. The Bureau intends to complete all the studies and submit recommendations through the Secretary to the President as quickly as possible, prior to the statutory deadline. In the near future, a schedule for wilderness studies will be developed; wilderness study areas with the most important resource conflicts will be scheduled for early study. Wilderness studies are already in progress for the California Desert Conservation Area and for 55 formally designated BLM natural areas and primitive areas.

Three documents concerning the wilderness review are currently in preparation on which the Bureau of Land Management will request public review and comment through separate **Federal Register** notices in the near future: (1) a proposed wilderness study schedule, (2) a draft wilderness study, policies and procedures document, and (3) a draft document containing management policies and quidelines for BLM-administered wilderness areas. Any person wishing to receive these future documents for review should request copies from the Division of Wilderness and Environmental Areas, Bureau of Land Management (430), 1800 C Street, N.W., Washington, D.C. 20240. Copies may also be requested from BLM State Directors in the Western States.

Dated: November 8, 1980.

Frank Gregg,
Director.

Table 1.—*Statistical Summary Table*

[BLM Wilderness Inventory Results [1] as of November 14, 1980]

Contiguous Western States	Public lands subject to wilderness inventory (acres)	Identified as Wilderness Study Areas		Determined to lack wilderness charac-teristics (acres)	Inventory still in progress [2] (acres)
		Number of areas	Acres		
Arizona	12,596,000	128	2,901,000	9,695,000	0
California	16,585,000	232	6,246,000	10,339,000	0
Colorado	7,996,000	70	804,000	7,189,000	3,000
Idaho	11,949,000	61	1,592,000	10,105,000	252,000
Montana	8,140,000	43	430,000	7,664,000	46,000
Nevada	49,118,000	108	5,120,000	43,895,000	103,000
New Mexico	12,847,000	54	1,024,000	11,814,000	9,000
North Dekota	68,000	0	0	68,000	0
Oklahoma	7,000	0	0	7,000	0
Oregon	13,965,000	87	2,491,000	11,194,000	280,000
South Dakota	277,000	0	0	277,000	0
Utah	22,076,000	87	2,577,000	19,499,000	0
Washington	310,000	2	6,000	304,000	0
Wyoming	17,793,000	47	581,000	17,212,000	0
Totals	173,727,000	919	23,772,000	149,262,000	693,000

[1] Figure represents final intensive inventory decisions, some of which are still subject to protest and appeal. There may be changes in acreage at a later date as a result of decisions on protests and appeals.

[2] Wilderness inventory is still in progress either because the lands are affected by appeals pending on initial inventory decisions, or because additional time was required for interagency coordination.

[FR Doc. 80-35557 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Status of Wilderness Review of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Status of Wilderness Review of Public Lands.

SUMMARY: This notice summarizes the present status of the Wilderness review of roadless public lands and islands required by the Federal Land Policy and Management Act, section 603(a). The purposes of this notice and calendar of events are to provide (1) one source of information summarizing current wilderness review activities. and (2) advance notice of upcoming decisions and public review periods.

DATE: All information in this notice is current through November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Gary G. Marsh, Bureau of Land Management, Division of Wilderness and Environmental Areas, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone: (202) 343–6064.

SUPPLEMENTARY INFORMATION: This calendar of events is the tenth in a series whose last notice appeared in the **Federal Register** October 6, 1980, (p. 66210). The calendar of events focuses only on the current status of all ongoing wilderness review activities. Those inventories whose final decisions are in effect, as well as studies or reports not yet initiated, are not reported in this notice. For detailed information regarding each specific activity, reference is made either to the appropriate notice previously appearing in the **Federal Register**, or to notices which are anticipated to be published in the upcoming 30 days. It must be noted that "anticipated" dates are projected only, and thus are subject to change.

The Bureau of Land Management wilderness review includes (1) an inventory of public lands to identify roadless lands and islands having wilderness characteristics; (2) a study of those areas found to have wilderness characteristics (wilderness study areas or "WSA's"); and (3) a report from the Secretary of the Interior to the President as to whether each WSA is more suitable for wilderness or other resource uses. The President will send his recommendations to Congress. Only Congress can actually designate an area as wilderness.

The inventory process has two stages. (1) an initial inventory designed to quickly identify and release from wilderness review those lands which clearly and obviously lack wilderness characteristics; and (2) an intensive inventory for those lands which may possess wilderness characteristics. The initial inventory process was completed in the contiguous Western States by October 1, 1979. In instances where important resource use decisions are pending, the inventory process may be accelerated in order to reach final decisions as quickly as possible. Such inventories are referred to as "special project inventories" or "accelerated intensive inventories."

The Federal Land Policy and Management Act (FLPMA) also requires early study of 55 natural and primitive areas which were formally identified by the Secretary of the Interior prior to November 1, 1975. They are referred to as "instant study areas" (ISA's). As of November 10, 1980, the reports are under administrative review.

The Wilderness inventory deadline for the contiguous Western States was extended to November 15, 1980, as announced in the **Federal Register** on June 17, 1980 (p. 41074). A statistical summary table reflecting the final intensive inventory decisions for the contiguous Western States will be available in a separate announcement in the **Federal Register** on November 14, 1980. Any appeals of the State Director's wilderness inventory decisions will be subject to the administrative procedures as outlined in Title 43, *Code of Federal Regulations*, Part 4. This regulation identifies the Interior Board of Land Appeals as the office to evaluate and act on such appeals.

Dated: November 7, 1980.

James W. Monroe,

Acting Deputy Director.

Calendar of Events

Arizona

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Accelerated Intensive Inventory

Hualapai-Aquarius Planning Area final decision announced in **Federal Register** October 14, 1980 (p. 67780), initiating a 30-day protest period ending November 14, 1980. Affects units 2–37/43, 2–46, 2–48, 2–50, 2–51, 2–53, 2–54, 2–56 to 2–63, 2–65, 2–67.

State Director's decision on protests for the Overthrust Belt anticipated late November 1980. Affects units: 1–105 to 1–109, 1–112 to 1–115, 1–119 to 1–124, 1–127 to 1–30, 1–134, 1–135.

Study/Reporting

Aravaipa Canyon Instant Study Area final environmental impact statement and suitability report complete; under administrative review.

Paiute, Paria, and Vermillion Cliffs ISA's draft suitability report and draft environmental impact statement availability announced in **Federal Register** April 22, 1980 (p. 27022); U.S. Geological Survey and Bureau of Mines mineral reports available for public review, as announced in **Federal Register** September 25, 1980 (p. 63558); public comment period will end December 22, 1980.

California

Statewide Intensive Inventory

Final decision for Oregon-California interstate units anticipated to be announced in **Federal Register** November 14, 1980.

Final decision for Nevada-California interstate units anticipated to be announced in **Federal Register** November 14, 1980.

Units Under Appeal to IBLA

Notice of appeal announced in **Federal Register** January 7, 1980 (p. 1456). Affects CDCA intensive inventory units: 117, 131, 136, 137A, 143, 150, 156, 158, 172, 217, 221, 222, 227, 242, 263, 264, 265, 266, 271, 299, 305, 321, 325, 334, 343, 348, 376.

Notice of appeal announced in **Federal Register** January 7, 1980 (p. 1457). Affects non-CDCA initial inventory units: 010–031, 033, 047, 069, 087, 101; 020–701, 901, 1001; 030–300, 400, 500.

Notice of appeals announced in **Federal Register** August 28, 1980 (p. 57549).

Affects non-CDCA intensive inventory units 010–040, 060, 063, 065, 068; 050–131, 134, 135, 211.

Notices of appeal filed on units amended by protest decision; affects non-CDCA intensive inventory units 020–211, 609, 1013; 030–054.

Study/Reporting

CDCA final environmental impact statement and proposed plan notice of availability announced in **Federal Register** September 30, 1980 (p. 64714); public comment period extended from November 3 to November 21, 1980, as announced in **Federal Register** October 17, 1980 (p. 69051).

Colorado

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Units Under Appeal to IBLA

Notice of appeal filed January 21, 1980. Affects initial inventory unit 070–031.

Study/Reporting

Powderhorn ISA draft environmental impact statement and draft suitability report availability announced in **Federal Register** May 7, 1980 (p. 30141); public comment period ended July 1, 1980.

Eastern States

Statewide Intensive Inventory (Minnesota Only)

Final decision on remaining 174 islands announced in **Federal Register** September 17, 1980 (p. 61797); 30-day protest period ended October 17, 1980, without protest.

Idaho

Statewide Initial Inventory

State Director's proposed intensive inventory decision on Jim Sage unit 23–1 announced in **Federal Register** June 4, 1980 (p. 37738) initiating 90-day comment period, which ended September 2, 1980; final decision anticipated November 14, 1980.

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Accelerated Intensive Inventory

State Director's announcement of decision on protests for Owyhee Planning Area anticipated November 14, 1980. Affects units 16–26, 16–28, 16–36, 16–40 to 16–42, 16–44, 16–45, 16–47, 16–49 a, b, d, e, 16–52.

Study/Reporting

Great Rift (Grassland Kipuka) ISA draft environmental impact statement availability announced in **Federal Register** March 5, 1980 (p. 14251); public comment period ended May 27, 1980; under administrative review.

Units Under Appeal to IBLA

Notice of appeal filed April 11, 1980, affecting stateline initial inventory units 16–48a, b, and c, 16–53, 16–56a, 16–59, 16–70e, 17–19, 17–21, 17–26, 22–1.

Two notices of appeal filed April 11, 1980, affecting Challis Planning Area intensive inventory units 46–11, 46–13, 46–14, 46–14a.

Notice of appeal filed July 30, 1980, affecting St. Anthony Sand Dunes intial inventory units 35–3, 35–4, 35–5.

Montana

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Accelerated Intensive Inventory

State Director's Overthrust Belt decision on protests announced in **Federal Register** August 7, 1980 (p. 52465); decision on protests for revised boundaries for three Overthrust Belt units: 076–002, 026, 028, announced in **Federal Register** October 16, 1980 (p. 68761) initiating a 30-day appeal period.

Units Under Appeal to IBLA

Notice of appeal filed June 10, 1980. Affects OTB accelerated intensive inventory unit 076–026.

Notices of appeal filed July 28, 1980. Affects OTB accelerated intensive inventory units 075–123; 076–003, 011, 025.

Notice of appeal filed July 29, 1980. Affects OTB accelerated intensive inventory units 076–001, 002, 007, 022, 026, 028, 034, 069.

Notice of appeal filed August 22, 1980. Affects accelerated intensive inventory units 076–025, 026, 059.

Notices of appeal filed October 22, 1980. Affects accelerated inventory unit 064–356 (Bitter Creek).

Study/Reporting

Humbug Spires and Bear Trap Canyon ISA's draft environmental impact statements and draft suitability reports availability announced in **Federal Register** April 18, 1980 (p. 26477) and April 30, 1980 (p. 28823); public comment period ended June 17, 1980. U.S. Geological Survey and Bureau of Mines mineral reports were available for 30-day public review during the month of October as announced in **Federal Register** September 26, 1980 (p. 64937).

Nevada

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

New Mexico

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Oregon

Statewide Intensive Inventory (Includes Washington)

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Units Under Appeal to IBLA

Notice of appeal announced in **Federal Register** November 29, 1979 (p. 68526); affects initial inventory unit 11–6.

Notice of appeal announced in **Federal Register** October 2, 1980 (p. 65339); affects accelerated intensive inventory units 2–81L (contiguous with NV–020–0642), 2–82H.

Utah

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Accelerated Intensive Inventory

Protests received as announced in **Federal Register** June 18, 1980 (p. 41223), on Devil's Garden and Link Flats ISA's.

Units Under Appeal to IBLA

Notice of appeal filed January 24, 1980. Affects accelerated inventory units 050–233; 060–007, 011, 012.

Notice of appeal announced in **Federal Register** July 17, 1980 (p. 47936). Affects accelerated intensive inventory unit 050–236.

Wyoming

Statewide Intensive Inventory

Final decision anticipated to be announced in **Federal Register** November 14, 1980.

Units Under Appeal to IBLA

Three notices of appeal filed April 14, 1980. Affects accelerated intensive inventory units 040–110, 221, 222, 223.

[FR Doc. 80-35593 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Announcement of Final Intensive Wilderness Inventory Decision

Note.—This document was originally published on November 7, 1980, at 45 FR 74066. It is reprinted at the request of the agency.

I hereby announce my final intensive inventory decision under the authority of Sec. 603 of the Federal Land Policy and Management Act (FLPMA) and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

The proposed intensive inventory decision was published in the May 30, 1980, **Federal Register** page 36525, which initiated a 90-day public comment period. A supplement to the May 30 announcement, which amended the announced wilderness inventory, was published in the July 24, 1980, **Federal Register**, page 49364.

These **Federal Register** notices stated that the public comment period was to end on August 28, 1980 and gave the following State Wilderness Study Area units and acreages:

Districts	Acres intensive inventoried	Acres proposed for WSA	(Units)	Acres proposed to be dropped
Arizona Strip	1,576,672	483,618	(25)	1,093,054
Phoenix	1,867,081	907,024	(35)	960,057
Safford	311,333	191,731	(19)	119,602
Yuma	680,455	337,965	(19)	342,490
State	4,435,541	1,920,338 (98 WSA's)		2,515,203

Thirteen public meetings were held throughout Arizona during the 90-day comment period. Verbal and written comments concerning the wilderness characteristics of the WSA units were filed in the permanent documentation files. Those comments which provided

new information were field checked and verified. Specific comments which disagreed with BLM's judgment of the application of the wilderness criteria mandated by Sec. 603 of the FLPMA of 1976 were also field checked. The comments received during the public comment period resulted in WSA boundary adjustments, dropping some recommended WSAs from further wilderness consideration and adding other WSA units which were proposed to be released from Sec. 603 of FLPMA.

Public comments received during this period are on file in the BLM District offices responsible for management of the specific inventory unit in question. WSA final decision maps and summary narratives are available from any Arizona BLM office listed at the end of this notice.

The WSA final decision is set forth in the following tables which list each inventory unit. Approximately 1,941,426 acres (94 units) have been determined to possess wilderness characteristics as set forth in Sec. 2(c) of the 1964 Wilderness Act and are WSAs. The remaining areas, consisting of about 2,467,398 acres, have been determined not to possess wilderness characteristics as set forth in Sec. 2(c) of the 1964 Wilderness Act and is therefore dropped from further consideration under the wilderness review process and released from the constraints of interim management as specified in Sec. 603(c) of the FLPMA of 1976.

Wilderness Study Area Final Decision

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Arizona Strip District	AZ-010-006	26,502		14,988		14,988
Ferry Swale	AZ-010-006A		10,170		10,170	
Judd Hollow	AZ-010-006B		1,226		1,226	
Pana Rim	AZ-010-006C		106		106	
Cedar Mtn	AZ-010-006D		12		12	
	AZ-010-008/019	136,859		5,083		5,083
Pana Plateau	AZ-010-008A/19		124,428		124,428	
Overlook	AZ-010-008B		7,346		7,346	
Emmett Wash	AZ-010-009	25,856	12,913	12,943	12,913	12,943
House Rock Valley	AZ-010-010	15,437	0	15,437	0	15,437
Buffalo Range	AZ-010-012	25,139	0	25,139	0	25,139
North Canyon	AZ-010-013	8,550	0	8,550	0	8,550
Anderson Ranch	AZ-010-014	6,053	0	6,053	0	6,053
Round Valley	AZ-010-015	5,708	0	5,708	0	5,708
Big Ridge	AZ-010-016	6,912	0	6,912	0	6,912
Sand Hills	AZ-010-017	17,408	0	17,408	0	17,408
Corral Valley	AZ-010-018	9,164	0	9,164	0	9,164
Kaibab	AZ-010-020	11,990	0	11,990	0	11,990
Pine Hollow Canyon	AZ-010-021	11,635	0	11,635	0	11,635
Buckskin Mtns	AZ-010-022	9,064	0	9,064	0	9,064
Pasture Canyon	AZ-010-023	13,850	0	13,850	0	13,850
Rock Canyon	AZ-010-024	5,171	0	5,171	0	5,171
LeFevre Canyon	AZ-010-025	18,912	0	18,912	0	18,912
Muggings Flat	AZ-010-026	17,894	0	17,894	0	17,894
Shinarump Cliff	AZ-010-027	13,696	0	13,696	0	13,696
Wildcat Canyon	AZ-010-028	40,533	0	40,533	0	40,533
Pigeon Canyon East	AZ-010-029	20,275	0	20,275	0	20,275
Little Cedar Knoll	AZ-010-030	10,320	0	10,320	0	10,320
Knab Creek	AZ-010-031	49,565	39,907	9,658	39,907	9,658
Scotts Hole	AZ-010-032	11,264	0	11,264	0	11,264
Hack Canyon (A)	AZ-010-033A	70,046	63,682	6,364	63,682	6,364
Hack Canyon (B)	AZ-010-033B	10,802	0	10,802	0	10,802
Robinson	AZ-010-034	9,741	9,671	70	9,671	70
Nates Canyon	AZ-010-038	5,550	0	5,550	0	5,550
Yellowstone Mesa	AZ-010-039	51,519	0	51,519	0	51,519
Bull Pasture	AZ-010-040	11,034	0	11,034	0	11,034
Cottonwood Point	AZ-010-041	6,790	6,449	341	6,449	341
Wild Band Pockets	AZ-010-045	7,706	0	7,706	0	7,706
Swapp	AZ-010-047	9,022	0	9,022	0	9,022
Hancock Knolls	AZ-010-048	12,189	0	12,189	0	12,189
Broad Canyon	AZ-010-049	4,122	0	4,122	0	4,122
Toroweap	AZ-010-050	5,427	5,312	115	5,312	115
Mt. Logan	AZ-010-051	18,608	8,803	9,805	8,803	9,805
Mt. Trumbull	AZ-010-052	8,400	7,285	1,115	7,285	1,115
Marshall Ranch	AZ-010-053	5,555	0	5,555	0	5,555
Pugh Knoll	AZ-010-055	25,702	0	25,702	0	25,702
Crosby Tank	AZ-010-056	8,320	0	8,320	0	8,320
Nickalas	AZ-010-057	15,633	0	15,633	0	15,633
Hurricane Cliffs	AZ-010-058	36,071	0	36,071	0	36,071
Vunkaret	AZ-010-059	43,059	0	43,059	0	43,059
Flat Top	AZ-010-062	9,088	0	9,088	0	9,088
Rocks	AZ-010-063	8,960	0	8,960	0	8,960
Snake Pond	AZ-010-064	13,309	0	13,309	0	13,309
White Pockets	AZ-010-065	8,653	0	8,653	0	8,653
East Antelope	AZ-010-066	6,989	0	6,989	0	6,989
Atkins Well	AZ-010-067	6,451	0	6,451	0	6,451
Spring Mtn	AZ-010-068	7,104	0	7,104	0	7,104

Wilderness Stud Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Canaan Gap	AZ-010-069	22,950	0	22,950	0	22,950
Cottonwood Canyon	AZ-010-071	41,472	0	41,472	0	41,472
East Mesa	AZ-010-072	29,286	0	29,286	0	29,286
Yellow Horse Flat	AZ-010-073A	10,440	0	10,440	0	10,440
Quail Draw	AZ-010-073B	22,540	0	22,540	0	22,540
Seegmiller	AZ-010-074	8,550	0	8,550	0	8,550
Gyp Pocket	AZ-010-076	7,275	0	7,275	0	7,275
Nutter Pond	AZ-010-077	9,467	0	9,467	0	9,467
Lower Hurricane	AZ-010-078	51,018	0	5,018	0	5,018
Navajo	AZ-010-079	4,996	0	4,996	0	4,996
Hole-in-Wall	AZ-010-080	19,507	0	19,507	0	19,507
Main Street	AZ-010-081	10,163	0	10,163	0	10,163
Hard Pond	AZ-010-082	12,133	0	12,133	0	12,133
Hooter	AZ-010-083	7,665	0	7,665	0	7,665
Hurricane Wash	AZ-010-084	6,298	0	6,298	0	6,298
Round Pond	AZ-010-085	5,120	0	5,120	0	5,120
Sink Hole	AZ-010-086	6,530	0	6,530	0	6,530
Mudhole	AZ-010-087	11,726	0	11,726	0	11,726
Sullivan	AZ-010-088	8,243	0	8,243	0	8,243
Rocky's	AZ-010-089	6,451	0	6,451	0	6,451
Poverty Mtn	AZ-010-091	11,699	0	11,699	7,872	3,827
Parashaunt	AZ-010-093	38,938	28,141	10,797	28,141	10,797
	AZ-010-094	2,945	0	2,945	0	2,945
	AZ-010-095	1,920	0	1,920	0	1,920
Darnell Canyon	AZ-010-096A	294	294	0	294	0
Parashaunt Wash	AZ-010-096B	7,770	0	7,770	0	7,770
Grassy Mtn	AZ-010-096C	56,573		2,822		2,822
Grassy Mtn	AZ-010-096C		5,503		5,503	
Andrus Canyon	AZ-010-096D		48,246		48,246	
North Dellenbaugh	AZ-010-097	10,698	10,678	20	10,678	20
	AZ-010-098	640	0	640	0	640
G&F	AZ-010-099	640	640	0	640	0
	AZ-010-100	640	0	640	0	640
	AZ-010-101	320	0	320	0	320
	AZ-010-102	640	0	640	0	640
Burnt Canyon	AZ-010-103	6,400	0	6,400	0	6,400
	AZ-010-104	49,522		8,807		8,807
Salt House	AZ-010-104A		13,465	0	13,465	0
Mustang Point	AZ-010-104B		27,250	0	27,250	0
Hidden Wash	AZ-010-110	19,950	0	19,950	0	19,950
Last Chance	AZ-010-111	38,460	38,050	410	38,050	410
Nutter	AZ-010-116	6,835	0	6,835	0	6,835
Eaglestead	AZ-010-117	5,350	0	5,350	0	5,350
Shoebuckle	AZ-010-118	11,955	0	11,955	0	11,955
Hobble Pond	AZ-010-125	17,126	0	17,126	0	17,126
Wolf Hole	AZ-010-131	12,251	0	12,251	0	12,251
Purgatory	AZ-010-132	21,187	7,557	13,630	7,557	13,630
Mokaac Mtns	AZ-010-133	32,246	0	32,246	0	32,246
Mt. Emma	AZ-010-136	8,320	6,480	1,840	6,480	1,840
	AZ-010-137	1,408	0	1,408	0	1,408
	AZ-010-138	614	0	614	0	614
	AZ-010-139	1,485	0	1,485	0	1,485
	AZ-010-140	1,446	0	1,446	0	1,446
	AZ-010-141	179	0	179	0	179
	AZ-010-143	2,397	0	2,397	0	2,397
	AZ-010-145	2,312	0	2,312	0	2,312
	AZ-010-146	4,075	0	4,075	0	4,075
Total 110 units inventoried		1,576,672	483,618 (25 WSAs)	1,093,054	491,490 (26 WSAs)	1,085,182
Phoenix District	AZ-020-001	36,203				
Mt. Wilson	AZ-020-001A		24,821	0	24,821	0
Mt. Wilson Plain	AZ-020-001B		0	11,382	0	11,382
Squaw Peak	AZ-020-002	20,525	0	20,525	0	20,525
Trail Rapids Hills	AZ-020-003	10,430	0	10,430	0	10,430
S. Detrital Valley	AZ-020-004/005	13,920	0	13,920	0	13,920
Pope Mine	AZ-020-006	1,100	0	1,100	0	1,100
Van Deeman	AZ-020-007	3,200	1,550	1,650	1,550	1,650
Mockingbird	AZ-020-008	5,700	5,700	0	5,700	0
Black Mtns. N	AZ-020-009	20,400	20,398	2	20,398	2
Burns Spring	AZ-020-010	30,000	29,961	39	29,961	39
Mt. Tipton	AZ-020-012/042	22,560	19,550	3,010	19,550	3,010
Grapevine Wash	AZ-020-014	2,200	2,200	0	2,200	0
Grand Wash Cliffs	AZ-020-015	12,746	12,176	570	12,176	570
Music Mtns	AZ-020-017	32,800	0	32,800	0	32,800
Mt. Davis	AZ-020-021 (4 parcels)	2,560	0	2,560	2,560	0
Pinnacles	AZ-020-023	10,460	0	10,460	0	10,460
Mt. Nutt	AZ-020-024	33,345	26,300	7,045	29,200	4,145
Warm Springs	AZ-020-028/029	143,000	118,695	24,305	118,355	24,645
Detrital Valley	AZ-020-039	16,022	0	16,022	0	16,022
Peoples Canyon	AZ-020-068	3,480	3,480	0	3,480	0
Buckskin Mtns	AZ-020-071	78,348	47,582	30,766	47,582	30,766
Sycamore Mesa	AZ-020-072	5,897	0	5,897	0	5,897
Harcuvar Mtns	AZ-020-075	94,313	74,778	19,535	74,778	19,535

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Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Hassayampa River Canyon	AZ-020-083	26,985	24,200	2,785	24,200	2,785
	AZ-020-084	6,667	.....	.....	.....	.....
S. Bradshaws E.	AZ-020-084A	.....	640	0	640	0
S. Bradshaws W.	AZ-020-084B	.....	0	6,027	0	6,027
Buckhorns	AZ-020-086	6,571	5,427	1,144	0	6,571
Granite Wash Mtns.	AZ-020-090	43,938	0	43,938	0	43,938
Tank Pass	AZ-020-091	14,441	0	14,441	0	14,441
Harcuvar Peak	AZ-020-092	33,600	0	33,600	0	33,600
Big Horn Mtns	AZ-020-099	24,133	22,337	1,796	22,337	1,796
Hummingbird Springs	AZ-020-100	69,025	61,680	7,365	67,680	1,345
Black Butte	AZ-020-103	20,460	0	20,460	0	20,460
Belmont Hills N	AZ-020-107	11,500	0	11,500	0	11,500
Belmont Hills	AZ-020-106	18,773	0	18,773	0	18,773
Cedar Basin	AZ-020-116	7,883	0	7,883	0	7,883
Hells Canyon	AZ-020-119	9,385	9,379	6	9,379	6
Baldy Mtn.	AZ-020-120	10,736	0	10,736	0	10,736
Petrified Forest	AZ-020-124	560	0	560	0	560
New Water Mtns	AZ-020-125	58,600	58,600	0	58,600	0
	AZ-020-126	25,690	.....	.....	.....	.....
Little Horn Mtns. West	AZ-020-126A	.....	13,800	2,650	13,800	2,650
Little Horn Mtns. West B.	AZ-020-126B	.....	0	9,240	0	9,240
Red Raven Wash	AZ-020-127A	27,079	0	27,079	0	27,079
Palomas Plain	AZ-020-130	30,700	0	30,700	0	30,700
Tank Mtns.	AZ-020-131	43,400	0	43,400	0	43,400
Palomas Mtns.	AZ-020-132/133	28,040	0	28,040	0	28,040
Fact Mtn.	AZ-020-136	39,560	0	39,560	27,575	11,985
Yellow Medicine Butte	AZ-020-137	37,983	0	37,983	0	37,983
Signal Mtn.	AZ-020-138	29,070	20,920	8,150	20,920	8,150
Hyder Valley	AZ-020-140	9,340	0	9,340	0	9,340
Woolsey Peak	AZ-020-142/144	81,700	73,930	7,770	73,930	7,770
Gila Bend Mtns	AZ-020-143	19,900	0	19,900	0	19,900
Gila River	AZ-020-148	16,400	0	16,400	0	16,400
	AZ-020-155	49,200	.....	.....	.....	.....
Painted Rocks Mtns. S.	AZ-020-155A	.....	0	39,450	0	39,450
Painted Rocks Mtns. N.	AZ-020-155B	.....	9,320	430	0	9,750
N. Maricopa Mtns.	AZ-020-157	77,650	75,485	2,165	75,483	2,167
Sierra Estrella S. Maricopa Mnts.	AZ-020-160	22,740	0	22,740	14,190	8,550
S. Maricopa Mnts.	AZ-020-163	80,181	72,004	8,177	72,004	8,177
Butterfield Stage Memorial	AZ-020-164	9,574	9,566	8	9,566	8
Squaw Tits	AZ-020-166	33,690	0	33,690	0	33,690
Table Top Mtn.	AZ-020-172	46,363	0	46,363	39,823	6,540
Batamote Mtns.	AZ-020-175	57,697	0	57,697	0	57,697
Sikort Chapa Mtns.	AZ-020-176	10,665	10,665	0	10,665	0
Pozo Redondo	AZ-020-177	19,890	0	19,890	0	19,890
Mineral Mtns.	AZ-020-186	8,660	0	8,660	0	8,660
White Canyon	AZ-020-187	6,975	6,970	5	6,968	7
Tortilla Mtns.	AZ-020-188	5,030	0	5,030	0	5,030
Sawtooths	AZ-020-190	11,900	11,900	0	0	11,900
Picacho Mtns.	AZ-020-194	6,400	6,400	0	6,400	0
W. Silver Bell Mtns.	AZ-020-196	10,500	0	10,500	0	10,500
Ragged Top	AZ-020-197	8,480	0	8,480	4,460	4,020
Pan Quemado	AZ-020-199	11,870	0	11,870	0	11,870
Roskruge Mtns.	AZ-020-200	7,700	0	7,700	0	7,700
Coyote Mtns.*	AZ-020-202	5,783	5,780	3	5,080	3
Baboquivari Peak	AZ-020-203	4,435	.....	.....	.....	.....
Baboquivari Peak North	AZ-020-203A	.....	0	2,370	0	2,370
Baboquivari Peak South	AZ-020-203B	.....	2,065	0	2,065	0
Ives Peak	AZ-020-204	11,435	9,875	1,560	9,675	1,760
Tres Alamo	AZ-020-205	8,935	8,910	25	8,910	25
Total 78 units inventoried		1,867,081	907,024 (35 WSAs)	960,057	976,661 (37 WSAs)	889,720

*No boundary adjustments were made. Final acres reflect a more accurate counting method.

Stafford District	AZ-040-001	25,174	.....	3,029	.....	3,029
Needles's Eye	AZ-040-001A	.....	10,020	0	9,485	535
Mescal Mtns.	AZ-040-001B	.....	7,140	0	0	7,140
El Capitan	AZ-040-001C	.....	0	4,985	0	4,985
Zapata Wash	AZ-040-004	6,360	0	6,360	0	6,360
Black Rock	AZ-040-008	8,620	8,492	128	8,492	128
Ashurst	AZ-040-009	11,506	0	11,506	0	11,506
Bear Spring Flat	AZ-040-010/011	19,989	0	19,989	0	19,989
Diamond Bar	AZ-040-013	6,240	6,240	0	0	6,240
Fishhooks	AZ-040-014	32,633	20,600	12,033	15,013	17,620
Daymine	AZ-040-016	28,815	16,639	12,176	16,639	12,176
Oliver Knoll	AZ-040-017	7,786	6,984	802	0	7,786
Johnny Spring	AZ-040-020	8,382	8,225	157	0	8,382
	AZ-040-022/023/024	46,264	.....	9,220	.....	9,220
Gila Box	AZ-040-022/023/024A	.....	19,622	0	13,470	6,152
Turtle Mtn.	AZ-040-022/023/024B	.....	17,422	0	17,422	0
Thumb Butte	AZ-040-030	10,075	0	10,075	0	10,075
Javelina Peak	AZ-040-048	18,207	17,870	337	17,870	337
Little Pranks	AZ-040-055	7,535	0	7,535	0	7,535
Orange Butte	AZ-040-059	7,655	0	7,655	0	7,655

Wilderness Study Area Final Decision—Continued

Inventory units name	Unit number	Acres intensively inventoried	Acres proposed for WSA	Acres proposed to be dropped	Final WSA acres	Final acres to be dropped
Peloncillo Mtns.	AZ-040-080	13,368	13,032	336	13,032	336
Happy Camp Canyon	AZ-040-065	20,327	17,271	3,056	16,771	3,556
Bowie Mtn.	AZ-040-066	6,617	6,555	62	*	*
Baker Canyon	AZ-040-070	4,814	4,812	2	*	*
Rhode's Peak	AZ-040-072	279	0	279	*	*
YLE	AZ-040-073	960	0	960	*	*
Pothole	AZ-040-074	5,481	5,480	1	0	5,481
Linden Creek	AZ-040-075	160	0	160	0	160
Apache Box	AZ-040-076	932	932	0	932	0
Hoverrocker	AZ-040-077	3,754	3,754	0	2,769	985
Ketchum	AZ-040-078	22	0	22	0	22
Galiuro Addition #1	AZ-040-079	63	0	63	*	*
Galiuro Addition #2	AZ-040-080	160	0	160	*	*
Galiuro Addition #3	AZ-040-081	640	640	0	*	*
Holdout	AZ-040-082	116	0	116	0	116
Steeple Rock	AZ-040-083	8,400	0	8,400	0	8,400
Total 34 units inventoried		311,333	191,731 (19 WSAs)	119,602	131,895 (11 WSAs)	165,906

*These units were announced separately under an accelerated inventory. The final decision was released in the October 8, 1980 FEDERAL REGISTER, page 66876.

Yuma District						
Dead Mtn. North Addition	AZ-050-001	1,815	0	0	1,815	0
Dead Mtns. South Addition	AZ-050-002	630	630	0	630	0
Chemehuevi Mnts.	AZ-050-003	195	195	0	195	0
Chemehuevi/Needles	AZ-050-004	960	960	0	960	0
Needles North Addition	AZ-050-005A	*5,835	0	*5,835	0	5,560
Needles Eastern Addition	AZ-050-005B	7,315	465	0	465	0
Needles Southern Addition	AZ-050-005C	.....	0	6,850	0	6,850
Buck Mtns.	AZ-050-007A	19,675	0	9,020	0	9,020
West Buck Mtns.	AZ-050-007F	.....	0	10,655	0	10,655
Mohave Wash	AZ-050-007C/5-48/2-52	104,605	104,605	0	104,605	0
No Name	AZ-050-007D	5,945	0	5,945	0	5,945
East Whipple Mtns.	AZ-050-009	5,235	0	5,235	0	5,235
Whipple Mtn. Addition	AZ-050-010	1,380	1,380	0	1,380	0
The Mesa	AZ-050-011	14,185	0	14,185	0	14,185
Gilbraltar Mtn.	AZ-050-012	25,260	25,260	0	25,260	0
Planet Peak	AZ-050-013	17,695	17,645	50	17,645	50
	AZ-050-014	72,825	.....	.....	.....	.....
Cactus Plain	AZ-050-014A	.....	65,645	2,145	70,360	2,465
Cactus Plain	AZ-050-014B	.....	0	5,035	.....	.....
Swansea	AZ-050-015A	44,785	41,690	3,095	41,690	3,095
Clara Peak	AZ-050-015B	9,695	0	9,695	0	9,695
E. Cactus Plain	AZ-050-017	14,020	13,735	285	13,735	285
Big Maria Mtns. N	AZ-050-018	415	415	0	415	0
Big Maria S	AZ-050-019	2,145	1,420	725	1,420	725
	AZ-050-020	54,230	.....	.....	2	.....
La Posa Plain	AZ-050-020A	.....	0	24,960	0	24,960
S. La Posa Plain	AZ-050-020B	.....	0	29,270	0	29,270
No Name	AZ-050-021	16,510	0	16,510	0	16,510
	AZ-050-023A/B	52,740	42,670	10,070	.....	.....
S. Trigo Mtns.	AZ-050-023A	.....	.....	.....	4,500	1,390
Trigo Mtns.	AZ-050-023B	.....	.....	.....	36,870	9,980
Kofa Unit 2	AZ-050-028	3,085	0	3,085	0	3,085
Kofa Unit 3	AZ-050-030	9,240	0	9,240	0	9,240
Kofa Unit 3 S	AZ-050-031	11,270	3,400	7,870	3,400	7,870
Kofa Unit 4 N	AZ-050-033	2,195	1,900	295	1,900	295
Kofa Unit 4 S	AZ-050-034	11,220	11,220	0	11,220	0
Little Picacho Peak Addition	AZ-050-035	2,950	2,915	35	2,915	35
No Name	AZ-050-036	5,060	0	5,060	0	5,060
No Name	AZ-050-037	6,740	0	6,740	0	6,740
Laguna Mtn.	AZ-050-038	9,265	0	9,265	0	9,265
N. Gila Mtns.	AZ-050-039	13,165	0	13,165	0	13,165
Gila Mtns.	AZ-050-040	8,765	0	8,765	0	8,765
N. Mohawk Mtn.	AZ-050-042	4,725	0	4,725	0	4,725
Butler Pass	AZ-050-047/2-73	27,340	0	27,340	0	27,340
Polomosa Mtn.	AZ-050-049	*87,340	0	*87,340	0	75,100
Total 37 units inventoried		680,455	337,965 (19 WSAs)	342,490	341,380 (20 WSAs)	326,590

*No boundary adjustments were made. Final acres reflect a more accurate counting method.

Summary of Wilderness Inventory

District	Acres proposed for WSA	Acres final WSA units	Acres proposed to be dropped	Acres final to be dropped	Total final acres reported*
Arizona Strip	483,618	491,490	1,093,054	1,085,182	1,576,672
Phoenix	907,024	976,661	960,057	889,720	1,866,381
Safford	191,731	131,895	119,602	165,906	297,801

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Summary of Wilderness Inventory—Continued

District	Acres proposed for WSA	Acres final WSA units	Acres proposed to be dropped	Acres final to be dropped	Total final acres reported*
Yuma	337,985	341,380	342,490	326,580	667,970
State Totals	1,920,338	1,941,426 (94 Units)	2,515,203	2,467,398	4,408,824

*The final total acres do not include units which were reported in the accelerated inventories.

The final intensive inventory decisions will become effective on December 15, 1980.

Protests and Appeal Procedures

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. These decisions will become effective on December 15, 1980 unless timely protests are received by the Arizona State Director.

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before 4:15 p.m., December 15, 1980. Only those protests received by the Arizona State Office by time and date specified will be accepted.

The protest must specify the specific inventory unit to which it is directed. It must include a clear and concise statement and reason for the protest, as well as data supporting the reason.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and therefore have become final, and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decisions on the units will not become final pending a decision on the protest and any resulting appeal.

The State director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest may appeal such decision under the provisions of 43 CFR Part 4.

All Wilderness Study Areas or inventory units under protest, or otherwise not formally dropped from further consideration, are subject to certain management and use restrictions as identified in the Interim Management Policy published December 12, 1979.

WSA final decision maps and summary narratives are available from any Arizona BLM office listed below.

Arizona Strip District Office,
196 East Tabernacle,
P.O. Box 250,
St. George, Utah 84770(801) 673–4882.
Safford District Office,
425 East Fourth Street,
Safford, Arizona 85546(602) 428–4040.
Kingman Resource Area Office,
2475 Beverly Avenue,
Kingman Arizona 86401
(602) 757–4011.
Phoenix District Office,
2929 West Clarendon Avenue,
Phoenix, Arizona 85017
(602) 241–2501.
Yuma District Office,
2450 Fourth Avenue,
P.O. Box 5680,
Yuma, Arizona 85364
(602) 726–6300.
Havasu Resource Area Office,
2049 Swanson Avenue,
P.O. Box 685,
Lake Havasu City, Arizona 86403
(602) 855–8017.

Clair M. Whitlock,

State Director.

October 30, 1980.

[FR Doc. 80-34524 Filed 11-13-80; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF THE INTERIOR

California Wilderness Program

I. Final Intensive Inventory Decisions on the Interstate Inventory Units California shares with the Oregon and Nevada State Offices.

The Inventory Decision Report on these Final Intensive Inventory Units is available from the California State Director, Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, CA 95825. Copies have been mailed to more than 6,000 persons on the California Wilderness Inventory mailing list.

The Final Inventory Decisions Announced in this Report are summarized by Inventory Unit as follows:

Unit No.	Name	WSA	Non-WSA	Total acres
CA–010–105/NV–030–531	Slinkard	5,440 CA		5,440
CA–020–403/NV–030–603	Fort Sage Mountain		10,080 NV 12,910 CA	22,990
CA–020–618 and 621/NV–020–012	Poodle Mountain	127,829 NV	9,331 NV	137,160
CA–020–816, 820, 821/NV–020–010	Crutcher		52,745 NV	52,745
CA–020–813 A and B/NV–020–004	Hog Ranch Mountain		9,980 NV	9,980
CA–020–822	Negro Creek		5,300 NV	5,300
CA–020–822 A and B, 823/NV–020–021	(No name)		5,230 NV	5,230
CA–020–823/NV–020–009	Leadville		27,023 NV	27,023
CA–020–913/NV–020–008	Little High Rock Canyon	52,143 NV	1,430 NV	53,573
CA–020–914/NV–020–006A	East Fork High Rock Canyon	53,920 NV		53,920
CA–020–914A/NV–020–008	Warm Springs Canyon		65,369 NV	65,369
CA–020–919/NV–020–001	Ten Mile Springs		11,470 NV	11,470
CA–020–1004/OR 1–164	Snuff/12 Mile Creek		1,440 OR 3,060 CA 11,630 NV	16,130
CA–020–1005/OR 1–156	Coleman Valley West Coleman Ranch.		10,000 OR 13,005 NV	23,005
CA–020–1010/OR 1–126	Coleman Valley/Macy Flat		23,640 OR 13,060 NV	36,700
Total=		233,892 NV 5,440 CA	235,653 NV 35,080 OR 16,970 CA	526,035

These determinations are based upon wilderness intensive inventories completed for each inventory unit, and an analysis of public comments received prior to and during the formal public review and comment periods conducted as outlined in our **Federal Register** Notice of April 3, 1980, pages 22198–22200, and our March 31, 1980, Proposed Intensive Inventory Reports for the respective interstate units.

When effective, those portions of the above intensive inventory units determined not to meet the criteria for identification as Wilderness Study Areas will no longer be subject to the management restrictions imposed by Section 603–C of the Federal Land Policy & Management Act of 1976, Pub. L. 94–579. Those portions identified as Wilderness Study Areas will continue to be subject to the interim management restrictions of this Act.

These final intensive inventory determinations are effective December 16, 1980. For the purposes of this determination, each inventory unit is considered individually and separately from every other inventory unit. Should any amendment to these determinations be made by the BLM State Director, California, as a result of new information received following this publication, that amendment will be formally published in the **Federal Register** and will become effective 30 days following such publication. This 30 day extension will apply only to the amendment and not to the original designations.

Persons wishing to protest any of the determinations of the final intensive inventory units made herein shall have 30 days after this publication in the **Federal Register**, up to and including December 15, 1980, to file a written protest. Protests should address a specific inventory unit, must include a clear and concise statement of reasons for the protest, and must furnish supporting data to the State Director, Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, California 95825. Protests must be received by the State Director by December 15, 1980, Protests received after that date will not be accepted unless postmarked on or before December 15, 1980. The State Director, California, will render a written decision on any protest so received.

Any persons adversely affected by the State Director's decision on a written protest may appeal such decisions following normal administrative procedures applicable at that time.

II. California's Amended Final Intensive Inventory Report of August 28, 1980, identified nine inventory units wherein the wilderness inventory decision was amended as a result of information obtained during the protest period on these units.

The amended inventory decision on units CA–010–064 and 075, CA–030–402 and 501 and CA–060–026 are not final. The amended inventory decisions on units CA–020–211, 609 and 1013, CA–030–504 have been formally appealed.

III. Summary of California's Wilderness Inventory Finding to Date

Public Lands Subject to Wilderness Inventory (administered by California State Office), 17,867,000 acres.

*Completed Inventory:**

A—Acres dropped due to lack of characteristics, 9,980,265 acres

B—Acres identified as WSA's 4,466,615 acres

C—Acres under appeal: Proposed to be dropped, 1,003,421 acres

Proposed as WSA's, 2,416,699 acres

(**Federal Register** notices will continue to announce the decisions for these 51 units as appeals are resolved)

*The Final Inventory Decisions announced in our November 14, 1980 report are included in the acreages in A&B as appropriate.

V 45 N 0 14 80 0 UMI

California Desert Conservation Area

[Units under appeal (Acres listed as proposed)]

Unit Number	Acres	Non-WSA acres	Total acres
117	405,215	10,240	415,455
131	24,873	68,320	93,193
136	52,696	7,680	60,376
137A	8,532	5,760	14,292
143	46,529	19,200	65,729
150	109,701	3,840	113,541
156	113,901	2,560	116,461
158	36,023	960	36,983
172	7,040	9,600	16,640
217	53,219	7,040	60,259
221	87,831	4,480	92,311
222	255,058	65,280	320,338
227	14,107	13,440	27,547
242	106,641	3,200	109,841
263	51,057	4,480	55,537
264	13,300	1,220	14,520
285	35,583	16,640	52,223
266	36,239	4,480	40,719
271	37,758	10,880	48,638
299	100,826	13,440	114,266
305	135,827	238,720	374,338
321	50,538	60,800	111,547
325	239,878	227,200	467,078
334	49,723	28,160	77,883
343	15,655	12,800	28,455
348	126,057	38,400	164,457
376	–	25,600	25,600
Subtotal	2,213,807	904,420	3,118,227

Outside the California Desert Conservation Area

Unit Number	WAS acres	Non-WSA acres	Total acres
CA-010			
031	–	2,760	2,760
033	–	3,660	3,660
040	–	7,192	7,192
047	–	27,500	27,500
060	7,600	5,160	12,260
063	3,211	1,060	4,271
065	6,518	2,180	8,698
068	3,197	–	3,197
069	–	7,400	7,400
087	–	3,400	3,400
101	–	440	400
CA-020			
211	16,950	–	16,950
609	45,800	1,360	47,160
701	–	6,280	6,280
901	–	1,130	1,130
1001	–	1,320	1,320
1013	110,000	–	110,000
CA-030			
300	–	4,165	4,165
400	–	7,123	7,123
500	–	5,760	5,760
504	68	–	68
CA-050			
131	–	5,871	5,871
134	–	2,360	2,360
135	–	2,880	2,880
211	9,548	–	9,548
Subtotal	202,892	99,001	301,893
Statewide total	2,416,699	1,003,421	3,420,120

IV. California's Land use Planning Schedules

Wilderness studies are being considered during FY–81 as part a of the following District Land Use Planning efforts.

Bakersfield District

Planning Units:		
South Sierra Foothills	FY–81/83	8 WSA's.
Joint Forest Service Planning	FY–8183/	22 WSA's.
Bodie-Coleville	FY–80/82	10 WSA's.
Susanville District:		
None.		
Redding District:		
Redding	FY–81/83	6 WSA's
Ukiah District.		
Big Butte/Joint Forest Service	FY–81/82	1 WSA.
Clear Lake Resource Area (tentative)	FY–81/83	2 WSA's.
California Desert District:		
East San Diego County	FY–79/81	5 WSA's.
California Desert Plan	FY–81	137 WSA's.

As identified in earlier wilderness reports, wilderness studies will be conducted by Each District Office as part of their ongoing Land Use Planning Program. Individuals interested in participating in the planning efforts should notify the appropriate District Office.

Districts

Bureau of Land Management
Bakersfield District Office
800 Truxtun Ave., Rm. 311
Bakersfield, CA 93301

Bureau of Land Management
Redding District Office
355 Hemstead Drive
Redding, CA 96002

Bureau of Land Management
California Desert District Office
1695 Spruce Street
Riverside, CA 92507

Bureau of Land Management
Susanville District Office
Post Office Box 1090
Susanville, CA 96130

Bureau of Land Management
Ukiah District Office
Post Office Box 940
555 Leslie Street
Ukiah, CA 95482

Ronald D. Hofman,

Acting State Director, California.

[FR Doc. 80–35089 Filed 11–13–80

BILLING CODE 4310–84–M

Colorado; Final Intensive Wilderness Inventory Decision and Commencement of Protest Period on Intensive Wilderness Inventory

I hereby announce my final intensive wilderness inventory decision under the authority of Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579) and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, change 3. This notice also announces a protest period on my final intensive wilderness inventory decision which begins on the date of this announcement and ends December 15, 1980.

By publication in the **Federal Register,** Vol. 45, No. 23, Friday, February 1, 1980, pages 7312–7315, the BLM announced the beginning of a 90-day public review and comment period on the 117 intensive wilderness inventory units in Colorado encompassing approximately 1,316,800 acres. During the public comment period, 12 public workshops were held. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before a final decision was made, were treated equally. They have been read, recorded, analyzed, evaluated and where appropriate, field checked. The final intensive wilderness inventory documentation, including all public comments, is contained in permanent documentation files located in the BLM Colorado State Office and in the appropriate BLM District Offices as listed in this announcement. A summary report, including statewide and area specific maps on the final intensive wilderness inventory, is available at no cost upon request from: Wilderness, Colorado State Office, Bureau of Land Management, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202.

Final Intensive Wilderness Inventory Decision

1. These units are identified as Wilderness Study Areas (WSA).

A. Units proposed as WSAs in the February 1, 1980 **Federal Register** notice:

Craig District

Unit No.	Acreage	Unit name
CO–010–001**	11,777	Bull Canyon.
CO–010–002	13,368	Willow Creek.
CO–010–003	13,740	Skull Creek.
CO–010–007A*	9,932	Black Mountain.
CO–010–007C	12,274	Windy Gulch.
CO–010–046	17,740	Oil Spring Mountain.
CO–010–155	8,250	Troublesome.
CO–010–208**	14,352	Cold Springs West.
CO–010–214**	31,480	Diamond Breaks.
CO–010–230	14,081	Cross Mountain.

Craig District Subtotal: 10 units; 146,994 acres.

*Portions of unit CO–010–007B, Berry Point, are now included in this unit.

**Portions of units CO–010–001, CO–010–208 and CO–010–214 extend into the Utah Vernal District; only those acres of the units located in the Craig District are listed here.

Montrose District

Unit No.	Acreage	Unit name
CO–030–053A	2,440	Steers Gulch.
CO–030–057	6,070	Willow Creek.
CO–030–063	2,520	Dillon Mesa.
CO–030–085	350	Bill Hare Gulch.
CO–030–086	880	Larson Creek.
CO–030–088	1,120	Sparling Gulch.
CO–030–089	50,140	Powderhorn ISA.
CO–030–208	32,800	Red Cloud Peak.
CO–030–211	1,640	Slumgullion Slide.
CO–030–213	720	Friends Creek.
CO–030–217	3,400	American Flats.
CO–030–229A	5,780	West Needles Contiguous.
CO–030–229B	4,200	Needle Creek.
CO–030–230B	5,640	Whitehead Gulch.
CO–030–238B	1,840	Weminuche Contiguous.

Montrose District—Continued

Unit No.	Acreage	Unit name
CO–030–241	16,100	Handies Peak.
CO–030–251	7,360	Menefee Mountain.
CO–030–252	6,320	Weber Mountain.
CO–030–265**	8,440	Cross Canyon.
CO–030–265A**	4,680	Squaw/Papoose Canyons.
CO–030–265D**	8,385	Cahone Canyon.
CO–030–286	21,900	McKenna Peak.
CO–030–290	25,550	Dolores River Canyon.
CO–030–300	7,270	Tabeguach Creek
CO–030–310A*	1,660	Sewemup Mesa.
CO–030–332	400	Baldy Peak Contiguous.
CO–030–353	10,900	Camel Back.
CO–030–363*	43,810	Dominguez Canyon.
CO–030–370A	6,690	Kannah Creek Contiguous.
CO–030–370B	10,560	Adobe Badlands.
CO–030–338	19,560	Gunnison Gorge.

Montrose District Subtotal: 31 units; 319,125 acres.

*Portions of units CO–030–310A and CO–030–363 extend into the Colorado Grand Junction District; only those acres of the units located in the Montrose District are listed here.

**Portions of units CO–030–265, CO–030–265A and CO–030–265D extend into the Utah Moab District; only those acres of the units located in the Montrose District are listed here.

Canon City District

Unit No.	Acreage	Unit name
CO–050–002	6,614	Browns Canyon.
CO–050–013	16,800	McIntyre Hills.
CO–050–014	11,700	Lower Grape Creek.
CO–050–016	26,150	Beaver Creek.
CO–050–017	10,200	Upper Grape Creek.
CO–050–131	2,300	Black Canyon.
CO–050–132B	870	South Piney Creek.
CO–050–135	1,644	Sand Castle.
CO–050–137	1,020	Papa Keal.
CO–050–139B	720	Zapata Creek.
CO–050–141	10,240	San Luis Hills.

Canon City District Subtotal: 11 units; 88,258 acres.

Grand Junction District

Unit No.	Acreage	Unit name
CO–070–009	21,050	Demaree Canyon.
CO–070–066	26,525	Little Bookcliffs Wild. Horse Area.
CO–070–103	4,250	Kannah Creek.
CO–070–103A	2,100	Nannah Creek North.
CO–070–113	18,150	Black Ridge Canyons.
CO–070–113A**	49,190	Black Ridge Canyons West.
CO–070–132	26,050	The Palisade.
CO–070–150*	31,990	Dominguiz Canyon.
CO–070–176*	17,480	Sewemup Mesa.
CO–070–392	330	Eagle Mountain.
CO–070–425	3,360	Hack Lake.
CO–070–430	15,000	Bull Gulch.
CO–070–433	11,940	Castle Peak.

Grand Junction District Subtotal: 13 units; 227,415 acres.
Grand Total for Colorado: 62 WSA units; 781,462 acres.

*Portions of units CO–070–150 and CO–070–176 extend into the Colorado Montrose District; only those acres of the units located in the Grand Junction District are listed here.

**Portions of unit CO–070–113A extend into the Utah Moab District; only those acres of the unit located in the Grand Junction District are listed here.

B. Units proposed to be dropped in the February 1, 1980 **Federal Register** notice but returned to WSA due to further evaluation of public comments by the BLM:

Craig District

Unit No.	Acreage	Unit name
CO–010–224	4,300	Dinosaur Adjacent-North.
CO–010–224A	1,320	Dinosaur Adjacent-North.
CO–010–226	4,880	Dinosaur Adjacent-North.

Craig District—Continued

Unit No.	Acreage	Unit name
CO–010–228	5,200	Dinosaur Adjacent-North.
CO–010–229D	6,900	Dinosaur Adjacent-North.

Craig District Subtotal: 5 units; 22,640 acres.
Grand Total for Colorado: 5 units; 22,640 acres.

2. These units are no longer subject to wilderness review because they were found to lack wilderness characteristics.

A. Units proposed to be dropped in the February 1, 1980 **Federal Register** notice:

Craig District

Unit No.	Acreage	Unit name
CO–010–006B	8,778	Pinyon Ridge.
CO–010–00N1	110	Dinosaur Adjacent-South.
CO–010–00N2	80	Dinosaur Adjacent-South.
CO–010–00N3	320	Dinosaur Adjacent-South.
CO–010–00N4A	240	Dinosaur Adjacent-South.
CO–010–00N4B	4,100	Dinosaur Adjacent-South.
CO–010–00N4C	1,600	Dinosaur Adjacent-South.
CO–010–00N4D	1,200	Dinosaur Adjacent-South.
CO–010–00N4E	4,500	Dinosaur Adjacent-South.
CO–010–00N5	560	Dinosaur Adjacent-South.
CO–010–00N6	3,800	Dinosaur Adjacent-South.
CO–010–168	9,870	Drowsy Water.
CO–010–178	9,590	Yarmony Mountain.
CO–010–208E	8,740	Limestone.
CO–010–210	6,600	Irish Canyon.
CO–010–210D	16,960	Douglas Draw.
CO–010–218	8,230	Dinosaur Adjacent-North.
CO–010–218A	1,900	Dinosaur Adjacent-North.
CO–010–227	240	Dinosaur Adjacent-North.
CO–010–271/N6B	4,800	Dinosaur Adjacent-North.
UT–080–104*	4,650	Wild Mountain.
UT–080–110*	10,769	Hoy Mountain.
UT–080–114	2,071	Pot Creek.

Craig District Subtotal: 23 units; 109,708 acres.

*Portions of units UT–080–104 and UT–080–110 are located in the Colorado Craig District and the Utah Vernal District; only those acres of the units located in the Craig District are listed here.

Montrose District

Unit No.	Acreage	Unit name
CO–030–210	5,980	Rambouillet Park.
CO–030–212	80	Waterdog Lake.
CO–030–253	720	Mesa Verde Contiguous.
CO–030–262	6,240	Hamilton Mesa.
CO–030–263*	13,410	Rare Lizard and Snake ISA.

Montrose District Subtotal: 5 units; 26,430 acres.

*Portions of unit CO–030–263 extend into the Utah Moab District; only those acres of the unit in the Montrose District are listed here.

Canon City District

Unit No.	Acreage	Unit name
CO–050–010	12,950	Bear Mountain.
CO–050–140	9,114	Flat Top.
CO–050–142	12,900	Twin Peaks.

Canon City District Subtotal: 3 units; 34,964 acres.

Grand Junction District

Unit No.	Acreage	Unit name
CO–070–001*	10,200	Prairie Canyon.
CO–070–015	17,500	Cow Ridge.
CO–070–015A	13,005	Hunter Canyon.
CO–070–015B	12,810	Garvey Canyon.
CO–070–031	28,860	South Shale Ridge.
CO–070–130	21,500	Bangs Canyon.
CO–070–130A	8,000	Rough Canyon.

Grand Junction District—Continued

Unit No.	Acreage	Unit name
CO–070–132A*	12,280	Granite Creek.
CO–070–132B*	6,720	Renegade Creek.
CO–070–138	8,900	West Unaweep.
CO–070–150A	11,600	Gunnison River.
CO–070–316	9,000	Grand Hogback.
CO–070–338	7,000	Storm King.
CO–070–372	8,800	Thompson Creek.
CO–070–421	15,518	Pisgah Mountain.

Grand Junction District Subtotal: 15 units; 191,693 acres.
Grand Total for Colorado: 46 units; 362,795 acres.

*Portions of units CO–070–001, CO–070–132A and CO–070–132B extend into the Utah Moab District; only those acres in the Grand Junction District are listed here.

B. Units proposed as WSAs in the February 1, 1980 **Federal Register** notice but have been found to lack wilderness characteristics after further evaluation of public comments by the BLM.

Canon City District

Unit No.	Acreage	Unit name
CO–050–033	160	Crystal Falls.

Canon City District Subtotal: 1 unit; 160 acres.
Grand Total for Colorado: 1 unit; 160 acres.

Grand totals presented in section 2 of this announcement do not reflect numerous boundary adjustment acreages found not to contain wilderness characteristics in intensive inventory units identified as WSAs. The following decision chart reflects both entire intensive inventory units not identified as WSAs and also boundary adjustment acreages found not to contain wilderness characteristics in units identified as WSAs.

Final Intensive Inventory Decision Summary

District	Identified as WSA		Not identified as WSA	
	Units	Acres	Units	Acres
Craig	15	169,634	24	147,330
Montrose	31	319,125	5	86,905
Canon City	11	88,258	4	34,920
Grand Junction	13	227,415	15	241,217
Total	70	804,432	48	512,372

A 5,040-acre portion of unit CO–070–031, South Shale Ridge, is under formal appeal to the Interior Board of Land Appeals (IBLA) as a result of the final initial wilderness inventory decision as released through **Federal Register** notice December 13, 1979. This portion of unit CO–070–031 will be subject to BLM's *Interim Management Policy and Guidelines for Lands Under Wilderness Review* (IMP) until the IBLA issues a final decision. The IMP guidelines will remain in effect on all units remaining under wilderness review which are under appeal or identified as WSAs.

V 45 N 0 14 0 80 UMI

The final intensive wilderness inventory decisions will become effective on *December 15, 1980.*

Protest and Appeal Procedures

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. These decisions will become effective on *December 15, 1980* unless timely protests are received by the Colorado State Director.

Persons wishing to protest any of the decisions announced herein must file a written protest with the Colorado State Director, Colorado State Office, Bureau of Land Management, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202, on or before 4:00 p.m., December 15, 1980. Only those protests received by the Colorado State Office by the time and date specified will be accepted.

The protest must specify the inventory unit to which it is directed. It must include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and therefore have become final, and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest may appeal such decision under the provisions of 43 CFR Part 4.

Additional Information

Information on the wilderness review process and inventory units can be obtained by contacting BLM personnel at the following locations:

Canon City District Office, 275–7494, 3080 East Main Street, Canon City, Colorado 81212; District Manager: Mel Clausen. Wilderness Specialist: Ken Smith.

Craig District Office, 824–3417, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625; District Manager: Marvin Pearson. Wilderness Specialist: Vaughn Baker.

Grand Junction District Office, 243–6552, 764 Horizon Drive, Grand Junction, Colorado 81501; District Manager: Dave Jones. Wilderness Specialist: Wade Johnson.

Montrose District Office, 249–7791, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81402; District Manager: Marlyn Jones. Wilderness Specialist: Jon Sering.

In Denver contact: Colorado State Office, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202; State Wilderness Coordinator: Harold Belisle, 837–3393.

Dated: November 14, 1980.

Charles W. Luscher,

Acting State Director, Colorado, Bureau of Land Management, Denver, Colorado.

[FR Doc. 80-34525 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Idaho Wilderness Intensive Inventory; Final Decision

I hereby announce my final intensive wilderness inventory decision for BLM lands in Idaho under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

By publication in the April 3, 1980, **Federal Register** pages 22195–22197, the BLM announced the beginning of a 90-day public review and comment period on 107 intensive inventory units encompassing approximately 1,924,000 acres. The public comment period ended on July 3, 1980. During the public comment period, 18 public meetings (workshops, open houses) were held. The proposed decision for the Jim Sage Units was published in the June 4, 1980, **Federal Register**, pages 37738–37739, which initiated a 90–day comment period, ending on September 2, 1980. During the comment period, one open house session was held. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before a final decision was made, were treated equally. They have been read, recorded, analyzed, and, where appropriate, field checked. The final intensive wilderness inventory report, including maps, is available upon request from the Idaho State Office of the BLM.

Final Intensive Inventory Decision

Units Identified As WSA's

Units proposed as WSA's in the April 3, 1980, **Federal Register** notice:

		Acres
17–11	Jarbidge River	75,340
110–91a	Box Creek	428
111–6	Little Jack's Creek	58,040

		Acres
111–7c	Big Jack's Creek	54,833
111–17	Bruneau River	107,020
111–18	Pole Creek	24,509
111–38a	Sheep Creek West	11,680
	Boise district total	331,850
28–1	Petticoat Peak	11,298
	Burley district total	11,298
31–14	Appendicitis Hill	24,870
32–17	White Knob Mountains	9,950
32–3	Hawley Mountains	15,510
32–9	Black Canyon	5,400
33–4	Cedar Butte	35,700
33–15	Hell's Half Acre	86,200
	Idaho Falls district total	157,630
43–3	Eighteen Mile	24,922
45–12	Burnt Creek	24,980
47–4	Borah Peak	3,100
	Salmon district total	53,002
54–5	Little City of Rocks	5,875
54–6	Black Canyon	10,371
54–8a	Gooding City of Rocks	14,743
54–8b	Gooding City of Rocks	6,287
54–10	Deer Creek	7,487
56–2	Lava	23,680
57–2	Shale Butte	15,968
57–8	Sand Butte	20,792
57–10	Raven's Eye	67,110
57–11	Little Deer	33,531
57–14	Bear Den Butte	9,700
59–7	Shoshone	6,914
	Shoshone district total	222,458
61–1	Silkirk Crest	720
61–10	Crystal Lake	9,027
61–15a	Grandmother Mountain	10,339
61–15b	Grandmother Mountain	6,790
62–1	Snowhole Rapids	5,068
62–10	Marshall Mountain	6,524
	Coeur d'Alene district total	38,468
	Total	814,706

Unit proposed to be dropped in the April 3, 1980, FEDERAL REGISTER notice now identified as a WSA after further evaluation of public comments:

17–10	Lower Salmon Falls Creek (located in both Boise and Burley Districts)	3,500

Units no longer subject to wilderness review because of a lack of wilderness charactenstics.

Unit proposed as a WSA in the April 3, 1980, FEDERAL REGISTER notice, now dropped after evaluation of public comments:

62–2	Confluence (Located in Coeur d'Alene District)	5,110

Units proposed to be dropped in the April 3, 1980, FEDERAL REGISTER notice:

		Acres
11–17	Outcrop	6,420
14–19	Long Tome Creek	13,226
14–21	Bennett Creek	11,162
16–2	Jump Creek	8,301
16–9	Reynolds Creek Canyon	14,650
16–49c	Squaw Meadows	10,316
17–1a	Lookout Butte	20,077
17–1b	East Fork Bruneau River	10,178
17–6	Dry Lakes	26,208
17–7	Clover Crossing	6,314
17–10	Lower Slamon Falls Creek[1]	18,787
17–11	Jarbridge River[1]	35,670
17–12	Poison Creek	13,532
18–1	Wildhourse	7,472
19–1	Cold Springs Creek	21,380
111–5	Poison Gulch	30,742
111–6	Little Jack's Creek[1]	16,879
111–7a	Big Hill	12,924
111–7b	Duncan Creek	10,005
111–7c	Big Jack's Creek[1]	10,301
111–12	Sheep Trail	19,702
111–17	Bruneau River[1]	27,042
111–18	Pole Creek[1]	7,247
111–19a	Camas Creek	19,347
111–19b	Bull Gulch	33,150
111–20a	Big Springs	5,342
111–20b	Upper Battle Creek	17,787
111–21	Bull Basin	17,625
111–36a	Sheep Creek West[1]	3,696
111–36b	Sheep Creek East	12,412
	Boise district total	467,894
23–1a	Jim Sage[2]	6,901
23–1b	Jim Sage[2]	7,010
26–1	Hamzel Mountain	20,615
26–3	South Samana	6,615
27–1	South Deep Creek	9,609
27–2	Deep Creek Peak	6,648
28–1	Petticoat Peak[1]	1,748
	Burley district total	59,144
31–10	Illinois	11,150
31–11	Deadman Canyon	23,000
31–13	Timbered Dome	10,240
31–14	Appendicitis Hill[1]	630
31–15	Dry Hollow	17,800
32–2	Sands Canyon	8,010
32–3	Hawley Mountain[1]	640
32–4	Taylor Mountain	11,134
32–16	Pass Creek	1,220
33–4	Cedar Butte[1]	3,120
33–5	Skull	8,650
33–6	Rye Grass	8,000
33–7	Cottontail	9,300
33–12	Split Top	18,080
33–13	Bear Point	20,650
33–14	Mosby Butte	35,720
33–15	Hell's Half Acre[1]	2,720
33–16	Morgan	9,420
33–22	Cox's Place	12,790
33–23	Bear Trap	13,860
33–24	Firth Quad Islands	86
33–25	Moreland Quad Islands	807
	Idaho Falls district total	227,027
41–3	Geertson Creek	10,720
42–6	Baldy Basin	10,720
44–2	King Mountain	12,602
44–3	Hat Creek	9,707
44–4	Ellis Creek	28,040
44–9	Crouks Canyon	7,470
45–5	Mill Creek	1,330
45–12	Burnt Creek[1]	5,130
47–4	Borah Peak[1]	780
	Salmon district total	86,499
54–3	Preacher Creek	8,827
54–4	Rattlesnake Canyon	11,355
54–5	Little City of Rocks[1]	95
54–6	Black Canyon[1]	10,589
54–7	Four Mile Bench	7,542
54–8	Cooding City of Rocks[1]	2,440
54–9	Clover Creek	8,455
54–10	Deer Creek[1]	1,394
54–11	Indian	16,968
54–12	Dempsey Creek	23,644
54–13	Forgotten Hills	9,420
56–2	Lava[1]	1,913
57–2	Shale Butte[1]	5,930
57–3	Antelope	12,271
57–4	Balck Ridge Crater	8,138
57–5	Lone Rock	10,934
57–6	Wildhorse	21,544

		Acres
57–7	Pagari	33,116
57–8	Sand Buttle[1]	15,953
57–10	Ravens Eye[1]	190
57–11	Little Deer[1]	9,443
57–12	Laidlaw Buttle	9,868
57–13	Potter Butte	16,180
57–14	Bear Den Butte[1]	4
57–15	Point	7,398
57–16	MacRae Lake	7,876
59–7	Shoshone[1]	3,014
	Shoshone district total	264,501
61–1	Selkirk Crest[1]	440
61–6c	Hideaway Island	170
61–9	Rochat Creek	6,960
62–1	Snowhole Rapids[1]	238
62–4	Big Canyon	1,100
62–10	Marshall Mountain[2]	966
	Coer d'Alene district total	9,874
	Total	1,114,939

[1] Portions of these units are also identified as WSA's.
[2] Jim Sage proposed decision was announced in the June 4, 1980, **Federal Register** notice.

Acreage Summary

Total acres inventoried	11,949,386
Acres dropped during initial inventory phase	8,288,943
Acres considered under intensive inventory phase	3,660,443
Intensive inventory decision	
Previous decisions	
Acres droped	695,775
Acres identified as wilderness study areas	773,999
Current decisions	
Acres proposed to be dropped	1,120,049
Acres proposed as wilderness study areas	818,206
Acres-decision deferred due to appeals	252,414

The inventory units listed below are under formal appeal to the Interior Board of Land Appeals (IBLA) as a result of the final initial inventory decisions. These inventory units will be subject to Interim Management Policy and Guidelines (IMP) until the IBLA issues a final decision.

16–48a Spring Creek
16–48b Owyhee River
16–48c Little Owyhee River
16–53 South Fork Owyhee River
16–56a Upper Little Owyhee River
16–59 Juniper Basin
16–70e Oregon Butte
17–19 Upper Bruneau River
17–21 Jarbidge Addition
17–26 Salmon Falls Creek
22–1 Little Goose Creek
35–3 Sand Mountain
35–4 Black Knoll
35–5 Big Elandy

The final decision on the following previously identified Wilderness Study Areas is also under appeal to IBLA.

		Acres
46–11	Corral-Horse Basin	51,500
46–13	Boulder Creek	2,573
46–14	Jerry Peak	46,000
46–14a	Jerry Peak West	15,000

Protest and Appeal Procedures

The final intensive inventory decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. These decisions will become effective on December 15, 1980, unless timely protests are received by the Idaho State Director of the Bureau of Land Management.

Persons wishing to protest any of the decisions announced herein must file a written protest with the BLM Idaho State Director, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724, on or before 4:15 p.m., December 15, 1980. Only those protests received by the Idaho State Director by the time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed. It must include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and therefore have become final, and those decisions which are under formal protest, which will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest, may appeal such decision under the provisions of 43 Code of Federal Regulations (CFR), Part 4.

Dated: November 5, 1980.

Guy E. Baier,

Idaho State Director, Bureau of land Management.

[FR Doc. 80–35236 Filed 11–13–80; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Wilderness Inventory Owyhee Protest Decision

The final decision on the Owyhee wilderness intensive inventory in the Boise District, as announced in the January 16, 1980, **Federal Register**, pages 3113 and 3114, indicated that ten inventory units possessed wilderness characteristics and were identified as Wilderness Study Areas (WSA's).

During the protest period which ended February 15, 1980, a number of protest letters were received, protesting the identification of all ten of the WSA's. Several protests were also received on the decision to drop four units lacking in wilderness characteristics.

Analysis and field checking of comments has resulted in the following units remaining identified as WSA's:

		Acres
16–40	North Fork Owyhee River	55,147
16–41	Horsehead Spring	6,211
16–42	Squaw Creek Canyon	11,379
16–44	Deep Creek—Nickel Creek	11,510
16–45	Middle Fork Owyhee River	13,336
16–47	West Fork Red Canyon	[1] 12,882
16–49a	Deep Creek—Owyhee River	[2] 72,083
16–49d	Yatahoney Creek	9,331
16–49e	Battle Creek	[3] 31,540
16–52	Upper Owyhee River	12,682

[1] Unit 16–47 is reduced by 1,828 acres due to exclusion of two areas that are impacted by roads and fences.
[2] Unit 16–49a shows a net increase of 80 acres due to boundary adjustments for areas impacted by roads/ways and fences, and adjustments that more correctly identify a portion of the boundary by legal subdivisions.
[3] Unit 16–49e remains the same acreage, however, a short dead end road has been added to the boundary.

Analysis and field checking has resulted in no change in the decision for Units 16–26, 16–28, 16–36, and 16–49b; the units remain identified as lacking in wilderness characteristics.

This final decision on the Owyhee area is now subject to appeal. Appeals to the Interior Board of Land Appeals (IBLA) will be processed in accordance with the policy and procedures in Title 43 *Code of Federal Regulations* (CFR), Part 4 and as amended in 45 FR 5713.

For further information on the Owyhee area inventory, contact the Boise District Office or the Idaho State Office of the BLM.

Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724.

Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

Dated: November 5, 1980.

Guy E. Baier,

Idaho State Director, Bureau of Land Management.

[FR Doc. 80–35237 Filed 11–13–80; 8:45 am]

BILLING CODE 4310–84–M

Montana Wilderness Inventory, Final Intensive Inventory Decision; Miles City and Lewistown Districts

October 31, 1980.

I hereby announce my final intensive inventory decision for the Miles City and Lewistown BLM Districts under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

By publication in the March 28, 1980, **Federal Register**, pages 20570 and 20571, the Montana Bureau of Land Management announced the beginning of a 90-day public review and comment period on the 138 inventory units encompassing approximately 1,847,653 acres in the Miles City and Lewistown Districts. The public comment period was later extended to August 30, 1980. During the public comment period, 10 public meetings (open houses) were held. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before a final decision was made, were treated equally. Comments have been read, recorded, analyzed, and where appropriate, field checked. The final intensive wilderness inventory report, including maps, is available upon request from the Bureau of Land Management, Office of Public Affairs, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

Final Intensive Inventory Decision

1. These units are identified as wilderness study areas.

A. Units proposed as WSA's in the March 28, 1980, **Federal Register** notice.

Miles City District

Unit name and number	WSA designated acreage	Acreage dropped
Billy Creek MT–024–633	3,480	
Seven Blackfoot MT–024–657	19,677*	123*
Bridge Coulee MT–024–675	5,650	
Musselshell Breaks MT–024–677	8,050	
Zook Creek MT–027–701	8,440*	1,280*
Buffalo Creek MT–027–702	5,650*	2,290*

Miles City District—Continued

Unit name and number		Acreage
Tongue River Breaks Contiguity MT–027–736	1,484*	520*
Total—Miles City District	52,431	4,213
Lewistown District		
Pryor Mountain MT–067–206	MT 12,575*	1,140*
	WY 4,352	
Big Horn Tack-On MT–067–207	MT 4, 470*	
	WY 80	
Twin Coulee MT–067–212	6,870	
Two Calf Creek MT–068–231	8,500*	6,500*
Dog Creek South MT–068–244	5,230*	6,520*
Stafford MT–066–250	4,700*	2,477*
Ervin Ridge MT–066–253	12,000*	10,527*
Cow Creek MT–066–256	36,200*	34,913*
Antelope Creek MT–065–266	9,400*	12,100*
Burnt Lodge/Sage Creek MT–065–278	15,000*	51,460*
Total—Montana Lands, Lewistown District	114,945	125,637
Total—Wyoming Lands (Interstate Units)	4,432	
Total—Lewistown District	119,377	125,637
Grand Total, Lewistown and Miles City Districts	171,808	129,850

*Acreage changes due to boundary modifications between proposed intensive inventory decision and final intersive inventory decision.

2. These units are no longer subject to wilderness review because they were found to lack wilderness characteristics.

A. Units proposed to be dropped in the March 28, 1980, **Federal Register** notice.

Miles City District

Unit name and number	Acreage
Yellowstone Island MT–024–610	5
Yellowstone Island MT–024–611	4
Yellowstone Island MT–024–612	2
Missouri River Island MT–024–617	617
East Bridge Coulee MT–024–632	7,300
Cabin South MT–024–634	7,030
Timber Creek MT–024–635	6,500
Lone Tree-Ash MT–024–642	19,040
Sand Arroyo MT–024–643	6,990
Jack Creek MT–024–645	9,720
McGuire Creek MT–024–646	13,440
Germaine Coulee MT–024–648	5,065
S. Fork Little Squaw Creek MT–024–649	16,400
Jack Lane Coulee MT–024–650	8,540
Lodgepole Creek MT–024–652	7,580
North Squaw Creek MT–024–653	6,840
Squaw Creek MT–024–654	7,070
Maloney Hill MT–024–661	17,120
Crooked Creek MT–024–662	6,530
Woody Flat MT–024–665	9,800
Cairn Butte MT–024–671	5,270
Newhouse Coulee MT–024–676	9,000
Lisk-Cherry MT–024–679	6,150
Brackett Creek MT–024–685	7,130
Stellar Creek MT–024–691	5,100
E. Hell Creek-Crooked Creek MT–024–699	160
Buck Creek MT–027–703	7,280
Rough Creek MT–027–704	5,280
Dry Creek MT–027–709	9,200
Spring Creek MT–027–710	9,960
Lone Tree MT–027–711	43,870
Corral Creek MT–027–712	37,480
Muskrat MT–027–714	7,480

Miles City District—Continued

Unit name and number	Acreage
Prairie Dog MT–027–716	40,025
Beaver Dam MT–027–717	MT 10,040
	SD 4,000
Indian Creek MT–027–718	MT 16,540
	SD 600
Owl Creek MT–027–719	MT 12,667
	WY 2,000
Fence Creek MT–027–721	MT 4,220
	WY 1,900
Cottonwood MT–027–723	6,520
Dixon-Deep MT–027–728	5,760
Willow Creek MT–027–729	9,100
Whitetail MT 027–730	5,120
Crow MT–027–732	20,860
Deadman Creek MT–027–733	MT 6,476
	WY 3,084
Whitetail Creek MT–027–734	6,250
Total—Montana Lands, Miles City District	452,531
Total—South Dakota Lands, Miles City District	4,600
Total—Wyoming Lands (Interstate Units)	6,964
Total—Miles City District	464,095
Lewistown District	
Dry Creek MT–067–200	5,860
Deer Mountain MT–067–201	6,970
Bear Creek MT–067–204	MT 8,950
	WY 550
Yellowstone Island MT–067–210	302
Big Snowy Tack-Ons MT–067–211, MT–068–217	1,725
Middle Fork Judith Tack-On MT–068–216	145
Cottonwood/W. Cottonwood MT–068–221, 222	12,650
Blood Creek MT–068–223	20,100
Dovetail Creek MT–068–224	24,380
Arrow Creek MT–068–225	9,100
Fargo Coulee MT–068–228	5,000
Carter Coulee MT–068–229	5,760
Drag Creek MT–068–233	16,500
W. Crooked Creek MT–068–236	10,700
Horse Camp Trail MT–068–237	11,200
Chain Buttes MT–068–238	7,200
Fort Musselshell Tack-On "A" MT–068–240	1,200
Missouri River Island MT–068–243	917
Woodhawk Creek MT–068–247	5,820
Cummings Bench MT–066–251	6,280
Black Elk Coulee MT–066–252	9,700
Sand Creek MT–066–254	12,087
Bullwacker MT–066–255	40,851
Timber Ridge MT–066–258	8,000
Wild Horse Lake MT–066–261	11,453
Woody Island Coulee MT–066–264	23,035
Cyprian Creek MT–065–268	6,900
Beauchamp Creek MT–065–274	30,400
Indian Lake MT–065–275	20,600
Dry Fork Creek MT–065–280	16,000
Third Creek MT–065–282	31,660
Flat Creek MT–065–290	29,760
Beaver Creek MT–065–297	19,700
Black Coulee MT–065–303	8,360
Lamere Coulee MT–065–304	37,100
Frenchman Creek W. MT–065–320	13,700
E. Beauchamp Tack-On MT–065–365	960
Beauchamp Tack-On MT–065–366	2,680
Wagon Coulee Tack-On MT–064–325	560
Carpenter Creek MT–064–326	10,000
Duck Creek MT–064–328	6,400
Gumbo Plateau MT–064–329	18,200
South Fork Willow Creek MT–064–331	10,840
Grant Coulee MT–064–337	66,960
Pearson Coulee MT–064–338	23,840
Hurricane MT–064–340	6,680
Coyote Creek MT–064–342	22,430
Moss Coulee MT–064–343	20,160
Sage Hen MT–064–346	7,540
Seventh Parallel MT–064–347	6,660
North Fork Brazil Creek MT–064–348	7,960

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Miles City District—Continued

Unit name and number	Acreage
S. Fork Antelope Creek MT–064–350	6,160
Antelope Creek MT–064–352	15,840
Willow Creek MT–064–357	39,040
E. Fork Crow Creek MT–064–360	24,940
Little Flat MT–064–361	13,940
Total—Montana Lands, Lewistown District	792,075
Total—Wyoming Lands (Interstate Units)	550
Total—Lewistown District	792,625
Grand Total, Miles City and Lewistown Districts	1,256,720

B. Units proposed as WSA's in the March 28, 1980, **Federal Register** notice, but have been found to lack wilderness characteristics after further evaluation of public comments.

Miles City District

Unit name and numbers	Acreage
Cheyenne Island MT–024–613	132
Yellowstone Island MT–024–614	31
Yellowstone Island MT–024–615	147
Seven Sisters Island MT–024–616	83
Deadhorse Badlands MT–027–715	26,140
Total—Miles City District	26,533
Lewistown District	
Burnt Timber Canyon MT–067–205	MT 10,438
	WY 120
Arnell's Creek MT–068–227	18,750
Reed Coulee MT–068–232	10,430
Chimney Bend MT–068–245	16,700
Woodhawk MT–068–246	17,000
The Wall MT–066–249	12,200
Box Elder Creek MT–065–277	15,500
Little Rockies MT–065–286	6,900
Square Creek MT–064–323	10,800
Caravan MT–064–330	5,580
Marsh Hawk Hills MT–064–336	78,340
Crow Creek MT–064–358	7,054
Frenchman Creek East MT–064–359	49,094
Total—Montana Lands, Lewistown District	258,786
Total—Wyoming Lands (Interstate Unit)	120
Total—Lewistown District	258,906
Grand Total—Miles City and Lewistown Districts	285,439

Inventory Units Under Formal Appeal

The inventory units listed below are under formal appeal to the Interior Board of Land Appeals (IBLA) as a result of the accelerated Overthrust Belt Inventory decision (Butte District, Montana). These inventory units will be subject to the BLM Wilderness Interim Management Policy and Guidelines until the IBLA issues a final decision.

Butte District

Unit name and number	Acreage
Ruby Mountains MT–076–001	32,000
Blacktail Mountains MT–076–002	21,450
Blacktail Mountains West MT–076–003	2,130
East Fork, Blacktail Deer Creek MT–076–007	6,180
Lima Reservoir MT–076–011	5,360
Hidden Pasture Creek MT–066–022	15,475
McCartney Mountain/Sandy Hollow MT–076–025	16,380

Butte District—Continued

Unit name and number	Acreage
Bell/Limekiln Canyon MT–076–026	22,729
Henneberry Ridge MT–076–028	37,700
Farlin Creek MT–076–034	1,340
Block Mountain MT–076–058	6,700
Axolotl Lakes MT–076–069	7,444
Missouri River Island MT–075–123	22

Lewistown District

The following inventory unit was designated a WSA as a result of the Northern Border accelerated inventory.

Bitter Creek MT–064–356	78,634
Total—Montana Acreage Under Formal Appeal	253,544

Protest and Appeals Procedure

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit.

Persons wishing to protest any of the decisions announced herein must file a written protest with: Montana State Director (931), Bureau of Land Management, P.O. Box 30157, 222 North 32nd Street, Billings, Montana 59107.

Protests must be filed with the Montana State Director by 4:30 p.m., December 31, 1980. No specific forms need be used in filing a protest; however, protests must be identified as follows:

"PROTESTS TO MONTANA STATE DIRECTOR'S FINAL WILDERNESS INVENTORY DECISION."

Protests should address specific inventory unit(s) and must include a clear and concise statement of reasons for the protest, including any supporting documents available. Should any protests be filed on any inventory units, the State Director will consider such protests and issue a written decision. If a particular decision remains unchanged, the individual filing the protest has the right of appeal to the Interior Board of Land Appeals under the provisions of the Code of Federal Regulations 43, Part 4.

This decision will become effective at 4:30 p.m., December 31, 1980, (close of protest period) for all inventory units on which no protest was filed. A **Federal Register** and media notice, as well as a mailing to all individuals on the Montana BLM wilderness mailing list, will be made announcing this fact after the close of the protest period. The notice will also identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The Montana State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Michael J. Penfold,

State Director.

[FR Doc. 80-34618 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

New Mexico Wilderness Inventory

November 14, 1980.

AGENCY: Bureau of Land Management.

ACTION: Notice of final intensive wilderness inventory decisions.

SUMMARY: The New Mexico State Director of the Bureau of Land Management announces his final intensive wilderness inventory decision under the authority of Section 603 of the Federal Land Policy and Management Act (FLPMA) and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

By publication in the March 28, 1980 **Federal Register**, pages 20572–20574, the BLM announced the beginning of a 92-day public review and comment period on the 100 intensive inventory units encompassing approximately 2,213,339 acres. The public comment period was later extended an additional 21 days and ended on July 21. During the public comment period, ten public meetings and eight open houses were held. All comments, whether mailed in or presented at a public meeting in writing or verbally as well as any late comments received in time to be reviewed before a final decision was made, were read, recorded, analyzed and, where appropriate, field checked. The analysis did not involve "vote counting;" comments were analyzed for the information they contained relevant to the wilderness characteristics of specific units. Copies of the public comment analysis report and the final intensive wilderness inventory report, including maps, are available upon request from: WILDERNESS, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Final Intensive Wilderness Inventory Decision

Inventory Units Identified as Wilderness Study Areas

A. Units Proposed as WSA's in the March 28, 1980, **Federal Register** Notice.

BLM district	Name	Number	Acreage
Albuquerque	Ignacio Chavez	NM–010–020	32,248
Albuquerque	Chamisa	NM–010–021	11,091
Albuquerque	Cabezon	NM–010–022	7,235
Albuquerque	San Antonio	NM–010–035	[1]7,050
Albuquerque	Sabinosa	NM–010–055	15,780
Albuquerque	Navajo Peak	NM–010–059	7,750
Albuquerque	Empedrado	NM–010–063	8,419
Albuquerque	La Lena	NM–010–063A	9,359
Albuquerque	Manzano	NM–010–092	845
Total			99,757
Socorro	Rimrock	NM–020–007	29,430
Socorro	Sand Canyon	NM–020–006	8,320
Socorro	Little Rimrock	NM–020–009	9,540
Socorro	Pinyon	NM–020–010	13,160
Socorro	Petaca Pinta	NM–020–014	[1]12,400
Socorro	Sierra Ladrones	NM–020–016	[1]38,922
Socorro	Mesita Blanca	NM–020–018	[1]19,440
Socorro	Eagle Peak	NM–020–019	[1]43,520
Socorro	Veranito	NM–020–035	7,450
Socorro	Sierra Las Canas	NM–020–038	[1]11,000
Socorro	Horse Mountain	NM–020–043	5,140
Socorro	Continental Divide	NM–020–044	70,000
Socorro	Devils Backbone	NM–020–047A	8,820
Socorro	Devil's Reach	NM–020–047B	860
Socorro	Jornada Del Muerto	NM–020–055	[1]25,260
Total			303,262
Las Cruces	Cowboy Spring	NM–030–007	6,710
Las Cruces	Gila Box	NM–030–023	[1]7,980
Las Cruces	Blue Creek	NM–030–026	[1]13,584
Las Cruces	Cooke Range	NM–030–031	[1]19,870
Las Cruces	Big Hatchet Mountains	NM–030–035	[1]65,950
Las Cruces	Alamo Hueco Mountains	NM–030–038	20,840
Las Cruces	West Potrillo Mountains	NM–030–052	[1]150,545
Las Cruces	Aden Lava Flow	NM–030–053	24,725
Las Cruces	Organ Mountains	NM–030–074	[1]7,200
Las Cruces	Jornada Del Muerto	NM–030–081	3,659
Las Cruces	Sacramento Escarpment	NM–030–104B	3,510
Las Cruces	Bug Scuffle Canyon	NM–030–165	
Las Cruces	Brokeoff Mountains	NM–030–112	[1]28,600
Las Cruces	Little Dog Canyon	NM–030–114	7,053
	Pup Canyon	NM–030–115	
	Rim	NM–030–124	
Las Cruces	Culp Canyon	NM–030–152	10,937
Total			371,163
Roswell	Little Black Peak	NM–060–109	15,570
Roswell	Carrizozo Lava Flow	NM–060–110A	[1]11,000
Roswell	Mudgetts	NM–060–819/819A	2,941

Final Intensive Wilderness Inventory Decision—Continued

Inventory Units Identified as Wilderness Study Areas

A. Units Proposed as WSA's in the March 28, 1980, **Federal Register** Notice.

BLM district	Name	Number	Acreage
Total			29,511

[1] These units have undergone significant boundary adjustments.

B. Units Proposed to be Dropped in the March 28, 1980, **Federal Register** Notice, but Returned to WSA Due to Further Evaluation of Public Comments by the BLM.

BLM district	Name	Number	Acreage
Albuquerque	Ojito	NM–010–024	[1]11,200
Total			11,200
Socorro	Stallion	NM–020–040	[1]22,000
Total			22,000
Las Cruces	Cedar Mountains	NM–030–042	[1]16,680
Las Cruces	Robledo Mountains	NM–030–063	[1]11,640

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Final Intensive Wilderness Inventory Decision—Continued

Inventory Units Identified as Wilderness Study Areas

A. Units Proposed as WSA's in the March 28, 1980, **Federal Register** Notice.

BLM district	Name	Number	Acreage
Las Cruces	Las Uvas Mountains	NM-030-065	[1] 10,680
Total			39,000

[1] These units have undergone significant boundary adjustments.

Final Intensive Wilderness Inventory Decision

Inventory Units Being Deleted From Further Consideration as Wilderness

A. Units Proposed to be Dropped in the March 28, 1980, **Federal Register** Notice.

BLM district	Name	Number	Acreage
Albuquerque	San Ysidro	NM-010-012/013	9,250
Albuquerque	Chijuilla	NM-010-015	10,600
Albuquerque	Windmill	NM-010-033	9,447
Albuquerque	Cerro de la Olla	NM-010-036	13,283
Albuquerque	Seco	NM-010-056	6,550
Albuquerque	Rattlesnake	NM-010-090	381
Albuquerque	Simon	NM-010-091	273
Total			[1] 71,230
Socorro	Shoemaker	NM-020-027B	7,760
Socorro	Padilla	NM-020-051	24,800
Socorro	Lumbre	NM-020-056A	10,700
Socorro	Crawford Hollow	NM-020-056B	12,240
Socorro	Canyon	NM-020-061	8,300
Socorro	Big Yucca	NM-020-064	5,460
Socorro	Offspring	NM-020-065	3,600
Total			[1] 139,571
Las Cruces	Rodeo	NM-030-001	5,600
Las Cruces	Granite Gap	NM-030-006	25,860

Final Intensive Wilderness Inventory Decision—Continued

Inventory Units Being Deleted From Further Consideration as Wilderness

A. Units Proposed to be Dropped in the March 28, 1980, **Federal Register** Notice.

BLM district	Name	Number	Acreage
Las Cruces	Millsite Creek	NM-030-008	9,720
Las Cruces	Beacon Hill	NM-030-009	37,660
Las Cruces	Pyramids	NM-030-011	52,860
Las Cruces	UHL Draw	NM-030-012	23,120
Las Cruces	Redrock	NM-030-025	14,460
Las Cruces	Mud Springs Peak	NM-030-027	12,900
Las Cruces	High Lonesome	NM-030-029	12,640
Las Cruces	Sierra Rica Mountains	NM-030-036	28,120
Las Cruces	East Potrillo Mountains	NM-030-051	26,300
Las Cruces	Magdalena Peak	NM-0300.66	82,247
Las Cruces	Potter	NM-030-086	8,535
Las Cruces	Wind Mountain	NM-030-135	6,045
Las Cruces	Flat Top	NM-030-136	5,120
Las Cruces	Alamo Mountain	NM-030-137	5,090
Las Cruces	Cress Garden	NM-030-155	11,760
Total			[1] 932,295
	Texas Hill	NM-060-810E	5,740
	Jumigan	NM-060-802	4,800
Total			[1] 43,780

[1] District totals exclude portions of wilderness study areas which were deleted due to a lack of wilderness characteristics.

B. Units Proposed as WSA's in the March 28, 1980, **Federal Register** Notice, but have been Found to Lack Wilderness Characteristics After Evaluation of Further Comments by the BLM.

BLM district	Name	Number	Acreage
Socorro	Presilla	NM-020-037	9,600
Socorro	Antelope	NM-020-053	20,800
Total			30,400
Las Cruces	Black Mountain	NM-030-003	6,560
Las Cruces	Grapevine Spring	NM-030-026	5,560

Final Intensive Wilderness Inventory Decisions—Continued

Inventory Units in Which a Wilderness Study Decision is Being Deferred

BLM district	Name	Number	Acreage
Las Cruces	Florida Mountains	NM-030-034	75,310
Las Cruces	Texas Hill "A"	NM-030-810A	7,340
Las Cruces	Texas Hill "B"	NM-030-810B	5,310
Total			100,060
Roswell	Mescalero Sands	NM-060-501	10,800
Total			10,800

Final Intensive Wilderness Inventory Decisions

Inventory Units in Which a Wilderness Study Decision is Being Deferred

BLM district	Name	Number	Acreage
Socorro	Magdalena "A"	NM-020-048A	3,640
Socorro	Magdalena "B"	NM-020-048B	320
Socorro	Magdalena "C"	NM-020-049C	400
Total			4,360
Roswell	Devil's Den Canyon	NM-060-145	320
Roswell	McKittrick Canyon	NM-060-146	200
Roswell	Lonesome Ridge	NM-060-801	2,443
Roswell	Letchuguilla Canyon	NM-060-803	1,167
Roswell	Fawn Valley	NM-060-820	700
Total			4,830

Summary of Wilderness Review in New Mexico

Total BLM Acreage Subject to Wilderness Review	12,846,986
Total BLM Acreage Under Intensive Inventory:	
Final acreage with wilderness characteristics	875,893
Final acreage lacking wilderness characteristics	1,328,156
Decisions being deferred	9,190
Total	2,213,239
Acres Previously Identified as Wilderness Study Areas:	
Denazin	19,000
Bisti	3,520
Ah-she-sle-pah	6,000
El Malpais Instant Study Area	115,000
Mathers Instant Study Area	360
Guadalupe Canyon Instant Study Area	4,146
Total	148,026

The final intensive inventory decisions will become effective on December 15, 1980, perding any protests or appeals.

Protest and Appeal Procedures

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. These decisions will become effective on December 15, 1980 unless timely protests are received by the New Mexico State Director.

Persons wishing to protest any of the decisions announced herein must file a written protest with WILDERNESS, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 on or before 4:30 p.m., December 15, 1980. Only those protests received by the New Mexico State Office by the time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed. It must include a clear and concise statement of the reasons for the protest as well as data to support the reasons stated.

At the conclusion of the protest period, the State Director will publish, in the **Federal Register**, a notice of those decisions that were not protested and, therefore, have become final and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest may appeal such decision under the provisions of 43 CFR Part 4.

Larry L. Woodward,

Acting State Director.

[FR Doc. 80-35412 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

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Nevada; BLM Announces Final Intensive Wilderness Inventory Decisions

Note.—This document was originally published on November 7, 1980 at 45 FR 74070. It is reprinted at the request of the agency.

The Bureau of Land Management in Nevada hereby announces the final intensive wilderness inventory decisions under the authority of Sec. 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, change 3.

By publication in the April 1, 1980 **Federal Register**, pages 21356 through 21362, the BLM announced the beginning of a 90 day public review and comment period on the proposed decisions for approximately 14,108,000 acres subjected to the statewide intensive wilderness inventory. The public comment period ended on June 30, 1980. During the public comment period, twenty-five public meetings and open houses were held. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before final decisions were made, were treated equally. They have been read, recorded, analyzed, and where appropriate, field checked. The final intensive wilderness inventory report, including maps, is available upon request from the Bureau of Land Management, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520. Public comments received may also be inspected at this address.

The decision for each unit is considered individually and separately from the decision for every other inventory unit. Persons wishing to protest any of the decisions announced herein must file a written protest with State Director, Ed Spang, Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. 12000, Reno, Nevada 89520 on or before 4:15 p.m., December 15, 1980. Only those written protests received by the Nevada State Office by this time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed and include the name and address of the person(s) protesting. It must also include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of those decisions that were not protested and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest, may appeal such decision under the provisions of 43 CFR Part 4.

Dated: October 31, 1980.

Roger McCormack,

Associate State Director, Nevada.

Units Proposed as WSA's in the Apr. 1, 1980 "Federal Register" Notice and Are Now Identified as WSA's

Unit No.	Unit names	Acres designated WSA's
Elko District		
NV–010–027	Bluebell	63,150
NV–010–033	Goshute Peak	66,440
NV–010–106	Owyhee Canyon	17,170
NV–010–132	Little Humboldt River	40,100
NV–010–184	Bad Lands	9,000
Winnemucca District		
NV–020–006–A/CA–020–914.	East Fork High Rock Canyon.	53,920
NV–020–008–A/CA–020–913.	Little High Rock Canyon.	52,143
NV–020–0121		
CA–020–821, 618	Poodle Mountain	127,829
NV–020–014	Fox Mountain Range	[4]72,347
NV–020–019	Calico Mountains	65,861
NV–020–200	Selenite Mountain	[5]31,920
NV–020–201	Mt. Limbo	24,126
NV–020–600	Blue Lakes	[6]23,397
NV–020–603	South Jackson Mtns.	61,708
NV–020–606	North Jackson Mtns.	25,780
NV–020–820	Black Rock Desert	333,111
NV–020–822	North Black Rock Range.	[8]29,945
NV–020–637	McGee Mountain	25,406
NV–020–827	No. Fork Little Humboldt.	81,320

Units Proposed as WSA's in the Apr. 1, 1980 "Federal Register" Notice and Are Now Identified as WSA's—Continued

Unit No.	Unit names	Acres designated WSA's
NV–020–8591		
OR–3–1531		
OR–2–78	Disaster Peak	[3]18,200
Carson City District		
NV–030–102	Clan Alpine Mtns.	[9]193,120
NV–030–104	Stillwater Range	[9]92,053
NV–030–110	Desatoya Mountains	48,150
NV–030–122	Job Peak	[9]91,022
NV–030–407	Gabbs Valley Range	77,330
NV–030–430	Basalt	[5]27,560
NV–030–432	Hontone Mine	1,570
NV–030–531/CA–010–105.	Slinkard	5,440
NV–030–532	Carson-Iceberg	550
Ely District		
NV–040–015	Goshute Canyon	[9]35,100
NV–040–0861		
UT–050–029	Granite Spring	[9]23,400
NV–040–154	Park Range	[5]46,500
NV–040–166	Riordan's Well	[5]56,800
NV–040–197	Table Mountain	[5]35,800
NV–040–2021		
UT–040–216	White Rock Range	[3]19,590
NV–040–246	Weepah Spring	[6]61,000
Las Vegas District		
NV–050–0131	East Pahranagat	16,200
NV–050–0132	South Pahrocs/Hiko	28,600
NV–050–0154	Medsger Pass	11,462
NV–050–0165	Lower Pahranagat Lake.	3,350
NV–050–0350	Pigeon Spring	[9]3,575
NV–050–0054	Queer Mountain	[4]81,550
NV–050–0355	Bonnie Claire Flat	[4]69,000
NV–050–0368	Porter Mine	6,080
NV–050–0369	Amargosa	12,463
NV–050–0370	Nothing Flats	9,510
NV–050–03R–22	Gem	2,153
NV–050–0401	Mt. Stirling	[6]69,650
NV–050–4014	Pine Creek	[10]24,000
NV–050–0460	Resting Springs Range	3,850
Battle Mountain District		
NV–060–019	Kawich	[9]27,360
NV–060–059	Rawhide Mountain	[6]64,360
NV–060–112	South Reveille	106,200
NV–060–142/162	Palisade Mesa	98,550
NV–060–158/199	Blue Eagle	[6]59,560
NV–060–163	The Wall	38,000
NV–060–166	Grant Range	[5]5,840
NV–060–191	Morey	20,120
NV–060–231/241	Antelope	[6]87,400
NV–060–541	Roberts	15,090

See footnotes at end of tabular matter

Units Proposed To Be Dropped in the April 1, 1980 "Federal Register" Notice, but Identified as WSA After Further Evaluation of Public Comments by BLM

Unit number	Unit name	Acres designated WSA
Elko District		
NV–010–035	South Pequop	39,900
NV–010–151	Rough Hills	6,300
Total Elko District		46,200

Units Proposed To Be Dropped in the April 1, 1980 "Federal Register" Notice, but Identified as WSA After Further Evaluation of Public Comments by BLM—Continued

Unit number	Unit name	Acres designated WSA
Winnemucca District		
NV–020–007	High Rock Lake	62,527
NV–020–406	Tobin Range	21,952
NV–020–621	Pahute Peak	55,052
Total Winnemucca District.		139,531
Carson City District		
NV–030–108	Augusta Mountain	93,200
NV–030–525A	Burbank Canyons	13,395
Total Carson City District.		106,595
Ely District		
NV–040–242	Worthington Mountains	47,100
Total Ely District		47,100
Las Vegas District		
NV–050–0338	Silver Peak Range North.	33,900
Total Las Vegas District.		33,900
Battle Mountain District		
NV–060–190	Fandango	40,940
NV–060–428	Simpson Park	49,670
Total Battle Mountain District.		90,610
State total		463,936

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
Elko District		
NV–010–002	Maverick Springs	84,840
NV–010–002–A	Maverick Springs	6,360
NV–010–002–B	Maverick Springs	5,760
NV–010–002–C	Maverick Springs	7,040
NV–010–002–D	Maverick Springs	7,700
NV–010–002–E	Maverick Springs	5,800
NV–010–002–F	Maverick Springs	31,360
NV–010–002–G	Maverick Springs	10,900
NV–010–002–J	Maverick Springs	7,700
NV–010–004	High Bald Peaks	31,560
NV–010–004–B	High Bald Peaks	16,000
NV–010–016	Spruce Mountain	35,960
NV–010–016–B	Spruce Mountain	8,150
NV–010–017	Spruce Ridge	46,600
NV–010–017–C	Spruce Ridge	6,500
NV–010–022	Hogan	15,460
NV–010–023	Collar & Elbow	10,000
NV–010–023–A	Collar & Elbow	8,300
NV–010–025	Leppy Peak	10,840
NV–010–027	Bluebell	[1]2,980
NV–010–032	Morgan Basin	12,160
NV–010–033	Goshute Peak	[1]12,900
NV–010–035	South Pequop	[1][2]6,760
NV–010–035–B	South Pequop	6,100
NV–010–036	Boone Springs	8,320
NV–010–037	Brush Creek	13,320
NV–010–044	Antelope	33,020
NV–010–045	Currie Hills	27,640
NV–010–045–A	Currie Hills	7,760
NV–010–045–B	Currie Hills	5,200

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
NV–010–047	Kingsley	21,800
NV–010–047–D	Kingsley	8,160
NV–010–049	Sugarloaf	17,600
NV–010–050	Ferguson Mountain	6,980
NV–010–052	Lead Mine Hills	11,520
NV–010–053	Dead Cedar Wash	13,340
NV–010–054/UT–020–044.	Ferbar Wash	[6]6,900
NV–010–058	Dead Horse	10,800
NV–010–060	White Sage Flat	19,540
NV–010–061/UT–020–050.	Ferbar Flat	[6]6,300
NV–010–062UT–020–046.	Utah Peak	[4]5,700
NV–010–070	Cortez	33,260
NV–010–074	Fiono	12,100
NV–010–081	Smith Creek Mountains.	20,850
NV–010–085	Diamond Hills	56,320
NV–010–102–A	Little Owyhee	5,800
NV–010–104	Hat Peak	49,800
NV–010–105	Forkliff	17,280
NV–010–106	Owyhee Canyon	[1]350
NV–010–106–A	Owyhee Canyon	7,360
NV–010–106–B	Owyhee Canyon	43,520
NV–010–107	Airstrip No. 1	42,240
NV–010–108	Star Valley Cabin	32,000
NV–010–109	Silver Lake	41,470
NV–010–109–A	Silver Lake	43,650
NV–010–110	Milligan Creek	121,360
NV–010–111	Winter Creek	59,780
NV–010–112	Bullhead	55,150
NV–010–113	Burner Hill	16,770
NV–010–114	Cornucopia	28,760
NV–010–115	Big Cottonwood Canyon.	56,140
NV–010–116	Sulphur	15,000
NV–010–129	Six Mile Hill	42,680
NV–010–130	Rock Creek	37,060
NV–010–131	Snowstorm	12,130
NV–010–132	Little Humboldt River	[1]56,220
NV–010–133	Three Mile Creek	28,440
NV–010–134	Chimo Creek	9,680
NV–010–135	Bull Run	8,700
NV–010–143	Adobe	11,230
NV–010–147	Double Mountain	36,740
NV–010–148	Beaver Creek	22,240
NV–010–149	Lookout Mountain	44,960
NV–010–150	Table Mountain	47,300
NV–010–152	Charleston Reservoir	5,120
NV–010–153	Mahala Creek	10,240
NV–010–160/UT–020–009, 011, 012.	Wagon Box Pass	[8]16,330
NV–010–160–B	Wagon Box Pass	6,000
NV–010–161	Bald Mountain	16,620
NV–010–162	Tee Pee Rock No. 2	11,000
NV–010–167	Little Goose Creek No. 4.	5,300
NV–010–167–B	Little Goose Creek No. 4.	6,100
NV–010–170	Bedke Well	26,880
NV–010–171	Delano	7,400
NV–010–171–A	Delano	10,450
NV–010–171–B	Delano	10,540
NV–010–174	Ninemile	21,120
NV–010–177	Tijuana John	12,840
NV–010–177–B	Tijuana John	12,990
NV–010–177–F	Tijuana John	8,560
NV–010–177–J	Tijuana John	6,320
NV–010–177–L	Tijuana John	14,400
NV–010–178	Granite	8,300
NV–010–178–A	Granite	15,420
NV–010–178–C	Granite	9,900
NV–010–178–F	Granite	7,900
NV–010–181	Ellen and Dee	6,010
NV–010–181–C	Ellen and Dee	6,000
NV–010–181–E	Ellen and Dee	5,340
NV–010–183	Fort Yoho	12,350
NV–010–184	Bad Lands	[1]83,480
NV–010–185	Canyon Creek	35,760
NV–010–187	Cottonwood	15,490

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
NV–010–188	Beaver Ponds	17,320
NV–010–193	Anderson Creek	8,920
NV–010–197	Hank's Creek	37,640
NV–010–198	Coyote	9,580
NV–010–199	Stag Mountain	40,240
Total Elko District		2,243,830
Winnemucca District		
NV–020–001/CA–020–919.	Tennille Spring	11,470
NV–020–004/CA–020–813–A&B.	Hog Ranch Mountain	9,980
NV–020–006/CA–020–914–A.	Warm Springs Canyon	65,369
NV–020–00	High Rock Lake	[11][8]9,869
NV–020–008/CA–020–913–A.	Little High Rock Canyon.	1,430
NV–020–009/CA–020–823.	Leadville	27,023
NV–020–010/CA–020–816/CA–020–821/CA–020–820.	Crutcher	52,746
NV–020–012/CA–020–621, 618.	Poodle Mountain	[1]9,331
NV–020–014	Fox Mountain Range	[1]9,077
NV–020–018	Division Peak	27,927
NV–020–019	Calico Mountains	[1]2,070
NV–020–021/CA–020–822–A&B/CA–020–823.	No Name	5,230
NV–020–200	Selenite Mountain	[1][5]2,811
NV–020–021	Mt. Limbo	[1]386
NV–020–204	Nightingales	56,549
NV–020–209	Razorback	67,467
NV–020–212	Lava Beds	99,805
NV–020–216	South Shawavee Mountains.	20,541
NV–020–217	Shawavee Mountains	65,757
NV–020–222	Blue Wing Mountains	43,711
NV–020–235	North Lava Bed	87,747
NV–020–406	Tobin Range	[3]64,920
NV–020–408	Jersey Valley	55,710
NV–020–410	Table Mountain	64,518
NV–020–436	Granite Mountain	20,269
NV–020–600	Blue Lakes	[1][6]9,827
NV–020–601	Alder Creek	30,467
NV–020–602	Mahogany Mountains	26,115
NV–020–603	South Jackson Mtns.	[1]7,606
NV–02–604	Trident Peak	69,718
NV–020–606	North Jackson Mtns.	[1]543
NV–020–609/OR–2–80.	Maggie Creek	[3]20,894
NV–020–610	Sentinel Peak	28,080
NV–020–612	Blik Creek	21,072
NV–020–615	Wood Canyon	[5]6,681
NV–020–617	Middle Spring	11,460
NV–020–618	Texas Springs	10,853
NV–020–620	Black Rock Desert	[8]218,189
NV–020–621	Pahute Peak	[1][2]420
NV–020–621–A	Pahute Peak	32,240
NV–020–622	North Black Rock Range.	[1]64,411
NV–020–641	Paiute Meadows	16,349
NV–020–642	Pueblo Mountains	640
NV–020–800	Long Ridge	12,430
NV–020–809–A/OR–3–172.	Deer Flat	1,200
NV–020–810/OR–3–191.	Carin "C"	[3]3,700
NV–020–827	N. Fork Little Humboldt.	32,701
NV–020–830	Sugar Loaf Hill	35,901
NV–020–835	Forks Ranch	21,998
NV–020–836	Little Owyhee River	34,833
NV–020–838	Lone Willow	24,597
NV–020–839	Calico Ranch	[3]33,043
NV–020–840	No Springs	11,174
NV–020–843	Raven Creek	21,436
NV–020–859/OR–3–153/OR–2–78.	Disaster Peak	[3]419,135

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Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
Total Winnemucca District.		1,679,355
	Carson City District	
NV-030-102	Clan Alpine Mtns.	[1] 63,880
NV-030-104	Stillwater Range	[1] [2] 3,177
NV-030-105	New Pass Range	61,500
NV-030-106	Shoshone Meadows	53,000
NV-030-108	Augusta Mountains	[1] [2] 2,800
NV-030-110/NV-060-288.	Desatoya Mountains	[1] [3] 30,010
NV-030-117	Diamond Canyon	65,000
NV-030-118	Desatoya South	[3] 30,240
NV-030-125	Desatoya North	[3] 55,500
NV-030-127	Job Peak	[1] [2] 24,098
NV-030-136	Mount Annie	19,500
NV-030-323	Wassuk Range	[3] 57,600
NV-030-402	Gillis Range North	51,580
NV-030-407	Gabbs Valley Range	[1] 3,790
NV-030-409	Stewart Valley Hills	44,410
NV-030-425	Excelsior Mountains	66,850
NV-030-430	Basalt	[1] [2] 27,890
NV-030-432	Hontone Mine	[1] 1,000
NV-030-435	Truman Meadows	7,560
NV-030-436	Queen Valley North	7,640
NV-030-437	Queen Valley Ranch	610
NV-030-439	Orchard Spring	76
NV-030-517	Rawe Peak	49,480
NV-030-520	Lyon Peak	36,000
NV-030-525	East Pine Nuts	[3] 38,785
NV-030-525-A	Burbank Canyons	[3] 1,095
NV-030-603/CA-020-403.	Fort Sage Mountain	22,990
NV-030-605	Virginia Mountains	89,275
NV-030-610	Peterson Mountain	17,170
Total Carson City Distrct.		961,270
	Ely District	
NV-040-001/UT-020-053, 054.	Northeast Corner	[3] 26,950
NV-040-004	Chin Creek	16,000
NV-040-007	Lehman Creek	17,300
NV-040-007-A	Lehman Creek	7,700
NV-040-008	Antelope Range	13,100
NV-040-009	Warm Springs	18,400
NV-040-015	Goshute Canyon	[1] [3] 155,580
NV-040-016	Willow Spring	19,200
NV-040-019	Egan Basin	20,900
NV-040-021	Butte Mountains	47,860
NV-040-021-A	Butte Mountains	33,460
NV-040-034	Buck Mountain	41,180
NV-040-042	Maple Syrup Well	20,400
NV-040-043	Robber's Roost	48,400
NV-040-047	Frank's Well	20,500
NV-040-048	Toner Spring	20,900
NV-040-048-A	Heusser Mountain	[1] 32,940
NV-040-048-B	Toner Spring	[3] 6,940
NV-040-049	Telegraph Canyon	20,020
NV-040-050	Hot Springs	8,900
NV-040-065	Golden Springs	16,200
NV-040-070	Red Hills	12,800
NV-040-078	Grass Valley Reservoir.	11,100
NV-040-079/UT-050-017.	Kern Mountains	[3] 7,500
NV-040-079-A	Kern Mountains	7,300
NV-040-081	White Cloud Basin	25,100
NV-040-081-A	White Cloud Basin	17,800
NV-040-085	Yelland Ranch	9,900
NV-040-086/UT-050-029.	Granite Spring	[1] [2] 69,700
NV-040-100	Colorado Gulch	38,200
NV-040-100-C	John's Wash	3,000
NV-040-107	Kious Spring	2,900
NV-040-109	Snake Creek Cave	2,400
NV-040-110	Big Wash	1,000
NV-040-123	Martin Spring	24,800
NV-040-129	Copper Flat	42,600
NV-040-130-A	Deadman Gulch	9,800
NV-040-130-AA	Deadman Gulch	6,200
NV-040-130-AB	Deadman Gulch	11,900
NV-040-153	West Pancakes	317,820
NV-040-154	Park Range	[1] [4] 4,100
NV-040-155	South Pancakes	140,400
NV-040-159	Manzone Well	30,000
NV-040-159-A	Manzone Well	9,100
NV-040-159-B	Manzone Well	8,240
NV-040-166	Riordan's Well	[1] [3] 133,900
NV-040-184	Big Spring Wash	12,500
NV-040-185	Lexington Creek	4,900
NV-040-197	Table Mountain	[1] [2] 21,680
NV-040-202/UT-040-216.	White Rock Range	[1] [2] 13,780
NV-040-203	Burnt Canyon	7,860
NV-040-204	Camp Valley	16,000
NV-040-217	Black Cone	24,100
NV-040-226	Gap Mountain	9,800
NV-040-229	Scofield	10,200
NV-040-231	Bruno Creek	4,500
NV-040-234-A	South Badger Gulch	440
NV-040-235	Barton Spring	13,460
NV-040-241	Griswold	23,900
NV-040-241-A	Griswold	31,880
NV-040-242	Worthington Mtns	[1] [2] 15,300
NV-040-243	Garden Valley Reservoir.	99,580
NV-040-246	Weepah Spring	[1] [3] 130,700
NV-040-247	Fossil Peak	88,900
NV-040-249	North Pahranagat Range.	55,900
NV-040-249-A	North Pahranagat Range.	21,500
NV-040-250	Southpaw	34,900
Total Ely District		2,204,150
	Las Vegas District	
NV-050-0100	Quinn Canyon	12,810
NV-050-0107	North Pahroc	28,847
NV-050-0108	Nesbitt	20,931
NV-050-0109	Seep Springs	15,149
NV-050-0112	Timpahute Range	52,900
NV-050-0113	Pahroc Summit Pass	61,737
NV-050-0114	Pahroc Spring	15,950
NV-050-0116	Chief Mountain	12,673
NV-050-0127	Swirl Cake Rock	8,690
NV-050-0131	East Pahranagat	[1] 136,258
NV-050-0132	South Pahrocs/Hiko	[1] 42,455
NV-050-0302	Cedar Mountain	10,577
NV-050-0304	Relay Station	23,379
NV-050-0305	Far North	11,905
NV-050-0306	Pilot Peak	59,274
NV-050-0308	Monte	7,637
NV-050-0311	Devils Gate	36,332
NV-050-0312	Rock Hill	41,392
NV-050-0317	Lone Mountain	38,239
NV-050-0319	Montezuma Valley	12,047
NV-050-0320	Weepah Hills	29,153
NV-050-0323	Emigrant Peak	25,337
NV-050-0324	Volcanic Hills	25,444
NV-050-0325	Pinchot Creek	15,254
NV-050-0327	The Sump	30,893
NV-050-0328	Emigrant Pass	30,583
NV-050-0330/NV-050-0330-A.	Monocline	20,150
NV-050-0331	The Choice	23,676
NV-050-0335	Misplaced	49,040
NV-050-0336	Clayton Ridge	106,593
NV-050-0337	Company Spring South.	[3] 25,206
NV-050-0337-A	Company Spring North	10,880
NV-050-0338	Silver Peak Range North.	[1] [3] 38,879
NV-050-0338-A	Silver Peak Range South.	[3] 54,845
NV-050-0339	Aiken	1,279
NV-050-0340	Red Mountain Triangle	33
NV-050-0341	Furnace Creek	1,050
NV-050-0342	Palmeto Mountains	30,165
NV-050-0344	Mount Jackson North	33,720
NV-050-0344-A	Mount Jackson South	6,184
NV-050-0345/NV-050-0345-A.	Chepa Hills	30,599
NV-050-0349	Magruder Mountain	19,851
NV-050-0350	Pigeon Spring	[1] [3] 3,402
NV-050-0351	Uncle Sam	24,223
NV-050-0352	Slate Ridge West	28,874
NV-050-0352-A	Slate Ridge East	6,813
NV-050-0353	Hell's Gate	19,596
NV-050-0354	Queer Mountain	[1] [4] 7,179
NV-050-0355	Bonnie Claire Flat	[1] [4] 12,766
NV-050-0358	Can You Believe	32,327
NV-050-0368	Porter Mine	[1] 600
NV-050-0369	Amargosa	[1] 73
NV-050-0370	Nothing Flats	[1] 2,545
NV-050-0372	Crater Flat	37,242
NV-050-0373	Black Marble	28,864
NV-050-0375	Big Dune	21,900
NV-050-0376	Dry Well	21,732
NV-050-0377	Jokersville	4,625
NV-050-0386	Claw	820
NV-050-0387	Old McNett Ranch	23,661
NV-050-03R-11-A	Fish Lake Valley	165
NV-050-03R-12	Pinto Hill	16,712
NV-050-03R-15-A	Lida Valley	852
NV-050-03R-22	Gem	[1] 40
NV-050-03R-23	Von Schmidt	2,786
NV-050-0401	Mount Stirling	[1] [4] 133,350
NV-050-0408	Lost Cabin Spring	68,421
NV-050-0410	Shoemaker Spring	82,917
NV-050-0414	Pine Creek	[1] 10,761
NV-050-0416	Wheeler	7,282
NV-050-0421	Clark Canyon	7,880
NV-050-0450	Striped Hills	20,698
NV-050-0451	Specter Range	34,340
NV-050-0457	Mount Montgomery	45,193
NV-050-0459	Ash Meadows	9,770
NV-050-0460	Resting Springs Range.	[1] 17,206
NV-050-0461	Last Chance Range	27,079
NV-050-0462	High Peak	10,872
NV-050-0463	Grown	7,064
NV-050-04R-03-A B&C.	Pahrump	10,958
NV-050-CDCA276	Dead Mountains	750
Total Las Vegas District.		2,051,846
	Battle Mountain District	
NV-060-019	Kawich	[1] [3] 11,640
NV-060-059	Rawhide Mountain	[1] [3] 11,040
NV-060-069	Empire Canyon	17,620
NV-060-078	Stone Cabin	24,000
NV-060-079	Hot Creek	45,970
NV-060-086	Monarch	11,700
NV-060-089	Woods Canyon	25,900
NV-060-112	South Reveille	[1] 8,300
NV-060-113	Quinn Canyon	105,570
NV-060-120	East Kawich	18,100
NV-060-130	Castle Rock	22,300
NV-060-132	North Reveille	65,000
NV-060-136	Quinn Range	23,703
NV-060-142/162	Palisade Mesa	[1] 17,450
NV-060-158/199	Blue Eagle	[1] [4] 13,340
NV-060-163	The Wall	5,300
NV-060-166	Grant Range	650
NV-060-174	Black Rock	25,500
NV-060-176	Big Round Valley	6,200
NV-060-183	North Pancake I	17,200
NV-060-184	North Pancake III	19,200
NV-060-188	Morgan	9,000
NV-060-190	Fandango	[1] [2] 7,660
NV-060-191	Money	[1] 9,580
NV-060-192	Slanted Buttes	23,900
NV-060-194	North Pancake II	26,400
NV-060-201/211	Semlie	12,600

Units Dropped From Further Consideration Because of Lack of Wilderness Characteristics (These Units Were Proposed To Be Dropped in the Apr. 1, 1980 "Federal Register" and Now Are Dropped)—Continued

Unit no.	Unit name	Acres Released From Further Wilderness Consideration
NV-060-212	Rhyolite Hills	34,300
NV-060-213	Red Ring Mountain	6,200
NV-060-219	Milton Ranch	9,300
NV-060-231/241	Antelope	[1] [2] 60,900
NV-060-258	Buzanes	10,900
NV-060-278	Haypress	2,900
NV-060-279	White Rock	26,400
NV-060-347	Diana's Punchbowl	14,700
NV-060-407	Bates Mountain	77,930
NV-060-415	Callaghan	79,300
NV-060-422	White Sage	16,400
NV-060-428	Simpson Park	[1] [2] 1,830
NV-060-432	Willow Creek	35,300
NV-060-433	Manhattan Mountain	31,300
NV-060-442	Sage	10,900
NV-060-459	Rocky Hills	57,360
NV-060-461	South Fish Creek	104,500
NV-060-464	Elephant Head	44,200
NV-060-465	Carico Ranch	8,000
NV-060-467	Francis Cabin	5,700
NV-060-474	Red Rock	14,100
NV-060-478	Caetano Ranch	9,560
NV-060-482	North Fish Creek	52,400
NV-060-504	Diamond Mountains	73,470
NV-060-530	Rutabaga Creek	13,800
NV-060-531	Henderson	12,700
NV-060-541	Roberts	[1] 42,710
NV-060-554	North Diamond	43,800
Total Battle Mountain District.		1,485,683
State total		10,616,134

See footnotes at end of tabular matter.

Units Under Formal Appeal to the Interior Board of Land Appeals

Unit No.	Unit name	Acres under formal appeal
NV-010-102/ID-12-56A.	Little Owyhee	53,280
NV-010-103/ID-16-53	Devil's Corral	8,960
NV-010-103-A/ID-16-53.	Devil's Corral	10,880
NV-010-164/ID-202-1/UT-020-001.	Little Goose Creek No. 1.	7,695
NV-010-179/ID-107/26/ID-17-26.	Cottonwood-Salmon Falls.	11,790
NV-020-811/OR-3-159/ID-106-70-E.	Tent Creek	10,680
NV-020-842/OR-2-81 (an accelerated inventory unit).	Pueblo Mountains	600

The inventory units listed above are under formal appeal to the Interior Board of Land Appeals (IBLA) as a result of the final initial inventory decisions, and in one case, an accelerated inventory decision. These inventory units will be subject to Interim Management Policy and Guidelines (IMP) until the IBLA issues a final decision. The IMP guidelines will remain in effect on those units remaining under wilderness review.

[1] A portion of this unit has been identified as a Wilderness Study Area, but the portion represented in this table was dropped from further wilderness consideration, because it lacks wilderness characteristics.

[2] The final decision for this unit represents a change from the proposed decision. Public comments received prompted a reconsideration of wilderness characteristics in the area, resulting in a decrease in Wilderness Study Area.

[3] The proposed decision for the interstate unit cited total public land acreage in Nevada and the adjoining state. This figure represents only Nevada acreage. The final decision for the entire unit has not changed from the proposed decision.

[4] The final decision for this unit represents a change from the proposed decision. Public comments received prompted a reconsideration of wilderness characteristics in the area, resulting in a decrease in Wilderness Study Area coverage.

[5] The acreage cited in the final decision differs from the proposed decision because of a more accurate acreage calculation.

[6] The final decision for this unit represents a change from the proposed decision. Public comments received prompted a reconsideration of wilderness characteristics in the area, resulting in a decrease in Wilderness Study Area acreage.

[7] Includes Heusser Mountain Bristlecone Pine Natural Area.

[8] Includes a portion of Pinyon Joshua Transition Natural Area.

[9] Includes Lahontan Cutthroat Trout Natural Area.

[10] Includes Pine Creek Natural Area.

[FR Doc. 80-34531 Filed 11-13-80 8:45 am]

BILLING CODE 4310-84-M

Final Decisions on the Intensive Wilderness Inventory in Oregon and Washington

Note.—This document was originally published on November 6, 1980 at 45 FR 73802. It is reprinted at the request of the agency.

I hereby announce my final intensive inventory decisions for 266 inventory units in Oregon containing 5,727,963 acres, for 44 units in Washington containing 13,956 acres, and for one unit in both Oregon and Washington containing 2,935 acres. The final decisions for three inventory units in Oregon containing 280,170 acres have been deferred. These decisions are issued under the authority of Section 603 of the Federal Land Policy and Management Act of 1976 and in accordance with the guidelines in BLM's *Wilderness Inventory Handbook* (issued September 27, 1978) and Organic Act Directive Number 78-61, Change 3.

By publication in the **Federal Register** on March 27, 1980, pages 20167 through 20170, this office announced the beginning of a 90-day period for public review and comment on the proposed decisions concerning these inventory units. The public comment period ended on June 25, 1980. During the public comment period, 16 public meetings were held in Oregon and three in Washington. All comments, whether received by mail or at a public meeting, as well as late comments received in time to be reviewed before the final decisions were made, were treated equally. They were read, recorded, analyzed and, when appropriate, the information provided in the comments was checked in the field. The original comments are available for inspection at the offices to which they were originally sent. Copies of all comments received by the district offices are also on file at the state office. The report including maps, on the final intensive inventory decisions is available on request from

the Oregon State Office, BLM, P.O. Box 1965, Portland, OR 97208.

Wilderness Study Areas

The following inventory units or portions of inventory units are identified as wilderness study areas (WSAs).

a. Lands proposed as WSAs in the March 27, 1980 **Federal Register** notice and now identified as WSAs:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-2	Devils Garden Lava Bed	29,640
1-3	Squaw Ridge Lava Bed	28,320
1-22	Four Craters Lava Bed	12,120
1-58	Diablo Mountain	113,120
1-117B	Monument Flat	18,720
1-139B	Spaulding Reservoir	65,720
1-146A	Hawksie Walksie	68,360
1-146B	Hawksie Walksie	8,520
	Subtotal Lakeview District	344,320
	Burns District	
2-72C	Sheepshead Mountains	50,300
2-72I	Sheepshead Mountains	38,855
2-73A	Winter Range	21,395
2-73H	Winter Range	14,640
2-77B	Mahogany Ridge	23,780
2-78D	Red Mountain	2,720
2-78F	Red Mountain	14,730
2-83A	Alvord Peak	14,655
2-85F	South Steens	65,940
2-86E	Blitzen River	52,060
2-86F	Blitzen River	9,380
2-98A	Strawberry Mountain	180
2-98C	Strawberry Mountain	720
2-98D	Strawberry Mountain	208
	Subtotal Burns District	309,563
	Vale District	
3-27 [1]	Beaver Dam Creek	18,900
3-31 [1]	Camp Creek	19,100
3-32 [1]	Cottonwood Creek	7,900
3-33A [1]	Gold Creek	13,400
3-35 [1]	Sperry Creek	5,300
3-47 [1]	Cedar Mountain	46,300
3-53 [1]	Dry Creek	22,800
3-56 [1]	Dry Creek Buttes	51,000
3-59A	Owyhee Breaks	12,800
3-73 [1]	Blue Canyon	12,800
3-74A [1]	Upper Leslie Gulch	3,000
3-75 [1]	Slocum Creek	7,600
3-77A [1]	Honeycombs	38,200
3-77B [1]	Honeycombs	12,500
3-110 [1]	Lower Owyhee Canyon	73,200
3-111 [1]	Saddle Butte	87,500
3-118A [1]	Bowden Hills	59,000
3-120 [1]	Clarks Butte	31,500
3-128A [1]	Jordan Craters	28,700
3-152 [1]	Willow Creek	29,800
3-153 [1]	Disaster Peak	13,300
3-157 [1]	Oregon Canyon	41,900
3-162A [1]		27,100
3-162A [1]	Twelvemile	
3-173A [1]	Upper West Little Owyhee	87,200
	Subtotal Vale District	750,800
	Prineville District	
5-6	Lower John Day	19,370
5-8	North Pole Ridge	6,062
5-9	Spring Basin	5,982
5-21	Badlands	32,053
5-31	North Fork	10,701
5-33	South Fork	19,631
5-34	Sand Hollow	8,791
5-35 [1]	Gerry Mountain	20,700
5-42A	Hampton Butte	10,480
5-43	Cougar Well	17,026
	Subtotal Prineville District	150,796

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
	Baker District	
6-1	McGraw Creek	1,610
6-2	Homestead	10,700
6-3	Sheep Mountain	6,350
6-10 [2]	Cache Creek Ranch	1,960
	Subtotal Baker District	20,620
	Medford District	
11-1	Mountain Lakes	320
11-17	Soda Mountain	5,640
	Subtotal Medford District	5,960
	Coos Bay District	
12-8A	North Sisters Rocks	3
12-14A [1]	Zwagg Island	8
	Subtotal Coos Bay District	8
	Grand total Oregon	1,582,067

[1] The sizes of these units were re-calculated following the announcement of the proposed decisions.
[2] Of the total 2,935 acres in this unit, 975 acres are in Washington.

Washington—*Inventory Unit*

Number	Name	Acres
	Spokane District	
13-24	Little Patos Island	15
	Baker District	
6-10 [1]	Cache Creek Ranch	975
	Grand total Washington	990

[1] Of the total 2,935 acres in this unit, 1,960 are in Oregon.

b. Lands proposed to be eliminated from further wilderness review in the March 27, 1980 **Federal Register** notice; but now identified as WSAs after further evaluation in response to public comments:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-24 [1]	San Dunes	15,520
1-101	Albert Rim	22,240
1-132	Guano Creek	10,560
	Subtotal Lakeview District	48,320
	Burns District	
2-72C	Sheepshead Mountains	3,890
2-72D	Sheepshead Mountains	35,000
2-72F	Sheepshead Mountains	20,330
2-72J	Sheepshead Mountains	7,755
2-74F [2]	Alvord Desert	63,080
2-77	Mahogany Ridge	3,070
2-84	Basque Hills	138,420
2-85G	South Steens	35,850

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
2-85H	South Steens	24,990
2-87I	Bridge Creek	14,060
2-103	Aldrich Mountain	9,395
	Subtotal Burns District	355,840
	Vale District	
3-18	Castle Rock	7,100
3-114	Palomino Hills	54,700
	Subtotal Vale District	61,800
	Prineville District	
5-31A	North Fork	44
5-42A	Hampton Butte	120
5-43	Cougar Well	289
	Subtotal Prineville District	453
	Grand total Oregon	466,413

[1] Includes a portion of the Lost Forest Instant Study Area.
[2] In the March 1980 proposed decisions, these lands were included in Unit 3-119. That unit has been combined with the existing WSA, Subunit 2-74F.

Washington—Inventory Unit

Spokane District, Number, Name, and Acres

13-2 Chopaka Mountain, 5,520

c. Lands not included in the proposed decisions but now identified as part of a WSA following correction of an error in mapping the location of an inventory unit boundary:

Oregon—Burns District Inventory Unit

Number, Name, and Acres

2-77B Mahogany Ridge, 520

Total Oregon acres identified as wilderness study areas in these decisions, 2,049,000

Total Washington acres identified as wilderness study areas in these decisions, 6,510

Lands Eliminated From Further Wilderness Review

The following inventory units or portions of inventory units have been eliminated from further wilderness review because they lack wilderness characteristics.

a. Lands proposed to be eliminated from further wilderness review in the March 27, 1980 **Federal Register** notice and now eliminated from further review:

Oregon—*Inventory Unit*

Number	Name	Acres
	Lakeview District	
1-4	Walker Cabin	34,080
1-6	Little Benjamin Lake	13,080
1-9 [1]	Bull Lake	32,360
1-10	Benjamin Lake	16,200
1-11	Chicago Valley	7,080
1-12 [1]	Lost Forest	6,240
1-21	South Green Mountain	14,720
1-38	Cox Butte	41,200
1-52	Mack Cabin	24,000
1-53	Rawhide Creek	21,600
1-54	Monahan Lake	9,280
1-55	Pickett Spring	10,760
1-57	Robinson Lake	42,400
1-59	Whiskey Mountain	7,900
1-60	Coffee Lake	6,440
1-62	Whiskey Lake	48,560
1-64	Twin Buttes	22,080
1-65	Saunders Rim	17,000
1-67	Nub	6,520
1-71	Gray's Butte	25,040
1-72	Juniper Mountain	11,760
1-73	Pack Saddle Draw	18,680
1-74	Juniper Creek	23,280
1-75	Egan Cabin	6,240
1-79	Balls Lake	6,000
1-80	Twin Lakes	17,920
1-82	North Euchre Butte	22,600
1-85	Eagle Butte	13,220
1-86	Natural Corral Draw	12,500
1-87	Horseshoe Rim	21,000
1-88	Sunstone Mine North	29,360
1-89	Bacon Camp	5,560
1-90	Sunrise Canyon	4,880
1-93	Spine Cob Butte	11,000
1-94	Poker Jim Flat	14,360
1-95	ZX Ranch	21,120
1-96	Coglan Buttes	32,000
1-98	Abert Burn South	18,200
1-101	Abert Rim	640
1-102	Binkie Lake	13,440
1-106	Flint Hills	23,840
1-108	Rabbit Hills	15,360
1-114	Warner Lakes	33,680
1-115	Guano Slough	106,480
1-117	Monument Flat	16,240
1-118	Wakefield Cabin	28,880
1-120	Coleman Rim	11,280
1-124	Fish Canyon South	8,160
1-125	Horsehead Lake	12,000
1-126	Coleman Valley	23,840
1-127	Wool Lake	5,360
1-128	Long Lake	9,000
1-129	Jack Lake	10,000
1-130	Little Reservoir	24,280
1-131	Clover Swale	7,640
1-133	Guano Lake West	13,840
1-134	Lone Grave Butte	25,440
1-135	Guano Lake	11,680
1-136	Beatys Butte	5,580
1-137	Mahogany Mountain	8,000
1-138	Buckaroo Pass	12,640
1-139	Spaulding Reservoir	4,840
1-140	Sagehen Spring	13,440
1-142	Wilson Spring	18,040
1-143	Ryegrass Valley	31,880
1-144	Bald Mountain	14,040
1-145	Sagehen Flat	15,715
1-146A	Hawksie Walksie	3,800
1-146C	Hawksie Walksie	780
1-148	Miller Creek	6,480
1-149	Bumpheads	18,560
1-155	Swan Lake Rim	8,760
1-157	Coleman Valley West	10,000
1-158	Breezy	6,240
1-159	Catlow Valley	58,000
1-164	Snuff	1,440
	Subtotal Lakeview District	1,332,655
	Burns District	
2-18	Skull Creek	8,795
2-19	Silvies River	7,520
2-30	Palomino Buttes	13,075
2-43	Wagontire Mountain	48,675
2-44	Tired Horse	8,275
2-47	Surprise Lake	21,940
2-48	Hay Lake	18,350
2-49	Sheep Lake	28,965
2-50	Claw Creek	8,600
2-52	Miller Canyon	5,805
2-53	Gum Boot Canyon	8,475
2-54	Saddle Butte	9,120
2-55	Frenchglen	65,925
2-56	Black Rim	13,555
2-57	Jackass Creek	19,255
2-58	Keg Springs	22,200
2-59	Taylor Cabin	14,850
2-60	Weed Lake	19,520
2-61	Foster Flat	42,760
2-62	Nothing There	10,620
2-63	Chicken Feed Lake	12,800
2-64	Buzzard Creek	34,495
2-65	Deep Canyon	6,215
2-67	Iron Mountain	13,560
2-68	Smokey Hollow	8,225
2-69	Devils Canyon	14,015
2-70	Wilson Butte	9,745
2-71	Goose Egg	15,930
2-72	Sheepshead Mountains	31,485
2-73	Winter Range	35,715
2-74F	Alvord Desert [2]	40
2-75	Black Point	51,300
2-77	Mahogany Ridge	15,518
2-78	Red Mountain	10,420
2-78F	Red Mountain	3,740
2-80	Sand Hills	14,990
2-83	Alvord Peak	8,260
2-83A	Alvord Peak	16,685
2-84	Basque Hills	9,870
2-85	South Steens	15,985
2-85F	South Steens	3,680
2-86	Blitzen River	8,560
2-86E	Blitzen River	6,500
2-87	Bridge Creek	14,410
2-88	Moon Hill	9,900
2-91	Guano Slough	22,165
2-92	Dead Horse	36,970
2-93	South Bollenbaugh	20,545
2-94	Walls Lake	51,130
2-98	Strawberry Mountain	2,400
2-98A	Strawberry Mountain	20
2-98D	Strawberry Mountain	2
2-110	Cottonwood Creek	5,145
2-111	Hay Creek	7,610
2-114	Syrup Canyon	7,570
2-115	Alkali Flat	14,285
	Subtotal Burns District	936,355
	Vale District	
3-6	DeArmond Mountain	45,510
3-8	Westfall Highlands	15,600
3-12	Hog Creek	20,480
3-16	Lower Bully Creek	19,060
3-18	Castle Rock	50
3-19	North Fork Malheur River	3,160
3-20	Mustang Basin	13,120
3-22	Cottonwood Creek	11,560
3-24	Buckbrush Creek	7,800
3-30	Slaughter Gulch	15,400
3-33 [3]	Gold Creek	1,400
3-34	Squaw Creek	3,040
3-35	Sperry Creek	10
3-41	Keeney Creek	1,540
3-41A	Keeney Creek	1,960
3-47	Cedar Mountain	10
3-50	Freezeout Ridge	13,140
3-51	Broken Rim	10,800
3-52	Rock Canyon	8,460
3-53	Dry Creek	9,520
3-54	Burnt Mountain	9,600
3-56	Dry Creek Buttes	2,720
3-57	Quartz Mountain	4,340
3-59	Owyhee Breaks	100
3-59A	Owyhee Breaks	200
3-68	McIntyre Ridge	14,540
3-70	Spring Mountain	23,980
3-73	Blue Canyon	1,170
3-74	Upper Leslie Gulch	460
3-74A	Upper Leslie Gulch	8,740
3-77	Honeycombs	920
3-77A	Honeycombs	5,500
3-79	Mahogany Mountain	10,600
3-80	Mud Flat	8,760
3-82	Washboard Reservoir	7,040
3-100	Duck Pond	19,780
3-105	Flute	9,400
3-107	Obenchain	8,700
3-108	Turnbull Peak	13,240
3-110	Lower Owyhee Canyon	12,900
3-112	Scott's Butte	46,130
3-113	Rye Grass	21,300
3-116	Flat Top Mountain	16,100
3-118	Bowden Hills	260
3-118A	Bowden Hills	4,100
3-120	Clarks Butte	8,300
3-124	Bogus Rim	5,660
3-127	Little Crater	20,300
3-128	Jordan Craters	1,930
3-128A	Jordan Craters	500
3-130	Whitehorse Butte	25,420
3-132	Parsnip Peak	11,200
3-144	Hardin	21,200
3-145	Winter Range	86,000
3-146	Combined with Unit 3-148	
3-148	Big Grassy Mountain	65,200
3-149	Haneon Canyon	15,960
3-152	Willow Creek	14,970
3-157	Oregon Canyon	16,200
3-160	High Peak	14,040

Oregon—*Inventory Unit*—Continued

Number	Name	Acres
3-162	Twelvemile	3,760
3-162A	Twelvemile	8,840
3-163	Blue Mountain	61,980
3-164	Alcorta Rim	15,560
3-171	Pole Creek	19,200
3-172	Deer Flat	11,200
3-173	Upper West Little Owyhee	1,560
3-173A	Upper West Little Owyhee	1,160
3-178	Rattlesnake Creek	58,400
3-179	Rawhide	21,740
3-180	High Ridge	15,500
3-181	Antelope Creek	21,380
3-182	Red Rocks	22,400
3-183	Deadhorse	16,300
3-186	Field Creek	11,580
3-188	Star Valley	10,320
3-191	Cairn "C"	7,960
	Subtotal Vale District	1,055,920
	Prineville District	
5-5 [4]	Horse Ridge	4,855
5-6	Lower John Day	2,575
5-8	North Pole Ridge	6,120
5-9	Spring Basin	301
5-10	Mt. Misery	5,055
5-11	Fossil Beds	7,623
5-18	Rocky Canyon	8,486
5-19	Chimney Rock	5,120
5-20	Alkali Flat	7,035
5-21	Badlands	1,119
5-22	Dry River	6,221
5-23	West Butte	16,440
5-31	North Fork	335
5-33	South Fork	29
5-34	Sand Hollow	29
5-35 [3]	Gerry Mountain	1,140
5-36	Redman Rim	12,823
5-40	Sears Creek	11,980
5-42	Hampton Butte	1,740
5-46	Hampton	6,650
5-47	Stockpile	6,300
5-49	Homestead	15,553
5-50	Whiskey Springs	6,792
5-51	Twin Pines	12,600
5-52	Dickerson Well	9,040
5-53	Two Pool Lake	11,545
5-55	Lone Pine	17,175
5-56	Frederick Butte	6,380
5-59	Grassy Lake	24,337
5-63	Stud Horse Butte	16,504
5-64	Glass Butte	10,911
5-65	Round Mountain	20,080
5-66	Steamboat Island	1
5-69	Eagle Butte Island	1
5-76	Kimberly Island	1
5-82	Nomanisa	1
5-83	Fantasy Island	2
	Subtotal Prineville District	268,879
	Baker District	
6-1	McGraw Creek	290
6-2	Homestead	1,100
6-3	Sheep Mountain	1,950
6-11	Teepee Ridge	240
6-13	—Island	5
6-14	—Island	4
6-15	—Island	6
6-38	—Island	4
6-39	—Island	2
6-40	Hooker Gulch	6,100
	Subtotal Baker District	9,601
	Medford District	
11-16	Zane Grey	18,460
	Coos Bay District	
12-10A	Pistol River-Myers Creek Rocks	5
12-12A	Lone Ranch Rocks	4
12-13A	Harris Island	2
12-14A	Table Rock	1
12-15	Fish Rock	1
	Subtotal Coos Bay District	13
	Grand total Oregon	3,621,883

[1] Includes a portion of the Lost Forest Instant Study Area.

[3] In the March 1980 proposed decisions these 40 acres were included in Unit 3-119. That unit has been combined with the existing WSA, Subunit 2-74F.

[4] Includes the Western Juniper Instant Study Area.

[4] The sizes of these units were re-calculated following the announcement of the proposed decisions.

Washington—*Inventory Unit*

Number	Name	Acres
	Spokane District	
13-1	Juniper Forest	7,806
13-2	Chopaka Mountain	40
13-3	Lummi Rocks	6
13-4	Blind Island	2
13-5	Chuckanut Rocks	1
13-6	Fauntleroy Rock	1
13-7	Dot Rock	1
13-9	Read's Bay Island	3
13-10	Twin Rocks	2
13-11	Barnes Rocks	1
13-12	Clark Rocks	1
13-14	Matia Rock	2
13-15	Davis Bay Island and Rocks	2
13-16	Richardson Rock	2
13-17	Skull Island	3
13-18	Harbor Rocks	1
13-19	Trinka Rock	1
13-20	Oak Island and Rock	1
13-21	Victim Island	3
13-22	Jap Island	1
13-23	Freeman Island and Reach Haven Rock	2
13-27	King Islands	1
13-28	Kanaka Bay Islands	3
13-29	Park Bay Island	2
13-30	North Pass and McConnell Rocks	2
13-31	Broken Point Island	1
13-32	Posey Island	1
13-33	Mitchells Bay Rocks and Guss Island	4
13-34	Pudding Island	1
13-35	John's Pass Rock and Rock Island	1
13-36	Prevost Harbor Rocks	2
13-37	Reid Harbor Rock	1
13-38	John's Island Rock	1
13-39	Reservation Bay Rocks	1
13-40	Little Deadman and Deadman Islands	6
13-41	Narrow Rocks	2
13-44	Rockport Island	20
13-50	Clallam County Islands	20
13-59	Indian Island	2
13-60	Prindle Island	185
13-62	Lawrence Lake Island	1
13-63	Eagle Island	10
13-67	Columbia River Islands	270
	Grand total Washington	8,421

b. Lands proposed as WSAs or parts of WSAs in the March 27, 1980 **Federal Register** notice, but now eliminated from further wilderness review after re-evaluation in response to public comments.

Oregon—*Inventory Unit*

Number	Name	Acres
	Burns District	
2-85F	South Steens	1,360
	Vale District	
3-41	Keeney Creek	12,780
3-44	Star Mountain	14,360
3-57	Quartz Mountain	11,080
3-74A	Upper Leslie Gulch	200
3-121	Deadman Creek	8,440
3-132	Parsnip Peak	10,800
	Subtotal Vale District	57,660
	Grand total Oregon	59,040

Total Oregon acres eliminated from further wilderness review in these decisions, 3,680,923

Total Washington acres eliminated from further wilderness review in these decisions, 8,421

Deferred Decisions

Though proposed decisions for the following inventory units were announced in the March 27, 1980 **Federal Register** notice, the final decisions have been deferred pending resolution of initial inventory appeals affecting contiguous lands in Idaho.

Oregon—*Vale District—Inventory Unit*

Number	Name	Acres
3-143	Combined with Unit 3-195	
3-159	Tent Creek	32,440
3-194	Lookout Butte	65,640
3-195	Owyhee Canyon	182,090
	Total acres for which final decisions are deferred	280,170

Interstate Units

Eleven of the inventory units included in this announcement are contiguous to public lands in inventory units in adjacent states. The district offices which administer lands in each interstate unit coordinated their wilderness inventories. The Idaho and Nevada State Directors received public comments on the proposed intensive inventory decisions for public lands in those states during approximately the same period as Oregon. A public comment period for proposed decisions on public lands in California outside of the California Desert was conducted during the summer of 1979. The California State Director reannounced the proposed decisions on the interstate units in 1980 so the public would have an opportunity to comment on proposed decisions on lands in both states at the same time.

Units Adjacent to Idaho Units Under Appeal

A number of initial inventory decisions in the Boise District in Idaho are under appeal to the Interior Board of Land Appeals. Therefore, the Idaho State Director has not issued proposed intensive inventory decisions for those units. Three of those units are contiguous with inventory units in the Vale District. The affected units in Vale are 3-159, 3-194 and 3-195. Unit 3-159 is also contiguous with an inventory unit in Nevada. Though the proposed decisions for these three units were announced in March 1980, final decisions will not be made until the Idaho appeal is resolved and the Idaho State Director is able to proceed with the intensive inventory of the units now under appeal.

When the Idaho State Director announces proposed intensive inventory decisions on the three Idaho units, the Oregon State Office will reopen the public comment period for the three Oregon units so the public will have the opportunity to review and comment on the interstate units as complete entities. Final decisions will be announced concurrently by the two states (also Nevada in the case of Unit 3-159).

Interstate Units—*Public Land Roadless Areas Administered by More Than One State*

Unit No.	Unit name	Final decision				
		Wilderness study areas (WSA)		Lacking wilderness characteristics		
		Acres in Oregon	Acres in adjoining State	Acres in Oregon	Acres in adjoining State	Acres all public lands
OR-1-126	Coleman Valley			23,640		23,640
CA-020-1010 [1]	Macy Flat				13,060	13,060
Total						36,700
OR-1-157	Coleman Valley West			10,000		10,000
CA-020-1005 [1]	Coleman Ranch				13,005	13,005
Total						23,005
OR-1-164	Snuff			1,440		1,440
CA-020-1004 [1]	Twelve Mile Creek				14,690	14,690
Total						16,130
OR-2-78D	Red Mountain	2,720				2,720
OR-3-153	Disaster Peak	13,300				13,300
NV-020-859	Disaster Peak		11,622			11,622
Total						27,642
OR-2-78E	Red Mountain			5,460		5,460
NV-020-859J	Disaster Peak				540	540
Total						6,000
OR-2-80	Sand Hills			14,990		14,990
NV-020-609	Maggie Creek				20,594	20,594
Total						35,584
OR-3-159	Tent Creek					32,440
ID-106-70E	Tent Creek	([2])		([2])		3,400
NV-020-811	Tent Creek					10,680
Total						46,520
OR-3-172	Deer Flat			11,200		11,200
NV-020-809	Deer Flat				500	500
Total						11,700
OR-3-191	Cairn "C"			7,960		7,960
NV-020-210	Cairn "C"				3,700	3,700
Total						11,660
OR-3-194	Lookout Butte					65,640
ID-106-48A	Lookout Butte	([2])		([2])		39,200
Total						104,840
OR-3-195	Owyhee Canyon					182,090
ID-106-48B	Owyhee Canyon	([2])		([2])		33,710
Total						215,800

[1] All of CA-020-1010 and CA-020-1005, and the eastern portion of CA-020-1004 are lands located in Nevada but administered by the Susanville District, California

[2] Decision deferred.

Summary of the Wilderness Inventory in Oregon

1. Total public lands administered by BLM—15,724,455 acres.
   a. Oregon and California Grant Lands exempt from wilderness review—1,759,200 acres.
2. Total area subject to wilderness review—13,965,255 acres.
3. Total area found to lack wilderness characteristics prior to the intensive inventory—6,677,669 acres.
4. Total area included in the intensive inventory—7,287,586 acres
   a. Previously eliminated from further wilderness review—835,154 acres.
   b. Eliminated from further wilderness review by decisions announced in this notice—3,680,923 acres.
   c. Previously identified as Wilderness Study Areas—442,339 acres.
   d. Identified as Wilderness Study Areas by decisions announced in this notice—2,049,000 acres.
   e. Total area for which decisions have been deferred—280,170 acres.

Summary of the Wilderness Inventory in Washington

1. Total public lands administered by BLM—310,239 acres.
2. Total area found to lack wilderness characteristics prior to the intensive inventory—295,308 acres.
3. Total area included in the intensive inventory—14,931 acres.
   a. Eliminated from further wilderness review by decisions announced in this notice—8,421 acres.
   b. Identified as Wilderness Study Areas by decisions announced in this notice—6,510 acres.

Inventory Units Under Formal Appeal

Inventory Unit 11-6, Greyback Glades, in the Medford District, Oregon, is under appeal to the Interior Board of Land Appeals (IBLA) as a result of the

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initial inventory decision announced on August 29, 1979.

Inventory Subunits 2–81L, Pueblo Mountains, and 2–82H, Rincon, in the Burns District, Oregon, are under appeal to the IBLA as a result of the Oregon State Director's responses to protests of final intensive inventory decisions announced on March 27, 1980. The responses to the protests were announced on August 5, 1980, in the **Federal Register**, pages 51925–51926.

These three inventory units will be subject to the Interim Management Policy and Guidelines until the IBLA issues a decision and as long as the units remain under wilderness review.

Effective Date

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. The final decisions announced in this notice will become effective on December 15, 1980, unless timely protests are received by the Oregon State Director.

Protest and Appeal Procedures

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, by or before 4:15 p.m., December 15, 1980. Only those protests received at the Oregon State Office by the date and time specified will be accepted.

A protest must specify the inventory unit or units to which it is directed, it must include a clear and concise statement of the reasons for the protest, and it must include data to support the reasons.

Following the close of the protest period, I will publish in the **Federal Register** a notice of those decisions that were not protested and, therefore, have become effective, and those which are under formal protest. Decisions under formal protest will not become effective until decisions are made on the protest and any resulting appeal.

I will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by my written decision on a formal protest may appeal such decision under the provisions of 43 CFR Part 4.

Herbert L. Haglund,

State Director.

[FR Doc. 80-34552 Filed 11-5-80; 8:45 am]

BILLING CODE 1505-02-M

Utah; Final Wilderness Inventory Decision

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: I hereby make my final intensive inventory decision under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, change 3.

By publication in the March 28, 1980 **Federal Register**, page 20576, and supplemented by notice published in the **Federal Register**, April 24, 1980, page 27831, the BLM announced the beginning of a 90 day public review and comment period on the 176 intensive inventory units encompassing approximately 5,228,800 acres. (This included Instant Study Areas.) The public comment period ended on June 30, 1980. During the public comment period 28 public open house meetings were held at both a statewide level and district/area level. All comments, whether mailed in or presented at the public open house meetings in writing or verbal, as well as late comments received in time to be reviewed before a final decision was made, were treated equally. They have been read, recorded, analyzed, and, where appropriate, field checked. The final intensive wilderness inventory report, (Nov. 1980) upon which this decision is based, including maps, will be available for review at each BLM district office and copies available upon request from the BLM Utah State Office, 136 East South Temple, Salt Lake City, Utah 84111 and will be mailed to everyone currently on the Utah State Office mailing list. The report contains the details of each unit identified as a Wilderness Study Area (WSA), including changes or modifications of each inventory unit.

Final Intensive Inventory Decision

1. These units are identified as Wilderness Study Areas

A. Units proposed as WSA's in the April 2, 1980, Proposed Wilderness Study Areas publication which was referenced in the March 28, 1980, **Federal Register** notice, and are hereby identified as WSA's as shown in the final intensive inventory report (Nov. 1980).

Unit No.	Unit name	Final WSA acreage
	Salt Lake District	
UT–020–089	North Stansbury Mountains	10,480
UT–020–105	Big Hollow	3,593
Subtotal		14,073
	Cedar City District	
UT–040–061	Steep Creek	22,034
UT–040–077	Mud Spring Canyon	38,075
UT–040–080	Fifty Mile Mtn.	146,143
UT–040–082	Scorpion	35,884
UT–040–132	Red Mountain	18,250
UT–040–143	Canaan Mountain	47,170
UT–040–145	Orderville Canyon	1,750
UT–040–146	Deep Creek	3,320
UT–040–147	Red Butte	804
UT–040–148	Spring Canyon	4,433
UT–040–149	The Watchman	600
UT–040–150	North Fork Virgin River	1,040
UT–040–153	LaVerkin Creek Canyon	567
UT–040–154	Taylor Creek Canyon	35
UT–040–176	Goose Creek Canyon	89
UT–040–177	Beartrap Canyon	40
UT–040–216	White Rock Range	2,600
UT–040–217	Moquith Mountain	14,830
UT–040–230	Parunuweap Canyon	30,800
UT–040–247	Paria-Hackberry	135,822
UT–040–268	The Blues	19,030
Subtotal		523,316
	Richfield District	
UT–050–061	Swasey Mountains	49,500
UT–050–073	Wah Wah Mountains	35,000
UT–050–127	Fish Springs Range	52,500
UT–050–221	Fremont Gorge	2,540
UT–050–237	Horseshoe Canyon	38,800
UT–050–238	Blue Hills—Mt. Ellen	54,480
UT–050–241	Fiddler Butte	27,000
UT–050–242	Bull Mountain	11,800
UT–050–247	Little Rockies	38,700
UT–050–248	Mt. Pennell	27,300
UT–050–249	Mt. Hillers	20,000
Subtotal		357,620
	Moab District	
UT–060–023	Sid's Mountain	80,970
UT–060–025	Devil Canyon	9,610
UT–060–028A	Crack Canyon	25,315
UT–060–029A	San Rafael Reef	55,540
UT–060–045	Horseshoe Canyon	20,550
UT–060–054	Mexican Mountain	60,360
UT–060–067	Turtle Canyon	33,870
UT–060–068A	Desolation-Gray Canyon	217,130
UT–060–100B	Diamond Canyon	48,240
UT–060–100C	Cottonwood Canyon	62,900
UT–060–116/117	Wrigley Mesa/Jone Canyon	5,100
UT–060–118	Star Marble Canyon	30,800
UT–060–131B	South Lost Spring Canyon	3,980
UT–060–139A	Mill Creek	10,320
UT–060–140A	Behind the Rocks	12,930
UT–060–164	Lockhart Basin	7,300
UT–060–167	Bridger Jack Mesa	5,300
UT–060–169	Butler Wash	22,120
UT–060–175	Middle Point	5,990
UT–060–188	Pine Canyon	11,300
UT–060–191	Cheese Box Canyon	15,410
UT–060–196	Bullet Canyon	8,730
UT–060–197/198	Sickhorn/John's Canyon	46,800
UT–060–201	Road Canyon	34,740
UT–060–204	Fish Creek Canyon	48,530
UT–060–205B	Mule Canyon	5,320
UT–060–224	Sheiks Canyon	3,070
UT–060–227	Sqaw Canyon	6,580
UT–060–229	Cross Canyon	1,000
Subtotal		899,705
	Vernal District	
UT–080–103	Cold Springs Mountain	235
UT–080–113	Diamond Breaks	3,900
UT–080–414	Daniel's Canyon	2,475
UT–080–419	Bull Canyon	520
Subtotal		7,130
	ISA's	
North Escalante Canyon, The Gulch, Phipps-Death Hollow, and Canyons (Tract 1–5)		163,216
Grand Gulch		34,928
Dark Canyon		49,904
Subtotal		248,048

B. Units proposed to be dropped from further wilderness review in the April 2, 1980, Proposed Wilderness Study Areas publication which was referenced in the March 28, 1980, **Federal Register** notice, and are hereby identified as WSA's after further evaluation of public comments by BLM as shown in the final intensive inventory report (Nov. 1980).

Unit No.	Unit name	Final WSA acreage
	Salt Lake District	
UT–020–094	Cedar Mountains	50,500
	Cedar City District	
UT–040–076	Carcass Canyon	46,711
Subtotal		97,211

Note.—Those portions of the units listed above which are not included within a WSA as defined in the final intensive inventory report of November 1980, will no longer be subject to Interim Management Policy and Guidelines (IMP) once the decision becomes final.

2. The following units are dropped from further consideration as wilderness because of lack of wilderness characteristics, and will no longer be

subject to Interim Management Policy and Guidelines, once the decision becomes final.

A. Units proposed to be dropped in the April 2, 1980, Proposed Wilderness Study Areas publication which was referenced in the March 28, 1980, **Federal Register**, and are hereby dropped from further wilderness consideration:

Unit No.	Unit name	Acreage
Salt Lake District		
UT-020-011	Wagon Box Pass	2,294
UT-020-012	Wagon Box Pass	2,569
UT-020-037	Newfoundland Mountains	23,266
UT-020-040A	Silver Island Mountains	16,510
UT-020-040B	Silver Island Mountains	25,041
UT-020-040C	Silver Island Mountains	6,755
UT-020-042	North Salt Desert	376,168
UT-020-044	Barber Wash	3,774
UT-020-046	Utah Peak	3,913
UT-020-047	Utah Peak	483
UT-020-050	Barber Flat	6,379
UT-020-053	Northeast Corner	274
UT-020-054	Northeast Corner	146
UT-020-057	Northeast Corner	287
UT-020-087	North Cedar Mountains	16,089
UT-020-101	Big Creek	3,941
UT-020-102	Dry Canyon	960
UT-020-111	Onaqui Mountains	60,018
UT-020-129	Dugway Mountains	20,638
Subtotal		569,505
Cedar City District		
UT-040-041B	Black Ridge-LaVerkin Creek	15,668
UT-040-074	Colt Mesa	19,920
UT-040-075	Horse Spring Canyon	32,203
UT-040-078	Death Ridge	65,040
UT-040-079	Burning Hills	70,080
UT-040-081	Allen Dump	23,028
UT-040-085	Dance Hall Rock	6,972
UT-040-087	Spooner Water	123
UT-040-088	Spooner Bench	142
UT-040-089	Willow Gulch	259
UT-040-090	Cave Point	5,142
UT-040-091	Fifty Mile Creek	125
UT-040-092	Coyote Gulch	30
UT-040-104	Mt. Home Range	19,019
UT-040-134	Quail Draw	2,635
UT-040-135	East Mesa	6,225
UT-040-137	Canaan Gap	300
UT-040-138	Cottonwood Canyon	14,396
UT-040-142	Crater Hill	2,149
UT-040-144	Shune's Hollow	1,220
UT-040-155	Sunset Canyon	2,220
UT-040-173	Shunesburg	80
UT-040-174	Jolley Gulch	160
UT-040-175	Horse Valley Knoll	80
UT-040-179	Rockville Bench	320
UT-040-204B	Central Wah Wah Range	37,238
UT-040-218	Bull Pasture	5,668
UT-040-219	Shinarump Cliffs	537
UT-040-223	Muggins Flat	9,306
UT-040-224	Pasture Canyon	437
UT-040-226	Buckskin Mountains	3,328
UT-040-235	Flood Canyon	29,709
UT-040-245	Brigham Plains	16,500
UT-040-246	Meeph Wash	13,350
UT-040-248	Wahweap	137,980
UT-040-249	Coyote Creek	9,840
UT-040-255	Upper Kanab Creek	61,430
UT-040-266	East of Bryce	687
UT-040-274	Pine Hollow Canyon	9,343
Subtotal		623,091
Richfield District		
UT-050-019	Kern Mountains	28,700
UT-050-029	Granite Spring	28,180
UT-050-113	Thomas Range	44,000
UT-050-244	Ragged Mountain	28,615
UT-050-253	Long Canyon	16,550
UT-050-257	Notom Bench	8,975
Subtotal		155,020
Moab District		
UT-060-026	North Big Ridge	20,490
UT-060-028B	Cistern Canyon	11,480
UT-060-028C	Chute Canyon	31,340
UT-060-053	Cedar Mountain	104,200
UT-060-068B	Floy Canyon	82,300
UT-060-070	Jack Creek	6,570
UT-060-072	Dry Canyon	14,540
UT-060-075	Harmon Canyon	7,160
UT-060-076	Cow Canyon	5,000
UT-060-077	Argyle Ridge	8,940
UT-060-088	South Goose Neck	4,400
UT-060-100A	Westwater Creek	9,240
UT-060-119	Big Triangle	11,260
UT-060-120	Renegade Point	6,270
UT-060-122	Granite Creek	4,800
UT-060-131A	North Lost Spring Canyon	5,200
UT-060-137	Mary Jane Canyon	8,530
UT-060-138	Negro Bill Canyon	9,420
UT-060-165	Sixshooter Peak	10,130
UT-060-171	Sweet Alice Canyon	9,880
UT-060-181	Mancos Mesa	51,440
UT-060-194	Harmon Flat	10,470
UT-060-205A	Arch Canyon	7,500
UT-060-232	Little Ruin Canyon	1,000
Subtotal		441,560
Vernal District		
UT-080-104	Wild Mountain	130
UT-080-110	Hoy Mountain	5,515
UT-080-200	Stone Bridge Draw	2,280
UT-080-208	Boone Springs	27,483
UT-080-605	Sand Wash	19,503
UT-080-612	Nine Mile Canyon	20,040
UT-080-615	Argyle Canyon	36,460
UT-080-616	Devils Canyon	11,120
UT-080-707	East Big Pack Mtn.	5,775
UT-080-708	Big Pack Mtn.	7,730
UT-080-709	West Pack Mtn.	9,815
UT-080-715	Bitter Creek	14,463
UT-080-721	Atchee Ridge	13,853
UT-080-722	Rat Hole Ridge	8,160
UT-080-730	Winter Ridge	43,963
Subtotal		226,290

B. Units proposed as WSA's in the April 2, 1980, Proposed Wilderness Study Areas publication, which was referenced in the March 28, 1980, **Federal Register** notice, and are hereby dropped from further wilderness consideration:

Unit No.	Unit name	Acreage
Vernal District		
UT-080-415	Moonshine Draw	3,747
Subtotal		3,747

Acreage dropped from further consideration as wilderness because of lack of wilderness characteristics (those portions of units outside WSA's as noted above).

Total	1,194,435
Grand total	3,213,648

The final intensive inventory decisions contained herein will become effective on December 15, 1980.

Protest and Appeal Procedures

The decision for each inventory unit is considered individually and separately from the decision for every other inventory unit. This decision will become final at 4:30 p.m. on December 15, 1980, for all units except for units that a timely written protest on a individual unit decision is received by the Utah State Director prior to that date.

Persons wishing to protest a unit decision announced herein must file a written protest to that unit decision with Utah State Director, BLM, 136 East South Temple, Salt Lake Ctiy, Utah, 84111, on or before 4:30 p.m., December 15, 1980. Only those protests received by the Utah State office by the time and date specified above will be accepted.

Each protest ddcument must specify the inventory unit by name and number to which it is directed. It must include a clear and concise statement of the reasons for the protest of that unit decision, as well as data to support the reasons stated. Since the decision for each inventory unit is considered individually and separately from the decision of every other inventory unit, a separate protest must be filed for each individual unit protested. Protests which do not meet the above requirements may not be considered. All protests will be administratively reviewed on an individual unit basis.

At the conclusion of the protest period, the State Director will publish in the **Federal Register** a notice of the inventory units that were not protested and the decision on those are final. The notice will identify the inventory units which have received a protest, and the decision on such units will not become final until a final decision is issued on the protest.

The State Director will issue a written decision on each unit protest filed according to the above requirements and in addition will publish a notice in the **Federal Register** of the action taken on each protest. Any person adversely affected by the State Director's written decision on an individual unit protest, may appeal from that decision under provisions of 43 CFR Part 4.

The following summary data is provided for information purposes only as part of the overall Wilderness Reivew program in Utah:

State Wide Summary

Initial inventory		BLM-Administered public lands within State	Acres lacking wilderness characteristics
		22,075,916	14,647,238
	Total unit acreage	Acreage with wilderness characteristics	Acreage lacking wilderness characteristics
Intensive Inventory	5,073,486	1,899,055	3,174,431
ISA's	287,265	248,048	39,217
Previously Identified WSA's		312,593	
Under Protest or Appeal	565,984		

Summary of Intensive Inventory

District:	Total unit acreage	Acreage with wilderness characteristics	Acreage lacking wilderness characteristics
Salt Lake District	648,520	64,573	583,947
Cedar City District	1,402,048	570,027	832,021
Richfield District	1,016,952	357,620	659,332
Moab District	1,756,212	899,705	856,507
Vernal District	249,754	7,130	242,624
Total	5,073,486	1,899,055	3,174,431

Summary of ISA's Under Inventory

District:	Total unit acreage	ISA acreage with wilderness characteristics	Acreage lacking wilderness characteristics
Salt Lake District	0	0	0
Cedar City District	202,433	163,216	39,217
Richfield District	0	0	0
Moab District	84,832	84,832	0
Vernal District	0	0	0
Total	287,265	248,048	39,217

Summary of Previously Identified WSA's Through Special Inventories

District:	Acreage with wilderness characteristics
Salt Lake District	[1] 68,910
Cedar City District	51,943
Richfield District	191,740
Moab District	0
Vernal District	0
Total	312,593

[1] Includes all of the Deep Creek Mountains Unit (UT-020-060/UT-050-020).

Summary of Special Inventories

Inventory name	Acres lacking wilderness characteristics	Wilderness study areas		Units under protest/appeal	
		Units	Acres	Units	Acres
IPP		7	210,883	3	206,495
Deep Creek Mountains	88,537	1	68,910		
Prairie Canyon	17,700				
Dirty Devil				1	289,120
Paria ISA	23,468	1	21,470		
Overthrust Belt	34,521	1	11,330		

Summary of Previously Identified WSA's Through Special Inventories

Unit No.	Unit name	Acreage
UT-020-060/ UT-050-020.	Deep Creek Mountains	68,910
UT-040-046	Cottonwood Canyon	11,330
UT-040-057	Starvation	8,575
UT-040-123	Cougar Canyon	10,568
ISA	Paria ISA and Contiguous lands.	21,470
UT-050-035	Conger Mountain	22,863
UT-050-070	King Top	84,771
UT-050-077	Howell Peak	23,825
UT-050-078	Notch Peak	51,130
UT-050-186	Rockwell	9,151
UT-050-236	Dirty Devil	[1] 86,000
UT-060-007	Muddy Creek	[1] 31,360

[1] These units are under appeal to IBLA—No final decision.

Summary of Inventory Units Under Formal Appeal to Interior Board of Land Appeals [1]

Unit No.	Unit name	Unit acreage
UT-050-233	Factory Butte	67,605
UT-050-236	Dirty Devil	289,120
UT-050-236	Muddy Creek	150,930
UT-060-011	Upper Muddy Creek	20,405
UT-060-012	Molen Reef/Sand Bench	35,160

Summary of Inventory Units Under Protest to the State Director [1]

Unit No.	Unit name	Unit acreage
UT-020-001	Little Goose Creek #1	1,332
ISA	Devil's Garden	640

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Summary of Inventory Units Under Protest to the State Director [1]—Continued

Unit No.	Unit name	Unit acreage
ISA	Lost Flats	792

[1] These units are subject to the Interim Management Policy and Guidelines pending final disposition of protest/appeal.

FOR FURTHER INFORMATION CONTACT:
Kent Biddulph, BLM Utah State Office, (801) 524–5326.

Dated: November 3, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80-35146 Filed 11-13-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Decision on Statewide Wilderness Inventory

This decision is issued under the authority of Section 603 of the Federal Land Policy and Management Act of October 21, 1976; the guidelines provided in Step 6 of the *Wilderness Inventory Handbook* of September 27, 1978, issued by the U.S. Department of the Interior, Bureau of Land Management; and according to direction given in Bureau of Land Management's Organic Act Directive No. 78–61, including Changes 1, 2, and 3 and Instruction Memorandum No. 80–236.

Wyoming began the wilderness inventory of public lands by announcement in the **Federal Register** on November 16, 1978. The inventory has been done in two stages consisting of an initial inventory and an intensive inventory. The initial inventory was begun with the 1978 notice and the results of the initial inventory were announced in the **Federal Register** on February 7, 1979. At that time 86 inventory units totaling 1,037,000 acres were proposed for intensive inventory and a 90-day comment period was begun. During that comment period 11 formal open houses and 12 public meetings were held to inform the public of the wilderness inventory process and to obtain input.

The final decision on the initial inventory was announced in the **Federal Register** on July 10, 1979. In that decision, 83 units totaling 1,186,400 acres were identified for intensive inventory. During the summer and fall of 1979 the intensive inventory was conducted. Permanent documentation files have been prepared on each inventory unit and these materials were avialable for public review and comment. These files will be retained in the District Offices and will be available for public review at any time.

The Secretary of the Interior directed that the wilderness inventory of all inventory units on the "Overthrust Belt" be completed by December 31, 1979. Wyoming has seven units on the Overthrust Belt in addition to six other units on which the intensive inventory was completed and which were announced in the **Federal Register** on August 15, 1979. That notice proposed two of the Overthrust Belt units and a portion of one other unit as Wilderness Study Areas (WSA). The other 10 units were proposed to be released from the inventory due to lack of wilderness characteristics. The ensuing 90-day comment period did not generate any valid rationale to change the proposed decision and on December 14, 1979, the final decision for the Overthrust Belt units established the Raymond Mountain (WY–040–221) and Lake Mountain (WY–030–303a) units as Wilderness Study Areas. This decision was subject to protest and seven protests were received. Those protests were carefully reviewed and evaluated and a decision was published in the **Federal Register** on March 6, 1980, stating that the December 14, 1979, decision remains unchanged except that a minor modification was made to the boundary of the Raymond Mountain WSA.

The decisions issued on the protests resulted in four appeals to the Interior Board of Land Appeals (IBLA). One appeal has subsequently been withdrawn. The other three appeals concern the decision on the Raymond Mountain (WY–040–221), Lake Mountain (WY–040–110), and Coal Creek (WY–040–223) units. Disposition on these appeals is still pending.

The decision on one of the six additional units (WY–030–115, Lysite Badlands) was deferred for announcement with the other 74 units in Wyoming. The final decision on that unit is included in this announcement.

A proposed wilderness intensive inventory decision was issued on April 4, 1980. A 145-day public comment period ending on August 19, 1980, was provided. All comments received by that date were considered in reaching this decision. Other comments received after that date were also considered to the extent possible in reaching a decision. Eleven open houses and nine public meetings were held throughout the State during April, May, and June of this year. The formal and informal statements submitted at the public meetings were especially helpful in arriving at these decisions.

The comments were evaluated for information which could change the proposed decision. The pertinent points on which the public was invited to comment were the wilderness characteristics of size, naturalness, outstanding opportunity for solitude or primitive recreation, and any supplemental values the unit(s) may have. Opinions for or against wilderness or votes on a particular unit were not appropriate during this phase of the review process. Those who provided information on intrusions or personal experience in utilizing a particular unit were most helpful. Those who provided information on other resource values such as oil and gas or minerals were premature in their submissions; however, this information will be retained and utilized during the study phase of the wilderness review process.

This notice announces the final decision on 75 intensive inventory units encompassing approximately 1,062,353 acres.

The following table lists each inventory unit and the decision for each unit. A total of 525,504 acres have been determined to possess wilderness characteristics as set forth in Section 2(c) of the 1964 Wilderness Act and are identified as WSA's. These WAS's will be further evaluated, along with other resource values, through the Bureau planning process and a wilderness study report will be prepared. A recommendation will then be made to the Congress regarding whether or not the unit should be made a part of the National Wilderness Preservation System.

The designation of these units as WSA's will retain them under the constraints of interim management (Sec. 603(c) of the Federal Land Policy and Management Act) pending a decision by the Congress.

The remaining area, consisting of 536,849 acres, has been determined not to possess wilderness characteristics as se forth in Section 2(c) of the 1964 Wilderness Act and is therefore dropped from further consideration under the wilderness review process and released from the constraints of interim management as specified in Section 603(c) of the Federal Land Policy and Management Act.

Inventory unit No.	Unit name	Wilderness study area (WSA's) (acres)	Lacking wilderness characteristics (acres)	Total
Worland District				
WY–010–104a, b, c	Owl Creek	710		710
WY–010–126	Bobcat Draw Badlands	17,150	12,720	29,870
WY–010–130	Sheep Mountain	23,250	6,000	29,250
WY–010–131	Red Butte	11,350	150	11,500
WY–010–220a	Bud Kimball Creek		27,300	27,300
WY–010–221a	Honeycombs	21,000	43,000	64,000
WY–010–222a	Cedar Mountain	21,570	5,265	26,835
WY–010–222b	Cedar Mountain		10,660	10,660
WY–010–236a	South Paint Rock	660		660
WY–010–239a	Paint Rock	2,770		2,770
WY–010–240a	Medicine Lodge	7,740	2,270	10,010
WY–010–241a	Potato Ridge		21,480	21,480
WY–010–241b	Potato Ridge		18,100	18,100
WY–010–241c	Alkali Creek	10,100	6,910	17,010
WY–010–242a	Trapper Creek	7,200		7,200
WY–010–334a	Emblem Draw		46,800	46,800
WY–010–335a	McCullough Peaks	25,210		25,210
WY–010–346a	Foster Gulch		16,150	16,150
WY–010–346b	Foster Gulch		14,060	14,060
District total		148,710	230,865	379,575
Rawlins District				
WY–030–101	Sweetwater Canyon	9,056		9,056
WY–030–106	Whiskey Mountain		1,707	1,707
WY–030–107	Whiskey Mountain		421	421
WY–030–108	Whiskey Mountain		350	350
WY–030–109	Dubois Badlands	4,520		4,520
WY–030–110	Whiskey Mountain	487		487
WY–030–111	Copper Mountain	6,858		6,858
WY–030–113	Lysite Mountain		7,330	7,330
WY–030–115	Lysite Badlands		14,831	14,831
WY–030–120	Sweetwater Rocks	6,316		6,316
WY–030–121	Sweetwater Rocks		8,506	8,506
WY–030–122	Sweetwater Rocks	12,789	596	13,385
WY–030–123a	Sweetwater Rocks	7,041	7,747	14,788
WY–030–123b	Sweetwater Rocks	6,429	885	7,314
WY–030–301	Encampment River Canyon	3,380	2,460	5,840
WY–030–304	Bennett Mountains	5,722	1,358	7,080
WY–030–305	Pedro Mountains	5,990		5,990
WY–030–401	Adobe Town	33,000	22,000	55,000
WY–030–407	Ferris Mountains	20,495	2,660	23,155
District total		122,083	70,851	192,934
Rock Springs District				
WY–040–104	South Soda Lake		70	70
WY–040–105	Cottonwood Creek		3,540	3,540
WY–040–106	East Fork	1,415	4,085	5,500
WY–040–114, 115, 116	LaBarge Islands		180	180
WY–040–125	New Fork Islands		72	72
WY–040–306	Buffalo Hump	10,300		10,300
WY–040–307	Sand Dunes	27,200	3,816	31,016
WY–040–311	Alkali Draw	16,990		16,990
WY–040–313	South Pinnacles	10,826	560	11,386
WY–040–314, 315	Pinnacles—Big Empty		13,797	13,797
WY–040–316, 317	Alkali Basin/East Sand Dunes	12,800	33,690	46,490
WY–040–318	Red Lake	9,515	1,087	10,602
WY–040–319	Bush Creek		15,186	15,186
WY–040–323	Honeycomb Buttes	41,620	31,161	72,781
WY–040–324	Oregon Buttes	5,700	1,456	7,156
WY–040–325	Whitehorse Creek	4,028	2,662	6,690
WY–040–326	Harris Slough		13,225	13,225
WY–040–327	Elk Mountain		7,795	7,795
WY–040–335	Mill Creek	1,300	614	1,914
WY–040–401	Devils Playground	15,646	1,058	16,704
WY–040–402	Twin Buttes	8,630	1,271	9,901
WY–040–403, 404	Anvil Wash/Butte Creek		22,560	22,560
WY–040–405	Wildhorse Basin		4,753	4,753
WY–040–406, 407, 410	Red Creek Badlands	7,100	26,945	34,045
WY–040–408	Adobe Town	52,710	8,970	61,680
District total		225,780	198,553	424,333
Casper District				
WY–060–101	LaBonte		3,800	3,800
WY–060–201a	Gardner Mountain	6,423	12,017	18,440
WY–060–202	North Fork Powder River	10,089	5,082	15,171
WY–060–204	Fortification Creek	12,419	15,681	28,100
District total		28,931	36,580	65,511
State total		525,504	536,849	1,062,353

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Any person(s) who has disagreement with this decision and has information which may influence this decision may file a protest with: State Director (931), Bureau of Land Management, 2512 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Protests must be filed with the State Director by 4:30 p.m. December 15, 1980. No specific form need be used in filing a protest. However, protests must be specifically identified as follows: "Protest to Wyoming State Director's Statewide Wilderness Intensive Inventory Decision."

Should any protests be filed on any inventory unit the State Director will consider such protests and issue a decision which will be subject to appeal on that inventory unit(s) to the Department of the Interior, Board of Land Appeals (IBLA). If the decision on the protest remains consistent with this decision only the protestant may appeal to the IBLA. If the decision on the protest reflects changes from this decision based upon information submitted by the protestant, any adversely affected person(s) may appeal to the IBLA.

This decision will become effective as of 4:30 p.m. December 15, 1980, (close of protest period) for all inventory units on which no protest is filed. A **Federal Register** Notice and press release will be issued after December 15, 1980, announcing status of all units.

A publication listing the rationale for the decision on every intensive inventory unit, including 1:1,000,000 scale maps showing the wilderness study areas will appear as a special supplement to all daily newspapers in Wyoming the weekend of November 15 and 16, 1980. This supplement may also be obtained free of charge from any of the BLM offices listed at the end of this notice. A 1:500,000 scale map plus transparent overlay depicting the wilderness study areas are available for purchase from the Wyoming State Office of BLM as follows:

1:500,000 scale colored status map—$5.00 each copy.

Transparent overlay No. 6 dated November 1980—$4.00 each copy.

Paper copy of overlay No. 6—free of charge.

Additional information on this program is available on request from all BLM offices in Wyoming as listed below. These offices are also available for contact regarding input to the wilderness study phase.

State Director, Bureau of Land Management, 2512 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001, 307–778–2220, ext. 2413

Worland District Office, District Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, WY, 82401, 307–347–6151

Grass Creek Resource Area [1]

Washakie Resource Area [1]

Cody Resource Area, Area Manager, P.O. Box 528, Federal Building, 1131 13th, Cody, WY 82414, 307–587–2216

Rawlins District Office, District Manager, P.O. Box 670, 1300 Third Street, Rawlins, WY 82301, 307–324–7171

Divide Resource Area [1]

Medicine Bow Resource Area [1]

Lander Resource Area, Area Manager, P.O. Box 589, Lander, WY 82520, 307–332–4220

Rock Springs District Office, District Manager, P.O. Box 1869, Highway 187 N, Rock Springs, WY 82901, 307–382–5350

Green River Resource Area [1]

Salt Wells Resources Area [1]

Pinedale Resource Area, Area Manager, Molyneux Building, Pinedale, WY 82941, 307–467–4358

Kemmerer Resource Area, Area Manager, P.O. Box 632, Kemmerer, WY 83101, 307–887–3933

Casper District Office, District Manager, 951 Rancho Road, Casper, WY 82601, 307–265–5550, ext. 5101

Platte River Resource Area [1]

Buffalo Resource Area, Area Manager, P.O. Box 670, Buffalo, WY 82834, 307–684–5586

Newcastle Resource Area, Area Manager, Highway 16 Bypass, Newcastle, WY 82701, 307–746–4453.

Maxwell T. Lieurance,

State Director.

[FR Doc. 80-35143 Filed 11-10-80; 8:45 am]

BILLING CODE 4310-84-M

[1] Located at District Office.

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federal register

Friday
November 14, 1980

Part XI

Department of Housing and Urban Development

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

Neighborhood Self-Help Development Program; Program Requirements

V 4 5 N O 1 4 8 0 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3610

[Docket No. R-80-715]

Neighborhood Self-Help Development Program; Program Requirements

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: The Neighborhood Self-Help Development Act of 1978 (42 U.S.C. 8121 *et seq.*), referred to as the "Act", authorizes the Secretary to make grants and provide training and information assistance to neighborhood organizations to prepare and implement neighborhood revitalization projects in low- and moderate-income neighborhoods. This final regulation revises the procedures for the award of grants and for training and information assistance under the Neighborhood Self-Help Development Program.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph McNeely, Office of Neighborhood Self-Help Development, Room 4222, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5595. This is not a toll free number.

SUPPLEMENTARY INFORMATION: This rule makes changes and adopts as final the interim rule published October 22, 1979 in the **Federal Register** (44 FR 60934).

The Neighborhood Self-Help Development Act of 1978 was passed by Congress as Title VII of Pub. L. 95-557 of the Housing and Community Development Amendments of 1978. This Act authorizes the Secretary to make grants and provide training and information assistance to neighborhood organizations to prepare and implement neighborhood revitalization projects in low- and moderate-income neighborhoods. These neighborhood-based projects include support to housing, economic and community development and other appropriate neighborhood revitalization activities in partnership with local government and other public and private entities. The Neighborhood Self-Help Development Act was a component of the President's Urban Policy announced in March 1978 and authorized by Congress in August 1978. The interim regulation for the Neighborhood Self-Help Development Program had an effective date of November 21, 1979. On December 13, 1979, a grant announcement was published in the **Federal Register** inviting interested organizations from urban and rural areas to prepare and submit applications to the program. An application kit was prepared and sent to over 8,000 people who requested it. The closing date for accepting applications was March 21, 1980 and approximately 730 neighborhood organizations applied. On May 4, 1980 the Department announced that seventy (70) organizations were selected for grant awards under the first cycle. A grant announcement for the availability of funds under a second cycle was published on April 1, 1980 with a closing date of July 15, 1980. Over 5,000 people requested this application kit. Approximately 555 neighborhood organizations applied to the program under this cycle. Under the second cycle fifty-five (55) organizations received grant awards.

Changes in Response to Public Comment

Since the publication on October 22, 1979 of the interim regulation (24 CFR Part 3610), public comments and recommendations for the final regulation have been solicited. During a ninety-day formal public comment period, thirty-three written comments were received. A series of public meetings and pre-application conferences in November, 1979 resulted in over 2,000 verbal comments and suggestions. Over 1,500 people consulted program staff regarding technical questions during the two cycles of grant applications. On-going meetings with neighborhood groups, local officials, congressional staff, civil rights organizations and national neighborhood networks resulted in approximately 1,000 additional verbal comments and recommendations. All comments were carefully considered. In addition, two cycles of grant applications occurred under the interim regulation. The experience of soliciting, reviewing and selecting neighborhood organizations for grants was also considered in the preparation of this final regulation. The following summarizes the major changes from interim to final regulation based on the comments, recommendations and program administration experience:

(i) It was determined through public comment and experience that the same definition of "low- and moderate-income" could not be used by both urban and rural organizations. Therefore, the definition has been changed to provide flexibility while being consistent with other HUD programs.

(ii) It was found through program experience and public comment that the criteria constituting either "proven record" or "demonstrable capacity" (§ 3610.103) was not clear to organizations. Therefore, the eligibility criteria for "proven record" and "demonstrable capacity" are redefined and clarified.

(iii) Through program experience, it was found that neighborhood organizations were confused about what constituted a specific project, as opposed to a general ongoing program. Therefore, the final regulation on eligible projects (§ 3610.104) describes the components necessary for a *specific* project and the preamble to that section provides extensive examples of eligible specific projects.

(iv) Through comments and experience, it was found that the types of activities that qualify as preparation and/or partial implementation activities were not clear to neighborhood organizations. Therefore, the final regulation on eligible activities (§ 3610.104) clarifies what activities are considered acceptable based on the project's stage of development, and the preamble section provides examples of acceptable preparation activities.

(v) Through program experience, it was found that many neighborhood organizations requested support for projects considered inconsistent with the intent of the program because either they did not directly benefit the residents in low- and moderate-income neighborhoods, or they were composed of activities on the list of ineligible activities. Therefore the section on ineligible activities (§ 3610.105) is expanded.

(vi) Through experience, it was learned that the program's "factors for award" which were presented in the **Federal Register** Notice of Grant Availability were more effective in communicating the evaluation criteria for eligible organizations than the "project selection criteria" described in § 3610.106 of the Interim Rule. Therefore, the factors for award replace the project selection criteria in § 3610.106 of the Final Rule.

(vii) During the first year of the program, Congress passed the Housing and Community Development Act Amendments of 1979. Section 107 of the Amendments affected the provision on local government certification (§ 3610.107). Therefore, additional language is offered which states that up to ten percent of the program's grants may be awarded for innovative projects without local government certification.

Summary of the Final Regulations

Section 3610.101 states the purpose of the Neighborhood Self-Help Development Program. The purpose of this program is to assist neighborhood organizations, through grants, training and information assistance, to increase their capacity to effectively prepare, finance, package and manage specific housing, community and economic development projects. The projects must directly benefit the residents of low- and moderate-income neighborhoods, contain a self-help component which captures the energy and resources of the neighborhood residents themselves, and be connected to an overall neighborhood revitalization strategy.

The intent of this program is to encourage and support projects identified and developed by neighborhood organizations on a local level which combine their appropriate local strategies, resources and people. To realize the greatest impact of the program in meeting this intent, successful strategies, tools and projects as demonstrated by the funded projects are shared with a wide range of self-help groups by means of information exchange, training, workshops and on-site consultation. Assistance is given to organizations to work in partnership with the public and private sectors to prepare and implement neighborhood revitalization projects.

Section 3610.102 defines three terms: "low- and moderate-income", "neighborhood" and "self-help".

The interim regulation defined low- and moderate-income as 80% of the median income of the county. The intent of the change in the final rule to 80% of the median income of the area, as determined by HUD, is to provide a flexible basis for comparison other than the county for those counties where the median income is substantially below that of the state and for those cities which are county jurisdictions in larger, more affluent metropolitan areas.

Two definitions are given for "neighborhood"—one urban and one rural. Applicant organizations know best what constitutes a "neighborhood." Therefore organizations are expected to use their own definition of neighborhood. However, no neighborhood may be defined in such a manner as to include or exclude any identifiable segment of it on the basis of race, color, religion, sex, age, or national origin. The following factors often contribute to people's definition of neighborhood:

(i) A sense of belonging or identity that ties residents to a given area;

(ii) Social, cultural, political, or economic activities around which people organize themselves;

(iii) The existence of cohesive organizations formed by residents; and

(iv) A history of acting or being treated as a distinct or cohesive unit.

Examples of ways which organizations define their neighborhood include:

(a) A residential area which is geographically separated from the rest of the city by a river and two highways and is known as the "South End" neighborhood;

(b) An area of several blocks of multi-family buildings which is known as "Golden Park;"

(c) One, two or more adjacent low-income public housing projects which have become identified as the "Joseph" project or area or community;

(d) A commercial area with residential areas adjacent to the main retail street which is known by both residents and business owners as the "Loeste" neighborhood.

(e) Several target areas in a rural region where the residents are organized and identified as farmworkers and refer to their community as the "Vallejo" area.

"Self-help" is broadly defined because the intent of the program is to support and stimulate diverse local self-help methods. The direct involvement of residents in the proposed specific project must be tied to a more comprehensive neighborhood resident effort in revitalization activities carried out by the applicant organization. Examples of different types of self-help include, but are not limited to:

(a) Direct, on-going involvement of neighborhood residents in the planning of a specific project;

(b) Direct involvement and coordination of the evaluation of a project by the neighborhood residents;

(c) Financial and technical contributions from residents and other members of the neighborhood to a specific project;

(d) Volunteer efforts by residents and other members of the neighborhood to a specific project; and

(e) Sweat equity tied to a specific project.

Section 3610.103 describes the eligibility criteria for neighborhood organizations which apply to this program. Organizations must satisfy each criterion to be considered eligible.

The regulation requires that an organization be broadly representative of the neighborhood where the project is located (Paragraph (b)). While the regulation does not require a specific method structure to satisfy this criterion, the applicant organization is expected to document its performance or methods of residential representation showing that it is representative of the racial, ethnic, economic, disabled, age and sex distribution of the population in the neighborhood served.

Paragraph (c) requires that an organization be accountable to neighborhood residents with respect to the project being proposed. This section of the regulation requires that an organization directly involve, and be responsive to, the neighborhood residents. This section requires some specific structure for the project for organizations which are *not* based in the project neighborhood alone. Organizations which are city-wide, county-wide or multi-county, or serve more than one neighborhood are eligible, therefore, to participate in the program if they establish some structure by which they are accountable to neighborhood residents for the proposed project. This regulation does not specify what the structure must be, but examples include: task forces, planning committees, advisory committees and specific neighborhood-based organizations; provided that these groups have actual control over the project.

Paragraph (d) requires that an organization has preservation or revitalization of low- and moderate-income neighborhoods as one of its objectives. An applicant organization may satisfy this requirement by reference to its charter, by-laws, articles of incorporation, mission statements, minutes from board meetings, or other organizational documents which state this objective or it may refer to its past and current activities which support this objective.

Paragraph (f) requires that an organization have either a proven record or demonstrable capacity to undertake and manage its proposed project. The regulation defines the distinction between demonstrable capacity and proven record for both the programmatic and management requirement. An organization must provide evidence supporting how it satisfies this criterion by describing its past and current projects. An organization which has never implemented any project will not meet this criterion.

Examples of organizations with a satisfactory programmatic and management "proven record" include: a non-profit housing sponsor which has purchased and successfully managed several multi-family buildings now proposes to purchase, rehabilitate and manage several additional properties; a neighborhood development organization

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which has done several improvement projects on a commercial strip now proposes to develop a vacant piece of property on the strip for the construction of a new supermarket.

Examples of organizations with a programmatic and management "demonstrable capacity" are: a tenant's organization which proposes to purchase a building for conversion to a cooperative and has identified legal and other technical skills to assist in the implementation of this project; a rural non-profit housing sponsor which rehabilitated several low-income housing units now proposes to package and construct FmHA self-help housing and has recently hired a construction manager with new housing construction experience; an organization which has engaged in a variety of housing development activities and now proposes to establish a construction company as its first economic development venture and has assembled financial and legal consultants to assist in the formation of the company and the refinement of the proposed company's business plan; and an organization which has packaged commercial rehabilitation loans and now proposes to construct and manage commercial space to be rented to a neighborhood supermarket, and has identified a private commercial developer who will particpate in the project as a joint venture.

Paragraph (g) requires an organization be incorporated as a nonprofit under state law. This criterion does not require the applicant have Internal Revenue (IRS) 501(c)3 status.

Paragraph 3610.104(a) describes the eligible projects and activities under this program. To support the intent of this program and to encourage a high level of local creativity and initiative by neighborhood organizations to meet their specific housing, community and economic development and neighborhood revitalization needs, little limitation has been placed on the types of *projects* which are eligible.

The regulations state specific components for each proposed project which distinguishes "specific projects" from "general program activities". It is the intent of this program to support discrete single or inter-related projects which advance the organization's revitalization strategy or strengthen its development programs. An applicant organization must document the relationship between the proposed project and its revitalization strategy and/or overall development program activities for the target neighborhood. Examples of eligible projects include:

(a) Neighborhood-based housing development projects
(i) New construction
(ii) Acquisition, rehabilitation and resale of properties
(iii) Rehabilitation and cooperative conversion
(iv) Renovation of abandoned facilities into housing units including those accessible to the handicapped
(b) Neighborhood commercial development projects
(i) Rehabilitation of neighborhood commercial structures
(ii) Construction of neighborhood commercial facilities
(iii) Creation of neighborhood retail stores
(c) Neighborhood-based economic and business development projects
(i) Creation of a construction company employing low- and moderate-income neighborhood residents
(ii) Development of industrial parks which create jobs for low- and moderate-income residents and handicapped workers
(iii) Creation of ventures connected to neighborhood-based housing activities (i.e., adobe brick, wood and cabinetmaking manufacturing, and tile manufacturing)
(iv) Establishment of agricultural equipment and marketing cooperatives for use and ownership by farmworkers and small farmers
(v) Establishment of fishing cooperatives and forestry-related business for use and control by low- and moderate-income residents
(vi) Development of recycling businesses which employ residents and generate income for other neighborhood projects
(vii) Creation of playground manufacturing businesses which employ neighborhood youth and other low- and moderate-income residents
(d) Neighborhood-based energy-related projects
(i) Solar energy installation related to neighborhood housing development activities
(ii) Alternative technology projects related to other neighborhood-based projects
(iii) Creation of gasohol plants which employ low- and moderate-income neighborhood residents
(iv) Creation of insulation material and solar panel manufacturing businesses which provide neighborhood jobs and generate income for other neighborhood-based projects.

Paragraph 3610.104(b) states what activities are eligible under the program. It is the intent of this program to support the specific activities for projects at the stage of development where early planning has been completed, and a specific timetable for implementation and project completion has been identified.

Examples of preparation activities eligible under this program include:
(i) Architectural services;
(ii) Preparation of rehabilitation specifications;
(iii) Detailed financial planning and packaging;
(iv) Technical services for making building and facilities accessible to and usable by the physically handicapped;
(v) Acquiring site control through down payment, option or purchase;
(vi) Land acquisition;
(vii) Legal services to package venture projects or adapt existing facilities to new uses;
(viii) Technical, professional project staff services;
(ix) Refining and updating market studies; and
(x) Equity infusion.

The intent of the program is to maximize the coordination and leveraging of other public and private sector resources for project implementation (Refer to Project Selection Criteria—§ 3610.106.). Therefore, the program will not support the complete costs of preparing any project and it will support only a portion of implementation costs (i.e., construction, capitalization, etc.) for a specific project. An organization which requests implementation resources under the program must document that other implementation resources are committed to the project. HUD makes a determination of the appropriate portion of implementation costs supported by the program based on the type of proposed project and the availability of other implementation resources. HUD does not intend to replace a source of funding currently available for the support of a specific project, nor does it intend to duplicate funding project activities which should be supported by other, more appropriate resources.

Section 3610.105 states what activities are ineligible under this program. An organization may not propose any of the listed activities as its specific project. The Secretary may determine that additional activities are ineligible if they are considered inconsistent with the intent of the program.

Section 3610.106 states the project selection criteria by which the Department will select among eligible applicants. No organization meets all project selection criteria perfectly; the competitive strength of each application will be based on the applicant organization's ability to carry out and complete the proposed project; the soundness of the project itself; the financial feasibility and leverage of the proposed project; the quality of the planning activity accomplished already; and the quality of the work plan to implement the project. Grant announcements and application kits, available at the time of grant availability, will describe how each factor will be used.

Section 3610.107 sets forth the local government certification process required under this program. It also states that HUD has discretionary authority to make grants and other forms of assistance for projects which do not have local government certification but do demonstrate innovative means of preparing and implementing neighborhood revitalization projects.

Section 3610.108 states the program objectives and major administrative procedures for the Neighborhood Self-Help Development program. Section 3610.109 states the affirmative action requirements and other assurances which must be satisfied by organizations receiving grants under this program.

This rule is listed as item number NVACP–1–78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by 12221. The Neighborhood Self-Help Development program is listed in the Catalog of Federal Domestic Assistance as 14.800.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2) (C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., 20410.

Accordingly, 24 CFR Part 3610 is revised in its entirety to read as follows:

PART 3610—NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM

Sec.

3610.101 Purpose.
3610.102 Definitions.
3610.103 Eligible applicants.
3610.104 Eligible projects and activities.
3610.105 Ineligible activities.
3610.106 Evaluation and selection criteria.
3610.107 Local government certification.
3610.108 Program administration.
3610.109 Other Federal requirements.

Authority: Title VII of the Housing and Community Development Amendments of 1978 (42 U.S.C. 8121 et seq.).

§ 3610.101 Purpose.

There are three major, inter-related objectives to this program: to support the preparation and implementation of specific neighborhood revitalization projects as identified by neighborhood organizations; to increase the capacity of eligible neighborhood organizations to successfully plan and manage specific neighborhood revitalization projects; and to encourage partnerships between neighborhood organizations and the local public and private sectors.

§ 3610.102 Definitions.

(a) "Low and Moderate" refers to neighborhoods in which family income does not exceed 80% of the median income for the area, as determined by HUD, with adjustments for the size of the family.

(b) "Neighborhood", for the purposes of this program, is defined differently for urban and rural areas.

(1) *Urban neighborhood.* In urban and suburban areas and in cities with 10,000 or more in population, a neighborhood is a distinct geographic area which is smaller than a city and has a readily identifiable residential character.

(2) *Rural neighborhood.* In rural areas and in small cities with under 10,000 in population, a neighborhood is either a portion of the small town or a specifically designated target community within a rural area. Wherever the term "neighborhood" appears in this regulation, it applies to the communities or target areas of organizations in small cities or rural areas.

(c) "Self-Help" means, for the purposes of this program, any efforts or contributions by which neighborhood residents plan, finance, implement and evaluate specific projects.

§ 3610.103 Eligible applicants.

To be eligible for grants under this program, neighborhood organizations must satisfy all of the following eligibility criteria:

(a) The applicant must be a voluntary organization. States, units of general or special purpose local government, government agencies, tribal governments and corporations created by units of government and which function as instrumentalities for that unit of government are not eligible under this program.

(b) The applicant must be broadly representative of the neighborhood in which the project will be located. The applicant organization must have incorporated in its membership, board of directors or structure governing the proposed project an economic, racial, ethnic, disability, age and sexual composition appropriate for the neighborhood where the proposed project is to be located. The Department examines particularly whether minorities, poor, elderly, women and handicapped residents are not excluded from the decision-making structure regarding the proposed project. An organization may have representation from local businesses, financial, governmental and non-governmental entities.

(c) The applicant must be accountable to neighborhood residents with respect to the project being proposed. The applicant organization must have a specific structure through which it is accountable to the neighborhood residents during the lifetime of the proposed project. A board of directors may serve as the accountability structure only if the applicant organization is based within one neighborhood and its board members are from the same neighborhood. Applicant organizations which are either citywide, countywide, multicounty, or serve more than one neighborhood must have a specific structure, other than the board, identified and described by which the organization is accountable for the project to residents of the neighborhood where the project is located.

(d) The applicant must have as one of its objectives the preservation and revitalization of low- and moderate-income neighborhoods.

(e) The applicant must be a neighborhood development organization. That is, the applicant must have prepared an overall neighborhood revitalization strategy, implementing one or more physical revitalization projects, and be committed to the continued implementation of the strategy through future physical revitalization projects.

(f) The applicant must have a proven record or demonstrable capacity for developing resources for, and effectively implementing, neighborhood conservation and revitalization projects. The application organization must provide evidence of both:

(1) Programmatic capability for the specific type of activity proposed; and

(2) Existing management expertise for development and administration of the neighborhood project proposed.

(i) The "proven record" criterion under this program may be met when an organization proposes to undertake a project similar in type and scale to one it has already undertaken. To satisfy the programmatic aspect of a proven record,

an organization must have completed the same type of project and have the related technical skills in place. To satisfy the management aspect of a proven record, an organization must have managed a project of the same scale and must have the administrative skills and systems in place.

(ii) The "demonstrable capacity" criterion under this program must be met when an organization proposes to undertake a project which is either a new type of project or a project of a significantly larger scale than those previously undertaken but the organization has sufficient past experience and present capability to undertake the new type or larger scale project. To satisfy the programmatic aspect of demonstrable capacity, an organization must have available specific individuals with experience in the new type or larger scale of proposed project. To satisfy the management aspect of demonstrable capacity, an organization must have management skills and systems which are comparable to those required for the administration of the proposed project.

(iii) If more than one organization is involved in the proposal, the applicant organization itself must comply with both the management and the programmatic aspects of the appropriate criterion. Applicants are not considered more or less qualified based on whether they have either a proven record or demonstrable capacity.

(g) The applicant must be incorporated as a nonprofit organization under applicable state law.

(h) The applicant must have a Board of Directors other than the paid staff of the organization, although a small number of paid corporate officers may be part of the Board.

(i) The applicant must have an auditable internal accounting system as certified by an independent (or government) accountant.

§ 3610.104 Eligible projects and activities.

(a) *Eligible projects.* Any specific housing, community and economic development project which is not excluded under § 3610.105 (Ineligible Activities) and which contributes to the revitalization of low- and moderate-income neighborhoods and directly benefits the residents of those neighborhoods is eligible under this program. A specific project must have the following components: a definite target area or a single or limited number of identified sites within a specific designated area; a specific time delineation for completion of the project; and a direct connection to overall revitalization programs or strategies carried out by the applicant organization. All projects must also meet the requirements of § 3610.104(b) below.

(b) *Eligible activities.* Any activities which support the preparation and/or implementation of specific neighborhood revitalization projects and are not found under § 3610.105 (Ineligible Activities) are eligible under this program. The program does not support the full cost of implementing any project. If funds for implementation activities are requested, the program will provide only a portion of those costs. The Department will determine what are appropriate portions of implementation costs based on the type of project proposed and the availability of other implementation resources. To qualify as a *specific* project under § 3610.104(a), the preliminary stages of project development must be completed before the Neighborhood Self-Help development application is made including all activities necessary to produce:

(1) A clear project structure with basic components;

(2) Feasibility studies or market analysis;

(3) Preliminary financial projections;

(4) An estimated timetable for project implementation; and

(5) Initial research of available resources supportive of project implementation.

§ 3610.105 Ineligible activities.

The following activities are ineligible for funding under this program:

(a) Early planning functions or planning where there is no proof of the probability of implementing the project;

(b) Public works such as street repairs which are not associated with a specific development project being funded;

(c) Operating social services programs which are not associated with the specific project being funded;

(d) Economic or business development which does not primarily benefit the residents of the neighborhood in which it will be located;

(e) Operating and/or administrative costs of a community group which are not directly associated with the specific project being proposed;

(f) Weatherization not associated with the specific project being proposed;

(g) Renovation and/or construction of neighborhood centers (including cultural and multipurpose centers) or related facilities not directly tied to the specific development project and an overall revitalization strategy supported under this program;

(h) Revolving loan and grant funds not directly associated with the specific project being proposed;

(i) Organizing, advocacy and training activities, such as community anti-crime, cultural, counseling and tenant support activities;

(j) Relocation costs occasioned by community development activities other than the project supported under this program;

(k) Construction of open park space or other recreational facilities, not directly associated with a specific project supported under this program;

(l) Employment and training activities not associated with a specific project supported under this program; and

(m) Any other activities determined by the Secretary to be inconsistent with the purpose of the Neighborhood Self-Help Development program.

§ 3610.106 Evaluation and selection criteria.

Neighborhood organizations which propose projects must satisfy all the eligibility criteria (§§ 3610.103 and 3610.104). Those applicants which are deemed eligible will be evaluated by such criteria as:

(a) *Organizational qualifications.* The organization is evaluated on the degree to which the organization's past accomplishments evidence a proven record or demonstrable capacity to develop, prepare and effectively implement the type of neighborhood revitalization project proposed (see paragraph 3610.103(f) for definition of "proven record" and "demonstrable capacity"). The organization is also evaluated for its ability to manage the type of neighborhood revitalization project proposed. The organization is evaluated for its history of service to the area served by the proposed project and to low- and moderate-income residents served by the proposed project.

(b) *Quality of project planning.* The organization is evaluated on the degree to which it has prepared and described an overall revitalization strategy which will be advanced by the proposed project. The organization is evaluated on the degree to which it has identified the project components, described the completed planning and estimated financial projections and a timetable for project implementation. The organization is evaluated on the degree to which neighborhood residents are incorporated in planning the proposed project.

(c) *Soundness of project and its components.* The organization is evaluated on the degree to which it has realistically conceived its proposed project, documented the relationship between the project's components and described the project's direct benefits for low- and moderate-income neighborhood residents. The organization is evaluated on the degree to which it proposes to directly involve neighborhood residents who are directly affected by the project in all stages of project development, implementation and evaluation.

(d) *Financial feasibility.* The organization is evaluated on the degree to which it has coordinated self-help, private and public resources for the proposed project and identified that the additional resources are committed to a degree comparable to the stage of development of the project. The organization is evaluated on the degree to which the Neighborhood Self-Help Development (NSHD) budget share is realistic and reasonable and on the degree to which the NSHD share does not duplicate costs that could be covered by other funding sources.

(e) *Quality of project management.* The organization is evaluated on the degree to which it has a project management plan which specifies a clear timetable to accomplish the tasks of the proposed project, shows assignments by tasks, identifies necessary resources to complete the tasks and establishes financial controls for the project. The organization is evaluated on the degree to which it has assembled a capable project team including a project manager, project staff and technical consultants.

§ 3610.107 Local Government Certification.

(a) A neighborhood organization must submit, as a part of its final and completed application, a letter from the chief elected official of the most immediate jurisdiction of general local government certifying that he or she has reviewed the proposal prepared by the neighborhood organization and that the proposed project is consistent with, and supportive of, the specific objectives of that unit of local government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by that unit of general local government. In jurisdictions where the chief executive officer of the unit of general purpose local government is elected, only that person qualifies as the chief elected official for certification of the Neighborhood Self-Help Development proposals. In jurisdictions where the chief executive officer is appointed or hired by a body of elected persons, the chairperson of that body is the only person who qualifies as the chief elected official for certification of the Neighborhood Self-Help Development proposals, whether that chairperson holds the chair as a result of plebescite or by action of the elected body itself. For projects located in more than one jurisdiction (i.e., multicounty or city and county), there must be a letter from the chief elected official of each jurisdiction.

(b) The Secretary may authorize grants up to ten percent of the annual appropriation for this program for innovative projects and other activities without requiring government certification.

§ 3610.108 Program Administration.

(a) The Neighborhood Self-Help Development program is administered by the Office of Neighborhood Self-Help Development under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. Through this program, HUD is committed to selecting a variety of neighborhood organizations by size, type, term of existence and geographic location. Organizations including neighborhood nonprofit rehabilitation sponsors, nonprofit community development corporations, tenant management corporations, multiservice organizations and neighborhood-based economic development groups are eligible if they satisfy all the criteria stated in the regulation. A substantial number of grants will be made to organizations in rural and nonmetropolitan areas under 10,000 in population. HUD, through this program, is committed to the selection of diverse projects with respect to project type, size, scale and length of time.

(b) The availability of grants is announced through the **Federal Register** and supplemented through other methods of communication. Neighborhood organizations which intend to apply to this program must satisfy all the eligibility requirements stated in order for their applications to be evaluated. Specific application procedures and requirements will be stated in application kits which will be available at the time of the announcements for the availability of grants. Procedures for submitting unsolicited proposals will be announced annually in the **Federal Register**.

(c) All organizations which apply for, and subsequently receive, a grant award under this program must adhere to administrative, reporting and monitoring procedures in conformance with the Uniform Administrative Procedures for nonprofit organizations as stated in OMB Circular A–110 and cost principles for nonprofit organizations as stated in OMB Circular A–122. Applicants must comply with the A–95 review requirements which will be described as a part of each grant announcement published in the **Federal Register** and contained in the application kits.

(d) HUD has the authority to recapture funds if an organization which receives a grant does not conform with or satisfactorily meet either the reporting requirements or monitoring procedures. HUD has the right to decline funding any applications from organizations which do not satisfy the requirements and criteria set forth in these regulations and in the grant announcements. HUD has the right to deny funding applications due to program budget limitations.

§ 3610.109 Other federal requirements.

(a) *Equal opportunity requirements.* (1) Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and the regulations issued pursuant thereto requiring that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance.

(2) Participation in this program must also comply with the provisions of Title VIII of the Civil Rights Act of 1968, as amended (Pub. L. 90–284); Executive Order 110638 (Fair Housing); Executive Order 11246, as amended (nondiscrimination in employment regarding Federal and federally assisted contractors); Section 3, Housing and Urban Development Act of 1968 (Pub. L. 90–448) (Employment of low-income residents and participation of small business concerns in HUD-assisted projects); OMB Circular A–102, Attachment O, paragraph 9(a) (Utilization of Minority Business Enterprises); and Executive Order 12138 (Women Business Enterprise).

(b) *Other Federal Statutes and Regulations.*

Any applications receiving grants must demonstrate compliance with 24 CFR Part 50 and other Departmental regulations which implement HUD responsibilities under the National

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Environmental Policy Act, Departmental criteria for implementing Executive Order 11990 on Protection of Wetlands, Executive Order 11988 on Floodplains, Departmental regulations for implementing the Flood Disaster Protection Act of 1973, the National Historic Preservation Act and Archeological and Historic Preservation Act of 1974 as well as other related statutes, regulations and Executive Orders.

Issued at Washington, D.C., November 6, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection.

[FR Doc. 80-35393 Filed 11-13-80; 8:45 am]

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federal register

Friday
November 14, 1980

Part XII

Department of Labor

Occupational Safety and Health Administration

Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–007]

Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final standard.

SUMMARY: This notice amends Subpart M of 29 CFR Part 1926, by adding a standard for the guarding of low-pitched-roof perimeters during the performace of built-up roofing work. This final standard is being issued after appropriate consultation with the Advisory Committee on Construction Safety and Health and public comment. It provides for the use of motion-stopping safety systems, warning lines, and safety monitoring systems in certain specified situations, requires the use of safety belt or guardrail systems at hoisting and storage areas, prohibits the use of mechanical equipment near unprotected roof sides or edges, and requires training for all employees engaged in built-up-roofing work. In addition, it clarifies the application of the existing standards on perimeter guarding contained in Subpart M.

EFFECTIVE DATE: This standard will become effective January 13, 1981.

FOR FURTHER INFORMATION CONTACT:
Standard development inquiries: Mr. Roy F. Gurnham, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3457, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–8164.
Compliance inquiries: Mr. William A. Simms, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3106, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–8126.
For Copies of this Regulation Contact: Office of Publications, Occupational Safety and Health Administration, U.S. Department of Labor, Room S1212, Washington, D.C. 20210, Telephone (202) 523–8677.

SUPPLEMENTARY INFORMATION:

I. History of the Regulation

Subpart M of Part 1926, entitled "Floor and Wall Openings, and Stairways", was promulgated in 1971, under section 6(a) of the Occupational Safety and Health Act of 1970. It contains the following provision pertaining to the guarding of perimeters:

§ 1926.500(d). *Guarding of open-sided floors, platforms, and runways.* (1) Every open-sided floor or platform 6 feet or more above adjacent floor or ground level shall be guarded by a standard railing, or the equivalent, as specified in paragraph (f)(1) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder.

Because no other specific standards in Subpart M address the guarding of low-pitched-roof perimeters (sides and edges), OSHA interpreted § 1926.500(d)(1) as being applicable to such roofs. However, two circuit courts of appeals have ruled that the language of 29 CFR 1926.500(d)(1) is not amendable to such an interpretation because the word "roof" is not in the language of the standard (*Langer Roofing and Sheet Metal, Inc. vs. Secretary of Labor,* 524 F. 2d 1337 (7th Cir. 1975); *Diamond Roofing Co., Inc. vs. Occupational Safety and Health Review Commission,* 528 F. 2d 645 (5th Cir. 1976)).

As a result, OSHA reviewed the available data and information, together with the *Langer* and *Diamond* decisions, and determined that a new provision should be proposed specifically to cover the guarding of low-pitched-roof perimeters during roofing work in order to supplement the existing provisions of § 1926.500. (Roof openings and holes are already required to be guarded by the provisions of Subpart M since "floor holes" and "floor openings" are defined in § 1926.502 as including holes and openings in roofs. In addition, protection for other roof level work operations is provided under provisions such as §§ 1926.28(a), 1926.104, 1926.105, 1926.451 as well as Section 5(a)(1) of the Occupational Safety and Health Act of 1970.)

Prior to issuing the proposal, OSHA consulted with the Advisory Committee on Construction Safety and Health in 1977 and 1978 as to the substance of the draft proposal. The Committee's recommendations are discussed in more detail below. After evaluating these recommendations, OSHA published its proposed standard for the guarding of low-pitched-roof perimeters during roofing work on August 17, 1979 (44 FR 48275). The proposal contained requirements for the guarding of low-pitched-roof perimeters, including hoist and storage areas, restrictions on the use of mechanical equipment near roof edges, and requirements for employee training. A period for receipt of written comments on the proposed standard and issues raised therein and for the filing of objections was established through October 12, 1979.

To assist participants in preparing their written comments and to give interested persons an opportunity to obtain clarification of the proposal, OSHA scheduled a public meeting for September 28, 1979. A transcript of the meeting was prepared and is part of the record of this rulemaking. Subsequently, on October 16, 1979, the comment period was extended through November 26, 1979 (44 FR 59561).

Over 200 written comments were received by the end of the comment period. Most of the comments favored the adoption of the proposed standard in principle. A number of comments offered recommendations for minor modification of certain provisions of the proposal. There were no requests for a hearing under section 6(b)(3) of the OSH Act.

A Regulatory Assessment (Ex. 3:3) was prepared in accordance with Executive Order 12044 (43 FR 12661, March 24, 1978), and was made available to the public, as noted in the preamble to the proposed standard (44 FR 48279). Opportunity was given to interested persons to comment on the subject matter and contents of that report. (See Section VI, Regulatory Assessment, below.)

The final standard on the guarding of low-pitched-roof perimeters during the performance of built-up-roofing work is based on a full consideration of the entire record of the rulemaking proceeding including the materials relied on in the proposal, the transcript of the public meeting, and all written comments and exhibits received. All materials in the record are available for public review and copying at the OSHA Docket Office, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210, Telephone (202) 523–7894.

II. Roof Perimeter Guarding

The National Bureau of Standards (NBS) reports that the roofing and sheet metal industry has had, in recent years, a lost-time-injury-accident rate of 56 injuries per million man-hours of work. According to NBS and a report issued by the National Institute for Occupational Safety and Health (NIOSH) (Ex. 3:5) the roofing industry has one of the highest lost-time-injury-accident rates of any industry in the United States, exceeding even that for the coal mining industry.

As shown in a report by the Bureau of Labor Statistics (BLS) (Ex. 3:2), there are over 133,000 employees in the Standard Industrial Classification (SIC) 176-Roofing and Sheet Metal Workers. The Regulatory Assessment (Ex. 3:3) concludes that of these employees, approximately 40,000 are exposed to the hazard of falling off low-pitched-roofs and that, on an annual basis, approximately 82 of these employees will fall, resulting in one to three fatalities, six to eleven permanent disabilities, and the loss of 3,600 workdays.

However, based on the data in the record, it appears that neither the Bureau of Labor Statistics, most state agencies, nor the insurance industry compile job-related injury data in the precise format or detail necessary to determine the exact causes of accidents. Of the data that are available, the NIOSH report cites a 1970 State of California report that shows "falling off roofs", both low and high pitched, to comprise 17.7 percent of all roofing accidents. The NIOSH report also cites a similar State of New York report that shows "falling to a different level" to be the most serious of all types of roofing accidents. Further, in a 1976 report issued for the State of Wisconsin, falls from roofs comprised 5.1 percent of all roofing accidents and 28 percent of all accidents in the category "falls to a different level." In addition, NIOSH concludes there are, undoubtedly, many more workers injured in falls from roofs than are reported under these headings because, although the roofing and sheet metal industry does most of the commercial roofing work performed, employers whose business is less than 50 percent roofing work have their roofer employment and injury data placed under other classifications such as residential or nonresidential building construction.

Based on the information in the record, OSHA concludes that employees working on roofs are confronted with a significant risk of serious injury or death. None of the participants in the proceeding seriously contested the hazards faced by employees or the need for protection from these hazards.

The record shows that falls from low-pitched roofs occur frequently, often result in severe injuries, and involve roofing workers with varying degrees of roofing experience (Ex. 3:5). It is the intent of this standard to significantly reduce such injuries.

Guardrails are often used to provide fall protection and are required for open-sided floors and platforms by § 1926.500(d)(1). However, although guardrails can be used during construction of a roof deck, they must be removed prior to the application of roof waterproofing membranes and related sheet metal work at the roof edge. According to a report by the engineering firm of Simpson, Gumpertz and Heger (Ex. 3:6), the reason guardrails must be removed is that, unless mounted on a parapet wall, guardrails are normally mounted on the roof deck and impede the application of the roof membrane. The use of freestanding guardrail systems as an alternative is limited since such guardrails must also be moved out of the way when the membrane is applied near roof edges and thus they are not a solution to the problem of providing fall protection. Other potential concerns include the increase in cost and time required to erect guardrails and the question of whether guardrails are needed when the work to be performed is not near the roof edge. These problems exist whether the work being done is a reroofing operation on an existing building or the application of a new roof on new construction.

Unique difficulties with conventional guarding systems are encountered on low-pitched roofs during the performance of "built-up" roofing work which involves the application of waterproofing membranes (usually felt and tar) and related insulation and sheet metal work. The proposal was directed toward providing fall protection in these circumstances. While the scope of the proposal was not explicitly limited to built-up roofing, OSHA intends that this final standard cover only built-up roofing work performed on low-pitched roofs. Accordingly, as will be discussed below in the summary and explanation section of this preamble, the term "built-up roofing work" is used throughout this preamble and in the final standard in order to clarify the standard's coverage.

The record establishes that fall protection during built-up roofing work presents unique problems. As will be shown, the provisions of this standard are directed at these special circumstances.

The Simpson, Gumpertz, and Heger report prepared for the National Roofing Contractors Association (NRCA), concluded that guardrails make orderly built-up roofing work impossible and do not offer the protection desired since they must be removed prior to the completion of roof side and edge finishing work. In addition, the report concluded that some free-standing guardrail systems may seriously overstress the roof support system because the roof deck is normally not designed to hold the weight necessary to keep the guardrail upright. And, as noted earlier, freestanding guardrail systems which do not overstress the roof, still have to be moved out of the way prior to the application of waterproofing membranes (and related sheet metal work) close to roof edges, where protection is most needed.

The Simpson, Gumpertz, and Heger report concluded that other conventional guarding systems also pose serious feasibility problems during built-up roofing operations on low-pitched roofs. Catch platforms, for example, cannot be used on a majority of building types because of the presence of high windows, lightweight wall panels, or unknown masonry structural details which make it very difficult to safely anchor the platform to the building. Safety belt systems, according to the report, are difficult or impossible to anchor safely and result in chaos when used during built-up roofing work. When safety belts are used during such work, the lines drag in the hot tar, pose tripping hazards to employees working in hot tar areas and tend to become tangled during the normal rapid movement of employees doing built-up roofing work.

OSHA believes that the difficulties with conventional guarding systems (referred to in the standard as "motion-stopping-safety (MSS) systems") during the performance of built-up roofing work, will be avoided by allowing the use of a warning line and/or safety monitoring system (referred to in the proposal as "direct supervision") as alternatives to MSS systems in specified circumstances. Simply described, a warning line is a rope, chain, or wire, supported by a series of stanchions set back from the side or edge of the roof. It serves to delineate the area where mechanical equipment may be used. It also serves to warn and remind employees that they are approaching or working near a fall hazard by providing a direct physical contact with the employee. The contact attracts the employee's attention, enabling the employee to stop in time to avoid falling off the roof. The safety monitoring system is a verbal warning system and requires that a competent person be designated to monitor the safety of all employees in a roofing crew and warn them when it appears that they are unaware of the hazard or are acting in an unsafe manner. These systems are not intended to serve as positive fall restraints, but only as warning systems. These alternative systems of fall protection are discussed in detail in Section III of this preamble.

The concepts of the warning line and safety monitoring systems were first suggested by the NRCA in a September 1977 letter to OSHA (Ex. 6). These

concepts have also received support from the United Slate, Tile and Composition Roofers, Damp and Waterproof Workers' Association (AFL-CIO) (Ex. 2:191). The warning line concept has also been endorsed by the Simpson, Gumpertz and Heger report which calls it a "practical solution" to the problem of roof-perimeter protection. In addition, several contractors have used the warning line and support the use of the warning line as an effective safety system (cf. Ex. 2:8, 31, 43).

As has been noted, the MSS system, warning line, and direct supervision proposals were reviewed prior to their publication by the Advisory Committee on Construction Safety and Health (Ex. 3:1). At a meeting held on November 29, 1977, the proposals were first submitted by OSHA to the committee for review. Action was postponed until the following meeting so that the committee would have time to evaluate them. During the February 1978 committee meeting, the proposals were discussed, modified, and determined by the Committee to be acceptable procedures for use during roof level repair or construction.

The proposals were resubmitted to the Committee at the December 5, 1978 meeting to show the Committee how its recommendations had been incorporated into the proposal language (Ex. 3:1). The Committee, which had just had a significant membership change, voted at this meeting to recommend the adoption of a standard that would require the use of MSS systems around low-pitched roof perimeters, and would not allow warning lines or direct supervision as alternatives.

The Committee's suggested approach at the December 5, 1978 meeting was not included in the proposal and is not included in this final standard, which is limited to built-up roofing work only. As noted, serious questions exist as to the feasibility and benefits of the Committee's recommended approach for the operations involved. These questions are discussed more thoroughly both in the Economic Impact Statement/Assessment (Ex. 3:3) performed for OSHA by Centaur Associates, Inc. (See Section VI, Regulatory Assessment), and in the Simpson, Gumpertz, and Heger report discussed earlier.

OSHA concludes from the record that warning line and safety monitoring systems, as detailed in the following section, are effective safety systems for employees working on roofs which have a slope less than or equal to four in twelve, during the performance of built-up roofing work. These requirements are necessary and appropriate to provide protection for employees from the significant risks of falling from such roofs during the performance of built-up roofing work.

III. Summary and Explanation of the Standard and Major Issues

The following section discusses the individual requirements of the standard, including analysis of the major issues raised during the proceeding, the record evidence, and the policy considerations underlying the various provisions of the standard.

The language of the standard closely follows that of the proposal except for revisions based on OSHA's review of the entire rulemaking record, including written comments and testimony submitted at the public meeting.

The format of the final standard differs in several respects from that of the proposal. The discussion in the preamble will refer primarily to the paragraph numbers contained in the final standard. However, in order to clarify the format changes, the following table sets forth the paragraph numbers of the final standard § 1926.500(g) which differ from the paragraph numbers as proposed:

Proposed paragraph	*Final paragraph*
1926.500	1926.500
Exceptions to (g)(1)	(g)(2)
(g)(2)(iii)	(g)(4)(ii)
(g)(2)(iv)	(g)(4)(i)
(g)(2)(v)(*a*)	(g)(3)(iii)(*a*)
(g)(2)(v)(*b*)	(g)(3)(iii)(*b*)
(g)(3)	Deleted
(g)(3)(i)	(g)(1)(ii)
(g)(3)(ii)	(g)(1)(iii)

In general, the proposal provided three alternative means to provide the required perimeter protection on low-pitched roofs during the performance of roofing work: motion-stopping-safety (MSS) systems, warning lines, and direct supervision. MSS systems may be used in all circumstances, whereas warning lines and safety monitoring systems may be used only in certain situations. Most of the comments expressed agreement with the intent of the proposal.

The standard applies to low-pitched roofs, defined as roofs with a slope no greater than four in twelve. While the proposal made a distinction between slopes of three in twelve and four in twelve for some purposes, this distinction does not apply in the final standard, as discussed more fully below.

The record shows there was some confusion as to the exact nature of the work covered by the proposal (cf. Ex. 2:49, 50, 52). The proposal was intended to apply only to built-up roofing operations. This was due to the problems encountered with conventional guardrail and other MSS systems which are unique to these operations. In order to make this clear, the words "built-up" are added to the title of the standard and throughout the text of the standard wherever the term "roofing work" is used. To further clarify the scope, a definition of built-up roofing is added to the standard as follows:

"(p) 'Built-up roofing'—a weatherproofing cover, applied over decks, consisting of either a liquid-applied system, a single-ply system or a multiple-ply system. Liquid-applied systems generally consist of silicone rubber, plastics, or similar material applied by spray or roller equipment. Single-ply systems generally consist of a single layer of synthetic rubber, plastic, or similar material, and a layer of adhesive. Multiple-ply systems generally consist of layers of felt and bitumen, and may be covered with a layer of mineral aggregate."

The standard does not apply to other types of roofing work such as shingle application and removal. This limitation of scope is based on the extent of available data in this record and does not reflect a conclusion that hazards do not exist in other types of roofing work. The recommendation of the Advisory Committee on Construction Safety and Health that MSS systems be required for all other employees on roofs is being evaluated for future rulemaking.

Section 1926.500(g)(1)—General provisions. The general provisions of the standard, paragraph (g)(1), require that, during the performance of built-up roofing work on low-pitched roofs, with a ground to eave height greater than 16 feet, employees engaged in such work be protected from the hazard of falling from sides and edges by the use of one or more of the following: motion-stopping-safety systems (MSS systems), and, in specific situations, warning lines and/or safety monitoring systems. This is the same requirement as proposed except the term "safety monitoring system" replaces the term "direct supervision." This change is made because it was suggested, that "direct supervision" implies that a management level person is required to provide this supervision (Ex. 2:191). Since any individual, supervisory or non-supervisory, may be designated to be the safety monitor, the term "direct supervision" was determined to be inappropriate.

The definition of "low-pitched roof" is the same as in the proposal. It is defined as any roof with a pitch (slope) equal to or less than the ratio four in twelve (i.e. four inches vertical to twelve inches horizontal). This limit, together with the minimum roof height of greater than sixteen feet, was selected so that the new provisions would complement the provisions of § 1926.451(u)(3) (catch

platforms) contained in Subpart L, which apply to roofs having a slope greater than four in twelve and a minimum ground to eave height greater than sixteen feet.

The proposal created somewhat different requirements for protection of roofing employees depending on the pitch of the roof on which they are working. The proposal required that only MSS systems be used on low-pitched roofs with a slope greater than three in twelve. On roofs less than or equal to three in twelve, the employer was not limited to MSS systems, but could use MSS systems, warning lines, and/or direct supervision as described in the proposal. This distinction in the proposal between slopes of three in twelve and four in twelve was based on the view that slopes greater than three in twelve constituted a significantly greater hazard to employees due to the increased difficulty for employees to stop their momentum on such roofs and because of a greater likelihood of slipping on hot tar. Although these factors do increase as the roof slope increases, there is not enough information in the record to warrant the proposed prohibition on the use of warning lines on slopes between three in twelve and four in twelve. In addition, several comments indicated that confusion could possibly result from the distinction between slopes of three in twelve and four in twelve, particularly since low-pitched roofs were defined only in terms of four in twelve (cf. Ex. 2:27, 28, 31). Consequently, references to roofs with slopes of three in twelve are deleted and the final standard provides similar requirements for all roofs with slopes less than or equal to four in twelve.

The standard indicates when MSS, warning line, and safety monitoring systems are to be used, either alone or in combination. Paragraphs (g)(1) (i) and (ii) require that on roofs with a ground to eave height greater than 16 feet, employers must protect their employees by the use of an MSS system, warning line and MSS system combination, or warning line and safety monitoring system combination. Paragraph (g)(1)(iii) provides that on roofs 50 feet or less in width (where mechanical equipment is not used or stored), the employer may protect employees by a safety monitoring system alone. MSS systems are defined to include guardrails, platforms or scaffolds with guardrails, safety nets, and safety belt systems. As noted earlier, warning lines and safety monitoring systems are being permitted as alternatives to MSS systems only because of the nature of the problems encountered in built-up roofing work.

Comments were made that MSS systems should not be allowed as alternative safety protection during built-up roofing work and that only warning lines and safety monitoring systems should be allowed (cf. Ex. 2:6, 9, 12). However, there is little, if any, dispute that MSS systems are more effective at preventing fall injuries than are warning lines and safety monitoring systems. Indeed, OHSA believes that MSS systems are, in general, the best available means of fall-injury protection. It is only due to the unique problems presented by built-up roofing work on low-pitched roofs that OHSA has decided not to require the use of MSS systems in all such work. It is evident, therefore, that OHSA does not intend to prohibit or discourage the use of MSS systems as alternatives to the other systems in situations where they are appropriate. Similarly, where a guardrail or other MSS system is already in place from previous work on the roof deck, this standard will not require the roofer to remove it, or to supplement it with other protection.

On roofs 50 feet or less in width, the workers are never more than 25 feet from an edge and are therefore, aware of the proximity of the fall hazard. In addition, a warning line on such roofs creates a very narrow protected work area inside the line. In these situations the warning line may not be practical. Therefore, paragraph (g)(1)(iii) allows safety monitoring to be used on roofs 50 feet or less in width where mechanical equipment is not used or stored. This does not, of course, preclude the employer from using mechanical equipment on roofs 50 feet or less in width if he uses an MSS system or warning line for protection (provided that the equipment is kept inside the warning line). As noted above, a safety monitoring system is a verbal warning system and requires that a competent person be designated to monitor the safety of all employees in a roofing crew and warn them when it appears that they are unaware of the hazard or are acting in an unsafe manner. The monitor may have supervisory or non-supervisory responsibilites as there are no restrictions on the performance of other duties. (It is obvious, however, that the monitor must not be so busy with other responsibilities that the monitoring function is encumbered.) The monitor must be on the same roof as and within visual sighting distance of the employees, and must be close enough to verbally communicate with the employees.

The record indicates there is confusion as to which dimension of a building should be considered to be the width of a roof (Ex. 2:147). In all cases the building must first be viewed in plain view (i.e., viewed from above, looking down). The width of the roof is then determined to be the narrower of the two primary dimensions which define the roof area.

Appendix A is provided to serve as a guide in determining the widths of roofs which are not simple rectangles in shape. Although the appendix does not show all possible roof configurations, it does give some common arrangements. This appendix does not create any additional obligations or detract from any obligations otherwise contained in the final standard. It is intended to provide useful, explanatory material and information to employers and employees to aid in understanding and complying with the standard.

Paragraph (g)(2)—Exception. The requirements of paragraph (g)(1) do not apply at points of access such as stairways, ladders, and ramps. In addition, employers are not subject to the requirements of paragraph (g)(1) if their employees are on the roof solely for the purpose of investigating, inspecting, or estimating roof level conditions. This is because of the relatively short time, if any, spent near a roof edge during such work.

It was requested that an additional exception be made for the emergency repair of roofs (Ex. 2:82). Such an exception is not appropriate because the nature and hazards presented by such repair work do not differ significantly from the general kinds of built-up roofing work covered by the standard. The exception for estimating, inspecting, and investigating is provided because these operations are normally conducted in good weather, require little time, if any, near the roof edge, do not require the employees to be on the roof for long periods of time, and involve work of a nature such that the employee is more likely to be aware of his proximity to the roof edge. On the other hand, emergency repairs may be necessary in inclement weather, may require a significant amount of time to complete, and involve use of the same type of equipment used in regular built-up roofing work. In addition, such repairs may require the employee to work close to a roof edge. As is the case with built-up roofing work in general, the employee doing the repairs will be concentrating on his task, and not necessarily on the falling hazard. Moreover, it should be noted that some "emergency repairs" may

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even involve the complete reroofing of a structure.

Paragraph (g)(3)—Warning lines. This paragraph sets forth the specific requirements and limitations for the use of warning lines. As noted above, a warning line is a rope, chain, or wire, supported by a series of stanchions. The warning line is set back from the side or edge of the roof. It serves to warn and remind employees that they are approaching or working near a fall hazard. Warning lines function by providing a direct physical contact with the employee. The contact attracts the employee's attention, enabling the employee to stop in time to avoid falling off the roof. The system is not intended to serve as a positive restraint, but only as a warning system.

Some comments suggested that the standard not apply when the scheduled work activity is to take place exclusively at the roof edge (cf. Ex 2:31, 42, 98), or exclusively away from the edge (Ex. 2:77, 82). While the "warning" benefits of the line may not be as critical at these points, other features still contribute to the safety of the employees both inside and outside the warning line. The warning line delineates the work area outside which employees' safety must either be monitored or provided for by the use of an MSS system. It prevents employees inside the warning line from inadvertently moving out of their work area and into the more hazardous area at the roof edge. The line designates the area within which they may perform work without special concern about falling. In addition, the warning line also clearly delineates the boundary outside which mechanical equipment may not be used, as discussed below.

The proposal stated that warning lines could only be used where the work area is free of ice and snow. The reason for this requirement was the assumption that the setback distances of six and ten feet (discussed below) for the warning line would not be sufficient for slippery roof conditions. The records indicate that built-up roofs cannot be and, therefore, are not applied over roof decks covered with ice and snow (cf. Ex 2:12, 20, 120). Therefore, this provision is deleted. Snow removal for maintenance purposes is not intended to be covered by this standard.

Paragraph (g)(3)(i)(*a*) of the standard requires that the warning line be set back from the roof edge at least six feet when no mechanical equipment is being used. When mechanical equipment is being used, paragraph (g)(3)(i)(*b*) requires that the warning line be at least ten feet from the roof edge which is *perpendicular* to the direction of mechanical equipment operation and at least six feet from the roof edge which is *parallel* to the direction of mechanical equipment operation. This is a change from the proposal which required a distance of at least ten feet from all edges when mechanical equipment is being used. The change recognizes that the greatest hazards with mechanical equipment operation are at the points of turn-around (perpendicular to the direction of equipment movement) where an employee's attention is no longer on the edge hazard, but rather is on the effort required to turn the equipment around (cf. Ex 2:82, 120, 191). At these points, employees are in danger of losing their balance because of the sometimes awkard motions necessary to turn the mechancial equipment, and because of the need to step backward toward the edge, as they try to line the machine up for the next run. These unique problems do not exist along the parallel edge. Therefore, the ten foot requirement is reduced to six feet along such edges.

The six and ten foot distances were selected to allow a worker time to react to the warning line before getting close to a roof edge. This is especially important in the roofing trade where a worker may be moving backwards during the application of roofing materials.

The six-foot distance is sufficient to allow an employee to stop moving after being alerted by the line as to the proximity of the roof edge. When mechanical equipment is being used, the distance of ten feet from the edge perpendicular to the direction of equipment movement allows for the added momentum of the equipment which makes it harder for an employee to stop.

The six and ten foot distances from the roof edge are minimums for those jobs which are located away from the roof edge. However, there is no upper limit on the distance that a warning line may be erected away from a roof edge provided that the entire work area is enclosed. The warning line erected around the work area need not be placed as close to the roof perimeter as six or ten feet. Obviously, it is advantageous to have the warning line surround as much of the work area as possible since paragraph (g)(4) (discussed below) prohibits the use or storage of mechanical equipment outside the warning line.

According to a report by the University of Michigan (Ex. 3:8), a warning line must be highly visible to be effective. Accordingly, paragraph (g)(3)(i)(*a*) requires that the line be flagged with high-visibility material at no more than six foot intervals. However, since visibility is primarily dependent on the brightness of the visual device to its environment and not on the color of the flagging material, no specific color is specified for use.

Paragraph (g)(3)(ii)(*b*) requires the line to be positioned between 34 and 39 inches from the roof surface. As recommended by the University of Michigan report, the height is low enough to warn a short worker stooped over, while, at the same time, it is high enough not be a tripping hazard. The limits also allow for the sag which is present in any non-rigid system.

Paragraph (g)(3)(ii)(*c*) requires that the stanchions supporting the warning line be capable of resisting, without tipping over, a force of at least 16 pounds applied horizontally against the stanchion, at a point 30 inches above the roof surface, perpendicular to the warning line, and in the direction of the roof edge.

A minimum force is specified because a worker may approach the line while moving backwards or may otherwise have his attention diverted, and the line must offer sufficient resistance to attract a worker's attention when the worker touches it. The proposal contained the same requirements as the final standard except that a force of 25 pounds was specified and the force was to be applied at the top of the stanchion.

Comments were received expressing concern that the proposed 25 pound requirement would necessitate a stanchion weighting 75–80 pounds (assuming a two-foot-diameter base) (Ex. 2:82, 152). The stanchions would thus be awkward and heavy to move. It was recommended that the minimum force be lowered to 10 to 15 pounds (Ex. 2:152, 154, 204).

The proposed 25 pound requirement was based on the University of Michigan study (Ex. 3:8) which recommended that the minimum force-resistance capacity (righting moment) of the stanchions be 25 pounds. However, although it did state that the 25 pound force is more than adequate to make a worker aware of the warning line's presence, the Michigan study provided no supporting data for this figure. The study also indicated that a force of as little as one pound would produce sufficient pressure to be felt by the average person wearing no shirt.

It is clear to OSHA, based on the comments and the University of Michigan report, that the appropriate resistance for stanchions will be significantly greater than one pound in order to allow for heavy clothing often worn by roofing employees. However, the resistance may also be less than the 25 pounds proposed in order to allow the use of reasonably sized stanchions which are manageable by employees.

There is little hard data on which to rely in making a determination as to the proper minimum force resistance capacity for warning line stanchions. OHSA believes that a 40-pound stanchion will be a reasonable weight for use on roofs. A stanchion of this size will sustain a 16-pound force applied 30 inches above the base before tipping over (assuming a two-foot diameter base). Stanchions meeting these requirements are available from suppliers (Ex. 2:204). In addition, such stanchions may be easily fabricated by employers in their own workshops or at the construction site. Therefore, based on this reasoning, paragraph (g)(3)(ii)(*c*) requires the stanchion, after being erected and the warning line attached, to withstand such a force, applied horizontally against the stanchion, without its tipping over.

The standard requires that this force be applied to the stanchion at a point 30 inches from the roof surface. The proposal required the force to be applied to the "top" of the stanchion. Since stanchions may be constructed to any height, the proposal's force requirement would have varied with the height of the stanchion. The new requirement specifies the height for testing the resistance to overturning forces and will assure uniform application of the standard.

Paragraph (g)(3)(ii)(*d*) requires the warning line rope, wire, or chain to have a minimum tensile strength capable of supporting the 16 pound test load applied to the stanchion without breaking. In no case shall the tensile strength be less than 500 pounds. This performance requirement simply assures that the line is capable of functioning as intended, regardless of how far apart the stanchions are placed. In addition, the minimum tensile strength of 500 pounds assures that the line is made of materials more substantial than string, such as wire, chain, rope, or heavy cord.

A new requirement of the standard, paragraph (g)(3)(ii)(*e*), provides that the rope, wire, or chain be securely attached to each stanchion and not simply passed through an eye bolt. Eyebolts may be used but the line must be attached to them in such a way that the stanchion will start to tip over before slack in either adjacent section of line is taken up. This will assure that when the warning line is contacted, it will provide sufficient resistance to the employee.

Paragraph (g)(3)(iii) requires that points of access, materials handling areas, and storage areas be connected to the work area by a path formed by warning lines. The proposal required that "roof edge points of access, materials handling and storage areas" be so connected. The words "roof edge" were deleted since points of access, materials handling areas and storage areas can be at locations other than at roof edges. The revised requirement assures that workers being protected by a warning line have the benefit of that protection at all times.

Paragraph (g)(4)—Mechanical Equipment. Paragraph (g)(4) of the standard limits the use and storage of mechanical equipment to areas where employees are protected by MSS or warning line systems. The proposal required that mechanical equipment not be stored or used between a warning line and roof edge unless the employees are protected by an MSS system. In addition, the proposal prohibited the use of mechanical equipment in areas where direct supervision is used to protect employees. There is no substantive difference between the provisions of the proposal and the final language; however, the language was changed to make the requirement clearer.

As noted above, the warning line serves to designate those areas of low-pitched roofs where mechanical equipment may and may not be used or stored. Wherever employees are being protected by safety monitoring systems, whether they be outside the warning line or on a roof 50 feet or less in width, mechanical equipment may not be used or stored. (This does not, of course, preclude the employer from using mechanical equipment on roofs 50 feet or less in width if an MSS system or warning line for protection is being used.)

In connection with this requirement, the proposed definition of mechanical equipment is changed. The definition in § 1926.502(p)(4) now reads as follows: "Mechanical equipment—all motor or human propelled, wheeled equipment except for wheelbarrows and mopcarts". The definition in the proposal did not make any exception for wheelbarrows or mopcarts. These two pieces of equipment are excluded from the definition because their use does not require employees to move backward. In addition, they are light in weight and, therefore, develop little momentum. Wheelbarrows and mopcarts do not present the same degree of risk to roofing employees as do such machines as felt layers and gravelbuggies (cf. Ex. 2:36, 120, 152). Mopcarts and wheelbarrows do not require employees to divide their attention between the equipment they are using and the roof edge, as they would have to do with heavier, more awkward machinery. In addition, excluding mopcarts and wheelbarrows from outside the warning line would require employees to transport hot tar, gravel, and related materials by hand. This could result in increased burn injuries and employee fatigue, both of which may be very hazardous when working near the roof edge (cf. Ex. 2:36, 42, 56).

Paragraph (g)(5)—Roof edge materials handling areas and material storage. These provisions are essentially the same as those contained in the proposed standard, except as noted.

Paragraphs (g)(5) (i) thru (v) require the use of MSS systems at all roof edge materials handling areas. These are particularly hazardous areas because employees often lean out over the roof edge in order to observe the hoisting operations. Warning lines and safety monitoring systems are not allowed as alternatives to guardrails or safety belt systems in these areas. The feasibility question discussed earlier involving the dragging and tangling of safety lines during built-up roofing work does not arise during materials handling operations at the roof edge. No comments were received on these provisions.

Paragraph (g)(5)(vi) prohibits the storage of materials within six feet of the roof edge unless a guardrail is erected. Paragraph (g)(5)(vii) requires that all stacked materials be arranged in a stable and self-supporting manner. The proposal required that materials not be stacked higher than the guardrails unless stacked more than six feet from the roof edge. However, this would not prevent materials from sliding under a guardrail in the event the stacked materials shifted (Ex. 2:147). The requirement was changed to address this problem of stability. The new requirement is in addition to any relevant materials storage requirements contained in § 1926.250—General Requirements for Storage.

Paragraph (g)(6)—Training. This paragraph requires that all employees engaged in built-up roofing work be trained in the proper techniques and practices applicable to the use of MSS, warning line, and safety monitoring systems. These systems must be fully understood if they are to be used properly. For example, employees must be instructed that a warning line will only warn them of the nearness of a roof edge and will not function as a positive restraint.

The standard does not specify the details of the training program. Instead, it requires that employees be fully informed about the hazards of working near roof edges and that they be instructed in the proper use and

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maintenance of the safety systems prescribed in the standard. In this way, the standard provides flexibility for the employer in designing the training program.

The proposal required that training be given to all new employees and to all employees before they start on each new jobsite. This provision was widely criticized as requiring an excessive amount of training (cf. Ex. 2:3, 12, 27). Many roofing jobs take only a day or so to complete and many of the employees working on one job are the same people who will work on the next job. Therefore, the final standard requires that training be provided for each newly-hired employee, and for all other employees as necessary to insure that they maintain proficiency in the listed subjects. This allows flexibility in the scheduling of training while still requiring that employees be properly trained. The initial training for new hires is essential to assure that protection is maintained regardless of the turnover rate for roofing employees.

Section 1926.502(p) (1) to (9)—Definitions. Paragraph (p) of § 1926.502 provides definitions for key words used in § 1926.500(g). The definitions as proposed have been modified to reflect the changes in the substantive provisions of the proposal. In addition to these changes, which have already been discussed, the following modifications are made: the words "insulation" and "vapor barrier" are added to the definition of "Built-up-roofing work" to further clarify the exact nature of the work intended to be covered by the standard; the definition of "warning line" is deleted as being unnecessary.

IV. Metric Conversion Policy

English measurement values given in this standard are followed by an equivalent International System (SI) metric measurement value, usually in parentheses. The first stated value is the requirement; the second value may only be an approximation. The SI units as employed are in accordance with the American National Standard for Metric Practice, ANSI/ASTM E380.

It is OSHA's policy to use this method, known as "soft conversion" to facilitate metrication activities under guidelines published by the Federal Interagency Committee on Metric Policy. These guidelines were published in the **Federal Register** at 45 FR 1840 on January 8, 1980. OSHA's metrication policy was established through a memorandum to the Assistant Secretary of Labor for Policy, Evaluation and Research from the Assistant Secretary of Labor for Occupational Safety and Health dated January 19, 1977.

V. References

Materials in the record of this rulemaking, including the public comments, the transcript of the public meeting, the regulatory assessment, and the reports referred to in this preamble are available for public inspection and copying at the OSHA Docket Office, Room S6212, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210 Telephone (202) 523–7894.

VI. Regulatory Assessment

In accordance with Executive Order No. 12044 (43 FR 12661, March 24, 1978), OSHA has assessed the potential economic impact of this standard. Based on the economic identification guidelines of the Department of Labor (44 FR 5570, January 26, 1979), OSHA has concluded that the subject matter of this proposal is not a "major" action which would necessitate further economic impact evaluation and the preparation of a Regulatory Analysis.

Centaur Associates, Inc., has prepared for OSHA an economic assessment entitled "Economic Impact Statement/Assessment for the Proposed Amendments for the Guarding of Low-Pitched-Roof Perimeters" (Ex.3:3). The study includes estimates of the benefits as well as the costs of compliance associated with the proposed amendments. The effects of the proposed regulation on productivity and market structure are also considered.

According to the study, compliance costs are not expected to reach the threshold for determining that a proposed regulation will have a major economic impact. Total first year cost of the standard is estimated to be $21.3 million. The proposed amendments to Subpart M are also not expected to have any other economic impact that might be considered major. No significant market structure effects are projected nor is it expected that employment will be affected.

The report briefly discusses the feasibility of the MSS and the warning line systems. While warning lines are found to be feasible and easily fabricated and assembled by relatively unskilled employees, the MSS systems are found to have feasibility problems.

The report notes that guardrails, whether fixed or portable, must be removed prior to the completion of roof edge work. Thus, they cannot be in place at the time when they are needed most. Catch platforms may have anchorage problems because of high windows, lightweight panels, or unknown masonry details. Safety belts reduce necessary mobility, pose tripping hazards, and may not be possible to anchor safely. While these systems can work on some roofs, and, therefore, would not be prohibited from use by the standard, the report indicates that the warning line is adaptable to any low-pitched roof situation.

The study concludes that compliance with the standard is both technically and economically feasible.

Opportunity was given to interested persons to comment on and testify concerning the contents of the report and related issues. No contentions were made that the standard, with its limited scope, would be economically burdensome. Since OSHA received no comments regarding the regulatory assessment, the determination that the standard is not a "major" action in terms of economic impact remains unchanged. Based on its review of the Centaur report and the entire rulemaking record, OSHA also concludes that the standard is both economically and technologically feasible and that it contains provisions reasonably necessary and appropriate to reduce the significant risk faced by employees, at very limited cost.

In addition, OSHA certifies that this standard is not "major" under Executive Order 12044 and the Secretary's guidelines (44 FR 5570).

VII. Effective Date

Based on the information in the regulatory assessment, and in the absence of any contentions to the contrary, it is anticipated that employers will have little difficulty in obtaining or constructing the safety systems required by this standard. There should be no need for extended delay for employers to implement the provisions of the standard. Therefore, the effective date of this standard is January 13, 1981, 60 days from publication.

VIII. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, Part 1926 of Title 29, Code of Federal Regulations is amended by adding a new paragraph (g) to § 1926.500, by adding a new paragraph (p) to § 1925.502, and by adding an Appendix A to Subpart M, as set forth below.

Signed at Washington, D.C. this 6th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

1. Section 1926.500 of 29 CFR Part 1926 is amended by adding a new paragraph (g) to read as follows:

§ 1926.500 Guardrails, handrails and covers.

* * * * *

(g) *Guarding of low-pitched roof perimeters during the performance of built-up roofing work.*—(1) *General provisions.* During the performance of built-up roofing work on low-pitched roofs with a ground to eave height greater than 16 feet (4.9 meters), employees engaged in such work shall be protected from falling from all unprotected sides and edges of the roof as follows:

(i) By the use of a motion-stopping-safety system (MSS system); or

(ii) By the use of a warning line system erected and maintained as provided in paragraph (g)(3) of this section and supplemented for employees working between the warning line and the roof edge by the use of either an MSS system or, where mechanical equipment is not being used or stored, by the use of a safety monitoring system; or

(iii) By the use of a safety monitoring system on roofs fifty feet (15.25 meters) or less in width (see Appendix A), where mechanical equipment is not being used or stored.

(2) *Exception.* The provisions of paragraph (g)(1) of this section do not apply at points of access such as stairways, ladders, and ramps, or when employees are on the roof only to inspect, investigate, or estimate roof level conditions. Roof edge materials handling areas and materials storage areas shall be guarded as provided in paragraph (g)(5) of this section.

(3) *Warning lines.*

(i) Warning lines shall be erected around all sides of the work area.

(*a*) When mechanical equipment is not being used, the warning line shall be erected not less than six feet (1.8 meters) from the roof edge.

(*b*) When mechanical equipment is being used, the warning line shall be erected not less than six feet (1.8 meters) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet (3.1 meters) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(ii) The warning line shall consist of a rope, wire, or chain, and supporting stanchions erected as follows:

(*a*) The rope, wire, or chain shall be flagged at not more than six foot (1.8 meters) intervals with high-visibility material;

(*b*) The rope, wire, or chain shall be rigged and supported in such a way that its lowest point (including sag) is no less than 34 inches (.86 meters) from the roof surface and its highest point is no more than 39 inches (1 meter) from the roof surface;

(*c*) After being erected, with the rope, wire, or chain attached, stanchions shall be capable of resisting, without tipping over, a force of at least 16 pounds (71 Newtons) applied horizontally against the stanchion, 30 inches (0.76 meters) above the roof surface, perpendicular to the warning line, and in the direction of the roof edge;

(*d*) The rope, wire, or chain shall have a minimum tensile strength of 500 pounds (227 Kilograms), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions as prescribed in paragraph (g)(3)(ii)(*c*) of this section; and

(*e*) The line shall be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(iii) Access paths shall be erected as follows:

(*a*) Points of access, materials handling areas and storage areas shall be connected to the work area by a clear access path formed by two warning lines.

(*b*) When the path to a point of access is not in use, a rope, wire, or chain, equal in strength and height to the warning line, shall be placed across the path at the point where the path intersects the warning line erected around the work area.

(4) *Mechanical equipment.* Mechanical equipment may be used or stored only in areas where employees are being protected by either a warning line or an MSS system. Mechanical equipment may not be used or stored between the warning line and the roof edge unless the employees are being protected by an MSS system. Mechanical equipment may not be used or stored where the only protection provided is by a safety monitoring system.

(5) *Roof edge materials handling areas and materials storage.* Employees working in a roof edge materials handling or materials storage area located on a low-pitched roof with a ground to eave height greater than 16 feet (4.9 meters) shall be protected from falling by the use of an MSS system along all unprotected roof sides and edges of the area.

(i) When guardrails are used at hoisting areas, a minimum of four feet of guardrail shall be erected on each side of the access point through which materials are hoisted.

(ii) A chain or gate shall be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(iii) When guardrails are used at bitumen pipe outlets, a minimum of four feet of guardrail shall be erected on each side of the pipe.

(iv) When safety belt systems are used, they shall not be attached to the hoist.

(v) When safety belt systems are used they shall be rigged to allow the movement of employees only as far as the roof edge.

(vi) Materials may not be stored within six feet of the roof edge unless guardrails are erected at the roof edge.

(vii) Materials which are piled, grouped, or stacked shall be stable and self-supporting.

(6) *Training.* (i) The employer shall provide a training program for all employees engaged in built-up roofing work so that they are able to recognize and deal with the hazards of falling associated with working near a roof perimeter. The employees shall also be trained in the safety procedures to be followed in order to prevent such falls.

(ii) The employer shall assure that employees engaged in built-up roofing work have been trained and instructed in the following areas:

(*a*) The nature of fall hazards in the work area near a roof edge;

(*b*) The function, use, and operation of the MSS system, warning line, and safety monitoring systems to be used;

(*c*) The correct procedures for erecting, maintaining, and disassembling the systems to be used;

(*d*) The role of each employee in the safety monitoring system when this system is used;

(*e*) The limitations on the use of mechanical equipment; and

(*f*) The correct procedures for the handling and storage of equipment and materials.

(iii) Training shall be provided for each newly hired employee, and for all other employees as necessary, to assure that employees maintain proficiency in the areas listed in paragraph (g)(6)(ii) of this section.

2. Section 1926.502 of 29 CFR Part 1926 is amended by adding a new paragraph (p) to read as follows:

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§ 1926.502 Definitions applicable to this subpart.

* * * * *

(p) For the purposes of paragraph (g) of § 1926.500, the following definitions shall apply:

(1) "Built-up-roofing"—a weatherproofing cover, applied over roof decks, consisting of either a liquid-applied system, a single-ply system, or a multiple-ply system. Liquid-applied systems generally consist of silicone rubber, plastics, or similar material applied by spray or roller equipment. Single-ply systems generally consist of a single layer of synthetic rubber, plastic, or similar material, and a layer of adhesive. Multiple-ply systems generally consist of layers of felt and bitumen, and may be covered with a layer of mineral aggregate.

(2) "Built-up-roofing work"—the hoisting, storage, application, and removal of built-up roofing materials and equipment, including related insulation, sheet metal, and vapor barrier work, but not including the construction of the roof deck.

(3) "Low-pitched roof"—a roof having a slope less than or equal to four in twelve.

(4) "Mechanical equipment"—all motor or human propelled wheeled equipment except for wheelbarrows and mopcarts.

(5) "MSS Systems" (motion-stopping-safety systems)—fall protection using the following equipment singly or in combination: standard railings (guardrails) as described in § 1926.500(f); scaffolds or platforms with guardrails as described in § 1926.451; safety nets as described in § 1926.105; and safety belt systems as described in § 1926.104.

(6) "Roof"—the exterior surface on the top of a building. This does not include floors which, because a building has not been completely built, temporarily become the top surface of a building.

(7) "Safety-monitoring system"—a safety system in which a competent person monitors the safety of all employees in a roofing crew, and warns them when it appears to the monitor that they are unaware of the hazard or are acting in an unsafe manner. The competent person must be on the same roof as and within visual sighting distance of the employees, and must be close enough to verbally communicate with the employees.

(8) "Unprotected side or edge"—any side or edge of a roof perimeter where there is no wall three feet (.9 meters) or more in height.

(9) "Work area"—that portion of a roof where built-up roofing work is being performed.

3. Subpart M of Part 1926 is amended by adding the following Appendix at the end of the Subpart:

Appendix A to Subpart M for § 1926.500(g)(1)—Roof Widths

This appendix serves as a guideline to assist employers in complying with the appropriate requirements of Subpart M, § 1926.500(g)(1). Each example shows a roof plan or plans and indicates where each roof or roof area is to be measured to determine its width. Section views or elevation views are shown where appropriate. Some examples show "correct" and "incorrect" subdivisions of irregularly shaped roofs into smaller regularly shaped areas. In all examples, the dimension selected to be the width of an area is the lesser of the two primary dimensions of the area. Example A shows that on a simple rectangular roof, width is the lesser of the two primary overall dimensions. This is also the case with roofs which are sloped toward or away from the roof center, as shown in Example B.

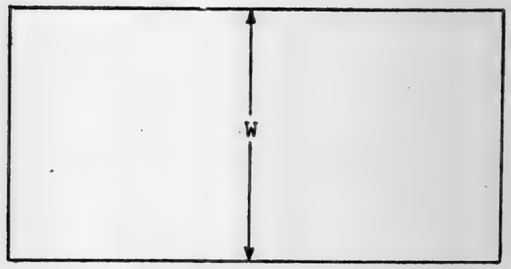
Many roofs are not simple rectangles. Such roofs may be broken down into subareas as shown in Example C. The process of dividing a roof area can produce many different configurations. Example C gives the general rule of using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than 50 feet wide. The intent is to minimize the number of roof areas where § 1926.500(g)(1)(iii) can be applied.

Roofs which are comprised of several separate, non-contiguous roof areas, as in Example D, may be considered as a series of individual roofs. Some roofs have penthouses, additional floors, courtyard openings, or similar architectural features; Example E shows how the rule for dividing roofs into subareas is applied to such configurations. Irregular, non-rectangular roofs must be considered on an individual basis, as shown in Example F.

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Example A.

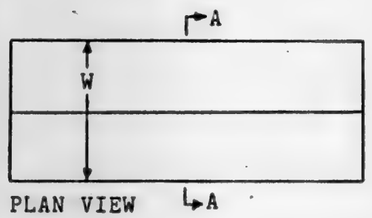
RECTANGULAR SHAPED ROOFS



PLAN VIEW

Example B.

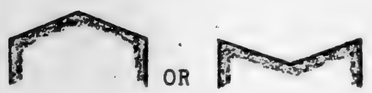
SLOPED RECTANGULAR SHAPED ROOFS



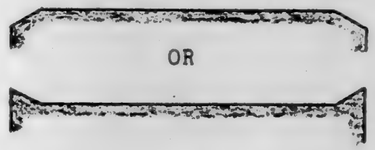
PLAN VIEW



PLAN VIEW



SECTION A-A



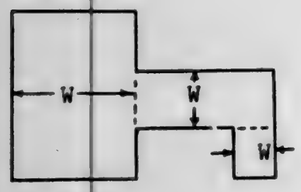
SECTION B-B

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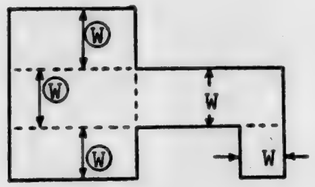
Example C.

IRREGULARLY SHAPED ROOFS WITH RECTANGULAR SHAPED SECTIONS

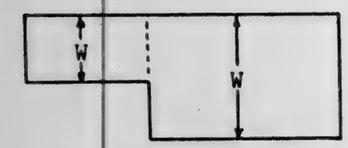
Such roofs are to be divided into sub-areas by using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than or equal to 50 feet (15.25 meters) in width, in order to limit the size of roof areas where paragraph 1926.500(g)(1)(iii) can be applied. Dotted lines are used in the examples to show the location of dividing lines. Ⓦ denotes incorrect measurements of width.



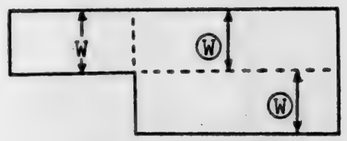
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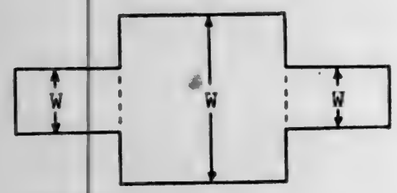
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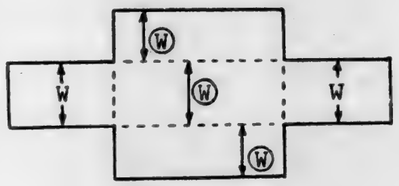
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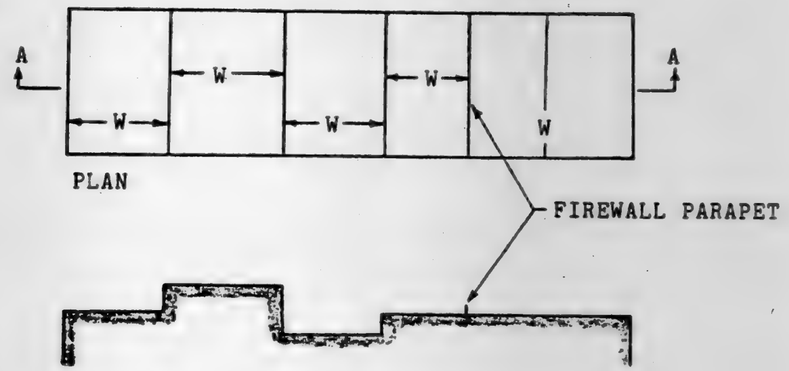


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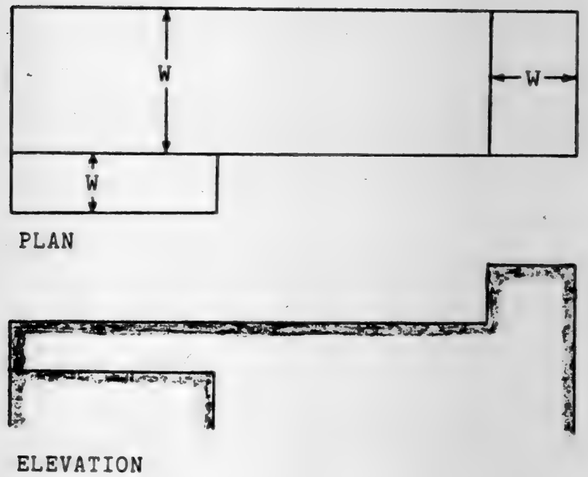
Example D.

SEPARATE, NON-CONTIGUOUS ROOF AREAS

1.



2.

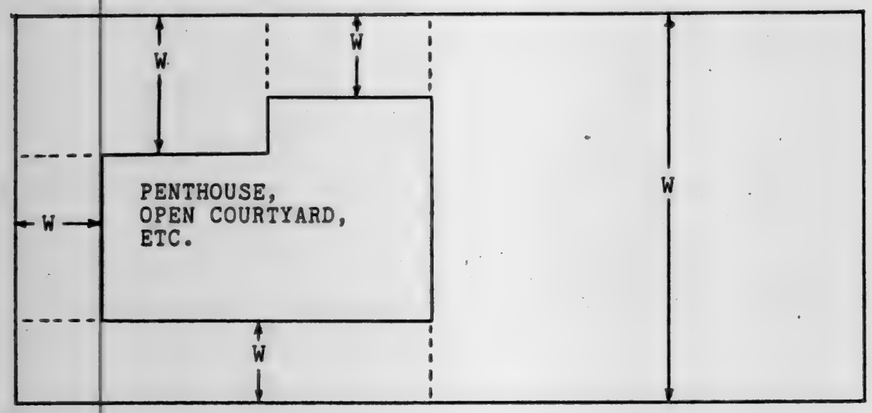


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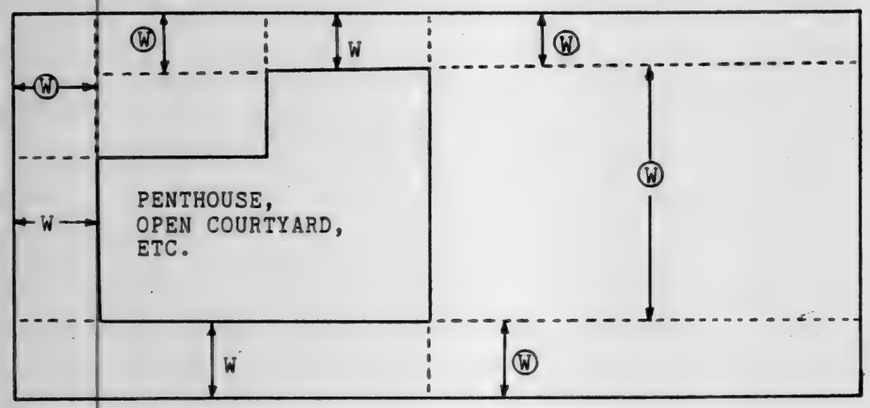
Example E.

ROOFS WITH PENTHOUSES, OPEN COURTYARDS, ADDITIONAL FLOORS, ETC.

Such roofs are to be divided into sub-areas by using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than or equal to 50 feet (15.25 meters) in width, in order to limit the size of roof areas where paragraph 1926.500(g)(1)(iii) can be applied. Dotted lines are used in the examples to show the location of dividing lines. Ⓦ denotes incorrect measurements of width.



Correct

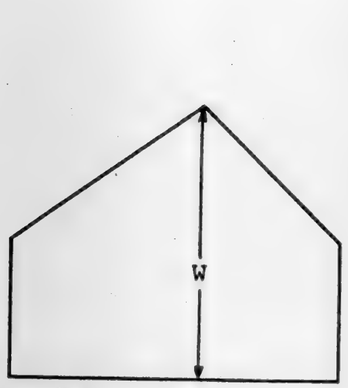


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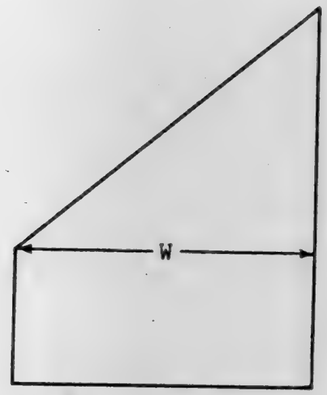
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Example F.

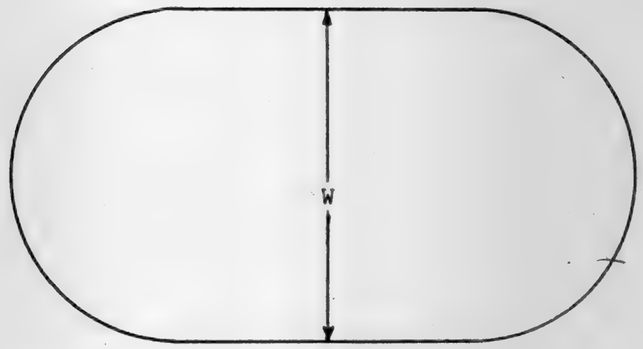
IRREGULAR, NON-RECTANGULAR SHAPED ROOFS



PLAN



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(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); sec. 107, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911)

[FR Doc. 80–35614 Filed 11–13–80; 8:45 am]

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11-17-80
Vol. 45 No. 223
Pages 75633-76084

federal register

Monday
November 17, 1980

Highlights

75633 **Thanksgiving Day** Presidential proclamation

75635 **Bill of Rights Day** Human Rights Day and Week Presidential proclamation

76074, 76076 **Hazardous Waste** EPA suspends rules (effective 11–19–80) and proposes special standards for wastewater treatment tanks and neutralization tanks (comments by 1–16–81) (2 documents) (Part X of this issue)

75685 **Consumer Protection** CPSC proposes regulations on stuffed toy animals suspended from strings, elastic, springs, or other cords; comments by 12–17–80

76018 **Coal and Wood Burning Applicances** CPSC proposes to require that certain performance and technical data be supplied to consumers; comments by 1–2–81; oral presentation 12–2–80 (Part VI of this issue)

75690 **Highway Projects** DOT/FHWA provides information on status of proposal on design standards for highways

75731 **Grant Programs—Minority Business** Commerce/MBDA seeks applications for four projects to afford minority businesses management and technical assistance; apply by 12–18–80

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

75746 **Grant Programs—Women's Education** ED issues notice of closing date for new projects under the Women's Educational Equity Act Program; apply by 1–27–81

75695 **Foreign Oil and Gas Taxes** Treasury/IRS proposes limitation on foreign tax credit with respect to taxes paid on foreign oil related income; comments by 1–16–81

75692 **Foreign Tax Credit** Treasury/IRS proposes regulations on payments to foreign countries for oil and gas that are not considered taxes; comments by 1–16–81

75647 **Foreign Taxes** Treasury/IRS issues temporary regulations on creditability of foreign taxes against a person's U.S. income tax liability and requests comments by 1–16–81 (2 documents)

75709 **Federal Tax** Treasury/IRS proposes regulations for classification of limited liability companies; comments by 1–16–81

76052 **Rent Adjustments** HUD/FHC publishes annual adjustment factors for rents under the Section 8 Housing Assistance Payments Programs; effective 11–8–80 (Part IX of this issue)

75669 **Securities** Treasury/Comptroller proposes amendment to Securities and Exchange Act Disclosure Rules; comments by 1–2–81

75996 **Public Health Service Programs** HHS/PHS sets forth criteria for designation of health manpower shortage areas; effective 11–17–80 (Part IV of this issue)

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Title 3—
The President

Proclamation 4803 of November 13, 1980

Thanksgiving Day, 1980

By the President of the United States of America

A Proclamation

The greatest bounty of our Nation is the bounty of our heritage—our diversity as immigrants and descendants of immigrants, our common identity as Americans.

We have set aside one day a year to give thanks for all that we have. Yet Thanksgiving is more than just a day of celebration. It is also a commemoration—of the day America's earliest inhabitants sat down to table with European colonists.

That occasion was historic not only because it established a national holiday, but because it marked the start of a national tradition of cooperation, unity and tolerance.

Even in times of trial and frustration we have much to be thankful for, in our personal lives and in our Nation. As we pause on Thanksgiving to offer thanks to God, we should not forget that we also owe thanks to this country's forefathers who had the vision to join together in Thanksgiving, and who gave us so much of the vision of brotherhood that is ours today.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do proclaim Thursday, the 27th of November, 1980 as Thanksgiving Day. I call upon all the people of our Nation to give thanks on that day for the blessings Almighty God has bestowed upon us, and to join the fervent prayer of George Washington who as President asked God to ". . . impart all the blessings we possess, or ask for ourselves to the whole family of mankind."

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc 80-36007
Filed 11-14-80; 10:25 am]
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Presidential Documents

Proclamation 4804 of November 14, 1980

Bill of Rights Day

Human Rights Day and Week, 1980

By the President of the United States of America

A Proclamation

On December 15, 1791, the Bill of Rights became part of the Constitution of the United States. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. Marking these anniversaries together gives us an opportunity to renew our dedication both to our own liberties and to the promotion of human rights everywhere.

The Bill of Rights carries with it an implied responsibility for the governed as well as for the governing. No American citizen can rest satisfied until the Bill of Rights is a living reality for every person in the United States, irrespective of race, religion, sex, national or ethnic origin. We cannot simply rely on the decency of government or the alertness of an active free press. Each individual must shoulder his or her share of the responsibility for seeing that our freedoms will survive.

The Universal Declaration of Human Rights is the cornerstone of a developing international consensus on human rights. Through it, the members of the United Nations undertake to promote, respect and observe human rights and fundamental freedoms for all without discrimination. We must continuously monitor the progress of this effort and the records of governments around the world.

The promise of the Declaration is remote to all those who suffer summary executions and torture, acts of genocide, arbitrary arrest and imprisonment, banishment, internal exile, forced labor, and confinement for political cause. It is remote to the countless refugees who flee their lands in response to the elimination of their human rights. It is remote to those subjected to armed invasions or to military coups that destroy democratic processes. The Declaration will ring hollow to that segment of a population discriminated against by laws of *apartheid* or by restrictions on religious freedom. It will ring hollow to those threatened by violations of freedom of assembly, association, expression and movement, and by the suppression of trade unions.

The Declaration must also ring hollow to the members of the U.S. Embassy staff who have been held captive for more than a year by the Government of Iran.

The cause of human rights is embattled throughout the world. Recent events make it imperative that we, as Americans, stand firm in our insistence that the values embodied in the Bill of Rights, and contained in the Universal Declaration, be enjoyed by all.

I urge all Americans to support ratification of the Genocide Convention, the Convention on the Elimination of all Forms of Racial Discrimination, the Covenant on Economic, Social and Cultural Rights, the Covenant on Civil and Political Rights, and the American Convention on Human Rights. I renew my request to the Senate to give its advice and consent to these important treaties.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim December 10, 1980, as Human Rights Day and December 15, 1980, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1980. It should be a time set apart for the study of our own rights, so basic to the working of our society, and for a renewal of our efforts on behalf of the human rights of all peoples everywhere.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-36633
Filed 11-14-80; 12:15 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 223
Monday, November 17, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980-Crop Sorghum Supplement]

1980-Crop Sorghum Loan and Purchase Program; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule; Correction.

SUMMARY: The CCC is correcting typographical errors which appeared in its loan and purchase regulations for the 1980 crop.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, ASCS, (202) 447-7923.

SUPPLEMENTARY INFORMATION: The corrections are as follows:

In FR Doc. 80-33081, appearing at page 70212 in the issue for Thursday, October 23, 1980, Subpart—1980-Crop Sorghum Loan and Purchase Program, Sections 1421.235 through 1421.239 were revised. The section numbers appearing 1421.111 through 1421.115 in the text are incorrect. Section numbers should read 1421.235—Purpose; 1421.236—Availability; 1421.237—Maturity of Loans; 1421.238—Warehouse Charges; 1421.239—Loan and Purchase Rates and Premiums and Discounts. The section numbers appearing in the table of contents are correct.

On page 70214 under Kansas, correct the rate for Labette County to $3.78.

Signed at Washington, D.C. on November 6, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-35828 Filed 11-14-80; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-25; Amdt. 39-3973]

Airworthiness Directives; DeHavilland DHC-2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to DeHavilland DHC-2 type airplanes. The rule requires an inspection of the aileron differential mount structure for damage, cracks, and loose rivets; and inspection of the aileron cable tension to assure proper cable tension, and an alteration of P/N C2CF1265ND where installed in the mount structure. This amendment will also revoke AD 63-16-02 which concerned a part of this same deficiency. The amendment will preclude a wing flutter from occurring which would result from the combined deficiencies and would affect the structural integrity of the wing.

EFFECTIVE DATE: November 17, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: Since the publication of AD 63-16-02 which only concerned an inspection for cracks of the amount P/N C2CF1265ND, it has been determined that cracks combined with the other deficiencies caused an aileron wing flutter. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by:

1. revoking AD 63-16-02, and
2. adding the following new airworthiness directive.

DeHavilland: Applies to all model DHC-2 aircraft.

Compliance is required as indicated.

To preclude wing/aileron flutter due to cracks and loose rivets in the aileron differential mount structures (located in the forward cabin roof), when combined with loose control cables or improperly balanced ailerons, accomplish the following:

(a) On airplanes in which the aileron differential mount structure incorporates channel P/N C2CF623ND, within the next 100 hours in service, unless already accomplished within the last 500 hours in service, and thereafter at intervals not exceeding 600 hours in service, inspect channel P/N C2CF623ND and angles P/N C2CF627ND/628ND for damage, cracks and loose rivets. Repair, if necessary in accordance with DeHavilland Aircraft of Canada, Limited, Engineering Service Bulletin Series "B" No. 28 supplement dated March 22, 1963, or an FAA approved equivalent.

(b) On airplanes in which the aileron differential mount structure incorporates channel P/N C2CF1265ND, within the next 100 hours in service, unless already accomplished, inspect, repair and modify in accordance with the DeHavilland Aircraft of Canada, Limited, Engineering Bulletin Series "B", No. 28 dated March 1, 1963, or an FAA approved equivalent.

(c) On all airplanes, within the next 100 hours in service, unless already accomplished, ensure that the aileron cable tension is in accordance with the DeHavilland Aircraft of Canada, Limited, Service Bulletin No. 2/27, Revision A, dated August 15, 1980, and that the aileron is balanced within the limits contained in the DHC-2 repair manual, or an FAA-approved equivalent.

(d) Equivalent inspections, alterations and replacement parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD.

Effective Date: This amendment is effective November 17, 1980.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not

significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York, on November 5, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-35830 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 74-NE-19; Amdt 39-3972]

Airworthiness Directives; Pratt & Whitney Aircraft JT9D-7, -7A and -20 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Pratt & Whitney Aircraft JT9D-7, -7A, and -20 aircraft engines. The amendment is needed because the FAA has determined that specific part numbered second stage turbine nozzle vanes, under certain conditions, may be operated safely beyond the deflection limit contained in the existing AD.

DATES: Effective date—November 17, 1980.

Comments on the rule must be received on or before December 31, 1980.

Compliance schedule—as prescribed in body of AD.

ADDRESS: The applicable maintenance manuals may be obtained from the Boeing Company, Post Office Box 3707, Seattle, Washington 98124, and McDonnell Douglas Corporation, Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90801. The applicable service bulletin may be obtained from Pratt & Whitney Aircraft, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the maintenance manuals and service bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jay J. Pardee, Engine Projects Section, (ANE-214E), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7337.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-1834 (39 FAR 16338), AD 74-10-05, which currently requires a radioisotope inspection of Pratt & Whitney JT9D-7, -7A, and -20 engines for deflection of second stage turbine nozzle vanes and establishes a maximum permissible deflection limit of 0.070 inches. After issuing Amendment 39-1834, the FAA has determined, based on service experience and analysis, that second stage vanes, P/Ns 735882, 746492, 747082, 772572, and 785992, which incorporate a thick cooling air baffle insert and internal coating, can safely operate with a deflection limit of 0.130 inches in engines operated with the increased cooling airflow provided by Pratt & Whitney Aircraft Service Bulletin 4146. Second stage vanes P/Ns 772572 and 785992 were not previously subject to the requirements of this AD. Therefore, the FAA is amending Amendment 39-1834 by increasing the deflection limit from 0.070 inches for these specific second stage vanes when operated in JT9D-7, -7A, and -20 engines with incorporate increased cooling airflow.

Request for Comments on the Rule

Although this action is in the form of a final rule, which relieves a restriction for certain part numbered second stage vanes and imposes an inspection requirement on two additional part numbered vanes, which affect immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendments 39-1834 (39 FR 16338), AD 74-10-05, as follows:

1. By revising the paragraph beginning with the words "To preclude possible turbine blade or disk failure . . ." to change the phrase "in accordance with paragraph 6 below" to read "in accordance with paragraph 8 below."

2. By revising paragraphs 1a., 1b., 2a., 3a., 3b., 4a., and 4b. to substitute the date "June 7, 1974" for the phrase "the effective date of this AD" wherever it appears.

3. By revising paragraph 4 to delete second stage vane P/Ns 735882, 747082, and 746492.

4. Renumber present paragraphs 6, 7, and 8 as 8, 9, and 10, respectively.

5. By adding a new paragraph 6 to read:

For engines containing a complete set of second stage vanes 735882, 746492, 747082, 772572, or 785992 that have incorporated Pratt & Whitney Service Bulletin 4146 before operation.

a. For vanes with less than 5000 hours total time in service or less than 5000 hours since the fuel nozzles and supports were cleaned, as of May 10, 1974, inspect prior to the accumulation of 5000 hours total time or 5000 hours since the fuel nozzles and supports were cleaned, or 400 hours time in service after May 10, 1974, whichever occurs later.

b. For vanes with more than 5000 hours total time in service and 5000 or more hours since the fuel nozzles and supports were cleaned, as of May 10, 1974, inspect within the next 400 hours time in service.

c. Repeat the above inspection every 2500 hours time in service thereafter.

6. By adding a new paragraph 7 to read:

If the radioisotope inspection in accordance with paragraph 6 above indicates vane deflection which exceeds 0.130 inches, remove the affected engine from service prior to further flight. Engines with vane deflection greater than 0.070 inches and up to 0.130 inches must be reinspected every 1250 hours time in service thereafter. Engines with vane deflection of 0.070 inches and less must be reinspected every 2500 hours time in service thereafter.

This amendment becomes effective November 17, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves an emergency regulation under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Burlington, Massachusetts, on November 4, 1980.

Robert E. Whittington,

Director, New England Region.

Note.—The incorporation by reference provision of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-35829 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 19, 113, 144, 153, 159, 174, 175, 177

[T.D. 80-271]

Conforming Amendments Required by the Trade Agreements Act of 1979

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Trade Agreements Act of 1979 made numerous changes to various provisions of law presently administered in whole or in part by the Customs Service.

This document amends various parts of the Customs Regulations to reflect and implement those provisions of the Act relating to dumping and countervailing duties, the generalized system of preference accorded to articles imported from designated beneficiary developing countries, the collection of duties and taxes on imported distilled spirits, protests, and petitions by American manufacturers, producers, and wholesalers against decisions of district directors of Customs.

EFFECTIVE DATE: The amendments are effective on November 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Marcia Kaplan, Entry Procedures and Penalties Division (202-566-5778) (sections 10.171 (a) and (b), and 10.176 (a), (b) and (c));

John Holl, Office of Inspection (202-566-5354) (sections 19.15 (g) (1) and (2), 144.15(b), and 159.4);

John E. Elkins, Regulations and Research Division (202-566-8237) (Parts 113, 153, and 159, relating to Countervailing and Antidumping Duties);

James Hill, Classification and Value Division (202-566-5786) (Parts 174, 175, and 177); Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

The Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 144 (the "Act"), approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations (the "MTN"), the Act consists of 11 separate titles relating to the following areas:

Title I, Countervailing and Antidumping Duties,
Title II, Customs Valuation,
Title III, Government Procurement,
Title IV, Technical Barriers to Trade (Product Standards),
Title V, Implementation of Certain Tariff Negotiations,
Title VI, Civil Aircraft Agreement,
Title VII, Certain Agricultural Measures,
Title VIII, Treatment of Distilled Spirits,
Title IX, Enforcement of U.S. Rights,
Title X, Judicial Review, and
Title XI, Miscellaneous Provisions.

The provisions of Title I, Countervailing and Antidumping Duties, were the subject of documents prepared by the Department of Commerce. Title II, Customs Valuation, was the subject of a notice of propose amendments published in the **Federal Register** on March 31, 1980 (45 FR 20912). Customs is presently consulting with various agencies regarding regulations to implement that portion of Title III, Government Procurement, involving Customs. Consultations are also underway with the Department of Agriculture regarding regulations to implement section 506, Title V, Implementation of Certain Tariff Negotiations, relating to certain fresh, chilled, or frozen beef. Regulations implementing these titles as they relate to Customs will be the subject of a separate document. Title VI, Civil Aircraft Agreement, was the subject of a notice of proposed amendments published in the **Federal Register** on January 8, 1980 (45 FR 1633). There is no need to amend the Customs Regulations as a result of the changes made by Title IV, Technical Barriers to Trade (Product Standards), Title VII, Certain Agriculture Measures, and Title IX, Enforcement of U.S. Rights. Accordingly, this document relates only to amendments to the Customs Regulations as a result of the provisions of Title I, Countervailing and Antidumping Duties, Title VIII, Treatment of Distilled Spirits, Title X, Judicial Review, and Title XI, Miscellaneous Provisions. These titles and changes to the Customs Regulations are discussed below.

Title I—Countervailing and Antidumping Duties

Title I repealed the Antidumping Act, 1921, (19 U.S.C. 160 *et seq.)* and significantly amended section 303, Tariff Act of 1930 (19 U.S.C. 1303), relating to the assessment of countervailing duties.

Subsequent to the foregoing legislative action, Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), transferred responsibility for the administration of the antidumping and countervailing duty laws from the Secretary and General Counsel of the Department of the Treasury, and from the Department itself, to the Secretary of Commerce. The transfer of functions was made effective on January 2, 1980, by Executive Order 12188 (45 FR 989). Notice of the transfer was published as T.D. 80-133 in the **Federal Register** on May 28, 1980 (45 FR 35803).

The International Trade Administration, Department of Commerce, published new countervailing and antidumping duty regulations in the **Federal Register** on January 22, 1980, and February 6, 1980, respectively (45 FR 4932, 8182), to implement the statutory changes made by the Act. The antidumping regulations are contained in Part 353 of new Chapter III, title 19, Code of Federal Regulations (19 CFR Chapter III). Countervailing duty regulations appear as Part 355 of Chapter III.

Because of the statutory changes and transfer of functions described above, Parts 113, 153, 159, and 177, Chapter I, Title 19, Code of Federal Regulations (19 CFR Chapter I, Parts 113, 153, 159, 177), are being amended as follows:

1. Section 113.14(q), "Antidumping Bond, Customs Form 7591," is being deleted;

2. Part 153, "Antidumping," is being deleted;

3. Section 159.41, "Antidumping duties," is being amended to refer to the new Department of Commerce regulations;

4. Section 159.47, "Countervailing duties," is being amended to refer to the new Department of Commerce regulations;

5. A new § 159.58, pertaining to the suspension of liquidation in antidumping and countervailing duty case, is being added; and

6. Section 177.0, "Administrative rulings", is being amended to delete the references to Parts 153 and 159.

Title VIII—Treatment of Distilled Spirits

Title VIII, as it relates to Customs, eliminates the current "wine-gallon" method of taxing and levying duties on foreign distilled spirits. The taxes and duties are to be assessed under the proof gallon method based both upon the volume of spirits and its alcoholic content (i.e., a lower tax on 86 proof

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than on 100 proof given the same volume).

This title also increases the duty on distilled spirits of countries not providing adequate reciprocal concessions to the United States and permits reductions in import duties on distilled spirits from countries providing reciprocal concessions. In the latter case, if the President finds that trading partners are not implementing their concessions, duties would subsequently be increased to the level of protection prevailing under the tax and duty system in effect on January 1, 1979.

Finally, Title VIII establishes an "all-in-bond" administrative system for collecting excise taxes on domestic distilled spirits and imported bulk distilled spirits bottled domestically. It also defers for an additional 15 days, phased in over three years, the period for collection of the excise taxes from domestic producers, and authorizes the transfer of certain distilled spirits for exportation to any Customs bonded warehouse and not just a warehouse at an exterior port as provided by section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311).

Because section 5521, Internal Revenue Code, as amended (26 U.S.C. 5521), is repealed by section 807 of the Act, sections 19.15(g)(2) and 144.15(b), Customs Regulations (19 CFR 19.15(g)(2), 144.15(b)), are being amended to eliminate the reference to 26 U.S.C. 5521. Section 19.15(g)(1) is being amended to eliminate the requirement that articles withdrawn for transportation and delivery to a bonded storage warehouse for the sole purpose of immediate export be destined for a warehouse at an exterior port. Sections 159.4 (a) and (b)(1), Customs Regulations (19 CFR 159.4 (a) and (b)(1)), are being amended to provide for the "proof gallon" method of taxing and levying duties on foreign distilled spirits.

Title X—Judicial Review

Title X revises section 516, Tariff Act of 1930, as amended, (19 U.S.C. 1516), to provide increased opportunities for appeal of certain interlocutory and all final rulings by the Department of Commerce, or the U.S. International Trade Commission in antidumping and countervailing duty cases. The title amends the Tariff Act of 1930 by adding a new section 516A, (19 U.S.C. 1516A), which provides specific judicial review procedures for countervailing duty and antidumping proceedings. Existing section 516 has been amended to delete those provisions dealing with antidumping and countervailing duty determinations, and includes procedures for a domestic interested party's contest of appraised value, classification, or the rate of duty of imported merchandise. The title also expands opportunities for judicial review of determinations by Customs of the appraised value, classification, or rate of duty of imported goods. Furthermore, Title X provides for judicial review of Customs decisions regarding the certification of the country of origin of products covered by Title III, Government Procurement.

Sections 174.12 and 174.13, Customs Regulations (19 CFR 174.2, 174.13), are being amended to expand the list of those individuals who may file a protest against decisions of the district director of Customs and the time for filing a protest and the content of the protest when a surety is involved.

Section 174.30, Customs Regulations (19 CFR 174.30), is being amended to require that the notice of denial of the protest include a statement of the reasons for denial and a statement informing the protesting party of the right to file a civil action contesting the denial.

The heading to Part 175 and §§ 175.0, 175.2(a), 175.11(b), 175.12(a), 175.21(a), 175.21(b), and 177.0, Customs Regulations (19 CFR Part 175, 175.0, 175.2(a), 175.11(b), 175.12(a), 175.21(a), 175.21(b), 177.0), are being amended to substitute "domestic interested party" for "American manufacturer, producer, or wholesaler". "Domestic interested party" is being defined in § 175.3. Sections 175.1 and 175.2, Customs Regulations (19 CFR 175.1, 175.2), are being amended to include a request for appraised value determination with the listing of areas for which a petition may be filed. A new § 175.31 is being added to require publication of a notice of a decision of the Customs Court or Court of Customs and Patent Appeals which sustains in whole or in part a cause of action before either court.

Title XI—Miscellaneous Provisions

The only aspects of Title XI affecting the Customs Regulations are those relating to the Generalized System of Preferences (GSP). Title XI amends GSP as follows:

(1) The President is permitted to continue GSP treatment for eligible articles, and to designate new eligible articles, from beneficiary developing countries which exceed the competitive need limitation, i.e., no more than 50 percent of total annual U.S. imports of an article eligible for GSP may come from one country, if total imports of the article are less than $1 million (adjusted annually to reflect changes in the Gross National Product).

(2) The customs union rule which permits such entities to be considered a single country for GSP, has been changed to:

(a) Permit associations of countries contributing to comprehensive regional economic integration among their members to be designated as a single beneficiary developing country;

(b) Permit application of the competitive need ceilings on GSP treatment (total annual imports of an eligible article from any one country may not exceed (1) about $41.9 million, or (2) 50 percent of total U.S. imports of the article) for a specific article from an association of countries described above to the individual member countries of such an association rather than to the association as a whole; and

(c) Reduce the minimum value-added requirement for GSP articles from such an association from 50 percent to 35 percent, the requirement applicable to individual countries.

(3) The exclusion of members of the Organization of Petroleum Exporting Countries ("OPEC") from GSP would be modified to allow extension of GSP treatment to eligible articles from OPEC otherwise qualifying as beneficiary developing countries if they:

(a) Conclude bilateral product-specific trade agreements with the U.S. in the MTN, and

(b) Continue to supply petroleum to the United States.

Other than technical amendments to §§ 10.171 (a) and (b) and 10.176(c), Customs Regulations (19 CFR 10.171 (a) and (b), 10.176(c)), to modify the citation to the Trade Act of 1974 and to "reserve" § 10.176(b), Customs Regulations (19 CFR 10.176(b)), the only substantive change being made is an amendment to § 10.176 relating to country of origin criteria to incorporate the expanded coverage pertaining to associations of countries contributing to comprehensive regional economic integration among their members.

Inapplicability of Public Notice Requirement and Delayed Effective Date

Because these amendments implement a statutory requirement, confer additional rights and benefits upon the importing community, and conform the regulations to changes made by the Act, notice and public procedure pursuant to 5 U.S.C. 553(b)(B), are unnecessary and contrary to the public interest. Further, for the same reasons, good cause exists for dispensing with the delayed effective date provisions of 5 U.S.C. 553(d)(3).

Comments

For the reasons set forth in the previous paragraph, these amendments are being published as a final rule. However, recognizing the need to assess the effects of these amendments, Customs will evaluate their impact as soon as sufficient experience has been acquired, with a view to making appropriate revisions. To assist in the evaluation, written comments are invited on their impact. Consideration will be given to any comments to determine whether it would be appropriate to make further amendments. Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours, at the Regulations and Research Division.

Drafting Information

The principal author of this document was John E. Elkins, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 10, 19, 113, 144, 153, 159, 174, 175, and 177, Customs Regulations (19 CFR Parts 10, 19, 113, 144, 153, 159, 174, 175, 177), are amended as set forth below.

Approved: October 7, 1980.

R. E. Chasen,

Commissioner of Customs.

Richard J. Davis,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. Section 10.171(a) is amended by adding, "as amended" after "the Trade Act of 1974" wherever it appears.

2. Section 10.171(b) is amended by adding "or which is contributing to comprehensive regional economic intergration among its members through appropriate means, including but not limited to, the reduction of duties" after "customs union" in the second sentence.

3. Section 10.176 is amended in the following manner: Paragraph (a) is amended to read as follows:

§ 10.176 Country of origin criteria.

(a) *Merchandise produced in a beneficiary developing country or any two or more countries which are members of the same association of countries.* Merchandise which is (1) the growth, product, manufacture, or assembly of (i) a beneficiary developing country or (ii) any two or more countries which are members of the same association of countries and (2) imported directly from such beneficiary developing country or member countries, may quality for duty-free entry under the Generalized System of Preferences ("GSP"). However, duty free entry under GSP may be accorded only if (i) the sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), Trade Act of 1974, as amended (19 U.S.C. 2462(a)(3)), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or member countries, is not less than 35 percent of the appraised value of the article at the time of its entry into the customs territory of the United States.

* * * * *

Paragraph (b) is deleted and the paragraph marked "Reserved".

Paragraph (c) is amended by adding ", as amended" after "the Trade Act of 1974".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

§ 19.15 [Amended]

1. Section 19.15(g)(1) is amended by adding the phrase ", except for distilled spirits which may be withdrawn under the provisions of section 311 for transportation and delivery to any bonded storage warehouse for the sole purpose of immediate export," after the phrase "for the sole purpose of immediate export" in the first sentence and by deleting the phrase "at the exterior port" in the third and fourth sentences.

2. Section 19.15(g)(2) is amended by deleting the phrase "section 5521 of the Internal Revenue Code, as amended (26 U.S.C. 5521), and" in the first sentence.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 113—CUSTOMS BONDS

§ 113.14 [Amended]

Section 113.14 is amended by deleting paragraph (q) and marking the paragraph "Reserved".

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.15 [Amended]

1. The heading to § 144.15(b) is amended by substituting "311, Tariff Act of 1930, as amended" for "5521 of the Internal Revenue Code".

2. Section 144.15(b)(1) is amended by deleting the phrase "section 5521 of the Internal Revenue Code, as amended (26 U.S.C. 5521), and".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 153—ANTIDUMPING [DELETED]

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 153.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 159—LIQUIDATION OF DUTIES

1. Section 159.4(a) is amended by substituting the phrase "distilled spirits" for "alcoholic beverages", by deleting the parenthetical phrase "(or wine gallons if below proof)" in the first sentence and by adding a new sentence at the end of the section to read as follows:

§ 159.4 Alcoholic beverages.

(a) *Quantities subject to duties.* * * * Customs duties and internal revenue taxes on alcoholic beverages other than items 167.20 and 167.90, Tariff Schedules of the United States (19 U.S.C. 1202), and distilled spirits provided for in schedule 1, part 12, Tariff Schedules of the United States, shall be collected only on the number of wine gallons and fractional parts thereof, entered or withdrawn for consumption.

* * * * *

2. Section 159.4(b)(1) is amended by adding the phrase "utilizing the proof gallon method of computation" at the end of the section.

3. Section 159.41 is revised to read as follows:

§ 159.41 Antidumping duties.

Antidumping duties shall be assessed in accordance with Part 353, Chapter III, of this title.

4. Section 159.47 is revised to read as follows:

§ 159.47 Countervailing duties.

Countervailing duties shall be assessed in accordance with Part 355, Chapter III, of this title.

5. A new § 159.58 is added to read as follows:

§ 159.58 Dumping and countervailing duties; Action by district director.

(a) *Antidumping matters.* Upon receipt of notification from the Commissioner, each district director shall suspend liquidation on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the "Notice of Preliminary Affirmative Antidumping Determination," "Notice of Final Affirmative Antidumping Determination" or "Notice of Violation of Agreement" as provided by Part 353, Chapter III, of this title. Each district director shall immediately notify the importer, consignee, or agent of each entry of merchandise in question with respect to which liquidation is suspended. The notice shall indicate the relevant ascertained and determined or estimated antidumping duty.

(b) *Countervailing matters.* Upon receipt of notification from the Commissioner, each district director shall suspend liquidation on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the "Notice of Preliminary Affirmative Countervailing Duty Determination," "Notice of Final Affirmative Countervailing Duty Determination" or "Notice of Violation of Agreement," as provided by Part 355, Chapter III, of this title. Each district director shall immediately notify the importer, consignee, or agent of each entry of merchandise in question with respect to which liquidation is suspended. The notice shall indicate the relevant ascertained and determined or estimated countervailing duty.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 174—PROTESTS

1. Section 174.12(a) is amended to read as follows:

§ 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by:

(1) The importer or consignee shown on the entry papers, or their sureties;

(2) Any person paying any charge or exaction;

(3) Any person seeking entry or delivery;

(4) Any person filing a claim for drawback; or

(5) Any authorized agent of any of the persons described in paragraphs (a) (1) through (4) of this section, subject to the provisions of § 174.3.

2. Section 174.12(e) is amended by deleting the word "or" at the end of paragraph (1), by substituting a semicolon for the period at the end of paragraph (2) followed by the word "or" and by adding a new paragraph (3) to read as follows:

§ 174.12 Filing of protests.

* * * * *

(e) *Time of filing.* * * *

(3) The date of mailing of notice of demand for payment against a bond in the case of a surety which has an unsatisfied legal claim under a bond written by the surety.

3. Section 174.13(a) is amended by deleting the word "and" after the semicolon in subparagraph (6), by substituting a semicolon for the period at the end of subparagraph (7) followed by the word "and" and by adding a new subparagraph (8) to read as follows:

§ 174.13 Contents of protest.

(a) *Contents, in general.* * * *

(8) If another party has not filed a timely protest, the surety's protest shall certify that the protest is not being filed collusively to extend another authorized person's time to protest.

* * * * *

4. Section 174.30(a) is amended by adding the following sentence between the first and second sentences:

§ 174.30 Notice of denial of protest.

(a) *Issuance of notice.* * * * The notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of the right to file a civil action contesting the denial of the protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514).

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 175—PETITIONS BY DOMESTIC INTERESTED PARTIES

1. The heading to Part 175 is amended to read as set forth above.

§175.0 [Amended]

2. Section 175.0 is amended by substituting "domestic interested parties" for "American manufacturers, producers, and wholesalers".

3. The heading to Subpart A of Part 175 is amended to read as follows:

Subpart A—Request For Classification, Appraised Value And Rate Of Duty

§175.1 [Amended]

4. Section 175.1 is amended by adding ", appraised value" after "classification".

§§ 175.2, 175.12, 175.21 [Amended]

5. Sections 175.2(a), 175.12(a), 175.21(a), and 175.21(b) are amended by substituting the phrase "a domestic interested party" for "an American manufacturer, producer, or wholesaler" wherever it appears.

§175.2 [Amended]

6. Section 175.2(b) is amended by adding ", appraised value" after "classification".

7. A new § 175.3 is added to read as follows:

§ 175.3 Domestic interested party.

"Domestic interested party", when used in this Part, means:

(a) A manufacturer, producer, or wholesaler in the United States of a like product,

(b) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product, or

(c) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§175.11 [Amended]

8. Section 175.11(b) is amended by substituting "domestic interested parties" for "American manufacturers, producers, or wholesalers."

9. A new Subpart D is added to Part 175 to read as follows:

Subpart D—Procedure Following Court Decision

§ 175.31 Publication of notice of court decision.

Notice of a decision of the Customs Court or of the Court of Customs and Patent Appeals which sustains, in whole or in part, a cause of action before the court under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be published by the Commissioner of Customs in the **Federal Register** within 10 days from the date of issuance of the court decision.

(R.S. 215, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 177—ADMINISTRATIVE RULINGS

§ 177.0 [Amended]

The fourth sentence of § 177.0 is amended by (1) deleting "Part 153 (relating to enforcement of the Antidumping Act, 1921, as amended), Part 159 (insofar as it relates to countervailing duties)," and (2) substituting "Part 175 (relating to petitions filed by domestic interested parties pursuant to section 516, Tariff Act of 1930, as amended)" for "Part 175 (relating to petitions filed by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 80-35800 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-22-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 9H5226/R66; PH FRL 1670-8]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193 by establishing a food additive tolerance for the residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on peanut oil at 1.5 parts per million (ppm). This regulation was requested by Dow Chemical Co. This rule establishes the maximum permissible level for the combined residues of chlorpyrifos in or on peanut oil.

EFFECTIVE DATE: Effective on November 17, 1980.

ADDRESS: Written objections may be filed with the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Jay S. Ellenberger,
Product Manager (PM) 12,
Registration Division (TS-767),
Office of Pesticide Programs,
Environmental Protection Agency,
Rm. E–303, 401 M St., SW.,
Washington, D.C. 20460, (202–426–2635).

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of July 16, 1979 (44 FR 41329), that Dow Chemical Co., P.O. Box 1706, Midland, MI 48640, had filed a food additive petition (FAP 9H5226). The petition proposed that 21 CFR 193.85 be amended by permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in the commodity peanut oil at 1.5 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observable-effect-level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw); a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction study show negative potential. Based on the 2-year chronic rat feeding study with the 0.1 mg/kg of bw, the NOEL for cholinesterase activity, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day.

The theoretical maximum residues contribution (TMRC) in the human diet from the proposed tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 1.5 ppm does not exceed the ADI. A food additive regulation (21 CFR 193.85) has previously been established for chlorpyrifos in food handling establishments. Feed additive tolerances have also been established (21 CFR 561.98) for residues of chlorpyrifos in dried sugar beet molasses at 3 ppm. A related document (PP 9F2193/R277), establishing tolerances for residues of chlorpyrifos in or on the raw agricultural commodities peanuts and peanut hulls appears elsewhere in this issue of the **Federal Register.**

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against the continued registration of this pesticide. There are no other relevant considerations involved in establishing the proposed tolerance.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136)).

Any person adversely affected by this regulation may, on or before December 17, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provision of regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is significant, and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 17, 1980.

Dated: October 23, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator of Pesticide Programs.

Therefore, Subpart B of 21 CFR Part 193 is amended by adding paragraph (d) to § 193.85 to read as follows:

§ 193.85 Chlorpyrifos.

* * * * *

(d) A tolerance of 1.5 parts per million is established for the combine residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on peanut oil.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348))

[FR Doc. 80-35757 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR 635

Buy America Requirements; Waiver Provisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Emergency final rule.

SUMMARY: The FHWA is amending its Buy America regulation to include procedures under which State highway agencies could request waivers of the Buy America Requirements. This action implements the provisions of the Buy America statute and a recent court order.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Peter R. Picard, Construction and Maintenance Division, 202–426–4847, or Mr. Stan Abramson, Office of the Chief Counsel, 202–426–0761, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours

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are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (STAA), Pub. L. 95–599, 92 Stat. 2689. The provisions of Section 401, Buy America, were effective immediately and required immediate implementation. A final rule was issued by the FHWA under emergency procedures on November 17, 1978 (43 FR 53717).

Section 401 of the STAA required that preference be given to domestic articles, materials and supplies on certain projects eligible to receive financial assistance from the Department of Transportation (DOT). The statute also provided that the domestic preference (Buy America) requirements would not apply if the Secretary of Transportation determined that any one of four conditions existed. Three of the four waiver provisions are applicable to projects funded under the Federal-aid highway program: (1) that application of the Buy America requirements would be inconsistent with the public interest; (2) that supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; and (3) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 percent.

In issuing the Buy America regulation (23 CFR 635.410) the FHWA waived the provisions of Section 401 in the public interest as to all products and materials other than structural steel (43 FR 53717). The regulation itself provided competitive bidding procedures to implement the 10 percent waiver provision (635.410(b)(5)). Based upon the recognized availability and quality of domestic structural steel, the regulation itself did not include procedures for waivers based on those factors.

In a recent decision of the United States District Court for the District of Columbia (*Valiant Steel and Equipment, Inc.*, V. *Goldschmidt*, Civil Action No. 80–1880 (D.D.C. October 17, 1980)), the DOT and FHWA were ordered to amend the FHWA's Buy America regulation by November 17, 1980, in order to provide administrative procedures for exercise of all of the applicable statutory waivers. In order to comply with this court order, the FHWA is amending its regulation accordingly.

Because this amendment does not change the effect of the Buy America statute or regulation in any way, but simply implements statutory waiver provisions, publication of the amendment in proposed form for notice and comment could not reasonably be anticipated to result in the receipt of useful information. Because this amendment has no economic consequences beyond that of the statute, the anticipated impact is so minimal that no further evaluation is warranted. For the foregoing reasons, and in light of the court order, this amendment will take effect on November 17, 1980, without the normal 30-day delay in effective date.

In consideration of the foregoing, Part 635, Subpart D, Chapter I, Title 23, Code of Federal Regulations, is amended by adding a paragraph (d) to § 635.410 to read as follows:

§ 635.410 [Amended]

* * * * *

(d)(1) A State may request a waiver of the provisions of § 401(a) of the Surface Transportation Assistance Act of 1978 if:

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of a request by the RFHWA may be appealed by the State to the Federal Highway Administrator, whose action on the request shall be considered administratively final.

(5) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public on request.

(6) In determining whether the waivers described in paragraph (d)(1) will be granted, the FHWA will consider all appropriate factors including, but not limited to, the cost, "redtape," and delay that would be imposed if the provision were not waived.

(23 U.S.C. 315; Sec. 401, Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2689; 49 CFR 1.48(b))

Note.—The Federal Highway Administrator has determined that this document contains an emergency regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: November 12, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80–35647 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7737]

Income Tax; Industrial Development Bonds; Definition of Airport

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to industrial development bonds. The regulations provide rules to be used in determining whether property constitutes an airport and thus whether that property may be financed with tax-exempt industrial development bonds. This may affect purchasers and governmental issuers of tax-exempt bonds and businesses located at or near airports.

DATE: The regulations generally apply to bonds sold after 5:00 p.m. EST on December 29, 1978.

FOR FURTHER INFORMATION CONTACT: John P. MacMaster of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1979, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954. These amendments were proposed to clarify the regulations. A public hearing on the proposed amendments was held on May 1, 1979. After considering the comments, those amendments are adopted as revised by this Treasury decision.

In General

Section 103 (a) (1) provides that gross income does not include interest on obligations of a State or local government. However, section 103(b) provides that the exclusion of section 103(a)(1) does not apply to interest on an industrial development bond unless the bond proceeds are used to provide airports or are used for other purposes designated in section 103(b)(4), (5), (6), or (7).

Amendments to the regulations under section 103(b)(4) were proposed in order to indicate more clearly what kinds of property may be financed with tax-exempt industrial development bonds as constituting part of an airport. The amendments both would amplify the definition of airport and would provide additional guidance in determining what kinds of facilities are functionally related and subordinate thereto. This Treasury decision adopts those amendments with several changes.

The basic definition of "airport" is adopted as proposed with one minor change. The final rules provide that airport facilities need only be located in close proximity to where aircraft take off and land. Thus, for example, land-based navigation aids may qualify under this provision even though not located at the take-off and landing area.

The proposed rules relating to facilities functionally related and subordinate to an airport also are revised. Under the proposed rules, a facility would not qualify as functionally related and subordinate if it is not needed for public convenience and necessity at the airport or if it need not be located at or adjacent to the airport to serve its purpose. However, the proposed requirement that a facility be needed for "public convenience and necessity" apparently created a potential for interpretative problems. Several commentators expressed confusion as to how it would differ from the "public use" requirement which is generally applicable to facilities (including airports and related facilities) financed under section 103(b)(4), with tax-exempt industrial development bonds. This phrase was originally intended merely to refine the "public use" requirement as it applies to facilities related to airports. In light of its limited objective and the potential for confusion, however, it has been deleted. Of course, airport facilities continue to be subject to the general "public use" requirement.

For similar reasons, the other, previously mentioned proposed requirement, that such facilities be of a type that needs to be located at the airport, is also modified. As proposed, this rule would have injected a subjective element into determining whether facilities qualify as functionally related and subordinate to an airport. The revised rule requires only that qualifying facilities in fact be located at or adjacent to the airport. Hence, it is not necessary to establish that the facility needs to be located at the airport to serve its purpose.

A principal criticism directed at the proposed amendments concerns the rule prohibiting tax-exempt financing of facilities functionally related to more than one airport. Most commentators urged this rule's deletion, arguing that it ignored the systemic nature of the air transportation industry which dictates just such concentrations of facilities, for efficiency's sake. Moreover, many typical airport facilities, such as those for the preparation of in-flight meals, would inevitably provide minimal benefits to airports other than the one at which the facility is located. The proposed rule, if strictly construed, might prohibit such financings as well. Accordingly, the Treasury decision revises this rule to permit the financing of functionally related and subordinate facilities which provide minimal benefits to more than one airport. However, the final rules still require that such facilities be of a size commensurate with the airport where they are located and that benefits accruing to other airports be minimal. Thus, system-wide facilities do not qualify as functionally related and subordinate to an airport under the final rules, either.

The final rules further expand the exemplification of functionally related and subordinate facilities to include certain interests in land impaired by significant levels of airport noise. Several commentators had questioned how the proposed rules would treat this matter. As a result, specific illlustrations are provided of noise-impaired property that qualifies as functionally related and subordinate to an airport. Generally, unimproved land (including land used in agriculture) that is impaired by a significant level of airport noise is treated as functionally related and subordinate to an adjacent airport.

Finally, it is noted that several commentators questioned whether the proposed amendments would affect the treatment of bonds issued to provide storage and training facilities and, specifically, whether bond-financed flight training facilities must be of a size commensurate with the adjacent airport. Storage and training facilities (described in § 1.103–8(e)(3)) are not subject to the limitations of § 1.103–8(a)(3) (applicable to facilities functionally related and subordinate to an airport). The amendments adopted by this Treasury decision do not affect the treatment of storage or training facilities.

Drafting Information

The principal author of this regulation is John P. MacMaster of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Section 1.103–8 is amended by deleting "103(c)(7)" each place it appears and inserting "103(b)(8)" in lieu thereof, by deleting "103(c)" each place it appears and inserting "103(b)" in lieu thereof, by adding a new sentence immediately after the third sentence of paragraph (a)(2), by revising the first sentence of paragraph (e)(2)(i), by redesignating subdivisions (ii) and (iii) of paragraph (e)(2) as subdivisions (iii) and (iv) respectively and by adding new subdivision (ii), by revising the first sentence of paragraph (e)(3), and by adding a new subparagraph immediately after paragraph (e)(3). These revised and added provisions read as follows:

§ 1.103–8 Interest on bonds to finance certain exempt activities.

(a) *In general.* * * *

(2) *Public use requirement.* * * * However, a landing strip which, by reason of a formal or informal agreement or by reason of geographic location, will not be available for general public use does not satisfy the public use requirement. * * *

* * * * * *

(e) *Certain transportation facilities.* * * *

(2) *Definitions.* * * *

(i) With respect to bonds sold at or before 5:00 p.m. EST on December 29, 1978, an airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related

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and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants, and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. * * *

(ii) With respect to bonds sold after 5:00 p.m. EST on December 29, 1978—

(*a*) An airport includes facilities which are directly related and essential to—

(*1*) Servicing aircraft or enabling aircraft to take off and land, or

(*2*) Transferring passengers or cargo to or from aircraft.

A facility does not satisfy either of the foregoing requirements if the facility need not be located at, or in close proximity to, the take-off and landing area in order to perform its function. Examples of facilities which satisfy those requirements are terminals, runways, hangars, loading facilities, repair shops, and land-based navigation aids such as radar installation.

(*b*) Under paragraph (a)(3) of this section, an airport includes facilities other than those described in paragraph (e)(2)(ii)(*a*) only if they are functionally related and subordinate to an airport (as defined in paragraph (e)(2)(ii)(*a*)). A facility (or part thereof) is not functionally related and subordinate to an airport if the facility (or part thereof)—

(*1*) Is not of a character and size commensurate with the character and size of the airport at or adjacent to which the facility is located, or

(*2*) Is not located at or adjacent to that airport.

A facility may satisfy the character and size requirement although it provides minimal benefits to other airports. For example, a facility for the preparation of in-flight meals which has capacity sufficient to prepare all in-flight meals for aircraft departing the airport where the facility is located qualifies although some meals may be consumed in transit between other airports. Other examples of facilities functionally related and subordinate to an airport are restaurants and retail stores located in terminals, ground transportation parking areas, and accommodations for temporary or overnight use by passengers.

Unimproved land (including agricultural land) that is adjacent to an airport and that is impaired by a significant level of airport noise is functionally related and subordinate to the airport if after its acquisition that land will not be converted to a use that is incompatible with the level of airport noise. Adjacent land with existing improvements also may be functionally related and subordinate to an airport by reason of impairment by a significant level of airport noise but only if the use of such land before its acquisition is incompatible with the airport noise level, its use after acquisition is to be compatible, and the post-acquisition use will be essentially different from the pre-acquisition use. Notwithstanding the foregoing, an interest in such improved land acquired solely to mitigate damages attributable to airport noise is treated as functionally related and subordinate to the airport. Thus, for example, amounts allocated to imposing a servitude on improved land adjacent to an airport restricting its future use to uses compatible with airport noise are treated as amounts allocated to property functionally related and subordinate to an airport. For the purpose of determining whether land is impaired by a significant level of airport noise, any generally accepted noise estimating methodology may be used. For example, a Noise Exposure Forecast (NEF), a method for composite noise rating recommended by the Federal Aviation Administration to measure the impact of airport noise, may be used for this purpose. Compatibility may be determined by reference to regulations or general guidelines published by the Federal Aviation Administration under section 102 of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 2102), or sections 11(3)(C) and 18(a)(4) of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1711(3)(C) and 1718(a)(4)), concerning uses of land impaired by a significant level of airport noise, or, where available, by reference to the airport compatibility plan specifically addressing what constitutes a compatible use of that land.

(*c*) As an illustration of the rules of this paragraph (e)(2)(ii), an office building (or office space within a building) or a computer facility, either of which serves a system-wide or regional function of an airline, is not considered part of an airport since that facility is not described in either paragraph (e)(2)(ii)(*a*) or (*b*). However, a maintenance or overhaul facility which services aircraft is considered part of an airport under paragraph (e)(2)(ii)(*a*) since that facility is directly related and essential to servicing aircraft and must be located where aircraft take off and land in order to perform its function.

* * * * *

(3) *Related storage and training facility.* Section 103 (b)(4)(D) includes only those storage and training facilities which are both (i) directly related to a facility to which subparagraph (1)(i) or (ii) of this paragraph applies and (ii) physically located on or adjacent to such a facility. * * *

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). B Airport Authority, a political subdivision of State A, owns and operates B Airport. B Airport Authority adds several runways. In view of the expanded area impaired by significant levels of airport noise, the Authority proposes to issue bonds the proceeds of which are to be used to acquire a hospital located adjacent to the airport. The noise level on the acquired property is 40 NEF. By reference to a noise exposure map setting forth noncompatible land uses and by reference to guidelines published by the Federal Aviation Administration, it is established that continued use of the land for a hospital is not compatible with the noise level. Prior to issuing the bonds, B contracts to lease the property to Corporation C to be used for warehouse space. Within 18 months of the bonds' issuance C will remodel the hospital (previously owned by D, who is unrelated to C) with its own funds and rent the facility as a warehouse. Use as a warehouse is determined to be compatible with the level of airport noise impairing the land. The improved land and prospective revenues from the facility's rental are security for the proposed issuance. Based on the foregoing, the acquired land satisfies the public use test. Furthermore, it is functionally related and subordinate to the airport because the improvements are to be used in an essentially different manner than prior to the land's acquisition. The bonds are industrial development bonds. However, section 103(b)(1) does not apply unless the provisions of section 103(b)(8) and § 1.103–11 apply.

Example (2). The facts are the same as in Example (1) except that a substantial portion of the proceeds of the bond issue is allocated to the acquisition of a limited interest in an additional tract of land (also impaired by airport noise measured at 40 NEF) on which an office building stands. The limited interest holds B harmless for damages caused by airport noise and restricts uses of the tract after the building is retired to those compatible with noise levels caused by the airport. Based on the foregoing, such interest satisfies the public use test. Furthermore, the interest is functionally related and subordinate to the airport because it is solely to mitigate damage attributable to airport noise, in part by restricting future land uses. The bonds are industrial development bonds. However, section 103(b)(1) does not apply unless the provisions of section 103(b)(8) or § 1.103–11 apply.

Example (3). On June 1, 1980, C Airport Authority, a political subdivision of State D, issues obligations the proceeds of which are loaned to E Corporation, a nonexempt person, and used to construct a hotel adjacent to the main terminal building at C Airport. E Corporation will be unconditionally liable for repayment of the proposed obligations. The hotel to be constructed will consist of rooms for temporary and overnight accommodations and conference facilities (*e.g.*, rooms designed for conducting large meetings). Although because of its location the hotel is not expected to receive more than *de minimis* use from persons other than those arriving at or departing from C Airport, it is expected to be used as a site for conferences and, as such, will constitute the principal destination of a significant number of persons using its accommodations and conference facilities. Because the hotel is intended to accommodate those staying for conferences the number of rooms is significantly greater than the number necessary for accommodations for temporary or overnight use by passengers and thus is not of a size commensurate with the needs of the airport. Consequently, applying the provisions, of § 1.103–8(e)(2)(ii)(*b*) the hotel is not functionally related and subordinate to C Airport. Based on the foregoing, the obligations are industrial development bonds and interest thereon is not excluded from gross income by reason of subsections (a)(1) and (b)(4) of section 103.

Sec. 7805, Internal Revenue Code of 1954 (68A Stat 917; (26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 19, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-35384 Filed 11-14-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 4

[T.D. 7739]

Temporary Income Tax Regulations Relating to Creditability of Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations setting forth the requirements for the creditability of foreign taxes against a person's U.S. income tax liability. In addition, the text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the Proposed Rules Section of this issue of the **Federal Register**. These regulations affect U.S. taxpayers with foreign income. They provide guidance as to whether taxes paid to foreign countries are creditable against U.S. income tax liability.

DATES: The regulations apply to taxable years ending after June 15, 1979, unless the taxpayer chooses to apply the regulations to taxable years ending on or before such date. If a revenue ruling in effect on November 14, 1980, is inconsistent with the regulations, then, notwithstanding the regulations, a taxpayer may choose to apply such ruling for any taxable year ending on or before December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Horowitz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224. Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary and proposed income tax regulations under sections 901 and 903 of the Internal Revenue Code of 1954. The amendments set forth the requirements for the creditability of foreign taxes against a person's U.S. income tax liability. They are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

A notice of proposed rulemaking relating to the creditability of foreign taxes under sections 901 and 903 was published in the **Federal Register** on June 20, 1979 (44 FR 36071). Many interested parties have commented on this proposal. These comments have been taken into account in the drafting of the temporary and proposed regulations contained in this document.

Explanation of Provisions

Section 901 allows to taxpayers a credit against U.S. income tax liability for "the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States." Section 903 provides that the term "income, war profits, and excess profits taxes" includes "a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States."

Income Taxes

Under paragraph (a) of section 4.901–2, the standard for determining whether a foreign charge is an income tax is the U.S. income tax. Thus, a foreign charge is an income tax if and only if: the charge is not compensation for a specific economic benefit within the meaning of paragraph (b); the charge is based on realized net income within the meaning of paragraph (c); and the charge follows reasonable rules of taxing jurisdiction. A foreign charge may meet these requirements even if the provisions of the law of the foreign country imposing the charge differ substantially from the income tax provisions of the Internal Revenue Code. A foreign charge does not follow reasonable rules of taxing jurisdiction if liability for the charge is clearly related to the availability of a credit for the charge against income tax liability to another country.

Under paragraph (b) (1), a foreign charge imposed only on persons that do not receive any specific economic benefit from the foreign country is not compensation for a specific economic benefit. A foreign charge imposed on persons that receive any specific economic benefit from the foreign country is presumed to be compensation for a specific economic benefit. Under paragraph (b)(2), this presumption is rebutted if: the same charge is also imposed on income of persons that do not receive any specific economic benefit; the amount of charge paid by persons that receive the specific economic benefit is not significantly increased over what this amount would be if such persons were, instead, subject to an income tax imposed on income of persons that do not receive the specific economic benefit; or it is demonstrated that no significant part of the charge is compensation for the specific economic benefit received.

Under paragraph (b)(3), a person upon which a charge is imposed receives a specific economic benefit if the person receives an economic benefit that, in general, is not being received by persons upon which the charge is not being imposed. The term "economic benefit" includes a good, a service, a fee or other payment, or a right to use or extract property that the government owns or controls.

Under paragraph (c)(1), a foreign charge is computed on the basis of realized net income if and only if it meets the realization, gross receipts, and net income requirements. Under paragraph (c)(2), a foreign charge meets the realization requirement if it is imposed, without substantial deviation, upon the occurrence of: realization events in the U.S. sense; events subsequent to U.S. realization events; or events that are the transfer or processing of readily marketable property (but only if the foreign country does not impose any charge with respect to the same amounts upon the occurrence of another event). Under paragraph (c)(3), a foreign charge meets the gross receipts requirement if it is imposed, without substantial deviation, on the basis of: gross receipts; or, in certain specified circumstances, gross receipts computed under a method that is designed to produce an amount that is

not greater than fair market value and that, in fact, produces an amount that approximates, or is less than, fair market value. Under paragraph (c)(4), a foreign charge meets the net income requirement if the base of the charge is computed, without substantial deviation, by reducing gross receipts by the costs attributable, under reasonable principles, to such gross receipts. A special rule is provided for cases in which certain persons subject to the charge may elect periodically to compute a portion of the base of the charge under another method. In addition, certain gross foreign charges imposed on items of income specified in section 871(a) or 881(a) need not meet the net income requirement if the foreign country makes a reasonable distinction between income that is subject to the gross charge and income that is subject to tax on a net basis.

In-Lieu-of Taxes

Under paragraph (a) of § 4.903–1, a foreign charge is a tax in lieu of an income tax, and thus is considered a creditable income tax for purposes of section 901, if and only if: the charge is not compensation for a specific economic benefit within the meaning of § 4.901–2(b); the charge follows reasonable rules of taxing jurisdiction within the meaning of § 4.901–2(a)(1)(iii); the charge meets the substitution requirements as set forth in paragraph (b); and the charge meets the comparability requirements as set forth in paragraph (c).

Under paragraph (b), a foreign charge meets the substitution requirement if the charge is clearly intended, and in fact operates, as a charge imposed in substitution for, and not in addition to, an income tax otherwise generally imposed. Under paragraph (c), a foreign charge meets the comparability requirement unless it is reasonably clear that foreign law imposing the charge is structured, or in fact operates, so that the amount of liability of persons subject to the charge will generally be significantly greater, over a reasonable period of time, than the amount for which such persons would be liable if they were subject to the income tax otherwise generally imposed. Under paragraph (d), an income tax is otherwise generally imposed by a foreign country if the country imposes an income tax or a series of separate income taxes (within the meaning of § 4.901–2) on significant amounts of income.

Pursuant to paragraph (e)(5), a foreign tax credit may be allowed, under section 903, if payment of a charge that is compensation for a specific economic benefit discharges a person's liability for an otherwise creditable charge.

Amounts Paid or Accrued by the Taxpayer

A credit is allowed under sections 901 and 903 only for the amount of income tax (or in-lieu-of tax) that is paid or accrued by or on behalf of the taxpayer. Paragraph (f) of § 4.901–2 provides special paid-or-accrued rules in the case of refunds, subsidies, liability for more than one charge, noncompulsory amounts, contested liability, interest and penalties, and amounts for which consideration is received. Under paragraph (g), income tax is paid or accrued by or on behalf of a person if foreign law imposed legal liability for income tax on that person. Special rules are provided for taxes paid on combined income and taxes paid by the payor of income.

Comments and Requests for a Public Hearing

Before adopting as final regulations the temporary and proposed regulations contained in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Daniel Horowitz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Regulations

Accordingly, §§ 1.901–2 and 1.903–1 are deleted, a new Part 4, Temporary Income Tax Regulations Relating to the Creditability of Foreign Taxes, is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

PART 4—TEMPORARY INCOME TAX REGULATIONS RELATING TO THE CREDITABILITY OF FOREIGN TAXES

Sec.

4.901–2 Income, war profits, or excess profits taxes paid or accrued.
4.903–1 Taxes in lieu of income taxes.

Authority: Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805).

§ 4.901–2 Income, war profits, or excess profits taxes paid or accrued.

(a) *Definition of income, war profits, or excess profits tax*—(1) *In general.* Section 901 allows a credit for the amount of any income, war profits, or excess profits tax ("income tax") paid or accrued by or on behalf of the taxpayer to any foreign country. Whether a charge imposed by a foreign country ("foreign charge") is an income tax is determined independently for each separate foreign charge. Each separate foreign charge will be considered either to be an income tax or not to be an income tax, in its entirety, for all persons subject to the charge. The standard for determining whether a foreign charge is an income tax is the U.S. income tax. Thus, a foreign charge is an income tax if and only if—

(i) The charge is not compensation for a specific economic benefit within the meaning of paragraph (b) of this section;

(ii) The charge is based on realized net income within the meaning of paragraph (c) of this section; and

(iii) The charge follows reasonable rules regarding source of income, residence, or other bases for taxing jurisdiction.

A foreign charge may meet these requirements even if the provisions of the law of the foreign country ("foreign law") imposing the charge differ substantially from the income tax provisions of the Internal Revenue Code. A foreign charge does not follow reasonable rules of taxing jurisdiction if liability for the charge is clearly related to the availability of a credit for the charge against income tax liability to another country.

(2) *Other rules.* Paragraph (d) of this section contains rules describing what constitutes a separate foreign charge. Paragraphs (f) and (g) of this section contain rules for determining the amount of income tax paid or accrued by or on behalf of the taxpayer. Paragraph (h) of this section defines the term "foreign country."

(b) *Compensation for a specific economic benefit*—(1) *General rule.* A foreign charge imposed only on persons that do not receive any specific economic benefit from the foreign country is not compensation for a specific economic benefit. A foreign charge imposed on persons that receive a specific economic benefit from the foreign country is presumed to be compensation for a specific economic benefit. This presumption is rebutted only as provided in paragraph (b) (2) and (4) of this section.

(2) *Same or similar charges.* A foreign charge imposed on persons that receive a specific economic benefit is not compensation for a specific economic benefit if—

(i) The same charge is also imposed on income of persons that do not receive any specific economic benefit from the foreign country;

(ii) The amount of the charge paid by persons that receive the specific economic benefit is not significantly increased over what this amount would be if such persons were, instead, subject to an income tax imposed by the foreign country only on income of persons that do not receive the specific economic benefit; or

(iii) It is demonstrated that no significant part of the charge is compensation for the specific economic benefit received.

(3) *Definitions*—(i) *Specific economic benefit.* A person upon which a charge is imposed receives a specific economic benefit if and only if the person receives an economic benefit that, in general, is not being received by persons upon which the charge is not being imposed. The term "economic benefit" includes a good, a service, a fee or other payment, a right to use, acquire or extract resources, patents, or other property that the foreign country owns or controls, or a discharge of a contractual obligation. The term does not include the right or privilege merely to engage in business generally or to engage in business in a particular form.

(ii) *Control of property.* A foreign country controls property to which it does not hold legal title if the country exhibits substantial indicia of ownership with respect to the property, for example by regulating the quantity of property that may be extracted and the price at which it may be disposed of.

(iii) *Receiving a benefit.* A person is considered to receive a specific economic benefit from a foreign country if another person receives a specific economic benefit from the foreign country and that other person—

(A) Is owned or controlled, directly or indirectly, by the same interests that own or control, directly or indirectly, the first person; or

(B) Engages in business transactions with the first person under terms and conditions such that the first person receives, directly or indirectly, some portion of the value of the specific economic benefit.

(4) *Pension, unemployment, and disability fund payments.* A foreign charge imposed on individuals to finance retirement, old-age, death, survivor, unemployment, illness, or disability benefits, or for some similar purpose, is not compensation for a specific economic benefit if the amount of charge imposed on each individual is not computed on a basis reflecting the characteristics of that individual. A foreign charge is, however, not considered an income tax if it is imposed with respect to any period of employment or self-employment that is covered under the social security system of the foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act.

(c) *Realized net income*—(1) *In general.* A foreign charge is computed on the basis of realized net income if and only if it meets the realization, gross receipts, and net income requirements as set forth in paragraph (c)(2), (3), and (4) of this section.

(2) *Realization*—(i) *In general.* A foreign charge meets the realization requirement if it is imposed, without substantial deviation, upon the occurrence of events that—

(A) Result in the realization of income under the income tax provisions of the Internal Revenue Code;

(B) Occur subsequent to events described in paragraph (c)(2)(i)(A) of this section; or

(C) Occur prior to events described in paragraph (c)(2)(i)(A) of this section, but only if the events are the transfer or processing of readily marketable property (within the meaning of paragraph (c)(2)(iii) of this section).

Paragraph (c)(2)(i)(C) of this section applies only if the foreign country does not impose any charge with respect to the same amounts upon the occurrence of another event (other than a distribution or a deemed distribution of such amounts).

(ii) *Different taxable entity.* A foreign charge meets the realization requirement if it is imposed, but only once, on amounts that meet the realization requirement with respect to a person that, under foreign law, distributes or is deemed to distribute such amounts.

(iii) *Readily marketable property.* Property is readily marketable if it—

(A) Can be sold on an open market without further processing; or

(B) Is exported from the foreign country; and

is stock in trade or other property of a kind that properly would be included in inventory if on hand at the close of the taxable year, or is held primarily for sale to customers in the ordinary course of business.

(3) *Gross receipts.* A foreign charge meets the gross receipts requirement if it is imposed, without substantial deviation, on the basis of—

(i) Gross receipts; or

(ii) Gross receipts computed under a method that is designed to produce an amount that is not greater than fair market value and that, in fact, produces an amount that approximates, or is less than, fair market value, but only in the case of—

(A) Transactions with respect to which it is reasonable to believe that gross receipts may not otherwise be clearly reflected; or

(B) Situations to which paragraph (c)(2)(i)(C) of this section (relating to a transfer or processing of readily marketable property) applies.

(4) *Net income*—(i) *In general.* A foreign charge meets the net income requirement if the base of the charge is computed, without substantial deviation, by reducing gross receipts by—

(A) Expenses and capital expenditures ("costs") attributable, under reasonable principles, to such gross receipts; or

(B) Costs computed under a method that is designed to produce an amount that is not less than costs attributable, under reasonable principles, to such gross receipts and that, in fact, produces an amount that approximates, or is greater than, such costs, but only in the case of transactions with respect to which it is reasonable to believe that costs may not otherwise be clearly reflected.

(ii) *Formulary base.* Notwithstanding paragraph (c)(3) and (4)(i) of this section, a foreign charge meets the gross receipts and net income requirements if the base of the charge is computed by reducing gross receipts by costs as described in paragraph (c)(4)(i) of this section except that certain persons subject to the charge may, under foreign law, elect periodically to compute a portion of the base of the charge under another method.

(iii) *Charges on fixed or determinable income.* Notwithstanding paragraph (c)(1) of this section, a foreign charge need not meet the net income requirement if and only if—

(A) It is imposed, without substantial deviation, on items of gross income specified in section 871(a) or 881(a) (or on such items of gross income reduced by specified amounts); and

(B) Foreign law makes a reasonable distinction, based on the degree of contact that the foreign country has with the recipient of the income or with the activities or assets that generate the income, between items of income that

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are subject to the charge and such items of income that are subject to a charge computed by reducing realized gross receipts by costs as described in paragraph (d)(4)(i) of this section.

(d) *Separate charges*—(1) *In general.* Whether separate charges are imposed by a foreign country depends upon the structure of foreign law. Charges are separate if they are separately computed under foreign law as provided in paragraph (d) (2), (3), or (5) of this section, or if foreign law contains particular industry provisions described in paragraph (d)(4) of this section.

(2) *Separate bases.* Foreign law imposes a separate charge on each separate base if a separate rate of charge is applied to each base or a flat rate is applied to bases that are combined. If a progressive rate of charge is applied to bases that are combined, foreign law imposes a single charge on the aggregate of the bases. A separate base may consist of a particular type of income (such as interest income or income derived by a particular class of persons) or nonincome amount (such as wages paid) identified by foreign law. Identified types of income or nonincome amounts constitute one base only if costs related to one type may reduce the other types. If no deduction for costs is permitted, each identified type of income or nonincome amount is a separate base, regardless of whether the types are aggregated for purposes of applying a rate of charge.

(3) *Separate rates.* Foreign law imposes separate charges if separate rates of charge are applied to the same base.

(4) *Particular industry.* If foreign law imposing a charge contains provisions that significantly increase the liability only of persons engaged in a particular industry or industries, and if those provisions would prevent the charge from being an income tax if persons engaged in the industry or industries were the only persons subject to the charge, then foreign law imposes a separate charge on persons engaged in the industry or industries.

(5) *Contractual modifications.* If foreign law imposing a charge is modified by contracts entered into by the foreign country, then foreign law imposes a separate charge on persons that are parties to substantially similar contracts with the country.

(e) *Examples.* The following examples illustrate the application of paragraphs (a), (b), (c), and (d) of this section.

Example (1). Country X imposes separate 30-percent charges on interest, dividends, and royalties paid by residents of country X to residents of the United States or of country A, B, C, D, or E, that are not engaged in trade or business in country X. Interest, dividends, and royalties paid to residents of other countries are exempt from tax by country X. Like the United States, countries A, B, C, D, and E each allows its residents to claim a credit against the income tax otherwise payable to it for income taxes paid to other countries. Because the 30-percent charge is imposed by country X only on residents of countries which allow a credit for taxes paid to other countries, liability for the charge is clearly related to the availability of a credit for the charge against income tax liability to another country. As a result, under paragraph (a)(1)(iii) of this section, the charge does not follow reasonable rules of taxing jurisidiction and is not an income tax.

Example (2). Country X imposes a 25-percent charge on royalties. Country X has a patent license agreement with D, a corporation organized in the United States. Country X and D agree, as part of the patent license, that the 25-percent charge will be imposed on royalties due from country X to D only to the extent of the amount available to D as a credit against D's U.S. income tax liability. Under paragraph (d)(5) of this section, country X imposes a separate charge on D. The liability for this charge is clearly related to the availability of a credit for the charge against income tax liability to another country. As a result, under paragraph (a)(1)(iii) of this section, the charge does not follow reasonable rules of taxing jurisdiction and is not an income tax.

Example (3). Country X imposes a 55-percent charge on the realized net income of corporations owned by nonresidents. These corporations are engaged in various businesses in country X including mineral extraction. Country X owns all mineral resources located within the country and licenses private persons to extract those minerals. Country X does not retain a share of the minerals extracted by licensees or receive a separately computed royalty from licensees. The law of country X imposing the 55-percent charge does not distinguish significantly between persons extracting minerals and other persons that do not receive any specific economic benefit in determining gross receipts, allowing deductions for expenses and recovery of capital (including depletion), permitting losses from one activity to offset income from other activities, applying rates of charge, or in any other manner. With respect to both licensees and others, the charge is not compensation for a specific economic benefit under paragraph (b)(2)(i) of this section.

Example (4). The facts are the same as in example (3), except that country X imposes different rates of charge on the realized net income of various corporations as follows:

Industry	Rate of charge (Pct.)
Manufacturing	45
Technical services	35
Construction	30
Mineral extraction	45

In addition, country X imposes a 25-percent charge on interest paid by residents of country X to corporations not engaged in business in country X. The 25-percent charge and the charge imposed on persons engaged in manufacturing are income taxes. For purposes of paragraph (b)(2)(ii) of this section, the charge on gross income of corporations not engaged in business in country X cannot be compared with a charge on corporations engaged in business in country X. The charge on mineral extraction can, however, be compared to the charge imposed on corporations engaged in manufacturing in country X. Thus, the charge imposed on corporations engaged in mineral extraction is not compensation for a specific economic benefit under paragraph (b)(2)(ii) of this section.

Example (5). The facts are the same as in example (3), except that corporations engaged in a business other than mineral extraction are subject to a 35-percent charge on realized net income if they are closely held and to a 55-percent charge on realized net income if they are widely held. Both of these charges are income taxes. Corporations engaged in a business other than mineral extraction are both widely and closely held. Corporations engaged in mineral extraction are subject to a separate 55-percent charge on realized net income whether they are widely or closely held. The latter charge is not compensation for a specific economic benefit under paragraph (b)(2)(ii) of this section.

Example (6). The facts are the same as in example (3), except that realized net income in excess of $1,000,000 is subject to a rate of 70 percent. Most corporations engaged in mineral extraction in country X have realized net income significantly in excess of $1,000,000. Other corporations never have an amount of realized net income significantly in excess of $1,000,000. The charge imposed on corporations engaged in mineral extraction, which varies from 55 to 70 percent, is a separate charge under paragraph (d)(4) of this section because the 70-percent rate significantly increases the liability only of persons engaged in mineral extraction. This charge is presumed to be compensation for a specific economic benefit under paragraph (b)(1). This presumption is rebutted only if it is demonstrated that no significant part of the charge is compensation for the specific economic benefit received by corporations engaged in mineral extraction.

Example (7). Country X imposes a 45-percent charge on the realized net income of all corporations doing business in country X. Corporations engaged in the extraction of mineral resources owned by country X pay an additional charge of 40 percent of the same base as the 45-percent charge. In computing the base of each of these charges, no deduction is allowed for the amount of the other charge. The fact that no such deduction is allowed significantly increases the amount of each charge paid by corporations engaged in mineral extraction over what this amount would be if such corporations were subject to the 45-percent charge on the basis of realized net income (that is, if a deduction for the 40-percent charge were allowed). The 40-percent charge and the 45-percent charge imposed on corporations engaged in mineral extraction

are separate charges under paragraph (d) (3) and (4), respectively, of this section. Each is presumed to be compensation for a specific economic benefit under paragraph (b)(1). This presumption is rebutted only if it is demonstrated that no significant part of the charge is compensation for the specific economic benefit received by corporations engaged in mineral extraction. The 45-percent charge imposed on other corporations is a separate charge that may be an income tax.

Example (8). Country X imposes a 40-percent Corporate Tax on the realized net income of foreign corporations engaged in the extraction of minerals owned by country X. These corporations are also subject to a Branch Profits Tax of 10 percent imposed on the same base as the 40-percent charge. Other foreign corporations are subject to the Corporate Tax at a rate of 30 percent and to the Branch Profits Tax at a rate of 20 percent. The 20-percent charge and the 30-percent charge are income taxes. Because the overall burden on corporations engaged in mineral extraction is the same as that on other foreign corporations, neither of the charges imposed on corporations engaged in mineral extraction is compensation for a specific economic benefit under paragraph (b)(2) (ii) of this section.

Example (9). Country X imposes an 80-percent charge on the realized net income of corporations engaged in the extraction of mineral resources owned by country X and on several other corporations. Country X also imposes a 40-percent charge on the realized net income of all corporations engaged in business in the country that are not subject to the 80-percent charge. Most corporations engaged in mineral extraction in country X have realized net income in excess of $10,000,000. The other corporations subject to the 80-percent charge generally have less than $100,000 of realized net income. Paragraph (b)(2)(i) of this section does not apply because the income of corporations not engaged in mineral extraction that are subject to the 80-percent charge is so insignificant that no meaningful comparison can be made between the amount of charge imposed on such persons and the amount of charge imposed on persons engaged in mineral extraction. The 80-percent charge is presumed to be compensation for a specific economic benefit under paragraph (b)(1) of this section. This presumption is rebutted only if it is demonstrated that no significant part of the charge is compensation for the specific economic benefit received by corporations engaged in mineral extraction.

Example (10). Country X imposes a 46-percent charge on the realized net income of corporations engaged in the extraction of minerals owned by country X. Country X imposes no income tax on other persons. The 46-percent charge is presumed to be compensation for a specific economic benefit under paragraph (b)(1) of this section. This presumption is rebutted only if it is demonstrated that no significant part of the charge is compensation for the specific economic received by corporations engaged in mineral extraction.

Example (11). Country X owns all the subsoil mineral resources within country X and retains privately owned corporations to provide the services of extracting and marketing such minerals for country X in return for a fee. Country X generally imposes a 30-percent charge on realized net income of corporations. The rate of charge for mineral service corporations is, however, 60 percent. Under paragraph (b)(3)(i) of this section, the fee paid to the mineral service corporations is a specific economic benefit provided by country X to these corporations. The charge imposed on these corporations is presumed to be compensation for a specific economic benefit under paragraph (b)(1) of this section.

Example (12). Country X allows resident individuals to deposit amounts of earned income in a "retirement savings account" ("RSA") and claim a deduction for the deposit in computing taxable income under its income tax. When amounts are paid out of a RSA, country X subjects those amounts to a separate charge of 20 percent. The RSA does not meet the standards of an Individual Retirement Account set forth in section 408(a) and no deduction would be allowed under section 219(a)(1) for the deposits. Because the charge is imposed only on the occurrence of an event (withdrawal) that occurs subsequent to an event that results in realization under the income tax provisions of the Internal Revenue Code, the charge meets the realization requirement under paragraph (c)(2) of this section.

Example (13). Country X imposes on all individuals a charge that is similar to the individual income tax provisions of the Internal Revenue Code except that taxable income is defined to include imputed rental income from owner-occupied housing and unrealized appreciation of investment property. The charge meets the realization requirement under paragraph (c) (2) of this section because the charge is imposed, without substantial deviation, upon the occurrence of events described in paragraph (c) (2) (i) (A).

Example (14). Country X imposes on all individuals a charge that is similar to the individual income tax provisions of the Internal Revenue Code. In addition, country X imposes a separate charge on imputed rental income from owner-occupied housing. No other amounts are included in the base on which the latter charge is imposed. The latter charge does not meet the realization requirement because it is not imposed, without substantial deviation, upon the occurrence of events described in paragraph (c) (2) (i) of this section.

Example (15). Country X imposes a separate charge on corporations engaged in the extraction and processing of petroleum. The base of the charge is "gross proceeds" reduced by costs. "Gross proceeds" is defined as actual gross receipts from sales plus the value (determined on an arbitrary basis) of petroleum "used" by the corporation. Petroleum is "used" by the corporation if the petroleum is consumed in powering the vehicles or machines employed by the corporation in extracting or processing petroleum. In country X, "used" petroleum is likely to be an insignificant portion of total extracted petroleum. Despite the fact that the base of the charge includes "used" petroleum valued on an arbitrary basis, the charge meets the realization and gross receipts requirements under paragraph (c) (2) and (3) of this section because it is computed, without substantial deviation, on the basis of realized actual gross receipts.

Example (16). Country X imposes a separate charge on petroleum extraction income. The base of the charge is "gross proceeds" reduced by costs. "Gross proceeds" is defined as gross income from sales of extracted petroleum plus the fair market value of unsold petroleum transported from the well-head and delivered for processing. The charge meets the realization requirement under paragraph (c) (2) (i) (A) and (C) of this section because it is imposed upon the occurrence of sales and transfers (transport) and the transported petroleum is readily marketable property. In addition, the charge meets the gross receipts requirement under paragraph (c) (3) (i) and (ii) (B) of this section.

Example (17). Country X imposes a separate charge on the excess of fair market value over costs of readily marketable minerals removed from a mine. Country X imposes another separate charge on realized net income of corporations. Included in the base of this charge are proceeds from sales of minerals, including minerals subject to the former charge. The former charge does not satisfy the realization requirement under paragraph (c) (2) (i) of this section because country X imposes a charge with respect to the same income upon the disposition of the same minerals.

Example (18). Country X imposes a Corporate Tax on realized net income. Country X also imposes a tax on dividends paid to shareholders resident outside of country X by corporations organized in country X, and a Branch Profits Tax on corporations organized under the law of another country. The Branch Profits Tax is imposed when realized net income is remitted to home offices outside of country X. The Branch Profits Tax meets the realization requirement under paragraph (c) (2) (ii) of this section.

Example (19). Country X imposes a charge on the net gain of petroleum companies and another charge on the net gain of other companies. Net gain of petroleum companies is determined when petroleum is sold or exported, whichever occurs first. Country X's Tax Board uses a set price in determining net gain derived from both sales and exports of petroleum. The set price is a weighted average based on reported prices for arm's-length sales of country X petroleum and comparable petroleum from other countries under long and short term contracts and on the "spot market." The set price takes into account transportation costs, delivery time, payment time and prices for petroleum products. The set price is determined retroactively every 4 months by the Tax Board and is applied to sales and exports that took place during that period. The set price is in fact nearly equal to the fair market value of substantially all the petroleum sold and exported by companies subject to the charge. With respect to companies other than petroleum companies, country X uses actual gross receipts in computing net gain. It uses the set price for petroleum companies because the Tax Board believes that the

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gross receipts of petroleum companies are not otherwise clearly reflected. Since the exported petroleum is readily marketable property, the realization requirement under paragraph (c) (2) of this section is met. In addition, the charge meets the gross receipts requirement under paragraph (c) (3) (ii) (A) and (B) of this section.

Example (20). Country X imposes a charge on the "value" of exported petroleum. The "value" of such petroleum is deemed to be the "spot-market" price although a significant portion of exported petroleum is sold to related and unrelated persons under long term contracts at arm's-length prices substantially below the "spot market" price. The charge does not meet the gross receipts requirement under paragraph (c) (3) of this section because the "value" of petroleum used by country X is an amount determined under a method that is not designed to produce an amount that is not greater than fair market value.

Example (21). Country X uses a set price in imposing a charge on the net gain of petroleum companies. The set price is equal to 102 percent of the fair market value of the petroleum. The charge does not meet the gross receipts requirements under paragraph (c) (3) of this section because it is computed under a method that is not designed to produce an amount that is not greater than fair market value.

Example (22). Country X imposes a charge on business income which is computed by deducting costs from realized gross receipts. However, country X limits the amount of costs which may be deducted to 80 percent of gross receipts. Costs incurred in deriving gross rceipts in country X frequently exceed 80 percent of such receipts. The charge does not meet the net income requirement under paragraph (c) (4) of this section.

Example (23). Country X imposes a charge on realized gross business receipts. The legislative history of the charge indicates that the rate was reduced to make up for the fact that deductions were not allowed. The charge does not meet the net income requirement under paragraph (c)(4) of this section.

Example (24). Country X imposes a charge on the realized gross receipts, less allowed deductions, derived by domestic and foreign persons from business activities conducted within country X. Country X allows deductions for all costs except royalties paid to a related person, interest exceeding certain limits paid to a related person by a person other than a financial institution, social security tax payments to other countries, and general administrative costs incurred by home offices outside country X. Despite the disallowance of the costs described above, country X's charge satisfies the net income requirement under paragraph (c)(4)(i) of this section because it is computed, without substantial deviation, by reducing gross receipts by costs.

Example (25). Country X imposes a 40-percent charge on realized net income of all corporations that have offices in country X, including corporations that maintain a headquarters office to provide management services for related corporations. Country X allows a person subject to this charge to elect every 2 years to calculate its realized net income from headquarters management services by way of a formula rather than by subtracting costs from gross receipts. The formula provides that realized net income from such services is deemed to be a specified multiple of the costs of providing the services. This amount is added to the amount of any other realized net income and the 40-percent rate of charge is applied to the sum of the amounts. The charge imposed by country X meets the gross receipts and net income requirements pursuant to paragraph (c)(4)(ii) of this section.

Example (26). Country X imposes a charge on the realized net income of individual residents of the country. A resident individual that does not engage in commercial activity within country X may elect annually to calculate his income from sources without country X either by reducing realized gross receipts by costs or under a formula. The formula provides that taxable income is deemed to be a specified multiple of the rental value of the individual's residence. This amount is added to his income from sources within country X and the rate of charge is applied to the sum of the amounts. The charge imposed by country X meets the gross receipts and net income requirements pursuant to paragraph (c)(4)(ii) of this section.

Example (27). Country X imposes an income tax on income derived from manufacturing operations in Country X. Province A of country X imposes a charge on gross receipts, less deductions, derived from manufacturing operations in province A. No deduction is allowed in computing the province A charge for the country X income tax. Notwithstanding the failure to allow a deduction for the portion of the income tax that is attributable to manufacturing operations without province A, the province A charge may meet the net income requirement under paragraph (c)(4) of this section because this portion is not a cost attributable to gross receipts subject to the province A charge. Notwithstanding the failure to allow a deduction for the portion of the country X income tax attributable to manufacturing operations within province A, the charge may meet the net income requirement because the failure of a charge to allow the deduction of an income tax imposed on the same gross receipts is not a substantial deviation within the meaning of paragraph (c)(4)(i).

Example (28). Country X imposes a 25-percent rate of charge on interest, dividends, and royalties paid by residents of country X to persons that are neither residents of, nor, in the case of foreign persons, "established" in, country X. The law of country X allows nonresident financial institutions to operate in the country only through "representative offices." The functions of a "representative office" are limited by law to solicitation of customers for its home office or branches outside country X, advertising for its home office, performance of credit analyses on prospective borrowers, and the transmission of information between prospective borrowers and the home office. Deposits from residents of country X may not be accepted by such representative offices. A representative office cannot legally bind the nonresident financial institution. Loans must be recorded outside the country. Nonresident financial institutions doing business in country X through representative offices are not considered to be "established" in country X and interest paid to them by residents of country X is subject to the 25-percent charge. Interest paid to resident financial institutions is subject to a 50-percent charge on realized gross receipts reduced by costs. The 25-percent rate of charge as applied to interest is a separate charge under paragraph (d)(2) of this section and need not meet the net income requirement pursuant to paragraph (c)(4)(iii).

Example (29). The facts are the same as in example (28), except that certain nonresident financial institutions have been granted the right to open branches in country X and to perform all normal banking activities within country X. Financial institutions that exercise this right are considered "established" in country X and are subject to the 50-percent charge on realized net income attributable, under reasonable principles, to the establishment. The interest received by such financial institutions that is not attributable to such an establishment is subject to the 25-percent gross charge. The 25-percent charge need not meet the net income requirement pursuant to paragraph (c)(4)(iii) of this section.

Example (30). The law of country X requires that loans made to residents of country X by nonresidents be recorded and executed outside the country. There are no other restrictions on the activities that nonresidents can perform within country X. A separate charge of 25 percent is imposed on gross interest paid by residents of country X to nonresidents. The 25-percent charge is not excused from the net income requirement of paragraph (c)(4) of this section by paragraph (c)(4)(iii) because country X does not make a reasonable distinction, based on the degree of contact of the recipients of the interest or the activities or assets that generate the interest, between interest income that is subject to the 25-percent charge and interest income that is subject to a charge on realized gross receipts reduced by costs. The 25-percent charge does not meet the net income reuirement because the base of the charge is not computed, without substantial deviation, by reducing gross receipts by costs that may be incurred by lenders.

Example (31). Country X imposes a charge computed on the basis of realized gross receipts reduced by costs on residents of country X and on nonresidents that have a permanent establishment within country X. Country X also imposes a 20-percent charge on the gross amount of fees paid by residents of country X for technical services performed within or without the country by nonresidents that have no permanent establishment within country X. A nonresident has a permanent establishment within country X if it has a place of business in the country for a period of more than 1 year. Pursuant to paragraph (a) (1) (iii) of this section, the 20-percent charge may be an income tax notwithstanding the fact that country X determines the source of personal services income on the basis of the residence of the payor. Pursuant to paragraph (c) (4) (iii) of this section, the 20-percent charge need not meet the net income requirement.

Example (32). Country X imposes a 50-percent charge on the "net gain" of corporations engaged in a trade or business in country X. In calculating "net gain," deductions are allowed for all business expenses. In addition, corporations subject to the charge are permitted to amortize capital expenditures over a reasonable period. Country X does not permit related corporations to file consolidated returns. It does, however, permit a carryover of losses from the period in which the losses are incurred to other periods. Country X requires that each oil well within the country be operated by a separate corporation. Otherwise country X imposes no restrictions on whether businesses may operate as a single corporation. As a result, foreign persons wishing to engage in the extraction of oil within country X typically form several corporations, each of which operates a different well. Country X does not own or control the petroleum resources in country X. The provision of foreign law precluding the filing of consolidated returns significantly increases the liability only of corporations engaged in the extraction of oil because country X requires each oil well to be incorporated separately and it can reasonably be expected that oil wells will frequently not be profitable. Extraction corporations that incur costs with respect to an oil well that does not produce revenues will never be able to recover those costs. Therefore, the 50-percent charge as it applies to corporations engaged in the extraction of oil is considered a separate charge under paragraph (d) (4) of this section. That charge does not satisfy the net income requirement under paragraph (c) (4) (i) of this section because it is likely that the aggregate of the bases of the charge imposed on the profitable members of a group of related corporations engaged in the extraction of oil will frequently be significantly greater, over a reasonable period of time, than the excess of the aggregate gross receipts of the entire group of related corporations over the costs attributable, under reasonable principles, to those gross receipts. The 50-percent charge, as it applies to other industries, is a separate charge and may be an income tax with respect to other corporations that are subject to it.

Example (33). The facts are the same as in example (32), except that country X does not require that each oil well within the country be operated by a separate corporation. Instead, it requires that persons engaged in unrelated lines of business conduct each line of business through a separate corporation. Thus, a person wishing to engage in the extraction of oil within country X and to invest in a resort hotel in country X is required to conduct each activity through a separate corporation. Even though country X does not permit the filing of consolidated returns by related corporations, country X's charge meets the net income requirement under paragraph (c) (4) (i) of this section.

Example (34). Country X generally imposes a 45-percent charge on the realized net income of corporations doing business in country X. However, the law of country X provides that in the case of a corporation engaged in mining operations, a separate 35-percent charge is instead imposed on the excess of the gross receipts over costs attributable to each specified ore body. Thus, losses from one specified ore body may not offset gains from another specified ore body or from other activities and losses from other activities may not offset gains from specified ore bodies. Losses attributable to one taxable year may be carried forward and used in subsequent taxable years. Country X owns the mineral resources in country X. Corporations engaged in mining operations often also are engaged, in country X, in related activities such as processing or refining. The realized net income from these activities is subject to the 45-percent charge. It is demonstrated that it is likely that these related activities are profitable over a reasonable period of time. It is also demonstrated that due to the nature of the expenses involved in mining ore in country X, the scope of the mining areas encompassed within ore bodies, the value of country X ore, and the prospects for the recovery of ore, the aggregate of the bases of the separate charges imposed with respect to each profitable specified ore body will rarely, if ever, be significantly greater, over a reasonable period of time, than the exces of the aggregate of gross receipts from all specified ore bodies over all costs attributable, under reasonable principles, to those gross receipts. The charge imposed with respect to each specified ore body satisfies the net income requirement under paragraph (c)(4)(i) of this section.

Example (35). A charge imposed by the law of country X is not based on realized net income. A, a U.S. person, represents to the Internal Revenue Service that the law of country X is administered, with respect to A, in a manner such that in practice the charge is based on realized net income. Notwithstanding this representation, the charge is not an income tax becuase it does not meet the standard set forth in paragraph (a)(1)(ii) of this section under the law as well as in practice.

Example (36). Country X imposes a charge on all interest paid by residents of country X to lenders, regardless of whether the lenders are commercial or whether they are residents of, or operate within, country X. Country X's law does not specifically identify separate classes of taxpayers or types of interest. Under paragraph (d)(2) of this section, country X imposes one charge on interest income. The charge does not meet the net income requirement of paragraph (c)(4)(i) of this section. It in not excused from meeting this requirement by paragraph (c)(4)(iii) because no interest is subject to a charge computed by reducing realized gross interest by costs as described in paragraph (c)(4)(i).

Example (37). The facts are the same as in example (36) except that country X's law does specifically identify residents and nonresidents as separate classes. Under paragraph (d)(2) of this section country X imposes separate charges on interest paid to residents and nonresidents. However, the charge on nonresidents is not excused from meeting the net income requirement by paragraph (c)(4)(iii) of this section becuase interest paid to residents is not subject to charge computed by reducing realized gross interest by costs as described in paragraph (c)(4)(i).

Example (38). Country X imposes a single rate of charge on the sum of an individual's wages and gross business income. The wage income and the business income each constitute a separate base under paragraph (d)(2) of this section because these amounts are identified by foreign law and no deductions are allowed for costs. Since a flat rate of charge is applied to the sum of the bases, the charge on each base is a separate charge. Accordingly, under paragraph (a)(1) of this section, the determination of whether the charge on gross business income is an income tax is made independently of the determination of whether the charge on wages is an income tax.

Example (39). Country X requires persons to pay an amount equal to 25 percent of a specified base and another amount equal to 15 percent of the same base. Country X imposes two separate charges under paragraph (d)(3) of this section.

Example (40). The facts are the same as in example (39), except that the 15-percent rate is applied to the specified base reduced by the amount of the first charge. Country X imposes two separate charges under paragraph (d)(2) of this section.

Example (41). Country X imposes a charge on realized net income except that no deduction or other allowance is granted for mineral royalties paid or accrued. The disallowance of a mineral royalty deduction significantly increases the liability only of persons engaged in mineral extraction. If such persons were the only persons subject to the charge, the charge would not be an income tax because it would not satisfy the net income requirement under paragraph (c)(4) of this section. Country X imposes a separate charge on persons engaged in mineral extraction under paragraph (d)(4) of this section.

Example (42). The facts are the same as in example (41), except that the deduction disallowance applies only to royalties paid or accrued for the right to extract gold ore. Country X imposes a separate charge on persons engaged in gold ore extraction under paragraph (d)(4) of this section.

(f) *Amount of income tax paid or accrued*—(1) *In general.* A credit is allowed under section 901 for the amount of income tax (within the meaning of § 4.901–2(a)(1)) that is paid or accrued to a foreign country, subject to the provisions of this paragraph (f). The amount of income tax paid or accrued is determined separately for each taxpayer.

(2) *Refunds.* An amount is not income tax paid or accrued to a foreign country to the extent that it is reasonably certain that the amount will be refunded. It is not reasonably certain that an amount will be refunded if the amount is a reasonable approximation of final income tax liability to the foreign country.

(3) *Subsidies*—(i) *General rule.* An amount is not income tax paid or

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accrued to a foreign country to the extent that—

(A) The amount is used directly or indirectly by the country to provide a subsidy by any means (such as through a refund or credit) to the taxpayer; and

(B) The subsidy is determined directly or indirectly by reference to the amount of income tax, or the base used to compute the income tax, imposed by the country on the taxpayer.

(ii) *Indirect subsidies.* A foreign country is considered to provide a subsidy to a person if the country provides a subsidy to another person that—

(A) Is owned or controlled, directly or indirectly, by the same interests that own or control, directly or indirectly, the first person; or

(B) Engages in a business transaction with the first person, but only if the subsidy received by such other person is determined directly or indirectly by reference to the amount of income tax, or the base used to compute the income tax, imposed by the country on the first person with respect to such transaction.

(4) *Multiple charges*—(i) *General rule.* If a person or one or more related persons are liable to a foreign country for one or more charges that are not income taxes in addition to an income tax, an amount is income tax paid or accrued to a foreign country only to the extent that the total of all amounts paid or accrued to the country exceeds the amount for which the person or persons would have been liable to the country if the person or persons were not liable for any income tax. This paragraph (f)(4) applies even if liability for the income tax and liability for the charges that are not income taxes are attributable to different taxable years.

(ii) *Offsetting charges.* If under foreign law—

(A) Liability for an income tax can be reduced by the amount of a charge that is not an income tax;

(B) Liability for a charge that is not an income tax can be reduced by the amount of an income tax; or

(C) The total amount of liability is the greater of the amount of an income tax or the amount of a charge that is not an income tax;

then an amount is income tax paid or accrued to a foreign country only to the extent that the income tax exceeds the other charge.

(iii) *Simultaneously determined amounts.* If liability for an income tax and liability for one or more charges that are not income taxes are computed so that their sum cannot be less than a third amount that is not an income tax, then an amount is income tax paid or accrued to a foreign country only to the extent that the income tax exceeds the third amount.

(iv) *Advance corporation taxes.* If, pursuant to foreign law that partially or fully integrates corporate and shareholder taxation, liability of a corporation for an amount, imposed with respect to a distribution of the corporation's profits ("advance amount"), reduces liability of the corporation, or a related corporation, for an income tax imposed on corporate profits, whether or not distributed, then the corporate income tax is paid or accrued in the taxable year for which it is imposed and the advance amount is not paid or accrued to the extent such amount reduces the corporate income tax. The amount of corporate income tax paid or accrued is reduced to the extent the advance amount is paid or credited to shareholders of the distributing corporation.

(5) *Noncompulsory amounts.* An amount is not income tax paid or accrued to a foreign country to the extent that the amount exceeds liability under foreign law for income tax. An amount does not exceed such liability if—

(i) The amount of such liability is determined; and

(ii) All effective and practical remedies are exhausted;

in a manner that is consistent with a reasonable interpretation and application of the substantive and procedural provisions of foreign law (including applicable tax conventions) so as to reduce, over a reasonable period of time, such liability. An interpretation or application of foreign law is not reasonable if there is actual or constructive notice that the interpretation or application is likely to be erroneous. A remedy is effective and practical only if it is reasonable to believe that the potential reduction in liability would justify the expenses of pursuing the remedy. A person need not alter its form of doing business or its business conduct to reduce its liability under foreign law for income tax.

(6) *Contested amounts.* An amount may be income tax paid or accrued to a foreign country notwithstanding the fact that liability for the amount is contested.

(7) *Interest and penalties.* An amount is not income tax paid or accrued to a foreign country to the extent that the amount discharges a liability for interest, fines, penalties, or any similar obligation.

(8) *Consideration.* An amount is not income tax paid or accrued to a foreign country to the extent of the fair market value of consideration received explicitly in exchange for the amount. Unless it is demonstrated otherwise, the fair market value of the consideration will be considered to be equal to the amount exchanged for the consideration.

(9) *Examples.* The following examples illustrate the application of this paragraph (f).

Example (1). The law of country X provides that 25 percent of the amount of a person's "income tax liability" to that country will be refunded to that person after 5 years. The amount to be refunded is not income tax paid or accured under paragraph (f) (1) and (2) of this section.

Example (2). The law of country X requires a resident of country X that pays interest to a nonresident to withhold and pay over to country X 25 percent of such interest. A tax convention between the United States and country X provides that interest paid by a resident of country X to a resident of the United States is subject to a maximum rate of charge of 10 percent and that such charge is an income tax. The excess over the 10-percent rate is refunded to the U.S. resident after the end of the taxable year. Under paragraph (f) (1) and (2) of this section, the excess of the amount withheld over the 10-percent rate is not income tax paid or accrued.

Example (3). Country X imposes a 30-percent charge on interest paid by its residents to nonresident lenders. This charge is withheld by resident borrowers and paid over to country X. Country X refunds to borrowers a subsidy equal to 20 percent of the interest paid. Because the subsidy is based on the interest paid, it is determined by reference to the base used to compute the income tax imposed on the nonresident lender. Under paragraph (f)(3)(ii)(B) of this section, the subsidy is considered to be provided to the nonresident lender since it is provided to a person (the borrower) that engaged in a business transaction with the lender and is based on the amount of income tax imposed on the lender with respect to this transaction. Therefore, two-thirds (20 percent/30 percent) of the amount withheld by a resident borrower from interest payments to a nonresident lender is not income tax paid or accrued under paragraph (f)(3)(i) of this section.

Example (4). Country X grants a "rebate" to each province of country X of a specified percentage of the income tax paid in the prior year to country X by the electric company in the province. Each province may decide the manner in which it will use the rebate. Province A uses the rebate to pay an allowance to each person that is a customer of the electric company in province A during the year the allowance is paid. The allowance is based on the amount of electricity used by the customer in that year. Country X regulates electric utility rates and does not vary them to reflect the allowance paid to customers. Country X is not considered to provide a subsidy to the electric company in province A under paragraph (f)(3) of this section because the allowance paid to a customer is not based on the amount of income tax imposed on the electric company with respect to its transaction with that customer.

Example (5). A is an accrual basis U.S. corporation doing business in country X. The general law of country X provides that income tax due to country X for any taxable year must be paid by the end of the next taxable year. Country X and A agree by contract that A is not required to pay the income tax due for calendar year 1980 until December 31, 1984. A is not required to pay interest to country X on the unpaid income tax. The fair market value of the use by A in 1982, 1983, and 1984 of the amount of A's 1980 income tax liability is a subsidy determined by reference to the amount of income tax imposed on A by country X. Under paragraph (f)(3)(i) of this section, the amount of income tax otherwise accrued by A for 1980 is reduced by the amount of this subsidy. No additional amount of income tax is paid or accrued when the amount due is paid.

Example (6). Country X imposes an income tax on persons engaged in a trade or business in country X. In addition, country X requires petroleum companies to pay a royalty. Petroleum companies are allowed to deduct the amount of the royalty in computing net income subject to the income tax. The tax is then determined by applying the generally applicable tax rules and rates in country X. The amount of royalty imposed by country X is determined in such a way that the sum of the royalty and the amount of the net income tax on petroleum companies equals an amount which is based on a percentage of the gross value of petroleum production. Under paragraph (f)(4)(iii) of this section, the amount of the income tax paid or accrued is zero.

Example (7). Country X owns all mineral resources within country X and licenses Corporation A to extract such minerals. Corporation A is permitted to sell the minerals to B a related corporation at fair market value. Corporation B is required under the law of country X to sell the same minerals within country X. Country X imposes an income tax on A's realized net income under the generally applied rates and provisions of its corporate income tax. Country X imposes a separate charge on B that is not an income tax. This charge is computed so that the sum of the amount of income tax imposed on A and the amount of charge imposed on B equals an amount based on a percentage of the gross value of the minerals sold by B. Under paragraph (f)(4)(i) and (iii) of this section, the amount of income tax paid or accrued by A is zero.

Example (8). The tax system of country X grants individuals that receive a dividend from a country X corporation a credit for a portion of the income tax paid by the corporation. When a country X corporation pays a dividend, it is required to make an advance payment equal to a specified percentage of the amount of the dividend. The advance payment, under the law of country X, may offset the country X income tax liability of the distributing corporation or related country X corporations. In 1973, A, a country X corporation, pays a dividend to B, its U.S. parent corporation, and also makes the associated advance payment. Neither A nor any of its related corporations is liable for any country X corporate income tax for 1973. In 1974 pursuant to country X law, the entire advance payment made by A in 1973 reduces the liability of C, a related corporation, for the country X corporate income tax for 1974. The advance payment is not income tax paid or accrued by A. Instead, the corporate income tax for 1974 is paid or accrued by C under paragraph (f)(4)(iv) of this section.

Example (9). A, a corporation organized and doing business solely in the United States, owns all of the stock in B, a corporation organized in country X. A and B deal extensively with each other. A reasonable interpretation of country X's income tax provisions requiring that transactions between related persons be at arm's length would allocate $100,000 of income to B and $100,000 to A in 1978. Instead, A and B allocate $10,000 of income to A and $190,000 to B. This allocation is not consistent with a reasonable interpretation of the law of country X. The Internal Revenue Service does not audit the 1978 tax return of A. The amount paid or accrued to country X by B that is attributable to the improperly allocated $90,000 exceeds legal liability and is not income tax paid or accrued under paragraph (f)(5) of this section.

Example (10). A, a corporation organized and doing business solely in the United States, owns all of the stock in B, a corporation organized in country X. Country X has in force a tax convention with the United States. The convention provides that the profits of related persons shall be determined as if the persons were not related. A and B deal extensively with each other. A and B, with respect to a transaction between them, allocate $30,000 of income to A and $70,000 of income to B. Subsequently, the Internal Revenue Service reallocates $20,000 of income from B to A under the authority of section 482 and the convention. This reallocation constitutes notice that the interpretation of country X's law and the tax treaty is likely to be erroneous. B does not seek a refund from country X and does not establish that its liability to country X was determined in a manner consistent with a reasonable interpretation of country X's law and the tax convention. The amount paid to the country X by B that is attributable to the reallocated $20,000 exceeds legal liability and is not income tax paid or accrued under paragraph (f)(5) of this section.

Example (11). C, a U.S. corporation doing business in country X, pays an income tax consistent with what appears to be a reasonable interpretation of the law of country X. A court in country X subsequently holds that corporations organized outside country X are entitled to a deduction not claimed by C. The statute of limitations of country X has not expired. C does not follow the procedural provisions of the law of country X allowing it to claim a refund in a country X court although the expenses of doing so are small in relation to the potential country X tax savings. An amount equal to the refund that C could have received from country X exceeds legal liability and is not income tax paid or accrued under paragraph (f)(5) of this section.

Example (12). D, as U.S. person doing business in country X, is subject to the country X income tax. D determines its 1977 country X income tax liability in a manner that is consistent with a reasonable interpretation and application of the law of country X. After D files its country X return for 1977 and pays to country X the amount shown as due thereon, D files a claim for refund for 1977 in order to claim a deduction for certain additional business expenses on its return. Under the law of country X it is not clear that the deductions claimed by D in requesting the refund are allowable. Under paragraph (f) (5) and (6) of this section, the original income tax payment made by D to country X may be income tax paid or accrued notwithstanding the fact that D has filed a refund claim. However, if D obtains a refund, D must, pursuant to § 1.905–3(a), immediately notify the Internal Revenue Service of the refund.

Example (13). A is a U.S. person doing business in country X. In computing its income tax liability to country X, A calculates its depreciation on the basis of a reasonable asset life that is longer than the shortest life permitted by country X. Under paragraph (f)(5) of this section, the use of such asset life by A does not result in a payment in excess of legal liability for the income tax since the use of a shorter asset life would not reduce, over a reasonable period of time, A's income tax liability to country X.

Example (14). A is a citizen of the United States and a resident of country X. Country X imposes no tax on gains from the sale of investment property. A travels to country Y, which imposes a 10-percent charge on such gains, to sell investment property. A had no significant purpose for doing so other than to avoid the rule of section 904(b)(3)(C). Under paragraph (f)(5) of this section, the amount paid by A to country Y is not income tax paid or accrued because A has altered his conduct to incur unnecessary liability to country Y.

Example (15). Country X imposes an income tax on all individual residents of the country. Such a resident may elect, 3 months after the close of the taxable year, to calculate his income from sources without country X either by reducing realized gross receipts by costs or under a formula. A and B are U.S. citizens resident in country X. A elects to calculate his income from sources without country X by reducing gross receipts by costs even though the use of the formula would produce a lesser amount of income. B elects to calculate such income under the formula even though the use of realized gross receipts reduced by costs would produce a lesser amount of income. The amount paid or accrued to country X by A and B that results from their electing to use the method that produces a greater amount of income exceeds legal liability and is not income tax paid or accrued under paragraph (f)(5) of this section.

(g) *Taxpayer*—(1) *In general.* Income tax is paid or accrued by or on behalf of a person if foreign law imposes legal liability for income tax on that person and income tax is paid or accrued under paragraph (f) of this section.

(2) *Taxes paid on combined income.* In the case of an income tax imposed on the combined income of two or more

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related persons (for example, a husband and wife or a corporation and its subsidiaries) that are jointly and severally liable for the income tax under foreign law, foreign law is considered to impose legal liability on each such person for the amount of the income tax attributable to its portion of the base of the tax under foreign law, regardless of which person actually pays the tax.

(3) *Taxes paid by payor of income.* Foreign law is considered to impose legal liability on a person that realizes an item of income specified in section 871(a) or 881(a) for an income tax paid or accrued by or on behalf of the payor of such income if—

(i) The payor has the right under foreign law to withhold the amount of the tax from such income;

(ii) The payor does not have the right under foreign law to reduce by part or all of the amount of the tax withheld any other liability imposed on the payor by foreign law; and

(iii) The person that realizes such income does not have the right under foreign law to recover from the payor the amount of the tax withheld.

(h) *Definition of "foreign country."* For purposes of this section, the term "foreign country" includes any foreign state or possession of the United States, or political subdivision or agency or instrumentality thereof. The term "possession of the United States" includes Guam, Puerto Rico, and the Virgin Islands.

(i) *Effective date.* This section shall apply to taxable years ending after June 15, 1979, unless the taxpayer chooses to apply this section to taxable years ending on or before such date. If a revenue ruling in effect on [insert date immediately preceding the date of publication of these regulations in the Federal Register] is inconsistent with this section, then, notwithstanding this section, a taxpayer may choose to apply such ruling for any taxable year ending on or before December 31, 1980.

§ 4.903–1 Taxes in lieu of income taxes.

(a) *In general.* Section 903 provides that the term "income, war profits, and excess profits taxes" shall include a tax paid in lieu of a tax on income, war profits, or excess profits ("income tax") otherwise generally imposed by any foreign country or any possession of the United States. A charge is a tax in lieu of an income tax if and only if—

(1) The charge is not compensation for a specific economic benefit within the meaning of § 4.901–2 (b);

(2) The charge meets the substitution requirement as set forth in paragraph (b) of this section;

(3) The charge meets the comparability requirement as set forth in paragraph (c) of this section; and

(4) The charge follows reasonable rules of taxing jurisdiction within the meaning of § 4.901–2 (a)(1)(iii).

The amount of a tax in lieu of an income tax that is paid or accrued by or on behalf of the taxpayer is determined under § 4.901–2 (f) and (g) by treating the tax in lieu of an income tax as an income tax.

(b) *Substitution.* A foreign charge meets the substitution requirement if the charge is clearly intended, and in fact operates, as a charge imposed in substitution for, and not in addition to, an income tax otherwise generally imposed.

(c) *Comparability.* A foreign charge meets the comparability requirement unless it is reasonably clear that foreign law imposing the charge is structured, or in fact operates, so that the amount of liability of persons subject to the charge will generally be significantly greater, over a reasonable period of time, than the amount for which such persons would be liable if they were subject to the income tax otherwise generally imposed.

(d) *Otherwise generally imposed.* An income tax is otherwise generally imposed if the country imposes an income tax or a series of separate income taxes (within the meaning of § 4.901–2) on significant amounts of income.

(e) *Rules of application.* For purposes of applying paragraph (a) of this section the following rules apply.

(1) The charge need not be imposed because of administrative difficulty in determining the base of the income tax otherwise generally imposed.

(2) All the income derived by persons subject to the charge need not be exempt from the income tax.

(3) The base of the charge may be gross income, gross receipts or sales, or the number of units produced or exported; the base of the charge need not bear any relation to realized net income.

(4) Paragraph (a) of this section is applied independently to each separate charge (within the meaning of § 4.901–2 (d)) imposed by the foreign country (within the meaning of § 4.901–2 (h)). Each separate foreign charge will be considered either to be a tax in lieu of an income tax or not to be such a tax in its entirety for all persons subject to the charge.

(5) If—

(i) Payment of a charge (including the "third amount" referred to in § 4.901–2 (f)(4)(iii)) that is compensation for a specific economic benefit discharges a person's liability for—

(A) An income tax imposed on significant amounts of income of persons to which this paragraph (e)(5) does not apply; or

(B) A tax in lieu of such an income tax; and

(ii) Foreign law requires the income tax or the tax in lieu of the income tax to be separately stated and computed;

then, subject to § 4.901–2 (f) (other than § 4.901–2 (f)(4)(i), (ii), and (iii)) and (g), the person pays or accrues an amount of tax in lieu of an income tax equal to the amount of liability referred to in paragraph (e)(5)(i)(A) or (B) of this section.

(f) *Examples.* The following examples illustrate the application of this section.

Example (1). Country X imposes an income tax on significant amounts of business, investment, and personal services income derived from within country X by foreign persons and corporations owned by foreign persons. Country X does not impose an income tax on nationals of country X or corporations owned by such nationals even though those persons also derive significant amounts of business, investment, and personal services income from within country X. Under paragraph (d) of this section, the income tax of country X is otherwise generally imposed.

Example (2). Country X imposes separate income taxes on income from: investments (30 percent rate of tax); business activities (45 percent rate of tax); and personal services (40 percent rate of tax). Under paragraph (d) of this section, the separate income taxes constitute an income tax otherwise generally imposed.

Example (3). Country X imposes separate charges, at different rates, on significant amounts of realized net income from investments, petroleum operations, and other business activities. The rate applicable with respect to petroleum operations is substantially in excess of the rates applicable to investments and other business activities. Those engaged in pertroleum operations are extracting oil owned by country X. The charges on other business activities and investment are income taxes. Country X enters into a contract with D, a domestic corporation, to substitute a charge on gross petroleum income for the otherwise applicable charge on realized net petroleum income. The charge on gross petroleum income will, over a reasonable period of time, approximate in amount the charge imposed on realized net income from petroleum operations. Under paragraph (d) of this section, Country X has an income tax otherwise generally imposed. However, under paragraph (a)(1) of this section and § 4.901–2(b), the charges on gross petroleum income and on realized net income from petroleum operations are each presumed to be compensation for a specific economic benefit. Therefore, the charge paid by D is presumed not to be a tax in lieu of an income tax.

Example (4). Country X imposes a 40-percent tax on realized net income of persons doing business in country X. Persons in the insurance business may elect instead to be subject to a 5-percent charge on a formulary base. The 5-percent charge does not meet the net income requirement under § 4.901–2(c)(4)(i) or, because it is a charge separate from the 40-percent tax on realized net income, under § 4.901–2(c)(4)(ii), and thus is not an income tax. However, the 5-percent charge meets the substitution requirement under paragraph (b) of this section.

Example (5). Country X imposes a tax on realized net income of all persons engaged in business in country X other than persons engaged in the banking business. Country X also imposes a gross receipts charge (deductible from realized net income) on persons engaged in business in country X including persons engaged in the banking business. The gross receipts charge does not meet the substitution requirement under paragraph (b) of this section because it is imposed in addition to, and not in substitution for, the tax on realized net income.

Example (6). Country X imposes a 30-percent tax on significant amounts of realized net business income. Persons engaged in the shipping business are required to pay the greater of this income tax or 8 percent of gross receipts. The gross receipts charge does not meet the substitution requirement under paragraph (b) of this section because it is imposed in addition to, and not in substitution for, the income tax. Thus, the gross receipts charge is not a tax in lieu of an income tax.

Example (7). Country X imposes an individual income tax and a corporate income tax. Persons subject to the individual income tax are also liable for a minimum charge equal to a stated percentage of the rental value of their residence. The minimum charge does not meet the substitution requirement under paragraph (b) of this section because it is imposed in addition to, and not in substitution for, the individual income tax and because it is not clearly intended as a charge imposed in substitution for the corporate income tax.

Example (8). Substantially all business income, other than income derived by insurance companies, is subject to one of several separate income taxes. Insurance companies are subject to a charge on gross premiums. Income derived by insurance companies is not specifically exempted from the application of any of the income taxes although none, by its terms, applies to such income. The charge on gross premiums meets the substitution requirement under paragraph (b) of this section because it is clearly intended, and in fact operates, as a charge imposed in substitution for, and not in addition to, the income taxes.

Example (9). A significant portion of the business income derived within country X is subject to one of several separate income taxes. Insurance companies are subject to a charge on gross premiums. Income derived by insurance companies is not specifically exempted from the application of any of the income taxes although none, by its terms, applies to such income. Income derived by insurance companies was subject to an income tax by country X until that income tax was repealed by the legislation that enacted the charge on gross premiums. The charge on gross premiums meet the substitution requirement under paragraph (b) of this section because it is clearly intended, and in fact operates, as a charge imposed in substitution for, and not in addition to, the income taxes.

Example (10). Country X imposes a 40-percent charge on the realized net income of corporations engaged in various businesses in country X including mineral extraction. Country X owns all mineral resources located within the country and licenses private persons to extract those minerals. Country X imposes an 80-percent charge on the "posted price" of minerals sold by a licensee. Posted price is equal to 105 percent of the amount realized on the sale. A licensee's liability for the 80-percent charge is reduced by the amount of the 40-percent charge. The law of country X imposing the 40-percent charge does not distinguish significantly between persons extracting minerals and other persons that derive significant amounts of income and do not receive any specific economic benefit in determining gross receipts, allowing deductions for expenses and recovery of capital (including depletion), permitting losses from one activity to offset income from other activities, applying rates of charge, or in any other manner. The excess of the 80-percent charge over the 40-percent charge is allowed as a deduction in computing the 40-percent charge by the law of country X. That is, the amount of the 40-percent charge imposed on a licensee is always equal to (G–C–K) (R)/1–R 'R' is the rate of the charge (.40) imposed on persons that derive significant amounts of income and do not receive any specific economic benefit. 'G' is the gross receipts of the licensee. 'C' is the costs attributable to those gross receipts. 'K' is the amount of the 80-percent charge imposed on the licensee. The 80-percent charge is presumed not to be an income tax or a tax in lieu of an income tax pursuant to § 4.901–2(b)(1). The 40-percent charge is an income tax under § 4.901–2(a)(1), but is not considered paid or accrued by a licensee under § 4.901–2(f)(4). Under paragraph (e)(5) of this section, a licensee pays or accrues an amount of tax in lieu of an income tax equal to the amount of the 40-percent charge imposed on the licensee (subject to § 4.901–2(f) (other than § 4.901–2(f)(4) (i), (ii), and (iii)) and (g).

Example (11). The facts are the same as in example (10) except that the 80-percent charge is imposed on realized net income and the excess of the 80-percent charge over the 40-percent charge is not allowed as a deduction in computing the 40-percent charge imposed on persons engaged in mineral extraction. Thus, the amount of this 40-percent charge is one-half of the amount of the 80-percent charge. If the excess were allowed as a deduction, the amount of this 40-percent charge would be only approximately one-sixth of the amount of the 80-percent charge. Under § 4.901–2 (d)(4) and (b)(1), the 40-percent charge imposed on licensees is presumed to be a separate charge that is compensation for a specific economic benefit because the failure to allow the excess (a cost of extracting minerals that is not an income tax) as a deduction significantly increases the amount of the 40-percent charge imposed on others, which charge allows the deduction of costs of doing business. Thus, the 40-percent charge imposed on licensees is presumed not to be an income tax or a tax in lieu of an income tax. Therefore, unless the presumption is rebutted, pursuant to § 4.901–2(a)(1) and paragraphs (a) and (e)(5) of this section, no tax in lieu of an income tax is paid or accrued by any licensee.

Example (12). The facts are the same as in example (10) except that the law of country X does not require the 40-percent charge to be separately computed and stated. The law of country X does state that the 80-percent charge is, to an unspecified extent, in lieu of the 40-percent charge imposed on persons that are not engaged in mineral extraction. Pursuant to paragraphs (a) and (e)(5) of this section, no tax in lieu of an income tax is paid or accrued by any licensee.

Example (13). The facts are the same as in example (12) except that, in computing the 40-percent charge, a person that is not engaged in mineral extraction qualifies for an additional deduction equal to one-third of its realized net income. Licensees do not qualify for this deduction. Under § 4.901–2(4) and (b)(1), the 40-percent charge imposed on licensees is presumed to be a separate charge that is compensation for a specific economic benefit, because the failure to qualify for the additional deduction significantly increases the amount of the 40-percent charge paid by licensees over what this amount would be if they were subject to the 40-percent charge imposed on others. Thus, the 40-percent charge imposed on licensees is presumed not to be an income tax or a tax in lieu of an income tax. Therefore, unless the presumption is rebutted, pursuant to § 4.901–2(a)(1) and paragraphs (a) and (e)(2) of this section, no tax in lieu of an income tax is paid or accrued by any licensee.

Example (14). The facts are the same as in example (13) except that licensees do qualify for the additional deduction. Licensee A, however, does not claim this deduction in computing its liability for, and payment of, the 40-percent charge. A receives no refund, subsidy or consideration within the meaning of § 4.901–2(f) (2), (3), or (8) and discharges no liability for interest, fines or any similar obligations within the meaning of § 4.901–2(f)(7). Under paragraph (e)(5) of this section, A pays an amount of tax in lieu of an income tax equal to the amount of the 40-percent charge imposed on A reduced, pursuant to § 4.901–2(f)(5) by the amount of the 40-percent charge that is attributable to the additional deduction that A did not claim.

Example (15). Country X imposes an income tax on corporations engaged in business in country X other than corporations engaged in mineral extraction. Country X owns all mineral resources located within the country. Corporations engaged in mineral extraction are subject to two charges neither of which is an income tax. Each charge, considered separately, may meet the

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requirements of paragraph (a) of this section. However, if the aggregate of the two charges were considered to be a single charge, the aggregate charge would not meet the requirement of § 4.901–2(b)(2)(ii) or paragraph (c) of this section. A taxpayer may establish which of the two charges is the tax in lieu of an income tax and may only claim a foreign tax credit for that charge.

(g) *Effective date.* This section shall apply to taxable years ending after June 15, 1979, unless the taxpayer chooses to apply this section to taxable years ending on or before such date. If a revenue ruling in effect on November 14, 1980 is inconsistent with this section, then, notwithstanding this section, a taxpayer may choose to apply such ruling for any taxable year ending on or before December 31, 1980.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Approved: November 5, 1980.

Jerome Kurtz,

Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-35777 Filed 11-12-80; 3:50 pm]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the Interim Regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the interest rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). This valuation is necessary because under section 4041 of the Act, the PBGC must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in annuity markets. This amendment adopts the rates and factors applicable to plans that terminated on or after September 1, 1980, but before December 1, 1980, and will enable the PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors must be reflective of current annuity market conditions, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before September 1, 1980. (29 CFR Part 2610 (1979), 44 FR 42180, 44 FR 58908, 45 FR 2026, 45 FR 21228, 45 FR 43164, 45 FR 64907) The purpose of this amendment is to provide the rates and factors applicable to plans that terminated on or after September 1, 1980, but before December 1, 1980.

The PBGC is continuing the procedure of issuing new interest rates and factors in final form without first publishing them in a Notice of Proposed Rulemaking. Because the PBGC cannot value the benefits provided under pension plans that terminated on or after September 1, 1980 and before December 1, 1980 until the new interest rates and factors contained herein are promulgated, the PBGC finds that notice of and public comment on this amendment are impracticable and contrary to the public interest. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that terminated on or after September 1, 1980, but before December 1, 1980, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

The PBGC has determined that this amendment to the Valuation of Plan Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (March 24, 1978), and the PBGC's Statement of Policy and Procedures implementing the Order, 43 FR 58237 (December 13, 1978). The reasons for this determination are that this amendment is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by adding a new Table XX to Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Benefits

* * * * *

XX. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after September 1, 1980, but before December 1, 1980.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 9 percent shall be used to value immediate annuities, to compute the quantity "G_s" in § 2610.6 and to value both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0825$
(2) $k_2 = 1.07$
(3) $k_3 = 1.04$
(4) $n_1 = 7$
(5) $n_2 = 8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)))

Issued at Washington, D.C., on this 14th day of November.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

Mitchell Strickler,

Acting Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-34807 Filed 11-14-80; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-026]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, (AIWW), Palm Beach County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Delray Beach, Florida, the Coast Guard is changing the regulations governing the operation of the Atlantic Avenue bridge across the Atlantic Intracoastal Waterway (AIWW), mile 1039.6. The change limits the operation of the draw from 1 November to 31 May from 10 a.m. to 6 p.m., Monday through Friday, to open on the hour and half hour. The draw of the bridge was previously required to open on signal at all times. These changes are being made because of significant increase in vehicular traffic during these periods and will relieve vehicular traffic build-ups during the evening rush hour.

EFFECTIVE DATE: This amendment is effective on December 15, 1980.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Bridge Section(oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, Telephone: (305) 350–4108.

SUPPLEMENTARY INFORMATION: On 10 March 1980, the Coast Guard published a proposed rule (44 FR 15192) concerning this amendment. The Commander, Seventh Coast Guard District also published the proposal as a public notice dated 14 March 1980. Interested persons were given until 10 April 1980 and 14 April 1980 respectively to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Ensign Jane L. Hamilton, Bridge Administration Officer, Office of Aids to Navigation and Lieutenant John M. Griesbaum, Office of Commander, Seventh Coast Guard District Legal.

Discussion of the Proposed Regulations

A total of 117 comments were received, 109 supported the proposal and eight were in opposition. Those opposed, addressed four areas of concern: (1) The proposed regulations would pose a hazard to navigation; (2) navigation will be impeded on the Intracoastal Waterway; (3) the completion of the Linton Boulevard Bridge, 1.5 miles south of the Atlantic Avenue Bridge will reduce vehicular traffic on the Atlantic Avenue; and (4) consideration should be given for seasonal operation. These objections have some validity; however, with openings on the hour and half hour during these restricted periods, it is felt that vessel operators can schedule their travel upon the waterway to avoid conflicts and potential navigational hazards. The construction of the Linton Boulevard Bridge may relieve some of the overall flow of vehicular traffic; however, its impact can not be accurately predicted at this time.

In response to comments received, an additional study of the statistical data to support the proposed regulations was made. This re-evaluation of the statistical data showed that there was not sufficient supporting information to justify year-around restrictions, as had been proposed; however, there is sufficient support for seasonal restrictions from 1 November to 31 May.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.442b immediately after § 117.442a to read as follows:

§ 117.442b AIWW, mile 1039.6, Atlantic Avenue Bridge, Delray Beach, Palm Beach County, Florida.

(a) From 1 November to 31 May from 10 a.m. to 6 p.m., Monday through Friday, except as provided in paragraph (b) of this section, the draw need not open except on the hour and half-hour to pass all accumulated vessels. At all other times, the draw shall open on signal.

(b) The draw shall open at any time for passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: November 3, 1980.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 80-35618 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 80-114]

Drawbridge Operation Regulations: Bayou La Batre, Alabama

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the city of Bayou La Batre, Alabama, the Coast Guard is changing the regulation governing the State Highway 188 drawbridge across Bayou La Batre, mile 2.3. The bridge presently is required to open on signal at anytime. The change will require that Monday through Friday except holidays, the draw need not open for the passage of vessels from 7:30 to 8:30 a.m. and 3:00 to 4:30 p.m. The action is being taken to relieve overland traffic congestion during peak morning and afternoon vehicular traffic periods, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 (504–589–2965).

SUPPLEMENTARY INFORMATION: On 18 September 1980, the Coast Guard published a proposed rule (45 FR 62158) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 18 September 1980. Interested persons were given until 20 October 1980 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

Four comments were received, all offering no objection.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.488 to read as follows:

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§ 117.488 Bayou La Batre, Alabama, State Highway 188 bridge.

The draw need not open for the passage of vessels Monday through Friday except holidays, from 7:30 a.m. to 8:30 a.m. and 3:00 p.m. to 4:30 p.m. At all other times the draw shall open promptly on signal.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655 (g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: November 3, 1980.

P. A. Yost,

Rear Admiral, U.S. Coast Guard, Commander, 8th Coast Guard District.

[FR Doc. 80-35619 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1662-7]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of 1979 Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its conditional approval of the State Implementation Plan (SIP) revisions which the Tennessee Air Pollution Control Division submitted pursuant to requirements of Part D of Title I of the Clean Air Act (CAA) of 1977 with regard to the area of Kingsport that is nonattainment for total suspended particulate matter. Conditional approval will remove new source growth restrictions in the Kingsport total suspended particulate matter nonattainment area.

DATE: These actions are effective November 17, 1980.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365;

Tennessee Air Pollution Control Division, 258 Capitol Hill Building, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Gregory, Region IV, Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978, **Federal Register** (43 FR 8962 at 9035), as revised by the November 2, 1979, **Federal Register** (43 FR 40412 at 40432), a number of areas within the State of Tennessee were designated as to the attainment status of certain national ambient air quality standards. The areas designated nonattainment for the primary (P) and secondary (S) standards for total suspended particulate matter (TSP) are:

A. That portion of Anderson and Knox Counties surrounding TVA's Bull Run Plant. (S)

B. Those portions of Campbell County comprising downtown LaFollette and the area surrounding the Carborundum Company's plant at Jacksboro. (P&S)

C. That portion of Davidson County within the 1964 Urban Services area of Nashville. (P&S)

D. That portion of Hamilton County within, approximately, the city limits of Chattanooga. (P&S)

E. That portion of Maury County within the northern section of Columbia. (P&S)

F. Those portions of Shelby County comprising two sections of downtown Memphis. (P)

G. Those portions of Sullivan County comprising a section of Bristol and a section of Kingsport. (P)

H. That portion of Sumner County surrounding TVA's Gallatin plant. (S)

The areas designated nonattainment for the primary and secondary standards for sulfur dioxide (SO_2) are:

A. That portion of Polk County surrounding the Cities Services plant at Copperhill.

B. Those portions of Benton and Humphreys Counties surrounding TVA's Johnsonville plant.

The areas designated nonattainment (the same standard serves as both the primary and secondary standard) for carbon monoxide (CO) are:

A. That portion of Davidson County comprising downtown Nashville.

B. That portion of Knox County comprising metropolitan Knoxville.

C. That portion of Shelby County located in metropolitan Memphis.

The areas designated nonattainment (the same standard serves as the primary and secondary standard) for ozone are:

A. Nashville area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties.

B. Shelby County.

C. Maury County.

D. Hamilton County.

E. Knox County.

F. Sullivan County.

G. Bradley County.

H. Roane County.

Implementation plan revisions under Part D of Title I of the CAA were previously developed and submitted by the State for the following areas:

TSP—Sullivan County (Bristol), Campbell County, Sumner County, Anderson/Knox Counties, Nashville, Columbia

SO_2—Polk County, Benton/Humphreys Counties

CO—Shelby County, Knox County, Davidson County

Ozone—Statewide

The implementation plan revisions for the remaining nonattainment areas will be proposed later as the SIP revisions are submitted.

The implementation plan revision developed by the State under Part D of Title I of the CAA and the subject of today's announcement is for the following area: TSP—Kingsport.

This revision was submitted for EPA's approval on August 15, 1979. The announcment of proposed conditional approval for this revision was published on June 25, 1980 (45 FR 42689). The Tennessee revision has been reviewed by EPA in light of the CAA, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, July 2, August 28, September 17, and November 23, 1979 (44 FR 20372, 44 FR 38583, 44 FR 50371, 44 FR 53716, and 44 FR 67182, respectively), and need not be repeated in detail here.

General Discussion

Section 172(b) of the CAA contains the requirements for Part D plans for designated nonattainment areas. As indicated in the June 25, 1980, proposal notice, this revision by Tennessee meets all the requirements of Section 172 of the Clean Air Act and EPA's implementing regulations except for those portions proposed for conditional approval or disapproval. The proposed conditional approval related to the requirement for submittal of permits requiring control of fugitive dust. In material received on July 23, 1980, Tennessee submitted the requested permits requiring sources to submit plans for the control of fugitive dust. These permits were deficient in two aspects. First, they contained an expiration date of May 1, 1981. The final conditional approval requires the resubmittal of these permits without an expiration date or certification by the State that the permit will be renewed and resubmitted before expiration with conditions at least as stringent. The second deficiency in the permits was that they merely contain a requirement that each source submit a control plan by June 30, 1980, for control of nontraditional fugitive dust sources not otherwise permitted. The final conditional approval requires the submittal of these controls plans and a showing that controls will be submitted as permit conditions and SIP revisions and will be sufficient to meet the requirements of reasonable further progress (RFP) toward attainment. The alternative emission limit which was proposed for disapproval has been withdrawn. The source in question failed to meet the requirements for the alternative emission limit. The State by Board Order eliminated the alternative emission limit. This action removes the need for disapproval of the alternative emission limit.

Public Comments

The only comments received were those which were requested by the commenters to be applied to all State submissions. The response to these comments for States in Region IV may be reviewed in the August 13, 1980, issue of the **Federal Register** starting at Page 53814.

Attainment Dates

Changes in the attainment date table (§ 52.2230) occasioned by the revision approved today are added to the chart of attainment dates in 40 CFR Part 52, and the corresponding earlier deadlines for attainment under Section 110(a)(2)(A) of the act are deleted. The reader may refer to 45 FR 8004 (February 6, 1980) and read in the preamble of that notice a discussion of this topic.

Action

The measures conditionally approved today will be additional to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the preexisting regulations will be applicable and enforceable. The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with existing regulations while it is achieving compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA either as part of these approved regulations or as future SIP revisions.

The Administrator approves Tennessee's 1979 revision for the Kingsport TSP primary nonattainment area on condition that the required permits for control of sources of nontraditional fugitive dust be resubmitted without an expiration date or that the Tennessee Air Pollution Control Board certify that the permits will be renewed and resubmitted to EPA before expiration with conditions at least as stringent. In addition, approval is given on condition that the plans required for control of nontraditional fugitive dust sources not otherwise permitted must be submitted by April 1, 1981 and that resultant controls be submitted as SIP revisions and be sufficient to meet the RFP requirement.

These actions are effective immediately. EPA finds good cause to make these actions immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979. Making these actions immediately effective will terminate the restriction as soon as possible. Also, they impose no requirement that is not already in effect at the State level.

Under Section 307(b)(1) of the Clean Air Act, judicial review is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502))

Dated: November 4, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulation is amended as follows:

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding subparagraph (34) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(34) 1979 implementation plan revisions for the Kingsport TSP nonattainment area, submitted on August 15, 1979, by the Tennessee Department of Public Health.

§ 52.2230 [Amended].

2. In the attainment date table of § 52.2230, the name of the first area listed under the Eastern Tennessee-Southwestern Virginia Interstate AQCR is changed from "Sullivan County: Bristol nonattainment areas+" to "Sullivan County: Bristol and Kingsport nonattainment areas+".

3. Section 52.2231 is amended by adding paragraph (b) as follows:

§ 52.2231 Control strategy: Sulfur oxides and particulate matter.

Part D Conditional Approval

* * * * *

(b) The control strategy submitted pursuant to Part D of Title I for the Kingsport TSP area is approved on condition that the State submit the following by April 1, 1981:

(1) Plans for the control of nontraditional sources and a showing that resultant controls will be submitted as SIP revisions and will be sufficient to meet the Reasonable Further Progress (RFP) requirement.

(2) Permits without expiration dates for sources, or certification by the State that the same permits will be renewed and resubmitted to EPA before expiration with conditions at least as stringent.

[FR Doc. 80-35760 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-38-M

V 45 NO 17 80 UMI

40 CFR Part 60

[A-7-FRL 1669-8]

New Source Performance Standards; Delegation of Authority to the State of Iowa and Change of Address

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA is today amending 40 CFR 60.4(b)(Q) to reflect a change of address of the Iowa Department of Environmental Quality (IDEQ), because the Department moved to another office.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Rodriguez, Air Support Branch, U.S. Environmental Protection Agency, Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-6525; FTS 758-6525.

SUPPLEMENTARY INFORMATION: The IDEQ has been delegated authority to implement and enforce the federal New Source Performance Standards (NSPS) regulations for 26 stationary source categories. A first delegation affecting 11 source categories was published in the **Federal Register** on December 30, 1976 (41 FR 56889). A second delegation, affecting these source categories and 15 additional source categories, is published today elsewhere in the **Federal Register.** The amended 40 CFR 60.4(b)(Q) corrects the address of the IDEQ to which all reports, requests, applications, submittals, and communications to the Administrator, as required by 40 CFR Part 60, must also be addressed.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an Administrative change and not one of substantive content. No additional burdens are imposed upon the parties affected.

The delegation which influenced this Administrative amendment was effective on Auust 25, 1980, and it serves no purpose to delay the technical change of this address in the Code of Federal Regulations. This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. § 7412.

Dated: November 5, 1980.

Kathleen Q. Canin,

Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising Subparagraph (Q) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(Q) State of Iowa, Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316.

[FR Doc. 80-35759 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PP 9F2193/R277; PH FRL 1607-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities, Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on raw agricultural commodities peanuts at 0.5 part per million (ppm) and peanut hulls at 15.0 ppm. This regulation was requested by Dow Chemical Co. This rule establishes the maximum permissible level for the combined residues of the insecticide on peanuts and peanut hulls.

EFFECTIVE DATE: Effective on November 17, 1980.

ADDRESS: Written objections may be filed with the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-303, 401 M ST., SW., Washington, D.C. 20460, (202-426-2635).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 7, 1979, that Dow Chemical Co., P.O. Box 1706, Midland, MI 48640, had filed a pesticide petition (PP 9F2193). The petition proposed that 40 CFR 180.342 be amended by establishing tolerance limitations for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 3,5,6-trichloro-2-pyridinol and its metabolite in or on raw agricultural commodities peanuts at 0.5 ppm, peanut hulls and forage at 15.0 ppm, and peanut hay at 20.0 ppm.

On August 18, 1980, EPA issued a notice that published in the **Federal Register** (45 FR 55268) that Dow Chemical had submitted an amendment to the petition, proposing that the tolerance for peanut forage be changed from "15 ppm" to "20 ppm".

Subsequently, the petitioner amended the petition to delete the proposed tolerance of 15 ppm for peanut forage and the proposed tolerance of 20 ppm on peanut hay.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance included a 2-year rat feeding/oncongenicity study and a dog feeding study with a no-observable-effect-level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw); a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25mg/kg. Studies on delayed neurotoxicity and reproduction study show negative potential. Based on the 2-year chronic rat feeding study with the 0.1 mg/kg of bw, the NOEL for cholinesterase activity and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day.

The theoretical maximum residues contribution (TMRC) in the human diet from the proposed tolerances and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 1.5 ppm does not exceed the ADI. A food additive regulation (21 CFR 193.85) has previously been established for chlorpyrifos in food handling establishments. Feed additive tolerances have also been established (21 CFR 561.98) for residues of chlorpyrifos in dried sugar beet molasses at 3 ppm. A related document (FAP 9H5226/R66), establishing a food additive tolerance for residues of chlorpyrifos in or on peanut oil appears elsewhere in this issue of the **Federal Register.**

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against the continued registration of chlorpyrifos nor are there any other relevant considerations involved in establishing the proposed tolerances. The established tolerances for residues of chlorpyrifos in milk, meat, poultry, and eggs are not expected to be exceeded by the proposed use.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.5 ppm in or on peanuts and 15 ppm in or on peanut hulls established by amending 40 CFR 180.342 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before December 17, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provision of regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is significant, and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on: November 17, 1980.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(d)(2))

Dated: November 7, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart E of 40 CFR Part 180 is amended by alphabetically inserting the raw agricultural commodities "peanuts" and "peanut hulls" in the table under § 180.342 to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Peanuts	0.5
Peanut hulls	15
* * * * *	

[FR Doc. 80-35735 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP OE2284/OE2286/OE2287/R264; PH FRL 1671-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Carbon Dioxide, Nitrogen, and Combustion Product Gas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of tolerances for the pesticides carbon dioxide (CO_2), nitrogen, and combustion product gas. These regulations were submitted by the Interregional Project No. 4 (IR-4). These regulations establish exemptions for the subject pesticides on all raw agricultural commodities from postharvest application.

DATE: Effective on November 17, 1980.

ADDRESSES: Written objections may be filed with the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of July 14, 1980 (45 FR 47168) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions Nos. OE2284, OE2286, and OE2287 to EPA on behalf of the IR-4 Technical Committee and the U.S. Department of Agriculture. These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, establish an exemption from the requirement of a tolerance for residues of the pesticides carbon dioxide, nitrogen, and combustion product gas on all raw agricultural commodities resulting from postharvest application.

Two comments were received in response to this notice of proposed rulemaking. One commenter questioned if raisins were considered a "raw agricultural commodity" and would the proposed exemptions apply to raisins. Our response is that raisins are not considered a "raw agricultural commodity". 40 CFR 180.1(e) states that the term "raw agricultural commodity" does not include foods that have been processed, fabricated, or manufactured by cooking, freezing, dehydrating, or milling. While combustion product gas, carbon dioxide, and nitrogen are cleared under the FDA regulations, 21 CFR 173.50, 182.1240, and 182.1540, respectively, the EPA regulation, 21 CFR Part 193, Subpart A must be amended to include this use before its use will be permitted.

The other commenter inquired as to what was considered to conclude that "absorption type filter" would remove any toxic impurities. Our response is that standard activated charcoal type filters through which all combustion product gas will pass are adequate to absorb any unburnt hydrocarbons formed during the combustion of butane, propane, or natural gas.

The data submitted in the petition and all other relevant material have been evaluated. The pesticides are considered useful for the purpose for which the tolerances are sought. Establishment of the tolerance will protect the public health. Therefore, the regulation amending 40 CFR Part 180 by establishing §§ 180.1049, 180.1050, and 180.1051 is set forth below.

Any person adversely affected by this regulation may, on or before December 17, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. If a hearing is granted, the objections must be legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. Effective date: November 17, 1980.

(Sec. 408(e) 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 7, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

V 45 N 017 80 0 UMI

Subpart D of 40 CFR Part 180 is amended by adding §§ 180.1049, 180.1050, and 180.1051 to read as follows:

Sec.

180.1049 Carbon dioxide; exemption from the requirement of a tolerance.

180.1050 Nitrogen; exemption from the requirement of a tolerance.

180.1051 Combustion product gas; exemption from the requirements of a tolerance.

§ 180.1049 Carbon dioxide; exemption from the requirement of a tolerance.

The insecticide carbon dioxide is exempted from the requirement of a tolerance when used after harvest in modified atmospheres for stored insect control on raw agricultural commodities.

§ 180.1050 Nitrogen; exemption from the requirement of a tolerance.

The insecticide nitrogen is exempted from the requirements of a tolerance when used after harvest in modified atmospheres for stored product insect control on all raw agricultural commodities.

§ 180.1051 Combustion product gas; exemption from the requirements of a tolerance.

The insecticide combustion product gas is exempted from the requirements of a tolerance when used after harvest in modified atmospheres for stored product insect control on all raw agricultural commodities (except fresh meat) with the following prescribed conditions.

(a) The insecticide is produced by the controlled combustion in air of butane, propane, or natural gas. The combustion equipment shall be provided with an absorption type filter capable of removing possible toxic impurities, through which all gas used in the treatment of food shall pass; and with suitable controls to insure that any combustion products failing to meet the specifications provided will be prevented from reaching the food being treated.

(b) The insecticide meets the following specifications:

(1) Carbon monoxide content not to exceed 4.5 percent by volume.

(2) It is used or intended for use to displace or remove oxygen in the storage of food, except fresh meat.

[FR Doc. 80-35756 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5775

[Nev-047410, Nev-047411, Nev-047432, Nev-047434, Nev-047436, Nev-047437]

Nevada; Partial and Total Revocation of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will restore 266,202.49 acres to operation of the public land laws. The lands have been open to the mineral leasing and mining laws.

EFFECTIVE DATE: December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office 702-784-5703.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of January 16, 1919, March 6, 1919, and November 8, 1919, creating Stock Driveway Withdrawal Nos. 54, 62, and 112 (Nevada Nos. 10, 11, and 36), respectively, are hereby revoked as to the following described land:

Mount Diablo Meridian

[Nev-047410]

Stock Driveway—Withdrawal No. 54, Nevada No. 10

T. 15 N., R. 38 E.,
Secs. 1, 2, 11, 14, 23, 26, 27, 28, 31, 32, and 33.
T. 16 N., R. 38 E.,
Sec. 36.
T. 16 N., R. 39 E.,
Sec. 24, S½;
Secs. 25, 26, 31 through 35, inclusive.
T. 16 N., R. 40 E.,
Secs. 1, 2, 11, 14 through 17, inclusive;
Sec. 19, S½;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½;
Sec. 30;
Sec. 31, N½, SW¼.
T. 17 N., R. 40 E.,
Secs. 35 and 36.
T. 16 N., R. 41 E.,
Secs. 1, 2;
Sec. 12, N½.
T. 16 N., R. 42 E.,
Sec. 5, N½;
Sec. 6;
Sec. 7, NE¼NE¼, S½NE¼, NW¼.
T. 17 N., R. 41 E.,
Secs. 31 through 36, inclusive.

The area described aggregates 27,452.71 acres

[Nev-047411]

Stock Driveway—Withdrawal No. 62, Nevada No. 11

T. 15 N., R. 41 E.,
Sec. 1, lots 1–4, S½N½, S½;
Secs. 12 and 13;
Sec. 14, NE¼.
T. 15 N., R. 42 E.,
Sec. 5, lots 1–4, S½, N½SW¼;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4, E½, E½W½;
Sec. 18, lots 1, 2, NE¼, E½NW¼.
T. 16 N., R. 42 E.,
Sec. 3, SE¼SE¼;
Sec. 9, SE¼;
Sec. 10, NE¼NE¼, S½N½, S½;
Sec. 15;
Sec. 16, E½;
Secs. 21, 22, 27, 28, and 29;
Sec. 31, lots 1–4, E½, E½W½;
Sec. 32;
Sec. 33, W½.
T. 17 N., R. 42 E.,
Sec. 1, lots 1–4, S½N½, S½;
Secs. 11, and 12;
Sec. 13, NW¼;
Sec. 14;
Sec. 15, E½;
Sec. 22, E½;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27, E½, SW¼;
Sec. 34, E½NE¼, NW¼, N½SE¼;
Sec. 35, W½.
T. 17 N., R. 43 E.,
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4, E½, E½W½.
T. 18 N., R. 43 E.,
Sec. 2, lots 3, 4, S½NW¼, SW¼;
Sec. 3, lots 1–4, S½N½, S½;
Sec. 9, E½;
Sec. 10;
Sec. 15, W½;
Sec. 16, E½, SW¼;
Sec. 20, S½S½;
Sec. 21;
Sec. 22, NW¼;
Sec. 28, N½;
Sec. 29, N½, SW¼;
Sec. 30, lots 1–4, E½, E½W½;
Sec. 31, lots 1–4, E½, E½W½.
T. 19 N., R. 43 E.,
Sec. 2, lots 1–4, S½N½, S½;
Secs. 11 and 14;
Sec. 22, lots 1–4, E½, E½W½;
Sec. 23;
Sec. 26, lot 1, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 27, lots 1–7, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 34;
Sec. 35, lots 1–5, E½NW¼, NE¼SW¼.
T. 20 N., R. 43 E.,
Sec. 1, lots 1–4, S½N½, S½;
Sec. 2;
Sec. 10, E½;
Sec. 11, N½, SW¼;
Sec. 12, N½;
Sec. 14, NW¼, S½;
Sec. 15, E½;
Sec. 22, NE¼;
Secs. 23, 26, and 35.
T. 20 N., R. 44 E.,
Sec. 5, lots 1–4;
Sec. 6, lots 1–6, 11–14, E½SW¼;
Sec. 7, lots 1, 2, E½NW¼.
T. 21 N., R. 44 E.,
Sec. 1, lots 1–4, S½N½, S½;
Sec. 2, lots 1–4, S½N½, S½;
Secs. 10, 11, and 15;
Sec. 16, lots 1, 2, E½, S½NW¼, E½SW¼;
Sec. 21, lots 1–4, E½, E½W½;
Sec. 28, lots 1–4, E½, E½W½;
Sec. 29;
Sec. 31, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 32, lots 1–8, W½.
T. 15 N., R. 45 E.,
Sec. 3, lots 3–5, 8, SW¼;
Sec. 4, lots 1–8, S½;
Sec. 9.
T. 16 N., R. 45 E.,
Sec. 1, lots 3–6, S½N½, S½;
Sec. 2, lots 5–11, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 11, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 12, NW¼;
Sec. 14;
Sec. 22, E½;
Sec. 23;
Sec. 26, W½;
Sec. 27, lots 1–4, E½, E½W½;
Sec. 33, E½;
Sec. 34, lots 1–7, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 17 N., R. 45 E.,
Sec. 5, lots 1–4, S½N½, S½;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 8, 9, 10, 13, 14, 15, 24, 25, and 36.
T. 18 N., R. 45 E.,
Sec. 1, lots 1–4, S½N½, S½;
Sec. 2, lots 1–4, S½N½, S½;
Secs. 10, 11, 15, 16, 20, 21, and 29;
Sec. 30, lots 1–4, E½, E½W½;
Sec. 31, lots 1–6, NE¼, E½W½, N½SE¼;
Sec. 32, lots 1–4, N½, N½S½.
T. 19 N., R. 45 E.,
Sec. 1;
Sec. 2, E½;
Sec. 11, E½;
Secs. 12, 13, 14, 23, 24, 25, and 26;
Sec. 35, N½, SE¼;
Sec. 36.
T. 20 N., R. 45 E.,
Sec. 1, lots 1–12, S½;
Sec. 2, lots 1–12, S½;
Sec. 3, lots 1–12, S½;
Sec. 4, lots 1–12, S½;
Sec. 5, lots 1–12, S½;
Secs. 25 and 36.
T. 20 N., R. 45½ E.,
Sec. 1, lots 1–6, S½NE¼, SE¼;
Sec. 12, lots 1–4, E½;
Sec. 13, lots 1–4, E½;
Sec. 24, lots 1–4, E½;
Sec. 25, lots 1–4, E½;
Sec. 36, lots 1–4, E½.
T. 21 N., R. 45 E.,
Secs. 4 through 8, 17 through 20, 29 through 36, inclusive.
T. 17 N., R. 46 E.,
Secs. 18, 19, and 30.
T. 18 N., R. 46 E.,
Secs. 6, 7, 17, 18, 20, 21, 22, 25, 26, 27, and 36.
T. 19 N., R. 46 E.,
Sec. 6, lots 1–22, S½NE¼, SE¼;
Sec. 7, lots 1–20, E½;
Sec. 18, lots 1–20, E½;
Sec. 19, lots 1–20, E½;
Sec. 30, lots 1–20, E½;
Sec. 31, lots 1–20, E½.
T. 20 N., R. 46 E.,
Sec. 5, lot 4, SW¼NW¼, W½SW¼;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4, E½, E½W½;
Sec. 8, W½W½;
Sec. 17, W½W½;
Sec. 18, lots 1–4, E½, E½W½;
Sec. 19, lots 1–4, E½, E½W½;
Sec. 20, W½W½;
Sec. 30, lots 1–4;
Sec. 31, lots 1–4.
T. 15 N., R. 47 E.,
Sec. 2, lots 3–5, 8, SW¼;
Sec. 3, lots 1–8, S½;
Sec. 4, lots 1–8, N½S½, SE¼SE¼;
Sec. 5, lots 1–8, SW¼; N½SE¼;
Sec. 6, lots 1–13, SE¼.
T. 16 N., R. 47 E.,
Sec. 4, lots 1–4, S½N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 9, 16, 21, and 28;
Sec. 32, E½, SW¼;
Secs. 33 and 34.
T. 17 N., R. 47 E.,
Sec. 5, lots 1–4, S½N½, S½;
Secs. 8, 17, and 20;
Sec. 28, NW¼, S½;
Sec. 29;
Sec. 32, NE¼;
Sec. 33, lots 1–4, N½, N½S½.
T. 18 N., R. 47 E.,
Sec. 30, lots 1–4, E½, E½W½;
Sec. 31, lots 1–4, E½, E½W½;
Sec. 32.

The area described aggregates 122,243.11 acres.

[Nev-047436]

Stock Driveway—Withdrawal No. 112, Nevada No. 36

T. 22 N., R. 45 E.,
Secs. 23, 24, 26, 27, 28, 32, and 33.
T. 22 N., R. 46 E.,
Secs. 3, 9, 10, 16, 17, 19, and 20.
T. 23 N., R. 46 E.,
Secs. 23, 24, 26, 27, and 34.
T. 23 N., R. 47 E.,
Secs. 5, 8, 17, 19, and 20.
T. 24 N., R. 47 E.,
Secs. 2, 11, 14, 15, 21, 22, 28, 32, and 33.
T. 25 N., R. 47 E.,
Secs. 24, 25, 26, and 35.
T. 25 N., R. 48 E.,
Sec. 17;
Sec. 19, lots 1–4, E½, E½W½;
Sec. 20.

The area described aggregates 25,573.80 acres.

2. The Departmental Orders of October 30, 1919, November 5, 1919, and November 17, 1919, creating Stock Driveway Withdrawal Nos. 108, 110, and 113 (Nevada Nos. 32, 34, and 37), respectively, are hereby revoked in their entirety:

Mount Diablo Meridian

[Nev-047432]

Stock Driveway—Withdrawal No. 108, Nevada No. 32

T. 16 N., R. 39 E.,
Secs. 4, 9, 16, 17, 20, and 29.
T. 17 N., R. 39 E.,
Secs. 2, 11, 14, 15, 22, 27, 28, and 33.
T. 18 N., R. 39 E.,
Secs. 1, 12, 13, 14, 23, 26, and 35.
T. 19 N., R. 39 E.,
Secs. 25 and 36.
T. 19 N., R. 40 E.,
Sec. 4;
Sec. 8, E½;
Sec. 9;
Sec. 16, W½;
Secs. 17, 19, 20, and 30.
T. 20 N., R. 40 E.,
Sec. 2, SW¼;
Secs. 3 and 10;
Sec. 11, W½;
Sec. 14, N½NW¼, SW¼NW¼, S½;
Sec. 15, NE¼, N½SE¼, SE¼SE¼;
Secs. 22, 23, 27, 28, and 33.
T. 21 N., R. 40 E.,
Sec. 15;
Sec. 22, E½, E½NW¼, NE¼SW¼;
Sec. 27, E½.
T. 22 N., R. 40 E.,
Secs. 2, 11, and 14.
T. 23 N., R. 40 E.,
Secs. 2, 11, 14, 23, 26, and 35.
T. 24 N., R. 40 E.,
Secs. 2, 11, 14, 23, 26, and 35.
T. 25 N., R. 40 E.,
Sec. 1, lots 5, 6, 9–14, W½SW¼;
Secs. 11, 12, 14, 23, 26, and 35.
T. 28 N., R. 40 E.,
Sec. 13, lot 4;
Sec. 24, lots 2–4, SW¼NE¼, W½SE¼;
Sec. 25, lots 1–4, W½E½, W½;
Sec. 36, lots 1–4, W½E½, W½.
T. 25 N., R. 41 E.,
Sec. 6, lots 9–12, 17, 18;
Sec. 7, NW¼.
T. 26 N., R. 41 E.,
Secs. 1, 11, 12, 14, 15, 20, 21, 22, 29, 30, and 31.
T. 27 N., R. 41 E.,
Sec. 2;
Sec. 3, E½;
Sec. 7, W½, S½SE¼;
Sec. 8, S½S½;
Sec. 9, S½SW¼;
Secs. 13 through 15, inclusive;
Sec. 16, N½, N½SW¼, E½SE¼;
Sec. 17, N½, N½S½;
Sec. 18, N½, N½S½;
Secs. 24, 25, and 36.
T. 28 N., R. 41 E.,
Sec. 22, W½;
Sec. 27, W½, SE¼;
Sec. 34;
Sec. 35, SW¼.

The area described aggregates 57,550.83 acres.

[Nev-047434]

Stock Driveway—Withdrawal No. 110, Nevada No. 34

T. 22 N., R. 44 E.,
Secs. 2, 11, 14, 23, 26, and 35.
T. 23 N., R. 44 E.,
Secs. 3, 10, 15, 22, 23, 26, and 35.
T. 24 N., R. 44 E.,
Secs. 28, 29, 33, and 34.

The area described aggregates 10,878.17 acres.

[Nev-047437]

Stock Driveway—Withdrawal No. 113, Nevada No. 37

T. 27 N., R. 42 E.,
Secs. 2, 10, 11, 15, 21, 22, 28, 29, 31, and 32.
T. 28 N., R. 42 E.,
Secs. 2, 11, 14, 23, 26, and 35.
T. 29 N., R. 42 E.,
Sec. 1, lots 1–4, S½N½, S½;
Secs. 12, 13, 14, 23, 26, and 35.
T. 30 N., R. 42 E.,
Sec. 36.
T. 30 N., R. 43 E.,
Sec. 2, lots 5–20;
Sec. 10, lots 1–4, NW¼, S½;
Secs. 16 and 20;
Sec. 30, lots 1–14, E½NW¼.
T. 31 N., R. 43 E.,
Sec. 36.
T. 31 N., R. 44 E.,
Sec. 2, lots 1–4, S½N½, S½;
Secs. 10, 16, and 20;
Sec. 30, lots 1–4, E½, E½W½.

The area described aggregates 22,503.87 acres.

The total gross area of the lands described in paragraphs 1 and 2 aggregates 268,202.49 acres in Lander County.

3. At 10 a.m. on December 16, 1980, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 16, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 12000, 300 Booth Street, Reno, Nevada 89520.

Guy R. Martin,

Assistant Secretary of the Interior.

November 10, 1980.

[FR Doc. 80-35728 Filed 11-14-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 3

[OST Docket No. 11; Amdt. No. 3-3]

Changes To Reflect Redesign of Official Seal and Other Changes

AGENCY: Department of Transportation, Office of the Secretary (OST).

ACTION: Final rule.

SUMMARY: This amendment to Part 3 of Title 49 is being made to reflect the redesign of the Department's official seal. In addition, several amendments are being made to cover changes in office duties relating to the authority to affix the Department of Transportation Seal and the method that persons or organizations outside of the Department can use to seek permission to use the Seal.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Propper, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 426-4243.

SUPPLEMENTARY INFORMATION: Since this amendment relates to internal Departmental procedures and practices, it is excepted from notice and public procedure requirements and it may be made effective in fewer than 30 days after publication in the **Federal Register**.

The official seal of the Department of Transportation is being changed as part of a Departmental graphic standardization program. This program is designed to create a uniform visual communications system throughout the Department. The new system will enhance the Department's ability to communicate more effectively with the public and within the Department.

Modifying the official seal of the Department will reduce production time and cost in preparing reproduction artwork for the official seal. The new configuration eliminates the adjoining colors of the central circular red field and the peripheral broad black circular ring of the old seal. It also eliminates the reversed letters within the peripheral ring. In addition, the new seal configuration introduces space between the central circular field and the peripheral letters identifying the Department. This results in black on white lettering (positive reading) and, also, eliminates an additional overlay formerly required for the artwork when preparing the seal for two-color or one-color-with-screen reproduction.

In view of the organizational changes within the Department since the last amendment to Part 3, § 3.3 is being revised to give the Research and Special Programs Administrator and the Inspector General authority to affix the official seal of the Department. In addition, the authority of the Chairman, National Transportation Safety Board to affix the offficial seal is being deleted because the National Transportation Safety Board is no longer part of the Department. Finally, § 3.5(c) is being revised to reflect the transfer of authority to approve the use of the official seal by the public from the Director of Public Affairs to the Assistant Secretary for Administration.

In consideration of the foregoing, Part 3 of Title 49 of the Code of Federal Regulations (49 CFR Part 3) is revised, effective November 17, 1980, to read as follows:

PART 3—OFFICIAL SEAL

Sec.
3.1 Description.
3.3 Authority to affix seal.
3.5 Use of the Seal.

Authority: Sec. 9(k), 49 U.S.C. 1657(k).

§ 3.1 Description.

The official seal of the Department of Transportation is described as follows: A white abstract triskelion figure signifying motion appears within a circular blue field. The figure is symmetrical. The three branches of the figure curve outward in a counter-clockwise direction, each tapering almost to a point at the edge of the field. Surrounding the blue circle is a circular ring of letters. The upper half of the ring shows the words "Department of Transportation". The lower half of the ring shows the words "United States of America". The letters may be shown in either black or medium gray. The official seal of the Department is modified when embossed. It appears below in black and white.



§ 3.3 Authority to affix seal.

(a) The following officials of the Department of Transportation are authorized to affix the official seal of the Department of Transportation to appropriate documents and other materials of the Department, for all purposes, including those authorized by 28 U.S.C. 1733(b): The General Counsel, the Assistant Secretary for Administration, the Commandant of the Coast Guard, the Federal Aviation Administrator, the Federal Highway Administrator, the Federal Railroad Administrator, the Urban Mass Transportation Administrator, the National Highway Traffic Safety Administrator, the Research and Special Programs Administrator, the Inspector General, and the Chairman, Board of Contract Appeals.

(b) The officers named in paragraph (a) of this section may redelegate, and authorize redelegations of, this authority.

§ 3.5 Use of the seal.

(a) The Seal is the official emblem of the Department of Transportation and its use is therefore permitted only as provided in this part.

(b) Use by any person or organization outside of the Department may be made only with the Department's prior written approval.

(c) Requests by any person or organization outside of the Department for permission to use the Seal must be made in writing to the Assistant Secretary for Administration, 400 Seventh St., SW., Washington, D.C. 20590, and must specify, in detail, the exact use to be made. Any permission granted applies only to the specific use for which it was granted and is not to be construed as permission for any other use.

(d) Use of the Seal shall be essentially for informational purposes. The Seal may not be used on any article or in any manner which may discredit the Seal or reflect unfavorably upon the Department or which implies Departmental endorsement of commercial products or services, or of the user's policies or activities. Specifically, permission may not be granted under this section for use—

(1) On souvenir or novelty items of an expendable nature;
(2) On toys, gifts, or premiums;
(3) As a letterhead design;
(4) On menus, matchbook covers, covers, calendars, or similar items;
(5) To adorn civilian clothing; or
(6) On athletic clothing or equipment.

(e) Where necessary to avoid any prohibited implication or confusion as to the Department's association with the user, an appropriate legend will be prescribed by the Department for prominent display in connection with the permitted use.

(f) Falsely making, forging, counterfeiting, mutilating, or altering the Seal, or knowingly using or possessing with fraudulent intent any altered Seal is punishable under section 506 of title 18, United States Code.

Issued in Washington, D.C., on November 5, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[FR Doc. 80-35647 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

49 CFR 1040

[Ex Parte MC 10 (Sub-2)]

Classification of Motor Carriers of Property in the Matter of the Classification of Brokers and Motor Carriers of Property; Deleted

AGENCY: Interstate Commerce Commission.

ACTION: Deletion of rules.

SUMMARY: The Commission is deleting rules which were originally promulgated to provide for the orderly classification and development of the transportation system. The purpose of the rules was to ascertain and define *generally* the natural divisions which existed in the industry in 1937. The material is being deleted because it no longer serves any purpose.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Metrinko, 202-275-7805 or Edward E. Guthrie, 202-275-7691.

SUPPLEMENTARY INFORMATION:

The Commission has determined that Part 1040, Title 49, of the Code of Federal Regulations, is no longer necessary and should be deleted.

This regulation was adopted in Ex Parte MC 10, *Classification of Motor Carriers of Property in the Matter of the Classification of Brokers and Motor Carriers of Property*, 2 M.C.C. 703 (1937) to provide for the orderly classification and development of the transportation system. Its purpose was to ascertain and define *generally* the natural divisions which existed in the industry in 1937.

Deletion of this part will have no legal effect on any person. Notice and comment, therefore, are unnecessary, and are not required under the Administrative Procedure Act. Here, we are merely deleting a rule that has no usefulness for, or effect on the public.

This action will have no effect on the human environment or conservation of energy resources.

It is ordered: Part 1040 of Title 49, Code of Federal Regulations, is deleted.

Authority for promulgation: 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: October 23, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Vice Chairman Gresham, joined by Commissioner Clapp, dissenting in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Gresham, joined by Commissioner Clapp, dissenting in part:

I do not believe that we should delete this part of the code at this time unless we first seek public comment because we have not yet issued final decisions in Ex Parte 55 (Sub-43A) and Ex Parte MC 142 (Sub-1).

[FR Doc. 80-35833 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1300, 1303, 1306, 1308, 1310

[Ex Parte No. 370]

Tariff Improvement; Clarification and Correction

AGENCY: Interstate Commerce Commission

ACTION: Notice of clarification and correction of final rules.

SUMMARY: By this notice, rules adopted in this proceeding (see 45 FR 60438) which deal with standard codes for points identification are being reinstated. The rules were inadvertently revoked upon rescission of regulations governing certification of rates or fares covering new operating authority (see 45 FR 62822).

EFFECTIVE DATE: The rules being corrected are scheduled to become effective June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348

SUPPLEMENTARY INFORMATION: The Commission's Notice of Final Rules in this proceeding was published in the September 12, 1980, **Federal Register** at 45 FR 60438-60441. In that publication, notice was given of the Commission's adoption of regulations to be added to Chapter X of Title 49 of the Code of Federal Regulations which are to govern standard codes for points identification in tariffs filed with the Commission. The rules were designated as §§ 1300.33, 1303.38, 1304.44, 1306.19, 1307.17, 1308.14,

1308.111 and 1310.35, each entitled "Standard Codes for Points Identification."

In the **Federal Register** of September 22, 1980, the Commission, at 45 FR 62822–62823, gave notice of the rescission of regulations governing certification of rates or fares covering new operating authority. The regulations rescinded were designated as §§ 1300.33, 1303.38, 1306.19, 1307.16, 1308.14, 1308.111, 1309.7 and 1310.35 of Chapter X of Title 49 of the Code of Federal Regulations. Since the section number designations for many of the rescinded regulations coincide with the section number designations of regulations adopted in the Ex Parte No. 370 proceeding, the rescission notice published at 45 FR 62822–62823 had the effect of revoking those regulations adopted in Ex Parte No. 370 which carried identical section number designations. The revocation of regulations governing standard codes for points identification was not intended. It was intended that the point code regulations stand and be designated by section numbers vacated by the rescinded regulations governing certification of rates or fares covering new operating authority.

Accordingly, this notice is being published in order to clarify the final rules adopted in this proceeding and correct the inadvertent error which has occurred in the numbering of adopted and rescinded regulations. Therefore, regulations adopted at 45 FR 60438–60441 and designated as §§ 1300.33, 1303.38, 1306.19, 1308.14, 1308.111 and 1310.35, of Chapter X of Title 49 of the Code of Federal Regulations, are to stand as adopted and replace as to section number designation similarly numbered sections which were rescinded at 49 FR 62822–62823.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35736 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 223
Monday, November 17, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY
Comptroller of Currency
12 CFR Part 11
[Docket No. 80-17]

Securities Exchange Act Disclosure Rules

AGENCY: Comptroller of the Currency.

ACTION: Proposed rule.

SUMMARY: This document would amend the Securities Exchange Act Disclosure Rules (12 CFR 11) in order that such regulations be substantially similar to rules and regulations issued by the Securities and Exchange Commission ("SEC") which are applicable to corporations other than banks. Under the Securities Exchange Act of 1934 ("1934 Act"), changs made by the SEC in its relevant rules and regulations must also be made by the Office of Comptroller of the Currency ("Office") in its Securities Exchange Act Disclosure Rules, unless the Office finds that such rules are not appropriate for the protection of investors nor in the public interest, and such findings are published in the **Federal Register.** The proposed amendments concern, among other things, regulation of tender offers, corporate governance, furnishing proxy voting advice, and insider securities purchases through dividend reinvestment plans.

DATE: Comments must be received on or before January 2, 1981.

ADDRESS: Comments should be sent to Docket No. 80–17, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219, Attn: Marie Giblin. Telephone: (202) 447–1800. Comments will be available for public inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: David G. Anderson, Attorney, Securities Disclosure Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington D.C. 20219, (202) 447–1954.

SUPPLEMENTARY INFORMATION: *Drafting Information:* The principal drafter of this document was David G. Anderson, Attorney, Securities Disclosure Division, Office of the Comptroller of the Currency.

Authority: 15 U.S.C. 78*l*, 78m, 78n, 78p, 78w.

The proposed amendments to the tender offer rules provide specific filing, delivery and disclosure requirements, optional dissemination provisions and additional substantive regulatory protections. In addition, certain anti-fraud rules applicable to any tender offer have been proposed. These rules are proposed as necessary and appropriate in the public interest and for the protection of investors because of the impact of tender offers on securities markets and on corporate control. The dynamic nature of these transactions and the need to ensure a balance between the interests of the person making a tender offer and the management of the bank whose securities are being sought, while providing disclosure and substantive protections to shareholders making investment decisions, require revision of the existing regulatory framework.

The proposed amendments concerning corporate governance would provide a "safe harbor" from applicable provisions of federal securities laws which may impose liability for statements that contain or relate to projections made in filings with the Office or in annual reports to shareholders of banks supervised by the Office. In addition, the proposed amendments would require that shareholders be provided with a proxy card which contains certain additional information and allows a degree of flexibility in voting on the matters referred to in the proxy card.

The proposed amendment to the insider trading rules would provide an exemption from Section 16 of the 1934 Act for acquisitions of equity securities through dividend reinvestment plans. The proposed rule would enable statutory insiders to participate in such plans on the same basis as other shareholders.

The proposed amendment concerning the furnishing of proxy voting advice would exempt from the requirements of 12 CFR 11.5 certain activities of professional financial advisors maintaining a business relationship with the recipient of such advice.

The Office has determined not to propose amendments relating to issuer tender offers and "going private" transactions by national banks and their affiliates. Such transactions occur with insufficient frequency to justify the adoption of formal regulations. The national banking laws and the Office's supervisory powers thereunder make national banks with classes of securities registered pursuant to Section 12 of the 1934 Act subject to more extensive regulatory oversight than most issuers subject to SEC jurisdiction. Instead of adopting relevant SEC regulations, the Office intends to deny approval of any such transaction unless the requirements of the SEC's relevant regulations are met in all material respects.

The periodic revisions to Part 11 that have occurred since the original regulation was promulgated in 1964 have resulted in a regulation which is cumbersome. The Office as part of a continuing review intended to simplify Part 11 proposes to revise the format of the regulation in a manner that will simplify its use by the staff, banking personnel and the general public.

The major proposed amendments to Part 11 are discussed below:

I. Proposed Amendments to Securities Exchange Act Disclosure Rules

A. Tender Offers

The Office, in response to recent SEC amendments, is proposing to amend the tender offer rules, 12 CFR 11.5(l), Form F–12, (12 CFR 11.53), and Form F–13, (12 CFR 11.54), to conform its regulations to those regulations adopted by the SEC in Release No. 34–16384 44 FR 70326 (December 6, 1979).

Background

The SEC has observed an increase in the occurrence of tender offers and has concluded that the resulting impact on securities markets and on corporate control requires amendments to its rules in order to ensure a balance between the interests of the person making a tender offer and the management of the company whose securities are being sought while providing protections to shareholders making investment decisions. The Office has reviewed the SEC's action and has determined that comparable revisions should be made to the Office's tender offer rules.

V 4 5 N 0 1 7 8 0 UMI

Summary of Proposed Amendments

The proposed tender offer amendments consist of two groups. If the tender offer is subject to Section 14(d)(1) of the 1934 Act, both 12 CFR 11.5(*l*)–(n) and 12 CFR 11.5(o) would apply. If the tender offer is not subject to Section 14(d)(1), only 12 CFR 11.5(o) would be applicable. The operation of these regulations as proposed, is triggered by the date of commencement of the tender offer, defined by 12 CFR 11.5(*l*)3 as the date the tender offer is first published or sent or given to security holders.

The proposed amendments set forth four categories of requirements: (1) filing requirements; (2) dissemination requirements; (3) disclosure requirements; and (4) substantive provisions. The filing of Form F–13 with the Office would be governed by 12 CFR 11.5(*l*)7. 12 CFR 11.5(*l*)(7)(ii) also would require an offeror to hand deliver the initial filing and any amendments thereof to the bank the securities of which are being sought, and under certain conditions to give telephonic notice of certain information and to mail copies to national securities exchanges and to the National Association of Securities Dealers. A competing bidder would be required to hand-deliver the initial filing to any previous bidder whose tender offer for the same class of securities has not yet expired.

12 CFR 11.5(*l*)(10), as proposed, would establish three alternative methods of disseminating a cash tender offer to security holders: (1) long-form publication; (2) summary publication; and (3) the use of shareholder lists and security position listings ("stockholder lists"). Summary publication and the use of stockholder lists (pursuant to 12 CFR 11.5(m)) must comply with 12 CFR 11.5(*l*)(10)(ii) and 12 CFR 11.5(*l*)(10)(iii), respectively.

If amended, 12 CFR 11.5(m) would allow a bidder to disseminate its teneder offer materials to security holders pursuant to stockholder lists. The subject bank would have the option to retain the stockholder lists and itself distribute the bidder's tender offer materials, or to furnish the stockholder lists to the bidder, in which case the bidder would distribute them.

Although the dissemination provisions of 12 CFR 11.5(*l*)(10) are not mandatory, the disclosure requirements of 12 CFR 11.5(m)(8), as proposed, apply to any tender offer subject to Section 14(d). The applicable disclosure requirements depend on whether the tender offer is published or transmitted to security holders by means of summary publication under 12 CFR 11.5(*l*)(10)(ii) or through the use of stockholder lists pursuant to 12 CFR 11.5(m). The summary advertisement required to be published in either case would have to meet the requirements of 12 CFR 11.5(m)(8)(ii). Tender offers disseminated by other means are subject to the disclosure requirements of 12 CFR 11.5(m)(12)(i).

Where a tender offer sets forth consideration consisting solely of cash or securities exempt from registration under Section 3 of the Securities Act, or both, 12 CFR 11.5(*l*)(10)–(12) and 12 CFR 11.5(m) would operate together. Regardless of whether the subject bank conducts the dissemination of the bidder's materials under 12 CFR 11.5(m)(2) or the subject bank furnishes stockholder lists under 12 CFR 11.5(m)(3), tender offer materials would have to include the disclosure required by 12 CFR 11.5(m)(12)(i).

Any tender offer would be required to remain open for a minimum of twenty business days from the date of commencement and for ten business days from the date of any notice of increase in the offered consideration of the dealer's soliciting fee. These periods would operate concurrently. Thus, if the bidder increases the consideration within the first ten days of the offer, the separate ten-day period, running from the date of notice of the increase, would expire within the minimum twenty-day period.

The withdrawal rights set forth at 12 CFR 11.5(n), as proposed, provide an initial withdrawal period of 15 business days. If a competing offer is made, an additional withdrawal period of ten days may be required. The additional time period, if required, would run concurrently with the initial period.

Under 12 CFR 11.5(n)(5) the pro rata acceptance provisions of Section 14(d)(6) of the Act may be raised as long as the minimun ten-day periods under the Act are provided and the bidder's tender offer materials disseminated on the date of commencement of the offer disclose the different pro rata time periods. 12 CFR 11.5(o)(3), as proposed, requires payment for, or the return of, the deposited securities promptly after the termination or withdrawal of the tender offer.

Under 12 CFR 11.5(o)(5) the subject company would have to disclose and explain to security holders its position with respect to the tender offer within ten business days of the date the tender offer is first published or sent or given to security holders. Such statement would, under 12 CFR 11.5(n)(6), require the filing of Form F–14 with the Office and delivery to certain designated persons.

B. Corporate Governance

The Office, in response to recent SEC amendments, is proposing to amend its regulations, 12 CFR 11.3, 12 CFR 11.5, and Form F–5, (12 CFR 11.51), to conform them to those regulations adopted by the SEC in Release Nos. 34–15944, 44 FR 38810, (July 2, 1979), and 34–16356, 44 FR 68764 (November 29, 1979).

Summary of Proposed Amendments

1. The proposed changes to 12 CFR 11.3 would provide a safe harbor from applicable provisions of federal securities laws which may impose liability for statements that contain or relate to projections made in filings with the Office or in annual reports to shareholders of banks supervised by the Office.

The types of statements that would be protected by such safe harbor provisions would be those contained in or relating to:

a. Projections of certain financial items;

b. Management plans or objectives;

c. Future economic performance included in management's discussion and analysis of the summary of earnings; and

d. Disclosed assumptions underlying or relating to these statements (if prepared with reasonable basis and disclosed in good faith).

Although this type of information is not presently required by Part 11, the proposed safe harbor provisions would further the goal of encouraging the disclosure of projections and forward-looking information.

2. The proposed changes to 12 CFR 11.5 would require that shareholders be provided with a proxy card which (a) indicates whether the proxy is solicited on behalf of the issuer's board of directors, (b) permits shareholders to vote for or against nominees for election as directors, individually, and (c) does not confer discretionary authority to vote on matters, referred to in the proxy card, on which shareholders have an opportunity to vote but do not specify a choice, notwithstanding any indication that a signed proxy may be counted for purposes of a quorum. The Office also requests comments on a proposed amendment requiring that shareholders be provided, under certain circumstances, with information concerning the votes cast for and against incumbent directors. Additionally, the proposed rules would require disclosure of the date by which shareholder proposals must be received in order to be included in the issuer's proxy statement.

3. The proposed rules also provide that the requirements of § 11.5 would not apply to the furnishing of proxy voting advice by any person ("the advisor") to any other person with whom the advisor had a business relationship. The proposed rule is designed to remove an impediment to the flow of information to shareholders from professional financial advisors who may be especially familiar with the affairs of issuers.

C. Insider Trading Exemption for Dividend Reinvestment Plans

On May 14, 1980, the SEC adopted a new rule concerning the exemption of acquisitions under dividend reinvestment plans from insider trading provisions of the 1934 Act. See Release No. 34–16806, 45 FR 33957 (May 21, 1980). The Office is proposing to adopt a conforming amendment.

Summary of the Proposed Amendment

In recent years, many banks have instituted dividend reinvestment plans for their shareholders. Typically, such plans enable shareholders to automatically reinvest cash dividends in additional shares on a periodic basis. Frequently, the price of additional shares is discounted and no brokerage commission or service fee is charged, as incentives to participate.

Directors, officers, and ten percent beneficial shareholders ("insiders") are often confronted with the dilemma of being unable to sell any shares of their bank as long as they acquire shares under the plan on a semiannual or more frequent basis without incurring liability for imputed trading profits under Section 16(b) of the 1934 Act. That section provides that any profit resulting from a purchase and a sale or a sale and a purchase by an insider within a six-month period shall inure to the benefit of the issuer.

Courts have interpreted Section 16(b) to require that a sale price be matched against the lowest purchase price occurring within six months before or after the date of such sale in order to determine whether a recoverable profit exists. Consequently, unless the market price is absolutely stable for a period of twelve months, or the insider sells at a time when the market price is lower than any acquisition price during the twelve month period, at least one dividend reinvestment will probably exist at a price lower than the price at which the insider sold. The insider must tender to the issuer the difference between the market price at the time of sale and the acquisition price. The proposed amendment to 12 CFR 11.6 is intended to alleviate such problems by exempting from Section 16 the acquisition of securities made pursuant to a plan providing for the regular reinvestment in such securities of dividends payable thereon or payable on the securities of the same bank.

II. SEC Amendments Not Proposed

A. Issuer Tender Offers

On August 16, 1979, the SEC adopted a new rule and schedule (17 CFR 240.13e–4 and § 240.13e–101) relating to tender and exchange offers by certain publicly held issuers (and affiliates) for their own securities ("issuer tender offers"). The rule defines certain fraudulent, deceptive and manipulative acts or practices in connection with such offers, and prescribes filing, disclosure, dissemination and other requirements as means reasonably designed to prevent such acts and practices. SEC Rel. No. 34–16112, 44 FR 49406 (August 22, 1979).

An issuer with a class of equity securities registered under Section 12 of the Act must file an Issuer Tender Offer Statement on Schedule 13E–4 with the SEC prior to, or as soon as practicable after, the date of commencement of the issuer tender offer to disclose, *inter alia*: (1) information concerning the entity filing the schedule; (2) the source and amount of funds of other consideration to be used to effect the transaction; (3) the purpose of the tender offer and any plans or proposals of the issuer (or affiliate) that would materially change the business, financial structure or broad of directors of the issuer; (4) annual and interim financial information; and (5) copies of any tender offer materials which are published, sent or given to security holders and other exhibits.

The information required by Schedule 13E–4, or a fair and adequate summary thereof, must be disseminated to shareholders by certain prescribed means. Rule 13e-4 also includes requirements covering withdrawal rights, provisions for the pro rata acceptance of tendered securities, payment for tendered and accepted securities, and a "best price" provision, as well as other matters.

The Office is not proposing to amend Part 11 to conform it to the SEC's "issuer tender offer" regulations at this time. This Office has longstanding statutory authority under 12 U.S.C. 59 to approve any reduction in the amount, or the retirement of any part of the common or preferred capital stock of a national bank.

Moreover, under 12 U.S.C. § 83, any such transaction could not be effected through the purchase by a national bank of its own stock. Therefore, instead of adopting regulations substantially similar to Rule 13e–4 and Schedule 13E–101, the Office will review any application for the reduction in the amount or the retirement of any part of the equity securities of national banks which are registered under Section 12 of the Act to determine the extent to which the requirements of Rules 13e–4 and 13e–101 should be met. Disclosure deemed appropriate under the circumstances will be made a condition for the approval of any such application.

As with "going private" transactions, this policy is effective immediately. However, comment is specifically invited on whether this approach is preferable to adopting a new regulation and schedule as a means of protecting investors from fradulent, deceptive, or manipulative acts or practices in connection with "issuer tender offers."

B. Going Private Transactions

On August 2, 1979, the SEC adopted a new rule and schedule (17 CFR 240.13e–3 and 240.13e–100) relating to "going private" transactions by public companies and their affiliates. See Release No. 34–16075, 44 FR 46736 (August 8, 1979). The rule and schedule prohibit fraudulent, deceptive and manipulative acts or practices in connection with "going private" transactions and prescribe new filing, disclosure and dissemination requirements as a means reasonably designed to prevent such acts and practices.

A Rule 13e–3 ("going private") transaction is defined to mean any transaction or series of transactions involving one or more of the following: (a) a purchase of any equity security by the issuer or an affiliate of the issuer; (b) a tender offer or request or invitation for tenders of any equity security made by the issuer of such class of securities or by an affiliate of such issuer; or (c) a solicitation of shareholder proxies or consents in connection with: (1) any merger, consolidation, reclassification, reorganization, or similar corporate transaction between an issuer and an affiliate; (2) a sale of substantially all the assets of an issuer to an affiliate or group of affiliates; or (3) a reverse stock split involving the purchase of fractional interests.

Rule 13e–3 applies where any of the above transactions has a reasonable likelihood or a purpose of causing any class of the issuer's securities subject to Section 12(g) [or 15(d)] of the Act to be held by fewer than 300 persons, thereby allowing the issuer to terminate its reporting obligations under the Act, or causing a class of the issuer's securities to be delisted on any national exchange

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or to be no longer quoted on an interdealer quotation system.

Issuers and their affiliates engaging in a Rule 13e–3 transaction must file a Rule 13e–3 Transaction Statement on Schedule 13E–3 with the SEC to disclose, *inter alia:* (1) information concerning recent purchases by the issuer, and its affiliates, of the issuer's equity securities; (2) information concerning the entity filing the schedule; (3) the purposes of the Rule 13e–3 transaction; (4) a determination of the consideration to be paid for the securities; and (5) a statement concerning the fairness of the Rule 13e–3 transaction to unaffiliated shareholders. Most of the information contained in Schedule 13e–3 must be disclosed to shareholders by means of a proxy statement, registration statement, request for tenders or other disclosure document. Such disclosure must take place at least 20 days prior to the transaction in question.

The Office is not proposing to amend Part 11 of its regulations to conform it to the SEC's "going private" regulations at this time. As explained with regard to the SEC's regulation of "issuer tender offers," the supervisory powers exercised by the Office under the national banking laws subject national bank issuers with classes of equity securities registered pursuant to Section 12 to more extensive regulatory oversight than most issuers subject to SEC jurisdiction. Under the national banking laws, the Office must approve substantially all of the transactions involving national banks which would be subject to the "going private" regulations. Rather than adopting the SEC regulations, the Office finds it more reasonable to deny its approval to any "going private" transaction within its jurisdiction, unless the requirements of Rules 13e–3 and 13e–100 are met in all material respects.

While this policy is effective immediately, the Office specifically invites comments on whether this approach is preferable to adopting a new regulation and schedule as a means of protecting investors from fraudulent, deceptive or manipulative acts or practices in connection with "going private" transactions.

III. Possible Format Revision of Part 11

Part 11 was originally drafted in accordance with authority vested in the Office by the Securities Acts Amendments of 1964, section 3, Pub. L. No. 88–467; 55 Stat. 565–568 (August 20, 1964). At that time an attempt was made to develop a unified regulation from a large number of separate SEC regulatory requirements which were spread throughout 17 CFR 210, 240 and 241. By extracting those regulations applicable to national banks, the Office succeeded in composing seven concise sections of regulations and nine sections covering forms or formats. However, with the passage of the Act of October 28, 1974, Pub. L. No. 93–495, 88 Stat. 1503 (October 28, 1974), amending Section 12(i) of the 1934 Act, the Office was required to adopt (or publish reasons for not adopting) regulations substantially similar to those of the SEC, promptly upon the promulgation thereof. In recent years, SEC regulation has increased in volume and complexity. Integrating new regulations into the format established by the Office in 1964 has become increasingly difficult. Thus, the Office believes that revision of the existing format may be warranted.

A principal objective is to afford national banks the advantage of an aggregate securities regulation in a shorter, integrated format similar to that adopted by the SEC. This will both aid those who are familiar with SEC regulations and simplify the process of amending our regulations when SEC regulations change.

The Office anticipates using a "rule" format somewhat similar to that of the SEC. The current language of part 11 would be largely unaltered. However, the longer sections would be broken up into separate rules which would each contain a section heading. The table of contents would be more detailed and the separate rules would be easier to find. The Office anticipates that the resulting format would simplify use by Office staff, banking personnel and the general public.

The new format, *if proposed*, would have the following table of contents:

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Proposed Amendments

It is proposed to amend 12 CFR Part 11 as follows:

1. The authority citation for Part 11 reads as follows:

Authority: 15 U.S.C. 78*l*, 78m, 78n, 78p, 78w.

2. 12 CFR 11.3 would be amended by adding the paragraphs (e) through (i) and would read as follows:

§ 11.3 Inspection and publication of information filed under the Act; notice of informal adjudications.

* * * * *

(e) A statement within the coverage of paragraph (f) of this section which is made by or on behalf of a bank filing any statement, report, or document under the Act or by an outside reviewer retained by the bank shall be deemed not to be a fraudulent statement (as defined in paragraph (h) of this section) unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(f) Paragraph (e) applies to (1) a forward-looking statement (as defined in paragraph (g) of this section) made in a document filed with the Board or in an annual report to shareholders meeting the requirements of 12 CFR 11.5(c), (2) a statement reaffirming the forward-looking statement referred to in (f)(1) subsequent to the date the document was filed or the annual report was made publicly available, or (3) a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such forward-looking statement is affirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward-looking statement.

(g) For the purpose of this section, the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings;

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in paragraph (g) (1), (2), or (3) of this section.

(h) For the purpose of this section the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1934 or regulations promulgated thereunder.

(i) Notwithstanding any of the provisions of paragraphs (e) through (h), this rule shall apply only to forward-looking statements made by or on behalf of a bank, if, at the time such statements are made or reaffirmed, the bank is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report with the Comptroller on Form F–2.

3. 12 CFR 11.5 would be amended by revising paragraphs (d), (h), (l), and (m); by adding new paragraphs (b)(5), (e)(5), (n), and (o); by redesignating current paragraphs (n) and (o) as paragraphs (p) and (q), as follows:

§ 11.5 Proxies, proxy statements, and statements where management does not solicit proxies.

* * * * *

(b) *Exceptions.* The requirements of this § 11.5 shall not apply to the following:

* * * * *

(5) The furnishing of proxy voting advice by any person (the "advisor") to any other person with whom the advisor has a business relationship, if:

(i) The advisor renders financial advice in the ordinary course of his business;

(ii) The advisor discloses to the recipient of the advice any significant relationship with the bank or any of its affiliates, or a shareholder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter;

(iii) The advisor receives no special commission or remuneration for furnishing the proxy voting advice from any person other than a recipient of the advice and other persons who receive similar advice under this subsection; and

(iv) The proxy voting advice is not furnished on behalf of any person soliciting proxies or on behalf of a participant in an election subject to the provisions of § 11.5(i).

(v) *Note.*—The solicitations excepted by paragraphs (b)(1) and (b)(5) remain subject to the prohibitions against false and misleading statements in § 11.5(h).

* * * * *

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in boldface type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type the identity of the persons on whose behalf the solicitation is made, (ii) shall provide a specifically designated blank space for dating the proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (d)(3) of this section.

(2)(i) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to therein as intended to be acted upon, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by the security holder if the form of proxy states in bold-faced type how the shares represented by the proxy are intended to be voted in each such case.

(ii) A form or proxy which provides for the election of directors shall set forth the names of persons nominated for election as directors. Such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

(A) A box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld; or

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(B) An instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee; or

(C) Designated blank spaces in which the shareholder may enter the names of nominees with respect to whom the shareholder chooses to withhold authority to vote; or

(D) Any other similar means, provided that clear instructions are furnished indicating how the shareholder may withhold authority to vote for any nominee.

(iii) Such form of proxy also may provide a means for the security holder to grant authority to vote for the nominees set forth, as a group, provided that there is a similar means for the security holder to withhold authority to vote for such group of nominees. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority, provided that the form of proxy so states in bold-face type.

(iv) *Instructions.* (A) Paragraph (d)(2)(ii) does not apply in the case of a merger, consolidation or other plan if the election of directors is an intrgral part of the plan.

(B) If applicable state law gives legal effect to votes cast against a nominee, then in lieu of, or in addition to, providing a means for security holders to withhold authority to vote, the bank should provide a similar means for security holders to vote against each nominee.

(e) *Presentation of information in statement.*

* * * * *

(5) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the bank for inclusion in the bank's proxy statement and form of proxy relating to that meeting, such date to be calculated in accordance with the provisions of SEC Rule 14a–8(a)(3)(i). If the date of the next annual meeting is subsequently advanced by more than 30 calendar days or delayed by more than 90 days from the date of the annual meeting to which the proxy statement relates, the bank shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

* * * * *

(h) *False or misleading statements.* (1) No solicitation or communication subject to this section shall be made by means of any statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter that has become false or misleading. Depending upon the particular circumstances, the following may be misleading within the meaning of this paragraph: Predictions as to specific future market values; material that directly or indirectly impugns character, integrity, or personal reputation, or directly or indirectly makes charges concerning improper, illegal, or immoral conduct or associations, without factual foundation; failure so to identify a statement, form of proxy, and other soliciting material as clearly to distinguish it from the soliciting material of any other person or persons soliciting for the same meeting or subject matter; claims made prior to a meeting regarding the results of a solicitation.

* * * * *

(l) *Tender Offers.* (1) No person, directly or indirectly by use of the mails or any means or instrumentality of interstate commerce or any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of, any class of equity security which is registered pursuant to Section 12 of the Act, of a national bank or a bank operating under the Code of Law for the District of Columbia, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class, unless, on the date of the commencement of the tender offer such person has complied with the requirements of subparagraph (7) of this paragraph. The definition of beneficial owner set forth in § 11.4(g)(4)(i) for the purposes of Section 13(d)(1) of the Act, shall apply also for purposes of Section 14(d)(1) of the Act.

(2) *Definitions.* Unless the context otherwise requires, all terms used in 12 CFR 11.5(*l*), (m), (n), and (o) have the same meaning as in the Act and in 12 CFR 11.2 promulgated thereunder. In addition, for purposes of sections 14(d) and 14(e) of the Act and 12 CFR 11.5(*l*), (m), (n) and (o), the following definitions apply:

(i) The term "bidder" means any person who makes a tender offer or on whose behalf a tender offer is made;

(ii) The term "subject bank" means any national bank or bank operating under the Code of Law for the District of Columbia which is the issuer of securities which are sought by a bidder pursuant to a tender offer;

(iii) The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer;

(iv) The term "beneficial owner" shall have the same meaning as that set forth in 12 CFR 11.4(g)(4)(i) *provided, however,* that, except with respect to 12 CFR 11.5(*l*)(7) and (n)(9) and Item 6 of 12 CFR 11.54, the term shall not include a person who does not have or share investment power or who may be deemed to be a beneficial owner by virtue of his right to acquire beneficial ownership as set forth in 12 CFR 11.4(g)(4)(i).

(v) The term "tender offer material" means:

(A) The bidder's formal offer, including all the material terms and conditions of the tender offer and all amendments thereto;

(B) The related transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) and all amendments thereto; and

(C) Press releases, advertisements, letters and other documents published by the bidder or sent or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer;

(vi) The term "business day" means any day, other than Saturday, Sunday or a federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern Time. In computing any time period under section 14(d)(5) or section 14(d)(6) of the Act or under 12 CFR Part 11, the date of the event which begins the running of such time period shall be included *except that* if such event occurs in other than a business day such period shall begin to run on and shall include the first business day thereafter; and

(vii) The term "security position listing" means, with respect to securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

(3) *Commencement.* A tender offer shall commence for the purposes of section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(i) The long form publication of the tender offer is first published by the bidder pursuant to 12 CFR 11.5(*l*)(10)(i).

(ii) The summary advertisement of the tender offer is first published by the bidder pursuant to 12 CFR 11.5(*l*)(10)(ii).

(iii) The summary advertisement or the long form publication of the tender offer is first published by the bidder pursuant to 12 CFR 11.5(*l*)(10)(iii).

(iv) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered pursuant to the Securities Act of 1933, are first published or sent or given by the bidder to security holders; or

(v) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in paragraphs (3)(i) through (3)(iv) of this paragraph.

(4) *Public announcement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which includes the information at (iii) of this subparagraph with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed to constitute the commencement of a tender offer under subparagraph (3)(v) of this paragraph *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under subparagraph (3)(v) of this paragraph on the date of such public announcement if within five business days of such public announcement, the bidder *either:*

(i) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event subparagraph (3)(v) of this paragraph shall not apply to the initial public announcement; or

(ii) Complies with 12 CFR 11.5(l)(7) and contemporaneously disseminates the disclosure required by subparagraphs (m)(7)–(11) to security holders pursuant to subparagraphs (l)(10)–(12) or otherwise in which event:

(A) The date of commencement of such tender offer under paragraph (3) of this paragraph will be determined by the date the information required by subparagraphs (m)(8)–(12) is first published or sent or given to security holders pursuant to subparagraphs (l)(10)–(12) or otherwise; and

(B) Notwithstanding subparagraph (5)(ii)(A) of this paragraph; section 14(d)(7) of the Act shall be deemed to apply to such tender offer from the date of such public announcement.

(iii) The information referred to in subparagraph (5) of this paragraph is as follows:

(A) The identity of the bidder;

(B) The identity of the subject company; and

(C) The amount and class of securities being sought and the price or range of prices being offered therefor.

(5) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which only discloses the information in subparagraphs (6)(i) through (6)(iii) of this paragraph concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under paragraph (3)(v) of this paragraph.

(i) The identify of the bidder;

(ii) The identify of the subject company; and

(iii) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject bank which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(6) *Public Announcement.* A public announcement concerning a tender offer by a bidder through a press release, newspaper advertisement or public statement which states that the offering will be made only by means of a prospectus and discloses the name of the issuer and the title of the securities to be surrendered in exchange for the securities to be offered and the basis upon which the exchange may be made where the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under subparagraph (3)(v) of this paragraph: *Provided that* such bidder files a registration statement with respect to such securities promptly after such public announcement.

(7) *Filing and transmittal of tender offer statement.* No bidder shall make a tender offer if, after consumation thereof, such bider would be the beneficial owner of more than 5 percent of the class of the subject company's securities for which the tender offer is made, unless as soon as practicable on the date of the commencement of the tender offer such bidder:

(i) Files with the Comptroller six copies of a Tender Offer Statement on Form F–13 (12 CFR 11.54), including all exhibits thereto;

(ii) Hand delivers a copy of such Form F–13, including all exhibits thereto:

(A) To the subject bank at its principal executive office; and

(B) To any other bidder, which has filed a Form F–13 with the Comptroller relating to a tender offer which has not yet terminated for the same class of securities of the subject bank, at such bidder's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Form F–13);

(iii) Gives telephonic notice of the information required by subparagraphs (m)(12)(ii)(A) and (B) and mails by means of first class mail a copy of such Form F–13, including all exhibits thereto:

(A) To each national securities exchange where such class of the subject bank's securities is registered and listed for trading (which may be based upon information contained in the subject bank's most recent Annual Report on Form F–2 (12 CFR 11.42) filed with the Comptroller unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

(B) To the National Association of Securities Dealers, Inc. ("NASD") if such class of the subject bank's securities are authorized for quotation in the NASDAQ interdealer quotation system.

(8) *Additional materials.* The bidder shall file with the Comptroller six copies of any additional tender offer materials as an exhibit to the Form F–13 required by this section, and if a material change occurs in the information set forth in such Form F–13, six copies of an amendment to Form F–13 (each of which shall include all exhibits other than those required by Item 11(a) of Form F–13 disclosing such change and shall send a copy of such additional tender offer materials or such amendment to the subject bank and to any exchange and/or the NASD, as required by subparagraph (7) of this paragraph, promptly but not later than the date such additional tender offer material or such change is first published, sent or given to security holders.

(9) *Certain announcements.* Notwithstanding the provisions of subparagraph (8) of this paragraph, if the additional tender offer material or an amendment to Form F–13 discloses

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only the number of shares deposited to date, and/or announces an extension of the time during which shares may be tendered, then the bidder may file such tender offer material or amendment and send a copy of such tender offer material or amendment to the subject bank, any exchange and/or the NASD, as required by subparagraph (7) of this paragraph, promptly after the date such tender offer material is first published or sent or given to security holders.

(10) *Materials deemed published or sent or given.* A tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed "published or sent or given to security holders" within the meaning of section 14(d)(i) of the Act if the bidder complies with all of the requirements of any one of the following subparagraphs: *provided, however,* that any such tender offers may be published or sent or given to security holders by other methods, but with respect to summary publication, and the use of stockholder lists and security position listings pursuant to paragraph (m), subparagraphs (10)(ii) and (10)(iii) of this section are exclusive.

(i) *Long-form publication.* The bidder makes adequate publication in a newspaper of long-form publication of the tender offer.

(ii) *Summary publication.* (A) The bidder makes adequate publication in a newspaper or newspapers of a summary adverstisement of the tender offer; and

(B) Mails by first class mail or otherwise furnishes with reasonable promptness the bidder's tender offer materials to any security holder who requests such tender offer materials pursuant to the summary adverstisement or otherwise.

(iii) *Use of stockholder lists and security position listings.* Any bidder using stockholder lists and security position listings pursuant to subparagraphs (m)(1)–(7) shall comply with subparagraphs (10)(i) or (10)(ii) of this paragraph on or prior to the date of the bidder's request for such lists or listing pursuant to subparagraph (m)(1).

(11) *Adequate publication.* Depending on the facts and circumstances involved, adequate publication of a tender offer pursuant to this section may require publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation or may require publication in a combination thereof: *Provided, however,* That publication in all editions of a daily newspaper with a national circulation shall be deemed to constitute adequate publication.

(12) *Publication of changes.* If a tender offer had been published or sent or given to security holders by one or more of the methods enumerated in subparagraph (10) of this paragraph, a material change in the information published, sent or given to security holders shall be promptly disseminated to security holders in a manner reasonably designed to inform security holders of such change: *Provided, however,* That if the bidder has elected pursuant to subparagraph (m)(6)(i) to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to subparagraphs (m)(1)–(7), the bidder shall disseminate material changes in the information published or sent or given to security holders at least pursuant to subparagraphs (m)(1)–(7).

(13) *Restrictions on Control Persons.* When a person makes a tender offer for, or a request or invitation for tenders of, any class of equity securities of a bank registered pursuant to section 12 of the Act, and such person has filed a statement with the Comptroller of the Currency pursuant to this paragraph, any other person controlling, or controlled by or under common control with ("control person") the issuing bank shall not thereafter, during the period such tender offer, request or invitation continues, purchase any class of equity securities of the issuing bank unless:

(i) The control person has filed with the Comptroller of the Currency a statement containing the information specified below with respect to any proposed purchases:

(A) The title and amount of equity securities to be purchased, the names of the persons or classes or persons from whom, and the market in which, the securities are to be purchased, including the name of any exchange on which the purchase is to be made;

(B) The purpose for which the purchase is to be made and any plan or proposal for the disposition of such securities; and

(C) The source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading the securities, a description of the transaction and the names of the parties thereto.

(ii) The control person has at any time within the past 6 months sent or given to the equity security holders of the issuing bank the substance of the information contained in the statement required by subparagraph (l)(13)(i) of this paragraph and a copy has been filed with the comptroller of the Currency.

(14) *Permitted communications.* The following communications shall not be deemed to be requests or invitations for tenders:

(i) Offers to purchase securities made in connection with a distribution of securities permitted by Rules 10b–6, 10b–7 or 10b–8 under the Act as promulgated by the SEC;

(ii) The call or redemption of any security in accordance with the terms and conditions of the governing instruments;

(iii) Offers to purchase securities evidenced by a script certificate, order form or similar document which represents a fractional interest in a share of stock or similar security;

(iv) Offers to purchase securities pursuant to a statutory procedure for the purchase of dissenting shareholders' securities;

(v) The furnishing of information and advice regarding a tender offer to customers or clients by attorneys, banks, brokers, fiduciaries of investment advisers, who are not otherwise participating in the tender offer or solicitation, on the unsolicited request of a person or pursuant to a general contract for advice to the person to whom the information or advice is given;

(vi) A communication from a subject bank to its security holders which does no more than (A) identify a tender offer or request or invitation for tenders made by another person, (B) state that the management of the subject bank is studying the matter and will, on or before a specified date (which shall be not later than 10 days prior to the date specified in the offer, request or invitation, as the last date on which tenders will be accepted, or such shorter period as the Comptroller of the Currency may authorize) advise security holders as to the management's recommendation to accept or reject the offer, request or invitation, and (C) request security holders to defer making a determination as to whether or not they should accept or reject the offer, request or invitation until they have received the management's recommendation with respect thereto.

(m) *Obligations of the subject bank.* (1) Upon receipt by a subject bank at its principal executive offices of a bidder's written request, meeting the requirements of subparagraph (5) of this section, the subject shall comply with the following:

(i) The subject bank shall notify promptly transfer agents and any other person who will assist the subject in complying with the requirements of this paragraph of the receipt by the subject bank of a request by a bidder pursuant to this paragraph.

(ii) The subject bank shall promptly ascertain whether the most recently prepared stockholder list, written or otherwise, within the access of the subject bank was prepared as of a date earlier than ten business days before the date of the bidder's request and, if so, the subject bank shall promptly prepare or cause to be prepared a stockholder list as of the most recent practicable date which shall not be more that ten business days before the date of the bidder's request.

(iii) The subject bank shall make an election to comply and shall comply with all of the provisions of either subparagraph (2) or subparagraph (3) of this paragraph. The subject bank's election, once made, shall not be modified or revoked during the bidder's tender offer and extensions thereof.

(iv) No later than the second business day after the date of the bidder's request, the subject bank shall orally notify the bidder, which notification shall be confirmed in writing, of the subject bank's election made pursuant to subparagraph (1)(iii) of this paragraph. Such notification shall indicate (A) the approximate number of security holders of the class of securities being sought by the bidder and, (B) if the subject bank elects to comply with subparagraph (2) of this paragraph, appropriate information concerning the location for delivery of the bidder's tender offer materials and the approximate direct costs incidental to the mailing to security holders of the bidder's tender offer materials computed in accordance with subparagraph (7) (i) of this paragraph.

(2) *Mailing of tender offer materials by the subject bank.* A subject bank which elects pursuant to subparagraph (1)(iii) of this paragraph to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(i) The subject bank shall promptly contact each participant named on the most recent security position listing of any clearing agency within the access of the subject bank and make inquiry of each such participant as to the approximate number of beneficial owners of the subject bank securities being sought in the tender offer held by each such participant.

(ii) No later than the third business day after delivery of the bidder's tender offer materials pursuant to subparagraph (7)(i) of this paragraph, the subject bank shall begin to mail or cause to be mailed by means of first class mail a copy of the bidder's tender offer materials to each person whose name appears as a record holder of the class of securities for which the offer is made on the most recent stockholder list referred to in subparagraph (2)(iii) of this paragraph. The subject bank shall use its best efforts to complete the mailing in a timely manner but in no event shall such mailings be completed in a substantially greater period of time than the subject bank would complete a mailing to security holders of its own materials relating to the tender offer.

(iii) No later than the third business day after the delivery of the bidder's tender offer materials pursuant to subparagraph (7)(i) of this paragraph, the subject bank shall begin to transmit or cause to be transmitted a sufficient number of sets of the bidder's tender offer materials to the participants named on the security position listings described in subparagraph (2)(i) of this paragraph. The subject bank shall use its best efforts to complete the transmittal in a timely manner but in no event shall such transmittal be completed in a substantially greater period of time than the subject bank would complete a transmittal to such participants pursuant to security position listings or clearing agencies of its own material relating to the tender offer.

(iv) The subject bank shall promptly give oral notification to the bidder, which notification shall be confirmed in writing, of the commencement of the mailing pursuant to subparagraph (2)(ii) of this paragraph and of the transmittal pursuant to subparagraph (2)(iii) of this paragraph.

(v) During the tender offer and any extension thereof the subject bank shall use reasonable efforts to update the stockholder list and shall mail or cause to be mailed promptly following each update a copy of the bidder's tender offer materials (to the extent sufficient sets of such materials have been furnished by the bidder) to each person who has become a record holder since the later of (A) the date of preparation of the most recent stockholder list referred to in subparagraph (1)(ii) of this section or (B) the last preceding update.

(vi) If the bidder has elected pursuant to subparagraph (6)(i) of this paragraph to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph, the subject bank, promptly following delivery of each such amendment, shall mail or cause to be mailed a copy of each such amendment to each record holder whose name apears on the shareholder list described in subparagraphs (1)(ii) and (2)(v) of this paragraph and shall transmit or cause to be transmitted sufficient copies of such amendment to each participant named on security position listings who received sets of the bidder's tender offer materials pursuant to subparagraph (2)(iii) of this paragraph.

(vii) The subject bank shall not include any communication other than the bidder's tender offer materials or amendments thereto in the envelopes or other containers furnished by the bidder.

(viii) Promptly following the termination of the tender offer, the subject bank shall reimburse the bidder the excess, if any, of the amounts advanced pursuant to subparagraph (6)(iii)(c) over the direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this paragraph computed in accordance with subparagraph (7)(ii) of this paragraph.

(3) *Delivery of stockholder lists and security position listings.* A subject bank which elects pursuant to subparagraph (1)(iii) of this paragraph to comply with the provisions of this paragraph shall perform the acts prescribed by the following:

(i) No later than the third business day after the date of the bidder's request, the subject bank shall furnish to the bidder at the subject bank's principal executive office a copy of the names and addresses of the record holders on the most recent stockholder list referred to in subparagraph (1)(ii) of this paragraph and a copy of the names and addresses of participants identified on the most recent security position listing of any clearing agency which is within the access of the subject bank.

(ii) If the bidder has elected pursuant to subparagraph (6)(i) of this paragraph to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials, the subject bank shall update the stockholder list by furnishing the bidder with the name and address of each record holder named on the stockholder list, and not previously furnished to the bidder, promptly after such information becomes available to the subject bank during the tender offer and any extensions thereof.

(4) *Liability of subject bank and others.* Neither the subject bank nor any affiliate or agent of the subject bank nor any clearing agency shall be:

(i) Deemed to have made a solicitation or recommendation respecting the tender offer within the meaning of section 14(d)(4) based solely upon the compliance or noncompliance by the

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subject bank or any affiliate or agent of the subject bank with one or more requirements of this section;

(ii) Liable under any provision of the Federal securities laws to the bidder or to any security holder based solely upon the inaccuracy of the current names or addresses on the stockholder list or security position listing, unless such inaccuracy results from a lack of reasonable care on the part of the subject bank or any affiliate or agent of the subject bank.

(iii) Deemed to be an "underwriter" within the meaning of section (2)(ll) of the Securities Act of 1933 for any purpose of that Act or any rule or regulation promulgated thereunder based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this paragraph;

(iv) Liable under any provision of the Federal securities laws for the disclosure in the bidder's tender offer materials, including any amendment thereto, based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this paragraph.

(5) *Content of the bidder's request.* The bidder's written request referred to in subparagraph (1) of this paragraph shall include the following:

(i) The identity of the bidder;

(ii) The title of the class of securities which is the subject of the bidder's tender offer;

(iii) A statement that the bidder is making a request to the subject bank pursuant to subparagraph (1) of this paragraph for the use of the stockholder list and security position listings for the purpose of disseminating a tender offer to security holders;

(iv) A statement that the bidder is aware of and will comply with the provisions of subparagraph (6) of this paragraph;

(v) A statement as to whether or not it has elected pursuant to subparagraph (6)(i) of this paragraph to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph; and

(vi) The name, address and telephone number of the person whom the subject bank shall contact pursuant to subparagraph (m)(1)(iv) of this paragraph.

(6) *Obligations of the bidder.* Any bidder who requires that a subject bank comply with the provisions of subparagraph (m)(1) of this paragraph, shall comply with the following:

(i) The bidder shall make an election whether or not to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph, which election shall be included in the request referred to in subparagraph (m)(1) of this paragraph and shall not be revocable by the bidder during the tender offer and extensions thereof.

(ii) With respect to a tender offer subject to section 14(d)(1) of the Act in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933, the bidder shall comply with the requirements of paragraph (l)(10)(iii).

(iii) If the subject bank elects to comply with subparagraph (2) of this paragraph,(A) The bidder shall promptly deliver the tender offer materials after receipt of the notification from the subject bank, as provided in subparagraph (1)(iv) of this paragraph;

(B) The bidder shall promptly notify the subject bank of any amendment to the bidder's tender offer materials requiring compliance by the subject bank with subparagraph (2)(vi) of this paragraph and shall promptly deliver such amendment to the subject bank pursuant to subparagraph (7)(i) of this paragraph;

(C) The bidder shall advance to the subject bank an amount equal to the approximate cost of conducting mailings to security holders computed in accordance with subparagraph (7)(ii) of this paragraph;

(D) The bidder shall promptly reimburse the subject bank for the direct costs incidental to compliance by the subject bank and its agents in performing the act required by this section computed in accordance with subparagraph (7)(ii) of this paragraph which are in excess of the amount advance pursuant to subparagraph (6)(ii)(C) of this paragraph and

(E) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials.

(iv) If the subject bank elects to comply with subparagraph (3) of this paragraph:

(A) The subject bank shall use the stockholder and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph exclusively in the dissemination of tender offer materials to security holders in connection with the bidder's tender offer and extensions thereof;

(B) The bidder shall return the stockholder lists and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph promptly after the termination of the bidder's tender offer;

(C) The bidder shall accept, handle and return the stockholder lists and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph to the subject bank on a confidential basis;

(D) The bidder shall not retain any stockholder list or security position listing furnished by the subject bank pursuant to subparagraph (3) of this paragraph, or any copy thereof, nor retain any information derived from any such list or listing or copy thereof after the termination of the bidder's tender offer;

(E) The bidder shall mail by means of first class mail, at its own expense, a copy of its tender offer materials to each person whose identity appears on the stockholder list as furnished and updated by the subject bank pursuant to subparagraphs (3)(i) and (3)(ii) of this paragraph;

(F) The bidder shall contact the participants named on the security position listing of any clearing agency, make inquiry of each participant as to the appropriate number of sets of tender offer materials required by each such participant, and furnish, at its own expense, sufficient sets of tender offer materials and any amendment thereto to each such participant for subsequent transmission to the beneficial owners of the securities being sought by the bidder;

(G) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials; and

(H) The bidder shall promptly reimburse the subject bank for direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this section computed in accordance with subparagraph (7)(ii) of this paragraph.

(7) *Delivery of materials, computation of direct costs.*

(i) Whenever the bidder is required to deliver tender offer materials or amendments to tender offer materials, the bidder shall deliver to the subject bank at the location specified by the subject bank in its notice given pursuant to subparagraph (1)(iv) of this paragraph a number of sets of the materials or of the amendment, as the case may be, at least equal to the approximate number of security holders specified by the subject bank in such notice, together with appropriate envelopes or other containers therefor: *Provided, however,* that such delivery shall be deemed not to have been made unless the bidder has complied with subparagraph (6)(iii)(C) of this paragraph at the time the material or amendments, as the case may be, are delivered.

(ii) The approximate direct cost of mailing the bidder's tender offer materials shall be computed by adding (A) the direct cost incidental to the mailing of the subject bank's last annual report to shareholders (excluding employee time), less the costs of preparation and printing of the report, and postage, plus (B) the amount of first class postage required to mail the bidder's tender offer materials. The approximate direct costs incidental to the mailing of the amendments to the bidder's tender offer materials shall be computed by adding (C) the estimated direct costs of preparing mailing labels, of updating shareholder lists and of third party handling charges plus (D) the amount of first class postage required to mail the bidder's amendment. Direct costs incidental to the mailing of the bidder's tender offer materials thereto when finally computed may include all reasonable charges paid by the subject bank to third parties for supplies or services, including costs attendant to preparing shareholder lists, mailing labels, handling the bidder's materials, contacting participants named on security position listings and for postage, but shall exclude indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject bank. The final billing for direct costs shall be accompanied by an appropriate accounting in reasonable detail.

(8) *Information required on date of commencement.*

(i) *Long-form publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of long-form publication pursuant to paragraph (*l*)(10)(i), such long-form publication shall include the information required by subparagraph (12)(i) of this paragraph.

(ii) *Summary publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of summary publication pursuant to paragraph (*l*)(10)(ii):

(A) The summary advertisement shall contain and shall be limited to, the information required by subparagraph (12)(ii) of this paragraph; and

(B) The tender offer materials furnished by the bidder upon the request of any security holder shall include the information required by subparagraph (12)(i) of this paragraph.

(iii) *Use of stockholder lists and security position listings.* If a tender offer is published or sent or given to security holders on the date of commencement by the use of stockholder lists and security position listings pursuant to paragraph (*l*)(10)(iii),

(A) Either (1) the summary advertisement shall contain, and shall be limited to the information required by subparagraph (12)(ii) of this paragraph, or (2) if long form publication of the tender offer is made, such long form publication shall include the information required by subparagraph (12)(i) of this paragraph, and

(B) The tender offer materials transmitted to security holders pursuant to such lists and security position listings and furnished by the bidder upon the request of any security holder shall include the information required by subparagraph (12)(i) of this paragraph.

(iv) *Other tender offers.* If a tender offer is published or sent or given to security holders other than pursuant to paragraph (*l*)(10), the tender offer materials which are published or sent or given to security holders on the date of commencement of such offer shall include the information required by subparagraph (12)(i) of this paragraph.

(9) *Information required in summary advertisement made after commencement.* A summary advertisement published subsequent to the date of commencement of the tender offer shall include at least the information specified in subparagraphs (12)(i)(A)–(B) and (12)(ii)(D) of this paragraph.

(10) *Information required in other tender offer materials published after commencement.* Except for summary advertisements described in subparagraph (9) of this paragraph and tender offer materials described in subparagraphs (8)(ii)(B) and (8)(iii)(B) of this paragraph, additional tender offer materials published, sent or given to security holders subsequent to the date of commencement shall include the information required by subparagraphs (12)(i) and may omit any of the information required by subparagraphs (12)(i)(E)–(H) of this paragraph which has been previously furnished by the bidder in connection with the tender offer.

(11) *Material changes.* A material change in the information published or sent or given to security holders shall be promptly disclosed to security holders in additional tender offer materials.

(12) *Information to be included.*

(i) *Long-form publication and tender offer materials.* The information required to be disclosed by subparagraphs (8)(i), (8)(ii)(B), (8)(iii)(A)(2) and (8)(iv) of this paragraph shall include the following:

(A) The identity of the holder;

(B) The identity of the subject bank;

(C) The amount of class of securities being sought and the type and amount of consideration being offered therefor;

(D) The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;

(E) The exact dates prior to which, and after which, security holders who deposit their securities will have the right to withdraw their securities pursuant to section 14(d)(5) of the Act and subparagraphs (n)(1)–(5) and the manner in which shares will be accepted for payment and in which withdrawal may be effected;

(F) If the tender offer is for less than all the outstanding securities of a class of equity securities and the bidder is not obligated to purchase all of the securities tendered, the period or periods, and in the case of the period from the commencement of the offer, the date of the expiration of such period during which the securities will be taken up pro rata pursuant to Section 14(d)(6) of the Act or subparagraph (n)(5) and the present intention or plan of the bidder with respect to the tender offer in the event of an oversubscription by security holders;

(G) The disclosure required by Items 1(c); 2 (with respect to persons other than the bidder, excluding sub-items (b) and (d)); 3; 4; 5; 6; 7; 8; and 10 of Form F–13 (12 CFR 11.54) or a fair and adequate summary thereof; *provided, however,* that negative responses to any such item or sub-item of Form F–13 need not be included; and

(H) The disclosure required by Item 9 of Form F–13 or a fair and adequate summary thereof. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained.

(ii) *Summary publication.* The information required to be disclosed by subparagraphs (8)(ii)(A) and (8)(iii)(A) of this paragraph in a summary advertisement is as follows:

(A) The information required by subparagraph (12)(i) (A) through (E) of this paragraph;

(B) If the tender offer is for less than all the outstanding securities of a class of equity securities, a statement as to whether the purpose or one of the purposes of the tender offer is to acquire or influence control of the business of the subject bank;

(C) A statement that the information required by subparagraph (12)(i)(G) of this paragraph is incorporated by reference into the summary advertisement;

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(D) Appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials; and

(E) In a tender offer published or sent or given to security holders by the use of stockholder lists and security position listings pursuant to subparagraph (*l*)(10)(iii), a statement that a request is being made for such lists and listings and that tender offer materials will be mailed to record holders and will be furnished to brokers, banks and similar persons whose name appears or whose nominee appears on the list of stockholders or, if applicable, who are listed as participants in a clearing agency's security position listing for subsequent transmittal to beneficial owners of such securities.

(iii) *No transmittal letter.* Neither the initial summary advertisement nor any subsequent summary advertisement shall include a transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) or any amendment thereto.

(n) *Additional withdrawal rights.*

(1) *Rights.* In addition to the provisions of section 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the following periods:

(i) At any time until the expiration of fifteen business days from the date of commencement of such tender offer; and

(ii) On the date and until the expiration of ten business days following the date of commencement of another bidder's tender offer other than pursuant to paragraph (*l*)(4) for securities of the same class *provided that* the bidder has received notice or otherwise has knowledge of the commencement of such other tender offer and, *provided further,* that withdrawal may only be effected with respect to securities which have not been accepted for payment in the manner set forth in the bidder's tender offer prior to the date such other tender offer is first published, sent or given to security holders.

(2) *Computation of time periods.* The time periods for withdrawal rights pursuant to this section shall be computed on a concurrent, as opposed to a consecutive, basis.

(3) *Knowledge of competing offer.* For the purposes of this section, a bidder shall be presumed to have knowledge of another tender offer, as described in subparagraph (1)(ii) of this paragraph, on the date such bidder receives a copy of the Form F–13 (12 CFR 11.54) pursuant to subparagraphs (*l*)(3)–(6) from such other bidder.

(4) *Notice of withdrawal.* Notice of withdrawal pursuant to this paragraph shall be deemed to be timely upon the receipt by the bidder's depository of a written notice of withdrawal specifying the name(s) of the tendering stockholder(s), the number or amount of the securities to be withdrawn and the name(s) in which the certificate(s) is (are) registered, if different from that of the tendering security holder(s). A bidder may impose other reasonable requirements, including certificate numbers and a signed request for withdrawal accompanied by a signature guarantee, as conditions precedent to the physical release of withdrawn securities.

(5) *Exemption from statutory pro rata requirements.* The limited pro rata provisions of section 14(d)(6) of the Act shall not apply to any tender offer for less than all the outstanding securities of the class for which the tender offer is made to the extent that the bidder provides in the tender offer materials disseminated to security holders on the date of commencement of the tender offer that in the event more securities are deposited during the period(s) described in subparagraphs (i) and/or (ii) of this paragraph than the bidder is bound or willing to accept for payment, all securities deposited during such period(s) will be accepted for payment as nearly as practicable on a pro rata basis, disregarding fractions, according to the number of securities deposited by each depositor.

(i) Any period which exceeds ten days from the date of commencement of the tender offer.

(ii) Any period which exceeds ten days from the date that notice of an increase in the consideration offered is first published, sent or given to security holders.

(6) *Filing and transmittal of recommendation statement.* No solicitation or recommendation to security holders shall be made by any person described in subparagraph (9) of this paragraph with respect to a tender offer for such securities unless as soon as practicable on the earliest date such solicitation or recommendation is first published or sent or given to security holders such person complies with the following subparagraphs.

(i) Such person shall file with the Comptroller six copies of a Tender Offer Solicitation/Recommendation Statement on Form F–14 (12 CFR 11.55), including all exhibits thereto; and

(ii) If such person is either the subject bank or an affiliate of the subject bank,

(A) Such person shall hand deliver a copy of the Form F–14 to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (12 CFR 11.54) filed with the Commission; and

(B) Such person shall give telephonic notice (which notice to the extent possible shall be given prior to the opening of the market) of the information required by Items 2 and 4(a) of Form F–14 and shall mail a copy of the Form to each national securities exchange where the class of securities is registered and listed for trading and, if the class is authorized for quotation in the NASDAQ interdealer quotation system, to the National Association of Securities Dealers, Inc. ("NASD").

(iii) If such person is neither the subject bank nor an affiliate of the subject bank,

(A) Such person shall mail a copy of the schedule to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (12 CFR 11.54) filed with the Comptroller), and

(B) Such person shall mail a copy of the Form to the subject bank at its principal office.

(7) *Amendments.* If any material change occurs in the information set forth in the Form F–14 (12 CFR 11.55) required by this section, the person who filed such Form F–14 shall:

(i) File with the Comptroller six copies of an amendment on Form F–14 disclosing such change promptly, but not later than the date such material is first published, sent or given to security holders; and

(ii) Promptly deliver copies and give notice of the amendment in the same manner as that specified in subparagraph (6)(ii) or subparagraph (6)(iii) of this paragraph, whichever is applicable; and

(iii) Promptly disclose and disseminate such change in a manner reasonably designed to inform security holders of such change.

(8) *Information required in solicitation or recommendation.* Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by items 1, 2, 3(b), 4, 6, 7 and 8 of Form F–14 or a fair and adequate summary thereof: *provided, however,* that such solicitation or recommendation may omit any of such information previously furnished to security holders of such class of securities by such person with respect to such tender offer.

(9) *Applicability.*

(i) Except as is provided in subparagraphs (9)(ii) and (10) of this paragraph, subparagraphs (n)(6)–(11) shall only apply to the following persons:

(A) The subject bank, any director, officer, employee, affiliate or subsidiary of the subject bank;

(B) Any record holder or beneficial owner of any security issued by the subject bank, by the bidder, or by an affiliate of either the subject bank or the bidder; and

(C) Any person who makes a solicitation or recommendation to security holders on behalf of any of the foregoing or on behalf of the bidder other than by means of a solicitation or recommendation to sercurity holders which has been filed with the Comptroller pursuant to this paragraph of subparagraphs (*l*) (7)–(9).

(ii) Notwithstanding subparagraph (9)(i) of this paragraph, subparagraphs (n)(6)–(11) shall not apply to the following persons:

(A) A bidder who has filed a Form F–13 puraunt to paragraphs (*l*) (7)–(9);

(B) Attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity and who furnish information and/or advice regarding such tender offer to their customers or clients on the unsolicited request of such customers or clients or solely pursuant to a contract or a relationship providing for advice to the customer or client to whom the information and/or advice is given.

(10) *Stop-look-and-listem communication.* Subparagraphs (n)(6)–(11) shall not apply to the subject bank with respect to a communication by the subject bank to its security holders which only:

(i) Identifies the tender offer by the bidder;

(ii) States that such tender offer is under consideration by the subject bank's board of directors and/or management;

(iii) States that on or before a specified date (which shall be no later than 10 business days from the date of commencement of such tender offer) the subject bank will advise such security holders of (A) whether the subject bank recommends acceptance or rejection of such tender offer; expresses no opinion and remains neutral toward such tender offer; or is unable to take a position with respect to such tender offer and (B) the reason(s) for the position taken by the subject bank with respect to the tender offer (including the inability to take a position); and

(iv) Requests such security holders to defer making a determination whether to accept or reject such tender offer until they have been advised of the subject bank's position with respect thereto pursuant to subparagraph (10)(iii) of this paragraph.

(11) *Statement of management's position.* A statement by the subject bank of its position with respect to a tender offer which is required to be published or sent or given to security holders pursuant to paragraph (o) shall be deemed to constitute a solicitation or recommendation within the meaning of this section and section 14(d)(4) of the Act.

(o) *Unlawful tender offer practices.* As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices, no person who makes a tender offer shall:

(1) Hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent or given to security holders.

(2) Increase the offered consideration or the dealer's soliciting fee to be given in a tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published, sent or given to security holders.

(3) Fail to pay the consideration offered or return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of a tender offer;

(4) Extend the length of a tender offer without issuing a notice of such extension by press release or other public announcement, which notice shall include disclosure of the approximate number of securities deposited to date and shall be issued no later than the earlier of (i) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer or (ii), if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer.

(5) *Position of subject bank.* As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices, the subject bank, no later than 10 business days from the date the tender offer is first published or sent or given, shall publish, send or give to security holders a statement disclosing that the subject bank:

(i) Recommends acceptance or rejection of the bidder's tender offer;

(ii) Expresses no opinion and is remaining neutral toward the bidder's tender offer; or

(iii) Is unable to take a position with respect to the bidder's tender offer. Such statement shall also include the reason(s) for the position (including the inability to take a position) disclosed therein.

(6) *Material change.* If any material change occurs in the disclosure required by paragraph (a) of this section, the subject bank shall promptly publish, send or give a statement disclosing such material change to security holders.

* * * * *

4. 12 CFR 11.6 would be amended by adding a new paragraph (j) and redesignating the existing paragraphs (j) through (u) as paragraphs (k) through (v)

§ 11.6 "Insiders'" securities transactions and reports under section 16 of this Act.

* * * * *

(j) Exemption for acquisitions under dividend reinvestment plans. Any acquisition of securities resulting from reinvestment of dividends or interest shall be exempt from section 16 if it is made pursuant to a plan providing for the regular reinvestment in such securities of dividends payable thereon or of dividends or interest payable on other securities of the same issue, *Provided* That the plan is made available on the same terms to all holders of securities of the class on which the reinvestment dividends or interest are being paid.

* * * * *

5. 12 CFR 11.51 would be amended by revising paragraph (c) in Item 5 and in Item 6 by adding paragraph (i) to read as follows:

§ 11.51 Form for proxy statement or statement where management does not solicit proxies (Form F–5).

* * * * *

Item 5—Voting Securities and Principal Holders Thereof

* * * * *

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, (1) make a statement that they have such rights, (2) briefly describe such rights, (3) state briefly the conditions precedent to the exercise thereof, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

* * * * *

Item 6—Directors

* * * * *

(i) *Shares voted at last meeting.* With respect to those classes of voting stock which participated in the election of directors at the most recent meeting at which directors were elected:

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(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and (2) disclose in tabular format, following such introductory paragraph, the percentage of total shares cast for and withhold from the vote for or, where applicable, cast against, each nominee, which respectively, were voted for and withheld from the vote for, or voted against, such nominee. When groups of classes or series of classes vote together in the election of a director or directors, they shall be treated as a single class for the purpose of the preceding sentence.

Instructions. 1. Calculate the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors, referred to in paragraph g(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date for the meeting.

2. No information need be given in response to item 6(g) unless, with respect to any class of voting stock (or group of classes which voted together), 5 per cent or more of the total shares cast for and withheld from the vote for or, where applicable, cast against any nominee were withheld from the vote for or cast against such nominee.

3. If a bank elects less than the entire board of directors annually, disclosure is required as to all directors if 5 per cent or more of the total shares cast for and withheld from, the vote for, or, where applicable, cast against any incumbent director were withheld from, or cast against the vote for such director at the meeting at which he was most recently elected.

4. No information need be given in response to item 6(g) if the bank has previously furnished to its security holders a report of the results of the most recent meeting of security holders at which directors were elected which includes: (1) a description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each such matter; and (2) the information which would be called for by this item 6(g). If a bank has previously furnished such results to its security holders, this fact should be set forth in the bank's cover letter accompanying the filing of preliminary proxy materials.

8. 12 CFR 11.53 would be revised to read as follows:

§ 11.53 Solicitation/recommendation statement to be filed under Section 14(d)(4) of the Securities Exchange Act of 1934 (Form F–12).

Comptroller of the Currency Form
Washington, D.C. 20219
Form F–12

Solicitation/Recommendation Statement Pursuant to Section 14(d)(4) of the Securities Exchange Act of 1934
(Amendment No.—)

_____
(Name of Subject Bank)

_____
(Name of Person(s) Filing Statement)

_____
(Title of Class of Securities)

_____
(CUSIP Number of Class of Securities)

(Name, address and telephone number of person authorized to receive notice and communications on behalf of the person(s) filing statement)

Instructions: Six copies of this statement, including all exhibits, should be filed with the Comptroller.

General Instructions: A. The items numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Comptroller for all purposes of the Act.

Item 1. Security and Subject Company

State the title of the class of equity securities to which this statement relates and the name and the address of the principal executive offices of the subject bank.

Item 2. Tender Offer of the Bidder

Identify the tender offer to which this statement relates, the name of the bidder and the address of its principal executive offices or, if the bidder is a natural person, the bidder's residence or business address (which may be based on the bidder's Form F–13 (12 CFR 11.54) filed with the Comptroller).

Item 3. Identity and Background

(a) State the name and business address of the person filing this statement.

(b) If material, describe any contract, agreement, arrangement or understanding and any actual or potential conflict of interest between the person filing this statement or its affiliates and: (1) the subject bank, its executive officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates.

Instruction: If the person filing this statement is the subject bank and if the materiality requirement of Item 3(b) is applicable to any contract, agreement, arrangement or understanding between the subject bank or any affiliate of the subject bank and any executive officer or director of the subject bank, it shall not be necessary to include a description thereof in this statement, or in any solicitation or recommendation published, sent or given to security holders if such information, or information which does not differ materially from such information, has been disclosed in any proxy statement, report or other communication sent within one year of the filing date of this statement by the subject bank to the then holders of the securities and has been filed with the Comptroller: *provided* that this statement and the solicitation or recommendation published, sent or given to security holders shall contain specific reference to such proxy statement, report or other communication and that a copy of the pertinent portion(s) thereof is filed as an exhibit to this statement.

Item 4. The Solicitation or Recommendation

(a) State the nature of the solicitation or the recommendation. If this statement relates to a recommendation, state whether the person filing this statement is advising security holders of the securities being sought by the bidder to accept or reject the tender offer or to take other action with respect to the tender offer and, if so, furnish a description of such other action being recommended. If the person filing this statement is the subject bank and a recommendation is not being made, state whether the subject bank is either expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer.

(b) State the reason(s) for the position (including the inability to take a position) stated in (a) of this Item.

Instruction: Conclusory statements such as "The tender offer is in the best interest of shareholders," will not be considered sufficient disclosure in response to Item 4(b).

Item 5. Persons Retained, Employed or to be Compensated

Identify any person or class of persons employed, retained or to be compensated by the person filing this statement or by any person on its behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 6. Recent Transactions and Intent With Respect to Securities

(a) Describe any transaction in the securities referred to in Item 1 which was affected during the past 60 days by the person(s) named in response to Item 3(a) and by any executive officer, director, affiliate or subsidiary of such person(s).

(b) To the extent known by the person filing this statement, state whether the persons referred to in Item 6(a) presently intend to tender to the bidder, sell or hold securities of the class of securities being sought by the bidder which are held of record or beneficially owned by such persons.

Item 7. Certain Negotiations and Transactions by the Subject Bank

(a) If the person filing this statement is the subject bank, state whether or not any negotiation is being undertaken or is underway by the subject bank in response to the tender offer which relates to or would result in:

(1) An extraordinary transaction such as a merger or reorganization, involving the subject bank, or any subsidiary of the subject bank;

(2) A purchase, sale or transfer of a material amount of assets by the subject bank or any subsidiary of the subject bank;

(3) A tender offer for or other acquisition of securities by or of the subject bank; or

(4) Any material change in the present capitalization or dividend policy of the subject bank.

Instruction. If no agreement in principle has yet been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject bank such disclosure would jeopardize continuation of such negotiations. In such event, disclosure that negotiations are being undertaken or are underway and are in the preliminary stages will be sufficient.

(b) Describe any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer, other than one described pursuant to Item 3(b) of this statement, which relates to or would result in one or more of the matters referred to in Item 7(a)(1), (2), (3) or (4).

Item 8. Additional Information to be Furnished

Furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 9. Material to be Filed as Exhibits

Furnish a copy of:

(a) Any written solicitation or recommendation which is published or sent or given to security holders in connection with the solicitation or recommendation referred to in Item 4.

(b) If any oral solicitation or recommendation to security holders is to be made by or on behalf of the person filing this statement, any written instruction, or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the solicitation or recommendation.

(c) Any contract, agreement, arrangement or understanding described in Item 3(b) or the pertinent portion(s) of any proxy statement, report or other communication referred to in Item 3(b).

Signature. After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date) _____
(Signature) _____
(Name and Title) _____

Instruction. The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representtive. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer of a corporation or bank or a general partner of a partnership), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

7. 12 CFR 11.54 would be amended, under the hearing "General Intructions", by revising paragraphs B and C, and, under Item 6, by revising Instruction 2, as follows:

§ 11.54 Tender offer statement filed pursuant to section 14(d)(1) of the Securities Exchange Act of 1934 (Form F–13).

* * * * *

General Instructions

* * * * *

B. Information in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Comptroller for all purposes of the Act.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Item 2–7, inclusive, shall be given with respect to: (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person contolling such partner or member. If the statement is filed by a bank or corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a bank or corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such bank or corporation; (b) each person controlling such bank or corporation; and (c) each executive officer and director of any bank or corporation ultimately in control of such bank or corporation. A response to an item in the statment is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

* * * * *

Item 6. Interest in securities of the subject bank.

* * * * *

Instructions.

* * * * *

2. If the information required by Item 6(b) of this Form is available to the bidder at the time this statement is initially filed with the Comptroller pursuant to subparagraph (7)(7)(i) (12 CFR 11.5(7)(7)(i)), such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it shall be filed with the Comptroller promptly but in no event later than two business days after the date of such filing and, if material, shall be disclosed in a manner reasonably designed to inform security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

* * * * *

§ 11.5 [Amended]

8. Section 11.5 would be amended also in certain technical respects as follows:

(a) In § 11.5(a), by deleting "the management of" from the second sentence thereof.

(b) In § 11.5(b)(1), by deleting "the management of."

(c) In § 11.5(c)(1), by deleting "of the management" where it first appears; by deleting the word "management" where it appears thereafter in the first sentence and inserting the word "bank."

(d) In § 11.5(c)(6), by deleting the word "Management's" and inserting "Bank's" in the first sentence; by deleting "In the discretion of management" and inserting "In its discretion," in the second sentence.

(e) In § 11.5(c)(9)(ii), by deleting the word "management" and inserting the word "bank's" in its place.

(f) In § 11.5(g)(1)(i), by deleting "management" and inserting "bank" in its place.

(g) In § 11.5(g)(ii), by deleting "management" and inserting "bank" in its place.

(h) In § 11.5(g)(2)(ii), by deleting the word "management" wherever it appears and inserting the word "bank" in its place.

(i) In section 11.5(g)(3), by deleting "the management of" in the last senterce.

§ 11.51 [Amended]

9. Section 11.51 would be amended also in certain technical respects as follows:

(a) In § 11.51 Item 3(a)(1), by deleting the words "the management of," and "management" where they appear and inserting "the bank" in their place.

(b) In § 11.51 Item 4(a)(1), by deleting the words "management" and inserting the words "the bank" in its place.

(c) In § 11.51 Item 4(a)(2), by deleting the word "management" and inserting the words "the bank" in its place.

(d) In § 11.51 Item 6, by deleting the word "management" in the introductory paragraph and inserting the words "the bank" in its place.

(e) In § 11.51 Item 6(e), by deleting the words "with affiliates and others" from

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the heading. The new paragraph heading would read as follows:

(e) *Relationships.*

(f) In § 11.51 Item 7, by deleting the words "management" that appears in the last sentence of the introductory paragraph and inserting the word "bank" in its place.

The Comptroller hereby proposes amendments to 12 CFR 11 pursuant to Sections 3(b), 10(b), 13(d), 14(d), 14(e), 16, and 23(a) of the Exchange Act.

Dated: October 23, 1980.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 80-35663 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-EA-56]

Proposed Designation and Alteration of Transition Areas; New York State and Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to designate a New York State Transition Area over the state, and alter the description of the Pennsylvania Transition Area. The designation will consolidate many separate transition areas presently exising within the territorial boundaries of New York State, but will not expand present controlled airspace. It will permit the revocation of the separate transition areas in the same area in favor of one designation. The alternation will change the description of Pennsylvania from a detailed specification of the geographic area to a general reference to the territory of the state of Pennsylvania.,

DATES: Comments must be received on or before January 5, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: M. Rosen, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before January 5, 1981, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430 or by calling (212) 995-3391. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedures.

The Proposal

The FAA is considering amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a New York State Transition Area and alter the Pennsylvania Transition Area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations as follows:

a. Designate a New York State 1200 foot floor transition area as follows:

"New York State

That airspace extending upward from 1200 feet above the surface within the boundary of the State of New York including the offshore airspace 3NM east of and parallel to the shoreline".

b. Delete the description of the (State of) Pennsylvania 1200 foot floor transition area in its entirety and substitute therefor, "That airspace extending upward from 1200 feet above its surface within the State of Pennsylvania".

c. Delete the description of the Albany, New York 1200-foot floor transition area in its entirety.

d. Delete the description of the Andover, New Jersey 1200-foot floor transition area in its entirety.

e. Delete the description of the Buffalo, New York 1200-foot floor transition area in its entirety.

f. Delete the caption and description of the Cranberry Lake, New York 1200-foot floor transition area in its entirety.

g. Delete the caption and description of the Delancey, New York 1200-foot floor transition area in its entirety.

h. Delete the description of the Fulton, New York 1200-foot floor transition area in its entirety.

i. Delete the description of the Ogdensburg, New York 1200-foot floor transition area in its entirety.

j. Delete the caption and description of the Oswego, New York 1200-foot floor transition area in its entirety.

k. Delete the description of the Poughkeepsie, New York 1200-foot floor transition area in its entirety.

l. Delete the description of the Rochester, New York 1200-foot floor transition area in its entirety.

m. Delete the description of the Utica, New York 1200-foot floor transition area in its entirety.

n. Delete the description of the Watertown, New York 1200-foot floor transition area in its entirety.

o. Delete the description of the White Plains, New York 1200-foot floor transition area in its entirety.

(Sec. 307(a), Federal Aviation Act of 1958, (72 Stat. 749; 49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on October 30, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-35437 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISION

16 CFR PART 1145

Proposed Rule to Regulate Under the CPSA Risk of Injury That May Be Presented by Certain Stuffed Toy Animals

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is investigating a potential strangulation hazard associated with stuffed toy animals suspended from strings, elastic, springs or other cords which in conjunction with the toy to which they are attached form a loop. The Commission proposes, should regulatory action become necessary regarding the risk of injury associated with such products, to use the procedures available under the Consumer Product Safety Act rather than those of the Federal Hazardous Substances Act. The Commission further proposes that this transfer be limited to products manufactured prior to the effective date of this rule. The Commission preliminarily determines that this transfer is necessary because in the event the Commission determines that the subject products present a strangulation hazard and that notice to the public of the hazard is necessary, the Commission's authority to require public notice is broader under the CPSA than under the FHSA.

DATE: Comments concerning this proposal must be received in the Office of the Secretary by December 17, 1980.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634-7770.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Jr., Product Defect Correction Division, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland (mailing address: Washington, D.C. 20207), telephone: (301) 492-6608.

SUPPLEMENTARY INFORMATION: This notice proposes that the Commission regulate under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*, rather than under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 *et seq.*, the risk of strangulation that may be presented by stuffed toy animals suspended from 2 or more cords (strings, elastic, springs or other types of cord) when such cords in conjunction with the product form a loop ("looped cords"). (Photographs of examples of products subject to this proposal appear at Appendix 1.) This proposal is limited to products manufactured prior to the effective date of this rule.

Section 30(d) of the CPSA governs this proposed rule. That section provides:

> A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act . . . may be regulated under [the CPSA] only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act.

The Commission has examined the applicable statutes and regulations and considered the facts with regard to the potential risk of strangulation that may be presented by stuffed toy animals suspended from looped cords. It preliminarily concludes that it is in the public interest to regulate under the CPSA the risk of strangulation that may be presented by stuffed toy animals suspended from looped cords, should regulation become necessary.

Background: The Commission is presently investigating a potential strangulation hazard associated with stuffed toy animals suspended from 2 or more cords made of various materials when such cords in conjunction with the product form a loop. The investigation began after R. Dakin and Company reported to the Commission staff on October 17, 1979, an infant death by strangulation involving a stuffed animal mobile that it imported. The toy had been hung from a crib corner post on the inside portion of the crib. The product was one of eight models of stuffed toy animals imported by Dakin. Each product uses an identical three elastic cord suspension system. One cord is attached to the body of the toy. Two other cords are attached to the toy's body parts (e.g., wings, ears). The three elastic cords meet and are fastened together at a single point above the toy. The size and configuration of the openings created by the elastic cords, as well as the elastic property of the cords themselves, appear to permit an infant to get the head and neck entangled in the cords. The Commission staff is aware of two incidents, involving two different Dakin stuffed toy animals, in which an infant allegedly became entangled in the elastic cords, strangled, and died.

The Commission staff is also aware of at least two other manufacturers of products similar in design to the Dakin products described above.

The Commission believes it may be necessary to consider remedial action to require manufacturers of stuffed toy animals suspended by looped cords that are determined to present a strangulation hazard, to notify consumers of the hazard and to recall those products as quickly as possible from the marketplace and from consumers or to repair the product. The Commission has regulatory authority to accomplish such action under the FHSA and under the CPSA. However, to do so under the CPSA the Commission would have to issue a rule under section 30(d).

Under the FHSA the Commission has authority to issue banning regulations for toys or other articles intended for use by children which the Commission determines to present a mechanical hazard if they present an unreasonable risk of personal injury or illness because of some aspect of the product's design or manufacture. 15 U.S.C. 1261(s)(9). The Commission could regulate a strangulation hazard presented by a stuffed toy animal as a mechanical hazard under the FHSA.

If the Commission were to generically ban under the FHSA stuffed toy animals suspended by looped cords where the configuration of the cord and the product present a strangulation hazard or to ban particular models of such products, the repurchase provisions of the FHSA would apply, 15 U.S.C. 1274. Under the existing repurchase regulation, retail stores in the distribution chain would be required to place an indentification of the banned product on a "Banned Articles or Substances List" to be displayed for not less that 120 days in various store locations, 16 CFR 1500.202. No other form of notice to consumers is required under the existing FHSA repurchase regulation.

Under the CPSA, the Commission has authority to seek a recall of hazardous products from the marketplace and from consumers. Section 12 of the CPSA, 15 U.S.C. 2061, authorizes the Commission to file an action in a United States district court seeking an order requiring a manufacturer, distributor and/or retailer of a consumer product which presents an imminent and unreasonable risk of death or severe personal injury to the public, to, among other things, recall, repair, replace or refund the purchase price of the product. The Court could also order a firm to undertake an extensive notificaiton effort to advise purchasers and the public of such risk and of the firm's recall activities.

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Under section 15 of the CPSA, 15 U.S.C. 2064, the Commission may determine after a hearing, that a product presents a substantial product hazard and order the manufacturer, distributor or retailer of the product to repair, replace or refund the purchase price of the product. In addition, the Commission may order the manufacturer, distributor or retailer of a product determined to present a substantial hazard to undertake a broad program of public notice to inform the public of the hazard and of the corrective action if it determines that notification is required to adequately protect the public from the hazard.

The Commission is concerned that if it determines that stuffed toy animals suspended by looped cords present a strangulation hazard and that notice and/or recall is necessary, the notice requirements of the FHSA, in a situation where a product is not already subject to a banning regulation and has been on the marketplace for some time, may not be sufficient to obtain an effective recall. In this regard, R. Dakin and Company has voluntarily recalled its stuffed toy animal products described above by providing consumers the type notice to which they would be entitled if its product were banned under the FHSA. Dakin has also provided additional notice in the form of press releases and mailings to newspapers and the television media. Despite Dakin's publicity efforts, less than 36,000 of 422,000 recalled products have been recovered and less than 1,500 of these have been returned by consumers. It is unknown how many concumers no longer have the product or have cut the cords from which the product is suspended thereby eliminating any potential strangulation hazard presented by the cords.

If the Commission were to retrospectively ban under the FHSA, stuffed toy animals suspended by cords, the only notice to consumers that would be required under the existing repurchase regulations would be a listing on the "Banned Articles or Substances List" posted in stores. The banned product might be one of many products on the list. There is no requirement, for exmaple, that a separate sign be displayed for each product subject to a banning regulation. While the Commission could amend the repurchase regulations to require additional notice, it is questionable whether the Commission under the FHSA could require significantly more expansive forms of notice such as paid advertising. In any event, a proceeding to amend the purchase regulations could be a time consuming process.

Under CPSA, however, the Commission has the authority under section 15(c), 15 U.S.C. 2064(c), after a hearing, to order widespread notice of a hazard if it is determined that a product presents a substantial hazard and that such notice is necessary to adequately protect the public from the hazard. In addition, it could seek similar relief from a court under section 12 of the CPSA.

Because the Commission has clear authority under the CPSA to seek widespread notice of a hazard including paid advertising, it preliminarily determines that it is in the public interest to regulate any risk of strangulation presented by stuffed toy animals, manufactured prior to the effective date of this rule, suspended from 2 or more cords made of any material, when such cords in conjunction with the product form a loop, under the CPSA rather than the FHSA. The Commission is limiting the scope of this rule to products manufactured prior to the rule's effective date because the Commission plans to consider in fiscal year 1981 a generic banning regulation. Such a generic regulation could eliminate any potential strangulation hazard assocated with the subject toys manufactured in the future. While stuffed toy animals suspended by cords that present a strangulation hazard might be produced between the effective date of this rule and the effective date of nay generic banning regulation, the Commission could address that problem in an appropriate manner when and if it arises.

Until any final determinaiton under section 30(d) is made, the Commission notes that it is not precluded from regulating the products subject to this rule under the FHSA should it decide that such action would be preferable.

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Accordingly, under provisions of the Consumer Product Safety Act (section 30(d), Pul. L. 92–573, 86 Stat. 1231 as amended 90 Stat. 3472; 15 U.S.C. 2079(d)) the Commission proposes that Title 16 Chapter II, Subchapter B. Part 114. be amended by adding the following § 1145.9.

§ 1145.9 Certain stuffed toy animals; risk of.

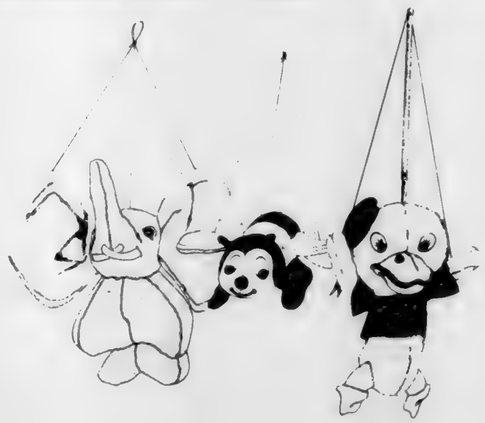
(a) The Commission finds that it is in the public interest to regulate under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act the risk of strangulation that may be presented by stuffed toy animals manufactured prior to the effective date of this rule suspended from 2 or more strings, elastic, springs or other cords when such cords in conjunction with the product form a loop.

(b) Therefore, any such toys manufactured before the effective date of this rule shall, if the Commission finds regulation to be necessary, be regulated only under one or more provisions of the Consumer Product Safety Act.

Appendix 1.—Consumer Product Safety Commission

16 CFR Part 1145

Proposed Rule to Regulate Under the CPSA Risk of Injury that may be Presented by Certain Stuffed Toy Animals



Dated: October 21, 1980.

Sadye E. Dunn,

Secretary.

[FR Doc. 80-35832 Filed 11-14-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF STATE

Office of the Legal Adviser

22 CFR Part 181

Coordination and Reporting of International Agreements

AGENCY: Office of the Legal Adviser, Department of State.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Legal Adviser of the Department of State proposes to issue regulations to implement the Case-Zablocki Act on the coordination with the Secretary of State and the reporting to Congress of international agreements other than treaties. The Act, which calls for the promulgation of regulations, requires the Secretary of State to transmit the text of all international agreements other than treaties to the Congress no later than 60 days after their entry into force. The Act also provides that no international agreement may be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State.

The proposed regulations, which would be applicable to all agencies of the U.S. Government that negotiate and conclude international agreements, discuss the criteria applied by the Department of State in deciding what constitutes an international agreement, and provide that determinations of such questions are made by the Legal Adviser of the Department of State, acting through the Assistant Legal Adviser for Treaty Affairs. The proposed regulations spell out in detail the procedures to be followed in consulting with the Secretary of State or his designee before signing or otherwise concluding an international agreement. The proposed regulations also detail the procedures to be followed in transmitting concluded agreements to the Department of State (including rules on the necessary documentation and certification), and the procedures for transmittal of concluded agreements by the Department of State to the Congress.

DATES: Comments must be submitted on or before January 16, 1980.

ADDRESS: Comments should be submitted to the Office of the Assistant Legal Adviser for Treaty Affairs, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Arthur W. Rovine, Assistant Legal Adviser for Treaty Affairs, Department of State, Washington, D.C. 20520, (202) 632–1074.

In consideration of the foregoing, the Office of the Legal Adviser of the Department of State proposes to amend 22 CFR, Chapter I by adding a new Subchapter S, entitled "International Agreements," which would include Part 181 on the Coordination and Reporting of International Agreements, as follows:

SUBCHAPTER S—INTERNATIONAL AGREEMENTS

PART 181—COORDINATION AND REPORTING OF INTERNATIONAL AGREEMENTS

Sec.

181.1 Purpose and Application.
181.2 Criteria.
181.3 Determinations.
181.4 Consultations with the Secretary of State.
181.5 Twenty-day rule for concluded agreements.
181.6 Documentation and certification.
181.7 Transmittal to the Congress.

Authority: 1 U.S.C. 112b; 22 U.S.C. 2658; 22 U.S.C. 3312.

§ 181.1 Purpose and Application.

(a) The purpose of this part is to implement the provisions of 1 U.S.C. 112b, popularly known as the Case-Zablocki Act (hereinafter referred to as the "Act"), on the reporting to Congress and coordination with the Secretary of State of international agreements of the United States other than treaties. This part applies to all agencies of the U.S. Government whose responsibilities include the negotiation and conclusion of international agreements. This part does not, however, affect any stricter requirements of law governing the relationship between particular agencies and the Secretary of State in connection with international negotiations and agreements, or any other requirements of law concerning the relationship between particular agencies and the Congress. The term "agency" as used in this part means each authority of the United States Government, whether or not it is within or subject to review by another agency.

(b) Pursuant to the key legal requirements of the Act—full and timely disclosure to the Congress of all concluded agreements and consultation by agencies with the Secretary of State with respect to proposed agreements—every agency of the Government is required to comply with each of the provisions set out in this part in implementation of the law. Nevertheless, this part is intended as a framework of measures and procedures which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this part will not affect the legal validity, under United States law or under international law, of agreements concluded, will not give rise to a cause of action, and will not affect any public or private rights established by such agreements.

§ 181.2 Criteria.

(a) *General.* The following criteria are to be applied in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Act, as well as within the meaning of 1 U.S.C. 112a, requiring the publication of international agreements. Each of the criteria except (5) must be met in order for any given undertaking of the United States to constitute an international agreement.

(1) *Intention of the parties to be bound under international law.* A party to an international agreement must be a state, a state agency, or an intergovernmental organization. The parties must intend their undertaking to be legally binding, and not merely of political or personal effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example of the latter is the Final Act of the Helsinki Conference on Cooperation and Security in Europe. In addition, the parties must intend their undertaking to be governed by international law, although a third-party dispute settlement mechanism is not a requirement, nor is any specific reference to international law.

In the absence of any provision in the agreement with respect to govening law, it will be presumed to be governed by international law. This presumption may be overcome by clear evidence, in the negotiating history of the agreement or otherwise, that the parties intended the agreement to be governed by another legal system. Arrangements governed solely by the law of the United States, or

one of the states or jurisdictions thereof, or by the law of any foreign state, are not international agreements for these purposes. For example, a foreign military sales contract governed in its entirety by the law of the District of Columbia is not an international agreement.

(2) *Significance of the arrangement.* Minor or trivial undertakings, even if couched in legal language and form, are not considered international agreements within the meaning of the Act or of 1 U.S.C. 112a. In deciding what level of significance must be reached before a particular arrangement becomes an international agreement, the entire context of the transaction and the expectations and intent of the parties must be taken into account. It is often a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to exchange all maps of a particular region to be produced over a period of years may be an international agreement. It remains a matter of judgment based on all of the circumstances of the transaction. Determinations are made pursuant to § 181.3 below.

Examples of arrangements that may constitute international agreements are agreements that: (a) are of political significance; (b) involve substantial grants of funds or loans by the United States or credits payable to the United States; (c) constitute a substantial commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations; (d) involve continuing and/or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment, or the pooling of data. On the other hand, individual research grants and contracts do not ordinarily constitute international agreements.

(3) *Specificity, including objective criteria for determining enforceability.* International agreements require a certain precision and specificity in the language setting forth the undertakings of the parties. Undertakings couched in vague or very general terms containing no objective criteria for determing enforceability or performance are not normally international agreements. Most frequently such terms reflect an intent not to be bound. For example, a promise to "help develop a more viable world economic system" lacks the specificity essential to constitute a legally binding international agreement. However, the intent of the parties is the key factor. Undertakings as general as those of, for example, Articles 55 and 56 of the United Nations Charter have been held to create internationally binding obligations intended as such by the parties.

(4) *Necessity for two or more parties.* While unilateral commitments on occasion may be legally binding, they do not constitute international agreements. For example, a statement by the President promising to send money to Country Y to assist earthquake victims would not be an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of international agreements. Care should be taken to examine whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Moreover, "consideration," as that term is used in domestic contract law, is not required for international agreements.

(5) *Form.* Form as such is not normally an important factor, but it does deserve consideration. Documents which do not follow the customary form for international agreements as to matters such as style, final clauses, signatures, or entry into force dates, may not be international agreements. Failure to use the customary form may constitute evidence of a lack of intent to be legally bound by the arrangement. If, however, the general content and context reveal an intention to enter into a legally binding relationship, the lack of proper form will not preclude the arrangement from being an international agreement.

Moreover, the title of the agreement will not be determinative. Decisions will be made on the basis of the substance of the arrangement, rather than on its denomination as an international agreement, a memorandum of understanding, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, or any other name.

(b) *Agency-Level Agreements.* Agency-level agreements are international agreements within the meaning of the Act and of 1 U.S.C. 112a if they satisfy the criteria discussed in paragraph (a) of this section. The fact that an agreement is concluded by and on behalf of a particular agency of the United States Government is not decisive. Determinations are made on the basis of the substance of the agency-level agreement in question.

(c) *Implementing Agreements.* An implementing agreement, if it satisfies the criteria discussed in paragraph (a) of this section, may be an international agreement, depending upon how precisely it is anticipated and identified in the underlying agreement it is designed to implement. If the terms of the implementing agreement are closely anticipated and identified in the underlying agreement, only the underlying agreement is considered an international agreement. For example, the underlying agreement might call for the sale by the Unied States of 1000 tractors, and a subsequent implementing agreement might require a first installment on this obligation by the sale of 100 tractors of the brand X variety. In that case, the implementing agreement is sufficiently identified in the underlying agreement, and would not itself be considered an international agreement within the meaning of the Act or of 1 U.S.C. 112a.

However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria of paragraph (a) of this section, the implementing agreement might well be an international agreement. For example, if the underlying agreement calls for the conclusion of "agreements for agricultural assistance," but without further specificity, then a particular agricultural assistance agreement subsequently concluded in "implementation" of that obligation, provided it meets the criteria discussed in paragraph (a) of this section, would constitute an international agreement independent of the underlying agreement.

(d) *Extensions and Modifications of Agreements.* If an undertaking constitutes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, then a subsequent extension or modification of such an agreement would itself constitute an international agreement within the meaning of the Act and of 1 U.S.C. 112a.

(e) *Oral Agreements.* Any oral arrangement that meets the criteria discussed in paragraphs (a)(1)–(4) of this section is an international agreement and, pursuant to section (a) of the Act, must be reduced to writing. In such written form, the arrangement is subject to all the requirements of the Act and of this part. Whenever a question arises whether an oral arrangement constitutes an international agreement, the arrangement shall be reduced to writing and the decision made in accordance with § 181.3 below.

§ 181.3 Determinations.

(a) Whether any undertaking, document, or set of documents constitutes or would constitute an international agreement within the meaning of the Act or of 1 U.S.C. 112a shall be determined by the Legal Adviser of the Department of State, acting through the Assistant Legal Adviser for Treaty Affairs. Such determinations shall be made either on a case-by-case basis, or on periodic consultation, as appropriate.

(b) Agencies whose responsibilities include the negotiation and conclusion of international agreements are responsible for transmitting to the Assistant Legal Adviser for Treaty Affairs, for decision pursuant to paragraph (a) of this section, the texts of any document or set of documents that might constitute an international agreement. The transmittal shall be made prior to or simultaneously with the request for consultations with the Secretary of State required by subsection (c) of the Act and § 181.4 of this part.

(c) Agencies whose responsibilities include the negotiation and conclusion of large numbers of agency-level and implementing arrangements at overseas posts, only a small number of which might constitute international agreements within the meaning of the Act and of 1 U.S.C. 112a, are required to transmit prior to thier entry into force only the texts of the more important of such arrangements for decision pursuant to paragraph (a) of this section. The texts of all arrangements that might constitute international agreements shall, however, be transmitted to the Office of the Assistant Legal Adviser for Treaty Affairs as soon as possible, and in no event to arrive at that office later than 20 days after their signing, for decision pursuant to paragraph (a) of this section.

(d) Agencies to which paragraphs (b) and (c) of this section apply shall consult periodically with the Assistant Legal Adviser for Treaty Affairs in order to determine which categories of arrangements for which they are responsible are likely to be international agreements within the meaning of the Act and of 1 U.S.C. 112a.

§ 181.4 Consultations with the Secretary of State.

(a) The Secretary of State is responsible, on behalf of the President, for ensuring that all proposed international agreements of the United States are fully consistent with United States foreign policy objectives. Except as provided in § 181.3(c) of this part, no agency of the U.S. Government may conclude an international agreement, whether entered into the name of the U.S. Government or in the name of the agency, without prior consultation with the Secretary of State or his designee.

(b) The opinion of the Secretary of State or his designee with respect to any proposed international agreement will be given pursuant to Department of State procedures set out in 11 *Foreign Affairs Manual* § 700 (Circular 175 procedure). Officers of the Department of State shall be responsible for the preparation of all documents required by the Circular 175 procedure.

(c) Pursuant to the Circular 175 procedure, opinions on proposed international agreements to be concluded in the name of the U.S. Government will be given either by the Secretary of State, the Deputy Secretary of State, or an Under-Secretary of State. Opinions on proposed international agreements to be concluded in the name of a particular agency of the U.S. Government will be given by the interested Assistant Secretary or Secretaries of State, or their designees, unless such official(s) judge that consultation with the Secretary, Deputy Secetary, or an Under Secretary is necessary. Opinions on proposed international agreements will normally be given within 20 days of receipt of the request for consultation and of the information as required by § 181.4(d)–(g).

(d) Any agency wishing to conclude an international agreement shall transmit to the interested bureau or office in the Department of State and to the Office of the Legal Adviser, for consultation pursuant to this section, a draft text or summary of the proposed agreement, a precise citation of the Constitutional, statutory, or treaty authority for such agreement, and other background information as requested by the Department of State. The transmittal of the draft text or summary and citation of legal authority shall be made before serious negotiations are undertaken, or if that is not feasible, as early as possible in the negotiating process. In any event such transmittals must be made no later than 50 days prior to the anticipated date for concluding the proposed agreement.

(e) If a proposed agreement embodies a commitment to furnish funds, goods, or services beyond or in addition to those authorized in an approved budget, the agency proposing the agreement shall state what arrangements have been planned or carried out concerning consultation with the Office of Management and Budget for such commitment. The Department of State should receive confirmation that the relevant budget approved by the President provides or requests funds adequate to fulfill the proposed commitment or that the President has made a determination to seek the required funds.

(f) Consultation may encompass a class of agreements rather than a particular agreement where a series of agreements of the same general type is contemplated; that is, a number of agreements to be negotiated according to a more or less stardard formula, such as, for example, Public Law 480 Agricultural Commodities Agreements.

Any agency wishing to conclude a particular agreement within a general class of agreements about which consultations have previously been held pursuant to this section shall transmit a draft text of the proposed agreement to the Office of the Legal Adviser as early as possible but in no event later than 20 days prior to the anticipated date for concluding the agreement.

(g) The consultation requirement shall be deemed to be satisfied with respect to proposed international agreements of the United States about which the Secretary of State (or his designee) is consulted in his capacity as a member of an interagency committee or council established by or pursuant to law for the purpose of approving such proposed agreements. Designees of the Secretary of State serving on any such interagency committee or council are to provide as soon as possible to the interested offices or bureaus of the Department of State and to the Office of the Legal Adviser copies of draft texts or summaries of such proposed agreements and other background information as requested.

(h) Before an agreement containing a foreign language text may be signed or otherwise concluded, a signed memorandum must be obtained from a responsible language officer of the Department of State or of the U.S. Government agency concerned certifying that the foreign language text and the English language text are in conformity with each other and that both texts have the same meaning in all substantive respects. The signed memorandum is to be made available to the Department of State as requested.

§ 181.5 Twenty-day Rule for Concluded Agreements.

(a) Any agency, including the Department of State, that concludes an international agreement within the

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meaning of the Act and of 1 U.S.C. 112a, whether entered into in the name of the U.S. Government or in the name of the agency, must transmit the text of the concluded agreement to the office of the Assistant Legal Adviser for Treaty Affairs as soon as possible and in no event to arrive at that office later than 20 days after the agreement has been signed. The 20-day limit, which is required by the Act, is essential for purposes of permitting the Department of State to meet its obligation under the Act to transmit concluded agreements to the Congress no later than 60 days after their entry into force.

(b) In any case of transmittal after the 20-day limit, the agency or Department of State office concerned shall provide to the Assistant Legal Adviser for Treaty Affairs a statement describing the reasons for the late transmittal. Any such statements will be used, as necessary, in the preparation of the annual report on late transmittals, to be signed by the President and transmitted to the Congress, as required by section (b) of the Act.

§ 181.6 Documentation and Certification.

(a) Transmittals of concluded agreements to the Assistant Legal Adviser for Treaty Affairs pursuant to § 181.5 above must include the signed or initiated original texts, together with all accompanying papers, such as agreed minutes, exchanges of notes, or side letters. The texts transmitted must be accurate, legible, and complete, and must include the texts of all languages in which the agreement was signed or initialed. Names and identities of the individuals signing or initialing the agreements, for the foreign government as well as for the United States, must, unless clearly evident in the texts transmitted, be separately spelled out.

(b) Agreements from overseas posts should be transmitted to the Department of State by priority airgram, marked for the attention of the Assistant Legal Adviser for Treaty Affairs, with the following notation below the enclosure line: FAIM: Please send attached original agreement to L/T on arrival.

(c) Where the original texts of concluded agreements are not available, certified copies must be transmitted in the same manner as original texts. A certified copy must be an exact copy of the signed original.

(d) When an exchange of diplomatic notes between the United States and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the United States to the foreign government, and the signed original of the note from the foreign government, must be transmitted. If, in conjunction with the agreement signed, other notes related thereto are exchanged (either at the same time, beforehand, or subsequently), properly certified copies of the notes from the United States to the foreign government must be transmitted with the signed originals of the notes from the foreign government.

(e) Copies may be certified either by a certification on the document itself, or by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or stamped, that the document is a true copy of the original signed or initialed by (insert full name of signing officer), and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed by (full name) and it is signed by the certifying officer.

§ 181.7 Transmittal to the Congress.

(a) International agreements other than treaties shall be transmitted by the Assistant Legal Adviser for Treaty Affairs to the President of the Senate and the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter.

(b) Classified agreements shall be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.

(c) The Assistant Legal Adviser for Treaty Affairs shall also transmit to the President of the Senate and to the Speaker of the House of Representatives background information to accompany each agreement reported under the Act. Background statements, while not expressly required by the Act, have been requested by the Congress and have become an integral part of the reporting requirement. Each background statement shall include information explaining the agreement, the negotiations, the effect of the agreement, and a precise citation of legal authority. At the request of the Assistant Legal Adviser for Treaty Affairs, each background statement is to be prepared in time for transmittal with the agreement it accompanies by the office most closely concerned with the agreement. Background statements for classified agreements are to be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.

(d) Pursuant to Section 12 of the Taiwan Relations Act (22 U.S.C. 3311), any agreement entered into between the American Institute in Taiwan and the governing authorities on Taiwan, or any agreement entered into between the Institute and an agency of the United States Government, shall be transmitted by the Assistant Secretary of State for Congressional Relations to the President of the Senate and to the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter. Classified agreements entered into by the Institute shall be transmitted by the Assistant Secretary for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.

Arthur W. Rovine,

Assistant Legal Adviser for Treaty Affairs.

[FR Doc. 80-35782 Filed 11-14-80; 8:45 am]
BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR 625

[FHWA Docket No. 80-2, Notice 3]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice regarding status of proposed rule.

SUMMARY: The FHWA is issuing this notice to provide information about the status of the rulemaking action on the design standards that apply to most highway projects eligible for funding under the Federal-aid highway program. It has been proposed that a new publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Geometric Design of Highways and Streets" be substituted for several existing publications now contained as references in 23 CFR Part 625.

FOR FURTHER INFORMATION CONTACT: Mr. Wilson B. Harkins, Highway Design Division, Office of Engineering, 202/426-0313, or Mr. Stan Abramson, Office of the Chief Counsel, 202/426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The standards, policies, and guides that have been approved by the FHWA for application on all Federal-aid highway projects are incorporated by reference in 23 CFR Part 625 (43 FR 14648, April 7, 1978). Those provisions that apply to roadway geometric design are listed in 23 CFR 625.3(a).

On February 14, 1980, the FHWA published a notice of proposed rulemaking (NPRM) at 45 FR 10236 requesting comments on proposed changes to the above geometric design standards. The changes would be based on the substitution of a proposed new AASHTO publication, "A Policy on Geometric Design of Highways and Streets" (Policy), for several of the existing documents now referenced in 23 CFR Part 625. As stated in the NPRM, the primary reasons for development of the new Policy document are: to incorporate the latest available research findings on design concepts; to provide for vehicle characteristics which have changed since the previous criteria were issued; to incorporate current practice; to eliminate material covered elsewhere; and to combine the criteria now contained in at least five different publications.

The FHWA extended the original 90-day comment period by 30 days (45 FR 34302, May 22, 1980) from May 14, 1980, to June 13, 1980, in order to provide interested parties additional time to respond to the NPRM. Sixty eight (68) comments were received. Since it is anticipated that the analysis of those comments now in progress and the subsequent coordination with AASHTO will be time consuming because of the complexity of some of the issues, this notice is being published to inform all interested parties of the current activities and proposed schedule for this rulemaking.

Some of the comments submitted to the docket dealt not with the technical matters of the standards, but with the procedures related to rulemaking under Executive Order (E.O.) 12044, Improving Government Regulations (43 FR 12661, March 24, 1978) and the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Some commenters felt the proposed rule should be classified as a significant regulation and that a regulatory analysis should be prepared in lieu of the less comprehensive regulatory evaluation prepared for the NPRM and published as part of it.

As indicated in that evaluation, it was the FHWA's opinion that the impact of the proposed revisions to the highway design standards would be minimal and therefore, that the NPRM contained a nonsignficant proposal under E.O. 12044. This determination was based primarily on the fact that although the Policy would contain a considerable amount of new material and an extensively reorganized format, the basic geometric criteria would remain essentially the same. In addition, it was brought out that much of the material in the Policy would not in fact be a policy or standard but would simply provide guidance for use at the discretion of the designers, and that in some instances the changes would be compensating in that application of the new criteria would result in essentially the same design as would have been achieved utilizing the old criteria.

Those commenters who disagreed with the FHWA's evaluation of the significance of the proposed revisions cited, as a primary concern, the broad application of the Policy and the changes which may be necessary but which are not addressed. Also enumerated were the physical size of the document, the several changes made in values for major design elements and the number of individuals, businesses and governmental agencies affected by the proposed Policy.

The FHWA has carefully evaluated the comments regarding the significance of the Policy and concedes that it is a major undertaking. However, the FHWA still believes the continued classification as a nonsignficant action to be appropriate. The basis for this determination is that the Policy is primarily an updating and consolidation of information and that the cost impact, when compared to currently applicable criteria, is not major or adverse. The FHWA does acknowledge that some additional changes may be needed in the future.

The FHWA shares the concerns expressed by these commenters who challenge retention of certain design criteria which are based on research performed several decades ago and which have not been re-evaluated in the intervening years. The criteria which could be affected by recent changes in the size of vehicles are of particular concern. Both the FHWA and the AASHTO have recognized this and have undertaken and are undertaking research in these critical areas to evaluate comments pertaining to debatable criteria and to identify future needs. The FHWA is committed to initiating the required research.

It is anticipated that the results of the research projects begun under this initiative, as well as the many research activities currently underway in this area, will be utilized in the development of proposed revisions to the geometric design standards adopted by the FHWA. It is also the FHWA's intention to share the results of this research with all interested parties and to encourage State and local highway agencies and the AASHTO to consider the incorporation of the proposed revisions into the standards that apply to highway projects undertaken without Federal funding. The FHWA will advise the AASHTO of the design values in question and indicate that the Policy will be considered interim subject to revision based on the results of research findings.

With regard to the current rulemaking action (FHWA Docket No. 80-2), the FHWA believes that the proposed Policy contains a great deal of valuable information which should be approved for use by highway designers as soon as possible. For this reason and the nonsignificant nature of the anticipated impacts discussed above, the FHWA intends to proceed with that action as originally proposed.

A tentative plan has been drawn to carry the NPRM from its current status to the final rule stage. The target dates noted below have been estimated for long range planning purposes:

1. The FHWA will categorize all comments into: (a) non-technical/editorial; (b) minor technical; (c) major technical; and (d) technical in need of new research.

2. Comments will be analyzed and the AASHTO will be notified of the FHWA's conclusions and recommendations. This processing of comments by FHWA is expected to be completed by the end of March 1981.

3. The review of the FHWA comments and modification of the proposed Policy by the AASHTO is expected to take until late in 1981. The FHWA anticipates receiving a preliminary revised Policy from the AASHTO early in 1982 and a formal submission by about August 1982.

4. Completion of the FHWA's review of the modified Policy and the preparation of the final rule documents are expected to take several weeks, making the issue date late September 1982.

5. If at the time of issuance of the final rule the Policy contains material not acceptable to the FHWA, such material will be noted and excluded and, as required, alternative criteria will be adopted for use on Federal-aid projects.

Consideration will also be given to providing an opportunity for the public to comment on the Policy adopted in the final rule. Those comments would then be used by the FHWA in evaluating the Policy after its adoption and in planning additional research activities.

All correspondence between the FHWA and the AASHTO relating to this

rulemaking action, including, but not limited to, the FHWA's recommendations on the proposed Policy and the AASHTO's response, will be placed in the public docket and made available to all interested parties on request.

(23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: November 12, 1980.

John S. Hassell, Jr.

Federal Highway Administrator.

[FR Doc. 80-35644 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-65-75]

Payments to Foreign Countries for Oil and Gas That Are Not Considered Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to payments to foreign countries for oil and gas that are not considered taxes. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. The regulations would provide the public with the guidance needed to comply with that Act. The regulations would affect all taxpayers who claim a foreign tax credit by reason of tax payments to a foreign country with respect to the purchase or sale of oil or gas extracted in that country.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 16, 1981. The amendments are proposed to be effective generally for taxable years ending after December 31, 1974.

ADDRESSES: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–65–75), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald K. Duffy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202–566–4336, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 901(f) of the Internal Revenue Code of 1954, as added by section 601(b) of the Tax Reduction Act of 1975 (89 Stat. 57). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Denial of Foreign Tax Credit

Section 901(f) denies, under certain conditions, a foreign tax credit for any payment made to a foreign country in connection with the purchase or sale of oil or gas extracted in that country. The section does not apply if either the taxpayer has an economic interest in the oil or gas or the taxpayer purchased and sold the oil or gas at fair market value.

Definitions and Rules

The proposed regulations define the presence of an economic interest in oil or gas and the fair market value of oil or gas. The regulations also provide rules for determining the amount of foreign taxes paid or accrued in connection with the purchase or sale of oil or gas.

Deemed-Paid Foreign Tax Credit

The proposed regulations provide rules for applying section 901(f) to the deemed-paid foreign tax credit under sections 902 and 960. The regulations provide that the economic interest criteria and the fair market value criteria are applied to the foreign corporation that pays the taxes to the foreign country.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Donald K. Duffy of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. The following new section is added immediately after § 1.901–3:

§ 1.901–4 Certain payments for oil or gas not considered as taxes.

(a) *In general*—(1) *Condition of operation.* This section prescribes rules for determining under section 901(f) when amounts of "foreign oil taxes" are not considered taxes for purposes of sections 275 and 901. Section 901(f) applies if the following four conditions exist:

(i) The taxpayer purchases or sells oil or gas that was extracted in a foreign country.

(ii) The taxpayer pays or accrues foreign income taxes to that foreign country.

(iii) The taxpayer did not have an economic interest in the oil or gas in place.

(iv) Either the "stipulated contract price" or the "adjusted transfer price" of the oil or gas is not the fair market value of the oil or gas at the time it is purchased or sold.

(2) *Effect.* If section 901(f) applies, no credit is available to a taxpayer for any foreign oil taxes paid or accrued to the foreign country where the oil or gas is extracted. Paragraph (c) of this section provides for the computation of foreign oil taxes.

(3) *Effective date.* Section 901(f) and this section apply to foreign oil taxes paid or accrued in taxable years ending after December 31, 1974.

(4) *Deduction of amounts denied credit under section 901(f).* Any amount not considered a tax by reason of section 901(f) is also not treated as an amount to which section 275(a)(4) applies.

(5) *Other rules.* Section 901(f) does not prevent the Secretary from determining for other reasons that foreign oil taxes do not qualify as foreign income taxes for purposes of section 901(a).

(b) *Definitions.* For purposes of this section—

(1) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes paid or accrued to a foreign country.

(2) *Foreign oil taxes.* The term "foreign oil taxes" means foreign income taxes paid or accrued to a foreign country in connection with a taxpayer's purchase or sale of oil or gas.

(3) *Economic interest.* The term "economic interest" means an economic interest as defined in § 1.611–1(b)(1), whether or not a deduction for depletion is allowable under section 611.

(4) *Fair market value.* (i) The term "fair market value" means the arm's length price determined, generally, by applying the principles under section 482, regardless of whether the parties to the transaction are related to each other. The appropriate method of pricing, and whether a particular principle under section 482 applies, depend on all the facts and circumstances as they exist relative to a party in any particular case. The factors that may be taken into account include the particular foreign country in which the oil or gas is extracted, the time of the year in which the particular purchase or sale occurs, the amount of oil or gas involved in any particular transaction, the duration of the contract to purchase or sell oil or gas, the type or grade of the oil or gas, and the relative negotiating positions of the parties involved.

(ii) The stipulated contract price between unrelated parties is not necessarily determinative of an arm's length price. The stipulated contract price is not determinative if, for example, the seller is a foreign country and the purchaser (or a related person) is subject to any taxes by that country. Further, the stipulated contract price in a transaction between unrelated parties may not be an arm's length price if the parties are both subject to tax by the foreign country where the oil or gas is extracted or if the price is in accordance with a system of posted prices or any other artificial pricing arrangement.

(5) *Stipulated contract price.* The term "stipulated contract price" of oil or gas is the price contracted for by the parties determined by adding, to any consideration in cash (of its equivalent), any other consideration accorded to the seller (or a related person) by the purchaser (or a related person) under the agreement. This other consideration may include discounts for prompt payment, discounts to reimburse the purchaser for prior or current capital investments or services rendered, and promises to make cash payments.

(6) *Adjusted transfer price.* (i) The term "adjusted transfer price" means the stipulated contract price adjusted to reflect the amount by which any consideration accorded to the purchaser (or a related person) or seller (or a related person) by the other party (or a related person) differs from an arm's length charge for the activity or property for which the consideration is accorded. This consideration includes other consideration described in paragraph (b)(5) of this section as well as consideration for any activity or property that is not covered in the contract described in that paragraph (b)(5).

(ii) The amount by which consideration differs from an arm's length charge is determined by applying the principles of § 1.482–2 subject to the following qualifications: The safe haven rules for loans and advances described in § 1.482–2(a)(2)(iii) and (iv) do not apply. An appropriate profit element must always be taken into account. All parties to any transaction are treated as if related to each other. The principles of paragraph (b)(4)(ii) of this section apply.

(iii) Consideration includes services rendered, materials supplied, the use of property or money, and discounts. Consideration also includes any economic benefit for transactions that took place prior to the effective date of section 901(f).

(7) *Illustrations.* The application of paragraph (b)(5) and (6) of this section may be illustrated by the following examples:

Example (1). Foreign country A and oil company X enter into an agreement which provides that X will receive 10,000,000 barrels of oil in exchange for the construction of a government-owned apartment complex. Assume that A and X value the oil for purposes of X's tax liability to A at $12.00 per barrel. Assume further that the arm's length amount for the construction services under paragraph (b)(6)(ii) of this section is $110,000,000, or $11.00 per barrel (*i.e.*, $110,000,000 divided by 10,000,000 barrels). The stipulated contract price is the value A and X place on the oil received by X, $12.00 per barrel. The adjusted transfer price is $11.00 per barrel, *i.e.*, the stipulated contract price ($12.00 per barrel), minus the non-arm's length amount for the construction services ($1.00 per barrel).

Example (2). Foreign country B and oil company Y enter into an agreement which provides that B will sell oil to Y at $10.00 per barrel. The agreement also provides that Y will provide transportation services for B's oil in exchange for a discount of $1.00 per barrel purchased. Under paragraph (b)(6)(ii) of this section, the arm's length charge for these services is $2.00 per barrel purchased. The stipulated contract price is $10.00 per barrel, *i.e.*, $9.00 per barrel cash payment plus $1.00 per barrel other consideration. The adjusted transfer price is $11.00 per barrel *i.e.*, the stipulated contract price ($10.00 per barrel), plus the non-arm's length amount with respect to the transportation services ($1.00 per barrel).

Example (3). (a) Foreign country C and oil company Z enter into an agreement which provides that C will sell 10,000,000 barrels of oil to Z at $10.00 per barrel. The agreement also provides that Z will provide extraction and transportation services for C's oil in exchange for a discount of $2.00 per barrel purchased. Z and C also have a separate agreement which provides that Z will supply personnel and technical expertise to C for the construction and operation of a government-owned tractor replacement-parts factory. C agrees to pay Z $14 million for these services. Under paragraph (b)(6)(ii) of this section, the arm's length charge is $1.00 per barrel for the extraction and transportation services and $34 million for the other services provided by Z.

(b) The stipulated contract price is $10.00 per barrel (*i.e.*, $8.00 cash payment plus $2.00 per barrel other consideration for extraction and transportation services).

(c) The adjusted transfer price is $11.00 per barrel, determined as follows:

(*1*) The stipulated contract price ($10.00 per barrel), minus

(*2*) The non-arm's length amount with respect to extraction and transportation services ($1.00 per barrel, *i.e.*, $2.00 per barrel discount under the agreement minus $1.00 per barrel arm's length charge), plus

(*3*) The non-arm's length amount with respect to the consideration under the separate agreement ($2.00 per barrel), *i.e.*, $34 million minus $14 million divided by 10,000,000 barrels.

(d) The result would be the same if Z formed a subsidiary to supply the personnel and technical expertise to C.

(8) *Effect of foreign taxes.* The arm's length price, the stipulated contract price, and the adjusted transfer price are each determined without regard to any foreign taxes. For example, if pursuant to a contract a person purchases oil within foreign country X at a price of $8.00 per barrel, subject to an obligation to pay X a tax of $2.00 per barrel upon a later sale of that oil, the stipulated contract price of the oil is $8.00 per barrel.

(9) *Related person.* A person is related to another person if both are includible within a group of controlled taxpayers, as defined in § 1.482–1 (a).

(10) *Foreign country.* The term "foreign country" includes the government of a foreign country, and an agency of, or an entity controlled by, a foreign government.

(c) *Amount of foreign oil taxes*—(1) *In general.* For purposes of this section, the amount of foreign oil taxes attributable to a purchase or sale of oil or gas is determined in accordance with the principles of the first and last sentences of § 1.901–3(a)(2)(i), subject to the qualifications set forth in paragraphs (c)(2), (c)(3), and (c)(4) of this section.

(2) *Certain taxes.* Taxes deemed paid under section 902 and taxes paid to possessions of the United States are not taken into account.

(3) *Substitution of term.* The term "income with respect to the purchase or sale of oil or gas extracted in a foreign country" is used in place of the term "foreign mineral income".

(4) *Income subject to tax.* The amount of income subject to tax by a foreign

country is determined under its tax law, except that the amount must be adjusted to reflect the amount by which actual consideration differs from an arm's length charge, as determined under paragraph (b)(6)(ii) of this section.

(d) *Application of section 901(f) to foreign subsidiary of domestic corporation.* This paragraph (d) applies to a domestic corporation that is deemed under section 902 or 960 to have paid foreign oil taxes of a foreign corporation. In order to determine whether the taxes deemed paid by the domestic corporation are not to be considered taxes by reason of section 901(f), paragraphs (a) through (c) of this section apply to the foreign corporation that pays foreign oil taxes. However, section 901(f) applies only to taxes paid or accrued in a taxable year of the foreign corporation ending after December 31, 1974.

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). (a) X is a domestic corporation which carries on all of its operations in foreign country A. X uses the calendar year as its taxable year. X does not have an economic interest in oil that it extracts in A. The oil is owned by A and X and A enter into an agreement which provides as follows:

(*1*) X will extract 10,000,000 barrels of oil in A.

(*2*) A will sell this oil to X for $12.50 per barrel.

(*3*) A will give X a discount of $.20 per barrel in return for the extraction services provided by X.

X and A enter into a separate agreement which provides that X will undertake to construct a television station for A. It costs X $1,500,000 to construct the television station. In return for the facility, A pays X $4,500,000. X transfers the oil that it extracts to its refining subsidiary at $13.00 per barrel.

(b) Assume the following additional facts:

(*1*) The fair market value of the oil at the time X purchases it from A is $12.00 per barrel.

(2) The fair market value of X's extraction services is $2,000,000 (or $.20 per barrel). The cost of these services to X is $.05 per barrel.

(*3*) The Fair market value of constructing the television station is $2,000,000.

(*4*) The fair market value of the oil at the time X transfers it to its refining subsidiary is $13.00 per barrel.

(*5*) A's income tax rate is 75 percent on oil transactions and 50 percent on other transactions. Thus, X pays A $6,375,000 in taxes, *i.e.*, the sum of $4,875,000 on the oil transaction [75% x 10,000,000 x ($13 − $12.50) + [$.20 − $.05)] and $1,500,000 on the television station construction [50% x ($4,500,000 − $1,500,000)].

(c) under paragraph (b) (5) of this section, the stipulated contract price of the oil sold by A to X is $12.50 per barrel, *i.e.*, $12.30 per barrel cash payment plus $.20 per barrel consideration in lieu of cash payment.

(d) Under paragraph (b) (6) of this section, the adjustment for the receipt of non-arm's length compensation is $.25 per barrel, *i.e.*, $4,500,000 contract price for the station minus $2,000,000 fair market value, divided by 10,000,000 barrels. Thus, the adjusted transfer price of the oil sold by A to X is $12.25 per barrel, *i.e.*, $12.50 stipulated contract price minus $.25 adjustment.

(e) Under paragraph (a) (1) (iv) of this section, as long as at least one of the two prices (stipulated contract price or adjusted transfer price) is not the fair market value, section 901 (f) applies. In this example, neither price equals the fair market value and thus section 901 (f) applies. No foreign tax credit may be claimed by X for foreign oil taxes paid or accrued with respect to its purchase and sale of the 10,000,000 barrels of oil.

(f) Under paragraph (c) of this sections the amount of foreign oil taxes denied creditability is computed as follows:

Step (1) Amount under § 1.901–3(a)(2)(i)(*a*), as modified by paragraph (c) of this section:

(i) Total taxes paid to A (see paragraph (b) (5) of this example)		$6,375,000
(ii) Taxes paid to A without regard to purchase and sale of oil:		
(A) Oil extraction: ($.20 − .05) x 10,000,000 barrels + 75%	$1,125,000	
(B) Television station construction: [$2,000,000 (fair market value of constructing station—see paragraph (c) (4) of this section) − $1,500,000] x 50%	$250,000	$1,375,000
		5,000,000

Step (2) Amount under § 1.901–3 (a) (2) (i) (*b*) as modified by paragraph (c) of this section:

[$13.00 − (adjusted transfer price—see paragraph (d) of this example)] x 10,000,000 barrels x 75%	$5,625,000

Step (3) The amount of tax paid with respect to X's pruchase and sale of the oil is $5,625,000, *i.e.*, the greater of the amounts determined in step (1) or (2).

(g) Thus, of the $6,375,000 in taxes paid by x to A, section 901 (f) precludes treating $5,625,000 as foreign income taxes for purposes of sections 901 and 275 (a).

Example (2). (a) Y is a domestic corporation which carries on all of its operations in foreign country B. Y and B enter into an agreement which provides that Y will construct a hotel for B in exchange for 10,000,000 barrels of oil.

(b) Assume the following additional facts:

(*1*) The fair market value of the oil at the time Y receives it is $10.00 per barrel.

(*2*) The fair market value of constructing the hotel is $100,000,000. The cost of these services to Y is $20,000,000.

(*3*) B values the oil at $14.00 per barrel and imposes a tax on Y with respect to all its income at the rate of 50 percent.

(*4*) Y pays B $60,000,000 in taxes, *i.e.*, 50% × [10,000,000 barrels × $14.00] − [$20,000,000)].

(*5*) Y does not have an economic interest in the oil and does not sell the oil in country B.

(c) The stipulated contract price under paragraph (b)(5) of this section is $14.00 per barrel. Under paragraph (b)(6)(i) of this section, the adjusted transfer price is $10.00 per barrel.

(d) The four conditions of paragraph (a)(1) of this section are met and hence section 901(f) applies. The section applies even though no foreign taxes are imposed in connection with a sale of the oil in B.

(e) Under paragraph (c) of this section, the amount of foreign oil taxes denied creditability is computed as follows:

Step (1) Amount under § 1.901–3(a)(2)(i)(*a*), as amended modified by paragraph (c) of this section:

(i) Total taxes paid to B (see paragraph (b)(4) of this example)		$60,000,000
(ii) Taxes paid to B under arm's length amounts: [$100,000,000 (fair market value of constructing the hotel—see paragraph (c)(4) of this section—20,000,000] × 50%	40,000,000	
		20,000,000

Step (2) Amount under § 1.901–3(a)(2)(i)(*b*), as modified by paragraph (c) of this section:

[$14.00 − $10.00 (adjusted transfer price—see paragraph (c) of this example)] × 10,000,000 barrels × 50%	$20,000,000

Step (3) The amount of tax paid in connection with Y's purchase of oil is $20,000,000.

Example (3). (a) R and S are unrelated domestic corporations. R extracts oil in foreign country C under the terms of an exclusive, long-term concession agreement entered into in 1965. Under the terms of the agreement, R must sell the oil it extracts at a posted price within C. However, R is unable to dispose of all the oil it extracts. In 1970, R enters into a long-term agreement to sell 15 percent of the oil it extracts in C to S. C permits R to sell the oil to S below the posted and fair market value prices at a price which approximates R's production costs, royalties paid to C, and a small profit (which is subject to tax by C). S then sells within C, at the posted price, the oil it purchased from R. S pays income tax to C on the amount by which the posted price exceeds the price it paid to R.

(b) Since S does not have an economic interest in the oil in place and the purchase of the oil by S from R was made at a price which was below the fair market value of the oil at the time R and S entered their contract, S may not claim a credit for foreign oil taxes paid to C. The result would be the same if the sale from R to S were made at fair market value and the posted price at which S resold the oil differed from the fair market value at the time of resale.

§ 1.164–2 [Amended]

Par. 2. Section 1.164–2(d) is amended by deleting the word "Income" in the first sentence and inserting in its place the phrase "Except as provided in section 901(f), income".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-35775 Filed 11-12-80; 3:59 pm]

BILLING CODE 4830-01-M

26 CFR Part 1

LR–100–78

Creditability of Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to the creditability of foreign taxes. The temporary regulations also serve as a notice of proposed rulemaking for final income tax regulations.

DATES: Written comments and requests for a public hearing must be delivered or mailed before January 16, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–100–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Daniel Horowitz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–100–78), 202–566–3289.

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add a new Part 4, Temporary Regulations Relating to the Creditability of Foreign Taxes, to Title 26 of the Code of Federal Regulations. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR Part 1.

For the text of the temporary regulations, see FR Doc. 80–35777 [T.D. 7739] published in the Rules and Regulation portion of this issue of the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting as final regulations the temporary and proposed regulations referred to in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Lester Stein,

Deputy Chief Counsel (Technical).

[FR Doc. 80-35778 Filed 11-12-80; 3:59 pm]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR–70–75]

Limitation on Foreign Tax Credit for Foreign Oil and Gas Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the limitation on the foreign tax credit with respect to taxes paid on foreign oil related income. Changes to the applicable tax law were made by the Tax Reduction Act of 1975, the Tax Reform Act of 1976, and the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with these Acts and would affect all taxpayers claiming a foreign tax credit for taxes paid with respect to foreign oil related income.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 16, 1981. The amendments are proposed to be effective for taxable years ending after December 31, 1974, unless otherwise indicated.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald K. Duffy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–4336, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 907 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 601(a) of the Tax Reduction Act of 1975 (89 Stat. 54), section 1035 of the Tax Reform Act of 1976 (90 Stat. 1630), and section 301(b)(14) of the Revenue Act of 1978 (92 Stat. 2822), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Individuals

Certain general provisions of these proposed regulations apply to individuals. However, certain other provisions which apply only to individuals are reserved and will be proposed on a later date.

Tax Reduction Act of 1975

Section 907(a) limits the foreign tax credit otherwise allowed for taxes paid on foreign oil and gas extraction income (FOGEI). The taxes subject to the 907(a) limitation must in the first instance be creditable under section 901 and not disallowed by section 901(f) (relating to certain payments for oil or gas not considered as taxes). This limit is a certain percentage of FOGEI. Under the Act, for taxable years ending in 1975 and 1976, the applicable percentages are 52.8 percent and 50.4 percent, respectively. For taxable years ending after 1976, the percentage was 50 percent.

Section 907(b) creates a separate limitation under 904 for foreign oil related income (FORI). In addition to FOGEI, FORI includes income from processing, transporting and distributing oil or gas, the gain from the sale or exchange of assets used in these activities, and certain dividends, interest, and partnership distributive shares attributable to FORI.

Section 907 is essentially a separate section 904 limitation for FORI. The FOGEI taxes in excess of the section 904 limitation but below the section 907 limitation can be used to offset U.S. tax liability on FORI other than FOGEI. After applying the section 907 limitation to the taxes paid with respect to FORI, the ordinary section 904 limitation calculations are made.

Tax Reform Act of 1976

The Tax Reform Act made two important changes. First, for taxable years ending after 1976 the maximum amount of creditable taxes on FOGEI was reduced by 2 percent of FOGEI, *i.e.*, from 50 percent (under the Tax Reduction Act of 1975) of FOGEI to 48 percent (sum of the normal tax and surtax rates). Second, under section 907(f), this 2 percent of FOGEI can generally be carried back or over to other taxable years.

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Revenue Act of 1978

The Revenue Act made an additional change. The limitation percentage for corporations for taxable years beginning after December 31, 1978, is the highest corporate rate specified in section 11(b), presently 46 percent.

Definition of FOGEI and FORI

Section 907(c) (1), (2), and (3) define the classes of income considered to be FOGEI and FORI. The proposed regulations describe the situations where the extraction of minerals by persons other than the taxpayer is considered FOGEI with respect to the taxpayer. Rules are provided also for determining which dividends, interest, subpart F amounts, and partnership distributive shares included in the gross income of a taxpayer are considered FOGEI or FORI. Other key terms in these sections, such as "minerals", "transportation", and "assets used in a trade or business" are defined in the proposed regulations. Transportation income may include income from the performance of certain transportation services under the principles of proposed § 1.954–6(d) (relating to foreign base company shipping income) whether or not the services are performed for a related party. Proposed § 1.954–6(d) was published in the **Federal Register** on August 9, 1976 (41 FR 33292). In addition, references to § 1.901–4 relate to proposed regulations under section 901 (f), published on November 17, 1980.

Net Operating Losses

Section 907(c)(4) provides that certain losses are disregarded when computing FOGEI. Special rules are provided in the proposed regulations for computing net operating losses with respect to extraction operations in particular countries.

Oil and Gas Extraction Taxes

The definition of "oil and gas extraction taxes" is referred to in the propsed regulations as "FOGEI taxes." These taxes include taxes paid to possessions of the United States in certain circumstances. Also, the proposed regulations make clear that section 907 applies only to foreign taxes that are creditable under section 901 in the first instance. Thus, section 907 does not contain an implicit statement by Congress that all FOGEI taxes are creditable foreign taxes rather than royalties.

Posted Prices

The proposed regulations under section 907(d) provide rules for computing FOGEI when oil or gas is purschased or sold at a posted price that differs from the fair market value. The proposed rules allow taxpayers initially to make section 907(d) adjustments. If the initial adjustment is not properly made, they explain the subsequent procedures the Internal Revenue Service will follow.

Transitional Rules

The proposed regulations contain rules for determining the carryovers of taxes with respect to FORI ("FORI taxes") from taxable years preceding the enactment of section 907 to taxable years after enactment. The proposed regulations prohibit the carryback of FORI taxes to taxable years ending before January 1, 1975.

Carryback and Carryover of FOGEI Taxes

Section 907(f), as previously discussed, allows a carryover or carryback of disallowed FOGEI taxes equal to 2 percent of FOGEI. This section applies to FOGEI taxes paid or accrued in taxable years ending after October 4, 1976. The 2-percent limitation does not apply to unused FOGEI taxes carried to taxable years ending in 1975, 1976, or 1977. Unused FOGEI taxes cannot be carried back to a taxable year ending before January 1, 1975. The proposed regulations provide guidance to taxpayers in computing these carrybacks and carryovers. An example is provided to illustrate the complex interrelationship of carryovers and carrybacks of unused FORI and FOGEI taxes.

Western Hemisphere Trade Corporations and Production Sharing Contracts

There are no proposed regulations under section 907(g), relating to Western Hemisphere Trade Corporations that are members of an affiliated group, and section 1035(c) of the Tax Reform Act of 1976, as amended by section 701(u)(9) of the Revenue Act of 1978, relating to the foreign tax credit for certain production-sharing contracts. Regulations under these two provisions will not be proposed because of the small number of taxpayers affected by the provisions.

Conforming Amendments

A series of amendments to the regulations are proposed in order to conform the regulations under other sections of the Code to the changes made by section 907.

Comments and Requests For a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. if a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Donald K. Duffy, of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. There are added immediately after § 1.905–5 the following new sections:

§ 1.907–0 Introduction.

(a) *Key terms.* For purposes of the regulations under section 907—

(1) "FORGEI" means foreign oil and gas extraction income.

(2) "FORI" means foreign oil related income.

(3) "FOGEI taxes" mean foreign oil and gas extraction taxes.

(4) "FORI taxes" mean foreign oil related taxes.

(b) *FOGEI tax limitation.* Section 907(a) limits the foreign tax credit for taxes paid or accrued on FOGEI. The limit is a certain percentage of FOGEI. See § 1.907(a)–1.

(c) *Section 904 limitation.* Section 907(b) creates a separate limitation under section 904 for a taxpayer's FORI. FORI taxes (after any reduction under section 907(a)) may not be used as credits against the taxes imposed on income other than FORI. The separate FORI limitation applies even though a taxpayer may not have any FOGEI. See §§ 1.907(b)–1 and 1.907(b)–2.

(d) *FOGEI and FORI.* FOGEI includes the income from the extraction of minerals from oil or gas wells by a taxpayer (or another person) and from the sale or exchange of assets used in the extraction business. FORI included FOGEI, as well as income from processing, transporting, and distributing minerals, and gain from the sale or exchange of assets used in these activities. FOGEI and FORI may also include certain dividends, interest, or

amounts described in section 951(a). See §§ 1.907(c)–1 through 1.907(c)–3.

(e) *Posted prices.* Certain sales prices are disregarded when computing FOGEI for purposes of chapter 1 of the Code. See § 1.907(d)–1.

(f) *Transitional rules.* Section 907(e) provides rules for the carryover of unused FORI taxes from taxable years ending before January 1, 1975. Transitional rules also apply to carrybacks and carryovers of certain taxpayers that changed from the per-country to the overall limitation. See § 1.907(e)–1.

(g) *Section 907(f) carrybacks and carryovers.* Certain FOGEI taxes disallowed under section 907(a) may be carried back or over to other taxable years. These FOGEI taxes may be absorbed in another taxable year to the extent of the lesser of a separate excess extraction limitation or a separate excess oil related limitation for that year.

(h) *Cross-references.* (1) See section 907(g) for rules relating to Western Hemisphere Trade Corporations that are members of an affiliated group.

(2) See section 1035(c) of the Tax Reform Act of 1976, as amended by section 701(u)(9) of the Revenue Act of 1978, for rules relating to the foreign tax credit for certain production-sharing contracts.

(i) *Statutes covered.* The regulations under section 907 are issued as a result of the enactment of section 601 by the Tax Reduction Act of 1975, of section 1035 by the Tax Reform Act of 1976, and of section 301(b)(14) of the Revenue Act of 1978. These regulations do not cover certain provisions relating to taxpayers other than corporations. See section 701(u)(8) of the Revenue Act of 1978 which amended section 907 (a) and (b).

§ 1.907(a)–1 Reduction in taxes paid on FOGEI.

(a) *Amount of reduction.* FOGEI taxes are reduced by the amount by which they exceed a limitation level (as defined in paragraph (c) of this section). This rule applies to taxable years ending after December 31, 1974. If the per-country limitation under section 904(a)(1) (as in effect prior to the Tax Reform Act of 1976) applies for a taxable year ending before January 1, 1976, the reduction is applied separately with respect to each foreign country or possession for that year.

(b) *Foreign taxes paid or accrued.* For purposes of the regulations under section 907—

(1) *Foreign taxes.* The term "foreign taxes" means income, war profits, or excess profits taxes of foreign countries or possessions of the United States otherwise creditable under section 901.

(2) *Foreign taxes paid or accrued.* The terms "foreign taxes paid or accrued," "FOGEI taxes paid or accrued," and "FORI taxes paid or accrued" include foreign taxes deemed paid under sections 902 and 960. Unless otherwise expressly provided, these terms do not include foreign taxes deemed paid by reason of sections 904(c) and 907(f). See § 1.907(b)–2(d) for the treatment of FOGEI taxes that may be deemed paid under section 904(c).

(c) *Limitation level*—(1) *In general.* The limitation level is FOGEI for the taxable year multiplied by the limitation percentage for that year.

(2) *Limitation percentage for corporations.* A corporation's limitation percentage is—

(i) For its taxable years ending in 1975 and 1976, 52.8 percent and 50.4 percent, respectively.

(ii) For its taxable years ending after 1976, and beginning before January 1, 1979, the percentage is the sum of the normal tax and surtax rates specified in section 11 for that taxable year.

(iii) For any other taxable year, the percentage is the highest rate of tax specified in section 11(b) for the particular year.

(3) *Limitation percentage for noncorporate taxpayers.* [Reserved]

(4) *Losses*—(i) *Net operating loss.* Certain net operating losses are disregarded in computing FOGEI for purposes of the regulations under section 907. See section 907(c)(4).

(ii) *Certain foreign losses.* Section 904(f) is not a limitation on section 907(a). This rule applies even though a portion of a taxpayer's FOGEI may be treated as income from sources within the United States under section 904(f)(1) for purposes of the separate application of section 904 with respect to FORI.

(5) *Priority.* Section 907(a) applies before section 908, relating to reduction of credit for participation in or cooperation with an international boycott.

(d) *Illustrations.* Paragraphs (a) through (c) of this section are illustrated by the following examples:

Example (1). M, a domestic corporation, uses the calendar year as its taxable year. For each taxable year involved, the overall limitation under section 904(a) is used. M has FOGEI derived from operations in foreign countries, with respect to which it has paid or accrued foreign taxes, and no other income (or loss). The sum of the normal tax rate and the surtax rate specified in section 11 for the taxable year ending in 1977 is 48 percent. To determine the amount of M's foreign taxes allowable as a credit under section 901(a), the FOGEI taxes must be reduced for each of those taxable years in accordance with the additional facts assumed in the table below:

	1975	1976	1977
(1) FOGEI	$2,000	$2,000	$2,000
(2) Multiply by limitation percentage	52.8	50.4	48
(3) Limitation level	1,056	1,008	960
(4) FOGEI taxes	1,150	1,150	1,150
(5) Amount of reduction (line (4) minus line (3))	94	142	190

Example (2). Assume that same facts as in example (1), except that $1,000 of M's FOGEI is derived from sources within foreign country X and $1,000 of M's FOGEI is derived from sources within foreign country Y. M does not elect the overall limitation for 1975. The FOGEI taxes must be reduced as follows for 1975:

	Country X	Country Y
(1) FOGEI from sources within foreign country	$1,000	$1,000
(2) Multiply by limitation percentage	52.8	52.8
(3) Limitation level	528	528
(4) FOGEI taxes	450	700
(5) Amount of reduction (line (4) less line (3))		172

Example (3). Assume the same facts as in example (2), except that M elects the overall limitation. Based on the additional facts assumed in the table below, M's FOGEI, FOGEI taxes, and reduction of tax are as follows for 1975:

(1) Loss sustained under U.S. concepts from extraction operations in country Z	$(100)
(2) Income derived from extraction operations in country Z under Z's tax concepts	400
(3) Foreign taxes paid to country Z with respect to extraction operations	200
(4) FOGEI (line (1) of example (2) for countries X and Y disregarding loss on line (1) in accordance with section 907(c)(4))	2,000
(5) Limitation level (line (4) X 52.8%)	1,056
(6) FOGEI taxes (line (4) of example (2) for countries X and Y + line (3))	1,350
(7) Amount of reduction (line (6) less line (5))	294

(e) *Effect on other provisions.* (1) *Deduction denied.* No deduction is allowed for the amount of the FOGEI taxes that exceed a taxpayer's limitation level for the taxable year. See section 275(a)(4). Thus, FOGEI taxes disallowed under section 907(a) are not added to the cost or inventory amount of oil or gas.

(2) *Reduction inapplicable.* The reduction under section 907(a) does not apply to a taxpayer that deducts foreign taxes and does not claim the benefits of section 901 for a taxable year.

(3) *Section 78 dividend.* The reduction under section 907(a) has no effect on the amount of foreign taxes that are treated as dividends under section 78.

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§ 1.907(b)–1 Application of section 904 limitation with respect to FORI.

(a) *In general.* Section 907(b) applies to taxable years ending after December 31, 1974. Under sections 907(b) and 904(d), the provisions of section 904 apply as a separate limitation (whether per-country or overall) with respect to each of the following classes of income:

(1) FORI (as defined in §§ 1.907 (c)–1 and 1.907 (c)–2);

(2) Section 904 (d) interest (as defined in § 1.904–4 (a)(2));

(3) Section 904 (d) dividends (as defined in § 1.904–5 (a)(2)); and

(4) Other income.

(b) *Overall limitation.* Only the overall limitation applies to FORI for taxable years ending after December 31, 1975.

(c) *FORI taxes.* FORI taxes paid or accrued are determined under the principles of § 1.907 (c)–3.

§ 1.907 (b)–2 FORI tax carryovers and carrybacks.

(a) *Modifications in use of § 1.904–2.* The rules set forth in this section modify the application of § 1.904–2 when that section is used in conjunction with this section.

(b) *Unused foreign tax*—(1) *General rule.* The "unused foreign tax" with respect to FORI ("unused FORI tax") is the excess of FORI taxes (after any reduction under section 907 (a)) over the separate limitation with respect to FORI.

(2) *Per-country limitation year.* For any taxable year ending before January 1, 1976, to which the per-country limitation applies, the unused FORI tax and separate FORI limitation are determined separately for each foreign country or possesion.

(c) *Tax deemed paid or accrued with respect to FORI.* The amount of any unused FORI tax that is carried from any taxable year ("year of origin") and deemed paid or accrued in any other taxable year ("excess limitation year") is the lesser of—

(1) The unused FORI tax (determined under paragraph (d) of this section) available to be carried to the excess limitation year or

(2) The excess FORI limitation (determined under paragraph (e) of this section) for the excess limitation year.

(d) *Effect of FOGEI taxes on carryover.* If FOGEI taxes are included in FORI taxes in a year of origin, the following rules apply in determining the unused FORI tax that may be carried to an excess limitation year:

(1) "Other FORI" is FORI other than FOGEI. "Other FORI tax" is FORI tax other than FOGEI tax.

(2) Other FORI tax absorbed in a year of origin is the FORI tax absorbed in that year multiplied by a fraction. The numerator is other FORI for the year of origin and the denominator is FORI for that year. Other FORI tax absorbed in a year of origin may not exceed other FORI tax paid in that year.

(3) FOGEI tax absorbed in the year of origin is FORI tax absorbed in that year minus other FORI tax absorbed in that year. If FOGEI taxa absorbed in that year would exceed FOGEI tax paid in that year, the excess is other FORI tax (and not FOGEI tax) absorbed in that year.

(4) The unused FOGEI tax (after applying paragraph (d)(3) of this section) is then reduced by using the limitation percentage for the excess limitation year if that percentage is lower than the one for the year of origin.

(5) The FORI tax absorbed in an excess limitation year is allocated ratably between unused other FORI tax and unused FOGEI tax (after applying paragraph (d)(4) of this section).

(6) The amount of unused FORI tax that may be carried to the excess limitation year is reduced by any FORI tax actually absorbed in any prior excess limitation year.

(7) The credit under section 901(a) for any taxable year prior to the excess limitation year is not affected by any reduction under paragraph (d) (4) or (6) of this section.

(8) Certain FOGEI taxes for a year of origin ending after October 4, 1976, that are reduced under paragraph (d)(4) of this section may be carried back or carried over under section 907(f). See § 1.907(f)–1(b)(1).

(e) *Excess FORI limitation*—(1) *When overall limitation applies.* The excess FORI limitation for a taxable year is computed for a particular year of origin. This amount is equal to the separate FORI limitation for the excess limitation year minus the sum of the following items:

(i) The FORI taxes paid or accrued in the excess limitation year.

(ii) The portion of the unused FOGEI tax from the particular year of origin, or any year of origin prior to the particular year of origin, that is absorbed under section 907(f) as taxes deemed paid or accrued in the excess limitation year, and

(iii) The portion of the unused FORI tax for any prior year of origin that is absorbed as taxes deemed paid or accrued in the excess limitation year under section 904(c).

(2) *Per-country limitation year.* If the per-country limitation applies with respect to FORI for any excess limitation year ending before January 1, 1976, then the excess limitation with respect to FORI is determined separately for each foreign country or possession in accordance with the principles of paragraph (e)(1) of this section. See § 1.907(e)–1 (b) and (c) for rules relating to FORI tax carryovers and carrybacks where a taxpayer changes from the per-country to the overall limitation.

(f) *Cross-reference.* Section 904(f) relates to recapture of overall foreign loss. It limits the separate section 904 limitation for FORI. Section 904(f) applies to foreign oil related losses sustained in taxable years ending after December 31, 1975. See section 1032(c) of the Tax Reform Act of 1976, as amended by section 701(u)(5) of the Revenue Act of 1978.

(g) *Separation of limitation*—(1) *General rule.* The unused foreign tax, the excess limitation, and the unused foreign tax deemed paid or accrued in an excess limitation year are determined separately under § 1.904–2 (b) and (c) with respect to income other than FORI. These items are determined without taking into account any amounts with respect to FORI.

(2) *Special rules.* In applying paragraph (g)(1) of this section, the following special rules apply:

(i) Unused FORI tax does not reduce an excess limitation with respect to income other than FORI.

(ii) Unused foreign tax with respect to income other than FORI does not reduce an excess limitation with respect to FORI.

(iii) If an unused FORI tax for any taxable year is not deemed paid or accrued in another taxable year to which the tax may be carried under § 1.904–2(b) and this section, the other taxable year is counted as one of the years to which the unused foreign tax may be carried.

(h) *Illustrations.* The application of this section is illustrated by the following examples. For all relevant taxable years, the United States tax rate and the sum of the normal tax and surtax rates are 48 percent. Each corporation involved is a domestic corporation which is organized on January 1, 1975, using the calendar year as the taxable year. Each corporation elects the overall limitation.

Example (1). Assume that X has no FOGEI. Additional facts are assumed in the table below:

FORI items	1975	1976
(1) Income	$180	$200
(2) Foreign tax paid	100	90
(3) Separate limitation (48% × line (1))	86.4	96
(4) Unused FORI tax (line 2 minus line (3))	13.6	
(5) Excess limitation (line (3) minus line (2))		6
(6) Unused FORI tax for 1975 deemed paid or accrued in 1976		6

Example (2). The foreign taxes paid or accrued by Y during 1975 include FOGEI taxes and 1976 is an excess limitation year. Because the limitation percentage for 1976 is less than the one for 1975, the unused FORI tax for 1975 must be adjusted for purposes of determining the unused FORI tax deemed paid or accrued in 1976. Assume all of the other FORI tax is absorbed in 1975 under paragraph (d)(2) of this section. Additional facts are assumed in the table below:

FORI items	1975	1976
(1) Income:		
(a) FOGEI	$2,360	$1,700
(b) Other FORI	140	300
(c) Total FORI	2,500	2,000
(2) FORI taxes:		
(a) FOGEI taxes before reduction under § 1.907 (a)–1	1,600	1,020
(b) FOGEI taxes after the reduction (line (1) (a) × 52.8% for 1975; × 50.4% for 1976)	1,246	857
(c) Other FORI taxes	12	84
(d) Total FORI taxes (lines (2) (b) and (2) (c))	1,258	941
(3) Separate limitation (line (1) (c) × 48%)	1,200	960
(4) Unused FORI tax (line (2) (d) minus line (3))	58	
(5) Excess limitation (line (3) minus line (2) (d))		19
(6) Unused FORI tax for 1975 deemed paid or accrued in 1976 before application of paragraph (d) of this section (lesser of line (4) for 1975 or line (5) for 1976)		19
(7) FORI taxes paid or accrued during 1975 (adjusted for purposes of 1976):		
(a) FOGEI taxes after reduction under § 1.907 (a)–1 (line (1) (a) × 50.4%	1,189	
(b) Other FORI taxes (line (2) (c))	12	
(c) Total FORI taxes	1,201	
(8) Unused FORI tax for 1975 adjusted for purposes of 1976 (line (7) (c) minus line (3))	1	
(9) Unused FORI tax for 1975 deemed paid or accrued for 1976 after application of paragraph (d) of this section (lesser of line (8) for 1975 or line (5) for 1976)		1

Example (3). For purposes of determining the amount of unused FORI tax for 1975 which is deemed paid or accrued in excess limitation year 1977, the FOGEI taxes for 1975 are adjusted to $1,133 (*i.e.*, line (1) (a) of example (2) X 48 percent). Thus, the total FORI taxes for 1975 are adjusted to $1,145. Since the separate limitation for 1975 is $1,200, Y is considered to have no unused FORI tax for that year after the application of paragraph (d) of this section. The adjustments made in the computation of unused FORI tax for 1977 do not affect the unused foreign tax for 1975 that is deemed paid or accrued in 1976.

Example (4). The foreign taxes paid or accrued by Z during 1975 include FOGEI taxes and 1975 is a year of origin. 1976 is not an excess limitation year. Assume an excess limitation with respect to FORI of $10.00 in 1977. The application of paragraph (d) of this section is illustrated by the table below based upon additional facts assumed therein:

FORI items	1975
(1) Income:	
(a) FOGEI	$1,000
(b) Other FORI	1,000
(c) Total FORI	2,000
(2) FORI taxes:	
(a) FOGEI taxes before reduction under § 1.907 (a)–1	500
(b) Limitation level for 1975 (52.8% × line 1 (a))	528
(c) FOGEI taxes after reduction	500
(d) Other FORI taxes	500
(e) Total FORI taxes (lines (2) (c) and (2) (d))	1,000
(3) Separate limitation (line (1) (c) × 48%	960
(4) Unused FORI tax (line (2) (e) minus line (3))	40
(5) Other FORI tax absorbed in 1975 under paragraph (d) (2) of this section ($960 × $1,000/$2,000)	480
(6) Unused other FORI tax (line (2) (d) minus line (5))	20
(7) FOGEI tax absorbed in 1975 under paragraph (d) (3) of this section (line (3) minus line (5))	480
(8) Unused FOGEI tax before applying paragraph (d) (4) of this section (line (2) (c) minus line (7))	20
(9) Unused FOGEI tax after applying the limitation percentage for 1977 to the FOGEI for 1975 under paragraph (d) (4) of this section ((48% × $1,000)—line 7 ($480))	0
(10) Unused FORI tax available for carryover to 1977 (line (6) plus line (9))	20
(11) Unused FORI tax for 1975 deemed paid or accrued for 1977 after application of paragraph (d) of this section (lesser of line (10) or excess limitation for 1977)	10

Example (5). Assume the same facts as in example (4) with the following additional facts. 1978 is not an excess limitation year. Assume an excess limitation with respect to FORI of $10.00 in 1979. The limitation percentage for 1979 is 46 percent. There is no reduction under paragraph (d) (4) of this section, since the unused FORI tax available for carryover to 1979 (line (10) of example (4) less line (11)) is composed entirely of unused other FORI tax.

§ 1.907 (c)–1 Definitions relating to FORI and FOGEI.

(a) *Scope.* This section explains the meaning to be given certain terms used in section 907(c)(1), (2), and (4).

(b) *Extraction income*—(1) *General rule.* A person has income from the extraction of minerals ("extraction income") in every case in which that person has an economic interest in the minerals in place. The term "minerals" is defined in paragraph (f)(1) of this section. The amount of this extraction income is the gross income from the property within the meaning of § 1.613–3(a) less appropriate deductions, such as intangible drilling expenses, depletion, and royalties.

(2) *Extraction services.* Extraction income includes income from the performance of extraction (including exploration) services even if the person performing the services does not have an economic interest in the minerals extracted. This paragraph (b)(2) applies, however, only if the amount of compensation paid or credited (in contrast to its timing) depends, in whole or in part, on the amount of minerals discovered or extracted.

(3) *Diversion of profits or income.* Extraction income includes the income of any person to the extent there is diverted to it extraction income of any other person (including a foreign government, as defined in § 1.907(d)–1(c)(1)) who has or would have had extraction income within the meaning of this paragraph (b).

(4) *Purchase from foreign government.* Extraction income includes income from the sale of minerals purchased from a foreign government (as defined in § 1.907(d)–1(c)(1)).

(5) *Exception.* Income is not extraction income by reason of paragraphs (b)(3) and (b)(4) of this section if the foreign taxes paid or accrued on the income derived from transactions described in those paragraphs are not creditable foreign taxes by reason of section 901(f).

(6) *Other circumstances.* Extraction income may include income from any arrangement, or a combination of arrangements or transactions similar in effect to those described elsewhere in this paragraph (b) to the extent the income is in substance attributable to the extraction of minerals or the sale of assets described in section 907(c)(1)(B).

(7) *Limitation.* Extraction income as determined under this paragraph (b), nevertheless, does not include income to the extent attributable to marketing, distribution, processing, or transportation of minerals or primary products.

(8) *Economic interest.* For purposes of this paragraph (b), the term "ecomomic interest" means an economic interest as defined in § 1.611–1(b)(1), whether or not a deduction for depletion is allowable under section 611.

(c) *Transportation*—(1) *In general.* Transportation income consists of three types of income.

(2) *Type 1.* The first type is income from carrying minerals or primary products between two places (including time or voyage charter hires) by any means of transportation, such as a vessel, pipeline, truck, railroad, or aircraft.

(3) *Type. 2.* The second type is income received by a lessor from a bareboat charter hire of a means of transportation.

(4) *Type 3.* The third type is income from the performance of services directly related to the use of a means of transportation under the principles of § 1.954–6(d) (other than subparagraph (4) thereof), relating to foreign base company shipping income. However, these principles apply whether or not

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the services are performed for a related party.

(5) *Exception.* The second and third types of transportation income are not FORI if neither the person earning that income, nor any member of a controlled group which includes that person, has FORI (other than the second or third types of transportation income determined without regard to this subparagraph (5)). A person is a member of a controlled group if it is a member within the meaning of section 1563 (other than subsection (b)(2)(c) thereof).

(d) *Sale or exchange of assets*—(1) *Definition.* The term "assets used in the trade or business" means property described in section 1231(b) and used in a trade or business described in section 907(c)(1)(A) or in section 907(c)(2) (A) through (D) (as the case may be). However, section 1231(b) applies without regard to any holding period or the character of the assets as being subject to the allowance for depreciation under section 167.

(2) *Stock.* FORI and FOGEI do not include gain from the sale or exchange of stock in a corporation whether or not the corporation holds assets used in the trade or business.

(3) *Character of gain or loss.* Gain or loss from the sale or exchange of assets used in the trade or business may be FORI or FOGEI to the extent taken into account in computing taxable income for the taxable year, whether or not the gain or loss is ordinary income or ordinary loss.

(4) *Section 1202 deduction.* [Reserved]

(5) *Allocation of amount realized.* The amount realized from the sale or exchange of several assets in one transaction is allocated among them in proportion to their respective fair market values. This allocation is made under the principles set forth in § 1.1245–1(a)(5) (relating to allocation between section 1245 property and nonsection 1245 property).

(e) *Other FORI terms*—(1) *Processing.* The term "processing" means the destructive distillation of crude oil and the processing of natural gas into their primary products including processes used to remove pollutants from crude oil or natural gas.

(2) *Primary products.* The term "primary products" from oil and gas has the meaning given this term by § 1.993–3(g)(3) (i) (other than the second sentence thereof) and (ii) (relating to the denial of DISC benefits for the export of certain primary products).

(3) *Distribution or sale.* The term "distribution" means the sale or exchange of minerals (as defined in paragraph (f)(1) of this section) or primary products to processors, users who purchase and store in bulk quantities, other persons for further distribution, or retailers. Income from distribution includes interest income attributable to the distribution of minerals or primary products on credit.

(f) *Other terms common to FORI and FOGEI*—(1) *Minerals.* The term "minerals" means hydrocarbon minerals extracted from oil or gas wells, including crude oil or natural gas (as defined in section 613A(e)). The term includes incidental impurities from these wells, such as sulphur, nitrogen, or helium. The term does not include hydrocarbon minerals derived from shale oil or tar sands.

(2) *Taxable income.* Deductions to be taken into account in computing taxable income or net operating loss attributable to FOGEI or FORI are determined under the principles of § 1.861–8 (relating to the computation of taxable income from sources within the United States). The special deduction for Western Hemisphere trade corporations provided by section 922 is allowed as a deduction in computing taxable income.

(3) *Exchange gain or loss.* Exchange gain or loss is taken into account in computing FOGEI and FORI. Exchange gain or loss is allocated among FOGEI, FORI, and any other class of income relevant for purposes of the foreign tax credit limitations under any reasonable method which is consistently applied from year-to-year.

(g) *Certain net operating losses*—(1) *In general.* Section 907 (c) (4) (relating to certain losses) does not affect the amount of FOGEI taxes paid or accrued referred to in section 907 (c) (5). Losses described in section 907 (c) (4) are losses determined under section 172 (c).

(2) *Passive income.* For purposes of section 907 (c) (4), the term "items from sources within such country" includes dividends described in section 907 (c) (3) (A) and amounts described in section 907 (c) (3) (C) to the extent attributable to FOGEI from sources within a particular foreign country.

(3) *Source rule.* For purposes of paragraph (g) (2) of this section—

(i) The source rules under §§ 1.902–1 (h), 1.960–1 (i), 1.863–6 do not apply.

(ii) Dividends from a foreign corporation described in section 907 (c) (3) (A), or amounts described in section 907 (c) (3) (C) with respect to a foreign corporation, retain their source from a particular foreign country as actually derived by the foreign corporation earning the FOGEI.

(iii) The amount of the item described in paragraph (g) (3) (ii) of this section that is FOGEI from sources within a particular country equals the dividend or amount that is FOGEI multiplied by a fraction. The numerator is the foreign corporation's FOGEI earnings and profits for the appropriate year from sources within the particular country and the denominator is the foreign corporation's total FOGEI earnings and profits for the year.

(iv) FOGEI earnings and profits are computed in accordance with § 1.907 (c)–2(d)(1)(ii) with respect to a dividend described in section 907(c)(3)(A), or § 1.907(c)–2 (d) (4) (ii) with respect to an amount described in section 907 (c) (3) (C). FOGEI earnings and profits do not include amounts described in section 959 (b).

(v) The principles of this subparagraph (3) apply to distributions received by a foreign corporation from a second or third-tier foreign corporation (as defined in § 1.902–1 (a) (3) (i) and (4), respectively).

(h) *Coordination with other provisions*—(1) *Certain adjustments.* The character of income as FOGEI or FORI is determined before making any adjustment under section 482 or 907 (d). For example, assume that X and Y are related parties, Y's only income is from the sale of oil that Y purchased from X, and FOGEI from X is diverted to Y under paragraph (b) (3) of this section. Accordingly, Y has FOGEI. If under section 482 the Commissioner reallocates the FOGEI from Y to X, then Y's remaining income represents only a profit from distributing the oil, and thus is FORI other than FOGEI. If the foreign taxes paid by Y on this income are otherwise creditable under section 901, the foreign taxes that are not refunded to Y retain their characterization as FOGEI taxes.

(2) *Section 901 (f).* Section 901 (f) (relating to certain payments with respect to oil and gas not considered as taxes) applies before section 907.

(3) *Trusts and estates.* Amounts included in gross income under subchapter J of chapter 1 of the Code (relating to the taxation of estates, trusts, and beneficiaries) are included in FOGEI or FORI to the extent each amount is attributable to FOGEI or FORI.

§ 1.907 (c)–2 Section 907 (c) (3) items.

(a) *Scope.* This section provides rules relating to certain items listed in section 907 (c) (3). The rules of this section are expressed in terms of FORI but apply for determining FOGEI by substituting "FOGEI" for "FORI" whenever appropriate. FOGEI does not include interest described in section 907 (c) (3) (A) or dividends described in section 907 (c) (3) (B).

(b) *Dividend*—(1) *Section 1248 dividend.* A section 1248 dividend is a dividend described in section 907 (c) (3) (A).

(2) *Section 78 dividend.* A section 78 dividend is FORI to the extent it arises from a dividend described in section 907 (c) (3) (A), or an amount described in section 907 (c) (3) (C).

(c) *Taxes deemed paid*—(1) *Voting stock test.* Items described in section 907 (c) (3) (A) or (C) are FORI only if a deemed-paid-tax test is met under the criteria of section 902 or 960. The purpose of this test is to require minimum direct or indirect ownership by a domestic corporation in the voting stock of a foreign corporation as a prerequiste for the item to qualify as FORI in the hands of the domestic corporation. The test is whether a domestic corporation would be deemed to pay any taxes of a foreign corporation when a dividend or an amount described in section 907 (c) (3) (A) or (C), respectively, is included in the domestic corporation's gross income. In the case of interest described in section 907 (c) (3) (A), the test is whether any taxes would be deemed paid if there were a hypothetical dividend.

(2) *Dividends and interest.* For purposes of section 907 (c) (3) (A), a domestic corporation is deemed under section 902 to pay taxes in respect of dividends and interest received from a foreign corporation if the following condition is met: the domestic corporation would be deemed under section 902 to pay taxes in respect of dividends received from the foreign corporation whether or not the foreign corporation—

(i) Actually pays or is deemed to pay taxes or

(ii) In the case of interest, actually pays dividends.

This subparagraph (2) also applies to dividends received by a foreign corporation from a second or third-tier foreign corporation (as defined in § 1.902–1 (a) (3) (i) and (4), respectively). In the case of interest received by a foreign corporation from another foreign corporation, this paragraph (c) (2) applies if the taxes of both foreign corporations would be deemed paid under section 902 (a) or (b) for purposes of applying section 902 (a) to a domestic corporation.

(3) *Amounts included under section 951 (a).* For purposes of section 907 (c) (3) (C), a domestic corporation is deemed under section 960 to pay taxes in respect of a foreign corporation, whether or not the foreign corporation actually pays taxes on the amounts included in gross income under section 951 (a).

(d) *Amount attributable to certain items*—(1) *Certain dividends*—(i) *General rule.* The portion of a dividend described in section 907 (c) (3) (A) that is FORI equals:

Amount of dividend x a/b

where—

a = FORI accumulated profits in excess of FORI taxes paid or accrued, and

b = Total accumulated profits in excess of total foreign taxes paid or accrued.

This paragraph (d) (1) (i) applies even though the FORI accumulated profits arose in a taxable year of a foreign corporation ending before January 1, 1975.

(ii) *Cross-references.* See § 1.902–1 (g) for the determination of a foreign corporation's earnings and profits and of those out of which a dividend is paid. See § 1.1248–2 or 1.1248–3 for the determination of the earnings and profits attributable to the sale or exchange of stock in certain foreign corporations.

$$\text{Amount described in section 907 (c) (3) (c)} \times \frac{\text{FORI earnings and profits}}{\text{Total earnings and profits}}$$

(ii) *Earnings and profits.* Total earnings and profits are those of the foreign corporation for a taxable year under section 964 and the regulations thereunder.

(5) *Section 78 dividend.* The portion of a section 78 dividend that is FORI equals the amount of taxes deemed paid included in the dividend that is FORI taxes under § 1.907(c)–3 (b) or (c). See § 1.907(c)–3(a)(1).

(6) *Special rule.* (i) No item in the formula described in paragraph (d)(1)(i) of this section includes amounts excluded from the gross income of a United States shareholder under section 959(a)(1).

(ii) With respect to a foreign corporation, earnings and profits in the formula described in paragraph (d)(4)(i) of this section do not include amounts excluded under section 959(b) from its gross income.

(7) *Illustrations.* The application of this paragraph (d) is illustrated by the following examples:

Example (1). X, a domestic corporation, owns all of the stock of Y, a foreign corporation organized in country S. Y owns all of the stock of Z, a foreign corporation also organized in country S. Each corporation uses the calendar year as its taxable year. In 1975, Z has $150 of FOGEI earnings and profits and $250 of earnings and profits other than FOGEI. Assume that Z paid no taxes to S and X must include $100 in its gross income under section 951(a) with respect to Z. Under paragraph (d)(4)(i) of this section $37.50 of the amount described in section 951(a) is FOGEI ($100 x $150/$400). The remaining $62.50 of the section 951(a) amount represents other income.

Example (2). (a) Assume the same facts as in example (1). Assume further that, in 1975, Z distributes its entire earnings and profits ($400) to Y as a dividend. Y has no earnings and profits during 1975 other than this dividend. Assume that the dividend is not foreign personal holding company income under section 954(c). Y pays no taxes to S. In 1975, Y distributes its entire earnings and profits to X.

(b) Under paragraphs (c)(2) and (d)(1)(i) of this section, Y has FOGEI of $150, *i.e.*, the amount of the dividend received by Y ($400) multiplied by the fraction described in paragraph (d)(1)(i). The numerator of the fraction is Z's FOGEI accumulated profits in excess of the FOGEI taxes paid ($150) and the denominator is Z's total accumulated profits in excess of total foreign taxes paid ($400). The rule of paragraph (d)(6)(ii) of this section does not apply since X does not include any amount in its gross income under section 951(a) with respect to Y. If Y paid taxes to S, this paragraph (b) would apply to

(2) *Interest received from certain foreign corporations.* Interest described in section 907 (c) (3) (A) is FORI to the extent the corresponding interest expense of the paying corporation is properly allocable and apportionable to the gross income of the paying corporation that would be FORI were that corporation a domestic corporation. This allocation and apportionment is made in a manner consistent with the rules of § 1.861–8 (e) (2).

(3) *Dividends from domestic corporation.* A dividend from a corporation described in section 907 (c) (3) (B) that is FORI is determined under the principles of paragraph (d) (1) (i) of this section with respect to its current earnings and profits under section 316 (a) (2) or its accumulated earnings and profits under section 316 (a) (1), as the case may be.

(4) *Amounts with respect to which taxes are deemed paid under section 960(a)*—(i) *Portion attributable to FORI.* The portion of an amount described in section 907(c)(3)(C) that is FORI equals:

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characterize those taxes as FOGEI taxes or other taxes. See § 1.907(c)–3(a)(2) and example 2(c) under § 1.907(c)–3(e).

(c) The distribution from Y to X is a dividend to the extent of $300, *i.e.*, the amount of the distribution ($400) minus the amount excluded from X's gross income under section 959(a)(1) ($100). Under paragraphs (d)(1)(i) and (d)(6)(i) of this section, $112.50 of the dividend is FOGEI, *i.e.*, the amount of the dividend ($300) multiplied by a fraction. The numerator of the fraction is $112.50, *i.e.*, the FOGEI accumulated profits of Y in excess of FOGEI taxes paid ($150) minus the FOGEI accumulated profits in excess of FOGEI taxes paid excluded from X's gross income under section 959(a)(1) ($37.50). The denominator of the fraction is $300, *i.e.*, the total accumulated profits of Y in excess of taxes paid ($400) minus the amount excluded from X's gross income under section 959(a)(1) ($100).

Example (3). Assume the same facts as in example (1) with the following modifications. In 1975, Z's only earnings and profits are FORI earnings and profits which are included in X's gross income under section 951(a). Z distributes its entire earnings and profits to Y. In 1975, Y has total earnings and profits of $100 without regard to the dividend from Z, $60 of which are FORI earnings and profits. Y also has $40 which is included in X's gross income under section 951(a). Under paragraph (d)(6)(ii) of this section, the dividend from Z is disregarded for purposes of applying paragraph (d)(4)(i) of this section to the $40 included in X's gross income under section 951(a) with respect to Y. Accordingly, $24 of the amount described in section 951(a) is FORI ($40 x $60/$100).

(e) *Dividends, interest, and other amounts from sources within a possession.* FORI includes the items listed in section 907(c)(3) (A) and (C) to the extent attributable under the principles of § 1.907(c)–1(g)(3) to FORI of a corporation that is created or organized in or under the laws of a possession of the United States.

(f) *Partnerships.* FORI includes a partner's distributive share of a partnership's FORI. This distributive share is determined in accordance with the partnership agreement under principles specified in section 704 and § 1.704–1 (a) and (b).

§ 1.907(c)–3 FOGEI and FORI taxes.

(a) *In general*—(1) *FORI taxes.* The rules in this section are expressed in terms of FOGEI taxes but they apply to FORI taxes by substituting "FORI taxes" for "FOGEI taxes" whenever appropriate.

(2) *FOGEI taxes.* FOGEI taxes are the foreign taxes paid or accrued during the taxable year with respect to FOGEI or foreign oil and gas extraction loss determined under U.S. tax concepts. In general, the amount of FOGEI taxes is determined under principles consistent with the first and last sentences of § 1.901–3(a)(2)(i) (relating to foreign mineral income). FOGEI taxes are determined without regard to any reduction under section 907(a) or any exclusion under section 907(c)(4). FOGEI taxes may include withholding taxes imposed with respect to any distribution from a corporation. In addition, FOGEI taxes may include taxes imposed on a distribution described in section 959(a)(1) or on amounts described in section 959(b).

(b) *Dividends*—(1) *In general.* FOGEI taxes deemed paid with respect to a dividend equal the total taxes deemed paid with respect to the dividend multiplied by the fraction:

FOGEI taxes paid or accrued by the payor/Total foreign taxes paid or accrued by the payor

This paragraph (b) applies to a dividend described in section 907(c)(3)(A) (including a section 1248 dividend) with reference to the particular taxable year or years of those accumulated profits out of which a dividend is paid. See section 960(a)(3) and § 1.960–2 relating to distributions that are treated as dividends for purposes of section 902.

(2) *Section 78 dividend.* There are no FOGEI taxes with respect to a section 78 dividend.

(c) *Includible amounts under section 951(a).* FOGEI taxes deemed paid with respect to an amount includible in gross income under section 951(a) equal the total taxes deemed paid with respect to that amount multiplied by the fraction:

FOGEI taxes paid or accrued by the foreign corporation/Total foreign taxes paid or accrued by the foreign corporation

Taxes in this fraction include only those foreign taxes that may be deemed paid under section 960(a) by reason of such inclusion. See §§ 1.960–1(c)(3) and 1.960–2(c)(2).

(d) *Partnerships.* A partner's distributive share of the partnership's FOGEI taxes is determined in accordance with the partnership agreement under principles specified in section 704 and § 1.704–1 (a) and (b).

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). X, a domestic corporation, owns all of the stock of Y, a foreign corporation organized in country S. Y owns all of the stock of Z, a foreign corporation organized in country T. Each corporation uses the calendar year as its taxable year. In 1975, X includes in its gross income an amount described in section 951(a) with respect to Z. Assume that the taxes deemed paid under section 960(a)(1) by X by reason of such an inclusion is $70. Assume further that Z paid total taxes of $120, $80 of which is FOGEI tax. Under paragraph (c) of this section, the FOGEI tax deemed paid is $46.67 (*i.e.*, $70 X $80/$120). This $46.67 is also FOGEI under § 1.907 (c)–2 (d)(5) because it must be included in X's gross income under section 78.

Example (2). (a) Assume the same facts as in example (1). Assume further that, in 1975, Z distributes its entire earnings and profits to Y. Y has no earnings and profits during 1975 other than this dividend. Y paid a tax of $50 to S. Assume that Y is deemed under section 902(b)(1) to pay $50 of the tax paid by Z which was not deemed paid by X under section 960(a)(1) in 1975. In 1975, Y distributes its entire earnings and profits to X. Assume that X is deemed under section 902(a) to pay $100 of the taxes actually paid, and deemed paid, by Y.

(b) Paragraph (b)(1) of this section applies to characterize the $50 tax of Z that Y is deemed to pay under section 902(b)(1). Y is deemed to pay $33.33 of FOGEI tax, *i.e.*, the amount of the tax deemed paid by Y ($50) multiplied by a fraction. The numerator of the fraction is the amount of Z's FOGEI tax ($80) and the denominator is the total taxes paid by Z ($120).

(c) Under paragraph (a)(2) of this section, a portion of the $50 tax actually paid by Y on the earnings and profits received from Z is FOGEI tax. The amount of tax actually paid by Y that is FOGEI tax depends on the amount of the distribution from Z that is FOGEI (see § 1.907 (c)–2 (d)(1)(i) and example (2)(b) under § 1.007 (c)–2 (d)(7)). This result does not depend upon whether a portion of the distribution from Z is described in section 959(b) and it follows even though a portion of Y's earnings and profits will be excluded from X's gross income under section 959(a)(1) when distributed by Y. Assume that $12.50 of the $50 tax actually paid by Y is FOGEI tax.

(d) Under paragraph (b)(1) of this section, X is deemed to pay $45.83 of FOGEI tax by reason of the distribution from Y. This amount is determined by multiplying the total taxes deemed paid by X by reason of such distribution ($100) by a fraction. The numerator of the fraction is the FOGEI tax paid, and deemed paid, by Y ($45.83, *i.e.*, $33.33 under paragraph (b) of this example plus $12.50 under paragraph (c) of this example). The denominator of the fraction is the total taxes paid, and deemed paid, by Y ($100). This $45.83 is FOGEI under § 1.907 (c)–2 (d)(5) because it is included in X's gross income as a section 78 dividend.

§ 1.907(d)–1 Disregard of posted prices for purposes of chapter 1 of the Code.

(a) *In general*—(1) *Scope.* Section 907(d) applies if a person has FOGEI from the—

(i) Acquisition (other than from a foreign government) or

(ii) Disposition

of minerals at a posted price that differs from the fair market value at the time of the transaction. Also, if a seller (other than a foreign government) derives FOGEI upon a disposition described in the preceding sentence, section 907(d) applies to the acquisition by the purchaser whether or not the purchaser has FOGEI. Thus, section 907(d) may apply in determining a person's FORI.

(2) *Initial reporting requirement.* If section 907(d) applies to any person, that person shall report the transaction as if it were effected at fair market value. This reporting requirement applies the first time a person reports either the taxable income derived from the transaction or an item (such as a dividend described in section 907(c)(3)(A)) determined with reference to that income.

(3) *Accounting record requirement.* If section 907(d) applies, the taxpayer must maintain accounting records reflecting the transaction as it actually occurred and the basis for reporting the transaction under the principles of paragraph (a)(2) of this section.

(4) *Related parties.* Section 907(d) applies whether or not the parties to the transaction are related.

(b) *Adjustments.* If a taxpayer does not comply with the initial reporting requirement of paragraph (a)(2) of this section, adjustments under section 907(d) may be made only by the Commissioner in the same manner that section 482 is administered. Correlative and similar adjustments consistent with the substantive and procedural principles of section 482 and § 1.482–1(d) apply. However, section 907(d) is not a limitation on section 482.

(c) *Definitions.* For purposes of this section—

(1) *Foreign government.* The term "foreign government" includes an agency of, or an entity controlled by, a foreign government.

(2) *Minerals.* The term "minerals" has the same meaning as in § 1.907(c)–1(f)(1).

(3) *Posted price.* The term "posted price" means the price set by, or at the direction of, a foreign government (i) to calculate income for purposes of its tax or (ii) at which minerals must be sold.

(4) *Other pricing arrangement.* The term "other pricing arrangement" in section 907(d) means a pricing arrangement having the effect of a posted price.

(5) *Fair market value.* The term "fair market value" has the same meaning as in § 1.901–4(b) (4), (5), and (6).

§ 1.907(e)–1 Transitional rules for section 904 carrybacks and carryovers.

(a) *Carryovers from taxable years ending before January 1, 1975*—(1) *In general.* If FOGEI taxes are included in foreign taxes in a year of origin ending before January 1, 1975, each reduction for that year in unused foreign taxes under § 1.907 (b)–2 (d) is made by using the limitation level for the particular excess limitation year. See Example (3) of § 1.907 (b)–2 (h). Section 907 (c) and (d), and the regulations thereunder, apply for purposes of determining FOGEI and FOGEI taxes.

(2) *Sections 901(e) and 907(a).* For years of origin ending before January 1, 1975, the reduction under section 901(e) is made before the reduction under section 907(a). Section 901(e) relates to foreign mineral income.

(3) *General rule for division of unused foreign tax.* The unused foreign tax that is divided under section 907(e)(1)(B) is

$$\text{Unused foreign tax} \times \text{X}$$

Unused foreign tax × FORI/Total foreign income

Other unused foreign tax equals total unused foreign tax minus unused FORI tax. This computation is made separately for each particular year of origin.

(ii) If the per-country limitation under section 904(a)(1) (as in effect prior to the Tax Reform Act of 1976) applies, the division of the unused foreign tax is made separately for each foreign country or possession.

(5) *Illustrations.* The application of this paragraph (a) is illustrated by the following examples:

Example (1). (a) Domestic corporation X, which is organized on January 1, 1973, uses the calendar year as the taxable year. X elects the overall limitation. For 1973, X does not claim a deduction for percentage depletion. The rate of United States corporate tax and the sum of the normal tax and surtax rates are each assumed to be 48 percent. X's only income and tax items for 1973 are listed in the table below:

(1) FORI (all of which is FOGEI)	$1,000
(2) Income other than FORI (foreign source)	500
(3) Total income	1,500
(4) FOGEI taxes	600
(5) Other foreign taxes paid or accrued	250
(6) Total foreign taxes paid or accrued	850
(7) Overall limitation (line (3) × 48%)	720
(8) Unused foreign tax for 1973 (line (6) minus line (7))	130

(b) Assume that 1974 is not an excess limitation year. In determining X's unused foreign tax for 1973 that may be carried over to 1975, the FOGEI taxes are reduced under section 907(a) to $528. X's unused foreign tax for 1973 is reduced to $58, as follows:

$$\frac{\text{FORI}}{\text{Total foreign income}}$$

(1) FOGEI for 1973	$1,000
(2) Limitation percentage for 1975 (percent)	52.8
(3) Limitation level for purposes of 1975 (line (1) × line (2))	528
(4) FOGEI taxes for 1973 after reduction for purposes of 1975 (line (4) of paragraph (a) less the amount by which it exceeds line (3))	528
(5) Unused foreign tax for 1973 for purposes of 1975 (line (5) of paragraph (a) ($250) plus line (4) (528) minus line (7) of paragraph (a) ($720)	58

(c) The unused foreign tax for 1973, adjusted for purposes of 1975, is divided, effective as of January 1, 1975, as follows:

(1) Unused foreign tax	$58
(2) Multiply by fraction for 1973 (FORI/Total foreign income)	1,000/1,500
(3) Unused FORI tax	39
(4) Other unused foreign tax (line (1) minus line (3))	19

Example (2). Assume the same facts as in example (1) except that, for 1974, X has an excess limitation of $20. In determining the unused foreign tax for 1973 that may be carried to 1975, the $20 of unused foreign tax for 1973 that is deemed paid in 1974 is subtracted from $58, the unused foreign tax for 1973 adjusted for purposes of 1975. Thus, the remaining unused FORI tax is $25, *i.e.*, $38 × $1,000/$1,500, and the other unused foreign tax is $13, *i.e.*, $38 − $25.

Example (3). Assume the same facts as in example (1) except that X has an excess limitation of $100 for 1974. For 1974, X is deemed to have paid or accrued $100 of the unused foreign tax for 1973. See § 1.904–2(c)(2)(i). However, for purposes of 1975, X is considered to have unused foreign tax for 1973 of only $58, all of which was absorbed in 1974. Thus, X has no unused foreign tax to be divided as of January 1, 1975. The reduction of unused foreign tax for 1973 for purposes of 1975 does not affect the amount of unused foreign tax absorbed as taxes deemed paid or accrued for 1974. See § 1.907(b)–2(d)(7).

the unused foreign tax that has not been absorbed in any taxable year ending before January 1, 1975. This unused tax is determined after any reduction of tax under section 901(e) or 907(a). The unused foreign tax is divided as of the beginning of the first taxable year ending after December 31, 1974. If there is more than one excess limitation year to which section 907(a) applies, the unused FORI tax is then determined for each particular excess limitation year under the principles of § 1.907 (b)–2 (d).

(4) *Computation.* (i) Unused FORI tax equals:

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Example (4). (a) Assume the same facts as in example (1). Assume further that X has an excess limitation of $20 for each of 1975 and 1976. In determining X's unused foreign tax for 1973 that may be carried to 1975, X is deemed to have paid or accrued $20 of the unused FORI tax in 1975. In determining X's unused FORI tax for 1973 that may be carried to 1976, the FOGEI taxes for 1973 are reduced to $504 and X's unused FORI tax is reduced as follows:

(1) FOGEI for 1973	$1,000
(2) Limitation percentage for 1976 (percent)	50.4
(3) Limitation level for purposes of 1976 (line (1) × line (2))	504
(4) FOGEI taxes for 1973 after reduction for purposes of 1976 (line (4) of example (1)(a) less the amount by which it exceeds line (3))	504
(5) FOGEI taxes for 1973 after reduction for 1975 (line 4 of example (1)(b))	528
(6) Reduction in unused FORI tax under the principles of § 1.907(b)-2(d)(4) (line 5 less line 4)	24
(7) Unused FORI tax for 1973 for purposes of 1976 (line 3 of example 1(c) less line (6))	15

(b) The unused FORI tax of $15 determined in paragraph (a) of this example is also reduced by the $20 of unused FORI tax deemed paid or accrued in 1975. Thus, no unused FORI tax from 1973 may be deemed paid or accrued in 1976.

Example (5). (a) Assume the same facts as in example (1) except that X is allowed a deduction for percentage depletion in 1973. Because X has income from the extraction of minerals from oil wells, it has foreign mineral income and its foreign taxes for 1973 must be reduced under section 901(e). Assume that the reduction, made on a country-by-country basis, aggregates $92 of FOGEI taxes and that 1974 is not an excess limitation year.

(b) In determining X's unused foreign tax for 1973 that may be carried to 1975, no reduction is made under paragraph (a)(1) of this section because section 901(e) applies before section 907(a) and the FOGEI taxes are reduced under section 901(e) to $508 (line (4) of example (1)(a) ($600) minus $92), an amount that is less than the limitation level ($528). The unused foreign tax for 1973 that may be carried to 1975 is $38 (line (5) of example (1)(a) ($250) plus $508 minus line (7) of example (1)(a) ($720)).

(c) The unused foreign tax of $38 is divided into unused FORI tax of $25, *i.e.*, $38 × 1,000/1,5000 and other unused foreign tax of $13, *i.e.*, $38–$25.

(d) In determining X's unused foreign tax for 1973 that may be carried to 1976, the FOGEI taxes are reduced to $504. That reduction is made because the FOGEI taxes determined after reduction under section 901(e) ($508) exceeds the limitation level ($504). The limitation level is determined by multiplying the FOGEI for 1973 ($1,000) by the limitation percentage for 1976 (50.4%). If X has an excess FORI limitation of $20 for 1975, see example (4) for the unused FORI tax for 1973 that may be carried to 1976.

(b) *Transitional rules for carryovers from per-country limitation years ending before January 1, 1976*—(1) *In general.* Section 907(e)(2) does not modify the seond sentence of section 904(e)(2) (as in effect prior to the Tax Reform Act of 1976). The excess limitation year to which an unused foreign tax may be carried under section 907(e)(2) must be available under § 1.904–2(b)(1).

(2) *Pro rata reduction of carryovers.* The application of section 907(e)(2) may result in a reduction of the FORI tax carryover. This reduction occurs if the amount of the carryover to an excess limitation year under the overall limitation is lower than the amount the aggregate carryovers to that year would have been had the per-country limitation applied to that year. If this reduction occurs, the amount carried from a particular country to the excess limitation year is determined under the following formula:

$$\text{Amount of carryover under per-country limitation (for a country)} \times \frac{\text{Amount of carryover under overall limitation}}{\text{Aggregate of carryovers under per-country limitation}}$$

For purposes of this paragraph (b)(2), the term "carryover" refers to the amount of the unused FORI taxes that may be absorbed in an excess limitation year.

(3) *Illustrations.* The application of this paragraph (b) is illustrated by the following examples. The United States corporate tax rate is assumed to be 48 percent for all relevant years.

Example (1). Domestic corporation M, which is organized on January 1, 1974, uses the calendar year as the taxable year. M does not elect the overall limitation for 1974 or 1975 and 1975 is not an excess limitation year. All of M's income is FORI, none of which is FOGEI. Additional facts are assumed in the following table:

	Per-country limitation		Overall limitation
	Country X	Country Y	
(1) 1974 items:			
(a) FORI	$100	$100	
(b) FORI taxes	60	60	
(c) Section 904 limitation (line (a)×48%)	48	48	
(d) Unused foreign tax (line (b) minus line (c))	12	12	
(2) 1976 items:			
(a) FORI	200	100	$300
(b) FORI taxes	80	50	130
(c) Section 904 limitation (line (a)×48%)	96	48	144
(d) Unused foreign tax (line (b) minus line (c))		2	
(e) Excess limitation (line (c) minus line (b))	16		14
(3) Unused foreign tax for 1974 that would be deemed paid or accrued in 1976:			
(a) Under overall limitation (lesser of aggregate amount of line (1)(d) or (2)(e))			14
(b) Under per-country limitation (lesser of line (1)(d) or (2)(e))	12		
(4) Unused foreign tax for 1974 deemed paid or accrued for 1976 under this paragraph (b) (lesser of line (3)(a) or the aggregate amount of line (3)(b))			12

Example (2). Assume the same facts as in example (1), except that M elects the overall limitation for 1975. M may not carry over its unused foreign tax for 1974 as taxes deemed paid or accrued in 1976.

Example (3). Assume the same facts as in example (1), except as otherwise provided in the table below. M also does business in country Z. The results are in the table below:

	Per-country limitation			Overall limitation
	Country X	Country Y	Country Z	
(1) 1974 items:				
(a) FORI	$1,000	$1,000	$1,000	
(b) FORI taxes	600	630	600	
(c) Section 904 limitation (line (a)×48%)	480	480	480	
(d) Unused FORI tax (line (b) minus line (c))	120	150	120	
(2) 1976 items:				
(a) FORI	1,000	1,000	1,000	3,000
(b) FORI taxes	330	330	580	1,240
(c) Section 904 limitation (line (a)×48%)	480	480	480	1,440
(d) Excess FORI limitation	150	150		200
(3) Unused FORI tax for 1974 that would be deemed paid or accrued in 1976:				
(a) Under overall limitation				200
(b) Under per-country limitation	120	150		
(4) Unused FORI tax for 1974 deemed paid or accrued for 1976 (lesser of line 3(a) or aggregate amount of line 3(b))				200

	Per-country limitation			Overall limitation
	Country X	Country Y	Country Z	
(5) Amount of unused FORI tax for 1974 from a country deemed paid or accrued for 1976 under paragraph (b)(2) of this section	120×200/270=89	150×200/270=111	0×200/270=0	
(6) Unused FORI tax for 1974 that may be carried over to other excess limitation years (line 1(d) minus line (5))	31	39	120	

(c) *Transitional rules for carryback from taxable years ending after December 31, 1974*—(1) *In general.* Unused FORI tax from a year of origin ending after December 31, 1974, may not be carried back to a taxable year ending before January 1, 1975. If the per-country limitation was used for an excess limitation year and the overall limitation for a year of origin, a carryback is prohibited except in the case of a calendar year taxpayer which used the per-country limitation in 1975. See section 904(e)(3).

(2) *Applicable principles.* If a carryback is permitted to calendar year 1975 and the per-country limitation applies to that year, the application of section 904(e)(3) may result in a reduction of the unused FORI tax that may be carried back to that year. This reduction occurs if the amount of the unused FORI tax for a year of origin under the overall limitation is lower than the aggregate amount of unused FORI tax that would have arisen had the per-country limitation applied to that year. If this reduction occurs, the unused FORI tax that may be carried back from a particular country is determined under the following formula:

$$\text{Amount of unused FORI tax under per-country limitation (for a country)} \times \frac{\text{Amount of unused FORI tax under overall limitation}}{\text{Aggregate amount of unused FORI tax under per-country limitation}}$$

§ 1.907(f)-1 Carryback and carryover of credits disallowed by section 907(a).

(a) *In general.* If a taxpayer chooses the benefits of section 901, any unused FOGEI tax paid or accurred in a taxable year ending after October 4, 1976, may be carried to the taxable years specified in section 907(f) under the carryback and carryover principles of this section and § 1.904–2(b).

(b) *Unused foreign extraction tax*—(1) *In general.* The "unused FOGEI tax" for purposes of this section is the excess of the FOGEI taxes for a taxable year (year of origin) over that year's limitation level. The unused FOGEI tax is increased by the amount of any reduction under § 1.907(b)–2(d)(4). However, the amount of the increase may not exceed the FOGEI taxes paid or accrued in the year of origin (determined after applying section 907(a)) that were not absorbed in excess limittion years preceding the particular excess limitation year.

(2) *Limit.* The unused FOGEI tax for any year of origin may not exceed 2 percent of that year's FOGEI. This limitation does not apply in determining the amount of unused FOGEI tax carried over or carried back under section 907(f) to a taxable year ending in 1975, 1976, or 1977. However, the amount of unused FOGEI tax that can be carried over to years other than 1975, 1976, or 1977, is limited to 2 percent of FOGEI for the year of origin less the unused FOGEI tax absorbed in those years.

(3) *Year of origin.* The term "year of origin" in the regulations under section 907 corresponds to the term "unused credit year" under section 907(f).

(c) *Tax deemed paid or accrued.* The unused FOGEI tax from a year of origin that may be deemed paid or accrued under section 907(f) in any preceding or succeeding taxable year ("excess limitation year") may not exceed the lesser of—

(1) The excess extraction limitation for the excess limitation year or

(2) The excess oil related limitation for the excess limitation year.

(d) *Excess extraction limitation.* The "excess extraction limitation" for an excess limitation year is the amount by which that year's limitation level exceeds the sum of—

(1) The FOGEI taxes paid or accrued and

(2) The FOGEI taxes deemed paid or accrued in that year by reason of a section 907(f) carryback or carryover from preceding years of origin.

(e) *Excess oil related limitation.* The "excess oil related limitation" for an excess limitation year is the amount by which that year's separate section 904 limitation on FORI taxes paid or accrued exceeds the sum of—

(1) The FORI taxes paid or accrued,

(2) the FORI taxes deemed paid or accrued in that year by reason of a section 904(c) carryback or carryover from preceding years of origin, and

(3) The FOGEI taxes described in paragraph (d)(2) of this section.

(f) *Limitation percentage in certain excess limitation years.* For purposes of determining the excess extraction limitation for an excess limitation year ending in 1975 or 1976, the limitation percentage for those years is 48 percent. See section 907(f)(3)(C).

(g) *Section 907(f) priority.* If a taxable year is a year of origin under both section 907(f) as to FOGEI taxes and section 904(c) as to FORI taxes, section 907(f) applies first. See section 907(f)(3)(A). FOGEI tax for a year of origin that remains unused after applying section 907(f) cannot be absorbed by an excess FORI limitation. To determine the excess FORI limitation when an unused FOGEI tax is absorbed under section 907(f), see section 907(f)(3)(B) and § 1.907(b)–2(e).

(h) *Per-country limitation.* Except as provided in section 904(e) (relating to certain transitional rules), unused FOGEI tax for a taxable year for which the overall limitation applies may not be deemed paid or accrued under section 907(f) in a taxable year for which the per-country limitation applies. Nevertheless, a per-country limitation year is counted as one of the years to which that unused FOGEI tax may be carried.

(i) *Cross-reference.* In computing the carryback and carryover of disallowed credits under section 907(f), the principles of § 1.904–2 (d), (e), and (f) apply. However, in applying § 1.904–2(d), the overall limitation under section 904(a) is used.

(j) *Illustration.* The following example illustrates the application of the regulations under section 907(f).

Example. (a) *Facts.* X is a domestic corporation organized on January 1, 1975, and uses the calendar year as its taxable year. X chooses to claim a credit under section 901 for each of the taxable years set forth below. For 1975, X elects the overall limitation. X has FOGEI and FORI in each of these taxable years.

For purposes of simplicity, the United States corporate tax rate and the limitation

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percentage for years other than 1975 and 1976 are each assumed to be 48 percent. Based upon the foreign taxes paid with respect to both these classes of income, and the additional facts assumed in the table below, the unused FOGEI tax deemed paid under section 907(f), and the unused FORI tax deemed paid under section 904(c) in each of the appropriate years are as follows:

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YEARS	1975	1976	1977	1978	1979(a)	1979(b)	1979(c)	1980	1981
1. FOGEI	$ 100.00	$1,120.00	$ 300.00	$ 250.00	$ 700.00	$ 700.00	$ 700.00	$7,000.00	$2,000.00
2. FOGEI taxes	49.00	579.35	124.00	150.00	210.00	210.00	210.00	3,500.00	960.00
3. Limitation level:									
(a) For unused tax	52.80	564.48	144.00	120.00	336.00	336.00	336.00	3,360.00	960.00
(b) For excess limitation	48.00	537.60	144.00	120.00	336.00	336.00	336.00	3,360.00	960.00
4. Disallowed FOGEI taxes:									
(a) Excess of line 2 over line 3 (a)	0.00	14.87	-------	30.00	-------	-------	-------	140.00	-------
(b) Reduction under § 1.907 (b)-2 (d) (4)	-------	7.53	-------	-------	-------	-------	-------	-------	-------
(c) Sum of lines (a) and (b)	-------	22.40	-------	-------	-------	-------	-------	-------	-------
5. FOGEI taxes from preceding years of origin deemed paid in current year	-------	-------	-------	-------	-------	2.40	7.40	-------	-------
6. Unused FOGEI tax:									
(a) Line 4 (c)	-------	22.40	-------	30.00	-------	-------	-------	140.00	-------
(b) 2% of line 1	-------	-------	-------	5.00	-------	-------	-------	140.00	-------
(c) Lesser of line (a) or (b)	-------	22.40	-------	5.00	-------	-------	-------	140.00	-------
7. Excess extraction limitation:									
(a) Line 2	49.00	586.88	124.00	-------	210.00	210.00	210.00	-------	960.00
(b) Line 5	-------	-------	-------	-------	-------	2.40	7.40	-------	-------
(c) Sum of lines (a) and (b)	49.00	586.88	124.00	-------	210.00	212.40	217.40	-------	960.00
(d) Excess of line 3 (b) over line (c)	0.00	0.00	20.00	-------	126.00	123.60	118.60	-------	20.00
8. FORI	200.00	1,620.00	450.00	600.00	1,000.00	1,000.00	1,000.00	8,000.00	3,000.00
9. FORI taxes:									
(a) Total	60.00	842.47	186.00	328.00	240.00	240.00	240.00	4,140.00	1,425.00
(b) Less line 4 (a)	0.00	14.87	-------	30.00	-------	-------	-------	140.00	-------
(c) Adjusted FORI taxes	60.00	827.60	186.00	298.00	240.00	240.00	240.00	4,000.00	1,425.00
10. Section 904 limitation (48% of line 8)	96.00	777.60	216.00	288.00	480.00	480.00	480.00	3,840.00	1,440.00
11. FORI taxes from preceding year of origin deemed paid in current year	-------	-------	-------	-------	-------	-------	6.47	-------	-------
12. Unused FORI tax (excess of line 9 (c) over line 10	-------	50.00	-------	10.00	-------	-------	-------	160.00	-------
13. Excess oil related limitation:									
(a) Line 9 (c)	60.00	-------	186.00	-------	240.00	240.00	240.00	-------	1,425.00
(b) Line 11	-------	-------	-------	-------	-------	-------	6.47	-------	-------
(c) Line 5	-------	-------	-------	-------	-------	2.40	7.40	-------	-------
(d) Sum of lines (a), (b), and (c)	60.00	-------	186.00	-------	240.00	242.40	253.87	-------	1,425.00
(e) Excess of line 10 over line (d)	36.00	-------	30.00	-------	240.00	237.60	226.13	-------	15.00
14. FOGEI taxes deemed paid under section 907 (f) (not to exceed the lesser of line 7 (d) or line 13 (e))	0.00	0.00	20.00	-------	2.40	5.00	118.60	-------	15.00
15. Taxes deemed paid under line 14 as carried from--									
(a) 1976----------	-------	-------	20.00	-------	2.40	-------	-------	-------	-------
(b) 1978----------	-------	-------	-------	-------	-------	5.00	-------	-------	-------
(c) 1980----------	-------	-------	-------	-------	-------	-------	118.60	-------	15.00
16. Unused FOGEI tax not absorbed as taxes deemed paid in a preceding excess limitation year available to be carried to--									
(a) 1979(a) (line 6 (c) in 1976 minus line 15 (a))	-------	-------	2.40	-------	-------	-------	-------	-------	-------
(b) 1981 (line 6 (c) in 1980 minus line 15 (c))	-------	-------	-------	-------	-------	-------	21.40	-------	-------
(c) 1982 - 1985 (line (b) minus line 15 (c))	-------	-------	-------	-------	-------	-------	-------	-------	6.40
17. Excess FORI limitation after application of section 907 (f):									
(a) Line 9 (c)	60.00	-------	186.00	-------	240.00	240.00	240.00	-------	1,425.00
(b) Line 11	-------	-------	-------	-------	-------	-------	6.47	-------	-------
(c) Line 14	0.00	-------	20.00	-------	2.40	7.40	126.00	-------	15.00
(d) Sum of lines (a), (b), and (c)	60.00	-------	206.00	-------	242.40	247.40	372.47	-------	1,440.00
(e) Excess of line 10 over line (d)	36.00	-------	10.00	-------	237.60	232.60	107.53	-------	0.00
18. FORI taxes deemed paid under section 904 (c): Lesser of line--									
(a) 12 in 1976 or line 17 (e)	36.00	-------	-------	-------	-------	-------	-------	-------	-------
(b) 20 (a) or line 17 (e)	-------	-------	6.47	-------	-------	-------	-------	-------	-------
(c) 12 in 1978 or (line 17 (e) minus line (b))	-------	-------	3.53	-------	-------	6.47	-------	-------	-------
(d) 12 in 1980 or line 17 (e)	-------	-------	-------	-------	-------	-------	107.53	-------	-------
(e) 20 (c) or line 17 (e)	-------	-------	-------	-------	-------	-------	-------	-------	0.00
19. Taxes deemed paid under line 18 as carried from:									
(a) 1976----------	36.00	-------	6.47	-------	-------	-------	-------	-------	-------
(b) 1978----------	-------	-------	3.53	-------	-------	6.47	-------	-------	-------
(c) 1980----------	-------	-------	-------	-------	-------	-------	107.53	-------	-------
20. Unused FORI tax (§ 1.907 (b)-2 (b)) not absorbed as taxes deemed paid in a preceding excess limitation year available to be carried to--									
(a) 1977 (line 12 in 1976 minus sum of lines 19 (a) and 4 (b))	6.47	-------	-------	-------	-------	-------	-------	-------	-------
(b) 1979 (b) (line 12 in 1978 minus line 19 (b))	-------	-------	6.47	-------	-------	-------	-------	-------	-------
(c) 1981 (line 12 in 1980 minus line (19 (c))	-------	-------	-------	-------	-------	-------	52.47	-------	-------
(d) 1982 - 1985 (line (c) in 1979 (c) minus line 19 (c))	-------	-------	-------	-------	-------	-------	-------	-------	52.47

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(b) *1975.* None of the unused FOGEI tax (line 6(c)) for 1976 can be carried back to 1975 because there is no excess extraction limittion (line 7(d)) for 1975. The limitation level under section 907(a) for unused tax (line 3(a)) is different than the level for the excess extraction limitation (line 3(b) for 1975 because the limitation percentage for unused tax is 52.8 percent (§ 1.907(a)–1(c)(2)) while the percentage for the excess extraction limitation is 48 percent (§ 1.907(f)–1(f)). Therefore, 1975 is not an excess extraction limitation year because the limitation level for determining the excess limitation ($48.00) is less than the FOGEI taxes paid ($49.00). 1975 could not be a year of origin under section 907(f) because that section does not apply to FOGEI taxes paid or accrued in that year. The unused FORI tax for 1976 (line 12) that is absorbed by the excess FORI limitation for 1975 (line 17(e)) is computed in accordance with the general rule of § 1.907(b)–2(c).

(c) *1976.* 1976 is a year of origin under sections 907(f) and 904(c) (see paragraph (g) of this section). The unused FOGEI tax would not be reduced to 2 percent of FOGEI if the excess limitation year was 1977 or 1975 (see paragraph (b)(2) of this section). The limitation percentages for unused tax and for excess extraction limitation are 50.4 percent and 48 percent, respectively, for the reasons given in paragraph (b) of this example. The unused FORI tax (line 12) for 1976 that is absorbed by the excess FORI limitation for 1975 (line 17(e)) is determined in accordance with the explanation in paragraph (b) of this example. Since the limitation percentage for excess limitation years 1977 and 1979(a) (48 percent) is lower than the one for 1976, the year of origin (50.4 percent), and since unused FOGEI tax is included in unused FORI tax after applying the carryback to 1975, § 1.907(b)–2(d)(4) applies. Thus, unused FOGEI tax included in unused FORI tax after the carryback to 1975 is reduced by using a limitation percentage of 48 percent. See lines 4(b) and 20(a). The computation under § 1.907(b)–2(d) is summarized below, the numbers in parenthesis referring to lines in the example.

	FORI	FOGEI	Other FORI
(a) Income	$1,620(8)	$1,120(1)	$500.00
(b) Tax	827.60(9(a))	564.48(3(a))	263.12
(c) Tax absorbed in year of origin	777.60(10)	537.60	240.00
(d) Unused tax in year of origin (line (b) minus line (c))	50(12)	26.88	23.12
(e) Tax absorbed in 1975	36(18(a))	19.35	16.65
(f) Remaining unused tax (line (d) minus line (e))	14	7.53	6.47
(g) Reduction under § 1.907(b)–2(d)(4) using limitation percentage of 48 percent	7.53	7.53	
(h) Remaining unused FORI tax (line (f) minus line (g))	6.47(20(a))	0	6.47

The unused FOGEI tax (line 6(a)) includes the amount of the reduction under § 1.907(b)–2(d)(4) (line 4(b)). See § 1.907(f)–1(b)(1).

(d) *1977.* The unused FOGEI tax for 1976 (line 6(c)) that is absorbed as taxes deemed paid in 1977 (line 14) is limited to $20.00 because the excess extraction limitation for 1977 (line 7(d)) is less than the excess oil related limitation (line 13(e)) for that year (see paragraph (c) of this section). The computations of the unused FOGEI tax (line 6(c)) and unused FORI tax (line 12) are not necessary because 1977 is an excess limitation for both FOGEI and FORI tax. The computation of the excess FORI limitation (line 17(e)) reflects the FOGEI taxes deemed paid (line 14) under section 907(f) in accordance with § 1.907(b)–2(e)(1)(ii). The computation of unused 1976 FOGEI tax available as a carryover for future years (line 16(a)) is in accordance with paragraph (b)(2) of this section. The limitation level (line 3) for unused tax and excess limitation is the same for years 1977 through 1981.

(e) *1978.* The computations of the excess extraction limitation (line 7(d)), excess oil related limitation (line 13(e)), and excess FORI limitation (line 17(e)) are not necessary because 1978 is a year of origin. The unused FOGEI tax is limited to 2 percent of FOGEI in accordance with paragraph (b)(2) of this section. (However, the 2-percent limitation would not apply if the unused FOGEI tax were carried back to 1976 or 1977.)

(f) *1979.* 1979 is an excess limitation year with respect to the extraction and oil related limitations (lines 7(d) and 13(e), respectively). The chart provides three columns for 1979 to reflect the order in which unused taxes are deemed paid under section 907(f) and section 904(c). For any particular year of origin, unused FOGEI taxes are deemed paid under section 907(f) in a particular excess limitation year before unused FORI taxes from the same year of origin are deemed paid under section 904(c) in that year.

(g) *1979(a).* The excess FORI limitation (line 17(e)) reflects the FOGEI taxes deemed paid (line 14) under section 907(f) in accordance with § 1.907(b)–2(e)(1)(ii).

(h) *1979(b).* In computing both the excess extraction (line 7(d)) and oil related (line 13(e)) limitations, the FOGEI taxes deemed paid under section 907(f) for prior years of origin (line 5) are included in accordance with paragraph (d)(2) and (e)(3) of this section, respectively. Line 11 only has applicatiopn to 1979 (c). In computing the excess FORI limitation (line 17(e)), the aggregate of the FOGEI taxes deemed paid under section 907(f) (line 14) in 1979(a) and 1979(b) is used in accordance with § 1.907(b)–2(e)(1)(ii).

(i) *1979(c).* The principles that apply to 1979(c) were discussed in paragraph (h) of this example. The taxes deemed paid in 1979(c) are those carried back from 1980. In computing both the excess oil related (line 13(e)) and the excess FORI (line 17(e)) limitations, the FORI taxes deemed paid under section 904(c) for prior years of origin (line 11) are included in accordance with paragraph (e)(2) of this section and § 1.907(b)–2(e)(1)(iii) respectively.

(j) *1980.* The unused FOGEI tax is computed in accordance with paragraph (b)(1) of this section. 1980 is a year of origin under sections 907(f) and 904(c) (see paragraph (g) of this section).

(k) *1981.* The unused FOEI tax for 1980 (line 12) that was not absorbed in 1979 (line 20(c)) cannot be carried to 1981 because of the priority rule in paragraph (g) of this section (see line 17(c)). This rule reduces the excess FOEI limitation to zero (see line 17(e)).

Par. 2. Paragraph (a) of § 1.78–1 is amended by adding a new sentence immediately after the first sentence to read as set forth below:

§ 1.78–1 Dividends received from certain foreign corporations by certain domestic corporations choosing the foreign tax credit.

(a) *Taxes deemed paid by certain domestic corporations treated as a section 78 dividend.* * * * Any reduction under section 907(a) of the foreign income taxes deemed to be paid with respect to foreign oil and gas extraction income does not affect the amount treated as a section 78 dividend. * * *

* * * * * *

Par. 3. Paragraph (a) of § 1.901–1 is amended by adding a new subparagraph (4) immediately after subparagraph (3) to read as set forth below:

§ 1.901–1 Allowance of credit for taxes.

(a) *In general.* * * *

(4) *Limitation.* Section 907(a) limits the credit against the tax imposed by chapter 1 of the Code for certain foreign taxes paid or accrued with respect to foreign oil or gas extraction income. See § 1.907(a)–1.

* * * * * *

Par. 4. Paragraph (a) of § 1.904–2 is amended by adding a new sentence immediately after the last sentence to read as set forth below:

§ 1.904–2 Carryback and carryover of unused foreign tax.

(a) *Credit for foreign tax carryback and carryover.* * * * *For special rules regarding these computations in the case of taxes paid, accrued, or deemed to be paid with respect to foreign oil and gas extraction income or foreign oil related income, see section 907(b), (e), and (f) and the regulations thereunder.*

* * * * * *

§ 1.904–3 [Amended]

Par. 5. The last sentence of paragraph (e) of § 1.904–3 is amended by deleting

"or" immediately after the word "apply,", by deleting the period at the end thereof and by inserting at the end thereof ", or foreign oil related income described in section 907(c) with respect to which the provisions of section 907(b) apply."

Par. 6. Paragraph (a) of § 1.904–4 is amended by adding a new sentence at the end of subparagraph (1)(vii) and by revising subparagraph (3). These added and revised provisions read as follows:

§ 1.904–4 Separate limitation for section 904(f) interest.

(a) *Separate limitation.*—(1) *In general.* * * *

(vii) * * * For special rules for determining the separate limitation with respect to oil related income, see section 907(b).

* * * * * *

(3) *Other income defined.* For purposes of this section, other income is all income of the taxpayer for the taxable year other than—

(i) Section 904(f) interest (as defined in paragraph (a)(2) of this section),

(ii) Section 904(f) dividends (as defined in section 904(f)(1)(B) and § 1.904–5(a)(2)), and

(iii) Foreign oil relatd income (as defined in section 907(c)).

* * * * * *

Par. 7. Paragraph (a) of § 1.904–5 is amended by adding a new sentence at the end of subparagraph (1)(vii) and by revising subparagraph (3). these added and revised provisions read as follows:

§ 1.904–5 Separate limitation for section 904(f) dividends.

(a) *Separate limitation*—(1) *In general.* * * *

(vii) * * * For special rules for determining the separate limitation with respect to oil related income, see section 907(b).

* * * * * *

(3) *Other income.* For purposes of this section, other income is all income of the taxpayer for the taxable year other than—

(i) Section 904(f) dividends (as defined in paragraph (a)(2) of this section),

(ii) Section 904(f) interest (as defined in section 904(f)(2) and § 1.904–4(a)(2)), and

(iii) Foreign oil related income (as defined in section 907(c)).

* * * * * *

Par. 8. Paragraph (g) of § 1.960–1 is amended by adding a new sentence at the end thereof to read as follows:

§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

* * * * * *

(g) *Reduction of foreign income taxes paid or deemed paid.* * * * For reduction of the foreign income taxes deemed paid by a domestic corporation under section 960 with respect to foreign oil and gas extraction income, see section 907(a).

§ 1.1248–1 [Amended]

Par. 9. Paragraph (d)(1)(i) of § 1.1248–1 is amended by deleting "905" and by inserting in lieu thereof "906".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-35776 Filed 11-12-80; 3:59 pm]

BILLING CODE 4830-01-M

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26 CFR Part 301

[LR–57–80]

Classification of Limited Liability Companies; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the classification, for Federal tax purposes, of an unincorporated business organization, such as a limited liability company, no member of which is personally liable under local law for the debts of the organization. The regulations would provide the public and Internal Revenue Service personnel with guidance on this matter.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 16, 1981. The amendments are proposed to be aeffective for taxable years beginning after 1980 in the case of entities that begin business after November 17, 1980, and to taxable years beginning after 1982 in the case of entities that have begun business on or before November 17, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–57–80), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: Paul A. Francis of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701 of the Internal Revenue Code of 1954. These amendments are propsed to modify the application of the classification rules to limited liability companies and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

General Classification Rules

Section 7701 of the Code and §§ 301.7701–1 through 301.7701–4 of the Regulations on Procedure and Administration provide the definitions and rules for classifying entities for Federal tax purposes. Section 7701(a)(3) provides that the term "corporation" includes "associations." Under § 301. 7701–2 unincorporated organizations with associates and a joint profit objective must be classified as either partnerships or associations.

Whether such unincorporated organizations will be classified as partnerships or associations depends upon the degree to which the organizations resemble typical corporations. *Morrisey v. Commissioner,* 296 U.S. 344 (1935). Ordinarily that determination will depend upon the presence or absence of the following four corporate characteristics identified by the Court in that case: continuity of life, centralization of management, limited liability, and free transferability of interests.

Limited Liability Companies

A limited liability company is a business organization with associates and a joint profit objective, no member of which is personally liable under applicable local law for debts of the organization.

The proposed regulations provide that an organization with associates and a joint profit objective shall be classified as an association if no member is personally liable for debts of the organization under local law. The Internal Revenue Service believes that the term "partnership" can apply only to an organization some member of which is personally liable under applicable local law for debts of the organization. Since a limited liability company does not satisfy this condition, it cannot be classified as a partnership. Consequently, the limited liability company must be classified as an association under § 301.7701–2 without regard to the presence or absence of other corporate characteristics.

No Effect on Other Entities

The proposed regulations do not affect the application of the classification rules

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to any entities other than those that enjoy complete limited liability under the applicable local law. Thus, entities organized under statutes corresponding to the Uniform Partnership Act or the Uniform Limited Partnership Act shall continue to be classified under existing rules since those statutes make general partners personally liable for partnership debts. The fact that general partners may make other arrangements to insure themselves against loss as a result of partnership debts does not obviate the existence of personal liability under the applicable law.

Drafting Information

The principal author of these proposed regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

Section 301.7701–2 is amended by adding two sentences at the end of paragraph (a)(2), by revising the first sentence of paragraph (a)(3), by adding a sentence at the end of paragraph (a)(4), and by adding a new example (1) to paragraph (g). These added and revised provisions read as follows:

§ 301.7701–2 Associations.

(a) *Characteristics of corporations.* * * * *

(2) * * * However, such an organization will be classified as an association if under local law no member of the organization is personally liable for debts of the organization. For purposes of the preceding sentence, only liability arising solely from membership in the organization shall be taken into account; liability of a member as a guarantor on an obligation of the organization shall be disregarded.

(3) Except in the case of an organization none of whose members is personally liable under local law for the debts of the organization, an unincorporated organization shall not be classified as an association unless such organization has more corporate characteristics than noncorporate characteristics. * * *

(4) * * * The amendments made by [the Treasury decision that adopts final regulations relating to limited liability companies] apply to taxable years beginning after December 31, 1980, in case of entities that begin business after November 17, 1980, and to taxable years beginning after December 31, 1982, in the case of entities that have begun business on or before November 17, 1980.

* * * * *

(g) *Examples.* * * *

Example (1). Three individuals form an unincorporated business organization known under local law as a limited liability company. The organization has associates and an objective to carry on business and divide the resulting gains. The local law provides that no member of the organization shall be personally liable for any debt of the organization. The organization will be classified as an association for all purposes of the Internal Revenue Code.

* * * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-35761 Filed 11-14-80; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 111

Second-Class Supplements; Extension of Comment Period

AGENCY: Postal Service.

ACTION: Proposed rule; extension of time for comment.

SUMMARY: This notice extends the time for filing comments on a proposal that would relax the eligibility requirements for supplements in second-class publications.

DATE: Comments must be received on or before November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Gordon S. Proud, (202) 245–4659.

SUPPLEMENTARY INFORMATION: On October 27, 1980, a document was published in the **Federal Register** (45 FR 70916) proposing deletion of a number of eligibility requirements for supplements in second-class publications. These requirements were proposed to be deleted because they were said to impose unnecessary and technical impediments on the use of supplements. The Postal Service provided a shortened comment period because it perceived a strong mailer interest in adoption of the proposal, and because the proposal removed current restrictions.

We have, however, received two letters from mailer representatives requesting additional time to study and prepare comments on the proposal. In view of these requests, the Postal Service will accept written comments which are received on or before November 30, 1980.

(39 U.S.C. 401(2), 404(a)(2))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 35841 Filed 11-14-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EN-FRL 1667-5]

Federal Administrative Orders Issued Under Section 113(d)(5) of the Clean Air Act; Proposed Delayed Compliance Order for the Department of Energy, Argonne National Laboratory

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to issue an Administrative Order to the Department of Energy (DOE) requiring its Boiler No. 5 at the Argonne National Laboratory in Argonne, Illinois, to achieve compliance with air pollution requirements under the Illinois State Implementation Plan by March 15, 1982.

DATE: Written comments and requests for a public hearing (and reasons therefore) must be received no later than December 17, 1980.

ADDRESSES: All comments and requests for public hearing should be submitted to the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illionis 60604, ATTN: Director, Enforcement Division.

FOR FURTHER INFORMATION CONTACT: Louise C. Gross, Enforcement Attorney, at the above address. Telephone: (312) 886–6844.

SUPPLEMENTARY INFORMATION: EPA proposes to issue an Administrative Order under Section 113(d)(5) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (the Act), to DOE, requiring its Boiler No. 5 at the Argonne National Laboratory in Argonne, Illinois to achieve compliance with Illinois State Implementation Plan Rules 202 (opacity), 203 (particulate matter) and 204 (sulfur dioxide) by March 15, 1982. The Argonne facility is owned by the United States Government, managed by the Chicago and Regional Operations Office of DOE and operated by the University of Chicago.

The proposed Order would require DOE to install control equipment according to the schedule set forth below. It contains interim emission reduction requirements, specified emission limitations and coal pollutant characteristics. The proposal also requires monitoring and reporting of air quality and air pollutant emissions data. If the Order is issued, source compliance with its terms would preclude any further EPA enforcement action under Section 113 of the Act and any citizen suits under Section 304 of the Act against the source for violations of the Illinois State Implementation Plan provisions covered by the Order. The purpose of this notice is to invite public comments on whether or not EPA should issue this Order under Section 113(d)(5) and to offer an opportunity for public hearing if significant public interest exists to discuss this issue.

In addition, Argonne Boiler No. 5 is located in the Metropolitan Chicago Interstate Air Quality Control Region (AQCR), a nonattainment area with respect to the national primary ambient air quality standards for particulate matter. Consequently, DOE must submit evidence satisfactory to the Administrator that the requirements of Section 113(d)(5)(D) have been met: that the emissions from this unit will have an infrequent and insignificant effect on the primary nonattainment portions of the AQCR and that they will not cause or contribute to excursions of the primary standard for particulate matter. To satisfy this requirement, DOE has prepared a modeling study analyzing the ambient air quality impact of the proposed conversion. EPA has preliminarily determined that this analysis satisfies the requirements of Section 113(d)(5)(D) of the Act. This study, as well as all other background information applicable to Boiler No. 5, may be viewed during normal business hours at the address provided above. Public comment is also invited as to whether DOE has satisfied the requirements of Section 113(d)(5)(D) and an opportunity offered for a public hearing on this issue if significant public interest exists.

The actual terms of the Order, as set forth below, may be modified prior to final EPA issuance. All interested persons are invited to submit written comments on the proposed Order. Comments submitted in person or by mail by December 17, 1980, will be considered in determining whether EPA should issue the proposed Order. Any person may request a public hearing on the subject Order and/or DOE's satisfaction of the requirements of Section 113(d)(5)(D) of the Act. Such a request should be submitted in writing, along with the reasons therefore, to the above Regional Office by December 17, 1980. If there is significant public interest in holding such a hearing, it will be conducted by the Region V Office following thirty days prior notice of the time and place of the hearing.

If the subject Order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual terms of the Order appearing below.

Authority: 42 U.S.C. 7413, 7601.

Dated: October 8, 1980.

John McGuire,

Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Part 55 as follows:

PART 55—FEDERAL ADMINISTRATIVE ORDERS ISSUED UNDER SECTION 113(d)(5) OF THE CLEAN AIR ACT

I. By adding § 55.310 to read as follows:

Subpart O—Illinois

§ 55.310 Federal administrative orders issued under Section 113(d)(5) of the Act.

[Order No.]

SUPPLEMENTARY INFORMATION:

In the matter of United State Department of Energy Argonne National Laboratory Argonné, Illinois, Order No. EPA–5–80–A.

This order is issued pursuant to Section 113(d)(5) of the Clean Air Act, as amended (the Act), 42 U.S.C. 7401 *et seq.* The Order contains emission limitations, requirements respecting pollution characteristics of coal, a schedule and timetable for compliance, interim requirements, monitoring and reporting requirements and increments of progress. This Order requires compliance with the requirements postponed as expeditiously as practicable. Public notice and opportunity for public hearing have been provided pursuant to Sections 113(d)(5)(D) of the Act. A copy of this Order has been provided to the Governor of the State of Illinois for his concurrence.

Findings

On September 12, 1979, the Economic Regulatory Administration of the United States Department of Energy issued a proposed prohibition order to the Chicago Operations and Regional Office of the United States Department of Energy (DOE) regarding Boiler No. 5 at the Government-owned Argonne National Laboratory (Argonne) in Argonne, Illinois, pursuant to Sections 302(a) and 403(a) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*

If made final, this prohibition order would preclude Boiler No. 5 at Argonne's central heating plant from burning natural gas or petroleum as its primary energy source. The Argonne facility is owned by the United States Government, managed by the Chicago Operations and Regional Office of the Department of Energy and is currently operated by the University of Chicago as a Government-owned contractor-operated facility (hereinafter referred to as the operating contractor).

Boiler No. 5 presently burns, and on September 12, 1979 burned, natural gas. If converted to coal before additional pollution abatement equipment is installed, this unit could not comply with all applicable air pollution requirements of those Illinois Pollution Control Board Rules which are part of the federally approved Illinois State Implementation Plan (SIP).

On April 21, 1980, DOE requested that the United States Environmental Protection Agency (U.S. EPA) issue an order under Section 113(d)(5) of the Act. Such an order would permit DOE to burn coal in Boiler No. 5 during the period in which the requisite pollution control equipment was being installed.

The facility is located in the Metropolitan Chicago Interstate Air Quality Control Region (AQCR), a nonattainment area with respect to the national primary ambient air quality standards for particulate matter. Consequently, Section 113(d)(5)(D) is applicable. DOE has, however, submitted evidence satisfactory to the U.S. EPA Administrator, after opportunity for notice and public hearing, that its emissions of particulate matter, sulfur dioxide and nitrogen oxides will meet the requirements of this subsection.

Furthermore, pursuant to Section 113(d)(5)(B), the Administrator has determined that compliance with the requirements of this Order will assure (throughout the period before the date for final compliance established in the Order) that the burning of coal in Boiler No. 5 will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary air quality standard for such pollutant.

After a thorough investigation of the information obtained from all sources, the Administrator of U.S. EPA has determined that the emission limitations, coal characteristics and other enforceable measures contained in the Order below satisfy the requirements of Section 113(d)(5) of the Act. In addition, the Administrator has determined that the schedule for compliance set forth below is as expeditious as practicable.

Pursuant to Section 113(d)(7) of the Act, the Administrator has determined that this Order requires DOE and its operating contractor to use the best practicable system or systems of emission reduction for Boiler No. 5, during the period in which this Order is in effect, taking into account the requirements with which DOE and its operating contractor must ultimately comply. Boiler No. 5 shall further comply with such interim requirements as the Administrator has determined are reasonable and practicable, including such measures as are necessary to avoid imminent and substantial endangerment to the health of persons and a requirement that the unit comply with the applicable requirements of the Illinois SIP insofar as it is able to do so (as determined by the Administrator) during any such period.

Pursuant to Section 113(d)(5)(A), the Administrator has determined that Boiler No.

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5 at Argonne will achieve final compliance with the requirements of the Illinois SIP by March 15, 1982.

ORDER

Therefore, it is hereby ORDERED that:

I. Boiler No. 5 at Argonne shall achieve and demonstrate compliance with Illinois Pollution Control Board Rules 202(b), 203(g)(1)(A) and 204(c)(1)(A) in accordance with the following schedule:

A. Award contracts for the design and installation of new emission control system by October 30, 1980.

B. Initiate on-site construction by May 15, 1981.

C. Complete on-site construction by January 15, 1982.

D. Perform final compliance testing by February 15, 1982.

E. Submit results of final compliance testing and demonstrate compliance with the Illinois SIP by March 15, 1982.

II. DOE and its operating contractor shall achieve and demonstrate final compliance with the applicable rules by performing emission tests in accordance with 40 CFR Part 60. DOE shall notify U.S. EPA in writing at least thirty (30) days in advance of performing the required tests.

III. Not later than ten (10) working days after any date for achievement of a step specified in this ORDER, DOE shall notify U.S. EPA in writing of its compliance or noncompliance with the requirement. In addition, progress reports shall be submitted to U.S. EPA on February 1, 1981 and September 15, 1981. Furthermore, if any event occurs which causes or may cause a delay in meeting any requirement contained in this ORDER, DOE shall immediately notify U.S. EPA in writing of the delay or anticipated delay as appropriate, describing in detail the precise cause or causes of the delay, the measures taken and to be taken by DOE and its operating contractor to prevent or minimize the delay and the timetable by which those measures will be implemented. DOE and its operating contractor will adopt all reasonable measures to avoid or minimize any such delay.

IV. Pursuant to Section 113(d)(5)(B) and 113(d)(7) of the Act, Boiler No. 5 at Argonne shall comply with the following interim requirements. Such requirements are necessary to insure compliance with the federally approved Illinois State Implementation Plan, insofar as Boiler No. 5 is able to during the period in which this ORDER is in effect. If these requirements are proposed to be modified, such proposal shall be published in the **Federal Register** and promulgated in accordance with procedures for informal rulemaking:

A. Boiler No. 5 at Argonne shall not burn coal with an ash content greater than 6.5 pounds ash per million BTU, and a sulfur content greater than 1.3 pounds sulfur per million BTU.

B. Boiler No. 5 at Argonne shall not emit in excess of 0.63 pounds of particulate matter per million BTU and 2.39 pounds of sulfur dioxide per million BTU.

C. DOE and its operating contractor shall operate and maintain the existing multiclone of Boiler No. 5 to insure a minimum removal efficiency of eighty-five percent (85%) at total capacity.

V. DOE and its operating contractor shall install and operate an ambient air quality monitoring network in the vicinity of Boiler No. 5 at Argonne from which they will collect ambient air quality data as follows:

A. The network shall contain monitors capable of measuring 24-hour and annual average particulate matter concentrations.

B. The network shall be approved by U.S. EPA prior to installation and operation.

C. The network shall be operational by the time that DOE and its operating contractor commence use of coal in Boiler No. 5 at Argonne.

D. DOE shall keep monthly records of the air quality monitoring data from the network. Copies of these records shall be submitted within twenty (20) days of the end of each calendar month.

VI. The period of effectiveness of this ORDER shall not include any interval after U.S. EPA finds and notifies DOE that (1) a national primary ambient air quality standard for any pollutant is being exceeded in the Metropolitan Chicago Interstate Air Quality Control Region and (2) DOE has failed to submit adequate evidence showing that the requirments of Section 113(d)(5)(D)(i) through (iii) of the Act have been satisfied. During such intervals, if any, full compliance with the Illinois state Implementation Plan (excluding this ORDER) shall be required of DOE and its operating contractor, and violations by them of the Plan shall be subject to enforcement action under Section 113 of the Act.

VII. DOE and its operating contractor shall install a continuous emission monitoring and recording system for the measurement of opacity in the control device stack of Boiler No. 5 as follows:

1. Such a system shall be installed in appropriate locations, calibrated, maintained and operated in accordance with the procedures set forth at 40 CFR Part 60, Appendix B.

2. Prior to the actual installation of the continuous opacity monitoring system, DOE shall submit drawings showing the proposed locations of such equipment for U.S. EPA's review and approval.

3. The continuous monitoring devices shall be installed and calibrated, and the continuous monitoring and recording system shall be fully operational by the time that the use of coal is commenced. Monitor data from this system shall be retained by DOE's operating contractor for two years.

VIII. Nothing in this ORDER shall affect DOE's and its operating contractor's responsibility to comply with any other Federal, State or local regulations.

IX. Nothing in this ORDER shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

X. All submissions and notifications to the U.S. EPA pursuant to this ORDER shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. A copy of all such submissions and notifications shall be sent to Director, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

XI. DOE and its operating contractor are hereby notified that their failure to achieve and demonstrate final compliance at Boiler No. 5 with the applicable regulations of the Illinois State Implementation Plan by March 15, 1982 may result in a requirement to pay a noncompliance penalty under Section 120 of the Act, 42 U.S.C. 7420. Such requirement may be imposed at an earlier date, as provided by Section 113(d) and 120 of the Act, either in the event that this ORDER is terminated in accordance with Section 113(d)(8) of the Act, or in the event that any requirement of this ORDER is violated, as provided in Section 113(d)(9) of the Act. In any event, DOE will be formerly notified, pursuant to Section 120(b)(3) of the Act and any regulations promulgated thereunder, of its noncompliance.

XII. This ORDER shall be effective upon **Federal Register** promulgation.

The United States Department of Energy and the University of Chicago reviewed this ORDER and believe it to be a reasonable means by which Boiler No. 5 can achieve final compliance with the Illinois State Implementation Plan. The United States Department of Energy and the University of Chicago stipulate as to the correctness of all facts stated above and consent to the requirements and terms of this ORDER.

[FR Doc. 80-35787 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-33-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR 30 and 35

[CGD 79-081b]

Manning Levels for Foreign Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rules.

SUMMARY: These proposed regulations would prescribe minimum manning levels for foreign tank vessels when operating in U.S. navigable waters or calling at U.S. deepwater ports. The Port and Tanker Safety Act of 1978 requires that minimum manning levels be established as measures to provide for safe navigation of these vessels. A foreign tank vessel not manned with the personnel required by these proposed regulations would be prohibited by the Act from operating in U.S. waters or calling at U.S. deepwater ports.

DATE: Comments on these proposed rules must be received on or before March 16, 1981.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/24), (CGD 79-081b), U.S. Coast Guard, Washington, D.C. 20593. The comments, draft evaluation, and other materials referenced in this notice will be available for examination and copying between 7 a.m. and 5 p.m., Monday through Thursday, except holidays, at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Commander Daniel E. Struck, Project Manager, Office of Merchant Marine Safety (G-MVP/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2240.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 79-081b) and the specific section to which their comments apply, and give reasons for the comments. Persons desiring acknowledgment of their comments should enclose a stamped self-addressed postcard or envelope. A four month comment period is being provided to allow sufficient time for foreign interests to submit comments.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on these proposed rules. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting these proposed rules are Commander Daniel E. Struck, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Draft Evaluation

1. These proposed regulations are considered to be nonsignificant and, accordingly, a draft evaluation has been prepared and placed in the public docket as required by the DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impact of the regulations.

2. A copy of the draft evaluation (less attachment) is included as an appendix to this notice of proposed rulemaking. As stated in the evaluation, the total annual costs involved for foreign tank vessels to comply with these regulations is estimated to be $20,543,810. It is expected that most of these costs would be passed on to consumers. The average annual cost of the regulations to each consumer that uses 1,000 gallons of gasoline per year is estimated to be approximately $.08.

3. Comments on the content and accuracy of the evaluation may be submitted to the address listed above and will be considered in conjunction with comments submitted on the proposed regulations. Comments should include any relevant supporting data.

Environmental Assessment

4. An environmental assessment has been prepared for this proposal and a copy has been placed in the public docket. The assessment is also being made available to the public in accordance with the regulations of the Council of Environmental Quality in 40 CFR, Chapter V.

Discussion of Proposed Regulations

a. General

5. The Port and Tanker Safety Act of 1978 (Public Law 95-474) contains, among other things, detailed requirements concerning foreign tank vessel personnel. Specifically, Section 5 of the Act (46 U.S.C. 391-(11)) requires that regulations be adopted concerning verification of manning, training, qualification, and watchkeeping standards promulgated by foreign countries that license or certificate personnel serving on tank vessels which enter or operate in U.S. waters and ports. The Act further requires in 46 U.S.C. 391a(11)(F) that manning levels based upon vessel size and type of operation be established for these vessels when operating in U.S. navigable waters and deepwater port safety zones when calling at the ports.

6. These proposed regulations would establish the manning levels required by 46 U.S.C. 391a(11)(F). Interim regulations implementing the remaining provisions of 46 U.S.C. 391a(11) were recently adopted in a separate regulatory docket (CGD 79-081a) and were published in the **Federal Register** of April 7, 1980, at pages 23425-23428 (45 FR 23425-23428). A correction document was also published on April 14, 1980 (45 FR 25065). The interim regulations contain detailed procedures for submitting and evaluating tank vessel personnel licensing and certification programs of foreign countries which license or certificate personnel serving on tank vessels that call at U.S. ports.

7. There are currently no detailed international requirements that pertain to manning levels. The International Convention for the Safety of Life at Sea, 1960 (SOLAS 1960) contains a requirement to carry a radio officer but otherwise leaves to each contracting government the responsibility for establishing minimum manning levels on vessels sailing under the country's flag. SOLAS 1974, which became effective on May 25, 1980, retains the manning requirements in SOLAS 1960, but does not add any additional requirements. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 prescribes qualifications for vessel personnel but does not address manning level standards.

b. Applicability

8. As provided in proposed § 30.01-5(i), the regulations would apply to foreign vessels to which Section 5 of the Port and Tanker Safety Act of 1978 applies. Section 5 of this Act applies to U.S. tank vessels and to foreign tank vessels that (a) enter or operate in the navigable waters of the United States, *or* (b) transfer oil or hazardous materials at a port or place subject to the jurisdiction of the United States. However, there are some exceptions. Section 5 does not apply to public vessels. Also, Section 5 excludes foreign vessels that are not destined for, or departing from, a port or place subject to the jurisdiction of the United States *and* that at the same tine are either in (a) innocent passage through the territorial sea of the United States *or* (b) transit through navigable waters of the United States which form a part of an international strait. The term "hazardous material", as defined in the Act, means any liquid material or substance that is flammable or combustible or designated as hazardous in accordance with other laws cited in the Act.

c. Proposed Manning Levels

9. Table 35.06-3 in the proposed regulations lists the minimum number of personnel required for foreign tank vessels when operating in U.S. waters. The table requires each vessel, unless otherwise provided in footnotes to the table, to have a master, three deck officers, six deck ratings, three deck hands, a radio officer, a chief engineer,

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three engineering officers, and either six or three engine ratings depending upon whether the vessel is propelled by steam or diesel motor. A liquefied gas carrier is also required to carry one deck technician and one engineer technician to provide for the handling and care of the vessel's cargo and for maintenance and repair of its cargo storage and transfer system.

10. The proposed requirements in Table 35.06–3 are essentially the same as manning requirements currently applied to U.S. tank vessels on ocean voyages. The U.S. regulations are in Subpart 13.15, Subpart 35.05, and Part 157 of Title 46, Code of Federal Regulations. Basically, these regulations provide that each U.S. tank vessel must be manned with the minimum number of persons required by the U.S. manning laws and specific requirements in the regulations. The applicable U.S. manning laws are referenced in Part 157. The minimum number required for each U.S. tank vessel in accordance with these laws and regulations is listed on the vessel's certificate of inspection. A review of certificates currently on file for U.S. tank vessels on ocean voyages showed that, except as noted in paragraph 17, each of these vessels carries the personnel required by proposed Table 35.06–3. The results of the review are included in the draft evaluation.

11. Compliance with the requirements in proposed Table 35.06–3 would allow vessels to operate on a three watch system. (A three watch system is one in which watchstanders would be on duty eight hours in a twenty-four hour period.) The manning levels imposed on U.S. vessels on ocean voyages, except tugs and barges engaged on voyages of less than 600 miles, provide for sufficient personnel to allow operation under a three watch system. There are no restrictions imposed on how the available personnel are divided into watches, although 46 U.S.C. 673 requires these vessels to operate on a three watch system. Consideration was given to proposing lower manning levels that would allow use of a two watch system. However, this alternative approach was rejected on the basis that operation of a vessel on an ocean voyage with a lesser number of personnel would increase the possibility of personnel fatique which could affect the navigation of the vessel. This alternative is discussed in the draft evalution.

12. Footnote (a) in proposed Table 35.06–3 allows vessels of less than 1,000 gross tons to carry two rather than three deck officers. This reduction corresponds to a similar reduction in Section 223 of Title 46, U.S. Code, for U.S. vessels.

13. Footnote (b) in Table 35.06–3 allows vessels of 500 gross tons or less to have a deck force consisting of 3 deck ratings or 2 deck ratings and 1 deck hand. These reductions correspond to similar reductions allowed for small U.S. general cargo vessels. As explained in the draft evaluation, manning level data was compiled for small general cargo vessels since there is only one U.S. tank vessel in the category of 500 gross tons or less in service and a significantly larger data base was needed for comparison purposes in preparing the proposed regulations. Data compiled for the evaluation also shows that 19 foreign tank vessels of less than 500 gross tons entered U.S. waters between September 1977 and December 1979.

14. Footnote (c) in Table 35.06–3 allows a vessel to operate without deck hands if it has laborsaving devices which permit the helmsman and lookout to remain at their respective watchstations without interuption. A corresponding reduction is allowed on approximately 13 percent of the U.S. tank vessels.

15. Footnotes (d) and (e) in Table 35.06–3 allow vessels with automated enginerooms to reduce the number of engine ratings. Specifically, a tank vessel propelled by steam that has a fully automated boiler could carry three rather than six engine ratings. A tank vessel propelled by steam that also has pilothouse control of vessel speed and direction and centralization of monitoring devices in the machinery space could eliminate all engine ratings. A motor propelled tank vessel that has pilothouse control and centralization of monitoring devices could likewise eliminate all engine ratings. These proposed reductions correspond to reductions currently allowed for U.S. tank vessels in accordance with guidelines set out in Navigation and Vessel Inspection Circular No. 1–69 of January 8, 1969. A copy of this circular has been placed in the public docket.

16. Footnote (h) provides that a radio officer is not required on vessels under 1,600 gross tons. As explained previously, SOLAS 1974 contains a requirement to carry a radio officer but that requirement does not apply to vessels under 1,600 gross tons.

17. The footnotes do not contain specific reductions for the following types of vessels, although reductions are allowed on comparable U.S. vessels:

a. Vessels engaged on runs of less than 400 miles from the port of departure to the port of final destination. (Comparable U.S. vessels are allowed by 46 U.S.C. 223 to carry 2 deck officers in lieu of 3.)

b. Vessels between 501 and 1,599 gross tons. (Some U.S. vessels are allowed to carry less than 6 deck ratings and less than 3 deck hands, although the acutal reduction varies from vessel to vessel.)

c. Ocean tugs used to propel foreign tank barges. (Most U.S. tugs are allowed to carry between 2 and 6 deck ratings and tugs engaged on voyages of less than 600 miles can operate on a two watch system.)

d. Vessels with monitor and alarm systems in addition to the automation described in footnotes (d) and (e) in Table 35.06–3. (Navigation and Vessel Inspection Circular No. 1–69 allows a reduction in licensed engineers on certain U.S. vessels.)

These reductions have not been included in Table 35.06–3 principally because of the anticipated small number of vessels involved and because of uncertainty over whether vessels could qualify for specific reductions. In most cases, the actual reductions allowed on comparable U.S. vessels vary widely and are determined on a case by case basis depending upon the particular characteristics of the vessels involved. However, requests to operate with reductions not specifically allowed by the table could be submitted and authorized in accordance with the procedures described in paragraph 20 and proposed § 35.06–9

d. Miscellaneous Provisions

18. Proposed § 35.06–5 provides that persons required by Table 35.06–3, except deck hands and deck and engineer technicians, must hold a current license, certificate, or other similar document. The purpose of this requirement is to ensure that required personnel have training and qualifications needed to serve in their respective positions. The Officers' Competency Certificates Convention, 1936, contains a similar requirement for vessel personnel, but not all maritime nations are signatory to the Convention. The Coast Guard is currently conducting evaluations of foreign vessel personnel licensing and certification programs in accordance with the interim regulations described in paragraph 6. These evaluations should provide an independent means for verifying the adequacy of training and qualification of vessel personnel on foreign tank vessels.

19. Proposed § 35.06–7(a) requires the deck technician and at least one deck officer on a liquefied gas carrier to have training and experience necessary to provide for handling and care of the vessel's cargo. Also proposed § 35.06–7(b) requires the engineer technician and at least one engineering officer to have the training and experience necessary to provide for maintenance and repair of the vessel's cargo storage and transfer system. On U.S. vessels these individuals are licensed officers and each of them has a letter endorsement from the Coast Guard to verify their qualifications. On foreign vessels, however, deck and engineer technicians are not always licensed. Regulation V–3 of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, contains specific qualification and training Requirements for personnel on liquefied gas carriers and, upon U.S. ratification of the Convention, consideration will be given to adopting those requirements.

20. Proposed § 35.06–9 contains procedures for requesting reductions not specifically authorized by Table 35.06–3. The procedures provide that a request for reduced manning will not be authorized unless U.S. laws and regulations would allow the same reduction for U.S. vessels.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 30 and Part 35 of Title 46, Code of Federal Regulations, as follows:

PART 30—GENERAL PROVISIONS

1. By adding a new § 30.01–5(i) to Part 30 to read as follows:

§ 30.01–5 Application of regulations—TB/ALL.

* * * * *

(i) Notwithstanding the exceptions previously noted in paragraph (e) of this section, Subpart 35.06 of this chapter applies to foreign tank vessels to which Section 5 of the Port and Tanker Safety Act of 1978 applies. *See* 46 U.S.C. 391a(3) and (4).

PART 35—OPERATIONS

2. By adding a new Subpart 35.06 to read as follows:

Subpart 35.06—Manning Requirements for Foreign Tank Vessels

Sec.

35.06–1 Applicability.
35.06–3 General requirements.
35.06–5 License, certificate, or other document.
35.06–7 Deck and engineer technicians.
35.06–9 Specific reductions.

Authority: 46 U.S.C. 391a, as amended by sec. 5, Pub. L. 95–474, 49 U.S.C. 1655; 49 CFR 1.46.

Subpart 35.06—Manning Requirements for Foreign Tank Vessels

§ 35.06–1 Applicability.

(a) This subpart applies to foreign tank vessels described in § 30.01–5(i) of this chapter.

(b) Compliance with this subpart is not required if a vessel is under tow of, or is otherwise being propelled by another vessel that is manned in accordance with this subpart.

§ 35.06–3 General requirements.

(a) Each tank vessel when operating in U.S. navigable waters, or a deepwater port safety zone when calling at the port must be manned, at a minimum, with the officers and ratings listed in Table 35.06–3.

(b) No person may cause or authorize the operation of a tank vessel contrary to the requirements of this subpart.

Table 35.06–3—*Manning Levels for Foreign Tank Vessels*

Personel titles	Number of personnel required per vessel	Reductions allowable in accordance with footnotes to table
Master	1	
Deck officers	3	(a)(c)
Deck ratings	6	
Deck hands	3	
Chief engineer	1	
Engineering officers	3	
Engine ratings steam propelled only	6	(d)
Engine ratings motor propelled only	3	
Deck technician	1	(a)(c)(e)
Engineer technician	1	
Radio officer	1	

[a] May be reduced to 2 on vessels of less than 1,000 gross tons.
[b] On a vessel of 500 gross tons or less, deck ratings may he reduced to 3 and deck hands reduced to zero, or deck ratings may e reduced to 2 and deck hands reduced to 1.
[c] May be reduced to zero on a vessel with (1) mess and sanitary facilities close to watchstations, (2) an effective call system, and (3) an automated mooring system.
[d] May be reduced to 3 on a tank vessel propelled by steam that has a fully automated boiler.
[e] May be reduced to zero on a motor propelled tank vessel that has pilothouse throttle control of a vessel's speed and direction, and the centralization of the monitoring devices in the machinery space.
[f] May be reduced to zero on a tank vessel propelled by steam that has the automation described in footnotes (d) and (e).
[g] Required only for vessels carrying liquefied gas as cargo.
[h] Not required only for vessels under 1,600 gross tons.

§ 35.06–5 License, certificate, or other document.

Each person required by Table 35.06–3, except a deck hand, deck technician, or engineer technician, must hold a current license, certificate, or other similar document that is valid for—

(a) The service in which the vessel engaged; and

(b) The particular capacity in which the person is employed on the vessel.

§ 35.06–7 Deck and engineer technicians.

(a) Each deck technician required by Table 35.06–3 for a liquefied gas carrier must have the training and experience necessary to provide for safe handling and care of the vessel's cargo. At least one deck officer must also have this training and experience.

(b) Each engineer technician required by Table 35.06–3 for a liquefied gas carrier must have the training and experience necessary to provide for maintenance and repair of the vessel's cargo storage and transfer system. At least one engineering officer must also have this training and experience.

§ 35.06–9 Specific reductions.

A manning reduction not specifically allowed in the footnotes to Table 35.06–3 may be authorized in accordance with the following:

(a) Each request for a reduction must be submitted in writing to Commandant (C–MVP/14), U.S. Coast Guard, Washington, D.C. 20593.

(b) The request must include the following:

(1) Sufficient information to support a determination that vessel navigation with reduced manning as proposed in the request can be done safely.

(2) The name and address of a person to whom correspondence concerning the request may be sent.

(c) Action on a request will normally be completed within 30 days after its receipt and a written response will be sent thereafter to the address provided as required by paragraph (b)(2) of this section.

(d) A request for reduced manning will not be authorized unless U.S. laws and regulations would allow the same reduction for U.S. vessels. Chapter 52 of the Marine Safety Manual (CG–495) contains guidelines that the Coast Guard follows to promote a correct and uniform application of manning laws and regulations applied to U.S. vessels. Navigation and Inspection Circular No. 1–69 (NVC 1–69) also contains guidelines concerning reduced manning based upon engineroom automation. Each of these guidelines will be applied, where applicable, in determing whether a specific reduction not included in Table 35.06–3 should be allowed on a foreign tank vessel.

(e) The Marine Safety Manual and NVC 1–69 are available for inspection and copying at the Coast Guard document inspection facilities listed in Appendix B of 49 CFR Part 7.

(46 U.S.C. 391a, as amended by sec. 5 of Pub. L. 95–474; 49 U.S.C. 1655; 49 CFR 1.46)

Note.—The following text of the draft evaluation for this rulemaking is being published to provide a greater opportunity for comment on its content, and to provide a comprehensive explanation of the costs involved and the alternatives considered.

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Draft Evaluation For CGD 79–061b

General Discussion

1. Section 5 of The Port and Tanker Safety Act of 1978 (PTSA), Pub. L. 95–474, 46 U.S.C. 391a(11)(F), requires that regulations be issued prescribing minimum manning levels for foreign tank vessels operating in U.S. navigable waters and deepwater port safety zones. The minimum number of personnel required by these proposed regulations would allow vessels to operate on a three watch system (i.e., a watch system in which watchstanders would be on duty 8 hours in a 24 hour period when underway). Foreign tank vessels not manned with personnel required by these proposed regulations would be subject to the prohibition in Section 2 of PTSA (33 U.S.C. 1228(a)(6)) against operation in U.S. waters and ports.

2. At present there are no detailed international requirements pertaining to manning levels. The International Convention for the Safety of Life at Sea, 1960 (SOLAS 1960) contains a requirement to carry a radio officer but otherwise leaves to each contracting party the responsibility to ensure that ships of their nationality are sufficiently and efficiently manned, from the point of view of safety of life at sea. SOLAS 1974, which became effective on May 25, 1980, retains the manning provisions of SOLAS 1960 but does not add any additional requirements. The International Conference on Training and Certification of Seafarers, 1978 prescribes qualifications for vessel personnel but does not prescribe manning levels.

Analysis of Economic Consequences

a. Cost To Affected Vessels

3. In order to quantify the estimated costs of these regulations to the foreign shippers, foreign manning requirements were compared to the manning requirements in Table 35.06–3 of the proposed regulations. The results of the comparison are contained in Table A of the attachment to this evaluation and are explained more fully below. The manning requirements of 11 countries were used in the comparison. These requirements have been submitted for evaluation in accordance with procedural regulations published in the **Federal Register** of April 7, 1980, at page 23425. Some countries have not yet provided materials and, accordingly, vessels from those countries are not covered in Table A.

4. As explained in the attachment, a total of 1607 foreign tank vessels entered U.S. waters between September 1977 and December 1979. Table A takes into account 922 vesels, *i.e.* 57% of the total number (1607). As presented in the table, aproximately 409 vessels would need to provide additional personnel. The total number of additional personnel needed for these vessels is estimated to be 429 ratings, 576 deck hands, and 367 officers. Note 3 to Table A contains a projection of the total number of foreign vessels that would be affected by the proposed regulations. The projection assumes that the 635 vessels not covered in Table A have manning scales that are similar to vessels that are covered in the table. As stated in Note 3, the total number of foreign vessels that would need to provide additional personnel is projected to be 717. The total number of additional personnel needed is projected to be 753 ratings, 1010 deck hands, and 644 officers.

5. The cost to provide additional personnel would depend principally upon salary scales of the countries involved and upon the frequency of voyages made to U.S. ports. These costs have been estimated in Table C of the attachment and are based on the wage scales shown in Table B of the attachment. As shown in Table C, the estimated annual cost for affected vessels from the eleven countries listed in Table A would be $11,709,972. The annual projected cost to all affected foreign vessels operating in U.S. waters would be $20,543,810. Minor administrative and support costs to provide the additional personnel may also be encountered but have not been included in this projection because of a lack of data upon which to base an estimate.

6. On vessels from Finland, Liberia, and Singapore the total number of ratings is determined by the master, owner, or government on a vessel by vessel basis. The cost estimates in paragraph 5 assume that vessels from these countries have a sufficient number of ratings and deck hands to comply with proposed Table 35.06–3. However, another projection was done in Table D assuming that vessels from these countries would be 3 deck ratings short. The result would raise the total annual cost for affected foreign vessels operating in U.S. waters to $29,127,758.

b. Consumer and Governmental Costs

7. It is assumed that most of the costs incurred to comply with these regulations would be passed on to consumers. According to the cost calculation in Table E of the attachment, the average annual cost of these regulations to each consumer that uses 1000 gallons of gasoline per year would be about $.08. The cost of enforcing these regulations would be absorbed within existing Coast Guard resources. No increase in costs are expected for State and local governments.

c. Benefits

8. These regulations are being proposed as measures to provide for safe navigation of foreign tank vessels in U.S. waters. Undermanned vessels pose a threat to navigation because of the increased potential for operational error by vessel personnel. The principal benefits of these regulations, then, would be a reduction in the potential for operational error by vessel personnel and a corresponding reduction in the probability of tanker collisions, groundings, and oil and hazardous material spills in and near U.S. waters and ports resulting from operational error.

Major Alternatives

The requirement to establish manning levels for foreing tank vessels while operating in U.S. waters and calling at deepwater port is mandated by law; however, in determining the manning levels to be required several alternatives were explored.

9. *Two watch system vs three watch system.* As mentioned previously, the proposed regulations would require enough personnel to allow use of a three watch system Consideration was given to proposing lower manning levels that would allow the use of a two watch system. This alternative was rejected. Foreign tanker traffic entering U.S. waters primarily originates from the Middle East and South America. Because of the long voyage lengths involved, the potential for personnel fatigue on these vessels would be substantially increased if allowed to operate on a 2 watch system. An increased potential for personnel fatigue would increase the possibility of personnel error affecting the navigation of the vessel. This result would be contrary to the interest of safety.

10. *Manning levels for only the navigating crew.* Another alternative considered was establishing manning levels addressing only the navigating crew. This aproach was not pursued. Manning and watchkeeping standards in the engineroom are essential as measures to avoid operational error resulting in machinery malfunction and impaired vessel maneuverability. Cargo handling and maintenance technicians on liquified gas vessels are also essential to prevent mishaps that would cause a hazardous situation for personnel, the vessel, other vessels in close proximity, port facilities, and the environment.

11. *Use of both licensed and unlicensed officers.* Another alternative considered was to require the same manning levels as set forth in Table 35.06–3, but with the stipulations that only one deck officer and only one engineering officer need be licensed, and that these officers be on watch whenever the vessel is underway in U.S. waters. This altenative was not adopted. Vessels while underway in U.S. waters are often required to maneuver at varying speeds and navigate in close waters with continual course changes. On occasion, vessels are also required to anchor prior to entering port. These functions can often require joint efforts of all officers and crew on board. Use of nonlicensed officers under these circumstances is not acceptable since these personnel do not always have the experience and qualifications necessary to ensure safe navigation of the vessel. Requiring all officers to be licensed will ensure that the vessel will be continually under supervision of qualified personnel while underway in U.S. waters and will also ensure that vessels when underway in U.S. waters for more than 8 hours will have enough licensed officers for each watch. (Watches are typically stood for 4 hour periods, rather than longer periods, in order to avoid fatigue.) As mentioned in the attachment, between one third and one half of the voyages by foreign tank vessels to U.S. ports involve transit times in U.S. waters exceeding 8 hours.

D. E. Struck,

Project Manager.

Radm H. H. Bell,

Program Director.

Note.—The attachment is not being published because of the additional expense involved in printing the several tables of data and calculations that it contains. The attachment summarizes manning level data recently complied for foreign tank vessels that made voyages to U.S. port between September 1977 and December 1979. It also includes a summary of manning level data for U.S. vessels and a comparison between the proposed manning level requirements and requirement of various foreign countries. A copy of the attachment and the data it summarizes is avaliable for examination and copying at the Marine Safety Council. Their address is listed under "ADDRESSES" at the beginning of this document.

November 5, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–35617 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–14–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1042

[Ex Parte MC 142]

Elimination of Gateway Restrictions and Circuitous Route Limitations

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental notice to notice of proposed rulemaking.

SUMMARY: In the prior notice in this proceeding, the Commission proposed rules which would eliminate all *permanent* gateway restrictions and circuitous route limitations, as required by section 6 of the Motor Carrier Act of 1980. The Commission is proposing that section 6 should also govern the elimination of all *interim* gateway restrictions which were the subject of proceedings pending on July 1, 1980. Since the Commission has been required by Section 6 to eliminate gateways, it feels that interim gateways should be included as well.

DATE: Comments are due December 2, 1980.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC–142 (Supplemental Notice), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Karl Morell (202) 275–7953, or Edward E. Guthrie (202) 275–7691.

SUPPLEMENTARY INFORMATION: Section 6 of the Motor Carrier Act of 1980, enacted July 1, 1980, added a new subsection (h)(1)(A) to 49 U.S.C. 10922 which requires the Commission to eliminate gateway restrictions and circuitous route limitations on the operations of motor common carriers of property. On September 16, 1980, the Commission issued a notice of proposed rulemaking in this proceeding (45 FR 61333) to implement this new statutory requirement. In that notice, we announced that we were considering adopting rules which would allow any carrier holding separate authorities that may lawfully be tacked to perform the through service over any available route. The scope of the proposed rules, however, is limited to *permanent* tacking rights. The purpose of this supplemental notice is to address the effect of section 10922(h)(1)(A) on existing *interim* tacking rights.

The regulations adopted in *Gateway Elimination*, 119 M.C.C. 530 (1974), allow carries which have filed applications in good faith under the rules to continue providing service through their gateway until final disposition of their application proceedings. 49 CFR 1065.1(b). A few proceedings instituted under those rules remain to be processed. Under these circumstances, carriers now hold *interim*—i.e., *pendente lite*—authority to tack their underlying authorities and operate through gateways to the extent that such operations are the subject of the pending proceedings. There are also carriers which have pending gateway elimination applications directly related to finance proceedings under 49 U.S.C. 11344 or 10926, in which the finance transaction has already been consummated. In those circumstances where the related finance transaction has been approved and consummated but the gateway elimination issue is still pending, the carrier holds *interim* authority to tack the involved authorities to provide service between the origin and destination points described in the authorities sought in the gateway elimination proceedings pending ultimate disposition of the gateway elimination application. Accordingly, under these and any similar circumstances, carriers hold lawful *interim* authority to operate through gateways.

Section 6 of the Motor Carrier Act of 1980 requires the Commission to eliminate gateway restrictions. A gateway restriction is properly defined as any situation in which a carrier holds lawful authority to operate over a gateway. Therefore, section 6 can properly be read to govern the removal of interim as well as permanent gateway restrictions. Accordingly, in deciding those pending proceedings involving interim gateway restrictions which were not administratively final on July 1, 1980, the commission intends to consider the gateway restriction to be subject to automatic elimination by virtue of the requirements of section 6 of the Act.

Under this proposal, the Commission would continue processing the individual pending cases (in effect, affirmatively ordering the elimination of the gateways). Authority to conduct the direct operations would be issued subsequently in an appropriate document (certificate).

We are aware of the fact that, since July 1, 1980, the Commission has issued a few decisions involving interim gateway restrictions which may be inconsistent with our proposal in this notice. We intend to review those decisions and take appropriate action to assure that all decisions rendered since July 1, conform with the requirements of the Motor Carrier Act of 1980. To aid us

in this effort, we invite the affected carriers to bring such proceedings to our attention.[1]

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources.

This supplemental notice is issued under the authority of 49 U.S.C. 10922 (h)(1)(A) and 5 U.S.C. 553.

Decided: October 30, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp, joined by Vice Chairman Gresham, dissenting with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, joined by Vice Chairman Gresham, dissenting: Section 6 of the Motor Carrier Act of 1980 requires the elimination of restrictions only from permanent gateways. The temporary tacking allowed under the gateway procedures was provisional. To permit permanent removal now of restrictions on a temporary gateway is tantamount to waiving a wand and turning temporary operating rights into permanent.

[FR Doc. 80-35831 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

[1] Comments should be directed to the Office of Proceedings, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

Notices

Federal Register
Vol. 45, No. 223
Monday, November 17, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Packers and Stockyards; Gravette Community Sale, Gravette, Arkansas

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility Number, Name, Location of Stockyard, and Date of Posting

AR-116—Gravette Community Sale, Gravette, Arkansas, December 10, 1958.
AR-156—London Livestock and Car Auction, London, Arkansas, January 3, 1977.
MA-101—Buttonwood Auction Sales, Inc., Shrewsbury, Massachusetts, September 13, 1967.
MO-176—Oregon Livestock Sales Company, Oregon, Missouri, October 24, 1960.
NJ-102—Henry Zlotkin Auction, Freehold, New Jersey, March 28, 1960.
NY-101—County Livestock Market, Amsterdam, New York, August 16, 1960.
NY-124—Norvel Reed & Sons, Inc., Jamestown, New York, August 11, 1960.
NY-132—Millerton Livestock Auction, Millerton, New York, August 15, 1960.
NY-149—East Winfield Livestock Market, West Winfield, New York, November 14, 1968.
NY-150—Mohawk Valley Beef Sales, Inc., Westernville, New York, October 14, 1971.
NY-152—John Tyrrell & Sons, Bullville, New York, May 24, 1972.
NY-153—Smitty's Sales, Weedsport, New York, November 1, 1972.
NY-156—Whitney Point Livestock Market, Whitney Point, New York, February 16, 1976.
PA-114—Enon Valley Community Sale, Enon Valley, Pennsylvania, December 11, 1959.
PA-139—Scenery Hill Stockyard, Scenery Hill, Pennsylvania, February 2, 1960.
PA-143—Fayette Stock Yard Co., Uniontown, Pennsylvania, February 2, 1960.
VT-107—Westminster Commission Sales, Inc., Westminster, Vermont, December 31, 1961.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is not longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective November 17, 1980.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 10th day of November, 1980.

Jack W. Brinckmeyer,

Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80-35808 Filed 11-14-80; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Hyde County Schools Flood Prevention and Land Drainage RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION:
Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4210.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hyde County Schools Flood Prevention and Land Drainage RC&D Measure, Hyde County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on four school grounds. The planned works of improvement include installing catch basins, pipes, subsurface drainage tubing, low-level dikes, and pumps. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation..

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until December 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 30, 1980.

Buell M. Ferguson,

Director, Project Development and Maintenance.

[FR Doc. 80-35717 Filed 11-14-80; 8:45 am]

BILLING CODE 3410-16-M

Mitchell Township Park Water-Based Recreation RC&D Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy

Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mitchell Township Park Water-Based Recreation RC&D Measure, Alcona County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment and basic facilities for public water-based recreation. The planned works of improvement include critical area planting, 400 feet of rail fence, a gravel access road, a picnic shelter, a boat launching ramp, and 250 feet of trails. Total construction cost is estimated to be $20,400; $11,100 RC&D funds and $9,300 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until December 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 30, 1980.

Buell M. Ferguson,

Director, Project Development and Maintenance.

[FR Doc. 80-35718 Filed 11-14-80; 8:45 am]

BILLING CODE 3410-16-M

Russ Forest Park Water-Based Recreation RC&D Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, Telephone 517-337-6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Russ Forest Park Water-Based Recreation RC&D Measure, Cass County, Michigan.

The environmental assessment of this federaly assisted action indicates that the poject will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of facilities for public waterbased recreation. The planned works of improvement include picinic sites, playground equipment, parking areas, a well, signs, recreation walkways with foot bridges, and fencing, as well as seeding, fertilizing, and mulching of distrubed areas. Total construction cost is estimated to be $44,000; $22,000 RC&D Funds and $22,000 local funds.

The notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until December 17, 1980.

(Catalog of Federal Domestic Assistance Progam No. 10901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is appicable)

Dated: October 30, 1980.

Buell M. Ferguson,

Director, Project Development and Maintenance.

[FR Doc. 80-35716 Filed 11-14-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Application of Muse Air Corporation for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-11-51, setting for hearing in Docket 38948 the fitness question concerning the application of Muse Air Corporation under Subpart Q for a certificate of public convenience and necessity for 26 Atlanta, Ga. Markets; Docket 38948.

SUMMARY: The Board is instituting an oral evidentiary hearing under subpart Q on the issue of Muse Air Corporation's fitness to receive a 401 certificate authorizing scheduled service in 26 Atlanta, Ga. markets listed in its application. The complete text of the order is available as noted below.

DATES: All interested persons should file requests for additional evidence and requests to intervene no later than November 24, 1980.

ADDRESSES: Requests should be filed in Docket 38948, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Lawrence R. Intravia, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6068.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-11-51 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 80-11-51 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 12, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35790 Filed 11-14-80; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 7, 1980 CAB has received the applications listed below, which request the issuance amendment, or renewel of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Date Filed, Docket No, and Description

11-3-80—38925: Texas International Airlines, Inc., P.O. Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for route 82-F so as to add the following route segment: "Between the terminal point Dallas/Ft. Worth, Texas and the coterminal points Cancun, Merida, Cozumel, Mexico." Conforming Applications and Answers are due December 1, 1980.

11-4-80—39830: Sea Airmotive, Inc., P.O. Box 6003, Anchorage, Alaska 99502. Application of Sea Airmotive, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of an amended certificate of public convenience and necessity for Route 244 authorizing it to engage in air transportation of persons property, and mail between Kodiak, Alaska, Iliamna, Alaska and the surrounding villages. Conforming Applications and Answers are due December 2, 1980.

11-7-80—38642: Challenge Air Transport, Inc., c/o Arthur D. Bernstein, Galland, Kharasch, Calkins & Short, 1054 Thirty-First Street, N.W., Washington, D.C. 20007. Amendment to the Application of Challege Air Transport, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations amends its application as follows: Material contained in paragraph 3 of CAT's Application (the description of geographic areas to be served) is deleted, and the following substituted in its place:

"3. Applicant hereby requests authority to perform the following foreign charter air transportation of property and mail: Between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and

(a) Any point in Canada;

(b) Any point in Mexico;

(c) Any point in Jamaica, the Bahama Islands, Turk and Caicos Islands, Bermuda, Cuba, Haiti, the Dominican Republic, Trinidad and Tobago, Cayman Islands, British Virgin Islands, the Leeward and Windward Islands, all of the Netherlands Antilles, and any other foreign place loacted in the Gulf of Mexico or the Caribbean Sea;

(d) Any point in Central America; and

(e) Any point in Colombia, Venezuela, Guyana, Surinam, and French Guiana.

This amendment limits the geographic scope of CAT's Application to the western hemisphere, and eliminates from the service description the southern and western portions of South America.

Answers may be filed no later than November 21, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-35791 Filed 11-14-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 38939; Order 80-11-35]

Dallas/Ft. Worth-Yucatan Service Proceeding; Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of November 1980.

By Order 80-9-52, we awarded Braniff Airways primary authority and Frontier Airlines back-up authority in the Dallas/Ft. Worth-Yucatan markets. Braniff's temporary certificate provides that it will expire November 10, 1980, if the carrier does not inaugurate service on or before that date. Frontier's back-up certificate provides that it does not become effective until Braniff's authority expires or is deleted or suspended. In the event that Braniff does not inaugurate service by November 10, 1980, Frontier's certificate would become effective immediately.

On October 10, 1980, Braniff filed an exemption application requesting authority to postpone inauguration of service from November 10, 1980 until June 1, 1981—a period of over seven months.

Answers to Braniff's application were filed by Frontier and American. American opposed the exemption application. It was the third applicant for Dallas/Ft. Worth-Yucatan authority in the *Yucatan Service Case* and stated that it is ready, willing and able to commence service in the markets in December 1980 in time for the coming peak winter season. For this reason, American argued that Braniff's application should be denied, and either Frontier or American should be authorized to serve the markets. If Frontier is certificated to serve, American asserted that it should be the back-up carrier. Frontier stated that, while it took no position on Braniff's application, it thought that if we grant the extension to Braniff, then we should also extend the expiration dates of its certificate by seven months. Frontier also indicated that it is unprepared to begin service at this time.

By Order 80-10-157, we denied Braniff's request for exemption. We stated that "the public deserves to have the benefits of the service to be provided by the newly designated U.S. carrier in these markets during the upcoming peak season and we want the authorized carrier to commence service as soon as possible." [1] We directed Braniff to tell us in writing by October 30, 1980, whether it intends to inaugurate service by November 10, 1980 or to permit its certificate to expire due to nonperformance. Braniff has informed us that it will not commence service on that date.

In short, of the three applicants for Dallas/Ft. Worth certificate authority in the *Yucatan* case, only American was willing to meet the immediate need for service in that market. Therefore, in Order 80-10-157 we tentatively decided to (1) reconsider our prior decision in that case and to choose American as the primary carrier, and (2) grant American a temporary exemption to permit it to inaugurate service in December, 1980.[2] We invited interested persons to comment on our tentative findings and conclusions.

On November 3, 1980, Texas International Airlines, Inc. objected to our proposed grant of certificate and exemption authority to American. Contemporaneously, TXI filed an application for Dallas/Ft. Worth-Yucatan certificate authority under Subpart Q of the Board's regulations and an application for interim exemption authority. In support of its objection, TXI states that it should be chosen to serve this route rather than American if its authority in the Houston-Yucatan markets is withdrawn. It argues that it is already offering a daily single-plane round trip in the Dallas/Ft. Worth-Yucatan markets over Houston; that upon termination of its Houston-Yucatan service on January 10, 1980, it would shift its nonstop operations to Dallas/Ft. Worth; that its existing fares are as low or lower than the fares proposed by American; that its application should be given contemporaneous treatment, citing *Ashbacker* v. *F.C.C.* 326 U.S. 327 (1945); and that its existing operations in

[1] Order 80-10-157 at 2. Appendices A and B filed as part of the original document.

[2] We also tentatively decided to stay the effective date of Frontier's back-up authority. We finalize this tentative finding.

Dallas/Ft. Worth and the Yucatan warrant the granting to TXI of a temporary exemption to operate the route pending the outcome of the certification procedure.

As noted our tentative decision to choose American to serve the Dallas/Ft. Worth-Yucatan markets was prompted by the need immediately to choose a carrier who would serve these markets during the 1980–1981 peak season and American was the only carrier that had expressed an interest in doing so. However, we now have a second carrier that has indicated that it is willing to commence Dallas/Ft. Worth-Yucatan service almost immediately. In addition, there may be other carriers in addition to TXI who did not apply for the route in the *Yucatan Service Case*, but who are now interested in providing service. We will not make final our proposals to grant certificate authority and an exemption to American. Instead, we institute the *Dallas/Ft. Worth-Yucatan Service Proceeding*, Docket 38939. This proceeding will consider which U.S. flag carriers should be selected for primary and back-up [3] authority to serve this market and what conditions, terms or limitations, if any, should be attached to that authority. As in other cases involving limited entry markets, we will take into account the offer or failure to offer lower prices in determining which carriers should be selected. We therefore expect this proceeding to include an examination of various price/quality options in addition to traditional service benefits. We will also consider the impact of an award in this case on the overall market structure between the United States and the Yucatan and we will give great weight to the ability to commence service immediately. In Order 80–9–52, we found that service in this market is consistent with the public convenience and necessity and that three-year temporary, experimental certificates were necessary to ensure that the selected carrier reasonably adhered to the fare and service proposals which formed the basis for its selection. For the same reasons, we have decided that primary and back-up authority for the Dallas/Ft. Worth-Yucatan routes will also be limited to three-year temporary, experimental certificates.

Given the immediate need for Dallas/Ft. Worth-Yucatan service, we will process certificate applications in this case through expedited non-oral hearing procedures under Subpart Q of our regulations, much like those used in the *Denver-London Service Case*, Docket 37865, and the *U.S.-People's Republic of China Service Proceeding*, Docket 38629.

We request that all applications, motions to consolidate, and petitions to intervene, he submitted within ten days of service of this order.[4] We request that American, TXI, and all other applicants also submit within ten days of this order direct exhibits setting forth their fare and service proposals and any other information that they wish considered. Previously submitted material may be incorporated by reference if timely served on all parties. Rebuttal exhibits should be submitted seven days thereafter.[5] Any party may submit a statement of position and supporting arguments no later than the date that rebuttal exhibits are due. Because of the extremely tight procedural schedule, these dates should be considered to be receipt dates rather than mailing dates. Oral argument will be held on November 25, 1980.

We will endeavor to have a final Board decision by early December 1980 and will recommend early Presidential approval. Because of the necessity to start service almost immediately after our decision, we intend to grant the selected carrier an exemption to permit the early institution of service. Any objections to the procedures that we have outlined for this proceeding must be submitted by November 12, 1980.[6]

Accordingly,

1. We stay the effectiveness of Frontier's back-up certificate for the Dallas/Ft. Worth-Yucatan markets;

2. We institute the *Dallas/Ft. Worth-Yucatan Service Proceeding*, Docket 38939;

3. The proceeding instituted in paragraph 2, shall include consideration of the following issues:

a. Which carrier should be authorized to engage in foreign air transportation of persons, property and mail between Dallas/Ft. Worth, Texas and Merida, Cancum and Cozumel, Mexico;

b. Which carrier should receive back-up authority over this route;

c. For the carrier authorized to engage in service over this route, what terms, conditions or limitation, if any, should be attached to that authority; and

d. Do the public convenience and necessity require us to alter, amend, modify or suspend the certificate authority held by Frontier Airlines, Inc. authorizing it to engage in foreign air transportation between Dallas/Ft. Worth and Merida, Cancum and Cozumel, Mexico;

4. Petitions for reconsideration and objections to the procedures outlined in this order should be filed by November 12, 1980;

5. Applications, motions to consolidate, petitions to intervene, and direct exhibits should be filed by November 17, 1980;

6. Rebuttal exhibits should be submitted by November 24, 1980;

7. Oral argument in this proceeding shall be held on November 25, 1980;

8. We consolidate the applications to serve Dallas/Ft. Worth-Yucatan route of Texas International Airlines, Inc. in Docket 38924 and 38925 into Docket 38939; and

9. We vacate our tentative findings and conclusions in Dockets 33220 and 38832 that American should be issued a temporary experimental certificate in the Dallas/Ft. Worth-Yucatan markets and temporary exemption authority in those markets; and

10. We will serve this order on all certificated air carriers, the United States Departments of State and Transportation, the Governors and Public Utility Commissions of Texas, the Mayors and aviation authorities of Dallas and Ft. Worth, and the United States Postmaster General.

We will publish a summary of this order in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,[7]

Secretary.

[FR Doc. 80-35792 Filed 11-14-80; 8:45 am]

BILLING CODE 6320-01-M

[3] In light of the fact that we now have at least two other carriers that are interested in commencing service now, we will consider the selection of a new back-up carrier. Accordingly, we will place in issue the suspension, alteration, or amendment of Frontier's Dallas/Ft. Worth-Yucatan certificate authority under section 401(g) of the Act.

[4] We consolidate the applications of TXI for certificate authority in Docket 38925 and for exemption authority in Docket 38924 into this proceeding.

[5] An evidence request is attached for guidance and preparation of the carrier applicants' exhibits.

[6] We delegate to the Director, Bureau of International Aviation, the authority to issue any further procedural orders, except orders dealing with motions for an oral hearing.

[7] All members concurred except Member Smith who was not here.

DEPARTMENT OF COMMERCE

International Trade Administration

Acupuncture Research Project; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00185. Applicant: Acupuncture Research Project, Haight-Ashbury Free Medical Clinics, 1694 Haight Street, San Francisco, CA 94117. Article: Model 71–3 Electro Stimulator Apparatus A204 and Stimulator Leads A601. Manufacturer: Peutraco, Ltd., Peoples Republic of China. Intended use of Article: The article is intended to be used in a research project in which the effects of acupuncture on heroin addiction will be studied. Application received by Commissioner of Customs: February 20, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a switch to adjust the intensity of the wave length range from "adjustable wave" and several other ranges to "red, yellow, green wave". In addition the article provides variable settings such as "therapy" and "ultraviolet" to permit adjustment to specific needs of the patient.

The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-35702 Filed 11-14-80; 8:45 am]

BILLING CODE 3510-25-M

Department of Health and Human Services, et al; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00391. Applicant: Department of Health and Human Services, Food and Drug Administration, Division of Veterinary Medical Research, Agricultural Research Center—East, Building 328A, Beltsville, MD 20705. Article: EDX Specimen Holder. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used in conjunction with an electron microscope to examine and evaluate ultrastructural changes in biological tissue related to the safety and efficacy of therapeutic drugs in animals. Experiments performed will include a wide variety of drug-virus, drug-cell and drug parasite interaction studies and animal model development for the evaluation of drug efficacy and safety data submitted by company's for drug approval action. Application received by Commissioner of Customs: July 22, 1980.

Docket No. 80–00398. Applicant: University of Alabama, Purchasing Dept., P.O. Box 6149, University, AL 35486. Article: NMR Pulse Spectrometer, Model CPS–2. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article is intended to be used for studies of the magnetic relaxation of hydrogen nuclei in some hydrazine salts and some organic crystals as a function of temperature. The experimental objectives are to further characterize molecular motion in these examples in order to understand more about hydrogen bonding in hydrazine salts and the mechanism involved in radical transformations in organic crystals. The article will also be used in the courses Physics 599—Thesis Research and Physics 699—Dissertation Research in which students will be conducting research in nuclear magnetic resonance as a part of their master's thesis of Ph.D. dissertation. Application received by Commissioner of Customs: August 1, 1980.

Docket No. 80–00399. Applicant: Kansas State University, Grain Science and Industry, Shellenberger Hall, Manhattan, KS 66506. Article: Chopin Alveograph. Manufacturer: Tripette & Renaud S.A., France. Intended use of article: The article is intended to be used to determine the strength properties of flour which are dependent on the starch and protein in bread flours. Experiments to be conducted will include comparisons of strong types of wheat with high protein values to other wheats being evaluated for potential release in bread areas as well as an evaluation of the properties of blends of strong wheats with weaker wheats grown in other areas to improve their baking qualities and loaf volume in commercial use. The article will be used in laboratory courses in Baking Technology, Baking Science I and in Flour and Dough Testing. Application received by Commissioner of Customs: August 1, 1980.

Docket No. 80–00400. Applicant: Emory University, Purchasing Dept., Atlanta, Georgia 30322. Article: GAMMA Cell-40 Irradiator. Manufacturer: Atomic Energy of Canada, Limited, Canada. Intended use of article: The article is intended to be used for the study of immune responses of irradiated laboratory animals (rats and mice) using irradiated tumor cells in attempts to induce anti-tumor immunity. The objective of the investigations is to understand the mechanisms involved in anti-tumor immunity. Application received by Commissioner of Customs: August 1, 1980.

Docket No. 80–00401. Applicant: John Hopkins University, 601 N. Broadway, Baltimore, MD 21205. Article: Ultrasonic Diagnostic Flow Meter. Manufacturer: Hyashi Denki, Ltd. Japan. Intended use of article: The article is intended to be used for evaluation of its reliability experimentally as well as clinically on patients. Application received by Commissioner of Customs: August 1, 1980.

Docket No. 80–00402. Applicant: Solar Energy Research Institute, 1617 Cole Boulevard, Golden, Colorado 80401. Article: Model 6100C Pulsed Light Source. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use of article: The article is intended to be used for the study of photosynthetic bacteria. The absorption and fluorescence characteristics of these bacteria will be measured. Experiments will include flashing the bacteria while

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measuring the absorption and fluorescence experiments. Application received by Commissioner of Customs: August 1, 1980.

Docket No. 80–00403. Applicant: Utah State University, Logan, Utah 84322. Article: Automatic Porometer MK II. Manufacturer: Delta-T Devices, United Kingdom. Intended use of article: The articles will be used in research to monitor the severity of drought, and the influence of disease, pollutants, or vairous other factors on the plant. This research use of the article is also an education use by graduate students working toward a doctorate or master's degree. They can also be used for irrigation scheduling both in classroom and in practice. In addition the article will be used in the courses: Botany 440, Elementary Plant Physiology, Botany 641, Plant Water Relations, and Range Science 621, Plant Ecophysiology. Application received by Commissioner of Customs: August 1, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–35707 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–25–M

Presbyterian-University Hospital; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00142. Applicant: Presbyterian-University Hospital, DeSota at O'Hara, Pittsburgh, Pennsylvania 15213. Article: Automated Ultrasonic Body Scanner. Manufacturer: Ausonics, Ltd., Australia. Intended use of article: The article is intended to be used to provide consistent and high quality images of the body in the following applications: (1) Use in the examination of female breast for identification of focal mass lesions and differentiation of benign from malignant masses so as to see what extent ultrasound can replace X-ray mammography. (2) To study the brain in infants and young children to determine to what extent ultrasound can replace X-ray computerized tomographic scanning. (3) To investigate the application of the article for rapid and automatic scanning of abdomen in order to reduce the time necessary for the performance of ultrasound exams and to improve the quality of images obtained.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a large field of view (up to whole body size) and a high image quality with its eight large (65 millimeter) transducers.

The Department of Health and Human Services advises in its memorandum dated May 22, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.05, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Acting Director Statutory Import Programs Staff.

[FR Doc. 80–35704 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–25–M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, DC 20230.

Docket No. 80–00145. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: 14 Faraday Rotators. Manufacturer: Hoya Corporation, Japan. Intended use of article: The articles are intended to be used for the investigation of the feasibility of producing a thermonuclear micro-explosion using a uniquely high intensity laser pulse. The articles are precision apparatus which are integrally incorporated into the laser beam chain to optically isolate the laser beam reflected back from the target, and to prevent the beam from traveling backwards in each amplifier chain thereby destroying the components and apparatus in the forward part of the chain.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a Verdet constant of 0.070 minutes per Gauss-centimeter which insures minimal scattering of the laser beam.

The National Bureau of Standards advises in its memorandum dated May 14, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–35703 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–25–M

University of California at Los Angeles; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00193. Applicant: University of California at Los Angeles, CNTE/Tokamak Fusion Laboratory, 2567 Boelter Hall, Los Angeles, CA 90024. article: Millimeter Reflex Klystron, Type VRT–2121A. Manufacturer: Varian of Canada Inc., Canada. Intended use of Article: The article is intended to be used in a research environment to study and measure plasma density in the Tokamak Fusion Energy Research device. It will be integrated with other components from other manufacturers to form an interferrometer for plasma density measurements.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article operates at a frequency of 140 gigahertz at 100 milliwatts power.

The National Bureau of Standards advises in its memorandum dated June 3, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufacturered in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–35701 Filed 11–14.80; 8:45 am]

BILLING CODE 3510–25–M

University of Minnesota, et al.; for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00254. Applicant: University of Minnesota, Department of Anatomy, 4–135 Jackson Hall, School of Medicine, Minneapolis, MN 55455. article: Electron Microscope, JEM 100C and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used to study the structure and chemical composition of cells, tissues, and macromolecular structures of biological origin. All of the materials and phenomena to be studied are derived from animal tissues used in clinical or biomedical research. Most experiments will include examination of animal cells and tissues after challenge with chemical stimuli and/or modification of their physiological environment. The article will also be used for training students in research applications of electron microscopy and the basic principles of advanced research techniques. Article ordered: February 12, 1980.

Docket No. 80–00255. Applicant: Louisiana State University Medical Center, 1542 Tulane Avenue, New Orleans, LA 70112. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of arteriosclerosis, kidney diseases, and tumor pathology for determination of the nature and etiology of diseases. In addition, the article will be used for educational purposes in several courses on different topics of pathology. Article ordered: November 7, 1979.

Docket No. 80–00261. Applicant: University of Cincinnatti, College of Medicine, 231 Bethesda Avenue, Cincinnati, Ohio 45267. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the ultrastructure of cells and tissues from a variety of biomedical experiments. The article will also be used for training Ph.D.'s in anatomy. Article ordered: January 10, 1980.

Docket No. 80–00265. Applicant: Cancer Research Center, University of North Carolina, Chapel Hill, NC 27514. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for examination and mapping of DNA and RNA molecules, and studies of the structure and life cycles of many phage, RNA and DNA viruses as well as studies of cell structure. Other research will include: (i) Studies of chromatin structure and function, (ii) studies of RNA and RNA-protein complexes, and (iii) studies of slow virus structure. Article ordered: November 7, 1979.

Docket No. 80–00279. Applicant: The Salk Institute for Biological Studies, 10010 No. Torrey Pines Road, La Jolla, CA 92037. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for experimental studies of the structure and development of the brain. Most of the material to be used will be from the brains of rats, chicks and monkeys. Some of the tissues will be from normal brains, some will be from animals subjected to a variety of experimental manipulations, generally involving the removal of one or more inputs to the regions of the brain which are of particular interest-including the hippocampal formation, the hypothalamus and the optic tectum. The principal objective of the research is to elucidate how the brain develops and especially how connections are formed between different parts of the brain. The article will also be used for the training of graduate students who are working for the Ph.D. Degree, and for the postdoctoral training of research fellows who have Ph.D.'s. Article ordered: December 7, 1979.

Docket No. 80–00282. Applicant: Temple University School of Medicine, Department of Microbiology & Immunology, 3400 North Broad Street, Philadelphia, PA 19140. Article: Electron Microscope, Model H–600–2. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended to be used to study the structure and sythesis of bacterial cell walls and membranes; the division of bacteria; the morphogenetic process that is involved in converting the yeast, Candida albicans, into a human pathogen; the role of cyclic nucleotides in the mitogenic response in lymphocaytes; and the surface properties of permanently proliferating lymphoblastoid cell-lines produced by transforming isolated blood lymphocytes with Epstein-Barr Virus. These specimens will be prepared by using various negative stain, thin section, freeze fracture, and replica techniques and examined with electron microscope in the transmission, secondary and transmitted scanning modes. The articles will alse be used to train graduate students in the use of

electron microscopy. Article ordered: March 28, 1980.

Docket No. 80–00283. Applicant: University of Florida, Institute of Food and Agricultural Sciences, Dept. of Plant Pathology, Bldg. 717, Gainesville, FL 32611. Article: Electron Microscope, Model H–600–3 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended to be used to: Study development of plant virus-induced inclusion bodies and viruses, Study the fine structuré of extracted viruses and virus-induced inclusions.

Determine morphology and size of plasmids associated with cytoplasmic male sterility in plants and with bacterial plant pathogens. Search for potential cytoplasmic male sterility factors in maize and petunia in ultrathin tissue sections and in extracts. Determine effects of male sterility on plant organelles. Detect and identify plant viruses by characteristic morphology and substructure of viruses and virus-induced inclusions. Investigate efficacy of various negative staining procedures for contrast enhancement of viruses and inclusions. Study ultrastructural events associated with infection of plants by pathogenic bacteria.

The article will also be used for teaching graduate students electron microscopic techniques. Article ordered: January 14, 1980.

Docket No. 80–00292. Applicant: The Cleveland Clinic Foundation, 9500 Euclid Avenue, Cleveland, Ohio 44106. Article: Electron Microscope, Model EM 400 with Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of a variety of human surgical and autopsy specimens. Among these are kidney, muscle, nerve and skin biopsies, in addition to tumors on which structural and chemical analyses will be performed as an aid in diagnostic pathology. Analyses using both scanning and transmission electron microscopy will be performed in order to structurally define the surface and subcellular morphologies that accompany and are indicative of many of the disease processes. In addition, the article will be introduced to resident physicians as an important adjunct to standard methods in investigation and diagnostic pathology. Article ordered: August 9, 1979.

Docket No. 80–00293. Applicant: Georgetown University School of Medicine, 3900 Reservoir Road, N.W., Washington, D.C. 20007. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., United Kingdom. Intended use of article: The article will be used for stressing sensory and cell biological studies. Article ordered: March 17, 1980.

Docket No. 80–00295. Baptist Memorial Hospital, Department of Pathology, 899 Madison Avenue, Memphis Tennessee 38146. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for numerous research projects in both clinical and experimental medicine. Principal among these are the examination of the fine structure of mammalian urinary bladder and kidney. These organs comprise structures such as the asymmetrical unit membrane and the epithelial cell slit diaphragm which are only a few Angstroms thick. Primarily the article will play an integral part in the examination of mammalian urinary bladder for changes related to systemic and topic chemotherapeutic agents as well as those of developing urothelial carcinoma. Experiments in this area include examination of morphological changes: (1) After systemic chemotherapy with agents such as cis-diamminedichloroplatinum and its analogs cyclophosphamide, and adriamycin; (2) After topical chemotherapy with triethylene thiophosphoramide and mitomycin C. These studies are conducted on C3H/He mice using the FANFT model system. In addition, the article will be used for educational purposes involving training and teaching programs for students, residents, trainees and fellows: Article ordered: February 29, 1980.

Docket No. 80–00296. Applicant: Boston University Medical School, Department of Anatomy, 80 East Concord Street, Boston, Massachusetts 02118. Article: Electron Microscope, Model JEM 100 CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigating: (1) The cooperative interaction between pigmented and nonpigmented cells of the ciliary *epithelium* in aqueous humor production; (2) The ultrastructural basis of the blood-aqueous barrier and its experimental manipulation in vivo; (3) The anatomical devices which control aqueous humor outflow at the sclero-corneal angle. Article ordered: April 28, 1980.

Docket No. 80–00299. Applicant: University of California, Department of Chemical and Nuclear Engr., Santa Barbara, California 93106. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for materials research in three different areas: investigations of structure mechanical property relationships in structural materials; studies of defect-electronic property relationships in semiconductors; and characterization of microstructures and microchemistries in minerals. The article will also be used to demonstrate the techniques of modern analytical electron microscropy for students at various levels. Article Ordered: December 28, 1980.

Docket No. 80–00300. Applicant: SUNY at Stony Brook, Department of Neurology Health Service Center, Clinical Science Tower T12–020, Stony Brook, N.Y. 11794. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of central nervous system tissue from a variety of experimental laboratory animals. Studies are designed to utilize the article to investigate the specializations and interconnections of the different components of neural tissue in a variety of regions of the central nervous system tissue from a variety of experimental laboratory animals. Studies are designed to utilize the article to investigate the specializations and interconnections of the different components of neural tissue in a variety of regions of the central nervous system with the ultimate goal of relating structure to function. Tkhe primary objective of the above studies is to provide greater insight into problems already studied extensively at the light microscopic level. In addiiton, the article will be used for instruction of students within the Department of Neurology, Anatomy and/or Neurobiology. Article ordered: March 4, 1980.

Docket No. 80–00301. Applicant: National Bureau of Standards, Fracture and Deformation Division Bldg., 223/Room A113, Washington, D.C. 20234. Article: Electron Microscope, Model EM 400T and Accessories. Manufactuer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to support basic and applied research programs on ceramic, metallic and polymeric materials. This research includes microstructural analysis of materials in the as-received condition and for materials which have been subjected to mechanical testing or to environmental exposures. The relationship between microstructure and microstructural changes resulting from these tests will be explored. Additional programs involving the application of image contract analysis to high resolution image interpretation will be developed. Article ordered: December 20, 1979.

Docket No. 80–00302. Applicant: Department of Health, Education, and Welfare, Food and Drug Administration, Division of Veterinary Medical Research, Agricultural Research Center, Building 328A, Beltsville, Maryland 20705. Article: Electron Microscope, Model H–500–1 and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used to examine and evaluate ultrastructural changes in experiments related to the safety and efficacy of therapeutic drugs in animals. These experiments include evaluations of drug parasites animal interrelation, ultrastructural organelle changes produced by cell drug interaction and the molecular aspects of virus-drug interaction. Article ordered: August 10, 1979.

Docket No. 80–00303. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, California 94550. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to provide structural and chemical analysis of solid materials for the research work being done by the Chemistry and Materials Science Department. The research projects will include: (1) Evaluation of the structures of chemical compositions of the mineral phases in a synthetic mineral aggregate for immobilization of reaction waste products, (2) Determination of and structure produced by crystallization of amorphous materials, and (3) Analysis of the structures and mechanisms of deformation of A1N, Nb_3Sn superconductors and general evaluation of the structures of materials used in LLL weapons and energy research programs. Article ordered: December 27, 1979.

Docket No. 80–00304. Applicant: University of Pennsylvania, Pennsylvania Muscle Institute, B42 Anatomy-Chemistry Bldg/G3 Philadelphia, PA 19104. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the fine structure of the blood vessel wall, vascular smooth muscle and striated muscle. The purpose of these studies is to determine the nature of the molecular events leading to activation and contraction in vascular smooth muscle, and to determine the earlier ultrastructural changes in vascular smooth muscle that are associated with development of high blood pressure and arteriosclerosis. Article ordered: December 21, 1979.

Docket No. 80–00307. Applicant: Arizona State University, Tempe, Arizona 85281. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the investigation of the structure of thin solid specimens of non-biological materials and direct visualization of the arrangements of the atoms. The features of the structure of crystals to be studied include the arrangements of atoms near-perfect regions of crystals and in regions of crystals having faults or disorders. For poorly crystalline or amorphous materials, studies will be made of the nature of the short-range ordering of atoms and of the size and shape of the regions having any particular form of short-range ordering. Micro-analysis techniques will be used in conjunction with the high resolution imaging. Experiments to be conducted will include examination of thin regions of small crystals of various inorganic oxides and sulfides, minerals of various types, semiconductors, ceramics and alloys. Also observations will be made on the structure of amorphous or poorly crystalline materials. The article will also be used for experiments designed to confirm theoretical prediction on the dependence of image intensities on various experimental parameters relating to both. Article ordered: October 31, 1979.

Docket No. 80–00309. Applicant: University of Pennsylvania School of Medicine, Division of Neuropathology, 454 Johnson Pavilion/G2, 36th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for research centered on the study of the surface distribution and intercellular traffic of hormones, growth factors and toxins. Experiments will be conducted with the aim of unraveling mechanisms of action of physiologically or pathologically active molecules. Article ordered: February 19, 1980.

Docket No. 80–00318. Applicant: Cedars of Lebanon Health Care Center, 1400 NW. 12 Avenue, Miami, Florida 33126. Article: Electron Microscope, Model EM 109 and Attachments. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biologic tissues, thyroid, bone, connective tissues. These studies will involve the examination by electron microscopy of radiation associated tumors and adjacent non-tumorous tissue which was in the previously radiated field and similarly irradiated areas in which no tumor has occurred. In addition, the article will be used for educational purposes in the course Anatomic Pathology. Article ordered: November 16, 1979.

Docket No. 80–00319. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for various research programs involving the study of steels, non-ferrous metals, ceramics, polymers, combustion products, etc. Experiments will consist of examination of thin foils of materials for determination of one or more of: Crystal structure, faults in crystal structure presence of and size distribution of particles in finely divided specimens, structure of grain boundaries, etc. The objectives of these research programs will be to relate the microstructure with macroscopic properties to: (i) Verify theoretical models of the structure of materials and (ii) to provide empirical data concerning the microstructure of materials of commercial or research importance. Article ordered: March 28, 1980.

Docket No. 80–00322. Applicant: Albert Einstein college of Medicine, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the examination of specific cell structures and macromolecules from normal cells and from cells carrying selected mutations. Cloning and nucleic acid hybridization techniques will be used to analyze the expression of specific genes. The objective of this research is to understand regulatory mechanisms that control cell differentiation and development. The article will also be used to instruct graduate students and postdoctoral fellows in techniques of ultrastructural analysis. Article ordered: March 28, 1980.

Docket No. 80–00323. Applicant: Fred Hutchinson Cancer Research Center, 1124 Columbia Street, Seattle, WA 98104. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for morphological investigations of specific cloned DNA

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(genes) in association with RNA polymerase, histones, and other DNA binding proteins. Cloned fragments of genes will be injected into frog oocyte nuclei to allow association with RNA polymerase and other proteins and then spread for microscopy. Article ordered: March 17, 1980.

Docket No. 80–00333. Applicant: Saint John Hospital, 22101 Moross Road, Detroit, MI 48236. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to train residents to prepare tissue specimens for transmission electron microscopy by routine and various special techniques. They will be trained to operate the electron miscroscope to produce high resolution electron micrographs. More importantly, the student will be trained to interpret high resolution electron micrographs of various human organs in disease and health as well as various microorganisms and parasites. Article ordered: December 21, 1979.

Docket No. 80–00342. Applicant: LaGuardia Community College, 31–10 Thomson Avenue, Long Island City, N.Y. 11101. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in a research project which involves an ultrastructural study of the cercarial causative agents of human Schistosome Dermatitis. The organisms to be studied are the free living cercariae of the trematode parasites Trichobilharzia physellae and Austrobilharzia veriglandis. Various tissues of two species will be studied including the tegument, musculature, pre and postacetabular glands, digestive tract and excretory systems. The ultrastructure of the cells comprising these tissues will be investigated. Particular attention will be paid to those materials which will eventually come in contact with human skin, i.e., the outer tegument (glycocalyx), secretory products of the glands and excretory products. In addition, the article will be used as part of the Research Techniques Practicum, a one-term course designed to provide the student with selected basic research techniques necessary to pursue a specific line of research. Article ordered: May 15, 1980.

Docket No. 80–00346. Applicant: National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies on deposition of minerals in the lung, and translocation of elements in inhaled particles, studies on cells and tissues from lung cultivated in vitro, and ultrastructural studies on transformed cells and cytotoxic events induced by inhaled inorganic particles. Article ordered: March 20, 1980.

Docket No. 80–00348. Applicant: Deborah Heart & Lung Foundation, 1 Trenton Road, Browns Mills, New Jersey 08015. Article: Electron Microscope, Model EM 10CR with Scanning Attachment. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to investigate on an ultrastructural level alterations in the myocardium, prior to, during the following infarction, degrees of damage to the ischemic myocardium, as well as the effects of various pharmacologic neurodynamic and metabolic interventions, i.e., vasodilators and beta adrenergic blocking agents in the development of tissue injury. Article ordered: April 7, 1980.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientifc Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-35705 Filed 11-14-80; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester, et al.; for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 80–00364. Applicant: University of Rochester, Nuclear Structure Research Lab., 271 East River Road, Rochester, New York 14627. Article: Particle Acceleration Tube. Manufacturer: Dowlish Developments Ltd., United Kingdom. Intended use of article: The article is an essential part of a Van de Graaf accelerator which is used to produce energetic beams of charged particles which can be used by the scientists and students as a type of microscopic probe into the structure of the atomic nucleus. A variety of experiments and studies will be conducted which will involve trying to understand various aspects of the structure of the nucleus of many different elements throughout the periodic table. Application received by Commissioner of Customs: June 30, 1980.

Docket No. 80–00408. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Article: Scanning Transmission Electron Microscope, Model JEM 200–CX.

Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the microstructural and microchemical changes induced in multiple barriers materials in hydrothermal experiments under simulated respiratory conditions. The objectives pursued in the course of the investigations are primary to develop multiple barrier materials for the isolation of nuclear waste in a repository in basalt. Application received by Commissioner of Customs: August 5, 1980.

Docket No. 80–00410. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, MD 21228. Article: Electron Microscope, Model JEM–100CX. Manufacturer: Japan Electron Optics Lab., Japan. Intended use of article: The article is intended to be used to carry out medium and high resolution ultrastructural investigations in a variety of biological and biochemical fields. These investigations include:

a. Membrane biogenesis, fine structure, and transport in many cell types including protozoans and oocytes (mosquito and chicken).

b. Basic cell ultrastructure analysis of a variety of cell types, with stress on the investigation of cell organelle function and nuclear differentiation in ciliated protozoan cells, and vitellogenesis in oocytes from various species.

c. Examination of nucleic acides from Bacillus species (including their plasmids) and *E. coli,* in ongoing studies on gene and genome structure in these organisms.

The article will also be used in training of graduate students requiring fine-structural work on their masters and doctoral thesis' as well as mixed with undergraduate students in the more formalized context of BIOL–1422 (Biological Electron Microscopy) and BIOL–0449 (Undergraduate Laboratory Research). Application received by Commission of Customs: August 5, 1980.

Docket No. 80–00411. Applicant: University of Washington, Department of Ophthamology RJ–10, Seattle, WA 98195. Article: Electron Microscope, Model JEM–100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study or ultrastructural characteristics of the retina and visual nuclei of the brain. Experiments to be conducted will involve obtaining material from a variety of human and animal ophthalmic diseases and correlating the ultrastructural appearance of the tissue with aspects of the disease. The article will also be used extensively to instruct graduate students, postdoctoral fellows, resident physicians and staff in the ultrastructure of ophthalmic diseases. Application Received by Commissioner of Customs: August 5, 1980.

Docket No. 80–00412. Applicant: Sandia National Laboratories, P.O. Box 969, Livermore, CA 94550. Article: Excimer Laser, Model TE–816. Manufacturer: Lumonics, Canada. Intended use of article: The article is intended to be used in an experiment designed to investigate the gas phase kinetics of various combustion related radicals. Initially, the kinetics of the CH radical with N_2, O_2, C_2H_2, CH_3OH, C_2H_4 and other combustion related species will be investigated as a function of temperature and pressure. This information will be used to assess the importance of CH in the formation of soot in combustion environments. A blue dye laser will be used to monitor the CH radical concentration produced, as a function of time following the excimer laser pulse, with the resonance fluorescence signal being obtained using a multichannel analyser. Application received by Commissioner of Customs: August 5, 1980.

Docket No. 80–00413. Applicant: University of California-Lawrence Livermore National Lab., P.O. Box 5012, Livermore CA 94550. Article: Infrared Measuring System. Manufacturer: AGA Corporation, Sweden. Intended use of article: The article will be used to study fiber reinforced composite materials being used in a energy storage flywheel rotor research project. The experiments to be conducted are fatigue cycling of composite specimens and spin testing of composite rotors. The objectives of these tests are to observe the change in temperature and temperature profiles of these materials as a function of cyclic loading. Application received by Commissioner of Customs: August 7, 1980.

Docket No. 80–00414. Applicant: University of Michigan Medical Center, Department of Radiology, Box 13, University Hospital, 1405 E. Ann St., Ann Arbor, Michigan 48109. Article: "Octoson" Diagnostic Ultrasound Instrument. Manufacturer: Ausonics, Ltd., Australia. Intended use of article: The article will be used to permit the application of a computer-based ultrasound data acquisition facility to carry out research projects which currently cannot be accomplished with manual scanners or will allow more accurate, more definitive, and more rapid accomplishment of goals. It is planned to study the reflection characteristics of a variety of tissues within the body by computer analysis of the amplitude scattering characteristics and frequency content of signals emanating from specific targets. The unique features of the article will permit rapid and accurate calculation of t... volumes of organs as well as the display of structures in 3-dimension using a computerized facility. In addition the article will be used in educational programs in which physician trainees from Radiology and medical students are actively involved. Application received by Commissioner of Customs: August 7, 1980.

Docket No. 80–00421. Applicant: National Bureau of Standards, Rte. 270 and Quince Orchard Road, Gaithersburg, MD 20760. Article: Lumonics K922 CO_2 Laser Amplifier. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to amplify weak laser pulses of greater final energy. These amplified laser pulses will be used to cause infrared multiphoton chemical reactions of certain gas phase molecules such as $CF_2CFC1CF_2+CFC1$. After the indicated reaction has occurred, the spectroscopic constants of the laser-produced CF and CFC1 radicals will be studied, by the technique of laser-excited fluorescence. Application received by Commissioner of Customs: August 19, 1980.

Docket No. 80–00426. Applicant: Louisiana State University-Medical Center, 1440 Canal Street, Suite 1510, New Orleans, LA 70112. Article: Milk Fluoridizing Equipment. Manufacturer: E. W. Borrow Dental Foundation, United Kingdom. Intended use of article: The article is intended to be used in a research project to determine the cariostatic effect of fluoridized commercial cow's milk on the teeth of elementary school children. Application received by Commissioner of Customs: August 19, 1980.

Docket No. 80–00427. Applicant: Calhoon MEBA Engineering School, 9 Light Street, Baltimore, MD 21202. Article: Diesel Training Engine (1 Cyl.) Manufacturer: Mitsubishi Heavy Industries, Japan. Intended use of article: The article is intended to be used to instruct students in proper repair techniques on a large slow speed diesel engine, which is new to the American Merchant Marine. Application received by Commissioner of Customs: August 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-35706 Filed 11-14-80; 8:45 am]

BILLING CODE 3510-25-M

V 45 NO 17 80 0 UMI

Ice Cream Sandwich Wafers From Canada; Preliminary Results of Administrative Review of Antidumping Finding and of Tentative Determination to Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and of Tentative Determination to Revoke.

SUMMARY: This notice is to advise the public that, as a result of an administrative review of the antidumping finding on ice cream sandwich wafers from Canada, the Department of Commerce has tentatively determined to revoke such finding. There have been no imports of ice cream sandwich wafers from Canada at less than fair value from January 1974 through July 6, 1979, and there is no evidence of any sales at less than fair value since that time. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2496).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 14, 1972, a dumping finding with respect to ice cream sandwich wafers from Canada was published in the **Federal Register** as Treasury Decision 72–77 (37 FR 5293). A "Notice of Tentative Determination to Modify or Revoke Dumping Finding" with respect to this merchandise was published by the Department of the Treasury in the **Federal Register** on July 6, 1979 (44 FR 39698). Reasons for the tentative determination were given in the notice and interested parties were afforded an opportunity to present written or oral views. Treasury received no written submissions or requests for oral presentation of views. However, Treasury took no final action on the proposed revocation.

On January 1, 1980, the provisions of Title I of the Trade Agreement Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511–12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act"), the Department has conducted an administrative review of the finding on ice cream sandwich wafers from Canada.

Scope of the Review

Imports covered by this review are ice cream sandwich wafers classifiable under item 182.2000 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one Canadian producer or exporter of ice cream sandwich wafers to the United States. That firm is Viau, Ltd. The review covers the period July 1, 1978 through July 6, 1979, the date that the "Tenative Determination to Modify or Revoke Dumping Finding" was published by the Treasury Department. The Treasury Department previously reviewed all earlier periods covered by the finding. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by prior master lists, is under review. Liquidation has been suspended pending disposition of the issue.

United States Price

In calculating the United States price the Department used purchase price, as defined in section 772(b) of the Act, since all sales by Viau, Ltd. were made to unrelated purchasers. Purchase prices are ex-factory, packed, and are derived from the United States delivered price with deductions for cash discounts, commissions, U.S. duty, brokerage and U.S. and Canadian inland freight. A deduction was also made for expenses incurred in financing customer processing equipment. No other deductions have been claimed or made.

Foreign Market Value

In calculating the foreign market value, the Department used home market price, as defined in section 773(a)(1)(A) of the Act, since Viau, Ltd. sold such or similar merchandise in Canada in sufficient quatities to provide an adequate basis for comparison. Most of Viau's production is sold in Canada. The home market prices are ex-factory, packed, with deductions for cash discounts and commissions. No other adjustments were claimed or made.

Results of Review

As a result of our comparison of U.S. price to foreign market value, we have concluded that, for the period July 1, 1978 through July 6, 1979, there were no sales of ice cream sandwich wafers made at less than fair value, and there is no evidence of any sales at less than fair value since that time. In addition, prior Treasury Department reviews indicated that there were no sales of ice cream sandwich wafers at less than fair value during the period January 1, 1974 through June 30, 1978, a period of approximately four and one half years.

As provided for in § 353.54(e) of the Commerce Regulations, Viau, Ltd. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that the merchandise, ice cream sandwich wafers, thereafter imported into the United States is being sold at less than fair value.

Tentative Determination

As a result of our review I tentatively determine that there are no reasons why the finding on ice cream sandwich wafers from Canada should not be revoked. If this finding is revoked, it will apply to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after July 6, 1979. Interested parties may submit written comments within 30 days from the date of this notice and may request disclosure and/or a hearing within 15 days of the date of this notice.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke and notice publication are in accordance with section 751(a)(1) and (c) of the Act (93 Stat. 175, 19 U.S.C. 1675(a)(1), (c)) and § 353.54(e) of Commerce Regulations (19 CFR 353.54(e), 45 FR 8205–6).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 12, 1980.

[FR Doc. 80–35793 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–25–M

Maritime Administration

[Docket No. S–677]

Moore McCormack Lines, Inc. and Moore McCormack Bulk Transport, Inc.; Application

Notice is hereby given that Moore McCormack Resources, Inc. (Resources), the parent of Moore McCormack Lines, Inc. (Mormac) and Moore McCormack Bulk Transport (Bulk Transport) is in the process of acquiring certain assets of the Flintkote Company situated in or near Kosmosdale, Kentucky, and that such assets will be used in the manufacture of cement and related products.

The application represents that the acquisition will be made by a yet-to-be-formed wholly-owned subsidiary of Resources and financed by Resources own assets and credit. The acquisition will require no participation by Mormac or Bulk Transport nor involve or affect either of these companies. However, some of the officers and directors of Resources, Mormac, and Bulk Transport may become officers or directors of the proposed subsidiary company.

Inasmuch as both Mormac and Bulk Transport are holders of a long term ODS contract, both Mormac and Bulk Transport will require written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, for (1) the proposed subsidiary company of Resources to engage in proprietary carriage of raw materials (principally limestone), cement and related products, on inland waterways in connection with the operation of a cement plant in the vicinity of Kosmosdale, Kentucky, and (2) officers and directors of Resources, Mormac, and Bulk Transport to be officers and directors, of the proposed subsidiary company of Resources. The current operation involves one tug and four steel barges.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099–B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a)) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, by close of business on November 21, 1980 together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no positions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 5, 1980.

Georgia Pournaras Stamas,

Assistant Secretary.

[FR Doc. 80–35813 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–15–M

National Bureau of Standards

Changes Pertaining to the Interface Standards Exclusion List

Correction

In FR Doc. 80–33768 appearing on page 71838 in the issue for Thursday, October 30, 1980, make the following correction:

The changes to the exclusion list were supposed to contain additions and removals. However, the heading "Removals" was omitted when printed. Please insert "Removals:" immediately preceeding the last three CDC entries.

BILLING CODE 1505–01–M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate four San Francisco Region projects for twelve month period beginning March 1, 1981. The aggregate total cost of the projects is $3,958,000.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be grants.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new and/or expanding markets.

Applications are invited for the following four grants:

1. One grant for management and technical assistance, General Business Services to operate in the Western Section of the Los Angeles-Long Beach, California SMSA. The project will operate at a cost not to exceed $1,351,500 for a 12 month period beginning March 1, 1981. The Project I.D. Number is 09–10–50640–00;

2. One grant for management and technical assistance, General Business Services to operate in the Eastern Section of the Los Angeles-Long Beach, California SMSA. The project will operate at a cost not to exceed $1,351,500 for a 12 month period beginning March 1, 1981. The Project I.D. Number is 09–10–50630–00;

3. One grant for management and technical assistance, General Business Services to operate in the San Francisco-Oakland, California SMSA. The project will operate at a cost not to exceed $1,107,000 for a period of 12 months beginning March 1, 1981. The Project I.D. Number is 09–10–50620–00;

4. One grant for management and technical assistance, General Business Services to operate in the Seattle-Everett, Washington SMSA. The project will operate at a cost not to exceed $148,000 for a period of 12 months beginning March 1, 1981. The Project I.D. Number is 09–10–50610–00.

The same applicant shall not receive the award grant for both of the Los Angeles-Long Beach, California requests. MBDA requires that non-affiliated business organizations service the Southern California area. However, applicants may submit proposals for both Los Angeles-Long Beach requests.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for these projects may be requested by writing to the following address:

U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 450 Golden Gate Avenue, Box 36014, San Francisco, California 94102.

In requesting an application kit, the applicant must specify its profit status; i.e.; State or local government, Federally recognized Indian tribal unit, educational institution, hospital, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of

December 18, 1980. Applications received after December 18, 1980 will not be considered.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance) (This program is not subject to the requirements of OMB Circular A–95)

Dated: November 10, 1980.

R. V. Romero,

Regional Director.

[FR Doc. 80–35802 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee which will meet to discuss the Surf Clam and Ocean Quahog Fishery Management Plan, amendment #3, as well as other fishery matters.

DATES: The meeting, which is open to the public, will convene on Wednesday, December 3, 1980, at approximately 10:30 a.m., and will adjourn at approximately 3:30 p.m.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115—Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: November 10, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–35819 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council, and its Scientific and Statistical Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established a Scientific and Statistical Committee to assist the Council in carrying out its responsibilities.

DATES: December 2–4, 1980.

ADDRESS: The meetings will take place at the Capital Plaza Hotel-Holiday Inn, 300 J Street, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(open meeting) December 2–3, 1980, (1 p.m. to 5 p.m., on December 2; 8 a.m. to 5 p.m. on December 3).

Agenda: Discuss Groundfish, Shrimp, and Salmon Fishery Management Plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m., on December 2, and evaluate and develop recommendations on advisory committee recommendations, as well as other matters referred to the committee by the Council.

Council—(open meeting) December 3, 1980 (11 a.m. to 5 p.m. on December 3; 8 a.m. to 4 p.m., on December 4).

Agenda: Open Session—Discuss matters pertaining to the groundfish FMP under development and to the 1981 amendment to the ocean salmon FMP. Conduct a public comment period beginning at 4 p.m., on December 3, and consider administrative matters.

Council—(closed session) December 3, 1980 (8 a.m. to 10 a.m.).

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning the selection of individuals to fill vacancies on the Herring Advisory Subpanel. Only those Council members, SSC members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 12, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to Executive Order and 5 U.S.C. 552b(c)(6), as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: November 12, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–35820 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–22–M

Requesting Nominations to the National Advisory Committee on Oceans and Atmosphere

AGENCY: National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce.

ACTION: Notice requesting nominations to the National Advisory Committee on Oceans and Atmosphere.

SUMMARY: The Department of Commerce seeks recommendations for nominations that will be submitted to the President for six members of the National Advisory Committee on Oceans and Atmosphere. The appointees will take office on July 1, 1981. Particular expertise in the fields of ocean engineering; ocean science; ocean oil/gas and mineral resources development; marine fisheries; atmospheric sciences; and coastal zone management, environment and conservation will be important factors in selection. Recommendations for nominations should be submitted to Martin H. Belsky, Assistant Administrator for Policy and Planning, NOAA, Room 5222, Department of Commerce Building, Washington, D.C. 20230, no later than December 19, 1980.

FOR FURTHER INFORMATION CONTACT: James L. Wolf, Office of Policy and Planning, NOAA telephone (202) 377–4634.

SUPPLEMENTRY INFORMATION: The National Oceanic and Atmospheric Administration of the Department of Commerce is seeking recommendations for nominees for six vacancies on the National Advisory Committee on Oceans and Atmosphere (NACOA). NACOA was created by Public Law No. 95–63:

(1) to undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; and

(2) to advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

NACOA is composed of 18 members appointed by the President, who serve staggered three-year terms. The Act specifies that members of NACOA shall be appointed from among individuals who are eminently qualified by way of knowledge and expertise in the following areas of direct concern to the Committee:

(1) one or more of the disciplines and fields included in marine science and technology, marine industry, marine-related state and local governmental functions, coastal zone management, or other fields directly appropriate for consideration of matters of ocean policy; or

(2) one or more of the disciplines and fields included in atmospheric science, atmospheric-related state and local governmental functions, or other firlds directly appropriate for consideration of matters of atmospheric policy.

On the basis of the current membership and emerging national issues with which NACOA will be concerned, the 1981 nominees should argument NACOA's expertise in ocean engineering; ocean science; ocean oil and gas and deep seabed mineral resources; fisheries; atmospheric sciences; and coastal zone management, environment, and conservation. Moreover, because of the progress in the negotiations of a Law of the Sea Treaty, expertise on international ocean law and a broad knowledge of ocean use policy will be particularly valuable.

Finally, a knowledge of the private sector's role in the development of mineral, energy, and food resources of the oceans will be sought.

Members of NACOA are expected to attend approximately 9 annual meetings of the Advisory Committee in Washington, D.C., or other locations around the country and to devote substantial time and interest to participation in subcommittees and the development of written documents that can serve as the basis for NACOA actions to fulfill its statutory functions. Members serve as paid consultants and are reimbursed for their travel expenses.

Interested persons may suggest themselves or other individuals for membership. Applications from minorities or nominations recommending minorities to serve on the Committee are particularly encouraged. A complete curriculum vitae of the individual should be included, along with a statement that the person nominated is aware of the nomination, has the time and interest to serve on the Committee, and appears to have no conflict of interest that would preclude a Committee membership. Letters in support of the nomination may also be submitted.

Any information should be submitted to Martin H. Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration, Room 5222, Department of Commerce Building, Washington, D.C. 20230. All materials must be submitted no later than December 19, 1980.

Dated: November 10, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 80–35801 Filed 11–14–80; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Permitting Entry of Additional Man-Made Fiber Sweaters From the Republic of Korea

November 13, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Permitting entry of an additional 55,448 dozen man-made fiber sweaters in Category 645/646, produced or manufactured in the Republic of Korea and exported during the year which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, agreement has been reached to permit entry of an additional 55,448 dozen of man-made fiber textile products in Category 645/646 as an interim measure to lift the embargo currently in effect, pending resolution of a discrepancy which may exist in the statistics. The Government of the Republic of Korea has agreed to deduct the 55,448 dozen from the 1981 ceiling for Category 645/646 should it be determined that no discrepancy exists.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979 a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (44 FR 76573), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry into the United States for consumption and withdrawal from warehouse for consumption of an additional 55,448 dozen of man-made fiber textile products in Category 645/646, produced or manufactured in the Republic of Korea, and exported during the twelve-month period which began on January 1, 1980.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 13, 1980

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: On December 27, 1979, the Chairman of the Committee for the Implementation of Textile Agreements directed you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980 of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea, in certain specified categories, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) Consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

V 45 NO 017 80 UMI

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to permit entry, effective on November 18, 1980 and extending through December 31, 1980, of 55,448 dozen of man-made fiber textile products in Category 645/6, produced or manufactured in the Republic of Korea and exported on and after January 1, 1980.

The action taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-35997 Filed 11-14-80; 9:16 am]

BILLING CODE 3510-25-M

COMMUNITY SERVICES ADMINISTRATION

Improving CSA Regulations Under Executive Order 12044

AGENCY: Community Services Administration.

ACTION: Amendment to final notice.

SUMMARY: The Community Services Administration is filing an amendment to its final notice that was published in the **Federal Register** on December 14, 1978 (43 FR 58401–58404) and September 18, 1980 (45 FR 62176) on Improving CSA Regulations Under Executive Order 12044. This amendment reiterates a relevant provision of Executive Order 12044 and is not considered to be a significant change to the final notice.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Jack Stoehr, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Telephone: (202) 254–5300. Teletypewriter: (202) 254–6218.

(Sec. 602, 78 Stat. 530; (42 U.S.C. 2942))

Richard J. Rios,

Director.

Section 3 (Applicability) is amended by adding the following at the end of Section 3 to read as follows:

"This rule does not apply to:

(1) Matters related to Agency management or personnel;

(2) Regulations related to Federal Government procurement; or

(3) Regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. In these cases, the Agency shall publish in the **Federal Register** a statement of the reasons why it is impractical or contrary to the public interest for the Agency to follow procedures of this rule. Such statement shall include the name of the Agency official responsible for this determination."

[FR Doc. 80-35542 Filed 11-14-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice of addition, deletions, and amendments to systems of records.

SUMMARY: The Department of the Army proposes to amend its inventory of system notices by adding 1, deleting 6, and amending 1 systems of records. The system of records being technically added is the result of consolidating information now appearing in three systems of records deleted herein. Specific changes to the system of records being amended are set forth below, followed by the system printed in its entirety as amended.

DATE: Actions shall be effected as proposed on December 17, 1980 unless comments received would result in a contrary determination requiring republication for further comments.

ADDRESS: Written comments are invited and may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–R, 1000 Independence Avenue SW., Washington, DC 20314, prior to December 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard S. Christian, The Adjutant General's Office (DAAG–AMR–R), 1000 Independence Avenue SW., Washington, DC 20314; telephone 202/693–0973.

SUPPLEMENTARY INFORMATION:

Department of the Army systems of records have been published in the following editions of the **Federal Register:**

FR Doc. 79–37052 (44 FR 73729) December 17, 1979
FR Doc. 80–594 (45 FR 1658) January 8, 1980
FR Doc. 80–3891 (45 FR 8399) February 7, 1980
FR Doc. 80–7517 (45 FR 15736) March 11, 1980
FR Doc. 80–9633 (45 FR 20992) March 31, 1980
FR Doc. 80–10014 (45 FR 21673) April 2, 1980
FR Doc. 80–150501–M (45 FR 26117) April 17, 1980
FR Doc. 80–13708 (45 FR 29390) May 2, 1980
FR Doc. 80–18501 (45 FR 41478) June 19, 1980
FR Doc. 80–20779 (45 FR 46842) July 11, 1980
FR Doc. 80–21847 (45 FR 48936) July 22, 1980
FR Doc. 80–29170 (45 FR 62875) September 22, 1980
FR Doc. 80–32460 (45 FR 68996) October 17, 1980
FR Doc. 80–33133 (45 FR 70298) October 23, 1980

Proposed amendments are not within the purview of the provisions of 5 USC 552a(o) which require submission of a new or altered report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 12, 1980.

Addition

A1306.01DAPE

SYSTEM NAME:

1306.01 Behavioral and Social Sciences Research Project Files.

SYSTEM LOCATION:

Army Reserch Institute (ARI) for the Behavorial and Social Sciences, ATTN: PERI–ZA, Room 6E22, 5001 Eisenhower Avenue, Alexandria, VA 22333.

Decentralized locations: ARI Field Units located at: Ft Sill, OK 73503; Ft Benjamin Harrison, IN 46216; HQ USAREUR, c/o ODCSPER, APO NY 09403; Ft Benning, GA 31905; Ft Bliss, TX 79916; Ft Hood, TX 76544; Ft Knox, KY 40121; Ft Leavenworth, KS 66027; Presido of Monterey, CA 93940; Ft Rucker, AL 36360; and/or Scientific Coordination Offices located at: US Army R&S Group (Europe), APO NY 09510; Ft Monroe, VA 23651; and Ft McPherson, GA 30330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officer, warrant officer, and enlisted military personnel, including Army reserves and National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include questionnaire type data relating to service member's pre-service education, work experience and social environment/culture, learning ability, physical performance, combat readiness, discipline, motivation, attitude about Army life, and measures of individual and organizational adjustments. May also include test results from Armed Services Vocational Aptitude Battery and Skill Qualification Tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 4503.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PRUPOSE OF SUCH USES:

Information in this system is used by the Army Research Institute for the Behavioral and Social Sciences to research human factors inherent in the recruitment, selection, classification, assignment, evaluation, and training of military personnel. Information derived from individually identifiable records is used also to enhance readiness effectiveness of the Army in that it provides a basis for developing personnel management methods, training devices, and testing of weapons methods and systems aimed at improved group performance. No decisions affecting an individual's rights or benefits are made using these research records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, punch cards, and magnetic tape.

RETRIEVABILITY:

By name and/or social security number.

SAFEGUARDS:

Buildings employ security guards. Access to records is limited to authorized personnel having an official need-to-know. Automated segments are protected by controlled system procedures and code numbers governing access.

RETENTION AND DISPOSAL:

Records are retained at the appropriate research office identified under "System location" until completion of final report, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washinghton, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Written requests should be addressed to Commander, Army research Institute for Behavioral and Social Sciences if testing has been concluded; otherwise to appropriate field unit or Scientific Coordination Office. Individuals must furnish the following information: full name, social security number, current address, and subject area and year of testing.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her peers, or, in the case of ratings and evaluations, from supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletions

A0225.06aTRADOC

System name:

225.06 Resource Accounting System (44 FR 73779), December 17, 1979.

Reason:

Records are no longer retrieved by personal identifier.

A0508.09DAPE

System name:

508.09 FBI Criminal Type Reporting Files (44 FR 73830), December 17, 1979.

Reason:

Records are covered by system notice A0508.11aUSACIDC, Criminal Investigation and Crime Laboratory Files.

A0719.01aDAPE

System name:

719.01 BOQ (Background Opinion Questionnaire) (44 FR 73896), December 17, 1979.

Reason:

Records are described in proposed new system A1306.01DAPE, Behavioral and Social Sciences Research Project Files, published herein.

A0719.01bDAPE

System name:

719.01 Attitude Surveys (44 FR 73896), December 17, 1979.

Reason:

Records are described in proposed new system A1306.01DAPE, Behavioral and Social Sciences Research Project Files, published herein.

A0720.04bDAPE

System name:

720.04 Individual Correctional Treatment files (44 FR 73897), December 17, 1979.

Reason:

Records are described in system notice A0720.04bDAPE. Individual Correctional Treatment Files, revised in this **Federal Register.**

A1001.07bDAPE

System name:

1001.07 Training Performance Rating (TRP) (44 FR 73947), December 17, 1979.

Reason:

Records are described in proposed new system A1306.01DAPE, Behavioral and Social Sciences Research Project Files, published herein.

Amendment

A0720.04aDAPE

Systme name:

720.04 Individual Correctional Treatment Files (44 FR 73897), December 17, 1979.

Changes:

System location:

Delete entry and substitute therefor: "Records are located at installation detention/Army confinement and correctional facilities, to include the US Army Retraining Brigade, Ft Riley, KS. Major commands, whose addresses are in the appendix to Army systems of records, will provide location assistance.

Categories of individuals covered by the system:

"After "confinement", insert "or correctional . . ."

Categories of records in the system:

Delete entry and substitute the following: "Documents and items of information relating to the administration of individual military prisoners in US Army confinement or correctional facilities; court-martial/confinement/release orders; records of disciplinary actions of a judicial or non-judicial nature; military police reports; prisoner identification records; medical examination reports; requests/receipts for health and comfort supplies; clothing

V 45 N 0 17 80 UMI

and equipment issue records; mail records and forms authorizing correspondence; individual prisoner utilization records; interview requests/ counseling records; fingerprint cards; parolee agreements; inspection records on prisoners in segregation; documents reflecting custodianship of prisoner's personal funds and property; correspondence/orders concerning individual's past, present, or future duty assignments; documents concerning progress and training of confinees; and personal history data to include name, sex, social security number, date of birth, race, marital status, educational level, military rank levels and qualifications, skills test scores, and data relating to separation from service."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete introduction and insert in lieu thereof: "By Confinement/Correctional Facility Commander:"; delete period ending first paragraph and add: "and to determine individual's potential for future duty performance. Records may provide statistical data for research projects and managerial studies/reports concerning effectiveness of confinement/correctional programs."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Add: "punch cards, magnetic tapes and disks."

Retention and disposal:

Delete entry and substitute therefor: "Manual records on individual prisoners are destroyed 4 years after release of prisoner from confinement. Automated records used to provide statistical or managerial purposes are retained indefinitely; however, individually identifiable data are purged within 4 years of prisoner's release.

Note.—Transfer of a prisoner from one confinement/correctional facility to another is not construed as release from confinement; upon transfer to another such facility, individual's record accompanies him."

System manager(s):

Delete entry and substitute therefor: "Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310."

Notification procedure:

Delete entry and substitute therefor: "Information may be obtained by writing to the commander of the confinement/correctional facility, or to the System Manager."

Record access procedures:

Delete entry and substitute therefor: "Individuals desiring access to their record may write to the commander of the confinement/correctional facility where a prisoner, furnishing full name, SSN, present home address, and approximate dates of confinement. Request must bear signature of the individual whose record it is."

Contesting record procedures:

Delete entry and substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Systems exempted from certain provisions of the act:

Change to read: "Portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g)."

A0720.04aDAPE

SYSTEM NAME:

720.04 Individual Correctional Treatment Files.

SYSTEM LOCATION:

Records are located at installation detention/Army confinement and correctional facilities, to include the U.S. Army Retraining Brigade, Ft. Riley, Kansas. Major commands, whose addresses are in the appendix to Army systems of records, will provide location assistance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any military member confined at an Army confinement or correctional facility as a result of, or pending, trial by courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and items of information relating to the administration of individual military prisoners in U.S. Army confinement or correctional facilities; court-martial/confinement/ release orders; records of disciplinary actions of a judicial or nonjudicial nature; military police reports; prisoner identification records; medical examination reports; request/receipts for health and comfort supplies; clothing and equipment issue records; mail records and forms authorizing correspondence; individual prisoner utilization records; interview requests/ counseling records; fingerprint cards; parolee agreements; inspection records on prisoners in segregation; documents reflecting custodianship of prisoner's personal funds and property; correspondence/orders concerning individual's past, present, or future duty assignments; documents concerning progress and training of confinees; and personal history data to include name, sex, social security number, date of birth, race, marital status, educational level, military rank levels and qualifications, skills test scores, and data relating to separation from service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Sections 951–953.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By Confinement/Correctional Facility Commander: To determine: initial custody classifications, when custody elevation is appropriate, work assignments, educational needs; to gauge prisoner's adjustment to confinement; to identify areas of particular concern to individual prisoners, and to determine individual's potential for future duty performance. Records may provide statistical data for research projects and managerial studies/reports concerning effectiveness of confinement/correctional programs.

Portions disclosed to Departments of Justice, Defense, and Army Staff agencies and commands, state and local criminal justice agencies established by law. Disclosure to law enforcement and investigatory agencies is for investigation and possible criminal prosecution, civil court actions or regulatory order. Disclosure to confinement/correctional system agencies is for use in the administration of correctional programs to include custody classification, employment, training and educational assignments; treatment programs; clemency, restoration to duty and parole actions; verifications of military offenders' criminal records, employment records and social histories.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders, punch cards, magnetic tapes and disks.

RETRIEVABILITY:

Alphabetically by prisoner's surname.

SAFEGUARDS:

Confinement facilities are secured. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Automated segments are further protected by controlled system procedures and code numbers.

RETENTION AND DISPOSAL:

Manual records on individual prisoners are destroyed 4 years after release of prisoner from confinement. Automated records used to provide statistical or managerial purposes are retained indefinitely; however, individually identifiable data are purged within 4 years of prisoner's release. (NOTE: Transfer of a prisoner from one confinement/correctional facility to another is not construed as release from confinement; upon transfer to another such facility, individual's record accompanies him.)

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the commander of the confinement/correctional facility, or to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their record may write to the commander of the confinement/correctional facility where a prisoner, furnishing full name, SSN, present home address, and approximately dates of confinement. Request must bear signature of the individual whose record it is.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Subjects, witnesses, victims, Military Police and U.S. Army Criminal Investigation Command personnel and special agents, informants, various Department of Defense, Federal, state, and local investigative and law enforcement agencies, departments or agencies of foreign governments; and any other individuals or organizations which may supply pertinent information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

[FR Doc. 80-35825 Filed 11-14-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement for Tenkiller Ferry Lake Restudy; Cherokee and Sequoyah Counties, Oklahoma

AGENCY: US Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The purpose of the study is to reevaluate the project purposes and to make necessary modifications to the project or its operation to better satisfy the water resource needs in the study area.

2. Reasonable Alternatives: Alternatives include reallocation of storage for flood control, hydropower, and water supply; an additional hydropower unit, dam safety, additional recreational facilities, and no action.

3. Scoping Process:

a. Public Involvement: A comprehensive public involvement program was developed as a means of disseminating information and soliciting public views. A variety of techniques including formal public meetings, public workshops, and the local news media were employed to involve Federal, State, and local agencies, citizen committees, organizations, and the interested public in the planning studies.

b. Significant Issues Requiring In-Depth Analysis: None.

c. Assignments: U.S. Fish and Wildlife Service is preparing a Fish and Wildlife Coordination Act Report.

d. Environmental Review and Consultation Requirements: The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. Scoping meeting will not be held.

5. Estimated date when the DEIS will be available: March 1982.

ADDRESS: Mr. Buell Atkins, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121, (919) 581–7857; FTS 736–7857.

Dated: November 2, 1980.

James J. Harmon,

Colonel, CE, District Engineer.

[FR Doc. 80-35721 Filed 11-14-80; 8:45 am]

BILLING CODE 3710-39-M

Department of the Navy

Amendment to Systems of Records

AGENCY: Department of the Navy (DOD).

ACTION: Notice of amendment to systems of records.

SUMMARY: The Department of the Navy proposes to amend two systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below followed by the systems published in their entirety, as amended.

DATES: The system shall be amended as proposed without further notice on December 17, 1980, unless comments are received on or before December 17, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the record systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone: 202–694–2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5, U.S.C., Section 552a (Pub. L. 93–579) have been published in the **Federal Register** as follows:

FR Doc 79–36400 (44 FR 67703) November 27, 1979
FR Doc 79–36798 (44 FR 68947) November 30, 1979
FR Doc 79–37052 (44 FR 74553) December 17, 1979
FR Doc 80–6599 (45 FR 13794) March 3, 1980
FR Doc 80–14965 (45 FR 32037) May 15, 1980
FR Doc 80–15427 (45 FR 33679) May 20, 1980
FR Doc 80–17286 (45 FR 38099) June 6, 1980
FR Doc 80–19603 (45 FR 43841) June 30, 1980
FR Doc 80–20317 (45 FR 43938) July 8, 1980
FR Doc 80–23111 (45 FR 50851) July 31, 1980
FR Doc 80–24237 (45 FR 53508) August 12, 1980
FR Doc 80–26396 (45 FR 57514) August 28, 1980
FR Doc 80–26960 (45 FR 58651) September 4, 1980
FR Doc 80–27976 (45 FR 59938) September 11, 1980
FR Doc 80–29172 (45 FR 62876) September 22, 1980
FR Doc 80–29774 (45 FR 63898) September 26, 1980
FR Doc 80–33134 (45 FR 70301) October 23, 1980.

The proposed corrections are not within the purview of the provisions of 5 U.S.C. 552a(O) of the Act which requires the submission of a new or altered system report.

Dated: November 12, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

N57043 NAVMAR4065

System name:

Commissary Control Program (44 FR 74629) December 17, 1979.

Changes:

System name:

Delete the entire entry and substitute with the following: "Commissary/ Exchange Control Program."

Categories of individuals covered by the system:

Delete the entire entry and substitute with the following: "All authorized commissary and exchange patrons on Guam."

Categories of records in the system:

At the end of the entry, add the following phrase: ". . . and high value merchandise purchased."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Rentention and disposal:

At the end of the entry, add the following phrase: ". . . for commissary purchases; names maintained on master tape and deleted two years after initial purchase for exchange purchases."

N63285–01

System name:

NIS Investigative Files System (44 FR 62876) 22 Sep 80

Changes:

System exempted from certain provisions of the act:

Delete the entire entry and substitute with the following: "Parts of this system may be exempt under 5 U.S.C. 552a(j)(2) and (k)(1), (k)(3), (k)(4), (k)(5), and (k)(6), as applicable. For additional information, contact the system manager."

N57043 NAVMAR4065

SYSTEM NAME:

Commissary/Exchange Control Program.

SYSTEM LOCATION:

Commander in Chief Pacific Representative, Guam and the Trust Territory of the Pacific Islands, FPO San Francisco 96630.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All authorized commissary and exchange patrons on Guam.

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated master tape, purchase amounts, abuser notification letters and high value merchandise purchased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Quarterly review by authorized personnel to identify potential abusers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Master tape, punched cards, readout lists, file folders on purchase entries and abuser letters.

RETRIEVABILITY:

Social security account number.

SAFEGUARDS:

Maintained in file cabinet in locked office spaces.

RETENTION AND DISPOSAL:

Names maintained on master tape and deleted three months after last purchase for commissary purchases; names maintained on master tape and deleted two years after initial purchase for exchange purchases.

SYSTEM MANAGER(S) AND ADDRESS:

Commander in Chief Pacific Representative, Guam and the Trust Territory of the Pacific Islands.

NOTIFICATION PROCEDURE:

Apply to the system manager.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals to whom records pertain.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N63285–01

SYSTEM NAME:

NIS Investigative Files System

SYSTEM LOCATION:

Primary System—NIS Records Management Division Administration Department, NIS Headquarters, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Virginia 22331. Decentralized Segments—Naval Investigative Service Offices (NISOs) retain copies of certain segments of the investigative files, and related documentation for up to one year. Addressees of these offices are included in the directory of Department of the Navy mailing addresses. Naval Investigative Service Resident Agencies retain copies of investigative reports during pendency and for 90 days thereafter. They also retain evidence custody cards on persons from whom evidence was seized. The number and location of these Resident Agencies are subject to change in order to meet the requirements of the Department of the Navy. Current location may be obtained from Naval Investigative Service Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in the following categories who require access to classified Defense information prior to August 1972: Active and inactive members of the naval service, civilian personnel employed by the Department of the Navy (DON), industrial and contractor personnel, civilian personnel being considered for sensitive positions, boards, conferences, etc., civilian personnel who worked or resided overseas, Red Cross personnel. Civilian and military personnel accused, suspected or victims of felonious type offenses, or lesser offenses impacting on the good order, discipline, morale or security of the DON. Civilian personnel seeking access to or seeking to conduct or operate any business or other function aboard a DON installation, facility or ship. Civilian or military personnel involved in the loss, compromise or unauthorized disclosure of classified material/information. Civilian and military personnel who were of counterintelligence interest to the DON.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROI) prepared by NIS or other military, federal, state, local or foreign law enforcement or investigative body on either hard copy or microfilm.

NIS Operations Reports (NORs). NORs document information received by NIS which is of interest to the naval services or other law enforcement or investigative bodies. The information reported by NORs relates to matters involving both counterinteligence and criminal intelligence operations and activities.

General Administration Reports (GEN). The investigative purpose of the GEN is to report the results of pre-employment inquiries on applicants for positions as Special Agents with NIS.

Investigative summaries, memoranda for the files and correspondence relating to specific cases and contained in the individual dossier.

Polygraph Data. A listing of persons who submitted to polygraph examinations by NIS examiners. The data includes the examinee's name, location and results of the examination and the identity of the examiner.

Case control and management documents which serve as the basis for controlling and guiding the investigative activity.

Records identifying confidential sources and contacts with them.

Index to persons reported by "Name Only".

Wiretap Data Records. Automated listing of persons who were subjects of wiretapping or eavesdropping operations.

Case Control and Narcotics Data Records. Automated used only for statistical purposes in accounting for productivity, manhours expenditures; various statistical data concerning narcotics usage and used solely for statistical purposes.

Modus Operandi Files.

Screening Board Reports. These reports set forth the results of oral examinations of applicants for a position as a Special Agent with the NIS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 47 U.S.C. 606, Executive Memorandum of 26 Jun 1939, Investigations of espionage, counterespionage and sabotage matters; Executive Order 12036, United States Intelligence Activities; SECNAVINST 5520.3, Criminal and Security Investigations and Related Activities within the Department of the Navy; DOD Dir 5210.8, Policy on Investigation and Clearance of DOD personnel for access to Defense information; DOD Dir 5210.9, Military Personnel Security Program; DOD Dir 5200.26, Defense Investigative Program; DOD Dir 5200.27, Acquisition of Information Concerning Persons and Organizations not affiliated with the DOD; and DOD Dir 5200.24, Telephone Interception and Eavesdropping.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in this system is (was) collected to meet the investigative, counterintelligence and security responsibilities of the DON. This includes personnel security, internal security, criminal and other law enforcement matters all of which are essential to the effective operation of the department.

The records in this system are used to make determinations of suitability for access or continued access to classified information, suitability for employment or assignment, suitability for access to military installations or industrial firms engaged in government projects/ contracts, suitability for awards or similar benefits; referral to other law enforcement or investigatory authorities for law enforcement purposes; use in current law enforcement investigation of any type including applicants; use in judicial or adjudicative proceedings including litigation or in accordance with a court order; insurance claims including workmen's compensation; provide protective services under the DOD Distinguished Visitor Protection Program and to assist the U.S. Secret Service in meeting its responsibilities; congressional interest including the General Accounting Office; respond to the Freedom of Information and Privacy Acts; use for public affairs or publicity purposes such as wanted persons, etc.; referral of matters under their cognizance to Federal, State or local law enforcement authorities including criminal prosecution, civil court action or regulatory order; disclosure to Federal intelligence/counterintelligence agencies of matters under their purview; disclosure to foreign government organizations of criminal and counterintelligence information necessary for the prosecution of justice, or for mutual security and protection; advising higher authorities and naval commands of important developments impacting on security, good order or discipline; reporting of statistical data to naval commands and higher authority; disclosure to the National Archives; use by other investigative unit (Federal, State or local) for whom the investigation was conducted; released to defense counsel, disclosure in course of acquiring the information, input into the Defense Central Index of Investigations; disclosure to victims of crimes to the extent necessary to pursue civil and criminal remedies.

Users of the records in this system include employees of the NIS who require access for operational, administrative or supervisory purposes; DOD criminal investigative, investigative and intelligence units; Federal, State and local units engaged in criminal investigative, investigative and intelligence activities; Federal regulatory agencies with investigative units, DOD components making suitability determinations; Federal, State or local judicial or adjudicative bodies; congressional bodies, including the General Accounting Office who require access within the scope of their jurisdiction for those authorized purposes enumerated above to the extent that those purposes are within the scope of their authority. Commercial insurance companies in those instances in which they have a ligitimate interest in the results of the investigation, but only to that extent and provided an invasion of privacy is not involved. Victims of crimes to the extent necessary to pursue civil and criminal remedies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, on cards and on microfilm. Automated records on magnetic tape.

RETRIEVABILITY:

NIS permanent files are filed by terminal digit number. In order to locate the file it is necessary to query the Defense Central Index of Investigations (DCII) computer using the name of the subject and at least one other personal identifier such as a date of birth, place of birth, social security number or military service number. Files may also be retrieved by case control number assigned at the time the investigation is initiated. Copies of the files in the NISOs and resident agencies are retrieved by name.

SAFEGUARDS:

NIS investigative files (permanent and temporary) are maintained and stored in open shelves and filing cabinets located in secured areas accessible only to authorized personnel. Dated files are retired to the Washington National Records Center where retrieval is restricted to NIS authorized personnel.

RETENTION AND DISPOSAL:

Retention of completed NIS Investigative files on Personnel Security Investigations (PSI) is authorized for 15 years unless adverse information is developed, in which case they may be retained for 25 years. PSI files on persons considered for affiliation with DOD will be destroyed within one year if the affiliation is not consummated.

V45N0178 0 UMI

Special Agent applicant records are retained for one year if the applicant declines offer of employment and five years if the applicant is rejected for employment. Criminal files are retained for 25 years. Major investigations of counterintelligence/security nature, of espionage or sabotage, may be retained permanently. Certain of the above records, when found to have possible historical value, may be offered to the National Archives for continued retention. Counterintelligence records on persons not affiliated with DOD must be destroyed within 90 days or one year under criteria set forth in DOD Directive 5200.27, unless retention is required by law or specifically approved by the Secretary of the Navy. Files retained in the NISOs and resident agencies are temporary and are destroyed after 90 days or 1 year, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

The Director, Naval Investigative Service has ultimate responsibility for all NIS file holdings. Management of NIS permanent files is the direct responsibility of the Assistant Director for Administration. NISO Commanding Officers are responsible for files retained in their NISO subordinate resident agencies.

NOTIFICATION PROCEDURES:

All requests relative to the retention and/or releasability of NIS investigative files should be addressed to the Director, Naval Investigative Service, 2461 Eisenhower Avenue, Alexandria, Virginia 22331. Requests must contain the full name of the individual and at least one additional personal identifier such as date and place of birth, social security number or military service number. Personal visits by requesters should be confined to the Naval Investigative Service Headquarters at the above address. It should be borne in mind that the vagaries of the automated indexing system might preclude a same day response. Persons submitting written requests must properly establish their identity to the satisfaction of the NIS. Where a question exists, a signed, notarized statement or other certified form of identification will be required. Individuals appearing in person may present proof of identification in the form of military ID card, valid driver's license, or other suitable form of identification bearing a photograph and signature. Attorneys or other persons acting on behalf of a subject of a record must provide a notarized authorization from the subject record.

RECORD ACCESS PROCEDURES:

Individuals may take inquiries relative to NIS records maintained on them thru the NIS Information and Privacy Coordinator, Naval Investigative Service Headquarters, at the address specified in the previous paragraph.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (j)(2) and (k)(1), (k)(3), (k)(4), (k)(5) and (k)(6), as applicable. For additional information, contact the system manager.

[FR Doc. 80-35826 Filed 11-14-80; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Resource Applications, National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Petroleum Council.

Date and Time: Wednesday, December 10, 1980—9:00 a.m.

Place: Department of Energy, 1000 Independence Avenue SW., James Forrestal Building Auditorium, Washington, D.C. 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building—Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda:

- Call to Order by C. H. Murphy, Jr., Chairman National Petroleum Council.
- Remarks by Lynn Coleman, Acting Deputy Secretary.
- Reports of the Committees of the National Petroleum Council.

a. Committee on Refinery Flexibility.

b. Committee on Unconventional Gas Sources.

c. Committee on Arctic Oil and Gas Resources (Progress Report).

d. Committee on Emergency Preparedness (Progress Report).

e. Committee on Environmental Conservation (Progress Report).

- Consideration of Administrative Matters.

Discussion of Any Other Business Properly Brought Before the National Petroleum Council.

- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence, Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on November 6, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-35816 Filed 11-14-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of special nuclear material of United States origin, consisting of 5,000 kilograms of Uranium, containing 175 kilograms of U-235 (3.5% enrichment), from the Federal Republic of Germany to Sweden for fabrication of fuel for power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement, designated as RTD/SW(EU)-113, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 2, 1980.

Dated: November 12, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-35814 Filed 11-14-80; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of 1,830 grams of uranium, enriched to approximately 1% in U-235, and 14 grams of produced plutonium from Sweden to the Federal Republic of Germany for disposal following irradiation tests.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this subsequent arrangement, designated as RTD/EU(SW)-54 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 2, 1980.

Dated: November 12, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-35815 Filed 11-14-80; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between United States and Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Commonwealth of Australia Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

Contract No. S-JA-285, United States to Japan, 5 grams of uranium enriched to greater than 90% in U-234, to be used for the manufacture of an in-core neutron detector.

Contract No. S-AU-102, United States to Australia, 20 milligrams of uranium, enriched to greater than 99% in U-234, 1 gram of uranium, enriched to greater than 99% in U-235, 30 milligrams of uranium, enriched to between 80% and 90% in U-236, and 5 grams of uranium, enriched to greater than 99% in U-238. These materials are to be used for the analysis of environmental materials by the techniques of Alpha and Gamma spectrometry.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than December 2, 1980.

Dated: November 12, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-35816 Filed 11-14-80; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Continental Fuel Co., Inc; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken and Opportunity for Comment on Consent Order.

SUMMARY: The Economic Regulatory administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

EFFECTIVE DATES: September 22, 1980.

COMMENTS BY: December 17, 1980.

ADDRESS: Send comments to: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market Street, San Francisco, CA 94105, telephone (415) 764-7038.

SUPPLEMENTARY INFORMATION: On September 22, 1980, the Office of Enforcement of the ERA executed a Consent Order with Continental Fuel Co., Inc., of Pocatello, Idaho. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Continental Fuel Co., Inc. (Continental), with its home office located in Pocatello, Idaho, is a firm engaged in the sale and resale of motor gasoline, and is subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Continental, the Office of Enforcement, ERA, and Continental entered into a Consent Order, the significant terms of which are as follows:

1. Continental's sales of motor gasoline were audited for the periods March 1-31, 1979 and October-December, 1979.

2. As a result of the audit, the Office of Enforcement alleged that Continental charged prices for motor gasoline in excess of the maximum lawful selling prices permitted under 10 CFR 212.93. The alleged overcharge totalled $21,535.08.

3. Continental, by entering into the Consent Order, did not concur in the Office of Enforcement's allegations, nor did it admit any liability or violation of any statute or DOE regulation or rule.

4. In the Consent Order, Continental agreed to recompute that portion of the alleged overcharge which related to sales made to reseller accounts, the recomputation to reflect the application of 10 CFR 212.111. Continental further agreed to compute overcharges which may have occurred in sales made during the period April-September, 1979, using procedures approved by the Office of Enforcement. All computations made by Continental are subject to the Office of Enforcement's approval. Continental also agreed to refund all overcharges, plus interest, in the manner directed by the Office of Enforcement in a modification to the Consent Order.

5. The provisions of 10 CFR 205.199J, including the publication of this notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market Street, San Francisco, CA 94105. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 764-7038.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Continental Fuel Co., Inc., Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 17, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco on the 5th day of November, 1980.

Lon W. Smith

District Manager, Office of Enforcement, Western District Economic Regulatory Administration.

[FR Doc. 80-35733 Filed 11-14-80; 8:45 am]

BILLING CODE 6450-01-M

Coordinating Subcommittee of the Committee on Emergency Preparedness of the National Petroleum Council; Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Meeting.

SUMMARY: The National Petroleum Council (NPC), an advisory committee to the Department of Energy, (DOE) provides technical advise and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The NPC Committee on Emergency Preparedness is currently undertaking an analysis of issues bearing on emergency preparedness planning and the ability of the refining industry to respond to energy emergencies. NPC's Technical Subcommittee will hold three meetings this month to review and discuss study modules of this analysis. Because the need for these meetings was determined within the last week, and the timing can not be altered, the DOE is unable to provide the customary 15 days of notice prior to the meetings.

DATE AND LOCATION: The Technical Subcommittee of the NPC's Committee on Emergency Preparedness will meet in Room 1890 of the Exxon Building, 800 Bell Avenue, Houston, Texas, on November 19, 20, and 21, 1980, starting at 9:00 a.m. each day.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Deputy Assistant Administrator, Office of Energy Contingency Planning, 2000 M Street, NW., Room 7302, Washington, D.C. 20461, Telephone (202) 653-3205

Ms. Joan Walsh Cassedy, National Petroleum Council, 1625 K Street, NW., Washington, D.C. 20006, Telephone (202) 393-6100

SUPPLEMENTARY INFORMATION: Items for discussion and review at the meetings will include:

1. Emergency Demand Management (Wednesday, November 19, 1980)
2. Emergency Supply Management (Thursday, November 20, 1980)
   —Emergency Oil and Gas Production
   —Refinery Flexibility
   —Storage and Transportation
   —Utilization of Strategic Petroleum Reserve
3. International Emergency Conditions (Thursday, November 30, 1980)
4. Emergency Supply Management (Friday, November 21, 1980)
   —Emergency Distribution of Crude Oil
   —Emergency Distribution of Petroleum Products
5. Any other matters pertinent to the overall assignment for the Secretary (November 19, 20, and 21, 1980)

All meetings are open to the public. The Chairman of the Subcommittee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements at the meeting should inform Joan Walsh Cassedy, National Petroleum Council, (202) 393-6100, prior to the meeting, and provision will be made for their appearance on the agenda. A transcript of the Technical Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on November 8, 1980.

Barton R. House,

Deputy Administrator for Operations and Emergency Management, Economic Regulatory Administration.

[FR Doc. 80-35735 Filed 11-14-80; 8:45 am]

BILLING CODE 6450-01-M

Gasoline Marketing Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Gasoline Marketing Advisory Committee

Date and Time: Wednesday, December 3, 1980—1:00 p.m.—5:00 p.m., Thursday, December 4, 1980—9:00 a.m.

Place: Department of Energy, New York Regional Office, Room 305A, 26 Federal Plaza, New York, New York.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8G087, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of Committee: To provide the Department of Energy with expert and technical advice concerning the wholesale and retail selling of gasoline.

Tentative Agenda:

Wednesday, December 3, 1980
- Meeting of Subcommittee on Transition to Gasoline Decontrol

Thursday, December 4, 1980
- Old Business
- Report of Subcommittee on Transition to Gasoline Decontrol
- The Hearings and Appeals Process
- The Entitlements Program
- New Business
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on November 6, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-35732 Filed 11-14-80; 8:45 am]

BILLING CODE 6450-01-M

Leese Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Leese Oil Company (Leese), 1100 South Second Avenue, Pocatello, ID 83201.

This Proposed Remedial Order charges Leese with pricing violations in the amount of $13,445.19, connected with the resale of motor gasoline during the time period August 1, 1979 through September 30, 1979, in the State of Idaho.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Lon W. Smith, District Manager of Enforcement, Department of Energy, 333 Market Street, San Francisco, CA 94105, phone (415) 764-7038. On or before December 2, 1980 any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, CA, on the 3rd day of November 1980.

Lon W. Smith,

District Manager of Enforcement, Western District.

[FR Doc. 80-35734 Filed 11-14-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51100-6052-25-22]

Georgia Power Company; Wansley Unit 5-A; Decision and Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order granting a permanent peakload exemption from the prohibitions against (1) the use of petroleum or natural gas as a primary energy source by new powerplants and (2) the construction of new powerplants without the capability to use an alternate fuel as a primary energy source, which are contained in Section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Background

On December 18, 1979, Georgia Power Company (Georgia Power) filed a petition with ERA for a permanent peakload powerplant exemption in order to use petroleum as a primary energy source in a 49,200 KW oil-fired combustion turbine powerplant to be known as Wansley Unit 5-A (Wansley CT) at its plant, Wansley Station, in Heard County, Georgia. Additional information was required by ERA and a revised petition was submitted on February 15, 1980. ERA accepted the petition on April 10, 1980, and published notice of acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on April 24, 1980 (45 FR 27810). Publication of the notice of acceptance commenced a 45-day public comment period, ending on June 9, 1980, pursuant to Section 701 of FUA. During this period, interested parties were also afforded an opportunity to request a public hearing. The comment period ended June 9, 1980. Comments on Georgia Power's petition were received from RATEWATCH; The Wayne Battle Lumber Company, Inc.; the Watkins Lumber Company, Inc.; the Balfour Lumber Company; the Claude Howard Lumber Company, Inc.; the Pollard Lumber Company, Inc.; and the Southeastern Lumber Manufacturers Association. A request for a public hearing in Atlanta, Georgia, or within Georgia Power's service area, that failed to meet the requirements of 10 CFR Section 501.33 was received from RATEWATCH.

On June 27, 1980, ERA informed RATEWATCH that additional information was required to meet the criteria set forth at 10 CFR 501.33—*Request for a public hearing* (45 FR 38289). RATEWATCH responded by requesting certain information from ERA, which was furnished by letter, dated August 7, 1980 before perfecting its hearing request. By letter, dated August 25, 1980, ERA enclosed a copy of the Notice of Availability of the Tentative Staff Analysis and informed RATEWATCH that a request for a public hearing had to be filed within fourteen days after the publication of a Notice of availability of a Tentative Staff Analysis. The Notice was published on August 27, 1980. RATEWATCH failed to make its request for a public hearing within the required time period.

ERA's staff reviewed the information contained in the record of the proceeding. A tentative Staff Analysis (TSA) was prepared which recommended that ERA issue on order which would grant Georgia Power a permanent peakload powerplant exemption to use petroleum in Wansley CT subject to certain terms and conditions. A Notice of Availability of the Tentative Staff Analysis was published in the **Federal Register** on August 27, 1980 (45 FR 57164). The publication of the notice of availability opened a 14-day public comment period which ended September 10, 1980.

On the basis of ERA's review of the entire record of this proceeding, including a review of the public comments received, after publication of the notice of acceptance, ERA has determined to grant the exemption requested by Georgia Power in its petition to use petroleum in Wansley CT, subject to the terms and conditions enumerated below.

Based upon information provided by Georgia Power, ERA conducted an environmental analysis which was reviewed by the DOE's Office of Environment, with consultation from the Office of the General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

DATES: This order will not take effect earlier than the 60th calendar day after it is published in the **Federal Register.** January 16, 1981.

ADDRESSES:

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, DC 20461, Phone (202) 653-4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3012 B, Washington, DC 20461, Phone (202) 653-4208.

V 45 NO 017 80 0 UMI

James Renjilian, Office of General Counsel, Department of Energy, 1000 Independence Ave., Room 6B–190, Washington, DC 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: The ERA published Interim Rules on May 15, 1979, and May 17, 1979 (44 FR 28530 and 44 FR 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). Title II of FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted. The Final Rule published in the **Federal Register** on June 6, 1980 (45 FR 38276), became effective August 5, 1980.

The Wayne Battle Lumber Company, Inc.; the Watkins Lumber Company, Inc.; the Balfour Lumber Company; the Claude Howard Lumber Company, Inc.; the Pollard Lumber Company, Inc.; and the Southeastern Lumber Manufacturers Association submitted comments regarding the potential use of wood by-products in Wansley CT. ERA considered these comments and believes that none of the issues raised were pertinent to the granting of the requested exemption.

RATEWATCH asserts that the proposed combustion turbine unit and exemption is not needed to meet any capacity or system reliability requirements, particularly in light of available alternatives of power demand conservation, cogeneration and solar power. ERA notes that Section 213(c) of the Act excepts a peakload powerplant from the requirement of showing that there is no alternate supply of power available before a peakload exemption may be granted and therefore concludes that a demonstration of need for the proposed powerplant is not required.

RATEWATCH also asserts that it would be in the best interests of the public, consumers, investors, Georgia Power and other users of the petroleum if alternatives resulting in effective fuel conservation, such as electricity demand conservation, were evaluated and incorporated in the terms and conditions of the exemption, if granted. ERA has considered Georgia Power's conservation efforts and has recommended terms and conditions which it believes are appropriate.

As discussed in detail above, RATEWATCH, while indicating an interest in having a public hearing, failed to furnish a request in accordance with the requirements of 10 CFR Section 501.33 within the required time period.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis was prepared, which recommended that ERA issue an order which would grant Georgia Power a permanent peakload powerplant exemption to use petroleum in Wansley CT, subject to certain terms and conditions.

A Notice of Availability of the Tentative Staff Analysis was published in the **Federal Register** on August 27, 1980 (45 FR 57164). The publication of the Notice of availability opened a 14-day public comment period which ended September 10, 1980. No comments in addition to those previously received, were submitted and no other requests for a hearing were made.

Order

ERA, hereby orders the grant to Georgia Power of a permanent exemption from the prohibitions of FUA with respect to the use of petroleum in Wansley CT provided that the powerplant is operated solely as a peakload powerplant subject to the following terms and conditions imposed pursuant to the authority granted to ERA by Section 214(a) of the Act:

Terms and Conditions

A. Georgia Power shall not produce more than 73,800,000 KWH during any 12-month period with the proposed unit unless otherwise limited by other applicable laws and regulations. Georgia Power shall provide annual estimates of the expected periods (hours during specific months) of operation of Wansley CT for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June-September period, etc.). Estimates of the hours during which Georgia Power expects to operate Wansley CT inside the first 12-month period shall be furnished within 30 days from the date of this order.

Georgia Power shall comply with the reporting requirements set forth in 10 CFR 503.41(e). In addition, whenever Georgia Power operates the proposed unit in during non-specified peakload hours (hours not specified in condition A above), Georgia Power shall report annually the reason(s) for such operation.

C. the quality of any petroleum to be burned in this unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applciable environmental requirements.

D. This order shall not take effect ealier than the 60th calendar day after it is published in the **Federal Register** (January 16, 1981).

Issued in Washington, D.C., on November 10, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–35817 Filed 11–14–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–CERT–036]

Yale University; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 14, 1980, Yale University (Yale), Central P.O. Box 1501–A, New Haven, Connecticut 06520, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of up to 450,000 Mcf of natural gas which is expected to be used between November 1, 1980, and May 31, 1981, to displace the use of approximately 73,000 barrels of No. 6 fuel oil (0.5 percent maximum sulfur) at the Yale University Campus located in New Haven, Connecticut. The eligible seller of the natural gas is the National Fuel Gas Distribution Corporation, 10 LaFayette Square, Buffalo, New York 14203. The gas will be transported by the Tennessee Gas Pipeline Company (interstate pipeline), P.O. Box 2511, Houston, Texas 77001: and the Southern Connecticut Gas Company (local distribution company), 55 Church Street, New Haven, Connecticut 06501. Notice of that application was published in the **Federal Register** (45 FR 70971, October 27, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Yale's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Yale's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., November 11, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80–35813 Filed 11–14–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of October 6 Through October 10, 1980

During the week of October 6 through October 10, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice (November 17, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

November 10, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Dow Chemical, U.S.A., Washington, D.C., BEE–1393, crude oil.

Dow Chemical, U.S.A. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in the issuance of additional entitlements to the firm for the crude oil which it intends to purchase to establish a starting inventory for a new crude oil refinery. On October 8, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

McBay Oil & Gas Company, Dallas, Texas, BEE–1126, crude oil.

McBay Oil and Gas Company (McBay) filed an Application for Exception from the provisions of 10 CFR, Subpart L. The exception request, if granted, would permit McBay to resell at market price levels the crude oil that it reclaims from crude oil waste material at its reclamation plant located in Grapeland, Texas. On October 9, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that the requested exception relief should be granted in part.

Sunflower Fuel Alcohol Inc., Topeka, Kansas, BEE–0935, gasohol.

Sunflower Fuel Alcohol, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Sunflower to receive an allocation of unleaded gasoline for producing alcohol for gasohol blending purposes. On October 9, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

The 341 tract unit of the Citronelle Field, Mobile County, Alabama, DEE–7746, crude oil.

The 341 Tract Unit of the Citronelle Field (Citronelle) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. In its Application, the petitioner requests that, effective June 1, 1979, the working interest owners of Citronelle be permitted to sell the crude oil produced from the Citronelle Field at world market prices in order to accumulate sufficient funds to finance a tertiary enhanced recovery project. On October 8, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part. The Proposed Order would permit Citronelle, with respect to its first sales of crude oil during the period from January 1, 1980 through September 30, 1981, to certify as "tertiary incentive crude oil" any of this crude oil as necessary to recover "recoupable allowed expenses" pursuant to the provisions of 10 CFR 212.78.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company name, Case number and Location

Bolin Oil Co., DEE–4775, Uniontown, OH.

Bud Wolfe's Arco Mini-Market, BEX–0093, Redlands, CA.

Howard O. Miller Co., DEE–3815, Pocatello, ID.

J. S. Pate Oil Co., Inc., DEE–4978, Cordele, GA.

Marine South Car Wash, BEX–0092, Los Angeles, CA.

[FR Doc. 80–35811 Filed 11–14–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of October 13 Through October 17, 1980

During the week of October 13 through October 17, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice deemed to be the date of publication of this Notice (November 17, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of

1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

November 10, 1980.

Atlantic Gasohol Fuels Co., Suffolk, Virginia BEE–1358, gasohol.

Atlantic Gasohol Fuels Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Atlantic Gasohol Fuels to receive an allocation of unleaded gasoline for producing alcohol for blending into gasohol. On October 14, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Conoco, Inc., Houston, Texas, BEE–1043, crude oil.

Conoco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Plum Bush Creek Unit located in Washington County, Colorado, at market price levels. On October 17, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

DeBlois Oil Company, Pawtucket, Rhode Island, BEE–1379, gasohol.

DeBlois Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit DeBlois Oil Company to receive an increased allocation of unleaded gasoline to produce gasohol. On October 17, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Don White Oil Service, Galesberg, Illinois, BEE–0680, gasohol.

Don White Oil Service filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Don White Oil Service to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. On October 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Jones Oil Company, Washington, D.C., DEE–7133, gasohol.

Jones Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the applicant to receive an increase in its base period allocation of motor gasoline for the purposes of blending gasohol and regohol. On October 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Jerome P. McHugh, Denver, Colorado, DEE–2217, reporting requirements.

Jerome P. McHugh filed an Application for Exception from the reporting requirements set forth in Form EIA–23 (Annual Survey of Domestic Oil and Gas Reserves). The exception request, if granted, would relieve McHugh of any obligation to prepare and submit form EIA–23. On October 14, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Mechanical Technology Inc., Ballston Spa, New York, BEE–0421, motor gasoline propane.

Mechanical Technology, Inc. (MTI) filed an Application for Exception from the provisions of § 212.83(c)(2) of the DOE price regulations. The exception request, if granted, would permit Mobil Oil Corporation to retain for its own benefit, utility cost reductions experienced at Mobil's Torrance, California refinery as the result of the installation of an experimental system developed by MTI which converts industrial waste-heat into electricity for use at the refinery. On October 14, 1980, the Department of Energy issued a Proposed Decision and Order which tentatively determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case number and Location

Art's Auto Sales, BEE–0807, Malden, MA.
Earman Oil Co., Inc., BEE–0642, McLean, VA.
Zitro Energy Counsultants, Inc., DEE–2884, Bellport, NY.

[FR Doc. 80–35810 Filed 11–14–80; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed

On September 30, 1980, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before November 28, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Acting Director, Office of Hearings and Appeals,

November 10, 1980.

Proposed Remedial Order

Alcatraz Mobil, Oakland, California, BRO–1331, Motor Gasoline.

On September 30, 1980, Alcatraz Mobil, 6372 Telegraph Ave., Oakland, CA 94609 filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on July 30, 1980. In the PRO the San Francisco Enforcement District found that during September 20, 1979 to June 10, 1980, Alcatraz Mobil had been charging prices in excess of the maximum lawful selling prices allowed by 10 CFR Part 212. According to the PRO the Alcatraz Mobil violation resulted in $11,108.88 of overcharges. This Notice of Objection has been transferred to the Western Regional Center of the Office of Hearings and Appeals for analysis.

[FR Doc. 80–35812 Filed 11–14–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF EDUCATION

Women's Educational Equity Act Program; Closing Date for New Projects

AGENCY: Department of Education.

ACTION: Notice of closing date for new projects under the Women's Educational Equity Act program.

Closing date: January 27, 1981.

Applications are invited for new general and small grants under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX, Part C, of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (20 U.S.C. 3341–3348).

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The materials and programs are developed for replication throughout the United States.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 27, 1981.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.565A for general grants, and 13.565B for small grants, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Preapplications: Preapplications will not be required for Fiscal Year 1981.

Available funds: $10 million is available for the Women's Educational Equity Act (WEEA) Program under the Fiscal Year 1981 Continuing Resolution, Pub. L. 96–369.

Approximately $3 million will be available for new grant awards. The remainder will be used for noncompeting continuation grants and for contracts. It is estimated that the funds available for new grants could support approximately 20–30 small grants ($25,000 or less) and 15–25 general grants.

Priorities for funding: The WEEA Program regulations include five priorities for general grants, to ensure that available funds go to projects that are likely to achieve the purpose of the Act most effectively. The priorities are set forth in §§ 160f.23–27 of the regulations.

Each year, the Secretary selects one or more of these priorities to apply to general grants and determines whether priorities will be applied to small grants. A percentage of available grant funds is allocated to each selected priority. In addition, funds may be allocated to support projects that are not under a priority but are within the scope of the authorized activities described in § 160f.20 of the regulations.

The Secretary published a Notice of Proposed Annual Program Priorities in the **Federal Register** on September 26, 1980, to solicit public comments on which priorities should be selected and on the amount of funds to be allocated to each selected priority. The Secretary received 13 letters including 23 separate comments. Based on a careful review of the comments, the Secretary has selected the priorities in the following paragraphs for Fiscal Year 1981.

The priorities apply to both general and small grants. Of the funds available for new general and small grants, the Secretary anticipates allocations to each selected priority and to other authorized activities in the percentages set out below.

However, these figures are only estimates and do not bind the Department of Education. The Secretary may reallocate funds among the priorities and the other authorized activities if too few applications of high quality are received in any selected area.

§ 160f.23—*Priority for model projects on Title IX Compliance: 30%.* The Secretary is particularly interested in continuing the developmnt of much needed model programs and educational materials for use by school districts, institutions of higher education, and other educational agencies and institutions in their efforts to meet the requirements of Title IX of the Education Amendments of 1972. These model projects will be available to applicants for grants under the new WEEA program of projects of local significance.

Three comments were received; all strongly supported the selection of this priority and the allocation of substantial funds.

§ 160f.24—*Priority for model projects on educational equity for racial and ethnic minority women and girls: 40%.* The Secretary will focus important resources on addressing those serious issues of double discrimination, bias, and stereotyping which affect racial and ethnic minority women and girls throughout the educational system. The Secretary recognizes that limited funds have been available for these projects in the past and therefore will increase funding for these activities under this priority in fiscal year 1981.

More comments were received on this priority than on any other; all commenters strongly supported the Secretary's proposal to allocate 40% of available funds to this priority.

§ 160f.25—*Priority for model projects on educational equity for disabled women and girls: 15%.* The Secretary will increase funding for projects under this priority that address issues of double discrimination affecting disabled women and girls. Very little attention has been given to these "double jeopardy" issues in the past; the Secretary is particularly interested in developing model programs and materials which will be of use to disabled women, to community groups, and to educational institutions as they implement both Title IX and Section 504 of the Rehabilitation Act of 1973 (Non-discrimination on the basis of Handicap). Three comments were received on this priority; all supported the Secretary's proposal.

§ 160f.26—*Priority for model projects to influence leaders in educational policy and administration: 10%.* This priority focuses on changing institutional policies and practices through influencing the attitudes and behaviors of the current leaders of educational institutions, rather than through providing additional management training for women who then could be considered for administrative positions. The purpose of this priority is to assist the actual decisionmakers in educational institutions to take positive steps to ensure compliance with Title IX and full educational equity for women and girls. As the preamble to the final regulations states, the Secretary "believes that true institutional change can occur only when commitment to it comes from the institution's leaders and is conveyed effectively as a priority for the institution." This priority is designed to assist educational leaders to develop mechanisms for conveying their support for educational equity for women in concrete ways.

Both of the comments received supported this concept and recommended that the Secretary fund projects that focus on decisionmakers. One commenter proposed that funds also be used to train future women administrators. While the focus of this priority is only on actual decision-makers and current educational leaders,

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applicants may propose projects to train future women administrators under the category "other authorized activities".

§ 160f.20—*Other authorized activities: 5%.* The Secretary will continue funding projects which do not fall under any of these priorities, to enable the WEEA Program to support additional unique and important activities.

It is the policy of the WEEA Program, described in § 160f.6 ("Equity for all women: Diverse approaches") of the regulations, to support a wide diversity of projects under each priority which address the educational needs of racial and ethnic minority women and disabled women. The Secretary particularly encourages applicants under the priorities for model projects on Title IX compliance (§ 160f.23) and model projects to influence educational leaders (§ 160f.26) to address issues of educational equity for racial and ethnic minority women and for disabled women.

If an applicant chooses to compete in a priority area, the applicant must select and identify in its appliation the priority area in which the application will compete. Applications compete only against other applicants in that priority area.

An applicant that does not identify a priority area in its application will compete in the category of "other authorized activities".

Application forms: Application forms and program information packages may be obtained by writing to the Women's Educational Equity Act Program, U.S. Department of Education, Room 1100 Donohoe, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations. Regulations applicable to this program include the following:

(a) The regulations governing projects of general significance under the Women's Educational Equity Act (45 CFR Part 160f).

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

FURTHER INFORMATION: For further information contact Dr. Leslie R. Wolfe, Director, Women's Educational Equity Act Program, U.S. Department of Education, Room 1100 Donohoe, 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone (202) 245–2181.

(20 U.S.C. 3341–3348).

Dated: November 10, 1980.

(Catalog of Federal Domestic Assistance No. 84.083 Women's Educational Equity Act Program)

Terry Saario,

Acting Assistant Secretary, Educational Research and Improvement.

[FR Doc. 80–35723 Filed 11–14–80; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–1671–7]

Availability, of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal agencies and Interested groups, organizations and individuals for review pursuant to the council on Environmental Quality's regulations (40 CFR part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of November 3, 1980 to November 7, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from November 14, 1980 and will end on December 29, 1980. The 30-day review period for final EIS's as calculated from November 14, 1980 will end on December 15, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal Agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, four further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558–8270.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of November 3, 1980 to November 7, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agencies EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 (202) 245–3006.

Dated: November 12, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104)

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250 (202) 447–3965.

Forest Service

Draft

Shawnee Hills National Recreation Area, several counties, November 5: Proposed is the continuance of resource management under the current management plan, resulting in no establishment of a national recreation area within the Shawnee National Forest, in Pope, Gallatin, Hardin and Saline Counties, Illinois. Continuance of present management would emphasize dispersed recreation, involve construction of some new facilities and various other improvements. Three alternatives are considered which would involve establishment of a national recreation area. (EIS Order No. 800848.)

The Northern Regional Plan, Several States, November 7: Proposed is a regional plan for the states of Idaho, Montana, North Dakota, Washington and South Dakota. This statement focuses on alternative ways to address public issues and management concerns that bear on how the region will assign its share of RPA program objectives to the National forests and grasslands, State and Private Foresters, and research programs in the region. Standards and guidelines have been prepared to address silvicultural systems, timber management procedures, transportation corridors, and air quality. (EIS Order No. 800853.)

Extension: The review period for the above EIS has been extended until February 12, 1981. (No. 800853.)

Final

Mt. Howard/Wing Ridge Expansion Wallowa-Whitman National Forest, Wallowa County, Oreg., November 4: Proposed is the expansion of Mt. Howard and the development of Wing Ridge within the Wallowa-Whitman National Forest, Wallowa County, Oregon, for winter sports. The alternatives consider: (1) No action, (2) approval of Mt. Howard Master Plan, (3) approval of Wing Ridge Proposal, and (4) approval of both Wing Ridge and Mt. Howard Proposals. Comments made by: HUD, EPA, DOI, FERC, USDA, AHP, State and local agencies, groups, individuals, and businesses. (EIS Order No. 800843.)

Soil Conservation Service

Final

Walnut Roundway Watershed Flood Prevention, Madison and East Carroll Counties, La., November 3: The proposed project is for watershed protection, flood prevention, and agricultural water management in the Walnut-Roundway Watershed in Madison and East Carroll Parishes, Louisiana. Planned structural measures to be installed consist of about 246 miles of channel work for flood prevention drainage together with appurtenant measures for channel protection and maintenance access. In addition 15 structures including five weirs, six dams in existing channels or streams, two grade stabilization and two water control structures would be installed. (USDA–SCS–EIS–WS–(ADM)–2–78–(F)–LA.) Comments made by: EPA, DOT, HEW, DOI, State agencies. (EIS Order No. 800837.)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft Supplement

San Luis Rey River Flood Control (DS–1), San Diego County, Calif., November 3: Proposed is a flood control project for the San Luis Rey River, San Diego County, California. The preferred alternative would involve: (1) 7.2 miles of channel improvement, (2) a revetted earth-bottom trapezoidal channel 2.2 miles long, (3) 3.5 miles of single levee with 31 groins with a 30-foot wide linear riparian corridor, (4) 1.5 miles of channel grading, (5) placement of stone-revetted levees and parapet walls, and (6) removal of sand plug at the mouth of the river. This statement supplements a final EIS No. 710555, filed 11–13–70. The cooperating agency is the FWS. (Los Angeles District). (EIS Order No. 800836.) *Extension:* Village Creek Flood Control, Birmingham, Jefferson County, Alabama, published FR October 31, 1980—review period has been extended from December 15, 1980 to December 20, 1980. (No. 800810)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377–2482.

National Oceanic and Atmospheric Administration

Draft

Spiny Lobster Fishery Mgmt. Plan, Pacific, Pacific Ocean, U.S. Territory, Hawaii, November 7: Proposed is a fishery management plan for the spiny lobster fisheries of the Western Pacific surrounding American Samoa, Guam, and Hawaii. The plan would involve: (1) Controlling the catch through a minimum carapace length size limit of 3 inches, (2) gear restrictions on commercial exploitation, (3) area closures in shallow water, and (4) prohibition of retention of ovigerous lobsters. The cooperating agencies are the Western Pacific Fishery Management Council and the National Marine Fisheries Service. (EIS Order No. 800855.) *Extension:* The review period for the above EIS has been extended until December 31, 1980. (No. 800855)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

Final

International Transmission Line, U.S. and Mexico, San Diego County, Calif., November 6: Proposed is the issuance of a permit for the construction, connection, operation and maintenance of a 230 KV transmission line from the Miguel substation in San Diego, California to Tijuana, Mexico. The line would extend for approximately 13 miles. The alternatives consider: (1) Conservation of electricity, (2) purchase of power from other U.S. sources, (3) additional generating capacity within the system, and (4) no action. (DOE/EIS–0067.) Comments made by: DOI, EPA, DOC, TVA, HHS, FERC, AHP, HUD, COE, USN, EDU. Individuals and businesses. (EIS Order No. 800850.)

Contact: Mr. James M. Brown, Jr., Economic Regulatory Administration, 2000 M Street, N.W., Room 4110, Washington, D.C. 20461; (202) 653–3825.

Bonneville Power Administration

Draft

NW Montana/N Idaho Support and Libby Integration, Montana, Idaho, November 6: Proposed is the reconstruction of 93 miles of transmission line from Bonner County through Boundary County, Idaho to Lincoln County, Montana. Reconstruction would require the removal of the existing 115–kV wood pole line between Libby Dam and Sandpoint substation and replacement with a 230 kV double circuit steel line. The alternatives consider: (1) No action, (2) minimum build, and (3) conservation (DOE/EIS–0030–DS–1) (EIS Order No. 800849.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, N.C. 27711, (919) 541–2777.

Draft

Sodium Carbonate New Source Performance Standards, Regulatory, November 3: Proposed are new source performance standards for particulate emissions from sources in the natural sodium carbonate industry. These standards will affect new, modified, or reconstructed calciners, dryers, predryers, and bleachers used in the natural process sodium carbonate industry. The required control of emissions can be achieved by the installation of particulate control equipment. The regulatory alternatives considered are: (1) control of all facilities to the baseline control level; and (2) control of all facilities to a more stringent control level. (EPA–450/3–80–029A) (EIS Order No. 800839.)

Contact: Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, (312) 353–2157.

Draft

Milwaukee Pollution Abatement Program, Milwaukee County, Wis., November 7: Proposed is the issuance of a grant for the implementation of a pollution abatement program for the city and county of Milwaukee, Wisconsin. The alternatives considered are: (1) CSO and peal flow attenuation, (2) wastewater treatment, (3) solids handling, and (4) wastewater conveyance. (EIS Order No. 800854.)

Extension: The review period for the above EIS has been extended until January 2, 1981. (No. 800854.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, (202) 755–6300.

Report

Imperial Oaks Subdivision, Report, Montgomery County, Tex., November 3: This supplemental information report concerns a final EIS, No. 800421, filed May 30, 1980, which addressed the issuance of mortgage insurance for the Imperial Oaks Subdivision in Montgomery County, Texas. The document responds to EPA reservations concerning development of the subdivision. (EIS Order No. 800840.)

Final

Ahwatukee Planned Community, Maricopa County, Ariz., November 7: Proposed is the issuance of HUD home mortgage insurance for the Ahwatukee planned community in Maricopa County, Arizona. The community will encompass 2,553 acres and contain a total of approximately 6,600 dwelling units. A number of community facilities and two additional schools are planned. (HUD–R09–EIS–80–3F). Comments made by: AHP, EPA, State, and local agencies. (EIS Order No. 800856.)

Cheyenne Mountain Ranch housing development, Colorado, November 5: Proposed is the issuance of HUD home mortgage insurance for the Cheyenne Mountain Ranch Housing Development located in Colorado Springs, El Paso County, Colorado. The development encompasses 2,827.9 acres and will contain 10,025 single and multifamily units as well as sites for professional uses, and park and open space systems. (HUD–R08–EIS–80–1XF). Comments made by: DOT, COE, DOI, HHS, AHP, State and local agencies, groups. (EIS Order No. 800846.)

International Boundary and Water Commission

Contact: Mr. T. R. Martin, Special Assistant U.S. Section IBWC, International Boundary

and Water Commission, Department of State, Room 4916, ARA/MEX, Washington, D.C. 20520, (202) 632–9895.

Final

New River International Border sanitation solution, California, November 5: Proposed are recommendations for the solution of border sanitation problems within the vicinity of Calexico, California and Mexicali, Baja California Norte, as approved by the U.S. and Mexican Governments. The proposed agreement involves: (1) No discharge of treated or untreated sewage into the New River by Mexico, pending a permanent solution, (2) treatment of the entire flow in the U.S., (3) expansion of the existing plant in Mexico and construction of a new plant in the U.S., and (4) no action. Comments made by: EPA, DOI. (EIS Order No. 800847.)

Nuclear Regulatory Commission

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555, (301) 492–8446.

Draft Supplement

Virgil C. Summer Nuclear Station (DS–1), Fairfield County, S.C.: Proposed is the issuance of an operating license for the Virgil C. Summer Station Unit 1 located in Fairfield County, South Carolina. Unit 1 employs a pressurized-water reactor to produce up to 2,775 MWT. A steam turbine-generator will use this heat to provide 900 MW of electrical power capacity. This statement supplements a final, No. 780652, filed June 29, 1979, and evaluates impacts attributable to plant-specific accident sequences that lead to releases of radiation. (NUREG–0534). (EIS Order No. 800851.)

Ohio River Basin Commission

Contact: Mr. I. Bernstein, Ohio River Basin Commission, Suite 208–20, 36 East Fourth Street, Cincinnati, Ohio 45202, (513) 684–3831.

Final

Big Sandy/Guyandotte River Basins Resources Plan, Kentucky, West Virginia, November 7: Proposed is a regional water and land resources plan for the Big Sandy/Guyandotte River Basins in Kentucky and West Virginia. The basins areas encompass approximately 5,929 square miles. The recommended plan consists of 117 projects including: (1) Six USDA/SCS watershed projects, (2) eight COE local protection projects, (3) five state water supply projects, (4) 41 wastewater treatment plants, (5) 15 modifications to existing treatment facilities, and (6) 41 flood insurance studies. Also included in the plan are a number of programs and special studies. Comments made by: USA, ORBC, DOC, DOE, EPA, FEMA, HEW, HUD, DOT State agencies. (EIS Order No. 800857.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

U.S. 82 improvement, Eoline to Vick, Bibb County, Ala., November 5: Proposed is the improvement of U.S. 82 from Eoline to Vick in Bibb County, Alabama. The facility would be widened to four lanes over approximately 13 miles. The alternatives considered include: (1) Alternative locations and designs, (2) postponing the action, and (3) no action (FHWA–ALA–DEIS–80–02). (EIS Order No. 800845.)

CA–36 reconstruction and bridge replacement, Humboldt County, Calif., November 3: Proposed is the reconstruction of CA–36 and replacement of the Van Durzen River Bridge in Humboldt County, California. Reconstruction of CA–36 would involve widening and realignment of approach fills. The alternatives consider: (1) No action, and (2) several alignments for the roadway in conjunction with placement of the new bridge. The cooperating agencies are the State of California, Corps of Engineers, and the Fish and Wildlife Service (FHWA–CA–EIS–80–04–D). (EIS Order No. 800841.)

Final

Smith Creek Parkway, U.S. 117 to U.S. 74, New Hanover County, N.C., November 4: Proposed is construction of the Smith Creek Parkway from U.S. 117/Castle Hayne Road to U.S. 74/Eastwood Road, east of the city of Wilmington, New Hanover County, North Carolina. The Parkway would be a four lane facility. Also included in the project is the construction of a downtown spur which would connect Smith Creek Parkway with the downtown area. the spur would also be a four lane facility, 1.9 miles in length. The cooperating agency is the State of North Carolina (FHWA–NC–EIS–77–03–F). Comments made by: COE, DOI, EPA, HEW, DOT, State and local agencies. (EIS Order No. 800842.)

Federal Railroad Administration

Draft

Boston South Station improvement project, Suffolk County, Mass., November 7: Proposed are improvements to the Boston South Station in the city of Boston, Suffolk County, Massachusetts. Planned improvements include rehabilitation of the headhouse, construction of a new concourse, reconstruction of the track area and platforms, additional parking areas, construction of a mixed-use hotel/office development. The alternatives consider: (1) No action, (2) minor improvements, (3) rehabilitation of headhouse and track area, and (4) other options. The cooperating agency is UMTA (FRA–RNC–EIS–80–03–D). (EIS Order No. 800852.)

Urban Mass Transportation Administration

Final

Broadway Plaza pedestrian/transit mall, New York, November 4: Proposed is the construction of a pedestrian/transit mall in Times Square in New York City, New York. Broadway would be closed to vehicular traffic between 45th and 48th Streets, and the portion of the street now used for autos would be replaced with new paving, pedestrian amenities, lay-bys for buses and taxis, a center for transit information, and a continuous bicycle lane. The no action alternative is considered. Comments made by: EPA, DOI, DOT, groups and businesses. (EIS Order No. 800844.)

[FR Doc. 80–35821 Filed 11–14–80; 8:45 am]

BILLING CODE 6560–37–M

[OPTS–51171; TSH–FRL 1671–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: December 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 505444—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a discription of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 22, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51171]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

[Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)].

Dated: November 7, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–289

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 21, 1981.

Manufacturer's Identity. Air Products and Chemicals, Inc., Box 538, Allentown, PA 18105.

Specific Chemical Identity. Amines, isopropyl, distillation residues.

Use. Corrosion inhibitor in the petroleum industry, used in service lines and secondary recovery recirculating water systems.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Boiling point	87°C. (189 F.).
Vapor pressure at 25°C	37mm Hg.
Vapor density (air = 1)	2.
Solubility in water	<2.5%
Specific gravity (H_2O = 1)	0.83.
pH (2% aqueous solution)	13.06.
Flash point (Tag. Close Cup)	22.8°C. (73 F.).
Appearance	Viscous, yellow liquid.
Odor	Pungent, offensive.

Toxicity Data.

Acute oral toxicity, LD_{50} (rats)	325 mg/kg.
Acute dermal toxicity, LD_{50} (rabbits).	1,000 mg/kg.
Acute inhalation toxicity, LC_{50} (rats).	16.5 mg/l.—no deaths.
Primary skin irritation	Primary skin irritant.
Primary eye irritation	Primary eye irritant.
DOT corrosivity	Corrosive to skin.
Ames mutagenicity test	Non-mutagenic (with and without metabolic activation).

Occupational Exposure.
Manufacturer's site.

Activity	Route exposure	No. of employees	Max. duration of exposure
Tank truck filling station.	Inhalation Dermal Eye	1–2	1–2 day/yr; 2 hr/man/da.

Site not controlled by submitter.

Activity	Route of exposure	No. of employees exposed	Max. duration of exposure
Tolled drumming operation.	Inhalation Dermal Eye	4–6	1–2 da/yr; 6–8 hr/man/da.
Petroleum industry chemical service company.	Inhalation Dermal Eyes	10–15	1–2 da/yr; 6–8 hr/man/da.
Petroleum industry operation.	Inhalation Dermal Eyes	10–15	4–7 da/yr; 1–2 hr/man/da.

Disposal. Manufacturer's site: The submitter states that surplus amounts of the product will be disposed of by incineration at his site. Louisiana Air Control Commission Permit No. 398.

Site not controlled by submitter: The manufacturer states that deliberate disposal of the product is not anticipated at the drumming and blending sites; that at the drilling operatoon sites, the chemical substance may be retained in the subterranean reservoirs from which oil and/or natural gas are being collected.

PMN 80–290.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 21, 1981.

Manufacturer's Identify. Air Products and Chemicals, Inc., Box 538, Allentown, PA 18105.

Specific Chemical Identity. Amines, ethyl, distillation residues.

Use. Corrosion inhibitor in the petroleum industry, used in service lines and secondary recovery recirculating water systems.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Boiling point—90° C. (194 F.)
Vapor pressure at 25° C—34 mm Hg.
Vapor density (air=1)—2
Solubility in water—<2.5%. Specific gravity (H_2O=1)—0.83
pH (2% aqueous solution)—12.45
Flash point (Tag. Close Cup)—17.8° C. (64 F.).
Appearance—Viscous, brown liquid.
Odor—Pungent, offensive.

Toxicity Data.

Acute oral toxicity, LD_{50} (rats)—373 mg/kg.
Acute dermal toxicity, LD_{50} (rabbits)—1,000 mg/kg.
Acute inhalation toxicity, LC_{50} (rats)—approx. 21 mg/1.
Primary skin irrigation—Primary skin irritant.
Primary eye irritation—Primary eye irritant.
DOT Corrosivity—Corrosive to skin.
Ames mutagenicity test—Non-mutagenic (with and without metabolic activation).

Occupational Exposure.

Manufacturer's site.

Activity	Route exposure	No. of employees	Max. duration of exposure
Tank truck filling station.	Inhalation Dermal Eye	2-3	3-4 day/yr; 2 hr/man/da.

Site not controlled by submitter.

Activity	Route exposure	No. of employees exposed	Max. duration of exposure
Tolled drumming operation.	Inhalation Dermal Eyes	4-6	4-6 da/yr; 6-8 hr/man/da.
Petroleum industry chemcial service company.	Inhalation Dermal Eyes	10-15	4-6 da/yr; 6-8 hr/man/da.
Petroleum industry operation.	Inhalation Dermal Eye	10-15	10-20 da/yr; 1-2 hr/man/da.

Disposal. Manufacturer's site: The submitter states that surplus amounts of the product will be disposed of by incineration at his site.

Site not controlled by submitter: The manufacturer states that deliberate disposal of the product is not anticipated at the drumming and blending sites; that at the drilling operation sites, the chemical substance may be retained in the subterranean reservoirs from which oil and/or natural gas are being collected.

[FR Doc. 80-35742 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51168; TSH-FRL 1671-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by:
PMN 80-282, December 13, 1980.
PMN 80-284, December 15, 1980.

ADDRESS: Written comments Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemcial substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51168]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 7, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-282.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 12, 1981.

Manufacturer's Identity. International Minerals & Chemical Corp., Mundelein, IL 60060.

Specific Chemical Identity. Aminoalkanol salt, as a 25% aqueous solution.

Use. The manufacturer states the substance will be used as a pigment dispersant for latex paint and as a polyelectrolyte for industrial cooling water.

Production Estimates. The submitter states that 250,000 pounds of the PMN substance will be manufacturered in the first year.

Physical/Chemical Properties.

Viscosity (Brookfield)—4.3 cps.
pH—8.9-9.3
Color (APHA)—<5
Flash point, TCC—>194°F.
Specific gravity—1.07

Toxicity Data.

Acute oral toxicity, LD_{50} (rat)—>6 g/kg.
Primary eye irritation (rabbit)—Non-irritating.
Primary skin irritation (rabbit)—Non-irritating.

Primary skin corrosion (rabbit)—Non-corrosive.

Exposure. Manufacture. International Minerals & Chemical Corp. states that worker exposure will be limited to two or three persons who will employ safe housekeeping procedures and wear protective clothing.

Use. The submitter states that: Exposure potential in use will be limited to incorporation of the substance into the paint; one to two workers could be exposed for a period of one-half to one hour during the process; use levels are low—a maximum of approximately 14 pounds of the 25% solution per 100 gallons of paint.

Disposal. The manufacturer does not anticipate disposal will be necessary; however, it states that in the event of accidental spill, the substance could be absorbed with sawdust or bentonite and disposed of in a landfill.

PMN 80-284.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code—285, "Paints, Varnishes, Lacquers, Enamels and Allied Products".

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Polymer of alkanediols and carbomonocyclic anhydrides.

Use. Claimed confidential business information. Generic information provided: The manufacturer states that this product will be used in an open use that will release more than 5,000 but less than 50,000 kilograms (kg) of the substance into the environment per year.

Production Estimates.

(Kilograms per year)

	Minimum	Maximum
First year	125,000	250,000
Second year	250,000	500,000
Third year	500,000	750,000

Physical/Chemical Properties.

Acid number (on solids)—9.8
Hydroxyl (on solids)—40
Percent Total solids (of solution)—65±1
Flash point (of solution)—190°F.
Color value (of solution)—1

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Max. No. exposed	Max duration hr/da da/yr		Concentration average peak
Manufacture (2 sites).	Skin, Eye, Inhalation.	20	3	10-40	0-1 0-1 mg/m³.
Processing (1 site).	Skin, Eye, Inhalation.	9	2	90	0-1 0-1 mg/m³.
Typical user (1 site).	Skin, Eye, Inhalation.	6	2	50	0-1 0-1 mg/m³.

Environmental Release/Disposal. Manufacture/Processing (3 sites).

	Amount of chemical release (kg/yr)
Media:	
Air	<30
Land	10-10,000
Water	<30
User's site:	
Air	<10
Land	10-100
Water	<10

Solvent is used to clean the equipment as needed and is reclaimed by distillation. Sludge is incinerated.

[FR Doc. 80-35743 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-66077; PH-FRC 1671-1]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: December 17, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. E-228, 401 M St., SW., Washington, D.C. 20460, (202-426-8540).

SUPPLEMENTARY INFORMATION: EPA had been advised by the following companies of their intent to voluntarily cancel registration of their pesticide products.

EPA reg. No.	Product name	Registrant	Registration date
299-2	Martin's Formula No. 62 Screw Worm Smear for Horses and Mules.	C. J. Martin Co., P.O. Box 1089, Nacogdoches, TX 75961	Sept. 15, 1972.
477-288	Farmrite Endrin 1.6-E	Central Chemical Corp., P.O. Box 918, Hagerstown, MD 21740	Jan. 17, 1972.
7393-35	Wonder Gard Multi-Weed Killer	Wonder Chemical Co., Inc., P.O. Box 17966, San Antonio, TX 28217	Feb. 12, 1974.
10155-12	Checkmate Liquid Growth Retardant	Chempace Corp., 45 Burbank Drive, Toledo, OH 43607	Oct. 21, 1974.

The Agency has agreed that such cancellation shall be effective December 17, 1980, unless within this time the registrant, or other interested person with the concurrence of the registrant requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-229, 401 M St., SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66077]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-447, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136)

Dated: November 10, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35740 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-66078; PH-FRL 1671-2]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms who have requested voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: December 17, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. E-228, 401 M St. SW., Washington, D.C. 20460, (202-426-8540).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following companies of their intent to voluntarily cancel registrations of their pesticide products.

EPA reg. No.	Product name	Registrant	Registration date
1 100-537	Spectracide Brand Rose & Floral Spray	Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409	Mar. 21, 1975.
2 1706-15	Nalkil H-170 Herbicide	NALCO Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 65201	May 31, 1961.
3 1706-37	Nalkil Weed Killer 250 Liquid	do	Dec. 24, 1963.
4 1706-38	Nalkil Weed Killer 400 Liquid	do	Dec. 24, 1963.
5 1706-79	Nalkil Weed Killer 250 Concentrate	do	Aug. 11, 1966.
6 1706-80	Nalkil Weed Killer 400 Concentrate	do	Aug. 11, 1966.
7 1706-106	Nalkil Weed Killer 400 Concentrate With Endrif	do	Jan. 20, 1971.
8 1706-119	Nalkil Weed Killer 250 Concentrate With Endrift	do	Nov. 1, 1972.
9 1706-127	Nalkil 2703 With Endrift Spray Weed Killer	do	Feb. 13, 1974.
10 1706-130	Nalkil 600 Liquid With Endrift Weed Killer	do	Sept. 11, 1975.
11 1706-131	Nalkil Weed Killer 250 Liquid With Endrift	do	Jan. 15, 1974.
12 1706-134	Nalkil Weed Killer 400 Liquid With Endrift	do	May 16, 1974.

The Agency has agreed that such cancellation shall be effective December 17, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation, may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier;

provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Agency, 401 M St., SW Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66078]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. 751, 7 U.S.C. 136))

Dated: November 10, 1980.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-35741 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-32-M

[W-6-FRL 1670-5]

Water Quality Standards; Navigable Waters of the State of Arkansas

AGENCY: Environmental Protection Agency.

ACTION: Notice of State water quality standards revision approval.

SUMMARY: The Environmental Protection Agency (EPA) has approved water quality standards revisions adopted on January 25, 1980, by the State of Arkansas.

FOR FURTHER INFORMATION CONTACT: William Honker, Water Quality Standards Coordinator, EPA, Region VI, 1201 Elm Street, Dallas, Texas 75270, 214-767-2624.

SUPPLEMENTARY INFORMATION: On August 14, 1980, the EPA approved revisions to Arkansas' water quality standards in accordance with the provisions of Section 303(c) of the Clean Water Act. The EPA-approved revisions for Arkansas included the establishment of numerical limits for seven toxic pollutants, the adoption of an intermittent stream policy, and a beneficial use downgrade on one stream.

Copies of the revisions may be obtained from the Arkansas Department of Pollution Control and Ecology, Water Division, 8001 National Drive, Little Rock, Arkansas 72209.

(Sec. 303(c) of the Clean Water Act (33 U.S.C. 1313(c))

Date: November 4, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-35744 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-38-M

[W-6-FRL 1670-6]

Water Quality Standards Navigable Waters of the State of Oklahoma

AGENCY: Environmental Protection Agency.

ACTION: Notice of State water quality standards revision approval.

SUMMARY: The Environmental Protection Agency (EPA) has approved water quality standards revisions adopted on March 11, 1980, by the State of Oklahoma.

FOR FURTHER INFORMATION CONTACT: William Honker, Water Quality Standards Coordinator, EPA, Region VI, 1201 Elm Street, Dallas, Texas 75270. 214-767-2624.

SUPPLEMENTARY INFORMATION: On September 5, 1980, the EPA approved revisions to Oklahoma's water quality standards in accordance with the provisions of Section 303(c) of the Clean Water Act. The EPA-approved revisions for Oklahoma included the adoption of a more stringent water quality criterion for PCBs, water quality criteria for DDT and 2,4,5-T, and the designation of beneficial uses to additional streams.

Copies of the revisions may be obtained from the Oklahoma Water Resources Board, Water Quality Division, P.O. Box 53585, Oklahoma, City, Oklahoma 73152.

(Section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)).

Dated: November 4, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-35745 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-38-M

[EN-FRL-1664-5]

Fuels and Fuel Additive Waivers; Denial of Petition To Revoke a Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of administrator's decision.

SUMMARY: On December 19, 1978, Sun Petroleum Products Company (Sun) submitted an application for a waiver under section 211(f)(4) of the Clean Air Act, 42 U.S.C. 7545(f)(4), for a proprietary oxygenated hydrocarbon fuel additive which provides no more than two percent oxygen to the fuel (44 Fed. Reg. 22176, April 13, 1979). The Administrator conditionally granted the application on June 13, 1979 (44 Fed. Reg. 37074, June 25, 1979). The conditional waiver provided for disclosure of the chemical composition no later than December 15, 1979. Once the composition was published in the **Federal Register**, a 90-day period was provided to allow interested parties to petition for reconsideration of the waiver, 45 FR 9766 (February 13, 1980). Pursuant to this condition, General Motors (GM) petitioned EPA to revoke the waiver for a one-to-one mixture of methanol and tertiary butyl alcohol (TBA) blended into unleaded gasoline at no more than 5.5 percent, by volume.

Based on the additional information provided by GM and Sun, the Administrator has reconsidered his prior grant of a conditional waiver and has determined that the waiver shall remain effective with the following conditions as set out in the Administrator's decision on June 25, 1979 (hereafter referred to as the initial decision):

1. The one-to-one mixture of methanol/TBA may only be blended into unleaded gasoline from 0 to 5.5 percent, by volume (the mixture may not provide more than 2.0 percent oxygen, by weight, to the fuel).

2. The methanol/TBA mixture is blended in unleaded gasoline such that the resulting fuel meets the American Society for Testing and Materials (ASTM) fuel volatility specifications for gasoline.

Public Docket: Copies of information on this waiver and the petition for reconsideration are available in public docket EN-79-12 at the Central Docket Section (A-130) of the Environmental Protection Agency, Gallery I-West Tower, 401 M Street, S.W., Washington, D.C. 20460 between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Field Operations and Support Division (EN-397), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 at (202) 472-9367.

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Decision of the Administrator

I. Introduction

Section 211(f)(1) of the Clean Air (Act), as amended 42 U.S.C. 7545(f)(1), makes it unlawful, effective on March 31, 1977, for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.

Section 211(f)(4) provides that the Administrator, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions and limitations contained in section 211(f) if he determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator has not acted to grant or deny the application within 180 days of its receipt, the application shall be treated as granted.

Sun Petroleum Products Company (Sun), on December 19, 1978, submitted an application for a waiver under section 211(f)(4) for a proprietary oxygenated hydrocarbon fuel additive which contributes no more than two percent oxygen to the fuel. Based on the data submitted by Sun and others, I conditionally granted the waiver on June 13, 1979 (44 FR 37074, June 25, 1979). One of the conditions of the waiver provided for the public disclosure of the chemical composition no later than December 15, 1979. At such time, a notice would be published in the **Federal Register** disclosing the chemical composition and initiating a 90-day period during which any person could petition the Agency to reconsider the waiver. I stated that, based on new data not available prior to the public disclosure of the composition of the fuel additive, I would reconsider my prior decision and either revoke or sustain the waiver.

On December 15, 1979, sun notified EPA that the chemical composition was no longer confidential. In the February 13, 1980 **Federal Register**, 45 FR 9766, the chemical composition of the fuel additive was disclosed. It consists of a one-to-one mixture of methanol and tertiary butyl alcohol (TBA), which mixture may be blended into unleaded gasoline up to 5.5 percent, by volume. The notice also initiated the 90-day petitioning period which terminated on May 13, 1980.

On May 8, 1980, General Motors (GM) petitioned the Administrator to reconsider the waiver. GM limited its petition to the issues of evaporative emissions and materials compatibility.

II. Summary of the Decision

I have determined that the information submitted by GM when reviewed in conjunction with the information Sun submitted, is not sufficient to justify revocation of the waiver. Consequently, I reaffirm my decision that Sun has met its burden under section 211(f)(4) necessary to retain the waiver for its fuel additive. I find that the data presented are sufficient to establish that Sun's additive, when blended into unleaded gasoline according to the conditions set forth below, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified purusant to section 206 of the Act.

I hereby sustain the waiver previously granted to Sun for its fuel additive provided the following conditions specified in my initial decision are met:

1. The one-to-one mixture of methanol/TBA may only be blended into unleaded gasoline from 0 to 5.5 percent, by volume (the mixture may not provide more than 2.0 percent oxygen, by weight, to the fuel).

2. The methanol/TBA mixture is blended in unleaded gasoline such that the resulting fule meets the American Society for Testing and Materials (ASTM) fuel volatility specifications for gasoline.[1]

III. Method of Review

The method of review utilized to determine the sufficiency of GM's petition for revocation was the same as the method of review for the waiver request described in the initial decision. (See 44 FR. 37074, June 25, 1979). This method of review was chosen since the initial decision provided for a reconsideration of the old and new data in order to determine if the initial decision should be reversed or sustained.

GM only raised two issues, evaporative emissions and materials compatibility, as a basis for which GM believes the waiver should be revoked. Since the issues of exhaust emissions and driverability were not raised, this decision will not reiterate our previous analysis of those issues. (See 44 FR. 3705, 37076, June 25, 1979).

The initial decision reviewed the evaporative emissions data to determine if this methanol/TBA mixture could be blended to ASTM volatility specifications and whether such resulting fuel followed the theory that volatility characteristics are the predominant factor in evaporative emissions. Materials compatibility data were reviewed to determine what effect the mixture will have on components.

IV. Analysis

A. *Evaporative Emission.* GM asserts that the waiver should be revoked because the addition of up to 5.5 percent of the methanol/TBA mixture would cause or contribute to the failure of vehicles to meet the evaporative emission standards. GM approaches the evaporative emissions issue from three points. Each will be addressed separately.

1. *Change in Reid Vapor Pressure (RVP).* GM, in the only testing it performed on this specific mixture, found that the addition of 5 percent of this methanol/TBA mixture raises the RVP more than double the amount that the addition of 10 percent ethanol raises the RVP. GM then stated that in the absence of fuel volatility adjustments, evaporative emissions should be even greater with 5 percent of this mixture than with Gasohol. Consequently, this would lead to an increase in evaporative emissions which would exceed the evaporative emissions standard.

EPA has stated on numerous occasions that RVP and front end volatility index exhibit a good correlation with the degree of evaporative emission.[2] Thus an increase in either of these parameters could lead to an increase in evaporative emissions. For this reason, the initial decision conditioned the use of this mixture on the manufacturer maintaining the resulting fuel's volatility within the specifications set forth by ASTM.[3] Restricting the volatility of a fuel containig this methanol/TBA mixture within the ASTM standards should, in EPA's judgment, permit the evaporative emissions to be no worse than those of commericaly available gasolines of similar volatility.

[1] See ASTM Specifications for Automotive Gasoline, D 439–78.

[2] See, MTBE Decision, 44 FR 12242, March 6, 1979 and TBA Decision, 44 FR. 10530 February 21, 1979.

[3] See Footnote 1, *Supra.*

GM also contends that some fuel manufacturers will merely add this mixture on top of a finished gasoline without regard to the final fuel's volatility on order to maximize their use of butane. Butane is a highly volatile compound which is added to gasoline for two reasons; it enhances a fuel's cold startability characteristics, and it is also an excellent blending component because of its high octane value and favorable price. Blending both this mixture and the maximum use of butane could raise the final fuel's volatility properties to the point of causing evaporative emission problems. This argument, however, is not an appropriate basis for revoking the waiver since the initial decision specifically conditions the use of this methanol/TBA mixture on control of the final fuel's volatility.

2. *Increased Evaporative Emissions With Alcohols Regardless of Fuel Volatility Properties.* GM also contends that regardless of volatility control, fuels which contain alcohols will exhibit greater evaporative emissions than a corresponding fuel for comparable volatility without alcohols.[4] GM has not, however, provided any direct evidence to demonstrate that alcohols in general, or specifically this mixture, causes or contributes to the failure of vehicles to meet the evaporative emission standards, but only that some alcohol/gasoline mixtures may have increased evaporative emissions. Increased alone do not necessarily result in a denial or revocation of a waiver; rather such increases must cause or contribute to a failure of vehicles to comply with the evaporative emission standard. Therefore, I do not have any reason for reversing my previous judgment that fuel volatility limitations should adequately control evaporative emissions. This does not preclude GM or others from continuing to research this question and developing sufficient date to support a future rulemaking in this area. I retain the authority under Section 211(c) of the Act to control or prohibit this blend or other alcohol/gasoline blends if new data are presented to warrant such action.

3. *Sufficiency of Sun's Evaporative Emission Data.* GM contends that the data Sun submitted on evaporative emissions were not sufficient to support the granting of a waiver. The initial decision states that the only basis for revoking the waiver is new data which were not available prior to the disclosure of the chemical composition. GM's argument is not based on new data and could have been made prior to the disclosure of the chemical composition. Thus, GM's current contention is not applicable to the matter at hand. In any event, it is important to note that the evaporative emission data were not relied upon exclusively. Rather, Sun's data were used to confirm that Sun's mixture follows the theory that control of volatility should control evaporative emission (44 FR 37074, June 25, 1979).

B. *Materials Compatibility.* GM also contends that the waiver should be revoked or at least modified because of potential materials compatibility problems. GM has not provided any direct evidence on this particular mixture. GM relies on the testing it has done with ethanol and methanol at various concentrations between 0 and 100 percent. The data, however, indicate that as the concentration of methanol decreased, the effects on components diminish. These results corroborate the testing performed by Sun which indicates that its methanol/TBA mixture, which has a maximum methanol concentration of 2.75 percent, should have little or no adverse effect on components because of the low methanol concentration. This is expecially true in light of the normal complement of protective additives refiners typically add to finished gasolines. Additionally, Sun has provided supplemental materials compatibility data to further support the judgment that the methanol/TBA mixture at the 5.5 percent level does not cause or contribute to a failure of any emission control device or system such that vehicles fail to meet emission standard.[5]

V. Findings and Conclusions

I find that GM did not submit any new information sufficient to base a revocation of the waiver granted to Sun. I, therefore, still believe that Sun has established that its methanol/TBA blend will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified under section 206 of the Act. I hereby sustain the waiver granted to Sun to blend a one-to-one mixture of methanol/TBA into unleaded gasoline provided the following conditions specified in my initial decision are met:

1. The one-to-one mixture of methanol/TBA may only be blended into unleaded gasoline from 0 to 5.5 percent, by volume (the mixture may not provide more than 2.0 percent oxygen, by weight, to the fuel).

2. The methanol/TBA mixture is blended in unleaded gasoline such that the resulting fuel meets the American Society for Testing and Materials (ASTM) fuel volatility specifications for gasoline (D 439–78).

Note.—This is a final Agency action. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of [date of publication]. Under section 307(b)(2) today's action may not be challenged later in a judicial proceeding brought by the Agency to enforce the statutory prohibitions or limitations.

Dated: November 10, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-35746 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-33-M

[4] GM bases its conclusions on experiments done with fuels blended with 10 percent ethanol (both unadjusted and adjusted volatility characteristics) and 15 percent methyl tertiary butyl ether. See, Evaporative and Exhaust Emissions from Cars Fueled with Gasoline Containing Ethanol or Methyl tert-Butyl Ether, Robert L. Furey and Jack B. King, General Motors Research Labs, EN–79–12, III–B–1, Attachment I.

[5] See, Sun submission III–B–2 located in Public Docket EN–79–12.

Science Advisory Board

[SA FRL 1669–5]

Environmental Measurements Committee

Under Public Law 92–463, notice is herein given for a meeting of the Study Group on Environmental Measurements Committee of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on December 8, 9, and 10 starting at 9:00 am and ending at 4:30 pm. The meeting location is: Environmental Protection Agency, National Enforcement Investigations Center, Building #53, General Conference Room, Denver Federal Center, Denver, Colorado 80225.

The purpose of the meeting is program review and evaluation for this national laboratory of the Agency's Office of Enforcement.

The meeting is open to the public. Because of limited seating capacity, members of the public desiring to attend should preregister by close of business December 1, 1980. Please call Dr. Douglas B. Seba, Executive Secretary, or Joanna A. Foellmer, secretary, of the Science Advisory Board at 202/472–9444

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to preregister or obtain information about the meeting.

Richard M. Dowd, Ph. D.,

Staff Director, Science Advisory Board.

October 20, 1980.

[FR Doc. 80-35747 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-34-M

[A-7-FRL 1669-7]

Standards of Performance for New Stationary Sources; Delegation to the State of Iowa

Pursuant to Section 111 of the Clean Air Act (CAA), as amended, the Administrator of the U.S. Environmental Protection Agency (EPA) has promulgated and, in some cases, has amended regulations which establish standards of performance for 29 categories of stationary sources of air pollutants, through December 31, 1979. Section 111(c) of the Act authorizes the Administrator to delegate his authority to implement and enforce these federally established New Source Performance Standards (NSPS) to any state which has submitted adequate procedures to implement and enforce the NSPS regulations in such state. The Administrator, however, retains concurrent authority to implement and enforce the standards following such delegations of authority to a state. This notice announces a delegation of certain NSPS authority to the State of Iowa and sets forth the stationary source categories that are affected by the delegation.

On February 25, 1975, the State of Iowa submitted to the EPA regional office a request for delegation of authority to implement and enforce the NSPS regulations for 11 stationary source categories. The request included copies of Iowa statutes which provide the implmenting agency, the Iowa Department of Environmental Quality (IDEQ), with the requisite authority to enforce the NSPS regulations. For the source categories affected by its delegation request, the State of Iowa specifically requested delegation of 40 CFR Part 60 as amended through December 31, 1975. After a thorough review of that request, the Regional Administrator, on June 6, 1975, delgated NSPS authority for the 11 source categories to the State of Iowa. This delegation was published in the **Federal Register** on December 30, 1976 (41 FR 56889).

On June 16, 1980, the State of Iowa submitted to the EPA regional office a second request for delegation of authority to implement and enforce the NSPS regulations for 15 additional stationary source categories. The State of Iowa intends to implement and enforce the requirements of 40 CFR Part 60, as amended through December 31, 1979, for 26 of the 29 source categories mentioned above.

The stationary source categories for which delegation was not requested (and for which federal NSPS regulations existed on December 31, 1979) are petroleum liquid storage tanks, grain elevators, and stationary gas turbines. The EPA regional office will continue to implemement and enforce the requirements of the NSPS regulations against affected facilities within these three stationary source categories.

After a thorough review of that request, including a review of IDEQ regulations which incorporate, by reference, the federal emission standards and testing procedures set forth in 40 CFR Part 60, the regional office determined that a delegation was appropriate, subject to certain conditions indicated below. Thereafter, in a letter dated August 25, 1980, the EPA regional office notified the State of Iowa that its delegation request had been granted. The delegation letter is reproduced below:

August 25, 1980.

Mr. Larry E. Crane,

Executive Director, Iowa Department of Environmental Quality, Henry A. Wallace, Building, 900 East Grand, Des Moines, Iowa.

Dear Mr. Crane: This letter is in response to your request dated June 16, 1980 for delegation of authority to the State of Iowa for implementation and enforcement of the New Source Performance Standards (NSPS) for fifteen additional stationary source categories that have been promulgated by the U.S. Environmental Protection Agency (EPA). This letter also addresses a previous delegation that was issued by the EPA to the State of Iowa by letter dated June 6, 1975. This previous delegation of authority affected eleven stationary source categories and was published in the **Federal Register** on December 30, 1976.

We have reviewed the pertinent laws of the State of Iowa and the adopted rules and regulations of the Iowa Department of Environmental Quality (IDEQ) and have determined that they provide an adequate and effective procedure for both the implementation and enforcement of the subject NSPS regulations. Thus, the federal NSPS regulations, 40 CFR Part 60, as amended through December 31, 1979 and as affecting sources in Iowa that are included in the following list of stationary source categories are hereby delegated to the IDEQ on behalf of the Governor of the State of Iowa subject to the conditions listed below:

(A) The eleven (11) stationary source categories that are covered by the previously mentioned delegation letter, dated June 6, 1975, and which are affected by the revised conditions stated below are as follows:

Source Category and Federal NSPS Subpart

Fossil-Fuel-Fired Steam Generators—D
Incinerators—E
Portland Cement Plants—F
Nitric Acid Plants—G
Sulfuric Acid Plants—H
Asphalt Concrete Plants—I
Petroleum Refineries—J
Secondary Lead Smelters—L
Secondary Brass and Bronze Ingot Production Plants—M
Iron and Steel Plants—N
Sewage Treatment Plants—O

(B) The following additional fifteen (15) stationary source categories are also affected by this delegation action:

Source Category and Federal NSPS Subpart

Electric Utility Generating Units for which construction is commenced after September 18, 1978—Da
Primary Copper Smelters—P
Primary Zinc Smelters—Q
Primary Lead Smelters—R
Primary Aluminum Reduction Plants—S
Wet Process Phosphoric Acid Plants in the Phosphate Fertilizer Industry—T
Superphosphoric Acid Plants in the Phosphate Fertilizer Industry—U
Diammonium Phosphate Plants in the Phosphate Fertilizer Industry—V
Triple Superphosphate Plants in the Phosphate Fertilizer Industry—W
Granular Triple Superphosphate Storage Facilities in the Phosphate Fertilizer Industry—X
Coal Preparation Plants—Y
Ferroalloy Production Facilities—Z
Steel Plants-Electric Arc Furnaces—AA
Kraft Pulp Mills—BB
Lime Manufacturing Plants—HH

This delegation is subject to the following conditions:

1. Sources subject to NSPS shall be excluded from Rule 3.2 which provides for variances from limitations contained in Rule 4 (40 CFR 60.1 does not allow for variance from emission limitations.)

2. Enforcement of the NSPS in Iowa will be the primary responsibility of the Iowa Department of Environmental Quality (IDEQ). If the IDEQ determines that such enforcement is not feasible and so notifies EPA, or where the IDEQ acts in a manner inconsistent with the terms of this delegation, acts in a manner inconsistent with Section 113 of the Clean Air Act (42 U.S.C. 7413), or fails to obtain satisfactory compliance, the EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources which are subject to the NSPS.

3. The IDEQ will use the methods specified in 40 CFR Part 60 in performing tests pursuant to the regulations.

4. The IDEQ will continue to implement the system of communication with the Region VII office which was developed in accordance with the requirements of Condition 5 in the original June 6, 1975 delegation letter. This requirement was to assure that the Region VII office is informed of the current compliance status of the subject sources and of interpretation of laws or regulations to which NSPS review procedures may apply. The IDEQ shall continue to immediately forward to the EPA Region VII office copies of all requests for determinations of whether the NSPS review procedures apply to a particular source, and EPA concurrence shall be obtained on any such determinations before they are issued by the IDEQ.

5. If, at any time, there is a conflict between a state regulation and a federal regulation (40 CFR Part 60), the federal regultion must be applied if it is more stringent than that of the state.

6. Section 60.9 requires that all information concerning a source subject to the NSPS must be made available to the public unless it would divulge methods or processes entitled to protection as a trade secret. It appears that the Iowa interpretation of "privileged communication" might prevent the IDEQ from releasing to the public certain information which must be released in accordance with § 60.9; therefore, any request for information with which the IDEQ cannot comply because of its confidentiality laws must be forwarded to the Region VII office.

7. If the Director, Air and Hazardous Materials Division of the EPA Region VII office determines that a state procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a "Notice of Revocation" to the Governor of the State of Iowa or his designee.

A notice announcing this delegation will be published in the **Federal Register** in the near future.

This delegation is effective immediately. The conditions stated in this letter supercede the conditions in our delegation letter dated June 6, 1975. The conditions stated herein apply to categories of sources for which the prior delegation was made, as well as the new categories subject to this delegation.

Acceptance of this delegation does not commit the State of Iowa or the IDEQ to request delegation of future standards and/or related requirements. A new request for delegation of authority will be required for any standards that are not included in the State's delegation requests of February 25, 1975 and June 16, 1980.

You are reminded that, should the State of Iowa accept this delegation, the U.S. Environmental Protection Agency will retain concurrent authority to implement and/or enforce all provisions of the subject NSPS regulations.

Please acknowledge acceptance of this delegation, by letter, within ten (10) days of receipt of this letter.

If you have any questions, please contact Mr. William A. Spratlin, Chief, Air Support Branch, Air and Hazardous Materials Division, at (816) 374-3791.

Sincerely yours,

David A. Wagoner,

Director, Air and Hazardous Materials Division.

Copies of Iowa's request for delegation of authority are available for public inspection at the EPA Region VII Office, Air Support Branch, 324 East 11th Street, Kansas City, Missouri, and at the office of the state NSPS implementing agency mentioned below.

Effective immediately, all reports, requests, applications, submittals, and other communications required pursuant to the NSPS regulations for the 26 source categories listed in the above delegation letter shall be submitted to the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316. However, notifications required pursuant to 40 CFR 60.7(a) shall be submitted to the Director, Enforcement Division, of the EPA Region VII office mentioned above, as well as to the IDEQ. Copies of notifications being sent to the IDEQ under 40 CFR 60.7(a) may be sent to the EPA regional office in lieu of originals.

This notice is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. 7411.

Dated: November 5, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80-35758 Filed 11-14-80; 8:45 am]

BILLING CODE 6560-38-M

[OPTS 90000; FRL 1585-3]

Toxics Integration Information Series and Toxics Integration Policy Series; Notice of Availability

Correction

In FR Doc. 80-25804, appearing on page 56432, in the issue for Monday, August 25, 1980, make the following corrections:

(1) In the **Summary** paragraph, in the third line, delete "Policy Series".

(2) In the **Summary** paragraph, in the eleventh line delete "as".

(3) In the third column (Page 56432), in the second line, "estramural" should read "extramural".

(4) Also in the third column, in the fifth line, "*Toxic*" should read "*Toxics*".

BILLING CODE 1505-01-M

[PP 5G1590/T255; FRL 1586-5]

Tricyclazole; Establishment of Temporary Tolerances

Correction

In FR Doc. 80-25809, appearing at page 56432 in the issue for Monday, August 25, 1980, make the following correction:

On page 56432, in the third column, in the first paragraph of "**SUPPLEMENTARY INFORMATION**", in the twelfth line, the word "gain" should read "grain".

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

[F-80-21]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the North Carolina Utilities Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the North Carolina Utilities Commission involving the application of the Southern Bell Telephone and Telegraph Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-35804 Filed 11-14-80; 8:45 am]

BILLING CODE 6820-25-M

[F-80-22]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the South Carolina Public Service

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Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the South Carolina Public Service Commission involving the application of the Southern Bell Telephone and Telegraph Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and control prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-35805 Filed 11-14-80; 8:45 am]

BILLING CODE 6820-25-M

[F-80-23]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Pennsylvania Public Utility Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Pennsylvania Public Utility Commission involving the application of the Bell Telephone Company of Pennsylvania for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-35806 Filed 11-14-80; 8:45 am]

BILLING CODE 6820-25-M

[F-80-20]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Massachusetts Department of Public Utilities involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Massachusetts Department of Public Utilities involving the application of the New England Telephone and Telegraph Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-35807 Filed 11-14-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Intravenous Therapy-Related Infections Work Group; Open Meeting

On December 12, 1980, the Centers for Disease Control will convene an open meeting of a work group to reevaluate guidelines for intravenous therapy-related infections to provide the most reasonable and practical guidance to infection control committees in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 8:30 a.m., in Conference Room B-19, Building 3, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Bacterial Diseases Division, Bureau of Epidemiology, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: FTS: 263:3805; Commercial: 404/329-3805.

Dated: November 7, 1980.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 80-35803 Filed 11-14-80; 8:45 am]

BILLING CODE 4110-86-M

Office of Human Development Services

White House Conference on Aging Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976)

that the Technical Committee on Governmental Structures will hold their meeting on Monday, December 8, 1980 from 9:30 a.m. to 5:00 p.m. in Room 800 and Tuesday, December 9, 1980 from 9:00 a.m. to 3:00 p.m. in Room 525A in the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

On December 8, 1980, the Committee will hear testimony from National organizations which represent minorities, professions, the Aging "Network", Public interest groups and the White House Conference on Aging Technical Committees. Focus of the hearing will be to identify factors impacting on Governmental Structures including the role of government and optional strategies for allocating responsibilities for delivery of services and quality control. On December 9th the Committee will review data from the hearing and finalize its work plan and the report format.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 12, 1980

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-35787 Filed 11-14-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1042]

Senior Executive Service (SES); Schedule for Awarding Performance Bonuses to SES Career Executives

AGENCY: Department of Housing and Urban Development.

ACTION: Senior Executive Service (SES); schedule for awarding performance bonuses to SES career executives

SUMMARY: As required by the Office of Personnel Management in a memorandum signed by the Director on July 21, 1980, the Department of Housing and Urban Development announces that Senior Executive Service bonus payments to HUD career executives will be paid on or after December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frank L. Davis, Director of Personnel, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-5500.

Issued at Washington, D.C., November 13, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-35807 Filed 11-14-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6682-A2]

Alaska Native Claims Selection

On December 11, 1975, Newhalen Native Corporation, for the Native village of Newhalen, filed selection application AA-6682-A2, under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Newhalen area.

On December 5, 1975, Bristol Bay Native Corporation filed regional selection application AA-8097-18 pursuant to Sec. 12(c) of ANCSA for the surface and subsurface estates of certain lands in the Newhalen area. The following lands have been properly selected by Newhalen Native Corporation and Departmental regulation 43 CFR 2651.4(d) states:

Village corporation selections within sections 11 (a)(1) and (a)(3) areas shall be given priority over regional corporation selections for the same lands.

Therefore, regional selection application AA-8097-18 is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 5 S., R. 35 W.,
Secs. 1 and 2, all.
Containing approximately 1,280 acres.

Further action on regional selection application AA-8097-18 as to those lands not rejected herein will take place at a later date.

On November 14, 1978, the State of Alaska filed general purposes grant selection application AA-21656, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)), for certain lands in the Newhalen area.

The following described lands have been properly selected by Newhalen Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated,* and *unreserved* public lands in Alaska. Therefore, the following State selection application is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21656

T. 5 S., R. 35 W.,
Secs. 1, 2, and 11, all.
Containing approximately 1,920 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the application submitted by Newhalen Native Corporation, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In views of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b) of ANCSA, aggregating approximately 1,920 acres, is considered proper for acquisition by Newhalen Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 5 S., R. 35 W.,
Secs. 1, 2, and 11, all.
Containing approximately 1,920 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease

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issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The village of Newhalen has been reallocated 2,406 acres of land pursuant to Sec. 12(b) of the Alaska Native Claims Settlement Act. To date, approximately 1,920 acres of the 12(b) reallocation have been approved for conveyance. The remaining entitlement of approximately 486 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Newhalen Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no water bodies within the above-described lands considered to be navigable.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interested in land affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 17, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Newhalen Native Corporation, Newhalen, Alaska 99606.
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-35770 Filed 11-14-80; 8:45 am]

BILLING CODE 4310-84-M

[AA-6670-A2]

Alaska Native Claims Selection

On December 12, 1975, Iliamna Natives Limited, for the Native village of Iliamna, filed selection application AA-6670-A2 under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Iliamna area.

On December 5, 1975, Bristol Bay Native Corporation filed regional selection application AA-8097-11 pursuant to Sec. 12(c) of ANCSA for the surface and subsurface estates of certain lands in the Iliamna area. The following described lands have been properly selected by Iliamna Natives Limited and Departmental regulation 43 CFR 2651.4(d) states:

> Village corporation selections within section 11(a)(1) and (a)(3) areas shall be given priority over regional corporation selections for the same lands.

Therefore, regional selection application AA-8097-11 is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 3 S., R. 31 W.,
Secs. 18 and 19, all.
Containing approximately 1,250 acres.

Further action on regional selection application AA-8097-11 as to those lands not rejected herein will take place at a later date.

On November 14, 1978, the State of Alaska filed general purposes grant selection application AA-21617, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Iliamna area.

The following described lands have been properly selected by Iliamna Natives Limited. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated,* and *unreserved* public lands in Alaska. Therefore, the following State selection application is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21617

T. 3 S., R. 31 W.,
Secs. 18 and 19, all.
Containing approximately 1,250 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the application submitted by Iliamna Natives Limited, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b) of ANCSA, aggregating approximately 1,880 acres, is considered proper for acquisition by Iliamna Natives Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 3 S., R. 31 W.,
Secs. 18 and 19, all.
Containing approximately 1,250 acres.
T. 3 S., R. 32 W.,
Sec. 25, excluding Tazimina River.
Containing approximately 630 acres.
Aggregating approximately 1,880 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The village of Iliamna has been reallocated 2,439 acres of land pursuant to Sec. 12(b) of the Alaska Native Claims Settlement Act. To date, approximately 1,880 acres of the 12(b) reallocation have been approved for conveyance. The remaining entitlement of approximately 559 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Iliamna Natives Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body is considered to be navigable within the above-described lands:

The Tazimina River is determined to be navigable up to Tazimina Falls in Sec. 25, T. 3 S., R. 32 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in land affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 17, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Iliamna Natives Limited, Iliamna, Alaska 99606.
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-35771 Filed 11-14-80; 8:45 am]

BILLING CODE 4310-84-M

[AA-6678-A2]

Alaska Native Claims Selection

On December 12, 1975, Levelock Natives Limited, for the village of Levelock filed selection application AA-6678-A2 under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Levelock area.

As to the lands described below, the application submitted by Levelock Natives Limited, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b) of ANCSA, aggregating approximately 3,065 acres, is considered proper for acquisition by Levelock Natives Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 13 S., R. 44 W.,
Sec. 1, all.
Containing approximately 640 acres.
T. 12 S., R. 43 W.,
Sec. 33, all;
Secs. 34, 35, and 36, excluding the Alagnak River.
Containing approximately 2,425 acres.
Aggregating approximately 3,065 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid

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existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The village of Levelock has been reallocated 3,251 acres of land pursuant to Sec. 12(b) of the Alaska Native Claims Settlement Act. To date, approximately 3,065 acres of the 12(b) reallocation have been approved for conveyance. The remaining entitlement of approximately 186 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Levelock Natives Limited (for the village of Levelock) for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body is considered to be navigable within the above-described lands:

Alagnak River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in land affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 5410 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 17, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska (CM–RRR), Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Levelock Natives Limited, Levelock, Alaska 99625.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80–35772 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–84–M

[AA–6689–A]

Alaska Native Claims Selection

On December 18, 1974, Sanak Corporation, for the Native village of Pauloff Harbor, filed selection application AA–6689–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Pauloff Harbor.

On December 15, 1977, the Aleut Corporation filed selection application AA–16169 pursuant to Sec. 14(h)(8) of ANCSA. Section 14(h) and Departmental regulations issued thereunder authorize the Secretary of the Interior to withdraw and convey only unreserved and unappropriated public lands. Since portions of the lands encompassed in the subject 14(h)(8) application had been properly selected by the Sanak Corporation under Sec. 12 of ANCSA, these lands were not unreserved or unappropriated at the time of selection by The Aleut Corporation. Therefore, selection application AA–16169 must be and is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 60 S., R. 89 W.,
(Secs. 1,2, and 11, all;
Secs. 12 and 13 (fractional), all;
Secs. 14, 17, and 20, all;
Secs. 22 and 23, all;
Secs. 24, 25, and 26 (fractional), all;
Secs. 27 to 30 inclusive, all;
Secs. 31 to 35 (fractional), inclusive, all.
Containing approximately 11,357 acres.
T. 59 S., R. 90 W.,
Sec. 19 (fractional), excluding Public Land Order 2216;
Secs. 27 and 28, all;
Secs. 29 (fractional), all;
Secs. 30, 32, 33, and 34 (fractional), all;
Sec. 35, all.
Containing approximately 3,320 acres.
T. 60 S., R. 90 W.,
Secs. 3, 4, 5, and 8 (fractional), all;
Secs. 9, 10, 14, and 15, all;
Secs. 16, 17, 21, and 22 (fractional), all;
Secs. 23, 24, and 25, all;
Secs. 26, 27, 35, and 36 (fractional), all.
Containing approximately 8,982 acres.
T. 61 S., R. 90 W.,
Secs. 4, 5, and 6 (fractional), all.
Containing approximately 165 acres.
T. 60 S., R. 91 W.,
(Secs. 15 and 16 (fractional), all; Secs. 6 to 9 (fractional), inclusive, all;
Secs. 17 to 21, inclusive, all;
Secs. 22, 23, and 26 (fractional), all;
Secs. 27 to 33, inclusive, all;
Secs. 34 and 35 (fractional), all.
Containing approximately 11,430 acres.
Aggregating approximately 35,254 acres.

Further action on Sec. 14(h)(8) application AA–16169 as to those lands not reject herein, will be taken at a later date.

On November 14, 1978, the State of Alaska filed general purposes grant selection application AA–21902, as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Aleut region.

The following described lands have been properly selected by the Sanak Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated,* and *unreserved* public lands in Alaska. Therefore, State selection application AA–21902 is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 60 S., R. 89 W.,
Secs. 12 and 13 (fractional), all; Secs. 1, 2, and 11, all;
Secs. 14, 17, and 20, all;
Secs. 22 and 23, all;
Secs. 24, 25, and 26 (fractional), all;
Secs. 27 to 30, inclusive, all;
(Secs. 31 to 35 (fractional), inclusive, all.

Containing approximately 11,357 acres.

Further action on State selection application AA–21902 as to the lands not rejected herein, will be taken at a later date. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the application submitted by the Sanak Corporation, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any

lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 65,696 acres, is considered proper for acquisition by the Sanak Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 60 S., R. 89 W.,
Secs. 1, 2, and 11, all;
Secs. 12 and 13 (fractional), all;
Secs. 14, 17, and 20, all;
Secs. 22 and 23, all;
Secs. 24, 25, and 26 (fractional), all;
Secs. 27 to 30, inclusive, all;
Secs. 31 to 35 (fractional), inclusive, all.
Containing approximately 11,357 acres.
T. 59 S., R. 90 W.,
Sec. 19 (fractional), excluding Public Land Order 2216;
Secs. 27 and 28, all;
Sec. 29 (fractional), excluding U.S. Survey 1230;
Secs. 30, 32, 33, and 34 (fractional), all;
Sec. 35, all.
Containing approximately 3,305 acres.
T. 60 S., R. 90 W.,
Secs. 3 and 4 (fractional), all;
Sec. 53 (fractional), excluding U.S. Survey 1235;
Sec. 8 (fractional), all;
Secs. 9, 10, 14, and 15, all;
Secs. 16, 17, 21, and 22 (fractional), all;
Secs. 23, 24, and 25, all;
Secs. 26, 27, 35, and 36 (fractional), all;
Containing approximately 8,978 acres.
T. 61 S., R. 90 W.,
Secs. 4, 5, and 6 (fractional), all.
Containing approximately 165 acres.
T. 60 S., R. 91 W.,
Secs. 6 to 9 (fractional), inclusive, all;
Secs. 15 and 16 (fractional), all;
Secs. 17 to 21, inclusive, all;
Secs. 22, 23, and 26 (fractional), all;
Secs. 27 to 33, inclusive, all;
Secs. 34 and 35 (fractional), all.
Containing approximately 11,430 acres.

"Land on Sanak, Finneys and Clifford Islands, excluding any offshore islands, rocks and pinnacles within the following protracted description:

T. 66 S., R. 89 W.,
Secs. 19 and 20 (fractional), all;
Secs. 28, 29, and 30 (fractional), all;
Secs. 31 and 32, all;
Secs. 33 and 34 (fractional), all.
Containing approximately 3,210 acres
T. 67 S., R. 89 W.,
Secs. 3 and 4 (fractional), all;
Sec. 5, all;
Secs. 6 to 10 (fractional), inclusive, all;
Secs. 15 and 16 (fractional), all;
Secs. 18 and 19 (fractional), all.
Containing approximately 3,447 acres.
T. 66 S., R. 90 W.,
Secs. 6 to 9 (fractional), inclusive, all;
Secs. 13 and 14 (fractional), all;
Sec. 15 (fractional), excluding ANCSA Sec. 3(e) application AA–12847;
Sec. 16 (fractional), all;
Secs. 17 to 21 inclusive, all;
Secs. 22, 23, and 24 (fractional), all;
Secs. 25 to 30, inclusive, all.
Sec. 31 (fractional), all;
Secs. 32 to 36, inclusive, all.
Containing approximately 13,698 acres.
T. 67 S., R. 90 W.,
Secs. 1, 2, and 3, all;
Secs. 4 to 7 (fractional), inclusive, all;
Secs. 9 to 14 (fractional), inclusive, all;
Sec. 18 (fractional), all.
Containing approximately 4,517 acres.
T. 66 S., R. 91 W.,
Secs. 1 and 2 (fractional), all;
Sec. 11 (fractional), excluding U.S. Survey 759;
Secs. 12 and 13, all;
Secs. 14 and 15 (fractional), all;
Secs. 22 and 23 (fractional), all;
Sec. 24, all;
Secs. 25 and 26 (fractional), all;
Secs. 35 and 36 (fractional), all.
Containing approximately 5,369 acres.
T. 67 S., R. 91 W.,
Secs. 1, 12, and 13 (fractional), all.
Containing approximately 220 acres.
Aggregating approximately 65,696 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document copies of which will be found in case file AA–6689–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN) 1 C6) An easement for a proposed access trail twenty-five (25) in width from the termination of trail EIN 10 C4 n the King Cove selection beginning in Sec. 1, T. 60 S., R. 89 W., Seward Meridian, westerly to public lands in Sec. 3, T. 60 S., R. 89 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 5 C6) An easement for a proposed access trail twenty-five (25) feet in width from Reynolds Head on Morzhovoi Bay in Sec. 5, T. 60 S., R. 90 W., Seward Meridian, easterly along the southern end of Littlejohn Lagoon to Sec. 1 T. 60 S., R. 90, W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 6 C6) A one (1) acre site easement upland of the mean high tide line in Sec. 5, T. 60 S., R. 90 W., Seward Meridian, on the east shore of Morzhovoi Bay in the approximate location of Reynolds Head. The uses allowed are those listed above for a one (1) acre site.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Grazing lease A–059782 issued to Chris Gundersen (assigned to Terry Miller) within Tps. 66 and 67 S., Rs. 89, 90 and 91 W., Seward Meridian, under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a, and 471o); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Sanak Corporation is entitled to conveyance of 69,120 acres of land

selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 65,696 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 3,424 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to The Aleut Corporation when conveyance is granted to the Sanak Corporation for the surface estate and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 17, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Sanak Corporation, Box 76, Sand Point, Alaska 99661.

The Aleut Corporation, 725 Christensen Drive, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-35773 Filed 11-14-80; 8:45 am]

BILLING CODE 4310-84-M

[F-14865-A2]

Alaska Native Claims Selections

This decision rejects in part improper village selection applications and approves certain lands within U.S. Survey 732, located at Holy Cross, Alaska, for conveyance to Deloycheet, Inc.

I. Village Selection Application Rejected in Part

On April 15, 1974, Deloycheet, Inc., for the Native village of Holy Cross, filed selection application F-14865-A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Holy Cross. On December 18, 1974, Deloycheet, Inc. amended its application to include all lands within U.S. Survey 732.

At the time of filing the Catholic Bishop of Northern Alaska held title to the lands within patented U.S. Survey 732. The lands were therefore not public lands and were unavailable for selection. Village selection application F-14865-A is hereby rejected as to the following described lands:

U.S. Survey 732 of the Roman Catholic Mission Reserve situate at Holy Cross, Alaska.

Containing 594.52 acres.

II. Village Selection Application Rejected in Part Lands Proper for Village Selection Approved for Interim Conveyance

On December 18, 1975, Deloycheet, Inc., for the Native village of Holy Cross, filed selection application F-14865-A2, as amended, under the provisions of Sec. 12 of ANCSA, for a portion of U.S. Survey 732 located in Holy Cross. Included in that portion of U.S. Survey 732 are two tracts of land referred to as Tracts "B" and "C". In 1974, the owner of Tracts "B" and "C", the Catholic Bishop of Northern Alaska, issued a quitclaim deed for the land to the Holy Cross Trading Company. The Bishop also reconveyed to the United States, on December 4, 1975, a portion of U.S. Survey 732, including Tracts "B" and "C". Since Tracts "B" and "C" were no longer owned by the Bishop, they were not considered to have been reconveyed to the United States.

Therefore, at the time of selection by the village, Tracts "B" and "C" were owned by the Holy Cross Trading Company. The lands were not public lands and were unavailable for selection. Village selection application F-14865-A2 is hereby rejected as to the following described lands:

Tract "B", located within U.S. Survey 732, also known as the Roman Catholic Mission Reserve, at Holy Cross, Alaska, beginning at U.S. land monument, "RCM"; thence South 23°13'54" West a distance of 2,123.99 feet to the true point of beginning which is corner No. 1 of this tract. Thence South 16°17'40" East a distance of 40.00 feet; thence South 04°17' West a distance of 138.00 feet; thence North 85°43' West a distance of 75.00 feet; thence North 04°17' East a distance of 192.60 feet; thence South 70°00' East a distance of 83.31 feet; to the true point of beginning. Tract "B" (ANICA store) contains 13,418 square feet, (approximately .31 acre).

Tract "C", located within U.S. Survey 732, also known as the Roman Catholic Mission Reserve, at Holy Cross, Alaska, beginning at U.S. land monument "RCM"; thence South 10°57'04" West a distance of 2,836.67 feet; thence North 0°43'20" East a distance of 70.00 feet to the true point of beginning which is corner No. 4 of this tract. Thence North 09°02'20" East a distance of 100.00 feet to corner No. 1 of this tract; thence North 86°46'20" East a distance of 123.20 feet to meander corner 2; thence South 10°14' East a distance of 98.46 feet to meander corner 3; thence South 86°46'20" West a distance of 156.45 feet to the true point of beginning. Tract "C" (ANICA warehouse) contains 13,663 square feet, (approximately .31 acre).

Aggregating approximately .62 acre.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b) of ANCSA, aggregating approximately 487 acres, is considered proper for acquisition by Deloycheet, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 732 of the Roman Catholic Mission Reserve situate at Holy Cross, Alaska, excluding the following described lands:

Beginning at a point from which corner No. 3 of U.S. Survey No. 732, monumented by a found brass cap monument established by the Bureau of Land Management in 1960, bears South 25°33'13" West a distance of 6,832.27 feet, the point of beginning being monumented by a 36-inch length of No. 5 steel reinforcing bar with a plastic cap inscribed "RLS 551"; thence North 5°18'30" East a distance of 526.57 feet to the northwest corner of the tract herein described, this corner being monumented by a 36-inch length of No. 5 steel reinforcing bar with a plastic cap inscribed "RLS 551"; thence South 82°58' East a distance of 394.15 feet to the northeast corner of said tract, this corner being monumented by a 36-inch length of No. 5 steel reinforcing bar with a plastic cap inscribed "RLS 551"; thence South 7°02' West a distance of 526.33 feet to the southeast corner of said tract, this corner being monumented by a 36-inch length of No. 5 steel reinforcing bar with a plastic cap inscribed "RLS 511"; thence North 82°58' West a distance of 378.30 feet to the southwest corner of said tract and point of beginning, said exclusion comprising an area of 4.67 acres more or less.

From corner No. 2 of U.S. Survey No. 732, Roman Catholic Mission Reserve, proceeding South 89°56' West for a distance of 2,131 feet to corner No. 1 the point of beginning; thence South 89°56' West for 1,159 feet to corner No. 2; thence North 30°18' East for 4,513.9 feet to corner No. 3; thence South 59°42' East for 250 feet to corner No. 4; thence North 30°18' East for 350 feet to corner No. 5; thence South 59°42' East for 850 feet to corner No. 6; thence South 30°18' West for 200 feet to corner No. 7; thence South 59°42' East for 100 feet to corner No. 8; thence South 30°18' West for 4,078 feet to corner No. 1 and the point of beginning; containing 102.47 acres more or less.

Tract "B", located within U.S. Survey 732, also known as the Roman Catholic Mission Reserve, at Holy Cross, Alaska, beginning at U.S. land monument, "RCM"; thence South 23°13'54" West a distance of 2,123.99 feet to the true point of beginning which is corner No. 1 of this tract. Thence South 16°17'40" East a distance of 40.00 feet; thence South 04°17' West a distance of 138.00 feet; thence North 85°43' West a distance of 75.00 feet; thence North 04°17' East a distance of 192.60 feet; thence South 70°00' East a distance of 83.31 feet; to the true point of beginning, Tract "B" (ANICA store) contains 13,418 square feet, (approximately .31 acre).

Tract "C", located within U.S. Survey 732, also known as the Roman Catholic Mission Reserve, at Holy Cross, Alaska, beginning at U.S. land monument "RCM"; thence South 10°57'04" West a distance of 2,836.67 feet; thence North 0°43'20" East a distance of 70.00 feet to the true point of beginning which is corner No. 4 of this tract. Thence North 09°02'20" East a distance of 100.00 feet to corner No. 1 of this tract; thence North 86°46'20" East a distance of 123.20 feet to meander corner 2; thence South 10°14' East a distance of 98.46 feet to meander corner 3; thence South 86°46'20" West a distance of 156.45 feet to the true point of beginning. Tract "C" (ANICA warehouse) contains 13,663 square feet, (approximately .31 acre).

Said tract less exclusions comprising approximately 487 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14865-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 21 C5) An easement twenty-six (26) feet in width for an existing road from the Yukon River boat landing site in Sec. 5, T. 24 N., R. 57 W., Seward Meridian (U.S.S. 732), southerly through Holy Cross to the local airport. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 22 D5) A navigation and hazard easement for the safe operation of the Holy Cross Airport. That certain real property lying and being within Sec. 8, T. 24 N., R. 57 W., Seward Meridian, Alaska Bethel Recording District, Fourth Judicial District, more particularly described as follows:

Commencing at Corner No. 2 of U.S. Survey No. 732, proceed 89°56' W a distance of 2,131 feet to Corner No. 1 of Tract II, Holy Cross Airport property plan dated October 13, 1958, revised through March 30, 1977;
thence N 30°18' E a distance of 4,078 feet to Corner No. 8 of said Tract II;
thence N 59°42' W a distance of 100 feet to Corner No. 7 of said Tract II;
thence N 30°18' E a distance of 200 feet to the True Point of Beginning;
thence N 30°18' E a distance of 900 feet to a point;
thence N 59°42' W a distance of 650 feet to a point;
thence S 30°18' W a distance of 900 feet to a point common with Corner No. 5 of Tract II, Holy Cross Airport;
thence S 59°42' E along line 5-6 of Tract II, Holy Cross Airport a distance of 650 feet to the True Point of Beginning.

The parcel of land to which the above description applies contains 13.43 acres, more or less.

The easement uses reserved include the right to clear and keep clear the lands described above from any and all obstructions infringing upon or penetrating the Airport Imaginary Surfaces as such surfaces are defined in Part 77 of the Federal Aviation Regulations, as amended. The right to clear and keep clear includes, but is not limited to, the right to cut and remove trees, underbrush and soil, and to demolish or remove buildings or any other structure or obstruction of every description which may infringe upon or extend into or above the designated Airport Imaginary Surfaces, and the right to prohibit use on and remove from the above described land, any installation or object which would create electrical interference with radio communication between the airport and aircraft, or make it difficult for pilots to distinguish between airport lights and other lights, resulting in glare in the eyes of pilots using the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft, together with the right of reasonable ingress and egress for the purpose of effecting and maintaining such clearances.

Further, without waiving compliance with applicable Federal and State laws and regulations concerning air and water quality, the rights reserved include the right to create such noise, dust and fumes as are inherently connected with the operation and maintenance of aircraft, by whomsoever created and wherever and whenever occurring in connection with the operation of aircraft upon the easement herein reserved.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid exising rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A lease, issued by the Roman Catholic Mission, Holy Cross, to the Alaska Village Electric Cooperative,

V 45 N 0 17 80 0 UMI

Inc., Anchorage, on March 24, 1970, for an electrical power facility for the city of Holy Cross; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

When the above-described lands are surveyed and patented, there will be no further lands to be conveyed and case file F-14865-A2 will be closed of record.

Deloycheet, Inc. is entitled to conveyance of approximately 487 acres of land selected pursuant to Sec. 12(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 487 acres.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Deloycheet, Inc., and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above-described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 17, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Deloycheet, Inc., P.O. Box 53, Holy Cross, Alaska 99602
Doyon, Limited, 201 First Avenue, Fairbanks, Alaska 99701
State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501

Ann Johnson,
Chief, Branch of Adjudication.

[FR Doc. 80-35774 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-84-M

Multiple Use Advisory Council Meeting

Notice is hereby given in accordance with P.L. 94-579 and 43 CFR Part 1780, that a meeting of the Salmon District Multiple Use Advisory Council will be held on Thursday, December 11, 1980, at 10 a.m., at the American Legion Hall in Challis, Idaho.

Agenda for the meeting will include:

(1) Reading of the Advisory Council meeting minutes of July 29, 1980.
(2) Discussion of business from previous meeting.
(3) Discussion of Ellis-Pahsimeroi Planning revision.
(4) Public statements.
(5) Discussion of Cyprus Mine construction progess and related timber harvest.
(6) Discussion of recreation site needs and planning (part along the rivers and water courses).
(7) Establishment of committees.
(8) Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by December 8, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: November 5, 1980.
Jerry W. Goodman,
Acting District Manager.

[FR Doc. 80-35724 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-84-M

[NM 43012]

New Mexico; Proposed Withdrawal and Reservations of Lands

November 7, 1980.

The United States Department of Energy has filed application, NM 43012 on November 7, 1980, for the withdrawal of approximately 8,960.00 acres of public land from settlement, sale, location or entry under the General Land Laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970.

The United States Department of Energy requests this land be reserved for the exclusive use of DOE for the purposes of protecting the geological integrity of the site for the research and development of a Waste Isolation Pilot Plant Project and performing a Site and Preliminary Design Validation Program.

Until December 17, 1980 all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before December 19, 1980. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the land for purposes other than the applicant's and reaching agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The below described land is temporarily segregated from the separation of the public land laws, the mining laws, the mineral leasing laws and including leasing under the Geothermal Steam Act of 1970, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (1) rejection of the application by the Secretary; (2) withdrawal of the land by the Secretary; or (3) expiration of two years from the date of publication of this notice.

The land involved in the application is:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 31 E.,
Sec. 15;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 33;
Sec. 34.

The area described contains approximately 8,960.00 acres in Eddy County, New Mexico.

All communications in connection with this proposed withdrawal, except public hearing requests, should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

Pauline T. Brown,
Acting Chief, Lands Section.

[FR Doc. 80-35725 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-84-M

[N-31078]

Nevada; Airport Lease Application

November 6, 1980.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Pinson Mining Company has applied for an airport lease for the following land:

Mount Diablo Meridian

T. 38 N., R. 42 E.,
Sec. 34, N½N½ (within);
Sec. 35, N½N½NW¼ (within).

The area described comprises 12.63 acres in Humboldt County, Nevada.

The application was filed on October 15, 1980, and on that date the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, 705 E. 4th Street, Winnemucca, Nevada 89445.

Wm. J. Malencik,
Chief, Division of Technical Services.

[FR Doc. 80-35726 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Redelegation of Authority

November 5, 1980.

Pursuant to the authority contained in the Redelegation of Authority published in the **Federal Register** on January 25, 1980, as FR Doc. 80-2428, I hereby redelegate to the District and Resource Area Managers authority to grant, renew, assign, or terminate rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976, within their respective areas of responsibility as provided in Part I, Section 1.9(m) of Bureau Order No. 701 of July 23, 1964, as amended.

Effective Date: This redelegation will become effective December 15, 1980.

Maxwell T. Lieurance,
State Director.

[FR Doc. 80-35727 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-84-M

[Phoenix 075415 etc.]

Arizona; Order Providing for Opening of Public Lands

1. In exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

Phoenix 075415

T. 6 S., R. 6 W.,
Sec. 16, SE¼.

Phoenix 077262

T. 6 N., R. 2 W.,
Sec. 36.
T. 5 S., R. 4 W.,
Sec. 2, lots 5 to 36, inclusive, S½N½, and S½;
Sec. 16, N½, NW¼SW¼, S½SW¼, and SE¼.

Phoenix 077263

T. 6 S., R. 6 W.,
Sec. 16, N½ and SW¼.

Phoenix 077266

T. 2 S., R. 4 W.,
Sec. 32, SE¼SE¼.

Phoenix 077267

T. 3 S., R. 4 W.,
Sec. 2, lots 1 to 4, inclusive.

Phoenix 079832

T. 3 S., R. 4 W.,
Sec. 11, lots 76, 77, 78, and lots 81 to 86, inclusive; sec. 14, N½N½NW¼NW¼.

Phoenix 080823

T. 4 S., R. 4 W.,
Sec. 2, SW¼NW¼, and W½SW¼.

AR 017176

T. 2 S., R. 4 W.,
Sec. 25, E½SW¼, and E½W½SW¼.

AR 032509

T. 5 S., R. 4 W.,
Sec. 28, lot 2;
Sec. 33, N½NE¼.

A 3910

T. 1 S., R. 4 W.,
Sec. 13, that portion of the N½NW¼ north of the Arlington Canal;
Sec. 14, NW¼NE¼, NE¼NW¼, and those portions of the NE¼NE¼, SW¼NE¼, and SE¼NW¼ north of the Arlington Canal.

The areas described aggregate approximately 3223.77 acres in Maricopa County, Arizona.

2. The United States did not acquire the mineral rights in sec. 36, T. 6 N., R. 2 W.; SE¼SE¼ sec. 32, T. 2 S., R. 4 W.; lots 1 to 4, inclusive, S½N½ and S½, sec. 2, lots 76, 77, 78, and lots 81 to 86, inclusive, sec. 11, and N½N½NW¼

NW¼ sec. 14, T. 3 S., R. 4 W.; SW¼NW¼ and W½SW¼ sec. 2, T. 4 S., R. 4 W.; lots 5 to 36, inclusive, S½N½ and S2 sec. ½, N½, NW¼SW¼, S½SW¼, and SE¼ sec. 16, T. 5 S., R. 4 W.; and sec. 16, T. 6 S., R. 6 W.

3. Subject to valid existing rights and the provisions of applicable law, effective upon this publication, the lands described in paragraph 1 are open to application for State selection under Section 2275 and 2276, Revised Statutes, as amended, 43 U.S.C. 851 and 852. All valid applications received at or prior to 10:30 a.m., November 17, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

November 7, 1980.

[FR Doc. 80–35729 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–84–M

[Colorado 11326]

Colorado; Order Providing for Opening of Lands in Power Site Classification 88

November 6, 1980.

The Federal Power Commission (now Federal Energy Regulatory Commission) issued Powersite Cancellation 310 on August 25, 1971, vacating in their entirely lands withdrawn for Power Site Classification 88. This order was published in the **Federal Register** on September 17, 1971 as FR Doc. 71–13696 affecting the following described public lands in Summit County, Colorado:

Sixth Principal Meridian

T. 2 S., R. 79 W.,
Section 19: Lots 31, 32.

The area described aggregates 5.20 acres.

At 7:45 a.m. on December 8, 1980, the above described lands shall be open to operation of the public land laws generally, subject to any valid existing rights.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80–35730 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–84–M

Colorado and Wyoming; Lease Sale Schedule for Federal Coal in the Green River-Hams Fork Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of regional lease sale schedule.

SUMMARY: Pursuant to 43 CFR 3420.7–1, this notice contains the Secretary of the Interior's regional lease sale schedule, as announced, on October 20, 1980, for Federal coal tracts in the Green River-Hams Fork Region of Colorado and Wyoming.

DATES: For specific sale dates, see the SUPPLEMENTARY INFORMATION section.

ADDRESSES: The lease sales for the Colorado tracts will be held at the Colorado State Office, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado. The sales for the Wyoming tracts will be held at the Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Cecil Roberts, Project Manager, Colorado State Office, Bureau of Land Management, 1600 Broadway, Denver Colorado 80202, (303) 837–4325.

SUPPLEMENTARY INFORMATION: This notice, as required by 43 CFR 3420.7–1, is to inform the public that the Secretary of the Interior has selected 11 tracts which are located in the Green River-Hams Fork Federal Coal Production Region of Colorado and Wyoming and has announced the schedule for competitive sale of those tracts. The legal descriptions for the tracts to be offered for sale are listed in the enclosed appendix. The tracts for sale have been scheduled as follows:

Tract/State, and Sale Date

Danforth Hills No. 1 (Colorado)—January 13, 1981
Empire (Colorado)—January 13, 1981
Grassy Creek (Colorado)—January 13, 1981
Medicine Bow (Wyoming)—January 14, 1981
Rosebud (Wyoming)—January 14, 1981
Seminoe II (Wyoming)—January 14, 1981
Danforth Hills No. 2 (Colorado)—April 1981
Danforth Hills No. 3 (Colorado)—April 1981
Hayden Gulch (Colorado)—April 1981
Pinnacle (Colorado)—April 1981
China Butte (Wyoming)—October 1981.

As part of the Secretary's decision, the Grassy Creek tract in Colorado has been designated as a small business set-aside tract as provided for in 43 CFR 3420.1–4. The Red Rim tract in Wyoming has been deferred to permit further study of the impacts on the winter antelope range. If, as a result of the study, the Red Rim tract is determined suitable for leasing, it may be offered for sale in October 1981.

A total of 16 tracts were analyzed in the regional lease sale environmental impact statement (EIS). In addition to the tracts listed above, three tracts were dropped because of adverse social, economic, and environmental impacts. Another tract was dropped from the 1981 sale schedule and will be offered in a later sale in combination with a larger tract to permit greater and more efficient coal production from the same area.

The 11 tracts being offered for sale contain an estimated 450 million tons of in-place Federal coal reserves that could result in 13 million tons of new annual coal production in the region by 1987. If the Red Rim tract is found suitable and is offered for lease in October 1981, an additional 2 million tons of annual production could result. Four of the tracts containing 98 million tons of in-place reserves are being offered to maintain or expand existing operations.

Ed Hastey,

Associate Director.

Approved: November 12, 1980.

James W. Curlin,

Deputy Assistant Secretary of the Interior.

Enclosure.

Legal Description of Federal Coal in Danforth Hills No. 1 Tract

T. 3 N., R. 93 W., 6th P.M., Colorodo
Section 11: Lots 3, 5, 6, 8, 13, 14, 16, NW¼, N½SW¼, SW¼SW¼;
Section 14: Lots 4, 5;
Section 15: Lots 1, 3, 4, 5, 11, 12, 14, NW¼, W½SW¼.

Containing 876.20 Acres, More or Less, in Moffat County, Colorado.

Legal Description of Federal Coal in the Empire Tract

T. 5 N., R. 91 W., 6th P.M., Colorado
Section 5: Lots 5 thru 12
Section 8: Lots 1 thru 8.
Containing 681.55 Acres, More or Less, in Moffat County, Colorado.

Legal Description of Federal Coal in the Grassy Creek Tract

T. 5 N., R. 87 W., 6th P.M., Colorado
Section 20: S1/2NE¼, E½SW¼, W½SE¼;
Section 29: NE¼NW¼, SW¼NW¼, NW¼SW¼, E½SW¼.

Containing 440.00 Acres in Routt County, Colorado.

Legal Description for Federal Coal in the Medicine Bow Tract

T. 23 N., R. 83 W., 6th PM, Wyoming
Section 4: Lots 1–4, S½N½, S½ (All);
Section 6: Lots 1.7, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (All);
Section 18: Lots 1–4, E½, E½, E½W½ (All);

Section 30: Lots 3, 4, E½, E½SW¼.
T. 24 N., R. 83 W., 6th PM, Wyoming
Section 30: Lots 2–4, S½NE¼, SE¼NW¼E½SW¼, SE¼;
Section 32: All.
T. 23 N., R. 83 W., 6th PM, Wyoming
Section 12: All;
Section 24: E½NE¼NE¼.
T. 24 N., R. 83 W., 6th PM, Wyoming
Section 36: NE¼, E½NW¼, E½SE¼.

Containing 4,442.66 Acres in Carbon County, Wyoming.

Legal Description of Federal Coal in the Rosebud Tract

T. 23 N., R. 80 W., 6th PM, Wyoming
Section 6: Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (All).
T. 23 N., R. 81 W., 6th PM, Wyoming
Section 2: S½;
Section 10: N½, N½SE¼, SW¼SE¼;
Section 12: All;
Section 14: All;
Section 24: N½.

Containing 3,009.82 Acres in Carbon County, Wyoming.

Legal Description of Federal Coal in the Seminoe II Tract

T. 22 N., R. 81 W., 6th PM, Wyoming
Section 8: NW¼NE¼, NW¼, N½SW¼, SE¼SW¼.
T. 23 N., R. 81 W., 6th PM, Wyoming
Section 20: SW¼NE¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Section 30: Lots 1–4, E½, E½W½ (All);
Section 32: W½.
T. 23 N., R. 82 W., 6th PM, Wyoming
Section 2: SE¼.

Containing 1,831.68 Acres in Carbon County, Wyoming.

Legal Description of Federal Coal in Danforth Hills No. 2 Tract

T. 3 N., R. 93 W., 6th P.M., Colorado
Section 5: Lots 1, 2, S½NE¼, SE¼;
Section 7: Lots 4, 5, 6, 9, 10, NE¼NE¼, S½NE¼, SE¼;
Section 8: All;
Section 17: All;
Section 18: Lots 1 thru 6, E½, E½W½ (All).

Containing 2,613.67 Acres, More or Less, in Moffat County, Colorado.

Legal Description of Federal Coal In Danforth Hills No. 3 Tract

T. 3., R. 93 W., 6th P.M., Colorado
Section 19: Lots 1 thru 4, E½, E½W½ (All);
Section 20: Lot 1, N½, SW¼, N½SE¼, SW¼SE¼;
Section 21: Lots 1, 3, 5 thru 8, 10, N½, N½SW¼, NW¼SE¼;
Section 28: Lots 4 thru 8, 12, 13, 15;
Section 29: Lots 2, 3, 5, 8.

Containing 1,960.96 Acres, More or Less, in Rio Blanco County, Colorado.

Legal Description of Federal Coal in the Hayden Gulch Tract

T. 5 N., R. 88 W., 6th P.M., Colorado
Section 18: Lot 17;
Section 19: Lots 7, 8, 13, 14;
Section 30: Lots 7, 8, 13, 14;
Section 31: Lot 7.
T. 5 N., R. 89 W., 6th P.M., Colorado
Section 10: Lots 8, 9, 14, 15;
Section 11: Lots 16 and 17;
Section 13: Lots 6, 10 thru 17;
Section 14: All except Lots 1 and 2;
Section 15: Lots 1 thru 16;
Section 16: Lots 3, 4, 8, 9, 10;
Section 21: N½N½;
Section 22: E½, NW¼;
Section 23: All;
Section 24: All;
Section 25: All;
Section 26: N½, N½S½;
Section 27: N½NE¼.

Containing 5,315.55 Acres in Routt County, Colorado.

Legal Description of Federal Coal in the Pinnacle Tract

T. 4 N., R. 86 W., 6th P.M., Colorado
Section 7: Lots 5, 6.
T. 5 N., R. 87 W., 6th P.M., Colorado
Section 36: Lots 6 thru 9, 14, 15.

Containing 273.22 Acres in Routt County, Colorado.

Legal Description of Federal Coal in the China Butte Tract

T. 19 N., R. 91 W., 6th PM, Wyoming
Section 34: All.
T. 18 N., R. 91 W., 6th PM, Wyoming
Section 2: Lots 7–10, 14–20;
Section 10: All;
Section 12: Lots 1–16 (All);
Section 14: All;
Section 22: All;
Section 28: All;
Section 32: All;
Section 34: All.
T. 17 N., R. 91 W., 6th PM, Wyoming
Section 4: Lots 1–4, S½N½;
Section 6: Lots 1–4, N½SE¼NE¼.

Containing 5,974.09 Acres in Carbon County, Wyoming.

[FR Doc. 80–35788 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–84–M

Susanville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Susanville District Grazing Advisory Board will be held on December 18, 1980.

The meeting will begin at 10:00 a.m. in the Susanville District Office of the Bureau of Land Management, Susanville, California.

The agenda for the meeting will include:

1. Discussion of FY 1982–83 Range Improvement Priorities.
2. Grazing ES Program Update.
3. Other Comments.
4. Public Comments.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California, 96130, by December 13, 1980. Depending on the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 80–35837 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Acting Regional Director, Region 6, U.S. Fish and Wildlife Service, Denver, CO 80225

The applicant requests an amendment to his permit PRT 2–7263 (formerly PRT 2–4030) for humpback chub (*Gilia cypha*) to authorize the capture and sacrifice of up to 50 adult females for scientific purposes and enhancement of survival. The primary purpose of the study is to assess gonadal development of this species.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on this application on or before December 17, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 4, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–35690 Filed 11–14–80; 8:45 am]

BILLING CODE 4310–55–M

V 45 N 017 80 UMI

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. W-5036]

Pending Decision To Approve Coal Mining and Reclamation Plan; Carter Mining Co.—Rawhide Mine, Campbell County, Wyo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Carter Mining Company's Rawhide mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of Carter Mining Company's application was published in the **Federal Register** on April 25, 1980, 45 FR No. 80, p. 28001.

Location of lands to be affected by mining:

Mine Name: Rawhide
State: Wyoming
County: Campbell
Township, range, section:
T. 51N., R. 72W.,
Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, Campbell County, Wyoming
T. 52N., R. 72W.,
Secs. 31 and 33, Campbell County, Wyoming

Office of surface mining reference No. WY 0012.

The Rawhide Mine is located about 10 miles north of Gillette, Wyoming along Highway 14–16. Current production at the mine is about 12 million tons per year and mining is by truck and shovel operations. Mining at the Rawhide Mine began in 1976 under a permit issued by the State of Wyoming (State Permit No. 240C) and a life-of-mine approval granted by the U.S. Geological Survey.

The proposed mining plan and modification involves surface mining of about 583 million tons of Federal and fee coal. This modification allows an expanision of existing approved operations on Federal coal lease W-5063. The total permit area would be 7,392 acres of which 4,600 acres would be mined. The operation would include new plant facilities such as a rail spur, coal crusher, coal conveyor, silo and landout facilities.

Coal from the Federal lease would be mined until approximately the year 2008. Final reclamation is scheduled for completion by the end of the year 2016. The average annual coal production would be approximately 22 million tons, with a projected maximum annual production at 24 million tons. Two coal seams would be mined and coal would be shipped out via train.

The U.S. Bureau of Land Management evaluated the impacts of the Rawhide Mine in its final regional and site-specific environmental impact statement (EIS), *Eastern Powder River Coal Basin of Wyoming* (October 1974). The regional analysis, which included the Rawhide Mine, was updated by BLM in the Eastern Powder River Coal EIS (March 1979). OSM has prepared a technical analysis and an environmental assessment and from its analyses, OSM has determined that no significant impacts would occur that have not already been evaluated in these two previously issued EIS's.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of Carter Mining Company's mining and reclamation plan for the Rawhide Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

The applicant's plan was reviewed under 30 CFR Part 211 and some of the performance standards of the permanent program on Federal lands. Amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of the State Program or until implementaion of a Federal program for a State (See FR 77440–47, December 31, 1979). Departmental action on Carter Mining Company's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a permit application or appropriate changes not later than two months after the effective date of the final Wyoming program approval. Upon receipt of this application, OSM will review the application pursuant to 30 CFR Chapter VII, Subchapter D.

The Assistant Secretary for Energy and Minerals decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, other Federal and State agencies, and any public comments received by December 8, 1980.

DATES: All requests for a public meeting must be made by December 8, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Tom Anderson or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Dated: November 12, 1980.

Walter N. Heine,
Director, Office of Surface Mining

[FR Doc. 80-35764 Filed 11-14-80; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 372]

Motor Carriers; Permanent Authority Decisions

Decided: November 3, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 128273 (Sub-386F), filed: February 7, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plumbing, bathroom and electrical fixtures, between Brownwood, TX, Kohler, WI, and Spartanburg, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

[FR Doc. 80-35751 Filed 11-14-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained fron any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service waarrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service propose, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filled within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will

be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–068

Decided: Nov. 7, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Chandler not participating in part.

MC 114840 (Sub-14F), filed October 16, 1980. Applicant: EBY BROTHERS, INC., P.O. Box 9342, Boise, ID 83707. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152301F, filed October 21, 1980. Applicant: LANTER DELIVERY SERVICE, INC., No. 3 Caine Dr., Madison, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–087

Decided: Nov. 3, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 131052 (Sub-1F), filed October 21, 1980. Applicant: J. W. BOYLES, 500 S. Western, P.O. Box 25852, Oklahoma City, OK 73125. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, and (2) *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no package exceeds 100 pounds, between points in the U.S.

MC 151162 (Sub-4F), filed October 21, 1980. Applicant: LOWELL E. CAWOOD d.b.a. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government between points in the U.S.

MC 152222F, filed October 14, 1980. Applicant: GERALD C. HAYES, 6427 South Flora St., Seattle, WA 98108. Representative: Gerald C. Hayes (same address as applicant). Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs), *intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP2–090

Decided: Nov. 6, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 20722 (Sub-41F), filed October 27, 1980. Applicant: M & G CONVEY, INC., 590 Elk St., Buffalo, NY 14240. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 121082 (Sub-20F), filed October 23, 1980. Applicant: ALLIED DELIVERY SYSTEMS INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4–120

Decided: Nov. 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Chandler not participating.

MC 131066F, filed October 15, 1980. Applicant: MIDDLE GEORGIA TRANSPORTATION SERVICES, INC., 181 Bay St., Macon, GA 31206. Representative: William E. Snow (same address as applicant). As a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–051

Decided: Oct. 30, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2788 (Sub-2F), filed October 16, 1980. Applicant: GLOVER TRUCKING CORP., P.O. Box 7206, Holland Station, Suffolk, VA 23437. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., N.W. Washington, D.C. 20006. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government between points in the U.S.

MC 121489 (Sub-21F), filed October 16, 1980. Applicant: NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Ave., Council Bluffs, IA 51501. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 123389 (Sub-55F), filed October 16, 1980. Applicant: CROUSE CARTAGE COMPANY, a corporation, P.O. Box 151, Carroll, IA 51401. Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 152228F, filed October 15, 1980. Applicant: JOHN H. CLEGG, d.b.a. CLEGG MOBILE HOME SERVICE, 1205 South Laurent, Victoria, TX 77901. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152289F, filed October 21, 1980. Applicant: TRICOR AMERICA, INC., 10660 West Higgins Road No. 200, Chicago, IL 60018. Representative: Patrick H. Smyth, 19 South LaSalle Street, Suite 401, Chicago, IL 60603. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government between points in the U.S. and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35750 Filed 11-14-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-4F)]

Consolidated Rail Corporation—Abandonment—At GTW Crossing and Vicksburg in Kalamazoo County, MI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 12, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Consolidated Rail Corporation of a line of railroad known as the GR&I Branch extending from railroad milepost 173.0 at the GTW Crossing to milepost 171.9, the terminus of the line in Vicksburg, a distance of 1.1 miles in Kalamazoo County, MI. A certificate of public convenience and necessity permitting abandonment was issued to the Consolidated Rail Coproration. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, on or before November 28, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-35780 Filed 11-14-80; 8:45 am]
BILLING CODE 7035-01-M

Interpretive Statement; Contract Rates

Decided: November 5, 1980.

On October 14, 1980, the President signed into law the Staggers Rail Act of 1980.[1] Section 208 of that Act added section 10713 to Chapter 107 of title 49 of the United States Code. Section 10713 authorizes railroads and shippers to enter into contracts governing the rates and services on particular movements. It establishes procedures for filing such contracts with the Commission and standards and deadlines by which the Commission approves and disapproves such contracts.

There are a number of questions of construction raised by the Act concerning the standards and procedures which govern rate contracts entered into before the effective date of the Act. The interrelationship between the Commission's own contract rate policy and various provisions of the new Act; as they relate to agreements entered into *prior to* the effective date of the new Act are not clear.

The Commission's contract rate policy[2] is essentially as follows: With respect to agreements entered into *after* November 9, 1978, but *before* October 1, 1980, the Commission views the existence of such a contract as creating a presumption that a proposed rate change in excess of the contract rate is unreasonable in violation of the Interstate Commerce Act.[3] With respect to alleged contracts entered into *before* November 9, 1978,[4] the Commission considers whether, or to what extent, to enforce such agreements on a case-by-case basis in determining whether a proposed rate increase is unreasonable under the Interstate Commerce Act. Specifically, the Commission has stated that it would consider at least three factors in deciding what weight to give the alleged contract: (1) the parties' intent to be bound by the agreement; (2) the shipper's reasonable reliance on the agreement to its detriment; and (3) public interest considerations.

Thus, although the existence of a contract is not necessarily dispositive under the Commission's own contract rate policy, all alleged contract rate agreements entered into prior to the Act are to be considered by the Commission in its adjudication of rate disputes between railroads and shippers. The following provisions of Section 208 of the Staggers Act, however, raise questions concerning the Commission's continuing role with respect to such pre-Staggers Act contracts:

10713(i)(2): The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

10713(j): The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract shall hereafter have the same force and effect as if it had been entered into in accordance with the provisions of this section. Nothing in this section shall affect the rights of the parties to challenge the existence of such a contract.

Section 10713 does not address whether the Commission or the courts should adjudicate a dispute between a shipper and a carrier concerning the (1) existence or (2) the lawfulness of a pre-Act agreement. We have concluded for several reasons that we have authority to adjudicate such disputes and we should continue to exercise such jurisdiction exclusively. Essentially, we conclude that the Staggers Act was designed to maintain the status quo with respect to pre-Act contracts.

First, Section 10713(i)(2) provides that the "exclusive remedy for any alleged breach of a contract entered into *under this section* shall be an action in an appropriate State court or United States district court . . ." (emphasis supplied). Pre-Act contracts were not "entered into under this section." Second, the grandfather provision, Section 10713(j), states that "(n)othing in this section shall affect the rights of the parties to

[1] The Act, with certain exceptions not relevant here, is effective October 1, 1980. See Section 710.

[2] The Commission's first policy statement on contract rates was issued in Ex Parte No. 358–F, *Change of Policy, Railroad Contract Rates*, dated November 9, 1978. The policy statement was elaborated upon and further explained in a subsequent decision issued April 10, 1979 (under the same docket number), and published at 361 I.C.C. 205. The Commission's most recent statement of its contract rate policy was issued on February 21, 1980. See also the statement and regulations published at 49 CFR 1039.

[3] One circumstance that might rebut that presumption would be a case where the Commission determined that a contract rate would not contribute to the going concern value of the carrier as required by 49 U.S.C. 10701(b).

[4] The Commission originally took the position that it would not consider alleged contracts entered into before the November 9, 1978 policy statement. This position was modified by the statement issued February 21, 1980, in which the Commission stated that it would consider such contract allegations, albeit under different criteria than contracts entered into after the November 1978 policy statement.

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challenge the existence of (a pre-Act) contract," but does not mandate that any such challange be determined by the courts.

Third, although the foregoing textual analysis may not be conclusive on the issue of where adjudication is to take place, practical and equitable considerations require an interpretation that the Commission is the most appropriate forum in which to adjudicate such disputes, some of which are still pending before the Commission. If the Commission cannot adjudicate those disputes, the Commission would have to dismiss proceedings now pending before it and the parties would have to institute new lawsuits in court. We believe this would be burdensome on the parties and wasteful of administrative and judicial resources, and therefore contrary to Congressional intent. For example, there are several cases pending before the Commission that involve pre-Act contract disputes. The Commission is prepared to determine whether a contract existed and if so, whether the maximum reasonable rate should be that established in the contract. We do not believe Congress intended, through Section 10713, to divest the Commission of jurisdiction over those cases and require the shipper to begin all over again in the courts.

In sum, we construe Section 10713 as *not* affecting the Commission's jurisdiction, as it existed under prior law, to adjudicate disputes concerning the existence, lawfulness and effect of per-Act contracts, subject, of course, to judicial review.

A second area of ambiguity in the Staggers Act is the standards that are to be applied by the Commission in adjudicating disputes over pre-Act contracts. Should they be the standards set forth in the Commission's own contract rate policy or the narrower standards of Section 10713? The language of Section 10713(j) is ambiguous on this point.

Generally, Section 10713 renders a contract effective and enforceable unless the Commission finds that it would impair the carrier's common carrier obligation to another complaining shipper who is not a party to the contract.[5] See new Section 10713(d)(2)(i). Section 10713 does not authorize the Commission to disapprove a contract that has been filed on grounds other than those specified in that section, such as that the contract establishes a rate level that is unreasonably high or low or that (with limited exceptions) it constitutes unreasonable discrimination against other shippers, carriers or persons.

In contrast, under the Commission's contract policy, a number of additional factors could be considered by the Commission in determining whether the maximum reasonable rate was the rate established in the parties' agreement—in effect, whether to hold the carrier to its agreement. For example, with respect to disputes concerning alleged agreements antedating the policy statement, the Commission has considered (1) the intent of the parties to be bound; (2) detrimental reliance on the agreement by the shipper; and (3) public interest considerations, such as whether the contract rate will contribute to the carrier's going concern value. (See statement issued February 21, 1980.)

We believe Section 10713 was intended to permit the Commission to apply the standards of its own contract rate policy to such pre-Act agreements, rather than the narrower standards of the Act. This construction of the Act is based upon the following considerations.

First, the standards of Section 10713 are to be applied only when a complaint is filed by a shipper (or port) that is not a party to the contract. That is, Section 10713 standards are relevant only to the problem of potential harm to third parties. None of the cases concerning pre-Act contracts involve any such complaints; rather, they are disputes between the parties to the alleged contracts. Thus, the narrow grounds available for challenging post-Act contracts are not readily applicable or relevant to such cases.

Second, we do not believe the Congress intended certain inequitable results that would flow from considering solely the narrow Section 10713 grounds for challenging a contract rate. For example, we believe it would be inequitable to deprive a railroad that entered into an agreement before the Act of grounds for opposing the imposition of a contract rate on a movement when those grounds might have been accepted before the Act, that is, at the time the contract was made or had been in force. It would seem particularly inequitable to do so with respect to agreements made before 1978, when (as our February 1978 policy statement acknowledged) it may have been somewhat uncertain whether such contracts were lawful or binding on the parties. Our view that Congress did not intend rigid contract enforcement is supported by a floor statement by Congressman Dingell, who discussed the grandfather provision (126 Cong. Rec. H8606, 96th Cong. 2d Sess.; September 9, 1980) (emphasis added):

> The provision I support was designed to preserve rights related to preexisting rate agreements whether or not such agreements were previously enforceable. It gives to such contracts the same standing and enforceability as if they were negotiated and signed after the contract provisions of the bill were enacted into law. *But it also preserves the legitimate rights of the railroads by guaranteeing that they will be able to challenge the existence of a previously entered lawful contract.*
>
> *This amendment was not intended to worsen the existing situation of any railroad, but only to preserve the status quo ante* insofar as it concerns the level of rates lawfully maintainable hereafter where rates in effect when the bill is passed reflected those stipulated in an existing agreement. The portion accomplishes this end. * * *

Subsequent remarks by Congressman Dingell give additional support to a construction preserving the applicability of the Commission's flexible pre-Act standards (126 Cong. Rec. H10085–86, 96th Cong. 2d Sess., September 30, 1980) (emphasis added):

> To insure that my amendment extends not further than necessary to preserve the rights of shippers arising out of existing contracts, subsection (j) includes, in its final sentence, a provision allowing railroads to challenge the existence of a lawful contract. Since it was not my intent to preserve more than shippers had prior to the new act, I offered no objection to language consistent with *preserving the status quo.* My amendment intends no worsening of any railroad's existing position under contracts outstanding when the new act becomes effective. *Railroads,* particularly including those small and marginal lines *whose very ability to serve could be impaired by inflexible contract enforcement, will have the benefit of the same safeguards against confiscatory rates as are provided both under existing law,* and elsewhere under this new bill.

Third, the language of Section 10713(j) itself is ambiguous, but does not preclude the Commission from applying pre-Act standards to pre-Act contracts. The first two sentences of the subsection state in pertinent part:

> The provision of this section shall not affect the status of any lawful contract . . . that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract [*i.e.*, pre-Act contract] shall hereafter have the same force and effect as if it has been entered into in accordance with the provision of this section.

The first sentence supports our interpretation by indicating that if, under the Commission's pre-Act policies, a carrier would not be held to its pre-Act agreement, nothing in the Act would change that result. The second sentence could be read to support a contrary conclusion, but it is not clear what is meant by the phrase "same force and effect." We believe the second sentence was intended to ratify the Commission's conclusion in its 1978 and 1980 policy statements that pre-Act contracts were not unlawful per se, and to remove any doubts on that score, but was not intended to give such contracts more force and effect than they would have had under the Commission's pre-Act policy. Again, the interpretation is supported by the remarks of Congressman Dingell, who stated in the debates on September 9, 1980 (126 Cong. Rec. H 8606, 96th Cong., 2d Sess.):

> This subsection dispels any doubts about the standing and enforceability of previously entered rate contracts, particularly those that were entered before the ICC announced its 1978 policy favoring contracts between railroads and shippers.

The considerations supporting our conclusion that pre-Act agreements should continue to be measured by the standards of our previous contract rate policy and not be the new standards of Section 208 provide additional support for our earlier conclusion (discussed at pages 3–4, *supra*) that disputes about the existence, validity and effect of pre-Act agreements should be adjudicated by the Commission in the first instance and not by the courts, and that Section 10713(i)(2) was not intended to require a contrary result. This is so because the standards we apply are uniquely appropriate for pre-Act contracts. The legality of these agreements was subject to some question at the time they were entered into. Therefore, strict application of contract law principles to these agreements would not be equitable or in the interests of a sound national transportation system in many situations.

For example, in determining what weight to give to such an agreement, the Commission may find that the detrimental reliance by a shipper (for example, capital investments made of millions of dollars) outweighs any uncertainty concerning other factors such as whether the parties had a clear intent to be bound. Alternatively, the Commission may decline to give great weight to an agreement if the agreed rate would not contribute to the carrier's going concern value. These considerations involve Commission expertise and are appropriately for the Commission and not the courts to apply in the first instance.

A final area of ambiguity in Section 10713 is whether pre-Act contracts must be reflected with and approved by the Commission. The language of Section 10713 does not contain such a requirement and we do not believe that it should be construed to make the procedures and filing requirements for post-Act contracts applicable to pre-Act contracts. Any conclusion that the filing requirements for post-Act contracts also apply to pre-Act contracts would be inconsistent with our conclusion that Congress did not intend pre-Act contracts to be reviewed and measured by the limited standards set forth in Section 10713. Moreover, a filing requirement for pre-Act contracts could defeat the purposes of Section 10713 as they relate to pre-Act contracts, because a party seeking to avoid its obligations under a pre-Act contract could simply decline to file the contract. Arguably the Act could be construed to permit either party to an alleged contract to file it, but we think that Section 10713 contemplates an agreement between the parties as to rates and service conditions and thus the concurrence of both parties to the filing of contracts setting forth those mutual obligations.

Finally, any conclusion that pre-Act contracts must be filed and approved under Section 10713 before they can be effective would imply that they were without legal effect before such filing and approval. That interpretation, however, is contrary to the language and purpose of Section 10713(j).

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp Concurring.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35779 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

November 12, 1980.

This application for long-and-short haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 2, 1980.

No. 43866, Trans-Continental Freight Bureau, Agent (No. 553), new reduced rates on Motor Vehicles, freight or passenger, from Flint and North Flint, MI, to Pacific Northwest destinations assigned rate basis 1, 2, 3, 5, and 6 in the states of Oregon and Washington. Rates to be published in Items 1845.20, 1845.30, and 1845.40 series of Tariff ICC TCFB 3001–B. Grounds for relief—Motor, Motor-Rail Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35783 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

Railroads; Rerouting Traffic

[I.C.C. Order No. 72; Service Order No. 1344]

In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company, Detroit and Macinac Railway Company and Michigan Northern Railway Company, Incorporated are unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry was severely damaged by high winds.

It is ordered,

(a) *Rerouting traffic.*—The Soo Line Railroad Company, Detroit and Mackinac Railway Company and Michigan Northern Railway Company, Incorporated, being unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service, those lines and their connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.*—In the event the Soo Line Railroad Company, Detroit and Mackinac Railway Company and Michigan Northern Railway Company, Incorporated, cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.*—The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.*—Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due

[5] The Act also provides a few other grounds on which the Commission may disapprove a contract: *i.e.*, if a complaining port establishes that "the proposed contract will result in unreasonable discrimination against such port "(see amended Section 10713(d)(2)(A)(ii), and if a shipper of agricultural commodities demonstrates that the contract constitutes unreasonable discrimination or a "destructive competitive practice" (Section 10713(d)(2)(B)).

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to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.*—This order shall become effective at 9:00 a.m., October 29, 1980.

(h) *Expiration date.*—This order shall expire at 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 29, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-35784 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29506F]

Silver Foot, Inc.—Acquisition and Operation of a Line of Railroad in Stanislaus and Tuolumne Counties, CA

Silver Foot, Inc., Chicago, IL 60611, represented by Scott L. Glickson, of Gordon, Elden, Schlack, Glickson, Gordon Associates, 36th Floor, 444 N. Michigan Avenue, Chicago, IL 60611, hereby gives notice that on the 17th day of October, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the acquisition and operation of a line of railroad in Stanislaus and Tuolumne Counties, CA.

Applicant proposes to acquire and operate a line of railroad between Oakdale, Stanislaus County, CA, and Standard, Tuolumne County, CA. The line is currently owned and operated by the Sierra Railroad Company (Sierra). The line of railroad proposed to be acquired and operated begins at Oakdale, CA (Sierra milepost 0) and extends in a generally northeasterly direction to Standard, CA (Sierra milepost 50). The total number of miles of track proposed to be acquired and operated by Silver Foot is approximately sixty (60), of which 50 miles is main line track and approximately 10 miles is secondary track.

Applicant seeks to acquire only the intrastate and interstate freight operations and assets of Sierra between Sierra milepost 0 and Sierra milepost 50, being the line between Oakdale and Standard, CA. Concurrent with the filing of this application by Silver Foot, Sierra will file a petition for the abandonment of the approximately 7 miles of line beyond its milepost 50.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's Regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degee of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for Applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35781 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 20]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations Intrastate Applications, Gateways, and Pack & Crate

Correction

In FR Doc. 80-20306 appearing on page 45967 in the issue of Tuesday, July 8, 1980 make the following correction:

On page 45975, middle column, the paragraph for Taylor Warehouse & Trucking, Inc., change "MC 130292 F . . ." to read "MC 130929F . . .".

BILLING CODE: 1505-01

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 2, 1981, (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-066

Decided: Nov. 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 200 (Sub-504F), filed October 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting (1) *wearing apparel*, and (2) *accessories* for wearing apparel, between points in Hudson County, NJ, on the one hand, and, on the other, Grand Rapids, MI.

MC 2860 (Sub-212F), filed October 31, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: W. Randall Tye, 1400 Candler Bldg., Atlanta, GA 30303. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, CT, DE, FL, GA, KY, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC, restricted to traffic originating at or destined to the facilities of The Procter & Gamble Company, The Procter & Gamble Manufacturing Company, The Procter & Gamble Distributing Company, The Procter & Gamble Paper Products Company, The Buckeye Cellulose Corporation, The Folger Coffee Company, the The D. H. Food Company.

MC 11220 (Sub-222F), filed October 22, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cullman, AL, and Augusta, GA, over U.S. Hwy 278, (2) between Chattanooga, TN, and Jacksonville, FL, from Chattanooga over U.S. Hwy 41 to Lake City, FL, then over U.S. Hwy 90 to Jacksonville, and return over the same route, (3) between Chattanooga, TN, and Brunswick, GA, from Chattanooga over U.S. Hwy 27 to Columbus, GA, then over U.S. Hwy 280 to Richland, GA, then over GA Hwy 55 To Dawson, GA, then over U.S. Hwy 82 to Waycross, GA, then over U.S. Hwy 84 to Brunswick, and return over the same route, (4) between Atlanta and Savannah, GA, from Atlanta over Interstate Hwy 75 to Macon, GA, then over Interstate Hwy 16 to Savannah, and return over the same route, (5) between Jacksonville, FL, and junction Interstate Hwys 16 and 95, near Savannah, GA, over Interstate Hwy 95, and (6) serving all intermediate points in (1) through (5) above, and serving points in GA, and those in Nassau, Duvall, Clay, Putnam, and St. John Counties, FL, as off-route points.

Note:—Applicant intends to tack this authority with its existing authority at Chattanooga, TN, and points in AL, and GA.

MC 35320 (Sub-617F), filed October 17, 1980. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Over *regular routes*, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Reno and Sparks, NV, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 35320 (Sub-619F), filed October 22, 1980. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Over *regular routes*, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Indianapolis, IN, as an off route point in connection with carrier's otherwise authorized regular route operations.

MC 48441 (Sub-66F), filed October 17, 1980. Applicant: R.M.E. INC., P.O. Box 418, 1820 North Bloomington St., Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *malt beverages* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, between those points in the U.S. in and east of MT, WY, UT, and NM (except points in the upper peninsula of MI), restricted to traffic originating at or destined to facilities used by Miller Brewing Co.

MC 67450 (Sub-106F), filed October 20, 1980. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *non-metallic minerals and ores*, between points in Talladega County, AL, and Bartow and Wilkinson Counties, GA, on the one hand, and, on the other, points in CO, IA, IL, KS, MI, MN, MO, NE, and WI.

MC 85451 (Sub-21F), Filed October 21, 1980. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Ave., Houston, TX 77023. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Houston and Dallas, and points in Galveston County, TX, on the one hand, and, on the other, points in Anderson, Angelina, Aransas, Archer, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Callahan, Cameron, Camp, Cass, Chambers, Cherokee, Clay, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, Dewitt, Duval, Eastland, Ellis, Erath, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kleberg, Lamar, LaSalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, McMullen, Medina, Milam, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Pala Pinto, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Somerell, Starr, Tarrant, Taylor, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller,

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Washington, Webb, Wharton, Wichita, Willacy, Williamson, Wilson, Wise, Wood, Young and Zapata Counties, TX.

MC 105501 (Sub-49F), filed October 27, 1980. Applicant: TERMINAL WAREHOUSE COMPANY, a corporation, 1851 Raddison Road NE., Blaine, MN 55434. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., Saint Paul, MN 55101. Transporting *glass containers*, from Shakopee, MN, to points in IL, IA, MO, ME, ND, SD, WI, and CO.

MC 106920 (Sub-112F), filed October 21, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *materials, equipment and supplies*, used in the manufacture and distribution of foodstuffs, from the facilities of Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI).

MC 108461 (Sub-136F), filed October 27, 1980. Applicant: SUNDANCE FREIGHT LINES, INC., d.b.a. SUNDANCE TRANSPORTATION, 3737 West Buckeye Rd. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Over regular routes*, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Phoenix and Ehrenberg, AZ, from Phoeix over AZ Hwy 85 to Buckeye, AZ, then over Interstate Hwy 10 to Ehrenberg, and return over the same route.

Note.—Applicant intends to tack this authority with its existing authority in MC–108461 Sub-135.

MC–111231 (Sub-320F), filed October 27, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (Same address as applicant). Over *regular routes*, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Springfield, MO and Hoxie, AR, from Springfield over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Hoxie, and return over the same route, (2) between Conway, AR and junction U.S. Hwys 64 and 61, over U.S. Hwy 64, (3) between Dallas and Fort Worth, TX, over U.S. Hwy 80, (4) between Dallas, TX, and Greenville, MS, from Dallas over U.S. Hwy 67 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Greenville, and return over the same route, (5) between Greenville, MS, and Little Rock, AR, from Greenville over U.S. Hwy 82 to junction U.S. Hwy 65, then over U.S. HWY 65 to Little Rock, and return over the same route, and (6) serving all intermediate points in (1) through (5) above.

Note.—Applicant intends to tack this authority with its existing regular route authority.

Condition: Issuance of a certificate in this proceeding is subject to coninçidental cancellation at applicant's written request, of its certificates in No. MC 111231 Sub numbers 14, 22, 28, and 195.

MC 111231 (Sub-321F), filed October 27, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (Same address as applicant). Transporting (1) *prefabraicted horse stalls*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1)above, between points in Adams County, NE, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 111231 (Sub-322F), filed October 21, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (Same address as applicant). Transporting (1)(a) *clay and clay products*, and (b) *materials, equipment and supplies* used in the manufacute, distribution, and installation of clay products, and (2) *materials, equipment, and supplies* used in the manufacutre, application, and installation of urethane products, between points in Jefferson County, AL, Manatee County, FL, Fulton and Webster Sounties, GA, Webster County, IA, Crawford County, KS, Lauderdale County, MS, Jackson County, MO, and Bowie and Bexar Counties, TX, on the one hand, and, on the other, points in AS, AR, AZ, FL, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, NC, NE, NM, OK, SC, TN, TX, VA, WI, and WV.

MC 113751 (Sub-38F), filed October 20, 1980. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (1) *foundry products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Marinette and Waupaca, WI, on the one hand, and, on the other, points in CO, CT, DE, FL, AS, ME, MD, MA, MI, NE, NH, NJ, NM, NY, ND, PA, RI, SD, VT, VA, and WV.

MC 115311 (Sub-402F), filed October 22, 1980. Applicant: J & M TRANSPORTATION CO., INC. P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cast iron products (except commodities in bulk, in tank vehicles), between Council Bluffs, IA, Florence, NJ, Lynchburg, VA, Detroit, MI, Chicago, IL, and New York, NY, on the one hand, and, on the other points in the U.S.

MC 116300 (Sub-84F), filed October 20, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *malt beverages*, and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, between points in AL, AR, GA, FL, LA, MO, NC, TN, and TX.

MC 116810 (Sub-11F), filed October 21, 1980. Applicant: BAIR TRANSPORT, INC., P.O. Box 216, Riverside, NJ 08075. Representative: John W. Frame, 2207 Old Gettysburg Rd., P.O. Box 626, Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in PA, NY, VT, NH, ME, VA and DC.

MC 117730 (Sub-81F), filed October 28, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of Ralston Purina Company.

MC 118570 (Sub-14F), filed October 22, 1980. Applicant: DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with The Procter & Gamble Company, of Cincinnati, OH.

MC 119441 (Sub-53F), filed October 22, 1980. Applicant: BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Pkwy., Dover, OH 44622.

Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture and distribution of iron and steel articles, between those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 119741 (Sub-282F), filed October 21, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting (1) *fireplaces, fireplace accessories, firebrick, and oil and gas space heaters*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Wisconsin Rapids, WI, on the one hand, and, on the other, points in the U.S.

MC 120981 (Sub-32F), filed October 21, 1980. Applicant: BESTWAY EXPRESS, INC., 905 Visco Dr., Nashville, TN 37210. Representative: George M. Catlett, Suite 708 McClure Bldg., Frankfort, KY 40601. *Over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and (1) between Shelbyville and Frankfort, KY, over U.S. Hwy 60, serving no intermediate points, (2) between Lexington and Mt. Sterling, KY, over U.S. Hwy 60, serving all intermediate points, and (3) between Lexington and Berea, KY, over U.S. Hwy 25, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing regular- and irregular-route authority.

MC 124170 (Sub-159F), filed October 22, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with DiGiorgio Corporation and its subsidiaries, of Chatsworth, CA.

MC 124511 (Sub-68F), filed October 20, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *refractories*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of refractories, between Farber and Bonne Terre, MO, on the one hand, and, on the other, points in the U.S.

MC 124511 (Sub-69F), filed October 23, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy. 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *iron and steel articles*, from points in AL, NJ, OH, PA, and TX, to points in IA, KS, and MO.

MC 124821 (Sub-107F), filed October 23, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: Daniel W. Krane, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *such commodities* as are dealt in or used by a manufacturer of television picture tubes, between Scranton, PA, on the one hand, and, on the other, Lebanon, Greenville, and Nashville, TN, and Forest City, AR.

MC 134821 (Sub-9F), filed October 28, 1980. Applicant: DONALD L. DROSTE, d.b.a. DON DROSTE TRUCKING, 1004 West Carroll St., Portage, WI 53901. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting (1) *paper and paper products*, (2) *capsule slurry*, and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Appleton Papers, Inc., of Appleton, WI.

MC 135410 (Sub-78F), filed October 22, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th Street Rd., Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *paper and paper products*, (2) *plastic and plastic articles*, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Stone Container Corporation.

MC 135691 (Sub-46F), filed October 28, 1980. Applicant: DALLAS CARRIERS CORP., P.O. Box 38528, Dallas, TX 75238. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by pharmaceutical house (except commodities in bulk), between points in the U.S., under continuing contract(s) with Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., of Norwich, NY.

MC 136511 (Sub-105F), filed October 20, 1980. Applicant: VIRGINIA APPLACHIAN LUMBER CO., a corporation, 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main St., Altavista, VA 24517. Transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from Atlanta, GA, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 138941 (Sub-45F), filed October 23, 1980. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir St., Pomona, CA 91766. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Xerox Corporation, of Rochester, NY. Condition: Issuance of a permit in this proceeding is conditioned upon the coincidental cancellation, at applicant's written request, of its permit in MC 138941 (Sub-34F).

MC 141010 (Sub-7F), Filed October 20, 1980. Applicant: CONTRACT TRANSPORT, INC., 1433 Illinois St., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *Paper and paper products*, and (2) *Materials and supplies* used in the manfacture and distribution of paper and paper products (except commodities in bulk), between points in the U.S., under continuing contract (s) with Distinctive Packaging, of West Des Moines, IA.

MC 142941 (Sub-72F), filed October 24, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoneix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), (1) Between Chicago, IL, and those points in the U.S. in and west of LA, AR, MO, IA, and WI, and (2) between Deerfield, IL, New Hampton, IA, and points in CO, ID, MT, OR, TX, UT, WA, and WY. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its certificate in MC 142941 Sub-6.

MC 143471 (Sub-29F), filed October 23, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *minerals, stone, and lawn and garden*

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care products, between points in the U.S., under continuing contract(s) with old Dutch Materials Co., of Northbrook, IL, and Pacer Corporation, of Custer, SD.

MC 143621 (Sub-53F), filed October 20, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 219 Whitsett Avenue, P.O. Box 100991, Nashville, TN 37210. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Transporting *metal products, and material handling equipment*, between points in Davidson County, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, MS, MI, MN, MO, OH, PA, TN, TX, and WI.

MC 145861 (Sub-3F), filed October 28, 1980. Applicant: VANTRANS, INC., 11375 Greenwich Rd., Homerville, OH 44235. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *electrical controllers, switches, magnets and rheostat resistors*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Allen Bradley Company of Milwaukee, WI.

MC 150311 (Sub-12F), filed October 22, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1) *alcoholic beverages*, and (2) *material, equipment, and supplies* used in the distribution of alcoholic beverages, between points in CT, IL, KY, MA, MD, NJ, and NY, on the one hand, and, on the other, points in TX.

MC 150391 (Sub-1F), filed October 20, 1980. Applicant: JOE WASHINGTON ROBERTS, d.b.a. WEST TEXAS EXPRESS, 9717 Carnegie Ave., El Paso, TX 79925. Representative: Joe Washington Roberts (same address as applicant). Over *regular routes*, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between El Paso, TX, and Las Cruces, NM, over Interstate Hwy 10 and U.S. Hwy 85, serving all intermediate points.

MC 150561 (Sub-1F), filed October 27, 1980. Applicant: LAW-TON TRUCKING CORP., 7 Cedar Crest Drive, Dix Hills, NY 11746. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *soap, soap products, and materials and supplies* used in the manufacture and distribution of soap and soap products, between points in the U.S., under continuing contract(s) with Sunshine Chemical Corporation, of Comack, NY.

MC 150700 (Sub-4F), filed October 20, 1980. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *containers and container ends*, and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, CT, FL, GA, MD, MS, NC, NJ, NY, PA, SC, and TN.

MC 150880 (Sub-1F), filed October 24, 1980. Applicant: DIPERT COACHES, INC., P.O. Box 580, Arlington, TX 76017. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *passengers and their baggage*, in charter operations, between points in the U.S., under continuing contract(s) with William Daniel Dipert, dba Dan Dipert Travel Service, of Arlington, TX.

Volume No. OP1–067

Decided: October 31, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 144011 (Sub-3F), filed September 26, 1980, and previously noticed in **Federal Register** issue of October 14, 1980. Applicant: HALL SYSTEMS, INC., 214 So. 10th Street, Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, GA, and Birmingham, AL, (a) over Interstate Hwy 20, and (b) over U.S. Hwy 78; (2) between Atlanta, GA, and New Orleans, LA, from Atlanta over Interstate Hwy 85 (also U.S. Hwy 29 to junction U.S. Hwy 80, then over U.S. Hwy 80) to Montgomery, AL, then over Interstate Hwy 65 (also U.S. Hwy 31) to Mobile, AL, and then over Interstate Hwy 10 (also U.S. Hwy 90) to New Orleans, and return over the same routes, serving all intermediate points, in connection with routes (1) to (2) above; and (3) between points within the commercial zones of New Orleans, LA, Atlanta, GA, and Birmingham, Montgomery and Mobile, AL. This republication corrects the highways in (1) above, modifies the route in (2) above, and includes the movement in (3) above.

Note.—Applicant intends to interline at Birmingham, Montgomery and Mobile, AL, Atlanta, GA, and New Orleans, LA, and to tack the rights sought to its existing authority at New Orleans, LA, and Birmingham, AL.

Volume No. OP1–069

Decided: November 4, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

(1) MC 52858 (Sub-124F), filed October 31, 1980. Applicant: CONVOY COMPANY, a Corporation, 3900 N.W. Yeon Ave., Portland, OR 97210. Representative: Raymond A. Greene, Jr., 100 Pine St., Suite 2550, San Francisco, CA 94111.

(2) MC 59531 (Sub-117F), filed October 16, 1980. Applicant: AUTO CONVOY CO., a Limited Partnership, 12200 Park Central Dr., P.O. Box 400300, Dallas, TX 75240. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48103.

(3) MC 106647 (Sub-365F), filed October 16, 1980. Applicant: CLARK TRANSPORT COMPANY, INC., 13101 South Torrence Ave., Chicago, IL 60633. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. The above applications in (1), (2), and (3): Transporting *motor vehicles*, between points in the U.S., under continuing contract(s) with Mazda Motors of America (Central), Inc., of Compton, CA.

Volume No. OP5–049

Decided: October 30, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 17829 (Sub-20F), filed October 21, 1980. Applicant: DISILVA TRANSPORTATION, INC., 50 Middlesex Avenue, Somerville, MA 02145. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019. Transporting *general commodities* (except classes A and B explosives and household as defined by the Commission) having a prior or subsequent movement by rail or water, between Boston, MA, on the one hand, and, on the other, points in MA, ME, NH, RI, and VT.

MC 18088 (Sub-67), filed October 23, 1980. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW., Washington, D.C. 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. under continuing contract(s) with Hoechst Fibers Industries of Spartanburg, SC, Kimberly-Clark Corporation of Neenah, WI, Monsato Company of St. Louis, MO, Fibers and Plastics Company of Columbia, SC, Russell Corporation of Alexander City, AL, Avondale Mills Corporation of Sylacauga, AL, and West Point Pepperell, Inc. of West Point, GA.

MC 26088 (Sub-28F), filed September 22, 1980, previously noticed in **Federal Register** issue of October 14, 1980. Applicant: THE SANDERS TRUCK TRANSPORTATION CO., INC., P.O. Box 457, Augusta, GA 30903. Representative: William Addams, Suite 212, 5299 Roswell Rd., NE., Atlanta, GA 30342. Transporting (1) *cranes, crane parts, machinery, machinery parts, fork lifts, welding machines, dollies, boilers, boiler parts, clay products, steel beams, steel bins, steel and tanks*, and (2) *caprolactam* (in steel drums and bags), between points in GA and SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication corrects the commodity description of the previous publication.

MC 83539 (Sub-540F), filed October 23, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S.

MC 99208 (Sub-15F), filed October 16, 1980. Applicant: SKYLINE TRANSPORTATION, INC., 131 Quincy Ave., P.O. Box 3569, Knoxville, TN 37917. Representative: W. H. Reed, Sr. (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Williamsburg and London, KY, from Williamsburg over U.S. Hwy 25W to junction U.S. Hwy 25, then over U.S. Hwy 25 to London, and return over the same route, (2) between London, KY, and Cincinnati, OH, over U.S. Hwy 25, (3) from Pineville, KY, over U.S. Hwy 25E to junction U.S. Hwy 25, at or near Corbin, KY, (4) from Manchester, KY, over KY Hwy 11 to junction U.S. Hwy 25E, (5) between Manchester and London, KY, (a) over KY Hwy 80, and (b) over the Daniel Boone Parkway, (6) from Manchester, KY, over U.S. Hwy 421 to junction U.S. Hwy 25, (7) from junction U.S. Hwy 25 and KY Hwy 30, over KY Hwy 30 to junction U.S. Hwy 421, (8) from Livingston to McKee, KY, over KY Hwy 89, (9) between Knoxville and Maryville, TN, (a) over TN Hwy 73, and (b) over TN Hwy 33, and (10) between Williamsburg, KY, and Cincinnati, OH, over Interstate Hwy 75, serving all intermediate points in route (1) through (10).

Note.—Applicant intends to tack.

MC 100449 (Sub-123F), filed October 21, 1980. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodites in bulk), from the facilities of Freezer Services, Inc., and Consolidated Pet Foods, Inc., at Amarillo, TX, to those points in the U.S. in and west of MI, OH, KY, TN, and MS, restricted to traffic originating at the named facilities and destined to the indicated destinations.

MC 108119 (Sub-277F), filed October 20, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Per Pierce Butler Route, St. Paul, MN 4410 55104. Transporting (1) *paper mill machinery*, (2) *attachments and accessories* for paper mill machinery, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, between points in Rock County, WI, and Winnebago County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 112288 (Sub-17F), filed October 15, 1980. Applicant: YARBROUGH TRANSFER COMPANY, a corporation, 1500 Doune Street, Winston-Salem, NC 27107. Representative: Charles Ephraim, 406 World Center Building, 918 16th Street, NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (a) between points in NC, SC and VA, and (b) between points in NC, SC and VA, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, PA, TN, WV, and DC.

MC 113678 (Sub-899F), filed October 15, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Henry County, IL, on the one hand, and, on the other, points in the U.S.

MC 113678 (Sub-900F), filed October 15, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Representative: Rober M. Shaner (same address as applicant). Transporting: *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in Alameda, Contra Costa, Sacramento, and Santa Clara Counties, CA, on the one hand, and, on the other, Atlanta, GA; Chicago, IL; Boston, MA; St. Louis, MO; New York, NY; Charlotte and Greensboro, NC; Philadelphia, PA; Greenville, SC; and Memphis, TN.

MC 117068 (Sub-134F), filed October 17, 1980. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Hwy 63, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting (1) *construction equipment and self-propelled articles*, and (2) *materials and supplies* used in the manufacture of the commodities in (1), between points in Union County, SD, on the one hand, and, on the other, points in the U.S.

MC 117519 (Sub-8F), filed October 23, 1980. Applicant: TRANSPORTATION, INC., P.O. Box 362, Ottawa, KS 66067. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *coal*, from the mine site of Clemans Coal Co., near Pittsburg, KS, to points in that portion of MO south of U.S. Hwy. 36 and west of U.S. Hwy. 65.

MC 119988 (Sub-266F), filed October 15, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Angelina County, TX, on the one hand, and, on the other, points in the U.S.

MC 121568 (Sub-59F), filed October 15, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) restricted to traffic originating at or destined to facilities used by Hayes Albion and its affiliates.

Note.—Applicant intends to tack this authority with existing authority in MC–121568.

MC 121568 (Sub-60F), filed October 21, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210.

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Representative: James G. Caldwell (same address as applicant). Transporting *electrical machinery or equipment or supplies,* as described in Item 36 of the Standard Transportation Commodity Code Tariff, between points in the U.S.

MC 125708 (Sub-206F), filed October 24, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *nonferrous metals and nonferrous metal products,* between points in MI, on the one hand, and, on the other, points in the U.S.

MC 128798 (Sub-7F), filed October 22, 1980. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting *paper and paper products, wood pulp, plastic and plastic products,* (except commodities in bulk) between points in the U.S. restricted to traffic originating at or destined to the facilities of Georgia Pacific Corporation, under continuing contract(s) with Georgia Pacific Corporation of Darien, CT.

MC 131068F, filed October 15, 1980. Applicant: BIG VALLEY CORPORATION, d.b.a. GRAND TARGHEE RESORT, Alta, WY, via Route 1, Driggs, ID 83422. Representative: James D. Holman, P.O. Box 129, Idaho Falls, ID 83401. To operate, in interstate or foreign commerce, as a broker, to arrange for the transportation of *passengers and their baggage,* from Pocatello, Idaho Falls, and Jackson, WY, to Alta, ID, and return.

MC 134599 (Sub-188F), filed October 23, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S., under continuing contract(s) with American Cyanamid Co., its affiliates and subsidiaries.

MC 138069 (Sub-10F), filed October 15, 1980. Applicant: LUCIUS, INC., 6075 E. 60th Ave., Commerce City, CO 80022. Representative: Leslie R. Hehl, 1600 Lincoln Center, 1660 Lincoln St., Sen Denver, CO 80264. Transporting *animal feed and pet food,* between Denver, CO, on the one hand, and, on the other, Houston and Galveston, TX, and New Orleans, LA.

Volume No. OP5–050

Decided: October 30, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 110948 (Sub-4F), filed October 16, 1980. Applicant: SOO-SECURITY MOTORWAYS, INC., 60 Eagle Drive, Winnipeg, Manitoba, Canada R3C 2L8. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. In foreign commerce, over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between the port of entry on the international boundary line between the U.S. and Canada at Pembina, ND and Minneapolis, MN, from said port of entry over Interstate Hwy 29 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, and return over the same route; and (2) between the port of entry on the international boundary line between the U.S. and Canada at Portal, ND and Minneapolis, MN, from said port of entry over U.S. Hwy 52 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, and return over the same route, serving all intermediate points in routes (1) and (2) above.

MC 141108 (Sub-11F), filed October 15, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles,* from Sterling and Chicago, IL, to Denver, CO.

MC 142109 (Sub-2F), filed October 21, 1980. Applicant: BRUCE MATTILA, d.b.a. BRUCE MATTILA TRUCKING, 5601 E. Glenmoor, Minnetonka, MN 55343. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *primary metal products, waste or scrap materials, chemicals, non-metallic minerals,* and *materials, equipment, and supplies* used in recycling operations of waste or scrap materials, between points in the U.S., under continuing contract(s) with Spectro Alloys Corporation, of Rosemount, MN. Condition: Issuance of a certificate in this proceeding is conditioned upon cancellation, at applicant's written request, of its outstanding permit in MC 142109 Sub 1 issued June 6, 1977.

MC 142288 (Sub-8F), filed October 20, 1980. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: Virginia Hamilton (same address as applicant). Transporting *cement clinker,* from Tulsa, OK to Medberry, CO.

MC 142999 (Sub-26F), filed October 16, 1980. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with BASF Wyandotte Corporation, of Parsippany, NJ. Condition: Prior or coincidental cancellation, at applicant's written request, of its Permit No. MC-142999 Sub 7F.

MC 142999 (Sub-28F), filed October 16, 1980. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M. St. N.W. Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S. under continuing contract(s) with Ciba-Geigy Corporation of Ardsley, NY.

MC 144678 (Sub-19F), filed October 15, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving points in Saline and Reno Counties, KS, as off-route points in connection with applicant's otherwise authorized regular route operations.

MC 144739 (Sub-6F), filed October 23, 1980. Applicant: BOB'S TRUCK SERVICE, INC., P.O. Box 528, Middletown, OH 45042. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *lumber and lumber products,* between points in Russell County, AL, on the one hand, and, on the other, points in KY, IN, and OH.

MC 144779 (Sub-7F), filed October 17, 1980. Applicant: AHA, INC., Box 158, Panguitch, UT 84759. Representative: Glen M. Hatch, 80 West Broadway, Suite 300, Salt Lake City, UT 84101. Transporting *lumber, forest products,* and wood residuals, from Escalante, UT, to points in OK, AZ, NV, ID, and CO.

MC 145108 (Sub-26F), filed October 21, 1980. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. Transporting (1) *excelsior and excelsior products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with PPS Packaging Company, of Santa Fe Springs, CA.

MC 145738 (Sub-21F), filed October 14, 1980. Applicant: EAST WEST MOTOR FREIGHT, INC., P.O. Box 607 Highway 45 South, Selmer, TN 38375. Representative: Sonny C. Curtner (same address as applicant). Transporting carpet padding and backing, wood and foam products, and insulation and wood excelsior products, between Marinette and Rice Lake, WI, Englewood, CO, and Russelville, KY, on the one hand, and, on the other, points in the U.S.

MC 146078 (Sub-11F), filed October 21, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72701. Transporting *plastic articles, materials, equipment and supplies* used in the manufacture and distribution of plastic articles, between Bakersfield and Woodland, CA, Covington, GA, Canan Daiqua and Macedon, NY, Lowell, MS, Washington, NJ, Jacksonville and Frankfurt, IL, Temple, TX, Shawnee, OK, on the one hand, and, on the other, points in the U.S (except AK and HI), restricted to traffic originating at or destined to the facilities of the Mobil Chemical Company.

MC 146078 (Sub-30F), filed October 21, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *television cabinets, tape recorders, wire recorders, and household applicances,* (2) *accessories* for the commodities in (1), and (3) *materials and accessories* used in the manufacture and distribution of the commodities in (1), (a) from the facilities of the General Electric Company, at Little Rock, AR, to points in TX, OK, LA, MS, and NM, and (b) from the facilities of the General Electric Company in AL, IN, MD, VA, IL, WI, TN, and KY, to the facilities named in (a).

MC 146148 (Sub-13F), filed October 23, 1980. Applicant: B-RIGHT TRUCKING CO., 492 Old St. Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *engines, generators, machinery,* and *oil field equipment,* between points in the U.S., under continuing contract(s) with Power Equipment, Inc., of Youngstown, OH, and its subsidiaries.

MC 146568 (Sub-9F), filed October 21, 1980. Applicant: PHOENIX BIRD, INC., Suite 118, 1 Neshaminy Plaza, Street Road & Bristol Pk., Cornwells Heights, PA 19020. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. Transporting: *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) between all points in the U.S. under continuing contracts(s) with Cosmair, Inc., of Clark, NJ.

MC 148868 (Sub-2F), filed October 15, 1980. Applicant: MALM CO., INC., 908 Denargo Market, Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Community Code, between points in Galveston and Harris Counties, TX, Orleans Parish, LA, and Harrison County, MS, on the one hand, and, on the other, points in CO.

MC 150788 (Sub-1F), filed October 17, 1980. Applicant: SPECIAL SERVICE DELIVERY CO. OF MICHIGAN, INC., 10174 Highland Rd., Pontiac, MI 48054. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by cosmetics manufacturers, (except commodities in bulk), between Detroit, MI, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 152189F, filed October 15, 1980. Applicant: GARY LEE EDWARDS d.b.a. EDWARDS TRUCKING COMPANY, 145 Bellevue Ave., Rutland, VT 05701. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Transporting *building materials and materials equipment, and supplies* used in the manufacture and distribution of building materials, between points in the U.S. under continuing contract(s) with STO Energy Conservation, INc., of Rutland, VT.

MC 152229F, filed October 15, 1980. Applicant: SALINAS TRUCK BROKERS, INC., 730 Airport Blvd., Salinas, CA 93202. Representative: Ben Ryburn (same address as applicant.) Transporting *general commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between points in Pulaski County, AR, on the other hand, and, on the other, points in the U.S.

Agatha Mergenovich,

Secretary.

[FR Doc. 80-35749 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. f—72

The following applications were filed in Region 1. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 28536 (Sub-1–1TA), filed September 23, 1980. Applicant: FOX & GINN, INC., 207 Perry Road, Bangor, ME 04401. Representative: Elliot Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *Common carrier:* regular route: *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) between Milford, ME, and the International Boundary line between the U.S. and CD near Fort Kent,

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ME, from Milford; over U.S. Hwy 2 to junction U.S. Hwy 1, *then over U.S. Hwy 1 to Fort Kent and then over U.S. 1* to the International Boundary line, and return over the same route, serving all intermediate points; Request (2)–(10) be omitted from this Republication. Authority is requested to serve all points *within the Commercial Zones of the above-designated points.* The purpose of this Republication is to add data omitted from **Federal Register** Vol. 45, No. 209, October 27, 1980, Page 70995.

MC 142999 (Sub-1–4TA), filed October 31, 1980. Applicant: TRANSPORT MANAGEMENT SERVICE, Box 39, Burlington, NJ 08016. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, D.C. *Contract carrier:* irregular routes: *General commodities (except household as defined by the Commission and Classes A and B explosives)* between the facilities of Delaware Valley Shippers Associations, Inc., at or near Bristol, PA, on the one hand, and on the other, points in CA, IL, and TX. Supporting shipper: Delaware Valley Shippers Association, Inc., 2209 Farragut Avenue, Bristol, PA 19007.

MC 59570 (Sub-1–3TA), filed >October 30, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: James B. Callanan, 2075 Lakewood Road, Toms River, NJ 08753. *Pig Iron* between points in NJ, NY, and PA. Supporting shipper: Jim Walter Resources, Inc., Suite 222, Two Berea Commons, Berea, Ohio 44017.

MC 139076 (Sub-1–1TA), filed October 31, 1980. Applicant: MID-COAST TRUCKING, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, Esq., 1430 Land Title Bldg., Philadelphia, PA 19110. *Contract carrier:* irregular routes: *Such commodities as are dealt with by wholesale, retail, chain grocery and food business houses* from Clinton, NJ to Central Islip, NY, under continuing contract(s) with general Foods, Inc. Supporting shipper: General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 152318 (Sub-1–2TA), filed October 29, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *(1) Such commodities as are dealt in or used by food business houses, drug and variety stores. (2) and materials, supplies and equipment used in the manufacture, distribution, packaging and sale of the commodities in (1), (except in bulk in (1) and (2) above),* between Bohemia, NY, on the one hand, and, on the other, points in NY, NJ, CT, and PA. Supporting shipper: Stay-See Packaging, Inc., Rush Brush International, Ltd.; No Frills Food, Inc., 40 Aero Road, Bohemia, NY.

MC 144709 (Sub-1–3TA), filed November 3, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *Commodities in bulk* between points in the US except AK and HI on traffic originating at or destined to the facilities and subsidiaries of Westvaco Corporation. Supporting shipper: Westvaco Corporation, 299 Park Avenue, New York, NY 10017.

MC 139330 (Sub-1–3TA), filed November 3, 1980. Applicant: F.V.T., INC., 106 Howard Drive, Williamstown Junction, NJ 08094. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. *Insulation, and materials used in the manufacture and distribution of insulation,* between Lorton, VA, on the one hand, and, on the other, points in PA, NY, NJ, DE, MD, VA, WV, KY, NC, and OH. Supporting shipper: Cellin Manufacturing, Inc., P.O. Box 224, Lorton, VA 22079.

MC 151959 (Sub-1–3TA), filed November 3, 1980. Applicant: TRANS-COPPER EXPRESS, CO., 512–514 State Fair Boulevard, Syracuse, NY 13204. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Springs, NY 13160. *Stoves, stove attachments, stove parts, furnace pipe and materials and supplies used in the manufacture, assembly and distribution of stoves* between the facilities of Thor Metal Products Co., Inc. at or near Syracuse, NY, on one hand, and, on the other, points in CT, GA, IL, IN, MA, MI, MN, NC, NJ, OH, OK, PA, SC, TN, TX, VA, WI and WV. Supporting shipper: Thor Metal Products Co., Inc., 5894 East Molloy Road, E. Syracuse, NY 13057.

MC 152524 (Sub-1–1TA), filed November 6, 1980. Applicant: COLONIAL EXPRESS, INC., 4 Alger Street, S. Boston, MA 02127. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. *Contract carrier:* irregular routes: *General commodities, except household goods and classes A and B explosives,* between points in MA on the one hand, and, on the other, points in ME, NH, CT, RI, MA, VT, NY, NJ, PA, MD, and OH under continuing contract(s) with Colonial Terminals, Inc., Boston, MA. Supporting shipper: Colonial Terminals, Inc., 4 Alger Street, Boston, MA 02127.

MC 111504 (Sub-1–1TA), republication filed November 7, 1980. Applicant: STARR TRANSIT CO., INC., 2531 E. State Street, Trenton, NJ 08619. Representative: Alan R. Squires, Esq., Steinberg, Greenstein, Gorelick & Price, 818 Widener Building, 1339 Chestnut Street, Philadelphia, PA 19107. *Common carrier:* regular routes: (A) *Passengers and their baggage in the same vehicle with passengers* over regular routes between Levittown, PA and Atlantic City, NJ, serving all intermediate points, beginning in Levittown, PA on the corner of Olds Boulevard and Queen Anne Drive to Oxford Valley Road north to Route 1 south to the intersection of Route 95, south to Route 132, west to the intersection of Hulmeville Road and Route 132 in Bensalem, PA; thence, reversing on Route 132 going south to Route 95, south to the Walt Whitman Bridge to the Atlantic City Expressway to Atlantic City, NJ, and return over the same route; (B) *Passengers and their baggage in the same vehicle with passengers* between Richboro, PA, and Atlantic City, NJ, serving all intermediate points, beginning in Richboro, PA on Route 232, thence south on Route 232 to the intersection of Route 132 and Route 232 in Feasterville, PA; thence south on route 132 to the intersection of Route 132 and Hulmeville Road in Bensalem; thence, south on Route 132 to Route 95 south to the Walt Whitman Bridge to the Atlantic City Expressway to Atlantic City, NJ,and return over the same route. This application is supported by 36 witnesses whose affidavits can be reviewed at the Regional Office of the ICC in Boston, MA.

MC 129909 (Sub-1–1TA), filed November 3, 1980. Applicant: T & B LEASING INC., 622 Bay Blvd., Bayville, NJ 08721. Representative: Anthony Trafícant, 622 Bay Blvd., Bayville, NJ 08721. *Crude iron oxide, in bulk* between points in AL, GA, KY, MI, OH, and TN on the one hand, and, on the other, DE, MD, NJ, NY, and PA. Supporting shipper: Hansen Engineering, Inc., 5500 School Road, Petersburg, MI 49270.

MC 140608 (Sub-1–2TA), filed November 4, 1980. Applicant: BENTLEY WARREN, d.b.a. BENTLEY WARREN TRUCKING, 89 Newburyport Turnpike, Ipswich, MA 01938. Representative: Ignatius C. Goode, 132 Harris Road, Nashua, NH 03062. *Hazardous waste, in bulk, in dump trailers,* between points in the states of CT, ME, MA, NH, NY, NJ, NC, OH, PA, RI, SC, and VT. Supporting shipper: Bond Bros., Inc., 145 Spring St., Everett, MA 02149.

MC 128343 (Sub-1–20TA), filed November 4, 1980. Applicant: C–LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, N.W., Washington, DC 20036. *Contact carrier:* irregular route: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between all points in the US, under continuing contracts with Bostitch, a division of Textron, Inc., of East Greenwich, RI. Supporting shipper: Bostitch, a division of Textron, Inc., Briggs Drive, East Greenwich, RI 02818.

MC 128343 (Sub-1–19TA), filed November 4, 1980. Applicant: C-LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, NW., Washington, DC 20036. *Contract carrier:* irregular route: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between all points in the U.S., under continuing contract with George Mann & Company, Inc., of Providence, RI. Supporting shipper: George Mann & Company, Inc., Harbor Blvd., Municipal Dock, Providence, RI 20901.

MC 152479 (Sub-1–1TA), filed November 5, 1980. Applicant: WABASH EXPRESS, INC., 2 Warwick Road, Stratford, NJ 08084. Representative: James H. Sweeney, 468 Kentucky Avenue, Williamstown, NJ 08094. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Philadelphia, PA and its commercial zone, on the one hand, and, on the other, points in DE, NJ and PA. Supporting shipper: Springmeier Shipping Company, 1123 Hadley St., St. Louis, MO 63101.

MC 145044 (Sub-1–1TA), filed November 6, 1980. Applicant: FOREDECK TRANSPORTATION CO., INC., P.O. Box 142, Oak Ridge, NJ 07438. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA, on the one hand, and, on the other, points in AR, IL, KS, MS, MO, NE, OK, TN, and TX. Restricted to the transportation of traffic moving on freight forwarder bills of lading. Supporting shipper: Springmeier Shipping Company, 1123 Hadley St., St. Louis, MO 63101.

MC 138574 (Sub-1–1TA), filed November 6, 1980. Applicant: NORTHERN EXPRESS, INC., 31 Virginia Avenue, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Pharmaceutical products, and accessories thereof, chemicals, and toilet preparations, except in bulk,* between Belvidere, NJ, on the one hand, and, on the other, points in CT and NY and Port Elizabeth and Port Newark, NJ. Supporting Shipper: Hoffman LaRoche, P.O. Box 200, Belvidere, NJ.

MC 112963 (Sub-1–8TA), filed November 4, 1980. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. *Plasticizer, in bulk, in tank vehicles, and materials used in the manufacture of plasticizer,* between the facilities of Polyvinyl chemical industries at Wilmington, MA on the one hand, and, on the other, points in the U.S. Supporting shipper: Polyvinyl Chemical Industries Division (Beatrice Foods Company), 730 Main Street, Wilmington, MA 01887.

MC 152450 (Sub-1–1TA), filed November 3, 1980. Applicant: WEGMAN'S FOOD MARKETS, INC., 1500 Brooks Avenue, Rochester, NY 14603. Representative: Guy D. Richardon, 3596 Ransomville Road, Ransomville, NY 14131. *Foodstuffs (Except frozen and commodities in bulk)* between Rochester, NY and all points in the states of CT, DE, DC, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV. Supporting shipper: Gioia Maranoni Co., Bravo Division, 89 Canal Street, Rochester, NY 14608.

MC 151977 (Sub-1–3TA), filed November 4, 1980. Applicant: BAY STATE CONTRACT CARRIER, INC., 183 Hooper Street, Tiverton, RI 02878. Representative: William F. Poole, 41 Bea Drive, North Kingstown, RI 02852. *Contract carrier;* irregular routes: *Green salted lamb pelts, equipment, supplies and related accessory items,* between the States of TX and CO and Winchester, NH under a continuing contract with A. C. Lawrence Leather, Inc., Winchester, NH. Supporting shipper: A. C. Lawrence Leather, Inc., 1 Bridge Street, Winchester, NH 03470.

MC 152279 (Sub-1–1TA), filed November 4, 1980. Applicant: 747 TRUCKING, INC., Bingham Road, Marlboro, NY 12542. Representative: Joseph B. Carr, Esq., c/o McClung, Peters and Simon, 41 State Street, Suite 400, Albany, NY 12207. *Contract carrier;* irregular routes: *Such merchandise as is dealt in by wholesale, retail and chain grocery and drug stores and in connection therewith equipment, materials and supplies used to conduct such business,* from all points in NY to Wakefern Food Corporation's facilities in Elizabeth, NJ, under continuing contracts with Wakefern Food Corporation, Elizabeth, NJ. Supporting shipper: Wakefern Food Corporation, 600 York St., Elizabeth, NJ 07206.

MC 142114 (Sub-1–2TA), filed November 4, 1980. Applicant: RETAIL EXPRESS INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs),* between points in CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, and WV. Supporting shipper: Marshalls Division, Melville Corporation, 83 Commerce Way, Woburn, MA 01801.

MC 128343 (Sub-1–18TA), filed November 4, 1980. Applicant: C–LINE INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, N.W., Washington, D.C. 20036. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between all point in the US, under continuing contract with Victor Electric Wire & Cable Corp. of W. Warwick RI. Supporting shipper: Victor Electric Wire & Cable Corp., 618 Main Street, W. Warwick, RI 02893.

MC 63411 (Sub-1–1TA), filed November 5, 1980. Applicant: BERGEN EXPRESS INC., 23 Terminal Road, Lyndhurst, NJ 07071. Representative: Cornelius Kasten, 23 Terminal Road, Lyndhurst, NJ 07071. *Cleaning Compounds, Chemicals, and Refrigeration Supplies, in packages,* between the New York Commercial Zone on the one hand, and, on the other, points in the States of CT, NY and PA. Supporting shipper: Albert Pariser, Pariser Industries, Inc., 1010 Clifton Ave., Clifton, NJ 07013.

MC 152529 (Sub-1–1TA), filed November 6, 1980. Applicant: JUSTICE ENTERPRISES, 772 Kings Highway, Mickleton, NJ 08056. Representative: Gilbert L. Justice, Jr., 772 Kings Highway, Mickleton, NJ 08056. *Containerized diesel engine parts,* from the Port of Philadelphia, PA to Erie, PA. Supporting Shipper: Harper Robinson & Co., P.O. Box 75, Essington, PA 19029.

MC 151740 (Sub-1–1TA), filed November 4, 1980. Applicant: LARRYMAR CORPORATION, P.O. Box 5, Route 541, Mt. Holly, NJ 08060. Representative: Raymond A. Thistle, Jr.,

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Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Contract carrier:* irregular route: *Asphalt and asphalt products* from Jessup, MD to Barrington, NJ and from Kearny, NJ to Jessup, MD. Supporting shipper: Trumbull Asphalt Division of Owens-Corning Fibreglas Corporation, 59th and Arch Rd., Summit, IL 60501.

MC 98752 (Sub-1–1TA), filed November 6, 1980. Applicant: ZEPHYR LINE, INC., 84 Western Avenue, West Springfield, MA 01089. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Such commodities as are dealt in by retail department stores (except commodities in bulk),* between West Springfield, MA, on the one hand, and, on the other, points in NY and VT, restricted to traffic originating at or destined to the facilities of King's Department Stores, Inc. and its subsidiaries. Supporting shipper: King's Department Stores, Inc., 150 California Street, Newton, MA 02150.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St. Room 620, Philadelphia, PA 19106.

MC 149510 (Sub-II–5-TA), filed November 3, 1980. Applicant: TOWER LINES, INC., 3rd & Warwood Avenue, Wheeling, WV 26003. Representative: George V. Thieroff (same as applicant). *Contract Irregular: General Commodities* (except household goods as defined by the Commission and classes A and B explosives), Between Wheeling, WV, Jersey City, NJ, Parsippany, NJ, Hammonton, NJ, Hawthorne, NJ, Jeffersonville, IN, Elkhart, IN, and Buffalo, NY, for 270 days. An underlying ETA seeks 120 authority. Supporting shipper: Wheeling Stamping Company, North 8th and Hazlett Ave., Wheeling, WV 26003.

MC 5470 (Sub-II–10TA), filed November 3, 1980. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street, NW., Washington, D.C. 20006. *Pig iron, and materials and supplies* used in the manufacture of pig iron, between Keokuk, IA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Foote Mineral Company, Route 100, Exton, PA, 19341.

MC 138714 (Sub-II–4TA), filed November 3, 1980. Applicant: VIRGINIA TRANSPORTATION, INC., Box 26449, Richmond, VA 23261. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. Contract carrier; irregular: *electrical household and entertainment appliances and parts, and materials and supplies used in the distribution and sale thereof,* between points in IN, MD, PA, OH, IL, MO, KY, WV, VA, TN, NC, SC, GA, DC, TX and OK, under continuing contract(s) with Wards Company, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Wards Company, Inc., 2040 Thalbro St., Richmond, VA 23230.

MC 150954 (Sub-II–7TA), filed November 3, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Dragline, dipper buckets, skidder blades, equipment and supplies used in the manufacture, sale and distribution thereof,* between the Counties of Multnomah, OR; Roosevelt, MT; Vermillion and Cook, IL; Cuyahoga, OH; Newton, MS; Philadelphia, PA; Baltimore City, MD and Essex, NJ and Roosevelt, MT; Vermillion, IL; Newton, MS and Multnomah, OR for 270 days. Supporting shipper: George V. Foley, Esco Corporation, 2141 N. W. 25th Ave., Portland, OR 97210.

MC 134029 (Sub-II–1TA), filed November 3, 1980. Applicant: SIGEL'S HAULING, INCORPORATED P.O. Box 286, Cadiz, OH 43907. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Quarry equipment* between points in Boyd, Carter and Greenup Counties, KY, Adams, Ashtabula, Columbiana, Cuyahoga, Jackson, Jefferson, Lawrence, Mahoning, Medina, Ottawa, Pike, Portage, Scioto, Stark, Summit, Trumbull Counties, OH, Allegheny, Beaver and Cambria Counties, PA and Hancock County, WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Standard Slag Company, 1200 Stambaugh Building, Youngstown, OH 44501.

MC 148459 (Sub-II–2TA), filed November 4, 1980. Applicant: ACME VAN SERVICE, INC., 1340 Chesapeake Ave., Baltimore, MD 21226. Representative: William D. Dailey (Same as applicant). *Used household goods restricted to transportation of traffic having prior or subsequent movement, in container beyond the pts. authorized and further restricted to the performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, inventory and decontainerization of such traffic,* between Baltimore City, Anne Arundel County, Howard County, Prince Georges County, Baltimore County, Carroll County, Montgomery County, Harford County, Cecil County, Kent County, all within the State of MD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Procurement Directorate, Aberdeen Proving Grounds, MD 21005.

MC 114301 (Sub-II–3TA), filed November 4, 1980. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Wash., DC 20005. *Liquid fertilizer,* from Smyrna, DE, to pts. in MD, NJ, PA and VA, for 270 days. Supporting shipper: Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101.

MC 68860 (Sub-II–2TA), filed November 3, 1980. Applicant: RUSSELL TRANSFER, INC., 5259 Aviation Dr., NW., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same as applicant). *Salt and salt products in packages* from the facilities of the Morton Salt Division of Morton-Norwich Products, Inc. at Rittman, OH (Wayne Co.) and Fairport, OH (Lake Co.) to points in the states of VA, NC, SC, and WV for 270 days. Supporting shippers: Morton Salt Division of Morton Norwich Products, Inc., 110 North Wacker Dr., Chicago, IL 60606.

MC 2202 (Sub-2–17TA), filed November 3, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Common, regular: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment):* Between Ames and Boone, IA serving all intermediate points and points in their commercial zones, for 270 days. An underlying ETA seeks 120 days' authority. Applicant proposes to tack the authority sought herein with its regular routes at Ames, IA. Applicant proposes to interline at existing gateways throughout its system. Supporting shipper: Boone Interprise, Industrial Park, Boone, IA 50036. Corp. Gates Rubber, P.O. Box 637, Boone, IA 50036.

MC 70832 (Sub-II–1TA), filed November 3, 1980. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17405. Representative: S. Harrison Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, D.C. 20005. *Common; Regular: General commodities, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* between Harrisburg, PA and points in its commercial zone, and Pittsburg, PA, and points in its commercial zone, via U.S. Hwy. 30, serving all intermediate points, and as off-route points, those points in PA, on, south, and west of a line beginning at the intersection of I. Hwy. 80, and the PA–OH State line, then east along I. Hwy. 80, to its intersection with U.S. Hwy. 15, near Milton, PA, then south along U.S. Hwy. 15 to its intersection with the PA–MD State Line for 270 days. Applicant intends to tack authority sought herein with authority held under MC–70832. Applicant intends to interline at Harrisburg and Pittsburgh, PA. An underlying ETA seeks 120 days authority. Supporting shipper: There are 18 supportiing shippers. Their statements may be examined at the ICC Regional Office, Phila., PA.

MC 152315 (Sub-II–1TA), filed November 3, 1980. Applicant: MARYLAND MESSENGER SERVICE, INC., 16 Albermarle St., Baltimore, MD 21202. Representative: Philip Kramer, (Same as applicant). *Inter-office supplies, parcels, medical supplies and equipment, legal documents and spare parts,* from Baltimore, MD to pts. in DC and northern VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): National Institute of Health, DHHS, Bldg. 31, Rm. 3C–31, Bethesda, MD 20205.

MC 152460 (Sub-II–1TA), filed November 3, 1980. Applicant: ROW-DOM, INC., 1 Washington St., Cumberland, MD 21502. Representative: John H. LeSeur, 1224 17th St., NW., Washington, DC 20036. *Contract; irregular:* (1) *Synthetic fibre yarn and yarn products* and (2) *equipment, materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk),* between the facilities of Celanese Fibres Co. at or near Cumberland, MD on the one hand and on the other, Baltimore, MD, and points in its commercial zone, after prior or for subsequent transportation in interstate or foreign commerce for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Celanese Fibres Co., P.O. Box 1414, Charlotte, NC.

MC 35980 (Sub-II–1TA), filed November 3, 1980. Applicant: M-B TRANSPORT, INC., 1941 Land Rd., Jamison, PA 18929. Representative: Francis W. Doyle, 323 Maple Ave, Southampton, PA 18966. *Coal, in bulk, in dump vehicles,* From Schuykill County, PA. To Camden, NJ, having an immediate subsequent move by water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Alla Ohio Valley Coals, Inc., 1015 15th St., NW., Suite 1050, Washington, D.C. 20005.

MC 59957 (Sub-2–6TA), filed November 5, 1980. Applicant: MOTOR FREIGHT EXPRESS, P.O. Box 1029, York, PA 17405. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Common: Regular: General commodities (except Classes A and B explosives, commodities in bulk, and household goods as defined by the Commission).* (1) Between Portsmouth, NH and South Hill, VA: From Portsmouth, NH over U.S. Hwy 1 to South Hill, VA, and return over the same route. (2) Between Portsmouth, NH and Emporia, VA: From Portsmouth, NH over I–Hwy 95 to Emporia, VA and return over the same route. (3) Between Boston, MA and Madison, WI: From Boston, MA over I–Hwy 90 to Madison, WI, and return over the same route. (4) Between Boston, MA and Silver Creek, NY: From Boston, MA over U.S. Hwy 20 to Silver Creek, NY, and return over the same route. (5) Between Erie, PA and Dubuque, IA: From Erie, PA over U.S. Hwy 20 to Dubuque, IA, and return over the same route. (6) Between Providence, RI and Davenport, IA: From Providence, RI over I–Hwy 84 to Scranton, PA, then over I–Hwy 81 to Hazleton, PA, then over I–Hwy 80 to Davenport, IA, and return over the same route. (7) Between Providence, RI and Joliet, IL: From Providence, RI over U.S. Hwy 6 to Joliet, IL, and return over the same route. (8) Between Peru, IL and Davenport, IA: From Peru, IL over U.S. Hwy 6 to Davenport, IA, and return over the same route. (9) Between New York, NY and St. Louis, MO: From New York, NY over I–Hwy 78 to Lickdale, PA, then over I–Hwy 81 to Carlisle, PA, then over I–Hwy 76 to New Stanton, PA then over I–Hwy 70 to St. Louis, MO and return over the same route. (10) Between New York, NY and Harrisburg, PA: From New York, NY over U.S. Hwy 22 to Harrisburg, PA, and return over the same route. (11) Between the junction of U.S. Hwy 15 and U.S. Hwy 22 (near Amity Hall, PA) and Cambridge, OH: From the junction of U.S. Hwy 15 and U.S. Hwy 22 (near Amity Hall, PA) over U.S. Hwy 22 to Cambridge, OH, and return over the same route. (12) Between Atlantic City, NJ and Clinton, IA: From Atlantic City, NJ over U.S. Hwy 30 to Clinton, IA, and return over the same route. (13) Between Atlantic City, NJ and Hershey, PA: From Atlantic City, NJ over U.S. Hwy 322 to Hershey, PA and return over the same route. (14) Between Atlantic City, NJ and Baltimore, MD: From Atlantic City, NJ over U.S. Hwy 40 to Baltimore, MD, and return over the same route. (15) Between Hagerstown, MD and Washington, PA: From Hagerstown, MD over U.S. Hwy 40 to Washington, PA, and return over the same route. (16) Between Baltimore, MD and Breezewood, PA: From Baltimore, MD over I–Hwy 70 to Breezewood, PA, and return over the same route. (17) Between Ocean City, MD and St. Louis, MO: From Ocean City, MD over Hwy 50 to St. Louis, MO, and return over the same route. (18) Between Washington, DC and Frederick, MD: From Washington, DC over I–Hwy 270 to Frederick, MD, and return over the same route. (19) Between Virginia Beach, VA and Middlesboro, KY: From Virginia Beach, VA over U.S. Hwy 58 to Middlesboro, KY, and return over the same route. (20) Between Virginia Beach, VA and Cairo, IL: From Virginia Beach, VA over U.S. Hwy 60 to Cairo, IL, and return over the same route. (21) Between Allen (Floyd County), KY and Columbus, KY: From Allen (Floyd County), KY over KY Hwy 80 to Columbus, KY and return over the same route. (22) Between Bluefield, WV and Cincinnati, OH: From Bluefield, WV over U.S. Hwy 52 to Cincinnati, OH, and return over the same route. (23) Between Dubuque, IA and the junction of U.S. Hwy 41 and U.S. Hwy 52 (near Kentland, IN): From Dubuque, IA over U.S. Hwy 521 to the junction of U.S. Hwy 41 and U.S. Hwy 52 (near Kentland, IN) and return over the same route. (24) Between New Castle, PA and Huntington, IN: From New Castle, PA over U.S. Hwy 224 to Huntington, IN, and return over the same route. (25) Between Uhrichsville, OH and Decatur, IL: From Uhrichsville, OH over U.S. Hwy 36 to Decatur, IL, and return over the same route. (26) Between Springfield, IL and Hannibal, MO: From Springfield, IL over U.S. Hwy 36 to Hannibal, MO, and return over the same route.

(27) Between Peoria, IL and Taylor, MO: From Peoria, IL over U.S. Hwy 24 to Taylor, MO, and return over the same route. (28) Between Monroe, MI and Cambria Junction, MI: From Monroe, MI over MI Hwy 50 to Cambria Junction, MI, and return over the same route. (29) Between Clinton, MI and Chicago, IL: From Clinton, MI over U.S. Hwy 12 to Chicago, IL, and return over the same route. (30) Between Richmond, VA and Benton Harbor, MI: From Richmond, VA over U.S. Hwy 33 to Benton Harbor, MI, and return over the same route. (31) Between Harrison, NJ and Binghamton, NY: From Harrison, NJ over NJ Hwy 17 to the NJ–NY State line, then over NY

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Hwy 17 to Binghamton, NY, and return over the same route. (32) Between Concord, NH and Wilmington, DE: From Concord, NH over U.S. Hwy 202 to Wilmington, DE, and return over the same route. (33) Between Concord, NH and Lexington, MA: From Concord, NH over U.S. Hwy 3 to Lexington, MA, and return over the same route. (34) Between Boston, MA and Troy, NY: From Boston, MA over MA Hwy 2 to MA–NY State line, then over NY Hwy 2 to Troy, NY, and return over the same route. (35) Between Williamstown, MA and Norwalk, CT: From Williamstown, MA over U.S. Hwy 7 to Norwalk, CT, and return over the same route. (36) Between Manchester, NH and East Lyme, CT: From Manchester, NH over NH Hwy 101 to Milford, NH, then over NH Hwy 13 to the MA–NH State line, then over MA Hwy 13 to Fitchburg, MA, then over MA Hwy 12 to Auburn, MA, then over MA Hwy 52 to the CT–MA State line, then over CT Hwy 52 to East Lyme, CT, and return over the same route. (37) Between Glen Falls, NY and North Cape May, NJ: From Glen Falls, NY over U.S. Hwy 9 to North Cape May, NJ, and return over the same route. (38) Between Kingston, NY and Millersburg, PA: From Kingston, NY over U.S. Hwy 209 to Millersburg, PA, and return over the same route. (39) Between Albany, NY and Fort Lee, NJ: From Albany, NY over U.S. Hwy 9W to Fort Lee, NJ, and return over the same route. (40) Between Sandy Creek, NY and Scranton, PA: From Sandy Creek, NY over U.S. Hwy 11 to Scranton, PA, and return over the same route. (41) Between Wilkes-Barre, PA and Bristol, VA: From Wilkes-Barre, PA over U.S. Hwy 11 to Bristol, VA, and return over the same route. (42) Between Painted Post, NY and Williamsport, PA: From Painted Post, NY over U.S. Hwy 15 to Williamsport, PA, and return over the same route. (43) Between Clarksville, VA and the junction of U.S. Hwy 15 and U.S. Hwy 22 (near Amity Hall, PA): From Clarksville, VA over U.S. Hwy 15 to the junction of U.S. Hwy 15 and U.S. Hwy 22 (near Amity Hall, PA), and return over the same route. (44) Between Sayre, PA and the junction of U.S. Hwy 220 and PA Hwy 147 (near Halls, PA): From Sayre, PA over U.S. Hwy 220 to the junction of U.S. Hwy 220 and PA Hwy 147 (near Halls, PA), and return over the same route. (45) Between Williamsport, PA and Ridgeway, VA: From Williamsport, PA over U.S. Hwy 220 to Ridgeway, VA, and return over the same route. (46) Between Buffalo, NY and Rich Creek, VA: From Buffalo, NY over U.S. Hwy 219 to Rich Creek, VA, and return over the same route. (47) Between Norfolk, VA and Frankfort, KY: From Norfolk, VA over U.S. Hwy 460 to Frankfort, KY and return over the same route. (48) Between Washington, PA and Bristol, VA: From Washington, PA over U.S. Hwy 19 to Bristol, VA, and return over the same route. (49) Between Greenup, IL and the junction of U.S. Hwy. 45 and IL Hwy 121 (near Trilla, IL): From Greenup, IL over IL Hwy 121 to the junction of U.S. Hwy 45 and IL Hwy 121 (near Trilla, IL), and return over the same route. (50) Between Decatur, IL and Morton, IL: From Decatur, IL over IL Hwy 121 to Morton, IL, and return over the same route. (51) Between Henderson, KY and Hopkinsville, KY: From Henderson, KY over U.S. Hwy 41 to Hopkinsville, KY, and return over the same route. (52) Between Louisville, KY and Bowling Green, KY: From Louisville, KY over U.S. Hwy 31 W to Bowling Green, KY, and return over the same route. (53) Between Moline, IL and Peoria, IL: From Moline, IL over U.S. Hwy 150 to Peoria, IL, and return over the same route. (54) Between Danville, IL and Mount Vernon, KY: From Danville, IL over U.S. Hwy 150 to Mount Vernon, KY, and return over the same route.

(55) Between Keokuk, IA and Danville, IL: From Keokuk, IA over U.S. Hwy 136 to Danville, IL, and return over the same route. (56) Between Marshall, MI and Fort Wayne, IN: From Marshall, MI over U.S. Hwy 27 to Fort Wayne, IN, and return over the same route. (57) Between Richmond, IN and Somerset, KY: From Richmond, IN over U.S. Hwy 27 to Somerset, KY and return over the same route. (58) Between Somerset, MI and Russell Springs, KY: From Somerset, MI over U.S. Hwy 127 to Russell Springs, KY, and return over the same route. (59) Between Bryan, OH and Fort Wayne, IN: From Bryan, OH over OH Hwy 2 to the IN–OH State line, then over IN Hwy 37 to Fort Wayne, IN, and return over the same route. (60) Between Tell City, IN and the junction of IN Hwy 37 and IN Hwy 46 (near Bloomington, IN): From Tell City, IN over IN Hwy 37 to the junction of IN Hwy 37 and IN Hwy 46 (near Bloomington, IN), and return over the same route. (61) Between Harrison, OH and Bloomington, IN: From Harrison, OH over IN Hwy 46 to Bloomington, IN, and return over the same route. (62) Between Spencer, IN and Terre Haute, IN: From Spencer, IN over IN Hwy 46 to Terre Haute, IN, and return over the same route. (63) Between St. John, IN and Spencer, IN: From St. John, IN over U.S. Hwy 231 to Spencer, IN, and return over the same route. (64) Between Bowling Green, KY and the junction of U.S. Hwy 231 and IN Hwy 67 (near Worthington, IN): From Bowling Green, KY over U.S. Hwy 231 to the junction of U.S. Hwy 231 and IN Hwy 67 (near Worthington, IN), and return over the same route. (65) Between Hawesville, KY and Evansville, IN: From Hawesville, KY over the Ohio River Bridge to Cannelton, IN, then over IN Hwy 66 to Evansville, IN, and return over the same route. (66) Between Celina, OH and Redkey, IN: From Celina, OH over OH Hwy 29 to the IN–OH State line, then over IN Hwy 67 to Redkey, IN, and return over the same route. (67) Between Ellis, IN and Fort Wayne, IN: From Ellis, IN over Hwy 1 to Fort Wayne, IN, and return over the same route. (68) Between Redkey, IN and Lawrenceburg, IN: From Redkey, IN over IN Hwy 1 to Lawrenceburg, IN, and return over the same route. (69) Between Bellefontaine, OH and Henning, IL: From Bellefontaine, OH over OH Hwy 47 to the IN–OH State line, then over IN Hwy 28 to the IL–IN State line, then over IL Hwy 119 to Henning, IL, and return over the same route. (70) Between Batavia, NY and the junction of NY Hwy 5 and NY Hwy 31B (near Ellbridge, NY): From Batavia, NY over NY Hwy 5 and NY Hwy 31B (near elbridge, NY), and return over the same route. (71) Between Marshall, MI and Madison, WI: From Marshall, MI over I-Hwy 94 to Madison, WI, and return over the same route.

(72) Between Dundee, MI and Duffield, VA: From Dundee, MI over U.S. Hwy 23 to Duffield, VA and return over the same route. (73) Between Richmond, VA and Sandusky, OH: From Richmond, VA over U.S. Hwy 250 to Sandusky, OH, and return over the same route. (74) Between Findlay, OH and Lexington, KY: From Findlay, OH over U.S. Hwy 68 to Lexington, KY, and return over the same route. (75) Between Cleveland, OH and Princeton, WV: From Cleveland, OH over I–Hwy 77 to Princeton, WV, and return over the same route. (76) Between Monroe, MI and London, KY: From Monroe, MI over I–Hwy 75 to London, Ky, and return over the same route. (77) Between Arlington, KY and Rockford, IL: From Arlington, KY over U.S. Hwy 51 to Rockford, IL, and return over the same route. (78) Between Middlesboro, KY and London, KY: From Middlesboro, KY over U.S. Hwy 25E to Corbin, KY, then over U.S. Hwy 25 to London, KY, and return over the same route. (79) Between St. Louis, MO and Dubuque, IA: From St. Louis, MO over U.S. Hwy 61 to Dubuque, IA, and return over the same route. (80) Between Wilmington, DE and Suffolk, VA: From Wilmington, DE over U.S. Hwy 13 to Suffolk, VA, and return over the same route. (81) Between Effingham, IL and Mayfield, KY: From Effingham, IL over U.S. Hwy 45 to Mayfield, KY, and return over the same route. (82) Between Chicago, IL and Cairo, IL: From Chicago, IL over I–Hwy 57 to Cairo, IL, and return over the same route. (83) Between Chicago, IL and Burlington, IA: From Chicago, IL over U.S. Hwy 34 to Burlington, IA, and return over the same route. (84) Between East St. Louis, IL and Louisville, KY: From East St. Louis, IL over I–Hwy 76 to Louisville, KY, and return over the same route. (85) Between Decatur, IL and Champaign, IL: From Decatur, IL over I–Hwy 72 to Champaign, IL, and return over the same route. (86) Between Chicago, IL and Norris City, IL: From Chicago, IL over IL Hwy 1 to Norris City, IL and return over the same route. (87) Between Rock Island, IL and St. Louis, MO: From Rock Island, IL over U.S. Hwy 67 to St. Louis, MO, and return over the same route. (88) Between Sabula, IA and Davenport, IA: From Sabula, IA over U.S. Hwy 67 to Danvenport, IA, and return over the same route. Serving all intermediate points in routes (1) through (88) above, and serving as off-route points in connection with routes (1) through (88) above, points in DE; IL; IN; Dubuque and Scott Counties, IA; KY; MD; MA; Barry, Berrien, Branch, Calhoun, Cass, Hillsdale, Kalamazoo, Lenawee, Monroe, St. Joseph and Van Buren Counties, MI; Franklin, Jefferson, St. Charles and St. Louis Counties, MO; Hillsboro, Merrimack and Rockingham Counties, NH; NJ; that part of NY, in, south and west of the Counties of Fulton, Herkimer (south of the Adirondack Forest Preserve), Oneida, Oswego, Rensselaer, and Saratoga; OH; PA; RI; VA; WV; and Dane, Dodge, Jefferson, Kenosha Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI, for 270 days. Authority is sought to tack with applicant's present authority at MC 59957; to interline at all common points; and to provide service to and from the Commercial Zones of all authorized points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 72 statements in support of this application which may be examined at the Philadelphia Regional office.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 121644 (Sub-3–1TA), filed October 29, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United Amerian Bank Bldg., Nashville, TN 37219. Common carrier, *regular route, General Commodities (except household goods as defined by the Commission and classes A and B explosives)* between Bristol, VA, and Houston, TX, (1) From Bristol over I–80, to junction with I–75, then over I–75 to junction with I–24, then over I–24 to junction with I–40, then over I–40 to junction with I–30, then over I–30 to junction with U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route, serving the intermediate points of Chattanooga, Knoxville, Memphis, Murfreesboro, and Nashville, TN, and serving all other points in Hawkins, Sullivan, Cocke, Hamblen, Davidson, Jefferson, Greene, Washington, Knox, Carter, Shelby, Rutherford and Hamilton Counties, TN, DeSoto County, MS, Harrison County, VA, Crittenden County AR, Harris and Galveston Counties, TX, and Dade, Walker and Catoosa Counties, GA, as off-route points; and serving the commercial zones of all authorized service points. (2) From Bristol over I–81, to junction with I–40, then over I–40 to junction with I–30, then over I–30 to junction with U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route serving the intermediate points of Knoxville, Memphis, and Nashville, TN, and serving all other points in Hawkins, Sullivan, Cocke, Hamblen, Davidson, Jefferson, Greene, Washington, Knox, Carter, Shelby, and Rutherford Counties, TN, DeSoto County, MS, Harrison County, VA, Crittenden County, AR, and Harris and Galveston Counties, TX as off-route points; and serving the commercial zones of all authorized service points. There are 43 supporting shipper statements attached to this application. Applicant proposes to interline at Bristol, VA, Nashville and Memphis, TN, and Houston, TX. Applicant intends to tack the authority applied for with authority held in MC–121644.

MC 148710 (Sub-3–7TA), filed October 28, 1980. Applicant: SEABOARD EXPRESS, INC., 6327 Burnt Poplar Road, Greensboro, NC 27409. Representative: Michael D. Bromley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Contract:* irregular *such commodities as are dealt in by automotive service centers,* (except commodities in bulk), between Birmingham and Gadsden, AL; Jacksonville and Tallahassee, FL; and Atlanta and Macon, GA, on the one hand, and, on the other, points in LA, MS, OH, PA, and TX. Restricted to the transportation of traffic under a continuing contract(s) with Corn Brothers, Inc. of Smyrna, Ga. Supporting shipper: Corn Brothers, Inc., 5500 South Cobb Drive, Smyrna, GA 30080.

MC 146343 (Sub-3–3TA), filed October 27, 1980. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano, FL 33062. Representative: S. Christopher Stowe, Jr., 2028 Warwick Ave., Warwick, RI 02889. *Contract carrier,* irregular routes; *vegetable shortening, refined lard, salad oils, refined beef shortening, machinery, equipment and supplies and related materials incidental to the manufacture and distribution of the commodities listed above,* between Pawtucket, RI, and points in AK, AL, CT, DC, DE, FL, GA, IA, IN, IL, KY, LA, MA, ME, MD, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI and WV. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts with Colfax, Inc., a RI corporation. Supporting shipper: Colfax, Inc., 38 Colfax Street, Pawtucket, RI 02860.

MC 144069 (Sub-3–12TA), filed October 24, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Carlotte, N.C. 28225. Representative: W. T. Trowbridge (same address as applicant). *Iron and Steel Articles.* Between Darlington County, SC on the one hand, and on the other points in and east of WI, IL, KY, TN, and MS. Supporting shippers: Nucor Steel a Division of Nucor Corporation, P.O. Box 525, Darlington, SC 29532 and Oceana Corporation, Hwy. 17, Pawleys Island, SC.

MC 152456 (Sub-3–1TA), filed October 27, 1980. Applicant: CALLICUTT ENTERPRISES, INC., Route 3, Box 229–A, Mooresville, NC 28115. Representative: Aaron W. Perkins, Jr., 9 Barbrick Avenue SW., Concord, NC 28025. *Contract Carrier:* Irregular: *Cardboard; corrugated boxes; glass metal, plastic, fiber board and chip board display products; and materials used in the production of the same.* From Concord, and Cabarrus Counties, NC, to points in the US, excluding AK and HI. Supporting shipper: American Display Corporation, Commerical Park Drive, Concord, NC 28025.

MC 139009 (Sub-3–1TA), filed October 27, 1980. Applicant: R & W EXPRESS, INC., 6877 Main Street, Lithonia, Ga. 30050. Representative: James L. Sane (same address as applicant). *Glass and Glass Products:* Between GA, TN, MS, NC, AL, FL, SC, LA. Note: Tacking is requested with existing authority. Supporting shipper: C. E. Glass, 1548 Stone Ridge Drive, Stone Mountain, GA. 30083

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MC 150741 (Sub-3–2TA); filed October 27, 1980. Applicant: HUEY TRANSPORTATION CO., INC., 2802 Lomb Avenue, Birmingham, AL 35208. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular: primary metal products, fabricated metal products, machinery and materials, equipment and supplies used in the manufacture, installation and distribution thereof,* between points in the U.S. under continuing contract with MCM Industries, Inc. of Birmingham, AL. Supporting shipper: MCM Industries, Inc., 85 Bagby Drive, Suite 212, Birmingham, AL 35209.

MC 124154 (Sub-3–5TA); filed October 27, 1980. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate (same address as applicant). *Metal shelving and steel strapping,* from Columbus, OH and York, PA to Albany, GA. Supporting shipper: Jim Horne Mill Supplies, Inc., 455 Radium Springs Road, Albany, GA 31705.

MC 152455 (Sub-3–1TA); filed October 27, 1980. Applicant: A–1 WRECKER SERVICE OF CHATHAM COUNTY, INC., P.O. Box 641, Pittsboro, N.C. 27312. Representative: Tim Hubbard, P.O. Drawer 929, Pittsboro, N.C. 27312. *Wrecked and disabled vehicles and replacement vehicles for same;* between AL, DE, FL, GA, IL, KY, ME, MD, MA, MI, MS, MO, NC, IN, NH, NY, OH, PA, RI, SC, TN, VT, VA, WV, WI, NJ, CT and DC. Supporting shippers: There are five statements in support of this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 150864 (Sub-3–3TA); filed October 27, 1980. Applicant: SABRE TRANSPORT, INC., P.O. Box 12288, Atlanta, GA 30305. Representative: H. L. Walsh, (same address as applicant). *Contract carrier:* Irregular routes: *New furniture* from the facilities of Fox Manufacturing Co. at or near Rome, GA and Dothan, AL to all points in the U.S. except AK, HI, MS, LA, TX, NM, AR, OK, KS, CO, NE, MO, IA, IL, WI, IN, OH, PA and NY. Supporting shipper: Fox Manufacturing Co., P.O. Drawer A, Rome, GA 30161.

MC (Sub-3–1TA) filed November 3, 1980. Applicant: NASHVILLE & ASHLAND CITY TRUCK LINE, INC., 2500 Heiman Street, Nashville, TN 37208. Representative: W. P. Cooper, 18th Floor, Third National Bank Bldg., Nashville, TN 37219. *(1) Containers and trailers,* between Princeton, KY and Nashville, TN; and *(2) Water heaters,* between Ashland City, TN and Memphis, TN restricted to the transportation of shipments having a prior or subsequent movement by rail. Supporting shipper: Kuhn's Big K Stores Corp., 245 Great Circle Road, Nashville, TN 37228 and State Industries, Inc., Ashland City, TN 37015.

MC 152427 (Sub-3–2TA) filed October 28, 1980. Applicant: NASHVILLE & ASHLAND CITY TRUCK LINE, INC., 2500 Heiman Street, Nashville, TN 37208. Representative: William Prentice Cooper, Cornelius, Collins, Higgins & White, 18th Fl., Third National Bank Bldg., Nashville, TN 37219. *General Commodities, with usual exceptions, in containers and trailers, having a prior or subsequent movement by rail,* between Memphis, Nashville, and Knoxville, TN. Supporting shipper: Sunbelt Consolidators, Inc., P.O. Box 201044, Dallas, TX 75220.

MC 152458 (Sub-3–1TA) filed October 28, 1980. Applicant: KNOWLES TRUCKING COMPANY, P.O. Box 81, Tyrone, Georgia 30290. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *(1) Wire Products, (2) Art Supplies, (3) Picture Frame molding and related hardware, equipment and supplies,* (1) From GA to CA, (2) Between Lawrenceville, GA and CA, TX, and SC (3) Between Conyers, GA and Modesto, CA. Supporting Shippers: Antone Manufacturing Co., Inc., 21671 Cloud Way, Hayward, CA 94545; Tara Materials, Inc., Industrial Park Dr., Lawrenceville, GA 30246; Piedmont Moulding Corporation, 2203 Industrial Blvd., Conyers, GA 30207.

MC 144989 (Sub-3–1TA) Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Court, Charlotte, NC 28205. *Contract* carrier, irregular routes, *Chemicals or allied products* between points in the U.S., under continuing contracts with Blue Cross Laboratories, Inc., 7376 Greenbush Avenue, North Hollywood, CA 91605. Supporting shipper: Blue Cross Laboratories, Inc., 7376 Greenbush Avenue, N. Hollywood, CA 91605.

MC 115162 (Sub-3–15TA), filed October 29, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *Glass and glass products* between Jeanette, PA; Kingsport, TN; Clarksburg, WV; Wilmington, NC; Charleston, WV; and South Kearney, NJ, on the one hand, and, on the other, points in the United States in and east of the states of ND, SD, NE, KS, OK, and TX. Supporting shipper: General Glass International Corp., 270 North Ave., New Rochelle, NY 10801.

MC 3581 (Sub-3–5TA), filed October 29, 1980. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Dr. NE., Ste. 107, Atlanta, GA 30345. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Automobiles and pick-up trucks,* from Louisville, KY (and its commercial zone) to points in KY, restricted to traffic having a prior movement in interstate commerce and; (2) from Baton Rouge, LA (and its commercial zone) to MS. Supporting shipper: Mazda Motors of America (Central), Inc., 3040 East Ana St., Compton, CA 90221.

MC 119777 (Sub-3–22TA), filed October 27, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Commodities used in, or in connection with, the construction, operation, repair, servicing, maintenance or dismantling of pipelines,* between points in MT, ND, SD, MN and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Internorth, Inc./Northern Plains Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102.

MC 145738 (Sub-3–1TA), filed October 28, 1980. Applicant: EAST WEST MOTOR FREIGHT, INC., P.O. Box 607, Hwy. 45, S. Selmer, TN 38374. Representative: Sonny C. Curtner (Same as applicant). *General Commodities (except classes A and B explosives, commodities in bulk, used household goods, articles of unusual value, and commodities which shall because of size or weight, require the use of special equipment)* from Oakland, CA, and its commercial zone, to all points in the U.S. (except AK and HI), restricted to the transportation of traffic on bills of lading of Golden State Cooperative Association, Oakland, CA. Supporting shipper: Golden State Cooperative Association, 211 Wood St., Oakland, CA 94607.

MC 152457 (Sub-3–1TA), filed October 28, 1980. Applicant: OLIN WILLINGHAM, d.b.a. WILLINGHAM'S GARAGE, 2122 Wilson Road, Newberry, SC 29108. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. *Wrecked or disabled vehicles and replacement vehicles therefor and repossessed vehicles* (1) between points in the states of GA, NC, and SC; (2) between points in states of GA, NC, and SC, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shippers: Senn Trucking Company, P.O. Drawer 220, Newberry, SC 29108, Ralph G. Smith, Inc., 239 E. Market St., West Chester, PA 19380, the

Cherokee Kenworth, Inc. P.O. Box 13453, Columbia, SC 29201.

MC 13857 (Sub-3–33TA), filed October 31, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT,2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Lighting fixtures* from Vermilion, OH to points in the United States. Supporting shipper: Hi-Tek Lighting, 1615 E. Elmore, P.O. Box 72, Crawfordsville, IN 47933.

MC 121654 (Sub–3–21TA), filed, October 29, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd. NE, 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Foodstuffs* from the facilities of Doxsee Food corporation at or near Baltimore, MD to points in CT, MA, NY, PA, RI, and NJ. Supporting shipper: Doxsee Food Corporation, 8323 Pulaski Highway, Baltimore, MD 21237.

MC 124887 (Sub-3–13TA), filed October 29, 1980. Applicant: SHELTON TRUCKING SEVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission, Classes A and B explosives and commodities in bulk)* between Bay County, FL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating or terminating at the facilities of Harnischfeger Corporation. Supporting shipper: Harnischfeger Corporation, P.O. Box 554, Milwaukee, WI 53201.

MC 126436 (Sub-3–82TA), filed October 29, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Contract carrier:* irregular route: *Fiber glass products, and materials, equipment and supplies used in the manufacture and sale thereof (except in bulk)* from the facilities of PPG Industries, Inc. at or near Shelby and Lexington, NC to Points in CA, OR, TX, and WA, under continuing contract(s) with PPG Industries, Inc. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 19104.

MC 2253 (Sub-3–5TA), filed October 31, 1980. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: Lawrence E. Lindeman, 425 13th Street NW., Suite 1032, Washington, DC 20004. *Agricultural machinery, and materials and supplies used in the manufacture and distribution of agricultural machinery,* from Richmond, IN, to points in the U.S. (except AK and HI). Supporting shipper: Dunham-Lehr, P.O. Box 668, 3000 Industrial Parkway, Richmond, IN 47370.

MC 144303 (Sub-3–5TA), filed October 31, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Building, 918–16th Street, NW., Washington, DC 20006. *Contract carrier:* irregular; *General commodities (except household goods as defined by the Commission and classes A and B explosives):* (1) from Nicholasville, KY and points in MA, NJ and NY to Columbus, OH; and (2) from Columbus, OH to Atlanta, GA, Fort Worth and Dallas, TX, Memphis, TN, Denver, CO, Salt Lake City, UT, Los Angeles, CA, Minneapolis, MN, Kansas City, KS, St. Louis, MO, and Hickory and High Point, NC under continuing contracts with Franklin Chemical Industries, Inc., its subsidiaries and affiliates. Supporting shipper: Franklin Chemical Industries, Inc., 2020 Bruck Street, Columbus, OH 43207.

MC 11220 (Sub-3–15TA), filed October 29, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between the facilities of Zurn Industries, Inc., at or near Birmingham, AL, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NY, OH, OK, PA, TN, TX, WV, and WI. Supporting shipper: Zurn Industries, Inc., Air Systems Division, Birmingham, AL.

MC 148653 (Sub-3–3TA), Filed, November, 3, 1980. Applicant: MILTON WOODARD, d.b.a., WOODARD TRUCKING COMPANY, P.O. Box 308, Ripley, Tn. 38063. Representative: William L. Willis, 708 McClure Building, Frankfort, Ky. 40601. *Anhydrous ammonia,* from Vertagreen, AL to points in AR, FL, GA, KY, LA, MS, MO, NC, SC, TN, TX, IL, KS, and OK. Supporting shipper: U. S. S. AG, Atlanta, Ga.

MC 152426 (Sub-3–1TA), filed October 30, 1980. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, P.O. Box 370762, Miami, FL 33137. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Contract;* irregular: *General commodities (except household goods and Classes A and B explosives)* between points in the US under a contract or continuing contracts with Burger King, Inc. Supporting skipper: Burger King, Inc., P.O. Box 520843, Miami, FL 33152.

MC 145129 (Sub-3–1TA), filed October 28, 1980. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 2909 South Hickory Street, Chattanooga, TN 37407. Representative: M.C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Commodities, the transportation of which because of size or weight, requires the use of special equipment or special handling, and iron and steel articles,* between points in Bradley and Hamilton Counties, TN, on the one hand, and on the other, points in AL, GA, KY, MS, NC, SC, TN, and VA. Supporting shippers: There are 11 statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 139006 (Sub-3–5TA), filed October 31, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Alcoholic beverages, except in bulk,* from Lawrenceburg, IN; Bardstown, Frankfort, Loretto and Louisville, KY; St. Louis, MO; and Schenley, PA; and commercial zones thereof, to Albany, GA and its commercial zone. Supporting shipper: McKesson Wine & Spirits Co. 1112 Industry Avenue, Albany, GA 31706.

MC 150291 (Sub-3–2 TA), filed October 29, 1980. Applicant: PEE DEE TRANSPORT CO., P.O. Box 897, Hartsville, South Carolina 29550. Representative: Robert L. McGeorge, 1000 Potomac Street, 5th Floor, Washington, D.C. 20007. *Crude Petroleum, Natural Gas or Gasoline; Petroleum or Coal Products,* from oil terminal facilities at or near Charlotte, Wilmington, Greensboro, and Fayetteville, NC to points in SC. Supporting shippers: Speaks Oil Co., P.O. Box 792, Hartsville, SC 29550; Bishopville Petroleum Co., Inc., P.O. Box 347, Bishopville, SC 29510; Morrison Oil Co., 626 West Carolina Avenue, Hartsville, SC 29550; W. D. Arthur Oil Co., 123 S. 6th Street, Hartsville, SC 29550.

MC 145738 (Sub-3–2 TA), filed October 28, 1980. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Hwy. 45 S., Selmer, TN 38375. Representative: Sonny C. Curtner, (same as applicant). *Carpet backing, pading, wood and foam products, and insulation and wood excelsor products,* from Marinette and Rice Lake, WI, Englewood, CO, and Russellville, KY.

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and their commercial zone, to points in the US (except AK and HI). Supporting shipper: American Excelsor Company, Arlington, TX 76011.

MC 143956 (Sub-3–16 TA), filed October 27, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. *General commodities (except articles of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and articles requiring special equipment)* from the facilities utilized by Trojan Shippers Association in Miami County, OH, to points in the US (except AK and HI). Supporting shipper: Trojan Shippers Association, P.O. Box 598, Troy, OH 45373.

MC 152299 (Sub-3–1 TA), filed October 29, 1980. Applicant: FLORIDA DISTRIBUTION SERVICE, INC., 1212 North 39th Street, Tampa, FL 33605. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. *Such commodities as are dealt in or used by grocery, drug, hardware, and retail chain stores,* from Tampa, FL to points in FL having a prior or subsequent movement in interstate or foreign commerce. Supporting shipper: Loma/Rubber Queen, Inc., P.O. Box 4035, Ft. Worth, TX 76140.

MC 121644 (Sub-3–2TA), filed October 31, 1980. Applicant: S &W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. *Common carrier, regular, General Commodities (except household goods as defined by the Commission and classes A and B explosives)* between Atlanta, GA, and Memphis, TN as follows: From Atlanta over I–20 or U.S. Hwy 78 to junction with I–65 or U.S. Hwy 31, then over I–65 or U.S. Hwy 31 to junction with AL Hwy 157, then over AL Hwy 157 to junction with U.S. Hwy 72, then over U.S. 72 to Memphis and return over the same route, serving the intermediate point of Birmingham, AL; and serving the commercial zones of all authorized service points. Supporting shippers: There are 20 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack and to interline at Atlanta, GA, Birmingham, AL and Memphis, TN.

MC 35807 (Sub-3–3TA), filed October 31, 1980. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: David E. Wells (same address as applicant). *Contract carrier,* irregular routes; *Coin, currency, securities and other valuables* between Salt Lake City, UT and Elko and Wells, NV. Supporting shipper: Federal Reserve Bank of San Francisco, San Francisco, CA 94120.

MC 146719 (Sub-3–2TA), filed October 30, 1980. Applicant: MATERIAL DELIVERY SERVICE, INC., P.O. Drawer F, County Rd. 26, Alabaster, AL 35007. Representative: Edward J. Kiley, 1730 M St., NW, Washington, D.C. 20036. *Cement* from Decatur, AL to points in MS and TN. Supporting shipper: Missouri-Portland Cement Co., 7711 Carondelet Ave., St. Louis, MO 63105.

MC 147438 (Sub-3–1TA), filed October 30, 1980. Applicant: SULLIVAN TRUCKING CO., INC., P.O. Box 235, Warsaw, KY 41095. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602. *Contract carrier,* irregular routes; *Hazardous materials and paper bags,* between Cincinnati, OH and all points in IN and IL, under continuing contract(s) with the Hill and Griffith Company of Cincinnati, OH. Restricted against the transporation of commodities in bulk, in tank vehicles. Supporting shipper: The Hill and Griffith Company, 1262 State Avenue, Cincinnati, OH 45204.

MC 139006 (Sub-3–4TA), filed October 30, 1980. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *(1) Furniture parts and iron and steel articles, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1),* between all points in the U.S. in and east of AR, IA, LA, MN, and MO, restricted to traffic originating at or destined to facilities used by Leggett & Platt, Inc. and affiliates. Supporting shipper: Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836.

MC 148183 (Sub-3–10TA), filed October 29, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Mrs. Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425—13th Street, NW., Washington, D.C. 20004. *Cheese and cheese products,* from Rutherford County, TN to points in MA and MI. Shipper: Valley Lea Dairies, P.O. Box 6369, South Bend, IN 46640.

MC 144827 (Sub-3–18TA), filed October 31, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *(1) Such merchandise as is dealt in or used by wholesale and retail grocery and food business houses and agricultural feed business houses; (2) soy products; and (3) materials and supplies used in the manufacture, distribution and sale of commodities in paragraphs (1) and (2),* between facilities of Ralston Purina at or near Oklahoma City, OK, on the one hand, and, on the other, points in AR, LA, NM and TX. Supporting shipper: Ralston Purina Co., 13700 No. Lincoln Blvd., Oklahoma City, OK 73034.

MC 126574 (Sub-3–5TA), filed October 29, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., P.O. Box 7362, Greensboro, NC 27407. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Hospital and medical supplies,* between points in Wake County, NC, on the one hand, and, on the other, points in Bedford, Campbell, Floyd, Franklin, Halifax, Henry, Mecklenburg, Montgomery, Patrick, Pittsylvania, and Roanoke Counties, VA Supporting shipper: American Hospital Supply Corp., 3501 Spring Forest Road, Raleigh, NC 27604.

MC 124154 (Sub-3–8TA), filed November 3, 1980. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate (same address as above). *Agricultural fertilizers, chemicals and products, supplies and raw materials used in the manufacture, distribution and sale of agricultural fertilizers and chemicals* between points in the U.S. (except AK and HI) restricted to shipments originating at or destined to Lakeshore Equipment and Supply Company's suppliers and warehouse facilities. Supporting shipper: Lakeshore Equipment & Supply Company, 300 S. Abbe Road, Elyria, OH 44035.

MC 138157 (Sub-3–34TA), filed November 3, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *General commodities (except household goods as defined by the Commission, Classes A and B explosives, and commodities in bulk),* from points in Multnomah, Washington, and Clackamus Counties, OR on the one hand; and, on the other, points in the United States. Supporting shipper: Seaport Cooperative, Inc., 730 NW,. 11th Avenue, Portland, OR, 97209.

MC 107515 (Sub-3–82TA), filed November 3, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Meats, meat products and meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 MCC 99 and 766 (except hides and commodities in bulk)* from Friona and Plainview, TX to Minneapolis MN and its commercial zone. Supporting shipper: Goldberger Foods, Inc., 11 West 28th Street, Minneapolis, MN 55408.

MC 146869 (Sub-3–2TA), filed October 28, 1980. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, North Carolina 28204. *Beer in bottles, cans or kegs, and empty kegs or other shipping devices used in the transportation of beer,* between Detroit, MI on the one hand, and, Catawba, Mecklenburg and Gaston Counties, NC, on the other. Supporting shippers: Rudisill Enterprises, Inc., Box 14, Gastonia, NC 28052, Cunningham Wholesale Company, Inc., P.O. Box 32651, Charlotte, NC 28232, and Quality Beers, Inc., P.O. Box 159, Hickory, NC 28601.

MC 112395 (Sub-3–2TA), filed October 15, 1980. Applicant: CITIZENS EXPRESS, INC., 38 N. French Broad Ave., Asheville, NC 28801. Representative: Philip G. Carson, P.O. Box 7246, Asheville, NC 28807. *General commodities, except those of unusual value, classes A and B explosives and household goods as defined by the Commission,* between points in NC, SC, and TN. Applicant intends to interline at Greenville and Spartanburg, SC; Asheville and Charlotte, NC; and Knoxville, TN. Supporting shipper: There are six supporting shipper statements attached to this application which may be examined at the Atlanta, GA Regional Office.

MC 111936 (Sub-3–2TA), filed November 3, 1980. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4095, High Point, NC 27263. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *New furniture, fixtures, and materials and supplies* used in the manufacture of furniture, between Johnson City, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, MI, MS, NC, OH, SC, VA, WV, and WI. Supporting shipper: Empire Furniture Co., Vaughan Furniture Co., Inc., P.O. Box 330, Galax, VA.

MC 128555 (Sub-3–11TA), filed October 29, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, Florida 33561. Representative: William L. Beasley (same as above). *Contract: Irregular: Such commodities as are manufactured or distributed by the food processing industry* and *materials, supplies and equipment* used in the manufacture, production, sale or distribution of said commodities between all points in the continental U.S. under continuing contract(s) with Tropicana Product Sales, Inc. and its subsidiaries. Supporting shipper: Tropicana Product Sales, Inc., P.O. Box 338, Bradenton, FL 33506.

MC 121815 (Sub-3–1TA), filed October 29, 1980. Applicant: CHATTANOOGA-MEMPHIS EXPRESS, INC., 1220 Faydur Court, Nashville, Tennessee 37210. Representative: R. L. Satterfield (same as applicant). *General Commodities, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Nashville, TN; St. Louis, MO and East St. Louis, IL. Applicant intends to tack with existing authority MC 121915 and to interline at St. Lous, MO; Chattanooga, Memphis and Nashville, TN. Supporting Shippers: (1) Atlantic Envelope Company, 888 Elm Hill Pike, Nashville, TN 37210; (2) Music City Supplement Company, 401 Cowan, Nashville, TN 37206; (3) St. Regis Paper Company, Consumer Products Division, 820 Seventh Avenue, North, Nashville, TN 37208; (4) S&W Freight Lines, Inc., 1136 Haley Road, Murfreesboro, TN 37130.

MC 144843 (Sub-3–2TA), filed October 31, 1980. Applicant: GRACE DISTRIBUTION SERVICES, INC., P.O. Box 308, Duncan, SC 28334. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Contract carrier,* irregular routes, *automobile wheels, hub caps, lug nuts, and wheel decorator items,* from Harbor City and Compton, CA to points in the U.S. (except AK and HI), under a continuing contract(s) with Appliance Industries, Inc., of Harbor City, CA. Supporting shipper: Appliance Industries, Inc., 23920 South Vermont Avenue, Harbor City, CA 90710.

MC 143059 (Sub-3–23TA), filed November 3, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor, same address as applicant. *Plastic Pipe, fittings and accessories* thereof, from High Springs, FL; Aurora, OH; Nazareth, PA; and Woodland, CA, to points in the U.S. (except AK and HI). Supporting shipper: Carlon, An Indian Head Company, 23200 Chagrin Blvd., Cleveland, Ohio 44122.

MC 106074 (Sub-3–15TA), filed November 3, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy. 221 S, P.O. Box 727, Forest City, NC 28403. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Hand tools and saw blades* from Ogden, UT, to pts. in AZ, CA, and NV. Supporting shipper: Vermont America Corporation, Hardware Tool Division, P.O. Box 340, Lincolnton, NC 28092.

MC 141619 (Sub-3–1TA) filed October 31, 1980. Applicant: LOY E. SIGMON SR., d.b.a. NEW WAY TRANSPORTATION, Rt. 1, Box 392, Statesville, NC 28677. Representative: Loy E. Sigmon Sr. (address same as applicant). *New furniture, furniture parts and materials and supplies used in the manufacture of new furniture,* between points in Grayson and Carroll Counties, VA, and Iredell, Alexander, and Catawba Counties, NC on the one hand and points in OH, IN, MI, WI, IL, MN, IA, MO, AR, LA, ND, SD, NE, KS, OK, TX, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, CA, CD, GA, AL, MS, and FL, on the other. Supporting shippers: Lewittes Furniture Company, Inc., P.O. Box 1027, Taylorsville, NC 28681, Southern Furniture Company of Conover, Inc., P.O. Box 5438, Statesville, NC 28677, Vaughan Furniture Company, P.O. Box 330, Galax, VA 24333 and Shaver Bros. Stool Company, Inc., Rt. 10, Box 395, Statesville, NC 28677.

MC 115162 (Sub-3–14TA), filed October 29, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Materials, supplies and products used in the manufacture and distribution of television sets, radios, phonographs, stereo systems, recorders and players, speaker systems, audio equipment, and accessories and component parts* between the state of NC on the one hand, and, on the other, points in IN. Restricted to traffic originating at or destined to facilities owned or used by RCA Corporation. Supporting shipper: RCA Corporation; Building 204–2, Cherry Hill, NJ 08358.

MC 2934 (Sub-3–22TA), filed October 29, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Appliances, stereos, radios, blenders, toasters, mixers, irons, hair dryers and related products* from Allentown, PA and Brockport, NY to points and places in the states of AL,

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AR, CA, FL, GA, IL, IA, IN, KS, KY, LA, MD, MN, MO, MS, NC, OH, OK, SC, TN, TX, VA, MI, WI and WV. Supporting shipper: General Electric Company, Housewares and Audio Business Division, 1285 Boston Ave., Bridgeport, CT 06602.

MC 103051 (Sub-3–5TA), filed October 29, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tennessee 37209. Representative: Russell E. Stone (same address as applicant). *Nitrogen solution, in bulk, in tank vehicles*, from Memphis, TN to points in MS and AR. Supporting shipper: Estech General Chemicals Corp. 152 N. Collins, Memphis, Tennessee 38112.

MC 129063 (Sub-3–2TA), filed October 29, 1980. Applicant: JIMMY T. WOOD, P.O. Box 248, Ripley, TN 38063. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Ferro Alloys*, between points in Shelby and Fayette Counties, TN, on the one hand, and, on the other, points in the United States. Supporting shippers: Specialty Alloys, Gallaway, TN; Ten-Tex Marine, Inc., 382 Klinke Road, Memphis, TN 38127; and G. K. Industries, 2870 Broad Street, Memphis, TN.

MC 142680 (Sub-3–3TA), filed October 27, 1980. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Lumber*, (1) From the facilities of Linden Lumber Co at or near Linden, AL to points in MS, TN and TX (2) From the facilities of Linden Lumber Co at or near Linden, AL to points in Mobile and Baldwin Counties, AL Restriction: The operation sought in the restrictive description two (2) immediately above is restricted to shipment having an immediately subsequent movement by water. Supporting shipper: Linden Lumber Company, P.O. Box 506, Linden, AL 36748.

MC 47171 (Sub-3–12TA), filed October 29, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Textiles and textile products (except in bulk)* between points in Spartanburg County, SC on the one hand, and, on the other, points in AK. Supporting shipper: Hoechst Fibers Industries, Div. American Hoechst Corp., Spartanburg, SC 29304.

MC 121654 (Sub-3–22TA), filed October 30, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, Serby & Mitchell, P.C., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Bakery Products* from facilities of Nabisco, Inc. at or near Fairlawn, NJ; Philadelphia and Pittsburgh, PA; Atlanta, GA; and Richmond, VA to Mobile and Montgomery, AL; Baton Rouge, Monroe, New Orleans and Shreveport, LA; Dallas, Fort Worth and Houston, TX; Richmond, VA; and points in GA, NC, SC, CT, DE, MD, MA, NY, NJ, PA, RI and DC. Supporting shipper: Nabisco, Incorporated, East Hanover, New Jersey 07936.

MC 121654 (Sub-3–23TA), filed October 30, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Malt Beverages (except in bulk)* from facilities of Miller Brewing Company at or near Eden, NC to Athens and Gainesville, GA. Supporting shipper: Northeast Sales Distribution, Inc., P.O. Box 1463, Athens, GA 30603.

MC 121654 (Sub-3–24TA), filed October 30, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Nickel, nickel scrap, cathode, briquettes and powder* from facilities of Derby & Co., Inc., located at or near Baltimore, MD; Camden, NJ; and Braddock, PA to Monroe, NC. Supporting shipper: Derby & Co., Inc., 400 Holiday Drive, Pittsburgh, PA 15220.

MC 138882 (Sub-3–27 TA); filed October 29, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema, (same address as applicant). *(1) Asphalt roofing, shingles, building materials and fiberglass mat, and (2) Materials, equipment and supplies used in the manufacture of commodities in (1) above*, (except commodities in bulk, in tank vehicles). Between the facilities of Elk Corporation located at or near Ennis, TX on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Elk Corporation, Old Hwy. 75 & County Road, P.O. Box 500, Ennis, Texas 75119.

MC 127921 (Sub-3–1 TA); filed October 29, 1980. Applicant: COOLEY TRANSPORT, INC., Route 8, Box 225, Inman, SC 29349. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Salt*, between Wilmington, NC, and points in its commercial zone, on the one hand, and, on the other, points in NC, SC, TN, AL and GA. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins Glen, NY 14891.

MC 128720 (Sub-3–13 TA); filed October 27, 1980. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Dr., Nashville, TN 37210. Representative: Henry E. Seaton, 429 Pennsylvania Bldg., 425—13th St., N.W., Washington, DC 20004. *Common carrier*, regular route; *General commodities (except Classes A & B explosives, household goods as defined by the Commission, and commodities in bulk)*, between Chattanooga, TN and Valdosta, GA, from Chattanooga, TN, over Interstate Hwy. 75 to Valdosta, GA, and return, serving Chattanooga, TN for the purpose of joinder only, and all points in GA as intermediate and off route points. Supporting shipper: There are 41 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with docket number MC–128720 and subs at Chattanooga and to interline at all authorized points.

MC 120981 (Sub-3–3 TA); filed October 27, 1980. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, TN 37210. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. *Petroleum products, synthetic lubricating oil, NOI. automobile parts and accessories, and such commodities as are used or dealt in by retail fuel stations and automobile service centers (except commodities in bulk)*, Between the facilities of Exxon Company, U.S.A. at or near Baton Rouge, LA, and points in the states of TX (on and east of I–35), MS, AL, TN, KY, GA, NC, SC, IN, OH, WV, IL, and FL (west of the Appalachicola River). Supporting shipper: Exxon Company, U.S.A. (A Division of Exxon Corporation), Post Office Box 2180, Houston, TX 77001.

MC 121306 (Sub-3–1 TA); filed October 27, 1980. Applicant: SUPERIOR MOTOR EXPRESS, INC., P.O. Box 98, Gold Hill, NC 28071. Representative: William L. Earnhardt, (address same as applicant). *Iron and steel articles*, from Charleston, SC to GA, NC, SC, TN, and VA. Supporting shipper: Driller Service, 792 Highland Avenue, Hickory, NC 28601. Applicant intends to tack with existing authority.

MC 117943 (Sub-3–1TA), filed October 28, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: David C. Venable, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Foodstuffs (except commodities in bulk, in tank vehicles* from the plantsite of Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 138635 (Sub-3–13TA), filed October 28, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same as above). *(1) Automotive Parts and (2) equipment, supplies and material used in the manufacture of (1) above* between points in the U.S. Supporting shipper: Carroll Shelby Industries, Inc., 19021 S. Figueroa, Gardena, CA 90248.

MC 146451 (Sub-3–24TA), filed October 27, 1980. Applicant: WHATLEY-WHITE, INC., P.O. Box 6, Dothan, AL 36302. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Textiles and textile products and materials, equipment and supplies used in the manufacture and distribution of such products* between points in the US, resricted to the transportation of traffic moving from or to facilities of Union Underwear Company, Inc. of Bowling Green, KY. Supporting shipper: Union Underwear Company, Inc., P.O. Box 780, Bowling Green, KY 42101. The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 22311 (Sub-4–1TA), filed November 4, 1980. Applicant: A. LINE, INC., P.O.Box 765, Hammond, IN 46325. Representative: Marvin Mickow, President, P.O. Box 765, Hammond, IN 46325. *Common irregular molded plastic products*, from St. Joseph County, IN to points in and east of MN, IA, MO, OK and TX. Supporting shipper: RoTec, Inc., 2401 Schumacher Dr. Mishawaka, IN 46544.

MC 102181 (Sub-4–2TA), filed October 31, 1980. Applicant: O. H. & F., INC., P.O. Box 129, Grayville, TL 62844. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. *Common irregular. Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof.* Between points in Ohio, Pennsylvania and West Virginia. Supporting shippers: Three (3) An underlying ETA seeks 120 days authority.

MC 103798 (Sub-4–5TA), filed October 31, 1980. Applicant: MARTEN TRANSPORT LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Foodstuffs* from Springfield, IL to Kansas City, KS, Minneapolis, MN and Clearfield, UT. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Company, 608 2nd Avenue South, Minneapolis, MN 55402.

MC 118806 (Sub-4–3TA), filed October 30, 1980. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Suite 200, Winnipeg, MB R2J 3K4. Representative: Bernard J. Kompare, Esq., Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Roofing granules*, from Minneapolis, MN, and its commercial zone to the ports of entry on The International Boundary Line between the U.S. and Canada, located at Noyes, MN, and Pembina, ND, restricted to the transportation of traffic moving in foreign commerce. An underlying ETA seeks 120 days authority. Supporting shipper: Canadian Gypsum Company, Ltd., 421 Archibald St., Winnipeg, MB R2J 3K4.

MC 141318 (Sub-4–1TA), filed October 31, 1980. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 531 North Eighth Street, Medford, WI 54451. Representative: Stephen F. Grinnell, 1000 First National Bank bldg., Minneapolis, MN 55402. *Contract* irregular: *Urethane Foam* from Chicago, IL to points in WI. Restricted to traffic moving under continuing contract with Clark Foam Products Incorporated. Supporting Shipper: Clark Foam Products Incorporated, 4630 West 53rd Street, Chicago, IL 60632.

MC 120978 (Sub-4–3TA), filed October 31, 1980. Applicant: MAYER TRUCK LINE, INC., 1203 South Riverside Drive, Jamestown, ND 58401. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Lumber and wood products*, from points in ID, MT, OR, and WA to points in IA, IL, MN, SD, and WI. Supporting shippers: Brand S. Corporation, Box 631, Laclede, ID 83841; Canton Corporations, Box 9238, Minneapolis, MN 55440, and Emmer Bros. Co., 6800 France Avenue South, Minneapolis, MN 55435.

MC 150398 (Sub-4–1TA), filed October 30, 1980. Applicant: BLUE EXPRESS, INC., P.O. Box 292, Canton, South Dakota 57013. Representative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Ave., N.W., Washington, D.C. 20036. *Foodstuffs*, animal foods, such merchandise as is dealt in by retail gift and curio shops and catalogue distribution centers, from the facilities of Swiss Colony, Inc., at or near Madison and Monroe, WI on the one hand, and points in the U.S. (except AL & HI) on the other, and (2) *Materials*, Equipment and Supplies used in the manufacture and production of the commodities described in part (1) above, from points in the U.S. (except AL & HI) to the facilities of Swiss, Colony, Inc. near Madison and Monroe, WI. Supporting shipper: Swiss Colony, Inc., 1112 7th Ave., Monroe, WI 53566.

MC 141216 (Sub-4–2TA), filed October 29, 1980. Applicant: DARREL K. OAKLEY d.b.a. OAKLEY ENTERPRISES, P.O. Box 387, Rapid City, SD 57709. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Pole Line Construction materials and supplies* from Seward, NE to Hettinger, ND and Bison, Lodge Pole, Maurine, Union Center and points in Meade County, SD. An underlying ETA seeks 120 days authority. Supporting shipper: Brink Construction Co., Inc., P.O. Box 1186, Rapid City, SD 57709.

MC 74176 (Sub-4–2TA), filed October 31, 1980. Applicant: WILES TRANSPORT, INC., 16901 Van Dam Rd., So. Holland, IL. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. *Such merchandise as is dealt in by wholesale or retail food business houses, food stuffs, materials, equipment and supplies used in the conduct of such business.* From Chicago, Illinois to points in PA, NY, MD, NJ, MA, CT, NC, MS, AL, GA, and OH. Supporting shipper: Topco Associates, Inc., 7711 Gross Pt., Skokie, IL 60077.

MC 151087 (Sub-4–3TA), filed October 31, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract, Irregular, General Commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points within the Chicago, IL commercial zone on the one hand, and, on the other, all points in the U.S. under continuing contract(s) with Land-O-Frost, Inc. Supporting shipper: Land-O-Frost, Inc., 16850 Chicago Ave., Lansing, IL 60438.

MC 109449 (Sub-4–7TA), filed November 3, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *Frozen Foods*

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(except commodities in bulk). From Hennepin County, MN to points in Texas and Denver, Colorado. "An underlying ETA seeks 120 days authority". Supporting shipper: Northern Star Company, 3175 South 5th Street, South East, Minneapolis, MN 55414.

MC 146162 (Sub-4–1TA), filed November 3, 1980. Applicant: TRANSPORT EQUIPMENT CORP., 240 112th Street, Hammond, IN 46320. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. (1) *metal articles,* (2) *building materials and supplies,* (3) *such commodities as are used in mining and energy exploration and production,* and (4) *materials, equipment and supplies* used in the manufacture, sale or distribution of the commodities in (1), (2) and (3) above, between Chicago, IL and its Commercial Zone, on the one hand, and, on the other, points in AR, AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, OH, OK, PA, TN, TX, UT, WV, WI and WY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Master Jobbers, Inc., 240 112th Street, Hammond, IN 46320; Wm. R. Hobbell Steel Corp., 11355 Franklin Ave., Franklin Park, IL 60131. An underlying ETA seeks 120 days authority.

MC 152282 (Sub-4–1TA), filed November 3, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, NM 55378. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract* irregular: *Machinery and machinery parts, and materials and supplies used in the manufacture and distribution of machinery and machinery parts,* between points in the U.S. under continuing contracts with NFD, Inc. of Braham, MN. An underlying ETA seeks 120 days authority. Supporting shipper: NFD, Inc., 540 Broadway S., P.O. Box 504, Braham, MN 55006.

MC 143032 (Sub-4–2TA), filed November 3, 1980. Applicant: THOMAS J. WALCZYNSKI d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Railroad track nail and materials and supplies used in the construction and operation of railroad rail tracks,* (1) from Chicago Heights, IL and Pueblo, CO to Superior, WI and (2) between Chicago Heights, IL, on the one hand, and, on the other, Pueblo, CO. Supporting shipper: ABEX Corporation, 530 5th Ave., New York, NY 10036.

MC 141740 (Sub-4–14TA), filed November 3, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract,* irregular, *general commodities* (except household goods, Classes A and B explosives) between Columbus, OH, on the one hand, and, on the other, Chicago, IL, Boston, MA, New York, NY, Philadelphia, PA, and Los Angeles, CA. Restricted to service to be performed under continuing contract with Central Ohio Shippers Coordinated Corporation. Supporting shipper: Central Ohio Shippers Coordinated Corporation, P.O. Box 26222, Columbus, OH 43216.

MC 152438 (Sub-4–1TA), filed November 4, 1980. Applicant: AIRROW SURFACE LINES, INC., P.O. Box 1363, Highway 53 N., Eau Claire, WI 54701. Representative: Rodney W. Nicholson, 306 Grove Street, Eau Claire, WI 54701. *Passengers and their baggage, in special operations,* between points in Eau Claire and Chippewa Counties, WI on the one hand, and the Minneapolis-St. Paul International Airport, MN on the other. Supporting shippers: Dr. William Mitchell, University of Wisconsin, 105 Garfield Avenue, Eau Claire, WI 54701; Steven J. Cyr, Amoco Foam Products Company, 1500 West River Street, Chippewa Falls, WI 54729; and James A. Crawford, Johnson Plastics Machinery, 1600 Johnson Street, Chippewa Falls, WI 54729.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 5. SEND PROTESTS TO: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 29910 (Sub-5–62TA), filed November 3, 1980. Applicant: ABF GREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Iron or steel articles,* between Russellville, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Ladish Company, 5481 S. Packard Avenue, Cudahy, WI 53110.

MC 30844 (Sub-5–33TA), filed November 3, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *General commodities (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission; commodities in bulk and those requiring special equipment)* (1) between points in the United States, restricted to the transportation originating at or destined to the facilities of C.O.M.B., Inc.; Economics Laboratory, Inc. and H. B. Fuller Company, and (2) between Red Wing and Minneapolis, MN to all points in the contiguous United States, restricted to transportation originating at or destined to the facilities of Durkee-Atwood Co. Supporting shippers: C.O.M.B., Inc., 3528 Minnehaha Ave. S., Minneapolis, MN 55406. Economics Laboratory, Inc., Osborn Building, Saint Paul, MN 55102 H. B. Fuller Company Polymer Division, 4450 Malsbary Road, Blue Ash, OH 45242 Durkee-Atwood Co., 215 N.E. 7th Street, Minneapolis, MN 55413.

MC 30844 (Sub-5–34TA), filed November 11, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Kroblin Refrigerated Xpress, Inc., P.O. Box 5000, Waterloo, Iowa 50704. *Nonexempt food and kindred products* between Ulster County, NY on the one hand, and, on the other, points in OH, restricted to traffic originating at and destined to the facilities of Heinz USA. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 30844 (Sub-5–35TA), filed November 3, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *General commodities, (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between points in the United States (except Alaska and Hawaii), restricted to the transportation originating at and destined to the facilities of Heinz USA. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 41432 (Sub-5–7TA), filed November 3, 1980. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway (P.O. Box 10125), Dallas, TX 75207 (214–638–2280). Representative: Wayland Little (same as applicant). (A) Common; Regular. *General Commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* serving Ione, CA and the facilities of the American Lignite Products, located at or near Ione, CA, as an off-route point in connection with carrier's authorized regular route operation between Portland, OR and San Francisco, CA. (B) Common; Irregular. *General Commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* between Ione, CA and the facilities of American Lignite Products, located at or near Ione, CA, on the one hand, and, on the other, Brenham and Nacogdoches, TX. Applicant intends to tack with existing authority and to interline. Supporting shipper: American Lignite Products, Ione, CA.

MC 111231 (Sub-5–16TA), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. *Building and Roofing Materials and Supplies (except commodities in bulk)* from Stroud, OK to points in the U.S. (except AK and HI). Supporting shipper: Allied Materials Corporation, P.O. Box 12340, Oklahoma City, OK 73157.

MC 111231 (Sub-5–17TA), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. *Lumber, lumber products and pallets* between Hamilton County, IL, on the one hand, and, on the other, points in KS, MO, OK and TN for 270 days. Supporting shipper: Joseph G. Baldwin Company, P.O. Box 276, McLeansboro, IL 62859.

MC 111401 (Sub-5–20TA), filed November 3, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Toluene, in bulk, in tank vehicles,* from Baton Rouge, LA to Jacksonville, AR. Supporting shipper: Thomspson-Hayward Chemical Co., P.O. Box 4489, Little Rock, AR 72214.

MC 114273 (Sub-5–35TA), filed November 3, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Corporate Counsel (same as above). *(1) Containers, container ends, container closures, and (2) materials, equipment and supplies used in the manufacture and distribution of commodities in (1) above, (except in bulk)* between Streator, IL, on the one hand, and, on the other, St. Louis, MO, including points in the commercial zones of the above-mentioned cities. Restricted to traffic originating at or destined to the facilities of Thatcher Glass Manufacturing Company. Supporting shipper(s): Thatcher Glass Mfg. Co., P.O. Box 265, Elmira, NY 14902.

MC 114273 (Sub-5–36TA), filed November 3, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, corporate counsel (same as above). *(1) Paper and paper articles; and (2) commodities used in the manufacture and distribution of commodities in (1) above (except in bulk, in tank vehicles) and (3) cleaning compounds and dispensers,* between Albany, NY, on the one hand, and, on the other, points in the states of IL, IN, IA, KY, MD, MI, MN, MO, NC, OH, PA, VA, WV, and WI, including points in the commercial zone of the above-mentioned city. Supporting shipper(s): Crown Zellerback Corporation, One River Street, South Glens Falls, NY 12801.

MC 114273 (Sub-5–37TA), filed November 3, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, corporate counsel (same as above). *General commodities (except household goods as defined by the Commission and Class A and B explosive)* between the facilities of Eastman Kodak Company at Rochester, NY and the facilities of Eastman Kodak Company at Dallas, TX, including points in the commercial zones of the above-mentioned cities. Supporting shipper(s): Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 114965 (Sub-5–2TA), filed November 3, 1980. Applicant: CYRUS TRUCK LINE, INC., P.O. Box 327, Iola, KS 66749. Representative: Charles H. Apt, Attorney 104 South Washington, Iola, KS 66749. *Fertilizer solutions and dry fertilizer in bulk,* from Sugar Creek, MO, to points in IA, KS and NE. Supporting shipper: Chevron Chemical Company, P.O. Box 282, Ft. Madison, IA 52627.

MC 119988 (Sub-5–25TA), filed November 3, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufkin, TX 75901. *Such commodities as are dealt in or used by hospitals.* Between Harris County, TX, and Orleans Parish, LA, on the one hand, and, on the other, points in the U.S. Supporting shipper(s): Southwest Medical Packaging, Inc., 2930 Commerce Street, Houston, TX 77003.

MC 119988 (Sub-5–26TA), filed November 3, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufkin, TX 75901. *General commodities (except in bulk).* Between Grand Junction, TN, and Lovelady, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Phillips Petroleum Company, 734 Adams Building, Bartlesville, OK 74004.

MC 133676 (Sub-5–1TA), filed November 3, 1980. Applicant: COMET TRUCK LINE, INC., 1175 Choctaw Drive, Baton Rouge, LA 70821. Representative: Harold H. Mitchell, Jr., Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between all points in LA and MS in and South of Vernon, Rapides, and Avoyelles Parishes, LA, and Wilkinson and Amite Counties, MS. Supporting shippers: 52.

Note.—Applicant intends to interline.

MC 133805 (Sub-5–31TA), filed November 3, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Alcoholic Beverages*—From Jacksonville, FL–To points in IL, IN, MN and WI (restricted to the transportation of traffic having a prior movement by water). Supporting shipper: Wine & Spirits Shippers Assn., Inc., 11800 Sunrise Valley Drive, Reston, VA 22091.

MC 133805 (Sub-5–32TA) filed November 3, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Clay Tile, Quarry Tile and Face Brick*—From points in the U.S. to points with the State of Florida. Supporting shipper: Design Materials Company, 6967 Phillips Highway, Jacksonville, FL 32216.

MC 133805 (Sub-5–33TA) filed November 3, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Foodstuffs, Meat and Meat Products and Materials; Equipment and Supplies used in the manufacture, sale and distribution thereof*—Between points in the U.S. (except AK and HI). Supporting shipper: Rodriguez Festive Foods, Inc., 500 East Central, Ft. Worth, TX 76106.

MC 133805 (Sub-5–34TA) filed November 3, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1—Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Rubber Tires, Tubes and Flaps and Assemblies thereof*—From points in FL, KS, KY, MO, OH, PA, TN and TX—To points in the

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U.S. (except AK and HI). Supporting shipper: Jim Martin Tire Company, 522 Park Street, Jacksonville, FL 32203.

MC 135797 (Sub-5–81TA), filed November 3, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Non-exempt food and kindred products,* between Ulster County, NY on the one hand, and, on the other, points in TX, restricted to traffic originating at or destined to the facilities of Heinz USA. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 138328 (Sub-5–16TA), filed November 3, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *General commodities (except commodities in bulk, those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring the use of special equipment),* between Grand Junction, TN and Lovelady, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Phillips Petroleum Company, 734 Adams Bldg., Bartlesville, OK 74004.

MC 140665 (Sub-5–44), filed November 3, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *Paper, paper and paper products and commodities produced or distributed by manufacturers and convertors of paper products (except commodities in bulk);* from points in Portage and Wood Counties, WI to points in AZ, CA, OR and WA. Supporting shipper: Nekoosa Papers, Inc., 100 Wis. River Drive, Port Edwards, WI 54469.

MC 143646 (Sub-5–2TA), filed November 3, 1980. Applicant: KEITH BOTKINS TRUCKING, INC., 112 West Rollings Street, Moberly, MO 65270. Representative: Thomas P. Rose, Attorney at Law, P.O Box 205, Jefferson City, MO 65102. *Coal, in bulk, in dump vehicles,* from Ralls County, MO to IA and IL. Supporting shipper: Wyoming Fuel Company, P.O. Box 15625, Lakewood, CO. 80215.

MC 144603 (Sub-5–27TA), filed November 3, 1980. Applicant: F.M.S. TRANSPORTATION INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry, (same address as applicant). *Leather, boots or shoes, boot and shoe materials and materials and supplies used in the manufacture of boots and shoes* between points in the states of CA, MA, NH, NY, NJ, and PA, on the one hand, and, on the other, points in the states of MO, IL, AR, and TN (restricted to traffic from, to or between the facilities of Brown Shoe Co.). Supporting shipper: Brown Shoe Company, P.O. Box 354, St. Louis, MO 63166.

MC 146621 (Sub-5–1TA), filed November 3, 1980. Applicant: EUGENE GEORGE TRUCKING SERVICE, Route No. 1, Box 14A, Oswego, KS 67356. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Steel tanks and machinery, equipment, materials & supplies used in the manufacture, construction, erection & installation of steel tanks,* between Labette County, KS on the one hand, and, on the other hand, points in AR, CO, IA, IL, IN, KY, LA, GA, MO, MS, MN, NE, NM, OK, SD, TN, TX, AL, and WI. Supporting shipper: Peabody TecTank, Inc., P.O. Box 996, Parsons, KS 67357.

MC 148833 (Sub-5–6TA), filed November 3, 1980. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Frozen foodstuffs* from the facilities utilized by AJP Food Products in the Chicago, IL, commercial zone to points in AZ, CA, NV, WA. Supporting shipper: AJP Food Products, 230 Pulaski Road, Calumet City, IL 60409.

MC 149199 (Sub-5–3TA), filed November 3, 1980. Applicant: O. R. MILLER, d.b.a. FRONTIER EXPRESS, 932 S.W. Second, Oklahoma City, OK 73102. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. Common regular; *General Commodities, (except those of unusual value, class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment).* (1) Between Renfrow, OK and Tonkawa, OK: From Renfrow via U.S. Hwy 81 to junction with U.S. Hwy 60, thence via U.S. Hwy 60 to Tonkawa and return via the same route, serving all intermediate points; (2) Between Lamont, OK and Garber, OK, via OK Hwy 74, serving all intermediate points; (3) Between Capron, OK and Blackwell, OK, via OK Hwy 11, serving all intermediate points and the off-route points of Wakita, Manchester, Byron and Amorita, OK; (4) Between Wayonka, OK and Tonkawa, OK: From Wayonka, via U.S. Hwy 281 to junction with U.S. Hwy 64, thence via U.S. Hwy 64 to junction with U.S. Hwy 77, thence via U.S. Hwy 77 to Tonkawa and return via the same route, serving all intermediate points and the off-route points of Pond Creek, Kremlin and Garber, OK. Applicant proposes to tack the authority sought with its authority in MC 149199 and subs thereto, and proposes to interline with other motor carriers. Supporting shippers: None. The purpose of the application is to substitute a single-line service in lieu of existing joint-line service.

MC 151534 (Sub-5–4TA), filed November 3, 1980. Applicant: R&D TRANSPORTATION CORPORATION, 818 5th, P.O. Box 1908, Des Moines, IA 50306. Representative: Craig D. Vermie, 1350 Financial Center, Des Moines, IA 50309. *Railroad Car Parts, Iron, Steel, and Aluminum* between points in Omaha Commercial Zone and points in AR, LA, MS, MO, KS, CO, SD, ND, MN, NE, IA, IL, MT, ID, OR, WA, WY, UT, and CA. Supporting shipper: Unarco Transportation Equipment Division, Unarco Industries, Inc., 13840 "L" Street, Omaha, NE 68137.

MC 152274 (Sub-5–1TA), filed November 3, 1980. Applicant: TOM P. DAVIS, Rt. 3, Box 202, Monett, MO 65708. Representative: Rex Kay, County & Popular, Monett, MO 65708. Transporting: *Sand, gravel and rock* between points in MO, OK, AR and KS. Supporting shipper: Coweta Sand & Material, Inc., Coweta, OK 74429.

MC 152277 (Sub-5–1TA), filed November 3, 1980. Applicant: LONG MILE RUBBER COMPANY, 155 South Court, Exchange Park, Dallas, TX 75245. Representative: (same as applicant). Contract; Irreguar. *Paper and paper products,* from Columbus, WI, Mosinee, WI, Kaukauna, WI, Milwaukee, WI, Plymouth, WI, Piermont, NY, Vineland, NJ, and Cleveland, OH, To Grand Saline, TX, Memphis, TN, Eaton, IN, Pittsburg, PA, points in WV, VA, NC, SC, and Atlanta, GA, and Minneapolis, MN, and their commercial zones. Supporting shipper: Clevepak Corporation, Suite 130, 1010 West Mockingbird Lane, Dallas, Texas 75274.

MC 152292 (Sub-5–2TA), filed October 27, 1980. Applicant: SUNBELT EXPRESS, INC., 3129 Robin Hill Lane, Dallas, TX 75042. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Foodstuffs, (except in bulk) and materials, supplies and ingredients used in the manufacture, sale and distribution of foodstuffs* between Arlington, TX; Dallas, TX and Irving, TX and City of Industry, CA: Cucumunga, CA; El Segundo, CA; Los Angeles, CA; Vancouver, WA; Salt Lake City, UT; Denver, CO and Beaverton, OR. Supporting shipper: Frito Lay, Inc., P.O. Box 35034, Dallas, TX 75235.

MC 152367 (Sub-5–1TA), filed November 3, 1980. Applicant: RITEWAY EXPRESS LIMITED, 1914 E. Euclid, Des Moines, IA 50317. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract, IRREG. (1) paper and paper articles, and (2) such commodities as are dealt in by wholesale office, commercial, and industrial supply businesses, from Rock Island, IL to points in IA under a continuing contract(s) with Carpenter Paper Co., of Des Moines, IA. Supporting shipper: Carpenter Paper Co., 106 S.W. 7th Street, Des Moines, IA 50309.

MC 152442 (Sub-5–1TA), filed November 3, 1980. Applicant: SHOQUOQUON TRAILS, 1311 W. Mt. Pleasant St., West Burlington, IA 52655. Representative: David D. Hook, 1311 W. Mt. Pleasant St., West Burlington, IA 52655. *Passengers and their baggage, on special and charter operations,* between the Iowa Counties of Des Moines, Lee, Henry, and Louisa on the one hand, and, on the other, to points within the states of IA, IL, IN, MN, WI, NE, MO, KS, SD, MI, and AR. Supporting shipper: David T. Frantz, co-owner, Trailways Agency, Fairway Center, Burlington, IA 52601.

MC 152444 (Sub-5–1TA), filed November 3, 1980. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy No. 36 & 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Anhydrous ammonia, liquid fertilizer and dry fertilizer, in bulk,* from Jackson County, MO to all points in the states of KS and NE. Supporting shipper: Chevron Chemical Company, P.O. Box 282, Ft. Madison, IA 52627.

MC 152446 (Sub-5–1TA), filed November 3, 1980. Applicant: BEE LINE HOT SHOT SERVICE, INC., 6601 S. May, Oklahoma City, OK 73159. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Oilfield Equipment and Supplies (restricted to 14,000 lbs. or less per shipment* between OK and Woodward Counties, OK, on the one hand, and, on the other, points in AR, CO, KS, NM, LA and TX. Supporting shippers: Hunzicker Brothers, Inc., 501 N. Va., Okla. City, OK 73106; Cameron Iron Works, Inc., P.O. Box 19583, Okla. City, OK 73144; Continental Tank Company, Box 19134, Okla. City, OK 73119; Rodco, Inc., Box 94998, 1820 S.E. 40th, Okla. City, OK 73143.

MC 152447 (Sub-5–1TA), filed November 3, 1980. Applicant: OPIES' MILK HAULERS, INC., Highway 52 West, P.O. Box 89, Eldon, MO 65026. Representative: James C. Swearengen, Hawkins, Brydon & Swearengen P.C., P.O. Box 456, Jefferson City, MO 65102. *Liquid corn syrup and high fructose corn sweeteners, in bulk, in tank vehicles,* from the plant and warehouse facilities of Hubinger Company, at or near Keokuk, IA, to all points in the U.S., except AK and HI. Supporting shipper: Hubinger Company, 601 Main Street, Keokuk, IA 52632.

MC 152448 (Sub-5–1TA), filed November 3, 1980. Applicant: M & T CARTAGE, INC., 4951 Simonton Road, Dallas, Texas 75234. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. *General commodities (except classes A and B explosives, cement, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of Acme Fast Freight, Inc. under the provisions of the Interstate Commerce Act;* (1) between Dallas, TX and points in its commercial zone on the one hand, and, on the other, points in Lamar, Delta, Hopkins, Franklin, Titus, Camp Rains, Wood, Upshur, Harrison, Van Zandt, Smith, Gregg, Rusk, Panola, Henderson, Anderson, Cherokee, Nacodoches, Shelby, Leon, Houston, Angelina, San Augustine, Sabine, Fannin, Clay, Montague, Cooke, Grayson, Jack, Denton, Collin, Hunt, Palo Pinto, Parker, Tarrant, Dallas, Rockwall, Kaufman, Erath, Hood, Johnson, Ellis, Somervell, Bosque, Hill, Navarro, Hamilton, Coryell, McLennon, Falls, Limestone, Freestone, Temple, Archer, Wichita, Staples, Shacklefor, Eastland, Jones, Taylor, Bowie, Red River, Wise, Callahan, Cass, Morris, and Marion Counties, TX. (2) also between San Antonio, TX and its commercial zone on the one hand, and, on the other, points in McCulloch, San Saba, Lampasas, Coryell, Temple, Falls, Robertson, Mason, Llano, Burnet, Williamson, Milam, Kimble, Gillespie, Blanco, Travis, Dee, Kerr, Kendall, Comal, Caldwell, Bastrop, Fayette, Real, Bandera, Bexar, Guadalupe, Gonzales, Lavaca, Uvalde, Medina, Zavala, Frio, Atascosa, Wilson, Dimmit, LaSalle, McMullen, Live Oak, Karnes, DeWitt, Victoria, Jackson, Bee, Goliad, Refugio, Calhoun, San Patricio, Nueces, Aransas, Lee Calhoun, Duval, Jim Wells, Webb, Hays, and Bell Counties, TX. (3) and between Laredo, TX and points in its commercial zone, on the one hand, and, on the other, points in Webb, Zapata, Starr, Hidalgo, Willacy, Cameron, Duval, Jim Wells, Nueces, Jim Hogg, Brooks, Kleberg, and Kenedy Counties, TX. Supporting shipper: Acme Fast Freight, 4951 Simonton Road, Dallas, TX 75234.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 152424 (Sub-6–1TA), filed October 30, 1980. Applicant: CHARLES ENNIS, d.b.a. CALIFORNIA WASHINGTON EXPRESS, 3554 McReynolds Avenue, Modesto, CA 95355. Representative: Jim Pitzer, 15 South Grady Way—Suite 321, Renton, WA 98055. *Contract Carrier,* Irreguiar routes: (1) *Canned fruits and vegetables* from Stanislaus County, CA to points in WA and OR; (2) *Doors and Door Sections, garage or industrial building,* from points in CA and OR to points in WA for 270 days. Supporting shipper: Overhead Door Co. of Seattle, Inc., 2024 South Grand, Seattle, WA 98144. Tri-Valley Growers, 100 California Street, San Francisco, CA 94111.

MC 151191 (Sub-6–2TA), filed October 31, 1980. Applicant: ESPENSCHIED TRANSPORTATION CORPORATION, 322 South 600 East, Centerville, UT 84014. Representative: Lee E. Lucero, 450 Capitol Life Center, Denver, CO 80203. *Contract Carrier,* Irregular Routes: *Automotive air and oil filters and parts and raw materials therefor* between Salt Lake City, UT and Dexter, MO on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY for 270 days. Supporting shipper: Campbell Filter Company, Box 400, Dexter, MO 83841.

MC 148401 (Sub-6–2TA), filed October 27, 1980. Applicant: HENRY F. JOHNSON, d.b.a. GREENLEAF TRANSPORTATION, 1150 Sunnyhills Ave., Brea, CA 92621. Representative: Henry F. Johnson (same as applicant). *General Commodities* (except household goods) between CA, AZ, NV, UT, CO, NM, and TX for 270 days. There are (6) supporting shippers. Their statements may be examined at the Regional office listed.

MC 125952 (Sub-6–7TA), filed October 30, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St. SW., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier:* irregular routes: *salt and salt products,* from points in Tooele County, UT, to points in OR, ID, CA, AK, NV, MT, CO, and WY, for the account of Bonanza Division of Van Waters & Rogers, Inc., for 270 days. Supporting shipper: Bonanza Division of Van Waters & Rogers, Inc., P.O. Box 2369, Salt Lake City, UT 84110.

MC 147832 (Sub-6–5TA), filed October 31, 1980. Applicant: JIM EDDLEMAN d.b.a. J & J CATTLE COMPANY, 3395

V 45 NO 17 80 UMI

Wright Street Wheat Ridge, CO 8033. Representative: John Lewis—Attorney at Law, The 1650 Grant Street Bldg., Denver, CO 80203. *Alcoholic Beverages including Wines and Malt Beverages,* from Tarrant County, TX and Los Angeles County, CA to points in CO, for 270 days. Supporting shipper: High Country Sales, 4110 High Country Road, Colorado Springs, CO 80907.

MC 129951 (Sub-6–2TA), filed October 31, 1980. Applicant: HARLEY I. KEETER, JR., 6379 Valmont Dr., Boulder, CO 80301. Representative: Harley I. Keeter, Jr. (same address as applicant). *Coal* (1) between points in Jackson County, CO; and (2) from Jackson County, CO to Albany County, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Walden Coal Company, P.O. Box 37, Cowdrey, CO 80434.

MC 147553 (Sub-6–1TA), filed October 31, 1980. Applicant: DENNIS MOSS AND GARY MOSS d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Frozen foods,* from the facilities of Ore-Ida Foods, Inc. at or near Burley, ID and Ontario, OR to points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

MC 134201 (Sub-6–2TA), filed October 29, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202. *Contract Carrier,* irregular routes: *Lumber and wood products,* from points in WA, OR, ID, MT, and CA to points in MN, WI, IL, IA, IN, and OH under a continuing contract(s) with Emmer Brothers of Minneapolis, MN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Emmer Brothers, 6800 France Ave. South, 520 South Dale Office Center, Minneapolis, MN 55435.

MC 126514 (Sub-6–8TA), filed October 31, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL. 60603. *Such commodities as are used in the manufacture, sale and distribution of sporting goods equipment and materials and supplies used in the manufacture of sporting goods equipment* between the facilities of AMF Voit, Inc. at Santa Ana, CA, on the one hand, and, on the other, TX, AR, LA, IL, and NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: AMF Voit, Inc., 3801 South Harbor Boulevard, Santa Ana, CA 92704.

MC 138875 (Sub-6–29TA), filed October 30, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *Canned and preserved foodstuffs* (except commodities in bulk), from the facilities of Heinz USA at or near Muscatine and Iowa City, IA; Holland, MI; Fremont and Toledo, OH; and Pittsburgh, PA to the facilities of Heinz USA at or near Tracy, CA; and from the facilities of Heinz USA at or near Tracy and Stockton, CA to points in AZ, ID, NV, OR, UT, WA, and WY, and in each case restricted to traffic originating at the named facilities and destined to the named states, for 270 days. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 26396 (Sub-6–52TA), filed October 31, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). *General commodities* (except those of unusual value, class A and B explosives, household goods, as deffned by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities utilized by Velsicol Chemical Corporation, for 270 days. Supporting shipper: Velsicol Chemical Corporation, 341 East Ohio, Chicago, IL 60611.

MC 152430 (Sub-6–1TA), filed October 31, 1980. Applicant: A. J. THOMAS & SON, INC., 840 So. Front St., Coos Bay, OR 97420. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Paper and paper articles,* from the facilities of Menasha Corp. in Coos County, OR to points in CA, for 270 days. Supporting shipper: Menasha Corp., P.O. Box 367, Neenah, WI 54956.

MC 151586 (Sub-6–4TA), filed October 31, 1980. Applicant: TRANSPORTATION UNLIMITED OF CALIFORNIA, 2639 South Soto, Los Angeles, CA 90023. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Motor Carrier Certificates 61 M.C.C. 209 and 766, from York, NE, Downs, KS and Denver, CO, to Los Angeles, CA, and points within their commercial zones, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Hoffman Bros. Packing Company, Inc., 2731 South Soto, Los Angeles, CA 90023 and Pacific Coast International Meat Company, 2535 East Vernon Avenue, Vernon, CA 90058.

MC 129239 (Sub-6–1TA), filed October 31, 1980. Applicant: WASHINGTON–ALIFORNIA EXPRESS, INC., 919 South McGarry Street, Los Angeles, CA 90029. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Building, Roofing or Sheathing Paper, including asbestos or felt paper, saturated or unsaturated,* from Norristown, PA to Los Angeles, Sante Fe Springs, Sacramento and Vernon, CA; Boulder, Ft. Collins & Sterline, CO; El Reno & Tulsa, OK; Baton Rouge, Belle Chasse, Houma & Staples, LA; Portland, OR; Corpus Christi, Grand Prairie, Houston, Lone Star, Odessa, Pearland & Uvalde, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Nicolet, Inc., Ford & Washington Sts., Norristown, PA 19401.

MC 141804 (Sub-6–90TA), filed October 31, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *General Commodities* (except those of unusual value, household goods as described by the Commission, commodities in bulk, frozen food and those requiring special equipment), between points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Charlotte Freight Association, 2508 Starita Road, Charlotte, NC 28213.

MC 141804 (Sub-6–91TA), filed October 31, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Tire, Tubes and Flaps,* from Waco, TX; Mayfield, KY and Mt. Vernon, IL to points in NC for 270 days. Supporting shipper: North Carolina Farm Bureau Service Company, P.O. Box 27766, Raleigh, NC 27611.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35752 Filed 11-14-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action to Enforce Compliance With Clean Air Act

In accordance with Department Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *Ashland Oil, Inc. et al.* and *Marathon Oil Company* v. *U.S. Environmental Protection Agency,* was lodged with the United States District Court for the Northern District of Ohio. The decree requires the counter-defendant Marathon Oil Company to comply with the applicable portion of the federally-approved Ohio state implementation plan and provides that counter-defendant will pay a civil penalty of $4,500.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *Ashland Oil, Inc. et al.* and *Marathon Oil Company* v. *United States Environmental Protection Agency,* D. J. Ref. 90–5–2–4–60.

The consent decree may be examined at the office of the U.S. Attorney, Northern District of Ohio, Room 400, U.S. Courthouse, Cleveland, Ohio 44114, at the Region V, Office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and Environmental Envorcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sogalkin,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-35797 Filed 11-14-80; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Action To Enforce Compliance With Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Clark Oil & Refining Corporation,* was lodged with the United States District Court for the Northern District of Illinois. The decree requires the defendant to comply with the applicable portions of the federally-approved Illinois state implementation plan and provides that the defendant will pay a civil penalty of $5,000.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530 and should refer to *United States* v. *Clark Oil Company,* D.J. Ref. 90–5–1–1–1291.

The consent decree may be examined at the office of the United States Attorney, Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois, 60604 at the Region V Office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, N.W. Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sogalkin,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-35796 Filed 11-14-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Judgment in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *Armco Inc.* v. *Environmental Protection Agency,* Civil Action No. 79–146, had been lodged with the District Court for the Southern District of Ohio. The proposed decree requires the defendant to comply with the terms of the Clear Air Act and the Ohio Implementation Plan. The decree also requires the defendant to pay a civil penalty of $950,000 for its past violations unless EPA approves Armco's undertaking certain environmentally beneficial projects pursuant to EPA's civil penalty project.

The Department of Justice will receive written comments relating to the proposed judgment for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20230 and refer to *"Armco Inc.,* v. *Environmental Protection Agency"*, D.J. Ref. No. 90–5–2–1–202

The proposed decree may be examined at the Office of the United States Attorney, United States Courthouse, Cincinnati, Ohio; at the Region V Office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604 and at the Environmental Enforcement Section, Land Natural Resources Division of the Department of Justice, Room 1254, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. A check or money order in the amount of $3.00 payable to the Treasurer of the United States should accompany any request.

Sanford Sagalkin,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-34489 Filed 11-14-80; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-251]

Florida Power and Light Co. (Turkey Point Plant, Unit No. 4); Order for Modification of License

I

The Florida Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR–41, which authorizes the operation of the Turkey Point Plant, Unit No. 4 at steady state reactor power levels not in excess of 2200 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Dade County near Miami, Florida.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined

that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–41 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–41 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is repaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Robert Lowenstein, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35464 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-321 and 50-366]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2); Order for Modification of Licenses

I

The Georgia Power Company (licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–57 and NPF–5, which authorize the operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power) for each unit. The facilities consist of boiling water reactors located at the licensee's site in Appling County, Georgia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement or unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating Licenses Nos. DPR–57 and NPF–5 are hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facilities shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of Licenses DPR–57 and NPF–5 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation,

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U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, DC 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35465 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana and Michigan Electric Co. (Donald C. Cook Nuclear Plant, Unit No. 1); Order for Modification of License

I

Indiana and Michigan Electric Company, (the licensee) is the holder of Facility Operating License No. DPR-58 which authorizes the operation of the Donald C. Cook Nuclear Plant Unit No. 1 at steady state reactor power levels not in excess of 3250 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Berrien County, Michigan.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01b [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)" The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

According, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS ORDERED THAT EFFECTIVE IMMEDIATELY Facility Operating License No. DPR-58 is hereby amended to add the following provisions to the Appendix A Technical Specification.

(a) By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-58 dated October 24, 1980.

(b) By no later than December 1, 1980, complete and audible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified.

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35466 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79-01b was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-316]

Indiana and Michigan Electric Co. (Donald C. Cook Nuclear Plant, Unit No. 2); Order for Modification of License

I

Indiana and Michigan Electric Company, (the licensee) is the holder of Facility Operating License No. DPR-74 which authorizes the operation of the Donald C. Cook Nuclear Plant Unit No. 2 at steady state reactor power levels not in excess of 3391 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Berrian County, Michigan.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licenses and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS ORDERED THAT EFFECTIVE IMMEDIATELY Facility Operating License No. DPR–74 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–74 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and audible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified.

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35467 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., Central Iowa Power Cooperative, and Corn Belt Power Cooperative (Duane Arnold Energy Center); Order for Modification of License

I

Iowa Electric Light & Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (licensee) is the holder of facility Operating License No. DPR–49 which authorizes the operation of the Duane Arnold Energy Center at steady state reactor power levels not in excess of 1658 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site near Palo in Linn County, Iowa.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned" and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each

[1] Bulletin 79–01B was not sent to licensees for plant under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–49 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electric Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–49 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis, and Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, attorneys for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35468 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Order for Modification of License

I

Jersey Central Power & Light Company (the licensee) is the holder of Provisional Operating License No. DPR–16, which authorizes the operation of Oyster Creek Nuclear Generating Station at steady-state reactor power levels not in excess of 1930 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Ocean County, New Jersey.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification or electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects ordered the NRC staff to take several related actions. USC filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information

sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification on safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public appraised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were apporved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR–16 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all ssafety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position of Enviornmental Qualification of Safety-Related Electrical Equipment," December 1970. Copies of these documents are attached to Order for Modification of License No. DPR–16 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Secifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35468 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50–309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Order for Modification of License

I

Maine Yankee Atomic Power Company (licensee) is the holder of License No. DPR–36, which authorizes the operation of the Maine Yankee Atomic Power Station at steady state reactor power levels not in excess of 2,630 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site near Wiscasset, Maine.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Report, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–36 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–36 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35470 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

V 45 NO 17 80 UMI

[Docket No. 50-289]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1); Order for Modification of License

I

Metropolitan Edison Company (licensee) and two other co-owners are the holders of Facility Operating License No. DPR-50, which authorizes the operation of the Three Mile Island Nuclear Station, Unit No. 1 as steady state reactor power levels not in excess of 2535 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site near Harrisburg, Pennsylvania.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588." The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is Ordered that effective immediately Facility Operating License No. DPR–50 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR–50 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Opeation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35471 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Power Station); Order for Modification of License

I

The Nebraska Public Power District (licensee) is the holder of Facility Operating License No. DPR–46, which authorizes the operation of the Cooper Nuclear Power Station at steady-state reactor power levels not in excess of 2381 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification on safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–46 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment,"

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–46 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arthur C. Gehr, Attorney, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35472 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station, Unit 1); Order for Modification of License

I

The Niagara Mohawk Power Corporation (licensee) is the holder of Facility Operating License No. DPR–63 which authorizes the operation of the Nine Mile Point Nuclear Station, Unit 1, at power levels up to 1,850 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Oswego County, New York.

II

On November 4, 1977, the Union of Concerned Scientiests (UCS), filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors . However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions. With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents-the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposes a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the USC Petition emphasizes the importance of prompt completion of the upgrading of environmental qualifications of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–63 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–63 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Eugene B. Thomas, Jr., Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35473 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co. (Monticello Nuclear Generating Plant); Order for Modification of License

I

The Northern States Power Company (licensee) is the holder of Provisional Operating License No. DPR–22 which authorizes the operation of the Monticello Nuclear Generating Plant at steady state reactor power levels not in excess of 1,670 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Wright County, Minnesota.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "from the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualification of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR-22 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisons of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-22 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NURE-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A Copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35474 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2); Order for Modification of Licenses

I

Northern States Power Company (licensee) is the holder of License Nos. DPR-42 and DPR-60 which authorize the operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 1650 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site in Goodhue County, Minnesota.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License Nos. DPR-42 and DPR-60 are hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of Licenses DPR-42 and DPR-60 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. Whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisennut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35475 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket Nos. 50-461-OL and 50-462-OL]

Illinois Power Company, et al.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Illinois Power Company, et al. (Clinton Power Station, Units 1 and 2); Construction Permit Nos. CPPR-137 and CPPR-138

This action is in reference to a notice published by the Commission on September 29, 1980, in the **Federal Register** (45 FR 64307-09) entitled, "Receipt of Application for Facility Operating Licenses: Availability of Applicant's Environmental Report, Consideration of Issuance of Facility

Operating Licenses, and Notice of Opportunity for Hearing".

The Chairman of this Board and his address is as follows: Hugh K. Clark, Esq., P.O. Box 127A, Kennedyville, Maryland 21645.

The other members of the Board and their addresses are as follows:

Dr. George A. Ferguson, School of Engineering, Howard University, 2300 Sixth Street, N.W. Washington, D.C. 20059.

Dr. Oscar H. Paris, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 7th day of November, 1980.

B. Paul Cotter, Jr.,

Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-35783 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395 OL]

South Carolina Electric and Gas Company, et al. (Virgil C. Summer Nuclear Station, Unit 1); Notice Rescheduling Third Prehearing Conference

Please take notice that the third prehearing conference originally scheduled for December 11, 1980 has been rescheduled because of the unavailability of counsel in December.

By agreement of the parties and by Order of the Board, the third prehearing conference will be convened at 9:30 a.m. on November 25, 1980 in the Richland County Judicial Center, Courtroom 2A, 1701 Main Street, Columbia, South Carolina 29202, to discuss all pending matters and further scheduling in the proceeding.

All parties or their counsel are directed to attend. The public is invited, but no limited appearances will be permitted at this conference.

By order of the Board.

Dated at Bethesda, Maryland, this 10th day of November, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman

[FR Doc. 80-35785 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority (Sequoyah Nuclear Plant, Unit No. 1); Order for Modification of License

I

The Tennessee Valley Authority (licensee) is the holder of License No. DPR-77, which authorizes the operation of the Sequoyah Nuclear Plant, Unit No. 1 at steady state reactor core power levels not in excess of 3411 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Louisa County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Meomorandum and Order dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify of replace inadequate equipment promptly."

III

The Commission has approved the provisions of the license condition set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, such upgrading work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-77 is hereby amended to add the following license condition 2.C.(12)(c) and Appendix A Technical Specification 6.10.2(o):

License Condition 2.C.(12)(c)

"By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of thse documents are attached to Order for Modification of License No. DPR-77 dated November 6, 1980.

Appendix A Technical Specification 6.10.2(o)

"Records for Environmental Qualification which are covered under the provisions of Paragraph 2.C.(12)(b) of license No. DPR-77."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The license or any person whose interest may be affected by this Order may request a hearing by December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennesssee 37902, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be: Whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: November 6, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35768 Filed 11-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric and Power Co. (North Anna Power Station, Unit No. 2); Order for Modification of License

I. The Virginia Electric Power Company (licensee) is the holder of License No. NPF-7, which authorizes the operation of the North Anna Power Station, Unit No. 2 at steady state reactor core power levels not in excess of 2775 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Louisa County, Virginia.

II. On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: Fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. USC filed a petition for Reconsideration on May 2, 1978. By Memorandum and Order dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety-Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III. The Commission has approved the provisions of the license condition set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the USC Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, such upgrading work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is ordered,* that effective immediately Facility Operating License No. NPF–7 is hereby amended to add the following license condition 2.C.(4)(e) and Appendix A Technical Specification 6.10.2(o):

License Condition 2.C.(4)(e)

"By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF–7 dated November 7, 1980.

Appendix A Technical Specification 6.10.2(o)

"Records for Environmental Qualification which are covered under the provisions of paragraph 2.C.(4)(d) of License NO. NPF–7."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V. The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be:

whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: November 7, 1980.
Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80–35769 Filed 11–14–80; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. STN 50–498 OL, STN 50–499 OL]

Houston Lighting and Power Co., et al. (South Texas Project, Units 1 and 2); Order Scheduling Prehearing Conference

October 30, 1980.

By letter to the Board dated October 22, 1980, the Applicants expressed some disagreement with the NRC Staff's statement of QA/QC issues which are to be heard as a result of the Commission's Memorandum and Order of September 22, 1980 (CLI–80–32) and our Memorandum and Order of September 24, 1980. The Applicants suggested that a prehearing conference be held to clarify and finalize those issues and to establish further schedules for the proceeding. By letter dated October 27, 1980, the Staff agreed that such a prehearing conference would be desirable.

Please take notice that a prehearing conference will take place on Wednesday, November 19, 1980, commencing at 10:00 a.m., at Pavillion East, Quality Inn—Intercontinental Airport, 6115 Jetero Blvd., Houston, Texas 77338.

The parties should be prepared to specify the QA/QC issues, in addition to existing Contentions 1 and 2, which they wish to have considered at the hearings which are to be held in implementation of the directions of the Commission in CLI–80–32. In that connection, the Board wishes the parties to clarify the issue, if any, under which the QA/QC program for *construction* (insofar as it applies to plant structures not yet completed) is to be considered. At the conference, the Board will also address requests for further discovery of the QA/QC issues, and further scheduling with respect to those issues.

The public is invited to attend this conference, but no oral limited appearance statements will be taken.

It is so ordered.

Dated at Bethesda, Maryland, this 30th day of October 1980.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman.

[FR Doc. 80–35998 Filed 11–14–80; 9:34 am]
BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

November 10, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register,** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New

Animal and Plant Health Inspection Service
Federal Plant Pest Regulations (7 CFR 330)
PPQ 525 and 526
On occasion
Individuals or households/businesses or other institutions
Univ, comm testing labor., private collect. comm buss
SIC: 739 581 495 822
Small businesses or organizations
Agricultural research and services, 4,100 responses; 583 hours; $49,981 Federal cost, 2 forms
Charles A. Ellett, 395–7340
Regulations implementing the Federal Plant Pest Act and the Plant Quarantine Act. Information furnished on applications is used to determine if a permit can be issued to allow movement of plant pests or soil.

Revisions

•Farmers Home Administration
Rural Congregate Housing Demonstration Evaluation
Nonrecurring
Individuals or households
Elderly applicants for congregate housing
Mortgage credit and thrift insurance, 620 responses; 465 hours; $250,000 Federal cost; 1 form
Charles A. Ellett, 395–7340
Study will assist FmHA and the Administration on Aging in determining the approximate mix of services required for different population groups of elderly tenants in future FmHA congregate housing.

Extensions (Burden Change)

•Economics, Statistics, and Cooperatives Service
Potato and sweetpotato grower surveys
Other—see SF83
Farms
Potato and sweetpotato growers
SIC: 0 16
Small businesses or organizations
Agricultural research and services, 12,480 responses; 1,919 hours; $116,000 Federal cost; 3 forms
Off. of Federal Statistical Policy and Standard, 673–7974
Provides data to estimate prospective supplies of potatoes and sweetpotatoes in all States having significant commercial production. Estimates also prepared on utilization such as fresh market, processing and nonfood uses. Estimates used by potato industry in marketing decisions.

Reinstatements

•Agricultural Stabilization and Conservation Service
Daily Warehouse Sales Summary and Daily Auction Warehouse Report
MQ–80 (Tobacco) (Flue and Bur)
Other—see SF83
Businesses or other institutions
Tobacco auction warehouse operators
SIC: 0 72
Small businesses or organizations
Farm income stabilization, 17,500 responses; 5,250 hours; $51,880 Federal cost; 2 forms
Charles A. Ellett, 395–7340
Tobacco warehousemen are required to file this report each sale with the ASCS mktg. recorder. This form is used to summarize and report all daily purchases and resales of tobacco at auction during mktg. season. (Pub. L. 430).

DEPARTMENT OF DEFENSE—MILITARY

Agency Clearance Officer—John V. Wenderoth—697–1195

Extensions (Burden change)

•Department of the Navy
College rank in class
NAVCRUIT 1100/15
On occasion
Businesses or other institutions
Clerks
Department of Defense-Military, 5,350 responses; 2,672 hours; $5,187 Federal cost; 1 form
Edward C. Springer, 395–4814
Used to evaluate the level of academic achievement of members applying for certain officer programs and to determine future training of certain applicants. Since the number of applicants exceed the quota for some programs, selection becomes a difficult problem and among the criteria used in this selection process is the scholastic standing of the applicant.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—245–7488

New

•Food and Drug Administration
Infant Formula—Notification of Nutrient Quality [1]
Monthly (Other—See SF83)
Businesses or other institutions
Manufacturers of infant formula
SIC: 203
Consumer and occupational health and safety, 175 responses; 644 hours; $1,200 Federal cost; 1 form
Richard Eisinger, 395–6880
Information will be provided by manufacturers of infant formula to

[1] At the request of the agency, the 10-day public comment period has been waived. However, public comments will still be carefully considered, and any changes indicated will be made whenever possible.

V 45 NO 217 80 0 UMI

assure that the formula provides the required nutrients, meets quality factor requirements and is processed in accordance with quality control procedures prescribed by the Secretary.

• Human Development Services
State plan preprint for Aid to Families with Dependent Children (Title IV–A of Social Security Act)
Nonrecurring
State or local governments
State agencies
SIC: 832
Social services, 55 reponses; 110 hours; $5,000 Federal costs; 1 form
Barbara F. Young, 395–6880
Amendments to the State plan preprint for the Aid to Families With Dependent Children (Title IV–A of the SSA) provides for Federal funding for foster care placement of eligible children and placement of children in public institutions providing care to no more than 25 children. Title IV–A and E provide Federal assistance for foster care and/or adoption assistance.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Winsor, Acting—426–1887

New

• Federal Aviation Administration
General Aviation Biennial Flight Review Survey
FAA 1800–OT
Nonrecurring
Individuals or households
General aviation pilots
Air transportation 1,310 responses; 655 hours; $66,635 Federal cost; 1 form
Corrinne Hayward, 395–7340
Federal Aviation Act of 1958, section 602 (49 USC 1422) authorizes issuance of airman certificates. 14 CFR 61 requires pilots to undergo biennial flight reviews. Information collected will be used to evaluate effectiveness of flight review requirements. Start 1–81 End 3–81.

• Coast Guard
Registration of U.S. vessel under the provisions of Pub. L. 96–378
Nonrecurring
Businesses or other institutions
Owner and/or operators of offshore supply vessels, small businesses, or organizations
Water transportation, 3,000 responses; 250 hours; $5,000 Federal cost; 1 form
Corrinne Hayward, 395–7340
Pub. L. 96–378, Small Vessel Inspection and Manning, requires that all existing offshore supply vessels as defined in the act must be registered by the owner with the Coast Guard on or before 6 January 1981. This form will meet the requirements of Pub. L. 96–378. This form will also set the manning level for the vessels as required by the act.

Revisions

• Federal Highway Administration
Highway Performance Monitoring System
Annually
State or local governments
State and territorial highway agencies
SIC: 962
Ground transportation, 56 responses; 89,840 hours; $110,000 Federal cost; 2 forms
Corrinne Hayward, 395–7340
To evaluate effectiveness of Federal-aid highway programs, provide mileage components of apportionment formulae, evaluate highway safety programs, provide input for highway statistics, and serve as basis for development and implementation of legislation and for resolution of inquiries (including congressional).

OFFICE OF MANAGEMENT AND BUDGET

Agency Clearance Officer—Jim J. Tozzi—395–5897

New

Standard Form 83: Request for Approval
080R.0 100
On occasion
Federal Government
Fed. agncs. requesting inf. from 10 or more public resp.
SIC: 911 919
Executive direction and management, 300 responses; 600 hours; $100,000 Federal cost; 1 form
Edward C. Springer, 395–4814
SF–83 is used to administer the Federal Reports Act of 1942. Federal agencies request OMB approval of information collection activities affecting the public. Data are used to monitor the information collection budget and to control paperwork imposed on the public.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0754

Revisions

Comment Form Calendar of Federal Regulations
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
All users of the calendar
Small businesses or organizations
Pollution control and abatement, 500 responses; 125 hours; $1,500 Federal cost; 1 form
Edward H. Clarke, 395–7340
The Regulatory Council publishes the Calendar of Federal Regulations semi-annually. The comment form allows users to have input into the Calendar. The Council will incorporate, where appropriate, into the Calendar the ideas and opinion expressly the users.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2146

Revisions

Verification of Eligibility for Burial in a National Cemetery
40–4962
Nonrecurring
Businesses or other institutions
Relatives of deceased veterans funeral homes
SIC: 726
Small businesses or organizations
Other veterans benefits and services, 41,120 responses; 6,853 hours $400,900 Federal cost; 1 form
Laverne V. Collins, 395–6880
This form is required for use by personnel of the national cemeteries as a work sheet to collect data required to verify qualifying military service data for the purpose of burial in a national cemetery, recording the interment service arrangements to be held at the national cemetery, the assignment of the gravesite to be used, and to indicate how the burial is to be made.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Clearance Officer—Paul G. Zarbock—634–6160

New

Publication History of Poets
Nonrecurring
Individuals or households
Poets who applied to the NEA in 1979 and those listed in DIR
Small businesses or organizations
Research and general education aids, 1,400 responses; 560 hours; $10,000 Federal costs; 1 form
Diane Wimberly, 395–6880
The data collected will be used to analyze whether the impact of recent changes in grant guidelines for poets is different for women and minority poets.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—357–7811

Extensions (Burden change)

Antarctic Conservation Act Application for permit
NSF–1078
On occasion
Individuals or households/businesses or other institutions, Research Scientists in educational institutions
SIC: 822
General science and basic research 20 responses; 10 hours; 1 form
Marsha D. Traynham, 395–7340
The National Science Foundation, pursuant to the Antarctic Conservation Act of 1978 (Pub. L. 95–541) regulates via a permit system certain activities in Antarctica. The subject form is used by NSF to collect information needed in permit administration.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

Notice of Short-Term Employment
SF–50A
On occasion
Individuals or households
Applicants for Federal employment complete part–A, which
SIC: 881
Central Personnel Management, 62,500 responses; 12,500 hours; $36,375 Federal cost; 1 form
Robert Veeder, 395–4814
The SF 50 A is used as: (1) An application for Federal employment to provide data and employer needs to place a person on the payroll; (2) An appointment affidavit to bring a person on board for an employer, and employee, and a payroll office, that the appointment occurred.

C. Louis Kincannon,

Deputy Assistant Director For Reports Management.

[FR Doc. 80-35822 Filed 11-14-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

November 12, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OBM) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further imporvement to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Officer of Management and budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New

Food and Nutrition Service
Report of shipment received over, short and/or damage
FNS 57
On occasion
State or local governments
Distributing agencies
SIC: 943
Public assistance and other income supplements, 3,200 Responses; 800 hours; $578 Federal cost; 1 form
Charles A. Ellett, 395–7340
This form is used as needed to report the types and amounts of donated foods received in shipments that are damaged, short and/or over. This information is needed to make accurate accountability and adjust payments to vendors and shipping companies for food shipments.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—245–7488

Mew

• Center for Disease Control
Nutrition Surveillance Validation Survey
Nonrecurring
Individuals or households
Parents of children in nutrition catchment areas
Health, 1,500 responses; 750 hours; $160,200 Federal cost; 2 forms
Richard Eisinger, 395–6880
This survey will examine the sensitivity and specificity of the ongoing

V 45 NO 0170800 UMI

coordinated nutritional surveilliance system. Will begin as soon as clearance received, data collection will last about one year.

Revisions

• Social Security Administration
Statement of Agricultural Employer
SSA-1002
On occasion
Individuals or households
Agricultural employers having knowledge of wages paid to AG
General retirement and disability insurance, 200,000 responses; 33,333 hours; $374,000 Federal cost; 1 form
Barbara F. Young, 395-6880
Form is needed to resolve cases involving farm workers who have alleged that their employer has either not reported their wages or reported them incorrectly. It is completed by agricultural employers having knowledge of wages paid to agricultural employees.

Reinstatements

• Food and Drug Administration
Consumer Comprehension of OTC Drug Labeling
Nonrecurring
Individuals or households
Adults 18 or older
Consumer and Occupational Health and Safety, 1,000 responses; 566 hours; $111,000 Federal cost; 40 forms
Richard Eisinger, 395-6880
The data collection and anaylsis are intended to assist FDA in the preparation of truthful, nonmisleading, medically accurate and under standable terms for use in writing labeling for OTC drug products.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—377-6025

Revisions

Monthly Survey of Rates and Terms on Conventional 1-Family Nonfarm Mortgage Loans
FHLBB877-A
Monthly
Businesses or other institutions
Savings and loan associations, mortgage bankers
SIC: 602 603 612 616, 13,200 responses; 13,200 hours; $600,000 Federal cost
Warren Topelius, 395-7340

C. Louis Kincannon,

Deputy Assistant Director For Reports Management.

[FR Doc. 80-35823 Filed 11-14-80; 8:45 am]
BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Notice of Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Proposed changes to Systems of Records.

SUMMARY: The Railroad Retirement Board proposes a routine use change to the system of records identified as: RRB-1, Social Security Benefit Vouchering System.

DATES: This change to a system of records will become effective as proposed without further notice on December 17, 1980, unless comments are received that would result in a contrary determination.

ADDRESS: Send comments to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth P. Boehne, Director of Management Control, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4690.

SUPPLEMENTARY INFORMATION: A revision to routine use "i" in system RRB-1 would allow the Board to furnish an organization under contract to a railroad employer, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data, and present address when such information is necessary to determine entitlement to and the rates of private supplemental pension, sickness, or unemployment benefits, and to calculate estimated benefits due. Presently, the routine use allows the Board to furnish such information only to the railroad employer directly. To facilitate public review, the system is published in its entirety, with changes indicated by italics.

The proposed action is not within the purview of the provisions of 5 U.S.C. 552(o) which require the submission of a new or altered system report.

Dated: November 6, 1980.

By authority of the Board.

R. F. Butler,

Secretary.

RRB-1

SYSTEM NAME:

Social Security Benefit Vouchering System—RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years of creditable service in the railroad industry, the spouse or survivor of such an individual.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number, type and amount of benefit, suspension and termination information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, act on reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid may be disclosed to the Veterans Administration to verify continued entitlement to benefits.

f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of *Health, and Human Services* in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act *or from an organization under contract to an employer or employers,* information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer *or the organization under contract to the employer or employers* for the purposes of determining entitlement to and the rates of private supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

k. Disclosure may be made to a congressinal office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

l. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

m. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

o. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of record may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

p. Information in this system or records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title II of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper magnetic tape and microforms.

RETRIEVABILITY

Social security account number, full name.

SAFEGUARDS:

Records are maintained in areas not accessible to the public; buildings are secured (guard service).

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.

[FR Doc. 80-35824 Filed 11-14-80; 8:45 am]
BILLING CODE 7905-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Meeting

The Select Commission on Immigration and Refugee Policy will hold its sixth meeting on

Dates: December 5 (7:00 p.m.–9:00 p.m.), December 6 (8:00 a.m.–9:00 p.m.), December 7 (8:30 a.m.–5:00 p.m.).

Place: The Tides Lodge, Irvington, Virginia.

Included on the agenda will be discussion of major policy issues before the Commission.

As some discussions will concern matters within Section 552 (b)(c)(1) of Title 5, United States Code, sections of the meeting (specifically December 5, 6, and the morning of the 7th) will be closed according to R. G. Freeman, III, Administrator, General Services Administration.

Discussions on December 7 from 1:30 p.m. to 5:00 p.m. will be open to the public.

Written statements may be filed with the Commission before or after the meeting.

The Select Commission on Immigration and Refugee Policy was created by Pub. L. 95-412, signed October 5, 1978. The Commission is charged with a comprehensive review of U.S. immigration laws, policies, and procedures. Membership on the Commission includes four Cabinet members, four members of the House Committee on the Judiciary, four

members of the Senate Judiciary Committee, and four members appointed by the President, including Reverend Theodore M. Hesburgh, President of Notre Dame, and Chairman of the Select Commission.

A summary of the December 5–7, 1980 meeting will be published in the **Federal Register.**

Address inquiries to: Select Commission on Immigration and Refugee Policy, New Executive Office Building, Room 2020, 726 Jackson Place, NW., Washington, D.C. 20506, Telephone: (202) 395–5615.

Dr. Lawrence H. Fuchs,

Executive Director.

[FR Doc. 80–35789 Filed 11–14–80; 8:45 am]

BILLING CODE 6820–AR–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Meeting on Air Transportation of Hazardous Materials Safety

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The purpose of this meeting is to discuss with the air carriers, shippers, air freight forwarders, pilots' associations, related government agencies, and interested members of the public, the current Hazardous Materials Program and future plans for improvements.

PLACE: Silver Spring Holiday Inn Conference Center, 8777 Georgia Avenue, Silver Spring, Maryland, in the Main Ballroom Conference Center.

DATE AND TIME: December 3–5, 9:00 a.m. to 5:00 p.m. *except* December 5 which will be 9:00 a.m. to 12:00 noon.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Korsgaard, FAA, Technical and Cargo Security Division, ACS–200, 800 Independence Avenue, SW., 20591, telephone (202) 426–8490.

Issued in Washington, D.C., November 4, 1980.

Allen Reed,

Acting Director of Civil Aviation Security.

[FR Doc. 80–35438 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–13–M

Human Factors Workshop on Aviation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a DOT/FAA Human Factors Workshop in Aviation.

DATE: Registration begins November 24, 1980, at 8:00 a.m.; workshop session will be held on November 24 from 9:00 a.m. to 5:00 p.m. and continue on November 25 from 9:00 a.m. to 5:00 p.m.

ADDRESS: Transportation Systems Center Auditorium, Kendall Square, Cambridge, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Ms. Les Foster, Transportation Systems Center, Cambridge, Massachusetts 02142, (617) 494–2317.

SUPPLEMENTARY INFORMATION: The purpose of the Human Factors Workshop is to bring together knowledgeable representatives from the aircraft manufacturing industry, aircraft operators, pilot groups, and the Government to establish a common frame of reference as to current human factors efforts and to gather information for the development of an agenda for the future.

Some areas of concern are: pilot/ATC/environment interfaces, medical/behavioral factors, use of simulation, in-flight data and evaluation, crew fatigue/workload/stress, command cockpit management, and controller fatigue/workload/stress.

The FAA will present details regarding its integrated human factors program. The aircraft manufacturers, airline pilots, and airline operators will be invited to address these same issues and topics from their perspective. Discussion panels selected by these segments of the aviation community will be given an opportunity to articulate their respective points of view.

Attendees will be invited to present questions for discussion by the panelists. A summery session will be held at the close of the second day of activities. Presentations and discussion summaries will be documented and published in a workshop report within 60 days following the workshop.

The workshop is open to the public, and there is no registration fee.

Issued in Washington, D.C., on November 12, 1980.

John R. Harrison,

Director of Aviation Safety.

[FR Doc. 80–35809 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Valley and Adams County, Idaho

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Valley and Adams County, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Frame, Acting Chief, Environmental Planning Branch, Western Direct Federal Division, 610 E. Fifth Street, Vancouver, Washington 98661, telephone 206–696–7751.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Idaho Transportation Department, Division of Highways, will prepare an environmental impact statement (EIS) on a proposal to improve State Highway 55 (FH 20) in Valley and Adams County, Idaho.

The proposed improvement would involve upgrading the highway route between the towns of McCall and New Meadows, Idaho. Improvements to the highway are considered necessary to provide for the existing and projected traffic demand. Major problems that will be resolved by the improvement include; relieving traffic congestion and delays through the central business district of McCall; improving or eliminating sharp curvature, steep grades and icing conditions in the Little Goose Creek Canyon, and general widening and resurfacing along other segments of the highway.

Alternatives under consideration include: (1) take no action—maintain existing highway in basically an unchanged condition with no major improvements; (2) provide a bypass route just south of the City of McCall and retain existing SH–55 as a business route; and (3) construct an improved facility on new alignment bypassing the Little Goose Creek Canyon or improve the existing facility in Little Goose Creek Canyon.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal.

Two scoping meetings are being scheduled for interested agencies. One will be held in Boise, Idaho at the Idaho Division of Highways, District 3 office at Chinden and Coffee Streets at 9:00 a.m. on December 3, 1980. The second meeting will be held in McCall, Idaho at the McCall City Hall building, 212 Park Street at 1:00 p.m. on December 4, 1980. An informal public meeting is scheduled in McCall, Idaho at the McCall-Donnelly High School for 7:30 p.m. on December 4, 1980.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: November 10, 1980.

James N. Hall,

Director, Western Direct Federal Division, Vancouver, Washington.

[FR Doc. 80–35722 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Fayette County, Ind.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed widening of Western Avenue and Grand Avenue between Thirtieth Street and Third Street in Connersville, Fayette County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Brietwieser, Staff Environmentalist, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204. Telephone: 317/269–7481.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana State Highway Commission, will prepare an environmental impact statement (EIS) on a proposal to widen Western Avenue between Thirtieth Street on the north and Eighth Street on the south and to widen Grand Avenue between Eighth Street on the north and Third Street on the south. A curvilinear connector between Western Avenue and Grand Avenue is proposed in the vicinity of Eighth Street. The proposal includes construction of two additional lanes of pavement, a railroad grade separation structure and various crossing structures over an abandoned canal. Total proposed project length is approximately 2.20 miles.

Improvements to these two urban streets are considered necessary to efficiently accommodate the traffic demands for existing and projected levels along these corridors.

The following alternatives are being considered: (1) Do-Nothing; (2) Constructing two additional lanes on the west side of the railroad tracks, thereby allowing the tracks to remain in the median; (3) Relocating to the west or abandoning of the railroad tracks and widening of the roadway using the existing railroad right of way; and (4) Leaving the railroad in place and widening the roadway to the east.

The project has been coordinated with the following: U.S. Heritage Conservation and Recreation Service, Indiana Department of Natural Resources, U.S. Fish and Wildlife Service, U.S. Soil Conservation Service, Indiana Aeronautics Commission, Indiana Geological Survey, Indiana Stream Pollution Control Board, Glenn A. Black Laboratory of Archaeology, Department of Anthropology of Ball State University, Historic Connersville, Inc., Connersville Police Department, Connersville Fire Department, Fayette County Sheriff, Fayette County School Corporation, ConRail Railroad, Chessie System Railroad, Region IX Development Commission and Mettel Field-Connersville Airport. A public information meeting was held on October 23, 1980. In addition, the opportunity for a public hearing will be advertised. Public notice will be given of the time and place of the public hearing. The draft EIS will be available for public and agency review and comment. At this point in the planning process, it is not expected that a formal scoping meeting will be held.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments and/or questions should direct them to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, (Highway Research, Planning and Construction). The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: November 5, 1980.

George D. Gibson, Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. 80–35420 Filed 11–14–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Lincoln-Gaston Counties, N.C.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of inent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Lincoln and Gaston Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Gary D. Holly, Environmental Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 755–4270.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed NC 73 Connector from Lucia to Lincolnton in Lincoln and Gaston Counties. This project is the middle and remaining segment of the planned development of a four-lane freeway or expressway facility from Charlotte to Hickory. Planning, environmental, and location studies have already been completed on the beginning and ending segment of the facility. The beginning segment being the improvement of NC 16 from Charlotte to Lucia and the ending segment being the relocation of US 321 from Lincolnton to Hickory.

Alternatives under consideration include (1) the "no-build", (2) improving the existing NC 73 roadway with some relocation, and (3) several major relocation alternatives for construction of a new facility.

Letters describing the proposed action and soliciting comments are being set to appropriate Federal, State and local agencies. A public meeting and a meeting with local officials have been held in the study area as a part of earlier studies. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all signfificant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.

V 45 NO 017 80 0 UMI

Issued on October 17, 1980.

Roger Lewis,

Assistant Division Administrator, Raleigh, North Carolina.

[FR Doc. 80-35410 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-22-M

Outdoor Advertising Economic Hardship Research Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA will hold a meeting for the purpose of initiating work on a research study. the purpose of the meeting will be to afford the research contractor (Triton Corp.) an opportunity to gather views on the section 131(o) hardship exemption process and to be advised of sources of information on economic studies dealing with removal of outdoor advertising signs. Although the FHWA has made all of its data available to the contractor, it is assumed that representatives of the public and parties interested in this study will be able to provide additional data and views.

DATE: Meeting—November 21, 1980.

TIME: 9:30 a.m.

PLACE: Room 4200, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Moeller, Chief, Junkyard and Outdoor Advertising Branch, 202–245–0021; or Mr. Edward Kussy, Office of the Chief Counsel, 202–426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Section 131(o), Title 23, United States Code, commonly referred to as the economic hardship provision was adopted by Congress as part of the Federal-Aid Highway Act of 1976, Pub. L. 94–280, May 5, 1976. The amendment was passed in recognition of the fact that some areas may suffer substantial economic hardship if signs providing directional information about goods and services in the interest of the travelling public were removed. Regulations issued subsequent to the passage of Section 131(o) require that the removal of nonconforming signs must cause a substantial economic hardship throughout a defined area before an exemption can be requested. The States are to develop a methodology to determine economic hardship, define the geographic boundaries of the impacted areas and establish criteria for selection of exempt signs.

During 1978, the House of Representatives and the Senate Committee on Environment and Public Works considered amendatory language to Section 131(o). However, the Committees' conferees agreed not to amend Section 131(o) in the absence of experience that could be gained through its adequate administration. The conferees emphasized that they expected the Secretary to expedite the implementation of Section 131(o) to carry out the intent of Congress and to assist those States desiring to utilize the provisions.

As a follow-up to this, the FHWA held a workshop open meeting in Washington, D.C., on May 15, 1979, concerning Section 131(o). Discussions centered on requests for additional guidance to the States in implementing the Section 131(o) program and research proposals to aid in determining the extent to which Section 131(o) would be helpful to business and advertisers.

A contract was subsequently awarded to Triton Corporation, a consulting firm, to independently determine the incidence and magnitude of economic impacts that have been associated with the removal of nonconforming outdoor advertising signs providing directional information about goods and services in the interest of the travelling public, and to develop a methodology for estimating the economic impacts on areas which may result from removal of nonconforming billboards serving businesses.

During the performance of the contract, two project meetings are scheduled between the contractor and the FHWA. Members of the public and others interested in the Section 131(o) process are invited to attend both meetings. The first meeting will be the November 21, 1980, meeting to give the contractor an opportunity to solicit views and sources of information. The second meeting will be held when the research project is approximately 60 percent complete, but with ample evaluation and research to develop a methodology for assessing the severity of economic impacts. This meeting shall be held to obtain views of interested parties concerning the Section 131(o) program and its implementation through various case studies. The second meeting will also be open to the public and will be announced in the **Federal Register** at a later date.

(Catalog of Federal Domestic Assistance Program Number 20.214, Highway Beautification-Control of Outdoor Advertising and Control of Junkyards. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on November 12, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-35866 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-22-M

National Advisory Committee on Outdoor Advertising and Motorist Information

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Advisory Committee on Outdoor Advertising and Motorist Information.

DATES: Meetings to be held December 4 and December 5, 1980.

TIME: Meetings will be held from 8:45 a.m. to 5:30 p.m. on December 4, and from 8:30 a.m. to 3:30 p.m. on December 5.

ADDRESSES: The meeting will begin with a tour of Foster and Kleiser Outdoor Advertising, a Metro-Media Company, at 4000 S. Morgan Street, Chicago, Illinois, from 8:45 a.m. to 11:00 a.m. on December 4. The meeting will reconvene at 1:00 p.m. on December 4 in the Medill Room of the Bismarck Hotel, 171 West Randolph Street, Chicago, Illinois. The meeting on December 5 will also be held in the Medill Room of the Bismarck Hotel.

ATTENDANCE: The public is invited to attend. Any member of the public will be permitted to file a written statement with the committee. Interested persons may be permitted to speak at the meeting in accordance with the bylaws established by the committee.

AGENDA:

1. Tour of Foster and Kleiser sign plant.
2. Review and approval of minutes.
3. Presentation of position papers and the discussion of the following topics: alternate systems, electronic signs, on-premise signs, and scope of program.
4. Presentations and discussion of resolutions.
5. Future meeting dates.
6. Other general matters as may be specified by the Chairperson or the Acting Executive Director.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Michael J. Laska, Acting Executive Director, Room 4218, HOA-1, (202) 426–0066, or Mr. Edward V. A. Kussy, Deputy Assistant Chief Counsel, Room 4230, HCC–40, (202) 426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

(Catalog of Federal Domestic Assistance Program Number 20.214, Highway Beautification—Control of Outdoor Advertising, and Control of Junkyards. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on November 12, 1980.

John S. Hassell Jr.

Federal Highway Administrator.

[FR Doc. 80-35849 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket No. RST–80–4]

Commonwealth of Pennsylvania; Petition for Waiver of Compliance With Certain Provisions of the Track Safety Standards

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Department of Transportation, Commonwealth of Pennsylvania (PA DOT) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The Petition requests that the PA DOT be granted authority to continue operations over approximately twenty miles of track portions of which do not comply with the standards.

The track involved in this petition is located between East Malianoy and Ringtown in the Commonwealth of Pennsylvania. The PA DOT notes that this line is currently being operated by Consolidated Rail Corporation (Conrail) on a subsidy basis. In recent years the line has been handling less than 160 loaded cars in any given year and Conrail will not handle commodities on this line that require placarding as hazardous materials. Conrail currently provides only weekly service on this line.

The PA DOT seeks to avoid the expenditure of funds needed to bring this track into compliance with the standards and estimates the cost of bringing the track into compliance is approximately one hundred thousand dollars. This waiver is sought to allow PA Dot to have Conrail continue limited operations over the line until September 31, 1981, at which time PA DOT intends to assure that substitute service is available for the current shippers.

The Railroad Safety Board (Board) is seeking the views and comments of all interested parties on this waiver request. All interested parties are invited to participate in this proceeding by submitting written views and comments. The Board does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it.

All written communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket No. RST–80–2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Department of Transportation (Nassif Building), Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Persons desiring that receipt of this communications be acknowledged should attach a stamped pre-addressed postcard to the first page of their communication.

Communications received before November 30, 1980, will be considered before final action is taken in this proceeding. Comments received after that date will be considered to the extent practicable. All communications received will be available for examination at any time during regular working hours (9 a.m.–5 p.m.) in Room 8211, Department of Transportation (Nassif Building), Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

This notice is issued under the authority of Section 202, of the Federal Railroad Safety Act of 1970, as amended, (45 U.S.C. 431); and § 1.49(n) of the Regulations of the Office of the Secretary 49 CFR 1.49(n)

Issued in Washington, DC, on October 23, 1980.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-35545 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket No. RST–80–3]

Chicago and NorthWestern Transportation Co.; Petition for Waiver of Compliance With Certain Provisions of the Track Safety Standards

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Chicago and NorthWestern Transportation Company (CNW) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The petition requests that the CNW be granted authority to continue operations over approximately forty-six miles of track portions of which do not comply with the standards.

The tract involved in this petition is located between Oelwein, Iowa and Randolph, Minnesota. The CNW notes that this line is currently the subject of a potential abandonment proceeding that will be filed with the Interstate Commerce Commission in the near future. In recent years the line has been handling less traffic volume, due to alternate routing being available and the CNW notes that it does not handle commodities on this line that require placarding as hazardous materials. The CNW has temporarily reduced service on this line pending resolution of this waiver proceeding and the proposed abandonment proceeding. The CNW notes that much of the traffic that formerly operated over this line is currently moving over tracks leased by the CNW from the Chicago, Rock Island and Pacific.

The CNW seeks to avoid expenditure of funds needed to bring this track into compliance with the standards and estimates the cost of bringing the track into compliance is approximately one hundred-seventy thousand dollars. This waiver is sought to allow CNW to continue limited operations over the line until the abandonment proceeding is resolved.

The Railroad Safety Board (Board) is seeking the views and comments of all interested parties on this waiver request. All interested parties are invited to participate in this proceeding by submitting written views or comments. The Board does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it.

All written communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket No. RST–80–3) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Department of Transportation (Nassif Building), Federal Railroad Administration, 400 Seventh Street, SW., Washington DC 20590. Persons desiring that receipt of their communications be acknowledged should attach a stamped pre-addressed postcard to the first page of their communication.

Communications received before November 30, 1980, will be considered before final action is taken in the proceeding. Comments received after that date will be considered to the extent practicable All communications received will be available for examination at any time during regular working hours (9 a.m.–5 p.m.) in Room 8211, Department of Transportation (Nassif Building), Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

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This notice is issued under the authority of Section 202, of the Federal Railroad Safety Act of 1970, as amended, (45 U.S.C. 431); and § 1.49(n) of the Regulations of the Office of the Secretary of Transportation 49 CFR 1.49(n).

Issued in Washington, DC on October 23, 1980.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-35543 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-06-M

Illinois Central Gulf Railroad; Petition for Waiver of Compliance with Certain Provisions of the Track Safety Standards

[FRA Waiver Petition Docket No. RST-80-2]

In accordance with 49 CFR 211 and 211.9, notice is hereby given that the Illinois Central Gulf Railroad (ICG) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The petition requests that the ICG be granted authority to continue operations over approximately twenty miles of track portions of which do not comply with the standards.

The track involved in this petition is located between Kevel and Barlow in the State of Kentucky. ICG notes that this line is currently the subject of an abandonment proceeding that is pending before the Interstate Commerce Commission. In recent years the line has been handling less than 300 loaded cars in any given year and the ICG will not handle commodities on this line that require placarding as hazardous materials. The ICG has temporarily suspended service on this line pending resolution of this waiver proceeding and the concurrent abandonment proceeding.

The ICG seeks to avoid the expenditure of funds needed to bring this track into compliance with the standards and estimates the cost of bringing the track into compliance is approximately two hundred thousand dollars. This wavier is sought to allow ICG to continue limited operations over the line until the abandonment proceeding is resolved.

The FRA has granted a temporary waiver of compliance to the ICG pending review of any comments received in response to this public notice. In reaching the decision to grant this temporary waiver the FRA has available to it the data obtained during a special field investigation and the information gained through routine compliance monitoring efforts. On the basis of that information, the Railroad Safety Board (Board) of the FRA determined that granting the requested waiver would be consistent with railroad safety provided that certain conditions are adhered to during any operation over the noncomplying track.

The Board is now seeking the views and comments of all interested parties on this waiver request. The Board will review the initial decision in this proceeding in the light of any comments. Consequently, all interested parties are invited to participate in this proceeding by submitting written views or comments. The Board does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it.

All written communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket No. RST-80-2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Department of Transportation (Nassif Building), Federal Railroad Administration, 400 Seventh Street, S.W., Washington, DC 20590. Persons desiring that receipt of their communications be acknowledged should attach a stamped pre-addressed postcard to the first page of their communication.

Communications received before November 30, 1980, will be considered before final action is taken in this proceeding. Comments received after that date will be considered to the extent practicable. All communications received will be available for examination at any time during regular working hours (9 a.m.-5 p.m.) in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, DC 20590.

This notice is issued under the authority of Section 202, of the Federal Railroad Safety Act of 1970, as amended, (45 U.S.C. 431); and § 1.49(n) of the Regulations of the Office of the Secretary of Transportation 49 CFR 1.49(n).

Issued in Washington, DC on October 23, 1980.

Joseph W. Walsh,

Chairman, Railrood Safety Board.

[FR Doc. 80-35544 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-80-13

St. Maries Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the St. Maries Railroad Company has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pul. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the St. Maries be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The St. Maries seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours.The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-80-13 and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before December 15, 1980 will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transporation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 5, Hours of Service Act of 1969 (45 U.S.C. 64a), 1 49(d) of regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on October 23, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-35546 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Innovators Seminar No. 5; Public Meeting

The National Highway Traffic Safety Administration announces Innovators Seminar #5, on Free Wheeling and Engine Cutoff Devices for Fuel Savings, to be held on December 8, 1980, 10 am to 1 pm, in Room 4234, DOT Headquarters Building, 400 Seventh Street, Southwest, Washington, D.C. This meeting will be a technical review of the promise and problems in the use of these devices. Following an introduction by NHTSA on the regulatory and safety issues, technical presentations on devices will be made by Mr. Jack Avins, M.E.E., Fellow, IEEE, an individual inventor who has modified a Citation automobile with a prototype of some of his concepts; Borg-Warner Corporation; and Volkswagen. The speakers are encouraged to address the effects on emissions and possible safety implications as well as the fuel savings potential under various driving conditions. Comments will be made by the Council on Environmental Quality, the Department of Energy, and the Environmental Protection Agency. Those wishing to present additional devices or those wishing for further information may call Dr. Carl C. Clark, Inventor Contact, NHTSA, 202-426-4881.

Issued on November 10, 1980.

R. Rhoads Stephenson,

Associate Administrator Research and Development.

[FR Doc. 80-35652 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Program Administration

Final Consumer Program

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Adoption of RSPA's Consumer Program as required by the Executive Order 12160 and by the Final DOT Consumer Program.

SUMMARY: The RSPA's Final Consumer Plan has been developed in compliance with Executive Order 12160. The proposed plan addresses the five consumer elements required by the Executive Order and by the DOT Consumer Program.

EFFECTIVE DATE: December 1, 1980.

ADDRESS: Office of Public Affairs and Consumer Participation (DCA-1), Room 8414, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Jackie Gillan, Director, Office of Public Affairs and Consumer Participation, Telephone: (202) 472-5717.

SUPPLEMENTARY INFORMATION: The RSPA Consumer Program responds to Executive Order 12160 requiring Federal agencies to review and revise their operating procedures to ensure that consumer needs and interests are adequately addressed. Since its establishment in 1977, the Research and Special Programs Administration has developed programs for communicating with the transportation community, primarily through rulemaking procedures, program seminars, and publication of program studies and analyses. The Materials Transportation Bureau (MTB) of the Research and Special Programs Administration has had the major role of interacting with the public consumer through its rulemaking activities involving pipeline safety and the transportation of hazardous materials. Other offices within the RSPA have developed programs for dealing with the public in varying degrees through meetings, seminars, and publication of program results to the interested public and consumers. In order to increase the consumer involvement, RSPA is proposing certain new organizational structures and procedures embodied in the following to comply with the intent of the Executive Order.

1. Consumer Affairs Perspective

The RSPA's draft Consumer Plan was widely advertised through numerous mailings, telephone notifications, and announcements at various meetings. The comments received concerning the Consumer Plan are summarized as follows:

1. *Comment:* Concern was expressed that this function will duplicate efforts of other consumer groups and cause unnecessary Federal regulations.

Response: RSPA will be the liaison with national, state and local consumer and citizen organizations responding to their concerns about transportation issues and making a concerted effort to identify duplication of efforts.

2. *Comment:* Recommendation that RSPA maintain close contact with local consumer organizations, share newsletters and other consumer data.

Response: Within the mission of the newly established office concerted effort will be made for consumer/citizen outreach. A mailing list with some 2,600 contacts has been developed.

3. *Comment:* Identification of specific contact points for consumer's use in impacting RSPA decisionmaking process.

Response: With the appointment of Ms. Jackie Gillan, as Director, Office of Public Affairs and Consumer Participation this point has been addressed. The Director will be able to make appropriate contacts within RSPA for any consumer or citizen.

4. *Comment:* Timetables should be established for RSPA's assessment of its current publications program.

Response: The Consumer Participation Office intends to accomplish this in fiscal year 1981.

5. *Comment:* Funding of consumer projects should be for: (a) new transportation issues that impact community development and (b) pedestrian issues such as safety and street livability.

Response: We will seek out new issues, ideas, suggestions from the various state and local groups and consumer organizations. Consumer forums will be sponsored that will allow for interchange of ideas and issues.

6. *Comment:* Greater emphasis and support should be given to direct mailing lists.

Response: Within FY 1981 we will work to enlarge our present mailing list. We will be open to suggestions from other government agencies, state and local groups, consumer organizations, and any other interested consumer/citizen groups.

I. Consumer Affairs Perspective

The RSPA has established an independent Office of Public Affairs and Consumer Participation with a consumer affairs staff of two or three specialists, that report directly to the Administrator to assure the maintenance of a strong consumer advocacy role. The RSPA consumer affairs staff will have training, experience, and expertise in analyzing regulations, policies, programs, and legislation; furthering communication with consumer organizations; and performing editorial assignments. The principal functions of the RSPA consumer affairs staff are to develop a strong relationship between the RSPA and its consumer constituencies, advise the RSPA staff on the opportunities for consumer involvement, and monitor

consumer program participation in appropriate RSPA activities. The RSPA consumer affairs staff will be placed on all administration distribution lists to receive and comment on all proposed rules, policies, programs, and legislation. The views and comments of this office will be made available to the Administrator prior to the time that decisions will be rendered concerning these activities. Oversight by the RSPA consumer affairs staff will begin at the initiating stages of decisionmaking and continue throughout the life cycle of these activities. The RSPA consumer affairs staff also has the major responsibility for recommending, establishing, and maintaining systems and procedures for the direct interaction and liaison with national, state, and local consumer and citizen organizations to suitably respond to their concerns about RSPA transportation issues.

II. Oversight For Consumer Affairs

The senior consumer affairs specialist, at a grade of GS–15 or above, has direct access to the Administrator on the conduct of consumer affairs within the RSPA. The Director is also responsible for: Developing, coordinating, and implementing RSPA's consumer affairs program; for directing and managing consumer affairs staff; for working with all administration personnel and apprising them of consumer needs and their responsibilities to the consumer; and ensuring that consumer issues are considered in appropriate phases of administration decision-making. The senior consumer affairs specialist is a permanent member of the Departmental Consumer Policy Coordinating Council (CPCC) and will maintain close and ongoing liaison with the other administrations to enhance departmental consumer program coordination and the free exchange consumer perspectives and ideas. It is the intention of RSPA that the consumer affairs program be implemented through the mechanisms of management orders, operating instructions, and program reviews which delineate the process of involvement of the consumer with RSPA activities.

III. Consumer Participation

It is the policy of the RSPA Administrator to encourage effective consumer/citizen participation early in the development of appropriate rules, policies, and programs. Consumer/citizen participation will be encouraged and monitored by the RSPA consumer affairs staff. Funding will be made available to the RSPA consumer affairs staff to develop and maintain programs for the outreach and participation of the consumer in RSPA activities. Consumer/citizen participation in the development of appropriate RSPA rules, policies, and programs will be governed by DOT procedures for public and citizen participation, as well as by the following specific provisions:

a. Consumer/Citizen Participation in Rulemaking

The RSPA is involved with rulemaking in two fields: pipeline safety and the transportation of hazardous materials. Responsibility for both rests with the Materials Transportation Bureau (MTB), with legal assistance from the RSPA Office of the Chief Counsel. Under MTB, rulemaking is carried out in two fields, respectively, by the Office of Pipeline Safety Regulation (OPSR) and the Office of Hazardous Materials Regulation (OHMR). The procedures for rulemaking by RSPA follow the basic format for informal rulemaking by the Federal Government as embodied in 5 U.S.C. 551, et. seq. (formerly the Administrative Procedure Act.) In its most simplified form, the process begins with a decision to take regulatory action. A Notice of Proposed Rulemaking (NPRM) is required to be published in the **Federal Register**, and public comments are solicited. Based on responses to the proposal, the proposed rule will either be promulgated with appropriate revisions as necessary or rescinded by the agency. The process requires meticulous record keeping to ensure that fact finding, time to comment, and public notice and comment are adequately accomplished.

The above process describes the statutorily mandated rulemaking procedures being followed by the program offices. The RSPA consumer affairs staff will complement these procedures by establishing additional procedures for providing early and meaningful opportunities for consumer/citizen participation in the development of and review of all agency rules. The consumer affairs staff, working with the program offices, will establish an events schedule which will plan for the interaction of the program offices and the consumer/citizen groups through forums, meetings, or consumer outreach communications. This scheduling of interactions begins at the initiation stages and continues throughout the lifetime of all RSPA rulemaking. RSPA's rulemaking responsibilities are also governed by E.O. 12044 (Improving Government Regulations) and DOT's Regulatory Policies and Procedures (published in the February 26, 1979, **Federal Register**). Paragraph 12 of the latter document specifies appropriate steps to be taken to increase opportunities for public participation in rulemaking activities.

b. Consumer Participation in Decisionmaking on Policy and Program Activities

The RSPA consumer affairs staff is responsible for assuring the opportunity for consumer/citizen participation in the development and review of appropriate RSPA policy and program activities. This office encourages the use of standard procedures for consumer/citizen participation in the development of these activities. The purpose of these procedures is to assure that consumers have early and continuing opportunities to learn and express their concerns about significant consumer-oriented activities which are under discussion and development. Attached is the format to be used by RSPA as its standard procedures for consumer/citizen participation.

The initiating office for each significant policy or program development action, with the support of the RSPA consumer affairs staff, will develop a timetable, based on a standard procedure for consumer/citizen participation, indicating when and how consumers/citizens can be involved in that policy or program development process. This timetable will become the consumer/citizen participation plan for that action and will be submitted to the Administrator for approval after review and coordination with the program offices. Each plan will enumerate the participatory techniques that will be used at each stage and will describe how consumer/citizen concerns will be analyzed and considered in decisionmaking. The RSPA consumer affairs staff will provide administrative assistance and guidance to the program offices concerning ways to improve their contacts with consumer/citizen constituencies.

c. Consumer Forums

The Research and Special Programs Administration will develop innovative and practical techniques for arranging ongoing contacts with consumer/citizens. The goal is to stimulate the broadest possible range of interactions between consumer/citizens and RSPA officials. An important technique is the use of regularly scheduled Washington based consumer forums, supplemented by regional forums coinciding with the geographical location of the DOT regional representatives of the Secretary, or other geographical locations as appropriate. These forums could be conducted annually during the spring preview cycle so as to be timely enough to provide inputs into the next year's budget development process.

IV. Informational Materials

The RSPA has an extensive informational publication program with many transportation program reports, brochures, pamphlets, and fact sheets available for dissemination. The materials are diverse in topic and result from the programs of the Offices of: Transportation Security, DPB–10, for enhancing cargo security through the transportation network; Systems Engineering, DPB–20, for the development of key technologies appropriate to needs for multimodal research within the DOT; Emergency Transportation, DPB–30, for emergency planning associated with wartime or natural disaster to the transportation network; Transportation Facilitation, DPB–40, for developing procedures for improving the flow of passenger and freight through the transportation system; University Research, DPB–50, for utilizing the university community in proposing and conducting special research projects in transportation; the Transportation Safety Institute, DPB–60, in the conduct of transportation safety training programs in support of the improved safety of the transportation of freight and passengers through the transportation networks; and the Materials Transportation Information Services Division, DMT–43, for hazardous material and pipeline safety information. The Transportation Systems Center, DTS, is a major resource for the Department of Transportation for the dissemination and exchange of transportation information to the public via conferences, technology sharing, and publications.

The RSPA will improve its consumer information program through better planning and enhanced government/consumer coordination. To this objective, the RSPA plans to assess its current publications program to identify changes to or additional consumer information requirements and to develop a better coordinated consumer information program. The first phase of this coordinated program was the establishment of an RSPA Consumer Publications Program on October 1, 1980. The fiscal year 1981 program will test the mechanism for a long range RSPA Consumer Information Program. This program is designed to:

(1) Produce a limited number of RSPA consumer publications in fiscal year 1981;

(2) Move into an expanded production of RSPA consumer publications in fiscal year 1982; and

(3) Develop plans for starting production of RSPA consumer audiovisual material in fiscal year 1983.

a. Assessment of Current Consumer Publications

The RSPA consumer affairs staff is responsible for making an in-depth assessment of current RSPA consumer publications, newsletters, or mailing lists. This material will be evaluated against criteria suggested by requirements in DOT's Consumer Program. The RSPA consumer affairs staff will then develop two sets of recommendations: (1) Suggestions for revising current consumer publications; and (2) suggestions for new publications. In each category, high priority items will be identified and scheduled for development during the pilot period of FY 1981. RSPA invites public comments on the adequacy of its current publications and solicits ideas on possible new publications.

b. Responsibility and Timetable for the RSPA Consumer Information Program

RSPA, along with the other administrations, will be responsible for preparing, publishing and distributing consumer publications that focus on its own area of responsibility and expertise. The DOT Consumer Policy Coordinating Council is responsible for tasks that require Department-wide centralized coordination of efforts, such as: (a) Preparing and publishing a bibliography of all DOT consumer publications and (b) combining all appropriate DOT consumer mailing lists in order to publicize new consumer publications.

c. Distribution of Consumer Publications

Each RSPA consumer publication will be introduced with an RSPA news release to the general media as well as the consumer press. Each RSPA consumer publication will be mailed, with a letter from the senior member of the Office of Public Affairs and Consumer Participation, to the consumer mailing list of the RSPA element producing the publication, as well as to other appropriate DOT mailing lists. Distribution of RSPA consumer publications will utilize the facilities of GSA's Consumer Information Center, to the extent that funding exists for such GSA distribution.

Whenever possible, single copies of RSPA consumer publications will be available free, on request. When funds permit, RSPA will provide for free bulk mailings to consumer constituencies and to schools for all RSPA consumer publications. Such bulk distribution will include the results of consumer-oriented meetings, forums, conferences, and appropriate public hearings. On large publication orders, the staff of the Office of Consumer Participation will make negatives of its publications available for printing by State and local governments or consumer groups.

d. Informational Materials for RSPA Meetings

The RSPA consumer affairs staff provides assistance to the RSPA offices in developing informational materials for dissemination of public meetings with special attention to their readability, format, and appropriateness for the meeting audience.

V. Education and Training

Under the proposed plan, the RSPA consumer affairs staff develops education and training materials to familiarize the RSPA staff with the new DOT consumer policies.

a. Responsibility for Notification and Education Concerning E.O. 12160

The RSPA consumer affairs staff is responsible for developing an ongoing education program to inform RSPA staff concerning new procedures and activities that will be required under the RSPA Order.

The RSPA consumer affairs staff consults with the OST Office of Personnel and Training to institute plans for training consumer personnel in the general area of consumer affairs responsibilities, with specific focus on citizen participation, preparation of consumer information materials, and handling of consumer complaints. To the extent that interagency training courses or contractors' courses are available on these topics, arrangements will be made for RSPA staff to enroll in such courses.

b. Training Opportunities and Technical Assistance for Consumers

The RSPA consumer affairs staff will explore the possibility of providing training and expanded technical assistance in transportation consumerism for members of grassroots consumer organizations. Possible alternative forms for such activities may be: regional conferences, RSPA sponsored workshops; printed materials for distribution to consumer organizations; part-time or short-term internships with RSPA consumer affairs staff for members of grassroots consumer organizations.

V 45 NO 17 80 UMI

VI. Complaint Handling

Under the Executive Order, RSPA will enhance its efforts in informing the public about RSPA programs and complaint mechanisms. The RSPA consumer affairs staff will also study ways to improve its handling and analysis of consumer complaints.

a. Heightening Public Awareness

DOT has made broad distribution of a brochure entitled *Finding Your Own Way in DOT*, published in March 1978. This brochure describes complaint-handling procedures for the entire Department and includes phone numbers of administration consumer affairs officers and of sub-agencies that are responsible for answering consumers' complaints on specific topics. The RSPA consumer affairs staff will monitor this document to assure its relevancy and currency with respect to RSPA.

b. Logging, Routing, Responding To, Reporting On, and Evaluating Complaints

Priority mail addressed to the administration is logged in by RSPA's Correspondence Control Element and routed to the appropriate offices, with a deadline for response. The RSPA Correspondence Control Element monitors compliance with established deadlines. Consumer complaints addressed to RSPA will be delivered to the Office of Public Affairs and Consumer Participation. They will be answered by consumer affairs staff based on information obtained from the appropriate program office.

There is a need for an assessment of current practices as well as an examination of options for developing an improved RSPA consumer complaint control system. In conjunction with the Department-wide management study, the RSPA consumer affairs staff will investigate the possible development of an improved information system for dealing with and utilizing consumer complaints in a responsive and timely fashion. An extensive long-range program will be undertaken including:

a. Agency-wide study on how complaints are currently handled;

b. Recommended options for improved handling of consumer complaints received by the RSPA;

c. Recommended options for effective utilization of complaint data in development of RSPA policy;

d. Recommended options for evaluation of the RSPA's complaint-handling procedures.

Issued in Washington, D.C. on November 6, 1980.

Howard J. Dugoff,

Administrator.

[FR Doc. 80-35708 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Core Specification for Rail Rapid Transit Cars; Availability of Specification

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of Availability of Specification and Request for Comments.

SUMMARY: The Urban Mass Transportation Administration (UMTA) has been working with transit operators and suppliers during the last three years to develop a core rail rapid transit car specification to be used as the framework for a complete specification issued by agencies purchasing rapid transit cars. This specification is being issued for public comment. The Urban Mass Transportation Administration is interested in comments on the specification from all elements of the transit industry—car builders, suppliers, transit operators, consultants, and the general public.

DATE: Comments must be received by January 15, 1981.

ADDRESS: All comments should be submitted to Jeffrey Mora, Urban Mass Transportation Administration, Office of Rail and Construction Technology, UTD-30, 400-7th Street, S.W., Washington, D.C. 20590. Copies of the specification (one per organization) may be obtained from the Urban Mass Transportation Administration's Office of Rail and Construction Technology, UTD-30, 400-7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Jeffrey Mora, Office of Rail and Construction Technology, (202) 426-0090.

SUPPLEMENTARY INFORMATION: The specification is designed to be used as a standardized technical rapid rail car specification and is termed a "core" specification since each purchasing agency has some site specific requirements. It is designed to be utilized by all United States rapid rail operators with completing details made necessary by site specific requirements. The specification represents an element of the Urban Mass Transportation Administration's continuing activities in standardization of urban rail vehicles and systems within the objective of reducing life cycle costs and producing more reliable transit equipment. These include publication of a revised Light Rail Vehicle Specification, development of national design guidelines for rail transit, and development of standardized procurement terms and conditions.

Dated: November 12, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-35740 Filed 11-14-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Nickel-Bearing Materials From French Co., Creusot-Loire; Restrictions on Imports

The Office of Foreign Assets Control has reason to believe that nickel-bearing materials and articles produced by the French steel producing firm, Creusot-Loire, may be made or derived in whole or in part from nickel of Cuban origin.

Notice is hereby given that, effective November 13, 1980, imports, direct or indirect, of the following materials and articles that were produced or supplied by the French firm, Creusot-Loire, will be detained by Customs until such time as their release from Customs' custody, or other disposition, is authorized by the Office of Foreign Assets Control under the provisions of the Cuban Assets Control Regulations (31 CFR Part 515):

(1) Nickel, its compounds, its alloys, their so-called basic shapes and forms and also nickel waste and scrap provided for in Subpart E of Part 2 of the Tariff Schedule of the United States (TSUS) and

(2) Stainless steel and other metal alloys in their basic shapes and forms, if containing more than 2.50 percent nickel.

License applications from importers for such imports will be considered on a case-by-case basis in situations in which prior to November 14, 1980: (1) The goods were exported from France; (2) payment for the goods was effected for or on behalf of the importer; or (3) an irrevocable letter of credit covering such goods contracted for prior to that date was established by a domestic bank.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; sec. 620(a), 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959-1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR, Comp. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp. p. 748)

Dated: November 13, 1980.

Dennis M. O'Connell,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80-35934 Filed 11-143-80; 4:30 pm]

BILLING CODE 4810-25-M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a) (3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 99(b) (3) of the Internal Revenue Code of 1954). The list is the same as the list published in the July 1, 1980 **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b) (3) of the Internal Revenue Code of 1954).

Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen Arab Republic, and Yemen, Peoples Democratic Republic of.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

November 7, 1980.

[FR Doc. 80-35719 Filed 11-14-80; 8:45am]

BILLING CODE 4810-25-M

United States and Switzerland Begin Income Tax Treaty Negotiations

The Treasury Department announced on November 10, 1980, that representatives of the United States and Switzerland recently concluded a first round of discussions on a new income tax treaty between the two countries. The new treaty would replace the treaty currently in force, which was signed in 1951. Discussions are expected to continue in March 1981.

The new treaty is expected to follow the pattern of the 1977 U.S. and OECD Model treaties. The discussions will cover the full range of issues normally considered in tax treaty negotiations, including the tax treatment of income from business, investment, and personal services, and procedures for administering the treaty. The U.S. has asked specifically to discuss several areas in which the existing treaty appears imperfect. These include "correlative adjustments" in one country in response to an adjustment made by the other country to reflect arm's-length pricing principles; inappropriate use of the treaty by third country residents; and the narrowness of the existing exchange of information provision. The application of the treaty to the Swiss forfait tax is also under consideration.

The Treasury invites persons wishing to submit comments on any aspects of the proposed treaty, on issues which have arisen under the present treaty or on U.S.-Swiss tax relations generally to write, by December 31, 1980, to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Room 3064, Washington, D.C. 20220.

Dated: November 10, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-35720 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-25-M

Practice Before the Internal Revenue Service; Request for Public Comments on Establishing an Advisory Committee on Opinions by Practitioners Before the Internal Revenue Service Used in the Promotion of Tax Shelters

A notice of proposed rulemaking to amend the regulations governing practice before the Internal Revenue Service (31 CFR Part 10) for the purpose of setting standards relative to opinions used in the promotion of tax shelters was published in the **Federal Register** on Thursday, September 4, 1980 (45 FR 58594). In anticipation of the implementation of a final rule on the subject, the Department has under consideration the establishment of an advisory committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463). The principal purpose of the advisory committee would be to advise the Director of Practice on issues arising in the review of tax shelter opinions relating to possible non-compliance with the standards contained in the regulations. The advisory committee would be comprised of a representative cross-section of individuals outside the government conversant with the subject.

The purpose of this notice is to request comments from the public on the desirability of such an advisory committee and suggestions concerning the scope of its duties and any other relevant matters for the Treasury Department's consideration.

Comments must be in writing and must be received by December 19, 1980. They should be sent in triplicate to the Director of Practice, Department of the Treasury, Washington, D.C. 20220.

Dated: November 12, 1980.

David R. Brennan,

Acting General Counsel.

[FR Doc. 80-35888 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-25-M

[Public Debt Series No. 32-80]

Supplement to Department Circular

November 6, 1980.

The Secretary announced on November 5, 1980, that the interest rate on the notes designated Series G-1984, described in Department Circular—Public Debt Series—No. 32-80, dated October 30, 1980, will be 13¼ percent. Interest on the notes will be payable at the rate of 13¼ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Department procedures applicable to such regulations.

[FR Doc. 80-35794 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-40-M

[Public Debt Series No. 33-80]

Supplement to Department Circular

November 7, 1980.

The Secretary announced on November 6, 1980, that the interest rate on the notes designated Series B-1990, described in Department Circular—Public Debt Series—No. 33-80, dated October 30, 1980, will be 13 percent. Interest on the notes will be payable at the rate of 13 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-35795 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-40-M

V 45 NO 017 80 0 UMI

[Public Debt Series—No. 34-80]

Supplement to Department Circular

November 12, 1980.

The Secretary announced on November 7, 1980, that the interest rate on the bonds designated Bonds of 2005–2010, described in Department Circular—Public Debt Series—No. 34–80, dated October 30, 1980, will be 12¾ percent. Interest on the bonds will be payable at the rate of 12¾ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-35796 Filed 11-14-80; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 223
Monday, November 17, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Energy Regulatory commission	2
Federal Reserve System (Board of Governors)	3

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, November 18, 1980.

PLACE: Commission conference room 5240, on the fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 80–8–FOIA–455, concerning a request for a copy of the Certificate Listing of Eligibles for Vacancy Announcement No. 38–80, Computer Specialist, GS–334–13.
2. Freedom of Information Act Appeal No. 80–8–FOIA–452, concerning a request for information contained in an Equal Pay Act file.
3. Recommendation and Selection of Proposed ABAR Contracts.
4. Report on Commission Operations by the Executive Director.

Closed to the public.

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued November 10, 1980.

[S–2092–80 Filed 11–13–80; 2:05 pm]

BILLING CODE 6570–06–M

2

FEDERAL ENERGY REGULATORY COMMISSION.

November 12, 1980.

TIME AND DATE: 10 a.m., November 19, 1980.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Item listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of Public Information.

Power Agenda—469th Meeting, November 19, 1980, Regular Meeting (10 a.m.)

CAP–1. Project No. 3190, City of Santa Clara, Calif.
CAP–2. Project No. 2959, City of Seattle, Wash.
CAP–3. Docket No. ER80–568, Kanawha Valley Power Co.
CAP–4. Docket No. E–9610, Tipmont Rural Electric Membership Corp. v. Public Service Co. of Indiana, Inc.
CAP–5. Docket Nos. EL80–35 and ER81–31–000, Indiana & Michigan Electric Co.
CAP–6. Docket No. ES80–6, Idaho Power Co.
CAP–7. Docket No. ES81–2–000, Consumers Power Co.

Miscellaneous Agenda—469th Meeting, November 19, 1980, Regular Meeting

CAM–1. Docket No. QF80–23, Union Camp Corp.
CAM–2. Docket No. RM80–46, Rule adopting revised alternative fuel price ceiling for the month of April 1980.

Gas Agenda—469th Meeting, November 19, 1980, Regular Meeting

CAG–1. Docket No. RP80–3, Michigan Wisconsin Pipe Line Co.
CAG–2. Docket No. RP72–6, El Paso Natural Gas Co.; Docket No. RP72–6, El Paso Natural Gas Co. (ignition fuel and flame stabilization); Docket No. RP72–6, El Paso Natural Gas Co. (gas turbines, etc.); Docket No. RP72–6, El Paso Natural Gas Co. (pre-existing shortages); Docket No. RP72–6, El Paso Natural Gas Co. (new resources of supply); Docket Nos. RP72–6 and RP76–38, El Paso Natural Gas Co. (storage); Docket Nos. RP76–87, CP77–289 and CP78–172, El Paso Natural Gas Co. (just and reasonable issues); Docket No. CP76–87, El Paso Natural Gas Co.; Docket No. CP76–285, Mountain Fuel Resources, Inc.; Docket No. CP77–289, El Paso Natural Gas Co.; Docket No. CP77–511, Northwest Pipeline Corp.; Docket No. CP77.512, Clay Basin Storage Co.; Docket No. CP79–224, El Paso Natural Gas Co.; Docket Nos. CP80–222, et al., El Paso Natural Gas Co. (consolidated El Paso storage certificates proceeding); Docket Nos. RP77.113, RP77–135–1 and RP77–135–2, El Paso Natural Gas Co. (City of Denver City); (community public service company); Docket No. TC79–133, Citizens Utilities Co.; Docket No. CP80–497, El Paso Natural Gas Co.; Docket No. SA80–93, El Paso Natural Gas Co.; Docket No. CI72–519, Cities Service Co.; Docket No. CI79–350, Arapahoe Gas, Ltd.; Docket No. CI79.351, Black River Corp.; Docket No. TC79–142, El Paso Natural Gas Co.
CAG–3. Docket Nos. CI80–408 and CI80–396, Exxon Corp.; Docket No. CI80–448, Columbia Gas Development Corp.; Docket No. CI80–433, Mesa Petroleum Co., et al.
CAG–4. Docket Nos. CS71–609, et al., Arnold III and the Arnold Corp. (Isaac Arnold III); Docket No. CS80–170, Betty D. Mortimer; Docket No. CS80–162, Lewis Energy Corp.; Docket No. CS80–180, Cactus Resources, Inc.; Docket Nos. CS72–662, the C. H. and Marjorie Lyons Trust of Culver Hall and Culver Hall Lyons (the C. H. and Marjorie Lyons Trust for Culver Hall); Docket CS80–184, Clovelly Drilling and Development Co., Inc.; Docket No. CS80–187, Sage Drilling Co., Inc.; Docket No. CS80–189, Frances Dorchester Harrell; Docket No. CI80–465, Louisiana Land Offshore Co., Inc.; Docket No. CI80–451, Aminoil Development, Inc.; Docket Nos. CI77–48, CI77–517, CI77–519, CI78–224, CI80–424, CI80–396, CI80–408 and CI80–396, Exxon Corp.; Docket No. CI80–381, Conoco, Inc.; Docket No. CS80–177, Toce Oil Co., Inc.; Docket No. CI80–474, Chevron U.S.A. Inc.; Docket No. CI80–459, Kerr-McGee Corp.; Docket Nos. CS71–761, et al., Alison Suzanne Robertson Murphy and A&F Enterprises, Inc.; Docket No. CI80–455, Amerada Hess Corp.; Docket No. CI73–447, Arco Oil and Gas Co., a division of Atlantic Richfield Co.; Docket Nos. CI80–467 and CI79–636, Amoco Production Co.; Docket No. CI77–18, Transco Exploration Co.; Docket No. CI80–431, Superior Oil Co.; Docket No. CI80–442, Anadarko Production; Docket No. CI80–433, Mesa Petroleum Co., et al.; Docket No. CI71.763, Texaco, Inc.; Docket No. CI80–448, Columbia Gas Development Corp.
CAG–5. Docket Nos. CI73–639 and CI76–586, Arco Oil & Gas Co., division of Atlantic Richfield Co.
CAG–6. Docket No. RI79–2, Logue & Patterson, Inc.
CAG–7. Docket No. G–7004, Pennzoil Co.
CAG–8. Docket No. CP74–314, El Paso Natural Gas Co.; Docket No. CP76–327, Northwest Pipeline Corp.; Docket No. CI77–526, Sun Oil Co., et al.
CAG–9. Docket No. CP77–417, transcontinental Gas Pipe Line Corp.; Docket No. CP79–409, Texas Eastern Transmission Corp.; Docket No. CP80–311,

Texas Eastern Transmission Corp. and Transcontinental Gas Pipe Line Corp.
CAG–10. Docket No. CP79–254, Northern Natural Gas Co., division of Internorth, Inc., Florida Gas Transmission Co., and Southern Natural Gas Co.
CAG–11. Docket No. CP80–326, Northern Natural Gas Co., division of Internorth, Inc.
CAG–12. Docket No. CP80–368, Transcontinental Gas Pipe Line Corp.
CAG–13. Docket No. CP80–474, Cities Service Gas Co.
CAG–14. Docket No. CP79–357, Panhandle Eastern Pipe Line Co.

Power Agenda—469th Meeting, November 19, 1980, Regular Meeting

I. Licensed Project Matters

P–1. Reserved.

II. Electric Rate Matters

ER–1. Docket No. ER80–797, New England Power Co.
ER–2. Docket No. ER80–204, CP National Corp.
ER–3. Docket Nos. ER77–488 and ER78–520 (phase II), El Paso Electric Co.
ER–4. Docket No. ER77–277, Pennsylvania Power Co.; price squeeze (phase II).
ER–5. Docket No. ER77–533 (phase II), Louisiana Power & Light Corp.
ER–6. Docket No. ER80–5, Minnesota Power & Light Co.
ER–7. (A) Docket No. ER76–320, the Connecticut Light & Power Co.; (B) Docket No. ER78–350, Connecticut Yankee Atomic Power Co.
ER–8. (A) Docket No. ER80–2011, Bonneville Power Administration (system rates); (B) Docket No. E–9563, Bonneville Power Administration (wheeling rates).

Miscellaneous Agenda—469th Meeting, November 19, 1980, Regular Meeting

M–1. Reserved.
M–2. Reserved.
M–3. Docket No. RM80–48, definition of agricultural use in section 232.202(a) of the Commission's regulations on incremental pricing.
M–4. Docket No. RM80–33, final rules for part 270, subpart B, sections 270.201, 270.202 and 270.204.

Gas Agenda—469th Meeting, November 19, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. RP79–64, Florida Gas Transmission Co.
RP–2. Docket No. TA80–2–11 (PGA80–2) (IPR80–2) (LFUT80–2), United Gas Pipe Line Co.

II. Producer Matters

CI–1. Reserved.

III. Pipeline Certificate Matters

CP–1. Docket Nos. RP71–29 and RP71–120 (phase IV), United Gas Pipe Line Co.
CP–2. Docket No. CP78–161, Consolidated Gas Supply Corp.
CP–3. Docket No. CP80–347, Natural Gas Pipeline Co. of America.
CP–4. Docket Nos. CP79–352, RP80–97, CP76–492, CP77–568, CP77–570, CP77–571, CP78–490, CP78–499, CP78–523, CP78–543, CP79–67, CP79–81 and CP79–311, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CP–5. (A) Docket No. CP80–236, Transcontinental Gas Pipe Line Corp.; (B) Docket No. CP79–70, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Docket No. CP80–217, Transcontinental Gas Pipe Line Corp.; Docket No. CP80–218, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; (C) Docket No. CP80–287, Columbia Gulf Transmission Co. and Southern Natural Gas Co.; (D) Docket No. CP80–286, Michigan Wisconsin Pipe Line Co.; (H) Docket No. CP80–227, Michigan Wisconsin Pipe Line Co.; (F) Docket No. CP80–251, Michigan Wisconsin Pipe Line Co.; (G) Docket No. CP80–375, Consolidated Gas Supply Corp., Northern Natural Gas Co., division of Internorth, Inc., Michigan Wisconsin Pipe Line Co. and El Paso Natural Gas Co.; (E) Docket No. CP80–384, Michigan Wisconsin Pipe Line Co.; (I) Docket No. CP80–82, Michigan Wisconsin Pipe Line Co., Texas Eastern Transmission Corp., and Transcontinental Gas Pipe Line Corp.; (J) Docket No. CP78–340, Trunkline Gas Co.
CP–6. (A) Docket Nos. CP78–123, et al., Northwest Alaskan Pipeline Co.; Docket No. CP78–124, Northern Border Pipeline Co.; Docket No. CP79–60, Pacific Gas Transmission Co.; (B) Delegation to the Federal Inspector of certain authority under sections 4, 5, 7 and 9 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[S–2090–80 Filed 11–13–80; 10:36 am]
BILLING CODE 6450–85–M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 12 noon, Wednesday, November 19, 1980, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments (This matter was originally announced for a meeting on Monday, November 10, 1980.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: November 12, 1980.

Theodore E. Allison,
Secretary of the Board.

[S. 80–2091–80 Filed 11–13–80; 10:37 am]
BILLING CODE 6210–01–M

V 45 NO 217 80 UMI

federal register

Monday
November 17, 1980

Part II

Department of Justice

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF JUSTICE

[AAG/A Order No. 57-80]

Privacy Act System Notices—1980 Annual Publication

AGENCY: Department of Justice.

ACTION: Annual publication of Privacy Act Issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of records they maintain from which information is retrieved by name or other personal identifier. Accordingly, the Department of Justice published on September 30, 1977 in **Federal Register** Volume 42 a notice of all such systems of records maintained by the Department. On September 28, 1978 the Department published in **Federal Register** Volume 43 the annual update which reflected only those systems which had been added, amended, or revoked during the year, and those which we were amending at that time. On January 10, 1980, the Department published another similar update for 1979 in **Federal Register** Volume 45. Subsequently, for the convenience of the public, the Office of the Federal Register issued a publication which combined the 1977 notice and all subsequent updates into a single document entitled "Privacy Act Issuances Compilation—1979, Volume III." This document reflected all systems of records issued through December 31, 1979. Now, by way of this notice, the Department is publishing the 1980 annual update which reflects only those systems which have been added, amended or revoked during 1980, and those which we propose to amend or delete at this time. Therefore, one is able to review all Department of Justice systems by referring to the Compilation and the 1980 annual update.

These publications can be examined free of charge at Regional Depository Libraries at 50 locations around the country and at the General Services Administration Federal Information Centers at 36 central locations around the country. They can also be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

Published here are:

—Part I: a table of contents listing *all* the systems of records published here in full text;

—Part II: the full text of systems of records which the Department *amended* during the year, and the full text of *new* systems of records which the Department *established* during the year;

—Part III: notice that the Law Enforcement Assistance Administration *deleted* a system of records during the year; and

—Part IV: the full text of systems of records which the Department *now proposes to amend.*

DATES: This document fulfills the annual notice requirements of the Privacy Act for 1980.

FOR FURTHER INFORMATION CONTACT: William J. Snider, (202) 633-3452.

Dated: October 30, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Part I

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Composite listing of all systems of records published here in full text

JUSTICE/ATR-005, Antitrust Caseload Evaluation System (ACES)—Time Reporting System
JUSTICE/ATR-009, Public Complaints and Inquiries File
JUSTICE/BIA-001, Decisions of the Board of Immigration Appeals
JUSTICE/BIA-002, Roster of Organizations and their Accredited Representatives Recognized by the Board of Immigration Appeals
JUSTICE/BOP-999, Appendix of Field Locations for the Bureau of Prisons Regional Offices
JUSTICE/CIV-001, Civil Division Case File System
JUSTICE/CRT-001, Central Civil Rights Division Index File and Associated Records
JUSTICE/CRT-008, Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice
JUSTICE/CRT-009, Civil Rights Division Employees Travel Reporting
JUSTICE/DAG-007, The United States National Central Bureau (USNCB) (Department of Justice) Criminal Investigative Records System
JUSTICE/DEA-015, Training Files
JUSTICE/DEA-023, Clearical, Technical and Professional (CTAP) Program Files
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JUSTICE/FBI-002, The FBI Central Records System
JUSTICE/FBI-003, Bureau of Mailing Lists
JUSTICE/FBI-004, Routine Correspondence Handled by Preprinted Form
JUSTICE/FBI-005, Routine Correspondence Handled without File Yellow
JUSTICE/FBI-007, FBI Automated Payroll System
JUSTICE/FBI-010, Employee Travel Vouchers and Individual Earning Records
JUSTICE/FBI-011, Employee Health Records
JUSTICE/FBI-012, Time Utilization Record-keeping (TURK) System
JUSTICE/INS-005, Case Control System
JUSTICE/INS-999, INS Appendix: List of principal offices of the Immigration and Naturalization Service
JUSTICE/JMD-002, Controlled Substances Act Nonpublic Records
JUSTICE/JMD-015, EEO (Equal Employment Opportunity) Volunteer Representative Roster
JUSTICE/JMD-017, Department of Justice Controlled Parking Records
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JUSTICE/OJARS-002, Law Enforcement Education System
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JUSTICE/OJARS-011, Registered Users File—National Criminal Justice Reference Service (NCJRS)
JUSTICE/OJARS-012, Public Safety Officers Benefits System
JUSTICE/OLC-003, Office of Legal Counsel Central File
JUSTICE/OPA-001, Executive Clemency Files
JUSTICE/OPR-001, Office of Professional Responsibility Record Index
JUSTICE/PRC-001, Docket, Scheduling and Control
JUSTICE/PRC-002, Freedom of Information Act Record System
JUSTICE/PRC-003, Inmate and Supervision Files
JUSTICE/PRC-004, Labor and Pension Case, Legal File and General Correspondence System
JUSTICE/PRC-005, Office Operation and Personnel System
JUSTICE/PRC-006, Statistical, Educational and Developmental System
JUSTICE/PRC-007, Workload Record, Decision Result, and Annual Report System
JUSTICE/USA-001, Administrative Files
JUSTICE/USA-008, Freedom of Information/Privacy Act Files
JUSTICE/UST-001, Bankruptcy Case Files and Associated Records
JUSTICE/UST-002, Panel Trustee Application File
JUSTICE/UST-003, United States Trustee Timekeeping System
JUSTICE/UST-999, United States Trustee Appendix 1—List of Record Retention Addresses

Part II

Systems of records amended and published during the year and systems of records established and published during the year are listed below. The date published along with the **Federal Register** volume number and the page number are cited in parentheses. Following the list, the system are reprinted in full text.

Amended

JUSTICE/ATR-005, Antitrust Caseload Evaluation System (ACES)— Time Reporting System (May 15, 1980, Vol. 45, page 32143).
JUSTICE/CIV-001, Civil Division Case File System (October 31, 1980, Vol. 45, page 72308).
JUSTICE/DEA-015, Training Files (June 10, 1980, Vol. 45, page 39354).

New

JUSTICE/ATR-009, Public Complaints and Inquiries File (August 29, 1930, Vol. page 57788).
JUSTICE/DAG-007, The United States National Central Bureau (USNCB) (Department of Justice) Criminal Investigative Records System (March 3, 1980, Vol. 45, page 13847).
JUSTICE/DEA-023, Clerical, Technical and Professional (CTAP) Program Files (January 23, 1980, Vol. 45, page 5419).
JUSTICE/DEA-028, Regional Automated Intelligence Data System (RAIDS) (August 6, 1980, Vol. 45, page 52284).
JUSTICE/OPR-001, Office of Professional Responsibility Record Index (February 5, 1980, Vol. 45, page 7877).

Justice/ART-005

SYSTEM NAME:

Antitrust Caseload Evaluation System (ACES)—Time Reporting System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Ave., N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Antitrust Division of the U.S. Department of Justice.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file contains the employee's name and allocations of his/her work time.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file will be established and maintained pursuant to the following authorities: 28 CFR section 0.40(f), 28 U.S.C. section 552, 31 U.S.C. section 11, 31 U.S.C. section 66a, 5 U.S.C. section 301, and 2 U.S.C. section 601.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by Antitrust Division personnel to keep track of resources and as a basis for determining Antitrust Division allocations of resources (professional time) to particular products and industries (e.g. oil, auto, chemicals) and to broad categories of resource use such as conspiratorial conduct, oligopoly and monopoly, civil cases, criminal cases, and proceedings before regulatory agencies. In addition, the file will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. Secs. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically in the ACES computerized information system.

RETRIEVABILITY:

Information is retrieved by a variety of key words, including names of individuals.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to those employees whose official duties require such access.

RETENTION AND DISPOSAL:

Information contained in the file is retained for 24 months or the life of the matter to which the employee is assigned, whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Support Group, Antitrust Division, U.S. Department of Justice, Room 1018, Safeway Building, 521 12th Street, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

Information on time allocation is provided by Antitrust Division section and field office chiefs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/CIV-001

SYSTEM NAME:

Civil Division Case File System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any and all parties involved in the cases handled by the Civil Division will have identifying data contained in this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The main record of the system is the official case file which is retained on each case under the jurisdiction of the Civil Division except for those cases for which files are maintained in the Civil Division Case File System: *Field Office, Customs Litigation, Commercial Litigation Branch* and the Office of Alien Property File System, and constitutes the official record of the Department of Justice. All record material relating to a case is retained in the file. Each case is assigned a number comprised of the category designation for the subject matter, the code number for the judicial district where the action originated, and the number of cases of that category which have arisen in that district.

(2) Alphabetical and numerical indices are utilized as a means of access to the proper file by the cross-

referencing of the names of all parties to a suit with the file number. Forms CV–54 and carbon-interleaf index cards are used in these indices.

(3) An automated record of selected data which has been extracted from each case file is maintained on magnetic diskettes in order to follow the progress of all Division cases and to obtain statistical data for monthly and fiscal reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

General authority to maintain the system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101. The particular system was established in accordance with 28 CFR 0.77(f) and was delegated to the Civil Division pursuant to the memorandum from the Deputy Attorney General, dated July 17, 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the F.B.I. and the Unites States Attorneys' Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local of foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter, (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarrented invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) The case files utilize standard file jackets and are retained in electronic, rotary power files; *or in standard file cabinets. (2) the alphabetical and numerical index cards are retained in standard file cabinets. (3) Automated records are maintained on magnetic diskettes.*

RETRIEVABILITY:

The files must be retrieved by file number. The file number can be ascertained from the alphabetical index if the name of any party to the suit is known. Automated records can be retrieved by Department of Justice case number, plaintiff's name, defendant's name, or Civil Division attorney's name.

SAFEGUARDS:

Information contained in the system is unclassified. However, only attorneys who have their names recorded in the File Unit can be issued a case file. Minimal information about a case is provided from the various indices to telephone callers, since there is a problem with indentifying the identity of a caller. If a party desires detailed information, he is referred directly to the attorney of record.

RETENTION AND DISPOSAL:

When a case file is closed by the *responsible attorney*, it is sent to the Federal Records Center for retention in accordance with the authorized Record Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period has passed, the file is destroyed. However, the index and docket cards are not purged.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General: Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to: Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for information concerning the cases of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request." The request should include the file number and/or the names of any litigants known to the requestor. The requestor should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above. Requests may also be made by telephone. In such cases the caller will be referred to the attorney of record. The attorney, in turn, may require an official written request.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state, what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put onto docket and index cards.

Justice/DEA–015

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have attended training programs sponsored by the Drug Enforcement Administration National Training Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Students names; (B) Dates and locations of schools; (C) Class average and individual student grades; (D) Locations of student's employers; (E) Number of years experience in general law enforcement and drug law enforcement; (F) Classification of student's employers by state, local, county, or Federal; (G) Type of school attended; (H) Class rosters; (I) Biographic data; (J) Evaluation reports; (K) Application and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to provide educational and training programs on drug abuse and controlled substances law enforcement pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is maintained to assist in performing the administrative functions of the National Training Institute and is used to prepare class directories, class rosters, program evaluation reports and statistical reports. In addition, information from this system is provided to Federal, state and local law enforcement and regulatory agencies employing former students and biographical data may be provided to students and former students in the form of class rosters and alumni publications.

Release of information to the news media: Information permitted to be released to the news media and the public may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information of Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The manual records in this system are maintained on index cards and in file folders and the automated portion is maintained on magnetic tapes.

RETRIEVABILITY

Data may be retrieved by the student's last name, school location code, or by beginning course dates.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters, which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, access is limited to National Training Institute personnel on a need-to-know basis.

RETENTION AND DISPOSAL:

Records in this system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

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Inquiries should contain name; date and place of birth; and dates of attendance at courses sponsored by the National Training Institute.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) Students: (B) Instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/ATR-009

SYSTEM NAME:

Public Compliants and Inquiries File

SYSTEM LOCATION:

U.S. Department of Justic, Washington, D.C. 20530 and field office locations as follows: 1776 Peachtree St., N.W., Suite 420, Atlanta, GA 30309; 2634 Everett M. Dirksen Bldg., 219 S. Dearborn St., Chicago, IL 60604; 995 Celebrezze Federal Bldg., 1240 E. 9th St., Cleveland, OH 44199; Earl Cabell Federal Bldg., Room 3101 Federal Bldg., Los Angeles, CA 90012; Room 3630, 26 Federal Plaza, New York, NY 10007; 3430 U.S. Courthouse, Independence Mall West, 601 Market St., Philadelphia, PA 19106; and 450 Golden Gate Ave., Box 36046, San Francisco, CA 94102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public who submit unsolicited complaints and inquiries to the Division on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file will contain letters or notes of other contacts by members of the public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file will be established and maintained pursuant to 44 U.S.C. 3101 and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file will be used by Antitrust Division personnel to assure adequate response to initial and subsequent contacts by the same individuals or to other contacts regarding the same subject. Some of these contracts will also serve to further ongoing Antitrust investigations or to initiate an investigation for enforcement purposes. Complaints/inquiries may be referred to other federal or state and local agencies, only if deemed appropriate to assure complete action on the matter.

Release of information to members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is he subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be maintained in the form in which they are originated, i.e., paper letters, notes and log sheets.

RETRIEVABILITY:

Information will be retrieved by name, subject matter and date.

SAFEGUARDS:

Information contained in the system will be unclassified. Records will be maintained only in the offices of the Antitrust Division and accessed only by Division employees whose official duties require such access.

RETENTION AND DISPOSAL:

Records of contacts will be kept by individual name for one year, after which they will be destroyed. Copies of these contact records may be placed in a subject matter or case file if they contain substantive information on antitrust enforcement matters. Case and subject mater files are normally maintained for thirty years.

SYSTEM MANAGERS AND ADDRESS:

Executive Officer, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

All information will be obtained from the complaining individuals themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/DAG-007

SYSTEM NAME:

The United States National Central Bureau (USNCB) (Department of Justice) Criminal Investigative Records System.

SYSTEM LOCATION:

Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific wanted/missing persons; specific deceased persons in connection with death notices; individuals who may be associated with certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in a crime; victims of criminal violations in the United States or abroad; and USNCB personnel involved in litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning fugitives, wanted persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes names, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, and details and circumstances surrounding the actual or suspected violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 263a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

In the event a record(s) in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use to the appropriate law enforcement and criminal justice agencies whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto. A record may be disclosed to federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; to federal agencies in response to their request in connection with the hiring or retention

of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. A record may be disclosed to appropriate parties engaged in litigation or in preparation of possible litigation, e.g., to potential witnesses for the purpose of securing their testimony when necessary before courts, magistrates or administrative tribunals; to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings; to foreign governments in accordance with formal or informal international agreements; to local, state, federal and foreign agents; to the Treasury Enforcement Communications System (TECS) (Treasury/CS 00.244); to the International Criminal Police Organization (INTERPOL) General Secretariat and National Central Bureaus in member countries; to employees and officials of financial and commercial business firms and private individuals where such release is considered reasonably necessary to obtain information to further investigative efforts or to apprehend criminal offenders; to other third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; and to translators of foreign languages as necessary. In addition, information from this system is accessed by USNCB employees who have a need for the records in the performance of their duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in file folders and on magnetic disks at the United States National Central Bureau, and certain limited data, i.e., that which concerns fugitives and wanted persons, is stored in the Treasury Enforcement Communications System (TECS). TREASURY/CS 00.244, a system published by the U.S. Department of the Treasury.

RETRIEVABILITY:

Information is retrieved primarily by name, file name, system identification number, personal identification number, and by weapon or motor vehicle number or by other identifying data.

SAFEGUARDS:

Information maintained on magnetic disks is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only those individuals specifically authorized and assigned an identification code by the system manager will have access to the computer. Identification codes will be assigned only to those USNCB employees who require access to the information to perform their official duties. In addition, access to the information must be accomplished through a terminal which is located in the USNCB office that is occupied during the day and locked at night information in file folders is stored in file cabinets in the same secured area.

RETENTION AND DISPOSAL:

Upon inactivity for ten years, the case file is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Chief, United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. To enable USNCB personnel to determine whether the system contains a record relating to him or her, the requester must submit a written request identifying the record system, identifying the category and type of records sought, and providing the individual's full name and at least two items of secondary information (date of birth, social security number, employee identification number, or similar identifying information).

RECORD ACCESS PROCEDURES:

Although the Attorney General has exempted the system from the access, contest and amendment provisions of the Privacy Act, some records may be available under the Freedom of Information Act. Inquiries should be addressed to the official designated under "Notification procedure" above. The letter and envelope should be clearly marked "Freedom of Information Request" and a return address provided for transmitting any information to the requester.

CONTESTING RECORD PROCEDURES:

See "Access procedures" above.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal, state, local, and foreign law enforcement agencies (including investigative reports from a system of records published by Department of the Treasury entitled Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244); other non-Department of Justice investigative agencies; client agencies of the Department of Justice; statements of witnesses and parties; and the work product of the staff of the United States National Central Bureau working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has proposed exemption of this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (6), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and (k)(5). An exemption rule was promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and published in the Proposed Rules Section of the **Federal Register** on October 12, 1979. A final rule will be published 30 days from the publication date of this notice.

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Justice/DEA-023

SYSTEM NAME:

Clerical, Technical and Professional (CTAP) Program Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537 and field offices (see Appendix #1 for addresses). [1]

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Clerical, technical and professional employees (GS/1–12) of DEA who volunteer to participate in the CTAP program.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Biographic, educational and career development records of CTAP employees, interview and evaluation forms concerning CTAP employees and individual career development plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular No. A–48 (September 23, 1971), Federal Personnel Manual, Chapter 410.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is disclosed to DEA counselors and supervisors to develop and plan individualized career development programs for DEA employees.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2, may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests that information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in the system are maintained in manual file folders and on ADP equipment.

RETRIEVABILITY:

Records will be retrieved by employee name.

SAFEGUARDS:

The records in the system will be maintained in facilities which meet DEA security requirements. Access to the system will be restricted to DEA employees on a need-to-know basis.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Administration and Management, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

DEA employees, CTAP counselors, DEA personnel files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/DEA-028

SYSTEM NAME:

Regional Automated Intelligence Data System (RAIDS).

SYSTEM LOCATION:

Drug Enforcement Administration, 8400 NW 53rd Street, Miami, Florida 33166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of illicit narcotic trafficking.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information extracted from DEA investigative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purposes: (a) Other federal law enforcement and regulatory agencies; (b) State and local law enforcement and regulatory agencies; (c) Foreign law enforcement agencies with whom DEA maintains liaison; (d) The Department of Defense and military departments; (e) The Department of State; (f) United States intelligence agencies concerned with drug enforcement; (g) The United Nations; (h) The International Police Organization (Interpol); and (i) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: (a) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; (b) To the Office of Management and Budget, upon request, in order to justify the allocation of resources; (c) To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; and (d) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rulemaking, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the

[1] Most recently published in the Privacy Act Issuances, 1979 Compilation, Volume III, of the Federal Register.

individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspection conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records in the system are maintained on magnetic discs.

RETRIEVABILITY:

Information is retrieved by name of the subject and by various topical queries.

SAFEGUARDS:

The system is protected by both physical security and dissemination and access controls. The system is maintained in a secure DEA facility and protected by elecronic means. Access to the computer is restricted by the assignment of unique input and query access codes to authorized DEA employees on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Records in the system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, DEA South Eastern Regional Office, 8400 NW, 53rd Street, Miami, Florida 33166.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Records in the system consist entirely of information extracted from DEA investigative reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e), (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and are being published in the Proposed Rules Section of today's Federal Register.

Justice/OPR-001

SYSTEM NAME:

Office of Professional Responsibility Record Index.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Department of Justice employees who are the subjects of inquiries or complaints directed to, or investigations conducted by, the Office of Professional Responsibility; (2) individuals (complainants) who write to the Office of Professional Responsibility: (3) individuals (complainants) who write to the Attorney General or other officials of the Department and whose letters are referred to the Office of Professional Responsibility; (4) employees of agencies of the Federal Government, other than the Department of Justice, about whom information indicating possible criminals or administrative misconduct has been developed during the course of routine investigations by components of the Department of Justice, when such information is furnished to the Office of Professional Responsibility for referral—if warranted—to an appropriate investigative component of the Department of Justice, or to another government agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

This systems of records consists of complaints filed against Departmental employees, the results of investigations into those complaints, and actions taken after completion of the investigations. This system also includes all records developed pursuant to special assignments given to the Office of Professional Responsibility by the Attorney General, as well as records containing information indicating possible misconduct by employees of the Federal Government, other than the Department of Justice, which have been furnished to the Office of Professional Responsibility for referral, if warranted, to the appropriate investigative authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 et seq. and 28 CFR 0.39 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or a potential violation of law, whether civil, criminal, or regulatory in nature, and arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with the enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violations, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization. If there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate Federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance or the reporting of an investigation of an employee; (6) information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (7) release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be

released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests information on behalf of and at the request of the individual who is the subject of the record; (8) a record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved in some instances by the name of the complainant and in some instances by the name of the employee who is the subject of the complaint.

SAFEGUARDS:

The information is stored in safes and locked filing cabinets in a limited access area and is maintained according to applicable departmental security regulations.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with the General Records Schedule, Federal Property Management Regulations 101-11.4.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel on Professional Responsibility, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the system manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) or (k)(5). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to their information sought.

RECORD SOURCE CATEGORIES:

Department officers and employees, and other Federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H,) (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2) and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

Part III

The Law Enforcement Assistance Administration deleted its General Investigative System, JUSTICE/LEAA-003, by publishing a revocation notice in the **Federal Register,** Volume 45 on January 30, 1980, at page 6868.

Part IV

Systems of records which the Department now proposes to amend are listed below. Following the list, the systems are republished in full text. Dates on which the systems were last published in full text are given in the introduction to a system or systems of records. All changes on additions have been italicized for the convenience of the reader. In addition, the more siginficant changes, or deletions, are briefly discussed in the introduction.

Interested persons are invited to comment on any change to the routine uses of information in a record system to the Administrative Counsel, Justice Management Division, Room 6315, Department of Justice, Washington, D.C. 20530. All comments must be received on or before December 17, 1980.

JUSTICE/BIA-001, Decisions of the Board of Immigration Appeals
JUSTICE/BIA-002, Roster of Organizations and their Accredited Representatives Recognized by the Board of Immigration Appeals
JUSTICE/BOP-999, Appendix of Field Locations for the Bureau of Prisons Regional Offices
JUSTICE/CRT-001, Central Civil Rights Division Index File and Associated Records
JUSTICE/CRT-008, Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice
JUSTICE/CRT-009, Civil Rights Division Employees Travel Reporting
JUSTICE/FBI-002, The FBI Central Records System
JUSTICE/FBI-003, Bureau Mailing Lists
JUSTICE/FBI-004, Routing Correspondence Handled by Preprinted Form
JUSTICE/FBI-005, Routine Correspondence Handled Without File Yellow
JUSTICE/FBI-007, FBI Automated Payroll System
JUSTICE/FBI-010, Employee Travel Vouchers and Individual Earning Records
JUSTICE/FBI-011, Employee Health Records
JUSTICE/FBI-012, Time Utilization Record-Keeping (TURK) System
JUSTICE/INS-005, Case Control System
JUSTICE/INS-999, INS Appendix: List of principal offices of the Immigration and Naturalization Service
JUSTICE/JMD-002, Controlled Substances Act Nonpublic Records
JUSTICE/JMD-015, EEO (Equal Employment Opportunity) Volunteer Representative Roster
JUSTICE/JMD-017, Department of Justice Controlled Parking Records
JUSTICE/OJARS-001, Personnel System
JUSTICE/OJARS-002, Law Enforcement Education System
JUSTICE/OJARS-004, Grants Program System
JUSTICE/OJARS-005, Financial Management System
JUSTICE/OJARS-006, Congressional Correspondence System
JUSTICE/OJARS-007, Public Information System
JUSTICE/OJARS-008, Civil Rights Investigative System
JUSTICE/OJARS-009, Federal Advisory Committee Membership Files
JUSTICE/OJARS-010, Technical Assistance Resource Files
JUSTICE/OJARS-011, Registered Users File—National Criminal Justice Reference Service (NCJRS)
JUSTICE/OJARS-012, Public Safety Officers Benefits System
JUSTICE/OLC-003, Office of Legal Counsel Central File
JUSTICE/OPA-001, Executive Clemency Files
JUSTICE/PRC-001, Docket, Scheduling and Control
JUSTICE/PRC-002, Freedom of Information Act Record System
JUSTICE/PRC-003, Inmate and Supervision Files
JUSTICE/PRC-004, Labor and Pension Case, Legal File and General Correspondence System
JUSTICE/PRC-005, Office Operation and Personnel System
JUSTICE/PRC-006, Statistical, Educational and Developmental System
JUSTICE/PRC-007, Workload Record, Decision Result, and Annual Report System
JUSTICE/USA-001, Administrative Files
JUSTICE/USA-008, Freedom of Information Act/Privacy Act Files
JUSTICE/UST-001, Bankruptcy Case Files and Associated Records
JUSTICE/UST-002, Panel Trustee Application File
JUSTICE/UST-003, United States Trustee Timekeeping System
JUSTICE/UST-999, United States Trustee Appendix 1—List of Record Retention Addresses

(BIA) Board of Immigration Appeals

The full text of the following system of records (JUSTICE/BIA-001) was last published on September 30, 1977 in **Federal Register** Volume 42, page 53320.

Justice/BIA-001

SYSTEM NAME:

Decisions of the Board of Immigration Appeals.

SYSTEM LOCATION:

5203 Leesburg Pike, Falls Church, Virginia 22041.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Aliens, including those previously admitted for lawful permanent residence, in deportation proceedings; (b) Aliens and alleged aliens in exclusion proceedings; (c) Aliens seeking waivers of inadmissibility; (d) Aliens in bond determination proceedings; (e) Aliens in whose behalf a preference classification is sought.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of the formal orders and decisions of the Board of Immigration Appeals, including the indices and logs pertaining thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under the authority granted the Attorney General by sections 103 and 292 of the Immigration and Nationality Act, 8 U.S.C. 1103 and 1362. Such authority has been delegated to the Board of Immigration Appeals by 8 C.F.R. Part 3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Decisions of the Board of Immigration Appeals are disseminated to the following categories of users for the purposes indicated:

(a) Parties appearing before the Board, (including the Immigration and Naturalization Service), their attorneys or other representatives. Purpose: Parties are entitled to the decision as a matter of due process; and in accordance with the requirements of 8 C.F.R. 3.1(g).

(b) Other lawyers, organizations recognized to appear before the Immigration and Naturalization Service and their representatives. Purpose: To permit these users to be informed of current case law and general maintenance of open system of jurisprudence.

(c) Members of Congress. Purpose: Constituent inquires.

(d) General public. Purpose: Selected decisions, designated as precedent decisions pursuant to 8 C.F.R. are published in bound volumes of Administrative Decisions Under Immigration and Nationality Laws of the United States. These are published to provide the public with guidance on the administrative interpretation of the immigration laws and to facilitate open and uniform adjudication of cases.

(b) Other lawyers, organizations recognized to appear before the Immigration and Naturalization Service and their representatives. Purpose: To permit these users to be informed of current case law and general maintenance of open system of jurisprudence.

(c) Members of Congress. Purpose: Constituent inquiries.

(d) General public. Purpose: Selected decisions, designated as precedent decisions pursuant to 8 C.F.R. are published in bound volumes of Administrative Decisions Under Immigration and Nationality Laws of the United States. These are published to provide the public with guidance on the administrative interpretation of the immigration laws and to facilitate open and uniform adjudication of cases.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is kept in typed form and stored in loose leaf binders.

RETRIEVABILITY:

Each decision is indexed by name and a numerical identifier.

SAFEGUARDS:

Information contained in the records is unclassified and intended for wide dissemination. No specific safeguards to prevent unauthorized disclosure are employed since no type of disclosure is presently regarded as "unauthorized". Access to buildings in which records are stored is controlled by guards provided by GSA.

RETENTION AND DISPOSAL:

Records are retained indefinitely and are not disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Decisions of the Board of Immigration Appeals are available to anyone upon request pursuant to 5 U.S.C. 552a(b)(2).

CONTESTING RECORD PROCEDURES:

Decisions of the Board of Immigration Appeals constitute official opinions and are not subject to correction or amendment except in accordance with accepted standards of due process. Decisions have been exempted from the correction provisions of 5 U.S.C. 552a(d).

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are provided primarily by the record of proceedings forwarded by the Immigration and Naturalization Service. Additionally, the person

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concerned and his representative provide information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Justice/BIA–002

SYSTEM NAME:

Roster of Organizations and their Accredited Representatives Recognized by the Board of Immigration Appeals.

SYSTEM LOCATION:

5203 Leesburg Pike, Falls Church, Virginia 22041.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Persons associated in an official capacity with a recognized organization; (b) Persons who have applied for, have been granted or have been denied accreditation as representatives of recognized organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of (a) a roster of charitable, social service and similar organizations, and of their accredited representatives; (b) applications and related documents submitted by such organizations and their representatives and (c) orders of the Board of Immigration Appeals granting or denying recognition to such organizations and their representatives. Recognized organizations and their accredited representatives are authorized to practice before the Immigration and Naturalization Service and Board of Immigration Appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under the authority granted the Attorney General by sections 103 and 292 of the Immigration and Nationality Act, 8 U.S.C. 1103 and 1362. Such authority has been delegated to the Board of Immigration Appeals by 8 CFR Part 292.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Copies of decisions granting or denying applications for recognition and accreditation are sent to (a) the organization seeking recognition and (b) the Immigration and Naturalization Service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in the system is stored in file folders.

RETRIEVABILITY:

Information is retrieved by use of the name of the organization or person accredited.

SAFEGUARDS:

Information contained in this record system is unclassified. Access to building in which records are stored is controlled by guards provided by GSA. No specific safeguards are employed.

RETENTION AND DISPOSAL:

Records in this system are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant; Board of Immigration Appeals; Department of Justice; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to: Chairman; Board of Immigration Appeals; Department of Justice; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request." Include in the request(s) the name of the organization which has sought, or has been granted or denied recognition and the name of the individual who has sought accreditation as a representative of such organization, or, (b) where no organization is concerned, the name of the individual who has sought accreditation or recognition. The requester will provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

The procedures for contesting or amending information contained in this system of records is governed by 8 CFR Part 292. The procedures require that organizations seeking accreditation of their representatives be notified of adverse information and be given an opportunity to rebut such information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are supplied by the organization seeking recognition, individuals seeking accreditation, and reports supplied by the Immigration and Naturalization Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(BOP) Bureau of Prisons

The full text of the Bureau of Prisons appendix (JUSTICE/BOP–999) was last published on January 10, 1980 in Federal Register Volume 45, page 2241.

Justice/BOP—999

SYSTEM NAME:

Appendix of Field Locations for the Bureau of Prisons Regional Offices

Northeast Region

Scott Plaza II, Industrial Highway
Philadelphia, Pennsylvania 19113

Southeast Region

523 McDonough Boulevard, S.E.
Atlanta, Georgia 30315

North Central Region

K.C.I. Bank Bldg.
8800 Northwest 112th Street
Kansas City, Missouri 64153

South Central Region

1607 Main St., Ste. 700 Praetorian Bldg.
Dallas, Texas 75219

Western Region

330 Primrose Road, Fifth Floor
Burlingame, California 94010

United States Penitentiaries

Atlanta, Georgia 30315
Leavenworth, Kansas 66048
Lewisburg, Pennsylvania 17837
Marion, Illinois 62959
McNeil Island, Steilacoom, Washington 98388
Terre Haute, Indiana 47808

Federal Correctional Institutions

Alderson, West Virginia 24910
Ashland, Kentucky 41101
Bastrop, Texas 78602
Butner, North Carolina 27509
Danbury, Connecticut 06801
El Reno, Oklahoma 73036
Englewood, Colorado 80110
Ft. Worth, Texas 76119
La Tuna, Texas 88021
Lexington, Kentucky 40507
Lompoc, California 93436
Memphis, Tennessee 38134
Miami, Florida 33177
Milan, Michigan 48160
Morgantown, West Virginia 26505
Otisville, New York 10963
Oxford, Wisconsin 53952
Petersburg, Virginia 23803
Pleasanton, California 94568
Sandstone, Minnesota 55072
Seagoville, Texas 75159
Talladega, Alabama 35362
Tallahassee, Florida 32304
Terminal Island, California 90731
Texarkana, Texas 75501

Federal Prison Camps

Allenwood-Montgomery, Pennsylvania 17752
Big Spring, Texas 79720
Boron, California 93516
Eglin Air Force Base, Florida 32542
Maxwell Air Force Base, Montgomery, Alabama 36112
Safford, Arizona 85546

Medical Center for Federal Prisoners

Springfield, Missouri 65802

Federal Detention Center

Florence, Arizona 85232

Metropolitan Correctional Centers

71 W. Van Buren Street
Chicago, Illinois 60605
150 Park Row
New York, New York 10007
808 Union Street
San Diego, California 92101

Community Treatment Centers

826 S. Wabash Ave.
Chicago, Illinois 60605
3401 Gaston Ave.
Dallas, Texas 75248
1950 Trumbull Ave.
Detroit, Michigan 43216
2320 LaBranch Ave.
Houston, Texas 77044
404 E. 10th St.
Kansas City, Missouri 64106
1720 Chestnut Avenue
Long Beach, California 90813
Woodward Hotel
210 West 55th Street
New York, New York 10019
205 MacArthur Blvd.
Oakland, California 94610
316 W. Roosevelt Rd.
Phoenix, Arizona 85003

(CRT) Civil Rights Division

The full text of the following system of records (JUSTICE/CRT–001) was last published on September 30, 1977 in Federal Register Volume 42, page 53326.

Justice/CRT–001

SYSTEM NAME:

Central Civil Rights Division Index File and Associated Records.

SYSTEM LOCATION:

U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530; and, Todd Building; 550—11th Street, N.W.,; Washington, D.C. 20530; and, *521 12th St., N.W. Washington, D.C, 20530.* and, Federal Records Center; Suitland, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons referred to in potential or actual cases and matters of concern to the Civil Rights Division and correspondents on subjects directed or referred to the Civil Rights Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indices bearing individual names and the associated records to which the indices relate containing the general and particular records of all Civil Rights Division correspondence, cases, matters, and memoranda, including but not limited to, investigative reports, correspondence to and from the Division, memoranda, legal papers, evidence, and exhibits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101. It is also maintained to implement the Civil Rights Division's responsibilities under 28 C.F.R. 0.50 to enforce Federal criminal and civil statutes affecting civil rights.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A. Information in the system may be used by employees and officials of the Department to make decisions in the course of investigations and legal proceedings; to assist in preparing responses to correspondence from persons outside the Department; to prepare budget requests, Management by Objective (MBO) Program descriptions, and various reports on the work product of the Civil Rights Division; and to carry out other authorized internal functions of the Department.

B. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) a record relating to a possible or potential violation of law, whether civil, criminal, or regulatory in nature may be desseminated to the appropriate federal, state or local agency charge with the, responsibility of enforcing or implementing such law; (2) in the course of investigation or litigation of a case or matter, a record may be dissiminated to a federal, state or local agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dessemination is reasonably necessary to elicit such information or to obtain the cooperation of a prospective witness or informant; (3) a record relating to a case or matter may be disseminated to an appropriate court, grand jury or administrative or regulatory proceeding in accordance with applicable law or practice; (4) a record relating to a case or matter may be disseminated to an actual or potential party to litigation or his attorney (a) for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or (b) in formal or informal discovery proceedings; (5) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any determination that has been made; (6) a record relating to a person held in custody or probation during a criminal proceeding, or after conviction, may be disseminated to any agency or individual having responsibility for the maintenance, supervision or release of such person; (7) a record may be disseminated to the United States Commission on Civil Rights in response to its request and pursuant to 42 U.S.C. 1975d.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 522, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archieves and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

A retrieval capability exists in this system through use of an index card system arranged alphabetically by the names of individuals or organizations that have been involved in possible civil rights violations either as the subjects of investigations by the Department or as victims and/or complainants. (Complaints received from individuals which have not been investigated by the Department have not been systematically indexed and information pertaining to such individuals may or may not be retrievable.) Information on such individuals may be retrievable from the file jackets by a number assigned and appearing on the index cards.

SAFEGUARDS:

Information is safeguarded and protected in accordance with applicable Departmental rules and procedures.

RETENTION AND DISPOSAL:

There are no provisions for disposal of the records in the system although such procedures are currently under active consideration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2) and (k)(2). Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record retrievable in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, and any other information which is known and may be of assistance in locating the record, such as the name of the civil rights related case or matter involved, where and when it occurred and the name of the judicial district involved. The requester will also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend non-exempt information retrievable in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system may be any agency or person who has or offers information related to the law enforcement responsibilities of the Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted parts of this system from subsections (c)(3), (d), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c) and (e) and have been published in the **Federal Register**.

The full text of the following system of records (JUSTICE/CRT–008) was last published on September 28, 1978 in **Federal Register** Volume 43, page 44714. The system is amended to indicate that correspondence unrelated to matters within the jurisidiction of the Civil Rights Division is destroyed ninety days from the date of the correspondence.

JUSTICE/CRT–008

SYSTEM NAME:

Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice.

SYSTEM LOCATION:

U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue NW.; Washington, DC. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons communicating in written form in person or by telephone, including complaints, requests for information or action, or expressions of opinion regarding civil rights matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains original correspondence regarding civil rights matters from persons, cover letters or notes from persons referring original correspondence to the Department attorney or other employee notes regarding the correspondence, and copies of Civil Rights Division's responses to the original correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained pursuant to 44 U.S.C. 3101 and in the ordinary course of fulfilling the responsibility assigned to the Civil Rights Division under the provisions of 28 CFR 0.50.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A. The system is used by employees and officials of the Department to respond to incoming correspondence, to compile statistics for use in preparation budget requests, to insure proper disposition of incoming mail, to determine the status and content of responses to correspondence, to respond to inquiries from Division personnel, Office of Legislative Affairs and Congressional offices regarding the status of correspondence, and to carry out other authorized functions of the Department.

B. Information in the system regarding individual pieces of correspondence may be provided to Members of Congress upon request in instances where the Members making the request referred the correspondence in question to the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would consititute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Members or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in the system are primarily index cards and original letters or copies thereof. They are stored manually *and by automated office equipment.*

RETRIEVABILITY:

Information may be retrived through use of a card index file system *and/or automated office equipment* which is subdivided into indexs (1) arranged according to the name of citizens that corresponded with the Department and (2) arranged according to the name of Members of Congress or White House staff Members who have referred correspondence to the Department.

SAFEGUARDS:

Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

RETENTION AND DISPOSAL:

Citizen correspondence unrelated to matters within the jurisdiction of the Civil Rights Division is destroyed ninety days from the date of correspondence. There are no provisions for disposal of the *other* records in this system although such procedures are currently under active consideration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Civil Rights Division; U.S. Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." The request should include the name of the correspondent, his address or the name of the Member of Congress or White House staff member who referred the correspondence to the Department, if known, the Department of Justice file number, if known, and the date of the correspondence. The requester will also provide a return address for transmitting the information. Access requests will be directly to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, staing clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the original correspondents, persons referring original correspondence to the Department, and employees and officials of the Department responsible for the disposition of the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

The full text of the following system of records (JUSTICE/CRT–009) was last published on September 28, 1978 in Federal Register volume 43, page 44715.

Justice/CRT–009

SYSTEM NAME:

Civil Rights Division Employees Travel Reporting.

SYSTEM LOCATION:

U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Civil rights Division who have traveled on official assignments for the Civil Rights Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information, concerning travel expenditures, which was recorded by Division employees on travel authorization forms (Form OBD–1) and travel voucher forms (*Form OBD–157 SF–1012*) and submitted to the Fiscal Unit of the Civil Rights Division, from Fiscal Year 1972 to the present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained in the ordinary course of meeting the responsibilities assigned the Civil Rights Division under 28 CFR 0.50, 0.51.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used to make monthly reports to the Executive Office. Civil Rights Division, and to the Fiscal Unit, Civil Rights Division, for use in controlling and reviewing Division expenditures. Copies of individual's reports may be disclosed to the individual when appropriate forms are not submitted following a return from travel status.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in the system are stored on magnetic tape and on computer punch cards, and on monthly reports printed on computer. Individual vouchers and travel authorization forms are stored in file jackets.

RETRIEVABILITY:

Records in this system are retrievable by the names of present and former Division employees who have filed travel authorization forms or travel voucher forms.

SAFEGUARDS:

Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

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RETENTION AND DISPOSAL:

There are no provisions for disposal of the records in the system.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Requests by former employes for access to records in this system may be made in writing with the envelope and letter clearly marked "Privacy Act Request". The request should clearly state the dates on which official travel was taken. The requestor should also provide a return address for transmitting the information. Access requests will be directed to the System Manager. Present employees may request access by contacting the System Manager directly.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are the Civil Rights Division employees filing travel authorization and travel voucher forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(FBI) Federal Bureau of Investigation

The FBI Central Records System (JUSTIC/FBI–002) has been revised to clarify that a textual, support abstract procedure to identify and locate mail is also automated. The report to the Office of Management and Budget in September of 1979 and the notice published on October 12, 1979 set out this system's increasing reliance on automation. Therefore, the change described here is only a clarification to more accurately describe an administrative support procedure. No substantive changes have been made.

Other minor modifications include some title changes to classifications of investigations, notice of suspension of records destruction programs in accordance with United States District Court order, and address and status changes for field divisions and Legal Attache offices.

The full text of the system was most recently published in the **Federal Register** on January 10, 1980 at page 2198. The system has been reprinted below to reflect the above changes.

Justice/FBI–002

SYSTEM NAME:

The FBI Central Records System.

SYSTEM LOCATION:

a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. 12 Legal Attaches (see Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "Categories of Records in the System." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The FBI Central Records System—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. *This abstract system is both a textual and an automated capability for locating mail.* Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has *213* classifications used in its basic filing system.

They pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the *213* classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes):

1. Training Schools; National Academy Matters; FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958–962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government, Title 18, United States Code, Section 2385.

4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnaping. Title 18, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Sections 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue laws as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the Administrator, Drug Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act; Prostitution; Selling Whiskey Within Five Miles Of An Army Camp. 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interstate Shipment. Title 18, United States Code, Section 659; Title 18, United States Code, Section 660; Title 18, United States Code, Section 2117.

16. Violation Federal injunction (obsolete). *Consolidated into Classification 69, "Contempt of Court". FBI records do not provide an explanation of the nature of this classification.*

17. *Fraud Against the Government*—Veterans Administration Matters. Title 18, United States Code, Sections 287, 289, 290, 371, or 1001; and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 354, 77th Congress.

20. Federal Grain Standards Act. 1920 only. Subjects were alleged violators of contracts for sale, shipment of interstate commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints received concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration or the field component of that Agency.

22. National Motor Vehicle Traffic Act. 1922–27. Subjects possible violators of the National Motor Vehicle Theft Act; Automobiles seized by Prohibition Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of that Agency.

24. Profiteering. 1920–42. Subjects are possible violators of the Lever Act—Profiteering in food and clothing or accused company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law. 1922–25. Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Sections 2421–2424.

32. Identification (Fingerprint Matters). This classification covers general information concerning identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. Unlawful transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the United States Civil Service Commission in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921–22. Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application for Pardon to Restore Civil Rights. 1921–35. Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship. Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1541–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous. Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of Smokey Bear Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 70[illegible] 705, 707, and 710; Title 36, United States Code Section 182; Title 50, Appendix, United States Code, Section 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973, Title 18, United States Code, Section 243; Title 18, United States Code, Section 244. Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government; Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic

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Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal. Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. National Bankruptcy Act. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General as authorized by 28 U.S.C. 533 and AG memorandum #781, dated 11/9/72. These investigations can be conducted only upon such a request and consist of an indices and arrest check, and only in limited important trials where defendant could have influence over a juror.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114. Interference With Government Communications, Title 18, U.S.C., Section 1632.

53. Excess Profits On Wool. 1918. (obsolete) Subjects possible violator of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, D.C.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, and 607; Title 42, United States Code, Section 1973; Title 26, United State Code, Sections 9012 and 9042; title 2, United States Code, Sections 431, 432, 433, 434, 435, 436, 437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89—77th Congress.

58. Bribery; Conflict of Interest. Title 18, United States Code, Sections 201–203, 205–211; Pub. L. 89–4 and 89–136.

59. World War Adjusted Compensation Act 1924–44. Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of section 704.

60. Anti-Trust. Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprison of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 322, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter; Other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wage and Hour Law) (Title 29, United States Code, Sections 2010219); conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are place in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI.

68. Alaskan Matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation; Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act. Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations. Title 18, United States Code, Sections 1503 through 1510.

73. Application for pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and requests for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner; Escape and Rescue; Probation Violator; Parole violator; Mandatory Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code, Sections 3651–3656; and Title 18, United States Code, Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Sections 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933–45. Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance) (obsolete). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigation of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. *Fraud Against the Government.* Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1907, 1908 and 1909.

87. Interstate Transportation of Stolen Property (Fraud by wire, Radio, or Television). Title 18, United States Code, Sections 2311, 2314, 2315, and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, Congressional Assassination Statute. Title 18, United States Code, Sections 111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary; Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. Anti-Racketeering; Title 18, United States Code, Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgement obtained against him by the United States Government.

94. Research Matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureaus Cases). This classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Foreign Agents Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program where in the FBI inspected industrial plants for the purpose of making suggestions to the operators of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field, e.g., Smith Act violations.

101. Hatch Act (obsolete). Pub. L. 252. 76th Congress.

102. Voorhis Act. Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Cattle. Title 18, United States Code, Sections 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 116–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees. 1944–55. Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigations concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S., Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by country.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Pub. L. 93–438.

118. Applicant, intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulations of Lobbying Act. Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act. Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th

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Congress) (obsolete). This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D., Agency for International Development (obsolete). This classification covers security and loyalty investigations of personnel employed by or under consideration for employment with the European Recovery Program. Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act. Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 266, 81st Congress.

128. International Development Program (Foreign Operations Administration). (obsolete) This classification covers background investigations conducted on individuals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry, Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741 to 752 and 781 to 799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act, Applicant (obsolete). Pub. L. 507, 81st Congress.

134. Foreign Counterintelligence Assets. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force). (obsolete) This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contacts with American Legion officers.

137. Informants, Other than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Civil Service Commission wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; S.G.E., Fraud Against the Government. Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transportation of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Matter; Broadcasting Obscene Language. Title 18, United States Code, Sections 1462, 1464 and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. *Fraud Against the Government*—Department of Housing and Urban Development. Matters. Title 18, United States Code, Sections 1010, 709, 657, and 1006; Title 12, United States Code, Sections 1715 and 1709.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Sections 31 through 35.

150. Harboring of Federal Fugitives, Statistics.

151. (Referral cases received from CSC under Pub. L. 298). Agency for International Development; Department of Energy (Civil Service Commission); National Aeronautics and Space Administration; National Science Foundation; Peace Corps.; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; U.S. Information Agency. This classification covers referrals from the Civil Service Commission where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps., Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the United States Information Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241 through 1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Sections 1231, 1232 and 1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211 through 1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.

156. Employee Retirement Income Security Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Pub. L. 86–257, Section 504.

159. Labor-Management reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 503, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House, Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1084.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering Paraphernalia. Title 18, United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87–637.

170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.

172. Sports Bribery. Title.

173. Public Accommodations, Civil Rights Act of 1964 Public Facilities, Civil Rights Act of 1964 Public Education, Civil Rights Act of 1964 Employment, Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.

175. Assaulting the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.

178. Interstate Obscene or Harassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891–896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business; Illegal Gambling Business, Obstruction; Illegal Gambling Business, Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duly constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117 and 1201.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606; and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Act of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identify Matters. This classification covers the FBI's study and examination of criminal elements efforts to create false identities.

192. Hobbs Act—Financial Institutions. Title 18, United States Code, Section 1951.

193. Hobbs Act—Commerical Institutions. Title 18, United States Code, Section 1951; and Title 47, United States Code, Section 506.

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing statute exists.

205. Foreign *Corrupt* Practices Act of 1977. Title 15, United States Code, Section 78.

206. Fraud Against the Government—Department of Defense. (See classification 46 (supra) for statutory authority for this and the four following classifications).

207. Fraud Against the Government—Environmental Protection Agency.

208. Fraud Against the Government—General Services Administration.

209. Fraud Against the Government—Department of Health, *and Human Services (Formerly, Department of Health, Education, and Welfare).*

210. Fraud Against the Government—Department of Labor.

211. Ethics in Government Act of 1978, Title VI (Title 28, Sections 591–598).

212. Intelligence Community Support. This is an administrative classification for the FBI's operational and technical support to other Intelligence Community agencies.

213. Fraud Against the Government-Department of Education.

Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar documents forwarded to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, e.g., pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

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Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Divisions to have immediate access to pertinent information duplicative of data found in the Central Records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives);

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs;

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime;

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants;

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilities access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary, to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that all investigative information, which is placed in computerized form, is actually extracted from the main files and that the duplicative computerized information is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form in accordance with the routine uses which are set forth below.

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperation program, where assistance in obtaining information is provided to state and local police agencies.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description, and use, and where maintained, i.e., FBI Headquarters and/or Field Office. The number in parenthesis in the field office column indicates, the number of field offices which maintain these. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are *28* separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destory: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Administrative Index (ADEX)	Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. The index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1976. The computer section of the FBI has in storage on computer tape all the individuals who were on ADEX when it was discontinued.	Inactive	Yes	Yes (29)
Anonymous Letter File	*Consists of photographs of anonymous communications and extortionate credit transactions; kidnapping, extortion and threatening letters.*	*Active*	*Yes*	*No*
Associates of DEA Class I Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators.	Active	Yes	Yes (59)
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judge, or a high level Departmental position.	Active	Yes	No
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress.	Active	Yes	No
Bank Fraud and Embezzlement Index	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid.	Active	No	Yes (1)

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Bank Robbery Album	Consists of photos of bank robbers, burglarers, and larency subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. This index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office).	Active	No	Yes (47)
Bank Robbery Nickname Index	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order.	Active	No	Yes (1)
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the suspect has not been identified but a note was left. The note is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No
Bank Robbery Suspect Index	Consists of a control file or index cards with photos, if available, or bank robbers of burglars. In some field offices these people may be part of the bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album.	Active	No	Yes (33)
Car Ring Case Photo Album	Consists of photos of subjects and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3)
Car Ring Case Photo Album and Index	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. Both the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1)
Car Ring Case Toll Call Index	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap.	Active	No	Yes (2)
Car Ring Theft Working Index	Contains cards on individuals involved in car ring theft cases on which the FBI laboratory is doing examination work.	Active	Yes	No
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may repeat the offense. It is used in investigating the above violations.	Active	No	Yes (3)
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in informant reports. The index is used to facilitate the distributing or channeling of informant reports to appropriate files.	Active	No	Yes (9)
Check Circular File	Consists of fliers filed numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks.	Active	Yes	Yes (43)
Classified Alphabetical Retrieval and Reference Index.	Contains cards on foreign nationals. U.S. citizens and hostile intelligence service targets identified by highly sensitive sources. It is used only for reference and retrieval purposes.	Active	Yes	No
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscriber's names and addresses) *utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations of organized crime and gambling matters and the intelligence activities of hostile foreign powers. During subsequent investigations, telephone numbers, obtained through subpoenas, are matched with the telephone numbers on file to determine connections or associations with known foreign agents or organized crime or gambling figures. The subscriber's names and addresses of the telephone numbers in the file are retrievable by name.*	Active	Yes	No
Con Man Index	*Consists of index cards with names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles.*	*Active*	*Yes*	*No*
Confidence Game (Flim Flam) Album	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid.	Active	No	Yes (4)
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1)
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency.	Active	No	Yes (2)
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
DEA Class I Narcotics Violators Listing	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.	Active	Yes	Yes (59)
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid.	Active	No	Yes (4)
Extremist Informant Index	Consists of cards with identity and background data on all inactive extremist informants. It was used as a reference to aid in the supervision of the informant program. This index was discontinued in November 1976.	Inactive	Yes	No
Extremist Photo Album	Consists of photos mounted on pages containing descriptions of known extremist fugitives and informants. All persons in the Key Extremist program were included in this album. Used for ready reference and fugitive identification. This photo album was discontinued in January 1977.	Inactive	Yes	Yes (20)
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	*Inactive*	Yes	No
False Identities Program List	Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	*Inactive*	No	Yes (31)
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	*Inactive*	No	Yes (2)
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No

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Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Foreign Counterintelligence (FCI) Asset Index	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid of the FCI Asset program.	Active	Yes	No
Fraud Against the Government Index	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as an investigative aid.	Active	No	Yes (1)
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43)
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1)
Hoodlum License Plate Index	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such persons in the course of investigation. The one index which is not fully retrievable is maintained by a resident agency.	Active	No	Yes (3)
Identification Order Fugitive Flier File	Consists of fliers filed numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49)
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal informants, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military bases (discontinued), and potential criminal informants.	Active	No	Yes (59)
Informants in Other Field Offices, Index of	Consists of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that may be of value to other field offices. Basic background information would also be included on the index card.	Active	No	Yes (15)
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1)
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11)
Key Activist Program Photo Album	Consists of photos mounted on pages containing descriptive data on selected individuals advocating civil disobedience and other unlawful and disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	Yes (47)
Key Extremist Program Listing	Contains a listing of selected individuals who were under investigation for extremist activities and on whom investigation was to be intensified. Individuals included those who traveled extensively and called for civil disobedience and unlawful or disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	No
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No
Known Check Passers Album	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4)
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was not fully retrievable, the index was destroyed and thus is not included in the total.	Active	No	Yes (5)
La Cosa Nostra (LCN) Membership Index	Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55)
Leased Line Letter Request Index	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid.	Active	Yes	No
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It is used for reference in preparing mail cover requests.	Active	Yes	No
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No
National Bank Robbery Album	Consists of fliers on bank robbery suspects filed sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject, FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42)
National Fraudulent Check File	Contains photographs of the signatures on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing if the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No
National Security Electronic Surveillance Card File.	Contains *cards recording electronic surveillances previously authorized by the Attorney General and previously and currently authorized by the FISC; current and previous assets in the foreign counterintelligence field; and a historical, inactive section which contains cards believed to record non-consented physical entries in national security cases; previous toll billings, mail covers and leased lines. The inactive section also contains cards reflecting previous Attorney General approvals and denials for warrantless electronic surveillance in the national security cases.*	Active	Yes	No
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects.	Active	Yes	No
Organized Crime Photo Album	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction.	Active	No	Yes (13)
Photospread Identification Elimination File	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14)

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4)
Royal Canadian Mounted Police (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17)
Security Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
Security Subjects Control Index	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1)
Security Telephone Number Index	Contains cards with telephone subscriber information subpenaed from the telephone company in any security investigation. It is maintained numerically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1)
Selective Service Violators Index	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No
Skyjack Fugitive Album	Contains photographs with descriptive data of fugitives wanted for skyjacking. It is used as a reference aid in cases where the fugitive may reenter the United States.	Active	Yes	Yes (5)
Sources of Information Index	Consists of cards on individuals and organizations such as banks, motels, local governments that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10)
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibilities.	Active	No	Yes (28)
Stolen Checks and Fraud by Wire Index	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1)
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43)
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Inactive	Yes	Yes (2)
Symbionese Liberation Army (SLA) Index	Contains cards with mixed subject entries such as individuals, weapons, vehicles, etc., thought to have a connection with the SLA. It was used to tabulate and retrieve data relating to SLA activities.	Inactive	Yes	Yes (2)
Telephone Number Index—Gamblers	Contains information on persons identified usually as a result of a subpena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2)
Telephone Subscriber and Toll Record Check Index.	Contains cards with information on person identified as the result of a formal request or subpena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing parties identity, subscribers address, date of request from the telephone company, and file number.	Active	No	Yes (1)
Thieves, Couriers, and Fences Photo Index	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Top Echelon Criminal Informant Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes.	Active	Yes	No
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive on the top 10 usually assures a greater national news coverage as well as nationwide circularization of the flier.	Active	Yes	Yes (44)
Top Thief Program Index	Consists of cards of individuals who are professional burglers, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	Active	No	Yes (27)
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4)
Truck Thief Suspect Photo Album	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid.	Active	No	Yes (1)
Traveling Criminal Photo Album	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	No	Yes (1)
Veterans Administration (VA)/Federal Housing Administrative Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1)
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photograph, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46)
Wheeldex	Contains the nicknames and case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1)
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such checks in view of the tight time frame usually required.	Active	Yes	No
Witness Protection Program Index	Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshal's Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	No

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Authority for maintenance of the system: Federal Records Act of 1950, Title 44, United States Code, Chapter 31, Section 3101; and Title 41, Code of Federal Regulations Subpart 101–11.202, requires Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government. Title 28, United States Code, Section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records, both investigative and administrative, are maintained in this system in order to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge.

Information on this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement officer. Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or, (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding, or if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property.

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such title.

The FBI has received inquiries from private citizens and Congressional offices on behalf of constituents seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

Release of information to Members of Congress. Information contained in this system, the release of which is required by the Freedom of Information-Privacy Acts, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information in behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

Retrievability: The FBI General Index must be searched to determine what

information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating the General Index and, therefore, the retrieval of certain information from the main files will be accomplished through the use of peripheral computer equipment, that is, Cathode Ray Tubes (CRTs) and printers. Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. The automated General Index will not cause the "Central Records System" to be interfaced with any other system of records, nor will it allow any outside agency to access FBI information. Since the General Index of all of the field offices will not be automated for quite some time, certain complicated investigative matters are presently supported with special computerized indices which allow retrieval of information from the main files. These special indices are either maintained on printed listings or on disk storage and then accessed through the use of CRTs.

Safeguards: Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand-dollar fine or 10 years' imprisonment or both. Employees that resign or retire are also cautioned about divulging information acquired in the job. Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted form to prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with online access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, D.C., and this computerized data is also transmitted in encrypted form.

Retention and disposal: *All FBI records destruction programs relevant to this system were suspended as a result of a court order, issued January 10, 1980, in the U.S. District Court for the District of Columbia, enjoining the FBI from destroying or otherwise disposing of any FBI records until such time as detailed records retention plans and schedules are developed by NARS and the FBI, and are submitted to and approved by the Court. With the exception of certain limited record categories, this court order prohibits records destruction at both FBI Headquarters and FBI field offices.*

System manager(s) and address: Director; Federal Bureau of Investigation; Washington, D.C. 20535.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests can be addressed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, or individually to one or more of the FBI field divisions or Legal Attachés listed in the appendix to this system notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3)(d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k), Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the proposed rules section of today's Federal Register.

Appendix of Field Divisions for the Federal Bureau of Investigation Field Office

502 U.S. Post Office and Court House, Albany, N.Y. 12207.
301 Grand Ave., N.E., Albuquerque, N. Mex. *87102.*
Room 500, 300 North Lee Street, Alexandria, Va. 22314.
Federal Building, Room E–222, 701 C Street, Anchorage, Alaska *99513.*
275 Peachtree Street, N.E., Atlanta, Ga. 30303.
7142 Ambassador Road, Baltimore, Md. 21207.
Room 1400–2121 Building, Birmingham, Ala. 35203.
John F. Kennedy Federal Office Building, Boston, Mass. 02203.
Room 1400–111 West Huron Street, Buffalo, N.Y. 14202.
115 U.S. Court House and Federal Building, Butte, Mont. 59701.
1120 Jefferson Standard Life Building, Charlotte, N.C. 28202.
Room 905, Everett McKinley Dirksen Building, Chicago, Ill. 60604.
400 U.S. Post Office and Court House Building, Cincinnati, Ohio 45202.
3005 Federal Office Building, Cleveland, Ohio 44199.
1529 Hampton Street, Columbia, S.C. 29201.
1801 North Lamar, Suite 300, Dallas, Tex. *75202.*
Room 18218, Federal Office Building, Denver, Colo. 80202.
Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226.
202 U.S. Court House Building, El Paso, Tex. 79901.
Kalanianaole Federal Building, Room 4307, 300 Ala. Moana Boulevard, Honolulu, Hawaii 96850.
6015 Federal Building and U.S. Court House, Houston, Tex. 77002.
575 No. Pennsylvania St., Room 679, Indianapolis, Ind. *46204.*

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Federal Building, Room 1553, 100 W. Capitol St., Jackson, Miss. *39201.*
Oaks V, Fourth Floor, 7820 Arlington Expressway, Jacksonville, Fla. 32211
Room 300—U.S. Courthouse, Kansas City, Mo. 64106.
Room 800, 1111 Northshore Drive, Knoxville, Tenn. 37919.
Room *219*, Federal Office Building, Las Vegas, Nev. 89101.
215 U.S. Post Office Building, Little Rock, Ark. 72201.
11000 Wilshire Boulevard, Los Angeles, Calif. 90024.
Room 502, Federal Building, Louisville, Ky. 40202.
841 Clifford Davis Federal Building, Memphis, Tenn. 38103.
3801 Biscayne Boulevard, Miami, Fla. 33137.
Room 700, Federal Building and U.S. Court House, Milwaukee, Wis. 53202.
392 Federal Building, Minneapolis, Minn. 55401.
520 Federal Building, Mobile, Ala. 36602.
Gateway I, Market Street, Newark, N.J. 07101
Federal Building, *150 Court* Street, New Haven, Conn. 06510.
701 Loyola Avenue, New Orleans, La. 70113.
26 Federal Plaza, New York, N.Y. 10007.
Room 839, 200 Granby Mall, Norfolk Va. 23510.
50 Penn Place, N.W., 50th at Pennsylvania, Oklahoma City, Okla. 73118.
Room 7401, Federal Building, 215 North 17th Street, Omaha, Nebr. 68102.
8th Floor, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
2721 North Central Avenue, Phoenix, Ariz. 85004.
1300 Federal Office Building, Pittsburgh, Pa. 15222.
Crown Plaza Building, Portland, Oreg. 97201.
200 West Grace Street, Richmond, Va. 23220.
Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825.
2704 Federal Building, St. Louis, Mo. 63103.
3203 Federal Building, Salt Lake City, Utah 84138.
433 Federal Building, Box 1630, San Antonio, Tex. 78296.
Federal Office Building, Room 6S31, 880 Front Street, San Diego, Calif. 92188.
450 Golden Gate Avenue, San Francisco, Calif. 94102.
U.S. Courthouse and Federal Building, Room 526, Hato Rey, P.R. 00918.
5401 Paulson Street, Savannah, Ga. 31405.
915 Second Avenue, Seattle, Wash. 98174.
535 West Jefferson Street, Springfield, Ill. 62702.
Room 610, Federal Office Building, Tampa, Fla. 33602.
Washington Field Office, Washington, D.C. 20535.
Federal Bureau of Investigation Academy, Quantico, Va. 22135.
Legal Attaché (AH c/o the American Embassy for the Cities Indicated):
Bern, Switzerland.
Bogota, Colombia
Bonn, Germany (Box 310, APO, New York 09080).
Hong Kong, B.C.C. (FPO, San Francisco 96659).
London, England (Box 40, FPO, New York 09510).
Manila, Philippines (APO, San Francisco 96528).
Mexico City, Mexico.
Ottawa, Canada.
Panama City, Panama
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).

Changes have been made to the "Retention and disposal" categories of the following Federal Bureau of Investigation systems of records.

—Bureau Mailing Lists (JUSTICE/FBI–003)
—Routine Correspondence Handled by Preprinted Form (JUSTICE/FBI–004)
—Routine Correspondence Handled Without File Yellow (JUSTICE/FBI–005)
—FBI Automated Payroll System (JUSTICE/FBI–007)
—Employee Travel Vouchers and Individual Earning Records (JUSTICE/FBI–010)
—Employee Health Records (JUSTICE/FBI–011)
—Time Utilization Record-Keeping (TURK) System (JUSTICE/FBI–012)

These systems were last published in **Federal Register** Volume 42 on September 30, 1977, beginning at page 53383, except for JUSTICE/FBI–003 which was last published in **Federal Register** Volume 43 on September 28, 1978, page 44725. The revised systems have been reprinted below in the order named.

Justice/FBI–003

SYSTEM NAME:

Bureau Mailing Lists.

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Bldg. 10th and Pennsylvania Ave., NW., Washington, D.C. 20535, 59 field divisions and 13 Legal Attaches (See Appendix to 002).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

With regard to lists maintained at FBI Headquarters, individuals who have requested receipt of Bureau material and who meet established criteria (basically law enforcement or closely related areas). *With regard to lists maintained in field divisions or Legal attaches, individuals and organizations who may be in position to furnish assistance to the FBI's law enforcement efforts.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and business affiliation, if appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For mailing of FBI material *whenever necessary. For example, various fugitive publications are furnished to local law enforcement agencies.*

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the members's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized. *In field divisions most mailing lists are maintained on addressograph.*

RETRIEVABILITY:

ID number in computer, alphabetically for *addressograph.*

SAFEGUARDS:

Computer records are maintained in limited access space by the Technical Services Division.

RETENTION AND DISPOSAL:

Computerized records are retained in accordance with the Opinion and Order issued by Judge Harold H. Greene on 1/10/80 enjoining the FBI from destroying or otherwise disposing of any FBI records until detailed records retention plans and schedules are developed by NARS and the FBI and submitted to and approved by the Court. In order to achieve this end, yet preserve the integrity of the mailing lists, manual back-up records will be preserved to account for deletions to the computerized system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, D.C. 20535

NOTIFICATION PROCEDURE:

Director, FBI, Washington, D.C. 20535

RECORD ACCESS PROCEDURES:

Inquiry addressed to Director, FBI, Washington, D.C. 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

The mailing list information is based either on information supplied by the individual or public source data.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/FBI–004

SYSTEM NAME:

Routine Correspondence Handled By Preprinted Form.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg.; 10th and Pennsylvania Ave., N.W.; Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Routine correspondence from citizens not requiring a dictated response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original correspondence and 3×5 index card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal reference use of record of such correspondence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filing of original correspondence plus 3×5 index card.

RETRIEVABILITY:

Correspondence alphabetically and chronologically; index card alphabetically.

SAFEGUARDS:

Maintained by FBI personnel; locked file cabinents during nonduty hours.

RETENTION AND DISPOSAL:

Destruction of records in this category was suspended as the result of the Opinion and Order issued by Judge Harold H. Greene on 1/10/80 enjoining the FBI from destroying or otherwise disposing of any FBI records until detailed records retention plans and schedules are developed by NARS and the FBI and submitted to and approved by the Court.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, D.C. 20535

NOTIFICATION PROCEDURE:

Director, FBI, Washington, D.C. 20535

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, D.C. 20535

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–005

SYSTEM NAME:

Routine Correspondence Prepared Without File Yellow.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg.; 10th and Pennsylvania Ave., N.W.; Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Routine requests received via correspondence from citizens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tickler copy of routine response plus original citizen's letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Temporary record of rountine inquiries without substantive, historical or record value for which no record is to be made in central FBI files.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record

from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.C.S. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Onionskin copy of outgoing correspondence.

RETRIEVABILITY:

Alphabetically and chronologically filed.

SAFEGUARDS:

Maintained by FBI personnel; locked file cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Destruction of records in this category was suspended as the result of the Opinion and Order issued by Judge Harold H. Greene on 1/10/80 enjoining the FBI from destroying or otherwise disposing of any FBI records until detailed records retention plans and schedules are developed by NARS and the FBI and submitted to and approved by the Court.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Director, FBI, Washington, D.C. 20535.

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, D.C. 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FORM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/FBI–007

SYSTEM NAME:

FBI Automated Payroll System.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg.; 10th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Current employees of the Federal Bureau of Investigation (FBI), (B) Resigned employees of the FBI are retained in the automated file for the current year for the purposes of clearing all pay actions and providing for any retroactive actions that might be legislated.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains full record for each employee reflecting all elements relative to payroll status, plus accounting records and authorization records through which payrolls are issued and by which payrolls are audited. For example, this system contains the employees' Social Security Number, time and attendance data, and place of assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

System is established and maintained in accordance with Federal pay requirements, and all legislative enactments, Civil Service Commission regulations, General Accounting Office rulings and decisions, Treasury Department requirements, and Office of Management and Budget regulations relative thereto, Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biweekly issuance of payroll and related matters. Quarterly issuance of State Tax Report and Federal Insurance Contributions Act Report. Resign and End-of-Year Federal Tax Records (W–2's). Bi-weekly, quarterly, fiscal and annual Budget and Accounting Reports. Appropriate information is made available to the Internal Revenue Service and state and city tax bureaus.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy..

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and disks for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by Social Security Number. (The authority to solicit an employee's Social Security Number is based on Title 26, Code of Federal Regulations, Section 31.6011(b)–2(b).)

SAFEGUARDS:

Information contained in the system is relative to the individual employee's payroll status and is considered confidential to that employee and to official business conducted for that employee's pay and accounting purposes. It is safeguarded and protected in accordance with the FBI's Computer Center's regulations that permit access and use by only authorized personnel.

RETENTION AND DISPOSAL

Hard copy records are destroyed in accordance with General Records Schedule #2, GSA Regulation 3, and GSA Bulletin FPMR B–47, Archives and Records. Computerized records are retained in accordance with the Opinion and Order issued by Judge Harold H. Greene on 1/10/80 enjoining the FBI from destroying or otherwise disposing of any FBI records until detailed records retention plans and schedules are developed by NARS and the FBI and submitted to and approved by the Court.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, Ninth and Pennsylvania Avenue, Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request of access to information may be made by an employee through his supervisor or by a former employee by writing to the Federal Bureau of Investigation, 9th and Pennsylvania Avenue, Washington, D.C. 20535, Attention Payroll Office.

CONTESTING RECORD PROCEDURES:

Contest of any information should be set out in detail and a check of all supportive records will be made to determine the factual data in existence, which is predetermined by source documents and accounting procedures governing pay matters.

RECORD SOURCE CATEGORIES:

Source of information is derived from personnel actions, employee authorizations, and time records which are issued and recorded in accordance with regulations governing Federal pay.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/FBI–010

SYSTEM NAME:

Employee Travel Vouchers and Individual Earning Records.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535. Records pending audit are located at Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and current employees of the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll, travel and retirement records of current and former employees of the FBI.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each executive agency, or his delegate, is responsible for establishing and maintaining an adequate payroll system, covering pay, leave and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a, and 200(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These records are used by Departmental personnel to prepare and document payment to employees of the FBI and to carry out financial matters related to the payroll or accounting functions.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual on paper files.

RETRIEVABILITY:

The records can be retrieved by name; and either social security account number or employee identification number.

SAFEGUARDS:

Accessed by Bureau employees at FBI Headquarters and by Field Office employees at Records Centers. Transmittal document contains Bureau statement concerning security, i.e., who may access or view records. Records are maintained in rooms under the control of employees during working hours and maintained in locked file cabinets in locked rooms at other times. Security guards further restrict access to the building to authorized personnel only.

RETENTION AND DISPOSAL:

Employee travel vouchers are destroyed 10 years, 3 months, after period covered by account, and 6 years, 3 months, after period covered by account, for records created prior to Fiscal Year 1976 and after Fiscal Year 1975, respectively, pursuant to General Records Schedule No. 6. Individual earning records are destroyed 56 years after date of last entry, pursuant to General Records Schedule No. 2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Written inquiries, including name, date of birth, and social security number, to determine whether this system contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

RECORD SOURCE CATEGORIES:

Travel vouchers turned in by individual employees for official business. Pay records—time and attendance records, pay determined by the agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/FBI–011

SYSTEM NAME:

Employee Health Records.

SYSTEM LOCATION:

Federal Bureau of Investigation, Finance and Personnel Division, Health Service, J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535 and the following field offices: New York, Newark, Philadelphia, Chicago, Los Angeles, San Francisco, and FBI Academy, Quantico Virginia. Addresses for these offices can be found in JUSTICE/FBI–999, the appendix of Field Offices for the Federal Bureau of Investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of visits to health facilities relating to sickness, injuries or accidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each agency is responsible, under 5 U.S.C. 7902, for keeping a record of injuries and accidents to its employees and for reducing accidents and health risks. These records are maintained under the general authority of 5 U.S.C. 301 so that the FBI can be kept aware of the health related matters of its employees and more expeditiously identify them.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These records are maintained by the FBI to identify matters relating to the health of its present and former employees. Information is available to employees of the FBI whose job function relates to identifying and resolving health matters of former and current personnel of the FBI.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filing of 3 x 5 index record cards.

RETRIEVABILITY:

These index cards are retrievable by the name of an individual.

SAFEGUARDS:

These records are maintained by FBI personnel during working hours and in locked file cabinets during non-working hours. Security guards further restrict access to the building to authorized personnel.

RETENTION AND DISPOSAL:

Index cards are destroyed 6 years after date of last entry pursuant to General Records Schedule No. 1.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Written inquiries, including name, address and social security number, to determine whether this system of records contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535 and the above-mentioned field offices at addresses referred to in JUSTICE/FBI–999.

RECORD SOURCE CATEGORIES:

Employees of the Federal Bureau of Investigation originate their own records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/FBI–012

SYSTEM NAME:

Time Utilization Record-Keeping (TURK) System.

SYSTEM LOCATION:

Administrative Services Division, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents, Accounting Technicians, Investigative Assistants, and Laboratory Technicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains bi-weekly time utilization data of Special Agents, Accounting Technicians, Investigative Assistants and Laboratory Technicians.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained under the authority of 31 U.S.C. 66a which requires the head of the Department, or his delegate, to establish a system of accounting and internal countrol designed to provide full disclosure of the financial results of the FBI's activities; adequate financial information needed for the FBI's management purposes and effective control over and accountability for all funds, property and other assets for which the FBI is responsible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For the purpose of producing cost accounting reports reflective of personnel utilization, records may be made available to the General Accounting Office, the Office of Management and Budget and the Treasury Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and discs for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by name and/or social security number:

SAFEGUARDS:

Information is safeguarded and protected in accordance with the FBI's Computer Center regulations that permit access and use by authorized personnel only.

RETENTION AND DISPOSAL:

Hard copy records are destroyed in accordance with authorized retention periods set forth in General Records Schedule #8 and GSA Bulletin B–47. Computerized records are retained in accordance with the Opinion and Order issued by Judge Harold H. Greene on 1/10/80 enjoining the FBI from destroying or otherwise disposing of any FBI records until detailed records retention plans and schedules are developed by NARS and the FBI and submitted to and approved by the Court.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written requests for access to information may be made by an employee through his supervisor or by former employees by writing to: Federal Bureau of Investigation, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535 (Attn: Administrative Services Division). Contesting of any information should be set out in written detail and forwarded to the above address. A check of all supportive records will be made to determine the factual data in existence.

RECORD SOURCE CATEGORIES:

Source of information is derived from daily time utilization recording made by the employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(INS) Immigration and Naturalization Service

The full text of the following system of records (JUSTICE/INS–005) and appendix (JUSTICE/INS–999) were last published on January 10, 1980, pages 2212 and 2213. Both are reprinted below. An inappropriate sentence is being deleted from the "Routine uses . . ." section of JUSTICE/INS–005.

Justice/INS–005

SYSTEM NAME:

Case Control System.

SYSTEM LOCATION:

District offices and suboffices of the Immigration and Naturalization Service (INS) in the United States, as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are covered by various provisions of the immigration and nationality laws of the United States, including current and former applicants or petitioners for benefits; peititioners for naturalization or citizenship; individuals under detention, supervised department, or deportation processes; individuals who are under investigation; students; and others

whose case files have been assigned to the INS Office having jurisdiction over the individual's place of residence.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains automated index and summary records to aid in the management of files and administrative control of the processing of various kinds of active cases within each office where a part of this system is located:

A. "A-file" tracking: index records of individuals covered by the system, including name of person, identification or file number, location of file within the office, immigration status, case status (if any), processing checklist;

B. Application and petition control: name and address of applicant or petitioner and/or beneficiary and authorized representative (if any), date and country of birth, file number, form number of application of petition, date filed or received, control number, status, case assignment, scheduling data;

C. Automated file summary: name, file number, abstracts of documents on file in permanent manual file;

D. Closed file docket: name, file number, Federal Records Center accession number and location, date closed;

E. Deportation and detention docket control: name, file number, charge, amount of bond, hearing date, case assignement, scheduling data;

F. Investigations control: name, file number, reason for investigation, case assignment, scheduling data;

G. Naturalization and citizenship docket control: name, file number, petition number, date of receipt of petition, date and place of filing, number of court where petition was filed, code of authorized representative (if any), scheduling data;

H. Student registration control: name, file number, date of admission, length of approved stay, school attended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information regarding the status and progress of cases is disseminated to the individuals or their authorized representatives, concerned employees of INS and other components of the Department of Justice, officials of other Federal law enforcement agencies, Members of Congress, and to the President.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf on and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A records from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disks, tapes, and other computer-readable media.

RETRIEVABILITY:

Records are retrieved by the name of file number of the individual, control number of the case, date of filing or last action, pending status, case assignment, or scheduling data.

SAFEGUARDS:

The data is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official indentification. Access to terminals is restricted to INS employees, and access to records is further protected by the use of passwords and controlled data base search arguments.

RETENTION AND DISPOSAL:

Case control records (those identified under "Categories of records in the system" as "B," "C," "E," "F," "G," and "H") are deleted from the automated data base ninety (90) days after final action. File index records (those identified under "Categories of records in the systems" as "A" and "D") are deleted six months after disposal of the manual files.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Operations Support, Central Office; District Director or Officer in Charge in each office where as a part of this system is located.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director or Officer in Charge of the INS office where the file is located. If the file location is not known, inquiries may be addressed to the Associate Commissioner. Operations Support, 425 I Street NW, Washington, DC 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; description of subject matter; and, if known, the related file number.

RECORD ACCESS PROCEDURE:

A person desiring access to a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that procedure. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any record to him.

CONTESTING RECORD PROCEDURES:

A person desiring to contest a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that caption and clearly stating which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any information to him.

RECORD SOURCE CATEGORIES:

Data is obtained from official INS records pertaining to the individuals, together with reference and locator data from the centralized Master Index of INS case files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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Justice/INS–999

SYSTEM NAME:

INS Appendix: List of principal offices of the Immigration and Naturalization Service.

Central Office: Immigration and Naturalization Service; 425 "I" Street NW. Washington, DC 20536.

Regional Offices: *Eastern* Regional Office, Federal Building, Burlington, VT 05401.

Northern Regional Office, Fort Snelling, Twin Cities, St. Paul, MN 55111.

Southern Regional Office, First International Building, 1201 Elm Street, Room 2300, Dallas, TX 75270.

Western Regional Office, Terminal Island, San Pedro, CA 90731.

District Offices in the United States: Anchorage District Office, Federal Building, U.S. Courthouse, Room D—229, 701 "C" Street, Anchorage, AK 99513.

Atlanta District Office, Richard B. Russell Federal Building, Room 1408, 75 Spring Street SW, Atlanta, GA *30303.*

Baltimore District Office, E. A. Garmatz Federal Building, 100 South Hanover Street, Baltimore, MD 21201.

Boston District Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicago District Office, Dirksen Federal Office Building, 219 South Dearborn Street, Chicago, IL 60604.

Cleveland District Office, Anthony J. Celebrezze Federal Building, Room 1917, 1240 East Ninth Street, Cleveland, OH 44199.

Dallas District Office, Federal Building, Room 6A21, 1100 Commerce Street, Dallas, TX 75242.

Denver District Office, Federal Building, Room 17027, Denver, CO 80202.

Detroit District Office, Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207.

El Paso District Office, U.S. Courthouse, *Room* 343, El Paso, TX 79984.

Harlingen District Office, 719 Grimes Avenue, Harlingen, TX 78550.

Hartford District Office, 900 Asylum Avenue, Hartford, CT 06105.

Helena District Office, Federal Building, Room 512, 301 South *Park,* Helena, MT 59601.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96809.

Houston District Office, Federal *Building, 515 Rusk* Avenue, Houston, TX 77208.

Kansas City District Office, 324 East Eleventh Street, Suite 1100, Kansas City, MO 64106.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012.

Miami District Office, Federal Building, Room 1324, 51 SW First *Avenue,* Miami, FL 33130.

Newark District Office, Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office, Postal Services Building, 701 Loyola Avenue, New Orleans, LA 70113.

New York District Office, 26 Federal Plaza, New York, NY 10007.

Omaha District Office, 106 South 15th Street, Omaha, NE 68102.

Philadelphia District Office, U.S. Courthouse, Room 1321, 601 Market Street, Philadelphia, PA 19106.

Phoenix District Office, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

Portland, Maine, District Office, 76 Pearl Street, Portland, ME 04112.

Portland, Oregon, District Office, Federal Office Building, 511 NW Broadway, Portland, OR 97209.

St. Albans District Office, Federal Building, St. Albans, VT 05478.

St. Paul District Office, *Main* Post Office Building, Room *927* 180 East Kellogg Boulevard, St. Paul, MN *55101.*

San Antonio District Office, U.S. Federal Building, Suite A301, *727 East* Durango, San Antonio, TX 78206.

San Diego District Office, 880 Front Street, San Diego, CA 92188.

San Francisco District Office, 630 Sansome Street, San Francisco, CA 94111.

San Juan District Office, GPO Box 5068, San Juan, PR 00936.

Seattle District Office, 815 Airport Way, South, Seattle, WA 98134.

Washington, DC, District Office, *25 "E" Street, NW, Washington, DC 20538.*

District Offices in Foreign Countries: Hong Kong District Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 30, FPO San Francisco, CA 96659.

Mexico District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Aparato Postal 88 BIS, Mexico City 5, D.F., Mexico.

Rome District Office, Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in the United States:

Agana Office, 801 Pacific News Building, 238 *O'Hara* Street, Agana, GU 96910.

Albany Office, U.S. Postoffice and Courthouse, Room 220, Albany, NY 12207.

Charlotte Office, Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28231.

Cincinnati Office, U.S. Postoffice and Courthouse, 5th and Walnut Streets, Cincinnati, OH 45201.

Hammond Office, Federal Building, Room 104, 507 State Street, Hammond, IN 46320.

Las Vegas Office, Federal Building, U.S. Courthouse, 300 Las Vegas Boulevard, South, Las Vegas, NV 89101.

Memphis Office, Federal Building, Room 814, 167 North Main Street, Memphis, TN 38103.

Milwaukee Office, 186 Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, Room 439, 200 Granby Mall, Norfolk, VA 23510.

Pittsburgh Office, Federal Building, Room 2130, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building, U.S. Post Office, Exchange Terrace, Providence, RI 02903.

Reno Office, 350 South Center Street, Suite 150, Reno, NV 89502.

St. Louis Office, U.S. Courthouse and Customhouse, Room 423, 1114 Market Street, St. Louis, MO 63101.

Salt Lake City Office, New Federal Building, Room 4103, 125 South State Street, Salt Lake City, UT 84138.

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters:

Blaine Sector Headquarters, 1590 H Street, Blaine, WA 98230.

Buffalo Sector Headquarters, 231 Grant Island Boulevard, Tonawanda, NY 14150.

Chula Vista Sector Headquarters, 3752 Beyer Boulevard, San Ysidro, CA 92073.

Del Rio Sector Headquarters, *Hudson Drive, Del Rio, TX 78840.*

Detroit Sector Headquarters, P.O. Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, El Centro, CA 92243.

El Paso Sector Headquarters, 8901, Montana Avenue, El Paso, TX 79986.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Havre Sector Headquarters, Beaver Creek Road, Havre, MT 59501.

Houlton Sector Headquarters, Route 1, Houlton, ME 04730.

Laredo Sector Headquarters, *207 W. Del Mar Boulevard, Laredo, TX 78041.*

Livermore Sector Headquarters, Building 312, Camp Parks, Pleasanton, CA 94566.

Marfa Sector Headquarters, Madrid Street, Marfa, TX 79843.

McAllen Sector Headquarters, 2301 South Main Street, McAllen, TX 78501.

Miami Sector Headquarters, 161 NE 183rd Street, Miami, FL 33169.

New Orleans Sector Headquarters, 3819 Patterson Drive, New Orleans, LA 70174.

Ogdensburg Sector Headquarters, 127 North Water Street, *Ogdensburg,* NY 13669.

Spokane Sector Headquarters, 10710 North State Highway No. 6, Spokane, WA 99208.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05488.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85726.

Yuma Sector Headquarters, 350 First Street, Yuma, AZ 85364.

Border Patrol Academy: Officer Development and Training Facility, c/o Federal Law Enforcement Training Center (FLETC), Glynco, GA 31520.

Charlotte Amalie, St. Thomas, Virgin Islands, New Federal Building, Room 117, Charlotte Amalie, St. Thomas, VI 00801.

Suboffices (Files Control Offices) in Foreign Countries:

Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York 09253.

Bangkok Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96346.

Manila Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96528.

Naples Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 18, FPO New York 09521.

Palermo Office, U.S. Immigration and Naturalization Service, c/o American Embassy (P), APO New York 09794.

Seoul, Korea, Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96301.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, 1010 Vienna, Austria.

El Paso Intelligence Center (EPIC), 2211 East Missouri Street, El Paso, TX 79903.

(JMD) Justice Management Division

The full texts of the following systems of records (JUSTICE/JMD–002, 015, and 017) were last published on January 10, 1980, in **Federal Register** Volume 45, pages 2225 and 2230.

Justice JMD–002

SYSTEM NAME:

Controlled Substances Act Nonpublic Records.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been convicted for the first time of violating Section 404(a) of the Controlled Substances Act (Public Law 91–513), i.e. persons who have knowingly or intentionally possessed a controlled substance except as authorized by the act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Arrest records of law enforcement agencies, which include personal data, photographs, fingerprints, copies of court orders, DOJ–330 Request for Non-Public Records and/or DOJ–329 Certificate of Expungement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained in accordance with the Controlled Substances Act, Public Law 91–513 Sec. 404, 21 U.S.C. 844.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are retained by the Department of Justice and are available only to a Federal court upon a Federal court order issued to the Attorney General demanding such records for use by said court in determining whether or not a person qualified under Public Law 91–513 Sec. 404(b), 21 U.S.C. 844(b).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in locked file cabinets.

RETRIEVABILITY:

These records are indexed by the name of the offender.

SAFEGUARDS:

Access to these records is restricted to the Chief, Records Maintenance and Disposition Section and the assistant to the Chief.

RETENTION AND DISPOSAL:

Although these records will ultimately be destroyed by shredding, the establishment of a disposal schedule is still pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Records and Publications Staff, Office of Personnel and Administration, Justice Management Division, U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURE:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

Law enforcement agencies and courts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted the system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

Justice/JMD–015

SYSTEM NAME:

EEO (Equal Employment Opportunity) Volunteer Representative Roster.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Justice who have volunteered to serve as EEO representatives.

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CATEGORIES OF RECORDS IN THE SYSTEM:

The roster provides the representative's name, position, title, organization, office address and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The roster was established and is maintained pursuant to the following authorities: 29 CFR Part 1613, 28 CFR 42.2(a), and Department of Justice Order 1713.5 (October 30, 1973).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The roster is used by Department personnel and applicants for Department jobs who have filed or contemplate filing discrimination complaints based on race, color, religion, sex, national origin, age, or physical limitation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of person privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Employment Opportunity Staff, Justice Management Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

Information in the file is voluntarily provided by employees who wish to serve as volunteer EEO representatives.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–017

SYSTEM NAME:

Department of Justice Controlled Parking Records.

SYSTEM LOCATION:

U.S. Department of Justice; 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice employees who have applied for vehicle parking space which is assigned and controlled by the Department of Justice, per Department of Justice Order 2540.2D, Dec. 20, 1977.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of Form DOJ–362, Department of Justice Parking Space Application (DOJ Space), and *DOJ–OT–79,* Department of Justice Parking Space Application (DOJ Carpool Space), which have been completed and submitted by Department of Justice employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained in accordance with Federal Energy Office (FEO) memorandum of January 17, 1974, Federal Management Circular 74–1 of January 21, 1974, and Federal Energy Office memorandum of April 5, 1974, as reflected in Federal Property Management (Temporary) Regulation *D–65 of September 6, 1979.* Operating procedures are contained in Department of Justice Order 2450.2D, Dec. 20, 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used to assign, identify and control the use of vehicle parking space for which the Department of Justice is responsible.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a locked file cabinet.

RETRIEVABILITY:

These records are indexed alphabetically, by the last name of the applicant, within the organizational element.

SAFEGUARDS:

Information contained in this system is unclassified and is disseminated on a need to know basis by the Office of the Director, *Property Management and Procurement Staff, Office of Personnel and Administration, Justice Management Division.*

RETENTION AND DISPOSAL:

Although these records are currently retained as long as applicants remain as employees of the Department of Justice, the establishment of a disposal schedule is still pending.

SYSTEM MANAGER(S) AND ADDRESS:

Property Management and Procurement Staff, Office of Personnel and Administration, Justice Management Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Applications from employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(OJARS) Office of Justice Assistance, Research, and Statistics

The systems of records formerly designated as JUSTICE/LEAA.001, 002, and 004–012 are being revised to reflect the organizational changes resulting from the Justice System Improvement Act of 1979. Through the enactment of the Justice System Improvement Act (Public Law 96–157, 42 U.S. 3701 *et. seq.,* December 27, 1979), the Office of Justice Assistance, Research, and Statistics (OJARS) was established within the Department of Justice (42 U.S. 3781(a)). This office provides staff support and coordinates the activities of the Law Enforcement Assistance Administration (LEAA) as well as the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS), both formerly a part of LEAA. Therefore, the structure of LEAA has been reorganized but the scope of individuals covered by the system has not increased. Each system is being redesignated as a JUSTICE/OJARS system and revisions within each system reflect the organizational changes and, where necessary, revised statutory cites to the Justice System Improvement Act.

JUSTICE/LEAA–001, 004, 006, 007, 009, and 011 were most recently published on September 30, 1977 in Volume 42 of the **Federal Register**, pages 53315 through 53320. JUSTICE/LEAA–002 was most recently published on September 28, 1978 in Volume 43 of the **Federal Register**, page 44700. JUSTICE/LEAA–005, 008, 010, and 012 were most recently published on January 10, 1980 in Volume 45 of the **Federal Register**, pages 2232 and 2233.

The above-named systems amended to reflect the modifications necessitated by the enactment of the Justice System Improvement Act of 1979 are reprinted below.

Justice/OJARS–001

SYSTEM NAME:

Personnel System.

SYSTEM LOCATION:

Office of Justice Assistance, Research, and statistics; 633 Indiana Avenue, N.W.; Washingeon, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regional Operating Files; Motor Vehicle Operators Permit, Form SF 74; Interagency Motor Pool Service Authorization, Form GSA 1313; Government Parking Spaces, Form GSA 7415; Property Sign-out, LEAA Form 1820/4; Equipment Control Records, LEAA Form 1820/5; Annual Physical Examination File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Motor Vehicle Operators Permit, Form SF 74; Interagency Motor Pool Service Authorization, Form GSA 1313; Government Parking Spaces, Form GSA 7415; Property Sign-out, LEAA Form 1820/4; Equipment Control Records, LEAA Form 1820/5; Annual Physical Examination File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301, 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The motor vehicle and property data is used for inventory control, parking space control, and to allow use of government vehicles for official purposes. Routine users would be GSA. Physical examination information is nonreleasable except upon written authorization of individual.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in system is stored in file, folders and index cards.

RETRIEVABILITY:

Information is retrieved by name of employee.

SAFEGUARDS:

Data is maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Documents relating to equipment control and motor vehicles are closed when employee leaves agency. Records are destroyed three years thereafter. Health records are placed in sealed envelopes upon separation of employee and filed with official personnel folder. Such data is destroyed in accordance with Civil Service regulations. Operating files are destroyed when an individual resigns, transfers or is separated from Federal service.

SYSTEM MANAGER(S) AND ADDRESS:

Assiatant Administrator; Office of Operations Support; *Office of Justice Assistance, Research, and Statistics;* 633 Indiana Avenue, N.W.; Washington, D.C. 20531. Regional Operating Files: Regional Administration, applicable region.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, employee's supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/OJARS–002

SYSTEM NAME:

Law Enforcement Education System.

SYSTEM LOCATION:

Law Enforcement Assistance Administration, 633 Indiana Avenue N.W., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of LEAA Law Enforcement Education Loans and Grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

LEEP Master Computer File; LEEP Promissory Note File; LEEA Form 03.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

The system is established and maintained pursuant to 42 U.S.C. 3775

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF USCH USES:

To contractors for categories and statistical analysis, educational institutions for record reconcillation, IRS and references listed on application for address verification, references in bankruptcy for claim action, State and local agencies to verify eligibility.

Release of information to the news media: information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would consitute an unwarrented invasion of personal privacy.

Release of information to Members of Congress, Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Members or staff requests the information on behalf of and at the requests of the individual who is the subject of the record.

Release of information to the National Archieves and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored on computer magnetic tape and folders.

RETRIEVABILITY:

Information is retrievable by nane of recipient and social security number.

SAFETGUARDS:

Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguard in file room which is locked after business hours. Access is limited to LEAA authorized personnel.

RETENTION AND DISPOSAL:

Computerized records are kept indefinitely Uncollected loans/grants are transferred to GAO as soon as determined uncollectable. Cancelled or repaid loan/grants are closed at end of fiscal year, held three years, sent to Federal Records Center and destroyed in accordance with instructions from GAO.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller; *Office of Justice Assistance Research, and Statistics;* 633 Indiana Avenue N.W., Washington, D.C.

NOTIFICATION PROCEDURES:

Same as above.

RECORD ACCESS PRODUCERS:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name and personal identifer number. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are the recipients of loans/grants and their educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/IJARS–004

SYSTEM NAME:

Grants Program System

SYSTEM LOCATION:

Office of Justice Assistance Research, and Statistics; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains recipients of *OJARS, LEAA, NIJ, and BJS* funds, project monitors and project directors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant/Contract Applicant Index; Grant/Contract Award Computer Data File.

AUTHORITY FOR MAINTENCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301.

ROUTINE USES OF RECORDS MATAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for the purpose of technical review and fiscal or program evaluation to experts in particular subject areas related to the substantive of fiscal components of the program.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be release to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unles it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed a a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored on computer disc for use in a computer environment.

RETRIEVABILITY:

Data is retrievable by name and grant/contract number.

SAFEGUARDS:

Information in the system is safeguarded and protected by computer password key. Direct access is limited to computer personnel.

RETENTION AND DISPOSAL:

Data is maintained for current fiscal year and three previous fiscal years in master file; thereafter information is retired to historical file, no authority is destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller; *Office of Justice Assistance, Research, Statistics* 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly maked "Privacy Access Request." Include in the request the name and grant/contract number. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maitained in the system should direct their requests to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in the system are grant/contract award documents and applications for award.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice OJARS–005

SYSTEM NAME:

Financial Management System

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of *OJARS, LEAA, NIJ, and BJS* funds; Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee Travel files; time and attendance files; Government transportation Request; Paid Vendor Documents File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Commercial credit bureaus for address location assistance.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized discs, file folders.

RETRIEVABILITY:

Name, social security numbers, digital identifiers assigned by accounting office.

SAFEGUARDS:

Manual information in system is safeguarded in locked file cabinets. Computerized passwork key is needed to access computerized information. Direct access only by comptroller personnel.

RETENTION AND DISPOSAL:

Employee travel files, time and attendance files and Government transportation files are closed at end of fiscal year, held three years thereafter; the records are then retired to Federal Records Center. Records Center destroys in accordance with instructions of GAO.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller; *Office of Justice Assistance, Research, and Statistics;* 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in the system are the individuals to whom the information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/OJARS.006

SYSTEM NAME:

Congressional Correspondence System

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with Congressional Committees and members of Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No uses are made outside the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an

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unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file folders.

RETRIEVABILITY:

Information is retrieved by name of the member of Congress who is the correspondent.

SAFEGUARDS:

Information contained in the system is of a general correspondence nature and maintained pursuant to LEAA Handbook Instruction HB 1330.2.

RETENTION AND DISPOSAL:

Records are retained for two years, then retired to Federal Records Center. Six years thereafter records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Office of Congressional Liaison; *Office of Justice Assistance, Research, and Statistics;* 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are congressional members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OJARS–007

SYSTEM NAME:

Public Information System.

SYSTEM LOCATION:

Office of Justice Assistance, Research and Statistics; 633 Indiana Avenue NW.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public figures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical, Morgue, and Speech files. Photograph files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained and established in accordance with 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Available to the public under the Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in system is stored in file folders.

RETRIEVABILITY:

Information is retrieved by name of person to whom information pertains.

SAFEGUARDS:

This information is of a nonconfidential nature and maintained pursuant to LEAA Handbook Instruction HB 1330.2.

RETENTION AND DISPOSAL:

Records are retained for four years, retired to Federal Records Center, and destroyed pursuant to Disposal Instructions in LEAA Handbook Instruction HB 1330.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Office of Public Information; *Office of Justice Assistance, Research and Statistics;* 633 Indiana Avenue NW.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Newspaper, magazine and press service teletype clippings as well as individual to whom information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

justice/OJARS–008

SYSTEM NAME:

Civil Rights Investigative System.

SYSTEM LOCATION:

Law Enforcement Assistance Administration; 633 Indiana Avenue NW.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Complaints of discrimination by individuals affected by the agency program for which the agency has compliance responsibility, grantees, subgrantees, contractors, subcontractors, employees, and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil Rights Complaint Control Logs; Civil Rights Litigation Reference Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. *3789(c)* E.O. 11246 (3 CFR 173) as amended by E.O. 11375.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Investigation of complaints and to obtain compliance with Civil Rights laws. Users of the data are State Planning Agencies, State Governors and Attorneys General, Criminal Justice Agencies, Office of Federal Contract Compliance, Equal Employment Opportunity Commission, Office of Federal Revenue Sharing, and a United States Commission on Civil Rights; Department of Health, Education, and Welfare; States Civil Rights Offices; and Law Enforcement Assistance Administration researchers for purposes of evaluation technical assistance and training.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders and on index cards.

RETRIEVABILITY:

Information is retrieved by name of respondent and complainants.

SAFEGUARDS:

Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

RETENTION AND DISPOSAL:

Complaint control logs are destroyed upon completion of action on the inquiry or complaint. Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Civil Rights Compliance; *Office of Justice Assistance, Research, and Statistics;* 633 Indiana Avenue NW.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record containing civil rights investigatory material shall be made in writing with the envelope and letter clearly marked "Privacy Access Request" to the Civil Rights System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The information contained in this system was received from individual complainants, witnesses, grant files, respondents, official State and Federal records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(K)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Justice/OJARS–C09

SYSTEM NAME:

Federal Advisory Committee Membership Files.

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been or are presently members of or are being considered for membership on advisory committees within the jurisdiction of the *OJARS, LEAA, NIJ, and BJS.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with and documents relating to committee members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Advisory Committee Act, 5 U.S.C. App. I et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Annual Report to the President; administrative reports to OMB and other federal agencies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in system is stored in file folders.

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RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Data is maintained in file cabinets. The entrance to the building requires building pass or security sign-in.

RETENTION AND DISPOSAL:

The data is placed in an inactive file upon discontinuance of membership, held for two years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Advisory Committee Officer; Office of General Counsel; *Office of Justice Assistance, Research, and Statistics;* 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manger listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are supplied directly by individuals about whom the record pertains, references, recommendations, program personnel, and biographical reference books.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/OJARS–010

SYSTEM NAME:

Technical Assistance Resource Files.

SYSTEM LOCATION:

Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants with expertise in criminal justice systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of resumes and other documents related to technical assistance requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained under authority of 42 U.S.C. *3755(b) and 42 U.S.C. 5614(b)(6).*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used to determine the qualifications and availability of individuals for technical assistance assignments. Users are State planning agencies and the Law Enforcement Assistance Administration.

Release of information to the news media: Informtion permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in the system is on hard copy and stored in file cabinets.

RETRIEVABILITY:

Information is manually retrieved by the name of the individual.

SAFEGUARDS:

Records are stored in file cabinets. Admittance to the building in which they are stored requires a building pass or an individuals signature at the main entrance to the building.

RETENTION AND DISPOSAL:

Records are placed in an inactive file at the end of the fiscal year in which final use was made. They are held two years in the inactive file; then transferred to the Federal Records Center. Records are destroyed after six years.

SYSTEM MANAGER(S) AND ADDRESS:

Technical Assistance Coordinator; *Division Director of Program area in which records are sought: Adjudication, Enforcement, Corrections, and Special Programs in the Office of Criminal Justice Programs: Juvenile Justice in the Office of Juvenile Justice and Delinquency Prevention.* Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager(s) at the above address.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked "PRIVACY ACCESS REQUEST." Include in the request the name and grant/contract number for the record desired. Access requests will be directed to the system manager(s) listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are those individuals to whom the information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/OJARS–011

SYSTEM NAME:

Registered Users File—National Criminal Justice Reference Service (NCJRS).

SYSTEM LOCATION:

Justice Data Service Center; U.S. Department of Justice; 4th & I Streets, N.W., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains information on those individuals engaged in criminal justice activities, citizen groups and academicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides a record for registrants for services and products of NCJRS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained and established in accordance with 42 U.S.C. *3721.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system is used within the Department of Justice. No external dissemination of information is made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disc pack for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by the name and user identity number of the desired record.

SAFEGUARDS:

Information is maintained in the Justice Data Services Center which is a secured area. Special identity cards are required for admittance to the area.

RETENTION AND DISPOSAL:

Information is retained until the individual no longer wishes to utilize the service. Upon notification by an individual that he no longer wishes to use the service, his record is electronically purged from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Reference and Dissemination Division: National Criminal Justice Reference Service *National Institute of Justice,* U.S. Department of Justice; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager(s) at the above address.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked. 'PRIVACY ACCESS REQUEST.' Access requests will be directed to the system manager(s) at the above address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it , and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources for the information contained in this system are those individuals to whom the information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/OJARS–012

SYSTEM NAME:

Public Safety Officers Benefits System.

SYSTEM LOCATION:

Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public Safety Officers who died while in the line of duty and their surviving beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index by claimant and deceased Public Safety Officers; case files of eligibility documentation; and benefit payment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system exists under 42 U.S.C. 3701, et seq., Pub. L. No. 94–430 (Sept. 29, 1976) and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) State and local agencies to verify and certify eligibility for benefits; (2) *researchers for the purpose of researching the cause and prevention of public safety officer line of duty deaths;* (3) appropriate Federal agencies to coordinate benefits paid under similar programs; and (4) Members of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is a party in interest.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on a master index, in folders and on computer magnetic tape.

RETRIEVABILITY:

Information is retrievable by name of claimant, name of deceased Public Safety Officer, and case file number.

SAFEGUARDS:

Computerized information is safeguard and protected by computer password key and limited access. Noncomputerized data is safeguarded in locked cabinets. All files are maintained in a guarded building.

RETENTION AND DISPOSAL:

Files are retained, retired to Federal records centers and disposed of in accordance with General Services Administration disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

PSOB Program Officer, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

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NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Request for access to a record from this system should be made in writing with the envelope and the letter clearly marked 'Privacy Access Request' Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above and state clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Public agencies including employing agency, beneficiaries, educational institutions, physicians, hospitals, official state and Federal documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(OLC) Office of Legal Counsel

The full test of the following system of records (JUSTICE/OLC–003) was last published on January 10, 1980 in **Federal Register** Volume 45, page 2214.

Justice/OLC–003

SYSTEM NAME:

Office of Legal Counsel Central File.

SYSTEM LOCATION:

U.S. Department of Justice, Office of Legal Counsel, 10th and Constitution Avenue, N.W.: Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will permit retrieval of information concerning persons mentioned in the legal opinions, memoranda, correspondence, testimony and other writings of the Office of Legal Counsel. These will include:

(A) Addressees, authors and employees of the Office of Legal Counsel whose name appears in memoranda, opinions, correspondence, testimony and other writings of the Office;

(B) Individuals who are the subject of opinions, particularly on such subjects as conflict of interest, employee standards of conduct, and immigration;

(C) Attendees at meetings described in a memorandum included in the file;

(D) Litigants and judges identified in connection with reported court decisions and pending cases described in memoranda; and

(E) Other individuals identified in connection with questions presented to the Office of Legal Counsel for resolution or comment.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of memoranda, correspondence, testimony and other writings of the Office of Legal Counsel from *1929* to the present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to the responsibilities of the Office of Legal Counsel set forth in 28 CFR 0.25.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information *contained* in this system is provided to the following categories of users for the purposes stated:

(A) Access to the computerized files of the Office of Legal Counsel will be confined to employees of the Office of Legal Counsel and other employees of the Department of Justice with specific permission, but the records will be available initially to the contractor preparing the records for computerization. *A system installed in 1980 now permits newly generated records to be put directly into computerized files without having to disclose those records to a contractor.*

(B) With the approval of the addressees, selected recent opinions of the Office of Legal Counsel will be published for general use, but normally personal information about individuals will be deleted;

(C) Unpublished opinions of the Office of Legal Counsel are ordinarily made available upon request only with the approval of the addressee of the opinion.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The indices are maintained on 5 x 7 cards in a master subject-matter index on all Office of Legal Counsel memoranda, opinions, correspondence, testimony and other writings. In addition, to facilitate Freedom of Information Act/Privacy Act searches, an alphabetical assortment of cards has been established within the immigration and conflict of interest opinion indices which contain the names of individuals who are the subjects of these opinions. These are, in effect, cross-indices to a small portion of the Office of Legal Counsel's overall opinions that are otherwise indexed and retrieved according to subject matter. These indices are maintained to assist in the retrieval of opinions and memoranda from chronological files. However, because the system is undergoing gradual conversion to a computerized system to facilitate legal research, some opinions are also now stored on magnetic disks. Even though the software design creates the capability for name retrieval, the purpose of the design is to facilitate retrieval by legal subject matter and the Office of Legal Counsel will continue to utilize the system in this manner.

RETRIEVABILITY:

The alphabetical card index on conflict of interest and immigration opinions will be retrieved by name. In addition, while that information which has been entered into the computer to date may be retrieved by name, all information, except that on conflict of interest and immigration opinions, will ordinarily continue to be retrieved by legal subject matter since the Office seldom has need to focus on a name in legal research.

SAFEGUARDS:

Index cards and chronological files are kept in locked offices when unattended. Access is restricted to those personnel with a need to know.

The compilation of Office of Legal Counsel opinions available on magnetic tape is subject to three access limitations designed to insure that only authorized attorneys of the Office of Legal Counsel have access. First, the opinions in the computer system can be retrieved only by those persons having a specified identification number, and numbers are assigned only to attorneys of the Office of Legal Counsel. Second, there is an access code word in addition to the identification number required for access to the opinions, and the code word is made known only to the Office of Legal Counsel attorneys. Third, with the limited exception noted below, the opinions can be retrieved only on the terminal located in the Office of the Legal Counsel, and the terminal is in a locked room to which only Office of Legal Counsel personnel (and building maintenance personnel) have keys.

During the period in which the opinions are being computerized an exception to these access restrictions has been made so that the contracting assistant in the Justice Management Division who is overseeing the computerization also has access to the opinions. Once computerization is complete, the access will cease.

RETENTION AND DISPOSAL:

The records will be maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Assistant Attorney General, Office of Legal Counsel, at the address above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

General legal research sources and individuals and agencies requesting opinions from the Office of Legal Counsel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

(OPA) Office of the Pardon Attorney

While retained in the Office of the Pardon Attorney, United States Department of Justice, Executive clemency files are files of the President of the United States which are compiled and maintained to provide for the exercise of his constitutional responsibilities pursuant to Article II, section 2, and are not subject to the provisions of the Privacy Act of 1974. However, in compliance with the spirit of the Act, the Office of the Pardon Attorney (1) hereby notifies the public that guidelines approved by the President for handling requests for Executive clemency and disclosure of materials submitted or furnished in connection with Executive clemency requests are published in 28 CFR Part 1, and (2) hereby publishes an amended system notice.

The Executive Clemency Files system (JUSTICE/OPA–001) was last published on Thursday, January 10, 1980, in **Federal Register** Volume 45, pages 2233 and 2234. Except for the correction of an affidavit form number and of a misspelled word, the system is reprinted below without change.

Justice/OPA–001

SYSTEM NAME:

Executive Clemency Files.

SYSTEM LOCATION:

Office of the Pardon Attorney; U.S. Department of Justice; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Executive clemency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individual petitions for Executive clemency (OPA–6 or *13*) submitted by the applicants and accompanying oath and character affidavits *(OPA 11)*, investigatory material, evaluative reports, inter-agency and intra-agency correspondence and memoranda relating to individual petitions for clemency. The system includes Presidential Clemency Board files transferred to the Office of the Pardon Attorney upon termination of the Board's existence on September 15, 1975.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with the United States Constitution, Article II, section 2, Executive Order of the President dated June 16, 1893, Order No. 288–62, 27 FR 11002, November 19, 1962, as codified in 28 CFR 1.1 et seq. and E.O. 11878 dated September 10, 1975.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Executive clemency files are used to (a) enable the Attorney General to investigate each petition for Executive clemency, to review each petition and information developed by his investigation thereof and to advise the President whether, in his judgment, the request for clemency is of sufficient merit to warrant favorable action by the President; (b) prepare notices to the public of the name of each grantee of clemency, date of Presidential action, nature of clemency granted, nature of grantee's offense, date and place of sentencing, description of sentence imposed, and names of charater affiants and interested members of Congress; and disclose similar information to that specified above with respect to denials of general public interest if the disclosure does not constitute an unwarranted invasion of privacy; (c) prepare bound and indexed volumes containing photocopies of the official *warrant* of clemency granted each recipient of clemency as a public and official record of Presidential action; (d) upon request of the President and members of his staff, to make available to them individual clemency files; (e) upon specific request, to advise the requestor whether a named person has applied for, been granted or denied clemency, the date thereof and the nature of the clemency granted or denied; (f) upon specific request, to make closed files available for historical research purposes when in the public interest and in conformity with Department of Justice policy; and (g) upon request or otherwise, to make any information which indicates a violation or apparent violation of law, whether civil, criminal or regulatory in nature, available to the appropriate agency, whether Federal, state, local or foreign.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the indivdual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in the Office of the Pardon Attorney and in Archives.

RETRIEVABILITY:

Information is retrieved by reference to the file number assigned to the name of each applicant for clemency.

SAFEGUARDS:

Information contained in the system is safeguarded and protected in accordance with Department of Justice Rules Governing Petitions for Executive Clemency, specifically, 28 CFR 1.6. Executive clemency files are maintained in the Office of the Pardon Attorney and are not commingled with Department of Justice records.

RETENTION AND DISPOSAL:

Records are stored in the Office of the Pardon Attorney and closed cases are transferred to the Federal Archives Records Center when five years old.

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Except for the "letter of advice" furnished to the President in connection with clemency applications and Presidential responses and cases designated by the Pardon Attorney as having significant public interest, records are destroyed after 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Pardon Attorney; Office of the Pardon Attorney; Department of Justice; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Pardon Attorney; Department of Justice; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

While the Attorney General has exempted Executive Clemency files from the access provisions of the Privacy Act, requests for discretionary releases of records contained in the system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document and the name of the clemency applicant in whose file it is contained. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

While the Attorney General has exempted Executive Clemency files from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest and amendment) of records contained in this system should be directed to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individual applicants for clemency, Federal Bureau of Investigation or other official investigatory reports, Bureau of Prisons records, armed forces reports, probation or parole reports and reports from *individuals* or non-Federal organizations, both solicited and unsolicited.

SYSTEMS EXECPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

(PRC) United States Parole Commission

The full texts of the following systems of records (JUSTICE/PRC–001 through 007) were last published on January 10, 1980 in **Federal Register** Volume 45, pages 2234 through 2239.

Justice/PRC–001

SYSTEM NAME:

Docket, Scheduling and Control

SYSTEM LOCATION:

Records are maintained at each of the Regional Offices for inmates incarcerated in a persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addresses: United States Parole Commission, Scott Plaza II, Industrial Highway, 6th Floor, Philadelphia, Pa. 19113; United States Parole Commission, *715 McDonough Blvd S.E., Atlanta,* Ga. 30315; United States Parole Commission, 320 First Street, Washington, D.C. 20537, ATTN: National Appeals Board, United States Parole Commission, *Air World Center Suite 220 10929 Ambassador Dr.,* Kansas City, Mo. 64153. United States Parole Commission, *555 Griffin Square Suite 820* Dallas, Tex. *75202.* United States Parole Commission, 330 Primrose Drive, 5th Floor Burlingame, Calif. 94010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General who have become eligible for parole. Former inmates includes those presently under supervision as parolees or mandatory releases and those against who a revocation *warrant* has been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Docket sheets—Each region and the National Appeals Board in Washington maintain a cumulative series of docket sheets in time sequence showing Commission action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The appeal doecket includes the date and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. (b) Hearing schedules—*Shortly after inmates are incarcerated,* their names appear on an eligibility list prepared by the Bureau of Prisons, for initial parole hearings. Inmates denied *immediate* parole are "continued" by the Commission to future dates for review hearings or records reviews. Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole, rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for examiners to process when they visit the various institutions or hold "local" hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The dockets provide the basis of answering basic inquires, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prison staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal users—Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External users—As noted above, on occasion employees of Federal, State and local enforcement, correctional, prosecutive, or other agencies, and courts may have access to this information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape, disk, or microfiche using ADP technology, is in the beginning stages.

RETRIEVABILITY:

Name, register number, date, institution, Commission action.

SAFEGUARDS:

Copies of dockets and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and bureau employees on a "need to know" basis. Information therefrom may be given outside the Department as indicated in the "Routine Uses." If so, a letter will be written covering the item disclosed, date, and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

RETENTION AND DISPOSAL:

Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room *738,* Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Address inquiries to Regional *Commissioner* at appropriate location. For general inquiries, address system manager. The Attorney General has exempted this system from compliance with the provisions of subsection (d), under the provisions of subsection (j).

RECORD SOURCE CATEGORIES:

(1) Bureau of Prisons files; (2) Parole Commission and Bureau of Prison's employees; (3) Court Records, (4) Parole Commission inmate files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

Justice/PRC–002

SYSTEM NAME:

Freedom of Information Act Record System

SYSTEM LOCATION:

Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office, United States Parole Commission 320 First Street NW., Washington, D.C. 20537, ATTN: Executive Assistant to Chairman, or to the appropriate Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552, and appeals from denials of data; (2) Final orders of Commission following all parole, rescission, and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act reading room at Commission headquarters with names removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used: (a) to maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act 5 U.S.C. 552; and make final orders available in a reading room pursuant to 5 U.S.C. 552: (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act if needed for processing contested denials of release of data; (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored on documents.

RETRIEVABILITY:

Documents are indexed by name and/or register number. Final orders in the reading room are indexed by *register number, type source, and result.*

SAFEGUARDS:

Information is stored in file cabinets in rooms supervised by dan and locked at night and are made available to Commission personnel and other Department of Justice employees on a "need to know" basis. Each requestor may see his own file. The public may use the reading room.

RETENTION AND DISPOSAL:

Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

(1) Inmates and persons on supervision; (2) Department of Justice employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/PRC-003

SYSTEM NAME:

Inmate and Supervision Files

SYSTEM LOCATION:

Records are maintained at each of the Commission's Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarter's Office located at 320 First Street, Washington, D.C. 20537 when used by the National Appeals Board or other Headquarters personnel. Prior to the first parole hearing, the inmate's file is maintained at the institution at which he is incarcerated. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission, Scott Plaza II, Industrial Highway, Sixth Floor, Philadelphia, Pa. 19113. U.S. Parole Commission, *715 McDonough Blvd. S.E.*, Atlanta, Ga. 30315. U.S. Parole Commission, *Air World Center, Suite 220, 10920 Ambassador Drive*, Kansas City, Mo. 64153. U.S. Parole Commission, *555 Griffin Square, Suite 820, Dallas, Tex. 75202.* U.S. Parole Commission, 330 Primrose Drive, Fifth Floor, Burlingame, Calif. 94010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releases.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Computation of sentence and supportive documentation.
2. Correspondence concerning pending charges, and wanted status, including warrants.
3. Requests from other Federal and non-Federal law enforcement agencies for notification prior to release.
4. Records of the allowance, forfeiture, withholding and restoration of good time.
5. Information concerning present offense, prior criminal background, sentence, and parole from the U.S. Attorneys, the Federal Courts, and Federal prosecuting agencies.
6. Identification Data.
7. Order of designation of institution of original commitment.
8. Records and reports of work and housing assignments.
9. Program selection, assignment and performance adjustment/progress reports.
10. Conduct records.
11. Social background.
12. Educational data.
13. Physical and mental health data.
14. Parole Commission applications, appeal documentation, orders actions, examiner's summaries, transcripts or tapes of hearings, guideline evaluation documents, parole or mandatory release certificates, statements of third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.
15. Correspondence regarding release planning, adjustment and violations.
16. Transfer orders.
17. Mail and visit records.
18. Personal property records.
19. Safety reports and rules.
20. Release processing forms and certificates.
21. Interview request forms from inmates.
22. General correspondence.
23. Copies of inmate court petitions and other court documents.
24. Reports of probation officers, Commission correspondence with former inmates and others, and Commission orders and memoranda dealing with supervision and conditions of parole or mandatory release.
25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The file is the "working tool" used by Parole Commission examiners to frame the questions at the inmates initial hearing. After that hearing, it is placed in the appropriate regional office where it provides the principal information source for decisions necessary during the pre-release stage (before parole), the review hearing or record review, and the post release stage (when supervision takes place). It is sent temporarily to Commission Headquarters when appeals come before the National Appeals Board or when needed by counsel and others on the Headquarters Staff. It is used by employees at all levels including Commission members to provide the information for decision making in every area of Commission responsibility. Files of released inmates are used to make statistical studies of subjects related to parole and revocation.

(b) The system is used to provide an information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties.

(c) The system is used as a source for disclosure of information which is solely of general public record, such as offense, sentence data, release date, etc. Names are not disclosed when information is so provided.

(d) The system is used to provide informational source for responding to inquiries from Federal inmates, their families or representatives, or Congressional inquiries.

(e) Internal Users—Employees of the Department of Justice who have a need to know information in the performance of their duties.

(f) External Users—U.S. Probation Officers, who supervise parolees and mandatory releases and U.S. District Court judges when Commission action is attacked in litigation. Very rarely, to enforcement authorities outside of the Department of Justice.

(g) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(h) A record from this system may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to current or former inmates under supervision.

(i) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(j) A record from this system may be disclosed to a person or to persons who may be exposed to harm through contact with a particular parolee or mandatory releasee if it is deemed by a Commissioner to be reasonably necessary to give notice that such danger exists.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored on papers fastened into file jackets and a minimal amount is on cards stored in card file drawers. Active files and card indices are located in each region; inactive files are at the Washington Federal Records Center and the card index to inactive files is at Headquarters in Washington. An experimental program to store such data on tape, disk or microfiche using ADP technology is in the beginning stages.

RETRIEVABILITY:

All data is indexed by name and/or register number. When ADP technology is used in the future, such data may be available by FBI identification number, or other indices.

SAFEGUARDS:

Within the Department of Justice, routine use is made available to employees only on a "need to know" basis. Files are stored in rooms which are supervised by day and locked at night. Data from files for recipients outside of the Parole Commission and Bureau of Prisons is conveyed by a letter so that a record exists. When files are sent they are covered by a letter with a follow-up on return of the file. Such disclosure is infrequent, and is within the Federal enforcement-prosecution-judicial area only.

RETENTION AND DISPOSAL:

Records in this sytem are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means of shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room *738*, Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Address inquiries to Regional Commissioner at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

RECORD SOURCE CATEGORIES:

1. Individual inmate; 2. Federal law enforcement agencies and personnel; 3. State and Federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports, and findings of institution supervisors, counselors, board and committees, Parole Commission examiners, Parole Commission Members; 10. Federal Court records; 11. U.S. Bureau of Prisons personnel and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 55a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC-004

SYSTEM NAME:

Labor and Pension Case, Legal File and General Correspondence System.

SYSTEM LOCATION:

All Labor and Pension cases, *most* Legal file and some general correspondence material is located at: Commission Headquarters, 320 First Street NW., Washington, D.C. 20537. The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervisions System. *Some legal files are maintained at the Northeast Regional Office.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all Congressmen inqiring about constituents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Commission processes applications of persons convicted of

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certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 of by Employee Benefit Plan under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personal nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and convictions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain personnel and criminal history type data regarding inmates, and internal communications among attorneys, *Commissioners* and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning parole revocation *rescission* and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are maintained pursuant to 18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Parts 2 and 4, 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Within the Parole Commission material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigative position of the Commission. The general correspondence is used by the Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation.

In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service. A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All data is on documents or other papers in bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, *or in the Northeast Regional Attorney's office,* general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional *Commissioner.* Files are in file cabinets.

RETRIEVABILITY:

Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

SAFEGUARDS:

Material is available only to Commission employees on a "need to know" basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, Federal enforcement agencies or the Congress. Disclosure to Congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

RETENTION AND DISPOSAL:

Records are maintained for 10 years and are shredded or destroyed electronically thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy; Attorney/Management Analyst, United States Parole Commission, 320 First Street NW., Room *738,* Washington, D.C. 20537.

RECORD SOURCE CATEGORIES:

a. Applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected with labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquires of Commission; g. Commission Members and employees responding to inquires, corresponding with others, preparing speeches, policy statements and other means of contact with other branches of the Federal Government, State, and local governments, and the public.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (c)(2) and (3), (4)(G) and (H), (c)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

Justice/PRC–005

SYSTEM NAME:

Office Operation and Personnel System.

SYSTEM LOCATION:

At each regional office as indicated in the "Inmate and Supervision File System Report" and at the U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Commission Members and employees of the U.S. Parole Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a Government office efficiently.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

All statutory sections, CFR sections, and *OPM, MSPB,* GSA, and OMB directives establishing procedures for government personnel, financial, and operational functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Day-to-day activity involving personnel, financial, procurement, maintenance, recordkeeping, mail delivery, and management functions.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in paper files or on computer printouts. They are stored in operations areas of offices.

RETRIEVABILITY:

Data of a personal nature is in employee personnel files, used by Commission personnel on a "need to know" basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a "need to know" basis.

SAFEGUARDS:

Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

RETENTION AND DISPOSAL:

Subject to applicable *OPM, MSPB,* OMB, DOJ, and GSA regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant to the Chairmen, U.S. Parole Commission, 320 First Street NW., room *716A,* Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Parole Commission employees, Office of Management and Finance. All other contributing Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/PRC–006

SYSTEM NAME:

Statistical, Educational and Developmental System.

SYSTEM LOCATION:

Parole Commission Headquarters, 320 First Street, *7th* Floor, Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releasees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All records as described in the Workload Record, Decision Result, and Annual Report System plus data on additional input forms known as Revocation Data Sheets, Parole Decision Information Sheet, certain follow-up forms and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected from the above category of individual. This data is either organized and processed by hand or is input into a computer and has been used to provide the following one-time reports in pamphlet-text form: (a) Administrative Review of Parole Selection and Revocation decisions; (b) Parole Decisionmaking, a Salient Factor Score; (c) Effect of Representation at Parole Hearings; (d) Parole Decisionmaking—Structuring Descretion; (e) Time Served and Release Performance—A Federal Sample and certain additional reports, all available in the public reading room. The data base collected as described in this and the preceding system will be used to prepare studies on similar or related subjects in the future. It has been used to develop revocation guidelines similar to parole guidelines. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Internal—Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodology to select persons to be released from prison who will be less likely to recidivate.

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b. External—Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is in input forms, IBM card decks and on computer produced storage media. It is stored as described in the preceding system description. Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves, and in the public reading room.

RETRIEVABILITY:

Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or *storage media.* This material is used only by authorized parole *commission* personnel on a "need to know" basis and is data processed only by authorized Bureau of Prisons *or Justice Department* personnel. Material is not retrieved in identifiable form except that computer produced "hard copy" may be used to prepare a report *or internal work papers.* The final pamphlet text reports and material resulting from studies are used by Commission personnel for internal purposes and the public externally. None of this material contains any reference to an individual. *Documents* which contains information *concerning* one individual *are* made available to that individual if requested under the *Privacy* Act.

SAFEGUARDS:

See "Safeguards" of preceding system regarding input forms, IBM cards or tape. Reports in pamphlet form are not safeguarded.

RETENTION AND DISPOSAL:

See "Retention and Disposal" of preceding system. The studies in pamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

SYSTEM MANAGER(S) AND ADDRESS:

Research Director, U.S. Parole Commission, 320 First Street, NW., Room *752A,* Washington, D.C. 20537.

RECORD SOURCE CATEGORIES:

a. Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the *ERR18*T4Federal Register.

Justice/PRC–007

SYSTEM NAME:

Workload Record, Decision Result, and Annual Report System.

SYSTEM LOCATION:

U.S. Parole Commission Headquarters, 320 First Street, *7th Floor,* Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate and parolee or mandatory releasee who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, or prior year).

CATEGORIES OF RECORDS IN THE SYSTEM:

Certain original input forms indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in question. Types of decisions covered in order of the form numbers above are or record review, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. The data is input into a computer and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) *Bimonthly* report on decision results indicating, among other statistics, number and type of decisions within above, and below guidelines broken out by examiners making the decisions; (c) Together with hand posted data on other items of statistcial value, this data is being used to create the Annual Report of the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines themselves.

(b) These records are used to prepare an annual report to the Attorney General, and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a Federal, State, or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commissison unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper input forms are stored in folders only until information from them is *entered into machine readable media.* Monthly and other reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

RETRIEVABILITY:

Data in this system can be retrieved by inmate's name and register number from the original input forms, IBM card decks, *and computer-produced storage media.* It is *usually* only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability in the guideline section of the *bimonthly.*

SAFEGUARDS:

Data on forms, IBM cards, and/or tape *or other computer produced storage media* retrievable by individual is stored in the *Commission's* Office in cabinets. Commission employees supervise this data by day and use it on a "need to know" basis. The room where it is stored *are* locked outside of office hours, and the entire Headquarters building is guarded and secured. Monthly and *other* reports are for use of the Chairman, his Executive Assistant and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, locked at night, and are in a secured building. The Annual Report contains no information identifiable by individual and is a public document.

RETENTION AND DISPOSAL:

Completed input forms—1. Until data is keypunched into IBM cards—usually 1 month after forms are completed. They are then destroyed; 2. IBM cards decks or *other* tape substitute—10 years after preparation, cards will be destroyed—tape degaussed; 3. Printouts of annual and *other* reports—10 years; 4. Annual Reports—Some copies retained perpetually in Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant to the Chairman, Room *716A,* U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

RECORD SOURCE CATEGORIES:

(a) Commission inmate files; (b) Docket sheets; (c) Commission notices of action, orders and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (c)(4) (g) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

(USA) Executive Office for United States Attorneys

The full texts of the following systems of records (JUSTIC/USA–001 and 008) were last published on September 30, 1977 in **Federal Register** Volume 42, pages 53402 and 53409.

Justice/USA–001

SYSTEM NAME:

Administrative Files.

SYSTEM LOCATION:

Ninety-four United States Attorneys' Offices (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a) Office Personnel (present and past); b) Expert professionals whose services are used by the office; c) Applicants for office positions; d) Witnesses in Court proceedings; e) Prisoners-In-Custody; f) Defendants; g) Debtors; h) Vendors; i) Citizens making inquiries; j) Members of local and state Bar Associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

a) Personnel Files (official/unofficial); b) Applicant Files; c) Employee Record cards (SF–7B); d) Office Rosters; e) Tickler File System for Promotions; f) Personnel Address and Telephone Number Lists; g) Sign In/Out Sheets; h) Time and Attendance Records (OMF—44); i) Wage Earnings Statement (DOJ—296); j) Travel Authorizations and Vouchers (OBD–1 and SF–1012); k) Advice of Obligations incurred (DJ–60); l) Telephone Records and Logs; m) Fiscal Vouchers; n) Witness Records (LAA–3); o) Lists of Records at Federal Records Centers; p) In-House Statistical Reports; q) Internal Meetings Records; r) Equal Employment Opportunity (EEO) Records; s) Employees: Organizations and Unions Records; t) Federal Woman's Program Records; u) Address and Telephone Indexes; v) Lists of State and Local Bar Members; w) Lists of Expert Professionals; x) Requests for Expert Witnesses; y) Teletype Files; z) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature,

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the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy;

(b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, or to an individual or organization possesses information relating to the investigation, trail or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of neogotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) a record relating to a case or mater that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradtion proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

(k) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the disdemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(i) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is stored in file cabinets in the United States Attorney's offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to, investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; data, memoranda and reports from the Courts and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and administrative staff of the divisions, offices and bureaus, work product of secretarial and administrative staff within the U.S. Attorneys office and the Executive Office for U.S. Attorneys, from general public referral sources or as provided by members of the public who participate, assist or observe in pending cases or matters, or commercial establishments which provide goods or services, publications and reports from the Department's other offices, divisions and bureaus and internal U.S. Attorney work product.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/USA-008

SYSTEM NAME:

Freedom of Information Act/Privacy Act Files.

SYSTEM LOCATION:

Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530; *Ninety-four United States Attorneys' Offices (See attached Appendix).*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a) Individuals who write to the Executive Office for Unites States Attorneys, its Director or a member of his staff, or a U.S. Attorneys office.

b) Individuals who write to the Attorney General or the Department of Justice or the FOI/PA Unit and whose letter is referred to the Executive Office of United States Attorneys.

c) Individuals whose letter has been referred to the Executive Office of Unites States Attorneys for a response by the FOI/PA Unit or Appeals Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the request and copies of any enclosures. The system is arranged alphabetically by the last name of the original requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 and the provisions of the Freedom of Information Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the responses may be provided to the referrer of the original request or the requester. All other uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The material is stored within manila file folders, within metal file cabinets.

RETRIEVABILITY:

The system is indexed by name, arranged alphabetically.

SAFEGUARDS:

The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Freedom of Information' or 'Privacy Access Request.' Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

RECORD SOURCE CATEGORIES:

Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the

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same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c)(3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register**.

(UST) Executive Office for United States Trustees

The full text of the following systems of records (JUSTICE/UST–001 through 003) and an appendix (JUSTICE/UST–999) were last published on June 24, 1980 in **Federal Register** Volume 45, pages 42419–42423. JUSTICE/UST–001, 002 and 003 have been revised to more accurately describe the location of records. In addition, JUSTICE/UST–999 has been revised to reflect the correct address of system locations.

Justice/UST–001

SYSTEM NAME:

Bankruptcy Case Files and Associated Records.

SYSTEM LOCATION:

Ten offices of the United States Trustees, and three offices of Assistant United States Trustees. In addition, the Executive Office for United States Trustees maintains duplicate copies of certain pleadings and materials relating to specific cases or entities. (See appendix identified as JUSTICE/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in bankruptcy proceedings (under Chapters 7, 11 and 13 of 11 U.S.C.) subsequent to September 30, 1979, including but not limited to debtors, creditors, bankruptcy trustees, agents representing debtors, creditors, and trustees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) petitions/orders for relief, (b) schedules of assets and liabilities of bankrupts, (c) lists of creditors, (d) statements of debtors' financial affairs, (e) docket cards (UST–001, 002, 003, and any alterations thereof), (f) alphabetical cross-reference index cards, (g) general correspondence regarding cases, (h) miscellaneous investigative records, (i) copies of certain petitions, pleadings or other papers filed with the court, including UST recommendations to court for appointment of trustee or examiner in Chapter 11, recommendations for dismissal or conversion, recommendations as to dischargeability, (j) appraisal reports, (k) names of approved depositories and amounts of funds deposited therein, (l) names of sureties and amounts of trustees' bonds, (m) tape or other recordings of creditors' meetings called pursuant to Section 341 of Title 11, U.S.C., for the purpose of examination of debtors by creditors, trustee and others, (n) plans filed under Chapters 11 or 13, (o) lists of persons serving as counsel, trustee, or other functionaries in bankruptcy cases, including compensation earned or sought by each, (p) lists of attorneys representing creditors in bankruptcy cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 28 U.S.C. 586 and 11 U.S.C., especially Chapter 15 thereof.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by personnel of the *Executive office or the* U.S. Trustee office where maintained, to determine the existence in the office of a case, to ascertain the status of actions with respect to that case, and to ensure that timely action is taken as appropriate, and to ascertain the involvement by agents or other representatives of parties in such cases.

As provided by 11 U.S.C. 107, a paper filed in a case and the dockets of the bankruptcy court are public records and open to examination except when the court moves to protect an entity with respect to a trade secret, confidential research, development, or commercial information, or to protect a person with respect to a scandalous or defamatory matter contained in a paper filed in a case. In this case, that portion of the record is only available upon the consent of the debtor. In addition, except when the Court has moved to protect an entity, the records will be released as follows.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 *et seq.*, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. Secs. 2904 and 2906.

Release of information to law enforcement or regulatory agencies: Information obtained by the U.S. Trustees will be transmitted to appropriate state, local, Federal or other law enforcement or regulatory agencies whenever a U.S. Trustee or the Director, Executive Office for U.S. Trustees or his designee believes that such transmittal in the public interest, except to the extent that such transmittal would conflict with any immunity granted by a court of competent jurisdiction in accordance with the provisions of Title 11, U.S.C.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified below in this paragraph, is recorded on basic paper/cardboard material and maintained within metal file boxes, file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, for possible reproduction in paper form at a later date.

RETRIEVABILITY:

Information is maintained by bankruptcy court docket number, and is cross-referenced alphabetically by names of debtors. Information with respect to agents representing debtors, creditors and trustees, and with respect to depository banks, is maintained alphabetically. *(Case files maintained in the Executive Office are assigned sequential file numbers and are cross referenced alphabetically by name of the debtor.)*

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of office records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours office are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system, except those documents which are duplicates of records for which the bankruptcy courts maintain the official record copies.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the U.S. Trustee *and in the Executive Office, the Deputy Director.* (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case is pending, or was administered. (See appendix of addresses identified as JUSTICE/UST–999.)

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall ordinarily be made in person at the U.S. Trustee office in which the case is filed.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see appendix of addressees identified as JUSTICE/UST–999), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this record are generally limited to debtors, creditors, trustees, examiners, attorneys, and other agents participating in the administration of a case, judges of the bankruptcy courts and employees of the U.S. Trustee offices.

SYSTEMS EXEMPTED FORM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/UST–002

SYSTEM NAME:

Panel Trustee Application File.

SYSTEM LOCATION:

The Executive Office for United States Trustees, ten offices of the United States Trustees, and three offices of Assistant United States Trustees. (See appendix identified as Justice/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for membership on the private panels of trustees elibible to serve as trustees in Chapter 7 bankruptcy cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Panel Trustee Application File (UST–002), may also include resumes, letters of recommendation, notes reflecting oral checking of references, school transcripts, and other supporting information provided by applicants or developed by the U.S. Trustee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 28 U.S.C. 588(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USER AND THE PURPOSES OF SUCH USES:

These records are used by the individual U.S. Trustee office in which they are maintained. Their sole purpose is for the determining the qualifications and eligibility of persons applying to serve as trustees in Chapter 7 bankruptcy cases. The records are reviewed by the Executive Office for U.S. Trustees.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are filed in paper folders in metal filing cabinets.

RETRIEVABILITY:

Folders are filed alphabetically by the applicant's name.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the System in each office, is the U.S. Trustee *and in the Executive Office, the Deputy Director.* (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request".

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for consesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Information contained in the system is provided by the applicant, the applicant's references, and interested third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/UST–003

SYSTEM NAME:

U.S. Trustee Timekeeping System.

SYSTEM LOCATION:

The Executive Office for United States Trustees, ten offices of the United States Trustees, and three offices of Assistant United States Trustees. (See appendix identified as Justice/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nonclerical employees of the U.S. Trustees' offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' names and a record of their work time by program activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 11 U.S.C., and 28 U.S.C. 522.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system consists of a record of the work time, by program activity, of nonclerical employees of the U.S. Trustee pilot program. The system is used by the EOUST to analyze workload as a basis for requesting and allocating personnel and other resources. This information is compiled in each of the *13* field offices and forwarded to EOUST for analysis.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept on forms UST–4a, UST–4b, UST–4c and UST–4d, which are filed in metal cabinets.

RETRIEVABILITY:

Information is maintained alphabetically by the name of the employee. In EOUST, duplicate records are maintained and organized by district.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any document within this system.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office, is the U.S. Trustee *and in the Executive Office, the Deputy Director.* (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request".

CONTESTING RECORDS PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Nonclerical employees of the U.S. Trustee's offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/UST—999

SYSTEM NAME:

U.S. Trustee Appendix 1—List of Record Retention Addresses

Executive Office for U.S. Trustees Room, *4256* Main Justice Bldg., Washington, D.C. 20530

Districts of Maine, Massachusetts, New Hampshire, and Rhode Island: *87 Kilby Street,* Boston, Massachusetts 02109; *66 Pearl Street, Portland, Maine 04101*

Southern District of New York, Federal Building, Room 306, 26 Federal Plaza, New York, New York 10007

Districts of Delaware and New Jersey, 1180 Raymond Boulevard, Room 2549, Newark, New Jersey 07102

Eastern District of Virginia and District of Columbia, *Room 410, 421 King Street, Alexandria, Virginia 22314; 200 Granby Mall & City Hall Avenue, Room 742, Norfolk, Virginia 23510*

Northern District of Alabama:

Frank Nelson Building—Suite 831, 2nd Avenue and 20th Street, Birmingham, Alabama 35203.

Northern District of Texas:

U.S. Courthouse—Room 9C60, 1100 Commerce Street, Dallas, Texas 75242.

Northern District of Illinois:

Insurance Exchange Building—Room A 1303, 175 West Jackson Street, Chicago, IL 60601.

Districts of Minnesota, North Dakota and South Dakota:

U.S. Courthouse—Room 454, 110 South Fourth Street, Minneapolis, Minnesota 55401.

Central District of California:

U.S. Courthouse—Room 514, 312 N. Spring Street, Los Angeles, California 90012.

Districts of Colorado and Kansas:

Columbine Building—Room 202, 1845 Sherman Street, Denver, Colorado 80203.

U.S. Courthouse—Room 501, 401 North Market, Wichita, Kansas 67202.

[FR Doc. 80-35233 Filed 11-14-80; 8:45 am]
BILLING CODE 4410-01-M

federal register

Monday
November 17, 1980

Part III

Department of Agriculture

Agricultural Marketing Service

Handling of Milk in Federal Milk Marketing Areas; Request for Public Comments on Preliminary Impact Statement on Proposed Amendments to Tentative Marketing Agreements and Orders

V 45 N 0 1 7 8 0 UMI

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1006, 1007, 1011–1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1075, 1076, 1079, 1093, 1094, 1096–1099, 1102, 1104, 1106, 1108, 1120, 1124–1126, 1131–1139

Handling of Milk in Federal Milk Marketing Areas; Request for Public Comments on Preliminary Impact Statement on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Parts	Marketing areas
1001	New England.
1002	New York-New Jersey.
1004	Middle Atlantic.
1006	Upper Florida.
1007	Georgia.
1011	Tennessee Valley.
1012	Tampa Bay.
1013	Southeastern Florida.
1030	Chicago Regional.
1032	Southern Illinois.
1033	Ohio Valley.
1036	Eastern Ohio-Western Pennsylvania.
1040	Southern Michigan.
1044	Michigan Upper Peninsula.
1046	Louisville-Lexington-Evansville.
1049	Indiana.
1050	Central Illinois.
1062	St. Louis-Ozarks.
1064	Greater Kansas City.
1065	Nebraska-Western Iowa.
1068	Upper Midwest.
1071	Neosho Valley.
1073	Wichita, Kansas.
1075	Black Hills, S. Dakota.
1076	Eastern South Dakota.
1079	Iowa.
1093	Alabama-West Florida [1].
1094	New Orleans-Mississippi.
1096	Greater Louisiana.
1097	Memphis, Tenn.
1098	Nashville, Tenn.
1099	Paducah, Kentucky.
1102	Fort Smith, Ark.
1104	Red River Valley.
1106	Oklahoma Metropolitan.
1108	Central Arkansas.
1120	Lubbock-Plainview, Texas.
1124	Oregon-Washington.
1125	Puget Sound, Washington.
1126	Texas.
1131	Central Arizona.
1132	Texas Panhandle.
1133	Inland Empire.
1134	Western Colorado.
1135	Southwestern Idaho-Eastern Oregon [1].
1136	Great Basin.
1137	Eastern Colorado.
1138	Rio Grande Valley.
1139	Lake Mead.

[1] A decision on whether or not to adopt a proposed new order for this marketing area is pending before the Department.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for public comments on preliminary impact statement on proposed amendments to Federal milk marketing orders, and for additional proposals.

SUMMARY: Interested parties are invited to submit comments on a preliminary impact statement that has been developed by the Department of Agriculture for a proposal submitted by the Community Nutrition Institute (CNI). Also, the public is invited to submit any additional proposals that might be appropriate, considering the possible economic impacts of the CNI proposal. The preliminary impact statement presents an analysis of the potential impact of proposals to change the regulatory treatment of reconstituted milk under all Federal milk orders. The analysis was conducted by the Department to aid in the determination of whether a public hearing should be held to consider the proposals. The public is being given the opportunity to evaluate the impact statement and to provide the Department with any comments that they may wish to make regarding the statement.

DATE: Comments should be submitted by January 2, 1981.

ADDRESS: Comments (two copies) should be mailed to: Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (telephone: 202–447–4824).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Pre-Notice of hearing: issued November 13, 1979; published November 16, 1979 (44 FR 65989). Extension of time: issued January 15, 1980; published January 18, 1980 (45 FR 3593).

I. Background

The Community Nutrition Institute, a fluid milk processor, and three individual consumers have requested that a public hearing be held on proposed changes in all Federal milk marketing orders. The proposals relate to the regulatory treatment of reconstituted milk products.

Specifically, petitioners have proposed that all orders be amended to (1) remove reconstituted milk products from the definition of "other source milk" for the purpose of eliminating the "down-allocation" of milk ingredients used in such products and (2) eliminate the requirement that processors of reconstituted milk products make a "compensatory payment" on such products assigned to Class I. The thrust of the proposals is to remove reconstituted fluid milk products from the Class I pricing provisions of all Federal milk orders and in effect reclassify such products in the lowest class.

Federal milk marketing orders regulate the handling of milk in the areas they cover. They are issued by the Secretary of Agriculture in accordance with the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Each order includes provisions for a classified price plan and minimum prices that a handler must pay for milk received from producers. Handlers pay different prices for milk based on the way it is used. Usually, milk used in fluid products is placed in Class I, the highest-priced class. Many of the orders have a middle class (Class II) that includes milk used in cream, cottage cheese, yogurt, and ice cream. Milk used to produce butter, cheese, nonfat dry milk, and evaporated milk is placed in Class III, the lowest-priced class. In some markets the latter two groups of non-fluid products are included in a single, lower-priced class. Producers receive a uniform or average price based on the utilization value of milk in all classes. Presently, each order defines reconstituted milk or skim milk that is used for fluid consumption as a "fluid milk product" and includes it in Class I, the same as fluid milk products made from raw milk. This assures that all milk products used for fluid consumption are priced at least at the minimum Class I price level.

Under each order, milk producers is followed to its ultimate use by a plant and priced according to that base. If a handler obtains his entire supply of milk from producers and has only Class I sales, all of the milk is priced in Class I even if the handler first dries his producer milk before using it in reconstituted fluid milk products. However, a handler may use powder processed from producer milk in a prior month or powder from other Federal order markets or from unregulated sources. In this case, the orders assure that reconstituted skim milk made from such other source powder is priced on an equal basis with the price charged the handler making reconstituted skim milk from current receipts of producer milk.

Federal orders accomplish this by assigning reconstituted milk made from powder to the lower-valued uses of a handler. This process is commonly referred to as "down allocation." If the handler does not have sufficient Class II or Class III utilization in his plant to cover the quantity of reconstituted milk, the remainder is assigned to Class I. In that event, the handler is required to make a "compensatory payment" with respect to the quantity assigned to Class I. The payment is equal to the difference between the order's Class I and Class III prices (or Class I and Class II prices in a two-class market) and is distributed to producers supplying the Federal order market.

In response to the hearing petition, the Department issued a pre-notice of request for hearing on November 13, 1979. Interested parties were invited to submit other proposals for changing the present regulatory treatment of reconstituted milk issue. In addition, the Department undertook an extensive analysis of the potential impact on consumers, dairy farmers, and handlers of the proposed changes in the regulatory treatment of reconstituted milk.

II. Invitation To Submit Comments

The Department's preliminary impact statement on the reconstituted milk issue is set forth at the end of this document. Prior to making a decision on whether a hearing should be held, interested parties are invited to submit any comments that they may wish to make regarding the impact statement.

Specifically, we invite comments on the analysis contained in the preliminary impact statement, and on modifications that could be made in the CNI proposal or in the marketing orders that would mitigate any adverse economic impacts of the CNI proposal. Such comments will be useful to the Department in determining whether a hearing should be held on the CNI proposal or any modified proposal.

Interested parties desiring to submit comments on the impact statement should mail two copies to: Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Comments should be mailed by January 2, 1981.

Signed at Washington, D.C., on November 7, 1980.

Barbara Lindemann Schlei,

Administrator,

Agricultural Marketing Service.

Preliminary Impact Statement

Title: Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders

Summary

Background for Community Nutrition Institute Proposal

Federal milk marketing order regulations require handlers who buy Grade A milk from dairy farmers and distribute it in one of 47 specified market areas to pay at least minimum milk prices depending on how the milk is used. The revenue from sales for both fluid and non-fluid uses is pooled and distributed to producers.

If a handler purchases nonfat dry milk and butter ingredients for reconstitution as fluid milk, the current federal regulations effectively raise his cost for reconstituted milk above the higher fluid use price and eliminate any economic incentive to use reconstituted milk.

The CNI Proposal

The CNI proposes to eliminate reconstituted milk products from the "down allocation" and "compensatory payment" provisions of federal milk marketing orders that make its use uneconomical. The effect of the proposal would be that of reclassifying reconstituted milk in the lowest-valued class. Reconstituted milk could then be acquired at a cost equal to the manufacturing price plus the cost of processing milk into nonfat dry milk and butter and reconstituting it.

Under the CNI proposal, reconstituted milk could be sold as a 100-percent reconstituted product or it could be blended with fresh fluid milk. However, if blended, the fresh portion of the blended product would continue to be priced at the higher fluid use price. The proposal was limited to reconstituted milk made from nonfat dry milk and butterfat.

The Analysis

Estimates of milk production, consumption, prices, consumer costs and farm cash receipts were made for each of nine regions of the U.S. assuming the federal orders were amended as CNI proposed.

An economic model of the milk industry was used, based on actual production and consumption estimates for 1978. The impacts of the proposal were estimated on the basis of comparisons between the market circumstances that existed in 1978 and those derived from the model under conditions associated with the CNI proposal.

Impacts of the CNI Proposal

CNI does not propose to change Class I prices for fresh fluid milk. However, the reclassification of reconstituted milk would result in a price advantage for reconstituted milk compared to fresh fluid milk in eight of the nine regions. The fresh fluid milk price would be based on the Class I price while the price for reconstituted milk would be based on the cost of the reconstituted ingredients and, if blended, the cost of fresh fluid milk.

Because of its price advantage, reconstituted milk would compete favorably with fresh fluid milk in every region except the Southeast. Given the assumptions of the analysis, the CNI proposal implies that up to 21.6 billion pounds of reconstituted milk would be sold on an annual basis within 36 months following adoption of the CNI proposal. Reconstituted milk would account for up to 38 percent of fluid milk consumption.

Most sales of reconstituted milk would displace sales of locally produced fresh fluid milk. Local milk displaced from fresh fluid sale would be sold for manufacturing at the manufacturing milk price. As a result, the supply of locally produced manufacturing milk in all orders would be adequate to avoid the need to ship in nonfat powder for reconstituted milk.

Impacts of blended reconstituted milk after three years.

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk: consumption	Cash farm receipts
	percent				
Northeast	-6.2	-6.6	-1.46	1.04	-7.31
Corn Belt	-2.2	-3.2	-0.25	0.37	-3.23
Lake States	-1.3	-1.2	-0.10	0.18	-0.76
Southeast	-8.1	-12.6	-1.77	1.98	-13.56
South Central	-3.9	-6.1	-0.86	0.85	-6.45
Plains	-1.9	-1.6	-0.06	0.39	-1.73
Mountain	-2.3	-3.9	-0.70	0.37	-4.23
Southwest	0	0	0	0	0
Northwest	-1.4	-1.9	-0.71	0.27	-1.99
United States	-4.1	-3.9	-0.64	0.75	-4.09

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Savings and costs associated with the CNI proposal (blended option after three years) are shown below:

	Million dollars
Changes in annual:	
Consumer expenditures	-186
Government purchases	-165
Cash farm receipts from milk	-520

Under the assumptions of the analysis, the reduction in cash farm receipts would exceed the saving to consumers because the price consumers would pay for reconstituted milk would include the cost of drying and reconstitution. The reduction in farm cash receipts would reflect the displacement of locally produced milk from fresh fluid use to manufacturing use, and the difference between the Class I price and the manufacturing price. As a result, the per unit reduction in consumer cost would be smaller than the reduction in per unit farm receipts.

The increased total fluid milk sales resulting from the price decrease would not offset the loss in farm receipts from reduced fresh fluid sales.

The drying and reconstitution of fluid milk is a relatively costly process. It can be economical to use reconstituted milk if long distance hauling of fresh fluid milk is avoided or if very high production costs are avoided. However, diversion of locally produced fresh fluid milk into manufacturing uses solely to permit it to be reclassified and sold locally at a lower price increases production costs with no increase in product value. It is therefore an inefficient way to reduce consumer expenditures.

In addition to the impact of the CNI proposal, the impact analysis examines several possible modifications of that proposal, as well as a proposal made by six Wisconsin handlers. The details of these analyses are presented in the impact analysis.

Preliminary Impact Statement

1. Title

Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders

2. Nature of Proposed Action and Groups Impacted

The Community Nutrition Institute (CNI), a fluid milk processor, and three individual consumers have requested that a public hearing be held on proposed changes to the regulatory treatment of reconstituted milk under all federal milk marketing orders.[1]

During the prehearing period when comments and alternatives were solicited on the CNI proposal, six Wisconsin handlers submitted an alternative proposal to lower Class I differentials.[2]

The Secretary must decide whether or not a hearing should be held. If a hearing is called, he must decide from the evidence if, and how, the regulatory treatment of reconstituted milk in the federal milk marketing orders should be changed.

The Agricultural Marketing Agreement Act of 1937, as amended, provides authority for establishing federal milk marketing orders and for amending such orders. The Act's declaration of policy sets forth the objective of establishing and maintaining orderly marketing conditions for agricultural products in interstate commerce as will provide an orderly flow of the supply thereof to market to avoid unreasonable fluctuations in supplies and prices.

The Agricultural Marketing Agreement Act, the Administrative Procedure Act, and the Department's rules set forth the procedures for establishing or amending orders. The Act provides that whenever the Secretary has reason to believe the issuance of an order (or its amendment) will tend to accomplish the objectives of the Act, then he shall give notice of a hearing on the proposal. From the time of announcing a hearing until the final decision is rendered, the federal officials within the decision channel are restricted from "ex Parte" communications. At formal hearings, evidence is introduced. On the basis of the evidence and briefs submitted by interested persons, a recommendation is made as to whether the proposal should be adopted. Additional time is allowed for filing exceptions. Then, a final decision is issued by the Secretary. If it is decided that no order or amendments should be adopted, then the proceeding is terminated.

If the final decision is that a new or amended order should be made effective, a referendum is conducted among producers in the affected federal order market. Farmer cooperatives have authority to bloc-vote for all of their producer members. If at least two-thirds (three-fourths in certain cases) of the producers voting in a market affirm the proposed new order or amended order, then the order is issued. If, however, the referendum on an amended order fails, the order is terminated.

Although the regulations apply to handlers, the primary impact of the reconstituted milk regulations also falls on the dairy producers and fluid milk consumers in the federal milk order areas. Secondary impacts are on dairy producers outside those areas and consumers of manufactured milk products throughout the country.

3. Background Situation and Need for Action

The Federal Milk Order Program—On January 1, 1980, there were 47 federal milk marketing orders in the United States. Through these milk marketing orders, the federal government directly regulates the handling and pricing of about 65 percent of all U.S. produced milk and about 80 percent of all U.S. Grade A milk. Much of the remaining Grade A milk not regulated by federal orders is priced under State regulations. Grade B milk (manufacturing grade—about 17 percent of total U.S. production) is produced under less stringent farm sanitation standards than Grade A milk and, under present State health regulations, cannot be sold for drinking purposes. Grade B milk is not regulated under federal orders. About half of the Grade B milk in the United States is produced in Minnesota and Wisconsin.

Federal orders require handlers who buy Grade A milk from dairy farmers or their cooperative associations and who distribute it in the specified market order area to pay at least minimum milk prices depending on how the milk is used. If the milk is used in hard manufactured products such as cheese, butter, dry whole milk, and nonfat dry milk, a handler pays the lowest price (Class III price in most orders). The Class III price is set equal to the average price that manufacturing plants pay per 100 pounds of Grade B milk (f.o.b. plants) in the Minnesota-Wisconsin area (usually referred to as the M–W price).[3] This price is essentially the same in all federal orders across the United States. Manufacturing grade milk prices are supported under a separate program.

The minimum price charged handlers for milk used in fluid milk products is different in each federal order and is determined each month by adding a designated amount (Class I differential) to the M–W price for the second preceding month. Although different in each federal order, the Class I differentials are related to each other in many orders. In federal orders east of the Rocky Mountains, the minimum Class I price per 100 pounds of milk is approximately the M–W price plus 90 cents plus 15 cents per 100 hundred miles the specific order area is located from Eau Claire, Wisconsin. For example, the minimum Class I price in the southeastern Florida market order is set $3.15 above the M–W price, i.e., 90 cents plus $2.25 for the approximately 1,500 miles the order is from Eau Claire. The minimum Class I prices set in some orders located in the far west are less than those calculated with this formula. Under federal orders, all handler payments for regulated milk used in different classes are pooled, and farmers are paid on the basis of an average value of milk in all uses (blend prices).

Reconstituted milk, which may be made by recombining nonfat dry milk, milk fat, and water, is subject to regulation by federal orders (reconstituted and recombined milk are used interchangeably in this impact statement). When processed for drinking purposes, reconstituted milk is classified as Class I milk as are other milk products processed for fluid consumption.

The allocation provisions of milk orders require complete allocation of reconstituted milk made from purchased powder to a handler's Class III use to the extent that a handler has Class III use. If a handler has insufficient Class III use (or Class II use) to which such reconstituted milk can be allocated, it must be allocated to Class I use. For such reconstituted milk allocated to Class I use, a handler is charged a compensatory payment. The payment is computed as the difference between the order Class I and Class III prices.

This treatment of such reconstituted milk under Federal orders is a part of the overall means by which "other source" milk that comes into a market is regulated. Regulated handlers may receive milk not only from producers but from other sources, as well, such as bulk milk or powder from other Federal order markets or from unregulated plants. This procedure is established to allocate each handler's receipts from the various sources to his utilization of milk in order to determine how much producer milk is to be priced in each class.

Proposals Being Considered—The CNI proposal would remove reconstituted milk from the Class I pricing provisions of all Federal milk orders. Based on the specific order changes proposed by CNI, the effect of the proposal would be that of reclassifying reconstituted fluid milk products in the lowest class.[4] However, if handlers blend reconstituted milk with fresh fluid milk, the change in pricing under the proposal would apply only to the reconstituted portion, while the fresh part of the blended product would continue to be priced as Class I milk.

The Community Nutrition Institute, et al. petition states that existing milk order regulations of reconstituted milk:

(1) Eliminate from commerce an equally nutritious, but lower cost, alternative to fluid milk, thus aggravating the effects of food price inflation, especially for the poor, by adding millions of dollars to the nation's annual food bill,

(2) Are unnecessary to protect milk producers,

(3) Are contrary to the Agricultural Marketing Agreement Act policy to protect against unreasonable fluctuations in supplies and prices,

(4) Create a barrier to the marketing of nonfat dry milk and are in violation of Section 8c of the Agricultural Marketing Agreement Act, and

(5) Extend beyond the authority of the Secretary to regulate the price of milk substitutes.

During the prehearing comment period on the CNI petition, six Wisconsin handlers proposed that if a hearing were called on reconstituted milk that Class I differentials in all federal milk orders be reduced by $.81 per hundredweight. In support of the proposal, petitioners stated that consumers presently buy "powdered milk" and mix it with whole milk and water as a lower cost alternative to fresh milk. In petitioners' view, this practice is detrimental to milk producers in that it hinders the sale of fresh milk, particularly in areas where there are readily availale supplies of fresh Grade A milk. From this, petitioners concluded that Class I prices are established at artifically high levels that impose artifically high costs on consumers of fresh milk.

They make the following points:

(1) Present Class I price levels are inflationary, cause consumer rebellion, are detrimental to the producers whom orders and the Act (Agricultural Marketing Agreement Act of 1937) are supposed to protect.

(2) The purpose of the Class I differential is to attract Grade A milk for fluid use and that the difference in cost of producing Grade A versus Grade B milk is very little if anything at all because the requirements for manufacturing grade milk have increased to the point where cost requirements are virtually no different.

(3) The Agricultural Marketing Agreement Act does not authorize the Secretary to provide pool qualifying percentages in order to force milk to be sold to the fluid market. Petitioners state that the marketwide pool contradicts and defeats the purpose of the Class I differential when it can be used for attracting milk for manufacturing use. The net result, they continue, is that the Class I prices have been forced artifically high for the purpose of subsidizing a Class II manufacturing market.

(4) The Only way a Class I differential can truly be effective to attract milk for fluid use is on an individual handler basis.

(5) If Class I differentials are reduced by $.81 and the resulting farm prices are insufficient to provide adequate producer income, then producer income should be bolstered by the price support system.

(6) The Secretary has exceeded his authority in establishing the class differentials presently being used under the federal order milk marketing system as is evidenced by the language in the provision of the law.

(7) The Secretary has not adjusted the price levels to those feasible in view of the current consumptive demand in domestic markets. Federal order statistics show a nationwide surplus of Grade A milk available for fluid use of approximately 70 percent.

(8) The reduction in the Class I differential will also negate the incentive to use powdered milk as a fresh milk substitute.

4. Analysis and Special Analytical Problems

The purpose of this analysis is to identify and, to the extent possible, to

[1] Petition for rulemaking before the U.S. Department of Agriculture, Washington, D.C., by the Community Nutrition Institute, Zy Weinberg, Deborah Harrell, Dr. Ralph Desmarais, and Joseph Oberweis, Petitioners, 1146–19th Street, N.W., Washington, D.C., 20036, August 23, 1979.

[2] Richard J. Lamers, Lamers Dairy Inc., Kimberly, Wisconsin; Wayne Williams, Birdseye Dairy, Inc., Green Bay, Wisconsin; Russel Stoer, Stoer Dairy, Two Rivers, Wisconsin; Howard Hansen, Hansen's Dairy, Green Bay, Wisconsin; Harlan Kirchner, Crystal Fountain Dairy, Inc., Clintonville, Wisconsin; and Marvin Neilsen, Gustafson Ice Cream and Dairy Co., Rice Lake, Wisconsin. Submitted to William T. Manley, Deputy Administrator, AMS, USDA, January 14, 1980.

[3] In most federal orders, the price charged handlers for milk used in soft manufactured products such as fluid cream products, cottage cheese, ice cream, and frozen desserts (Class II products in most orders) is set 10 cents above the Class III price.

[4] The CNI proposal would change the orders by (1) removing reconstituted milk products from the definition of "other source milk" for the purpose of eliminating the "down allocation" of milk ingredients used in such products and (2) eliminating the requirement that processors of reconstituted milk products make a "compensatory payment" on such products assigned to Class I use.

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measure the economic impacts of the CNI proposal and the Wisconsin handlers' proposal. In addition, the analysis describes impacts of other changes that logically could be proposed in connection with consideration of the issue of reclassification of reconstituted milk.

Three basic alternatives are considered:

a. Current policy continued without change in each order.

b. The CNI proposal.

Eliminate the "down allocation" and "compensatory payments" now required when handlers use milk reconstituted for fluid use, thereby in effect reclassifying the product in a lower price class. Any fresh milk blended with reconstituted milk would continue to be priced at the Class I price. Only products made from nonfat dry milk and butterfate would be reclassified.

c. The Wiconsin Handlers' proposal.

This proposal called for an 81-cent reduction of Class I differentials.

The excepted impacts of these proposals would vary on the basis of the product sold, its price, prices of competing products, and actions that could be taken by the government to partially offset anticipated impacts on producers' cash receipts. The CNI proposal and the Wisconsin handlers' proposal were first evaluated assuming that the Class I differentials now set under market orders are left unchanged, and alternatively, with Class I differentials changed to permit fresh fluid milk to compete with reconstituted milk wherever reconstituted milk would otherwise be expected to capture a significant share of the market.

Similarly, in cases where the reclassification of reconstituted milk would be expected to have a significant impact on prices and incomes, alternative evaluations were made with the price support level unchanged, and with price support levels increased as necessary to hold the average U.S. all milk wholesale price received by farmers unchanged.

The study relies on a nine-region model of the U.S. milk industry to estimate changes in production, consumption, prices, expenditures and returns by regions. Actual industry conditions in 1978 are the basis for comparison.

While the model does make it possible to estimate a broad range of economic impacts, others cannot be measured because no data are available. The most important of these is the acceptability of reconstituted milk by consumers and the extent to which such a product would be sold in each of the fresh milk markets across the U.S.

(a) Product Acceptance. Reconstituted milk, recombined and packaged at central plants, has not been generally available for sale in the U.S. As a result, the extent to which such a product would compete with fresh fluid milk cannot be measured empirically. However, the best evidence available indicates that a blended product containing 50 to 70 percent reconstituted milk is nearly indistinguished from fresh fluid milk, either by taste or by chemical analysis.

Because reconstituted milk consists entirely of whole-milk derivatives, it is no different nutritionally from fresh fluid milk.

According to food technologies, most laboratory procedures cannot determine whether fluid milk is reconstituted or fresh as long as low-heat nonfat dry milk is used as an ingredient.[6] In 1967, the University of Illinois found that "Beverage milk of acceptable quality can be prepared from sterilized cream, low heat powder of good quality, and potable water." The report indicated "Furthermore, slight strong flavors in the sterilized cream were not detected in such reconstituted milk by an experienced judging panel here at the University of Illinois."[6]

As pasteurizing temperatures have increased, consumers have adjusted to a cooked flavor in fresh milk which makes it harder to distinguish any cooked flavor in reconstituted milk.[7]

Recombined milk is sold in Alaska as a 100 percent reconstituted product. Regulations there prohibit blending reconstituted and fresh milk. A major dairy in Anchorage makes and sells this product under the label "North Star Flavor Fresh Homogenized Recombined Milk." It sells at about the same price as prepackaged fresh milk shipped from the continental U.S., but about 15 to 20 cents per half gallon less than Alaskan produced fresh milk sold by that dairy's competitiors.

In one instance in 1973, a North Carolina dairy began reconstituting skim milk from nonfat milk powder and water, and blending this reconstituted milk with fresh whole milk with 3.8 butterfat to make lowfat fluid milk. The product was labeled "Arcadia Reconstituted Lowfat Milk." It achieved some market penetration when it was priced about 10 cents per gallon below fresh fluid milk prices in that market.

This product was fortified and contained 9.5 percent nonfat solids, compared with about 8.6 percent nonfat solids in fresh fluid milk generally sold in that market.

The handler, Arcadia Dairy, was repeatedly challenged by the North Carolina Milk Commission which initially tried to required the product to be priced at Class I prices, but later reduced the price of milk used in lowfat products by $1 per hundredweight so that fresh fluid lowfat milk generally could be sold at about the same price.

The litigation received considerable attention at the time, and the publicity may have increased the public's awareness of the product and its willingness to buy and consume it. The dairy manager reported that the reconstituted product was readily accepted and sold well. This spring (April 1980) Arcadia Dairy merged with a dairy cooperative and their sale of reconstituted milk was discontinued.

Based on the limited evidence in these observations, the following assumptions are used for this analysis:

1. When consumers can choose between two products, one consisting entirely of fresh fluid milk and the other either partly or entirely reconstituted, and when the prices of the two products are identical, they will choose to consume fresh fluid milk.

2. Products partly or entirely made from reconstituted milk will be required by the states to be so labeled.

3. A blended product containing fresh fluid milk and less than 70 percent reconstituted milk is nearly indistinguishable in taste from fresh fluid milk.

4. Consumer acceptance and sale of reconstituted milk would depend on its price advantage over fresh fluid milk. In markets where a significant price advantage persists, the market penetration of reconstituted milk would reach a maximum level after 36 months. The assumed maximum penetration would be related to the 1978 calculated price advantage.

Because the CNI proposal implies that Class I prices are not changed regardless of the market penetration of reconstituted milk, there is a persistent incentive for additional market penetration by reconstituted milk in markets where it has a significant price advantage. Even so, it is unreasonable to expect that fresh fluid milk would lose some markets entirely to reconstituted milk. As a result, constraints on market penetration were imposed on the model.

[5] Interview with Manager of Arden Farms, Anchorage, Alaska; Manager of Arcadia Dairy, Arden, North Carolina; and food technologists at the University of Minnesota.

[6] E. O. Herreid and H. K. Wilson, *Milk Fortification and Reconstitution with Solids-Not-Fat*, paper to the Ninth Ag. Industries Forum, University of Illinois, February 1967, p. 27.

[7] Interview with Vernal Packard, Food Science, University of Minnesota.

(b) Timing of Impacts. This analysis draws no direct conclusions regarding the timing of the impacts it attempts to characterize. Rather, it depends on a "comparative statics" technique which measures and compares economic factors after a policy change. The extent to which adjustments and impacts so measured are "partial" or "complete" depends on the coefficients of adjustment used in each case.

If reconstituted milk were to be offered for sale generally, it would be a new product to most consumers. Consumer acceptance of new products is not instantaneous regardless of how attractive the product price may be. It depends on many things including the information that consumers have. At least part of that information comes from advertising. This analysis does not include the likelihood of retailers or others advertising or attempting to increase their market share through other marketing techniques, or of the likelihood or effectiveness of possible advertising by competing products. Because we cannot estimate the timing of various levels of potential impacts the following additional assumptions were made:

1. Some impact would be felt within six months after introduction. In this analysis, these impacts were measured using "short term" coefficients of supply and demand.

2. After 18 months, additional impacts would be felt. These were measured using longer-term supply and demand coefficients. It is assumed that about one half of the long-term impact on supply will be completed by 18 months, but that the major impact on demand will be realized by 18 months.

3. The major impacts of the introduction of reconstituted milk products at the prices specified on both supply and demand would occur within 36 months after introduction.

(c) State Laws Concerning Reconstituted Milk. In seven states, producing and/or selling reconstituted milk is against the law (Alabama, Idaho, Massachusetts, New Hampshire, South Carolina, Tennessee, and West Virginia). In 1977, every state but South Dakota had some form of regulation that applied to reconstituted milk. In most states, there are specific labeling requirements. In others, some reconstituted products are prohibited, but not others. Table 1 shows the types of special regulations by state.

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Table 1. State regulations applied to reconstituted fluid milk products, 1977*

State	Direct state prohibition on recombined milk	Grade A ordinance prohibition on recombined milk	State regulation of prices for recombined milk	Recombined milk product currently being offered for sale in state other than cultured buttermilk	Specific labeling requirements for recombined milk
Alabama	Yes +	No	N/A	No	N/A
Alaska	No	No	No	Yes	Yes
Arkansas	No	No	No	No	Yes
Arizona	No	No	No	No	Yes
California	No	No	Yes	No	Yes
Colorado	No	Yes	N/A	No	N/A
Connecticut	N/R	Yes	N/A	N/A	N/A
Delaware	No	No	No	N/R	Yes
Florida	No	Yes	No	No	Yes
Georgia	No	Yes §	N/A	No	N/A
Hawaii	No	No	No	Yes	Yes
Idaho	Yes	No	N/A	No	N/A
Illinois	No	No	No	No	Yes
Indiana	No	No	No	No	Yes
Iowa	No	No	No	No	Yes
Kansas	No	No	No	N/R	Yes
Kentucky	No	No	No	No	Yes
Louisiana	No	Yes	N/A	No	N/A
Maine	No	No	No	No	Yes
Maryland	No	No	No	No	Yes
Massachusetts	Yes	No	No	No	N/A
Michigan	No	No	No	No	Yes
Minnesota	No	No	No	No	Yes
Mississippi	No	No	No	No	Yes
Missouri	No	No	No	Yes	Yes
Montana	No	No	Yes	No	Yes
Nebraska	No	No	No	N/R	Yes
Nevada	No	Yes	No	No	N/A
New Hampshire	Yes	No	No	No	N/A
New Jersey	No	No	Yes	Yes	Yes
New Mexico	No	No	No	N/R	Yes
New York	No	No ‡	Yes	Yes	Yes
North Carolina	No	No	Yes	Yes	Yes
North Dakota	No	No	Yes	N/R	Yes
Ohio	No	No	No	No	Yes
Oklahoma	No	No	No	Yes ‖	No
Oregon	No	No	Yes	No	Yes
Pennsylvania	No	No	Yes	N/R	Yes
Rhode Island	No	Yes	No	No	N/A
South Carolina	Yes +	Yes	Yes	Yes §	Yes
South Dakota	No	No	No	No	No
Tennessee	Yes §	No	No	No	No
Texas	No	No	No	No	Yes
Utah	No	No	No	No	Yes
Vermont	No	Yes	N/R	No	N/A
Washington	No	No	No	No	Yes
Virginia	No	No	Yes	Yes	Yes
West Virginia	Yes	Yes	No	No	N/A
Wisconsin	No	No	No	Yes **	Yes
Wyoming	No	No	Yes	No	Yes
Puerto Rico	No	No	No	Yes	No
Totals:					
Yes	7	9	11	11	35
No, not applicable or no response	44	42	40	40	16

*Tabulations are based on responses from individuals in state departments of agriculture, milk control agencies, or health departments. Some indicated that as they had little or no experience with the product, they were somewhat unsure on how their regulations would apply.

+ Except cultured buttermilk.

‡ Fluid milk (3.25 percent fat and 8.75 percent solids not fat) cannot be modified in any manner. All other fat content milk products can be recombined.

§ May be set aside in the event of a milk shortage.

‖ A small number of processors are using nonfat powder to extend whole milk supplies to produce lower fat (2 percent) milk.

**Some processors are marketing a recombined chocolate milk drink.

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Because it is not possible to measure the potential impact of state regulation on the alternative proposals, this analysis relies upon a national milk production, consumption, and transportation model to measure impacts that would be expected in the absence of state regulations to prevent the sale of reconstituted milk.

If the federal orders were amended to reclassify reconstituted milk, we would expect increased efforts by some groups to prohibit or restrict the sale of such products. However, other groups would be expected to counter those efforts by attempts to reduce restrictions that now exists. Because the likelihood of success of such efforts is impossible to predict or measure, no estimates of their impacts are presented.

(d) *Methodology.* The impacts of each option were estimated with the assistance of a nine-region dairy industry model. The nine regions used are shown in figure 1. Details of the model are reported in "A Framework for Evaluating the Economic Impact of Classified Pricing of Milk," Staff Paper P77-24, Department of Agricultural and Applied Economics, University of Minnesota, November 1977.

Fluid milk prices are those prevailing in 1978 and include the over-order payments. The analysis assumes that any adjustment in minimum Class I differentials set under federal orders would result in the same change in the prevailing Class I price. Both over-order payments and farm to retail margins are held constant.

The elasticities used in calculating the impacts are summarized in table 2.

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Table 2. Fluid demand and supply elasticity assumptions used in analysis*

Region	Fluid demand			Supply		
	6 months	18 months	3 years	6 months	18 months	3 years
	Coefficients of elasticity					
Northeast	-.028	-.168	-.168	.017	.079	.22
Corn Belt	-.028	-.168	-.168	.006	.029	.08
Lake States	-.021	-.123	-.123	.006	.029	.08
Southeast	-.041	-.244	-.244	.01	.05	.14
South Central	-.036	-.216	-.216	.01	.05	.14
Plains	-.033	-.197	-.197	.002	.01	.03
Mountain	-.029	-.173	-.173	.013	.064	.18
Southwest	-.026	-.158	-.158	.026	.132	.37
Northwest	-.029	-.173	-.173	.026	.132	.37

* These are farm level elasticities which are approximately 1/2 of the retail elasticities. The supply coefficients used for three-year impacts are based on estimates by Jerome W. Hammond, "Regional Milk Supply Analysis," Department of Agricultural and Applied Economics Staff Paper P77-12, University of Minnesota, July 1979, p. 2. The demand elasticities were those developed and used in the publication, Alternative Pricing Policies for Class I Milk Under Federal Marketing Orders--Their Economic Impact, Economics, Statistics and Cooperatives Service, U.S. Department of Agriculture, Ag. Economics Report No. 401, May 1978, P. 55. The implied three-year adjustment supply elasticities for these coefficients range from .03 to .37 for the nine regions. The demand elasticities for fluid milk range from -.123 to -.244 and the manufacturing milk demand elasticity was -.075 for the six-month impact and -.45 for the 18- and 36-month impact.

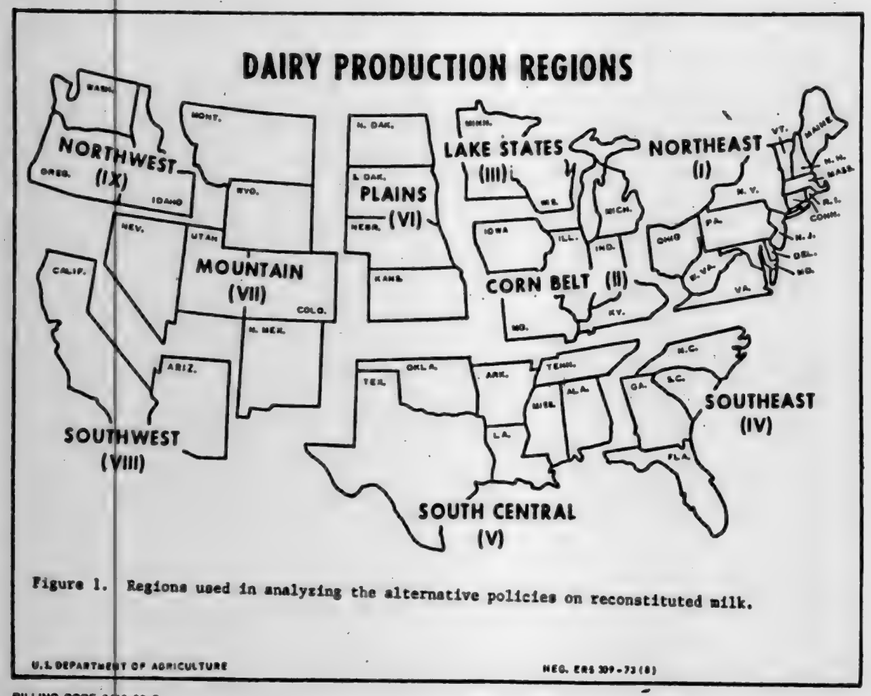


Figure 1. Regions used in analyzing the alternative policies on reconstituted milk.

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5. Options Considered

(a) *Continue Current Policy.* The present regulatory provisions of the federal orders, including the present treatment of reconstituted milk, were established on the basis of deliberations by the government in rule-making proceedings in the implementation of the classified pricing and uniform pricing requirements of the Agricultural Marketing Agreement Act.

The implications of a continuation of current policy would be expected to be found in several areas. First, the regulations of the current federal orders tend to result in an economic disincentive for development and use of some technologies to reduce the cost of fluid milk. In areas where part of the milk needed for fluid use must be hauled substantial distances, deficits tend to be supplied by fluid milk regardless of the availability of a technology that might permit savings from the shipment of butter and powder and subsequent reconstitution.

With no change in the pricing of reconstituted milk, handlers in most areas would continue to have a strong disincentive to use reconstituted milk rather than fresh milk in processing fluid milk products. This would eliminate any potential savings for consumers in some areas of the country who might purchase commercially reconstituted or blended products. This also would largely remove the incentive for handlers in deficit production markets to obtain supplemental milk supplies in concentrated form, even though moving milk in concentrated form could reduce hauling costs and energy consumption.

Even so, nonfat dry milk can be purchased at retail stores and used to make "reconstituted milk." Although costs of home reconstituted milk are less than fresh fluid milk at retail, sales are small and would be expected to continue to be small, barring a change in consumer preference and response to that product. Because consumers must mix reconstituted milk (blend nonfat dry milk and water), it is not identical to commercially mixed reconstituted milk.

Over the past decade, total milk production over and above fluid consumption has been increasing most rapidly in regions with the highest cost of production. Also, investment in milk manufacturing facilities in those regions has grown more rapidly than in the regions where the cost of producing milk is lowest.

Local fluid milk prices depend on the supply and demand for milk and the milk price support level as well as the price differentials established by the federal orders. In the late 1960's, the Class I minimum prices in the fluid milk market orders were adjusted to reflect transportation costs plus a uniform differential of about 90 cents per hundredweight for Class I milk. Since then, the average spread betweeen fresh fluid milk prices (over-order premiums) and the Class I minimum prices has increased sharply, but the Class I price differential generally has not been changed. Over the same period, the price support level for milk has increased from $4.28 per hundredweight in 1968 to $13.10 in 1980. To continue the current milk price structure would be expected to continue this most recent pattern of investment in milk production and manufacturing.

The current policy has provided an ample and stable supply of high quality milk in all parts of the U.S. It has contributed to the willingness of investors to develop production and processing facilities to assure adequate supplies in the future.

Continuation of the current policy option is reflected as the baseline in each of the following analyses. As a result, these analyses do not specifically estimate the cost of this option to either consumers or taxpayers.

(b) *The CNI Proposal.* The CNI proposes to remove reconstituted milk from the Class I pricing provisions of the milk orders. The proposal would permit the sale of both a product consisting of 100-percent reconstituted milk which would be reclassified and not subject to order Class I pricing policies and a reconstituted milk product blended with fluid milk. For the blended product, the fresh milk used would be priced at the Class I price. The CNI petition is analyzed, first assuming that only a 100-percent reconstituted product would be reclassified, and then assuming that reconstituted milk used in blended products would be reclassified.

Unblended Reconstituted Milk—If reconstituted milk is not blended with fresh milk, it would be expected to be regarded by some consumers as an acceptable product, but detected and discriminated against by others. Differences in the costs of transporting fluid milk as opposed to the cost of reconstituted milk from ingredients would allow price differences in some markets up to 8 cents per half gallon (in 1978 prices). The fresh fluid milk price would be unchanged by the proposed change in the regulation and would continue to be based on the prevailing Class I price. The price for reconstituted milk would be based on the price of manufacturing milk and the cost of drying milk and reconstituting it.

Because of its price advantage, some reconstituted milk would be sold in every region except the Southwest.[6] As a result, the average U.S. fluid milk price would be reduced slightly and consumption increased slightly in each region where there are significant sales of reconstituted milk.

As described above, the degree of market penetration is assumed to depend on the price advantage over fresh milk in each market. However, the sale of reconstituted milk would not be expected to exceed 5 percent of fluid milk consumption in any market after six months, and 20 percent in any market after three years (table 3).

[6] The Southwest region is dominated by California, which regulates its own milk and is not under the federal milk order program. In California, the regulations that make reconstituted milk uneconomical to produce are imposed by the state and would not be removed by the CNI proposal.

Table 3: Price differences and maximum market penetration for unblended reconstituted milk

Item	REGION								
	NE	CB	LS	SE	SC	PL	M	SW	NW
	Cents per half gallon								
Price advantage of 100 percent reconstituted milk (1978 prices)	6.6	3.2	1.6	8.1	5.0	2.7	3.3	0	2.2
	Percent of fluid market								
Maximum market penetration of unblended product									
6 months	5	2	0	5	5	0	2	0	0
18 months	10	5	2	15	10	2	5	0	2
36 months	15	10	5	20	15	5	10	0	5

Table 4: Impacts of the CNI proposal for unblended reconstituted milk after three years*

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	percent change				
Northeast	-1.8	-1.9	-0.43	0.30	-2.13
Corn Belt	-0.6	-1.0	-0.08	0.11	-0.95
Lake States	-0.2	-0.1	0	0.04	-0.07
Southeast	-2.9	-5.4	-0.75	0.71	-5.74
South Central	-1.4	-2.1	-0.30	0.31	-2.27
Plains	-0.3	-0.2	-0.02	0.08	-0.39
Mountain	-0.3	-0.9	-1.46	0.05	-0.98
Southwest	0	0	0	0	0
Northwest	-0.3	-0.3	-0.11	0.05	-0.18
United States	-1.3	-1.1	-0.22	0.23	-1.26

* For additional information on regional prices and use, see Appendix Table 1.

This analysis implies that about 6.6 billion pounds (annual rate) of unblended reconstituted milk would be sold—about 11.7 percent of fluid consumption (table 5). Fluid milk consumption would increase slightly—130 million pounds or about 0.2 percent.

Model results indicate that most sales of reconstituted milk would displace sales of locally produced fresh fluid milk. Local milk displaced from fresh fluid sale would be used locally for manufacturing and valued at the manufacturing milk price. The supply of locally produced milk would permit virtually all of the demand for reconstituted milk to be supplied locally in most orders, even after the production adjustment caused by the price reductions, with the exception of the Southeast during the short production season.

The potential impact of the CNI proposal (unblended option) would vary widely by region.

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Table 5: Impacts of CNI proposals if unblended reconstituted milk is reclassified

Item	Region NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	12.24	11.44	11.05	12.65	11.92	11.37	11.69	10.71	11.51	11.80
18 months	12.16	11.41	11.04	12.46	11.87	11.36	11.67	10.71	11.51	11.74
36 months	12.09	11.38	11.03	12.37	11.81	11.34	11.67	10.71	11.48	11.69
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.81	10.33	10.14	11.67	11.14	10.12	10.80	10.26	10.44	10.53
18 months	10.74	10.29	10.14	11.44	11.09	10.11	10.77	10.26	10.43	10.49
36 months	10.67	10.24	10.13	11.32	10.98	10.10	10.73	10.26	10.41	10.45
Mfg. milk price 1978										9.49
6 months										9.49
18 months										9.49
36 months										9.49
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,422	18,490	30,341	5,314	9,939	5,188	2,868	12,763	5,380	121,705
18 months	31,392	18,487	30,341	5,303	9,934	5,188	2,857	12,763	5,379	121,644
36 months	31,291	18,476	30,340	5,275	9,910	5,187	2,829	12,763	5,374	121,445
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,588	10,241	2,794	4,902	7,537	1,294	1,912	6,178	1,851	56,296
18 months	19,625	10,247	2,795	4,927	7,550	1,294	1,913	6,178	1,851	56,379
36 months	19,644	10,251	2,795	4,935	7,558	1,295	1,913	6,178	1,852	56,420
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	979	205	0	245	377	0	38	0	0	1,844
18 months	1,963	512	56	739	755	26	96	0	37	4,183
36 months	2,947	1,025	140	987	1,134	65	191	0	93	6,581
Mfg. consumption 1978										62,755
6 months										62,755
18 months										62,755
36 months										62,755
Gov't. purchases 1978										2,668
6 months										2,654
18 months										2,510
36 months										2,270
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,356	1,887	3,040	612	1,093	519	307	1,294	555	12,663
18 months	3,330	1,879	3,039	598	1,088	519	306	1,294	555	12,608
36 months	3,305	1,871	3,038	591	1,076	517	304	1,294	553	12,549

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The all milk price would be about 12 cents per hundredweight lower nationally—about 1.1 percent—and would range from 64 cents per hundredweight lower in the Southeast to unchanged in the Southwest. Fluid prices would be 15 cents per hundredweight lower nationally (1.3 percent). There would be relatively little impact in the Lake States, Plains and Northwest regions.

Cash farm receipts would be reduced about $160 million or about 1.3 percent after three years. In the Southeast, they would be down 5.7 percent. In the Northeast and South Central, they would be down 2.1 percent. In the Lake States and in the Southwest cash receipts would be about unchanged.

Under the assumptions of the analysis, savings would be expected in both consumer expenditures and government expenses.[a] Consumer expenditures for fluid milk products would decline about $55 million (0.5 percent) from 1978 expenditures of about $12.0 billion. Government expenditures would be reduced about $55 million or 15 percent.

Savings and costs associated with the CNI proposal (unblended option after three years) are shown below:

Changes in annual—	Million dollars
Consumer expenditures	−55
Government purchases	−55
Cash farm receipts from milk	−160

Under the assumptions of the analysis, the reduction in cash farm receipts would exceed the saving to consumers because the price consumers would pay for reconstituted milk includes the cost of drying and reconstitution. The reduction in farm cash receipts reflects the displacement from fresh fluid use to manufacturing use, and the difference in the Class I price and the manufacturing price. As a result, the per unit reduction in consumer cost would be smaller than the reduction in per unit farm receipts.

The increased total milk sales resulting from the price decrease would not offset the loss in farm receipts from reduced fresh fluid sales.

Blended Reconstituted Milk—According to the best evidence available at this time, reconstituted milk blended with at least 30 percent fresh fluid milk is a reasonably close substitute for fresh fluid milk. While it likely would be required to be labeled to indicate that it was manufactured from powder and butterfat and blended with fresh fluid milk, and would be prohibited by law in some states and restricted in others, it would be expected to achieve significant market acceptance wherever it was available at a price advantage.

The fresh fluid milk price would be based on the Class I price while the price for blended reconstituted milk would be based on three factors: the price of manufacturing milk; the cost of drying and reconstitution; and the Class I price. Blended reconstituted milk would be expected to sell at a price advantage and to compete favorably with fresh fluid milk in every region except the Southwest. Although the Class I fluid prices would not change, the sale of reconstituted milk at lower prices would slightly reduce the U.S. average fluid milk price. As a result, consumption would increase slightly in each region where there are significant sales of reconstituted milk. Most sales of reconstituted milk would displace sales of locally produced fresh fluid milk.

Local milk displaced from fresh fluid sales would be used for manufacturing and valued at the manufacturing milk price. The supply of locally produced milk would be adequate to provide virtually all of the reconstituted milk consumed.

As described above, the degree of market penetration is assumed to be constrained by the price advantage in each market. It was assumed that a 50/50 blend of reconstituted and fresh milk would not exceed 20 percent of total fluid sales in any region after six months and that a 70/30 reconstituted/fresh milk blend would not exceed 80 percent of the total fluid sales in the Southeast after 36 months under even the largest observed price advantage. The constraints assumed for other regions are shown below (table 6).

Table 6: Price difference per half gallon and maximum market penetration assumptions for blended reconstituted milk

Item	REGION								
	NE	CB	LS	SE	SC	PL	M	SW	NW
	Cents per half gallon								
Price advantage for--									
50/50 blend	3.3	1.6	0.8	4.0	2.5	1.4	1.6	0	1.1
60/40 blend	4.0	1.9	1.0	4.9	3.0	1.6	2.0	0	1.3
70/30 blend	4.6	2.2	1.1	5.7	3.5	1.9	2.3	0	1.5
	Percent of fluid market								
Maximum market penetration of blended product									
6 months									
50/50 blend	20	10	0	20	15	0	10	0	5
18 months									
60/40 blend	45	30	20	50	40	30	30	0	30
36 months									
70/30 blend	70	50	30	80	60	50	50	0	45

Given the assumptions of the analysis, the blended option implies that up to 21.6 billion pounds of blended reconstituted milk would be sold on an annual basis after 36 months following adoption of the CNI proposal. Blended reconstituted milk would account for up to 38 percent of fluid milk consumption.

[a] Retail prices for fluid milk per held gallon are calculated as:

$$\frac{P_f}{22.7} + \$0.4209$$

Where P_f is the farm level fluid milk price, 22.7 is the number of half gallons per hundredweight of milk and $0.4209 is the assumed farm-retail price margin per half gallon.

Retail price per 1/2 pound of cheese is calculated as:

$$\frac{P_m + \$10.34}{19.32}$$

Where P_m is the manufacturing milk price, $10.34 is the farm-retail margin per hundredweight of milk and 19.32 is the number of 1/2 pounds of cheese made from 100 pounds of milk.

In both cases the farm-retail margin is assumed to be constant.

Within six months of introduction, the analysis indicates that the national average fluid milk price would be 9 cents per hundredweight lower (table 7). On an annual basis, consumption of reconstituted milk would be 6.5 percent of fluid milk consumption. After three years fluid milk prices would average 49 cents per hundredweight lower nationally (4.1 percent).

This impact would vary significantly by regions. In the Southeast 56 percent of the fluid milk consumption would be reconstituted, and in the Northeast, 49 percent. In the Lake States, 21 percent of fluid milk would be reconstituted. No sales of reconstituted milk would be expected in the Southwest.

After three years, the national all-milk price received by farmers would decline as much as 3.9 percent, resulting in a 0.6 percent decline in total milk production.

The national average fluid milk price would decline 4.1 percent resulting in a 0.75 percent increase in fluid milk consumption (fresh fluid and reconstituted).

Table 8: Impacts of blended reconstituted milk after three years*

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	percent				
Northeast	-6.2	-6.6	-1.46	1.04	-7.31
Corn Belt	-2.2	-3.2	-0.25	0.37	-3.23
Lake States	-1.3	-1.2	-0.10	0.18	-0.76
Southeast	-8.1	-12.6	-1.77	1.98	-13.56
South Central	-3.5	-6.1	-0.86	0.85	-6.45
Plains	-1.9	-1.7	-0.06	0.39	-1.73
Mountain	-1.5	-3.9	-0.70	0.37	-4.23
Southwest	0	0	0	0	0
Northwest	-1.4	-1.9	-0.71	0.27	-1.99
United States	-4.1	-3.9	-0.64	0.75	-4.09

* For additional information on regional prices and use, see Appendix table 2.

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Table 7--Impacts of CNI Proposal, reconstituted milk blended with fresh milk is reclassified.

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.93	11.37	11.71	10.71	11.51	11.84
6 months	12.16	11.41	11.05	12.56	11.90	11.37	11.67	10.71	11.50	11.75
18 months	11.91	11.32	11.01	12.19	11.71	11.26	11.58	10.71	11.42	11.58
36 months	11.55	11.20	10.91	11.71	11.51	11.15	11.54	10.71	11.35	11.35
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.74	10.29	10.14	11.55	11.10	10.12	10.77	10.26	10.43	10.50
18 months	10.49	10.17	10.12	11.08	10.82	10.03	10.62	10.26	10.33	10.35
36 months	10.16	10.01	10.02	10.45	10.53	9.95	10.41	10.26	10.24	10.16
Mfg. milk price 1978										9.49
6 months										9.49
18 months										9.49
36 months										9.49
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,418	18,489	30,341	5,313	9,939	5,188	2,871	12,763	5,380	121,702
18 months	31,336	18,481	30,339	5,295	9,923	5,187	2,867	12,763	5,372	121,563
36 months	30,966	18,443	30,312	5,221	9,855	5,185	2,851	12,763	5,342	120,938
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,592	10,241	2,794	4,903	7,537	1,294	1,912	6,178	1,851	56,302
18 months	19,692	10,260	2,796	4,952	7,572	1,297	1,915	6,178	1,854	56,515
36 months	19,788	10,278	2,799	4,997	7,599	1,299	1,919	6,178	1,856	56,713
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	1,959	512	0	490	565	0	96	0	46	3,668
18 months	5,317	1,847	336	1,486	1,817	233	345	0	334	11,715
36 months	9,696	3,597	588	2,798	3,192	455	672	0	585	21,583
Mfg. consumption 1978										62,755
6 months										62,755
18 months										62,755
36 months										62,755
Gov't. purchases 1978										2,668
6 months										2,645
18 months										2,293
36 months										1,470
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,332	1,879	3,040	606	1,090	519	306	1,294	554	12,620
18 months	3,252	1,859	3,033	580	1,062	514	301	1,294	548	12,443
36 months	3,130	1,828	3,017	542	1,030	510	294	1,294	543	12,189

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After three years, milk production would be down 775 million pounds nationally while fluid milk constumption would be up 423 million pounds. Cash receipts by farmers would be down 4.1 percent.

Cash farm receipts for milk would be less than under current regulations for the U.S. total, and for all regions except the Southwest where they would not be materially affected. In the Northeast, the reduction would be 7.3 percent and in the Southeast, 13.6 percent.

Under the assumptions of the analysis, savings would be expected in both consumer costs and government expenses. Consumers would save about $186 million (1.5 percent) from 1978 fluid milk expenditures of about $12.0 billion. Government expenditures would be reduced about $165 million and cash farm receipts $520 million.

Savings and costs associated with the CNI proposal (blended option after three years) are shown below:

Changes in annual—	Million dollars
Consumer expenditures	−186
Government purchases	−165
Cash farm receipts from milk	−520

Under the assumptions of the analysis, the reduction in cash farm receipts would exceed the saving to consumers because the price consumers would pay for reconstituted milk would include the cost of drying and reconstitution. The reduction in farm cash receipts reflects the displacement from fresh fluid use to manufacturing use, and the difference in the Class I price and the manufacturing price.

The increased total milk sales resulting from the price decrease would not be expected to offset the loss in farm receipts from reduced fresh fluid sales.

Maintaining Cash Receipts from Sale of Dairy Products Under Blended Option—The potential decline in the average U.S. all-milk price due to the CNI proposal to change the federal orders could be offset by increasing the support price 7 cents per hundredweight after six months, 22 cents after 18 months and 41 cents after 36 months (table 9).[10] Although increasing the support price would leave the average U.S. all milk wholesale price unchanged, the impact on farm cash receipts would be different in each region.

[10] Options that involve changes in the support price are presented to illustrate the impact on savings and costs. However, any change in the support level would have to meet the criteria of the Agricultural Act of 1949, as amended.

Savings and costs associated with the modified CNI proposal (blended option with price supports increased after three years) are shown below:

Change in annual—	Million dollars
Consumer expenditures	−28
Government purchases	+161
Farm cash receipts from milk	−7

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Table 9 --Impacts of CNI proposal, reconstituted milk blended with fresh milk is reclassified and support price is increased

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	12.23	11.48	11.12	12.63	11.97	11.44	11.74	10.78	11.57	11.82
18 months	12.13	11.54	11.23	12.41	11.93	11.48	11.80	10.93	11.64	11.80
36 months	11.96	11.61	11.32	12.12	11.92	11.56	11.85	11.12	11.76	11.76
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.81	10.35	10.14	11.62	11.16	10.19	10.84	10.33	10.50	10.57
18 months	10.71	10.36	10.34	11.30	11.04	10.25	10.83	10.48	10.54	10.57
36 months	10.56	10.37	10.48	10.87	10.94	10.35	10.80	10.65	10.63	10.57
Mfg. milk price 1978										9.49
6 months										9.56
18 months										9.71
36 months										9.90
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,421	18,490	30,341	5,314	9,939	5,188	2,871	12,765	5,381	121,710
18 months	31,387	18,491	30,358	5,300	9,932	5,189	2,871	12,798	5,387	121,713
36 months	31,222	18,494	30,422	5,247	9,905	5,192	2,869	12,944	5,417	121,712
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,588	10,240	2,794	4,902	7,535	1,294	1,912	6,177	1,851	56,293
18 months	19,633	10,227	2,789	4,931	7,542	1,292	1,909	6,158	1,847	56,328
36 months	19,678	10,216	2,786	4,959	7,543	1,290	1,908	6,140	1,844	56,365
Reconstituted used 1978:	0	0	0	0	0	0	0	0	0	0
6 months	1,959	512	0	490	565	0	96	0	46	3,668
18 months	5,310	1,841	335	1,479	1,810	233	343	0	332	11,683
36 months	9,642	3,576	586	2,777	3,042	451	668	0	581	21,323
Mfg. consumption 1978										62,755
6 months										62,730
18 months										62,100
36 months										61,535
Gov't. purchases 1978										2,668
6 months										2,697
18 months										3,285
36 months										3,812
	Millions of dollars									
Cash farm receipts	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,355	1,891	3,040	609	1,095	522	307	1,303	558	12,681
18 months	3,320	1,893	3,101	591	1,083	526	307	1,325	561	12,707
36 months	3,257	1,895	3,150	563	1,070	531	306	1,362	569	12,702

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The savings by consumers are smaller than those implied by the CNI proposal because of the increase in milk prices that stems from the higher support level. Most of the $520 million reduction in farm cash receipts is avoided. Government costs increase by $181 million—$236 million more than under the unmodified CNI proposal.

Table 10: Impacts of the CNI proposal for blended reconstituted milk (with higher supports) after three years*

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk: consumption	Cash farm: receipts
	percent				
Northeast	-2.8	-2.9	-0.65	0.47	-3.55
Corn Belt	1.4	0.3	0.02	-0.23	0.32
Lake States	2.4	3.4	0.27	-0.29	3.62
Southeast	-4.9	-9.1	-1.28	1.20	-10.21
South Central	-0.5	-2.5	-0.35	0.11	-2.82
Plains	1.7	2.3	0.08	-0.31	2.31
Mountain	1.2	-0.3	-0.07	-0.21	-0.33
Southwest	3.8	3.8	1.42	-0.62	5.26
Northwest	2.2	1.8	0.69	-0.38	2.71
United States	-0.7	0	0	0.13	0.06

* For additional information on regional prices and use, see Appendix table 3.

The increase in price support levels reduces the impacts of the CNI proposal on cash farm receipts in those regions where the greateest reductions are estimated—the Southeast, Northeast, and South Central. However, reductions in cash receipts would still be expected in those regions. And, in the Southwest, where no reconstituted milk would be sold, the increase in receipts would be the greatest.

Reconstituting Milk Solely to Have It Reclassified—Because the CNI proposal implies a significant economic advantage for reconstituted milk in eight of the nine regions, as much as 21.6 billion pounds of milk would be dried and then reconstituted annually.

Most of this milk would be reconstituted solely to circumvent regulation.

The drying and reconstitution of fluid milk is a relatively costly process. It can be economical to use reconstituted milk if long distance hauling of fresh fluid milk is avoided or if very high production costs are avoided. However, diversion of locally produced fresh fluid milk into manufacturing uses solely to permit it to be reclassified and sold locally at a lower price is an uneconomic process because it increases production costs with no increase in produce value. It is therefore an inefficient way to reduce consumer expenditures.

To use an example from the Southeast Region, fresh fluid milk sold for about $12.74 per hundredweight in 1978. However, milk reconstituted from shipped-in ingredients could have been sold at $10.76. Surplus local milk displaced by the reconstituted milk, would be sold for manufacturing for $9.49 per cwt. and could have been purchased for that price plus the cost of making nonfat dry milk and butter ($1.15 cents per cwt)—about $10.64. Thus, milk dried locally would compete favorably with nonfat dry milk and butter transported from other regions because there would be less transportation cost.

It would appear that the only way to avoid the uneconomic reconstituting of milk, given the persistent price advantage implied by the CNI proposal, would be to permit the Class I prices to adjust to competitive levels.

Options to Avoid the Cost of Reconstituting—The Class I differentials in each market order could be changed so that fresh fluid milk produced locally would be fully competitive with reconstituted milk. Such a change would remove the economic incentive to reconstitute milk simply to circumvent the regulated prices (table 11).

The estimated adjustments in prevailing Class I prices necessary to make fresh fluid milk and reconstituted milk prices competitive are shown in Appendix table 4. They would vary from a decrease of $1.84 per hundredweight of milk in the Southeast to no adjustment in the Southwest.

Savings and costs associated with the modified CNI proposal (blended option with differentials reduced —impacts after three years) are shown below:

Changes in annual—	Million dollars
Consumer expenditures	399
Government purchases	230
Cash farm receipts from milk	576

It is important to note that these estimates of the impacts of changes in local minimum Class I prices represent maximum impacts and that they depend on the assumption that reconstituted milk products substitute effectively for fresh milk. Otherwise, neither the likely extent of adjustment in the minimum Class I prices or the effects on production, consumption, consumer expenditures, government costs or producer receipts can be estimated with any precision. Competition for local milk to meet fluid demands could reduce these impacts to the extent that consumers did not accept reconstituted products as substitutes for fresh milk.

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Table 11--Impacts of CNI Proposal, reconstituted milk blended with fresh milk is reclassified and Class I differentials are adjusted

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	10.83	10.73	10.68	10.90	10.86	10.75	10.95	10.71	11.01	10.81
18 months	10.83	10.73	10.68	10.90	10.86	10.75	10.95	10.71	11.01	10.81
36 months	10.83	10.73	10.68	10.90	10.86	10.75	10.95	10.71	11.01	10.81
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.15	10.03	9.99	10.49	10.45	9.91	10.37	10.26	10.21	10.14
18 months	10.17	10.04	10.00	10.49	10.46	9.92	10.38	10.26	10.21	10.15
36 months	10.17	10.04	10.01	10.49	10.47	9.92	10.39	10.26	10.22	10.16
Mfg. milk price 1978										9.49
6 months										9.49
18 months										9.49
36 months										9.49
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,389	18,487	30,338	5,315	9,933	5,188	2,869	12,763	5,377	121,660
18 months	31,263	18,474	30,329	5,279	9,907	5,187	2,863	12,763	5,365	121,429
36 months	30,977	18,447	30,309	5,220	9,847	5,185	2,850	12,763	5,337	120,935
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,651	10,259	2,796	4,929	7,561	1,297	1,915	6,178	1,853	56,439
18 months	19,981	10,349	2,806	5,073	7,687	1,308	1,933	6,178	1,865	57,179
36 months	19,981	10,349	2,806	5,073	7,687	1,308	1,933	6,178	1,865	57,179
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	0	0	0	32	0	0	0	0	0	32
18 months	0	0	0	114	0	0	0	0	0	114
36 months	0	0	0	150	0	0	0	0	0	150
Mfg. consumption 1978										62,755
6 months										62,755
18 months										62,755
36 months										62,755
Gov't. purchases 1978										2,668
6 months										2,458
18 months										1,495
36 months										1,000
	Millions of dollars									
Cash farm receipts 1978	3,377	1,899	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,148	1,382	2,995	550	1,025	508	294	1,294	542	12,188
18 months	3,142	1,833	2,997	547	1,024	509	294	1,294	541	12,173
36 months	3,113	1,830	2,998	541	1,018	508	293	1,294	539	12,133

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Table 12: Impacts of the CNI proposal for blended reconstituted milk (differentials adjusted) after three years*

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk: consumption	Cash farm: receipts
	percent change				
Northeast	-12.0	-6.5	-1.43	2.02	-7.82
Corn Belt	-6.3	-2.9	-0.23	1.06	-3.63
Lake States	-3.3	-1.3	-0.11	0.43	-1.38
Southeast	-14.4	-12.3	-1.79	3.53	-13.72
South Central	-9.4	-6.7	-0.94	2.02	-7.54
Plains	-5.5	-2.0	-0.06	1.08	-2.12
Mountain	-6.5	-4.1	-0.73	1.10	-4.56
Southwest	0	0	0	0	0
Northwest	-4.3	-2.1	-0.80	0.76	-2.71
United States	-8.7	-3.9	-0.64	1.58	-4.53

* For additional information on regional prices and use, see Appendix table 5.

Such a change in the differentials would reduce the national average fluid milk price $1.03 per hundredweight. consumption of reconstituted milk would be about 0.3 percent of U.S. fluid consumption and occur entirely in the Southeast region. This reconstituted milk likely would be made from butter and powder produced in other regions and shipped to the Southeast to meet occasional deficits in local milk production.

After three years, milk production would be down about 0.6 percent nationally with milk production down almost 2 percent in the Southeast (Table 12). The all-milk price would be about 12 percent lower in the Southeast representing a decline in cash farm receipts for the sale of milk of almost 14 percent in that region. Nationally, cash farm receipts would decline 4.5 percent

Options to Offset Impacts of the Reduction in Farm Cash Receipts—If the CNI proposal were adopted, and milk price supports were increased 43 cents per hundredweight at the same time the Class I differentials were adjusted so that any large reduction in farm cash receipts would be avoided, various impacts are implied (table 13).

Savings and costs associated with the modified CNI proposal (blended option with differentials reduced and supports increased—impacts after three years) are shown below:

Changes in annual—	Million dollars
Consumer expenditures	-231
Government purchases	+129
Cash farm receipts from milk	+6

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Table 13--Impacts of CNI proposal, if reconstituted milk blended with fresh milk is reclassified and Class I differential are adjusted, and the support price is increased

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	11.26	11.16	11.11	11.33	11.29	11.18	11.38	11.14	11.44	11.24
18 months	11.26	11.16	11.11	11.33	11.29	11.18	11.38	11.14	11.44	11.24
36 months	11.26	11.16	11.11	11.33	11.29	11.18	11.38	11.14	11.44	11.24
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.58	10.46	10.42	10.92	10.87	10.34	10.80	10.69	10.64	10.57
18 months	10.59	10.46	10.43	10.92	10.89	10.34	10.81	10.68	10.63	10.57
36 months	10.59	10.46	10.43	10.92	10.89	10.34	10.81	10.67	10.63	10.57
Mfg. milk price 1978										9.49
6 months										9.92
18 months										9.92
36 months										9.92
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,753	5,380	121,713
6 months	31,410	18,491	30,346	5,317	9,937	5,188	2,871	12,777	5,383	121,720
18 months	31,359	18,496	30,366	5,288	9,925	5,189	2,871	12,832	5,393	121,720
36 months	31,244	18,507	30,410	5,247	9,899	5,191	2,870	12,953	5,416	121,737
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,632	10,248	2,794	4,923	7,551	1,295	1,913	6,171	1,851	56,378
18 months	19,866	10,284	2,793	5,033	7,629	1,299	1,921	6,138	1,853	56,815
36 months	19,866	10,284	2,793	5,033	7,629	1,299	1,921	6,139	1,853	56,815
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	0	0	0	29	0	0	0	0	0	29
18 months	0	0	0	86	0	0	0	0	0	86
36 months	0	0	0	107	0	0	0	0	0	107
Mfg. consumption 1978										62,755
6 months										62,542
18 months										61,475
36 months										61,475
Gov't. purchases 1978										2,668
6 months										2,800
18 months										3,430
36 months										3,447
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,283	1,911	3,124	573	1,067	530	306	1,349	566	12,707
18 months	3,280	1,911	3,129	570	1,064	530	307	1,359	566	12,712
36 months	3,268	1,912	3,133	566	1,065	530	306	1,368	569	12,715

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Table 14: Impacts of blended reconstituted milk (differentials adjusted and supports increased) after three years*

Region	Price per cwt: Fluid milk	Price per cwt: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	percent				
Northeast	-8.5	-2.7	-0.58	1.43	-3.23
Corn Belt	-2.5	1.2	0.09	0.43	1.22
Lake States	0.5	2.9	.23	-0.04	3.06
Southeast	-11.1	-8.7	-1.28	2.71	-9.73
South Central	-5.8	-2.9	-0.41	1.25	-3.27
Plains	-1.7	2.2	0.06	0.39	2.12
Mountain	-2.8	-0.2	-0.03	0.47	-0.33
Southwest	4.0	4.0	1.57	-0.63	5.72
Northwest	-0.6	1.8	0.67	0.11	2.70
United States	-5.1	0	0.02	0.93	0.05

* For additional information on regional prices and use, see Appendix table 6.

These actions would result in a decline in the all-milk price of about 8.7 percent in the Southeast region and an increase of 4 percent in the Southwest and 2.9 percent in the Lake States (table 14).

The Six Wisconsin Handlers' Proposal—The six Wisconsin handlers proposed an 81 cent per hundredweight decrease in the Class I differential in all federal orders. Such a reduction would directly reduce the price advantage reconstituted milk would have over fresh fluid milk. There would be a price incentive to use reconstituted milk made from nonfat dry milk and butterfat in three regions. In these regions the advantage would be small compared to those observed under the CNI proposal. For example, reconstituted milk would sell for 4.5 cents (rather than 8.1 cents) less per half gallon than fresh milk in the Southeast (Appendix table 7). The potential price advantage would be reduced to 3 cents per half gallon (from 6.6 cents) in the Northeast and to 1.4 cents (from 5 cents) in the South Central. Given these reduced price impacts, market penetration was constrained by the assumption that no more than 50 percent of total fluid consumption of a 70/30 reconstituted-fresh blend would be sold by 36 months.

By six months, the U.S. average fluid milk price would decline from $11.84 to $11.10 per hundredweight but only an additional 7 cent decline by 36 months (table 15). Fluid milk prices would decline in all regions except the Southwest where they would be expected to remain unchanged. Total U.S. fluid milk consumption would be expected to increase 1.2 percent by 36 months.

Reconstituted milk would be 2.3 percent of total fluid sales in 6 months, but increase to 12.7 percent by 36 months (Appendix table 8). Most of the reconstituted milk would be made from local milk processed into butter and powder solely to be reclassified. A relatively small amount of ingredients for reconstitution would be shipped from other regions to meet fluid deficits.

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Table 15--Impact of six Wisconsin handlers' proposal of reducing class I differentials 81 cents per hundredweight in all federal order markets

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	11.47	10.64	10.24	11.85	11.16	10.56	10.90	10.71	10.70	11.10
18 months	11.42	10.64	10.24	11.74	11.14	10.56	10.90	10.71	10.70	11.07
36 months	11.36	10.64	10.24	11.57	11.12	10.56	10.90	10.71	10.70	11.03
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.43	9.99	9.81	11.13	10.63	9.85	10.34	10.26	10.06	10.19
18 months	10.37	10.00	9.81	10.89	10.58	9.85	10.35	10.26	10.07	10.17
36 months	10.27	10.00	9.81	10.58	10.49	9.85	10.36	10.26	10.07	10.12
Mfg. milk price 1978										9.49
6 months										9.49
18 months										9.49
36 months										9.49
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,403	18,486	30,335	5,311	9,935	5,188	2,869	12,763	5,375	121,660
18 months	31,309	18,472	30,312	5,291	9,912	5,187	2,863	12,763	5,355	121,464
36 months	31,040	18,441	30,262	5,229	9,850	5,184	2,848	12,763	5,310	120,929
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,622	10,261	2,799	4,914	7,554	1,297	1,916	6,178	1,855	56,395
18 months	19,823	10,362	2,820	4,994	7,649	1,312	1,935	6,178	1,874	56,946
36 months	19,839	10,362	2,820	5,010	7,652	1,312	1,935	6,178	1,874	56,981
Reconstituted used 1978:	0	0	0	0	0	0	0	0	0	0
6 months	981	0	0	144	189	0	0	0	0	1,314
18 months	2,379	0	0	899	688	0	0	0	0	3,966
36 months	4,166	0	0	1,754	1,339	0	0	0	0	7,259
Mfg. consumption 1978										62,755
6 months										62,755
18 months										62,755
36 months										62,755
Gov't. purchases 1978										2,668
6 months										2,510
18 months										1,763
36 months										1,193
	Millions of dollars									
Cash farm receipts 1978:	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,237	1,825	2,941	584	1,043	505	293	1,294	534	12,250
18 months	3,210	1,826	2,939	569	1,036	505	293	1,294	533	12,204
36 months	3,161	1,822	2,934	549	1,023	505	291	1,294	528	12,108

Gross farm receipts would decline nationally 4.7 percent and 12.4 percent in the Southeast by 36 months.

Option to Reduce Uneconomic Reconstituting—The uneconomic processing of local milk into butter and powder solely to have the milk reclassified could be avoided if further adjustments in Class I differentials were made in the Northeast, Southeast and South Central regions. In these regions reconstituted milk would still cost less than fresh fluid milk even with 81 cents lower differentials. The resulting Class I differentials for the total adjustment in the three regions, are shown in Appendix table 9.

Under this assumption the six Wisconsin handlers' proposal would be expected to result in a drop in the U.S. average fluid milk price from $11.84 to $10.76 per hundredweight by 6 months. No further declines would be expected by 36 months (table 16).

About 0.3 percent of total U.S. fluid milk consumption would be shipped as butter-powder and all of this to the Southeast. This would be equivalent to 3 percent of fluid consumption in that region (Appendix table 10). The fluid milk price nationally would decline 9.1 percent after 36 months. However, it would decline 14.4 percent in the Southeast and 12.0 percent in the Northeast. It would be expected to remain the same in the Southwest. Milk production would decline 0.7 percent nationally and the all-milk price would be 4.5 percent lower. Gross farm sales would be expected to decline 5.2 percent.

Options to Offset Decline in Farm Price—The six Wisconsin handlers' proposal would result in lower farm prices nationally and in all regions but the Southwest.

The potential decline in the average U.S. all-milk price due to the six Wisconsin handlers' proposal could be offset by increasing the support price 38 cents after six months, 40 cents after 18 months and 46 cents after 36 months (table 17). The all-milk wholesale price would decline 7.7 percent in the Southeast but increase 4.3 percent in the Southwest. Farmers would also receive higher prices in the Corn Belt, Lake States, Plains and Northwest regions (Appendix table 11).

Changes in cash farm receipts would range from an increase of about 5.9 percent in the Southwest to a decrease of about 8.6 percent in the Southeast.

The potential decline in the average all-milk price due to the six Wisconsin handlers' proposal plus additional adjustments in differentials to avoid uneconomic reconstituting could be offset by increasing the support price for milk by 48 cents (table 18). The all-milk price would be expected to decline 8.3 percent in the Southeast, 2.5 percent in the South Central and 2.2 percent in the Northeast (Appendix table 12).

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Table 16--Impact of six Wisconsin handlers' proposal of reducing Class I differentials 81 cents per hundredweight in all federal order markets, with additional adjustments in Class I differentials

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	10.83	10.64	10.24	10.90	10.86	10.56	10.90	10.71	10.70	10.76
18 months	10.83	10.64	10.24	10.90	10.86	10.56	10.90	10.71	10.70	10.76
36 months	10.83	10.64	10.24	10.90	10.86	10.56	10.90	10.71	10.70	10.76
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.15	9.99	9.81	10.49	10.45	9.85	10.34	10.26	10.06	10.08
18 months	10.17	10.00	9.81	10.49	10.46	9.85	10.35	10.26	10.07	10.09
36 months	10.17	10.00	9.82	10.49	10.47	9.85	10.36	10.26	10.07	10.09
Mfg. milk price 1978										9.49
6 months										9.49
18 months										9.49
36 months										9.49
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,389	18,486	30,335	5,315	9,933	5,188	2,869	12,763	5,375	121,653
18 months	31,263	18,472	30,313	5,279	9,907	5,187	2,863	12,763	5,355	121,400
36 months	30,977	18,441	30,264	5,220	9,847	5,184	2,848	12,763	5,310	120,854
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,651	10,261	2,799	4,929	7,560	1,297	1,916	6,178	1,855	56,446
18 months	19,980	10,362	2,820	5,073	7,687	1,312	1,935	6,178	1,874	57,221
36 months	19,980	10,362	2,820	5,073	7,687	1,312	1,935	6,178	1,874	57,221
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	0	0	0	32	0	0	0	0	0	32
18 months	0	0	0	114	0	0	0	0	0	114
36 months	0	0	0	150	0	0	0	0	0	150
Mfg. consumption 1978										62,755
6 months										62,755
18 months										62,755
36 months										62,755
Gov't purchase 1978										2,668
6 months										2,453
18 months										1,424
36 months										879
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,148	1,825	2,941	551	1,025	505	293	1,294	534	12,116
18 months	3,142	1,826	2,939	547	1,024	505	293	1,294	533	12,103
36 months	3,113	1,822	2,938	541	1,018	505	291	1,294	528	12,051

Table 17--Impact of six Wisconsin handlers' proposal of reducing Class I differentials 81 cents per hundred weight in all federal order markets, and support price is increased

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	11.85	11.02	10.62	12.23	11.54	10.94	11.28	11.09	11.08	11.48
18 months	11.82	11.04	10.64	12.14	11.54	10.96	11.30	11.11	11.10	11.47
36 months	11.82	11.10	10.70	12.03	11.58	11.02	11.36	11.17	11.16	11.49
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.81	10.37	10.19	11.46	11.01	10.23	10.72	10.64	10.44	10.57
18 months	10.76	10.39	10.21	11.29	10.97	10.25	10.75	10.65	10.46	10.57
36 months	10.73	10.45	10.27	11.04	10.93	10.31	10.81	10.70	10.52	10.57
Mfg. milk price 1978										9.49
6 months										9.87
18 months										9.89
36 months										9.95
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,422	18,490	30,341	5,313	9,938	5,188	2,871	12,775	5,380	121,718
18 months	31,398	18,493	30,347	5,300	9,929	5,189	2,870	12,827	5,382	121,735
36 months	31,327	18,506	30,372	5,258	9,904	5,191	2,870	12,967	5,395	121,790
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,605	10,251	2,797	4,908	7,545	1,296	1,914	6,172	1,853	56,341
18 months	19,716	10,302	2,807	4,957	7,595	1,303	1,923	6,141	1,862	56,607
36 months	19,716	10,293	2,805	4,967	7,590	1,302	1,922	6,136	1,861	56,591
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	980	0	0	368	189	0	0	0	0	1,537
18 months	2,366	0	0	892	684	0	0	0	0	3,942
36 months	4,140	0	0	1,739	1,328	0	0	0	0	7,207
Mfg. consumption 1978										62,755
6 months										62,567
18 months										61,565
36 months										61,386
Gov't. purchases 1978										2,668
6 months										2,810
18 months										3,563
36 months										3,813
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,355	1,894	3,054	601	1,080	524	304	1,343	555	12,711
18 months	3,337	1,898	3,062	591	1,076	526	305	1,348	556	12,697
36 months	3,320	1,910	3,082	573	1,069	529	306	1,370	561	12,721

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Table 18--Impact of six Wisconsin handlers' proposal of reducing Class I differentials 81 cents per hundredweight in all federal order markets, with additional adjustments in Class I differentials and support price is increased

Item	Region									
	NE	CB	LS	SE	SC	PL	M	SW	NW	U.S.
	Dollars per hundredweight									
Fluid milk price 1978	12.31	11.45	11.05	12.74	11.98	11.37	11.71	10.71	11.51	11.84
6 months	11.31	11.12	10.72	11.38	11.34	11.04	11.38	11.19	11.18	11.26
18 months	11.31	11.12	10.72	11.38	11.34	11.04	11.38	11.19	11.18	11.26
36 months	11.31	11.12	10.72	11.38	11.34	11.04	11.38	11.19	11.18	11.26
All milk price 1978	10.88	10.34	10.14	11.96	11.22	10.12	10.83	10.26	10.44	10.57
6 months	10.63	10.47	10.29	10.97	10.92	10.32	10.82	10.74	10.54	10.56
18 months	10.64	10.47	10.29	10.97	10.93	10.33	10.83	10.73	10.54	10.56
36 months	10.64	10.47	10.29	10.97	10.94	10.34	10.83	10.72	10.54	10.56
Mfg. milk price 1978										9.49
6 months										9.97
18 months										9.97
36 months										9.97
	Millions of pounds									
Milk production 1978	31,425	18,490	30,341	5,315	9,940	5,188	2,871	12,763	5,380	121,713
6 months	31,413	18,491	30,344	5,317	9,937	5,188	2,871	12,778	5,381	121,721
18 months	31,370	18,497	30,354	5,290	9,927	5,189	2,871	12,840	5,387	121,725
36 months	31,275	18,509	30,377	5,250	9,905	5,191	2,871	12,975	5,399	121,752
Fluid consumption 1978	19,585	10,240	2,794	4,900	7,535	1,294	1,912	6,178	1,851	56,290
6 months	19,629	10,249	2,796	4,922	7,550	1,295	1,913	6,171	1,853	56,378
18 months	19,852	10,290	2,805	5,028	7,622	1,302	1,921	6,134	1,860	56,813
36 months	19,852	10,290	2,805	5,028	7,622	1,302	1,921	6,134	1,860	56,813
Reconstituted used 1978	0	0	0	0	0	0	0	0	0	0
6 months	0	0	0	29	0	0	0	0	0	29
18 months	0	0	0	83	0	0	0	0	0	83
36 months	0	0	0	103	0	0	0	0	0	103
Mfg. consumption 1978										62,755
6 months										62,517
18 months										61,327
36 months										61,327
Gov't. purchases 1978										2,668
6 months										2,827
18 months										3,585
36 months										3,612
	Millions of dollars									
Cash farm receipts 1978	3,377	1,889	3,040	627	1,101	519	307	1,294	554	12,709
6 months	3,298	1,913	3,085	576	1,072	529	307	1,355	560	12,695
18 months	3,297	1,913	3,086	573	1,071	530	307	1,361	561	12,699
36 months	3,287	1,914	3,088	569	1,070	530	307	1,374	562	12,701

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6. USDA and Other Government Costs

Because the options considered in this impact statement generally would lead to reductions in milk production, a smaller government expenditure would be required to support the manufacturing milk price at the same level as before the option was implemented. For those options where support levels are increased, the government would need to purchase more dairy products to offset potential declines in the U.S. average all-milk price.

Results for both the CNI and six Wisconsin handlers' proposals under different assumptions indicate that government costs could be reduced from the 1978 level of $368 million annually to $121 million (table 19).

7. Other Significant Economic Impacts

(a) *Retail Prices.* The price per half gallon of milk could decline from 98.2 cents to 90.1 cents in the Southeast or 8.2 percent (table 20). Retail prices in this region would be the most affected when compared to the other regions. In the Southwest the retail price per half gallon would not be expected to decline, and when the price support is increased, it would be expected to increase.

The retail price per half pound of cheese would be unchanged unless the support price was increased (table 20).

(b) *Consumer Expenditures.* Consumer expenditures for fluid milk would be expected to decline in most regions and from $12,044 million to as much as $11,622 million nationally depending on the proposal and associated assumptions (table 21). Only when the support price was increased would consumer expenditures for manufactured products be expected to increase.[11]

Tabale 19. Estimated government removals and Commodity Credit Corporation purchase costs for CNI and six Wisconsin handlers' proposal under selected assumptions.

Alternative	Government removals	Change from 1978 removals	CCC purchase costs	Change from 1978 costs
	Million pounds		Million dollars	
1978 Actual	2,668	0	368	0
CNI Unblended				
Alone	2,270	-398	313	-55
Adjusted differential	1,000	-1,668	138	-230
Increased support	2,992	324	418	50
Adjusted differential and increased support	3,447	779	497	129
CNI Blended				
Alone	1,470	-1,198	203	-165
Adjusted differential	1,000	-1,668	138	-230
Increased support	3,812	1,144	549	181
Adjusted differential and increased support	3,447	779	497	129
Six Wisconsin Handlers'				
Alone	1,193	-1,475	165	-203
Adjusted differential	879	-1,789	121	-247
Increased support	3,813	1,145	551	183
Adjusted differential and increased support	3,612	944	523	155

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[11] Consumer expenditures for fluid milk in each region calculated as: (Retail price per ½ gallon) 22.7 × fluid consumption

Consumer expenditures for manufactured dairy products is calculated as: [(Manufacturing milk price) + (10.34)] × Manufacturing consumption

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Table 20. Impact of CNI and six Wisconsin handlers' proposals under different assumptions on retail fluid milk and cheese prices.

Item	Actual 1978	CNI Unblended				CNI Blended				Wisconsin handlers'			
		Alone	Adj. diff.	Increase support	Adj. diff. and increase support	Alone	Adj. diff.	Increase support	Adj. diff. and increase support	Alone	Adj. diff.	Increase support	Adj. diff. and increase support
	(cents)	Percent change											
Retail prices per half gallon													
Northeast	96.3	-1.0	-6.7	-0.4	-4.8	-3.4	-6.7	-1.6	-4.8	-4.4	-6.7	-2.2	-4.6
Corn Belt	92.5	-0.3	-3.4	0.3	-1.3	-1.2	-3.4	0.8	-1.3	-3.8	-3.8	-1.6	-1.5
Lake States	90.6	0.1	-1.7	0.7	0.4	-0.4	-1.7	1.5	0.4	-3.8	-3.8	-1.5	-1.4
Southeast	98.2	-1.6	-8.2	-1.1	-6.3	-4.6	-8.2	-2.7	-6.3	-5.2	-8.2	-3.2	-6.1
South Central	94.9	-0.8	-5.3	-0.3	-3.3	-2.2	-5.3	-0.3	-3.3	-4.0	-5.3	-1.9	-3.1
Plains	92.2	-0.2	-3.0	0.4	-1.0	-1.1	-3.0	0.9	-1.0	-3.9	-3.9	-1.7	-1.6
Mountain	93.7	-0.2	-3.6	0.3	-1.6	-1.3	-3.6	0.6	-1.6	-3.8	-3.8	-1.7	-1.6
Southwest	89.3	0	0	0.6	2.1	0	0	2.0	2.1	0	0	2.2	2.4
Northwest	92.3	-0.4	-1.8	1.0	0.2	-0.2	-1.8	1.7	0.2	-3.4	-3.4	-1.1	-1.1
United States	94.2	-0.6	-5.3	-0.1	-2.7	-2.5	-5.3	-0.3	-2.7	-4.2	-5.6	-1.6	-2.8
Retail price per half lb. of cheese	104.1	0	0	0.6	2.1	0	0	2.0	2.1	0	0	2.3	2.4

Table 21. Impact on consumer expenditures of CNI and six Wisconsin handlers' proposals under alternative assumptions on consumer expenditures for fluid and manufactured dairy products.

Item	Actual 1978	CNI Unblended				CNI Blended				Wisconsin handlers'			
		Alone	Adj. Diff.	Increase support	Adj. diff. and increase support	Alone	Adj. diff.	Increase support	Adj. diff. and increase support	Alone	Adj. diff.	Increase support	Adj. diff. and increase support
Consumer expenditures (retail level):	Million dollars												
Fluid milk													
Northeast	4,282	4,252	4,073	4,268	4,135	4,176	4,073	4,234	4,135	4,149	4,073	4,214	4,142
Corn Belt	2,151	2,146	2,099	2,154	2,130	2,133	2,099	2,162	2,130	2,092	2,093	2,126	2,127
Lake States	576	575	568	578	577	573	568	583	577	558	558	568	569
Southeast	1,092	1,082	1,038	1,085	1,051	1,063	1,038	1,075	1,051	1,058	1,038	1,072	1,052
South Central	1,623	1,615	1,569	1,620	1,590	1,601	1,569	1,620	1,590	1,582	1,569	1,604	1,593
Plains	271	271	266	272	269	269	266	272	269	264	264	268	268
Mountain	407	406	396	407	402	403	396	408	402	396	395	402	402
Southwest	1,252	1,252	1,252	1,257	1,270	1,252	1,252	1,269	1,270	1,252	1,252	1,272	1,272
Northwest	390	390	384	391	389	388	384	393	389	380	380	385	386
United States	12,044	11,989	11,645	12,032	11,813	11,858	11,645	12,016	11,813	11,731	11,622	11,911	11,811
Manufactured Products	12,620	12,620	12,620	12,623	12,627	12,620	12,620	12,627	12,627	12,620	12,620	12,627	12,627
Total all Products	24,664	24,609	24,265	24,655	24,440	24,478	24,265	24,643	24,440	24,351	24,242	24,538	24,438

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(c) *Gross Sales per Farm.* Cash farm sales in each region would follow the same regional pattern as farm prices. Limited information is available on the income situation on dairy farms; however, farm-account record data for some Northeast dairy farms indicate that a decline of 43 cents per hundredweight in farm prices would reduce net cash income per farm about 13 percent—net cash income being operating receipts minus operating expenses.[12] This is a major impact even though a 43-cent decline is only a 4-percent lower milk price.

As the preceeding analysis shows, the impacts of these proposals are not shared equally by all dairy farmers. The more milk produced on the farm, the greater the impact of a price change on gross sales. For example, nationally, the 49.6 percent of the farms with less than 30 cows and more than $2,500 farm sales produced about 11.7 percent of the milk. On the other extreme, the 7.6 percent of the farmers with 100 or more cows accounted for 36 percent of the milk produced.

There are about seven times as many dairy herds with 1–29 cows as dairy herds with 100 or more cows (Appendix table 13). The decline in gross farm receipts for the average herd with 1–29 cows could range from $147 to $1,023 in the Northeast, $241 to $576 in the Southeast, and from $73 to $432 in the South Central region (Appendix table 14). This is gross farm sales and does not account for producing less milk and the saving in feed and other variable costs associated with the implied reductions in production.

For some options (when support price is increased) the gross receipts per farm would increase in the Lake States, Corn Belt, Plains and Southwest and Northwest regions.

(d) *Solids Not Fat Content of Milk.* By administrative regulation, the Food and Drug Administration now requires a minimum of 8.25 percent solids not-fat level. However, market milk tends to exceed that level at about 8.75 percent. Partly because of state adulteration laws, and partly because of concern about consumer acceptance, there has been little industry interest in standardizing the solids not-fat level in milk, although there are a few markets where fortified milk is sold with solids not-fat above the normal 8.75 percent level.

Because the solids not-fat in reconstituted milk could be standardized easily, there would be an opportunity and there could be an incentive to standardize the product at the minimum level. To do so would reduce product costs.

Whether or not standardization of solids not-fat levels below current levels would follow the reclassification of reconstituted milk would depend on consumer acceptance and demand as well as cost advantages. A product with only current minimum levels of solids not-fat could be sold at a somewhat lower price. Whether or not consumers would choose to pay the cost of current solids not-fat levels (or higher levels) is unknown, and is not covered in this analysis.

(e) *Increased Burden of Administering Milk Orders.* The CNI proposal would be expected to increase the administrative cost of the milk order program especially under the "blended" option. It would require additional reporting and verification of reconstituted milk use and added testing requirements. The extent of these requirements and their impact on the operation of the orders cannot be estimated at the present time.

Dated: October 15, 1980.

Susan Sechler,

Deputy Director, Economics, Policy Analysis and Budget.

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[12] Electronic Farm Accounts (ELFAC) records for June–September 1979, University of New Hampshire Extension Service.

Appendix table 1—Price advantage, amount used and market share of reconstituted milk and 36 month impacts of CNI proposal, unblended

Region	Reconstituted milk			Percent change after 36 months				
	Price advantage per half gallon of 100 percent reconstituted	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	Cents	Mil. lbs.		Percent				
Northeast	6.6	2,947	15	-1.8	-1.9	-0.43	0.32	-2.13
Corn Belt	3.2	1,025	10	-0.6	-1.0	-0.08	0.11	-0.95
Lake States	1.6	140	5	-0.2	-0.1	0	0.04	-0.07
Southeast	8.1	987	20	-2.9	-5.4	-0.75	0.71	-5.74
South Central	5.0	1,134	15	-1.4	-2.1	-0.30	0.31	-2.27
Plains	2.7	65	5	-0.3	-0.2	-0.02	0.08	-0.39
Mountain	3.3	191	10	-0.3	-0.9	-1.46	0.05	-0.98
Southwest	0	0	0	0	0	0	0	0
Northwest	2.2	93	5	-0.3	-0.3	-0.11	0.05	-0.18
United States	-	6,581	11.7	-1.3	-1.1	-0.22	0.23	-1.26

Appendix table 2--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of CNI proposal, blended

Region	Reconstituted milk			Percent change after 36 months				
	Price advantage per half gallon of 100 per-cent re-constituted	Amount used	Market share of total fluid consump-tion	Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk pro-duction	Fluid milk consump-tion	Cash farm receipts
	(cents)	(mil.lbs.)	(percent)	Percent				
Northeast	6.6	9,696	49	-6.2	-6.6	-1.46	1.04	-7.31
Corn Belt	3.2	3,597	35	-2.2	-3.2	-0.25	0.37	-3.23
Lake States	1.6	588	21	-1.3	-1.2	-0.10	0.18	-0.76
Southeast	8.1	2,798	56	-8.1	-12.6	-1.77	1.98	-13.56
South Central	5.0	3,192	42	-3.5	-6.1	-0.86	0.85	-6.45
Plains	2.7	455	35	-1.9	-1.7	-0.06	0.39	-1.73
Mountain	3.3	672	35	-1.5	-3.9	-0.70	0.37	-4.23
Southwest	0	0	0	0	0	0	0	0
Northwest	2.2	585	32	-1.4	-1.9	-0.71	0.27	-1.99
United States	--	21,583	38	-4.1	-3.9	-0.64	0.75	-4.09

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Appendix table 3--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of CNI proposal, blended, increased support.

Region	Reconstituted milk			Percent change after 36 months				
	Price advantage per half gallon of 100 percent reconstituted	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	All milk	Milk production	Fluid milk consumption	Cash farm receipts
	(cents)	(mil.lbs.)	(percent)	Percent				
Northeast	6.6	9,642	49	-2.8	-2.9	-0.65	0.47	-3.55
Corn Belt	3.2	3,576	35	1.4	0.3	0.02	-0.23	0.32
Lake States	1.6	586	21	2.4	3.4	0.27	-0.29	3.62
Southeast	8.1	2,777	56	-4.9	-9.1	-1.28	1.20	-10.21
South Central	5.0	3,042	42	-0.5	-2.5	-0.35	0.11	-2.82
Plains	2.7	451	35	1.7	2.3	0.08	-0.31	2.31
Mountain	3.3	668	35	1.2	-0.3	-0.0	-0.21	-0.33
Southwest	0	0	0	3.8	3.8	1.42	-0.62	5.26
Northwest	2.2	581	31	2.2	1.8	0.69	-0.38	2.71
United States	-	21,323	38	-0.7	0	0	0.13	0.06

Appendix Table 4--Adjustments in Class I differentials needed to make fresh milk prices competitive with reconstituted milk--CNI proposal, unblended

Region	1978 Class I differentials	Reduction: Per hundredweight	Reduction: Per half-gallon	New differential
	(Dollars)	(Dollars)	(Cents)	(Dollars)
Northeast	2.83	1.49	6.6	1.34
Corn Belt	1.96	.72	3.2	1.24
Lake States	1.56	.37	1.6	1.19
Southeast	3.25	1.84	8.1	1.41
South Central	2.49	1.12	5.0	1.37
Plains	1.88	.62	2.7	1.26
Mountain	2.22	.76	3.3	1.46
Southwest	1.22	0	0	1.22
Northwest	2.02	.50	2.2	1.52
U. S. average	2.35	1.03	4.6	1.32

Appendix table 5--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of CNI proposal, blended, adjusted differentials

Region	Reconstituted milk			Percent change after 36 months				
	Price advantage per half gallon of 100 percent reconstituted	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	All milk	Milk production	Fluid milk consumption	Cash farm receipts
	Cents	Mil. lbs.	Percent					
Northeast	0	0	0	-12.0	-6.5	-1.43	2.02	-7.82
Corn Belt	0	0	0	-6.3	-2.9	-0.23	1.06	-3.63
Lake States	0	0	0	-3.3	-1.3	-0.11	0.43	-1.38
Southeast	0	150	3.1	-14.4	-12.3	-1.79	3.53	-13.72
South Central	0	0	0	-9.4	-6.7	-0.94	2.02	-7.54
Plains	0	0	0	-5.5	-2.0	-0.06	1.08	-2.12
Mountain	0	0	0	-6.5	-4.1	-0.73	1.10	-4.56
Southwest	0	0	0	0	0	0	0	0
Northwest	0	0	0	-4.3	-2.1	-0.80	0.76	-2.71
United States	0	150	0.3	-8.7	-3.9	-0.64	1.58	-4.53

Appendix table 6--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of CNI proposal, blended, adjusted differential and higher support price

Region	Reconstituted milk			Percent change after 36 months				
	Price advantage per half gallon of 100 percent reconstituted	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	All milk	Milk production	Fluid milk consumption	Cash farm receipts
	(cents)	(mil.lbs.)	(percent)	Percent				
Northeast	0	0	0	-8.5	-2.7	-0.58	1.43	-3.23
Corn Belt	0	0	0	-2.5	1.2	0.09	0.43	1.22
Lake States	0	0	0	0.5	2.9	0.23	-0.04	3.06
Southeast	0	107	2.1	-11.1	-8.7	-1.28	2.71	-9.73
South Central	0	0	0	-5.8	-2.9	-0.41	1.25	-3.27
Plains	0	0	0	-1.7	2.2	0.06	0.39	2.12
Mountain	0	0	0	-2.8	-0.2	-0.03	0.47	-0.33
Southwest	0	0	0	4.0	4.0	1.57	-0.63	5.72
Northwest	0	0	0	-0.6	1.8	0.67	0.11	2.70
United States	0	107	0.2	-5.1	0	0.02	0.93	0.05

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Appendix table 7--Assumed market penetration of reconstituted milk and blended with fresh milk after an 81 cent decrease in Class I differentials

Region	Price advantage per half gallon of 100 percent reconstituted milk	Percent of market for 50% reconstituted blend (6 months)	60% reconstituted blend (18 months)	70% reconstituted blend (36 months)
	cents	percent		
Northeast	3.0	10	20	30
Corn Belt	0	0	0	0
Lake States	0	0	0	0
Southeast	4.5	15	30	50
South Central	1.4	5	15	25
Plains	0	0	0	0
Mountain	0	0	0	0
Southwest	0	0	0	0
Northwest	0	0	0	0

Appendix table 8--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of six Wisconsin handlers' proposal

Region	Reconstituted milk: Price advantage per half gallon of 100 percent reconstituted	Reconstituted milk: Amount used	Reconstituted milk: Market share of total fluid consumption	Percent change after 36 months: Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	Cents	Mil. lbs.	Percent					
Northeast	3.0	4,166	21	-7.7	-5.6	-1.23	1.30	-6.40
Corn Belt	0	0	0	-7.1	-3.3	-0.27	1.19	-3.55
Lake States	0	0	0	-7.3	-3.3	-0.26	0.93	-3.49
Southeast	4.5	1,754	35	-9.2	-11.5	-1.62	2.24	-12.44
South Central	1.4	1,339	17	-7.2	-6.5	-0.91	1.55	-7.08
Plains	0	0	0	-7.1	-2.7	-0.08	1.39	-2.70
Mountain	0	0	0	-6.9	-4.3	-0.80	1.20	-5.21
Southwest	0	0	0	0	0	0	0	0
Northwest	0	0	0	-7.0	-3.5	-1.30	1.24	-4.69
United States	-	7,259	12.7	-6.8	-4.3	-0.64	1.23	-4.73

Appendix Table 9--Adjustments in Class I differentials needed to reduce differentials 81 cents per hundredweight and to make fresh milk fluid milk prices competitive with reconstituted milk prices - six Wisconsin handler's proposal

	1978 Class I differentials	Reduction: Per hundredweight	Reduction: Per half gallon	New differentials
	Dollars	Dollars	Cents	Dollars
Northeast	2.83	1.49	6.6	1.34
Corn Belt	1.96	.81	3.6	1.15
Lake States	1.56	.81	3.6	.75
Southeast	3.25	1.84	8.1	1.41
South Central	2.49	1.12	4.9	1.37
Plains	1.88	.81	3.6	1.07
Mountain	2.22	.81	3.6	1.41
Southwest	1.22	.81	3.6	1.22
Northwest	2.02	.81	3.6	1.21

Appendix Table 10--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of six Wisconsin handler's proposal, with additional adjustments of Class I differentials

Region	Reconstituted Milk: Price advantage per half gallon	Reconstituted Milk: Amount used	Reconstituted Milk: Market share of total fluid consumption	Percent change after 36 months: Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	(Cents)	(Mil. lbs.)	(Percent)	Percent				
Northeast	0	0	0	-12.0	- 6.5	-1.43	2.02	- 7.82
Corn Belt	0	0	0	- 7.1	- 3.3	-0.27	1.19	- 3.55
Lake States	0	0	0	- 7.3	- 3.2	-0.25	0.93	- 3.36
Southeast	0	150	3.0	-14.4	-12.3	-1.79	3.53	-13.72
South Central	0	0	0	- 9.3	- 6.7	-0.94	2.02	- 7.54
Plains	0	0	0	- 7.1	- 2.7	-0.08	1.39	- 2.70
Mountain	0	0	0	- 6.9	- 4.3	-0.80	1.20	-5.21
Southwest	0	0	0	0	0	0	0	0
Northwest	0	0	0	- 7.0	- 3.5	- 1.3	1.24	- 4.69
United States	-	150	0.3	- 9.1	- 4.5	- 0.71	1.65	- 5.18

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Appendix Table 11--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of six Wisconsin handler's proposal, increase in support

Region	Reconstituted Milk			Percent change after 36 months				
	Price advantage per half gallon	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	(Cents)	(Mil. lbs.)	(Percent)	----------Percent----------				
Northeast	3.0	4,140	21	-4.0	-1.4	-0.31	0.67	-1.69
Corn Belt	0	0	0	-3.1	1.1	0.09	0.52	1.11
Lake States	0	0	0	-3.2	1.3	0.10	0.39	1.38
Southeast	4.5	1,739	35	-5.6	-7.7	-1.07	1.37	-8.61
South Central	1.4	1,328	17	-3.3	-2.6	-0.36	0.73	-2.91
Plains	0	0	0	-3.1	1.9	0.06	0.62	1.93
Mountain	0	0	0	-3.0	-0.2	-0.03	0.52	-0.33
Southwest	0	0	0	4.3	4.3	1.60	-0.68	5.87
Northwest	0	0	0	-3.0	0.8	0.28	0.54	2.94
United States	-	7,207	12.7	-3.0	0	0.06	0.53	0.09

Appendix Table 12--Price advantage, amount used and market share of reconstituted milk and 36 month impacts of six Wisconsin handlers' proposal, with additional adjustments in differentials and increase in support

Region	Reconstituted Milk			Percent change after 36 months				
	Price advantage per half gallon	Amount used	Market share of total fluid consumption	Price per cwt.: Fluid milk	Price per cwt.: All milk	Milk production	Fluid milk consumption	Cash farm receipts
	(Cents)	(Mil. lbs.)	(Percent)	----------Percent----------				
Northeast	0	0	0	- 8.1	-2.2	-0.48	1.36	-2.67
Corn Belt	0	0	0	- 2.9	1.3	0.10	0.49	1.32
Lake States	0	0	0	- 3.0	1.5	0.12	0.39	1.58
Southeast	0	103	2.0	-10.7	-8.3	-1.22	2.61	-9.25
South Central	0	0	0	- 5.3	-2.5	-0.35	1.15	-2.82
Plains	0	0	0	- 2.9	2.1	0.06	0.62	2.12
Mountain	0	0	0	- 2.8	0	0	0.47	0
Southwest	0	0	0	4.5	4.5	1.66	-0.71	6.18
Northwest	0	0	0	- 2.9	1.0	0.35	.49	1.44
United States	-	103	0.2	- 4.9	-0.1	0.03	0.93	-0.06

Appendix table 13. Estimated number and average size of dairy herds and proportion of farms and cows in each herd size. a/

	Northeast	Corn Belt	Lake States	Southeast	South Central	Plains	Mountain	Southwest	Northwest	United States
Total farms (thousands)	60,863	54,547	69,354	8,442	23,776	21,259	9,141	4,366	9,206	260,954
Average herd size (cows)	46	31	37	58	37	28	27	196	48	46
				Percent						
Herd size:										
1-29 cows Farms	36.9	56.6	39.7	69.0	65.4	60.8	79.3	38.5	58.4	49.6
Cows	(8.7)	(15.7)	(18.6)	(3.9)	(8.1)	(16.7)	(9.4)	(0.8)	(6.7)	(11.7)
30-99 cows Farms	54.0	38.3	57.2	14.5	22.8	34.8	13.1	10.3	26.4	42.8
Cows	(61.2)	(60.3)	(70.1)	(14.5)	(36.4)	(60.6)	(27.6)	(3.1)	(30.9)	(52.3)
100+ cows Farms	9.0	5.1	3.1	16.5	11.8	4.4	7.6	51.3	15.2	7.6
Cows	(30.2)	(24.0)	(11.3)	(81.6)	(55.5)	(22.7)	(63.0)	(96.1)	(62.4)	(36.0)

a/ Estimated for 1979 based on previous U.S. Census figures.

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Appendix table 14. Estimated changes in gross sales per farm under CNI and six Wisconsin handlers' proposals, U.S. and regions.

	Herd Size	Herds 1979	CNI unblended				CNI blended				Six Wisconsin handlers'			
	cows	number	Alone	Adj. Diff.	Increase support	Adj. diff. and increase support	Alone	Adj. Diff.	Increase support	Adj. diff. and increase support	Alone	Adj. diff.	Increase support	Adj. diff. and increase support
			Dollars											
	1-29	22,461	-279	-1,023	-147	-422	-957	-1,023	-465	-422	-837	-1,023	-221	-349
NE	100+	5,478	-3,970	-14,555	-2,095	-6,009	-13,618	-14,555	-6,616	-6,009	-11,909	-14,555	-3,143	-4,962
	1-29	30,873	-91	-351	31	117	-351	-300	31	117	-341	-341	107	127
CB	100+	2,782	-1,553	-5,953	517	1,984	-5,953	-5,090	517	1,984	-5,780	-5,780	1,812	2,157
	1-29	27,534	-14	-284	216	628	-155	-284	743	628	-716	-689	284	324
LS	100+	2,150	-105	-2,207	1,682	4,888	-1,209	-2,207	5,781	4,888	-5,571	-5,361	2,207	2,523
	1-29	5,825	-241	-576	-201	-408	-569	-576	-428	-408	-522	-576	-362	-388
SE	100+	1,393	-21,089	-50,380	-17,574	-35,735	-49,794	-50,380	-37,492	-35,735	-45,693	-50,380	-31,634	-33,977
	1-29	15,550	-130	-432	-73	-188	-370	-432	-161	-188	-406	-432	-167	-161
SC	100+	2,806	-4,946	-16,419	-2,769	-7,122	-14,045	-16,419	6,132	-7,122	-15,430	-16,419	-6,330	-6,132
	1-29	12,925	-25	-142	52	142	-116	-142	155	142	-181	-181	129	142
PL	100+	935	-485	-2,669	970	2,669	-2,184	-2,669	2,912	2,669	-3,397	-3,397	2,427	2,669
	1-29	7,249	-39	-182	0	-13	-169	-182	-13	-13	-207	-207	-13	0
M	100+	695	-2,721	-12,696	0	-907	-11,789	-12,696	-906	-907	-14,510	-14,510	-906	0
	1-29	1,681	0	0	95	338	0	0	324	338	0	0	362	381
SW	100+	2,240	0	0	8,581	30,464	0	0	29,176	30,464	0	0	32,609	34,325
	1-29	5,376	-12	-187	87	187	-137	-187	187	187	-324	-324	87	100
NW	100+	1,399	-446	-6,689	3,122	6,689	-4,905	-6,689	6,689	6,689	-11,594	-11,594	3,122	3,567
	1-29	129,474	-144	-521	-13	5	-470	-521	3	5	-543	-595	20	-7
US	100+	19,578	-2,904	-10,456	-254	109	-9,439	-10,456	54	109	-10,909	-11,944	400	-145

[FR Doc. 80-35523 Filed 11-14-80; 8:45 am]
BILLING CODE 3410-02-C

federal register

Monday
November 17, 1980

Part IV

Department of Health and Human Services

Public Health Service

Criteria for Designation of Health Manpower Shortage Areas; Final Rule

V 45 N 017 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

Criteria for Designation of Health Manpower Shortage Areas

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth the criteria for designation of health manpower shortage areas under section 332 of the Public Health Service Act. Entities in these areas are eligible to apply for assignment of National Health Service Corps Personnel. These areas are also eligible service areas for certain loan repayment, scholarship, and other Public Health Service programs.

EFFECTIVE DATE: These regulations are effective November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Richard C. Lee, Chief, Distribution Studies Branch, Division of Health Professions Analysis, Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782 (301–436–6750).

SUPPLEMENTARY INFORMATION: Section 332 of the Public Health Service Act ("the Act"), as amended by Pub. L. 94–484, the Health Professions Educational Assistance Act of 1976, required that the Secretary of Health, Education, and Welfare establish, by regulation, criteria for the designation of health manpower shortage areas. In the **Federal Register** of January 10, 1978 (43 FR 1586), the Department published interim-final regulations for designating health manpower shortage areas as a new Part 5 of Title 42 of the Code of Federal Regulations. Those regulations established criteria for the designation of shortage areas for seven different types of health manpower, including primary medical, dental, psychiatric, vision, podiatric, pharmacy, and veterinary care. The Department then compared available data on areas throughout the country with these criteria and developed preliminary listings of areas which appeared to meet the criteria. In accordance with section 332(c) of the Act and the interim-final regulations, the Department submitted these preliminary listings, as well as individual requests for the designation of areas, population groups or facilities, to the appropriate health systems agencies (HSA's), state health planning and development agencies (SHPDA's), and state governors for their review and recommendations.

As a result of Departmental evaluation of these reviews and of individual requests for designation, the Secretary has designated more than 5,000 health manpower shortage areas of various types. The first comprehensive list of health manpower shortage areas was published July 17, 1978 (43 FR 30648). Updated lists of shortage areas for primary medical care and dental care manpower were published September 28 and December 29, 1978, respectively (43 FR 44758, 43 FR 61164). Additional comprehensive lists of all health manpower shortage areas were published on August 6, 1979 (44 FR 46183) and August 26, 1980 (45 FR 57002).

Due to the statutory deadline for publication of these regulations and the dependence of various programs under the PHS Act on the designation of health manpower shortage areas, the regulations were issued on January 10, 1978, as interim-final regulations, without the benefit of proposed rulemaking procedures. However, interested persons were invited to submit comments no later than February 24, 1978. Following the close of the comment period, the regulations were to be revised as warranted by public comments received.

Sixty-one letters were received within the comment period. A detailed discussion of the comments, the Department's response to the comments, and the revisions made in the regulations are presented below.

The changes contained in the final regulations and discussed below are relatively minor. Some further, more substantial, changes and additions appear desirable as a result of problems which have arisen in the process of interpreting and applying the criteria, suggestions made in an evaluation study of the criteria, and additional distribution studies and criteria development efforts which have been carried out since the time when the interim-final criteria were developed. Consequently, proposed amendments to these final regulations will be set forth in a Notice of Proposed Rulemaking to be published at a later date.

Discussion of Comments and Revisions

Some suggestions made in the comments could not be adopted because they contradicted specific requirements in the statute. These include a suggestion that the criteria be based upon demand rather than need; the legislation specifically requires that need be considered in designation. Another example is those comments that criticized the special provision in the criteria for designation of American Indians—in spite of the fact that the legislation specifically provides for designation of facilities serving Indians.

The comments and responses discussed are arranged according to the numbers and titles of the sections of the interim-final regulations to which they pertain.

5.3 Procedures for designation of health manpower shortage areas. The Department has revised the procedures for designating health manpower shortage areas to reflect the fact that the initial designations have already been made, under the interim-final regulations. The procedures now emphasize the annual review of the lists of shortage areas, together with the processing of individual designation requests. In response to comments from health systems agencies and state health planning and development agencies about the inadequacy of the 60-day period which was provided for review of initial preliminary lists of shortage areas, the Department has lengthened the review period provided those agencies in connection with the annual review to 90 days.

A few comments were received suggesting that affected State and local professional societies be included in the formal review and comment process for all proposed designations. The original regulations did not include review by these societies for three reasons: (1) Representatives of these professionals, many of whom are members of the societies, should already be involved in health systems agency (HSA) and/or state health planning and development agency (SHPDA) activities, either through governing body membership or other relationships; (2) the addition of other groups to the formal process appeared likely to further lengthen what is already a fairly lengthy review process; and (3) the comments of professional societies are already required to be considered in the review of National Health Service Crops (NHSC) site applications (under section 333(c) of the Public Health Service Act).

However, in a number of cases, professional societies or their members have challenged a designation after it has been made, resulting in either a later withdrawal of the designation or a delay in the implementation of the designation until the question raised could be resolved. For these reasons, the regulations have been revised to provide that the Department will make copies of proposed designations available to interested parties, upon request, before the designations are made. This policy has already been implemented for

certain State-level health professional societies which have expressed interest.

One respondent suggested that the HSA or SHPDA staff should be required to make a site visit to areas or facilities proposed for designation. The Department has no authority to impose such a requirement upon HSA's or SHPDA's. Furthermore, this proposed requirement would not always be appropriate; a site visit would probably be more beneficial during development or review of a designated area's application for National Health Service Corps personnel or for grant funding.

One respondent suggested that the SHPDA be given a coordinating role among HSA's within its State and responsibility for assigning priorities among designated areas. This suggestion was not adopted for the following reasons: (1) The need for priority determinations to be objective and consistent nationally; (2) this proposal is not within the scope of regulations implementing section 332; and (3) a concern that this suggested function might conflict with the statutory role assigned to the HSA. It should be noted that section 332(c)(1) requires recommendations by a SHPDA *only* with respect to a health service area for which no HSA has been designated. The Secretary has decided, however, to seek comments from the appropriate SHPDA as a routine matter in all cases. The regulations reflect that policy decision.

A question was raised regarding the length of time for processing of a designation request. Although this matter is not dealt with in the regulations, every effort will be made to complete action on each request for designation within 30 days after receipt of all the information necessary for such action. Since this necessary information includes the comments and recommendations provided by HSA's and others, and the regulations provide a 30-day period for submission of those comments, action on individual requests will normally take approximately 60 days from receipt of the initial request.

Notification of Designation (or Withdrawal)

Some respondents suggested that State and/or local health professional societies be specifically identified in the regulations as agencies and entities automatically notified of designations in their area. No change in the regulations has been made on this point, since the regulations already provide for the notification of public or non-profit private entities with a demonstrated interest in the area designated. The Department will continue to send copies of designation notification letters not only to HSA's, SHPDA's, and Governors, but also to other parties who have expressed interest in specific cases, and will normally provide copies automatically to affected State-level health professions societies. In addition, the Department will encourage the health systems agencies to publicize designations within their service areas to improve awareness of the designations on the part of local organizations and individuals concerned with health care delivery.

It should be noted that, although the statute and therefore the regulations provide 60 days after designation for notification, the Department attempts to notify all interested parties at the time of designation.

A provision has also been added to make clear that the effective date of the designation of an area is the date of the notification letter to the requesting individual or agency, which normally precedes the date of first publication in the **Federal Register.**

The section title and content have been expanded to deal with the issue of withdrawal of designations and the concomitant problem of stability of the list. Once a designation has been made, applicants for Public Health Service and related programs and reviewers of these applications depend on that designation as an eligibility requirement and a means of establishing priorities among applicants. If all appropriate parties have had a chance to comment on the proposed designation, and if the fact of designation of the area has been published in the **Federal Register,** it is unfair to potential applicants to be subject to possible withdrawal of the designation at any moment. For this reason, the regulations have been revised to indicate that any withdrawals will be effective only upon publication of a notice of withdrawal (or a new list which does not contain the area) in the **Federal Register.** New lists will typically be published annually.

Appendices

A number of comments received addressed items which appeared in more than one appendix. These broad comments and the corresponding changes are discussed below, according to subject matter. Items specific to individual appendices are discussed by manpower type.

Rational Service Areas

One respondent suggested that locally developed planning area boundaries should be used in defining rational service areas. The Department supports this concept. However, no change has been made in the provision since the existing criteria can accommodate local planning areas, where appropriate.

Another respondent suggested that the same boundaries should be used in determining primary medical care and dental service areas. This suggestion has not been adopted as a general rule, because the service area drawn from and population served by primary medical and dental practices are not necessarily the same. However, where appropriate for particular cases, identical service areas for medical and dental designations can and will be considered.

A number of comments were received concerning the consistency and appropriateness of distances corresponding to criteria travel times. In response to these comments, the Department reviewed the distances for consistency, particularly in terms of speeds assumed for specific types of terrain. Distances corresponding to 40-minute travel time were reduced to be consistent with approximately 40 mph under normal conditions, 30 mph in mountainous terrain, and 50 mph in flat terrain. The previous 60-minute travel time standard for veterinarians was reduced to 40 minutes to ally concern that 60 minutes assumes an excessive amount of time spent traveling by the veterinarians.

It was also suggested that the criteria should explicitly mention that these distances may be reduced in areas of heavy traffic or severe weather conditions. Although this particular revision has not been made, the mileages specified are now referred to as "guidelines" in determining distances, to clarify that local estimates of mileage equivalents to the specified travel times are allowable.

One respondent suggested that, in metropolitan areas, one fare zone be used as an alternative to a specific travel time; this has not been done, because fare zone definitions (and price differentials among fare zones) differ widely from city to city. For example, travel through a single zone in some cities would require considerably more than 30 or 40 minutes travel time.

Some respondents suggested that a specific definition of "primary or secondary roads" and a discussion of methods for defining rational service areas in urban areas be provided. In order to minimize the length and complexity of the regulations, and due to concern that detailed specifications would not be applicable to every local situation, these have not been added to the regulations. However, the Department will provide guidelines covering these points.

One respondent requested that clearer distinctions be made between urban geographic areas and urban population groups. An effort has been made to clarify this by stating that population group designations are appropriate where access barriers within an area prevent a population group from using the area's primary medical providers.

Population Counts

Some respondents noted that age-group adjustments for populations requiring dental and psychiatric services have not been included. This is because it is not clear that the needs for these services differ significantly enough by age to warrant these adjustments.

The adjustments to the population for the health service requirements of tourists have been modified. A lower weight of 0.25 has been applied in computing tourist contributions to the area population for purposes of primary care need, and the tourist contribution has been eliminated for purposes of dental care needs. These changes reflect questions that have been raised about the appropriateness of the Federal role in effectively subsidizing services for tourists, the fact that most tourist health service requirements are for emergency care rather than primary care, and the fact that dental care in particular is almost always scheduled in advanced, in or near the individual's residential area. At the same time, however, provision has been made for counting seasonal residents, i.e., those who maintain a residence in the area and inhabit it for 2 to 8 months per year.

Counting of Number of Practitioners

1. *General.* The Department has revised these provisions to clarify the methods for determination of full-time equivalents (F.T.E.'s) in counting practitioners.

A suggestion that practitioners working in excess of 40 hours per week be counted as more than 1 F.T.E. has not been accepted since this would tend to prevent designation and possible subsequent relief in areas where practitioners are forced to work added hours because of manpower shortages.

Some respondents noted that age adjustments were made in counting some types of practitioners (dentists, optometrists, podiatrists), but not all. Age adjustments were included for those health manpower types whose productivity has been shown to be affected strongly by age. There was no evidence of such age-related productivity differentials for pharmacists and veterinarians, and age-specific practitioner data for these two types are also not widely available. The situation for primary care physicians is considerably more complicated, because productivity differences across specialties seem to be more significant than those across age groups. Possible refinement of the primary care practitioner counts based on productivity considerations is still being studied.

2. *Primary care.* The equivalency level of interns and residents has been reduced to 0.1 F.T.E. to reflect more closely their productivity and the amount of their time spent in ambulatory, primary care services.

Comments supporting both higher and lower weights for foreign medical graduates (F.M.G.'s) were received, and no significant changes have been made. Due to the changes in immigration policy effected by Pub. L. 94–484, F.M.G.'s entering training positions do not represent potential additions to the permanent supply of physicians in the area and, therefore, are excluded. One respondent pointed out that adjustments for F.M.G.'s were not specifically included for facilities; this has been corrected.

A change in the procedure for physician counts has been added to implement an amendment to section 332 made by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95–142). This legislation required that, for areas where physicians have been suspended from participation in the Medicare and Medicaid programs designation decisions should reflect the extent to which entitled individuals cannot obtain services under those programs as a result.

The reference to considering the contribution of nurse practitioners and physician assistants in counting primary care practitioners has been deleted both because no method for these adjustments has been developed and due to implications of the Rural Health Clinic Service Act (Pub. L. 95–210). Specifically, explicit inclusion of nurse practitioners and physician assistants in the determination of the area's provider supply would tend to prevent areas where these practitioners operate from being designated. This could preclude their reimbursement under the Rural Health Clinic Service Act, which limits reimbursement to facilities in health manpower shortage areas or in medically underserved areas. The fact that counts of nurse practitioners and physician assistants are not included in the determination of shortage areas does not prevent their participation in the various shortage area programs.

3. *Dental.* A number of comments were received on the appropriateness of the various weights used in determining the supply of F.T.E. dentists. Some respondents criticized the fact that the base weight of 1.0 F.T.E. reflects the productivity of the dentist under age 55 who employs one auxiliary, instead of reflecting the productivity of one dentist working alone. This was done because the average dentist has one auxiliary. (It should be pointed out that the shortage ratios and degree-of-shortage groups which were selected reflect this base productivity and would have to be changed correspondingly if the base weight were changed; such changes, taken together, would not affect what areas are actually designated.) The weights used have been rounded to the nearest tenth in response to criticism that the distinctions made originally were too fine.

Some respondents pointed out that dental hygienists and other dental assistants should not be equated with receptionists and other clerical staff in counting auxiliaries. However, no change in the definition of auxiliaries for the calculation of adjustments has been made at this time because no data are available on which to base differential productivity figures for different staff. Further, it is not clear that this distinction would produce significant differences in the determinations.

4. *Psychiatric.* Some comments were received suggesting that the category of "psychiatric manpower shortage areas" be changed to "mental health manpower shortage areas," and that corresponding changes be made within the criteria themselves. In particular, the concern was that clinical psychologists, psychiatric nurses, and psychiatric social workers should be included in counting practitioners for designating these areas.

This approach was considered at the time of the development of the original criteria. However, no consensus could be reached upon the appropriate basis for relating these manpower types to psychiatrists in a weighted count of manpower available to meet mental health needs. In addition, the major anticipated use of the designations under Appendix C was placement of psychiatrists. While no integrated mental health manpower approach has yet been developed, this matter is now under further study in connection with an effort to develop criteria for areas with shortages of psychologists, psychiatric nurses, and psychiatric social workers, for use in the event that proposed legislation is enacted requiring obligated service in return for National Institute of Mental Health training of these personnel. It is anticipated that criteria for these types of personnel would overlap with, but not be the same as, those for the psychiatric shortage areas. For these reasons, no change is being made at this time.

The original reference in the regulations to considering the contribution of other mental health providers has been deleted, since no explicit way for taking these practitioners into account has been developed. This deletion should not prevent placement of these providers in designated psychiatric shortage areas.

Population-to-Practitioner Ratio Criteria

1. *Primary care.* A number of comments have been received, particularly in the course of discussions in regional workshops, to the effect that the criteria in the regulations contain many provisions which have made designation easier for inner-city urban areas, as compared to the designation of some low-density rural areas which are more isolated. At the same time, a number of specific cases have arisen regarding rural areas which have less than adequate services, but do not have shortages severe enough to justify designation under these criteria or the criteria for medically underserved areas, and therefore cannot be certified for reimbursement of the services of nurse practitioners and physician assistants under the Rural Health Clinic Services Act. Therefore, a new category of primary care shortage areas is under consideration for rural areas whose ratios of population to number of primary care physicians are below the previous qualifying ratios. This matter will be dealt with in the later Notice of Proposed Rulemaking setting forth various proposed amendments to this final regulation.

2. *Dental.* Comments suggesting that the ratio criteria should be more stringent were received from dental associations, while a health planner suggested that less stringent criteria might be appropriate. The original ratio was retained because of its consistency with the levels applied to other health manpower types.

3. *Psychiatric.* Concern was expressed by provider groups that the ratio of population to number of psychiatrists used as a shortage criterion was too high; however, because any significant lowering of this ratio would appear to lead to inclusion of almost all U.S. mental health catchment areas, no change has been made, in order to continue to distinguish those areas with severe shortages.

4. *Vision care; podiatric care; veterinary care.* Some significant changes to these criteria will be proposed in the later Notice of Proposed Rulemaking.

High Need Standards

Concerns were expressed about methods for assuring statistical significance of the data used in establishing high need. These considerations represent too fine a level of technical detail to be addressed in the regulations, but will be addressed in guidelines to be issued on the preparation of designation requests.

The poverty level rates used in determining high needs for primary medical, dental, and psychiatric designations have been reduced from 30 to 20 percent, for consistency with definitions used by the Bureau of the Census in defining poverty areas. Consideration was given to reducing the infant mortality rate used in determining high needs from 20 to 18, for consistency with draft National Health Planning Guidelines. However, this would increase conflict with the current Bureau of Community Health Services methodology for designation of high infant mortality areas, which uses a level of 22.1. Therefore, no change has been made at this time.

In the case of dental designations, the definition of a lack of fluoridated water for use as indicating high dental need has been clarified. The suggestion that prevalence of edentulous persons or of periodontal disease be included as a high need indicator has not been adopted because data on these variables are not widely available.

Additional suggested indicators of high need for psychiatric care (such as suicides, homicides, juvenile delinquency rates, drug program admissions, drug sales, drug deaths, etc.) have not been added due to lack of availability of consistent supporting data. The heroin prevalence index has also been deleted because data are available only on a very limited basis.

High need indicators for vision care manpower have not been included because the major adjustments for need are already included as population age adjustments.

Insufficient Capacity Indicators

Considerable concern was expressed about the difficulty of obtaining data on the insufficient capacity indicators. In addition, no geographic areas have received designation on the basis of these indicators during the first year of use of these criteria. At the same time, however, a number of comments recommended that greater flexibility be exercised in the determination of "high needs." The insufficient capacity indicators have been retained because they provide alternative means of identifying areas with special access problems.

Contiguous Area Considerations

Comments received regarding the distances specified for travel times to contiguous areas are discussed above under comments on service areas. A change has been made in the ratio of population to number of primary care physicians used to indicate overutilization of primary care resources in contiguous areas; this ratio has been lowered to 2000:1, for consistency with the adequacy level proposed in draft National Health Planning Guidelines and used in Departmental primary care physician requirements estimates.

Population Group Designations

The format of the population group section has been changed in an effort to clarify it. A specific provision for designation of migrant and seasonal farmworkers in high impact areas is under consideration, as are specific criteria for designation of low income populations. These will be dealt with in the later Notice of Proposed Rulemaking in response to a significant number of requests for designation of these types of populations.

The category of population groups has not been limited to socioeconomic groups, as suggested by one respondent, because this definition would not recognize all persons with serious access problems.

Facility Criteria

The criteria for designation of State mental hospitals have been modified (from 600 workload units per psychiatrist to 300) to reflect considerable concern which was expressed during the comment period about the inability to obtain minimal staffing ratios under the existing State mental hospital criteria. Information provided indicated that hospitals with ratios in excess of 300 : 1 frequently were so short of manpower that they were unable to obtain accreditation.

Degree of Shortage Groups

One respondent suggested that the Secretary give an individual ranking for each shortage area. This is not feasible, since these rankings would change each time a new area was added to the list. The degree-of-shortage group for each designated area is included in the notification of designation and in **Federal Register** publications.

All references to ranking of areas within a specific degree-of-shortage group have been deleted since it was determined that this ranking would not

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be a significant consideration in determining relative priorities for NHSC personnel, or for other PHS programs.

Various changes of an editorial or technical nature have also been made to clarify the regulations.

Accordingly, Part 5 of 42 CFR is revised as set forth below.

Dated: September 12, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 31, 1980.

Patricia Roberts Harris,

Secretary.

PART 5—DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

Sec.

5.1 Purpose.
5.2 Definitions.
5.3 Procedure for designation of health manpower shortage areas.
5.4 Notification and publication of designations and withdrawals.
Appendix A. Criteria for Designation of Areas having Shortages of Primary Medical Care Manpower.
Appendix B. Criteria for Designation of Areas having Shortages of Dental Manpower.
Appendix C. Criteria for Designation of Areas having Shortages of Psychiatric Manpower.
Appendix D. Criteria for Designation of Areas having Shortages of Vision Care Manpower.
Appendix E. Criteria for Designation of Areas having Shortages of Podiatric Manpower.
Appendix F. Criteria for Designation of Areas having Shortages of Pharmacy Manpower.
Appendix G. Criteria for Designation of Areas having Shortages of Veterinary Manpower.

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); Section 332 of the Public Health Service Act, 90 Stat. 2770–2772 (42 U.S.C. 254e).

§ 5.1 Purpose.

These regulations establish criteria and procedures for the designation of geographic areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas.

§ 5.2 Definitions.

"Act" means the Public Health Service Act, as amended.

"Health manpower shortage area" means any of the following which the Secretary determines has a shortage of health manpower: (1) An urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services); (2) a population group; or (3) a public or nonprofit private medical facility.

"Health service area" means a health service area whose boundaries have been designated by the Secretary, under section 1511 of the Act, for purposes of health planning activities.

"Health systems agency" or "HSA" means the health systems agency designated, under section 1515 of the Act, to carry out health planning activities for a specific health service area.

"Medical facility" means a facility for the delivery of health services and includes: (1) A community health center, public health center, outpatient medical facility, or community mental health center; (2) a hospital, State mental hospital, facility for long-term care, or rehabilitation facility; (3) a migrant health center or an Indian Health service facility; (4) a facility for delivery of health services to inmates in a U.S. penal or correctional institution (under section 323 of the Act) or a State correctional institution; (5) a Public Health Service medical facility (used in connection with the delivery of health services under section 320, 321, 322, 324, 325, or 326 of the Act); or (6) any other Federal medical facility.

"Metropolitan area" means an area which has been designated by the Office of Management and Budget as a standard metropolitan statistical area (SMSA). All other areas are "non-metropolitan areas."

"Poverty level" means the povery level as defined by the Bureau of the Census, using the poverty index adopted by a Federal Interagency Committee in 1969, and updated each year to reflect changes in the Consumer Price Index.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"State health planning and development agency" or "SHPDA" means a State health planning and development agency designated under section 1521 of the Act.

§ 5.3 Procedures for designation of health manpower shortage areas.

(a) Using data available to the Department from national, State, and local sources and based upon the criteria in the Appendices to this part, the Department will annually prepare listings (by State and health service area) of currently designated health manpower shortage areas and potentially designatable areas, together with appropriate related data available to the Department. Relevant portions of this material will then be forwarded to each health systems agency, State health planning and development agency, and Governor, who will be asked to review the listings for their State, correct any errors of which they are aware, and offer their recommendations, if any, within 90 days, as to which geographic areas, population groups, and facilities in areas under their jurisdiction should be designated. An information copy of these listings will also be made available, upon request, to interested parties for their use in providing comments or recommendations to the Secretary and/or to the appropriate HSA, SHPDA, or Governor.

(b) In addition, any agency or individual may request the Secretary to designate (or withdraw the designation of) a particular geographic area, population group, or facility as a health manpower shortage area. Each request will be forwarded by the Secretary to the appropriate HSA, SHPDA, and Governor, who will be asked to review it and offer their recommendations, if any, within 30 days. An information copy will also be made available to other interested parties, upon request, for their use in providing comments or recommendations to the Secretary and/or to the appropriate HSA, SHPDA, or Governor.

(c) In each case where the designation of a public facility (including a Federal medical facility) is under consideration, the Secretary will give written notice of the proposed designation to the chief administrative officer of the facility, who will be asked to review it and offer their recommendations, if any, within 30 days.

(d) After review of the available information and consideration of the comments and recommendations submitted, the Secretary will designate health manpower shortage areas and withdraw the designation of any areas which have been determined no longer to have a shortage of health manpower.

§ 5.4 Notification and publication of designations and withdrawals.

(a) The Secretary will give written notice of the designation (or withdrawal of designation) of a health manpower shortage area, not later than 60 days from the date of the designation (or withdrawal of designation), to:

(1) The Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or in part located;

(2) Each HSA for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated;

(3) The SHPDA for each State in which the area, population group, medical facility, or other public facility so designated is in whole or in part located; and

(4) Appropriate public or nonprofit private entities which are located in or which have a demonstrated interest in the area so designated.

(b) The Secretary will periodically publish updated lists of designated health manpower shortage areas in the **Federal Register**, by type of manpower shortage. An updated list of areas for each type of manpower shortage will be published at least once annually.

(c) The effective date of the designation of an area shall be the date of the notification letter to the individual or agency which requested the designation, or the date of publication in the **Federal Register**, whichever comes first.

(d) Once an area is listed in the **Federal Register** as a designated health manpower shortage area, the effective date of any later withdrawal of the area's designation shall be the date when notification of the withdrawal, or an updated list of designated areas which does not include it, is published in the **Federal Register**.

Appendix A—Criteria for Designation of Areas Having Shortages of Primary Medical Care Manpower

Part I—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a shortage of primary medical care manpower if the following three criteria are met:

1. The area is a rational area for the delivery of primary medical care services.

2. One of the following conditions prevails within the area:

(a) The area has a population to full-time-equivalent primary care physician ratio of at least 3,500 : 1.

(b) The area has a population to full-time-equivalent primary care physician ratio of less than 3,500 : 1 but greater than 3,000 : 1 and has unusually high needs for primary care services or insufficient capacity of existing primary care providers.

3. Primary medical care manpower in contiguous areas are overutilized, excessively distant, or inaccessible to the population of the area under consideration.

B. *Methodology.*

In determining whether an area meets the criteria established by paragraph A of this part, the following methodology will be used:

1. *Rational Areas for the Delivery of Primary Medical Care Services.*

(a) The following areas will be considered rational areas for the delivery of primary medical care services:

(i) A county, or a group of contiguous counties whose population centers are within 30 minutes travel time of each other.

(ii) A portion of a county, or an area made up of portions of more than one county, whose population, because of topography, market or transportation patterns, distinctive population characteristics or other factors, has limited access to contiguous area resources, as measured generally by a travel time greater than 30 minutes to such resources.

(iii) Established neighborhoods and communities within metropolitan areas which display a strong self-identity (as indicated by a homogeneous socioeconomic or demographic structure and/or a tradition of interaction or interdependency), have limited interaction with contiguous areas, and which, in general, have a minimum population of 20,000.

(b) The following distances will be used as guidelines in determining distances corresponding to 30 minutes travel time:

(i) Under normal conditions with primary roads available: 20 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 15 miles.

(iii) In flat terrain or in areas connected by interstate highways: 25 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the distance corresponding to 30 minutes travel time.

2. *Population Count.*

The population count used will be the total permanent resident civilian population of the area, excluding inmates of institutions, with the following adjustments, where appropriate:

(a) Adjustments to the population for the differing health service requirements of various age-sex population groups will be computed using the table below of visit rates for 12 age-sex population cohorts. The total expected visit rate will first be obtained by multiplying each of the 12 visit rates in the table by the size of the area population within that particular age-sex cohort and adding the resultant 12 visit figures together. This total expected visit rate will then be divided by the U.S. average per capita visit rate of 5.1, to obtain the adjusted population for the area.

Sex	Age groups					
	Under 5	5–14	15–24	25–44	45–64	65 and over
Male	7.3	3.6	3.3	3.6	4.7	6.4
Female	6.4	3.2	5.5	6.4	6.5	6.8

(b) The effect of transient populations on the need of an area for primary care manpower will be taken into account as follows:

(i) Seasonal residents, i.e., those who maintain a residence in the area but inhabit it for only 2 to 8 months per year, may be included but must be weighted in proportion to the fraction of the year they are present in the area.

(ii) Other tourists (non-resident) may be included in an area's population but only with a weight of 0.25, using the following formula: Effective tourist contribution to population = 0.25 × (fraction of year tourists are present in area) × (average daily number of tourists during portion of year that tourists are present).

(iii) Migratory workers and their families may be included in an area's population, using the following formula: Effective migrant contribution to population = (fraction of year migrants are present in area) × (average daily number of migrants during portion of year that migrants are present).

3. *Counting of Primary Care Practitioners.*

(a) All non-Federal doctors of medicine (M.D.) and doctors of osteopathy (D.O.) providing direct patient care who practice principally in one of the four primary care specialities—general or family practice, general internal medicine, pediatrics, and obstetrics and gynecology—will be counted. Those physicians engaged solely in administration, research, and teaching will be excluded. Adjustments for the following factors will be made in

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computing the number of full-time-equivalent (FTE) primary care physicians:

(i) Interns and residents will be counted as 0.1 full-time equivalent (FTE) physicians.

(ii) Graduates of foreign medical schools who are not citizens or lawful permanent residents of the United States will be excluded from physician counts.

(iii) Those graduates of foreign medical schools who are citizens or lawful permanent residents of the United States, but do not have unrestricted licenses to practice medicine, will be counted as 0.5 FTE physicians.

(b) Practitioners who are semi-retired, who operate a reduced practice due to infirmity or other limiting conditions, or who provide patient care services to the residents of the area only on a part-time basis will be discounted through the use of full-time equivalency figures. A 40-hour work week will be used as the standard for determining full-time equivalents in these cases. For practitioners working less than a 40-hour week, every four (4) hours (or ½ day) spent providing patient care, in either ambulatory or inpatient settings, will be counted as 0.1 FTE (with numbers obtained for FTE's rounded to the nearest 0.1 FTE), and each physician providing patient care 40 or more hours a week will be counted as 1.0 FTE physician. (For cases where data are available only for the number of hours providing patient care in office settings, equivalencies will be provided in guidelines.)

(c) In some cases, physicians located within an area may not be accessible to the population of the area under consideration. Allowances for physicians with restricted practices can be made, on a case-by-case basis. However, where only a portion of the population of the area cannot access existing primary care resources in the area, a population group designation may be more appropriate (see Part II of this Appendix).

(d) Hospital staff physicians involved exclusively in inpatient care will be excluded. The number of full-time equivalent physicians practicing in organized outpatient departments and primary care clinics will be included, but those in emergency rooms will be excluded.

(e) Physicians who are suspended under provisions of the Medicare-Medicaid Anti-Fraud and Abuse Act for a period of eighteen months or more will be excluded.

4. *Determination of Unusually High Needs for Primary Medical Care Services.*

An area will be considered as having unusually high needs for primary health care services if at least one of the following criteria is met:

(a) The area has more than 100 births per year per 1,000 women aged 15–44.

(b) The area has more than 20 infant deaths per 1,000 live births.

(c) More than 20% of the population (or of all households) have incomes below the poverty level.

5. *Determination of Insufficient Capacity of Existing Primary Care Providers.*

An area's existing primary care providers will be considered to have insufficient capacity if at least two of the following criteria are met:

(a) More than 8,000 office or outpatient visits per year per FTE primary care physician serving the area.

(b) Unusually long waits for appointments for routine medical services (i.e., more than 7 days for established patients and 14 days for new patients).

(c) Excessive average waiting time at primary care providers (longer than one hour where patients have appointments or two hours where patients are treated on a first-come, first-served basis).

(d) Evidence of excessive use of emergency room facilities for routine primary care.

(e) A substantial proportion (2/3 or more) of the area's physicians do not accept new patients.

(f) Abnormally low utilization of health services, as indicated by an average of 2.0 or less office visits per year on the part of the area's population.

6. *Contiguous Area Considerations.*

Primary care manpower in areas contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area under consideration if one of the following conditions prevails in each contiguous area:

(a) Primary care manpower in the contiguous area are more than 30 minutes travel time from the population center(s) of the area being considered for designation (measured in accordance with paragraph B.1(b) of this Part).

(b) The contiguous area population-to-full-time-equivalent primary care physician ratio is in excess of 2000:1, indicating that practitioners in the contiguous area cannot be expected to help alleviate the shortage situation in the area being considered for designation.

(c) Primary care manpower in the contiguous area are inaccessible to the population of the area under consideration because of specified access barriers, such as:

(i) Significant differences between the demographic (or socio-economic) characteristics of the area under consideration and those of the contiguous area, indicating that the population of the area under consideration may be effectively isolated from nearby resources. This isolation could be indicated, for example, by an unusually high proportion of non-English-speaking persons.

(ii) A lack of economic access to contiguous area resources, as indicated particularly where a very high proportion of the population of the area under consideration is poor (i.e., where more than 20 percent of the population or the households have incomes below the poverty level), and Medicaid-covered or public primary care services are not available in the contiguous area.

C. *Determination of Degree of Shortage.*

Designated areas will be assigned to degree-of-shortage groups, based on the ratio (R) of population to number of full-time equivalent primary care physicians and the presence or absence of unusually high needs for primary health care services, according to the following table:

	High needs not indicated	High needs indicated
Group 1	No physicians	No physicians; or R≥5,000
Group 2	R≥5,000	5,000>R≥4,000
Group 3	5,000>R≥4,000	4,000>R≥3,500
Group 4	4,000>R≥3,500	3,500>R≥3,000

Part II—Population Groups

A. *Criteria.*

1. In general, specific population groups within particular geographic areas will be designated as having a shortage of primary medical care manpower if the following three criteria are met:

(a) The area in which they reside is rational for the delivery of primary medical care services, as defined in paragraph B.1 of Part I of this Appendix.

(b) Access barriers prevent the population group from use of the area's primary medical care providers. Such barriers may be economic, linguistic, cultural, or architectural, or could involve refusal of some providers to accept certain types of patients or to accept Medicaid reimbursement.

(c) The ratio of the number of persons in the population group to the number of primary care physicians practicing in the area and serving the population group is at least 3,000 : 1.

2. Indians and Alaska Natives will be considered for designation as having shortages of primary care manpower as follows:

(a) Groups of members of Indian tribes (as defined in section 4(d) of Pub. L. 94–437, the Indian Health Care Improvement Act of 1976) are automatically designated.

(b) Other groups of Indians or Alaska Natives (as defined in section 4(c) of Pub. L. 94–437) will be designated if the general criteria in paragraph A are met.

B. *Determination of Degree of Shortage.*

Each designated population group will be assigned to a degree-of-shortage group, based on the ratio (R) of the group's population to the number of primary care physicians serving it, as follows:

Group 1—No physicians or R≥ 5,000.
Group 2—5,000>R≥4,000.
Group 3—4,000>R≥3,500.
Group 4—3,500>R≥3,000.

Population groups which have received "automatic" designation will be assigned to degree-of-shortage group 4 if no information on the ratio of the number of persons in the group to the number of FTE primary care physicians serving them is provided.

PART III—Facilities

A. *Federal and State Correctional Institutions.*

1. *Criteria.*

Medium to maximum security Federal and State correctional institutions and youth detention facilities will be designated as having a shortage of primary medical care manpower if both the following criteria are met:

(a) The institution has at least 250 inmates.

(b) The ratio of the number of internees per year to the number of FTE primary care physicians serving the institution is at least 1,000:1. (Here the number of internees is the number of inmates present at the beginning of the year plus the number of new inmates entering the institution during the year, including those who left before the end of the year; the number of FTE primary care physicians is computed as in Part I, Section B, paragraph 3 above.)

2. *Determination of Degree of Shortage.*

Designated correctional institutions will be assigned to degree-of-shortage groups based on the number of inmates and/or the ratio (R) of internees to primary care physicians, as follows:

Group 1—Institutions with 500 or more inmates and no physicians.

Group 2—Other institutions with no physicians and institutions with R>2,000.
Group 3—Institutions with 2,000>R>1,000.

B. *Public or Non-Profit Medical Facilities.*

1. *Criteria.*

Public or non-profit private medical facilities will be designated as having a shortage of primary medical care manpower if:

(a) the facility is providing primary medical care services to an area or population group designated as having a primary care manpower shortage; and

(b) the facility has insufficient capacity to meet the primary care needs of that area or population group.

2. *Methodology*

In determining whether public or nonprofit private medical facilities meet the criteria established by paragraph B.1 of this Part, the following methodology will be used:

(a) *Provision of Services to a Designated Area or Population Group.*

A facility will be considered to be providing services to a designated area or population group if either:

(i) A majority of the facility's primary care services are being provided to residents of designated primary care manpower shortage areas or to population groups designated as having a shortage of primary care manpower; or

(ii) The population within a designated primary care shortage area or population group has reasonable access to primary care services provided at the facility. Reasonable access will be assumed if the area within which the population resides lies within 30 minutes travel time of the facility and non-physical barriers (relating to demographic and socioeconomic characteristics of the population) do not prevent the population from receiving care at the facility.

Migrant health centers (as defined in section 319(a)(1) of the Act) which are located in areas with designated migrant population groups and Indian Health Service facilities are assumed to be meeting this requirement.

(b) *Insufficient capacity to meet primary care needs.*

A facility will be considered to have insufficient capacity to meet the primary care needs of the area or population it serves if at least two of the following conditions exist at the facility:

(i) There are more than 8,000 outpatient visits per year per FTE primary care physician on the staff of the facility. (Here the number of FTE primary care physicians is computed as in Part I, Section B, paragraph 3 above.)

(ii) There is excessive usage of emergency room facilities for routine primary care.

(iii) Waiting time for appointments is more than 7 days for established patients or more than 14 days for new patients, for routine health services.

(iv) Waiting time at the facility is longer than 1 hour where patients have appointments or 2 hours where patients are treated on a first-come, first-served basis.

3. *Determination of Degree of Shortage.*

Each designated medical facility will be assigned to the same degree-of-shortage group as the designated area or population group which it serves.

Appendix B—Criteria for Designation of Areas Having Shortages of Dental Manpower

Part I—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a dental manpower shortage if the following three criteria are met:

1. The area is a rational area for the delivery of dental services.

2. One of the following conditions prevails in the area:

(a) The area has a population to full-time-equivalent dentist ratio of at least 5,000:1, or

(b) The area has a population to full-time-equivalent dentist ratio of less than 5,000:1 but greater than 4,000:1 and has unusually high needs for dental services or insufficient capacity of existing dental providers.

3. Dental manpower in contiguous areas are overutilized, excessively distant, or inaccessible to the population of the area under consideration.

B. *Methodology.*

In determining whether an area meets the criteria established by paragraph A of this Part, the following methodology will be used:

1. *Rational Area for the Delivery of Dental Services.*

(a) The following areas will be considered rational areas for the delivery of dental health services:

(i) A county, or a group of several contiguous counties whose population centers are within 40 minutes travel time of each other.

(ii) A portion of a county (or an area made up of portions of more than one county) whose population, because of topography, market or transportation patterns, distinctive population characteristics, or other factors, has limited access to contiguous area resources, as measured generally by a travel time of greater than 40 minutes to such resources.

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(iii) Established neighborhoods and communities within metropolitan areas which display a strong self-identity (as indicated by a homogenous socioeconomic or demographic structure and/or a traditional of interaction or intradependency), have limited interaction with contiguous areas, and which, in general, have a minimum population of 20,000.

(b) The following distances will be used as guidelines in determining distances corresponding to 40 minutes travel time:

(i) Under normal conditions with primary roads available: 25 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 20 miles.

(iii) In flat terrain or in areas connected by interstate highways: 30 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the distance corresponding to 40 minutes travel time.

2. *Population Count.*

The population count use will be the total permanent resident civilian population of the area, excluding inmates of institutions, with the following adjustments:

(a) Seasonal residents, i.e., those who maintain a residence in the area but inhabit it for only 2 to 8 months per year, may be included but must be weighted in proportion to the fraction of the year they are present in the area.

(b) Migratory workers and their families may be included in an area's population using the following formula: Effective migrant contribution to population = (fraction of year migrants are present in area) × (average daily number of migrants during portion of year that migrants are present).

3. *Counting of Dental Practitioners.*

(a) All non-Federal dentists providing patient care will be counted, except in those areas where it is shown that specialists (those dentists not in general practice or pedodontics) are serving a larger area and are not addressing the general dental care needs of the area under consideration.

(b) Full-time equivalent (FTE) figures will be used to reflect productivity differences among dental practices based on the age of the dentists, the number of auxiliaries employed, and the number of hours worked per week. In general, the number of FTE dentists will be computed using weights obtained from the matrix in Table 1, which is based on the productivity of dentists at various ages, with different numbers of auxiliaries, as compared with the average productivity of all dentists. For the purposes of these determinations, an auxiliary is defined as any non-dentist staff employed by the dentist to assist in operation of the practice.

Table 1. Equivalency Weights, by Age and Number of Auxiliaries

	<55	55–59	60–64	65+
No auxiliaries	0.8	0.7	0.6	0.5
One auxiliary	1.0	0.9	0.8	0.7
Two auxiliaries	1.2	1.0	1.0	0.8
Three auxiliaries	1.4	1.2	1.0	1.0
Four or more auxiliaries	1.5	1.5	1.3	1.2

If information on the number of auxiliaries employed by the dentist is not available, Table 2 will be used to compute the number of full-time equivalent dentists.

Table 2. Equivalency Weights, by Age

	55	55–59	60–64	65+
Equivalency weights	1.2	0.9	0.8	0.6

The number of FTE dentists within a particular age group (or age/auxiliary group) will be obtained by multiplying the number of dentists within that group by its corresponding equivalency weight. The total supply of FTE dentists within an area is then computed as the sum of those dentists within each age (or age/auxiliary) group.

(c) The equivalency weights specified in tables 1 and 2 assume that dentists within a particular group are working full-time (40 hours per week). Where appropriate data are available, adjusted equivalency figures for dentists who are semi-retired, who operate a reduced practice due to infirmity or other limiting conditions, or who are available to the population of an area only on a part-time basis will be used to reflect the reduced availability of these dentists. In computing these equivalency figures, every 4 hours (or ½ day) spent in the dental practice will be counted as 0.1 FTE except that each dentist working more than 40 hours a week will be counted as 1.0. The count obtained for a particular age group of dentists will then be multiplied by the appropriate equivalency weight from table 1 or 2 to obtain a full-time equivalent figure for dentists within that particular age or age/auxiliary category.

4. *Determination of Unusually High Needs for Dental Services.*

An area will be considered as having unusually high needs for dental services if at least one of the following criteria is met:

(a) More than 20% of the population (or of all households) has incomes below the poverty level.

(b) The majority of the area's population does not have a fluoridated water supply.

5. *Determination of Insufficient Capacity of Existing Dental Care Providers.*

An area's existing dental care providers will be considered to have insufficient capacity if at least two of the following criteria are met:

(a) More than 5,000 visits per year per FTE dentist serving the area.

(b) Unusually long waits for appointments for routine dental services (i.e., more than 6 weeks).

(c) A substantial proportion (⅔ or more) of the area's dentists do not accept new patients.

6. *Contiguous Area Considerations.*

Dental manpower in areas contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area under consideration if one of the following conditions prevails in each contiguous area:

(a) Dental manpower in the contiguous area are more than 40 minutes travel time from the center of the area being considered for designation (measured in accordance with Paragraph B.1.(b) of this Part).

(b) Contiguous area population-to-(FTE) dentist ratios are in excess of 3,000 : 1, indicating that resources in contiguous areas cannot be expected to help alleviate the shortage situation in the area being considered for designation.

(c) Dental manpower in the contiguous area are inaccessible to the population of the area under consideration because of specified access barriers, such as:

(i) Significant differences between the demographic (or socioeconomic) characteristics of the area under consideration and those of the contiguous area, indicating that the population of the area under consideration may be effectively isolated from nearby resources. Such isolation could be indicated, for example, by an unusually high proportion of non-English-speaking persons.

(ii) A lack of economic access to contiguous area resources, particularly where a very high proportion of the population of the area under consideration is poor (i.e., where more than 20 percent of the population or of the households have incomes below the poverty level) and Medicaid-covered or public dental services are not available in the contiguous area.

C. *Determination of Degree of Shortage.*

The degree of shortage of a given geographic area, designated as having a shortage of dental manpower, will be determined using the following procedure:

Designated areas will be assigned to degree-of-shortage groups, based on the ratio (R) of population to number of full-time-equivalent dentists and the presence or absence of unusually high needs for dental services, or insufficient capacity of existing dental care providers according to the following table:

	High needs or insufficient capacity not indicated	High needs or insufficient capacity indicated
Group 1	No dentists	No dentists or R≥8,000.
Group 2	R≥8,000	8,000>R≥6,000.
Group 3	8,000>R≥6,000	6,000>R≥5,000.
Group 4	6,000>R≥5,000	5,000>R≥4,000.

Part II—Population Groups

A. *Criteria.*

1. In general, specified population groups within particular geographic areas will be designated as having a shortage of dental care manpower if the following three criteria are met:

a. The area in which they reside is rational for the delivery of dental care services, as defined in paragraph B.1 of Part I of this appendix.

b. Access barriers prevent the population group from use of the area's dental providers.

c. The ratio (R) of the number of persons in the population group to the number of dentists practicing in the area and serving the population group is at least 4,000:1.

2. Indians and Alaska Natives will be considered for designation as having shortages of dental manpower as follows:

(a) Groups of members of Indian tribes (as defined in section 4(d) of Pub. L. 94–437, the Indian Health Care Improvement Act of 1976) are automatically designated.

(b) Other groups of Indians or Alaska Natives (as defined in section 4(c) of Pub. L. 94–437) will be designated if the general criteria in paragraph 1 are met.

B. *Determination of Degree of Shortage.*

Each designated population group will be assigned to a degree-of-shortage group as follows:

Group 1—No dentists or R≥ 8,000.
Group 2—8,000 > R≥ 6,000.
Group 3—6,000 > R≥ 5,000.
Group 4—5,000 > R≥ 4,000.

Population groups which have received "automatic" designation will be assigned to degree-of-shortage group 4 unless information on the ratio of the number of persons in the group to the number of FTE dentists serving them is provided.

Part III—Facilities

A. *Federal and State Correctional Institutions.*

1. *Criteria.*

Medium to maximum security Federal and State correctional institutions and youth detention facilities will be designated as having a shortage of dental manpower if both the following criteria are met:

(a) The institution has at least 250 inmates.

(b) The ratio of the number of internees per year to the number of FTE dentists serving the institution is at least 1,500:1. (Here the number of internees is the number of inmates present at the beginning of the year plus the number of new inmates entering the institution during the year, including those who left before the end of the year; the number of FTE dentists is computed as in Part I, Section B, paragraph 3 above.)

2. *Determination of Degree-of-Shortage.*

Designated correctional institutions will be assigned to degree-of-shortage groups as follows, based on number of inmates and/or the ratio (R) of internees to dentists:

Group 1—Institutions with 500 or more inmates and no dentists.
Group 2—Other institutions with no dentists and institutions with R > 3,000.
Group 3—Institutions with 3,000 > R > 1,500.

B. *Public or Non-Profit Private Dental Facilities.*

1. *Criteria.*

Public or nonprofit private facilties providing general dental care services will be designated as having a shortage of dental manpower if both of the following criteria are met:

(a) The facility is providing general dental care services to an area or population group designated as having a dental manpower shortage; and

(b) The facility has insufficent capacity to meet the dental care needs of that area or population group.

2. *Methodology.*

In determining whether public or nonprofit private facilities meet the criteria established by paragraph B.1. of this part, the following methodology will be used:

(a) *Provision of Services to a Designated Area or Population Group.*

A facility will be considered to be providing services to an area or population group if either:

(i) A majority of the facility's dental care services are being provided to residents of designated dental manpower shortage areas or to population groups designated as having a shortage of dental manpower; or

(ii) The population within a designated dental shortage area or population group has reasonable access to dental services provided at the facility. Reasonable access will be assumed if the population lies within 40 minutes travel time of the facility and non-physical barriers (relating to demographic and socioeconomic characteristics of the population) do not prevent the population from receiving care at the facility.

Migrant health centers (as defined in section 319(a)(1) of the Act) which are located in areas with designated migrant population groups and Indian Health Service facilities are assumed to be meeting this requirement.

(b) *Insufficient Capacity to Meet Dental Care Needs.*

A facility will be considered to have insufficient capacity to meet the dental care needs of a designated area or population group if either of the following conditions exists at the facility.

(i) There are more than 5,000 outpatient visits per year per FTE dentist on the staff of the facility. (Here the number of FTE dentists is computed as in Part I, Section B, paragraph 3 above.)

(ii) Waiting time for appointments is more than 6 weeks for routine dental services.

3. *Determination of Degree of Shortage.*

Each designated dental facility will be assigned to the same degree-of-shortage group as the designated area or population group which it serves.

Appendix C—Criteria for Designation of Areas having Shortages of Psychiatric Manpower

Part I—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a shortage of psychiatric manpower if the following three criteria are met:

1. The area is a rational area for the delivery of psychiatric services.

2. One of the following conditions prevails within the area:

(a) The area has a population to full-time-equivalent psychiatrist ratio of at least 30,000:1; or

(b) The area has a population to full-time-equivalent psychiatrist ratio of less than 30,000:1 but greater than 20,000:1

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and has unusually high needs for psychiatric services.

3. Psychiatric manpower in contiguous areas are overutilized, excessively distant or inaccessible to residents of the area under consideration.

B. *Methodology.*

In determining whether an area meets the criteria established by paragraph A of this Part, the following methodology will be used:

1. *Rational Areas for the Delivery of Psychiatric Services.*

(a) The following areas will be considered rational areas for the delivery of psychiatric services:

(i) An established mental health catchment area, as designated in the State Mental Health Plan under the general criteria set forth in section 238 of the Community Mental Health Centers Act.

(ii) A portion of an established mental health catchment area whose population, because of topography, market and/or transportation patterns or other factors, has limited access to psychiatric resources in the rest of the catchment area, as measured generally by a travel time of greater than 40 minutes to these resources.

(iii) A county or metropolitan area which contains more than one mental health catchment area, where data are unavailable by individual catchment area.

(b) The following distances will be used as guidelines in determining distances corresponding to 40 minutes travel time:

(i) Under normal conditions with primary roads available: 25 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 20 miles.

(iii) In flat terrain or in areas connected by interstate highways: 30 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the distance corresponding to 40 minutes travel time.

2. *Population Count.*

The population count used will be the total permanent resident civilian population of the area, excluding inmates of institutions.

3. *Counting of Psychiatrists.*

(a) All non-Federal psychiatrists providing patient care (direct or other, including consultation and supervision) in ambulatory or other short-term care settings to residents of the area more than one-half day per week will be counted. Those psychiatrists engaged solely in administration, research, and teaching will be excluded. Adjustments for the following factors will be made in computing the number of full-time-equivalent (FTE) psychiatrists:

(i) Psychiatric residents will be counted as 0.5 FTE psychiatrists.

(ii) Graduates of foreign medical schools who are not citizens or lawful permanent residents of the United States will be excluded from psychiatrist counts.

(iii) Those graduates of foreign medical schools who are citizens or lawful permanent residents of the United States, but do not have unrestricted licenses to practice medicine, will be counted as 0.5 FTE psychiatrists.

(b) Psychiatrists who are semi-retired, who operate a reduced practice due to infirmity or other limiting conditions, or who provide patient care to the population of an area only on a part-time basis will be discounted through the use of "full-time equivalency" figures. A 40-hour work week will be used as the standard for determining full-time equivalents in these cases. For practitioners working less than a 40-hour week, every 4 hours (or ½ day) spent providing patient care services in ambulatory or inpatient settings will be counted as 0.1 FTE, and each psychiatrist providing patient care 40 or more hours a week will be counted as 1.0 FTE. For cases where data are available only for hours providing care in office settings, equivalencies will be provided in guidelines.

(c) In some cases, psychiatrists located within an area may not be accessible to the general population of the area under consideration. Allowances for psychiatrists working in restricted facilities will be made on a case-by-case basis. Examples of restricted practices include staff positions in correctional institutions, youth detention facilities, residential treatment centers for emotionally disturbed or mentally retarded children, and inpatient units of State or county mental hospitals.

(d) In cases where there are mental health facilities or institutions providing both inpatient and outpatient services, those psychiatrists assigned to outpatient or other short-term care units will be counted. If the psychiatric staff is not specifically allocated to one service or the other, the number of psychiatrists in short-term care will be estimated on the basis of the relative workload in each type of setting.

(e) Psychiatrists who are suspended for a period of eighteen months or more under provisions of the Medicare-Medicaid Anti-Fraud and Abuse Act will not be counted.

4. *Determination of Unusually High Need for Psychiatric Services.*

An area will be considered to have unusually high needs for psychiatric services if two or more of the following criteria are met:

(a) 20 percent of the population (or of all households) have incomes below the poverty level, or the area has been designated as a poverty area in accordance with section 242 of the Community Mental Health Centers Act.

(b) A young dependency ratio (ratio of children under 18 to population 18–64) in excess of 60 percent.

(c) An aged dependency ratio (ratio of persons aged 65 and over to population 18–64) in excess of 25 percent.

(d) A high prevalence of alcoholism in the population, as indicated by a value of 0.211 for the catchment area's index of relative alcoholism prevalence (as developed by the National Institute of Alcohol Abuse and Alcoholism for the purposes of allocating funds over 42 U.S.C. 4571).

5. *Contiguous Area Considerations.*

Psychiatric manpower in areas contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area under consideration if one of the following conditions prevails in each contiguous area:

(a) Psychiatrists in the contiguous area are more than 40 minutes travel time from the center of the area being considered for designation (measured in accordance with paragraph B.1(b) of this part).

(b) Contiguous area population-to-FTE psychiatrist ratios are in excess of 20,000:1, indicating that psychiatrists in contiguous areas cannot be expected to help alleviate the shortage situation in the area for which designation is being considered.

(c) Psychiatric manpower in contiguous areas are inaccessible to the population of the requested area because of geographic, cultural, language or other barriers or because of residency restrictions of programs or facilities providing such manpower.

C. *Determination of Degree of Shortage*

Designated areas will be assigned to degree-of-shortage groups, based on the ratio (R) of population to number of FTE psychiatrists and the presence or absence of unusually high needs for psychiatric services, according to the following table:

	High needs not indicated	High needs indicated
Group 1	No psychiatrists	No psychiatrists.
Group 2	R>50,000	R>40,000.
Group 3	50,000>R>40,000	40,000>R>30,000.
Group 4	40,000>R>30,000	30,000>R>20,000.

Part II—Population Groups

Population groups within particular catchment areas will be designated as having a psychiatric manpower shortage if the following conditions prevail:

(a) Access barriers prevent the population group from using those psychiatric manpower which are present in the area, and

(b) The ratio of the number of persons in the population group to the number of FTE psychiatrists serving the population group, and practicing within 40 minutes travel time of the center of the area where the population group resides, is at least 30,000 : 1 (20,000 : 1 where unusally high needs for psychiatric services are indicated).

B. *Determination of Degree of Shortage.*

Designated population groups will be assigned to degree-of-shortage groups as in Section C of Part I of this Appendix, based on the ratio of the group's population to the number of psychiatrists serving it, together with the presence or absence of unusually high needs for psychiatric services among the population group.

Part III—Facilities

A. *Federal and State Correctional Institutions*

1. *Criteria.*

Medium to maximum security Federal and State correctional institutions for adults or youth, and youth detention facilities, will be designated as having a shortage of psychiatric manpower if both of the following criteria are met:

(a) The institution has more than 250 inmates, and

(b) The ratio of the number of internees per year to the number of FTE psychiatrists serving the institution is at least 2,000:1. (Here the number of internees is the number of inmates or residents present at the beginning of the year, plus the number of new inmates or residents entering the institution during the year, including those who left before the end of the year; the number of FTE psychiatrists is computed as in Part I, Section B, paragraph 3 above.)

2. *Determination of Degree of Shortage.*

Correctional facilities and youth detention facilities will be assigned to degree-of-shortage groups, based on the number of inmates and/or the ratio (R) of internees to FTE psychiatrists, as follows:

Group 1—Facilities with 500 or more inmates or residents and no psychiatrist.

Group 2—Other facilities with no psychiatrists and facilities with 500 or more inmates or residents and R>3,000.

Group 3—All other facilities.

B. *State and County Mental Hospitals.*

1. *Criteria.*

A State or county hospital will be designated as having a shortage of psychiatric manpower if both of the following criteria are met:

(a) The mental hospital has an average daily inpatient census of at least 100; and

(b) The number of workload units per FTE psychiatrists available at the hospital exceeds 300, where workload units are calculated using the following formula:

Total workload units = average daily inpatient census + 2 × (number of inpatient admissions per year) + 0.5 × (number of admissions to day care and outpatient services per year).

2. *Determination of Degree of Shortage.*

State or county mental hospitals will be assigned to degree-of-shortage groups, based on the ratio (R) of workload units to number of FTE psychiatrists, as follows:

Group 1—No psychiatrists, or R>1,800.
Group 2—1,800>R>1,200.
Group 3—1,200>R>600.
Group 4—600>R>300.

C. *Community Mental Health Centers and Other Public or Nonprofit Private Facilities.*

1. *Criteria.*

A community mental health center (CMHC), authorized by Pub. L. 94–63, or other public or nonprofit private facility providing psychiatric services to an area or population group, may be designated as having a shortage of psychiatric manpower if the facility is providing (or is responsible for providing) psychiatric services to an area or population group designated as having a psychiatric manpower shortage, and the facility has insufficient capacity to meet the psychiatric needs of the area or population group.

2. *Methodology.*

In determining whether CMHCs or other public or nonprofit private facilities meet the criteria established in paragraph C.1 of this Part, the following methodology will be used.

(a) *Provision of Services to a Designated Area or Population Group.*

The facility will be considered to be providing services to a designated area or population group if either:

(i) A majority of the facility's psychiatric services are being provided to residents of designated psychiatric manpower shortage areas or to population groups designated as having a shortage of psychiatric manpower; or

(ii) The population within a designated psychiatric shortage area or population group has reasonable access to psychiatric services provided at the facility. Such reasonable access will be assumed if the population lies within 40 minutes travel time of the facility and nonphysical barriers (relating to demographic and socioeconomic characteristics of the population) do not prevent the population from receiving care at the facility.

(b) *Responsibility for Provision of Services.*

This condition will be considered to be met if the facility, by Federal or State statute, administrative action, or contractual agreement, has been given responsibility for providing and/or coordinating psychiatric services for the area or population group, consistent with applicable State plans.

(c) *Insufficient Capacity to Meet Psychiatric Needs.*

A facility will be considered to have insufficient capacity to meet the psychiatric needs of the area or population it serves if:

(i) There are more than 3,000 patient visits per year per FTE psychiatrist on the staff are under care at the facility, or

(ii) No psychiatrists are on the staff and this facility is the only facility providing (or responsible for providing) services to the designated area or population.

3. *Determination of Degree-of-Shortage.*

Each designated facility will be assigned to the same degree-of-shortage group as the designated area or population group which it serves.

Appendix D—Criteria for Designation of Areas Having Shortages of Vision Care Manpower

Part I—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a shortage of vision care manpower if the following three criteria are met:

1. The area is a rational area for the delivery of vision care services.

2. The estimated number of optometric visits supplied by vision care manpower in the area is less than the estimated requirements of the area's population for these visits, and the computed shortage is at least 1,500 optometric visits.

3. Vision care manpower in contiguous areas are excessively distant, overutilized, or inaccessible to the population of the area under consideration.

B. *Methodology.*

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In determining whether an area meets the criteria established by paragraph A of this part, the following methodology will be used:

1. *Rational Areas for the Delivery of Vision Care Services.*

(a) The following areas will be considered rational areas for the delivery of vision care services:

(i) A county, or a group of contiguous counties whose population centers are within 40 minutes travel time of each other;

(ii) A portion of a county (or an area made up of portions of more than one county) whose population, because of topography, market or transportation patterns, or other factors, has limited access to contiguous area resources, as measured generally by a travel time of greater than 40 minutes to these resources.

(b) The following distances will be used as guidelines in determining distances corresponding to 40 minutes travel time:

(i) Under normal conditions with primary roads available: 25 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 20 miles.

(iii) In flat terrain or in areas connected by interstate highways: 30 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the distance corresponding to 40 minutes travel time.

2. *Determination of Estimated Requirement for Optometric Visits.*

The number of optometric visits required by an area's population will be estimated by multiplying each of the following visit rates by the size of the population within that particular age group and then adding the figures obtained together.

Age	Annual number of optometric visits required per person, by age					
	Under 20	20–29	30–39	40–49	50–59	60 and over
Number of visits	0.11	0.20	0.24	0.35	0.41	0.49

For geographic areas where the age distribution of the population is not known, it will be assumed that the percentage distribution, by age groups, for the area is the same as the distribution for the county of which it is a part.

(3) *Determination of Estimated Supply of Optometric Visits.*

The estimated supply of optometric services will be determined by use of the following formula:

Optometric visits supplied = 3,000 × (number of optometrists under 65)
Optometric visits supplied + 2,000 × (number of optometrists 65 and over)
Optometric visits supplied + 1,500 × (number of ophthalmologists)

(4) *Determination of Size of Shortage.*

Size of shortage (in number of optometric visits) will be computed as follows:

Optometric visit shortage = visits required − visits supplied

(5) *Contiguous Area Considerations.*

Vision care manpower in area contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area if one of the following conditions prevails in each contiguous area:

(a) Vision care manpower in the contiguous area are more than 40 minutes travel time from the center of the area being considered for designation (measured in accordance with paragraph B.1(b) of this Part).

(b) The estimated requirement for vision care services in the contiguous area exceeds the estimated supply of such services there, based on the requirements and supply calculations previously described.

(c) Vision care manpower in the contiguous area are inaccessible to the population of the area because of specified access barriers (such as economic or cultural barriers).

C. *Determination of Degree-of-Shortage.*

Designated areas (and population groups) will be assigned to degree-of-shortage groups, based on the ratio of optometric visits supplied to optometric visits required for the area (or group), as follows:

Group 1—Areas (or groups) with no optometric visits being supplied (i.e., with no optometrists or ophthalmologists).

Group 2—Areas (or groups) where the ratio of optometric visits supplied to optometric visits required is less than 0.5.

Group 3—Areas (or groups) where the ratio of optometric visits supplied to optometric visits required is between 0.5 and 1.0.

Part II—Population Groups

A. *Criteria.*

Population groups within particular geographic areas will be designated if both the following criteria are met:

(1) Members of the population group do not have access to vision care resources within the area (or in contiguous areas) because of non-physical access barriers (such as economic or cultural barriers).

(2) The estimated number of optometric visits supplied to the population group (as determined under paragraph B.3 of Part I of this Appendix) is less than the estimated number of visits required by that group (as determined under paragraph B.2 of Part I of this Appendix), and the computed shortage is at least 1,500 optometric visits.

B. *Determination of Degree of Shortage.*

The degree of shortage of a given population group will be determined in the same way as described for areas in paragraph C of Part I of this Appendix.

Appendix E—Criteria for Designation of Areas Having Shortages of Podiatric Manpower

Part I—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a shortage of podiatric manpower if the following three criteria are met:

1. The area is a rational area for the delivery of podiatric services.

2. The area's ratio of population to foot care practitioners is at least 28,000:1, and the computed podiatrist shortage to meet this ratio is at least 0.5.

3. Podiatric manpower in contiguous areas are overutilized, excessively distant, or inaccessible to the population of the area under consideration.

B. *Methodology.*

In determining whether an area meets the criteria established by paragraph A of this Part, the following methodology will be used:

1. *Rational Areas for the Delivery of Podiatric Services.*

(a) The following areas will be considered rational areas for the delivery of podiatric services:

(i) A county or a group of contiguous counties whose population centers are within 40 minutes travel time of each other.

(ii) A portion of a county, or an area made up of portions of more than one county, whose population, because of topography, market and/or transportation patterns or other factors, has limited access to contiguous area resources, as measured generally by a travel time of greater than 40 minutes from its population center to these resources.

(b) The following distances will be used as guidelines in determining distances corresponding to 40 minutes travel time:

(i) Under normal conditions with primary roads available: 25 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 20 miles.

(iii) In flat terrain or in areas connected by interstate highways: 30 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the area corresponding to 40 minutes travel time.

2. *Population Count.*

The population count used will be the total permanent resident civilian population of the area, excluding inmates of institutions, adjusted by the following formula to take into account the differing utilization rates of podiatric services by different age groups within the population:

Adjusted population = total population × (1 + 2.2 × (percent of population 65 and over) − 0.44 × (percent of population under 17)).

3. *Counting of Foot Care Practitioners.*

(a) All podiatrists providing patient care will be counted. However, in order to take into account productivity differences in podiatric practices associated with the age of the podiatrists, the following formula will be utilized:

Number of FTE podiatrists = 1.0 × (podiatrists under age 55)
+ .8 × (podiatrists age 55 and over)

(b) In order to take into account the fact that orthopedic surgeons and general and family practitioners devote a percentage of their time to foot care, the total available foot care practitioners will be computed as follows:

Number of foot care practitioners = number of FTE podiatrists
+ .15 × (number of orthopedic surgeons)
+ .02 × (number of general and family practioners),

4. *Determination of Size of Shortage.*

Size of shortage (in number of FTE podiatrists) will be computed as follows:

Podiatrist shortage = adjusted population/28,000 − number of FTE foot care practitioners.

5. *Contiguous Area Considerations.*

Podiatric manpower in areas contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area under consideration if one of the following conditions prevails in each contiguous area:

(a) Podiatric manpower in the contiguous area are more than 40 minutes travel time from the center of the area being considered for designation.

(b) The population-to-foot care practitioner ratio in the contiguous areas is in excess of 20,000 : 1, indicating that contiguous area podiatric manpower cannot be expected to help alleviate the shortage situation in the area for which designation is requested.

(c) Podiatric manpower in the contiguous area are inaccessible to the population of the area under consideration because of specified access barriers (such as economic or cultural barriers).

C. *Determination of Degree of Shortage.*

Designated areas will be assigned to groups, based on the ratio (R) of adjusted population to number of foot care practitioners, as follows:

Group 1 Areas with no foot care practitioners, and areas with R > 50,000 and no podiatrists.
Group 2 Other areas with R > 50,000.
Group 3 Areas with 50,000 > R > 28,000.

Appendix F—Criteria for Designation of Areas Having Shortages of Pharmacy Manpower

Part 1—Geographic Areas

A. *Criteria.*

A geographic area will be designated as having a shortage of pharmacy manpower if the following three criteria are met:

1. The area is a rational area for the delivery of pharmacy services.

2. The number of pharmacists serving the area is less than the estimated requirement for pharmacists in the area, and the computed pharmacist shortage is at least 0.5.

3. Pharmacists in contiguous areas are overutilized or excessively distant from the population of the area under consideration.

B. *Methodology.*

In determining whether an area meets the criteria established by paragraph A of this Part, the following methodology will be used:

1. *Rational Areas for the Delivery of Pharmacy Services.*

(a) The following areas will be considered rational areas for the delivery of pharmacy services:

(i) A county, or a group of contiguous counties whose population centers are within 30 minutes travel time of each other; and

(ii) A portion of a county, or an area made up of portions of more than one county, whose population, because of topography, market or transportation patterns or other factors, has limited access to contiguous area resources, as measured generally by a travel time of greater than 30 minutes to these resources.

(b) The following distances will be used as guidelines in determining distances corresponding to 30 minutes travel time:

(i) Under normal conditions with primary roads available: 20 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 15 miles.

(iii) In flat terrain or in areas connected by interstate highways: 25 miles.

Within inner portions of metropolitan areas, information on the public transportation system will be used to determine the area corresponding to 30 minutes travel time.

2. *Counting of Pharmacists.*

All active pharmacists within the area will be counted, except those engaged in teaching, administration, or pharmaceutical research.

3. *Determination of Estimated Requirement for Pharmacists.*

(a) *Basic estimate.* The basic estimated requirement for pharmacists will be calculated as follows:

Basic pharmacist requirement = .15 × (resident civilian population/1,000) + .035 × (total number of physicians engaged in patient care in the area).

(b) *Adjusted estimate.* For areas with less than 20,000 persons, the following adjustment is made to the basic estimate to compensate for the lower expected productivity of small practices.

Estimated pharmacist requirement = (2 − population/20,000) × basic pharmacist requirement.

4. *Size of Shortage Computation.*

The size of the shortage will be computed as follows:

Pharmacist shortage = estimated pharmacist requirement − number of pharmacists available.

5. *Contiguous Area Considerations.*

Pharmacists in areas contiguous to an area being considered for designation will be considered excessively distant or overutilized if either:

(a) Pharmacy manpower in contiguous areas are more than 30 minutes travel time from the center of the area under consideration, or

(b) The number of pharmacists in each contiguous area is less than or equal to the estimated requirement for pharmacists for that contiguous area (as computed above).

C. *Determination of Degree-of-Shortage.*

Designated areas will be assigned to degree-of-shortage groups, based on the

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proportion of the estimated requirement for pharmacists which is currently available in the area, as follows:

Group 1—Areas with no pharmacists.

Group 2—Areas where the ratio of available pharmacists to pharmacists required is less than 0.5.

Group 3—Areas where the ratio of available pharmacists to pharmacists required is between 0.5 and 1.0.

Appendix G—Criteria for the Designation of Areas Having Shortages of Veterinary Manpower

Part I—Geographic Areas

A. *Criteria for Food Animal Veterinary Shortage.*

A geographic area will be designated as having a shortage of food animal veterinary manpower if the following three criteria are met:

1. The area is a rational area for the delivery of veterinary services.

2. The ratio of veterinary livestock units to food animal veterinarians in the area is at least 10,000 : 1, and the computed food animal veterinarian shortage to meet this ratio is at least 0.5.

3. Food animal veterinarians in contiguous areas are overutilized or excessively distant from the population of the area under consideration.

B. *Criteria for Companion Animal Veterinary Shortage.*

A geographic area will be designated as having a shortage of companion animal veterinary manpower if the following three criteria are met:

1. The area is a rational area for the delivery of veterinary services.

2. The ratio of resident civilian population to number of companion animal veterinarians in the area is at least 30,000 : 1 and the computed companion animal veterinary shortage to meet this ratio is at least 0.5.

3. Companion animal veterinarians in contiguous areas are overutilized or excessively distant from the population of the area under consideration.

C. *Methodology.*

In determining whether an area meets the criteria established by paragraphs A and B of this Part, the following methodology will be used:

1. *Rational Areas for the Delivery of Veterinary Services.*

(a) The following areas will be considered rational areas for the delivery of veterinary services:

(i) A county, or a group of contiguous counties whose population centers are within 40 minutes travel time of each other.

(ii) A portion of a county (or an area made up of portions of more than one county) which, because of topography, market and/or transportation patterns or other factors, has limited access to contiguous area resources, as measured generally by a travel time of greater than 40 minutes to these resources.

(b) The following distances will be used as guidelines in determining distances corresponding to 40 minutes travel time:

(i) Under normal conditions with primary roads available: 25 miles.

(ii) In mountainous terrain or in areas with only secondary roads available: 20 miles.

(iii) In flat terrain or in areas connected by interstate highways: 30 miles.

2. *Determination of Number of Veterinary Livestock Units (VLU) Requiring Care.*

Since various types of food animals require varying amounts of veterinary care, each type of animal has been assigned a weight indicating the amount of veterinary care it requires relative to that required by a milk cow. Those weights are used to compute the number of "Veterinary Livestock Units" (VLU) for which veterinary care is required.

The VLU is computed as follows:

Veterinary Livestock Units (VLU) = (number of milk cows)
+ .2 × (number of other cattle and calves)
+ .05 × (number of hogs and pigs)
+ .05 × (number of sheep)
+ .002 × (number of poultry).

3. *Counting of Food Animal Veterinarians.*

The number of food animal veterinarians is determined by weighting the number of veterinarians within each of several practice categories according to the average fraction of practice time in that category which is devoted to food animal veterinary care, as follows:

Number of Food Animal Veterinarians = (number of veterinarians in large animal practice, exclusively)
+ (number of veterinarians in bovine practice, exclusively)
+ (number of veterinarians in poultry practice, exclusively)
+ .75 × (mixed practice veterinarians with greater than 50% of practice in large animal care)
+ .5 × (mixed practice veterinarians with approximately 50% of practice in large animal care)
+ .25 × (mixed practice veterinarians with less than 50% of practice in large animal care).

4. *Counting of Companion Animal Veterinarians* (that is, those who provide services for dogs, cats, horses, and any other animals maintained as companions to the owner rather than as food animals).

The number of full-time equivalent companion animal veterinarians is determined by weighting the number of veterinarians within each of several practice categories by the average portion of their practice which is devoted to companion animal care by the practitioners within that category, as follows:

Number of Companion Animal Veterinarians = (number of veterinarians in large animal practice, exclusively)
+ (number of veterinarians in equine practice, exclusively)
+ .75 × (mixed practice veterinarians with greater than 50% of practice in small animal care)
+ .5 × (mixed practice veterinarians with approximately 50% of practice in small animal care)
+ .25 × (mixed practice veterinarians with less than 50% of practice in small animal care).

5. *Size of Shortage Computation.*

The size of shortage will be computed as follows:

(a) Food animal veterinarian shortage = (VLU/10,000) − (number of food animal veterinarians).

(b) Companion animal veterinarian shortage = (resident civilian pop./30,000) − (number of companion animal veterinarians).

6. *Contiguous Area Considerations.*

Veterinary manpower in areas contiguous to an area being considered for designation will be considered excessively distant from the population of the area or overutilized if one of the following conditions prevails in each contiguous area:

(a) Veterinary manpower in the contiguous area are more than 60 minutes travel time from the center of the area being considered for designation (measured in accordance with paragraph C.1.(b) of this Part).

(b) In the case of food animal veterinary manpower, the VLU-to-food animal veterinarian ratio in the contiguous area is in excess of 5,000 : 1.

(c) In the case of companion animal veterinary manpower, the population-to-companion animal veterinarian ratio in the contiguous area is in excess of 15,000 : 1.

C. *Determination of Degree-of-Shortage.*

Designated areas will be assigned to degree-of-shortage groups as follows:

Group 1—Areas with a food animal veterinarian shortage and no veterinarians.

Group 2—Areas (not included above) with a food animal veterinarian shortage and no food animal veterinarians.

Group 3—All other food animal veterinarian shortage areas.

Group 4—All companion animal shortage areas (not included above) having no veterinarians.

Group 5—All other companion animal shortage areas.

[FR Doc. 80-35615 Filed 11-14-80; 8:45 am]

BILLING CODE 4110-83-M

federal register

Monday
November 17, 1980

Part V

Department of the Interior

Fish and Wildlife Service

Proposed Designation of Critical Habitat for the Endangered Unarmored Threespine Stickleback

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Endangered Unarmored Threespine Stickleback

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes Critical Habitat for the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*). This fish subspecies is presently found only in northwestern Los Angeles County and western Santa Barbara County, California. It was listed as Endangered on October 13, 1970 (35 FR 16047), and is protected under the provisions of the Endangered Species Act of 1973 as amended. Its Critical Habitat was not designated, pending receipt and review by the Service of recommendations made by the Unarmored Threespine Stickleback Recovery Team. The proposed rule would identify habitat subject to Federal agency consultation under Section 7(a) of the Act. Comments and data related to this proposal are solicited.

DATES: Comments on this proposed rule must be submitted by February 17, 1981. Public meetings on this proposal will be held at 10:00 AM on Friday, December 19, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. Public meetings on this proposal will be held at Los Angeles County Library, 23743 Valencia Boulevard, Valencia, California.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The unarmored threespine stickleback is a small, scaleless, freshwater fish originally described from the headwaters of the Santa Clara River in northwestern Los Angeles County, California. Previously found also in low gradient portions of the nearby Los Angeles, San Gabriel and Santa Ana Rivers, and from a few localities in Santa Barbara County, California, it has been eliminated from most of its original range. It was reported in 1917 to be abundant throughout the Los Angeles basin. By 1942 it was no longer found, and believed to be extinct there. In the Santa Maria River drainage, populations regarded as the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) were replaced by another stickleback (*G. a. microcephalus*) and by intermediate types, through competition, introgressive hybridization or both, following introduction of the latter in trout plants. So far as known, it persists only in the area where it was first found and in one creek in Santa Barbara County.

The upper Soledad Canyon locality from which this fish was originally named in 1854, then known as Williamson's Pass, was described in an 1857 Pacific Railroad Survey as similar in some respects to its present condition. A continuous flow of water in the upper canyon was maintained in dry seasons by several feeder springs, but water levels in the lower canyon then as now retreated for much of the year below the surface of the stream bed. Several studies on the biology of California sticklebacks suggest that a slow, continuous flow of water in a headwater stream, isolated, except during rainy periods, from the ocean by stretches of dry stream bed, is necessary for this particular form to thrive. The intermittent lower watercourse evidently confers a necessary degree of isolation from other related sticklebacks found in most lower stream segments connected above ground with the ocean. A similar form of isolation is provided at the mouth of San Antonio Creek by beach sandbars formed by ocean currents that block the entrance of all fishes, except during periods of high water and swift currents that could be expected to prevent entry of other sticklebacks.

Apparently intolerant of turbidity, since it is not found in muddy water, this stickleback also avoids zones of swift current and those without any current. An additional biological requirement suggested by studies on similar fishes elsewhere is relative freedom from predation by larger carnivorous fish. Although trout are present in the Santa Clara River system, they are confined to separate habitats from the stickleback by a different range of temperature tolerance.

A document entitled "Recovery Plan for Unarmored Threespine Stickleback, *Gasterosteus aculeatus williamsoni*, an Endangered Fish" was submitted to the Fish and Wildlife Service in 1977 by a recovery team assigned to this species. The team is headed by Shoken Sasaki of the California Department of Fish and Game, and includes biologists and wildlife specialists from other State and Federal agencies. The recovery team also submitted to the Service in 1977 a draft proposal of essential habitat recommendations, which was reviewed by the Bureau of Land Management, Office of State Director for California; by the Director of the California Department of Fish and Game; and by the Regional Forester of the U.S. Forest Service (San Francisco). The present proposal incorporates recovery team recommendations.

Research commissioned or conducted by the Unarmored Threespine Stickleback Recovery Team indicates that the present status of this fish is precarious. Negative impacts resulting in or contributing to complete elimination of populations in various river systems are documented from large scale impoundments, stream channelization, increased water turbidity, introduction of non-native competitors and predators, and from water pollution of several kinds. Many of these impacts are corollary to increased urbanization in the Los Angeles Basin area. In contrast, some stickleback populations have appeared to benefit from certain kinds of very small scale impoundments, and from legally mandated, limited but sustained release of water from storage reservoirs.

Endangered status of the unarmored threespine stickleback under the provisions of Section 4(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) is not affected by this proposal to determine Critical Habitat.

Critical Habitat

The Act defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species at the time that the species is listed, which are essential to the conservation of the species and which may require special management considerations or protection; and (b) specific areas outside the geographic area occupied by the species at the time of listing, upon a determination by the Secretary that such areas are essential for the conservation of the species.

As specified in the rules for listing Endangered and Threatened species and designating Critical Habitat (to be codified at 50 CFR Part 424, see 45 FR 13010), the Director shall consider in determining what areas are critical

those physiological, behavioral, ecological and evolutionary requirements essential to the conservation of the species and which may require special management considerations. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of listed species.

Each of the above factors pertain to the unarmored threespine stickleback as indicated below:

Headwater flow in the proposed areas of Critical Habitat is sustained in dry seasons by rising ground water in the stream channel and lateral springs. Past and future survival of the unarmored threespine stickleback in such headwaters is clearly dependent on reasonable continuity of spring-fed water flow. On the other hand there is accumulating evidence that genetic integrity of the population also depends on an absence of surface flow in some segments of the lower watercourse for the periods of each year that are not rainy. These indicate the existence of both maximum and minimum long term water levels beyond which the survival of the fish could be adversely affected. Short term maximum water levels produced by floods have obviously not exceeded the survival capability of this form. Additional study can probably establish reasonable limits of level fluctuation in the subsurface water table that would not adversely affect the springs on which this fish depends.

Quality, in addition to quantity of water, is the other primary factor in continued survival of this fish. Streams still inhabited are characterized by clear water with slow to moderate current, abundant, shallow pools, low chemical and biological indices of pollution, and the presence of a good diversity of algae and higher plants. Filamentous algae and roots of aquatic plants are used by the sticklebacks for constructing nests in which they lay their eggs and protect their young. Their survival would be affected adversely by activities greatly modifying water current, depth or vegetation, such as large scale impoundment, and by any activities resulting in serious increase of turbidity or even moderate increase of chemical burden, such as the addition of chlorinated water or chemicals for the control of algae or weeds. Finally, any planned or accidental introduction of species not native to the streams under consideration could adversely affect stickleback survival prospects.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be important constituent elements in the habitat of the unarmored threespine stickleback:

1. *Permanent stream flow.* Remaining streams utilized by this fish have low discharge rates, so that relatively minor modifications of ground water levels or channel characteristics could result in elimination of all fishes by dessication.

2. *Slow current.* Sticklebacks favor shallow water with slow to moderate current, and probably can not reproduce effectively in deep, swift or completely still water.

3. *Low turbidity and pollution.* Sticklebacks strongly favor clear water, seldom or never being found in turbid water conditions. Specific pollution susceptibilities have not yet been established, but water quality has been found to be high where populations have persisted, and they have disappeared from streams with reduced water quality.

4. *Isolation.* Survival and genetic integrity evidently depend on the absence of large aquatic predators, certain potential competitors, and all other sticklebacks. The latter are not particularly strong swimmers, and apparently do not move upstream during times of high water. They are excluded from the designated areas at other times by natural barriers in certain segments of the watercourse. These barriers should not be modified or bypassed.

In summary, primary constituent elements of the habitat of the unarmored threespine stickleback are now considered to include: quantity and quality of water, and isolation of the watercourse as regards predators and competitors.

Section 424.12(c) of 50 CFR requires the Director to identify significant activities which would affect an area considered for designation as Critical Habitat or be likely to be affected by the designation. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

The Service has not been notified of specific Federal activities or federally authorized actions that may be affected by the proposed Critical Habitat designation. The U.S. Forest Service has direct responsibility for a considerable portion of the watershed of the upper Santa Clara River system, including most of the San Francisquito Canyon watershed, and should consider possible impacts of all its activities which might affect water quality and quantity in the headwater springs, including some not physically located on Federal land. The U.S. Air Force has direct responsibility for the San Antonio Creek zone of Critical Habitat and for a portion of its headwaters. Channelization proposals for the lower Santa Clara River system requiring Federal approval should be considered in respect to possible adverse impacts in the headwaters or intervening intermittent stretches of the watercourse.

Other types of non-Federal activities are not affected by the proposed Critical Habitat designation, even though they may adversely affect the area. The following specific activities could have adverse impacts on the Critical Habitat of the unarmored threespine stickleback:

1. Stream channelization, which could eliminate necessary pools, remove water more rapidly than it is replaced by headwater flow; or destroy the isolation required by this fish.

2. Increased urbanization, which could degrade water quality in essential habitat zones and also create increased public pressures for stream channelization.

3. Increased pumping of groundwater, which could lower water levels completely below the surface of the streambed, causing extinction by dessication.

4. Increased agricultural impacts resulting in siltation or introduction of fertilizers, pesticides, etc.

5. Addition of water; impact either adverse or beneficial, depending on amount and contents of the water added.

6. Introduction of predators or any other fishes not now present.

At the state and local levels, stickleback essential habitat needs in the upper Santa Clara River system would seem best to be met by preserving the pattern of uses to which the unmodified canyon habitat is apparently suitable. These do not appear to include intensive agriculture or heavy industry. Possibly adverse recreational uses would include any involving large scale modification of the stream and its banks, deforestation, or

increases in erosion and stream turbidity. Residential and resort planning should carefully consider potentials for habitat damage such as the discharge of water containing sewage, chlorine or other chemical additives.

To the extent such activities are not Federal activities or federally authorized actions, they will not be affected by the Critical Habitat designation. Critical Habitat for the unarmored threespine stickleback is as follows: Three stream zones of the upper Santa Clara River watershed in northwestern Los Angeles County, California, including a zone near Del Valle, one in San Francisquito Canyon, and one in Soledad Canyon; and the lower segment of San Antonio Creek on the Vandenberg Air Force Military Reservation in Santa Barbara County, California.

The Service is required to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft economic impact analysis, and will prepare a final economic impact analysis prior to the time of preparing a final rule.

The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act, as amended, provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs and furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification or habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

If published as a final rule this proposal would require Federal agencies to insure that activities they authorize, fund or carry out are not likely to result in the destruction or adverse modification of these Critical Habitats which have been determined by the Director (who has been authorized to make such designations on behalf of the Secretary). Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

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Williamson, R. S. 1855. Part I. Report of explorations in California for railroad routes to connect with the routes near the 35th and 32nd parallels of north latitude. Pac. R.R. Expl. and Surv., Vol. 5, No. 1, 43 pp.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species or the habitat included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities which may adversely affect the subject areas which are being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relating to the public meeting is set out below:

Date: December 19, 1980

Place: Los Angeles County Library, 23743 Valencia Boulevard, Valencia, California

Time: 10:00 am

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR 1500–1508.

Primary Author

The primary author of this rule is Dr. George E. Drewry, Office of Endangered Species, Arlington, Virginia (703/235–1726).

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.95 [Amended]

1. It is proposed that § 17.95(e) *Fishes* be amended by adding Critical Habitat of the unarmored threespine stickleback after that of the yellowfin madtom as follows:

* * * * *

(e) * * *

Unarmored Threespine Stickleback

(Gasterosteus aculeatus williamsoni)

California (Los Angeles County):

(1) *Del Valle zone.* An area of land and water with the following components (San Bernardino meridian): Santa Clara River within T4N R16W, R17W, beginning at its confluence with San Martinez Grande Canyon, at a point .9 of a mile (1.5km) southwest of Del Valle settlement, and extending upstream approximately 5.6 miles (8.8km) to the overcrossing of Interstate Highway 5.

(2) *San Francisquito Canyon zone.* An area of land and water with the following components (San Bernardino meridian): San Francisquito Canyon watercourse, within T5N R16W, T6N R15W, beginning at a point where the Angeles National Forest boundary intersects the San Francisquito Canyon watercourse approximately 2½ miles southwest of San Francisquito Powerhouse No. 2, and extending upstream in San Francisquito Canyon approximately 8.4 miles (13.5km) to San Francisquito Powerhouse No. 1, near its junction with Clearwater Canyon.

(3) *Soledad Canyon zone.* An area of land and water in Los Angeles County, with the following components (San Bernardino meridian): Santa Clara River within T4N R13W and R14W, beginning at a point 1.4 miles (2.3km) upstream in Soledad Canyon from the community of Lang, at the downstream end of the area called River's End Park, at 34°26'7" N, 118°21'51" W, thence extending upstream approximately 8.5 miles (13.7km) to its confluence with Arrastre Canyon, at a point located about .6 of a mile (1km) southwest of Los Angeles County Rehabilitation Camp, thence upstream in Arrastre Canyon approximately .8 of a mile (1.4km) to 34°26'7" N, 118°11'51" W.

Unarmored 3-spine Stickleback

Del Valle, San Francisquito & Soledad Zones, Los Angeles, Calif.

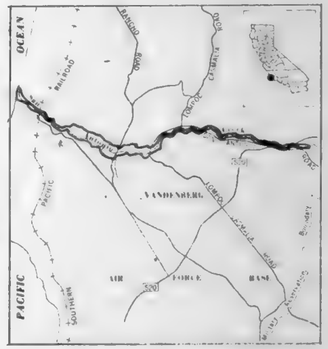


California (Santa Barbara County):

(4) *San Antonio Creek Zone.* An area of land and water with the following components (using California Grid Zone 5 coordinates): San Antonio Creek watercourse, beginning at the Pacific Ocean beach boundary at 482,000 N; 1,213,000 E and including natural dunes or sandbars in the stream mouth, thence upstream approximately 8.4 miles (13.5 km) to the eastern boundary at 473,357 N; 1,256,250 E in Barka Slough. Lateral flood plain areas elevated less than ten feet above the main streambed constitute seasonal marsh utilized for feeding and reproduction by this species and are considered a necessary component of the Critical Habitat. Total designated area of stream and associated seasonal marsh is approximately 611 acres.

Unarmored Threespine Stickleback

San Antonio Creek Zone, Santa Barbara Co., Calif.



Primary constituent elements of these habitat areas are considered to be quality and quantity of water flow in the streams, presence of aquatic vegetation and other biological resources on which the species depends, and isolation of the watercourse as regards predator and competitor species.

Dated: October 28, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80–35782 Filed 11–14–80; 8:45 am]

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Part VI

Consumer Product Safety Commission

Provision of Performance and Technical Data for Coal and Wood Burning Appliances; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1406

Provision of Performance and Technical Data for Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes a rule that would require that certain performance and technical data be supplied with coal and wood burning stoves, freestanding fireplaces, and similar appliances in order that consumers will be aware of important safety information concerning the installation, operation, and maintenance of these appliances. Part of the required data would be in the form of a permanent, conspicuous written notice on the device that would provide the following information: a. Appropriate minimum clearances between the stove and chimney connector and combustibles to avoid the occurrence of fire.

b. Type of chimney and connector appropriate for use with the appliance and identification of parts or precautions required for passing the chimney or connector through combustible walls or ceilings.

c. Type and dimensions of floor protection, if necessary to protect combustible floors.

d. Information to prevent overfiring of the appliance.

e. A statement of how often the chimney and chimney connector should be inspected and cleaned.

f. A statement that local building or fire officials should be contacted about restrictions and installation inspection in the owner's area.

g. The name and address of the manufacturer or private labeler, and the model designation of the appliance.

Items (d) and (e) and the appropriate distance to be maintained from furnishings in the room would be placed so that they are readily visible during normal use of the appliance.

The proposed rule would also require that complete installation, operation, and maintenance directions be provided with the appliance. The appliance's packaging would bear a statement referring to the installation directions. Sales catalogs and other point of sale literature would contain the information required by items (a) and (f) above. To facilitate the Commission's confirmation that manufacturers are adequately complying with the rule, manufacturers must provide copies of the notice on the appliance, and of the directions, to the Commission.

DATES: Under the proposal, the required safety and performance data would have to be furnished with all such appliances first introduced into commerce in the United States after May 31, 1981. Copies of the required data would be provided to the Commission by July 1, 1981, or within 30 days after any change in the data or introduction of a new model. The requirement applicable to sales catalogs and point of sale literature would be effective May 31, 1982.

Written data, views, and arguments on this proposed rule must be submitted to the Commission on or before January 2, 1981.

An opportunity for the oral presentation of comments is scheduled for December 2, 1980, at 9:30 a.m. in the third floor conference room, 1111 18th Street, NW, Washington, D.C. 20207.

Persons wishing to present oral comments should notify Richard Danca in the Office of the Secretary, at the address given below, by November 25, 1980.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and should be titled *Coal and Wood Stoves, Proposed Labeling Rule.*

All materials the Commission has that are relevant to this proceeding, including the doucments listed in Appendix III of this notice and any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, NW, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Stan Morrow, Project Manager, Fire and Thermal Burn Hazards Program, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6453.

SUPPLEMENTARY INFORMATION:

A. Background

The energy shortage and attendant high heating costs have motivated consumers to search for cheaper kinds of fuel. Wood, both as a primary and a supplemental fuel, has enjoyed a particular revival. Sales of wood-burning stoves have tripled since 1974. Accompanying this revival, however, has been a concern about the safety of these devices.

On January 24, 1977, the Commission received a petition from Adam Paul Banner of Midland, Michigan, (Petition No. AP 77-2) stating that many fires and resultant injuries occur due to improper installation of certain coal and wood burning appliances, stoves, and free-standing fireplaces. He requested that the Commission issue a rule requiring that labeling as to the minimum safe clearance to combustibles (such as walls and furnishings) and the type of chimney required for any woodburning stove, similar appliance, or free-standing fireplace be (a) permanently attached on an embossed metal plate to each unit, (b) be printed in all sales literature, and (c) be printed on all display or shipping cartons. At that time, the readily available data were inconclusive as whether the statements requested by Mr. Banner addressed an unreasonable risk of injury associated with these appliances. On February 2, 1978, the Commission deferred action on the petition and directed the staff to provide additional information. The petition was again considered by the Commission on March 14, 1979, and May 30, 1979, and on June 7, 1979, the Commission granted the petition. The staff was directed to develop a rule under section 27(e) of the Consumer Product Safety Act, 15 U.S.C. 2076(e), that would require installation and maintenance labeling for coal and woodburning stoves, similar appliances, and free-standing fireplaces, requiring each manufacturer to specify minimum clearances to combustibles and type of chimney required. Also, the staff was directed to develop options for other types of installation and maintenance information materials (such as cartons or instruction manuals).

B. Development of the Proposed Rule

In order to determine the type of performance and technical data that would enable consumers to insure that their appliances are properly selected, installed, operated, and maintained, the Commission's staff examined the available data on fires associated with coal and woodburning appliances. The available data are summarized in a Commission staff report, "Hazards Associated with the Use of Wood or Coal-Burning Stoves or Free-Standing Fireplaces," B. Harwood and P. Kluge, February 1980.

In recent years, the number of hospital emergency room-treated burn injuries arising from the use of wood-burning stoves and free-standing fireplaces has risen sharply, from about 600 in 1974 to an estimated 4,600 in 1979. From 1978 to 1979 alone, the number doubled. Although most of these injuries appear to be the result of falling against or accidentially contacting the hot surface of the stove, estimates of injuries resulting from an actual fire have also increased, from about 40 in 1974 to 400 in 1979.

According to 1978 data from fire departments in 15 states that report to the U.S. Fire Administration (USFA), fires in heating equipment account for roughly 20 percent of all residential fires. The largest proportion of these fires, but the smallest proportion of deaths and injuries, was from fires in chimneys, flues, and chimney connectors. Most of these were reported to have been connected to devices burning solid fuel, but whether these were masonry fireplaces or stoves is not generally known. The second largest source of heating equipment fires was fixed, local heaters or stoves. Within this category, gas-fired heaters and wood or coal stoves accounted for the largest number of fires.

National estimates derived from extrapolating these USFA data to the nationwide number of residential fires estimated by the National Fire Protection Association (NFPA) indicate that there are about 8,000-9,000 fires nationally from wood or coal stoves, resulting in about 100-130 deaths. These estimates show an additional 23,000-28,000 fires and 60-80 deaths from chimneys or flues and 6,000-7,500 fires and 15-20 deaths from chimney connectors. The latter are assumed to connect to stoves or free-standing fireplaces, since ordinary masonry fireplaces do not have chimney connectors. Thus, at least 14,000 fires and 115 deaths are estimated to have occurred in 1978 from the use of wood or coal-burning stoves, plus an unknown proportion of the minimum estimate of 23,000 fires and 60 deaths associated with chimneys or flues.

The major cause of fires in wood or coal stoves and in chimney connectors to solid-fueled equipment was improper installation, primarily installing the devices too close to combustibles, which are then ignited by the heat from the stove or connector. Combustibles can include permanent items such as walls and ceilings and semi-permanent items such as carpets and draperies. In addition, during the stove's operation, movable items such as furnishings may be placed too close to the appliance, resulting in ignition of the furnishings.

Other major causes of fires in coal and wood burning appliances include the use of an unsuitable chimney or chimney connector for the applicance being used or the improper installation of the chimney or connector. Proper installation requires the use of a "thimble" or special methods where the chimney or connector passes through a combustible wall or ceiling, in order to provide needed insulation and separation from the adjacent combustible. Specific floor protection upon which the appliance is installed may be required in order to protect combustible flooring against heat from the applicance or embers falling out of the applicance onto combustibles.

Other hazard patterns involve the lack of proper maintenance of the appliance. Wood tars (creosote) can condense in chimneys and chimney connectors when wood is burned. If the accumulation of cresote is not removed periodically, or if the appliance if overfired, the creosote can ignite and cause a very hot fire in the chimney or connector. Regular inspection is required to ensure that excessive creosote has not accumulated. Also, the installation should be periodically inspected to ensure that holes or cracks have not developed in the chimney or connector and that these pieces are properly fastened together.

Other hazards are related to improper operation of the applicance. If too much fuel is added, the applicance can be overfired, resulting in ignition of creosote in the chimney or connector or excessive temperatures in the appliance, chimney, or connector. Also, the use of flammable liquids to start the fire in these applicances causes a number of injuries.

The USFA data from 15 states show that approximately 30% of fires associated with wood and coal stoves were caused by improper installation. Ninety percent of these improper installations involved an installation that was too close to combustibles. Fifteen percent of coal and wood stove house fires were caused by misuse of the material ignited, including placing a combustible too close to the applicance and improper fueling technique. Another 13% were caused by operational deficiencies, including overfiring, and 11% resulted from lack of maintenance and/or mechanical failure, which includes a sub-category called "lack of maintenance, worn out" which can be related to creosote buildup. (The remaining reports include other and unknown or unspecified causes.) Also, the Commission has conducted a number of in-depth investigations of wood stove fires where the fire was the result of a failure to remove creosote buildup.

Thus, fires that originate in wood or coal appliances or venting components used with these applicances contribute significantly to the fire problem in this country. If chimney connectors are included, they are the leading cause of fires reported in stationary heating units, producing an estimated 14,000-17,000 fires and 115-150 deaths each year. The major cause of these fires is reported to be improper installation, primarily the practice of installing them to close to combustibles. This is particularly the cause of fires involving chimney connectors.

C. Description of the Proposal

For the purposes of this rule, the term "coal and wood burning applicances" includes coal and wood burning fireplace stoves, room heater/fireplace stove combinations, cookstoves and ranges, and radiant and circulating heaters. It does not include central heating units, masonry fireplaces and chimneys, fireplace inserts, or factory built fireplaces (zero clearance fireplaces), since these do not present the same hazards of installation and operation as do the generally free-standing or smaller appliances covered by the rule. The definitions for these terms are found at § 1406.3 of the proposed rule.

In order to reduce the risk of injury currently associated with coal and woodburning appliances, and to enable consumers to better judge the comparative safety of different appliances for their intended installation, the Commission proposes to require that such appliances bear a written notice that contains the following performance and technical data:

1. Appropriate minimum clearances from combustibles to avoid the occurrence of fire. The clearances shall be stated in both written and diagrammatic form and shall include: (a) Distance(s) from the back and sides of the applicance to combustible walls.

(b) Distance(s) to be maintained between the chimney connector and combustible walls and ceilings.

2. Type and dimensions of floor protection, if necessary to protect combustible floors.

3. Type of chimney and chimney connector to be used with the appliance.

4. Identification of parts or precautions required for passing a chimney or chimney connector through combustible walls or ceilings.

5. A statement that the appliance should not be overfired and a description of the condition(s) which signal(s) overfiring.

6. A statement of how often the chimney and chimney connector should be inspected and cleaned.

7. Information explaining that the appliance should be installed and used only in accordance with the manufacturer's directions.

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8. A statement that the owner should contact local building or fire officials about restrictions and installation inspection requirements in the owner's area.

9. Distances to be maintained between the appliance and furnishings in the room.

10. The name and address of the manufacturer, importer, or private labeler to which the owner can write for a copy of the manufacturer's directions or for additional information, and a sufficient identification of the appliance model so that the appropriate information can be supplied.

The part of the written notice involving installation shall be located so that it is conspicuous before the appliance is installed. The remainder of the written notice contains operation and maintenance information and must be readily visible during normal use of the appliance. In a meeting with the Commission's staff, some manufacturers expressed opposition to the idea of requiring a label or other written notice on the stove to be in a position so that it can be readily seen during use. This is especially true for some manufacturers of decorative stoves who believe such a notice would detract from the appearance and customer appeal of the stove. In an attempt to address these concerns, the "two label" format explained below provides that a label will be considered to be readily visible during normal use if it is within compartments or behind doors that are used during the normal operation of the appliance. Thus, if a compartment door must be opened in order to fuel the appliance or remove ashes from the appliance, a notice that is readily visible when the door is opened is considered "readily visible during normal use." Therefore, the portion of the notice required to be readily visible during normal use could be on the inner surface of the door, on a readily visible inner surface of the compartment, or on an outer surface of the appliance that is covered by an overlapping door when the door is closed. Comment is invited on the potential impact on decorative stoves and other appliances of requiring operation and use directions to be readily visible during normal use of the appliance.

Also as explained above, the remainder of the written notice required to be on the appliance need only be conspicuous before installation. Thus, this protion of the notice could be on the back of an appliance that can be installed so close to a wall that the back would not be regularly seen during normal use of the appliance.

These general principles concerning the conspicuousness and visibility of the data being provided could be satisfied by either (1) a single label that is both conspicuous before installation and readily visible during normal use or (2) two labels, one label that concerns installation and that is conspicuous before installation and another label that concerns operation and maintenance and that is readily visible during normal use. The "one label" format has the advantages of being cheaper and of providing all information in one place. The "two label" format has the advantage of potentially providing more consumer awareness of the operation and maintenance information after the applicance is installed, since this information would all be on one simpler label that would not have installation information competing for the consumers' attention. Also, if a manufacturer wished, the two label format could be used to reduce the degree to which a readily visible label might interfere with the esthetic design of the stove.

The decision of whether the information should be presented in one or two labels involves questions of consumer preference, label effectiveness, and manufacturing cost. The proposed rule would permit manufacturers to use either a one label or two label format for the written notice required by the rule, and examples of both formats are given in Figs. 1 and 2. After considering the comments on the rule, however, the Commission may conclude that one format or the other is preferable for most appliances covered by the rule. In that event, the Commission may recommend the use of one format or the other when issuing the final rule, and may delete the example of the other format. However, the recommended format would not be mandatory.[1]

The written notice will be permanent so that it will remain legible for the maximum expected useful life of the appliance in normal operation. The following are examples of labeling methods that may meet these requirements: 1. Molding the notice into the casting of the appliance body.

2. Etching a metal plate riveted or screwed to the appliance.

3. Stamping or engraving the notice into the metal body of the appliance.

The proposal also requires manufacturers to provide complete installation, operation, and maintenance directions which include descriptions of the consequences that can occur from failure to install, use, and maintain the appliance properly. In order to stress the importance of the following the instructions, the appliance packaging or carton or the parts container supplied by the manufacturer is required to bear a reminder to read the enclosed installation directions.

In order that consumer may select an appliance suitable for their intended use and compare the safety of different appliances, all sales catalogs and other point of sale literature are required to include the appliance clearance information and the statement that local building or fire officials should be consulted concerning restrictions and installation inspection requirements. Since some sales literature may be printed far in advance of its expected use, this requirement is proposed to go into effect one year after the remainder of the rule.

The proposed rule would also require manufacturers to provide to the Commission copies of the written notice and directions required by the rule. Manufacturers would also provide to the Commission a statement of how the clearance distances from the appliance to combustibles were determined. Submission of the data is required so the staff can determine (1) that the specific statements required by the rule are present, (2) that other types of information required by the rule, but not required to be in specific language, are present, and (3) whether the clearance distances stated appear appropriate or whether further investigation is necessary.

D. Economic Impact of the Proposed Rule

The economic ramifications of the proposal are explored in a Commission staff report entitled, "Coal and Woodburning Stoves Section 27(e) Lableing Rule: Preliminary Economic Analysis", T. R. Karels, February 1980. The average finished cost for purchase and installation of appliances covered by the rule is between $600–800. The direct cost of providing the written notice on the appliance and the required directions would be approximately $1.85 per stove. Another element of cost for some manufacturers would be testing of the stove to determine or confirm the appropriate clearances. Not all manufacturers will have to perform such testing, however, since many manufacturers already know the appropriate clearances from previous tests or from past experience with the product. In one example examined by the staff (involving a fee of $3,000 for a test of one model and a production of 2,000 model units per year), the fixed cost attributable to this testing could be considered to be $0.22 per unit. Therefore, the staff believes that the cost to producers of these coal and wood burning appliances should not exceed about $2.05 per stove as an effect of the proposed rule. Depending on the markup on the additional costs, the increased cost to consumers could be as much as $2.80 per stove. The cost of providing copies of the written notice and directions to the Commission is expected to be negligible. Because of the small size and small cost of the required label, the rule is also not expected to cause a significant reduction in the number of these appliances purchased each year.

The cost stated above could be somewhat higher if manufacturers give the written notice by two labels instead of one. On the other hand, many manufacturers already provide a label and/or will not need to test their product, and the costs to these manufacturers should be substantially less than those stated above.

However, the rule is expected to also result in a substantial potential savings as a result of a reduction of property damage, deaths, and injuries associated with the product.

It has been estimated that fires directly attributed to these stoves and their chimney connectors caused some $49 million in property damages in 1978. Although the Commission is unable to estimate the degree to which the proposed rule may reduce fire incidents, a reduction of as little as 7 percent in these property damages alone would offset the total yearly cost of the rule.

An additional $84 million in fire losses to property in 1978 were attributed to chimneys, flues, "fireplaces" and other causes; a significant portion of these fires is believed to be related to the appliances addressed by the rule. Therefore, additional savings would accrue to consumers through any reduction in these fires as a result of the rule.

In 1978, between 115 and 150 deaths were attributed to fires caused by coal and woodburning stoves; an additional 60–80 deaths were attributed to chimney or flue fires, some of which were stove-related. Thus, at least 115 (and possibly more than 200) deaths were associated with these appliances in a single year. Based on emergency room data, an estimated 400 fire-related injuries were associated with these articles in 1979.

One estimate of the cost of nonfatal, medically attended injuries associated with these products is $5 million, excluding any subjective dollar estimate for pain and suffering experienced by the victim. There are also significant economic and social costs of deaths associated with these products; however, the dollar valuation of these costs is subject to considerable controversy. Although the Commission has not determined a monetary value to be placed on the loss of life, even a foregone earnings approach (one of the more conservative methods of valuation currently used) would result in a total value of over $25 million for the deaths associated with these products. Any reduction in these injuries and deaths would result in significant benefits to consumers.

Thus, it appears that the increased costs attributable to the rule (about $3.6 million yearly, based on 1979 projections) would be offset by potential savings resulting from a reduction in property damage from fires directly attributed to these stoves ($49 million total in 1978), plus some reduction in property damage from fires attributed to sources which would include applicances addressed by the rule (a portion of the $84 million total in 1978). Further, substantial savings may accrue to consumers through any reduction in the number of deaths (115–200 in 1978) and the number or severity of fire-related injuries (400 in 1979) attributed to these appliances.

The Commission does not view the proposed rule as a major action that would have any significant effect on the environment.

E. Effective Date

The notification rule for coal and wood burning appliances, described above, is proposed to go into effect on May 31, 1981, as to all covered products first introduced in United States (U.S.) commerce after that date. For the purpose of this rule, a product manufactured outside the United States if first introduced in U.S. commerce when it is first brought within a U.S. port of entry. A product manufactured in the U.S. is first introduced in U.S. commerce when it is shipped by the manufacturer or delivered to the consumer, whichever comes first. (The requirement applicable to catalogs and point of sale literature is proposed to be come effective May 31, 1982.)

The comment period on the proposal expires January 2, 1981. If the comments received do not require substantial staff resources to resolve, the Commission expects to decide on whether to issue a final rule by about January 20, 1981. Under the proposed effective date of May 31, 1981, this would be at least 4 months before the regulation would become effective. Although this effective date will require prompt action on the part of a number of manufacturers, the Commsiion believes that it is important to have the rule go into effect as soon as is reasonably possible in view of the fact that the production season for the 1981–1982 winter season begins in about May of 1981. Comment is specifically solicited on the effect of the proposed effective date.

The Commission estimates that a period of 3 months is necessary in order for manufacturers to do any testing needed to determine or confirm the appropriateness of clearance distances, develop the required labels and directions, print the appropriate directions booklets, and incorporate the means to provide the labels into their normal production procedures. From the information available to the commission, manufacturers do not keep appliances on hand for any substantial period of time after they are manufactured, but, rather quickly introduce them into commerce. Therefore, a 3 month period after publication of the final rule should be sufficient for manufacturers to comply with the rule. Importers of appliances made outside of the United States, however, must also allow for the time required for the appliances to be shipped from the foreign country to the United States. The Commission estimates that this shipping time should not exceed another 30 days. Therefore, the 4 month period for an effective date that is proposed should allow both domestic and foreign manufacturers to initiate compliance with the rule in time that previously produced appliances can be introduced in commerce in the United States before the effective date of the rule, thus avoiding potentially costly retrofitting of the label to previously manufactured appliances.

F. Possible Alternatives to a Mandatory Rule

a. *Voluntary standards.* There are a number of voluntary standards that apply to the products covered by this rule. The relationship between some of the better known voluntary standards and the Commission's proposed standard is discussed in a Commission Engineering staff memorandum dated June 24, 1980. Although the Commission applauds the voluntary efforts in this area, it does not believe that the extent of compliance with these standards is sufficient to eliminate the need for a

[1] The final version of the proposed rule was approved by a 3–2 vote of the Commission, Chairman Susan B. King and Commissioners R. David Pittle and Stuart Statler approving the document. Commissioners Sam Zargoria and Edith B. Sloan voted to propose an alternative rule which would require the written notice to be presented in the two label format, in plain English, in order to highlight the information concerning operation and maintenance.

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mandatory standard. In addition, the Commission is not aware of any voluntary standard that addresses the identified risk by consumer notification in as comprehensive a manner as the standard that is now being proposed by the Commission. Therefore, based on presently available information, the Commission concludes that in this case voluntary action will not address the risk associated with coal and wood burning appliances as effectively as will the proposed mandatory standard.

b. *State and local requirements.* Many jurisdictions have requirements for installation of these appliances, inspections for the completed installation, testing and certification programs, and labeling requirements. However, the information available to the Commission does not indicate that these local requirements are sufficiently widespread or enforced to a degree that would remove the need for a mandatory regulation.

The existence of state and local regulations in this area, however, raises the question of the degree to which the Commission's action may affect the application of state and local requirements. Section 26(a) of the act, 15 U.S.C. 2075(a), provides that where a federal consumer product safety standard is in effect, state and local governments do not have the authority to establish or to continue in effect a different safety standard or regulation designed to deal with the same risk of injury as the federal standard. This statutory effect on state and local government regulations, known as preemption, applies only to a "consumer product safety standard", which is defined in section 7(a) of the act, 15 U.S.C. 2056(a). The statutory preemption provision is not applicable to a disclosure requirement issued under section 27(e), since the disclosure requirement is not a consumer product safety standard (which is issued under sections 7 and 9 of the act, 15 U.S.C. 2056, 2058). Interested persons should be aware, however, that even though the statutory preemption provision would not apply, there may be instances where certain state or local government actions could be preempted under other legal principles. However, the Commission does not intend that the proposed rule would preempt any state or local requirements that are not inconsistent with the rule, even though the state or local requirements concern the same risk of injury addressed by the rule. Comment is invited on the possible effect of the proposed rule on state or local requirements.

G. Penalties

If the Commission issues a final regulation requiring the written notification proposed here, manufacturers of coal and wood burning appliances must comply with the requirements of the regulation on the effective date. Failure to comply with the regulation is a prohibited act, as specified in section 19(a)(9) of the CPSA, and could lead to civil and criminal penalties under sections 20 and 21 of the CPSA. Section 21 provides criminal penalties for violations after notice, consisting of fines of not more than $50,000 and imprisonment for not more than one year. Section 20 provides a maximum civil penalty of $500,000 for any related series of violations. In addition, section 22 of the act authorizes the Commission to obtain an injunction from a United States district court to restrain a violation of the notification requirement.

H. Statutory Findings

The Commission would issue the proposed regulation under section 27(e) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2076(e). This section of the act authorizes the Commission to require manufacturers of consumer products to provide the Commission with such performance and technical data related to performance and safety as may be required to carry out the purposes of the act. Section 27(e) also authorizes the Commission to require manufacturers of consumer products to give notification of such performance and technical data to prospective purchasers at the time of original purchase and to the first purchaser for purposes other than resale, as it determines necessary to carry out the purposes of the act. As provided in section 2(b) of the CPSA, 15 U.S.C. 2051(b), two purposes of the act are to protect the public against unreasonable risks of injury associated with consumer products and to assist consumers in evaluating the comparative safety of consumer products.

(a) *Protecting the public from unreasonable risks of injury.* The estimates of fire incidents that are associated with coal and wood burning appliances show that there is a substantial risk associated with their use. This risk can be addressed by the requirements of the rule proposed below at a minimal cost to the consumer. Providing this information to consumers should reduce the number of improperly installed appliances and increase the number of consumers who know how to properly operate and maintain these devices. The Commission therefore preliminarily concludes that there is an unreasonable risk of injury associated with those coal and wood burning appliances that do not provide the notices and directions provided for in proposed Part 1406 below.

(b) *Comparative safety.* The requirements of this rule will aid the public in determining which appliances can be safely installed in the space available. This knowledge facilitates the consumer's choice of an appliance to suit his or her installation situation. In addition, the manufacturer's specification of a safe distance that should be maintained to furnishings should assist consumers in determining which appliances are suitable for the consumer's intended use in this regard. This may be especially significant where movable furnishings are kept in the vicinity of the appliance.

Therefore, in order to carry out the purposes of the CPSA to protect the public against unreasonable risks of injury and to assist the public in evaluating the comparative safety of consumer products, the Commission preliminarily concludes that it is necessary to require manufacturers of these products to provide the notifications described in proposed Part 1406 as set forth below.

Accordingly, under provisions of the Consumer Product Safety Act (Secs. 2, 27(e), Pub. L. 92–573, 86 Stat. 1207, 1228; 15 U.S.C. 2051, 2076(e)), the Commission proposes to amend Title 16, Chapter II, of the Code of Federal Regulations by adding to Subchapter B a new Part 1406, reading as follows:

PART 1406—COAL AND WOOD BURNING APPLIANCES—NOTIFICATION OF PERFORMANCE AND TECHNICAL DATA

Sec.

1406.1 Scope, application, and effective date.
1406.2 Background.
1406.3 Definitions.
1406.4 Requirements to provide performance and technical data by written notice to purchasers and prospective purchasers.
1406.5 Performance and technical data to be furnished to the Commission.
Appendix I—Recommended Format and Wording for Written Notice
Appendix II—Recommended Outline for Directions

Authority: Secs. 2, 27, Pub. L. 92–573, 86 Stat. 1207, 1228 (15 U.S.C. 2051, 2076).

§ 1406.1 Scope, application, and effective date.

(a) *Scope and application.* This Part 1406 requires manufacturers, including importers, of coal and wood burning appliances, as defined in § 1406.3, to provide consumers with a specified notification concerning the installation, operation, and maintenance of the appliances. The notification is intended to provide consumers with specified technical and performance information related to the safety of the appliances. This Part 1406 also requires these manufacturers to provide to the Commission a copy of the notification to consumers and a statement of the reasons supporting their conclusion that certain clearance distances contained in the notification are appropriate for preventing the occurrence of fire.

(b) *Effective date.* (1) Except as provided in paragraph (b)(2) of this section, manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3 must comply with this regulation with respect to stoves that are first introduced into United States commerce after May 31, 1981. For the purposes of this rule, a product manufactured in the United States (U.S.) is first introduced into U.S. commerce when it is shipped by the manufacturer or delivered to the consumer, whichever comes first. A product manufactured outside the U.S. is first introduced into U.S. commerc when it is first brought within a U.S. port of entry.

(2) The requirements of § 1406.4(d) apply to sales catalogs and point of sale literature provided after May 31, 1982.

§ 1406.2 Background

(a) Fire data analyzed by the Consumer Product Safety Commission disclose a number of incidents involving coal and wood burning appliances. Many of these cases involve improper installation of the appliances, especially where they are installed with insufficient clearances to adjacent combustibles such as walls, ceilings, floors, draperies, carpets, or furnishings. Another common installation problem involves the use of improper types of chimneys or chimney connectors and insufficient clearances between these devices and combustibles. Other incidents involve improper operation of the appliance, such as by overfiring it or using flammable liquids to start the fire. Still other incidents occur when appliances are improperly maintained and develop mechanical defects or excessive deposits of flammable creosote.

(b) After considering the available data on the causes of fires in these appliances, the Commission concludes that there is an unreasonable risk of injury associated with appliances that are sold without notifying consumers of the information they need to prevent many of these occurrences. Accordingly, the Commission has determined that disclosure of the information required by § 1406.4 is necessary to help the Commission in carrying out the purposes of the Consumer Product Safety Act of (1) helping to protect the public against unreasonable risks of injury associated with consumer products and (2) assisting consumers in evaluating the comparative safety of consumer products.

(c) The Commission has also determined that in carrying out these purposes of the act, it is also necessary for manufacturers to provide to the Commission a copy of the information provided to consumers and a statement of the reasons why some of the information was selected, in accordance with § 1406.5.

§ 1406.3 Definitions.

For the purposes of this rule: (a) "Coal and wood burning appliances" means fireplace stoves, room heater/fireplace stove combinations, cookstoves and ranges, and radiant and circulating heaters. It does not include central heating units, masonry fireplaces and chimneys, fireplace inserts, or factory built fireplaces (zero clearance fireplaces).

(b) "Central heating units" include boilers, furnaces, and furnace add-ons. These appliances are designed to be connected to hot water distribution or ductwork systems for heating several rooms. The furnace add-on converts an existing gas, oil, or electric heating system to one capable of using solid fuels as well as its original fuel.

(c) A "chimney" is a vertical or nearly vertical enclosure containing one or more passageways called flue passages for conveying combustion wastes to the outside atmosphere.

(d) A "chimney connector" is the stovepipe which connects the appliance flue with the chimney flue.

(e) "Cookstoves and ranges" are chimney connected solid fuel burning appliances that are used primarily for cooking. In addition to the firechamber, there may be one or more ovens or warmer compartments and several removable cooking space pothole lids. The intensity of the fire is controlled by damper and draft regulators.

(f) A "factory built fireplace" is a firechamber and chimney assembly consisting entirely of factory made parts. It is designed for component assembly without requiring field construction. These "zero clearance" units are fabricated for safe installation against combustible surfaces and for burning fireplace fuel.

(g) "Fireplace inserts" are heating units that fit into a fireplace and connect to the fireplace flue. These units function like radiant and circulating heaters.

(h) A "fireplace stove" is a freestanding, chimney-connected firechamber which is constantly open to view. It is designed to burn regular fireplace fuel and function as a decorative fireplace.

(i) A "masonry chimney" is field constructed of solid masonry units, brick, stones, or reinforced concrete.

(j) A "masonry fireplace" is an open firechamber built into a structure along with a chimney and hearth. It is constructed of solid masonry units such as bricks, stones, or reinforced concrete.

(k) "Radiant and circulating heaters" have firechambers which may be airtight [1] or non-airtight and are available in a number of sizes, shapes, and designs. The firechamber is closed in use, but there may be a window of specially formulated glass for viewing the fire. Drafts and dampers are used to control the burning process. There may be a secondary combustion chamber, baffles, a thermostat, a blower, or other components which function to improve combustion efficiency or to control heat output. The primary function of these appliances is as space heaters. However, some have lift-off cooking pothole lids, and the top surface of most can be used for cooking. The fuel may be wood, coal, or both wood and coal. Radiant heaters transmit heat primarily by direct radiation. Circulating heaters have an outer jacket surrounding the fire chamber. Air enters from the bottom, is warmed by passing over the fire chamber, and exists at the top. Movement is by natural convection or forced air circulation.

(l) A "room heater/fireplace stove combination" is a freestanding, chimney-connected fire chamber with doors. It is designed to be used to burn fireplace fuels with the firechamber either open or closed to view. This appliance functions as a decorative fireplace when the doors are open and as a non-airtight heater when the doors are closed.

§ 1406.4 Requirements to provide performance and technical data by written notice to purchasers and prospective purchasers.

Manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3 shall give notification of performance and technical data related to performance and safety to

[1] An airtight stove is defined by J. W. Shelton in *Wood Heat Safety*, 1979, as "A stove in which a large fire can be suffocated by shutting the air inlets, resulting ultimately in a large mass of unburned fuel remaining in the stove."

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prospective purchasers at the time of original purchase and to the first purchaser of such products for purposes other than resale, in the manner set forth below: (a) *Written notice on applicance.* (1) The appliance shall bear a written notice that contains the following performance and technical data.

(i) Appropriate minimum clearances from combustibles to avoid the occurrence of fire. The clearances shall be stated in both written and diagrammatic form and shall include:

(A) Distance from back and sides of appliance to combustible walls.

(B) Distance to be maintained between the chimney and chimney connector and combustible walls and ceilings.

(ii) Type and dimensions of floor protection, if necessary to protect combustible floors.

(iii) Proper type(s) of chimney and chimney connector to be used with the appliance.

(iv) Identification of parts or precautions required for passing a chimney or chimney connector through combustible walls or ceilings.

(v) A statement that the appliance should not be overfired, and a description of the condition(s) which signal(s) overfiring.

(vi) A statement of how often the chimney and chimney connector should be inspected and cleaned.

(vii) Information explaining that the appliance should be installed and used only in accordance with the manufacturer's directions.

(viii) A statement that the owner should contact local building or fire officials about restrictions and installation inspection requirements in the owner's area.

(ix) Distance to be maintained between appliance and furnishings in the room.

(x) The name and address of the manufacturer, importer, or private labeler to which the owner can write for a copy of the manufacturer's directions or for additional information, and sufficient identification of the appliance model so that the appropriate information can be supplied.

(2) No specific wording is required on the written notice, but the information shall be printed in legible English in clear and readily understandable language. (An) example(s) of (an) acceptable label(s) are (is) given in Fig(s). 1 (and 2), Appendix I.

(3) Except for the information required by paragraphs (a)(1)(v), (a)(1)(vi), and (a)(1)(ix) of the section, the written notice shall be placed in a location that is conspicuous before the appliance is installed. In addition, the written information required by paragraphs (a)(1)(v), (a)(1)(vi), and (a)(1)(ix) of the section shall be readily visible during normal use of the appliance. Locations within compartments or behind doors or panels may be readily visible during normal use if the location is readily visible when the door or panel is opened or removed and the door or panel must be opened or removed, or the compartments used as part of the normal operating procedures for the appliance. An example of a notice format where the information required to be readily visible during normal use is separated from the remainder of the notice is given in Fig. 2, Appendix I.

Note.—The final rule may recommend that the required information be on a single label that is both conspicuous before the appliance is installed and readily visible during normal use of the appliance, or it may recommend the use of two labels as provided in Fig. 2. If one of these formats is recommended, the example of the other format may be deleted.

(4) The written notice shall be provided so that it will remain legible for the maximum expected useful life of the appliance in normal operation.

(b) *Directions.* All appliances covered by this rule shall be accompanied by directions that include the following technical and performance information:

(1) The following notice shall be placed on the first page of the document(s) containing the directions and at the beginning of the directions:

SAFETY NOTICE.—IF THIS——IS NOT PROPERLY INSTALLED, A HOUSE FIRE MAY RESULT. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS. CONTACT LOCAL BUILDING OR FIRE OFFICIALS ABOUT RESTRICTIONS AND INSTALLATION INSPECTION IN YOUR AREA

This statement shall be conspicuous and in type that is at least as large as the largest type used on the remainder of the page, with the exception of the logo and any identification of the manufacturer, brand, model, and similar designations.

(2) Step by step installation directions shall be provided, including all necessary information regarding parts and materials. This information shall include an explanation of the consequences which could result from failure to install the appliance properly. These directions shall include a direction to refer to the chimney and chimney connector manufacturers' instructions for installation through combustible walls or ceilings.

(3) These directions shall also include a clearly identified section containing complete use directions, including how to fire the unit to avoid fire hazards, and a clearly identified section containing complete maintenance directions, including how and when to clean the chimney and chimney connector. Information about the use of flammable liquids should also be included. These sections shall contain a description of the consequences that could result from failure to use or maintain the appliance properly.

(4) The directions required by paragraphs (b)(2) and (b)(3) of this section shall include all the information required by paragraph (a)(1) of this section and shall be in legible English in readily understandable language. A recommended outline for the directions is given in Appendix II.

(c) *Packaging.* The following written notice shall appear legibly and conspicuously on the appliance packaging or carton or on the enclosed container for parts supplied by the manufacturer:

REMINDER.—READ THE ENCLOSED INSTALLATION DIRECTIONS

(d) *Sales literature, catalogs, and point of sale advertisements.* All sales literature, catalogs, and point of sale advertisements for the appliance that are provided by the manufacturer shall legibly and conspicuously include the information required by paragraph (a)(1)(viii) of this section and shall state the appropriate minimum clearances, to avoid the occurence of fire, from the back and sides of the appliance to combustible walls.

§ 1406.5 Performance and technical data to be furnished to the Commission.

Manufacturers, including importers, of coal and wood burning applicances as defined in § 1406.3 shall provide to the Commission the following performance and technical data related to preformance and safety: (a) *Written notice.* Manufacturers shall provide to the Commission copies of the written notice required by § 1406.4(a). If the written notice is provided to purchasers in a way, such as by casting or stamping the notice into the stove, that makes it impractical to furnish a sample of the actual notice to the Commission, the manufacturer will provide an actual size copy of the notice and a description of the forming process.

(b) *Directions.* Manufacturers shall provide to the Commission a copy of the directions required by § 1406.4(b).

(c) *Rationale.* Manufacturers shall provide to the Commission a statement of how the distances to combustibles required to be stated by § 1406.4(a)(1) were determined. In addition, the manufacturer will state the type of appliance, its fuel, size, and weight, and the material of which it is constructed, unless this information is included in the directions submitted under paragraph (b) of this section.

(d) *General.* (1) the information required to be provided under paragraphs (a) through (c) of this section shall be submitted for each distinct design or model of appliance manufactured. An appliance will be considered to be a distinct design or model if it differs from other appliances of the same manufacturer by functional differences such as performance, weight, size, or capacity. Differences in cosmetic or other non-functional features do not require the submission of additional information.

(2) The written notice, directions, and rationale shall be provided to the Associate Executive Director for Compliance and Administrative Litigation Consumer Product Safey Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207, by July 1, 1981, or, in the event of a subsequent change in the component materials or design features that could cause the model to require different clearances from combustibles or a different type of chimney, or if a new product is introduced into the United States commerce, within 30 days after the change or introduction.

Dated: November 12, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix I—Recommended Format and Wording for Written Notice

The following are recommended formats and suggested wording for the written notice required by § 1406.4(a). Information to be supplied by the manufacturer is indicated by underlined blank spaces or by asterisks.

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Fig. 1 - Written notice requirement satisfied by a single label that is readily visible during normal use of the appliance and conspicuous before installation. Insert appropriate information or numbers at " * ". Change words or diagrams to suit particular appliance.

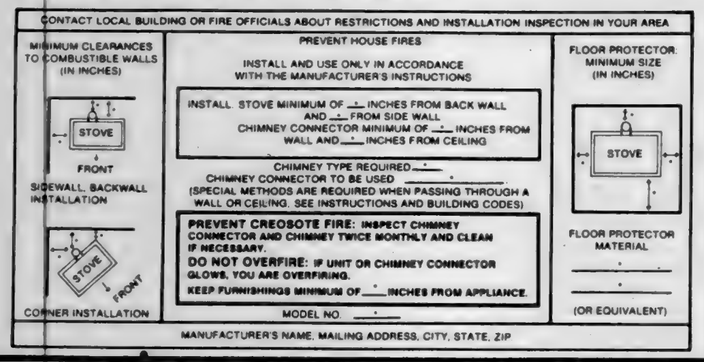
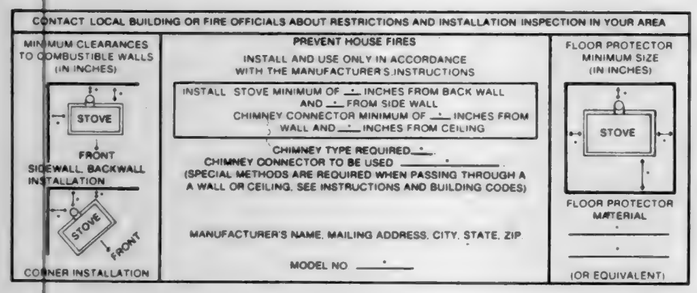


Fig. 2 - Written notice requirements satisfied by label (A) that is conspicuous before installation and additional label (B) that is readily visible during normal use. Insert appropriate information or numbers at " * ". Change words or diagrams to suit particular appliance.

(A)



(B)

PREVENT CREOSOTE FIRE: INSPECT CHIMNEY CONNECTOR AND CHIMNEY TWICE MONTHLY AND CLEAN IF NECESSARY.

DO NOT OVERFIRE: IF UNIT OR CHIMNEY CONNECTOR GLOWS, YOU ARE OVERFIRING.

KEEP FURNISHINGS MINIMUM OF __ INCHES FROM APPLIANCE.

BILLING CODE 6355-01-C

Appendix II—Recommended Outline for Directions

The following is a recommended outline for the directions required by § 1406.4(b). This outline is a guide and should not be considered as including all of the information that may be necessary for the proper installation, use, and maintenance of the appliance since the necessary information may vary from product to product.

"HOW TO INSTALL, USE, AND MAINTAIN YOUR——"

I. Safety Precautions

A. The Safety Notice required by this rule.

- "SAFETY NOTICE.— IF THIS —— IS NOT PROPERLY INSTALLED, A HOUSE FIRE MAY RESULT. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS. CONTACT LOCAL BUILDING OFFICIALS ABOUT RESTRICTIONS AND INSTALLATION INSPECTION IN YOUR AREA."

B. Statements of other important safety messages, including:

- "Creosote may build up in the chimney connector and chimney and cause a house fire. Inspect the chimney connector and chimney at least twice monthly and clean if necessary."
- "Overfiring the appliance may cause a house fire. If a unit or chimney connector glows, you are overfiring."
- "Never use gasoline or other flammable liquids to start or 'freshen up' a fire."
- "Dispose of ashes in a metal container."

II. Installation Instructions

A. The parts and materials required, including:

- The size and type of chimney to which the appliance is to be connected
  The size and thickness or gage of metal of the chimney connector
- The thimble or type of connection through a combustible wall or ceiling

B. The step-by-step directions for installing the appliance and its accessories, chimney connector, and chimney. The directions would include:

- Clearances from the appliance and chimney connector ot combustibles
- Methods to safely join the chimney connector to the chimney through a combustible wall or ceiling
- The joining of two or more parts to constitute a safe assembly such as attaching and securing the chimney connector to the appliance and to each adjoining section.
- Where required, the parts or materials to be used for the floor protector (hearth). The minimum areas to be covered and their relation to the appliance.

III. Use Instructions

A. Recommendations about building and maintaining a fire, warnings against overfiring, and condition(s) that signal(s) overfiring.

B. Caution against the use and storage of flammable liquids, as follows: "Do not use gasoline, gasoline-type lantern fuel, kerosene, charcoal lighter fluid, or similar liquids to start or 'freshen up' a fire in this appliance. Keep these flammable liquids well away from this appliance while it is in use."

C. Explanation about the use or nonuse of grates, andirons or other methods of supporting the fuel.

D. How to use manual or thermostatic controls.

E. Explanation about the use of any electrical assemblies including care and routing of power supply cord.

F. Caution about disposing of ashes, as follows: *"Disposal of Ashes.* Ashes should be placed in a metal container with a tight fitting lid. The closed container of ashes should be placed on a noncombustible floor or on the ground, away from all combustible materials, pending final disposal. The ashes should be retained in the closed container until all cinders have thoroughly cooled."

IV. Maintenance Instructions

A. How to inspect and maintain the appliance, chimney, and chimney connector.

B. Explanation about the formation and removal of creosote buildup in the chimney connector and chimney as follows:

"Creosote—Formation and Need for Removal". When wood is burned slowly, it produces tar and other vapors, which combine with moisture to form creosote. Creosote vapors condense in the relatively cool chimney flue, and creosote residue accumulates on the flue lining. When ignited, this creosote makes an extremely hot fire.

The chimney connector and chimney should be inspected at least twice monthly during the heating season to determine if cresosote buildup has occurred.

If creosote has accumulated, it should be removed to reduce the chance of a chimney fire.

C. Explain how to remove creosote.

V. References

A. The name and address of the manufacturer or private labeler from which the owner can obtain additional information if needed. Include other sources of information as appropriate.

B. The manufacturer's or private labeler's catalog designations, model numbers or the equivalent for the appliance and related parts.

Note.—The following reference list will not appear in the Code of Federal Regulations.

Bibliographical Reference List; Coal and Wood Stove Label Rule

1. National Fire Protection Association (NFPA)—97M—Glossary of Terms Relating to Heat Producing Appliances, 1979, pp. 7, 8, 14, 26, 27; 470 Atlantic Avenue, Boston, Mass. 02210.

2. Wood Heat Safety, Jay W. Shelton, 1979, p. 160; Garden Way Publishing, Charlotte, Vermont 05445.

3. The Wood Burner's Encyclopedia, Jay W Shelton and A. B. Shapiro, 1976, p. 70; Vermont Crossroads Press, Waitsfield, Vermont 05673.

4. UL103—Factory Built Chimneys, Residential Type and Building Heating Appliances; Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062.

5. UL737—Fireplace Stoves; Underwriters Laboratories, Inc.

6. UL1482—Solid Fuel Type Room Heaters; Underwriters Laboratories, Inc.

7. BOCA Basic Building Code/1978, Sections 1000–1005.5; Building Officials and Code Administrators International Inc., 1313 East 60th Street, Chicago, Illinois 60637.

8. Manual on Clearances for Heat Producing Appliances, NFPA No. 89m—1976.

9. Standard for Chimneys, Fireplaces, and Vents, NFPA 211—1977.

10. Standard Building Code 801—General, 802—Chimneys, 803-Masonry Chimneys; Southern Building Code Congress International, Inc.; 1979, 3617 8th Ave. South, Birmingham, Ala. 35222.

11. Woodstove Installation Guide—Commonwealth of Massachusetts; Massachusetts State Building Code Commission; Massachusetts Energy Office; 1979; 1 Ashburton Place No. 1305, Boston, Mass. 02108.

12. Rules, Regulations, and Application for Accreditation of Testing Laboratories, State of Massachusetts Building Code Commission, Ashburton Place, Boston, Mass. 02108.

13. Uniform Building Code 1979, International Conference of Building Officials (ICBO), 5360 South Workman Mill Road, Whittier, California 90601.

14. Uniform Mechanical Code 1979, ICBO.

15. Building Standards Vol. XLVIV, No. 3, Part II; May–June 1980, ICBO.

16. ICBO Description of Listing Services; January 1980.

17. "Towards Effective Precautionary Labeling"; CPSC document prepared by Irene Y. Bick; December 18, 1975—Office of the Secretary, CPSC, Washington, D.C. 20207.

18. BOCA Mechanical Code, Building Officials and Code Administrators International Inc.; 1978 Edition.

19. Standard Mechanical Code, Southern Building Code Congress International, Inc.; 1979 Edition.

20. The National Building Code; Engineering and Safety Service; 1978 Edition; 85 John Street, New York, N.Y. 10038.

21. Washington Post Article on Wood-Burning, Lee Lescase, December 15, 1979, p. A-3.
22. The 1978 United States Fire Experience, Michael J. Karter, Jr., Fire Journal, September 1979; NFPA.
23. United States Fire Fighter Deaths in the Line of Duty During 1978, Arthur E. Washburn and David W. Harlow, NFPA Fire Analysis Department, May 1979; NFPA.
24. "Carbon Monoxide Deaths in the Line of Duty During 1978," Arthur E. Washburn and David W. Harlow, NFPA Fire Analysis Department, May 1979; NFPA.
25. "Carbon Monoxide Deaths From Unvented Gas Space Heaters," Bea Harwood, Oct. 12, 1979—CPSC Document.
26. A Review of Fire Incidents, Model Building codes, and Standards Related to Wood-burning Appliances, Richard D. Peacock, Center for Fire Research, National Engineering Laboratory, National Bureau of Standards, May 1979–NBSIR 79-149, Center for Fire Research, NBS, Washington, D.C. 20234.
27. Analysis of Fire Reports on File in the Massachusetts State Fire Marshal's Office Relating to Wood and Coal Heating Equipment, Jay W. Shelton, PH.D., November 1978; NBS–GCR–78–149, Center for Fire Research, NBS, Washington, D.C. 20234.
28. Oregon Wood Burning Fire Incidents, January & February 1979.
29. Fuelwood and Wood Burning Stoves, Special Circular 249, The Pennsylvania State University, Cooperative Extension Service, University Park, PA 16802.
30. How to Choose A Wood Burning Appliance, Pennsylvania State University, Cooperative Extensive Service.
31. Safety Information to Prevent Chimney Fires, Pennsylvania State University, Cooperative Extension Service.
32. United States International Trade Commission Report on Cast-Iron Stoves, July 1977, Pub. No. 828, ITC, Washington, D.C.
33. Assessment of Proposed Federal Tax Credits for Residential Wood Burning Equipment, Department of Energy, Division of Buildings and Community Systems, Technology and Consumer Products Branch, March 21, 1979, Report EC–77–C–03–1693.

Additional documents of interest

1. Briefing Paper on Proposed CPSA 27(e) Labeling Rule for Coal and Wood Burning Appliances, Consumer Product Safety Commission, Washington, D.C. 20207.
Tab A—Draft Proposed Rule: Provision of Performance and Technical Data for Coal and Wood Burning Appliances
Tab B—Staff Hazard Assessment Memoranda
B–1—Hazard Identification, February 1980.
B–2—Human Factors, Feb. 29, 1980.
B–3—Health Sciences, Jul. 14, 1980.
Tab C—Communications Evaluation, Aug. 20, 1980.
Tab D—Engineering Evaluation
D–1—Product Definitions & Information Evaluation, February 25, 1980.
D–2–Comparison of Proposed Rule to Existing Standards, June 24, 1980.
Tab E—Economic Analysis Report, Feb. 1980.
Tab F—Enforcement Considerations
F–1—Enforcement Strategy, June 5, 1980.
F–2—Engineering Enforcement Resource Estimates, May 7, 1980.
F–3—Estimates of Industry Size, April 21, 1980.
Tab G—Survey of State and Local Regulations, June 19, 1980.
Tab H—Correspondence
H–1—Letter from Terry Ellsworth, Fireplace Inst., regarding Industry Conformance to Voluntary Standards, Apr. 14, 1980.
H–2—Letter from Frank Stanonik, Gas Appliance Manufacturers Association, regarding Industry Conformance Labeling Requirements, May 23, 1980.
Tab I—Suggested Formats For Written Notices
2. CPSC staff memorandum, T. Karels, October 14, 1980. (typical production and sales cycle)
3. CPSC staff memorandum, E. Perry, October 14, 1980. (concerning clearances between chimney connector and ceiling)
4. Correspondence to CPSC from Martin Industries concerning production and sales, October 10, 1980.
5. Correspondence to CPSC from Suburban Manufacturing Company concerning production and shipments, October 15, 1980.
6. Minutes of Commission meeting, October 16, 1980.

[FR Doc. 80-35834 Filed 11-14-80; 8:45 am]
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federal register

Monday
November 17, 1980

Part VII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1980.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of November 1, 1980 of 22 deferral contained in the first special message for FY 1981. This message was transmitted to the Congress on October 1, 1980.

Deferrals (Table A and Attachment A)

As of November 1, 1980, $576.3 million in 1981 budget authority was being deferred from obligation and another $5.5 million in 1981 obligations was being deferred from expenditure. Attachment A shows the status of the deferrals reported by the President in the first special message for FY 1981 transmitted to the Congress on October 1, 1980.

Information from special messages

The special message containing information on the deferrals covered by the cumulative report is printed in the **Federal Register** of: Monday, October 6, 1980 (Part VIII, Vol. 45, No. 195)

James T. McIntyre, Jr.,

Director.

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TABLE A

STATUS OF 1981 DEFERRALS

	Amount (In millions of dollars) *
Deferrals proposed by the President	$ 619.1
Routine Executive releases (-37.4 million) and adjustments (-0-) through November 1, 1980	-37.4
Overturned by the Congress	-0-
Currently before the Congress	581.8

* Detail does not add to total due to rounding.

Attachment

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PAGE 1 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 10/31/80 17:15

AGENCY/BUREAU/ACCOUNT (AMOUNTS IN THOUSANDS OF DOLLARS)		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-80
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D81- 1	16,481		10 1 80				16,481
Expenses, brush disposal	BA	D81- 2	37,342		10 1 80				37,342
DEPARTMENT OF AGRICULTURE TOTAL	BA		53,823						53,823
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D81- 3	2,867		10 1 80				2,867
National Oceanic and Atmospheric Administration									
Construction	BA	D81- 4	10,230		10 1 80				10,230
DEPARTMENT OF COMMERCE TOTAL	BA		13,097						13,097
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Procurement activities	BA	D81- 5	139,700		10 1 80				139,700
Research, Development, Test, and Evaluation									
RDT&E Activities	BA	D81- 6	46,500		10 1 80				46,500

PAGE 2 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 10/31/80 17:15

AGENCY/BUREAU/ACCOUNT (AMOUNTS IN THOUSANDS OF DOLLARS)		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-80
Military Construction									
Military construction, all services	BA	D81- 7	6,983		10 1 80	-1,565			5,418
Family Housing, Defense									
Family housing, Defense	BA	D81- 8	18,651		10 1 80	-18,651			
DEPARTMENT OF DEFENSE-MILITARY TOTAL	BA		211,834			-20,216			191,618
DEPARTMENT OF DEFENSE-CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D81- 9	667		10 1 80	-136a			531
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D81-10	10,698		10 1 80				10,698
Office of Assistant Secretary for Health									
Special foreign currency program	BA	D81-11	8,000		10 1 80				8,000
Human Development Services									
White House Conference on Children and Youth	BA	D81-12	562		10 1 80				562
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL	BA		19,260						19,260
DEPARTMENT OF THE INTERIOR									
Heritage Conservation and Recreation Service									

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PAGE 3 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 10/31/80 17:15

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-80
Land and water conservation fund								
BA	D81-13	30,000		10 1 80				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D81-14	41		10 1 80				41
Bureau of Mines								
Drainage of anthracite mines								
BA	D81-15	765		10 1 80				765
DEPARTMENT OF THE INTERIOR								
TOTAL BA		30,806						30,806
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D81-16	15,750		10 1 80				15,750
DEPARTMENT OF TRANSPORTATION								
Federal Aviation Administration								
Facilities & equip. (Airport & airway trust fund)								
BA	D81-17	133,823		10 1 80				133,823
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D81-18	111,773		10 1 80	-13			111,760
O	D81-19	5,485		10 1 80				5,485
Bureau of the Mint								
Construction of mint facilities								
BA	D81-20	5,730		10 1 80				5,730

PAGE 4 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 10/31/80 17:15

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-80
DEPARTMENT OF THE TREASURY								
TOTAL BA		117,503			-13			117,490
TOTAL O		5,485						5,485
OTHER INDEPENDENT AGENCIES								
Federal Emergency Management Agency								
Emergency planning, preparedness, and mobilization								
BA	D81-21	80		10 1 80				80
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D81-22	17,000		10 1 80	-17,000			
OTHER INDEPENDENT AGENCIES								
TOTAL BA		17,080			-17,000			80
TOTAL BA		613,643			-37,365			576,278
TOTAL O		5,485						5,485

FOOTNOTES

a - This amount was released before the special message containing the deferral was transmitted to the Congress.

[FR Doc. 80-35786 Filed 11-14-80; 8:45 am]
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federal register

Monday
November 17, 1980

Part VIII

Department of Energy

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are interpretations and responses to petitions for reconsideration issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period October 1, 1980 through October 31, 1980.

Appendix C identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585 (202) 252–2931.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subseqent amendment to the regulation or ruling interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation or ruling (§ 205.85(e)). The interpretations published below are not subject to administrative appeal.

The responses to petitions for reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure than no inadvertent errors are made which affect the validity of the interpretation.

Issued in Washington, D.C., November 5, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A—Interpretations

Number	To	Date	Category	File No.
1980–33	Eugene Water & Electric Board	Oct. 2	Conservation	A–512
1980–34	DeLozier Chevron Station	Oct. 7	Allocation	A–516
1980–35	National Pest Control Association, Inc	Oct. 7	Allocation	A–533
1980–36	Concord Oil Co., Inc	Oct. 15	Allocation	A–387
1980–37	Florida Association of Blood Banks	Oct. 17	Allocation	A–549
1980–38	Dow Chemical Co	Oct. 21	Allocation	A–469
1980–39	Standard Oil Co. (Indiana)	Oct. 21	Allocation	A–530
1980–40	Chevron U.S.A., Inc	Oct. 22	Price	A–582
1980–41	Western Trading Co	Oct. 29	Allocation and price	A–583

Interpretation 1980–33

To: Eugene Water & Electric Board
Regulations Interpreted: 10 CFR 490.5(c), (y); 490.18(a)(4); 490.43
Code: GCW—CI—Emergency Building Temperature Restrictions, Solar Energy Exemption

Facts

The Eugene Water & Electric Board (EWEB) is a municipal utility which generates steam and electricity in the Eugene-Springfield area of Oregon. EWEB generates steam that is used in EWEB's corporate buildings and is sold to EWEB utility customers. EWEB's plant consists of two wood waste or "hogged fuel" boilers capable of producing 300,000 pounds of steam per hour of operation. The hogged fuel used by EWEB is a form of wood-waste garbage. The steam generated by the hogged fuel plant is sold to EWEB's customers. Steam is supplied to customers throughout the calender year and constitutes the sole source of energy for heating purposes to EWEB's customers.[1] Since EWEB's steam heat system load is less than its boiler capacity, EWEB has sufficient capacity to generate electricity using wood waste fuel whenever necessary. EWEB's corporate buildings use a combination of steam and electric heat. The percentage of steam heat used is estimated to be 65 percent.

[1] One EWEB customer also uses steam in a covered building during summer months for cooling. Electricity used in EWEB's corporate buildings is derived solely from EWEB's hogged fuel generators. This electricity is transmitted to a nearby substation which physically connects to EWEB's corporate buildings. Steam customers also purchase electricity from EWEB. However, such energy is obtained from EWEB's melded transmission grid system containing hydro, thermal, and hogged fuel electricity. Electricity purchased from the EWEB electrical grid is used for lighting and equipment operation, and with one exception, is not used for space heating by EWEB steam heat customers.

Issue

Are buildings that are heated by the steam produced from "hogged fuel" exempt from Emergency Building Temperature Restrictions pursuant to the solar energy exemption set forth in 10 CFR 490.18(a)(4)?

Interpretation

Buildings owned and operated by EWEB and its customers that are heated or cooled solely by the steam or electricity produced from hogged fuel are exempt from the Department of Energy's (DOE) Emergency Building Temperature Restrictions (EBTR). The production of steam heat or electricity from hogged fuel is an indirect use of solar energy, and buildings capable of using solar energy are exempt from the EBTR pursuant to 10 CFR 490.18(a)(4). Since an exemption from the EBTR must be claimed individually by owner-operators for persons defined and discussed in 10 CFR 490.5 and 490.31(c), EWEB and each of its customers must claim an exemption from the EBTR.

Section 201 of the Energy Policy and Conservation Act, Pub. L. No. 94–163, as amended, 42 U.S.C. 6201, authorizes the President to develop energy conservation contingency plans. The EBTR were published at 44 FR 39354 (July 5, 1979) and became effective July 16, 1979, 44 FR 41205 (July 16, 1979), pursuant to Presidential Proclamation No. 4667, 44 FR 40629 (July 12, 1979). The President issued Proclamation No. 4750 on April 15, 1980, 45 FR 26019 (April 17, 1980) continuing the EBTR in effect until January 16, 1981, unless earlier rescinded.

The objective of the EBTR is the achievement of significant and immediate reductions in energy demand. These regulations further this objective by reducing the demand for electricity and heating oil in winter and during the cooling season. 44 FR 39354, 39355 (July 5, 1979). However, heating, ventilating, and air-conditioning (HVAC) systems will save energy when solar energy provides the only source to heat or cool a building.

The heating and cooling restrictions applicable to buildings with HVAC systems are set forth in 10 CFR Part 490, Subpart B. These regulations provide that no building operator may set space-conditioning control devices so that energy is consumed to raise the room temperature above 65° F, or to lower the room temperature below 78° F. EWEB's corporate buildings and the majority of EWEB's customers are covered by the heating and cooling restrictions of Subpart B. For purposes of Part 490, "Covered building" is defined in 10 CFR 490.5(c) as follows:

"Covered building" means every building or portion of a building, but excludes residential buildings, hotels or other lodging facilities, hospitals and health care facilities, elementary schools, nursery schools and day-care centers, and such other buildings and facilities as the Secretary may by rule determine. . . .

The hogged fuel which produces the steam for the covered buildings operated by EWEB and its customers is a type of "Solar energy" as defined in 10 CFR 490.5(y):

"Solar energy" means energy derived from the sun directly through the solar heating or air, water or other fluids; indirectly through the use of electricity produced by solar photovoltaic or solar thermal processes; or indirectly through the use of wind, *biomass* or small scale waterpower. (Emphasis added.)

Hogged fuel is a form of wood-waste garbage. Biomass is specifically described in the preamble to include wood. 44 FR 39354, 39356 (July 5, 1979). Therefore, hogged fuel qualifies as biomass and falls within the definition of solar energy.

Buildings that would otherwise be covered by the EBTR are exempt if they use solar energy. The solar energy exemption from the heating and cooling restrictions is set forth in 10 CFR 490.18(a)(4):

(a) The requirements of this Subpart shall not apply to:

* * * * *

(4) Buildings containing HVAC systems capable of using solar energy, but only during those periods when solar energy provides the *only source* of heating or cooling energy. (Emphasis added.)

The steam energy produced by EWEB's hogged fuel system and used in EWEB's corporate buildings and customer buildings and the electricity generated by EWEB's hogged fuel system used in EWEB's corporate buildings constitutes an indirect use of solar energy as defined in 10 CFR 490.5(y). Therefore, to the extent that the use of hogged fuel-generated steam or electricity constitutes the *sole energy source* for EWEB corporate or customer steam energy heating needs, the owners and operators may claim exemption from EBTR pursuant to § 490.18(a)(4).[2]

Exemptions from the EBTR must be claimed individually by EWEB and its customers. The heating and cooling restriction set forth in Subpart B of Part 490 are directed to individual owners, operators, or other persons as defined and discussed in 10 CFR 490.5 and 490.31(c). Pursuant to 10 CFR 490.31(b), exemptions from heating and/or cooling requirements are effective when claimed. Section 490.43 requires that any exemptions claimed for a building must be set forth within the "Certificate of Building Compliance" which must be posted in a prominent location within a covered building. Owners, operators, and persons claiming exemptions are also required, in accordance with DOE forms and instructions, to submit information describing any claimed exemptions.

Accordingly, the proper application of the Emergency Building Temperature Restrictions to the factual situation presented by EWEB is as follows:

(1) Buildings that are heated or cooled solely by the steam or electricity produced from EWEB's hogged fuel system are exempt from the EBTR set forth in 10 CFR Part 490, Subpart B, pursuant to the solar energy exemption set forth in 10 CFR 490.18(a)(4), and

(2) Exemptions from the EBTR for any building owned or operated by EWEB or its customers must be claimed individually.

Issued in Washington, D.C. on October 1, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–34

To: DeLozier Chevron Station
Regulation Interpreted: 10 CFR 211.104
Code: GCW—PI—Unusual Growth Adjustment; Base Period Use; "Average Monthly Purchases"

Facts

DeLozier Chevron Station (DeLozier) is a wholesale purchaser-reseller of motor gasoline and operates a retail sales outlet in Decatur, Georgia. On December 15, 1978, DeLozier executed a lease with Chevron USA, Inc. for a service station in Decatur, Georgia. The station opened for business in mid-December 1978. When Standby Regulation Activation Order No. 1[1] became effective, DeLozier's base period volumes were changed from the 1972 allocation levels of his predecessor to the July 1977 through June 1978 levels of his predecessor.[2] This modification in base period volumes greatly reduced DeLozier's volumes of motor gasoline. During the period December 15, 1978 through February 28, 1979, DeLozier had purchased a total of 91,847 gallons of gasoline.[3] in its present submission,[4] DeLozier seeks a determination that the proper method to calculate "average monthly purchases" to determine base period volumes pursuant to the unusual growth adjustment is by dividing total volumes purchased by the months *during which* product was purchased, in this case, 2.5 months. DeLozier contends that using a method that is keyed to the number of months *for which* product was purchased is incorrect and can unfairly reduce a retailer's monthly base period volumes. Therefore, DeLozer contends that it can determine its average monthly volumes by dividing by fewer than 3 months of the measuring period.

Issue

Do the provisions of the unusual growth adjustment at 10 CFR 211.104 require "average monthly purchases" to be divided by at least three if purchases were made during 2.5 months of the October 1978 through February 1979 period?

Interpretation

For the reasons set forth below, the phrase "average monthly purchases" set forth in 10 CFR 211.104 refers to the entire month rather than portions of the month computed on a daily basis, as the regulations provide that at least three of the months of the measuring period must be used to determine average monthly volumes.

Section 211.104 of the Mandatory Petroleum Allocation Regulations provides in relevant part:

(a)(1) Beginning in May 1979, *if a retail sales outlet,* wholesale purchaser-consumer or a bulk purchaser *of motor gasoline with an allocation level determined by reference to a base period use, or its predecessor whose allocation it received, purchased gasoline during at least three of the months during the period October 1978 through February 1979 and the monthly average volume of such purchases from all suppliers in the months it purchased gasoline was at least ten percent greater than the aggregate amount of its actual motor gasoline purchases in a base period month from all suppliers, it can substitute as its base period use for the current month corresponding to that base period month its average monthly purchases in those months of the October 1978 through February 1979 period that it purchased motor gasoline.* The purchaser's base period suppliers will be required to supply the adjusted volumes as determined in paragraph (b) of this section. (Emphasis supplied.)

In its submission DeLozier contends that the total purchases of motor gasoline it made from December 15, 1978 through February 28, 1979 of 91,847 gallons should be divided by 2.5 rather than by 3.0. In support of its contention, the firm states on page 4 of its request that in the absence of reported court

[1] The Activation Order was issued by the Economic Regulatory Administration of the Department of Energy on February 22, 1979, 44 FR 11202 (ERA) (February 28, 1979.)

[2] The base period was updated on May 1, 1979 to the period November 1977, through October 1978. *See* 44 FR 26712 (May 4, 1979) and 10 CFR § 211.102.

[3] For the period December 15, through December 31, 1978, DeLozier purchased 25,182 gallons of gasoline; during January 1979, 33,300 gallons; and during February 1979, 33,365 gallons of gasoline.

[4] DeLozier filed an Application for Exception and Temporary and Permanent Stay With the DOE's Office of Hearings and Appeals (OHA) on March 9, 1979. In a Proposed Decision and Order dated March 19, 1979, that was finalized on June 19, 1979, OHA granted exceptions relief and established DeLozier's adjusted base period volumes for March, April and May 1979 at 36,739 gallons per month. (DEE–2300.) On February 13, 1980, OHA refused to grant DeLozier an extension of the relief granted in the prior Decision. The OHA found that DeLozier "was entitled automatically to a substituted base period volume for each month of the calendar year" pursuant to 10 CFR 211.104 and computed the firm's adjusted base period volume of motor gasoline at 30,615 gallons for each month (DXE–6067.)

In a Statement of Objections DeLozier submitted to OHA, DeLozier contested the method OHA used to calculate its substituted base period volumes.

[2] Exemptions from heating and cooling restrictions do not necessarily include exemptions from the EBTR hot water restrictions. 10 CFR Part 490, Subpart C. However, exemption from the hot water restrictions is available in cases in which solar energy provides the only source for hot water heating energy. At such times as a hot water heating system using a non-solar energy source is operated in conjunction with solar energy, an exemption is not permitted.

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decisions or DOE interpretations of the phrase "average monthly purchases" general rules of interpretation should be used to determine its meaning. It cites a judicial decision calling for the use of common sense (a general rule of interpretation) to arrive at a reasonable interpretation of a regulation.[5]

Section 211.104(a)(1) of the Mandatory Petroleum Allocation Regulations is, in fact, clear in its meaning and requires no more than a common sense approach for interpretive purposes. The phrase "average monthly purchases" refers at the very least to the requirement in the regulation to purchases of gasoline during "at least 3 months during the period October 1978 through February 1979" and at the most to purchases during 5 months of the same period. The requirement that at least 3 months of purchases be used forces the conclusion that the monthly average volume is an average based upon at least 3 months. Any number of months used to average monthly purchases less than three would directly contradict the language of the requirement that at least 3 months' purchases be averaged.

Furthermore, DeLozier's assertion, that there is a difference between having purchased gasoline *during* the latter half of December, January and February rather than *for* those months, does not alter its purchase of gasoline in 3 months. The regulation and its preamble (44 FR 42549 (July 19, 1979)) refer to months during which gasoline was purchased. However, this does not alter the requirement that at least a 3 month period must be used to determine the average volume of purchases each month. Therefore, when the volume of DeLozier's total purchases of 91,847 gallons is divided, the correct number representing average monthly purchases is 30,282 gallons rather than the 36,739 gallons arrived at by averaging by 2.5 months.

One of the DOE's purposes in adopting the unusual growth adjustment provision was, "to create a mechanism to enable a purchaser with unusually low purchases in one or more months of the base period to receive an upward adjustment to its base period volume to reflect its actual monthly purchases." 44 FR 26713 (May 4, 1979). However, DOE did not intend to permit a firm to obtain an unfair advantage by beginning operations late in a month and calculating monthly purchases on a daily basis. This computation would artificially inflate the "monthly" volumes the retailer claims as an unusual growth. The mandatory allocation provisions seek to ensure an equitable and rational distribution system as well as to minimize adverse impacts of shortages or dislocations of petroleum products on the domestic economy.[6] Consequently, a retailer can distort the distribution system by using fewer than 3 months to obtain its average monthly volume of motor gasoline and thus receive more gasoline than it would have otherwise been entitled to based upon actual purchases.

Accordingly, DeLozier's monthly volumes during the October 1978 through February 1979 period are correctly calculated for the unusual growth adjustment by dividing total purchases by 3.0 resulting in a monthly average of 30,282 gallons of gasoline rather than by 2.5 that yielded 36,739 gallons of gasoline per month.

Issued in Washington, D.C., on October 7, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Regulations.

Interpretation 1980–35

To: National Pest Control Association, Inc.
Rules and Regulations Interpreted: 10 CFR 211.51; 211.102; and 211.103
Code: GCW–AI–Allocation Levels; End-User, def.; Agricultural Production, def.; Sanitation Services, def.

Facts

The National Pest Control Association, Inc.[1] (Association) represents 2,484 member pest control operators (PCOs) throughout the country, in the trust territories and in foreign countries. The members of the pest control industry provide services for the protection of human health and food, and for the prevention of insect infestations in wood structures. Virtually all members of the Association are involved in structural pest control although some firms have specialities, such as lawn services; involving pest control operations that are not concerned with structural protection.

PCOs provide services to all sectors of the community including government agencies, military installations, public and private businesses, hospitals, schools, homes, stores, transportation companies and restaurants.

Structural PCOs are mainly active in three areas: (1) Residential, commercial and industrial buildings where there are pests other than wood destroyers; (2) termite control consisting of preventative and immediate measures to combat wood destroyers; and (3) fumigation that involves protecting food crops from the time they are harvested to when the food reaches the consumer at the grocery stores. Structural PCOs are not involved in agricultural pest control or crop dusting.

According to the Association, the pest control industry is classified in the Standard Industrial Classification Manual (SIC),[2] Major Group 73 as Business Services with the SIC number 7342 for "Disinfecting and Exterminating Services." The Association admits that such a classification would generally place its members in the group qualifying for a second rather than first priority allocation of motor gasoline as a commercial user pursuant to 10 CFR 211.103(c). The Association, however, sets forth two alternative definitions that would qualify PCOs as first priority users pursuant to 10 CFR 211.103(b) as either engaged in agricultural production (§ 211.103(b)(2)) or sanitation services (§ 211.103(b)(5)). Such a qualification would entitle the PCOs to 100% of their base period allocation levels with no reduction by application of an allocation fraction.

The Association estimates that over 90% of the PCO industry buys motor gasoline at retail sales outlets. Some small percentage of the industry buys both at retail outlets and through wholesale suppliers. In order to qualify for a priority allocation level, however, purchases of motor gasoline must be made on a bulk-purchaser or wholesale purchaser-consumer basis. There have been, according to the Association, many complaints that PCOs have been unable to obtain all of their required gasoline at retail outlets and that the State set-aside of 5% per month for motor gasoline cannot be relied upon by PCOs to ensure their requirements. The Association further asserts that many States intend for PCOs to obtain their full fuel requirements aided by set-aside gasoline.

The Association maintains that the activities of PCOs constitute essential services that promote and protect health and food from disease carrying vectors, that assure sufficient quantities of agricultural products for human and livestock consumption, that provide sanitation services to protect health and food in buildings and, that prevent economic loss due to structural damage caused by wood destroying organisms. The Association contends that the vital activities performed by PCOs were overlooked when 10 CFR 211.103 was formulated and that the importance of these activities should provide the basis for granting first priority allocations to PCOs under the Mandatory Petroleum Allocation Regulations.

Issue

Are the activities performed by the pest control industry eligible for a first priority allocation level of motor gasoline that is not subject to reduction by an allocation fraction under 10 CFR 211.103?

Interpretation

For the reasons set forth below, pest control operators that are also bulk purchasers or wholesale purchaser-consumers qualify for a first priority allocation level for motor gasoline, not subject to reduction by an allocation fraction, provided that the gasoline is used solely for a use qualifying as agricultural production in accordance with the provisions of 211.103(b) and as referenced in the Standard Industrial Classification Manual.

Section 211.103(b) provides in part:

(b) Allocation levels not subject to an allocation fraction. One hundred (100) percent of base period use for the following uses:

* * * * *

[5] *New York State Comm. on Cable Television* v. *FCC*, 571 F. 2d. 95, (2d Cir.), *cert. denied* 439 U.S. 820 (1978).

[6] Section 211.104(a)(1) provides that once the average monthly purchases figure is determined, it must be at least 10 percent greater than the aggregate amount of actual purchases in a month in order for the retailer to qualify for an unusual growth adjustment.

[1] Approximately 90 comments were received from PCOs as well as several industrial and several governmental users of their services. The majority of the comments merely indicated a desire for a first priority allocation classification. Some comments stressed the importance of the work performed by PCOs including the prevention of disease and famine due to checked pests that would otherwise destroy food crops.

[2] Standard Industrial Classification Manual (1972 edition).

(2) Agricultural production;

* * * * *

(5) Sanitation services; . . .

The Association maintains that a first priority allocation can be granted to PCOs on the basis of Agricultural Production, 10 CFR 211.103(b)(2) or Sanitation Services, 10 CFR 211.103(b)(5). "Sanitation services" in our regulations are defined in 10 CFR 211.51 as:

". . . the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

Clearly, the activities of the pest control industry, as described herein—protecting structures from pests, combatting termites and other wood destroyers, fumigating food crops—are not related to the collection of trash and garbage, the disposal of solid wastes or the provision of water supply services by public utilities. The No. 7342 Business Services definition for disinfecting and exterminating relied upon by the association as sanitation services in the SIC Manual[3] does not qualify these activities for a first priority allocation level. Therefore, activities of the pest control industry are outside the scope of the regulatory definition of sanitation services for purposes of a first priority motor gasoline allocation.

The term "agricultural production," appearing in § 211.103(b)(2), is defined in § 211.51 as follows:

"Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the Standard Industrial Classification Manual, 1972 edition, except those industry code numbers listed in paragraph (b) which are excluded:

(a) *Activities included.* (1) All industry code numbers included in Division A, Agriculture, Forestry and Fishing, except as specified in paragraph (b) of this section.

(2) All industry code numbers included in Major Group 20, Food and Kindred Products, of Division D, Manufacturing, including grain and seed drying, except as specified in paragraph (b) below; and

(3) All the following other industry code numbers:

* * * * *

2879 Pesticides and Agricultural Chemicals Not Elsewhere Classified, . . .

Thus, activities involving agricultural production pursuant to §§ 211.51 and 211.103 qualify for a first priority allocation level not subject to reduction by an allocation fraction if, in accordance with SIC code § 2879, those activities for which the motor gasoline is used involves directly "Pesticides and Agricultural Chemicals Not Elsewhere Classified that is defined in § 2879 of the SIC Manual as:

2879 Pesticides and Agricultural Chemicals, Not Elsewhere Classified

Establishments primarily *engaged in the formulation and preparation of ready-to-use agricultural and household pest control chemicals, including insecticides, fungicides and herbicides from technical chemicals or concentrates; and the production of concentrates which require further processing before use as agricultural pesticides.* This industry also includes establishments primarily engaged in manufacturing or formulating agricultural chemicals, not elsewhere classified, such as minor or trace elements and soil conditioners. . . . (Emphasis added.)

Accordingly, as provided at § 2879 of the SIC Manual, an establishment qualifies for the first priority allocation level for motor gasoline under § 211.103(b)(2) that formulates and processes pesticides and agricultural chemicals. In a thorough analysis of the scope of § 211.103(b) and the distinction between certain activities performed by a firm making those activities eligible for a first priority allocation as opposed to the firm qualifying regardless of the activities engaged in, for such a priority, *National Soft Drink Association,* Interpretation 1979–24, 44 FR 72098 (December 13, 1979) discusses the preamble and the current regulation as proposed by the Federal Energy Office (a predecessor agency to DOE) and it states in part:

[Use of the Standard Industrial Classification code numbers] is intended to identify more precisely those activities falling within the scope of agricultural production. The current definition is susceptible of varying interpretation. Special treatment for agricultural production, which would be enhanced in the proposed program, is designed to insure adequate availability of fuel for the production of foodstuffs and the principal processing activities related thereto. Use of the SIC code system for identifying the activities falling within this definition should assure greater uniformity and consistency in application.

* * * * *

Thus, the proposed definition employed the SIC Manual as a reference for purposes of "identifying the activities," not categories of firms, which qualify as agricultural production. Part 211 entitles firms that are bulk purchasers or wholesale purchaser-consumers to the priority allocation level of the agricultural production use only for motor gasoline consumed in activities fitting within that use.

* * * * *

Activities which are related to the food industry but are not agricultural production fall into the category of "business activities" which are assigned allocation levels in the regulations. They are thereby treated in the same fashion as other industries in the manufacturing and service sectors.

The activities performed by PCOs in their formulation and processing of pesticides fall within the SIC definition of agricultural production and, as explained in *National Softdrink,* the activities of a firm qualify it for a priority allocation level. Activities performed by a firm that are related to agricultural production, such as actual distribution and application of the pesticides on location, fall into the category of "business activities" that are assigned the "commercial use" second priority allocation level pursuant to § 211.103(c)(2).

However, priority allocation levels only apply to allocations made by suppliers to end-users that are bulk purchasers and wholesale purchaser consumers. Section 211.103 provides in part:

(a) General. The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

The term "bulk purchaser" is defined in § 211.102 for the purpose of 10 CFR Part 211, Subpart F and provides in part:

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and . . . (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, . . .

The term wholesale purchaser-consumer is defined in § 211.51 as:

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

Thus, a firm that is an ultimate consumer and as part of its normal business practice purchases or obtains an allocated product directly into a storage tank under the control of that firm and at a fixed location may qualify as a bulk purchaser or wholesale purchaser-consumer. A firm may qualify if the storage tank is leased by the firm so long as it is under the substantial control of the firm.

In its submission, as well as in many of the comments received, the Association urges

[3] SIC Manual at 303:

Disinfecting and Exterminating Services

Establishments primarily engaged in disinfecting dwellings and other buildings, and in exterminating insects, rodents, and other pests.

These activities may qualify the firm for a commercial use allocation level. 10 CFR 211.103(c)(2).

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that a first priority allocation level be granted to PCOs because "of the importance of pest control for human safety and health" [4] and that an interpretation or new regulation be issued in this matter "regarding the classification change for gasoline allocation for structural pest control operators." [5] However, the Association acknowledges that at least 90% of its members purchase gasoline at retail outlets which precludes PCOs from obtaining a first or second priority allocation level because this status hinges on gasoline purchased on a bulk purchaser or wholesale purchaser-reseller basis.

The regulatory change that the Association suggests is not within the purview of the interpretive process. If the Association wishes to pursue this matter, it may submit a formal request for a rulemaking pursuant to 10 CFR Part 205, Subpart L. Moreover, as an interpretive matter, if a PCO does not qualify as either a bulk purchaser or wholesale purchaser-consumer for its agricultural or commercial end uses, it is not entitled to a priority allocation level under the Mandatory Petroleum Allocation Regulations and must instead be supplied in accordance with 10 CFR 211.10(d)(2). That section provides:

The second priority for each supplier shall be to distribute equitably the remainder of the supplier's allocable supply among all end-users or wholesale purchaser-consumers which are not entitled to an allocation level. A state may require or authorize priorities to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Except to the extent that FEO regulations or a State office otherwise may require or authorize, local governments and the supplier may also give priority to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Priority treatment, per se, when granted in accordance with the provisions of this subparagraph, shall not be considered a form of discrimination among purchasers or any other prohibited conduct under § 210.62 of this chapter.[6]

Thus, each state may establish priority levels to enable PCOs to obtain sufficient gasoline in time of shortage. Moreover, if PCOs are not entitled to priority allocation levels under § 211.103, they may seek exception relief pursuant to 10 CFR Part 205, Subpart D.[7]

Accordingly, those structural pest control members of the National Pest Control Association, Inc. that are bulk purchasers or wholesale purchaser-consumers whose activities involve formulating or processing pesticides and agricultural chemicals under the category agricultural production in accordance with 10 CFR 211.103(b)(1), qualify for a first priority allocation level not subject to reduction by an allocation fraction for motor gasoline consumed in these specific activities pursuant to 10 CFR 211.103(b).[8]

Issued in Washington, D.C., on October 7, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–36

To: Concord Oil Company, Inc.
Regulation Interpreted: 10 CFR 211.10(g)(5)
Code: GCW—AI—Surplus Product, Purchase of

Facts

Concord Oil Company, Inc. (Concord), which maintains its headquarters in Concord, Massachusetts, is a wholesale purchaser-reseller of motor gasoline and subject to the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211. The firm has been a branded independent marketer of Gulf Oil Company (Gulf) products since 1969. As a result of adjustments for growth, authorized under § 211.104, and Department of Energy (DOE) assignments and corresponding upward certifications, the volume of motor gasoline purchased by Concord has increased substantially since the original base period for motor gasoline.[1] Concord requests an interpretation to resolve a dispute regarding the proper method of determining its entitlement to surplus product distributed by Gulf pursuant to § 211.10(g)(5). Concord argues that its share of surplus gasoline from Gulf should be based upon its adjusted base period volume, i.e. the unadjusted base period volume plus the total of all adjustments and assignments. Gulf asserts that it has discretion to determine the method of surplus product distribution within the category of wholesale purchaser-resellers to which Concord belongs.

Issue

What is Gulf's allocation obligation to Concord, a wholesale purchaser-reseller of motor gasoline and a branded independent marketer of Gulf products, under 10 CFR 211.10(g)(5), which governs the distribution of surplus product?

Interpretation

For the reasons set forth below, Gulf is obligated by 10 CFR 211.10(g)(5) to offer surplus motor gasoline to Concord, a wholesale purchaser-reseller and a branded independent marketer of Gulf products, under a two part calculation. First, Gulf is required to determine the volumes of surplus product obligated to each category of purchasers as a whole based upon each category's percentage of purchases from Gulf during the relevant base period. Second, within the category of wholesale purchaser-resellers which are branded independent marketers, Gulf may offer Concord surplus product in a discretionary manner as long as the method chosen does not violate the normal business practices rule, 10 CFR 210.62(b). Distribution within the category to which Concord belongs may be made in proportion to its base period allocation, and such distribution does not violate § 210.62(b).

10 CFR 211.10(g) governs the allocation of motor gasoline by suppliers which have an allocation fraction greater than one. Section 211.10(g)(5), the provision which is at issue in this request, reads in pertinent part:

Distribution of surplus product. Any supplier subject to subparagraph (2) or any supplier which reports pursuant to subparagraph (3) of this paragraph and which is not notified to the contrary within ten (10) days of receipt by FEA of the supplier's notification under subparagraph (3) of this paragraph, may distribute its surplus product at its discretion except that (i) the supplier shall supply, in the aggregate, to all purchasers in the category of (A) wholesale purchaser-resellers which are entitled to receive an allocation from that supplier and which are branded independent marketers, to the extent that such category of purchaser is willing to accept it, at least the same proportion of the supplier's surplus product as the total base period volumes (prior to any adjustments) of branded independent marketers which are entitled to receive an allocation from that supplier bear to the total base period volumes (prior to any adjustments) of all purchasers, including those assigned by FEA, which are entitled to receive an allocation from that supplier; and (b) wholesale purchaser-resellers which are entitled to receive an allocation from that supplier and which are non-branded independent marketers . . . and (ii) the supplier may not supply to retail sales outlets owned and operated by the supplier, in the aggregate, a greater proportion of the supplier's surplus product than the total base period volumes (prior to any adjustments) of all such retail sales outlets bear to the total base period volumes (prior to any adjustments) of all purchasers, including those assigned by FEA, which are entitled to receive an allocation from that supplier unless the supplier first offers surplus product to and meets all requests for surplus product from all independent marketers which are entitled to receive an allocation from that supplier to the extent required in clause (i) of this subparagraph. Provided, That a supplier shall not be required to offer surplus product available for distribution during a period corresponding to a base period to any purchaser which has refused to lift all of its allocation entitlement in that same period corresponding to a base period * * *.

The method of allocation set forth in § 211.10(g)(5) was the issue in *Nelson Oil Company*, Interpretation 1977–41, 42 FR 61273 (December 2, 1977). In *Nelson* the DOE stated:

The current procedures for the distribution of surplus product set forth in 10 CFR 211.10 (f) and (g) require that a supplier, after determining that its allocation fraction will exceed one (1.0) or that its available supply is

[4] Letter of August 13, 1980 from A. Jack Grimes, Director of Government Affairs for the Association to Catherine Marshall, Attorney-Advisor, DOE.

[5] *Id.*

[6] *See* Ruling 1980–2, 45 FR 42246 (June 24, 1980).

[7] *See Allied Chemical Corporation*, Interpretation 1980–26, 45 FR 61588 (September 16, 1980).

[8] *See F. M. Brown's Sons, Inc.*, Interpretation 1980–4, 45 FR 21203 (April 1, 1980).

[1] The revision of the base period for motor gasoline subsequent to the submission of this request for interpretation had the effect of greatly increasing the volume of Concord's allocation entitlement and of greatly reducing Concord's supply difficulties. 44 FR 26712 (May 4, 1979)

greater than its purchasers' requirements, file a surplus product report with Department of Energy (DOE) within five days of making such determination. If the Department does not redirect the surplus product within ten days of receipt of the report, the supplier distributes the surplus product in accordance with 10 CFR 211.10(g)(5). * * *.

* * * * * *

The language "in the aggregate, to all purchasers" means that the supplier is required to offer to each category (both branded and non-branded) the volume specified in 10 CFR 211.10(g)(5) and that each member of the two categories is entitled to a share of the available surplus product provided that it lifted all of its allocation entitlement in the period corresponding to the base period.

The amount to be offered to each category as a whole is determined by the supplier with reference to each category's percentage of purchases from that supplier during the relevant base period.

* * * * * *

10 CFR 211.10(g)(5) does not explicitly state what volume of surplus product should be made available by the supplier to individual purchasers in the classes of branded and non-branded independent marketers. However . . . a supplier must offer *each* wholesale purchaser-reseller within the class of branded and non-branded marketers surplus product on a non-discriminatory basis in accordance with 10 CFR 210.62(b). 10 CFR 210.62(b) provides general guidance on the intent of the allocation regulations and bars preferential practices in the distribution of allocated products. That section provides:

(b) No supplier shall engage in any form of discrimination among purchasers of any allocated product. For purposes of this paragraph, "discrimination" means extending any preference or sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this chapter or of the Act, and includes, but is not limited to, refusal by a retail marketer of motor gasoline or diesel fuel to furnish or sell any allocated product due to the absence of a prior selling relationship with the purchaser, or establishment of new volume purchase arrangements where customers of retailers agree in advance to purchase in excess of normal amounts of motor gasoline or diesel fuel and thereby receive preferential treatment.

In this request an additional factor, which was not present in the *Nelson* case, must be addressed. Gulf asserts that § 211.10(g)(5) provides Gulf the discretion to offer surplus product within the branded independent marketer category of wholesale purchaser-resellers in proportion to their base period allocations. Concord argues that the offer of surplus product must include a calculation recognizing all adjustments and assignments. However, Concord's arguments are unconvincing in two respects. First, the language of § 211.10(g)(5) permits discretionary distribution in pointed contrast with the mandatory pro-rata distribution authorized by § 211.10(g)(4). The interpretation urged by Concord would require a distribution of surplus product by fixed formula and would render the word "discretion" in § 211.10(g)(5) nugatory. Such an interpretation of regulatory language is not favored. Second, the Federal Energy Administration (FEA), a predecessor agency of the DOE, recognized the discretionary nature of the language governing the distribution scheme of § 211.10(g)(5) in a proposed rulemaking issued May 6, 1977. 42 FR 23859 (May 11, 1977). The FEA withdrew the rulemaking by notice issued July 12, 1977, 42 FR 36836 (July 18, 1977), stating: ". . . there was no clear indication in the comments received that the rules governing the distribution of surplus product require modification." *Id.* at 36836. Thus, the sole limitation which pertains to the distribution of surplus product within Concord's category of whole purchaser-reseller is compliance with § 210.62(b), which prohibits any preference that has the effect of frustrating or impairing the objectives, purposes and intent of the law or implementing regulations. Concord has failed to show that Gulf's reliance upon base period volumes for distributing surplus product within the category of branded, independent, wholesale purchaser-resellers would violate § 210.62(b).

For the reasons set forth above, Gulf's two part calculation for distributing surplus product does not violate 10 CFR 211.10(g)(5). The Gulf calculation complies with the requirement to offer surplus product proportionately between all described categories of purchasers as a whole based upon each category's percentage of purchases from Gulf during the relevant base period, and Gulf may properly exercise its discretion to offer surplus product within Concord's category of purchaser in proportion to the base period volumes.

Issued in Washington, D.C., on October 15, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–37

To: Florida Association of Blood Banks
Regulations Interpreted: 10 CFR 211.51, 211.102 and 211.103
Code: GCW-AI-Allocation Levels, Definition of Emergency Services

Facts

The Florida Association of Blood Banks (FABB), a Florida non-profit corporation, is composed of community blood banks, transfusion services and hospital blood banks. Blood banks insure that the necessary quantities of blood are obtained and made available throughout the State to meet medical demands. Thus, blood banks operate mobile units in remote areas and provide ambulance services to transport blood from the blood banks to hospitals and other medical facilities when needed. Often, a single community blood bank obtains and supplies the blood needed in a large metropolitan area with many hospital locations.

To operate the mobile units, most blood banks purchase gasoline at the retail level and constitute "end-users" as that term is defined in 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations. FABB contends that because the blood banks are end-users, they are vulnerable to product shortages. FABB also states that tight supply situations threaten blood banks with the inability to secure adequate fuel supplies to operate their mobile units, ambulances and other delivery systems. FABB states that the Mandatory Petroleum Allocation Regulations provide in 10 CFR 211.103 that only end-users that are bulk purchasers, as defined in 10 CFR 211.102, are entitled to a priority allocation level. Thus, FABB asserts that its member blood banks should be able to purchase gasoline as bulk purchasers. FABB further argues that the activities of mobile donor units and blood transport systems qualify as emergency medical services pursuant to 10 CFR 211.103 and therefore are entitled to a first priority allocation level not subject to reduction by an allocation fraction.

Issue

Are the activities of mobile donor units and blood transport systems performed by FABB members eligible for a first priority allocation level of motor gasoline for performing emergency services as provided in 10 CFR 211.103?

Interpretation

For the reasons set forth below, the activities of mobile donor units and blood transport systems performed by FABB members that are also bulk purchasers or wholesale purchaser-consumers qualify for a first priority allocation level for motor gasoline, based upon their performance of emergency services in accordance with 10 CFR 211.103 to the extent that the gasoline purchased for a first priority use is consumed for specific activities necessary in the performance of emergency medical services.

Section 211.103(b) provides in part:

Allocation levels not subject to an allocation fraction. One hundred (100) percent of base period use for the following uses.

* * * * * *

(3) Emergency services. . . .

The term emergency services is defined in § 211.51 as:

"Emergency services" means law enforcement, fire fighting, and emergency medical services.

In *Baker Industries, Inc.*,[1] the concept of emergency medical service was discussed. *Baker* involved a firm that routinely transported blood samples, x-ray film and other hospital supplies to client hospitals. In that Interpretation it was determined that the routine transportation of items used in providing medical care was not an emergency service. Rather, *Baker* concluded that:

[U]se in "emergency [medical] services." . . . pertains only to the activities of public or private firms that *directly provide emergency medical service to patients*, not to the many businesses, . . . that sell a useful service and/or a product to clients. [Emphasis added.]

Thus, a routine commercial delivery of medical supplies cannot constitute an emergency medical service. Only those services that directly provide emergency

[1] Interpretation 1980–8, 45 FR 33952 (May 21, 1980).

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medical care to patients are emergency medical services.[2]

Accordingly, to the extent that FABB members are engaged in activities that directly provide emergency medical services to patients, that is, the blood bank deposits are used for emergency transfusions or other emergency care for patients, and when time is of the essence to transport blood to freezing units, such activities qualify as a use in emergency medical services.[3]

However, priority allocation levels only apply to allocations made by suppliers to end-users that qualify as bulk purchasers or wholesale purchaser-consumers. Section 211.103 provides in part:

The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. . . .

The term "bulk purchaser" is defined in § 211.102 for the purpose of 10 CFR Part 211, Subpart F and provides:

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, or (b) with respect to use in agricultural production, receives delivery into a storage tank with capacity not less than 50 gallons substantially under the control of that firm.

The term wholesale purchaser-consumer is defined in § 211.51 as:

. . . any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

Thus, a firm that is an ultimate consumer and as part of its normal business practice purchases or obtains an allocated product directly into a storage tank under the control of that firm and at a fixed location may qualify as a bulk purchaser or wholesale purchaser-consumer. A firm may qualify if the storage tank is leased by the firm so long as it is under the substantial control of the firm.

If FABB mobile donor units and blood transport systems do purchase gasoline on a bulk purchaser or wholesale purchaser-consumer basis, the gasoline used for those activities could be purchased on a first priority basis. However, if FABB members do not qualify as either bulk purchasers or wholesale purchaser-consumers for their emergency medical service end-uses, they are not entitled to a priority allocation level under the Mandatory Petroleum Allocation Regulations. Each state may establish priority levels pursuant to 10 CFR 211.10(d)(2). That section provides:

The second priority for each supplier shall be to distribute equitably the remainder of the supplier's allocable supply among all end-users or wholesale purchaser-consumers which are not entitled to an allocation level. A state may require or authorize priorities to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the use listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Except to the extent that FEO regulations or a State office otherwise may require or authorize, local governments and the supplier may also give priority to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for the product in the subpart of this part applicable to the particular allocated product. Priority treatment, per se, when granted in accordance with the provisions of this subparagraph, shall not be considered a form of discrimination among purchasers or any other prohibited conduct under § 210.62 of this chapter.[4]

Thus, Florida may establish priority levels to enable FABB to obtain sufficient gasoline in time of shortage. Moreover, if FABB is not entitled to priority allocation levels under § 210.103, it may seek exception relief pursuant to 10 CFR Part 205, Subpart D.

Accordingly, FABB members qualify for a first priority allocation level of motor gasoline pursuant to 10 CFR 211.103(a), if the gasoline is purchased on a bulk purchasers or wholesale purchaser-consumers basis for use in emergency services pursuant to § 211.103(b)(3).

Issued in Washington, D.C. on October 17, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–38

To: Dow Chemical Company
Regulations Interpreted: 10 CFR 211.23, 211.25(c)
Code: GCW–AI—Borrow-Payback Operations, Normal Business Practices; Normal Operating Procedures

Facts

Dow Chemical Company (Dow) is a manufacturer of petrochemicals, entitled under the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, to an allocation of propane from Exxon, Inc. (Exxon), its base period supplier of this product.[1] Beginning in the third quarter of 1979 and continuing in 1980, Exxon reduced its deliveries to Dow below Dow's allocation entitlement. Exxon claimed that the parties had a normal operating procedure to balance over-deliveries in one allocation calendar quarter with under-deliveries in other calendar quarters permitted under § 211.23. It also claimed that Dow had agreed, under and arrangement permitted under § 211.25(c), to return propane delivered during the first two quarters of 1979 in excess of its allocation entitlement. In its request for interpretation, Dow seeks a determination that Exxon incorrectly deducted volumes of propane from its allocations for the last two quarters of 1979 and subsequent quarters in 1980.

Dow contends that it had no normal operating procedure with Exxon to balance over-deliveries in an allocation quarter with under-deliveries in subsequent allocation quarters under § 211.23. In lengthy submissions opposing Dow's request for interpretation, Exxon only established that one propane borrow/payback took place between Exxon and Dow in the last quarter of 1976 and the first quarter of 1977. Exxon Exchange Agreement No. 368 (February 28, 1977).[2]

Dow also denies that as a *quid pro quo* for receiving Exxon's over-deliveries in the first half of 1979, it agreed to accept reduced deliveries in later allocation quarters under a § 211.25(c) arrangement. The parties provide conflicting evidence in support of their respective positions with regard to the existence of a § 211.25(c) agreement.[3] Dow argues that even if a § 211.25(c) agreement existed, Exxon would not be entitled, under the terms of that provision, to deduct volumes of propane from its allocations after calendar year 1979.

Issues

1. Do Exxon and Dow have a normal operating procedure within the meaning of § 211.23 which would permit Exxon to deduct the amount of propane supplied by Exxon to Dow in excess of Dow's allocation entitlement in a given allocation quarter from Dow's allocation entitlement in subsequent allocation quarters?

2. If not, could Exxon reduce Dow's allocations for any allocation quarter after calendar year 1979 pursuant to a § 211.25(c) agreement which Exxon alleges Dow entered into during 1979?

Interpretation

Exxon and Dow had no normal operating procedure within the meaning of § 211.23 under which Exxon could reduce Dow's propane allocations in exchange for an oversupply of this product in any given allocation quarter. Furthermore, in the event that Exxon can demonstrate the existence of a § 211.25(c) agreement between Exxon and Dow in which Dow agreed to receive reduced deliveries in exchange for an oversupply of propane in the first two quarters of 1979, Exxon may not in any case reduce Dow's allocations for any allocation quarter occurring after calendar year 1979.

Section 211.23 provides: *Normal business practices.* Nothing in this part is intended to exclude or supersede exchange or borrow/payback operations which are normal operating procedures provided these procedures are not used to circumvent the intent of this part.

Exxon showed that only once prior to 1979 did it over-deliver propane to Dow in one calendar quarter and balance this over-delivery with a reduction in subsequent allocations to Dow. The existence of only one such prior occurrence establishes no consistent historical pattern which could be evidence of a normal operating procedure for exchange or borrow/payback operations between Exxon and Dow under § 211.23. Nor did Exxon demonstrate any "normal business practice" providing for such borrow/payback operations. The meaning of the term "normal business practices" can be determined by reference to § 210.62 which provides, in relevant part:

Normal business practices. (a) Supplier's will deal with purchasers of an allocated product according to *normal business practices in effect during the base period specified in Part 211 for that allocated product,* and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter. . . . [Emphasis added.]

In its submissions, Exxon did not demonstrate the existence of any practice in effect during the base period for propane providing for exchange or borrow/payback operations between Exxon and Dow.

Exxon also claims that under § 211.25(c) it is permitted to subtract from Dow's propane allocation entitlements for the last two quarters of 1979, and subsequent quarters in 1980, a volume of propane equal to the deliveries in excess of Dow's allocation entitlements which were made during the first two quarters of 1979. At the time the alleged agreement between Exxon and Dow to borrow/payback on future allocations would have taken place, § 211.25(c) provided:

To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers *may agree between and among themselves either to borrow on future allocations* or to defer current allocations or both *on a volume for volume basis within the total allocations for one calendar year* as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers. (Emphasis added.) 39 FR 35472 (October 1, 1974).[4]

Thus, during early 1979, the express language of § 211.25(c) provided for borrow-payback agreements on allocations within one calendar year only. *Continental Oil Co.,* Interpretation 1975–30, 42 FR 23742 (May 10, 1977), supports this conclusion.[5] That Interpretation determined that purchasers were not required to return product supplied under a § 211.25(c) agreement in a subsequent calendar year, stating:

Section 211.25(c) permits "borrow-pay back" on a volume for volume basis of allocated products between suppliers and wholesale purchasers within a calendar year. A definite period of time during which all transactions under § 211.25(c) must be completed is necessary so that FEA can test compliance with the regulations. Section 211.25(c) clearly refers to a calendar year as the definite period during which transactions for that period must be completed. Consequently, adjustments pursuant to § 211.25(c) . . . must have been made during [the same calendar year]. . . . 42 FR 23742.

Therefore, even if Exxon can demonstrate the existence of a specific borrow/payback agreement under § 211.25(c), it still would be precluded from deducting any 1979 oversupplies of propane from Dow's 1980 allocation entitlements.

Accordingly, even if, as Exxon alleges, Dow and Exxon entered into a § 211.25(c) borrow/payback agreement in 1979, under the Mandatory Petroleum Allocation Regulations Exxon is required to offer to sell to Dow any volumes of propane which it has withheld from Dow's allocations for 1980.

Issued in Washington, D.C. on October 21, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–39

To: Standard Oil Company (Indiana)
Regulations Interpreted: 10 CFR 211.9(a)(1), 211.10, 211.10(b), 211.12, 211.23, 211.25(b), 211.51, 211.103; Ruling 1974–21
Code: GCW–AI—Allocation Entitlement; Base Period Volume; Exchange Agreements; Matching Purchase and Sale Transactions; Part 211, Subpart F; Supplier/Purchaser Relationship; Unlike Product Exchange Transactions

Facts

In January 1978, Amoco Oil Company (Amoco), a wholly-owned subsidiary of the Standard Oil Company (Indiana), entered into an agreement with Chevron U.S.A., Inc., (Chevron) to purchase from Chevron 200,000 barrels of motor gasoline during January and February 1978. Pursuant to this agreement this sale was conditioned upon Amoco selling Chevron 200,000 barrels of No. 2 heating oil. Motor gasoline is allocated under the provisions of 10 CFR Part 211. However, No. 2 heating oil is no longer allocated under these regulations. 10 CFR 211.1(b)(5), 41 FR 24516 (June 16, 1976).

In its request for interpretation, Amoco argues that it is entitled to receive an allocation of motor gasoline from Chevron based on the matching purchase and sale or unlike product exchange transaction.[1] Amoco argues further that under the Mandatory Petroleum Allocation Regulations it need not supply No. 2 heating oil to Chevron. In its comments to Amoco's submission Chevron contends that unlike product exchanges do not give rise to mandatory supplier/purchaser relationships.

Issues

Is a firm which received motor gasoline during the base period as part of a matching purchase and sale or unlike product exchange transaction, entitled to receive an allocation of motor gasoline based on that transaction?

If so, is receipt of this allocation contingent upon the firm supplying the other petroleum product which it supplied in the exchange if that product is exempt from the Mandatory Petroleum Allocation Regulations?

Interpretation

Amoco is entitled to receive an allocation of motor gasoline from Chevron based upon Amoco's receipt of that product from Chevron pursuant to the matching purchase and sale or exchange transaction which took place during the base period for motor gasoline. Moreover, Amoco's entitlement to an allocation of motor gasoline from Chevron is not conditioned upon Amoco supplying Chevron with No. 2 heating oil.

The general supplier/purchaser rule provides that each supplier of an allocated product must supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which *purchased or obtained* that allocated product from that supplier during the base period as specified in 10 CFR part 211, Subparts D through K. 10 CFR 211.9(a)(1).

The term "supplier" is defined in § 211.51, in relevant part, as follows:

"Supplier" means any firm * * * which presently, during the base period, or during any period between the base period and the present *supplies, sells, transfers or otherwise furnishes* (as by consignment) any allocated product or crude oil to *wholesale purchasers or end-users* * * *. (Emphasis added.)

The terms "wholesale purchaser-consumer" and "wholesale purchaser-reseller" are also defined in § 211.51, in relevant part, as follows:

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, *purchases or obtains* an allocated product from a supplier * * * and * * * *purchased or*

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[2] *See American Red Cross,* Interpretation 1980–32, issued September 29, 1980.

[3] It should be noted that the FAAB situation is distinguishable from *Baker.* The hospitals served by FABB's members provide care to any patient admitted for treatment rather than only to a client of the particular community's blood bank service. Moreover, blood bank deposits cannot be obtained by individuals in the event that an emergency situation arises.

[4] *See* Ruling 1980–2, 45 FR 42246 (June 24, 1980).

[1] Under 10 CFR 211.82 the "base period" for propane is "each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter."

[2] By this document, enclosed in a letter from John Frederick, Dow Chemical U.S.A., to Ed Shannon, Exxon Company U.S.A. (February 28, 1977), Dow apparently agreed to return to Exxon 6,771,054 gallons of propane at Exxon's refinery in Baton Rouge, Louisiana. *See also* Exxon's May 9, 1980, submission, attachment 18.

[3] Inasmuch as the interpretive process does not lend itself to resolution of disputed issues of fact of this type, we are unable to determine whether, as Exxon contends, § 211.25(c) properly applies in this case. *See* 10 CFR 205.2, 205.84(a), 205.85(b).

[4] By Final Rule effective January 1, 1980, the following language was added to § 211.25(c):

With respect to allocated natural gas liquid products, such transactions are permitted within the total allocations for any agreed upon 12 month period. 44 FR 60638 (October 19, 1979).

[5] The same conclusion is reached in *Northeast Amoco,* 5 DOE ¶ 81,207 (March 19, 1980) and in *Richard P. Cruikshank,* 5 DOE ¶ 82,017 (February 29, 1980).

[1] This transaction took place during the base period for motor gasoline, set forth in § 211.102 as "the month of the period November 1977 through October 1978 corresponding to the current month." 44 FR 42549 (July 19, 1979).

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obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

* * * * *

"Wholesale purchaser-reseller" means any firm which *purchases, receives through transfer, or otherwise obtains* (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers * * *. (Emphasis added.)

Since Amoco obtained 200,000 gallons of motor gasoline from Chevron under the matching purchase and sale or unlike product exchange in calendar year 1978, Amoco is either a "wholesale purchaser-consumer," or, if it resold or otherwise transferred this product, a "wholesale purchaser-reseller," or both.[2] Since Chevron transferred or otherwise furnished this motor gasoline to Amoco under the 1978 matching purchase and sale or unlike product exchange, Chevron is a "supplier" of this product.

Allocation levels of motor gasoline are set forth in § 211.103 for certain specified uses. The volumes of motor gasoline to which wholesale purchaser-resellers and wholesale purchaser-consumers with allocation levels under § 211.103 are entitled are set forth in § 211.12(b). Under that provision the minimum amount of an allocated product which a wholesale purchaser-reseller is entitled to purchase from a supplier is its "base period use" of that product obtained from that supplier multiplied by the supplier's "allocation fraction." [3] Except for the Department of Defense under limited circumstances,[4] wholesale purchaser-consumers with allocation levels of motor gasoline also receive this product as a function of their "base period use." [5]

"Base period use" is defined in § 211.10(b)(2)(ii) in relevant part, as:

* * * [B]ase period volume or adjusted base period volume, as appropriate. A wholesale purchaser's base period volume of a particular allocated product is the volume of that allocated product *purchased or obtained* during the appropriate base period as determined in accordance with § 211.12(c) * * *. (Emphasis added.)

Thus, under the general rule set forth in § 211.10(b)(2)(ii), a wholesale purchaser's base period use of a particular allocated product includes all volumes of that product obtained by that purchaser during the appropriate base period, including volumes of the product obtained pursuant to exchanges. *See Pester Refining Company*, 4 DOE ¶ 80,164 (October 5, 1979) at 80,859–60. Accordingly, § 211.12(c) provides in relevant part:

* * * [E]ach supplier * * * which sells an allocated product to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers with respect to each allocated product, the volume of product which it *sold to or transferred to* that purchaser in each base period. (Emphasis added.)[6]

By requiring that each supplier include in its wholesale purchasers' base period use all of the volume of an allocated product which it "sold to or transferred to" such purchasers in each base period, these rules implement the express congressional directive contained in § 4(c) of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), Pub. L. No. 93–159 (November 27, 1973),[7] requiring, to the extent practicable and consistent with the objectives of EPAA § 4(b), that any allocation program for a refined petroleum product based on a historical base period reflect volumes of that product "sold or otherwise supplied" to each independent marketer and refiner during that base period.

To give effect to the purpose of an allocation system based on a historical base period, all of the volumes of an allocated product transferred to a wholesale purchaser during the base period should generally be included in the purchaser's base period use. Any exceptions to this general rule must be strictly construed in order to prevent a disruption in the supply of the allocated product to wholesale purchasers that purchased or obtained, and resold, transferred or consumed it in the ordinary course of their business. *See* EPAA § 4(b)(1)(F); *Standard Oil Company (Indiana)*, Interpretation 1980–11, 45 FR 42250 (June 24, 1980) at 42251.[8]

Section 211.10(b)(2)(ii) provides one specific exception from the general rule that all volumes of an allocated product obtained by a wholesale purchaser during the base period are included in the purchaser's base period use of that product. This exception further supports the conclusion that volumes of an allocated product obtained in unlike product exchanges form part of a wholesale purchaser's base period use of that product. As stated in § 211.10(b)(2)(ii):

Base period volume, however, does not include any amounts of an allocated product obtained pursuant to in kind exchange agreements involving a single product which are normal business operating procedures *except the difference between the total amounts received under exchange agreements and the total amounts supplied to customers through exchange agreements.* * * * (Emphasis added.)

Thus, although a wholesale purchaser's base period use of an allocated product for a period which corresponds to a base period does not include volumes obtained in an equal volume exchange transaction involving a single product, any excess volume received over volume supplied by a wholesale purchaser in such an exchange is included in its base period use of that product. *See Celanese Corp.*, Interpretation 1974–17, 42 FR 25655 (May 18, 1977); *Time Oil Company*, 1 FEA ¶ 20,701 (October 31, 1974). Since a wholesale purchaser's base period use for each allocated product is calculated separately,[9] all of the volume of a particular allocated product received during a base period by a wholesale purchaser pursuant to an unlike product exchange agreement is included in its base period use of that product.

Chevron cites §§ 211.25(b) and 211.23 in support of its contention that base period unlike product exchanges do not give rise to mandatory supplier/purchaser relationships and that volumes of an allocated product thus obtained do not form part of a wholesale purchaser's base period use. Section 211.25(b) provides:

In order to alleviate imbalances, *suppliers may make* normal business *exchanges* among themselves. (Emphasis added.)

This provision clearly does not exempt normal business exchanges from the allocation provisions of 10 CFR Part 211, merely stating that such exchanges are permitted in order to alleviate imbalances.

Section 211.23 provides that:

Nothing in this part is intended to *exclude or supersede* exchange or borrow/payback operations which are normal operating procedures provided these procedures are not used to circumvent the intent of this part. (Emphasis added.)

As indicated by the plain language of § 211.23, exchanges which are normal operating procedures are not excluded or superseded by other supply obligations to which a supplier may be subject under Part 211. Thus, exchanges of like or unlike products between firms which are subject to Part 211 are not prevented by the operation of §§ 211.10 and 211.12 which provide for allocations to certain base period customers of a supplier, and which prescribe the method of calculating these allocations.[10] Such exchanges are also not "superseded" by these provisions, since under § 211.10(b)(1), *supra* note 10, the volumes of an allocated produced supplied under exchange agreements are deducted from the supplier's "allocable supply" and accordingly, are not subject at the time of the exchange to reduction by application of the supplier's allocation fraction. By its own terms § 211.23 provides only that exchanges of allocated products which are normal operating procedures are not excluded or superseded by other provisions of Part 211 even though such exchanges could result in reduced allocations to other base period customers of a supplier in the allocation period during which these exchanges take place, provided such exchanges do not circumvent the intent of Part 211. However, § 211.23 cannot be construed, as suggested by Chevron, as totally exempting volumes supplied under such agreements from the allocation regulations of Part 211, in direct conflict with the specific language of §§ 211.10 and 211.12.

While motor gasoline obtained by Amoco from Chevron during the base period under an unlike product exchange does form part of Amoco's base period use of motor gasoline, there is no requirement in the Mandatory Petroleum Allocation Regulations that Amoco supply Chevron with No. 2 heating oil, a petroleum product not subject to allocation controls. This conclusion is supported by Ruling 1974–21, 39 FR 24359 (July 2, 1974). That Ruling explained the nature of supplier/purchaser relationships created by base period exchanges of crude oil for refined petroleum products, stating that the party to an exchange that supplied crude oil during the base period was required to maintain that supplier/purchaser relationship for the duration of the crude oil allocation program. 39 FR at 24359. Under Ruling 1974–21 an exchange partner that supplied an allocated product in exchange for crude oil would be required to maintain that supplier/purchaser relationship as prescribed in the allocation regulations for that particular product. However, a non-allocated product was not required to be supplied in exchange for the crude oil allocation. As stated in Ruling 1974–21:

To the extent that refined petroleum products are the subject of exchange agreements for domestic crude oil * * * the delivery thereof in exchange for crude oil would be governed by provisions of the regulations which regulate the allocation of such products. * * * To the extent non-allocated products (such as, for example, asphalt) are involved in any such exchanges, the exchange of such products would be governed by the terms of the * * * contract in effect between the parties. * * * Therefore, upon expiration of any such contract the exchange of the non-allocated products would no longer be a condition to deliveries of crude oil under § 211.63(a). Compensation for these deliveries of crude oil would thereafter be governed by the price regulations in Part 212. *Id.*[11]

Accordingly, Amoco is entitled to an allocation of motor gasoline from Chevron for the months corresponding to the base period months of January and February of 1978. Moreover, Amoco need not supply Chevron with No. 2 heating oil in exchange for obtaining this allocation of motor gasoline. However, Amoco must compensate Chevron for the motor gasoline it purchases under the allocation as provided for in the pricing provisions of the Mandatory Petroleum Price Regulations, 10 CFR Part 212.

Issued in Washington, D.C. on October 21, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–40

To: Chevron U.S.A. Inc.
Regulation Interpreted: 10 CFR 212.78
Code: GCW–PI—Definitions of Environmental Expense and Allowed Expense; Part 212, Subpart D; Tertiary Incentive Crude Oil Program

Facts

Chevron U.S.A. Inc. (Chevron) is a domestic corporation engaged in crude oil exploration and production activities. Chevron has self-certified a tertiary enchanced oil recovery project, pursuant to 10 CFR 212.78, known as the "Bradley Canyon Unconventional Steam Drive Project" (the "project"), which is located in Cat Canyon Field, Santa Maria, California.

Chevron's project utilizes a steam generator to produce steam for injection into an oil producing reservoir. Under the original project design, feed water for the steam generator was to be obtained from a local shallow fresh water aquifer. Waste water is produced in association with crude oil from the project. The original plan for the project included the disposal of the waste water through injection wells into the "Monterey Shale" formation. According to the request for interpretation, these waste water disposal injection wells are allowed expenses under § 212.78(c) as environmental expenses.

Chevron states that the California Department of Conservation, Division of Oil and Gas, has notified Chevron and all other affected operators of crude oil production units that waste water disposal into the "Monterey Shale" will no longer be permitted, and that, accordingly, Chevron must find alternate means of water disposal. The Division of Oil and Gas issued this notice because continued water disposal by injection into the "Monterey Shale" would be likely to interfere with and damage nearby crude oil exploration and production operations.

According to Chevron's request for interpretation, California requires that the discharge of waste water be conducted in an environmentally acceptable manner. State law requires that Chevron report its expected waste water discharge from the project to the Regional Water Quality Control Board, which would then issue formal "Waste Discharge Requirements" for the project according to the Board's regional water quality control plan. The State will accept a water reclamation plant as an alternative to injection disposal into the "Monterey Shale." The plant would obviate the need for issuance of "Waste Discharge Requirements" applicable to the project.

Chevron states that its discharge alternatives, new disposal wells, surface evaporation ponds, or a combination pipeline-treatment plant for ocean disposal, would be allowed expenses under § 212.78. However, Chevron proposes a water reclamation plant as its preferred alternative to conform to California's regulation of environmental water quality because the plant would totally eliminate waste water discharge. The water reclamation plant would recover waste water produced with crude oil and process it for reuse as steam generator feed water rather than disposing of it. In this manner, damage to fresh water sands would be avoided and neighboring oil wells would not be affected. The proposal would also avoid the possibility of formation fracturing and microearthquakes that could result from further waste water injection. In addition, the 25,000 barrels of water that Chevron has been withdrawing from the fresh water aquifer each day would be conserved and would therefore be available for use in agriculture, the principal industry in the area.

Although not specifically required to utilize a water reclamation plant, Chevron submits that its proposal is a reasonable means of complying with the enviromental requirements of the State of California. The water reclamation plant would cost less than the alternative methods of disposal, and it would be dedicated entirely to the project. Chevron therefore requests an interpretation that the cost of the water reclamation plant is an environmental expense and is therefore an allowed expense which may be recouped under the tertiary incentive crude oil program, at 10 CFR 212.78.

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[2] Amoco is therefore also a wholesale purchaser of motor gasoline. Section 211.51 defines the term "wholesale purchaser" as "a wholesale purchaser-reseller or wholesale purchaser-consumer, or both."

[3] Section 211.12(b)(1) provides, in relevant part, that:

The volume supplied to a wholesale purchaser-reseller by each of its suppliers shall equal the sum of (i) any amounts which that purchaser has certified to a supplier to be for ultimate use under an allocation level not subject to an allocation fraction plus (ii) the product of that supplier's allocation fraction multiplied by an amount equal to that part of that wholesale purchaser's base period use purchased or obtained from that supplier minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction.

Accordingly, a wholesale purchaser-reseller receives allocations of motor gasoline which exceed its base period use multiplied by its supplier's allocation fraction if it supplies customers entitled to allocation levels not subject to an allocation fraction. *See* 10 CFR 211.103.

[4] *See* 10 CFR 211.103(b)(1).

[5] Section 211.12(b)(2) provides in relevant part:

The volumes supplied to a wholesale purchaser-consumer or end-user by each of its suppliers shall equal the sum of (i) that part of the wholesale-purchaser's or end-user's allocation requirements supplied directly by that supplier under an allocation level not subject to an allocation fraction plus (ii) that part of the wholesale purchaser's or end-user's allocation requirements supplied by that supplier under an allocation level subject to an allocation fraction.

The term "allocation requirements" is defined in § 211.10(b)(2)(iii) which states, in relevant part, that:

The allocation requirement of an end-user or wholesale purchaser-consumer is the product of that *purchaser's* * * * *base-period use* multiplied by the applicable allocation level. (Emphasis added.)

[6] The parallel rule for motor gasoline is set forth at 10 CFR 211.103(e).

[7] 15 U.S.C. 751 *et seq.* (1976).

[8] *Accord*, Ruling 1974–25, 39 FR 32901 (September 12, 1974), holding that spot purchases of motor gasoline during the base period are included in a wholesale purchaser's base period use:

Section 211.10(b)(2)(ii) provides that a "* * * wholesale purchaser's base period volume of a particular allocated product is the volume of that allocated product purchased or obtained during the appropriate base period * * *". The language in this section does not distinguish between purchases made on the basis of a continuing relationship and those made on a spot basis in a base period. In addition, *exclusion of spot sales from base period volume would conflict with the purpose of the Mandatory Petroleum Allocation Regulations to assure supplies to wholesale purchaser-consumers and end-users with reference to their supply levels in the appropriate base period, since such exclusion would result in a base-period volume which might not accurately reflect actual supply levels in the base period.* (Emphasis added.)

[9] 10 CFR 211.10(b)(2)(ii), 211.12(c).

[10] Under § 211.10(b), a supplier's "allocable supply" for purposes of determining its allocation fraction for an allocated product in any given month represents the volume of that product which the supplier has available for distribution to its customers. Section 211.10(b)(1) states in relevant part:

Allocable supply. Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, *including amounts received under processing and exchange agreements* * * * *less* * * * *any amounts supplied to customers through exchange agreements.* * * * (Emphasis added.)

[11] *Accord U.S.A. Petroleum Corporation*, Interpretation 1976–20, 42 FR 7940 (February 8, 1977), *aff'd* 5 FLA ¶ 80,555 (February 18, 1977); *Union Oil Company of California*, 2 FEA ¶ 83,017 (January 17, 1975).

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Issue

Is the cost of Chevron's water reclamation plant an allowed environmental expense under § 212.78(c), when the plant itself is not specifically required but is an acceptable method of compliance with California environmental statutes and regulations regarding disposal of waste water from crude oil production operations?

Interpretation

The cost of the waste water reclamation plant incurred in connection with Chevron's EOR project is an allowed expense under the tertiary incentive crude oil program. Under the circumstances of this case, when State regulations require that Chevron make a determination among alternative means of complying with environmental regulations, the water reclamation plant is a reasonable means of compliance and therefore qualifies as an "environmental expense" as that term is defined in § 212.78(c).

The tertiary incentive program set forth at 10 CFR 212.78, provides that qualified producers that are participants in qualified EOR projects may recoup certain allowed expenses. Those "recoupable allowed expenses" are defined in § 212.78(c) as follows:

"Recoupable allowed expenses" means, with respect to a particular producer, the *allowed expenses* that are attributable to that producer; provided that such expenses are incurred in arm's-length transactions and for fair market value and further provided that such expenses have been paid and reported pursuant to subsection (h) of this section. (Emphasis added.)

"Allowed expense" is defined in § 212.78(c), in pertinent part, as follows:

"Allowed expense" means seventy-five percent of an *environmental expense* or seventy-five percent of an engineering and laboratory expense or seventy-five percent of an expense listed either in the appendix to this section or in an order issued pursuant to either subsection (e)(2) or (e)(3) of this section[.] (Emphasis added.)

With respect to "environmental expenses," § 212.78(c) provides the following definition:

"Environmental expenses" means those expenses that are incurred in connection with a particular project to the extent that those expenses are necessary to comply with federal or state environmental regulations applicable to that project.

The Appendix to Section 212.78 lists items on which allowed expenses for self-certifiable EOR techniques may be based, and includes: "The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from an unconventional steam drive project." In the preamble to the final regulation establishing the tertiary incentive program, the DOE stated in response to comments:

We agree that expenses incurred in complying with environmental requirements should be included in this incentive program since they, in many instances, impose a substantial financial burden on a project yet are essential to our national policy protecting the quality of the environment.

44 FR 51148 (August 30, 1979).

The narrow question to be resolved in Chevron's request for interpretation is whether alternative means of compliance come within the meaning of that portion of the definition of environmental expenses which provides that those expenses should be "necessary to comply with federal or state environmental requirements." Chevron is required to protect the environment with respect to the waste water that is produced by the EOR project. Therefore, the proposed water reclamation plant qualifies as an environmental expense because it is a reasonable means of complying with the State requirement that the waste water is to be managed in an environmentally acceptable manner.

Accordingly, the cost of Chevron's water reclamation plant is an allowed expense as defined in § 212.78(c), in connection with the project. This conclusion is based on the finding that the water reclamation plant is an environmental expense necessary to comply with State environmental regulations applicable to that project.

Issued in Washington, D.C., on October 22, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–41

To: Western Trading Company
Regulations Interpreted: 10 CFR 211.67(d)(2); 212.53(a)
Code: GCW–AI–PI—Part 211, Subpart C, Entitlements Program, Export Sales Deduction; Part 212, Subpart C, Exemptions, Export Sales, def.

Facts

Western Trading Company ("Western") is a United States corporation engaged in the domestic and international purchase and sale of refined petroleum products. Accordingly, Western is a "reseller" as that term is defined in 10 CFR 212.31 [1] of the Mandatory Petroleum Price Regulations. Western has a contract with the United States Department of Defense (DOD) to supply aviation turbine fuel, jet-A grade, to the Air Force Strategic Air Command base, located in Grand Forks, North Dakota. The air base is 100 miles from the Canadian border. In order to fulfill this contract, Western has entered into an agreement with the . Pursuant to this agreement Western would export approximately barrels of naphtha fraction motor gasoline to as part of a product exchange under which Western would import the same quantity of aviation turbine fuel from . The exchange would be on a barrel-for-barrel basis, and there would not be any net export of hydrocarbons. At present Western is exchanging aviation turbine fuel with on a barrel-for-barrel basis under an export license granted by the United States Department of Commerce.

[1] "Reseller" means a firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing covered products, and reselling them without substantially changing their form to purchasers other than ultimate customers.

Issue

Would the proposed product exchange between Western and constitute an "export sale" within the meaning of § 212.53(a) of unleaded motor gasoline, requiring the refiner of the gasoline to deduct the volume of the sale from its crude oil runs to stills pursuant to 10 CFR 211.67(d)(2)?

Interpretation

The proposed exchange between Western and would not constitute an "export sale" within the meaning of § 212.53(a). Accordingly, the exported volumes of motor gasoline need not be deducted from the refiner's crude oil runs to stills under § 211.67(d)(2), provided that the volumes exchanged are equal. If the volume of motor gasoline delivered by Western to exceeds the volume of jet fuel received in exchange, the difference in volume would constitute an export sale by Western, and accordingly, the refiner of the motor gasoline would be required to deduct it from its crude oil runs to stills under the entitlements program through a retroactive adjustment.

Section 211.67(d)(2) provides in pertinent part that:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products (including aviation fuels as defined in § 211.142 of this part, but excluding refined lubricating oils) and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export; . . . .

Export sales are exempt under § 212.53(a) [2] from the Mandatory Petroleum Price Regulations. Neither the allocation nor the pricing regulations (10 CFR Parts 211 and 212) define the term "export sales."

In *Mobil Oil Corporation,* Interpretation 1977–16, 42 FR 31151 (June 20, 1977), the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy (DOE), determined that aviation fuel sold by Mobil to DOD for shipment and use at United States military bases in foreign countries was not an export sale under § 212.53(a), and thus, the volumes sold were not required to be deducted from Mobil's crude oil runs to stills under § 211.67(d)(2). In reaching this conclusion the agency examined the purpose of the export sales exemption noting that export sales under § 212.53(a) are those which produce revenue from foreign sources. The FEA also stated the policy for denying entitlement benefits for export sales:

As expressed in the preamble to the amendment to 10 CFR 211.67(d)(2) issued on March 29, 1976 (41 FR 13899, April 1, 1976), the purpose of the deduction provision is to ensure that cost equalization benefits under the entitlements program are not granted to a refiner for sale of products made into the world market at uncontrolled prices and that the benefits of the entitlements program and domestic crude oil price controls are retained within the domestic economy.

42 FR at 31151.

Thus, since the aviation fuel was not sold into the world market, but sold to DOD for use in maintaining United States military bases in foreign countries, any entitlement benefits associated with the production of the fuel would be retained in the domestic economy.

This question was further considered in *Guam Oil and Refining Company,* Interpretation 1977–36, 42 FR 54270 (October 5, 1977). In *Guam,* the FEA determined that a proposed exchange of residual fuel oil between Guam and a foreign corporation would not require an adjustment under the export sales deduction of § 211.67(d)(2) as long as the exchange was equal. Similarly, in *Tesoro Petroleum Corporation,* Interpretation 1978–10, 43 FR 15621 (April 14, 1978), the DOE determined that an exchange of residual fuel oil between a United States refiner and a Japanese customer on a barrel-for-barrel basis was not an export sale under § 212.53(a).

Western's proposed exchange of domestic motor gasoline with a foreign producer for aviation fuel for use by the DOD is analogous to all three prior interpretations. The aviation fuel in this case will be used by the DOD at a military base not in a foreign country, but in the United States. The entitlement benefits would stay within the domestic economy since the fuel is being consumed in the United States by an entity of the United States Government. Because the military bases are close to the Canadian border, this exchange of fuel on a barrel-for-barrel basis may actually result in lower transportation costs for the DOD.

Accordingly, the proposed exchange of motor gasoline for aviation jet fuel between Western and on a barrel-for-barrel basis would not constitute an export sale and thus, the volumes exchanged need not be deducted from the refiner's crude oil runs to stills under § 211.67(d)(2). If Western exports more motor gasoline than the aviation fuel it imports, the refiner of the motor gasoline must deduct those volumes from its crude oil runs to stills under the entitlements program by means of a retroactive adjustment.

Issued in Washington, D.C., on October 29, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

[2] Section 212.53(a) provides that: "The prices charged for export sales, including sales to a domestic purchaser which certifies the product is for export, are exempt."

Appendix B.—*Responses to Petitions for Reconsideration*

Petitioner	Interpretation	Date of response
Kapsin and Dallis Realty Corp.	*Crown Central Petroleum Corp.*, 1980–16, 45 FR 46790 (July 11, 1980).	Oct. 7.
Union Oil Co. of California.	*Krenik Distributors, Inc.*, 1980–24, 45 FR 61566 (Sept. 16, 1980).	Oct. 22.

Petition for Reconsideration
Interpretation: Crown Central Petroleum Corp.
Petitioner: Kapsin and Dallis Realty Corp.
Date: October 7, 1980

This is in response to your petition submitted on behalf of Kapsin and Dallis Realty Corporation (K&D), seeking reconsideration of *Crown Central Petroleum Corporation,* Interpretation 1980–16, 45 FR 46790 (July 11, 1980). For the reasons discussed below, we have concluded that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases, the burden is on the petitioner to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f).

Interpretation 1980–16 concluded that Crown Central Petroleum Corporation (Crown) need not place K&D in a branded-retailer class of purchaser for sales of motor gasoline. Rather, Crown could place K&D in its more similarly situated nonbranded-independent retailer class of purchaser. The March 13, 1979, assignment order and K&D's possible status as a successor on the site to Crown under 10 CFR 211.106 only affect K&D's right to an allocation.

K&D's petition for reconsideration raises a number of arguments to support your view that Interpretation 1980–16 is erroneous. You contend that the Interpretation is inconsistent with the purposes of both § 211.106 and Section 2(b) of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. No. 93–159 (November 27, 1973) because a successor on the site will not benefit from the transfer of an allocation entitlement if it cannot afford to purchase motor gasoline and operate the business without branded-retailer status. While these arguments may illustrate the possible hardship inherent in the operation of a new motor gasoline retail outlet, they do not negate the Interpretation's consistency with the overriding purpose expressed in § 2(b) of the EPAA and the Mandatory Petroleum Allocation Regulations to minimize supply dislocations and shortages.

K&D's further assertion that Crown may not place K&D in a nonbranded class of purchaser in the absence of K&D's granting Crown a release from the lease agreement is not correct. Crown is not required by any DOE regulation to continue a franchise agreement indefinitely. The Mandatory Petroleum Allocation and Price Regulations only require that normal business practices between a refiner-supplier and members of a given class of purchaser on May 15, 1973, must be maintained if purchasers remain in that class. Moreover, K&D has presented no evidence to show that it ever entered into a franchise agreement with Crown.

K&D's final argument concerns the existence of Crown's nonbranded-independent retailer class of purchaser. The validity of all Interpretations is based upon the accuracy of the facts presented by the parties. In this case, the DOE has received no information from K&D to demonstrate that Crown has not maintained a non-branded independent retailer class of purchaser. Accordingly, there is no basis for reconsideration of the result reached in the Interpretation.

Since K&D has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

Petition for Reconsideration
Interpretation: Krenik Distributors, Inc.
Petitioner: Union Oil Co. of California
Date: October 22, 1980

This responds to your petition submitted on behalf of Union Oil Company of California, seeking reconsideration of *Krenik Distributors, Inc.*, Interpretation 1980–24 (August 7, 1980). For the reasons discussed below, we have concluded that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases, the burden is on the petitioner to demonstrate that the Interpretation was erroneous in fact or in law, or that the result reached in the Interpretation was arbitrary or capricious. 10 CFR 205.85(f).

Interpretation 1980–24 concluded that Krenik qualified as a wholesale purchaser-reseller pursuant to 10 CFR 211.51 and was entitled to an allocation of motor gasoline during the period the consignment agreement with Union was in effect. Under 10 CFR 211.9 a mandatory supplier-purchaser relationship results from all sales of motor gasoline to wholesale purchaser-resellers based on the amount purchased or obtained during the base period. Since Union supplied Krenik during the base period for motor gasoline, as set forth in 10 CFR 211.102 (the month of the period November 1977 through October 1978 corresponding to the current month), Union was Krenik's base period supplier. In addition, because Krenik is conducting the same on-going business at a new location, it remains entitled to a motor gasoline allocation from its base period supplier, Union. Therefore, in accordance with 10 CFR 211.9 and 211.11 of the Mandatory Petroleum Allocation Regulations, Union must continue to supply Krenik with motor gasoline.

Union's petition makes several factual assertions to support its view that Interpretation 1980–24 is erroneous. Union contends that Krenik does not have an on-going business of the same type he conducted for Union. Moreover, Union contends that Krenik no longer has the bulk plant or storage facilities to take delivery of motor gasoline or make deliveries to any customers. In its response to Union's petition, Krenik states that it has not been able to maintain an on-going business of the same size that it had conducted for Union because Union has not supplied it with motor gasoline. Moreover, Krenik notes that its business has been substantially reduced because Krenik has been without product. Krenik also states that it no longer has the bulk plant because Union filed suit to remove Krenik from the facility Union leased to Krenik.

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The materials presented by both Union and Krenik in this proceeding do not alter the fact that Krenik had an on-going business as a distributor of motor gasoline under a consignment agreement for the period May 1, 1973 to January 28, 1978. Since Union and Krenik had a supplier-purchaser relationship during the base period (see 10 CFR 211.102), Union is obligated to supply Krenik with motor gasoline. Although Krenik's business has decreased, and it no longer has the bulk plant or storage facilities, it still maintains a viable operation that is entitled to an allocation of motor gasoline.

Since Union has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of the petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

Appendix C.—*Cases Dismissed*

File No.	Requester	Category	Date dismissed
A-450	CIBRO Sales Corp	Price	Oct. 3.
A-569	Parker Energy and Petroleum Co.	Allocation	Oct. 7.
A-352	Consolidated Gas Supply Corp.	Price	Oct. 10.
A-374	Consolidated Gas Supply Corp.	Price	Oct. 10.
A-368	Midland Corp., Inc	Price	Oct. 27.
A-588	IBM	FUA	Oct. 29.
A-598	R. L. Burns Corp	Price	Oct. 29.

[FR Doc. 80-35799 Filed 11-14-80; 8:45 am]
BILLING CODE 6450-01-M

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federal register

Monday
November 17, 1980

Part IX

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program; Contract Rent Automatic Annual Adjustment Factors

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-80-1041]

Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors; Contract Rent Automatic Annual Adjustment Factors

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This final rule sets forth Automatic Annual Adjustment Factors which are used to adjust rents under the Section 8 Housing Assistance Payments Programs.

DATE: November 8, 1980.

FOR FURTHER INFORMATION CONTACT: Ellis V. St. Clair, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, (202) 755-5816. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with Section 8(c)(2)(A) of the U.S. Housing Act of 1937, as amended, the Department is revising the Automatic Annual Adjustment Factors. The Factors are required to be published in the **Federal Register** at least annually by Notice pursuant to Section 888.202. The revised Automatic Annual Adjustment Factors supersede those published for effect on November 15, 1979 at 44 FR 65924. They were effective retroactively to November 8, 1979, the anniversary date for publication of the Factors. Different adjustment factor schedules are provided for 34 Standard Metropolitan Statistical Areas (SMSAs) and for the four Census Regions. The Factors are based on changes in the Consumer Price Index (CPI) for rent and utilities.

It is in the public interest to make this Notice effective as soon as possible because the governing regulations [24 CFR § 888.202] require publication of updated Annual Adjustment Factors "at least annually", and the last publication of those Factors was effective November 8, 1979.

Accordingly, Title 24, Part 888 is amended by publishing updated schedule C Factors for effect as set forth below:

Authority: Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. on November 6, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS

NORTHEAST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.112	1.133	1.164	1.200	1.225
125 - 149	1.105	1.123	1.148	1.177	1.198
150 - 174	1.101	1.115	1.136	1.162	1.179
175 - 199	1.097	1.110	1.128	1.150	1.165
200 - 224	1.094	1.105	1.122	1.141	1.154
225 - 249	1.092	1.102	1.117	1.134	1.146
250 - 274	1.090	1.099	1.113	1.128	1.139
275 - 299	1.089	1.097	1.109	1.123	1.133
300 - 324	1.088	1.095	1.106	1.120	1.128
325 - 349	1.087	1.094	1.104	1.116	1.124
350 - 374	1.086	1.092	1.102	1.113	1.121
375 - 399	1.085	1.091	1.100	1.111	1.118
400 - 424	1.084	1.090	1.099	1.108	1.115
425 - 449	1.084	1.089	1.097	1.107	1.113
450 - 474	1.083	1.088	1.096	1.105	1.111
475 - 499	1.083	1.088	1.095	1.103	1.109
500 - 524	1.082	1.087	1.094	1.102	1.107
525 - 549	1.082	1.086	1.093	1.100	1.106
550 - 574	1.082	1.086	1.092	1.099	1.104
575 - 599	1.081	1.085	1.091	1.098	1.103
600 OR MORE	1.081	1.085	1.091	1.097	1.102

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.074

NOTE: THE NORTHEAST CENSUS REGION INCLUDES THE FOLLOWING STATES:

CONNECTICUT	PENNSYLVANIA
MAINE	PUERTO RICO
MASS.	RHODE ISLAND
NEW HAMP	VERMONT
NEW JERSEY	VIRGIN IS
NEW YORK	

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS

NORTHCENTRAL CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.094	1.103	1.115	1.130	1.140
125 - 149	1.092	1.099	1.109	1.121	1.129
150 - 174	1.090	1.096	1.104	1.114	1.121
175 - 199	1.088	1.093	1.101	1.110	1.116
200 - 224	1.087	1.092	1.098	1.106	1.111
225 - 249	1.086	1.090	1.096	1.103	1.108
250 - 274	1.086	1.089	1.095	1.101	1.105
275 - 299	1.085	1.088	1.093	1.099	1.103
300 - 324	1.085	1.088	1.092	1.097	1.101
325 - 349	1.084	1.087	1.091	1.096	1.099
350 - 374	1.084	1.086	1.090	1.095	1.098
375 - 399	1.083	1.086	1.090	1.094	1.097
400 - 424	1.083	1.086	1.089	1.093	1.096
425 - 449	1.083	1.085	1.088	1.092	1.095
450 - 474	1.083	1.085	1.088	1.091	1.094
475 - 499	1.083	1.085	1.087	1.091	1.093
500 - 524	1.082	1.084	1.087	1.090	1.092
525 - 549	1.082	1.084	1.087	1.090	1.092
550 - 574	1.082	1.084	1.086	1.089	1.091
575 - 599	1.082	1.084	1.086	1.089	1.091
600 OR MORE	1.082	1.083	1.086	1.088	1.090

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.079

NOTE: THE NORTHCENTRAL CENSUS REGION INCLUDES THE FOLLOWING STATES

ILLINOIS	MISSOURI
INDIANA	NEBRASKA
IOWA	NORTH DAKOTA
KANSAS	OHIO
MICHIGAN	SOUTH DAKOTA
MINNESOTA	WISCONSIN

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS

SOUTH CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.102	1.108	1.116	1.126	1.132
125 - 149	1.100	1.105	1.112	1.120	1.125
150 - 174	1.099	1.103	1.109	1.115	1.120
175 - 199	1.098	1.101	1.106	1.112	1.116
200 - 224	1.097	1.100	1.105	1.110	1.113
225 - 249	1.097	1.099	1.103	1.108	1.111
250 - 274	1.096	1.099	1.102	1.106	1.109
275 - 299	1.096	1.098	1.101	1.105	1.108
300 - 324	1.096	1.098	1.101	1.104	1.107
325 - 349	1.095	1.097	1.100	1.103	1.105
350 - 374	1.095	1.097	1.099	1.102	1.105
375 - 399	1.095	1.097	1.099	1.102	1.104
400 - 424	1.095	1.096	1.099	1.101	1.103
425 - 449	1.095	1.096	1.098	1.101	1.102
450 - 474	1.094	1.096	1.098	1.100	1.102
475 - 499	1.094	1.096	1.098	1.100	1.101
500 - 524	1.094	1.095	1.097	1.099	1.101
525 - 549	1.094	1.095	1.097	1.099	1.100
550 - 574	1.094	1.095	1.097	1.099	1.100
575 - 599	1.094	1.095	1.097	1.098	1.100
600 OR MORE	1.094	1.095	1.096	1.098	1.099

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.092

NOTE: THE SOUTH CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALABAMA
ARKANSAS
DELAWARE
D.C.
FLORIDA
GEORGIA
KENTUCKY
LOUISIANA
MARYLAND
MISSISSIPPI
N. CAROLINA
OKLAHOMA
S. CAROLINA
TENNESSEE
TEXAS
VIRGINIA
W. VIRGINIA

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS

WEST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.126	1.137	1.153	1.173	1.186
125 - 149	1.123	1.132	1.145	1.161	1.171
150 - 174	1.120	1.128	1.139	1.152	1.161
175 - 199	1.118	1.125	1.134	1.146	1.154
200 - 224	1.117	1.123	1.131	1.141	1.148
225 - 249	1.116	1.121	1.128	1.138	1.144
250 - 274	1.115	1.119	1.126	1.135	1.140
275 - 299	1.114	1.118	1.125	1.132	1.137
300 - 324	1.113	1.117	1.123	1.130	1.135
325 - 349	1.113	1.116	1.122	1.128	1.133
350 - 374	1.112	1.116	1.121	1.127	1.131
375 - 399	1.112	1.115	1.120	1.125	1.129
400 - 424	1.112	1.115	1.119	1.124	1.128
425 - 449	1.111	1.114	1.118	1.123	1.127
450 - 474	1.111	1.114	1.118	1.122	1.125
475 - 499	1.111	1.113	1.117	1.121	1.124
500 - 524	1.110	1.113	1.116	1.121	1.124
525 - 549	1.110	1.113	1.116	1.120	1.123
550 - 574	1.110	1.112	1.115	1.119	1.122
575 - 599	1.110	1.112	1.115	1.119	1.121
600 OR MORE	1.110	1.112	1.115	1.118	1.121

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.106

NOTE: THE WEST CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALASKA
ARIZONIA
CALIFORNIA
COLORADO
HAWAII
IDAHO
MONTANA
NEVADA
NEW MEXICO
OREGON
UTAH
WASHINGTON
WYOMING

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.133	1.143	1.157	1.174	1.185
125 - 149	1.130	1.138	1.150	1.163	1.172
150 - 174	1.128	1.135	1.144	1.156	1.164
175 - 199	1.126	1.132	1.141	1.151	1.157
200 - 224	1.125	1.130	1.138	1.146	1.152
225 - 249	1.124	1.129	1.135	1.143	1.149
250 - 274	1.123	1.128	1.134	1.141	1.146
275 - 299	1.123	1.127	1.132	1.139	1.143
300 - 324	1.122	1.126	1.131	1.137	1.141
325 - 349	1.122	1.125	1.130	1.135	1.139
350 - 374	1.121	1.124	1.129	1.134	1.137
375 - 399	1.121	1.124	1.128	1.133	1.136
400 - 424	1.121	1.123	1.127	1.132	1.135
425 - 449	1.120	1.123	1.127	1.131	1.134
450 - 474	1.120	1.123	1.126	1.130	1.133
475 - 499	1.120	1.122	1.125	1.129	1.132
500 - 524	1.120	1.122	1.125	1.129	1.131
525 - 549	1.120	1.122	1.125	1.128	1.130
550 - 574	1.119	1.121	1.124	1.128	1.130
575 - 599	1.119	1.121	1.124	1.127	1.129
600 OR MORE	1.118	1.121	1.124	1.127	1.129

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.116

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ANCHORAGE, AK

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.020	1.029	1.043	1.059	1.070
125 - 149	1.017	1.024	1.035	1.049	1.058
150 - 174	1.015	1.021	1.030	1.042	1.049
175 - 199	1.013	1.019	1.027	1.036	1.043
200 - 224	1.012	1.017	1.024	1.032	1.038
225 - 249	1.011	1.015	1.022	1.029	1.035
250 - 274	1.010	1.014	1.020	1.027	1.032
275 - 299	1.010	1.013	1.019	1.025	1.029
300 - 324	1.009	1.012	1.017	1.023	1.027
325 - 349	1.009	1.012	1.016	1.022	1.025
350 - 374	1.008	1.011	1.015	1.020	1.024
375 - 399	1.008	1.011	1.015	1.019	1.022
400 - 424	1.008	1.010	1.014	1.018	1.021
425 - 449	1.007	1.010	1.013	1.017	1.020
450 - 474	1.007	1.009	1.013	1.017	1.019
475 - 499	1.007	1.009	1.012	1.016	1.018
500 - 524	1.007	1.009	1.012	1.015	1.018
525 - 549	1.007	1.008	1.011	1.015	1.017
550 - 574	1.006	1.008	1.011	1.014	1.016
575 - 599	1.006	1.008	1.011	1.014	1.016
600 OR MORE	1.006	1.008	1.010	1.013	1.015

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.003

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ATLANTA, GA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.081	1.085	1.092	1.100	1.106
125 - 149	1.079	1.083	1.089	1.095	1.100
150 - 174	1.078	1.081	1.086	1.092	1.096
175 - 199	1.077	1.080	1.084	1.089	1.092
200 - 224	1.077	1.079	1.083	1.087	1.090
225 - 249	1.076	1.078	1.082	1.085	1.088
250 - 274	1.076	1.078	1.081	1.084	1.087
275 - 299	1.075	1.077	1.080	1.083	1.085
300 - 324	1.075	1.077	1.079	1.082	1.084
325 - 349	1.075	1.076	1.079	1.081	1.083
350 - 374	1.075	1.076	1.078	1.081	1.083
375 - 399	1.074	1.076	1.078	1.080	1.082
400 - 424	1.074	1.076	1.078	1.080	1.081
425 - 449	1.074	1.075	1.077	1.079	1.081
450 - 474	1.074	1.075	1.077	1.079	1.080
475 - 499	1.074	1.075	1.077	1.079	1.080
500 - 524	1.074	1.075	1.076	1.078	1.079
525 - 549	1.074	1.075	1.076	1.078	1.079
550 - 574	1.074	1.075	1.076	1.078	1.079
575 - 599	1.074	1.075	1.076	1.077	1.079
600 OR MORE	1.074	1.074	1.076	1.077	1.078

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.072

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: BALTIMORE, MD

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.088	1.100	1.117	1.138	1.152
125 - 149	1.085	1.094	1.108	1.125	1.136
150 - 174	1.082	1.090	1.102	1.116	1.126
175 - 199	1.080	1.087	1.097	1.109	1.118
200 - 224	1.078	1.085	1.094	1.104	1.112
225 - 249	1.077	1.083	1.091	1.101	1.107
250 - 274	1.076	1.081	1.089	1.097	1.103
275 - 299	1.075	1.080	1.087	1.095	1.100
300 - 324	1.075	1.079	1.085	1.092	1.097
325 - 349	1.074	1.078	1.084	1.091	1.095
350 - 374	1.074	1.077	1.083	1.089	1.093
375 - 399	1.073	1.077	1.082	1.088	1.092
400 - 424	1.073	1.076	1.081	1.086	1.090
425 - 449	1.073	1.076	1.080	1.085	1.089
450 - 474	1.072	1.075	1.079	1.084	1.088
475 - 499	1.072	1.075	1.079	1.083	1.087
500 - 524	1.072	1.074	1.078	1.083	1.086
525 - 549	1.071	1.074	1.078	1.082	1.085
550 - 574	1.071	1.074	1.077	1.081	1.084
575 - 599	1.071	1.073	1.077	1.081	1.083
600 OR MORE	1.071	1.073	1.076	1.080	1.083

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.067

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: BOSTON, MA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.126	1.153	1.192	1.238	1.269
125 - 149	1.118	1.139	1.171	1.209	1.235
150 - 174	1.112	1.130	1.157	1.189	1.210
175 - 199	1.107	1.123	1.146	1.174	1.193
200 - 224	1.104	1.118	1.138	1.163	1.179
225 - 249	1.101	1.114	1.132	1.154	1.169
250 - 274	1.099	1.110	1.127	1.147	1.160
275 - 299	1.097	1.107	1.123	1.141	1.153
300 - 324	1.095	1.105	1.119	1.136	1.147
325 - 349	1.094	1.103	1.116	1.131	1.142
350 - 374	1.093	1.101	1.113	1.128	1.137
375 - 399	1.092	1.100	1.111	1.124	1.134
400 - 424	1.091	1.098	1.109	1.122	1.130
425 - 449	1.090	1.097	1.107	1.119	1.127
450 - 474	1.090	1.096	1.106	1.117	1.125
475 - 499	1.089	1.095	1.104	1.115	1.122
500 - 524	1.089	1.094	1.103	1.113	1.120
525 - 549	1.088	1.094	1.102	1.111	1.118
550 - 574	1.088	1.093	1.101	1.110	1.116
575 - 599	1.087	1.092	1.100	1.109	1.115
600 OR MORE	1.087	1.092	1.099	1.107	1.113

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.078

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: BUFFALO, NY

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.093	1.115	1.147	1.184	1.210
125 - 149	1.086	1.104	1.130	1.160	1.181
150 - 174	1.084	1.096	1.118	1.144	1.162
175 - 199	1.078	1.091	1.110	1.132	1.147
200 - 224	1.075	1.086	1.103	1.123	1.136
225 - 249	1.073	1.083	1.098	1.116	1.128
250 - 274	1.071	1.080	1.094	1.110	1.121
275 - 299	1.069	1.078	1.090	1.105	1.115
300 - 324	1.068	1.076	1.087	1.101	1.110
325 - 349	1.067	1.074	1.085	1.097	1.106
350 - 374	1.066	1.073	1.083	1.094	1.102
375 - 399	1.065	1.072	1.081	1.092	1.099
400 - 424	1.065	1.071	1.079	1.089	1.096
425 - 449	1.064	1.070	1.078	1.087	1.094
450 - 474	1.064	1.069	1.077	1.086	1.092
475 - 499	1.063	1.068	1.075	1.084	1.090
500 - 524	1.063	1.067	1.074	1.083	1.088
525 - 549	1.062	1.067	1.073	1.081	1.087
550 - 574	1.062	1.066	1.073	1.080	1.085
575 - 599	1.062	1.066	1.072	1.079	1.084
600 OR MORE	1.061	1.065	1.071	1.078	1.083

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.054

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: CHICAGO, IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.105	1.113	1.125	1.139	1.148
125 - 149	1.102	1.109	1.118	1.130	1.138
150 - 174	1.100	1.106	1.114	1.124	1.130
175 - 199	1.099	1.104	1.111	1.119	1.125
200 - 224	1.098	1.102	1.108	1.116	1.121
225 - 249	1.097	1.101	1.106	1.113	1.118
250 - 274	1.096	1.100	1.105	1.111	1.115
275 - 299	1.096	1.099	1.104	1.109	1.113
300 - 324	1.095	1.098	1.102	1.107	1.111
325 - 349	1.095	1.098	1.102	1.106	1.109
350 - 374	1.095	1.097	1.101	1.105	1.108
375 - 399	1.094	1.097	1.100	1.104	1.107
400 - 424	1.094	1.096	1.099	1.103	1.106
425 - 449	1.094	1.096	1.099	1.102	1.105
450 - 474	1.094	1.096	1.098	1.102	1.104
475 - 499	1.093	1.095	1.098	1.101	1.103
500 - 524	1.093	1.095	1.098	1.101	1.103
525 - 549	1.093	1.095	1.097	1.100	1.102
550 - 574	1.093	1.095	1.097	1.100	1.102
575 - 599	1.093	1.094	1.097	1.099	1.101
600 OR MORE	1.093	1.094	1.096	1.099	1.101

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.090

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: CINCINNATI, OH-KY-IN

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.110	1.114	1.119	1.125	1.129
125 - 149	1.109	1.112	1.116	1.121	1.125
150 - 174	1.108	1.111	1.114	1.119	1.121
175 - 199	1.108	1.110	1.113	1.117	1.119
200 - 224	1.107	1.109	1.112	1.115	1.117
225 - 249	1.107	1.109	1.111	1.114	1.116
250 - 274	1.107	1.108	1.110	1.113	1.115
275 - 299	1.106	1.108	1.110	1.112	1.114
300 - 324	1.106	1.108	1.109	1.112	1.113
325 - 349	1.106	1.107	1.109	1.111	1.112
350 - 374	1.106	1.107	1.109	1.111	1.112
375 - 399	1.106	1.107	1.108	1.110	1.111
400 - 424	1.106	1.107	1.108	1.110	1.111
425 - 449	1.106	1.107	1.108	1.109	1.110
450 - 474	1.106	1.106	1.108	1.109	1.110
475 - 499	1.105	1.106	1.107	1.109	1.110
500 - 524	1.105	1.106	1.107	1.109	1.110
525 - 549	1.105	1.106	1.107	1.108	1.109
550 - 574	1.105	1.106	1.107	1.108	1.109
575 - 599	1.105	1.106	1.107	1.108	1.109
600 OR MORE	1.105	1.106	1.107	1.108	1.109

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.104

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: CLEVELAND, OH

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.086	1.095	1.109	1.125	1.136
125 - 149	1.083	1.091	1.102	1.115	1.124
150 - 174	1.081	1.087	1.097	1.108	1.115
175 - 199	1.079	1.085	1.093	1.103	1.109
200 - 224	1.078	1.083	1.090	1.099	1.105
225 - 249	1.077	1.081	1.088	1.096	1.101
250 - 274	1.076	1.080	1.086	1.093	1.098
275 - 299	1.076	1.079	1.085	1.091	1.095
300 - 324	1.075	1.078	1.083	1.089	1.093
325 - 349	1.075	1.078	1.082	1.088	1.091
350 - 374	1.074	1.077	1.081	1.086	1.090
375 - 399	1.074	1.077	1.081	1.085	1.088
400 - 424	1.074	1.076	1.080	1.084	1.087
425 - 449	1.073	1.076	1.079	1.083	1.086
450 - 474	1.073	1.075	1.079	1.083	1.085
475 - 499	1.073	1.075	1.078	1.082	1.084
500 - 524	1.073	1.075	1.078	1.081	1.084
525 - 549	1.073	1.075	1.077	1.081	1.083
550 - 574	1.072	1.074	1.077	1.080	1.082
575 - 599	1.072	1.074	1.077	1.080	1.082
600 OR MORE	1.072	1.074	1.076	1.079	1.081

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.069

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: DALLAS-FORT WORTH , TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.085	1.079	1.071	1.061	1.054
125 - 149	1.087	1.082	1.075	1.067	1.061
150 - 174	1.089	1.085	1.079	1.072	1.067
175 - 199	1.090	1.086	1.081	1.075	1.071
200 - 224	1.090	1.087	1.083	1.077	1.074
225 - 249	1.091	1.088	1.084	1.079	1.076
250 - 274	1.091	1.089	1.085	1.081	1.078
275 - 299	1.092	1.090	1.086	1.082	1.079
300 - 324	1.092	1.090	1.087	1.083	1.081
325 - 349	1.092	1.090	1.088	1.084	1.082
350 - 374	1.093	1.091	1.088	1.085	1.083
375 - 399	1.093	1.091	1.089	1.086	1.084
400 - 424	1.093	1.091	1.089	1.086	1.084
425 - 449	1.093	1.092	1.090	1.087	1.085
450 - 474	1.093	1.092	1.090	1.087	1.086
475 - 499	1.094	1.092	1.090	1.088	1.086
500 - 524	1.094	1.092	1.090	1.088	1.087
525 - 549	1.094	1.093	1.091	1.089	1.087
550 - 574	1.094	1.093	1.091	1.089	1.088
575 - 599	1.094	1.093	1.091	1.089	1.088
600 OR MORE	1.094	1.093	1.091	1.090	1.088

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.096

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: DENVER-BOULDER , CO

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.111	1.118	1.129	1.142	1.151
125 - 149	1.108	1.114	1.123	1.134	1.141
150 - 174	1.106	1.112	1.119	1.128	1.134
175 - 199	1.105	1.110	1.116	1.124	1.129
200 - 224	1.104	1.108	1.114	1.121	1.125
225 - 249	1.103	1.107	1.112	1.118	1.122
250 - 274	1.103	1.106	1.111	1.116	1.120
275 - 299	1.102	1.105	1.110	1.115	1.118
300 - 324	1.102	1.105	1.109	1.113	1.116
325 - 349	1.102	1.104	1.108	1.112	1.115
350 - 374	1.101	1.104	1.107	1.111	1.114
375 - 399	1.101	1.103	1.106	1.110	1.113
400 - 424	1.101	1.103	1.106	1.109	1.112
425 - 449	1.101	1.102	1.105	1.109	1.111
450 - 474	1.100	1.102	1.105	1.108	1.110
475 - 499	1.100	1.102	1.104	1.107	1.109
500 - 524	1.100	1.102	1.104	1.107	1.109
525 - 549	1.100	1.101	1.104	1.106	1.108
550 - 574	1.100	1.101	1.103	1.106	1.108
575 - 599	1.100	1.101	1.103	1.106	1.107
600 OR MORE	1.100	1.101	1.103	1.105	1.107

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.097

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: DETROIT, MI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.107	1.111	1.116	1.123	1.127
125 - 149	1.106	1.109	1.113	1.119	1.122
150 - 174	1.105	1.107	1.111	1.116	1.119
175 - 199	1.104	1.106	1.110	1.114	1.116
200 - 224	1.104	1.106	1.109	1.112	1.115
225 - 249	1.103	1.105	1.108	1.111	1.113
250 - 274	1.103	1.105	1.107	1.110	1.112
275 - 299	1.103	1.104	1.106	1.109	1.111
300 - 324	1.103	1.104	1.106	1.108	1.110
325 - 349	1.102	1.104	1.105	1.108	1.109
350 - 374	1.102	1.103	1.105	1.107	1.109
375 - 399	1.102	1.103	1.105	1.107	1.108
400 - 424	1.102	1.103	1.104	1.106	1.107
425 - 449	1.102	1.103	1.104	1.106	1.107
450 - 474	1.102	1.103	1.104	1.106	1.107
475 - 499	1.102	1.102	1.104	1.105	1.106
500 - 524	1.102	1.102	1.104	1.105	1.106
525 - 549	1.101	1.102	1.103	1.105	1.106
550 - 574	1.101	1.102	1.103	1.105	1.105
575 - 599	1.101	1.102	1.103	1.104	1.105
600 OR MORE	1.101	1.102	1.103	1.104	1.105

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.100

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: GARY-HAMMOND-EAST CHICAGO, IN

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.105	1.113	1.125	1.139	1.148
125 - 149	1.102	1.109	1.118	1.130	1.138
150 - 174	1.100	1.106	1.114	1.124	1.130
175 - 199	1.099	1.104	1.111	1.119	1.125
200 - 224	1.098	1.102	1.108	1.116	1.121
225 - 249	1.097	1.101	1.106	1.113	1.118
250 - 274	1.096	1.100	1.105	1.111	1.115
275 - 299	1.096	1.099	1.104	1.109	1.113
300 - 324	1.095	1.098	1.102	1.107	1.111
325 - 349	1.095	1.098	1.102	1.106	1.109
350 - 374	1.095	1.097	1.101	1.105	1.108
375 - 399	1.094	1.097	1.100	1.104	1.107
400 - 424	1.094	1.096	1.099	1.103	1.106
425 - 449	1.094	1.096	1.099	1.102	1.105
450 - 474	1.094	1.096	1.098	1.102	1.104
475 - 499	1.093	1.095	1.098	1.101	1.103
500 - 524	1.093	1.095	1.098	1.101	1.103
525 - 549	1.093	1.095	1.097	1.100	1.102
550 - 574	1.093	1.095	1.097	1.100	1.102
575 - 599	1.093	1.094	1.097	1.099	1.101
600 OR MORE	1.093	1.094	1.096	1.099	1.101

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.090

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: HONOLULU, HI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.113	1.117	1.123	1.129	1.134
125 - 149	1.112	1.115	1.120	1.125	1.129
150 - 174	1.111	1.114	1.117	1.122	1.125
175 - 199	1.110	1.113	1.116	1.120	1.123
200 - 224	1.110	1.112	1.115	1.118	1.121
225 - 249	1.109	1.111	1.114	1.117	1.119
250 - 274	1.109	1.111	1.113	1.116	1.118
275 - 299	1.109	1.110	1.112	1.115	1.117
300 - 324	1.109	1.110	1.112	1.114	1.116
325 - 349	1.108	1.110	1.112	1.114	1.115
350 - 374	1.108	1.109	1.111	1.113	1.115
375 - 399	1.108	1.109	1.111	1.113	1.114
400 - 424	1.108	1.109	1.111	1.112	1.114
425 - 449	1.108	1.109	1.110	1.112	1.113
450 - 474	1.108	1.109	1.110	1.112	1.113
475 - 499	1.108	1.109	1.110	1.111	1.112
500 - 524	1.108	1.108	1.110	1.111	1.112
525 - 549	1.107	1.108	1.109	1.111	1.112
550 - 574	1.107	1.108	1.109	1.111	1.112
575 - 599	1.107	1.108	1.109	1.110	1.111
600 OR MORE	1.107	1.108	1.109	1.110	1.111

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.106

V 45 NO 17 80 UMI

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: HOUSTON, TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.080	1.091	1.107	1.126	1.139
125 - 149	1.076	1.085	1.098	1.114	1.124
150 - 174	1.074	1.081	1.092	1.106	1.115
175 - 199	1.072	1.079	1.088	1.099	1.107
200 - 224	1.071	1.076	1.085	1.095	1.102
225 - 249	1.069	1.075	1.082	1.091	1.097
250 - 274	1.069	1.073	1.080	1.088	1.094
275 - 299	1.068	1.072	1.078	1.086	1.091
300 - 324	1.067	1.071	1.077	1.084	1.088
325 - 349	1.067	1.070	1.076	1.082	1.086
350 - 374	1.066	1.070	1.075	1.080	1.084
375 - 399	1.066	1.069	1.074	1.079	1.083
400 - 424	1.065	1.068	1.073	1.078	1.081
425 - 449	1.065	1.068	1.072	1.077	1.080
450 - 474	1.065	1.068	1.071	1.076	1.079
475 - 499	1.065	1.067	1.071	1.075	1.078
500 - 524	1.064	1.067	1.070	1.074	1.077
525 - 549	1.064	1.066	1.070	1.074	1.076
550 - 574	1.064	1.066	1.069	1.073	1.076
575 - 599	1.064	1.066	1.069	1.073	1.075
600 OR MORE	1.064	1.066	1.069	1.072	1.074

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.060

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: KANSAS CITY, MO-KS

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.058	1.056	1.052	1.048	1.045
125 - 149	1.059	1.057	1.054	1.051	1.048
150 - 174	1.060	1.058	1.056	1.053	1.051
175 - 199	1.060	1.059	1.057	1.054	1.052
200 - 224	1.061	1.059	1.057	1.055	1.054
225 - 249	1.061	1.060	1.058	1.056	1.055
250 - 274	1.061	1.060	1.058	1.057	1.055
275 - 299	1.061	1.060	1.059	1.057	1.056
300 - 324	1.061	1.060	1.059	1.058	1.057
325 - 349	1.061	1.061	1.059	1.058	1.057
350 - 374	1.062	1.061	1.060	1.058	1.057
375 - 399	1.062	1.061	1.060	1.059	1.058
400 - 424	1.062	1.061	1.060	1.059	1.058
425 - 449	1.062	1.061	1.060	1.059	1.058
450 - 474	1.062	1.061	1.060	1.059	1.059
475 - 499	1.062	1.061	1.061	1.060	1.059
500 - 524	1.062	1.061	1.061	1.060	1.059
525 - 549	1.062	1.062	1.061	1.060	1.059
550 - 574	1.062	1.062	1.061	1.060	1.059
575 - 599	1.062	1.062	1.061	1.060	1.060
600 OR MORE	1.062	1.062	1.061	1.060	1.060

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.063

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: LOS ANGELES-LONG BEACH, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.133	1.143	1.157	1.174	1.185
125 - 149	1.130	1.138	1.150	1.163	1.172
150 - 174	1.128	1.135	1.144	1.156	1.164
175 - 199	1.126	1.132	1.141	1.151	1.157
200 - 224	1.125	1.130	1.138	1.146	1.152
225 - 249	1.124	1.129	1.135	1.143	1.149
250 - 274	1.123	1.128	1.134	1.141	1.146
275 - 299	1.123	1.127	1.132	1.139	1.143
300 - 324	1.122	1.126	1.131	1.137	1.141
325 - 349	1.122	1.125	1.130	1.135	1.139
350 - 374	1.121	1.124	1.129	1.134	1.137
375 - 399	1.121	1.124	1.128	1.133	1.136
400 - 424	1.121	1.123	1.127	1.132	1.135
425 - 449	1.120	1.123	1.127	1.131	1.134
450 - 474	1.120	1.123	1.126	1.130	1.133
475 - 499	1.120	1.122	1.125	1.129	1.132
500 - 524	1.120	1.122	1.125	1.129	1.131
525 - 549	1.120	1.122	1.125	1.128	1.130
550 - 574	1.119	1.121	1.124	1.128	1.130
575 - 599	1.119	1.121	1.124	1.127	1.129
600 OR MORE	1.119	1.121	1.124	1.127	1.129

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.116

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: MIAMI, FL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.127	1.130	1.134	1.139	1.142
125 - 149	1.126	1.128	1.132	1.136	1.138
150 - 174	1.125	1.127	1.130	1.134	1.136
175 - 199	1.125	1.127	1.129	1.132	1.134
200 - 224	1.125	1.126	1.128	1.131	1.133
225 - 249	1.124	1.126	1.128	1.130	1.131
250 - 274	1.124	1.125	1.127	1.129	1.131
275 - 299	1.124	1.125	1.127	1.129	1.130
300 - 324	1.124	1.125	1.126	1.128	1.129
325 - 349	1.124	1.125	1.126	1.128	1.129
350 - 374	1.124	1.124	1.126	1.127	1.128
375 - 399	1.123	1.124	1.125	1.127	1.128
400 - 424	1.123	1.124	1.125	1.127	1.127
425 - 449	1.123	1.124	1.125	1.126	1.127
450 - 474	1.123	1.124	1.125	1.126	1.127
475 - 499	1.123	1.124	1.125	1.126	1.127
500 - 524	1.123	1.124	1.125	1.126	1.126
525 - 549	1.123	1.124	1.124	1.125	1.126
550 - 574	1.123	1.124	1.124	1.125	1.126
575 - 599	1.123	1.124	1.124	1.125	1.126
600 OR MORE	1.123	1.123	1.124	1.125	1.126

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.122

V 45 NO 17 80 UMI

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: MILWAUKEE, WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.111	1.128	1.153	1.182	1.202
125 - 149	1.105	1.119	1.140	1.164	1.180
150 - 174	1.101	1.113	1.130	1.151	1.165
175 - 199	1.099	1.109	1.124	1.141	1.153
200 - 224	1.096	1.105	1.119	1.134	1.145
225 - 249	1.095	1.103	1.114	1.128	1.138
250 - 274	1.093	1.101	1.111	1.124	1.132
275 - 299	1.092	1.099	1.108	1.120	1.128
300 - 324	1.091	1.097	1.106	1.117	1.124
325 - 349	1.090	1.096	1.104	1.114	1.121
350 - 374	1.090	1.095	1.103	1.112	1.118
375 - 399	1.089	1.094	1.101	1.110	1.116
400 - 424	1.088	1.093	1.100	1.108	1.113
425 - 449	1.088	1.092	1.099	1.106	1.111
450 - 474	1.088	1.092	1.098	1.105	1.110
475 - 499	1.087	1.091	1.097	1.104	1.108
500 - 524	1.087	1.091	1.098	1.102	1.107
525 - 549	1.086	1.090	1.095	1.101	1.106
550 - 574	1.086	1.090	1.095	1.100	1.104
575 - 599	1.086	1.089	1.094	1.100	1.103
600 OR MORE	1.086	1.089	1.093	1.099	1.102

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.080

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: MINNEAPOLIS-ST PAUL, MN-WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.102	1.105	1.109	1.115	1.119
125 - 149	1.101	1.103	1.107	1.111	1.114
150 - 174	1.100	1.102	1.105	1.109	1.112
175 - 199	1.099	1.101	1.104	1.107	1.110
200 - 224	1.099	1.101	1.103	1.106	1.108
225 - 249	1.099	1.100	1.102	1.105	1.107
250 - 274	1.098	1.100	1.102	1.104	1.106
275 - 299	1.098	1.099	1.101	1.103	1.105
300 - 324	1.098	1.099	1.101	1.103	1.104
325 - 349	1.098	1.099	1.100	1.102	1.104
350 - 374	1.098	1.099	1.100	1.102	1.103
375 - 399	1.098	1.099	1.100	1.101	1.103
400 - 424	1.098	1.098	1.100	1.101	1.102
425 - 449	1.097	1.098	1.099	1.101	1.102
450 - 474	1.097	1.098	1.099	1.101	1.101
475 - 499	1.097	1.098	1.099	1.100	1.101
500 - 524	1.097	1.098	1.099	1.100	1.101
525 - 549	1.097	1.098	1.099	1.100	1.101
550 - 574	1.097	1.098	1.099	1.100	1.101
575 - 599	1.097	1.098	1.099	1.100	1.100
600 OR MORE	1.097	1.098	1.098	1.099	1.100

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.098

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: NEW YORK CITY, NY-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.097	1.114	1.138	1.167	1.187
125 - 149	1.091	1.105	1.125	1.149	1.165
150 - 174	1.087	1.099	1.116	1.136	1.150
175 - 199	1.084	1.095	1.109	1.127	1.139
200 - 224	1.082	1.091	1.104	1.120	1.130
225 - 249	1.081	1.089	1.100	1.114	1.123
250 - 274	1.079	1.086	1.097	1.109	1.118
275 - 299	1.078	1.085	1.094	1.106	1.113
300 - 324	1.077	1.083	1.092	1.102	1.110
325 - 349	1.076	1.082	1.090	1.100	1.106
350 - 374	1.076	1.081	1.088	1.097	1.104
375 - 399	1.075	1.080	1.087	1.095	1.101
400 - 424	1.074	1.079	1.086	1.094	1.099
425 - 449	1.074	1.078	1.085	1.092	1.097
450 - 474	1.073	1.078	1.084	1.091	1.096
475 - 499	1.073	1.077	1.083	1.089	1.094
500 - 524	1.073	1.076	1.082	1.088	1.093
525 - 549	1.072	1.076	1.081	1.087	1.091
550 - 574	1.072	1.076	1.080	1.086	1.090
575 - 599	1.072	1.075	1.080	1.085	1.089
600 OR MORE	1.072	1.075	1.079	1.085	1.088

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.066

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: NEWARK, NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.097	1.114	1.138	1.167	1.187
125 - 149	1.091	1.105	1.125	1.149	1.165
150 - 174	1.087	1.099	1.116	1.136	1.150
175 - 199	1.084	1.095	1.109	1.127	1.139
200 - 224	1.082	1.091	1.104	1.120	1.130
225 - 249	1.081	1.089	1.100	1.114	1.123
250 - 274	1.079	1.086	1.097	1.109	1.118
275 - 299	1.078	1.085	1.094	1.106	1.113
300 - 324	1.077	1.083	1.092	1.102	1.110
325 - 349	1.076	1.082	1.090	1.100	1.106
350 - 374	1.076	1.081	1.088	1.097	1.104
375 - 399	1.075	1.080	1.087	1.095	1.101
400 - 424	1.074	1.079	1.086	1.094	1.099
425 - 449	1.074	1.078	1.085	1.092	1.097
450 - 474	1.073	1.078	1.084	1.091	1.096
475 - 499	1.073	1.077	1.083	1.089	1.094
500 - 524	1.073	1.076	1.082	1.088	1.093
525 - 549	1.072	1.076	1.081	1.087	1.091
550 - 574	1.072	1.076	1.080	1.086	1.090
575 - 599	1.072	1.075	1.080	1.085	1.089
600 OR MORE	1.072	1.075	1.079	1.085	1.088

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.066

V 45 NO 217 80 UMI

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: NORTHEAST, PA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.085	1.100	1.122	1.148	1.166
125 - 149	1.080	1.093	1.110	1.132	1.146
150 - 174	1.077	1.087	1.102	1.120	1.133
175 - 199	1.074	1.083	1.096	1.112	1.123
200 - 224	1.072	1.080	1.092	1.106	1.115
225 - 249	1.071	1.078	1.088	1.101	1.109
250 - 274	1.070	1.076	1.085	1.097	1.104
275 - 299	1.069	1.075	1.083	1.093	1.100
300 - 324	1.068	1.073	1.081	1.090	1.097
325 - 349	1.067	1.072	1.079	1.088	1.094
350 - 374	1.066	1.071	1.078	1.086	1.091
375 - 399	1.066	1.070	1.077	1.084	1.089
400 - 424	1.065	1.070	1.075	1.083	1.087
425 - 449	1.065	1.069	1.074	1.081	1.086
450 - 474	1.065	1.068	1.074	1.080	1.084
475 - 499	1.064	1.068	1.073	1.079	1.083
500 - 524	1.064	1.067	1.072	1.078	1.082
525 - 549	1.064	1.067	1.071	1.077	1.081
550 - 574	1.063	1.066	1.071	1.076	1.080
575 - 599	1.063	1.066	1.070	1.075	1.079
600 OR MORE	1.063	1.066	1.070	1.075	1.078

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.058

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.133	1.143	1.157	1.174	1.185
125 - 149	1.130	1.138	1.150	1.163	1.172
150 - 174	1.128	1.135	1.144	1.156	1.164
175 - 199	1.126	1.132	1.141	1.151	1.157
200 - 224	1.125	1.130	1.138	1.146	1.152
225 - 249	1.124	1.129	1.135	1.143	1.149
250 - 274	1.123	1.128	1.134	1.141	1.146
275 - 299	1.123	1.127	1.132	1.139	1.143
300 - 324	1.122	1.126	1.131	1.137	1.141
325 - 349	1.122	1.125	1.130	1.135	1.139
350 - 374	1.121	1.124	1.129	1.134	1.137
375 - 399	1.121	1.124	1.128	1.133	1.136
400 - 424	1.121	1.123	1.127	1.132	1.135
425 - 449	1.120	1.123	1.127	1.131	1.134
450 - 474	1.120	1.123	1.126	1.130	1.133
475 - 499	1.120	1.122	1.125	1.129	1.132
500 - 524	1.120	1.122	1.125	1.129	1.131
525 - 549	1.120	1.122	1.125	1.128	1.130
550 - 574	1.119	1.121	1.124	1.128	1.130
575 - 599	1.119	1.121	1.124	1.127	1.129
600 OR MORE	1.119	1.121	1.124	1.127	1.129

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.116

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: PATERSON-CLIFTON-PASSAIC, NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.097	1.114	1.138	1.167	1.187
125 - 149	1.091	1.105	1.125	1.149	1.165
150 - 174	1.087	1.099	1.116	1.136	1.150
175 - 199	1.084	1.095	1.109	1.127	1.139
200 - 224	1.082	1.091	1.104	1.120	1.130
225 - 249	1.081	1.089	1.100	1.114	1.123
250 - 274	1.079	1.086	1.097	1.109	1.118
275 - 299	1.078	1.085	1.094	1.106	1.113
300 - 324	1.077	1.083	1.092	1.102	1.110
325 - 349	1.076	1.082	1.090	1.100	1.106
350 - 374	1.076	1.081	1.088	1.097	1.104
375 - 399	1.075	1.080	1.087	1.095	1.101
400 - 424	1.074	1.079	1.086	1.094	1.099
425 - 449	1.074	1.078	1.085	1.092	1.097
450 - 474	1.073	1.078	1.084	1.091	1.096
475 - 499	1.073	1.077	1.083	1.089	1.094
500 - 524	1.073	1.076	1.082	1.088	1.093
525 - 549	1.072	1.076	1.081	1.087	1.091
550 - 574	1.072	1.076	1.080	1.086	1.090
575 - 599	1.072	1.075	1.080	1.085	1.089
600 OR MORE	1.072	1.075	1.079	1.085	1.088

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.066

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: PHILADELPHIA, PA-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.110	1.137	1.176	1.222	1.254
125 - 149	1.101	1.123	1.155	1.193	1.219
150 - 174	1.095	1.113	1.140	1.173	1.194
175 - 199	1.090	1.106	1.130	1.158	1.177
200 - 224	1.087	1.101	1.122	1.146	1.163
225 - 249	1.084	1.097	1.115	1.137	1.152
250 - 274	1.082	1.093	1.110	1.130	1.144
275 - 299	1.080	1.091	1.106	1.124	1.136
300 - 324	1.079	1.088	1.102	1.119	1.130
325 - 349	1.077	1.086	1.099	1.115	1.125
350 - 374	1.076	1.084	1.097	1.111	1.121
375 - 399	1.075	1.083	1.094	1.108	1.117
400 - 424	1.074	1.082	1.092	1.105	1.114
425 - 449	1.074	1.080	1.090	1.102	1.111
450 - 474	1.073	1.079	1.089	1.100	1.108
475 - 499	1.072	1.078	1.087	1.098	1.105
500 - 524	1.072	1.078	1.086	1.096	1.103
525 - 549	1.071	1.077	1.085	1.095	1.101
550 - 574	1.071	1.076	1.084	1.093	1.100
575 - 599	1.070	1.075	1.083	1.092	1.098
600 OR MORE	1.070	1.075	1.082	1.091	1.096

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.061

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: PITTSBURGH, PA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.080	1.086	1.096	1.107	1.115
125 - 149	1.078	1.083	1.091	1.100	1.106
150 - 174	1.076	1.081	1.087	1.095	1.100
175 - 199	1.075	1.079	1.085	1.091	1.096
200 - 224	1.074	1.078	1.083	1.089	1.093
225 - 249	1.074	1.077	1.081	1.087	1.090
250 - 274	1.073	1.076	1.080	1.085	1.088
275 - 299	1.073	1.075	1.079	1.083	1.086
300 - 324	1.072	1.075	1.078	1.082	1.085
325 - 349	1.072	1.074	1.077	1.081	1.084
350 - 374	1.072	1.074	1.077	1.080	1.083
375 - 399	1.071	1.073	1.076	1.079	1.082
400 - 424	1.071	1.073	1.076	1.079	1.081
425 - 449	1.071	1.073	1.075	1.078	1.080
450 - 474	1.071	1.072	1.075	1.078	1.079
475 - 499	1.071	1.072	1.074	1.077	1.079
500 - 524	1.071	1.072	1.074	1.077	1.078
525 - 549	1.070	1.072	1.074	1.076	1.078
550 - 574	1.070	1.072	1.074	1.076	1.077
575 - 599	1.070	1.072	1.073	1.075	1.077
600 OR MORE	1.070	1.071	1.073	1.075	1.077

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.068

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: PORTLAND, OR-WA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.122	1.148	1.187	1.234	1.265
125 - 149	1.113	1.135	1.167	1.204	1.230
150 - 174	1.107	1.125	1.152	1.184	1.206
175 - 199	1.102	1.118	1.142	1.169	1.188
200 - 224	1.099	1.113	1.134	1.158	1.175
225 - 249	1.096	1.109	1.127	1.149	1.164
250 - 274	1.094	1.105	1.122	1.142	1.155
275 - 299	1.092	1.103	1.118	1.136	1.148
300 - 324	1.091	1.100	1.114	1.131	1.142
325 - 349	1.089	1.098	1.111	1.127	1.137
350 - 374	1.088	1.096	1.108	1.123	1.133
375 - 399	1.087	1.095	1.106	1.120	1.129
400 - 424	1.086	1.094	1.104	1.117	1.125
425 - 449	1.086	1.092	1.102	1.114	1.122
450 - 474	1.085	1.091	1.101	1.112	1.120
475 - 499	1.084	1.090	1.099	1.110	1.117
500 - 524	1.084	1.090	1.098	1.108	1.115
525 - 549	1.083	1.089	1.097	1.107	1.113
550 - 574	1.083	1.088	1.096	1.105	1.111
575 - 599	1.082	1.087	1.095	1.104	1.110
600 OR MORE	1.082	1.087	1.094	1.102	1.108

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.073

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.133	1.143	1.157	1.174	1.185
125 - 149	1.130	1.138	1.150	1.163	1.172
150 - 174	1.128	1.135	1.144	1.156	1.164
175 - 199	1.126	1.132	1.141	1.151	1.157
200 - 224	1.125	1.130	1.138	1.146	1.152
225 - 249	1.124	1.129	1.135	1.143	1.149
250 - 274	1.123	1.128	1.134	1.141	1.146
275 - 299	1.123	1.127	1.132	1.139	1.143
300 - 324	1.122	1.126	1.131	1.137	1.141
325 - 349	1.122	1.125	1.130	1.135	1.139
350 - 374	1.121	1.124	1.129	1.134	1.137
375 - 399	1.121	1.124	1.128	1.133	1.136
400 - 424	1.121	1.123	1.127	1.132	1.135
425 - 449	1.120	1.123	1.127	1.131	1.134
450 - 474	1.120	1.123	1.126	1.130	1.133
475 - 499	1.120	1.122	1.125	1.129	1.132
500 - 524	1.120	1.122	1.125	1.129	1.131
525 - 549	1.120	1.122	1.125	1.128	1.130
550 - 574	1.119	1.121	1.124	1.128	1.130
575 - 599	1.119	1.121	1.124	1.127	1.129
600 OR MORE	1.119	1.121	1.124	1.127	1.129

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.116

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ST LOUIS, MO-IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.136	1.126	1.113	1.096	1.085
125 - 149	1.139	1.131	1.120	1.107	1.098
150 - 174	1.141	1.135	1.125	1.114	1.106
175 - 199	1.143	1.137	1.129	1.119	1.112
200 - 224	1.144	1.139	1.132	1.123	1.117
225 - 249	1.145	1.140	1.134	1.126	1.121
250 - 274	1.146	1.142	1.136	1.129	1.124
275 - 299	1.146	1.143	1.137	1.131	1.127
300 - 324	1.147	1.143	1.139	1.133	1.129
325 - 349	1.147	1.144	1.140	1.134	1.130
350 - 374	1.148	1.145	1.141	1.135	1.132
375 - 399	1.148	1.145	1.141	1.137	1.133
400 - 424	1.148	1.146	1.142	1.138	1.135
425 - 449	1.149	1.146	1.143	1.138	1.136
450 - 474	1.149	1.147	1.143	1.139	1.137
475 - 499	1.149	1.147	1.144	1.140	1.137
500 - 524	1.149	1.147	1.144	1.141	1.138
525 - 549	1.149	1.147	1.145	1.141	1.139
550 - 574	1.150	1.148	1.145	1.142	1.139
575 - 599	1.150	1.148	1.145	1.142	1.140
600 OR MORE	1.150	1.148	1.146	1.143	1.141

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.153

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: SAN DIEGO, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.127	1.147	1.177	1.212	1.235
125 - 149	1.120	1.137	1.161	1.189	1.209
150 - 174	1.115	1.130	1.150	1.174	1.191
175 - 199	1.112	1.124	1.142	1.163	1.177
200 - 224	1.109	1.120	1.136	1.154	1.167
225 - 249	1.107	1.117	1.131	1.148	1.159
250 - 274	1.106	1.114	1.127	1.142	1.152
275 - 299	1.104	1.112	1.124	1.138	1.147
300 - 324	1.103	1.111	1.121	1.134	1.142
325 - 349	1.102	1.109	1.119	1.131	1.138
350 - 374	1.101	1.108	1.117	1.128	1.135
375 - 399	1.101	1.107	1.115	1.125	1.132
400 - 424	1.100	1.106	1.114	1.123	1.130
425 - 449	1.099	1.105	1.112	1.121	1.127
450 - 474	1.099	1.104	1.111	1.120	1.125
475 - 499	1.098	1.103	1.110	1.118	1.124
500 - 524	1.098	1.103	1.109	1.117	1.122
525 - 549	1.098	1.102	1.108	1.115	1.120
550 - 574	1.097	1.101	1.107	1.114	1.119
575 - 599	1.097	1.101	1.107	1.113	1.118
600 OR MORE	1.097	1.100	1.106	1.112	1.117

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.090

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: SAN FRANCISCO-OAKLAND, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.111	1.119	1.131	1.145	1.154
125 - 149	1.109	1.115	1.125	1.136	1.144
150 - 174	1.107	1.112	1.120	1.130	1.136
175 - 199	1.106	1.110	1.117	1.126	1.131
200 - 224	1.105	1.109	1.115	1.122	1.127
225 - 249	1.104	1.108	1.113	1.120	1.124
250 - 274	1.103	1.107	1.112	1.117	1.121
275 - 299	1.103	1.106	1.110	1.116	1.119
300 - 324	1.102	1.105	1.109	1.114	1.118
325 - 349	1.102	1.104	1.108	1.113	1.116
350 - 374	1.101	1.104	1.108	1.112	1.115
375 - 399	1.101	1.103	1.107	1.111	1.114
400 - 424	1.101	1.103	1.106	1.110	1.113
425 - 449	1.101	1.103	1.106	1.109	1.112
450 - 474	1.101	1.102	1.105	1.109	1.111
475 - 499	1.100	1.102	1.105	1.108	1.110
500 - 524	1.100	1.102	1.104	1.107	1.110
525 - 549	1.100	1.102	1.104	1.107	1.109
550 - 574	1.100	1.101	1.104	1.107	1.108
575 - 599	1.100	1.101	1.103	1.106	1.108
600 OR MORE	1.100	1.101	1.103	1.106	1.107

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.097

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: SEATTLE-EVERETT, WA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.224	1.233	1.246	1.262	1.273
125 - 149	1.221	1.228	1.239	1.252	1.261
150 - 174	1.218	1.225	1.234	1.245	1.252
175 - 199	1.217	1.222	1.230	1.240	1.246
200 - 224	1.216	1.221	1.228	1.236	1.242
225 - 249	1.215	1.219	1.225	1.233	1.238
250 - 274	1.214	1.218	1.224	1.230	1.236
275 - 299	1.213	1.217	1.222	1.228	1.233
300 - 324	1.213	1.216	1.221	1.227	1.231
325 - 349	1.213	1.216	1.220	1.225	1.229
350 - 374	1.212	1.215	1.219	1.224	1.227
375 - 399	1.212	1.214	1.218	1.223	1.226
400 - 424	1.212	1.214	1.218	1.222	1.225
425 - 449	1.211	1.214	1.217	1.221	1.224
450 - 474	1.211	1.213	1.216	1.220	1.223
475 - 499	1.211	1.213	1.216	1.220	1.222
500 - 524	1.211	1.213	1.216	1.219	1.221
525 - 549	1.210	1.212	1.215	1.218	1.221
550 - 574	1.210	1.212	1.215	1.218	1.220
575 - 599	1.210	1.212	1.214	1.217	1.220
600 OR MORE	1.210	1.212	1.214	1.217	1.219

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.207

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: WASHINGTON, DC-MD-VA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $125	1.098	1.104	1.114	1.125	1.132
125 - 149	1.096	1.101	1.109	1.118	1.124
150 - 174	1.094	1.099	1.105	1.113	1.118
175 - 199	1.093	1.097	1.103	1.109	1.114
200 - 224	1.092	1.096	1.101	1.107	1.111
225 - 249	1.092	1.095	1.099	1.104	1.108
250 - 274	1.091	1.094	1.098	1.103	1.106
275 - 299	1.091	1.093	1.097	1.101	1.104
300 - 324	1.090	1.093	1.096	1.100	1.103
325 - 349	1.090	1.092	1.095	1.099	1.101
350 - 374	1.090	1.092	1.095	1.098	1.100
375 - 399	1.089	1.091	1.094	1.097	1.099
400 - 424	1.089	1.091	1.094	1.097	1.099
425 - 449	1.089	1.091	1.093	1.096	1.098
450 - 474	1.089	1.090	1.093	1.095	1.097
475 - 499	1.089	1.090	1.092	1.095	1.097
500 - 524	1.089	1.090	1.092	1.095	1.096
525 - 549	1.088	1.090	1.092	1.094	1.096
550 - 574	1.088	1.090	1.092	1.094	1.095
575 - 599	1.088	1.089	1.091	1.093	1.095
600 OR MORE	1.088	1.089	1.091	1.093	1.095

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.086

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[FR Doc. 80-35714 Filed 11-14-80; 8:45 am]
BILLING CODE 4210-01-C

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federal register

Monday
November 17, 1980

Part X

Environmental Protection Agency

Hazardous Waste Management System: Suspension of Rules and Proposal of Special Standards for Wastewater Treatment Tanks and Neutralization Tanks

V
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5

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264 and 265

[WH-FRL 1670-3]

Hazardous Waste Management System; General and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rule.

SUMMARY: EPA is today promulgating amendments that suspend the applicability of the requirements of the hazardous waste regulations in 40 CFR Parts 122, 264 and 265 to owners and operators of (1) wastewater treatment tanks that receive, store, and treat wastewaters that are hazardous waste or that generate, store or treat a wastewater treatment sludge which is a hazardous waste where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and (2) neutralization tanks, transport vehicles, vessels, or containers which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under 40 CFR § 261.22 or are listed as hazardous wastes in Subpart D of 40 CFR Part 261 only for this reason. Concurrently, under separate action, EPA is proposing amendments to Parts 122, 260, 264, 265 and 266, to establish special standards and permits requirements for these owners and operators. The Agency intends to continue the suspension created by this action until special standards and permit requirements for these owners and operators are promulgated in final form.

This suspension is being enacted in order to relieve owners and operators of wastewater treatment and elementary neutralization units from having to comply with requirements which the proposed amendments are designed to modify.

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Suspension

On May 19, 1980, EPA promulgated Hazardous Waste Management and Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act. These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain an RCRA permit (see § 122.22) and require existing facilities which have qualified for interim status (see § 122.23), to comply with the interim status standards of Part 265. Under these regulations, owners and operators of wastewater treatment facilities that are subject to regulation under the Clean Water Act are required to comply with these RCRA treatment and storage requirements where they treat an influent wastewater that is a hazardous waste or generate and store or treat a wastewater treatment sludge which is a hazardous waste. In addition, owners and operators of facilities that neutralize waste that is hazardous solely by virtue of its corrosivity are subject to these treatment and storage requirements.

Many persons have questioned the necessity of regulating these wastewater treatment and neutralization facilities under RCRA. In response to these comments, EPA is today proposing, in a separate action, special standards and permit requirements for wastewater treatment and elementary neutralization units. As is more fully detailed in the preamble to this proposal, the proposed amendments will award owners and operators of these wastewater treatment and neutralization units a permit-by-rule if they comply with certain specified special standards, unless the Regional Administrator terminates eligibility for a permit-by-rule. Accordingly, under this proposal, owners and operators of these wastewater treatment and neutralization units will not have to apply for and obtain individual RCRA permits under Part 122 for these units or comply with the interim status standards of Part 265 applicable to these units.

Unfortunately, the amendments being proposed today cannot be finalized and take effect before November 19, 1980, the date on which the interim status standards and permit requirements of the current regulations take effect. Therefore, unless they are granted a temporary exclusion from regulation, owners and operators of the wastewater treatment and elementary neutralization units covered by the proposed amendments will have to comply, beginning on November 19, 1980, with requirements that the proposed amendments are designed to modify. Among other things, they will have to develop and submit Part A, of the RCRA permit applications and comply with the interim status standards if they have achieved interim status. In addition, owners and operators of new facilities will have to develop and submit Part A and B, of the RCRA permit application and obtain a RCRA permit before constructing such facilities. The Agency believes that little practical value, and certain unnecessary disruption, will be achieved by causing owners and operators of these facilities to comply with the current requirements, pending final action on the proposed amendments. Indeed, requiring compliance with the current requirements could, do some extent, frustrate the purpose of awarding these owners and operators a permit-by-rule. Consequently, the Agency is today suspending the current regulations insofar as they apply to the wastewater treatment and elementary neutralization facilities covered by today's proposed amendments. The Agency does not believe this suspension will significantly reduce protection of human health and the environment. The duration of the suspension is expected to be short and most of the wastewater treatment and elementary neutralization units affected by the action currently are believed to be complying with the special standard proposed for these units.

II. Amendments

To achieve the above described suspension of current regulations the Agency is today promulgating the following final amendments:

(1) Section 122.21(d)(2) is being amended to add owners and operators of wastewater treatment and elementary neutralization units to the list of persons not required to obtain a RCRA permit.

(2) Sections 264.1(g) and 265.1(c) are being amended to add owners or operators of these units to the list of owners or operators to which the requirements of Parts 264 and 265 do not apply.

(3) The definitions of §§ 260.10 and 122.3 are being amended by adding definitions for "wastewater treatment unit" and "elementary neutralization unit." These are the same definitions used in the associated amendments being proposed today.

These amendments are being promulgated with an effective date of November 19, 1980. Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments being promulgated in this action, the Agency believes that an effective date six months after promulgation would defeat the purposes of these amendments. Consequently, the Agency is making these amendments effective on November 19, 1980.

Dated: November 10, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. Add the following definitions to § 260.10(a).

§ 260.10 Definitions.

(a) * * *

(15a) "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

(ii) Meets the definition of tank, container, transport vehicle, or vessel in § 260.10 of this Chapter.

* * * * *

(76a) "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(iii) Meets the definition of tank in § 260.10 of this chapter.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

2. Add the following paragraph to § 264.1(g):

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. Add the following paragraph to § 265.1(c):

§ 265.1 Purpose, scope and applicability.

* * * * *

(c) * * *

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

4. Add the following definitions to § 122.3.

§ 122.3 Definitions.

* * * * *

"Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

(b) Meets the definition of tank, container, transport vehicle, or vessel in § 260.10 of this Chapter.

"Waste water treatment unit" means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank in § 260.10 of this chapter.

* * * * *

5. Add the following paragraph to § 122.21(d)(2):

§ 122.21 Purpose and scope of Subpart B.

* * * * *

(d) * * *

(2) * * *

(vi) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 40 CFR 260.10.

(Secs. 1008, 2002(a), 3004, 3005, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925))

[FR Doc. 80-35015 Filed 11-14-80; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264, 265 and 266

[WH-FRL 1670-4]

Hazardous Waste Management System; General and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and Standards for the Management of Specific Wastes and Specific Types of Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendments to rule and request for comments.

SUMMARY: EPA is today proposing, special standards applicable to owners and operators of (1) wastewater treatment tanks that receive, store, or treat wastewaters that are hazardous waste or that generate, store, or treat wastewater treatment sludges that are hazardous wastes where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and (2) neutralization tanks, containers, transport vehicles and vessels which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under 40 CFR 261.22 or are listed as hazardous wastes in Subpart D of 40 CFR Part 261 only for this reason. EPA also is proposing amendments to enable owners and operators of the above described units to have a permit-by-rule if they comply with the proposed requirements, unless the Regional Administrator terminates eligibility for such permit-by-rule and requires an individual permit. Finally, the Agency is proposing amendments to add new definitions for "elementary neutralization unit" and "wastewater treatment unit."

EPA is proposing these amendments because it believes that wastewater treatment and elementary neutralization units can be effectively regulated under a permit-by-rule approach and because it believes that such an approach offers benefits for both EPA and the regulated community.

DATES: EPA will accept public comments on the proposed amendments until January 16, 1981. Any person may request a hearing on the proposed amendments by filing a request with John P. Lehman, whose address appears below, by December 8, 1980. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Comments on the proposed amendments should be sent to the Docket Clerk, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should reference Docket No. 3004.

The public docket for this rulemaking is available at: Room 2711B, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Proposed Amendments

On May 19, 1980, EPA promulgated Hazardous Waste Management and Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act of 1976, as amended (RCRA). These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain a RCRA permit (see § 122.22). They also require existing facilities which have qualified for interim status (see § 122.23) to comply with the interim status standards of Part 265. Owners and operators of wastewater treatment units subject to regulation under the National Pollution Discharge Elimination System (NPDES) or the pretreatment provisions of the Clean Water Act (Sections 402 and 307(b), respectively) are required to comply with these RCRA requirements where they treat an influent wastewater which is a hazardous waste or generate, store or treat a hazardous wastewater treatment sludge. Owners and operators of facilities that neutralize corrosive hazardous wastes are also required to comply with these RCRA requirements.

Many persons have questioned the necessity of regulating these facilities under RCRA. With respect to facilities that treat a hazardous wastewater influent or generate, treat or store a hazardous wastewater treatment sludge, these commenters claim that regulation under the Clean Water Act is sufficient and need not be duplicated or augmented by regulation under RCRA. They also contend that these facilities are typically designed and operated to prevent unregulated releases of hazardous wastes into the environment and therefore do not warrant RCRA regulation. Finally, they point out that application of RCRA regulation to wastewater pretreatment units will significantly delay implementation of EPA's pretreatment program. They note that most pretreatment facilities will be required to begin operation in the next several years and that many of these facilities will treat a hazardous waste influent or generate, treat or store hazardous waste sludges and therefore will require new RCRA permits. These commenters claim that EPA and the States do not have sufficient resources to issue the 25,000 to 50,000 permits required by owners and operators of these facilities in a timely manner and that this will result in substantial delays in the construction of these facilities.

In the case of neutralization units that treat only corrosive hazardous wastes, other commenters have contended that the applicable RCRA regulatory requirements are more extensive and stringent than necessary to deal with the potential hazards posed by these facilities and the wastes they treat.

EPA has carefully considered these comments and has reexamined its regulations in light of these comments. It has concluded that these facilities pose distinct hazards which require regulation under RCRA. At the same time, it believes that the May 19 regulations can be simplified with respect to these facilities without reducing the human health and environmental protection provided by these regulations.

The Agency believes that wastewater treatment facilities that treat hazardous waste influents or generate, treat or store hazardous waste sludges do pose a potential hazard to human health or the environment. Hazardous wastes or constituents thereof may leak or spill from these facilities unless they are properly designed and constructed and are periodically inspected to prevent such occurrences. Persons or livestock may injure themselves if entry into these facilities is ot controlled. These facilities may generate toxic mists, fumes, gases, extreme heat or pressure, or cause a fire, explosion or violent reaction if improperly operated. Additionally, hazardous wastes left in these facilities may cause harm if not removed when the facilities are closed.

The Agency believes that these potential hazards should be regulated under RCRA because they are not and cannot be fully regulated under the Clean Water Act. The regulatory controls imposed on wastewater treatment facilities under the NPDES and pretreatment programs of the Clean Water Act focus on control of effluent discharges into surface waters or Publically Owned Treatment Works (POTW)—not on potential environmental releases of hazardous waste to the land, groundwater, or atmosphere. Although regulation of spills and non-point source releases of wastes or pollutants from these facilities into the environment is available and, to some extent, applied under Section 304(e) and 311 of the Clean Water Act, these controls are essentially limited to prevention of pollutant discharges into surface water and cannot be used to control pollutant discharges into other parts of the environment.

For these reasons, the Agency has concluded that RCRA regulation of wastewater treatment facilities that treat a hazardous waste influent or generate, treat or store a hazardous wastewater treatment sludge is necessary and justified. At the same time, the Agency is persuaded that RCRA regulation of the potential hazards posed by wastewater treatment units can be accomplished through application of a limited set of special requirements applied through a permit-by-rule. These requirements, which are described below, can be adequately defined in a national regulation and sufficiently understood and implemented by the regulated community so as to avoid the necessity of individually-issued RCRA permits. The Agency is convinced that, without sacrificing environmental protection, this permit-by-rule approach will save the regulated community significant costs in applying for individual RCRA permits and will save EPA (and the States, if they adopt this approach) significant resources in issuing individual RCRA permits. The Agency recognizes that it (and the States) will have limited resources to implement and enforce its RCRA regulations. Consequently, it is anxious to avoid unnecessary resource demands so that its resources can be applied to the highest priority implementation and enforcement activities.

Under the above-described approach, eligible wastewater treatment units would be deemed to have a RCRA permit if they comply with the special requirements established in the regulations. To implement this approach, the Agency is today proposing amendments to the regulations that (1) establish special requirements for wastewater treatment units in Subpart B of Part 266, a new part under this Chapter, and (2) amend §§ 122.26, 264.1(g) and 265.1(c) to grant owners and operators of these units a permit-by-rule.

The Agency believes that this approach is appropriate for hazardous wastes that are managed or generated in wastewater treatment units (e.g., clarifiers, aeration tanks, and grit chambers). By definition see § 260.10), these units are stationary devices designed to contain waste and constructed primarily of non-earthen materials such as concrete or steel. Because the permit-by-rule approach is confined to such units, the Agency concludes that the special requirements which it proposes to delineate in Part 266 are sufficient to serve the purposes of RCRA regulation. The Agency does not believe that this permit-by-rule approach should be extended to surface impoundments that also may be part of wastewater treatment facilities that treat or store hazardous wastes. The requirements that need to be applied to surface impoundments depend on site-specific and waste-specific factors which cannot be adequately delineated in a national regulation; such requirements are better determined on a case-by-case basis in the development and issuance of individual permits. For example, in determining whether a surface impoundment needs a liner to prevent releases (leaching) of hazardous wastes into groundwater, the Agency must take into account such site-specific factors as the type and character of the geologic materials underlying the site, the character of the groundwater underlying the site and the compatability of the liner material with the hazardous waste being treated or stored in the impoundment. Because these requirements cannot easily be incorporated into a permit-by-rule, the Agency is not including surface impoundments within the scope of the proposed amendments.

The Agency recognizes that the special requirements it is proposing to apply to wastewater treatment units may not always be sufficient to serve the regulatory purposes of RCRA. For example, the permit-by-rule requirements being proposed today may not provide adequate environmental protection where treatment of the hazardous wastewater tends to result in the escape of hazardous waste constituents into the atmosphere (e.g., the treatment of highly toxic volatile wastes in open tanks). In addition, the permit-by-rule requirements may not provide adequate environmental protection where the hazardous wastewater is highly toxic. To address such situations, the Agency is including in the proposed amendments to § 122.26 a provision which will enable the Agency to terminate eligibility for a permit-by-rule and require an individual RCRA permit where the requirements of Subpart B of Part 266 are not sufficient to protect human health or the environment. This provision also will enable the Agency to terminate eligibility for a permit-by-rule where the owner or operator fails to comply with the special requirements of Part 266 or is conducting other activities which require him to obtain an individual RCRA permit.

With respect to neutralization tanks, containers, transport vehicles and vessels that treat wastes that are hazardous wastes only because they are corrosive, the Agency is taking the same basic approach. It believes that these units pose the same type of hazards to human health or the environment as discussed above and believes that these potential hazards warrant regulation under RCRA. However, for the reasons cited above, it believes that sufficient RCRA regulation, in most cases, can be achieved through a limited set of requirements applied through a permit-by-rule, as long as the neutralization is carried out in tanks, containers, transport vehicles and vessels as defined in § 260.10 and as long as the containers, transport vehicles and vessels are stationary when neutralization occurs. Consequently, the Agency is including so-called "elementary neutralization units" in the coverage of the amendments being proposed today.

II. Proposed New Definitions

As noted above, the Agency is proposing to add the new definitions for "wastewater treatment unit" and "elementary neutralization unit" to § 260.10 and § 122.3. The proposed definition for wastewater treatment units includes facilities that: Accumulate wastewater treatment sludges that are hazardous wastes; or treat (e.g., dewater, thicken, digest) or store hazardous wastewater treatment sludges; and

(2) Are tanks (e.g., clarifiers, grit chambers, digestors) as defined in § 260.10; and

(3) Are part of a wastewater treatment system, the effluent of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act.

This definition is intended to include all industrial and municipal wastewater and wastewater sludge treatment and storage tanks that are subject to regulation under the NPDES or

pretreatment programs of the Clean Water Act. It covers the clarifiers, aeration tanks, grit chambers and other wastewater treatment tanks of publicly owned treatment works (POTWs) in which hazardous wastewater treatment sludges are generated and stored; the sludge digesters, thickeners, dryers and other sludge processing tanks of POTWs in which hazardous wastewater treatment sludge is treated; and any POTW tanks used for the storage of such sludge. It also covers similar devices in industrial wastewater treatment systems which (1) produce a treated wastewater effluent which is discharged into surface waters or into a POTW sewer system and therefore is subject to the NPDES or pretreatment requirements of the Clean Water Act or (2) produce no treated wastewater effluent as a direct result of such requirements. This definition is not intended to include surface impoundments. Nor is it intended to include wastewater treatment units which are not subject to regulation under the Clean Water Act, including systems that are not required to obtain an NPDES permit because they do not discharge a treated effluent. The Agency solicits comments on whether the proposed definition adequately accomplish these intentions and, if not, how it can be modified to better achieve same.

The proposed definition of an elementary neutralization unit includes facilities that:

(1) Treat or store wastes that are hazardous wastes only because they exhibit the characteristic of corrosivity defined in § 261.22 or are listed as hazardous wastes in Subpart D of Part 261 solely for this reason; and

(2) Are tanks, containers, transport vehicles or vessels as defined in § 260.10.

In contrast with the definition for wastewater treatment units, this definition includes transport vehicles, vessels and containers in which corrosive hazardous waste are neutralized in addition to neutralization tanks. Transport vehicles, vessels and containers are being included because comments received by the Agency indicate that corrosive hazardous waste are occasionally neutralized in the vehicle or containers in which they are to be shipped. The Agency recognizes that these devices are efficient ways of managing wastes and believes that the special requirements of Subpart B of Part 266 can adequately guard against the hazards posed by neutralization in such devices. There is one caveat, however. The special requirements of Part 266 are designed for and, in a practical sense, can only meaningfully be applied to stationary devices. Consequently, rather than expand the Part 266 requirements to accommodate neutralization in non-stationary devices, the Agency is limiting the applicability of the Part 266 requirements (and correspondingly, the entitlement to a permit by rule) to neutralization which occurs in stationary transport vehicles and containers. This is accomplished by § 266.10(a), which grants a permit by rule to transport vehicles, vessels or containers used as neutralization devices only to the extent the neutralization occurs in these devices while they remain stationary and before transport of the waste begins.

The proposed definition of elementary neutralization unit is intended to include devices that are either on or off the site at which the corrosive wastes are generated. It is intended to include devices that are commonly considered to be tanks as well as devices such as flumes, gutters, throughs and pipes which are not commonly considered to be tanks, but which nevertheless meet the expansive definition of tank in § 260.10. It includes both units that are principally designed to neutralize corrosive wastes and units which achieve this and other waste treatment objectives such as precipitation of waste constituents. It is not, however, intended to include surface impoundments which neutralize corrosive hazardous wastes or facilities that treat or store wastes that are hazardous wastes for reasons other than corrosivity. The Agency solicits comments on the scope of this definition.

III. Proposed Special Requirements for Eligible Wastewater Treatment Units and Elementary Neutralization Units

As discussed above, the amendments being proposed today include special requirements for eligible wastewater treatment and elementary neutralization units. These are to be included in Subpart B of a new part of this chapter, Part 266, which will be used in the future to house other special regulatory requirements. These proposed special requirements for wastewater treatment and elementary neutralization units are as follows:

(1) The owner or operator of eligible facilities must obtain an EPA identification number by applying to the Administrator using EPA Form 8700–12. This requirement is intended to provide the Agency with a registration of the hazardous waste treatment and storage facilities that are covered by the provisions of these proposed amendments. For owners or operators of existing facilities that notified the Agency during the notification periods that ended on August 18 and October 14, 1980 (notification periods for hazardous wastes identified or listed on May 19 and July 16, 1980, respectively), the Agency has issued or will be issuing EPA identification numbers. Owners or operators of existing facilities that, for one reason or another, did not notify during these notification periods and owners or operators of new facilities must apply for an EPA identification number by completing and submitting EPA Form 8700–12 before they treat, store or generate any hazardous wastes in eligible facilities after November 19, 1980.

(2) The owner or operator of an eligible facility must complete the manifests for hazardous wastes he receives from off-site sources and investigate and report manifest discrepancies and unmanifested shipments. He must also maintain an operating record and submit an annual report with respect to hazardous wastes received from offsite sources. These provisions ensure that the manifest and reporting system remains intact for hazardous wastes transported to off-site treatment and storage facilities.

(3) The owner or operator of an eligible facility must prevent the unknowing entry and minimize the possibility of unauthorized entry of persons or livestock onto the eligible facility. This requirement is intended to prevent or minimize the harm to people or livestock that could result from direct contact with the hazardous wastes handled in these units. It is also intended to reduce the possibility of unauthorized persons tampering with the treatment processes and thereby causing spills, process upsets, or damage to the treatment equipment. Where the eligible facility is located outside a building, the Agency expects that this requirement can be met by providing appropriate fencing and warning signs around the facility. Alternatively, it can be met by fencing off and controlling access to the entire facility at which the unit is located. Where the unit is located in a building, appropriate guard rails and warning signs around the tank will satisfy this requirement. The Agency has purposefully refrained in this provision from mandating any specific security requirements in order to provide flexibility and avoid imposing requirements which might be inappropriate for the many varied settings in which eligible units are found. The proposed provision, therefore, is expressed as a performance standard, compliance with which is left to the reasonable judgment of the owner or operator of an eligible facility.

(4) The owner or operator of an eligible facility must ensure that the unit is constructed of sturdy leakproof materials (e.g., steel, concrete) and is designed and operated so as to contain the hazardous wastes being treated or stored in the facility and to prevent spills or leaks of such hazardous wastes into or on any land or water during the operating life of the facility. Again, the Agency has avoided setting specific requirements as to types of materials, designs and controls for such units and has opted for a performance standard which leaves the means of compliance to the reasonable judgment of the owner or operator. In monitoring and enforcing compliance with this provision, the Agency will expect the owner or operator of an eligible facility to provide such features as may be necessary to comply with the provision, including freeboard on open tanks and waste inflow shut off devices.

(5) The owner or operator of an eligible unit must periodically inspect the unit for malfunctions, deterioration, or any other conditions that are causing or could cause leaks or spills of the hazardous wastes in the unit. He must also develop and maintain a written inspection plan and record those inspections in an inspection log. Finally, he must immediately remedy any equipment malfunctions, equipment and material deterioration or other conditions that are causing or could cause leaks or spills. The intent of this inspection requirement and the previously discussed proposed provision, is obviously to prevent or minimize leaks and spills of hazardous wastes from eligible units. To avoid inflexible requirements, the Agency is again leaving the design of an inspection program to the reasonable judgment of the owner or operator. The Agency expects an inspection plan that is tailored to the type of tank, waste, and situations that can cause leaks or spills.

(6) The owner or operator of an eligible unit must ensure that the treatment or storage of hazardous wastes in the unit is conducted so that it does not cause conditions such as the generation of extreme heat or pressure; fire; explosions; violent reactions; toxic fumes, mists or gases; conditions that damage the structural integrity or equipment of the unit; or conditions that otherwise threaten human health or the environment. The intent of this proposed requirement is to prevent hazards that can result in the management of ignitable, reactive, corrosive and incompatible wastes.

(7) The owner or operator of an eligible facility must remove all hazardous wastes and hazardous waste residuals from the unit at closure. This proposed requirement is meant to ensure that hazardous wastes are not left in units that are no longer being operated and which are, therefore, probably not being safely managed.

(8) The owner or operator of an eligible unit must notify the Agency in writing of any spills or releases of hazardous wastes from the unit within 15 days after such occurrence. The purpose of this requirement is to provide the Agency with knowledge of situations which may cause substantial hazard to human health or the environment so that EPA can take appropriate action. The Agency would like to make this requirement subject to a rule of reason whereby truly *de minimis* spills would not be included. Comments are solicited on how this can be accomplished.

All of the foregoing requirements are requirements similar to those that would apply to eligible units if they were subject to the interim status standards of Part 265 of this Chapter. As such, the underlying support for these requirements is provided in the several background documents that support Part 265. These background documents are identified in the preamble to the Part 264 and 265 regulations promulgated on May 19, 1980 (see 45 FR 33220) and are available for review at both the EPA headquarters library, Room 2404, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460 and the public docket at the address previously given.

The Agency believes that the foregoing requirements are sufficient to protect human health and the environment. Certain requirements that otherwise would apply under the interim status standards of Part 265 or the proposed standards of Part 264 are not included because the Agency has concluded that they are, in most cases, not necessary. The major interim status standards not included in the proposed amendments are those requiring personnel training, development and maintenance of a contingency plan, prepartion of an annual report, maintenance of an operating record, development of a closure plan, provision of a closure fund or other guarantee (proposed) and maintenance of liability insurance (proposed). The Agency solicits comments on the adequacy of the proposed special requirements and on the desirability of adding requirements it has omitted from its proposal.

IV. Effect of the Proposed Amendmemts if Finalized in Their Present Form

If the amendments proposed today were finalized in their present form, owners and operators of eligible units would be deemed to have a RCRA permit, unless their eligibility for a permit-by-rule were terminated by the Agency. Accordingly, these owners and operators would not have to obtain an individual RCRA permit for such facilities or comply with the interim status standards in Part 265 of this chapter.

This relief from the current regulation, however, will not be available until the proposed amendments are finalized—an event which will probably not occur for at least 90 days following today's publication. In the interim, beginning November 19, 1980, owners and operators of eligible units will be technically required to comply with the current regulations, including the requirements that they submit RCRA permit applications and comply with all of the interim status standards. The Agency recognizes that requiring owners and operators of eligible facilities to comply with the current regulations will cause them to incur unnecessary costs and burdens and will to some extent defeat the purpose of granting them a permit by rule. The Agency, therefore, concurrent with this proposal, is suspending the current regulations insofar as they apply to these facilities. The Agency intends to continue this suspension until final action is taken on the amendment proposed today.

V. Effect of the Proposed Amendments On State Hazardous Waste Programs

The provisions of the proposed amendments, even if finalized in their present form, may not apply to eligible facilities in States which receive interim or full authorization Part 123 of this Chapter. Similiarly, today's suspension of the current regulations with respect to eligible facilities may not apply in such States. To obtain interim authorization to conduct its own hazardous waste program in lieu of the Federal program, a State must show that its program is substantially equivalent to the Federal program. To obtain final authorization, it must show that its program is fully equivalent to and consistent with the Federal program and consistent with the programs in other States. In both cases, a State is free to impose more stringent requirements than those imposed by the Federal program. Consequently, unless States with interim or full authorization independently adopt today's suspension and the reduced set of requirements

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proposed today, eligible facilities in those States may have to apply for and obtain individual State issued permits and comply with a more stringent set of requirements.

Furthermore, eligible facilities in States which do not seek or obtain interim or final authorization may have to comply with more stringent requirements if such requirements are imposed by the State. This is because a State is free to implement a hazardous waste program paralleling the Federal program and to impose more stringent requirements than the Federal program. Such requirements are not preempted by the Federal requirements.

VI. Environmental, Economic and Regulatory Impacts

The proposed amendments will reduce the economic, reporting and recordkeeping impacts on owners and operators of eligible units by virtue of eliminating, in most cases, the requirements for applying for an individual RCRA permit and by relaxing the interim status standards that otherwise would apply to owners or operators who have obtained interim status. The proposed amendments will also reduce the resource demands on the Agency by reducing the number of individual RCRA permits that otherwise would have to be issued. The Agency believes that these savings can be achieved without significantly reducing the protection of human health and environment.

VII. Conforming Amendment Respecting Owners and Operators of POTW's

In developing these proposed amendments, the Agency discovered an error in § 265.1(c)(3). That provision provides that the requirements of Part 265 do not apply to owners or operators of POTW's which treat, store or dispose of hazardous waste. This exemption is broader than intended. As written, it exempts from Part 265 requirements all hazardous wastes managed by POTW's. The intent of this provision was to exempt from Part 265 requirements only those hazardous wastes delivered to a POTW by truck or rail or through a pipe carrying only industrial wastes (see discussion in the preamble to Parts 264 and 265 at 45 FR 33171–72 and 33176) and to thereby complement the provisions of § 122.26(c), which award owners and operators of POTW's accepting such hazardous waste a permit-by-rule. It was not intended to exempt from Part 265 requirements hazardous waste sludges generated in the treatment or storage of such incoming hazardous waste or in the treatment or storage of any incoming domestic sewage mixture (which is not considered a solid waste by virtue of § 261.4 and therefore cannot be a hazardous waste).

To correct this error, the Agency is today proposing to amend § 265.1(c)(3) so that it exempts only hazardous waste delivered to a POTW by a transportation vehicle or vessel or through a pipe. Although the Agency believes this amendment is a technical correction which could be promulgated as a final rule, it is choosing instead, to propose this change. This will allow owners and operators of POTW's, who have read the current regulations literally without referring to the associated preamble language, sufficient time to prepare to implement the Part 265 requirments if and to the extent those requirements apply.

As a consequence of this proposed correction, the other amendments being proposed today, and the provisions of the current regulations, owners and operators of existing POTW's who have obtained interim status will be subject to Part 265 requirements only with respect to hazardous waste sludges which they generate, store, or treat in surface impoundments; treat in drying beds; dispose of in landfills; or otherwise manage in treatment, storage or disposal facilities that are not tanks. Hazardous waste sludges accumulated, treated or stored in wastewater treatment units will be subject to the special permit-by-rule requirements being proposed today. Hazardous waste sludges that are beneficially used or legitimately recycled or reclaimed (e.g., through land farming, composting, or burning for energy recovery) are subject to regulations governing storage and transportation (see § 261.6). Hazardous wastes which are mixed with domestic sewage influent are excluded from regulation by § 261.4(a)(1)(iii). Finally, hazardous wastes delivered to a POTW by truck, rail or vessel or through a pipe conveying only industrial wastes are subject to the special requirements of § 122.26(c) in lieu of part 265 requirements.

The Agency has discovered a similar error in § 264.1(e). That provision states that the requirements of Part 264 apply to an owner or operator of a POTW which treats, stores or disposes of hazardous waste *only* to the extent they are included in a RCRA permit by rule granted under Part 122. This provision was intended to exempt from Part 264 requirements only those hazardous wastes delivered to a POTW by truck or rail or through an industrial waste pipe except to the extent that such Part 264 requirements were referenced in § 122.26(c). As written, however, this provision goes beyond its intended purpose by exempting from Part 264 requirements all hazardous wastes that might be generated, treated, stored or disposed of by POTW's. To rectify this error, the Agency is today proposing to delete § 264.1(e) and to add a new paragraph (7) to § 264.1(g) to achieve the limited purposes originally intended. Under this proposed correction, the applicable requirements of Part 264 and Part 122 will apply to the hazardous waste sludges that are generated by POTW's to the extent that these sludges are treated, stored or disposed of in surface impoundments, sludge dry beds, landfills and land treatment facilities. For the same reasons stated above, the Agency is proposing these amendments rather than promulgating them as final technical amendments.

Dated: November 10, 1980.

Douglas M. Costle,

Administrator.

It is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. Add the following definitions to § 260.10(a)

§ 260.10 Definitions.

(a) * * *

(15a) "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this chapter only for this reason; and

(ii) Meets the definition of tank, container, transport vehicle or vessel in § 260.10 of this Chapter.

(76a) "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility which is subject to regulations under either Section 402 or Section 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 260.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(iii) Meets the definition of tank in § 260.10 of this chapter.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

§ 264.1 [Amended]

2. Delete paragraph (e) of § 264.1 and re-number paragraphs (f) and (g) as (e) and (f).

§ 264.1 [Amended]

3. Add the following subparagraphs to § 264.1(g):

* * * * *

(g) * * *

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit who is granted a permit-by-rule under § 122.26(d) except to the extent that requirements of this Part are referred to in § 266.15.

(7) The owner or operator of a POTW with respect to the treatment or storage of hazardous waste which is delivered to the POTW by a transport vehicle or vessel or through a pipe, except to the extent that requirements of this part are included in RCRA permit by rule granted under § 122.26(c).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

§ 265.1 [Amended]

4. Revise § 265.1(c)(3) to read as follows:

(c) * * *

(3) The owner or operator of a POTW with respect to the treatment or storage of hazardous wastes which are delivered to the POTW by a transport vehicle or vessel or through a pipe.

* * * * *

§ 265.1 [Amended]

5. Add the following paragraphs to § 265.1(c):

* * * * *

(c) * * *

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

6. Add the following definitions to § 122.3:

§ 122.3 Definitions.

* * * * *

"Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this chapter only for this reason; and

(b) Meets the definition of tank, container, transport vehicle or vessel in § 260.10 of this chapter.

"Wastewater treatment unit" means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank in § 260.10 of this chapter.

* * * * *

7. Establish the following Part 266.

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Subpart A—General

Sec.

266.1 Purpose, scope, and applicability.
266.2–266.9 [Reserved]

Subpart B—Elementary Neutralization and Wastewater Treatement Units

266.10 Applicability.
266.11 Identification number.
266.12 Security.
266.13 Inspections.
266.14 General operating requirements.
266.15 Manifest system, recordkeeping and reporting.
266.16 Closure.
266.17 Reporting.
266.18 266.19 [Reserved]

Authority: Secs. 1006, 2002(a), 3004 and 305 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

Subpart A—General

§ 266.1 Purpose, scope, and applicability.

(a) The purpose of this part is to establish minimum national standards which define the acceptable management of certain hazardous wastes and the acceptable practices for certain kinds of hazardous waste management facilities.

(b) The standards in this part apply, in lieu of the requirements of Parts 264 and 265 of this chapter, to owners and operators of eligible hazardous waste management facilities.

§§ 266.2–266.9 [Reserved]

Subpart B—Elementary Neutralization Units and Wastewater Treatment Units

§ 266.10 Applicability.

(a) The regulations of this Subpart apply to owners and operators of elementary neutralization units and wastewater treatment units as defined in § 260.10 of this chapter: *Provided,* That in the case of elementary neutralization units which are transport vehicles, vessels or containers used to transport the waste after neutralization, neutralization must occur in these units while they remain stationary and before transport of the neutralized waste begins.

[Comment: The requirements of this part are designed for stationary tanks. The Agency wishes, however, to accommodate tank trucks, movable bins and other devices in which corrosive wastes are occasionally neutralized and subsequently transported to treatment, storage, disposal, reuse or recycle facilities. Accordingly, the regulations of this subpart are made applicable to such transport vehicles, vessels or containers, but only to the extent that neutralization occurs in the transport vehicle or container while it remains stationary and before transportation begins. If the neutralization renders the waste non-hazardous, the subsequent transportation and management of the waste is not subject to regulation under Parts 262 through 264 and Parts 122 through 124 of this chapter. If the neutralization does not render the waste non-hazardous, the subsequent transportation and management of the waste is subject to such regulation.]

(b) The requirements of this part do not apply to:

(1) The owner or operator of an elementary neutralization or wastewater treatment unit located in a State with a RCRA hazardous waste program authorized under Subparts A and B, or Subpart F, of Part 123 of this chapter.

(2) The owner or operator of an elementary neutralization or wastewater treatment unit permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the only hazardous waste the unit treats or stores is subject to the special requirements of § 261.5 of this chapter.

(3) The owner or operator of an elementary neutralization or wastewater treatment unit which treats hazardous

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waste, which treatment meets the criteria of § 261.6(a)(2) of this chapter.

(4) The owner or operator of an elementary neutralizaiton or wastewater treatment unit for which the Regional Administrator has terminated eligibility for a permit-by-rule under 40 CFR 122.26(d)(2).

§ 266.11 EPA identification Number.

(a) The owner or operator must not treat or store a hazardous waste in an elementary neutralization unit or a wastewater treatment unit without having received an EPA identification number.

(b) An owner or operator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700–12.

§ 266.12 Security.

(a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the elementary neutralization or wastewater treatment unit, unless:

(1) Physical contact with the waste contained in the unit will not injure unknowing or unauthorized persons or livestock which may enter the unit, and

(2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock into or onto the unit will not cause a violation of the requirements of this Subpart.

(b) [Reserved]

§ 266.13 Inspections.

(a) The owner or operator must inspect the elementary neutralization or wastewater treatment unit for malfunctions and deterioration, operator errors, and discharges which may be causing-or may lead to—(1) unauthorized release of hazardous waste to the environment or (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as tank walls and pumps) that are important to preventing environmental or human health hazards.

(2) He must keep this schedule at the facility.

(3) The schedule must identify the types of problems (*e.g.*, malfunctions or deterioration) which are to be looked for during the inspection (*e.g.*, inoperative pump, leaking fitting, heavy corrosion).

(4) The frequency of inspection may vary for the items on the schedule. It should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if any deterioration or malfunction or operator error goes undetected between inspections.

(5) The owner or operator must remedy any deterioration or malfunction of equipment or structures detected in an inspection. This must be done on a schedule which ensures that the problem does not lead to an envirionmental or human health hazard. Where a hazard is emminent or has already occurred, remedial action must be taken immediately.

(6) The owner or operator must record inspections in an inspection log. He must keep these records for at least three years from the date of inspection. At the minumum, these records must include the date and time of each inspection, the name of the inspector, a recording of the observations made, and the date and nature of any repairs or other remedial actions taken as a result of inspection observations.

§ 266.14 General operating requirements.

(a) The owner of operator of an elementary neutralization or wastewater treatment unit must ensure that the treatment process conducted in the unit does not:

(1) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(2) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities to threaten human health;

(3) Produce uncontrolled flammable funes or gases in sufficient quantities to pose a risk of fire or explosion;

(4) Damage the structural integrity of the tank or equipment containing the waste; or

(5) Through like means threaten human health or the environment.

(b) Hazardous wastes or treatment reagents must not be placed in an elementary neutralization or wastewater treatment unit if they could cause the unit or any of its equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life.

(c) An elementary neutralization or wastewater treatment unit must be constructed of sturdy, leakproof material and must be designed, constructed and operated so as to prevent hazardous wastes from being spilled or leaked into or on any land or water during the operating life of the unit.

§ 266.15 Manifest system, recordkeeping and reporting.

The owner or operator must comply with the following requirements with respect to hazardous wastes he receives from off-site sources:

(a) Section 264.71, Use of manifest system;

(b) Section 264.72, Manifest discrepancies;

(c) Section 264.73(a) and (b)(1), Operating record;

(d) Section 264.75, Annual report; and,

(e) Section 264.76, Unmanifested waste report.

§ 266.16 Closure.

At closure, the owner or operator of an elementary neutralization or wastewater treatment unit must remove all hazardous waste and hazardous waste residues from the unit.

§ 266.17 Reporting.

Within 15 days after any spill or leakage or hazardous waste from an elementary neutralization or wastewater treatment unit, the owner or operator of the unit must submit a written report to the Regional Administrator which contains the following information:

(a) Name, address, and telephone number of the owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and nature of the incident;

(d) Name and quantity of material(s) involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

§ 266.18–266.19 [Reserved]

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAMS; AND THE >UNDER GROUND CONTROL PROGRAM

§ 122.26 [Amended]

5. Add the following paragraphs to § 122.26:

* * * * *

(d) Elemenary Neutralization or Wastewater Treatment Units.

(1) The owner and operator of an elementary neutralization unit or a wastewater unit, if he complies with the requirements of 40 CFR Part 266, Subpart B, unless he is required to have an individual permit under paragraph (d)(2) of this section.

(2) The Regional Administrator, after providing opportunity for a public hearing, may terminate eleigibility for a permit-by-rule under this section and require an owner and operator of an elementary neutralization unit or a wastewater treatment unit to apply for and obtain an individual RCRA permit under this part, if:

(i) The owner or operator violates any condition of 40 CFR Part 266, Subpart B;

(ii) The owner or operator is conducting other activities which require him to obtain an individual RCRA permit; or

(iii) The Regional Administrator determines that the requirements of 40 CFR Part 266, Subpart B are not sufficient to protect human health or the environment and that additional requirements under 40 CFR Part 264 are required to provide such protection.

[FR Doc. 80–35816 Filed 11–14–80; 8:45 am]

BILLING CODE 6560–29–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Food Safety and Quality Service—

68914 10–17–80 / Prohibition of new and replacement equipment and machinery containing liquid polychlorinated biphenyls

FEDERAL COMMUNICATIONS COMMISSION

69464 10–21–80 / FM broadcast stations in Franklin and Keene, N.H. and Bennington and Brattleboro, Vt. Also Concord, Conway, Hinsdale, Littleton, Meredith, Plymouth, Rochester, and Wolfeboro, N.H., Skowhegan, Maine, and Lyndon, Vt.; changes made in table of assignments

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

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federal register

Tuesday
November 18, 1980

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76147 Solid Waste Disposal EPA makes available for comment factors affecting accumulation of cadmium by food-chain crops grown on land amended with solid waste containing cadmium; comments by 1–2–81

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76095 Mortgage Insurance FHLBB issues final rules concerning revision of real estate lending regulations; effective 11–17–80

76346 Air Pollution Control EPA proposes amendments to test methods for vinyl chloride; comments by 1–19–81 (Part II of this issue)

76356 Prescription Drugs HHS/FDA issues class labeling guideline for professional labeling of single-entity barbiturate drug products; effective 11–18–80 (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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76111 **Savings and Loan Associations** FHLBB amends net worth requirements imposed on institutions, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; and issues final rules concerning investment in consumer loans, and corporate debt securities; effective 11–17–80

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Presidential Documents

Title 3—

The President

Executive Order 12251 of November 15, 1980

Cuban and Haitian Entrants

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), Chapter III of Title I of the Supplemental Appropriations and Rescission Act, 1980 (94 Stat. 865; Public Law 96–304), and Section 301 of Title 3 of the United States Code, and in order to provide for assistance to be made available relating to Cuban and Haitian entrants, it is hereby ordered as follows:

1–101. The Secretary of Health and Human Services is delegated the authorities vested in the President pursuant to Sections 501 (a) and (b) of the Refugee Education Assistance Act.

1–102. The funds appropriated to the President for Special Migration and Refugee Assistance in Chapter III of Title I of the Supplemental Appropriations and Rescission Act, 1980, are hereby made available to the Secretary of Health and Human Services to reimburse State and local governments for cash and medical assistance and social services pursuant to Section 1–101 of this Order.

1–103. All the functions vested in the President by Section 501(c) of the Refugee Education Assistance Act of 1980, are hereby delegated to the Secretary of Health and Human Services.

1–104. In carrying out the functions delegated to him by Section 1–103 of this Order, the Secretary of Health and Human Services shall ensure that among the actions he takes or directs from time to time, he shall promptly take action which provides assistance for those Cuban and Haitian entrants located or to be located at Fort Indiantown Gap, Fort McCoy, Fort Chaffee, Fort Allen, existing processing and reception sites in Florida, and such other sites as he may designate.

1–105. Executive Order No. 12246 of October 10, 1980, is revoked.

1–106. This Order is effective November 15, 1980.

THE WHITE HOUSE,
November 15, 1980.

Jimmy Carter

[FR Doc. 80–36151
Filed 11–17–80; 11:06 am]
Billing code 3195–01–M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

Allowances and Differentials; Remote Worksite Commuting Allowance

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM is increasing the daily mileage allowance schedule and the public transportation offset amount for the Remote Worksite Commuting Allowance program to reflect increases in automobile operating costs and increases in public transit costs.

EFFECTIVE DATE: This schedule will become effective the first day of the first pay period on or after December 28, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Carney, (202) 632–6327.

SUPPLEMENTARY INFORMATION: The daily mileage allowance schedule is used to compute employee allowance entitlement in commuting to those eligible remote duty posts where daily commuting by motor vehicle is practicable. This allowance schedule is based on the costs of operation (but not ownership) of an automobile. OPM has increased the allowance schedule because of increases in costs of gasoline, oil, tires, maintenance and repairs. Based on changes in public transportation costs in selected cities around the country, OPM also increases to $1.08 the public transportation offset amount for those commuting situations in which employees use agency-provided transportation and for which a fee is charged. The current amount is 70 cents for each round trip and may be found in subchapter S3.6(1)(a) of Book 591, FPM Supplement 990–2.

On May 30, 1980 OPM published proposed rules (at 45 FR 36416) for public comment. The comment period ended July 29, 1980. Comments on these changes were received from one Federal agency and three labor organizations. The agency and two of the labor organizations support the changes. The other labor organization believes that the mileage rates are inadequate because they do not include the cost of vehicle ownership (which includes depreciation). Since the program was enacted in law in 1971 the mileage rates have never included the cost of ownership. Only those cost items related to vehicle operation are included in the mileage rate computation. These include the cost of gas, oil, tires, and maintenance and repairs.

Ownership costs have not been considered in computing the mileage rates because in OPM's judgment these costs are not directly affected by or cannot be attributed directly to employment at a remote post of duty, as such. Ownership costs include such items as purchase price, finance charges, licensing fees, taxes, insurance and depreciation. These costs may differ from place to place for a variety of reasons but are not likely to be affected because of duty at a remote post under the allowance program. Vehicle depreciation is an economic factor that can be affected by several variables. These include: Vehicle age; length of ownership; mileage; model and body type; manufacturer; mileage efficiency; standard vs. optional equipment; condition of body; mechanical condition; general level of inflation; price of new replacement vehicle; and supply/demand in used car market. As with other ownership costs, the rate of depreciation may also differ from place to place for a variety of reasons, but is not likely to be affected significantly solely because of duty at a remote post under the allowance program. Accordingly, the mileage rates reflect only operating costs and not ownership costs. OPM has determined that this is a significant regulatory change for the purposes of E.O. 12044.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

PART 591—ALLOWANCES AND DIFFERENTIALS

Accordingly, the Office of Personnel Management amends Appendix A to Subpart C of Part 591 of the Title 5, Code of Federal Regulations, to read as follows:

Appendix A of Subpart C—Daily Transportation Allowance Schedules, Commuting Over Land by Private Motor Vehicle to Remote Duty Posts

	Degree A	Degree B	Degree C
Round trip distance in excess of 50 miles:			
Up to 9 miles	$0.40	$0.42	$0.44
10 to 19	1.40	1.47	1.54
20 to 29	2.40	2.52	2.64
30 to 39	3.40	3.57	3.74
40 to 49	4.40	4.62	4.84
50 to 59	5.40	5.67	5.94
60 to 69	6.40	6.72	7.04
70 to 79	7.40	7.77	8.14
80 to 89	8.40	8.82	9.24
90 to 99	9.40	9.87	10.00
100 to 109	[1] 10.00	[1] 10.00	[1] 10.00
110 to 119	10.00	10.00	10.00
120 to 129	10.00	10.00	10.00
130 to 139	10.00	10.00	10.00
140 to 149	10.00	10.00	10.00
150 to 159	10.00	10.00	10.00
160 to 169	10.00	10.00	10.00
170 and over	10.00	10.00	10.00

[1] Under the statute, $10 a day is the maximum allowance.

(5 U.S.C. 5942; EO 11609)

[FR Doc. 80-35939 Filed 11-17-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Parts 831 and 890

Civil Service Retirement Program and Federal Employees Health Benefits Program; Definition of a Child Eligible for Survivor Annuity Benefits and Health Benefits Coverage.

AGENCY: Office of Personnel Management.

ACTION: Interim rulemaking, with comments requested.

SUMMARY: OPM is amending its regulations for the Civil Service Retirement (CSR) and Federal Employees Health Benefits (FEHB) Programs to include examples of proofs which may be accepted as evidence of a child's dependency and statements of the conditions under which it may be necessary to deny survivor benefits from the CSR System and coverage as a

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family member under the FEHB Program to a child, even though the child was, or is, a dependent. This action is being taken to bring the regulations into conformance with recent legislation.

DATES:

Effective date: January 2, 1980 through the date that final regulations are issued.

Comment date: Comments must be received on or before January 19, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, P.O. Box 57, Compensation Group, Office of Personnel Management, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mary Angel, (202)–632–4684).

SUPPLEMENTARY INFORMATION: From October 1, 1956 through January 1, 1980, the definition of a child eligible for survivor annuity benefits under the Civil Service Retirement (CSR) law included a natural child who ". . . lived with the Member or employee in a regular parent-child relationship." Prior to December 1, 1977, the CSR System interpreted the "lived with" requirement to mean that a natural child must have lived with the employee or Member at the time of his or her death to be eligible for survivor annuity benefits. A series of court decisions since that date prompted OPM to liberalize the definition of "child." These decisions are summarized as follows:

Proctor v. *U.S.* (446 F. Supp. 418) declared the "lived with" requirement unconstitutional and prohibited OPM from applying it. To comply with the court order, effective December 1, 1977, OPM no longer required that a natural child have lived with the deceased employee or Member. *Jenkins* v. *C.S.C.* (460 F. Supp. 611) retroactively extended the effect of *Proctor* v. *U.S.* to cover children whose employee/annuitant parents died on February 24, 1972 or after. *Jenkins* is still pending on appeal and pending further proceedings in that case, December 1, 1977 will remain the earliest date for payment of benefits. The Supreme Court has ruled in *U.S.* v. *Clark*, No. 781513, February 26, 1980, that the pre-January 2, 1980 "lived with" requirement is met if the natural child lived with the decedent at any time; the child need not have been living with the decedent at the time of his or her death to be eligible for survior annuity benefits. *U.S.* v. *Clark* involved the surviving natural children of an employee who died in 1974.

Also, from the inception of the FEHB Program in July 1960 through January 1, 1980, the definition of a child eligible for coverage as a family member under the FEHB law included a natural child who lived ". . . with the employee or annuitant in a regular parent-child relationship."

Effective January 2, 1980, Public Law 96–179 amended the CSR Law and the FEHB law to remove the "lived with" requirement for natural children and to substitute a dependency requirement for all children. These regulations are written to provide standards for determining whether a child is a dependent.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to amend Parts 831 and 890 of Title 5, Code of Federal Regulations, as shown below.

1. The table of sections for Subpart J, Part 831, is revised to read as follows:

PART 831—RETIREMENT

* * * * *

Subpart J—Death Benefits

Sec.

831.1001 Time for filing applications.
831.1002 Effective dates of survivor annuities.
831.1003 Designation of beneficiary.
831.1004 Designation of agent.
831.1005 Proof of dependency.
831.1006 Exceptions.

* * * * *

Authority: 5 U.S.C. 8341.

2. Sections 831.1005 and 831.1006 are added to read as follows:

§ 831.1005 Proof of dependency.

(a) A child is considered to have been dependent on the deceased employee or Member if he or she is:

(1) A legitimate child;

(2) An adopted child;

(3) A child for whom petition of adoption was filed by the employee or Member;

(4) A stepchild or recognized natural child who lived with the employee or Member in a regular parent-child relationship;

(5) A recognized natural child for whom a judicial determination of support has been obtained; or

(6) A recognized natural child to whose support the employee or Member made regular and substantial contributions.

(b) The following are examples of proof of regular and substantial support. More than one of the following proofs may be required to show support.

(1) Evidence of eligibility as a dependent child for benefits under other State or Federal programs;

(2) Proof of inclusion of the child as a dependent on the decedents' income tax returns for the years immediately before the employee's or Member's death;

(3) Cancelled checks, money orders, or receipts for periodic payments received from the employee or Member for or on behalf of the child;

(4) Evidence of goods or services which show regular and substantial contributions;

(5) Proof of coverage of the child as a family member under the employee's or Member's health benefits enrollment;

(6) Any other proof which OPM shall find to be sufficient proof of support or of paternity or maternity.

§ 831.1006 Exceptions

Survivor benefits may be denied to a child:

(a) If evidence shows that the deceased employee or Member did not recognize the child as his or her own despite a willingness to support the child, or

(b) If evidence calls the child's paternity or maternity into doubt, despite the deceased employee's or Member's recognition and support of the child.

(Pub. L. 96–179)

3. Section 890.302 (b), (c), (d), and (e) are redesignated as paragraphs (d), (e), (f), and (g) respectively and new paragraphs (b) and (c) are added to read as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

§ 890.302 Coverage of family members.

* * * * *

(b) *Proof of dependency.* (1) A child is considered to be dependent on an enrolled employee or annuitant if he or she is:

(i) A legitimate child;

(ii) An adopted child;

(iii) A stepchild, foster child, or recognized natural child who lives with the enrolled employee or annuitant in a regular parent-child relationship;

(iv) A recognized natural child for whom a judicial determination of support has been obtained; or

(v) A recognized natural child to whose support the enrolled employee or annuitant made regular and substantial contribution.

(2) The following are examples of proof of regular and substantial support. More than one of the following proofs may be required to show support.

(i) Evidence of eligibility as a dependent child for benefits under State or Federal programs;

(ii) Proof of inclusion of the child as a dependent on the enrolled employee's or annuitant's income tax returns;

(iii) Cancelled checks, money orders, or receipts for periodic payments from the enrolled employee or annuitant for or on behalf of the child;

(iv) Evidence of goods or services which show regular and substantial contributions;

(v) Any other evidence which OPM shall find to be sufficient proof of support or of paternity or maternity.

(c) *Exceptions.* Coverage as a family member may be denied:

(1) if evidence shows that the employee or annuitant did not recognize the child as his or her own despite a willingness to support the child, or

(2) if evidence calls the child's paternity or maternity into doubt, despite the employee's or annuitant's recognition and support of the child.

(Pub. L. 96–179)

[FR Doc. 80–35943 Filed 11–17–80; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

[FCDA No. 10.428, Economic Emergency Loans]

Economic Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on guaranteed Economic Emergency (EE) Loans. This action is required to fully implement the provisions of recently enacted legislation, clarify the policies set forth in the regulations, and to incorporate certain changes which were published as a proposed rule in the the **Federal Register** (45 FR 12827) on February 27, 1980. This action is intended to strengthen the test for credit elsewhere requirements, clarify the use and terms of EE loans, provide for a change in the form of an applicant, expand and clarify the definitions of "aquaculture" and "bona fide farmer", and set forth the procedure for extending "line of credit agreements".

DATES: Effective date: Effective on November 18, 1980.

Comment date: Comments are due on or before January 19, 1981.

The reporting and recordkeeping requirements contained in this rule will be submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in this rule, FmHA will revise the rule as necessary to comply with the decision of OMB. FmHA will publish a notice in a future issue of the Federal Register concerning OMB's decision on these requirements.

ADDRESS: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, FmHA, USDA, Room 6346–S, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. William Krause, FmHA, USDA, Room 5344, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250. Telephone: (202) 447–6257.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant."

The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement A Final Impact Statement will be developed after public comments have been received.

Mr. Alex P. Mercure, Assistant Secretary for Rural Development, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period prior to this final action in order to implement the provisions of Public Law 96–220 to continue the guaranteed EE loan program which was recently suspended pending the publication of this action. It is imperative that guaranteed EE loans be made readily available to assist farmers, ranchers, and aquaculture operators who are suffering economic stresses due to extreme adverse economic conditions and cannot obtain agricultural credit without an FmHA guarantee.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects is not applicable to this action.

Various sections of Subpart F of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations are amended to include the provisions of Public Law 96–220, enacted on March 30, 1980, which amended Title II of Pub. L. 95–334 (Emergency Agricultural Credit Act of 1978). In addition, this Subpart is amended to incorporate certain changes which were published in the **Federal Register** (45 FR 12827) for public comment on February 27, 1980. No comments were received on that proposal.

In addition to these changes, the change to the introductory paragraph of § 1980.512 (b) and the change to § 1980.512 (e) are needed because when they were published as a final rule in the **Federal Register** (44 FR 75104) on December 19, 1979, they contained inadvertent wordings which, if left unchanged, would contravene the intent of the statutory terms "bona fide farmer" and "character", respectively.

The major changes to Subpart F of Part 1980 are as follows:

1. § 1980.504 (d) is amended to expand and clarify the definition of "Aquaculture".

2. § 1980.511 (b) is amended to provide the criteria for determining if individual and entity type applicants meet the "test for credit elsewhere" requirements prescribed in this Subpart.

3. § 1980.511 (c) is amended to add subparagraph (11) to show that Form FmHA 449–10, "Applicant's Environmental Impact Evaluation," should be included when applicable.

4. § 1980.511 (d)(1) is amended to require County Supervisors to determine if environmental requirements are complied with in complete EE loan applications; and to require, under certain conditions, that applications with alternate fuels proposals be forwarded to the State Office's Engineer for review and technical approval.

5. § 1980.512 (b) and (b)(1) are amended to require an individual applicant or the members of the applicant's family to devote more than 50 percent of their time to agricultural production rather than 50 percent of the time needed to operate the farm. It is also amended to stipulate the period of time a bona fide farmer must be actually engaged in farming to qualify for an EE loan.

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6. § 1980.512 (c) is added to provide for a change in the form of individual and entity type EE loan applicants.

7. § 1980.512 (e) is amended to emphasize repayment ability and reliability when determining an applicant's character.

8. § 1980.512 (f) is amended to require that an EE loan cannot be guaranteed unless the applicant's normal lender(s) and another lender(s) certify that it is unwilling to provide credit to the applicant without an FmHA guarantee.

9. § 1980.513 *Administrative* A, paragraph 3 is added to require the approval official to complete any applicable reviews as prescribed in § 1980.523 of this Subpart.

10. § 1980.515 (c) is amended to clarify that the total amount of EE loans, when added to the principal balance(s) of existing FmHA, Farm Ownership (FO), Operating (OL), Recreation (RL), or Soil and Water (SW) type loans, cannot exceed the $650,000 statutory limitation set for the combination of such loans.

11. § 1980.516 (a)(8) is amended to clarify that EE loan funds may be used to pay other taxes due or about to become due in addition to delinquent real estate and personal property taxes.

12. § 1980.516 (a)(9) is amended to explicitly state that EE loan funds may be used under certain conditions to pay a reasonable fee(s) for recordkeeping and related farm management services.

13. § 1980.516 (b)(1) is amended to clarify that EE loan funds may be used to finance alcohol fuel and methane gas facilities when necessary to have a viable farming operation.

14. § 1980.517(a)(7) is added to prohibit the use of EE loan funds to refinance farm and home real estate debts secured by real estate purchased by the applicant less than one year before the date of the EE loan application.

15. § 1980.517 (d)(2) is amended to explicitly state that any unguaranteed loan(s) made by the lender to the applicant will not be considered in complying with the $650,000 statutory maximum set for the combined total of FmHA's insured and graranteed EE, FO, OL, RL and SW loans.

16. § 1980.518 (c)(3) is amended to normally restrict the terms of EE loans guaranteed for real estate purposes to 30 years and to show the conditions that must be met to justify a 40-year repayment period.

17. § 1980.518 (f) is added to set forth the procedure for extending a "Line of Credit Agreement(s)".

18. Appendix E—Form FmHA 1980–32 is amended to conform with the "bona fide farmer" requirement of § 1980.512 (b) for individual applicants and to add a new item in which the lender certifies as to the legality of the interest rate being charged the applicant.

(FCDA No. 10.428, Economic Regulatory Loans)

Accordingly, Subpart F of Part 1980 is amended as follows:

PART 1980—GENERAL

Subpart F—Economic Emergency Loans

1. § 1980.504 (d) is revised to read as follows:

§ 1980.504 Definitions.

* * * * *

(d) *Aquaculture.* The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, crustacean (or other invertebrate), amphibian, reptile, or aquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

* * * * *

2. § 1980.511 (b) is revised, (c)(11) is added, (d)(1) and (2) are renumbered to (d)(2) and (3) respectively without change, and a new (d)(1) is added to read as follows:

§ 1980.511 Receiving and processing applications.

* * * * *

(b) *Evaluation of preliminary applications.* If it appears, after a review of the preliminary application, that the proposal will not meet FmHA's minimum credit standards for a sound loan, or the County Committee determines the applicant to be ineligible, or funds or guarantee authority are not available, the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the County Committee determines that the applicant is otherwise eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request that a formal application be prepared *but only after* the following paragraphs are complied with:

(1) If the EE loan(s) requested is less than $300,000, the following actions will be taken:

(i) When it appears from a review of the application that it would be unduly burdensome to require the applicant to obtain written declinations of credit without an FmHA guarantee from other lenders, the County Supervisor may make an exception to this requirement, provided the County Supervisor knows the other lender's programs well enough to determine that no possibility exists for the applicant to obtain the credit needed from these lenders. This conclusion and the basis for it will be recorded in the running record and further checks will not be necessary. However, the applicant's normal lender(s), if different than the lender requesting the guarantee, *must be contacted in all cases* and the findings will be recorded in the running record.

(ii) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area, such lenders will be contacted. The lenders contacted will be requested to submit a letter to the County Office stating whether they will extend the credit needed by the applicant. If one or more of the lending sources contacted will provide the applicant with sufficient credit to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community, the lender applying for the guarantee will be advised in writing by FmHA that the applicant is not eligible for a guaranteed EE loan because of the availability of needed credit without an FmHA guarantee. A copy of this letter will be sent to the applicant. If the County Supervisor believes it necessary, the action required in paragraph (b)(2) of this section can be taken.

(iii) When the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, this will be included in the loan docket. Such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere without an FmHA guarantee.

(2) If the EE loan(s) request is $300,000 or more, the following actions will be taken:

(i) The applicant will be required to apply at not less than three conventional lending sources, including the Production Credit Association or Federal Land Bank, as appropriate, in the local community. However, when an applicant has a net worth of $1 million or more but cannot obtain credit in the local community without an FmHA guarantee, the applicant will be required to contact at least two other lending sources out of the local area, including the applicant's normal lender(s) even if *not* located in the local community.

(ii) All lending sources contacted will be requested to submit a letter to the County Office stating whether they will extend the credit needed by the applicant without an FmHA guarantee. If one or more of the lending sources contacted will provide the applicant with sufficient credit to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community, the lender applying for the guarantee will be advised in writing by FmHA that the applicant is not eligible for a guaranteed EE loan because of the availability of needed credit without an FmHA guarantee. A copy of this letter will be sent to the applicant. Only if the applicant is not able to obtain a loan—without an FmHA guarantee—from the lending sources contacted, will the applicant be considered for a guaranteed EE loan.

(c) Completed application: * * *

* * * * *

(11) When required by Subpart G of Part 1901 of this Chapter, Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(d) *FmHA evaluation of application.*

* * *

(1) The County Supervisor will review the application to determine if the environmental requirements of Subpart G of Part 1901 of this Chapter are applicable.

(i) If the application includes a proposal for the production of alternate fuels (alcohol, methane or bio-gas, solar, hydroelectric, etc.) involving a design or plan that has *not* been approved by FmHA, the complete application will be forwarded to the State Office's Engineer for review and technical approval.

(ii) Upon approval or disapproval of the proposal by the State Office's Engineer, the application will be returned to the County Office with appropriate information concerning the action taken.

* * * * *

3. § 1980.512 (c) through (g) are renumbered to (d), (e), (f), (g), and (h) respectively. The introductory paragraph to §1980.512 (b), (b)(1), (e), and (f) are revised and a new subparagraph (c) is added to read as follows:

§ 1980.512 Eligibility.

* * * * *

(b) *Bona fide farmer.* Be a *bona fide* farmer (owner-operator or tenant operator), doing business in the United States either as an individual, cooperative, corporation, or partnership, that is recognized in the community as one primarily and directly engaged in agricultural production. *In the case of an individual loan applicant,* the term "primarily and directly engaged in agricultural production" means that the applicant(s) derives more than 50 percent of the gross income from the applicant's own agricultural production *or* either the applicant or family members of the applicant devote more than 50 percent of their time to such agricultural production. *In the case of a cooperative, corporation, or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means that the cooperative, corporation, or partnership derives more than 50 percent of its gross income from agricultural production *and* the member(s), shareholder(s), or partner(s) owning or controlling a majority interest in such cooperative, corporation, or partnership either derive more than 50 percent of their gross income from their own or the cooperative's, corporation's, or partnership's agricultural production, *or* devote more than 50 percent of their time to such agricultural production.

(1) A bona fide farmer must be actually engaged in farming operations to be financed by an EE loan, and must have been engaged in farming during the 12-month period or one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application. If the applicant is an individual, the applicant must manage such farming operation. If the applicant is a cooperative, corporation, or partnership, it must be managed by one or more of the members, stockholders, or partners. One who does not devote full time to the farming enterprise may be considered the manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming enterprise, give directions as to how it should be run, and see that the enterprise is being carried on properly. Any enterprise that involves an outside full-time manager or management service does not qualify regardless of the number of visits made. In addition, as between two applications on file at the same time, FmHA will give preference to an applicant who owns and operates not larger than a family farm as defined in § 1980.504(h) of this Subpart. However, for purposes of an EE loan, this does not exclude an applicant who does not own or operate a family farm.

* * * * *

(c) *Change in the form of an applicant.* A change in the form of an applicant from an individual, partnership, cooperative, or corporation to another form of legal entity will not disqualify the new entity if it is conducting the same operation as was conducted during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application, and is primarily owned by substantially the same people that owned the operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the date of the application.

(1) When one or more *individuals* who were engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application later forms a partnership, cooperative, or corporation, the operation's application may still receive consideration provided such individual(s) owns at least 50 percent of the new partnership's assets or cooperative's or corporation's voting stock and continues to manage or control the farming operation.

(2) When a *partnership* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application later dissolves and the operation is continued by an individual or a newly formed partnership, cooperative, or corporation, an application from the individual or the new entity will receive consideration provided one or more of the partners who managed the farming operation for the prior partnership will now manage the operation for the applicant, and provided:

(i) The assets of the prior partnerhip are now owned by an individual applicant who, as a partner in the prior partnership, had owned at least 50 percent of the partnership's assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new cooperative or corporation applicant, and the partners of the prior partnership who owned at least 50 percent of those assets now own at least 50 percent of the voting

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stock of the new cooperative or corporation applicant.

(3) When a *cooperative* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application dissolves but the farming operation is continued by an individual or a newly formed cooperative, corporation, or partnership, the application from the individual or new entity will receive consideration provided one or more of the members who managed the farming operation for the prior cooperative must now manage the operation for the new applicant, and provided:

(i) The assets of the dissolved cooperative are now owned by an individual who had owned at least 50 percent of the voting stock of the former cooperative, or

(ii) The assets of the former cooperative are now owned by a new partnership applicant and the members who had owned at least 50 percent of that cooperative are now partners owning at least 50 percent of the assets of the new partnership applicant, or

(iii) The assets of the former cooperative are now owned by a new cooperative or corporation applicant and the members or stockholders who had owned at least 50 percent of the voting stock of the former cooperative are now members or stockholders owning at least 50 percent of the voting stock of the new cooperative or corporation applicant.

(4) When a *corporation* that was engaged in a farming operation during the 12-month period, or during one full production and marketing cycle, whichever is the lesser, immediately preceding the application dissolves but the farming operation is continued by an individual or newly formed cooperative, corporation, or partnership, the application from the individual or new entity will receive consideration provided one or more of the stockholders who managed the farming operation for the prior corporation must now manage the farming operation for the new applicant, and provided:

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation, or

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant, or

(iii) The assets of the former corporation are now owned by a new cooperative or corporation applicant and the members or stockholders who had owned at least 50 percent of the voting stock of the former corporation are now members or stockholders owning at least 50 percent of the voting stock of the new cooperative or corporation applicant.

* * * * *

(e) *Character, industry, training, or experience and ability.* Possess the character (emphasizing repayment ability and reliability), industry, training and/or experience and ability necessary to carry out the proposed operations and honestly endeavor to carry out the undertakings and obligations in connection with the loan.

(f) *Credit elsewhere.* Be unable at the time the loan application is filed to obtain sufficient credit from either the applicant's normal lender(s) or another lender(s) without a guarantee to finance actual needs at reasonable rates and terms due to economic stresses, such as tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. Furthermore, no loan shall be guaranteed unless the lender applying for the guarantee certifies that it is unwilling to provide the needed credit to the applicant without the guarantee.

* * * * *

4. § 1980.513(b) is revised; *Administrative* A 3 and 4 are renumbered to A 4 and 5 respectively without change, and Administrative A 3 is added to read as follows:

§ 1980.513 County Committee review.

* * * * *

(b) *Unfavorable action.* If the County Committee finds that the applicant does not meet all of the requirements set forth in § 1980.512 of this Subpart, the members will complete Form FmHA 440–2 and the County Supervisor will inform the lender of the reasons for the Committee's unfavorable action by following the same procedure outlined in § 1980.511(d)(2) of this Subpart in using Form FmHA 449–13.

Administrative:

A. * * *

* * * * * *

3. The approval official will be responsible for completing any remaining applicable reviews as prescribed in § 1980.523 of this Subpart.

* * * * *

5. § 1980.515(c) is revised as follows:

§ 1980.515 Type of guarantee.

* * * * *

(c) *Multiple guarantees.* More than one Loan Note Guarantee or Contract of Guarantee may be executed with the same or different lenders to a borrower so long as each loan is secured with separate collateral that is clearly identified. The total loans must not exceed $400,000 at any time. The limitations found in § 1980.517(d) of this Subpart must also be complied with.

* * * * *

6. § 1980.516 (a)(8), (a)(9) and (b)(1) are revised to read as follows:

§ 1980.516 Loan purposes.

(a) *Operating purposes.*

* * * * *

(8) Payment of delinquent and personal property taxes and other taxes such as income and social security taxes due or about to become due, and water or drainage charges or assessments.

(9) Payment of reasonable expenses incidental to obtaining, planning, making, and closing the loan, such as loan fees authorized in § 1980.22 of Subpart A of this Part and fees for legal, architectural, and technical services which are requried to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay a reasonable fee(s) for record keeping and related farm management service(s), if necessary, to meet the objectives of the loan plus the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building and/or improvements. However, loan funds are *not* to be used to pay fees charged applicants by agriculture management consultants and other professionals for preparation of EE loan dockets including farm and home plans and other FmHA forms used in processing such loans.

* * * * *

(b) *Real estate purposes.* (1) Changing or reorganizing the farming operation so it will be an economically viable operating unit. Such a purpose includes the construction, improvement, alteration, repair, relocation, purchase or moving of essential service buildings, facilities, and structures on the applicant's real estate necessary for reorganization of the operation, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage system, and other equipment or facilities necessary to the operation (including alcohol fuel and methane gas facilities, and equipment which utilizes wind or solar energy).

* * * * *

7. § 1980.517(d)(4) is renumbered to (d)(3). § 1980.517(a)(6) is revised, (a)(7) is added and (d)(2) is revised to read as follows:

§ 1980.517 Loan limitations and special provisions.

(a) *Limitations on use of loan funds.*

* * * * *

(6) An applicant conducting farming operations as an individual or as a cooperative, corporation, or partnership may be considered for more than one EE guaranteed loan when more than one agricultural lender is involved, provided (a) identifiable separate security is given to each lender and (b) the conbined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed *$400,000.* The limitations found in paragraph (d) of this section must also be complied with.

(7) EE loan funds *will not* be used to refinance farm and home real estate debts unless the real estate securing such debts was purchased by the applicant at least one year before the date of the EE loan application.

* * * * *

(d) *Relationship with other FmHA insured or guaranteed loans.*

* * * * *

(2) Applicants applying for FmHA assistance or borrowers already indebted to FmHA and/or FmHA guaranteed lender(s) for Farm Ownership (FO), Operating (OL), Recreation (RL) or Soil and Water (SW) loan(s) may be considered for EE loan(s) provided the total outstanding principal indebtedness owed to FmHA and/or the lender(s) on such loans does not exceed $650,000. (NOTE: Unguaranteed loan(s) made to the applicant by the lender(s) *will not* be included in making this determination). Applicants applying for assistance who are eligible for FO, OL, RL or SW loans, will have their credit needs considered as follows:

* * * * *

8. § 1980.518(f) is numbered to (g). § 1980.518 (c)(1), and (3) and (g)(5) are revised, and a new (f) is added to read as follows:

§ 1980.518 Loan rates and terms.

* * * * *

(c) *Loan terms for Loan Note Guarantee and Contract of Guarantee.*

(1) Loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by the plan of operation. Form FmHA 431–2, "Farm and Home Plan," may be used in establishing a plan of operation or the lender may submit a plan of operation without using FmHA forms. However, there must be at least an annual installment unless a *deferment* of principal and/or interest is authorized in accordance with subsection (g) of this section.

* * * * *

(3) Loans for real estate and items financed under § 1980.516(b) of this Subpart (*real estate purposes*) will normally be scheduled for repayment in *not more than 30 years.* Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 40 years. The longer repayment period will only be used when the applicant would be unable to repay the loan in a shorter period. The reasons the longer period is given must be documented in the county office case file.

* * * * *

(f) *Extenstion of "Line of Credit Agreement".* EE loans Contracts of Guarantee do not reflect an expiration date. "Line of Credit Agreements" which have already expired cannot be extended under this subsection. However, lenders are authorized to continue making advances under *existing* Line of Credit Agreements *until September 30, 1981,* provided such Line of Credit Agreements do not expire prior to the date any new advances are made *and* subject to the following:

(1) For existing Line of Credit Agreements containing either no expiration date or an expiration date beyond September 30, 1981:

(i) The advances must be made pursuant to the terms of the *existing* Line of Credit Agreement(s) for which the Contract(s) of Guarantee was issued; and

(ii) No advances made after September 30, 1981, will be covered by the Contract(s) of Guarantee; and

(iii) No advances in excess of the limits set forth in the Contract(s) of Guarantee or Line of Credit Agreement(s) shall be covered by the Contract(s) of Guarantee.

(2) For existing Line of Credit Agreements which have not yet expired but which would expire prior to September 30, 1981, and which the lender wishes to extend:

(i) The advances must be made pursuant to the terms of the *extended* "Line of Credit Agreement(s)," as approved by FmHA for which the Contract(s) of Guarantee was issued; and

(ii) No advances made after September 30, 1981, will be covered by the Contract(s) of Guarantee; and

(iii) No advances in excess of the limits set forth in the Contract(s) of Guarantee and *extended* Line of Credit Agreement(s) shall be covered by the Contract(s) of Guarantee; and

(iv) The borrower must meet the eligibility and security requirements for an initial EE loan; and

(v) The Line of Credit Agreement(s) is extended to cover the period when new advances are to be made and adequate repayment terms are specified; and

(vi) FmHA approves the extension in writing.

* * * * *

(g) *Consolidation, rescheduling, reamortization and deferral.*

* * * * *

(5) For the actions described in paragraphs (g) (1), (2), and (3) of this section, the following will also apply:

* * * * *

9. § 1980.520 (a)(4), (b)(1), and ADMINISTRATIVE 1 are revised to read as follows:

§ 1980.520 Collateral requirements.

(a) *Collateral.*

* * * * *

(4) When FmHA and a guaranteed lender are involved in separate EE loans to the same borrower, separate collateral must be clearly identified for both the FmHA and the lender's loans.

(b) *Personal and corporate guarantee* (also considered collateral).

(1) Personal guarantees from principal members of cooperatives, principal stockholders in a corporation, or principal partners of partnerships usually will be required. Guarantees from principals of parent, subsidiary, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide sufficient security.

* * * * *

Administrative: * * *

1. Review and determine whether the lender has required the necessary security to be taken. If necessary, the County Supervisor will seek the advice and assistance of the District Director. When the security is inadequate or questionable, the County Supervisor will make an appraisal of the required security.

* * * * *

10. § 1980.549 (b)(1) is revised to read as follows:

§ 1980.549 Issuance of guarantee instruments.

* * * * *

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(b) *Contract of Guarantee cases.* (1) If FmHA find that all requirements have been met, FmHA will execute Form FmHA 1980–38. The original will be retained by FmHA and a signed duplicate original will be retained by the lender. Form FmHA 1980–38 will be executed for all lines of credit guaranteed by FmHA . The Lender's Agreement will be executed not later than the time the Contract of Guarantee is signed.

* * * * *

Appendices [Amended]

11. Paragraph IX C 10 of Appendix C is revised to read as follows:

Appendix C—Lender's Agreement (Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee)

* * * * *

IX. *Servicing.*

* * * * *

10. Providing FmHA a statement certified by an officer of the Lender of the unpaid principal balance of the guaranteed loan annually as of December 31.

* * * * *

12. Paragraph 3 of Appendix E is revised and paragraph 9 is added to read as follows:

Appendix E—Lender's Certification (Guaranteed Economic Emergency Loan)

* * * * *

3. Applicant is a *bona fide* farmer or rancher (owner-operator or tenant) doing business in the United States either as an individual, cooperative, corporation, or partnership which is recognized in the community as one which is primarily and directly engaged in agricultural production. *In the case of an individual loan applicant,* the term "primarily and directly engaged in agricultural production" means that the applicant derives more than 50 percent of the gross income from the applicant's own agricultural production *or* either the applicant or family members of the applicant devote more than 50 percent of their time to such agricultural production. *In the case of a cooperative, corporation, or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means that the cooperative, corporation, or partnership derives more than 50 percent of its gross income from agricultural production, *and* the member(s), shareholder(s), or partner(s) owning or controlling a majority interest in such cooperative, corporation, or partnership either derive more than 50 percent of their gross income from their own or the cooperative's, corporation's, or partnership's agricultural production, *or* devote more than 50 percent of their time to such agricultural production.

* * * * *

9. The interest rate to be paid by the borrower on the requested loan or line of credit is a fixed or variable rate of interest agreed upon between the lender and the borrower, which rate is not in excess of the lender's best rate for its best farm customers.

* * * * *

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; Title II of 95–334, as amended by Pub. L. 96–220; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: October 27, 1980.

Thomas L. Burgum,

Deputy Assistant Secretary for Rural Development.

[FR Doc. 80-35090 Filed 11-17-80; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R-0290]

International Banking Operations; Additional Investments Under General Consent Procedures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted a final rule to amend provisions of Regulation K governing investments by member banks, Edge and Agreement Corporations, and bank holding companies ("investors"). Under current regulations, the Board has granted its general consent for an investor to make certain additional investments in an organization in which it already has an investment, in relation to the investor's historical cost in the organization. In response to many inquiries from banking organizations, the Board proposed a revised rule on April 30, 1980, to clarify certain rights of accumulation under the provision, and to limit the amount that may be invested under this provision of the general consent in one organization to 10 per cent of the investor's capital and surplus.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Michael L. Kadish, Attorney, Legal Division (202–452–3428), or Henry N. Schiffman, Division of Banking Supervision and Regulation (202–452–2523), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: On June 14, 1979, the Board revised its regulations governing the international operations of member banks, Edge and Agreement Corporations, and bank holding companies and consolidated them into one regulation, Regulation K. Section 211.5 of Regulation K sets forth the kinds of investments that are permissible for U.S. banking organizations and establishes procedures by which such investments may be made. In paragraph (c)(1)(ii) of that section, the Board granted its general consent (*i.e.*, no prior notification to or approval of the Board required) for the making of limited additional investments in an organization in which the investor already has an interest, in order to afford U.S. banking organizations a degree of flexibility in managing their foreign investments.

Inquiries from several U.S. banking organizations indicated that this part of the regulation was not having its intended effect. On April 30, 1980, the Board proposed to amend the section to:

1. Define "historical cost," which is the basis by which the authority to make additional investments under the general consent is measured;

2. Clarify the circumstances in which dividends could be reinvested under general consent;

3. Define general consent investment rights primarily in terms of percentages of historical cost without reference to accumulation of rights; and

4. Limit the size of additional investments that could be made under this provision to 10 per cent of an investor's capital and surplus.

The proposed rule would have amended § 211.5(c)(1)(ii) to clarify that an investor may reinvest cash dividends under general consent only in the year in which they are received. The final rule adds a new § 211.5(c)(1)(iii), which grants the Board's general consent to reinvest dividends within one year after the date of receipt of such dividends. The right to reinvest dividends received would be noncumulative under the final rule.

The rule as proposed generally would have permitted an investor to make additional investments in an amount not exceeding the sum of 50 per cent of historical cost plus cash dividends received during the year less any amounts that it has invested in the organization (including dividends reinvested) during the previous four calendar years. The final rule provides that dividends reinvested within one year of receipt do not reduce the additional investment that may be made under general consent. The final rule also provides that any investment in an organization, pursuant to section 211.5(c), will reduce the additional amount that an investor may invest in that organization in any year under general consent.

Finally, the Board adopted, substantially as proposed, a provision defining "historical cost", and a provision limiting additional investments that may be made under general consent procedures to 10 per cent of the investor's capital and surplus. An investment exceeding this limit would have to be made under specific consent procedures.

This action is taken pursuant to the Board's authority under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601, 615) and section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)).

Effective November 12, 1980, Part 211 of 12 CFR Chapter II is amended as follows:

By revising § 211.5(c)(1)(ii) and redesignating paragraph (c)(1)(iii) as (c)(1)(iv) and adding a new paragraph (c)(1)(iii) as follows:

§ 211.5 Investments in other organizations.

* * * * *

(c) *Investment Procedures.*

* * * * *

(1) *General consent.* The Board grants its general consent for the following:

* * * * *

(ii) Any additional investment in an organization in any calendar year so long as (A) the investment does not cause the organization to be a direct or indirect subsidiary or joint venture of the investor; (B) the total amount invested in that calendar year does not exceed 10 per cent of investor's capital and surplus; and, (C) the total amount invested under Part 211 in the current calendar year does not exceed cash dividends reinvested pursuant to paragraph (iii) below plus the greater of (*1*) 10 per cent of the investor's direct and indirect historical cost [6] in such organization, or (*2*) 50 per cent of the investor's direct and indirect historical cost in that organization less any amounts invested in that organization during the previous four calendar years (excluding dividends reinvested pursuant to paragraph (iii) below); or

(iii) Any additional investment in an organization in an amount equal to cash dividends received from that organization during the preceding 12 calendar months so long as such investment does not cause the organization to be a direct or indirect subsidiary or joint venture of the investor; or

(iv) * * *

By Order of the Board of Governors, effective November 12, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-35942 File 11-17-80; 8:45 am]

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[6] The "historical cost" of an investment consists of the actual amounts paid for shares or otherwise contributed to the capital accounts, as measured in dollars at the exchange rate in effect at the time each investment was made. It does not include subordinated debt or unpaid commitments to invest even though these may be considered investments for other purposes of this Part. For investments acquired indirectly as a result of acquiring a subsidiary, the historical cost to the investor is measured as of the date of acquisition of the subsidiary; at the net asset value of the equity interest in the case of subsidiaries and joint ventures, and in the case of portfolio investments, at the book carrying value.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 525, 541, 545, and 563

[No. 80-700]

Revision of Real Estate Lending Regulations

Dated: November 10, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These final regulations implement in part Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, which comprehensively revised and expanded the real estate lending authority of Federal savings and loan associations. Major changes include the lifting of restrictions on location of security property, lien priority and dollar amount of loans.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy L. Feldman, Associate General Counsel, (202) 377–6440, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation and Monetary Control Act of 1980 ("Act"), Pub. L. 96–221, 94 Stat. 132, greatly expanded the investment powers of Federal savings and loan associations; an important part of this expansion is set forth in section 401 of Title IV of the Act, which revised section 5(c) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(c)) with regard to the real-estate-related lending authority of Federals.

On July 31, 1980, the Federal Home Loan Bank Board proposed to implement the statutory amendments through comprehensive changes to its lending regulations. Since a major purpose of expanding Federal associations' lending authority was to make them more competitive with other financial institutions, the Board proposed not only to remove restrictions no longer mandated by statute, but also to rescind some of its current rules which set forth detailed lending procedures the Board believed should more properly be determined by an association's management. The Board also proposed to regroup its lending regulations to better reflect the proposed changes, and to delete provisions in other parts of its regulations which would be inconsistent with such changes.

The Board received 100 comment letters from Federal and state-chartered savings and loan associations and other mortgage lenders, trade groups, mortgage insurers, consumers and others. Respondents were overwhelmingly in favor of the proposed lifting of regulatory restrictions, although many suggested modification of specific provisions. In response to comments received and other pertinent information available, the Board has determined to adopt the regulatory amendments substantially as proposed, with modifications described below.

Definition of Real Estate Loans

The Act eliminated the first-lien security requirements previously applied to Federal associations' basic residential lending authority, thus allowing investment in real estate loans on the security of junior liens. In order to differentiate real estate loans where appraisals and other loan-closing services are appropriate from real-estate-secured consumer loans and home-improvement loans based primarily on the creditworthiness of the borrower, 12 CFR 545.6 ("Real estate loans") has been amended to characterize a real estate loan as any loan secured by real estate where the association relies substantially on that real estate as the primary security for the loan. The Board expects that loans to finance the purchase of real estate, where that real estate secures the loan, ordinarily will be characterized as real estate loans.

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Determination of Loan-To-Value Ratios for Junior Liens

The Board's proposal required that associations making loans on the security of junior liens prepare and maintain documentation sufficient to indicate that the total liens on the property do not exceed applicable loan-to-value ratios. Estimations of such ratios would reflect a current appraisal of the property at the time the association's loan is to be made and, if such loan is for improvement of the security property, could include an estimate of the expected value of the property after completion of such improvements.

Commenters suggested four exclusions from the computation of total prior liens: (1) unrecorded liens, (2) the paid portion of existing loans, (3) liens as to which the lienholder agrees to take a subrogated position to the association's lien, and (4) encumbrances that would be paid off out of the proceeds of the new loan. The Board believes that these suggestions are consistent with its requirement that the loan-to-value ratio determination address only those encumbrances which would take precedence to the association's lien, and has amended the proposed provision accordingly.

In response to questions regarding the meaning of "value" in connection with appraised value of real estate, this term has been defined as market value.

Insured and Guaranteed Loans

Specific required percentages of FHA insurance and VA guarantee of loans have been deleted from 12 CFR 545.6–1, which authorizes investment in such loans, on the ground that they are unnecessary. The regulation now requires only that associations meet terms and conditions of repayment acceptable to the insuring or guaranteeing agency.

Loans to finance land development that are insured under Title X of the National Housing Act, which were treated separately under 12 CFR 545.6–7, are now included in § 545.6–1.

The Board's regulations provide that private mortgage insurance is not necessary for a low-downpayment loan that is insured or guaranteed by a state agency pledging its full faith and credit to support the insurance or guarantee. The Board's proposal offered an alternative to the full-faith-and-credit requirement by including in the authorization state insurance or guarantee programs approved by the Federal Home Loan Mortgage Corporation. The Board believes that this alternative will be helpful to consumers in states that have sound programs that insure or guarantee only a portion of each loan. Because the FHLMC does not currently have an approval process for public insurers, the Board has amended the proposed provision to include state programs approved by the Federal National Mortgage Corporation, which does have such a process.

Dollar Limits on Loans

The Act eliminated the previous statutory dollar restrictions on home loans ($75,000; $112,500 for loans secured by real estate in Alaska, Guam, and Hawaii) and dollar limitations referenced to section 207(c)(3) of the National Housing Act of 1934, as amended, for multifamily-dwelling loans; it also removed the 20-percent-of-assets exception for the portion of loans in excess of these amounts. The Board therefore has eliminated all dollar restrictions on loans, including low-downpayment loans and home-improvement loans, except with respect to its loans-to-one borrower limitation and affiliated-person loan limitations, found in Part 563 of the Regulations for the Federal Savings and Loan Insurance Corporation (12 CFR Part 563). With respect to the Board's loan-to-one-borrower regulation, the proposed increase in the minimum dollar amount for new institutions, from $100,000 to $200,000, has been modified to index the latter figure to cost-of-living adjustments.

As a related matter, the Board also has rescinded 12 CFR 525.13 of the Regulations of the Federal Home Loan Bank System, which limited the dollar amount of home mortgages eligible as collateral for Bank advances. That provision implemented section 10(b)(2) of the Federal Home Loan Bank Act of 1932, which refers to the now-rescinded dollar limitations on home loan amounts in section 5(c) of the Home Owners' Loan Act.

Home Loans (1-to-4-Family Dwellings)

1. Loan-to-value ratios

The previous section 5(c) did not contain statutory references to loan-to-value ratios for real estate loans; the statute as revised uses 90 percent of value as a reference point for residential real estate loans that will not require the extra security of mortgage insurance. The Board therefore has adopted as proposed a liberalization of its residential lending regulations recognizing 90-percent loans rather than 80-percent loans as the basic home finance benchmark, and limiting regulatory restrictions previously applied to home loans between 80 and 90 percent to those in excess of 90 percent, with one exception relating to loans for condominium and co-operative conversions. Because of general concerns expressed on this subject, the Board has determined at this time to retain the requirement, but apply it only to co-op and condominium conversion loans, that loans in excess of 80 percent of value may be made only to borrowers who intend to occupy the property as a principal residence.

2. Loans to facilitate trade-ins

The Board's proposal had provided that loans to facilitate a trade-in or exchange of property, which have a maximum 18-month term, be maintained at the 80 percent loan-to-value ratio, and that such loans be restricted to five percent of an association's assets. In adopting final regulations, the Board has determined to conform these loans to the 90-percent benchmark, and to remove the asset limitation as artificial and unnecessary. The proposal also contained parenthetical regulatory language referring to the inclusion in this provision of "bridge loans" to individuals and brokers, because current regulatory language did not appear to permit such loans. The provision as adopted, however, clearly authorizes all facilitating loans without restrictions regarding borrowers, and inclusion of the proposed parenthetical is unnecessary.

3. Maximum term

In recognition of recent rapid increases in housing costs, and as an expression of its desire to assist potential borrowers in meeting associations' eligibility requirements regarding loan repayments, the Board proposed to allow associations to make home loans with maximum terms of 40 years. A number of commenters opposed this liberalization, arguing that the decrease in monthly payments would be slight while the total increase in interest payments over a 40-year term would be substantial. The Board recognizes these concerns but believes that a maximum 40-year term should be authorized for those borrowers, especially first-time homebuyers, who would be helped by even a modest decrease in their monthly costs, and notes that average mortgage maturity statistics indicate that few mortgages would be held for a 40-year term. Having determined at this time to authorize the 40-year maximum term, however, the Board intends to ascertain the frequency of its use, and encourages associations offering 40-year mortgages to disclose to borrowers the financial consequences inherent in the longer amortization schedule.

4. Private mortgage insurance requirement

The Board's regulations have long required that loans in excess of 90 percent of the value of the security property have private mortgage insurance ("PMI") coverage down to 80 percent of value until the loan principal is reduced to 90 percent, at which time the PMI coverage is no longer mandatory. This provision was adopted on the grounds that loans in excess of 90 percent of value are statistically riskier investments for associations and require additional protection during their early years.

The proposal would have reduced the required depth of PMI coverage to the statutory minimum, i.e. the amount of loan principal in excess of 90 percent of value. A number of commenters urged the Board to retain the current rule, citing increased risks related to higher dollar loans, longer terms and adjustable interest rates, as well as the negative impact of inflation on the borrower's ability to carry mortgage payments and other housing-related costs. Upon reconsideration, the Board has determined at present not to reduce its current PMI requirements.

5. Pledged-account loans

The Board's regulations authorize home loans made in excess of maximum loan-to-value ratios where the excess loan amount is secured by pledged savings accounts. With regard to loans in excess of 80 percent of value, certain restrictions apply. The Board has determined to conform this provision with its new home-loan benchmark by applying the restrictions only to loans in excess of 90 percent, and to exclude amounts covered by the pledged account from calculation of the loan amount required to be covered by mortgage insurance. In addition, the Board notes the confusion that has arisen in the past few years regarding a provision in this section requiring these loans to comply with the Board's graduated-payment-mortgage regulations, and has deleted that requirement.

In response to inquiry by commenters, the Board notes that the savings account is not required to be on deposit with the lender association, so long as it is pledged to the association.

6. Nonamortized loans

The proposal provided for a liberalization of the maximum loan term on nonamortized home loans from three to five years; the maximum loan-to-value ratio remained unchanged at 60 percent. Some commenters recommended to the Board that 80% nonamortized loans be authorized. A few commenters also suggested that the Board allow partially-amortized home loans with long terms; present regulations limit these to multifamily-dwelling and commercial loans.

The Board recognizes that such balloon-payment loans with lower initial monthly payments could serve as a vehicle to qualify more potential homebuyers. The Board is concerned, however, with the risk possibilities for home borrowers and associations in the event that refinancing is unavailable at the time the loan becomes due; that is why the Board has included guaranteed refinancing and other consumer and lender protections in its authorized mortgage plans that provide for fluctuating payments. The Board will continue to carefully study this area, but has determined at the present time not to authorize nonamortized or partially-amortized balloon-payment home loans as a permanent-financing option.

The Board has determined, however, to liberalize its current regulations pertaining to flexible-payment loans, which authorize an initial period of interest-only payments and full amortization over the remaining mortgage term. The flexible-payment loan, which is authorized to be made to borrowers intending to occupy the security property, may now be made on one-to-four-family dwellings rather than single-family dwellings only, and may use the Board's adjustable rate mortgage plans (12 CFR 545.6–4 and 545.6–4a). In addition, the five-percent-of-assets limitation has been removed.

Multifamily Dwelling Loans

The Board has adopted as proposed a 90-percent loan-to-value ratio for these loans, which have 30-year maximum terms. The maximum loan-to-value ratio on nonamortized loans has been raised from 60 percent to 75 percent, in conformance with national bank limitations, and the maximum term on nonamortized loans has been increased from three to five years. Two provisions in the current regulations that were not specifically mentioned in the proposed amendment, relating to semi-annual interest payments and partially-amortized loans, have been re-instated.

It is noted that 12 CFR 545.6–10 ("Housing facilities for the aging") has been deleted from the Board's regulations, as it is no longer needed to confer high-ratio lending authority for this type of multifamily housing. The definition of "other dwelling unit" has therefore been expanded to include nursing homes and convalescent homes.

Other Improved Real Estate—Residential

The revisions to the Board's acquisition, development, building lot and site, and construction loan regulations have been adopted substantially as proposed. Many commenters argued against the new, more restrictive loan-to-value ratios established for these investments; as noted in the preamble to the proposal, the restrictions are statutory.

Several commenters disapproved of continuation of a separate loans-to-one-borrower limitation for these loans that is more restrictive than the Board's general rule set out at 12 CFR 563.9–3 of the Insurance Regulations. The Board has determined to retain the separate limitation for development loans based on the relative risk of this type of lending, including the possibility that an association would have to expend additional funds to prepare a foreclosed development property for resale.

The proposal liberalized associations' authority to make building lot and site loans to borrowers who intend to use the property in the future as a principal dwelling. As proposed, the Board has expanded the maximum loan term from five to 15 years. In response to a number of comments, the Board also recognized that the current 40-percent amortization requirement is quite onerous to home borrowers during periods of high interest rates, and has therefore reduced this requirement to 30 percent.

A number of commenters urged the Board to lengthen the term of construction loans, both on projects and individual single-family-dwelling structures. The Board notes that the maximum three-year project construction loan term may be extended up to three additional years; the Board has determined, however, to allow a six-month extension of the 18-month maximum term on construction of individual single-family-dwelling structures.

Current provisions requiring semi-annual interest payments, that were not specifically mentioned in the proposed amendments, have been re-instated.

Rehabilitation Loans

Rehabilitation loans are made on the security of property that already contains an existing structure or structures. These loans are therefore not within the new statutory loan-to-value restrictions pertaining to loans on the security of property containing offsite improvements or in a construction phase. The Board's regulations

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accordingly allow these loans to be made under the loan-to-value ratios set out in § 545.6–2 (a) and (b). Under the first provision of the "combination loan" paragraph, rehabilitation loans may be combined with permanent financing loans.

Combination Loans

The Board has adopted, substantially as proposed, the provisions for combination of various types of interim and permanent financing loans.

Some commenters requested that the Board liberalize or remove the proposed amortization requirements for combination loans pertaining to different stages of development and construction; the Board has clarified the language of this provision to provide that the required repayments start three years after the initial disbursement of construction loan proceeds, and notes that the amortization schedule, while slightly more rapid than the current schedule, begins after three years rather than at the end of 18 months as has been required.

A new provision has been added to this regulation, which limits combination loans for construction inclusive of acquisition and/or development to a term of eight years with a three-year extension; the current maximum is a six-year term with two one-year extensions. The Board believes that the new limitation provides a very adequate time period for borrowers to complete projects.

Home Improvement Loans

The Board has liberalized its home improvement loan provision as proposed, by eliminating geographic restrictions, dollar limits, and percentage-of-assets investment limitations. In addition, the Board has provided for interest-rate and payment-adjustment authority for loans in compliance with 12 CFR 545.6–4 and 545.6–4a.

Leeway Authority

The provisions for unsecured construction loans and nonconforming secured loans have been amended to more closely follow the statutory authority. As noted in the preamble to the proposal, these provisions may be used by associations to invest in adjustable-rate mortgages not otherwise authorized under the Board's regulations. The term "residential real property," used only in the construction-loan leeway authority and proposed as a new definition section, proved confusing to commenters and has been deleted in favor of the term "residential real estate."

Commercial Real Estate Loans

The Board has adopted as proposed a 90-percent loan-to-value ratio and 30-year maximum term for commercial loans, and has, in addition, raised the loan-to-value ratio from 60 percent to 75 percent for nonamortized loans, in conformance with national bank lending authority. References to the inclusion in this section of construction loan and partially-amortized loan authority, which were not explicitly stated in the proposal, have been added.

The statute continues to require first-lien status for loan security under this section. The Board has therefore included a paragraph containing the first-lien definition formerly found in Part 541.

Collateral Loans

The proposal provided that an association could make a collateral loan if it were authorized to invest in the underlying assigned loan(s). As drafted, the provision might have been interpreted to mean, for example, that an association could invest up to half of its assets in loans secured by property with regard to which it was statutorily limited to a five-percent-of-assets investment. The provision has therefore been clarified to provide that collateral loans may be made to the extent that the underlying loans could be made directly.

Location of Security Property

The revised statute does not restrict associations in their ability to invest in loans outside their local areas; the Board therefore has adopted as proposed the elimination of geographic limitations on real estate loans. In order to give parity to insured institutions in relation to the new rules for Federals, the Board additionally has lifted the current geographic limitations on location of security property in the Insurance Regulations.

Notwithstanding these changes, the Board will continue to evaluate associations' efforts under the Community Reinvestment Act in satisfying the continuing and affirmative obligation to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods.

A number of commenters urged the Board to retain its local eligible servicer requirements for out-of-area loans. The Board, however, has determined at this time to delete servicer requirements because it believes that association managements will continue to secure sound servicing arrangements for their distant loans, and because the servicer regulations unnecessarily hamper those associations that wish to do their own servicing.

Mobile Home Loans

Although mobile home loans are not real-estate loans and thus were not within the scope of the proposal, several commenters took the opportunity to request liberalizations to this set of regulations. Because the Board desires to make the mobile-home lending structure more similar to that of other residentially-related loans, the Board has determined to amend its mobile home loan regulations in certain respects to reflect changes in its real-estate regulations. Specifically, geographic-area prohibitions and seller-servicer requirements have been eliminated and the loans may be made using adjustable-rate mortgage plans authorized under 12 CFR 545.6–4 or 545.6–4a.

Conforming and Corrective Amendments

A number of existing regulations were slightly modified to reflect the new lending authority, including amendments to § 545.6–10 ("Community development loans and investment") and § 545.6–1.3 ("Farmers Home Administration Rural Housing Program guaranteed loans"). In addition, this opportunity was taken to correct an inadvertent omission in § 545.6–9 ("Loans on low-rent housing") to facilitate turn-key projects by eliminating the appraisal requirement on projects to be purchased by a local public housing authority.

The Board finds that a 30-day delay of effective date pursuant to 12 CFR 508.14 and 5 U.S.C 553(d) is unnecessary, as the amendments implement statutory revisions and relieve current regulatory restrictions.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 525, Subchapter B, Parts 541 and 545, Subchapter C and Parts 561 and 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 525—ADVANCES

1. Delete § 525.13 as follows:

§ 525.13 Home Mortgages exceeding $75,000.

[Rescinded effective November 17, 1980.]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

2. Amend Part 541 by amending §§ 541.12, 541.14(a), 541.16 by adding paragraph (c), and 541.17(a) and (b), deleting § 541.23, and adding new § 541.25, to read as follows:

§ 541.12 Improved real estate.

Any of the real estate defined in §§ 541.3, 541.4, 541.5, 541.11, 541.16, or 541.17(b).

§ 541.14 Loans secured by liens on real estate.

(a) Loans secured by an interest in real estate in fee or in a leasehold or subleasehold extending or renewable automatically at the option of the holder or the Federal association for 5 years after maturity of the loan, if, in the event of default, the real estate interest could be used to satisfy the obligation with the same priority as a mortgage or a deed of trust in the jurisdiction where the real estate is located; and

* * * * *

§ 541.16 Other dwelling unit.

Real estate which comprises:

* * * * *

(b) * * * or (c) A structure(s) or parts thereof, designed or used for a nursing home or convalescent home.

§ 541.17 Other improved real estate.

(a) Commercial real estate containing (1) a permanent structure(s) constituting at least 25 percent of its value, or (2) improvements which make it usable by a business or industrial enterprise.

(b) Real estate containing offsite or other improvements, completed according to governmental requirements and general practice in the community, sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

* * * * *

§ 541.23 Two-, three- or four-family dwelling.

[Rescinded effective November 17, 1980.]

§ 541.25 Unimproved real estate.

Real estate which will become improved real estate as defined in § 541.12 of this Part.

PART 545—OPERATIONS

3. Revise §§ 545.6, 545.6–1, and 545.6–2, by substituting new texts to read as follows:

§ 545.6 Real estate loans.

(a) *General.* A real estate loan is any loan secured by real estate where the association relies substantially upon that real estate as the primary security for the loan. A Federal association may invest in, sell, purchase, participate or otherwise deal in real estate loans or interests therein, only as provided in this Part.

(b) *Determination of loan-to-value ratios.*

(1) In determining compliance with maximum loan-to-value limitations in this Part, at the time of making a loan an association shall add together the unpaid amount of all recorded loans secured by prior mortgages, liens or other encumbrances on the security property that would take precedence over the association's loan, and shall not make such a loan unless the total amount of such loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed applicable maximum loan-to-value limitations prescribed in this Part, as indicated by documentation retained in the loan file.

(2) In valuing the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed. "Value" for a real estate loan means market value.

(c) *Purchase of loans from the Federal Savings and Loan Insurance Corporation.* An association may purchase from the Federal Savings and Loan Insurance Corporation any real-estate-related loan guaranteed by the Corporation under a guarantee contract made by the Corporation with the purchasing association.

§ 545.6–1 Insured and guaranteed residential real estate loans.

(a) Notwithstanding any other provision of this Part, loans that are insured or guaranteed by a public mortgage insurer may be made in amounts and with terms and conditions of repayment acceptable to the insuring or guaranteeing agency.

(b) A loan is insured or guaranteed by a public mortgage insurer if:

(1) It comes within the definitions of §§ 541.10 or 541.13 of this Subchapter, or within the provisions of Title X of the National Housing Act; or

(2) It is insured or guaranteed by an agency or instrumentality of a state (i) whose full faith and credit is pledged to support the insurance or guarantee, or (ii) whose insurance or guarantee program is approved by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

§ 545.6–2 Other residential real estate loans.

(a) *Home loans.*—(1) *General requirements.* Loans on the security of homes or combinations of homes and business property, repayable in regular monthly payments sufficient to liquidate the debt, principal and interest, within the loan term, shall not exceed 90 percent of the value of the security property and shall be repayable within 40 years. Except as otherwise specifically authorized in this Part, after the first payment on a loan described under this paragraph (a) that is secured by property occupied or to be occupied by the borrower, no subsequent required payment shall be greater than any preceding payment. Loans in excess of 80 percent of value made on the security of condominium or cooperative dwellings that are in the process of conversion from rental units, or such loans made in connection with such a conversion, shall be subject to the restriction of paragraph (a)(2)(ii) of this section.

(2) *Ninety-five percent loan-to-value authorization.* The loan-to-value limitation in paragraph (a)(1) of this section shall be 95 percent, if:

(i) The loan contract requires that, in addition to principal and interest payments on the loan, one-twelfth of estimated annual taxes and assessments on the security property be paid monthly in advance to the association;

(ii) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that the borrower occupies, or in good faith intends to occupy, the property (or one dwelling on the property) as the borrower's principal residence; and

(iii) As long as the unpaid balance of the loan exceeds 90 percent of the value of the security property, determined at the time the loan was made, the part of such balance exceeding 80 percent of value is guaranteed or insured by a mortgage insurance company which the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer": *provided,* however, that any unpaid loan balance secured by a pledged savings account shall not be required to be guaranteed or insured under this provision.

(3) *Non-monthly-installment loans.* The term-of-years limitation shall be 15 years on loans made with interest payable less frequently than monthly

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but at least semi-annually and principal payable less frequently than monthly but at least annually in installments sufficient to retire the debt, both interest and principal, within the loan term, and 40 years on loans made on farm residences or combinations of farm residences and commercial farm real estate with principal and interest payable less frequently than monthly but at least annually in installments sufficient to retire the debt, both interest and principal, within the loan term.

(4) *Loans without full amortization.* (i) *General rule.* Nonamortized loans (loans on which no principal payments are made until the end of the term) and loans that are not fully amortized shall not exceed 60 percent of value and shall be repayable within 5 years, with interest payable at least semiannually.

(ii) *Loans to facilitate trade-in or exchange.* Loans made to facilitate the trade-in or exchange of security property shall not exceed 90 percent of value and shall be repayable within 18 months, with interest payable at least semiannually.

(iii) *Flexible payment loans.* A loan that is secured by property occupied or to be occupied by the borrower may provide for an initial period, not exceeding five years, during which required monthly installment payments shall equal not less than one-twelfth the annual interest rate times the unpaid balance of the loan, and a subsequent period during which required monthly installment payments shall be sufficient to liquidate the debt, both principal and interest, within the loan term. The limitation contained in the last sentence of subparagraph (a)(1) pertaining to maximum payments shall apply separately to the initial period and subsequent period of a flexible payment loan, except to the extent that the loan complies with one of the mortgage plans authorized under §§ 545.6–4 ("Alternative mortgage instruments") or 545.6–4a ("Renegotiable rate mortgages") of this Part. If a flexible payment loan provides for fixed monthly payments in the initial and/or subsequent period(s), the payment schedule must be set forth in the loan contract.

(5) *Pledged account loans.* Loans made on the combined security of real estate and savings accounts may be made in excess of the maximum loan-to-value ratios specified in this paragraph (a), with such excess secured by savings accounts: *provided,* that loans made under subparagraph (a)(2) are subject to the following restrictions:

(i) The loan shall not exceed the appraised value of the real estate;

(ii) The savings account shall consist only of funds belonging to the borrower, members of his family, or his employer; and

(iii) The association shall fully disclose to the prospective borrower the differences (including interest, private-mortgage-insurance costs, and equity interest) between a loan secured by real estate and savings and a loan secured by real estate alone.

(6) *Loans on cooperatives.* Such loans may be made under this paragraph (a), subject to the following requirements:

(i) *Loans on the security of cooperative housing developments ("blanket" loans).* The association shall require that the cooperative housing development maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(ii) *Loans on individual cooperative units.* Such loans may be made on the security of (*a*) a security interest in stock, membership certificate, or other evidence of ownership issued to a stockholder or member by a cooperative housing organization; and (*b*) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(7) See §§ 545.6–4 and 545.6–4a of this Part for other mortgage plans which may be used for loans authorized under this paragraph (a).

(b) *Multifamily dwelling loans.* Loans on the security of other dwelling units, combinations of dwelling units, including homes, and business property involving only minor or incidental business use, shall not exceed 90 percent of the value of the security property and shall be repayable within 30 years, with interest payable at least semi-annually: *provided,* that loans which are not fully amortized shall not exceed 75 percent of value and shall be repayable within 5 years for non-amortized loans, and with principal and interest payments sufficient to meet a 30-year amortization schedule for partially-amortized loans.

(c) *Loans on unimproved real estate ("acquisition" loans).* Loans on the security of unimproved real estate as defined in § 541.25 of this Subchapter shall not exceed 66⅔ percent of the value of the security property, and shall be repayable in 3 years with interest payable at least semi-annually.

(d) *Development loans.* (1) Loans to finance development of land shall not exceed 75 percent of the value of the security property and shall be repayable within 5 years, with interest payable at least semi-annually. The loan documentation shall contain a preliminary development plan that is satisfactory to the association.

(2) Upon release of any portion of the security property from the lien securing the loan, the principal balance of the loan shall be reduced by an amount at least equal to that portion of the outstanding loan balance attributable to the value of the property to be released. "Value" for the purposes of the preceding sentence is the value fixed at the time the loan was made.

(3) An association may extend the time for payment for an additional period not in excess of 3 years, but no extension may be made unless (i) interest on the loan is current, (ii) the association's board has before it a current appraisal of the security property, and (iii) the outstanding principal balance of the loan is or has been reduced to an amount not over 75 percent of the current value of the security property.

(4) The limitation on loans to one borrower as defined in § 569.9–3 of this Chapter shall be 2 percent of an association's assets with regard to loans on any one development project made under this paragraph (d). A development project includes all primarily residential, recreational, or other facilities in an integrated development plan.

(e) *Loans on building lots and sites.* Loans on the security of building lots and sites ("other improved real estate" as defined in § 541.17(b)) shall comply with the following requirements:

(1) Single-family-dwelling loans for a borrower's principal residence (as evidenced by a borrower's certification of intention, at the time the loan is made, that the property will be so used) shall not exceed 75 percent of the value of the security property and shall be repayable within 15 years, with interest payable at least semi-annually. The loan contract shall provide for monthly payments of principal and interest sufficient to amortize at least 30 percent of the original principal amount before the end of the loan term.

(2) Loans other than for a borrower's principal residence shall not exceed 75 percent of the value of the security property and shall be repayable within 3 years, with semi-annual interest payments beginning not more than 1 year after the initial disbursement.

(3) The provisions of paragraphs (d) (2) and (3) shall apply to this paragraph (e).

(f) *Construction loans.* (1) Construction loans on other improved real estate (as defined in § 541.17(b)) shall not exceed 75 percent of the value of the security property and shall be repayable in 3 years, with interest payable at least semi-annually, except that for construction of single family dwellings, loans on individual structures shall be repayable within 18 months of initial disbursement of applicable loan funds.

(2) Associations shall reserve the right to impose limits on the number of structures under construction at a given time.

(3) The provisions of paragraphs (d) (2) and (3) shall apply to this paragraph (f), except that loan extensions for construction of individual single-family-dwelling structures are limited to 6 months.

(g) *Rehabilitation loans.* Loans to finance substantial alteration, repair or improvement of primarily residential property may be made within the maximum loan-to-value ratios permitted for loans under paragraphs (a) and (b) of this section and shall be repayable within 3 years (18 months for a single family dwelling), with interest payable at least semi-annually.

(h) *Combination loans.* (1) Any loans authorized by this § 545.6–2 may be combined, with the term of each loan beginning at the end of the term of the preceding loan and interest and principal payment requirements as specified in the applicable paragraphs of this section.

(2) Loans made on unimproved real estate (as defined in § 541.25 of this Part), development loans, and loans on other improved real estate (as defined in § 541.17(b)) which are combined with permanent financing loans, or are made to borrowers who have secured permanent financing from other lenders, may be made within the maximum loan-to-value ratios permitted for loans under paragraphs (a) and (b) of this section: *Provided,* that disbursement of loan proceeds in excess of 80 percent of the value of the security property shall not be made until substantial completion of construction.

(3) With respect to a combination of loans to finance development and loans on building lots and sites and/or construction loans, whether or not development has been completed, (i) beginning not more than 3 years after the initial disbursement of loan proceeds for construction purposes, the principal shall be amortized monthly at a rate of at least 1½ percent of that portion of the loan balance applicable to any home, including the building site, and (ii) beginning not more than 4 years after such disbursement, principal shall be amortized monthly at a rate of at least 1½ percent of that portion of the loan balance not applicable to the construction of any home and its building site.

(4) Notwithstanding any other provisions of this § 545.6–2, a combination loan for construction inclusive of acquisition and/or development shall be repayable within 5 years, but such loan may be extended for an additional period not exceeding 3 years.

(i) See § 545.6–5 of this Part for residential loan leeway authority.

4. Delete § 545.6–2a, and revise § 545.6–3 by substituting a new text to read as follows:

§ 545.6–2a Loans on cooperatives.

[Rescinded effective November 17, 1980.]

§ 545.6–3 Home improvement loans.

An association may invest in loans, with or without security, for residential real property alteration, repair or improvement, or for equipping or furnishing residential real property, with installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan complies with one of the mortgage plans authorized under §§ 545.6–4 or 545.6–4a of this Part.

§ 545.6–4 [Amended].

5. Amend §545.6–4(b) by deleting the phrase "under § 541.9 of this subchapter " in subparagraph (4), and changing the reference from § 545.6–1(a) to § 545.6–2(a) in subparagraph (5) thereof.

§ 545.6–4a [Amended].

6. Amend § 545.6–4a by deleting the phrase "of up to 30 years" in paragraph (b) thereof.

7. Revise §§ 545.6–5 and 545.6–6 by substituting new texts to read as follows:

§ 545.6–5 Leeway authority for loans relating to residential real estate and farms.

(a) *Loans without requirement of security for construction purposes.* In addition to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding the greater of its surplus, undivided profits, and reserves or 5 percent of its assets in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where the association relies substantially for repayment on: (1) the borrower's general credit standing and forecast of income, with or without other security, or (2) other assurances of repayment, including but not limited to a third-party guaranty or similar obligation.

(b) *Nonconforming secured loans.* In addition to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding 5 percent of its assets in loans, advances of credit, and interests therein, secured by residential real estate or real estate used or to be used for commercial farming, which are not otherwise authorized under this Part.

§ 545.6–6 Commercial real estate loans.

(a) Loans (including construction loans) secured by first liens on other improved real estate, as defined in § 541.17(a) and (c) of this Subchapter, shall not exceed 90 percent of the value of the security property, and shall be repayable within 30 years, with interest payable at least semi-annually: *Provided,* that construction loans and nonamortized loans shall not exceed 75 percent of value and shall be repayable within 5 years, and partially-amortized loans shall be repayable with principal and interest payments sufficient to meet a 30-year amortization schedule.

(b) An association's aggregate investment under this section shall not exceed 20 percent of assets.

(c) A loan is considered to be secured by a first lien under this section if it is (i) secured by an interest in real estate in fee or in a leasehold or subleasehold extending or renewable automatically or at the option of the holder or the association for 5 years after maturity of the loan, if, in the event of default, the real estate could be used to satisfy the obligation with the same priority as a first mortgage or first deed of trust in the jurisdiction where the real estate is located; or (ii) secured by an assignment of such loan(s).

(d) See § 545.6–5 for additional authority to invest in commercial farming loans and § 545.6–10 for additional authority to invest in community development loans.

8. Delete §§ 545.6–7, 545.6–8, and 545.6–12, amend paragraph (a) of § 545.6–9, and revise §545.6–10 and paragraph (a) of § 545.6–13, to read as follows:

§ 545.6–7 Insured loans to finance land development.

[Rescinded effective November 17, 1980]

§ 545.6–8 Housing facilities for the aging.

[Rescinded effective November 17, 1980]

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§ 545.6–9 Loans on low-rent housing.

(a) *General.* Limitations in this Part relating to maximum loan terms and loan-to-value ratios, except limitations in § 545.6–8, shall not apply to any loan secured by a first lien on real estate which is, or is being constructed, remodeled, rehabilitated, or renovated to be, the subject of (1) an annual contributions contract for low-rent housing under former Sections 23 or 5 of the United States Housing Act of 1937, as amended, or (2) a Housing Assistance Payment (HAP) contract for low-income housing under Section 8 of the United States Housing Act of 1937, as amended, which the mortgagor has agreed in writing to enter into for the maximum term available for the particular project type and financing: *Provided,* no such loan by a Federal association shall exceed 90 percent of the appraised value of the security property or, in lieu of such appraisal, 90 percent of the purchase price if the security property is to be purchased by a local public housing authority, and in no event shall loan proceeds in excess of 80 percent of such appraised value be disbursed to the borrower until the Department of Housing and Urban Development has issued its final approval of the project under the subsidy program. Loans insured under the National Housing Act may be made on terms and conditions permitted by the insuring agency as provided in § 545.6–1 of this Part.

* * * * *

§ 545.6–10 Community development loans and investments.

(a) *General.* A Federal association may invest in real property, or in interests in real property, located within any of the following areas, and in loans on the security of liens, and in other obligations secured by liens, on real property so located:

(1) Any neighborhood strategy area (as defined in 24 CFR 570.301(c)) receiving concentrated development assistance under Title I of the Housing and Community Development Act of 1974, as amended;

(2) Any general location (as specified in 24 CFR 570.306(b)(3)(ii)) which is specified in a community's Housing Assistance Plan (as defined in 24 CFR 570.306) as an area for housing assistance goals and which is receiving such concentrated assistance;

(3) Any urban renewal area (as defined in section 110(a) of the Housing Act of 1949, as amended) receiving such concentrated assistance in order to finish uncompleted urban renewal projects; and

(4) Any locales specified by a community as receiving Urban Development Action Grants or otherwise receiving significant amounts of such concentrated assistance.

(b) *Investment in loans and other obligations secured by liens on real estate.* Such investments shall conform to all limitations in this Part 545 applicable to the type of real estate securing the investments.

(c) *Investments in real estate.* An association may invest up to 2 percent of assets in real property or interests therein described in paragraph (a). Investments may not exceed the appraised value of the property plus usual settlement costs. In determining the 2-percent investment limit, the following rules shall apply:

(1) A reasonable allowance for depreciation computed under the straight-line method may be deducted from the cost of improved real property or investments in improved real property owned by the association;

(2) If a leasehold interest in land is acquired, the amount of the investment as to rental obligations under the lease shall be determined on the basis of the "present value of an annuity due" and for the purpose of such determination, the worth of money shall be deemed to be 10 percent; and

(3) The investment in improvements to land in which the association has a leasehold interest shall be the cost to the association of the improvement, less reasonable allowance for amortization computed under the straight-line method.

(d) Total investment under this section shall not exceed 5 percent of assets.

§ 545.6–12 Nonconforming secured loans and loans without requirement of security.

[Rescinded effective November 17, 1980.]

§ 545.6–13 Farmers Home Administration Rural Housing Program guaranteed loans.

(a) *General.* An association may invest in loans on residential real estate guaranteed under the Farmers Home Administration (FmHA) Rural Housing Program, without regard to other provisions in this Part.

* * * * *

9. Delete §§ 545.7–7 and 545.7–8 and revise § 545.7–6 (a)(2), (b), introductory text of (d), (d)(1), (e)(1), (e)(2) (ii) and (iii), adding a new (e)(3) and (f) to read as follows:

§ 545.7–6 Mobile home financing.

(a) *Definitions used in this section.*

* * * * *

(2) "Mobile home chattel paper"—a document evidencing a loan or interest in a loan secured by a lien on one or more mobile homes and equipment installed or to be installed therein.

* * * * *

(b) *General investment authority.* An association may invest up to 20 percent of assets in mobile home chattel paper and interests therein.

* * * * *

(d) *Inventory financing.* An association may invest in mobile home chattel paper which finances a mobile home dealer's acquisition of inventory, if:

(1) The inventory is held for sale by the dealer in its ordinary course of business;

* * * * *

(e) *Retail financing.* (1) *Insured and guaranteed loans.* An association may invest in retail mobile home chattel paper that is insured or guaranteed, as defined in §§ 541.10 or 541.13 of this Subchapter, or that has a commitment for such insurance or guarantee.

* * * * *

(2) *Conventional loans.*

* * * * *

(ii) the mobile home is or will be located at a mobile home park or other permanent or semi-permanent site;

(iii) the loan is payable within 20 years, in monthly payments which are substantially equal except to the extent that the loan complies with one of the mortgage plans authorized under §§ 545.6–4 or 545.6–4a of this Part; and

* * * * *

(3) *Purchase of retail paper.* With regard to purchase of an interest in retail mobile home chattel paper where the security property is or will be located outside the association's normal lending territory (as defined in § 561.22), the seller of the interest shall be an institution whose accounts or deposits are insured by a Federal agency or a service corporation thereof and the seller (unless the seller is the association's service corporation) shall retain at least a 25 percent interest in each document evidencing a loan secured by the chattel paper.

(f) *Sale of paper.*

(1) All mobile home chattel paper sold by an association shall be sold without recourse, as defined in § 561.8 of this Chapter.

(2) No association may sell mobile home chattel paper if, at the close of its most recent semi-annual period, it has mobile-home-chattel-paper scheduled items (other than assets acquired in a supervisory merger) in excess of 5 percent of its total portfolio in such paper: *provided,* that application may be made to the Board for a waiver of this restriction.

§ 545.7–7 Purchase of participation interests in mobile home chattel paper.

[Rescinded effective November 17, 1980]

§ 545.7–8 Sale of mobile home chattel paper.

[Rescinded effective November 17, 1980]

10. Revise § 545.7–9, to read as follows:

§ 545.7–9 Collateral loans.

An association may make a collateral loan (secured by assignment of secured loans) to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loan(s).

11. Delete §§ 545.8, 545.8–1, 545.8–6, and 545.8–7, and amend the title of § 545.8–3, as follows:

§ 545.8 Participations.

[Rescinded effective November 17, 1980]

§ 545.8–1 Purchase of loans.

[Rescinded effective November 17, 1980]

§ 545.8–3 Contract provisions for real estate loans.

§ 545.8–6 Lending area.

[Rescinded effective November 17, 1980]

§ 545.8–7 Percentage limitation on real estate loan investments.

[Rescinded effective November 17, 1980]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

11a. Amend § 561.22 by revising paragraph (a), deleting paragraph (b), and redesignating paragraph (c) as paragraph (b), as follows:

§ 561.22 Normal lending territory.

(a) Normal lending territory is the area (1) within the State in which such institution's principal office is located; (2) within any portion of a circle with a radius of 100 miles from the principal office which is outside of such State; and (3) other territory in which the institution was operating on June 27, 1934.

(b) *Definitions.* * * *

PART 563—OPERATIONS

12. Revise § 563.9 to read as follows:

§ 563.9 Nationwide lending.

(a) An insured institution may invest in, sell, purchase, participate or otherwise deal in loans or interests therein on security property located outside its normal lending territory but within the United States or its territories and possessions.

(b) An institution investing in a nationwide loan shall obtain a signed report of appraisal of the real estate security for the loan, prepared by an appraiser having no interest, direct or indirect, in that security or in any loan on that security and whose compensation is not affected by the approval or declining of the loan.

13. Delete §§ 563.9–1 and 563.9–2, as follows:

§ 563.9–1 Participation loans.

[Rescinded effective *November 17, 1980.]*

§ 563.9–2 Sales of interest in loans on real estate located outside normal lending territory.

[Rescinded November 17, 1980]

14. Amend paragraph (b) of § 563.9–3 by deleting the proviso and substituting therefor the following language:

§ 563.9–3 [Amended].

* * * * *

(b) * * * *Provided,* that, notwithstanding any other limitation of this sentence, any such loan may be made if the loan is secured by a lien on low-rent housing, or if the sum of subparagraphs (1) and (2) of this paragraph (b) does not exceed $200,000 and, beginning on January 1, 1982, and annually thereafter, such amount adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous 12 months as shown in the November-to-November index.

15. Revise § 563.9–7, to read as follows:

§ 563.9–7 Loans in excess of 90 percent of value.

(a) An insured institution authorized to make loans in excess of 90 percent of value on the security of real estate comprising single-family dwellings or dwelling units for four or fewer families may do so only if such loans comply with § 545.6–1 or § 545.6–2(a)(2)(iii) of this Chapter.

(b) This section does not apply to loans to facilitate the sale of real estate owned as defined in § 561.15(d) of this Subchapter, nor to investment in Farmers Home Administration Rural Housing Program guaranteed loans complying with § 545.6–13 of this Chapter.

16. Delete § 563.10, to read as follows:

§ 563.10 Appraisal requirements.

[Rescinded effective November 17, 1980]

(Sec. 10, 47 Stat. 725 (12 U.S.C. 1421 et seq.) sec. 5, 48 Stat. 132 (12 U.S.C. 1464), as amended by sec. 401, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730), Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

FR Doc. 80–36000 Filed 11–17–80; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Parts 526, 545 and 563

[No. 80–702]

Maturity of Time Deposits

Dated: November 10, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: The Federal Home Loan Bank Board has amended its regulations to reduce the minimum period of maturity on time accounts from thirty to fourteen days. This action parallels a similar change made recently in the regulations applicable to banks, and is intended to give parity to savings and loan associations and to increase funds available for home financing.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley (202–377–6444), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 526.3–1 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.3–1) allows member institutions to offer certificate accounts of $100,000 or more that are not subject to an interest rate ceiling if the account has a term of at least thirty days. Similarly, § 526.3 (c) (12 CFR 526.3(c)) refers to a minimum term of maturity of thirty days for public unit accounts at member institutions. The Federal Home Loan Bank Board has amended the language of these two sections and six other related sections by replacing the thirty-day minimum term with a fourteen day minimum maturity period.

This action by the Board parallels a recent resolution by the Board of Governors of the Federal Reserve System that shortened the maturity period for "time deposits", as defined in Regulation D (45 FR 56009, August 22, 1980; 12 CFR 204.2(c)). The amendment

to Regulation D was intended to "improve the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices" (45 FR 56013). The Board believes that a similar change in authority is necessary to assist member institutions in obtaining funds for home financing.

The revision of § 526.3–1 specifically exempts certificate accounts of $100,000 or more with a term of at least fourteen days from the interest rate ceilings of § 526.3. The public unit account provision in § 526.3(c) is revised to conform to the new minimum term restriction of fourteen days.

It is noted that a time account with a maturity shorter than one year and a balance of less than $100,000 is a "regular account" as defined in 12 U.S.C. 526.1(d), because a member institution may not currently offer a higher rate of interest than 5½ percent, the same rate applicable to passbook accounts. (*See* the Depository Institutions Deregulation Committee final rule of October 9, 1980, 45 FR 68640, October 16, 1980; 12 CFR 526.3(a)(1), (10)).

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) would be contrary to public policy because of the detrimental economic effect on member institutions and savers that would result from delaying the effective date of this resolution.

Accordingly, the Board hereby amends Part 526, Subchapter B, Part 545, Subchapter C, and Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 526—LIMITATIONS ON RATE OF RETURN

1. Amend paragraph (c) of § 526.3 by substituting the number "14" for the number "30" in the phrase "30 days or more" and replacing an obsolete reference to subparagraph (a)(8) with a reference to 12 CFR 1204.104, to read as follows:

§ 526.3 Maximum rates of return payable by members on savings accounts.

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding the highest rate permitted under paragraph (a) of this section on (1) a public unit account that is a certificate account with a maturity of 14 days or more or a notice account, or (2) a certificate account that qualifies as a retirement account under subsection 401(d) or 408(a) of the Internal Revenue Code and has a term of 3 years or, in the case of an account issued under subdivision (a)(4)(ii), 30 months; *provided*, that such accounts issued under subdivision (a)(5)(ii) of this section prior to January 1, 1980, or under subdivision (a)(4)(ii) of this section must meet the maturity requirement, and accounts issued under 12 CFR 1204.104 must meet the minimum amount and maturity requirements, prescribed in those provisions.

2. Revise § 526.3–1 by substituting the number "14" for the number "30", to read as follows (the entire paragraph is set forth below for the benefit of the reader):

§ 526.3–1 Certificate accounts of $100,000 or more.

No maximum rate of return shall apply to a certificate account of $100,000 or more ($50,000 or more if the issuing member's home office is in Puerto Rico) with a term of at least 14 days. (The $50,000 minimum shall apply only if the member does not advertise or promote the account outside Puerto Rico.)

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

§§ 545.1–1, 545.1–3, and 545.1–4 [Amended]

3. Amend paragraph (f) of § 545.1–1, paragraph (b) of § 545.1–3, and paragraph (c) of § 545.1–4, by substituting the number "14" for the number "30" wherever it appears.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

§§ 563.3–1, 563.3–2, and 563.3–3 [Amended]

4. Amend subparagraph (4) of paragraph (b) of § 563.3–1 and subparagraph (4) of paragraph (b) of § 563.3–2 by substituting the number "14" for the number "30" wherever it appears. Amend subparagraph (1) of paragraph (c) of § 563.3–3 by substituting the number "14" for the word "thirty" wherever it appears.

(Sec. 5B, 12 U.S.C. 1425b, 47 Stat. 725; Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80–36003 Filed 11–17–80; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Parts 541, 545, 561, 563

[No. 80–701]

Investment in Consumer Loans, Commercial Paper and Corporate Debt Securities

Dated: November 10, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These regulations implement section 401 of Tile IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, which authorizes Federally-chartered savings and loan associations and mutual savings banks, subject to a 20-percent-of-assets limitation, to make secured or unsecured consumer loans and to invest in, sell, or hold commercial paper and corporate debt securities as defined and approved by the Federal Home Loan Bank Board. These regulations also implement the Federal Financial Institutions Examination Council's recommended "Uniform Policy for Classification of Consumer Instalment Credit Based on Delinquency Status."

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Ann Hume Loikow, Office of General Counsel, telephone number (202) 377–6448, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1980, the Federal Home Loan Bank Board, by Resolution No. 80–468 (45 FR 52177; dated August 6, 1980), proposed regulations to implement a part of section 401 of the Depository Institutions Deregulation and Monetary Control Act of 1980 ("Act"), Pub. L. 96–221, 94 Stat. 132. This section added a new subparagraph (B), which authorizes associations to engage in consumer lending and to invest in, sell, or hold commercial paper and corporate debt securities as defined and approved by the Board, to § 5(c)(2) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(c)), the category of investments in which Federally-chartered savings and loan associations and mutual savings banks ("associations") may invest up to 20 percent of their assets.

The proposed regulations amended the Rules and Regulations for the Federal Savings and Loan System ("Federal Regulations") to authorize associations to make consumer loans, both directly and indirectly through a dealer, with few limitations, and to invest in commercial paper and corporate debt securities, subject to certain limitations necessary to meet statutory requirements or to help ensure the prudent exercise of this new investment authority. It also amended the Regulations of the Federal Savings and Loan Insurance Corporation ("Insurance Regulations") to implement the Federal Financial Institutions Examination Council's recommended "Uniform Policy for Classification of Consumer Instalment Credit Based on Delinquency Status."

The Board received eighty-five comments from Federal and state-chartered savings and loan associations, mutual savings banks, trade associations, banks, resort community developers, other financial companies, and one public interest group. Most commenters commented favorably on the Board's decision to implement these new investment authorities with a broad regulation that leaves most of the detailed decisions regarding the exercise of these new powers to each institution's management. The bulk of the comments suggesting amendments to the proposal concerned three broad issues: (1) the use of liens on real estate to secure consumer loans; (2) inventory financing and the financing of consumer leasing; and (3) the proposed maturity limitations on investments in corporate debt securities.

Use of Liens on Real Estate To Secure Consumer Loans

Many of those who commented on the proposed regulation wanted to be able to use liens on real estate to secure consumer loans. In the proposal, "consumer loan" was defined as a form of "consumer credit." The latter term includes all those kinds of loans, such as consumer loans, educational loans, unsecured home improvement loans, credit extended in connection with credit cards, and loans in the nature of overdraft protection, which would be subject to the proposed classification system for delinquent consumer instalment credit; however, the term "consumer loan" only included those loans authorized under the new consumer loan provisions of the Act. In order to distinguish between associations' authority to make real estate loans and the new consumer loan authority and to prevent an association's real estate and mobile home loans from being required to be classified under the new loan classification system for delinquent consumer instalment credit, the proposal defined "consumer credit" so as to exclude loans secured by liens on real estate and chattel liens secured by mobile homes. It was thought that all loans secured by homes or real estate should properly fall under the mobile home regulations or the real estate lending regulations.

However, many associations indicated that they wanted to be able to use a lien on real estate to secure a consumer loan without having to go through the substantial documentation required for real estate loans (i.e., appraisals, title searches and insurance, closing). They also wanted more flexibility in payment terms than is allowed under the real estate lending regulations so that they could, for example, make balloon-payment or single-payment consumer loans. Commenters argued that making these loans under the real estate or mobile home lending authority would add to the costs charged to the consumer and substantially lengthen processing time. Finally, in order to be competitive with banks and finance companies, associations indicated a need for an expeditious way in which to make consumer loans as well as for a way in which to provide adequate security for a particular loan.

The Board is persuaded that associations should have the flexibility to use liens on real estate to secure consumer loans and the ability to process them expeditiously. Accordingly, the Board has determined to modify § 545.7–10(b) (relationship of the consumer loan authority to other provisions of Part 545 of the Federal Regulations) and § 561.38 (definition of consumer credit). The amendments are modeled on the Comptroller of the Currency's regulations for national banks. Under the regulation as amended, loans in which the association "relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home as the primary security for the loan" are to be made as consumer loans. An association will be required to retain appropriate evidence in its files to demonstrate the justification for its decision. Although this regulation as amended leaves much discretion to association management, the Board expects associations generally to treat loans that are made to purchase the real estate securing the loan as real estate loans.

Inventory Financing and Financing Consumer Leasing

A number of commenters requested that the proposal be amended to authorize inventory financing. These commenters argued that associations can compete with other lenders in making certain kinds of loans, such as automobile loans, only if they can obtain dealer referrals and that they need to be able to finance the dealer's inventory in order to induce him to make those referrals. In addition, several commenters requested that the Board authorize associations to finance consumer leases, either by authorizing associations to directly own the property being leased or by authorizing them to finance the lessor's inventory and to receive an assignment of leases. The latter is basically the same as inventory financing. Some commenters also argued that, in addition to being a good way to generate business in certain kinds of consumer loans, primarily for automobiles and other "big ticket" items such as boats and airplanes, the authority to finance dealer inventory or to finance consumer leasing was also a necessary corollary to the granting of authority to indirectly finance consumer loans.

In the preamble to the proposed regulation, the Board took the position that inventory financing was essentially a commercial loan and thus did not fall within the Act's requirement that the loan be "for personal, family, or household purposes," and that authorizing its use would be inconsistent with Congress's intention of giving associations the additional investment powers needed to enable them to become "family finance centers." In addition, the Board pointed out that, although it does authorize inventory financing for mobile homes, the pertinent statutory language is much broader than the language of the consumer loan provisions of the Act.

After reexamining the issue in light of the comments, the Board has concluded that authorizing inventory financing or the type of lease financing that is essentially comparable to inventory financing would be outside the scope of the statute. There appears to be some confusion among commenters as to what Congress did in granting associations the many new powers contained in the Act. A number of commenters appear to feel that Congress's desire to promote competitive equality between various kinds of financial institutions meant that they must share exactly the same powers. However, achieving greater competitive equality does not mean that the various kinds of financial

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institutions must completely lose their separate identities. Congress gave associations the additional powers needed to enable them to compete for and meet the financial service needs of *individual consumers*, allowing them to offer the consumer the convenience of the "family finance center;" it did not intend to turn associations into commercial banks by allowing them to make commercial loans to businesses.

Furthermore, although it may be argued that inventory financing may ultimately lead to the association being able to finance some loans to individual consumers, there is no guarantee that the association will make the loans to the consumers who purchase from a dealer whose inventory it has financed. The dealer may not always refer customers to the lender or the customers may decide to find their own financing. Over the past few years, consumers have become increasingly credit-conscious and often credit-shop on their own for the best terms. This is one reason why credit unions, for example, which are not authorized to do inventory financing, now finance almost 20% of all automobile loans.

In addition, the Board has concluded that lease financing in which an association acquires title to the property and then directly leases it to the consumer is not authorized by statute. Banks are able to engage in this form of consumer leasing under the "incidental powers" clause of 12 U.S.C. § 24. No similar provision exists in the Home Owners' Loan Act and associations are not otherwise authorized by statute to actually acquire property and lease it. The only exception is found in 12 CFR 545.6–10, pertaining to community development investments.

The Board has, however, determined to adopt as proposed the authorization of associations to do indirect consumer lending. This is an extension of direct lending, i.e., the association is either directly financing the consumer's loan according to some arrangement it has made with a dealer to refer customers to it or it is purchasing a loan from a dealer which it is otherwise authorized to make.

Maturity Limitations on Investments in Corporate Debt Securities

A number of commenters thought that the requirement that the average maturity of an association's portfolio of corporate debt securities not exceed five years was unduly restrictive and should be liberalized or completely eliminated. More comment letters were generated by this issue than by any other. The commenters generally contended that this requirement too heavily skewed an association's authorized purchases of corporate debt securities to short-term securities, while the market primarily offers longer-term ones, most in the 7-to-40 year range, with the largest concentration in the 20-to-40 year range. In addition, these commenters felt that the proposed provision would also effectively prevent associations from investing in new issues, which tend to have the highest interest rates and best yields. Since few issues initially have short terms, associations would be forced to concentrate on older issues, which are heavily discounted, less liquid, and have lower yields. Finally, the commenters thought that this provision limited associations' flexibility to actively manage their portfolios to take advantage of market swings or yield differentials. One major securities dealer was the primary proponent of this view and many associations quoted its comments verbatim.

After analyzing these comments, the Board has determined to retain a short-term average maturity requirement for the following reasons. First, the commenters focused almost entirely on the relationship of current yield to a security's maturity and failed to consider the risks of buying long term bonds and the impact of those risks on associations. Lengthening the maturity of an association's investments in corporate debt securities affects the overall maturity of the association's asset mix, continuing and perhaps increasing the imbalance between the maturities of its assets and liabilities. Given the increasingly short-term nature of associations' liabilities and the long-term nature of much of their mortgage portfolio, the Board would not like to see associations exacerbate this maturity imbalance by concentrating their corporate debt security investments in long-term issues.

Second, although an association increases income volatility by investing in short-term bonds, it would reduce price volatility since the key determinant of price volatility among bonds is the time of maturity, with longer-term bonds being more volatile than shorter-term ones. In recent months, the price volatility of bonds has exceeded that of common stock. Some investment advisers have noted that because of the recent bond price volatility, in large part a reaction to the instability of credit markets caused by inflation and recent changes in the conduct of monetary policy, bonds have become speculative investments, bought more for their potential for rising prices than for the promise of a protected, regular source of interest income. However, as interest rates rise, bond prices fall. Given the wide fluctuations in interest rates over the past year and the inability of investors to correctly forecast what interest rates will be, investments in long-term bonds have become increasingly risky. As a result, the Board believes that associations should be encouraged to invest in shorter-term bonds, an investment strategy which, even though it reduces the opportunity for dramatic profits when rates fall, also reduces the exposure to loss when rates rise.

Third, the fact that most bonds sell at discounts from par does not mean that associations will be unduly penalized by the regulation's average maturity requirement. Because of the record high interest rates over the past year, more than 90 percent of all outstanding corporate bonds are selling at a discount. However, although discounts have lower yields at maturity than do par or premium bonds because of certain tax considerations that do not apply to associations, there is a considerable supply of moderate discount bonds and medium-term notes at near-current coupons that associations may purchase. Furthermore, the yield giveup on current coupons versus discount bonds is only approximately 50 basis points, an amount that the Board believes to be reasonable since discount bonds are less susceptible to call than are current coupons.

Fourth, contrary to the belief of many of the commenters and in part as a result of the trends discussed above, there has been a definite trend toward shorter-term bond issues. In the second quarter of 1980, medium-term bonds (5-to-10-year maturities) accounted for almost half of the total of all new bond issues, whereas they were less than a third of the first quarter 1980 volume and less than one-quarter of the 1976–1979 total issuance. There has been also a substantial issuance of corporate notes rather than bonds since 1974 and many outstanding corporate bonds have aged. As a result, more than $50 billion in corporate bonds with maturities of less than five years exists today, so the maturity averaging process should not be as difficult as some of the commenters contended.

Finally, the older issues that associations would be eligible to purchase under this regulation are not necessarily illiquid since, in addition to the growing market for new issues with medium-term maturities, there is a sizeable secondary market for issues with short maturities. While some outstanding issues may have thin markets, there are sufficient numbers of issues outstanding that have well-developed secondary markets. Furthermore, keeping the maximum maturity of the portfolio low reduces the likelihood of the need for liquidation of holdings since a portfolio with a balanced maturity structure will constantly generate cash flow through principal redemption as well as through interest payments.

In summary, the Board has concluded that its regulation correctly considers the risks of investment in long-term corporate debt securities on associations' existing asset and liability mix and that a short-term average maturity requirement will give associations some flexibility while encouraging prudent investments in shorter-term securities. However, because the Board has noted the larger number of new issues with maturities is the 5-to-10 year range, it has decided to slightly modify the average maturity requirement by increasing it from five to six years. This should allow associations to more easily participate in the new issue market while helping to correct the imbalance in the maturities of their assets and liabilities.

A number of other issues mentioned in the comment letters are addressed briefly below:

"Natural Person" Requirement

A number of the commenters who requested that the Board authorize associations to do inventory financing also requested it to delete from its definition of "consumer loan" and "consumer credit" the requirement that the loan be made to a "natural person." These commenters wished to be able to use the consumer loan authority to make "consumer loans" to non-profit organizations, family farms, small businesses, professional corporations, and the like. In essence, as in the case of inventory financing, these commenters wanted to be allowed to make business loans. Since the purpose of the "natural person" requirement is to ensure that loans made under the "consumer loan" authority go to living persons in their individual capacities, the Board has rejected the suggestion to delete the "natural person" requirement. To do anything else would be contrary to the purpose and clear wording of the statute.

Board of Directors Approval of Dealers

There was mixed opinion in the comment letters about the requirement that an association's board of directors be required to approve the dealers with whom the association engaged in indirect consumer lending. Some commenters thought that the provision was a necessary safeguard to the prudent use of this new lending authority, while others thought that it would be cumbersome and that the board of directors should be able to delegate this responsibility.

The purpose of this provision, as stated in the proposed regulation, is to guarantee that the board of directors is aware of the various arrangements that the association has made to make consumer loans and that the association has examined the dealer's reliability and financial responsibility so that such arrangements are prudently and carefully considered. This does not mean that directors are required to investigate individually the background of each dealer; rather, management should conduct the necessary investigation and negotiations and present its conclusions and proposal to the board for its approval. Thus, this requirement merely ensures that the board of directors does have actual notice of such arangements and has formally voted, as reflected in its minutes, to authorize the association to engage in indirect lending with a particular dealer. The Board has decided to retain this provision as proposed.

Financing Timesharing Interests in Real Estate

The Board received comments from a number of developers of resort communities and from their trade association urging the Board to clarify the statement in the preamble to the proposed regulation that associations would be authorized to finance the purchase of interval-ownership interests in real estate as unsecured consumer loans. In particular, these commenters were concerned about whether associations would also be able to finance the other ownership and various "right-to-use" forms of timesharing.

As noted in the preamble to the proposed regulation, a substantial portion of the loans made to finance these interests in real estate are made for the purchase of benefits and services in addition to the real estate itself, and this portion, which is not secured by the real estate, must be considered to be an unsecured consumer loan which an association will now be authorized to make under 12 CFR § 545.7–10. The Board intends that any of the various kinds of timesharing, whether of an ownership or "right-to-use" form, may be financed as a consumer loan under this new authority. However, because of the administrative difficulties in separating the real estate portion from the non-real estate portion of such loans, the total amount of such loans should be considered to be an unsecured consumer loan if secured solely by the borrower's interest in the real estate purchased. This conforms to the current practices for financing the purchase of these interests. Since purchase prices commonly range between $1,000 and $15,000, with the average price of one week in an ownership plan at $4,050 and in a right-to-use plan at $3,430, this treatment should not inhibit the making of these kinds of loans.

An association may file a lien against the borrower's interest in such property if it wishes, but the Board expects that it will rely primarily on the borrower's creditworthiness or other assets to ensure repayment of the loan. For the purposes of the limitation on unsecured consumer loans to one borrower, however, the total amount of a timesharing loan, whether or not secured by the borrower's interest in the real estate purchased, shall be considered as an unsecured consumer loan unless additional security is taken.

Scope of the Term "Corporate"

Several commenters asked if tax-exempt debt securities issued by nonprofit and government-sponsored corporations could be purchased under the authorization to invest in corporate debt securities. It is intended that the term "corporate" be broadly interpreted to include any entity duly incorporated under the laws of any state or of the United States. Thus, any debt securities issued by a domestic corporation, whether taxable or tax-exempt, provided that they conform to the other requirements of § 545.9–4(b), may be purchased by associations under this authority. It should be noted that debt securities issued by government entities that are not in the corporate form may not be purchased under this section.

Since there is no statutory restriction as to who may issue commercial paper, none is contained in the proposed regulation other than the requirement that the issuer be domiciled in the United States. Thus, an association is authorized to buy both taxable and tax-exempt commercial paper, provided that such paper conforms to the various limitations in § 545.9–4(b).

Bankers' Acceptances

Since investments in bankers' acceptances are already authorized by § 545.9(a) as assets which qualify as liquid assets under 12 CFR § 523.10(g), it was suggested that they be deleted from the definition of "commercial paper" in § 545.9–4(a). This suggestion has been adopted.

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Investments in Low-rated or Unrated Commercial Paper and Corporate Debt Securities and in Foreign Commercial Paper and Corporate Debt Securities

A few commenters requested that associations be allowed to invest in low-rated or unrated commercial paper and corporate debt securities and in foreign commercial paper and corporate debt securities. The rating requirement, the requirement that the issue be denominated in dollars, and the requirement that the issuer be domiciled in the United States are designed to help ensure the prudent use of the new powers. The majority of commenters favored these restrictions as proposed and the Board has adopted them without a change. However, since their inclusion is not mandated by the Act, the Board will monitor associations' use of this new investment authority and will reexamine these provisions if experience indicates that liberalization is warranted.

Number of Ratings Required

The proposed regulation required that at least two nationally recognized investment rating services rate the commercial paper and corporate debt securities within the appropriate grades. Several commenters said that this requirement was unnecessarily restrictive, since many high-grade issues are only rated by one such service and requiring at least two such ratings would only add to the issuer's expenses. The Board finds these arguments to be persuasive and has determined to modify the provision to require rating by only one such service.

Investment in Open-end Investment Companies

Several commenters requested that associations be allowed to invest in open-end investment companies that invest only in securities in which the association could invest directly. This would enable small associations, in particular, to exercise more easily this new investment power.

Section 401 of the Act authorizes Federal associations to invest the shares or certificates of such companies, provided that their portfolios are restricted to investments in which an association by law or regulation may, without limitation as to percentage of assets, invest. Since association investments in commercial paper and corporate debt securities are subject to a 20-percent-of-assets limitation, they would not fall within this provision. Therefore, the Board has determined to authorize such indirect investments as part of this regulation and has so amended § 545.9–4(a).

An association will be authorized to invest in the shares of an open-end investment company, registered with the Securities and Exchange Commission, whose portfolio is restricted solely to investments an association is authorized to make under this or other regulations or law. This means that such company's investments in commercial paper and corporate debt securities must conform to the limitations contained in § 545.9–4(b). The limitation on investments in the issues of one issuer, contained in § 545.9–4(b)(3), has been modified, though, because of the impracticability of applying this requirement to an investment in the shares of these investment companies. As a result, an association need not count these investments when it determines whether it has complied with this requirement; rather, an association may not invest an amount exceeding five percent of its assets in the shares of any one such investment company. In addition, an association that invests in the shares of these companies should note that the six year average maturity test for investments in corporate debt securities applies to its portfolio, not to that of the investment company.

Scheduled Items and the Classification System

The comments overwhelmingly favored the proposed classification scheme for delinquent consumer installment credit. As the Board noted in the preamble to the proposed regulation, the principal provision that would be affected by the higher rate of delinquencies found in the usual consumer loan program is the scheduled-items computation, which has been amended to include all of an association's "slow consumer loans". Those who suggested alternatives for including slow consumer loans within the scheduled-items computation were concerned mainly about the effect of delinquent consumer loans upon the various regulatory provisions that have been deleted by Board Resolution No. 80–700 (i.e., the "4%" provisions on nationwide lending, participation loans, etc., in 12 CFR §§ 545.6–12, 563.9, 563.9–1, and 563.9–2).

Since the purpose of the scheduled-items computation is to reflect accurately the soundness of an association's portfolio, the Board has decided to retain this provision as proposed. In the Board's view, the few remaining provisions left in the regulations, other than the net worth requirements, in which scheduled items affect associations' investment authority do not warrant special rules for slow consumer loans that are to be included in scheduled items.

Limitation on Unsecured Consumer Loans to One Borrower

It was suggested that this provision might be too restrictive, particularly where new associations with very low net worth and assets are concerned. A minimum level of $2,500–$3,000 in unsecured consumer loans to the same borrower was recommended, even if the association did not meet the basic test contained in § 545.7–10(c). This suggestion has been adopted and every association, regardless of its net worth or asset position, will be able to make at least $3,000 in unsecured consumer loans to the same borrower. This amount will be increased each January 1, beginning in January, 1982, by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index over the past twelve months as shown in the November-to-November index.

Charge-Off of Consumer Credit Classified as a Loss

Several commenters questioned the proposed regulation's requirement that consumer credit classified as a loss be charged either to the association's net worth or to its current earnings. The Board has revised this section to require that the loss be charged off only against the association's current earnings. In conformance to the definition of "net income" contained in § 563c.12 of the Insurance Regulations, all such losses should be charged to current earnings. However, associations wishing to establish a valuation or bad debt allowance for such losses may do so by a charge to the applicable non-operating expense account, and losses may be charged to such allowance account.

Other Changes

Several other changes, primarily of a clarifying nature, have been made in the regulations:

(1) The definition of "consumer loan" was amended to clearly indicate that credit extended in connection with credit cards and loans in the nature of overdraft protection are not "consumer loans" and are not to be counted within the 20 percent-of-assets limitation, even though they are forms of "consumer credit" and must be included in the loan classification system.

(2) The definition of "open-end consumer credit" was amended to conform to that of "open-end credit" contained in regulation Z.

(3) An explanation of "marketable" was added to the definition of corporate debt security.

(4) Two changes were made in the limitations on investments in convertible corporate debt securities. First, the requirement that the security be traded on a national exchange was clarified. The word "securities" was added between "national" and "exchange" to make it clear that this term is to be defined as those exchanges registered with the Securities and Exchange Commission as "national securities exchanges" under 15 U.S.C. § 78c(a)(1).

Second, the Board has adopted an additional limitation, requiring associations, at the time of purchase of such securities, to write down the cost of the securities to the investment value of the securities considered independently of the conversion feature. This provision is modelled on the Comptroller of the Currency's regulation on investments in convertible securities and ensures that the bond aspects of the security remain primary, since associations are only authorized by the Act to invest in "debt securities" and not to invest in equity issues.

The Board finds that a 30-day delay of effective date pursuant to 12 CFR 508.14 and 5 U.S.C. 553(d) is unnecessary, as the amendments implement a statutory revision and relieve current regulatory restrictions.

Accordingly, the Board hereby amends Parts 541 and 545, Subchapter C, and Parts 561 and 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

1. Add new §§ 541.25, 541.26, 541.27, and 541.28, to read as follows:

§ 541.25 Consumer loan.

A secured or unsecured loan to a natural person for personal, family, or household purposes. Such loan is a type of consumer credit, as defined in § 561.38 of this Chapter, and may be made as either open-end or closed-end consumer credit, as defined in §§ 561.39 and 561.40, but does not include credit extended in connection with credit cards and loans in the nature of overdraft protection.

§ 541.26 Loans.

Obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

§ 541.27 Commercial paper.

Any note, draft, or bill of exchange which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

§ 541.28 Corporate debt security.

A marketable obligation, evidencing the indebtedness of any corporation in the form of a bond, note and/or debenture which is commonly regarded as a debt security and is not predominantly speculative in nature. A security is marketable if it may be sold with reasonable promptness at a price which corresponds reasonably to its fair value.

PART 545—OPERATIONS

2. Add a new § 545.7–10, to read as follows:

§ 545.7–10 Consumer loans.

(a) *General.* A Federal association may make direct or indirect consumer loans: *Provided,* that (1) at any one time the total investment made under this section and § 545.9–4 of this Part ("Commerical paper and corporate debt securities"), added together, shall not exceed 20 percent of an association's assets; and (2) that before indirect loans are made through a dealer, the dealer is approved by the association's board of directors. The authority to make a consumer loan includes the authority to originate purchase, sell, service, and participate in such loans: *Provided,* that such loans conform to the provisions of this section and the association's written underwriting standards.

(b) *Relationship to other provisions of this Chapter.* If a loan that may be made under this section is also authorized to be made under another section, which may have different percentage-of-assets and other limitations or requirements, an association shall have the option of choosing under which applicable section the loan shall be made.

(c) *Limitation on unsecured loans to one borrower.* The total balances of all outstanding loans, as defined in § 563.9–3(a)(2) of this Chapter, that may be made under this section in unsecured loans to one borrower, as defined in § 563.9–3(a)(1), is limited to the lesser of ¼ of one percent of an association's assets or five percent of its net worth: *Provided,* that an association may make up to $3,000 in unsecured loans to any one borrower and, beginning on January 1, 1982, and annually thereafter, such amount shall be adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous twelve months as shown in the November-to-November index.

§ 545.9–1 [Amended]

3. Delete subparagraph (a)(3) of § 545.9–1 and renumber subparagraphs (a)(4) through (8) as (a)(3) through (7), respectively.

4. Add a new § 545.9–4, to read as follows:

§ 545.9–4 Commerical paper and corporate debt securities.

(a) *General.* A Federal association may invest in, sell, or hold commerical paper and corporate debt securities, including corporate debt securities convertible into stock, subject to the limitations set forth in paragraph (b): *Provided,* that at any one time the total investment made under this section and § 545.7–10 ("Consumer loans"), added together, shall not exceed 20 percent of an association's assets. An investment under this section includes the investing in, redeeming, or holding of shares in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and whose portfolio is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to the investments that an association is authorized to invest in under this section and other regulations or law.

(b) *Limitations.* (1) As of the date of purchase, as shown by the most recently published rating made of such investments by at least one nationally recognized investment rating service, the commerical paper must be rated in either one of the two highest grades and the corporate debt securities must be rated in one of the four highest grades.

(2) The commerical paper or corporate debt securities shall be denominated in dollars and the issuer shall be domiciled in the United States.

(3) At any one time, an association's total investment in the commerical paper and corporate debt securities of any one issuer, or issued by any person or entity affiliated with such issuer, shall not exceed one percent of the association's assets: *Provided,* that this provision shall not apply to investments in the shares of an open-end

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management investment company. In such cases, an association's total investment in the shares of any one such company shall not exceed five percent of the association's assets.

(4) Investments in corporate debt securities convertible into stock are subject to the following additional limitations: (i) Purchase of securities convertible into stock at the option of the issuer is prohibited; (ii) at the time of purchase, the cost of such securities must be written down to an amount which represents the investment value of the securities considered independently of the conversion feature; (iii) such securities must be traded on a national securities exchange; and (iv) associations are prohibited from exercising the conversion feature.

(5) At any one time, the average maturity of an association's portfolio of corporate debt securities may not exceed six years.

(6) An association shall maintain information in its files adequate to demonstrate that it has exercised prudent judgment in making investments under this section.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

5. Amend paragraph (a) of § 561.15, to read as follows:

§ 561.15 Scheduled items.

The term "scheduled items" means:

(a) Slow consumer credit, slow loans (other than loans specified in paragraph (b) of this section).

* * * * *

6. Add new §§ 561.16a, 561.16b, 561.38, 561.39, and 561.40, to read as follows:

§ 561.16a Slow consumer credit.

The term "slow consumer credit" means closed-end consumer credit delinquent 90 to 119 days (4 monthly payments) and open-end consumer credit delinquent 90 to 179 days (4-to-6 zero billing cycles). For the purposes of computing delinquency, a payment of 90 percent or more of the contractual payment will be considered as a full payment. If an association can clearly demonstrate that repayment would occur regardless of delinquency status—for example, the loan is well-secured by collateral and is in the process of collection; the loan is supported by a valid guarantee or insurance; or it is a loan where the claims have been filed against a solvent estate—then such loan need not be classified as "slow consumer credit." The following table illustrates the delinquency computation:

Closed-end consumer credit

Due date	Period	Delinquency status	Classification
3/10	3/10–4/09	Not delinquent	
4/10	4/10–5/09	30 days or 2 payments	
5/10	5/10–6/09	60 days or 3 payments	
6/10	6/10–7/09	90 days or 4 payments	Slow.

Open-end consumer credit

Statement	Day	Zero billing cycle	Payment record	Days delinquent	Classification
1	1			0	
2	30	1	No payment	*5	
3	60	2	No payment	30	
4	90	3	No payment	60	
5	120	4	No payment	90	Slow.
6	150	5	No payment	120	Slow.
7	180	6	No payment	150	Slow.

* For purposes of illustration, assume consumer has 25 days in which to pay before payment is considered delinquent.

§ 561.16b Consumer credit classified as a loss.

The term "consumer credit classified as a loss" means closed-end consumer credit delinquent 120 days or more (5 monthly payments or more) and open-end consumer credit delinquent 180 days or more (7 zero billing cycles or more). For the purposes of computing delinquency, a payment of 90 percent or more of the contractual payment will be considered as a full payment. If an association can clearly demonstrate that repayment would occur regardless of delinquency status—for example, the loan is well-secured by collateral and is in the process of collection; the loan is supported by a valid guarantee or insurance; or it is a loan where claims have been filed against a solvent estate—then such loan need not be classified as a loss. The following table illustrates the delinquency computation:

Closed-end consumer credit

Due date	Period	Delinquency Status	Classification
3/10	3/10–4/09	Not delinquent	
*	*	*	*
6/10	6/10–7/09	90 days or 4 payments	Slow.
7/10	7/10–8/09	120 days or 5 payments	Loss*.
8/10	8/10–9/09	150 days or 6 payments	Loss*.

Open-end consumer credit

Statement	Day	Zero billing cycle	Payment record	Days delinquent	Classification
1	1			0	
*	*	*	*	*	*
7	180	6	No payment	150	Slow.
8	210	7	No payment	180	Loss*.
9	240	8	No payment	210	Loss*.

*Charge-off as required by § 563.46 occurs.

§ 561.38 Consumer credit.

Credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes: *Provided*, the association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in an association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

§ 561.39 Open-end consumer credit.

"Open-end credit" as defined in Regulation Z (12 CFR 226.2(x)).

§ 561.40 Closed-end consumer credit.

Consumer credit other than open-end consumer credit.

PART 563—OPERATIONS

7. Add a new § 563.46, to read as follows:

§ 563.46 Charge-off of consumer credit classified as a loss.

When consumer credit is classified as a loss, as defined in § 561.16b of this Subchapter, it shall be charged against the association's current earnings.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96–221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 C.F.R. 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36002 Filed 11-17-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 561 and 563

[No. 80-694]

Net Worth Amendments

Dated: November 6, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has amended the net worth requirements imposed on institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation by (1) replacing the current net worth requirement of five percent of insurable accounts plus five percent of secured borrowings with a requirement of four percent of liabilities, (2) eliminating the Asset Composition and New Worth Index plus the five percent of secured borrowings requirement, (3) providing for up to a ten percent reduction in the otherwise applicable net worth requirement proportionate to the amount of long-term debt, flexible-yield mortgages and short-term liquid assets held, and (4) providing a limited exemption from the net worth and reserve requirements for institutions that sell residential mortgages carrying an interest rate of seven and one-half percent or less. These amendments also reduce the current statutory reserve requirement from an amount equal to five percent of insured accounts to an amount equal to four percent of insured accounts.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Hartzog, Office of Policy and Economic Research (telephone number: (202) 377–6782), or Kenneth F. Hall, Office of General Counsel (telephone number: (202) 377–6466), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On July 24, 1980, the Federal Home Loan Bank Board proposed amendments to its regulations pertaining to reserve accounts (FHLBB Res. No. 80–445; 45 FR 50797 (1980)). A total of 85 comment letters were received during the public comment period, which ended on September 29, 1980, from Federally and State-chartered savings and loan associations, trade groups, the Federal Home Loan Banks, and a mortgage insurance company trade association. The proposed amendments provided for the following changes:

(1) replacement of the current net worth requirement of 5 percent of insurable accounts plus 5 percent of secured borrowings with a requirement of 4 percent of all liabilities;

(2) elimination of the Asset Composition and Net Worth Index plus the 5 percent of secured borrowings requirement;

(3) reduction by up to 10 percent of the otherwise applicable net worth requirement in proportion to the amount of long-term debt, flexible-yield mortgages and short-term liquid assets held by an association;

(4) limited exemption from the net worth and statutory reserve requirements for institutions that sell residential mortgages carrying an interest of 7½ percent or less; and

(5) reduction of the statutory reserve requirement from 5 to 4 percent of insured accounts.

The proposed amendments were generally supported by a majority of the commenters, although many made recommendations for modification or clarification of one or more of the provisions. After reviewing the comments received and other available information, the Board has determined to adopt the proposed amendments substantially as proposed, as described below.

Replacement of Current Net Worth Requirement With a Liability Test

As stated in the proposal, the reason for the proposed change from a base keyed only to savings to a liabilities base, which includes both savings and borrowings, is a concern that the future growth of non-deposit sources of funds will make a savings-based test increasingly inadequate as an indicator of financial soundness. Due to increasing competition from non-depository institutions such as money market funds, the planned phase-out of deposit rate controls and the rate differential, and a projected strong demographic demand for housing and mortgage loans in the 1980s, the rate of growth of deposits in the future is likely to be insufficient to meet the demand for mortgage loans. It is expected, therefore, that associations will increasingly utilize non-deposit sources of funds to eliminate that short-fall, particularly in light of recent revisions of the Board's outside borrowing regulations that provide greater flexibility for associations to use outside sources of funds. Because this would mean the amount of savings as a proportion of total liabilities will decrease, the Board believes that total liabilities will prove to be a better measure of the reserve needs of insured institutions than the current savings base.

In the proposed regulation, "liabilities" was described as all on-balance-sheet liabilities of an insured institution, including the unpaid principal amount of all outstanding borrowings (including borrowings from a Federal Home Loan Bank or a State-chartered central reserve institution), whether secured or unsecured and regardless of maturity. Many commenters suggested that liabilities be defined to exclude loans in process, deferred fees, accounts payable, escrow accounts, and other non-interest-bearing liabilities. It was argued that these are not "true" liabilities, although they are carried on the liabilities side of a balance sheet, and thus should not be included in the base used to establish the net worth requirement.

The Board, however, has determined to use total liabilities, which, by definition, is equal to the difference between total assets and net worth and will include all items that appear on the liabilities side of a balance sheet. The Board believes that a base comprised of all liabilities, with no exceptions, is the most appropriate base for purposes of calculating the net worth requirement because the purpose of that requirement is to serve as a measure of the size of an institution rather than of the amount of reserves that should be maintained against various types of liabilities. As such, the net worth requirement is a signal to the Board of possible capital adequacy problems. Enforcement of the requirement varies with the nature of the problems. Given this function of the requirement, the Board believes it should not distinguish between different types of liabilities.

Currently, the Board permits associations to determine the base on which the net worth requirement is calculated to be an average of the balance during the current year plus the balances during the previous four years (12 CFR 563.13(b)(2)(ii)). Under the proposed regulation, this averaging would not have been permitted for liabilities other than checking, tax and loan, and savings accounts. All of the commenters who addressed this matter favored averaging for the entire liabilities base. The Board agrees that averaging should be permitted for all

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liabilities, and the final regulation provides accordingly.

Since changing to a liabilities standard enlarges the base against which the percentage requirement is applied, leaving the percentage at five percent would result in an increase in the net worth requirement for insured institutions. The Board believes it would be inappropriate at this time to increase the net worth requirement and, therefore, has determined to adopt a percentage requirement of four percent, as proposed. Since the Board is reducing the percentage requirement, the Board believes it is unnecessary to provide for a gradual phasing-in of the new requirement, as a number of commenters had suggested. The Board understands that a very small number of institutions may experience an immediate increase in the net worth requirement as a result of these amendments. While this is unavoidable, the Board is prepared to exercise its supervisory discretion in the case of undue increases in the requirement.

Elimination of Asset Composition and Net Worth Index

The current net worth regulation provides that insured institutions shall maintain a level of net worth calculated in accordance with the Asset Composition and Net Worth Index ("ACNWI") (see 12 CFR 563.13(b)(2)) plus five percent of secured borrowings with an original stated maturity of more than one year (see 12 CFR 563.13(b)(4)), if such a level is greater than that based on the percentage-of-savings test. Approximately 22 percent of insured institutions utilize the ACNWI while the remainder employ the savings-based test.

The Board has determined to eliminate the ACNWI, a change the Board believes will significantly simplify the reserve regulation. Currently, institutions must calculate the results of both the ACNWI test and the five-percent-of-savings test. Pursuant to the amendment, institutions will only have one net worth test to meet. This simplification is in accordance with the Board's continuing commitment to meet the simplification objective of Executive Order 12044 ("Improving Government Regulations") as well as the requirements of Section 803(3) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, 94 Stat. 132 (1980)), which requires that, to the maximum extent possible, regulations shall minimize "compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public * * *."

Although a number of commenters suggested that the ideal measure of reserve needs would be based on the risk of holding various types of assets, most recognized the difficulty of measuring the relative riskiness of individual asset categories. The purpose of the ACNWI requirement has been to control excessive risk-taking by making an institution's net worth requirement vary with the riskiness of the types of assets held by the institution. It has proved quite difficult, however, to establish reserve requirements for particular types of assets that accurately reflect the comparative risks of holding those assets. In addition, the risks of holding various types of assets tend to change over time, necessitating a continuing assessment of the risks associated with each type of asset. In light of these problems with the ACNWI, the Board believes its usefulness and practicality are limited. The Board notes the past year has indicated that interest rate risk caused by rate volatility has a more pronounced effect on the liabilities side of the balance sheet than on the asset side, further limiting the effectiveness of the ACNWI as a net worth tool.

Qualifying Balance Deduction

As proposed, the Board has adopted a reduction of the net worth requirements for insured institutions holding certain qualifying balances. The reduction is structured to reflect the lower reserve needs, due to reduced risk, of institutions that hold such qualifying balances. The amount of the reduction is proportionate to the amount of qualifying balances held by an institution. The concept of a net worth reduction based on qualifying balances was favored by the large majority of commenters.

The qualifying balances, as proposed, included (1) interest-bearing liquid assets, as described in 12 CFR 523.10 (including accrued interest on unpledged assets that qualify as liquid assets under that definition or would so qualify except for their maturities), that will mature within one year, (2) up to one-half of all flexible-yield mortgages (*e.g.*, renegotiable rate mortgages, variable rate mortgages), and (3) fixed-rate, liability sources of funds (e.g., outside borrowings, Federal Home Loan Bank advances, certificate accounts) that have a remaining term to maturity of more than five years. The Board specifically requested comment on whether certificate accounts should be included as a qualifying balance, since such accounts are subject to prepayment and therefore may not exhibit the true characteristics of a long-term liability source of funds. Although a number of commenters suggested that the new penalty for early withdrawals of funds from such accounts should increase the stability of the accounts, other commenters felt institutions still cannot be adequately assured that certificate funds will not be withdrawn prematurely. The Board agrees that, where certificate-holders have the option of withdrawing funds (even though subject to a penalty), certificate accounts cannot be considered sufficiently stable to be included as qualifying balances. Therefore, the final regulation excludes from the qualifying balances set out in the proposal certificate accounts that permit early withdrawal.

Several commenters also suggested that *all* flexible-yield mortgage loans should count as qualifying balances. The Board has determined, however, to retain the 50-percent limit in the final regulation in recognition of the fact that current regulations authorizing the use of such mortgages may not provide associations with sufficient rate flexibility to justify classification of all such mortgages as qualifying balances. The Board has proposed amendments to these regulations that would increase the rate sensitivity of such mortgage instruments. Therefore, the Board at some later time may reconsider the 50-percent limitation contained in the final rule.

Under the regulation, the dollar amount of an institution's net worth requirement will be decreased by three cents for every dollar of qualifying balances held, in an amount up to ten percent of the net worth that would otherwise be required by § 563.13(b)(2). This figure was reached after study of the historical behavior of interest rates and of the manner in which S&L profitability fluctuates. While many commenters suggested that the ten percent limit should be increased to 15 or 20 percent, the Board has determined at this time to retain the limit as proposed.

As the proposal stated, the amendment focuses on the difficulty institutions face of an imbalance between the maturities of their liabilities and their assets. This is the "borrow short/lend long" problem. The maturity imbalance of an institution is the difference between the average duration (or effective average maturity) of its assets and the average duration of its liabilities. If an institution's assets and liabilities have equal durations, cyclical fluctuations in interest rates will not cause fluctuations in profitability. The maturity imbalance of the typical

savings and loan association causes its cost of funds to fluctuate more widely over the cycle than its asset yield, thereby causing cyclical fluctuations in profitability.

The fact that institutions with maturity imbalance problems will encounter periods of unusually low profits means they must maintain a high net worth level to ensure the availability of sufficient reserve funds during those periods. Conversely, institutions that have maturity-balancing assets and liabilities are less vulnerable to fluctuations in profitability. Therefore, they need not maintain as high a level of reserves.

In the past, restricted asset and liability powers made it difficult for many insured institutions to alleviate maturity imbalances. At present, however, due to expanded borrowing authority, flexible-yield mortgage authority, and a growing control over deposit composition resulting from the phase-out of deposit rate controls, the Board believes these associations have the ability to begin to alleviate their maturity imbalances. Through this amendment, the Board seeks to structure the net worth requirements to reflect the reserve needs of institutions holding maturity-balancing assets and liabilities and to provide institutions with maturity imbalance problems with an incentive for restructuring their holdings of assets and liabilities to make cyclical fluctuations in profitability more manageable.

Limited Exemption Relating to Sale of Mortgages

Currently, many insured institutions hold a significant number of low-interest, fixed-rate mortgage loans. Since today's substantially higher market rates require these institutions to pay more for the money they use to make mortgages, they are finding themselves in the midst of an earnings squeeze. This situation will not ease until the amount institutions take in as income matches more closely both the amount they pay to depositors to attract savings and the cost of their borrowings.

The Board is concerned with the detrimental effects this earnings squeeze has had on the nation's mortgage market. Therefore, the Board has determined to provide a limited exemption from the net worth and reserve requirements relating to the sale of mortgages with interest rates of seven and one-half percent or below. Without such exemption, fewer institutions would be able to sell their low-yielding mortgages because the losses they would incur from such sales would reduce their net worth and reserves below the regulatory minimums. This amendment, which received much favorable comment, would provide insured institutions with a means of reducing the number of low-yielding mortgages in their portfolios and, thus, of improving their income streams.

The amended regulation grants a limited exemption subject to the following conditions:

(1) failure to meet the minimum net worth and reserve requirements would result from losses from the sale of fixed-rate residential mortgages that have an original interest rate of seven and one-half percent or lower and that have a remaining term at the time of sale of at least five years;

(2) the total book value of such mortgages sold does not exceed ten percent of the total book value of the institution's residential mortgage assets, and the book value of such mortgages sold in any one fiscal year does not exceed five percent of the total book value of the institution's residential mortgage assets;

(3) all of the proceeds of such sales are reinvested in residential mortgage loans within 90 days;

(4) the regulation may not be used to reduce the institution's statutory reserve to less than three percent;

(5) the exemption shall be effective for no more than five years from the date of the sale in connection with which the exemption is granted; and

(6) the institution must maintain complete records of all transactions undertaken pursuant to the regulation.

The exemption is also conditional on the institution establishing and maintaining a plan setting forth (1) that all conditions set out above shall be met, (2) the benefits, including the cash-flow benefits, the institution expects to gain from the exemption, (3) the institution's plan for building up its net worth to the minimum amount required within five years of the date of the sale in connection with which the exemption is granted, and (4) a summary of any prior sales made pursuant to the exemption provision.

In the proposed regulation, the period required for reinvestment of proceeds from sales of the low-rate mortgages was 60 days. Most commenters felt institutions would be hard-pressed to arrange reinvestments within such a short period of time, and recommended that as much as 120 days be permitted for reinvestment. While the Board notes that, at any point in time, institutions normally have outstanding a number of commitments in which such proceeds can readily be invested, the Board agrees that 90 days would be a more appropriate period for reinvestment. However, the Board wishes to make clear that mortgage loans made with such proceeds must be closed within 90 days; it is not sufficient merely to have such funds committed within that period.

Finally, any sale made pursuant to the exemption provision will have to occur on or before December 31, 1982. Thus, institutions will have a limited time period within which to take advantage of the exemption provision.

Retention of Scheduled-Items Requirement

The proposed regulation will retain the current provision that 20 percent of scheduled items be included as part of the net worth requirement. Although a minority of commenters felt this provision should be deleted, the Board believes the 20 percent requirement should be retained because scheduled items are indicative of risky assets that may default and so result in a loss of principal to an institution. In addition, scheduled items represent already occurring losses in the form of late payments. Finally, it is believed that the amount of scheduled items represents a measure of the level of expertise in loan underwriting by institution management. Retention of the requirement, therefore, will be of value to the Board in assessing the financial soundness of institutions.

Some commenters maintained that retention of this requirement would result in "double-counting" since institutions are also required to establish valuation loss reserves on scheduled items. The Board wishes to make clear, however, that the valuation loss reserve and 20-percent requirements meet two different purposes. The valuation reserve reflects the reduced potential for collecting the full value of a scheduled item, while the 20-percent requirement reflects the increased risk of default on the delinquent loan. Therefore, both reserves are needed to reflect the true status of scheduled items. For example, if an association has a loan with a balance due of $140,000, secured by real estate having an appraised value of $100,000, it would be required to establish a valuation reserve of $40,000. The net scheduled item of $100,000 would still represent an investment in a loan that is 100 percent of appraised value. Because of the increased risk associated with a loan that is both 100 percent of value and a scheduled item, the Board believes that an increase in net worth—in this case, of 20 percent of the $100,000 scheduled items, or $20,000—should also be required.

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Reduction of Statutory Reserve Component of Net Worth

Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), as amended by section 409 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (*supra*), provides that the statutory reserve shall be no greater than six percent nor less than three percent of insured accounts, as determined by the Board. The Board has determined to reduce the existing statutory reserve requirement of five percent (see 12 CFR 563.13(a)(2)) to four percent of insured accounts. This will ensure that the statutory reserve requirement operates in tandem with the net worth requirement, which the Board intends to utilize as its primary measure of the reserve needs of insured institutions.

The Board is also taking this opportunity to make certain technical amendments to the reserve regulations, as amended by FHLBB Res. No. 80-444 on July 24, 1980 (45 FR 50713 (1980)). First, the Board codifies its policy that only permanent stock may be used to meet the statutory reserve and net worth requirements. The Board recognizes, however, that there may be situations where this policy may be too inflexible. Thus, the final regulation provides that redeemable stock may be included in statutory reserve and net worth where redemption is permitted only in the event of a merger, consolidation or reorganization approved by the Federal Savings and Loan Insurance Corporation where the issuing institution is not the survivor, or where redemption is accomplished with proceeds from the issuance of permanent stock. Where redemption would occur because of a merger, consolidation or reorganization, the Corporation would have the opportunity to appropriately condition or withhold approval of the transaction if redemption would cause the resulting institution's net worth position to be unsatisfactory. Second, the amendments clarify the application of the new calculations and the dates on which various account balances should be determined for purposes of calculating the minimum net worth requirement. The final regulations, therefore, amend 12 CFR 561.13 and subparagraphs (a)(3) and (b)(1) of 12 CFR 563.13.

The Board finds that the 30-day delay of the effective date following publication as prescribed in 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because it is in the public interest that insured institutions be authorized to apply the revised reserve requirements immediately.

Accordingly, the Board hereby amends Parts 561 and 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 561—DEFINITIONS

1. Amend the first sentence of § 561.13 (12 CFR 561.13) to read as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, permanent stock, and any other nonwithdrawable accounts of an insured institution, except that capital stock may be included as net worth if it would otherwise qualify as permanent stock but for either a provision permitting redemption in the event of a merger, consolidation or reorganization approved by the Corporation where the issuing institution is not the survivor, or a provision permitting redemption where the funds for redemption are raised by the issuance of permanent stock. * * *

PART 563—OPERATIONS

2. Amend § 563.13 (12 CFR 563.13) as follows:

a. Amend subparagraphs (a)(2) and (a)(5)(i) by substituting the word "four" for the word "five" therein;

b. Amend subparagraph (a)(3) by deleting subdivision (ii) thereof and redesignating subdivision (iii) as new subdivision (ii), as set forth below;

c. Revise subparagraphs (b) (1) through (4) thereof, as set forth below; and

d. Add a new paragraph (d) thereto, as set forth below.

§ 563.13 Reserve accounts.

(a) *Statutory reserve requirement.*

* * * * *

(3) Institutions may count as reserves meeting the reserve requirement those items listed in the definition of net worth, as set forth in § 561.13 of this Subchapter, except that the following items shall be excluded:

(i) Subordinated debt securities, and

(ii) Specific loss reserves.

* * * * *

(b) *Net worth requirement.*

(1) *Calculation period.* The annual net worth requirement, as set forth in paragraph (b)(2) of this section, shall be established as of the first day of each fiscal year and shall be met on the annual closing date of the year; *provided,* that institutions shall change to the beginning-of-year calculation by January 1, 1983, or sooner, but that if such change is made prior to that date, there may be no reversion to the end-of-year calculation.

(2) *Minimum required amount.* On the annual closing date on the twentieth anniversary of insurance of accounts and on each annual closing date thereafter, an insured institution shall have net worth at least equal to the sum of (i) four percent of the amount on the date specified in paragraph (b)(1) of this section or of the average amount on such date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) of all liabilities (*i.e.,* total assets minus net worth) of the institution, plus (ii) an amount equal to 20 percent of the institution's scheduled items. Commencing with the annual closing date after the fiscal year in which a certificate of insurance is issued, each insured institution that has not reached the twentieth anniversary of insurance of accounts shall have a net worth at least equal to the sum of the amount required by (i) above multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty, plus an amount equal to 20 percent of the institution's scheduled items.

(3) *Maintenance of minimum level.* Institutions shall maintain (until the next annual closing date) net worth at least equal to the dollar amount required at the last closing date.

(4) *Qualifying balance deduction.* The amount of the minimum net worth requirement imposed by paragraph (b)(2) of this section will be reduced by three cents for each dollar of "qualifying balances" held by the institution in an amount not exceeding ten percent of the amount of net worth that would otherwise be required by paragraph (b)(2). "Qualifying balances," as used in this paragraph, means (i) interest-bearing liquid assets, as described in § 523.10 of this Chapter (including accrued interest on unpledged assets that qualify as liquid assets within that definition or that would so qualify except for their maturities), provided that they will mature within one year, (ii) up to one-half of all mortgages on which the interest rate may fluctuate, and (iii) fixed-rate, liability sources of funds (including outside borrowings and Federal Home Loan Bank advances but excluding certificate accounts permitting withdrawal of account funds prior to maturity) that have a remaining term to maturity of more than five years.

* * * * *

(d) *Exemption relating to sale of mortgages.* An insured institution shall not be required to meet the minimum net worth requirement set out in paragraph (b)(2) of this section or the statutory reserve requirement set out in paragraph (a)(2) of this section, to the following extent and subject to the following conditions:

(1) Failure to meet the minimum net worth and reserve requirements shall result solely from losses recognized upon the sale of fixed-rate residential mortgages that have an original interest rate of seven and one-half percent or below and that have a remaining term at the time of sale of at least five years;

(2) The total book value of such mortgages sold shall not exceed ten percent of the total book value of the institution's residential mortgage assets, and the book value of such mortgages sold in any one fiscal year shall not exceed five percent of the total book value of the institution's residential mortgage assets;

(3) All of the proceeds of such sales shall be reinvested in residential mortgage loans within 90 days;

(4) The authority granted by this paragraph (d) shall not be used to reduce the institution's statutory reserve to less than three percent;

(5) The exemption shall be effective for no more than five years from the date of the sale in connection with which the exemption is granted;

(6) The institution establishes and maintains a plan setting forth (i) that all of the conditions set out above shall be met; (ii) the benefits, including cash-flow benefits, the institution expects to gain from the exemption; (iii) the institution's plan for building up its statutory reserve to the minimum amount required by paragraph (a)(2) of this section and its net worth to the minimum amount required by paragraph (b)(2) of this section within five years of the date of the sale in connection with which the exemption is granted; and (iv) a summary of any prior sales made pursuant to this paragraph; and

(7) The institution shall maintain complete records of all transactions undertaken pursuant to this paragraph.

In no event shall any sale made under the provisions of this paragraph (d) occur after December 31, 1982.

(Sec. 409, 94 Stat. 160. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by Sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437). sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36004 Filed 11-17-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 375

[Docket No. RM80-65; Order No. 106]

Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less

Issued: November 7, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission adopts procedures to exempt from all or some of the requirements of Part I of the Federal Power Act, including licensing, small hydroelectric power projects with a proposed installed capacity of 5 megawatts or less. The final rule constitutes a means of evaluating such projects for exemption on a case-by-case basis and is the first action undertaken to implement section 408 of the Energy Security Act of 1980. The statute also gives the Commission discretion to exempt classes or categories of small hydroelectric power projects.

Only projects with a generating capacity of 5 megawatts or less, including new capacity that must be developed in order to qualify a project for exemption, may be exempted. These projects must utilize the water power potential of an existing dam or a natural water feature, without the need for a dam or impoundment. The rule sets forth who may apply for exemption, how to apply, and how any conflicts between an exemption application and any other kind of application to develop a project will be resolved.

The final rule is designed to encourage the development of small hydropower facilities by providing a method of relieving them from certain regulatory requirements.

EFFECTIVE DATE: November 7, 1980.

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The Federal Energy Regulatory Commission (Commission) establishes procedures for exempting from all or part of Part I of the Federal Power Act (Act) certain small hydroelectric power projects (projects) having a proposed installed generating capacity of 5 megawatts or less. The rule implements in part section 408 of the Energy Security Act of 1980 (ESA).[1] The Commission will provide such exemptions based on case-by-case determinations and will consider further rulemakings to exempt classes or categories of projects, as permitted by section 408(b) of the ESA. The final rule is effective November 7, 1980.

I. Background

Title IV of the ESA, also known as the Renewable Energy Resource Act of 1980, contains a provision that amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects, on a case-by-case basis or by class or category of such projects, from all or part of Part I of the Act, including any licensing requirement.

Section 408 grants the Commission discretion to provide exemption under the following specified conditions. The proposed installed capacity of an exemptible project may not exceed 5 megawatts. To be exemptible, a project must utilize the water power potential of an existing dam, unless it is a project that will utilize a so-called "natural water feature" that does not require the creation of a dam or man-made impoundment. Such a natural water feature will commonly be an elevated lake or a waterway the topographical features of which permit diversion of some waters for purposes of power generation. Finally, section 408 provides that certain environmental requirements apply to those projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the

[1] Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends, *inter alia,* sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 2705 and 2708).

Endangered Species Act, and the consultation provisions in section 30 of the Federal Power Act that apply to exemption of small conduit hydroelectric facilities.

The Notice of Proposed Rulemaking in this docket was issued for public comment on August 28, 1980.[2] Prior to issuing the proposed rule, the Commission issued a Notice of the Availability of a Draft Rule and of Informal Conferences.[3] Pursuant to that notice, the Commission's staff took informal comments on the draft rule and related inquiries and held informal conferences on them in Washington, D.C. on August 1, 1980 and August 12, 1980. In addition to requesting written comments on the rule as finally proposed, the Commission held a third public meeting to discuss the rule, on September 23, 1980. The comments, including transcripts of the three meetings, are available for inspection in the public files of the Commission.

This phase of the implementation of section 408 of the ESA utilizes case-by-case determinations based on information provided by individual applicants to provide exemptions for small hydroelectric power projects.[4] The Commission will exempt small hydroelectric power projects in much the same way it now exempts small conduit hydroelectric facilities.[5]

This exemption rule has several important features. First, only a person who has sufficient property interests to develop a small hydroelectric power project may apply for exemption. Second, a project owner may apply for exemption from licensing or from any of the other provisions of Part I of the Act, but application procedures for each of these two kinds of exemption differ. Third, all, but not part, of a currently licensed water power project is exemptible. Fourth, the rule explains in detail a system of priorities and preferences among the various kinds of applicants that seek to develop a project. Finally, an applicant may seek, consistent with the statute, waiver of any provision of the rule.

II. Comment Analysis

Two related issues received the most extensive commentary. The proposed rule permitted only a project owner, *i.e.*, someone with a real property interest sufficient to develop the project, to apply for exemption and provided that exemption applications timely filed will be preferred to applications for preliminary permit or, all other things being equal, for license. The proposed rule, had the effect of eliminating the preference that section 7(a) of the Act would afford a non-owner state or municipality that applies for a license or preliminary permit insofar as such applicant competes with an accepted application for exemption. Instead, the proposed rule provided project owners a priority over non-owners, regardless of state or municipal status.

Municipalities and associations of local public power systems oppose both the proposed abandonment of the statutory municipal/State preference in relation to the exemption process and the preference given to exemption applicants over non-owner license or permit applicants. The public power entities argue that States and municipalities that are not project owners are entitled to preferential treatment under the Act when competing with exemption applicants for the right to develop a site. They contend that in providing the Commission with the power to exempt certain projects from the Act, the Congress intended only to cut the red tape that accompanies licensing, not to establish a new system of priorities or preferences. These commenters assert that the preference is a controlling factor in dealing with any water power project within the Commission's jurisdiction, whether in an exemption context or not, and is not a licensing requirement from which a project may be exempted under section 408 of the ESA. They argue for the primacy of the licensing over the exemption process based on the safeguards they allege the former process to provide for the public interest. Licensing is to be supplemented by the exemption process, they say, only to the extent that licensing fails to encourage the development of a project. Based on this presumption, the American Public Power Association (APPA) proposes a procedure wherein any competition arising before the Commission between exemption applicants and license or permit applicants would convert the process to one for a permit or a license, with the municipal and State preferential rights under section 7(a).

The approach reflected in the proposed rule is supported by most of the private hydropower developers and investor-owned utilities. They claim that the statutory preference, as well as the threat of condemnation by a successful State or municipal licensee under section 21 of the Act, deters private developers from even identifying a site by applying for a permit or license. If the preference system were invoked under the proposed exemption rule, these commenters contend that it would also deter exemption applicants. The Congress did not prohibit the Commission from providing exemption from section 7(a) of the Act when it granted the Commission discretion to exempt projects "in whole or in part from the requirements (including the licensing requirements) of Part I" of the Act. One commenter cited changes in economic circumstances since the enactment of the preference as a basis for eliminating the preference, at least from the exemption process.

The Commission agrees that the legislative history of section 408 of the ESA does not address this issue; the statute is clear on its face, however. The Commission may choose to exempt any or all projects under 5 megawatts from the provisions of section 7(a) or any other requirement of Part I of the Act. Thus, the Commission may regard as equals all applicants that seek to develop a small hydroelectric power project, within the context of the exemption process, without regard to whether they are governmental entities or not. There are several important reasons for doing so. Moreover, when competitors are otherwise equal, there are good reasons for generally preferring the project owner.

The exemption authority was provided by the Congress to encourage small hydropower development. This will occur as a result of removing regulatory impediments where possible and by allowing market forces relatively free reign consistent with that purpose. In light of this objective, the Commission believes the national interest in encouraging development of a small renewable energy resource project with new or added capacity is more important than Federal Government control of who actually does it or who gains the immediate economic benefit.

APPA argues that, where competition for a site exists, an exemption is unnecessary; the exemption process is intended to encourage development of previously ignores sites, not necessarily or primarily to expedite development of known and usable sites. The Commission believes APPA's position misses several significant points. First, unless those persons with first-hand knowledge about available sites, frequently project owners, are encouraged to come forward with plans for development, the question of competition will never arise with respect to much currently unexploited hydropower potential. Few non-public project owners will venture to formulate development plans and apply for exemption, if they would thereby expose their projects to taking facilitated by the municipal/State preference. Moreover, even where hydropower sites are known to be available for further development, speed of development would likely be sacrificed by undertaking a comparison of the relative merits of the applications submitted by public and private developers and by the inevitable conversion, under the APPA proposal, to a licensing proceeding at any time that a public entity that is not the project owner filed a competing application. Many years or experience in administering the Act show that cases involving competing applications take significantly longer to decide and demand more time and money from the perspective of developers. Thus, encouraging States and municipalities to file competing applications increases the institutional barriers to rapid hydropower development.

Other considerations support the Commission's decision not to apply section 7(a) to the exemption process. The procedures in the proposed and final rules do not prevent a state or municipality from developing a site. A non-owner public entity will be in at least as good a position as any other non-owner; it may still negotiate with the project owner for access to the project, whether by sale, lease, or other available contractual device. In other words, a state or municipality may do business like anyone else in order to obtain an interest sufficient to develop the site.[6] If that fails, the alternative of a condemnation proceeding under the state laws governing eminent domain is often available. A state or municipality that obtains the necessary property rights by purchase or condemnation may then obtain an exemption as the project owner. Or, as APPA itself pointed out, the state or municipality may often be able to condemn an exempted project under state law after it has been exempted. In fact, APPA acknowledged that the primary benefit of retaining the preference under section 7(a) would be that the state or municipal licensee would suffer less adverse political reaction by condemning a project under Federal law, as a licensee, than under state law.

Project owners, public or private, should be able to go forward expeditiously to develop small projects. The operation of a statutory preference should not be allowed to encourage competing applications by non-owners and infuse uncertainty into the development of small hydroelectric power plants and thereby defeat Congressional objectives. The Commission can most effectively use its authority under section 408 of the ESA by dealing only with persons that have the requisite property interests to bring new capacity on line as soon as possible.

Some commenters oppose the preference given project owners under the proposed rule. The proposed rule provided, under § 4.103, that exemption applications filed by project owners would be preferred to permit or license applications, if filed within the public notice period prescribed for the permit application, with some exceptions. Opponents point out that the statute says nothing about project owners, that non-owner private or public developers will be reluctant to file for a permit or license in light of the preference for exemption applicants, that some project owners may seek just to block development, and that speculation in hydropower sites may result from a rule that puts a premium on project ownership.

First, the Commission anticipates that, because of the project owner preference, in a few instances persons who are not project owners may indeed be dissuaded from applying for licenses or permits for projects which are recognized as ripe for further development. In most instances, however, the absence of an automatic preference for public developers, the lower likelihood of competition, the prospect of an exemption from licensing, and the new economic attractiveness of hydropower will be strong incentives for a previously reluctant owner to apply to develop a project. The more attractive development is economically, the more likely it is that market forces will lead a project owner to develop a project or a non-owner to make an offer that will induce the current owner to sell sufficient rights to render the non-owner an owner. Moreover, the exemption authority in the ESA is founded upon the presumption that more capacity will be developed sooner by means of exemption than by license. Therefore, in the interest of expeditious development, it makes sense not only to favor exemption applications over those for permits or licenses, but also generally to favor that class of persons more immediately capable of capitalizing on exemptions by undertaking to add or rehabilitate generating capacity—those who already own sufficient property interests.

It is important to note that, although project owners are in a more "favored" position than normally under the Act—in that they are subject only to market pressures and not to artificially created regulatory pressures—the final rule does not isolate the owner entirely from regulatory pressures. The final rule clarifies that a project owner will not obtain an exemption where a non-owner who was also a preliminary permittee has made timely application for a license. In addition, however, it provides that where a non-owner license applicant has filed first, the Commission will favor that application unless the plans of the subsequent exemption applicant would better develop the water power potential of the project. The final rule also allows a non-owner to file for a license after the exemption application, if it proposes a plan of power development that would render the project significantly better than any exemptible project.

The hierarchy of application preferences in § 4.104 balances the public interest in expeditious development under an exemption with some opportunity for non-owners to compete and propose more comprehensive development of a site. A permit application reflects an intent by the applicant only to study a site for development. A license application manifests both the plans and the capability for imminent development. Because exemption applications for projects 5 megawatts and less will be similar in content and imminence of development to license applications, they will be preferred to permit applications, just as license applications are preferred to permit applications (*see* § 4.33). Similarly, because the exemption applicant must be a person with sufficient real property interests in any non-Federal lands involved to develop a site immediately, the rule provides such applicants with advantages over license applicants who have no such property interests. For example, a first-filed exemption application will bar any license application, with the one limited exception noted above. Favoring a project owner will also tend to reduce the costs of litigation associated with competition for a power site and the transaction costs of transferring the project involuntarily from the owner to some other developer.

[2] 45 Fed. Reg. 58388, September 3, 1980.

[3] 45 Fed. Reg. 49591, July 25, 1980.

[4] The Commission's staff is currently developing further rulemakings to implement the provision in section 408(b) of the ESA allowing the Commission to exempt "classes or categories" of projects, thereby obviating any application procedure.

[5] *See*, Order No. 76, 45 Fed. Reg. 28085, April 19, 1980.

[6] The Commission also notes that this rule gives a state or municipality that is a project owner protections and preference against other interested states or municipalities that are non-owners, who might otherwise get a license for the project and condemn it under the Federal power of eminent domain.

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One commenter advocated that no exemption application should be considered by the Commission if there is a previously filed license application. This approach was originally set forth in the draft rule. If a project owner failed to seek a permit or an exemption or license to develop a site, the price of that failure would be to risk loss of the site to a non-owner who first proposed development in a permit or license application. While this approach itself has not been adopted, the Commission recognizes that there is a problem. The Commission believes that the rule should not discourage interested non-owners who wish to exploit the full water power potential of a site in circumstances where the project owner does not take timely action to protect itself and develop the site adequately. Therefore, under § 4.104 the protection afforded the project owner has been restricted as follows: a project owner may not file for exemption for a project for which there is a preliminary permittee that files a timely application for license, *i.e.*, before the permit expires; even where there has been no permit, a non-owner license applicant will be preferred to an exemption applicant that files second and in competition with the license applicant, unless the plans of the exemption applicant would better develop the water power potential of the affected water resources; and a non-owner may file for a license in competition with an accepted exemption application, if the non-owner proposes significantly better power development that would make the project ineligible for exemption, *i.e.*, at least 7.5 megawatts, or 50% more capacity than the maximum allowed under the statute.

One commenter suggested that exemptions be limited to a term of 30 years. The final rule does not limit the term of exemptions; the Commission has chosen to grant exemptions in perpetuity, subject to standard conditions. A project with only a 30-year exemption would be virtually a licensed project by another name. The only considerations that would warrant reexamination of whether to continue the exemption for a project after a term of years are more appropriate for licensed projects or are, like the possibility of more comprehensive development, provided for under the scheme of exemption.

It was proposed that a project owner be given the latitude to apply for an exemption at any time up to final Commission action on a pending license or permit application or to convert a license application to an exemption application at any time before the license application is approved. The proposals have been rejected because they pose unreasonable burdens upon efficient administration of the permit, license, and exemption programs. To provide some certainty to the Commission, its staff, and other interested agencies and persons and to allow expeditious completion of proceedings, the nature of the proceeding and the participant must be fixed at a relatively early point. Therefore, the project owner is afforded only a limited time either to file in competition with a non-owner's application for a license or permit or to request that a license application be treated as one for exemption.

Numerous commenters opposed the exclusion of projects located on Federal lands from this case-by-case exemption process. The failure to include such projects was described as especially burdensome on project owners in the western United States, where a large portion of all land is Federally-owned and a high probability exists that a project will involve Federal land in some way, even if the dam and powerhouse, for example, are located on private property. Some commenters proposed deletion of the reference to Federal lands in the definition of "small hydroelectric power project," leaving project owners to negotiate access to Federal lands within one year. If rights to use public lands were not obtained, the procedure could then be changed to a licensing procedure. It was also suggested that the rule should exempt projects with only transmission lines on Federal lands or that any project on Federal lands leased for power purposes be made exemptible.

The Commission acknowledges the difficulty facing western developers with respect to this issue under the proposed rule. The Commission's concern is both to protect lands in the public domain and to permit development of projects that depend on such lands for power generation or distribution. In light of the comments, the Commission has lifted the proposed restriction relating to projects on Federal lands. The reference to Federal lands has been removed from the definition of "small hydroelectric power project." Projects that use Federal lands may therefore be exempted from any portion of Part I of the Act, subject to the new standard condition in Article 5 [§ 4.106(e)], which states that an exemption from licensing in no way confers any right to use or occupy Federal lands. Such rights must be obtained from the appropriate Federal land management agency. If the right to use any Federal lands involved is not obtained for the project within one year, the Commission may accept a license application for the project from any person to whom it is authorized to issue licenses under section 4(e) of the Act, and may revoke the exemption.

Although there was general approval for the Commission's decision not to use the broad definition of "project" in the Federal Power Act in establishing the scope of an exemptible facility, it was further suggested that, for purposes of exemption, a "project" be defined as an individual generation site, presumably the power-plant and appurtenant facilities. This would, of course, have the effect of preventing aggregation of the capacity of more than one powerhouse that uses water from the same impoundment for purposes of determining whether a project is within the 5 megawatt limitation. In those few cases where several small, independent power generating sites depend on a single impoundment, whether or not under license, a narrower definition would probably optimize the developmental impact of the exemption process. However, there are various practical difficulties in defining "project" solely in terms of a generation facility, without, among other things, encouraging applications that might attempt to circumvent the 5 megawatt statutory limitation; or failing to include the dam and impoundment in either an exempted project or a licensed project where the Commission could impose conditions on their use and maintenance—for environmental or dam safety reasons, for example. The Commission nevertheless recognizes the value, in some circumstances, of exempting certain sites that clearly are separate and distinct from other generating sites at the same dam and impoundment and has provided an opportunity for applicants to obtain waiver of the provisions that necessitate aggregation of all capacity at a single impoundment.

The definition of "small hydroelectric power project" includes run-of-river projects, a concern of two commenters. The 5 megawatt capacity limitation will not be applied only to capacity *added* to a project, as requested by another commenter. Such application of this statutory limitation would permit exemption of large projects based on a comparatively insignificant addition to capacity. That could be an unfortunate result from an environmental or safety perspective. It appears from the language of Title IV of PURPA, as amended by § 408 of the ESA, that Congress intended to give the Commission authority to exempt small hydroelectric projects, as a whole, not small increments of capacity at large hydroelectric projects. In response to a related comment, the installation or increase in capacity that is required for a project to qualify for exemption does include replacement or rehabilitation of old capacity as well as adding increments of new capacity, so long as the project owner is proposing to develop capacity that was not previously being used. Although this was explained in the preamble to the proposed rule, a new definition of "install or increase" clarifies this position.

The proposed rule excluded from exemption any project that is part of a licensed project with more than one development or impoundment. Insofar as the licensing and relicensing of projects is concerned, the exemption from licensing of small portions of these larger projects will frequently produce some confusing results, such as how to apply and coordinate license and exemption conditions, especially in light of the limitation on license term and the possibility of competition for a new license. The Commission believes that a licensee may often be able to amend its license to accommodate the addition of a small generation facility with about the same filing obligations and waiting time as provided under the exemption process.[7] Two changes in the rule have evolved from consideration of this issue, however. First, the Commission will not accept an application for exemption from licensing of only a part of any licensed project. The entire licensed project may be exempted, if it is eligible for exemption under the rule. This limitation may of course be waived under § 4.103(d), if consistent with the statute in a particular case. Secondly, if a person applies for exemption from provisions other than licensing, that application should occur in relation to a license application or application for amendment of license. The rule therefore treats such applications differently from applications for exemption from licensing. Procedurally, they will be handled within the context of the licensing process. In addition, the form and content of the application will be significantly different, and much simpler, under § 4.108.

Commenters addressed various issues relating to project ownership and the question of who may apply for exemption. The argument made by some commenters (discussed above) that license applicants should be preferred to, or given consideration equal to, exemption applicants is offered in conjunction with a request that project owners not be preferred to non-owners, based on the fact that an exemption is arguably a special type of license to develop a project. Based on this assumption (which is incorrect, given the differences between license and exemption procedures, conditions, privileges, and responsibilities), it is argued that persons other than project owners should be able to obtain exemptions and that not to permit this will lead to the speculative acquisition of power sites.

The Commission continues to believe that of granting exemptions to persons who lack the requisite property interest to develop the site is generally likely to lead to confusion over the right of owners and non-owner exemption applicants. Moreover, an exemption is of little use to a non-owner, especially if the project owner is already a licensee or license applicant that seeks to develop the project under a different series of conditions and responsibilities. Any speculative activity that arises as a result of the value which the final rule places on project ownership ought to be regarded as an expected result of free market activity. If speculation is not accompanied by actual development of a site, the exemption may be revoked by the Commission under Article 3 which, as amended from the proposed rule, would also prevent the site from being exemptible for the following two years, thereby diminishing the economic attractiveness of being the project owner and failing to develop the project.

In conjunction with the modification of the proposed rule to accommodate Federal lands, the definition of "project owner" has been eliminated, the same concept appears in § 4.103(b), however, for circumstances involving all non-Federal lands or a mix of Federal and non-Federal. Where a project involves only Federal lands, there is no "project owner" of non-Federal lands affected, and thus the final rule allows any person to file for exemption of that kind of project.

In a related matter, the rule has also been revised with respect to who may apply for a license after an exemption is granted. As proposed, if the real property interests in non-federal lands necessary for development were split among two or more persons, only the combination of owners could apply for a license for the project in the first instance. In instances like changes in a joint venture that obtained exemption (such as an acrimonious falling out of partners) or splitting of unitary property interests to disparate persons (such as, through death and distribution), the proposed rule might have created an undue barrier to expeditious development. Thus, the final rule allows any person with any necessary real property interest in the non-Federal lands involved to apply for a license after an exemption has been granted. One commenter requested that a project owner who acquires a project after a license application is filed should be permitted to apply for exemption. If the new owner is not a former permittee and the public notice period has not expired, he may apply for exemption. If the former owner has already applied for exemption, that application may be amended to reflect the new owner as the applicant, just as permit or license applications are sometimes amended under § 1.11 of the Commission's regulations.

The question is raised about how conflicting claims of sufficient property rights would be resolved. The application for exemption from licensing requires evidence of ownership for that purpose. There is nothing unusual about the nature of such rights in the case of exemptions; they will range from fee title to rights-of-way to options to buy.[8] The proposed and final rules give examples of what constitutes project ownership. If there were no Federal licensing at all, the same ownership interests would have to be perfected to develop a site. Of course, a fee owner and a person with an option to buy would each qualify to file for exemption before the option is exercised. However, since the exemption attaches to the project and not the owner, any conflict that arose between the two would be left for private resolution, subject to the conditions of the exemption. But, a mistake about the sufficiency of an exemption applicant's property interests will not invalidate an exemption that has been granted. In addition, the problems that a project owner may face with respect to other kinds of regulatory

[7] The Commission will consider a rulemaking designed to extend most of the advantages of short-form license applications to all water power projects at existing dams with a total capacity of 5 megawatts or less. This would also be the form used to amend an existing license to include a facility of this size. The Commission has in the past completely processed such license amendments in as little as 3 months.

[8] Possession of state power of eminent domain is not an adequate substitute for ownership of non-Federal lands. The possibilities of bitter and lengthy condemnation litigation before development could go ahead and the 18-month limit on commencing construction portend too great a risk that exemptions in such circumstances would be wasted proceedings. An entity with state power of eminent domain may, of course, take the necessary interests and then apply for exemption.

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approvals must be resolved outside the exemption process.

Article 2, in § 4.106(b), requires compliance with any conditions prescribed by fish and wildlife agencies. Commenters claim that this is a forfeiture of Commission responsibilities which will deter exemption applications. they request that the Commission prescribes lenient environmental conditions where appropriate or possible, eliminate Article 2 where state licensing procedures exist, or at least urge other agencies to make conditions minimal. Section 408 of the ESA, which incorporates part of section 30 of the Act, gives fish and wildlife agencies authority to establish binding exemption conditions for carrying out the purposes of the Fish and Wildlife Coordination Act. The Commission will not interpret the statute otherwise. However, it is for the Commission to insert the recommendations of those other agencies as conditions of an exemption. In order to provide a project owner with fair notice of the conditions imposed on the exempted project and to administer the exemption process efficiently, Article 2 requires compliance with fish and wildlife agency conditions that have been included with the applicant's Exhibit E or submitted directly by the agency within the time provided for comment.

One state agency posed several questions about environmental matters. A state need not intervene to participate in the environmental consultation process prescribed in Exhibit E. An applicant must supply evidence of the consultation which it must undertake with appropriate state and Federal agencies or the application will be considered patently deficient and rejected. In response to the request for a definition of critical habitat, the Commission notes that the U.S. Fish and Wildlife Service establishes and publishes a list of critical habitats in its regulations. Finally, the Commission will, as requested, provide a list of fish and wildlife agencies on request. Such a listing would be too cumbersome to include in the rule.

Two commenters argue that projects at "existing dams" include those at breached dams, no matter how badly breached a dam may be, and that the Commission should clarify this in the rule. Such projects should be made exemptible if the project owner proposes to reconstruct the dam, they say. The commenters point to section 408(a)(6) of PURPA which defines "existing dam" for purposes of small hydroelectric power projects as "any dam, construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or *reconstruction*) * * *." (Emphasis added.) One commenter states that the Department of Energy, in granting PURPA loans, considers this to have the effect of including among existing dams even badly breached dams. It is not clear that a dam so badly breached that nothing remains but abutments is an "existing dam." Section 408 (a)(1) of PURPA defines a small hydroelectric power project as one located "at the site of an existing dam", and this definition limits the scope of our authority to grant exemptions. The explanatory statement of the Conference Committee which accompanied the original Title IV of PURPA states that "the phrase 'at the site of an existing dam' should be strictly construed to mean at the site of an existing impoundment."[9] Badly breached dams will have no impoundment and an argument may be made that such dams do not qualify for the financial assistance program under Title IV. Whether Congress intended such dams to be excluded from exemption under the 1980 amendment to PURPA is unclear.

Several comments focused on the contents of the application under proposed § 4.106, now § 4.107. One commenter argued that exemption and license applications should be the same for small projects and another stated that the exemption application was too similar to a license application with respect to the information required. The Commission has held the amount of information required of exemption applicants to the minimum necessary to discharge its responsibilities under section 408 of the ESA and to determine a project's eligibility for exemption. The application is similar to, but has fewer filing requirements than, the short-form license application which may become applicable to any project of 5 megawatts or less at an existing dam. Of course, if a license is sought under Part I of the Federal Power Act, safety, comprehensive development, environmental, and engineering considerations generally necessitate a greater volume of data. Both in terms of the input and the end result, the exemption process is far simpler than the licensing process. The Director of the Division of Hydropower Licensing or any regional engineer will supply prospective applicants with an example of a completed exemption application, on request.

It is important to note that, unlike the proposed rule, the final rule provides two kinds of exemption applications in §§ 4.107 and 4.108. Exemptions from licensing will require submittal of data on a project's location, its structural and operational features, and its environmental impact. Exemption from provisions other than licensing require only identification of those provisions.

It was suggested that older dams be exempted from the requirements of Exhibit G to supply drawings of the project, because original drawings may no longer be available. The Commission will insist on such drawings, even if they have to be prepared anew, because they are essential to Commission evaluation of the projects's structural integrity.

If the developer varies its project design somewhat from that described in Exhibit A, the Commission will not revoke the exemption, as one commenter feared. Exhibit A is not submitted in order for the Commission to approve the design. As long as there is no new impoundment, capacity in excess of 5 megawatts, or radical change in construction that suggests a lack of good faith, the Commission will not be concerned, unless dam safety considerations make exemption from regulation otherwise unreasonable.

The Environmental Protection Agency (EPA) requests that Exhibit E contain analysis of flows downstream from any diversion structure and a request for state certification under section 401 of the Clean Air Act. Exhibit E now contains sufficient water resource data and analysis for interested agencies to evaluate the application. In addition, if no license is issued, there is no applicable section 401 requirement.

Some commenters claim that Article 3 did not allow an applicant sufficient time to begin construction, because of probable delays in power market negotiations, state approvals, consultation, and feasibility studies. The Commission has extended this time provision to 18 months to accommodate such potential difficulties. However, further extension would be contrary to the general purpose of the exemption process. The applicant must anticipate and solve these problems independently either before or during the time that it is seeking exemption, if necessary. In any case, revocation is not automatic under any term or condition of the rule. It should be pointed out that feasibility studies, delays from which concerned the Department of Energy, should not occur after the grant of an exemption, but are best performed before that time. An exemption application is, as noted earlier like a license application in terms of the stage of planning, investigation, and readiness to develop. The Commission will not require progress reports with respect to construction schedules because such enforcement mechanisms are more appropriate for licenses.

[9] H. R. Rep. No. 95–1750, 95th Cong., 2d Sess. 106 (1978).

There are numerous miscellaneous comments to which a response would be useful.

1. EPA requests notice of any exemption application. EPA is already on a list of recipients for all permit, license, and exemption applications. EPA also requests an Exhibit E with such notice; the exhibit may be obtained from the applicant.

2. EPA argues that only projects operating in the run-of-river mode should be exempted; the Commission does not wish to prejudge the environmental impacts of projects that are not run-of-river. They will be considered on a case-by-case basis.

3. EPA advocates a standard term requiring that the instantaneous flow releases directly below the dam must equal or be greater than the seven consecutive day mean low flow within a 10 year recurrence. The Commission will entertain comments on appropriate flow released from EPA and other Federal and state agencies in individual cases under this case-by-case rule.

4. The 120-day automatic grant provision is too short to allow for proper safeguards from environmental problems, argues EPA; if an EA is required, EPA states that this time period should be suspended. The Commission expects that a satisfactory and complete environmental assessment of a project will occur within 120 days, in most cases. The statutory goal of expeditious development requires appropriately short deadlines. If necessary, the 120-day period may be suspended.

5. One commenter states that the Commission should exempt all projects 5 megawatts and less, leaving such projects to state regulation. The Commission is examining the extent to which a generic exemption should be granted, separately from this rule.

6. Although licenses for projects are transferrable from one licensee to another with Commission approval, no transfer provision is necessary for an exempted project. The exemption is for a project, not a person, and sale or other transfer of the project does not affect the exemption. No Commission approval of transfer is required. However, new project owners may wish to notify the Commission of the transfer of ownership for purposes of any later proceeding relevant to the exempted project; otherwise, any notices will only be published in the **Federal Register** and possibly a local paper and sent to the last known owner.

7. One commenter contended that no exemption application should be considered for one year after revocation of an existing exemption. This would arguably encourage development within the prescribed time by exposing the owner to a license application by a state or municipality, with preference. The Commission generally agrees, but adopts a two-year rule under standard Article 3.

8. One commenter would have the Commission dismiss an exemption application if water rights disputes arise. This would be an invitation for some parties to dispute water rights. As indicated above, any such disputes should be worked out at the state level.

9. Some commenters state the rule should address the issue of later, more comprehensive development plans and a procedure should be established to accommodate such proposals. The Commission will consider proposals to better develop the water resources of the region in a manner that may affect a previously exempted project. An exemption does not preclude later creation of another licensed project that contains, overlaps, or otherwise is mutually exclusive with an exempted project, subject to whatever compensation to property owners—including owners of the exempted project—may be necessary. The procedure to develop a waterway more comprehensively is licensing.

10. One comment indicated that an exemption can be used to circumvent the requirements and safeguards of licensing and that the Commission should ensure that an exemption applicant will significantly add to the project's capacity, recommending a 20 percent increase. The Congress intended to encourage "circumvention" of the licensing process, and imposed no prerequisite like a 20 percent increase in capacity or a showing that improvements would be uneconomical without the exemption. The Commission believes such restrictions would unduly restrict the availability of exemptions.

11. A state agency requested that much more time be allowed for the consultation process and that the rule impose a consultation fee. Since additional hydropower works to everyone's benefit, all agencies should cooperate to speed its development. The final rule does not extend the proposed deadline. Nor is a fee appropriate for performing consultations on exemption applications when no fee is required for consultations on license applications. An agency that does not believe the value to the public it serves warrants consultation on a particular case may decline to consult and comment on that case.

12. One commenter questioned whether the exemption amounted to a waiver of commission jurisdiction; another commenter quite correctly pointed out that the conditions of an exemption demonstrate that the Commission has continuing responsibility for a project, to some extent. We agree.

III. Section-by-Section Summary of the Rule

The rule applies to applications for exemptions of small hydroelectric power projects having a proposed installed generating capacity of 5 megawatts or less from all or part of Part I of the Act. A small hydroelectric power project is defined as a project that uses the water power potential of an existing dam or a natural water feature without need for a dam or man-made impoundment.

§ 4.101 Purpose.

This rule provides case-by-case exemption procedures.

§ 4.102 Definitions.

The proposed rule defines the term "project" more narrowly than does section (3)(11) of the Act. Neither the ESA nor PURPA defines "project". Under the final rule, a project would include only those facilities directly associated with a single man-made impoundment or a natural lake. Under section (3)(11) of the Act, a "complete unit of development" might include more than one impoundment and a series of hydraulically coordinated dams. As stated above, a project, as defined by this rule, is not exemptible from licensing requirements if it comprises only a part of any licensed project, as the term "project" is used in section (3)(11) of the Act, unless the licensee obtains waiver of this restriction under § 4.103(d). Because the definition of "project" in this rule is more circumscribed and therefore may include fewer generating units, eligibility for exemption will be greater than if "project" were construed to include all dams, impoundments, and powerhouses in a large coordinated unit of development. The scope of the definition of "project" is sufficiently broad to exclude from exemption any in a series of separately developed generation facilities that have an aggregate capacity in excess of 5 megawatts and that use the same impoundment. However, the final rule contains a waiver provision (§ 4.103(d)) that would

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permit individual generation facilities to be exempted if waiver were granted.

If there is no lake or impoundment, "project" is defined in the rule to include the diversion structure and the facilities associated with it. However, a diversion structure that obstructs most of a natural body of water will be considered a dam, a distinction that bears on the physical scope of a project and the probable environmental impacts.

The statutory term "proposed installed capacity" is defined in the final rule to mean that an applicant must propose to add some new generating capacity at a project in order for the project to qualify for an exemption.

The definition of "install or increase," a phrase initially used in the definition of "small hydroelectric power project," states that this capacity includes proposals to install capacity where none existed previously, to replace or rehabilitate abandoned or unused existing capacity at a project, and to add capacity where there is existing operable capacity. The proposed installed capacity will be computed as the sum of both newly-developed capacity and existing capacity and may not exceed 5 megawatts in the aggregate.

This section also defines "dam," "existing dam," "Fish and wildlife agencies," "Federal lands," "non-Federal lands", "real property interests", "person," "qualified exemption applicant," and "qualified license applicant."

§ 4.103 General provisions.

Section 4.103 describes which projects the Commission may exempt from all or part of Part I of the Act. This section also places a limitation on exemption of portions of licensed projects. Without a waiver only an entire licensed project may be exempted, if otherwise eligible under other criteria. This section also contains a general waiver provision.

This section also states who may apply for exemptions. If only Federal lands would be used for development, anyone may apply for exemption from licensing. If any non-Federal lands would be necessary to develop and operate the project, only a person, or group of persons holding all of the real property interests necessary to develop and operate that project (such as ownership in fee, a leasehold, easement, right-of-way, or an option to obtain such interest) may apply for an exemption from licensing. This prevents a person who lacks the requisite non-Federal real property interests to develop the project from obtaining an exemption for another person's project.[7] The rule does not require that a person have such ownership interests in all of the land occupied by the entire project (*e.g.*, all of the lands for the impoundment) to be considered a qualified exemption applicant. A person need only possess interests in the project necessary to develop and operate hydroelectric power at the site.

§ 4.104 Relationships among applications, exemptions, permits, and licenses.

This section sets forth how exemptions from licensing and applications for exemption from licensing will be treated in relation to other kinds of applications relating to development of a project and any permits or licenses. Section 4.104 of the rule sets forth a system of priorities and preferences for persons who file to develop a site. Paragraph (a) establishes rules that apply when there is an outstanding license or permit for a project or when a permit or license application has been filed before the exemption application. Paragraph (c) prescribes what happens when a project is exempted or the project owner has applied for exemption before a license or permit application is submitted.

This section protects a person other than the project owner who has already applied for a permit or license, from being defeated by a project owner's untimely application for exemption from licensing. The Commission will accept an exemption application, or a notice of intent to submit one, that competes with a pending permit or license application only if it is submitted during the protest and intervention period prescribed in the public notice for the permit or license application. But the Commission will not accept an exemption application if a preliminary permittee has made timely application for license, even if the exemption application is submitted during the public notice period. Moreover, the Commission will not accept an application for exemption from licensing if a person other than the exemption applicant then has an unexpired preliminary permit or license.

This section also protects first-filing exemption applicants who own the non-Federal lands necessary for an exempt project from later permit or license applicants that would seek to take and develop the project. If an exemption application is pending, the Commission will not accept an application for a preliminary permit; nor will it accept a license application from a person other than the exemption applicant, unless the license application proposes total installed capacity of at least 7.5 MW. An exemption applicant may file a license application, but the exemption application will be deemed withdrawn and other interested persons may compete for the license. Similarly, any person owing non-Federal real property interests necessary to permit development of an exempted project may file a license application, but will then be exposed to competition by other interested developers, including municipalities with a preference under Section 7(a) of the Act.

A license applicant that is a qualified exemption applicant may request that its application for license be first considered as an application for exemption, if its license application was the first filed for the project. Such a request may be filed at any time during the period for filing protests and petitions for intervention prescribed in the public notice for its license application. A preliminary permit applicant that is a qualified exemption applicant may submit an exemption application during the public notice period for its permit application, if its permit application was the first filed for the project.

Paragraph (e) of § 4.104 contains noteworthy provisions about Commission treatment of applications that propose to develop the same project. An exemption application submitted in competition with an application for a preliminary permit will be preferred to the permit application. However, as between license applicants and exemption applicants, the Commission will favor the first-filed application unless the plans of the subsequent applicant would better develop the water power potential at the project.

Municipalities or other public entities that are not project owners and that apply for preliminary permits or licenses that compete with exemption applications will be governed by the same rules as other applicants for permits or licenses, and will not receive the preferential treatment provided under section 7(a) of the Act.

§ 4.105 Action on exemption applications.

Section 4.105 of the final rule contains the procedures and timing provisions for Commission action on an exemption application. If the application is for exemption from provisions other than licensing, the Commission will act in the context and according to the procedures for the related application for license or amendment of license. The procedures for exemption from licensing are provided in this section.

Once an application for exemption from licensing is submitted, the Commission will allow only 45 days for correcting deficiencies. The Commission may on its own motion, or on the motion of any party in interest, order a hearing on an application for exemption. Interested agencies will have 60 days to comment on an application. If an agency does not comment within the 60 days, that agency will be presumed to have no objection to the exemption requested. A non-responding fish or wildlife agency will be presumed to have no conditions to impose other than those specified in Exhibit E of the application. If the Commission does not act within 120 days of the notice that an application is accepted, it is automatically granted on certain standard conditions.

§ 4.106 Standard terms and conditions for exemption from licensing.

The rule specifies, in § 4.106, five standard conditions of every exemption. The installation of new capacity at the exempted project must begin within 18 months and completed within four years of the date of issuance of the exemption. Failure to begin or complete development of the project on a timely basis may lead to acceptance of license applications for the project and revocation of the exemption. These provisions are designed to prevent tying up the project site for an unreasonable time without development. Other standard conditions relate to the Commission's enforcement powers, compliance with conditions imposed by fish and wildlife agencies during the exemption process, and the navigation servitude of the United States to which all exempted projects on navigable waters remain subject. A fifth article is added to require the acquisition of rights to use any Federal lands involved from the administering Federal land management agencies within one year. If they are not obtained timely, the Commission may accept license applications for the project and revoke the exemption.

The Commission may provide further (non-standard) conditions in each exemption from licensing, based on the circumstances of the exemptible project, under § 4.105(b)(6). Among other things, Commission will be concerned about the safety of project works. For example, if a project contains a dam that is ten or more meters in height above streambed, impounds 2.5 million or more cubic feet of water, or is determined to have a high hazard potential, the Commission may require periodic inspection of the project by an independent consultant.[8]

§ 4.107 Contents of application for exemption from licensing.

The rule describes the required format and contents of the application for exemption from licensing in § 4.107. The application includes an introductory statement, which identifies the applicant and the project, as well as Exhibits A, B, E, and G. Exhibit A must include a description of the facility and the proposed mode of operation. Exhibit B is a general location map.

Exhibit E is an environmental report submitted to facilitate compliance with the National Environmental Policy Act of 1969. It also contains information to facilitate compliance with the National Historic Preservation Act, the Endangered Species Act, and the Fish and Wildlife Coordination Act.

Exhibit G is a set of drawings showing structures and equipment. These drawings will permit the Commission to review the project structures, existing and proposed, in order to understand their environmental and dam safety implications.

§ 4.108 Contents of application for exemption from provisions other than licensing.

Any applicant for exemption from selected parts of the Act other than the licensing requirements must submit a list of sections from which it seeks exemption, appended to an application for license or amendment of license.

Other amendments

The Commission also amends its regulations to delegate to the Director of the Office of Electric Power Regulation, or his designee, the limited authority to grant applications for exemptions from all or part of Part I of the Act, provided an environmental impact statement is not required, for small hydroelectric power projects or small conduit hydroelectric power projects.

IV. Effective Date

The Commission finds good cause to make this rule immediately effective.[9] The procedures established by this final rule provide the means for exemption of certain hydroelectric power projects from various statutorily imposed requirements. The rule therefore both "recognizes an exemption" and, at least potentially, "relieves a restriction." Given the determination of the Congress to encourage expeditious development of hydroelectric projects and the large numbers of preliminary permit and license applications being submitted to the Commission, an immediate effective date is in the public interest.

(Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611; Federal Power Act, as amended, 16 U.S.C. §§ 792–828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2601–2645; and the Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission amends Parts 4 and 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective November 7, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. Part 4 is amended in the Table of Contents by adding Subpart K to read as follows:

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

Sec.
- 4.101 Purpose.
- 4.102 Definitions.
- 4.103 General provisions.
- 4.104 Relationships among applications, exemptions, permits, and licenses.
- 4.105 Action on exemption applications.
- 4.106 Standard terms and conditions of exemption from licensing.
- 4.107 Contents of application for exemption from licensing.
- 4.108 Contents of application for exemption from provisions other than licensing.

2. Part 4 is amended by adding Subpart K to read as follows:

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

§ 4.101 Purpose.

This subpart provides a procedure for obtaining exemption on a case-by-case basis from all or part of Part I of the Federal Power Act (Act), including

[7] Under Part I of the Federal Power Act and Part 4 of the Commission's regulations, a person need not have sufficient property interest to develop power at a site in order to obtain a preliminary permit or a license. However, property interests must always be perfected to develop a project.

[8] These criteria are in Subpart D of the Commission's proposed Regulations Governing the Safety of Water Power Projects and Project Works, issued June 16, 1980, 45 *Fed. Reg.* 41608, June 19, 1980 (Docket No. RM80–31).

[9] Under the Federal Power Act (FPA), Commission action may take effect prior to the disposition of petitions for rehearing. (*See* § 313(c)) The Commission is of the view that the rehearing provisions contained in § 313 of the FPA apply to this rule due to the relationship of the exemption provision of PURPA to the licensing provisions of Part I of the FPA. Persons participating in this rulemaking should be aware that under § 313 of the FPA an application for rehearing is a jurisdictional prerequisite to obtaining judicial review.

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licensing, for certain small hydroelectric power projects.

§ 4.102 Definitions.

For purposes of this subpart—

(a) "Dam" means any structure for impounding water, including any diversion structure that is designed to obstruct all or substantially all of the flow of a natural body of water.

(b) "Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.

(c) "Fish and wildlife agencies" means the U.S. Fish and Wildlife Service, the National Marine Fisheries Service if anadromous or estuarine fish may be affected, and any state agency with administrative authority over fish or wildlife resources of the state or states in which the small hydroelectric power project is or will be located.

(d) "Federal lands" means any lands to which the United States holds fee title.

(e) "Non-Federal lands" means any lands other than Federal lands.

(f) "Real property interests" includes ownership in fee, right-of-way, easement, or leasehold.

(g) "Licensed water power project" means a project, as defined in section 3 (11) of the Act, that is licensed under Part I of the Act.

(h) "Project" means: (1) the impoundment and any associated dam, intake, water conveyance facility, power plant, primary transmision line, and other appurtenant facility, if a lake or similar natural impoundment or a man-made impoundment is used for power generation; or

(2) Any diversion structure other than a dam and any associated water conveyance facility, power plant, primary transmission line, and other appurtenant facility, if a natural water feature other than a lake or similar natural impoundment is used for power generation.

(i) "Person" means any individual and, as defined in section 3 of the Act, any corporation, municipality, or state.

(j) "Qualified exemption applicant" means any person who meets the requirements specified in § 4.103(b)(2) with respect to a small hydroelectric power project for which exemption from licensing is sought.

(k) "Qualified license applicant" means any person to whom the Commission may issue a license, as specified in section 4(e) of the Act.

(l) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of application under this subpart and which will have a total installed capacity of not more than 5 megawatts and which:

(1) would utilize for electric power generation the water power potential of an existing dam that is not owned or operated by the United States or by any instrumentality of the Federal Government, including the Tennessee Valley Authority; or

(2) would utilize a natural water feature for the generation of electricity, without the need for any dam or man-made impoundment.

(m) "Install or increase" means to add new generating capacity at a site that has no existing generating units, to replace or rehabilitate an abandoned or unused existing generating unit, or to increase the generating capacity of any existing power plant by installing an additional generating unit or by rehabilitating an operable generating unit in a way that increases its rated electric power output.

§ 4.103 General provisions.

(a) *Exemptible projects.* Except as provided in paragraph (d), the Commission may exempt under this subpart any small hydroelectric power project from all or part of Part I of the Act, including licensing.

(b) *Who may apply.* (1) *Exemption from provisions other than licensing.* Any qualified license applicant or licensee seeking amendment of license may apply for exemption of the related project from provisions of Part I of the Act other than licensing.

(2) *Exemption from licensing.* (i) *Only Federal lands involved.* If only rights to use or occupy Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person may apply for exemption of that project from licensing.

(ii) *Some non-Federal lands involved.* If real property interests in any non-Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person who has all of the real property interests in non-Federal lands necessary to develop and operate that project, or an option to obtain those interests, may apply for exemption of that project from licensing.

(c) *Limitation for licensed water power project.* The Commission will not accept for filing an application for exemption from licensing for any project that is only part of a licensed water power project.

(d) *Waiver.* A qualified exemption applicant may petition under § 1.7 of this chapter for waiver of any specific provision of this subpart. The Commission may grant a waiver if consistent with section 408 of the Energy Security Act of 1980.

§ 4.104 Relationships among applications, exemptions, permits, and licenses.

For purposes of this subpart, the Commission will treat preliminary permit and license applications, preliminary permits, licenses, exemptions from licensing, and applications for exemption from licensing that are related to a small hydroelectric power project as follows:

(a) *Limitations on submission and acceptance of exemption applications.* (1) *Unexpired permit or license application.* If there is an unexpired preliminary permit or license in effect for a project, the Commission will accept an application for exemption of that project from licensing only if the exemption applicant is the permittee or licensee.

(2) *Pending permit or license application.* (i) *Pending permit application.* If a preliminary permit application for a project has been accepted for filing, an application for exemption of that project from licensing, or a notice of intent to submit such an application, may be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for the permit application under § 4.31(c)(2) of this chapter.

(ii) *Pending license application.* (A) *Submitted by permittee.* If an accepted license application for a project was submitted by a permittee before the permit expired, the Commission will not accept an application for exemption of that project from licensing submitted by a person other than the permittee.

(B) *Submitted by non-permittee other than qualified exemption applicant.* Except as provided in clause (A), if the first accepted license application for a project was filed by a person other than a qualified exemption applicant, an application for exemption from licensing, or a notice of intent to submit such an application, may be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for that license application under § 4.31(c)(2) of this chapter.

(C) *Submitted by qualified exemption applicant.* If the first accepted license application for a project was filed by a qualified exemption applicant, the applicant may request that its license application be treated initially as an application for exemption from licensing by so notifying the Commission in writing and, unless only rights to use or occupy Federal lands would be necessary to develop and operate the project, submitting documentary evidence showing that the applicant holds the real property interests required under § 4.103(b)(2)(ii). Such notice and documentation must be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for the license application under § 4.31(c)(2) of this chapter.

(b) *Priority of exemption applicant's earlier permit or application.* Any accepted preliminary permit or license application submitted by a person who later applies for exemption of the project from licensing under paragraph (a)(2)(i) or (ii)(C) of this section retain its validity and priority under Subpart D of this part until the preliminary permit or license application is withdrawn or the project is exempted from licensing under this subpart.

(c) *Limitations on submission and acceptance of permit or license applications.* (1) *General rule.* Except as permitted under subparagraph (2) or under § 4.106(c) or (e), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project if:

(i) That project is exempt from licensing, under this subpart; or

(ii) The Commission has accepted an application for exemption of that project from licensing and the application has not yet been granted or denied.

(2) *Exceptions.* (i) If the Commission has accepted an application for exemption of a project from licensing, any qualified license applicant may submit a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application, not later than the last date for filing protests or petitions to intervene prescribed in the public notice of the application for exemption from licensing issued under § 4.31(c)(2) of this chapter.

(ii) If a project is exempted from licensing and real property interests in any non-Federal lands would be necessary to develop and operate the project, any person who is a qualified license applicant and has any of those real property interests in non-Federal lands may submit a license application for that project.

(iii) If the Commission has accepted an application for exemption of a project from licensing and the application has not yet been granted or denied, the applicant for exemption may submit a license application for that project if it is a qualified license applicant. The pending application for exemption from licensing will be considered withdrawn as of the date that the Commission accepts the license application for filing.

(iv) If a license application submitted under paragraph (c)(2)(ii) or (iii) of this section has been accepted for filing, any qualified license applicant may submit a competing license application in accordance with § 4.33 of this part.

(d) *Requirements for notices of intent and competing applications.* (1) *Competing exemption applications and notices of intent.* (i) Any notice of intent to file an application for exemption from licensing submitted under paragraph (a)(2)(i) or (ii)(B) of this section must conform to the requirements of § 4.33(b) of this chapter.

(ii) If a notice of intent is submitted under paragraph (a)(2)(i) or (ii)(B) of this section, the application for exemption from licensing must be submitted not later than 120 days after the last date for filing protests and petitions to intervene prescribed in the public notice issued for the permit or license application under § 4.31(c)(2) of this chapter.

(iii) Any notice of intent or application for exemption from licensing submitted under paragraph (a)(2)(i) or (ii)(B) of this section must be accompanied by proof of service of a copy of the notice of intent or exemption application on the permit or license applicant.

(2) *Competing license applications and notices of intent.*

(i) Any notice of intent to file a license application submitted under paragraph (c)(2)(i) must conform to the requirements of § 4.33(b) of this chapter and specify the capacity that the applicant proposes to install in the project.

(ii) If a notice of intent is submitted under paragraph (c)(2)(i), the license application must be submitted not later than 120 days after the last date for filing protests and petitions to intervene prescribed in the public notice issued for the exemption application under § 4.31(c)(2) of this chapter.

(iii) Any notice of intent or application for license submitted under paragraph (c)(2)(i) must be accompanied by proof of service of a copy of the notice or application on the exemption applicant.

(e) *Disposition of competing applications.* (1) *Exemption v. permit.* If an accepted application for a preliminary permit and an accepted application for exemption from licensing propose to develop mutually exclusive small hydroelectric power projects, the Commission will favor the application for exemption.

(2) *Exemption v. license.* If an application for a license and an application for exemption from licensing are each accepted for filing and each propose to develop a mutually exclusive project, the Commission will favor the application first filed, unless the Commission determines the plans of the subsequent applicant would better develop the water power potential of the affected water resources.

§ 4.105 Action on exemption applications.

(a) *Exemption from provisions other than licensing.* An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement will be processed and considered as part of the related application for license or amendment of license.

(b) *Exemption from licensing.* (1) *General Procedure.* An application for exemption of a small hydroelectric power project from licensing will be processed in accordance with paragraphs (c) through (g) of § 4.31 of this part, except that notice will be published only once in a daily or weekly newspaper of general circulation in each county in which the project is or will be located. The additional time that may be allowed under § 4.31(d) of this part for correcting deficiencies in an application for exemption may not exceed 45 days.

(2) *Hearing.* The Commission may order a hearing on an application for exemption from licensing either on its own motion or on the motion of any party in interest. Any hearing shall be limited to the issues prescribed by order of the Commission.

(3) *Consultation.* The Commission will circulate a notice of application for exemption from licensing to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the exemption requested. Any comments submitted by a fish or wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the application for exemption submitted under § 4.107(e). Any fish or wildlife agency that does not comment within the 60-day period will be presumed to have determined that no terms or conditions of exemption are necessary for the above purposes, except the terms and

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conditions included in Exhibit E of the exemption application.

(4) *Automatic exemption.* If the Commission has not taken one of the actions set forth in paragraph (b)(5) of this section within 120 days after notifying the applicant that its application for exemption from licensing is accepted for filing, exemption of the project, as proposed, will be deemed to be found consistent with the public interest and granted, on the standard terms and conditions set forth in § 4.106.

(5) *Affirmative action on exemption.* Within 120 days after notifying an applicant that its application for exemption from licensing is accepted for filing, the Commission may take any of these affirmative actions:

(i) Grant the exemption as requested;

(ii) Grant an exemption from provisions of Part I of the Federal Power Act (and the regulations issued under those provisions) other than those for which exemption was requested, upon finding that modification of the exemption requested is in the public interest;

(iii) Deny exemption if granting the exemption would be inconsistent with the public interest; or

(iv) Suspend the 120-day period for action under this paragraph, upon finding that additional time is necessary for gathering additional information, conducting additional proceedings, or deliberating on the issues raised by the application.

(6) *Non-standard terms and conditions.* In granting an exemption from licensing, the Commission any prescribe terms or conditions in addition to those set forth in § 4.106 in order to:

(i) Protect the quality or quantity of the related water supply;

(ii) Otherwise protect life, health, or property;

(iii) Avoid or mitigate adverse environmental impact; or

(iv) Better conserve, develop, or utilize in the public interest the water resouces of the region.

§ 4.106 Standard terms and conditions of exemption from licensing.

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that any Federal or state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resouces or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) *Article 3.* The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption was granted. If an exemption is revoked, the Commission will not acccept a susequent application for exemption within two years of the revocation.

(d) *Article 4.* This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) *Article 5.* This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

§ 4.107 Contents of application for exemption from licensing.

(a) *General requirements.* (1) An application for exemption from licensing submitted under this subpart must contain the introductory statement and exhibits described in this section and, if the project structures would use or occupy any lands other than Federal lands, an appendix containing documentary evidence showing that the applicant has the real property interests required under § 4.103(b)(2)(ii) of this subpart. An application for exemption from licensing must conform to the requirements set forth in §§ 1.5 and 1.14 through 1.17 of this chapter.

(2) An original and fourteen copies of the exemption application must be submitted to the Secretary of the Commission, and a copy must be served at the same time on the Commission's regional engineer for the region in which the project is located and on each of the consulted fish and wildlife agencies. Full-sized prints of all required maps and drawings must be filed with the application. Maps and drawings need not conform to the requirements of § 4.32 of this part, but must be of sufficient size, scale, and quality to permit easy reading and understanding. The Commission will request original drawings (microfilm) when it notifies the applicant that the application is accepted.

(b) *Introductory statement.* The application must include an introductory statement that conforms to the following format:

Before the Federal Energy Regulatory Commission

Application for Exemption of Small Hydroelectric Power Project From Licensing

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for [name of project], a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from licensuing under the Federal Power Act. [If applicable: The project is currently licensed as FERC Project No. ——.]

(2) The location of the project is:

[State or territory] ———

[County]———

[Township or nearby town] ———

[Stream or body of water]———

(3) The exact name and business address of each applicant are:

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are:

(5) [Name of applicant] is [specify, as appropriate: a citizen of the United States or other identified nation; an association of citizens of the United States or other identified nation; a municipality; a state; or a corporation incorporated under the laws of (specify the United States or the state or nation of incorporation, as appropriate)].

(c) *Exhibit A.* Exhibit A must describe the small hydroelectric power project and its proposed mode of operation. To the extent feasible, the information in this exhibit may be submitted in tabular form. The applicant must submit the following information:

(1) A brief description of any existing dam and impoundment proposed to be utilized by the small hydroelectric power project and any other existing or proposed project works and appurtenant facilities, including intake facilities, diversion structures, powerhouses, primary transmission lines, penstocks, pipelines, spillways, and other structures, and the sizes, capacities, and construction materials of those structures.

(2) The number of existing and proposed generating units at the project, including auxiliary units, the capacity of each unit, any provisions for future units, and a brief description of any plans for retirement or rehabilitation of existing generating units.

(3) The type of each hydraulic turbine of the small hydroelectric power project.

(4) A description of how the power plant is to be operated, that is, run-of-river or peaking.

(5) A graph showing a flow duration curve for the project or, if flow data are not available from United States Geological Survey records, the estimated average annual stream flow in cubic feet per second.

(6) Estimations of:

(i) the average annual generation in kilowatt-hours;

(ii) the average and design head of the power plant;

(iii) the hydraulic capacity of each turbine of the power plant (flow through the plant) in cubic feet per second;

(iv) the number of surface acres of the man-made or natural impoundment used, if any, at its normal maximum surface elevation and its net and gross storage capacities in acre-feet.

(7) The planned date for beginning and completing the proposed construction or development of generating facilities.

(8) A description of the nature and extent of any repair, reconstruction, or other modification of a dam that would occur in association with construction or development of the proposed small hydroelectric power project, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after construction.

(d) *Exhibit B.* Exhibit B is a general location map, which may be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a state agency, enlarged, if necessary, to show clearly and legibly all of the information required by this paragraph. The map must show the following information:

(1) The location of the existing and proposed physical structures of the small hydroelectric power project, including any dam or diversion structure, reservoir or impoundment, penstocks, pipelines, power plants, access roads, transmission lines, and other important features.

(2) The relationship of the project structures to the stream or other body of water on which the project is located and to the nearest town or other permanent objects that can be readily recognized in the field.

(3) A description of who owns or otherwise has real property interests in any tract of land occupied by the small hydroelectric power project or the structures to which it is directly connected.

(e) *Exhibit E.* This exhibit is an environmental report that must include the following information, commensurate with the scope and environmental impact of the construction and operation of the small hydroelectric power project:

(1) A description of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must list any endangered or threatened plant and animal species, any critical habitats, and any sites eligible for or included on the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts from the proposed construction or development and the proposed operation of the small hydroelectric power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies consulted, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources.

(3) Letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant fish and wildlife agencies (specify each agency) before filing the application, including any terms or conditions of exemption that those agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act. If any fish or wildlife agency fails to provide the applicant with documentation of the consultation process within a reasonable time, in no case less than 30 days after documentation is requested, the applicant may submit a summary of the consultation and any determinations of the agency. Any exemption application that does not contain the information required in this subparagraph will be considered patently deficient and be rejected pursuant to § 4.31(d) of this part. The applicant may obtain a list of fish and wildlife agencies from the Director of the Division of Hydropower Licensing or any Regional Engineer.

(4) Any additional information the applicant considers important.

(f) *Exhibit G.* Exhibit G is a set of drawings showing the structures and equipment, that is, the proposed and existing project works, of the small hydroelectric power project. The drawings must include plan, elevation, and section views of the power plant, any existing dam or diversion structure, and any other principal structure of the project.

§ 4.108 Contents of application for exemption from provisions other than licensing.

An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement need not be prepared according to any specific format, but must be included as an identified appendix to the related application for license or amendment of license. The application for exemption must list all sections or subsections of Part I of the Act for which exemption is requested.

PART 375—THE COMMISSION

3. Section 375.308 is amended by adding a new paragraph (11) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

The Commission authorizes the Director of the Office of Electric Power Regulation, or the Director's designee, to:

* * * * * *

(11) Grant or grant with modifications, but not suspend the time for action on or deny, any uncontested application

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submitted under Subparts J or K of Part 4 of this chapter for exemption from all or part of Part I of the Federal Power Act, if an environmental impact statement is not required.

[FR Doc. 80-35940 Filed 11-17-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5b

[T.D. 7736]

Foreign Earned Income Exclusion and the Deduction for Excess Foreign Living Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. These regulations affect U.S. citizens and residents who work overseas and provide them with the guidance needed to comply with the law.

EFFECTIVE DATE: The regulations apply to taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T; 202-566-3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations under section 911 of the Internal Revenue Code of 1954 relating to the foreign earned income exclusion. The final regulations under this section are necessary to conform the regulations under section 911 to section 202 of the Foreign Earned Income Act of 1978 (Pub. L. No. 95-615, 92 Stat. 3098). This document also contains final regulations under section 913 of the Code relating to the deduction for excess foreign living costs. Section 913 was enacted by section 203 of the Foreign Earned Income Act. In addition, this document contains final regulations under sections 953, 981, 1303, 6073 and 6081 to conform the regulations to changes made by the Foreign Earned Income Act. This document does not reflect changes made to the Code by the Technical Corrections Act of 1979.

On May 9, 1979, the **Federal Register** published proposed and temporary amendments to the Income Tax Regulations (26 CFR Parts 1 and 5b) under sections 911 and 913 of the Internal Revenue Code of 1954 (44 FR 27079). A public hearing was held on August 28, 1979. On December 31, 1979, the **Federal Register** published temporary amendments to the Income Tax Regulations (26 CFR Part 5b) under section 911 of the Internal Revenue Code of 1954 (44 FR 77155). After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 911

Section 911 was amended by the Foreign Earned Income Act of 1978 to permit qualifying taxpayers who reside in a camp located in a hardship area in a foreign country to exclude annually up to $20,000 of foreign earned income. A taxpayer is not allowed a credit, however, for any foreign taxes paid or accrued on the excluded income. The regulations apply to taxable years beginning after December 31, 1978. They also apply to the taxable year beginning during 1978 of qualifying taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act to have prior law apply to that year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 and by section 701(u)(10) of the Revenue Act of 1978.

Section 913

Section 913, enacted by the Foreign Earned Income Act of 1978, allows to qualifying taxpayers with foreign tax homes a deduction which consists of the following amounts:

(1) A cost-of-living differential;
(2) Qualified housing expenses;
(3) Qualified schooling expenses;
(4) Qualified home leave transportation expenses; and
(5) A hardship area amount.

The section 913 deduction is a deduction from gross income and is limited to the amount of the taxpayer's foreign source earned income reduced by certain amounts. The deduction may not be claimed by a taxpayer who claims the section 911 exclusion.

Summary of Changes

Section 911

A number of revisions of the proposed regulations have been made by the final regulations, many in response to public comments. The amendments to the temporary regulations (26 CFR Part 5b) published by the **Federal Register** on December 31, 1979, are incorporated into the final regulations. Section 1.911-1(c)(1) sets forth the general definition of camp. A rule has been added, providing that two or more common areas or enclaves which house employees who work on the same project are considered to be one common area or enclave in determining whether the lodging accommodates 10 or more employees performing services at the taxpayer's worksite.

Section 1.911-1(c)(2) provides that lodging will be considered to be substandard if it is appreciably below the standard of housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of an employee of the United States who is compensated at an annual rate paid for step 1 of grade GS-14. A list of facts and circumstances to be considered in determining whether lodging is substandard is provided. In addition a list of presumptions is provided.

Section 1.911-1(c)(3) provides a new definition of remote area which focuses on the availability of satisfactory housing. A list of facts and circumstances to be considered in determining whether an area is remote is provided. In addition a list of presumptions is provided.

Section 1.911-5(a)(3) provides a new formula for determining the amount of foreign taxes to be allocated to excluded earned income when such taxes cannot be specifically allocated to the excluded earned income.

Section 913

Section 1.913-3(a) of the proposed regulations provided that the abode of a taxpayer who spends 2 consecutive months in the United States is considered to be in the United States during that 2-month period in the absence of unusual circumstances. This provision has been deleted.

Section 1.913-3(b)(2) is amended to provide that when the taxpayer's tax home is in a hardship area, then living conditions will be considered to be adverse.

The proposed regulations contained rules that disqualified the taxpayer for parts of the section 913 deduction, *e.g.*, qualified cost-of-living differential (in § 1.913-5(b)(4)), qualified housing expenses (in § 1.913-6(b)(2)), qualified schooling expenses (in § 1.913-7(b)), and qualified transportation expenses (in § 1.913-8(b)(3)) if the taxpayer or the taxpayer's spouse is compensated in whole or in part by an allowance excludable from gross income under section 912 for items for which a deduction would otherwise be allowed for excess foreign living costs. These rules have been altered to provide for a reduction of, rather than disqualification from, the section 913 deduction by the amount of allowances excludable from gross income under section 912 which duplicate an item for which a deduction would otherwise be allowed for excess foreign living costs.

Section 1.913-5(d)(1) of the proposed regulations has been amended by the addition of a rule providing that a dependent may be considered to share the taxpayer's abode while boarding at a school if the expenses of room and board are not deducted as a qualified schooling expense.

Section 1.913-7(b)(2) of the proposed regulations provided that only that portion of a payment attributable to the school days in the taxable year may be claimed as a qualified school expense in that taxable year. This provision has been deleted and a new rule provides that the payment attributable to school days in an academic year may be claimed as school expenses in the taxable year in which the payments were made.

Section 1.913-8(b)(1) of the proposed regulations provided a limitation for purposes of determining qualified home leave transportation expense of one trip during each 12-month period abroad. The use of the word "during" limited home leave expense to only one trip in any given 12-month period abroad. Comments noted that the statute uses the language "one trip for each 12-month period." Comments assert that circumstances such as employer requirements that no home leave be taken until after 1 year of employment, requirements of schools and the need to travel at times of the year when economy flights are available may necessitate that home leave be taken at a particular time which is within the same 12 consecutive months that another home leave has been taken. Therefore this limitation has been revised. The new limitation is one trip for each 12-month period abroad. For example, a taxpayer resident of a foreign country for two years beginning January 1, 1980, and ending December 31, 1981, could take two home leave trips in 1981 for which amounts could be taken into account as qualified home leave travel expenses providing that no home leave trip for which amounts were taken into account as qualified home leave travel expenses was taken in 1980.

Drafting Information

The principal author of this regulation is Mary E. Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments of the regulations 26 CFR Part 1 are adopted with the following revisions. In addition, 26 CFR Part 5b is deleted.

Paragraph 1. Section 1.911-1 as set forth in the notice of proposed rulemaking, is amended by deleting the penultimate sentence in paragraph (b) and adding in lieu thereof two new sentences, and by revising paragraph (c). The added and revised portions are set forth below.

§ 1.911-1 Individuals qualifying for the exclusion.

* * * * * *

(b) *Taxpayers qualifying.* * * * However, a taxpayer who alternates his or her abode between the camp and some other location not in a camp is not considered to reside in the camp while at the other location. As an illustration, a taxpayer who lives and works for 30 days in the camp and then lives and works for 30 days outside a camp will not be considered to reside in the camp during the 30 days while living and working outside a camp. * * *

(c) *Camp*—(1) *In general.* A camp is lodging which is all of the following:

(i) Substandard;

(ii) Provided by or on behalf of the employer for the convenience of the employer because the place where the taxpayer renders services is in a remote area where satisfactory housing is not available to the taxpayer on the open market;

(iii) Located as near as practicable to, and in the vicinity of, the worksite of the taxpayer; and

(iv) Furnished in a common area or enclave which is not available to the general public for lodging or accommodations and which normally accommodates 10 or more persons who are either employees of the taxpayer's employer or other employees performing services at the taxpayer's worksite.

For purposes of paragraph (c)(1)(ii) of this section, the term "for the convenience of the employer" has the same meaning which it has for purposes of section 119. For purposes of paragraph (c)(1)(iv) of this section, a cluster of housing units is not a common area or enclave if it is adjacent to or surrounded by substantially similar housing available to the general public. For purposes of paragraph (c)(1)(iv) of this section, two or more common areas or enclaves which house employees who work on the same project (for example, a highway project) are considered to be one common area or enclave in determining whether they normally accommodate 10 or more employees performing services at the taxpayer's worksite.

(2) *Substandard lodging*—(i) *In general.* Lodging is considered to be substandard if, under all the relevant facts and circumstances, it is appreciably below the standard of housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of an employee of the United States who is compensated at an annual rate paid for step 1 of grade GS-14. For purposes of this section, the salary of an employee is the amount required to be included in the income of the taxpayer as compensation. Relevant facts and circumstances which may indicate that lodging is substandard include (but are not limited to) the following:

(A) Inadequate living space;

(B) Lack of privacy occasioned by communal dining halls or other shared facilities;

(C) Temporary nature of the lodging, such as that inherent in prefabricated housing set in position on cinder blocks or housing consisting of movable units such as mobile homes, trailers, or portable camp facilities;

(D) An immediate environment that exposes the occupants of the housing to unsanitary or unhealthy conditions (for example, open sewers immediately adjacent to the housing) or to unusual risk of personal harm or property loss due to terrorism or civil unrest;

(E) Lack of improvements typically found in residential areas in the United States, such as paved and lighted streets, recreational areas, sewage facilities, and landscaping; or

(F) The cost per square foot of the lodging if constructed in the United States would be substantially less than the median cost per square foot to construct housing in the United States.

The general environment in which lodging is located (*e.g.*, the climate, prevalence of insects, etc.) does not of itself make lodging substandard. The general environment is relevant, however, if lodging is inadequate to protect the occupants from environmental conditions. The individual employee's income level is under no circumstances relevant to whether lodging is substandard. Thus, lodging occupied by a particular employee which is substantially inferior to the housing previously occupied by that individual in the United States is not substandard unless it is also substantially inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS-14, step 1, U.S. Government employee.

(ii) *Presumptions.* Lodging will generally be considered to be substandard if it consists of any of the following:

(A) Portable, temporary, or movable housing occupied by employees who are not accompanied by spouse or dependents, in

which the living space intended to be occupied by each employee is less than 250 square feet;

(B) Portable, temporary, or movable housing occupied by employees who are accompanied by spouse or dependents, in which the total interior living space intended to be occupied by a family unit is less than 800 square feet plus 200 square feet for each family member, other than the employee's spouse, who is expected to reside with the employee, and is no more than 1,200 square feet;

(C) Housing which lacks adequate and reliable heating or air conditioning if appropriate for the climate, or adequate and reliable utilities such as electricity or sewage facilities; or

(D) Housing which lacks private sleeping quarters for unrelated individuals, private bath or toilet facilities for unrelated individuals, or fresh hot and cold piped water.

Notwithstanding the fact that lodging is described in paragraph (c)(2)(ii) (A), (B), or (C), lodging will not be considered substandard if it is clearly not inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS–14, step 1, U.S. Government employee. For purposes of paragraph (c)(2)(ii) (A) and (B), living space does not include shared areas, such as dining halls, lavatories, or storage facilities which are used by unrelated employees. For purposes of paragraph (c)(2)(ii) (A) and (B), housing is not portable, temporary, or movable merely because it is prefabricated.

(iii) *Determination of median salary.* In determining the median salary of American employees residing in the common area, any reasonable method may be used. For example, the median salary may be determined by taking the average of the median salaries of American employees at the beginning and end of the calendar year.

(3) *Remote area.* Solely for purposes of section 911, a remote area is a place where satisfactory housing is unavailable to the taxpayer on the open market within a reasonable commuting distance of the place at which the taxpayer renders services.

(i) *Facts and circumstances.* Facts and circumstances to be considered in determining if satisfactory housing is unavailable within a reasonable commuting distance include (but are not limited to):

(A) The inaccessibility to available housing due to geographic factors or the quality of the roads;

(B) The number of housing units available on the open market within a reasonable commuting distance in relation to the number of housing units required for the employer's employees;

(C) The cost of housing available on the open market; or

(D) Terrorism or civil unrest present in the area where housing would be available which would subject U.S. citizens to unusual risk of personal harm or property loss.

(ii) *Presumptions.* Satisfactory housing will generally be considered to be unavailable to the employee on the open market if any of the following conditions is satisfied:

(A) The foreign government requires the employer to provide housing for its employees other than housing available on the open market;

(B) An unrelated person awarding work to an employer requires that the employer's employees occupy housing specified by such person; or

(C) The place at which the employee renders services is not within a reasonable commuting distance of a community with a population of 50,000 or more individuals.

The conditions of paragraph (c)(3)(ii) (A) and (B) are not fulfilled if the requirement described therein applies primarily to American employers or employers of American employees and there is a significant number of foreign employers or employees other than Americans.

Par. 2. Section 1.911–3, as set forth in the notice of proposed rulemaking, is amended by inserting in paragraph (b)(1) after the word "each" the word "entire".

Par. 3. Section 1.911–4, as set forth in the notice of proposed rulemaking, is amended by changing paragraph (c), Examples (1), (2) and (3) as set forth below.

§ 1.911–4 Treatment of community income.

* * * * *

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year. During 1981, B receives $40,000 compensation for services performed during that year in foreign country S. C, B's spouse and a U.S. citizen, is a resident of the United States during 1981 and receives no compensation during 1981. B's salary is considered community income under the law of state X, the state of residence of both spouses. If the income were not community income, $20,000 of the $40,000 received by B would be excluded from B's gross income. As a result, whether B and C file separate returns or a joint return, the aggregate amount excluded from their combined gross income is $20,000.

Example (2). The facts are the same as in example (1), except that C also qualifies for the section 911 exclusion for the entire 1981 taxable year. * * *

Example (3). B, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year. During 1981, B receives $40,000 compensation for services performed in foreign country X during that year. C, B's spouse and a citizen of country X, and B are both residents of country X during 1981. C receives $10,000 compensation for services performed during that year in country X. Under the law of country X one-half of B's earnings (or $20,000) belong to C and one-half of C's earnings (or $5,000) belong to B. * * *

Par. 4. Section 1.911–5, as set forth in the notice of proposed rulemaking, is amended by revising paragraphs (a) and (b) as set forth below.

§ 1.911–5 Disallowance of deductions and the foreign tax credit.

(a) *Deductions.* No deduction is allowed for any expenses (other than moving expenses), losses, or other otherwise deductible items definitely related (within the meaning of § 1.861–8) in whole or in part to earned income, to the extent they are properly apportioned (under the rules of § 1.861–8) to excluded earned income. Thus, if the taxpayer earns $60,000 of qualifying earned income during the taxable year, incurs $3,000 of otherwise deductible business expenses allocable to the entire $60,000, and excludes $20,000 of that income, $1,000 of the business expenses ($3,000×$20,000/$60,000) are not deductible, because they are apportioned to the excluded earned income of $20,000. Deductions which are not definitely related to qualifying earned income are deductible to the extent allowed by chapter 1 of the Code. Examples of deductions that are not definitely related are personal and family medical expenses, real estate taxes and mortage interest on a personal residence, charitable contributions, and deductions for personal exemptions. In the case of a taxpayer engaged in trade or business in which both personal services and capital are material income-producing factors, the deductions definitely related and properly apportioned to qualifying earned income are determined by multiplying the deductions definitely related and properly apportioned to the profits of such trade or business by a fraction, the numerator of which is qualifying earned income and the denominator of which is the profits of such trade or business.

(b) *Foreign taxes.* No deduction or credit is allowed for foreign income, war profits, or excess profits taxes paid or accrued with respect to excluded earned income. To determine the amount of disallowed taxes, multiply the tax imposed on earned income by a fraction the numerator of which is excluded earned income less deductible expenses definitely related in whole or in part to earned income, to the extent they are properly apportioned to excluded earned income (see § 1.911–5(a)), and the denominator of which is earned income less deductible expenses allocable to earned income. If the tax on earned income is imposed under foreign law on earned income and on some other amount (for example, some other type of income or an amount not subject to tax in the United States), the denominator equals the total of the amounts subject to the tax less deductible expenses allocable to all such amounts.

The following examples illustrate the determination of foreign income taxes paid or accured with respect to excluded earned income.

Example (1). A, a U.S. citizen and cash=basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year as a bona fide resident of foreign country X. For 1981, A pays $10,000 in income tax to country X. The $10,000 tax is imposed after reduction for allocable expenses and personal deductions not allocable to any particular items of income, on the following amounts: $40,000 received in 1981 for services performed during that year; and $9,000 of unrealized capital gains with respect to stock and other securities owned by A. Of the $40,000 of earned income, $35,000 is qualifying earned income under § 1.911–2; the remaining $5,000 does not qualify for the section 911 exclusion because it is received for services performed in the United States. A incurred $4,000 of expenses which are deductible and allocable to A's earned income. A excluded $20,000 of qualifying earned income from gross income for 1981. The $9,000 of unrealized capital gains is not subject to tax in the United States. In addition to the $10,000 tax on the above amounts, A pays a separate tax to country X of $800 on $8,000 of interest received during 1981. The amount of country X tax which is properly apportioned to excluded earned income (and, therefore, not deductible or creditable) equals $4,000, which is determined by multiplying the tax of $10,000 by the following fraction:

$18,000 ($20,000 excluded earned income less $2,000 of deductible expenses allocable to excluded income)

$45,000 ($40,000 of earned income less $4,000 of deductible expenses plus $9,000 unrealized capital gains)

The separate $800 tax imposed on interest income is not apportioned in part to the excluded earned income, and the interest income is disregarded for purposes of apportioning the $10,000 tax.

Example (2). A, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year as a bona fide resident of foreign country X. In 1981, A receives $50,000 of qualifying earned income for services performed during that year and excluded $20,000 of that income from gross income. Of the $50,000 received by A, $30,000 is for services performed in country X, and $20,000 is for services performed in country Y. Country Y does not tax A's income. Country X imposes a tax of $3,000 on the $30,000 received for services in country X but does not tax A's income received for services in country Y. The $20,000 exclusion is allocated on a pro rata basis between the portion of qualifying earned income subject to tax in country X and the portion not subject to tax. Thus, $12,000 ($20,000 exclusion X $30,000/$50,000) of the $30,000 subject to tax in country X is considered excluded under section 911. The amount of country X tax which is properly apportioned to excluded earned income equals $1,200, which is determined by multiplying the tax of $3,000 by the following fraction:

$12,000 (excluded earned income subject to country X tax)

$30,000 (income subject to country X tax)

Par. 5. Section 1.913–2, as set forth in the notice of proposed rulemaking is revised by deleting from the last sentence of § 1.913–2 (a) the following phrase: "and each spouse has a different tax home which is not within a reasonable commuting distance of the other spouse's tax home."

Par. 6. Section 1.913–3, as set forth in the notice of proposed rulemaking, is revised by changing paragraphs (a), (b)(2), (e), and (f) as set forth below.

§ 1.913–3 General definitions.

(a) *Tax home.* For purposes of section 913 and the regulations thereunder, the term "tax home" has the same meaning which it has for purposes of section 162(a)(2). An exception to the general rule is that a taxpayer shall not be considered to have a tax home in a foreign country for any period for which the taxpayer's abode is in the United States. For example, a taxpayer who lives in Detroit, Michigan, but commutes daily to work in Windsor, Ontario, would ordinarily have his or her tax home in Windsor but nevertheless would be ineligible for the deduction for excess foreign living costs. Temporary presence of the taxpayer in the United States does not necessarily mean that the taxpayer's abode is in the United States during that time.

(b) Qualified second household—

* * * * *

(2) *Adverse living conditions.* Adverse living conditions are living conditions which are dangerous, unhealthy, or otherwise adverse. If a taxpayer's tax home is in a hardship area (defined in paragraph (e) of this section), living conditions will be considered to be adverse. Adverse living conditions include a state of warfare or civil insurrection in the general area of the taxpayer's tax home. Adverse living conditions exist if the taxpayer's abode is on the business premises of the employer for the convenience of the employer and, because of the nature of the business (for example, a construction site or drilling rig), it is not feasible to provide family housing. The criteria used by the U.S. Department of State in granting a separate maintenance allowance are relevant but not determinative for purposes of determining whether a separate household is provided because of adverse living condition.

* * * * *

(e) *Hardship area.* A hardship area is any place in a foreign country (defined in paragraph (d) of this section) which is designated by the Secretary of State as a place where living conditions are extraordinarily difficult or notably unhealthy, or where excessive physical hardships exist, and for which a post differential of 15 percent or more would be provided under section 5925 of Title 5 of the U.S. Code to any officer or employee of the U.S. Government present at that place. Taxpayers who wish to apply for a hardship area determination must apply to the State Department Allowances Staff, Department of State, Washington, D.C. 20520.

(f) *Reasonable commuting distance.* For purposes of sections 911 and 913, a reasonable commuting distance is a distance which is capable of being traveled safely and regularly by customarily available transportation, including privately owned vehicles, in 1 hour.

Par. 7. Section 1.913–4, as set forth in the notice of proposed rulemaking, is revised by changing paragraph (a) as set forth below.

§ 1.913–4 Foreign source earned income limitation.

(a) *In general.* The deduction allowed under section 913 may not exceed foreign source earned income reduced by the portion of definitely related deductions (within the meaning of § 1.861–8), other than the deduction allowed by section 913, that is properly apportioned to such income. For purposes of this section deductions that are not definitely related, such as personal and family medical expenses, real estate taxes, mortgage interest on a personal residence, charitable contributions, and deductions for personal exemptions do not reduce foreign source income.

* * * * *

Par. 8. Section 1.913–5, as set forth in the notice of proposed rulemaking, is changed as set forth below.

1. Paragraph (a) is revised as set forth below.

2. Paragraph (b) is revised as set forth below.

3. Paragraph (d)(1) is revised as set forth below.

4. Paragraph (e)(2) is revised by deleting the phrase "paragraph (b)(3) of this section does not apply. Thus."

5. Paragraph (e)(3) is revised as set forth below.

§ 1.913–5 Cost-of-living differential.

(a) *In general.* The cost-of-living differential for an entire taxable year is the amount specified in tables issued annually by the Internal Revenue Service for the taxpayer's tax home and family size multiplied by the following fraction:

Number of qualifying days

Number of days in the taxable year

The amount which is the cost-of-living differential must be reduced (but not below zero) by the amount of any military or section 912 allowance excludable from gross income of the taxpayer or the taxpayer's spouse which is intended to compensate the taxpayer in whole or in part for the cost-of-living of the taxpayer's household (or of a qualified second household).

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 1.913–2(a) for the section 913 deduction, excluding days for which both meals and lodging are furnished to the taxpayer and the value of both is excluded from the taxpayer's gross income under section 119.

* * * * *

(d) *Family size*—(1) *In general.* In determining family size, the family includes only the taxpayer and any spouse and dependents who share the taxpayer's abode. A dependent may be considered to share the taxpayer's abode while boarding at a school only if the expenses of room and board are not deducted as qualified schooling expenses. In addition, no person is considered to share the taxpayer's abode during any days for which both meals and lodging are furnished to that person and the value of both is excluded under section 119. If family size varies during any period within the taxable year during which the taxpayer has a particular foreign tax home, a separate cost-of-living amount must be computed for each

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portion of that period during which the family size is different. An exception to this general rule is that a dependent who is born during a taxable year is considered to be a family member for the entire taxable year. Those amounts must then be aggregated to determine the cost-of-living differential for the taxable year. * * *

(e) *Special rules for qualified second household:* * * *

(3) *Family size.* Family size is determined as provided in paragraph (d) of this section, except that the family includes only the spouse and any dependents whose abode is the qualified second household. Regardless of whether the taxpayer is actually present in the qualified second household, the taxpayer is considered a family member except during days for which both meals and lodging are furnished to the taxpayer and the value of both is excluded under section 119.

Par. 9. Section 1.913–6, as set forth in the notice of proposed rulemaking, is changed as set forth below.

1. Paragraph (a) is revised as set forth below.

2. Paragraph (b)(1) and (2) are revised as set forth below.

3. Paragraph (d)(3)(i) is revised as set forth below.

4. Paragraph (e), Example (1) is revised by deleting the word "furnishes" and inserting in its place the word "provides" and in the same sentence inserting the phrase "owned by the employer" after the word "housing" and in the same sentence inserting the word "rental" after the word "market."

5. Paragraph (e), Example (3) is revised as set forth below.

§ 1.913–6 Qualified housing expense.

(a) *In general.* The amount of qualified housing expenses equals the reasonable housing expenses incurred by or on behalf of the taxpayer and any spouse and dependents who share the taxpayer's abode less the taxpayer's base amount. The amount of qualified housing expenses must be reduced, however, by the amount of any allowance excludable from gross income under section 912 which is intended to compensate in whole or in part for the expenses of housing located within a reasonable commuting distance of the taxpayer's tax home. Any amount required to be included in income of the taxpayer as compensation attributable to housing provided to the taxpayer shall be considered incurred on behalf of the taxpayer for housing in a foreign country.

(b) *Housing expenses*—(1) *In general.* Housing expenses include rent, utilities (other than long distance telephone charges), real and personal property insurance, occupancy taxes not described in paragraph (b)(1)(v) of this section, nonrefundable fees paid for securing a leasehold, rental of furniture and accessories, residential parking, and repairs. Housing expenses do not include—

(i) The cost of house purchase, improvements, and other costs which are capital expenditures;

(ii) The cost of purchased furniture or accessories or domestic labor (maids, gardeners, etc.);

(iii) Amortized payments of principal with respect to an evidence of indebtedness secured by a mortgage on the taxpayer's housing;

(iv) Depreciation of housing owned by the taxpayer, or amortization or depreciation of capital improvements made to housing leased by the taxpayer, or

(v) Interest and taxes deductible under sections 163 and 164 or other amounts deductible under section 216(a).

(2) *Limitation.* Housing expenses are taken into account for purposes of this section only to the extent that they are attributable to housing for portions of the taxable year during which—

(i) The taxpayer's tax home is in a foreign country;

(ii) The value of the taxpayer's housing is not excluded under section 119; and

(iii) The taxpayer qualifies under § 1.913–2(a) for the section 913 deduction. In addition, except as provided in paragraph (d)(1) of this section relating to qualified second households, if the taxpayer maintains more than one foreign abode at the same time, housing expenses are to be taken into account only to the extent that they are incurred with respect to the abode which bears the closest relationship (not necessarily geographic) to the taxpayer's tax home.

* * * * *

(d) *Special rules for qualified second households.* * * *

(3) *Qualified housing expenses for the qualified second household*—(i) *Expenses.* In determining under paragraph (b) of this section the housing expenses relating to the qualified second household, the limitation of paragraph (b)(2)(ii) of this section does not apply, so that housing expenses may include those incurred for housing during portions of the taxable year during which the value of the taxpayer's housing at the taxpayer's tax home is excluded under section 119. In addition, the words "qualified second household" are substituted for "taxpayer's tax home" in paragraph (a) of this section. Thus, the amount of qualified housing expenses need not be reduced by the amount of any allowance excludable under section 912 for the expenses of housing located at the taxpayer's tax home, but must be reduced by the amount of any military or section 912 allowance excludable from gross income which compensates the taxpayer or the taxpayer's spouse in whole or in part for the expenses of housing at the location of the qualified second household.

* * * * *

(e) *Illustrations.* * * *

Example (3). The facts are the same as in example (1), except that there is no qualified second household, the cost-of-living differential specified in the 1980 cost-of-living table for country F (the location of B's tax home) is $3,000, and town X is located in a hardship area. The base housing amount for housing at B's tax home equals $6,000—20 percent of $30,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential, the $10,000 living expenses and the $5,000 hardship area differential). Thus, the amount of B's qualified housing expenses equals $4,000. Although B's tax home is located in a hardship area, B cannot claim as qualified housing expenses the full value of the housing provided at B's tax home, since B does not maintain a qualified second household.

Par. 10. Section 1.913–7, as set forth in the notice of proposed rulemaking, is changed as set forth below.

1. Paragraph (b) is revised as set forth below.

2. Paragraph (d) is revised by deleting the phrase "In addition, a" and inserting in its place "A" and by adding at the end three sentences as set forth below.

§ 1.913–7 Qualified school expenses.

* * * * *

(b) *School expenses*—(1) *In general.* School expenses include tuition, fees, the cost of books, other amounts required by the school such as uniforms, and the cost of local transportation. Optional expenses, such as the cost of optional field trips or extracurricular activities, are not school expenses. If an adequate U.S.-type school is not available within a reasonable commuting distance (defined in § 1.913–3(f)) of the taxpayer's tax home, the expenses of room and board for the dependent and the cost of transportation between the school and the taxpayer's tax home at the beginning and end of the school year and during vacation periods are also school expenses. The cost of transportation includes transfer costs to and from the airport, airport taxes, exit fees or nonrefundable deposits made in order to leave the country, meals in route, and costs of involuntary stopovers in route. The cost of transportation does not include the costs of voluntary stopovers in route.

(2) *Limitation.* School expenses are qualified school expenses only to the extent that—

(i) They are not expenses for which a credit is claimed pursuant to section 44A (relating to child care) or for which a deduction is claimed pursuant to section 213 (relating to medical expenses);

(ii) They are not expenses for which the taxpayer or the taxpayer's spouse is compensated by an allowance such as the "school away from post" education allowance which is excluded from gross income under section 912;

(iii) They are attributable to education during a period in which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 1.913–2 (a) for the section 913 deduction; and

(iv) They are attributable to education during a period in which the dependent resides with the taxpayer at the taxpayer's tax home or in a qualified second household.

* * * * *

(d) *Availability and adequacy.* * * * In addition, a school is not adequate if it is under religious auspices which require religious training or infuse religious training in secular courses and the taxpayer does not send the dependent to another school under the same religious auspices. A school will be considered adequate even though it does not offer enrichment programs, if such programs would not ordinarily be offered in public elementary or secondary schools in the United States. Examples of such enrichment programs are a swimming team or orchestral training.

Par. 11. Section 1.913–8, as set forth in the notice of proposed rulemaking is changed as set forth below.

1. Paragraph (a) is revised by deleting the last sentence and adding in its place two sentences as set forth below.

2. Paragraph (b)(1) is revised as set forth below.

3. Paragraph (b)(2) is revised by deleting the phrase "lives either with the taxpayer (that is, shares the taxpayer's abode)" and by deleting the last sentence and the parenthetical "(See § 1.913–7(b)(2)(ii))."

4. Paragraph (b)(3) is revised as set forth below.

§ 1.913–8 Qualified home leave transportation expenses.

(a) *In general.* * * * Qualified transportation expenses include transfer costs to and from the airport, airport taxes, exit fees or nonrefundable deposits made in order to leave the country, meals in route, and the costs of involuntary stopovers in route. The cost of transportation does not include the costs of voluntary stopovers in route.

(b) *Limitations*—(1) *One trip for each 12-month period abroad.* Qualified transportation expenses include the cost of no more than one round trip per person for each period of 12 consecutive months (which do not overlap) during which—

(i) The taxpayer's tax home is in a foreign country; and

(ii) The taxpayer qualifies under § 1.913–2 (a) for the section 913 deduction.

The trip can occur before completion of a 12-month period.

* * * * *

(3) *Double benefits denied.* Qualified transportation expense for each period of 12 consecutive months must be reduced by the amount of any allowance which is granted to the taxpayer or the taxpayer's spouse for purposes of home leave transportation at any time during that period of 12 consecutive months and which is excluded from gross income under section 912.

Par. 12. Section 1.913–9, as set forth in the notice of proposed rulemaking, is changed as set forth below.

1. Paragraph (a) is revised by adding the phrase "for an entire taxable year" after the word "amount."

2. Paragraph (b) is revised by adding at the end thereof the following sentence: "Taxpayers who wish to apply for a hardship area determination must apply to the State Department Allowances Staff, Department of State, Washington, D.C. 20520."

Par. 13. Section 1.913–10, as set forth in the notice of proposed rulemaking, is revised by deleting the word "during" the first time it appears in paragraph (e) and inserting in its place the word "for."

Par. 14. Section 1.913–13, as set forth in the notice of proposed rulemaking, is changed by deleting the third and fourth sentences.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and, in part, under the authority contained in section 913(m) of the Code (92 Stat. 3106; 26 U.S.C. 913(m)).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 10, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Paragraph 1. Sections 5b.911–1 through 5b.911–7 are deleted, and the following §§ 1.911–1 through 1.911–7 are adopted.

Sec.

1.911–1 Individual qualifying for the exclusion.
1.911–2 Qualifying earned income.
1.911–3 Determination of the maximum excludable amount of qualifying earned income.
1.911–4 Treatment of community income.
1.911–5 Disallowance of deductions and the foreign tax credit.
1.911–7 Effective date of 1.911–1 through 1.911–6.

§ 1.911–1 Individuals qualifying for the exclusion.

(a) *Scope.* Section 911 provides that a qualifying taxpayer may exclude from gross income qualifying earned income described in § 1.911–2. The amount that may be excluded is subject to the limitation provided in § 1.911–3. Taxpayers may make an election under § 1.911–6(a) not to claim the benefit of section 911.

(b) *Taxpayers qualifying.* A taxpayer qualifies for the exclusion provided by section 911 if the taxpayer resides in a camp located in a hardship area and satisfies either the foreign residence test or the physical presence test of § 1.913–2(a) (1) and (2). A taxpayer is considered to reside in a camp only for portions of the taxable year during which the taxpayer's abode is in a camp. A taxpayer who is away from a camp for short periods of time may still be considered to reside in the camp during those periods of absence. As an illustration, a taxpayer living in a camp who spends weekends or takes periodic vacations of short duration away from the camp may be considered to reside in the camp during those periods of absence. However, a taxpayer who alternates his or her abode between the camp and some other location not in a camp is not considered to reside in the camp while at the other location. As an illustration, a taxpayer who lives and works for 30 days in the camp and then lives and works for 30 days outside a camp will not be considered to reside in the camp during the 30 days while living and working outside a camp. An individual is not considered to reside in a camp located in a hardship area during any period when the area where the camp is located is not designated as a hardship area. (See § 1.913–3(e).)

(c) *Camp*—(1) *In general.* A camp is lodging which is all of the following:

(i) Substandard;

(ii) Provided by or on behalf of the employer for the convenience of the employer because the place where the taxpayer renders services is in a remote area where satisfactory housing is not available to the taxpayer on the open market;

(iii) Located as near as practicable to, and in the vicinity of, the worksite of the taxpayer; and

(iv) Furnished in a common area or enclave which is not available to the general public for lodging or accommodations and which normally accommodates 10 or more persons who are either employees of the taxpayer's employer or other employees performing services at the taxpayer's worksite.

For purposes of paragraph (c)(1)(ii) of this section, the term "for the convenience of the employer" has the same meaning which it has for purposes of section 119. For purposes of paragraph (c)(1)(iv) of this section, a cluster of housing units is not a common area or enclave if adjacent to or surrounded by substantially similar housing available to the general public. For purposes of paragraph (c)(1)(iv) of this section, two or more common areas or enclaves which house employees who work on the same project (for example, a highway project) are considered to be one common area or enclave in determining whether they normally accommodate 10 or more employees performing services at the taxpayer's worksite.

(2) *Substandard lodging.*—(i) *In general.* Lodging is considered to be substandard if, under all the relevant facts and circumstances, it is appreciably below the standard of housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area of the salary of an employee of the United States who is compensated at an annual rate paid for step 1 of grade GS–14. For purposes of ths section, the salary of an employee is the amount required to be included in the income of the taxpayer as compensation. Relevant facts and circumstances which may indicate that lodging is substandard include (but are not limited to) the following:

(A) Inadequate living space;
(B) Lack of privacy occasioned by communal dining halls or other shared facilities;
(C) Temporary nature of the lodging, such as that inherent in prefabricated housing set in position on cinder blocks or housing consisting of movable units such as mobile homes, trailers, or portable camp facilities;
(D) An immediate environment that exposes the occupants of the housing to unsanitary or unhealthy conditions (for example, open sewers immediately adjacent to the housing) or to unusual risk of personal harm or property loss due to terrorism or civil unrest;
(E) Lack of improvements typically found in residential areas in the United States, such as paved and lighted streets, recreational areas, sewage facilities, and landscaping; or
(F) The cost per square foot of the lodging if, constructed in the United States would be substantially less than the median cost per square foot to construct housing in the United States.

The general environment in which lodging is located (*e.g.*, the climate, prevalence of insects, etc.) does not of itself make lodging substandard. The general environment is relevant, however, if lodging is inadequate to protect the occupants from environmental conditions. The individual employee's income level is under no circumstances relevant to whether lodging is substandard. Thus, lodging occupied by a particular employee which is substantially inferior to the housing previously occupied by that individual in the United States is not substandard unless it is also substantially inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS–14, step 1, U.S. Government employee.

(ii) *Presumptions.* Lodging will generally be considered to be substandard if it consists of any of the following:
(A) Portable, temporary, or movable housing occupied by employees who are not accompanied by spouse or dependents, in which the living space intended to be occupied by each employee is less than 250 square feet;
(B) Portable, temporary, or movable housing occupied by employees who are accompanied by spouse or dependents, in which the total interior living space intended to be occupied by a family unit is less than 800 square feet plus 200 square feet for each family member, other than the employee's spouse, who is expected to reside with the employee, and is no more than 1200 square feet;
(C) Housing which lacks adequate and reliable heating or air conditioning if appropriate for the climate, or adequate and reliable utilities such as electricity or sewage facilities; or
(D) Housing which lacks private sleeping quarters for unrelated individuals, private bath or toilet facilities for unrelated individuals, or fresh hot and cold piped water.

Notwithstanding the fact that lodging is described in paragraph (c)(2)(ii)(A), (B), or (C), lodging will not be considered substandard if it is clearly not inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS–14, step 1, U.S. Government employee. For purposes of paragraph (c)(2)(ii)(A) and (B), living space does not include shared areas, such as dining halls, lavatories, or storage facilities which are used by unrelated employees. For purposes of paragraph (c)(2)(ii)(A) and (B), housing is not portable, temporary or movable merely because it is prefabricated.

(iii) *Determination of median salary.* In determining the median salary of American employees residing in the common area, any reasonable method may be used. For example, the median salary may be determined by taking the average of the median salaries of American employees at the beginning and end of the calendar year.

(3) *Remote area.* Solely for purposes of section 911, a remote area is a place where satisfactory housing is unavailable to the taxpayer on the open market within a reasonable commuting distance of the place at which the taxpayer renders services.

(i) *Facts and circumstances.* Facts and circumstances to be considered in determining if satisfactory housing is unavailable within a reasonable commuting distance include (but are not limited to):
(A) The inaccessibility to available housing due to geographic factors or the quality of the roads;
(B) The number of housing units available on the open market within a reasonable commuting distance in relation to the number of housing units required for the employer's employees;
(C) The cost of housing available on the open market; or
(D) Terrorism or civil unrest present in the area where housing would be available which would subject U.S. citizens to unusual risk of personal harm or property loss.

(ii) *Presumptions.* Satisfactory housing will generally be considered to be unavailable to the employee on the open market if any of the following conditions is satisfied:
(A) The foreign government requires the employer to provide housing for its employees other than housing available on the open market;
(B) An unrelated person awarding work to an employer requires that the employer's employees occupy housing specified by such person; or
(C) The place at which the employee renders services is not within a reasonable commuting distance of a community with a population of 50,000 or more individuals.

The conditions of paragraph (c)(3)(ii)(A) and (B) are not fulfilled if the requirement described therein applies primarily to American employers or employers of American employees and there is a significant number of foreign employers or employees other than Americans.

(d) *Hardship area.* A hardship area is defined in § 1913–3(e).

(e) *Section 119 and business premises.* With respect to a taxpayer who excludes income pursuant to section 911, a camp as defined in paragraph (c) of this section is considered to be part of the business premises of the taxpayer's employer for purposes of section 119 for the portion of the taxable year during which the taxpayer satisfies the foreign residence test or the physical presence test of § 1913–2(a)(1) and (2) and resides in a camp located in a hardship area.

§ 1.911–2 Qualifying earned income.

(a) *In general.* Qualifying earned income is earned income (defined in paragraph (b) of this section) which—
(1) Is attributable to services performed in a foreign country (defined in § 1.913–3(d)) during the portions of the taxable year during which the taxpayer resides in a camp located in a hardship area and satisfies the foreign residence test or the physical presence test of § 1.913–2(a) (1) and (2);
(2) Is not paid by the U.S. government or any U.S. government agency or instrumentality;
(3) Is not received as a pension or annuity or included in the taxpayer's gross income by reason of section 402(b) (relating to the taxability of a beneficiary of a nonexempt trust) or section 403(c) (relating to the taxability of a beneficiary under a nonqualified annuity or under annuities purchased by exempt organizations); and
(4) Is not received after the close of the taxable year following the taxable year in which the services giving rise to the income are performed.

For purposes of paragraph (a)(1) of this section, the place of receipt of income is immaterial in determining whether income is derived from services performed in a foreign country.

(b) *Definition of "earned income"*—(1) *In general.* "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered. "Earned income" does not include any portion of compensation paid by a corporation which represents a distribution of earnings and profits rather than a reasonable allowance for personal services actually rendered to the corporation.

(2) *Earned income from business in which capital is material.* In the case of a taxpayer engaged in a trade or business (other than in corporate form) in which both personal services and capital are material income-producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer shall be considered earned income. In no case, however, may the total amount to be treated as earned income exceed 30 percent of the taxpayer's share of the net profits of the trade or business.

(3) *Earned income and employed assistants.* Earned income includes all fees received by a taxpayer engaged in a professional occupation (such as a doctor or lawyer) in the performance of professional activities. Professional fees constitute earned income even though the taxpayer employs assistants to perform part or all of the services rendered, provided the taxpayer's patients or clients look to the taxpayer as the person responsible for the services rendered.

§ 1.911–3 Determination of the maximum excludable amount of qualifying earned income.

(a) *Application of the limitation*—(1) *In general.* Qualifying earned income described in § 1.911–2 is excludable only to the extent of the limitation specified in paragraph (b) of this section for the taxable year in which the income is earned. Income is considered to be earned in the taxable year in which the services giving rise to the income are performed. Earned income is not to be attributed to any year in which the services performed are insubstantial in nature. The determination of the amount of excluded earned income in this manner does not affect the time for reporting any amounts included in gross income.

(2) *Illustrations.* Paragraph (a)(1) of this section is illustrated by the following examples:

Example (1). B, a U.S citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country X for the entire taxable years 1980 and 1981. During that entire period, B resides in a camp located in a hardship area. In 1981, B receives $40,000 for services performed in country X during 1980 and 1981. Of the total amount received in 1981 ($40,000), $30,000 is attributable to services performed during 1980, and $10,000 is attributable to services performed during 1981. The limitation specified in § 1.911–3(b) is $20,000 for income earned in each of the years 1980 and 1981. Thus, $20,000 of the $30,000 earned in 1980 and the entire $10,000 earned in 1981 are excluded in 1981 (the year of receipt). The nonexcludable $10,000 of the $30,000 earned in 1980 must be included in B's gross income in 1981 (the year of receipt).

Example (2). The facts are the same as in example (1), except that in 1982 B receives an additional $5,000 for services performed in country X in 1981. Since the $10,000 of income earned and received in 1981 is excluded, the remaining limitation for income earned in 1981 which is available for earned income received in 1982 is $10,000. Accordingly, the $5,000 earned in 1981 but received in 1982 is excluded from B's gross income in 1982.

(b) *Limitation*—(1) *In general.* The limitation for each entire taxable year on the exclusion of qualifying earned income described in § 1.911–2 equals $20,000 multiplied by the following fraction:

$$\frac{\text{The number of qualifying days}}{\text{The number of days in the taxable year}}$$

(2) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the taxpayer—
(i) Resides in a camp located in a hardship area within the meaning of § 1.911–1(b); and
(ii) Satisfies the foreign residence test or the physical presence test of § 1.913–2(a) (1) and (2).

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and a calendar year, cash-basis taxpayer, is a *bona fide* resident of foreign country X for the period April 1, 1979, through September 30, 1981. B resides in a camp located in a hardship area during that entire period and returns to the United States during that period only for a 3-week vacation in 1980. B receives $50,000 in each of the years 1979, 1980, and 1981 as current compensation for services performed in country X during the portions of those years during which B is a resident of country X. B receives no other compensation. The amounts of excluded income earned in taxable years 1979 through 1981 are computed as follows: of the income earned in 1979, $15,068 ($20,000 × 275/365); of the income earned in 1980, $20,000 ($20,000 × 366/366); and of the income earned in 1981, $14,959 ($20,000 × 273/365).

Example (2). B, a U.S. resident and a calendar year, cash-basis taxpayer, arrives in foreign country Y from the United States on April 24, 1980. B resides in a camp located in a hardship area during the entire time B is in country Y. B remains in country Y until October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B qualifies under the physical presence test of § 1.913–2(a)(2) for the period during which B is in country Y. B receives $50,000 in each of the years 1980 and 1981 as current compensation for services performed in country Y during the portions of those years during which B is in country Y. B receives no other compensation. The amounts of excluded income earned in taxable years 1980 and 1981 are computed as follows: of the income earned in 1980, $13,716 ($20,000 × 251/366); and of the income earned in 1981, $16,274 ($20,000 × 297/365).

§ 1.911–4 Treatment of community income

(a) *General rule.* This paragraph applies to married taxpayers with community income other than taxpayers described in paragraph (b) of this section. The amount of excluded earned income is first determined separately for each spouse under the rules of §§ 1.911–1 through 1.911–3 on the basis of the income attributable to that spouse's services. The sum of the amounts of excluded earned income so determined for each spouse is the aggregate amount excluded on a joint return. If the couple files separate returns, one-half of the aggregate amount which would be excluded on a joint return constitutes the exclusion on the separate return of each spouse.

(b) *Special rules applicable to married taxpayers to whom section 879 applies.* The following special rules regarding the treatment of community income apply to any U.S. citizen or resident married to a nonresident alien for whom an election under section 6013 (g) or (h) is not in effect to have the nonresident alien spouse treated as a U.S. resident. Section 879 (applicable to taxable years beginning after December 31, 1976) provides that earned income of such couples which is community income under the applicable community property law is treated as the income of the spouse who rendered the services for which the earned income was paid or accrued. The amount of earned income excluded under section 911 from the gross income of the spouse who is a U.S. citizen or resident is thus computed on the basis of the earned income attributed to that spouse under section 879. Any portion of such earned income that is not excluded is taxable to that spouse. The non-resident alien spouse does not compute an excluded amount with respect to any income attributed to that spouse under section 879 since, among aother things, nonresident aliens do not qualify for the section 911 exclusion.

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and a cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year.

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During 1981, B receives $40,000 compensation for services performed during that year in foreign countrys. C, B's spouse and a U.S. citizen, is a resident of the United States during 1981 and receives no compensation during 1981. B's salary is considered community income under the law of state X, the state of residence of both spouses. If the income were not community income $20,000 of the $40,000 received by B would be excluded from B's gross income. As a result, whether B and C files (delete "s") separate returns or a joint return, the aggregate amount excluded from their combined gross income is $20,000.

Example (2). The facts are the same as in example (1), except that C also qualifies for the section 911 exclusion for the entire 1981 taxable year. In addition, C receives $10,000 during the 1981 taxable year for services performed in country S during that year. If all compensation received during 1981 were not community income, $20,00 of the $40,000 received by B would be excluded from B's gross income and the entire $10,000 received by C would be excluded from C's gross income. As a result, whether B and C files separate returns or a joint return, the aggregate amount excluded from their combined gross income is $30,000.

Example (3). B, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year. During 1981, B receives $40,000 compensation for services performed in foreign country X during that year. C, B's spouse and a citizen of country X, and B are both residents of country X during 1981. C receives $10,000 compensation for services performed during that year in country X. Under the law of country X, one-half of B's earnings (or $20,000) belong to C and one-half of C's earnings (or $5,000) belong to B. An election under section 6013 (g) or (h) is not in effect to have C, a nonresident alien, treated as a resident of the United States. As a result, the $40,000 income received by B is treated as the earned income of B under section 879 and is subject to U.S. tax if not otherwise excluded. The amount of earned income excluded by B from gross income is $20,000. The remaining $20,000 received by B is included in B's gross income for 1981. The $10,000 received by C is treated as the earned income of C and is not subject to tax since it is derived by a nonresident alien from sources outside the United States.

§ 1.911–5 Disallowance of deductions and the foreign tax credit.

(a) *Deductions.* No deduction is allowed for any expenses (other than moving expenses), losses, or other otherwise deductible items definitely related (within the meaning of § 1.861–8 in whole or in part to earned income, to the extent they are properly apportioned (under the rules of § 1.861–8) to excluded earned income.

Thus, if the taxpayer earns $60,000 of qualifying earned income during the taxable year, incurs $3,000 of otherwise deductible business expenses allocable to the entire $60,000, and excludes $20,000 of that income, $1,000 of the business expenses ($3,000 × $20,000/$60,000) are not deductible, because they are apportioned to the excluded earned income of $20,000. Deductions which are not definitely related to qualifying earned income are deductible to the extent allowed by chapter 1 of the Code. Examples of deductions that are not definitely related are personal and family medical expenses, real estate taxes and mortgage interest on a personal residence, charitable contributions, and deductions for personal exemptions. In the case of a taxpayer engaged in trade or business in which both personal services and capital are material income-producing factors, the deductions definitely related and properly apportioned to qualifying earned income are determined by multiplying the deductions definitely related and properly apportioned to the profits of such trade or business by a fraction, the numerator of which is qualifying earned income and the denominator of which is the profits of such trade or business.

(b) *Foreign taxes.* No deduction or credit is allowed for foreign income, war profits, or excess profits taxes paid or accrued with respect to excluded earned income. To determine the amount of disallowed taxes, multiply the tax imposed on earned income by a fraction the numerator of which is excluded earned income less deductible expenses definitely related in whole or in part to earned income, to the extent they are properly apportioned to excluded earned income (see § 1.911–5(a)), and the denominator of which is earned income less deductible expenses allocable to earned income. If the tax on earned income is imposed under foreign law on earned income and on some other amount (for example, some other type of income or an amount not subject to tax in the United States), the denominator equals the total of the amounts subject to the tax less deductible expenses allocable to all such amounts. The following examples illustrate the determination of foreign income taxes paid or accrued with respect to excluded earned income.

Example (1). A, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year as a bona fide resident of foreign country X. For 1981, A pays $10,000 in income tax to country X. The 10,000 tax is imposed after reduction for allocable expenses and personal deductions not allocable to any particular items of income, on the following amounts: $40,000 received in 1981 for services performed during that year; and $9,000 of unrealized capital gains with respect to stock and other securities owned by A. Of the $40,000 of earned income, $35,000 is qualifying earned income under § 1.911–2; the remaining $5,000 does not qualify for the section 911 exclusion because it is received for services performed in the United States. A incurred $4,000 of expenses which are deductible and allocable to A's earned income. A excludes $20,000 fo qualifying earned income from gross income for 1981. The $9,000 of unrealized capital gains is not subject to tax in the United States. In addition to the $10,000 tax on the above amounts, A pays a separate tax to country X of $800 oh $8,000 of interest received during 1981. The amount of country X tax which is properly apportioned to excluded earned income (and, therefore, not deductible or creditable) equals $4,000, which is determined by multiplying the tax of $10,000 by the following fraction:

$18,000 ($20,000 excluded earned income less $2,000 of deductible expenses allocable to excluded income)

$45,000 ($40,000 of earned income less $4,000 of deductible expenses plus $9,000 unrealized capital gains)

The separate $800 tax imposed on interest income is not apportioned in part to the excluded earned income, and the interest income is disregarded for purposes of apportioning the $10,000 tax.

Example (2). A, a U.S. citizen and cash-basis taxpayer, qualifies for the section 911 exclusion for the entire 1981 taxable year as bona fide resident of foreign country X. In 1981, A receives $50,000 of qualifying earned income for services performed during that year and excludes $20,000 of that income from gross income. Of the $50,000 received by A, $30,000 is for services performed in country X, and $20,000 is for services performed in country Y. Country Y does not tax A's income. Country X imposes a tax of $3,000 on the $30,000 received for services in country X but does not tax A's income received for services in country Y. The $20,000 exclusion is allocated on a pro rata basis between the portion of qualifying earned income subject to tax in country X and the portion not subject to tax. Thus, $12,000 ($20,000 exclusion X $30,000/$50,000) of the $30,000 subject to tax in country X is considered excluded under section 911. The amount of country X tax which is properly apportioned to excluded earned income equals $1,200, which is determined by multiplying the tax of $3,000 by the following fraction:

$12,000 (excluded earned income subject to country X tax)

$30,000 (income subject to country X tax)

§ 1.911–6 Procedural rules.

(a) *Election not to exclude earned income.* A taxpayer who is entitled to the benefit of section 911 may elect under section 911(d) not to exclude earned income as provided in section 911. This election shall be made on Form 2555, which must be filed either with the income tax return or with an amended return. The election is effective only for the taxable year for which the return is filed. The election may be revoked by filing a new Form 2555 with an amended return. An election not to exclude

earned income as provided in section 911 enables a qualifying taxpayer, and in certain cases the taxpayer's spouse, to claim the benefits of section 913 (see § 1.913–2(a)). In addition, taxpayers who elect not to exclude income are not subject to the rules of § 1.911–5 relating to the disallowance of deductions and of the foreign tax credit.

(b) *Returns and extensions*—(1) *In general.* Any return filed before completion of the period necessary to qualify a taxpayer for the exclusion under section 911 or the deduction under section 913 shall be filed without regard to the exclusion or deduction provided in those sections. A claim for a credit or refund of any overpayment of tax may be filed, however, if the taxpayer subsequently qualifies for the exclusion or deduction. See section 6012(c) and § 1.6012–1(a)(3), relating to returns to be filed and information to be furnished by taxpayers who qualify for the exclusion under section 911.

(2) *Extensions.* A taxpayer desiring an extension of time (in addition to the automatic extension of time granted by § 1.6081–2) for filing a return until after the completion of the qualifying period described in § 1.913–2(a)(1) or (2) for claiming either the exclusion under section 911 or the deduction under section 913 may apply for an extension on Form 2350, Application for Extension of Time for Filing United States Income Tax Return. The application must be filed with the Director, Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The application must set forth the facts relied upon to justify the extension of time requested and must include a statement as to the earliest date the taxpayer expects to be entitled to the exclusion or deduction.

(c) *Declaration of Estimated Tax.* In estimating gross income for the purpose of determining whether a declaration of estimated tax must be made for any taxable year, a taxpayer is not required to take into account income which the taxpayer believes will be excluded from gross income under the provisions of section 911. In computing estimated tax, however, the taxpayer must take into account, among other things, the denial of the foreign tax credit for foreign taxes allocable to the excluded income (see § 1.911–5(b)).

§ 1.911–7 Effective date of §§ 1.911–1 through 1.911–6.

Sections 1.911–1 through 1.911–6 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have prior law apply to that taxable year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1610) and by section 701(u)(10) of the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2917). For the rules applicable to earlier taxable years, see 26 C.F.R. §§ 1.911–1 and 1.911–2 (1978).

Par. 2. Sections 5b.913–1 through 5b.913–13 are deleted and the following §§ 1.913–1 through 1.913–13 are adopted.

Sec.

1.911–1 Deduction for certain expenses of living abroad.
1.911–2 Taxpayers qualifying for the deduction.
1.911–4 Foreign source earned income limitation.
1.911–5 Cost-of-living differential.
1.911–6 Qualified housing expenses.
1.911–7 Qualified school expenses.
1.911–8 Qualified home leave transportation expenses.
1.911–9 Hardship area amount.
1.911–10 Married couples with two qualifying expenses.
1.911–11 Married couples with community income.
1.911–12 Returns and extensions.
1.911–13 Effective date.

§ 1.913–1 Deduction for certain expenses of living abroad.

(a) *In general.* Section 913 allows to qualifying taxpayers a deduction which consists of the following amounts:

(1) The cost-of-living differential described in § 1.913–5;

(2) Qualified housing expenses described in § 1.913–6;

(3) Qualified school expenses described in § 1.913–7;

(4) Qualified home leave transportation expenses described in § 1.913–8; and

(5) The hardship area amount described in § 1.913–9.

The section 913 deduction is a deduction from gross income and is limited to the amount of the foreign source earned income limitation described in § 1.913–4. In addition, special rules in § 1.913–10 apply to married couples, both spouses of which qualify for the section 913 deduction.

(b) *Relation to the foreign tax credit.* The amount of foreign taxes for which a credit may be claimed, determined prior to the application of the limitation of section 904, is not reduced as a result of claiming the benefits of section 913. The section 913 deduction, however, is allocable to income from sources without the United States for purposes of computing the foreign tax credit limitation under section 904.

§ 1.913–2 Taxpayers qualifying for the deduction.

(a) *In general.* A taxpayer qualifies for the section 913 deduction if the taxpayer either—

(1) Is a citizen of the United States and establishes to the satisfaction of the Commissioner that the taxpayer has been a *bona fide* resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year; or

(2) Is a citizen or resident individual of the United States and has been present in a foreign country or countries for at least 510 full calendar days of any period of 18 consecutive months.

A taxpayer does not qualify for the section 913 deduction during a taxable year, however, if the taxpayer excludes from gross income under section 911 any earned income attributable to services performed during that taxable year. In addition, a taxpayer does not qualify for the section 913 deduction for any period during which the taxpayer's spouse derives earned income which is excluded from gross income under section 911 unless the taxpayer's spouse maintains a separate abode which is not within a reasonable commuting distance of the taxpayer's abode.

(b) *Determination of bona fide residence.* Whether a taxpayer is a *bona fide* resident of a foreign country shall be determined by applying, to the extent possible, the principles of section 871 and the regulations thereunder for determining the residence of aliens. Though the period of *bona fide* residence must be uninterrupted, if *bona fide* residence in a foreign country or countries is established, temporary visits to the United States or elsewhere on vacation or business during the taxpayer's period of residence will not necessarily nullify the taxpayer's status as a *bona fide* resident of a foreign country. A taxpayer with earned income from sources within a foreign country is not a *bona fide* resident of that country if—

(1) The taxpayer makes a statement to the authorities of the foreign country claiming to be a nonresident of that country and

(2) The taxpayer is held not subject as a resident of the foreign country to the income tax imposed by that country on such income.

If a taxpayer has made a statement of nonresidence to the authorities of a foreign country which is pending as of any date a determination of the taxpayer's *bona fide* residence is being made, the taxpayer is not considered a *bona fide* resident of the foreign country as of that date.

(c) *The 510-day/18-month requirement*—(1) *In general.* For purposes of paragraph (a)(2) of this section, the term "18 consecutive months'" means any period of 18 months duration. The 18-month period may begin with any day of the calendar

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month. The period ends with the day before the corresponding calendar day in the 18th succeeding month or, if there is no corresponding calendar day, with the last day of the 18th succeeding month. The 18-month period may commence before or after the taxpayer's arrival in a foreign country and may terminate before or after the taxpayer's departure. The 510 full days need not be consecutive, but may be interrupted by periods during which the taxpayer is not present in a foreign country. A taxpayer who has been present in a foreign country and then travels over areas not within any country for less than 24 hours shall not be deemed outside the foreign country during the period of travel, so long as the individual does not travel within the United States. Time spent in a foreign country in the employment of the U.S. government or an agency or instrumentality of the U.S. government counts toward satisfacation of the 510-day requirement. In addition, time spent in a foreign country prior to January 1, 1978, counts toward satisfaction of the 510-day requirement, even though no deduction is allowed under section 913 for that time.

(2) *Illustrations of the 510-day rule.* The 510-day rule is illustrated by the following examples:

Example (1). B, a U.S. citizen, arrives in Venezuela from New York at 12 noon on April 24, 1980. B remains in Venezuela until 2 p.m. on October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B is in a foreign country an aggregate of 510 full days during each of the following two 18-month periods: March 17, 1980, through September 16, 1981; and June 2, 1980, through December 1, 1981.

Example (2). C, a resident alien of the United States, travels extensively from the time C leaves the United States on March 6, 1980, until the time C departs England on January 1, 1982, to return to the United States permanently. The schedule of C's travel and the number of full days at each location are listed below:

Country	Time and date of arrival	Time and date of departure	Full days in foreign country
United States		10 p.m. (by air) Mar. 5, 1980	
England	9 a.m., Mar. 6, 1980	10 p.m. (by ship) June 25, 1980	110
United States	11 a.m., June 30, 1980	1 p.m. (by ship) July 19, 1980	0
France	3 p.m., July 24, 1980	11 a.m. (by air) Aug. 22, 1981	393
United States	4 p.m., Aug 22, 1981	9 p.m. (by air) Sept. 4, 1981	0
England	9 a.m., Sept. 5, 1981	9 a.m. (by air) Jan 1, 1982	117
United States	1 p.m., Jan. 1, 1982		

C is not present in a foreign country or countries an aggregate of 510 full days during the 18-month period beginning March 7, 1980 (C's first full day in a foreign country). However, C is present in a foreign country or countries an aggregate of 510 full days during the following 18-month periods: July 1, 1980, through December 31, 1981; and July 25, 1980, through January 24, 1982. The computation with respect to each period may be illustrated as follows:

	Full days in foreign country
First 18-month period (Mar. 7, 1980, through Sept 6, 1981):	
Mar. 7, 1980, through June 24, 1980	110
June 25, 1980, through July 24, 1980	0
July 25, 1980 through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981	1
Total full days	504
Second 18-month period (July 1, 1980, through Dec. 31, 1981):	
July 1, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec. 31, 1981	117
Total full days	510
Third 18-month period (July 25, 1980, through Jan. 24, 1982):	
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec 31, 1981	117
Jan. 1, 1982, through Jan 24, 1982	0
Total full days	510

Example (3). The facts are the same as in example (2), except that C arrives in England on February 25, 1980, instead of March 6, 1980. As a result, C is present in a foreign country or countries an aggregate of 510 full days during the 18-month period February 19, 1980, through August 18, 1981, as well as during the latter two of the three periods listed in example (2). The computation with respect to the period commencing February 19, 1980, is illustrated below:

	Full days in foreign country
Feb. 19, 1980, through Feb. 25, 1980	0
Feb. 26, 1980, through June 24, 1980	120
June 25, 1980, through July 24, 1980	0
July 25, 1980, through Aug 18, 1981	390
Total full days	510

Because the 18-month periods commencing February 19, 1980, and July 25, 1980 (the third 18-month period in example (2)), fully overlap the 18-month period commencing July 1, 1980 (the second 18-month period in example (2)), that latter period need not be considered in determining whether C qualifies under the 510-day rule for the days covered by that period.

§ 1.913–3 General definitions.

(a) *Tax home.* For purposes of section 913 and the regulations thereunder, the term "tax home" has the same meaning which it has for purposes of section 162(a)(2). An exception to the general rule is that a taxpayer shall not be considered to have a tax home in a foreign country for any period for which the taxpayer's abode is in the United States. For example, a taxpayer who lives in Detroit, Michigan, but commutes daily to work in Windsor, Ontario, would ordinarily have his or her tax home in Windsor but nevertheless would be ineligible for the deduction for excess foreign living costs. Temporary presence of the taxpayer in the United States does not necessarily mean that the taxpayer's abode is in the United States during that time.

(b) *Qualified second household.*—(1) *In general.* A qualified second household is a separate household maintained by a taxpayer for the taxpayer's spouse or dependents who, if minors, are in the taxpayer's legal custody or the joint custody of the taxpayer and spouse. In order to be a qualified second household, the separate household must be maintained in a foreign country at a place other than the tax home of the taxpayer and must be provided because of adverse living conditions at the taxpayer's tax home. The taxpayer's tax home need not be in a hardship area (defined in paragraph (e) of this section) in order for the separate household to be a qualified second household. In no circumstances is a taxpayer considered to maintain more than one qualified second household at the same time.

(2) *Adverse living conditions.* Adverse living conditions are living conditions which are dangerous, unhealthy, or otherwise adverse. If a taxpayer's tax home is in a hardship area (defined in paragraph (e) of this section), living conditions will be considered to be adverse. Adverse living conditions include a state of warfare or civil insurrection in the general area of the taxpayer's tax home. Adverse living conditions exist if the taxpayer's abode is on the business premises of the employer for the convenience of the employer and, because of the nature of the business premises (for example, a construction site or drilling rig), it is not feasible to provide family housing. The criteria used by the U.S. Department of State in granting a separate maintenance allowance are relevant but not determinative for purposes of determining whether a separate household is provided because of adverse living conditions.

(c) *United States.* The term "United States" when used in a geographical sense includes the possessions of the United States and the areas set forth in section 638(1). It also includes areas described in section 638(2) to the extent that they relate to U.S. possessions.

(d) *Foreign country.* The term "foreign country" means any territory under the sovereignty of a government other than that of the United States. It includes the air space over any such territory. It does not include a possession or territory of the United States.

(e) *Hardship area.* A hardship area is any place in a foreign country (defined in paragraph (d) of this section) which is designated by the Secretary of State as a place where living conditions are extraordinarily difficult or notably unhealthy, or where excessive physical hardships exist, and for which a post differential of 15 percent or more would be provided under section 5925 of Title 5 of the U.S. Code to any officer or employee of the U.S. Government present at that place. Taxpayers who wish to apply for a hardship area determination must apply to the State Department Allowances Staff, Department of State, Washington, D.C. 20520.

(f) *Reasonable commuting distance.* For purposes of sections 911 and 913, a reasonable commuting distance is a distance which is capable of being traveled safely and regularly by customarily available water transportation, including privately owned vehicles in 1 hour.

§ 1.913–4 Foreign source earned income limitation.

(a) *In general.* The deduction allowed under section 913 may not exceed foreign source earned income reduced by the portion of definitely related deductions (within the meaning of § 1.861–8), other than the deduction allowed by section 913, that is properly apportioned to such income. For purposes of this section deductions that are not definitely related, such as personal and family medical expenses, real estate taxes, mortgage interest on a personal residence, charitable contributions, and deductions for personal exemptions do not reduce foreign source earned income.

(b) *Foreign source earned income.* For purposes of the regulations under section 913, foreign source earned income is the earned income (defined in § 1.911–2(b)) which—

(1) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(2) Is attributable to services performed outside the United States during portions of the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 1.913–2(a) for the section 913 deduction;

(3) Is not excluded from gross income under section 119; and

(4) Satisfies the requirements of § 1.911–2(a) (2), (3), and (4).

For purposes of paragraph (b)(2) of this section, the place of receipt of income is immaterial in determining whether income is attributable to services performed outside the United States.

§ 1.913–5 Cost-of-living differential.

(a) *In general.* The cost-of-living differential for an entire taxable year is the amount specified in tables issued annually by the Internal Revenue Service for the taxpayer's tax home and family size multiplied by the following fraction:

$$\frac{\text{Number of qualifying days}}{\text{Number of days in the taxable year}}$$

The amount which is the cost-of-living differential must be reduced (but not below zero) by the amount of any military or section 912 allowance excludable from gross income of the taxpayer or the taxpayer's spouse which is intended to compensate such person in whole or in part for the cost-of-living of the taxpayer's household (or in a qualified second household).

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 1.913–2(a) for the section 913 deduction, excluding days for which both meals and lodging are furnished to the taxpayer and the value of both is excluded from the taxpayer's gross income under section 119.

(c) *Change of foreign tax home.*—(1) *In general.* If during the taxable year the taxpayer has more than one foreign tax home, the taxpayer must determine the qualifying days with respect to each foreign tax home and compute a separate cost-of-living amount for each pursuant to the rules of this section. The aggregate of those amounts constitutes the taxpayer's cost-of-living differential for the year.

(2) *Illustration.* If the taxpayer's tax home is West Berlin, West Germany, for 200 qualifying days and Paris, France, for 165 qualifying days during the taxable year, the taxpayer must compute two cost-of-living amounts. The first equals the full year's cost-of-living differential specified in the cost-of-living table for West Berlin multiplied by 200/365. The second equals the full year's cost-of-living differential specified for Paris multiplied by 165/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(d) *Family size.*—(1) *In general.* In determining family size, the family includes only the taxpayer and any spouse and dependents who share the taxpayer's abode. A dependent may be considered to share the taxpayer's abode while boarding at a school only if the expenses of room and board are not deducted as qualified schooling expenses. In addition, no person is considered to share the taxpayer's abode during any days for which both meals and lodging are furnished to that person and the value of both is excluded from gross income under section 119. If family size varies during any period within the taxable year during which the taxpayer has a particular foreign tax home, a separate cost-of-living amount must be computed for each portion of that period during which the family size is different. An exception to this general rule is that a dependent who is born during a taxable year is considered to be a family member for the entire taxable year. Those amounts must then be aggregated to determine the cost-of-living differential for the taxable year.

(2) *Illustration.* If all of the days of a taxable year are qualifying days with respect to one foreign tax home and an unmarried taxpayer's only dependent attends a secondary level boarding school for 274 days of the year and lives with the taxpayer during the remaining 91 days, the taxpayer must compute two cost-of-living amounts. The first equals the full year's cost-of-living differential specified in the cost-of-living table for the taxpayer's tax home for a family size of one multiplied by 274/365. The second equals the full year's cost-of-living differential specified for the taxpayer's tax home for a family of two multiplied by 91/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(e) *Special rules for qualified second households.*—(1) *In general.* The cost-of-living differential for the portion of the taxable year during which the taxpayer maintains a qualified second household (defined in § 1.913–3(b)) is determined on the basis of the amount specified for the location of the taxpayer's qualified second household. No cost-of-living differenial is determined for the taxpayer's tax home for any period during which the taxpayer maintains a qualified second household.

(2) *Qualifying days.* In determing under paragraph (b) of this section the number of qualifying days during which the taxpayer maintains a qualified second household, the number of qualifying days is not reduced by days

during which the value of the taxpayer's meals and lodging is excluded from gross income under section 119.

(3) *Family size.* Family size is determined as provided in paragraph (d) of this section, except that the family includes only the spouse and any dependents whose abode is the qualified second household. Regardless of whether the taxpayer is actually present in the qualified second household, the taxpayer is considered a family member except during days for which both meals and lodging are furnished to the taxpayer and the value of both is excluded under section 119.

§ 1.913–6 Qualified housing expenses.

(a) *In general.* The amount of qualified housing expenses equals the reasonable housing expenses incurred by or on behalf of the taxpayer and any spouse and dependents who share the taxpayer's abode less the taxpayer's base amount. The amount of qualified housing expenses must be reduced, however, by the amount of any military or section 912 allowance excludable from gross income which is intended to compensate in whole or in part for the expenses of housing located within a reasonable commuting distance of the taxpayer's tax home. Any amount required to be included in income of the taxpayer as compensation attributable to housing provided to the taxpayer shall be considered incurred on behalf of the taxpayer for housing in a foreign country.

(b) *Housing expenses*—(1) *In general.* Housing expenses include rent, utilities (other than long distance telephone charges), real and personal property insurance, occupancy taxes not described in paragraph (b)(1)(v) of this section, nonrefundable fees paid for securing a leasehold, rental of furniture and accessories, residential parking, and repairs. Housing expenses do not include—

(i) The cost of house purchase, improvements and other costs which are capital expenditures;

(ii) The cost of purchased furniture or accessories or domestic labor (maids, gardeners, etc.);

(iii) Amortized payments of principal with respect to an evidence of indebtedness secured by a mortgage on the taxpayer's housing;

(iv) Depreciation of housing owned by the taxpayer, or amortization or depreciation of capital improvements made to housing leased by the taxpayer; or

(v) Interest and taxes deductible under section 163 or 164 or other amounts deductible under section 216 (a).

(2) *Limitation.* Housing expenses are taken into account for purposes of this section only to the extent that they are attributable to housing for portions of the taxable year during which—

(i) The taxpayer's tax home is in a foreign country;

(ii) The value of the taxpayer's housing is not excluded under section 119; and

(iii) The taxpayer qualifies under § 1.913–2(a) for the section 913 deduction.

In addition, except as provided in paragraph (d)(1) of this section relating to qualified second households, if the taxpayer maintains more than one foreign abode at the same time, housing expenses are to be taken into account only to the extent that they are incurred with respect to the abode which bears the closest relationship (not necessarily geographic) to the taxpayer's tax home.

(3) *Reasonableness.* An amount paid for housing is reasonable for purposes of paragraph (a) of this section only to the extent that it does not exceed an amount which would be paid for housing which is not lavish or extravagant under the circumstances.

(c) *Base housing amount*—(1) *In general.* The base housing amount equals 20 percent of the excess of the taxpayer's worldwide earned income over the sum of the following amounts—

(i) The portion of definitely related deductions (within the meaning of § 1.861–8), other than the deduction allowed under section 913, which is allocable to worldwide earned income;

(ii) The cost-of-living differential (determined under § 1.913–5);

(iii) The qualified school expenses (determined under § 1.913–7);

(iv) The qualified home leave transportation expenses (determined under § 1.913–8);

(v) The hardship area amount (determined under § 1.913–9); and

(vi) Housing expenses (defined in paragraphs (a) and (b) of this section).

(2) *Worldwide earned income.* Worldwide earned income is earned income (defined in § 1.911–2(b)), whether or not from sources outside the United States, which—

(i) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(ii) Satisfies the requirements of § 1.911–2(a)(2), (3), and (4); and

(iii) Is attributable to services performed during portions of the taxable year during which—

(A) The taxpayer's tax home is in a foreign country;

(B) The value of the taxpayer's housing is not excluded under section 119; and

(C) The taxpayer qualifies under § 1.913–2(a) for the section 913 deduction.

(d) *Special rules for qualified second households*—(1) *In general.* Qualified housing expenses may be claimed for housing expenses relating to the taxpayer's tax home and for housing expenses relating to a qualified second household. Qualified housing expenses are computed separately with respect to each.

(2) *Qualified housing expenses for the tax home.* In the case of a taxpayer who maintains a qualified second household, the qualified housing expenses for housing at the taxpayer's tax home are determined as provided in paragraphs (a), (b), and (c) of this section, except that, if the taxpayer's tax home is in a hardship area (defined in § 1.913–3 (e)), the base housing amount with respect to the tax home equals zero rather than the amount determined as provided in paragraph (c) of this section. In determining under paragraph (c) of this section the base housing amount of a taxpayer whose tax home is not in a hardship area, housing expenses in paragraph (c)(1)(vi) of this section do not include the housing expenses incurred with respect to the qualified second household.

(3) *Qualified housing expenses for the qualified second household*—(i) *Expenses.* In determining under paragraph (b) of this section the housing expenses relating to the qualified second household, the limitation of paragraph (b)(2)(ii) of this section does not apply, so that housing expenses may include those incurred for housing during portions of the taxable year during which the value of the taxpayer's housing at the taxpayer's tax home is excluded under section 119. In addition, the words "qualified second household" are substituted for "taxpayer's tax home" in paragraph (a) of this section. Thus, the amount of qualified housing expenses need not be reduced by the amount of any allowance excludable under section 912 for the expenses of housing located at the taxpayer's tax home, but must be reduced by the amount of any military or section 912 allowance excludable from gross income which compensates the taxpayer or the taxpayer's spouse in whole or in part for the expenses of housing at the location of the qualified second household.

(ii) *Base housing amount.* In determining under paragraph (c) of this section the base housing amount relating to the qualified second household—

(A) Housing expenses in paragraph (c)(1)(vi) of this section include those relating both to the qualified second household and to housing at the taxpayer's tax home;

(B) Paragraph (c)(2)(iii)(B) of this section does not apply, so that, subject to the other criteria of paragraph (c)(2) of this section, earned income used in computing the base housing amount includes income attributable to services performed during periods during which the value of the taxpayer's housing is excluded under section 119; and

(C) Worldwide earned income as defined in paragraph (c)(2) of this section does not include income attributable to services performed during any period during which the taxpayer does not maintain a qualified second household.

(e) *Illustrations.* This section is illustrated by the following examples:

Example (1) All of the following facts relate to the entire 1980 taxable year. B qualifies for the section 913 deduction under § 1.913–2(a). B's tax home is in town X, located in foreign country F. Town X is not located in a hardship area. B's spouse and their 1-year old child live in a qualified second household in city Y in foreign country Z. B receives a $40,000 salary from B's corporate employer for services performed in country F and incurs no business expenses. B's employer also pays B a cost-of-living allowance of $4,000 and provides housing owned by the employer with a local fair market rental value of $10,000, for which the employer charges B $6,000. The value of the housing furnished by B's employer is not excluded from gross income under section 119. B's total earned income is, therefore, $48,000. B's spouse has no earned income. The cost-of-living differential specified in the 1980 cost-of-living table for country Z, the location of the qualified second household, is $3,000. B pays $15,000 for housing for B's spouse and child. Neither B nor B's spouse incurs any qualified school or home leave transportation expenses.

(a) The qualified housing expenses relating to the housing at B's tax home are computed by subtracting from $10,000 (the full value of B's housing) the base housing amount for the housing at B's tax home. The base housing amount for the housing at B's tax home is $7,000—20 percent of $35,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential and the $10,000 of housing expenses). Thus, the amount of qualified housing expenses relating to the housing at B's tax home equals $3,000.

(b) The qualified housing expenses relating to the qualified second household are computed by substracting from $15,000 (the housing expenses relating to the qualified second household) the base housing amount for the qualified second household. The base housing amount for the qualified second household is $4,000—20 percent of $20,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential, the $10,000 of housing expenses relating to the housing at B's tax home, and the $15,000 of housing expenses incurred with respect to the qualified second household). Thus, the amount of qualified housing expenses relating to the qualified second household equals $11,000.

(c) B's qualified housing expenses equal $14,000, which is the sum of the $3,000 qualified housing expenses relating to the housing at B's tax home and the $11,000 of qualified housing expenses relating to the qualified second household.

Example (2). The facts are the same as in example (1), except that town X is located in a hardship area. The qualified housing expenses relating to the housing at B's tax home equal $10,000, which is the full value of B's housing. The amount of qualified housing expenses relating to the qualified second household equals $11,000 and is computed in the same manner as in paragraph (b) of example (1). Thus, B's qualified housing expenses equal $21,000.

Example (3). The facts are the same as in example (1), except that there is no qualified second household, the cost-of-living differential specified in the 1980 cost-of-living table for country F (the location of B's tax home) is $3,000, and town X is located in a hardship area. The base housing amount for housing at B's tax home equals $6,000—20 percent of $30,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential, the $10,000 living expenses and the $5,000 hardship area differential). Thus, the amount of B's qualified housing expenses equals $4,000. Although B's tax home is located in a hardship area, B cannot claim as qualified housing expenses the full value of the housing provided at B's tax home, since B does not maintain a qualified second household.

§ 1.913–7 Qualified school expenses.

(a) *Qualified school expenses.* Qualified school expenses are reasonable school expenses incurred by or on behalf of the taxpayer for the education of a dependent of the taxpayer at levels equivalent to grades kindergarten through 12.

(b) *School expenses*—(1) *In general.* School expenses include tuition, fees, the cost of books, other amounts required by the school such as uniforms, and the cost of local transportation. Optional expenses, such as the cost of optional field trips or extracurricular activities, are not school expenses. If an adequate U.S.-type school is not available within a reasonable commuting distance (defined in § 1.913–3(f) of the taxpayer's tax home, the expenses of room and board for the dependent and the cost of transportation between the school and the taxpayer's tax home at the beginning and the end of the school year and during vacation periods are also school expenses. The cost of transportation includes transfer costs to and from the airport, airport taxes, exit fees or nonrefundable deposits made in order to leave the country, meals in route, and costs of involuntary stopovers in route. The cost of transportation does not include the costs of voluntary stopovers in route.

(2) *Limitation*—School expenses are qualified school expenses only to the extent that—

(i) They are not expenses for which a credit is claimed pursuant to section 44A (relating to child care) or for which a deduction is claimed pursuant to section 213 (relating to medical expenses);

(ii) They are not expenses for which the taxpayer or the taxpayer's spouse is compensated by an allowance such as the "school away from post" education allowance which is excluded from gross income under section 912;

(iii) They are attributable to education during a period in which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 1.913–2(a) for the section 913 deduction; and

(iv) They are attributable to education during a period in which the dependent resides with the taxpayer at the taxpayer's tax home or in a qualified second household.

(c) *Reasonable expenses.* If an adequate U.S.-type school is available within a reasonable commuting distance (as defined in § 1.913–3(f) of the taxpayer's tax home, the taxpayer's dependents may attend school elsewhere, but tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the school which is within commuting distance. If two or more adequate U.S.-type schools are available within a reasonable commuting distance of the taxpayer's tax home, tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the least expensive of those schools. Round-trip transportation expenses are reasonable only to the extent that they do not exceed the lowest reserved coach or economy rate which is offered without advance booking on the day and at the time of day that the dependent travels. First class fares are considered reasonable only if no coach or economy accommodations are provided to any passengers on the particular flight or if the dependent is required to use first class accommodations because of physical impairment. In addition, the cost of transportation by modes other than air (including ship, rail, and automobile) is not considered reasonable to the extent that the cost of transportation by such other modes exceeds the cost of transportation by air.

(d) *Availability and adequacy.* A school is not considered available under

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paragraphs (b) and (c) of this section if the school will not accept the taxpayer's dependents for enrollment. A school is not adequate if, because of physical impairment or learning disabilities, the dependent is in need of special educational facilities or training which the school does not provide. A school is not adequate if the dependent desires a college preparatory curriculum and the school does not offer such a curriculum. In addition, a school is not adequate if it is under religious auspices which require religious training or infuse religious training in secular courses and the taxpayer does not send the dependent to another school under the same religious auspices. A school will be considered adequate even though it does not offer enrichment programs, if such programs would not ordinarily be offered in public elementary or secondary schools in the United States. Examples of such enrichment programs are a swimming team or orchestral training.

(e) *U.S.-type school.* A U.S.-type school is any school which offers a curriculum which—

(1) Is taught in English;

(2) Is comparable to that offered by accredited schools in the United States; and

(3) Would qualify the student for graduation if the student were to transfer to a U.S. school.

(f) *Special rules for qualified second households.* If the taxpayer maintains a qualified second household (defined in § 1.913–3(b)), the location of the taxpayer's qualified second household rather than the taxpayer's tax home is to be used to determine what constitutes school expenses under paragraph (b)(1) of this section and whether school expenses are reasonable under paragraph (c) of this section.

§ 1.913–8 Qualified home leave transportation expenses.

(a) *In general.* Qualified home leave transportation expenses are the resonable expenses incurred by or on behalf of the taxpayer for the transportation during the taxable year of the taxpayer or of the taxpayer's spouse or dependents. The expenses must be incurred for round-trip transportation from the location of the taxpayer's tax home (or, with respect to the spouse and dependents, from a qualified second household) to the taxpayer's present or most recent principal residence (whether owned or rented) in the United States or to the port of entry in the continental United States (excluding Alaska) which is nearest to the taxpayer's tax home (or qualified second household). Qualified transportation expenses include transfer costs to and from the airport, airport taxes, exit fees or nonrefundable deposits made in order to leave the country, meals in route, and the costs of involuntary stopovers in route. The cost of transportation does not include the costs of voluntary stopovers in route.

(b) *Limitations*—(1) *One trip for each 12-month period abroad.* Qualified transportation expenses include the cost of no more than one round trip per person for each period of 12 consecutive months (which do not overlap) during which—

(i) The taxpayer's tax home is in a foreign country; and

(ii) The taxpayer qualifies under § 1.913–2(a) for the section 913 deduction.

The trip can occur before completion of a 12-month period.

(2) *Spouse and dependents.* Home leave transportation expenses may be claimed for the transportation of a spouse or dependent only if, at the time of the transportation, the spouse or dependent resides with the taxpayer at the taxpayer's tax home or in a qualified second household.

(3) *Double benefits denied.* Qualified transportation expense for each period of 12 consecutive months must be reduced by the amount of any allowance which is granted to the taxpayer or the taxpayer's spouse for purposes of home leave transportation at any time during that period of 12 consecutive months and which is excluded from gross income under section 912.

(c) *Reasonableness.* In determining whether transportation expenses are reasonable, the rules of § 1.913–7(c) (qualified school expenses) as they relate to transportation apply.

§ 1.913–9 Hardship area amount.

(a) *Hardship area amount.* The hardship area amount for an entire taxable year equals $5,000 multiplied by the following fraction:

$$\frac{\text{The number of qualifying days.}}{\text{The total number of days in the taxable year.}}$$

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the following requirements are satisfied:

(1) The taxpayer's tax home is located in a hardship area (defined in § 1.913–3(e)); and

(2) The taxpayer qualifies under § 1.913–2(a) for the section 913 deduction.

A taxpayer's tax home is not considered to be located in a hardship area during any day for which the area where the taxpayer's tax home is located is not designated as a hardship area. To determine the number of days during which the taxpayer's tax home is located in an area designated as a hardship area, see the hardship area list. (The hardship area list is contained in the instructions to Form 2555 or may be obtained from the Director of International Operations, CP:OIO:8, Internal Revenue Service, Washington, D.C. 20225. Taxpayers who wish to apply for a hardship area determination must apply to the State Department Allowances Staff, Department of State, Washington, D.C. 20520.

§ 1.913–10 Married couples with two qualifying spouses.

(a) *In general.* Subject to the rules of this section, in the case of a married couple both spouses of which qualify for the deduction provided in section 913, both spouses may claim the benefit of the deduction. If both spouses claim the benefit of section 913 directly as qualifying taxpayers, however, neither may claim any benefits of section 913 relating to a qualified second household maintained for the other spouse. If one spouse foregoes the benefits which that spouse, as a qualifying taxpayer, could claim under section 913, the other spouse may claim the benefits of section 913 relating to a qualified second household maintained for the first spouse. In such case, the earned income of both spouses is considered in computing the foreign earned income limitation under § 1.913–4 and base housing amount under § 1.913–6(c) of the spouse who claims the benefits of section 913. The rules in paragraphs (b) through (g) of this section apply only to married couples both spouses of which qualify for the deduction provided in section 913 and neither spouse of which claims any benefits relating to a qualified second household maintained for the other spouse.

(b) *Foreign source earned income limitation.* If separate returns are filed and both spouses claim the section 913 deduction, the foreign source earned income limitation for purposes of the separate return of each spouse is computed as provided in § 1.913–4, except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws). Otherwise, the limitation is computed as provided in § 1.913–4—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(c) *Cost-of-living differential.* Except as provided in paragraph (g) of this section, only one cost-of-living differential is permitted for the couple. If separate returns are filed, each spouse's cost-of-living differential equals one-half of the differential computed for the couple.

(d) *Qualified housing expenses*—(1) *Expenses.* Except as provided in paragraph (g) of this section, a married couple may claim qualified housing expenses with respect to only one abode.

(2) *Base housing amount.* If separate returns are filed and both spouses claim the section 913 deduction, the base housing amount for purposes of the separate return of each spouse is computed as provided in § 1.913–6(c), except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws). The aggregate of the qualified housing expenses which may be claimed on separate returns may not exceed, however, the amount which would be computed for the couple if a joint return were filed. If separate returns are not filed or if both spouses do not claim the section 913 deduction, the base housing amount is computed as provided in § 1.913–6(c)—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(e) *Qualified home leave transportation expenses.* Pursuant to § 1.913–8(b)(3), a married couple may not include as qualified home leave transportation expenses the cost of more than one round trip for each spouse or dependent for each period of 12 consecutive months during which the couple's tax home is in a foreign country, even though both spouses independently qualify under § 1.913–2(a) for the section 913 deduction.

(f) *Hardship area amount and joint returns.* Subject to the rules of § 1.913–9, each spouse may claim a hardship area amount. If joint returns are filed, however, the hardship area amount determined for each spouse may not exceed the foreign earned income limitation computed as provided in § 1.913–4, except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws).

(g) *Separate tax homes*—(1) *In general.* A married couple that maintains separate abodes may claim a cost-of-living differential and qualified housing expenses with respect to each abode if—

(i) The abodes are not within a reasonable commuting distance of each other; and

(ii) The spouses have different tax homes which are not within a reasonable commuting distance of each other.

(2) *Joint returns.* If under paragraph (g)(1) a cost-of-living differential or qualified housing expenses are claimed with respect to the separate abode of each spouse and a joint return is filed, the aggregate of the following amounts may not exceed the foreign earned income limitation computed as provided in § 1.913–4 solely on the basis of the earned income derived by each spouse (without regard to community income laws):

(i) The cost-of-living differential determined as provided in § 1.913–5 with respect to that spouse's tax home;

(ii) The qualified housing expenses incurred with respect to that spouse's abode determined by using a base housing amount computed as provided in § 1.913–6(c) solely on the basis of the earned income derived by that spouse (without regard to community income laws); and

(iii) The hardship area amount for that spouse.

§ 1.913–11 Married couples with community income.

(a) *Joint return.* Married couples with community earned income who file a joint return must compute their section 913 deduction under the rules of §§ 1.913–1 through 1.913–10. Where relevant, those rules instruct taxpayers with community income to disregard community income laws and treat the income earned by each spouse solely as that spouse's income.

(b) *Separate returns.* Married couples with community earned income (other than taxpayers to whom section 879 applies) who file separate returns must first compute the section 913 deduction as if they filed a joint return. One-half of that amount is the section 913 deduction to be claimed by each spouse on a separate return.

§ 1.913–12 Returns and extensions.

See § 1.911–6(b) relating to returns and extensions for taxpayers qualifying for the section 913 deduction.

§ 1.913–13 Effective date.

Sections 1.913–1 through 1.913–12 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and, in part, under the authority contained in section 913(m) of the Code (92 Stat. 3106; 26 U.S.C. 913(m)).

Par. 3. The sixth sentence of paragraph (d) of § 1.953–2 is amended to read as follows:

§ 1.953–2 Actual United States risks.

* * * * * *

(d) *Lives or health of United States residents.* * * * In determining the country of residence of an insured, the principles of §§ 1.871–2 to 1.871–5 inclusive and of § 1.913–2(b), relating to the determination of residence and nonresidence in the United States and of foreign residence, shall apply. * * *

* * * * * *

Par. 4. Paragraph (a)(3) of § 1.981–1 is amended to read as follows:

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966.

(a) *Election for special treatment.* * * *

(3) *Determination of residence.* The principles of paragraphs (a)(2) and (b)(7) of § 1.911–1 (26 CFR § 1.911–1 (1978)) shall apply in order to determine for purposes of this paragraph whether a U.S. citizen is a *bona fide* resident of a foreign country or countries during the entire taxable year. The principles of §§ 1.871.2 through 1.871–5 shall apply in order to determine whether the alien spouse of a U.S. citizen is a nonresident during the entire taxable year.

* * * * * *

Par. 5. The second sentence of paragraph (c)(4)(ii) of § 1.1303–1 is amended to read as follows:

§ 1.1303–1 Eligible individuals.

* * * * * *

(c) *Individuals receiving support from others.* * * *

(4) *Spouse supported by others.* * * *

(ii) * * * For the definition of the term "earned income," see section 911(b) and § 1.911–2(b).

* * * * * *

Par. 6. Paragraph (c) of § 1.6073–4 is redesignated as paragraph (d), and a new paragraph (c) is inserted to read as follows:

§ 1.6073–4 Extension of time for filing declarations by individuals.

* * * * * *

(c) *Residents outside the United States.* In the case of a U.S. resident living or traveling outside the United States and Puerto Rico on the 15th day of the 4th month of a taxable year

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beginning after December 31, 1978, an extension of time for filing the declaration of estimated tax otherwise due on or before the 15th day of the 4th month of the taxable year is granted to and including the 15th day of the 6th month of the taxable year.

(d) *Addition to tax applicable.* * * *

Par. 7. The caption of § 1.6081–2 is revised and paragraph (a)(6) is inserted before the flush language of paragraph (a) of such section. Section 1.6081–2 as so amended reads as follows:

§ 1.6081–2 Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents.

(a) *In general.* * * *

(6) U.S. residents living or traveling outside the United States and Puerto Rico, including persons in military or naval service on duty outside the United States and Puerto Rico but only with respect to taxable years beginning after December 31, 1977.

* * * * *

PART 5b [DELETED]

Par. 8. Since no sections remain in Part 5b, the part is deleted.

[FR Doc. 80-35989 Filed 11-14-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

Banana River, Cape Canaveral Air Force Station—Restricted Area; Navigation Regulations

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army, Corps of Engineers is establishing a restricted area in the Banana River adjacent to the Cape Canaveral Air Force Station, Patrick Air Force Base, Florida. The restricted area is necessary to prevent the entry of unauthorized vessels into the turning basin for security and safety purposes.

EFFECTIVE DATE: Effective on December 1, 1980.

ADDRESS: HQDA, DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 272–0200, or Mr. Lonnie Shepardson at (904) 791–2887.

SUPPLEMENTARY INFORMATION: On July 9, 1980, the U.S. Army Corps of Engineers published the proposal to establish a restricted area under 33 CFR 207.171b in the Notice of Proposed Rulemaking section of the **Federal Register** (45 FR 46094). These proposed regulations would establish a restricted area in the Banana River at the Cape Canaveral Air Force Station, Florida. There were no comments received in response to the Notice of Proposed Rulemaking. The Department of the Army has determined that the establishment of the restricted area is in the national interest. Accordingly, 33 CFR 207.171b is established as set forth below.

Note.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under EO 12044, Improving Government Regulations (43 FR 12661, March 24, 1979).

(40 Stat. 266; 33 U.S.C. 1)

Dated: September 12, 1980.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

§ 207.171b Banana River at Cape Canaveral Air Force Station, Fla., restricted area.

(a) *The Area.* (1) Starting at the northern boundary of the existing Prohibited Area as described in 33 CFR 207.171a, and the shoreline at latitude 28°28′58″N; Longitude 80°35′26″W; thence westerly along the northern boundary of 207.171a to latitude 28°28′58″N, longitude 80°35′43″W; thence N 04°06′25″E for 4760.11 feet to latitude 28°29′45″N, longitude 80°35′39″W; thence due east to a point on the shoreline at latitude 28°29′45″N, longitude 80°35′11″W.

(b) *The Regulation.* (1) All unauthorized craft shall stay clear of this area at all times.

(2) The regulations in this section shall be enforced by the Commander, Eastern Space and Missile Center, Patrick Air Force Base, Florida, and such agencies as he may designate.

(40 Stat. 266; 33 U.S.C. 1)

[FR Doc. 80-35904 Filed 11-17-80; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-6-FRL 1672-1]

Arkansas: Phase I Interim Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region 6.

ACTION: Approval of State program.

SUMMARY: The purpose of this notice is to grant Phase I interim authorization to the State of Arkansas for its hazardous waste management program.

In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which become effective 6 months after promulgation, were provisions for a transitional stage in which states could be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

On September 11, 1980, the State of Arkansas applied to EPA for Phase I interim authorization of its hazardous waste management program. On September 18, 1980, EPA issued in the **Federal Register** (45 FR 62170) a notice of the public comment period on the State's application. All comments received during this period have been noted and considered, as discussed below.

The State of Arkansas is hereby granted interim authorization to operate the RCRA Subtitle C hazardous waste management program in accordance with section 3006 (c) of RCRA and implementing regulations found in 40 CFR 123 Subpart F.

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas D. Clark, Solid Waste Branch, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767–2645.

SUPPLEMENTARY INFORMATION: The State of Arkansas submitted its draft application for Phase I interim authorization on July 30, 1980. After reviewing the document, EPA identified four areas of major concern, namely: (1) Deficiencies regarding the right of citizens to intervene in enforcement actions; (2) restrictions on availability to EPA of State program information without restriction; (3) lack of detail in the Authorization Plan; and (4) deficiencies in the Memorandum of Agreement between EPA and the State.

On September 11, 1980, the State of Arkansas submitted its final application for Phase I Interim Authorization. Because the application did not adequately address the first two areas, the State submitted supplemental information that satisfied EPA's concerns.

On September 26, 1980, the Arkansas Commission on Pollution Control and Ecology adopted a resolution endorsing the Federal requirements for public participation in enforcement actions.

In a letter dated September 29, 1980, the attorney authorized to sign the Attorney General's statement stated that "upon request from the EPA, any information obtained or used by this Department in the administration of the RCRA program may be available to EPA upon its request without any restrictions except those which are placed upon the EPA by any application laws or regulations." This letter clarified all stated reservations to possible restrictions on EPA's access to State program information.

The Authorization Plan submitted with the final application specifies with sufficient detail the actions the State will take to seek and obtain Phase II Interim Authorization and Final Authorization.

EPA's comments were satisfied in the Memorandum of Agreement submitted with the final application. In addition, the State submitted additional information about the Arkansas Transportation Commission's portion of the State hazardous waste program, including an elaboration of the Commission's responsibilities, enforcement authority, and coordination procedures.

As noticed in the **Federal Register** on September 18, 1980 (45 FR 62170), EPA gave the public until October 27, 1980, to comment on the State's application. EPA also held a public hearing in Little Rock, Arkansas, on October 20, 1980. The only comments received were presented at the public hearing.

An industry representative requested that the procedures for handling confidential information be revised so that EPA would request such information directly from the firm. The commenter was concerned that adequate protection of such information be provided.

EPA believes that confidential information will be adequately protected by the procedures set forth in 40 CFR Part 2. As discussed in the Attorney General's statement, there is adequate protection for information transmitted between EPA and the State through procedures that allow claims of confidentiality to be asserted and evaluated when such transfer of information occurs. Any information for which confidentiality is requested must be treated as such by both the State and EPA once the claim of confidentiality has been reviewed and its validity has been accepted.

The second commenter remarked that there were no guidelines or specifications for equipment to be used by transporters of hazardous wastes. The standards for transporters can be found in 40 CFR Part 263. Packaging requirements may also be found in 40 CFR Part 262. The other comment related to whether the State would have an adequate well-trained staff and proper funding to operate the program. EPA believes the State has adequate resources to operate Phase I of the program under interim authorization. The Department of Pollution Control and Ecology has submitted a budget to the State Legislature that should provide adequate resources to meet EPA's requirements for Phase II Interim Authorization. This budget request, of course, is subject to approval by the State Legislature.

Dated: November 10, 1980.

Adlene Harrison,

Regional Administrator.

[FR Doc. 80-35894 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PH FRL 1673-4; PP 9E2248/R289]

Malathion; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate). This regulation was requested by the Interregional Research Project No. 4 (IR–4). This regulation establishes the maximum permissible level for residues of malathion on flax seed at 0.1 part per million (ppm) and flax straw 1.0 ppm.

EFFECTIVE DATE: Effective on November 18, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 10, 1980 (45 FR 67398) that the Interregional Research Project No. 4 (IR–4) has submitted a pesticide petition (PP 9E2248) to the EPA. The petition proposed the establishment of tolerances for flax seed at 0.1 ppm and flax straw at 1.0 ppm. No comments or requests for referral to an advisory committee were received by the agency, in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation, may within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. E–3708 (A–110), 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on: November 18, 1980.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 13, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "flax seed" and "flax straw" in the table under § 180.111 to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

V 45 N 018 80 0 UMI

Commodities	Parts per million
Flax seed	0.1
Flax straw	1.0

[FR Doc. 80-35886 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PH-FRL-1673-5; PP 9E2233/R287]

O,O-Dimethyl S-[(4-OxO-1,2,3-Benzotriazin-3(4H)-yL) Methyl[Phosphorodithioate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the insecticide *O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate on parsley (roots) at 2.0 parts per million (ppm) and parsley (leaves) at 5.0 ppm. This regulation was requested by the Interregional Project No. 4 (IR–4). This regulation establishes the maximum permissible level for residues of the subject insecticide in or on parsley (roots) at 2.0 ppm and parsley (leaves) at 5.0 ppm.

EFFECTIVE DATE: Effective on November 18, 1980.

ADDRESS: Written objections may be filed with the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of September 26, 1980 (45 FR 63886) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted a pesticide petition (PP 9E2233) to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of New Jersey.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the subject insecticide in or on the raw agricultural commodities parsley leaves at 0.5 and parsley roots at 2.0 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The insecticide is considered useful for the purpose for which the tolerances are sought.

Thus, based on the information considered by the agency and the insignificance of parsley roots and leaves in the diet, it is concluded that the tolerances of 2.0 ppm in or on parsley (roots) and 5.0 ppm in or on parsley (leaves) established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may on or before December 18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. If a hearing is granted, the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective Date: November 18, 1980.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: November 13, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting the raw agricultural commodities "parsley, leaves" and "parsley, roots" in the table under § 180.154 to read as follows:

§ 180.154 O,O-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)] methyl] phosphorodithioate; tolerances for residues.

* * * * *

Commodity	Parts per million
Parsley, leaves	5
Parsley, roots	2

[FR Doc. 80-35887 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PH-FRL 1673-6; PP 5E1564/R280]

Carbaryl; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its hydrolysis product (1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate) on sunflower seeds at 1 part per million (ppm). This regulation was requested by the Interregional Research Project No. 4 (IR–4). This regulation will establish the maximum permissible level for residues of carbaryl in or on sunflower seeds.

EFFECTIVE DATE: Effective on November 18, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. R–124, 401 M St. SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 7, 1980 (45 FR 66484) that the Interregional Research Project 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted a pesticide petition (PP 5E1564) to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of North Dakota and Minnesota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its hydrolysis product, 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the raw agricultural commodity sunflower seeds at 1 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

The metabolism of carbaryl is adequately understood and an adequate analytical method (colorimetry) is available for enforcement purposes. The existing tolerances in poultry fat, meat and eggs will adequately cover any secondary residues occurring from the sunflower feed items. Even though there are no meat and milk tolerances, there are existing tolerances (5–100 ppm) on a number of feed items (e.g., alfalfa hay, barley fodder, corn fodder and forage, cottonseed, etc.). Considering the established tolerances for these feed items, the agency believes that the use of carbaryl-treated sunflower hulls, meal, and soapstock will not result in an increase in the carbaryl residue burden in livestock.

Thus, based on the above information considered by the agency it is concluded that the tolerance of 1 ppm in or on sunflower seed established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before December 18, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708, (A–110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. If a hearing is granted, the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 18, 1980.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e))).

Dated: November 13, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "sunflower seeds" under § 180.169 to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

* * * * *

Commodity	Parts per million
Sunflower seeds	

[FR Doc. 80-35898 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 257

[SWH-FRL 1670-1]

Criteria for Classification of Solid Waste Disposal Facilities and Practices; Interim Final Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today making available to the public for comment two documents on the factors affecting accumulation of cadmium by food-chain crops grown on land amended with solid waste containing cadmium. These documents were submitted to EPA after the close of the comment period on the interim final regulations, which were developed under authority of both the Resource Conservation and Recovery Act [Sections 1008(a)(3) and 4004(a)] and the Clean Water Act [Section 405(d)]. These documents, as well as comments received as a result of this notice, will be considered by EPA in the development of the final regulations.

DATES: Comments on these documents are due no later than January 2, 1981. Since the issues addressed in these documents are relatively narrow in scope, the Agency believes that the 45 day comment period will provide sufficient opportunity for public review and comment.

ADDRESSES: Comments should be addressed to Robert J. Tonetti, Docket 4004.1, Office of Solid Waste (WH–564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of these documents are available from Ed Cox, Solid Waste Information, U.S. EPA, 26 W. Saint Clair Street, Cincinnati, Ohio 45268, (513) 684–5362. Please use the SW number when requesting copies. If available copies run out, the Agency may charge $0.20 per page for photocopying

FOR FURTHER INFORMATION CONTACT: Robert J. Tonetti, (202) 755–9120.

SUPPLEMENTARY INFORMATION: On September 13, 1979, EPA published interim final regulations on the application of solid waste to land used for the production of food-chain crops (40 CFR Part 257.3–5). (44 FR 53438; 44 FR 54708, September 21, 1979) Paragraph (a) of § 257.3–5 specified limitations necessary to minimize the movement of cadmium into food-chain crops grown on sites where solid wastes are applied. A variety of mitigating factors, including controls on soil pH, soil cation exchange capacity (CEC), crops grown, alternative land uses, and both annual and cumulative cadmium additions, were provided in the regulation to achieve the above goal. The comment period on the interim final portions of the Criteria officially closed on November 20, 1979.

Since the close of the public comment period, the following two documents have been submitted to EPA:

(1) Effects of Sewage Sludge on the Cadmium and Zinc Content of Crops, Council for Agricultural Science and Technology (CAST), Report No. 83, September 1980 (SW–881).

This document was prepared by a task force of scientists involved in research regarding the effects of land application of sewage sludge on the quality of crops grown. The document evaluates available data on the effects on plants of single and repeated additions of cadmium and zinc (present in sewage sludge) to soils. The roles of sludge, soil, plant and climatic factors in the uptake of cadmium by food-chain crops are discussed. Potential factors which may be used to limit cadmium uptake by crops are reviewed. Previously unpublished research data are also available in this document.

(2) Report from the Western Regional Committee, W–124, Science and Education Administration—Cooperative Research (SEA–CR) Technical Research Committee, January 1980 (SW–882).

This brief document addresses whether or not the soil cation exchange capacity is a viable soil factor controlling the uptake of cadmium by crops grown on soils amended with sewage sludge. Current knowledge of annual and cumulative cadmium

additions to soils, and the resulting cadmium uptake by plants, is reviewed. Other soil factors which have been shown to affect cadmium uptake by plants are discussed. In addition, this document summarizes the development of the metal limitations recommended by the W-124 and North Central (NC-118) Regional Committees for the land application of sewage sludge.

EPA is making these documents available to the public today to solicit comments on the accuracy of the data presented and the validity of the conclusions reached. This is not to be construed as a reopening of the comment period on the Agency's interim final regulations, and commenters should limit their comments accordingly.

Dated: November 10, 1980.

Eckardt C. Beck,

Assistant Administrator.

[FR Doc. 80-35912 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control

42 CFR Part 74

Clinical Laboratories—Deletion of Requirement for License Fees

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule; supplemental notice.

SUMMARY: The Department published a Final Rule (with subsequent comment period) in the **Federal Register** on April 22, 1980 (45 FR 26960), deleting the license fee requirements in 42 CFR 74.10(d). This requirement was applicable to laboratories licensed under the Clinical Laboratories Improvement Act of 1967. A 30-day comment period was provided. This Notice is to advise that no comments were received, and that the Final Rule stands, as published.

EFFECTIVE DATE: April 22, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Louis C. LaMotte, (404) 329-3824 or FTS: 236-3824.

Dated: October 30, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: November 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36024 Filed 11-17-80; 8:45 am]

BILLING CODE 4110-88-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 63

[CC Docket No. 79-252; FCC 80-629]

Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Final rule (First Report and Order).

SUMMARY: The FCC has decided to reduce substantially or eliminate several of the tariff, entry, and exit rules now imposed upon those communications common carriers which it has determined lack market power (*i.e.*, the ability to control prices). Such carriers will be labeled as non-dominant. On the other hand, those carriers which the Commission has found to have the ability to control prices will be labeled as dominant and will be regulated as they are currently so that the Commission can insure that they do not exploit their market power to the detriment of the public.

DATES: Effective November 28, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael B. Fingerhut, Common Carrier Bureau (202) 632-6917.

Adopted: August 1, 1980.

Released: November 28, 1980.

By the Commissioner: Commissioner Washburn issuing a separate statement.

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I. Introduction

1. In passing the Communications Act of 1934, 47 U.S.C. §§ 151 et seq., Congress set out as a national policy the attainment and maintenance of "efficient Nation-wide and worldwide . . . communication service." 47 U.S.C. § 151. While the Commission has pursued difference policies over time in striving to achieve the goal, recognition that a monopolized market is not likely to function as efficiently as a competitive one has caused the Commission to adopt, and since 1959 to implement consistently, the common carrier policy of introducing competition into theretofore monopolized markets whenever technological and economic conditions led entrepeneurs to seek to enter.

2. We initiated this proceeding in order to adjust the agency's rate filing and facilities review procedures [1] in light of the advent of the entirely new kinds of firms now offering communications services. None of these firms shares the existing telephone companies' characteristic of offering both franchised monopoly local exchange service and participation in the joint provision of the vast majority of the nation's interexchange service. None holds a market position of significance measured in terms of market share.

3. Contemporaneously, and perhaps because of the introduction of some competition in these fields, the telecommunications industry has received increasing attention from economic commentators. Their writings have supported both the possibility of, and benefits to be derived from, this competition.[2] At the same time, however, they have also pointed out that the regulatory process itself may have both direct and indirect anticompetitive results which could impair or even frustrate the realization of the public interest benefits sought by the Commission's pro-competitive policies.[3]

4. The modest changes in procedural rules adopted today reflect our experience of the last two decades and recognize the advances in the state of learning concerning the regulatory system. Nevertheless, our analysis here is a static one since, consistent with the Notice, we have generally looked at the structure and performance of the telecommunications industry from the supply side, (i.e. on a facilities basis), comparing the costs of imposing the prevailing monopoly-oriented tariff, entry, and exit rules upon competitive carriers with the public benefits such regulation is supposed to produce. It is limited to those few classes of carriers where our cost/benefit analysis clearly demonstrates an excess of costs over benefits precisely because no public benefits from the application of these traditional rules to these non-dominant carriers is possible. We recognize, of course, that more substantial modifications in the system of regulation may be warranted especially since it has become increasingly apparent that some dominant firms offer both monopoly and competitive services which should be regulated differently. Indeed, in the *Notice* initiating this proceeding we raised questions concerning the legal authority of the Commission to forbear from imposing the regulatory mechanisms of Title II upon some or all of the service offerings of acknowledged common carriers as well as the Communications Act's definition of communications common carriers.[4] The consequences of answering these questions are potentially far more momentous than the measures adopted in this Order. While we intend to address these issues and their regulatory implications in a further proceeding upon which we shall act shortly, one possible result seems apparent. In those cases where a rough cost/benefit analysis suggests that the costs of continuing to regulate the service offerings of any carrier of class or carriers by means of the prevailing tariff, entry, and exit rules exceed the benefits of applying them, even though some benefits may be apparent because, for example, of limited power over price, we may well be able to dispense with such regulation.

5. In this decision, we have employed traditional concepts of the scope of the Act's coverage and merely modified agency-fashioned rules to restrict the paperwork burdens on firms to those situations where we believe the information contained in that paperwork will actually assist us in carrying out the mandate of our statute.[5] The tariff support rules were first adopted only ten years ago, *Tariffs-Evidence*, 25 F.C.C. 2d 957 (1970), and were applied to newly authorized competitive firms, without analysis or even express mention, in the Commission's decision on reconsideration. There we stated a willingness to amend the rules once we had obtained experience with their operation. *Tariffs-Evidence*, 40 F.C.C. 2d 149, 154.55 (1973). The facilities authorization rules, adopted in 1944, were similarly applied to competitive firms with only limited analysis.

6. We now believe we have the experience necessary to evaluate whether the cost support material required by our rules assists either other parties or ourselves in determining whether new rates are just, reasonable and not unreasonably discriminatory and whether the facilities regulatory procedures now in place are justified. For certain companies, those whose market position renders irrational the filing of rates in contravention of the Act's standards, we have concluded that the tariff support material submitted pursuant to these rules serves no useful purpose commensurate with the costs of compliance and therefore we have eliminated the requirement. We have not eliminated the requirements that rates be just, reasonable and non-discriminatory. We have merely changed the method by which we will police that requirement.

7. Similarly, our decision to alter the method of application required to expand an already authorized service stems from an analysis of whether the paperwork required of carriers by our rules is warranted given the information it contains. For certain classes of carriers the Commission has already decided basic questions of duplication of facilities, diversion of revenue, entry policy, and eligibility in general rulemakings which were judicially affirmed. *See, e.g., Specialized Common Carrier Services*, 29 F.C.C. 2d 870 (1971), *recon.*, 21 F.C.C. 2d 870 (1971), *recon.*, 31 F.C.C. 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission v. FCC*, 512 F.2d 1142 (9th Cir.) *cert. denied*, 423 U.S. 836 (1975); and *Resale and Shared Use of Common Carrier Services*, 60 F.C.C. 2d 261 (1976), *recon.*, 62 F.C.C. 2d 588 (1977), *off'd sub nom. AT&T v. FCC*, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978) *And see, Domestic Communications Satellite Facilities*, 35 F.C.C. 2d 844 (1972), *recon.*, 38 F.C.C. 2d 6654 (1972); *MTS and WATS Market Structure Inquiry*, Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, FCC 80-463 (rel. August 25, 1980). Thus, the circuit by circuit, city by city applications now engaged in are mere reflections of the implementation of these already adopted threshold policy decisions.

8. Moreover, we do not believe that a company subject to competition from readily available alternative supply of its service can continue to obtain the additional revenue required to recoup the cost of over-investment in facilities. As a result, we have decided to modify our paperwork requirements under Section 214 of the Act, 47 U.S.C. § 214, to remove those burdens which we have found to be unnecessary to the accomplishment of the Commission's statutory function.

II. Background

A. Summary of Proposal

9. The policies we now adopt were initially proposed in our *Notice of Inquiry and Proposed Rulemaking*, 77 F.C.C. 2d 308 (1979) (hereafter *Notice*), in which we proposed to modify our rules to reflect changes in the industry over the last decade. We stated that with the emergence of many competitive telecommunications firms a new approach to rate, tariff and facilities regulation more accurately tailored to reflect the nature of such firms would allow these companies and the overall telecommunications industry to satisfy consumer demand more effectively than the undifferentiated set of rules theretofore applied.

10. The proposals in the *Notice* emanated from two basic principles. First, in order to retain business with prices above total costs a firm must possess market power and some firms in this industry do not. Similarly, in order to recoup losses incurred by pricing below costs, either immediately or even over the long term, market power is also required. Indeed, market power is often defined as the ability to maintain prices at levels unrelated to the costs of the good or service in question.

Second, enforcement of a system of regulation of business conduct imposes costs. These costs can be identified in two classes. There are the less significant administrative costs of compiling, maintaining, and distributing

[1] The major elements of the tariff support material requirements at issue in the *Notice* were a cost of service study for all elements of costs for the most recent 12 months; a study containing a projection of costs for a 3 year period; and estimates of the effects of the changed or new matter upon the carrier's traffic and revenues from the service, and from the traffic and revenues from the other service classifications of the carrier, and upon the overall traffic and revenues of the carrier. In the case of most rate increases, the carrier must "submit all cost, marketing and other data on which it relies in justification of the rate increase and in appropriate form to serve as the carrier's direct case in the event the rate increase is set for hearing". 47 C.F.R. § 61.38. *See also* 47 C.F.R. § 61.58. Under Part 63 of our Rules, we now require all carriers regardless of their industry position and competitive posture to obtain prior authorizations for the construction or lease of interstate lines, the initiation of service, and the termination of service.

[2] *See, e.g.*, W. G. Shephard, "The Competitive Margin in Communication," *Technological Change in Regulated Industries* (W. Capron, ed. 1971).

[3] B. Owen and R. Braeutigam, *The Regulation Game: Strategic Use of the Administrative Process* (1978).

[4] *See Notice*, paras. 97-120.

[5] As noted in the *Notice of Inquiry and Proposed Rulemaking*, radio common carriers (RCCs), international record carriers (IRCs) and carriers in the Multipoint Distribution Service (MDS) were not included in this proceeding.

information necessary to comply with agency licensing and reporting requirements. More significant costs, however, are inflicted on society by the loss of dynamism which can result from regulation. Indeed, regulation sometimes creates what can only be called perverse incentives for the regulated firms.[6]

12. The Averch-Johnson effect, *i.e.*, rate of return regulation creates incentives that may distort the input choices of a regulated firm away from production at minimum cost, is one example.[7] The filing of public tariffs is another. Effective competition is clearly curtailed when firms are required to give advance notice of innovative marketing plans and have those initiatives be subject to public comment and regulatory review. The public posting of prices and the legal obligation to refrain from "unjust or unreasonable discrimination," 47 U.S.C. § 202(a), may result as well in artificially stabilizing prices to the consumer's eventual disadvantage.

13. The initial set of proposals contained in the *Notice* were directed only toward reducing, but not eliminating these costs. We examined the application of the rules under review to determine whether these costs were outweighed by benefits accruing to the public from their continuation. We found that some firms did not possess the economic attributes which appear necessary to engage in the conduct the rules were designed to help prevent.

14. Recognizing that the industry to which our rules have been applied had changed, we reevaluated the appropriateness of continuing the same regulatory program developed under different circumstances. We tentatively concluded that our system of regulation imposed significant costs on carriers and their customers, which in the case of some firms were not outweighed by their benefits. We therefore proposed to eliminate certain of these rules imposed on those carriers and create a presumption of lawfulness applicable to their rates.

15. To implement our proposal, we proposed to distinguish between carriers on the basis of their dominance or power in the marketplace and apply different regulatory rules to each. A carrier would be labelled dominant if it has substantial opportunity and incentive to subsidize the rates for its more competitive services with revenues obtained from its monopoly or near-monopoly services. We recognized that the power to keep prices above full costs not only meant the firm could violate the "just and reasonable rate" mandate of the Act, but also that it could inefficiently invest in new or additional facilities and still produce enough revenue to recoup these wasteful costs. We therefore proposed to continue to regulate these carriers essentially as we do today so that the Commission could insure that they did not exploit their market power to the detriment of the public.[8]

16. In contrast to the firms labelled dominant, we identified a class of firms not possessing the market power necessary to sustain prices either unreasonably above or below costs. We referred to such firms as non-dominant. As proposed in the *Notice*, the regulatory requirements imposed upon non-dominant carriers would be substantially reduced or even eliminated. Because these carriers generally lack the market power to charge rates or impose conditions of service that would contravene the Act (*Notice*, paras. 46–54), we would consider their tariff filings to be presumptively lawful. They would no longer be required by our Rules to submit extensive economic data to support their tariff filings [9] and they would only have to provide 14 days' notice to the public of proposed tariff changes.[10] Nor would we generally suspend their tariff filings unless a petitioner could make a strong showing of substantial and irreparable injury to competition, thereby harming the public.

17. To evaluate whether a suspension might be justified the Commission proposed using a four-part test similar to the one used by the courts in determining whether to grant a stay or preliminary injunction.[11] Specifically, a petitioner would have to show: (1) that there is a high probability that the tariff would be found to be unlawful after investigation (likelihood of success on the merits); (2) that any harm alleged to competition (which we believe accomplishes public interest benefits) would be more substantial than that to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing (*e.g.*, that the proposed rate is predatory); (3) that irreparable injury would be suffered if suspension does not issue; and (4) that the suspension would not otherwise be contrary to the public interest. We indicated, however, that suspension petitions filed by end users or consumers would be reviewed from a different perspective since their motives in filing such petitions would presumably be less subject to suspicion than those of competing carriers. (*Notice*, para. 60).

18. A non-dominant carrier would also be able to institute or discontinue service more easily under our proposed procedures. Upon grant of initial Section 214 authorization we would also grant a non-dominant carrier blanket authority for unlimited expansion of circuits into its authorized geographic service areas.[12] It would only be required to report additions of circuits 30 days after this service date. Conversely, in recognition that ease of exit is a necessary part of a truly competitive market, it could discontinue a service 30 days after notice to its customers and the Commission if no showing were made that a reasonable substitute service is not available.[13]

19. Although, as noted, the Commission determined that a carrier possesses market power if it has the ability to cross-subsidize its services

[6] *See, e.g.*, C. W. Needy, *Regulation-Induced Distortions*, 1976.

[7] H. Averch and L. Johnson "Behavior of a Firm Under Regulatory Constraint," 52 *American Economic Review*, 1053–69. (Dec. 1962).

[8] We announced, however, that we planned a fundamental reexamination of our current certification requirements for dominant carriers set forth in Part 63 of our Rules, 47 C.F.R. § 63, so as to develop a program less concerned with circuit-by-circuit oversight and more concerned with major additions to plant, including switching devices. We requested the parties to submit their views on possible ways to develop such a program for dominant carriers, but did not propose any specific rule. (*See Notice*, paras. 68–70). *See* n. 29, *infra*.

[9] 47 C.F.R. § 61.38. We would, however, continue to require a non-dominant carrier to submit with its tariff filing a concise information statement explaining its proposal and setting forth the basic rates, terms and conditions of service. Also, we proposed to require non-dominant carriers to submit annual financial data to the Commission. (*Notice*, Appendix D).

[10] Under our current rules, 47 C.F.R. § 61.58, all carriers must provide at least 90 days' notice of tariff filings involving a change in rate structure, a new service offering or rate increase; and 70 days' notice for all other tariff filings with the exception of filings involving such matters as editorial changes or corrections or the imposition of termination charges for which carriers need only give 15 days' notice. If a petitioner raises a substantial question that warrants more extensive consideration, the 14 day notice period can be extended as provided in Section 61.58(d) (which permits the Chief, Common Carrier Bureau to defer the effective date of any tariff filing made on less than 90 days' notice) so that action can be taken prior to the effective date. (*Notice*, para. 58).

[11] *See, e.g., Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921 (D.C. Cir. 1958); *Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977). The Commission uses a similar test in acting on requests for stay. *See Amendment to Subpart F of Part 76 of the Commission's Rules*, 68 F.C.C.2d 1308 (1978); *IRC Scope of Operations*, FCC 80–364 (released July 1, 1980).

[12] We proposed to except video relay circuits via satellite from this policy because of the small number of applications involved and the substantial number of policy issues that have been raised in the past with respect to this service.

[13] If a petition to deny were filed, we would act on the petition prior to any discontinuance.

unlawfully, it did not promulgate any final standards or procedures to identify dominant firms. Instead, we requested commenting parties to focus on what criteria they believed would be useful in determining whether a carrier has market power or when it has achieved dominance.[14] However, after reviewing in some detail the current industry structure (*Notice*, paras. 17–28) and the state of competition between and among the various telecommunications carriers (*id.* paras. 29–37), we tentatively decided to classify AT&T, the independent telephone companies, and Western Union as dominant.[15] (*id.* paras. 81–88).

20. Finally, as indicated, we solicited separate comments on deregulatory options of a more fundamental nature.[16] Specifically, we asked the commenters to consider whether the Commission has discretion to forbear from imposing its full regulatory authority, especially that under Title II of the Act, on certain classes of carriers or whether certain providers of communications services, *e.g.*, resale or enhanced services providers, are common carriers within the meaning of the Act. The issues involved in this phase of the proceeding are not considered in this decision.

B. Overview of Comments

21. Direct and reply comments on the rules proposed in this phase of the proceeding have been filed by several certificated communications carriers, applicants for Section 214 authority, independent telephone companies, federal and state agencies, trade associations, professional sports organizations, CATV system operators, and users.[17] A list of those parties filing comments or reply comments is attached as Appendix B.

22. Generally, with the exception of AT&T and USITA, who oppose the dominant/non-dominant classification scheme on legal, economic, and policy grounds,[18] most of the commenting parties enthusiastically endorse the Commission's proposed two-tiered regulatory approach [19] and resulting reduction in regulatory burdens for non-dominant carriers.[20] They also support our tentative decision to classify at least AT&T as dominant.[21] The positions of the commenters on the status of other carriers differ, however, perhaps reflecting the fact that few commenters propose any specific criteria for determining dominance.

23. Western Union, for example, disputes our initial determination that it possesses sufficient market power in the record communications market to be classified as dominant. It is joined in this view by NTIA,[22] but others disagree.[23] Similarly those independent telephone companies filing comments object to their classification as dominant.[24] This position is supported by NTIA and USITA,[25] while others argue that at least some of the non-Bell telephone companies should be classified as dominant because of their ability to cross-subsidize unlawfully between local monopoly and competitive industry services.[26]

24. The CATV system operators would have us classify both terrestrial video relay and satellite carriers as dominant. They argue that an operator's dependence on the one terrestrial carrier serving the area for needed television signals gives these carriers significant market power while the scarcity of satellite transponder capacity and spectrum/orbit limitations put satellite carriers in a near-monopoly position.[27] Similarly, the State of Alaska urges us to classify RCA Americom as dominant. They point out that Alascom acquires the bulk of its satellite capacity from this carrier, and further, that no practical alternative exists for securing other facilities.[28] A detailed summary of the comments and reply comments is attached as Appendix C.

C. Summary of Decision

25. We have carefully and thoroughly weighed the positions and arguments of all commenting parties. On the basis of this review and our own analysis discussed in the Notice [29] we have decided (a) to adopt and make final our proposal to classify carriers either as dominant or non-dominant depending upon their power to control prices; and (b) to employ regulatory regimes more precisely designed to account for the

[14] In this regard, the Commission suggested several factors for discussion including: a carrier's share of the market for a particular tariffed service; whether a carrier is effectively rate regulated; whether the market for a particular service is workably competitive; the number of carriers involved in providing a particular service or practical substitutes for the service; and the relative size of carriers as measured by customer base, plant investment, R&D capability, overall company revenues; corporate structures such as affiliation with other carriers or non-regulated companies; and standing in the financial community.

[15] Also, because there appeared to be no effective competitive alternative to the provision of network television signals to CATV systems by terrestrial microwave carriers, we tentatively decided that these carriers should continue to be required to support rate increases for this service with 61.38 data. On the other hand, we proposed to relieve them of the burden established in *American Television Relay*, 63 F.C.C. 2d 911 (1977), *recon. denied*, 65 F.C.C. 2d 792 (1977), of justifying population sensitive rate structures and asked for comments on whether the prohibition against retransmission charges absent justification should be lifted.

[16] We also announced that we planned to terminate or otherwise settle certain pending dockets and related complaints on the basis of the policies and rules adopted here. In this regard, we requested and have received the views of several of the active parties to these cases and will issue shortly an order giving further guidance to the presiding Administrative Law Judges as to how they should proceed.

[17] Both the U.S. Telephone and Telegraph Corporation (UST&T) and the State of Alaska filed their direct comments after the due date, accompanying them with petitions for acceptance of late-filed comments. We grant the petitions and accept their comments.

[18] Both, however, support our goal of reducing unnecessary regulation if applied to all carriers. Direct Comments of AT&T, pp. 5–7; and Direct Comments of USITA, p. 13. *See also* Direct Comments of Rochester Telephone; Direct Comments of United Telecom; Direct Comments of Central Telephone; and Direct Comments of GTE Telephone.

[19] Several commenters suggest that we should forbear totally from regulating competitive non-dominant carriers or define certain providers of communication services, especially resellers, as not being common carriers under the Act and deregulating them totally. *See, e.g.*, Direct Comments of NTIA; Direct Comments of Metromedia; Direct Comments of the Commissioner of Baseball; Director Comments of MPAA; Direct Comments of the NBA and NHL; Direct Comments of ISA; and Reply Comments of ABC. As indicated, issues relating to forebearance from regulation and the definition of a "communications common carrier" are not being considered here.

[20] Several, however, have suggested modifications to our proposed streamlined tariff filing and facilities authorization procedures. Although Alascom does not oppose the Commission's proposal, it urges that the policies, if adopted, not be applied to the Alaska market. Direct comments of Alascom, *passim*.

[21] NTIA believes, however, that the Commission should reduce its economic regulation of AT&T's competitive services as long as such safeguards as separate subsidiaries and improved cost accounting are adopted. NTIA's Direct Comments, p. 3.

[22] Direct Comments of NTIA, pp. 14–17.

[23] *See, e.g.*, Direct and Reply Comments of UST&T; Direct and Reply Comments of Graphnet; Direct Comments of American Facsimile Systems; and Letter of Western Union International.

[24] Direct Comments of GTE Telephone; Direct Comments of Rochester Telephone; Direct Comments of United Telecom; and Direct Comments of Central Telephone. *See also* Direct Comments of GTE Telenet.

[25] Direct Comments of NTIA, p. 15; Direct Comments of USITA, pp. 1–6.

[26] *See, e.g.*, Direct Comments of Tymnet, p. 7; Direct Comments of SPCC, p. 59.

[27] Direct Comments of Teleprompter; Reply Comments of NCTA; and Direct Comments of Multimedia Cablevision. These commenters also urge us to continue the heavy burden we now impose upon video relay carriers to justify the use of population sensitive rate structures. Similarly, the broadcasters argue that a population sensitive rate structure and retransmission charges have no relevance to them. *See* Direct and Reply Comments of ABC, CBS and NBC; Direct and Reply Comments of Garryowen Corporation. NTIA, argues, however, that the video relay market is sufficiently competitive to permit its "deregulation". NTIA's Direct Comments, p. 17.

[28] Direct Comments of the State of Alaska. In reply, RCA Americom states that it opposes being classified as a dominant carrier although it would not object to being required to justify rate increases to Alascom or obtain Section 214 authorizations before discontinuing service to Alascom.

[29] Except to the extent modified here, we incorporate this analysis by reference.

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attributes of firms in each denomination as proper and warranted by the public interest.

26. We will consider a carrier to be dominant if it has market power (*i.e.*, power to control price).[30] We find that AT&T and the independent telephone companies come within the definition of dominant carriers. Moreover, due to what are perhaps transitory factors, especially shortages of the supply of facilities relative to the demand, Western Union, domestic satellite carriers (Domsats), Domsat resellers, and the miscellaneous common carriers (MCCs) possess market power sufficient to justify continuing the application of the current regulatory system to them.[31] As to these carriers, a continuing assessment of the costs and benefits of imposing the dominant-carrier regulatory requirements clearly is warranted. We will be receptive to the presentation of evidence that circumstances have evolved in a manner which permits the easing of the regulatory requirements to which any carrier or class of carriers is subject. Indeed, it may be that several of these carriers could qualify for our streamlined procedures since they may become subject to sufficient potential competition to assure good performance without detailed government intervention.

27. All other carriers will be classified as non-dominant and, as such, brought within the streamlined tariff filing and facilities authorizations procedures proposed in the Notice and finalized here. We find several changes to these rules are warranted, however, especially in the case of those governing facilities authorizations. These will further reduce the regulatory burdens for non-dominant carriers. First, non-dominant carriers will only be required to report circuit additions in their authorized service areas on a semi-annual basis, rather than every 30 days as originally proposed. Second, initial carrier certification under Section 214 will be conferred for the continental United States unless the applicant asks otherwise.[32] Finally, non-dominant carriers will not be required to submit the annual financial information proposed in Appendix D of the Notice.

28. We now turn to a discussion of this new scheme itself, focusing on our legal authority to adopt a two-tiered regulatory structure, the criteria we have used to determine dominance, and the objections raised against the specific rules for non-dominant carriers.

III. Legal Considerations

29. It is, of course, well established that the Commission has "broad discretion in choosing how to regulate." *AT&T v. FCC*, 572 F.2d at 26. As the Supreme Court has long recognized, the dynamic and rapidly changing nature of the communications industry requires "that the administrative process possess sufficient flexibility to adjust itself to these factors." *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940). *See also, United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968); and *National Broadcasting Co. v. United States*, 319 U.S. 190 (1943). Indeed "regulatory practices and policies that will serve the public interest today may be quite different from those that were adequate for that purpose in 1910, 1927 or 1934 * * *" *Washington Utilities & Transportation Comm. v. FCC*, 512 F.2d at 1157, and thus, "one of the most significant advantages of the administrative process is its ability to adapt itself to new circumstances in a flexible manner * * *" *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 811 (1978).[33]

30. This broad power to fashion rules appropriate to the problems confronted is perhaps even more expansive in the area of agency regulation of rates. *Aeronautical Radio, Inc. (ARINC) v. FCC*, No. 77–1333 (D.C. Cir. June 24, 1980) (pet. for rehearing pending) Slip Op. at 13 and cases cited there. The Supreme Court has repeatedly recognized that agencies operating under statutes similar to the Communications Act have been vested with a "legislative" power regarding rates. *Permian Basin Area Rate Cases*, 390 U.S. 747, 776 (1968), *quoting, Los Angeles Gas. & Electric Co. v. Railroad Comm'n*, 289 U.S. 287, 304 (1933). While this power is not unbounded *cf. FCC v. RCA Communications, Inc.*, 346 U.S. 86, 90 (1953), it is broad enough "to make the pragmatic adjustments which may be called for by particular circumstances." *Permian Basin*, 390 U.S. at 777, *Quoting, FPC v. Natural Gas Pipeline Co.*, 315 U.S. 375, 586 (1942). This power specifically has been held to encompass agency programs involving circumstances not dealt with in the organic statute. *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968). *See also FPC v. Texaco*, 417 U.S. 380, 387 (1974); *Permian Basin*.

31. In discussing the issue before it, the *Permian Basin* Court emphasized that "the breadth and complexity of the Commission's responsibilities demand that it be given every reasonable opportunity to formulate methods of regulation appropriate for the solution of its intensely practical difficulties", 390 U.S. at 790, stating that: "[W]e are, in the absence of compelling evidence that such was Congress' intent, unwilling to prohibit administrative action imperative for the achievement of an agency's ultimate purposes." *Id.* at 780.[34]

32. As we have discussed in *Notice*, (para. 97), and in the Introduction to our decision (paras. 1–8) adopted today, we have determined that our "ultimate purpose," as defined in Section 1 of the Act "to make available, so far as possible, to all the people of the United States a rapid, efficient * * * communication service with adequate facilities at reasonable charges * * *", 47 U.S.C. 151, requires the action we take today. So long as our regulation imposes costs on some firms, and thus on the public, not exceeded by the benefits generated thereby, the provision of communications service by those firms can never be as "efficient" nor can the charges be as "reasonable" as they might be in the absence of such artificial costs.

33. It is equally, well-established that Section 4(i) of the Act, 47 U.S.C. § 154(i),[35] provides us with the statutory basis to enact regulations and adopt policies codifying our view of the public interest. *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. at 793. Indeed, it has been held that Section 4(i) of the Communications Act enhances the general "legislative discretion" in ratemaking relied upon by the Supreme Court in *Permian Basin. Nader v. FCC*, 520 F.2d 182, 203 (D.C. Cir 1975). We recognize that this view must be based on "permissible public interest goals" and otherwise be "reasonable", *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. at 794, but we believe our decision to regulate dominant and nondominant carriers differently comes well within this standard. Our experience to date is replete with evidence that competition in the telecommunications industry is a relevant factor in weighing the public interest. *See, e.g., FCC v. RCA Communications, Inc.*, 346 U.S. 86 (1953); *Specialized Common Carrier Services*, 29 F.C.C. 2d 870 (1971), *recon.* 31 F.C.C. 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission v. FCC*, 512 F.2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975); *Bell Telephone Company of Pennsylvania v. FCC*, 503 F.2d 1250 (3d Cir. 1974), *cert. denied*, 411 U.S. 1026 (1975); *NARUC v. FCC*, 525 F.2d 630, 640, (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1977), *United States v. FCC*, No. 77–1249 (D.C. Cir. March 7, 1980). The new regulatory scheme adopted today will enhance competition by reducing the degree of unnecessary regulation imposed upon nondominant carriers. We believe this will allow them to respond to consumer demand by providing innovative services at the lowest reasonable prices as market needs can be discerned.[36] By maintaining our regulatory oversight of dominant carriers, we do not intend to hinder their accomplishment of these same goals, but only insure that they do not exploit their market power unlawfully.

34. Not only is our action permissible, but we believe that it would defy logic and contradict the evidence available to regulate in an identical manner carriers who differ greatly in terms of their economic resources and market strength.[37] The Commission has often taken this fundamental incongruity into account in fashioning its regulations and reaching its decisions.[38] Ten years ago, for example, this was our underlying premise in adopting rules requiring carriers to submit support material and economic data to justify their tariff filings:

> The information needed * * * will vary widely with, among other things, the nature of the rate filed, the size of the market it applies to, and the revenue it will generate. We do not expect that every rate filed by every carrier will require exactly the same amount of supporting information. It is not correct to state that every tariff filing must be supported by detailed cost projections and elaborate statistical studies. Large carriers filing rates for sizeable service offerings, would be expected to support their filing with the most comprehensive and reliable data that they can produce. For such carriers, statistical studies should be used wherever such studies can offer substantial improvements in study reliability. A point-to-point microwave carrier, on the other hand, with small revenues, only one service, and few customers would not be required, nor would it need, elaborate studies to support its rates.[39]

35. At least since the advent of competitive entry in the telecommunications market we have in fact recognized that the structure and market power of AT&T have required different regulatory treatment from that accorded firms not similarly situated. For example, in our *Domestic Satellite* decision, we restricted AT&T's initial use of domestic satellites to essentially non-competitive services so as to prevent AT&T's dominance and economic strength from defeating or weakening the incentive for competitive entry by satellite system entrepreneurs. 35 F.C.C. 2d at 848–52. In our *First Computer Inquiry*, 28 F.C.C. 2d 267 (1971), we exempted small carriers (those with revenues under $1,000,000) from the rules therein promulgated, and those rules were sustained on appeal. *GTE Service Corp. v. FCC*, 474 F.2d 724 (2d Cir. 1973) (affirming in relevant part). More recently, in our *Second Computer Inquiry*, decision, 77 F.C.C. 2d 384 (1980), we required only AT&T and GTE to form separate subsidiaries to offer enhanced services or customer premises equipment because of their nationally-based market power and ability to engage in anticompetitive behavior. On Reconsideration, we relieved GTE of this separate subsidiary requirement.

36. Moreover, we have also recognized in particular cases the principles underlying the treatment of non-dominant carriers adopted today. For example, in *American Satellite Corporation*, 55 F.C.C. 2d 1 (1975), a new competitive carrier was allowed to offer non-compensatory rates in recognition of its need to establish itself in the market and the fact that no monopoly ratepayer would be penalized by absorbing the firm's losses. Similarly, in *United States Transmission Systems*, 66 F.C.C. 2d 1091 (1977), a competitive carrier was allowed to offer bulk rate discounts since it did not provide monopoly-type service which could cross-subsidize competitive offerings; and in *Resale and Shared Use of Common Carrier Services*, 60 F.C.C. 2d 261 (1976), we did not require applicants reselling services obtained pursuant to tariff to show economic impact or special need for services not otherwise available because in these competitive markets such showings were recognized as superfluous.

37. Perhaps the most detailed instance of our adopting particularized rules applicable to AT&T is our Final Decision in Docket 18128.[40] There, in recognition of its ability to cross-subsidize rates for competitive services to the detriment of both competitive and monopoly service customers, we adopted a specific costing methodology applicable only to AT&T.

38. As was recognized by the court on review, "competition was central to the proceeding. A prime objective was to establish market rules for established and emerging carriers." *ARINC v. FCC*, slip op. at 15. The same principles

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[30] In our *Second Computer Inquiry* decision, 77 F.C.C. 2d 384 (1980), we made a determination as to which carriers should be required to provide unregulated equipment and services only through a separate subsidiary. Market power in basic service markets was only part of our calculus there which included, *inter alia*, our assessment as to the ability and incentives of carriers to broadly extend their market power into enhanced service and customer premise equipment markets through ratepayer-funded strategies, as well as the recognition that there are economic costs imposed by a separate subsidiary requirement. On Reconsideration, we imposed the requirement only upon AT&T.

[31] We intend to issue in the near future a proposal revising substantially our current Section 214 procedures applicable to dominant firms, especially AT&T. We believe this rulemaking will relieve dominant carriers of the burdens of amassing and filing information which is not informative in relation to the goals of the Act's facilities regulation program. Moreover, we also intend to design a system which will enable the Commission to evaluate facilities proposals in a more appropriate context. See para. 115, *infra*.

[32] Although satellite carriers are to be labelled dominant, we have decided that prior Section 214 authorization will no longer be required for each channel (transponder) activated. Rather, we will merely impose a reporting requirement. This will avoid unnecessary duplication. Applications now pending before us will be evaluated on a case-by-case basis.

[33] *See also National Resources Defense Council Inc. v. SEC*, 606 F.2d 1031, 1056 (D.C. Cir. 1979) ("An agency is allowed to be the master of its own house"); *Permian Basin Area Rate Cases*, 390 U.S. 747, 784 (1968) ("Administrative authorities must be permitted * * * to adopt their rules and policies to the demands of changing circumstances."); *Niagara Mohawk Power Corp. v. FPC*, 379 F.2d 153, 159 (D.C. Cir. 1967) ("* * * breadth of agency discretion is, if anything at zenith when action * * * relates primarily * * * to the fashioning of policies * * * in order to arrive at maximum effectuation of Congressional objectives"); *Philadelphia Television Broadcasting Co. v. FCC*, 359 F.2d 282 (D.C. Cir. 1966); and *FERC v. Pennzoil Producing Co.*, 439 U.S. 508 (1979).

[34] The Court later applied this principle to the communications field in *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968).

[35] Section 4(i) empowers the Commission to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of the functions". *See also* Section 201(b) of the Act, which provides that "[t]he Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act".

[36] As discussed in the *Notice* (paras. 51–54), marketplace forces should be sufficient to insure that the rates of competitive non-dominant carriers are reasonable and not unjustly discriminatory. Indeed, unregulated markets that are structurally sound do satisfy consumer demand at reasonable prices. *See, e.g.*, J. Quirk and R. Saposnik, *Introduction to General Equilibrium Theory and Welfare Economics* (1968).

[37] As we pointed out in the *Notice*, AT&T and the independent telephone companies dominate the industry, providing virtually all of the interstate and local telephone service and accounting for the bulk of private line and terminal equipment revenues. *See also Customer interconnection*, 61 F.C.C. 2d 766 (1976), *Second Report*, 75 F.C.C. 2d 506 (1980), for a detailed discussion of the structure of the telecommunications industry.

[38] The courts, too, have recognized that agencies are permitted to treat groups of carriers differently as long as the distinctions are reasonable. *American Airlines v. CAB*, 359 F.2d, 624 (D.C. Cir.), *cert. denied*, 385 U.S. 843 (1966).

[39] *Tariffs-Evidence*, 25 F.C.C. 2d 957, 965–66 (1979), *recon. denied*, 40 F.C.C. 2d 149 (1973). *See also* Section 61.38(f) of our Rules, 47 C.F.R. § 61.38(f), where we exempt certain smaller carriers from the tariff justification requirements. A recent opinion of the Court of Appeals for the D.C. Circuit noted that, even under the current Rules, these data may not be necessary if the tariff filings involved are not significant. *ARINC v. F.C.C.*, slip op. at 26.

[40] *American Telephone & Telegraph Co.*, 61 F.C.C. 2d 587 (1976), 64 F.C.C. 2d 971 (1977), 65 F.C.C. 2d 64 (1977), 67 F.C.C. 2d 1441 (1978), *aff'd in relevant part sub nom. ARINC v. FCC*, No. 77–1333, (D.C. Cir. June 24, 1980) (pet. for rehearing pending).

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upheld in *ARINC* underlie our decision here. We are exercising the power Congress delegated to us to resolve the problems confronting us as they actually exist in order to permit communications services to be produced efficiently and offered at the most reasonable prices possible.

39. Thus, the classification scheme we now establish is by no means a radical departure, as some assert; if anything, it merely codifies our practice of adjusting our regulation to the realities of this industry and the marketplace. Clearly, by adopting this scheme in the face of the record here, we effectuate our statutory responsibilities rather than abrogate them.

40. Nevertheless, AT&T challenges as legally deficient the Commission's dominant/non-dominant carrier approach to fulfilling its regulatory responsibilites. It argues, for example, that because Congress did not give us explicit statutory authority to classify carriers on the basis of their dominance in the marketplace, we are powerless to adopt the proposed regulatory scheme.[41]

41. We cannot accept the inflexibility implied by this interpretation of the Act. To do so would seriously hamper if not totally destroy our ability to accommodate the complex and dynamic developments in the field of communications. Indeed, this argument is simply contrary to the overwhelming weight of judicial opinion holding that Congress has granted this agency a "comprehensive mandate" with "not niggardly" but "expansive powers." *National Broadcasing Co. v. United States*, 319 U.S. at 219 (*See also* cases cited in paras. 29–30 *supra*).[42]

42. AT&T notes that while the enabling statutes of other agencies specifically contain general classification authority, the Communications Act provides only that the Commission may classify carriers for the keeping of accounts and records.[43] Thus, the argument runs, had Congress intended the Commission to classify carriers for purposes of rate and facilities regulation, it would have imposed the obligation or granted the authority explicitly. AT&T relies upon the maxim of statutory construction *expressio unius est exclusio alterius (ie.,* the expression of one thing is the exclusion of another) and language in *Alcoa Steamship Co. v. FMC*, 348 F.2d 746, 758 (D.C. Cir. 1965), as supporting this thesis. (Direct Comments of AT&T, pp. 37–38).

43. This reliance, however, is misplaced. As the D.C. Circuit has since observed:

> This maxim is increasingly considered unreliable * * * for it stands on the faulty premise that all possible alternatives or supplemental provisions were necessarily considered and rejected by the legislative draftsmen.

National Petroleum Refiners Association v. FTC, 482 F.2d 672, 676 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 951 (1974).[44] To the extent that the maxim remains viable as a tool for statutory construction, it must be used with caution. *Morino Rios v. United States*, 256 F.2d 68 (1st Cir. 1958); *Massachusetts Trustees of Eastern Gas and Fuel Associates v. United States*, 312 F.2d 214, 220 (1st Cir. 1963). As the commentators have explained, "where an expanded interpretation [of the statute] will accomplish beneficial results [or] serve the purpose for which the statute was enacted, * * * the maxim will be disregarded and an expanded meaning [of the statute] given." 2A Sutherland Statutory Construction § 47.25. (Sands, 4th ed 1975).

44. Similarly AT&T's reference to *Alcoa Steamship* is inapposite. There, the Court was called upon to rule whether the Federal Maritime Commission had statutory authority to audit or inspect the foreign corporate records of U.S. flag carriers. The court held that the Commission did not have such authority, noting that Congress had intended fewer regulatory powers for the Commission than were possessed by other regulators of commerce. 348 F.2d at 758–760. However, unlike the situation confronting the *Alcoa* Court, our action here does not involve an attempt to significantly expand our authority over the companies we regulate. Rather, our classification scheme will enable us to reduce the intensity of our control over non-dominant carriers.[45]

45. Nor do we accept the contention espoused by AT&T that our proposed regulatory approach would, if adopted, be inconsistent with the statutory scheme of the Act. According to AT&T, Title II must be applied to all carriers in an evenhanded manner; our approach, it says, would unlawfully exempt non-dominant carriers from these requirements, particularly those of Sections 201–205.[46] AT&T's argument contains two points. The first, that we have no discretion as to how to regulate because the Act requires uniform application of Title II to all carriers, is simply wrong as a matter of law. *See* paras. 29–39, *supra*. This agency is thus authorized and obligated to exercise its reasoned judgment in devising the types of regulatory systems most appropriate to the problems presented within its jurisdiction. We have already discussed the principles on which we have based the adoption of this regulatory system. We are confident that not only is it a reasonable system but also that continuation of the prior undifferentiated system of rules will disserve the public and thus be unreasonable.

46. The second implication in AT&T's argument—that the modification of our rules constitutes an "exemption" of these firms from Title II—overstates the breadth of the action adopted here. Even accepting *arguendo* AT&T's arguments as to the question of "exemption", our action today does not relieve non-dominant carriers from complying with the provisions of Sections 201–205 of the Act, or the Commission from making the required findings under Section 214. It merely modifies the method by which the Commission assures compliance with these requirements.

47. For similar reasons we reject the claim of AT&T and USITA that our action here is precluded by the Supreme Court's decision in *FPC v. Texaco*. That decision, they say, establishes the doctrine that an administrative agency charged with regulating just and reasonable rates cannot defer regulation to the forces of the marketplace.[47]

48. Admittedly, our decision hinges to some degree upon our conclusion that marketplace forces will operate to ensure that the rates and other tariff provisions of non-dominant carriers comply with the objectives of Sections 201 and 202 of the Act. Nevertheless, we are confident that our movement toward less direct, permissive forms of regulation where competitive conditions exist does not run afoul of the Court's holding in *Texaco*. Indeed, the new regulatory policies we adopt here simply cannot be compared to the FPC action prohibited by *Texaco*. If anything, our action is totally consistent with the *Texaco* decision since the Court expressly affirmed the FPC's wide discretion to fashion suitable procedures to ensure just and reasonable rates. 417 U.S. at 387–393. Moreover, in a recent opinion interpreting that decision the Supreme Court explained:

> Our concern in *Texaco* was that rates of small producers might be totally exempted from the Act, and we did not indicate that producer or pipeline rates would be *per se* unjust and unreasonable because related to the unregulated price of natural gas. *Texaco* did not purport to circumscribe so severely the Commission's discretion to decide what formulas and methods it will employ to ensure just and reasonable rates. Indeed, the decision underscored the wide discretion vested in the Commission. (Citation omitted.)[48]

49. The *Texaco* decision struck down an FPC order because the Court found that the agency had essentially abdicated its statutory resonsiblity to assure that small-producer rates were just and reasonable. *Id.* at 394. The Court read the underlying order to indicate that the FPC assumed that whatever price prevailed in the market would also be a just and reasonable rate under the statute, independant of cost or other ratemaking factors. *Id.* at 397. The Court relied heavily upon the legislative history of the Natural Gas Act which showed Congress believed the market at issue there to be "heavily concentrated and that monopolistic forces were distorting the market price for natural gas." *Id.* at 397–398, 400.

50. Moreover, unlike what appears to have been the case in *Texaco*, we have not abdicated all means of review or control over non-dominant carriers' rates. We merely intend to treat them as "presumptively lawful". That presumption in turn may be rebutted under the standards specified, *infra*. Further, parties may always file a complaint under Section 208 of the Act. Our policy of permitting resale of communications facilities will result in "unreasonable discriminations" in rate level or structure being eliminated by carriers in response to the arbitrage performed on them by resellers. *AT&T v. FCC*, 572 F.2d at 23. Our open entry policies, eased by the modifications of Part 63 of our rules adopted today, should also result in competitive firms being able to enter to compete with firms charging prices not related to the costs of providing the service.

51. The case of non-dominant communications firms is distinguishable on several grounds. Among those particularly relevant to AT&T's arguments here is that at least since our decision in the *Private Line Case*. 34 F.C.C. 217 (1963), *recon.*, 34 F.C.C. 1094 (1963), *aff'd sub nom. Wilson & Co. v. United States*, 335 F.2d 788 (7th Cir. 1964), *remanded*, 382 U.S. 434 (1966), we have consistently enunciated a policy which employs costs as the touchstone for determining the justness and reasonableness of rates. Our analysis of the structure and market position of what we have called non-dominant carriers allows us to be assured that, unlike the market considered by Congress in adopting the Natural Gas Act, these firms do not possess the market power necessary to sustain rates which are below, or above, costs. Thus, we can predict with confidence that the rates charged by non-dominant carriers will be "just and reasonable" within the meaning of the Communications Act whether we require tariff support material or not.

52. In any event, we intend to monitor the tariff filings as well as the service additions and suspensions of non-dominant carriers during the transition from a highly regulated to a more freely competitive industry in order to prevent any anticompetitive behavior. However, based on our experience thus far with the emerging competitive telecommunications market, we believe the potential for such abuse to be slight and the risk more than outweighed by the benefit to overall consumer welfare.

53. In sum, we conclude that our adoption of a dominant/non-dominant carrier classification scheme and the concomitant application of different regulatory rules by class of carrier comes well within our broad discretion and authority under the Act. We furthermore affirm our tentative conclusion that our scheme properly reflects the public interest.

IV. Definition of Dominance; Classification of Carriers

A. Introduction and Summary

54. Our goal throughout this rulemaking proceeding has been to establish a set of criteria to enable us to determine whether there are certain firms which could not rationally engage in the activities proscribed by the operative provisions of Title II of the Communications Act, *viz.* Sections 201–205 and 214. For convenience, we have referred to such firms as non-dominant. We have found that application of our current regulatory procedures to non-dominant carriers imposes unnecessary and counterproductive regulatory constraints upon a marketplace that can satisfy consumer demand efficiently without government intervention. In this section we develop a test to classify carriers as either dominant or non-dominant. We start by defining dominant carriers as carriers that have market power (*i.e.*, power to control price). Non-dominant firms, therefore, are those which do not possess power over price. Our analysis leads us to conclude that the specialized common carriers (also referred to as terrestrial microwave carriers) and the resale carriers (excluding the resellers of satellite transmission facilities) are not dominant.[49] Therefore we revise our tariff and Section 214 procedures for these carriers.

B. Definition of Dominance

55. In the *Notice*, we proposed a definition of dominance that we felt would enable us to identify carriers that are subject to sufficient competitive pressure so that their performance is, and can be presumed to continue to be, in the public interest, without detailed governmental oversight and intervention. That definition of dominance was one of market power. We reasoned, based upon the well-established teachings of modern welfare economics, that a firm without market power does not have the ability or incentive to price its services unreasonably, to discriminate among customers unjustly, to terminate or reduce service unreasonably or to overbuild its facilities. The comments on these findings generally have been supportive and have acted to strengthen our tentative beliefs.[50]

56. Consistent with the *Notice*, we define a dominant carrier as a carrier

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[41] Direct Comments of AT&T, p. 37; *See also* Reply Comments of USITA, p. 5.

[42] *Accord Niagara Mohawk Power Corp. v. FPC*, 379 F.2d at 158. ("[T]he Act is not to be given such tight reading wherein every action * * * is justified only if referable to express statutory authorization. On the contrary, the Act is one that entrusts a broad subject matter to administration by the Commission * * * in light of new and evolving problems and doctrines.")

[43] Section 220(h), 47 U.S.C. § 220(h), provides that:

> The Commission may classify carriers subject to this Act and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

As SBS observes, however, this section is essentially a jurisdictional provision of regulatory power. It cannot be used to reveal a congressional intent to deny the Commission the power to develop a differential regulatory approach for carriers wholly under federal jurisdiction. Reply Comments of SBS, pp. 26–27.

[44] *See also SEC v. Joiner Leasing Corp.*, 320 U.S. 344, 350–51 (1943); *American Trucking Association v. United States*, 344 U.S. 298, 300–310 (1953); and *Durnin v. Allentown Federal Savings and Loan Ass'n.* 218 F. Supp. 716, 719 (E.D. Pa. 1963).

[45] We also find no merit in AT&T's contention that the current legislative proposals before Congress regarding carrier classifications demonstrate that we now lack the power to classify carriers on the basis of their market dominance. (Direct comments of AT&T, p. 39). *See United States v. Southwestern Cable Co.*, 392 U.S. 157, 169–70 (1968); *Wong Yan Sung v. McGrath*, 339 U.S. 33, 48 (1950); *Haynes v. United States*, 390 U.S. 85, 87 (1968); *United States v. Price*, 361 U.S. 304, 313 (1959).

[46] Direct Comments of AT&T, pp. 36; 42–46; *See also* Direct Comments of USITA, p. 9.

[47] Direct Comments of AT&T, pp. 50–54; Reply Comments of USITA, p. 3.

[48] *FERC v. Pennzoil Producing Co.*, 439 U.S. 508, 516 (1979). *See also Permian Basin Area Rate Cases*, 390 U.S. 747 (1968); *Wisconsin v. FPC* 373 U.S. 294 (1963).

[49] As indicated we are also revising our Part 63 requirements to relieve domestic satellite carriers of the present requirement to obtain Section 214 authorization before activating each satellite transponder.

[50] *See, e.g.*, the *Comments* of COWPS and NTIA.

that possesses market power. Market power refers to the control a firm can exercise in setting the price of its output.[51] A firm with market power is able to engage in conduct that may be anticompetitive or otherwise inconsistent with the public interest. This may entail setting price above competitive costs in order to earn supranormal profits, or setting price below competitive costs to forestall entry by new competitors or to eliminate existing competitors. In contrast, a competitive firm, lacking market power, must take the market price as given, because if it raises price it will face an unacceptable loss of business, and if it lowers price it will face unrecoverable monetary losses in an attempt to supply the market demand at that price.

57. We have focused on certain clearly identifiable market features in order to determine whether a firm can exercise market power. Among these are the number and size distribution of competing firms, the nature of barriers to entry, and the availability of reasonably substitutable services. The presence of certain features, such as barriers to entry, may allow a firm to exercise market power.

58. An important structural characteristic of the marketplace that confers market power upon a firm is the control of bottleneck facilities.[52] A firm controlling bottleneck facilities has the ability to impede access of its competitors to those facilities. We must be in a position to contend with this type of potential abuse. We treat control of bottleneck facilities as prima facie evidence of market power requiring detailed regulatory scrutiny.

59. Control of bottleneck facilities is present when a firm or group of firms has sufficient command over some essential commodity or facility in its industry or trade to be able to impede new entrants.[53] Thus bottleneck control describes the structural characteristic of a market that new entrants must either be allowed to share the bottleneck facility or fail.[54]

C. Classification of Carriers

60. In this part we analyze the telecommunications industry to determine the carriers that have market power. While we must identify, for regulatory purposes, whether carriers are dominant or non-dominant, it is performance of the marketplace in satisfying consumer demand that is our overriding concern and not the performance of individual carriers *per se*.[55] Thus our classification of carriers or their individual service offerings is not designed to help or hinder any one particular firm or industry, but rather is designed to enable consumers to derive the best attainable service from each component of the telecommunications industry, given the state of technology as we know it today.[56]

61. Our analysis, for purposes of exposition, is segmented into the following categories: telephone companies, Western Union, domestic satellite carriers (Domsats), miscellaneous common carriers (MCCs, also referred to as video terrestrial microwave carriers), specialized common carriers (SCCs, also terrestrial microwave carriers) and resale and value added carriers.

1. *Telephone Companies*

62. AT&T, including its 23 associated telephone companies and its Long Lines Department, dominates the telephone market by any method of classification. Currently, the Bell System controls access to over 80% of the nation's telephones. Since many of AT&T's competitors must have access to this network if they are to succeed, AT&T possesses control of bottleneck facilities. Therefore, we believe that AT&T must be treated as dominant.

63. It is also clear that AT&T has market power in long distance telephone service given its overwhelming share of the MTS and WATS market. The growing demand for long distance telephone service and the current difficulties of entering this market on a large scale with alternative distribution facilities confer substantial market power upon AT&T. Thus, AT&T's long-run profit maximizing behavior, in the absence of regulation, may be to increase price above cost for long distance service. Given this very real possibility, we will continue to apply the full panoply of our traditional regulations to AT&T's long distance telephone service.

64. AT&T also possesses significant market power in the private line service market. For example, from a statistical perspective, AT&T's revenues for private line services in 1978 amounted to over $2 billion, while the revenues of the specialized common carriers were about $153 million.[57] Although a precise determination of AT&T's market share in private line is not possible AT&T is dominant in virtually every private line service market where other common carriers also compete.[58] Further, we have repeatedly found AT&T's prices for private line services unlawful in terms of the cost standards established by the Commission.[59] Given these conditions, we believe it would be imprudent for us to propose relaxation of our regulation of AT&T's private line service offerings at this time. Therefore, we will continue

[51] *See, e.g.*, F. M. Scherer, *Industrial Market Structure and Economic Performance* (2nd Ed. 1980).

[52] Such control has received extensive review by the courts. *See United States* v. *Terminal Railroad Ass'n of St. Louis*, 224 U.S. 383 (1912); *Eastman Kodak* v. *Southern Photo Materials Co.*, 273 U.S. 359 (1927); *Associated Press* v. *United States*, 326 U.S. 1 (1945); *United States* v. *Klearflax Linen Looms, Inc.*, 63 F. Supp. 32 (D. Minn. 1945); *United States* v. *Lorain Journal Co.*, 342 U.S. 143 (1951); *Gamco* v. *Providence Fruit and Produce Building*, 194 F. 2d 484 (1st Cir.), *cert. denied*, 344 U.S. 817 (1952); *Times Picayune Co.* v. *United States*, 345 U.S. 594 (1953); *Otter Tail Power Co.* v. *United States*, 410 U.S. 366 (1973); *Mt. Hood Stages* v. *Greyhound Corp.*, 555 F. 2d 687 (9th Cir. 1977), *vacated on other grounds*, 437 U.S. 322 (1978).

[53] *See, e.g.*, A. D. Neale, *The Antitrust laws of the United States of America: A Study of Competition Enforced By Law* (1968).

[54] For a discussion of the nature of institutional as well as physical and economic barriers to entry see Nancy S. Barrett, *The Theory of Microeconomic Policy* (1974).

[55] Consistent with the Notice, we generally treat carriers as single output firms in this order. We do not address the competitive service offerings of dominant firms, nor the manner in which these offerings should be regulated. A finding of dominance in this order for a particular firm entails a continuation of our present regulatory treatment of all of the activities of that firm. Similarly, carriers are eligible for streamlined regulatory procedures only if they are not dominant in the provision of any services. We recognize this is a conservative approach to regulation and we plan to deal with the much more complex issue of the regulation of multi-output carriers in a further notice of proposed rulemaking. In short, our focus should shift from carrier specific to market specific analysis in order to conform more closely to the dynamics of the marketplace. *See Second Computer Inquiry*, 77 F.C.C. 2d 384 (1980).

[56] AT&T complains that our regulatory scheme would disadvantage dominant firms since they would be unable to respond as quickly as non-dominant firms to the demands in the marketplace. (Direct Comments, p. 34). Our duty under the Act is to further the public's ability to obtain "rapid efficient * * * communications service * * * at reasonable prices" and we have determined, based on this record and our experience with competition, that relaxing regulation in some instances will better enable us to fulfill this responsibility. We have found, however, that relaxed regulation for such dominant firms as AT&T would not be in the public interest. In this regard, however, we have begun other efforts which may afford AT&T greater pricing flexibility while maintaining sufficient administrative oversight of such activities. *See* Cost Allocation Manual, CC Docket No. 79-245 [released June 26, 1980].

[57] *See Customer Interconnection, Second Report* 75 F.C.C. 2d 605 (1980). A complete reading of this *Report* and its predecessor is helpful in understanding AT&T's dominance in the telecommunications industry.

[58] *See AT&T Private Line Rate Structure and Volume Discount Practices*, 74 F.C.C. 2d 1 (1979).

[59] *See Multi-Schedule Private Line Service*, 65 F.C.C. 2d 295 (1977); *Telpak*, 61 F.C.C. 2d 587 (1976), *recon.*, 64 F.C.C. 2d 971 (1977); *Dataphone Digital Service*, 62 F.C.C. 2d 778 (1977), *recon. denied*, 64 F.C.C. 2d 994 (1977), *pet. for review dismissed sub nom. AT&T* v. *F.C.C.* NO. 77-1742, (D.C. Cir. May 21, 1979); *Facilities for Other Common Carriers*, 74 F.C.C. 2d 226 (1979); and *Series 7000*, 67 F.C.C. 2d 1134 (1978), *recon. denied*, 70 F.C.C. 2d 2031 (1979), *aff'd sub nom. ABC* v. *FCC*, No. 79-1261 (D.C. Cir. October 9, 1980).

to treat all of AT&T's basic transmission offerings as dominant.[60]

65. The independent telephone industry consists of approximately 1500 carriers that offer both local and interstate services. As franchise holders in exchange areas these carriers possess control of essential facilities. Competitors in the voice or message market must have access to the local exchange facilities owned by the independent telephone companies. The independent carriers also offer interstate services essentially on a non-competitive, cooperative basis with Bell, generally agreeing to Bell tariffs. The profits of these carriers are determined to a large degree by the settlements and separations process. These arrangements have the effect of tying all telephone companies together in a joint venture providing basic service. Thus, all of these carriers share in AT&T's market power. As a result of these factors the independent telephone companies are dominant and will continue to be treated, for regulatory purposes, in the same manner that they are currently treated.[61]

2. *Western Union*

66. In the *Notice* we proposed to classify Western Union (WU) as a dominant carrier because of its virtual *de facto* monopoly of Telex/TWX service. Telex and TWX were the only significant domestic switched networks dedicated to teletypewriter, that is, written record service on an exchange basis. We noted, however, that proceedings to be resolved following the *Notice's* release could result in market alterations which might temper WU's ability to exercise market power. WU was invited to rebut our finding as to its classification.

67. In its direct comments WU urged that Telex/TWX are part of a broader business communications market, of which these services account for an insignificant share. Were we to accept WU's market definition we could also accept its conclusion as to its lack of a dominant position. We concur in the selection of the market definition standard which calls for reasonable interchangeability among products as to price, quality and use. *United States v. E. I. DuPont de Nemours & Co.*, 351 U.S. 377 (1956). We find, on this basis, that WU's selection of a business communications market as the relevant market is too broad and seemingly ignores all but the roughest gradation of interchangeability.

68. In an appendix to its comments, WU submitted a report by the Diebold Group, Inc., which compared eleven services as to their substitutability with Telex/TWX service. MTS and WATS service were found moderately substitutable, although they do not include hard copy. Mailgram, the proposed U.S.P.S. ECOM service, and first class mail also were found moderately substitutable even though they require a minimum of one day to deliver. Communicating word processors and time sharing terminals were found moderately substitutable, although not available to many users. Private intercompany mail service and telegram service were found poor alternatives to Telex/TWX, due primarily to lack of broad availability and cost, respectively.

69. The only services found by the Diebold Group study to be "very" substitutable were "High Speed Fax" and "Slow Fax". These services are found comparable to Telex/TWX in terms of price, quality and delivery time. Furthermore they are available to the small user. Nevertheless, facsimile service offered to customers using leased lines by Graphnet and potentially by other firms is at an incipient stage of development.

70. While some have predicted that the facsimile market will grow rapidly, we have seen little evidence in this record or in our own analyses to show that WU's position in the domestic switched record market has declined to the extent that it can be said that customers now have "reasonable substitutes" readily available. Moreover, WU now serves between 100,000 and 150,000 customers interconnected with its network. We note that the telecommunications market places a value on switched service networks being capable of serving a large universe of addresses. WU's Telex/TWX network, extensive as it currently is, obviously gives it a substantial advantage over potential competitors. We believe the lack of direct substitutes for Telex/TWX confers market power on WU.

71. WU claims that any market power it currently possesses will be virtually eliminated by future market entrants.[62] Thus, it is argued, that the potential of new entities entering the market is sufficient to deter supracompetitive pricing. The Supreme Court has found that "[P]otential competition, insofar as the threat survives * * * may compensate in part for the imperfection characteristic of actual competition in the great majority of competitive markets". *United States* v. *Penn-Olin Co.*, 378 U.S. 158, 174 (1964), *quoting* Wilcox, Competition and Monopoly in American Industry, TNEC Monograph No. 21, 7-8 (1940). While we agree that the future is likely to see major changes in the relevant markets in which WU now operates, for the reasons explained above, we do not believe that the substitutes available in the marketplace are as yet having a sufficient restraining effect on WU's pricing and marketing conduct to justify a finding of non-dominance at this time.[63]

72. We note, however, that between the issuance of the *Notice* and this order we have taken several actions which we expect may have the result of diminishing Western Union's market power. In *Public Message Services*, 71 F.C.C. 2d 471 (1979), *recon. denied*, 73 F.C.C. 2d 151 (1979), we interpreted the Communications Act as not limiting the provision of public message services to Western Union. In our *"Gateways"* order we found that the public interest would be served by authorizing the international record carriers to interconnect with their domestic affiliates and to extend their services directly to customers in additional U.S. cities, thereby substantially reducing the IRCs' need to employ the services of domestic carriers for acceptance and delivery of international traffic.[64] These decisions reduce some of the impediments to entry, and firms already are beginning to test the market for profit opportunities. As the record market continues to evolve, we recognize that Western Union may lose the market power it currently possesses.

3. *Domestic Satellite Carriers*

73. In our *Notice* we proposed to revise our regulatory procedures for the domestic satellite carriers (Domsats) because of the competitive nature of their service offerings.[64a] However,

[60] It should be noted that any enhanced service that AT&T offers must be supplied by a separate subsidiary and will not, of course, be regulated as a common carrier communications service under Title II. *See Second Computer Inquiry*, 77 F.C.C. 2d 384 (1980).

[61] We recognize that certain independent telephone companies may seek to enter either service or geographic markets in which they currently do not participate. We do not decide here whether or under what conditions such an entrant might be considered non-dominant.

[62] *See also* Direct Comments of NTIA.

[63] *See Telex/TWX Investigation*, 67 F.C.C. 2d 1420 (1978).

[64] *International Record Carriers* (Gateways), 76 F.C.C. 2d 115 (1980).

[64a] We perform a carrier specific analysis of the Domsats here to be consistent with the Notice in this proceeding. We now recognize, however, that it may be more appropriate to analyze the services that the Domsats provide within the broader context of the market in which they compete and to factor into the analysis the multi-output nature of the carriers providing domestic satellite service. We plan to employ such an analysis in a further notice of proposed rulemaking. *See also* note 55, *supra*

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since that time, the demand for transponder space has grown to exceed the supply. There is little or no transponder space currently available to the public. Under such conditions, unregulated firms would have the ability to increase price above cost to allocate transponder space.

74. We have found the appropriate scope of regulation for the Domsats in this proceeding to be particularly elusive. For example, the industry structure is complex. Satellites often are used by firms as part of composite systems using many different transmission methods as in the case of AT&T and GTE. Additionally, satellites can be used to provide either message, video or data traffic on a sole source basis. There also are varying degrees of vertical integration in the industry, with some firms owning the space segment, up-link and receive-only Earth stations, and several others owning various other combinations. The number of permutations from combining all of the above possibilities is great.

75. While it is clear that space segment providers possess market power, it is not clear that consumers are better off with rate regulation of the Domsats. If prices for transponder space are constrained, the market power is transferred to Domsat resale carriers. If, in turn, the prices of the resale carriers are constrained by regulation, it is likely that the windfall rents will be reaped by firms, such as cable systems and program suppliers, rather than the general populace. Under such conditions, the benefits of regulation are questionable. As a matter of policy and law, the question devolves to the meaning of "just and reasonable" under Section 201(b) of the Act, 47 U.S.C. § 201(b). We recognize that this agency traditionally has interpreted just and reasonable as cost-based. However the dilemma posed by the Domsats may require a reinterpretation of our general philosophies. We intend to consider this complex issue in the near future.[65]

[65] Although we have dedicated a great deal of our resources in the past two decades to establishing a cost based system of rates, *see, e.g., American Telephone & Telegraph Co.*, 61 F.C.C. 2d 587 (1976), 64 F.C.C. 2d 971 (1977), 65 F.C.C. 2d 64 (1977), 67 F.C.C. 2d 1441 (1978), *aff'd in relevant part sub nom. ARINC v. FCC*, No. 77–1333, (D.C. Cir. June 24, 1980) (pet. for rehearing pending), we have done so because we recognized that the industry affected was becoming more competitive. We have been most concerned with adherence to this system with respect to the rates of the dominant interstate firm, AT&T. With respect to other firms, however, it may be reasonable because of long term consequences not to adhere inflexibly to the cost-based standard but "to make the pragmatic adjustments called for by particular circumstances". *Permian Basin Area Rate Cases*, 390 U.S. at 777, quoting *FPC v. Natural Gas Pipeline Co.*, 315 U.S. 575, 586 (1942).

76. For present regulatory purposes we must classify the Domsats under the test developed here. Since there is a cost advantage to satellite transmission, pricing at the market price established by the landhaul carriers, primarily AT&T, will confer economic rents upon the Domsats. In order for the supply of Domsat facilities to be competitive, there must be ample opportunity for additional entry. Yet there currently is a technical limit on the number of satellites that will be operating in the near term. The Domsats therefore are in a position to allocate their limited number of transponders among a larger number of customers by raising price until the number of customers demanding transponders equals the available supply of transponders. Thus the Domsats possess market power and, we believe, must be classified as dominant.[65a]

4. *Miscellaneous Common Carriers*

77. The miscellaneous common carriers relay video signals and their corresponding audio components by terrestrial microwave links. The MCCs provide service throughout the nation, often on remote routes in Western states not served by other video interconnection methods.[66] While the MCCs compete generally with the Domsats in the provision of video interconnection service, currently the Domsats do not relay the signals of the major networks. In remote areas without good over-the-air reception, the demand for network signals is intense.[67] Thus, the MCCs have the power to raise price over cost in some instances. We believe this power is limited because of potential competition from Cable Television Relay Stations (CARS). Nevertheless, there is no readily available alternative to the network service provided by the MCCs in some areas, and a CARS system normally will take some time to be ordered, constructed and begin operation, even if there are no complications in the application process, equipment purchasing and station construction.

78. Although we proposed to treat carriers that distribute network signals differently, several parties have stated this would create "serious confusion and inconsistencies." [68] It appears that any differentiation among the MCCs for regulatory purposes may create administrative and economic inefficiencies, such as distorting the choice of programming distributed by the MCCs. Thus, we classify all of the MCCs as dominant and will continue in force our regulatory procedures for the MCCs established in *American Television Relay, Inc., supra* 63 F.C.C. 2d 911 (1977), *recon. denied*, 65 F.C.C 2d 792 (1977). Here again we recognize that our approach is a conservative one. Given the fact that terrestrial video interconnection is a technology that has been, and will continue to be, faced with declining demand, we will revisit our regulations of the MCC's in the near future to determine whether they can be designed to promote more efficient service to the public, while satisfying the just and reasonable standard of the Act.

5. *Specialized Common Carriers*

79. The specialized common carriers (SCCs) provide terrestrial voice and data services in direct competition with the established telephone carriers.[69] In 1979 the SCCs owned approximately 30,000 voice-grade circuits in the top 100 markets.[70] By comparison AT&T alone owned 2.3 million individual interexchange circuits and more than 80 million exchange loops.[71] As a result, the SCCs always face a direct competitor that offers a readily substitutable service. And, because AT&T's rates constitute an unbrella price the rates charged by SCCs are clearly constrained.[72] Indeed, any attempt to

[65a] Carriers providing earth station facilities for transmit or receive service only will be classified as non-dominant. These firms do not provide the space segment but merely offer their customers the means to utilize the transponder space which the customers have already obtained. Thus, the market power of a Domsat or Domsat resale carrier is not transferred to these firms. Examples of such carriers include: American Television and Communications Corp; Channels of Blessings; Colony Satellite Services, Inc.; CPI Satellite Telecommunications, Inc; Greater Starlink Corp., Pappas Satellite, Satelink, Inc., Satellite Networks, Inc., Satellite Services, Inc., Satellite Signals Unlimited, Inc., Satellite Transmission and Receiving Co., So. Florida Cable Television Corp., Western Satellite Corp., and Wold Communications, Inc.

[66] For a graphic depiction of the coverage provided by the MCCs, *see Television Factbook* (1979).

[67] *See, e.g.*, R. G. Noll, M. J. Peck and J. J. McGowan, *Economic Aspects of Television Regulation* (1973).

[68] *Direct Comments* of ABC, CBS, and NBC, p. 4 *See also* the Direct Comments submitted by Gordon and Healy for various MCCs.

[69] We consider the following carriers to be SCC's for purposes of this rulemaking: MCI Telecommunications Corporation, Southern Pacific Communications Company, United States Transmissions Systems, Inc., Goeken Communications, Inc. and Western Telecommunications, Inc.

[70] Direct Comments of AT&T, p. 28.

[71] Comments of AT&T in Docket 79–245, at III–2 (December 4, 1979).

[72] Although is is theoretically possible for a specialized common carrier to possess a cost advantage over both AT&T and its other rivals and thus be able to reap a supranormal return on its investment, we do not have any evidence to this effect. Moreover, because of the higher risk faced by the SCCs and the need for dynamic efficiency in the

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price above AT&T's rates will be frustrated by an immediate loss of service.

80. We also emphasize that an SCC could not rationally price above its costs since entry barriers are sufficiently low. An SCC setting its rates too high would encourage other firms to enter the market, offer the same or improved product at a more reasonable price, and capture a share of the market.

81. By the same token, there is no potential harm to consumers from SCCs pricing their services below cost since they do not possess the ability to drive AT&T out of the market.[73] Nor do they have the ability to recoup the losses from a predatory campaign since, as indicated, they cannot set prices above cost. Thus, the likelihood of a predatory pricing campaign by a SCC ending up with the predator as monopolists is virtually non-existent. Therefore, we conclude that the SCCs are not dominant.

6. *Resale Carriers*

82. Resale carriers lease circuits from underlying carriers and use them to provide service to their customers.[74] These carriers essentially act to enforce good industry performance. If a particular service is not being provided adequately to consumers, these carriers often act to fill the void. The resale carriers also have the potential to undermine price discrimination schemes by the existing dominant carriers by engaging in arbitrage. Given the low barriers to entry into these operations, resale carriers appear to be more subject to actual and potential competition than any other telecommunications industry. As a result of the multitude of actually and potentially substitutable services available, they have no power to raise prices above the rates charged by the underlying carrier plus an allowance for the cost of their operation (even if it is cost efficient). Such an overpriced service could not be sold in this competitive market. Thus we conclude the resale carriers are non-dominant.

83. We exclude satellite resale carriers from the above discussion because there currently is a limited number of transponder spaces available which, in turn, limits the number of competing resale carriers. Moreover, because the Domsats are unable, under a system of rate regulation, to capture the rents from the shortage of transponder space, this market power can be utilized by Domsat resellers. Thus, we conclude the resale carriers of satellite facilities are dominant.[75]

D. Conclusion

84. We have defined dominant carriers as those having market power, *i.e.*, power to ot control price. We have analyzed each of the components of the telecommunications industry and have concluded that the telephone companies, Western Union, the Domsats, Domsat resale carriers and the MCCs are dominant and will continue to be regulated as they are today. Specialized common carriers and resale carriers will be considered non-dominant, and as such are eligible for our revised regulatory procedures.[76]

V. The New Rules for Non-Dominant Carriers

A. Introduction

85. The streamlined procedures we now adopt for non-dominant carriers are intended to enable them to respond to the demands of the competitive marketplace with a minimum of regulatory interference. These carriers will be afforded the flexibility to experiment with price/service offerings without the burden and delay of attempting to compile and produce substantial economic supporting data well in advance of when they will be permitted to market the service. They will now also be authorized to enter new markets quickly where they perceive competitive opportunities exist, or leave others on relatively short notice if their projections are not realized.

86. We have not relieved these carriers from all of our regulatory policies which we believe may constrain their ability to compete effectively in the marketplace. Rather, our new regulatory approach has been designed to balance our duty to refrain from imposing unnecessary regulatory burdens upon these carriers. *Home Box Office v. FCC*, 567 F.2d 209 (D.C. Cir.), *cert denied*, 434 U.S. 829 (1977), *Geller v. FCC*, 610 F.2d 973 (D.C. Cir. 1979), with our recognition that additional "deregulatory" actions are both more far reaching in their implications and based on less familiar analyses.

87. We fully appreciate that further action may be warranted. Indeed, some commenters argue that our proposals go too far while others believe that they do not go far enough. We, of course, will monitor the impact of our new rules and modify them where necessary. But, nearly a decade of experience with competitive entry convinces us that this regime can be adopted safely now, and will go a long way toward promoting competition and related consumer benefits. A detailed discussion of these rules and the changes we have made to them after careful analysis of the comments is set forth below.

B. Presumption of Lawfulness

88. The economic underpinning of our proposal to streamline the regulatory procedures for non-dominant carriers flows from the fact that firms lacking market power simply cannot rationally price their services in ways which, or impose terms and conditions which, would contravene Sections 201(b) and 202(a) of the Act. For reasons we have discussed in detail in the *Notice* (paras. 46–49) a non-dominant competitive firm, for example, will be incapable of violating the just and reasonable standard of 201(b). If it charges unreasonably high rates or imposes unreasonable terms or conditions in conjunction with the offering, it would lose its market share as its customers sought out competitors whose prices and terms are more reasonable. As also explained, it is equally unlikely that a competitive firm would engage in a strategy of below-cost or predatory pricing in an attempt to drive rivals out of the market. This is especially true where it faces a dominant firm, such as AT&T, as an actual or potential rival and barriers to the entry of new firms are lowered.

89. Similarly, a non-dominant firm cannot rationally engage in the type of unlawful discrimination condemned by

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SCC market to satisfy consumer demand, we believe the public will be served best if an efficient SCC is rewarded by the marketplace rather than burdened by the government with counterproductive regulation. We note that given the structural characteristics of the market such as low entry barriers no one SCC should be able to gain an advantage that would lead to consumers being disadvantaged.

[73] For example, the net communications plant for all of the SCCs in 1979 was less than $300 million. AT&T had a net investment of over $26 billion in interstate operations alone in 1979.

[74] At the time the *Notice* was released there were seven resale carriers, not including satellite resale carriers. *See Notice* n. 18. Since then eleven additional resale carriers have filed tariffs. They are: DAG, Inc., Hyatt Corporation, Leased Data Services, Inc., National Communications Corporation, Pacific Network Communications Company, TransNational Network, Inc., United Network Service, Inc., United States Telephone Communications, Inc., Telshare, Teltec Savings Communications Company, and Vector Communications, Inc.

[75] Examples of such dominant Domsat resellers include: American Satellite Corp., ASN, Inc., Satellite Communications Systems, Inc., Southern Satellite Systems, Inc., United Video, Inc., Eastern Microwave, Inc., and Transponder Corporation of Denver.

[76] In our decision in *Second Computer Inquiry*, 77 F.C.C. 2d 384 (1980), we found that enhanced services were not common carrier communications services within the meaning of the Act and are not regulable under Title II. As a result, these procedures apply only to carriers providing basic service.

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Section 202(a) of the Act.[77] (*Notice* paras. 51–54). As discussed in the *Notice*, price (or term) differentials, when offered by carriers lacking price control, are indicative of competition—not of wealth-transferring price discrimination schemes. We, therefore, tentatively concluded in the *Notice* that the rates and other terms of the tariffs filed by non-dominant carriers could be considered presumptively lawful, and significantly, most of the commenting parties agree.

90. AT&T, however, disputes our view that non-dominant carriers would be precluded from engaging in unlawful price discrimination and in fact claims that they have every incentive to do so.[78] For support AT&T cites an article by R.D. Willig, at the time a Bell Laboratories economist, in the Spring 1978 volume of *The Bell Journal of Economics* entitled "Pareto-superior Nonlinear Outlay Schedules." That article attempts to prove that public utilities in particular will benefit themselves and all consumers by arranging prices a long a nonlinear outlay schedule that offers the largest consumer a marginal price equal to marginal cost with everyone else paying a price which exceeds marginal cost by various degrees. The implication is that as a matter of public policy, society would be bettered by giving large firms price discounts from average cost rates.

91. Beyond the merits of such a policy itself, the analysis assumes, among other things, that the utility's production function is characterized by economies of scale, and that its product cannot be readily traded among individual consumers (*i.e.*, cannot be resold). Both of these assumptions are highly debatable. In particular, AT&T itself now favors a policy of resale and shared use of its services under certain circumstances.[79] The fact that carriers imposed restrictions in the past to prevent resale of various services is, we believe, significant evidence of the resalability of telecommunications services.

92. Substantive criticism of the Willig article is provided in the Spring 1980 volume of *The Bell Journal of Economics* by J. A. Ordover and J. C. Panzar in "On the Nonexistence of Pareto-superior Outlay Schedules". The authors, one of whom also is a Bell Laboratories economist, point out that users of utility services often compete in final product markets, thus nullifying the assumption that user demands are independent. They conclude that a uniform price above marginal cost (*e.g.*, equal to average cost) may be Pareto efficient, given available policy instruments.[80]

93. Although both ARINC and SIAC generally support our new rules, they challenge the wisdom of our proposal to consider rate increases filed by non-dominant carriers as presumptively lawful. In doing so, they argue, we would violate Section 204(a) of the Act [81] by effectively shifting the burden of proof in rate hearings from the filing carrier to the opponent. Assertedly, the latter would now have the responsibility to show why the rate was unreasonable.[82] The commentors' fears in this regard, however, are unfounded.

94. The burden imposed on the filing carrier by Section 204 applies only after the Commission "upon complaint or upon its own initiative without complaint, upon reasonable notice, enters upon a hearing concerning the lawfulness thereof". 47 U.S.C. § 204(a). Our use of a presumption of lawfulness for non-dominant carrier rates is applicable to their filing and not to any hearing subsequently convened as to their lawfulness. Under the system of carrier-initiated tariff filings created by the Communications Act, *see AT&T v. FCC*, 487 F 2d 864 (2d Cir. 1973), and under our rules, 47 C.F.R. § 1.773(a), petitioners must demonstrate why a particular tariff filing should be suspended, investigated or rejected. In that sense, it may be said that our action here leaves the question of burden of proof regarding rate filings unchanged. *See also Tariffs-Evidence*, 40 F.C.C. 2d at 152. Thus, Section 204 is not applicable in the first instance. We have no intention of altering the operation of Section 204 as to the burden of proof if and when a hearing on such rates were to be initiated.

95. ARINC and SIAC also challenge our conclusion that non-dominant firms cannot charge unreasonably high rates, pointing out that because of AT&T's price leadership ability a competitive carrier could set its rates above its own costs but below those established by AT&T. This argument fails to account for the competitive pressures exerted upon the carrier seeking to charge a supracompetitive price by other non-dominant firms. We believe that the presence of multiple non-dominant firms, each striving to expand its customer base by offering the best service at the lowest prices, will preclude such a strategy from succeeding.

96. In sum, we affirm our decision to consider the tariffs of non-dominant carriers to be presumptively lawful and as such can reduce several of the tariff filing burdens we impose upon them.

C. Section 61.38 Data

97. The major tariff filing burden we now impose upon non-dominant carriers is the requirement that they support their tariff proposals with extensive cost and other economic data as set forth in Section 61.38 of our Rules, 47 C.F.R. § 61.38. Although the original purpose of Section 61.38 data was to assist us in analyzing new tariff filings by monopoly or near-monopoly carriers under the appropriate statutory standards, we found that the information would also be useful when a carrier sought to offer a competitive service so that we could implement our policy objective of maintaining competition on a full and fair basis. *Tariffs-Evidence*, 40 F.C.C. 2d at 153. Our experience over the past decade with competition, however, has demonstrated that the tariffs of competitive non-dominant carriers are to a large extent determined by marketplace forces.[83] This experience has shown also that we can rely upon competition to meet the service needs of the public at prices and under terms and conditions which do not contravene the requirements of the Act and can be presumed to be lawful.[84] Thus, in the *Notice* we tentatively found that the submission of Section 61.38 data by non-dominant competitive carriers was unnecessary, and proposed to relieve

[77] A necessary condition for a seller to practice price discrimination profitably is that it have some market power. *See* F. M. Scherer, *Industrial Market Structure and Economic Performance* Chapter II (2d ed. 1980). Non-dominant firms, by definition, do not possess market power.

[78] Direct Comments of AT&T, pp. 30–36.

[79] *See* AT&T Initial Comments in CC Docket No. 80–54.

[80] We also emphasize that not all price discrimination is condemned by the Act. Section 202(a) of the Act prohibits, *inter alia*, unjust, unreasonable or undue discrimination in rates between like services. We believe that this proscription applies when the class of customers being discriminated against has no effective alternative source of supply while customers benefiting from the discriminatorily low prices are buying service in a market with competing suppliers. The non-dominant carriers we have identified today do not offer services in markets that offer this opportunity.

[81] Section 204(a) of the Act, 47 U.S.C. § 204(a), provides in pertinent part: "[at] any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed charge, is just and reasonable shall be upon the carrier * * *."

[82] Direct Comments of ARINC, p. 18–21; Direct Comments of SIAC, p. 8–11.

[83] Indeed, MCI states that it does not have the resources to engage in sophisticated economic studies either before of after entry into the marketplace. Instead, it relies primarily on informal market feedback. Direct Comments of MCI, p. 12.

[84] *See also Customer Interconnection*, 61 F.C.C. 2d 766 (1976), and 75 F.C.C. 2d 506 (1980), in which we found that competition in the provision of customer equipment has benefited the general public by spurring innovation and meeting unmet needs.

them from having to supply this information.[85]

98. Our proposal is supported by most of the commenters; AT&T and USITA, however, argue that Section 61.38 data, at least in some modified form, should continue to be required from all carriers. According to them, elimination of tariff support materials would effectively preclude any opportunity for the public or the Commission to determine whether tariff proposals comply with Sections 201 and 202 of the Act.[86]

99. This argument is unpersuasive. Indeed, it ignores the fact that the filing of Section 61.38 data by competitive non-dominant carriers nullifies many consumer benefits that competition produces. Because the cost of developing this information is relatively great for a non-dominant carrier, the rates paid by its ultimate users are likely to be higher than if all competitive carriers were free from this unnecessary regulatory burden. Further, the required submission of these data forces a carrier to reveal to its competitors in advance the fruits of its own analysis and initiative, thereby discouraging the introduction of new innovative service offerings. And, even when a carrier decides to experiment with new service or rate changes, these existing regulations provide a vehicle for competitive harassment and delay by permitting challenges not to the merits of the filing but to the technical details of the accompanying cost support materials.[87]

100. AT&T and USITA overlook these rather significant drawbacks to requiring non-dominant carriers to file Section 61.38 data, choosing instead to concentrate on the protection such information presumably affords the public. Whatever the scope of Section 61.38, *See, Associated Press v. FCC*, 448 F.2d 1095, 1104 (D.C. Cir. 1971), *quoting American Farm Lines v. Black Ball Freight Service*, 397 U.S. 532 (1970), *IBM v. FCC*, 570 F.2d 452, 456 (2d Cir. 1978); *but see, ARINC v. FCC, supra*, Sl. Op. at 25, the information produced thereunder can only be useful when unjust and unreasonable rates are a realistic possibility. We have already explained why we do not believe this is the case here.

101. In any event, we will continue to monitor the tariff proposals of non-dominant carriers. If a tariff filing made by one of these carriers appears to be unlawful, we are empowered to extend the effective date of the tariff and require the carrier proposing it to submit supporting materials. Such an approach is far preferable to the mechanical, blanket imposition of unnecessary and costly regulatory burdens upon these carriers. We therefore adopt our proposal relieving non-dominant competitive carriers from submitting the data required by Section 61.38 of our Rules when they file their tariffs.[88]

D. Notice Periods

102. We have decided also to make final our tentative decision reducing to 14 days the advance notice period for non-dominant carrier tariff filings. Because these carriers operate in a competitive environment, they must have the flexibility to adjust their rates and practices to the demands of the marketplace without undue delay. At the same time, we recognize that some period of review may be justified. Our adoption of a 14 day notice period seeks to strike the proper balance. As such, it is no more than a modest step designed to reflect more accurately the new competitive realities while ensuring against aberrational filings by non-dominant carriers which may raise questions of lawfulness.

103. Although most commenting parties support our decision, a few suggest that we should adopt different notice periods. At one extreme, Com-Net believes that an advance notice period of 60 days is required when the service affected is being shared or resold. It argues that such a lengthy notice period is necessary in order to allow sharers and resellers sufficient time to pass cost increases through to the ultimate users.[89] Com-Net implies that the public would be benefited by the imposition of a rule designed to protect the profit margins of a class of carriers. It has not shown, nor is it at all likely that it could show, that this would be the case. Advance notice requirements, of whatever duration, create impediments to businesses attempting to respond as quickly as possible to consumer demand. Com-Net's argument offers no basis for exacerbating that impediment beyond that created by our proposed rule.

104. AT&T urges us to adopt a notice period of at least 30 days. It objects to the 14 day period as unnecessarily short and inconsistent with congressional intent in that it would deprive the public of the time needed to review a carrier's tariff filing.[90] We disagree. As we emphasized in the *Notice*, complainants do not have a statutory right to suspension or rejection. *See, e.g., Associated Press v. FCC*, 448 F.2d at 1103; *Trans Alaska Pipeline Rate Cases*, 436 U.S. 631, 638 n. 17 (1978). In any case, Congress has granted this Commission broad discretion to determine the proper notice period for tariff filings. *See AT&T v. FCC*, 503 F.2d 612 (2d Cir. 1974).[91] Even when it extended the maximum notice period to 90 days just four years ago, (P.L. 94–376 approved August 4, 1976, 90 Stat. 1080), Congress professed its expectation that we would use the full notice period only where there was a compelling reason to do so. *See* H.R. Rep. No. 94–1315, 94th Cong. 2d Sess. 3 (1976) and Sen. Rep. No. 94–918, 94th Cong. 2d Sess. 6 (1976). Moreover, our new policy provides ample protection for the public since we are retaining discretion to extend the notice period to the full 90 day period if upon our initial review (or the filing of a petition) we determine that a tariff filing of a non-dominant carrier warrants more extensive analysis. For these reasons, we reject AT&T's recommendation that we adopt a longer notice period.

105. On the other hand, SPCC believes that a one-day advance notice period for non-dominant carrier tariff filings is sufficient, pointing out that the competitive market will properly control the rates and structures proposed by

[85] These carriers, however, would have to submit a concise information statement explaining their proposals and setting forth the basic rates, terms and conditions of serivce. We did not propose to relieve dominant carriers from providing Section 61.38 data since we have found these data are necessary to detect unlawful cross-subsidization between their competitive and near-monopoly services.

[86] Direct Comments of AT&T, pp. 60–64; Reply Comments of USITA, p. 3. *See also* Direct Comments of MCI, pp. 6–8; Direct Comments of Multimedia, p. 6; Direct Comments of Teleprompter, pp. 16–18; and Direct Comments of Communication Network Systems, p. 2.

[87] As we noted in the *Notice*, approximately three-quarters of the petitions to suspend or reject filings of competitive carriers come from other carriers ather than customers. These petitons are often based on technical deviations from Section 61.38 requirements (*Notice* para. 7). *See also RCA American Communications, Inc.*, 69 F.C.C. 2d 426 (1978).

[88] ABC, CBS, and NBC suggest that the Commission should afford regulatory recognition to contracts between competitive carriers and users by allowing relevant provisions to be filed as tariffs and by adopting a policy that tariff revisions inconsistent with the underlying contract are presumed to be unlawful. (Direct Comments pp. 4–10). Similarly, Plexus asks us to give binding effect to carrier-user contract provisions which specify notice periods for tariff changes longer than 14 days. (Direct Comments pp. 9–10). Because these requests are beyond the scope of the proposals in the Notice we will not consider them here.

[89] Direct Comments of Com-Net, p. 2.

[90] Direct Comments of AT&T, pp. 56–60. AT&T believes that all carriers should be eligible for any reduced notice period adopted.

[91] AT&T relies on language in this decision to show that our action here would undercut the purposes intended by Congress in requiring notice. The opinion, however, shows otherwise. The Court emphatically affirmed our broad discretion in this area, dismissing as frivolous the suggestion that the congressional scheme represents a plan with an immutable time table. 503 F.2d at 618.

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these entities.[92] Because our goal in this proceeding is to enable the marketplace to satisfy consumer demand as effectively as possible consistent with the statutory scheme, SPCC's suggestion has some appeal. In fact, we considered a one-day advance notice period when we developed our proposals. *Notice*, paras. 56–58. Nevertheless, we believe that a 14 day period is preferable as we introduce our new policies. This period seems to provide the agency and the public adequate opportunity to review filings but allows carriers to implement their plans as quickly as possible consistent with that opportunity. Should it develop that such an extended notice period is not necessary or justified, we will alter it.

106. In sum, we have determined that the 14 day advance notice period for non-dominant carrier tariff filings as proposed in the *Notice* is reasonable and proper, and, accordingly, we adopt it.

E. Suspension Standards

107. Because the tariff proposals of non-dominant carriers could be considered presumptively lawful, we announced in the *Notice* that we would not suspend the filings of these carriers except for the most compelling reasons. To secure a suspension, a petitioner would have to demonstrate generally that the injury to competition from allowing the proposal to become effective was greater than the harm to the public from depriving it of the service proposed. In order to make this demonstration a petitioner would have to show: (1) that there is a high probability that the tariff would be found to be unlawful after investigation (likelihood of success on the merits); (2) that any harm alleged to competition (which we believe accomplishes public interest benefits) would be more substantial than that to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing (*e.g.*, that the proposed rate is predatory); (3) that irreparable injury would be suffered if suspension does not issue; and (4) that the suspension would not otherwise be contrary to the public interest. *Notice*, para. 60.

108. Among the commenting parties only AT&T challenges our proposed suspension standards, arguing that the injunctive-type relief showing necessary for suspension is at odds with the Act. Apparently, AT&T believes that such a showing would be difficult to make and thus would virtually foreclose the public's ability to secure suspension.[93]

109. The standard we propose is no more difficult than the standard commonly relied upon by the courts in determining whether to grant a stay or preliminary injunction. And, after all, the suspension power has its roots in these judicial remedies. *Arrow Transportation Co. v. Southern Railway Co.*, 372 U.S. 658, 662–669 (1963). Moreover, it is well recognized that our authority to order rate suspensions is one committed solely to agency discretion. *See id.; Southern Railway Co. v. Seaboard Allied Milling Corp.*, 442 U.S. 444 (1979); *Associated Press v. FCC*, 448 F.2d 1095 (D.C. Cir. 1971); *The Connecticut Light and Power Co. v. FERC*, No. 78–2312 (D.C. Cir. May 30, 1980). Under these circumstances, therefore, we are at a loss to perceive how any rights inherent in the Act would be violated by our proposal.

110. In any event, we believe that to the extent the procedure has the effect of discouraging frivolous petitions, the public interest and the Commission processes are well served. In our view, other things being equal, competitors should devote their time and energies to devising new and innovative services and pricing strategies rather than complaining about each other's tariffs. Thus, we reject AT&T's contention that our suspension standard is inconsistent with the Act and we have decided to adopt it.

111. Finally, we recognize that our statement in the *Notice*, para. 60, that an "important factor" in overcoming the presumption of lawfulness is whether the petitioner is a customer may have been overly broad. This statement was intended to reflect our perception that customers normally do not have strategic incentives to delay the effectiveness of a rate to protect a customer base. On the other hand, customers may have proprietary interests in preventing rate changes, particularly if those changes involve increases. We recognize that customer petitions will represent the self-interest of the petitioning party. Thus, we modify the view implied by the language in paragraph 60 of the *Notice* that customer petitions should always be viewed differently than those of petitioning competitors.

F. Financial Reports

112. In Appendix D of our Notice we proposed that eligible carriers (*i.e.*, carriers we find to be non-dominant) submit annual financial data "* * * so that we may better evaluate overall industry performance in conjunction with the proposals and observe the interplay of market forces". *Notice*, para. 32. Although these data are not required to establish the presence or absence of market power, we felt that they would be useful in monitoring the effects of the changes we are making in our regulatory approach to ensure conformance with desired effects.

113. We have decided not to impose this reporting requirement upon non-dominant carriers at this time. The Common Carrier Bureau has begun an effort to examine all reports now filed by all carriers. Thus, any modifications to the reporting requirements imposed upon non-dominant carriers will be considered during the course of that examination.[94]

G. Section 214 Regulation of Non-Dominant Carriers

114. In the *Notice* the Commission proposed to amend Part 63 of its Rules which implements the present Section 214 regulatory scheme. Plans for bifurcated Section 214 regulation, with one plan for dominant carriers and another for non-dominant carriers, were set forth. The *Notice* stated that such an approach was warranted because Congress enacted Section 214 and subsequent amendments to serve primarily as a protection against excessive expenditures on plant by rate-base regulated common carriers and against service discontinuance by carriers in areas where customers had no reasonable alternative service available. According to the rationale stated in the *Notice*, paras. 63–67, non-dominant carriers are unable to sustain the kind of business practices Congress was concerned about in adopting Section 214. These carriers are generally not in a position to pass the cost of unnecessary facilities on to customers. They are unable to extract additional revenue from some customers to recoup the costs of facilities needlessly built to duplicate other systems. Furthermore, customers in a market characterized by competition have access to alternative

[92] Direct Comments of SPCC p. 12. It also recommends that we modify the time periods for filing suspension and rejection petitions as well as replies to reflect the 14 day notice period. We have modified these procedures in a separate document, FCC 80–526 (released September 18, 1980), and hence we need not consider the issue here.

[93] Direct Comments of AT&T, pp. 36, 57, 60–64. AT&T mistakenly reads our rules as precluding an investigation of a tariff filing of a non-dominant carrier if the four-part suspension standard is not met. As always, we may consider whether tariff proposals of these carriers should be investigated, either on the basis of the petition or on our own initiative even though the petitioner fails to demonstrate that a tariff should be suspended.

[94] Pending completion of that proceeding, facilities based non-dominant carriers should continue to submit the reports that they currently file.

services should one carrier discontinue service.

115. The Section 214 regulatory scheme envisioned in the *Notice* for dominant carriers would oversee development of their comprehensive network, in contrast with the present Part 63 rules which focus primarily on circuit-by-circuit additions. Since such a regulatory program for dominant carriers will be more thorough and in some measure distinct from our regulatory policies for non-dominant carriers, we believe its development can be more efficiently accomplished in a separate proceeding. Hence, we shall initiate such a separate proceeding in the near future to develop policies and rules appropriate to dominant carriers' facility investment and utilization programs. In that proceeding we shall consider the comments which we have received about Section 214 regulation of dominant carriers in this proceeding. This approach is particularly appropriate because specific Part 63 rules for dominant carriers were not proposed in the *Notice*. Dominant carriers will, of course, remain subject to present Part 63 regulation until new rules are adopted.

116. To briefly summarize our conclusions, we here adopt two new Part 63 rule sections implementing a revised program of Section 214 oversight for non-dominant carriers. Section 63.07 and 63.71 follow proposals made in the *Notice* in large measure. These rules are contained in Appendix A. Section 63.07 covers initial certification of new carriers, authorization of existing carriers to serve new points and to build underlying facilities, and notification to the Commission when a carrier channelizes existing facilities. After consideration of the comments on Part 63 proposals contained in the *Notice*, we have revised the geographic area for which initial certification is normally obtained to the continental United States unless otherwise requested.[95] Subsection 63.07(b) as implemented also provides that no Section 214 authorization is needed prior to initiating service over satellite transponders. Although we have found that Domsats are dominant for purposes of these rules, for purposes of our Section 214 authorization program, we will no longer make any significant distinction between transmission via terrestrial and earth station radio facilities. In addition, we have revised Section 63.07 to require only semiannual reporting of circuit additions over previously authorized transmission facilities as opposed to the proposed 30 day reporting requirement. The rule regarding service discontinuance is substantially unchanged from the proposal set forth in the *Notice*. We are convinced that, in the context of an increasingly competitive domestic communications market, the new Section 214 regulations for non-dominant carriers will result in the best balance of our responsibilities to certify and to review discontinuance, to monitor the growth of competitive services, and to ensure efficient use of the radio spectrum, while minimizing regulatory entry and exit barriers. In the following paragraphs we discuss the various issues raised by our Section 214 regulatory scheme for non-dominant carriers and explain our conclusions.

1. *Legal Authority*

117. Comments focused on two principal legal issues raised by the proposed Section 214 regulations: whether bifurcated Section 214 regulation of dominant and non-dominant carriers is permissible under the Act and whether, under the proposed rules for non-dominant carriers, the Commission will be able to fulfill its public interest responsibilities under Section 214. We have already concluded in paragraphs 29 through 53, *supra*, that the proposals set forth in the *Notice* for the different regulation of dominant and non-dominant carriers comply with our mandate under the Act. For this reason, we limit our discussion here to the legality of the Part 63 rules for non-dominant carriers.

118. Alascom and USITA, who challenge the new Part 63 rules for non-dominant carriers, contend that they do not elicit sufficient information upon which the Commission can make the Section 214(a) finding that particular facilities or services will serve the public interest. USITA also comments that if the Commission authorizes geographic service areas it will evade its responsibility to certify lines. We disagree. Section 214(a) provides that no carrier is to construct, extend, acquire, operate or engage in transmission over a line unless it first obtains from the Commission a "certificate that the present or future public convenience and necessity" is advanced by this activity. We believe that Section 214 is a broad mandate delegated to the Commission by Congress to allow the development of the telecommunications industry in a way likely to achieve the purpose of the Act as specified in 47 U.S.C. § 151. We have reasonably assessed that those overall purposes are best fulfilled by reduced entry and exit barriers, combined with continued monitoring of significant facility investment by those carriers capable of imposing ratepayers with the burden of the cost of those investments.

119. The Supreme Court has determined that the Commission has considerable discretion in deciding how to make its Section 214 public interest finding. *FCC v. RCA Communications, Inc.*, 346 U.S. At 90. Section 214(a) imposes no detailed procedural requirements.[96] *ITT World Communications, Inc. v. FCC*, 595 F.2d 897, 900 (2d Cir. 1979). It does not restrict the Commission in the implementation of its regulatory program other than by requiring that it apply the "public convenience and necessity test" reasonably. Nor does the Act specify the amount or type of informaiton to be obtained from applicants. *AT&T v. FCC*, 572 F.2d 17 (2nd Cir.), *cert. denied*, 439 U.S. 847 (1978). Certain parts; of the current rules already require less comprehensive information for small projects and even provide, in some cases, for continuing authority to supplement existing facilities upon notification only. *See* 47 CFR §§ 63.02, 63.03.

120. The Commission, of course, has authority to set overall regulatory policies applicable to common carrier communications when it perceives this approach to be in the public interest. We have exercised this authority in the past to reduce the showing required under Section 214 of competitive entrants in various communications markets. Such policies have been sustained by the courts. *See, e.g., Washington Utilities and Transportation Commission v. FCC*, 513 F.2d at 1160–65. There the Commission had received almost 1700 applications filed by companies desiring to provide certain services in competition with the established

[95] We have selected the continental United States as the appropriate geographic area for initial authorizations because we are not yet convinced that there are no specific policy, legal, economic or facility program issues involved in service to offshore points which require individual consideration. See paras. 132–134, *infra*. For example, outstanding issues regarding Alaska services are discussed in the *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, MTS and WATS Market Structure Inquiry*, FCC 80–463 (rel. August 25, 1980). In addition, Hawaii and Puerto Rico/Virgin Islands are linked to the continental United States by underseas telephone cables which are constructed and operated as part of the international communications network. We have not yet had an opportunity to address the relative use of such facilities by international and domestic carriers and the potential impact on international services. Of course, such unresolved questions should not inhibit requests for initial certification to serve these offshore areas.

[96] As distinguished from Section 214(a), Section 214(b) makes a notice procedure obligatory and Section 214(d) provides for a hearing procedure.

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telephone companies. Rather than assess each of these applications individually under Section 214 and Title III of the Act, the Commission analyzed the performance of the telecommunications industry and the likely effects on that performance resulting from the commencement of service by these competing applicants. After having made general findings on these issues, the Commission made the findings required by Section 214 and Title III in the form of a broad policy of general applicability to all entrants within the class known as "Specialized Common Carriers."

121. On Appeal, the Commission's ability to make the findings required by Section 214 in this fashion was directly challenged. After a lengthy discussion of the breadth of the Commission's "sweeping mandate", 513 F.2d at 1157, and the Supreme Court's holding in *FCC v. RCA Communications, Inc.*, 346 U.S. 86 (1953), the court specifically upheld the adequacy of the Commission's authority and the reasonableness of its exercise of that authority in making its findings in this manner.

122. Similar policy decisions regarding the domestic satellite carrier and the resale carrier markets were judicially approved. *See Network Project v. FCC*, 511 F.2d 786 (D.C. Cir. 1975); *AT&T v. FCC*, 572 F.2d 17 (2nd Cir.), *cert. denied*, 439 U.S. 847 (1978). Our attempt to fashion efficient methods for meeting our responsibilities is thus only the latest in a series of cases where we have exercised our discretion under Section 214 in a reasonable manner to comport with the practical realities confronting us.

123. It would make no sense whatsoever, having adopted general policies favoring freer competitive entry, to retain rules which require a circuit-by-circuit analysis of each new proposal. Under the circumstances, ■ general certification for a carrier to serve a given area, with reports of circuit additions made periodically, fully satisfies the requirements of the Act and is consistent with our regulatory policies. However, underlying transmission facilities (as opposed to circuit additions by multiplex or lease) will continue to be licensed under Title II on a case by case basis. *See* paragraphs 138–139 below.

124. Section 214 and pertinent precedent do not sustain the related argument advanced by Alascom that a special Section 214 procedure is required for Alaska service. We have already addressed Alascom's sole source arguments in the *MTS and WATS Market Structure Inquiry*, 67 F.C.C. 2d 757 (1978), *Supplemental Notice* 73 F.C.C. 2d 222 (1979), Second *Supplemental Notice*, FCC 80–198 (rel. April 16, 1980), *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking* FCC 80–463 (rel. August 25, 1980). Any policy ultimately adopted concerning MTS/WATS service to Alaska, or any other domestic area, can be accommodated under the new rules.

125. The eased Section 63.07 certification requirements are in accord with the intent of Congress when it enacted Section 214(a). One major reason for the enactment of both these sections was the prevention of wasteful facilities duplication. Representative Sam Rayburn, Chairman of the committee sponsoring the Communications Act, stated, "[t]he section is designed to prevent *useless* duplication of facilities, *with consequent higher charges* upon the users of the service." 78 Cong. Rec. 10314 (1934) (emphasis added).

126. Certainly, facilities duplication is not a problem to be guarded against in the case of resale carriers. They do not construct facilities. Furthermore, as discussed in paragraph 114, *supra*, all other non-dominant carriers lack the incentive to overinvest. They cannot pass the cost of duplicative or needlessly costly facilities on to customers through higher charges. Rather than pay higher rates, customers in competitive communications markets will instead turn to other service providers.

127. Because we do not foresee that non-dominant carriers can engage in socially harmful facilities duplication, we believe that a new rule, Section 63.07, which reduces the certification requirement for competitive carriers, is consistent with congressional intent in enacting Section 214.

128. The legislative history of the Section 214 discontinuance provision supports the minimal restrictions of Section 63.71 for competitive carriers. The pertinent portion of Section 214(a) states: "[n]o carrier shall discontinue, reduce or impair service to a community, or part of a community, unless and until there first shall have been obtained from the Commission ■ certificate that neither the present nor future public convenience and necessity will be adversely affected thereby ■ ■ ■". Congress added this discontinuance requirement in 1943, in part, to minimize service disruptions which Congress envisioned would result from the complete monopolization of the telegraph market due to the merger of Western Union and Postal Telegraph. 89 Cong. Rec. 785–787 (1943). The record shows that Congress was concerned that discontinuance by the only carrier serving a market, such as Western Union, would leave the public without adequate communications service. Thus, simplifying applications for discontinuance of service, when service alternatives are likely to exist, is consistent with congressional intent.

129. In the same vein, we have already completely eliminated those rule sections dealing with telegraph office and agency closings, concluding that, "■ ■ ■ application of Section 214 in situations where the accessibility of a service remains virtually unchanged, while the method of customer access varies, is not required by the statute and would be inappropriate in a technologically dynamic market." *Regulation of Domestic Public Message Service*, 75 F.C.C. 2d 345, 376–77 (1980).[97] Thus, it is clear that we do not evade our Section 214 responsibilities by adopting streamlined procedures for non-dominant carriers.

2. *Initial Certification of Non-dominant Carriers*

130. Proposed Subsection 63.07(a) set forth initial certification requirements for parties seeking to become authorized domestic non-dominant common carriers. It required applicants to provide the Commission with a completed Common Carrier Radio License Qualifications Report;[98] information about the type of service to be offered and the cities or geographic area where service is to be offered; the initial number of circuits to be installed or leased; the construction or lease cost of facilities; and the identity of the lessor if one is involved. Proposed Subsection 63.07(b) stated that carriers relaying only television signals over radio facilities authorized to the carrier would not need to obtain Section 214 authorization except for the proposed use of satellite facilities.

131. The overwhelming number of parties commenting on the subject favored the draft initial certification procedures. Comments endorsing the new approach stated that the present authorization rules impose an unnecessary regulatory barrier to entry because competitive carriers would not benefit from overinvestment. They contend that certification under Section 214 is primarily a method to assure that rate-base regulated carriers, who earn a return based on facilities investment, do not inflate their rate-base through overbuilding, and that non-dominant carriers, whose returns are governed by market competition, lack the incentive to overinvest. Hence, they contend that certification does not perform the same role in policing the investment decisions of competitive carriers. Additionally, according to the comments, the present certification approach can delay service commencement and inhibit innovation. These comments state that a reduction of regulatory costs should result in lower prices to the public.[99]

132. Comments on the new initial certification provisions focused on the one issue of how to define the geographic service area authorized. Most commenting parties were in agreement that this initial authorization should be as comprehensive as possible. USITA, however, as noted above, contended that geographic service area authorization amounts to abdication by the Commission of its responsibility to certify "lines."

133. We have revised the proposed rule on initial certification to be consistent with the preponderance of comments recommending that the initially certified area of service should be a broad one. Under the rule adopted, all applicants for initial certification will now routinely receive authority to serve the continental United States unless they specify otherwise. Applicants seeking authority for other domestic points must still so indicate. Those non-dominant carriers already certified under the prior procedures who received initial certification for areas less comprehensive than the continental United States will by this order be automatically certified for service to the entire continental United States. In all other respects the substance of Subsection 63.07(a) does not deviate from the proposed rule.

134. By certifying carriers initially for the continental United States, we are moving away from point pair authorization as implemented in the current Part 63 rules. We do so because we expect that successful carriers will continue to expand incrementally after their initial certification within the continental United States, which we believe is a natural contiguous market. We thus seek to obviate additional routine filings which such expansion would necessitate under current regulation. Since carrier expansion to non-domestic offshore points could possibly raise peculiar problems we shall still require carriers seeking to serve these points to apply for authorization.[100] This should not be interpreted, however, as necessarily reflecting a different policy for such offshore areas. Rather, we have selected the continental United States as the appropriate geographic area for authorizations because we are not yet convinced that there may not be specific policy, legal, economic or facility program issues involved in service to other points which require individual consideration. Absent a showing of such special consideration, however, we intend these policies to be fully applicable to other points.

135. Subsection 63.07(b), as proposed, codified our existing practice with respect to the relay of television signals over authorized facilities. Under the proposed rule no prior Section 214 authorization was necessary for the relay of television signals (including both video and associated audio), over terrestrial radio facilities already authorized under Title III of the Act. Final Subsection 63.07(b) follows this proposal by not requiring video relay carriers to obtain prior certification aside from the initial radio (or other transmission) authorization.

136. With respect to the delivery of video signals by satellite, however, our practice has been to require prior Section 214 authorization for each transponder used in that way. Hence, Section 63.07(b) as proposed excepted satellite transmission of television signals, still obliging satellite carriers to obtain prior authorization on a transponder by transponder basis under Part 63 before establishing video relay channels. According to the *Notice*, we made this exception because only ■ small number of applications, of a type that had raised substantial policy issues in the past, were involved. In comments on behalf of various terrestrial video relay common carrier clients, the law firm of Gordon & Healy endorsed this proposed exclusion of satellite television relay channels from the relaxed certification requirements. On the other hand, Southern Satellite, a satellite resale carrier, contended that the *Notice* gave no policy justification for this exception.

137. Although we have determined that Domsats are dominant for the purpose of these final rules, we now believe that there is no basis in the record for treating the authorization for each channel of a previously reviewed facility differently in either terrestrial or satellite facilities. Grant of a satellite or earth station application under Title III is based on the fact that there is need for the facility. Individual channels at a particular earth station can generally be easily added or deleted, or rerouted to different distant earth stations with minimum expense, to rapidly adapt to changing customer requirements. Given this inherent flexibility in satellite communications, a requirement for prior circuit-by-circuit Section 214 authorizations would only delay or inhibit satellite service to customers without any countervailing regulatory benefits. Thus, we have concluded that a separate Section 214 certification requirement applicable only to video and on a transponder by transponder or circuit-by-circuit basis can also be removed for domestic satellite carriers where present procedures result in duplicative regulation. Specifically, the Section 63.07(b) exemption from a separate Section 214 certification requirement will be expanded to include carriers providing video relay services within the United States. In addition, the same exemption would apply to the activation or placing into service of transponders on newly launched satellites that have been successfully positioned in orbit pursuant to a Commission issued launch authorization.[101] As discussed in paragraph 142 below, the only regulatory requirement which we shall apply to domestic satellite carriers will be the circuit reporting requirements of Section 63.07(e). We shall, of course, need certain information on the use of satellite capacity in order to adequately monitor use of the limited geostationary orbit. However, this can be accomplished through after-the-fact reports.

[97] Public coast stations in the maritime mobile service have traditionally been regulated as common carriers. While we are excluding consideration of public coast stations from this Docket, we will study them in the context of the economic, legal and policy considerations of this Docket and, if appropriate, initiate a separate proceeding with respect to coast stations. Our purpose would be to minimize the regulation of this service consistent with the considerations of this Docket. We have already initiated rulemaking proceedings on exempting certain coastal VHF stations from the radiotelephone distress frequency watch obligation, P.R. Docket No. 79–68, and on deleting rules limiting the establishment of new Class III–B public coast stations, P.R. Docket 80–144.

[98] This report, FCC Form No. 430, requests basic information about the corporate structure and qualifications of a carrier. It is now retitled "Common Carrier and Satellite Radio Licensee Qualification Report".

[99] Certain commenting parties recommended extension of new Section 63.07 to dominant carriers. Certification procedures for these carriers will be dealt with in a separate proceeding. *See* para. 115 *supra*.

[100] We have already discussed the particular problems which arise when domestic satellites are used for international services to foreign points. *See Deregulation of Domestic Satellite Receive—Only Earth Stations*, 74 F.C.C. 2d 205, 219 n. 27 (1979). Of course, the Section 63.01 certification requirement for extending domestic services to such international points remains in effect.

[101] The fact that explicit Section 214 certification is not required is not to be used as the basis of an argument that the satellite is entitled to be located at any specific orbital location. Satellite carriers must, of course, still obtain authorization under Title III.

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3. *Additional Certification*

138. Subsection 63.07(d) as proposed set forth procedures under which previously certified carriers applied for authority to add new points or areas of service or to construct an interstate non-radio transmission medium in excess of 10 miles. Applications under this proposed rule were to include the name and address of the applicant; the points to be served or between which facilities were to be constructed; the type and number of initial circuits between terminal points; the construction or lease cost; the identity of any lessor involved; and an environmental impact statement if necessary. Commenting parties generally supported these proposed procedures. Plexus did question whether authority to serve additional points or to construct cable could be automatically granted within fourteen or twenty-one days after the public notice date.

139. Final regulations governing certification for additional service areas or for underlying facilities construction have not been substantially changed from those set forth in the *Notice*. Draft Subsection 63.07(d) has, for the sake of clarity, been broken into two subsections. Subsection 63.07(c) deals with applications to serve new domestic areas outside the continental 48 states.[102] Subsection 63.07(d) covers authorization for any interstate non-radio transmission medium (*e.g.*, a cable) in excess of ten miles.[103] Both subsections require disclosure of essentially the same information as was proposed in draft Subsection 63.07(d). Carriers seeking authorization for additional transmission facilities are directed to specific rule sections which they can consult to ascertain whether they must submit an environmental impact statement.[104] We have rejected Plexus' suggestion that grants under these subsections be automatic after two or three weeks have elapsed because we want to ensure, at least initially, that applications under Subsections 63.07 (c) and (d) do not raise possible policy concerns.

[102] This procedure for additional certification does not imply that authority for offshore points cannot be requested in an initial certification application filed under Section 63.07(a).

[103] Authorization of the underlying physical transmission lines under Section 214 may be considered to be parallel to the authorization of radio facilities under Title III of the Act.

[104] In this regard, we find and conclude that the adoption of our new regulatory policies is not a major federal action significantly affecting the environment within the meaning of the National Environment Policy Act of 1969, 42 U.S.C. § 4322, or under our Rules, 47 C.F.R. § 1.1301. *See Washington Utilities & Transportation Commission v. FCC*, 513 F.2d at 1168.

4. *Notification of Circuit Additions*

140. Draft Subsection 63.07(c) governed notification to the Commission when non-dominant carriers lease or install additional circuits in transmission facilities. Under this proposal carriers would be free to implement such additional circuits. However, within 30 days of starting service over these additional circuits, they would provide the Commission with information on the type, number and terminal points of additional circuits; their construction or lease cost; the identity of any lessor involved; and the date of public service commencement over the added circuits. Comments favored this notification approach because it would significantly lessen carriers' reporting obligations. However, a number contended that the thirty-day reporting period as proposed would be too cumbersome. The comments suggested that the Commission could monitor market dynamics through less frequent reports.

141. We generally agree with these comments. For this reason, the final rule (Subsection 63.07(e)), requires only semiannual reporting. Reports are to be filed on February 1 and August 1 of each year for the immediately preceding six month period. We have, however, reserved the right to require carriers to provide supplemental information on an interim basis if needed. We believe this regularized reporting scheme will reduce the burden on both the carriers and the Commission staff, while at the same time providing information of sufficient currency and extensiveness to allow us to fulfill our statutory responsibilities.

142. In connection with our decision to eliminate duplicative Section 214 oversight of satellite carriers, we shall require that satellite carriers provide us with additional information under Section 63.07(e). Carriers offering domestic satellite service, either by means of their own transmitting earth stations or by the lease of transponder capacity when the earth station network is operated entirely by noncarrier entities, must include in their semiannual report the identity of the satellite(s) being used and of their loading on a transponder-by-transponder basis.[105] Since we do not presently have satellite technical standards comparable to the channel loading requirements of Part 21 governing terrestrial microwave stations, this information will provide a minimum data base regarding the loading and utilization of limited in-orbit domestic satellite orbital capacity.

[105] This Section 214 reporting requirement does not supercede any transponder loading information required to be filed pursuant to our Title III regulatory program, such as data related to specific radio frequency carrier assignments, in actual use within the authorized frequency band or data related to assessing the impact of the operation of small diameter earth station antennas on intersatellite interference levels.

5. *Discontinuance, Reduction or Impairment of Service*

143. Our proposed procedures for discontinuance, reduction or impairment of service required a carrier to inform its customers that it was seeking discontinuance authority from the Commission. Under proposed Section 63.71 a carrier was to provide the Commission with a description and date of the planned discontinuance, (or reduction or impairment); the points or geographic areas of service; and the dates and method of notice to affected customers. The proposal stated that the Commission would ordinarily automatically grant the discontinuance application after 30 days unless the carrier applying for discontinuance authorization was notified by the Commission to the contrary.

144. Most commenting parties endorsed this proposal. Several parties raised the issue of whether the notice period prior to service discontinuance was sufficiently long. Others recommended that the carrier seeking discontinuance authorization be asked to prove that service alternatives are available.[106] These parties emphasized how disruptive service discontinuance can be for customers. According to the comments, customers frequently need more than 30 days to negotiate alternate service contracts.

145. Final Section 63.71 corresponds closely with the approach taken in the *Notice*. The content of new Section 63.71 is substantially the same as that proposed. We have made some stylistic changes to clarify the rule. We have also specified that written notice to each affected customer is required unless the Commission authorizes, in advance for good cause shown, another form of notice.

146. We recognize that service discontinuance can be disruptive to customers. We believe, however, that we are offering customers a fair degree of protection by requiring carriers to notify all customers of discontinuance plans and by providing customers with an opportunity to inform the Commission of resultant hardships. In the final rule we have retained the right to delay grant of a discontinuance authorization if we believe an unreasonable degree of customer hardship would result.

[106] AT&T in its comments favored offering the opportunity to exit freely to whichever carrier in a competitive market chooses to exist first until only one carrier remains. This proposal will be considered in our forthcoming proceeding dealing with Section 214 regulation of dominant carriers.

147. Nonetheless, in a competitive marketplace ease of exit is essential. If regulatory exit barriers are not lowered, carriers may be discouraged from entering high risk markets for fear that they may not be able to discontinue service in a reasonably short period of time if it proves unprofitable. Ease of exit is also a fundamental characteristic of a competitive market. We have already found that the overall public is best served in these areas by the development of this competition, even though some customer dislocations might be attendant thereto. We believe that Section 63.71 [107] strikes a good balance between the need to reduce regulatory barriers to exit from competitive markets and our responsibility to ensure that the public served will be given a reasonable period of time to make other service arrangements.

VI. Ordering Clauses

148. Accordingly, IT IS ORDERED, pursuant to Section 4(i), 4(j), 201, 202, 203, 204, 205, 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151(j), 201, 202, 204, 205, 214 and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, that Parts 61 and 63 of the Commission Rules and Regulation, 47 C.F.R. §§ 61 and 63 are amended effective November 28, 1980, as set forth in Appendix A attached;[108] and

149. IT IS FURTHER ORDERED, That all non-dominant carriers who have already been certified under Section 214(a), 47 U.S.C. § 214(a), to serve areas less comprehensive than the continental United States are hereby certified for service to the entire continental United States.

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

[107] The State of Alaska in its comments recommended that RCA Americom and any other carrier serving Alaska by satellite should be subject to traditional Section 214 service discontinuance requirements. Because RCA Americom will not be eligible for these relaxed procedures, we need not address Alaska's contentions at this time. Nevertheless, we believe that rule Section 63.71 sets forth procedures by which interests of the State of Alaska can be fully represented to this Commission if any non-dominant common carrier seeks to discontinue Alaska service.

[108] The Commission finds that because these amendments relieve restrictions on competition and public benefits will be derived from putting them into effect without delay, an immediate effective date is in the public interest. See 5 U.S.C. § 553(d).

Federal Communications Commission.*

William J. Tricarico,

Secretary.

Attachment.

October 30, 1980.

Separate Statement of Commissioner Abbott Washburn

Re: The First Report and Order in D. 79–252

I am gratified to see this Commission's policies made sufficiently flexible to account for the vastly different situations of the common carrier companies. In the area of competitive services, the public has suffered from delays in the introduction of innovations caused by regulatory lag as well as the delaying tactics of competitors who use the regulatory system to maintain their marketplace position. Today's action would minimize the opportunities for such delays by streamlining our tariff filing and facilities authorization procedures.

However, in categorizing all independent telephone companies, all domestic satellite carriers, all domestic satellite resellers, and the miscellaneous common carriers as "dominant", the Commission establishes several regulatory myths—unfortunately durable ones that tend to survive, like the locust's brittle armor after life itself has departed.

It is true that the 1500 independent telephone companies control essential local distribution facilities. But this control of the so-called "bottle-neck" facilities does not provide any control over interstate pricing. The independent telephone companies merely concur in AT&T's interstate tariffs and virtually all of their interstate revenue (representing 50%–90% of their total operating revenues) comes from settlement payments by AT&T. In Paragraph 56 of the First Report and Order it states, "Market power refers to the control a firm can exercise in setting the price of its output". Since AT&T sets the price, it alone among telephone companies is dominant.

Western Union faces a formidable array of potential competitors, a Who's Who in American business including: Bell's Advanced Communications Systems; Exxon's Qyx; GTE's Telenet subsidiary; RCA's, ITT's, and Xerox's International Record Carrier subsidiaries; IBM's, Aetna's, and Comsat's Satellite Business Systems partnership and, through resale, the customized corporate data networks of the rest of the Fortune 500.

Any one of these firms has the technical expertise, the nationwide sales and maintenance force, and a sufficiently "deep-pocket" to capitalize on any significant pricing errors in Western Union's Telex/TWX service.

Today Western Union, RCA, and AT&T/GTE operate domestic satellite systems serving the U.S. There are on file with this Commission, applications for four additional domestic satellite systems (SBS, Hughes, SPCC, G Sat) to serve the U.S. domestic market. If all these applications are approved, we will then have available triple today's communications capacity in orbit. To group these highly competitive firms together for the purpose of attaching a "dominant" label would seem to either imply collusion, in violation of the anti-trust laws, or to ignore marketplace realities. Again Paragraph 56 states, "Market power refers to the control *a firm* can exercise in setting the price of its output" (emphasis added). This definition properly does *not* include groups of firms such as all domestic satellite carriers.

The inappropriateness of grouping domestic satellite carriers as a single entity applies even more forcibly to domestic satellite resale carriers. To classify the Greater Starlink Corporation and Equatorial Communications Services in the same "dominant" category with the world's largest firm, AT&T, is misguided.

*See attached separate statement of Commissioner Washburn.

Appendix A—Final Rules

PART 61—TARIFFS

Part 61 of the Commission's Rules, 47 CFR Ch. I is amended as follows:

1. Table of Contents is amended by adding new §§ 61.15a and 61.39 as follows:

Definitions

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§ 61.15a Dominant/non-dominant carrier.

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In General

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§ 61.39 Tariff filings for service offerings by non-dominant carriers.

2. Section 61.15a is added to read as follows:

§ 61.15a Dominant/non-dominant carrier.

(a) The term dominant carrier whenever used in this Part means a carrier found by the Commission to have market power (*i.e.* power to control prices.)

(b) The term non-dominant carrier whenever used in this part means carriers not found to be dominant. This definition shall not apply to carriers providing mobile radio service, Multipoint Distribution Service, or international record or voice service.

3. Paragraph (f) of § 61.38 is revised to read as follows:

§ 61.38 Material to be submitted with letters of transmittal by filing carriers.

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(f) *Exception.* The requirements of this section shall not apply to non-dominant carriers, and in any event shall not apply to any carrier with annual gross revenues of less than $200,000. Annual gross revenues shall be calculated on the basis of gross revenues for the most recent 12-month period or on the basis of the average of three years estimated annual gross revenues, whichever is greater.

4. A new § 61.39 is added to read as follows:

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§ 61.39 Tariff filings for service offerings by non-dominant carriers.

(a) Every tariff filing of a non-dominant carrier shall be accompanied with a statement (preferably in the letter of transmittal) which shall briefly summarize the filing, its purpose, and whether any prior Commission facility authorization necessary to its implementation has been obtained.

(b) Except as provided in paragraph (e) of this section, tariff filings involving domestic service of carriers found by the Commission to be non-dominant need not be accompanied by the support material required by § 61.38.

(c) Any tariff filing complying with the requirements of this Section shall be considered to be *prima facie* lawful and will not be suspended unless a party requesting suspension is able to show each of the following:

(1) That there is a high probability that the tariff would be found to be unlawful after an investigation;

(2) That any harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(3) That irreparable injury will result if suspension does not issue; and

(4) That the suspension would not otherwise be contrary to the public interest.

(d) The Commission may, at any time, request of any carrier filing tariffs pursuant to this Section to submit any information or data necessary to determine the lawfulness of any tariff filing. In such event, the carrier shall be prepared to submit such information within seven (7) calendar days (or longer period established by the Chief of the Common Carrier Bureau) of the date it is requested.

5. A new paragraph (f) to § 61.58 is added to read as follows:

§ 61.58 Notice requirements.

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(f) Tariff filings of carriers found by the Commission to be non-dominant may be filed on 14-day's notice to the public, notwithstanding the requirements of paragraphs (b) and (c) of this section.

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

Part 63 of the Commission's Rules, 47 CFR 63, is amended as follows:

1. The Table of Contents is amended by adding new §§ 63.07 and 63.71 to read as follows:

Extensions and Supplements

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§ 63.07 Special procedures for non-dominant domestic carriers and domestic satellite common carriers.

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Discontinuance, Reduction, and Impairments

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§ 63.71 Special procedures for discontinuance, reduction or impairment of service by non-dominant carriers.

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2. A new § 63.07 is added to read as follows:

§ 63.07 Special procedures for non-dominant domestic common carriers and domestic satellite common carriers.

(a) Any party who is or who seeks to be certified as a domestic interstate communications common carrier and who the Commission has not found to be dominant as this term is defined in § 61.15(a) of this Chapter shall be subject to the following procedures in lieu of those specified in §§ 63.01 through 63.04 and 63.03. Except as indicated in paragraph (b) below, applications for initial certification to become an interstate communications common carrier shall include the following:

(1) Caption—"Section 63.07(a) Application";

(2) Name and address of the applicant;

(3) Completed copy of FCC form 430 ("Common Carrier and Satellite Radio Licensee Qualification Report");

(4) Description of the type of service to be offered;

(5) Area where service is to be offered (unless otherwise specified this service area will be deemed to be the continental United States);

(6) Type, number and terminal points of initial circuits to be installed or leased;

(7) Construction and/or lease cost of initial facilities;

(8) Identity of lessor, if leased facilities are to be used; and

(9) Any other information the Commission may require.

(b) Separate authorization is not required for the relay of television signals (video and associated audio) over authorized radio facilities (or for the use of satellite transponders). The radio authorization will constitute any necessary certification under Section 214 of the Communications Act.

(c) Any certified non-dominant carrier who seeks to serve new domestic points not previously authorized shall file an application which shall include the following:

(1) Caption—"Section 63.07(c) Application";

(2) Name and address of applicant;

(3) Description of the type of service to be offered;

(4) Points of service to be added;

(5) Type, number and terminal points of circuits to be installed or leased;

(6) Construction and/or lease cost of any facilities involved;

(7) Identity of lessor, if leased facilities are to be used; and

(8) Any other information the Commission may require.

(d) Any certified non-dominant carrier who seeks to construct an interstate on-radio transmission medium (e.g. cable) in excess of 10 miles shall file an application which shall include the following:

(1) Caption—"Section 63.07(d) Application";

(2) Name and address of applicant;

(3) Description of the type of service to be offered;

(4) Type, number and terminal points of circuits to be installed;

(5) Construction cost of facilities involved and

(6) Environmental impact statement if required under 47 CFR §§ 1.1303, 1.1305 and 1.1311, and

(7) Any other information the Commission may require.

(e) Unless specifically requested by the Commission to provide supplemental information, any certified non-dominant or domestic satellite carrier who installs or leases additional circuits over previously authorized radio or non-radio transmission medium within a previously authorized service area does not need separate authorization provided that reports of these circuit additions are made to the Commission within six months after initiation of service over such additional facilities. These reports shall be filed on a consolidated basis on February 1 and August 1 of each year for the immediately preceding 6 months period. These reports shall include:

(1) Caption—"Section 63.07(e) Report", including initial certification file number;

(2) Name and address of carrier;

(3) Type, number and terminal points of circuits added; (in addition, if service is provided via satellite, the identity of the satellite(s) and a transponder-by-transponder loading);

(4) Construction and/or lease cost; and

(5) Identity of lessor, if leased facilities are to be used.

Note.—The provisions of § 63.04 apply to all requests for temporary authorization under §§ 63.07(a), (c) and (d) above.

3. A new § 63.71 is added to read as follows:

§ 63.71 Special procedures for discontinuance, reduction or impairment of service by non-dominant carrier.

Any non-dominant carrier as this term is defined in § 61.15(a) of this Chapter and who seeks to discontinue, reduce or impair service shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.62 and 63.64 through 63.601:

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. Notice shall include the following:

(1) Name and address of carrier;

(2) Date of planned service discontinuance, reduction or impairment;

(3) Points or geographic areas of service affected;

(4) Brief description of type of service affected; and

(5) The following statement:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, D.C. 20554, referencing the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable sustitute service.

(b) The carrier shall file with this Commission, on or after the date on which notice has been given to all affected customers an application which shall contain the following:

(1) Caption—"Section 63.71 Application";

(2) Information listed in § 63.71(a)(1) through (4) above;

(3) Brief description of the dates and methods of notice to all affected customers; and

(4) Any other information the Commission may require.

(c) The application to discontinue, reduce or impair service shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective.

§ 63.61 [Amended]

4. Section 63.61 is amended to read as follows:

Any carrier subject to the provisions of Section 214 of the Communications Act of 1934, as amended, except any non-dominant carrier as this term is defined in § 61.15(a) of this Chapter, proposing to discontinue * * *.

§ 63.90 [Amended]

5. Section 63.90(a) is amended to read as follows:

(a) Immediately upon the filing of an application or informal request (except a request under § 63.70 or § 63.71) for authority * * *.

Appendix B.—*Parties Filing Direct or Reply Comments*

Commenting party [1]	Direct comments	Reply comments
Areonautical Radio (ARINC)	X	X
Alascom	X	
ABC, CBS, NBC	X	X
American Facsimile Systems	X	X
American Microwave & Communications, Inc.	X	
American Satellite Corp	X	X
American Telephone & Telegraph Co. (AT&T).	X	X
Association of Data Processing Service Organizations (ADAPSO).	X	X
Cablecom-General	X	
Central Telephone & Utilities Corp	X	
Communications Network Systems (Com-Net).	X	
Council of Wage and Price Stability (COWPS).	X	
Eastern Microwave	X	
Garden State Microwave	X	
Garryowen Corp	X	X
Gordon & Healy	X	X
Graphnet	X	X
GTE Telephone Co	X	
GTE Telenet	X	X
ISA Communications Services	X	X
MCI	X	
Mid-Kansas Inc	X	
Midwestern Relay	X	
Multimedia Cablevision	X	
National Cable Television Association (NCTA).		X
National Telecommunications and Information Administration (NTIA).	X	
Plexus Corp	X	X
RCA Amencom		X
Rochester Telephone	X	
Satellite Business Systems (SBS)	X	X
Securities Industry Automation Corp. (SIAC).	X	X
Southern Pacific Communications Company (SPCC).	X	X
Southern Satellite Systems (SSS)	X	X
State of Alaska	X	
Teleprompter Corp	X	
Tymnet	X	X
United States Independent Telephone Association (USITA).	X	X
United States Telephone and Telegraph Co. (UST&T).	X	X
United Telecom	X	
United Video	X	
Western Telecommunications	X	
Western Union	X	X
Western Union International		X

[1] Several parties including Metromedia, the Motion Picture Association of America (MPAA), the Commissioner of Baseball, the NBA and NHL, and ABC have filed direct or reply comments in this phase of the proceeding detailing their positions on the Commission's power to forbear from Title II regulation and the definition of a communications common carrier. Their comments, therefore, will be summarized in the document dealing with those issues.

Appendix C—Summary of Comments

1. Parties commenting in response to the Commission's proposals to reduce regulatory burdens in the competitive telecommunications market were generally supportive of the Commission's efforts. However, opinions did differ on the approach being taken by the Commission to achieve the goal of reduced regulation. In this regard, the general issues raised by the parties were: whether the proposed dominant/non-dominant classification scheme can and should be adopted by the Commission; what is to be meant by the term "dominant carrier" and what carriers should be classified as dominant. The parties also commented and, in some instances, made specific recommendations on certain sections of the proposed regulations for non-dominant carrier tariff filings and certification and discontinuance applications. The parties' comments are summarized below:

A. Commission's Deregulatory Approach—Dominant/Non-Dominant Classification of Communications Common Carrier

2. AT&T comments that it is not opposed to an appropriate regulatory scheme that places increased reliance on marketplace forces. In this regard, it supports efforts for deregulation of providers of competitive service through legislation, with accompanying Consent Decree relief, which would result in a marketplace in which competitive faces and customer choice would govern. However, AT&T maintains that the approach the Commission is considering in this proceeding would foreclose potential benefits to the public by limiting to certain carriers the application of relaxed regulation as to competitive services.

3. More specifically, AT&T asserts that the proposed dominant/non-dominant classification scheme would deny it the ability to provide competitive services under reduced regulation, even though the same or substitutable services are readily available from others. It further contends that singling out the Bell System as "dominant" by virtue of its historic position in the communications marketplace or its size is contrary to the public interest. In this regard, it argues that it cannot be deprived of its ability to react promptly to market conditions. It submits that a consistent approach to reducing regulation is required if customers are to achieve the benefits of a truly competitive atmosphere and if established carriers are to be viable

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competitors operating with a reasonable degree of flexibility in the marketplace and with certainty as to regulatory policies. Therefore, it recommends that the Commission adopt an approach which appropriately applies reduced regulation to all providers of competitive services in an "evenhanded" manner.

4. With respect to alleged Commission concerns of potential cross-subsidization, it maintains that these concerns can be addressed more effectively by other regulatory tools under consideration in other Commission proceedings, notably in *Market Structure Inquiry*, CC Docket No. 78–72; *Private Line Rate Structure and Volume Discount Practices*, CC Docket No. 20828; *Second Computer Inquiry*, CC Docket No. 79–246; *Uniform System of Accounts*, CC Docket No. 78–196; *Manual and Procedure for the Allocation of Costs*, CC Docket No. 79–245. AT&T further points to the low barriers to entry, resale and rapid development of cost efficient technological advances in the competitive communications marketplace to support its position against Commission implementation in this proceeding of reduced regulation on a selective basis.

5. In addition, AT&T maintains that the Commission's proposed regulatory scheme applies a double standard which provides for an uneconomic, unfair, and unlawfully discriminatory classification of carriers that is inconsistent with the statutory scheme embodied in the Communications Act. It states that nothing in Sections 201–205 of the Act suggests differing application as among carriers depending on size or so called market dominance. It asserts that silence in this regard compels the conclusion that Congress did not grant to the Commission authority to classify carriers. Even if such classification authority was granted to the Commission, AT&T maintains that this does not permit an agency to ignore the specific mandates of other sections of a regulatory statute, citing *FPC* v. *Texaco*, 417 U.S. 380 (1974). In this regard, AT&T argues that reliance on market forces or competition and on "predatory pricing" antitrust standards as substitutes for agency review ignores the specific mandates of Sections 201 and 202 which require nondiscriminatory, just and reasonable rates, regulations, practices, terms and conditions in tariffs of all carriers. Furthermore, AT&T asserts that such reliance in combination with reduced enforcement of Section 202(a) for non-dominant carriers will leave the public unprotected in matters beyond more pricing and rate levels, such as unjust, unreasonable or discriminatory rules, practices, service classifications and tariff regulations.

6. Similar opposition to the Commission's approach to reduce regulations through the proposed dominant/non-dominant classification scheme was also expressed by certain independent telephone companies. For example, USITA acknowledges that the Act establishes the classes of common carrier and connecting carrier and authorizes the Commission to classify communications services. However, it maintains that the Act quite clearly calls for non-discriminatory regulation of all carriers subject to the Commission's jurisdiction. Furthermore, USITA maintains that the dual nature of the regulation proposed under the Notice presupposes answers to questions raised in the *MTS/WATS Market Structure Inquiry*, CC Docket No. 78–72. USITA respectfully suggests that a decision on how to regulate (or deregulate) a communications market structure be deferred until the market structure itself has been determined. Although both United Telecom and Rochester argue that reduced regulation should be applied to all carriers equally, they state that they should not be classified as dominant.

7. From a somewhat different perspective, Teleprompter, a large cable television operator, maintains that the Commission's basic proposal to allocate regulatory burdens depending upon whether a carrier may be classified as dominant or competitive and non-dominant fails in important respects to reflect marketplace realities facing consumers of communications services. Teleprompter argues that the Commission has failed to appreciate that many users, such as cable systems, are dependent upon carriers which are no less dominant within their respective markets despite the relatively limited scale of their operations than the so-called dominant carriers. It asserts that exempting such carriers from providing relevant economic and financial data supporting cost-based rates is ill advised. Without such data, Teleprompter claims that it will be virtually impossible for the consuming public to determine whether tariffs comply with statutory standards.

8. In support of the Commission's approach to reduce regulation through the proposed dominant/non-dominant classification scheme are numerous other parties such as SBS, SPCC, ARINC, GTE Telenet, Tymnet, UST&T, ASC, and Plexus. Generally, these parties maintain that the classification aproach proposed by the Commission is fully authorized by the Act and is a reasonable means to achieve to the greatest possible extent, the beneficial effects of reduced regulation. They maintain that an explicit classification power, as suggested by AT&T, is not necessary because of the broad authority given to the Commission under the Act to regulate in the best interests of the public. In particular, they note: Section 4(i) of the Act which empowers the Commission to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with [the Act], as may be necessary in the execution of its functions", and Section 203(b) of the Act which states that "[T]he Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section, either in particular instances or by general order applicable to special circumstances or conditions . . .". These parties further find support for their position in case law pertaining to the wide discretion accorded regulatory agencies in exercising their judgement on how best to fulfill their responsibilities through the adoption of flexible procedures, rules, and orders. Additionally, these parties argue that classification of common carriers for regulatory purposes on the basis of size and market position has occurred in past Commission decisions, e.g. in *AT&T Private Line Services*, CC Docket No. 18128; *Computer Inquiry*, CC Docket No. 20828; and *Resale and Shared Use*, Docket No. 20097.

9. It is further maintained by these parties that AT&T's reliance on the *FPC* v. *Texaco* decision is misplaced because the Commission is neither exempting non-dominant carriers from the requirements of the Act nor is it using marketplace forces as a substitute for its ultimate responsibilities under Title II of the Act. Rather, these parties assert, the Commission is utilizing the marketplace as a procedural tool in making initial determinations required by the Act. In fact, it is argued that the proposed regulations demonstrates that the Commission has not placed exclusive reliance on marketplace forces. These parties note that under the proposed regulations tariff filing provisions are still applicable, there is a notice period before tariffs become effective, during and after which the complaint procedure is available and the Commission retains the power to require a non-dominant carrier to provide all of the information presently required under Section 61.38 of the Rules. In short, these parties submit that the market positions of non-dominant carriers and their inability to cross subsidize service costs justify Commission imposition of different regulatory schemes on dominant and non-dominant carriers.

10. In response to AT&T's arguments that the Commission should abandon its efforts here because other ongoing proceedings will provide more effective means to accomplish deregulation, these parties support that the principal focus of the Commission's efforts in other ongoing proceedings differs from what the Commission hopes to achieve in this proceeding. It is noted that this proceeding is largely concerned with the removal of unnecessary regulatory barriers which hinder the marketplace, while the other ongoing proceedings primarily focus on the Commission's efforts to affirmatively control the ability of monopoly-based domestic carriers engaging in anti-competitive practices. Therefore, these parties maintain the benefits to be derived from this proceeding by non-dominant carriers and subsequently by the public should not be withheld pending the resolution of other ongoing proceedings so that similar reduced regulation might take effect on all carriers.

11. Other parties support the Commission's streamlined procedures but expressed words of caution. For example, ADAPSO maintains that, although the Commission's classification of carriers as dominant or non-dominant may be useful for certain purposes, the Commission must recognize and not overlook the fact that some non-dominant carriers often have the capacity to engage in some anti-competitive activity. MCI also expresses concern over the possibility of non-dominant carriers using assets of non-communications affiliates to obtain dominance in the communications area. Thus, it urges the Commission to test its deregulatory proposals on a step-by-step basis to ensure that deregulation fosters a competitive market and does not simply pave the way for the erection of new oligopolies. The networks state that it is essential that the Commission define the terms dominant carrier and non-dominant carrier making clear the basis for determining when sufficient competition is present to warrant deregulation to protect user interests. The networks assert however that user interests could be protected if the Commission gave force and effect to marketplace contractual agreements by adopting a framework setting forth the conditions under which they would be permissible and by adopting a policy that tariff revisions inconsistent with tariff imposed contractual provisions are presumed to be unlawful.

B. Dominant/Non-Dominant Classification Standards

12. A few parties suggested a few general standards on how the Commission should determine which carriers are dominant. COWPS suggests that the Commission need not rely solely on a market share approach to determine dominance. Instead, it maintains that the Commission need consider only two crucial factors: (1) the ability of a carrier's current competitors (offering the same service or realistic substitutes) to attract customers of the carrier raises its prices, and (2) the existence of potential competitors who would enter the market if prices increase. COWPS asserts that other criteria mentioned by the Commission in its *Notice* (i.e., the firms financial resources, R & D capability, etc.) need not enter into the determination of dominance. Thus, COWPS argues that determinations of dominance ought to be made on the basis of a particular carrier in a particular market; in other words, a carrier should not necessarily be treated as dominant or non-dominant in all markets in which it provides service. In this regard, if the Commission should find a carrier with monopoly power non-dominant in a competitive market, COWPS maintains that there should be substantial separation between monopoly and competitive operations as well as non-discriminatory and arms length dealings between any separate entities. Since it believes dominant carriers will be the least cost providers of service, COWPS urges the Commission to explore ways of reducing regulatory burdens on dominant carriers competitive offerings, while ensuring against abuses of monopoly power.

13. Tymnet, like COWPS, maintains that it would be imprudent for the Commission to rely too heavily on market share in identifying dominant carriers for the purposes of the proposed rules. However, unlike COWPS, it believes that the term "dominant carrier" should only include those entities which possess the incentive and have demonstrated the willingness to engage in the sorts of unfair practices (i.e., discrimination and predatory pricing) which regulation is designed to prevent. In this regard, Tymnet asserts that one group of entities which should be deemed dominant consists of those domestic carriers and their affiliates possessing a pool of monopoly revenues, which revenues and the concomitant market power were derived from a dejure monopoly, e.g., AT&T. A second class of entities which Tymnet believes should be deemed dominant are those which, although not domestic monopoly carriers, nevertheless possess substantial market power in communication markets. Tymnet identifies two IRC's, RCA Globcom and ITT, as having that power. Although the Commission points out that predatory pricing by entities with market power but without classic monopoly revenues is not a costless strategy, Tymnet believes that predatory pricing remains an attractive and viable strategy for these firms because they possess greater financial staying power than their rivals and have a substantial prospect of recouping the losses incurred in a predatory campaign after they have driven their rivals out of business.

14. Although NTIA believes that the existence of a monopoly over a particular service is relevant to the question of whether a market is subject to effective competition, it asserts that a lack of effective competition in one market should not result in a carrier being classified as dominant. In this regard, NTIA suggests that a dominant carrier be defined as one that "furnishes telecommunications service in a substantial percentage of the total number of markets or submarkets for interexchange telecommunications services and has the ability, in a substantial percentage of those markets and submarkets in which the carrier furnishes such services, to raise prices without significantly affecting the amount of service demanded by its customers. NTIA maintains that this test ferrets out any carrier that has the ability to cause significant harm to the public or damage substantially the forces of fair competition through monopolistic practices such as cross-subsidization.

15. Rochester also objects to a definition of dominance that uses as a single criterion whether a carrier has a monopoly franchise in any one market. It argues that classification on this basis alone would not prevent predatory pricing and could, in effect, eliminate participation in the intercity market by independent telephone companies. If some dominant classification scheme is inevitable, Rochester asserts that it must be based on the magnitude of the firms share of the intercity market.

16. UST&T submits that, aside from AT&T and Western Union, presumed all specialized and/or resale carriers and other domestic carriers, such as independent telephone companies, should be presumed non-dominant subject to an *ad hoc* review by the Commission on a case-by-case basis to determine whether such carriers have achieved a position of market power.

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17. SPCC suggests the need for a more certain and operational definition of dominant carrier for regulatory purposes. In part it urges the Commission to define a dominant carrier as any firm which has a market share of 40 percent or more for three consecutive years in an economically meaningful common carrier market. It concedes that the "40 percent" could be raised or lowered dependent upon general consenses of opinion so long as the parameters finally determined included AT&T. In addition, SPCC believes that it is imperative to include in any final definition of dominance a clause relating to a carrier's potential to cross subsidize between local monopoly and competitive intercity services despite overall market share. It notes that this clause would be applicable to independents such as GTE, United, and Continental, who control monopoly local exchanges, were they to enter the intercity business without setting up pure arms-length subsidaries to offer their competitor service.

18. GTE Telenet maintains that the only test the Commission needs to determine dominance is the 70 percent traffic volume test employed by the ICC. It believes that other factors relating to the question of dominance are redundant or irrelevant and unnecessarily complicate what should be a simple straight forward determination. On the other hand, AFSI maintains that a static percent of market test should not be used to determine carrier dominance because a carrier having even one service earning on excessive rate of return could use revenues from that service to compete unfairly in unregulated areas. AFSI submits that dominance, which it equates with market power, should be defined as the provision by a carrier of one or more regulated services either without effective competition, or without effective substitute services, or with an excessive rate of return. AFSI further asserts that a carrier determined to be dominant by the Commission should be ordered to offer any unregulated services through a separate subsidiary unless a clear showing is made that this is unnecessary.

19. As for Commission determinations of whether new carriers are dominant, ASC submits that Commission authorizations of transfer of control or assignment subject to conditions designed to preclude cross-subsidization of competitive services should constitute a conclusive showing that a new entity is being operated as a separate entity and as such, should be treated as non-dominant for deregulation purposes.

C. Applicability of Dominant/Non-dominant Classification Scheme

1. AT&T

20. There was substantial agreement among the parties with the Commission's conclusion in the *Notice* that AT&T should be classified as a dominant carrier and that the proposed deregulatory rules could not be applied to it at the present time.[1] These parties pointed to AT&T's massive resources, monopoly control over most local exchange facilities in the United States, near monopoly control over switched interstate services, and its overall pervasive presence in the domestic communications marketplace. As such, they generally maintained that for the Commission to achieve its objective of fostering competition AT&T must be found to be a dominant carrier and made subject to continued comprehensive regulation until there is no longer the possibility that it would cross subsidize its competitive offerings or unfairly restrict the use of its essential facilities by other carriers. In response to these parties, AT&T maintains that the arguments suppositions its classification as a dominant carrier are not based on valid economic principles, but on distorted perceptions of the marketplace which do not support a dual standard of regulation, even if such were valid as a matter of law.

2. Independent Telephone Companies and Affiliates

21. As to the Commission's proposed classification of independent telephone companies as dominant, strong opposition was expressed by USITA, United Telcom, GTE Telephone, Centel, Rochester, and NTIA. USITA, a national trade association for approximately 1,500 independent telephone companies in the U.S., finds it somewhat difficult to understand how the Commission can now conclude that independents are dominant when in fact it observed in its *Specialized Carriers*, decision, that independents would not be adversely affected by specialized carrier competition because they participate in interstate service primarily by providing local distribution facilities and not, with minor exceptions, by furnishing intercity facilities. Similarly, USITA finds it difficult to understand how connecting carriers (as described in Section 2(b)(2) of the Act) can be considered dominant for the purpose of tariff filing rules when in fact they are not required to file tariffs under Section 203 of the Act. USITA further contends that the Commission has previously concluded that concurring and connecting carriers should not be required to file tariff support data because of their relationship with and the overall dominance of the Bell System in interstate communications. 69 FCC 2d at 1167.

22. GTE Telephone maintains that so long as the Commission is charged with Title II responsibility only with respect to "interstate common carrier service, no fair and supportable decision can be made that independents should be subject to regulatory burdens as if they were companies of the Bell System. GTE Telephone points out that the Bell System dominates in the areas of tariff filings for joint interstate services, facilities plannings and the important settlements process, while independents are merely concurring carriers with no real control. In this regard, GTE submits that the Commission has reinforced Bell's dominant position with respect to FCC tariffs by taking action which as a practical matter, prevents independents from departing from Bell's tariffs through limited concurrences. GTE Telephone maintains that the Commission can achieve its stated objective without hasty and unsubstantiated conclusions treating independents as dominant in this proceeding by addressing the question of unnecessary regulation affecting independents in the context of the industry structure issues of CC Docket No. 78–72. GTE Telephone recommends language to this effect be placed in the final decision together with language indicating that independents are not foreclosed from being designated as carriers deserving of more flexible regulatory treatment.

23. United Telcom contends that monopoly over local exchange services clearly does not give independents either market power with respect to interstate services or any unique ability to cross subsidize or to act as an effective price leader. Cental makes a similar argument and further maintains that the presence of cooperation itself is not a characteristic of dominance, nor should cooperation with other carriers, both dominant and non-dominant, mean that independents take on the dominant or non-dominant qualities of those carriers. Rochester, as well as United Telecom, also argue for non-dominant classification of independents on the ground that state regulatory agencies in exercising their jurisdiction ensure against any unlawful cross subsidization or anticompetitive practices.

[1] See, *e.g.*, Comments of NTIA, SBS, Tymnet, UST&T, WU, Telenet, GTE Telenet, Graphnet, SPCC, ASC and MCI

24. NTIA also expresses support for non-dominant classification of independents. It too points to the fact that these carriers do not possess dominant power in the interstate market at this time. NTIA believes that concerns regarding control of "bottleneck facilities" by these companies should be dealt with by requirements for non-discriminatory access and interconnection and not be imposing dominant status on these carriers without a sufficient record.

25. GTE Telenet is a common carrier providing switched data communications service. GTE Telenet objects to footnote 58 in the *Notice* which it claims suggests that GTE Telenet, as a corporate affiliate of an independent telephone company, would be regarded as a dominant carrier. It maintains that it is totally incongruous for the Commission to have found that the public interest is served through permitting certain specified relationships in the GTE-Telenet merger and only a few months later to suggest that those relationships would require GTE Telenet be denied a dominant carrier. GTE Telenet submits that underlying this problem is the Commission's totally erroneous view that the independent telephone companies achieve dominance in interstate markets merely through concurring in AT&T's interstate tariffs. It states that dominance implies the ability to establish and change rates, to decide when and where to offer new services, and to establish the conditions under which such services will be offered. In this regard, GTE Telenet maintains that the independence are totally lacking in the ability to make these decisions and to impute dominance to them is to ignore reality. Moreover, GTE Telenet claims that the fact that an independent telephone company is dominant in its local territory in the exchange telephone market—jurisdiction—does not provide a basis for imputing dominance to such carriers beyond their territories or to their affiliates.

3. Western Union

26. Western Union objects that the Commission's proposal to classify it as dominant. Western Union argues that the Commission erroneously reached a tentative conclusion to designate Western Union as dominant, because of its failure to realistically define and recognize the market in which Telex/TWX services compete. In this regard, Western Union asserts that the relevant market is the "business communications market", which it argues should include alternatives to Telex/TWX service such as Mailgram, telegram, PMS competitor services offered by SPCC and Graphnet, AT&T's MTS, WATS and private line telephone and record services (i.e., facsimiled Dataphone) and other similar competitive private line services offered by the OCCs. As such, Western Union maintains that Telex/TWX services account for an insignificant share of the "business communications market". Western Union further contends that the markets share of its Telex/TWX services will be reduced even further in the future because of increased competition from present and new service offerings. To support the above contentions, Western Union has submitted two analyses of the domestic data communications market reported by independent consulting firms.

27. Western Union further maintains that in view of direct competition from AT&T's service offerings predatory pricing to drive off all competition except AT&T would be a useless ratemaking strategy for Western Union to pursue. Additionally, Western Union objects to any characterization of it as dominant based on the argument in footnote 65 of the *Notice* that hinterland users of international telex services of the IRCs must subscribe to Western Union Telex or TWX for landline haul. This assertion, it argues, is both dated and unrealistic in view of the recent Commission decisions to permit the IRCs to unbundle their rates for hinterland users and to allow the IRCs to expand their operating rights to twenty-six gateway cities as well as their standard metropolitan statistical areas. Western Union also maintains that it would be arbitrary and capricious for the Commission to rely on what Western Union considers an erroneous understanding in paragraph 86 of the *Notice* of projected 1981 pre-tax earnings on TWX and telex services. This, it maintains, is especially true in such inflationary times. In fact, Western Union points out that it has recently projected that neither Telex nor TWX service will achieve a fair rate of return in each of the years 1979, 1980, 1981; and that the revenue deficiency will range from $43 million in 1979 to $7 million in 1981. It concludes that this earnings posture wholly contradicts the proposition that Telex and TWX are monopoly-like services which can provide Western Union with excess returns with which to cross-subsidize its other services.

28. NTIA also disagrees with the Commission's tentative decision that Western Union is a dominant carrier because of the monopolistic nature of Telex/TWX service. It maintains that Western Union clearly does not have any overall monopolistic strength which would enable it to jeopardize fair competition and cause significant harm to telecommunications ratepayers. Thus, NTIA would not consider Western Union to be a dominant carrier even if it did have an effective monopoly in one segment of the telecommunications industry. Furthermore, NTIA believes that Western Union has a monopoly over Telex/TWX only in the sense that no one else provides a service with that name. Otherwise, NTIA asserts that Western Union's Telex/TWX service is subject to effective competition.

29. Three parties noted their argument with the Commission's proposal to treat Western Union as a dominant carrier. They are UST&T, Graphnet and AFSI. Although UST&T acknowledges that the market in which Western Union operates is subject to increased competition, it asserts that the fact remains that Western Union continues to maintain a dominant position for the provision of domestic record communications services. As such, it believes that Western Union has the continued ability to utilizer its *de facto* monopoly Telex/TWX network and the revenues therefrom to engage in anti-competitive practices.

30. Graphnet asserts that the essence of Western Union's comments is an attempt to define the relevant market in such broad terms that its share of the market cannot be considered to be large enough to support a finding that is has any substantial market power. In this regard, Graphnet argues that it is intuitively obvious that non-electronic services (i.e., mail, private courier, etc.) and telephone service (including MTS, WATS, local, etc.) provide no record copy and for that reason alone cannot reasonably be considered to be interchangeable with Telex/TWX. It asserts that only services which have similar (but not necessarily identical) characteristics to Telex/TWX and are functionally interchangeable serving the same purpose at competitive prices should be considered in delineating the relevant market. As such, Graphnet submits that the relevant market is switched record communications services and notes its agreement with the Commission's conclusion in the *Notice* that Western Union market share for this type of service approaches 100 percent. With respect to Western Union's argument regarding future competition, Graphnet notes that it is not entirely clear what the precise nature of these new competitive services might be and asserts that carrier classification cannot be premised on sheer speculation as to future events

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and their impact on Western Union. Finally, Graphnet asserts that Western Union's public message services cannot be overlooked in classifying Western Union as dominant. In this regard, it notes that while the Commission's new policy will now permit the develpment of PMS competition, any substantial new competition pursuant to that policy cannot be expected to develop for a number of years.

31. AFSI competes with Western Union for both truck and permit transfer business. As such, AFSI contends that Western Union must be treated as a dominant carrier because no regulatory or marketplace forces can in the immediate future prevent Western Union from cross-subsidizing non-regulated offerings with revenues from non-competitive or marginally competitive regulated services such as PMS and Telex/TWX. AFSI further maintains that the independent studies submitted by Western Union reach conclusions contrary to those claimed by Western Union and, in fact, show Western Union to be a dominant carrier. In response to AFSI, Western Union asserts that there are no significant barriers to entry into the truck permit service business. Moreover, Western Union maintains that it would hardly seek to worsen its financial position by attempting to subsidize truck permit activity out of the inadequate earnings it is making on regulated services.

4. RCA Americam

32. While the State of Alaska supports the Commission's goals and objectives, the State seeks to ensure that carriers providing services or facilities in certain telecommunications submarkets where effective competition does not exist will continue to be regulated as dominant carriers even if other services provided by the same carrier are fully competitive. Specifically, the State maintains that RCA Americam enjoys market power in its dealings with Alascom and therefore, should be accorded status as a dominant carrier. Moreover, it maintains that meaningful participation in the regulatory process by interested parties requires that the Commission continue to require filing of cost support data for all tariffs by carriers which are dominant, even for services in markets where the carrier faces competition. Without such information, it asserts that it would be difficult if not impossible to detect the existence of cross subsidy and discrimination. Finally, to ensure that the Alaska facilities market evolves toward fuller and more effective competition the state of Alaska insists that the Commission should adopt and enforce a policy requiring domestic satellite carriers seeking to occupy the prime orbital arc to provide fifty state coverage.

33. Alascom also requests the Commission to consider the impact of according non-dominant status to RCA Americam. In this regard, Alascom notes that the Commission, in its *Memorandum Opinion, Order and Authorization*, FCC 79–760, File Nos. 13–15–PSS–P–71 *et seq.* (released November 30, 1979), contemplated that tariff filings with respect to services to be acquired by Alascom from RCA Americam will be "subject to the justification requirements of our rules and applicable orders" specifically citing the filing of "cost support data". Therefore, Alascom assumes that the Commission's proposed changes in Part 61 of its Rules will make appropriate reference to the unique circumstances of Alascom's acquisition of domestic satellite facilities from RCA Americam so that Alascom will continue to have the full measure of protection offered under the Commission's rules and policies applicable to the tariff filings of dominant carriers.

34. RCA Americam maintains that it is a new carrier engaged in basically competitive services and, as such, it should not designated a dominant carrier. It notes that the problem of cross-subsidization concerns only those carriers using monopoly revenues to subsidize competitive services and submits that the State of Alaska's only interest in such matters should be to ensure that rates for service to Alascom are not too high. It indicates that the filing of cost support for services to Alascom should alleviate this concern. With respect to alleged potential rate discrimination, RCA Americam asserts that the mere filing of rates would be enough to determine whether discrimination exists.

5. Resale Carriers

35. ISACOMM is an applicant before the Commission proposing to operate as a resale entity serving specialized insurance industry telecommunications needs. ISACOMM submits that the Commission should clearly hold that resale carriers are not dominant carriers because they do not possess any market power in terms of an ability to price substantially below or above costs. It points out that a resale carrier's costs are determined and set forth in the underlying carrier's rates making a non-compensatory resale price readily indentifiable. It maintains that it would be illogical for a reseller to price its services below such costs except to reflect network efficiencies due to better loading of its customers communications traffic. On the other hand, ISACOMM asserts that if a resale carrier's prices are substantially above its costs, its customers will either find cheaper resale entity offerings or elect to deal with underlying carriers directly.

6. Video Relay Carriers

36. General agreement with the Commission's proposal to classify video relay carriers as non-dominant was expressed by such parties as Mid Kansas, United Video, Gordon & Healy, Garden State, Midwestern, NTIA, Cablcom, WTCI, and AMCI. However, these same parties disagree with the Commission's tentative conclusion, that video terrestrial microwave carriers should be regarded as dominant with respect to the delivery of network television signals to cable systems. These parties maintain that the forces of present and future competition in the video relay market extend equally to the provision of network signals. They assert that use of off the air network signals, CARS systems and satellite video relay carriers are competitive alternatives to having network signals delivered by terrestrial microwave carriers.

37. The Networks argue that the section in the proposed regulations concerned with tariff filings for the relay of network signals should be deleted because it would generate serious confusion and inconsistencies. In this regard, the Networks note the following: (1) a literal reading of the provision could require any competitive carrier—regardless of whether satellite or terrestrial technology is involved—to file Section 61.38 data for the relay of network signals; (2) the provision could apply to network signals relayed to a television station, CATV system, television translator, etc., because the rule is not confined to relays to CATV systems; (3) there is no definition of "network television signals" and it is unclear whether the rule applies to the relay of network feeds for ABC, CBS, NBC, PBS or any other network involving simultaneous transmission of programming to two or more television stations, or, alternatively, whether the rule applies only to off-the-air signals of television network affiliated stations; and (4) the provision would allow a carrier to relay an independent television station signal to a cable system without Section 61.38 data, while it would require Section 61.38 data if a network signal is later added or substituted to the relay service.

38. Gordon & Healy has also suggested an alternative proposal regarding network signals. Under this proposal, if the rates for network television signals provided by terrestrial microwave carriers do not differ substantially from rates for non-network signals over the same or similar paths served by the carrier, the rates for network television signals would be considered presumptively lawful and no Section 61.38 data would be required. Gordon & Healy note that the Commission could specify a percentage figure from which network signal rates could not vary from non-network signal rates for the presumption of lawfulness to be applied.

39. The Commission's proposal to classify vido relay carriers as non-dominant was opposed by Teleprompter and NCTA. They maintain that it is essential that the Commission retain the present requirements for cost-based rates supported by relevant economic and financial data. In this regard, they argue that the video relay market is not competitive and is not likely to become competitive. They assert that the competitive alternative of off-air pick up of signals is as unlikely today as it was when the Commission first imposed full common carrier regulation on video relay carriers. Similarly they maintain that CARS service does not offer a competitive alternative because there are severe cost frequency congestion constraints on the cable industry's use of CARS facilities. As to the alleged competition between satellite and terrestrial carriers, these parties note that as a general rule, satellite transmission and terrestrial microwave transmission offer sufficiently different cost and operational advantages and are not usually employed to distribute the same program service to cable systems. They maintain that the only category of program service that may be distributed over both terrestrial and satellite facilities is comprised of the signals of major market independent television stations, such as WGN–TV, Chicago, and WOR–TV, New York City, as well as one "super station", WTBS–TV, Atlanta. It is further pointed out that of the six or seven satellite resale carriers authorized by the Commission, four (United Video, American Microwave, Midwestern, and Boston) are also microwave carriers authorized to offer the same distant signal over their terrestrial facilities. Finally, it is maintained that there is no effective competition because of spectrum/orbit scarcity and transponder scarcity.

40. Southern Satellite acknowledges that there is a chronic scarcity of transponder capacity with which to service cable systems. However, it argues that this does not mean that satellite resale carriers have a dominant position in the marketplace or that there is a lack of competition among terrestrial and satellite resale carriers. Southern Satellite maintains that the fact that there are only four independent signals being transmitted by satellite indicates nothing more than there is not sufficient demand for any other signals at the present time. It asserts that if there was such a demand it is evident that a proposal for carriage of new signals would have been found among the offerings proposed for transmission over RCA's ill fated Satcom III.

41. The parties also expressed their opinion on the use of population sensitive rates and retransmission charges. WTCI, Gordon & Healy, Garden State, Mid-Kansas, United Video and AMCI all agree with the Commission's proposal to allow terrestrial video carriers to utilize population sensitive rates similar to those currently utilized by the satellite carriers. These parties assert that the use of population sensitive rates will mean more efficient use of terrestrial carrier facilities and frequency spectrum, as well as a means by which terrestrial carriers may truly compete with satellite carriers.

42. On the other hand, Teleprompter, NCTA, and COWPS oppose the use of population sensitive rates until the Commission establishes some linkage between that methodology and an efficient pricing mechanism. In this regard, it is argued that the costs of terrestrial microwave service are normally distance sensitive, not population sensitive. Therefore, it is asserted that the use of such value added ratemaking methodology, instead of cost based ratemaking, is entirely inappropriate for the typical customer of a terrestrial video carrier whose demand for transmission service is highly inelastic due to its dependence upon a single carrier for television signals necessary to provide cable service.

43. The Networks and Garryowen also express the view that the Commission's analysis of video relay ratemaking methodology supporting population sensitive rates has no relevance to television broadcasting in the context of broadcaster's use of video relay signals. In this regard, the Networks note the following distrinctions between CATV and broadcasting: (1) program transmission or video relay costs have not proven to be a barrier to the availability of free over the air television broadcasting services; (2) the customer is the television network; and (3) video relay costs are not passed on directly to subscribers as is the case of CATV systems.

44. WTCI takes an opposite position on the applicability of population sensitive rates to television broadcast stations. It asserts that they are applicable for the same reasons they are appropriately applicable for cable systems. WTIC points out that, as in the case of service to cable systems, shared channels are used, joint or common costs are incurred, large and small television stations are served, and the stations are licensed to cities with varying populations. Additionally, WTCI submits that the application of the same ratemaking methodology is required or, at least, desirable because the television stations receive their network signals via channels shared with cable systems in their areas.

45. Support for a change in the Commission's current policy prohibiting retransmission charges was expressed by EMI, Mid-Kansas, WTCI, Cablecom, United Video, Garden State, and AMCI. Among the arguments expressed supporting such a change were: (1) that without this capability the practical effect would be to bar implementation of population sensitive tariffs; (2) that retransmission charges are necessary to prevent the siphoning of revenues that are essential for the continued availability of the terrestrial video carriers; (3) that retransmission charges are necessary to assure that all users of the signal delivered by the video relay carrier contribute to the carriers revenue/costs and that undue discrimination does not result from two or more users or areas receiving signals for the price of one; and (4) that retransmission charges will result in greater operating efficiencies and possibly lower costs to customers because the additional revenue obtained would be spread over a broader revenue base.

46. Garryowen, on the other hand, maintains that retransmission fees are unfair because the carrier has no interest or legal right in the programming it delivers to a customer. Moreover, Garryowen argues that permitting such charges will completely eliminate the incentive for competition. However, if the Commission decides that, population sensitive rate structures are permissible for carriers serving only cable systems. Garryowen submits that a very limited retransmission charge may be appropriate to prevent abuses where a cable system requests service to a small community when in fact it intends to serve a nearby major community. It asserts that the fee should be made applicable only if

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retransmission is to a larger community within a 15 mile radius. Otherwise, it contends, there would be unjust enrichment.

D. Revised Tariff Filing Regulations

47. AT&T maintains that the proposed regulations should not be adopted because they present unlawful and unreasonable procedural barriers that would effectively prevent customers, carriers, and other members of the public from exercising their rights to petition for suspension no matter how meritorous the claim. In particular, AT&T submits that there is nothing ominous, as suggested by the Commission, in competitors filing suspension petitions. As a practical matter, AT&T asserts that the public interest is served by such petitions. It notes that often times competitors are the only ones having the technical ability and the resources to promptly analyze initial filings and focus on relevant issues which, in many instances, deal with other than just rate levels. It further asserts that the Commission is not innundated by petitions to suspend and that the Commission has complete power, without adopting the proposed regulations, to deal with petitions to suspend which are dilatory in nature. AT&T additionally submits that adoption of the proposed regulations would preclude Commission review and informed decision making as mandated under the Act. In this regard, AT&T specifically objects to the proposed exemption of non-dominant carriers from all tariff support requirements. AT&T also finds that the reduced tariff notice period is inadequate for any kind of realistic evaluation of lawfulness and standards which must be met to overcome this presumption are overly restrictive.

48. USITA and Teleprompter similarly argue against the adoption of the proposed regulations. Like AT&T, these parties maintain that the adoption of these regulations will leave the public and the Commission without any basis for judging the lawfulness of tariff filings.

49. The remaining parties generally support the adoption of the proposed rules reducing the tariff filing requirements of non-dominant carriers. In brief, these parties argue as follows: that the public interest is better served without needless regulation which restricts the implementation of new and innnovative services and results in less efficient use of services and facilities and in higher costs to the customer; that the Commission can rely on marketplace forces in carrying out its duties under the Act; that marketplace forces as they exist today in the telecommunications industry remove the need for comprehensive regulation of competitive non-dominant common carriers; and that the Commission has retained regulatory safeguards in case marketplace forces do not prove sufficient. Despite this general support, some of these same parties differ in opinion on the provisions in the proposed rules pertaining to the tariff notice period and the presumption of lawfulness for non-dominant carrier tariff filings. Their comments on these matters are set forth below.

50. Although the Commission's proposal to reduce the tariff notice period to 14 days met with general approval, SPCC submits that the notice period should be shortened even further to a one day period. In this regard, SPCC submits that a maximum one-day notice period would reflect more appropriately the Commission's proposed rehance on marketplace forces to properly control the rates of competitive non-dominant carriers. It further argues that the maximum one-day notice period is sufficient because it subjects competitive non-dominant carriers to normal business conditions and risks. COWPS also believes that the Commission should further shorten the notice period. However, it submits that the Commission should wait until it has acquired experience under the proposed rules.

51. MCI, on the other hand, urges the Commission not to further shorten the proposed 14 day notice period. It believes that 14 days is the minimal amount of time necessary for affected carriers or customers to learn of the filing and, if necessary, to react to it. It further endorses that portion of the rules which requires a carrier to be prepared to submit necessary tariff information or data within 7 days (or a longer period established by the Commission's staff) from the date of request.

52. On the other hand, AT&T and Com-Net argue that the 14 day tariff notice period is too short. AT&T suggests that a notice period of at least 30 days, extendable up to 90 days for good cause, would better serve the public interest. Com-Net asserts that a minimum 60 day notice period is required when an underlying sharer or reseller is affected. Without a longer notice period, Com-Net maintains that a reseller or sharer would not have sufficient time to adjust costs that must be passed through to the ultimate users.

53. Aside from the actual length of a reduced notice period, Plexus has expressed its concern over the unilateral ability of a carrier, even a competitive carrier, to increase or change rate structures where no readily available alternative exists to which a user could change (within, for example, a shortened notice period of 14 days) to avoid the increase. Plexus suggests that one possibility to avoid such results would be to allow carriers to enter into agreements with customers not to change tariffs on less than a particular period of notice longer than the 14-day period, which agreement would be binding despite the 14-day notice period provided in the rules.

54. Finally, SPCC submits that the Commission should clarify the 14-day notice period provisions by specifying both the amount of time that a filing carrier will have to respond in opposition to rejection or suspension petitions and the amount of time the Commission staff will have to examine the issue of a tariff's lawfulness. In this regard, SPCC suggests that a protestant should be given seven days to file a petition and the filing carrier three to four days to respond.

55. With respect to the proposed presumption of lawfulness for non-dominant carrier tariff filing, the majority of the parties support its adoption in the belief that it will discourage spurious petitions to suspend or reject. However, ARINC and SIAC maintain that the application of the presumption of lawfulness should be restricted to tariff filings that do not involve rate increases. They submit that Section 204(a) of the Act explicitly places the burden of proof on the carrier seeking a rate increase and, therefore, the Commission is without authority either to reassign or to alter this burden in any manner. Furthermore, they assert that in the face of effective price leadership by a single dominant carrier competition alone is not sufficient to guarantee that rate increases are, in fact, cost-based. They maintain that the Commission must acknowledge the possibility non-dominant carriers will price their services above average costs, but below the prices set by the established price leader, such that rate increases will yield supracompetitive returns in contravention of the statutory mandate that all rates be just and reasonable. SPCC disagrees with ARINC and SIAC. It argues that there would be no change in the current allocation of the burden of proof violative of Section 204(a) of the Act. It maintains that a competitive carrier's burden of proof would be triggered under Section 204(a), as it is now; only after a petitioner has made an initial showing that a proposed rate increase may be unlawful. It notes that the only difference now are the standards by which the Commission shall judge the petitioner's showing. It further asserts that these standards are warranted because experience demonstrates that the non-dominant carriers are not susceptible to imposing unlawful rates in a competitive environment.

56. One other party expressing concern over the proposed presumption of lawfulness was Com Net. It argued that the standards under which a user might overcome the presumption of lawfulness are so difficult that there is the potential for substantial disruption to customers. In this regard, it points out that changing over from one carrier to another carrier is at best a difficult process and maintains that the Commission reliance on the complaint and investigation procedure to police carriers is misplaced.

E. Reporting Requirements for Non-Dominant Carriers

57. The following comments were made with respect to the Commission's proposed reporting requirements for non-dominant carriers.

58. SPCC and SBS would not be opposed to filing, on a total company basis, the information requested in Appendix D of the *Notice*, nor would it object to providing annual gross revenue by service for comparative purposes. However, it feels that requiring financial information on a service by service basis as proposed in the revised financial reporting requirement is not only unnecessary for a non-dominant carrier but is also not currently available, at least to SPCC. Overall, SPCC believes that the desire for additional data appears fundamentally contradictory to the very essence of the Commission's deregulatory approach.

59. Similarly, Graphnet submits that it is inappropriate for the Commission to introduce new reporting requirements at a time when the Commission is seeking to reduce unnecessary regulatory constraints. Graphnet maintains that the imposition of this requirement would be most burdensome on resale carriers who have never been subject to any formal reporting requirements. Furthermore, Graphnet points out that the use of rate of return regulation for which the Commission would be seeking to "obtain precise information regarding carrier rates of return" through the reporting requirement is not appropriate for resale carriers who lease, but do not own, transmission facilities. As such, Graphnet submits there would be little in the way of a rate base for a resale carrier and, therefore, no reason for the Commission to apply rate base regulatory principles.

60. Finally, UST&T disputes the Commission's conclusion that the reporting requirement is primarily an updating and modification of existing reports now required of most competitive carriers. It submits that the reporting requirement would place an additional and unnecessary burden, both developmentally and operationally upon the non-dominant carriers. To comply with this requirement UST&T notes that it would have to expend substantial amounts of manpower and capital to redesign their accounting and reporting systems. UST&T maintains that the Commission should rely upon the more efficient and less costly competitive marketplace forces.

F. Section 214 Proposals

61. Parties commenting on Section 214 proposals set forth in the *Notice* recognized that Commission reexamination of Part 63 of the Commission's Rules is timely. The streamlining of Section 214 regulation was generally applauded.[2] Certain parties stated that existing Part 63 rules were not intended for competitive carriers without an incentive to overinvest but to ensure against overbuilding by monopoly carriers.[3] Many parties advocating blanket certification of OCCs under Section 214 noted that existing requirements can be a substantial regulatory burden and can delay service commencement.[4] Both the Council of Wage and Price Stability and Southern Satellite argued that regulation of other common carriers (OCCs) may also have an inhibiting effect on innovation of services and efficient pricing. While AT&T supported the Commission's plan to reduce the scope and complexity of carrier information filings, it advocated the applicability of streamlined Section 214 regulation to all carriers in an "even-handed" fashion.[5]

62. Parties commenting on the subject generally agreed that easing Section 214 regulation of OCCs was within the Commission's authority.[6] According to certain parties the Communications Act does not specify the amount of information required for Section 214 certification and service discontinuance authority and also does not require agency review of individual Section 214 applications.[7] Parties commented that methods of making public interest findings are within the Commission's discretion and that the Commission can rely on competitive forces when such reliance is in the public interest.[8] SPCC pointed out that Part 63, Sections 63.01 and 63.03 already require less comprehensive information for smaller channel additions than major new construction.

63. In their comments, Alascom and USITA questioned whether the Commission has legal authority to implement streamlined Section 214 regulation, contending that both Section 214(a) and 309 of the Act mandate a particularized public interest finding. In addition, comments by Alascom, the State of Alaska and RCA Americom addressed the narrower issue of whether a special public interest finding under Section 214 is necessary prior to certification or discontinuation of Alaska service. Alascom espoused the position that the Commission's policy encouraging competition should not be applied to Alaska without a finding that Alaska, in its unique position, ought to be served by other than Alascom. In its comments the State of Alaska sought assurance the RCA Americom and any other carrier providing satellite services to Alaska would be subject to traditional Section 214 requirements concerning discontinuation of service. RCA Americom did not oppose the State of Alaska to the extent that it would have RCA Americom seek Section 214 authorization before discontinuing service to Alascom. Inc.

64. The parties disagreed about whether the Communications Act gives the Commission power to follow different procedures in its Section 214 regulation of dissimilarly situated carriers. A few stated that the proposed bifurcated regulatory scheme is within the Commission's authority.[9] AT&T and USITA took the contrary position. In its comments AT&T characterized the Commission's Section 214 proposals as "regulatory handicapping", in contravention of legal precedent and regulatory policy.

65. Certification under draft rule Section 63.07 was by "cities or geographic area where service is to be offered". Several parties commented on the appropriate definition of a

[2] See, e.g., comments of ABS, CBS and NBC, ARINC, ASC, AT&T, Council on Wage and Price Stability, CNS, Gordon & Healy, Graphnet, GTE, MCI, Plexus, SBS, SIAC, SPCC, Southern Satellite, Tymnet, UST&T.

[3] See, e.g., comments of ARINC, SIAC and Tymnet.

[4] See, e.g., comments of ASC, Southern Satellite, United Video and UST&T.

[5] USITA in its comments and reply comments echoed AT&T's argument for uniform Section 214 regulation.

[6] See, e.g., comments or reply comments of ARINC, AT&T, Comnet, SBS, SPCC, and Southern Satellite.

[7] See comments of ARINC and SBS.

[8] See, e.g., comments of ARINC, Comnet and Southern Satellite.

[9] See, e.g., comments of ADAPSO, ARINC, SBS and SPCC.

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geographic area under this proposal. ASC and GTE contended that a blanket authority proposal will only be a significant improvement over existing certification provisions if geographic areas are broadly defined. ASC recommended that its own geographic area be made coextensive with its available market, the forty-eight states and Hawaii. SBS urged that the Commission not specify criteria for the size of the geographic service area but that a carrier proposing to use radio facilities be allowed to request a service area as large as the area illuminated by the radiation pattern for which it obtains Title III authority. GTE advanced the position that any definition of an authorized service area should allow a non-dominant carrier to receive authorization for service of the entire United States. USITA, in its comments, argued that the concept of a geographic service area abdicated from both the Section 214(a) definition of line and from the need to regulate the rate base.

66. The law firm of Gordon & Healy, submitting comments on behalf of its video relay common carrier clients, and Southern Satellite both indicated their confusion about whether the Commission intended to except all video relay circuits from proposed rule Section 63.07. Gordon & Healy endorsed the exclusion of only satellite circuits from relaxed certification requirements. Southern Satellite argued that the *Notice* provided no policy reason preventing the extension of all contemplated Section 214 modifications to satellite carriers.

67. Comments generally favored proposals for eased reporting of circuit additions and for a streamlined process by which previously certified carriers can apply for authority to add new service areas and to construct cable more than 10 miles long. However, several parties commented that requiring reports to the Commission of circuit additions every 30 days as proposed in rule Subsection 63.07(c) was unnecessarily burdensome; the Commission could monitor market dynamics with less frequent and possibly less detailed facilities reporting requirements.[10] AT&T commented that all carriers should be permitted to channelize without further Section 214 authorization because a carrier's system should not be certified in the first instance unless full use of such a facility is in the public interest. Plexus recommended that draft rule Subsection 63.07(d) be amended to provide for automatic authorization of additional service areas or facilities after 14 or 21 days on public notice as is already permitted under Section 63.03 of the rules. Comments such as those by Plexus and SPCC recommended granting unlimited expansion rights to a carrier with its initial authorization to serve a particular geographic area.

68. Those parties commenting on the subject generally favored the Commission's proposed streamlined procedures for discontinuance, reduction or impairment of service by non-dominant domestic carriers.[11] The COWPS noted that eased exit procedures would encourage entry into high risk markets. Tymnet commented that the procedures set forth were consistent with the public interest because either substitutes would be available or exit could be delayed or prohibited if substitute services were unavailable. Focusing on legislative history, SBS stated that Section 214's discontinuance procedures were added in 1943 to minimize service disruptions resulting from the merger of Postal Telegraph and Western Union. SBS contended that since these discontinuance provisions were developed in the context of a monopolized market, they had little relevance to OCCs.

69. Parties objecting to the notice/exit procedures set forth in draft Section 63.71 generally complained either that they do not apply evenhandedly or that the burden of proving no available alternative service had not been properly allocated.[12] AT&T took the position that the opportunity to exit freely should be afforded to whichever carrier in a competitive market chose to exit first until only one carrier remained in place. A few parties stated that the carrier seeking to discontinue service should first be required to make a showing that a reasonable substitute service was available. Plexus suggested that if customers of a competitive carrier can make a prima facie showing of no available reasonable alternate service, the burden of demonstrating that the proposed discontinuance serves the public interest should shift to the carrier. SPCC, in contrast, urged that termination authority be automatically granted unless the party protesting discontinuance was able to satisfy the same criteria proposed by the Commission for suspension of OCC tariff filings.

70. The draft service discontinuance proposal for OCCs provided that an application for discontinuance would be automatically granted on the thirty-first day following the filing of an application to discontinue service unless the Commission staff notified the carrier to the contrary. Although most parties commenting endorsed this proposal as set forth in the Notice, a few did not. SIAC recommended a 90 day notice period, averring that frequently a thirty day period does not allow users sufficient time to locate and implement alternative communications service. COMNET stated that underlying customers of a sharer or reseller are particularly disrupted by a service discontinuance since presently tariff BSOC No. 6 and contractual relationships protect arrangements between first level resellers.

COMNET suggested that the rule be rewritten to state that where the offered service is shared or resold, 60 day notice be required to discontinue service.

71. Finally, several parties raised the issue of whether resellers should be subject to Section 214 regulation through certification, notice or discontinuance notice procedures. ISACOMM, for example, commented that requiring resale carriers to obtain Section 214 authority to expand or reduce service points resulted in unnecessary regulatory burdens because underlying carriers would have to obtain Section 214 authorizations for facilities involved anyway. According to ISACOMM, since the Commission had decided in its *Resale and Shared Use* decision to allow open entry into the resale services market, Section 214 no longer serves as a screening mechanism regulating entry of new resale competitors; in the case of resellers, Section 214 regulation is duplicative with regard to the other three reasons for Section 214 regulation stated in the *Notice*. UST&T suggested that resellers merely notify the Commission of their activities. Taking the contrary position, AT&T and MCI stated that resellers should be subject to Section 214 regulation.

[FR Doc. 80-36020 Filed 11-17-80; 8:45 am]
BILLING CODE 6712-01-M

[10] See, e.g., comments of AT&T, GTE, IAACOMM, SBS AND SPCC.

[11] See, e.g., comments of Council on Wage and Price Stability, GTE, ISACOMM, MCI, SBS and Tymnet.

[12] See, comments of AT&T and SIAC.

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47 CFR Part 76

[Docket No. 20508; FCC 80-608]

Cable Television Channel Capacity and Access Channel Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule (final order).

SUMMARY: In 1976, the FCC adopted rules requiring 3500 subscriber or larger cable television systems to have 20 channel and two-way capacity and set aside certain channels for use by specified groups and by the public. The rules were found to exceed the FCC's authority by the Supreme Court. This *Order* deletes these rules in accordance with the Supreme Court's decision and discusses how certain remaining rules will be applied to programming distributed on cable television access channels.

DATE: Effective: November 10, 1980.

ADDRESS: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Cable Television Bureau, (202) 632-6468.

In the matter of Amendment of Part 76 of the Commission's rules and regulations concerning the cable television channel capacity and access channel requirements of § 76.251 (Docket No. 20508).

Order

Adopted: October 21, 1980; Released: November 4, 1980.

By the Commission: Commissioner Washburn concurring and issuing a statement.

1. In its *Report and Order in Docket 20508*, 59 FCC 2d 294, 41 FR 20665 (1976), the Commission adopted amendments to what have come to be known as the cable television access channel rules. These rules generally required that cable television systems with 3500 or more subscribers have a technical capacity for nonvoice return communications, twenty channels of potential capacity, and provide, within the limits of channel capacity and as required by the demand therefore, certain specified channel space for use by the public, local educational and governmental authorities and for lease on a commercial basis.

2. In the case of *Midwest Video Corp.* v. *FCC*, 571 F. 2d 1024 (8th Cir. 1978) these rules (47 CFR §§ 76.252-258) were found to exceed the jurisdiction of the Commission. This view was affirmed by the Supreme Court in *FFC* v. *Midwest Video Corp.* 440 U.S. 689 (1979). In compliance with these decisions we are hereby deleting the cable television two way capacity, channel capacity, and access channel requirements from the rules.

3. In deleting these rules, we have maintained the distinction between programming on access type channels, whether provided voluntarily, or pursuant to state or local law, and programming subject to the system operator's editorial control. The specific requirements of the fairness doctrine (§ 76.205) and equal opportunities for political candidates rules (§ 76.209) will, as in the past, not be applied to access type programming, as long as the channels on which such programming is presented themselves have inherent in their functioning, access of a type which makes possible equal opportunities for political candidates and time for the provision of programming covering all sides of controversial issues of public importance. For the time being we believe it appropriate to leave for case-by-case development more detailed definitions of what types of channels will meet this requirement. We believe this treatment will comply with the statutory requirement of Section 315 of the Communications Act of 1934, as amended, in its application to "community antenna television system[s]." 47 U.S.C. § 315. The other specific content control rules pertaining to lotteries (§ 76.213), obscenity (§ 76.215), and sponsorship identification (§ 76.221) we will continue to apply only to programming which is subject to system operator editorial control.[1] We recognize that further consideration will have to be given to the delineation of the proper boundaries and appropriate policies to be followed in this area as a consequence of the elimination of the access channel rules. That, however, seem to us best undertaken in a separate proceeding, perhaps after the accumulation of some experience with the situation as it now exists.

4. Because the action taken herein is purely ministerial, conforming the written rules to the court's mandate and consistent with the Communications Act, 47 U.S.C. § 402(h) and the Administrative Procedure Act, 5 U.S.C. § 553, the prior notice and publication requirements of the Administrative Procedure Act are inapplicable.

Accordingly, it is ordered, that effective November 10, 1980, Part 76 of the Commission's Rules and Regulations is amended as set forth in the attached appendix.

Federal Communications Commission [2]
William J. Tricarico,
Secretary.

[1] With the changes announced herein, we believe the remanded proceeding in *American Civil Liberties Union* v. *FCC*, Case No. 76-1695 (C.A.D.C.), involving the Commission's *Clarification*, 59 FCC 2d 984 (1976) and the application of obscenity and indecency rules to access programming through the cable system operator, is now moot.

Appendix

Part 76 of Chapter 1 of the Code of Federal Regulations is amended as follows:

§ 76.5 [Amended]

1. In § 76.5, paragraph (x) is deleted.

§ 76.205 [Amended]

2. In § 76.205, paragraph (a), is amended by deleting the word "origination" and substituting the word "cablecasting."

§§ 76.252-76.258 [Deleted]

3. Sections 76.252-258 are deleted.

§ 76.305 [Amended]

4. In § 76.305(a)(7) the phrase "§ 76.256(d) (operating rules for access channels);" is deleted.

§ 76.305 [Amended]

5. In § 76.305(c) the reference to "§ 76.256(d)," is deleted.

Concurring Statement of Commissioner Abbott Washburn

Re: Access Channel Rules.

October 21, 1980.

It is basically inconsistent to hold the cable-TV operator (in his local-origination programs) to content control rules when exercising editorial control, and not to have similar standards for the access channel programmers. This item, I agree, was not the place to try to resolve this double standard, given the practical problems presented by the different varieties of access programming and the sensitive First Amendment problems involved. Nevertheless, it would have been useful to have alerted those who use access channels that they are not totally without responsibilities in these areas. Instead we have skirted the problem by saying we will handle it in the future on case-by-case analysis.

[FR Doc. 80-36064 Filed 11-17-80; 8:45 am]
BILLING CODE 6712-01-M

[2] See attached statement of Commissioner Washburn.

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47 CFR Part 81

Stations on Land in the Maritime Services and Alaska—Public Fixed Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends several sections of the Commission's rules on Stations on Land in the Maritime Services and Alaska—Public Fixed Stations to delete obsolete dates and

associated language. These dates have since passed and have no present or future utility. This action is being taken to bring the rules up to date.

EFFECTIVE DATE: November 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jorge F. Camacho, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of editorial amendment of §§ 81.140, 81.142, 81.304, 81.306, 81.308, 81.360, 81.361, and 81.708 of the Commission's rules.

Adopted: October 30, 1980.

Released: November 7, 1980.

1. We are editorially amending a number of sections of Part 81 of the Commission's rules to delete obsolete dates and associated language. These dates have since passed and have no present or future utility or effect. The affected sections are 81.140, 81.142, 81.304, 81.306, 81.308, 81.360, 81.361, and 81.708.

2. Authority for this action is contained in sections 4(i), and 303(r) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matter covered in this document contact Jorge Camacho, telephone (202) 632-7175.

4. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix is adopted effective November 14, 1980.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

Appendix

Part 81 of Title 47 of the Code of Federal Regulations is amended to read as follows:

Part 81 Stations on Land in the Maritime Services and Alaska—Public Fixed Stations.

1. In Section 81.140, the introductory clauses in paragraphs (a) (1) and (2) are revised as follows:

§ 81.140 Emission limitations.

(a) * * *

(1) When using emissions other than A3A, A3H or A3J:

* * * * *

(2) When using emissions A3A, A3H or A3J:

* * * * *

2. In Section 81.142, paragraph (d) is revoked and reserved to read as follows:

§ 81.142 Modulation requirements.

* * * * *

(d) [Reserved]

* * * * *

3. In Section 81.304, the table in paragraph (a) is revised; paragraphs (b) (11), (21), (27), and (44) are revised; paragraphs (b) (12), (13), (17), (23), (30)–(43), (45), (46), (53), (54), (56), and (58) are removed and reserved; paragraph (c) is revised; the introductory clause of paragraph (f) is revised; and paragraph (h)(2)(i) is removed and reserved as follows:

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of use	
	Section	Limitations
1619	81.307	11,29,50
1622	81.307	11,29,50
1643	81.308	11,29
1646	81.308	11,29
1649	81.308	11,29
1652	81.308	11,29
1705	81.308	11,29
1709	81.308	11,29
1712	81.308	11,29
2003	81.308	11,29,52
2006	81.308	11,29,52
2086	81.306(c)	3,21
2115	81.308	11,29
2118	81.308	11,29
2182	81.191, 81.305	1,29,44,46
2309	81.306(d)	11,29
2312	81.306(d)	11,29
2379	81.307	11,29
2382	81.307	11,29,50
2397	81.306(d)	11,29
2400	81.306(c)	11,29
2400	81.306(d)	23
2419	81.308	11,29
2422	81.308	11,29
2427	81.308	11,29
2430	81.308	11,29,59
2442	81.306(b)	23
2447	81.308	11,29
2450	81.308	11,29
2450	81.306(b)	23
2466	81.306(b)	23
2479	81.308	11,29
2482	81.308	11,29,54,59
2482	81.306(b)	23
2490	81.306(b)	23
2506	81.308	11,29,55
2506	81.306(a)(b)	23
2509	81.308	11,29
2512	81.308	11,29
2514	81.306(b)	2,23
2522	81.306(b)	23
2530	81.306(a)(b)	23
2535	81.308	11,29
2538	81.308	11,29
2538	81.306(b)	23
2550	81.306(b)	2,23
2558	81.306(b)	23
2563	81.308	11,29
2566	81.308	11,29
2566	81.306(b)	23
2572	81.306(b)	23
2582	81.306(b)	2,23
2585	81.306(b)	21
2590	81.306(a)(b)	23
2598	81.306(b)	23
2616	81.308	11,23,29,52
2638	81.306(b)	8,23
2738	81.306(c)	23
2782	81.306(c)	23
2784	81.306(c)	23
3258	81.308	11,29,52
3261	81.308	11,29
4069.2	81.306(c)	3,5,11,57
4072.4	81.306(c)	5
4088.4	81.306(c)	3,5,11
4367.8	81.006(c)	3,5,11
4371.0	81.306(a)(b)(c)	5,11
4380.6	81.307	27,29,51,61
4383.8	81.307	9,11,29,51,61
4387.0	81.306(c)	3,5,27
4390.2	81.306(a)(b)	11
4399.8	81.306(a)(b)	11
4399.8	81.308	27,29,61
4403.0	81.306(a)(b)	11
4403.0	81.308	11,29,61
4412.6	81.306(b)	11
4415.8	81.306(a)(b)	11
4419.0	81.306(a)	11
4422.2	81.306(a)	11
4425.4	81.306(a)	11
4425.4	81.308	27,29,61
4428.6	81.306(a)	11
4428.6	81.308	11,29,61
6147.5	81.306(c)	3,5,11
6200.8	81.306(c)	5,27
6451.9	81.306(c)	3,4,5,11
6455.0	81.306(c)	3,4,5,11
8207.6	81.306(c)	3,4,11
8210.8	81.306(c)	3,4,11
8246.0	81.306(c)	3,5,27
8735.2	81.306(a)	11
8738.4	81.306(a)	11
8748.0	81.306(a)	11
8751.2	81.306(a)	11
8754.4	81.306(a)	11
8757.6	81.306(a)	11
8773.6	81.306(a)	11
8776.8	81.306(a)	11
8780.0	81.306(c)	3,5,27
8783.2	81.306(b)	11
8792.8	81.306(a)	11
8796.0	81.306(a)	11
8805.6	81.306(a)	3,5,27
8808.8	81.306(a)	11,47
12379.0	81.306(c)	3,5,27
13137.0	81.306(a)	12
13140.5	81.306(a)	11
13151.0	81.306(a)	11
13154.5	81.306(a)	11
13158.0	81.306(c)	3,5,27
13161.5	81.306(a)	11
13172.0	81.306(a)	11
13175.5	81.306(a)	11
13186.0	81.306(a)	11
13193.0	81.306(a)	47
16488.0	81.306(c)	3,5,11
17269.0	81.306(a)	11
17272.5	81.306(a)	11
17283.0	81.306(c)	3,5,27
17286.5	81.306(a)	11
17304.0	81.306(a)	11
17307.5	81.306(a)	11
17318.0	81.306(a)	11
17321.5	81.306(a)	11
17325.0	81.306(a)	11
17339.0	81.306(a)	11
22625.5	81.306(a)	11
22653.5	81.306(a)	11
22657.0	81.306(a)	11
22667.5	81.306(a)	11
22671.0	81.306(a)	11
22688.5	81.306(a)	11
22692.0	81.306(a)	11
22706.0	81.306(a)	11
22713.0	81.306(a)	11
MHz		
156.750	81.304	26
156.800	81.304	25
161.800	81.304	6,22,63
161.825	81.304	6,22,24,63
161.850	81.304	6,22,24
161.875	81.304	6,22,24,63
161.900	81.304	6,22
161.925	81.304	6,22,63
161.950	81.304	6,22
161.975	81.304	6,22,63
162.000	81.304	6,22
162.025	81.304	22,62

(b) * * *

(11) Emission 2.8A3J.

(12) [Reserved]

(13) [Reserved]

* * * * *

(17) [Reserved]

* * * * *

(21) Limited to a maximum output power of 150 watts (PEP) and to emission 2.8A3J.

* * * * *

(23) [Reserved]

* * * * *

(27) For use with emission 2.8A3J, with coast and ship stations operating (simplex) on the same frequency.

* * * * *

(30) Through (43) [Reserved]

(44) Available for use with emissions 2.8A3H and 2.8A3J.

(45) [Reserved]

(46) [Reserved]

* * * * *

(53) [Reserved]

(54) [Reserved]

* * * * *

(56) [Reserved]

* * * * *

(58) [Reserved]

* * * * *

(c) Except as provided in Sections 81.142(d) and 81.191(c)(1), public coast stations are required to have the capability to use emissions 2.8A3H and 2.8A3J on the frequency 2182 kHz and the capability to use emission 2.8A3J on all other frequencies.

* * * * *

(f) Except for safety communications:

* * * * *

(h)(2)(i) [Reserved]

* * * * *

4. In Section 81.306(b), note 1 following footnote 1 of the table is revised, and tables in paragraphs (c) and (d) are revised to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

* * * * *

(b) * * *

1 * * *

Note.—

1: Frequencies above 2850 kHz are available for 2.8A3J emission.

2: * * *

* * * * *

(c) * * *

Coast station location	Frequency (kHz)
Baltimore, Md.	2400.0
Louisville, Ky.	2086.0
	2782.0
	4069.2
	6455.0
	8780.0
	13,158.0
	17,283.0
Memphis, Tenn.	2086.0
	2782.0
	4088.4
	6200.8
	8246.0
	12,379.0
	16,488.0
Pittsburgh, Pa.	2086.0
	2782.0
	4367.0
	6451.9
	8207.6
	12,379.0
	16,488.0
St. Louis, Mo.	2086.0
	2782.0
	4367.8
	6147.5
	8210.8
	13,158.0
	17,283.0
Lake Dallas-Lake Texhoma, Tex.	2738.0
Lake Mead, Nev.	2782.0
The Dalles Umatilla, Oreg.	2784.0

(d) * * *

For communication with common carrier coast stations located in the vicinity of—	Common carrier coast station carrier frequency (kHz) [1]	Associated ship station transmitting carrier frequency (kHz) [1]
Cold Bay, Alaska	2,312	2,134
Cordova, Alaska	2,397	2,237
Juneau, Alaska	2,400	2,240
Ketchikan, Alaska	2,397	2,237
Kodiak, Alaska	2,309	2,131
Nome, Alaska	2,400	2,240
Sitka, Alaska	2,312	2,134

[1] Subject to the limitations and conditions of use set forth in 81.304.

* * * * *

5. In Section 81.308, paragraph (a) and table 1 is revised and table 2 with footnotes is deleted. As amended paragraph (a) reads as follows:

§ 81.308 Frequencies available in one or more zones of the Alaska area.

(a) Each of the carrier frequencies set forth in the following table, when authorized by station license, may be used by public coast stations, other than common carrier, employing radiotelephony. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone. The limitations and conditions of use applicable to each frequency are set forth in 81.304. The frequencies available and the zones in the Alaska area in which they may be employed are set forth in the following table:

Table 1

Zone					
1	2	3	4	5	6
1646			1643		1646
	1649			1652	
		1705	1705		
1709				1712	
2006				2003	
	2115		2118		

Table 1—Continued

Zone					
1	2	3	4	5	6
2419		2422			
	2430		2427	2430	
		2450	2447		2450
		2479	2482		2482
				2506	2506
2512	2509	2512	2509		
	2538	2535			
2566			2563	2566	
2616					
3261			3261	3258	
4403.0		4399.8			4403.0
	4428.6		4425.4	4428.6	

6. In Section 81.360, paragraph (a) is revised and (c) is removed and reserved as follows:

§ 81.360 Frequencies available below 4000 kHz.

(a) Assignment to limited coast stations of radiotelephony frequencies in the band 2000–2850 kHz will be subject to the following schedule and limitations;

(1) The capability to use emission 2.8A3J is required.

(2) On 2182 kHz, limited coast stations are required to have the capability to receive A3J emission.

(3) Radiotelephony frequencies in the band 2000–2850 kHz will be available only to limited coast stations where the licensee, in addition to providing service on the frequencies in the band 2000–2850 kHz shall apply for and if authorized provide service on frequencies in the band 156–162 MHz.

(4) Except for safety communications:

(i) Radiotelephony frequencies in the band 2000–2850 kHz shall not be used by a limited coast station for communication with a vessel which is within the VHF service range of that limited coast station.

(ii) Except in the Mississippi River System and Great Lakes, limited coast stations serving lakes or rivers will not be authorized to employ frequencies in the band 2000–2850 kHz.

* * * * *

(c) [Reserved]

* * * * *

7. In Section 81.361, the left hand column of the table and footnotes in paragraph (a) are removed. As amended, paragraph (a) reads as follows:

§ 81.361 Frequencies available.

(a) The following carrier frequencies may be authorized to limited coast stations for business and operational communications with ship stations operating on the same carrier frequency. The conditions of use are set forth in paragraph (b) of this section.

V 45 NO 18 80 UMI

Carrier frequency (kHz)		
2065.0	6521.9	16593.3
2079.0	8291.1	22124.0
2096.5	8294.2	22127.1
4125.0	12429.2	22130.2
4143.6	12432.3	22133.3
4419.4	12435.4	22136.4
6218.6	16587.1	.....
6221.8	16590.2	.....

* * * * *

8. In Section 81.708, the table in paragraph (a) is revised and paragraph (b) is amended by removing and reserving (7), (8), (11), (12), (14), (15), (16), (41), and (45) and by revising (10), (20)(ii) and (40) to read as follows:

§ 81.708 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of Use	
	Section	Limitations
149.6	81.709	13
1643	81.710	10
1646	81.710	10
1649	81.710	10
1652	81.710	10
1657	81.710	10
1660	81.710	10, 21
1705	81.710	10
1709	81.710	10
1712	81.710	10
2003	81.710	10, 22
2006	81.710	23
2115	81.709	10, 23, 24
2118	81.709	10
2253	81.711, 81.713	10
2256	81.711, 81.713	10, 33
2312	81.712, 81.713	44
2400	81.712, 81.713	44
2419	81.710	10
2422	81.710	10
2427	81.710	24
2430	81.710	10, 24, 30
2447	81.710	10
2450	81.710	10, 24
2463	81.711, 81.713	10, 34, 43
2466	81.711, 81.713	10, 34, 43
2471	81.711, 81.713	10, 35, 43
2474	81.711, 81.713	20, 43
2479	81.710	24, 30
2482	81.710	10, 24, 30
2506	81.710	10, 27
2509	81.710	10
2512	81.710	10
2535	81.710	24
2538	81.710	10, 24
2563	81.713	10
2566	81.710	7, 10, 24
2601	81.712, 81.713	10
2604	81.712, 81.713	10
2616	81.710	10, 24
2629	81.711, 81.713	10, 36, 43
2632	81.711, 81.713	10, 37
2691	81.711, 81.713	10, 32
2694	81.711, 81.713	10, 38
2773	81.711	10
2776	81.711, 81.713	10
2781	81.712, 81.713	10
2784	81.712, 81.713	10
3164.5	81.712, 81.713	10
3167.5	81.712, 81.713	10
3180	81.712, 81.713	10
3183	81.712, 81.713	10
3198	81.709	17
3201	81.709	17
3238	81.712, 81.713	10
3241	81.712, 81.713	10
3258	81.710	29
3261	81.710	10, 29
3303	81.712, 81.713	10
3354	81.712, 81.713	10, 39
3357	81.712, 81.713	10, 39
3362	81.712, 81.713	10, 40
3365	81.712, 81.713	10, 40
4035	81.712, 81.713	10
4791.5	81.710	20
5134.5	81.711, 81.713	10, 40, 43
5137.5	81.711, 81.713	10, 43
5164.5	81.709	18
5167.5	81.709	18
5204.5	81.711, 81.713	10, 42, 43
5207.5	81.711, 81.713	10, 42, 43
5370	81.712, 81.713	10
6948.5	81.710	20
7368.5	81.710	20
8067	81.709	19
8070	81.709	19
11,437.0	81.710	20
81,601.5	81.710	20

(b) * * *

* * * * *

(7) [Reserved]

(8) [Reserved]

(9) * * *

(10) Available for use with emission 2.8A3J.

(11) [Reserved]

(12) [Reserved]

(13) * * *

(14) [Reserved]

(15) [Reserved]

(16) [Reserved]

(20) * * *

(ii) When employing radiotelephony, emission 2.8A3J shall be used. For radiotelegraphy, emission 0.3F1 shall be used.

* * * * *

(35) Available for radiotelephony only; normally for communication with common carrier stations located at Kodiak and Nome.

* * * * *

(40) Available for radiotelephony only; for communication with common carrier stations located at Unalaska and Anchorage.

(41) [Reserved]

* * * * *

(45) [Reserved]

[FR Doc. 80-35419 Filed 11-17-80; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 224
Tuesday, November 18, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

Programs for Specific Positions and Examinations (Miscellaneous); Regulation To Govern Promotion of Administrative Law Judges (ALJs)

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this proposal is to develop a regulation to promote Administrative Law Judges (ALJs) within an agency. It would permit OPM, on request of an agency, to select for promotion the agency's GS–15 ALJs who have eligibility on the GS–16 register. This would also assure greater personnel mobility consistent with the objectives of the Civil Service Reform Act, serve to increase productivity, provide greater equity and more easily attract and retain well-qualified ALJs.

DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before January 19, 1981.

ADDRESS: Send or deliver written comments to the Director, Office of Administrative Law Judges, Office of Personnel Management, 1900 E Street, N.W., Room 2470, Washington, D.C. 20415. Comments will be available for public inspection at the above address between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judge Marvin H. Morse, 202–632–4604.

SUPPLEMENTARY INFORMATION: A primary purpose of the Administrative Procedure Act (APA) is to assure the independence of the ALJs who preside at APA formal hearings. To avoid the "subtle influence" that an agency might exert upon its judges to render decisions "in accordance with agency wishes", the employing agencies are prohibited from promoting their judges, this function being solely the responsibility of the OPM [41 Op. A.G. 74, 78 (1951)].

The present regulation governing transfers, 5 CFR 930.206, permits a GS–15 ALJ to transfer noncompetitively to another agency at the GS–16 grade level if the person has eligibility on the GS–16 ALJ register and has served as a GS–15 ALJ for at least one year. However, the agency cannot appoint one of its own ALJs to a vacancy unless the ALJ is "within reach" on the register. In short, there is no present regulation governing the promotion of an ALJ within his/her own agency where there are ALJs at two (2) or more different grade levels. Depending upon the nature and complexity of new legislation, any number of agencies could be in this situation.

This regulation would provide a practical management tool to meet problems arising from a two-grade structure in an agency. Under this regulation, the agency would have discretion to decide that a certain number of vacancies should be filled from within the agency, while OPM would retain the sole responsibility for selecting the most qualified ALJs to fill these positions. OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to revise § 930.204 to read as follows:

§ 930.204 Promotion.

(a) When the Office of Personnel Management classifies an occupied administrative law judge position at a higher grade, the Office of Personnel Management shall direct the promotion of the incumbent administrative law judge and the promotion is effective on the date named by the Office of Personnel Management.

(b) No more than twice a year, an agency may notify the Office of Personnel Management that it wishes to fill a specific number of its grade GS–16 ALJ vacancies from among its grade GS–15 ALJs who are on the GS–16 ALJ register and who have served as judges at the agency for at least one year. The Office of Personnel Management will select the best qualified and notify the agency.

(5 U.S.C. 1305, 3105, 5372)

[FR Doc. 80-35941 Filed 11-17-80; 8:45 am]
BILLING CODE 6525-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20 and 803

[Docket No. 79N–0182]

Medical Devices; Mandatory Device Experience Reporting

AGENCY: Food and Drug Administration.

ACTION: Proposed rule and notice of hearing.

SUMMARY: The Food and Drug Administration (FDA) proposes to require that manufacturers and distributors (including importers) of medical devices submit reports concerning medical devices that (1) may have caused a death or injury; (2) may have a deficiency that could result in a death or injury or that could give inaccurate diagnostic information and, thereby, result in improper treatment; or (3) are the subject of a remedial action. This proposed regulation is issued under the Medical Device Amendments of 1976, which grant FDA the authority to require reports from manufacturers and distributors to assure the safety and effectiveness of medical devices.

DATES: Comments by February 17, 1981. Public hearing on January 22, 1981; notices of participation by January 2, 1981; applications for reimbursement by December 15, 1980. FDA proposes that the regulation become effective 30 days after the date of publication of a final rule in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Public hearing location: Hubert H. Humphrey Building Auditorium, 200 Independence Ave., SW., Washington, D.C.

Send applications for reimbursement to Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857.

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FOR FURTHER INFORMATION CONTACT: Robert A. Forst, Bureau of Medical Devices (HFK-70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the course of its regulation of medical devices, the Food and Drug Administration (FDA) currently receives information concerning device design and performance problems from several sources. However, very little of this information is received directly from those best able to provide it on a timely basis, i.e., device manufacturers and distributors. FDA believes that it currently receives few device experience reports from manufacturers because (1) manufacturers hesitate to submit information voluntarily to FDA that could result in a regulatory action; (2) manufacturers wish to avoid disseminating information that could increase the incidence of product liability suits; and (3) manufacturers wish to avoid public disclosure, under the Freedom of Information Act (5 U.S.C. 552 et seq.), of device experience information that has been submitted to FDA. A number of device design and performance problems that have resulted in remedial action by manufacturers have been brought to FDA's attention by sources other than manufacturers, such as practitioners, FDA field investigations, and users. However, practitioners, and users of medical devices usually do not report device experiences to FDA; instead they generally contact, and seek information from, the device manufacturers or distributors. Without the receipt of information relating to device deficiencies that is timely, complete, and accurate, FDA is hampered in its efforts to ensure that commercially distributed medical devices are safe and effective for their intended uses.

To reduce the risk to the public health and the unnecessary economic loss caused by unsafe or ineffective devices, FDA proposes to require that manufacturers and distributors submit reports concerning medical devices that (1) may have caused a death or injury; (2) may have a deficiency that could cause a death or injury or that could give inaccurate diagnostic information and, thereby, result in improper treatment; or (3) are the subject of a remedial action by the manufacturer.

Comment Period

FDA advises that § 10.40(b) (21 CFR 10.40(b)) of its administrative regulations provides that the public will ordinarily have 60 days to comment on any proposed regulation and provides further that after publication on the proposal, any person may request that the comment period be extended for an additional period of time. In the agency's experience, many organizations have difficulty developing consensus comments when the comment period on documents presenting major policy issues runs through the end of December and the beginning of January. The agency has regularly received requests from interested persons to extend the comment period for such documents for an additional 30 days or more.

As discussed elsewhere in this preamble, the agency has decided to hold an open hearing during the comment period to give the public an opportunity to make oral comments on the proposed regulation. To schedule a hearing within the 60-day period after publication of this document would put it in the middle of the holiday season—another inconvenience to interested persons.

For these reasons, the Commissioner of Food and Drugs concludes that good cause exists to provide 90 days to comment on this proposal and to schedule the public hearing to be held on January 22, 1981. The Commissioner advises, however, that this will permit sufficient time for any interested persons to submit not only written comments on the proposed regulation but written views on matters discussed at the public hearing. Thus, absent the most convincing evidence that protection of the public health compels further opportunity to comment, no extension of the comment period, beyond February 17, 1981, will be granted.

Statutory Authority

Section 519 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i) (the act) grants FDA the authority to promulgate regulations to require manufacturers, importers, and distributors of medical devices to establish and maintain records, make reports, and provide information to FDA to ensure that medical devices are not adulterated or misbranded and are otherwise safe and effective. Section 519 of the act requires that any such regulation (1) shall not be unduly burdensome; (2) shall state the reason or purpose for requiring the submission of any report and identify the information required; (3) may not require the identity of any patient unless required for the medical welfare of the patient, to determine the safety and effectiveness of a device, or the verify a report; (4) may not require a manufacturer, importer, or distributor of class I devices to maintain records or to submit reports of information not in its possession, unless such report or information is necessary to determine whether a device is adulterated or misbranded; and (5) shall have due regard for the ethics of the the profession and the interests of patients. Under section 502(j) of the act (21 U.S.C. 352(j)), a device is misbranded if it is dangerous to health when used in the manner recommended or suggested in its labeling. The agency believes that reports made under this proposed rule are necessary to determine whether a device is misbranded within the meaning of section 502(j) of the act. Reports of death or injury may demonstrate the inadequacy of a device's labeling, and therefore, that the device is misbranded. Thus, manufacturers, importers, and distributors of class I devices will not be exempt from the requirements of the proposed rule.

Any regulation promulgated under section 519 of the act shall not apply to (1) any practitioner who is licensed by law to prescribe or administer medical devices and who manufactures or imports devices solely for use in the course of the individual's professional practice; (2) any person who manufacturers or imports medical devices for the person's own use in research or teaching and not for sale; or (3) any other persons exempted by the regulation.

Legislative History

The legislative history of the Medical Device Amendments (Pub. L. 94-295) reflects clear congressional intent to provide FDA with authority to require manufacturers, importers, and distributors to notify FDA of defects in their products. In discussion the notification provisions of section 518 of the act (21 U.S.C. 360h), the House Committee on Interstate and Foreign Commerce stated:

> The notification provision is similar to, and to some extent patterned after, comparable authority contained in the National Traffic and Motor Vehicle Safety Act of 1966, the Radiation Control for Health and Safety Act of 1968, and the Consumer Product Safety Act of 1972. These statutes also include requirements that manufacturers provide notification of defects in their products to appropriate Federal agencies. The Committee determined that a comparable provision in new section 518(a) with respect to devices would be unnecessary since the Secretary could require the reporting of such information under the recordkeeping and reporting authority provided in new section 519 of the Act. (H.R. No. 853, 94th Cong., 2nd Sess. 21 (1976)).

In its discussion of section 519 of the act, the House Committee gave examples of reasonable reporting requirements: "Examples of reasonable reporting requirements include reporting defects, recalls, adverse reactions, patient injuries, and clinical experience with respect to class III devices." (*Id.* at 23). Although section 519 limits FDA's authority to require records to be maintained or to be submitted, the Committee noted that "They [the limitations] should not be construed, however, as limiting [FDA's] authority to obtain information required to insure that the public is protected from potentially hazardous devices." (*Id.* at 24).

Definitions

Section 803.3 of the proposed rule sets out definitions applicable to the reporting requirements. "Device deficiency" is defined in § 803.3(a) as the failure of a device (1) to perform its intended function or to meet its specifications in a way that could adversely affect its safety and efficacy, or (2) to meet an applicable performance standard. The definition provides several examples of possible causes for such failures. "Injury" is defined in § 803.3(c) to include direct injury caused by the device (e.g., failure of a pacemaker) and indirect injury due to the device's actual or possible failure to perform its intended function (e.g., incorrect test results provided by an in vitro device that cause the patient to receive improper treatment). "Remedial action" is defined in § 803.3(f) to be consistent with the definitons of "recall" and "correction" in § 7.3 (g) and (h) respectively (21 CFR 7.3 (g) and (h)) of FDA's regulations governing the practices and procedures applicable to regulatory enforcement actions initiated by the agency. "Device deficiency," "injury," and "remedial action" are defined so as to require a report to FDA only when an actual or a potential risk to health is posed by the device. FDA is particularly interested in comments concerning the effect of these definitions on the reporting requirements.

"Manufacturer" is defined in § 803.3(d) to include any person required to register under 21 CFR Part 807, as well as manufacturers of general purpose articles, such as chemical reagents or laboratory equipment. Although manufacturers of general purpose articles are exempt from registration under § 807.65(c) (21 CFR 807.65(c)), FDA believes that general purpose articles, if defective, have the potential for causing substantial harm to patients. Therefore, these manufacturers are required to comply with the reporting and recordkeeping requirements in the proposed regulation.

FDA welcomes comments regarding the adequacy of the proposed definitions, the need for further explanation, or the need for additional definitions to assist manufacturers and distributors in complying with the proposed regulation.

Reports by Manufacturers and Distributors Generally

Under the proposed regulation, reports by manufacturers are divided into three categories: (1) reports of death or injury that may have been caused by a device (§ 803.24); (2) reports of device deficiencies that could result in a death or injury or that could give inaccurate diagnostic information and, thereby, result in improper treatment (§ 803.25); and (3) reports of remedial actions taken by manufacturers that are not reported under §§ 803.24 or 803.25 (§ 803.27).

Distributors of devices manufactured in the United States and distributors of imported devices are subject to the requirements of the proposed rule. Distributors of devices manufactured in the United States are required to submit only the first two categories of reports listed above (§ 803.29). Distributors of imported devices under joint ownership or control with the foreign manufacturer are required to submit reports in all three categories listed above as if they were the manufacturer of the device (§ 803.30(a)). All other distributors of imported devices are required to submit only the first two categories of reports listed above (§ 803.30(b)).

The requirement to report any death or injury that may have been caused by a device and the requirement to report a possible device deficiency, whether or not the deficiency is confirmed, arises upon receipt by the manufacturer or distributor of information concerning a death, injury, or possible deficiency. Under the proposed rule, a report is required each and every time a manufacturer or distributor receives pertinent information, regardless of whether the manufacturer or distributor has previously reported a similar experience involving the same device. A report is required even if the manufacturer determines that the death or injury is not due to a device deficiency, or after investigating a possible deficiency, that there is no such deficiency. Under §§ 803.24, 803.25, and 803.30(a), the report shall state the basis for any determination that the death or injury is not due to a device deficiency.

FDA is aware that if reports were required only when a device deficiency is confirmed, reporting would be less frequent and less costly. However, FDA believes that with such a requirement, few device problems would be characterized as confirmed deficiencies and few reports would be submitted, thereby compromising FDA's ability to protect the public from potentially hazardous devices. Moreover, the agency believes that submission of reports of confirmed device deficiencies would be delayed pending the determination by the manufacturer or distributor that such a deficiency actually exists.

For the purpose of this rule, information that must be reported to FDA is considered to be received by the manufacturer or distributor at the time the individual who has been designated by the manufacturer or distributor to submit the report to FDA receives the information, but no later than 3 working days after receipt of the information by any employee of the manufacturer or distributor (§ 803.3(e)). FDA believes that the proposed time periods for reporting will be adequate in most cases. FDA recognizes, however, that in some instances, the necessary information for filing a report will be difficult to obtain within the period permitted by the proposed rule and, therefore, is retaining discretionary authority to grant an extension of reporting time (§ 803.32). FDA specifically requests comments concerning situations in which information required to be reported under this proposed rule may be difficult to obtain.

The agency is aware that the time for submitting reports under this proposed rule are shorter than those in other FDA regulations that require the submission of reports, but FDA believes the differences are justified. The great majority of medical devices currently in commercial distribution have not been subject to any type of premarket review. Deficient medical devices in general distribution may have an adverse effect on thousands of persons. Therefore, FDA must be able to react rapidly to minimize the risk to health posed by a deficient device in general commercial distribution.

The proposed rule is designed to impose a limited burden on the device industry in that it will require manfuacturers and distributors of medical devices initially to submit a minimum amount of information concerning a device experience. This information will be required when a defined event occurs, such as a death, injury, or report of a possible deficiency, regardless of whether a device deficiency is confirmed. Under § 803.34, FDA retains the authority to request,

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when necessary, additional information from the device manufacturer or distributor.

The agency is aware of the potentially broad scope of the proposed reporting requirements. Nevertheless, the agency concludes that this information is required for the protection of the public health and safety. Moreover, by facilitating FDA regulatory action, these reports may reduce medical costs to the public that result from unsafe or ineffective devices.

FDA recognizes that manufacturers and distributors submitting reports under this proposed rule will be concerned about the effect of the report on product liability claims. However, submission of a report under §§ 803.24, 803.25, 803.29, or 803.30 is not an admission by the manufacturer or distributor that a device is deficient. Therefore, a report should not, in and of itself, establish liability for a device-related injury.

Reports by Manufacturers

Proposed § 803.24 requires a manufacturer to notify FDA by telephone within 72 hours and to submit a follow-up report to FDA within 7 working days after it receives information concerning any death that may have been caused by a device. Proposed § 803.24 also requires a manufacturer to submit a report to FDA within 7 working days after it receives information concerning any injury that may have bee caused by a device. Proposed § 803.25 requires a manufacturer to submit a report to FDA within 7 working days after it receives information concerning any actual or possible device deficiency.

Under proposed § 803.27, manufacturers are to submit to FDA, within 2 working days of its issuance, a copy of any written communication with distributors, health care practitioners, or users regarding a remedial action. When no written communication has been issued, the manufacturer is required to provide FDA with a description of any remedial action undertaken, within 2 working days of implementing such action. No report is required under § 803.27 in cases in which the manufacturer has submitted a report of the remedial action to FDA under § 803.24 or § 803.25.

The purposes of proposed § 803.27 are: (1) to allow early FDA evaluation of a manufacturer's remedial action to ensure that the action is appropriate and, thereby, to reduce the possible harm to the public health that may result from potentially hazardous medical devices; (2) to reduce or eliminate economic loss incurred by a manufacturer when FDA belatedly learns of a remedial action, investigates its circumstances, and requires additional action; and (3) to reduce the expenditure of scarce FDA field resources to investigate a remedial action report voluntarily submitted to FDA by device practitioners or users.

Reports by Distributors of Devices Manufactured in the United States

Proposed § 803.29 requires a distributor of a device manufactured in the United States to notify FDA by telephone within 72 hours and to submit a follow-up report to FDA within 7 working days after it receives information concerning any death that may have been caused by a device. The proposed regulation also requires a distributor of a device manufactured in the United States to submit a report to FDA within 7 working days after it receives information about any injury that may have been caused by a device or of any actual or possible device deficiency that could result in a death or injury. However, if no death or injury has occurred, the distributor may report an actual or possible device deficiency directly to the manufacturer in lieu of reporting it to FDA. In this case, the distributor shall report to the manufacturer immediately upon receipt of information of an actual or possible device deficiency. FDA believes that the proposed minimal reporting requirements for distributors of devices manufactured in the United States eliminate the need for any extension of time for distributors of devices manufactured in the United States to submit reports.

Reports by Distributors of Imported Devices

FDA is aware that many medical devices are produced by foreign manufacturers and are distributed in the United States by American firms that are affiliated with the foreign manufacturer. FDA believes that such American distributors should be subject to the reporting requirements in a manner comparable to that imposed upon manufacturers. Therefore, proposed § 803.30(a) requires that any distributor that is a parent, subsidiary, or affiliated company under joint ownership with, or control of, the foreign manufacturer of the device and that distributes an imported device within the United States shall be subject to the reporting requirements in §§ 803.24, 803.25, and 803.27, as if it were the manufacturer of the device and located in the United States. Proposed § 803.30(d) permits a distributor that is required to report under 803.30(a) to request an extension of time to report, as described in § 803.32.

Proposed § 803.30(b) requires that any distributor that is not under joint ownership with, or control of, the foreign manufacturer of the device and that distributes an imported device within the United States, shall be subject to the requirements of § 803.29(a) and (b) as if it were the distributor of a device manufactured within the United States. However, when the distributor of an imported device receives information of an actual or possible device deficiency that could result in a risk to health, it shall submit a report to FDA, even if it reports the deficiency to the foreign device manufacturer. Because foreign device manufacturers are not required to submit reports to FDA under the proposed regulation, the agency does not propose to grant distributors of imported devices that are governed by § 803.30(b) the alternative of reporting device deficiencies to the manufacturer instead of FDA.

Complaint Files Maintained by Distributors

Proposed § 803.31 requires that distributors of devices (whether the devices have been manufactured in the United States or have been imported) establish and maintain a complaint file. A record of any information received by the distributor that is required to be reported to FDA under this part shall be maintained in the complaint file for a period of 2 years. A distributor shall maintain a record of each complaint even if the distributor has reported the complaint to FDA, has reported the complaint to the manufacturer in lieu of reporting it to FDA, or has discontinued distribution of the device.

Device manufacturers are required by the GMP regulation in Part 820 to establish and maintain a complaint file and to provide access to, and copying of, the complaint file by authorized FDA representatives. The proposed requirement that distributors establish and maintain a complaint file and provide access to, and allow copying of, the complaint file by authorized FDA representatives is intended to supplement, not supersede, the provisions of Part 820.

In the agency's experience, health care professionals and other device users usually report device experiences to the person from whom the device was purchased, be it the manufacturer or the distributor of the device. The complaint file requirement for device distributors of proposed § 803.31 and the complaint file requirement of manufacturers of Part 820 will assure that FDA has access to the original complaint arising out of the device experience, regardless of to whom the complaint was reported initially. Access to all original complaints will permit FDA to monitor effectively device experience reporting under this regulation and to assure that the public is protected from potentially harmful devices.

Additional Reports Required Upon Request of FDA

To reduce the reporting burden upon the medical device industry, FDA is proposing to require manufacturers and distributors initially to submit a minimum of information on a broad range of device experiences. However, in some instances, the protection of the public health will require that FDA receive more information regarding a device experience than that initially submited by a manufacturer or distributor under proposed §§ 803.24 through 803.30. Therefore, proposed § 803.34 requires that, upon request of the agency, manufacturers or distributors shall provide FDA with certain additional information.

Exemptions From Reporting

Exemptions from the reporting requirements are set out in proposed § 803.36. Consistent with section 519 of the act (21 U.S.C. 360i), these exemptions will relieve a manufacturer or distributor from submitting a report under this part where FDA has received a report of the same experience under the regulations listed in § 803.36. However, a report submitted under the proposed regulation will not exempt the manufacturer from other existing reporting requirements, e.g., the regulation governing premarket approval of medical devices. Reports required by § 1002.10 (21 CFR 1002.10) or Part 1003 (21 CFR Part 1003) for the Bureau of Radiological Health and by Part 606 (21 CFR Part 606) for the Bureau of Biologics will continue to be reported directly to those Bureaus as required by those regulations.

Failure To Report

Under section 502(t) of the act (21 U.S.C. 352(t)), a device is misbranded if there is a failure or refusal to submit information about the device that is required under section 519 of the act. Under section 301(k) of the act (21 U.S.C. 331(k)), the doing of any act which results in a device being misbranded after its shipment in interstate commerce is a prohibited act. Furthermore, under section 301(q)(1) of the act (21 U.S.C. 331(q)(1)), the failure or refusal to furnish any information required under section 519 is a prohibited act. Under section 301(q)(2) of the act (21 U.S.C. 331(q)(2)), the submission of any required report that is false or misleading in any material respect is a prohibited act. Violations of section 301 may be enjoined under section 302(a) of the act (21 U.S.C. 332(a)). Persons who are responsible for the violation of section 301 may be subject to criminal prosecution under section 303 of the act (21 U.S.C. 333). In addition, devices that are misbranded within the meaning of section 502(t) of the act are subject to seizure and condemnation under section 304(a)(2) of the act (21 U.S.C. 334(a)(2)).

Public Availability of Reports Made Under This Part

The reports required under this proposed regulation are similar to those received under the records and reports regulations for new drugs; to those received from the United States Pharmacopeia Convention, Inc., reporting drug and device defects; and to those reporting adverse reactions to drugs. The agency will delete the name and identifying characteristics of physicians, patients, institutions, and similar persons prior to public disclosure. Similarly, where applicable, the agency will delete confidential commercial information and may treat these reports as investigatory records. The public availability of these records is therefore governed by Part 20 of FDA's regulations (21 CFR Part 20).

Public Hearing

An open hearing will be held beginning at 9 a.m. on January 22, 1981, to give the public an opportunity to make oral comments on the proposed regulations. The hearing will be held under § 15.1(a) (21 CFR 15.1(a)), of FDA's administrative practices and procedures regulations in the auditorium, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201. The presiding officer will be Victor M. Zafra, Acting Director, Bureau of Medical Devices.

The purpose of the hearing is (1) to provide an open forum to present views concerning the merit of the proposed regulations and their general applicability and practicality and (2) to foster greater consideration of the proposal among the regulated industry and the public. Although the hearing will encompass all aspects of the proposal, the agency seeks specific advice on the several areas of consideration discussed in the preamble above.

In preparing final regulations, FDA will consider the administrative record of this hearing along with all other written comments previously received and received during the comment period specified in this proposal.

A written notice of participation under the requirements of § 15.21 (21 CFR 15.21) must be filed with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, not later than January 2, 1981. The notice of participation should contain Docket No. 79N-0182, the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate amount of time requested for the presentation. To facilitate identification, the envelope containing the notice should be marked "MER Hearing." A schedule for the hearing will be filed with the Dockets Management Branch and mailed to each person who files a notice of participation within the specified filing time. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and to request time for a joint presentation.

If the response to this notice of hearing is such that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, the agency will allocate the available time among the persons making the oral presentation. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion in the administrative record.

If the response to this notice of hearing is such that all persons cannot be accommodated, the hearing will be extended for an additional day, as appropriate.

The hearing will be open to the public. Any interested person may be heard on matters relevant to the issues under consideration.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings under Part 15. This program is described in regulations (21 CFR Part 10, Subpart C) that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. Applications for reimbursement must be filed by December 15, 1980 in accordance with § 10.210(a) (21 CFR 10.210(a)). For more information regarding the

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reimbursement program, contact Curtis Noah, Office of Consumer Affairs (HFE-88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3170.

Although reimbursement may be made available for the hearings under Part 15, the program's priority will be given to funding participation in formal evidentiary public hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Part 12 or 13).

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979, 44 FR 71742) that this proposal is of a type (issuance of a procedural or administrative regulation) that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Federal Reports Act

The recordkeeping and periodic reporting requirements contained in this proposal are subject to clearance by the Office of Management and Budget (OMB) under the Federal Reports Act of 1942 (44 U.S.C. Chapter 35). During the comment period on this proposal, FDA intends to submit to the Director, OMB, copies of this proposed regulation and other related materials. If OMB approves the proposed requirements, FDA intends to impose the requirements at the time a final regulation based on the proposal is made effective. If OMB does not approve, without change, the recordkeeping and periodic reporting requirements contained in the proposal, FDA will revise the final regulation as necessary to comply with OMB's determination. Any comments received from OMB will become part of the administrative record for this matter and will be placed on file for public review in the office of the Dockets Management Branch, FDA, in Docket No. 79N-0182.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(t), 519, 701(a), 704(e), 52 Stat. 1055, 90 Stat. 564-565, 578, 581 (21 U.S.C. 352(t), 360i, 371(a), 374(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 803, to read as follows:

PART 803—MANDATORY DEVICE EXPERIENCE REPORTING

SUBPART A—GENERAL PROVISIONS

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803.24 Report of death or injury by a manufacturer.
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803.36 Exemption from reporting.

Authority: Secs. 502(t), 519, 701(a), 704(e), 52 Stat. 1055, 90 Stat. 564-565, 578, 581 (21 U.S.C. 352(t), 360i, 371(a), 374(e)).

Subpart A—General Provisions

§ 803.1 Scope.

(a) FDA is requiring manufacturers and distributors of medical devices to submit reports to FDA concerning devices which (1) may have caused a death or injury; (2) may have a deficiency that could result in a death or injury or that could give inaccurate diagnostic information and, thereby, result in improper treatment; or (3) are the subject of a remedial action by the manufacturer. This information will enable FDA to ensure that medical devices are not adulterated or misbranded and are otherwise safe and effective for their intended uses. In addition, distributors of devices are required to establish and maintain complaint files and to allow access to, and copying of, these files by authorized FDA representatives.

(b) This regulation supplements, and does not supersede, the provisions of Part 820, including the requirement that manufacturers establish and maintain a complaint file (§ 820.198) and allow access to, and copying of, the file by authorized FDA representatives (§ 820.180).

(c) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

§ 803.3 Definitions.

(a) "Device deficiency" means the failure of a device (1) to perform its intended function or to meet its specifications in a way that could adversely affect its safety or effectiveness, which failure may be the result of inadequate or erroneous design, manufacture, labeling, storage, transport, relabeling, repackaging, or other cause; or (2) to meet an applicable performance standard.

(b) "Distributor" means any person or firm that furthers the marketing of a device from the original place of manufacture to a device from the original place of manufacture to the person who makes the final delivery or sale to the ultimate consumer or user, but not include a manufacturer, as defined in paragraph (d).

(c) "Injury" means any unintended impairment of, or damage to, body structure or function that is incurred with the use of a medical device. Injury also includes any harm to health that results from the failure to receive proper medical treatment as a result of a device's failure to perform its intended function.

(d) "Manufacturer" means any person who is required to register under Part 807 and any person manufacturing general purpose articles, such as chemical reagents or laboratory equipment, who is exempt from registration under § 807.65(c). The term includes any person who repackages or otherwise changes the container, wrapper, or labeling of a device or device package. The term does not include a person who initially distributes an imported device. §§ 807.3(d)(2) and 807.20(a)(4) notwithstanding.

(e) "Receives information" means the point at which the individual who has been designated by the manufacturer or distributor to submit the report to FDA receives the information, but no later than 3 working days after any employee of the manufacturer or distributor has received the information. Device experience information may be received either from persons outside the firm or developed from information discovered internally by the manufacturer or distributor.

(f) "Remedial action" means any recall, repair, modification, adjustment, relabeling, distruction, inspection (including patient monitoring), or any other action that is initiated by a manufacturer to correct any suspected or confirmed device deficiency.

(g) Any term defined in section 201 of the act (21 U.S.C. 321) shall have that definition.

(h) "FDA" means the Food and Drug Administration.

Subpart B—Reports and Records

§ 803.24 Report of death or injury by a manufacturer.

(a) Whenever a manufacturer receives information that one of its devices may have caused a death or injury, the manufacturer of the device shall:

(1) In the case of every death:

(i) Notify FDA by telephone within 72 hours of receipt of the information and

(ii) Submit a written report to FDA within 7 working days of receipt of the information. The report shall include the information listed in § 803.24(b).

(2) In the case of every injury, submit a written report to FDA within 7 working days of receipt of the information. The report shall include the information listed § 803.24(b).

(b) The notification or report of a device experience shall contain:

(1) Brand name and common or usual name of the device.

(2) Model, catalog, or other identification number or code of the device.

(3) Lot or serial number or code of the device.

(4) Name and address of the manufacturer.

(5) The location or locations at which the device was manufactured.

(6) Name, address, and telephone number of the individual responsible for reporting the device experience to FDA.

(7) A complete description of the circumstances of the death or injury, including the nature or severity of the injury. In the alternative, a copy of a complaint received by the manufacturer may be submitted if the complaint adequately describes the circumstances of the death or injury.

(8) The basis for any determination by the manufacturer that the death or injury was not caused by a devise deficiency.

(9) An outline of the plan for remedial action, if any.

(10) The basis for any determination by the manufacturer that the death or injury may have been caused by a device deficiency, but that a remedial action is not advisable or necessary.

(c) A manufacturer shall report to FDA as required under this section each time it receives information that one of its devices may have caused a death or injury, even if an experience of the same or similar nature has been reported previously to FDA.

(d) If FDA initiates an investigation of a reportable death or injury before a written report is submitted and the manufacturer submits the information listed in § 803.24(b) to FDA as part of that investigation, then FDA may notify the manufacturer that the written report required under this section need not be submitted.

e. A manufacturer may request under § 803.32, an extension of time to submit the written report required under this section.

§ 803.25 Report of a device deficiency by a manufacturer.

(a) Whenever a manufacturer receives information that one of its devices may have a deficiency that (1) could result in a death or injury or (2) could give inaccurate diagnostic information and, thereby, result in improper treatment, the manufacturer of the device shall submit a written report to FDA within 7 working days of receipt of the information.

(b) The report of device deficiency shall contain:

(1) Brand name and common or usual name of the device.

(2) Model, catalog, or other identification number or code of the device.

(3) Lot or serial number or code of the device.

(4) Name and address of the manufacturer.

(5) The location or locations at which the device was manufactured.

(6) Name, address, and telephone number of the individual responsible for reporting the device deficiency to FDA.

(7) A complete description of the possible or confirmed device deficiency and of the circumstances surrounding its discovery. In the alternative, a copy of a complaint received by the manufacturer may be submitted if the complaint adequately describes the actual or possible device deficiency and the circumstances surrounding its discovery.

(8) The basis for any determination by the manufacturer that the device does not have a deficiency.

(9) An outline of the plan for remedial action, if any.

(c) A manufacturer shall report to FDA under this section each time it receives information that one of its devices may have a deficiency that (1) could result in a death or injury or (2) could give inaccurate diagnostic information, and, thereby, result in improper treatment, even if a deficiency of the same or similar nature has been reported previously to FDA.

(d) A manufacturer may request, under § 803.32, an extension of time to submit the written report required under this section.

§ 803.27 Report of a remedial action by a manufacturer.

(a) Whenever a manufacturer initiates a remedial action for a device that has not been reported under § 803.24 or § 803.25, the manufacturer shall submit to FDA within 2 working days of initially implementing the remedial action a copy of any written communication with distributors, practitioners, or others regarding the remedial action.

(b) If no written communication has been issued, the manufacturer shall submit to FDA within 2 working days of initially implementing the remedial action a report of the remedial action undertaken. The report of remedial action shall contain:

(1) Brand name and common or usual name of the device.

(2) Model, catalog, or other identification number or code of the device.

(3) Lot or serial number or code of the device.

(4) Name and address of the manufacturer.

(5) The location or locations at which the device was manufactured.

(6) Name, address, and telephone number of the individual responsible for reporting the remedial action to FDA.

(7) A complete description of the remedial action undertaken.

§ 803.29 Reports by a distributor of a device manufactured in the United States.

(a) Whenever a distributor of a device manufactured in the United States receives information that one of its devices may have caused a death or injury, the distributor shall:

(1) In the case of every death:

(i) Notify FDA by telephone within 72 hours of receipt of the information and

(ii) Submit a written report to FDA within 7 working days of receipt of the information. The report shall include the information listed in § 803.29(c).

(2) In the case of every injury, submit a written report to FDA within 7 working days of receipt of the information. The report shall include the information listed in § 803.29(c).

(b) Whenever a distributor of a device manufactured in the United States receives information that a device it distributes may have a deficiency that (1) could result in a death or injury or (2) could give inaccurate diagnostic information and, thereby, result in improper treatment, the distributor of the device shall notify FDA in writing within 7 working days of receipt of the information. In lieu of submitting a report to FDA, the distributor may submit a report to the manufacturer immediately upon receipt of the information. A report under this section shall include the information listed in § 803.29(c).

(c) The notification or report of a device experience shall contain:

(1) Brand name and common or usual name of the device.

(2) Model, catalog, or other identification number or code of the device, if known.

(3) Lot or serial number or code of the device, if known.

(4) Name and address of the manufacturer.

(5) Name and address of the distributor.

(6) Name, address, and telephone number of the individual responsible for reporting the device experience to FDA.

(7) A complete description of the circumstances of the death or injury, including the nature or severity of the injury, or a complete description of the actual or possible device deficiency. In the alternative, a copy of a complaint received by the distributor may be submitted if the complaint adequately describes the device experience.

(d) A distributor shall report to FDA or the manufacturer as required under this section each time it receives information that a device it distributes may have caused a death or injury or may have a deficiency that (1) could result in a death or injury or (2) could give inaccurate diagnostic information and, thereby, result in improper treatment, even if an experience of the same or similar nature has been reported previously to FDA or to the manufacturer.

(e) A distributor of a device manufactured in the United States shall maintain a complaint file as set forth in § 803.31.

§ 803.30 Reports by a distributor of an imported device.

(a) Any distributor that distributes an imported device within the United States and that is a parent, subsidiary, or affiliated company under joint ownership with, or control of, the foreign manufacturer of the imnported device is subject to the requirements of §§ 803.24, 803.25, and 803.27 as if it were the manufacturer of the device and located in the United States.

(b) Any distributor that distributes an imported device within the United States and that is not subject to § 803.30(a) is subject to the requirements of § 803.29 as if it were a distributor of a device manufactured within the United States. However, a distributor of an imported device shall submit all reports to FDA, even if the distributor submits a report to the foreign manufacturer.

(c) A distributor of an imported device shall maintain a complaint file as set forth in § 803.31.

(d) A distributor of an imported device may request, under § 803.32, an extension of time to submit the written report required under this section.

§ 803.31 Complaint files maintained by a distributor.

(a) A distributor shall establish and maintain a complaint file containing a record of any information, including any written or oral complaint received by the distributor, that is required to be reported to FDA by a distributor or a manufacturer under this part. The record shall contain the information listed in § 803.29(c).

(b) Copies of complaints shall be retained for a period of 2 years from the date of their receipt, even if the distributor has ceased distribution of the device that is the subject of the complaint.

(c) The complaint file established under this section shall be maintained at a location that is reasonably accessible to authorized FDA representatives. Distributors shall allow authorized FDA representatives to examine, copy, or verify at reasonable times and in a reasonable manner, the records contained therein.

§ 803.32 Extension of reporting time.

(a) At the request of a device manufacturer or of a distributor of an imported device, FDA may grant the manufacturer or distributor an extension of time to submit the written report required under § 803.24, § 803.25, or § 803.30(a). A request shall state the additional time needed and provide the reasons the extension is necessary. The request shall state whether a death or injury has occurred and shall include the information listed in § 803.24(b)(1) through (o).

(b) A request for an extension of time shall be made within 7 working days of the manufacturer's or the distributor's receipt of the information concerning the death, injury, or possible deficiency. A request made by telephone shall be confirmed in writing within 3 working days of the telephone request.

§ 803.33 Where to submit a report.

Any notification or report required under this regulation or any request for extension of time shall be submitted to Device Experience Report, Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910 (a telephone number will be added in the final regulation).

§ 803.34 Additional reports required upon request.

Whenever FDA determines that protection of the public health requires information in addition to that initially submitted under this part, the manufacturer or distributor shall submit, upon request of FDA, any of the information listed below. Except for information referred to in paragraph (a) of this section, FDA will not require submissions of information already provided to FDA under this part. Additional items of information that may be requested include:

(a) A description of the device, including brand name and common or usual name.

(b) The total number of devices manufactured, the expiration date of the device, if any, and location of the device in inventory stock and distribution channels, including a list of all consignees and the numbers of devices shipped to these consignees.

(c) Lot, serial, model, catalog, or identification number or code of the device and the dates the device was manufactured and distributed.

(d) Name and address of the manufacturer or distributor.

(e) Name, address, and telephone number of the individual responsible for reporting the death, injury, actual or possible device deficiency, or remedial action to FDA.

(f) A complete description of the actual or possible device deficiency and the circumstances surrounding its discovery, including the date of its discovery.

(g) An evaluation, including failure analysis, of any possible risk of death or injury that could result from the deficiency, and copies of any laboratory testing or analyses available to, or used by, the manufacturer or distributor.

(h) Any existing evaluation by a medical practitioner of the nature or severity of any injury that resulted from the use of the device.

(i) A description of any changes in the device or its labeling required to eliminate the risk of death or injury associated with a device deficiency.

(j) A description of any plan to notify device users of possible remedial actions, including any plan to reimburse users or to repair or replace the device.

(k) A copy of any communication to manufacturers, distributors, practitioners, users, or others regarding a remedial action.

(l) Name and address of persons to whom a communication regarding a remedial action has been or will be transmitted.

(m) Name and address of all patients who have received therapeutic or diagnostic treatment with the device.

(n) Copies of reports of any similar deaths, injuries, deficiencies, or complaints, including the name and address of the person who submitted the information.

(o) Name and address of the person submitting the information about the death, injury, or actual or possible device deficiency to the manufacturer or the distributor.

§ 803.36 Exemption from reporting.

Manufacturers and distributors otherwise subject to this regulation are exempt from submitting a report required under this part, if the manufacturer or distributor submits a report regarding the particular experience in acordance with:

(a) Part 606, Bureau of Biologics, Current Good Manufacturing Practices for Blood and Blood Components;

(b) Section 1002.20 or Part 1003, Bureau of Radiological Health, Reporting of Accidental Radiation Occurences and Notification of Defects or Failure to Comply.

Interested persons may, on or before February 17, 1981 submit to the Dockets Management Branch, (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch, Food and Drug Administration.

Dated: November 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-36093 Filed 11-17-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 181

[Notice No. 358]

Amendments to Explosive Materials Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice results from a review by the Bureau of Alcohol, Tobacco and Firearms (ATF) of explosives regulations and the comments received on a previous notice of proposed rulemaking. The regulatory changes made in this notice clarify and improve the explosives regulations. This notice also includes many of the suggestions submitted during the previous notice of proposed rulemaking comment period.

DATE: Comments must be received on or before January 19, 1981.

ADDRESS: Before adopting these proposed regulations, ATF will consider any written data, comments or suggestions which are submitted to: Chief, Regulations, and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION: The Bureau of Alcohol, Tobacco and Firearms published a notice of proposed rulemaking (Notice No. 309) in the **Federal Register** of August 3, 1977 (42 FR 39316). This notice proposed (1) a substantial amending of the regulations, particularly with respect to the recordkeeping and storage requirements for explosive materials, (2) the addition of new terms and revision of existing language to conform more to current industry terminology and (3) the making of numerous miscellaneous, clarifying, and editorial changes. Written data, comments, and suggestions on the proposed regulations were invited. In response to the notice of proposed rulemaking, written comments were submitted by 19 industry members (manufacturers, users, carriers, distributors), seven trade associations, four agencies of the Federal Government, one agency of a State Government, one workers union, and one individual. Additional comments were submitted by ATF offices. Because a number of changes were made in regulations previously proposed and it has been a lengthy amount of time since that notice of proposed rulemaking, the Bureau has decided to issue a new notice of proposed rulemaking. A few new proposals are also included in this notice of proposed rulemaking.

The previously proposed regulations and comments are summarized as follows:

Summary of Previously Proposed Regulations, Comments, and Changes Pursuant to Comments

New Subpart JJ—Storage

The notice proposed a new Subpart JJ which included the provisions now found in Subpart J and the changes affecting the storage of explosive materials proposed in the notice. Two types of comments were received: first, to make the effective date for mandatory compliance with a proposed Subpart JJ three years from the date of the Treasury decision rather than two, and second, "grandfather" all current storage construction that are in compliance with Subpart J. However, since the major construction requirements for explosives magazines previously proposed have been deleted, a one year phase-in period is proposed in this notice.

Various comments submitted suggested liberalization of the regulations. Some of these were accepted and are included in Subpart JJ. The proposals and comments included:

Bullet-Resistant Construction of Magazines. The original proposals (a) incorporated a listing of materials and combinations of other materials that also meet minimum specifications for bullet-resistancy, and (b) increased the bullet-resistant construction of high explosive storage magazines. Eight commenters objected to increasing the exterior construction of magazines, reasoning that the result would be a financial burden to upgrade facilities; that the 2 inches of hardwood lining currently required is sufficient (as opposed to the 3 inches proposed in the notice); that history does not evidence a further tightening of existing requirements; and that anyone dedicated to firing a weapon into an explosives magazine could do so regardless of the stricter requirements. Another commenter indicated that the increase in the lining would cause a weight problem in types 2 and 3 magazines. (See also paragraph entitled "Type 3 Magazines.")

The Bureau does not have enough information to evaluate the economic impact of upgrading explosives magazines to meet higher bullet-resistancy standards. Therefore, the regulations intending to upgrade explosives magazines for bullet-resistancy will not be issued until an analysis of economic impact can be done. An advance notice of proposed rulemaking will be issued in the future to obtain the information necessary to do an economic impact analysis. The advance notice will be sent to all those

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known to have explosives storage facilities.

Housekeeping. The original notice proposed to (a) allow live trees over 10 feet tall within 25 feet of the magazines, and (b) further define "deteriorated explosives" to include explosives in an unstable condition and explosives leaking any other material, not only a liquid. The comments received suggested the deletion of the phrase "or other material", noting that leakage from explosive materials does not necessarily denote a deteriorating or hazardous condition and that it may lead to confusion as to what is to be destroyed. An example given was ANFO leaking from a hole in its bag, which does not denote a deteriorating condition. The Bureau agrees with this suggestion and the proposed regulations now reflect this.

Table of Distances for the Storage of Explosive Materials. The original notice proposed to include a revised (November 1971) IME Table of Distances in the new regulations to replace the one in current Subpart J which had been published in 1964. No comments were received objecting to this proposal.

Type 1 Magazines. There were several comments submitted relating to type 1 magazines. One suggestion was to require ventilation for only the storage of dynamite and other nitro-based explosives. The Bureau did not agree with this suggestion on the basis that any high explosive may be stored in type 1 magazines, regardless of whether it is nitro-based or not, and we do not approve type 1 storage magazines on the basis of what type of high explosive is stored within. To do so would require specification of a new type of storage magazine which is beyond the scope of this proposal. Another suggestion was to allow the storage of explosives on nonsparking pallets as an alternative to covering floors with a nonsparking material. The Bureau agrees with this suggestion and the proposed regulations allow use of nonsparking pallets as an alternative.

Type 2 Magazines. (1) Indoor Magazines—One trade association suggested a change in the exterior construction of wood magazines to allow the use of not less than 26-gauge sheet metal as a covering rather than the current not less than 20-gauge requirement. The purpose of the sheet metal covering is to provide resistance to fire, and the Bureau feels that allowing the use of not less than 26-gauge sheet metal as suggested provides sufficient resistancy. The suggestion also would bring the regulation into conformity with recommended industry standards.

(2) Cap Boxes—Two suggestions were submitted concerning this type of storage. One was, rather than to require that hinges and hasps be attached by welding, to require that they be substantially attached. The Bureau considered this suggestion and decided to include the same flexibility by modifying the requirement to permit hinges and hasps to be installed in such a manner they cannot be removed when the doors are closed and locked. The other suggestion was to specify that hoods are not required for cap box padlocks. This suggestion was intended to provide clarification. Again, the Bureau agrees that this is a valid point. The proposed regulations now incorporate the above changes.

Type 3 Magazines. The suggestions submitted concerned deletion of the bullet-resistant requirement and the liberalization of lock requirements. The commenters cited that these "day boxes" are attended and that security is maintained when storing explosives. They added that requiring that a magazine be bullet-resistant and that hinges, hasps, and locks meet requirements for type 1 storage are unnecessary for these reasons. The Bureau agreed with the suggestions and has modified the proposed regulations in this notice by deleting bullet-resistancy and providing new specifications for construction and locks.

Types 4 and 5 Magazines. Suggestions were submitted to require ventilation on both types of magazines and to require that type 5 magazines be fire resistant. Due to the economic burdens of reconstructing magazines to meet such requirements, these suggestions will be considered in future Bureau studies.

(Secs. 181.203, 181.208, 181.209, 181.210 and 181.211 added)

Other Changes Affecting Magazine Construction and Storage. The previously proposed regulatory revisions included:

1. *An expansion of the description of high explosives, low explosives, and blasting agents.* Several different comments to eliminate confusion were suggested in regard to this proposal, such as: to add detonators as an additional example for high explosives; to delete references to bullet-sensitivity from the descriptions of high and low explosives because the term is not easily understood nor uniformly interpreted; and to refer also to the definition of blasting agents in § 181.11, in the new description of blasting agents in § 181.202. The Bureau determined that these suggestions provide clarification and the proposed regulations are now amended accordingly. Another comment submitted was to include certain "emulsions" as examples of blasting agents. The Bureau feels that the term is too specific to be included in the description at the present time, but will consider it again in the future when the term becomes common industry terminology.

(Sec. 181.202 added)

2. *A relaxation of the restrictions on the classes of explosive materials to be stored in type 4 magazines.* Since proposed § 181.203 permits electric blasting caps that will not mass detonate to be stored in type 4 magazines, a comment was submitted to also add language in § 181.210 setting out the quantity restrictions for the indoor storage of such electric blasting caps in type 4 magazines. This language is consistent with the present requirements for the indoor storage of blasting caps and was inadvertently omitted from the previous notice. These proposed regulations are amended to reflect this change.

3. *A requirement that when storage magazines are opened and inspected a determination be made if there has been any unauthorized entry or attempted entry into the magazines or if any unauthorized removal of their contents has occurred.* Three comments were received on this proposal. One was to change the requirement of inspection to twice a week to permit easier scheduling. Another was to change the proposal so that the magazines would not have to be opened every 3 days unless the inspection indicating tampering, otherwise, opened only once a month. The commenters based the suggestions on manpower availability, citing that many magazine doors were to heavy to be opened by one person, and that to require opening every 3 days would place a burden on them. The Bureau did not propose a change in the magazine inspection frequency in the previous notice of proposed rulemaking. However, after considering the comments, the Bureau now has decided to propose that magazine inspection frequency be at least every seven days.

(Sec. 181.204 added)

4. *Numerous amendments to provide more flexibility in the construction of types 1, 2, 3, 4, and 5 magazines, both indoor and outdoor.* Some of the comments submitted apply to all or several of the types of magazines generally.

One of the general comments suggested "other adequate drainage" as an alternative to the ground sloping

away for outdoor magazines. The commenters cited the use of a tile drain as an example. The Bureau agrees with this proposal and has now amended the proposed regulations accordingly. Another comment, by an association, suggested a minimum size shackle on a lock of at least 7/16-inch diameter rather than the 3/8-inch diameter as proposed. We have adopted this suggestion. Another commenter suggested deletion of the requirement that lock shackles be casehardened since neither the hasp nor the staple are required to be casehardened. The Bureau has not adopted this suggestion, but decided to expand our proposal to provide more security by requiring that hoods be constructed as to prevent sawing or lever action on the locks, hasps, and staples on types 1, 2, 4, and 5 magazines, rather than just the locks and hasps. A comment was made by an association to retain the current requirement that trailers are required to have two padlocks, not one, for storage in types 2 and 4 magazines to provide greater security. The Bureau reconsidered this proposal in light of the suggestion and decided not to liberalize the locking requirements for type 2 and 4 magazines applicable to trailers, semitrailers, and similar vehicular magazines storing high explosives.

5. *Four suggestions were submitted regarding type 2 and type 4 indoor storage:*

a. To increase the indoor storage limitations from 50 pounds to 100 pounds.

b. To delete the requirement that magazines be located within 10 feet of an outside exit.

c. To delete the requirement for substantial wheels or casters on magazines.

d. To permit any number of magazines in the same building as long as the total maximum quantity of explosives permitted is not exceeded.

The Bureau opposes the suggestion to increase the indoor storage limitations to 100 pounds since it would not be in the best interest of safety and would conflict with industry and other recommended safety standards. The Bureau feels that the other three suggestions make valid points. We have found that many fire marshals and insurance companies do not recommend removal of magazines during a fire and in fact feel that the 10-foot requirement would be a hazard to persons escaping a fire. Because of the conflict, the Bureau is proposing to delete the mandatory requirements that a magazine be located within 10 feet of an outside exit and be equipped with substantial wheels or casters, and leaves the decision up to the local jurisdiction. No problem exists in permitting several magazines to be located in the same building as long as the total quantity of explosive materials stored does not exceed 50 pounds. The applicable proposed regulations now note these changes.

(Secs. 181.208 and 181.210 added)

6. *A clarification that nonsparking lattice work or other nonsparking material may be used to prevent stored explosive materials from coming in direct contact with interior walls and an explanation that the term "Class", in the requirement that explosive materials be stored in such a way that grade, brand, and Class marks are visible, refers to the Department of Transporation shipping classification on the container.* The only comment submitted suggested a deletion of the Department of Transportation Class reference and to only require the grades and brands be visible. Rather than this, since Department of Transportation markings are helpful in taking inventories of explosive materials, the Bureau has not modified the regulation to delete the requirement that grade marks, which do not serve a purpose with respect to storage, are visible.

(Sec. 181.214 added)

7. *A provision to allow the use of electrical lighting when explosion-proof fixtures and wiring in rigid conduit are employed inside the magazine and all electric switches are located outside the magazine.* The National Electrical Code has minimum safety standards for lighting placed or used in explosives magazines. Since this code is updated continually to include advances in electrical technology, the Bureau has decided to adopt these standards. Therefore, we are amending the previously proposed regulations accordingly.

(Sec. 181.217 added)

Additional Comments

Several other comments were submitted that did not directly relate to the previous proposed notice. One suggestion was to include a requirement to use the oldest stocks of explosive materials first. The Bureau feels that enough information is provided by the manufacturer with the explosive materials to enable the user to determine this. Therefore, this suggestion was not adopted. Another suggestion was to decrease the 50-foot limitation on smoking to 25 feet. The Bureau feels that the current requirement is not overly restrictive and that it would not serve any purpose to decrease the limits to 25 feet. The suggestion was not accepted. Another commenter suggested the elimination of restrictions for storage in excess of 300,000 pounds of explosive materials or more than 20 million blasting caps, since the restrictions are not based on safety-related considerations, and they are covered by quantity and distance requirements elsewhere in the regulations. Again, the Bureau does not feel the current provisions are overly restrictive and although the table of distances for storage of explosive materials has 300,000 pounds as the uppermost limit, the maximum quantity restrictions are not specifically given. The Bureau did not accept this suggestion.

Recordkeeping

The previous notice included proposals to (a) change the record retention requirements by requiring permittees or licensees to forward all explosive materials records relating to transactions which occurred more than 5 years before the renewal date of the license or permit to Bureau Headquarters or retain these records on their business premises for not less than 10 years from the day the transaction occurred; (b) revise the format for recording the acquisition and disposition of explosive materials to provide ATF with sufficient data to aid in the tracing of stolen materials and explosives used in bombs and to insure that a licensee or permittee has the necessary information in his records to properly report thefts and losses of explosive materials from his stock; and (c) allow the daily magazine transaction summaries to be kept at one central location on the licensed premises as long as separate records of daily transactions are maintained for each magazine.

Eight of nine comments submitted opposed the record retention changes. The commenters indicated that the proposals would be almost impossible to comply with, would not be economically practical to the industry or to the United States, would create a burden, and that ATF would have problems correlating the data. Alternative proposals were to keep the 10 year retention requirement only, keep the present 5 year requirement, or decrease the retention requirement to 3 years. In light of these comments, the Bureau has decided to withdraw the proposal at this time for further study.

Several commenters felt that there is a problem in determining how to record explosives quantities in the acquisition and disposition records, noting that the regulations require the records to indicate "pounds" of explosives and

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"number" of caps. These commenters suggested the use of the term "applicable quantity units" for the records rather than being limited to "pounds" and "number." This was the Bureau's intention and the inclusion of "pounds" of explosives and "number" of caps were merely examples to be considered. We, therefore, are clarifying the regulations in this notice to also reflect the term "applicable quantity units." One comment was submitted concerning the daily magazine summaries. This commenter suggested that entries be allowed to be made the next business day rather than at the close of the same business day, citing that in many instances overtime must be paid to an employee. The Bureau feels that this suggestion is reasonable, especially when the records are maintained at a central location rather than at the magazine since employees will have to report the date to the central location. The Bureau foresees no problem in implementing this suggestion and now amends the proposed regulations accordingly.

(Secs. 181.121, 181.122, 181.123, 181.124, 181.125, and 181.127)

Other Amendments to the Regulations

The previous notice contained proposals relating to various other sections of the regulations, including:

1. *An amendment to the procedure for reporting a theft or loss of explosive materials to require more specific information when reporting and to require the carrier to report a theft or loss of explosive materials in transit.* Several comments were received regarding both proposed provisions. The suggestions relating to the former provision would require submitting all of the required theft or loss reporting information "if known." For the latter provision, the suggestions would add a new paragraph to regulations, specifically for carriers, that would not require a written report and would allow the carriers to identify stolen or missing explosive materials by the Department of Transportation markings on the package and the shipping information on the invoice. The Bureau's intent is to insure that all thefts or losses are reported. We realize that in some instances, the carrier, or even the licensee or permittee, does not know or cannot determine all the required information when reporting a theft or loss. We also wish to simplify the requirements imposed on the carriers and realize that many of the drivers are not familiar with explosives products. Therefore, the Bureau has decided to adopt the suggestions and the appropriate changes are now made to these proposed regulations.

(Sec. 181.30)

2. *A proposed clarification and separation of the regulations covering changes of address of a licensee's or permittee's business premises and changes in location and construction of explosives storage magazines.*

a. Two comments received suggested further clarifying what copies of licenses or permits to return for correction when a change of address occurs. The Bureau intended that only copies of licenses or permits that were furnished by the regional regulatory administrator be returned. The proposed regulations are now amended accordingly.

b. Eight comments were submitted relating to changes in location and construction of explosives storage magazines. The commenters felt that there should be an alternate means, such as by telephone, to obtain immediate approval for storage in new magazines or new locations or if there are changes in construciton of approved magazines. It was also suggested that this procedure would prevent undue delay in emergency situations, such as those resulting from severe storm damage. In emergency situations, the Bureau presently has special provisions in the regulations to allow for the immediate approval of magazine construction and other methods of operations, if necessary. In other situations, we are aware that a problem exists. We are studying the matter further and plan to handle the problem administratively, rather than by regulation.

(Sec. 181.54 amended and §§ 181.63 and 181.64 added)

3. *A proposed requirement (a) that the license or permit application also be kept available for inspection on the business premises, (b) the license or permit be prominently posted, and (c) in lieu of requiring a copy of the license or permit to be kept at each approved magazine, permission for it to be kept at one central location on the business premises.* One comment expressed confusion as to whether or not we were proposing that a copy of the license or permit application be kept at each magazine. As a result, we are now rewriting the regulation to clarify that we intend only to require the application to be kept available for ATF inspection on the business premises. Two comments opposed the proposed requirement to post the license or permit in a prominent place, reasoning that the requirement would be unnecessary and undesirable from a security standpoint. We agree and are now deleting the word "prominently" and retaining the current requirement that the license or permit simply be available for ATF inspection. The Bureau has also decided to delete the proposal to allow copies of licenses and permits to be kept at one central location in lieu of each magazine and retain the current requirements that provide identification for magazines. The proposed regulation is now amended accordingly.

(Sec. 181.101)

4. *A proposed provision that the Director determine whether any explosive materials (except blasting caps) are small enough in size to be exempt from the requirement that manufacturer's marks of identification be placed on the individual item.* The comments received mainly concerned specifying exemptions in the regulations for items such as Class C detonating fuses, oil well perforators, linear shaped charges, and boosters. The Bureau does not wish to include a specific exemption in the regulations for certain explosive materials and not others without further study. We are, therefore, requiring that the Director authorize exemptions on a case-by-case basis at this time. We are also providing for alternative identification marks on fireworks if approval is given by the Director. Two other comments were submitted suggesting that ATF specify marking requirements for imported explosives to require wire lengths to be marked on caps as a safety precaution and as an aid in describing stolen explosives. The suggestion to mark imported explosives is beyond the scope of this proposal and will be considered in future Bureau studies. We feel that the suggestion to mark wire lengths on caps is unnecessary since wire lengths are readily measureable.

(Sec. 181.109)

Technical, Clarifying and Conforming Changes

Definitions. Numerous comments were submitted concerning clarification of definitions proposed in the section on meaning of terms (Sec. 181.11). The definitions we are changing as a result of comments are discussed below:

1. Artificial barricade.—Several commenters felt that the definition as proposed was too limited and that there is a need to list specific alternatives, such as timbers measuring 12 inches by 12 inches, concrete, or large concrete blocks filled with sand. The Bureau agrees that other artificial barricades may provide equivalent protection, but rather than list specific types of barricade construction, we are now amending the definition to permit other alternatives to be approved.

2. Barricaded.—A suggestion was made to clarify the definition as proposed. The Bureau accepted this suggestion and rewrote the definition for clarity.

3. Blasting agent.—Several comments were submitted concerning this definition. One suggested deleting the phrase "is not bullet-sensitive" from the definition since the phrase is not in the statutory definition of blasting agent. We are adopting this suggestion to conform to the language and eliminate confusion. A number of comments suggested amending the proposed composition for the number 8 test equivalent strength cap to conform to the currently recognized specifications. We agree and are adopting the more recent specifications now recognized by other Federal agencies and the explosives industry. Another comment suggested separating the definition of a number 8 test blasting cap from the definition of blasting agent. We realize that under the present format it is difficult to locate the definition of a number 8 test blasting cap and we are, therefore, amending the proposed regulations to include a reference to where this definition can be found.

4. Bullet.—Sensitive explosive materials—One commenter suggested the deletion of the last phrase of the proposed definition, reasoning that it was confusing and not necessary. The Bureau agrees and we deleted this definition entirely.

5. Detonator.—Several suggestions were made to add that the term detonator includes, but is not limited to, the examples listed in the definition. Again, the Bureau feels that this clarifies the definition and is also in accordance with statutory language. We are, therefore, amending in this notice the definition as previously proposed.

6. Hardwood.—As association suggested a clarification of a hardwood defect by replacing the term "voids" with "wind shakes" to conform with industry terminology. The Bureau agrees and amends the definition accordingly.

7. Magazine.—Two commentors suggested changing the final word in the definition from "explosives" to "explosive materials". Since the term "explosive materials" is the more encompassing term and is actually what we intended, the Bureau is making this amendment for clarification.

8. Railway.—A suggestion was made to shorten the definition since there was too much unnecessary language in it, causing confusion. The Bureau re-examined the wording and is amending the definition to provide more clarity.

9. Softwood.—(See hardwood comment.)

10. Water gels.—A commenter suggested that we specify in the definition that water gels may be either explosives or blasting agents. The Bureau feels that this is a clarifying action and would also bring the definition more in line with that used by other agencies. We are amending the definition accordingly.

(Sec. 181.11)

Other Changes

Three suggestions were made that would provide clarification to other sections of the proposed regulations. The first suggestion was to replace the word "transaction" with the word "disposition" in Subpart G. The Bureau feels that this would further clarify the records required to be maintained by importers, manufacturers, and dealers by giving a more definite entry date for the the information. Therefore, the proposed regulations are now amended accordingly. The second was to emphasize that all the information required on the records kept under this part must be shown. This was the Bureau's intention and since specification of this will provide more clarification, the proposed regulations are now amended to reflect the change.

The third comment was to clarify that all explosive materials must be kept in locked magazines unless they are being transported to a place for storage or use. The Bureau feels that this suggestion clarifies the Bureau's intent and the previously proposed regulations are amended in this notice.

(Secs. 181.121, 181.122, 181.123, 181.124 and 181.205)

New Proposals in This Notice

1. *Renewals of license or permits.* Under current regulations licenses and permits are renewed annually. This frequent renewal requirement has been considered an administrative burden to both the explosives industry and ATF. This notice proposes to lengthen the renewal period to three years.

(Secs. 181.42, 181.43 and 181.51)

2. *Inventories.* Sections in Subpart G, Records and Reports, currently require licensees to take true and accurate inventories (1) at the time of commencing business; (2) when moving to another region; (3) at the time of discontinuing business; and (4) at any time specified by the regional regulatory administrator. Most licensees take frequent inventories of explosives as part of their normal business procedures. However, it is possible for a licensee to take no physical inventory after commencing business and as a result that licensee is not aware of any discrepancies in his explosives stock. A new requirement is proposed to insure that at least an annual physical inventory is taken, but at the same time keep the burden for licensees to a minimum, especially for those licensees who currently take frequent inventories. The new requirement calls for a physical inventory of explosives at least once a year and if an inventory is taken for reasons other than currently required, the record of that inventory would remain on file for inspection and not be sent to ATF.

(Secs. 181.122, 181.123, 181.124 and 181.125)

3. *Mobile or portable magazines.* The use of mobile or portable magazines by licensees and permittees has increased over the years. The leasing or purchasing of mobile or portable magazines by licensees or permittees from persons not involved with explosives has also increased. As a result, many questions about these magazine requirements have been submitted to the Bureau. This notice proposes to add a new section on the subject of mobile or portable magazines.

(Sec. 181.64)

4. *Adding certain industrial or laboratory chemicals as exemptions.* Subpart H specifies several exemptions from the provisions of Part 181. The exemption in § 181.141(a)(8) is for gasoline, fertilizers, propellant actuated devices, or propellant actuated industrial tools manufactured, imported, or distributed for their intended purposes. Certain industrial or laboratory chemicals are not intended as an explosive material and are similar in this respect to gasoline or fertilizers. Therefore, the proposed regulations add as an exemption industrial or laboratory chemicals which are intended for use as reagents and which are packaged and shipped pursuant to U.S. Department of Transportation regulations in 49 CFR Parts 100 to 177, which do not require explosives hazard warning labels. (E.g., 49 CFR 172.101 and 173.65(d).)

(Sec. 181.141(a)(9))

Public Participation

Interested persons who desire an opportunity to comment orally at a public hearing on these proposed regulations should submit a written request to the Director within the 60 day period. The Director reserves the right to determine if a public hearing will be held.

Written comments or suggestions may be inspected by any person at the ATF Reading Room, Room 4407, Ben Franklin

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Post Office Building, 1200 Pennsylvania Avenue NW., Washington, DC, during normal business hours.

Drafting Information

The principal author of this document is James A. Hunt of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and the Treasury Department participated in developing the regulation in matters of substance and style.

Authority and Issuance

These proposed regulations are to be issued under the authority contained in 18 U.S.C. 847 (84 Stat. 959).

Specific changes to the Regulations

In consideration of the foregoing, 27 CFR Part 181 is proposed to be amended as follows:

1. By amending the table of sections to read as follows:

PART 181—COMMERCE IN EXPLOSIVES

* * * * *

Subpart C—Administrative and Miscellaneous Provisions

* * * * *

Sec.
181.32 Special explosive devices.

Subpart D—Licenses and Permits

Sec.
181.53 * * *
181.54 Change of address.
* * * * *
181.63 Changes in approved magazines.
181.64 Mobile or portable magazines.
* * * * *

Subpart J—Storage

The provisions in this subpart shall apply until November 18, 1981. The provisions in Subpart JJ may be used in lieu of the provisions in this subpart, but shall be mandatory after November 18, 1981.

Sec.
181.181 General.
181.182 Classes of explosive materials.
181.183 Types of magazines.
181.184 Inspection of magazines.
181.185 Movement of explosive materials.
181.186 Location of magazines.
181.187 Construction of type 1 magazines.
181.188 Construction of type 2 magazines.
181.189 Construction of type 3 magazines.
181.190 Construction of type 4 magazines.
181.191 Construction of type 5 magazines.
181.192 Smoking and open flames.
181.193 Quantity and storage restrictions.
181.194 Storage within types 1, 2, 3, and 4 magazines.
181.195 Housekeeping.
181.196 Repair of magazines.
181.197 Lighting.
181.198 American table of distances for storage of explosive materials.
181.199 Table of distances for storage of low explosives.
181.200 Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or other blasting agents.
* * * * *

Subpart JJ—Storage

Note.—The provisions of this subpart may be used in lieu of the provisions in Subpart J, but are mandatory November 17, 1980.

Sec.
181.201 General.
181.202 Classes of explosive materials.
181.203 Types of magazines.
181.204 Inspection of magazines.
181.205 Movement of explosive materials.
181.206 Location of magazines.
181.207 Construction of type 1 magazines.
181.208 Construction of type 2 magazines.
181.209 Construction of type 3 magazines.
181.210 Construction of type 4 magazines.
181.211 Construction of type 5 magazines.
181.212 Smoking and open flames.
181.213 Quantity and storage restrictions.
181.214 Storage within types 1, 2, 3, and 4 magazines.
181.215 Housekeeping.
181.216 Repair of magazines.
181.217 Lighting.
181.218 Table of distances for storage of explosives materials.
181.219 Table of distances for storage of low explosives.
181.220 Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or other blasting agents.

2. By amending § 181.2 to read as follows:

§ 181.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in explosive materials. For regulations applicable to commerce in firearms and ammunition, see Part 178 of this chapter. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778), and regulations in Part 47 of this chapter and in Parts 121–128 of Title 22, Code of Federal Regulations. For statutes applicable to nonmailable materials, see 18 U.S.C. 1716 and implementing regulations. For statutes applicable to water quality standards, see 33 U.S.C. 1341.

3. By revising § 181.11 to read as follows:

§ 181.11 Meaning of terms.

When used in this part, terms are defined as follows in the section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

Act. 18 U.S.C. Chapter 40.

Ammunition. Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and includes percussion caps and 3/32-inch pyrotechnic safety fuses. The term does not include black powder.

Approved storage facility. A place where explosive materials are stored, consisting of one or more approved magazines, conforming to the requirements of this part and covered by a license or permit issued under this part.

Army-type structure. A structure approved by the Department of Defense for the storage of explosive materials.

Artificial barricade. An artificial mound or revetted wall of earth of a minimum thickness of 3 feet, or any other approved barricade that offers equivalent protection.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Barricaded. The effective screening of a magazine containing explosive materials from another magazine, a building, a railway, or a highway, either by a natural barricade or by an artificial barricade. To be properly barricaded, a straight line from the top of any sidewall of the magazine containing explosive materials to the eave line of any other magazine or building, or to a point 12 feet above the center of a railway or highway, will pass through the natural or artificial barricade.

Blasting agent. Any material or mixture, consisting of fuel and oxidizer, that is intended for blasting and not otherwise defined as an explosive; if the finished product, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. A number 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.04–0.45 grams of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed to 0.03 of an inch, to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer.

Bureau. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.

Business premises. When used with respect to a manufacturer, importer, or dealer, the property on which explosive materials are manufactured, imported, stored or distributed. The premises includes the property where the records of a manufacturer, importer, or dealer are kept if different than the premises where explosive materials are manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are received or stored. The premises includes the property where the records of the user are kept if different than the premises where explosive materials are received or stored.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term does not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized to perform the duties of an officer of the Customs Service.

Dealer. Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating-cord delay connectors, and nonelectric instantaneous and delay blasting caps.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Distribute. To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the required declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is required, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Explosive actuated device. Any tool or special mechanized device which is actuated by explosives, but not a propellent actuated device.

Explosive materials. Explosives, blasting agents, water gels (slurries), and detonators. Explosive materials include, but are not limited to, all items in the List of Explosive Materials provided for in § 181.23.

Explosives. Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Fugitive from justice. Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term also includes any person who has been convicted of any crime and has fled to avoid imprisonment.

Hardwood. Red Oak, White Oak, Hard Maple, Ash, Hickory, or other equally bullet-resistant hard wood, free from loose knots, wind shakes, or similar defects, having an ambient moisture content less than 15% under normal conditions.

Highway. Any public street, alley, or road.

Importer. Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Inhabited building. Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Interstate or foreign commerce. Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer. A dealer licensed under this part.

Licensed importer. An importer licensed under this part.

Licensed manufacturer. A manufacturer licensed under this part to engage in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Licensed manufacturer-limited. A manufacturer licensed under this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Licensee. Any importer, manufacturer, or dealer licensed under this part.

Magazine. Any building or structure, other than an explosives manufacturing building, used for storage of explosive materials.

Manufacturer. Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Manufacturer-limited. Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Mass detonation (mass explosion). Explosive materials mass detonate (mass explode) when a unit or any part of a larger quantity of explosive material explodes and causes all or a substantial part of the remaining material to detonate or explode.

Natural barricade. Natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

Number 8 test blasting cap. (See definition of "blasting agent.")

Permittee. Any user of explosives for lawful purpose, who has obtained a user permit under this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Plywood. Exterior, construction grade (laminated wood) plywood.

Propellant actuated device. Any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.

Railway. Any steam, electric, or other railroad or railway which carries passengers for hire.

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Service Center Director. A director of an internal revenue service center.

Softwood. Douglas fir, pine, or other equally bullet-resistant soft wood, free from loose knots, wind shakes, or similar defects, having an ambient moisture content less than 15% under normal conditions.

State. A State of the United States. The term includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides or maintains his home. Temporary stay in a State does not make the State of temporary stay the State of residence.

U.S.C. The United States Code.

User-limited permit. A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

User permit. A permit issued to a person authorizing him (a) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (b) to transport explosive materials in inter-state or foreign commerce.

Water gels (Slurries). A wide variety of explosives and blasting agents. As manufactured, they have varying degrees of sensitivity to initiation. They usually contain substantial proportions of water and ammonium nitrate, some of which are in solution in the water. Some are sensitized by an explosive material, while others contain no explosive ingredient but may be sensitized with metals such as aluminum or with other fuels.

4. By amending § 181.23 to read as follows:

§ 181.23 List of explosive materials.

The Director shall compile and publish in the **Federal Register** a List of Explosive Materials. The list shall be published and revised at least annually.

5. By amending § 181.26(b) to read as follows:

§ 181.26 Prohibited shipment, transportation, or receipt of explosive materials.

* * * * *

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive any explosive materials which have been shipped or transported in interstate or foreign commerce who (1) is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to marihuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

6. By revising § 181.30 to read as follows:

§ 181.30 Reporting theft or loss of explosive materials.

(a) Any licensee or permittee who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephoning 800–424–9555 (nationwide toll free number) and on ATF F 5400.5 (formerly Form 4712) in accordance with the instructions on the form. Theft or loss of any explosive materials shall also be reported to appropriate local authorities.

(b) Any other person, except a carrier of explosive materials, who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephoning 800–424–9555 (nationwide toll free number) and in writing to the nearest ATF office. Theft or loss shall also be reported to appropriate local authorities.

(c) Reports of theft or loss of explosive materials under paragraphs (a) and (b) shall include the following information, if known:

(1) The manufacturer or brand name.

(2) The manufacturer's marks of identification (date and shift code).

(3) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(4) Description (dynamite, blasting agents, detonators, etc.).

(5) Size (length and diameter).

(d) A carrier of explosive materials who has knowledge of the theft or loss of any explosive materials shall, within 24 hours of discovery, report the theft or loss by telephoning 800–424–9555 (nationwide toll free number). Theft or loss shall also be reported to appropriate local authorities. Reports of theft or loss of explosive materials by carriers shall include the following information, if known:

(1) The manufacturer or brand name.

(2) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(3) Description (Class A, B, or C explosives, or blasting agents, as classified by the U.S. Department of Transportation in the Hazardous Materials Table).

7. By adding a new § 181.32 to read as follows:

§ 181.32 Special explosive devices.

The Director may exempt certain explosive actuated devices, explosive actuated tools, or similar devices from the requirements of this part. A person who desires to obtain an exemption under this section for any special explosive device, which as designed does not constitute a public safety or security hazard, shall submit a written request, in triplicate, to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the advice, the name and address of the manufacturer or importer, the purpose of and use for which it is intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require that a sample of the device be submitted for examination and evaluation. If it is not possible to submit the device, the person requesting the exemption shall advise the Director of this and designate the place where the device will be available for examination and evaluation.

8. By amending § 181.42 to read as follows:

§ 181.42 License fees.

(a) Each applicant shall pay a fee for obtaining a license, a separate fee being required for each business premises, as follows:

(1) Manufacturer—$50

(2) Manufacturer-limited (nonrenewable)—$5.

(3) Importer—$50.

(4) Dealer—$20.

(b) Each applicant for a renewal of a license shall pay fees for a three year license as follows:

(1) Manufacturer—$25.

(2) Importer—$25.

(3) Dealer—$10.

9. By amending § 181.43 to read as follows:

§ 181.43 Permit fees.

(a) Each applicant shall pay a fee for obtaining a permit as follows:

(1) User—$20.

(2) User-limited (nonrenewable)—$2.

(b) Each applicant for a renewal of a user permit shall pay a fee of $10 for a three year permit.

10. By amending § 181.44 to read as follows:

§ 181.44 License or permit fee not refundable.

No refund of any part of the amount paid as a license or permit fee shall be made where the operations of the licensee or permittee are, for any reason, discontinued during the period of an issued license or permit. However, the license or permit fee submitted with an application for a license or permit shall be refunded if that application is denied, withdrawn, or abandoned, or if a license is cancelled subsequent to having been issued through administrative error.

11. By amending § 181.51 to read as follow:

§ 181.51 Duration of license or permit.

An original license or permit shall be issued for a period of 1 year. A renewal license or permit shall be issued for a period of 3 years. However, a manufacturer-limited license shall be issued for a period of 30 days and a user-limited permit shall be valid only for a single purchase transaction.

12. By revising § 181.54 to read as follows:

§ 181.54 Change of address.

During the term of a license or permit, licensees or permittees may move their business or operations to a new address at which they intend to regularly carry on their business or operations, without procuring a new license or permit. However, in every case, the licensee or permittee shall—

(a) Give notification of the new location of the business or operations to the regional regulatory administrator for the regions from which and to which or the region within which the move is made at least 10 days before the move; and

(b) Submit his license or permit, and any copies furnished with the license or permit, to the regional regulatory administrator for the region to which or within which the move is to be made. The regional regulatory administrator will approve the license or permit, and any copies, to show the new location and the new license or permit number (if any). The approved license or permit, and any copies, will then be returned to the licensee or permittee.

13. By adding a new § 181.63 to read as follows:

§ 181.63 Changes in approved magazines.

(a) *Change in location of magazines.* During the term of a license or permit, a licensee or permittee who intends to change the location of an approved magazine described in his license or permit application (other than a change in location of an approved portable or mobile magazine), shall submit a letter application, in duplicate, to the regional regulatory administrator of the region who issued the license or permit. The letter application shall identify the magazine, including location, type of construction, and class of explosive materials stored within, as prescribed in § 181.182 or § 181.202; and describe the new location. Explosive materials may not be stored at the new location before receipt of a copy of the letter application stamped "Approved."

(b) *Modifications to or changes in construction of magazines.* During the term of a license or permit, a licensee or permittee who intends to make modifications to or changes in construction of approved magazines described in his license or permit application, shall submit a letter application, in duplicate, to the regional regulatory administrator describing the proposed modifications or changes. Explosives materials may not be stored in the magazine before receipt of a copy of the letter application stamped "Approved" and modifications or changes are made.

(c) *Additional magazines.* During the term of a license or permit, a licensee or permittee who intends to acquire additional magazines (excluding portable or mobile magazines previously approved by ATF) not described in the license or permit application, or who intends to construct magazines, shall submit a letter application, in duplicate, to the regional regulatory administrator describing the proposed additional magazines. These magazines may not be used before a receipt of a copy of the letter application stamped "Approved."

(d) *Retention of approved magazine applications.* A licensee or permittee shall retain, as part of records available for examination by ATF officers, any letter application approval for magazines.

14. By adding a new § 181.64 to read as follows:

§ 181.64 Mobile or portable magazines.

a. *General.* A mobile or portable magazine is considered suitable for other than temporary (under 24 hours) storage of explosives if the magazine:

(1) Has been approved by ATF and the notice of approval is posted inside the magazine;

(2) Meets the construction requirements of this part for the explosives stored in the magazine;

(3) Is marked as required by this section; and

(4) Is positioned, when in use, in accordance with the American Table of Distances.

(b) *Application for approval.* The owner, leasee, or othe person in possession of a mobile or portable magazine which has not been previously approved by ATF may obtain approval by submitting a letter application to the regional regulatory administrator of the region in which the magazine is physically located. The letter shall include:

(1) The name, address and telephone number of the person in possession of the magazine;

(2) A description of the magazine (construction, materials used, dimensions); and, if known,

(3) The type and approximate quantity of explosives to be stored in the magazine.

(c) *Marking requirements.* Each mobile or portable magazine shall be marked on the inside as follows:

(1) The name and address (city and State) of the owner, leasee, or other person in possession of the magazine;

(2) The applicable work, "Licensee," "Permittee," or "Nonlicensee," as it relates to the owner, leasee, or other person in possession of the magazine.

(d) *Changes after approval.*

(1) Once a mobile or portable magazine is approved by ATF, a licensee or permittee may rent, lease, borrow, or purchase such magazine without having to obtain further ATF approval. Notice of approval and proof of ownership of a magazine shall be furnished if requested by ATF.

(2) A person in possession of a previously ATF approved mobile or portable magazine may move that magazine to another location without need for another ATF approval.

(3) An explosives licensee or permittee desiring to make construction alterations on an ATF approved magazine shall submit a letter application describing the alternations to the regional regulatory administrator of the region which originally approved the magazine. The altered mobile or portable magazine is not considered suitable for the storage of explosives until the letter application is approved and the magazine is marked as required in this section.

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15. By amending § 181.101 to read as follows:

§ 181.101 Posting of license or permit.

A license or permit issued under this part, or copy of a license or permit, shall be posted and available for inspection on the business premises at each place where explosive materials are manufactured, imported, or distributed, and in each magazine of an approved storage facility. The copy of the application accompanying the approved license or permit returned by the regional regulatory administrator shall also be kept available for inspection on the business premises.

16. By amending § 181.103(d) to read as follows:

§ 181.103 Sales or distributions between licensees or between licensees and permittees.

* * * * *

(b) * * * Paragraph (d) of this section applies to those taking possession of explosives materials.

* * * * *

(d) Where possession of explosive materials is transferred at the distributor's premises, the distibutor shall in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the distributor's premises of explosive materials to an employee of a licensee or permittee, or to an employee of a carrier transporting explosive materials to a licensee or permittee, the distributor delivering explosive materials shall obtain an executed ATF F 5400.8 (formerly Form 4721) from the employee before releasing the explosive materials. The ATF F 5400.8 shall contain all of the information required on the form and required by this part.

Example 1. An ATF F 5400.8 is required when:

a. An employee of the purchaser takes possession at the distributor's premises.

b. An employee of a carrier hired by the purchaser takes possession at the distributor's premises.

Example 2. An ATF F 5400.8 is not required when:

An employee of the distributor takes possession of the explosives for the purpose of transport to the purchaser.

b. An employee of a carrier hired by the distributor takes possession of the explosives for the purpose of transport to the purchaser.

* * * * *

17. By amending § 181.105(f) to read as follows:

§ 181.105 Distributions to nonlicensees and nonpermittees.

* * * * *

(f) Where the possession of explosive materials is transferred at the distributor's premises, the distributor shall in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the distributor's premises of explosive materials to an employee of a nonlicensee or nonpermittee, or to an employee of a carrier transporting explosive materials to a nonlicensee or nonpermittee, the distributor delivering explosive materials shall obtain an executed ATF F 5400.8 from the employee before releasing the explosive materials. The ATF F 5400.8 shall contain all of the information required on the form and by this part. (See examples in § 181.103(d).)

* * * * *

18. By amending § 181.106(c) to read as follows:

§ 181.106 Certain prohibited distributions.

* * * * *

(c) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute any explosive materials to any person knowing or having reason to believe that the person—

(1) Is, except as provided under § 181.142 (d) and (e), under indictment for, or was convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of marihuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802)[;] or

(4) Was adjudicated as a mental defective or was committed to a mental institution.

19. By revising § 181.109 to read as follows:

§ 181.109 Identification of explosive materials.

(a) Each licensed manufacturer of explosive materials shall legibly identify by marking, all explosive materials he manufactures for sale or distribution. The marks required by this section shall identify the manufacturer and the location, date, and shift of manufacture. The licensed manufacturer shall place on each cartridge, bag, or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging.

(b) *Exceptions.*

(1) Licensed manufacturers of blasting caps are only required to place the identification marks prescribed in paragraph (a) on the containers used for the packaging of blasting caps.

(2) The Director may authorize other means of identifying explosive materials upon receipt of a letter application from the licensed manufacturer showing that other identification is reasonable and will not hinder the effective administration of this part.

(3) The Director may authorize the use of other means of identification on fireworks instead of marks prescribed in paragraph (a).

20. By revising § 181.121 to read as follows:

§ 181.121 General.

(a)(1) The records pertaining to explosive materials required by this part shall be commercial invoices, a record book or some other permanent form of record kept in a manner required in this subpart.

(2) The records required by this subpart shall be kept on the business premises for 5 years from the date a transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also § 181.128 for discontinuance of business or operations.)

(b) ATF officers may enter the premises of any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee for the purpose of examining or inspecting any record or document required by or obtained under this part (see § 181.24). Section 843(f) of the Act requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers, and permittees to make all required records available for examination or inspection at all reasonable times. Section 843(f) of the Act also requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers, and permittees to submit all reports and information relating to all required records and their contents, as the regulations in this part prescribe.

(c) Each licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, and permittee shall maintain all records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of explosive materials as the regulations in this part prescribe. Sections 842(f) and 842(g) of the Act make it unlawful for any licensed importer, licensed dealer, or permittee knowingly to make any false entry in, or fail to make entry in, any record required to be kept under the Act and the regulations in this part.

21. By amending § 181.122 (a), (b) and (c) to read as follows:

§ 181.122 Records maintained by importers.

(a) Each licensed importer of explosive materials shall take true and accurate physical inventories which shall include all explosive materials on-hand required to be accounted for in the records kept under this part. The licensed importer shall take a special inventory (1) at the time of commencing business, which shall be the effective date of the license issued upon original qualification under this part; (2) at the time of changing the location of his business to another region; (3) at the time of discontinuing business; and (4) at any time the regional regulatory administrator may in writing require. Each special inventory shall be prepared in duplicate, the original of which shall be submitted to the regional regulatory administrator, and the duplicate shall be retained by the licensed importer. If a special inventory specified by (1) through (4) of this subsection has not been taken during the calendar year, at least one physical inventory shall be taken. However, the record of the yearly inventory, other than a special inventory required by (1) through (4) of this subsection, shall remain on file for inspection instead of being sent to the regional regulatory administrator. (See also § 181.127.)

(b) Each licensed importer shall, not later than the close of the next business day following the date of importation or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of importation or other acquisition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(c) Each licensed importer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the information required in § 181.103 (b), (c), and (d) and the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

* * * * *

22. By amending § 181.123 (a), (b), and (c) to read as follows:

§ 181.123 Records maintained by licensed manufacturers.

(a) Each licensed manufacturer shall take true and accurate physical inventories which shall include all explosive materials on-hand required to be accounted for in the records kept under this part. The licensed manufacturer shall take a special inventory (1) at the time of commencing business, which shall be the effective date of the license issued upon original qualification under this part; (2) at the time of changing the location of his premises to another region; (3) at the time of discontinuing business; and (4) at any other time the regional regulatory administrator may in writing require. Each special inventory shall be prepared in duplicate, the original of which shall be submitted to the regional regulatory administrator, and the duplicate shall be retained by the licensed manufacturer. If a special inventory required by (1) through (4) of this subsection has not been taken during the calendar year, at least one physical inventory shall be taken. However, the record of the yearly inventory, other than a special inventory required by (1) through (4) of this subsection, shall remain on file for inspection instead of being sent to the regional regulatory administrator. (See also § 181.127.)

(b) Each licensed manufacturer shall, not later than the close of the next business day following the date of manufacture or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of manufacture or other acquisition.

(2) Name or brand name of product.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(c)(1) Each licensed manufacturer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the information required in § 181.103(b), (c), and (d) and the following information:

(i) Date of disposition.

(ii) Name and brand name of manufacturer or name of importer, as applicable, if acquired other than by his own manufacture.

(iii) Manufacturer's marks of identification.

(iv) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(v) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(vi) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(2) Each licensed manufacturer who manufacturers explosive materials for his own use shall, not later than the close of the next business day following the date of use, enter in a separate record the following information:

(i) Date of use.

(ii) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(iii) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

* * * * *

23. By amending § 181.124 (a), (b), (c) and (d) to read as follows:

§ 181.124 Records maintained by dealers.

(a) Each licensed dealer shall take true and accurate physical inventories which shall include all explosive materials on-hand required to be accounted for in the records kept under this part. The licensed dealer shall take a special inventory (1) at the time of commencing business, which shall be the effective date of the license issued upon original qualification under this part; (2) at the time of changing the location of his premises to another region; (3) at the time of discontinuing business; and (4) at any other time the regional regulatory administrator may in writing require. Each special inventory shall be prepared in duplicate, the original of which shall be submitted to the regional regulatory administrator, and the duplicate shall be retained by the licensed dealer. If a special inventory required by (1) through (4) of this subsection has not been taken during the calendar year, at least one physical inventory shall be taken. However, the record of the yearly inventory, other than a special inventory

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required by (1) through (4) of this subsection, shall remain on file for inspection instead of being sent to the regional regulatory administrator. (See also § 181.127.)

(b) Each licensed dealer shall, not later than the close of the next business day following the date of purchase or other acquisition of explosive materials (except as provided in paragraph (d) of this section), enter the following information in a separate record:

(1) Date of receipt.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) Name, address, and license or permit number of the person from whom the explosive materials are received.

(c) Each licensed dealer shall, not later than the close of the next business day following the date of use or the date of distribution of any explosive materials to another licensee or a permittee (except as provided in paragraph (d) of this section), enter in a separate record the information required in § 181.103 (b), (c), and (d) and the following information:

(1) Date of disposition.

(2) Name and brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) When a commercial record is kept by a licensed dealer showing the purchase or other acquisition information required for the permanent record prescribed by paragrpah (b) of this section, or showing the distribution information required for the permanent record prescribed by paragraph (c) of this section, the licensed dealer acquiring or distributing the explosive materials may, for a period not exceeding 7 days following the date of acquisition or distribution of the explosive materials, delay making the required entry into the permanent record of acquisition or distribution. However, until the required entry of acquisition or disposition is made in the permanent record, the commercial record must be (1) kept by the licensed dealer separate from other commercial documents kept by the licensee, and (2) readily available for inspection on the licensed premises.

* * * * *

24. By amending § 181.125 (a) and (c) to read as follows:

§ 181.125 Records maintained by licensed manufacturers-limited and permittees.

(a) Each licensed manufacturer-limited and each permittee shall take true and accurate physical inventories which shall include all explosive materials onhand required to be accounted for in the records kept under this part. The licensed manufacturer-limited or permittee shall take a special inventory (1) at the time of commencing business, which shall be the effective date of the license or permit issued upon original qualification under this part; (2) at the time of changing the location of his premises to another region; (3) at the time of discontinuing business; and (4) at any other time the regional regulatory administrator may in writing require. Each special inventory shall be prepared in duplicate, the original of which shall be submitted to the regional regulatory administrator and the duplicate shall be retained by the licensee or permittee. If a special inventory required by (1) through (4) of this subsection has not been taken during the calender year, a permittee is required to take at least one physical inventory. However, the record of the yearly inventory, other than a special inventory required by (1) through (4) of this subsection, shall remain on file for inspection instead of being sent to the regional regulatory administrator. (See also § 181.127.)

* * * * *

(c)(1) Each permittee shall, not later than the close of the next business day following the date of acquisition of explosive materials, enter the following information in a separate record:

(i) Date of acquisition

(ii) Name or brand name of manufacturer.

(iii) Manufacturer's marks of identification.

(iv) Quantity (applicable quantity units, such as pounds of explosives, number of caps, etc.).

(v) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(vi) Name, address, and license number of the person from whom the explosive materials are received.

(2) Each permittee shall, not later than the close of the next business day following the date of disposition of surplus explosive materials to another permittee or a licensee, enter in a separate record the information prescribed in § 181.124(c).

* * * * *

25. By amending § 181.127 to read as follows:

§ 181.127 Daily summary of magazine transactions.

In taking inventory required by §§ 181.122, 181.123, 181.124, and 181.125, a licensee or permittee shall enter the inventory in a record of daily transactions to be kept at each magazine of an approved storage facility; however, these records may be kept at one central location on the business premises if separate records of daily transactions are kept for each magazine. Not later than the close of the next business day, each licensee and permittee shall record by manufacturer's name or brand name, the total quantity received in and removed from each magazine during the day, and the total remaining onhand at the end of the day. Any discrepancy which might indicate a theft or loss of explosive materials shall be reported in accordance with § 181.30.

26. By amending § 181.129 to read as follows:

§ 181.129 Exportation.

Explosive materials shall be exported in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and implementing regulations. However, licensed manufacturers, licensed manufacturers, licensed importers, and licensed dealers exporting explosive materials shall maintain records showing the manufacture or acquisition of explosive materials as required by this part and records showing the quantity, the manufacturer's name or brand name of explosive materials, the name and address of the foreign consignee of the explosive materials, and the date the explosive materials were exported.

27. By amending § 181.141(a)(7) and adding (a)(9) to read as follows:

§ 181.141 Exemptions.

(a) *General.* This part shall not apply with respect to:

* * * * *

(7) The importation and distribution of fireworks classifed as Class C explosives and generally known as "common fireworks", as described by U.S. Department of Transportation regulations in 49 CFR 173.100(r), and those Class C explosives described in 49 CFR 173.100 (p), (t), (u), and (x).

* * * * *

(9) Industrial and laboratory chemicals which are intended for use as reagents and which are packaged and shipped pursuant to U.S. Department of Transportation regulations, 47 CFR Parts 100 to 177, which do not require explosives hazard warning labels.

* * * * *

28. By adding an explanatory note following the heading for Subpart J to read as follows:

Subpart J—Storage

The provisions in this subpart shall apply until November 18, 1981. The provisions in Subpart JJ may be used in lieu of the provisions in this subpart, but shall be mandatory after November 18, 1981.

29. By adding a new Subpart JJ, immediately following Subpart J, to read as follows:

Subpart JJ—Storage

The provisions of this subpart may be used in lieu of the provisions in Subpart J, but are mandatory after November 18, 1981.

§ 181.201 General.

(a) Section 842(j) of the Act and § 181.29 of this part require that the storage of explosive materials by any person must be in accordance with the regulations in this part. The storage standards prescribed by this subpart confer no rights or privileges to store explosive materials in a manner contrary to State or other law.

(b) The Director may authorize alternate construction for explosives storage magazines when it is shown that the alternate magazine construction is substantially equivalent to the standards of safety and security contained in this subpart. Any person intending to use alternate magazine construction shall submit a letter application, in triplicate, to the regional regulatory administrator for transmittal to the Director, specifically describing the proposed magazine. Explosive materials may not be stored in alternate magazines before receipt of a copy of the letter application stamped "Approved."

(c) A licensee or permittee who intends to make modifications to or changes in his approved magazines, or who intends to construct or acquire additional magazines, shall comply with §§ 181.63 and 181.64.

§ 181.202 Classes of explosive materials.

For purposes of this part, there are three classes of explosive materials. These classes, together with the description of explosive materials comprising each class, are as follows:

(a) *High explosives.* Explosive materials which can be caused to detonate by means of a blasting cap when unconfined. (For example, dynamite and detonators.)

(b) *Low explosives.* Explosive materials which can be caused to deflagrate when confined. (For example, black powder; safety fuses; igniters; igniter cords; fuse lighters; and "special fireworks", defined as Class B explosives by U.S. Department of Transportation regulations in 49 CFR 173.88(d).)

(c) *Blasting agents.* (For example, ammonium nitrate-fuel oil and certain water-gels (see also § 181.11).)

§ 181.203 Types of magazines.

For purposes of this part, there are five types of magazines. These types, together with the classes of explosive materials, as defined in § 181.202, which shall be stored in them, are as follows:

(a) *Type 1 magazines.* Permanent magazines for the storage of high explosives, subject to the limitations prescribed by §§ 181.206 and 181.213. Other classes may also be stored in type 1 magazines.

(b) *Type 2 magazines.* Mobile and portable indoor and outdoor magazines for the storage of high explosives, subject to the limitations prescribed by §§ 181.206, 181.208(b), and 181.213. Other classes may also be stored in type 2 magazines.

(c) *Type 3 magazines.* Portable outdoor magazines for the temporary storage of high explosives while attended (for example, a "day-box"), subject to the limitations prescribed by §§ 181.206 and 181.213. Other classes may also be stored in type 3 magazines.

(d) *Type 4 magazines.* Magazines for the storage of low explosives, subject to the limitations prescribed by §§ 181.206(b), 181.210(b), and 181.213. Blasting agents may be stored in type 4 magazines, subject to the limitations prescribed by §§ 181.206(c), 181.211(b), and 181.213. Electric blasting caps that will not mass detonate may also be stored in type 4 magazines, subject to the limitations prescribed by §§ 181.206(a), 181.210(b), and 181.213.

(e) *Type 5 magazines.* Magazines for the storage of blasting agents, and water-gels (slurries) which can be demonstrated to be not cap-sensitive, subject to the limitations prescribed by §§ 181.206(c), 181.211(b), and 181.213.

§ 181.204 Inspection of magazines.

Any person storing explosive materials shall open and inspect his magazines at least every 7 days. This inspection need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazines, or unauthorized removal of the contents of the magazines.

§ 181.205 Movement of explosive materials.

All explosive materials must be kept in locked magazines meeting the standards in this subpart unless they are—

(a) In the process of manufacture;

(b) Being physically handled in the operating process of a licensee or users;

(c) Being used; or

(d) Being transported to a place of storage or use by a licensee or permittee or by a person who has lawfully acquired explosive materials under § 181.126.

§ 181.206 Location of magazines.

(a) Outdoor magazines in which high explosives are stored shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored, than the minimum distances specified in the table of distances for storage of explosive materials in § 181.218.

(b) Outdoor magazines in which low explosives are stored shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which explosive materials are stored, than the minimum distances specified in the table of distances for storage of low explosives in § 181.219. The distances shown in § 181.219 may not be reduced by the presence of barricades.

(c)(1) Outdoor magazines in which blasting agents in quantities of more than 50 pounds are stored shall be located no closer to inhabited buildings, passenger railways, or public highways than the minimum distances specified in the table of distances for storage of explosive materials in § 181.218.

(2) Ammonium nitrate and magazines in which blasting agents are stored shall be located no closer to magazines in which high explosives or other blasting agents are stored than the minimum distances specified in the table of distances for the separation of ammonium nitrate and blasting agents in § 181.220. However, the minimum distances for magazines in which explosives and blasting agents are stored from inhabited building, etc., may not be less than the distances specified in the table of distances for storage of explosive materials in § 181.218.

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§ 181.207 Construction of type 1 magazines.

A type 1 magazine shall be a permanent structure: a building, an igloo or Army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated.

(a) *Buildings.* All building type magazines shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. The ground around building magazines shall slope away for drainage or other adequate drainage shall be provided.

(1) *Masonry wall construction.* Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than 6 inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well-tamped, coarse, dry sand or weak concrete (at least a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior walls shall be constructed of, or covered with, a nonsparking material.

(2) *Fabricated metal wall construction.* Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14-gauge, securely fastened to a metal framework. Metal wall construction shall be either lined inside with brick, solid cement blocks, hardwood not less than 4 inches thick, or shall have at least a 6-inch sand fill between interior and exterior walls. Interior walls shall be constructed of, or covered with, a nonsparking material.

(3) *Wood frame wall construction.* The exterior of outer wood walls shall be covered with steel or aluminum not less than number 26-gauge. An inner wall of, or covered with, nonsparking material shall be constructed so as to provide a space of not less than 6 inches between the outer and inner walls. The space shall be filled with coarse, dry sand or weak concrete.

(4) *Floors.* Floors shall be constructed of, or covered with, a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored. Use of pallets covered with a nonsparking material is considered equivalent to a floor constructed of, or covered with, a nonsparking material.

(5) *Foundations.* Foundations shall be constructed of brick, concrete, cement block, stone, or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(6) *Roof.* Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26-gauge steel or aluminum, fastened to ⅞ inch sheathing.

(7) *Bullet-resistant ceilings or roofs.* Where it is possible for a bullet to be fired directly through the roof and into the magazine at such an angle that the bullet would strike the explosive within, the magazine shall be protected by one of the following methods:

(i) A sand tray lined with a layer of building paper, plastic, or other nonporous material, and filled with not less than 4 inches of coarse, dry sand, shall be located at the tops of inner walls covering the entire ceiling area, except that portion necessary for ventilation.

(ii) A fabricated metal roof shall be constructed of 3/16-inch of plate steel lined with 4 inches of hardwood. (For each additional 1/16-inch of plate steel, the hardwood lining may be decreased 1 inch.)

(8) *Doors.* All doors shall be constructed of ¼-inch plate steel and lined with 2 inches of hardwood. Hinges and hasps shall be attached to the doors by welding, riveting or bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(9) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inches diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements shall not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(10) *Ventilation.* Ventilation shall be provided to prevent dampness and heating of stored explosive materials. Ventilation openings shall be screened to prevent the entrance of sparks. Ventilation openings in side walls and foundations shall be offset or shielded for bullet-resistant purposes. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floors and between the side walls and the ceiling shall have a wooden lattice lining or equivalent to prevent the packages of explosive materials from being stacked against the side walls and blocking the air circulation.

(11) *Exposed metal.* No sparking material shall be exposed to contact with the stored explosive materials. All ferrous metal nails in the floor and side walls, which might be exposed to contact with explosive materials, shall be blind nailed, countersunk, or covered with a nonsparking lattice work or other nonsparking material.

(b) *Igloos, Army-type structures, tunnels, and duguts.* Igloo, Army-type structure, tunnel, and dugout magazines shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earthmound covering of not less than 24 inches on the top, sides and rear unless the ceiling or roof meets the requirements of paragraph (a)(7) of this section. Interior walls and floors shall be constructed of, or covered with, a nonsparking material. Magazines of this type shall also be constructed in conformity with the requirements of paragraph (a)(4) and paragraphs (a) (8) through (11) of this section.

§ 181.208 Construction of type 2 magazines.

A type 2 magazine shall be a box, trailer, semitrailer, or other mobile facility.

(a) *Outdoor magazines.* (1) *General.* Outdoor magazines shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated. They shall be supported to prevent direct contact with the ground and, if less than one cubic yard in size, shall be securely fastened to a fixed object. The ground around outdoor magazines shall slope away for drainage or other adequate drainage shall be provided. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Exterior construction.* The exterior and covers or doors shall be constructed of ¼ inch steel and shall be lined with two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or which overlap the sides by at least one inch when in a closed position.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (V) a

three-point lock. Padlocks shall have at least five tumbers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.* Indoor magazines shall be fire-resistant and theft-resistant. They need not be bullet-resistant and weather-resistant if the buildings in which they are stored provide protection from the weather and from bullet penetration. No indoor magazine may be located in a residence or dwelling. The indoor storage of high explosives may not exceed a quantity of 50 pounds. More than one indoor magazine may be located in the same building if the magazines are separated by a distance of 10 feet and the total quantity of all explosive materials stored does not exceed 50 pounds. Blasting caps shall be stored in separate magazines (except as provided in § 181.213) and the total quantity of caps may not exceed 5,000.

(2) *Exterior construction.* Indoor magazines shall be constructed of wood or metal according to one of the following specifications:

(i) Wood indoor magazines shall have sides, bottoms, and covers or doors constructed of 2 inches of hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than number 26-gauge (.0179 inches, based on U.S. Manufacturer's Standards). Nails exposed to the interior of magazines shall be countersunk.

(ii) Metal indoor magazines shall have sides, bottoms, and covers or doors constructed of number 12-gauge (.1046 inches, based on U.S. Manufacturer's Standards) metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least one inch.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(c) *Cap boxes.* Magazines for blasting caps in quantities of 100 or less shall have sides, bottoms, and covers or doors constructed of number 12-gauge (.1046 inches, based on U.S. Manufacturer's Standards) metal and lined with a nonsparking material. Hinges and hasps shall be attached so they cannot be removed from the outside. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter shall be sufficient for locking purposes.

§ 181.209 Construction of type 3 magazines.

A type 3 magazine shall be a "day-box" or other portable magazine. It shall be fire-resistant, weather-resistant, and theft-resistant. A type 3 magazine shall be constructed of number 12-gauge (.1046 inches, based on U.S. Manufacturer's Standards) steel, lined with either ½-inch plywood or ½-inch Masonite-type hardboard. Doors shall overlap sides by at least one inch. Hinges and hasps shall be attached by welding, riveting or bolting (nuts on inside). A single lock having at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter shall be sufficient for locking purposes. Explosive materials may not be left unattended in type 3 magazines, but must be removed to types 1 or 2 magazines for unattended storage.

§ 181.210 Construction of type 4 magazines.

A type 4 magazine shall be a building, igloo or Army-type structure, tunnel, dugout, box, trailer, or a semitrailer or other mobile magazine.

(a) *Outdoor magazines.* (1) *General.* Outdoor magazines shall be fire-resistant, weather-resistant, and theft-resistant. The ground around outdoor magazines shall slope away for drainage or other adequate drainage shall be provided. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Construction.* Outdoor magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. Foundations shall be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with fire-resistant material. The walls and floors shall be constructed of, or covered with, a nonsparking material or lattice work. The doors or covers shall be metal or solid wood covered with metal.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.* Indoor magazines shall be fire-resistant and theft-resistant. They need not be weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine may be located in a residence or dwelling. The indoor storage of low explosives may not exceed a quantity of 50 pounds. More than one indoor magazine may be located in the same building if the magazines are separated by a distance of 10 feet and the total quantity of all explosive materials stored does not exceed 50 pounds. Electric blasting caps that will not mass detonate shall be stored in separate magazines and the total number of caps may not exceed 5,000.

(2) *Construction.* Indoor magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. The walls and floors shall be constructed of, or covered with, a nonsparking material.

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The doors or covers shall be metal or solid wood covered with metal.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. Indoor magazines located in secure rooms that are locked as provided in this paragraph, may have each door or opening locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

§ 181.211 Construction of type 5 magazines.

A type 5 magazine shall be a building, igloo or Army-type structure, tunnel, dugout, bin, box, trailer, or a semitrailer or other mobile facility.

(a) *Outdoor magazines.* (1) *General.* Outdoor magazines shall be weather-resistant and theft-resistant. The ground around magazines shall slope away for drainage or other adequate drainage shall be provided. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Construction.* The doors or covers shall be constructed of solid wood or metal.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. Trailers, semitrailers, and similar vehicular magazines may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.* Indoor magazines shall be theft-resistant. They need not be weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine may be located in a residence or dwelling. Indoor magazines containing quantities of blasting agents in excess of 50 pounds shall be subject to the tables of distances in §§ 181.218 and 181.220 of this subpart.

(2) *Construction.* The doors or covers shall be constructed of wood or metal.

(3) *Hinges and hasps.* Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. Indoor magazines located in secure rooms that are locked as provided in this paragraph, may have each door or opening locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 7/16-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

§ 181.212 Smoking and open flames.

Smoking, matches, open flames, and similar spark producing devices shall not be permitted—

(a) In any magazine;

(b) Within 50 feet of any outdoor magazine; or

(c) Within a 50-foot line of sight of any indoor magazine.

§ 181.213 Quantity and storage restrictions.

(a) Explosive materials in excess of 300,000 pounds or blasting caps in excess of 20 million may not be stored in one magazine unless approved by the Director.

(b) Blasting caps may not be stored in the same magazine with other explosive materials, except under the following circumstances:

(1) In a type 4 magazine, electric blasting caps that will not mass detonate may be stored with electric squibs, safety fuse, igniters, and igniter cord.

(2) In a type 1 or type 2 magazine, blasting caps may be stored with detonating cord, delay devices, and any of the items listed in paragraph (b)(1) of this section.

§ 181.214 Storage within types 1, 2, 3, and 4 magazines.

(a) Explosive materials within a magazine may not be placed directly against interior walls and shall be stored so as not to interfere with ventilation. To prevent contact of stored explosive materials with walls, a nonsparking lattice work or other nonsparking material may be used.

(b) Containers of explosive materials shall be stored by being laid flat with top sides up. Corresponding Classes (as defined in Department of Transportation (DOT) regulations in 49 CFR Part 173) and brands shall be stored together within a magazine so that brand and DOT Class marks are easily visible upon inspection. Stocks of explosive materials shall be stored so as to be easily counted and checked.

(c) Except with respect to fiberboard or other nonmetal containers, containers of explosive materials may not be unpacked or repacked inside a magazine or within 50 feet of a magazine, and may not be unpacked or repacked close to other explosive materials. Containers of explosive materials shall be securely closed while being stored.

(d) Tools used for opening or closing containers of explosive materials shall be of nonsparking materials, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials. Metal tools other than nonsparking transfer conveyors may not be stored in any magazine containing high explosives.

§ 181.215 Housekeeping.

Magazines shall be kept clean, dry, and free of grit, paper, empty packages and containers, and rubbish. Floors shall be regularly swept. Brooms and other utensils used in the cleaning and maintenance of magazines shall have no spark-producing metal parts, and may be kept in magazines. Floors stained by leakage from explosive materials shall be cleaned according to instructions of the explosives manufacturer. When any explosive material has deteriorated (i.e. if a liquid is leaking from any explosive material) it shall be destroyed in accordance with the advice or instructions of its manufacturer. The area surrounding magazines shall be kept clear of rubbish, brush, dry grass, or trees (except live trees more than 10 feet tall), for not less than 25 feet in all directions. Living foliage which is used to stabilize the earthen covering of a magazine need not be removed. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor magazines.

§ 181.216 Repair of magazines.

Before repairing the interior of magazines, all explosive materials shall be removed and the interior shall be cleaned. Before repairing the exterior of magazines, all explosive materials shall be removed if there exists any possibility that repairs may produce sparks or flame. Explosive materials removed from magazines under repair shall be (a) placed in other magazines appropriate for the storage of those explosive materials under this subpart, or (b) placed a safe distance from the magazines under repair where they shall be properly guarded and protected until the repairs have been completed.

§ 181.217 Lighting.

(a) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines.

(b) Electric lighting used in any explosives storage magazine shall meet the standards prescribed by the current National Electrical Code for the conditions present in the magazine at any time. All electrical switches shall be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.

(c) Copies of invoices, work orders or similar documents which indicate the lighting complies with the National Electrical Code shall be available for inspection by ATF officers.

§ 181.218 Table of distances for storage of explosives materials.

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QUANTITY OF EXPLOSIVES		DISTANCES IN FEET							
		Inhabited Buildings		Public Highways Class A to D		Passenger Railways — Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

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Notes.—(1) When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways and, in addition, they shall be separated from each other by not less than the distances shown for "Separation of Magazines". However, the quantity of explosives contained in cap magazines shall govern in the spacing of cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then the two or more magazines, as a group, must be considered as one magazine. The total quantity of explosives stored in that group must then be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum distances from other magazines, inhabited buildings, railways or highways.

(2) All types of blasting caps in strengths through No. 8 cap shall be rated at 1½ lbs. of explosives per 1,000 caps. For strengths higher than No. 8 caps, consult the manufacture.

(3) For quantity and distance purposes, detonating cord of 50 to 60 grains per foot shall be calculated as equivalent to 9 lbs. of high explosives per 1,000 feet. Heavier or lighter core loads shall be rated proportionately.

§ 181.219 Table of distances for storage of low explosives.

Pounds (over)	Pounds (not over)	From inhabited building distance (feet)	From public railroad and highway distance (feet)	From above ground magazine (feet)
(1)	(2)	(3)	(4)	(5)
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

§ 181.220 Table of separation distances of ammonium nitrate and blasting agents from explosives or other blasting agents.[1, 6]

Donor weight		Minimum separation distance of acceptor from donor when barricaded (ft.)[2]		Minimum thickness of artificial barricades (in.)[4]
Pounds over	Pounds not over	Ammonium nitrate[3]	Blasting agent[3]	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

(1) This table specifies separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or other blasting agents referred to in the Table as the "donor". Ammonium nitrate, by itself, is not considered to be a donor when applying this Table. Ammonium nitrate, ammonium nitrate-fuel oil, or combinations of the two are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate shall be included in the mass of the donor when calculating separation distances.

(2) When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor". Where storage is in bullet resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances and barricade thickness in excess of those prescribed in § 181.218 are not required.

(3) The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer issued by the Fertilizer Institute. Ammonium nitrate failing to pass this test shall be stored at separation distances in accordance with the table in § 181.218.

(4) These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the U.S. Department of Transportation (DOT) regulations.

(5) Earth dikes, sand dikes, or enclosures filled with the required minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves are also acceptable.

(6) For determining the distances to be kept from inhabited buildings, passenger railways, and public highways, use the table in § 181.218.

Ammonium nitrate, when stored with blasting agents or explosives, may be counted at one-half its actual weight because its blast effect is lower.

Signed: September 25, 1980.

G. R. Dickerson,

Director.

Approved: October 27, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-35827 Filed 11-17-80; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-7-FRL 1672-2]

Designation of Areas for Air Quality Planning Purposes: State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This document proposes redesignation of Linn County, Iowa (Cedar Rapids), from nonattainment to attainment with respect to the ozone ambient air quality standards. It also proposes reclassification of three nearby counties from unclassifiable to attainment with respect to the ozone air quality standards. A nonattainment designation means that air pollution levels in a certain area are above the ambient air quality standard and that the area is required to develop a plan to attain the standard under Part D of the Clean Air Act. An attainment designation means that air pollution levels are better than the standard while an unclassifiable designation means that sufficient information does not exist to make a determination.

DATE: Public comment should be received by January 19, 1981.

ADDRESS: Public comments should be sent to: Daniel J. Wheeler, Air Support Branch, Environmental Protection Agency, Kansas City, Missouri 64106.

Copies of the state submission and the EPA-prepared evaluation report are available at the above address and at the:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C.

Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, at (816) 374-3791, (FTS) 758-3791.

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act, as amended in 1977, requires all areas of the nation to be designated as attaining the National Ambient Air Quality Standards (NAAQS), as not attaining the NAAQS or as being unclassifiable with respect to attainment for each pollutant for which there is a standard. Attainment/nonattainment designations are recommended by the state and approved or revised as necessary by EPA.

V 45 N 0180 UMI

The original designations for the state of Iowa were published in the **Federal Register** of March 3, 1978 (43 FR 8962), and were codified in the Code of Federal Regulations at 40 CFR 81.316. At that time EPA approved the state's recommendation that Linn County, Iowa, be designated nonattainment on the basis that an ozone monitoring site located in Cedar Rapids exceeded the ozone ambient air quality standard. Buchannan, Delaware, and Jones counties were designated unclassifiable with respect to ozone because they were located downwind of the Linn County nonattainment area.

On October 1, 1980, the Iowa Department of Environmental Quality (DEQ) submitted a redesignation request recommending that these four counties be redesignated to attainment. The basis for this request is that the ozone monitor in Cedar Rapids, on which the original nonattainment designation was based, has not recorded any values in exces of the ozone standard for the last two years. The standard was exceeded only two days in 1978.

The ozone standard, as published on February 8, 1979 (44 FR 8220), and codified at 40 CFR 50.9, is 0.12 part per million (ppm), which is equivalent to 235 micrograms per cubic meter. The standard is attained when the expected number of days per year with maximum hourly average concentrations above 0.12 ppm is equal to or less than one.

The number of expected exceedences is determined by statistical method described in Appendix H of 40 CFR Part 50. This appendix requires analysis of three years of monitoring data, if available. It also provides a method for considering possible exceedences on days when the monitoring equipment was not operating.

The State submitted data shows that the yearly expected exceedances averaged over the most recent three years is less than one per year and, therefore, below the NAAQS for ozone in Cedar Rapids. There are no ozone monitors in Buchannan, Delaware, and Jones counties. Since their designation was based on the Cedar Rapids designation, the state has requested they be redesignated also.

The Administrator's decision to approve or revise the proposed designations will be based on the comments received and on a determination of whether or not the designations meet the requirements of the Clean Air Act and satisfy the requirements stated in the March 3, 1978, and February 8, 1979, rulemakings.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels the other regulations "specialized". EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This proposal is issued under the authority of Section 107 of the Clean Air Act, as amended. (42 U.S.C. 7407)

Dated: November 6, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-35899 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-1-FRL 1673-8]

Massachusetts Application for Interim Authorization, Phase I, Hazardous Waste Management Program; Public Hearing

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Massachusetts application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Massachusetts interim authorization application must be received by December 24, 1980.

PUBLIC HEARING: EPA will conduct a public hearing on the Massachusetts interim authorization application at 10:00 a.m. on December 19, 1980. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Massachusetts will participate in the public hearing.

ADDRESSES: Send comments to Gary B. Gosbee, Massachusetts State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

The public hearing will be held at: University of Massachusetts Medical Center Amphitheater, 55 Lake Avenue, North, Worcester, Massachusetts 01605. Copies of the Massachusetts interim authorization application are available at the following addresses for inspection and copying by the public:

Massachusetts Department of Environmental Quality Engineering, Division of Hazardous Waste, 600 Washington Street, Room 320, Boston, Massachusetts 02111 (telephone (617) 727-5431).

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5791/4017).

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: Gary B. Gosbee, Massachusetts State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-1591).

FOR FURTHER INFORMATION CONTACT: Gary B. Gosbee, Massachusetts State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-1591).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate

in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and,

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). The State of Massachusetts has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, as also noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Massachusetts interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Gary B. Gosbee, Massachusetts State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-1591) approximately three days after the hearing at cost.

Major Issues of Interest to EPA

In order for the State program to receive interim authorization, it must be substantially equivalent to the Federal program. EPA is soliciting comments on all aspects of the substantial equivalence of the Massachusetts program to the Federal hazardous waste management program.

EPA would like to receive comments on Massachusetts' provision for public participation in the enforcement process. 40 CFR 123.128(f)(2) requires a state program to provide public participation in the enforcement process by providing either:

(1) Authority which allows intervention as of right in any civil or administrative action by any citizen having an interest which is or may be adversely affected; or

(2) Assurances that the state will investigate and provide written responses to citizen complaints, not oppose intervention by any citizen where permissive intervention may be authorized by statute rule or regulation, and publish and provide at least 30 days for public comment on any proposed settlement of a state enforcement action.

Massachusetts has chosen the first option by reliance on the authority of Rule 24, the Massachusetts Rules of Civil Procedure, and G. L. c. 30 A sections 1 (3) and 10. EPA is concerned that Massachusetts Rule of Civil Procedure 24(a) may not provide for an adequate right of intervention in civil actions.

EPA solicits comments on this and all other aspects of the substantial equivalence of the Massachusetts program to the Federal Hazardous Waste Management Program.

Dated: November 13, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-35883 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PH-FRL 1672-6; PP 4F1514/P158]

Polyamide Polymer Derived From Sebacic Acid; Exemption From the Requirement of Tolerance; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to delete an inert ingredient from § 180.1001(d) where it is listed without restriction, and to establish § 180.1053 where the inert ingredient will be limited to use as an encapsulating medium for methoprene only.

DATE: Comments must be received on or before December 18, 1980.

ADDRESS: Written comments to: John Shaughnessy, Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-229, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John Shaughnessy (202-426-9425), 80P-921.

SUPPLEMENTARY INFORMATION: On January 23, 1975, EPA issued a notice that published in the **Federal Regisiter** of January 23, 1975 (40 FR 3571) that established exemptions from the requirement of a tolerance for certain inert ingredients in pesticide formulations. Polyamide polymer derived from sebacic acid, vegetable oil acids with or without dimerization, terephthalic acid and/or ethylenediamine was among those inert ingredients and was listed with no limitation as to which pesticide chemicals it may encapsulate. By some error, the limitation to use with methoprene only was omitted.

Recent invetigation indicates the polyamide type polymers may extend the life of the active pesticidal ingredient in the formulation. This may cause illegal (over tolerance) residues of the pesticide on a food crop. The Agency has residue data for encapsulated methoprene only. There are no data concerning residues when the polyamide polymer is used to encapsulate other pesticides. Therefore, in order to prevent illegal residues, the Agency now limits the exemption to use

as an encapsulation medium for methoprene only.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains this polyamide polymer may request, on or before December 18, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating the document control number, "PP 4F1514/P158." All written comments filed in response to this petition will be available for public inspection in the office of John Shaughnessy from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended as follows:

§ 180.1001 [Amended]

1. By deleting "Polyamide polymer derived from sebacic acid, vegetable oil acids with or without dimerization, terephthalic acid and/or ethylenediamine" from the table under § 180.1001(d).

2. By adding a new § 180.1053 to read as follows:

§ 180.1053 Polyamide polymer derived from sebacic acid; exemption from requirement of tolerance.

Polyamide polymer derived from sebacic acid, vegetable oil acids with or without dimerization, terephthalic acid and/or ethylenediamine is exempted from the requirement of a tolerance when used as an encapsulating medium for methoprene only.

[FR Doc. 80-35895 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 53 and 57

Discontinuation of Approval of Modifications in Notes, Guaranteed Under Title VI or VII of the Public Health Service Act, Proposed To Permit Use of the Notes as Collateral for Tax-Exempt Financings

AGENCY: Public Health Service, HHS.

ACTION: Proposed rule.

SUMMARY: The Public Health Service proposes to add a new section to regulations for making and guaranteeing loans for construction and modernization of hospitals and medical facilities and to regulations for guaranteeing loans for the construction of teaching facilities for health profession personnel. Under these regulations the Department of Health and Human Services would decline to approve any new proposal to modify the terms of an existing loan guaranteed under Title VI or Title VII of the Public Health Service Act if the proposal would permit use of the guarantee (or guaranteed loan) as collateral for tax exempt financing. These regulations are being proposed because the Secretary believes the continued issuance of these tax exempt bonds could have a detrimental effect on the Federal Government.

DATES: Comments must be received on or before January 19, 1981.

ADDRESS: Written comments may be made to: Florence B. Fiori, Dr. P.H., Director, Bureau of Health Facilities, Center Building, Room 5-22, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Fiori (301) 436-7700.

SUPPLEMENTARY INFORMATION: Under the proposed rule set out below, the Secretary of HHS will not approve modifications in the terms of existing loans guaranteed by HHS under Title VI or Title VII of the Public Health Service Act when the modifications are proposed to permit the loans to be used as collateral for an issue of tax-exempt securities. Previously, modifications of the terms of such loans for this purpose have been reviewed and approved (when certain savings were realized by the assisted facility and the Department.) Requests for approval of modifications in the terms of HHS guaranteed loans to permit the use of these loans as collateral for tax-exempt securities have been made because of the requirement in the applicable loan guarantee agreements that the credit and security instruments evidencing the guaranteed loans be in a form "acceptable" to the Secretary. The requests for approval of modifications in the terms of the guaranteed loans focused on reduction of the interest rate and adjustments in the repayment terms.

At the request of the Treasury Department, the Secretary recently conducted a review of this Department's approval standards and practices with respect to the modifications in loan terms proposed to permit collateralization of tax-exempt issues.[1] The Secretary believes that any further approvals of these modifications would not be consistent with the financial interests of the United States.

The basis for this belief is twofold. Treasury Department and Congressional Budget Office officials have asserted [2] that:

(a) The savings to the Federal Government gained by use of a financing mechanism which combines the benefits of a Federal guarantee and tax-exempt status in certain securities do not offset the revenue loss to the Federal Treasury occasioned by the consequent conversion of taxable instruments of tax-exempt securities; and

(b) Because the investment securities created under this procedure would be both federally guaranteed and tax-exempt and therefore superior to other financial instruments that the Federal Government issues, the marketability and costs of other Federal securities would be adversely affected.

Furthermore, the determination to discontinue approval of proposed modifications of guaranteed loans to permit this type of financing is consistent with the legislative history of Title VI of the Public Health Service Act.

[1] While the procedure was studied, a moratorium on approving these "refinancings" was imposed and a notice to that effect was published in the **Federal Register** on October 15, 1979 [44 FR 59291] which announced that no "refinancing" proposals would be accepted by the Department until further notice. Requests for approval received by the Department prior to October 15, 1979, are now being reviewed under the standards in effect prior to the moratorium, if the proponents of such modifications are still interested in pursuing their respective proposals. When modifications are approved, the respective approvals will allow the proponents one year to carry out the proposed restructuring of their guaranteed loans.

[2] Statement of John M. Samuels, Tax Legislative Counsel, U.S. Department of the Treasury and Statement of Robert D. Reischauer, Deputy Director, Congressional Budget Office, in the report of the hearing before the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, May 17, 1979, on "HUD guarantee of Tax Exempt Hospital Financing," G.P.O. Serial No. 96-21.

The legislative history of the Title IV (Hill-Burton) loan guarantee program clearly evidences a Congressional intention that loan guarantees (and the accompanying interest subsidies) not be available with respect to securities the interest on which is exempt from Federal income tax, to avoid the creation of tax-exempt securities superior to Treasury's other issues. [Congressional Record (Senate) Daily Ed. April 7, 1970, at pp. S5237 and S5242.] To the extent that the Department's approval of modifications in loan terms would allow a Federal guarantee to be combined with tax-exempt securities, the original Congressional intent with respect to such practices would be frustrated. Because the Congress modeled the Title VII loan guarantee statute on the Title VI statute, we believe that this statement of Congressional intent applies equally to the Title VII program. In addition, Congress has recently confirmed this approach by restricting the use of Federal loan insurance and mortgage guarantees as collateral for tax-exempt financing in Sec. 315 of the Housing and Community Development Amendments of 1979 (Pub. L. 96-153), which amended Sec. 242(d) of the National Housing Act, 12 USC 1715z-7.

Accordingly, proposed rules are set forth below to discontinue approval of proposed modifications in the terms of loans guaranteed under Title VI of VII of the Public Health Service Act (also known, respectively, as the Hill-Burton and Health Professions Educational Assistance Acts) when these modifications are proposed to permit the use of these loans or the Secretary's guarantee as collateral for tax-exempt issues.

Dated: October 14, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: November 4, 1980.

Patricia Roberts Harris,

Secretary.

1. It is proposed to amend Subpart N of Part 53 of Title 42 of the Code of Federal Regulations by adding the following section:

§ 53.155 Modification of loans.

No official of the Department of Health and Human Services will approve any proposal to modify the terms of a loan guaranteed under Title VI of the Public Health Service Act (42 U.S.C. 291 *et seq.*) which would permit the use of the guaranteed loan (or the guarantee) as collarteral for an issue of tax-exempt securities. This rule does not apply to proposals submitted to the Department on or before October 15, 1979.

(Sections 215 and 621, Public Health Service Act, 58 Stat. 690 and 84 Stat. 344, 42 U.S.C. 216 and 291j-1, as amended)

2. It is also proposed to amend Subpart P of Part 57 of Title 42 of the Code of Federal Regulations by adding the following new section:

§ 57.1518 Modification of loans.

No official of the Department of Health and Human Services will approve any proposal to modify the terms of a loan guaranteed under Title VII of the Public Health Service Act (42 U.S.C. 293 *et seq.*) and this Subpart which would permit the use of the guaranteed loan (or the guarantee) as collateral for an issue of tax-exempt securities. This rule does not apply to proposals submitted to the Department on or before October 15, 1979.

(Sections 215 and 726, Public Health Service Act, 58 Stat. 690 and 85 Stat. 432, 42 U.S.C. 216 and 293i, as amended)

[FR Doc. 80-35963 Filed 11-17-80; 8:45 am]

BILLING CODE 4110-83-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 80-546]

Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: First Supplemental Notice to initiation of rulemaking.

SUMMARY: The Commission accepts the nomination of state commissioners and appoints them and three Federal Commissioners to the Federal-State Joint Board established in a prior notice of proposed rulemaking to consider revisions to the Jurisdictional Separations Manual. The Commission further defines the applicable *ex parte* rules regarding submission of comments.

ADDRESS: Interested parties may file notices of appearance and intent to participate in the proceeding to Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Room 530, (202) 632-4715.

Adopted: September 19, 1980.

Released: September 25, 1980.

By the Commission: Commissioner Jones concurring in the result.

1. In the *Notice of Proposed Rulemaking and Order Establishing a Joint Board*, FCC80-339, released June 12, 1980 (See 45 FR 41458), we instituted this proceeding to reexamine the allocation of exchange plant investment and associated expenses in the light of the comments filed in the *MTS-WATS Market Structure* proceeding and our Final Decision in the *Second Computer Inquiry* proceeding. We established a Joint Board in accordance with Section 410(c) of the Communications Act. In this First Supplemental Notice we appoint the members of the Joint Board, clarify certain procedural strictures, and provide for generation of a service list so that all parties may be served with all relevant material.

2. The NARUC has submitted the nominations of Richard D. Gravelle, Commissioner, California Public Utilities Commission; Edward B. Hipp, Commissioner, North Carolina Utilities Commission; Edward P. Larkin, Commissioner, New York Public Service Commission; and Edward M. Parsons, Jr., Commissioner, Wisconsin Public Service Commission; to serve as members of the Joint Board. We thank the NARUC for submitting the nominations of these distinguished state commissioners and will appoint them to this Joint Board. We will also appoint Chairman Charles D. Ferris, Commissioner Robert E. Lee and Commissioner Joseph R. Fogarty of this Commission to serve on the Joint Board.

3. As noted in paragraph 32 of the order establishing this Joint Board, Section 221(c) proceedings, except as otherwise provided, are restricted rulemakings and subject to the Commission's *ex parte* rules. Inasmuch as the Joint Board and its staff will prepare a Recommended Decision which will necessarily require an extensive technical record we believe that all parties will be protected if the Joint Board is subject to the *ex parte* rules pertaining to informal rulemaking proceedings [1] until final written submissions or oral presentations are made to the Joint Board. After that time, the *ex parte* rules affecting restricted proceedings will apply to the Joint Board and the Commission.[2]

4. The official record of this proceeding will be maintained by the Secretary, Federal Communications

[1] *Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking Proceedings*, Gen. Docket No. 78-167, FCC80-334, released June 30, 1980.

[2] Notice will be issued to advise interested persons of the change in status when this proceeding is restricted.

Commission. During the Joint Board phase of this proceeding parties will be required to file the original and appropriate copies of all submissions with the Secretary and a copy with each state commission member of the Board. To facilitate service of all future orders of the Commission and the Joint Board parties may file a notice of appearance and intent to participate at this time. A service list based on such notices will be prepared and distributed by a Commission Public Notice. The service list will also identify mailing addresses for the state commission members and the state staff members appointed by the state commissioners.

5. Accordingly, it is ordered, that Chairman Charles D. Ferris, Commissioner Robert E. Lee and Commissioner Joseph R. Fogarty of the Federal Communications Commission; Commissioner Richard D. Gravelle, California Public Utilities Commission; Commissioner Edward B. Hipp, North Carolina Utilities Commission; Commissioner Edward P. Larkin, New York Public Service Commission and Commissioner Edward M. Parsons, Jr., Wisconsin Public Service Commission ARE APPOINTED to the Federal-State Joint Board convened in this proceeding.

6. It is further ordered, that, pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), Chairman Charles D. Ferris SHALL serve as Chairman of the Federal-State Joint Board.

7. It is further ordered, That all parties MAY FILE a Notice of Appearance and Intent to Participate with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

8. It is further ordered, That the official record of this proceeding SHALL BE maintained by the Secretary, Federal Communications Commission and available for public inspection pursuant to procedures applicable to all Commission proceedings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-35817 Filed 11-17-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-36]

Domestic Crude Oil Entitlements

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on Domestic Crude Oil Entitlements (45 FR 72552, October 31, 1980).

DATES: The public hearing originally scheduled for November 18, 1980, in San Francisco, California is cancelled. The Washington, D.C., hearing remains scheduled for December 3, 1980.

ADDRESS: All comments and requests to speak at the Washington, D.C. hearing should be submited to the Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-36, Department of Energy, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearing Management), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3971

Daniel J. Thomas (Office of Regulatory Policy), Economic Regulatory Administration, Room 7116, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3263

William Funk or Peter Schaumberg (Office of the General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754

Issued in Washington, D.C., November 13, 1980.

F. Scott Bush,

Assistant Administrator for Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36128 Filed 11-17-80; 10:22 am]

BILLING CODE 6450-01-M

Notices

Federal Register

Vol. 45, No. 224

Tuesday, November 18, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Determination

In conformity with title 13, United States Code (sections 131, 182, 224, and 225), and with due notice having been published on August 18, 1980 (45 FR 54788), I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other government sources.

Most of the following commodity or product surveys provide data on shipments and/or production; some provide data on stocks, unfilled orders, orders booked, consumption, etc. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. These surveys have been arranged under major group headings based on the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for use of Federal statistical agencies.

Major Group 20—Food and Kindred Products

Confectionery

Major Group 22—Textile Mill Products

Broadwoven goods finished
Narrow fabrics
Yarn production
Knit fabric production

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Men's and Boy's Outerwear
Women's and Children's Outerwear
Underwear and Nightwear
Brassieres, corsets, and allied garments
Gloves and mittens

Major Group 24—Lumber and Wood Products, Except Furniture

Hardwood plywood
Softwood plywood
Lumber

Major Group 26—Paper and Allied Products

Pulp, and detailed grades of paper and board

Major Group 27—Printing and Publishing

Selected office products

Major Group 28—Chemicals and Allied Products

Industrial gases
Inorganic chemicals
Pharmaceutical preparations, except biologicals
Sulfuric acid

Major Group 29—Petroleum Refining and Related Industries

Asphalt and tar roofing and siding products

Major Group 30—Rubber and Miscellaneous Plastics Products

Rubber
Plastics products

Major Group 31—Leather and Leather Products

Shoes and slippers (by method of construction)

Major Group 32—Stone, Clay, and Glass

Consumer, scientific, technical, and industrial glassware
Fibrous glass

Major Group 33—Primary Metal Industries

Steel mill products
Insulated wire and cable
Magnesium mill products
Nonferrous castings

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment

Commercial steel forgings
Steel power boilers
Selected heating equipment
Metal cans

Major Group 35—Machinery, Except Electrical

Internal combustion engines
Tractors, except garden tractors
Farm machines and equipment
Mining machinery and mineral processing equipment
Refrigeration and air-conditioning equipment, including warm air furnaces
Computers and office and accounting machines
Pumps and compressors
Selected industrial air pollution control equipment
Construction machinery
Anti-friction bearings

Major Group 36—Electrical Machinery, Equipment, and Supplies

Radios, televisions, and phonographs
Motors and generators
Wiring devices and supplies
Switchgear, switchboard apparatus, relays, and industrial controls
Transformers
Selected electronic and associated products, including telephone and telegraph apparatus
Electric housewares and fans
Electric lighting fixtures
Major household appliances

Major Group 37—Transportation Equipment

Aircraft propellers

Major Group 38—Professional, Scientific, and Controlling Instruments; Photographic, and Optical Goods; Watches and Clocks

Selected instruments and related products
Atomic energy products and services

The following survey represents an annual supplement of a monthly survey and will cover the same establishments canvassed monthly. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected monthly.

Major Group 32—Stone, Clay, and Glass

Glass containers

The following list of surveys represents annual counterparts of monthly and quarterly surveys which are conducted on a voluntary basis and will cover only those establishments which are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Major Group 20—Food and Kindred Products

Flour milling products

Major Group 22—Textile Mill Products

Broadwoven fabric (gray)
Consumption of wool and other fibers, and production of tops and noils
Carpet and rugs

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Sheets, pillowcases, and towels

Major Group 25—Furniture and Fixtures

Mattresses and bedsprings

V 45 NO 18 80 UMI

Major Group 26—Paper and Allied Products
Converted flexible packaging products

Major Group 28—Chemicals and Allied Products
Phosphatic fertilizer materials
Paint, varnish, and lacquer

Major Group 30—Rubber and Miscellaneous Products
Plastics bottles

Major Group 32—Stone, Clay, and Glass
Glass containers
Refractories
Clay construction products
Flat glass

Major Group 33—Primary Metal Industries
Nonferrous castings
Iron and steel foundries
Aluminum producers and importers
Titanium ingot, mill products, and castings
Copper controlled materials

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment
Plumbing fixtures
Steel shipping drums and pails
Closures for containers

Major Group 35—Machinery, Except Electrical
Construction machinery
Metalworking machinery

Major Group 36—Electrical Machinery, Equipment, and Supplies
Fluorescent lamp ballasts
Electric lamps

Major Group 37—Transportation Equipment
Complete aircraft and aircraft engines, except military
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts
Truck trailers

The annual survey of manufactures will collect general statistical data such as total value of shipments, shipments by product class, employment, payroll, workhours capital expenditures, cost of materials consumed, gross book value of assets, retirements, and depreciation of fixed assets, rental payments, supplemental labor costs, information on the quantity of fuels used, etc. This survey, while conducted on a sample basis, will cover all manufacturing industries, including data on plants under construction but not yet in operation.

A survey of research and development (R&D) activities will be conducted. The major data to be obtained in this survey will include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D, and, for comparative purposes, the total net sales and receipts and the total employment of the company.

A survey of shipments to the Federal Government is planned to provide information on the impact of Federal procurement on selected industries and geographic areas by Federal Government agencies.

The annual survey on oil and gas will canvass the industry which provides most of the fuel produced in the United States as well as a substantial portion of the hydrocarbon raw material requirements of many industries. The survey will collect information on exploration, development, and production costs; sales volumes and values; drilling activity; and assets in the crude petroleum and natural gas industry.

The annual survey on pollution abatement expenditures is designed to collect from manufacturers the total expenditures by industry and geographic area to abate pollutant emissions. The survey covers current operating costs, capital expenditures, and assets by industry to reduce pollution in its air, water, or solid forms. It will also obtain the costs recovered from abatement activities and quantities of pollutants abated.

The survey of plant capacity will obtain information such as the amount of time a plant is in operation; operating rates as related to preferred levels and practical capacity; and value of production and other statistics for actual, preferred, and practical capacity operating levels; and the reasons for operating at less than capacity. The survey will be done on a sample basis and will cover all manufacturing industries.

The report forms will be furnished to firms included in these surveys. Copies of survey forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed the annual surveys be conducted for the purpose of collecting the data hereinabove described.

Dated: November 13, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 80-35946 Filed 11-17-80; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

National Marine Fisheries; Permit Modification Request

Notice is hereby given that Dr. Bruce Mate, Oregon State University, has requested a modification to Permit No. 217 which was issued to him under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), on December 27, 1977.

Dr. Mate is requesting authorization to conduct an experiment an acoustical harrassment of harbor seals (*Phoca vitulina*) that are found at a salmon hatchery during salmon runs. The proposal is to project a sound gradient underwater that is above the hearing threshold of fish but within the hearing range of the seals. The seals are free to leave the area at any time they sense discomfort. The sound to be generated is a white noise without biological significance in the 8–1 kilohertz range. If successful this technique will be a non-lethal non-injurious method of dealing with marine mammal/fishery interactions.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Adminstrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: November 10, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-35944 Filed 11-17-80; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Marine World Africa, USA (P172A).

b. Address: Marine World Parkway, Redwood City, California 94065.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Killer whales (*Orcinus orca*) 2.

4. Type of Request: To capture and import for public display.

5. Location of Activity: Icelandic Waters.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 12, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-35945 Filed 11-17-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, Its Scientific and Statistical Committee and Its Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), its Scientific and Statistical Committee (SSC) and its Advisory Panel (AP) will hold joint and separate meetings. The Council will also meet jointly with the Alaska Board of Fisheries.

DATES: The Council meeting will convene on Wednesday, December 10, 1980, at approximately 9 a.m., and adjourn on Friday, December 12, 1980, at approximately 5 p.m., in the Alaska Room of the Westward Hilton Hotel, Anchorage, Alaska. The Council and Board of Fisheries will jointly take public testimony on Tuesday, December 9, 1980, 9 a.m. to 5 p.m., and also meet formally on Thursday, December 11, 1980, in the Alaska Room. The SSC meeting will convene on Monday, December 8, 1980, at approximately 9 a.m., and adjourn at approximately 5 p.m., at the Council Conference Room, 333 West Fourth Avenue, Anchorage, Alaska. The AP meeting will convene on Monday, December 8, 1980, at approximately 9 a.m., and adjourn at approximately 5 p.m., in the Kenai Room of the Westward Hilton Hotel. These public meetings may be lengthened or shortened depending upon progress on the agenda.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska, Telephone: (907) 274–4563.

Proposed Agenda

Council

Special Note: Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk as early as possible of the agenda item to be addressed and the time requested. Preregistration and public comment may be scheduled for: C. Old Business: D. New Business: and E. Fishery Management Plans (FMP's).

The following agenda items will be discussed by the Council: A. Call to Order, Approval of Agenda, and Minutes of the Previous Meeting. B. Special Reports. B–1. Executive Director's Report. B–2. Alaska Department of Fish and Game (ADF&G) Report on Domestic Fisheries. B–3. National Marine Fisheries Service (NMFS) Report on Foreign Fisheries. B–4. U.S. Coast Guard (USCG) Report on Enforcement and Surveillance. C. Old Business. C–1. AP and SSC appointments. C–2. Council meeting schedule for 1981. C–3. Policy on closed plan development team (PDT) meetings. D. New Business: D–1. Foreign fishing permits and 1981 allocations. D–2. Other new business as appropriate. E. Fishery Management Plans. E–1. Salmon FMP: no formal action. E–2. Herring FMP: final Council review and approval of FMP to go to Secretarial review. E–3. King Crab FMP: no formal action; draft FMP will be discussed with Alaska Board of Fisheries. E–4. Tanner Crab FMP: discussion and agreement on 1981 amendments with Alaska Board of Fisheries; Council approval of 1981 amendments to go to the Secretary. E–5. Gulf of Alaska Groundfish FMP: consider proposal to close eastern regulatory area to all foreign trawling and approve amendment for public review. E–6. Bering Sea/Aleutian Islands Groundfish FMP: no formal action but 1981 amendment package will be discussed with the Alaska Board of Fisheries and the Council will also discuss a law suit regarding incidental trawl catch of salmon in the Bering Sea. F. Contracts. F–1. SSC and Council final approval of Contract 78–5, "Assessment of Spawning Herring and Capelin Stocks at Selected Coastal Areas in the Eastern Bering Sea"; Contract 79–3, "Troll Salmon Tag Recovery Program"; and Contract 80–6, "A Study to Determine the Applicability of Limited Entry in the Halibut Fishery Off Alaska". F–2. Review and approve request for proposals for a Study of Data on Feeding Habits and Food Requirements of Marine Mammals in the Bering Sea. G. Public Comments. H. Chairperson's Closing Comments and Adjournment.

Scientific and Statistical Committee

Same agenda as Council.

Advisory Panel

Same agenda as Council.

V 45 N 0 18 80 UMI

Dated: November 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-36008 Filed 11-17-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Leonard Wood Military Reservation and Mark Twain National Forest, Mo.; Order Affecting the Current Use-Permit, Cancellation of Prior Use-Permit, and Establishment of the New Military Boundary of Fort Leonard Wood Military Reservation, Mo.

In accordance with the authorities and requirements of 16 U.S.C. 505a, and by subsequent approval of Disposal Report Number 390 dated 31 May 1974 by the Armed Services Committees of Congress, an interchange of lands was affected between Fort Leonard Wood and Mark Twain National Forest, along with a reduction in the acreage under use-permit to the Department of the Army. Said interchange was published in the **Federal Register**, Volume 40, Number 106—Monday, June 2, 1975, page 23773. Reduction in the use-permit lands was accomplished by the simultaneous termination of the prior Memorandum Agreement covering 16,041 acres, dated 29 July 1964, Control No. 084–2, and execution of a replacement Memorandum Agreement dated 4 October 1979 covering 9,672 acres. Said agreement was entered into under statutory authority of 16 U.S.C. 505a and 16 U.S.C. 528–531, and the delegated authority of Joint Policy between the Department of the Army and the Department of Agriculture Relating to the Use of National Forest Lands for Defense Purposes, approved by the respective Secretaries on 11 June and 3 July 1951.

The Exhibits which follow describe, respectively: (A) the perimeter description of lands over which the Army has retained use-permits on Department of Agriculture lands; and (B) the new perimeter description of Fort Leonard Wood Military Reservation, Missouri; including said use-permit area.

Accordingly, all lands within said new use permit boundary, Exhibit A, are subject only to the laws applicable to other lands within the Military Reservation (16 U.S.C. 505b); and any lands conveyed to the Department of Agriculture by the exchange, effective 2 June 1975, and those lands released to said Department by the reduction of the area covered under the use-permit effective 4 October 1979, and lying outside of said Military Reservation, Exhibit B, shall be subject only to the laws applicable to Mark Twain National Forest lands.

Effective Date: Order is effective as of 1 January 1981.

Louis W. Prentiss, Jr.,

Major General, USA Commanding.

Exhibit A—Fort Leonard Wood, Mo.

Department of Agriculture Fee Owned Lands, Use Permit to be Retained by Department of the Army

T35N, R11W, Sections 6, 7, 18, 19, and 30: T35N, R12W, Sections 1 and 25, and parts of Sections 12, 13, 24, 26, 35, and 36: T34N, R12W, parts of Sections 1, 2, & 3

Description:

1. Beginning at the northwest corner of Section 5, Township 35 North, Range 11 West of the Fifth Principal Meridian, Pulaski County, Missouri;

2. Thence southerly along the west line of said Section 5 to the southwest corner thereof;

3. Thence continuing southerly along the west line of Section 8 of said township and range to the southwest corner thereof;

4. Thence continuing southerly along the west line of Section 17 of said township and range to the southwest corner thereof;

5. Thence continuing southerly along the west line of Section 20 of said township and range to the southwest corner thereof;

6. Thence continuing southerly along the west line of Section 29 of said township and range to the southwest corner thereof;

7. Thence westerly along the north line of Section 31 of said township and range to the northwest corner thereof;

8. Thence southerly along the west line of said Section 31 to the northeast corner of the E½SE¼ of Section 36, Township 35 North, Range 12 West;

9. Thence westerly along the north line of said E½SE¼ to the northwest corner thereof;

10. Thence southerly along the west line of said E½SE¼ to the southwest corner thereof;

11. Thence westerly along the south line of said Section 36, a distance of 3.47 chains to the northwest corner of the E½ of Lot 7 of the NE¼ of Section 1, Township 34 North, Range 12 West;

12. Thence southerly along the west line of said E½ of Lot 7 of the NE¼ to the southwest corner thereof;

13. Thence easterly along the south line of said E½ of Lot 7 of the NE¼ to the southwest corner thereof;

14. Thence southerly along the east line of said Section 1 to the southeast corner of Lot 1 of said NE¼ to Section 1;

15. Thence westerly along the south line of said Lot 1 of the NE¼ and Lot 1 of the NW¼ of said Section 1 to the southwest corner of said Lot 1 of the NW¼;

16. Thence continuing westerly along the south line of Lot 1 of the NE¼ and Lot 1 of the NW¼ of Section 2 of said township and range to the southwest corner of said Lot 1 of the NW¼;

17. Thence continuing westerly along the south line of Lot 1 of the NE¼ of Section 3 of said township and range, aproximately 2,075 feet to the center of Roubidoux Creek;

18. Thence in a northerly direction downstream along said center of Roubidoux Creek, approximately 600 feet to the west line of said Lot 1 of the NE¼;

19. Thence northely along the west line of said Lot 1 and Lot 2 of said NE¼ to the center of Roubidoux Creek;

20. Thence in a northerly direction downstream along the center of Roubidoux Creek, approximately 6,470 feet to a point on the west line of the E½ of Lot 6 of said NE¼, said point being approximately 2,080 feet south of the northwest corner of said E½ of Lot 6;

21. Thence continuing in an easterly and northwesterly direction downstream along the center of Roubidoux Creek, approximately 1,500 feet to said west line of the E½ of Lot 6;

22. Thence northerly along said west line of the E½ of Lot 6 to a point in the center of Roubidoux Creek, said point being approximately 240 feet south of the northwest corner of said E½ of Lot 6;

23. Thence in a northeasterly direction downstream along the center of Roubidoux Creek to the north line of said Section 3;

24. Thence easterly along the north line of said Section 3 to the northeast corner thereof;

25. Thence continuing easterly along the north line of Section 2 of said township and range, 0.70 chains to the southwest corner of Section 35, Township 35 North, Range 12 West;

26. Thence northerly along the west line of the SW¼SW¼ of said Section 35 to the northwest corner thereof;

27. Thence easterly along the north line of said SW¼SW¼ to the northeast corner thereof;

28. Thence northerly along the west line of the NE¼SW¼ and the SE¼NW¼ of said Section 35 to the northwest corner of said SE¼NW¼;

29. Thence easterly along the north line of said SE¼NW¼ to the northeast corner thereof;

30. Thence northerly along the west line of the NE¼ of said Section 35 to the northwest corner thereof;

31. Thence easterly along the north line of said NE¼ to the southwest corner of the E½E½ of Section 26 of said township and range;

32. Thence northerly along the west line of said E½E½ to the northwest corner thereof;

33. Thence easterly along the north line of said E½E½ to the northeast corner thereof;

34. Thence continuing easterly along the south line of Section 24 of said township and range to the southwest corner of the E½SW¼ of said Section 24;

35. Thence northerly along the west line of said E½SW¼ to the northwest corner thereof;

36. Thence easterly along the north line of said E½SW¼ to the northeast corner thereof;

37. Thence northerly along the west line of the NE¼ of said Section 24 to the northwest corner thereof;

38. Thence continuing north along the west line of the E½ of Section 13 of said township and range to a point at the foot of the hill and on the right (easterly) bank of Roubidoux Creek, said point being 67.73 chains south of the northwest corner of said E½;

39. Thence along the foot of the hill the following courses: N 66° E, 11.5 chains; N 37° E, 16 chains; N 5° E, 13.65 chains; N 30° W, 8 chains; N 65° W, 9 chains; N 40° W, 14 chains to the west line of said E½;

40. Thence north along the west line of said E½, a distance of 15.20 chains to the northwest corner thereof;

41. Thence continuing northerly along the west line of the SE¼ of Section 12 of said township and range to the northwest corner thereof;

42. Thence westerly along the south line of the NW¼ of said Section 12 to the southwest corner thereof;

43. Thence northerly along the west line of said NW¼ of the northwest corner thereof;

44. Thence continuing northerly along the west line of Section 1 of said township and range to the northwest corner thereof;

45. Thence easterly along the north line of said Section 1 to the northeast corner thereof;

46. Thence continuing along the north line of Section 6, Township 35 North, Range 11 West to the northeast corner of said Section 6, being the point of beginning, containing 9,432 acres, more or less.

Revised: August 1, 1978.

T35N, R11W, that part of the W½ of Lots 2 and 1 of the NW¼, and the W½SW¼ of Section 1, and the W½NW¼ of Section 12 lying westerly of the easterly right-of-way line of Decker's Ridge Road:

Description:

1. Beginning at the northwest corner of Section 1, Township 35 North, Range 11 West, Pulaski County, Missouri;

2. Thence easterly along the north line of said Section 1, approximately 470 feet to the easterly right-of-way line of Decker's Ridge Road;

3. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 750 feet south along the Section line and 180 feet east from the northwest corner of said Section 1;

4. Thence in a southeasterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 1,970 feet south and 670 feet east from the northwest corner of said Section 1;

5. Thence in a southerly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 2,400 feet south and 680 feet east from the northwest corner of said Section 1;

6. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 1,900 feet north and 460 feet east from the southwest coner of said Section 1;

7. Thence in a southeasterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 490 feet north and 950 feet east from the southwest corner of said Section 1;

8. Thence in a southerly direction along said easterly right-of-way line of Decker's Ridge Road to a point on the south line of said Section 1, said point being approximately 950 feet easterly from the southwest corner of said Section 1;

9. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 500 feet south and 800 feet east from the northwest corner of Section 12, Township 35 North, Range 11 West;

10. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 770 feet south and 350 feet east from the northwest corner of Section 12;

11. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 1210 feet south and 620 feet east from the northwest corner of Section 12;

12. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 1640 feet south and 690 feet east from the northwest corner of Section 12;

13. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point approximately 2100 feet south and 1200 feet east from the northwest corner of Section 12;

14. Thence in a southwesterly direction along said easterly right-of-way line of Decker's Ridge Road to a point on the south line of the W½NW¼ of said Section 12, said point being approximately 670 feet easterly from the southwest corner of said W½NW¼;

15. Thence westerly along the south line of said W½NW¼, approximately 670 feet to the southwest corner thereof;

16. Thence northerly along the west line of said Section 12 to the northwest corner thereof;

17. Thence continuing northerly along the west line of said Section 1 to the point of beginning, containing 114.9 acres, more or less.

Revised: October 3, 1978.

T35N, R11W, 125.31 acre parcel in Section 12:

Description:

The S½SE¼ and NW¼SE¼ of Section 12, Township 35 North, Range 11 West, Pulaski County, Missouri, containing 125.31 acres, more or less.

Exhibit B—Perimeter Description of Fort Leonard Wood, Mo.

Description:

1. Beginning at the northeast corner of Section 2, Township 35 North, Range 11 West of the Fifth Principal Meridian, Pulaski County, Missouri;

2. Thence westerly along the north line of said Section 2 to the northwest corner thereof;

3. Thence continuing westerly along the north line of Section 3 of said township and range to the northwest corner thereof;

4. Thence southerly along the east line of Section 4 of said township and range to the northeast corner of Lot 1 of the NE¼ of said Section 4;

5. Thence westerly along the north line of said Lot 1 of the NE¼, and the north line of Lot 1 of the NW¼ of said Section 4 to the southeast corner of the W½E½ of Lot 2 of said NW¼;

6. Thence northerly along the east line of said W½E½ of Lot 2 of the NW¼ to the northeast corner thereof;

7. Thence westerly along the north line of said Section 4 to the northwest corner thereof;

8. Thence continuing westerly along the north line of Section 5 of said

township and range to the northwest corner thereof;

9. Thence continuing westerly along the north line of Section 6 of said township and range to the northwest corner thereof;

10. Thence continuing westerly along the north line of Section 1, Township 35 North, Range 12 West, to the northwest corner thereof;

11. Thence southerly along the west line of said Section 1 to the southwest corner thereof;

12. Thence southerly along the west line of said Section 12 of said township and range to the northwest corner of the SW¼ of said Section 12;

13. Thence easterly along the north line of said SW¼ to the northeast corner thereof;

14. Thence southerly along the east line of said SW¼ to the southeast corner thereof;

15. Thence continuing southerly along the west line of the E½ of Section 13 of said township and range a distance of 15.20 chains to a point at the foot of the hill and on the right (easterly) bank of Roubidoux Creek;

16. Thence along the foot of the hill the following course, S'40° E, 14 chains; S'65° E, 9 chains; S'30° E, 8 chains; S'5° W, 13.65 chains; S'37° W, 16 chains; S'66° W, 11.5 chains to a point on the west line of said E½, said point being 67.73 chains south of the northwest corner of said E½;

17. Thence southerly along the west line of said E½ to the southwest corner thereof;

18. Thence continuing southerly along the west line of the NE¼ of Section 24 of said township and range to the northeast corner of the E½SW¼ of said Section 24;

19. Thence westerly along the north line of said E½SW¼ to the northeast corner thereof;

20. Thence southerly along the north line of said E½SW¼ to the southwest corner thereof;

21. Thence westerly along the south line of said Section 24 to the southwest corner thereof;

22. Thence continuing westerly along the north line of Section 26 of said township and range to the northwest corner of the E½E½ of said Section 26;

23. Thence southerly along the west line of said E½E½ to the southwest corner thereof;

24. Thence westerly along the north line of the NW¼NE¼ of Section 35 of said township and range to the northwest corner thereof;

25. Thence southerly along the west line of said NW¼NE¼ to the southwest corner thereof;

26. Thence westerly along the north line of the SE¼NW¼ to the northwest corner thereof;

27. Thence southerly along the west line of the SE¼NW¼ and NE¼SW¼ of said Section 35 to the southwest corner of said NE¼SW¼;

28. Thence westerly along the north line of the SW¼SW¼ of said Section 35 to the northwest corner thereof;

29. Thence southerly along the west line of said SW¼SW¼ to the southwest corner thereof;

30. Thence westerly along the north line of Section 2, Township 34 North, Range 12 West, 0.70 chains to the northwest corner thereof;

31. Thence continuing westerly along the north line of Section 3 of said township and range, to the center of Roubidoux Creek;

32. Thence in a southwesterly direction upstream along the center of Roubidoux Creek to a point on the west line of the E½ of Lot 6 of the NE¼ of said Section 3, said point being approximately 240 feet south of the northwest corner of said E½ of Lot 6;

33. Thence southerly along said west line of the E½ of Lot 6 to a point in the center of Roubidoux Creek;

34. Thence in a southeasterly and westerly direction upstream along the center of Roubidoux Creek, approximately 1500 feet to a point on the west line of the E½ of Lot 6, said point being approximately 2080 feet south of the northwest corner of said E½ of Lot 6;

35. Thence in a southerly direction upstream along the center of Roubidoux Creek, approximately 6470 feet to the west line of Lot 2 of said NE¼;

36. Thence southerly along the west line of said Lot 2 and Lot 1 of said NE¼ to the center of Roubidoux Creek;

37. Thence in a southeasterly direction upstream along said center of Roubidoux Creek, approximately 600 feet to the south line of said Lot 1 of the NE¼;

38. Thence easterly along the south line of said Lot 1, approximately 2075 feet to the southeast corner thereof;

39. Thence southerly along the east line of the NE¼SE¼ of said Section 3 to the southeast corner thereof;

40. Thence westerly along the south line of said NE¼SE¼ to the southwest corner thereof;

41. Thence southerly along the west line of the SE¼SE¼ of said Section 3 to the southwest corner thereof;

42. Thence continuing southerly along the west line of the E½E½ of Section 10 of said township and range to the southwest corner thereof;

43. Thence westerly along the south line of said Section 10 to the southwest corner thereof;

44. Thence continuing westerly along the north line of the E½ of Section 16 of said township and range to the northwest corner of said E½;

45. Thence southerly along the west line of said E½ to the line between Laclede County and said Pulaski County;

46. Thence continuing southerly along the west line of said E½ to the southwest corner thereof;

47. Thence continuing southerly along the west line of the E½ of Section 21 of said township and range to the southwest corner thereof;

48. Thence continuing southerly along the west line of the E½ of Section 28 of said township and range to the southwest corner thereof;

49. Thence continuing southerly along the west line of the E½ of Section 33 of said township and range to the southwest corner thereof;

50. Thence easterly along the south line of said E½ to the southeast corner thereof;

51. Thence continuing easterly along the south line of Section 34 of said township and range to the northwest corner of the NE¼NE¼ of Section 3, Township 33 North, Range 12 West, Texas County;

52. Thence southerly along the west line of said NE¼NE¼ to the southwest corner of the north 10 acres of said NE¼NE¼;

53. Thence easterly along the south line of said north 10 acres of the NE¼NE¼ to the east line of said Section 3;

54. Thence continuing easterly along the south line of the north 10 acres of the NW¼NW¼ of Section 2 of said township and range to the east line of said NW¼NW¼;

55. Thence northerly along the east line of said NW¼NW¼ to the northeast corner thereof;

56. Thence easterly along the south line of Section 35, Township 34 North, Range 12 West to the southeast corner thereof;

57. Thence continuing easterly along the south line of Section 36 of said township and range to the southeast corner thereof;

58. Thence continuing easterly along the south line of Section 31, Township 34 North, Range 11 West to the southeast corner thereof;

59. Thence northerly along the east line of said Section 31 to the northeast corner thereof;

60. Thence easterly along the south line of Section 29 of said township and range to the southeast corner thereof;

61. Thence northerly along the east line of said Section 29 to the southwest corner of the N½SW¼ of Section 28 of said township and range;

62. Thence easterly along the south line of said N½SW¼ to the southeast corner thereof;

63. Thence northerly along the east line of the W½ of said Section 28 to the southwest corner of the NW¼NE¼ of said Section 28;

64. Thence easterly along the south line of said NW¼NE¼ to the southeast corner thereof;

65. Thence northerly along the east line of said NW¼NE¼ to the northeast corner thereof;

66. Thence easterly along the south line of Section 21 of said township and range to the southeast corner thereof;

67. Thence northerly along the east line of the SE¼ of said Section 21 to the northeast corner of said SE¼.

68. Thence easterly along the south line of the N½ of Section 22 of said township and range to the southeast corner of said N½;

69. Thence continuing easterly along the south line of the SW¼NW¼ of Section 23 of said township and range to the southeast corner of said SW¼NW¼;

70. Thence northerly along the east line of said SW¼NW¼ to the northeast corner thereof;

71. Thence easterly along the south line of the N½N½ of said Section 23 to the southeast corner thereof;

72. Thence northerly along the east line of said N½N½ to the northeast corner thereof;

73. Thence westerly along the south line of Section 14 of said township and range to the center of the right-of-way of Highway TT;

74. Thence in a northerly direction along said center of the right-of-way of Highway TT to the east line of said Section 14;

75. Thence northerly along said east line of Section 14 to the northeast corner thereof;

76. Thence continuing northerly along the east line of Section 11 of said township and range to a point 4.07 chains north of the southeast corner of the NE¼ of said Section 11;

77. Thence westerly, 210 feet;

78. Thence northerly, 290 feet;

79. Thence easterly, 210 feet to a point on the east line of said NE¼, said point being 558.62 feet north of the southeast corner of said NE¼;

80. Thence northerly along the east line of said NE¼ to the northeast corner thereof;

81. Thence continuing northerly along the east line of Section 2 of said township and range to the southwest corner of Lot 7 of the NW¼ of Section 1 of said township and range;

82. Thence easterly along the south line of said Lot 7 of the NW¼, and the south line of Lot 7 of the NE¼ of said Section 1 to the southeast corner of said Lot 7 of the NE¼;

83. Thence southerly along the west line of Lot 7 of the NW¼ of Section 6, Township 34 North, Range 10 West to the southwest corner of said Lot 7;

84. Thence easterly along the south line of said Lot 7 of the NW¼ to the southeast corner thereof;

85. Thence northerly along the east line of said Lot 7 of the NW¼ to the northeast corner thereof;

86. Thence easterly along the south line of Section 31, Township 35 North, Range 10 West to the center of the Big Piney River;

87. Thence in a northeasterly and northwesterly direction downstream along said center of the Big Piney River, approximately 10,700 feet to the north line of Section 32 of said township and range;

88. Thence easterly along the south line of Section 29 of said township and range to the southeast corner thereof;

89. Thence northerly along the east line of the SE¼ of said Section 29 to the northeast corner thereof;

90. Thence easterly along the south line of the N½ of Section 28 of said township and range to the center of the right-of-way of State Highway J;

91. Thence in a northerly direction along said center of the right-of-way of the State Highway J to the north line of said Section 28;

92. Thence continuing in a northerly direction along said center of the right-of-way to the north line of Section 21 of said township and range;

93. Thence westerly along the south line of Section 16 of said township and range to the center of the Big Piney River;

94. Thence in a northerly direction downstream along said center of the Big Piney River, approximately 8400 feet to the north line of Section 17 of said township and range;

95. Thence westerly along the north line of said Section 17 to the northwest corner thereof;

96. Thence continuing westerly along the north line of Section 18 of said township and range to the northwest corner thereof;

97. Thence northerly along the east line of the SE¼SE¼ of Section 12, Township 35 North, Range 11 West to the northeast corner therof;

98. Thence westerly along the north line of said SE¼SE¼ to the northwest corner thereof;

99. Thence northerly along the east line of the NW¼SE¼ of said Section 12, to the northeast corner thereof;

100. Thence westerly along the north line of said NW¼SE¼ to the northwest corner thereof;

101. Thence continuing westerly along the north line of the SW¼ of said Section 12 to a point on the east right-of-way line of Decker's Ridge Road, said point being approximately 670 feet easterly from the northwest corner of said SW¼;

102. Thence in a northeasterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 2100 feet south along the section line and 1200 feet east from the northwest corner of Section 12;

103. Thence in a northwesterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 1640 feet south and 690 feet east from the northwest corner of said Section 12;

104. Thence in a northwesterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 1210 feet south and 620 feet east from the northwest corner of said Section 12;

105. Thence in a northwesterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 770 feet south and 350 feet east from the northwest corner of said Section 12;

106. Thence in a northeasterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 500 feet south and 800 feet east from the northwest corner of said Section 12;

107. Thence in a northeasterly direction along said easterly right-of-way line of Deckers Ridge Road to a point on the north line of said Section 12, said point being approximately 950 feet easterly from the northwest corner thereof;

108. Thence in a northerly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 490 feet north and 950 feet east from the southwest corner of Section 1, Township 35 North, Range 11 West;

109. Thence in a northwesterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 1900 feet north and 460 feet east from the southwest corner of said Section 1;

110. Thence in a northeasterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 2400 feet south and 680 feet east from the northwest corner of said Section 1;

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111. Thence in a northerly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 1970 feet south and 670 feet east from the northwest corner of said Section 1;

112. Thence in a northwesterly direction along said easterly right-of-way line of Deckers Ridge Road to a point approximately 750 feet south and 180 feet east from the northwest corner of said Section 1:

113. Thence in a northeasterly direction along said easterly right-of-way line of Deckers Ridge Road to a point on the north line of said Section 1, said point being approximately 470 feet easterly from the northwest corner thereof;

114. Thence westerly along said north line of Section 1 to the northwest corner thereof, being the point of beginning.

[FR Doc. 80-35836 Filed 11-17-80; 8:45 am]

BILLING CODE 3710-08-M

Shoreline Erosion Advisory Panel; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Shoreline Erosion Advisory Panel.

The meeting will be held in the Conference Room of the Charter House Motor Hotel, 6461 Edsall Road, Alexandria, Virginia, from 0830 hours to 1600 hours on 10 December 1980.

The subjects to be discussed are: Public Information Dissemination; Status of the Final Report of the Shoreline Erosion Advisory Panel on the Program; Discussion of the Overall Program; Plans for Producing Pamphlets; and Video, Tape, and Slide Dissemination of Information on the program to the public.

Public comment is scheduled at 1310 hours. The entire meeting is open to the public subject to the following:

(1) Since seating capacity of the Charter House Motor Hotel Conference Room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

(2) Oral participation by the public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Ted E. Bishop, Executive Secretary, Shoreline Erosion Advisory Panel, Kingman Building, Fort Belvoir, VA 22060, Telephone: (202) 325-7000.

Dated: November 10, 1980.

Ted E. Bishop,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 80-35892 Filed 11-17-80; 8:45 am]

BILLING CODE 3710-92-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 97. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 97 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325-9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 97

To the Heads of Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, Subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 96 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
*Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	72.00
Barrow	111.00
Bethel	93.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Elelson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Fort Richardson	72.00
Fort Wainwright	67.00
Juneau	83.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Prudhoe Bay	94.00
Shemya AFB [1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
All other localities	71.00
American Samoa	65.00
Guam M.I.	60.00
Hawaii	
Oahu	70.00
All other localities	60.00
Johnston Atoll [2]	15.50
*Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Fajardo:	
12-16—5-15	102.00
5-16—12-15	75.00
Ponce (including Fort Allen NCS)	68.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (including San Juan Coast Guard units):	
12-16—5-15	102.00
5-16—12-15	75.00
All other localities	63.00
Virgin Island of United States:	
12-1—4-30	89.00
5-1—11-30	65.00
*Wake Island: [2]	15.00
Other localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

November 12, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-35858 Filed 11-17-80; 8:45 am]

BILLING CODE 3810-70-M

EDUCATION DEPARTMENT

National Advisory Council on the Education of Disadvantaged Children; Meeting

AGENCY: National Advisory Council on the Education of Disadvantaged Children.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on the Education of Disadvantaged Children. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Section 10(a)(2).

DATES: December 3, 1980—10:00 a.m.–4:30 p.m., December 4, 1980—9:00 a.m.–4:30 p.m.

ADDRESS: Specific Location of Meeting to be announced at a later date.

FOR FURTHER INFORMATION CONTACT: Mrs. Lisa Haywood, (202) 724-0114, National Advisory Council on the Education of Disadvantaged Children, Suite 1012, 425-13th Street, NW., Washington, D.C. 20004.

SUPPLEMENTARY INFORMATION: The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The Full Council meeting will be open to the public.

AGENDA: The proposed agenda includes:

continued discussion of Council's Work Agenda

future plans for Council activities,

and reports from Council Committees.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, 425-13th Street, NW., Suite 10123, Washington, D.C. 20004.

Signed at Washington, D.C. on November 13, 1980.

Alice S. Baum,

Executive Director, National Advisory Council on the Education of Disadvantaged Children.

[FR Doc. 80-35857 Filed 11-17-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act: Extension of Comment Period for Draft Environmental Impact Statement for Mining, Construction, and Operation for a Full-Size Module at the Anvil Points Oil Shale Facility, Rifle, Garfield County, Colo.

AGENCY: Department of Energy.

ACTION: Extension of Comment period on Draft Environmental Impact Statement for Mining, Construction, and Operation for a Full-Size Module at the Anvil Points Oil Shale Facility, Rifle, Garfield County, Colorado.

The Department of Energy (DOE) has issued a draft Environmental Impact Statement, DOE/EIS-0070-D, Mining, Construction, and Operation for a Full-Size Module at the Anvil Points Oil Shale Facility, Rifle, Garfield County, Colorado for public review and comment with a 45-day comment period to end on October 13, 1980, (**Federal Register**, August 29, 1980, 45 FR 57764). In response to a request for additional time for review, DOE has extended the comment period until November 24, 1980.

Dated at Washington, D.C., this 10 day of November 1980, for the United States Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-35846 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. On or before December 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, DC, on the 12th day of November 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders

Station	Address	Date	Violation Amount	Cents per gallon in violation
Northeast District				
Haines-Linesville Boat Livery	Linesville, PA 16424	10-21-80	$643.05	28.2
Southeast District				
West Ashley Exxon	2 Savannah Hwy, Charleston, SC 29407	8-11-80	$224.56	1.3
Central District				
John Gray Shell	810 N. Jefferson, St. Louis, MO 63106	1-21-80	$561.49	6.0
Richard's Standard Service	219 South Neltner, West Chicago, IL 60185	10-27-80	3,750.22	3.9
Southwest District				
Mayfield's Country Store	Juno Route, Ozona, TX 79943	9-26-80	$3,923.24	12.9

[FR Doc. 80-35877 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-01-M

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LaGloria Oil and Gas Co., a Wholly Owned Subsidiary of Texas Eastern Transmission Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: October 30, 1980.

COMMENTS BY: December 18, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, [Phone] (214) 767–7745.

SUPPLEMENTARY INFORMATION: On October 30, 1980, the Office of Enforcement of the ERA executed a proposed Consent Order with LaGloria Oil and Gas Company, a wholly owned subsidiary of Texas Eastern Corporation of Houston, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. Consent Order

LaGloria Oil and Gas Company is a firm engaged in the refining of crude oil and the marketing of propane, motor gasoline and other refined petroleum products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of propane, motor gasoline and other refined petroleum products, the Office of Enforcement, ERA, and LaGloria Oil and Gas Company entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was November 1973 through December 1975, the allged overcharges occurred only during the period of August 1974 through July 1975 and included all sales of propane which were made during that period.

2. LaGloria Oil and Gas Company, did not apply in a manner acceptable to the DOE the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart E, when determining the prices to be charged for its propane; and, as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In addition to the period specified in I.1 above, the Consent Order covered the DOE allegation that during the period of February 1977 through June 1979, LaGloria had unequally apportioned increased costs between its three grades of gasoline without properly notifying the DOE pursuant to the provisions of 10 CFR 212.83(c)(1)(i)(B).

4. In order to expedite resolution of the disputes involved, the DOE and LaGloria Oil and Gas Company, have agreed to a settlement in the amount of $2,960,915. The terms of the refund consist of a $2,293,905 bank reduction in unrecovered increased general refinery product costs as of December 1975 and $646,614 cash to be refunded within 30 days of the effective date of the Consent Order. The remaining $20,000, representing a compromise of civil penalty, was paid by LaGloria. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and LaGloria.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In the Consent Order, LaGloria Oil and Gas Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1, and I.3 above, the sum of $2,960,519 in the manner specified in I.4 above. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordane with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on LaGloria Oil and Gas Company, Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 18, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas, on the 4th day of November 1980.

Herbert F. Buchanan,

Deputy Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-35876 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Claypool Hill Exxon; Revised Proposed Remedial Order

Pursuant to 10 C.F.R. § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Revised Proposed Remedial Order (PRO) which was issued to Claypool Hill Exxon, Claypool Hill, Virginia on November 3, 1980.

This PRO charges Claypool Hill Exxon with selling gasoline in excess of the Maximum Lawful Selling Price in violation of 10 C.F.R. § 212.93. It was determined that Claypool Hill Exxon violated the Federal Energy pricing guidelines by selling above the maximum lawful per gallon selling price by as much as 6.2¢ for Regular Leaded, 7.9¢ for Premium Leaded and 7.2¢ for Regular Unleaded during the period August 1, 1979 to June 17, 1980.

Pursuant to 10 C.F.R. § 205.192, Claypool Hill Exxon is required by the PRO to reduce its prices at the pump to the maximum lawful selling price for these grades to be in compliance with the Federal Energy pricing regulations. Further, Claypool Hill Exxon is required to reduce their prices for these grades of gasoline to effect a refund through rollback procedures until a total of $15,313.28, including interest, is refunded.

A copy of the PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone number (404) 881–2396. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 C.F.R. § 205.193.

Issued in Atlanta, Georgia, on the 10th day of November 1980.

Bernard Sleischer,

Acting District Manager.

Concurrence:

Susan Tate,

Acting Chief Enforcement Counsel.

[FR Doc. 80-35892 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-01-M

Howard's Exxon; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Howard's Exxon, Jacksonville, Florida on November 4, 1980.

This PRO charges Howard's Exxon with selling gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR § 212.93. It was determined that Howard's Exxon violated the Federal Energy pricing guidelines by selling above the maximum lawful per gallon selling price in the amount of 1.0¢ for Regular Leaded, Premium Leaded and Regular Unleaded during the period June 8, 1980 through July 15, 1980.

Pursuant to 10 CFR § 205.192, Howard's Exxon is required by the PRO to reduce its prices at the pump to the maximum lawful selling price for these grades to be in compliance with the Federal Energy pricing regulations. Further, Howard's Exxon is required to reduce their prices for these grades of gasoline to effect a refund through rollback procedures until a total of $195.35, including interest, has been refunded.

A copy of the PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone number (404) 881–2396. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Atlanta, Georgia, on the 10th day of November 1980.

Bernard Sleischer,

Acting District Manager.

Concurrence:

Susan Tate,

Acting Chief Enforcement Counsel.

[FR Doc. 80-35891 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-84-000]

Alabama Power Co.; Filing

November 12, 1980.

Take notice that Alabama Power Company (Alabama) on October 29, 1980, tendered for filing revised Informational Schedules B–1, C–1, D–1, E–1 and F–1 to the Agreement dated August 28, 1980 between Alabama Power and Alabama Electric Cooperative, Inc. (AEC) for Transmission Service to Distribution Cooperative Members of AEC (the Agreement). The revised Informational Schedules C–1, D–1 and E–1 show revised charges for transmission service under the Agreement and results from operation of the formulary rates contained in the subject Agreement. Revised Informational Schedule B–1 reflects changes in the percentage capacity and energy losses for application in calendar year 1981 based on the most recent loss data to Alabama Power's system.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35964 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-123]

Alaskan Northwest Natural Gas Transportation Co.; Filing of Notice of Amendment to Partnership Agreement

November 12, 1980.

Take notice that on October 27, 1980, Alaskan Northwest Natural Gas Transportation Company (Alaskan Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, a partnership formed under the laws of New York for the construction and operation of the Alaska Natural Gas Transportation System (ANGTS), filed in Docket No. CP78-123 pursuant to the Alaska Natural Gas Transportation Act and the Natural Gas Act notice of amendment to the partnership agreement for the purpose of admitting new partners, all as more fully set forth in the notice which is on file with the Commission and open to public inspection.

Alaskan Northwest states that Columbia Alaskan Gas Transmission Corporation, an affiliate of Columbia Gas Transmission Corporation (Columbia Alaskan), Tetco Four, Inc., an affiliate of Texas Eastern Transmission Corporation and Transwestern Pipeline Company, Texas Gas Alaskan Corporation, an affiliate of Texas Gas Transmission Corporation, and TransCanada Pipeline Alaska Ltd., an affiliate of TransCanada Pipelines Limited have been admitted to the partnership as of August 1, 1980. It is stated that the admission of the above four companies is in response to an offer of partnership in a filing dated February 6, 1980, which filing concerned the admission of American Natural Alaskan Company (American Natural Alaskan).

Alaska Northwest states that in addition to the terms applicable to American Natural Alaskan, the four new partners agreed that their admission would be conditioned upon (1) Commission approval of the thirty-day grace period as tendered in the February 6, 1980, filing, (2) Commission approval of Amendment No. 3, and (3) an understanding that Section 4.3.1 of the Partnership Agreement is not intended to require, and would not be construed to require, any partner to assume a partnership interest greater than that interest elected under Section 4.3.1 of the Partnership Agreement. Furthermore, it is stated, Columbia Alaskan's admission would be conditioned on a waiver both of the last sentence of Section 3.6 and of Section 11.1.4 of the Partnership Agreement, and on the receipt by Columbia Alaskan of approval of admission by the Securities and Exchange Commission. Alaskan Northwest states that the admissions to the partnership are desirable for the financing of the ANGTS as they broaden the base of equity support, spread the risk of the current investment, and commit greater resources to the project.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again. Interested persons are invited to submit written comments on this proposal to the Office of the Secretary.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35965 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RA79-4, RA79-22, RA80-44, RA81-1-000]

Arizona Fuels Corp.; Order Consolidating Proceedings

Issued November 7, 1980.

On June 2, 1980 Arizona Fuels Corporation (Arizona Fuels) filed a motion for consolidation of Docket Nos. RA79-4, RA79-22, and RA80-44, involving review of three decisions and orders of Department of Energy (DOE) denying adjustment relief. On October 2, 1980 Arizona Fuels moved to consolidate Docket No. RA81-1-000 with the three other dockets. DOE concurs with the motions to consolidate.

Docket No. RA79-4 involves review of a DOE order that granted in part and denied in part an exception to Arizona Fuels from entitlements purchase obligations under Section 211.67 of the Mandatory Petroleum Allocation Regulations, 10 CFR 211.67, for the period May-October 1977. The partial denial was based on Arizona Fuels' projected operating and financial results for its fiscal year 1977 (November 1, 1976-October 31, 1977). Docket No. RA81-1-000 is an appeal of a DOE order that rescinded in part relief granted for Arizona Fuels' fiscal years 1976 and 1977 and was based on actual operating results for those years. Docket No. RA79-22 is an appeal of an order granting partial relief from entitlements purchases for fiscal year 1978 based on financial projections for that period. The fourth case, Docket No. RA80-44, is an appeal of an order denying any relief from entitlements for October 1978-April 1979. DOE declined to apply its general standard for entitlements exception and denied relief on equitable grounds.

Under Section 1.20(b) of the Commission's Rules of Practice and Procedure, the Commission may order proceedings involving a common question of law or fact to be consolidated for hearing of any or all matters at issue. Docket Nos. RA79-4, RA79-22, RA81-1-000 and RA80-44 involve issues of law and fact concerning Arizona Fuels' financial status and application of DOE's standard for entitlements exception relief. Docket Nos. RA79-4 and RA81-1-000 cover overlapping time periods. Consolidation of these dockets would permit the Commission to address more efficiently the issues raised by Arizona Fuels.

The Commission orders: (A) Pursuant to Section 1.20(b) of the Commission's Rules of Practice and Procedure, the request by Arizona Fuels Corporation to consolidate the proceedings in Docket Nos. RA79-4, RA79-22, RA80-44 and RA81-1-000 is granted and the proceedings are consolidated for hearing and decision on all matters at issue.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35982 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3462]

Cascade Waterpower Development Corp.; Application for Preliminary Permit

November 12, 1980.

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3462 to be known as Three Mile Falls Diversion Dam Project located on the Umatilla River in Umatilla County, Oregon. The proposed project lies wholly on lands owned by the U.S. Water and Power Resources Service (WPRS). Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Project Description—The proposed project would consist of: a penstock through the existing WPRS 24-foot high, concrete multiple arch Three Mile Falls Diversion Dam, a powerhouse, and transmission line. The project would utilize excess irrigation water.

Purpose of Project—Applicant intends to market the power generated by the project to local public utilities.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct studies and surveys, perform preliminary designs, quantity and cost estimates, and a feasibility analysis, conduct environmental studies and assessments, and prepare an FERC license application. No new roads are required to complete the studies.

The estimated cost of the work to be performed under the preliminary is $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose to a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices, of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3462. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Wash., D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35966 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL81-1-000]

Boston Edison Co., et al.; Filing

November 10, 1980.

In the matter of Boston Edison Company, The United Illuminating Company, Public Service Company of New Hampshire, Cambridge Electric Light Company, and Central Vermont Public Service Company.

The filing companies submit the following:

Take notice that on October 31, 1980, Boston Edison Company, United Illumination Company, Public Service Company of New Hampshire, Cambridge Electric Light Company, and Central Vermont Public Service Company, (Petitioners) submitted for filing a petition for waiver of certain requirements in an application for the acquisition of securities of a public utility.

Petitioners submit that they are among eleven electric utility companies (sponsors) which own all of the stock of Connecticut Yankee Atomic Power Company (CYAP). In order to provide CYAP with necessary financing, CYAP wishes to issue an aggregate amount of up to $40,000,000 of certain subordinated notes. Petitioners wish to acquire a portion of these notes. Petitioners further contend that the acquisition of the notes will not affect the existing relationship between CYAP and its sponsors. Further, petitioners submit that they will agree to acquire the notes, pursuant to a five year capital contribution agreement, in proportion to the respective percentages of the sponsor's ownership of CYAP.

Specifically, petitioners request that the Commission waive section 33.2 (e), (i), (k), (l), & (Q), and section 33.3, Exhibits A, B, D, F, H, and M of the Commission's regulations. Petitioners claim that compliance with these sections would unduly delay the filing of their application, which has yet to be filed, and would further, not aid the Commission in its determination of the public interest.

Petitioners state that, pursuant to federal and appropriate state law, they will also file their application with the Securities and Exchange Commission, Connecticut Department of Public Utility Control, and the Massachusetts Department of Public Utilities.

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Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35953 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3312]

City of Laconia, New Hampshire; Application for Preliminary Permit

November 12, 1980.

Take notice that the City of Laconia, New Hampshire (Applicant) filed on August 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3312 to be known as the Lakeport Dam Project located on the Winnipesaukee River in Belknap County, New Hampshire. Correspondence with the Applicant should be directed to: Honorable Roger B. McGrath, Mayor, City Hall, Beacon Street East, Laconia, New Hampshire 02346.

Project Description—The proposed project would consist of: (1) an existing stone masonry and concrete dam approximately 230 feet long and 12 feet high; (2) a proposed powerhouse with an installed generating capacity of 320 kW; and (3) appurtenant facilities. The Lakeport Dam partially controls the level of Lake Winnipesaukee located immediately upstream. Applicant estimates that the average annual net generation of the project would be 1,900,000 kWh.

Purpose of Project—Project energy would be sold to the local public.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate the structural, environmental, economic, and legal aspects of the project. Depending upon the outcome of the studies, the Applicant would prepare an application for FERC license. Applicant estimates the cost of studies under the permit would be $34,900.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 26, 1980.

Filing and Service of Responsive Documents—Any comments, notices, of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3312. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35975 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3256]

City of McFarland and Western Renewable Resources, Inc.; Application for Preliminary Permit

November 12, 1980.

Take notice that the City of McFarland and Western Renewable Resources, Inc. (Applicants) filed on July 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3256 to be known as the North Fork Dam-American River Project located on North Fork of the American River in Placer County, California. The proposed project would occupy and use lands and waters of the U.S. Army Corps of Engineers North Fork Dam. Correspondence with the Applicant should be directed to: Mr. Myles A. Duffy, Western Renewable Resources, Inc., P.O. Box 765, Alamo, California 94507.

Project Description—The proposed project would consist of: 1) a new tunnel and 6-foot diameter penstock through the existing Corps of Engineers' 155-foot high North Fork concrete arch dam; 2) a powerhouse containing a generating unit rated at 11 MW; 3) a 1.75-mile long transmission line; and 4) appurtenant facilities. The proposed project would be operated on a run-of-the-river basis and would utilize water that is normally spilled over the North Fork Dam. The average annual energy production is estimated to be 60 GWh.

Purpose of Project—The power output of the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct geotechnical and engineering studies, perform preliminary designs and surveys, study alternate schemes, assess the environmental and social impacts of the project, do a feasibility analysis, and prepare an FERC license application. No new roads would be required for conducting the studies. The estimated cost of the work to be performed under the preliminary permit is $80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *January 16, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 17, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amen* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR. 4.33(a) and (d), (*as amended*, 44 *FR* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before *January 16, 1981*. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. *3256*. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35974 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-100-000]

The Cleveland Electric Illuminating Co.; Filing

November 12, 1980.

The filing company submits the following:

Take notice that on November 6, 1980, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 Kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit communcement of transmission service on November 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35967 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-78-000]

Connecticut Light and Power Co.; Filing

November 7, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, The Connecticut Light and Power Company ("CL&P") filed a Transmission

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Service Agreement dated as of September 25, 1980, between The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and The Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities companies") and the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), a public corporation organized under the laws of the State of Connecticut, which presently provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City. Certificates of concurrence were filed by The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and the Holyoke Power and Electric Company.

The Transmission Service Agreement is an initial service arrangement between the Northeast Utilities companies and CMEEC and provides CMEEC with broad rights to use the Transmission system of the Northeast Utilities companies.

The parties to the Transmission Service Agreement have requested that the Commission waive its notice requirements and permit the Transmission Service Agreement to become effective as of October 1, 1980.

Any person desiring to be heard to make any protest with reference to the Transmission Service Agreement should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35983 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-93-000]

Duke Power Co.; Filing

November 12, 1980.

The filing company submits the following:

Take notice that on November 6, 1980, Duke Power Company (Duke) filed with the Commission pursuant to Section 35.12 of the Commission's Regulations Interconnection Agreements with North Carolina Electric Membership Corporation ("NCEMC") and Saluda River Electric Cooperative, Inc. ("Saluda River"). Under the terms of the Agreement, Duke will interconnect its generation and transmission system with the Catawba Nuclear Station, presently being constructed, and wheel electric power and energy to the members of NCEMC and Saluda River. The Interconnection Agreements are on file with the Commission and are available for public inspection.

Duke states that the Interconnection Agreement is one of three agreements between it and NCEMC and between it and Saluda River which are concerned with the sale to NCEMC of a 56.25 percent undivided interest in Unit No. 1 of the Catawba Nuclear Station and 28.125 percent of the support facilities at the plant, and the sale to Saluda River of 18.75 percent undivided interest in Catawba Unit No. 1 and 9.375 percent of the support facilities. The other two agreements between Duke and NCEMC and Duke and Saluda River are a Purchase, Construction and Ownership Agreement and an Operating and Fuel Agreement.

In addition to the interconnection of facilities and the wheeling by Duke of electric power and energy to the members of NCEMC and Saluda River, the Interconnection Agreements provide for the following:

(1) Determination of amount of power and energy to be supplied from Catawba to members of NCEMC and Saluda River.

(2) Determination of amount of power and energy sold from Catawba to Duke.

(3) A reliability exchange between the Catawba Units, and between the Catawba Units and the McGuire Nuclear Station owned by Duke.

(4) Determination of amount of supplemental capacity and energy to be supplied by Duke to fulfill electric requirements of members of NCEMC and Saluda River.

(5) Determination of reserves required by NCEMC and Saluda River, deficiency energy and unused supplemental energy when needed by NCEMC and Saluda River to supply their electric needs when Catawba Unit No. 2 is not running.

(6) Sales by NCEMC and Saluda River of surplus energy.

(7) Transmission services and deliveries.

(8) Metering.

(9) Billing and payments.

(10) Default and resolution of disputes.

(11) Formulas to compute rates and charges of Duke, NCEMC and Saluda River for all services.

Duke further states that it expects to initiate service to NCEMC and Saluda River under the Interconnection Agreements on or after March 1984, with the commencement of the commercial operation of either Units No. 1 or No. 2 of the Catawba Nuclear Station. Duke requests that the Interconnection Agreement be accepted for filing as soon as possible to become effective on the date of initiation of service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35989 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-17-000]

Florida Gas Transmission Co.; Tariff Sheet Filings

November 10, 1980.

Take notice that on November 5, 1980, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. TC81-17-000 tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective December 1, 1980, consisting of Fourth Revised Sheet No. 20-D, First Revised Sheet Nos. 20-E and F, and Second Revised Sheet Nos. 20-G through 20-O to its FERC Gas Tariff, Original Volume No. 1.

FGT states that the purpose of this filing is to update its Index of End-Use Volumes to reflect changes in its customers' essential agricultural uses.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35988 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-32-000]

Florida Gas Transmission Co.; Application

November 12, 1980.

Take notice that on October 24, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-32-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and for permission and approval to abandon certain facilities, all as more fully set forth in the the application which is on file with the Commission and open to public inspection.

Applicant proposes to recondition one 18-inch pipeline crossing the Mobile River, in Mobile County, Alabama, abandon a matching adjacent pipeline, and construct and operate approximately 2,000 feet of 30-inch pipeline. It is stated that due to erosion of the west bank of the Mobile River the crossing of both existing 18-inch pipelines are exposed and in need of immediate repair. Applicant states that the physical proximity of the two pipelines prevents rehabilitation of both existing lines. Applicant proposes to install 2,000 feet of 30-inch pipeline pursuant to either conventional dredging methods or boring under the river bed whichever proves to be a more efficient method. Furthermore, it is stated that the 30-inch line would allow Applicant to conduct pigging operations through that section of pipeline. Applicant states that after the 30-inch pipeline is completed Applicant would recondition one 18-inch pipeline and the adjacent bank and abandon the other existing pipeline. Applicant states that this proposal is necessary to eliminate the erosion problem as much as possible and to increase the reliability of its pipeline for deliveries.

Applicant states that the estimated total cost of the proposed project would be $1,684,000 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35954 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-69-000]

Georgia Power Co.; Proposed Change in Rate Schedule

November 12, 1980.

Take notice that on October 31, 1980, Georgia Power Company (Georgia) tendered for filing a proposed change in the charges for Emergency Assistance (Schedule A) and Short-Term Capacity (Schedule B) under its Interchange Contract with Savannah Electric and Power Company (Savannah), Georgia Rate Schedule FERC No. 798. Georgia states that the proposed change in rate schedule continues the interconnected operation of the parties' systems and provides for emergency assistance and short-term capacity transactions, if any, during 1981.

Georgia states that the 1980 charges under the Interchange Contract would be inappropriate during 1981 because of changes in loads, costs and installed generating capacity. Accordingly, Georgia requests an effective date of January 1, 1981.

Georgia states that copies of the proposed modification have been mailed to Savannah and the Presiding Administrative Law Judge and Staff Counsel in Docket No. ER80-222.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35970 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket NO. QF80-25]

Granite City Steel; Application for Commission Certification of Qualifying Status of a Cogeneration or Small Power Production Facility

November 10, 1980.

On September 16, 1980, Granite City Steel, a division of the National Steel Corporation, filed with the Federal Energy Regulatory Commission

(Commission) an application for certification of a facility as a qualifying cogeneration facility or small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in the blast furnace department of the Granite City Steel Division, Granite City, Illinois. The facility is owned entirely by the applicant.

The applicant has described the facility as follows:

The cycle [* * *] starts with coal (metallurgical coal) as an input at the coke ovens. The ovens are a somewhat fuel-wise, self-sustaining facility, giving off more than the unit itself needs. The coke itself then goes into the blast furnaces, along with ore, limestone, scrap, and miscellaneous additives as the burden. The coke oven gas goes as "*waste*" to the boilers as a secondary fuel, and to other plant users. The coke in the furnaces' burden is the fuel, fired by Hot blast (heated wind). In the ironmaking process, blast furnace gas is generated as a "*waste*." The "residual heat" or "waste" referred to in the above-mentioned definitions describes both of these by-product gases. The latent heat [1] content of which is used as fuel to make steam in the (12) twelve blast furnace area boilers. The boilers use blast furnace gas (BFG) as the prime fuel, coke oven gas (COG) as the secondary fuel, and natural gas as the tertiary fuel. The blast furnace use BFG to fire the hot blast stoves which heat the air from the blowers up to 1,800 degrees F for ignition with the coke in the blast furnace. But, the majority of the "waste" BFG goes to the boilers as its prime fuel. [* * *] The steam from the boilers is distributed for three major types of users: (1) generating electric power; (2) generating mechanical power on the large turbo-blowers (steam turbine-driven air compressors) and other turbine-driven devices in the complex; and (3) for many miscellaneous noncondensate returning users. The second use, mechanical power, is a substitute for electric motors.

The facility has a power production capacity of less than 80 megawatts.

Any person desiring to be heard or objecting to the granting or qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35955 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[1] By "latent heat" the applicant appears to mean the chemical energy released when by-product gases are combined and combusted with air.

[Docket No. SA81-4-000]

Humble Exploration Company, Inc.; Application for Adjustment

November 10, 1980.

Take notice that on October 14, 1980, Humble Exploration Company, Inc. (Applicant), 4950 Westgrove Drive, Dallas, Texas 75248, filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act (NGPA) and section 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment. Applicant seeks relief from § 273.204 of the Commission's regulations issued under the NGPA.

Specifically, Applicant states that it is the operator of 16 (sixteen) wells located in Fayette, Washington, and Lee Counties, Texas and initial deliveries from each of the subject wells began on or after February 1, 1980. Applicant states that due to its involvement in complex bankruptcy proceedings, and adjustment is neccessary because initial deliveries of gas from the 16 wells occurred prior to the filing of determination requests with the Texas Railroad Commission.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 24, 1979. (44 FR 19861, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41(e). All petitions to intervene must be filed on or before fifteen days after publication of this notice in the **Federal Register**.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35976 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3465]

James M. Knott; Application for Preliminary Permit

November 12, 1980.

Take notice that James M. Knott (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3465 to be known as the Needham Project located on the Charles River in Needham, Norfolk County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. James M. Knott, 130 Riverdale Street, Northbridge, Massachusetts 01534.

Project Description—The proposed project would consist of: (1) an existing 9-foot high, 125-foot long concrete dam; (2) an existing reservoir with negligible storage capacity; (3) an existing sluiceway and trash rack structure; (4) an existing concrete pressure chamber; (5) a new powerhouse located over the pressure chamber containing two turbine-generators to be reconditioned or replaced with a total rated capacity of 165 KW; (6) a 300-foot long buried transmission line; and (7) appurtenant facilities. Total estimated annual energy production of the project would be approximately 595,570 KWH saving the equivalent of 980 barrels of oil or 275 tons of coal.

Purpose of Project—Applicant proposes to sell energy generated at the project to Boston Edison Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $18,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 20, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 20, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3465. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35977 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3114]

Merced Irrigation District; Approval by Operation of Law

November 10, 1980.

Take notice that the Commission agreed at its meeting of October 29, 1980, to take no action on the application for an exemption from licensing for the Canal Creek Project No. 3114, filed on July 7, 1980, by the Merced Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on October 30, 1980, under Section 4.93(d) of the Commission's regulations [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 CFR 4.94].

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35984 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3115]

Merced Irrigation District; Approval by Operation of Law

November 10, 1980.

Take notice that the Commission agreed at its meeting of October 29, 1980, to take no action on the application for an exemption from licensing for the Escaladiam Project No. 3115, filed on July 7, 1980, by the Merced Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on October 30, 1980, under Section 4.93(d) of the Commission's regulations [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 CFR 4.94]. Article 2 of which requires compliance with the following conditions imposed by the U.S. Department of the Interior:

1. The project shall not cause greater quantities of water to be diverted than that which would be required for irrigation demands alone;

2. The project shall not result in operation changes (rate of diversion) which would adversely impact the Merced River fishery by reason of increased fluctuations or reductions in flow (instantaneous measurement);

3. The project shall not be used by the licensee as a basis for refusing to provide sufficient instream flow (Merced River) as may be determined necessary during future hearings or other project licensing procedures.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35985 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3116]

Merced Irrigation District; Approval by Operation of Law

November 10, 1980.

Take notice that the Commission agreed at its meeting of October 29, 1980, to take no action on the application for an exemption from licensing for the Fairfield Project No. 3116, filed on July 7, 1980, by the Merced Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on October 30, 1980, under Section 4.93(d) of the Commission's regulations [18 CFR 4.93 (d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 CFR 4.94]. Article 2 of which requires compliance with the following conditions imposed by the U.S. Department of the Interior:

1. The project shall not cause greater quantities of water to be diverted than that which would be required for irrigation demands alone;

2. The project shall not result in operation changes (rate of diversion) which would adversely impact the Merced River fishery by reason of increased fluctuations or reductions in flow (instantaneous measurement);

3. The project shall not be used by the licensee as a basis for refusing to provide sufficient instream flow (Merced River) as may be determined necessary during future hearings or other project licensing procedures.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35986 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-38-000]

Michigan Wisconsin Pipe Line Co.; Application

November 12, 1980.

Take notice that on October 29, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue,

V 45 N 0 18 80 0 UMI

Detroit, Michigan 48226, filed in Docket No. CP81–38–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of gas with Midwestern Gas Transmission Company (Midwestern) and Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to exchange natural gas with Midwestern and Northern pursuant to a gas exchange agreement dated August 15, 1980. It is stated that Northern would deliver on a best-efforts basis up to 50,000 Mcf of gas per day to Applicant at the interconnection of their respective systems at Janesville, Wisconsin. On such days of delivery, it is stated, Midwestern would deliver equal volumes to Northern at an interconnection of their systems at North Branch, Minnesota, and would reduce its deliveries to Applicant at the interconnection of their facilities at Marshfield, Wisconsin. Applicant states that the deliveries by Midwestern to Northern would be deemed deliveries for Applicant's account, pursuant to a contract between Applicant and Midwestern dated July 17, 1967. Applicant asserts that such an arrangement is necessary in order to meet winter time market requirements on the northern end of its system and to backstop Canadian import volumes.

It is stated that the gas exchange agreement would be in effect from the date of execution until May 1, 1982, with anticipated delivery requirements from October 1, 1980, through April 30, 1981, absent extension by the parties. Applicant states that it would retain 2 percent of total delivered volumes from Northern as compensation for unaccounted for gas and compressor fuel and in addition Northern would pay Applicant 1.0 cent per Mcf of gas delivered by Northern to Applicant at the Janesville, Wisconsin, interconnection as an administrative fee.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35956 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-108]

Missouri Public Service Co.; Filing

November 10, 1980.

The filing company submits the following:

Take notice that on October 15, 1980, Missouri Public Service Commission submitted for filing a refund report pursuant to the Commission's order, issued August 22, 1980, in the above-referenced proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35978 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-141-002]

Natural Gas Pipeline Company of America; Petition To Amend

November 12, 1980.

Take notice that on October 27, 1980, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-141-002 a petition to amend the order issued February 12, 1975,[1] as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas with Arkansas Louisiana Gas Company (Arkla) from certain wells located in the Carthage Field, Panola County, Texas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on February 12, 1975, it was authorized to exchange up to 10,000 Mcf of natural gas per day with Arkla pursuant to an exchange agreement dated July 5, 1974, as amended, and to construct and operate certain facilities to implement such exchange located in Washita and Grady Counties, Oklahoma. Petitioner further states that such order was amended on May 22, 1978, so as to authorize additional points of exchange of gas from the Hickey Well in Roger Mills County, Oklahoma, and the Rogers Well in Wheeler County, Texas. The order was further amended on February 9, 1979, so as to authorize additional points of exchange of gas from the Selby Hooper No. 1–5 and No. 2–4 Wells in Roger Mills County, Oklahoma, and successively amended once more on January 21, 1980, so as to authorize three additional delivery points in Roger Mills County, Oklahoma, balancing points for deliveries in Wheeler County, Texas, and Beckham County, Oklahoma, and future exchange and balancing points in a specified area of interest, it is said.

Petitioner asserts that Lone Star Gas Company a Division of Enserch Corporation (Lone Star) has acquired by assignment from Arkla on August 18, 1978, 20 percent of a certain gas purchase contract between Arkla and R. Lacy, Inc. and others dated March 29, 1977, as amended, covering rights to buy gas from interests in certain properties in Panola County, Texas. Lone Star, it is stated, pursuant to a precedent agreement dated May 6, 1971, with Petitioner, has tendered for sale to Petitioner 100 percent of its interest in the acquisition from Arkla up to a limit of 6,000,000 Mcf of gas after which all remaining gas would revert to Lone Star in accordance to the terms of an assignment of gas purchase contract between the parties dated May 23, 1980. Petitioner further asserts that Arkla also retains an interest in and is connected to the 21 presently completed wells in the Carthage Field to effectuate its purchase of gas therefrom and has agreed to accept gas for Petitioner's account as part of the exchange arrangement. It is submitted that this source of gas lies outside of the area of interest from which Petitioner was authorized to exchange gas.

Accordingly, Petitioner hereby proposes to add the Carthage Field delivery point encompassing the inlet to the measurement and gathering facilities of Arkla as an exchange point with Arkla. Petitioner asserts that its deliveries at this point would be limited to 6,000,000 Mcf of gas or total production from the wells if less than 6,000,000 Mcf and that the Carthage Field delivery point would be utilized only until such gas has been received by Arkla and delivered to Petitioner at existing exchange points.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35957 Filed 11-17-80; 8:45 am]

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP79-327-002]

Natural Gas Pipeline Co. of America, et al.; Petition To Amend

November 12, 1980.

In the matter of Natural Gas Pipeline Company of America, United Gas Pipe Line Company, Michigan Wisconsin Pipe Line Company, and Transcontinental Gas Pipe Line Corporation.

Take notice that on October 22, 1980, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, United Gas Pipe Line Company (United), 700 Milam, Houston, Texas 77002, Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, and Transcontinental Gas Pipe Line Corporation (Transco), 2700 South Post Oak Road, Houston, Texas 77056, filed in Docket No. CP79-327-002 a petition to amend the order issued on November 13, 1979, in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize a change in the ownership percentages and capacity entitlements in the joint offshore Texas gas gathering facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that United has acquired gas purchase rights to Shell Oil Company's natural gas production from High Island Block A-490, offshore Texas, and desires to have its gas delivered through the facilities authorized in Docket No. CP79-327. It is stated that due to the additional volume of gas, United would not have available capacity in the A-747 pipeline segment downstream of the sub-sea valve on the A-474/A-489 gathering pipeline which would connect United's proposed gathering pipeline in Block A-490.

Therefore, Petitioners state that they have agreed to amend the construction and ownership agreement dated February 6, 1979, to reflect revised ownership percentages and capacity entitlements in the A-474/A-489 gathering pipeline. It is stated that Segment A is approximately 3.5 miles of 20-inch pipeline, 0.4 mile of 16-inch pipeline and other appurtenant facilities from the High Island Area Block A-474 production platform and the Block A-489 production platform to a sub-sea valve on the A-474/A-489 pipeline at the interconnection with United's proposed pipeline in Block A-490. Also, it is stated that Segment B is approximately 4.3 miles of 20-inch pipeline and other appurtenant facilities from the above sub-sea valve to a sub-sea tie-in to the High Island Offshore System in Block A-498. Petitioners propose the following amendments:

Ownership percentages	Total (percent)
Natural	22.82
United	48.12
Mich Wisc	15.21
Transco	13.85
Total	100.00

Capacity entitlements (percent)	Segment A (percent)	Segment B (percent)
Natural	30.00	16.41
United	31.60	62.69
Mich Wisc	20.00	10.94
Transco	18.20	9.96
Total	100.00	100.00

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35958 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-18-000]

Northern Natural Gas Company, Division of InterNorth, Inc., Application

November 12, 1980.

Take notice that on October 16, 1980, Northern Natural Gas Company, Division of InterNorth, Inc., 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-18-000 an applicant pursuant to Section 7(c) of the Natural Gas Act authorizing the construction and operation of certain pipeline loops in Minnesota and the transportation of natural gas for the account of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the

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Commission and open to public inspection.

Applicant proposes to construct and operate 26.3 miles of 30-inch pipeline loop which would complete the looping of Applicant's "D" line between the Ventura, Iowa, compressor station and the Owatonna, Minnesota, compressor station and extend 9.3 miles beyond the Owatonna station.

Applicant states that it is authorized to import up to 200,000 Mcf of Canadian natural gas per day at a point on the international boundary between the United States and Canada near Emerson, Manitoba. Applicant further states that 100,000 Mcf of the imported gas is proposed to be transported through Northern Border Pipeline Company (Northern Border) facilities to Ventura, Iowa, instead of further north in the Minnesota market area. It is stated that the installation of the proposed facilities would enable Applicant to transport approximately 100,000 Mcf of natural gas per day north of Farmington, Minnestoa, thereby meeting its northern customers' requirements.

Applicant estimates the cost of the proposed facilities to be $16,963,560 which would be financed from cash on hand. It is stated that the project would not resut in any increased cost to Applicant's customers for the transportation of Canadian gas.

Applicant also proposes pursuant to an October 10, 1980, gas transportation agreement to transport up to 75,000 Mcf of gas per day for the account of Natural. It is stated that Natural would purchase Canadian gas from ProGas, Limited, and that Northen Border would transport these volumes to Applicant at the Ventura Delivery point. Applicant states it would then transport by displacement up to 75,000 Mcf per day of thermally equivalent volumes at an existing point of interconnection between Applicant's and Natural facilities near Glenwood, Iowa.

It is stated that Natural would pay Applicant a monthly demand charge of $48.293 for the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35971 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-29-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

November 12, 1980.

Take notice that on October 22, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-29-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in order to transport natural gas in interstate commerce, all as more fully set forth in application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas from a supply area in Routt County, Colorado, by means of the proposed facilities. It is stated that Applicant has contracted with Mobil Oil Corporation, Mountain Petroleum Ltd., and Union Oil of California for purchase of gas from dedicated acreage with total proven reserves of approximately 10,200,000 Mcf. Applicant states that future reserves from the dedicated acreage and other acreage are anticipated. Applicant states that the proposed construction is necessary to receive and transport these gas supplies.

Applicant proposes to construct and operate approximately 26.7 miles of 6-inch pipeline and one 80 horsepower compressor station (Routt County No. 1) to transport and deliver the above gas to a proposed interconnection on Mountain Fuel Supply Company's (Mountain Fuel) existing pipeline system in Moffat County, Colorado. It is stated that Mountain Fuel would deliver the gas to Colorado Interstate Gas Company (CIG) at Kanda, an existing interconnection located in Sweetwater County, Wyoming. CIG would deliver said gas for Applicant's account to Applicant's system at existing points of interconnection in Moore County, Texas, or Kearny County, Kansas. It is stated that Applicant has entered into agreements with both companies, which agreements would be in effect commencing with the date of the initial gas flow and terminating at the end of a two-year period.

Applicant states that the proposed 6-inch pipeline would originate at the discharge of the Routt County No. 1 Station, parallel the Williams Fork River in a northwesterly direction into Moffat County, Colorado, then turn north/northwesterly eventually interconnecting with the existing Mountain Fuel Pipeline in Moffat County, Colorado.

Applicant proposes that the Routt County No. 1 Station would be located north of Pagoda, Routt County, Colorado, and that the station would consist initially of an 80 horsepower rental unit capable of accommodating transportation of the minimum contract volumes for the first two operation years. Applicant states that rental horsepower would be used while determining actual flow characteristics. In the third year, it is stated, area deliverability would increase to approximately 10,600 Mcf of gas per day. Applicant states that then the rental unit would be removed and replaced with the appropriate horsepower capacity facility. Authorization for increased horsepower would be sought later.

The estimated total cost of the proposed facilities would be $5,297,610, which cost would be financed from funds generated through operations or if necessary short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35958 Filed 11-17-80; 8:45 am]

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[Project No. 3466]

Pacific Northwest Generating Company and Tumalo Irrigation District; Application for Preliminary Permit

November 10, 1980.

Take notice that Pacific Northwest Generating Company and Tumalo Irrigation District (Applicant) filed on September 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3466 to be known as Columbia Southern Canal Hydroelectric Project located on the Tumalo Creek in Deschutes County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David E. Pipe, Pacific Northwest Generating Company, 8383 N.E. Sandy Blvd., Suite 330, Portland, Oregon 97220.

Project Description—The proposed project would consist of: (a) an existing 20-foot long, 6-foot high wooden diversion structure across the Tumalo Creek; (b) approximately 6 miles of unlined canal; (c) three penstocks-4,000, 5,200, and 2,400 feet long-originating at points on the canal 2, 3 and 5 miles downstream of the diversion structure, carrying water to three powerhouses on the canal; (d) three single-generating unit powerhouses with rated capacities of 3.2, 3.2 and 2.4 MW, respectively (total rated capacity of the project 8.8 MW); and (e) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 37.9 million kWh.

Purpose of Project—Project energy would be utilized to serve the Pacific Northwest Generating Company's customers/members.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month preliminary permit to prepare a project report, including preliminary designs, and results of hydrological, environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $69,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permt. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 and § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determing the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notice of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3466. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each

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representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35979 Filed 11-17-80; 8:45 am]

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[Project No. 3470]

Pacific Northwest Generating Company and Tumalo Irrigation District; Application for Preliminary Permit

November 10, 1980.

Take notice that on September 15, 1980, Pacific Northwest Generating Company and Tumalo Irrigation District (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3470 to be known as Bend Canal Hydroelectric Project, located on the Deschutes River in Deschutes County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Howard, Pacific Northwest Generating Company, 8383 N. E. Sandy Boulevard, Suite 330, Portland, Oregon 97220.

Project Description—The proposed project would consist of: (a) the existing 500-foot concrete gravity Tumalo Diversion Dam across the Deschutes River; (b) a 3-mile long unlined irrigation canal; (c) a 400-foot long penstock; (d) a powerhouse containing a single generating unit with a rated capacity of 2.2 MW; and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 8 million kWh.

Purpose of Project—Project energy would be utilized to serve the needs of the Pacific Northwest Generating Company's members/customers.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $40,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agenices that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 21, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely filed a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene, in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3470. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35890 Filed 11-17-80; 8:45 am]

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[Project No. 3113]

South San Joaquin Irrigation District; Approval by Operation of Law

November 10, 1980.

Take notice that the Commission agreed at its meeting of October 29, 1980, to take no action on the application for an exemption from licensing for the Frankenheimer Project No. 3113, filed on July 7, 1980, by the South San Joaquin Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on October 30, 1980, under Section 4.93(d) of the Commission's regulations [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 CFR 4.94], Article 2 of which requires compliance with the following conditions imposed by the U.S. Department of the Interior:

1. The project shall not cause greater quantities of water to be diverted than that which would be required for irrigation demands alone;

2. The project shall not result in operation changes (rate of diversion) which would adversely impact the Stanislaus River fishery by reason of increased fluctuations or reductions in flow (instantaneous measurement);

3. The project shall not be used by the licensee as a basis for refusing to provide sufficient instream flow (Stanislaus River) as may be determined necessary during future hearings or other project licensing procedures.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35987 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-63-000]

Southern Company Service, Inc.; Proposed Tariff Change

November 12, 1980.

The filing company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company on October 30, 1980 tendered for filing Amendment No. 1 Manual under the Southern Company System Intercompany Interchange Contract (the Manual). The filing also includes informational schedules which detail the charges and derivation of components of the rates to be used during the calendar year 1981. The filing of the informational schedules was made in accordance with a settlement agreement in Docket No. ER80-65 which was approved by Order of this Commission dated October 1, 1980.

Amendment No. 1 to the Manual provides for a change in the pricing of interchange energy between the operating companies of the Southern Company system. The change provides that such energy will be priced at the incremental cost of the generating unit providing the energy instead of the average cost of such generating unit.

Copies of the filing were served upon the parties of record in *Southern Company Services, Inc.*, Docket No. ER80-65.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35972 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-28]

Stieren Farms; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

November 12, 1980.

On September 26, 1980, Stieren Farms filed with the Federal Energy Regulatory Commission (Commission) an application for certification of qualifying status of a small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed facility will be located in Northern Montgomery County, Illinois. The facility is owned entirely by the applicant, which is a family partnership. The applicant states that the primary energy source will be waste methane gas from an abandoned coal mine. The installed capacity of the facility is 500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35973 Filed 11-17-80; 8:45 am]

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[Docket No. CP80-388-002]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Amendment to Application

November 12, 1980.

Take notice that on October 31, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-388-002 an amendment to its application filed June 2, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect an extension until May 31, 1981, of the transportation of natural gas for Orange and Rockland Utilities, Inc. (Orange and Rockland), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that under its pending application it sought authorization to transport up to 50,000 Mcf of natural gas per day for Orange and Rockland. It is stated that Orange and Rockland purchased said gas from East Tennessee Natural Gas Company (East Tennessee) for use in Orange and Rockland's electric generating stations to displace fuel oil. Applicant states that the transportation service, originally requested through August 31, 1980, has been rendered pursuant to temporary certificate authorizations extending storage through October 31, 1980, and the subsequent withdrawl of the stored gas until May 31, 1981.

Since the fuel shortage emergency period has been extended from August 31, 1980, to June 1, 1981, it is stated, Orange and Rockland has arranged with East Tennessee to continue the purchase of said volumes of gas until May 31, 1981. Applicant states that therefore it desires to amend its application in the instant docket to allow Applicant to transport said gas through May 31, 1981. Under the proposed authorization, Applicant projects that it would transport up to 3,000,000 Mcf of gas in the period November 1, 1980, to May 31, 1981, based on a peak day of up to 50,000 Mcf of natural gas per day.

Furthermore, Applicant states that transported gas would be surplus to its customers' market requirements during the extended period; however, if curtailment becomes necessary interruption of the transportation might become necessary.

Applicant also states that East Tennessee has asserted that if it is not permitted to sell said gas to Orange and Rockland, and if it cannot find another off-system purchaser, as it appears, East Tennessee would back off an equivalent volume of its purchases from Applicant. Should this occur, Applicant asserts, it would be without a buyer and would be required to reduce its purchases by equivalent volume from its supply sources.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

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intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35980 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3136]

Turlock Irrigation District; Approval by Operation of Law

November 10, 1980.

Take notice that the Commission agreed at its meeting of October 29, 1980, to take no action on the application for an exemption from licensing for the Upper Dawson Project No. 3136, filed on July 7, 1980, by the Turlock Irrigation District.

Accordingly, the exemption is deemed granted by operation of law on October 30, 1980, under Section 4.93(d) of the Commission's regulations [18 CFR 4.93(d)], subject to the standard terms and conditions set forth in Section 4.94 of the Commission's regulations [18 CFR 4.94].

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35984 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-24-000]

United Gas Pipe Line Co.; Application

November 12, 1980.

Take notice that on October 20, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-24-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tenneco Oil Company, a Division of Tenneco Inc. (Tenneco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 7,000 Mcf of natural gas per day for Tenneco pursuant to a gas transportation agreement dated September 26, 1980. It is stated that Tenneco has the gas available in Lake Bistineau Field, Bienville Parish, Louisiana. Applicant states that it would receive the gas at a mutually agreeable point on Applicant's 30-inch Lake Bistineau Storage Field Main Line near the R.C. Baker No. 1 well, Bienville Parish, Louisiana. It is stated that Applicant would redeliver equivalent volumes, less 2.3 percent for fuel and unaccounted for gas, to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) for Tenneco's account at the existing interconnection points between Applicant and Tennessee at (i) Venton, Cameron Parish, Louisiana, (ii) Cocodrie, Terrebonne Parish, Louisiana, (iii) Bayou Sale, St. Mary Parish, Louisiana, and/or (iv) other mutually agreeable existing points of interconnection between Tennessee and Applicant.

Applicant states that any measuring facilities necessary to receive the gas would be constructed at Tenneco's expense and that the measuring facilities for delivery to Tennessee are in existence.

It is stated that Tenneco has agreed to pay Applicant an amount per Mcf equal to Applicant's jurisdictional transportation rate in effect from time to time in Applicant's Northern Rate Zone as such may be determined by Applicant based on rate filings made from time to time with the Commission. It is stated that the current rate is 19.32 cents per Mcf.

Applicant states that the transportation agreement would remain in force for five years beginning on the date deliveries commence and continuing from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35981 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3453]

Western States Energy & Resources, Inc.; Application for Preliminary Permit

November 10, 1980.

Take notice that Western States Energy & Resources, Inc. (Applicant) filed on September 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the proposed Tuttle Creek Dam and Lake Project, FERC No. 3452, to be located at the U.S. Army Corps of Engineers' Tuttle Creek Dam and Reservoir, a flood control project, on the Big Blue River near Manhattan, in Pottawatomie and Riley Counties, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jeffrey Kossak, Esq., Western State Energy & Resources, Inc., Suite 1900, 14 Wall Street N.Y., N.Y. 10005.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Tuttle Creek and Reservoir. Project No. 3453 would consist of: (1) a proposed penstock extending from the existing outlet works; (2) a proposed powerhouse located on the western bank of the river; (3) proposed transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2 MW and the annual energy output to be 9 GWh.

Purpose of Project—Energy produced at the proposed project would probably be sold to Kansas Power and Light.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $57,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *January 12, 1981,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 13, 1981.* A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *January 12, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3453. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-35981 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS74-265, et al.]

Whitaker Enterprises, Inc. (Energy Enterprises, Inc.; Applications for "Small Producer" Certificates [1]

November 10, 1980.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should or before November 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No.	Date filed	Applicant
CS74-265	[1] 8/5/80	Whitaker Enterprises, Inc. (Energy Enterprises, Inc.), P.O. Box 1274, Liberal, Kansas 67901.
CS81-2-000	10/6/80	Petroleum Corporation of America, 3365 Anaconda Tower, 555 17th Street, Denver, Colorado 80202.
CS81-3-000	10/7/80	Cove Oil & Gas Company, P.O. Box 256, West Jefferson, N.C. 28694.
CS81-4-000	10/14/80	Center Bar Gas Company, 301 Fredenck Towers, 2400 Fredenck Avenue, St. Joseph, Mo. 64506.
CS81-5-000	10/14/80	Epsilon 1980 S T Joint Venture, P.O. Box 5061, Westport, Connecticut 06881.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No.	Date filed	Applicant
CS81-6-000	10/10/80	Stowers Oil & Gas Company, P.O. Box 420, Pampa, Texas 79065.
CS81-7-000	10/10/80	Cape Fear Energy Corporation, P.O. Box 2129, Fayetteville, N.C. 28302.
CS81-8-000	10/17/80	Deposit Guaranty National Bank, Trustee under will of Dr. Sam J. Hooper, One Deposit Guaranty Plaza, Jackson, Miss. 39205
CS81-9-000	10/20/80	Eric V. Eisner and Jane M Eisner, Trustees under the will of John J. Eisner, 403 2nd Place, Abernathy, Texas 79311.
CS81-10-000	10/20/80	Fiduciary Trust Company of New York, Trustee under the will of Chester D. Tripp, Deceased, 403 2nd Place, Abernathy, Texas 79311.
CS81-11-000	10/20/80	Eric V. Eisner, 403 2nd Place, Abernathy, Texas 79311.
CS81-12-000	10/22/80	Sterling Drilling and Production Co., Inc., 622 Third Avenue, New York, NY 10017.
CS81-13-000	10/22/80	OMNI Drilling Partnership No. 1980-2, P.O. Drawer 430, Wayne, Pa. 19087.
CS81-14-000	10/27/80	Jack Worsham, P.O. Box 1157, Borger, Texas 79007.
CS81-15-000	10/29/80	Maunce E. Forney and Charles J. Worrel, 2013 Alamo National Bldg., San Antonio, Texas 78205.
CS81-16-000	10/31/80	Dr. Ray Hailey, Jr., 3388 S. Oneida Way, Denver, Colorado 80224.

[1] Being noticed to reflect name change from Energy Enterprises, Inc., to Whitaker Enterprises, Inc.

[FR Doc. 80-35862 Filed 11-17-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-C30192; PH-FRL 1673-1]

Abbott Laboratories; Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Abbott Laboratories has submitted an application to conditionally register the pesticide product *Phytophthora palmivora* which contains the active ingredient 3.2×10^8 Live Chlamydospores of *Phytophthora palmivora* MWV per pint. (This is equivalent to 6.7×10^5 live chlamydospores per milliliter) which has not been previously registered in a pesticide product.

DATE: Comments may be submitted on or before December 18, 1980.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-351, 401 M St. SW., Washington, D.C. 20460.

Written comments should bear a notation indicating the EPA Registration Number 275-GO and the document control number "[OPP-C30192]."

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (202-755-1397).

SUPPLEMENTARY INFORMATION: Abbott Laboratories, 14th St., and Sheridan Rd., Chicago, IL 60064, has submitted an application to conditionally register the pesticide product *Phytophthora palmivora* (EPA Reg. 275-GO) which contains the active ingredient 3.2×10^8 Live Chlamydospores of *Phytophthora palmivora* MWV per pint. The application proposes that the mycoherbicide be used for control of *Morrenia odorata*, strangler or milkweed vine, in citrus groves. This fungus causes root infection in milkweed vine plants that kill the vine in 2-10 weeks following application.

Notice of approval or denial of this application will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if the application is approved.

(Sec. 3(c)(4), 86 Stat. 972 (7 U.S.C. 136a))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35872 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

[PF-207; PH-FRL 1673-3]

Abbott Laboratories; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that Abbott Laboratories has submitted a proposal that the mycoherbicide, *Phytophthora palmivora* MWV be exempted from the requirement of a tolerance on citrus fruit.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-351 401 M St. SW., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the agency. The comments are to be identified by the document control number "[PF-207]" and the petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (202-755-1397).

SUPPLEMENTARY INFORMATION: EPA gives notice that Abbott Laboratories, 17th and Sheridan Rd., N. Chicago, IL 60064 has submitted pesticide petition OF2418 to the EPA, which proposes to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for *Phytophthora palmivora* on citrus fruit. This notice is in accordance with the Federal Food, Drug, and Cosmetic Act.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35874 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

[PP OG2227/T273; PH-FRL 1672-3]

Ciba-Geigy Corp.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 7, 1980, a temporary tolerance was established for use of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-ethyl-,3-dioxolan-2-yl]methyl]-1*H*-1,2,4,-triazole and its 2,4-dichlorobenzoic acid metabolites (calculated as parent compound) in or on almonds at 0.1 part per million (ppm), almond hulls and apples at 0.5 ppm, peaches and plums (fresh prunes) at 1 ppm, and in cherries at 2 ppm.

FOR FURTHER INFORMATION CONTACT: Eugene M. Wilson, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-349, 401 M St., SW., Washington, D.C. 20460, (202-755-1806).

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409 requested that temporary tolerances be established for residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-ethyl-1, 3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its 2,4-dichlorobenzoic acid metabolites (calculated as the parent compound) in or on almonds at 0.1 ppm, almond hulls and apples at 0.5 ppm, peaches and plums (fresh prunes) at 1 ppm and in cherries at 2 ppm.

These temporary tolerances are to permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit (100-EUP-64) currently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819, 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances would protect the public health. The temporary tolerances have been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the fungicide to be used will not exceed the quantity authorized in the experimental use permit.

2. Ciba-Geigy will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request, make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire December 31, 1982. Residues not in excess of these temporary tolerances remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if anyscientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408 (j), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35807 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

[PP OG2300/T260A; PH-FRL 1672-5]

Mobay Chemical Corp.; Establishment of Temporary Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the signature line that appeared in a document that published in the **Federal Register** of August 25, 1980 (45 FR 56431) FR Doc. 80-25811.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Federal Register Staff (TS-788), Office of Pesticides and Toxic Substances, Enviromental Protection Agency, Rm. EB-42, 401 M St., SW., Washington, D.C. 20460, (202-426-2432).

SUPPLEMENTARY INFORMATION: A notice that published in the **Federal Register** of August 25, 1980 (45 FR 56431) appeared with the incorrect signature line. The signature reading: "Herbert Hamson" is corrected to read "Herbert Harrison."

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35868 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

[PP 5G1626/T272; PH-FRL 1672-4]

Sodium Azide; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been established for residues of the fungicide sodium azide (expressed as the azide ion N_3) in or on tomatoes at 0.1 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Eugene M. Wilson, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-349, 401 M St., SW., Washington, D.C. 20460, (202-755-1806).

SUPPLEMENTARY INFORMATION: EPA has established a tolerance for residues of the fungicide sodium azide (expressed as the azide ion N_3) in or on tomatoes at 0.1 ppm. This request for establishment of a tolerance was submitted by PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit (748-EIP-13) which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819, 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of a temporary tolerance would protect the public health. The temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the fungicide must not exceed the amount authorized in the experimental use permit.

2. PPG Industries will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request, make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires on January 1, 1981. Residues not in excess of this temporary tolerance remaining in or on tomatoes after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 346a(j)))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-35868 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50506; PH-FRL 1672-7]

Renewal of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The designated Product Manager given in each permit at the following address: Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

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784–EUP–13. PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. This experimental use permit allows the use of 15,000 pounds of the fungicide sodium azide (expressed as the azide ion N_3) on tomatoes to evaluate control of pod and black rot. A total of 400 acres are involved. The program is authorized only in the State of Florida. The program is effective from August 26, 1980 to January 1, 1981. A temporary tolerance for residues of the fungicide in or on tomatoes has been established. (PM 21, Eugene M. Wilson, Rm. E–349, 202–755–1806).

27596–EUP–23. Intermountain Forest and Range Experiment Station, Forestry Sciencies Laboratory, 1221 S. Maine St., Moscow, ID 83843. This experimental use permit allows the use of 80 pounds of the insecticide 3-methyl-2-cyclohexen-1- one on windfelled Douglas-fir to evaluate control of Douglas-fir beetles. A total of 100 acres are involved. The program is authorized only in the States of Idaho, Montana, Oregon, and Washington. The experimental use permit is effective from August 21, 1980 to August 21, 1981. (PM 17, Franklin D.R. Gee, Rm. E–341, 202–755–1150).

42634–EUP–2. U.S. Department of Agriculture, Science and Education Administration, Washington, D.C. 20250. This experimental use permit allows the use of 49.5 pounds of the insecticide 1-(8-dimethyl-nonyl)-4-(1-methylethyl) benzene on noncrop areas to evaluate control of imported fire ants. A total of 4,110 acres are involved. The program is authorized only in the States of Georgia, Louisiana, and Texas. The experimental use permit is effective from September 30, 1980 to September 30, 1982. (PM 17, Franklin D.R. Gee, Rm. E–341, 202–755–1150).

1471–EUP–61. Elanco Products Co., A Div. of Eli Lilly & Co., PO Box 1750, Indianapolis, IN 46285. This experimental use permit allows the use of 15,000 pounds of the herbicide tebuthiuron on non-crop areas such as railroad right-of-way, utility right-of-way, industrial sites, pipelines, and along highways to evaluate control of weeds. A total of 3,000 acres are involved. The program is authorized only in the States of Alabama, Florida, Georgia, Illinois, Iowa, Minnesota, Montana, Nebraska, North Carolina, South Carolina, South Dakota, and Wisconsin. The experimental use permit is effective from September 29, 1980 to September 29, 1981. (PM 25, Robert J. Taylor, Rm. E–359, 202–755–2196).

Persons wishing to review the experimental use permits are referred to the product manager. Inquiries regarding these permits should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8 a.m. to 4 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819, as amended; (7 U.S.C. 136))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticides Programs.

[FR Doc. 80–35870 Filed 11–17–80; 8:45 am]

BILLING CODE 6560–32–M

[PP 5G1590/T255A; PH–FRL 1673–2]

Tricyclazole; Establishment of Temporary Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the signature line that appeared in a document that published in the **Federal Register** of August 25, 1980 (45 FR 56432) FR Doc. 80–25809.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Federal Register Staff (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. EB–42, 401 M St. SW., Washington, D.C. 2046, (202–426–24032).

SUPPLEMENTARY INFORMATION: A notice that published in the **Federal Register** of August 25, 1980 (45 FR 56432) appeared with the incorrect signature line. The signature reading: "Herbert Hamson" is corrected to read "Herbert Harrison."

Dated: November 12, 1980.

Douglas D. Campt,

Director Registration Division. Office of Pesticide Programs.

[FR Doc. 80–35873 Filed 11–17–80; 8:45 am]

BILLING CODE 6560–32–M

[W–4–FRL 1672–8]

Water Quality Standards; Navigable Waters of the State of Florida

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of State water quality standards revision approval.

SUMMARY: The Environmental Protection Agency has approved variances from Florida's water quality standards for: (1) The Fenholloway River, adopted by the State of Florida on April 26, 1979, (2) segments of the St. John's River, adopted by the State of Florida on September 18, 1979, and (3) Myrtle Slough adopted by the State on July 10, 1980.

FOR FURTHER INFORMATION CONTACT: R.F. McGhee, Water Division, Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, GA 30365, 404/881–4793.

SUPPLEMENTARY INFORMATION: EPA approved the following revisions to Florida's water quality standards (Chapter 17–2, Florida Administrative Code) in accordance with Section 303(c)(3) of the Clean Water Act.

(1) On July 25, 1980, EPA, Region 4, approved a variance from Florida's criteria for dissolved oxygen, specific conductance, phenolic compounds and oil and grease for the Fenholloway River in Perry, Florida. The variance was requested by Buckeye Cellulose Corporation since achievement of these criteria would have resulted in substantial and widespread economic and social impact.

(2) On September 27, 1979, EPA, Region 4 approved a variance from water quality criteria for cadmium, lead, and mercury and zinc at times when the natural background levels approach or exceed the water quality standards for segments of the St. John's River.

(3) On August 27, 1980, EPA, Region 4, approved a dissolved oxygen variance for the stream identified as Myrtle Slough in Punta Gorda, Florida. The variance establishes a dissolved oxygen criterion of 2.5 mg/1 during the months June through September when the Class III dissolved oxygen criterion of 5.0 mg/1 cannot be met due to natural background conditions.

These revisions are consistent with the Clean Water Act as interpreted in the Agency's water quality standards regulations at 40 CFR 35.1550.

Copies of the revisions may be obtained from the Florida Department of Environmental Regulation, 2462 Executive Center Circle East, Tallahassee, Florida 32301.

(Sec. 303(c), Clean Water Act (33 U.S.C. 1313(c)))

Dated: November 11, 1980.

Eckardt Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80–35871 Filed 11–17–80; 8:45 am]

BILLING CODE 6560–38–M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80–620; BC Docket Nos. 80–661, 80–662, 80–663, and 80–664; File Nos. BPH–11005, BPH–780831AA, BPH–780831AB, and BPH–780831AR]

Christian Communications Inc., et al.; Hearing Designation Order

In the matter of applications of Christian Communications Incorporated, Mechanicsville, Virginia Req: 92.7 MHz, Channel 224; 3 KW (H&V), 300 feet (BC Docket No. 80–661, File No. BPH–11005), Raymond Bentley Sr. and Douglas L. Chapman Jr. Trading as Mechanicsville Broadcasting Co., Mechanicsville, Virginia Req: 92.7 MHz, Channel 224; 3 KW (H&V), 300 feet (BC Docket No. 80–662, File No. BPH–780831AA) Drum Communications, Inc., Mechanicsville, Virginia Req: 92.7 MHz, Channel 224; 3 KW (H&V), 300 feet (BC Docket No. 80–663, File No. BPH–780831AB) Hanover Radio, Inc., Mechanicsville, Virginia Req: 92.7 MHz, Channel 224; 3 KW (H&V), 295.5 feet (BC Docket No. 80–664, File No. BPH–780831AQ) and Ninety-Two Point Seven Broadcasting, Inc., Mechanicsville, Virginia Req: 92.7 MHz, Channel 224; 3 KW (H&V), 300 feet (BC Docket No. 80–665 File No. BPH–780831AR): for construction permit for a new FM station.

Memorandum Opinion and Order

Adopted: October 21, 1980.

Released: November 14, 1980.

By the Commission: Commissioner Quello concurring in the result.

1. The Commission has under consideration (i) the above-captioned mutually exclusive applications by Christian Communications Incorporated (CCI), Raymond Bentley, Sr. and Douglas L. Chapman, Jr. Tr. as Mechanicsville Broadcasting Co. (Bentley), Drum Communications, Inc. (Drum), Hanover Radio, Inc. (Hanover) and Ninety-Two Point Seven Broadcasting, Inc. (92.7); (ii) an application for review filed by Drum; and (iii) pleadings in opposition and reply thereto.

2. *Drum.* Analysis of the financial data submitted by Drum reveals that $83,160.90 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment down payment	$13,695.00
Equipment payments with interest	3,425.90
Building	6,000.00
Miscellaneous	20,000.00
Operating costs (3 months)	41,100.00
Total	83,160.90

Drum plans to finance construction and operation with loans of $175,000 from an investor group composed of Equico Capital Corporation, Syndicated Communications, Inc. and Alliance Enterprise Corporation. While both Equico and Syndicated have indicated their willingness to contribute up to $100,000 each, the commitments are subject to the participation of all three groups and Alliance has not committed itself to participation. Applicant has not included its own balance sheet, nor the balance sheets of the participating investment groups. Applicant has shown no funds to meet its proposed costs. Accordingly, a general financial issue will be specified.

3. Drum has failed to comply with the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Applicant has incorporated by reference the community leader interviews conducted for the application of assignment of licensee of WENZ, Highland Springs, Virginia. None of the community leaders interviewed in that survey represented Mechanicsville, Virginia. Applicant has surveyed five additional community leaders in the instant application, none of which represent Mechanicsville, and only one of which lives in the county in which Mechanicsville is situated, Hanover County. Drum, in failing to consult any leaders of the city of license, has failed to comply with Question and Answer 2 of the Primer. Accordingly, a general ascertainment issue will be specified.

4. *92.7.* 92.7's application, filed August 31, 1978, described its transmitter site as "two miles north of Mechanicsville." All engineering data contained in Section V of FCC Form 301 pertained to this site. On December 1, 1978, the application was dismissed because applicant had failed to present reasons in support of a request for waiver of Section 73.207 [1] of the Commission's Rules, the minimum spacing rules. Applicant petitioned for reconsideration on January 2, 1979 and amended its application proposing a new transmitter site which obviated the short-spacing problem. The petition states that:

> Because of a communication problem between the 92.7 principal in charge of locating a transmitter site and the applicant's consulting engineer, the application, as originally filed, did not describe the particular parcel of land upon which 92.7 had obtained an option. One of the 92.7 principals had acquired an option on a piece of land approximately 1 mile south of the site specified in the original application . . . The discrepancy was discovered within a few weeks after the 92.7 application was filed. Since that time, 92.7 has been in the process of locating an alternate site, and amending its application to utilize the new site. 92.7 has moved with deliberation to correct this problem since the time it was discovered.

5. Drum opposed 92.7's petition for reconsideration on the ground that 92.7's application, lacking an engineering proposal pertaining to petitioner's available site, actually had no engineering proposal. Drum asserted that it was not substantially complete when filed on the cut-off date as required by Section 1.227(b) of the Commission's Rules, [2] and was ineligible for comparative consideration. 92.7, in reply, argued that the one mile difference between the reported and actual site was topographically inconsequential and that only a slight difference in proposed contours was involved. 92.7's petition was granted and its application, as amended, was accepted *nunc pro tunc* by letter from the Chief, Broadcast Bureau on November 5, 1979.

6. Drum filed an application for Commission review of the November 5, letter accepting 92.7's application, as amended. Drum's basis for review is the same as that of its opposition to the petition for reconsideration: 92.7's application was substantially incomplete when filed in that ". . . it was as if no technical information had been filed at all . . ." Drum alleges that the Broadcast Bureau Chief's action was in error because the application as tendered violated Section 1.227(b) of the Rules should be dismissed. 92.7's opposition contends that its application had both a site and complete engineering data when filed. Moreover, 92.7 argues, had it kept that site, "it could have corrected its problem by filing a minor change amendment. . . ." 92.7 also argues that the public interest

[1] Section 73.207 states, in part that. . . . "no application for a station will be accepted for filing, unless the proposed facilities will be located at least as far from the transmitter sites of other co-channel and adjacent channel stations (both existing and proposed) as the distances specified in this paragraph." 92.7 was short-spaced with an earlier filed application which was entitled to protection by virtue of being cut-off prior to the tender of 92.7's proposal.

[2] The relevant subsection is Section 1.227(b)[1] which follows:

(b)(1) In broadcast cases. . . . "no application will be consolidated for hearing with a previously filed application or applications unless such application, or such application as amended if amended so as to require a new file number, is substantially complete and tendered for filing by whichever date is earlier: (i) The close of business on the day preceding the day the previously filed application or one of the previously filed applications is designated for hearing; or (ii) the close of business on the day preceding the day designated by public notice published in the **Federal Register** as the day any one of the previously filed applications is available and ready for processing.

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should be considered in accepting its application and affirming the Bureau's decision because 92.7 is minority-owned. Drum, in its reply, contends that the minority status of 92.7's principals is irrelevant to the instant issue in that basic qualifications must be met before a comparative evaluation can occur. Drum further relies on *Henry M. Lesher*, 41 RR 2d 1593, (1977), to points out that the Commission "has been willing to accept applications for filing which ommitted certain information where the omissions were caused by clerical error and where the applicant made subsequent good faith efforts to correct the deficiencies promptly", but that 92.7, by making no effort to correct its error, did not act in good faith.

7. 92.7's application did contain a complete engineering section which, while not corresponding to applicant's optioned site, was, absent any evidence to the contrary, submitted to the Commission in good faith. No information was omitted in 92.7's application, thus distinguishing it from *Lesher*. Applicant's engineering study was performed and submitted in a complete and timely fashion with the application but, by mistake, it applied to the wrong site; one on which applicant did not have an option. This fact was revealed by the applicant without any prompting by the Commission's staff. Had 92.7 filed its application on the cut-off date lacking any engineering, the application would have been incomplete, returned as unacceptable for filing and could have not been cured by amendment. 92.7's application was complete and the error could have been corrected by minor amendment prior to its rejection. Since the application was complete when filed, it complies with Section 1.227(b) of the Rules. Under these circumstances, review of the action taken by the Chief, Broadcast Bureau, is not warranted and Drum's petition will be denied.

8. However, a question of timeliness arises. 92.7 stated that it discovered its error as to site location and engineering data within a few weeks of tender of the application. Yet it did not amend its application to reflect these facts until it petitioned for reconsideration, several months after discovering the error. Section 1.65 of the Commission's Rules requires that . . . "Whenever the information furnished in the pending application is no longer substantially accurate and complete in significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate." 92.7 was not prompt in furnishing this information nor did it show good cause for its failure to comply with Section 1.65. Considering the significance of the matter to be amended and the tardiness with which the information was furnished, a Section 1.65 issue will be specified. *Bexar Broadcasting Co., Inc.*, 16 FCC 2d 641, 15 RR 2d 772 (Rev. Bd. 1969).

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Drum is financially qualified to construct and operate the proposed station.

2. To determine the efforts made by Drum to ascertain the community needs and problems of the area to be served and the means by which the applicant proposed to meet those needs and problems.

3. To determine with respect to 92.7:

(a) whether applicant has continued to keep the Commission advised of "substantial and significant changes" in its application as required by Section 1.65 of the Commission's Rules; and

(b) the effect of the facts adduced pursuant to (a), above, upon the applicant's basic and/or comparative qualifications

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the application for review filed by Drum is denied.

13. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-35993 Filed 11-17-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 28, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Commemts shall discuss with particular allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: 90-18, 191-9, 192-8, and 7190-8.

Filing party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Summary: Agreements Nos. 90-18, 191-9, 192-8, and 7190-8 would clarify and amend the voting procedures of the Java/New York Rate Agreement, Java/Pacific Rate Agreement, Deli/Pacific Rate Agreement, and Deli/New York Rate Agreement.

By Order of the Federal Maritime Commission.

Dated: November 13, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-35914 Filed 11-17-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 5, 1980.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

United Missouri Bancshares, Inc., Kansas City, Missouri (mortgage and insurance activities; Missouri) to engage through its subsidiary, United Missouri Mortgage Company, in the business of originating residential loans in the St. Louis area. These loans will be sold in the primary and secondary markets. The subsidiary will also write credit life, credit accident and health insurance, mortgage protection life and mortgage protection disability insurance, directly related to extensions of credit. These activities will be carried on by the Applicant's subsidiary from an office in Ferguson, Missouri, serving St. Louis County, Missouri, and northern Jefferson County, Missouri.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Wells Fargo & Company, San Francisco, California (finance activities; Central United States): to engage, through its subsidiary, Wells Fargo Business Credit, in making or acquiring loans or other extensions of credit, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets; servicing loans in accordance with the Board's Regulation Y. These activities would be conducted from an office in Chicago, Illinois, servicing Minnesota, Wisconsin, Illinois, Iowa, Indiana, Michigan, Ohio, Kentucky, and West Virginia.

C. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

Industrial National Corporation, Providence, Rhode Island (mortgage banking activity; Rhode Island): to retain, through its subsidiary Industrial National Mortgage Company, certain real estate mortgage loans previously made by its subsidiary Westminster Properties, Inc. These activities would be conducted from offices in Providence, Rhode Island. The service area will be the entire United States. Comments on this application must be received by December 4, 1980.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 7, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35845 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 10, 1980.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Central Colorado Company, C.C.B., INC., and Central Bancorporation, Inc., Denver, Colorado (industrial banking activities; Colorado): to engage through its subsidiary, Central Industrial Bank,

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in operating an industrial bank in accordance with the Board's Regulation Y. These activities would be conducted from an office in Aurora, Colorado, serving the Denver RMA.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (commercial lending activities; United States): to expand the activities of its subsidiary, Security Pacific Clearing & Services Corp., to include making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit. These activities would be conducted from Security Pacific Clearing & Services Corp.'s offices located in New York, New York; Los Angeles, California; Chicago, Illinois; Pittsburgh, Pennsylvania; and Memphis, Tennessee, serving the United States.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Suburban Bancorp, Inc., Palatine, Illinois. (mortgage banking activities: Chicago Northwest Suburban area): to engage, through its subsidiary, Suburban Mortgage Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. The corporation would act in a brokerage and servicing capacity, and may also arrange interim construction financing and service a purchased portfolio. These activities would be conducted from the office of Applicant's subsidiary bank in Palatine, Illinois, serving the suburban area northwest of Chicago, Illinois.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 10, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35854 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Citizens Holding Co.; Formation of Bank Holding Company

Citizens Holding Company, Waverly, Tennessee, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Bank of Waverly, Waverly, Tennessee. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 10, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35843 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Guardian Bancorp, Inc.; Formation of Bank Holding Company

Guardian Bancorp, Inc., Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring approximately 99.8 percent of the voting shares of Guardian State Bank, Salt Lake City, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 7, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35844 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

The Hongkong and Shanghai Banking Corp.; Leasing Activities

The Hongkong and Shanghai Banking Corporation, Hong Kong, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage through its subsidiary U.S. Concord, Inc., in the activity of making leases of personal property that are the functional equivalent of extensions of credit, and acting as agent, broker, or advisor for such leases. These activities would be performed from an office of Applicant's subsidiary in Larchmont, New York, serving the entire United States. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 5, 1980.

Board of Governors of the Federal Reserve System, November 7, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35853 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Commerce Bancorporation, Inc.; Formation of Bank Holding Company

Commerce Bancorporation, Inc., McLoud, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Commerce, McLoud, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 10, 1980.

J. A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35900 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Independent Bank Corp.; Acquisition of Bank

Independent Bank Corporation, Ionia, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of New Peoples State Bank of Leslie, Leslie, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 10, 1980.

J. A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35901 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

Seafirst Corp.; Proposed Acquisition of Arden Mortgage Service Corporation

Seafirst Corporation, Seattle, Washington, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Arden Mortgage Service Corporation, Walnut Creek, California.

Applicant states that the proposed subsidiary would engage in mortgage banking activities and origination and servicing of mortgage loans. These activities would be performed from offices of Applicant's subsidiary in Fairfield, Fresno, San Jose, Santa Rosa, Walnut Creek, Irvine, Pleasant Hills, Sacramento, all in California, and the geographic area to be served is the state of California. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consumption of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 10, 1980.

Board of Governors of the Federal Reserve System, November 10, 1980.

J. A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35902 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

South Dakota Bancshares, Inc., Acquisition of Bank

South Dakota Bancshares, Inc., Pierre, South Dakota, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire directly and indirectly 95.3 percent of the voting shares of Sully County State Bank, Onida, South Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 10, 1980.

J. A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-35903 Filed 11-17-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Blocker Drilling and Marine Co.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Blocker Drilling & Marine Co. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Buttes Gas and Oil Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait

designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35949 Filed 11-17-80; 8:45 am]

BILLING CODE 6750-01-M

Damson Oil Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Damson Oil Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all assets of Louden Properties Co. from Fred J. Russell. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. Russell. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35948 Filed 11-17-80; 8:45 am]

BILLING CODE 6750-01-M

Enterprise Products Co., Inc.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Enterprise Products Company, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all assets of Wanda Petroleum Company from Dow Chemical Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35950 Filed 11-17-80; 8:45 am]

BILLING CODE 6750-01-M

[E-Z Serve Inc.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: E-Z Serve, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Winston Refining Company from McLean Trucking. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 532–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35952 Filed 11-17-80; 8:45 am]

BILLING CODE 6750-01-M

North Engineering Industries; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Northern Engineering Industries Limited is granted early termination of the waiting period by law and the premerger notification rules with respect to the proposed acquistion of all stock of Extel Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Northern. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade

Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain merges or acquistions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-35951 Filed 11-17-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0441]

Allegenic Products; Workshop on Standardization

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a workshop will be held to demonstrate laboratory procedures concerning the standardization of allergenic products.

DATES: The workshop will be held at 9 a.m. on January 13 and 14, 1981. Reservations by December 19, 1980.

ADDRESSES: The workshop will be held at the Bureau of Biologics, Bldg. 29, Rm. 115, National Institutes of Health, 880 Rockville Pike, Bethesda, MD 20205. The agenda for the workshop may be obtained from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooten, Bureau of Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Allergenic products are licensed biological products. The manufacture of these products is governed by applicable regulations published under the authority of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act. These regulations include the additional standards for allergenic products published under Part 680 (21 CFR Part 680) of the biologics regulations.

In an effort to establish more precise standards for allergenic products, FDA's Bureau of Biologics, in collaboration with licensed manufacturers, is developing methods to determine the relative allergen content (potency) of allergenic products. The methods found most satisfactory will be proposed when appropriate as standard potency tests for incorporation into 21 CFR Part 680 of the regulations. For example, a standard potency test was proposed in the **Federal Register** of August 3, 1979 (44 FR 45642) that will require a determination of the quantity of antigen E present in short ragweed pollen extracts.

On September 10, 1979, FDA held a meeting with manufacturers to discuss the implementation of a collaborative study to determine the potency of allergenic products using the radioallergosorbent test (RAST) and isoelectric focussing (see 44 FR 44276). As a result of FDA's review of the data obtained from this collaborative study and discussions with manufacturers, FDA concludes that there is some uncertainty on how to perform test procedures such as the RAST test and how to analyze the results of these tests. Therefore, a workshop for manufacturers of allergenic products and other interested persons will be conducted by the Bureau of Biologics to demonstrate methods and equipment used in performing these tests and obtaining results. The workshop will include the use of current potency procedures that are available for conducting appropriate stability studies on allergenic products. Procedures to be discussed at the workshop will include methods of protein measurement, RAST, radialimmunodiffusion for detection of antigen E, isoelectric focussing, and skin testing. The agenda for the workshop may be obtained from the Dockets Management Branch (formerly the Hearing Clerk's office (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

The workshop will be held at 9 a.m. on January 13 and 14, 1981, at the Bureau of Biologics, Bldg. 29, Rm. 115, 8800 Rockville Pike, Bethesda, MD 20205. The workshop will include visits to the laboratory to observe demonstrations of methods and use of equipment. Because it will not be possible for a large number of persons to properly observe the demonstrations in the confines of a laboratory, FDA requests that each manufacturer send no more than two representatives, one of which may be from a testing or consulting laboratory used by the manufacturer. Persons planning to attend must make reservations by contacting Michael L. Hooten (address above) by December 19, 1980.

Dated: November 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-35700 Filed 11-17-80; 8:45 am]

BILLING CODE 4110-03-M

Social Security Administration

Changes in the Rate of Federal Participation and the Ceiling Limitations on Federal Funds for Guam, Puerto Rico, and the Virgin Islands

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: This notice reflects amendments to the Social Security Act contained in section 305 of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272). The amendments permanently extend the increased ceilings and matching rate previously authorized for fiscal year 1979 by the Revenue Act of 1978 (Pub. L. 95–600).

The dollar ceilings for Puerto Rico, Guam, and the Virgin Islands under section 1108(a) of the Social Security Act effective with fiscal year 1979 and continuing are as follows:

Puerto Rico	$72,000,000
Guam	3,300,000
Virgin Islands	2,400,000

These ceilings are the maximum amounts of Federal funds available for the programs under Title I, IV–A, IV–E, X, XIV, and XVI (AABD) of the Social Security Act. They apply to assistance payments, administrative costs, training costs, and social services under these titles. The ceiling does not include costs for family planning and WIN services covered by section 1108(b).

In addition, for purposes of section 1118 the Federal Medical Assistance Percentage (FMAP) for Puerto Rico, Guam and the Virgin Islands is permanently set at 75 percent.

DATES: Effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Jay Rowen, Director, Employability and Fiscal Policy Division, Office of Policy, Office of Family Assistance, Social Security Administration, Washington, D.C. 20024, (202) 755–1580.

(Catalog of Federal Domestic Assistance Program No. 13.808—Assistance Payments—Maintenance Assistance (State Aid))

Dated: October 30, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-35910 Filed 11-17-80; 8:45 am]

BILLING CODE 4110-07-M

Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Average of the Total Wages, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1981

AGENCY: Social Security Administration.

ACTION: Notice of Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Average of the Total Wages, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1981.

SUMMARY: The Secretary has determined—

(1) the social security contribution and benefit base to be $29,700 for remuneration paid in 1981 and self-employment income earned in taxable years beginning in 1981;

(2) the amount of earnings a person must have to be credited with a quarter of coverage in 1981 to be $310;

(3) the monthly exempt amount under the social security retirement test for taxable years ending in calendar year 1981 to be $458.33 ⅓ for beneficiaries aged 65 and over and $340 for beneficiaries under age 65; and

(4) the average of the total wages for 1979 to be $11,479.46.

The formulas we use to compute the benefits for a worker and his or her family who first becomes eligible for benefits in 1981 are also described below.

Finally, a table reflecting the new higher average monthly wage and related benefit amounts made possible by the higher contribution and benefit base is also published. The table will be used primarily to compute the retirement benefits of workers who reached age 62 before 1979.

FOR FURTHER INFORMATION CONTACT: Harry Ballantyne, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-2466.

SUPPLEMENTARY INFORMATION: Sections 203(f)(8), 213(d) and 230(a) of the Social Security Act (42 U.S.C. 403(f)(8), 413(d) and 430(a)) require the Security of Health and Human Services to publish in the **Federal Register** on of before November 1, 1980, the contribution and benefit base, the amount of earnings required for a quarter of coverage, and the retirement test exempt amount, for calendar year 1981. In addition, section 215(a)(1)(D) requires that we publish by November 1, 1980 the formula for computing a primary insurance amount for workers who become eligible for benefits or die in 1981, and section 203(a)(2)(c) requires that we publish by November 1, 1980 the formula for computing a family's maximum benefits for families of workers who become eligible for old age benefits or die in 1981.

Contribution and Benefit Base

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which social security taxes are paid.

(2) It is the maximum annual amount used in figuring a person's social security benefits.

Section 230(c) of the Social Security Act specifies that the amount of the contribution and benefit base for 1981 is $29,700.

Average of the Total Wages for 1979

The determination of the average wage figure for 1979 is based on the 1978 average wage figure of $10,556.03 announced in the **Federal Register** on November 1, 1979 (44 FR 62956) along with the percentage increase in average wages from 1978 to 1979 measured by annual wage data tabulated by the Internal Revenue Service (IRS). The average amounts of wages calculated directly from IRS data were $10,840.68 and $11,789.01 for 1978 and 1979, respectively. To determine an average wage figure for 1979 at a level that is consistent with the series of average wages for 1951–1977 (published December 29, 1978 at 43 FR 61016), we multiplied the 1978 average wage figure of $10,556.03 by the percentage increase in average wages from 1978 to 1979 (based on IRS data) as follows (with the result rounded to the nearest cent):

Average wage for 1979 = $10,556.03 × 11,789.01 ÷ $10,840.68 = $11,479.46

Therefore, the average wage for 1979 is determined to be $11,479.46.

Quarter of Coverage Amount

Computation. The 1981 amount of earnings required for a quarter of coverage is $310. A quarter of coverage is the basic unit for determining whether a worker is insured under the social security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or for which $100 or more of self-employment income were credited. to the individual. Beginning in 1978, wages generally are no longer reported quarterly; annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95-216) amended section 213(d) of the Social Security Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Section 213(d) also provides that this $250 amount shall be redetermined each year and any change published in the **Federal Register** no later than November 1 of the year preceding the year for which the change is effective. Under the prescribed formula, the quarter of coverage amount for 1981 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1979 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1979 has been determined to be $11,479.46 as stated in a previous section.

Amount. The ratio of the average wage for 1979, $11,479.46 compared to 1976, $9,226.48, is 1.244186. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 1.244186 produces the amount of $311.05 which must then be rounded to $310. Accordingly, the quarter of coverage amount for 1981 is $310.

Retirement Test Exempt Amount

Computation. The 1981 amount of $458.33 ⅓ for the retirement test monthly exempt amount for beneficiaries aged 65 through 71 is stated in the law. The corresponding annual retirement test exempt amount for those individuals is $5,500. Section 301 of the Social Security Amendments of 1977 amended section 203 of the Social Security Act to provide a higher retirement test exempt amount for beneficiaries aged 65 through 71 than for those beneficiaries under age 65.

The monthly exempt amount of $340 for beneficiaries under age 65 is determined according to a formula specified in the law, which automatically produces a mathematical result based upon reported statistics. Section 203(f)(8) of the Social Security

Act provides that the retirement test monthly exempt amount for 1981 shall be equal to the 1980 amount of $310 multiplied by the ratio of (1) the average amount, per employee, of the wages of all employees reported under the program for calendar year 1979 to (2) the average amount of those wages reported for calendar year 1978. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

There is no limit on the amount an individual aged 72 or over may earn and still receive social security benefits. (Beginning in 1982, the age at which the retirement test no longer applies will be reduced from age 72 to age 70.)

Average Wages. Average wages for this purpose are determined in the same way as for a quarter of coverage. Therefore, the ratio of the average wages for 1979, $11,479.46, compared to 1978, $10,556.03, is 1.087479.

Exempt amount for persons under age 65. Multiplying the 1980 retirement test monthly exempt amount of $310 by the ratio of 1.087479 produces the amount of 337.12. This must then be rounded to $340. Accordingly, the retirement test monthly exempt amount for persons under age 65 is determined to be $340 for 1981. The corresponding annual exempt amount for 1981 is $4,080.

Computing Benefits After 1978

The Social Security Amendments of 1977 changed the formula for determining an individual's primary insurance amount after 1978. This basic new formula is based on "wage indexing", and was fully explained with interim regulations published in the **Federal Register** on December 29, 1978 at 43 FR 60877. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. This formula uses the worker's earning after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's "average indexed monthly earnings" and also adjust the computation formula to reflect changes in general wage levels.

Average indexed monthly earnings. To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during their working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1981, we divide the average of the total wages for 1979, $11,479.46, by the average of the total wages for each year prior to 1978 in which the worker had earnings. We than multiply the actual wages and self-employment income credited for those years by this ratio to obtain the worker's adjusted earnings for that year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollars amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1981.

Computing the primary insurance amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these protions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The amount for 1981 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1979, $11,479.46, and for 1977, $9,779.44. These results are then rounded to the nearer dollars. For 1981 the ratio is 1.173836. Multiplying the 1979 amounts of $180 and $1,085 by 1.173836 produces the amounts of $211.29 and $1,273.61 These must then be rounded to $211 and $1,274. Accordingly, the portions of the average indexed monthly earnings to be used in 1981 are determined to be the first $211, the amount between $211 and $1,274, and the amount over $1,274.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1981 or who die in 1981 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $211 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexes monthly earnings over $211 and through $1,274, plus

(c) 15 percent of the average indexed monthly earnings over $1,274.

This amount is then rounded to the next higher multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Social Security Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The 1980 Amendments (PL 96-265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is to be applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, based on a disability that began after 1978. We are preparing a Notice of Proposed Rule Making for publication in the **Federal Register** that explains this new formula. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old age and survivor family maximum.

Computing the old age and survivor family maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The amounts for 1981 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1979, $11,479.46, and for 1977, $9,779.44. This amount is then rounded to the nearer dollar. For 1981, the ratio is 1.173836. Multiplying the amounts of $230, $332,

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and $433 by 1.173836 produces the amounts of $269.98, $389.71 and $508.27. These amounts are then rounded to $270, $390, and $508. Accordingly, the portions of the primary insurance amounts to be used in 1981 are determined to be the first $270, the amount between $270 and $390, the amount between $390 and $508, and the amount over $508.

Consequently, for the family of a worker who was entitled to disability benefits before July 1, 1980, or becomes age 62 or dies in 1981, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $270 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $270 through $390, plus

(c) 134 percent of the worker's primary insurance amount over $390 through $508, plus

(d) 175 percent of the worker's primary insurance amount over $508.

This amount is then rounded to the next higher multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Social Security Act (42 U.S.C. 403(a)).

Extension of Benefit Table Effective January 1981

The following is an extension of the Table for Determining Primary Insurance Amount and Maximum Family Benefits provided in section 215(a)(5) of the Social Security Act. This extension reflects the higher average monthly wage and related benefit amounts now possible under the increased contribution and benefit base published by this Notice effective January 1981 in accordance with section 215(i) of the Social Security Act. The extended portion of the benefit table shown here will apply primarily to benefits based on earnings of workers who reached age 62 before 1979.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–13.805, and 13.807 Social Security Programs.)

Dated: November 13, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Table for Determining Primary Insurance Amount and Maximum Family Benefits Beginning January 1980

I (Primary insurance benefit)		II (Primary insurance amount effective for June 1979)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefits (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amounts of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		at least—	But not more than—		
			$2,161	$2,165	$1,041.10	$1,822.00
			2,166	2,170	1,042.10	1,823.70
			2,171	2,175	1,043.10	1,825.50
			2,176	2,180	1,044.10	1,827.20
			2,181	2,185	1,045.10	1,829.00
			2,186	2,190	1,046.10	1,830.70
			2,191	2,195	1,047.10	1,832.50
			2,196	2,200	1,048.10	1,834.20
			2,201	2,205	1,049.10	1,836.00
			2,206	2,210	1,050.10	1,837.70
			2,211	2,215	1,051.10	1,839.50
			2,216	2,220	1,052.10	1,841.20
			2,221	2,225	1,053.10	1,843.00
			2,226	2,230	1,054.10	1,844.70
			2,231	2,235	1,055.10	1,846.50
			2,236	2,240	1,056.10	1,848.20
			2,241	2,245	1,057.10	1,850.00
			2,246	2,250	1,058.10	1,851.70
			2,251	2,255	1,059.10	1,853.50
			2,256	2,260	1,060.10	1,855.20
			2,261	2,265	1,061.10	1,857.00
			2,266	2,270	1,062.10	1,858.70
			2,271	2,275	1,063.10	1,860.50
			2,276	2,280	1,064.10	1,862.20
			2,281	2,285	1,065.10	1,864.00
			2,286	2,290	1,066.10	1,865.70
			2,291	2,295	1,067.10	1,867.50
			2,296	2,300	1,068.10	1,869.20
			2,301	2,305	1,069.10	1,871.00
			2,306	2,310	1,070.10	1,872.70
			2,311	2,315	1,071.10	1,874.50
			2,316	2,320	1,072.10	1,876.20
			2,321	2,325	1,073.10	1,878.00
			2,326	2,330	1,074.10	1,879.70
			2,331	2,335	1,075.10	1,881.50
			2,336	2,340	1,076.10	1,883.20
			2,341	2,345	1,077.10	1,885.00
			2,346	2,350	1,078.10	1,886.70
			2,351	2,355	1,079.10	1,888.50
			2,356	2,360	1,080.10	1,890.20
			2,361	2,365	1,081.10	1,892.00
			2,366	2,370	1,082.10	1,893.70
			2,371	2,375	1,083.10	1,895.50
			2,376	2,380	1,084.10	1,897.20
			2,381	2,385	1,085.10	1,899.00
			2,386	2,390	1,086.10	1,900.70
			2,391	2,395	1,087.10	1,902.50
			2,396	2,400	1,088.10	1,904.20
			2,401	2,405	1,089.10	1,906.00
			2,406	2,410	1,090.10	1,907.70
			2,411	2,415	1,091.10	1,909.50
			2,416	2,420	1,092.10	1,911.20
			2,421	2,425	1,093.10	1,913.00
			2,426	2,430	1,094.10	1,914.70
			2,431	2,435	1,095.10	1,916.50
			2,436	2,440	1,096.10	1,918.20
			2,441	2,445	1,097.10	1,920.00
			2,446	2,450	1,098.10	1,921.70
			2,451	2,455	1,099.10	1,923.50
			2,456	2,460	1,100.10	1,925.20
			2,461	2,465	1,101.10	1,927.00
			2,466	2,470	1,102.10	1,928.70
			2,471	2,475	1,103.10	1,930.50

[FR Doc. 80-36032 Filed 11-14-80; 12:02 pm]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 7, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 3, 1980.

Carol Shull,

Acting Chief, Registration Branch.

ARIZONA

Pima County

Tucson, *West University Historic District,* Roughly bounded by Speedway Blvd., 6th St., Park and Stone Aves.

ARKANSAS

Pulaski County

Little Rock, *Retan, Albert, House,* 506 N. Elm St.

Scott County

Waldron, *Forrester, John T., House,* 115 Danville St.

Sevier County

DeQueen, *Hayes Hardware Store,* 314 DeQueen St.

DELAWARE

Kent County

Felton, *Felton Railroad Station,* E. Railroad Ave.

Wyoming, *Wyoming Railroad Station,* E. Railroad Ave.

New Castle County

Wilmington, *Baltimore and Ohio Railroad Passenger Station,* 1 S. Market St.

New Castle vicinity, *Monterey,* N of Odessa on Bayview Rd.

KENTUCKY

Bourbon County

Paris vicinity, *Kennedy, Thomas, House,* SE of Paris on Paris-Winchester Rd.

Calloway County

Murray, *Linn, Will, House,* 103 N. 6th St.

Fayette County

Lexington, *Bell Court Neighborhood Historic District,* Roughly bounded by RR tracks, Main St., Boonesboro and Walton Aves.

Lexington, *McCauley, John, House,* 319 Lexington Ave.

Lexington vicinity, *Cave Place,* W of Lexington

Greenup County

South Portsmouth vicinity, *Portsmouth Earthworks, Group A (15 Gp 1),* SW of South Portsmouth

Henry County

Eminence, *Crutcher House,* Mulberry Pike

Hopkins County

Nebo vicinity, *Archeological Site 15 Hk 79,* SW of Nebo

Jefferson County

Louisville, *Brandeis, Albert S., Elementary School,* 1001 S. 26th St.

Louisville, *Broadway Temple A.M.E. Zion Church,* 662 S. 13th St.

Louisville, *Chestnut Street Baptist Church,* 912 W. Chestnut St.

Louisville, *Engelhard House,* 1080 Boxter Ave.

Louisville, *New Enterprise Tobacco Warehouse,* 925 W. Main St.

Louisville, *Roosevelt, Theodore, Elementary School (Duncan Street School)* 222 N. 17th St.

Louisville, *Rose Hill,* 1835 Hampden Ct.

Louisville, *St. Peter's German Evangelical Church,* 1231 W. Jefferson St.

Louisville, *Shelby Park Branch Library,* 600 E. Oak St.

Louisville, *South Central Bell Company Office Building,* 521 W. Chestnut St.

Jessamine County

JESSAMINE COUNTY MULTIPLE RESOURCE AREA. This area includes: Nicholasville, *Nicholasville Historic District,* Main and Maple Sts.; Hall vicinity, *Curley's Distillery,* Off U.S. 27; Keene, *Keene Springs Hotel; Macedonia Baptist Church;* Keene vicinity, *Burrier House,* Keene-Troy Rd.; *Hearts Ease,* Off U.S. 68; *Hughes House,* KY 169; *January, Ephraim House,* Keene-Troy Rd.; *Lancaster, John, House,* KY 169; *Locust Grove Stock Farm,* Keene-Troy Rd.; *Lowry, William C., House,* U.S. 68; *Mt. Pleasant Baptist Church,* N of Keene on Keene-Troy Rd.; *O'Neal, George, House,* Off U.S. 68; *Pleasant Grove,* Keene-Troy Rd.; *Whitehall,* Troy Rd.; *Woodland,* U.S. 68; Nicholasville, *Bethel A.M.E. Church,* York and Walnut Sts.; *Bethel Academy,* 207 S. 3rd St.; *Bronaugh, J. S., House,* Walnut and 2nd Sts.; *Jessamine County Courthouse,* 101 N. Main St.; *Metcalf, Rev. John, House,* 209 1st St.; *Silver Hill,* 303 S. Main St.; *Walker, Gen. George, House,* 305 W. Oak St.; *West, Thomas Elliott, House,* Walnut and 2nd Sts; Nicholasville vicinity, *Barkley House,* U.S. 68; *Barkley, Isaac, House,* Off U.S. 68; *Bryan, Samuel, House,* Brannon Rd.; *Byrant House,* Off U.S. 27; *Butler's Tavern,* Off U.S. 27; *Cedar Grove,* KY 169; *Chrisman, Joseph, House,* U.S. 27; *Duncan, J. W., House,* KY 169; *Grubb, A., House; Hanly Post Office,* U.S. 27; *Hoover House,* U.S. 27; *Hunter, John, House,* Chrisman Mill Rd.; *Little Hickman School; Knight, Grant, House,* KY 169; *Marshall-Bryan House,* U.S. 27; *Martin, James G., House,* Tates Creek Rd.; *Mathews House,* Shun Pike; *Muir House,* Old Railroad Lane; *Muir House,* Off KY 1541; *Nave-Brown House,* Nicholasville-Wilmore Rd.; *Neal, Elijah, House,* U.S. 68 and KY 169; *Overstreet, Pink, House,* KY 1268; *Providence,* Brannon Rd.; *Providence Church,* U.S. 27; *Rice-Price House,* U.S. 27; *Roberts Chapel,* U.S. 27; *Robinson House,* Shun Pike; *Sandy Bluff,* Shun Pike; *Scott House,* Off U.S. 27; *Scott, John Harvey, House,* Off U.S. 27; *Shady Grove,* Off U.S. 27; *Shanklin House,* KY 169; *Sunnyside,* U.S. 27; *Taylor House,* Taylor Rd.; *Thornwood,* Baker Lane; *Venable-Todhunter Houses,* Tates Creek Rd.; *Young, A. M., House; Young, W. C., House,* Off U.S. 27; Wilmore, *Asbury College Administration Building,* KY 29; *Morrison-Kenyon Library,* KY 29; Wilmore vicinity, *Bicknell House,* KY 29; *Bryan, George and Betty, House,* Off U.S. 68 and KY 29; *Curd House,* Off KY 29; *Young House,* Off KY 29.

Todd County

Allensville, *Allensville Historic District,* Main and Allensworth Aves.

Wayne County

Monticello, *Heninger Building,* 103 N. Main St.

LOUISIANA

Avoyelles Parish

Evergreen, *Bayou Rouge Baptist Church,* Church and College Sts.

Catahoula Parish

Harrisonburg, *Sargent House,* Catahoula St.

East Baton Rouge Parish

Baton Rouge, *Mount Hope Plantation House,* 8151 Highland Rd.

East Feliciana Parish

Jackson, *Jackson Historic District,* Roughly bounded by Institute Dr., LA 314, Horton and Race Sts.

Lafayette Parish

Lafayette, *Holy Rosary Institute,* 421 Carmel Ave.

Orleans Parish

New Orleans, *D'Aquin Brothers Warehouse,* 322–326 Lafayette St.

Rapides Parish

Alexandria, *St. Francis Xavier Cathedral,* 626 4th St.

Red River Parish

Coushatta, *Planter's Hotel,* Carroll St.

St. James Parish

Convent, *Poche, Judge Felix, Plantation House,* River Rd.

St. Landry Parish

Grand Coteau vicinity, *Frozard Plantation House,* 3 mi. S of Grand Coteau off LA 93

West Feliciana Parish

St. Francisville vicinity, *Rosale Plantation,* N of St. Francisville off U.S. 61

MARYLAND

Baltimore (independent city)

Wilkens-Robins Building, 308–312 W. Pratt St.

Talbot County

Easton vicinity, *Old Bloomfield*, W of Easton on Bloomfield Rd.
St. Michaels, *Cannonball House*, 200 Mulberry St.

MASSACHUSETTS

Hampden County

Holyoke, *Holyoke Canal System*, Between Front and South Sts., and Connecticut River
Springfield, *Gunn and Hubbard Blocks*, 463–477 State St.
Springfield, *Water Shops Armory*, 1 Allen St.

Plymouth County

Norwell vicinity, *Tack Factory, The*, SW of Norwell at 89 Tiffany Rd.

Suffolk County

Boston, *BOSTON THEATRE MULTIPLE RESOURCE AREA*. This area includes: *Beach-Knapp District*, Roughly bounded by Harrison Ave., Washington, Kneeland and Beach Sts.; *Liberty Tree District*, Roughly bounded by Harrison Ave., Washington, Essex and Beach Sts.; *Piano Row District*, Boston Common, Park Sq., Boylston Pl. and Tremont St.; *West Street District*, West St.; *Boston Edison Electric Illuminating Company*, 25–39 Boylston St.; *Boston Young Men's Christian Union*, 48 Boylston St.; *Boylston Building*, 2–22 Boylston St.; *Dill Building*, 17–25 Stuart St.; *Hayden Building*, 681–683 Washington St.; *Metropolitan Theatre*, 252–272 Tremont St.; *Shubert, Sam S., Theatre*, 263–265 Tremont St.; *Wilbur Theatre*, 244–250 Tremont St.; *Wirth, Jacob, Buildings*, 31–39 Stuart St.

Suffolk County

Chelsea, *Chelsea Square Historic District*, Broadway, Medford, Tremont, Winnisimmet, Cross Park and Beacon Sts.

Worcester County

Webster, *Eddy Block*, 119—131 Main St. and 4 Davis St.
Webster, *Shumway Block*, 112—116 Main St.
Webster, *Spaulding Block*, 141—143 Main St.

NEBRASKA

Antelope County

Neligh, *St. Peter's Episcopal Church*, 411 L St.

Saline County

Crete, *College Hill Historic District*, Roughly bounded by Juniper, 15th, Boswell and 8th Sts.

NEVADA

Douglas County

Minden vicinity, *Home Ranch*, W of Minden

NEW JERSEY

Essex County

Newark, *Newark Metropolitan Airport Buildings*, Jct. of U.S. 22/1/9 and Port Rd.
Newark, *St. Joseph's Roman Catholic Church, School and Rectory*, W. Market St.

Middlesex County

Perth Amboy, *Perth Amboy City Hall and Surveyor General's Office*, 260 High St.

Monmouth County

Red Bank, *Shrewsbury Township Hall*, 51 Monmouth St.

Union County

Westfield, *Westfield Fire Headquarters*, 405 N. Avenue W.

NEW MEXICO

Bernalillo County

Albuquerque, *Ohlrau House*, 818, 820—820 ½ Arno St., SE.

NEW YORK

Erie County

Buffalo, *Lafayette High School*, 370 Lafayette Ave.

Franklin County

Paul Smiths, *Smith's, Paul, Hotel Store*, Paul Smith's College campus

Putnam County

Brewster vicinity, *Ludington Mill Site (A079–02–0001)* NW of Brewster

Tioga County

Owego, *Owego Central Historic District*, North Ave., Park, Main, Lake, Court, and Front Sts.

NORTH CAROLINA

Currituck County

Poplar Branch vicinity, *Baum Site (31CK9)* N of Poplar Branch

PENNSYLVANIA

Beaver County

New Brighton, *Armory, The (New Brighton)* 610 3rd Ave.

Chester County

Honey Brook, *General Wayne Inn*, Main St.

Dauphin County

Dauphin, *Bell Hall*, 300 Swatara St.
Harrisburg, *See, William, Building*, 319 Market St.
Lykens, *G.A.R. Building*, 628 N. 2nd St.

Fayette County

Uniontown vicinity, *Springer House*, N of Uniontown off U.S. 40

Franklin County

Chambersburg, *Fisher-Brand Commercial Building*, 123–125 S. Main St.

Indiana County

Indiana, *Graff's Market*, 27 N. 6th St.

Luzerne County

Wilkes-Barre, *Comerford Theater*, 71 Public Sq.

Montgomery County

Norristown vicinity, *Morris, Anthony, House*, N of Norristown on Stump Hall Rd.
Plymouth Meeting vicinity, *Cold Point Historic District*, I–276, Butler Pike, Militia Hill and Narcissa Rds.

Souderton, *Landis-Souder and Crouthamel Building*, 14 Main St.

Northampton County

Easton, *Easton House*, 167–169 Northampton St.
Easton, *Heller, William Jacob, House*, 501 Mixsell St.

Philadelphia County

Philadelphia, *Franklin Hose Company No. 28*, 730–732 S. Broad St.
Philadelphia, *Leidy, Dr. Joseph, House*, 1319 Locust St.
Philadelphia, *Princeton Club*, 1221–1223 Locust St.
Philadelphia, *Shedwick, John, Development Houses*, 3433–3439 Lancaster Ave.

TEXAS

Harris County

Houston, *Courtlandt Place Historic District*, 2–25 Courtlandt Pl.

Runnels County

Ballinger, *Van Pelt House*, 209 10th St.

Travis County

Austin vicinity, *Walnut Creek Archeological District*, N of Austin

Wichita County

Wichita Falls, *Weeks House*, 2112 Kell Blvd.

WASHINGTON

Benton County

Kennewick vicinity, *Bateman Island Archeological Site* (45 BN 161) NW of Kennewick

WISCONSIN

Walworth County

Lake Geneva vicinity, *Meyerhofer Cobblestone House*, E of Lake Geneva on Townline Rd.

WEST VIRGINIA

Logan County

Blair vicinity, *Battle of Blair Mountain Site*, SW of Blair on WV 17

[FR Doc. 80-35731 Filed 11-17-80; 8:45 am]
BILLING CODE 4310-03-M

Bureau of Land Management

[Phoenix 075415 et al.]

Arizona; Order Providing for Opening of Public Lands

Note.—This document corrects FR Doc. 80–35729 printed in the issue of November 17, 1980 and reprints the text of the order.

1. In exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

Phoenix 075415

T. 6 S., R. 6 W.,
Sec. 16, SE¼.

Phoenix 077262

T. 6 N., R. 2 W.,
Sec. 36.
T. 5 S., R. 4 W.,
Sec. 2, lots 5 to 36, inclusive, S½N½, and S½;
Sec. 16, N½, NW¼SW¼, S½SW¼, and SE¼.

Phoenix 077263

T. 6 S., R. 6 W.,
Sec. 16, N½ and SW¼.

Phoenix 077266

T. 2 S., R. 4 W.,
Sec. 32, SE¼SE¼.

Phoenix 077267

T. 3 S., R. 4 W.,
Sec. 2, S½N½ and S½.

Phoenix 077844

T. 3 S., R. 4 W.,
Sec. 2, lots 1 to 4, inclusive.

Phoenix 079832

T. 3 S., R. 4 W.,
Sec. 11, lots 76, 77, 78, and lots 81 to 86, inclusive;
Sec. 14, N½N½NW¼NW¼.

Phoenix 080823

T. 4 S., R. 4 W.,
Sec. 2, SW¼NW¼ and W½SW¼.

AR 017176

T. 2 S., R. 4 W.,
Sec. 25, E½SW¼ and E½W½SW¼.

AR 032509

T. 5 S., R. 4 W.,
Sec. 28, lot 2;
Sec. 33, N½NE¼.

A 3910

T. 1 S., R. 4 W.,
Sec. 13, that portion of the N½NW¼ north of the Arlington Canal;
Sec. 14, NW¼NE¼, NE¼NW¼, and those portions of the NE¼NE¼, SW¼NE¼, and SE¼NW¼ north of the Arlington Canal.

The areas described aggregate approximately 3223.77 acres in Maricopa County, Arizona.

2. The United States did not acquire the mineral rights in sec. 36, T. 6 N., R. 2 W., SE¼SE¼ sec. 32, T. 2 S., R. 4 W., lots 1 to 4, inclusive, S½N½ and S½, sec. 2, lots 76, 77, 78, and lots 81 to 86, inclusive, sec. 11, and N½N½NW¼NW¼ sec. 14, T. 3 S., R. 4 W.; SW¼NW¼ and W½SW¼ sec. 2, T. 4 S., R. 4 W.; lots 5 to 36, inclusive, S½N½ and S½ sec. 2, N½, NW¼SW¼, S½SW¼, and SE¼ sec. 16, T. 5 S., R. 4 W., and sec. 16, T. 6 S., R. 6 W.

3. Subject to valid existing rights and the provisions of applicable law, effective upon this publication, the lands described in paragraph 1 are open to application for State selection under Section 2275 and 2276, Revised Statutes, as amended, 43 U.S.C. 851 and 852. All valid applications received at or prior to 10:30 a.m., November 18, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Phoenix, Arizona 85073 (602–261–3706).

Dated: November 7, 1980.

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-36065 Filed 11-17-80; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Availability of Record of Decision on Final Environmental Impact Statement (FES 80–22) for General Management Plan, Chickasaw National Recreation Area, Oklahoma

Pursuant to Regulations of the Council on Environmental Quality (40 CFR Part 1505.2) and the Implementing Procedures of the National Park Service for the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Record of Decision on the Final Environmental Impact Statement (FES 80–22) for the General Management Plan, Chickasaw National Recreation Area, Oklahoma.

Record of Decision is a concise statement of what decisions were made, what alternatives were considered, and what mitigative measures were developed in order to avoid or minimize environmental harm.

Decision

The National Park Service will accept, as approved for eventual implementation, the General Management Plan for Chickasaw National Recreation Area, in Oklahoma, as described in the *General Management Plan* of July 1979.

Project Description

The National Park Service will undertake coordinated facility development, visitor use programs, and resources management actions for Chickasaw National Recreation Area through a general management plan. This recreation area was established in 1976 by joining the former Platt National Park with the former Arbuckle Recreation Area by means of a connecting corridor of land. New facilities are proposed to realize the recreational opportunities offered by the larger area; these include a visitor center/headquarters adjacent to the City of Sulphur, a 9.5 mile biking/hiking trail, a 6.5 mile hiking trail, a net of 32 additional campsites (adding 59 and deleting 27), three comfort stations, a campground sewage collection system, and 11 small structures for park protection and maintenance. A shallow overflow channel will be constructed to provide a floodwater bypass around Travertine Nature Center. An artesian well will be capped so that its flow may be regulated, decreasing the volume if feasible. Research will be undertaken concerning vegetative mosaics, water management, wildlife studies, flood conditions, and visitor use/resource preservation relationships. Carrying capacities are provisionally established for camping use (468 individual and 20 group sites) and for boat use (600 at one time), within the general level of 2 million visitors, to be monitored and adjusted by management as visitor preferences and resources factors are measured.

Description of Alternatives

Five alternatives, in addition to the proposed general management plan, were considered by the National Park Service in reaching its decision:

1. No Federal action
2. Increase facility development to terrain capacity
3. Develop bicycle trail from Travertine District to the Point
4. Relocate U.S. Highway 177 and redesign circulation in Travertine District
5. No Visitor Center

Alternatives 1 and 2 relate to capacity levels overall in the park. Alternatives 3 through 5 deal with options for specific development project, and have the general management plan as their basis for all but the development projects mentioned.

Basis for Decision

The alternatives and the general management plan were examined for:

1. meeting the maximum number of park-approved management objectives. These objectives are stated and conditions for the use and management of the individual park,
2. meeting letter and intent of Pub. L. 94–235, the establishing legislation for Chickasaw National Recreation Area, including the dollar amount authorized for development,
3. degree of environmental consequences, both short and long-term, and the cumulative effects of such consequences.

Evaluation of the general management plan (GMP) and the five alternatives in

V 45 NO 180 UMI

relation to the three factors mentioned above follows:

Factor 1: *Meeting Management Objectives*

Thirty-two management objectives, based on the needs of the park and the policies of the National Park Service, are in effect for Chickasaw National Recreation Area. These objectives are grouped into the following seven categories:

a. Management, Administration, and Support;
b. Interpretation and Visitor Services;
c. Visitor Protection and Safety;
d. Natural Resources Management;
e. Cultural Resources Management;
f. Planning and Construction; and
g. Land Acquisition.

GMP—30 of 32 met.
Alternative 1—17 of 32 met.
Alternative 2—22 of 32 met.
Alternative 3—30 of 32 met.
Alternative 4—30 of 32 met.
Alternative 5—28 of 32 met.

Factor 2: *Meeting Letter and Intent of Pub. L. 94–235*

All the alternatives and the GMP meet the letter and intent of Sections 1 through 6 of Pub. L. 94–235. The GMP and the alternatives range in dollar amounts and therefore differ in whether they meet, fall below or exceed the dollar amount for development authorized in Section 7 of Pub. L. 94–235.

GMP—meets.
Alternative 1—falls below.
Alternative 2—exceeds.
Alternative 3—exceeds.
Alternative 4—exceeds.
Alternative 5—falls below.

Factor 3: *Degree of Environmental Consequences*

Impacts, both beneficial and adverse, were considered in the following seven categories:

a. Hydrology,
b. Biological Resources,
c. Soils and Topography,
d. Air Quality,
e. Cultural Resources,
f. Regional Socioeconomy, and
g. Visitor Use.

Short-term consequences are generally related to construction activities, whereas long-term and cumulative effects vary with not only the extent of initial construction, but also with resource management actions and visitor capacities.

Based on impacts, the general management plan is the most environmentally preferable.

Mitigation

The National Park Service considers that all practicable means to avoid or minimize environmental harm from implementing the described project have been described and will be adopted.

The Record of Decision is available from and for inspection at the following locations: Chickasaw National Recreation Area, Post Office Box 201, Sulphur, Oklahoma 73086; and Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

Comments on the Record of Decision should be sent to the Superintendent, Chickasaw National Recreation Area, Post Office Box 201, Sulphur, Oklahoma 73086. The record will remain open until thirty (30) days following publication of this notice, during which time written comments will be received and considered. Following review of all public comments received, the general management plan will be implemented.

Dated: November 4, 1980.

Robert I. Kerr,

Regional Director, Southwest Region National Park Service.

[FR Doc. 80–35895 Filed 11–17–80; 8:45 am]

BILLING CODE 4310–70–M

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that on or before December 18, 1980, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with H.S. Concessions, Inc., authorizing it to continue to provide semi-mobile food and sundry sales facilities and services for the public at the Sandy Hook Unit of Gateway National Recreation Area for a period of five (5) years from January 1, 1981, through December 31, 1985.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the North Atlantic Regional Office, National Park Service, 15 State Street, Boston, MA 02109.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1980, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preferenced in the renewal of the permit and in the negotiation of a new contract. This provision, in effect, grants H.S. Concessions, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of H.S. Concessions, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of H.S. Concessions, Inc. (as determined by the Secretary) is submitted, H.S. Concessions, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with H.S. Concessions, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before December 18, 1980 to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Regional Office, National Park Service, 15 State Street, Boston, MA 02109 for information as to the requirements of the proposed contract.

Dated: October 30, 1980.

Richard L. Stanton,

Regional Director, North Atlantic Region.

[FR Doc. 80–35896 Filed 11–17–80; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided November 12, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.3 percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, nor in the 1.3-percent surcharge for United Parcel Service. However, the surcharge authorized for the bus carriers is increased to 5.0 percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. November 14, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Vice Chairman Gresham not participating. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

November 10, 1980 ..... 113.5¢

	Transportation proformed by—			
	Owner operator [1]	Other [2]	Bus carriers	UPS
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.3	2.3	5.0	[3]2.1
Percent surcharge allowed	13.0	2.3	5.0	[4]1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 8 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80–35880 Filed 11–17–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2–089

Decided: November 5, 1980

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 14681 (Sub-6F), filed October 27, 1980. Applicant: A. M. DELIVERY, INC., 21454 Cold Springs Lane, Diamond Bar, CA 91765. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 147102 (Sub-5F), filed October 24, 1980. Applicant: E. T. I. COMPANY, 4055 William Penn Highway, Easton, PA 18042. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave. NW., Washington, DC 20036. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–069

Decided: November 6, 1980

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Carleton not participating.

MC 142565 (Sub-5F), filed October 20, 1980. Applicant: DON RAY DRIVE-A-WAY COMPANY, INC., 305 North 13th St., Decatur, IN 46733. Representative: Constance J. Goodwin, Suite 800 Circle Tower, Five Fast Market St., Indianapolis, IN 46204. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S. (including AK, but excluding HI).

MC 152295 (Sub-1F), Filed October 21, 1980. Applicant: JEFFREY RECOB AND WILLIAM RECOB d.b.a. RECOB BROTHERS TRUCKING, 10376 County Hwy Y, Mazomanie, WI 53560. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502. Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone, and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP4–121

Decided: November 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

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MC 17506 (Sub-2F), Filed October 29, 1980. Applicant: WESTMINSTER HOLDING CORP., 34 Dike St., Providence, RI 02909. Representative: Morris J. Levin, 1050 17th St., NW., Suite 701, Washington, DC 20036. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 114416 (Sub-15F), Filed October 27, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, 100 Western Way, Missoula, MT 59801. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 119567 (Sub-18F), Filed October 29, 1980. Applicant: EMPIRE TRANSPORT, INC., 2007 Overland Rd., Boise, ID 83707. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 120737 (Sub-72F), Filed October 27, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 131067 (Sub-1F), Filed October 15, 1980. Applicant: FRANK DUDLEY, 110 W. 4th St., P.O. Box 848, Eloy, AZ 85231. Representative: Milton W. Flack, 8383 Wilshire Blvd, Suite 900, Beverly Hillls, CA 90211. As a broker to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35760 Filed 11-17-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

November 13, 1980.

These applications for long- and short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 3, 1980.

No. 43868, Trans-Continental Freight Bureau, Agent (No. 554), new reduced rates on Motor Vehicles, freight or passenger, from Flint, Lansing, and Pontiac, MI to Pacific Northwest destinations assigned rate basis 1, 2, 3, 5, and 6 in the States of Oregon and Washington. Rates to be published in Items 1845.20, 1845.30, and 1845.40 series of Tariff ICC TCFB 3001-B. Grounds for relief—Motor, Motor-Rail Competition.

No. 43869, Trans-Continental Freight Bureau, Agent (No. 555) new reduced rates on Lumber and Related Articles, from Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah and Washington, to Stations in North Carolina and Virginia on the NW, NF&D, WSS and HPT&D. Rates to be published in Item 520-QQ of Tariff ICC TCFB 4517 and Item 515-RR of Tariff ICC TCFB 4519. Grounds for relief—Rate Relationship.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35881 Filed 11-17-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 340]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-29631, appearing at page 63564 in the issue of Thursday, September 25, 1980, the twelfth line in the fifth paragraph (beginning "MC 70267 (Sub-16F)) in column one on page 63566 should read, "CT, MA, ME, NH, RI, and VT. (b) *materials*".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-23334, appearing at page 51933 in the issue of Tuesday, August 5, 1980, the fourteenth line of the third full paragraph (beginning MC-119689 (Sub-30F)) in column two on page 51950 should read, "Morris and Streamwood, IL, on the one".

BILLING CODE 1505-01-M

[Volume No. OP2-088]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: November 5, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 F.R. 45539.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendement to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 2, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebutal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Hill, Fortier, and Parker.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-088

Decided: No. 5, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier, and Hill.

MC 16513 (Sub-19F) (correction), filed September 18, 1980, published in the **Federal Register**, issue of October 2, 1980, and republished, as corrected, this issue. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave.; Pennsauken, NY 08110. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *copper articles*, between points in New London County, CT, on the one hand, and, on the other, points in NY.

Note.—The purpose of this republication is to correct the territory description.

MC 41432 (Sub-169F), filed October 14, 1980. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway (P.O. Box 1025), Dallas, TX 75207. Representative: Wayland Little (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Santo, TX, and the facilities of Heart of America, Inc., at or near Santo, TX, as an off-route point in connection with carrier's otherwise authorized regular route operations between Fort Worth and El Paso, TX.

Note.—Applicant intends to tack with existing authority and to interline.

MC 69833 (Sub-160F), filed October 27, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Ave. NW.–6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in St. Charles County, MO, on the one hand, and, on the other, points in the U.S.

MC 71593 (Sub-77F), filed October 23, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting *general commodities* (except Classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Ciba-Geigy Corporation.

MC 77013 (Sub-9F), filed October 23, 1980. Applicant: NIEDERBRACH TRUCK SERVICE, INC., P.O. Box 67, Steeleville, IL 62288. Representative: Floyd W. Hartel (same address as applicant.) Transporting, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, MO and Carbondale, IL, from St. Louis to beginning IL Hwy 13, then over IL Hwy 13 to Carbondale and return over the same route, serving all intermediate points and the off-route points of DuQuoin, Desoto, Anna, and Jonesboro, IL, and those in Jackson County, IL.

MC 107012 (Sub-595F), filed October 21, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting (1) *refrigerator and freezer doors, and cooling and freezing box parts*, and (2) *parts and accessories* for the commodities, in (1) from San Fernando, CA, to points in TX.

MC 107012 (Sub-598F), filed October 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *furniture*, from Pulaski, VA, to points in IA, and (2) *parts and accessories* for furniture, from points in IA, KS, MO, and OK, to Pulaski, VA.

MC 107012 (Sub-600F), filed October 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *vinyl sheet material*, from Dalton, GA, to St. Louis, MO.

MC 108223 (Sub-37F), filed October 22, 1980. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between points in IA, IL, MN, ND, and WI, on the one hand, and, on the other, points in the U.S., and (2) between points in IA, IL, MN, ND, and WI.

MC 119493 (Sub-400F), filed October 21, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Hammermill Paper Company.

MC 125433 (Sub-442F), filed October 20, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *furniture or fixtures*, (2) *rubber or miscellaneous plastic products*, and (3) *fabricated metal products;* except ordnance, as described in Items 25, 30, and 34, respectively, of the Standard Transportation Commodity Code Tariff, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 128302 (Sub-17F), filed October 22, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *bulk commodities*, in tank vehicles, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of SCM Corporation, of Cleveland, OH.

MC 139923 (Sub-81F), filed October 21, 1980. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer "D", Stroud, OK 74079. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of nonalcoholic beverages (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Shasta Beverages, Inc.

MC 140033 (Sub-91F), filed October 27, 1980. Applicant: COX REFRIGERATED EXPRESS, 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between

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points in the U.S., restricted to traffic originating at or destined to the facilities of the Pillsbury Company and its affiliates and subsidiaries.

MC 144122 (Sub-78F), filed October 21, 1980. Applicant: CARRETTA TRUCKING, INC., S 160 Route 17, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA, CT, NJ, and PA, to points in Harris County, TX.

MC 144803 (Sub-77F), filed October 20, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Dr., Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between St. Louis, MO, points in St. Louis, St. Charles, Franklin, Jefferson and Warren counties, MO, and Madison, St. Clair, Monroe and Clinton Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affadavit indicating why such approval is unnecessary.

MC–146402 (Sub-26F), filed October 28, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same address as applicant). Transporting (1) *rubber or miscellaneous plastic products, clay, concrete, glass, or stone products, and fabricated metal products* (except ordnance), as described in Items 30, 32, and 34 of the Standard Transportation Commodity Code Tariff, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) between points in Ashland and Holmes Counties, OH, on the one hand, and, on the other, points in the U.S.

MC–148143 (Sub-2F), filed October 27, 1980. Applicant: MID-AMERICA FARM LINES, INC., MPO Box 71, Springfield, MO 65801. Representative: Wm. L. Peterson, Jr., 1109 Colcord Building, 15 North Robinson, Oklahoma City, OK 73102. Transportation (1) *Food products*, as described in Item 01 of the Standard Transportation Commodity Code Tariff, (2) *Food or Kindred Products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, (3) *Lumber or wood products, except furniture*, as described in Item 24 of the Standard Transportation Commodity Code Tariff, (4) *Pulp, Paper, or Allied Products*, as described in Item 26 of the Standard Transportation Commodity Code Tariff, (5) *Printed Matter*, as described in Item 27 of the Standard Transportation Commodity Code Tariff, (6) *Chemicals or Allied Products*, as described in Item 28 of the Standard Transportation Commodity Code Tariff, (7) *Clay, Concrete, Glass or Stone Products*, as described in Item 32 of the Standard Transportation Commodity Code Tariff, (8) *Fabricated Metal Products*, except Ordinance, as described in Item 34 of the Standard Transportation Commodity Code Tariff, (9) *Machinery, except electric*, as described in Item 35 of the Standard Transportation Commodity Code Tariff, (10) *Waste or scrap Materials, not identified by Industry Producing*, as described in Item 40 of the Standard Transportation Commodity Code Tariff, (11) *containers, shipping, returned empty, aao carriers or devices*, as described in Item 42 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with R. T. French Company, of Rochester, NY.

MC–148203 (Sub-2F), filed October 20, 1980. Applicant: COPPER CITY TRANSPORT, INC., R.D. No. 2, Route 5S, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501. Transporting (1) *aluminum, copper wire, and cable and copper rod* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with Rome Cable Corporation, of Rome, NY.

MC–149583 (Sub-5F), filed October 21, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *such commodities* as are dealt in by chain grocery stores and food business houses, maintenance supplies for institutional and industrial uses and materials and supplies used in the manufacture and distribution of the aforenamed commodities, (except commodities in bulk), between points in the U.S., under continuing contract(s) with The Procter & Gamble Company, of Cincinnati, OH, and its subsidaries.

MC 150432 (Sub-7F), filed October 21, 1980. Applicant: H&M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St. NW., Suite 1111, Washington, DC 20036. Transporting *frozen foods*, between points in the U.S., under continuing contract(s) with Interestate Cold Storage, Inc., of Columbus, OH.

MC 150542 (Sub-1F), filed October 20, 1980. Applicant: RIDGEFIELD PARK TRANSPORT CO., Inc., 106 Teaneck Rd., Ridgfield Park, NJ 07660. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Authority to operate as a motor common carrier in the transportation of *printed matter and material, equipment and supplies* used in the manufacture and distribution of printed matter, between points in NY, NJ, PA, DE, RI, CT, MA, NH, VT and ME. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) or submit an affidavit indicating why such approval is unnecessary.

MC 150742 (Sub-1F), filed October 20, 1980. Applicant: DOME TRANSPORT COMPANY, INC., 114 Park Ave., Manhasset, NY 11030. Representative: R. G. Buskard (same address as applicant). Transporting (1) *plastic bags, film and sheeting*, and (2) *supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with American Cellophane & Plastic Films, Div. LG, Inc., of Boston, MA.

MC 150962 (Sub-1F), filed October 24, 1980. Applicant: ALBERT GILMORE, 273 Laurel Drive, Mobile, AL 36617. Representative: J. Michael Newton, 2970 Cottage Hill Rd., Suite 148, Mobile, AL 36606. Transporting *passengers*, between points in Mobile County, AL, on the one hand, and, on the other, Pascagoula, MS.

MC 152192 (Sub-1F), filed October 14, 1980. Applicant: Edward R. Temmen, Star Route 2, Jefferson City, MO 65101. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Transporting: (A) *fertilizer*, from the facilities of Cooperative Farm Chemical Association, at or near Lawrence, KS, to points in MO; and (B) *animal and poultry feed, and feed ingredients*, from points in KS and IA, to points in MO.

MC 152363F, filed October 23, 1980. Applicant: PERDUE TRANSPORTATION INCORPORATED, Zion Church Rd., Salisbury, MD 21801. Representative: Michael F. Morrone, 1150 17th St. NW., Washington, DC 20036. Transporting (1) *inedible vegetable oils*, in bulk, and (2) *edible oils* between points in the U.S., under

continuing contract(s) with Colfax, Inc., of Pawtucket, RI.

MC 152423F, filed October 16, 1980. Applicant: DRYDEN-NICHOLSON INDUSTRIES, INC., P.O. Box 45167, Los Angeles, CA 90045. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in Mohave County, AZ, on the one hand, and, on the other, those points in CA in and south of San Luis Obispo, Kern and San Benardino Counties.

Volume No. OP2–091

Decided: November 6, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 4483 (Sub-28F), filed October 20, 1980. Applicant: MONSON TRUCKING, INC., R.R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55066. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in St. Louis County, MN, on the one hand, and, on the other, points in Eau Claire and Jefferson Counties, WI.

MC 8603 (Sub-1F), filed October 27, 1980. Applicant: JERRY SIMPSON, d.b.a. THORNTON TRANSFER, Box 366, Griswold, IA 51535. Representative: Homer Bradshaw, 1100 Des Moines Building, Des Moines, IA 50307. Transporting *general commodities* between points in IA, NE, and MO, restricted to traffic having a prior or subsequent movement by rail. Condition: To the extent any Certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issue.

MC 57992 (Sub-11F), filed October 28, 1980. Applicant: SEWELL MOTOR EXPRESS, INC., 149 South Mulberry St., Wilmington, OH 45177. Representative: Joe F. Asher, 88 East Broad St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value and classes A and B explosives), between points in Greene County, OH, on the one hand, and, on the other, points in the U.S.

MC 70502 (Sub-3F), filed October 29, 1980. Applicant: WARNER STORAGE, INC., 3208 Broadview, Cleveland, OH 44109. Representative: Richard D. Mathias, 1100 Connecticut Ave. NW., Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in OH, PA, MD, IN, NY, VA, IL, VT, MO, NH, WV, IA, ME, NC, MN, MA, SC, WI, CT, GA, MI, NJ, RI, IN, DE, KY, and DC.

MC 75302 (Sub-17F), filed October 24, 1980. Applicant: DOUDELL TRUCKING COMPANY, a corporation, 555 East Capitol Ave., Milpitas, CA 95305. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting (1) *animal and poultry feed*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Doane Products Company, of Joplin, MO.

MC 80262 (Sub-5F), filed October 27, 1980. Applicant: SOUTH ATLANTIC BONDED WAREHOUSE CORPORATION, 2020 E. Market St., Greensboro, NC 27402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *appliances, carpet, carpet cushioning, heating units, air conditioning units, and kitchen cabinets*, between points in Fayette, Greenbriar, Logan, McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties, WV, Carter, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington Counties, TN, Floyd, Harlan Johnson, Knott, Leslie, Letcher, Martin, Perry, and Pike Counties, KY, and points in NC and VA.

MC 98832 (Sub-3F), filed October 28, 1980. Applicant: THE HARBOR TRANSPORTATION CO., INC., 30 Waterfront St., New Haven, CT 06511. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk, in tank vehicles), between points in New Haven County, CT, on the one hand, and, on the other, points in MA, RI, and points in Duchess, Putman, Westchester, and Albany Counties, NY.

MC 107012 (Sub-596F), filed October 27, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Transporting: *Parts, materials and supplies* used in the manufacture maintenance, and distribution of air conditioners, humidifiers and dehumidifiers, from points in the U.S. (except AK and HI) to Edison, NJ.

MC 107012 (Sub-579F), filed October 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *plastic bottles*, from Tacoma, WA, to Denver, CO and Salt Lake City, UT.

MC 111812 (Sub-741F), filed October 26, 1980. Applicant: MIDWEST COAST TRANSPORT, INC.; P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same address as applicant). Transporting *such commodities* as are dealt in and distributed by automotive supply houses, between points in GA, IL, IA, KS, MI, MN, MO, MT, NE, ND, OK, SD, and TX.

MC 113362 (Sub-405F), filed October 27, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *food of kindered products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in the U.S., in and east of ND, SD, NE, CO, and NM.

MC 117692 (Sub-6F), filed October 21, 1980. Applicant: MAURICE TRANSPORT CO., a corporation, P.O. Box 365, Morton, IL 61550. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *petroleum and petroleum products*, between points in Tazewell County, IL, on the one hand, and, on the other, points in IN, IA, and WI.

MC 118803 (Sub-23F), filed October 27, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or use by manufacturers or distributors of plastic articles (except in bulk) between points in the U.S. under a continuing contract(s) with Mobil Chemical Company, Plastics Division of Macedon, NY.

MC 120212 (Sub-2F), filed October 28, 1980. Applicant: J.J. SULLIVAN AND SONS, INC., 25 Industrial Park Rd., Hingham, MA 02043. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, MA, ME, NH, NJ, NY, RI, and VT. Condition: The issuance of a certificate in this proceeding is conditioned upon coincidental cancellation of certificate of registration, No. MC 120212 Sub-1F

V 45 N 0 18 80 UMI

MC 125433 (Sub-443F), filed October 20, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *rubber or miscellaneous plastic products*, as described in Item 30 of the Standard Transportation Commodity Code Tariff, between points in the U.S. (including HI, but excluding AK).

MC 125872 (Sub-16F), filed October 28, 1980. Applicant: C.H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting (1) *foodstuffs and materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, and (2) *agricultural chemicals*, in bulk, between points in the U.S., under continuing contract(s) with J.R. Simplot Company, of Boise, ID.

MC 140033 (Sub-89F), filed October 27, 1980. Applicant: COX REFRIGERATED EXPRESS, P.O. Box 20235, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125, Exchange Pk., P.O. Box 45538, Dallas, TX 75245. Transporting *chemicals and plastic pellets*, in containers, (1) between points in Orange County, TX, on the one hand, and, on the other, points in CA, MI, MN, MA, GA, TN, and LA, (2) between Baton Rouge, LA, on the one hand, and, on the other, points in Orange County, TX, GA and TN, and (3) between Clinton, IA, on the one hand, and, on the other, points in Orange County, TX.

MC 140033 (Sub-90F), filed October 27, 1980. Applicant: COX REFRIGERATED EXPRESS INC., 1606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *iron and steel pipe fittings* (1) between New York, NY, on the one hand, and, on the other, points in the U.S. and, (2) between points in Harris County, TX, on the one hand, and, on the other, points in CA and NY.

MC 141532 (Sub-103F), filed October 27, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael, J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products*, including galvanized, and *fabricated metal products*, except ordnance, as described in Items 33 and 34 of the Standard Transportation Commodity Code Tariff, between points in Santa Clara County, CA, on the one hand, and, on the other, points in the U.S.

MC 142603 (Sub-30F), filed October 22, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting (1) *plastic and plastic products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with W.B.C. Extrusion Products, Inc., of Lowell, MA.

MC 142672 (Sub-157F), filed October 20, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Sam Kane Beef Processors, Inc., at or near Corpus Christi, TX, to Jackson, MS, and points in CA, CT, MA, and RI, and (2) between points in CO, on the one hand, and, on the other, points in AR, LA, MO, OK, and TX.

MC 143032 (Sub-32F), filed October 23, 1980. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Dr., Duluth, MN 55806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting (1) *iron and steel articles* and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between points in Monroe County, MI, on the one hand, and, on the other, points in the U.S.

MC 146703 (Sub-17F), filed October 28, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW., Washington, DC 20006. Transporting *iron and steel articles*, between points in Whiteside County, IL, on the one hand, and, on the other, points in the U.S.

MC 146753 (Sub-14F), filed October 27, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by discount chain department stores (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Venture Stores, Division of May Company.

MC 148442 (Sub-4F), filed October 27, 1980. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., d.b.a. Southeastern Transport Company, 607 10th Ave. North, Nashville, TN 37202. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *foodstuffs*, from the facilities of Borden Foods, Distributor of Borden, Inc. at or near Atlanta, GA and Memphis, TN, to points in AL, AR, GA, KY, MO, MS and TN.

MC 148773 (Sub-2F), filed October 27, 1980. Applicant: A.F.L. TRUCK LINES, INC., 3661 W. Blue Heron Blvd., Riviera Beach, FL 33404. Representative: Anthony E. Young, Suite 350, 29 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pollution control devices, between points in the U.S., under continuing contract(s) with A.F.L. Industries, Inc., of Riviera, FL.

Volume No. OP2–092

Decided: Nov. 7, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill.

MC 112713 (Sub-315F), filed October 27, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Pittsfield, MA and Burlington, VT, over U.S. Hwy 7, serving all intermediate points, and (2) between Parkersburg, WV, and Clarksburg, WV, over U.S. Hwy 50, serving all intermediate points.

MC 114632 (Sub-292F), filed October 23, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. Condition: Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request of all certificates issued in this docket number.

MC 142603 (Sub-31F), filed October 28, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting (1) *rubber products and articles, and latex*, and (2) *materials, equipment, and supplies* used in the manufacture, sales, and distribution of the commodities, in (1) above, between points in the U.S., under continuing contract(s) with Omni Products Company of Garland, TX.

MC 144122 (Sub-77F), filed October 21, 1980. Applicant: CARRETTA TRUCKING, INC., S 160, Route 17, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). Transporting (1) *drugs, toilet preparations, distilled water, intravenous solutions, chemicals, and medical care supplies*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from the facilities of Abbott Laboratories, at (a) Rocky Mount, NC, and (b) Altavista, VA, to points in the U.S. (except AK and HI).

MC 144503 (Sub-32F), filed October 20, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *bakery goods* (except frozen), from the facilities of Benson's Old Home Kitchens, at Bogart, GA, to points in the U.S. (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of bakery goods, in the reverse direction.

MC 152172 (Sub-1F), filed October 23, 1980. Applicant: DENNIS KEAR, d.b.a. DENNIS KEAR TRUCKING, P.O. Box 112, York, NE 68467. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. (1) *Such commodities as are dealt in or used by manufacturers and distributors of electrical equipment, agricultural equipment, agricultural supplies, and pipe*, between points in York County, NE, and Finney County, KS, on the one hand, and, on the other, points in the U.S. and (2) *alcohol*, between points in NE, on the one hand, and, on the other, points in Atchison County, MO.

Volume No. OP3–070

Decided: Nov. 6, 1980.

By the Commission, Review Board Number 1. Members Carleton, Joyce, and Jones. Member Carleton not participating.

MC 15975 (Sub-37F), filed October 28, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting *alcoholic liquors*, and *materials, equipment, and supplies* used in the production and distribution of alcoholic liquors (except commodities in bulk and those requiring the use of special equipment), (1) between the facilities used by Hiram Walker & Sons, Inc., in IL, on the one hand, and, on the other, those points in the U.S., in and west of WI, IL, IN, KY, TN, AR, and LA (except AK and HI), and (2) between the facilities used by Hiram Walker & Sons, Inc., and its affiliated companys, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, NY, PA, DE, MD, VA, NC, and DC.

MC 44605 (Sub-56F), filed October 17, 1980. Applicant: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Rock Spring, WV and Denver, CO: From Rock Springs over Interstate Hwy 80 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Denver, and return over the same route, and (2) Between Laramie, WY and Denver, CO, over U.S. Hwy 287, in (1) and (2) above serving Laramie, WY for purposes of joinder only, and the intermediate or off-route points of Fort Collins, Loveland, Greeley, Longmont and Boulder, CO.

MC 47904 (Sub-7F), filed October 23, 1980. Applicant: INTERCITY TRANSPORTATION CO., a corporation, 600 Turnpike Street, So. Easton, MA 02375. Representative: Canio D. Verrastro (same address as applicant). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, and VT.

MC 73165 (Sub-531F), filed October 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant relies on present operations rather than shipper support for the authority sought. Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC 73165 Subs 225, 235, 249, 266, 268, 325, 334, 335, 339, 364, 388, 402, 409, 420, E–14, E–77, and E–94.

MC 107295 (Sub-1000F), filed October 28, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *poles, arms, brackets, bases, and accessories*, (2) *iron and steel articles* (except those in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, between points in Washington County, TX, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 123744 (Sub-91F), filed October 21, 1980. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. Second St., Clearfield, PA 16830. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and used household goods), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Kaiser Aluminum & Chemical Corporation, and its subsidiaries.

MC 124025 (Sub-18F), filed October 21, 1980. Applicant: GLASS TRUCKING COMPANY, a corporation 200 Chestnut St., P.O. Box 276, Newkirk, OK 74647. Representative: C. L. Phillips, Room 248 Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting *flour and flour products*, between points in the U.S., under continuing contract(s) with Cereal Food Processors, Inc., of Wichita, KS.

MC 126305 (Sub-150F), filed October 21, 1980. Applicant: BOYD BROTHERS TRANSPORTATION COMPANY, INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *composition board, lumber, particleboard, and lumber products*, (2) *building materials* (except commodities in (1) above), and (3) *materials, equipment, and supplies* used in the manufacture, distribution and installation of the commodities in (1) and (2) above (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 134105 (Sub-81F), filed October 21, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Jach H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, I? 60068. Transporting (1) *paper, paper products, plastics, plastic articles, and woodpulp*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S.

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MC 136635 (Sub-41F), filed October 28, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities,* (except classes A and B explosives), between Marion County, IN on the one hand, and, on the other, points in MI, WI, MO, and MD.

MC 139015 (Sub-3F), filed October 20, 1980. Applicant: YELLOW VAN MOVERS, INC., 245 South Rock Island, Wichita, KS 67202. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *used household goods,* between points in KS, CO, WY, NE, IA, MO, AR, OK, TX, and NM.

MC 141205 (Sub-50F), filed October 20, 1980. Applicant: HUSKY OIL TRANSPORTATION COMPANY, a Corporation, 600 South Cherry St., Denver, CO 80222. Representative: F. Robert Reeder, James M. Elegante, P.O. Box 11898. Transporting *crude oil, scrubber oil, and oil condensate,* from points in Renville County, ND, to the pipeline injection stations on (1) Portal Pipeline near Stanley, ND, (2) Wesco Pipeline near Sidney, MT, and (3) Kenco Pipeline near Reserve, MT, under continuing contract(s) with Husky Oil Company, of Denver, CO.

MC 141914 (Sub-92F), filed October 21, 1980. Applicant: FRANKS AND SON, INC., Rt. 1 Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). Transporting *wooden and plastic products,* between points in Oxford County, ME, on the one hand, and, on the other, points in AL, CO, CT, DE, ID, IN, IA, KY, LA, MA, MI, MS, MT, NE, NJ, NM, NY, ND, PA, RI, SC, VT, WV, WI, and WY.

MC 142864 (Sub-28F), filed October 28, 1980. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting *Such commodities* as are dealt in or used by chain grocery and food business houses, between points in CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MN, MO, MH, NJ, NY, OH, PA, RI, TN, VA, WI, and WV.

MC 144184 (Sub-5F), filed October 28, 1980. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 223 Whiley Ave., Lancaster, OH 43130. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *cullet,* between points in CT, DE, IN, IL, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, WI, and DC.

MC 147404 (Sub-4F), filed October 20, 1980. Applicant: DONALD J. GETTELFINGER, d.b.a. GETTELFINGER FARMS, R.R. 2, Box 241, Palmyra, IN 47164. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *foodstuffs* (expect in bulk), between the facilities of Vlasic Foods, Inc., at (a) Bridgeport, Imlay City, and Memphis, MI; (b) Greenville, MS, (c) Millsboro, DE, and (d) City of Industry, CA, on the one hand, and, on the other, points in the U.S.

MC 147454 (Sub-2F), filed October 20, 1980. Applicant: JAMES CONDOSTA, 807 Exeter Ave., W. Pittston, PA 18643. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *anthracite coal,* from points in Luzerne and Schuylkill Counties, PA, to points in NY, CT, MA, NH, RI, VT, ME, OH, IN, IL, GA, MI, DE, and NJ.

MC 148745 (Sub-2F), filed October 28, 1980. Applicant: WAYNE MARVIN d.b.a. WAYNE MARVIN TRUCKING, P.O. Box 151, Grass Valley, OR 97029. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under a continuing contract(s) with Superior Packing Company, of Ellensburg, WA.

MC 149575 (Sub-7F), filed October 28, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *roofing and roofing products,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of roofing and roofing products, between points in Tuscaloosa County, AL, on the one hand, and, on the other, points in FL, GA, KY, NC, SC, TN, and VA.

MC 150954 (Sub-3F), filed October 28, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. Transporting *styrofoam sheets,* from points in Columbia County, AR, to points in Bexar County, TX.

Volume No. OP3–072

Decided: November 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 73165 (Sub-527F), filed October 2, 1980, previously noticed in the **Federal Register** issue of October 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *commodities,* which because of size or weight require the use of special equipment, and (2) *self-propelled articles,* between points in Crittenden County, AR, and Shelby County, TN, on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the territorial description.

Volume No. OP4–122

Decided: November 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 47336 (Sub-13F), filed october 15, 1980. Applicant: ECLIPSE MOTOR LINES, INC., P.O. Box 507, Bridgeport, OH 43912. Representative: Joseph S. Zaccirey (same address as applicant). Transporting *iron and steel articles,* between Bridgeport, OH, and points in Kings County, NY.

MC 99896 (Sub-6F), filed October. 1980. Applicant: ATKINSON TRANSFER, INC., 1475 W. River Rd., Dayton, OH 45418. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in OH, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 109397 (Sub-530F), filed October 29, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). In foreign commerce only, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except TX), on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and the Republic of Mexico.

MC 109397 (Sub-531F), filed October 29, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (a) *ordnance or accessories,* (b) *lumber or wood products* (except furniture), (c) *pulp, paper, or allied products,* (d) *printed matter,* (e) *clay, concrete, glass or stone products,* (f) *primary metal products,*

including galvanized (except coating or other allied processing), (g) *fabricated metal products* (except ordnance, machinery or transportation equipment), (h) *machinery* (except electrical), (i) *transportation equipment,* (j) *instrument or photographic goods or optical goods, watches or clocks,* and (k) *waste or scrap materials* not identified by industry producing, as described in items (19), (24), (26), (27), (32), (33), (34), (35), (37), (38), and (40) of the Standard Transportation Commodity Code, respectively, between points in the U.S.

MC 115826 (Sub-597F), filed October 24, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Charles J. Kimball, 350 Capital Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *such commodities* as are dealt in or used by chain grocery and food business houses and food service companies, between points in the U.S. (except AK and HI).

MC 118696 (Sub-45F), filed October 21, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Rd., Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *urethane foam, urethane foam products, and carpet padding,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Chicago, IL, on the one hand, and, on the other, points in CO, and those in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 119117 (Sub-65F), filed September 22, 1980, previously noticed in the **Federal Register** issue of October 8, 1980, and republished this issue. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Dr., S.C., Atlanta, GA 30316. Representative: William F. Dudley (same address as applicant). Transporting *foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in the U.S.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 119777 (Sub-504F), filed October 23, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *such commodities* as are used in, or in connection with, the construction, operation, repair, servicing, maintenance or dismantling of pipelines, (1) between points in MT, ND, SD, MN, and IA, and (2) between points in MT, ND, SD, MN, on the one hand, and on the other U.S. (except AK and HI).

MC 119777 (Sub-506F), filed October 29, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *building and construction materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in Niagara County, NY, Greene County, MO, and San Bernardino County, CA, on the one hand, and, on the other, points in the U.S.

MC 119936 (Sub-1F), filed October 21, 1980. Applicant: FAIRFIELD MOTOR TRANSPORTATION COMPANY, a Corporation, 4350 W. 123rd St., Alsip, IL 60658. Representative: Themis N. Anastos, 120 W. Madison St, Chicago, IL 60602. Transporting *iron and steel articles* (a) from Chicago, IL to Fort Wayne and Decatur, IN and (b) from St. Joe, IN to Chicago, IL.

MC 124306 (Sub-85F), filed October 24, 1980. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Transporting *chelating compounds and citric acid,* from Southport, NC to Spotswood, NJ.

MC 143607 (Sub-29F), filed October 29, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Hoover Universal, Inc., of Georgetown, KY.

Volume No. OP4–123

Decided: November 11, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Chandler not participating.

MC 21866 (Sub-184F), filed October 21, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *scrap metals,* and *materials, equipment and supplies* used in the manufacture and distribution of scrap metals (except commodities in bulk), between Louisville, KY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA (except KY).

MC 48386 (Sub-17F), filed October 21, 1980. Applicant: GRAVER TRUCKING, INC., R.D. 7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *coal,* from points in Schuylkill County, PA, to New York, NY.

MC 100666 (Sub-536F), filed October 28, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *printed matter,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between, points in Milwaukee County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113106 (Sub-99F), filed October 29, 1980. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmont Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. Transporting (1) *iron and steel articles,* and (2) *materials and supplies* used in the manufacture of iron and steel articles, between the facilities of Bethlehem Steel Corporation at (a) Bethlehem and Johnstown, PA, (b) Sparrows Point, MD, and (c) Lackawanna, NY, on the one hand, and, on the other, points in DE, NC, NJ, NY, OH, PA, VA, WV, and MD.

MC 117676 (Sub-25F), filed October 21, 1980. Applicant: HERMS TRUCKING, INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *plastic, plastic products,* and *materials, equipment and supplies* used in the manufacture and distribution of plastic and plastic products (except commodities in bulk), between points in NJ, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 133526 (Sub-4F), filed October 27, 1980. Applicant: DICKSON'S TRANSPORT AND COACH LINES (NAPANEE) LIMITED, 293 Dundas St., West, Napanee, Ontario, Canada K7R 2B4. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202. In foreign commerce only, transporting *extruded plastic door panels,* from the ports of entry on the international boundary line between the U.S. and Canada, in NY, MI, and MN, to points in Blackford County, IN, Hall County, NE, Cortland County, NY, and Mifflin County, PA.

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MC 135306 (Sub-6F), filed October 28, 1980. Applicant: DAN'S TRANSIT, INC., 1254 Medina Rd., Medina, OH 44256. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *metal articles,* (2) *railroad equipment and railroad equipment parts,* and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (a) between points in IL, IN, MI, MO, OH, PA, WV, KY, NY, NJ, MD, and DE, and (b) between points in IL, IN, MI, NY, NJ, MO, OH, PA, KY, WV, and MD, on the one hand, and, on the other, points in IA, WI, AR, TX, OK, FL, MS, GA, TN, SC, and NC.

MC 135616 (Sub-23F), filed October 27, 1980. Applicant: PERRYSBURG TRUCKING, INC., 24892 Thompson Rd., Perrysburg, OH 43551. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. Transporting *glass,* and *materials, equipment, and supplies* used in the manufacture and distribution of glass, between points in the U.S. under continuing contract(s) with Guardian Industries Corp., of Carleton, MI.

MC 135616 (Sub-24F), filed October 28, 1980. Applicant: PERRYSBURG TRUCKING, INC., 24892 Thompson Rd., Perrysburg, OH 43551. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *glass,* and *materials, equipment, and supplies* used in the manufacture and distribution of glass, between points in the U.S., under continuing contract(s) with PPG Industries, Inc., of Pittsburg, PA.

MC 138826 (Sub-12F), filed October 27, 1980. Applicant: JERALD HEDRICK, d.b.a HEDRICK & SON TRUCKING, Rural Rt. #1, Warren, IN 46792. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *fertilizer and fertilizer materials,* in bulk, between points in IL, IN, MI, and OH.

MC 139006 (Sub-19F), filed October 26, 1980. Applicant: RAPIER SMITH, Rural Rt. 5, Loretto Rd., Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting (1)(a) *furniture parts,* and (b) *iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 139006 (Sub-20F), filed October 27, 1980. Applicant: RAPIER SMITH, Rural Rt. 5, Loretto Rd., Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *alcoholic beverages,* from Lawrenceburg, IN, Bardstown, Frankfort, Loretto, Louisville, and Paducah, KY, St. Louis, MO, Linden, NJ, Schenley, PA, and Tullahoma, TN, to Albany, GA.

MC 139906 (Sub-135F), filed October 29, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *clay and clay products,* between points in GA, on the one hand, and, on the other, points in the U.S.

MC 143917 (Sub-6F), filed October 27, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *foodstuffs,* and *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, beween points in the U.S., under continuing contract(s) with Griffth Laboratories U.S.A., Inc., of Alsip, IL.

MC 142976 (Sub-5F), filed October 27, 1980. Applicant: JOHN D. PERFETTI, R.D. #4 Box 265C, Blairsville, PA 15717. Representative: Arthur Diskin, Suite 806, Frick Bldg., Pittsburgh, PA 15219. Transporting (1) *iron and steel articles* and (2) *materials, equipment, and supplies* used in the manufacture of commodities in (1) above, between points in the U.S. (except AK and HI), under continuing contract(s) with National Roll, Division General Steel Industries, Inc., of Avonmore, PA.

MC 146336 (Sub-15F), filed October 29, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, a corporation, 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *disposable surgical supplies,* and (2) *materials* used in the manufacture of disposable surgical supplies, between points in the U.S., under continuing contract(s) with Surgikos, Inc., of Arlington, TX.

MC 150206 (Sub-1F), filed October 23, 1980. Applicant: DANTE GENTILINI TRUCKING, INC., P.O. Box 387, West Chicago, IL 60185. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016. Transporting (1) *plastic articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles between points in DuPage County, IL, on the one hand, and, on the other, points in IA, IN, MI, MN, MO, OH, and WI.

MC 15196 (Sub-1F), filed October 27, 1980. Applicant: BOB WHITAKER & SON, INC., P.O. 65, Roswell, NM 88201. Representative: Bruce C. Harrington, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from the facilities of John Morrell & Co., in El Paso, Lubbock, and Potter Counties, TX to points in AL, AZ, CA, FL, GA, LA, MS, NM, NC, SC and TN.

MC 152466F, filed October 14, 1980. Applicant: MOUNTAIN TOP TOURS, INC., 39 Carol Dr., Englewood Cliffs, NJ 07632. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *broker* at Engelwood Cliffs and Fort Lee, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special or charter operations, between points in the US.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-35862 Filed 11-17-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on December 9, 10, and 11 in Room N-5437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

Tuesday, December 9

9:30 a.m.—Committee on Productivity, Technology and Economic Growth
1. Update of 1990 growth projections
2. Job skill requirements for new energy program requirements
3. Current industry technology studies
4. Elements contributing to productivity growth

Tuesday, December 9

1:45 p.m.—Committee on Employment Structure and Analysis
1. Establishment reporting (790) program for implementing recommendations of National Commission on Employment and Unemployment Statistics
2. Job vacancy study—results to date
3. Technical aspects and policy uses of ES 202 reports
4. Status of local area unemployment statistics
5. Current Population Survey—progress on recommendations of National Commission on Employment and Unemployment Statistics
6. Measurement of discouragement

Wednesday, December 10

9:30 a.m.—Committee on Prices and Living Conditions
1. The September 1980 Producer Price Index
2. Status report on housing in the Consumer Price Index
3. Status of the review of the Family Budget Committee Report

Wednesday, December 10

1:45 p.m.—Committee on Wages and Industrial Relations
1. Review of work in progress
2. Long-range planning of Office of Wages and Industrial Relations
3. Public sector bargaining settlements
4. Private sector employee benefits

Thursday, December 11

9:30 a.m.—Committee on Foreign Labor and Trade
1. International productivity comparisons
2. International gross domestic product comparisons

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C. this 10th day of November 1980.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 80-35847 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-24-M

Office of the Secretary

Tripartite Advisory Panel on International Labor Standards; Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (P.L. 92-463), announcement is hereby given of a meeting of the Tripartite Advisory Panel on International labor Standards, which is a subcommittee of the President's Committee on the International Labor Organization. This meeting will be an continuation of the meeting which was held on November 6, 1980.

Name: Tripartite Advisory Panel on International Labor Standards
Date: November 24, 1980
Time: 9:00 A.M.
Place: Department of Labor, 3rd and Constitution Ave., N.W., Room S-2217, Washington, D.C. 20210

This meeting will be closed to the public under authority of Section 10(d) of the Federal Advisory Committee Act, as amended. During its closed session, the Committee will discuss information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. It is not practicable to segregate a portion of the meeting to permit public participation.

All communications regarding this subcommittee should be addressed to Carin A. Clauss, Solicitor of Labor, U.S. Department of Labor, 3rd and Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 523-7675.

Carin Ann Clauss,

Solicitor of Labor.

[FR Doc. 80-35933 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8910]

Accurate Die and Manufacturing Corp.; Negative Determination on Reconsideration

On September 26, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers fabricating and painting automotive components from pre-stamped metal parts for assembly into cars and trucks.

In the company official's application for reconsideration, he refuted the Department's negative determination issued on August 11, 1980 that Accurate did not produce an article within the meaning of Section 222(3) of the Act. The applicant claimed that Accurate not only paints automotive parts as stated in the denial, but on many jobs, the company buys and receives components, fabricates, assembles, and paints, before the part is assembled to cars and trucks.

Generally, Accurate Die and Manufacturing receives stamped metal parts from automotive component manufacturers which Accurate assembles with spot, wire and arc welding to fabricate under-the-hood and cross-members for frames with brackets and braces. Accurate also performs riveting operations attaching brackets to catalytic converter shields.

On reconsideration, the Department found that the level of imports of various stamping products are a negligible proportion of total U.S. production.

Further, in response to the applicant's claim concerning the decreased employment of Accurate's workers due to imported vehicles already fitted with the fabricated assemblies, imported vehicles cannot be considered to be like or directly competitive with the automotive metal parts fabricated by Accurate Die and Manufacturing Corporation. The Department has previously determined that a finished article is not like or directly competitive with its component parts. This position is supported by the courts.

A survey of customers who are the end users of Accurate Die and Manufacturing Corporation's products revealed that most customers did not import products like or directly competitive with those produced at Accurate. A major customer who did show increased imports also increased its purchases from all domestic sources other than its own in-house production.

Conclusion

After reconsideration, notwithstanding the Department's acknowledgment that Accurate Die and Manufacturing Corporation does produce an article within the meaning of Section 222(3) of the Act, I reaffirm the original Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance to workers and former workers of Accurate Die and Manufacturing Corporation, Detroit, Michigan.

Signed at Washington, D.C., this 10th day of November 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-35929 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7788]

Clark Reed Shake Co.; Revised Determination on Reconsideration

On October 3, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Clark Reed Shake Company, Quinault, Washington. This determination was published in the **Federal Register** on October 17, 1980 (45 FR 69074).

The applicants principally claim that (1) Canadian imports of cedar shakes at lower prices caused a downturn in employment and sales at Clark Reed Shake Company; (2) company sales are made through brokers who distribute the shake products to the brokers'

customers, and these same brokers buy shakes from other mills that have been declared eligible for Trade Act benefits; (3) that increases in value of Clark Reed cedar shake sales in 1979 were due to inflation; and (4) increased employment in 1979 was due to the installation of an extra saw to handle rougher types of wood.

The Department's review indicated that workers at Clark Reed Shake Company at Quinault, Washington were denied because they did not meet the "contributed importantly" test of the Trade Act of 1974. The denial was based on a customer survey and on sources which cited the sharp downturn in the home construction industry as the primary reason for the reduction in purchases of shakes.

The Department found in its reconsideration investigation that notwithstanding increased sales and employment in 1979 all the criteria for adjustment assistance were met in the first quarter of 1980 compared to the same period in 1979. In this period, customers' imports increased substantially at a time when purchases from the firm and other domestic sources dropped sharply.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of cedar shakes contributed importantly to the total or partial separation of workers and former workers at Clark Reed Shake Company, Quinault, Washington. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers at Clark Reed Shake Company, Quinault, Washington, who became totally or partially separated from employment on or after October 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of November 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-35926 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,690]

Dayton Malleable, Inc., Ohio Division; Termination of Investigation

Pursant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a worker petition received on September 5, 1980 which was filed on behalf of all workers producing malleable iron castings at Dayton Malleable, Incorporated, Ohio Division, Columbus, Ohio.

During the course of the investigation, it was established that all workers at Dayton Malleable, Incorporated, Ohio Division were previously denied eligibility to apply for adjustment assistance on August 28, 1980 (see TA-W-7744). That investigation was initiated on April 28, 1980 in response to a worker petition which had been signed on April 2, 1980.

Dayton Malleable was closed on May 30, 1980 prior to the completion of the previous investigation, and has not since reopened. No new evidence has been offered; therefore, the findings of the previous investigation are still valid and further consideration would serve no purpose. Consequently, the investigation is terminated.

Signed at Washington, D.C. this 7th day of November 1980

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35925 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7650]

Firestone Synthetic Rubber and Latex Co.; Negative Determination Regarding Application for Reconsideration

By application dated October 9, 1980, the petitioner, the United Rubber Workers, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing latex for tire manufacturing at Firestone's Akron, Ohio plant. The determination was published in the **Federal Register** on September 19, 1980, (45 FR 62589).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that some of the production from Firestone's Akron, Ohio latex plant was integrated into the production of tire cord which, in turn, was used in the production of tires by the parent company's tire plants, some of which had workers certified for trade adjustment assistance.

The Department's review showed that workers producing latex at the Akron, Ohio plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of customers of the Firestone Synthetic Rubber and Latex Company showed that most customers either did not purchase imported synthetic latex or decreased purchases of imports in 1979 compared to 1978 and in the first four months of 1980 compared to the same period in 1979. Customers increasing imports and decreasing purchases from Firestone during the same periods represented an insignificant proportion of Firestone's sales of synthetic latex.

The Department found that the degree of integration of Akron's synthetic latex into the production of Firestone tires (which the Department has found to be import-impacted) was not significant. Therefore, the certification of Firestone tire workers could not serve as a basis for certification of workers producing the synthetic latex. Firestone Akron, Ohio latex plant produces latex primarily for carpeting, floor tile, adhesives and chewing gum. The investigation indicated that less than 5 percent of Akron's latex production was used in the production of tires.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 10th day of November 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-35927 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8223]

Ford Motor Co., Truck Operations General Office; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on August 1, 1980, applicable to all workers of Truck Operations General Office of the Ford Motor Company, Dearborn, Michigan.

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The additional information revealed that some layoffs occurred just prior to the impact date. These layoffs were not covered by the original impact date of May 1, 1980.

The intent of the certification is to cover all workers who were affected by the decline in truck operations related to import competition at the Ford Motor Company, Dearborn, Michigan. The certification, therefore, is amended to include a new impact date of April 15, 1980.

The amended certification applicable to TA-W-8223 is hereby issued as follows:

All workers in Truck Operations General Service of the Ford Motor Company, Dearborn, Michigan who became totally or partially separated from employment on or after April 15, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of November 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-35921 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,140]

J. H. Woods, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980, in response to a worker petition received on September 26, 1980, which was filed on behalf of workers and former workers producing cedar shakes and shingles at J. H. Woods, Incorporated, Lebam, Washington.

On September 15, 1980, a petition was filed on behalf of the same group of workers (TA-W-11,014).

Since the petitions were filed on behalf of the identical group of workers, conducting both investigations would serve no purpose. Therefore the investigation under TA-W-11,140 has been terminated.

Signed at Washington, D.C. this 7th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35920 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10-686]

Jo-Ad Industries, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on September 2, 1980 which was filed on behalf of workers and former workers producing automotive parts, including experimental prototype parts, wood die models, metal molds and checking fixtures, at Jo-Ad Industries, Incorporated, Madison Heights, Michigan.

In a letter dated October 16, 1980, the petitioner requested that the petition be withdrawn. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 7th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35919 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10, 709]

Keller Bath Enclosures; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a worker petition received on September 5, 1980 which was filed by the Upholsterers' International Union of North America, AFL-CIO on behalf of workers at Keller Bath Enclosures, Swainsboro, Georgia. The workers produce bath enclosures.

In a letter dated September 23, 1980 the petitioner requested withdrawal of the petition. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 7th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35924 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,710]

Keller Perfection Aluminum Products, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a worker petition received on September 5, 1980 which was filed by the Upholsterers' International Union of North America, AFL-CIO on behalf of workers at Keller Perfection Aluminum Products, Incorporated, Swainsboro, Georgia. The workers produce aluminum storm windows and doors.

In a letter dated September 23, 1980 the petitioner requested withdrawal of the petition. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 7th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35923 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,726]

Lamson and Sessions Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-10,726) was initiated on September 15, 1980 in response to a petition received on September 8, 1980 which was filed by the United Steelworkers of America on behalf of workers at The Lamson and Sessions Company, Birmingham, Alabama. The workers produce standard and specialty nuts and bolts.

On July 28, 1980 an investigation (TA-W-9583) was initiated in response to a petition received on July 9, 1980, which was filed by the International Association of Machinists and Aerospace Workers on behalf of the same group of workers.

Since the identical group of workers is the subject of ongoing investigation TA-W-9583, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35931 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8032]

Lobdell-Emery Manufacturing Co., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding

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certification of eligibility to apply for workers adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on May 9, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at the Alma, Michigan plant of Lobdell-Emery Manufacturing Company. Workers produce interior trim parts and stampings of roofs, bumpers and chassis for automobiles.

The investigation revealed that criterion (3) has not been met.

Workers at the Alma, Michigan plant of Lobdell-Emery Manufacturing Company are not separately identifiable by product line. Chassis production accounts for the majority of total company production.

A survey conducted by the Department revealed that major surveyed customers of Lobdell-Emery Manufacturing Company did not purchase imported automotive stampings of chassis, the company's major product, or roofs in model year (MY) 1979 or MY 1980. Import purchases by surveyed customers of automotive interior trim parts and bumpers amounted to a relatively small percent of total customer purchases of these products in MY 1979 and MY 1980.

Petitioners allege that increased imports of automobiles have contributed importantly to declines in sales, production and employment at the Alma, Michigan plant of Lobdell-Emery Manufacturing Company. Although imported automobiles incorporate interior trim parts and stampings of roofs, bumpers and chassis for automobiles, imports of the whole product are not like or directly competitive with their component parts. Imports of interior trim parts and stampings of roofs, bumpers and chassis for automobiles must be considered in determining import injury to workers producing such products at the Alma, Michigan plant of Lobdell-Emery Manufacturing Company.

Conclusion

After careful review, I determine that all workers of the Alma, Michigan plant of Lobdell-Emery Manufacturing Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-35928 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8880]

Red Cedar Products; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980 in response to a worker petition received on May 21, 1980 which was filed on Behalf of workers and former workers producing red cedar shakes for Red Cedar Products, Amanda Park, Washington.

In a letter dated October 28, 1980 the petitioners requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 7th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35922 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8864]

Wear-A-Knit Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980 in response to a worker petition received on June 10, 1980 which was filed on behalf of workers at Wear-A-Knit Corporation, Cloquet, Minnesota. The workers produce sweaters, dickies, hats and scarves.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-35930 Filed 11-17-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period November 3–7, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-9327; Sterling Die Operations, Colt Industries, Inc., Cleveland, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9722; U.S. Steel Corp., Southern District Mines, Shelby County, AL

Investigation revealed that criterion (3) has not been met. The Southern District Mines supplied metallurgical coal to the Fairfield Works of U.S. Steel. The Fairfield Works are not currently under an active certification of eligibility to apply for worker adjustment assistance.

TA-W-10,504; Collins & Aikman Corp., Bangor Division, Cowpens, SC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA-W-8922; Inmont Corporation, Hawthorne, NJ

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of pigments and printing inks did not increase as required for certification.

TA-W-8805; R&R Tool and Die Company, Detroit, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools and dies are negligible.

TA-W-7690; Davis Tool and Engineering Company, Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-7688 & 7689; Hillsdale Tool and Mfg. Co. & Daisy Parts, Inc., Hillsdale, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,577; Jacklin Steel Supply Co., Lansing, MI

Investigation revealed that the workers do not produce an article as required for decertification under Section 223 of the Act.

TA-W-10,265; Birmingham Southern Railroad Co., Fairfield, AL

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8817; Jodi Scott Dress Co., Pitman, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-8699; Woodbury Dress Co., Woodbury, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-8604; Norris Industries, O. L. Anderson Company Plant, Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sale declines and worker separations at the firm.

TA-W-8151; Annex Pattern Co., Inc., Southfield, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8874; Terry machine Company, Waterford, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8147; Sherwood Pattern Co., Walled Lake, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9551; Union Camp Corp., Lapeer, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports or corrugated boxes are negligible.

TA-W-8339; Pattern Associates Inc., Troy, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7954; ETM Enterprises, Inc., Grand Ledge, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7719; Outboard Marine Corp., Evinrude Motors Division, Milwaukee, WI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of 70 to 235hp outboard motors did not increase as required for certification.

TA-W-8314; Katherina Reinert Knitwear Service, Queens, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8118; Bohn Aluminum and Brass, Div. of Gulf and Western Ind., Adrian, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9027; Hill-Tone Coat and Suit Co., Burlington, NJ

Investigation revealed that criterion (2) has not been met.

TA-W-9141; Crimtex Inc., San German, Puerto Rico

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of yearn did not increase as required for certification.

TA-W-10,453; Bridgeport Bass Co., Bridgeport, CT

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of copper rods, sheet, and wire did not increase as required for certification.

TA-W-10,532; Delta Tube and Fabricating Corp., Holly, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of storage containers are negligible.

TA-W-10,903; McIntee Motors, Struthers, OH

Investigation revealed that the workers do not produce an article as required for certification under section 223 of the Act.

TA-W-8921, 9074, & 9075; Firestone Textiles Co., Bowling Green, KT; Gastonia, KT; and Bennettsville, SC

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated

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that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8335; Fairway Model and Mold, Inc., Mt. Clemens, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–9192; Firestone Tire and Rubber Co., Akron 1 Plant, Akron, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8015; Eaton Corp., Tinnerman Plant, Cleveland, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7932; Armstrong Rubber Co., New Haven, CT

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of car and truck tires did not increase as required for certification.

TA–W–7679; FMC Corp., Chain Division, Indianapolis, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

Affirmative determinations

TA–W–8930; Midwest Handbag Co., St. Louis, MO

A certification was issued applicable to all workers at the subject firm separated on or after June 4, 1979.

TA–W–7735; Radar Industries, Inc., Roseville MI

With respect to workers producing brackets and hinges, the investigation revealed that criterion (3) has not been met. Surveyed customers did not increase purchases of imports while reducing purchases from the subject firm.

With respect to workers producing pulleys, a certification was issued applicable to all such workers separated on or after May 7, 1979 and before May 1, 1980.

TA–W–9570; General Motors Corp., GM Assembly Div., Linden, NJ

A certification was issued covering all workers of the firm separated on or after April 1, 1980.

TA–W–10,420; Lucas Chrysler-Plymouth, Inc., Maumee, OH

A certification was issued covering all workers of the firm separated on or after August 1, 1979 and before October 1, 1980.

TA–W–9379; Ken Brown Motor Co., Inc., Detroit, MI

A certification was issued covering all workers of the firm separated on or after October 1, 1979 and before October 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period November 3–7, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Consititution Avenue, NW, washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: November 12, 1980

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–35918 Filed 11–17–80; 8:45 am]

BILLING CODE 4510–28–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are indentified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below; not later than November 28, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address show below, not later than November 28, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
BASF Wyandotte (URW)	South Kearny, NJ	11–3–80	10–27–80	TA–W–11,606	Dyestuffs.
Garon Knitting Mills (workers)	Duluth, MN	10–31–80	10–27–80	TA–W–11,607	Caps.
Garon Knitting Mills (workers)	Duluth, MN	10–31–80	10–27–80	TA–W–11,608	Caps, sweaters, and mittens.
H. L. Fredlen & Co. (workers)	Allegan, MI	10–31–80	10–25–80	TA–W–11,609	Outerwear.
Henry Richards Co. (ILGPNW)	Hamden, CT	11–3–80	10–28–80	TA–W–11,610	Ladies handbags—vinyl.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Hughes Chemical Co. (workers)	Adrian, MI	10–31–80	10–22–80	TA–W–11,611	Adhesives, sealers, and coatings, automotive and industrial.
Hughes Chemical Co. (workers)	Madison Heights, MI	10–31–80	10–22–80	TA–W–11,612	Research and administration.
Humboldt Corp. (workers)	Columbus, MS	11–3–80	10–20–80	TA–W–11,613	Surgical, medical disposable clothing, and packs.
La Porte Plastics Corp. (workers)	La Porte, IN	10–31–80	10–27–80	TA–W–11,614	Diaphram plates and valve bodies for power steering and power brake units.
Little Frocks (ILGWU)	Little Falls, NY	11–3–80	10–30–80	TA–W–11,615	Ladies dresses and sportswear.
Schwartz Manufacturing Co., Inc. (company)	Howell, NJ	10–31–80	10–23–80	TA–W–11,616	Contractor—ladies handbags.
Arvin Ind. (USWA)	Monroeville, AL	11–3–80	10–28–80	TA–W–11,617	Exhaust pipe systems for auto industry.
B. & P. Cedar Products, Inc. (company)	Pe El, WA	11–3–80	10–27–80	TA–W–11,618	Cedar shakes for roofing.
Belden Corp., Pontotoc Plant (workers)	Pontotoc, MS	11–3–80	10–30–80	TA–W–11,619	Magnet wire.
Coats & Clark, Inc. (company) zipper division	Jamesville, NC	11–3–80	10–27–80	TA–W–11,620	Slide fasterners for fashions and for industrial applications.
Coats & Clark, Inc., (company) zipper division	Newport News, VA	11–3–80	10–27–80	TA–W–11,621	Slide fasteners for fashions and for industrial applications.
E. & W. of Dover, Inc. (company)	Dover, TN	10–31–80	10–28–80	TA–W–11,622	Men's and boy's jeans.
Lincoln Metal Products Co., Inc. (company)	Detroit, MI	11–3–80	10–28–80	TA–W–11,623	Automotive parts (brackets, covers, and rods)
Western Iron Works, Inc. (workers)	Butte, MT	10–31–80	10–26–80	TA–W–11,624	Fabricated steel for Anaconda smelter.
Youthcraft Coats & Suits, Inc. (ILGWU)	Kansas City, MO	11–3–80	10–15–80	TA–W–11,625	Ladies coats and suits
Ultratek Disposable Co. (workers)	Columbus, MS	11–3–80	10–20–80	TA–W–11,626	Surgical, medical disposable clothing, and packs.
Westinghouse Electric Co. (IUE)	Union City, IN	10–31–80	10–29–80	TA–W–11,627	Fractional horsepower electric motors and components parts.
Astatic Corp. (workers)	Conneaut, OH	10–31–80	10–24–80	TA–W–11,628	Plastic tone arms, needle cartridges, and microphones.
Celectro Knit Fabrics (workers)	Brooklyn, NY	11–3–80	10–30–80	TA–W–11,629	Manufacturing knitted fabrics.
Crescent Machine Co., Inc.	Pontiac, MI	11–3–80	10–31–80	TA–W–11,630	G.M. fly wheel housings.
D.A.B. Industries, Inc. (workers)	Athens, AL	10–31–80	9–29–80	TA–W–11,631	Transmissions and hydromatic bands.
Elder Manufacturing Co. (workers)	Bloomfield, MO	11–3–80	10–28–80	TA–W–11,632	Suits and sport coats.
Empire Clothing Manufacturing Co. (ACTWU)	Kewanee, IL	11–3–80	10–29–80	TA–W–11,633	Outerwear, jackets, and insulated undergarments.
Fairwood-Wells, Inc. (ACTWU)	Miami, FL	11–3–80	10–30–80	TA–W–11,634	Men's tailored clothing.
Jackie Stuart (ILGWU)	New York, NY	11–3–80	10–29–80	TA–W–11,635	Ladies sportswear.
Kay Industries, Inc. (workers)	Detroit, MI	11–3–80	10–9–80	TA–W–11,636	Dome liners.
Merit Clothing Co. (company)	Mayfield, KY	10–31–80	10–27–80	TA–W–11,637	Men's suits, sport coats, and topcoats.
National Mines Corp. (UMWA)	Lexington, KY	10–31–80	10–27–80	TA–W–11,638	Coal.
P.H.C. Industries, Philadelphia Handle Co. (workers).	Camden, NJ	11–3–80	10–29–80	TA–W–11,639	Interior door handles for automotive industry.
A. Soloff & Son (ACTWU)	Fall River, MA	11–3–80	10–30–80	TA–W–11,640	Men's outerwear, ski wear and vests.
Elder Manufacturing Co. (workers)	Dexter, MO	11–3–80	10–28–80	TA–W–11,641	Boy's and men's dress pants and jeans.
Panmar Sportswear (Cute Togs) (ILGWU)	Brooklyn, NY	10–31–80	10–22–80	TA–W–11,642	Outerwear.
Pilot Knob Pellet Co. (USWA)	Ironton, MO	11–3–80	10–22–80	TA–W–11,643	Iron ore pellets.
Shadick Manufacturing Corp. (workers)	Ypsilanti, MI	11–3–80	10–29–80	TA–W–11,644	Screw machine products.
Spun Steel, Division of Dyneer Corp. (UAW)	Canton, OH	11–4–80	10–31–80	TA–W–11,645	Spun steel automotive pulleys.
Stalwart Rubber Co. (workers)	Bedford, OH	11–3–80	10–25–80	TA–W–11,646	Spark plugs boots, distributor nipples, bumpers, and bushings.
Towne Robinson Fastener Co. (workers)	Dearborn, MI	10–24–80	10–1–80	TA–W–11,647	Fasterns for automotive industry.
United Steelworkers of America, Local Union 3185 (USWA)	Baltimore, MD	11–3–80	10–29–80	TA–W–11,648	Stainless steel bars, rods, and coils.
AMF Bowling Prod. Groups (workers)	Westbury, NY	10–30–80	10–24–80	TA–W–11,649	Pinspotters.
AMF (workers)	Fairview Park, OH	10–30–80	10–24–80	TA–W–11,650	Pinspotters.
Product Services, Inc. (company)	St. Clair Shores, MI	11–4–80	10–28–80	TA–W–11,651	Sales outlet for cargotainers.
A.E.D. Division of FMC (workers)	San Jose, CA	11–5–80	10–26–80	TA–W–11,652	Ground support, equipment and material deicers.
Aileen, Inc. (workers)	Woodstock, VA	9–15–80	9–10–80	TA–W–11,653	Packing and shipment of ladies garments.
Conyers Ford, Inc. (workers)	Detroit, MI	10–31–80	10–29–80	TA–W–11,654	Dealership, Ford Division products.
Dayton Division, Dayton-Walther Corp. (USWA).	Dayton, OH	11–6–80	11–4–80	TA–W–11,655	Casting and machining of heavy truck wheels.
Design & Manufacturing Corp. (workers)	Connersville, IN	11–6–80	10–10–80	TA–W–11,656	Dishwashers.
Gerald Leather Goods, Inc. (LPNWU)	Newburgh, NY	11–6–80	11–3–80	TA–W–11,657	Ladies handbags—vinyl.
Gould, Inc., Engine Parts Division (USWA)	Bridgeport, OH	11–5–80	10–26–80	TA–W–11,658	Engine bearings, main bearing rods.
Styl-Rite Optics, Inc. (UAW)	Flushing, NY	11–6–80	11–3–80	TA–W–11,659	Plastic eye glass frames.
Man Anne Bag Corp. (LPNWU)	New Windsor, NY	11–6–80	11–3–80	TA–W–11,660	Ladies handbags—fabric and leather.

[FR Doc. 80–35932 Filed 11–17–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel (Jazz Section); Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Jazz Section) to the National Council on the Arts will be held on December 5–6, 1980, from 9:00 a.m.–5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be

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closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advsiory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 12, 1980.

[FR Doc. 80-35900 Filed 11-17-80; 8:45 am]

BILLING CODE 7537-01-M

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committe Act (Pub. L. 92.463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506:

Date: December 3, 4, and 5, 1980.
Time: 9:00 a.m. to 5:00 p.m.
Room: 1st Floor Conference Room.
Program: This meeting will review applications submitted for General Research Program: State, Local and Regional Studies projects, Division of Research Programs, for projects beginning after March 1, 1981.

Date: December 8, 1980.
Time: 9:15 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 10, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review applications for Summer Stipends in Early English, and Medieval and Renaissance European Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 10, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Early English, and Medieval and Renaissance European Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 12, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Political Science and Economics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 13, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 13, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in American Studies and Cultural History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stepehn J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0346.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-35878 Filed 11-17-80; 8:45 am]

BILLING CODE 7536-01-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Notice of Change in System of Records.

SUMMARY: The Commission is issuing notice of changes of categories of records in its system and of routine uses of records maintained in the system. The intended purpose of this notice is to fulfill the notice requirements of the Privacy Act of 1974.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. Telephone No.: (602) 779–3311, ext. 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION: The Navajo and Hopi Indian Relocation Amendments Act of 1980, 25 U.S.C. 640–d, 94 Stat. 929, P.L. 96–305, Sec. 30(b), (hereinafter, the Amendments Act), requires that the Commission promulgate regulations concerning application procedures for Life Estate Leases by members of the Navajo and Hopi Tribes who are subject to relocation. The Amendments Act has required changes in the Commission's System of Records. This notice of change of system of records is published to fulfill the requirements of the Privacy Act of 1974.

The Commission has added a fourth category of individuals covered by the system: persons who apply for Life Estate Leases.

The Commission has added a fifth category of records in the system: Life Estate Lease Application.

The Commission has also added another primary use of the records in the system: to determine . . . "(d) those individuals who are eligible for Life Estate Leases and the location of such Life Estate parcels."

Finally, the Commission has amended that portion of the notice relating to disclosure outside the Navajo and Hopi Indian Relocation Commission. The Commission has determined that disclosures may be made to: "Tribal Governments in determining the configuration of Life Estate parcels."

The principal author is William G. Lavell, Field Solicitor, Valley National Bank Center, Suite 2080, 201 North Central, Phoenix, Arizona 85073.

Accordingly, the Commission's Notice of System of Records, published in the **Federal Register** on May 8, 1980, at Vol. 45, No. 91, p. 30577, is amended to read as follows:

SYSTEM NAME:

Navajo and Hopi Relocation Commission Records System.

SYSTEM LOCATION:

Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Building A, Flagstaff, Arizona 86001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Those members of the Navajo Tribe residing in that portion of the Joint Use Area of Arizona which has been partitioned to the Hopi Tribe.

(2) Those members of the Hopi Tribe residing in that portion of the Joint Use Area of Arizona which has been partitioned to the Navajo Tribe.

(3) Persons who apply to the Commission for relocation benefits.

(4) Persons who apply to the Commission for Life Estate leases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Relocation Applications,
(2) Census Information,
(3) Inventories of livestock and property improvements,
(4) Appraisal of Improvements, and
(5) Life Estate Applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 640(d), 25 U.S.C. 361, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to determine: (a) those individuals who are entitled to relocation benefits, (b) the amount of benefits to which individuals are entitled, (c) where relocations may occur, and (d) those individuals who are eligible for Life Estate Leases and the location of such Life Estate Lease parcels. Disclosures outside the Navajo and Hopi Indian Relocation Commission may be made to: (a) Tribal Governments for use in adjudicating disputes and in determining the configuration of Life Estate Lease parcels, (b) to United States Courts concerned with the partition of the Joint Use Area, (c) to the Department of Justice when related to litigation or contemplated litigation, (d) to appropriate Federal, State, Local, or Foreign Agency responsible for investigating or prosecuting violations or for enforcing or implementing a statute, rule, regulation, order, or license of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, (e) reports to the United States Congress, and (f) publication of rosters to assist potential relocatees in determining their application and eligibility status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual: letter files.

RETRIEVABILITY:

Indexed by name of individual, retrieved by manual search.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records will be disposed of when the Commission is discharged pursuant to 25 U.S.C. 640d–11(i).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

NOTIFICATION PROCEDURE:

To determine whether records in this system are maintained on an individual, the individual must contact the System Manager.

RECORD ACCESS PROCEDURES:

For access to individual's records, the individual must contact the System Manager and describe as specifically as possible the records sought and, if copies are desired, indicate the maximum copy fee the individual is willing to pay.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information is obtained from:

(1) Information obtained from individuals who apply for relocation benefits and/or for Life Estate leases.

(2) Information obtained from other United States governmental agencies concerning individuals who may or may not be entitled to relocation benefits.

(3) Information obtained from surveys taken on the Joint Use Area.

(4) Information obtained from the Navajo Tribe or the Hopi Tribe concerning its members entitled to relocation benefits.

(5) Information obtained from Chapter Officials of the Navajo Tribe concerning members of their chapter who may be entitled to relocation benefits.

Sandra L. Massetto,

Chairperson, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 80-35911 Filed 11-17-80; 8:45 am]

BILLING CODE 4310-HB-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-336]

Northeast Nuclear Energy Co. et al.; Order for Modification of License

I

In the matter of Northeast Energy Company, Connecticut Light and Power Company, Hartford Electric Light Company, Western Massachusetts Electric Company (Millstone Nuclear Power Station Unit No. 2)

Northeast Nuclear Energy Company, et al. (licensee) is the holder of License No. DPR-65, which authorizes the operation of the Millstone Nuclear Power Station, Unit No. 2 at steady state reactor power levels not in excess of 2,700 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in the Town of Waterford, Connecticut.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operation reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on

Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–65 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–65 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy, Esq., Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35470 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50–285]

Omaha Public Power District (Fort Calhoun Station, Unit No. 1); Order for Modification of License

I

Omaha Public Power District (licensee) is the holder of License No. DPR–40, which authorizes the operation of the Fort Calhoun Station, Unit No. 1 at steady state reactor power levels not in excess of 1500 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Washington County, Nebraska.

II

On November 4, 1977, the Union of Concerned Scientists (USC) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation reqirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, " do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt comlpetion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–40 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–40 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Marilyn A. Tebor, Esq., LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35477 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-277]

Philadelphia Electric Company, et al. (Peach Bottom Atomic Power Station, Unit No. 2); Order for Modification of License

I

Philadelphia Electric Company (licensee) and three other co-owners are the holders of Facility Operating License No. DPR-44, which authorizes the operation of the Peach Bottom Atomic Power Station, Unit No. 2, at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–44 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR–44 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW, Washington, D.C. 20006, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1082.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceeding on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35478 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-278]

Philadelphia Electric Company, et al. (Peach Bottom Atomic Power Station, Unit No. 3); Order for Modification of License

I

Philadelphia Electric Company (licensee) and three other co-owners are the holders of Facility Operating License No. DPR–56, which authorizes the operation of the Peach Bottom Atomic Power Station, Unit No. 3, at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. USC filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980, Memorandum and Order that no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is order that effective immediately Facility Operating License No. DPR–56 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License DPR–56 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, 20555. A copy of the request shall also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW, Washington, DC 20006, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee shall be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment shall be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35479 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Company, the City of Eugene, Oregon, Pacific Power and Light Company (Trojan Nuclear Plant); Order for Modification of License

I

Portland General Electric Company, et al. (licensee) is the holder of License No. NPF–1, which authorizes the operation of the Trojan Nuclear Plant at steady state reactor power levels not in excess of 3411 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site near Rainier, Oregon.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–1 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF–1 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. W. Durham, Esq., Vice President and Corporate Counsel, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35480 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Order for Modification of License

I

The Power Authority of the State of New York (licensee) is the holder of Facility Operating License No. DPR–59 which authorizes the operation of the James A. FitzPatrick Nuclear Power Plant at power levels up to 2436 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Oswego County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–59 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–59 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980 Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35481 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York (Indian Point Station, Unit No. 3); Order for Modification of License

I

The Power Authority of the State of New York the (licensee) is the holder of Facility Operating License No. DPR–64, which authorizes the operation of the Indian Point Plant Unit No. 3 at steady state reactor power levels not in excess of 3025 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Westchester County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirments which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–64 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–64 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles M. Pratt, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980 Bethesda, Md.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35482 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado (Fort St. Vrain Nuclear Generating Station); Order for Modification of License

I

The Public Serivce Company of Colorado (licensee) is the holder of License No. DPR–34 which authorizes the operation of the Fort St. Vrain Nuclear Generating Station at steady state reactor power levels not in excess

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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of 842 megawatts thermal (rated power) with a current hold at 70%. The facility consists of a Gas-Cooled reactor located at the licensee's site in Weld County, Colorado.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guildelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualifcation of safety-related eletrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–34 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines), or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979, to the extent applicable to a gas cooled reactor. Copies of these documents are attached to Order for Modification of License No. DPR–34 dated October 27, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related elecrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588, to the extent applicable to a gas cooled reactor. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bryant O'Donnell, Esq., Kelly, Stansfield and O'Donnell, at 9900 Public Service Company Building, Denver, Colorado 80202, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by not later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 27, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Divison of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35483 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50–272]

Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Unit No. 1); Order for Modification of License

I

Public Service Electric and Gas Company (the licensee) is the holder of Facility Operating License No. DPR–70 which authorizes the operation of the Salem Nuclear Generating Station, Unit No. 1 at steady state reactor power levels not in excess of 3338 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Salem County, New Jersey.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progesss reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–70 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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documents are attached to Order for Modification of License No. DPR–70 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mark J. Wetterhahn, Esquire, Conner, Moore and Corber, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35484 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Company's R. E. Ginna Nuclear Power Plant; Order for Modification of License

I

Rochester Gas & Electric Company (the licensee) is the holder of Provisional Operating License No. DPR-18, which authorizes the operation of R. E. Ginna Nuclear Power Plant at steady-state reactor power levels not in excess of 1520 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Wayne County, New York.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certin actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Evironmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DPR–18 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–18 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35485 Filed 11-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order for Modification of License

I

The Sacramento Municipal Utility District (licensee) is the holder of Facility Operating License No. DPR–54, which authorizes the operation of the Rancho Seco Nuclear Generating Station, at steady state reactor power levels not in excess of 2772 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Sacramento County, California.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B[1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–54 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors 'Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors' (DOR Guidelines); or, NUREG–0588, 'Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment,' December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–54 dated October 24, 1980."

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to David S. Kaplan, Secretary and General Counsel, 6201 S Street, P.O. Box 15830, Sacramento, California 95814, Attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35486 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Edison Company and San Diego Gas and Electric Company's San Onofre Nuclear Generating Station; Order for Modification of License

I

Southern California Edison Company and San Diego Gas and Electric Company (the licensees) are the holders of Provisional Operating License No. DPR–13, which authorizes the operation of San Onofre Nuclear Generating Station at steady state reactor power levels not in excess of 1347 megawatts thermal (rated power). The facility consists of a Pressurized water reactor located at the licensee's site in San Diego County, California.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Provisional Operating License No. DRP–13 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–13 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and audible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles L. Kocher, Assistant General Counsel, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35487 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-259]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 1); Order for Modification of License

I

The Tennessee Valley Authority (licensee) is the holder of Facility Operating License No. DPR–33 which authorizes the operation of the Browns Ferry Nuclear Plant, Unit 1, at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Limestone County, Alabama.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The

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petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0568 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaulation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–33 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–33 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Techincal Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B, 33C Knoxville, Tennessee 37902, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35488 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-260]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 2); Order for Modification of License

I

The Tennessee Valley Authority (licensee) is the holder of Facility Operating License No. DPR–52 which authorizes the operation of the Browns Ferry Nuclear Plant, Unit 2, at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Limestone County, Alabama.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–52 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–52 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B, 33C Knoxville, Tennessee 37902, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35489 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-296]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 3); Order for Modification of License

I

The Tennessee Valley Authority (licensee) is the holder of Facility Operating License No. DPR-68 which authorizes the operation of the Browns Fetty Nuclear Plant, Unit 3, at steady state reactor power levels not in excess of 3293 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Limestone County, Alabama.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-68 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-68 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B, 33C Knoxville, Tennessee 37902, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35490 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station, Unit No. 1); Order for Modification of License

I

The Toledo Edison Company (TECo) and The Cleveland Electric Illuminating Company, (licensees) are the holders of Facility Operating License No. NPF-3, which authorizes the operation of the Davis-Besse Nuclear Power Station, Unit No. 1, at steady state reactor power levels not in excess of 2772 megawatts thermal (rated power). The facility consists of a presurized water reactor located at the licensees' site in Ottawa County, Ohio.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration On May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Evironmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progesss reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documen:ation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensees the requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–3 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF–3 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records shall be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensees or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw Pittman, Potts and Trowbrige, 1800 M Street NW, Washington, D.C. 20036, attorney for the licensees.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35491 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Plant); Order for Modification of License

I

The Vermont Yankee Nuclear Power Corporation (licensee) is the holder of Facility Operating License No. DPR–28 which authorizes the operation of the Vermont Yankee Nuclear Power Plant at steady state reactor power levels not in excess of 1593 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Windham County, Vermont.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

[1] Bulletin 79–01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79–01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Sepcifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission).

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-realted electrical equipment to confrom to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS ORDERED THAT EFFECTIVE IMMEDIATELY Facility Operation License No. DPR–28 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–28 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A Ritsher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 01581, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35492 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co. (North Anna Power Station, Unit No. 1); Order for Modification of License

I

Virginia Electric and Power Company (licensee) is the holder of License No. NPF–4, which authorizes the operation of the North Anna Power Station Unit No. 1 at steady state reactor power levels not in excess of 2775 megawatts thermal (rated power). The facility consists of a Pressurized Water Reactor located at the licensee's site in Louisa County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on

Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. NPF–4 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. NPF–4 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records shall be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

(FR Doc. 80-35193 Filed 11-17-80; 8:45 am)

BILLING CODE 7590-01-M

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

[Docket No. 50-280]

Virginia Electric and Power Co. (Surry Power Station, Unit No. 1); Order for Modification of License

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR–32, which authorizes the operation of the Surry Power Station, Unit No. 1 at steady state reactor power levels not in excess of 2441 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Surry County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operation reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guideliines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC–4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG–0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79–01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–32 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–32 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35494 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-281]

Virginia Electric and Power Co. (Surry Power Station, Unit No. 2); Order for Modification of License

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR-37, which authorizes the operation of the Surry Power Station, Unit No. 2 at steady state reactor power levels not in excess of 2441 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Surry County, Virginia.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guildeines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progesss reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-37 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-37 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records shall be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35495 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Unit Nos. 1 and 2); Order for Modification of Licenses

I

Wisconsin Electric Power Company (licensee) is the holder of License Nos. DPR-24 and DPR-27 which authorize the operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 at steady state reactor power levels not in excess of 1518 megawatts thermal (rated power). The facilities consist of two Pressurized Water Reactors located at the licensee's site at Two Creeks, Wisconsin.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progesss reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 3, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

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Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-24 and DPR-27 are hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualifications of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-24 and DPR-27 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records shall be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bruce Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35498 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et al. (Kewaunee Nuclear Plant); Order for Modification of License

I

Wisconsin Public Service Corporation, *et al.* (the licensee) is the holder of Facility Operating License No. DPR-43, which authorizes the operation of the Kewaunee Nuclear Plant at steady state reactor power levels not in excess of 1650 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensees's site Kewaunee County, Wisconsin.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978, decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980, decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Evironmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980 Memorandum and Order that by no later than June 30, 1982 all safety-related electrical equipment shall be

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

qualified to the DOR Guidelines or NUREG-0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG-0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR-43 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines); or, NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR-43 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditable records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG-0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Foley and Lardner, First Wisconsin Center, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Effective Date: October 24, 1980, Bethesda, Md.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-35497 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Company's Yankee Nuclear Power Station (Yankee Rowe); Order for Modification of License

I

Yankee Atomic Electric Company (the licensee) is the holder of Facility Operating License No. DPR-3, which authorizes the operation of Yankee Nuclear Power Station (Yankee Rowe) at steady-state reactor power levels not in excess of 600 megawatts thermal (rated power). The facility consists of a pressurized water reactor located at the licensee's site in Franklin County, Rowe, Massachusetts.

II

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components. By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980, the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents—the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979 (copies attached) "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR Part 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B [1] and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all

[1] Bulletin 79-01B was not sent to licensees for plants under review as part of the staff's Systematic Evaluation Program. The information sought by Bulletin 79-01B was requested from these licensees by a series of letters and meetings during the months of February and March, 1980.

operating plants shall be qualified to the DOR Guidelines or NUREG–0588."

The Commission requested the staff to, "keep the Commission and the public apprised of any further findings of incomplete environmental qualification of safety-related electrical equipment, along with corrective actions taken or planned," and requested the staff to provide bi-monthly progress reports to the Commission.

The Commission further directed that, "In order to leave no room for doubt on this issue, the staff is to prepare additional Technical Specifications for all operating plants which codify the documentation requirement paragraph of the Guidelines (paragraph 8.0)." The staff was directed to add these documentation requirements to each license after they were approved by the Commission.

The Commission also pointed out that the various deadlines imposed in its Order, "do not excuse a licensee from the obligation to modify or replace inadequate equipment promptly."

III

The Commission has approved the Technical Specification provisions set forth in Section IV below which specify documentation requirements and which specifically impose on the licensee the requirement of the Commission's May 23, 1980, Memorandum and Order that by no later than June 30, 1982, all safety-related electrical equipment shall be qualified to the DOR Guidelines or NUREG–0588.

The information developed during the Commission review of the UCS Petition emphasizes the importance of prompt completion of the upgrading of environmental qualification of safety-related electrical equipment to conform to the DOR Guidelines or NUREG–0588 and of adequate documentation of equipment qualifications. The deadlines set forth in the Commission's Memorandum and Order dated May 23, 1980, assure that such upgrading will be accomplished promptly. In order to assure prompt completion of necessary qualification work or replacement of unqualified components, if necessary, in conformance with the requirements of the Commission's Memorandum and Order dated May 23, 1980, and to provide complete and adequate documentation as promptly as possible, such upgrading and documentation work must commence immediately. Therefore, I have concluded that the public health, safety and interest require this Order for Modification of License to be effective immediately.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that effective immediately Facility Operating License No. DPR–3 is hereby amended to add the following provisions to the Appendix A Technical Specifications.

(a) "By no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance with the provisions of: Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guildelines); or, NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979. Copies of these documents are attached to Order for Modification of License No. DPR–3 dated October 24, 1980.

(b) "By no later than December 1, 1980, complete and auditible records must be available and maintained at a central location which describe the environmental qualification method used for all safety-related electrical equipment in sufficient detail to document the degree of compliance with the DOR Guidelines or NUREG–0588. Thereafter, such records should be updated and maintained current as equipment is replaced, further tested, or otherwise further qualified."

To effectuate the foregoing, appropriate pages for incorporation into the Technical Specifications are attached to this Order.

V

The licensee or any person whose interest may be affected by this Order may request a hearing on or before December 8, 1980. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reaction Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Frederic Greenmond, Esquire, New England Electric System, 20 Turnpike Road, Westborr, Massachusetts 01581, attorney for the licensee.

If a hearing is held concerning this Order, the issues to be considered at the hearing shall be:

a. whether the licensee should be required to have the environmental qualification records referred to in Section IV, above, available at a central location by no later than December 1, 1980; and

b. whether all safety-related electrical equipment should be qualified as required in Section IV, above, by no later than June 30, 1982.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceeding on the Order.

Effective Date: October 24, 1980, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80–35498 Filed 11–17–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on December 2, 1980 at 8:30 a.m. in Room 1167, 1717 H St., NW, Washington, DC. The Subcommittee will review the current proposal for the NRC FY–82 Reactor Safety Research Budget in preparation for the ACRS Annual Report to Congress, and matters related to the establishment of quantitative safety criteria. Notice of this meeting was published October 24, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Budget. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, December 2, 1980, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 12, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–35886 Filed 11–17–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Procedures and Administration; Meeting

The ACRS Subcommittee on Procedures and Administration will hold a meeting on December 3, 1980 in Room 1010, 1717 H St., NW., Washington, DC.

In accordance with the procdures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, December 3, 1980 4:30 p.m. until approximately 6:30 p.m.*

Members of the Subcommittee and the ACRS Staff, as well as any ACRS consultants who may be present, will discuss proposed procedures and guidelines for ACRS review of safety related standards and criteria consistent with the memo of understanding between EDO and ACRS regarding ACRS participation in the NRC rule making process and the Atomic Energy Act, Section 29.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–35885 Filed 11–17–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on the Reactor Operations; Meeting

The ACRS Subcommittee on the Reactor Operations will hold a meeting on December 2, 1980 in Room 1167, 1717 H St., NW., Washington, DC to review NRC guidelines for utility management structure and technical resources. Notice of this meeting was published October 24, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (44 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessio ns may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, December 2, 1980 1:00 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: November 12, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–35884 Filed 11–17–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Committee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on December 3, 1980 in Room 1167, 1717 H St., NW, Washington, DC. The Subcommittee will review the NRC Safety Research Budget for FY–82 Decision Unit on Systems and Reliability Analysis (SARA), and will review related items on the use of risk assessment in the licensing process.

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In accordance with the procedures outlined in the *Federal Register* on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Budget. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, December 3, 1980; 8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding mattrs to be considered during the balance of the meetng.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutry responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 12, 1980

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-35883 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/Import; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this day November 12, 1980, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Combustion Eng., Oct. 9, 1980, Oct. 21, 1980 XSNM01753	3% enriched uranium	146,000	3,532	Initial cores for Taiwan Nuclear Units 7 and 8	Taiwan.
Combustion Eng., Oct. 9, 1980, Oct. 21, 1980 XSNM01754	3.5% enriched uranium	150,000	5,250	Three reloads each for Taiwan Nuclear Units 7 and 8	Taiwan.
Transnuclear, Oct. 24, 1980, Oct. 27, 1980 XSNM01755	3.35% enriched uranium	88,505,000	2,965,167	Multiple reloads for Stade Reactor	West Germany.
Transnuclear, Oct. 24, 1980, Oct. 27, 1980 XSNM01756	3.4% enriched uranium	75,004,000	2,065,636	Multiple reloads for Wurgassen Reactor	West Germany.
Transnuclear, Oct. 24, 1980, Oct. 27, 1980 XSNM01757	3.32% enriched uranium	34,901,000	1,159,033	Fuel for Unterweser Unit 1	West Germany.
Transnuclear, Oct. 24, 1980, Oct. 27, 1980 XSNM01758	3.4% enriched uranium	131,604,000	4,473,136	Multiple reloads for Unterweser	West Germany.
Mitsui and Co., Oct. 27, 1980, Oct. 29, 1980 XSNM01759	3.95% enriched uranium	5,429	146	Fuel for Fukushima I Unit 5	Japan.
Edlow International, Oct. 27, 1980, Oct. 31, 1980 XSNM01760	3.15% enriched uranium	8,558	270	Routine reload for Genkai Unit 1	Japan.
Mitsui & Co., Oct. 29, 1980, Oct. 31, 1980 XSNM01761	3.95% enriched uranium	28,380	792	Reload fuel for Fukushima I, Unit 5.	Japan.

[FR Doc. 80-35890 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

Charter for Advisory Panel for the Decontamination of Three Mile Island, Unit 2

1. *Official Designation*
   Advisory Panel for the Decontamination of Three Mile Island, Unit 2
2. *Objectives and Scope of Activities and Duties*
   The Panel consults with and provides advice to the Commission on major activities required to decontaminate and safety clean-up the TMI-2 facility.
3. *Time Period*
   The Committee will be utilized during the period public views on clean-up issues at Three Mile Island are required
4. *Agency to whom the Panel Reports*
   United States Nuclear Regulatory Commission
5. *Agency Responsible for Providing Necessary Support*
   United States Nuclear Regulatory Commission
6. *Duties*
   As set forth in Item 2 above.
7. *Cost*
   a. $10,000 (allowed expenses, including travel and per diem)
   b. Less than one man-year.
8. *Estimated Number of Meetings Per Year*
   Four meetings Per Year
9. *Termination Date*
   Two Years from date of filing unless renewed in accordance with Section 14 of the Federal Advisory Committee Act.
10. *Date of Filing*
    November 10, 1980.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 80-35887 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. et al.; Issuance of Amendment to Facility Operating License

The U.S Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility by eliminating the present temporary requirements to perform periodic special inspection of the containment ring girder and allow future inspection of the ring girder to be performed in conjunction with the normal containment structural surveillance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 30, 1978, as revised March 31 and June 9, 1980, (2) Amendment No. 59 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of October 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-35889 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 12-18044-01MD EA-80-33]

Nuclear Pharmacy, Inc.; Order Imposing Civil Monetary Penalties

I

Nuclear Pharmacy, Incorporated, 319 West Ontario Street, Chicago, Illinois 60610 (the "licensee") is the holder of Byproduct Material License No. 12-18044-01MD (the "license") issued by the Nuclear Regulatory Commission ("the Commission") which authorizes the licensee to process, mix or compound, and distribute prepared radiopharmaceuticals containing byproduct material to authorized recipients as well as produce technetium 99m pertechnetate and indium 113m chloride from generators. The license was issued on April 20, 1978, and will expire on April 30, 1983.

II

On January 22 and February 27, 28 and 29, 1980, an inspection was conducted of licensed activities under the license. As a result of this inspection it appears that the licensee has not conducted its activities in full compliance with the conditions of the license and with the requirements of the Nuclear Regulatory Commission's "Standards for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated June 27, 1980, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties in the amount of Five Thousand Seven Hundred Dollars was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, incorporating by reference the Notice of Violation which stated the nature of the items of noncompliance, and the provisions of the NRC regulations and license conditions with which the licensee was in noncompliance. Answers from the licensee to the Notice of Violation and to the Notice of Proposed Imposition of Civil Penalties were dated July 22, 1980. Along with its response, the licensee paid the full civil penalty proposed for items 1, 3, 5, 6, 7 and 8, and one half the civil penalty proposed for item 4. The licensee denied item 2 and did not pay the proposed civil penalty for this item.

III

After consideration of the answers received and the statements of fact, explanation, and argument for mitigation or cancellation of items 2 and 4 of the Notice of Violation contained therein, as set forth in Appendix A to this Order, the Director of the Office of Inspection and Enforcement has determined that the full penalties proposed for items 2 and 4 in the Notice of Violation should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay civil penalties in the total amount of One Thousand Five Hundred Dollars within twenty-five days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a

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hearing. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five (25) days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment had not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee was in noncompliance with the Commission's requirements as set forth in items 2 and 4 of the Notice of Violation referenced in Sections II and III above; and,

(b) whether on the basis of such items of noncompliance, this Order should be sustained.

Dated at Bethesda, Maryland this 10th day of November 1980.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement

Appendix A—Evaluation and Conclusions

A Notice of Violation was issued to the licensee on June 27, 1980. That Notice identified four separate infractions and seven deficiencies resulting from noncompliance with various Commission requirements. The licensee admitted nine of the eleven alleged admitted items of noncompliance; it denied one alleged infraction (item 2) and while admitting another (item 4) requested mitigation of the civil penalty from $1,000 to $500.

For each contested item of noncompliance and associated civil penalty identified in the Notice of Violation (dated June 27, 1980), the original item of noncompliance is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response to each item (dated July 22, 1980) is presented.

Item 2—Statement of Noncompliance

10 CFR 20.101(a) limits the extremity dose of an individual in a restricted area to 18.75 rems per calendar quarter.

Contrary to the above, an individual working in the restricted area received an extremity dose of 21.8 rems during the 4th calendar quarter of 1979.

This is an infraction. (Civil Penalty—$1,000)

Evaluation Licensee Response

Although the licensee admits that an individual working in a restricted area received a dose in excess of that permitted by 10 CFR 20.101(a), it denies that it has committed any infraction of the regulations since the management of the licensee was not at fault in that it did not cause the overexposure of its employee. The licensee states that pursuant to the terms of the cited regulation, it has not committed an infraction unless the overexposure is caused by the licensee's negligence. The licensee also argues that the level of exposure to the individual involved may have been lower than the dosimetry reading reflected, because the individual used contaminated fingers to remove his ring badge. Finally, it argues that even if the exposure reading of 21.8 rems were correct (as compared to the dose limit in the regulation of 18.75 rems) the overexposure was not impermissible under 10 CFR 20.101(a) unless it was *caused* by the manner in which the licensee possessed, used or transferred the material.

These arguments of the licensee are not well taken for several reasons. First, we do not agree that the licensee had no role in causing the overexposure to the individual involved; the manner of the licensee's handling of material (through its employee) did cause the exposure. The basic elements of radiation protection involve time, distance, and shielding, all matters under the licensee's control. The licensee chose the type and quantity of isotopes to be used, established the procedures and selected the equipment to be used, and supervised the program. Further, the licensee could have prevented the overexposure by decreasing the exposure time. The inspection report shows that the licensee had not been keeeping a careful watch over dosimeter reports. In fact the licensee failed to develop procedures which would call for less exposure time, and safer handling of radioactive materials. This resulted in an employee receiving an overexposure.

The licensee does not claim that any other source of radiation caused the reading shown on the dosimeter; licensed material and no other radiation source caused an exposure to the hand of an individual in excess of the limits in 10 CFR 20.101(a).

Secondly, the licensee's characterization of the question involved as being whether it was negligent with regard to the overexposure incident is not correct. The Commission has already determined *In the Matter of Atlantic Research Corporation*, CLI–80–7, 11 NRC 413 (1980), that its authority to impose civil penalties upon a licensee pursuant to section 234 of the Atomic Energy Act is not limited to situations in which management negligence contributed to the license violation.

As in *Atlantic Research*, the licensee's argument here amounts to an assertion that it should not be penalized because no specific action by its management caused the commission of the infraction for which it has been cited. The Commission emphatically rejected that line of reasoning in *Atlantic Research:*

"Under that approach, the responsibility for infractions of license provisions or Commission regulations would be divided between the licensee's management and its employees. We believe that this would be an unsound enforcement policy because management's freedom from culpability could be interpreted as freedom from responsibility. In the worst case, this might lead to a situation where a licensee may choose a course which minimizes the potential for culpability even though some alternative would better protect public health and safety. We find that such a division of responsibility between a licensee and its employees has no place in the NRC regulatory regime which is designed to implement our obligation to provide adequate protection to the health and safety of the public in the commercial nuclear field. *In general, we believe a strong enforcement policy dictates that the licensee be held accountable for all violations committed by its employees in the conduct of the licensed activity.*" 11 NRC at 421–22. (Emphasis added.)

The Commision emphasized in that decision that as long as (1) a violation has been established (2) the proposed civil penalty may positively affect the conduct either of the licensee or any other person and (3) the civil penalty is not grossly disproportionate to the gravity of the offense, the Commission has discretion to impose the civil penalty as a sanction for the infraction or violation. 11 NRC at 420–421. Thus, regardless of whether NPI caused the overexposure incident or was negligent in failing to prevent it, there is no question that it should be held accountable for this infraction and that the three prerequisites for imposition of a civil penalty are present.

With regard to the licensee's argument that the amount of the overexposure is not impermissible pursuant to 10 CFR 20.101(a) unless it *caused* the overexposure, that regulation imposes an absolute limit on exposures; exceeding the dose limit is flatly prohibited. In addition, 10 CFR 20.1(b) clearly states that the purpose of Part 20 is to control the use of licensed material by any licensee in such a manner that the total dose to any individual does not exceed the standards of radiation protection prescribed in the pertinent regulations. Further, with regard to the argument made by the licensee that the level of exposure to the individual may have been lower than the dosimetry reading, the inspection report indicates that although contamination may have caused some exposure of the badge, exposure from contamination would only be about 130 millirems of the 21,821 millirems recorded by the badge. Further, the inspection report showed that extremity exposures for individuals working in this facility could be high.

Finally, we note the licensee's description of the action taken after the overexposure and its report that this action has reduced exposures since the incident in question. Corrective action is always required; however, we believe that this action could have been taken prior to the time of the overexposure to minimize the possibility of its occurrence.

Conclusion

The licensee does not contest the fact that the overexposure noted in the Notice of Violation occurred. The information presented by the licensee does not provide a basis for modification of this enforcement action. This item as stated in the Notice of Violation is an item of noncompliance.

Item 4—Statement of Noncompliance

10 CFR 20.201(b) requires each licensee to make or cause to be made such surveys as may be necessary for him to comply with the regulations in this part. 10 CFR 20.106 limits the amount of licensed material that can be released to the unrestricted area.

Contrary to the above, during 1979 and as of February 29, 1980, the lincensee had not made surveys to determine that the concentrations of iodine 131 released in airborne effluents from fume hoods in its facilities were within the limits set forth in 10 CFR 20.

This is an infraction. (Civil Penalty—$1,000)

Evaluation of Licensee Response

The licensee admits that its failure to conduct the required surveys constitutes an item of noncompliance. Its request for mitigation of the civil penalty is based upon the fact that at the time of the February 1980 NRC inspection, the equipment necessary to perform the surveys had been installed and the initial air sampling counts had already been taken. Although these counts had been taken, the licensee candidly states that the equipment had not been calibrated and the data not evaluated to indicate how many counts constitute a microcurie or how many cc's of air passed through the filter during the sampling time. However, the licensee argues that the number of counts in the air samples was so low that it can be clearly concluded that releases of radioactive effluents were within acceptable limits. Finally, the licensee states that properly evaluated air sampling surveys are currently performed every week, and that it is now in full compliance with 10 CFR 20.201(b).

The licensee has previously been cited for the identical item of noncompliance in a Notice of Violation dated April 5, 1979, arising from inspections performed by the NRC regional office on January 31 and February 2, 1979. In particular, item 5 of that Notice of Violation specified the following:

10 CFR 20.201(b), "Surveys," requires you to make such surveys as may be necessary for you to comply with all sections of Part 20.

Contrary to this requirement, as of the date of this inspection, you failed to make such surveys as were necessary to assure compliance with 10 CFR 20.106, "Concentrations in effluents to unrestricted areas," a regulation that limits the yearly average concentration of iodine and xenon contained in the air discharged to the unrestricted area. Specifically, no evaluations were made of the concentration of iodine discharged from your Elmhurst facility.

In response to that Notice of Violation, the licensee stated, in an undated letter received by the NRC regional office on April 25, 1979, that:

In regard to Item 5, the fume hood exhaust in our facilities are forced through a trap consisting of a filter/activated charcoal system prior to venting to an unrestricted area. The efficiency of the trapping system will be periodically evaluated by taking the wipe tests before and after the trapping device. From this data, the efficiency of the trap will be determined, and together with the activity utilized, an estimate of the radioactive release will be determined. The wipe tests will be performed on a monthly basis to constantly assess the trapping efficiency.

Further, the licensee stated that all items of noncompliance had been corrected and that the procedures had been or would be initiated by May 1, 1979. Thus, notwithstanding the licensee's observation in response to the current (June 27, 1980) Notice of Violation that it had installed the appropriate equipment for air surveys and taken initial sampling counts by the time of the February, 1980 inspection, the fact is that the equipment could have and should have been installed shortly after the April 5, 1979 Notice of Violation had been issued. Indeed, given the licensee' statement (in its undated April 1979 response to the first citation) that it had corrected the items of noncompliance and that the necessary procedures would be initiated by May 1, 1979, its argument for mitigation of the currently assessed civil penalty is particularly unpersuasive.

The licensee also requests mitigation based upon its conclusion that the number of counts in the air samples was so low that effluent releases could clearly be concluded to be within acceptable limits. However, based upon NRC regional office experience with other licensees who used similar amounts of iodine-131 and the frequency with which the licensee used liquid iodine-131 (about twice per month), the 10 CFR Section 20.106 limit could be exceeded under circumstances such as a spill in the hood or the receipt of an iodine-131 dose lacking the proper buffer to keep the iodine in solution.

Conclusion

The licensee does not contest the fact that it has committed an infraction. The information presented by the licensee, especially in view of the repetitive nature of the current citation, does not provide a basis for modification of this enforcement action. This item as stated in the Notice of Violation is an item of noncompliance.

[FR Doc. 80-35888 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation which revises the Technical Specifications for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont. The amendment is effective as of the date of its issuance.

This amendment changes the Technical Specifications to allow the count rate in the Source Range Monitor channels to drop below 3 counts per second when the entire core is being removed or replaced.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate

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findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 6, 1980, (2) Amendment No. 59 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 10th day of November 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-35891 Filed 11-17-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Advisory Committee on Weather Modification; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Advisory Committee on Weather Modification is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(1)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. *Name of Group.* Advisory Committee on Weather Modification.

2. *Purpose.* In late 1979, the Secretary of Commerce delivered to the President and the Congress a report on national weather modification programs and policies pursuant to the National Weather Modification Policy Act of 1976. The report indicates that well-coordinated research and development programs carried out by a number of Federal agencies can contribute to advances in weather modification science and technology. A Weather Modification Subcommittee under the Committee on Atmospheres and Oceans, Federal Coordinating Council for Science, Engineering, and Technology, has been established to ensure that Federal research is carried out in the context of a coherent, long-term research plan. The Advisory Committee being established will ensure close public scrutiny and involvement in the planning and conduct of the Federal Program, including the Weather Modification Subcommittee, as it is carried forward.

3. *Effective date of Establishment and Duration.* The establishment of the Advisory Committee on Weather Modification is effective upon filing of the charter with the Director, Office of Science and Technology Policy, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The Advisory Committee on Weather Modification will continue two calendar years from the effective date.

4. *Membership.* The Advisory Committee on Weather Modification will be composed of not more than 11 members and not less than seven, appointed by the Director. The members shall possess experience or current interest in weather modification or related aspects such as: research, agriculture, water resources, public policy or environmental impact. Members shall be appointed for up to two years and will serve at the discretion of the Director. Appointments to fill vacancies shall be for the remainder of the unexpired term of the vacancy.

5. *Advisory Group Operation.* The Advisory Committee on Weather Modification will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OSTP policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

Frank Press,

Director.

[FR Doc. 80-35835 Filed 11-17-80; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11437; 812-4719]

Beneficial National Life Insurance Co. and the Dreyfus Rainbow Annuity Variable Account A, and MoneyMart Assets, Inc.; Filing of an Application To Amend an Order of Exemption Granted Pursuant to Section 11 of the Act Approving Certain Offers of Exchange

November 10, 1980.

Notice is hereby given that Beneficial National Life Insurance Company (the "Company") Two Park Avenue, New York, NY 10016, a stock life insurance company incorporated under the laws of the State of New York, the Dreyfus Rainbow Annuity Variable Account A (the "Variable Account"), a separate account of the Company established under New York Insurance Law and registered as a unit investment trust under the Investment Company Act of 1940 (the "Act"), and MoneyMart Assets Inc.; (the "Fund") MoneyMart Assets, Inc.; 100 Gold Street, New York, NY 10038, a Maryland corporation registered as an open-end diversified management investment company under the Act (hereinafter collectively referred to as the "Applicants") filed an application on August 5, 1980 requesting an order of the Commission amending a prior order of the Commission dated May 19, 1980 (Investment Company Act Release No. 11173), as amended August 27, 1980 (Investment Company Act Release No. 11317), exempting Applicants from the provisions of Section 11(c) of the Act to the extent necessary to permit the Applicants to offer shareholders of the Fund the option to exchange their shares for Individual Single Purchase Payment Variable Annuity Contracts (the "Contracts") offered by the Company. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicants state that Continental Illinois National Bank and Trust Company of Chicago ("Continental") serves as the Fund's investment adviser. For its services, Continental is paid a monthly fee at an annual rate of .25 of 1% of the average value of the Fund's assets during the preceding month up to $50,000,000, .20 of 1% from $50,000,000 up to $200,000,000, .15 of 1% from $200,000,000 to $1,000,000, and .10 of 1% of the average value of the Fund's assets in excess of $1,000,000,000. As of July 15, 1980, the Fund's assets were $1,755,784,150.10. Bache Halsey Stuart Shields Incorporated ("Bache") serves as the Fund's administrator and distributor and bears certain costs of the operations of the Fund. It is paid a monthly fee at an annual rate of .25 of 1% of the average value of the Fund's net assets in excess of $50,000,000 and .20 of 1% of the Fund's assets in excess of $50,000,000 during the preceding month. State Street Bank and Trust Company is custodian of the Fund's investments and its transfer and dividend disbursing agent.

According to the application, the Applicants propose to permit shareholders of the Fund to exchange their shares for the Contracts. Such shareholders will be notified of the offer of exchange and will be permitted to make such an exchange without payment of a fee, sales load, transfer charge or administrative charge. Purchase payments for the Contracts in the form of shares of the Fund to be exchanged will be allocated to the Variable Account and will be invested by the Variable Account in shares of the Fund.

The Applicants state that the Contracts will be sold by licensed insurance agents in those states where the Contracts may be lawfully sold. Such agents will be registered representatives or broker-dealers registered under the Securities Exchange Act of 1934 which are members of the National Association of Securities Dealers, Inc. The Contracts will be distributed through Dreyfus Service Organization, Inc. ("DSO") and Bache. The Applicants further state that the Company has agreed to pay insurance commissions to DSO for its services as an insurance general agent in distributing the Contracts. DSO may have subagents to whom it may pay a portion of its commission. In the case of Contracts under which the Fund will be the underlying investment medium, Bache will be such a subagent.

Section 11(c) of the Act prohibits offers to exchange securities of an open-end investment company for securities of a unit investment trust. The Applicants submit that they are therefore prohibited from offering shareholders of the Fund, an open-end investment company, the opportunity to exchange their shares for securities of the Variable Account, a unit investment trust, absent an exemptive order by the Commission.

In support of the relief requested, the Applicants state their belief that the Contracts can provide valuable features for retirement and financial planning for the existing shareholders of the Fund. The Contracts provide the facility for Contract Owners to provide for lifetime retirement income. The Contracts may also enable Contract Owners to defer current income taxes on investment income attributable to the Contracts. Existing shareholders of the Fund will therefore be afforded benefits which they do not now possess if they avail themselves of the exchange offer.

The Applicants further state that the proposed exchange of securities of the Fund for the Contracts is accomplished at net asset value without assessment of any fee or charge in connection with such exchange. The proposed exchange is entirely voluntary and is solely at the election of existing shareholders of the Fund. The Contracts can be acquired by such an exchange on a basis which permits existing Fund shareholders to add annuity features to their financial plans while retaining the investment orientation which they already possess.

According to the application, in no event will solicitation of existing Fund shareholders be made until such shareholders have been provided with a currently effective prospectus for the Contracts and for the Fund. The Applicants submit that this will enable such shareholders to evaluate the appropriateness of any such exchange.

For the reasons stated in their application, the Applicants submit that the requested exemption from the provisions of Section 11(c) of the Act is appropriate and in the public interest, is consistent with the protection of investors, and is consistent with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 5, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or that person may request notification if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said December 5, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35935 Filed 11-17-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21782; 70-6206]

Central and South West Corp.; Proposed Increase in Number of Shares of Holding Company's Common Stock To Be Issued and Sold Pursuant to Employees' Thrift Plan

November 12, 1980.

Notice is hereby given that Central and South West Corporation ("CSW"), 2700 One Main Place, Dallas, Texas 75250, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated October 24, 1978 (HCAR No. 20742), CSW was authorized to issue and sell up to 1,000,000 shares of its authorized but unissued common stock par value $3.50 per share, pursuant to a CSW Employees' Thrift Plan ("Plan"). The Plan provides a means by which eligible employees of CSW and its direct and indirect subsidiaries, Central Power and Light Company, Central and South West Fuels, Inc., Central and South West Services, Inc., Public Service Company of Oklahoma, Transok Pipeline Company, Southwestern Electric Power Company and West Texas Utilities Company (together, "CSW Subsidiaries"), may

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maintain a regular savings program and to provide additional benefits for such employees upon retirement. Under the Plan, the participating employers, i.e., the CSW Subsidiaries, make contributions of cash monthly, out of net income in an amount equal to 50 percent of the basic deposit made by each employee with less than 20 years of service and 75 percent of the basic deposit for those employees with 20 years of service or more.

The Plan permits each participating employee to make monthly payments to his Plan account in an amount equal to 2 percent, 4 percent or 6 percent of his annual salary, and to make additional deposits in amount not to exceed 4 percent of his annual salary for each year of service since he became a participant in the Plan. The deposits by participating employees and the corresponding contributions by employers are paid monthly to the Trustee under the Plan, the First National Bank in Dallas, for investment.

The Trustee, pursuant to written direction from each participating employee, invests funds held in each such employee's Plan account under either of two investment options. Under the first option, the Trustee invests a participant's funds in the common stock of CSW (up to 5 percent of the total number of CSW shares at that time outstanding), the Trustee purchasing such shares from CSW at the average of the closing prices for CSW common stock as reported on the New York Stock Exchange composite for the 20 consecutive trading days ending with the last trading day of the month with respect to which the employer contributions and employee basic deposits being invested were made. Under the second option, the Trustee invests a participant's funds in an unsegregated fund managed under contract with the Equitable Life Assurance Society of the United States, which fund is principally invested in mortgages and debt securities and the return on which is guaranteed by Equitable.

By post-executive amendment CSW requests an increase from 1,000,000 to 4,000,000 in the number of authorized but unissued shares of its common stock that may be issued and sold pursuant to the Plan. It is stated that through September 30, 1980, CSW had issued and sold 751,791 such shares pursuant to the Plan, and that it is presently anticipated that an additional 3,033,000 shares (assuming a price per CSW share of $13.50) would have to be issued between October 1, 1980, and December 31, 1985, to meet the projected demand for such shares under the Plan. It is stated that CSW will apply the proceeds from the sale of such shares through loan or equity contributions to its subsidiaries (which contributions will be the subject of future filings with this Commission) for use in their ongoing construction programs.

CSW requests an exception from the competitive bidding requirements of Rule 50 under the Act for the proposed issuance and sale of the additional shares under the Plan pursuant to Rule 50(a)(5).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $600. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 8, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-35936 Filed 11-17-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 17286; SR-PSE-80-17]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

November 12, 1980.

On September 29, 1980, the Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, California 90014 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which sets forth acceptable methods of allocating options exercise notices among options trading accounts at member organizations.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17179, September 30, 1980) and by publication in the **Federal Register** (45 FR 66932, October 8, 1980). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(1) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzimmons,

Secretary.

[FR Doc. 80-35937 Filed 11-17-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 17287; SR-Phlx-80-22]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 12, 1980.

On September 16, 1980, the Philadelphia Stock Exchange, Inc. ("Phlx"), 17th Street & Stock Exchange Place, Philadelphia, Pennsylvania 19103 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which permits members to execute transactions in Phlx options as principals in the over-the-counter market for a premium not in excess of $1 per contract.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17188, October 2, 1980) and by publication in the **Federal Register** (45 FR 67180, October 9, 1980). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(1) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons.

Secretary.

[FR Doc. 80-35938 Filed 11-17-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

National Advisory Council Meeting

The Small Business Administration National Advisory Council will hold a public meeting from 3:00 p.m., Tuesday, December, 9, 1980 to 12:30 p.m., Friday, December 12, 1980, at the Hollywood Beach Holiday Inn Resort, 4000 South Ocean Drive, Hollywood Beach, Florida, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Michael B. Kraft, Director, Office of Advisory Councils, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416—(202) 653-6748.

Dated: November 7, 1980.

Michael B. Kraft,

Director, Office of Advisory Councils.

[FR Doc. 80-35851 Filed 11-17-80; 8:45 am]

BILLING CODE 8025-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 224
Tuesday, November 18, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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COPYRIGHT ROYALTY TRIBUNAL.

DATE AND TIME: 10 a.m., Tuesday, November 25, 1980.

PLACE: 2359 Rayburn House Office Building.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Possible declaration of controversy concerning distribution of 1979 jukebox royalty fees.
2. Possible declaration of controversy concerning distribution of 1979 cable royalty fees.
3. Petition For Reconsideration of the Motion Picture Association and other program syndicators of the Tribunal's notice published in the **Federal Register** of October 29, 1980 (45 FR 71641) concerning distribution of 1978 cable royalty fees.

CONTACT PERSON FOR MORE INFORMATION: Mary Lou Burg, Chairman; Copyright Royalty Tribunal; Phone (202) 653-5175.

Mary Lou Burg,
Chairman.

[S-2100-80 Filed 11-14-80; 3:30 pm]

BILLING CODE 1410-01-M

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[USITC SE-80-53A]

INTERNATIONAL TRADE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 73217, (November 11, 1980).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, November 17, 1980.

CHANGES IN THE MEETING: In deliberations held Thursday, November 13, 1980, the United States International Trade Commission, in conformity with 19 CFR 201.37, voted that Commission business requires that the meeting previously scheduled to be held Monday, November 17, 1980, be cancelled.

Commissioners Alberger, Calhoun, Moore, Bedell, and Stern determined by unanimous consent that Commission business requires the cancellation of the meeting announced for Monday, November 17, 1980, affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2097-80 Filed 11-14-80; 10:59 am]

BILLING CODE 7020-02-M

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[USITC SE-80-55]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, November 26, 1980.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Trunnion seals (Docket No. 693).
   b. Wood burning stoves (Docket No. 688).
5. Leather wearing apparel from Uruguay (Inv. 731-TA-68)—briefing and vote.
6. Slide fasteners (Inv. 337-TA-85)—reopening of vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2095-80 Filed 11-17-80; 10:58 am]

BILLING CODE 7020-02-M

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[USITC ERB-80-12]

INTERNATIONAL TRADE COMMISSION.

Executive Resources Board (ERB)

TIME AND DATE: 10 a.m., Monday, November 24, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with 19 CFR 201.36(b) (2) and (6), Commissioners Calhoun, Bedell, and Stern, as members of the Executive Resources Board (ERB), voted to hold a meeting of the Board in closed session as follows:

1. Old Business.
   a. Executive Development.
   b. SES Manpower Planning.

A majority of the entire membership of the Board felt that this meeting should be closed to the public since: (1) the discussion would only concern internal personnel practice and procedures; and (2) the information discussed would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0616.

[S-2096-80 Filed 11-14-80; 10:59 am]

BILLING CODE 7020-02-M

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[NM-80-38]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, November 25, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the fifth item will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Kennedy Flite Center, Gates Learjet Model 23, Richmond, Virginia, May 6, 1980.
2. *Safety Effectiveness Evaluation* of Rail Rapid Transit Safety.
3. *Aircraft Accident Report*—Air Canada McDonald Douglas DC-9-32 (CF-TLU), East of Boston, Massachusetts, September 17, 1979.
4. *Letter* to Semmes, Bowen, and Semmes re reconsideration of Marine Accident Report—Collision of U.S. Coast Guard Cutter Blackthorn and U.S. Tankship Capricorn, Tampa Bay, Florida, January 28, 1980.
5. *Opinion and Order*—Petition of Jensen, Docket SM-2523; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

November 14, 1980.

[S-2099-80 Filed 11-14-80; 3:19 pm]

BILLING CODE 4910-58-M

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NUCLEAR REGULATORY COMMISSION.

DATE: November 20 and 21, 1980.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Thursday, November 20:

4 p.m.

Discussion of Management-Organization and Internal Personnel Matters (approximately 1 hour, closed—Exemptions 2, 6).

Friday, November 21:

11 a.m.

Affirmation or Discussion and Vote (approximately 1 hour, public meeting).
a. Narrative Explanation of S-3 Table.
b. Reporting of Physical Security Events.
c. EDO Delegation of Authority.
d. Proposed Rulemaking—Post CP Design Changes.

2 p.m.

Briefing on Radiation Health Effects and Radiation Research (approximately 2 hours, public meeting).

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,
Office of the Secretary.

[S-2098-80 Filed 11-14-80; 3:10 pm]

BILLING CODE 7590-01-M

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[1P0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining office at Washington, D.C. Headquarters)

TIMED AND DATE: 9:30 a.m., Friday, November 14, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 7 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda W. Marble, Chief Case Analyst, National Appeals Board, U.S. Parole Commission (202) 724-3094.

[S-2094-80 Filed 11-14-80; 10:30 a.m.]

BILLING CODE 4410-01-M

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 74142, November 7, 1980.

STATUS: Closed/open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 4, 1980/Monday, November 10, 1980.

CHANGES IN THE MEETING: Deletions. The following item was not considered at a closed meeting scheduled for Wednesday, November 12, 1980, at 2:30 p.m.

Freedom of Information Act appeal.

The following item was not considered at an open meeting scheduled for Thursday, November 13, 1980, at 10 a.m.:

Consideration of whether to send a letter to Congressman John D. Dingell, Chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce which addresses various concerns which the Commission has with a provision in H.R. 8157, the "Pacific Northwest Electric Power Planning and Conservation Act," which would provide an exemption from the Public Utility Holding Company Act of 1935. For further information, please contact Andy MacDonald at (202) 272-2427.

Commissioners Loomis, Evans, and Thomas determined that Commission business required the above changes and that no earlier notice thereof possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272-2178.

November 13, 1980.

[S-2093-80 Filed 11-14-80; 10:29 am]

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federal register

Tuesday
November 18, 1980

Part II

Environmental Protection Agency

National Emission Standards for Hazardous Air Pollutants

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AP-FRL 1563-1]

National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 7, 1977 (42 FR 29005) the Administrator promulgated amendments to the national emission standards for the hazardous air pollutant vinyl chloride. The Administrator also promulgated amendments to Appendix B—Test Methods, of this part. Since the promulgation of Method 106—Determination of Vinyl Chloride from Stationary Sources and Method 107, Determination of Vinyl Chloride Content of Inprocess Wastewater Samples and Vinyl Chloride Content of Polyvinyl Chloride Resin, Slurry, Wet Cake, and Latex Samples, several improvements in the methods have been developed. These revisions incorporate those improvements.

DATES: Comments must be received by January 19, 1981.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. A-80-50, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roger Shigehara, Emission Measurement Branch (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: These revised procedures differ from the previous methods as follows: Method 106—(1) sample bag size can range from 50 to 100 liters rather than the single size bag previously required, and (2) analysis audit and chromatograph with resolution quality assurance requirements are added. These requirements are contained in Appendix C, 40 CFR Part 61, as proposed with the National Emission Standard for Benzene Emissions from Maleic Anhydride Plants (45 FR 26660). Method 107—(1) a head space vial pre-pressurizer is added to obtain correct head space gas equilibrium, (2) different chromatograph columns are suggested for analysis, and (3) chromatorgraph resolution quality assurance requirements are added.

The Administrator finds that notice and public procedure is unnecessary because the revisions are minor and technical. These revisions are issued under the authority of Section 114 of the Clean Air Act as amended (42 U.S.C. 7414)

Dated: November 10, 1980.

Douglas Costle,

Administrator

40 CFR Part 61 is amended by revising Test Methods 106 and 107 of Appendix B to read as follows:

Appendix B—Test Methods

* * * * *

Method 106—Determination of Vinyl Chloride From Stationary Sources

Introduction [1]

Performance of this method should not be attempted by persons unfamiliar with the operation of a gas chromatograph, nor by those who are unfamiliar with source sampling, because knowledge beyond the scope of this presentation is required. Care must be exercised to prevent exposure of sampling personnel to vinyl chloride, a carcinogen.

1. *Applicability and Principle.*

1.1 Applicability. The method is applicable to the measurement of vinyl chloride in stack gases from ethylene dichloride, vinyl chloride, and polyvinyl chloride manufacturing processes. The method does not measure vinyl chloride contained in particulate matter.

1.2 Principle. An integrated bag sample of stack gas containing vinyl chloride (chloroethene) is subjected to gas chromatographic (GC) analysis using a flame ionization detector (FID).

2. *Range and Sensitivity.*

This method is designed for the 0.1 to 50 ppm range. However, common GC instruments are capable of detecting 0.02 ppm vinyl chloride. With proper calibration, the upper limit may be extended as needed.

3. *Interferences.*

The chromatographic columns and the corresponding operating parameters herein described normally provide an adequate resolution of vinyl chloride; however, resolution interferences may be encountered on some sources. Therefore, the chromatograph operator shall select the column and operating parameters best suited to his particular analysis requirements, subject to the approval of the Administrator. Approval is automatic, provided that the tester produces confirming data through an adequate supplemental analytical technique, such as analysis with a different column or GC/mass spectroscopy, and has the data available for review by the Administrator.

4. *Apparatus.*

4.1 Sampling (see Figure 106-1). The sampling train consists of the following components:

4.1.1 Probe. Stainless steel, Pyrex glass, or Teflon tubing (as stack temperature permits) equipped with a glass wool plug to remove particulate matter.

4.1.2 Sample Lines. Teflon, 6.4-mm outside diameter, of sufficient length to connect probe to bag. Use a new unused piece for each series of bag samples that constitutes an emission test, and discard upon completion of the test.

4.1.3 Quick Connects. Stainless steel, male (2) and female (2), with ball checks (one pair without), located as shown in Figure 106-1.

4.1.4 Tedlar Bags. 50- to 100-liter capacity, to contain sample. Aluminized Mylar bags may be used if the samples are analyzed within 24 hours of collection.

BILLING CODE 6560-26-M

[1] Mention of any trade or specific product does not constitute endorsement by the U.S. Environmental Protection Agency.

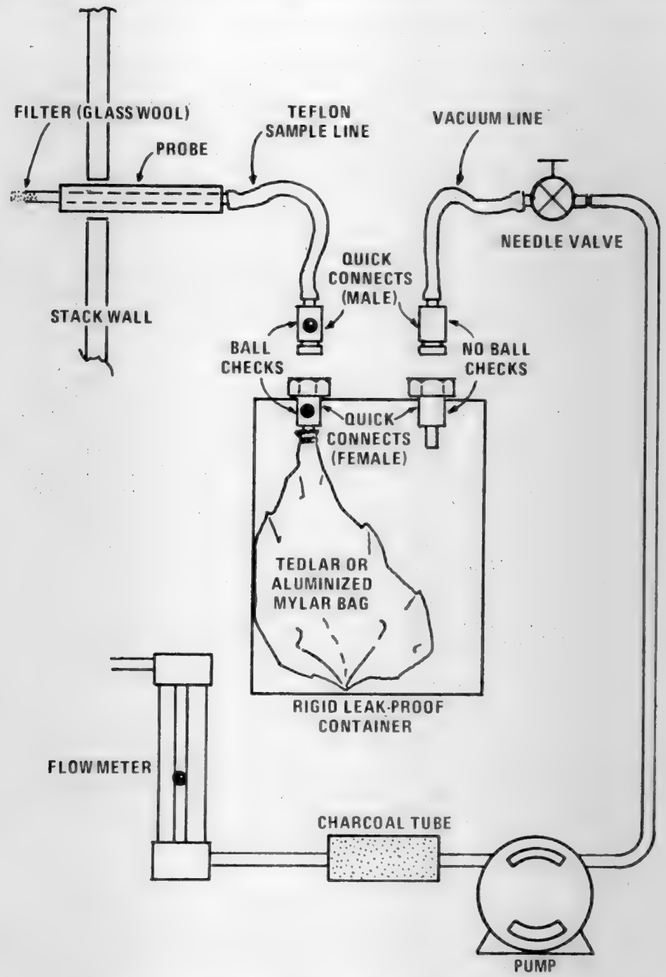


Figure 106-1. Integrated-bag sampling train. (Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.)

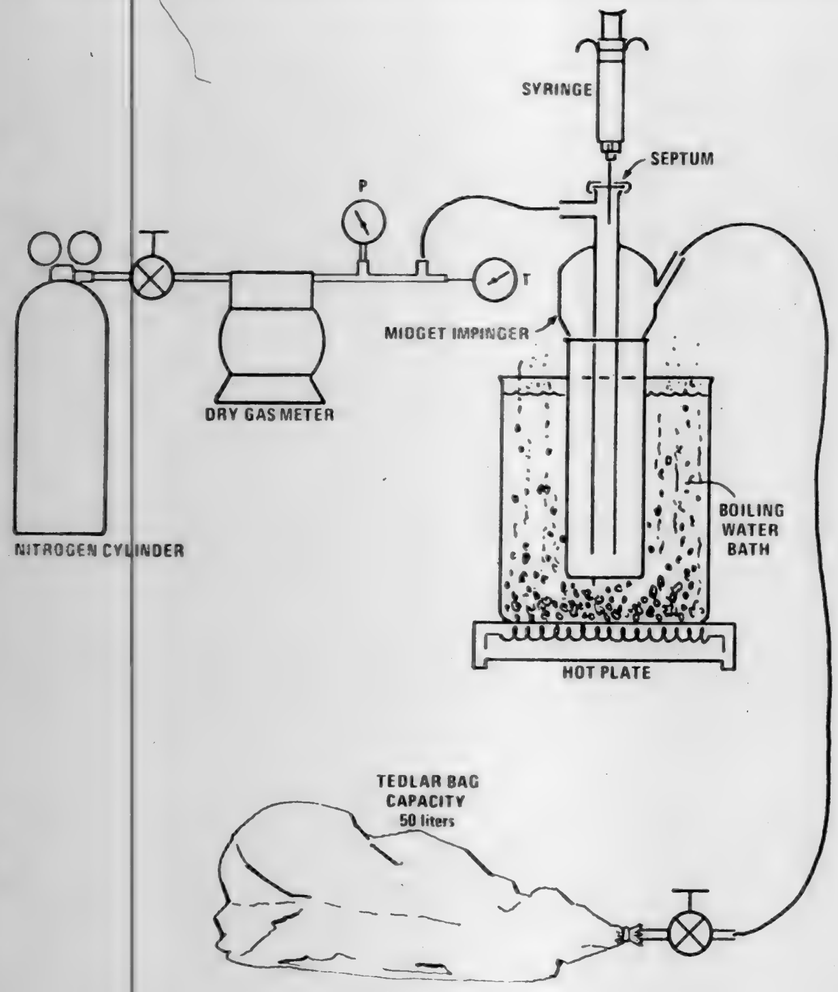


Figure 106-2. Preparation of standards (optional).

BILLING CODE 6560-26-C

4.1.5 Bag Containers. Rigid leakproof containers for sample bags, with covering to protect contents from sunlight.

4.1.6 Needle Valve. To adjust sample flow rates.

4.1.7 Pump. Leak-free, with minimum of 2-liter/min capacity.

4.1.8 Charcoal Tube. To prevent admission of vinyl chloride, and other organics to the atmosphere in the vicinity of samplers.

4.1.9 Flow Meter. For observing sampling flow rate; capable of measuring a flow range from 0.10 to 1.00 liter/min.

4.1.10 Connecting Tubing. Teflon, 6.4-mm outside diameter, to assemble sampling train (Figure 106–1).

4.2 Sample Recovery. Teflon tubing, 6.4-mm outside diameter, to connect bag to gas chromatograph sample loop for sample recovery. Use a new unused piece for each series of bag samples that constitutes an emission test, and discard upon conclusion of analysis of those bags.

4.3 Analysis. The following equipment is required:

4.3.1 Gas Chromatograph. With FID, potentiometric strip chart recorder and 1.0- to 5.0-ml heated sampling loop in automatic sample valve. The chromatographic system shall be capable of producing a response to 0.1-ppm vinyl chloride that is at least as great as the average noise level. (Response is measured from the average value of the base line to the maximum of the waveform, while standard operating conditions are in use.)

4.3.2 Chromatographic Columns. Columns as listed below. The analyst may use other columns provided that the precision and accuracy of the analysis of vinyl chloride standards are not impaired and he has available for review information confirming that there is adequate resolution of the vinyl chloride peak. (Adequate resolution is defined as an area overlap of not more than 10 percent of the vinyl chloride peak by an interferent peak. Calculation of area overlap is explained in Appendix C, Supplement A: "Determination of Adequate Chromatographic Peak Resolution.")

4.3.2.1 Column A. Stainless steel, 2.0 m by 3.2 mm, containing 80/100-mesh Chromasorb 102.

4.3.2.2 Column B. Stainless steel, 2.0 m by 3.2 mm, containing 20 percent GE SF–96 on 60/80-mesh Chromasorb P AW; or stainless steel, 1.0 m by 3.2 mm containing 80/100-mesh Porapak T. Column B is required as a secondary column if acetaldehyde is present. If used, column B is placed after column A. The combined columns should be operated at 120°C.

4.3.3 Flow Meters (2). Rotameter type, 100-ml/min capacity, with flow control valves.

4.3.4 Gas Regulators. For required gas cylinders.

4.3.5 Thermometer. Accurate to 1°C, to measure temperature of heated sample loop at time of sample injection.

4.3.6 Barometer. Accurate to 5 mm Hg, to measure atmospheric pressure around gas chromatograph during sample analysis.

4.3.7 Pump. Leak-free, with minimum of 100-ml/min capacity.

4.3.8 Recorder. Strip chart type, optionally equipped with either disc or electronic integrator.

4.3.9 Planimeter. Optional, in place of disc or electronic integrator on recorder, to measure chromatograph peak areas.

4.4 Calibration. Sections 4.4.2 through 4.4.4 are for the optional procedure in Section 7.1.

4.4.1 Tubing. Teflon, 6.4-mm outside diameter, separate pieces marked for each calibration concentration.

4.4.2 Tedlar Bags. Sixteen-inch-square size, with valve; separate bag marked for each calibration concentration.

4.4.3 Syringes. 0.5-ml and 50-μl, gas tight, individually calibrated to dispense gaseous vinyl chloride.

4.4.4 Dry Gas Meter, With Temperature and Pressure Gauges. Singer model DTM–115 with 802 index, or equivalent, to meter nitrogen in preparation of standard gas mixtures, calibrated at the flowrate used to prepare standards.

5. *Reagents.*

Use only reagents that are of chromatograph grade.

5.1 Analysis. The following are required for analysis.

5.1.1 Helium or Nitrogen. Zero grade, for chromatographic carrier gas.

5.1.2 Hydrogen. Zero grade.

5.1.3 Oxygen or Air. Zero grade, as required by the detector.

5.2 Calibration. Use one of the following options: either 5.2.1 and 5.2.2, or 5.2.3.

5.2.1 Vinyl Chloride. Pure vinyl chloride gas certified by the manufacturer to contain a mimimum of 99.9 percent vinyl chloride, for use in the preparation of standard gas mixtures in Section 7.1. If the gas manufacturer maintains a bulk cylinder supply of 99.9+ percent vinyl chloride, the certification analysis may have been performed on this supply rather than on each gas cylinder prepared from this bulk supply. The date of gas cylinder preparation and the certified analysis must have been affixed to the cylinder before shipment from the gas manufacturer to the buyer.

5.2.2 Nitrogen. Zero grade, for preparation of standard gas mixtures as described in Section 7.1.

5.2.3 Cylinder Standards (3). Gas mixture standards (50-, 10-, and 5-ppm vinyl chloride in nitrogen cylinders). The tester may use cylinder standards to directly prepare a chromatograph calibration curve as described in Section 7.2.2, if the following conditions are met: (a) The manufacturer certifies the gas composition with an accuracy of ± 3 percent or better (see Section 5.2.3.1); (b) The manufacturer recommends a maximum shelf life over which the gas concentration does not change by greater than ± 5 percent from the certified value; (c) The manufacturer affixes the date of gas cylinder preparation, certified vinyl chloride concentration, and recommended maximum shelf life to the cylinder before shipment to the buyer.

5.2.3.1 Cylinder Standards Certification. The manufacturer shall certify the concentration of vinyl chloride in nitrogen in each cylinder by (a) directly analyzing each cylinder and (b) calibrating his analytical procedure on the day of cylinder analysis. To calibrate his analytical procedure, the manufacturer shall use, as a minimum, a three-point calibration curve. It is recommended that the manufacturer maintain (1) a high-concentration calibration standard (between 50 and 100 ppm) to prepare his calibration curve by an appropriate dilution technique and (2) a low-concentration calibration standard (between 5 and 10 ppm) to verify the dilution technique use. If the difference between the apparent concentration read from the calibration curve and the true concentration assigned to the low-concentration calibration standard exceeds 5 percent of the true concentration, the manufacturer shall determine the source of error and correct it, then repeat the three-point calibration.

5.2.3.2 Verification of Manufacturer's Calibration Standards. Before using a standard, the manufacturer shall verify each calibration standard (a) by comparing it to gas mixtures prepared (with 99 Mol precent vinyl chloride) in accordance with the procedure described in Section 7.1 or (b) by having it analyzed by the National Bureau of Standards. The agreement between the initially determined concentration value and the verification concentration value must be within ±5 percent. The manufacturer must reverify all calibration standards on a time interval

consistent with the shelf life of the cylinder standards sold.

5.2.4 Audit Cylinder Standards (2). Gas mixture standards with concentrations known only to the person supervising the analysis of samples. The audit cylinder standards shall be identically prepared as those in Section 5.2.3 (Vinyl chloride in nitrogen cylinders). The concentrations of the audit cylinders should be: one low-concentration cylinder in the range of 5 of 20 ppm vinyl chloride, and one high-concentration cylinder in the range of 20 to 50 ppm. When available, the tester may obtain audit cylinders by contacting: Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Quality Assurance Division (MD–77). Research Triangle Park, North Carolina 27711. If audit cylinders are not available at the Enviromental Protection Agency, the tester must secure an alternative source.

6. *Procedure.*

6.1 Sampling. Assemble the sample train as shown in Figure 106–1. Perform a bag leak check according to Section 7.3.2. join the quick connects as illustrated, and determine that all connections between the bag and the probe are tight. Place the end of the probe at the centroid of the stack and start the pump with the needle value adjusted to yield of flow that will fill over 50 percent of bag volume in the specified sample period. After allowing sufficient time to purge the line several times, connect the vacuum line to the bag and evacuate the bag until the rotameter indicates no flow. Then reposition the sample and vacuum lines and begin the actual sampling, keeping the rate proprotional to the stack velocity. At all times, direct the gas exiting the rotameter away from sampling personnel. At the end of the sample period, shut off the pump, disconnect the sample line from the bag, and disconnect the vaccuum line from the bag container. Protect the bag container from sunlight.

6.2 Sample Storage. Keep the sample bags out of direct sunlight. When at all possible, analysis is to be performed within 24 hours, but in no case in excess of 72 hours of sample collection. Aluminized Mylar bag samples must be analyzed within 24 hours.

6.3 Sample Recovery. With a new piece of Teflon tubing identified for that bag, connect a bag inlet valve to the gas chromatograph sample valve. Switch the valve to receive gas from the bag through the sample loop. Arrange the equipment so the sample gas passes from the sample value to 100-ml/min rotameter with flow control valve followed by a charcoal tube and a 1-in. H_2O pressure gauge. The tester may maintain the sample flow either by a vacuum pump or container pressurization if the collection bag remains in the rigid container. After sample loop purging is ceased, allow the pressure gauge to return to zero before activating the gas sampling valve.

6.4 Analysis. Set the column temperature to 100°C and the detector temperature to 150°C. When optimum hydrogen and oxygen flow rates have been determined, verify and maintain these flow rates during all chromatograph operations. Using zero helium or nitrogen as the carrier gas, establish a flow rate in the range consistent with the manufacturer's requirements for satisfactory detector operation. A flow rate of approximately 40 ml/min should produce adequate separations. Observe the base line periodically and determine that the noise level has stabilized and that base-line drift has ceased. Purge the sample loop for 30 seconds at the rate of 100 ml/min, then activate the sample valve. Record the injection time (the position of the pen on the chart at the time of sample injection), sample number, sample loop temperature, column temperature, carrier gas flow rate, chart speed, and attenuator setting. Record the barometric pressure. From the chart, note the peak having the retention time corresponding to vinyl chloride, as determined in Section 7.2.1. Measure the vinyl chloride peak area, A_m, by use of a disc integrator, electronic integrator, or a planimeter. Measure and record the peak height, H, H_m. Record A_m and the retention time. Repeat the injection at least two times or until two consecutive values for the total area of the vinyl chloride peak do not vary more than 5 percent. Use the average value for these two total areas to compute the bag concentration.

Compare the ratio of H_m to A_m for the vinyl chloride sample with the same ratio for the standard peak that is closest in height. If these ratios differ by more than 10 percent, the vinyl chloride peak may not be pure (possibly acetaldehyde is present) and the secondary column should be employed (see Section 4.3.2.2).

6.5 Determination of Bag Water Vapor Content. Measure the ambient temperature and barometric pressure near the bag. From a water saturation vapor pressure table, determine and record the water vapor content of the bag as decimal figure. (Assume the relative humidity to be 100 percent unless a less value is known.)

7. *Preparation of Standard Gas Mixtures, Calibration, and Quality Assurance.*

7.1 Preparation of Vinyl Chloride Standard Gas Mixtures. (Optional Procedure—delete if cylinder standards are used.) Assemble the apparatus shown in Figure 106–2. Evacuate a 16-inch-square Tedlar bag that has passed a leak check (described in Section 7.3.2) and meter in 5.0 liters of nitrogen. While the bag is filling, use the 0.5-ml syringe to inject 250 μl of 99.9+ percent vinyl chloride gas through the wall of the bag. Upon withdrawing the syringe, immediately cover the resulting hold with a piece of adhesive tape. The bag now contains a vinyl chloride concentration of 50 ppm. In a like manner use the 50 μl syringe to prepare gas mixtures having 10- and 5-ppm vinyl chloride concentrations. Place each bag on a smooth surface and alternately depress opposite sides of the bag 50 times to further mix the gases. These gas mixture standards may be used for 10 days from the date of preparation, after which time new gas mixtures must be prepared. (Caution: Contamination may be a problem when a bag is reused if the new gas mixture standard is a lower concentration than the previous gas mixture standard.)

7.2 Calibration.

7.2.1 Determination of Vinyl Chloride Retention Time. (This section can be performed simultaneously with Section 7.2.2.) Establish chromatograph conditions identical with those in Section 6.4 above. Determine proper attenuator position. Flush the sampling loop with zero helium or nitrogen and activate the sample valve. Record the injection time, sample loop temperature, column temperature, carrier gas flow rate, chart speed, and attenuator setting. Record peaks and detector responses that occur in the absence of vinyl chloride. Maintain conditions with the equipment plumbing arranged identically to Section 6.3, and flush the sample loop for 30 seconds at the rate of 100 ml/min with one of the vinyl chloride calibration mixtures. Then activate the sample valve. Record the injection time. Select the peak that corresponds to vinyl chloride. Measure the distance on the chart from the injection time to the time at which the peak maximum occurs. This quantity divided by the chart speed is defined as the retention time. Since other organics may be present in the sample, positive identification of the vinyl chloride peak must be made.

7.2.2 Preparation of Chromatograph Calibration Curve. Make a gas chromatographic measurement of each gas mixture standard (described in Section 5.2.3 or 7.1) using conditions identical with those listed in Sections 6.3 and 6.4. Flush the sampling loop for 30 seconds at the rate of 100 ml/min with one of the standard mixtures, and activate the sample valve. Record the concentration of vinyl chloride injected (C_c), attenuator setting, chart speed, peak area, sample loop temperature, column temperature, carrier gas flow rate, and retention time. Record the barometric pressure. Calculate A_c, the peak area multiplied by the attenuator setting. Repeat until two consecutive injection areas are within 5 percent, then plot the average of those two values versus C_c. When the other standard gas mixtures have been similarly analyzed and plotted, draw a straight line through the points derived by the least squares method. Perform calibration daily, or before and after each set of bag samples, whichever is more frequent.

7.3 Quality Assurance.

7.3. Analysis Audit. Immediately after the preparation of the calibration curve and prior to the sample analyses, perform the analysis audit described in Appendix C, Supplement B: "Procedure for Field Auditing GC Analysis."

7.3.2 Bag Leak Checks. Checking of bags for leaks is required after bag use and strongly recommended before bag use. After each use, connect a water manometer and pressurize the bag to 5–10 cm H_2O (2–4 in H_2O). Allow to stand for 10 min. Any displacement in the water manometer indicates a leak. Also, check the rigid container for leaks in this manner.

Note.—An alternative leak check method is to pressurize the bag to 5–10 cm H_2O or 2–4 in. H_2O and allow it to stand overnight. A deflated bag indicates a leak.

For each sample bag in its rigid container, place a rotameter in-line between the bag and the pump inlet. Evacuate the bag. Failure of the rotameter to register zero flow when the bag appears to be empty indicates a leak.

8. *Calculations.*

8.1 Determine the sample peak area, A_c, as follows:

$$A_c = A_m A_f$$

Where:

A_m = Measured peak area.
A_f = Attenuation factor.

8.2 Vinyl Chloride Concentrations. From the calibration curve described in Section 7.2.2, select the value of, C_c, that corresponds to A_c, the sample peak area. Calculate the concentration of vinyl chloride in the bag, C_b, as follows:

$$C_b = \frac{C_c P_r T_i}{P_i T_r (1 - B_{wb})} \qquad \text{Eq. 106-2}$$

Where:

P_r = Reference pressure, the laboratory pressure recorded during calibration, mm Hg.
T_i = Sample loop temperature on the absolute escale at the time of analysis, °K.
P_i = Laboratory pressure at time of analysis, mm Hg.
T_r = Reference temperature, the sample loop temperature recorded during calibration, °K.
B_{wb} = Volume fraction of water vapor content of the bag sample, as analyzed.

9. *References.*

1. Brown, D.W., E.W. Loy, and M.H. Stephenson. Vinyl Chloride Monitoring Near the B. F. Goodrich Chemical Company in Louisville, Kentucky. Region IV, U.S. Environmental Protection Agency, Surveillance and Analysis Division, Athens, GA. June 24, 1974.

2. G.D. Clayton and Associates. Evaluation of a Collection and Analytical Procedure for Vinyl Chloride in Air. EPA Contract No. 68–02–1408, Task Order No. 2, EPA Report No. 75–VCL–1. December 13, 1974.

3. Midwest Research Institute. Standardization of Stationary Source Emission Method for Vinyl Chloride. EPA–600/4–77–026. May 1977.

4. Scheil, W. and M.C. Sharp. Collaborative Testing of EPA Method 106 (Vinyl Chloride) that will provide for a Standardized Stationary Source Emission Measurement Method. EPA 600/4–78–058. Emission Monitoring and Support Laboratory. Research Triangle Park, NC. October 1978.

Method 107—Determination of Vinyl Chloride Content of Inprocess Wastewater Samples, and Vinyl Chloride Content of Polyvinyl Chloride Resin, Slurry, Wet Cake, and Latex Samples

Introduction [1]

Performance of this method should not be attempted by persons unfamiliar with the operation of a gas chromatograph, nor by those who are unfamiliar with source sampling, because knowledge beyond the scope of this presentation is required. Care must be exercised to prevent exposure of sampling personnel to vinyl chloride, a carcinogen.

[1] Mention of trade names or specific products does not constitute endorsement by the U.S. Environmental Protection Agency.

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the measurement of the vinyl chloride monomer (VCM) content of inprocess wastewater samples, and the residual vinyl chloride monomer (RVCM) content of polyvinyl chloride (PVC) resins, wet cake, slurry, and latex samples. It cannot be used for polymer in fused forms, such as sheet or cubes. This method is not acceptable where methods from Section 304(h) of the Clean Water Act, 33 U.S.C. 1251 et seq. (the Federal Water Pollution Control Amendments of 1972 as amended by the Clean Water Act of 1977) are required.

1.2 Principle. The basis for this method relates to the vapor equilibrium that is established between RVCM, PVC resin, water, and air in a closed system. The RVCM in a PVC resin will equilibrate rapidly in a closed vessel, provided that the temperature of the PVC resin is maintained above the glass transition temperature of that specific resin.

2. *Range and Sensitivity.*

The lower limit of detection of vinyl chloride will vary according to the chromatography used. Values reported include 1×10^{-7} mg and 4×10^{-7} mg. With proper calibration, the upper limit may be extended as needed.

3. *Interferences.*

The chromatograph columns and the corresponding operating parameters herein described normally provide an adequate resolution of vinyl chloride; however, resolution interferences may be encountered on some sources. Therefore, the chromatograph operator shall select the column and operating parameters best suited to his particular analysis requirements, subject to the approval of the Administrator. Approval is automatic provided that the tester produces confirming data through an adequate supplemental analytical technique, such as analysis with a different column or GC/mass spectroscopy, and has the data available for review by the Administrator.

4. *Precision and Reproducibility.*

An interlaboratory comparison between seven laboratories of three resin samples, each split into three parts, yielded a standard deviation of 2.63 percent for a sample with a mean of 2.09 ppm, 4.16 percent for a sample with a mean of 1.66 ppm, and 5.29 percent for a sample with a mean of 62.66 ppm.

5. *Safety.*

Do not release vinyl chloride to the laboratory atmosphere during preparation of standards. Venting or purging with VCM/air mixtures must be

held to a minimum. When they are required, the vapor must be routed to outside air. Vinyl Chloride, even at low ppm levels, must never be vented inside the laboratory. After vials have been analyzed, the gas must be vented prior to removal of the vial from the instrument turntable. Vials must be vented through a hypodermic needle connected to an activated charcoal tube to prevent release of vinyl chloride into the laboratory atmosphere. The charcoal must be replaced prior to vinyl chloride breakthrough.

6. *Apparatus.*

6.1 Sampling. The following equipment is required:

6.1.1 Glass Bottles. 60-ml (2-oz) capacity, with wax-lined screw on tops, for PVC samples.

6.1.2 Glass Vials. 50-ml capacity Hypo-vials, sealed with Teflon faced Tuf-Bond discs, for water samples.

6.1.3 Adhesive Tape. To prevent loosening of bottle tops.

6.2 Sample Recovery. The following equipment is required:

6.2.1 Glass Vials. With seals and caps, Perkin-Elmer Corporation No. 105–0118, or equivalent. The seals must be made from butyl rubber. Silicone rubber seals are not acceptable.

6.2.2 Analytical Balance. Capable of weighing to ± 0.0001 gram.

6.2.3 Vial Sealer. Perkin-Elmer No. 105.0106 or equivalent.

6.3 Analysis. The following equipment is required:

6.3.1 Gas Chromatograph. Perkin-Elmer Corporation Model F–40, F–42, or F–45 Head-Space Analyzer, or equivalent. Equipped with backflush accessory.

6.3.2 Chromatograhic Columns. Stainless steel 1 m by 3.2 mm and 2 m by 3.2 mm, both containing 50/80-mesh Porapak Q. The analyst may use other columns provided that the precision and accuracy of the analysis of vinyl chloride standards are not impaired and he has available for review information confirming that there is adequate resolution of the vinyl chloride peak. (Adequate resolution is defined as an area overlap of not more than 10 percent of the vinyl chloride peak by an interferent peak. Calculation of area overlap is explained in Appendix C, Supplement A: "Determination of Adequate Chromatographic Peak Resolution.") Two 1.83 m columns, each containing 1 percent Carbowax 1500 on Carbopak B, have been suggested for samples containing acetaldehyde.

6.3.3 Thermometer. 0 to 100°C, accurate to ± 0.1°C, Perkin-Elmer No. 105–0109, or equivalent.

6.3.4 Sample Tray Thermostat System. Perkin-Elmer No. 105.0103, or equivalent.

6.3.5 Septa. Sandwich type, for automatic dosing, 13 mm, Perkin-Elmer No. 105–1008, or equivalent.

6.3.6 Intergrator-Recorder. Hewlett-Packard Model 33080A, or equivalent.

6.3.7 Filter Drier Assembly (3). Perking-Elmer No. 2230117, or equivalent.

6.3.8 Soap Film Flowmeter. Hewlett Packard No. 0101–0113, or equivalent.

6.3.9 Reguators. For required gas cylinders.

6.3.10 Headspace Vial Pre-Pressurizer. Nitrogen pressurized hypodermic needle inside protective shield. (Blueprint available from Test Support Section, Emission Measurement Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 19, Research Triangle Park, N.C. 27711.)

7. *Reagents.*

Use only reagents that are of chromatograph grade.

7.1 Analysis. The following items are required for analysis:

7.1.1 Hydrogen. Zero grade.

7.1.2 Nitrogen. Zero grade.

7.1.3 Air. Zero grade.

7.2 Calibration. The following items are required for calibration:

7.2.1 Cylinder Standards (4). Gas mixture standards (50-, 500-, 2000- and 4000-ppm vinyl chloride in nitrogen cylinders). The tester may use cylinder standards to directly prepare a chromatograph calibration curve as described in Section 9.2, if the following conditions are met: (a) The manufacturer certifies the gas composition with an accuracy of ±3 percent or better (see Section 7.2.1.1). (b) The manufacturer recommends a maximum shelf life over which the gas concentration does not change by greater than ±5 percent from the certified value. (c) The manufacturer affixes the date of gas cylinder preparation, certified vinyl chloride concentration, and recommended maximum shelf life to the cylinder before shipment to the buyer.

7.2.1.1 Cylinder Standards Certification. The manufacturer shall certify the concentration of vinyl chloride in nitrogen in each cylinder by (a) directly analyzing each cylinder and (b) calibrating his analytical procedure on the day of cylinder analysis. To calibrate his analytical procedure, the manufacturer shall use, as a minimum, a three-point calibration curve. It is recommended that the manufacturer maintain (1) a high-concentration calibration standard (between 4000 and 8000 ppm) to prepare his calibration curve by an appropriate dilution technique and (2) a low-concentration calibration standard (between 50 and 500 ppm) to verify the dilution technique used. If the difference between the apparent concentration read from the calibration curve and the true concentration assigned to the low-concentration calibration standard exceeds 5 percent of the true concentration, the manufacturer shall determine the source of error and correct it, then repeat the three-point calibration.

7.2.1.2 Verification of Manufacturer's Calibration Standards. Before using, the manufacturer shall verify each calibration standard by (a) comparing it to gas mixtures prepared (with 99 Mol percent vinyl chloride) in accordance with the procedure described in Section 7.1 of Method 106 or by (b) having it analyzed by the National Bureau of Standards. The agreement between the initially determined concentration value and the verification concentration value must be within ±5 percent. The manufacturer must reverify all calibration standards on a time interval consistent with the shelf life of the cylinder standards sold.

8. *Procedure.*

8.1 Sampling.

8.1.1 PVC Sampling. Allow the resin or slurry to flow from a tap on the tank or silo until the tap line has been well purged. Extend and fill a 60-ml-sample bottle under the tap, and immediately tighten a cap on the bottle. Wrap adhesive tape around the cap and bottle to prevent the cap from loosening. Place an identifying label on each bottle, and record the date, time, and sample location both on the bottles and in a log book.

8.1.2 Water Sampling. Prior to use, the 50-ml vials (without the discs) must be capped with aluminum foil and muffled at 400° C for at last 1 hour to destroy or remove any organic matter that could interfere with analysis. At the sampling location fill the vials bubble-free to overflowing so that a convex meniscus forms at the top. The excess water is displaced as the sealing disc is carefully placed, with the Teflon side down, on the opening of the vial.

Place the aluminum seal over the disc and the neck of the vial, and crimp into place. Affix an identifying label on the bottle, and record the date, time, and sample location both on the vials and in a log book. All samples must be kept refrigerated until analyzed.

8.2 Sample Recovery. Samples must be run within 24 hours.

8.2.1 Resin Samples. The weight of the resin used must be between 3.5 and 4.5 grams. An exact weight must be obtained (±0.0001 g) for each sample. In the case of suspension resins, a volumetric cup can be prepared for holding the required amount of sample. When the cup is used, open the sample bottle, and add the cup volume of resin to the tared sample vial (tared, including septum and aluminum cap). Obtain the exact sample weight, add two drops of distilled water, and immediately seal the vial. Report this value on the data sheet; it is required for calculation of RVCM. In the case of dispersion resins, the cup cannot be used. Weigh the sample in an aluminum dish, transfer the sample to the tared vial, and accurately weigh it in the vial. After pre-pressurization of the samples, condition them for a minimum of 1 hour in the 90° C bath. Do not exceed 5 hours.

Note.—Some aluminum vial caps have a center section that must be removed prior to placing into sample tray. If the cap is not removed, the injection needle will be damaged.

8.2.2 Suspension Resin Slurry and Wet Cake Samples. Decant the water from a wet cake sample, and turn the sample bottle upside down onto a paper towel. Wait for the water to drain, place approximately 0.2 to 4.0 grams of the wet cake sample in a tared vial (tared, including setum and aluminum cap) and seal immediately. Then determine the sample weight (±0.0001 g). All samples must be pre-pressurized and then conditioned for 1 hour at 90° C. A sample of wet cake is used to determine TS (total solids). This is required for calculating the RVCM.

8.2.3 Dispersion Resin Slurry and Geon Latex Samples. The materials should not be filtered. Sample must be thoroughly mixed. Using a tared vial (tared, including septum and alumimum cap) add approximately 8 drops (0.25 to 0.35 g) of slurry or latex using a medicine dropper. This should be done immediately after mixing. Seal the vial as soon as possible. Determine sample weight (±0.0001 g). After pre-pressurization, condition the vial for 1 hour at 90°C in the analyzer bath. Determine the TS on the slurry sample (Section 8.3.5.).

8.2.4 Inprocess Wastewater Samples. Using a tared vial (tared, including septum and aluminum cap) quickly add approximately 1 cc of water using a medicine dropper. Seal the vial as soon as possible. Determine sample weight (±0.0001 g). Pre-pressurize the vial, and then condition for 2 hours at 90°C in the analyzer bath.

8.3 Analysis

8.3.1 Preparation of Equipment. Install the chromatographic column and condition overnight at 160°C. In the first operation, Porapak columns must be purged for 1 hour at 230°C. Do not connect the exit end of the column to the detector while conditioning. Hydrogen and air to the detector must be turned off while the column is disconnected.

8.3.1.1 Flow Rate Adjustments. Adjust flow rates as follows:

a. Nitrogen Carrier Gas. Set regulator on cylinder to read 50 psig. Set regulator on chromatograph to produce a flow rate of 30.0 cc/min. Accurately measures the flow rate at the exit end of the column using the soap film flowmeter and a stopwatch, with the oven and column at the analysis temperature. After the instrument program advances to the "B" (backflush) mode, adjust the nitrogen pressure regulator to exactly balance the nitrogen flow rate at the detector as was obtained in the "A" mode.

b. Vial Pre-Pressurizer Nitrogen. After the nitrogen carrier is set, solve the following equation and adjust the pressure on the vial pre-pressurizer accordingly.

$$P = \frac{T_1}{T_2}\left[P_1 - \frac{P_{w1} - P_{w2}}{7.50}\right] - 10\ k\ Pa$$

Where:

T_1 = Ambient temperature, °K.

T_2 = Conditioning bath temperature, °K.

P_1 = Gas chromatograph absolute dosing pressure (analysis mode), k Pa.

P_{w1} = Water vapor pressure @ 90°C (525.8 mm Hg).

P_{w2} = Water vapor pressure @ 22°C (19.8 mm Hg).

7.50 = mm Hg per k Pa.

10 k Pa = Factor to adjust the pre-pressurized pressure to slightly less than the dosing pressure.

Because of gauge errors, the apparatus may over-pressurize the vial. If the vial pressure is at or higher than the dosing pressure, an audible double injection will occur. If the vial pressure is too low, errors will occur on resin samples because of inadequate time for headspace gas equilibrium. This condition can be avoided by running several standard gas samples at various pressures around the calculated pressure, and then selecting the highest pressure that does not produce a double injection. All samples and standards must be pressurized for 60 seconds using the vial pre-pressurizer. The vial is then placed into the 90°C conditioning bath and tested for leakage by placing a drop of water on the septum at the needle hole.

c. Burner Air Supply. Set regulatory on cylinder to read 50 psig. Set regulator on chromatograph to supply air to burner at a rate between 250 and 300 cc/min. Check with bubble flowmeter.

d. Hydrogen Supply. Set regulator on cylinder to read 30 psig. Set regulator on chromatograph to supply approximately 35 ± 5 cc/min. Optimize hydrogen flow to yield the most sensitive detector response without extinguishing the flame. Check flow with bubble meter and record this flow.

8.3.1.2 Temperature Adjustments. Set temperatures as follows:

a. Oven (chromatograph column), 140°C.

b. Dosing Line, 170°C.

c. Injection Block, 170°C.

d. Sample Chamber, Water Temperature, 90°C ± 1.°0C.

8.1.3 Ignition of Flame Ionization Detector. Ignite the detector according to the manufacturer's instructions.

8.3.1.4 Amplifier Balance. Balance the amplifier according to the manufacturer's instructions.

8.3.2 Programming the Chromatograph. Program the chromatograph as follows:

a. I–Dosing or Injection Time. The normal setting is 2 seconds.

b. A–Analysis Time. The normal setting is approximately 70 percent of the VCM retention time. When the analysis timer terminates, the programmer initiates backflushing of the first column.

c. B–Backflushing Time. The normal setting is double the analysis time.

d. W–Stabilization Time. The normal setting is 0.5 minute to 1.0 minute.

e. X–Number of Analyses Per Sample. The nomal setting is 1.

8.3.3 Preparation of Sample Turntable. Before placing any sample into turntable, be certain that the center section of the aluminum cap has been removed. All samples and standards must be pressurized for 60 seconds by using the vial pre-pressurizer. The numbered sample vials should be placed in the corresponding numbered positions in the turntable. Insert samples in the following order:

Positions 1 and 2—Old 2000-ppm standards for conditioning. These are

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necessary only after the analyzer has not been used for 24 hours or longer.

Positions 3—50-ppm standard, freshly prepared.

Positions 4—500-ppm standard, freshly prepared.

Position 5—2000-ppm standard, freshly prepared.

Position 6—4000-ppm standard, freshly prepared.

Position 7—Sample No. 7 (This is the first sample of the day, but is given as 7 to be consistent with the turntable and the integrator printout.)

After all samples have been postitioned, insert the second set of 50-, 500-, 2000-, and 4000-ppm standards. Samples, including standards, must be conditioned in the bath of 90°C for 1 hour (not to exceed 5 hours).

8.3.4 Start Chromatograph Program. When all samples, including standards, have been conditioned at 90°C for 1 hour, start the analysis program according to the manufacturer's instructions. These instructions must be carefully followed when starting and stopping a program to prevent damage to the dosing assembly.

8.3.5 Determination of Total Solids (TS). For wet cake, slurry, resin solution, and PVC latex samples, determine TS for each sample by accurately weighing approximately 3 to 4 grams of sample in an aluminum pan before and after placing in a draft oven (105 to 110°C). Samples must be dried to constant weight. After first weighing, return the pan to the oven for a short period of time, and then reweigh to verify complete dryness. TS is then calculated as the final sample weight divided by initial sample weight.

9. *Calibration.*

Calibration is to be performed each 8-hour period when the instrument is used. Each day, prior to running samples, the column should be conditioned by running two 2000-ppm standards from the previous day.

9.1 Preparation of Standards. Calibration standards are prepared as follows: Place two drops of distilled water (with the use of an eyedropper) in the sample vial, then fill the vial with the VCM/nitrogen standard, rapidly seat the septum, and seal with the aluminum cap. Use a ⅛-in. stainless steel line from the cylinder to the vial. Do not use rubber or tygon tubing. The sample line from the cylinder must be purged (into a properly vented hood) for several minutes prior to fill the vials. After purging, reduce the flow rate to 500 to 1000 cc/min. Place end of tubing into vial (near bottom). Position a septum on top of the vial, pressing it against the ⅛-in. filling tube to minimize the size of the vent opening. This is necessary to minimize mixing air with the standard in the vial. Each vial is to be purged with standard for 90 seconds, during which time the filling tube is gradually slid to the top of the vial. After the 90 seconds, the tube is removed with the septum, simultaneously sealing the vial. Practice will be necessary to develop good technique. Rubber gloves should be worn during the above operations. The sealed vial must then be pressurized for 60 seconds using the vial pre-pressurizer. Test the vial for leakage by placing a drop of water on the septum at the needle hole.

9.2 Preparation of Chromatograph Calibration Curve.

Prepare two 50-, 500-, 2000-, and 4000-ppm standard samples. Run the calibration samples in exactly the same manner as regular samples. Plot A_s, the integrator area counts for each standard sample, versus C_c, the concentration of vinyl chloride in each standard sample. Draw a straight line through the points derived by the least squares method.

10. *Calculations.*

10.1 Response Factor. If the calibration curve described in section 9.2 passes through zero, a response factor, R_f, may be used to compute vinyl chloride concentrations. To compute a response factor, divide any particular A_s by the corresponding C_c.

$$R_f = A_s/C_c \qquad \text{Eq. 107-1}$$

If the calibration curve does not pass through zero, the calibration curve must be employed to calculate each sample concentration unless the error introduced by using a particular R_f is known.

10.2 Residual Vinyl Chloride Monomer Concentration, (C_{rvc}) or Vinyl Chloride Monomer Concentration. Calculate C_{rvc} in ppm or mg/kg as follows:

$$C_{rvc} = \frac{A_s P_a}{R_f T_1}\left[\frac{M_v V_g}{R m} + K_p (TS) T_2 + K_w (1 - TS) T_2\right] \qquad \text{Eq. 107-2}$$

Where:

A_s = Chromatograph area counts of vinyl chloride for the sample.

P_a = Ambient atmospheric pressure, mm Hg.

R_f = Response factor in area counts per ppm VCM.

T_1 = Ambient laboratory temperature, °K.

M_v = Molecular weight of VCM (62.5 g/mole).

V_g = Volume of the vapor phase, cm^3.

R = Gas constant (62360 cm^3 · mm Hg/mole · °K).

m = Sample weight, g.

K_p = Henry's Law Constant for VCM in PVC @ 90°C (6.52×10^{-6} g/g/mm Hg).

TS = Total solids expressed as a decimal fraction.

T_2 = Equilibrium temperature, °K.

K_w = Henry's Law Constant for VCM in water @ 90°C (7×10^{-7} g/g/mm Hg).

Assuming the following conditions are met, these values can be substituted into equation 107–2:

P_a = 750 mm Hg.

V_g = Vial volume—sample volume (Fisher vials are 22.0 cm^3 and Perkin-Elmer vials are 21.8 cm^3).

T_1 = 23°C or 296°K.

T_2 = 90°C or 363°K.

$$C_{rvc} = \frac{A_s}{R_f}\frac{750}{296}\left[\frac{(62.5)\ 21.8 - \frac{m(TS)}{1.36} - \frac{m(1-TS)}{0.9653}}{62360\ m} + 6.25\times10^{-6}(TS)(363) + 7.0\times10^{-7}(1-TS)(363)\right]$$

Results calculated using these equations represent concentration based on the total sample. To obtain results based on dry PVC content, divide by TS.

11. *References.*

1. Residual Vinyl Chloride Monomer Content of Polyvinyl Chloride Resins, Latex, Wet Cake, Slurry and Water Samples, B. F. Goodrich Chemical Group Standard Test Procedure No. 1005–E. B. F. Goodrich Technical Center, Avon Lake, Ohio, October 8, 1979.

2. Berens, A. R., "The Diffusion of Vinyl Chloride in Polyvinyl Chloride," ACS—Division of Polymer Chemistry, Polymer Preprints 15 (2): 197, 1974.

3. Berens, A. R., "The Diffusion of Vinyl Chloride in Polyvinyl Chloride," ACS—Division of Polymer Chemistry, Polymer Preprints 15 (2): 203, 1974.

4. Berens, A. R., L. B. Crider, C. J. Tomanek and J. M. Whitney, "Analysis for Vinyl Chloride in PVC Powders by Head—Space Gas Chromatography," to be published.

[FR Doc. 80–35850 Filed 11–17–80; 8:45 am]

BILLING CODE 6560–26–M

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federal register

Tuesday
November 18, 1980

Part III

Department of Health and Human Services

Food and Drug Administration

Single-Entity Barbiturates; Class Labeling Guideline

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80D-0278]

Single-Entity Barbiturates; Class Labeling Guidance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administratiaon (FDA) is issuing a class labeling guideline for the professional labeling of prescription single-entity barbiturate drug products. Class labeling is appropriate for these products because they are all closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions. The guideline is intended to promote the use of identical professional labeling for each member of the single-entity barbiturate drug class.

DATE: Effective November 18, 1980, a person may adopt the class labeling guideline for single-entity barbiturate drug products and rely on it to meet the prescription drug labeling requirements.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Lewis, Jr., Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857, 301-443-6004.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) has prepared a guideline for the professional labeling of prescription single-entity barbiturate drug products. The guideline labeling can be used for each product within drug class becuase all druge in the class are closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions.

A drug is misbranded under section 502(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(f)) unless the drug's labeling bears adequate directions for use by laypersons. FDA may, however, exempt drugs from that requirement. Section 201.100 (21 CFR 21.100) of FDA's general labeling regulations exempts prescription drugs from the requirement under the condition that their labeling contain adequate information for health care professionals to prescribe and administer the drug (21 CFR 201.100(d)). The labeling is required to contain the information and be in the format specified in §§ 201.56 and 201.57 (21 CFR 201.56 and 201.57) (published in the **Federal Register** of June 26, 1979; 44 FR 37434), which sections provide general and specific requirements on the content and format of professional labeling for human prescription drugs. The application of those regulations to drug products is proceeding under a schedule established in § 201.59 (21 CFR 201.59) (published in **Federal Register** of May 16, 1980; 45 FR 32550). As described more fully in § 201.59, the regulations apply to single-entity barbiturate drug products as follows: (1) on April 10, 1981 to drug products that are not subject to section 505 of the act (21 U.S.C. 355), (2) on July 1, 1983 to drug products that on December 26, 1979 were subject to an approved new drug application under section 505 of the act, and duplicates of those products, and (3) as of December 26, 1979 to other single-entity barbiturate drug products for which marketing approval under section 505 of the act is sought from FDA.

A manufacturer of a prescription drug product may use any one of three types of professional labeling to comply with the labeling requirements for prescription drug products: what FDA refers to as product specific labeling, generic labeling, and class labeling. "Product specific labeling" refers to labeling that pertains only to a single manufacturer's drug product, and the labeling refers to the product by its brand name. "Generic labeling" refers to labeling that pertains to drug products that each contain the same active drug ingredient, but the products may be marketed under different brand names and by different persons. "Class labeling" refers to labeling that pertains to each drug in a therapeutic class of drugs and provides information about all drugs in the class, but the products may be marketed under different brand names and by different persons, and the products may contain different active drug ingredients.

The agency now provides guideline class labeling for the professional labeling for oral contraceptive drug products (see the **Federal Register** of January 31, 1978 (43 FR 4223)), digoxin drug products (see 21 CFR 310.500), and intrauterine devices for contraception (IUD's) that are regulated as prescription drugs (see 21 CFR 310.502(b)(1)). The agency intends to continue to develop class labeling for each therapeutic class in which the members of the class are closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions and to make that labeling available as a guideline. Although FDA has sometimes codified class labeling (as it did with digoxin and IUD's), most recently it has simply made the labeling publicly available either by publication in the **Federal Register** of the guideline itself or a notice of its availability. Because this guideline for single-entity barbiturates is the first of several new class labeling guidelines the agency intends to issue, the agency believes that both manufacturers of single-entity barbiturates and other persons who may be interested in future guidelines for other drug classes will want to to review this guideline. Thus, the expected interest in this guideline warrants the publication of the guideline text in the **Federal Register.** The agency does not, however, plan to publish the text of future class labeling guidelines in the **Federal Register,** but instead plans to publish only notices of their availability.

Class labeling guidelines should enhance the agency's regulatory program for prescription drugs. The guidelines will help FDA monitor labeling for members of each drug class and help the agency review proposed labeling for new drugs and antibiotics. They will also help drug manufacturers prepare labeling for drugs they propose to market and help them determine whether the labeling for their marketed products is in compliance with legal requirements. Finally, class labeling will be most helpful to health care professionals who prescribe and dispense prescription drug products. Because class labeling contains information about each member of the drug class, its use will help prescribers and dispensers recognize similarities between drug products and will help them focus their attention upon the actual differences between the products. Although most information now in product-specific and generic labeling applies to each member of the drug class, similarities and differences among the drugs and drug products in the class are not identified. Thus, prescribers and dispensers must now compare the labeling for members of a drug class to determine the similarities and differences among the products in the class. The use of class labeling will eliminate the need for such comparisons.

The guideline that is the subject of this notice is intended to provide class labeling for the single-entity barbiturate drug class. FDA finds that this guideline is appropriate as the basis for labeling for the following drugs in the single-entity bartiburate drug class and in the dosage forms identified in parentheses:

Amobarbital (oral)
Amobarbital sodium (oral, intramuscular, and intravenous)
Aprobarbital (oral)
Butabarbital sodium (oral)
Hexobarbital (oral)
Mephobarbital (oral)
Methbarbital (oral)
Pentobarbital sodium (oral, rectal, intramuscular, and intravenous)
Phenobarbital (oral)
Phenobarbital sodium (oral, rectal, subcutaneous, intramuscular, and intravenous)
Secobarbital (oral)
Secobarbital sodium (oral, rectal, intramuscular, and intravenous)
Talbutal (oral)

The publication of this guideline is part of a larger effort by FDA to develop guideline professional labeling for classes of prescription drug products. In 1975, FDA awarded a contract to the American Society of Hospital Pharmacists (ASHP) to develop draft labeling for the 20 classes of prescription drugs listed below. A copy of the contract has been placed on public display in the FDA Hearing Clerk's office, address given above.

Aminoglycosides
Androgens
Anorectics (nonamphetamines)
Anticoagulants—oral
Antidepressants
Antipsychotics
Barbiturates
Cardiac glycosides
Cephalosporins
Glucocorticoids
Insulins
Narcotic analgesics
Penicillins—G & V
Penicillins—penicillinase-resistant
Quinidine salts
Rauwolfia alkaloids
Sulfonamides
Tetracyclines
Thiazides
Thyroids

ASHP researched the scientific literature pertaining to each drug class and prepared draft labeling for the agency. The agency worked with ASHP to revise the drafts for the agency's use in developing class labeling guidelines. The literature reviews and draft labeling prepared by ASHP under the contract provide a firm foundation for the agency's development of guideline labeling for each drug class.

In 1978 the agency awarded a second contract to the National Medical Advisory Service to develop draft labeling for 12 additional classes of prescription drugs. A copy of the contract has been placed on public display in the FDA Hearing Clerk's office, address given above. The following 12 classes are included under that contract:

Anesthetics—local
Anticholinergics—centrally active
Anticholinergics—synthetic
Antihistamines
Benzodiazepines
Corticosteroids—topical
Diagnostic intravenous radiopaques
Diagnostic oral radiopaques
Erythromycin
Neuromuscular blocking drugs
Penicillin—semi-synthetic
Potassium preparations

In 1979, products in the 32 drug classes accounted for more than 500 million prescriptions and more than $2 billion in retail costs to consumers of prescription drugs. (See the FDA Summary of IMS America, Ltd. Data on Survey of Prescription Drugs Dispensed in Retail Pharmacies for the Year 1979; a copy of which has been placed on public display in the FDA Hearing Clerk's office, address given above.)

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is assured that his or her conduct is acceptable to the agency. The agency advises that the class labeling guideline for single-entity barbiturate drug products complies with the prescription drug labeling regulations in §§ 201.56, 201.57, and 201.100 and may be relied upon by any person to meet those requirements. Under the provisions of § 314.8(d) (21 CFR 314.8(d)), the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided for in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

Effective November 18, 1980, a person may adopt the class labeling guideline for single-entity barbiturate prescription drug labeling requirements. Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Comments will be considered in determining whether further amendments to or revisions of the guideline are warranted. Comments should be in four copies except that individuals may submit single copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

The class labeling guideline for the professional labeling of single-entity barbiturate drug products follows:

Barbiturate Class Labeling

Description. The barbiturates are nonselective central nervous system depressants which are primarily used as sedative hypnotics and also anticonvulsants in sybhypnotic doses (Ref. 1). The barbiturates and their sodium salts are subject to control under the Federal Controlled Substances Act. The barbiturates included in this class are:

Name of drug	Route	Dosage form	DEA* schedule
Amobarbital	Oral	Tablet, elixir	II
Amobarbital sodium	Oral	Capsule	II
Do	IM, IV	Injectable	II
Aprobarbital	Oral	Elixir	III
Butabarbital sodium	Oral	Elixir, tablet, capsule	III
Hexobarbital	Oral	Tablet	III
Mephobarbital	Oral	Tablet	IV
Metharbital	Oral	Tablet	III
Pentobarbital	Oral	Elixir	II
Pentobarbital sodium	Oral	Capsule, elixir	II
Do	Rectal	Suppository	III
Do	IM, IV	Injectable	II
Phenobarbital	Oral	Elixir, tablet	IV
Phenobarbital sodium	Oral	Tablet	IV
Do	Rectal	Suppository	IV
Do	IM, IV	Injectable	IV
Secobarbital	Oral	Elixir	II
Secobarbital sodium	Oral	Capsule	II
Do	Rectal	Suppository	III
Do	IM, IV	Injectable	II
Talbutal	Oral	Tablet	III

*Drug Enforcement Administration

The sodium salts of amobarbital, pentobarbital, phenobarbital, and secobarbital are available as sterile parenteral solutions.

Barbiturates are substituted pyrimidine derivatives in which the basic structure common to these drugs is barbituric acid, a substance which has no central nervous system (CNS) activity. CNS activity is obtained by substituting alkyl, alkenyl, or aryl groups on the pyrimidine ring (Ref. 1). (Additional information as required by 21 CFR 201.57 will be supplied by the manufacturer or distributor.)

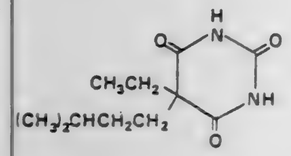
Structural formulas for this class follow:

BILLING CODE 4110-03-M

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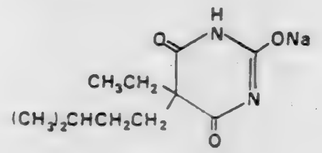
STRUCTURAL FORMULAS

AMOBARBITAL



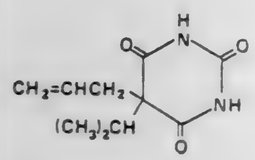
$C_{11}H_{18}N_2O_3$ 226.27 [CAS 57-43-2]
5-Ethyl-5-isopentylbarbituric acid

AMOBARBITAL SODIUM



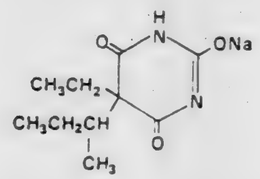
$C_{11}H_{17}N_2NaO_3$ 248.26 [CAS 64-43-7]
Sodium 5-ethyl-5-isopentylbarbiturate

APROBARBITAL



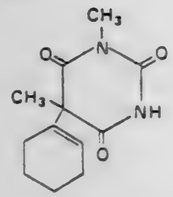
$C_{12}H_{16}N_2O_3$ 210.23 [CAS 77-02-1]
5-allyl-5-isopropylbarbituric acid

BUTABARBITAL SODIUM



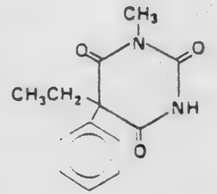
$C_{12}H_{17}N_2NaO_3$ 234.23 [CAS 143-81-7]
Sodium 5-sec-butyl-5-ethylbarbiturate

HEXOBARBITAL



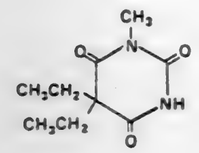
$C_{12}H_{16}N_2O_3$ 236.26 [CAS 56-29-1]
5-(1-cyclohexen-1-yl)-1,5-dimethylbarbituric acid

MEPHOBARBITAL



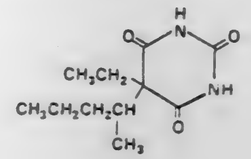
$C_{13}H_{14}N_2O_3$ 246.27 [CAS 115-38-8]
5-Ethyl-1-methyl-5-phenylbarbituric acid

METHARBITAL



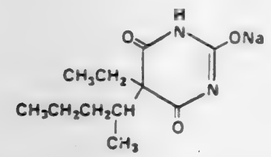
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5,5-Diethyl-1-methylbarbituric acid

PENTOBARBITAL



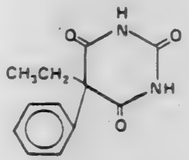
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5-Ethyl-5-(1-methylbutyl) barbituric acid

PENTOBARBITAL SODIUM



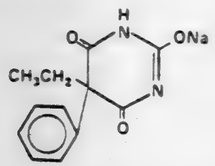
$C_{11}H_{17}N_2NaO_3$ 248.26 [CAS 57-33-0]
Sodium 5-ethyl-5-(1-methylbutyl) barbiturate

PHENOBARBITAL



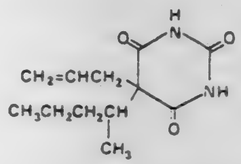
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5-Ethyl-5-phenylbarbituric acid

PHENOBARBITAL SODIUM



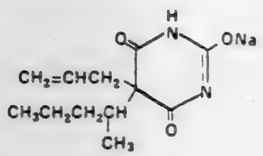
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SECOBARBITAL



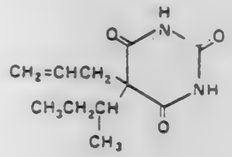
$C_{12}H_{18}N_2O_3$ 238.29 [CAS 76-73-3]
5-Allyl-5-(1-methylbutyl) barbituric acid

SECOBARBITAL SODIUM



$C_{12}H_{17}N_2NaO_3$ 260.27 [CAS 309-43-3]
Sodium 5-allyl-5-(1-methylbutyl) barbiturate

TALBUTAL



$C_{11}H_{16}N_2O_3$ 224.26 [CAS 115-44-6]
5-Allyl-5-sec-butylbarbituric acid

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Clinical Pharmacology

Barbiturates are capable of producing all levels of CNS mood alteration from excitation to mild sedation, to hypnosis, and deep coma. Overdosage can produce death. In high enough therapeutic doses, barbituates induce anesthesia (Refs. 1 and 2).

Barbiturates depress the sensory cortex, decrease motor activity, alter cerebellar function, and produce drowsiness, sedation, and hypnosis.

Barbiturate-induced sleep differs from physiological sleep. Sleep laboratory studies have demonstrated that barbiturates reduce the amount of time spent in the rapid eye movement (REM) phase of sleep or dreaming stage. Also, Stages III and IV sleep are decreased (Refs. 1, 3, 4, and 5). Following abrupt cessation of barbiturates used regularly, patients may experience markedly increased dreaming, nightmares, and/or insomnia. Therefore, withdrawal of a single therapeutic dose over 5 or 6 days has been recommended to lessen the REM rebound and disturbed sleep which contribute to drug withdrawal syndrome (for example, decrease the dose from 3 to 2 doses a day for 1 week) (Ref. 4).

In studies, secobarbital sodium and pentobarbital sodium have been found to lose most of their effectiveness for both inducing and maintaining sleep by the end of 2 weeks of continued drug administration even with the use of multiple doses (Refs. 3, 4, 6, and 7). As with secobarbital sodium and pentobarbital sodium, other barbiturates might be expected to lose their effectiveness for inducing and maintaining sleep after about 2 weeks. The short-, intermediate-, and, to a lesser degree, long-acting barbiturates have been widely prescribed for treating insomnia. Although the clinical literature abounds with claims that the short-acting barbiturates are superior for producing sleep while the intermediate-acting compounds are more effective in maintaining sleep, controlled studies have failed to demonstrate these differential effects (Ref. 8). Therefore, as sleep medications, the barbiturates are of limited value beyond short-term use (Ref. 3).

Barbiturates have little analgesic action at subanesthetic doses (Ref. 1). Rather, in subanesthetic doses these drugs may increase the reaction to painful stimuli (Refs. 9 and 10). All barbiturates exhibit anticonvulsant activity in anesthetic doses. However, of the drugs in this class, only phenobarbital, mephobarbital, and metharbital are effective as oral anticonvulsants in subhypnotic doses (Refs. 1, 10, and 11).

Barbiturates are respiratory depressants. The degree of respiratory depression is dependent upon dose (Refs. 1, 10, and 12). With hypnotic doses, respiratory depression produced by barbiturates is similar to that which occurs during physiologic sleep with slight decrease in blood pressure and heart rate (Refs. 1 and 10).

Studies in laboratory animals have shown that barbiturates cause reduction in the tone and contractility of the uterus, ureters, and urinary bladder (Refs. 10 and 13). However, concentrations of the drugs required to produce this effect in humans are not reached with sedative-hypnotic doses (Refs. 1 and 10).

Barbiturates do not impair normal hepatic function, but have been shown to induce liver microsomal enzymes, thus increasing and/or altering the metabolism of barbiturates and other drugs (Refs. 1, 10, 14, 15 and 16). (See precautions—Drug Interactions below.)

Pharmacokinetics. Barbiturates are absorbed in varying degrees following oral, rectal, or parenteral administration. The salts are more rapidly absorbed than are the acids (Ref. 17). The rate of absorption is increased if the sodium salt is ingested as a dilute solution or taken on an empty stomach (Refs. 17 and 18).

The onset of action for oral or rectal administration varies from 20 to 60 minutes. For IM administration, the onset of action is slightly faster. Following IV administration, the onset of action ranges from almost immediately for pentobarbital sodium to 5 minutes for phenobarbital sodium. Maximal CNS depression may not occur until 15 minutes or more after IV administration for phenobarbital sodium (Ref. 1).

Duration of action, which is related to the rate at which the barbiturates are redistributed throughout the body, varies among persons and in the same person from time to time (Refs. 1, 19, and 20). In Table 1 below, the barbiturates are classified according to their duration of action. This classification should not be used to predict the exact duration of effect, but the grouping of drugs should be used as a guide in the selection of barbiturates.

No studies have demonstrated that the different routes of administration are equivalent with respect to bioavailability.

Table 1.—*Classification, Onset, and Duration of Action of Commonly used Barbiturates Taken Orally* (Ref. 21)

Classification	Onset of action	Duration of action
Long-acting Phenobarbital.	1 hr or longer	10 to 12 hr.
Intermediate Amobarbital Butabarbital.	¾ to 1 hr	6 to 8 hr.
Short-acting Pentobarbital Secobarbital.	10 to 15 min	3 to 4 hr.

Barbiturates are weak acids that are absorbed and rapidly distributed to all tissues and fluids with high concentrations in the brain, liver, and kidneys (Refs. 1, 10, 22, 23, and 24). Lipid solubility of the barbiturates is the dominant factor in their distribution within the body. The more lipid soluble the barbiturate, the more rapidly it penetrates all tissues of the body (Ref. 25). Barbiturates are bound to plasma and tissue proteins to a varying degree with the degree of binding increasing directly as a function of lipid solubility (Refs. 1, 10, 26, 27).

Phenobarbital has the lowest lipid solubility, lowest plasma binding, lowest brain protein binding, the longest delay in onset of activity, and the longest duration of action. At the opposite extreme is secobarbital which has the highest lipid solubility, plasma protein binding, brain protein binding, the shortest delay in onset of activity, and the shortest duration of action. Butabarbital is classified as an intermediate barbiturate (Ref. 28). The plasma half-life for some barbiturates in this class are listed in Table 2 below.

Table 2.—*Plasma Half-Life Values for Some Barbiturates in Humans*

Drug	Half-life (hours) Adult Range	Adult (Mean)	Child/newborn Range	Child/newborn (Mean)	References
Amobarbital	16 to 40	(25)	[1]	[1]	29, 30 and 31.
Aprobarbital	14 to 34	(24)	[1]	[1]	32.
Butabarbital	66 to 140	(100)	[1]	[1]	33.
Hexobarbital	5		[1]	[1]	[3]1.
Pentobarbital	15 to 50	([2])	[1]	[1]	1, 18 and 26.
Phenobarbital	53 to 118	(79)	60 to 180[4]	([4]110)	1, 32, 34, 35, 36 and 37.
Secobarbital	15 to 40	(28)	[1]	[1]	1 and 28.

[1] No information available at this time.
[2] Pentobarbital seems to follow dose-dependent kinetics. When a 50-mg dose and a 100-mg dose were used in subjects, the mean half-life of elimination was 50 hours and 22 hours, respectively.
[3] Limited information as reported in the literature.
[4] Half-life values were determined for newborn age being defined as 48 hours or less.

Data are inadequate to provide information on the half-life of the following drugs: mephobarbital, metharbital, and talbutal.

Barbiturates are metabolized primarily by the hepatic microsomal enzyme system, and the metabolic products are excreted in the urine, and less commonly, in the feces. Approximately 25 to 50 percent of a dose of aprobarbital or phenobarbital is eliminated unchanged in the urine, whereas the amount of other barbiturates excreted unchanged in the urine is negligible. The excretion of unmetabolized barbiturate is one feature that distinguishes the long-acting category from those belonging to other categories which are almost entirely metabolized (Ref. 28). The inactive metabolites of the barbiturates are excreted as conjugates of glucuronic acid (Refs. 1 and 39).

Indications and Usage

1. *Oral and parenteral.*
a. Sedatives.
b. Hypnotics, for the short-term treatment of insomnia, since they appear to lose their effectiveness for sleep induction and sleep maintenance after 2 weeks (See CLINICAL PHARMACOLOGY above).
c. Preanesthetics.
d. Long-term anticonvulsants, (phenobarbital, mephobarbital, and metharbital) for the treatment of generalized tonic-clonic and cortical focal seizures. And, in the emergency control of certain acute convulsive episodes, e.g., those associated with status epilepticus, cholera, eclampsia, meningitis, tetanus, and toxic reactions to strychnine or local anesthetics. Phenobarbital sodium may be administered IM or IV as an anticonvulsant for emergency use. When administered IV, it may require 15 or more minutes before reaching peak concentrations in the brain. Therefore, injecting phenobarbital sodium until the convulsions stop may cause the brain level to exceed that required to control the convulsions and lead to severe barbiturate induced depression.

2. *Rectal.* Barbiturates administered rectally are absorbed from the colon and are used occasionally in infants for prolonged convulsive states, or when oral or parenteral administration may be undesirable. If the rectal form is not available, the soluble sodium salt may be incorporated in a retention enema.

Contraindications

Barbiturates are contraindicated in patients with known barbiturate sensitivity. Barbiturates are also contraindicated in patients with a history of manifest or latent porphyria.

Warnings

1. *Habit forming.* Barbiturates may be habit forming. Tolerance, psychological and physical dependence may occur with continued use (Refs. 10, 40, 41, 42, 43, and 44). (See DRUG ABUSE AND DEPENDENCE below and PHARMACOKINETICS above.) Patients who have psychological dependence on barbiturates may increase the dosage or decrease the dosage interval without consulting a physician and may subsequently develop a physical dependence on barbiturates. To minimize the possibility of overdosage or the development of dependence, the prescribing and dispensing of sedative-hypnotic barbiturates should be limited to the amount required for the interval until the next appointment. Abrupt cessation after prolonged use in the dependent person may result in withdrawal symptoms, including delirium, convulsions, and possibly death (Refs. 44 and 45). Barbiturates should be withdrawn gradually from any patient known to be taking excessive dosage over long periods of time (Refs. 46 and 47). (see DRUG ABUSE AND DEPENDENCE below).

2. *IV administration.* Too rapid administration may cause respiratory depression, apnea, laryngospasm, or vasodilation with fall in blood pressure.

3. *Acute or chronic pain.* Caution should be exercised when barbiturates are administered to patients with acute or chronic pain, because paradoxical excitement could be induced or important symptoms could be masked. However, the use of barbiturates as sedatives in the postoperative surgical and as adjuncts to cancer chemotherapy is well established.

4. *Use in pregnancy.* Barbiturates can cause fetal damage when administered to a pregnant woman. Retrospective, case-controlled studies have suggested a connection between the maternal consumption of barbiturates and a higher than expected incidence of fetal abnormalities (Refs. 48 and 49). Following oral or parenteral administration, barbiturates readily cross the placental barrier and are distributed throughout fetal tissues with highest concentrations found in the placenta, fetal liver, and brain. Fetal blood levels approach maternal blood levels following parenteral administration (Refs. 1, 10, 50, and 51).

Withdrawal symptoms occur in infants born to mothers who receive barbiturates throughout the last trimester of pregnancy (Refs. 52 and 53). (See DRUG ABUSE AND DEPENDENCE below.) If this drug is used during pregnancy, or if the patient becomes pregnant while taking this drug, the patient should be apprised of the potential hazard to the fetus.

5. *Synergistic effects.* The concomitant use of alcohol or other CNS depressants may produce additive CNS depressant effects (Refs. 54 and 55).

Precautions

General. Barbiturates may be habit forming. Tolerance and psychological and physical dependence may occur with continuing use (Refs. 10, 41, 42, and 43). (See DRUG ABUSE AND DEPENDENCE below.) Barbiturates should be administered with caution, if at all, to patients who are mentally depressed, have suicidal tendencies, or a history of drug abuse (Ref. 5).

Elderly or debilitated patients may react to barbiturates with marked excitement, depression, and confusion (Refs. 5 and 56). In some persons, barbiturates repeatedly produce excitement rather than depression (Ref. 1).

In patients with hepatic damage, barbiturates should be administered with caution and initally in reduced doses. Barbiturates should not be administered to patients showing the

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premonitory signs of hepatic coma (Refs. 1 and 14).

Parenteral solution of barbiturates are highly alkaline. Therefore, extreme care should be taken to avoid perivascular extravasation or intra-arterial injection. Extravascular injection may cause local tissue damage with subsequent necrosis; consequences of intra-arterial injection may vary from transient pain to gangrene of the limb (Refs. 57, 58, and 59). Any compliant of pain in the limb warrants stopping the injection.

Information for the patient. Practitioners should give the following information and instructions to patients receiving barbiturates.

1. The use of barbiturates carries with it an associated risk of psychological and/or physical dependence. The patient should be warned against increasing the dose of the drug without consulting a physician.

2. Barbiturates may impair mental and/or physical abilities required for the performance of potentially hazardous tasks (e.g., driving, operating mechinery, etc.) (Refs. 42 and 55).

3. Alcohol should not be consumed while taking barbiturates. Concurrent use of the barbiturates with other CNS depressants (e.g., alcohol, narcotics, tranquilizers, and antihistamines) may result in additional CNS depressant effects (Refs. 54, 55, and 60).

Laboratory tests. Prolonged therapy with barbiturates should be accompanied by periodic laboratory evaluation of organ systems, including hematopoietic, renal, and hepatic systems (See PRECAUTIONS (General) above and ADVERSE REACTIONS below).

Drug interactions. Most reports of clinically significant drug interactions ocurring with the barbiturates have involved phenobarbital. However, the application of these data to other barbiturates appears valid and warrants serial blood level determinations of the relevant drugs when there are multiple therapies.

1. *Anticoagulants.* Phenobarbital lowers the plasma levels of dicumarol (name previously used: bishydroxycoumarin) and causes a decrease in anticoagulant activity as measured by the prothrombin time (Ref. 61). Barbiturates can induce hepatic microsomal enzymes resulting in increased metabolism and decreased anticoagulant response of oral anticoagulants (e.g., warfarin (Refs. 15, 62, and 63), acenocoumarol, dicumarol, and phenprocoumon (Ref. 15)). Patients stabilized on anticoagulant therapy may require dosage adjustments if barbiturates are added to or withdrawn from their dosage regimen (Refs. 54 and 63).

2. *Corticosteroids.* Barbiturates appear to enhance the metabolism of exogenous corticosteroids probably through the induction of hepatic microsomal enzymes (Ref. 64). Patients stablized on cortixosteroid therapy may require dosage adjustments if barbiturates are added to or withdrawn from their dosage regimen.

3. *Griseofulvin.* Phenobarbital appears to interfere with the absorption of orally administered griseofulvin, thus decreasing its blood level (Refs. 65 and 66). The effect of the resultant decreased blood levels of griseofulvin on therapeutic response has not been established. However, it would be preferable to avoid concomitant administration of these drugs.

4. *Doxycycline.* Phenobarbital has been shown to shorten the half-life of doxycycline for as long as 2 weeks after barbiturate therapy is discontinued (Ref. 8).

This mechanism is probably through the induction of hepatic microsomal enzymes that metabolize the antibiotic. If phenobarbital and doxycycline are administered concurrently, the clinical response to doxycycline should be monitored closely (Ref. 67).

5. *Phenytoin, sodium valproate, valproic acid.* The effect of barbiturates on the metabolism of phenytoin appears to be variable. Some investigators report an accelerating effect, while others report no effect (Refs. 68, 69, and 70). Because the effect of barbiturates on the metabolism of phenytoin in not predictable, phenytoin and barbiturate blood levels should be monitored more frequently if these drugs are given concurrently (Ref. 55). Sodium valproate and valproic acid appear to decrease barbiturate metabolism; therefore, barbiturate blood levels should be monitored and appropriate dosage adjustments made as indicated.

6. *Central nervous system depressants.* The concomitant use of other central nervous system depressants, including other sedatives or hypnotics, antihistamines, tranquiliers, or alcohol, may produce additive depressant effects (Refs. 54, 55, and 60).

7. *Monoamine oxidase inhibitors (MAOI).* MAOI prolong the effects of barbiturates probably because metabolism of the barbiturate is inhibited (Ref. 8).

8. *Estradiol, estrone, progesterone and other steroidal hormones.* Pretreatment with or concurrent administration of phenobarbital may decrease the effect of estradiol by increasing its metabolism. There have been reports of patients treated with antiepileptic drugs (e.g., phenobarbital) who become pregnant while taking oral contraceptives. An alternate contraceptive method might be suggested to women taking phenobarbital (Ref. 55).

Carcinogenesis—1. *Animal data.* Phenobarbital sodium is carcinogenic in mice and rats after lifetime administration. In mice, it produced benign and malignant liver cell tumors. In rats, benign liver cell tumors were observed very late in life (Ref. 71).

2. *Human data.* In a 29-year epidemiological study of 9,136 patients who were treated on an anticonvulsant protocol which included phenobarbital, results indicated a higher than normal incidence of hepatic carcinoma. Previously, some of these patients were treated with thorotrast, a drug which is known to produce hepatic carcinomas. Thus, this study did not provide sufficient evidence that phenobarbital is carcinogenic in humans (Ref. 71).

A retrospective study of 84 children with brain tumors matched to 73 normal controls and 78 cancer controls (malignant disease other than brain tumors) suggested an association between exposure to barbiturates prenatally and an increased incidence of brain tumors (Ref. 72).

Pregnancy—1. *Teratogenic effects.* Pregnancy Category D—See WARNINGS—Use in Pregnancy above.

2. *Nonteratogenic effects.* Reports of infancts suffering from long-term barbiturate exposure in utero included the acute withdrawal syndrome of seizures and hyperirritability from birth to a delayed onset of up to 14 days. (See DRUG ABUSE AND DEPENDENCE below.)

Labor and delivery. Hypnotic doses of these barbiturates do not appear to significantly impair uterine activity during labor. Full anesthetic doses of barbiturates decrease the force and frequency of uterine contractions (Ref. 10). Administration of sedative-hypnotic barbiturates to the mother during labor may result in respiratory depression in the newborn (Ref. 1). Premature infants are particularly susceptible to the depressant effects of barbiturates. If barbiturates are used during labor and delivery, resuscitation equipment should be available.

Data are currently not available to evaluate the effect of these barbiturates when forceps delivery or other intervention is necessary. Also, data are not available to determine the effect of these barbiturates on the later growth, development, and functional maturation of the child.

Nursing mothers. Caution should be exercised when a barbiturate is administered to a nursing woman since small amounts of barbiturates are excreted in the milk (Ref. 10).

Adverse Reactions

The following adverse reactions and their incidence were compiled from surveillance of thousands of hospitalized patients. Because such patients may be less aware of certain of the milder adverse effects of barbiturates, the incidence of these reactions may be somewhat higher in fully ambulatory patients (Refs. 73, 74, and 75).

More than 1 in 100 patients. The most common adverse reaction estimated to occur at a rate of 1 to 3 patients per 100 is: *Nervous system:* Somnolence.

Less than 1 in 100 patients. Adverse reactions estimated to occur at a rate of less than 1 in 100 patients listed below, grouped by organ system, and by decreasing order of occurrence are:

Nervous system: Agitation, confusion, hyperkinesia, ataxia, CNS depression, nightmares, nervousness, psychiatric disturbance, hallucinations, insomnia, anxiety, dizziness, thinking abnormality.

Respiratory system: Hypoventilation, apnea.

Cardiovascular system: Bradycardia, hypotension, syncope.

Digestive system: Nausea, vomiting, constipation.

Other reported reactions: Headache, injection site reactions, hypersensitivity reactions (angioedema, skin rashes, exfoliative dermatitis), fever, liver damage, megaloblastic anemia following chronic phenobarbital use.

Drug Abuse and Dependence

Barbiturates may be habit forming: Tolerance, psychological dependence, and physical dependence may occur especially following prolonged use of high doses of barbiturates (Refs. 41 and 42). Daily administration in excess of 400 milligrams (mg) of pentobarbital or secobarbital for approximately 90 days is likely to produce some degree of physical dependence (Ref. 10). A dosage of from 600 to 800 mg taken for at least 35 days is sufficient to produce withdrawal seizures (Ref. 47). The average daily dose for the barbiturate addict is usually about 1.5 grams (Ref. 19). As tolerance to barbiturates develops, the amount needed to maintain the same level of intoxication increases; tolerance to a fatal dosage, however, does not increase more than two-fold. As this occurs, the margin between an intoxicating dosage and fatal dosage becomes smaller (Ref. 8).

Symptoms of acute intoxication with barbiturates include unsteady gait, slurred speech, and sustained nystagmus. Mental signs of chronic intoxication include confusion, poor judgment, irritability, insomnia, and somatic complaints (Ref. 8).

Symptoms of barbiturate dependence are similar to those of chronic alcoholism (Ref. 60). If an individual appears to be intoxicated with alcohol to a degree that is radically disporportionate to the amount of alcohol in his or her blood the use of barbiturates should be suspected. The lethal dose of a barbiturate is far less if alcohol is also ingested (Ref. 8).

The symptoms of barbiturate withdrawal can be severe and may cause death (Refs. 10 and 41). Minor withdrawal symptoms may appear 8 to 12 hours after the last dose of a barbiturate. These symptoms usually appear in the following order: anxiety, muscle twitching, tremor of hands and fingers, progressive weakness, dizziness, distortion in visual perception, nausea, vomiting, insomnia, and orthostatic hypotension (Refs. 42, 44, and 76). Major withdrawal symptoms (convulsions and delirium) may occour within 16 hours and last up to 5 days after abrupt cessation of these drugs (Refs. 45 and 77). Intensity of withdrawal symptoms gradually declines over a period of approximately 15 days (Ref. 45). Individuals susceptible to barbiturate abuse and dependence include alcoholics and opiate abusers, as well as other sedative-hypnotic and amphetamine abusers.

Drug dependence to barbiturates arises from repeated administration of a barbiturate or agent with barbiturate-like effect on a continuous basis, generally in amounts exceeding therapeutic dose levels. The characteristics of drug dependence to barbiturates include: (a) a strong desire or need to continue taking the drug; (b) a tendency to increase the dose; (c) a psychic dependence on the effects of the drug related to subjective and individual appreciation of those effects; and (d) a physical dependence on the effects of the drug requiring its presence for maintenance of homeostasis and resulting in a definite, characteristic, and self-limited abstinence syndrome when the drug is withdrawn (Ref. 78).

Treatment of barbiturate dependence consists of cautious and gradual withdrawal of the drug (Ref. 46). Barbiturate-dependent patients can be withdrawn by using a number of different withdrawal regiments. In all cases withdrawal takes an extended period of time. One method involves substituting a 30-mg dose of phenobarbital for each 100- to 200-mg dose of barbiturate that the patient has been taking. The total daily amount of phenobarbital is then administered in 3 to 4 divided doses, not to exceed 60 mg daily. Should signs of withdrawal occur on the first day of treatment, a loading dose of 100 to 200 mg of phenobarbital may be administered IM in addition to the oral dose. After stablization on phenobarbital, the total daily dose is decreased by 30 mg a day as long as withdrawal is proceeding smoothly (Refs. 8, 46, and 47). A modification of this regimen involves initiating treatment at the patient's regular dosage level and decreasing the daily dosage by 10 percent if tolerated by the patient (Ref. 76).

Infants physically dependent on barbiturates may be given phenobarbital 3 to 10 mg/kg/day. After withdrawal symptoms (hyperactivity, disturbed sleep, tremors, hyperreflexia) are relieved, the dosage of phenobarbital should be gradually decreased and completely withdrawn over a 2-week period (Ref. 53).

Overdosage

The toxic dose of barbiturates varies considerably. In general, an oral dose of 1 gram of most barbiturates produces serious poisoning in an adult. Death commonly occurs after 2 to 10 grams of ingested barbiturate (Refs. 1 and 79). Barbiturate intoxication may be confused with alcoholism, bromide intoxication, and with various neurological disorders (Ref. 41).

Acute overdosage with barbiturates is manifested by CNS and respiratory depression which may progress to Cheyne-Stokes respiration, areflexia, constriction of the pupils to a slight degree (though in severe poisoning they may show paralytic dilation), oliguria, tachycardia, hypotension, lowered body temperature, and coma. Typical shock syndrome (apena, circulatory collapse, respiratory arrest, and death) may occur.

In extreme overdose, all electrical activity in the brain may cease, in which case a "flat" EEG normally equated with clinical death cannot be accepted. This effect is fully reversible unless hypoxic damage occurs. Consideration should be given to the possibility of barbiturate intoxication even in situations that appear to involve trauma (Ref. 8).

Complications such as pneumonia, pulmonary edema, cardiac arrhythmias, congestive heart failure, and renal failure may occur. Uremia may increase CNS sensitivity to barbiturates if renal function is impaired (Refs. 1 and 79). Differental diagnosis should include hypoglycemia, head trauma, cerebrovascular accidents, convulsive states, and diabetic coma. Blood levels from acute overdosage for some barbiturates are listed in Table 3 below.

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Treatment of overdosage is mainly supportive and consists of the following:

1. Maintenance of an adequate airway, with assisted respiration and oxygen administration as necessary.

2. Monitoring of vital signs and fluid balance.

3. If the patient is conscious and has not lost the gag reflex, emesis may be induced with ipecac. Care should be taken to prevent pulmonary aspiration of vomitus. After completion of vomiting, 30 grams activated charcoal in a glass of water may be administered.

4. If emesis is contraindicated, gastric lavage may be performed with a cuffed endotracheal tube in place with the patient in the face down position. Activated charcoal may be left in the emptied stomach and a saline cathartic administered.

5. Fluid therapy and other standard treatment for shock, if needed.

6. If renal function is normal, forced diuresis may aid in the elimination of the barbiturate. Alkalinization of the urine increases renal excretion of some barbiturates, especially phenobarbital, also aprobarbital, and mephobarbital (which is metabolized to phenobarbital).

7. Although not recommended as a routine procedure, hemodialysis may be used in severe barbiturate intoxications or if the patient is anuric or in shock.

8. Patient should be rolled from side to side every 30 minutes.

9. Antibiotics should be given if pneumonia is suspected.

10. Appropriate nursing care to prevent hypostatic pneumonia, decubiti, aspiration, and other complications of patients with altered states of consciousness (Refs. 36, 81, 82, and 83).

Dosage and Administration

Suggested doses of barbiturates for specific indications may be found in the Pediatric and Adult Dosage Information Tables 4 and 5 below. Dosages of barbiturates must be individualized with full knowledge of their particular characteristics and recommended rate of administration. Factors of consideration are the patient's age, weight, and condition. Parenteral routes should be used only when oral administration is impossible or impractical.

IM injection of the sodium salts of barbiturates should be made deeply into a large muscle, and a volume of 5 mL should not be exceeded at any one site because of possible tissue irritation. After IM injection of a hypnotic dose, the patient's vital signs should be monitored.

IV injection is restricted to conditions in which other routes are not feasible, either because the patient is unconscious (as in cerebral hemorrhage, eclampsia, or status epilepticus), or because the patient resists (as in delirium), or because prompt action is imperative. Slow IV injection is essential, and patients should be carefully observed during administration. This requires that blood pressure, respiration, and cardiac function be maintained, vital signs be recorded, and equipment for resuscitation and artificial ventilation be available (Ref. 84). The rate of IV injection for adults should not exceed 60 mg/min for phenobarbital sodium and 50 mg/15 sec for secobarbital sodium (Ref. 85).

Anticonvulsant use. A therapeutic anticonvulsant level of phenobarbital in the serum is 10 to 25 μg/mL (Refs. 37 and 86). To achieve the blood levels considered therapeutic in children, higher per-kilogram dosages are generally necessary for phenobarbital and most other anticonvulsants. In children and infants, phenobarbital at loading dose of 15 to 29 mg/kg produces blood levels of about 20 μg/mL shortly after administration (Ref. 87).

In status epilepticus, it is imperative to achieve therapeutic blood levels of a barbiturate (or other anticonvulsants) as rapidly as possible. When administered intravenously, phenobarbital sodium may require 15 minutes or more to attain peak concentrations in the brain. If phenobarbital sodium is injected continuously until the convulsions stop, the brain concentration would continue to rise and could eventually exceed that required to control the seizures. Because a barbiturate-induced depression may occur along with a postictal depression once the seizures are controlled, it is important, therefore, to use the minimal amount required, and to wait for the anticonvulsant effect to develop before administering a second dose (Ref. 1).

Phenobarbital has been used in the treatment and prophylaxis of febrile seizures. However, it has not been established that prevention of febrile seizures influences the subsequent development of epilepsy (Ref. 88).

Special patient population. Dosage should be reduced in the elderly or debilitated because these patients may be more sensitive to barbiturates. Dosage should be reduced for patients with impaired renal function or hepatic disease.

Inspection. Parenteral drug products should be inspected visually for particulate matter and discoloration prior to administration, whenever solution containers permit. Solutions for injection showing evidence of precipitation should not be used.

How Supplied

The manufacturer or distributor is responsible for the information contained in this section of the labeling.

Table 3.—*Concentration of Barbiturate in the Blood Versus Degree of CNS Depression* (Ref. 80)

Barbiturate	Onset/duration	Degree of depression in nontolerant persons*				
		1	2	3	4	5
Pentobarbital	Fast/short	≤2	0.5 to 3	10 to 15	12 to 25	15 to 40.
Secobarbital	Fast/short	≤2	0.5 to 5	10 to 15	15 to 25	15 to 40.
Amobarbital	Intermediate/intermediate.	≤3	2 to 10	30 to 40	30 to 60	40 to 80.
Butabarbital	Intermediate/intermediate	~5	3 to 25	40 to 60	50 to 80	60 to 100.
Phenobarbital	Slow/long	~10	5 to 40	50 to 80	70 to 120	100 to 200.

*Categories of degree of depression in nontolerant persons:
1. Under the influence and appreciably impaired for purposes of driving a motor vehicle or performing tasks requiring alertness and unimpaired judgment and reaction time.
2. Sedated, therapeutic range, calm, relaxed, and easily aroused.
3. Comatose, difficult to arouse, significant depression of respiration.
4. Compatible with death in aged or ill persons or in presence of obstructed airway, other toxic agents, or exposure to cold.
5. Usual lethal level, the upper end of the range includes those who received some supportive treatment.

Table 4.—*Barbiturate Pediatric Dosage Information recommended by the American Academy of Pediatrics (Ref. 89)*

[Intended only as a guide]

Drug	Route administration	Pediatric preoperative	Pediatric anticonvulsant [1]
Amobarbital	PO	2–6 mg/kg, maximum 100 mg.	
Amobarbital sodium	IV	65–500 mg or 3–5 mg/kg [2].	
Butabarbital sodium	PO	2–6 mg/kg, maximum 100 mg.	
Mephobarbital	PO		8–15 mg/kg
Pentobarbital sodium	PO, IM	2–6 mg/kg, maximum 100 mg.	
	Rectal	30 mg (2 mo to 1 yr), 30–60 mg (1 to 4 yr), 60 mg (5 to 12 yr), 60–120 mg (12 to 14 yr)	
Phenobarbital	PO	1–3 mg/kg.	
Phenobarbital sodium	PO, IM, IV	1–3 mg/kg.	4–6 mg/kg/day for 7–10 days to blood level 10–15 μg/mL or 10–15 mg/kg/day.
	IV		For status: 15–20 mg/kg over 10–15 minutes.
Secobarbital sodium	PO	2–6 mg/kg, maximum 100 mg.	
	IM	4–5 mg/kg.	
	Rectal	15–60 mg [2] (up to 6 mo), 60 mg [2] (6 mo to 3 yr), 60–120 mg [2] (3 yr).	

[1] All should be adjusted to blood levels measured as phenobarbital.
[2] Dependent upon patient's condition and desired level of sedation.

Table 5.—*Barbiturate Adult Dosage Information (Refs. 90 and 91)*

[Intended only as a guide]

Drug	Route	Daytime sedation	Bedtime hypnotic	Preoperative sedation	Anticonvulsant
I. More commonly used:					
Pentobarbital	PO	20 mg 3–4 times daily	100 mg		
Pentobarbital sodium	PO	20 to 40 mg 2–3 times daily	100 mg		
	IM		150 to 200 mg.		
	IV		70 kg adult, 100 mg initially.		
Phenobarbital	PO	30 to 120 mg daily in 2–3 divided doses.	100 to 320 mg.		50 to 100 mg 2–3 times daily.
Phenobarbital sodium	IM, IV	30 to 120 mg daily in 2–3 divided doses.	100 to 320 mg.	IM only: 100 to 200 mg 60–90 min before surgery.	Status epilepticus: 200 repeated in 6 hr as necessary.
Secobarbital	PO		100 mg	200 to 300 mg 1–2 hr before surgery	
Secobarbital sodium	PO [1]		100 mg	200 to 300 mg 1–2 hr before surgery	
	IM		100 to 200 mg.	Dentistry: 1 mg per lb body wt. For light sedation, 0.5 to 0.75 mg per lb 10–15 min before procedure.	
	IV		50 to 250 mg.	Dentistry: (prior to nerve block procedure 100–150 mg.	Tetanus: 2.5 mg per lb body wt repeated every 3–4 hr as needed.
	Rectal	120 to 200 mg daily in 3 divided doses.	120 to 200 mg.		
II. Less commonly used:					
Amobarbital	PO	50 to 300 mg daily in divided doses.	65 to 200 mg.		
Amobarbital sodium	PO	50 to 300 mg daily in divided doses.	65 to 200 mg.		
	IM, IV	30 to 50 2–3 times daily	65 to 200 mg.		
Aprobarbital	PO	40 mg 3 times daily.	40 to 160 mg.		
Butabarbital sodium	PO	15 to 30 mg 3–4 times daily	50 to 100 mg	50 to 100 mg 60–90 minutes before surgery.	
Hexobarbital	PO	250 mg repeated as needed.	250 to 500 mg.		
Mephobarbital	PO	90 to 400 mg in 3–4 divided doses.			200 mg at bedtime to 600 mg daily in divided doses.
Metharbital	PO				Usual dose: 100 mg 1–3 times daily. Dose range: 100 to 800 mg daily.
Talbutal	PO	30 to 60 mg 2–3 times daily	120 mg 15–30 min before retiring.		

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Dated: November 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-35842 Filed 11-17-80; 8:45 am]

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Tuesday
November 18, 1980

Part IV

Department of Energy

Economic Regulatory Administration

Voluntary Guideline for the Advertising Standard Under the Public Utility Regulatory Policies Act of 1978; Proposed Guideline and Public Hearing

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-80-39]

Voluntary Guideline for the Advertising Standard Under the Public Utility Regulatory Policies Act of 1978; Proposed Guideline and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Guideline and Public Hearing.

SUMMARY: Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA) establishes certain Federal purposes and policy standards for the regulation of electric utilities and imposes a set of obligations upon State regulatory authorities and certain nonregulated utilities with respect to the standards established by sections 111 and 113.

Pursuant to section 131 of PURPA, the Secretary of Energy may prescribe voluntary guidelines respecting consideration of the standards for electric utilities. The Appendix of this Notice is the proposed voluntary guideline respecting the advertising standard established by section 113(b)(5) of PURPA. Written comments will be received and a public hearing will be held with respect to the proposed guideline.

DATE: Written comments must be received by January 19, 1981, 4:30 p.m., e.d.t. A public hearing will be held beginning at 9:30 a.m., local time, on the date and location specified below:

City	Hearing date	Request to testify to be received by—	Submit request to testify to—	Hearing location
Washington, D.C.	Dec. 17, 1980	Dec. 10, 1980	Lorrain Hall, DOE, ERA, Room B210, 2000 M St. NW., Washington, D.C. 20461. Telephone (202) 653-3984.	Room 2105, 2000 M St., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 4016D, Washington, D.C. 20461, telephone (202) 653-3913. William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, telephone (202) 653-4055.

Arthur Perry Bruder, Office of the General Counsel, Department of Energy, 1000 Independence Avene, SW., Room 1E-258, Washington, D.C. 20585, telephone (202) 252-9516. Cynthia Ford, Office of Public Hearings Management, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-210, Washington, D.C. 20461 telephone (202) 653-3971.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), as one part of the National Energy Act.

Section 113(b)(5) of PURPA establishes an advertising standard applicable to electric utilities. The electric utility advertising standard, which must be considered by State regulatory authorities and certain nonregulated utilities in a manner specified by PURPA, provides that—

No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h).

Section 115(h) provides that for the purposes of section 113(b)(5)—

(A) The term "advertising" means the commercial use, by an electric utility of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

Section 115(h) further stipulates that the terms "political advertising" and "promotional advertising" do not include:

(A) Advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) Advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act,

(C) Advertising regarding service interruptions, safety measures or emergency conditions,

(D) Advertising concerning employment opportunities with such utility,

(E) Advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

The Advertising Standard for electric utilities does not restrict the type of advertising a utility may undertake. Rather, this standard is concerned solely with whether direct or indirect expenditures for certain types of advertising may be recoverable from the utility's ratepayers.

II. Guideline Issues

In promulgating this guideline, DOE's main objective is to offer guidance on those provisions of the standard concerned (a) with conservation oriented advertising (PURPA sections 115(h)(2) (A) and (B)), and (b) with advertising which promotes the use of energy efficient equipment (PURPA section 115(h)(2)(E)). The guideline focuses on these provisions primarily because of DOE's interest in increased efforts to encourage energy conservation. In particular, DOE is committed to encourage utilities to expand their role so that the energy needs of their customers, and the Nation, may be met in the most efficient and least costly manner. The other provisions of the advertising standard are not directly addressed in this guideline because they are relatively straightforward and do not appear to require more specific Federal guidance at this tilme to achieve their purpose.

This guideline does not suggest the regulatory authority prohibit or restrict the type of advertising undertaken by utilities. Therefore, this guideline does not conflict with the recent U.S. Supreme Court decisions in (1) *Central Hudson Gas and Electric Corporation v. Public Service Commission of New York*, 48 U.S.L.W. 4783, June 20, 1980, which held that a ban on utility promotional advertising violates the First and Fourteenth Amendments, or (2) *Consolidated Edison Company of New York v. Public Service Commission of New York*, 48 U.S.L.W. 4776, June 20, 1980, which held that a ban on utility bill inserts discussing controversial issues of public policy violates the First and Fourteenth Amendments.

A. Conservation Advertising

Utility advertising which encourages the conservation of, or the reduction of peak demand for electricity is consistent with the three purposes of PURPA and

can lead to reduced consumption of scarce fossil fuels. Such advertising can take a variety of forms. It might encourage residential customers to insulate their homes or it might promote the use of electrical or other equipment which is primarily designed to reduce overall electric energy consumption or to shift consumption from peak to offpeak periods. In the long run, all customers can benefit from such advertising.

B. Advertising Which Promotes the Efficient Use of Energy

Utility advertising which encourages the purchase of energy efficient appliances, equipment or services is also consistent with the three purposes of PURPA. The cost-effectiveness of such devices may vary from utility to utility, depending on the fuels involved. Therefore, this type of advertising should be considerd by the State regulatory authority on a utility-specific basis.

III. The Proposed Guideline

Comments are invited on all aspects of the proposed guideline. The guideline, when promulgated in final form, will be advisory in nature and not legally binding. It will, however, consititute DOE policy respecting consideration of the Federal standard for advertising.

IV. Written Comments and Public Hearing Procedures

A. Written Comments

The public is invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views or arguments with respect to the proposal set forth in the Appendix to this Notice. Comments should be submitted by 4:30 p.m. January 19, 1981, to the Public Hearings Division, Economic Regulatory Administration, Room B-210, 200 M Street, N.W., Washington, D.C. 20461. Comments should be identified on the outside of the envelope with the designation: "Proposed Voluntary Guideline on Advertising, Docket No. ERA-R-80-39". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, 1E-190, James Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

(1) *Procedures for Request to make Oral Presentation.* The time and place for the hearing are indicated in the "DATES" section of this Notice. Any person who has an interest in this proposed guideline or represents a person, group or class of persons that has an interest, may make a written request for an opportunity to speak at the public hearing. Requests to speak should be sent to the address shown in the "DATES" section and be received by December 10, 1980. The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified on or before December 12, 1980. Speakers should submit 100 copies of their hearing testimony for distribution at the hearing by 4:30 p.m., December 16, 1980, to the Office of Public Hearings Management, U.S. Department of Energy, Room B-210, 2000 M Street, NW., Washington, D.C. 20461.

(2) *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at these hearings (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

A DOE official will be designated to preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person at the hearings who wishes to ask a question may submit the question, in writing, to the presiding officer. The presiding officer will detemine whether these questions are relevant and whether time limitations permit them to be presented for answers. Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at the Freedom of Information Office, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, and at the Office Public Information, Economic Regulatory Adminstration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461.

In the event that it becomes necessary to cancel a hearing, every effort will be made to publish advance notice of the cancellation in the **Federal Register,** and DOE will notify all persons scheduled to testify at the hearing.

Since it is generally not possible to give actual notice of cancellations or changes to persons not participants, persons desiring to attend a hearing are advised to contact DOE on the last working day before the hearing to confirm that it will be held as scheduled.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C., on November 10, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Appendix.—PURPA Guideline Number 5: Advertising

A. Introduction

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) as one part of the National Energy Act.

Section 113(b)(5) of title I of PURPA establishes a standard for advertising for State regulatory authorities and certain nonregulated electric utilities. The standard provides that "no electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditures by such utility for promotional or political advertising as defined in section 115(h)."

Under section 115(h) of PURPA, advertising political advertising and promotional advertising, for the

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purposes of section 113(b)(5) are defined as follows:

(1) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(2) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance.

(3) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation or any appliance or equipment designed to use such utility's service.

(4) For purposes of section 113(b)(5), the terms "political advertising" and "promotional advertising" do not include—

"(A) Advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) Advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act,

(C) Advertising regarding service interruptions, safety measures, or emergency conditions,

(D) Advertising concerning employment opportunities with such utility.

(E) Advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon."

This guideline is limited to a discussion of the types of advertising set forth in (4)(A), (B) and (E) above.

B. Coverage

This guideline covers the PURPA standard on advertising and specifically addresses certain advertising direct or indirect expenditures which are exempt from the prohibitions established by the PURPA standard.

C. Definitions

As used in this guideline, except as otherwise specifically provided—

The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

The term "evidentiary hearing" means—

(1) In the case of a State agency, a proceeding which (a) is open to the public, (b) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (c) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (d) is subject to judicial review;

(2) In the case of a Federal agency, a proceeding conducted as provided in section 554, 556, and 557 of title 5, United States Code; and

(3) In the case of a pending conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of subparagraph (1).

The term "Federal agency" means an executive agency (as defined in section 105 of title 5 of the United States Code).

The term "nonregulated electric utility" means any electric utility other than a State regulated electric utility.

The term "rate" means (a) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation, or practice respecting any such rate, charge, or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

The term "ratepayer" means any person, State agency, or Federal agency, which purchases electric energy in accordance with an approved rate schedule.

The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

The term "State" means a State, the District of Columbia, and Puerto Rico.

The term "State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

D. DOE Guidance

In general, the PURPA advertising standard, if implemented by a State regulatory authority or nonregulated utility, would prohibit the recovery from ratepayers of direct or indirect expenditures for either political or promotional advertising. Section 115(h)(2) contains several exceptions to or clarifications of this general prohibition. Certain of these exceptions deserve careful attention in light of their implications for national energy policy. These are:

(1) Conservation advertising (sections 115(h)(2)(A) and (B) of PURPA); and

(2) Advertising which promotes the efficient use of energy (section 115(h)(2)(E) of PURPA).

Both conservation advertising and advertising which promotes the efficient use of energy are consistent with the purposes of title I of PURPA. Both can lead to reduced consumption of scarce fossil fuels. These exceptions are the focus of this guideline because of DOE's interest in increased efforts to encourage energy conservation. In particular, DOE is committed to encourage utilities to expand their role so that the energy needs of their customers, and the Nation, may be met in the most efficient and least costly manner.

1. *Conservation Advertising.* Advertising which encourages electric consumers to conserve energy or reduce peak demand for electric energy is beneficial to the utility, the utility's ratepayers and is in the public interest. Such advertising can result in the conservation of scarce imported fossil fuels either through reduced consumption during peak periods or the development of alternative technologies, e.g., load management devices and solar hot water heaters.

One of the more effective forms of conservation advertising is that which provides information on alternative ways to weatherize buildings, on specific methods for reducing energy usage, and on the cost saving potential of specific solar alternatives as a supplement to electric energy. General statements which promote the utility's own image or its activities related to energy conservation do not inform consumers how to conserve energy. Therefore, advertising of this type may not be exempted from the PURPA prohibitions relating to promotional advertising.

A good example of informative advertising is that required under the Residential Conservation Service (RCS) Program (specifically mentioned in section 115(h)(2)(B) of PURPA). The RCS Program, which is mandatory for all covered electric utilities, requires these utilities to provide certain types of information about residential energy conservation and renewable resource measures to all residential customers. This information includes a list of suggested measures, and estimate of the savings likely to result from their installation, an offer of an on-site energy audit and a list of qualified suppliers and contractors. Another example of informative advertising is that which emphasizes conservation opportunities that offer significant benefits at minimal cost.

Certain conservation oriented advertising may promote the purchase of electrical equipment used to shift the time period at which consumption occurs. Such advertising would encourage, among other things, reduced peak kilowatt consumption through the use of electric heat storage units, electric time clock control mechanisms, or other devices designed to limit or control maximum kilowatt demand. Such advertising is beneficial to the ratepayer since its objective is to reduce peak period demand, thus conserving scarce fossil fuels or lowering utility costs (and ratepayer bills) through the deferral of new plant construction.

2. *Advertising Which Promotes the Use of Energy Efficient Appliance, Equipment or Services.* This type of advertising may also be beneficial to the utility's ratepayers and in the public interest. It includes advertising which encourages the purchase of cost effective, efficient electric appliances to replace existing less efficient electric appliances, or advertising which promotes, the initial use of cost-effective, energy efficient appliances, equipment or services, e.g., heat pumps to replace less efficient or more costly types of heating equipment; electric equipment designed to supplement solar or other renewable resource systems; or electric water heaters designed to utilize waste heat from air conditioning systems.

Whether replacing other types of heating equipment with heat pumps will increase efficiency depends greatly on climate and other factors which vary substantially around the country. It should be recognized, for example, that conversions from oil heating to heat pumps might actually increase oil consumption in some regions. Therefore, it is appropriate that benefits to the ratepayers and the cost-effectiveness of these replacements be determined by the State regulatory authority or the nonregulated utility.

Advertising of energy efficient appliances is especially helpful to the electric consumer when it provides specific substantive information about the appliance, such as, appliance efficiency labeling and standards information and data regarding the life cycle costs of alternative appliances relative to the initial capital costs of such appliances.

[FR Doc. 80-35875 Filed 11-17-80; 8:45 am]
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federal register

Tuesday
November 18, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Mortgage Insurance and Home Improvement Loans; Changes in Maximum Mortgage Amounts

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 221, 226, 227, 234, and 240

[Docket No. R-80-885]

Mortgage Insurance and Home Improvement Loans; Changes in Maximum Mortgage Amounts

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: The Housing and Community Development Act of 1980 amended the National Housing Act to permit a change in the mortgage amounts under HUD's single family mortgage insurance programs.

EFFECTIVE DATE: November 18, 1980.

COMMENTS DUE: Comments must be received on or before January 19, 1981.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John D. McNees, Deputy Assistant Secretary, Single Family Housing and Mortgagee Activities, Department of Housing and Urban Development, Room 9282, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6675. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Act of 1980 was signed into law on October 8, 1980. Revisions are being made to Chapter II of the 24 CFR to change the maximum mortgage amounts for single family housing programs under Sections 203(b), and 220(d)(3)(A)(i), to reflect the new authorization. The maximum mortgage amounts under Sections 213, 222, 240, 244, 245(a), 245(b), 809, and 810 are incorporated by reference and continue to be those established for Section 203(b). This means that any of the programs stated above will utilize the increased mortgage amounts in designated areas, and otherwise the outstanding limits will apply. The maximum mortgage amount for Section 234(c) is also being revised and is listed separately.

Due to the regional differences in the cost of housing, the new provisions of the 1980 Act have provided for a more equitable means for establishing maximum mortgage amounts. Under this new authority, in areas where middle- and moderate-income persons have limited housing opportunities due to high prevailing housing sales prices, the maximum mortgage will be higher than those mortgage limits for areas where housing costs are not as great. Therefore, in areas where the high cost of housing is not considered a significant factor in determining the dollar limitation, the maximum mortgage amount will continue to be $67,500 for a one-family unit, $76,000 for a two-family unit, $92,000 for a three-family unit, and $107,000 for a four-family unit. In areas designated by the Commissioner as having limited housing opportunities, the formula set by statute for determining the maximum mortgage amount for a one-family unit is to be determined based on a level which does not exceed the lesser of (a) 133.33 percent of $67,500 ($90,000), or (b) 95 percent of the median sales price of a one-family residence in the area. The maximum mortgage amount for a two-family unit is based on a level which does not exceed the lesser of (a) 133.33 percent of $76,000 ($101,300), or 107 percent of the median sales price of a one-family residence in the area. The maximum mortgage amount for a three-family unit is based on a level which does not exceed the lesser of (a) 133.33 percent of $92,000 ($122,650), or 130 percent of the median sales price of a one-family residence in the area. The maximum mortgage amount for a four-family unit is based on a level which does not exceed the lesser of 133.33 percent of $107,000 ($142,650), or (b) 150 percent of the median sales price of a one-family residence in the area.

The formula for determining the maximum mortgage amount for mortgages insured under Section 234(c) has also been revised in the 1980 Act, with the same area designation as utilized under Section 203(b). The maximum mortgage amount for a one-family condominium continues to be $67,500 except in areas where limited housing opportunities for middle- and moderate-income persons exist, and the formula for determining the dollar limitation is a level which does not exceed the lesser of (a) 111 percent of $67,500 ($74,900), or (b) 95 percent of the median sales price of a one-family residence in the area.

To comply with the intent of the legislation, it is necessary for the Department to establish which areas are eligible for increases, as well as what the new maximum mortgage amount for these areas will be. These designations are the product of a Departmental review and analysis of recent year sales activity both nationally and in local housing markets which compared the base FHA mortgage limits and the patterns of sales prices in individual markets. Following the adjustments noted below, areas in which 95 percent of median sales price exceeded the base FHA mortgage limits were designated as ones in which middle- and moderate-income persons have limited housing opportunities due to high prevailing prices, and have received mortgage limit increases.

The primary data reference employed by HUD in the development of new area-wide limits was the Federal Home Loan Bank Board's (FHLBB's) survey of "Terms on Conventional Home Mortgages", the most comprehensive survey of home sales prices by local market areas presently available. From the survey, median sales price estimates by Standard Metropolitan Statistical Areas (SMSAs) and non-SMSA state-wide areas were obtained for the period of September 1979 through August 1980. HUD adjusted these estimates, first to trend them forward to the effective program year (Fiscal Year 1981), and second, to correct for the absence of FHA and VA activity in the FHLBB survey data. Other data sources, including the FHA Homes Series, a HUD report of Section 203(b) new and existing home sales, the Bureau of Census Construction Report Series and the National Association of Realtor's Existing Home Sales Survey, were used to augment FHLBB home sales data in cases of underreporting by individual SMSAs in the FHLBB data base. In addition, these data sources were employed for the purpose of assessing the validity of FHLBB survey estimates in predicting home purchase opportunities available to middle- and moderate-income persons in individual housing markets. Thus, where FHLBB data supported a higher mortgage limit, but where FHA data indicated that substantial numbers of households were finding houses well within the FHA limits, a higher mortgage limit was not approved.

The basic geographic units for which new area-wide mortgage limits were developed and assigned are SMSAs and non-SMSA areas within state boundaries. However, where it was feasible to do so and consistent with the statute's objectives, the Department combined data from two or more SMSAs or from SMSAs and non-SMSA areas to provide area-wide limits, thus reducing disparities between communities and simplifying the system for buyers, sellers, builders and mortgagees. Aggregate sales price data from contiguous SMSAs, or from SMSAs and non-SMSA areas on a HUD Field Office basis, were employed as a basis for mortgage limit assignments only where area housing markets are essentially homogeneous in character and where median home sales prices are comparable in amount.

In areas where middle- and moderate-income persons have limited housing opportunities due to high prevailing housing sales prices, an appendix is attached to the Section 203(b) regulations, and the Section 234(c) regulations identifying the maximum mortgage amount for the area. Any area not listed in the appendices will utilize the outstanding maximum mortgage amount of $67,500 (1-unit). Individuals who read the appendices will be able to determine what the maximum mortgage amounts for their area will be without reference to other publications.

In cases where interested parties determine that the designated maximum mortgage limits do not accurately reflect the extent to which middle- and moderate-income persons have limited housing opportunities in local market areas due to high prevailing housing sales prices, the parties may submit documented evidence in support of an alternative maximum mortgage limit. Such documentation should include local market sales price data for new and existing home sales covering a recent period of time (3 months or longer). Adjustments to mortgage limits will not be given to sub-market areas within SMSAs, or within non-SMSA state-wide areas. Requests for adjustments to maximum mortgage limits, together with the appropriate documentation, shall be submitted to the appropriate HUD Field Office for review and recommendation. Field Offices shall forward such requests, documentation and recommendations to the Assistant Secretary for Housing for determination.

The Secretary has determined that it is urgent that the benefits afforded by this provision of the Act be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment prior to the effective date of this regulation would cause a substantial delay in making the benefits available. A delay could cause unnecessary hardships to homebuyers who need to use the increased mortgage amounts which the Act provides. Therefore, the Secretary finds that notice and prior public procedure on this regulation would be contrary to the public interest. Since these regulations relieve restrictions contained in present regulations, it is necessary to accelerate the effective date as much as possible. However, an opportunity for public comment is being provided to be followed by issuance of a final rule. The Department is particularly interested in comments relating to: (1) alternative data sources; (2) alternative area designations (i.e. state-wide, larger than SMSA, smaller than SMSA); (3) particular groupings of SMSAs used; and (4) the basis for granting appeals. Accordingly, these amendments will become effective November 18, 1980.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act and the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act.

This rule is not listed in the Department's seminannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by the regulation change.

Section 203(b)=14.117 Mortgage Insurance—Homes (F), =14.118 Mortgage Insurance—Homes for Certified Veterans (F)
Section 213=14.126 Mortgage Insurance—Management Type Cooperative Projects (F)
Section 220=14.122 Mortgage Insurance—Homes In Urban Renewal Areas (F)
Section 221(d)(2)=14.120 Mortgage Insurance—Homes for Low and Moderate Income Families (F)
Section 222=14.166 Mortgage Insurance—Servicemen (F)
Section 234(c)=14.133 Mortgage Insurance—Purchase of Units in Condominiums (F)
Section 240=14.130 Mortgage Insurance—Purchase by Homeowners of the Fee Simple Title by Lessors (F)
Section 244=14.161 Single Family Mortgage Coinsurance (F)
Section 245(a) and 245(b)=14.159 Section 245 Graduated Payment Mortgage Program (F)
Section 809=14.167 Mortgage Insurance—Armed Services Housing—Civilian Employees (F)
Section 810=14.168 Armed Services Housing—Impacted Areas (F)

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME MORTGAGE IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

The following new Section is added and designated as § 203.18b.

§ 203.18b Increased mortgage amount.

(a) The dollar limitations specified in § 203.18(a) are increased to the amounts set forth in Appendix A to this part, for the geographical areas indicated in the Appendix. In any geographical area where the Commissioner finds that middle- and moderate-income persons have limited housing opportunities due to the high prevailing housing sales prices, the Commissioner may change the dollar limitations specified in § 203.18(a) or in Appendix A to the extent he/she deems necessary by publishing the dollar limitation in the **Federal Register.**

(b) The increased dollar limitation shall not exceed the lesser of (1) 133.33 percent of the dollar limitation specified in § 203.18(a), or (2) the following percentage of the median one-family house price in the area as determined by the Commissioner.

(i) 95 percent for a one-family residence.

(ii) 107 percent for a two-family residence.

(iii) 130 percent for a three-family residence.

(iv) 150 percent for a four-family residence.

Section 203.43c paragraphs (a) and (g) are revised to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.18b, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43b, 203.44, 203.45, and 203.50 of this part shall not apply to mortgages insured under Section 203(n) of the National Housing Act.

* * * * *

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(g) The mortgage shall not exceed the balance remaining after subtracting from the amount determined under §§ 203.18(a), 203.18a, and 203.18b of this part an amount equal to the portion of the unpaid balance of the blanket mortgage covering the cooperative development which is attributable to the dwelling unit the mortgagor is entitled to occupy as of the date the mortgage is accepted for insurance.

* * * * *

Section 203.44 is amended by revising paragraph (g) to read as follows:

§ 203.44 Eligibility of open-end advances.

* * * * *

(g) The amount of any such advance (computed in even dollar amounts) when added to the unpaid balance of the original principal obligation of the mortgage shall not exceed the original principal obligation of the mortgage: *Provided,* That if the mortgagor certifies that the proceeds of such open-end advance will be used to finance the construction of an additional room or rooms or other additional enclosed space as a part of the dwelling, the aggregate amount of the unpaid balance of the original principal obligation, plus the amount of the open-end advance, may exceed the amount of the original principal obligation of the mortgage, but in no event shall such aggregate amount exceed the maximum amounts prescribed by the limitations of §§ 203.18, 203.18a, 203.18b, or 203.43.

* * * * *

Section 203.45 is amended by revising paragraph (c)(1) to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(c) * * *

(1) The limits prescribed by §§ 203.18(a), 203.18(b), 203.18a, and 203.18b or,

* * * * *

Section 203.46 is amended to revise paragraph (d)(1) to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(d) * * *

(1) The limits prescribed in §§ 203.18(a), 203.18(b), 203.18a, and 203.18b: *Provided,* That the appraised value shall not exceed 110 percent of the median prototype housing costing limits as established by the Commissioner for the market area in which the property is located, or

* * * * *

Section 203.50 is amended by revising paragraphs (f)(1) and (2) to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

* * * * *

(f) * * *

(1) The limits prescribed in §§ 203.18(a)(1) and (2), 203.18(c), 203.18a, and 203.18b, based upon the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation, or

(2) The limits prescribed in §§ 203.18(a)(1) and (2), 203.18(c), 203.18a, and 203.18b, based upon 110 percent of the Commissioner's estimate of value of the property after rehabilitation.

* * * * *

Part 203 is amended by adding the following Appendix A at the end of the Part:

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APPENDIX A

SCHEDULE OF SECTION 203(b) AREA-WIDE ONE- TO FOUR-FAMILY MORTGAGE LIMITS

For any market area (county or part of a county) not listed in Appendix A below, the following maximum mortgage limits shall apply: $67,500 for a one-family unit; $76,000 for a two-family unit; $92,000 for a three-family unit; and $107,000 for a four-family unit.

Region I

HUD Field Office: Hartford Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
BRIDGEPORT, CT SMSA	Fairfield County (part) -- Bridgeport City -- Shelton City -- Easton Town -- Fairfield Town -- Monroe Town -- Stratford Town -- Trumbull Town New Haven County (part) -- Derby City -- Milford City	$ 69,500	$ 78,500	$ 95,500	$ 110,000
DANBURY, CT SMSA	Fairfield County (part) -- Danbury City -- Bethel Town -- Brookfield Town -- New Fairfield Town -- Newtown Town -- Redding Town Litchfield County (part) -- New Milford Town	$ 75,000	$ 84,000	$ 102,500	$ 118,000
NORWALK, CT SMSA	Fairfield County (part) -- Norwalk City -- Weston Town -- Westport Town -- Wilton Town	$ 75,000	$ 84,000	$ 102,500	$ 118,000
STAMFORD, CT SMSA	Fairfield County (part) -- Stamford City -- Darien Town -- Greenwich Town -- New Canaan Town	$ 75,000	$ 84,000	$ 102,500	$ 118,000

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Region II

HUD Field Office: New York Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
NEW YORK AND NASSAU-SUFFOLK, NY SMSAS (Combined)	Bronx County Kings County Nassau County New York County Putnam County Queens County Richmond County Rockland County Suffolk County Westchester County	$ 72,000	$ 81,000	$ 98,500	$ 113,500

HUD Field Office: Newark Area Office

STATE OF NEW JERSEY --NORTHERN METRO AREAS	Bergen County Essex County Hudson County Middlesex County Monmouth County Morris County Passaic County Somerset County Union County	$ 77,000	$ 86,500	$ 105,000	$ 122,000

HUD Field Office: Camden Service Office

ATLANTIC CITY, NJ SMSA	Atlantic County	$ 69,000	$ 77,500	$ 94,000	$ 108,500
TRENTON, NJ SMSA	Mercer County	$ 68,500	$ 77,000	$ 93,500	$ 108,000

Region III

HUD Field Office: Washington, DC Area Office

WASHINGTON, DC-MD-VA SMSA	District of Columbia Montgomery County, MD Prince Georges County, MD Alexandria City, VA Fairfax City, VA Falls Church City, VA Manassas City, VA Manassas Park City, VA Arlington County, VA Fairfax County, VA Loudoun County, VA Prince William County, VA	$ 89,500	$ 100,500	$ 122,000	$ 141,500

HUD Field Office: Baltimore Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
WASHINGTON, DC-MD-VA SMSA	Charles County, MD	$ 89,500	$ 100,500	$ 122,000	$ 141,500

HUD Field Office: Richmond Area Office

NEWPORT NEWS-HAMPTON AND NORFOLK-VA BEACH-PORTSMOUTH, VA SMSAS (Combined)	Chesapeake City Hampton City Newport News City Norfolk City Poquoson City Portsmouth City Suffolk City Virginia Beach City Williamsburg City Gloucester County James City County York County	$ 76,500	$ 86,000	$ 104,500	$ 120,500

Region IV

HUD Field Office: Greensboro Area Office

NEWPORT NEWS-HAMPTON AND NORFOLK-VA BEACH-PORTSMOUTH, VA SMSA	Currituck County	$ 76,500	$ 86,000	$ 104,500	$ 120,500

HUD Field Office: Columbia Area Office

CHARLESTON-NORTH CHARLESTON, SC SMSA	Berkeley County Charleston County Dorchester County	$ 75,000	$ 84,000	$ 102,500	$ 118,000

HUD Field Office: Atlanta Area Office

ATLANTA, GA SMSA	Butts County Cherokee County Clayton County Cobb County De Kalb County Douglas County Fayette County Forsyth County Fulton County Gwinnett County Henry County Newton County Paulding County Rockdale County Walton County	$ 70,500	$ 79,000	$ 96,500	$ 111,000

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HUD Field Office: Birmingham Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
MOBILE, AL SMSA	Baldwin County Mobile County	$ 75,000	$ 84,000	$ 102,500	$ 118,000
MONTGOMERY, AL SMSA	Autauga County Elmore County Montgomery County	$ 75,000	$ 84,000	$ 102,500	$ 118,000

HUD Field Office: Memphis Service Office

MEMPHIS, TN-AR-MS SMSA	Shelby County Tipton County	$ 75,000	$ 84,000	$ 102,500	$ 118,000

HUD Field Office: Jackson Area Office

MEMPHIS, TN-AR-MS SMSA	De Soto County	$ 75,000	$ 84,000	$ 102,500	$ 118,000

Region V

HUD Field Office: Minneapolis-St. Paul Area Office

MINNEAPOLIS-ST PAUL, MN SMSA	Anoka County Carver County Chisago County Dakota County Hennepin County Ramsey County Scott County Washington County Wright County	$ 71,000	$ 80,000	$ 97,500	$ 112,500

HUD Field Office: Milwaukee Area Office

MINNEAPOLIS-ST PAUL, MN SMSA	St. Croix County	$ 71,000	$ 80,000	$ 97,500	$ 112,500
MILWAUKEE, WI SMSA	Milwaukee County Ozaukee County Washington County Waukesha County	$ 71,500	$ 80,500	$ 98,000	$ 113,000

Region VI

HUD Field Office: Dallas Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
DALLAS-FT. WORTH AND SHERMAN-DENISON, TX SMSAS (Combined)	Collin County Dallas County Denton County Ellis County Grayson County Kaufman County Rockwall County	$ 70,500	$ 79,000	$ 96,000	$ 111,000

HUD Field Office: Fort Worth Service Office

DALLAS-FT. WORTH AND SHERMAN-DENISON, TX SMSAS (Combined)	Hood County Johnson County Parker County Tarrant County Wise County	$ 70,500	$ 79,000	$ 96,000	$ 111,000

HUD Field Office: Houston Service Office

HOUSTON, TX SMSA	Brazoria County Ft. Bend County Harris County Liberty County Montgomery County Waller County	$ 69,500	$ 78,000	$ 95,000	$ 109,500

HUD Field Office: Lubbock Service Office

AMARILLO, TX SMSA	Potter County Randall County	$ 68,500	$ 77,000	$ 93,500	$ 108,000
LUBBOCK, TX SMSA	Lubbock County	$ 70,000	$ 78,500	$ 95,500	$ 110,500
MIDLAND, TX SMSA	Ector County Midland County	$ 70,000	$ 78,500	$ 95,500	$ 110,500

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Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
HUD Field Office: San Antonio Area Office					
AUSTIN AND SAN ANTONIO, TX SMSAS (Combined)	Bexar County Comal County Guadalupe County Hays County Travis County Williamson County	$ 69,500	$ 78,500	$ 95,500	$ 110,000
CORPUS CHRISTI, TX SMSA	Nueces County San Patricio County	$ 70,000	$ 78,500	$ 95,500	$ 110,500
HUD Field Office: Little Rock Area Office					
MEMPHIS, TN-AR-MS SMSA	Crittenden County	$ 75,000	$ 84,000	$ 102,500	$ 118,000
HUD Field Office: New Orleans Area Office					
BATON ROUGE AND NEW ORLEANS, LA SMSAS (Combined)	Ascension Parish East Baton Rouge Parish Jefferson Parish Livingston Parish Orleans Parish St. Bernard Parish St. Tammany Parish West Baton Rouge Parish	$ 71,500	$ 80,500	$ 98,000	$ 113,000
HUD Field Office: Albuquerque Service Office					
ALBUQUERQUE, NM SMSA	Bernalillo County Sandoval County	$ 70,500	$ 79,500	$ 97,000	$ 111,500
HUD Field Office: Tulsa Service Office					
TULSA, OK SMSA	Creek County Mayes County Osage County Rogers County Tulsa County Wagoner County	$ 69,000	$ 78,000	$ 94,500	$ 109,500

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
Region VIII					
HUD Field Office: Denver Area Office					
DENVER-BOULDER, CO SMSA	Adams County Arapahoe County Boulder County Denver County Douglas County Gilpin County Jefferson County	$ 70,500	$ 79,500	$ 96,500	$ 111,500
HUD Field Office: Helena Service Office					
BILLINGS, MN SMSA	Yellowstone County	$ 75,000	$ 84,000	$ 102,500	$ 118,000
GREAT FALLS, MN SMSA	Cascade County	$ 75,000	$ 84,000	$ 102,500	$ 118,000
Region IX					
HUD Field Office: Los Angeles Area Office					
LOS ANGELES AREA OFFICE METRO AND NON-METRO AREAS	Los Angeles County San Luis Obispo County Santa Barbara County Ventura County	$ 90,000	$ 101,300	$ 122,600	$ 142,600
HUD Field Office: San Francisco Area Office					
SAN FRANCISCO AREA OFFICE METRO AND NON-METRO AREAS	Alameda County Contra Costa County Del Norte County Humboldt County Lake County Marin County Mendocin County Monterey County Napa County San Benito County San Francisco County San Mateo County Santa Clara County Santa Cruz County Solano County Sonoma County	$ 90,000	$ 101,300	$ 122,600	$ 142,600

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Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
HUD Field Office: Fresno Service Office					
FRESNO SERVICE OFFICE METRO AND NON-METRO AREAS	Fresno County Kern County Kings County Madera County Mariposa County Merced County Stanislaus County Tulare County	$ 69,500	$ 78,000	$ 95,000	$ 110,000
HUD Field Office: Sacramento Service Office					
SACRAMENTO SERVICE OFFICE METRO AND NON-METRO AREAS	Alpine County Amador County Butte County Calaveras County Colusa County El Dorado County Glenn County Lassen County Modoc County Nevada County Placer County Plumas County Sacramento County San Joaquin County Shasta County Sierra County Siskiyou County Sutter County Tehama County Trinity County Tuolumne County Yolo County Yuba County	$ 79,000	$ 89,000	$ 108,500	$ 125,000
HUD Field Office: San Diego Service Office					
SAN DIEGO SERVICE OFFICE METRO AND NON-METRO AREAS	Imperial County San Diego County	$ 87,500	$ 98,000	$ 119,500	$ 138,000

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
HUD Field Office: Santa Ana Service Office					
SANTA ANA SERVICE OFFICE METRO AREAS	Orange County Riverside County San Bernardino County	$ 90,000	$ 101,300	$ 122,600	$ 142,600
SANTA ANA SERVICE OFFICE NON-METRO AREAS	Inyo County Mono County	$ 69,500	$ 78,000	$ 95,000	$ 110,000
HUD Field Office: Las Vegas Service Office					
LAS VEGAS, NV SMSA	Clark County	$ 90,000	$ 101,300	$ 122,600	$ 142,600
STATE OF NEVADA—NON-METRO AREAS	Lincoln County Nye County (part)	$ 75,000	$ 84,000	$ 102,500	$ 118,000
HUD Field Office: Reno Service Office					
RENO, NV SMSA	Washoe County	$ 86,500	$ 97,500	$ 118,500	$ 136,500
STATE OF NEVADA—NON-METRO AREAS	Carson City County Churchill County Douglas County Elko County Esmeralda County Eureka County Humboldt County Lander County Lyon County Mineral County Nye County (part) Pershing County Storey County White Pine County	$ 75,000	$ 84,000	$ 102,500	$ 118,000
HUD Field Office: Phoenix Service Office					
PHOENIX, AZ SMSA	Maricopa County	$ 81,000	$ 91,500	$ 111,500	$ 128,500
HUD Field Office: Tucson Service Office					
TUCSON, AZ SMSA	Pima County	$ 68,500	$ 77,000	$ 94,000	$ 108,000

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Region X

HUD Field Office: Seattle Area Office

Market Area Designation	Local Jurisdictions	Section 203(b) Mortgage Limits 1-Family	2-Family	3-Family	4-Family
SEATTLE-EVERETT AND TACOMA, WA SMSAS (Combined)	King County Pierce County Snohomish County	$ 71,000	$ 80,000	$ 97,500	$ 112,500
RICHLAND-KENNEWICK AND YAKIMA, WA SMSAS (Combined)	Yakima County	$ 72,000	$ 81,500	$ 99,000	$ 114,000

HUD Field Office: Spokane Service Office

RICHLAND-KENNEWICK AND YAKIMA, WA SMSAS (Combined)	Benton County Franklin County	$ 72,000	$ 81,500	$ 99,000	$ 114,000

HUD Field Office: Boise Service Office

BOISE CITY, ID SMSA	Ada County	$ 70,000	$ 78,500	$ 95,500	$ 110,500

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PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart A—Eligibility Requirements—Homes

Section 220.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 220.1 Cross-reference.

(a) * * *

Sec.
203.15 Certification of appraisal amount.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.28 Economic soundness of project.
203.40 Location of property.
203.42 Rental properties.
203.50 Eligibility of rehabilitation loans.
* * * * *

Section 220.25 is amended to read as follows:

§ 220.25 Maximum mortgage amounts—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation set forth in § 203.18(a)(1) or § 203.18b plus not to exceed $9,165 for each additional unit in excess of four.

Section 220.100 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 220.100 Incorporation by reference.

(a) * * *

Sec.
203.14 Builder's warranty.
203.15 Certification of appraisal amount.
203.17 Mortgage provisions.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments when mortgage is executed.
203.28 Economic soundness of project.
203.32 Mortgage lien.
203.37 Nature of title to realty.
203.38 Location of dwelling.
203.40 Location of property.
203.42 Rental properties.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.
203.45 Eligibility of graduated payment mortgages.
203.46 Eligibility of modified graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.
* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Low Cost Homes

Section 221.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 221.1 Cross-reference.

(a) * * *

Sec.
203.17 Mortgage provisions.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.28 Economic soundness of project.
203.40 Location of property.
203.42 Rental properties.
203.45 Eligibility of graduated payment mortgages.
203.46 Eligibility of modified graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.
* * * * *

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

Section 222.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 221.1 Cross-reference

(a) * * *

Sec.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.24 Application of payments.
203.31 Owner-occupancy in military service cases.
203.38 Location of dwelling.
203.50 Eligibility of rehabilitation loans.
* * * * *

Section 222.3 is amended to read as follows:

§ 222.3 Maximum mortgage amounts—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation for a one-family residence set forth in § 203.18(a)(1) or § 203.18b or for a one-family unit in a condominium project set forth in § 234.27, except that a mortgage meeting the requirements of §§ 203.18(d), 221.10 or 221.11 shall not exceed the dollar limitation provided in the applicable section.

PART 226—ARMED SERVICES HOUSING CIVILIAN EMPLOYEES (SECTION 809)

Subpart A—Eligibility Requirements

Section 226.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 226.1 Cross-reference.

(a) * * *

Sec.
203.18 Maximum mortgage amount.
203.18a Solar energy systems
203.18b Increased mortgage amount.
203.28 Economic soundness of project.
203.42 Rental properties.
203.43a Eligibility of housing in declining urban areas.
203.50 Eligibility of rehabilitation loans.
* * * * *

Section 226.4 is amended to read as follows:

§ 226.4 Maximum mortgage amount—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation set forth in § 203.18(a)(1) or § 203.18b.

PART 227—ARMED SERVICES HOUSING IMPACTED AREAS (SEC. 810)

Subpart C—Eligibility Requirements—Individual Mortgages

Section 227.501 is amended by revising the list of provisions in paragraph (b) to read as follows:

§ 227.501 Cross-reference.

* * * * *

(b)(1) * * *

Sec.
203.17 Mortgage provisions.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.28 Economic soundness of project.
203.29 Eligible mortgages in Alaska, Guam or Hawaii.
203.40 Location of property.
203.42 Rental properties.
203.43 Eligibility of miscellaneous type mortgages.
203.43a Eligibility of housing in declining urban areas.
203.50 Eligibility of rehabilitation loans.
(2) * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

Section 234.27 is amended by revising paragraph (b) to read as follows:

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§ 234.27 Maximum mortgage amounts.

(a) * * *

(b) *Increased mortgage amount.* The dollar limitations specified in subparagraph (a)(1) of this section are increased to the amounts set forth in Appendix A to this part, for the geographical areas indicated in the Appendix. In any geographical area where the Commissioner finds that middle- and moderate-income persons have limited housing opportunities due to the high prevailing housing sales prices, the Commissioner may increase or decrease the dollar limitations specified in § 234.27(a) or in Appendix A to the extent he/she deems necessary by publishing the dollar limitation in the **Federal Register.** The increased dollar limitation shall not exceed the lesser of 111 percent of the amount specified in subparagraph (a)(1) or 95 percent of the median one-family house price in the area as determined by the Commissioner.

* * * * *

Section 234.75 is amended by revising paragraph (c)(1) to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(c) * * *

(1) The limits prescribed in §§ 234.27(a), 234.27(b), and 234.27(c), or

* * * * *

Section 234.76 is amended by revising paragraph (d) to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(d) * * *

(1) The limits prescribed in §§ 234.27(a), 234.27(b), and 234.27(c), provided that the appraised value shall not exceed 110 percent of the median prototype housing cost limits as established by the Commissioner for the market area in which the property is located.

* * * * *

Part 234 is amended by adding the following Appendix A at the end of the Part:

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APPENDIX A

SCHEDULE OF SECTION 234(c) AREA-WIDE ONE-FAMILY MORTGAGE LIMITS

For any market area (county or part of a county) not listed in Appendix A below, the maximum mortgage limit for a one-family condominium unit insured under Section 234(c) shall be $67,500.

Region I

HUD Field Office: Hartford Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
BRIDGEPORT, CT SMSA	Fairfield County (part) -- Bridgeport City -- Shelton City -- Easton Town -- Fairfield Town -- Monroe Town -- Stratford Town -- Trumbull Town New Haven County (part) -- Derby City -- Milford City	$ 69,500
DANBURY, CT SMSA	Fairfield County (part) -- Danbury City -- Bethel Town -- Brookfield Town -- New Fairfield Town -- Newtown Town -- Redding Town Litchfield County (part) -- New Milford Town	$ 74,900
NORWALK, CT SMSA	Fairfield County (part) -- Norwalk City -- Weston Town -- Westport Town -- Wilton Town	$ 74,900
STAMFORD, CT SMSA	Fairfield County (part) -- Stamford City -- Darien Town -- Greenwich Town -- New Canaan Town	$ 74,900

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Region II

HUD Field Office: New York Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
NEW YORK AND NASSAU-SUFFOLK, NY SMSAS (Combined)	Bronx County Kings County Nassau County New York County Putnam County Queens County Richmond County Rockland County Suffolk County Westchester County	$ 72,000

HUD Field Office: Newark Area Office

STATE OF NEW JERSEY—NORTHERN METRO AREAS	Bergen County Essex County Hudson County Middlesex County Monmouth County Morris County Passaic County Somerset County Union County	$ 74,900

HUD Field Office: Camden Service Office

ATLANTIC CITY, NJ SMSA	Atlantic County	$ 69,000
TRENTON, NJ SMSA	Mercer County	$ 68,500

Region III

HUD Field Office: Washington, DC Area Office

WASHINGTON, DC-MD-VA SMSA	District of Columbia Montgomery County, MD Prince Georges County, MD Alexandria City, VA Fairfax City, VA Falls Church City, VA Manassas City, VA Manassas Park City, VA Arlington County, VA Fairfax County, VA Loudoun County, VA Prince William County, VA	$ 74,900

HUD Field Office: Baltimore Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
WASHINGTON, DC-MD-VA SMSA	Charles County, MD	$ 74,900

HUD Field Office: Richmond Area Office

NEWPORT NEWS-HAMPTON AND NORFOLK-VA BEACH-PORTSMOUTH, VA SMSAS (Combined)	Chesapeake City Hampton City Newport News City Norfolk City Poquoson City Portsmouth City Suffolk City Virginia Beach City Williamsburg City Gloucester County James City County York County	$ 74,900

Region IV

HUD Field Office: Greensboro Area Office

NEWPORT NEWS-HAMPTON AND NORFOLK-VA BEACH-PORTSMOUTH, VA SMSA	Currituck County	$ 74,900

HUD Field Office: Columbia Area Office

CHARLESTON-NORTH CHARLESTON, SC SMSA	Berkeley County Charleston County Dorchester County	$ 74,900

HUD Field Office: Atlanta Area Office

ATLANTA, GA SMSA	Butts County Cherokee County Clayton County Cobb County De Kalb County Douglas County Fayette County Forsyth County Fulton County Gwinnett County Henry County Newton County Paulding County Rockdale County Walton County	$ 70,500

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HUD Field Office: Birmingham Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
MOBILE, AL SMSA	Baldwin County Mobile County	$ 74,900
MONTGOMERY, AL SMSA	Autauga County Elmore County Montgomery County	$ 74,900

HUD Field Office: Memphis Service Office

MEMPHIS, TN-AR-MS SMSA	Shelby County Tipton County	$ 74,900

HUD Field Office: Jackson Area Office

MEMPHIS, TN-AR-MS SMSA	De Soto County	$ 74,900

Region V

HUD Field Office: Minneapolis-St. Paul Area Office

MINNEAPOLIS-ST PAUL, MN SMSA	Anoka County Carver County Chisago County Dakota County Hennepin County Ramsey County Scott County Washington County Wright County	$ 71,000

HUD Field Office: Milwaukee Area Office

MINNEAPOLIS-ST PAUL, MN SMSA	St. Croix County	$ 71,000
MILWAUKEE, WI SMSA	Milwaukee County Ozaukee County Washington County Waukesha County	$ 71,500

Region VI

HUD Field Office: Dallas Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
DALLAS-FT. WORTH AND SHERMAN-DENISON, TX SMSAS (Combined)	Collin County Dallas County Denton County Ellis County Grayson County Kaufman County Rockwall County	$ 70,500

HUD Field Office: Fort Worth Service Office

DALLAS-FT. WORTH AND SHERMAN-DENISON, TX SMSAS (Combined)	Hood County Johnson County Parker County Tarrant County Wise County	$ 70,500

HUD Field Office: Houston Service Office

HOUSTON, TX SMSA	Brazoria County Ft. Bend County Harris County Liberty County Montgomery County Waller County	$ 69,500

HUD Field Office: Lubbock Service Office

AMARILLO, TX SMSA	Potter County Randall County	$ 68,500
LUBBOCK, TX SMSA	Lubbock County	$ 70,000
MIDLAND, TX SMSA	Ector County Midland County	$ 70,000

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Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limits
HUD Field Office: San Antonio Area Office		
AUSTIN AND SAN ANTONIO, TX SMSAS (Combined)	Bexar County Comal County Guadalupe County Hays County Travis County Williamson County	$ 69,500
CORPUS CHRISTI, TX SMSA	Nueces County San Patricio County	$ 70,000
HUD Field Office: Little Rock Area Office		
MEMPHIS, TN-AR-MS SMSA	Crittenden County	$ 74,900
HUD Field Office: New Orleans Area Office		
BATON ROUGE AND NEW ORLEANS, LA SMSAS (Combined)	Ascension Parish East Baton Rouge Parish Jefferson Parish Livingston Parish Orleans Parish St. Bernard Parish St. Tammany Parish West Baton Rouge Parish	$ 71,500
HUD Field Office: Albuquerque Service Office		
ALBUQUERQUE, NM SMSA	Bernalillo County Sandoval County	$ 70,500
HUD Field Office: Tulsa Service Office		
TULSA, OK SMSA	Creek County Mayes County Osage County Rogers County Tulsa County Wagoner County	$ 69,000

Region VIII

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
HUD Field Office: Denver Area Office		
DENVER-BOULDER, CO SMSA	Adams County Arapahoe County Boulder County Denver County Douglas County Gilpin County Jefferson County	$ 70,500
HUD Field Office: Helena Service Office		
BILLINGS, MN SMSA	Yellowstone County	$ 74,900
GREAT FALLS, MN SMSA	Cascade County	$ 74,900

Region IX

HUD Field Office: Los Angeles Area Office		
LOS ANGELES AREA OFFICE METRO AND NON-METRO AREAS	Los Angeles County San Luis Obispo County Santa Barbara County Ventura County	$ 74,900
HUD Field Office: San Francisco Area Office		
SAN FRANCISCO AREA OFFICE METRO AND NON-METRO AREAS	Alameda County Contra Costa County Del Norte County Humboldt County Lake County Marin County Mendocin County Monterey County Napa County San Benito County San Francisco County San Mateo County Santa Clara County Santa Cruz County Solano County Sonoma County	$ 74,900

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HUD Field Office: Fresno Service Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
FRESNO SERVICE OFFICE METRO AND NON-METRO AREAS	Fresno County Kern County Kings County Madera County Mariposa County Merced County Stanislaus County Tulare County	$ 69,500

HUD Field Office: Sacramento Service Office

SACRAMENTO SERVICE OFFICE METRO AND NON-METRO AREAS	Alpine County Amador County Butte County Calaveras County Colusa County El Dorado County Glenn County Lassen County Modoc County Nevada County Placer County Plumas County Sacramento County San Joaquin County Shasta County Sierra County Siskiyou County Sutter County Tehama County Trinity County Tuolumne County Yolo County Yuba County	$ 74,900

HUD Field Office: San Diego Service Office

SAN DIEGO SERVICE OFFICE METRO AND NON-METRO AREAS	Imperial County San Diego County	$ 74,900

HUD Field Office: Santa Ana Service Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
SANTA ANA SERVICE OFFICE METRO AREAS	Orange County Riverside County San Bernardino County	$ 74,900
SANTA ANA SERVICE OFFICE NON-METRO AREAS	Inyo County Mono County	$ 69,500

HUD Field Office: Las Vegas Service Office

LAS VEGAS, NV SMSA	Clark County	$ 74,900
STATE OF NEVADA—NON-METRO AREAS	Lincoln County Nye County (part)	$ 74,900

HUD Field Office: Reno Service Office

RENO, NV SMSA	Washoe County	$ 74,900
STATE OF NEVADA—NON-METRO AREAS	Carson City County Churchill County Douglas County Elko County Esmeralda County Eureka County Humboldt County Lander County Lyon County Mineral County Nye County (part) Pershing County Storey County White Pine County	$ 74,900

HUD Field Office: Phoenix Service Office

PHOENIX, AZ SMSA	Maricopa County	$ 74,900

HUD Field Office: Tucson Service Office

TUCSON, AZ SMSA	Pima County	$ 68,500

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Region X

HUD Field Office: Seattle Area Office

Market Area Designation	Local Jurisdictions	Section 234(c) Mortgage Limit
SEATTLE-EVERETT AND TACOMA, WA SMSAS (Combined)	King County Pierce County Snohomish County	$ 71,000
RICHLAND-KENNEWICK AND YAKIMA, WA SMSAS (Combined)	Yakima County	$ 72,000

HUD Field Office: Spokane Service Office

RICHLAND-KENNEWICK AND YAKIMA, WA SMSAS (Combined)	Benton County Franklin County	$ 72,000

HUD Field Office: Boise Service Office

BOISE CITY, ID SMSA	Ada County	$ 70,000

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PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOMEOWNERSHIP AND PROJECT REHABILITATION

Subpart A General; Eligibility Requirements—Homes for Lower Income Families

Section 235.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

§ 235.1 Cross-reference.

(a) * * *

Sec.
203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.
203.17 Mortgage provisions.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.25 Late charge.
203.28 Economic soundness of project.
203.29 Eligible mortgages in Alaska, Guam or Hawaii.
203.33 Relationship of income to mortgage payments.
203.36 Certificate and contract regarding use of dwelling for transient or hotel purposes.
203.38 Location of dwelling.
203.42 Rental properties.
203.43 Eligibility of miscellaneous type mortgages.
203.44 Eligibility of open-end advances.
203.45 Eligibility of graduated payment mortgages.
203.46 Eligibility of modified graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.
* * * * *

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

Subpart A—Eligibility Requirements

Section 240.1 is amended by revising the list of provisions in paragraph (a) to read as follows:

* * * * *

Sec.
203.14 Builder's warranty.
203.15 Certification of appraisal amount.
203.16a Mortgagor and mortgagee requirement for maintaining insurance coverage.
203.17 Mortgage provisions.
203.18 Maximum mortgage amount.
203.18a Solar energy systems.
203.18b Increased mortgage amount.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments when mortgage is executed.
203.28 Economic soundness of project.
203.32 Mortgage lien.
203.37 Nature of title to realty.
203.38 Location of dwelling.
203.39 Standard for buildings.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.
203.45 Eligibility of graduated payment mortgages.
203.46 Eligibility of modified graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.
* * * * *

Section 240.5 is amended by revising paragraph (b) to read as follows:

§ 240.5 Maximum loan amounts.

* * * * *

(b) An amount which when added to any outstanding indebtedness related to the property, as determined by the Commissioner, creates a total outstanding indebtedness which does not exceed the limits prescribed in §§ 203.18(a)(1), 203.18(b), 203.18(c), 203.18a, 203.18b of this Chapter as applicable.

Authority: (Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715)).

Issued at Washington, D.C., October 24, 1980.

Clyde McHenry,
Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-35909 Filed 11-14-80; 8:45 am]

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Tuesday
November 18, 1980

Part VI

Environmental Protection Agency

Standards of Performance for New Stationary Sources: Asphalt Processing and Asphalt Roofing Manufacture and Priority List; Proposed Rules and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-1505-7]

Standards of Performance for New Stationary Sources; Asphalt Processing and Asphalt Roofing Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit atmospheric emissions of particulate matter from new, modified, and reconstructed asphalt blowing stills, asphalt saturators, asphalt storage tanks, and mineral handling and storage operations in the asphalt processing and roofing manufacturing industry. In addition, the proposed standards will limit the opacity of emissions from asphalt blowing stills, asphalt saturators, asphalt storage tanks, and mineral handlings and storage operations and fugitive emissions from asphalt saturator hooding. Two EPA reference methods are also being proposed along with the standards.

The standards implement Section 111 of the clean Air Act and are based on the Administrator's determination that asphalt processing and asphalt roofing manufacturing facilities contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect is to require new, modified, and reconstructed affected facilities in asphalt roofing manufacturing plants, oil refineries, and asphalt processing plants to use the best demonstrated system of continuous emission reduction, considering costs, non-air quality health and environmental impacts, and energy impacts.

If requested, a public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before January 19, 1981.

Public Hearing. A public hearing will be held, if requested. Persons wishing to request a public hearing must contact EPA by December 2, 1980. If a hearing is requested, an announcement of the date and place will appear in a separate **Federal Register** notice.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. OAQPS A-79-39. U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. Persons wishing to request a public hearing should notify Ms. Deanna B. Tilley, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 451-5477.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone (919) 541-2777. Please refer to "Asphalt Roofing Manufacturing Industry, Background Information for Proposed Standards," EPA-450/3-80-021a.

Docket. A docket, number OAQPS A-79-39, containing information used by EPA in development of the proposed standards, is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5477.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit particulate emissions from the following new, modified, or reconstructed affected facilities in asphalt roofing manufacturing plants, oil refineries, and asphalt processing plants: Blowing stills; saturators, wet loopers, and coaters; asphalt storage tanks; and mineral handling and storage areas. The saturator, wet looper, and coater are considered to be one facility and are designated as the saturator.

Particulate emission limitations are proposed for blowing stills and saturators. Blowing still particulate emissions would be limited to 0.60 kg/Mg (1.28 lb/ton) of asphalt charged during conventional blowing and 0.67 kg/Mg (1.34 lb/ton) of asphalt charged during catalytic blowing. When No. 6 fuel oil is used to fire the afterburner, the particulate emissions from blowing stills would be limited to 0.64 kg/Mg (1.28 lb/ton) of asphalt charged for conventional blowing and 0.71 kg/Mg (1.42 lb/ton) of asphalt charged for catalytic blowing. Saturator particulate emissions would be limited to 0.04 kg/Mg (0.08 lb/ton) of shingle and mineral-surfaced roll roofing produced or to 0.4 kg/Mg (0.8 lb/ton) of saturated felt and smooth-surfaced roll roofing produced, depending on the product.

An opacity standard is proposed for each affected facility as follows: 0 percent for blowing stills, 20 percent for saturators, 0 percent for asphalt storage tanks, and 1 percent for mineral handling and storage areas. A fugitive emission standard of no visible emissions 80 percent of the time is proposed for saturator capture systems.

Continuous monitoring of the operating temperature of the control devices used to meet the proposed standards would be required to ensure proper operation and maintenance.

The performance test methods for determining compliance with the proposed standards would be Reference Method 26 for particulate emissions, Reference Method 9 for opacity, and Reference Method 22 for fugitive emissions. Methods 22 and 26 are being proposed along with the proposed standards.

Summary of Environmental, Energy, and Economic Impacts

It is projected that the equivalent of three new medium-size asphalt processing and roofing plants will be constructed within 5 years from the proposal date of the standards. The proposed standards would reduce particulate emissions from asphalt processing and asphalt roofing plants by about 490 megagrams per year (540 tons per year) in the fifth year after the standards are proposed. This represents a reduction in particulate emissions of 65 percent from State Implementation Plan (SIP) levels.

The proposed standards would increase wastewater from a typical asphalt roofing plant by approximately 1.0 percent. There would be no change in the quality of the wastewater as a result of the proposed standards. The impact of the proposed standards on solid waste disposal would be negligible. There would be no impact on noise.

The proposed standards would increase the total energy consumption of a typical asphalt roofing plant by about 3.2 percent. This would increase the nationwide energy usage by the equivalent of approximately 600 cubic meters (3,800 barrels) of oil per year in the fifth year after the standards go into effect.

Capital costs for industry compliance with the proposed standards over the first 5 years would be $0.30 million. Fifth-year annualized costs would be $0.09 million. As a result of the proposed standards, the product wholesale price could increase about 0.15 percent, or $0.02/square (80 shingles), which could increase the price for a roof on a typical three-bedroom house by about $3. If the price of shingles cannot be increased and the industry must absorb all of the costs of compliance with the proposed standards, the resulting drop in net profit after taxes would be about 0.4 percent. The costs of emission controls required by the proposed standards is not expected to have any impact on expansion or construction in the asphalt roofing manufacturing industry.

Rationale

Selection of Source for Control

The asphalt processing and asphalt roofing industry is a significant contributor to nationwide emissions of particulate matter. EPA's priority list, 44 FR 49222 of August 21, 1979, identifies source categories chosen for development of new source performance standards (NSPS). During development of the list, consideration was given to the quantity of emissions from each source category, the extent to which each pollutant endangers health and welfare, and the mobility and competitive nature of each source category. The asphalt roofing manufacturing industry is number 45 out of the 59 source categories chosen for NSPS.

The asphalt roofing industry encompasses not only asphalt roofing plants but certain production units at oil refineries and asphalt processing plants which were not included on the Priority List promulgated on August 21, 1979. At asphalt roofing plants, paper and fiberglass felts are saturated with asphalt and sold as saturated felt or saturated and coated with asphalt and surfaced with selected mineral aggregates to produce roll roofing or shingles. The asphalt used for saturants and coatings is prepared by blowing air through hot asphalt flux. Asphalt is blown at 17 oil refineries, at 2 asphalt processing plants, and at about 70 percent of the 118 asphalt roofing plants. An amendment which would add asphalt processing units at oil refineries and asphalt processing plants to the EPA priority list for development of standards of performance is being proposed today in a separate **Federal Register** notice.

The asphalt roofing industry supplies over 80 percent of the domestic demand for roofing materials. Although a 34 percent increase in asphalt roofing prices since 1974 has caused some acceleration in the search for substitutes, asphalt roofing continues to dominate the market.

The construction of new houses and the renovation of existing structures are the primary determinants of the demand for asphalt roofing products. Declines in construction of new homes have generally been offset by increasing strength in the replacement roofing market; thus, there has been a stable demand for asphalt roofing products. For the past 10 years, the industry has grown 2.0 percent annually; projections for the next 5 years show an expected annual growth of 1.5 to 2.0 percent. Asphalt processing and asphalt roofing plants are located in urban areas where future growth is also expected to take place.

For these reasons, the asphalt processing and asphalt roofing industry has been selected for the developent of new source performance standards.

Selection of Pollutants

The asphalt processing and roofing industry is a source of hydrocarbon particulate, polycyclic organic matter (POM), aldehyde, and sulfur dioxide (SO_2) emissions.

The emissions from the asphalt processing and roofing industry are aerosols containing particulate hydrocarbons. The particulate hydrocarbons comprise 75 percent of all pollutants emitted from an average asphalt roofing plant controlled to typical SIP levels. It is expected that by 1985, annual nationwide particulate emissions from this industry will increase by 770 Mg (850 tons) if emissions are controlled to the level of a typical SIP regulation. These emissions can be significantly reduced by available control technology that has been demonstrated.

Test data indicate that aldehyde and SO_2 emissions from asphalt processing and asphalt roofing manufacture are relatively low compared to particulate emissions. By 1985 the increase in emissions would be only 4.5 Mg/yr (5.0 tons/yr) for aldehyde and 13.5 Mg/yr (15.0 tons/yr) for SO_2. Therefore, SO_2 and aldehyde were not selected for regulation at this time.

By 1985 the annual nationwide increase in POM emissions from new, modified, or reconstructed asphalt processing and asphalt roofing manufacturing plants would be 4.6 Mg (5.1 tons). Control devices generally used to control particulate emissions from asphalt processing roofing manufacture are capable of reducing POM emissions by about 90 percent from uncontrolled levels. Since particulate control devices also control POM, a separate standard for this pollutant is not being proposed at this time.

For the reasons stated in the preceding paragraphs, particulate is the only pollutant selected for regulation by standards of performance at this time. This decision does not preclude the future regulation of aldehyde or POM emissions from asphalt roofing and asphalt processing plants if the Administrator finds that either of these two pollutants endangers health or welfare.

Selection of Facilities To Be Considered for Regulation

The major sources of particulate emissions are asphalt blowing stills; saturators; asphalt storage tanks; and mineral handling and storage facilities, which consist of the unloading area, conveyor transfer points, and storage bins. All of these sources are found in asphalt roofing plants. The asphalt blowing stills and asphalt storage tanks may also be located at oil refineries and asphalt processing plants. The blowing stills and asphalt storage tanks at oil refineries and asphalt processing plants were also considered for regulation by standards of performance because the emissions, processes, and applicable controls are the same as those in asphalt roofing plants.

Typical baseline (SIP) emissions from each facility in a medium size plant are:

Blowing still: 43 kg/h (95 lb/h);
Saturator: 18 kg/h (40 lb/h);
Asphalt storage tanks: 1.8 kg/h (4.0 lb/h); and
Mineral handling and storage area: 1.0 kg/h (2.2 lb/h).

Coater-mixers and mineral surfacing, two relatively insignificant sources of particulate emissions, are located at asphalt roofing plants. Coater-mixers are usually enclosed, and no emissions escape to the atmosphere. Emissions from mineral surfacing are contained within the building. Therefore, these two emission sources were excluded from further consideraton for regulation by standards of performance.

Particulate emission control technolgy exists in the asphalt processing and asphalt roofing industry for all significant sources of particulate emissions. The minerals, the transfer and storage equipment, and the control technology used in the asphalt roofing industry for mineral handling and storage operations are the same as those used in the nonmetalic minerals industries. Therefore, it is appropriate to transfer the control technolgy from these industries to the asphalt roofing manufacturing industry. Blowing stills, saturators, asphalt storage tanks, and mineral handling and storage areas

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were selected as facilities to consider for regulation because they are significant sources of particulate emissions for which control technology is available.

Selection of Basis of Proposed Standards

Tests at four asphalt roofing plants have demonstrated that particulate emissions from saturators and asphalt storage tanks may be effectively controlled to essentially the same emission level by any one of three pollution control devices: Afterburner (A/B), high velocity air filter (HVAF), or electrostatic precipitator (ESP). These three devices are commonly used to meet State Implementation Plans; however, the SIP Limits do not necessarily require that the devices achieve the best level of control. To achieve the best level of control, each of the control devices must be operated at the proper temperature. Afterburner effectiveness generally increases with increasing combustion temperature. Exhaust gases entering the HVAF and ESP must be cooled to condense the hydrocarbons and allow their capture.

A survey of asphalt roofing manufacturers and State, regional, and local agencies was conducted to find well-controlled asphalt roofing plants. As a result of this survey, 27 asphalt roofing plants were visited to select the best plants for emissions testing. During the plant visits, opacity readings were taken at control device outlets, the control devices were visually inspected, engineering drawings were examined, and emission reports, when available, were studied. The information collected during the plant inspections was evaluated, and the best-controlled plants were selected for emissions testing.

Tests indicated that an afterburner controlling emissions from a saturator and operating at a temperature above 649°C (1200°F) could achieve about a 93 percent emission reduction. Tests also indicated that an ESP or HVAF could achieve about a 93 percent particulate emission reduction if the saturator exhaust gases are cooled below 60°C (140°F).

An afterburner was the only device tested for control of emissions from blowing stills. The effectiveness of an afterburner in controlling emissions varies with the temperature in the combustion zone. Test data show that an afterburner operating over a temperature range of 760°C to 870°C (1400°F to 1660°F) reduced emissions from the blowing still by 95 percent. The exact relationship between degree of control and operating temperature varies with the concentration of combustible gases in the inlet gas and the size of the control equipment.

The test data show that the emissions from asphalt storage tanks can be effectively controlled by venting the emissions through either a mist eliminator or a particulate control device on the saturator. It is general industry practice for asphalt storage tanks to be vented to the saturator control device when the saturator is operating and to a mist eliminator when the saturator is not operating. However, emissions from the asphalt storage tanks can also be continuously controlled by a mist eliminator or other control device.

Fabric filters are used to control the emissions from the minerals handling and storage operations at some plants in the asphalt roofing industry; however, they have not been tested. These filters have been shown to be effective (through observations of opacity) in reducing particulate emissions from minerals handling and storage operations in the non-metallic minerals industries. Since the minerals handled and the handling and storage operations for the minerals are the same for the two industries, fabric filters are selected as representative of the best technological system for continuous emission reduction from mineral handling and storage operations at asphalt roofing plants.

The proposed standards are based on the pollution control devices that were tested. Other pollution control devices are available that may achieve the level of contol required by the proposed standards. Any control technique that achieves the emission limit outlined in the proposed standards could be used to comply with the standards.

Selection of Regulatory Alternatives

The impacts that varying amounts of emission control would have on the industry, the consumer, and the environment were considered during development of the emission standards. For saturators, each of the three control devices tested demonstrated essentially equal levels of control. For the other facilities, only one type of control device could be tested. Since only one level of control was demonstrated for each respective facility, regulatory alternatives that require control of different combinations of the facilities were defined so that varying impacts could be considered. No new source performance standard (NSPS) would be promulgated under Alternative 1. The facilities would be controlled by existing State regulations. Alternative 2 would require NSPS control for saturators and asphalt storage tanks; Alternative 3 would require NSPS control for saturators, asphalt storage tanks, and asphalt blowing stills; Alternative 4 would require NSPS control for saturators, asphalt storage tanks, and mineral handling and stortage areas; and Alternative 5 would require NSPS control for all affected facilities.

The projected five-year industry growth after proposal of the standards is equal to three medium-size asphalt roofing plants with blowing stills. The environmental and energy impacts of one medium-size plant are one-third the values given below and are based on an HVAF and ESP controlling a saturator, an afterburner controlling a blowing still, a fabric filter controlling mineral handling and storage facilities, and a mist eliminator controlling asphalt storage tanks.

Environmental Impacts

Regulatory Alternative 1, the baseline condition, represents the typical SIP level of control. The actual emissions from individual plants may vary from the emissions allowed by the typical SIP due to differences in State regulations and control methodologies. However, it was judged reasonable to select the typical SIP level of control as the baseline condition for the purposes of comparing environmental impacts. The uncontrolled emissions in the fifth year would be about 2,800 Mg/yr (3,100 tons/yr). The fifth-year environmental impact, if no NSPS is established, would be an increase in nationwide particulate emissions of 770 Mg/yr (850 tons/yr). The fifth-year reduction in emissions beyond SIP control would be 230 Mg/yr (250 tons/yr) for Regulatory Alternative 2; 480 Mg/yr (530 tons/yr) for Alternative 3; 240 Mg/yr (260 tons/yr) for Alternative 4; and 490 Mg/yr (540 tons/yr) for Alternative 5. This would be a reduction of 30 percent for Alternative 2, 62 percent for Alternative 3, 31 percent for Alternative 4, and 64 percent for Alternative 5.

The water pollution impact resulting from adoption of any one of Regulatory Alternatives 2 through 5 would be minimal. Water sprays used to cool inlet fumes of a saturator control device would increase the amount of wastewater to be treated in the fifth year by 30 to 40 m^3/yr (8,000 to 10,500 gal/yr).

Adoption of any of the Regulatory Alternatives 2 through 5 would result in only a small increase in solid waste. The only solid waste generated by the control devices used in the asphalt roofing industry is the saturated filter media from the HVAF.

Dispersion modeling was used to assess the air quality impact of particulate emissions from asphalt processing and asphalt roofing manufacturing plants under worst-case meteorological conditions. The dispersion analysis used 1964 climatological data for Pittsburgh, Pennsylvania, and Oklahoma City, Oklahoma. Both data sets are reasonably consistent with meteorological conditions representing maximum impact for short stacks. The National Ambient Air Quality Standards (NAAQS) 24-hour maximum primary standard is 260 $\mu g/m^3$, and the 24-hour maximum secondary standard is 150 $\mu g/m^3$. The dispersion analysis for a medium-size asphalt processing and asphalt roofing plant indicated that the primary standard would not be exceeded by a plant controlled under any of the regulatory alternatives but that the secondary standard could be exceeded under Regulatory Alternatives 1, 2, and 4. Adoption of either Regulatory Alternative 3 or Regulatory Alternative 5 would result in a concentration of particulate emissions from an asphalt processing or asphalt roofing plant considerably below the NAAQS 24-hour maximum secondary standard.

Energy Impacts

The construction of three new medium-size asphalt roofing plants controlled by SIP's (Regulatory Alternative 1) would result in an energy usage of 19,100 m^3/yr (120,000 bbl/yr) of oil for all plant operations in the fifth year. The fifth-year increase in energy over Regulatory Alternative 1 would be 20 m^3/yr (140 bbl/yr) of oil for Regulatory Alternative 2; 590 m^3/yr (3,700 bbl/yr) of oil for Alternative 3; 30 m^3/yr (200 bbl/yr) of oil for Alternative 4; 600 m^3/yr (3,800 bbl/yr) of oil for Alternative 5. This is an increase from Regulatory Alternative 1 of 0.1 percent for Alternative 2, 3.1 percent for Alternative 3, 0.2 percent for Alternative 4, and 3.2 percent for Aternative 5.

Economic Impacts

The fifth-year capital and annualized costs for the controls typically being installed by asphalt roofing plants to comply with SIP's would be $1,800,000 and $600,000 respectively. The increase in the fifth-year capital and annualized costs and the increase in the product price if the asphalt roofing manufacturing industry passes through the compliance costs associated with the proposed standards are summarized in the following paragraphs for Regulatory Alternatives 2, 3, 4, and 5.

Regulatory Alternative 2 would result in an increased capital cost of $215,000 and an increased annualized cost of $20,000. This increase in annualized costs could result in a 0.03 percent product price increase for asphalt shingles.

Regulatory Alternative 3 would increase capital costs by $215,000, annualized costs by $59,000, and the product price of asphalt shingles by 0.08 percent.

Regulatory Alternative 4 would increase capital costs by $305,000, annualized costs by $53,000, and the product price of asphalt shingles by 0.07 percent.

Regulatory Alternative 5 would increase capital costs by $305,000, annualized costs by $92,000, and the product price of asphalt shingles by 0.12 percent.

It is reasonable to expect that the industry could pass through these costs for any of the regulatory alternatives. However, if the industry must absorb all the costs for compliance with the proposed standards, the reduction in profit would be 0.4 percent.

A detailed analysis of the economic impact of the alternatives on the asphalt processing and asphalt roofing industry was developed for asphalt roofing plants, where the majority of the asphalt processing and asphalt roofing manufacture occurs. Oil refineries and asphalt processing plants contain only blowing stills and asphalt storage tanks. The regulatory alternatives would require the same controls for blowing stills and asphalt storage tanks at oil refineries, asphalt processing plants, and asphalt roofing plants. Therefore, the costs of meeting the alternatives would be no greater for oil refineries and asphalt processing plants than for asphalt roofing plants. For these reasons, product price increases for Alternatives 2 through 5 should be no greater for products produced at oil refineries than for those produced at asphalt roofing plants.

Historically, oil refineries have demonstrated the ability to pass through cost adjustments on the price of their products. If they have to absorb the costs of compliance with the proposed standards, the reduction in profit would be less than .01 percent. Therefore, there should be no adverse economic impact on oil refineries.

Regulatory Alternatives 2 through 5 are not expected to have an adverse impact on asphalt processing plants. No growth is anticipated in this industry. In fact, the number of asphalt processing plants has been declining in recent years. If new plants are constructed, they are expected to be able to pass through control costs.

Selection of the Alternative for the Standards

Regulatory Alternative 5 would result in the greatest reduction in emissions. Operation of the controls required to comply with Alternative 5 would increase the energy used in all plant operations by only 3.2 percent, and the adverse environmental impacts would be negligible. As discussed previously, the increased control costs would be the same for oil refineries, asphalt processing plants, and asphalt roofing plants. It is expected that all of the costs of compliance with the proposed standards would be passed through. If so, the wholesale product cost would increase by 0.12 percent. The cost to the consumer for a new roof on an average three-bedroom house would be increased by $3. However, if all of the compliance costs were absorbed, the reduction in profit would be 0.4 percent. Because Regulatory Alternative 5 would result in the greatest emission reduction and because, in the Administrator's judgment, the environmental, energy, and economic impacts associated with this emission reduction are reasonable, the Administrator selected Alternative 5 as the basis for the proposed standards.

Consideration of Growth Projections Made by the Industry

Industry representatives commented at the meeting of the National Air Pollution Control Techniques Advisory Committee (December 12, 1979) that EPA had underestimated the growth rate in the industry. They later projected that growth in the industry during the 5 years after proposal of the standards would be: 5 new medium-size plants; 5 new medium-size plants to replace 5 small-size obsolete plants; 5 plants with reconstructed saturators to replace saturators destroyed by fire; and 20 plants each modified to increase production from the saturator by 20 percent. (*1, 2*) The environmental, energy, and economic impacts of the growth projected by the industry have been considered to determine how the industry's growth projections could affect the selection of a regulatory alternative.

The environmental impacts of the growth projected by industry are as follows. The uncontrolled emissions in the fifth year would increase by 7,000 Mg/yr (7,700 tons/yr). If no NSPS is established, the nationwide particulate emissions would increase in the fifth year by 3,200 Mg/yr (3,500 tons/yr). The fifth-year reduction in emissions beyond the SIP level of control would be 960 Mg/yr (1,600 tons/yr) for Regulatory Alternative 2; 2,000 Mg/yr (2,200 tons/

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yr) for Alternative 3; 1,000 Mg/yr (1,100 tons/yr) for Alternative 4; and 2,040 Mg/yr (2,250 tons/yr) for Alternative 5. The percent emission reductions for each alternative would be the same as those projected for the EPA growth estimates.

The growth projections made by the industry would increase the amount of wastewater to be treated in the fifth year by 200 to 235 m^3/yr (56,000 to 62,000 gal/yr). Water pollution impact would be minimal.

The energy impacts resulting from the growth projections made by industry for the SIP level of control (Regulatory Alternative 1) would result in an energy usage of 48,000 m^3/yr (300,000 bbl/yr) of oil for all plant operations in the fifth year. The fifth year increase in energy over Regulatory Alternative 1 would be 78 m^3/yr (490 bbl/yr) of oil for Regulatory Alternative 2; 1,500 m^3/yr (9,400 bbl/yr) of oil for Alternative 3; 100 m^3/yr (650 bbl/yr) of oil for Alternative 4; and 1,530 m^3/yr (9,600 bbl/yr) of oil for Alternative 5. The percent increase in energy usage for each alternative would be the same as the percent increase using the EPA growth estimate.

Using the growth projections made by the industry, the fifth-year capital and annualized costs for the controls typically being installed by asphalt roofing plants to comply with SIP's would be $4,500,000 and $1,500,000, respectively. The fifth-year capital and annualized costs would further increase by $1,070,000 and $270,000, respectively, for Regulatory Alternative 2, by $270,000, respectively, for Regulatory Alternative 2, by $1,070,000 and $370,000, respectively, for Regulatory Alternative 4, and by $1,300,000 and $450,000, respectively, for Regulatory Alternative 5.

The product price increase and/or the reduction in profit resulting from compliance with the proposed standards would be the same as previously reported for the EPA growth projection.

The growth projections made by the industry would not change the solid waste and noise impacts previously calculated by EPA.

Under either the industry or the EPA growth projections, Alternative 5 would result in the greatest reduction in emissions. The production cost increases and/or the percent reductions in profit associated with achieving the emission standards would be the same. Under either projection, the impacts of Alternative 5 on energy and the environment would be reasonable. For these reasons, the selection of Regulatory Alternative 5 as the basis for the proposed standard is not changed.

Selection of the Format of the Proposed Standards

Standards for asphalt roofing plants could be expressed either as concentration standards, which limit emissions per unit volume of exhaust gases discharged to the atmosphere, or as mass standards, which limit emissions per unit of production. In selecting a format for the proposed standards, the cost of compliance testing and the effect on reducing the mass emissions were considered.

In most cases, concentration standards are preferable to mass standards because the concentration format requires fewer calculations and measurements and is, therefore, less costly. Concentration standards, however, usually require correction factors to prevent dilution of exhaust gases as a means of meeting the standards. Excess air may be introduced into the exhaust flow either by poorly designed hooding or by lekage through doors and duct joints. Also, two of the control devices upon which the proposed standards are based may use additional air for cooling the gases before they enter the contol device. The quantity of air used for cooling would vary according to ambient temperature, temperature of the asphalt in the saturator, and the location of the control device. Therefore, development of the correction factor necessary for the concentration standards would be difficult. For this reason, concentration is not a desirable format.

Mass standards expressed as allowable emissions per unit of production require measurement of the production rate as well as of the concentration of emissions in the control equipment exhaust systems. Since asphalt processing and asphalt roofing production figures are readily available and plant personnel would not have to monitor production continuously, this format would not increase the cost of compliance testing above the cost of other formats. Dilution air would have no effect on the emission results. For these reasons, mass per unit of production is selected as the format for expressing the standards of performance for asphalt processing and asphalt roofing plants. The proposed standards are expressed as kilograms of pollutant per megagram (kg/Mg) of product for the saturator and as kilograms of pollutant per megagram (kg/Mg) of asphalt charged for the blowing still.

An opacity format for visible stack emissions for all facilities is proposed to aid enforcement and operating personnel in determining that emission control devices are properly maintained and operated. A visible emissions format is selected as the basis of the standard for the saturator capture system to ensure that a well-designed and well-operated capture system is used.

Selection of Numerical Emission Limits

Four saturators were tested for particulate emissions. Two of the saturators were controlled by a high velocity air filter (HVAF), one by electrostatic precipitators (ESP), and one by afterburners (A/B).

The saturator at plant A was controlled by two ESP modules operating in parallel. The average of three test runs conducted at or below a filtration temperature of 52° C (126° F) on this unit showed an emission rate of 0.019 kg/Mg (0.038 lb/ton). The fourth test run, shown in the BID, was conducted at a filtration temperature above the 52° C (126° F) temperature specified in Method 26 and, therefore, was not used in determining the average emission rate.

Two afterburners operating in parallel controlled the emissions from the saturator and asphalt storage tanks at plant B. A performance test consisting of three runs was completed on each of the afterburners. One afterburner was operating at 538° C (1000° F) and the other at 649° C (1200° F). The emissions from the afterburner operating at 538° C (1000° F) averaged 0.035 kg/Mg (0.07 lb/ton). The emissions from the afterburner operating at 649° C (1200° F) averaged 0.015 kg/Mg (0.03 lb/ton). The combined emissions from the two afterburners at plant B averaged 0.045 kg/Mg (0.09 lb/ton) during the performance test. If both afterburners had been operated at the higher temperature, 649° C (1200° F), the control efficiencies would have been approximately equal, and the average of the emissions from both afterburners would have been approximately 0.025 kg/Mg (0.05 lb/ton).

At plant C the emissions from the saturator and asphalt storage tanks are controlled by an HVAF. A performance test consisting of three test runs was conducted at this plant; the emissions averaged 0.026 kg/Mg (0.052 lb/ton).

An HVAF controlled the emissions from the saturator at plant D. The emission rate determined by the performance test consisting of three test runs averaged 0.035 kg/Mg (0.07 lb/ton).

The HVAF, ESP, and afterburner (operated at the higher temperature) all control mass emission rates to between 0.015 and 0.035 kg/Mg (0.03 and 0.07 lb/ton). Each of these control devices could meet a standard set at 0.04 kg/Mg (0.08 lb/ton). Therefore, the emission limit for the saturator and asphalt storage tanks

vented to the saturator control devices has been set at 0.04 kg/Mg (0.08 lb/ton), a level which can be achieved by the HVAF, ESP, or afterburner. This emission limit is based on data collected during production of 106.6–kg (235-lb) shingles. The proposed standard for a saturator producing shingles or mineral surfaced roll roofing requires that the performance tests be conducted while the saturator line is producing a 106.6-kg (235-lb) shingle in order to be consistent with the procedure used during the emissions tests.

A second emission limit for saturators in mass per unit of production is necessary because some asphalt roofing plants produce only saturated felt and roll roofing which are lighter than the shingles that were being produced during the emissions testing program. The uncontrolled mass of particulate emissions per unit time is the same from a saturator producing shingles as from a saturator producing saturated felt if the felt feed rate and asphalt temperature are the same. For saturators operating at the same felt feed rates, the weight of asphalt shingle produced is about 10 times greater than the weight of saturated felt produced. The particulate emissions rate for a saturator producing 106.6-kg (235-lb) shingles was divided by the production rate of a roofing line producing a 6.8-kg (15-lb) saturated felt to derive the proposed emission limit of 0.4 kg/Mg (0.8 lb/ton) for saturators producing a 6.8-kg (15-lb) saturated felt and smooth-surfaced roll roofing.

There was only one blowing still considered to be well controlled and suitable for emissions testing. Two performance tests, each consisting of three runs, were conducted at the afterburner controlling emissions from the blowing still at Plant E. The emission rate for the three saturant blows averaged 0.24 kg/Mg (0.48 lb/ton) of asphalt charged to the still. The emission rate for the three coating blows averaged 0.44 kg/Mg (0.88 lb/ton) with a high individual reading of 0.55 kg/Mg (1.1 lb/ton) of asphalt charged to the still. To allow for possible variations since only one blowing still was tested, the Administrator determined that the emission limit for blowing stills would be set above the highest individual reading observed during the two performance tests. Therefore, the emission limit for the blowing still has been set at 0.60 kg/Mg (1.2 lb/ton) of asphalt charged during conventional blowing, a level which can be achieved by an afterburner during either a coating or a saturant blow. The emission limit provides a 35 percent margin above the average of the individual test runs.

Industry representatives commented that three conditions may influence emissions and the achievability of the proposed emission standards for blowing stills and questioned whether the test results at Plant E are representative of the entire industry.(*1*) These conditions are:

1. The use of ferric chloride as a catalyst in the blowing stills,
2. The use of asphalt flux from different crudes, and
3. The use of No. 2 or No. 6 fuel oil in the afterburner. EPA has considered each of these conditions as discussed in the following paragraphs.

Industry representatives stated that by 1985 the use of a catalyst in the air blowing of asphalt may be widespread. They questioned whether the proposed emission limit, which is based on conventional blowing, would be achievable if catalytic blowing is used. A catalyst is added during air blowing to increase reaction rates and to achieve the desired properties of the coating asphalt. There are no data to quantify the emissions from catalytic blowing of asphalt or from an afterburner controlling the emissions from catalytic blowing. No well-controlled catalytic blowing stills that are suitable for testing are known to exist. However, available information on the operating characteristics of blowing stills and afterburners can be used to assess the achievability of the proposed emission limit when catalytic blowing is used.

In catalytic blowing, a ferric chloride catalyst is added to the still in amounts ranging from 0.2 to 0.5 percent by weight of asphalt charged to the still.(*4*) For ferric chloride to be emitted from the still, it would have to be contained in the liquid asphalt droplets that may be entrained in the gases leaving the still. Liquid drops in the fume that result from condensation of vaporized hydrocarbon material would not contain any ferric chloride. All blowing stills include knock-out boxes or cyclones to remove some of the liquid drops from the fume before incineration. The liquid captured by the knock-out box generally has a viscosity similar to a fuel oil. This indicates that the majority of particulate emissions result from the condensation of light compounds in the asphalt flux and not from entrained liquid droplets. If large amounts of entrained asphalt flux were present, the material captured would have a higher viscosity. Therefore, if tests were done, EPA expects that very little, if any, ferric chloride would be measured in the emissions from the afterburner. Since test data are not available and since afterburners, the control device on which the standard is based, would not control ferric chloride, the Administrator has decided to allow an increment in the standard for catalytic blowing.

In the unlikely event that all of the uncontrolled emissions during the emissions test at Plant E resulted from entrainment of liquid asphalt droplets and if these asphalt droplets contained 0.5 percent (the maximum amount used by industry) by weight of ferric chloride, the ferric chloride emissions would be 0.07 kg/Mg (0.14 lb/ton) of asphalt.

It is possible that ferric chloride will be converted to ferric oxide in the afterburner. If this happens, the mass of emissions would not change because the molecular weights of these compounds are equal. If the proposed emission limit for blowing stills were increased by 0.07 kg/Mg (0.14 lb/ton), the allowable emissions from a blowing still of a medium-size plant would increase from 25.4 to 26.8 Mg/yr (28 to 29.5 tons/yr). The amount by which controlled emissions would be reduced below the baseline level would be 97.5 Mg/yr (107.5 tons/yr) instead of 99 Mg/yr (109 tons/yr). These changes in the benefits of the proposed standard would be relatively small. After considering these factors, the Administrator concluded that an increment for catalytic blowing based on worst-case conditions and the emission test data from Plant E would be reasonable. The uncontrolled emissions at another plant could be higher than those at Plant E. However, after considering the small probability of finding ferric chloride in the emissions at a plant using catalytic blowing, the Administrator concluded that basing the increment on the emissions at Plant E is sufficient to ensure the achievability of the proposed emission limit. Therefore, the proposed emission limit for catalytic blowing is 0.67 kg/Mg (1.34 lb/ton) of asphalt charged to the still.

Industry representatives also expressed concern that catalytic blowing would change the characteristics of the particulate emissions and, therefore, affect the achievability of the proposed emission limit. (*1, 2*) EPA has considered the impacts of these possible changes in the emission characteristics on the achievability of the proposed emission standard as discussed in the following paragraphs.

Information gathered from the industry indicates that during catalytic blowing, the total mass of volatile organic emissions per unit of asphalt production and the flow rate of the blowing air will be the same as during blowing without a catalyst. (*4*) The blowing time may be reduced by as much as two-thirds. (*4*) Therefore, in the worst case, the mass per unit time and

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the concentration of combustible particulate in the fume may be approximately three times higher than those measured when no catalyst is used. Even though the particulate emissions per unit time could triple, the total mass of particulate emissions per unit of production would remain the same. Therefore, the afterburner efficiency required to meet the proposed emission limit, which is in mass of emissions per unit of production, would be the same as that required if no catalyst were used. A well-designed afterburner could easily achieve the proposed emission limit under the worst-case conditions for catalytic blowing.

The fuel and the capital costs for the afterburner controlling catalytic blowing would differ from the costs reported for the model plants. The fuel costs reported for the model plant include enough fuel to raise the temperature of the fume to 760°C (1400°F) without taking any credit for the heating value of the particulate in the fume. For the plant tested, the fume provided approximately one-third of the total energy consumed. This method of estimating fuel costs was used to assure that the model plant fuel costs would represent worst-case conditions where the concentration of particulate in the fume is very small. Since the concentration of particulate in the fume from catalytic blowing could be as much as three times higher than the concentration in a fume from conventional blowing, the heating value of the catalytic blowing fume alone should be sufficient to maintain the afterburner at 760°C (1400°F). Therefore, if the combustible particulate in the fume triples, the fuel cost for the afterburner on a catalytic blowing still would be considerably less than the fuel cost for the afterburner at the model plant.

The capacity of an afterburner controlling catalytic blowing will have to be larger than the capacity of an afterburner controlling non-catalytic blowing. In the worst case, catalytic blowing reduces the blowing time by two-thirds and triples the rate of emissions. In this case, and assuming an uncontrolled emission rate equal to that at Plant E, the required afterburner capacity might be triple the capacity of the afterburner required for the losses from the still at Plant E or double the capacity of the model plant afterburner. (The model plant afterburner was 1.5 times the size needed for conditions at Plant E.) Doubling the afterburner capacity would be necessary to handle the mass of material just to meet the baseline condition (Regulatory Alternative 1) which is based on typical SIP's. The SIP's limit the mass rate of emissions to a specified level, e.g., 46 lbs/h for a medium-size plant. Doubling the capacity of the model plant afterburner at a medium-size plant would increase the capital cost of the afterburner from $121,000 to $172,000.(3) The capital charges resulting from the increased investment would increase baseline production costs from $13.480 to $13.484 per square of roofing shingle. The production cost for achieving the proposed emission limit (Regulatory Alternative 5) would increase from $13.500 to $13.504 per square of roofing shingle. These costs are reasonable and would not alter the selection of Regulatory Alternative 5 as the basis for the proposed standards. The incremental costs in achieving the proposed emission limit over baseline emission levels would not be increased.

Since the proposed emission limit has been adjusted to allow for emissions of an inorganic catalyst and since the adjusted limit can be achieved at a reasonable cost, the Administrator has determined that no additional adjustment in the proposed emission limit is needed for catalytic blowing.

Industry representatives stated that blowing asphalt fluxes from different crude oils may result in different emission rates. They questioned the achievability of the proposed emission limit when asphalt fluxes different from those used in the emissions testing program are blown. EPA has considered the impact of blowing asphalt fluxes from various crude oils on the achievability of the proposed emission limit as discussed in the following paragraphs.

Data from industry show that losses of material (measured at the outlet of the still) from blowing asphalt fluxes from different crude oils range from 1.0 to 3.9 percent of the asphalt charged to the still.(4) The flux used during the emissions test at Plant E was labeled a 2.0 percent volatility crude. The uncontrolled emissions during the test were measured at the outlet of the cyclone and equaled 1.3 percent of the asphalt charged to the still. In the worst case, without a cyclone, when uncontrolled emissions are 3.9 percent of the asphalt charged, an afterburner capable of destroying 98.5 percent of the particulate emissions would be required to achieve the proposed emission limit. The worst case (losses of 3.9-percent of asphalt flux) is not likely to occur. For a medium-size plant, a 3.9 percent loss of asphalt from the still would cost about $480,000 per year at current asphalt prices. Therefore, there is a strong incentive to use low-cost cyclones or knock-out boxes to recover the material that is lost from the still. Even if these devices were only 25 percent efficient, the afterburner efficiency required to achieve the emission limit would be reduced to 98 percent. Studies on afterburners show that a well-designed afterburner can achieve efficiencies in excess of 98.5 percent.(5) In fact, efficiencies approaching 100 percent can be achieved.(5) If the emission rates are tripled, the concentration of combustible particulates in the fume will also triple, making it easier to achieve higher afterburner efficiencies than those achieved during the test at Plant E.

The cost of achieving the proposed emission limit might increase above the costs reported for the model plants if the uncontrolled emissions are greater than those tested at Plant E. In the worst case (assuming no cyclone) the uncontrolled emissions would be triple those tested at Plant E. The fuel costs reported for the model plant would not increase because the model plant costs include enough fuel to maintain the afterburner at 760°C (1,400°F) without assuming any credit for the heating value of the fume. Any increase in the temperature required for a higher efficiency could come from the heating value of the fume, which would be sufficient to raise the combustion temperature from 760° to 930°C (1,400° to 1,700°F) without increasing the fuel consumption. Studies show that such an increase in temperature alone may be sufficient to achieve a 98.5 percent efficiency in a well-designated afterburner.(5)

The capital costs would increase above the costs reported for the model plant because a larger afterburner would be required to achieve a higher capacity and because a longer residence time may be needed to achieve the required efficiency. For the new capacity, the afterburner size may be triple the size needed for the test condition at Plant E or double the size of the model plant afterburner. (The model plant afterburner is 1.5 times the size needed for Plant E.) The afterburner cost for a medium-size model plant would increase from $121,000 to $172,000 if the size of the afterburner is doubled.

The higher afterburner capacity would be necessary to meet the baseline condition (typical SIP's) because the SIP's limit the mass rate of emissions. The increase in capital charges for the larger afterburner would increase the production costs associated with achieving the baseline emission levels (Regulatory Alternative 1) from $13.480 to $13.484 per square of roofing shingle. The production costs associated with achieving the proposed emissions standard would increase the $13.500 to $13.504 per square of roofing shingle. A further increase in capital cost may result if it is necessary to increase the afterburner efficiency. For example, if emissions per unit of asphalt charged are tripled, the afterburner efficiency would need to increase to meet either the SIP level of control or the proposed standard. Since the SIP emission limits are lower than the proposed standard, the increased efficiency required to meet the SIP level of control might be achievable without increasing the size of the afterburner (e.g., by temperature adjustment). However, the increased efficiency needed to meet the proposed standard might require increasing the residence time in the afterburner. Therefore, to assure a worst-case cost analysis, the capital cost for a larger afterburner to achieve the increased residence time is charged to the incremental cost of achieving the proposed emission limit over the baseline. The model plant afterburner is designed for a residence time of 0.5 second. Control efficiencies generally increase with residence time up to 1.0 second.(7) In the worst case, the fume residence time in the model plant afterburner might need to be doubled to provide a 98.5 percent control efficiency. This would raise the capital cost from $172,000 to $244,000.(3) The increase in capital charges, resulting from the higher investment cost for compliance with the proposed emission limit, would increase production costs in a medium-size plant from $13.504 to $13.510 per square of roofing shingle. These costs for compliance could result in a product price increase of 0.19 percent or, if all costs are absorbed, a reduction in profit of 0.6 percent. These economic impacts would not reduce growth in the industry and are judged by the Administrator to be reasonable.

Catalytic blowing of a high-loss flux, the "extreme" worst-case situation could require an afterburner with 6 times the capacity of the medium-size model plant or 3 times the capacity of an afterburner for a high-loss flux. It is not likely that new plants will be designed that would allow the high losses because of the value of the material that could be recovered. Even if this "extreme" worst case existed, the afterburner fuel cost would decrease and the afterburner capital costs would increase. The increase in capital costs for an afterburner controlling emissions from a medium-size model plant would be $176,000. Because the need for this increase is uncertain and because it was analyzed only for an "extreme" worst-case condition, the increase in cost has been charged to the cost of achieving the standard. This increase in capital charges for the larger afterburner would increase the production costs associated with achieving the proposed standard (Regulatory Alternative 5) from $13.50 to $13.513 per square of roofing shingle. These costs for compliance could result in a product price increase of 0.24 percent, or, if all costs are absorbed, a reduction in profit of 0.8 percent. These economic impacts would not reduce growth in the industry and are judged by the Administrator to be reasonable.

Because well-designed control equipment could achieve the proposed emission limit without adverse economic impacts, the Administrator has determined that the proposed emission limit would apply to blowing stills processing asphalt fluxes from any crude oil.

Industry representatives have stated that the use of No. 6 and No. 2 fuel oil in an afterburner will affect controlled emissions because of the ash content of fuel oil and have questioned the achievability of the proposed standard when fuel oil is used. The afterburner controlling the emissions from the blowing still during the tests at Plant E was fired with natural gas.

The American Petroleum Institute (API) specifications for No. 6 fuel oil show that the ash content ranges from 0.01 to 0.05 percent.(8) The fuel consumption rate of the model plant afterburner (a conservative estimate because the heating value of fume was not considered in the calculation) was used to calculate the increased particulate resulting from the ash content of No. 6 fuel oil. The increased particulate would range from 0.0007 to 0.036 kg/Mg (0.0014 to 0.072 lb/ton) of asphalt charged to the still.(3) The worst-case conditions occur when No. 6 fuel oil with a 0.5 percent ash content is fired in the afterburner at the model plant fuel consumption rate. The Administrator has decided to add an increment to the proposed blowing still emission limits to allow for the worst-case conditions. Therefore, the proposed blowing still emission limits when No. 6 fuel oil is used are 0.64 kg/Mg (1.28 lb/ton) for conventional blowing and 0.71 kg/Mg (1.42 lb/ton) for catalytic blowing.

The API specifications show that No. 2 fuel oil has an ash content of <0.01 percent.(8) Based on the fuel consumption rate of the model plant afterburner, the contribution of ash from No. 2 fuel oil will be <0.0006 kg/Mg (<0.0012 lb/ton) of asphalt charged to the still.(3) This increase in particulate is negligible; therefore, no increment is added to the proposed blowing still emission limits when No. 2 fuel oil is fired in the afterburner.

Selection of Visible Emission Limits

An opacity standard is proposed for all the affected facilities to help ensure proper operation and maintenance of control systems on a day-to-day basis. EPA Reference Method 9 was used to take opacity readings for saturators and blowing stills at plants A, B, C, D, and E during particulate emission tests. Opacity readings for storage tanks were taken only at plant F. The 6-minute average opacity readings of the emissions from the saturators ranged from 0 to 16 percent. All the opacity readings for the emissions from the blowing still were 0 percent. All of the 6-minute average opacity readings for the emissions from the asphalt storage tanks were 0 percent.

In a study of the non-metallic minerals industry, EPA Reference Method 9 was used to take opacity readings at the outlet of fabric filters controlling emissions from handling and storage of materials (sand, talc, mineral stabilizer, and granules) similar to those used in the asphalt roofing industry. The opacity emission data from the "Draft Background Information Document for Non-Metallic Mineral Processing Plants" were used to establish the proposed opacity emission limit for mineral handling and storage facilities in the asphalt roofing industry. Ninety-two percent of the 6-minute averages showed zero percent opacity. The remaining 6-minute averages were greater than zero but less than or equal to 1 percent opacity.

The proposed opacity standards are set at or above the upper limit of the opacity data collected during the emissions testing program. The proposed standards are 0 percent opacity for blowing stills, 20 percent opacity for saturators, 0 percent opacity for asphalt storage tanks, and 1 percent opacity for minerals handling and storage.

A fugitive emission standard is proposed to ensure good capture of fugitive emissions from the saturator. During the emission testing program, several canopy hoods and one total enclosure hood were observed. Only the total enclosure hood achieved good capture of fugitive emissions. Total enclosure hoods can be used for new, modified, or reconstructed facilities. Therefore, total enclosure hoods were selected to represent the best technological system for continuous capture of fugitive emissions from saturators.

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Only the total enclosure hood at plant B was available for testing at the time the emissions testing program was conducted. Observations of visible emissions at this plant form the basis of the proposed emission standard. During the emission testing program at plant B, the consecutive periods of observations taken while the saturator was operating under representative conditions (when the line speed was >80 percent of usual daily line speed) totaled 5.5 hours. Fugitive emissions were visible for not more than 16.7 percent of the time during any period of consecutive observations totaling 60 minutes, 12 percent of the time during any period of consecutive observations totaling 120 minutes, and 8 percent of the time during the full 5.5 hours of observations.

A period of consecutive observations, taken during representative operating conditions, totaling 60 minutes was chosen as a sufficient period of time to assess the performance of the capture system. During the test the highest average reading for such a 60-minute period was 16.7 percent. The proposed emission limit allows visible emissions from saturators for 20 percent of any period of consecutive observations, during representative operating condition, totaling 60 minutes.

Modification/Reconstruction Considerations

The proposed standards of performance would apply to saturators, blowing stills, asphalt storage tanks, and mineral handling and storage facilities. Any physical or operational change that increases the emissions to the atmosphere in kilograms per hour from any one of these facilities could be considered a modification according to Section 60.14 of Title 40 of the Code of Federal Regulations (CFR) and if so would subject that facility to the standards of performance. There are several physical and operational changes that may increase emissions to the atmosphere but are exempt from the modification provision. One such exemption is for a production rate increase that is accomplished without a capital expenditure. Asphalt roofing production lines are designed to operate at maximum line speeds (e.g., 600 feet per minute). Initial startup and operation of the production line is at a lower speed that the design capacity. Typically, the line speed is gradually increased, sometimes over a period of years, to approach the designed line speed. Because the line was originally designed for a maximum attainable line speed, there is no capital expediture, as defined in Section 60.14 Title 40 CFR, associated with any increases in line speed up to the designed capacity. These production rate increases are not considered to be modifications.

Other physical and operational changes which are exempted from the modification provision are maintenance, repair, and replacement determined to be routine; an increase in the hours of operation; and the addition or use of an air pollution control device that is environmentally beneficial. The use of alternative fuel or raw material, such as a different asphalt flux, is not a modification if the facility was designed to accommodate that alternative use. Physical and operational changes which do not increase the emission rate to the atmosphere would not be considered as modifications and therefore would not be covered by the standards.

"Reconstruction" means the replacement of components of an existing facility to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility and that it is technologically and economically feasible to meet the applicable standard set forth in Part 60. Reconstruction as defined in § 60.15(b) of title 40 CFR Part 60 would apply to each affected facility individually. For example, if a saturator is changed to the extent that it is considered reconstructed and is, therefore, required to conform to the proposed standards, this woud not cause the other facilities of an asphalt roofing plant to be subject to the provisions of the proposed standards.

It is technologically feasible and economically reasonable to install the same particulate control devices on modified or reconstructed facilities as would be installed on newly constructed facilities. Therefore, no special exemptions for modified and reconstructed facilities are included in the proposed standards of performance.

Selection of Performance Test Methods

Reference Method 5, "Determination of Particulate Emissions from Stationary Sources," was examined to determine its applicability to the asphalt processing and asphalt roofing industry. It was decided that this method was not suitable for determining particulate emissions from asphalt processing and asphalt roofing plants. Therefore, a program was initiated to develop a test method for particulate emissions from sources in these plants. The test method developed was Reference Method 26, "Determination of Particulate Emissions from the Asphalt Processing and Asphalt Roofing Industry." Emission measurements were conducted at seven asphalt roofing plants using this method.

In summary, problems associated with the use of Method 5 for asphalt processing and asphalt roofing plants were: (1) The filtration temperature was too high; (2) there was no precollector filter to reduce oil droplet loading; (3) the cleanup reagent did not effectively dissolve baked-on oil and asphalt; (4) sample loss occurred during analytical procedures; and (5) there was inadequate recovery of samples from condensed water collected in the cyclone collection flask. The following paragraphs explain how Method 26 alleviates the problems associated with Method 5.

At the collection temperature specified in Method 5, 121°C (250°F), a portion of the liquid particulate from asphalt processing and asphalt roofing plants vaporizes and passes through the particulate sampling device as a gas. The change of filtration temperature to 52°C (126°F) in Method 26 reduces this problem and provides a consistent basis for evaluating different control systems and the emissions from different plants. The data used in setting the emission limits proposed for saturators were collected at or below the 52°C (126°F) filtration temperature.

In Method 26 a precollector filter is used to reduce the oil droplet loading on the primary filter, which prevents oil from seeping through the glass fiber filter mat during periods of high droplet concentrations.

The cleanup reagent specified in Method 26 is 1,1,1-trichloroethane (TCE). The acetone used in Method 5 does not remove all baked-on oil and tar from the sampling apparatus. TCE is effective in dissolving the baked-on oil and asphalt.

The analytical procedure developed for Method 26 minimizes sample loss through evaporation. Experimental results showed that the weight loss from the evaporation process was minimal.

Collection and analytical procedures for condensed water were developed for Method 26. When Method 5 was used, condensation occurred in the filtration section of the sample train when the moisture content of the stack gases was above 10 percent. These conditions occurred during blowing still tests but not during saturator tests.

Method 26 is an effective test procedure for sampling emissions from asphalt processing and asphalt roofing plants and is being proposed with the proposed standards as the performance test method for particulate emissions from asphalt processing and asphalt roofing plants.

Reference Method 26, "Determination of Particulate Emissions from the Asphalt Processing and Asphalt Roofing Industry," specifies: (1) Measurement system design criteria; (2) measurement system performance specifications and performance test procedures; and (3) procedures for emission sampling. Two hours per run is proposed as the sampling time for emission testing because this is sufficient time to collect a representative sample from asphalt processing and asphalt roofing plants. Each performance test would consist of three runs. Method 26 is sufficiently similar to Method 5 that test personnel experienced with Method 5 should have no difficulty obtaining reliable data.

Reference Method 22, "Visual Determination of Fugitive Emissions From Material Processing Sources," is being proposed as a performance test method to determine compliance with standards of performance limiting fugitive emissions from asphalt saturator capture systems. Reference Method 22 was developed because fugitive emissions from saturator capture systems may occur within asphalt roofing plant buildings where lighting and background conditions needed for opacity readings are not attainable.

Reference Method 9, "Visual Determination of the Opacity of Emissions from Stationary Sources," is selected as a test method to determine compliance with standards of performance limiting particulate emissions from asphalt processing and asphalt roofing plants. Reference Method 9 is used to read opacity of emissions from exhaust stacks of control devices which are outside the plant. Opacity readings can be used to indicate whether a control device is being properly operated and maintained.

Selection of Monitoring Requirements

Monitoring requirements can provide a convenient means for enforcement personnel to ensure that emission control systems are properly operated and maintained. For blowing stills and saturators, the most straightforward means of ensuring proper operation and maintenance of the control device would be to monitor particulate emissions. However, no continuous particulate monitors are available for this industry. Resolution of the sampling problems and development of performance standards for continuous particulate monitors would entail a major development program. For these reasons, continuous monitoring of particulate emissions from the asphalt processing and asphalt roofing industry is not required by the proposed standards.

Opacity can be used as an indication of poor operation of the control device. If the opacity from the control device exceeds the proposed limit, it is an indication that a control device is not operating properly and may not be meeting the particulate emission limit. However, the absence of opacity does not always indicate that the emission limit is being met.

The only instrument for continuous measurement of opacity is the transmissometer which is not ideally suited to the measurement of opacity in the effluent gas streams at asphalt processing and asphalt roofing plants. The particulate emissions from these plants are liquid hydrocarbon mixtures that are converted to gases by the temperatures that are present in th effluent gas streams. The gaseous emissions would not be detected by the transmissometer, but will recondense and be visible in the atmosphere. For these reasons, continuous monitoring of opacity is not required.

The proposed standards would require continuous recording of the operating temperature which is critical to the effectiveness of the control devices upon which the proposed standards are based. This requirement would apply to the temperature in the combustion zone of an afterburner and to the inlet temperature for a high velocity air filter (HVAF) or an electrostatic precipitator (ESP). If the average temperature over any 6-hour period of operation was below that measured during the performance test for afterburners or above that measured for HVAF's or ESP's, by definition excess emissions would have occurred. The plant owner or operator would have to report the occurrence of excess emissions in a quarterly report. A 6-hour averaging time for temperature was selected because this corresponds to the period of time required for a performance test. Other parameters to be monitored may be specified by the Administrator if the temperature of a control device used to meet the standards is not critical to the performance of the device.

Comments were received from the industry contending that if a performance test on a saturator control device (HVAF or ESP) were run during cold weather, the operating temperature measured may be lower than if the performance test were run in warm weather. The temperature value that is measured during a performance test in which the numerical emission limit is met would be the temperature value used to determine excess emissions that must be reported. If the performance test were run in cold weather, the extra cooling by the ambient air might cause the established temperature to be lower than is actually necessary to meet the proposed emission limit. Further, this temperature value might be impossible to maintain in warm weather. Therefore, a temperature value established in a cold weather performance test may actually be lower than the temperature at which the inlet gases should be maintained to meet the emission limit. The temperature attainable during warm weather may indicate excess emissions when in fact the emission levels are not in excess of the numerical emission limit. For this reason, the proposed standards allow plant owners and operators the option of repeating the performance test to establish a new value for the temperature which indicates the occurrence of excess emissions.

Records of temperature measurements would have to be retained for at least 2 years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the General Provisions of 40 CFR part 60.

Impacts of Reporting Requirements

The proposed standards would require asphalt processing and asphalt roofing plants to submit reports to the Administrator so that he can ensure compliance with the regulation. The proposed standards would require four types of reports. First, there are notification reports required under the General Provisions that would enable the Agency to keep abreast of facilities subject to the standards of performance. Second, there are reports of performance test results. Third, there are quarterly reports of excess emissions which would permit the Agency to determine whether the emission control system installed to comply with the standards is being properly operated and maintained.

Section 60.7(b) of Part 60 Subpart A of the Code of Federal Regulations (CFR) requires an owner or operator of a plant to maintain records of all startups, shutdowns, or malfunctions of an affected facility. Section 60.7(c) requires submittal of quarterly reports of excess emissions and identification of any periods of excess emissions from any affected facility when startups, shutdowns, and malfunctions occurred. A primary purpose of maintaining records of startups, shutdowns, and malfunctions at a plant is for later use in the quarterly reports identifying the occurrence and duration of excess emissions.

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Clarification of what constitutes startup, shutdown, and malfunction as opposed to normal operation in asphalt roofing and asphalt processing plants is necessary to avoid unnecessary and burdensome recordkeeping.

Air blowing of asphalt is usually a batch operation. Saturant and coating asphalts are produced by blowing air through hot asphalt flux in a blowing still. A minimum of four batches will be blown each operating day at a typical asphalt roofing plant. The beginning and ending of a batch is considered to be normal operation and excess emissions are not expected to occur during these times. Therefore, it is not necessary to record the beginning and ending of each batch as startup and shutdown.

The production of saturated felt, roll roofing and shingles is a continuous process. Saturated felt is produced by applying hot saturant asphalt to a felt made of paper. Coating asphalt is then applied to the saturated felt to produce roll roofing. Roll roofing is further processed by adding talc to one side of the felt and mineral aggregate to the other side to produce asphalt shingles. The typical asphalt roofing production line operates 16 hours per day, 5 to 6 days per week, and 50 weeks per year. Breaks in the felt may cause temporary halts in production several times during each operating day. However, the emission control equipment would operate continuously with no increase of emissions to the atmosphere. Since temporary halts in the production line to repair breaks in the felt are considered to be normal operation and would not by themselves result in excess emissions, they do not need to be recorded as startup, shotdown, or malfunction.

The resources needed by the industry to maintain records, to collect data, and to prepare the reports through the first 5 years would be about 3,200 man-hours. These figures are based on the assumption that the proposed standards would cover three new, modified, or reconstructed asphalt roofing manufacturing plants, with blowing stills, through the first 5 years.

Using the growth projections made by industry representatives, the resources needed by the industry to maintain records, to collect data, and to prepare the reports through the first 5 years would be about 30,000 man-hours.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the Addresses section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the Addresses section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see Addresses section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for affected facilities in asphalt roofing plants, asphalt blowing stills and asphalt storage tanks in oil refineries and asphalt processing plants was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

Comments are specifically invited on the effects of different crude oils and the catalytic blowing of asphalt on particulate emissions. Any comments submitted to the Administrator on the effects of different crude oils and catalytic blowing of asphalt on particulate emissions should contain emission test data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that would avoid this impact.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3). The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> 1. The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
> 2. The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (Section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in Section 169(1)) employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIP's) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reduction than those required by standards of performance for new sources.

States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111. Prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Dated: November 10, 1980.

Douglas M. Costle,

Administrator.

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5. Afterburner System Study. U.S. Environmental Protection Agency. Research Triangle Park, N.C. EPA–R2–72–062. p. 16, 17, 18, 18a and 19. A–79–39. II–I–025. August 1972.
6. R. C. Cooper, MRI, to D. Pymm, HIRT Combustion. August 4, 1980. Telecon to discuss the design of afterburners as applied to blowing stills. A–79–39. II–E–015.
7. J. A. Danielson (Ed.). Air Pollution Engineering Manual. Prepared by the U.S. Environmental Protection Agency. Publication No. AP–40. p. 176. May 1973.
8. R. H. Perry and C. H. Chilton. Chemical Engineers' Handbook. 5th Ed. New York, McGraw-Hill, 1969. p. 9–10.

It is proposed that 40 CFR Part 60 be amended as follows:

1. By adding Subpart UU as follows:

Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

Sec.

60.470 Applicability and designation of affected facilities.
60.471 Definitions.
60.472 Standards for particulate matter.
60.473 Monitoring of operations.
60.474 Test methods and procedures.

Authority: Sec. 111, 301(a), Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

§ 60.470 Applicability and designation of affected facilities.

(a) The provisions of this subpart are applicable to the following affected facilities: Saturators; mineral handling and storage facilities; asphalt storage tanks; and blowing stills used for asphalt processing and asphalt roofing manufacture.

(b) The provisions of this subpart apply to any affected facility identified in paragraph (a) of this section, the construction or modification of which is begun after ———— (date of publication in the **Fedral Register**).

§ 60.471 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Afterburner (A/B)" means an exhaust gas incinerator used to control emissions of particulate matter.

"Asphalt processing" means the storage and blowing of asphalt at asphalt roofing plants, oil refineries, and asphalt processing plants for use in the manufacture of asphalt roofing products.

"Asphalt roofing manufacture" means production of asphalt roofing (shingles, roll roofing, siding, or saturated felt).

"Asphalt storage tank" means any tank used to store hot asphalt for asphalt roofing manufacture or asphalt processing. Storage tanks may be located at asphalt roofing plants, oil refineries, and asphalt processing plants.

"Blowing still" means the equipment in which air is blown through hot asphalt flux to produce different grades of asphalt for the manufacture of asphalt roofing.

"Catalyst" means a substance which, when added to asphalt flux in a blowing still, alters the penetrating-softening point relationship and increases the rate of oxidation of the flux.

"Coating blow" means the process in which air is blown through hot asphalt flux to produce coating asphalt. The coating blow starts when the air is turned on and stops when the air is turned off.

"Electrostatic precipitator (ESP)" means an air pollution control device in which solid or liquid particulates in a gas stream are charged as they pass through an electric field and precipitated on a collection surface.

"High velocity air filter (HVAF)" means an air pollution control filtration device for the removal of sticky, oily, or liquid aerosol particulate matter from exhaust gas streams.

"Mineral handling and storage facility" means the areas in asphalt roofing plants in which minerals are unloaded from a carrier, the conveyor transfer points between the carrier and the storage silos, and the storage silos.

"Saturant blow" means the process in which air is blown through hot asphalt flux to produce saturant asphalt. The saturant blow starts when the air is turned on and stops when the air is turned off.

"Saturator" means the equipment in which asphalt is applied to felt to make asphalt roofing products. The term saturator includes the saturator, wet looper and coater.

§ 60.472 Standards for particulate matter.

(a) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any saturator:

(1) Particulate matter in excess of:

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(A) 0.04 kilograms of particulate per megagram of asphalt shingle or mineral-surfaced roll roofing produced, or

(B) 0.4 kilograms per megagram of saturated felt or smooth-surfaced roll roofing produced;

(2) Exhaust gases with opacity greater than 20 percent; and

(3) Any visible emissions from a saturator capture system for more than 20 percent of any period of consecutive valid observations totaling 60 minutes.

(b) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any blowing still:

(1) Particulate matter in excess of 0.67 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still; and

(2) Particulate matter in excess of 0.71 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still and when No. 6 fuel oil is fired in the afterburner; and

(3) Particulate matter in excess of 0.60 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst; and

(4) Particulate matter in excess of 0.64 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst and when No. 6 fuel oil is fired in the afterburner; and

(5) Exhaust gases with an opacity greater than 0 percent.

(c) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent. If, however, the emissions from any asphalt storage tank(s) are ducted to a control device for a saturator, the combined emissions shall meet the emission limit contained in paragraph (a) of this section during the time the saturator control device is operating. At any other time the asphalt storage tank(s) must meet the 0 percent opacity limit.

(d) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any mineral handling and storage facility emissions with opacity greater than 1 percent.

§ 60.473 Monitoring of operations.

(a) The owner or operator subject to the provisions of this subpart, and using either an electrostatic precipitator or a high velocity air filter to meet the emission limit in § 60.472(a)(1) and/or (b)(1) shall continuously monitor and record the temperature of the gas at the inlet of the control device. The temperature monitoring instrument shall have an accuracy of ±5°C over its range.

(b) The owner or operator subject to the provisions of this subpart and using an afterburner to meet the emission limit in § 60.472(a)(1) and/or (b)(1) shall continuously monitor and record the temperature in the combustion zone of the afterburner. The monitoring instrument shall have an accuracy of ±10°C over its range.

(c) An owner or operator subject to the provisions of this subpart and using a control device not mentioned in paragraphs (a) and (b) of this section shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may require continuous monitoring and will determine the process parameters to be monitored.

(d) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as any 6-hour period during which the average temperature measured in accordance with paragraph (a) of this section is above the temperature measured in accordance with § 60.474 (h) or (i) at a time when the emission limits in § 61.472 (a) or (b) were met, or the average temperature measured in accordance with paragraph (b) of this section falls below the temperature measured in accordance with § 60.474 (h) or (i) at a time when the emission limits in § 61.472 (a) or (b) were met. Each excess emission report shall include the value identified for the temperature specified under § 60.474 (h) or (i) and the monitored temperature value.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.474 Test methods and procedures.

(a) Reference methods in Apendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.472 as follows:

(1) Method 26 for the concentration of particulate matter;

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis; and

(5) The Administrator will determine compliance with the standards prescribed in § 60.472(a)(3) by using Method 22. During the test run, readings are to be recorded every 15 seconds for a period of consecutive observations during representative conditions (in accordance with § 60.8(c) of the General Provisions) totaling 60 minutes. A performance test shall consist of one run.

(b) For Method 26 the sampling time for each run on a saturator shall be at least 120 minutes, and the sampling volume shall be at least 3 dscm. Method 26 shall be used to measure the emissions from the saturator while the asphalt roofing plant is making 106.6-kg (235-lb) asphalt shingle if the final product is shingle or mineral-surfaced roll roofing or while the asphalt roofing plant is making 6.8-kg (15-lb) saturated felt if the final product is saturated felt or smooth-surfaced roll roofing. Method 26 shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the coating blow whichever is greater. If the blowing still is not used to blow coating asphalt, Method 26 shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the saturant blow, whichever is greater.

(c) The particulate emission rate, E, shall be computed as follows:

$$E = Q_{sd} \times C_s$$

(1) E is the particulate emission rate (kg/h);

(2) Q_{sd} is the average volumetric flow rate (dscm/h) as determined by Method 2; and

(3) C_s is the average concentration (kg/dscm) of particulate matter as determined by Method 26.

(d) The asphalt roofing production rate, P (Mg/h), shall be determined by dividing the weight in megagrams (Mg) of roofing produced on the shingle or saturated felt process lines during the performance test by the number of hours required to conduct the performance test. The roofing production shall be obtained by direct measurement.

(e) The production rate of asphalt from the blowing still, P_s (Mg/h), shall be determined by dividing the weight of asphalt charged to the still by the time required for the performance test during a coating asphalt blow. The weight of asphalt charged to the still shall be determined at the starting temperature of the coating blow. The weight of asphalt shall be converted from the volume measurement as follows:

$M = Vd/c$

M = weight of asphalt in megagram
V = volume of asphalt in cubic meters
d = density of asphalt in kilograms per cubic meter
c = conversion factor 1.000 kilograms per megagram

The density of asphalt at any measured temperature is calculated by using the following equation:

$d = 1056.1 - 0.6176 \times °C$

The method of measurement shall have an accuracy of ±10 percent.

(f) The saturator emission rate shall be computed as follows:

$R = E/P$

(g) The blowing still emission rate shall be computed as follows:

$R_s = E/P_s$

where:

(1) R is the saturator emission rate (kg/Mg);
(2) R_s is the blowing still emission rate (kg/Mg);
(3) E is the particulate emission rate (kg/hr) from paragraph (c) of this section;
(4) P is the asphalt roofing production rate (Mg/h); and
(5) P_s is the asphalt charging rate (Mg/h).

(h) Temperature shall be measured and continuously recorded with the monitor required under § 60.473 (a) or (b) during the measurement of particulate by Method 26.

(i) If at a later date the owner or operator believes the emission limits in § 60.472 (a) and (b) are being met even though the temperature measured in accordance with § 60.473 paragraphs (a) or (b) is exceeding that measured during the performance test, he may submit a written request to the Administrator to repeat the performance test and procedure outlined in paragraph (h) of this section.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

2. By adding Method 26 and Method 22 to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 26—Determination of Particulate Emissions From the Asphalt Processing and Asphalt Roofing Industry

1. *Applicability and Principle.*

1.1 *Applicability.* This method applies to the determination of particulate emissions from asphalt roofing industry process saturators, blowing stills, and other sources as specified in the regulations.

1.2 *Principle.* Particulate matter is withdrawn isokinetically from the source and collected on a glass fiber filter maintained at a temperature no greater than 52° C (126° F). The particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water.

2. *Apparatus.*

2.1 *Sampling Train.* The sampling train configuration is the same as shown in Figure 5-1 of Method 5, except a precollector cyclone is added between the probe and the heated filter and is located in the heated section of the train. The sampling train consists of the following components:

2.1.1 *Probe Nozzle, Pitot Tube, Differential Pressure Gauge, Filter Holder, Condenser, Metering System, Barometer, and Gas Density Determination Equipment.* Same as Method 5, Sections 2.1.1, 2.1.3 to 2.1.5, and 2.1.7 to 2.1.10, respectively.

2.1.2 *Probe Liner.* Same as in Reference Method 5, Section 2.1.2, with the note that at high stack gas temperatures [greater than 250° C (480° F)], water-cooled probes may be required to control the probe exit temperature to no greater than about 52° C (126° F).

2.1.3 *Precollector Cyclone.* Borosilicate glass following the construction details shown in APTD-0581.

Note.— The tester shall use the cyclone when the stack gas moisture is greater than 10 percent or when the stack gas oil concentration is high enough to cause oil to seep through the glass mat filter. The tester need not use the precollector cyclone or glass wool under other, less severe test conditions.

2.1.4 *Filter Heating System.* Any heating (or cooling) system capable of maintaining a sample gas temperature at the exit end of the filter holder during sampling of no greater than 52° C (126° F). Install a temperature gauge capable of measuring temperature to within 3° C (5.4° F) at the exit end of the filter holder so that the sample gas temperature can be regulated and monitored during sampling. The tester may use systems other than the one shown in APTD-0581.

2.2 *Sample Recovery.* The equipment required for sample recovery is as follows:

2.2.1 *Probe-Liner and Probe-Nozzle Brushes, Graduated Cylinder and/or Balance, Plastic Storage Containers, and Funnel and Rubber Policeman.* Same as Method 5, Sections 2.2.1, 2.2.5, 2.2.6, and 2.2.7, respectively.

2.2.2 *Wash Bottles.* Glass.

2.2.3 *Sample Storage Containers.* Chemically resistant, borosilicate glass bottles, with rubber-backed Teflon screw cap liners or caps that are constructed so as to be leak-free and resistant to chemical attack by 1,1,1-trichloroethane (TCE), 500-ml or 1000-ml. (Narrow mouth glass bottles have been found to be less prone to leakage.)

2.2.4 *Petri Dishes.* Glass, unless otherwise specified by the Administrator.

2.2.5 *Funnel.* Glass.

2.3 *Analysis.* For analysis, the following equipment is needed:

2.3.1 *Glass Weighing Dishes, Desiccator, Analytical Balance, Balance, Hygrometer, and Temperature Gauge.* Same as Method 5, Sections 2.3.1 to 2.3.4, 2.3.6, and 2.3.7, respectively.

2.3.2 *Beakers.* Glass, 250-ml and 500-ml.

2.3.3 *Separatory Funnel.* 100-ml or greater.

3. *Reagents.*

3.1 *Sampling.* The reagents used in sampling are as follows:

3.1.1 *Filters, Silica Gel, and Crushed Ice.* Same as Method 5, Sections 3.1.1, 3.1.2, and 3.1.4, respectively.

3.1.2 *Precollector Glass Wool.* No. 7220, Pyrex brand or equivalent.

3.1.3 *Stopcock Grease.* TCE-insoluble, heat-stable grease (if available). This is not necessary if screw-on connectors with Teflon sleeves, or similar, are used.

3.2. *Sample Recovery.* Reagent grade 1,1,1-trichloroethane (TCE), ≦0.001 percent residue; and stored in glass bottles is required. Run TCE blanks prior to field use and use only TCE with low blank values (≦0.001 percent). The tester shall in no case subtract a blank value of greater than 0.001 percent of the weight of TCE used from the sample weight.

3.3 *Analysis.* Two reagents are required for the analysis:

3.3.1 *TCE.* Same as 3.2.

3.3.2 *Desiccant.* Same as Method 5, Section 3.3.2.

4. *Procedure.*

4.1 *Sampling Train Operation.* The complexity of this method is such that, in order to obtain reliable results, testers should be trained and experienced with Method 5 test procedures.

4.1.1 *Pretest Preparation.* Maintain and calibrate all the components according to the procedure described in APTD-0576, unless otherwise specified herein.

Prepare probe liners and sampling nozzles as needed for use. Thoroughly clean each component with soap and water, followed by a minimum of three TCE rinses. Use the probe and nozzle brushes during at least one of the TCE rinses (refer to Section 4.2 for rinsing techniques). Cap or seal the open ends of the probe liners and nozzles to prevent contamination during shipping.

Prepare silica gel portions and glass filters as specified in Method 5, Section 4.1.1.

Prepare cyclone precollector systems for use as follows: Desiccate or oven-dry plugs of glass wool as needed and weigh these to a constant weight (use techniques similar to those described above for glass fiber filters). Place each tared glass wool plug in a labeled petri dish. Next, thoroughly clean equal numbers of glass cyclones and 125-ml Erlenmeyer flasks, using soap and water, followed by several TCE rinses. Pair each cyclone with a flask and identify (mark or label) each piece of glassware. Determine the tare weight of each glass cyclone to the nearest 0.1 mg. Seal the open ends of each flask and cyclone to prevent contamination during transport.

4.1.2 *Preliminary Determinations.* Select the sampling site, probe nozzle, and probe length as specified in Method 5, Section 4.1.2.

Select a total sampling time greater than or equal to the minimum total sampling time specified in the test procedures section of the applicable regulation. Follow the guidelines outlined in Method 5, Section 4.1.2, for sampling time per point and total sample volume collected.

4.1.3 *Preparation of Collection Train.* Prepare the collection train as specified in Method 5, Section 4.1.3 with the addition of the following.

If a precollector cyclone is to be used with a tared glass wool plug (see note in Section 2.1.2), prepare this by placing the glass wool plug into the inlet section of the cyclone near the top. Loosely pack the glass wool so as to

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avoid high pressure drops in the sampling train. See Figure 26–1. Connect the cyclone to the correpsonding 125-ml Erlenmeyer flask.

Set up the sampling train as shown in Figure 5–1 of Method 5 with the addition of the precollector cyclone, if used, between the probe and filter holder. Use no stopcock grease on ground glass joints unless the grease is insoluble in TCE.

4.1.4 *Leak Check Procedures.* Follow the procedures given in Method 5, Sections 4.1.4.1 (Pretest Leak Check), 4.1.4.2 (Leak Check During Sample Run), and 4.1.4.3 (Post-Test Leak Check).

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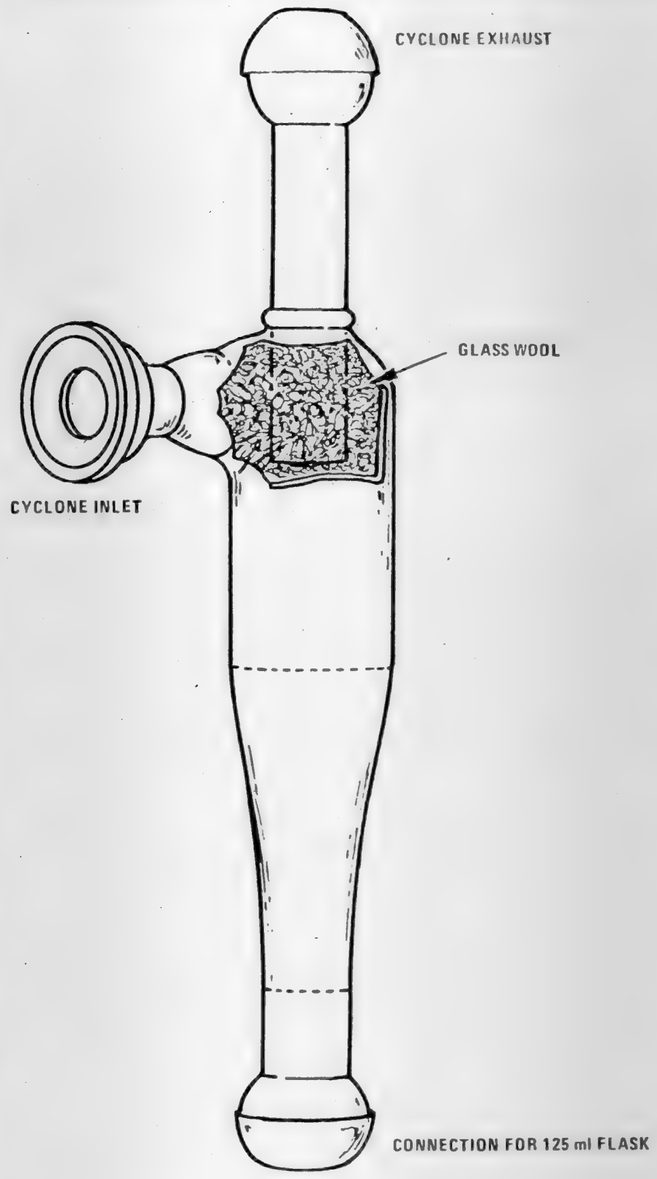


Figure 26-1. Precollector cyclone with glass wool plug.

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4.1.5 *Particulate Train Operation.* Operate the sampling train as described in Method 5, Section 4.1.5, except maintain the gas temperature exiting the filter at no greater than 52°C (126°F).

4.1.6 *Calculation of Percent Isokinetic.* Same as in Method 5, Section 4.1.6.

4.2 *Sample Recovery.* Begin proper cleanup procedure as soon as the probe is removed from the stack at the end of the sampling period. Allow the probe to cool. When the probe can be safely handled, wipe off all external particulate matter near the tip of the probe nozzle and place a cap over it to prevent losing or gaining particulate matter. Do not cap off the probe tip tightly while the sampling train is cooling as this would create a vacuum in the filter holder, thus drawing water from the impingers into the filter holder.

Before moving the sampling train to the cleanup site, remove the probe from the sampling train, wipe off the stopcock grease, and cap the open outlet of the probe. Be careful not to lose any condensate that might be present. Wipe off the stopcock grease from the filter inlet where the probe was fastened and cap it. Remove the umbilical cord from the last impinger and cap the impinger. If a flexible line is used between the first impinger or condenser and the filter holder, disconnect the line at the filter holder and let any condensed water or liquid drain into the impingers or condenser. After wiping off the stopcock grease, cap off the filter holder outlet and impinger inlet. The tester may use either ground-glass stoppers, plastic caps, or serum caps to close these openings.

Transfer the probe and filter-impinger assembly to a cleanup area which is clean and protected from the wind so that the chances of contaminating or losing the sample will be minimized.

Inspect the train prior to and during disassembly and note any abnormal conditions. Treat the samples as follows:

4.2.1. *Container No. 1 (Filter).* Carefully remove the filter from the filter holder and place it in its identified petri dish container.

Use a pair of tweezers and/or clean disposable surgical gloves to handle the filter. If it is necessary to fold the filter, do so such that the film of oil is inside the fold. Carefully transfer to the petri dish any particulate matter and/or filter fibers which adhere to the filter holder gasket, by using a dry nylon bristle brush and/or a sharp-edged blade. Seal the container.

4.2.2 *Container No. 2 (Cyclone).* Remove the Erlenmeyer flask from the cyclone. Using glass or other nonreactive caps, seal the ends of the cyclone and store for shipment to the laboratory. Do not remove the glass wool plug from the cyclone.

4.2.3 *Container No. 3 (Probe to Filter Holder).* Taking care to see that material on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover particulate matter or any condensate from the probe nozzle, probe fitting, probe liner, cyclone collector flask, and front half of the filter holder by washing these components with TCE and placing the wash in a glass container. Carefully measure the total amount of TCE used in the rinses. Perform the TCE rinses as follows:

Carefully remove the probe nozzle and rinse the inside surface with TCE from a wash bottle. Brush with a nylon bristle brush and rinse until the TCE rinse shows no visible particles or discoloration, after which, make a final rinse of the inside surface.

Brush and rinse the inside parts of the Swagelok fitting with TCE in a similar way until no visible particles remain.

Rinse the probe liner with TCE. While squirting TCE into the upper end of the probe, tilt and rotate the probe so that all inside surfaces will be wetted. Let the TCE drain from the lower end into the sample container. The tester may use a glass funnel to aid in transferring the liquid washes to the container. Follow the TCE rinse with a probe brush. Hold the probe in an inclined position, squirt TCE into the upper end as the probe brush is being pushed with a twisting action through the probe, hold the sample container underneath the lower end of the probe, and catch any TCE and particulate matter which is brushed from the probe. Run the brush through the probe three times or more until no visible particulate matter is carried out or until no discoloration is observed in the TCE. With stainless steel or other metal probes, run the brush through in the above prescribed manner at least six times, since metal probes have small crevices in which particulate matter can be entrapped. Rinse the brush with TCE and quantitatively collect these washings in the sample container. After the brushing, make a final TCE rinse of the probe as described above.

It is recommended that two people clean the probe to minimize sample losses. Between sampling runs, keep brushes clean and protected from contamination.

Brush and rinse the inside of the cyclone collection flask and the front half of the filter holder. Brush and rinse each surface three times or more, if necessary, to remove visible particulate. Make a final rinse of the brush and filter holder. After all TCE washings and particulate matter have been collected in the sample container, tighten the lid on the sample container so that TCE will not leak out when it is shipped to the laboratory. Mark the height of the fluid level to determine later whether or not leakage occurred during transport. Label the container to clearly identify its contents. Whenever possible, containers should be shipped in such a way that they remain upright at all times.

4.2.4. *Container No. 4 (Silica Gel).* Note the color of the indicating silica gel to determine if it has been completely spent and make a notation of its condition. Transfer the silica gel from the fourth impinger to its original container and seal. The tester may use as aids a funnel to pour the silica gel without spilling and a rubber policeman to remove the silica gel from the impinger. It is not necessary to remove the small amount of dust particles that may adhere to the impinger wall and are difficult to remove. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available in the field, follow the procedure for Container No. 4 in Section 4.3.4.

4.2.5 *Impinger Water.* Treat the impingers as follows: Make a notation of any color or film in the liquid catch. Measure the liquid volume in the first three impingers to within ±1 ml by using a graduated cylinder or weigh the liquid to within ±0.5 g by using a balance. Record the volume or weight of liquid present, then discard the liquid. (This volume or weight information is required to calculate the moisture content of the effluent gas.)

4.2.6 *Blank.* Save a portion of the TCE used for cleanup as a blank. Take 200 ml of this TCE directly from the wash bottle being used and place it in a glass sample container labeled "TCE blank."

4.3 *Analysis.* Record the data required on a sheet such as the one shown in Figure 26-2. Handle each sample container as follows:

BILLING CODE 6560-26-M

Plant: _____

Date: _____

Run No.: _____

Filter No.: _____

Amount liquid lost during transport: _____

TCE blank volume, ml: _____

TCE wash volume, ml: _____

TCE blank concentration, mg/mg (equation 4): _____

TCE wash blank, mg (equation 5): _____

CONTAINER NUMBER	WEIGHT OF PARTICULATE COLLECTED, mg		
	FINAL WEIGHT	TARE WEIGHT	WEIGHT GAIN
1			
2			
3			
Total			
Less TCE blank			
Weight of particulate matter			

	VOLUME OF LIQUID WATER COLLECTED		
	IMPINGER VOLUME, ml	SILICA GEL WEIGHT, g	
FINAL			
INITIAL			
LIQUID COLLECTED			
TOTAL VOLUME COLLECTED		g*	ml

*CONVERT WEIGHT OF WATER TO VOLUME BY DIVIDING TOTAL WEIGHT INCREASE BY DENSITY OF WATER (1g/ml).

$$\frac{\text{INCREASE, g}}{\text{1g/ml}} = \text{VOLUME WATER, ml}$$

Figure 26-2. Analytical data.

BILLING CODE 6560-26-C

4.3.1 *Container No. 1 (Filter).* Transfer the filter from the sample container to a tared glass weighing dish and desiccate for 24 hours in a desiccator containing anhydrous calcium sulfate. Rinse Container No. 1 with a measured amount of TCE and analyze this rinse with the contents of Container No. 3. Weigh the filter to a constant weight. For the purpose of Section 4.3, the term "constant weight" means a difference of no more than 10 percent or 2 mg (whichever is greater) between two consecutive weighings made 24 hours apart. Report the "final weight" to the nearest 0.1 mg as the average of these two values.

4.3.2 *Container No. 2 (Cyclone).* Clean the outside of the cyclone, remove the caps, and desiccate for 24 hours or until any condensed water has evaporated. Weigh the cyclone plus contents (glass wool plug and oil). Determine the weight of the oil by subtracting out the combined tare weight of the cyclone plus glass wool. Transfer the glass wool and cyclone catch into a tared weighing dish; use TCE to aid in the transfer process. Desiccate the cleaned cyclone for 24 hours and reweigh the cyclone. If the final weight of the clean cyclone is within 10 mg of its initial tare weight, report the calculated oil weight. However, if the weight difference is greater, extract the oil from the glass wool (use measured amount of TCE) and analyze this oil solution with Container No. 3. Be careful not to include any of the glass wool fibers.

4.3.3 *Container No. 3 (Probe to Filter Holder).* Before adding either the rinse from Container No. 1 or the TCE-oil mixture from the glass wool extraction to Container No. 3, note the level of liquid in the container and confirm on analysis sheet whether or not leakage occurred during transport. If noticeable leakage occurred, either void the sample or take steps, subject to the approval of the Administrator, to correct the final results.

Measure the liquid in this container either volumetrically to ± ml or gravimetrically to ±0.5 g. Check to see if there is any appreciable quantity or condensed water present in the TCE rinse (look for a boundary layer or phase separation). If the volume of condensed water appears larger than 5 ml, separate the oil-TCE fraction from the water fraction using a separatory funnel. Measure the volume of the water phase to the nearest ml; adjust the stack gas moisture content, if necessary (see Sections 6.4 and 6.5). Next, extract the water phase with several 25-ml portions of TCE until, by visual observation, the TCE does not remove any additional organic material. Evaporate the remaining water fraction to dryness at 93°C (200°F), desiccate for 24 hours, and weigh to the nearest 0.1 mg.

Treat the total TCE fraction (including TCE from filter container rinse, water phase extractions, and glass wool extraction, if applicable) as follows: Transfer the TCE and oil to a tared beaker and evaporate at ambient temperature and pressure. The evaporation of TCE from the solution may take several days. Do not desiccate the sample until the solution reaches an apparent constant volume or until the odor of TCE is not detected. When it appears that the TCE has evaporated, desiccate the sample and weigh it at 24 hour intervals to obtain a "constant weight" (as defined for Container No. 1 above). The "total weight" for Container No. 3 is the sum of the evaporated particulate weight of the TCE-oil and water phase fractions. Report the results to the nearest 0.1 mg.

4.3.4 *Container No. 4 (Silica Gel).* This step may be conducted in the field. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 using a balance.

4.3.5 *"TCE Blank" Container.* Measure TCE in this container either volumetrically or gravimetrically. Transfer the TCE to a tared 250-ml beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for 24 hours and weigh to a constant weight. Report the results to the nearest 0.1 mg.

5. *Calibration.*

Calibrate the sampling train components according to the indicated sections of Method 5: Probe Nozzle (5.1), Pitot Tube Assembly (5.2), Metering System (5.3), Probe Heater (5.4), Temperature Gauges (5.5), Leak Check of Metering System (5.6), and Barometer (5.7).

6. *Calculations.*

6.1 *Nomenclature.* Same as in Reference Method 5, Section 6.1, with the following additions:

C_t = TCE blank residue concentration, mg/g.
M_t = Mass of residue of TCE after evaporation, mg.
V_{wc} = Volume of water collected in precollector, ml.
V_t = Volume of TCE blank, ml.
V_{tw} = Volume of TCE used in wash, ml.
W_t = Weight of residue in TCE wash, mg.
P_t = Density of TCE, mg/ml (see label on bottle).

6.2 *Dry Gas Meter Temperature and Orifice Pressure Drop.* Using the data obtained in this test, calculate the average dry gas meter temperature and average orifice pressure drop (see Figure 5–2 of Method 5).

6.3 *Dry Gas Volume.* Using the data from this test, calculate $V_{m(std)}$ by using Equation 5–1 of Method 5. If necessary, adjust the volume for leakages.

6.4 *Volume of Water Vapor.*

$$V_{w(std)} = K_1 (V_{lc} + V_{pc}) \quad \text{Eq. 26–1}$$

Where:

K_1 = 0.00133 m^3/ml for metric units.
= 0.04707 ft^3/ml for English units.

6.5 *Moisture Content.*

$$B_{ws} = V_{w(std)} / V_{m(std)} + V_{w(std)} \quad \text{Eq. 26–2}$$

Note.—In saturated or water droplet-laden gas streams, two calculations of the moisture content of the stack gas shall be made, one from the impinger and precollector analysis (Equations 26–1 and 26–2) and a second from the assumption of saturated conditions. The lower of the two values of moisture content shall be considered correct. The procedure for determining the moisture content based upon assumption of saturated conditions is given in the note of Section 1.2 of Reference Method 4. For the purpose of this method, the average stack gas temperature from Figure 2 may be used to make this determination, provided that the accuracy of the in-stack temperature sensor is within ±1°C (2°F).

6.6 *TCE Blank Concentration.*

$$c_t = M_t / V_t P_t \quad \text{Eq. 26–3}$$

6.7 *TCE Wash Blank.*

$$W_t = (C_t)(V_{tw})(P_t) \quad \text{Eq. 26–4.}$$

6.8 *Total Paticulate Weight.* Determine the total particulate catch from the sum of the weights obtained from Containers 1, 2, and 3 less the TCE blank.

6.9 *Particulate Concentration.*

$$C_s = K_3 M_n / V_{m(std)} \quad \text{Eq. 26–5}$$

Where:

K_3 = 0.001 g/mg.

6.10 *Isokinetic Variation and Acceptable Results.* Method 5, Sections 6.11 and 6.12, respectively.

7. *Bibliography.*

The bibliography for Reference Method 26 is the same as for Method 5, Section 7.

Method 22—Visual Determination of Fugitive Emissions From Material Processing Sources

1. *Introduction.*

This method involves the visual determination of fugitive emissions; i.e., emissions not emitted directly from a process stack or duct. Fugitive emissions inlcude emissions that: (1) Escape capture by process equipment exhaust hoods; (2) are emitted during material transfer; (3) are emitted from buildings housing material processing or handling equipment; (4) are emitted directly from process equipment.

This method determines the amount of time that any visible emissions occur during the observation period; i.e., the accumulated emission time. This method does not require that the opacity of emissions be determined. Since this procedure requires only the determination of whether a visible emission occurs and does not require the determination of opacity levels, observer certification according to the procedures of Reference Test Method 9 are not required. However, it is necessary that the observer is educated on the general procedures for determining the level of visible emissions. As a minimum the observer should be trained regarding the effects on the visibility of emissions caused by background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor).

2. *Applicability and Principle.*

2.1 Applicability. This method applies to the determination of the frequency of fugitive emissions from stationary sources (located indoors or outdoors) when specified as the test method for determining compliance with new source performance standards.

2.2 Principle. Fugitive emissions produced during material processing, handling, and transfer operations are visibly determined by an observer without the aid of instruments.

3. *Definitions.*

3.1 Emission Frequency. Percentage of time that emissions are visible during the observation period.

3.2 Emission Time. Accumulated amount of time that emissions are visible during the observation period.

3.3 Fugitive Emission. Pollutant generated by an affected facility which is not collected by a capture system and is released to the atmosphere.

3.4 Observation Period. Accumulated time period during which observations are conducted, not to be less than 6 minutes.

4. *Equipment.*

4.1 Stopwatches. Accumulative type, with a sweep second hand and unit divisions of at least 0.5 second; two required.

4.2 Light Meter. Light meter capable of measuring illuminance in the 50- to 200-lux range; required for indoor observations only.

5. *Procedure.*

5.1 Position. Survey the affected facility or building or structure housing the process unit to be observed and determine the locations of potential emissions. If the affected facility is located inside a building, determine an observation location that is consistent with the requirements of the applicable regulation (i.e., outside observation of emissions escaping the building/structure or inside observation of emissions directly emitted from the affected facility process unit).

Then select a position that enables a clear view of the potential emission point(s) of the affected facility or of the building or structure housing the affected facility, as appropriate for the applicable subpart. A position of at least 15 feet but not more than 0.25 mile from the emission source is recommended. For outdoor locations, the observer should be positioned so that the sun is not directly in the observer's eyes.

5.2 Field Records.,

5.2.1 Outdoor Location. Record the following information on the field data sheet (Figure 22–1): company name, industry, process unit, observer's name, observer's affiliation, and date. Record also the estimated wind speed, wind direction, and sky condition. Sketch the process unit being observed and note observer location relative to the source and the sun. Indicate the potential and actual fugitive emission points on the sketch.

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FUGITIVE EMISSION INSPECTION
OUTDOOR LOCATION

Company _____	Observer _____
Location _____	Affiliation _____
Company representative _____	Date _____
Sky conditions _____	Wind direction _____
Precipitation _____	Wind speed _____
Industry _____	Process unit _____

Sketch process unit; indicate observer position relative to source and sun; indicate potential emission points and/or actual emission points.

OBSERVATIONS

	Clock time	Observation period duration, min:sec	Accumulated emission time, min:sec
Begin observation			
End observation			

Figure 22-1

BILLING CODE 6560-26-C

5.2.2 Indoor Location. Record the following information on the field data sheet (Figure 22–2): company name, industry, process unit, observer's name, observer's affiliation, and date. Record, as appropriate, the type, location, and intensity of lighting on the data sheet. Sketch the process unit being observed and note observer location relative to the source. Indicate the potential and actual fugitive emission points on the sketch.

5.3 Indoor Lighting Requirements. For indoor locations, use a light meter to measure the level of illumination at a location as close to the emission source(s) as is feasible. An illumination of greater than 100 lux (10 foot candles) is considered necessary for proper application of this method.

5.4 Observations. Record the clock time when observations begin. Use one stopwatch to monitor the duration of the observation period; start this stopwatch when the observation period begins. If the observation period is divided into two or more segments by process shutdowns or observer rest breaks, stop the stopwatch when a break begins and restart it without resetting when the break ends. Stop the stopwatch at the end of the observation period. The accumulated time indicated by this stopwatch is the duration of the observation period. When the observation period is completed, record the clock time.

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FUGITIVE EMISSION INSPECTION
INDOOR LOCATION

Company _____	Observer _____
Location _____	Affiliaton _____
Company representative _____	Date _____
Industry _____	Process unit _____

Light type (flourescent, incandescent, natural) _____
Light location (overhead, behind observer, etc.) _____
Illuminance (lux or footcandles) _____

Sketch process unit; indicate observer position relative to source; incicate potential emission points and/or actual emission points.

OBSERVATIONS	Clock time	Observation period duration, min:sec	Accumulated emission time, min:sec
Begin observation	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
End observation	_____		

Figure 22-2

BILLING CODE 6560-26-C

During the observation period, continuously watch the emission source. Upon observing an emission (condensed water vapor is not considered an emission), start the second accumulative stopwatch; stop the watch when the emission stops. Continue this procedure for the entire observation period. The accumulated elapsed time on this stopwatch is the total time emissions were visible during the observation period i.e., the emission time.

5.4.1 Observation Period. Choose an observation period of sufficient length to meet the requirements for determining compliance with the emission regulation in the applicable subpart. When the length of the observation period is specifically stated in the applicable subpart, it may not be necessary to observe the source for this entire period if the emission time required to indicate noncompliance (based on the specified observation period) is observed in a shorter time period. In other words, if the regulation prohibits emissions for more than 6 minutes in any hour, then observations may (optional) be stopped after an emission time of 6 minutes is exceeded. Similarly, when the regulation is expressed as an emission frequency and the regulation prohibits emissions for greater than 10 percent of the time in any hour, then observations may (optional) be terminated after 6 minutes of emissions are observed since 6 minutes is 10 percent of an hour. In any case, the observation period shall not be less than 6 minutes in duration. In some cases, the process operation may be intermittent or cyclic. In such cases, it may be convenient for the observation period to coincide with the length of the process cycle.

5.4.2 Observer Rest Breaks. Do not observe emissions continuously for a period of more than 15 to 20 minutes without taking a rest break. For sources requiring observation periods of greater than 20 minutes, the observer shall take a break of not less than 5 minutes and not more than 10 minutes after every 15 to 20 minutes of observation. If continuous observations are desired for extended time periods, two observers can alternate between making observations and taking breaks.

5.4.3 Visual Interference. Occasionally, fugitive emissions from sources other than the affected facility (e.g., road dust) may prevent a clear view of the affected facility (e.g., road dust) may prevent a clear view of the affected facility. This may particularly be a problem during periods of high wind. If the view of the potential emission points is obscured to such a degree that the observer questions the validity of continuing observations, then the observations are terminated and the observer clearly notes this fact on the data form.

5.5 Recording Observations. Record the accumulated time of the observation period on the data sheet as the observation period duration. Record the accumulated time emissions were observed on the data sheet as the emission time. Record the clock time the observation period began and ended, as well as the clock time any observer breaks began and ended.

6. *Calculations.*

If the applicable subpart requires that the emission rate be expressed as an emission frequency (in percent), determine this value as follows: Divide the accumulated emission time (in seconds) by the duration of the observation period (in seconds) or by any minimum observation period required in the applicable subpart if the actual observation period is less than the required period and multiply this quotient by 100.

[FR Doc. 80-35905 Filed 11-17-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 60

[AD FRL-1505-7a]

Standards of Performance for new Stationary Sources; Priority List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendment.

SUMMARY: Studies of the asphalt processing and roofing industry have revealed that asphalt is processed at oil refineries and asphalt processing plants as well as at asphalt roofing plants. These locations were not specifically included in the asphalt roofing source category included in the priority list for regulation of new sources under Section 111 of the Clean Air Act, promulgated on August 21, 1979. Therefore, the Administrator is proposing to amend the priority list to specifically include asphalt processing locations in the source category currently listed as asphalt roofing plants. The proposed amendment to the priority list is based on the Administrator's judgment that asphalt blowing stills and storage tanks at asphalt processing facilities and oil refineries contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

DATES: *Comments.* Comments must be received on or before January 19, 1981.

Public Hearing. A public hearing will be held, if requested. Persons wishing to request a public hearing must contact EPA by December 8, 1981. If a hearing is requested, an announcement of the date and place will appear in a separate **Federal Register** notice.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. OAQPS A-79-39, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Public Hearing. Persons wishing to request a public hearing should notify Ms. Deanna B. Tilley, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5477.

Background Information Document. Background Information on the emissions from the asphalt processing and roofing manufacturing industry may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone (919) 541-2777. Please refer to "Asphalt Roofing Manufacturing Industry, Background Information for Proposed Standards," EPA-450/3-80-021a.

Docket. A docket, number OAQPS A-79-39, containing information used by EPA in development of the standards of performance for the asphalt processing and roofing manufacturing industry, is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5477.

SUPPLEMENTARY INFORMATION:

Proposal To Amend Priority List

The Clean Air Act of 1970 established a program under Section 111 to develop standards of performance for new stationary sources which the Administrator determines may contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. Section 111 of the Clean Air Act Amendments of 1977 requires that the Administrator publish, and from time to time revise, a list of categories of major stationary sources for which standards of performance for new sources are to be promulgated.

In developing priorities, Section 111 specifies that the Administrator consider (1) the quantity of emissions from each source category, (2) the extent to which each pollutant endangers public health or welfare, and (3) the mobility and competitive nature of each stationary source category.

The priority list, which identifies major source categories in order of priority for development of regulations, was proposed on August 31, 1978 and promulgated, after revisions, on August 21, 1979 (40 CFR 60.16, 44 FR 49222). Of the 59 source categories on the list, asphalt roofing plants are listed as number 45.

Source categories are intended to be broad enough in scope to include all processes associated with the particular

industry. In the asphalt roofing industry studies have revealed that initial steps in the preparation of asphalt for roofing manufacture may take place not only at roofing plants but also at locations which do not manufacture roofing products. These locations were not specifically listed with the asphalt roofing source category included in the priority list promulgated on August 21, 1979. Blowing stills, where air is forced through hot asphalt flux (crude oil residuum) as the initial step in asphalt processing, may be located at oil refineries and/or asphalt processing plants as well as at asphalt roofing plants. The coating and saturant asphalts which result from the blowing process are stored in tanks located at oil refineries and asphalt processing plants as well as at roofing plants. These two facilities at either an oil refinery or an asphalt processing plant would contribute more than 100 tons of particulate emissions per year and are, therefore, considered major sources.

The emissions, processes, and applicable controls for blowing stills and asphalt storage tanks at oil refineries and asphalt processing plants are the same as those at asphalt roofing plants. It is therefore reasonable to treat the asphalt processing and roofing manufacture industry as a single category of sources for the purposes of establishing standards of performance.

In the Administrator's judgment, asphalt processing operations which take place at oil refineries and asphalt processing plants contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

Proposed standards of performance for Asphalt Processing and Roofing Manufacture appear elsewhere in this issue of the **Federal Register.**

(Sec. 111, 301(a), Clean Air Act as amended, (42 U.S.C. 7411, 7601(b)))

Dated: November 10, 1980.

Douglas M. Costle,

Administrator.

It is proposed to amend 40 CFR Part 60, subpart A, as follows:

§ 60.16 Priority list.

* * * * *

45. Asphalt Processing and Roofing Manufacture

* * * * *

(Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601(a)))

[FR Doc. 80-35906 Filed 11-17-80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

72944 11–3–80 / General pretreatment regulations for existing and new sources, approval of State programs

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

National Institute on Drug Abuse—

62694 9–19–80 / Joint revision of conditions for use of methadone for treating narcotic addicts

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

Last Listing October 24, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: December 5 and 19, January 16 and 30; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

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federal register

Wednesday
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Highlights

76505 **Grant Programs—Education** ED invites applicants for new projects under the Program of Research Grants on Organizational Processes in Education; preapplications by 12–11, 4–9, 8–13–80 or 12–10–81 and applications by 12–11–80 or 4–9–81

76507 **Guaranteed Student Loan Program** ED announces a special allowance at an annual rate of 6⅜ percent will be paid to holders of eligible loans

76534 **Community Development Block Grants** HUD revises submission date to 11–3–80 for preapplications for Pittsburgh, Pennsylvania HUD Area Office for the Small Cities Program for Fiscal Year 1981

76618 **Waste Treatment and Disposal** EPA publishes hazardous waste regulations addressing mining and cement kiln waste exemptions, small quantity generator standards, generator waste accumulation, response to spills and interim status requirements for facilities; effective 11–19–80; comments by 1–19 and 2–17–81 (5 documents) (Part III of this issue)

76602 **Nuclear Safety** NRC amends regulations to require certain provisions for fire protection in operating nuclear power plants; effective 2–17–81 (Part II of this issue)

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

76446 **Nuclear Safety** NRC requests comments by 12–12–80, on "NRC Action Plan Developed as a Result of the TMI–2 Accident"

76519 **Environmental Protection** HHS publishes procedures for conducting environmental reviews; effective 11–13–80

76431 **National Defense** DOE/ERA adopts final regulations for priority supply of crude oil and petroleum products for the Department of Defense; effective 12–19–80

76449 **Customs Duties and Inspection** Treasury/CS proposes change to customs regulations relating to the examination of merchandise; comments by 1–19–81

76450 **Taxes** Treasury/IRS proposes regulations relating to foreign tax credit for domestic corporate shareholders of certain foreign corporations; comments by 1–19–81

76440 **Banking** USDA/FmHA proposes to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions; comments by 1–19–81

76436 **Freedom of the Press** Justice amends its existing policy with regard to issuance of subpoenas to members of the news media; effective 11–12–80

76447 **Consumer Protection** CPSC proposes minor modifications to its regulations concerning association with voluntary standards development groups; comments by 1–19–81

76438 **Government Procurement** GSA finalizes rule to produce a single GSA-wide procurement regulation; effective 12–31–80

76638 **Administrative Practice and Procedure** USDA/AMS establishes rules governing proceedings on petitions to modify or to be exempted from the Wheat and Wheat Foods Research and Nutrition Education Order; effective 11–19–80 (Part IV of this issue)

76565 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 45, No. 225
Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Lime Pack Regulation 9; Avocado Pack Regulation 6]

Limes Grown in Florida, and Avocados Grown in South Florida; Subpart—Pack Regulation, and Subpart—Container and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes pack requirements for Florida limes and avocados that require containers of limes and avocades to bear a Federal or Federal-State Inspection Service lot stamp number showing that the fruit has been inspected and found to meet applicable regulation requirements issued under these marketing orders. The action is designed to verify inspection and compliance with these requirements, in the interest of producers and consumers.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFROMATION: This final nation has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Notice was published in the October 23, 1980, issue of the **Federal Register** (45 FR 70278) that the Department was considering amending § 911.311 Lime Regulation 9, and § 915.306 Avocado Regulatin 6, under the marketing agreements, as amended, and marketing Orders 911 and 915, each as amended (7 CFR Parts 911 and 915). These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These amendments are based upon recommendations and information submitted by the committees established under these marketing orders, and other available information. In addition, these amendments revise references in these regulations to the U.S. grade standards for Florida limes and avocados to reflect recent changes in such standards. The notice provided that all written comments be submitted by November 7, 1980. None were recieved.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that the amendments are in accordance with the provisions of these marketing agreements and orders, that they are necessary to establish and maintain orderly marketing conditions, and they will tend to effectuate the declared policy of the act in the interests of growers and consumers.

It is further found that good cause exists for not postponing the effective date of these amendments until 30 days after publicatin in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning these amendments, with an effective date of November 17, 1980, was published in the **Federl Register**, and no objection to these amendments or there effective date was received: (2) the recommendations for these amendments were developed at public meetings at which interested persons were afforded an opportunity to submit their views; (3) the amendments will not require any special preparation on the part of the persons subject to the regulatory requirements which cannot be completed by the effective time; (4) shipment of the 1980–81 season Florida lime and avocado crops is underway; and (5) the regulatory provisions for Florida limes and avocados are the same as those proposed in the notice, except that the effective date has been extended to November 20, 1980.

1. Therefore, § 911.311 of Subpart-Pack Regulation is amended by revising paragraph (a)(1), amending paragraph (a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 911.311 Lime Pack Regulation 9.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000–2851.1016) are hereby established as pack specifications for the grading and packing of limes.

(2) On and after November 20, 1980.

* * *

* * * * * *

(3) On and after November 20, 1980, no handler shall handle any container of limes, grown in the production areas, unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the limes have been inspected in accordance with regulations issued under § 911.45 of th marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of limes not exceeding 4 pounds, net weight, that are within master containers except that if such packages are individual bags either such bags or the master containers thereof shall be marked or labeled in accordance with the requirements of paragraph (a)(2) of this section and master containers shall be marked or labeled in accordance with the requirements of paragraph (a)(3) of this section.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000–2851.1016).

2. Therefore, § 915.306 of Subpart-Container and Pack Regulations is amended by revising paragraph (a)(1), amending paragraph (a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 915.306 Avocado Pack Regulation 6.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050–2851.3000) are hereby establihsed as pack specifications for the grading and packing of avocados.

(2) On and after November 20, 1980

* * *

* * * * *

(3) On and after November 20, 1980, no handler shall handle any container of avocados, grown in the production areas unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the avocados have been inspected in accordance with regulations issued under § 915.51 of this marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of avocados not exceeding 4 pounds, net weight, that are within master containers.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050–2851.3000).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 17, 1980 to become effective November 20, 1980

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36286 Filed 11-18-80; 8:45 am]

BILLING CODE 2116-02-M

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7 CFR Parts 982 and 999

Commodity Credit Corporation

Filbert Imports and Filberts Grown in Oregon and Washington; Stay of Effective Date of Amendment of Import Regulation and of a Change in Marketing Order Grade and Size Regulation

Correction

In FR Doc. 80–34573 appearing on page 73634 in the issue of Thursday, November 6, 1980, make the following correction:

On page 73635, at the top of the first column, delete the paragraph in small type designated "(d)".

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980—Crop Sorghum Supplement]

1980—Crop Sorghum Loan and Purchase Program

Correction

In FR Doc. 80–33061 appearing on page 70212 in the issue of Thursday, October 23, 1980, make the following corrections in the table in § 1421.115(a):

1. Under California, "San Louis Obispo" should have read "San Luis Obispo".

2. Under Texas, the price for Kaufman County should have read "3.94".

BILLING CODE 1505-01-M

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7 CFR Part 1421

[CCC Grain Price Support Reg. 1980—Crop Oats Supplement]

Grains and Similarly Handled Commodities; 1980—Crop Oats Loan and Purchase Program

Correction

In FR Doc. 80–33798 appearing on page 72084 in the issue of Friday, October 31, 1980, make the following corrections to the table in § 1421.274(a):

1. Under Illinois, "Livington" should have read "Livingston".

2. Under Indiana, "Koscinusko" should have read "Kosciusko".

3. Under Montana, "Choputeau" should have read "Chouteau", "Metroleum" should have read "Petroleum", and "Wilbaux" should have read "Wibaux".

4. Under Nebraska, "Clofax" should have read "Colfax"

5. Under Wisconsin, "Calument" should have read "Calumet", "Landlade" should have read "Langlade", and "Waushara" should have read "Waushara".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Deletion of Hughes Air West; Addition of Republic Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to delete a carrier under its old name and to add the carrier under its new name to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order deletes a transportation line under its old name and adds the transportation line under its new name to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into a new agreement effective on November 5, 1980, with Republic Airlines after it changed its name from "Hughes Air West," to guarantee preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In § 238.4 *Preinspection outside the United States,* the listing of transportation lines preinspected at Calgary is amended by deleting "Hughes Air West" and adding in alphabetical sequence "Republic Airlines."

* * * * *

(Secs. 103 and 238(d); (8 U.S.C. 1103 and 1228(b)))

Dated: November 14, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-36091 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 221

[Docket No. ERA-R-79-50]

Priority Supply of Crude Oil and Petroleum Products to the Department of Defense Under the Defense Production Act

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) adopts final regulations pursuant to sections 101(a) and 709 of the Defense Production Act of 1950 for priority supply of crude oil and petroleum products to the Department of Defense (DOD).

The regulations permit DOD, whenever necessary or appropriate to promote the national defense, to request ERA to issue a priority rating for crude oil or petroleum product contracts. If ERA determines that issuance of a priority rating is necessary to meet the national defense requirements identified by DOD and that a proposed supplier is capable of delivering the necessary crude oil or petroleum products, ERA would issue a priority rating to DOD complying in whole or in part with the DOD request. When a supplier receives a priority-rated supply order from DOD, it would be required to fill that order regardless of its other supply commitments to non-DOD purchasers. A priority rating also could entitle DOD to a precedence of delivery for its requirements.

The priority procedures in the regulations would be used only for crude oil and petroleum products not subject to allocation controls under the Emergency Petroleum Allocation Act (EPAA). Products subject to EPAA controls would be allocated to DOD under the regulations in Parts 210 and 211 of 10 CFR.

EFFECTIVE DATE: December 19, 1980.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–4055

Stanley Vass (Office of Petroleum Allocation Regulations), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3263

William Funk or Peter Schaumberg (Office of General Counsel), Department of Energy, Room 6A127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6736, or 252–6754

SUPPLEMENTARY INFORMATION:

I. Background and Authority
II. Discussion of Comments and Major Issues
III. Section-by-Section Analysis
IV. Additional Matters

I. Background and Authority

On October 26, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing (44 FR 63109, Nov. 2, 1979) to amend Chapter II, Title 10 of the Code of Federal Regulations by adding a new Part 221 setting forth regulations for the priority supply of crude oil and petroleum products to the Department of Defense (DOD) under the Defense Production Act (DPA). Written comments were invited, and a public hearing was held in Washington, D.C. Over 18 written comments were received and eight persons provided oral testimony at the hearing. The written and oral comments have been carefully considered by ERA.

These final regulations are being promulgated pursuant to section 101(a) of the DPA, 50 U.S.C. App. § 2071, which provides in pertinent part as follows:

> The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

This authority, with respect to energy resources, was vested originally in the Department of Interior (DOI) by Executive Order 10480 (18 FR 4939, Aug. 18, 1953), as amended. The DOI implemented section 101(a) of the DPA by adopting regulations for the mandatory priority supply of crude oil and petroleum products. (38 FR 30572, Nov. 6, 1973). Following the establishment of the Department of Energy (DOE), this authority was delegated to the Secretary of Energy by Executive Order 12038 (43 FR 4957, Feb. 7, 1978), which amended Executive Order 10480, and Executive Order 11790 (39 FR 23785, June 27, 1974), and subsequently has been delegated by the Secretary to the Administrator of the Economic Regulatory Administration (ERA). (See Amendment No. 1 to DOE Delegation Order No. 0204–4.)

Under the DPA, ERA is authorized to issue priority ratings for DOD and other defense-related contracts which would require that a supplier accept such orders and supply the specified quantities and qualities of crude oil and petroleum products. Additionally, ERA can issue directives to particular companies requiring that they provide necessary supplies for national defense needs. Such orders may be issued under DPA authority without the reimposition of mandatory allocation or price regulations under the Emergency Petroleum Allocation Act (Pub. L. 93–159, EPAA). Priority ratings would be used only during periods when DOD was experiencing difficulties in obtaining supplies needed for national defense purposes.

ERA has determined to adopt final regulations to provide procedures by which these priority rated orders can be requested by DOD and issued. This would enable ERA to act expeditiously and consistently to provide DOD with the necessary relief whenever DOD is unable to obtain needed supplies of crude oil or petroleum products for national defense-related activities. In addition, these regulations would further notify potential DOD suppliers of the possibility of mandatory priority supply obligations and the procedures associated therewith.

The regulations would apply to the priority supply to DOD of crude oil, residual fuel oil, refined petroleum products and lubricants. This regulation would not apply to the supply of natural gas or ethane.

II. Discussion of Comments and Major Issues

A. *DPA vs. EPAA authority.* Comments were received on the issue of whether the DPA regulations are necessary or appropriate in view of DOE's allocation authority under the EPAA. As we noted in the preamble to the proposed regulations, ERA has authority under the EPAA to allocate products still subject to controls, to reimpose controls under sec. 12(f) of the EPAA on products currently exempt from allocation regulations, to adjust refinery yields to require refiners to produce more of a particular product and under certain circumstances to assign purchasers new suppliers of a particular product. Nonetheless, we believe that there are several reasons why it is appropriate to issue these regulations under the DPA.

The Defense Production Act was enacted in 1950 to ensure the timely production and delivery of materials

necessary for the national defense. The general purposes of the DPA always have been national defense related, and use of DPA section 101(a) authorities is limited expressly to contracts or orders "necessary or appropriate to promote the national defense." The EPAA, on the other hand, provides in section 4(b)(1)(A) that regulations under that Act only need provide "to the maximum extent practicable" for the national defense. Furthermore, national defense is but one of several objectives of the EPAA. It is evident, therefore, that the DPA is more strictly committed to meeting national defense needs than is the EPAA.

Issuing orders and directives to private firms mandating terms of production and delivery constitutes use of extraordinary authority by the Government. The DPA was specifically designed for this purpose. By way of illustration, DPA section 101(a) expressly provides for priority performance of contracts *and* authority to require acceptance and performance of contracts. Most importantly, section 707 of the DPA expressly provides a defense against damages or penalties so that a supplier will not be subject to claims for damages from its other customers as a result of complying with a priority rated order. Under section 704 of the DPA, the President may even exercise these authorities without adopting regulations. In short, the DPA was designed to remove any impediments to swift delivery of needed materials for the national defense.

The Department of Energy has interpreted the EPAA as authorizing reimposition of controls on a case-by-case basis, thereby enabling DOE, if necessary, to allocate otherwise decontrolled petroleum products to DOD in a manner similar to the DPA. The EPAA authorities, however, were not expressly designed for this purpose, and do not contain the explicit expediting procedures found in the DPA, discussed in the preceding paragraph.

Finally, as was stated in the preamble to our Notice of Proposed Rulemaking on the DPA regulations, it is not our intention to use the DPA for products still subject to EPAA controls, *e.g.*, gasoline. Thus, we do not foresee there being any problem of overlap under the two programs. And, by adopting these rules under the DPA, when the EPAA expires next year, it will not be necessary to adopt new regulations for DOD so long as the DPA remains in effect.

It is our conclusion, in view of our responsibilities under the Defense Production Act and Executive Orders 10480, 11790 and 12038 and the phased decontrol of crude oil and petroleum products, that the Defense Production Act is the preferable statutory authority for adopting a program to ensure continued supplies of crude oil and petroleum products needed for the national defense.

B. *Inclusion of crude oil within the scope of the rule.* Most commenters argued that the DPA rule should not include crude oil because DOD has no need for crude oil and no capability to refine the crude oil. ERA believes that although DOD is not a general purchaser of crude oil, a mechanism should be provided to address all of DOD's emergency fuel needs, including a means of providing crude oil to specified refiners for processing. There may be refiners willing to supply products to DOD but for a lack of crude oil to run in the refinery. Crude oil currently is subject to EPAA allocation controls, and it is our intent to use that authority, rather than the DPA, if it is necessary to allocate crude oil for DOD needs. By including crude oil in the DPA regulations at this time, it will eliminate any need in the future to amend these DPA regulations to include crude oil upon expiration of the EPAA.

C. *Role of the Federal Emergency Management Agency (FEMA).* The proposed regulations provide in §§ 221.31(b) and 221.32(c) for a limited role for FEMA in the priority rating process. FEMA would be notified by DOD when it requested a priority rating from ERA, and ERA and DOD would consult with FEMA where priority ratings would conflict. Some commenters supported an increased oversight role for FEMA, whereas an equal number suggested that greater restriction upon FEMA involvement is more appropriate.

ERA believes that adoption of the regulations as proposed will allow FEMA to exercise sufficient oversight to discharge its general responsibilities under the DPA and relevant Executive Orders. No commenters supported FEMA involvement to the point where it would interfere with the expeditious handling of priority requests by DOD. Sections 221.31(b) and 221.32(c) ensure, however, that FEMA will be apprised of all requests for priority ratings and that it will be able thereafter to monitor the progress of the applications.

D. *Need for an exceptions and appeals procedure for the DPA regulations.* Six commenters supported the inclusion of an exceptions and appeals mechanism in the DPA regulations, to provide a means for a refiner to be excused from performance under a rated order. There are two reasons why such an exceptions and appeals procedure is not appropriate in these regulations.

First, the DPA is an extraordinary authority designed to ensure expedited procurement for the national defense. Acceptance and performance of contracts can be mandated (sec. 101(a)), stiff penalties may be imposed for failure to comply with an order (sec. 103) and injunctive provisions are specifically provided for persons who violate the DPA (sec. 706). It therefore would be inconsistent with both the letter and spirit of the DPA to allow for administrative impediments to expedited procurement for the national defense.

The second point is in response to concerns raised by refiners who fear they may receive an order with which they cannot comply. An overriding purpose of the regulations is to provide ERA with the necessary information to identify those refiners which are most capable of meeting DOD's needs. In most circumstances, ERA will not issue an order to a refiner which would suffer a disproportionate burden if it complied. However, all refiners in emergency situations must be prepared to make sacrifices if necessary to protect the national defense.

E. *Inclusion of defense contractors and other national defense components.* The Department of Defense has strenuously urged the inclusion of defense contractors in the regulations as eligible to apply for priority ratings. The Commerce Department concurred. The two refiners who commented on this issue favored limitation of the regulations to DOD only. As was stated in the preamble to the proposed regulations, the scope of the regulations expressly was limited to crude oil or petroleum products purchased by DOD for its own use or purchases made by DOD on behalf of other agencies of the Federal Government. The final regulations retain this limitation.

To include in the regulations defense contractors and some or all of the other agencies which are included within the definition of national defense, *e.g.*, DOE nuclear programs and the National Aeronautics and Space Administration, would substantially expand the scope of these regulations. Also, the inclusion of all defense contractors likely would generate a large volume of requests for priority assistance which would have to be processed even if they did not merit a priority. The potential volume of such requests could adversely affect our ability to meet national defense priorities. Accordingly, ERA has decided to limit the scope of these regulations to DOD and to issue a separate rulemaking

for defense contractors and other defense entities.

As was noted in the preamble to the notice of proposed rulemaking, ERA does have authority under the DPA to authorize priority ratings for defense contractors. In extraordinary circumstances, even in the absence of additional regulations, DOD may determine that failure to provide crude oil or petroleum products to a particular defense contractor will have a substantial negative impact on the national defense. ERA could invoke the general DPA authorities to assist that contractor notwithstanding the absence of a specific provision in these regulations authorizing ratings for contractors. DOD has procedures for determining contractor energy shortages in its Instruction No. 4170.9 (May 16, 1978), and we assume that DOD will rely upon these or similar procedures for identifying contractors in need of priority assistance. Similarily, other national defense programs may come to ERA for priority assistance where necessary in an emergency.

F. *Need for a defined methodology for determining which suppliers receive rated orders.* Several commenters expressed the view that the regulations should include standards for distribution of rated orders among refiners so that one group of refiners will not be assigned a disproportionate share of priority orders. ERA does not believe that it would be possible to adopt strict guidelines to ensure equitable distribution of the rated orders among suppliers. Broad discretion is needed under the regulations to afford ERA ample flexibility to deal with DOD emergency requirements. ERA will, to the extent practicable, spread the priority orders as equitably as possible among potential suppliers.

G. *Pricing under a priority rated order and other contract provisions.* Most of the commenters were in favor of a provision in the regulations to ensure that DOD and ERA would not use the DPA regulations to secure a price advantage for DOD when purchasing petroleum products. This is a matter beyond the scope of these regulations.

It long has been recognized that the DPA cannot be used merely to obtain a better price. If the reason that DOD cannot find a supplier is that it is unable to come to terms on price, DOD will not receive a priority rating. ERA must evaluate under § 221.32 whether DOD's needs can reasonably be satisfied without exercising the authority in the regulations. If DOD is unwilling to pay suppliers a reasonable price for the products and seeks ERA priority assistance, such assistance will be denied since DOD's needs can be met if it is willing to pay a reasonable price.

The commenters were virtually unanimous in their criticism of DOD procurement procedures and cited DOD's contract terms as one reason why suppliers avoid DOD contracts. The main criticisms were: cumbersome and onerous contracting procedures; drawn out procurement and payment procedures; and specifications requiring segregated storage. It it outside the scope of these regulations for ERA directly to affect DOD's contract procedures. But, for the reasons stated above, ERA will not permit DOD to resort to the DPA simply to cure normal procurement difficulties. If necessary, however, ERA can include in a priority rating or a directive certain terms as to quantity, quality, delivery, etc. Otherwise, except as provided in § 221.35 of the final regulations, DOD and the supplier will have to negotiate contract terms between themselves.

III. Section-by-Section Analysis

The regulations are being adopted as proposed. Therefore, the section-by-section analysis in the proposed regulations, 44 FR 63109, 63110 (Nov. 2, 1979), should be referred to for additional information on the operation and effect of the regulations.

IV. Additional Matters

A. *Section 404 of the DOE Act.* Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. *National Environmental Policy Act.* It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. *Executive Order 12044.* ERA has determined that this rulemaking is not subject to the provisions of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978). Section 6 of that Executive Order excepts from the coverage of the Order regulations issued with respect to a military function of the United States and regulations related to Federal Government procurement.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, Pub. L. 94–163 as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, Pub. L. 95–91; E. O. 12009, 42 FR 46267; Defense Production Act, Pub. L. 82–774, as amended; E.O. 10480 (18 FR 4939); E.O. 12038 (43 FR 4957); E.O. 11790 (39 FR 23785))

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is amended by adding a new Part 221 as set forth below.

Issued in Washington, D.C., on November 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Subchapter A of Chapter II, Title 10 of the Code of Federal Regulations is amended to add a new Part 221 as follows:

PART 221—PRIORITY SUPPLY OF CRUDE OIL AND PETROLEUM PRODUCTS TO THE DEPARTMENT OF DEFENSE UNDER THE DEFENSE PRODUCTION ACT

Subpart A—General

Sec.
221.1 Scope.
221.2 Applicability.

Subpart B—Exclusions

221.11 Natural gas and ethane.

Subpart C—Definitions

221.21 Definitions.

Subpart D—Administrative Procedures and Sanctions

221.31 Requests by DOD.
221.32 Evaluation of DOD request.
221.33 Order.
221.34 Effect of order.
221.35 Contractual requirements.
221.36 Records and reports.
221.37 Violations and sanctions.

Authority: Defense Production Act, 50 U.S.C. App. 2061 *et seq.*, E.O. 10480 (18 FR 4939, Aug. 18, 1953) as amended by E.O. 12038 (43 FR 4957, Feb. 7, 1978), and E.O. 11790 (39 FR 23785, June 27, 1974)

Subpart A—General

§ 221.1 Scope.

This Part sets forth the procedures to be utilized by the Economic Regulatory Administration of the Department of Energy and the Department of Defense whenever the priority supply of crude oil and petroleum products is necessary or appropriate to meet national defense needs. The procedures available in this

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Part are intended to supplement but not to supplant other regulations of the ERA regarding the allocation of crude oil, residual fuel oil and refined petroleum products.

§ 221.2 Applicability.

This Part applies to the mandatory supply of crude oil, refined petroleum products (including liquefied petroleum gases) and lubricants to the Department of Defense for its own use or for purchases made by the Department of Defense on behalf of other Federal Government agencies.

Subpart B—Exclusions

§ 221.11 Natural gas and ethane.

The supply of natural gas and ethane are excluded from this Part.

Subpart C—Definitions

§ 221.21 Definitions.

For purposes of this Part—

"Directive" means an official action taken by ERA which requires a named person to take an action in accordance with its provisions.

"DOD" means the Department of Defense, including Military Departments and Defense Agencies, acting through either the Secretary of Defense or the designee of the Secretary.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"National defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling and space, or activities directly related to any of the above.

"Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

"Priority-rated supply order" means any delivery order for crude oil or petroleum products issued by DOD bearing a priority rating issued by ERA under this Part.

"Supplier" means any person other than the DOD which supplies, sells, transfers, or otherwise furnishes (as by consignment) crude oil or petroleum product to any other person.

Subpart D—Administrative Procedures and Sanctions

§ 221.31 Requests by DOD.

(a) When DOD finds that (1) a fuel supply shortage for DOD exists or is anticipated which would have a substantial negative impact on the national defense, and (2) the defense activity for which fuel is required cannot be postponed until after the fuel supply shortage is likely to terminate, DOD may submit a written request to ERA for the issuance to it of a priority rating for the supply of crude oil and petroleum products.

(b) Not later than the transmittal date of its request to ERA, DOD shall notify the Federal Emergency Management Agency that it has requested a priority rating from ERA.

(c) Requests from DOD shall set forth the following: (1) the quantity and quality of crude oil or petroleum products determined by DOD to be required to meet national defense requirements; (2) the required delivery dates; (3) the defense-related activity and the supply location for which the crude oil or petroleum product is to be delivered; (4) the current or most recent suppliers of the crude oil or petroleum product and the reasons, if known, why the suppliers will not supply the requested crude oil or petroleum product; (5) the degree to which it is feasible for DOD to use an alternate product in lieu of that requested and, if such an alternative product can be used, the efforts which have been made to obtain the alternate product; (6) the period during which the shortage of crude oil or petroleum products is expected to exist; (7) the proposed supply source for the additional crude oil or petroleum products required, which shall, if practicable, be the historical supplier of such crude oil or product to DOD; and (8) certification that DOD has made each of the findings required by paragraph (a).

§ 221.32 Evaluation of DOD request.

(a) Upon receipt of a request from DOD for a priority rating as provided in § 221.31, it shall be reviewed promptly by ERA. The ERA will assess the request in terms of (1) the information provided under § 221.31; (2) whether DOD's national defense needs for crude oil or petroleum products can reasonably be satisfied without exercising the authority specified in this Part; (3) the capability of the proposed supplier to supply the crude oil or petroleum product in the amounts required; (4) the known capabilities of alternative suppliers; (5) the feasibility to DOD of converting to and using a product other than that requested; and (6) any other relevant information.

(b) The ERA promptly shall notify the proposed supplier of DOD's request for a priority rating specified under this Part. The proposed supplier shall have a period specified in the notice, not to exceed fifteen (15) days from the date it is notified of DOD's request, to show cause in writing why it cannot supply the requested quantity and quality of crude oil or petroleum products. ERA shall consider this information in determining whether to issue the priority rating.

(c) If acceptance by a supplier of a rated order would create a conflict with another rated order of the supplier, it shall include all pertinent information regarding such conflict in its response to the show cause order provided for in subsection (b), and ERA, in consultation with DOD and the Federal Emergency Management Agency shall determine the priorities for meeting all such requirements.

(d) ERA may waive some or all of the requirements of § 221.31 or this section where the Secretary of Defense or his designee certifies, and has so notified the Federal Emergency Management Agency, that a fuel shortage for DOD exists or is imminent and that compliance with such requirements would have a substantial negative impact on the national defense.

§ 221.33 Order.

(a) *Issuance.* If ERA determines that issuance of a priority rating for a crude oil or refined petroleum product is necessary to provide the crude oil or petroleum products needed to meet the national defense requirement established by DOD, it shall issue such a rating to DOD for delivery of specified qualities and quantities of the crude oil or refined petroleum products on or during specified delivery dates or periods. In accordance with the terms of the order, DOD may then place such priority rating on a supply order.

(b) *Compliance.* Each person who receives a priority-rated supply order pursuant to this Part shall supply the specified crude oil or petroleum products to DOD in accordance with the terms of that order.

(c) *ERA directives.* Notwithstanding any other provisions of this Part, where necessary or appropriate to promote the national defense ERA is authorized to issue a directive to a supplier of crude oil or petroleum product requiring delivery of specified qualities and quantities of such crude oil or petroleum products to DOD at or during specified delivery dates or periods.

(d) *Use of ratings by suppliers.* No supplier who receives a priority-rated supply order or directive issued under the authority of this section may use such priority order or directive in order to obtain materials necessary to meet its supply obligations thereunder.

§ 221.34 Effect of order.

Defense against claims for damages. No person shall be liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any ERA authorized priority-rated supply order or ERA directive issued pursuant to this Part, notwithstanding that such priority-rated supply order or directive thereafter be declared by judicial or other competent authority to be invalid.

§ 221.35 Contractual requirements.

(a) No supplier may discriminate against an order or contract on which a priority rating has been placed under this Part by charging higher prices, by imposing terms and conditions for such orders or contracts different from other generally comparable orders or contracts, or by any other means.

(b) Contracts with priority ratings shall be subject to all applicable laws and regulations which govern the making of such contracts, including those specified in 10 CFR 211.26(e).

§ 221.36 Records and reports.

(a) Each person receiving an order or directive under this Part shall keep for at least two years from the date of full compliance with such order or directive accurate and complete records of crude oil and petroleum product deliveries made in accordance with such order or directive.

(b) All records required to be maintained shall be made available upon request for inspection and audit by duly authorized representatives of the ERA.

§ 221.37 Violations and sanctions.

(a) Any practice that circumvents or contravenes the requirements of this Part or any order or directive issued under this Part is a violation of the regulations provided in this Part.

(b) Criminal Penalties. Any person who willfully performs any act prohibited, or willfully fails to perform any act required by this Part or any order or directive issued under this Part shall be subject to a fine of not more than $10,000 for each violation or imprisoned for not more than one year for each violation, or both.

(c) Whenever in the judgment of the Administrator of ERA any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of these regulations, the Administrator may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision.

[FR Doc. 80-36066 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 385 and 399

Correction of Commodity Control List and Related Matters

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Correction of interim rule.

SUMMARY: This document corrects errors in documents on the Export Administration Regulations and the Commodity Control List (CCL) which appeared in the **Federal Register** of June 25, 1980. The error in Part 385 appeared on page 43145 of **Federal Register** Document 80–18860, and the errors in the CCL appeared on page 43010 of **Federal Register** Document 80–18859. A technical amendment is made to Part 385, and the following entries of the CCL are corrected:
1110A(c); 1206A; 4363B; 2406A; 5406D; 2409A; 1416A; 1418A; 1431A; 4460B; 6460F; 6490F; 6499G; 5510D; 5597B; 4678B; 3709A; 4799B; and 5999B.

DATES: This rule becomes effective on November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377–5247 or 377–4811.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on June 25, 1980 (45 FR 43010 and 43145) the Department issued a revision in interim form of Part 385 of the Export Administration Regulations as well as a revision in interim form of the Commodity Control List (CCL). This rule amends those revisions by correcting errors made in the amendments to Part 385 and to the CCL entries. Although there is no formal comment period, public comments on these corrections are welcome.

1. The following correction is made in **Federal Register** Document 80–18860, appearing at page 43145 in the issue of June 25, 1980:

The second sentence of § 385.1 is corrected to read as follows:

§ 385.1 Country Group Z; North Korea, Vietnam, Cambodia and Cuba.

* * * * *

Certain exceptions are contained in Parts 371 and 379, and in ECCN's 7599 and 7999 on the Commodity Control List.

* * * * *

2. The following corrections are made in **Federal Register** Document 80–18859, appearing at page 43010 in the issue of June 25, 1980:

Section 399.1 is corrected as follows:

§ 399.1 [Amended]

(a) On pages 43064 and 43069 of the **Federal Register,** Entry Nos. 1110A(c) and 1206A are corrected by inserting code "1," in the "Reason for Control" column preceding code "4" in that column. Footnotes to these entries remain unchanged.

(b) On pages 43078 and 43129, Entry Nos. 4363B and 4678B are corrected by transferring footnote "1" from the "Reason for Control" column to the "Validated License Required" column. The footnote is corrected to read as follows:

[1] A validated license is *not* required for export of these commodities to the countries listed in Supps. No. 2 and No. 3 to Part 373.

(c) On page 43083, Entry No. 6499G is corrected by: (a) deleting "and Afghanistan" from the "Validated License Required" column, and (b) adding a footnote "2" in this same column reading as follows:

[2] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. (See §§ 371.2(c)(11) and 385.4(a)).

(d) On page 43087, Entry No. 5510D is corrected by changing the second word in the "Commodity Description" column from "Sonal" to "Sonar."

(e) On page 43125, Entry No. 5597B is corrected by deleting the words "and identification" from the phrase "fingerprint and identification cameras."

(f) On page 43131, Entry No. 3709A is corrected by deleting footnote "1" in the column entitled "GLV $Value Limits T & V."

(g) On page 43136 Entry No. 4799B is corrected by changing the "Commodity Description" column to read as follows:

Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloracetophenone (CN), and smoke bombs; and fingerprint powders, dyes and inks. (Specify by name.) (See § 376.14.)

(h) On page 43080, Entry No. 2406A is corrected by adding a footnote "1a" in the "Unit" column reading as follows:

[1a] Report vehicles, and engines in number.

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(i) On page 43083, Entry No. 6490F is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

[2a] Report tractors in number.

(j) On page 43080, Entry No. 5406D is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

[2a] Report engines in number.

(k) On page 43081, Entry No. 1431A is corrected by adding a footnote "b" in the "Unit" column reading as follows:

[b] Report engines in number.

(l) On page 43080, Entry No. 2409A is corrected by adding a footnote "4" in the "Unit" column reading as follows:

[4] Report engines and motors in number.

(m) On page 43081, Entry Nos. 1418A and 1418A are corrected by adding a footnote "a" in the "Unit" column reading as follows:

[a] Report vessels or vehicles in number.

(n) On page 43138, Entry No. 5999B is corrected by deleting "nonmilitary gas masks designed for protection against tear gas and other chemical agents" and adding a footnote "4" as follows:

[4] Gas masks designed for protection against tear gas and other chemical agents are controlled by the Office of Munitions Control. See § 370.10.

(o) On page 43082, Entry Nos. 4460B and 6460F are corrected by adding a footnote "a" in the "Unit" column reading as follows:

[a] Report aircraft, helicopters and engines in number.

3. The Commodity Interpretations incorporated by reference at 15 CFR 399.2 are corrected as follows:

Paragraph (b)(4) of Interpretation 20 is corrected to read as follows:

Interpretation 20: Aircraft, Parts, Accessories and Components

* * * * *

(b) * * *

* * * * *

(4) Airborne communications equipment having any of the following characteristics:

(i) Designed to operate at frequencies greater than 156 MHz,

(ii) Incorporating facilities for (a) the rapid selection of more than 200 channels per equipment, *except equipment operating in frequency range 108–136 MHz with 720 or fewer channels at not less than 25 kHz spacing and which has been in normal civil use for at least one year,* or (b) using frequency synthesis techniques with a speed of switching from one selected output frequency to another selected output frequency less than 10 milliseconds,

* * * * *

(Secs. 5, 6, 7, 13, 15 and 21, Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*; E. O. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); and International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (effective August 26, 1980))

Dated: November 6, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-36118 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 50

[Order No. 916–80]

Policy With Regard to Issuance of Subpoenas to Members of News Media, Subpoenas for Telephone Toll Records of Members of News Media, and Interrogation, Indictment, or Arrest of, Members of News Media

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the existing policy with regard to issuance of subpoenas to members of the news media. The amendment is necessary in order to make the existing policy applicable to subpoenas in civil proceedings and to subpoenas for telephone toll records and for other purposes.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Victor H. Kramer, Counselor to the Attorney General, Office of the Attorney General, Department of Justice, Washington, D.C. 20530, (202) 633–3892.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301, and 28 U.S.C. 509, 516 and 519, it is hereby ordered:

1. Section 50.10 of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 50.10 Policy with regard to the issuance of subpoenas to members of the news media, subpoenas for telephone toll records of members of the news media, and the interrogation, indictment, or arrest of, members of the news media.

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues. This policy statement is thus intended to provide protection for the news media from forms of compulsory process, whether civil or criminal, which might impair the news gathering function. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department in all cases:

(a) In determining whether to request issuance of a subpoena to a member of the news media, or for telephone toll records of any member of the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from alternative sources before considering issuing a subpoena to a member of the news media, and similarly all reasonable alternative investigative steps should be taken before considering issuing a subpoena for telephone toll records of any member of the news media.

(c) Negotiations with the media shall be pursued in all cases in which a subpoena to a member of the news media is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) Negotiations with the affected member of the news media shall be pursued in all cases in which a subpoena for the telephone toll records of any member of the news media is contemplated where the responsible Assistant Attorney General determines that such negotiations would not pose a substantial threat to the integrity of the investigation in connection with which the records are sought. Such determination shall be reviewed by the Attorney General when considering a subpoena authorized under paragraph (e) of this section.

(e) No subpoena may be issued to any member of the news media or for the telephone toll records of any member of the news media without the express authorization of the Attorney General: *Provided,* That, if a member of the news media with whom negotiations are conducted under paragraph (c) of this section expressly agrees to provide the material sought, and if that material has already been published or broadcast, the United States Attorney or the responsible Assistant Attorney General, after having been personally satisfied that the requirements of this section have been met, may authorize issuance of the subpoena and shall thereafter submit to the Office of Public Affairs a report detailing the circumstances surrounding the issuance of the subpoena.

(f) In requesting the Attorney General's authorization for a subpoena to a member of the news media, the following principles will apply:

(1) In criminal cases, there should be reasonable grounds to believe, based on information obtained from nonmedia sources, that a crime has occurred, and that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(2) In civil cases there should be reasonable grounds, based on nonmedia sources, to believe that the information sought is essential to the successful completion of the litigation in a case of substantial inportance. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.

(4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.

(5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.

(6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.

(g) In requesting the Attorney General's authorization for a subpoena for the telephone toll records of members of the news media, the following principles will apply:

(1) There should be reasonable ground to believe that a crime has been committed and that the information sought is essential to the successful investigation of that crime. The subpoena should be as narrowly drawn as possible; it should be directed at relevant information regarding a limited subject matter and should cover a reasonably limited time period. In addition, prior to seeking the Attorney General's authorization, the government should have pursued all reasonable alternative investigation steps as required by paragraph (b) of this section.

(2) When there have been negotiations with a member of the news media whose telephone toll records are to be subpoenaed, the member shall be given reasonable and timely notice of the determination of the Attorney General to authorize the subpoena and that the government intends to issue it.

(3) When the telephone toll records of a member of the news media have been subpoenaed without the notice provided for in paragraph (e)(2) of this section, notification of the subpoena shall be given the member of the news media as soon thereafter as it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation. In any event, such notification shall occur within 45 days of any return made pursuant to the subpoena, except that the responsible Assistant Attorney General may authorize delay of notification for no more than an additional 45 days.

(4) Any information obtained as a result of a subpoena issued for telephone toll records shall be closely held so as to prevent disclosure of the information to unauthorized persons or for improper purposes.

(h) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (l) of this section shall be observed.

(i) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media.

(j) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(k) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request shall be sent to the Director of Public Affairs.

(l) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Affairs.

(m) In light of the intent of this Section to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(n) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action. The principles set forth in this section are not intended to create or recognize any legally enforceable right in any person.

2. The section heading for § 50.10 in the table of contents of Part 50 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Sec.

50.10 Policy With Regard to the Issuance of Subpoenas to Members of the News

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Media, Subpoenas for Telephone Toll Records of Members of the News Media, and the Interrogation, Indictment, or Arrest of, Members of the News Media.

Dated: November 5, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-36115 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-11 and 5A-11

Federal, State, and Local Taxes; Transfer Policies and Procedures

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding Federal, State, and local taxes from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS (APD 2800.2 CHGE 7)

1. The Table of Parts is amended by adding the following entry:

TABLE OF PARTS

Part

5-11 Federal, State, and local taxes.

2. The Table of Contents for Part 5-11 is added as follows:

PART 5-11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2—Exemptions From Federal Excise Taxes

Sec.

5-11.250 Supplies for export or shipment to a possession.

Subpart 5-11.4—Contract Clauses

5-11.401 Fixed-price type contracts.

5-11.401-50 Federal, State, and local taxes—small purchases.

5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

5-11.401-52 Federal excise taxes—D.C. Government.

Subpart 5-11.5—Tax Exemption Forms

5-11.501-1 Certificate of export to a possession or Puerto Rico.

3. Part 5-11 Federal, State, and local taxes is added as follows:

PART 5-11 FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2 Exemptions From Federal Excise Taxes

§ 5-11.250 Supplies for export or shipment to a possession.

(a) Federal excise taxes are not imposed on purchases by the Government (see §§ 1-11.201(b) and 1-11.202(b)) of supplies for export, or for shipment to a possession of the United States, including Puerto Rico, where:

(1) The purchase is substantial;

(2) Exportation or shipment to a possession is intended to follow not more than 6 months after title to the supplies passes to the United States Government; and

(3) The supplies are in fact exported or shipped to a possession in due course.

(b) The term "substantial" in (a)(1), is defined as any transaction where the estimated Federal excise tax exceeds $200.

(1) *Definite quantity contracts for nonstock items.* When the estimated Federal excise tax exceeds $200, the clause set forth in § 1-11.401-3(b) shall be included in the solicitation appropriately amended as prescribed.

(2) *Requirements contracts.* (i) When the requirements contract sets forth the Federal excise tax(es) (e.g., in contracts for tires and tubes), the export delivery orders issued under the contract(s) shall exclude the excise tax, and the following statement shall be set forth on the order, "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(ii) When the requirements contract does not expressly set forth the Federal excise tax, the delivery orders issued under the contract(s) may include the Federal excise tax(es), except when it is known or estimated that the Federal excise tax will exceed $200. In the latter instance, the contracting officer or ordering office, as appropriate, shall determine the amount of the tax, shall exclude this tax and mark the order "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(iii) In compliance with (a)(2), delivery orders for shipment to geographical locations within the United States for export or reshipment to a United States possession (including Puerto Rico), within 6 months from the date the title to supplies passes to the United States Government, shall be processed in the same manner as set forth in (b)(2) (i) or (ii) above. The requisitioning documents on which the procurement action is based will bear an appropriate statement that the items are destined for export or shipment to a United States possession (including Puerto Rico) within 6 months from the date the title to the supplies to be ordered passes to the Government.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to contracts made on behalf of the Agency for International Development (AID). The current edition of GSA Form 1246, entitled "GSA Supplemental Provisions" (AID Procurement), shall be incorporated by reference in each solicitation for offers under the AID buying program.

Subpart 5-11.4 Contract Clauses

§ 5-11.401 Fixed-price type contracts.

§ 5-11.401-50 Federal, State, and local taxes—small purchases.

The following clause shall be used in consummating small purchases negotiated pursuant to 41 U.S.C. 252(c)(3):

Federal, State, and Local Taxes

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

§ 5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

The following clause shall be included in all multiple award Federal Supply Schedule solicitations and resultant schedules (including New Item Introductory Schedules):

State and Local Taxes

Notwithstanding the provisions of the clause entitled "Federal, State, and Local Taxes" (see § 1-11.401-1), the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Taxes excluded from the contract price pursuant to the preceding sentence shall be separately stated on the Contractor's invoices and the Government agrees either to pay to the Contractor amounts covering such taxes or to provide evidence necessary to sustain an exemption therefrom.

§ 5-11.401-52 Federal excise taxes—DC Government.

The clause prescribed below shall be inserted in all formally advertised and negotiated contracts:

Federal Excise Taxes—DC Government

The District of Columbia is exempt from and will not pay Federal excise taxes. Contractors will bill shipments to the District of Columbia at prices exclusive of such excise tax and show the amount of such tax on the invoice. The Internal Revenue Tax Exemption Certificate Number will be shown on all District of Columbia Government purchase orders.

Subpart 5-11.5 Tax Exemption Forms

§ 5-11.501-1 Certificate of export to a possession or Puerto Rico.

Purchase orders for export or shipment to a possession or Puerto Rico are not subject to manufacturers excise taxes (see § 1-11.202) and, in certain cases, retailers excise taxes (see § 1-11.201). When requested by the contractor, proof of export or shipment to a possession or Puerto Rico shall be furnished in the form of a certificate similar to that in § 1-11.501-1. Certificates shall be signed by officials designated in the GSA Delegations of Authority manual, ADM P 5450.39A.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS [APD 2800.3 CHGE 11]

1. The Table of Parts of GSPR 5A is amended to delete Part 5A-11—FEDERAL, STATE, AND LOCAL TAXES as follows:

Part 5A-11 [Deleted]

PART 5A-11 FEDERAL, STATE, AND LOCAL TAXES [DELETED]

2. Part 5A-11 is deleted in its entirety as set forth above.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: October 28, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-36044 Filed 11-18-80; 8:45 am]

BILLING CODE 6820-34-M

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Proposed Rules

Federal Register
Vol. 45, No. 225
Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1902

Supervised Bank Accounts; Loan and Grant Disbursement

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to revise its regulations to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions. The current regulation provides that supervised accounts be maintained only with banks. This action is needed in order to comply with Treasury Circular 176 to permit deposit of government funds in savings and loan associations, and credit unions. The intended effect of this action is to give borrowers greater opportunity in choosing a financial institution to deposit and disburse loan fund proceeds. The supervised accounts will be used only in rare instances because FmHA field offices can request loan checks on an as needed basis. The proposed regulation also recognizes the increase from $40,000 to $100,000 in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union coverage on deposits. Minor editorial changes also are being made.

DATE: Comments must be received on or before January 19, 1981.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip A. Carter, Financial Support Division, Room 4118, South Agriculture Building, 14th and Independence, SW., Washington, DC 20250. Phone: (202) 447–4871.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Joseph Linsley, Chief, Directives Management Branch, Room 6346, South Agriculture Building, 14th and Independence, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". FmHA proposes to revise Subpart A of Part 1902, Chapter VIII, Title 7, Code of Federal Regulations. This instruction does not directly affect any programs or projects which are subject to A–95 Clearinghouse review. Accordingly, as proposed, Subpart A of Part 1902 is revised to read as follows:

PART 1902—SUPERVISED BANK ACCOUNTS

Subpart A—Loan and Grant Disbursement

Sec.

1902.1 General.
1902.2 Policies concerning disbursement of funds.
1902.3 Procedures to follow in fund disbursement.
1902.4–1902.5 [Reserved]
1902.6 Establishing supervised bank accounts.
1902.7 Pledging collateral for deposit of funds in supervised bank accounts.
1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.
1902.9 Deposits.
1902.10 Withdrawals.
1902.11 District office and county office records.
1902.12–1902.13 [Reserved]
1902.14 Reconciliation of accounts.
1902.15 Closing accounts
1902.16 Request for withdrawals by State Director
1902.17–1902.50 [Reserved]
Exhibit A—Designated Financial Institution—Collateral Pledge Memo.
Exhibit B—Interest-Bearing Deposit Agreement.
Exhibit C—Deposit Agreement.
Exhibit D—Deposit Agreement (Non-FmHA Funds).

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; Title II of the Emergency Agricultural Credit Adjustment Act of 1978, 92 Stat. 429; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.1 General.

This Subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) for disbursement of funds under the Loan Disbursement System (LDS) and in establishing and using supervised bank accounts. The LDS system provides for disbursement of funds on an as needed basis to substantially reduce interest costs to FmHA borrowers, U.S. Treasury, and FmHA.

(a) The *Form FmHA 1940–1,* "Request for Obligation of Funds," provides for: (1) obligation only, (2) obligation and check request for the full amount of the loan or grant, and (3) obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use this form are contained in the Forms Manual Insert (FMI) for this form.

(b) *Form FmHA 440–57,* "Acknowledgment of obligated Funds/Check Request," provides for: (1) the initial loan amount check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, and (5) providing requested information from the Finance Office. The instructions on when and how to use this form are contained in the FMI for this form.

(c) *See FmHA Instructions 102.1* (available in any FmHA office) for procedures to follow if checks are lost or destroyed.

(d) Borrowers as referred to in this Subpart include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this Subpart are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Savings and Loans referred to in this Subpart are those in which deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

(g) Credit Unions referred to in this Subpart are those in which deposits are insured by the National Credit Union Administration (NCUA).

(h) Financial Institutions as referred to in this Subpart include banks, savings and loans, and credit unions which are covered by the proper insurance coverage cited in paragraphs (e), (f) and (g) of this section.

(i) Supervised bank accounts referred to in this Subpart are bank, savings and loan, or credit union accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FmHA, and the bank on Form FmHA 402–1, "Deposit Agreement," or the savings and loan and credit union on "Deposit Agreement (Exhibit C)", or (2) the borrower, FmHA, other lenders, and the bank on Form FmHA 402–5, "Deposit Agreement (Non-FmHA Funds), or the savings and loan and credit union on "Deposit Agreement (Non-FmHA Funds)" (Exhibit D).

(j) Form FmHA 402–1 or Exhibit C provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to secure the performance of the borrower's obligation to FmHA in connection with a loan and grant.

(k) Form FmHA 402–5 or Exhibit D will be completed when deposits of funds advanced by other lenders as security for payments of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

(l) "Interest-Bearing Deposit Agreement" (Exhibit B), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form FmHA 402–1 or Form FmHA 402–5.

§ 1902.2 Policies concerning disbursement of funds.

(a) The partial advance feature of the LDS will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statutes. The capability to request Treasury checks on an as needed basis reduces the need for supervised bank accounts. *Therefore, supervised bank accounts will be used only in rare instances, e.g.:*

(1) When a construction loan is made and the construction is substantially completed, but a small amount is being withheld pending completion of landscaping or some similar item, or a small loan closing. In this case, the amount of funds not disbursed when the predetermined amortization effective date occurs may be placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operating (OL) loans and Emergency (EM) loans. In such cases, installment checks will continue to be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc. as necessary. When the construction process requires several checks to be issued at one time the LDS system can still be utilized. Those District and County Offices authorized to request checks by telephone may request more than one check at a time. If more than one check is required, a Form FmHA 440–57 will be prepared for each check.

(3) Supervised bank accounts will be used only when necessary to assure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA and other lenders when the accounts are no longer required.

(4) Income from the sale of security property of Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FmHA 402–1 or Exhibit C when the District Director or County Supervisor determines it is necessary to do so to assure that the funds will be available for replacement of the property.

(5) When a borrower has a clearly demonstrated inability to handle financial affairs, all or part of the income or other funds may be deposited in the supervised bank account under the appropriate Deposit Agreement if the District Director or County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements:

(i) This supervisory technique will be used for a temporary period to help the borrower learn to properly manage financial affairs. Such a period will not exceed one year unless extended by the District Director; and

(ii) The borrower is agreeable to such an arrangement.

(6) In exceptional cases when the unincorporated EO cooperative or grazing association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in § 1902.6 (and § 1902.2(f) of this Subpart if another lender is involved).

(b) For all construction loans, and those loans to be advanced in increments, only the actual amount to be disbursed at loan closing will be requested either through the initial submission of Form FmHA 1940–1 or through Form FmHA 440–57. Subsequent checks will be ordered as needed by submitting Form FmHA 440–57 to the Finance Office.

(c) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs, interest will accrue from the loan closing date or date of check whichever is later. For association and organization type loans interest will accrue from the date the check is delivered to the borrower.

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the FMI for Form FmHA 1940–1, the Finance Office will forward the remaining balance to the District Director or County Supervisor for appropriate action, unless the District Director or County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the District Director or County Supervisor will return the check(s) with Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with FmHA Instruction 102.1 (available in any FmHA Office).

(f) Funds provided to an FmHA borrower by another lender (through subordination agreements by the FmHA or under other arrangements between the borrower, FmHA, and the other lender) that are not used immediately after the loan and grant closing will be deposited in a supervised bank account under Form FmHA 402–5 or Exhibit D, provided:

(1) The District Director or County Supervisor determines such action is necessary to protect FmHA's interest and to assure that the funds will be used for the purposes planned,

(2) The other lender is unwilling to control the use of such funds, and

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(3) The other lender is agreeable to the use of the FmHA supervised bank account.

(g) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors regardless of the provisions of the State laws involved.

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to the Finance Office by complying with the FMI for Forms FmHA 1940–1 and FmHA 440–57.

(b) Counties using the telephone to request subsequent advances will call the designated telephone number provided by the Finance Office and request all subsequent checks by providing the information required on Form FmHa 440–57.

(c) When check(s) are delivered to the District Office or County Office, the District Director or County Supervisor will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The District Director or County Supervisor should be sure that the check is properly endorsed to insure payment to the intended recipient. Examples of such restrictive endorsements are:

(1) "For Deposit Only to Account No. (Number of Construction Account) of *(Name of Borrower)* in *(Name of Bank)*".

(2) "Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of .

(d) When necessary and only under the circumstances listed in § 1902.2 the District Director or County Supervisor will establish, or cause to be established, a supervised bank account.

§ 1902.4–1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the bank is a member of the FDIC, the savings and loan is a member of the FSLIC, and the credit union is a member of the NCUA.

(b) When accounts are established, it should determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) Agreement is reached with the financial institution regarding the place where the counter-signature will be on checks.

(c) When possible, District Directors or County Supervisors will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) If the amount of Community Facility, Water and Waste Disposal, Grazing Association, Irrigation and Drainage, Indian Land Acquisition, Watershed (WS), Organizational Rural Rental Housing (RRH), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Organizational Labor Housing (LH) loan funds, and grant funds plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed $100,000 the financial institution will be required to pledge collateral for the excess over $100,000 before the deposit is made (see § 1902.7). In addition, a pledge of collateral may be required for other types of loans or grants in amounts in excess of the State Director's approval authority when determined necessary by the National Office on an individual case basis.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the financial institution, and a District or County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on the applicable Deposit Agreement has previously been executed and Form FmHA 402–6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the financial institution.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of $100,000 for borrowers referred to in § 1902.6(d), deposited in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the District Director or County Supervisor will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC, (banks), FSLIC (savings and loans), or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of $100,000.

(3) If the financial institution is not a member of the Federal Reserve System it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the Federal Reserve Bank informing them they are holding securities pledged for the supervised bank account under Treasury Circular 176.

(c) If the financial institution is agreeable to pledging collateral, the District Director or County Supervisor should complete a form letter (Exhibit A) in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The form letter should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the Treasury Department to have the financial institution designated as a depository, unless already designated, and to have collateral pledged.

(e) If, two days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the financial institution confirming that the pledge of collateral has been made, contact should be made with the depository bank to ascertain whether they have pledged collateral with their local Federal Reserve Bank in compliance with the provisions of Treasury Circular 176. If the bank has accomplished the pledge then contact the National Office, Financial Support Division.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the financial institution desires part, or all of its collateral released, it should write to the Treasury Department, Domestic Banking Staff, Bureau of Government Operations, Washington, D.C. 20226. (ATTENTION: Collateral and Reports Branch) requesting the release and stating the balance in the supervised bank account.

§ 1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

District Directors or County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person listed in Exhibit B of FmHA Instruction 1951–B, under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals as outlined in § 1902.16.

§ 1902.9 Deposits.

(a) *Deposit by FmHA personnel.*

(1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the financial institution in which the funds are to be deposited, or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed by the District Director or County Supervisor as provided in paragraph V E 4 of FmHA Instruction 1951–B.

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the financial institution in which the supervised bank account is established or jointly to the order of the borrower and the FmHA. All such checks should be delivered or mailed to the District or County Office.

(3) If direct or insured loan funds (other than OL or EM, loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing *after it has been determined that the loan can be closed.* However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the financial institution or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source are deposited by FmHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distribution as follows: Original to the financial institution, one copy to the borrower, and one copy for the borrower's case folder. The names of the borrower, the sources of funds, and "Subject to FmHA Countersignature," and if applicable, the account number will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the financial institution. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

"For deposit only in the supervised bank account of (name of borrower) in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated————."

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in any form may be deposited in the supervised bank account by the borrower if authorized by FmHA provided the financial institution has agreed that when a deposit is made to the account by other than FmHA personnel, the financial institution will promptly deliver or mail a copy of the deposit slip to the FmHA District or County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated ————.

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the District Director or County Supervisor and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1902.9(a)(5).

§ 1902.10 Withdrawals.

(a) The District Director or County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, or checks which the District Director or County Supervisor knows to be good, or until the deposit checks have cleared.

(b) Withdrawals of funds deposited under the applicable deposit agreement are permitted only by order of the borrower and countersignature of authorized FmHA personnel, or upon written demand on the financial institution by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA 402–1 or 402–5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

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(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form FmHA 402–2, "Statement of Deposits and Withdrawals," and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and a determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from personal funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower, District Director of County Supervisor would be involved, or purchase would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the District Director or County Supervisor must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or a representative to the District or County Office of the FmHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number, and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

_____

_____

(Title)
Farmers Home Administration

§ 1902.11 District Office and County Office records.

A record of funds deposited in a supervised bank account will be maintained on Form FmHA 402–2 in accordance with the FMI and Exhibit A of FmHA Instruction 2033–A, available in any FmHA office. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FmHA 402–2 so that they can be clearly identified.

§ 1902.12–1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If requested by the financial institution a supply of addressed, franked envelopes will be provided for use in mailing checking account statements and cancelled checks for supervised bank accounts to the District or County Office. Checking account statements will be reconciled promptly with District or County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(b) All checking account statements and canceled checks will be forwarded immediately to the borrower when bank statements and District or County Office records are in agreement. If a transmittal is used, Form FmHA 140–4, "Transmittal of Documents," is prescribed for that purpose.

§ 1902.15 Closing accounts.

When FmHA loan or grant funds and those of any lender have all been properly expended or withdrawn, Form FmHA 402–6 may be used to give FmHA's consent (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FmHA loan funds in the supervised bank account of a borrower have been reduced to $100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, except loans listed in § 1902.6(d), after completion of authorized loan fund expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate.

(c) For loan and grant accounts listed in § 1902.6(d), when the funds have been expended in accordance with the requirements of Part 1942 Subpart A and Part 1823, Subpart I (FmHA Instructions 1942–A and 442.9) the supervised bank account will be closed within 90 days following completion of development unless and extension of time is authorized in writing by the District Director. If the borrower will not agree to close the account, the District Director or County Supervisor will request the State Director to make demand upon the financial institution in accordance with § 1902.16.

(d) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as "active."

(1) *Deceased borrowers.*

(i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor's name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA's contersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the District Director or County Supervisor will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "inactive."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the District Director or County Supervisor will (i) notify the borrower in writing that the interests in the account of FmHA have been terminated, and (ii) inform the borrower of the balance remaining in the supervised bank account.

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17–1902.50 [Reserved]

Exhibit A—Designated Financial Institution—Collateral Pledge Memo

Dates _____
District Office or County Office Location: (as applicable) _____
Telephone No.: (indicate FTS or provide area code) _____
To: Administrator, FmHA
Attn: Financial Support Division,
Washington, DC 20250
1. Name of borrower or grantee (Please indicate if subsequent loan)
2. Type of loan or grant funds
3. Name and location of Financial Institution (*excluding street address)*

_____

Location of Branch, _____
(If to be used for deposit of loan funds)
4. Proposed amount of FmHA: Loan $_____ Grant $_____
5. Amount of any other funds to be deposited in addition to amount in item 4 $_____
6. Largest amount from all sources that will be on deposit at any one time $_____ (Amount should include FDIC, FSLIC, or NCUA coverage of $100,000)
7. Estimated closing date _____
8. Name of other account(s) for which the financial institution has pledged collateral _____. Also indicate balance of FmHA loan and/or grant funds on deposit for these accounts or any future deposits which will be above the FDIC, FSLIC or NCUA coverage.
(Signature) _____

Exhibit B—Interest-Bearing Deposit Agreement

Whereas, Certain funds of _____ hereinafter referred to as the "Depositor," are now on deposit with the _____, hereinafter referred to as the "Bank," under a Deposit Agreement, dated _____, 19—, providing for supervision thereof by the United States of America, acting through the Farmers Home Administration, hereinafter referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interests in the funds covered thereby; and,

Whereas, certain of said funds are not now required for immediate disbursement and it is the desire of the Depositor to place the same in interest-bearing deposits with the Bank;

Now therefore, the Depositor and the Government hereby authorize and direct the Bank to place _____ Dollars ($_____) of the funds subject to said Deposit Agreement in interest-bearing deposits as follows:

$_____ for a period _____ months at _____% interest
$_____ for a period _____ months at _____% interest
$_____ for a period _____ months at _____% interest

Said interest-bearing deposits and the income earned thereon at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion thereof, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____.
United States of America
(Depositor) _____
By: _____
County Supervisor
Farmers Home Administration
U.S. Department of Agriculture
By: _____
Title: _____

Accepted on the foregoing terms and conditions this _____ day of _____, 19—
(Bank) _____
(Office or Branch) _____
By: _____
Title: _____

Exhibit C—Deposit Agreement

Name(s) of Depositor(s) _____
Social security or IRS tax No _____
Address (Including Zip Code) c/o Farmers Home Administration _____
Name and Address of savings and loan or credit union (Including Zip Code) _____
County of residence _____
Date of Agreement _____
Account Number (if used) _____

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Government," the above-named Depositor(s), herein called the "Depositor" and the above named Savings and Loans or Credit Union herein called the "Depository"
WITNESSETH: _____

In consideration of loans or other advance(s) of funds made or insured by the Government and the depositing in the Depository to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from such loans or other advance(s) of funds, of moneys otherwise obtained by the Depositor, it is agreed as follows:

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1. The Depositor hereby assigns, transfers, and pledges to the Government the aforesaid account and deposit(s), heretofore or hereafter made, and conveys to the Government a security interest in all money deposited in said account, as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Government, and for the performance of the obligations and agreements of the Depositor in connection with such advance(s) or indebtedness.

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depository except on the order of the Depositor and the counter signature of a duly authorized representative of the Government. Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depository shall pay over the balance then on hand, or any part thereof demanded, for application on said indebtedness or as a return of grant funds to the Government or for protection of the Government's lien or security to accomplish the purpose for which such advances were made: Provided, further, that the death, disability, or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depository agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness or claim now or hereafter owing to or acquired by it.

4. The Depository shall be under no obligation with respect to the expenditure of funds after their withdrawal from the Depository in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depository shall be discharged from all obligations with respect to the funds so released.

5. The Depository agrees that, at the end of each ——— period, it will forward statements and cancelled checks to the Farmers Home Administration office at the above address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depository ———
By ———
Depositor ———
Depositor ———
United States of America
By (Title) ———
Farmers Home Administration
United States Department of Agriculture

Note to depository: Please return signed original and copy of this form, along with copy of deposit slip to the above FmHA Office address.

Exhibit D—Deposit Agreement (Non-FmHA Funds)

Name(s) of depositor(s) ———
Name and address of savings and loan or credit union (Zip Code) ———
County of residence ———
Address of Farmers Home Administration (Zip Code) ———
Name and address of lender (Zip Code) (leave blank when lender and S&L or credit union are same) ———
Date of agreement ———
Account number (if used) ———

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Depositor," and the above-named Savings and Loan or Credit Union herein called the "Depository" and the above-named lender or grantor, herein called the "Lender."

WITNESSETH:

In consideration of loans or other advance(s) of funds made or insured by the Lender and by the Government and the depositing in the Depository, to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from the loans or other advance(s) of funds by the Lender, or moneys otherwise obtained by the Depositor, it is agreed as follows:

1. The Depositor hereby assigns, transfers, and pledges to the Government as trustee for the Lender the aforesaid account and deposit(s), heretofore, or hereafter made, and conveys to the Government as trustee for the Lender a security interest in all money deposited in said account, (a) as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Lender and (b) for the peformance of obligations and agreements of the Depositor in connection with such advance(s).

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depository except on the order of the Depositor and counter-signature of a duly authorized representative of the Government: Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depository shall pay over the balance then on hand, or any part thereof demanded, in accordance with the demand for use for the purposes for which the advance(s) were made or for return to the Lender for application on the indebtedness or as a return of grant funds: Provided, further, that the death, disability or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depository agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness of claim now or hereafter owing to or acquired by it.

4. The Depository and the Government shall be under no obligations with respect to the expenditure of funds after their withdrawal from the Depository in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depository shall be discharged from all obligations with respect to the funds so released.

5. The Depository further agrees that, at the end of each ——— period, it will forward statements and cancelled checks to the Farmers Home Administration office at the address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depository ———
By ———
Omit Lender's Signature when it is the same as the depository
Lender ———
By ———
(Official Title) ———
United States of America
By ———
(Official title Farmers Home Administration)
Depositor ———
Depositor ———

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Dated: November 12, 1980.

James E. Thornton,
Administrator, Farmers Home Administration.

[FR Doc. 80–36119 Filed 11–18–80; 8:45 am]
BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

NRC Action Plan; Request for Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Requests for comments.

SUMMARY: The Commission requested public comments on NUREG–0660, NRC Action Plan Developed as a Result of the TMI–2 Accident" (45 FR 50613). The public comment period is being extended 45 days.

DATES: Comment period expires December 12, 1980.

ADDRESSES: Written comments or suggestions for consideration in connection with the NRC Action Plan should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Copies of the NRC Action Plan (NUREG–0660, "NRC Action Plan Developed as a Result of the TMI–2 Accident") are also available for inspection at the same address and at all NRC local Public Document Rooms (LPDRs).

Copies are available upon request by persons who wish to comment, at no cost, from NRC's GPO Sales Program, Division of Technical Information and Document Control, ATTN: Sales Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–9530).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–7581).

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission.

Frank Schroeder,
Acting Director for Safety Technology.

[FR Doc. 80–36085 Filed 11–18–80; 8:45 am]
BILLING CODE 7590–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1031 and 1032

Voluntary Standards Activities; Modification of Policy

AGENCY: Consumer Product Safety Commission.

ACITON: Proposed revision of regulations.

SUMMARY: The Commission proposes minor modifications to its regulations concerning association with voluntary standards development groups. These modifications deal primarily with procedural matters such as staff reports and meetings with voluntary standards development groups as well as the terms used to describe these associations.

DATES: (1) Comments concerning these proposed revisions should be received on or before January 19, 1981. (2) Effective date: The Commission proposes that these modifications take effect 30 days after they are published in final form.

ADDRESSES: Written comments, preferably in 5 copies should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. Copies of materials relevant to this proposal may be seen in or obtained from the Office of the Secretary, third floor, 1111 18th St., N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Bert Simson, Director, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6554.

SUPPLEMENTARY INFORMATION: Commission regulations concerning voluntary safety standards and involvement of Commission staff in helping voluntary standards groups develop such standards reflect Commission awareness that voluntary standards can contribute to the Commission's goal of reducing hazards associated with consumer products. Commission regulations at 16 CFR 1031, entitled Employee Membership and Participation in Voluntary Standards Organizations, set forth in detail the criteria for Commission staff involvement with voluntary standards development groups in order to ensure that such involvement presents no real or apparent conflict of interest with Commission staff members' duties and responsibilities to the Consumer Product Safety Commission.

Commission regulations at 16 CFR 1032 entitled, Commission Involvement in Voluntary Standards Activities, describe the extent and form of Commission involvement in these activities and how these may affect Commission programs.

From time to time experience may indicate that changes in these regulations would assist the efficient implementation of Commission programs. It is the Commission's view that staff involvement with voluntary standards development groups should be conducted in the context of all Commission consumer product safety programs. Toward this end, the internal organization of the Commission's Office of Program Management (OPM), which coordinates staff activities relating to regulation of consumer products, has been adjusted so that staff involvement with voluntary standards development activities will be based on program needs in accordance with Commission policy. In this way, such involvement becomes a part of any program dealing with hazards associated with consumer products. Formerly, a discrete staff unit dealt with voluntary standards development activities as such, rather than regarding such activities as integral parts of ongoing Commission programs in the hazard areas of: fire and thermal burns; acute chemical and environmental hazards; chronic chemical and environmental hazards; electrical hazards; mechanical hazards associated with children's and recreational products; mechanical hazards associated with powered equipment; and mechanical hazards associated with household structural products.

To assist integration of appropriate voluntary standards development program into these program areas, the Commission proposes the following modifications of its regulations concerning staff involvement with voluntary standards development efforts: (1) program managers may occasionally attend meetings of voluntary standards development groups with which Commission staff may be involved for the purpose of providing guidance based on program needs; (2) to avoid confusion the descriptions of levels of Commission staff involvement with voluntary standards development groups is changed, although the extent of substantive involvement is unchanged; (3) preparation of staff reports to the Commission on staff involvement with voluntary standards development is changed from quarterly to semiannually because experience shows that semiannual reports would be sufficiently informative.

(1) *Occasional attendance of program managers at meetings*—At the present time, Commission regulations at 16 CFR 1031.5(b) provide that program managers in the Office of Program Management are among Commission employees who do not take part in the development of voluntary standards unless the Commission so permits on a case-by-case basis. The reasoning behind this provision is that such involvement could appear to involve a conflict of interest since program managers make recommendations to the Commission concerning evaluation of voluntary standards that may be considered for possible adoption as mandatory standards or as the possible basis for deferring mandatory action.

Experience has shown, however, that conflicts of interest have not materialized. In part this may be because the recommendations of a program manager are reviewed by the Director of the Office of Program Management and the Executive Director. Higher levels of review for recommendations of program managers have always existed in fact; they will now be specifically referred to in the regulations.

Experience indicates too, that the occasional presence of a program manager at meetings of a voluntary standards development group in which Commission technical staff members are involved, could help to focus the technical deliberations of the group and possibly help speed up the development process. Program managers by the nature of their work deal with multidisciplinary coordination of the staff's technical skills within current Commission projects. Thus, at critical

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junctures in the devlopment of voluntary standards, program managers are in the unique position of being able to commmunicate Commission policy on *all* aspects of a project involving a particular consumer product and to assess whether timely progress in the appropriate direction, within the context of Commission policy, is taking place.

Accordingly, the Commission proposes to modify § 1031.5(b)(4) by proposing that: "with advance approval by the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standards development efforts with which Commission technical employees may be involved". Further, the Commission proposes that § 1031.5(i), as set forth below, provide that any recommendations made by a program manager concerning voluntary standards are to be reviewed by higher-level Commission employees.

(2) *Terms to describe levels of CPSC staff involvement with voluntary standards development groups*—At the present time, Commission regulations at 16 CFR 1032.2(b) describe three levels of such activity; beginning with the least involvement, these are liaison, monitoring and participation. The definition of liaison now describes a minimal form of involvement that consists of making Commission materials available to voluntary standards groups and maintaining some contacts with them. The definition of monitoring now describes closer contacts by staff including more frequent attendance at meetings and staff review of meeting logs and draft voluntary standards. Participating involves regular attendance of CPSC staff, as nonvoting members of voluntary standards development groups and active involvement of staff in technical committee discussions. In certain circumstances, the Commission will authorize expenditure of resources for research, engineering support, or information and education programs for the purpose of supporting development and implementation of a voluntary standard effort.

Since activities involving participation are substantial and resource-intensive, participation in voluntary standards efforts must be approved by the Commission. Activities involving liaison and monitoring involve more limited use of resources and can be undertaken upon approval of the Executive Director. Experience has shown that liaison and monitoring activities are closely related and tend to overlap. Thus the terms liaison and monitoring, by themselves, do not serve to clearly differentiate the extent of staff involvement. The needs of individual voluntary standards efforts, as determined by the Executive Director, affect the extent of any staff involvement short of participation. The Commission concludes that continuing the use of different terms, liaison and monitoring, for what is essentially a continuing process, can mislead the public as to the extent of CPSC staff involvement.

Accordingly, the Commission proposes to modify section 1032.2(b) as set forth below, to combine present descriptions of liaison and monitoring into one term, monitoring. The revised section provides that the term monitoring describes and degree of CPSC staff involvement approved by the Executive Director. The term participation is unchanged; participation must still be approved by the Commission because it can involve significant Commission resources.

(3) *Frequency of reports on voluntary standards activities*—At the present time, Commission regulations at 16 CFR 1032.3(c) provide that quarterly reports on voluntary standards activities are to be submitted to the Commission by the staff. Experience indicates that less frequent reports could provide an accurate picture of the proceedings of voluntary standards development groups and that quarterly reports are not needed for this purpose. It appears that quarterly reports have tended to be repetitive and provided little new or useful information. The Commission concludes that semiannual reports would provide the needed information.

Accordingly, the Commission proposes to revise section 1032.3(c) below to change the frequency of staff reports on voluntary standards from quarterly to semiannually. Although not specifically stated in the proposed revised section, any unusual voluntary standards activity or any activity of special interest that may occur in the period between semiannual reports would also be reported to the Commission.

Therefore, pursuant to the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, the Commission proposes to amend Part 1031 and Part 1032 of Title 16, Chapter II, Subchapter A, as follows:

1. Section 1031.5 is amended by revising paragraphs (b)(4) and (i) to read as follows:

§ 1031.5 Participation criteria.

(a) * * *

(b) * * *

(4) * * * Except that: with advance approval of the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standard development efforts with which Commission technical employees may be involved.

(c) * * *

(d) * * *

(e) * * *

(f) * * *

(g) * * *

(h) * * *

(i) * * * Any evaluation or recommendation shall be reviewed by higher-level commission employees.

* * * * *

2. Section 1032.2(b) is amended by changing the word "three" to "two" in the third sentence, by revising and combining paragraphs (b)(1) and (b)(2) into paragraph (b)(1), and by renumbering paragraph (b)(3) to (b)(2) as follows:

§ 1032.2 Extent and form of Commission involvement in the development of voluntary standards.

* * * * *

(b) [Amended]

* * * * *

(1) *Monitoring.* Monitoring involves maintaining an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, and attending meetings for the purpose of observing and commenting during the standards development process. For example, monitoring involves responding to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations, by providing information concerning the risks of injury associated with particular products, NEISS data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities.

(2) *Participating.* * * *

* * * * *

3. Section 1032.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1032.3 Determination of Commission involvement in voluntary standards activities; summary of activities.

(a) The Executive Director shall approve Commission activities that are within the definition of "monitoring".

(b) * * *

(c) The Office of Program Management is responsible for preparing a semiannual summary of such activities for the Commission.

* * * * *

Dated: November 13, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36089 Filed 11-18-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Amendment to the Customs Regulations Relating to the Examination of Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director of Customs would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and enforcement of Customs and other laws.

Customs has been testing a pilot automated selective examination system at several ports of entry, and the results have been encouraging. The proposed amendments would allow for servicewide use of the system to improve the effectiveness of Customs cargo inspections.

DATE: Comments must be received on or before January 19, 1981.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: William Morandini, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), provides that not less than one package of every invoice and not less than one of every 10 packages of imported merchandise shall be opened and examined. However, if the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that examination of a lesser proportion of packages will amply protect the revenue, by special regulation or instruction, the application of which may be restricted to one or more individual ports, one or more importations, or to one or more classes of merchandise, he may permit a lesser number of packages to be examined.

Section 151.2, Customs Regulations (19 CFR 151.2), implements 19 U.S.C. 1499 by providing that not less than one of every 10 packages of merchandise shall be examined unless a special regulation permits a lesser number of packages to be examined. Section 151.2 further provides that district directors are authorized specially to examine less than one of every 10 packages, but not less than one package of every invoice, in the case of any merchandise imported in packages (1) the contents and values of which are uniform, or (2) the contents of which are identical as to character although differing as to quantity and value per package.

A June 1978 General Accounting Office draft report to Congress entitled "Customs' Cargo Processing—Fewer But More Intensive Inspections Are In Order", recommended that a comprehensive cargo selective inspection system would be more efficient than Customs traditional inspection approach. To implement this recommendation, Customs has been testing a pilot automated selective examination system, the Accelerated Cargo Clearance and Entry Processing Test (ACCEPT), in several ports of entry. The results have been encouraging.

To allow for expanded use of the system on a servicewide basis to improve the effectiveness of Customs cargo inspections, it is proposed to amend paragraph (a) of § 151.2 to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure protection of the revenue and enforcement of Customs and other laws.

Section 151.1, Customs Regulations (19 CFR 151.1), provides that the district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for other Customs purposes. It is proposed to amend § 151.1 to clarify that Customs officers may examine shipments to ensure compliance with any other laws enforced by the Customs Service, as well as with the Customs laws. For example, imported merchandise may be examined for the Department of Agriculture, the Environmental Protection Agency, and the Department of Health, Education and Welfare, among other agencies, to determine that it complies with the laws which are administered primarily by those agencies.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C 66), and sections 499, 624, 46 Stat. 728, as amended, 759, General Headnotes 11, 12, Tariff Schedules of the United States (19 U.S.C. 1202, 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Applicability of Executive Order 12044

This document is subject to the Treasury Department directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", and was the subject of Work Plan #79-20, approved by the Department on July 31, 1979.

Regulation Determined To Be Nonsignificant

In the directive implementing Executive Order 12044, the Treasury Department stated that it considers each regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, regulations which are nonsubstantive, essentially procedural, and do not impose substantial additional requirements or cost on, or substantially alter the legal rights or

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obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendments

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. It is proposed to amend § 151.1, Customs Regulations (19 CFR 151.1), to read as follows:

§ 151.1 Merchandise to be examined

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

2. It is proposed to amend paragraph (a) of § 151.2, Customs Regulations (19 CFR 151.2), to read as follows:

§ 151.2 Quantities to be examined.

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(i) Imported in packages the contents and values of which are uniform, or

(ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the district director is authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the Customs laws and any other laws enforced by the Customs Service.

* * * * *

R. E. Chasen,
Commissioner of Customs.

Approved: November 6, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-36052 Filed 11-18-80; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing

24 CFR Part 200

[Docket No. R-80-888]

Project Selection Criteria

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional Waiver request under Section 7(o)(4) of the Department of HUD Act. This legislation permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuances of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepubllication review period, under Section 7(o)(2), and the 30-day delayed effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Develpment Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 200, Subpart N—Project Selection Criteria

This final rule retroactively amends 24 CFR 200 Subpart N, in order to preclude conflict with the Public Housing Development regulation 24 CFR 841. The preamble to 24 CFR 841 stated that these conforming amendments would be made to 24 CFR 200 Subpart N, effective October 1, 1980, the effective date of the 24 CFR 841.

With the final rule at 24 CFR 841, effective October 1, 1980, each program regulation implementing the United States Housing Act of 1937 now sets forth the appropriate program site selection requirements. This conforming amendment (final rule), therefore, deletes from 24 CFR 200 Subpart N, all references to the United States Housing Act of 1937 and its programs.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 6, 1980.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 80-36027 Filed 11-18-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-237-76]

Indirect Foreign Tax Credit for Domestic Corporations Required To Include Amounts in Gross Income With Respect to Certain Third-Tier Corporations Under Section 951

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the foreign tax credit for domestic corporate shareholders of certain foreign corporations. These regulations would amend the existing regulations to conform them to changes made to the applicable law by the Tax Reform Act of 1976. They would affect all domestic corporations required to include certain amounts in gross income with respect to third-tier controlled foreign corporations.

DATES: Written comments and requests for a public hearing must be delivered by January 19, 1981. The amendments are proposed to be effective for taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-237-76) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 960 of the Internal Revenue Code (relating to special rules for foreign tax credit). These amendments are proposed to conform the regulations to section 1037 of the Tax Reform Act of 1976 (90 Stat. 1633) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Foreign Tax Credit Under Section 960

Section 960 of the Code provides that domestic corporations which are required to include amounts attributable to the earnings and profits of certain controlled foreign corporations in their gross incomes under section 951(a), shall be deemed to have paid a portion of the foreign taxes paid, accrued, or, in some instances, deemed paid by such controlled foreign corporations on or with respect to their earnings and profits.

1976 Act Changes To Section 960

Prior to amendment by the Tax Reform Act of 1976, the credit provisions of section 960 were applicable to first- and second-tier corporations only. Section 1037 of the Tax Reform Act of 1976 extended this credit to third-tier corporations. In addition, section 1037 changed the ownership requirement for qualification as a second-tier corporation from 50 percent to 10 percent.

Rules Unchanged

These proposed regulations would amend §§ 1.960-1, 1.960-2, 1.960-3 and 1.960-7 of the existing regulations by making conforming changes. The amendments would make those rules applicable to amounts included in the gross income of a domestic corporation under section 951 with respect to third-tier corporations. In order to so extend the existing rules, the proposed amendments revised the above mentioned sections and add several new examples relating to third-tier corporations.

Formulas Added

The proposed regulations would add a new paragraph (g) to § 1.960-2 which provides formulas for determining a domestic corporation's section 902 and 960 credits when amounts previously included in the domestic corporation's gross income under section 951 are distributed through a chain of ownership. These formulas were added to further illustrate the principles of this section. Formulas have also been added to the new examples. Comments are sought as to whether these formulas are helpful.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Diane L. Renfroe of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.960-1 (except for paragraph (c)(4), examples 1 and 2) is revised as set forth below.

§ 1.960-1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-, second-, or third-tier corporation's earnings and profits. Section 1.960-2 prescribes rules for applying section 902 to dividends paid by a third-, second-, or first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960-3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960-4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960-5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960-6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax. Section 1.960-7 prescribes the effective dates for application of these rules.

(b) *Definitions.* For purposes of section 960 and §§ 1.960-1 through 1.960-7—

(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* In the case of amounts included in the gross income of the taxpayer under section 951—

(i) For taxable years beginning before January 1, 1977, the term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(ii) For taxable years beginning after December 31, 1976, the term "second-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Third-tier corporation.* In the case of amounts included in the gross income of a domestic shareholder under section 951 for taxable years beginning after December 31, 1976, the term "third-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such second-tier corporation.

(4) *Immediately lower-tier corporation.* In the case of a first-tier corporation the term "immediately lower-tier corporation" means a second-tier corporation. In the case of a second-tier corporation, the term "immediately lower-tier corporation" means a third-tier corporation. In the case of a third-tier corporation, the term "immediately lower-tier corporation" means a fourth-tier corporation.

(5) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a

foreign country or a possession of the United States.

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951*—(1) *In general.* For purposes of section 901—

(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first- or second-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960–2) to be paid, by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation for its taxable year. This paragraph (c)(1)(i) shall not apply to amounts included in the gross income of the domestic corporation under section 951 with respect to the second-tier corporation unless the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a third-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation. This paragraph (c)(1)(ii) shall not apply unless the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.

(iii) In applying paragraph (c)(1)(i) of this section to a first- or second-tier corporation which for the taxable year has income excluded under section 959(b), paragraph (c)(3) of this section shall apply for purposes of excluding certain earnings and profits of such foreign corporation and foreign income taxes, if any, attributable to such excluded income.

(iv) This paragraph (c)(1) applies whether or not the first-, second-, or third-tier corporation makes a distribution for the taxable year of its earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This paragraph (c)(1) does not apply to an increase in current earnings invested in United States property which, but for paragraph (e) of § 1.963–3 (applied as if section 963 had not been repealed by the Tax Reduction Act of 1975), would be included in the gross income of the domestic corporation under section 951(a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year.

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation.* For purposes of paragraph (c)(1) of this section, the foreign income taxes paid or accrued by a first-, second-, or third-tier corporation on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(3) *Exclusion of earnings and profits and taxes of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (c)(1)(i) or (c)(1)(ii) of this section is applied—

(i) The earnings and profits of such foreign corporation for its taxable year consist of (A) earnings and profits attributable to dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and (B) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the dividends to which its earnings and profits described in paragraph (c)(3)(i)(A) of this section are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(i)(B) of this section are attributable,

then, for purposes of applying paragraph (c)(1)(i) or (c)(1)(ii) of this section to the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such foreign corporation for such taxable year shall be considered not to include the earnings and profits described in paragraph (c)(3)(1)(A) of this section and only the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(ii)(B) of this section are attributable shall be taken into account. For purposes of applying this paragraph (c)(3), the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3) (iv) and (viii) and (c) of § 1.954–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) *Illustrations.* * * *

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in gross income $80 attributable to the earnings and profits of C Corporation for such year, $45 attributable to the earnings and profits of B Corporation for such year and $50 attributable to the earnings and profits of A Corporation for such year. Neither C Corporation nor B Corporation distributes any earnings and profits for 1978. The foreign income taxes which are deemed paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

C Corporation (third-tier corporation):	
Pretax earnings of C Corporation	$150.00
Foreign income taxes (40%)	60.00
Earnings and profits	90.00
Amounts required to be included in N Corporation's gross income under section 951	80.00
Dividends paid to B Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of C Corporation	60.00
B Corporation (second-tier corporation):	
Pretax earnings of B Corporation	100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951	45.00
Dividends paid to A Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of B Corporation	40.00
A Corporation (first-tier corporation):	
Pretax earnings and profits of A Corporation	100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income under section 951	50.00
Dividends paid to N Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of A Corporation	20.00
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1):	
Taxes of C Corporation $80/$90×$60	53.33
Taxes of B Corporation $45/$60×$40	30.00
Taxes of A Corporation $50/$80×$20	12.50
Total taxes deemed paid under section 960(a)(1)	95.83

Example (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns 5 percent of the one class of stock of controlled foreign corporation B. N Corporation also directly owns 95 percent of the one class of stock of B Corporation. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $60 attributable to the earnings and profits of B Corporation and $79.20 attributable to the earnings and profits of A Corporation. For 1978, B Corporation distributes $19 to N Corporation and $1 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

B Corporation (first-tier corporation):		
Pretax earnings and profits	$100.00	
Foreign income taxes (40%)	40.00	
Earnings and profits	60.00	
Amount required to be included in N Corporation's gross income with respect to B Corporation	60.00	
A Corporation (first-tier corporation):		
Pretax earnings and profits (including $1 dividend from B Corporation)	100.00	
Foreign income taxes (20%)	20.00	
Earnings and profits	80.00	
Amount required to be included in N Corporation's gross income with respect to A Corporation ($99 – [$99×0.20])	79.20	
N Corporation (domestic corporation):		
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to—		
B Corporation ([$60×0.95]/$60×$40)	38.00	
A Corporation ($79.20/$80×$20)	19.80	
Total taxes deemed paid under section 960(a)(1)	57.80	

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $175 attributable to the earnings and profits of A Corporation for such year. For 1978, B Corporation has earnings and profits of $225, on which it pays foreign income taxes of $75. In 1978, B Corporation distributes $150, which, under paragraph (b) of § 1.960–2, consists of $100 to which section 902(b)(1) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and $50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1978. Under paragraph (b) of § 1.960–2, A Corporation is deemed to have paid $25 ($50/$150×$75) of the $75 foreign income taxes paid by B Corporation on its pretax earnings and profits of $225. The foreign income taxes deemed paid by N Corporation for 1978 under section 960(a)(1) with respect to A Corporation are determined as follows upon the basis of the following assumed facts:

Pretax earnings and profits of A Corporation:			
Dividends received from B Corporation	$150.00		
Other income	250.00		
Total pretax earnings and profits	400.00		
Foreign income taxes:			
On dividends received from B Corporation	0		
On other income ($250 x 0.40)	100.00		
Total foreign income taxes		100.00	
Earnings and profits:			
Attributable to dividends received from B Corporation to which sec. 902(b) does not apply	100.00		
Attributable to other income:			
Attributable to dividends received from B Corporation to which sec. 902(b)(1) applies	$50.00		
Attributable to other income ($250—$100 [$250 x 0.40])	150.00	200.00	
Total earnings and profits			300.00
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation:			
Tax paid by A Corporation in respect to its income other than dividends received from B Corporation to which sec. 902(b)(1) does not apply ($175/$200 x $100			87.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) in respect to such income ($175/$200 x $25)			21.88
Total foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation			109.38

(d) *Time for stock ownership*—(1) *In general.* For the purposes of applying paragraph (c) of this section, the stock ownership requirements referred to in paragraph (b) (1), (2), and (3) of this section must be satisfied on the last day in such taxable year of such first-, second-, or third-tier corporation, as the case may be, on which such foreign corporation is a controlled foreign corporation. For paragraph (c) to apply to a second-tier corporation the requirements of paragraph (b) (1) and (2) must be met on such date. In order for paragraph (c) to apply to a third-tier corporation the requirements of paragraph (b) (1), (2), and (3) must be met on such date.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N is required for its taxable year ending June 30, 1978, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1977 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1977, but B Corporation is a controlled foreign corporation only from January 1, 1977, through September 30, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

Example (2). The facts are the same as in example (1), except that A Corporation is a controlled foreign corporation only from January 1, 1977, through March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

(e) *Information to be furnished.* If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a)(1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid or accrued by it and for which credit is claimed. See § 1.905–2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038 and § 1.6038–2.

(f) *Reduction of foreign income taxes paid or deemed paid.* For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(b) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(g) *Amounts under section 951 treated as distributions for purposes of applying effective dates.* For purposes of applying section 902 in determining the amount of credit allowed under section 960 (a)(1) and paragraph (c) of this section, the effective date provisions of the

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regulations under section 902 shall apply, and for purposes of so applying the regulations under section 902, any amount attributable to the earnings and profits for the taxable year of a first-, second-, or third-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such foreign corporation is a controlled foreign corporation.

(h) *Source of income and country to which tax is deemed paid*—(1) *Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-, second-, or third-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960 (a) (1),

shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second-or third-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-, second-, or third-tier corporation and deemed to be paid by the domestic corporation under section 960(a)(1) by reason of the inclusion of the amount described in paragraph (h)(1)(i) of this section in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corporation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $45 attributable to the earnings and profits of B Corporation for such year and $50 attributable to the earnings and profits of A Corporation for such year. For 1978, because of the inclusion of such amounts in gross income, N Corporation is deemed under section 960(a)(1) and paragraph (c) of this section to have paid $15 of foreign income taxes paid by B Corporation for such year and $10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount ($95) included in N Corporation's gross income under section 951 attributable to the earnings and profits of corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes ($25) deemed paid by N Corporation under section 960(a)(1) with respect to such $95 is deemed to be derived from sources within country X. The $25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

Par. 2. Examples (1)–(7) under § 1.960–2 (e) are recodified under § 1.960–2(f) and the rest of § 1.960–2 is revised to read as follows:

§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by third-, second-, or first-tier corporation.

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a third-, second-, or first-tier corporation, as the case may be, from its earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951, or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2, with respect to the domestic corporation. In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959–1, or any portion of a distribution received from an immediately lower-tier corporation by the third-, second-, or first-tier corporation which is excluded from such foreign corporation's gross income under section 959(b) and § 1.959–2, shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes paid by such third-, second-, or first-tier corporation which are not deemed paid by the domestic corporation under section 960(a)(1) and § 1.960–1.

(b) *Application of section 902(b) to dividends received from an immediately lower-tier corporation.* For purposes of paragraph (a) of this section and paragraph (c)(1)(i) of § 1.960–1, section 902(b) shall apply to all dividends received by the first- or second-tier corporation from the immediately lower-tier corporation other than dividends attributable to earnings and profits of such immediately lower-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such immediately lower-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* For purposes of paragraph (a) of this section, section 902(a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(d) *Allocation of earnings and profits of a first- or second-tier corporation having income excluded under section 959(b)*—(1) *First-tier corporations.* If the first-tier corporation for its taxable year receives from the second-tier corporation dividends to which, in accordance with paragraph (b) of this section, section 902(b)(1) or 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(a) pursuant to this section and in applying section 960(a)(1) pursuant to § 1.960–1(c)(1)(i), with respect to the foreign income taxes paid and deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation for such taxable year under section 902(b)(1)—

(i) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for the taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) and

(ii) For the purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) shall not be treated as a dividend.

(a) *Second-Tier corporations.* If the second-tier corporation for its taxable year receives dividends from the third-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(b)(1) pursuant to this section, and in applying section 960(a)(1) pursuant to paragraph (c)(1)(i) of § 1.960–1, with respect to the foreign taxes deemed paid by the second-tier corporation for such taxable year under section 902(b)(2)—

(i) The earnings and profits of the second-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the third-tier corporation, and

(ii) For the purposes of so applying section 902(b)(1), distributions to the first-tier corporation from such earnings and profits which are attributable to such other dividends from the third-tier corporation shall not be treated as a dividend.

(e) *Separate determinations under sections 902(a), 902(b)(1), and 902(b)(2) in the case of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (b) or (c) of this section is applied—

(1) The earnings and profits of such foreign corporation for its taxable year consist of—

(i) Dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and

(ii) Other earnings and profits, and

(2) The effective rate of foreign income taxes paid or accrued by such foreign corporation on the dividends described in paragraph (e)(1)(i) of this section is higher or lower than the effective rate of foreign income taxes attributable to its earnings and profits described in paragraph (e)(1)(ii) of this section,

then, for purposes of applying paragraphs (b) or (c) of this section to dividends paid by such foreign corporation to the domestic corporation or the first- or second-tier corporation, sections 902(a), 902(b)(1), and 902(b)(2) shall be applied separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(i) of this section and separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section. In making a separate determination with respect to the earnings and profits described in paragraph (e)(1)(i) or (e)(1)(ii) of this section, only the foreign income taxes paid or accrued (or, in the case of earnings and profits of a first- or second-tier corporation described in paragraph (e)(1)(ii) of this section, deemed to be paid) by such foreign corporation on the income attributable to such earnings and profits shall be taken into account. For purposes of applying this paragraph (e), no part of the foreign income taxes paid, accrued, or deemed to be paid which are attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section shall be attributed to the dividend described in paragraph (e)(1)(ii) of this section; and no part of the foreign income taxes paid or accrued on the dividend described in paragraph (e)1)(i) of this section shall be attributed to the earnings and profits described in paragraph (e)(1)(ii) of this section. Furthermore, the effective rate of foreign income taxes paid or accrued shall be determined consistently with the principles of paragraph (b)(3(iv) and (viii) and (c) of § 1.954–1. Thus, for example, the effective rate of foreign income taxes on dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(f) *Illustrations.* The application of this section may be illustrated by the following examples. In all of the examples other than examples (6), (7), (9) and (10), it is assumed that the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation, as the case may be, in respect to dividends received from the immediately lower-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation with respect to its other income: * * *

Example (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include $50 attributable to the earnings and profits of C Corporation and $15 attributable to the earnings and profits of B Corporation in its gross income. N Corporation is not required to include any amount in its gross income with respect to A Corporation under section 951 in 1978. For such year, C Corporation distributes $75 to B Corporation. B Corporation in turn distributes $60 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for 1978 and distributes $45 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under section 960 (a)(1) and section 902(a) are determined as follows on the basis of the facts assumed:

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C Corporation (third-tier corporation):

Pretax earnings and profits.....$150.00
Foreign taxes paid by C Corporation (30%)..... 45.00
Earnings and profits..... 105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation..... 50.00
Dividend to B Corporation..... 75.00

Dividend from earnings and profits to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)..... $50.00

Dividend from earnings and profits to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income with respect to C Corporation)..... 25.00

Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b):

$$\frac{\text{Dividend to B Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to C Corporation}}{\text{Earnings and profits of C Corporation}} \times \text{Taxes paid by C Corporation}$$

($25/$105 X $45)..... 10.71

B Corporation (second-tier corporation):

Pretax earnings and profits
Dividend from C Corporation..... 75.00
Other earnings and profits 225.00
Total pretax earnings and profits..... 300.00

Foreign income taxes paid by B Corporation (40%).....$120.00
Earnings and profits..... 180.00

Earnings and profits attributable to amounts to which section 902 (b) (2) does not apply (amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 - ($50 X .40))... $30.00

Other earnings and profits.....150.00

Earnings and profits of B Corporation after exclusion for amounts to which section 902 (b) (2) does not apply (amounts attributable to earnings and profits which are included in N Corporation's gross income under section 951 with respect to C Corporation) ($180 - $30)..... 150.00

Amount to be included in gross income under section 951 of N Corporation with respect to B Corporation..... 15.00

Amount of dividend to A Corporation..... 60.00

Dividend from earnings and profits to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)..... 30.00

Dividend from earnings and profits to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)..... 15.00

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Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to B or C Corporation)..... $15.00

Foreign income taxes of B Corporation deemed paid by A Corporation under section 902 (b) (1):

Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation X Taxes paid by B Corporation
($45/$180 X $120).....$30.00

Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1):

Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation and C Corporation / Earnings and profits of B less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation X Taxes paid by C Corporation which are deemed paid by B Corporation
($15/$150 X $10.71)..... 1.07

A Corporation (first-tier corporation):

Pretax earnings and profits of A Corporation:
Dividend from B Corporation.....60.00
Other earnings and profits..... 0
Total pretax earnings and profits..... 60.00

Foreign income taxes paid by A Corporation
10%..... 6.00
Earnings and profits..... 54.00

§ 1.960-2 (f) Example (8)

Earnings and profits attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts previously included in N Corporation's gross income under section 951 with respect to C Corporation)
($30 - ($30 X .10))..... $27.00

Earnings and profits attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)
($15 - ($15 X .10))..... 13.50

Other earnings and profits
($15 - ($15 X.10))..... 13.50

Earnings and profits of A Corporation after exclusion for amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)
($54.00 - $13.50).....$40.50

Earnings and profits of A Corporation after exclusion for amounts to which sections 902 (b) (1) and (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation)
($40.50 - $27.00)..... 13.50

Dividend to N Corporation 45.00

Dividend from earnings and profits to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)..... 27.00

Dividend from earnings and profits to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)..... 13.50

§ 1.960-2 (f) Example (8)

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Dividend from earnings and profits to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation).....$4.50

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation

Amount included in N Corporation's gross income under section 951 with respect to C Corporation / Earnings and profits of C Corporation X Taxes paid by C Corporation

($50/$105 X $45.00)..... $21.43

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation..... .....11.07

Taxes paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation X Taxes paid by B Corporation

($15/$180 X $120)..... 10.00

Taxes deemed paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation X Taxes paid by C Corporation which are deemed paid by B Corporation

($15/$150 X $10.71)..... 1.07

Total taxes deemed paid by N Corporation under section 960 (a) (1).....$32.50

§ 1.960-2 (f) Example (8)

Foreign income taxes deemed paid by N Corporation under section 902 (a):

Taxes paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A Corporation / Earnings and profits of A Corporation X Taxes paid by A Corporation

($45/$54 X $6).....$5.00

Taxes paid by B Corporation deemed paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A and B Corporations / Earnings and profits of A Corporation less earnings and and profits attributable to amounts included in N Corporation's gross income with respect to B Corporation X Taxes paid by B Corporation which are deemed paid by A Corporation

($31.50/$40.50 X $30.00)..... 23.33

Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings and included in N Corporation's gross income under section 951 with respect to A, B, and C Corporations / Earnings and profits of A Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to B and C Corporation X Taxes deemed paid by B Corporation which are deemed paid by A Corporation

($4.50/$13.50 X $1.07)..... .36

§ 1.960-2 (f) Example (8)

Total taxes deemed paid by N Corporation under section 902 (a)..... $13.69

Total foreign income taxes deemed paid by N Corporation under section 901..... $61.19

Example (9). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in its gross income under section 951, $50 attributable to the earnings and profits of C Corporation and $100 attributable to the earnings and profits of B Corporation. N Corporation is not required to include any amount in its gross income under section 951 with respect to A Corporation. For such year, C Corporation distributes $75 to B Corporation. The country under the laws of which B Corporation is incorporated imposes an income tax of 10 percent on dividends from subsidiaries and 40 percent on other earnings and profits. For 1978, B Corporation distributes $175 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for such year and distributes $130 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings and profits	$150.00
Foreign income taxes paid by C Corporation (30%)	45.00
Earnings and profits	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation	50.00
Dividend to B Corporation	75.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	$50.00
Dividend to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation)	25.00
Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b) ($25/$105 x $45) (for formula see example (8))	10.71

B Corporation (second-tier corporation):

Pretax earnings and profits		
Dividend from C Corporation	75.00	
Other earnings and profits	225.00	
Total pretax earnings and profits		300.00
Foreign income taxes paid by B Corporation		97.50
On dividends received from C Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 X .10)		5.00

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On dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 X .10).....$ 2.50

On other income of B Corporation ($225 X .40)..... 90.00

Earnings and profits.....$202.50
Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 - $5)..... 45.00

Attributable to dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 - $2.50)..... 22.50

Attributable to other income of B Corporation ($225 - $90)..... 135.00

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($202.50 - $45)..... 157.50

Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation..... 100.00

Dividend paid by B Corporation.....$175.00

Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....$ 45.00

Dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)..... 100.00

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation)..... 30.00

Foreign income taxes of B Corporation deemed paid by A Corporation under section 902 (b) (1) (separate tax rate applicable to dividend received by B Corporation):

Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower-tiers which is deemed paid by A Corporation:

$$\text{Portion of dividend to A Corporation from earnings included in N Corporation's gross income under section 951 with respect to C Corporation or lower-tiers} \over \text{Earnings and profits of B Corporation included in N Corporation's gross income under section 951 with respect to C Corporation or lower-tiers} \times \text{Tax paid by B Corporation on dividend received by B Corporation from earnings included in N Corporation's gross income with respect to C Corporation or lower-tiers}$$

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($45/$45 X $5).....$5.00

Tax paid by B Corporation on earnings not previously taxed with respect to C Corporation or lower-tiers which is deemed paid by A Corporation:

Portion of dividend to A Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to B Corporation or lower-tiers / Earnings and profits of B Corporation not included in N Corporation's gross income under section 951 with respect to C Corporation or lower-tiers X Tax paid by B Corporation on earnings not included in N Corporation's gross income with respect C Corporation or lower-t ers

($30/$157.50 X $92.50) 17.62

Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1) ($30/$157.50 X $10.71)..... 2.04
(for formula see example (8))

A Corporation (first-tier corporation):

Pretax earnings and profits
Dividend from B Corporation.....$175.00
Other income..... 0
Total..... 175.00

Foreign income taxes paid by A Corporation (20%)..... 35.00

Earnings and profits..... $140.00

Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45 - ($45 X .20)) $36.00

Attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($100 - ($100 X .20))..... 80.00

Attributable to other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation)..... 24.00

Earnings and profits after exclusion for amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($140 -$80).....60.00

Earnings and profits after exclusion for amounts to which sections 902 (b) (1) and 902 (b) (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation) ($60 -$36).....24.00

Amount required to be included in N Corporation's gross income under section 951 with respect to A Corporation.....None

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Dividend to N Corporation..... $130.00

Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....$36.00

Dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)....80.00

Dividend to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation)..... 14.00

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation ($50/$105 X $45)..... 21.43
(for formula see example (8))

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation (allocation of earnings and profits being made in accordance with § 1.960-1 (c) (3) and paragraph (e) of this section) (Separate tax rate applicable to dividend received by B Corporation)..... 65.53

Taxes paid by B Corporation:

Amount included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation not included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers X Tax paid by B Corporation on earnings not included in N Corporation's gross income with respect to C Corporation or lower tiers

($100/$157.50 X $92.50).....$58.73

Taxes (of C Corporation) deemed paid by B Corporation under section 902 (b) (2) which are deemed paid by N Corporation under section 960 (a) (1) ($100/$157.50 X $10.71)..... 6.80
(for formula see example (8))

Total taxes deemed paid by N Corporation under section 960 (a) (1).....$86.96

Foreign income taxes deemed paid by N Corporation under section 902 (a):

Taxes paid by A Corporation Corporation ($130/$140 X $35)..... 32.50
(for formula see example (8))

Taxes paid by B Corporation deemed paid by A Corporation under section 902 (b) (1) (Separate tax rate applicable to dividend received by B Corporation):

Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower tiers which is deemed paid by N Corporation:

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Portion of dividend to N Corporation which is from earnings included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers / Earnings and profits of A Corporation included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers X Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower tiers which is deemed paid by A Corporation

($36/$36 X $5).....$5.00

Tax paid by B on earnings not previously taxed with respect to C or lower tiers which is deemed paid by N Corporation:

Portion of dividend to N Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to A Corporation or lower tiers / Earnings and profits of A Corporation not included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers X Tax paid by B Corporation on earnings not previously taxed with respect to C Corporation or lower tiers which is deemed paid by A Corporation

($14/$24 X $17.62)..... 10.50

Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1) ($14/$24 X $2.04)..... 1.19
(for formula see example (8))

Total taxes deemed paid by N Corporation under section 902 (a).....$ 49.19

Total foreign income taxes deemed paid by N Corporation under section 901 .....$136.15

§ 1.960-2 (f) Example (9)

Example (10) The facts are the same as in example (9) except that A Corporation has other earnings and profits of $200 in 1978. The country under the laws of which A Corporation is incorporated imposes a tax of 20 percent on dividends received from subsidiaries and a tax of 50 percent on other earnings and profits. A Corporation distributes $200 of its earnings and profits to N Corporation in 1978. The foreign income taxes paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed.

C Corporation (third-tier corporation):

Pretax earnings and profits.....$150.00
Foreign income taxes paid by C Corporation (30%)..... 45.00
Earnings and profits..... 105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation..... 50.00

Dividend to B Corporation..... 75.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....$50.00

Dividend to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation)..... 25.00

Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b) ($25/$105 X $45)..... 10.71
(for formula see example (8))

B Corporation (second-tier corporation):

Pretax earnings and profits
Dividend from C Corporation..... 75.00
Other earnings and profits..... 225.00
Total pretax earnings and profits..... 300.00

Foreign income taxes of B Corporation..... 97.50

§ 1.960-2 (f) Example 10

On dividends received from C Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 X .10)..... $ 5.00

On dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 X .10)..... 2.50

On other income of B Corporation ($225 X .40)..... 90.00

Earnings and profits..... $202.50

Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 - $5)..... 45.00

Attributable to dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 - $2.50)..... 22.50

Attributable to other income of B Corporation ($225 - $90)..... 135.00

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($202.50 - $45)..... 157.50

Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation..... 100.00

§ 1.960-2 (f) Example (10)

Dividend paid by B Corporation..... $175.00

Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)..... $45.00

Dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)..... 100.00

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation)..... 30.00

Foreign income taxes of B Corporation deemed paid by A Corporation under section 902 (b) (1)
($45/$45 X $5)..... 5.00
($30/$157.50 X $92.50)..... 17.62
(for formula see example (9))

Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1)
($30/$157.50 X $10.71)..... 2.04
(for formula see example (8))

§ 1.960-2 (f) Example (10)

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A Corporation first-tier corporation):

Pretax earnings and profits
  Dividend from B Corporation..... $175.00
  Other earnings and profits..... 200.00
Total pretax earnings and profits..... $375.00

Foreign income taxes paid by A Corporation..... 135.00

On dividend received from B Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45 X .20).....9.00

On dividend received from B Corporation to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($100 X .20).....20.00

On dividend from B Corporation attributable to B Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation) ($30 X .20)..... 6.00
On other income of A Corporation ($200 X .50)..... 100.00

Earnings and profits..... 240.00

Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45 - $9).....36.00

Attributable to dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation) ($100 - $20)..... 80.00

§ 1.960-2 (f) Example (10)

Attributable to other earnings and profits of A Corporation (attribuaable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation) [($30 - $6) + ($200 - $100)] $124.00

Amount required to be included in N Corporation's gross income under section 951 with respect to A Corporation..... None

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)..... $160.00

Earnings and profits after exclusion of amounts attributable to dividend to which sections 902 (b) (1) and 902 (b) (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B and C Corporation)..... 124.00

Dividend to N Corporation..... 200.00

Dividend attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)..... 36.00

Dividend attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation..... 80.00

§ 1.960-2 [illegible] Example (10)

Dividend attributable to amounts to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend attributable to A Corporation's other earnings and profits(attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation)..... $84.00

N Corporation (domestic corporation)

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation ($50/$105 X $45)..... $21.43
(for formula see example (8))

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation (allocation of earning and profits begin made in accordance with § 1.960-1 (c) (3) and paragraph (e) of this section).....65.53

Taxes paid by B Corporation ($100/$157.50 X $92.50)..... 58.73
(for formula see example (9))

Taxes deemed paid by B Corporation ($100/$157.50 X $10.71)..... 6.80
(for formula see example (9))

Total taxes deemed paid by N Corporation under section 960 (a) (1).....$86.96

Foreign income taxes deemed paid by N Corporation under section 902 (a) (Separate tax rate applicable to dividends received by A Corporation):

Tax paid by A Corporation on earnings previously taxed with respect to B Corporation or lower tiers which is deemed paid by N Corporation:

Portion of dividend to N Corporation which is from earnings included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers / Earnings and profits of A Corporation included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers X Tax paid by A Corporation on dividends received by A Corporation from earnings included in N Corporation's gross income with respect to B Corporation or lower tiers

($116/$116 X $29)..... $29.00

Tax paid by A Corporation on earnings not previously taxed with respect to B Corporation or lower tiers which is deemed paid by N Corporation:

Portion of dividend to N Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to A Corporation or lower tiers / Earnings and profits of A Corporation not included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers X Tax paid by A Corporation on earnings not included in N Corporation's gross income with respect to B Corporation or lower tiers

($84/$124 X $106)..... 71.81

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Taxes paid by B Corporation deemed paid by A Corporation under section 902 (b) (1):
($36/$36 X $5).....$ 5.00
($84/$124 X $17.62)..... 11.94
(for formula see example (9) for separate tax rate applicable on dividend received by B Corporation)

Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1)
($84/$124 X $2.04)..... 1.38
(for formula see example (8))

Total taxes deemed paid by N Corporation under section 902 (a) credit.....$119.13

Total foreign income taxes deemed paid by N Corporation under Section 901 .....$205.09

§ 1.960-2 (f) Example (10)

(g) Formulas. This paragraph contains formulas for determining a domestic corporation's section 902 and 960 credits when amounts distributed through chain of ownership have been included in whole or in part in the gross income of a domestic corporation under section 951 with respect to first-, second-, third-, or lower-tier corporations.

(1) Determination of the section 902 credit on distributions to a U.S. corporation. (i) Section 902 (b) (2) credit. If the second-tier corporation receives a dividend from a third-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the second-tier corporation's credit for taxes paid by the third-tier corporation under section 902 (b) (2) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Dividend to second-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation}} \times \text{Taxes paid by third-tier corporation}$$

§ 1.960-2 (g) (1) (i) (A)

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(1) Credit for tax paid by third-tier corporation on earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations --

$$\frac{\text{Portion of dividends to second-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}}{\text{Earnings and profits of third-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on dividend received by third-tier corporation from earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

(2) Credit for tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations--

$$\frac{\text{Portion of dividend to second-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}}{\text{Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

§ 1.960-2 (g) (1) (i) (3)(2)

(ii) Section 902 (b) (1) credit. If the first-tier corporation receives a dividend from a second-tier corporation attributable in a whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the first-tier corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 902 (b) (1) is determined as follows:

(A) Taxes paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits --

$$\frac{\text{Dividend to first-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation}} \times \text{Taxes paid by second-tier corporation}$$

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations--

§ 1.960-2 (g) (1) (ii) (A) (2) (i)

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Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations / Earnings and profits of second-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations X Tax paid by second-tier corporation on dividend received by second-tier corporation from earnings included in domestic corporation's gross income with respect to third- or lower-tier corporations

(ii) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations --

Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations / Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations X Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations

(B) Taxes deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to first-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to second- and third-tier corporations / Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to third-tier corporation X Taxes paid by third-tier corporation which are deemed paid by second-tier corporation

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by third-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations --

Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations / Earnings and profits of second-tier corporations included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations X Tax paid by third-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(ii) Credit for tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations--

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Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations
Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations
X Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(iii) Section 902 (a) credit. If the domestic corporation receives a dividend from a first-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the first- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 902 (a) is determined as follows:

(A) Taxes paid by the first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-tier corporation
Earnings and profits of first-tier corporation
X Taxes paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

(i) Credit for tax paid by first-tier corporation on earnings previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations
Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations
X Tax paid by first-tier corporation on dividends received by first-tier corporation from earnings included in domestic corporation's gross income with respect to second- or lower-tier corporations

(ii) Credit for tax paid by first-tier corporation on earnings not previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations
Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations
X Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations

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(B) Taxes (paid by second-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as its tax rate on other earnings and profits--

$$\frac{\text{Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first- and second-tier corporations}}{\text{Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation}} \times \text{Taxes paid by second-tier corporation which are deemed paid by first-tier corporation}$$

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third-tier or lower-tier corporations--

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(ii) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations--

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(C) Taxes (of third-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-, second- and third-tier corporations}}{\text{Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporations}} \times \text{Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation}$$

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(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax (of third-tier corporation) deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations --

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(ii) Credit for tax (of third-tier corporation) deemed paid by second-tier on earnings not previously taxed with respect to fourth- or lower-tier corporations

$$\frac{\text{Portion of dividend to domestic corporations which is from earnings not included in domestic corporations' gross income under section 951 with respect to first- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(2) Determination of domestic corporation's section 960 credit for amounts included in its gross income with respect to a first-, second-, or third-tier corporation which has received a distribution previously included in the gross income of a domestic corporation under section 951. (i) Third-tier credit. If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a third-tier corporation which has received a distribution from a fourth-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the fourth- or lower-tier corporations, the domestic corporation's credit for taxes paid by the third-tier corporation under section 960 (a) (1) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation}} \times \text{Taxes paid by third-tier corporation}$$

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(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

(ii) Second-tier credit. If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a second-tier corporation which has received a distribution from a third-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 960 (a) (1) is determined as follows:

(A) Credit for taxes paid by the second-tier corporation which are deemed paid by the domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation}} \times \text{Taxes paid by second-tier corporation}$$

(2) If the effective rate of tax on dividends received by the second-tier is higher or lower than the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations}$$

(B) Credit for taxes (of the third-tier corporation) deemed paid by the second-tier corporation under section 902 (b) (2).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to third-tier corporation}} \times \text{Taxes paid by third-tier corporation which are deemed paid by second-tier corporation}$$

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(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation}$$

(iii) First-tier credit. If a domestic corporation is required to include amounts in its gross income under section 951 with respect to a first-tier corporation which has received a distribution from a second-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 960 (a) (1) shall be determined as follows:

(A) Credit for taxes paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation}} \times \text{Taxes paid by first-tier corporation}$$

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations}$$

(B) Credit for taxes paid by the second-tier corporation deemed paid by the first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

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Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation / Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation X Taxes paid by second-tier corporation which are deemed paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation / Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations X Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation

(C) Credit for taxes (of the third-tier corporation) deemed paid by the second-tier corporation which are deemed paid by first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation / Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporation X Taxes deemed paid by second-tier corporation which are deemed paid paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation / Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporation X Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by by first-tier corporation

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Par. 3. Section 1.960–3, paragraph (b), is revised to read as follows:

§ 1.960–3 Gross-up of amounts included in income under section 951.

* * * * *

(b) *Certain taxes not included in income.* Any taxes deemded paid by a domestic corporation for the taxable year pursuant to section 902(a) or section 960(a)(1) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78–1 to the extent that such taxes are paid or accrued by the first-, second-, or third-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

* * * * *

Par. 4. Section 1.960–7, paragraph (c), is revised to read as follows:

§ 1.960–7 Effective dates

* * * * *

(c) *Third-tier credit.* The rules contained in §§ 1.960–1—1.960–6 shall apply to amounts included in the gross income of a domestic corporation under section 951 with respect to the earnings and profits of third-tier corporations (as defined in § 1.960–1) in taxable years beginning after December 31, 1976.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-36110 Filed 11-18-80; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1679-8]

Proposed Revision of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia has submitted a proposed revision to the Virginia State Implementation Plan in the form of a letter from Maurice B. Row, Secretary of Commerce and Resources to Douglas M. Costle, Administrator of the Environmental Protection Agency. This revision consists of a variance from the Regulations for the Control and Abatement of Air Pollution for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that this variance be approved through December 31, 1982.

DATE: Comments must be submitted on or before December 19, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219. Attn: William Meyer, Executive Director.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before December 19, 1980 will be considered and should be directed to: Mr. Robert Blanco, Acting Chief, Air Programs Branch (AH023VA), Air, Toxics & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Charles Miesse (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number 215/597–8180.

SUPPLEMENTARY INFORMATION: On August 13, 1979, Maurice B. Rowe, Secretary of Commerce and Resources, submitted to EPA, Region III, a revision to amend the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. The revision consists of a variance from Part IV, Rule EX–10, Sections 4.100(a) (1), (2), and (3) for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that the variance be approved through December 31, 1982.

The amended rule would permit operation of motor vehicles, owned by Department of Defense personnel, without functioning catalytic converters, for a period of seven days before export and after import in order to prevent the poisoning of the catalyst by use of leaded gasoline overseas. EPA feels that there is no problem with allowing two days beyond the time (5 days) originally approved by the EPA Office of Enforcement.

The variance order is consistent with the Import Control Program operated by the Department of Defense, which was previously approved by the EPA Office of Enforcement, pursuant to 40 CFR § 85.1509. This previous approval permits the operation of certain vehicles without properly installed required emission control equipment for a period of five days before turn-in at port and after pick-up from port. EPA believes that the proposed variance is advantageous both in terms of furnishing needed relief to Department of Defense personnel and providing reasonable assurance that emission requirements will be met.

The Commonwealth of Virginia submitted proof that a public hearing with respect to this amendment was held in Virginia Beach, Virginia, on June 14, 1979, in accordance with the requirements of 40 CFR § 51.4.

Based on the foregoing, it is the tentative decision of the Administrator to approve the proposed revision of the Virginia SIP.

The public is invited to submit to the address stated above comments on whether the amendments of the Commonwealth's regulations should be approved as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized," I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirments of Executive Order 12044.

(42 U.S.C. §§ 7401–642)

Dated: October 31, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-36047 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SWH-FRL 1674-4]

Guidelines for Development and Implementation of State Solid Waste Management Plans

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed rule.

SUMMARY: Inadvertently EPA published two versions of FRL–1619–4, proposed amendments to the Guidelines for the Development and Implementation of State Solid Waste Management Plans issued under Subtitle D of RCRA. The correct version of the proposed rule is the one published in the **Federal Register** on October 30, 1980 (45 FR 71818). EPA is hereby withdrawing the version of FRL–1619–4 which was published in the **Federal Register** on November 4, 1980 (45 FR 73440).

DATE: EPA will accept those public comments on the proposed modifications which are received on or before December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Absher, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755–9145.

Dated: November 13, 1980.

Steffen Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 80-36049 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Services at Indian Health; Proposed Revision of Regulations

AGENCY: Public Health Service.

ACTION: Proposed rule.

SUMMARY: The Public Health Service proposes to revise Subparts A and B of 42 CFR Part 36 (except for § 36.12 governing eligibility for services). Part 36 contains the regulations governing Indian Health. The revisions are being made in order to write the regulations in "Common Sense" language. Also, the regulations are updated by deleting obsolete provisions (Subpart D and § 36.13 governing charges for services rendered in Indian Health Service facilities. (IHS).

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A–39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Room 5A–39, Rockville, Maryland 20857, Telephone (301) 443–1116.

SUPPLEMENTARY INFORMATION: This proposed revision affecting Subparts A, B and D of 42 CFR Part 36 is part of the Department of Health and Human Services (HHS) response to Executive Order No. 12044, "Improving Government Regulations." The HHS program is known as "Operation Common Sense" and has the goal of improving the clarity of language used in regulations. A notice of intent to proposed changes in format was publish in the **Federal Register** on February 7, 1980 (45 FR 8314). No substantive change in program benefits is made or intended.

In addition to "common sense" revisions in language, we propose revocation of certain provisions in the regulation which are no longer used:

1. Subpart D, "Contagious and Infectious Diseases" concerns involuntary commitment of tuberculosis patients. It was published in 1961 and no longer reflects current medical practice in the treatment of tuberculosis patients. Current techniques of treatment now render the disease non-communicable within 2 to 3 weeks, followed by a longer period (9 to 12 months) of therapy and surveillance to arrest the disease. Involuntary commitment is no longer necessary for treatment; nor is it part of the treatment process. We, therefore, propose to revoke Subpart D.

2. We also propose revocation of § 36.13 of Subpart B, "Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel." This section is a carryover of a corresponding provision in regulations of the Bureau of Indian Affairs (BIA) in effect at the time of the transfer of the Indian health program to the Public Health Service in 1955. (42 U.S.C. 2001 et seq.). The BIA regulation was issued under the authority of a proviso in the Department of the Interior Appropriation Act of 1939 which was repeated in each subsequent appropriation act through 1946, but not thereafter.

Absent specific statutory authority to impose charges, § 36.13 has been interpreted as authorizing only requests for payment which do not create a legal indebtedness. Moreover, it has not been used. The Indian Health Service does not charge Indians for care in its facilities, or otherwise establish a means test for receipt of services. We, therefore, propose to revoke § 36.13.

We note, however, that the IHS does bill Medicare and Medicaid for services rendered to Indian beneficiaries of those programs pursuant to Title IV of the Indian Health Care Improvement Act, Pub. L. 94–437. (42 U.S.C. 1395qq; 42 U.S.C. 1396j). Consequently, § 36.13 will be reserved for future use should the need arise to issue regulations concerning the billing of third party payors.

The proposal would also update § 36.14 regarding rates charged ineligible individuals for emergency care at IHS facilities. Inpatient rates are no longer established by the Office of Management and Budget. Rather, rates for both inpatient and outpatient care developed by the Health Services Administration within HHS and approved by the Assistant Secretary for Health and Surgeon General are published annually in the **Federal Register.** (The rates for fiscal year 1980 were published on April 2, 1980, at 45 FR 21712). The regulation has been changed to reflect this.

The proposal does not affect § 36.12 of Subpart B, "Persons to whom services will be provided." A proposal to amend this section to make "common sense" revisions in format and to expand eligibility to certain non-Indians will be published separately.

Office of Management and Budget Circular A–95, Evaluation, Review, and Coordination of Federal and Federally Assisted Programs, is not applicable to this notice.

The Department of Health and Human Services proposes to revise Part 36 of Title 42, Code of Federal Regulations, by revising Subparts A, B, and D as set out below.

Dated: October 31, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: November 7, 1980.

Patricia Roberts Harris,

Secretary.

It is proposed to amend the table of contents of Part 36, Title 42 of the Code of Federal Regulations as follows:

PART 36—INDIAN HEALTH

Subpart A—Purpose and Definitions

Sec.

36.1 Definitions.
36.2 Purpose of the regulations.
36.3 Administrative instructions.

Subpart B—What Services are Available and Who is Eligible for Care?

36.11 Services available.

36.12 Persons to whom services will be provided.
36.13 [Reserved]
36.14 Care and treatment of ineligible individuals.

Subpart C—Contract Health Services
* * * * *

Subpart D—[Reserved]

Subpart E—Preference in employment
* * * * *

It is proposed to revise Subpart A of Part 36, Title 42 of the Code of Federal Regulations as follows:

Subpart A—Purpose and Definitions

§ 36.1 Definitions.

When used in this part;

"Bureau of Indian Affairs" means the Bureau of Indian Affairs, Department of the Interior;

"Indian" includes Indians in the Continental United States, and Indians, Aleuts and Eskimos in Alaska;

"Indian health program" means the health services program for Indians administered by the Indian Health Service within the Department of Health and Human Services.

"Jurisdiction" has the same geographical meaning as in Bureau of Indian Affairs usage.

"Service" means the Indian Health Service.

§ 36.2 Purpose of the regulations.

These regulations establish general principles and program requirements for carrying out the Indian health program.

§ 36.3 Administrative instructions.

The Service periodically issues administrative instructions to its officers and employees which are primarily found in the Indian Health Service Manual and the Area Office and Program Office supplements. These instructions are operating procedures to assist officers and employees in carrying out their responsibilities, and are not regulations establishing program requirements which are binding upon members of the general public.

It is proposed to amend Subpart B of Part 36, Title 42 of the Code of Federal Regulations by revising §§ 36.11 and 36.14. Section 36.13 is removed and reserved as follows:

Subpart B—What Services are Available and Who is Eligible to Receive Care?

§ 36.11 Services available.

(a) *Type of services that may be available.* Services for the Indian community served by the local facilities and program may include hospital and medical care, dental care, public health nursing and preventive care including immunizations, and health examiniation of special groups such as school children.

(b) *Where services are available.* Available services will be provided at hospitals and clinics of the Service, and at contract facilities (including tribal facilities under contract with the Service).

(c) *Determination of what services are available.* The Service does not provide the same health services in each area served. The services provided to any particular Indian community will depend upon the facilities and services available from sources other then the Service and the financial and personnel resources made available to the Service.

§ 36.12 Persons to whom services will be provided.

* * * * *

§ 36.13 [Reserved]

§ 36.14 Care and treatment of ineligible individuals.

(a) In case of emergency, as an act of humanity, individuals not eligible under § 36.12 may be provided temporary care and treatment in Service facilities.

(b) Charging ineligible individuals. Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged at rates approved by the Assistant Secretary for Health and Surgeon General published in the **Federal Register**. Reimbursement from third party payors may be arranged by the patient or by the Service on behalf of the patient.

It is proposed to remove and reserve Subpart D of Part 36, Title 42 of the Code of Federal Regulations as follows:

§§ 36.30—36.34 (Subpart D) [Reserved]

[FR Doc. 80-36111 Filed 11-18-80; 8:45 am]
BILLING CODE 4110-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-632; FCC 80-585]

Overseas Communications Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice proposes to reexamine existing Commission policy which limits the international record carriers' provision of international voice services and AT&T's provision of international record services. Commission tentatively concludes that removing barriers will improve services and lower prices. Comments are solicited as to the advisability of removing these current policy restrictions.

DATES: Comments are due on or before December 12, 1980. Replies are due on or before January 16, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, 202-632-7265.

In the matter of Overseas Communications Services, C.C. Docket No. 80-632.

Adopted: October 9, 1980.

Released: October 28, 1980.

By the Commission: Commissioner Lee concurring in the result; Commissioner Jones absent.

1. On December 12, 1979, we adopted several orders affecting the provision of international communications services by various common carriers.[1] Our efforts to establish an improved international communications system with more choices for consumers, more diverse service offerings, and lower rates have been implemented through a series of market structure modifications. As another step in our efforts to foster innovation and efficiency by removing the policy proscriptions which bar or inhibit competition between potential competitors, and in view of the staff's findings in the Audit [2] that the overall rates of return of the international record carriers (IRCs) might be excessive, we believe that a second look at our policy which limits AT&T's international record offerings, including the 1964 TAT-4 decision [3] which bars AT&T from offering alternate voice-record service, is now warranted. This Notice of Proposed Rulemaking will necessarily include discussions of the international voice/record relationship prior to the *TAT-4* decision, the *TAT-4* decision itself, post *TAT-4* developments, current policy considerations and the Communications Act of 1934, as amended. The Notice of Proposed Rulemaking will also discuss current voice restrictions in the IRCs' authorizations.

[1] *American Telephone and Telegraph Company (Dataphone)*, 75 F.C.C. 2d 682; *Western Union International, Inc. et al (Datel)*, 76 F.C.C. 2d 166; *International Record Carriers' Scope of Operations (Gateways)*, 76 F.C.C. 2d 115; *Interface of the International Telex Service with the Domestic Telex and TWX services*, 76 F.C.C. 2d 61.

[2] *Preliminary Audit and Study of Operations of International Carriers and Their Communications Services Between the United States and Overseas and Foreign States*, 75 F.C.C. 2d 726 (1980). The Audit indicates that in 1976 the three major IRCs had overall rates of return ranging from 13.3% to 24.4%. For telex, the rates of return of the three major IRCs range from 31.7% to 58.3%. The incompleteness and inconsistencies of the data presented to the Commission by the carriers require these figures to be interpreted as only indications or approximations of financial conditions.

[3] 37 F.C.C. 1151 (1964) hereinafter referred to as *TAT-4*.

Background

2. Historically, voice and record services, both within the United States and between the U.S. and foreign points, have been offered by different carriers over separate networks of facilities. This dichotomy between voice and record services initially arose from the acquisition of the patent rights to these two technologies by different entities, AT&T and Western Union. In a patent suit settlement agreement, AT&T and Western Union in 1879 agreed to preserve this dichotomy by not competing in each other's markets. Although AT&T acquired control of Western Union in 1909, the dichotomy was restored in 1913 when the Justice Department persuaded AT&T to divest itself of Western Union (the Kingsbury Commitment). Thereafter, the two companies consolidated their own market positions and directly competed only in the private line maket. Even after AT&T's sale to Western Union of its teletypewriter exchange service (TWX) in 1971, AT&T has continued to play a major role in the private line record and data markets as the use of specialized terminal equipment adaptable to the telephone network has expanded rapidly.

3. International telegraph service by submarine cable was initiated between the United States and Europe in the second half of the nineteenth century. International telegraph service by high frequency radio across the Atlantic became commercially feasible in the early 1900's. By World War II the U.S. international telegraph industry had expanded substantially and had gone through a series of mergers and acquisitions. The leading carriers were Western Union, RCA and IT&T. The two latter carriers utilized high frequency radio facilities and also owned modest domestic networks primarily to feed into their international systems. In 1942 the Board of War Communications' Order Number 8 closed all domestic point to point radio telegraph circuits. In 1943, Section 222 was enacted to permit Western Union to acquire the nearly bankrupt Postal Telegraph and Cable Corporation. Western Union thus became the sole domestic telegraph carrier. Section 222 also required Western Union to divest its international facilities. The international radiotelegraph carriers, stripped of their domestic networks and restricted to operating out of a handful of gateway cities by Order Number 8 and Section 222, became the sole providers of international telegraph (record) service. This domestic/international record dichotomy still exists although the international record carriers were authorized in the *Gateways* decision to expand the number of points from (and to) which they can provide direct international service.

4. AT&T, the dominant domestic telephone carrier, initiated transatlantic telephone message service in 1927 by high frequency radio. In 1956 AT&T developed a reliable underwater repeater and, together with the British government, laid the first transatlantic telephone cable (TAT-1). The TAT-1 submarine telephone cable could be used for transmission of international record communications; a voice-grade circuit could be subdivided into a number of telegraph-type circuits. A subdivided voice-grade circuit could be utilized for the provision of telegraph message service, telex, and leased telegraph circuits. An unsubdivided voice-grade circuit could be employed for the high speed transmission of facsimile and data. The state of the art of overseas communications was significantly enhanced by AT&T's development of deep water submarine telephone cables and reliable underwater repeaters. These technological breakthroughs set the stage for direct competition in the international record market between AT&T and the international record carriers.

5. Between completion of the TAT-1 cable and the 1964 *TAT-4* the Commission faced the issue of international record carriage by AT&T on several occasions. An analysis of these decisions indicates that the Commission concluded the Act did not bar AT&T from providing international record service. It is also clear that the Commission decided each application on a case by case basis weighing a wide variety of public interest factors.

6. The Commission first authorized AT&T to enter the international record market in 1955 when it granted AT&T's application to construct and operate a cable between Point Arena, California (a domestic point), and Koko Head, Hawaii (an international point).[4] The Commission, over the objections of the IRCs, authorized AT&T to operate this cable (the First Mainland Cable System) without any limitation or restriction as to its use for either voice or record services. In issuing this authorization, the Commission emphasized that: (1) No provision or combination of provisions of the Act, including Section 222, barred AT&T as a matter of law from providing record service to an international point; (2) public interest considerations such as national defense needs were to be given substantial weight; and (3) the provision of the requested services would neither impair the IRCs economic ability to provide service between the mainland and Hawaii nor have a serious impact on their overall operations and structure. In 1963, the Commission authorized AT&T to construct and operate the Second Mainland Cable System between California and Hawaii. This order permitted AT&T and the Hawaiian Telephone Company "to provide any or all of the various types of communication services which the applicants are or may be authorized to furnish by means of the existing Mainland-Hawaii cable."[5]

7. The Commission initially barred AT&T from transmitting record services over its microwave relay facilities between the United States and the TAT-1 cablehead in Canada. However, in 1959 the Commission authorized AT&T to provide voice and nonvoice (teletypewriter, digital data, facsimile, etc.) communications services to the United States Air Force via its TAT-1 microwave relay facilities. In reaching this decision to allow AT&T to provide alternate or simultaneous voice-data to the U.S. government, the Commission: (1) Reiterated its belief that there was no specific statutory requirement that international voice and record communications be furnished by separate entities; (2) stated that clear distinguishable physcial differences between voice and record carriers no longer existed; (3) listed several examples in which public interest factors had already led it to make several exceptions to the traditional voice/record dichotomy; and (4) found that this authorization would not economically impair the IRCs.[6] This use of the U.S.-Canada microwave relay facilities for the provision of nonvoice service to the U.S. government over TAT-1 was thereafter extended to TAT-2. In 1961, AT&T was authorized to continue to provide alternate or simultaneous transmission of voice and

[4] *American Telephone and Telegraph Company*, File No. P-C-3630, Mimeo No. 22818, adopted September 7, 1955, *recon. denied*, 44 F.C.C. 602 (1955).

[5] *American Telephone and Telegraph Company*, File No. P-C-5332, Mimeo No. 34195, adopted May 1, 1963.

[6] *American Telephone and Telegraph Company*, 27 F.C.C. 113, 120, 121 (1959).

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nonvoice communications to the U.S. government in TAT–3 between New Jersey and the United Kingdom.[7]

8. In early 1960, the Commission authorized AT&T to provide alternate voice and nonvoice communication services between the U.S. mainland and Puerto Rico (an international point) over the existing U.S.-Puerto Rico Cable. The Commission found that this authorization, which was not limited to the provision of nonvoice services to U.S. defense agencies, was technically feasible, was needed by various users, and would not impair the financial stability and competitive status of the IRCs then providing service to Puerto Rico.[8] Also in 1960 the Commission authorized AT&T to construct and operate (with Cable and Wireless) a cable between New Jersey and Bermuda. This authorization, for the provision of voice and nonvoice services to military and civilian users, was issued for reasons similar to those found to exist in the Puerto Rico cable decision.[9]

1964 TAT–4 Decision

9. In early 1964 the Commission considered AT&T's application to construct and operate the fourth transatlantic cable. In this application, AT&T requested authority to provide alternate voice-record communication services to all of its customers. This request extended to AT&T's microwave relay system connecting to TAT–1 and TAT–2, as well as its TAT–3 facilities. As indicated earlier, the previous TAT authorizations permitted AT&T to provide alternate voice-record services only to U.S. defense agencies. The IRCs strenuously opposed AT&T's request for expanded alternate voice-record service. They argued that they could not compete with AT&T in obtaining customers for this service and its authorization would result in severe economic injury to the IRCs. The IRCs emphasized their limited resources, small sales forces and current geographic confinement to gateway locations as the factors which would make direct competition with AT&T for civilian customers for this new service impossible.

10. On March 17, 1964, the Commission adopted its *TAT–4* decision. The Commission acknowledged the importance of alternate voice-record service to the economic well-being of the IRCs and noted the ability of the IRCs to competively offer alternative voice-record service through ownership or indefeasible right of user (IRU) interests in the transatlantic cables. In concluding that the public interest required the continued viability of the IRCs to provide overseas message telegraph service, the Commission adopted an "infant industry" policy and stated the following:

> The use by customers of leased circuits for alternate voice-record use is, with the exception of the defense agencies, a new service. It is in its infancy, and we do not feel that we should jeopardize the opportunity of the record carriers to provide such services by also allowing AT&T, with its huge resources, as compared with those of the record carriers, to compete with such carriers in providing the service. A realistic appraisal of the relative capabilities of AT&T and the record carriers to secure and maintain such business leads us to conclude that AT&T's entry into this service would seriously jeopardize the ability of the record carriers to obtain a meaningful share of the business. In this connection we note that the total overall revenues of the Bell System for 1963 were some $9.6 billion. Its revenues derived from its overseas services for that year were $65.5 million, or much less than 1 percent of its total revenues. The amount of such overseas revenues derived from record services is a small portion of this latter amount. Loss of the revenue derived from these record services would have an inconsequential impact on the overall revenue picture of the Bell System. The provision of overseas telegraph services is, however, for the most part, 100 percent of the business of the international record carriers, and a significant loss in their participation in the telegraph business could have a serious effect on the viability of the international telegraph industry as a whole. This is a risk the record carriers should not be called upon to take, particularly in view of the fact that a substantial portion of this business will be diverted from existing oversea services. It is in the public interest that we assure the viability of the record carriers by protecting them from the losses they would inevitably suffer were AT&T permitted to provide this voice-record service. These losses could affect their ability to continue to provide the still important oversea message telegraph service at anything approximating current rates. We note that when we permitted AT&T and the record carriers to compete for the business of the defense agencies for leased circuits for alternate and simultaneous voice-record use, AT&T received all the leases despite the fact that it was then authorized to provide circuits to the international record carriers for their use in competing with it for this business * * *
>
> Accordingly, for the reasons set forth above, we find and conclude that it is in the public interest that the international record carriers only, and not AT&T, should be authorized to provide leased circuits for alternate voice-record use, and we shall grant the AT&T applications for modification of its existing authorizations so as to permit it to provide circuits to the international record carriers so that they may provide such service, but shall deny them in all other respects insofar as they relate to alternate voice-record use. 37 F.C.C. 1158–1160.

11. The Commission's decision, although based on an economic analysis of the IRCs' market position, does not present a plethora of economic data. However, by 1964, the widespread expansion of AT&T owned cables between North America (United States and Canada) and France, the United Kingdom, and various Caribbean points was perceived to present a threat to the economic health of the IRCs. This was due, in major part, to the technological superiority of cable over radio for the high volume transmission of both voice and record communications. The introduction of indefeasible right of user interests by the Commission in early 1964 eliminated the substantial rentals which the IRCs previously paid to lease cable circuits. IRU interests were considered to be the most efficient and economic means through which the IRCs could acquire cable facilities. IRU interests, a capital investment, increased a carrier's rate base while decreasing its expenses, thus creating a more competitive entity which could offer its services at lower charges. IRU interests acted to transform lessees into owners and financially strengthened the IRCs. It appears that barring AT&T from providing alternate voice-record service internationally was viewed as a reasonable expansion of this effort to protect and nurture the IRCs.

12. The *TAT–4* decision barred AT&T from providing alternate voice-data service except in two instances. The first exception was between the U.S. mainland and Hawaii where AT&T was permitted to retain its authorization to provide those services which it was furnishing in the continental U.S.[10] The second exception was for circuits leased by U.S. defense agencies. After the *TAT–4* decision the international record carriers were authorized to provide telegraph message service; telex service; leased telegraph channel service; facsimile (including photo), data and program transmission services; including voice for cue and contact control; any other record service; leased circuits for alternate voice-record use; and leased circuits for alternate and simultaneous voice and nonvoice use by defense agencies of the U.S. Government. AT&T was authorized to provide message telephone service; private line circuits for voice use only; and program transmission service.

1964 to 1980

13. Since 1964, the Commission has consistently protected the IRCs from competition by AT&T in the international record market. However, as early as 1972 the Commission noted the viability which the IRCs had achieved through the protection offered by the *TAT–4* decision and stated that a considerable amount of the rationale for the *TAT–4* decision had been dissipated by the passage of time.[11] Additionally, the *TAT–4* bar has not been absolute. Waivers have been issued under special circumstances such as NASA programs.[12] The major case between 1964 and 1980 concerning international record carriage is our 1980 *Dataphone* decision.[13] While this recent decision expressly did not modify the *TAT–4* decision, it indicated that the present international voice/record dichotomy is based on policy, not law. In authorizing AT&T to employ its overseas MTS network for the transmission of facsimile, data and other record communications on a secondary basis, the Commission emphasized that such use was an efficient utilization of facilities, satisfied an unmet need, and gave added flexibility to AT&T's customers. We stated that additional competition in the international record market would stimulate the IRCs to innovate and provide services more efficiently at cost-based rates in order to compete effectively. We also found that the introduction of overseas dataphone service would not undermine the IRCs.

The IRCs

14. The restrictions contained in the IRCs' authorizations prior to our *Datel* decision on the provision of voice service stemmed from the Commission's perception of the international voice and record markets as two separate entities, rooted in different technologies. The Commission has traditionally viewed international voice carriage as best provided through a single entity and the IRCs have rarely offered voice services. However, voice and record transmissions now employ common facilities and record services are provided over fractions or multiples of voice grade circuits. In *Datel* we found that the public interest would be served by the removal of the restrictions which limited voice-use Datel service related facilities to cueing, contact and/or control purposes. Our goal of establishing an improved international communications system with lower rates through market structure modifications which facilitate and encourage the entry of one or more new competitors lead us to conclude that the limitations placed on the IRCs in regard to providing international voice services may no longer best serve the public interest.

The Act

15. The Commission has consistently held that the Communications Act of 1934, as amended, does not prohibit it from authorizing AT&T to provide record services internationally. Additionally, the Act does not bar the IRCs from offering international voice services. In the *First Mainland Cable System* decision, the Commission in 1955 stated that Section 222 of the Act was directed at telegraph carriers and was not applicable to AT&T. The Commission found that the major portion of AT&T's traffic and revenues was not derived from telegraph operations and that therefore AT&T was not a telegraph carrier within the meaning of Section 222. The Commission further stated that no other section or combination of sections in the Act could be found to prohibit AT&T, as a matter of law, from providing international record service.[14] The Commission, in its 1959 decision authorizing AT&T to provide alternate voice-data service to defense agencies of the U.S. government over its microwave relay facilities between the U.S. and the TAT–1 Canadian cablehead, stated that there was no specific statutory requirement that international record and voice communications be furnished by separate entities.[15] The *TAT–4* decision itself lends further evidence that any prohibition or limitation on AT&T's provision of international record service is a matter of policy, not law. The Commission's *TAT–4* decision utilizes public interest considerations, not a statutory analysis, in reaching the conclusion that AT&T should be barred from providing alternate voice-data service internationally. Furthermore, the *TAT–4* decision is only a partial ban on the provision of alternate voice-data service by AT&T.

Discussion and Analysis

16. Market structure modifications which enhance competition in an expanding market produce substantial benefits to users. Better service, new service offerings, more efficient and innovative service, and lower prices may all result from additional competition. Expansion of competition to achieve these beneficial results is consistent with our public interest responsibilities. We tentatively conclude that an analysis of prior cases, the language of the Act, and the *TAT–4* decision itself indicate that the ban on AT&T providing international record services is one of policy, not law. We also tentatively find that the facts and circumstances which prompted us in 1964 to prohibit AT&T from providing alternate voice-record service no longer exist and that there is no justification for continuing the artificial division of the international market into voice and record segments. The IRCs are no longer struggling enterprises with dubious financial futures which must be kept afloat because they are the sole providers of a crucial service. The IRCs are now firmly established businesses with significant market shares, substantial rate bases, and impressive rates of return.[16] Furthermore, the IRCs are no longer the only entities capable of providing overseas message telegram service, a service which has decreased in relative size and importance since 1964.[17] We therefore tentatively conclude that the policy enunciated in our *TAT–4* decision barring AT&T from providing alternate voice-data service should be set aside and that AT&T should be permitted to provide this service. We also tentatively conclude that the public interest would be served by permitting AT&T to provide any nonvoice service on a primary, nonancillary basis.

17. Our conclusion that AT&T's entry into the international record market would be in the public interest is based on an analysis of the Act, past cases, our *TAT–4* decision, the present market structure, and the benefits which

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[7] *American Telephone and Telegraph Company*, File Nos. P–C–4714 and S–C–L–22, Mimeo Nos. 584 and 583, (1961).

[8] *American Telephone and Telegraph Company*, 28 F.C.C. 221 (1960).

[9] *American Telephone and Telegraph Company*, File Nos. P–C–4812 and S–C–L–18, Mimeo Nos. 91693 and 91694, adopted July 27, 1960.

[10] Consistent with this exception to the *TAT–4* decision, AT&T was authorized to extend its Dataphone service to Hawaii in 1965. 38 F.C.C. 1222.

[11] *RCA Global Communications, Inc.*, 37 F.C.C. 2d 1043 (1972).

[12] *American Telephone and Telegraph Company*, 70 F.C.C. 2d 1048 (1978) and *American Telephone and Telegraph Company, et al*, File Nos. W–P–C–649–4 *et al*, Mimeo No. 34701, released August 14, 1980.

[13] *American Telephone and Telegraph Company*, 75 F.C.C. 2d 682 (1980).

[14] 44 F.C.C. at 605.

[15] 27 F.C.C. at 120.

[16] IRC gross plant investment has grown from nearly $200 million in 1964 to approximately $700 million in 1978, a 12 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, p. 154, (1978). Revenues from message, telex and private line services have increased from $89.9 million in 1964 to $397.8 million in 1978, a 15.1 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, Table 25 (1978).

[17] Public message telegram service provided $58.0 million in revenues in 1964 but only $37.1 million in 1978. This service provided 64 percent of the IRCs' revenues in 1964 but only 9 percent in 1978. Statistics of Communications Common Carriers, Table 25 (1978).

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additional competition in an expanding market produce.

However, we have not made a detailed and complete economic analysis of the effects of AT&T entry into the international record market. We therefore invite comments not only on our analysis of the Act, prior cases, the *TAT–4* decision, the present market sturcture and the benefits of added competition, but particularly on the economic impact on the IRCs, on the market structure and on the ultimate consumers of telecommunications services if AT&T is authorized to expand into the international record market. Just as *Datel* provided symmetry to the *Dataphone* decision, we invite comments as to what voice services the IRCs should be authorized in order to create a downward pressure on AT&T's rates and increase consumer choice. Comments should particularly address short and long term effects on consumers as well as the economic impact on the IRCs and AT&T and the U.S. international communications market. As indicated in the *Procedures* section, comments should be as detailed as possible and indicate what international services (if any) AT&T and the IRCs should be permitted to provide and the individual and cumulative effects of each on the public, the IRCs, AT&T, and the international record market structure. Parties are also invited to comment on the relationship between the tentative conclusions and various technological advancements, including the institution of an integrated services digital network. We must emphasize, however, that our primary concern relates to the long and short term effects that the proposed market structure modifications will have on consumers.

Procedures

18. The central issues to be addressed in this rulemaking proceeding are whether, as a matter of policy, (1) AT&T should be authorized to provide international record services and (2) the IRCs should be authorized to provide international voice service. The primary purpose of this document is to elicit information which will enable the Commission to determine whether to alter its policy limiting (1) AT&T's participation in the interntional record market so as to stimulate competition in the provision of international record services and (2) the IRCs participation in the international voice market so as to complement AT&T's entry into the international record market and to stimulate competition in the offering of international voice services. In accordance with sound administrative practice and the Administrative Procedure Act, we invite public participation by all interested parties in the form of written comments. Parties should clearly address their responses to the questions raised as well as any related matter they deem relevant. All submissions of economic and financial data should be substantiated by studies conducted in conformance with Section 1.363 of the Commission's Rules. Where no study has been undertaken, either because of unavailability of data or other reasons, an explanation of the difficulties should be attached. If loss of revenues or increase in costs is alleged, the identity of the specific service affected and best estimates of the impact on costs and revenues threatened should be included. We urge all interested parties to respond in a timely fashion to enable the Commission to render an expeditious clarification or modification of its existing policy. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a document indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, 214, and 403 of the Communications Act of 1934, as amended, and section 553(b) of the Administrative Procedure Act, a proposed rulemaking or formulation of general policy in this matter is instituted.

20. It is further ordered that interested parties shall file comments concerning the proposed change in policy on or before December 12, 1980. Replies shall be filed on or before January 16, 1981.

21. It is further ordered that, in accordance with the providions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

22. For purposes of this non-restricted informal rulemaking proceeding members of the public are advised the *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–36092 Filed 11–18–80; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1116

[Ex Parte No. 382]

Recordation of Documents; Retention Schedule for Documents Recorded with the Commission

AGENCY: Interstate Commerce Commission.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: On July 30, 1980, the Commission issued for public comment (45 FR 52186, August 6, 1980) a proposed retention schedule for documents recorded with the Commission under 49 U.S.C. 11303.

The Commission has reviewed the public comment and has concluded that it would not be in the best interest of the public to adopt the proposed measure. Accordingly, the rule will not be adopted and this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: James H. Bayne or Joseph Ross, (202) 275–7646, (202) 275–0993.

SUPPLEMENTARY INFORMATION: We have received and reviewed the public comment submitted about our proposed retention schedule to have been contained in 49 CFR 1116.5(a). Our original purpose was to deal with space problems caused by perpetual retention of the documents which are filed with the Commission under 49 U.S.C. 11303. The members of the public who commented on our proposal have raised serious legal and practical objections to our proposal. After considering the public comments, we are persuaded that our proposed regulation should be withdrawn and this proceeding should be terminated. The Office of the Secretary will continue to explore alternative solutions to our space problems. However, these alternatives will not involve destruction or removal of any of the documents filed under 49 U.S.C. 11303.

This is not a significant action adversely affecting the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 11303 and 5 U.S.C. 553)

Decided: November 12, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating in the proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36058 Filed 11–18–80; 8:45 am]

BILLING CODE 7035–01–M

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Notices

Federal Register
Vol. 45, No. 225
Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 38948]

Muse Air Corporation Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., November 13, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36117 Filed 11-18-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38819]

Trans World Airlines, Inc., Civil Penalties for Violations of Part 250; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 9, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A., Unviersal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 12, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36118 Filed 11-18-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Technical Information Service

New Standard Price Schedule Effective January 1, 1981

The National Technical Information Service (NTIS), and operating unit of the Department of Commerce, has adopted a new Standard Price Schedule to become effective January 1, 1981.

Pursuant to 15 U.S.C § 1151–1157, NTIS operates a clearinghouse for the collection and public sale of scientific, technical and other specialized reports prepared by Government agencies, their contractors and grantees, and by Special Technology Groups. 15 U.S.C. § 1153 authorizes NTIS to issue schedules of fees and requires the agency to sell its reports on a self-supporting basis so that "the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals."

NTIS has determined that, to continue recovering its full costs of collecting, printing, and disseminating paper copies of technical reports, a new Standard Price Schedule must be adopted effective January 1, 1981. The new schedule is as follows:

Standard Price Schedule

Page range	North American	Foreign
Microfiche:	$3.50	$7.00
001–025	5.00	10.00
026–050	6.50	13.00
051–075	8.00	16.00
076–100	9.50	19.00
101–125	11.00	22.00
126–150	12.50	25.00
151–175	14.00	28.00
176–200	15.50	31.00
201–225	17.00	34.00
226–250	18.50	37.00
251–275	20.00	40.00
276–300	21.50	43.00
301–325	23.00	46.00
326–350	24.50	49.00
351–375	26.00	52.00
376–400	27.50	55.00
401–425	29.00	58.00
426–450	30.50	61.00
451–475	32.00	64.00
476–500	33.50	67.00
501–525	35.00	70.00
526–550	36.50	73.00
551–575	38.00	76.00
576–600	39.50	79.00

Note: Add $1.50 to the North American Price and $3.00 to the Foreign Price for each 25-page increment (or portion thereof) by which a report exceeds 600 pages in length.

North American Prices are charged for orders shipped within the United States of America, including its territories and possessions, or to Canada or Mexico. Foreign Prices are charged for orders shipped elsewhere.

Certain NTIS products (including subscriptions, staning orders, SRIM, domestic microfiche, and the like), the costs to NTIS of which may be substantially higher or lower than typical technical reports, are specially priced as "exceptions" to the Standard Price Schedule. The prices of these exception-priced products are no altered at this time. The prices of microfiche and subscription items are not affected by the notice.

Inquiries concerning the new Standard Price Schedule may be directed to Dr. Melvin J. Josephs, Chief, Product and Program Management Division, NTIS, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4734.

Melvin S. Day
Director.

[FR Doc. 80-36009 Filed 11-18-80; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on State Jurisdiction and Responsibilities Under the Commodity Exchange Act; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(a), that the Commodity Futures Trading Commission's Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Exchange Act ("Advisory Committee on State Jurisdiction and Responsibilities" or "Advisory Committee") will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street NW., Washington, D.C. 20581, on December 4, 1980, beginning at 10:00 a.m. and lasting until 4:00 p.m. The proposed Commodity Pools Guidelines which have been distributed for public comment by the North American Securities Administrators Association will be the primary subject of the meeting.

The Advisory Committee on State Jurisdiction and Responsibilities is an advisory committee created by the Commission for the purpose of receiving advice and recommendations on such matters as state enforcement of the Commodity Exchange Act and enforcement of general state criminal and civil antifraud laws in the commodity area. The purposes and objectives of the Advisory Committee on State Jurisdiction and Responsibilities are more fully set forth at 45 FR 27972 (April 25, 1980).

The meeting is open to the public. The Chairman of the Advisory Committee on State Jurisdiction and Responsibilities, John G. Gaine, General Counsel of the Commission, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the Advisory Committee on State Jurisdiction and Responsibilities, c/o William E. Gressman, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should inform William E. Gressman, telephone (202) 254–5529, at least five days before the meeting and reasonable provision will be made for their appearance, to the extent time permits, at the conclusion of the session on December 4, 1980, to present oral statements of no more than ten minutes each in duration.

Issued in Washington, D.C., November 14, 1980.

By the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80-36056 Filed 11-18-80; 8:45 am]
BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Thursday, December 4, 1980, 12:00 Noon—6:00 p.m., and Friday, December 5, 1980, 8:30 a.m.—3:00 p.m. The meeting will be held at 1111 18th Street, NW, Washington, DC 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202/634–7700.

SUPPLEMENTARY INFORMATION: The Product Safety Advisory Council was established by Section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for the meeting will include further discussion of recall effectiveness; a briefing on the status of urea-formaldehyde foam insulation regulatory action, discussion of a proposed rule on findings under Section 9(c) of the CPSA, and a consideration of a possible role for the Council in relation to petitions and emerging hazards.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by November 26, 1980. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 14, 1980.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36144 Filed 11-18-80; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 8–9 December 1980 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 8–9 December 1980 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 14, 1980.

[FR Doc. 80-36029 Filed 11-18-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Program of Research Grants on Organizational Processes in Education

AGENCY: Department of Education.

ACTION: Application Notice for New Projects Under the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment), National Institute of Education.

Applications are invited for new projects under the Program of Research Grants on Organizatioal Processes in Education (Elementary-Secondary Education Segment).

Authority for this program is contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

Under this program the Director may award grants to institutions of higher education, State educational agencies, local educational agencies, public and private nonprofit or for-profit agencies and organizations, individuals, or combinations of these. Grants to for-profit organizations are subject to any special conditions that the Director may prescribe.

This notice announces one preapplication closing date and two application closing dates for new grants which are to be awarded in two cycles in Fiscal Year 1981. This notice also announces closing dates for transmittal of preapplications for review in late 1981 in anticipation of Fiscal Year 1982 closing dates and funding.

The purpose of the awards is to encourage and support research on organizational processes in, or related to, elementary and secondary schools and school districts.

Closing dates for transmittal of preapplications: Preapplications for major grants must be mailed or hand delivered by December 11, 1980, April 9, 1981, August 13, 1981, or December 10, 1981.

Closing dates for transmittal of applications: Applications for major grants and small grants must be mailed or hand delivered by December 11, 1980 or April 9, 1981.

Applications delivered by mail: An application sent by mail must be

addressed to the National Institute of Education, Proposal Clearinghouse, Mail Stop 1, 1200 19th Street, NW., Washington, D.C. 20208. The lower left hand corner of the package should display the words "Organizational Processes (Elementary-Secondary)," and the type of application, "Preapplication," "Major Grant," or "Small Grant."

Applications will be accepted for review in a particular cycle only if they are mailed on or before the closing date and proof of mailing is provided. The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or recipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, neither of the following is acceptable to the Secretary as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should not that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by a local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that the application will not be considered in the current cycle, but will be held for consideration in the next review cycle, or returned upon request.

Applications delivered by hand: An application that is hand delivered must be taken to the National Institute of Education, Proposal Clearinghouse, Room 804, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will acept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted for review in the current cycle after 4:30 on the closing dates in this notice. A late hand delivered application will be held for consideration in the new review cycle, or returned upon request.

Preapplications: An applicant for a major grant must first submit a preapplication (formerly called a preliminary proposal), and may submit an application only after receipt of NIE comments on the preapplication. Consideration of a preapplication is designed to strengthen a full application submitted later. No applicant who has submitted a preapplication will be denied the opportunity to present an application. An application may be submitted for review at any later closing date once the peapplication has been evaluated.

Preapplications are not required for small grants.

Program information: The program awards major grants and small grants. A major grant is for a project whose direct costs exceed $15,000. A project supported by a major grant may take up to three years to complete. Initial funding in most cases will not exceed 12 months, with subsequent funding contingent upon satisfactory performance and availability of funds.

A small grant supports a project for a duration of up to 12 months with direct costs of no more than $15,000.

The following two tables show the estimated schedule for completion of each stage of the review cycle for both types of grants.

Major Grants

Preapplications due	Comments returned	Full applications due	Decisions announced
Dec. 11, 1980.	Mar. 1981	Apr. 9, 1981	Aug. 1981.
Apr. 9, 1981	June 1981	Dec. 10, 1981[1].	Apr. 1982.[1]
Aug. 13, 1981.	Oct. 1981[1]	Dec. 10, 1981[1].	Apr. 1982.[1]
Dec. 10, 1981[1].	Mar. 1982[1]	Apr. 1982[1]	Aug. 1982.[1]

[1] Dates for these activities are tentative. Final deadline dates will be published later.

Small Grants

Applications due	Decisions announced in
Dec. 11, 1980	Apr. 1981.
Apr. 9, 1981	Aug. 1981.
Dec. 10, 1981[1]	Apr. 1982.[1]

[1] Dates for these activities are tentative. Final deadline dates will be published later.

Available funds: Approximately $500,000 will be available for new awards of all kinds in the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment). (Additional funds are reserved for continuation awards of projects begun in earlier years.) These funds will support 2–4 major grants and 2–3 small grants in each of the two review cycles during the year. Annual costs of major awards average $65,000, with a range from $25,000 to $110,000. The average small grant award is $14,000, with a range from $11,000 to $16,000.

These funding estimates do not bind the U.S. Department of Education to a specific number of grants nor to the awarding of grants for a specific amount. The total amount allocated to these awards may be increased or decreased by the Director, based on the merits of the applications received. Only projects of the highest quality will be supported, whether or not the resources of the program are exhausted.

Application instructions: A program announcement will be available for mailing in November 1980. The announcement gives further information on the program guidelines, award history and availability of funds, eligibility and review criteria, and application instructions. Applications must be prepared and submitted in accordance with the regulations and instructions included in the program announcement.

Persons who wish to receive a copy of the 1981 program announcement may do so by sending a self-addressed mailing label to the School Management and Organization Studies Team, EPO, Mail Stop 16, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208. (A stamped envelope is not usable.)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Program of Research Grants on Organizational Processes in Education (45 CFR Part 1480) as published in the **Federal Register** on August 12, 1980, 45 FR 53782;

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Part 100a, Direct Grant Programs, and Part 100c, Definitions), as published in the **Federal Register** on April 3, 1980, 45 FR 22494; and

(c) The National Institute of Education General Provisions Regulations (45 CFR Parts 1400–1410), as amended and published in the **Federal Register** on April 3, 1980, 45 CFR 22543.

Further information: For further information, contact Gail MacColl, School Management and Organization Studies Team, National Institute of Education, OERI, located in Room 711–J, 1200 19th Street, NW., Washington, D.C. Telephone: 202–254–7930.

(20 U.S.C. 1221e)

(Catalog of Federal Domestic Assistance No. 84.117, Educational Research and Development; formerly 13.950)

Dated: November 13, 1980.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 80–35994 Filed 11–18–80; 8:45 am]

BILLING CODE 4000–05–M

Guaranteed Student Loan Program; Special Allowance for Quarter Ending September 30, 1980

The Assistant Secretary for Postsecondary Education announces that for the three-month period ending September 30, 1980, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual rate* of 6 and three-eights percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (9.78 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (6.28) upward to the nearest one-eighth of 1 percent (6.375), and by dividing the resultant percent by four (1.59375 percent). Thus, the special allowance to be paid for this period will be 1.59375 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student Loan Program)

(20 U.S.C. 1087–1(b))

Dated: November 14, 1980.

Albert H. Bowker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 80–38095 Filed 11–18–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Resource Applications, National Petroleum Council, Subcommittee on Unconventional Gas Sources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Unconventional Gas Sources of the National Petroleum Council.

Date and time: December 9, 1980—1:00 p.m.

Place: Madison Hotel, Dolley Madison Room, Fifteenth and M Streets NW., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

- Introductory remarks by the Chairman and Government Cochairman of the Subcommittee.
- Review and discuss drafts of the final two volumes of the report on Unconventional Gas Sources:
  —Executive Summary.
  —Tight Gas Reservoirs.
- Discussion of any other matters pertinent to the overall assignment of the Subcommittee on Unconventional Gas Sources.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 14, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–36075 Filed 11–18–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 660 kilograms of heavy water for use as moderator and coolant in the JRR–2 and JRR–3 reactors at the Japan Atomic Energy Reactor Institute.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S–JA–281 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 13, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, Office of International Nuclear and Technical Programs.

[FR Doc. 80–36074 Filed 11–18–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (ERUATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mention agreements is the approval for the transfer of United States origin special nuclear materials from Belgium to Brazil. The materials consist of 100 milligrams of uranium enriched to 3 percent in U–235, and 0.5 milligrams of plutonium, which is to be utilized to determine the uncertainty of the analytical measurements of uranium and plutonium isotopes, for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/BR(EU)–4 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 7, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-38021 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of October 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and concerns overcharges in sales of propane during the period covered by the audit. This Consent Order is concerned exclusively with the firm's agreement to refund overcharges through price reduction on all customer purchases.

For further information regarding this Consent Order please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone number (404) 881-2396.

Firm name and address: General Development Utilities, Inc.

Settlement terms: Refund $456,000.00, including interest, through price reduction on customer purchases, payment of $4,000.00 penalty.

Period covered: November 1, 1973 through December 31, 1976.

Issued in Atlanta, Georgia, on the 4th day of November 1980.

James C. Easterday,

District Manager of Enforcement.

[FR Doc. 80-30022 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Reynolds Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: October 28, 1980. Comments by: December 18, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, (303) 234-3195.

SUPPLEMENTARY INFORMATION: On October 28, 1980, the Office of Enforcement executed a Consent Order with Reynolds Oil Company (ROC) of Kremmling, Colorado. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

ROC, with its home office located in Kremmling, Colorado, is a firm engaged in the business of purchasing covered products and reselling them to wholesale purchasers and ultimate consumers, without substantially changing their form and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of ROC, the Office of Enforcement of ERA and ROC entered into a Consent Order, the significant terms of which are as follows:

1. ERA alleged that ROC violated the gasoline price regulations contained in 10 CFR 212.93(a)(1) of the Mandatory Petroleum Price Regulations by exceeding its "maximum legal selling price" for the covered gasoline products sold to ROC's wholesale and retail customers, during the period July 1, 1979, through November 30, 1979 (audit period).

2. ROC has agreed to pay $2,500 into a special fund administered by ERA in settlement of the alleged overcharges to its wholesale customers during that period.

3. ROC has agreed to refund alleged overcharges totaling $798.58, plus interest, to its individual retail customers.

4. ROC has agreed to pay a civil penalty of $500.00.

5. The provisions of 10 CFR 205.199J are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of ROC's sales to its wholesale customers during the audit period, the sum of $2,500, on or before December 31, 1980. Refund of those overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the assistant administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropiate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

Futhermore, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of it sales to its retail customers during the audit period, the sum of $798.58 plus interest, on or before December 31, 1980. Refund of those overcharges shall be in the form of individual refund payments equal to the overcharge of each customer, plus applicable interest.

III. Submissions of Written Comments

A. *Potential claimant:* Interested persons who believe that they have a claim to all or a portion of the settlement amount specified in I.2., above, should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspect of this Consent Order.

You should send your comments or written notifications of a claim to Kenneth E. Merica, District Manager of Enforcement Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226. You may obtain a free copy of this Consent Order, with proprietary information deleted, by writing to the same address or by calling (303) 234-3195

You should identify your comments or written notification of a claim on the outside or your envelope and on the documents you submit with the designation, "Comments on Reynolds Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 18, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 30th day of October, 1980.

Kenneth E. Merica,

District Manager, Rocky Mountain District, Economic Regulatory Administration.

Concurrence by:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-38023 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement (ERA) and the firms listed below concerning failure to meet the filing requirements of Form ERA-69, Crude Oil Reseller's Self-Reporting Form, as set forth in the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart L. Pursuant to 10 CFR 205.203, each of the consenting firms has agreed to make payments, as specified below. The Consent Orders do not address or limit any liability with respect to the consenting firms except as related to the requirement to file ERA-69 reports. The consenting firms generally agree to recognize and comply with the reporting requirements of 10 CFR 212.187 by filing (1) any overdue reports and (2) all future monthly reports on or before their due dates.

FOR FURTHER INFORMATION REGARDING THESE CONSENT ORDERS, PLEASE CONTACT: E. W. Dorcheus, Director, Crude Oil Programs Division, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street NW., Washington, D.C. 20461, Telephone Number (202) 653-3517.

Issued in Washington, D.C. on this 7th day of November, 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Consent Orders Entered

Firm	Address	Consent order date	Payment pursuant to 10 CFR section 205.203
West Texas Marketing Corp. and J.T. Trading Co..	1150 Estates Drive, Abilene, TX 79604.	09/30/80	$4,500.00
Bluebird Oil Co., Inc..	5540 Raytown Road, Raytown, MO 64133.	10/02/80	1,000.00
Laser Gathering Corp..	No. 1 Gallery Court, San Antonio, TX 78209.	10/02/80	500.00
Petrocal, Inc.....	14113 Bronte Dr., Whittier, CA 90602.	10/07/80	10,700.00

[FR Doc. 80-36101 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-021A]

Arizona Public Service Co.; Application for Amendment to a Certification of the Use of Natural Gas to Displace Fuel Oil

On July 31, 1980, the Economic Regulatory Administration (ERA) issued to Arizona Public Service Company (Arizona Public) a certification (80-CERT-021, 45 FR 52198, August 6, 1980) of an eligible use of natural gas to displace fuel oil at Arizona Public's Ocotillo Plant, Tempe, Arizona; West Phoenix Plant, Phoenix, Arizona; Saguaro Plant, Red Rock, Arizona; and Yuma Plant, Yuma, Arizona, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). Based upon information submitted in Arizona Public's application, the ERA certification issued listed Delhi Gas Pipeline Corporation and Bixco, Inc. as eligible sellers. The transporter of this natural gas was indicated to be El Paso Natural Gas Company.

On October 22, 1980, Arizona Public filed a request with ERA to amend its certification to include the following additional eligible sellers: Consumers Power Company, 212 W. Michigan Ave., Jackson, Michigan 49201; and Gas Company of New Mexico, a division of Southern Union Company, Suite 1800, First National Building, Dallas, Texas 75270. Arizona Public also requested that the following additional interstate pipelines be added as transporters in order to accommodate gas purchases from these additional sellers: Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houstion, Texas 77001; Trunkline Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; and Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603. More detailed information is contained in the application and the request for amendment, both of which are on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this request for an amendment to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG-55, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this amendment may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Arizona Public and any persons filing comments and will be published in the **Federal Register.**

V 45 NO 019 80 0 UMI

Issued in Washington, D.C., on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36073 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-041]

Capco Pipe Co., Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On December 28, 1979, Capco Pipe Company, Inc. (Capco), formerly Cement Asbestos Products Company, 1400 Twentieth Street, South, P.O. Box 3435, Birmingham, Alabama 35255, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-107). The certification involved the purchase of natural gas from Alabama Gas Corporation for use by Capco at its production facility located in Ragland, Alabama. The gas was transported by the Southern Natural Gas Company. The ERA certificate expires on December 27, 1980.

On November 4, 1980, Capco filed an application for recertification of an eligible use of natural gas to displace fuel oil at the Ragland facility pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Capco states that the volume of natural gas for which it requests recertification is up to 575 Mcf per day. The use of this gas is estimated to displace the use of up to 4164 gallons (99 barrels) of No. 2 fuel oil (0.12 percent sulfur) per day at the Ragland facility.

The eligible seller of the natural gas is Alabama Gas Corporation, 1918 First Avenue, Birmingham, Alabama 35295. The gas will be transported by Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street NW., Washington, D.C. 20461, Attention: Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Capco and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36076 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Crude Oil Buy/Sell Program; First Supplemental Notice for Allocation Period of October 1, 1980, Through March 31, 1981

The notice specified in 10 CFR 211.65(g)(1) of the crude oil allocation (buy/sell) program for the allocation period of October 1, 1980, through March 31, 1981, was issued September 17, 1980 (45 FR 63046, September 23, 1980). The ERA hereby issues a first supplemental buy/sell list for the allocation period of October 1, 1980, through March 31, 1981. This supplemental notice sets forth an allocation issued at the direction of DOE's Office of Hearings and Appeals (OHA), and an adjustment to a regular allocation. Additionally, refiner-sellers' obligations are herein adjusted to account for sales made during previous allocation periods, for which credit was not properly given.

The buy/sell list is set forth as an appendix to this notice. The list includes the names of the small refiners granted allocations and their eligible refineries, the quantity of crude oil each refiner is eligible to purchase, the fixed percentage share for each refiner-seller, and the revised and additional sales obligation of each refiner-seller for the allocations listed.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65 (b) and (c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f). With respect to allocations under 10 CFR 211.65(b), for the allocation period of October 1, 1980, through March 31, 1981, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil, an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period October 1, 1979, through March 31, 1980, and (2) the volume of crude oil runs to stills (not including crude oil runs attributable to purchases under 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period April 1, 1980, through September 30, 1980 (calculated by using the level of the crude oil runs to stills at that refinery in the period April 1, 1980, through July 31, 1980 for the entire six-month period).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions;

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery;

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries;

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the supplemental buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller;

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller;

(vi) Such other pertinent information as ERA may request.

Please note change of address. All reports and applications made under this notice should be addressed to: Robert G. Bidwell, Jr., Chief, Crude Oil Allocation and Production Branch, 2000 M Street, NW., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH).

Also note that, the telephone number for the Crude Oil Allocation and Production Branch is 202-653-3420.

A copy of the decision and order issued by OHA granting exception relief that provides for the assignment of the allocation listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm. B110, Washington, D.C. 20461, (202) 653-4055.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 19, 1980.

Issued in Washington, D.C. on November 13th, 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The buy/sell list for the period October 1, 1980, through March 31, 1981 is hereby amended to reflect an allocation made pursuant to a recent decision of the Office of Hearings and Appeals, an amendment to a regular allocation, and adjustments to refiner-sellers obligations. The amended lists sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, the additional volumes of crude oil that each refiner-seller is required to offer for sale to small refiners, and the volumes of crude oil that each refiner-buyer is eligible to purchase for each eligible refinery.

All refiner-sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order issued by DOE's Office of Hearings and Appeals on March 20, 1979 (3 DOE Para. 82,551). While the refiner-sellers' percentage shares displayed are rounded to three decimal places, six decimal places have been utilized to establish actual sales obligations.

Also included in the appendix is a list of the names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations.

Office of Hearings and Appeals Decision

On November 3, 1980, the Office of Hearings and Appeals issued an Interim Decision and Order (in Case Nos. BEE-0508, BSG-0009, and BEN-0508) in which OHA determined that Energy Cooperative, Inc. (ECI) should be designated as a refiner-buyer of 5,663,624 barrels of crude oil pursuant to the buy/sell notice for the October 1980 through March 1981 allocation period. OHA further determined that six refiner-sellers will be required to make one-half of this allocation available to ECI as specified below: 478,293 barrels by Exxon; 564,097 barrels by Amoco; 547,956 barrels by Chevron; 123,750 barrels by Marathon; 505,195 barrels by Mobil; and 612,521 barrels by Texaco.

Regular Buy/Sell Allocation

Based on recently submitted corrected runs data, ERA has adjusted the regular allocation of Caribou Four Corners, Inc. for its Woods Cross, Utah refinery from zero barrels to 159,195 barrels for the present October 1980 through March 1981 period.

Refiner-Sellers Revised Basic Obligations October 1, 1980 Through March 31, 1981 Allocation Period

The following list corrects the regular buy/sell list for the period October 1, 1980, through March 31, 1981, which was issued on September 17, 1980 (45 FR 63046, September 23, 1980). The list credits refiner-sellers with sales under the program that were not correctly incorporated in the previous list.

Refiner-sellers	Share	Revised sales obligations (barrels) [1]
Amoco Oil Co	.105	1,301,747
Atlantic Richfield Co	.077	2,466,827
Chevron U.S.A., Inc	.102	780,760
Cities Service Co	.025	1,453,589
Continental Oil Co	.004	29,289
Exxon Co, U.S.A	.089	829,470
Getty Ref. & Marketing Co	.021	263,664
Gulf Ref. & Marketing Co	.091	1,522,277
Marathon Oil Co	.023	473,056
Mobil Oil Corp	.094	997,549
Phillips Petroleum Co	.041	900,049
Shell Oil Co	.114	2,783,156
Sun Co	.055	595,822
Texaco, Inc	.114	1,298,188
Union Oil Co. of Calif	.46	2,853,097
Total sales obligation		18,548,540

[1] As is ERA's normal practice, this buy/sell list reflects differences between actual sales volumes in the October 1979-March 1980 allocation period, and the estimated sales volumes which were originally used to calculate the April-September 1980 allocation list (45 FR 21010, March 31, 1980). There were significant differences between the actual sales volumes and the original estimates of some refiner-sellers, and these unsold carryover amounts may have affected some refiner-sellers' sales obligations for the October 1980-March 1981 allocation period. Refiner-sellers who have questions concerning their October 1980-March 1981 sales obligations should contact the Crude Oil Allocation and Production Branch staff at their earliest convenience.

Refiner-Sellers' Additional Obligations October 1, 1980, Through March 31, 1981 Allocation Period

The following includes refiner-sellers' sales obligations for the October 1980, through March 1981 period as revised by the list set forth above and the obligations resulting from allocations listed in the notice.

Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Amoco Oil Co	.105	609,894	1,911,641
Atlantic Richfield Co	.077	447,874	2,914,701
Chevron U.S.A., Inc	.102	591,400	1,372,160
Cities Service Co	.025	143,230	1,596,819
Continential Oil Co	.004	23,291	52,580
Exxon Co., U.S.A	.089	518,231	1,347,701
Getty Refining & Marketing Co	.021	123,531	387,195
Gulf Refining & Marketing Co	.091	530,529	2,052,806
Marathon Oil Co	.023	133,060	606,136
Mobil Oil Corp	.094	547,834	1,545,383
Phillips Petroleum Co	.041	240,919	1,140,968
Shell Oil Co	.114	661,577	3,444,733
Sun Co	.055	323,149	918,971

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Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Texaco, Inc	.114	662,119	1,960,307
Union Oil Co. of Calif	.046	266,161	3,119,258
Total sales obligations		5,822,819	24,371,359

Summary of Additional Allocations—October 1, 1980 Through March 31, 1981 Allocation Period

Energy cooperative OHA allocation	5,663,624
Canbou amended regular allocation	159,195
Total allocations	5,822,819

Contact List for Refiner-Sellers

Matthew J. Gallo, Amoco Oil Company, 200 E. Randolph Drive, P.O. Box 5910–A, Chicago, IL 60601
J. J. Hur, Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679, Los Angeles, CA 90071
Frank W. Bradley, Chevron U.S.A., Inc., 1700 K. Street, NW., Suite 1204, Washington, DC 20006
C. D. Head, Cities Service Company, P.O. Box 300, Tulsa, OK 74102
Mike McNeese, Conoco, Inc., P.O. Box 2197, Houston, TX 77001
Barbara Finney, Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001
Eugene F. Gervino, Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102
L. G. Armel, Gulf Oil Corporation, Gulf Building, P.O. Box 2001, Houston, TX 77001
Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, OH 45840
W. L. Fanning, Jr., Mobil Oil Corporation, 3225 Gallows Road, Fairfax, VA 22037
A. L. Hobbs, Phillips Petroleum Company, Phillips Building, Bartlesville, OK 74004
G. G. Carnahan, Shell Oil Company, P.O. Box 2463, Houston, TX 77001
C. Steven LeBaron, Sun Petroleum Products Company, 9th Floor, Law Department, 1608 Walnut Street, Philadelphia, PA 19103
Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052
Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Avenue, White Plains, NY 10650
W. W. Fox, Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196

[FR Doc. 80-36100 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

[ERA Case No. 65006-9095-22-22; Docket No. ERA-FC-80-021]

Modesto Irrigation District; Tenative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: On May 13, 1980, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) which prohibit the use of petroleum or natural gas in new powerplants.

Modesto plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be known as McClure Station Unit 2 (McClure 2) in Stanislaus County, California. Modesto certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

ERA accepted the petition on July 15, 1980, and published notice of its acceptance in the **Federal Register** on July 21, 1980 (45 FR 48692). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended September 3, 1980. No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Analysis recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to Modesto. A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed below.

DATE: Written comments on the Tentative Staff Analysis and requests for a hearing are due on or before December 3, 1980..

ADDRESS: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA–FC–80–021 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.
Louis T. Krezanosky, New Powerplants Branch, Department of Energy, Room 3012B, 2000 M Street, NW., Washington, D.C. 20461, Phone (202) 653–4208.
Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B–178, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Modesto Irrigation District (Modesto) plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be called McClure Station Unit 2 (McClure 2) at its McClure Generating Station site in Stanislaus County, California. Based upon estimates by Modesto, the proposed unit is expected to consume approximately 98,000 barrels of No. 2 fuel oil per year (268 bbl/day). McClure 2 is scheduled for commercial operation on May 15, 1981.

The Economic Regulatory Administration (ERA) published interim rules on May 15, and 17, 1979 (44 FR 28530, 28940) to implement provisions of Title II of the Act. The final rule, published on June 6, 1980 (45 FR 38276) became effective August 5, 1980.

FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

Modesto submitted a sworn statement with the petition signed by Mr. M. N. Bennett, Chief Administrative Officer, of Modesto as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Bennett certifies that McClure 2 will be operated solely as a peakload powerplant only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 49,900 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 74,850,000 Kwh.

Under the requirements of 10 CFR Part 503.41(b)(1)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

Tentative Staff Analysis

On the basis of Modesto's sworn statements and information provided, the staff recommends that ERA grant the requested peakload powerplant exemption.

Submitted with Modesto's petition is a letter from the Environmental Protection Agency Region IX (EPA), dated November 1, 1979. EPA has issued an approval to construct and operate McClure 2 subject to certain conditions.

Based upon the information provided by Modesto, ERA conducted an analysis which was reviewed by the DOE's Office of Environment, in consultation with the Office of General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include terms and conditions in any order granting an exemption. Based upon the information submitted by Modesto and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested permanent peakload powerplant exemption should, pursuant to Section 214 of the Act, be on the following terms and conditions:

A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure Unit 2. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 2 for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June-September period, etc.). Estimates of the hours in which Modesto expects to operate McClure 2 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Modesto shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, whenever Modesto operates McClure 2 in non-specified peakload periods (periods not specified in condition A above) Modesto shall report annually the reason(s) for such operation.

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. Modesto shall comply with any terms and conditions which may be imposed pursuant to the environmental requirements set forth at 10 CFR Part 503.15(b).

Issued in Washington, D.C. on November 12, 1980.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-36099 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-035; ERA Case No. 52721-6135- 1 Through 20-22]

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Acceptance of Exemption Petition

SUMMARY: On August 29, 1980, Southern California Edison Company (Edison) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy seeking twenty permanent peakload powerplant exemptions from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The Act prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption are published at 10 CFR 501.3 and 503.41.

Edison proposes to install twenty 64,500 kilowatt distillate oil-fired simple cycle combustion turbine units at its Lucerne Valley Project (Units CT–1 through CT–20), and certifies that for each unit it will be operated solely as a peakload powerplant and will be operated to meet peakload demand for the life of each unit.

ERA has accepted Edison's petition pursuant to 10 CFR 501.3 and 501.63. In accordance with the provisions of Sections 701(c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATE: Written comments are due on or before January 5, 1981. A request for a public hearing may be made by any interested person within this same 45 day period.

ADDRESS: Fifteen copies of written comments, or a request for a public hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461

Docket No. ERA–FC–80–035 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055
Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012B, Washington, D.C. 20461, Phone (202) 653–4208
Marx Elmer, Office of General Counsel, Department of Energy, 6B–178 Forrestal Bldg., Washington D.C. 20461, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Edison has filed a petition for twenty permanent peakload powerplant exemptions to use distillate oil as a primary energy source in Units CT–1 through CT–20 at its Lucerne Valley Project.

As part of its petition, Edison submitted a sworn statement by a duly authorized officer, Mr. A. Arenal, Vice President, Southern California Edison Company, as required by 10 CFR 503.41 (b)(1). In his statement, Mr. Arenal certified that each of the proposed distillate fuel oil-fired combustion turbines will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the unit.

Mr. Arenal also certified that the maximum design capacity of each of the powerplants is 64,500 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 96,750,000 kwh per unit.

ERA retains the right to request additional relevant information from Edison at any time during the pendency of these proceedings where circumstances or procedural requirements may require. The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B–110, 2000 M Street NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

V 45 NO 1980 UMI

Issued in Washington, D.C., on November 12, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-36102 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[RD-FRL 1674-7]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on October 20, 1980, the Environmental Protection Agency received an application from Dasibi Environmental Corporation, Glendale, California, to determine if its Model 3003 Gas Filter Correlation CO Analyzer should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

Stephen Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-36051 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-35-M

FEDERAL HOME LOAN BANK BOARD

[AC-103]

Carolina Federal Savings and Loan Association of Raleigh, Raleigh, N.C.; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

October 31, 1980.

Notice is hereby given that on October 15, 1980 the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), through the exercise of delegated authority, approved an amendment to the application of Carolina Federal Savings and Loan Association of Raleigh, Raleigh, North Carolina ("Association"), providing that the aggregate price of the stock to be sold in the conversion of the Association shall be sold for not less than $1,296,000 nor more than $1,710,000. The conversion application of the Association was approved on June 6, 1980, by Board Resolution No. 80-357. Copies of the application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36097 Filed 11-18-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 9, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3932.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T-3932 between the Administrative Board of the Municipal Piers of Ponce (Administrative Board) and Luis A. Ayala Colon, Sucrs. Inc. and Empire Company, Inc. (The Lessees), provides for the lease of facilities at the Port of Ponce. Luis A. Ayala Colon, Sucrs, Inc., shall lease office space, special load cage in warehouse No. 4, and a payments office in warehouse No. 5. Empire Company, Inc. shall lease a cage under warehouse No. 4, and two buildings for storage of heavy equipment. The term of the lease shall be for 2 years. Total rental for the leased premises shall be $525 per month. The leased facilities will be utilized by the Lessees for the business of contracting, handling, receipt and shipping of cargo through the Port of Ponce.

Agreement No.: T-3933.

Filing Party: William E. Emick, Jr., Deputy, Harbor Branch Office, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No., T-3933, betwween the City of Long Beach (City) and Toyota Motor Sales, U.S.A., Inc. (Toyota) provides for the 3-year lease by City to Toyota of certain premises to be used, as a contract marine terminal. Toyota will observe the rates, rules and regulations of the Port's tariff in its operation on the premises and shall retain all revenues assessed through said tariff. As compensation for the use of the premises, Toyota will pay City rental commencing at $176,475 per quarter and escalating to $211,600 per quarter at the commencement of the agreement's ninth quarter. Rental is in lieu of all tariff charges otherwise assessable by the City except for dockage charges. Agreement No. T-3933 will terminate FMC Agreements Nos. T-2338, T-2338-1 and T-2892.

Dated: November 14, 1980.

By Order of the Federal Maritime Commisison

Francis C. Hurney,

Secretary.

[FR Doc. 80-36100 Filed 11-18-80; 8:45am]

BILLING CODE 6730-01-M

[Docket No. 80-52; Agreements Nos. 10186, as Amended, 10332, as Amended, and 10371, as Amended, Agreement No. 10377, Agreements Nos. 10364 and 10329]

Availability of Energy Impact Statement

The Commission instituted this proceeding pursuant to sections 15 and 22 of the Shipping Act, 1916, to determine whether (1) Agreements Nos. 10186, 10186-4, 10332, 10332-1, 10371, 10371-1 and 10377 should be approved, disapproved or modified, and (2) whether Agreements Nos. 10364 and 10329 should be disapproved or modified. (Since the proceeding began Agreements Nos. 10377 and 10329 have been withdrawn.)

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis (OEA) has assessed the possible Commission actions with regard to these agreements and determined that (1) Commission approval of Agreements Nos. 10186, 10332, 10371 and their amendments should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification, and (2) no measurable impacts should result from any Commission actions taken with regard to Agreement No. 10364.

This Energy Impact Statement is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Interested parties may comment on the Statement on or before December 9, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be assumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36108 Filed 11-18-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 12, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (underwriting/reinsurance activities; Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, Wisconsin): to engage through its indirect subsidiary, Family Guardian Life Insurance Company, Phoenix, Arizona, in the activity of underwriting/reinsuring credit life and credit accident and health insurance which is related to extensions of credit by Citicorp's lending subsidiaries. These activities would be conducted in the 18 states and the District of Columbia listed in the caption of this notice.

2. Manufacturers Hanover Corporation, New York, New York (mortgage banking, loan servicing, and insurance activities; Arizona): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; servicing any such loans and other extensions of credit for any person; and acting as agent or broker through its subsidiary, CMC Insurance Agency, Inc., for the sale of credit life insurance and credit accident and health insurance relating to such loans and other extensions of credit. These activities would be conducted from an office of Manufacturers Hanover Mortgage Corporation in Mesa, Arizona, serving the cities of Mesa and Tempe, Arizona, and surrounding communities, located in Maricopa County.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23251:

Maryland National Corporation, Baltimore, Maryland (finance activities; southwestern United States): to engage, through its subsidiary, Maryland National Industrial Finance Corporation, in commercial lending activities, including financing of accounts receivable, inventories, and other types of loans to commercial enterprises; servicing commercial loans; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from an office in Dallas, Texas, serving Louisiana, Texas, Oklahoma, New Mexico, and Arizona.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Zions Utah Bancorporation, Salt Lake City, Utah, (banking, mortgage banking, industrial banking, leasing activities; Utah, Idaho, Colorado and Oregon): to engage through its proposed wholly-owned subsidiary Pueblo 1st Industrial Bank in operating an industrial bank as authorized by Colorado law, including the granting of credit to consumers and others; the sale on an optional basis of credit life, health and accident, property damage and liability insurance directly related to such loans; and the acceptance of time savings deposits in the form of passbook accounts and certificate accounts. These activities will be conducted at an office to be located in Pueblo, Colorado serving the states identified in the caption.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 12, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36034 Filed 11-18-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on November 13, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses.

V 45 N 0 19 80 UMI

Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 8, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Interstate Commerce Commission

The ICC requests clearance of a new, voluntary Small Community Service Study Questionnaire, which ICC will use to gather information about the adequacy of truck service to small communities and how the Motor Carrier Act of 1980 has impacted that service. The questionnaire will be sent to shippers and receivers (businesses) in small communities throughout the contiguous states. The ICC will survey each shipper and receiver twice at 6-month intervals using the identical questionnaire both times. An identical questionnaire will also be sent to shippers in communities of all sizes throughout the State of Florida, in order to study the effects of that state's move to deregulate the intrastate trucking industry. The ICC estimates that respondents will number between 1200 and 1500 and that time to complete each questionnaire will average 20 minutes.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-36014 Filed 11-18-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Love Canal Epidemiology Work Group; Open Meeting

On November 24, 1980, an open meeting will be held of the Love Canal Epidemiology Work Group to discuss revised epidemiologic study protocols on health effects of chemical contamination of the Love Canal area. Clinicians, health and environmental scientists, and public health officials who are actively involved in the study, prevention, and control of human health consequences of toxic environmental contamination have been invited to participate in the work group. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 10:00 a.m., Room 131, Carey Hall, University of New York At Buffalo, 3435 Main Street, Buffalo, New York.

All inquiries should be sent to: Renate Kimbrough, M.D., Research Medical Officer, Toxicology Branch, Bureau of Laboratories, Centers for Disease Control, Atlanta, Georgia 30333; Telephones: FTS: 236–4176, Commercial: 404/452–4176.

Dated: November 14, 1980.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 80-36237 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-86-M

Office of Human Development Services

White House Conference on Aging; Technical Committee on Employment; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Employment will hold its next meeting on Wednesday, December 3, 1980 from 1:00 p.m. until 5:00 p.m. and Thursday, December 4, 1980 from 9:00 a.m. until 4:00 p.m. in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, in Room 337A–339A.

The purpose of the meeting will be to review progress report and agree upon findings and recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36036 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Family, Social Services and other Support Systems of the 1981 White House Conference on Aging will hold its next meeting on Friday, December 5, 1980 and on Saturday, December 6, 1980 from 9:30 a.m. until 5:00 p.m. The meeting will take place in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., 20201 in Room 403–425A.

The purpose of the meeting will be to review a draft of the policy paper and to review initial recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36035 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

Title VII of the Public Health Service Act, Health Research and Teaching Facilities and Training of Professional Health Personnel; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), as amended, pertaining to health research and teaching facilities and training of professional health personnel, excluding the authority under Subpart I, Part C of Title VII pertaining to the Federal program of insured loans to graduate students in health professions schools, the authority to promulgate regulations, the authority to establish advisory committees and councils, the authority to select members to advisory councils, and the authority to submit reports to Congress or to a congressional committee. The Assistant Secretary for Health may redelegate his authority under Title VII of the Public Health Service Act subject to Section 707 of the Public Health Service Act.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations of authority under Title VII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget, Office of the Secretary.

[FR Doc. 80-36040 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Title VIII of the Public Health Service Act, Nurse Training; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VIII of the Public Health Service Act (42 U.S.C. 296 *et seq.*), as amended, pertaining to nurse training, excluding the authority under Section 851 to establish and to select members to the National Advisory Council on Nurse Training, the authority to promulgate regulations, the authority to establish advisory committees and councils, and the authority to select members to advisory councils. The Assistant Secretary for Health may redelegate his authority under Title VIII of the Public Health Service Act, subject to Section 856 of the Public Health Service Act. Exercise of these authorities are subject to Health and Human Services policy and requirements for administering Section 855 of the Public Health Service Act relating to the prohibition against discrimination by schools on the basis of sex.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VIII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations of authority under Title VIII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36039 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Study of Federal Financial Support for Nursing Education Programs; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all the authority vested in the Secretary under Title I, Section 113 of Public Law 96–76 (42 U.S.C. 296 note) providing for a study of Federal financial support for nursing education programs, excluding the authority to submit reports to Congress or to a congressional committee.

Dated: October 29, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36041 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Technical Assistance Demonstration Grants and Contracts Under Section 340A of the Public Health Service Act; Delegation of Authority

Notice is hereby given that on September 4, 1980 the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all of the authorities vested in the Secretary under section 340A of the Public Health Service Act (42 U.S.C. 256a), as amended, concerning Technical Assistance Demonstration Grants and Contracts, excluding the authorities to (1) issue regulations, (2) establish the Primary Health Care Advisory Committee, and (3) appoint members to the Primary Health Care Advisory Committee.

Dated: November 6, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

[FR Doc. 80-36037 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-84-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (38 FR 1654, January 11, 1974, as amended most recently at 45 FR 27528, April 23, 1980) is amended to reflect the establishment of the Office of Special Populations within the Office of the Administrator, ADAMHA, and the corresponding modification of the functional statements for the Office of the Administrator and the Division of Treatment within the Office of Program Planning and Coordination.

Section HM–B, Organization and Functions, is amended as follows:

1. Under *Office of the Administrator (HMA),* delete item (4) of the functional statement and renumber item (5) to read item (4).

2. Under *Office of Program Planning and Coordination (HMA2),* delete item (5) under its *Division of Treatment (HMA24)* and substitute the following:

(5) collaborates with Institutes, with Federal, State and local governments, and with professional organizations regarding treatment policy and programs for rural and urban health initiatives.

3. After the statement for the *Division of Treatment (HMA24),* insert the following statement:

Office of Special Populations (HMA4)

(1) Identifies and highlights the needs, issues and concerns of unserved, underserved, and other special populations relative to alcohol, drug abuse, and mental health; (2) participates with the Office of Program Planning and Coordination (OPPC), other components of the Office of the Administrator and the Institutes in the development of program policy regarding special populations; (3) plans, develops and advocates specific agency strategies and program initiatives for these populations; (4) monitors the implementation of current and proposed agency strategies and/or programs and, in collaboration with OPPC and other offices, their effectiveness in meeting the alcohol, drug abuse, and mental health concerns of special populations; (5) in pursuit of the above functions, maintains liaison and communications with key constituency groups of the respective special populations; regional, State, and local governmental components; and professional, citizen and other various organizations with

common interests. Collaborates in similar liaison activities of the Institutes and other components of the Office of the Administrator; (6) coordinates the consumer affairs activities for ADAMHA.

Dated: November 4, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36038 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended in pertinent part at 43 FR 16422, April 18, 1978) is amended to reflect a minor functional realignment within the Executive Director of Regional Operations (EDRO).

As presented in this notice, the Division of Field Science and Technology will be retitled as the Division of Field Science. The functional statements for the Division of Field Science are amended to redefine the division's role in automated laboratory operations as they relate to the overall EDRO ADP activity.

The affected portions of the functional statements for EDRO are revised to reflect changes cited above.

Section HF-B, Organization, is amended by deleting paragraph *(x-3) Division of Field Science and Technology (HFRH)* and replacing it with paragraph *(x-3) Division of Field Science (HFRH)* reading as follows:

(x-3) Division of Field Science (HFRH). Advises the Executive Director concerning the management of FDA's overall field scientific resources (including national experts) to assure their coordinated, efficient, and effective use; provides coordination between field and bureau scientific programs.

Represents the Executive Director in top level scientific policy and program matters.

Identifies goals and objectives for field scientific activities; develops policies and procedures as they relate to these activities; coordinates and develops manuals on field laboratory operating and technical procedures.

Develops control procedures for field laboratory operations and evaluates the adequacy and effectiveness of field scientific activities through onsite visits.

Manages the field laboratory research programs; identifies the need for, develops, tests, evaluates, and/or arranges for the adoption of new field equipment, techniques, and methodology.

Participates in the determination of long and short-range field scientific facility needs.

Coordinates research on the applicability of new, complex, scientific instruments for field analyses; designs instrument systems.

Participates in the formulation and evaluation of training and career development plans for field scientists.

Provides scientific and analytical expertise to EDRO related to laboratory automation, analysis, and process control and acquisition of automated data laboratory instruments.

Develops and maintains liaison with outstanding scientists to assure the most effective use of FDA field scientific resources.

Develops and/or reviews the scientific and technical aspects of environmental impact statements.

Coordinates the development and audits the implementation of safety programs in field laboratories.

Dated: November 4, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36042 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 42 FR 55653, October 18, 1977) is amended to reflect a reorganization of the substructure within the Bureau of Biologics (BOB). This reorganization is part of the Bureau's efforts to keep pace with the constantly changing product lines of the biological industry. Recently, the media have widely publicized significant scientific discoveries in recombinant DNA research which are expected to result in new biological products. Realignment of certain functions will enhance the BOB efforts to maximize the efficiency and effectiveness of program scientists and high technology instrumentation. As presented in this notice, a new Division of Biochemistry and Biophysics will be established. Transferred to this division will be the electron microscopy functions from the Division of Pathology, the biochemistry functions from the Division of Bacterial Products, and the analytical chemistry functions from the Division of Control Activities. The Division of Control Activities will be retitled as the Division of Product Quality Control. The division will retain the biological testing functions and protocol review functions with the pathobiology and primatology functions being transferred into this division from the Division of Pathology. The Division of Pathology is abolished; and the remaining functions of this division, the cellular physiology and experimental biology functions, are transferred to the Division of Bacterial Products. The affected portions of the functional statements for BOB are revised to reflect the changes cited above. Section HF-B, Organization is amended as follows:

1. Revise paragraph *(r-5) Division of Control Activities (HFBA)* by changing the title to *Division of Product Quality Control (HFBA)* and amending the functional statements to read as follows:

(r-5) Division of Product Quality Control (HFBA). Plans and conducts a developmental testing program of biological products such as vaccines, cell-derived antiviral and antitumor substances, and various blood components to develop standards designed to insure the safety, purity, potency, and efficacy of such products and to improve the existing test procedures.

Plans and conducts sterility, general safety, pyrogen, and potency tests on biological products submitted for release or in support of license applications; and when required, performs safety, neurovirulence, and potency tests on biological products using nonhuman primates and certain other animals. Reviews manufacturers protocols with respect to such tests.

Removes various tissues from primates and other animals as required for control testing and research as well as for the preparation of cell cultures.

Administers the biological products release program. Coordinates processing of protocols submitted for licensing and for the release of lots of biologics manufactured under existing licenses. Receives, maintains, and distributes accompanying samples of biological products for testing within the Bureau. Reviews recommendations by laboratory divisions concerning compliance with regulatory requirements and issues notification of release or rejection.

Establishes and distributes control preparations and reference reagents to licensed manufacturers, health agencies, and other control groups.

Recommends criteria for acceptability pertaining to the development of regulatory standards and reference reagents for new biological products.

Provides technical training for representatives of domestic and foreign biological establishments in relation to control testing procedures.

Inspects manufacturers of biological products and laboratories conducting nonclinical studies involving investigational new drugs.

Reviews scientific data included in license applications for new biological products and amendments for old products.

Serves as custodian for official complaint samples and coordinates testing and compilation of results.

Coordinates testing and reporting of tests performed as a WHO Reference Center.

Assists in collaborative research and management of contract-supported activities.

2. Delete paragraph (r-6) Division of Pathology (HFBD) in its entirety and insert the following new Division of Biochemistry and Biophysics (HFBJ):

(r-6) Division of Biochemistry and Biophysics (HFBJ). Plans and conducts research on (1) the chemistry and biology of vaccines and other biological products, impurities, and/or unsuspected components of new products; (2) the pathogenesis of infectious diseases caused by bacteria, rickettsia, viruses, and parasites; and (3) immunologic processes which may lead to morphologic alteration.

Develops biochemical and biophysical methodology and bioassays for application to the control of existing and newly developed biological products derived from DNA recombinant technology.

Reviews scientific data supporting license applications and amendments for biological products and provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Carries out control tests and reviews manufacturer's protocols to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Assists in collaborative research and management of contract supported activities.

3. Revise paragraph *(r-7) Division of Bacterial Products (HFBE)* to read as follows:

(r-7) Division of Bacterial Products (HFBE). Plans and conducts research on fundamental aspects of bacteriology and immunology relating to bacterial and allergic diseases of man to obtain data bearing on the continued or increased safety, purity, potency, and efficacy of bacteriological, allergenic, and analogous biological products, including the development of new biological products and new or improved methods of control of old and new products.

Plans and conducts research on the interactions between cells in culture and single microorganisms or chemical agents. Develops techniques for studying *in vitro* functions of immunized cells.

Carries out control tests and reviews manufacturers protocols on selected products to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Develops, reviews, and revises technical standards pertaining to the control of bacterial, allergenic, and analogous products.

Assists in collaborative research and management of contract-supported activities.

Dated: November 4, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36043 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Office of the Secretary

[OS 4110-12]

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health and Human Services on the impact of the policies, programs and activities of the Department on the status of women will meet on Thursday, December 11, 1980, from 10:00 a.m. to 5:00 p.m., and on Friday, December 12, 1980, from 9:30 a.m. to 3:30 p.m. in Room 425-A, Hubert Humphrey Building, 200 Independence Ave. SW., Washington, D.C. The agenda will include general overview of women's health and social security issues.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone: 202-245-8454. This meeting is open to the public.

Dated: November 10, 1980.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-36096 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

National Environmental Policy Act and Other Related Acts; Procedures for Conducting Environmental Reviews

AGENCY: Office of the Secretary.

ACTION: Notice of Final HHS Implementing Procedures.

SUMMARY: On March 6, 1980, proposed HHS supplemental procedures for conducting environmental reviews were published in the **Federal Register** as required by regulations of the Council on Environmental Quality (CEQ) for implementing the National Environmental Policy Act, 43 FR 55978 (November 29, 1978) and other related acts. Final procedures were subsequently developed and transmitted to CEQ for review. The Council approved the procedures on October 2, 1980 and they are published below in Part 30 of the General Administration Manual.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Custard, Director, Office of Environmental Affairs, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, or telephone (202) 472-9740.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, and other related environmental laws, executive orders, and regulations, the Department of Health and Human Services has issued final procedures for conducting environmental reviews, preparing necessary documentation, and making program decisions to protect the quality of the environment. In addition to supplementing the CEQ regulations, the procedures employ a single comprehensive review process for meeting the provisions of both NEPA and related laws and regulations. These procedures will reduce the burden on members of the public having business with HHS by providing for the consolidation of requests for information needed for an environmental review. The conduct of environmental reviews by HHS personnel will be also facilitated. The procedures should assist the public and others in better understanding HHS policies since all applicable Federal

environmental review requirements are contained in a single document.

There were only a few public comments received in response to the **Federal Register** notice containing the proposed procedures. The commentors suggested that the text of the procedures include additional reference citations to regulations of the Advisory Council on Historic Preservation and CEQ. The CEQ comments suggested that the procedures provide for certain specific requirements contained in their regulations. These included the need for a cover sheet in an EIS, circulation of EISs to State and local agencies responsible for environmental standards, consultation with CEQ in emergency situations, consideration of alternative uses of scarce resources and CEO approval of NEPA categorical exemptions. The CEQ also provided suggestions for clarifying the relationships between Chapter 30–60, NEPA Review, and the other GAM chapters including definitions and categorical exclusions. All of the above recommendations are incorporated in the final version. Other changes made as a result of internal HHS reviews included: edition for clarity, adding examples to illustrate a procedure or term, and including various cross-references to different parts of the text to facilitate use of the procedures.

Dated: November 13, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

General Administration Manual

Part 30 Environmental Protection

Contents

Chapter and Title

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30–20 Administrative Requirements
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30–60 NEPA Review
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Subject: Environmental Protection

30–00–00 Purpose
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30–00–40 Definitions

30–00–00 Purpose

Part 30 of the *General Administration Manual* establishes Departmental policy and procedures with respect to protection of the environment, and the preservation of historic properties and other valuable national resources. Under Federal laws, regulations and Executive Orders, all Federal Departments and agencies must take into account the environmental consequences of their activities. Included are the activities of non-Federal organizations which operate under the authority or with the support of Federal Departments or agencies. The terminology in this Part differs in some respects from that associated with any particular environmental law due to the fact that this Part is intended to implement a number of laws with varying requirements.

30–00–10 Chapter Organization and Content

The chapters of Part 30 are organized as follows:

- Chapter 30–00 provides a summary of major procedural requirements, a list of Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30, and a list of definitions.
- Chapters 30–10 and 30–20 provide overall Departmental policy with respect to environmental protection and a summary of internal administrative procedures which Departmental components must implement.
- Chapter 30–30 provides a general summary of the environmental review process for Departmental activities under all the enviromental acts covered by Part 30.
- Chapters 30–40, 30–50 and 30–60 provide detailed requirements for each of the different environmental acts covered by Part 30.
- Chapter 30–70 provides Departmental procedures for reviewing environmental documents prepared outside of the Department.

30–00–20 Summary Requirements for Departmental Components

The following is a summary of the principal requirements established by the Part.

A. *Administrative Requirements.* 1. POCs must review all their activities and determine: a. Those activities which normally *do not* cause an environmental effect (as defined by the environmental acts), and therefore can be categorically excluded from subsequent environmental review or documentation requirements;

b. Those activities which require and environmental review because they may cause a significant environmental effect under NEPA or may affect an asset; and

c. Those activities which normally *do* cause a significant environmental effect under NEPA or affect a cultural or natural asset and therefore require preparation of an environmental document.

2. An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts. (See 30–20–30, –40.)

3. POCs shall adopt operating procedures for conducting environmental reviews of those proposed actions which have not been categorically exclude.

B. *Review Procedures for Individual Proposed Actions.* 1. *Environmental Reviews.* Prior to taking an action not categorically excluded from review requirements, conduct an environmental review to determine the probable environmental effects of the proposed action.

2. *Consultation.* Carry out the requirements for public involvement and intergovernmental consultation as prescribed in the applicable environmental acts.

3. *Documentation.* Prepare any required documentation depending on the applicable environmental act and the kind and degree of environmental effects caused by a proposed action. Finalize any draft documents on the basis of public comments and intergovernmental consultation, as appropriate.

4. *Decision-making.* Take environmental effects and values, discussed in the final statement, into account in decision-making. Prepare a public "record of decision" or other final documentation if required by an environmental act.

30–00–30 Public Laws, Executive Orders and Regulations Implemented by Part 30

The following list contains the various Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30:

A. *The National Environmental Policy Act (NEPA).* (1) establishes a comprehensive policy for protection and enhancement of the environment by the Federal government, (2) creates the Council on Environmental Quality (CEQ), and (3) directs Federal agencies to carry out the policies and procedures of the act.

B. *Executive Order 11514,* March 5, 1970, directs the heads of Federal agencies to monitor, evaluate and control their agencies' activities so as to protect and enhance the quality of the environment.

C. *Executive Order 11991,* May 24, 1977, directs CEQ to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA.

D. *Executive Order 12114,* January 4, 1979, directs Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions.

E. *Regulations of the Council on Environmental Quality,* November 29, 1978, require Federal agencies to adopt procedures to supplement CEQ regulations for implementing the provisions of NEPA.

F. *The Coastal Zone Management Act,* 16 U.S.C. 1456 et seq., directs Federal agencies to conduct activities consistent with an approved State coastal zone management program.

G. *The Wild and Scenic Rivers Act,* 16 U.S.C. 1278, directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.

H. *Executive Order 11990,* May 24, 1977, directs heads of Federal agencies to avoid (1) the long- and short-term adverse impacts associated with the destruction or modification of wetlands and (2) direct or indirect support of new construction in wetlands whenever there is a practical alternative.

I. *Executive Order 11988,* May 24, 1977, directs Federal agencies to take action to avoid the occupancy or modification of floodplains and to avoid direct or indirect support of development in floodplain areas whenever there is a practical alternative.

J. *U.S. Water Resources Council Floodplain Management Guidelines,* February 10, 1978, provides guidance to Federal agencies for implementing Executive Order 11988.

K. *Marine Protection, Research and Sanctuaries Act,* 33 U.S.C. 1432f, provides for establishment of marine sanctuaries and directs Federal agencies to insure that their actions are consistent with the intended use of such areas.

L. *The Safe Drinking Water Act,* 42 U.S.C. 300f, et seq., authorizes EPA to determine if an action which will have an environmental effect on a sole or principal drinking water source would also constitute a significant hazard to a human population and, if so, to prohibit such an action.

M. *The Clean Air Act,* 42 U.S.C. 1857h–7, requires EPA to review and comment on a Federal agency action which would create a significant environmental impact.

N. *Executive Order 11987,* May 24, 1977, directs Federal agencies to prevent the introduction of exotic species into the natural ecosystems of the United States.

O. *The Endangered Species Act,* 16 U.S.C. 1536, directs Federal agencies to conserve endangered and threatened species and their critical habitats.

P. *Fish and Wildlife Coordination Act,* 16 U.S.C. 661–666c, directs Federal agencies to prevent loss and damage to, and provide for, development and improvement of wildlife resources.

Q. *The National Historic Preservtion Act* of 1966, 16 U.S.C. 470 as amended, directs heads of Federal agencies to preserve cultural heritage, particularly with respect to sites on/or eligible for listing on the *National Register of Historic Places.*

R. *Executive Order 11593,* May 5, 1971, implements portions of the National Historic Preservation Act of 1966 and require Federal agencies to nominate eligible properties which it owns, leases or otherwise controls.

S. *Regulations of the Advisory Council on Historic Preservation* (36 CFR Part 800) establish procedures for the protection of historic and cultural properties.

T. *Regulations of the Department of the Interior* (36 CFR Parts 60 and 63) concern nominations to and determinations of eligibility for the *National Register of Historic Places.*

U. *The Archaeological and Historic Preservation Act,* 16 U.S.C. 469a–1 et seq., directs Federal agencies to preserve significant scientific, prehistorical, historical and archaeological data.

All components of the Department are responsible for complying with the specific requirements of each of the above environmental acts. The procedures which follow supplement and provide guidance toward meeting the requirements.

30–00–40 Definitions

A. Action—a signed decision by a responsible Department official resulting in: 1. approval, award, modification, cancellation, termination, use or commitment of Federal funds or property by means of a grant, contract, purchase, loan, guarantee, deed, lease, license or by any other means;

2. approval, amendment or revocation of any policy, procedures or regulations including the establishment or elimination of a Department program; or

3. submission to Congress of proposed legislation which, if enacted, the Department would administer.

B. Asset—an entity, group of entities or specific environment as defined in the individual related acts and which the individual related acts seek to protect or preserve. Assets include cultural assets (e.g., historic properties) and natural assets (e.g., wild and scenic rivers, and endangered species);

C. Environmental acts—all authorities listed in Section 30–00–30;

D. Environmental effect—a change which a proposed action will cause either within the human environment (in accordance with NEPA) or to a cultural or natural asset (as defined in one or more of the related acts);

E. Environmental review*—the process, including necessary documentation, which a Departmental Component uses to determine whether a proposed action will cause an environmental effect, and whether to prepare a limited statement, full statement or no statement;

F. Environmental statement—either a limited statement or a full statement at either the draft or final stage (see G and H below);

G. Full statement*—a document which discusses a proposed action in terms of its purpose and environmental consequences and includes a discussion of alternatives to a proposed action;

H. Limited statement—a brief concise analysis which provides written evidence sufficient to meet the documentation requirements of the environmental acts or which supports a determination not to prepare a full statement;

I. POC—Principal Operating Component, e.g., Office of Human Development Services, Public Health Service;

J. Program review—a review by POCs of all their actions to determine: 1. those categories of actions which normally *do not* cause environmental affects sufficient to require environmental documentation and therefore may be categorically excluded from further environmental review; and

2. those categories of actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

3. those categories of actions which normally *do* cause significant environmental effects under NEPA or *do* affect a cultural or natural asset and therefore require the preparation of an environmental document.

POCs should complete an initial program review as soon as practicable following publication of this Part and should undertake subsequent program reviews when deemed appropriate.

K. Related acts—All Public Laws, Executive Orders, Federal regulations

*Some environmental acts use different terms which are referenced in the section addressing such acts.

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and other authorities listed in Section 30–00–30, but not including NEPA.

Subject: Policy

30–10–00 Policy

Most of the contents of Part 30 address procedural or documentation requirements specified in the environmental acts. These procedures and documents are necessary in order for HHS components, before proceeding with an action, to take into account the environmental consequences of that action.

HHS components must also give weight to preservation of the environment and protection of historic or cultural assets in reaching substantive program decisions. All HHS components shall assess environmental costs and benefits as well as program goals and objectives in determining a particular course of action. In conducting this assessment, HHS components should afford reasonable time, effort and resources to a deliberation of environmental risks associated with a program-related course of action.

Subject: Administrative Requirements

30–20–00 Background
10 Responsibilities
20 Approval Authority and Redelegations
30 Process for Establishing Categorial Exclusions
40 Categories of Exclusion
50 Environmental Review Procedures

30–20–00 Background

This chapter establishes an administrative framework in the Department for environmentally-related activities. Specifically, this chapter (1) describes the assignment of relative responsibilities in the Department regarding environmental activities, (2) establishes procedures for program reviews and (3) establishes other on-going administrative requirements.

30–20–10 Responsibilities

A. *Office of the Secretary.* The Secretary shall designate an official as the Departmental Environmental Officer, who will be responsible for:
1. Preparing of Departmental guidelines and other policy documents for issuance by the Secretary or other appropriate Departmental official pertaining to environmental protection and preservation of natural or cultural assets;

2. Approving of lead agency agreements having Department-wide applicability;

3. Providing training to HHS program officials with respect to carrying out the requirements of the environmental acts;

4. Maintaining liaison with CEQ, EPA and other Federal agencies charged with direct responsibility for administering the environmental acts;

5. Coordinating the review of environmental statements originating from outside of HHS; and

6. Reviewing and making recommendations to the Assistant Secretary for Management and Budget with respect to determinations by POCs that certain activities are categorically excluded from environmental review.

B. *Principal Operating Components.* Heads of POCs are responsible for ensuring that organizational units under their authority comply with all provisions of the environmental acts and with the procedures of this Part. A POC head may designate a POC environmental officer, who may act in either a full-time capacity or in addition to other duties, to assist in fulfilling these responsibilities.

C. *Regional Offices.* Principal Regional Officials (PROs) are responsible for complying with the provisions of the environmental acts and the policies in this part for those specific program responsibilities delegated to them.

In addition, the PROs shall: 1. Serve as principal HHS regional liaison official with other Federal, State, and local agencies on matters pertaining to environmental preservation or protecting environmental, cultural or natural assets;

2. Coordinate the timely review by regional program personnel of environmental impact statements forwarded to HHS by other agencies; and

3. Periodically verify with the POCs that their regional program staff are aware of and are complying with the requirements of this Part.

30–20–20 Approval Authority and Redelegations

A. The POC head and PRO may redelegate all their environmental responsibilities to subordinate program managers except for approving the designation of actions as categorically excluded by the POC head. POC heads shall obtain concurrence from the Assistant Secretary for Management and Budget with respect to activities designated to be categorically excluded from enivronmental reviews.

B. The exclusion of material from environmental statements on the basis of national security and trade secrets requires approval by the HHS General Counsel. (See Section 30–30–40.)

C. Proposed actions which will have an effect on certain natural assets require concurrence or approval from other Federal agencies (see 30–50) prior to taking the action.

D. POC heads shall sign determinations pursuant to Executive Order 11988 on Floodplain Management and Executive Order 11990 on Wetlands except: 1. The Secretary shall approve proposed actions requiring full statements on projects affecting floodplains; and

2. The Secretary shall approve proposed actions requiring limited or full statements for new construction in wetlands.

30–20–30 Process for Establishing Categorical Exclusions

A. All HHS activities which can be defined as "actions" (see Definitions, Section 30–00–40) require an environmental review *unless* a POC has determined, through a program review, that the activity will not cause a significant environmental effect under NEPA or will not affect any of the assets protected by the related acts.

B. Program Reviews. In a program review, a POC evaluates actions it will be taking in order to determine the potential of these actions to cause an environmental effect under any of the environmental acts. POCs shall complete an initial program review of all their actions as soon as practicable following publication of this Part. POCs may undertake additional program reviews subsequently whenever they deem it appropriate.

As a result of program review, a POC shall divide each of its actions in one of three groups:

Group 1 (categorically excluded)—those actions which normally *do not* cause a significant environmental effect under NEPA or affect one or more of the assets protected by the related acts.

Group 2—Those actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

Group 3—Those actions which normally *do* cause a significant environmental effect under NEPA or do affect one of the assets protected by the related acts.

An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts.

In grouping each of its actions, POCs shall use the exclusion categories described in Section 30–20–40. If action falls within one of these exclusion categories, then it may be include in Group 1. Such actions do not require further environmental reviews. If action does not fall within one of these exclusion categories, then a POC must perform an environmental review prior to taking this action. Chapter 30–30 describes the procedures for conducting and environmental review.

Each POC shall maintain as part of its administrative issuance system lists of those actions which it has determined fall under Groups 1, 2 and 3. These lists shall supplement other internal directives or instructions relating to environment-related responsibilities.

C. *Approval.* A determination by a POC that an action falls within Group 1 (Categorically Excluded) is effective upon approval by the POC head. However, POCs must forward these determinations to the Assistant Secretary for Management and Budget for concurrence. Determination that an action falls within Group 1 (Categorically Excluded) is effective for the shorter of (1) five years or (2) until rendered inapplicable because of changes in the underlying program authority.

30–20–40 Categories of Exclusion

A. POCs may exclude a proposed action from the environmental review process if it determines that the proposed action falls within one of the four exclusion categories described in this Section. This determination may take place as the result of a program review of a POCs actions, in which case the action is listed in the POCs administrative issuance system as being categorically excluded from further environmental reviews.

B. *Categories of Actions Which May Be Excluded From Environmental Review.*—1. *Category No. 1—General Exclusions.* POCs do not need to perform environmental reviews in the following instances: a. When a law grants an exception;

b. When the courts have found that the action does not require environmental review (i.e., HHS is not required to prepare environmental statements concerning the termination of a hospital's status as a Medicare "provider" if termination is statutorily required because of a hospital's non-compliance with Federal fire safety regulations);

c. When an action implements actions outside the territorial jurisdiction of the United States and such actions are excluded from review by Executive Order 12114.

2. *Category No. 2—Functional Exclusions.* Actions associated with the following types of activities normally are not subject to environmental review requirements:

a. Routine administrative and management support, including legal cousel, public affairs, program evaluation, monitoring and individual personnel actions;

b. Appellate reviews when HHS was the plaintiff in the lower court decision (e.g., a case involving failure by a nursing home to comply with fire and safety regulations);

c. Data processing and systems analysis;

d. Education and training grants and contracts (e.g., grants for remedial training programs or teacher training) except projects involving construction, renovation and/or changes in land use;

e. Grants for administrative overhead support (e.g., regional health or income maintenance program administration);

f. Grants for social services (e.g., support for Headstart, senior citizen programs or drug treatment programs) except projects involving construction, renovation and changes in land use;

g. Liaison functions (e.g., serving on task forces, ad hoc committees or representing HHS interests in specific functional areas in relationship with other governmental and non-governmental entities);

h. Maintenance (e.g., undertaking repairs necessary to ensure the functioning of an existing facility), except for properties on or eligible for listing on the National Register of Historic Places;

i. Statistics and information collection and dissemination (e.g., collection of health and demographic data and publication of compilations and summaries);

j. Technical assistance by HHS program personnel (e.g., providing assistance in methods for reducing error rates in State public assistance programs or in determining the cause of a disease outbreak); and

k. Adoption of regulations and guidelines pertaining to the above activities (except technical assistance and those resulting in population changes).

3. *Category #3—Program Exclusions.* These exclusions result from a substantive review and determination by a POC that certain programs or certain activities within a program will not normally (a) significantly affect the human environment (as defined in NEPA) or (b) affect an asset (as defined in the related acts) regardless of the location or magnitude of the action. For example, a POC, following its review, might determine that the following are unlikely to cause an environmental effect: assigning a member of the Health Service Corps to a locality to supplement existing medical personnel or providing funds to support expansion of emergency medical services in existing hospitals.

4. *Category #4—Partial Exclusions.* a. A POC may determine that certain programs or elements may cause environmental effects with respect to some, but not all, of the environmental acts. For example, a POC may determine that actions associated with a particular program might affect historical properties (e.g., the renovation of an SSA district office in a historical district), but would never "significantly affect the quality of the human environment" (NEPA) or affect cultural and natural assets addressed by other related acts. The component may limit the environmental reviews to the provisions of the National Historic Preservation Act.

b. An environmental review conducted previously may be broad to satisfy environmental review requirements for future similar or related actions. For instance, a POC may conduct an environmental review with respect to a particular type of biological research, no matter where that research is conducted. Environmental reviews of future similar or related research activities are not necessary if the effects of this new research have been already addressed in the previous environmental review.

c. There are some programs which must take an action within thirty days in response to an emergency health situation or because a law requires a Department official to act within thirty days. Such circumstances must be identified in the Categorical Review process and appropriate measures provided to comply with the intent of the laws, including appropriate consultations as required by NEPA and the related environmental acts.

30–20–50 Environmental Review Procedures

A POC must conduct environmental reviews with respect to all proposed actions which do not fall under categorical exclusions #1, #2 or #3. Chapter 30–30 discusses the process for conducting an environmental review with respect to a specific proposed action and for fulfilling documentation and other requirements. Each POC shall ensure that its programs have appropriate procedures for conducting environmental reviews, for completing required documentation and for ensuring public involvement and intergovernmental consultation. These procedures must be in writing and be included in the internal administrative

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issuance system. These procedures must, at a minimum, address the following:

A. A list of those actions which the POC has categorically excluded from further environmental review requirements.

B. A list of those actions which require an environmental review prior to taking the action.

C. Designation of officials responsible for environment-related activities including determinations as to whether to prepare a full statement or a limited statement, if one is required.

D. Procedures for preparing and circulating environmental statements (including data required by the applicable environmental act for the type of action covered).

E. Procedures for ensuring the coordination of environmental review with program decision-making, including concurrent development and circulation of environmental documents with program documents and the identification of key decisionmaking points.

F. Procedures for consulting with other Federal agencies responsible for the environmental acts, if necessary.

G. Procedures for developing lead agency agreements (as described in 30–30–20 B below).

H. A prohibition against precluding or prejudicing selection of alternatives in a full statement without regard to environmental risks.

I. Procedures for establishing a reviewable record, including making environmental statements and related decision-making materials part of the record of formal rulemaking and adjudicatory proceedings.

J. Provisions for early consultation and assistance to potential applicants and non-Federal entities in planning actions and developing information necessary for later Federal involvement (as described in 30–30–20 C below).

K. Descriptions of circumstances which preclude completion of environmental reviews within reasonable time frames because of public health and safety considerations and procedures for after-the-fact completion.

L. Provision for ensuring that applications and other materials from potential grantees or other recipients of Departmental funds, on a program-by-program basis, include information necessary to conduct an environmental review. Such information shall include the identification of any properties which may be eligible for listing on the National Register of Historic Places.

M. Provision for identifying cultural assets which a program controls through leases or Federal ownership, and for nominating any eligible historical properties to the National Register of Historic Places.

Subject: General Review Procedures for All Environmental Acts

30–30–00 Overview
10 Summary Description
20 Environmental Review
30 Environmental Statements
40 Intergovernmental Consultation and Document Review
Exhibit 30–30–A Requirements of NEPA and the Related Acts
Exhibit 30–30–B Flow Chart-Environmental Review Procedures

30–30–00 Overview

The environmental acts require a review of proposed Federal actions whenever they will bring about environmental effects, either within a human environment (as defined under NEPA) or to a historic property, endangered species or other asset (as defined in the related acts).

The purpose of this Chapter is to describe overall the steps which Department officials must take in conducting environmental reviews of specific proposed actions. Within these general steps, the individual environmental acts differ significantly with respect to public involvement, intergovernmental consultation and documentation required. The Chapters at 30–40, 30–50 and 30–60 following (entitled Cultural Asset Review, Natural Asset Review and NEPA Review) discuss these specific requirements in greater detail. Exhibit 30–30–A summarizes these differences.

30–30–10 Summary Description

The following is a summary description of the general types and sequence of activities which Departmental officials should carry out in reviewing specific proposed actions under this Part. Exhibit 30–30–B summarizes these activities.

A. Determine that a proposed activity constitutes an action as defined under Section 30–00–40 (Definitions).

B. Determine whether the proposed action is categorically excluded from all environmental review requirements. If so, no further environmental review is necessary.

C. For proposed actions not categorically excluded, conduct an environmental review in accordance with applicable program environmental review procedures to determine whether the proposed action will cause an environmental effect under one or more of the environmental acts.

D. Determine whether it is necessary to prepare a draft statement and, if so, circulate the statement among the public, Federal and non-Federal agencies and other interested parties, as appropriate.

E. Carry out the requirements for public involvement and intergovernmental consultation as required under the applicable environmental acts, including any necessary approvals.

F. Prepare a final statement and proceed with the program decision-making process.

3–30–20 Environmental Review

A. General. POCs must perform an environmental review for each proposed action not categorically excluded in accordance with the POCs environmental procedures. The purpose of an environmental review is to answer the following general questions. (Individual environmental acts differ with respect to the specific scope and methodology required in conducting an environmental review.):

1. Will a proposed action have an environmental effect under any of the environmental acts as defined in regulation or by court interpretation?

2. Which environmental acts apply to the proposed action.

3. do any previous environmental reviews exist on similar or related actions which could satisfy the review requirements of a particular proposed action?

4. Should the HHS component prepare a limited statement or a full statement given the environmental acts involved and the kinds and degree of environmental effects anticipated?

B. *Agreements with Other Agencies.* When two or more agencies are engaged in the same action, a lead agency agreement provides one agency with the authority to conduct the environmental review. These agreements determine the content and type of statement and specify which Federal agency will prepare it. The agreement includes a schedule for the preparation and circulation of the document, as well as an assignment of important tasks among the agencies involved. Lead agency agreements may be signed with other agencies for individual actions or for a particular type of action.

C. *Non-Federal Agencies.* Whenever an HHS program requests or permits a non-Federal agency to perform an environmental review, the program shall outline the type of information required, perform an independent evaluation and assume responsibility for the scope and content of the material.

30–30–30 Environmental Statements

A. On the basis of the environmental review, POCs shall determine whether to prepare a limited environmental statement or a full environmental statement.

The designations "limited statement" and "full statement" refer to categories of documents as defined earlier under 30–00–40 G and H. Each of the environmental acts specifies different documentation and public involvement and consultation requirements within these two general categories.

Full statements are prepared in two stages: draft and final. A final statement includes a consideration of comments submitted by persons or organizations reviewing the draft statement. Under some laws covered by this Part, a limited statement may also have to be prepared in draft for review and comment, before being finalized.

The Chapters at 30–40, 30–50, and 30–60 following (Natural Asset Review, Cultural Asset Review and NEPA Review) discuss these different requirements in greater detail and must be consulted to ascertain the specific requirements of NEPA and each of the related acts.

B. *Description.*—1. *Full Statements.* A full statement identifies the proposed action, its purpose and its associated environmental effects in comparison with no action by any organization to achieve the underlying purpose. It further compares no action with other alternative actions, including their environmental effects. Draft full statements shall not exhibit biases in favor of the proposed action. A final statement may include a recommendation with a rationale for a preferred action.

2. *Limited Statements.* A limited statement is generally a short concise document which describes the proposed action, identifies its environmental effects and lists any mitigating measures or safeguards that will lessen or prevent certain environmental changes from occurring. POCs generally can use a draft limited statement in order to satisfy any review, consultation and public notice requirements of the environmental acts and to otherwise inform individuals and organizations who may be interested in or affected by the proposed action (see Chapter 30–60 for correct NEPA terminology).

C. *Validity.* Statements for continuing actions are valid for three years, unless a change occurs in carrying out the actions or pivotal new data concerning the effects of each action is identified.

Statements for an individual action are valid for a period of 18 months after the issuance of the documentation. Reviews for individual actions not initiated within 18 months require review and reissuance.

D. *Alternatives.* Full statements must explore and evaluate reasonable alternatives to the proposed action in terms of their environmental consequences, benefits and costs and contribution to the underlying purpose or goal. Discussion of alternatives must be sufficiently in-depth to permit a meaningful comparison of alternative courses of action.

Full statements shall consider the following categories of alternatives, as appropriate: 1. *No action by any organization.*—This alternative serves as a baseline against which to measure the environmental consequences, costs and benefits of the proposed action and other alternatives.

2. *Action Alternatives.*—One or more alternative courses of action directed at achieving the underlying purpose or goal. The full statement cannot automatically exclude actions.

- Outside of the expertise or jurisdiction of Departmental components, e.g., examining the possible use of other real properties other than that proposed for transfer by HHS; or
- Which only partially achieve an underlying goal or objective, e.g., funding a health care facility at a lower capacity for patient care.

However, action alternatives considered must be reasonably available, practicable and be related to the underlying purpose or goal. A full statement must include all reasonable alternatives.

3. Alternative Safeguards.—These are alternative actions which could mitigate the adverse environmental consequences of one or more of the action alternatives.

4. *Delayed Action Alternative.*—This alternative is to postpone or delay a proposed action in order to conduct more research or for other reasons.

5. *Alternative Uses.*—When a proposed action would affect a scarce or valuable resource (e.g., prime agricultural farmland), the potential alternative uses of the resource must be identified so that they may be compared with the value of the proposed action.

30–30–40 Intergovernmental Consultation and Document Review

POCs are responsible for meeting the various requirements under environmental acts for intergovernmental consultation and public involvement. These requirements differ significantly. POCs should refer to the more detailed descriptions in Chapters 30–40, 30–50, and 30–60 and should consult an environmental officer for guidance.

As required, POCs shall circulate draft statements for review and comment, and otherwise make them available to the public upon request. Statements should be circulated to the Federal Agency responsible for administering the applicable environmental act, involved non-Federal agencies at the State or local level, including A–95 clearinghouses, and interested public persons or groups within the geographic area of the environment affected. The review period is generally no less than 30 days for a draft limited statement and no less than 60 days for a draft full statement. Whenever a draft statement is significantly revised because of comments received or because the nature or scope of the proposed action changes significantly, POCs shall prepare a new draft statement for circulation. Circulation of certain portions of the document is not necessary when it involves the following: A. *National Security.* Circulation of classified sections of environmental documents are subject to regulations pertaining to matters of national security.

B. *Trade Secrets.* Circulation of sections of environmental documents that disclose a trade secret is limited to those who need to have access in order to take appropriate action.

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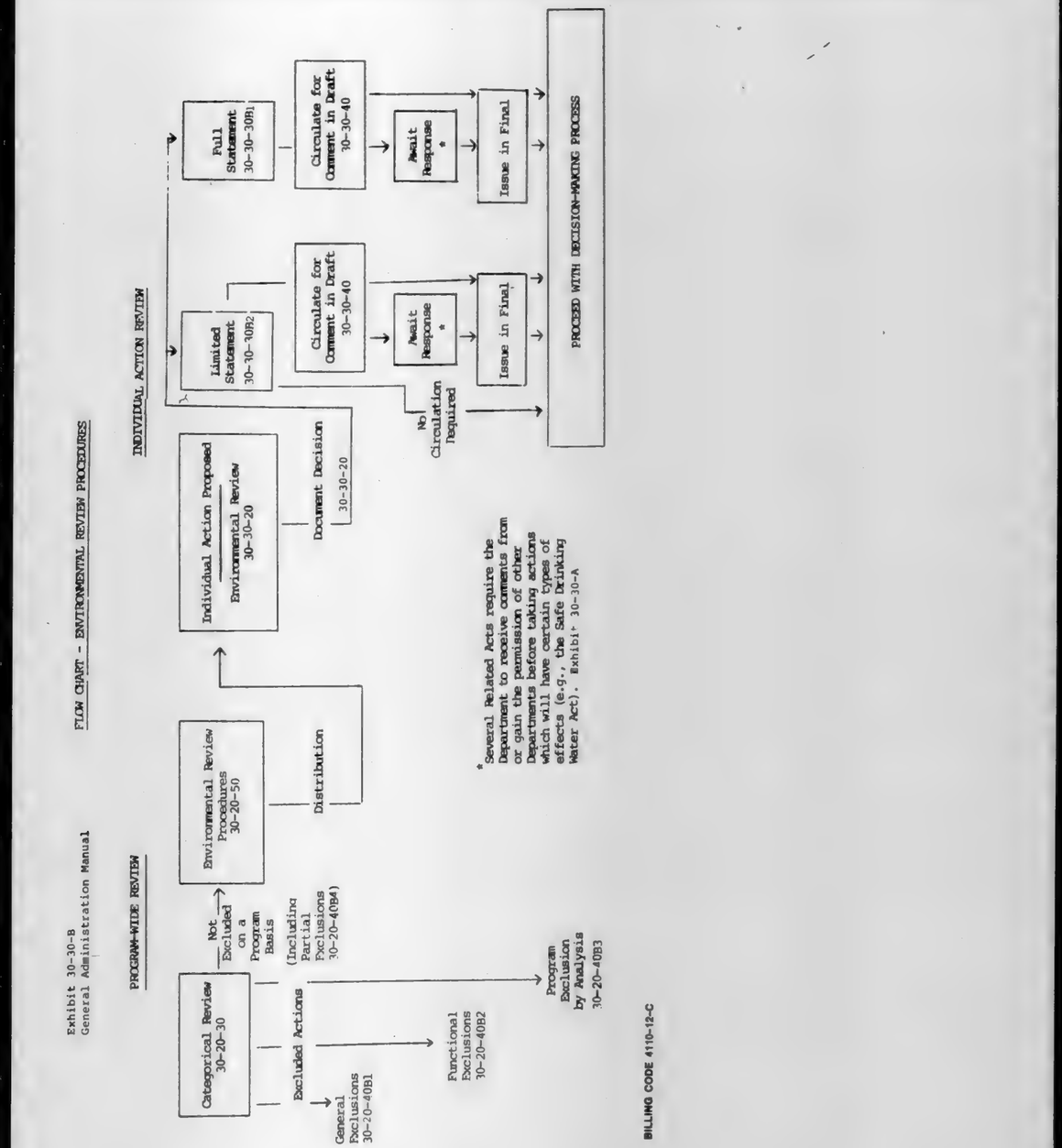
Requirements of NEPA and the Related Environmental Acts

[Exhibit 30-30-A—General Administration Manual]

Authority	Documentation and circulation				Type of response or permission required
	No. 1 draft limited statement [1]	No. 2 final limited statement or draft final statement		No. 3 final full statement	
National Historic Preservation Act.	(a) Finding of effect (but not Adverse). (b) Finding of adverse effect..	(Finalize—if council does not object). (Finalize—if council concurs with mitigation measures).	Preliminary case report (as requested by the council).	Case report	Yes. The council staff (or chairman must concur or the issue is brought to the full council at a quarterly meeting. The final decision belongs to the agency.
National Archeological Data Preservation Act.	Information provided to Secretary of Interior.	(Finalize)			None, but delay is possible if the Secretary of the Interior wants to pay for recovery.
Coastal Zone Management Act.	To State CZM Agency; To Secretary of Commerce.	(Finalize)	As requested by the Secretary of Commerce.		Yes. For certain projects no further action may be taken until the Secretary of Commerce determines that it is consistent with CZM or needed for national security.
Floodplains E.O. 11987			For review by the Secretary (of HEW).	(Finalize)	Yes. By the secretary (of HEW) (applies to capital improvements only)
Endangered Species Act	To DOC or DOI	(Finalize)			Yes. Response required from DOI and action prohibited if species endangered;by the project
Fish and Wildlife Act	To DOI	(Finalize			Yes. Response form DOI required before No. 2.
Wild and Scenic Rivers Act	To DOI	(Finalize)			Yes. Prohibited without approval of Secretary of DOI.
Wetlands E.O. 11990	For POC review	(Finalize)	For review by the Secretary (construction actions) and as requested by the POC.	(Finalize)	Yes. By the Secretary (of HEW) if new construction. By POC for all others.
Safe Drinking Water Act (Aquifers).	To EPA	(Finalize)			Yes. Administrator of EPA may prohibit the action if it will contaminate a sole source aquifer.
Marine Sanctuaries Act	To DOC	(Finalize			Yes. The Secretary of Commerce must certify that action is consistent with purposes of act.
National Environmental Policy Act.		Finding of no significant impact (publish notice when appropriate).	Draft environmental impact statement (program decision).	Final Environmental Impact statement.	Agency may make own decision after issuing final EIS except when another Federal agency request CEQ intervention.

[1] Several related acts require the department to receive comments from or gain the permission of other departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit 30-30-A.

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Subject: Cultural Asset Review

30–40–00 Historic Preservation
10 Applicability
20 Identification of Historic Properties
30 How a Property is Affected
40 Limited Statement
50 Full Statement
60 Disagreement
70 Archeological Data: Notification
80 Archeological Data: Recovery

330–40–00 Historic Preservation

Section 106 of the National Historic Preservation Act states that the Advisory Council for Historic Preservation (ACHP) will have an opportunity to comment on any proposed Federal undertaking which will affect a historic property which is listed on or is eligible for listing in the National Register of Historic Places. The Archeological Data Preservation Act states that the Secretary of the Interior shall have an opportunity to recover significant historical or scientific data irrevocably lost through a Federal undertaking. In addition, the latter permits agencies to spend up to one percent of project funds for the recovery of data.

30–40–10 Applicability

Unless a categorical exclusion applies, each proposed HHS action must be reviewed in order to determine whether it will affect a property which is on or eligible for the National Register of Historic Places

30–40–20 Identification of Historic Properties

Each Federal agency has a responsibility for identifying potential properties for the National Register of Historic Places. It must nominate to the National Register of Historic Places, eligible properties which it owns or otherwise controls and seek eligibility determinations from the Secretary of the Interior for potentially eligible properties which it will affect by a proposed action. (See 35 CFR 60.6.) Implementation of a proposed action may not occur until the completion process, and any appropriate additional requirements, are met (e.g., consultation with the Advisory Council).

A. *Eligible Properties.* 1. Properties are districts, sites, buildings, structures or objects.

2. Properties may be eligible because of their association with significant historical events, or the lives of persons significant in our past; because of distinctive artistic characteristics; or because they are likely to yield important historical information.

B. *Eligibility Determinations.* Departmental components, in consultation with the State Historic Preservation Officer (SHPO), shall apply the National Register Criteria for Eligibility to each property to determine which may be affected by a proposed action. If either party concludes that the property may be eligible, components shall submit a letter to the Department of the Interior requesting the Keeper of the National Register to make a decision concerning eligibility. The Keeper may request additional information. The action cannot be taken until the Keeper responds or until 45 days have passed, whichever occurs first. Consultation with the Advisory Council can be conducted simultaneously. If the Keeper finds the property eligible, Cultural Asset Review procedures apply. If the Keeper finds the property ineligible, the cultural identification process is complete.

C. *Nominations.* Each Federal agency is responsible for nominating to the National Register those eligible properties which it owns or otherwise controls. Each POC head shall develop and implement procedures for nominating all such eligible properties which it currently administers or controls.

30–40–30 How a Property Is Affected

An historical review is an examination and analysis of changes in an historic property which occur as a result of the proposed action. (See 36 CFR 800.3(a).) An historic property is affected whenever one or more of the following changes occurs:

A. Altering or destroying its physical characteristics;

B. Altering the physical setting (normally the boundary of a setting does not extend beyond a circle having a 500 yard radius);

C. Moving the property;

D. Altering the type or level of use; or

E. Altering the type of level of activity occurring in the physical setting.

30–40–40 Limited Statement

If a proposed action will affect a property which is on or determined eligible for the Register by the Secretary of the Interior, POCs shall develop a draft limited statement and submit it to the appropriate State Historic Preservation Officer (SHPO). Following the receipt of comments from the SHPO (or after a period of 30 calendar days) the statement is then sent to the Advisory Council for comment. A cover letter shall state whether the program considers the effects to be adverse within the context of the historic value of the property (see 36 CRF 800.3(b)). If the Advisory Council fails to respond within 30 days, the review is complete. The Council can request additional data from the program whenever it finds the statement incomplete. If the Council concurs that the proposed action will not adversely affect the property, the review is complete. The Chairman of the Council may choose to develop a Memorandum of Agreement for actions which will affect a property adversely in order to mitigate the effect. Such memoranda will specify the various mitigation measures (e.g., record data prior to destruction) that the various involved parties agree to follow.

30–40–50 Full Statement

The Advisory Council may request the POC to prepare a full statement (known as a draft case report) prior to discussing a Memorandum of Agreement. POCs shall submit a full statement, if required, to the SHPO and the Council. HHS or the Council may develop a Memorandum of Agreement after discussing the statement. Among the alternatives in a full statement which POCs must include are alternative uses of a historic property other than for the underlying purpose of the proposed action.

30–40–60 Disagreement

If the Council staff cannot find a common ground upon which to develop a Memorandum of Agreement or if one or more of the parties fail to sign the Memorandum, the proposal must go to the members of the full Council for their review during a public meeting. The review is complete when the Council provides its advice or it has been 15 days since the review by the Council members, whichever is less. HHS must respond to the Council's comments.

30–40–70 Archeological Data: Notification

If the proposed action will bring about the irretrievable loss of significant scientific, archeological, historic or prehistoric data, program personnel shall inform the Secretary of the Interior. If the Secretary does not respond within 60 days, the review is complete. If the Secreatry offers to pay for the recovery of the data, he shall have a least six months to effect recovery.

30–40–80 Archeological Data: Recovery by HHS

If a proposed action involves a Federal construction project or a Federally-licensed project, and the action will result in the irretrievable loss of scientific, archeological, historic or prehistoric data, up to one percent of the project costs may be used to recover the data.

Subject: NATURAL ASSET REVIEW

30–50–00 Natural Assets
05 Applicability
10 Coastal Zone Management Act (CZMA)
20 Floodplain Management
30 Endangered Species Act
40 Fish and Wildlife Coordination Act
50 Wild and Scenic Rivers Act
60 Protection of Wetlands
70 Safe Drinking Water Act (Sole Source Aquifers)
80 Marine Sanctuaries Act

30–50–00 Natural Assets

The related acts require the consideration of the effects of a proposed action on specific *types* of places, on *specific* places and on specific species. Most of these acts prohibit further action until the agency responsible for administering the act provides advice or gives permission to proceed with the action. The species requiring consideration are listed by the Department of the Interior. The places requiring consideration are:

A. Coastal Zones (as identified in a State CZM plan);

B. Floodplains (as identified on HUD floodplain maps);

C. Habitats of Endangered Species (as identified by the Department of the Interior);

D. Streams and other bodies of water (in excess of 10 surface acres);

E. Wild and Scenic Rivers (as identified by the Departments of the Interior and Agriculture);

F. Wetlands (all);

G. Sole Source Aquifers (as identified by the Environmental Protection Agency); and

H. Marine Sanctuaries (as identified by the Secretary of Commerce).

30–50–05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions to determine whether they will affect places and species referenced above.

30–50–10 Coastal Zone Management Act (CZMA)

A. *Purpose.* The Coastal Zone Management Act of 1972 declares that it is the national policy "to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nations coastal zone." The term "coastal zone" means that area which is identified as such in a State CZM plan. In furtherance of this policy, the Act provides Federal assistance to States for developing and implementing coastal zone management programs. The Act also requires that "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs." Federal agencies are specifically prohibited from undertaking or assisting certain activities without a determination by the State or local coastal management agency that the activity is consistent with the State management program. The CZM Act excludes from the definition of coastal zone lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agencies (e.g., nonterminated California Indian rancherias).

B. *Responsibilities and Consultation Requirements.* 1. If the proposed action will affect a place which is within or contains a geographical area that is part of an approved CZM plan, POCs shall forward a draft limited statement to the State CZM agency for comment and a determination as to whether the proposed action is consistent with the approved CZM plan. The review period is at least 30 days for a limited statement and 60 days for a full statement, except where an applicant for a Departmental license or permit submits a Certification of Compliance to the State CZM agency. In the latter case, the minimum period is the amount of time remaining on the six month review period, but no less than the 30 or 60 days referred to above.

2. If the CZM agency fails to repsond within the appropriate time period, or states that the proposed action is consistent with the CZM plan, a program is in compliance with the review requirements of the Act: a. Unless the proposed action is an application for a license or permit to conduct an activity affecting land or water use that is not accompained by an applicant's certification that it complies with the CZM plan; or

b. Unless the proposed action involves an application for Federal assistance from a State or local government agency which is not accompanied by the views of the CZM agency.

3. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan and the proposed action involves one of the types of actions described in 2a or b above, POCs shall forward the draft limited statement to the Secretary of Commerce. The Secretary may request additional data in the form of a full statement. In any case, no further action will take place until and unless the Secretary of Commerce finds that the proposed action is consistent with the purposes of the CZM Act or is necessary for national security.

4. If the State CZM agency states that the propsed action is not consistent with the approved CZM plan, and the proposed action does not involve one of the types of actions described in 2 above, the proposed action must have the approval of the responsible POC before proceeding.

5. The above requirements shall not apply to those types of actions which are specifically excluded by the approved CZM plan.

30–50–20 Floodplain Management

A. *Purpose.* Executive Order 11988 of May 24, 1977, directs each Department to avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains, including the direct and indirect support of floodplain development, whenever there is a practicable alternative. Floodplains are those areas identified as such according to a Department of Housing and Urban Development floodplain map. (See U.S. Water Resources Council Floodplain Management Guidelines for further information.)

B. *Responsiblities and Circulation Requirements.* 1. If a proposed action will result in a capital improvement occurring within a floodplain, the cost of which will exceed 50% of the estimated reconstruction costs of an entire facility or $100,000, or clearly will provide direct or indirect support of subsequent floodplain development, POCs will prepare a draft full statement. (A limited statement is not acceptable in this instance.)

2. The draft full statement shall contain, in addition to identifying practicable alternatives to avoid affecting a flodplain, the following information: a. the reasons for locating the proposed action in a floodplain; and

b. a statement indicating whether the action conforms to applicable State or local floodplain protection standards.

For those actions subject to OMB Circular A–95, the POC shall send the notice to the State and areawide clearinghouses for the geographical area affected and include a location map.

3. Circulation of draft full statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for the review and comment on draft full statements.

4. No action shall take place without a finding by the Secretary that the only

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practicable alternative requires siting in a floodplain and until 30 days after the issuance of the final statement which shall constitute a notice of finding as required by the WRC guidelines.

5. An action taken in a floodplain must incorporate design features consistent with the standards in the Flood Insurance Program of the Federal Insurance Administration to minimize substantial harm to the floodplain.

30–50–30 Endangered Species Act

The Endangered Species Act establishes a policy to conserve endangered and threatened species, both within the U.S. and elsewhere.

A. *Purpose.* Section 7 of the Endangered Species Act requires each Department to take "such action necessary to insure that their actions . . . do not jeopardize the continued existence of endangered or threatened species . . ." as listed in the **Federal Register** from time to time by the Secretaries of Commerce and Interior. Federal Departments shall, in consultation with these Secretaries, carry out the purpose of the Act.

B. *Responsibilities and Consultation Requirements.* 1. a. If the proposed action is a construction project which requires the preparation of an environmental impact statement (EIS) (see Chapter 30–60) program personnel shall contact the Office of Endangered Species (OES), Department of Interior, and provide a brief description, including the location of the proposed project. The OES will provide program personnel with a list of endangered species and critical habitats for the specific geographic area to use in determining whether the action will have an effect upon a member of an endangered or threatened species or an identified critical habitat. If it will, program personnel will prepare a draft limited statement.

b. If the proposed action is not a construction project, or a construction project not requiring an EIS, program personnel shall determine if the proposed action will have an effect upon species or habitats listed in the **Federal Register** and, if so, prepare a draft limited statement. (See appropriate environmental officer for **Federal Register** listings.)

2. All draft statements are sent, together with a request for consultation, to the Regional Director of the Fish and Wildlife Service or National Marine Fisheries Service as appropriate. No further action shall take place pending completion of the consultation process.

3. If the Service does not respond within 90 days, the Department may reach its own conclusion with respect to whether the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat.

4. If the Service or the Department determines that the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat, program personnel may submit an exemption application to the Secretary of the Interior for consideration by the Endangered Species Committee (ESC). No action shall occur unless or until the ESC approves the exemption.

30–50–40 Fish and Wildlife Coordination Act

A. *Purpose.* The Fish and Wildlife Coordination Act provides for equal consideration of wildlife with other features of water resource development programs with a view toward conservation of wildlife resources.

B. *Responsibilities and Consultation Requirements.* 1. When the waters of any stream, or other body of water which exceeds 10 acres, will become impounded, diverted, deepened, or otherwise controlled or modified for any purpose, the department shall consult first with the U.S. Fish and Wildlife Service, Department of the Interior, and the State agency head responsible for administering wildlife resources.

2. Program personnel shall prepare a draft limited statement, describing the effects of an action which will result in effects described in 1 above and submit it to the Secretary of the Interior.

3. No further action shall take place pending receipt of a report from the Secretary of the Interior.

4. POCs shall consider the report of the Secretary of the Interior, together with its recommendations in developing the project plan. The plan shall include such justifiable means and measures as are necessary to obtain maximum overall project benefits.

5. All reports and recommendations of the Secretary of the Interior and State wildlife agencies constitute an integral part of any environmental report prepared pursuant to the action.

30–50–50 Wild and Scenic Rivers Act

A. *Purpose.* The purpose of the Act is to preserve selected free flowing rivers, along with their immediate environments, for the benefit of immediate and future generations. These include river components and potential components of the National Wild and Scenic River System and study areas designated by the Secretaries of Agriculture and Interior, (Environmental officers keep a list of these rivers and related study areas.) Designations used to describe these components, or parts thereof, include the following: (1) wild, (2) scenic, and (3) recreational.

B. *Responsibilities and Consultation Requirements.* 1. When a proposed action will have an effect upon an environment within or including a portion of a component, potential component or study area, program personnel shall send a draft limited statement to the Heritage Conservation and Recreation Service (HCRS), Department of Interior for review.

The following are examples of circumstances which can affect a river component or study area:

a. Destruction or alteration of all or part of the free flowing nature of the river;

b. Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

c. Deterioration of water quality; or

d. Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

2. If HCRS does not respond within 30 calendar days or states that the proposed action will not directly or adversely affect the area, the Department is in compliance with the review requirements of the Act. However, in those instances where HCRS does not respond, programs shall take care to always avoid or mitigate adverse effects on river components and study areas.

3. If the HCRS determines that the proposed action will directly and adversely affect the area, no further action shall take place whenever the proposed action involves the construction of a water resources project.

4. The above requirements do not apply to types of actions excluded from the review process by appropriate Department of Interior or Agriculture regulations.

30–50–60 Protection of Wetlands

A. *Purpose.* Executive Order 11990 of May 24, 1977, directs each Department to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance such wetlands in carrying out their program responsibilities. Consideration must include a variety of factors, such as water supply, erosion and flood prevention, maintenance of natural systems and potential scientific benefits. Wetlands generally include swamps, marshes, bogs and similar areas inundated by water to a degree which permits the support of aquatic life.

B. *Responsibilities and Circulation Requirements.* 1. If a proposed action will have an environmental effect upon a wetland, the draft limited statement shall contain a section which compares the purpose of the proposed action with the purposes of this Executive Order.

2. No further action shall take place until the POC makes a decision that the proposed action includes all reasonable measures to minimize harm to the wetlands as a result of the proposed action.

3. Draft limited statements and draft full statements for actions involving changes in title to wetlands or leases, easements or permits, shall contain, as mitigation measures, proposed restrictions and reservations developed pursuant to the purpose of the Executive Order.

4. Draft full statements are required for proposed actions involving new construction in or on wetlands. No further action shall take place until the Secretary of HHS determines that there is no practicable alternative to such construction and that the proposed action includes all practicable measures to minimize harm to the wetlands.

5. These requirements do not apply to the issuance to individuals of permits and licenses and the allocation of funds made to individuals.

30–50–70 Safe Drinking Water Act (Sole Source Aquifers)

A. *Purpose.* Section 1424(e), the Safe Drinking Water Act, provides for the protection of those aquifers which have been designated by the Administrator of the Environmental Protection Agency as the sole or principal source of drinking water for a community.

B. *Responsibilities and Consultation Requirements.* 1. A review shall determine if a proposed action will directly or indirectly affect a designated aquifer.

2. If the action will affect an aquifer, program personnel shall send a draft limited statement to the Regional Administrator, Environmental Protection Agency, who shall review the action in order to determine if it will create a public health hazard.

3. The action shall not proceed any further unless and until the Administrator of the Environmental Protection Agency determines that the proposed action will not contaminate the designated aquifer so as to create a hazard to public health.

30–50–80 Marine Sanctuaries Act

A. *Purpose.* Title III of the Marine Protection, Research and Sanctuaries Act prohibits Federal Departments from taking actions which will affect a Marine Sanctuary unless the Secretary of Commerce certifies that the activity is consistent with the purposes of the Act. Listings of sanctuaries are designated by the Secretary of Commerce and maps of sanctuaries appear in the **Federal Register.**

B. *Responsibilities and Consultation Requirements.* 1. If the proposed action will create an environmental effect on a marine sanctuary, program personnel shall prepare a draft limited statement and forward it to the Secretary of Commerce.

2. No further action shall take place unless and until the Secretary certifies that the action is consistent with the purposes of the Act.

Subject: NEPA Review

30–60–00 Background
05 Applicability
10 Responsibilities
20 Determining Appropriate NEPA Documentation
30 Findings of No Significant Impact
40 Environmental Impact Statements
50 Contents of an EIS
60 Public Involvement and Circulation of NEPA Environmental Statements

30–60–00 Background

The National Environmental Policy Act of 1969 (Pub. L. 91–190), as amended, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. This chapter supplements specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ). (40 CFR 1500–1508)

NEPA requires all Federal Departments and agencies to take into account all potential environmental consequences of their activities prior to initiation of these activities. Specifically, Section 102(2)(c) of NEPA requires all agencies of the Federal government to include an environmental statement "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." The purpose of this and other requirements is to ensure that environmental information is available to public officials and citizens before Federal agencies make decisions to take actions which could significantly affect the environment.

30–60–05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions. CEQ regulations require each Department to establish criteria for determining categorical exclusions. A POC must determine that the action taken by a program would never significantly affect the quality of the human environment in accordance with the criteria discussed in 30–60–20.

30–60–10 Responsibilities

POCs shall review each of their programs to determine those which may be categorically excluded and provide the Office of Environmental Affairs with a list which shall be submitted to CEQ for approval pursuant to 40 CFR 1507.3(b)(2) and then published. The POCs shall develop procedures for each program not categorically excluded in order to determine the data needed for environmental assessments* and a system for acquiring such data. The POCs shall prepare an environmental assessment for each proposed action not categorically excluded and, as a result, prepare a Finding of No Significant Impact (FONSI)* or an Environmental Impact Statement (EIS).*

30–60–20 Determining Appropriate NEPA Documentation

A. *General.* In order to identify the required documentation, an environmental assessment must be performed. This assessment eventually will be used to prepare a FONSI or EIS. An action will result in a series of consequences. One or more of these consequences may change the manner in which an environment would function without the action. In preparing the assessment, it is necessary to clearly identify the consequences, the environments affected, and the changes that would occur if the action were taken.

B. *criteria.* In determining whether a proposed action will or will not "significantly affect the quality of the human environment," POCs should evaluate the expected environmental consequences of a proposed action by means of the following steps:

Step One—Identify those things that will happen as a result of the proposed action. An action normally produces a number of consequences. For example, a grant to construct a hospital . . . may terminate human services; will involve destruction and construction; will provide a service.

Step Two—Identify the "human environments" that the proposed action will affect. In accordance with Section 1508.27 pertaining to context, the human

*CEQ terminology is used in this chapter. For purposes of coordination with other previous sections, an "environmental assessment" is an "environmental review", a "FONSI" is a "limited statement" and an "EIS" is a "full statement."

environments affected by the action must be identified. These include terrestrial, aquatic, subterranean and aerial environments, such as islands, cities, rivers or parts thereof. However, a human environment must be of reasonable size in order to require an EIS. (Note that a mud puddle is an environment and that, if destroyed, it would be "significantly affected".) Therefore, the environmental assessment need not address the significance of effects pertaining to environments which are smaller than the following:

Type of environment	With clearly defined boundaries	Without clearly defined boundaries
Terrestrial space	1 acre	160 acres
Subterranean space	1,000 cubic yards	500,000 cubic yards
Aquatic space	5,000 cubic yards	50,000 cubic yards
Aerial space	1 cubic mile	10 cubic miles
Human settlements (density exceeding one person per acre)	160 acres	160 acres

A proposed action may affect both smaller and larger "human environments" (e.g., part of a city, the whole city, the metropolitan area, the State, the region). In determining the environmental consequences of a proposed action under NEPA, POCs should identify barriers (e.g., a river or a highway) which tend to give geographic definition to an environment (e.g., a superhighway or river may tend to separate one terrestrial ecosystem from another).

Step Three—Identify the kinds of effects that the proposed action will cause on these "human environments." A change occurs when a proposed action causes the "human environment" to be different in the future than it would have been absent the proposed action. These changes involve the introduction of various "resources" (including those often characterized as waste).

Example: an increase in a human or wild animal population; a decrease in the amount of soil entering a stream; the introduction of a new chemical compounds to natural environments.

In addition to organisms, substances, and compounds, the term "resources" include energy (in various forms), elements, structures, and systems (such as a trash collection service in a city). Time periods in both the near term and long term must be considered.

Example: a change in regulations permits the use of a new compound in small quantities. In the near term the compound does not affect any organisms. However, the compound eventually becomes concentrated in specialized localities and does affect organisms.

Example: a hospital is renovated, requiring a detour in traffic through residential neigborhoods and an increase in the number of patients in other hospitals. However, following completion of the work, the traffic flow and patient loads resemble those that would have occurred without the renovation.

In identifying changes caused by the proposed action, POCs should identify the magnitude of the changes likely to be caused within smaller and larger "human environments" affected (e.g., part of a city, the whole city, the metropolitan area, etc.).

Example: the closure of a hospital in a neighborhood may not only affect that neighborhood but the delivery of health services to the city as a whole.

Step Four—Identify whether these changes are significant. Determining whether or not a proposed action will cause *significant* change in the human environment involves a subjective judgment. The following points should be considered in conjuction with 40 CFR 1508.8 (effects) and 40 CFR 1508.14 (human environment) in making a decision concerning significance:

- A change in the characterization of an environment is significant (e.g., from terrestrial to aquatic);
- The establishment of a species in or removal of a species from an environment is significant;
- The more dependent an environment becomes on external resources, the larger the magnitude of change (and the more likely to be significant);
- The larger the environment under consideration, the lower the amount of change needed before the change should be judged significant;
- Changes which do not produce direct, indirect, or cumulative effects which will last beyond one year would not be judged significant; and
- Changes which are remotely possible and involve a relatively small environment should not be judged significant.

Note.—The above criteria considers and supplements the CEQ definition of "significantly" at 40 CFR 1508.27, except for the following terms which shall follow requirements issued by CEQ pursuant to 40 CFR 1506.7:

1. "Affected interests" as used in 40 CFR 1508.27(a);
2. "Public health or safety" as used in 40 CFR 1508.27(b)(2);
3. "Highly controversial" as used in 40 CFR 1508.27(b)4;
4. Actions affecting cultural assets as described in 40 CFR 1508.27(b)(8) except as such changes may significantly affect the environment of the cultural resource; and
5. Applicable Federal, State or local laws or requirements in 40 CFR 1508.27(b)(10), except as listed in Subsection 30–10–20.

30–60–30 Finding of No Significant Impact—FONSI (Limited Statement)

For the purposes of NEPA, a FONSI is used to document, per section 1508.13, a POC judgment that a proposed action not categorically excluded from NEPA requirements (see 30–60–10A above) will not significantly affect the quality of the human environment. A FONSI should meet the criteria described in Chapter 30–30–30B2 and, in addition.

A. Include a list of agencies and persons consulted during its preparation;

B. Discuss why the proposed action will not significantly affect the human environment, including the environmental assessment or a summary thereof;

C. Discuss alternatives whenever an unresolved conflict exists with respect to alternative uses of available natural resources; and

D. Be made available to the public and other interested parties including, when appropriate, publication of a notice announcing its availability consistent with 40 CFR 1506.6(b) and 1501.4(e)(2).

30–60–40 Environmental Impact Statement—EIS (Full Statement)

A. *General.* A POC responsible for carrying out a specific action is responsible for preparation of an EIS, if one is required.

B. *Involvement of Other Federal Agencies.* In cases in which HHS participates with other Federal agencies in a proposed action, one agency will be the lead agency and will supervise preparation of an EIS if one is required. A Memorandum of Understanding among all involved agencies may be useful in summarizing the relative responsibilities of all involved agencies. Lead agency responsibility should be determined in accordance with Section 1501.5.

C. *Involvement of States.* In cases in which a POC participates with State and local governments in a proposed action, the POC is responsible for preparing an EIS except that a State agency may jointly prepare the statement if it has State-wide jurisdiction, and HHS participates in its preparation including soliciting the views of other State or Federal agencies affected by the statement.

D. *Notice of Intent.* Upon deciding to prepare an EIS, a POC shall publish a *Notice of Intent* in the **Federal Register** in accordance with Section 1508.22.

E. *Draft and Final Statements.* Except for proposals for legislation, POCs shall prepare EISs in two stages: draft and final.

Statements relating to proposals for legislation shall be submitted to Congress at the time the legislation is proposed to Congress or up to 30 days afterwards. Except under certain circumstances described in CEQ regulations (see 40 CFR 1506.8), draft statements shall accompany legislative proposals.

F. *Supplements.* POCs shall prepare supplements to either draft or final statements if there is substantial change in the proposed action or if significant new information becomes available or new circumstances occur. Preparation and circulation of supplements is the same as that for draft and final EISs.

30–60–50 Contents of an EIS

An EIS consists of three sections: a forward, main text and appendices. If a proposed action will also affect a cultural or natural asset (as defined in the related acts), the statement shall incorporate the material required by the applicable related acts.

A. *Cover Sheet.* This shall be one page and state whether the document is a draft or final, the title and location of the proposed action, the name of the agency responsible for the EIS, including the lead agency and any cooperating agencies, the name, address and telephone number of a knowledgeable agency contact, a one paragraph abstract, and the date by which comments must be received.

B. *Summary.* The summary summarizes the main text, lists the names of those who assisted in preparing the statement and lists the government and private agencies or organizations requested to comment on the draft statement.

C. *Main Text.* The main text describes the proposed action, its underlying purpose and need, alternatives considered to the proposed action and, in conjunction with these alternatives, the environments which would be affected. (See the discussion of alternatives at Chapter 30–30). It contains an analysis of the environmental, economic and social consequences of the proposed action and the alternative actions and a discussion of alternative safeguards which could mitigate these environmental consequences. If the proposed action involves using a scarce resource (e.g., prime agricultural land), the text will address alternative uses of that resource, including uses which may not contribute to the underlying purpose of the proposed action. The text shall list the preparers.

The text of a draft and final statement are the same (with appropriate revisions and additions) except that a final statement:

1. Shall identify the preferred alternatives;
2. Shall identify alternatives which are environmentally preferrable with a rationale; and
3. Shall respond to comments made by reviewers of the draft statement; all comments by Federal and other public agencies must appear in their entirety in the appendix.

D. *Appendices.* Appendices contain supporting documentation, if needed, and any scientific information that is too technical or detailed for complete presentation in the main text of the statement.

30–60–60 Public Involvement and Circulation of NEPA Environmental Statements

A. *Public Notice.* POCs must give public notice in the following instances:

1. Prior to preparing a draft statement in order to solicit public participation; and
2. Prior to any public hearings.

EPA will publish in the **Federal Register** notice of the availability of HHS draft and final EISs.

Notice shall be made through direct mail, the **Federal Register**, local media or other means appropriate to the scope, issues and extent of public concern. Public notices shall include the name and location of a contact official through whom additional material may be obtained.

B. *Public Hearings.* HHS components shall hold public hearings as part of the NEPA environmental review process when hearings will assist substantially in forming environmental judgments and when hearings correspond with customary practice of the component.

C. *Draft EISs.* Copies of draft statements shall be provided to:

Environmental Protection Agency;
Council on Environmental Quality;
Other Federal agencies having related special expertise or jurisdiction by law;
Appropriate local and national organizations; including A–95 clearinghouses;
Appropriate State and local agencies, including those authorized to develop and enforce environmental standards;
Indian tribes as appropriate; and
Others requesting a copy of the draft statement.

There shall be a 45-day minimum comment period for draft statements after EPA publishes a notice of availability in the **Federal Register.**

If a draft statement is substantially revised, it must be recirculated as a draft statement. If revisions to a draft statement are minor, only the comments, responses and revisions need be recirculated.

D. *Final EISs.* Copies of final statements shall be provided in accordance with the above list and to all agencies, persons or organizations who submitted comments regarding the draft statement.

E. *Record of Decision.* When a POC reaches a decision on a proposed action after preparing an EIS, the POC shall prepare a public record of decision which includes:

- The decision;
- Alternatives considered;
- A discussion of factors which were involved in the decision;
- A discussion of steps to be taken to minimize potential environmental harm; and
- A public record of decision pursuant to 40 CFR 1502.2.

Subject: Reviewing External EISs

30–70–00 Reviewing External EISs
10 Jurisdiction by law
20 Jurisdiction by Special Expertise
30 Types of Comments

30–70–00 Reviewing external EISs

HHS has a responsibility under Section 102(2)C of the National Environmental Policy Act (NEPA) to review and comment on draft Environmental Impact Statements (EISs) developed by other Federal Departments. In accordance with CEQ regulations at 40 CFR 1503.2, HHS must comment on each EIS on issues for which it has "jurisdiction by law or special expertise."

30–70–10 Jurisdiction by Law

Jurisdiction by law reflects the Department's statutory responsibilities. An operating component reviewing a draft EIS should review each alternative action discussed in an EIS in terms of:

A. Potential effects on the delivery or quality of health, social or welfare services.

B. Potential effects associated with the manufacture, transportation, use and disposal of chemicals or other hazardous materials.

C. Potential effects associated with the mining, milling, production, use, transportation, and disposal of radioactive materials.

D. Potential changes in plant or animal populations. This includes examination of the potential effects the proposed action may have on human health. Changes in natural predator populations may upset the ecological

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balance to the extent that an increased incidence of morbidity or mortality will occur unless offsetting safeguards are instituted.

E. Potential changes in the physical environment that could affect human health or welfare (e.g., air pollution, change in land use). This shall also include an examination of the availability and quality of water, sewage and solid waste disposal facilities.

30–70–20 Jurisdiction by Special Expertise

Individuals reviewing EISs may comment, in addition, in areas beyond their immediate job responsibilities when they have special expertise which may be appropropriate. For example, a veterinarian employed in a disease prevention program can comment on an EIS discussion about the effects of a forestry project on animal populations.

30–70–40 Types of Comments

A. A reviewer's comment on an external EIS can address one or more of the following:

1. That data are missing or inaccurate;

2. That the organization of the EIS precludes a valid review;

3. That the projections or descriptions of effects are not complete or are inaccurate;

4. That the reviewer does no concur with the projections (for states reasons);

5. That certain safeguards will lessen the extent of an effect and/or the magnitude of an impact;

6. State a preference for an action alternative (or no action); and

7. Object to an agency's preferred alternative (if one is identified in the draft EIS) and recommend adoption of new or existing alternatives. Such objections should be lodged on the basis of the direct or indirect effects on HHS programs and/or mission. (See B below concerning referral of such objections to CEQ.)

B. If a reviewing component objects to all or part of an agency's proposed action and, after consultation with the agency, is unable to resolve its differences, it shall determine if the proposed action meets the criteria for referral in § 1502.4 of the CEQ regulations. If the criteria are met, the component shall request the POC head to refer its objection to CEQ within 25 days of the date that the final EIS is made available to EPA in accordance with § 1504.3.

[FR Doc. 80-36112 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-80-1043]

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Notice.

SUMMARY: HUD is issuing a revision to the Notice of the dates for submission of preapplications to HUD Area Offices for the Small Cities Program under the Community Development Block Grant Program for Fiscal Year 1981.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: By Notice published in the Federal Register, Thursday, October 2, 1980, the Department of Housing and Urban Development (HUD) established dates for submission of preapplications for Small Cities Program Grants to be accepted by HUD for Fiscal Year 1981, as provided by 24 CFR 570.420(h)(2).

Because of unforeseen circumstances, it is necessary to extend the preapplication filing deadline date for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only. Therefore, the filing submission dates for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only is revised as indicated below. The Pittsburgh Area Office has taken every reasonable step to notify all potential applicants of this change.

Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Program will be accepted only during the designated time period. Preapplications received in the Area Office after the deadline must be postmarked no later than the applicable deadline submission date. Any preapplications postmarked after that date are unacceptable and will be returned.

Affected applicants are hereby advised to submit their preapplications for Single Purpose Grants pursuant to 24 CFR 570.429, or their preapplications for Comprehensive Grants pursuant to 24 CFR 570.425, to the HUD Area Office in Pittsburgh, Pennsylvania.

Final Date for Submission

Region/State	No earlier than	No later than
III Pennsylvania (Pittsburgh area office jurisdiction), West Virginia.	Oct. 6, 1980.....	Nov. 3, 1980.

Issued at Washington, D.C., November 10, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-36028 Filed 11-18-80; 8:45 am]

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Office of Environmental Quality

[Docket No. NI-33]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona; Robinson Ranch Planned Community, Orange County, California; Victoria Planned Community, Rancho Cucamonga, California; Isla Mar Housing Project, Humacao, Puerto Rico; the New Town of Maumelle, Pulaski County, Arkansas; and Greenwood Valley Subdivision, City of Allen, Texas. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the apendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., November 22, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Sierra Vista Subdivision and located in and adjacent to the Sierra Vista City in Cochise County, Arizona. The purpose of this notice is to solicit from all interested persons, local, State and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed environmental impact statement.

HUD's participation in this land development project is through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market.

Description. The Sierra Vista planned residential community project is a proposed land development of approximately 6,000 acres. This planned development project will provide for an approximate 10,000 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supportng commercial uses will form the remaining land uses within the project.

The project site is located in and adjacent to Sierra Vista City, Arizona and is generally bounded as follows: Fort Huachuca Military Reservation to the west, Snyder Boulevard and Foothills Drive to the north, parts of Sections 9, 17 and 19 of Township 22 south, Range 22 east of the Gila and Salt River Meridian to the east and Choctaw Drive to the south.

Among the possible enviromental effects of this project are: conversion of approximately 6,000 acres of Sonovan desert lands to urban and suburban uses; introduction of approximately 25,000 new residents in approximately 10,000 new dwelling units adjacent to Sierra Vista City (population 25,000) and Port Huachuca Military Reservation over an estimated 7–10. year period; potential impact of a portion of a 100-year floodplain area; impact on natural desert vegetation and perhaps certain State protected vegetation; impact on the local road system (due to added vehicles); impacts on natural drainage conditions; impacts on local community facilities and services; and potential impacts on archeological and cultural resources. Also, air-quality impacts may have significance to the Fort Huachuca Military Base communications mission as this geographic area is noted for its relatively free electromagnetic atmosphere.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of project activities proposed. This determination is made in response to Section 102(2)(c) of Public Law 91–190, The National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives perceived available to the Department of Housing and Urban Development which will be given consideration are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementings of the 1969 National Environmental Policy Act. At this meeting, open to all persons, groups, organizations, Federal, State and local agencies, HUD wishes to identify all significant issues to be analyzed in the environmental impact statement. Time and place of this scoping meeting will be announced at a later date by notice in a local newspaper of general circulation and the mailing of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent within 21-days of publication of this Notice in the **Federal Register**, to: John J. Tuite, Area Manager, Attention: William Shortall, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire, Boulevard, Los Angeles, California 90057, or call (213) 688–5899 (FTS) 8–798–5899.

Appendix

EIS on Robinson Ranch Planned Community, Orange County, California

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residendial land development project indentified as Robinson Ranch Planned Community and located in eastern Orange County. The purpose of this notice is to solicit from all interested persons, local State and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed environmental impact statement.

Purpose of Federal action. HUD's participation in this land development project is partly through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commerical lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, street lights, water lines and storm drainage improvements.

Project description. The Robinson Ranch Planned Community planned residential community project is a proposed land development of approximately 827 acres with a present consideration of conserving approximately 415 acres in open space. This planned development project will provide for an approximate 941 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project.

The project site is located in eastern Orange County and is adjacent to the Cleveland National Forest. More specifically the project is in an unincorporated area of Orange County east of Trabuco Canyon Road and Plano Trabuco Road. The project site is a portion of sections 13 and 14 in Township 6 south, Range 7 west and a portion of Section 7 in Range R west, Township 6 south.

Potential impacts may include, impact of a portion of a 100-year floodplain resource, natural "foothill" vegetation and perhaps certain State protected wildlife. Impacts on the local road system (due to added vehicles), and natural drainage conditions are expected. Demand will be created for new local community facilities and services. Potential impacts on archeological and cultural resources may occur along with impacts on a part of a regional "watershed" resource. The entire property serves as a foraging habitat for several raptor species including the red-gailed hawk, marsh hawk, kestrels and white-tailed kite.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of the project and activities proposed as well as due to impacts on several natural resources. This determination is made in response to Section 102(2)(c) of

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Pub. L. 91–190, The National Environmental Policy Act of 1969.

Alternatives perceived. The altenatives perceived available to the Department of Housing and Urban Development which will be given consideration are; (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping meeting. HUD does anticipate holding a pre-project "scoping" meeting in accord with Section 1501.7 of the regulations for implementing the National Environmental Policy Act of 1969. At this meeting, which shall be open to all persons, groups, organizations, Federal, State and local agencies, HUD will wish to assure that all significant environmental issues will be covered by the proposed EIS. Time and place of this scoping meeting will be announced at a later date by notice of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and many local private organizations and groups.

Comments. Comments or recommendations regarding this EIS proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: Peter Severynen, Environmentl Protection Specialist, Department of Housing and Urban Development, Room 604 Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688–5899, (FTS) 8–798–5899.

EIS on Victoria Planned Community, Rancho Cucamonga, California

The HUD Los Angeles Area Office intends to prepare an Environmental Impact Statement on a proposed Title X project described herein and solicits information and comments for consideration in the EIS.

Description. The Victoria Planned Community development project is a proposed land development of approximately 2,150 acres. The project will provide for an approximate 9,000 dwelling units in a mixture of housing densities and types. Community recreation uses, open space, certain supporting convenience commercial uses and employment commercial uses are anticipated in the development. The project is located in the City of Rancho Cucamonga, San Bernardino County, California. The boundaries of the project are generally as follows; Dear Creek on the east; Highland Park on the north, Etiwanda Avenue and Freeway 1–15 on the east, Baseline Road on the south. The proposed EIS will also address impacts associated with a Regional shopping center proposed for a location immediately south and adjacent to the project.

An "early start" segment *may* be considered for HUD processing prior to completion of the EIS. This "early start" segment is located in the southeast corner of the project near Etiwanda and Baseline Roads. The number of dwelling units shall not exceed two-hundred. A special Environmental Clearance action shall be completed by HUD prior to any approval.

HUD's participation in this land development project is partly through the Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, water lines, sewer lines and storm drainage improvements.

Need. An EIS is proposed due to HUD threshold requirements in accordance with housing program regulations and certain perceived environmental impacts such as the following: impact on the 100-year base flood hazard area, prime agricultural land, water resources, energy resources, transportation, historic and cultural resources and community services and facilities.

This announcement and the EIS preparation and distribution process will form HUD's primary means of inviting public participation in the "eight-step" review process required by the implementing regulations of Executive Order 11988 and the required decision making process HUD will carry-out for this special Federal Environmental concern. This announcement is intended to satisfy Steps 1 and 2 of the "eight-step" review process.

Alternatives perceived. At this time the HUD alternatives include: no project; accept project as proposed and/or accept project with conditions or modification of the project or modification to the existing environment.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementing regulations of the 1969 National Environmental Policy Act. This meeting will be open to all persons, groups, organizations, Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: William Shortall, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688–5899 (FTS) 8–798–5899.

EIS on Isla Mar Housing Project, Humacao, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description. The project consists of 467 detached residential units to be constructed on 53.19 acres. Approximately 5.05 acres are to be allocated to community facilities.

The project is located in Humacao, Puerto Rico, Rio Abajo Ward, State Road No. 3, Km. 78.2. Project may be assisted under the following Federal Programs: 203(b), 235, and Section 8.

Need. It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Isla Mar is the latest subdivision in this development. This development will total 963 units at the termination of Isla Mar. Subdivisions in this development constructed prior to Isla Mar were cleared through an Environmental Assessment.

Alternatives. Alternatives to be considered are the no project or changes to size and design.

Scoping. A scoping meeting with the participation of cooperating government agencies and general public will be held.

Comments. All interested parties comments should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft and shall become part of the project's environmental file. Comments regarding this proposal should be sent on or before December 9, 1980. Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Cardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

EIS on The New Town Of Maumelle, Pulaski County, Arkansas

The Environmental Assessment Team in Atlanta, Georgia intends to prepare, for the New Communities Development Corporation, an EIS on the project described below. We are soliciting information and comment for consideration in the EIS.

Description. Maumelle is a 5,300 acre New Town sponsored by Maumelle Land Development, Inc., in Pulaski County, northwest of Little Rock, Arkansas. The project includes the following land uses: open space (mainly along the Arkansas River), low, medium and high density residential, industrial, commercial and institutional development. Several lakes, a golf course, a riverside marina, school, church and a community center will be located on the site. Approximately 50,000–60,000 people are projected to reside in Maumelle, which was formerly used as an Army ordinance depot. The site is located adjacent to the north bank of the Arkansas River, southwest of Interstate 40, about 10 miles from downtown Little Rock. As originally planned, the development period will extend to 1991.

HUD's participation is through the New Communities development Corporation (NCDC), which guaranteed the initial construction financing for the proposed New Town. Additionally, HUD will make available FHA mortgage insurance to qualifying buyers within the development. The enabling legislation for the NCDC requires that continued participation be partially based on the findings of updated EIS's.

Need. An update of the original EIS prepared in 1972 is required. The new statement will assess land use changes since 1972 and will evaluate the proposal with respect to current environmental legislation.

Alternatives. At this time, the HUD alternatives are to continue participation as per previous commitments or to continue participation with development restrictions.

Scoping. HUD will hold a "scoping" meeting in accordance with Section 1501.7 of the regulations for implementing the National Environmental Policy Act. At this meeting, open to all individual persons, groups, Federal, State, and local agencies, HUD wishes to identify all significant issues to be addressed in the environmental impact statement.

Comments. Comments should be forwarded on or before December 9, 1980 to Dr. Richard Bailey, Department of Housing and Urban Development, RIEAT-Room 834, 75 Spring Street, SW, Atlanta, Georgia 30303 or call (404) 221–5151 or (FTS) 242–5151.

EIS on Greenwood Valley Subdivision, City of Allen, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement on a proposed subdivision which will be known as Greenwood Valley. The proposed subdivision is located in the general vicinity of U.S. Highway 75 on Farm Road 2170. The site is one and one-half miles east of the Central Business District of the City of Allen, Collin County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be addressed in the Environmental Impact Statement.

Description. The Fox and Jacobs, Incorporated, P.O. Box 934, Carrollton, Texas, proposes to develop a 196 acre tract into 704 single family lots. The developer has requested that the Department accept the Greenwood Valley Subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. At full development, it is anticipated the subdivision will accommodate approximately 1,760 persons. The developer has requested an early-start on 196 lots of the proposed Greenwood Valley Subdivision.

Need: Due to the size and scope of the proposed development, the Dallas Area Office has determined that an Environmental Impact Statement will be prepared pursuant to Pub. L. 91–190, the National Environmental Policy Act of 1969.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Comments. Comments should be sent on or before December 9, 1980 to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is (214) 767–8347 and the FTS number is 729–8347.

[FR Doc. 80–36028 Filed 11–18–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Grand Junction District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Wednesday, December 10, 1980.

The meeting will begin at 9 a.m. in the third floor conference room of the Bureau of Land Management Office at 764 Horizon Drive, Grand Junction, Colorado.

The agenda for the meeting will include: (1) minutes of the previous meeting, (2) status report on the allotment management plan (AMP) implementation program, (3) discussion of the Sunnyside AMP, (4) discussion of the Light Hill prescribed burn, (5) status report on current range improvement projects, (6) proposed range improvement projects for future funding and (7) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:00 and 3:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by December 5, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243–6552.

Lee Carie,

Acting District Manager.

[FR Doc. 80–34887 Filed 11–18–80; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

[DES–80–70]

General Management Plan, Santa Monica Mountains National Recreation Area, Calif.; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a draft environmental impact statement for the proposed General Management Plan for Santa Monica Mountains National Recreation Area. The proposal involves a draft plan that would provide the general direction for management and a conceptual framework for visitor use.

The proposed action presents goals and objectives for management; a land

classification system that indicates management emphasis for all lands within the boundary; a land acquisition plan; concepts for management of resources and cooperation with agencies and landowners; programs for managing natural, scenic, and cultural resources; a related series of possible actions for activity sites, trails and camps, transportation, scenic roads, and management facilities; and strategies for future planning.

A present action alternative was considered which would continue land acquisition, cooperative planning, and visitor and resources management programs, but would not provide for development of structured recreational use. A no action alternative was also considered, which would preclude any additional National Park Service involvement in the area.

A limited number of copies are available upon request to:

Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888–3772).

Public reading copies will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (Telephone: (202) 343–6843).

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102 (Telephone: (415) 556–4122).

Los Angeles Field Office, National Park Service, Room 2043, New Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012 (Telephone: (213) 688–2852).

Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 883–3772).

Comments on the Draft Environmental Impact Statement are invited from all interested parties and should be forwarded to the following official no later than February 28, 1981.

Ms. Nancy Fries, Project Manager, Santa Monica Mountains National Recreation Area, 2318 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888–6221).

Dated: October 15, 1980

John H. Davis,

Acting Regional Director.

[FR Doc. 80-36011 Filed 11-18-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. C-078049]

Availability for Public Review of Major Modification of a Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mine Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for public review of proposed major modification to a coal mining and reclamation plan.

SUMMARY: Pursuant to § 211.5 of title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM) has received an application from the GEX Colorado Incorporated to construct a permanent waste rock disposal pile. A brief discription of the location follows:

Location of Lands to be Affected by Modification

Applicant: GEX Colorado Incorporated
Mine Name: Cameo #3 Underground Mine
State: Colorado
County: Mesa
Section, Township, Range: Southeast ¼ of Section 28, Range 98 West, Township 10 South
Office of Surface Mining, Identification No. CO–0020

The proposed modification to the mining plan involves disturbance of 23.8 acres associated with the proposed waste disposal pile. The existing permit area is 127 acres. The total acreage of the permit will not be increased by this modification. The proposed modification involves construction of a 1.5 million cubic yard coal processing waste & waste rock pile. The pile has a projected life of 24 months.

The mining and reclamation plan has been determined to be sufficiently complete to issue this notice to inform the public of the availability of the plan for review. The OSM will prepare a technical analysis (TA) to determine whether the proposed plan meets the requirements of the Surface Mine Control and Reclamation Act (SMCRA) and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior may take on the plan. During the analytical review it is possible that OSM will request additional information from the company. Any further information would be available for public review.

No action on the modified plan will be taken by the Department for a period of 30 days after publication on this Notice of Availability in the **Federal Register.**

Prior to making a final decision on this modification under the interim program, the OSM will issue a notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30 code of Federal Regulations.

The plan is available for public review at the office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202. Comments on the proposed major modification may be addressed to the Regional Director, OSM at the above address.

FOR FURTHER INFORMATION CONTACT: Keith G. Kirk or John Hardaway at the above address.

Donald A. Crane,

Regional Director.

[FR Doc. 80-36012 11-18-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–73

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 152028 (Sub-II–1TA), filed November 6, 1980. Applicant: LEROY ALLEN TUCKING CO., Rt. 1, Box 288, Hopewell, VA 23860. Representative: Leroy Allen (same as applicant). Contract, irregular: *Barrels and tote bins of harmless surfactant chemicals,* from Norfolk, VA to Hopewell, VA; from Hopewell, VA to various locations in VA, NC, SC, GA, TN, MD and PA; from Hopewell, VA to Fairfield, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Goldschmidt Chemical Corp., 920 Randolph Rd., Hopewell, VA 23860.

MC 151585 (Sub-II–2TA), filed November 6, 1980. Applicant: BEST TRUCKING CO., INC., 2913 Halstead Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Contract, irregular: *(1) Aluminum articles, cabinets, containers, foil, paper and paper articles, plastic articles, ribbons, bows, rosettes, tape and (2) materials, supplies and equipment used in the manufacture, distribution and sales of commodities in* (1) above, between points in DE, MD, NC, NJ, PA, SC, TN, VA, WV and DC for 270 days. Supporting shipper: United Paper Company, P.O. Box 26846, Richmond, VA 23261.

MC 115413 (Sub-II–9TA), filed November 6, 1980. Applicant: BLESSFIELD TRUCK LINES, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *New furniture, furniture parts, and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk),* between Swanton, OH, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: The Pilliod Cabinet Co., Woodlawn Avenue, Swanton, OH 43358.

MC 14252 (Sub-II–8TA), filed November 6, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and classes A & B explosives),* serving all points in Woodford County, KY as off route points in connection with carriers presently authorized regular route operations, for 270 days. Applicant intends to tack and interline. An underlying ETA seeks 120 days authority. Supporting shipper: Rand McNally Co. 8255 Central Park Ave., Skokie, IL 60076.

MC 147932 (Sub-II–2TA), filed November 6, 1980. Applicant: COWEN TRUCK LINE, INC., Rt. No. 2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of passenger buses, except finished buses,* between Ashland & Delaware Counties, OH, on the one hand, and, on the other, pts. in the US, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Grumman Flexible, 970 Pittsburgh Dr., Delaware, OH 43015.

MC 152313 (Sub-II–1TA), filed November 5, 1980. Applicant: DON'S TRUCKING, INC., 1801 Coxendale Rd., Chester, VA 23831. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract,* Irregular: *Ocean containers with prior movement by water of automotive parts for assembly of vehicles* from Richmond, VA to New Stanton, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Volkswagen of America, INC., 27621 Parkview Blvd., Warren, MI 48092.

MC 147681 (Sub-II–14TA), filed October 31, 1980. Applicant: HOYA EXPRESS, INC., Rt. 18, West Middlesex, PA 16159. Representative: Michael P. Pitterich, P.O. Box 543, West Middlesex, PA 16159. *Plastic articles and/or cereal, NOI, and materials and supplies used in the production of the above named commodities,* between MA, CT, RI, NY, NJ, PA, OH, TN, MI, IN, MD, VA, KY, WV, DE and IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Van Brode Milling Co., Inc., 20 Cameron St., Clinton, MA 01510.

MC 144188 (Sub-II–8TA), filed November 5, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. (1) *Pet foods; and (2) materials, equipment and supplies used in the production, storage and distribution of the commodities described in (1) above,* between points in Columbia and Luzerne Counties, PA, on the one hand, and, on the other, points in the US for 270 days. Supporting shipper: Champion Valley Farms, Inc., 6670 Low Street, Bloomsburg, PA 17815.

Doc. 140889 (Sub-II–4TA), filed November 5, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Type of service: Contract, irregular; (1) *cleaning compounds, chemicals, solvents, cleaners and degreasers, except in bulk, and (2) supplies, equipment, and materials used in the manufacture of the above;* (1) between points in Cuyahoga County, OH, Los Angeles County, CA, and Middlesex County, NJ, on the one hand, and points in OH, CA, OR, WA, FL, GA, IL, and NJ, on the other hand; and (2) from Cook County, IL, Hartford County, CT, and Philadelphia County, PA, to the facilities of State Chemical Manufacturing Co., Inc. location in Chuyahoga County, OH; under a continuing contract(s) with State Chemical Manufacturing Co., Inc. for 270 days. An underlying ETA seeks 90 days authority. Supporting Shipper: State Chemical Manufacturing Co., Inc., 3100 Hamilton Ave., Cleveland, OH 44114.

MC 127579 (Sub-II–8TA), filed November 5, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Printed Matter and materials and supplies used in the manufacture or distribution of printed matter (except commodities in bulk)* between the facilities of R. R. Donnelley and Sons Co., Crawfordsville, IN, on the one hand, and, on the other, points in the states of CT, MA, RI, NY, PA, NJ, DE, MD, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): R. R. Donnelley & Sons Co., 1009 Sloan Street, Crawfordsville, IN 47933.

MC 145930 (Sub-II–3TA), filed November 5, 1980. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 2815 E. Liberty Ave., Vermilion, OH 44089. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. (1) *Metal abrasives* from Cleveland, OH to points in CA, CO, CT, FL, GA, IL, IN, KY, MA, MI, MO, MN, NC, NJ, NV, NY, OK, PA, SC, TN, TX, WA, and WI; and (2) return of *materials, equipment and supplies* used in the manufacture and distribution of metal abrasives, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippier: Metal Blast, Inc., 871 E. 67th St., Cleveland, OH 44103.

MC 143394 (Sub-II–17TA), filed November 3, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle

Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment).* Between Chicago, IL and points in the U.S. under continuing contract(s) with International Nu-Way Shippers, Inc., Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 124821 (Sub-II–25TA), filed November 3, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between Chicago, IL, on the one hand, and, on the other, Hazleton and North East, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Continental White Cap Company, Division of Continental Group, Inc., 1819 Major Ave., Chicago, IL 60639.

MC 107006 (Sub-II–3TA), filed November 3, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Paper, and paper products, and materials, equipment and supplies, used in the manufacture of paper and paper products, except commodities in bulk,* between Urbana and Dayton, OH, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Howard Paper Mills, Inc., W. Church St., Urbana, OH 43078.

MC 142168 (Sub-II–1TA), filed November 7, 1980. Applicant: CARL'S BUTTON AND STITCH, INC., Route 613, Box 424, Payne, OH 45880. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between the facilities of Stanadyne, Inc., at or near Chicago, IL; Garrett, IN; and Elyria, OH, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Las Vegas, NV; Portland, OR (and points in their respective commercial zones), for 270 days. An underlying ETA seeks up to 120 days authority. Supporting shipper: Stanadyne, Inc., 301 N. Taylor Rd., Garrett, IN 48738.

MC 141878 (Sub-II–4TA), filed November 7, 1980. Applicant: DIRECT COURIER, INC., 800 N. Taylor St., Arlington, VA 22003. Representative: Gerald K. Gimmell, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Chemicals, pharmaceuticals, and materials, supplies and equipment used in the manufacture, distribution, and sale of chemicals and pharmaceuticals* between the facilities of Merck & Co., Inc., at or near Rahway, NJ, and Riverside, PA for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065.

MC 107012 (Sub-II–105TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Hospital supplies,* from the facilities of Plasta-Medic, Division of Hadley Industries, Inc. at Carson, CA to points in CO, IL, IA, KS, MO and NE for 270 days. Supporting shipper: Plasta-Medic, Division of Hadley Industries, Inc., 1165 E. 230th St., Carson, CA 90745.

Note.—Common control may be involved.

MC 87103 (Sub-II–1TA), filed November 6, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. *(1) Air conditioning equipment, furnaces and parts thereof, and (2) equipment, materials and supplies used or useful in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk)* between Warren, Davidson and Rutherford Counties, TN on the one hand, and, on the other, points in and north of DE, MD and PA for 270 days. Supporting shipper: Carrier Air Conditioning Group, Divisions of Carrier Corp., P.O. Box 4808, Carrier Parkway, Syracuse, NY 13221.

MC 146015 (Sub-II–13TA), filed November 7, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. *Contract; irregular: Pet Food products,* from the facilities of Perk Foods Co., at Lower Allen Township, Cumberland County, PA, to points in NY for 270 days under continuing contract(s) with Perk Foods Co., Div. of C.H.B. Foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Perk Foods Co., Div. of C.H.B. Foods, Inc., 2410 Old Gettysburg Rd., Camp Hill, PA 17011.

MC 150339 (Sub-2–17TA), filed November 7, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: General commodities, except household goods as defined by the Commission and Classes A & B explosives,* between Henderson, NC, on the one hand, and, on the other, points in the US (except AK and HI), under continuing contract(s) with Rose's Stores, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Rose's Stores, Inc., P.O. Drawer 947, Henderson, NC 27536.

MC 152580 (Sub-II–1TA), filed November 7, 1980. Applicant: H. R. PHILLIPS, INC., Cedar Beach Rd., P.O.B. 279, Milford, DE 19961. Representative: Chester A. Zyblutt, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Fiber and materials and supplies used in the processing and distribution of fibers (except commodities in bulk),* between Milford, DE and Clover and S. Boston, VA, on the one hand, and, on the other, points in the MS, AL, GA, SC, NC, TN, LA, DE, MD, NJ, NY and PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Steiner & Co., Inc., P.O. Box 354, Milford, DE 19963.

MC 107012 (Sub-II–104TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *carpet,* from Libertyville, IL to points in AL, GA, MI, and NC and (2) *synthetic fibers,* from points in GA and SC to Libertyville, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ozite, 1755 Butterfield Rd., Libertyville, IL 60048.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 146891 (Sub-3–1TA), filed November 4, 1980. Applicant: A & G CARTAGE, INC., 4807 Millbrooke Road, Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Contract; irregular; *Agricultural chemicals, products and supplies used in the manufacture, sale and distribution thereof,* between points in the US. Supporting shipper: Helena Chemical Company, Suite 3200, 5100 Poplar Avenue, Memphis, TN 38137.

MC 118610 (Sub-3–1TA), filed November 3, 1980. Applicant: GEORGE PARR TRUCKING SERVICE, INC., P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, NY 40601. *Commodities which because of size or weight require the use of special equipment,* between points in the state of WA on the one hand, and, on the other, points in the US (except AK & HI). Supporting shipper: State of WA, governor's Office, Legislative Building, Olumpia, WA 98504 and Harry Claterbos Co., Rt. 1, Box 984, Astoria, OR 97103.

MC 152288 (Sub-3–1TA), filed November 3, 1980. Applicant: NEAL TRANSPORT, INC., 4481 Pineview Drive, P.O. Box 21, Powder Springs, GA 30073. Representative: Philip L. Martin, Attorney At Law, 2220 Parklake Drive, N.E., Suite 427, Atlanta, GA 30345. Contract Carrier: Irregular routes: *Insulated copper wire and raw copper wire in boxes and reels, copper rods, wire processing machinery and empty reels* between GA, AL, AR, AZ, CA, CO, CT, DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NM, NV, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI. Supporting shipper: Larcon Wire Corp. (Laribee Wire Insulated Products), 2148 American Industrial Way, Chamblee, GA 30341.

MC 148822 (Sub-3–6TA), filed November 3, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular; Primary metal products, fabricated metal products, machinery, plastic pipe and fittings and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. Supporting shipper: Consolidated Pipe & Supply Co., Inc., 1800 3rd Street West, Birmingham, AL 35201.

MC 111485 (Sub-3–4TA), filed November 3, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties, KY, on the one hand, and, on the other, points in the U.S. (except AL and HI) restricted to traffic originating at or destined to points in the above named KY counties. Supporting shippers: There are eight statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 121598 (Sub-3–3TA), filed November 3, 1980. Applicant: SHELBYVILLE EXPRESS, INC., Old Railroad Ave., Shelbyville, TN 37160. Representative: James G. Caldwell (same address as applicant). *Common* carrier, *regular General commodities (with usual exceptions)* between Greenville, MS and Waskom, TX (a) over U.S. Hwy 82 to its junction with U.S. Hwy 165, thence over U.S. Hwy 165 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points, (b) over U.S. Hwy 61 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points and serving Sterlington, LA as an off-route point in connection with routes (a) and (b) above. There are 7 statements in support of this application, which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with existing authority and to interline at Greenville, MS, Monroe, LA, and Shreveport, LA.

MC 105457 (Sub-3–3TA), filed November 4, 1980. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Representative: John V. Luckadoo (same as above). *Common* carrier: regular: *General Commodities, except household goods as defined by the Commission,* (1) Between Tupelo, MS and Jackson, MS, over US Hwy Alt. 45 to Junction US Hwy 82, then over US Hwy 82 to Junction MS Hwy 12, then over MS Hwy 12 to Junction US Hwy 51, then over US Hwy 51 to Jackson, and return over the same route, serving no intermediate points (2) Between Memphis, TN and Jackson, MS over Interstate Hwy 55, serving no intermediate points (3) Between Birmingham, AL and Jackson, MS, over Interstate Hwy 20, serving no intermediate points (4) Serving points in Copiah, Hinds, Lincoln, Madison, Rankin, Warren and Yazoo Counties, MS in connection with routes (1) through (3) above. Applicant intends to tack with existing authority and interchange with connecting carriers at Jackson, MS; Tupelo, MS; Memphis, TN; and Birmingham, AL. Supporting shippers: There are 96 supporting shippers whose statements can be viewed at the Regional Authority Center, Atlanta, GA.

MC 142835 (Sub-3–7TA), filed November 4, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Drugs, medicine and toilet articles,* from Lynchburg, VA to points in the U.S. (except AK and HI). Supporting shipper: C. B. Fleet Co., Inc., P.O. Box 11349, Lynchburg, VA 24506.

MC 151839 (Sub-3–1TA), filed November 4, 1980. Applicant: P.B.M. COACHES, INC. 1010 6th Ave. South, Lake Worth, Florida 33460. Representative: G. R. Burress (same address as applicant). *Passengers and baggage in charter operations,* between Palm Beach County, FL, and points of interest in AL, GA, KY, LA, MS, NC, NY, SC, TN, VA, WV. Supporting shippers: Tippett Travel, 1772 South Congress Ave., West Palm Beach, FL 33406. Allure Travel, 14466 South Military Trail, Delray Beach, FL 33444. International Travel, 300 10th Street, Suite 2, Lake Park, FL 33402.

MC 149575 (Sub-3–1TA), filed November 4, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Rd., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *(1) Roofing and roofing products, and (2) Materials, equipment and supplies used in the manufacture, distribution and installation of roofing and roofing products,* from the facilities of TAMKO Asphalt Products, Inc., at or near Tuscalaoosa, AL to points in FL and GA. Supporting shipper: TAMKO Asphalt Products, Inc., 220 West Fourth St., Joplin, MO 64801.

MC 151592 (Sub-3–4TA), filed November 3, 1980. Applicant: D & L TRUCKING SERVICES, INC., 2080 South 9th Street, Louisville, KY 40208. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract carrier,* irregular routes: (1) *Charcoal briquetts, hickory chips, and fireplace logs,* from Burnside and Louisville, KY to Cleveland, Toledo, and Columbus, OH and to points in IL, IN, and WI, and (2) *coal,* from Reading, Treverton, and Gilberton, PA and Spadra and Centerville, AR to Belle, MO, Burnside, KY, and Parsons, WV, under contract with The Kingsford Company, of Louisville, KY. Supporting shipper: Kingsford Company, 1700 Commonwealth Building, Louisville, KY 40201.

MC 109638 (Sub-3–2TA), filed November 3, 1980. Applicant: EVERETT TRUCK LINE, INC., P.O. Box 1927, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). *Fabricated Metal Products—except Ordnance—and materials used*

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in their manufacture or distribution between points in the contiguous 48 states—restricted to traffic originating at or destined to the facilities of Hamilton Beach Division of Scovill. Supporting shipper: Hamilton Beach Division, Scovill, P.O. Box 1158, Washington, NC 27889.

MC 135700 (Sub-3–1TA), filed November 4, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Foodstuffs* from the facilities of Globe Products Company, Inc. at or near Clifton, NJ to points in FL, GA, IL, IN, MI, NC, OH, and SC, under continuing contracts with Globe Products Company, Inc. Supporting shipper: Globe Products Company, Inc., P.O. Box 1927, Clifton, NJ 07015.

MC 109708 (Sub-3–13TA), filed November 4, 1980. Applicant: INDIAN RIVER TRANSPORT CO., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Grape Concentrate* in Bulk in Tank Vehicles, from Madero, CA, to MA, MD, OH, PA, NY. Supporting shipper: Food Brokers International, 5442 Jillson St., Los Angeles, California 90040.

MC 144399 (Sub-3–1TA), filed November 4, 1980. Applicant: CRAWFORD TRUCKING, INC., P.O. Box 532, Montrose, AL 36559. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Contract* carrier: *irregular* routes: *paper and paper products,* between points in Mobile County, AL, on the one hand, and, on the other, points in Muscogee, Chattahoochee, Marion, Schley, Dooly, Crisp, Turner, Tift, Colquitt, Brooks, Thomas, Grady, Decatur, Seminole, Miller, Early, Baker, Mitchell, Worth, Lee, Dougherty, Calhoun, Clay, Randolph, Terrell, Quitman, Stewart, Webster, and Sumter Counties, GA, under a continuing contract or contracts with Scott Paper Company, Philadelphia, PA. Supporting shipper: Scott Paper Company, Scott Plaza #1, Philadelphia, PA 19113.

MC 139822 (Sub-3–3TA), filed November 4, 1980. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, D.C. 20004. *(1) Bakery Products, other than frozen,* from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and TX; and *(2) equipment, materials and supplies used in the manufacture, sale and distribution of the commodities named in (1) above,* on return. Supporting shipper: Interbake Foods, Inc., 900 Terminal Place, P.O. Box 27487, Richmond, VA 23261.

MC 146782 (Sub-3–6TA), filed November 4, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, Tennessee 37201. *Iron and Steel Castings; Fittings and Pipe,* between the facilities of Central Foundry in Tuscaloosa County, AL on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to the above named facilities. Supporting shipper: Central Foundry, P.O. Box 108, Holt, Alabama 35401.

MC 121664 (Sub-3–27TA), filed November 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Avenue South, Birmingham, AL 35233. *Forest products, lumber or wood products, pulp, paper or allied products and materials, equipment and supplies used in the manufacture thereof* between the facilities of Scott Paper Company at or near Mobile and Mount Vernon, AL on the one hand, and, on the other, points in the states of TX, OK, MO, AR, LA, MS, TN, AL, GA, FL, SC, and NC. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 152544 (Sub-3–1TA), filed November 5, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission and classes A & B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of Florida Wire & Cable Company,* between Jacksonville and Sanderson, FL, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Florida Wire & Cable Company, P.O. Box 6835, Jacksonville, FL 32205.

MC 118561 (Sub-3–1TA), filed November 5, 1980. Applicant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Malt beverages, containers and materials, and supplies used in the manufacture and distribution of malt beverages and containers* between points in AL, GA, FL, NC, SC, TN, KY and VA. Supporting shipper: Beer Distributing Co., Inc.; 921 Cherokee; Nashville, TN 37207.

MC 135895 (Sub-3–17TA), filed November 5, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *(1) Foodstuffs (except commodities in bulk) and (2) equipment, materials and supplies used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk and those requiring special equipment).* Between the facilities of Vlasic Foods, Inc., at Greenville, MS on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033.

MC 151551 (Sub-3–3TA), filed November 5, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (address same). *Building materials,* between points in the U.S. in and east of MN, NE, KS, OK and TX. Restricted to shipments moving for the account of Builders Marts of America, Inc. Supporting shipper: Builders Marts of America, P.O. Box 47, Greenville, SC 29602.

MC 116254 (Sub-3–23TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Black liquor, in Tank Vehicles,* from Pine Bluff, AR to Courtland, AL. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020.

MC 136384 (Sub-3–5TA), filed November 5, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *(1) Paper and paper products (2) Supplies, materials, and equipment used in the manufacture or distribution of paper and paper products.* (1) From the plantsites of Union Camp Corp. at or near Savannah and Tifton, GA to points in IN and IL, (2) From points in IN and IL to plantsites of Union Camp Corp. at or near Savannah and Tifton, GA. Supporting shipper: Union Camp Corp., P.O. Box 570. Savannah, GA 31402.

MC 148183 (Sub-3–11TA), filed November 3, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Mr. Jerry Gereghty (same address as applicant). *(1.) Motors, electric and (2.) Materials equipment and supplies used in the manufacture, sale and distribution of the commodities named in (1.) above (except in Bulk),* between Hall County, GA and AL, NC, SC, FL, TX, TN, LA, IL, WI, MS, OH, IN, and MI. Supporting shipper: Leece-Neville Division Sheller Globe Corporation, 989 Athens Street, SE, Gainesville, GA 30501.

MC 152545 (Sub-3–1TA), filed November 5, 1980. Applicant: DAVID E. PROPST, d.b.a. PROPST DISTRIBUTING CO., Route 2, Box 795, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Furniture (STCC 25),* from pts. in Iredell and Catawba Counties NC, to pts. in OK, AR, and TX, under contract with Southern Furniture Co., of Conover, Inc. Supporting shipper: Southern Furniture Co., of Conover, Inc., P.O. Box 307, Conover, NC 28613.

MC 152541 (Sub-3–1TA), filed November 4, 1980. Applicant: MTC, 200 West Commerce St., Hartford, AL 36344. Representative: James N. Miller (same as above). *Contract carrier;* irregular routes, *Fertilizer and fertilizer materials, applicant does not seek authority to transport commodities in tank vehicles,* from Americus, GA to Hartford, AL and from Hartford, AL to counties in FL west of the Apalochicola River, for the account of International Minerals and Chemicals Corporation. Supporting shipper: International Minerals & Chemicals Corporation, 421 E. Hawley Street, Mundelein, IL 60060.

MC 141326 (Sub-3–8TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Textile products;* (2) *rubber or miscellaneous plastic products;* (3) *leather or leather products;* and (4) *forming fabric;* and (5) *materials, equipment and supplies* used in the manufacture of those commodities listed in parts (1), (2), (3), and (4) above; between Montgomery County, AL, on the one hand, and, on the other, all points in the United States (except AK and HI). Supporting shipper: Appleton Wire Division of A. I., Montgomery, AL.

MC 119777 (Sub-3–23TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Scrap batteries, pig lead, alloys, and metal articles,* between the facilities of Price Metal Company at Kansas City, MO and points in PA, MI, IL, CO, TX, NE, OK, GA, IA, MA, OH, NY, NJ, AR, IN and KY. Supporting shipper: Price Metal Company, Guinotte and Flora Avenue, Kansas City, MO 64120.

MC 119777 (Sub-3–24TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Oilfield tubular goods,* from Lafayette, LA to points in TX and OK. Supporting shipper: Roger's Sales, Inc., 402 Martin Oaks Drive, Lafayette, LA 70501.

MC 152543 (Sub-3–1TA), filed November 4, 1980. Applicant: J & S TRANSPORTATION, INC., 1015 North Street, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30207. *Liquid Chemicals, in bulk, in tank vehicles,* between points in Fulton, DeKalb, Cobb, Clayton, Gwinnett and Rockdale Counties, GA, on the one hand, and, on the other, points in AL, AR, DE, FL, IL, KY, LA, MS, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Supporting witnesses: AZS Corporation, 762 Marietta Blvd., Atlanta Ga 30318, and Industrial Adhesives, Inc., 359 DeKalb Industrial Way, Decatur, GA 30030.

MC 150101 (Sub-3–6TA), filed November 5, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Road; Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Contract: Irregular: *(1) Adhesive; liquid cements; washing compounds; and liquid latex (except in bulk);* and, *(2) materials, and supplies used in the manufacture and distribution of the above named commodities,* (1) from Simpsonville, SC and Philadelphia, PA to all pts. in the U.S.; and, (2) from all pts. in the U.S. to Simpsonville, SC and Philadelphia, PA. Supporting shipper: Para-Chem Southern, Inc., P.O. Box 127, Simpsonville, SC 29681.

MC 150395 (Sub-3–1TA), filed November 5, 1980. Applicant: JACKIE B. LOVETT TRUCKING CO., INC., Route 2, Waynesboro, GA 30830. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Basic Slag (Fertilizer),* From the facilities of United States Steel Corp. in and near Birmingham, AL to all points in GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, NE., Atlanta, GA 30346.

MC 141326 (Sub-3–9TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Chemicals or allied products* (except in bulk and in tank vehicles); and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between Memphis, TN, on the one hand, and, on the other, all points in and east of a line extending from ND, SD, KS, CO, and NM. Supporting shipper: Drexel Chemical Co., 2487 Pennsylvania Avenue, Memphis, TN.

MC 141326 (Sub-3–7TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Fabricated metal products;* (2) *machinery and supplies;* (3) *transportation equipment;* (4) *trailer axles, parts and springs;* (5) *materials, equipment and supplies* used in the manufacture and distribution of those commodities listed in parts (1), (2), (3) and (4) above from Montgomery County, AL to all points in the United States (except AK and HI). Supporting shipper: Dana Corporation—C & M Axles, 2250 Selma Highway, Montgomery, AL 35108.

MC 121811 (Sub-3–2TA), filed November 5, 1980. Applicant: McCLELLAN'S ENTERPRISES, INC., Highway 41 South, Tifton, GA 31794. Representative: Arthur L. McClellan (same as above). *Particleboard,* between Cook Cy, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN. Supporting shipper: Weyerhaeuser Co., P.O. Box 547, Adel, GA 31620.

MC 116254 (Sub-3–22TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Forest and Lumber Products,* from points in AL, GA, FL, MS, and AR, to points in AL, TN, KY, IL, IN, OH, MI, WI, PA, TX, MO, FL, AR, KS, OK, LA, and MS. Supporting shipper: Sherman Wholesale Lumber Company, P.O. Box 267, Killen, AL 35645.

MC 143059 (Sub-3–25TA), filed November 5, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35601, Louisville, KY 40232. Representative: Janice K. Taylor (same as applicant). *Iron and steel articles,* between Trumbull County, OH and points in the U.S. (except AK and HI). Supporting shipper: Shenango Steel

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Company, Inc., P.O. Box 256, Wheatland, PA 16161.

MC 142181 (Sub-3–4TA), filed November 4, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract Carrier:* Irregular routes: (1) *Such merchandise as is dealt in by catalogue showroom stores* and (2) *materials, equipment, fixtures and supplies used in the business of a catalogue showroom company* between points in the U.S. and in and west of MT, WY, CO, and NM, except AK and HI on the one hand, and, on the other, points in the U.S., under a continuing contract or contracts with Service Merchandise Company, Inc. of Nashville, TN. Supporting shipper: Service Merchandise Company, Inc., 2968 Foster Creighton Drive, Nashville, TN 37204.

MC 138157 (Sub-3–36TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Computers, computer parts and accessories, and materials, equipment, and supplies used in the manufacture, production, and distribution of computers and computer parts and accessories* between Sunnyvale, Cupertino, San Jose, Thousand Oaks, Costa Mesa, and Irvine, CA and the Los Angeles, CA commercial zone; Carrollton and Richardson, TX; Charlotte, NC; Sudbury and Boston, MA; Minneapolis, MN; and Chicago, IL. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Apple Computer, Inc. Supporting shipper: Apple Computer, Inc., 10455 Bandley Drive, Cupertino, CA 95014.

MC 144225 (Sub-3–2TA), filed November 4, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract: Irregular: lumber, lumber products, wood lathe, fence posting, landscape ties, and fire logs,* between points in the U.S. in and east of WI, IL, KY, TN and AL, under continuing contract(s) with Sam Cyr Enterprises, Ltd., for 270 days. Supporting shipper: Sam Cyr Enterprises, Ltd., P.O. Box 480, St. Basile, New Brunswick, Canada E0L 1H0.

MC 152542 (Sub-3–1TA), filed November 4, 1980. Applicant: DAVID W. TAYLOR, 8265 Shallowford Road, Lewisville, NC 27023. Representative: David W. Taylor (same as above). *Contract Carrier:* Irregular route: *New furniture,* from NC, to: VA, DC, MD, PA, OH, GA, SC, TN, KY, WA, CT, NJ, IN, IL, DE, & FL. Supporting B Home Furnishing, 1930 Healy Drive, Winston-Salem, NC 27103.

MC 135812 (Sub-3–2TA), filed November 5, 1980. Applicant: PROFESSIONAL DRIVE SERVICES, INC., 1631 Lebanon Road; Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Used trucks, in driveway service,* from Louisville, KY and Nashville, TN to Ontario, CA and its Commercial Zone. Supporting shipper: Mack Trucks, Inc., P.O. Box 4160, Richmond, VA 23224.

MC 148442 (Sub-3–2TA), filed November 7, 1980. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., d.b.a. SOUTHEASTERN TRANSPORT COMPANY, 607 10th Avenue North, Nashville, TN 37202. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Foodstuffs, (except commodities in bulk)* from the facilities utilized by Adams Packing Association, Inc. at or near Memphis, TN to points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, Florida 33823.

MC 143059 (Sub-3–24TA), filed November 4, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: Janice K. Taylor (same address as applicant). *Building materials (except in bulk, in tank vehicles),* between Elbert County, GA, and ND, SD, MT, WY, CO, ID, UT, WA, OR and NV. Supporting shipper: Martins Fireproofing Co., P.O. Box 768, Elberton, GA 30635.

MC 152486 (Sub-3–1TA), filed November 3, 1980. Applicant: EUGENE DIXON d.b.a. EUGENE DIXON TRUCKING, Rt. 1, Crandall, GA 30711. Representative: Eugene Dixon (same address as applicant). *Contract carrier,* irregular routes: *Limestone rock,* from Chattanooga, TN to Dalton and Chatsworth, GA. Supporting shippers: Georgia Talc Company, P.O. Box 370, Chatsworth, GA 30705; Latex Filler & Chem. Co., Inc., P.O. Box 1546, Dalton, GA 30720; and H&S Industries, Inc., P.O. Box 601, Dalton, GA 30720.

MC 107515 (Sub-3–83TA), filed November 3, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Imported wine, spirits and beverages (except in bulk) having a prior movement by water, in vehicles equipped with mechanical refrigeration* from ports of entry to the US on the Guld of Mexico to CO, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, KY, TN, AL and GA. Supporting shipper: Lykes Bros. Steamship Co., Inc., Lykes Center, 300 Poydras St., New Orleans, LA 70130.

MC 121654 (Sub-3–25TA), filed November 5, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Steel trusses,* from facilities of East Coast Steel, Eastover, SC to points in RI, CT, MA, NY, NJ, PA, MD, DE, NC, FL, GA, AL, MS and LA. Supporting shipper: East Coast Steel, P.O. Box 276, Eastover, SC 29044.

MC 108676 (Sub-3–5TA), filed November 4, 1980. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Michael S. Teets (same address as applicant). *Glass, glass products, and commodities used in the manufacture and distribution thereof,* between San Joaquin County, CA, on the one hand, and, on the other, points in the US in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 149228 (Sub-3–8TA), filed November 4, 1980. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28202. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *General commodities (except those of unusuol value, commodities in bulk, Classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission,* between the facilities of Singer Company, Coil Div., located at or near Wilmington, NC, Red Bud, IL, and Albany, NY, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Singer Co., Coil Div., 602 Sunnyvale Dr., Wilmington, NC.

MC 150403 (Sub-3–1TA), filed November 4, 1980. Applicant: CROWN EXPRESS, INC., P.O. Box 21396, Columbia, SC 29221. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Fiber, yarn, materials, equipment and supplies used in manufacture and distribution of fiber and yarn (except commodities in bulk)* between the facilities of Allied Chemical Corporation at or near Irmo and Columbia, SC, on the one hand, and, on the other, AL, AR, CA, FL, GA, LA, MS, MD, NC, NJ, OK, PA, SC, TN, TX, VA and WV. Supporting shipper: Allied Chemical Corporation, P.O. Box 1788, Columbia, SC 29202.

MC 141652 (Sub-3–5TA), filed November 4, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. *Power tools, power tool stands, electric motors, industrial vacuum cleaners and hardware (parts/accessories)* from Memphis, TN to Reno and Sparks, NV. Restricted to the transportation of traffic originating at the facilities of Rockwell International. Supporting shipper: Rockwell International Corp., 4290 Raines Road, Memphis, TN 38228.

MC 144083 (Sub-3–1TA), filed November 3, 1980. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Portable household appliances* (1) from the facilities of National Presto Industries, Inc., Canton, Mississippi, to points in AZ, CA, ID, NM, NV, OR and WA. (2) from Alamogordo, NM to the facilities of National Presto Industries, Inc., at Canton, Mississippi. Supporting shipper: National Presto Industries, Inc., 3925 North Hastings Way, Eau Claire, WI 54701.

MC 144011 (Sub-3–3TA), filed November 3, 1980. Applicant: HALL SYSTEMS, INC., 214 So. 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Common carrier: Regular General Commodities (with usual exceptions) moving in interstate or foreign commerce,* between New Orleans and Baton Rouge, LA, from New Orleans over US Hwys Interstate 10 and US Hwy 61 to Baton Rouge, serving no intermediate points and serving all points in the commercial zone of Baton Rouge, LA. Applicant intends to tack with authority held in MC–144011 at New Orleans, LA, and to interline at New Orleans and Baton Rouge, LA. There are eleven (11) supporting shipper statements in support to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 107515 (Sub-3–84TA), filed November 5, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such merchandise as is dealt in or used by food business houses (except commodities in bulk)* between points in the US, restricted to traffic originating at or destined to the facilities used by Jeno's, Inc. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 151526 (Sub-3–2TA), filed November 4, 1980. Applicant: TRIAD TRANSPORTATION SERVICES, INC., P.O. Box 20714, Greensboro, NC 27420. Representative: Jerald A. Honeycutt (same as above). *Plastics and plastic articles, resins, and materials, equipment and supplies used in the manufacture, sale, distribution and installation of plastics and plastic articles,* between points in Guilford, Davidson, Rockingham and Randolph Counties, NC, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: There are five statements is support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 146451 (Sub-3–25TA), filed November 5, 1980. Applicant: WHATLEY–WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: William K. Martin, P.O. Box 2069, Montgomery, AL 36197. *Power transmission machinery, and related parts, attachments, accessories and supplies (except those commodities which because of size or weight require the use of special equipment),* from Chambersburg, PA, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Trenton, TN, and from Trenton, TN, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Chambersburg, PA. Supporting shipper: T. B. Woods Sons Company, 440 North Fifth Avenue, Chambersburg, PA 17201.

MC 144827 (Sub-3–19), filed November 5, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which at the time are moving on Bills of Lading of freight forwarders* from Cranston, RI; Milford, CT; Secaucus, NJ; Boston, MA; Philadelphia, PA; Baltimore, MD; and Cincinnati, OH to Laredo, TX; New Orleans, LA; and El Paso, TX. Supporting shipper: Florida-Texas Freight, Inc., P.O. Box 1173, Secaucus, NJ 07094

MC 134105 (Sub-3–6TA), filed November 5, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Groceries, provisions and supplies sold and used in retail grocery stores (except commodities in bulk),* between points in the United States in and east of ND, SD, NE, CO, OK and TX restricted to the transportation of traffic either originating at or destined to the facilities of the Kroger Company. Supporting shipper: The Kroger Company, 1240 State Avenue, Cincinnati, OH 45204.

MC 138157 (Sub-3–35TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Fans, heaters, and stands and materials, equipment, and supplies used in the manufacture, production, and distribution of fans, heaters, and stands* between Ft. Worth, TX; Franklin, TN; and West Chester and Columbia, PA on the one hand, and, on the other, points in U.S. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Lasko Metal Products. Supporting shipper: Lasko Metal Products, 820 Lincoln Avenue, West Chester, PA 19380.

MC 147511 (Sub-3–2TA), filed November 5, 1980. Applicant: DELMAR RAY IPOCK, d.b.a. EAST CAROLINA CARTAGE CO., P.O. Box 1245, Kinston, NC 28501. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Synthetic fiber waste* from points in Berkley County, SC to the facilities of E. I. Du Pont de Nemours and Company in Lenoir County, NC. Supporting shipper(s): E. I. Du Pont de Nemours and Company, Wilmington, DE 19898.

MC 148423 (Sub-3–6TA), filed November 5, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Building, Macon, GA 31201. *Road building materials and aggregates* from points in GA to points in SC and from points in SC to points in GA. Supporting shippers: J & B Slurry Seal Co., Route 4, Box 203B, Rockingham, NC 28379; Clarke Block Company, Tremont and Ogeechee Roads, Savannah, GA 31405; Stone & Sand, Inc., 5601 Ogeechee Road, Savannah GA 31405; and Pre-Cast

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Concrete Products, 2820 Tremont Road, Savannah, GA 31405.

MC 124117 (Sub-3–4TA), filed November 5, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Malt beverages and brewery supplies,* between LaCrosse, WI (and its commercial zone) on the one hand, and, on the other, points in AL, GA and TN. Supporting shipper: G. Heileman Brewing Company, Inc., 100 Harborview Plaza, LaCrosse, WI 54601.

MC 115311 (Sub-3–12TA), filed November 5, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Fibrous glass products, insulating products and materials, equipment and supplies used in the manufacture, distribution and installation of same* from the facilities of Johns-Manville Sales Corporation at Winder, GA to points in AL, FL, LA, MS, NC, SC, TN and VA. Supporting shipper: Johns-Manville Sales Corporation, P.O. Box 105545, Atlanta, GA 30348.

MC 148773 (Sub-3–2TA), filed November 4, 1980. Applicant: A. F. L. TRUCK LINES, INC., 3361 W. Blue Heron Blvd., Riviera Beach, FL 33404. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract* carrier: irregular: *Fiberglass structural components, tanks and vessels* from Miamitown, OH to points in Dade County, FL under a contract or continuing contracts with R. L. Industries, Inc. Supporting shipper: R. L. Industries, Inc. 5885 State Route 128, Miamitown, OH 45041.

MC 125368 (Sub-3–13TA), filed November 3, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Nonexempt foods or kindred products* for H. J. Heinz Company, between Allegheny County, PA, Sandusky County, OH and Ottawa County, MI on the one hand, and, on the other, points in FL, SC, and TX. Supporting shipper: H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 152530 (Sub-3–1TA), filed November 4, 1980. Applicant: WINDER'S WRECKER SERVICE CO., 5315 Knight Arnold Road, Memphis, TN 38118. Representative: Robert L. White, Suite 1031, 100 North Main, Memphis, TN 38103. *Wrecked, disabled and replacement vehicles in truck away or tow away service,* between Memphis, TN and its commercial zone on the one hand, and, on the other, points in AL, AR, IL, KY, LA, MO, and MS. Supporting shipper: There are 9 appendix of support which may be reviewed at the Atlanta, GA Regional Office.

MC 152532 (Sub-3–1TA), filed November 5, 1980. Applicant: G & W PAVING, INC., Highway 31 South, P.O. Box 237, Garden City, AL 35070. Representative: D. E. Wood (same address as applicant). *Contract, irregular: Dry fertilizer and fertilizer raw materials,* between points in the states of AL and GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, Atlanta, GA 30346.

MC 121644 (Sub-3–3TA) filed November 4, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. *Common carrier:* regular routes: *General Commodities (except household goods as defined by the Commission and classes A and B explosives)* between Atlanta, GA, and Bristol, VA (1) From Atlanta over I–85 to junction with I–26, then over I–26 to junction with I–40, then over I–40 to junction with I–81, then over I–81 to Bristol and return over the same route, serving all intermediate points and serving all points in Hawkins, Sullivan, Cocke, Hamblen, Jefferson, Greene, Washington, Knox and Carter Counties, TN, Harrison County, VA, and Anderson, Greeneville and Spartanburg Counties, SC, Buncombe County, NC, and Dade, Walker, Catoosa, Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points and serving the commercial zones of all authorized service points. (2) From Atlanta, GA, over I–75 to junction with I–40, then over I–40 to junction with I–81 then over I–81 to Bristol and return over the same route serving the intermediate points Chattanooga and Knoxville, TN, and serving all other points in Cocke, Hamblen, Jefferson, Greene, Washington, Knox, and Carter Counties, TN, and Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points; and serving the commercial zones of all authorized service points. Applicant proposes to interline at Atlanta, GA, Greeneville and Spartanburg, SC, Asheville, NC, Bristol, Johnson City and Kingsport, TN and Bristol, VA, and proposes to tack with existing authority in MC–121644. Supporting Shippers: There are 37 statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 61264 (Sub-3–4TA), filed November 5, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., a North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: Mrs. Pansy Beroth, Pilot Freight Carriers, Inc., P.O. Box 615, Winston-Salem, NC 27102. Common carrier, regular routes, *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious and contaminating to other lading),* (1) Between Tallahassee, FL and Alachua, FL: From Tallahasee over US Highway 27 to junction US Highway 441, then over US Highway 441 to Alachua, and return over the same route; (2) between Tallahassee, FL and Jacksonville, FL: From Tallahasse over US Highway 90 (also over Interstate Highway 10) to Jacksonville, and return over the same route; (3) between Tallahassee, FL and Boston, MA: From Tallahassee over US Highway 27 to Chattanooga, TN, then over Interstate Highway 24 to junction Interstate Highway 65, then over Interstate Highway 65 to junction Interstate Highway 71, then over Interstate Highway 71 (also over US Highway 42) to junction Interstate Highway 90, then over Interstate Highway 90 to Boston, and return over the same route; (4) Between Capps, FL and Pittsfield, MA: From Capps over US Highway 19 to junction US Highway 23, then over US Highway 23 to junction US Highway 19, then over US Highway 19 to Erie, PA, the over US Highway 20 to Pittsfield, and return over the same route; (5) between Phenix City, AL and Jacksonville, FL: From Phenix City over US Highway 280 to Richland, GA, then over GA Highway 55 to Dawson, GA, then over US Highway 82 to junction US Highway 1, then over US Highway 1 to Jacksonville, and return over the same route; (6) between Georgetown, GA and Dawson, GA: From Georgetown over US Highway 82 to Dawson, and return over the same route; (7) between Bainbridge, GA and Savannah, GA: From Bainbridge over US Highway 84 to Waycross, GA, then over US Highway 82 to junction US Highway 17, then over US Highway 17 to Savannah, and return over the same route; (8) between Macon, GA and Lake City, FL: From Macon over Interstate Highway 75 (also over US Highway 41) to Lake City, and return over the same route; (9) Between Macon, GA and Cincinnati, OH: From Macon over

Interstate Highway 75 to Cincinnati, and return over the same route; (10) between Macon, GA and Phenix City, AL: From Macon over US Highway 80 to Phenix City, and return over the same route; (11) between Macon, GA and Jacksonville, Fl: From Macon over US Highway 23 to junction US Highway 341, then over US Highway 341 to Brunswick, GA, then over US Highway 17 to Jacksonville, and return over the same route; (12) between Cincinnati, OH and Portsmouth, OH: From Cincinnati over US Highway 52 to Portsmouth, and return over the same route; (13) between Valkdosta, GA and Augusta, GA: From Valdosta over US Highway 84 to junction US Highway 1, then over US Highway 1 to Augusta, and return over the same route; (14) between junction Interstate Highway 287 and Interstate highway 80 and junction Interstate highway 80 and US Highway 42: From junction Interstate Highway 287 over Interstate Highway 80 to junction US Highway 42, and return over the same route; (15) between junction interstate Highway 295 and US Highway 30 and junction US Highway 30 and US Highway 42: From junction Interstate Highway 295 over US Highway 30 to junction US Highway 42, and return over the same route; (16) between Buffalo, NY and Bedford, PA: From Buffalo over NY Highway 16 to junction PA Highway 646, then over PA Highway 646 to junction US Highway 219, then over US Highway 219 to Johnsonburg, PA, then over PA Highway 255 to Penfield, PA, then over PA Highway 153 to Clearfield, PA, then over US Highway 322 to Philipsburg, PA, then over PA Highway 350 to Bald Eagle, PA, then over US Highway 220 to Bedford, and return over the same route; (17) between junction US Highway 50 and MD Highway 404 and Milford, DE: From junction US Highway 50 over MD Highway 404 to junction MD Highway 313, then over MD Highway 313 to junction MD Highway 317, then over MD Highway 317 to junction DE Highway 14, then over DE Highway 14 to Milford, and return over the same route; (18) between Wheeling, WV and Columbus, OH: From Wheeling over US Highway 40 to Columbus, and return over the same route; (19) between Cleveland, OH and junction Interstate Highway 77 and Interstate Highway 81: From Cleveland over Interstate Highway 77 to junction Interstate Highway 81, and return over the same route; (20) between Delaware, OH and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From Delaware over US Highway 23 to Asheville, and return over the same route; (21) between Xenia, OH and Charleston, WV: From Xenia over US Highway 35 to junction US Highway 60, then over US Highway 60 to Charleston, and return over the same route; (22) between junction US Highway 42 and US Highway 33 and junction US Highway 50 and interstate Highway 77: From junction US Highway 42 over US Highway 33 to Athens, OH, then over US Highway 50 to junction Interstate Highway 77, and return over the same route: (23) between junction New Jersey Turnpike and New Jersey Highway 42 and Bedford, PA: From junction NJ Turnpike over NJ Highway 42 to junction Interstate Highway 76, then over Interstate Highway 76 to Bedford, and return over the same route; (24) between Medina, OH and Akron, OH: From Medina over OH Highway 18 to Akron, and return over the same route; (25) between Charleston, WV and Lexington, KY: From Charleston over US Highway 60 to Lexington, and return over the same route; (26) between Rouses Point, NY and Chattanooga, TN, serving all intermediate points, but serving intermediate points in Virginia for joinder only: From Rouses Point over US Highway 11 to US Highway 11W, then over US Highway 11W (also over US Highway 11E) to junction US Highway 11, then over US Highway 11 to Chattanooga, and return over the same route; (27) between junction Interstate Highway 75 and Interstate Highway 40 and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From junction Interstate Highway 75 over Interstate Highway 40 to Asheville, and return over the same route; (28) between Erie, PA and Charleston, WV: From Erie over Interstate Highway 79 to Charleston, and return over the same route; (29) between Niagara Falls, NY and Bellaire, OH: From Niagara Falls over US Highway 62 to junction OH Highway 7, then over OH Highway 7 to Bellaire, and return over the same route; (30) between Watertown, NY and Malone, NY: From Watertown over NY Highway 37 to Malone, and return over the same route; (31) between Binghamton, NY and Troy, NY: From Binghamton over NY Highway 7 (and also over completed portions of Interstate Highway 88) to Troy, and return over the same route; (32) between Rochester, NY and Lucketts, VA: From Rochester over NY Highway 15 (also over Highway 15A) to junction Interstate Highway 390, then over Interstate Highway 390 to junction NY Highway 17, then over NY Highway 17 to junction US Highway 15, then over US Highway 15 to Lucketts, and return over the same route; (33) between Binghamton, NY and Alexandria Bay, NY: From Binghamton over NY Highway 12 to Alexandria Bay, and return over the same route; (34) between New York, NY and Champlain, NY: From New York over Interstate Highway 87 to Albany, NY, then over Interstate Highway 87 (also over US Highway 9) to Champlain, and return over the same route; (35) between Alexandria Bay, NY and Chattanooga, TN: From Alexandria Bay over NY Highway 12 to junction Interstate Highway 81, then over Interstate Highway 81 to junction Interstate Highway 75, then over Interstate Highway 75 to Chattanooga, and return over the same route; (36) between Westfield, NY and Newark, NJ: From Westfield over NY Highway 17 to junction NJ Highway 17, then over NJ Highway 17 to Newark, and return over the same route; (37) between junction Interstate Highways 76 and 276 and junction Interstate Highway 276 and New Jersey Turnpike: From junction Interstate Highway 76 over Interstate Highway 276 to junction NJ Turnpike, and return over the same route; (38) between junction Interstate Highway 81 and Interstate Highway 78 and New York, NY: From junction Interstate Highway 81 over Interstate Highway 78 to junction Interstate Highway 287, then over Interstate Highway 287 to junction US Highway 22, then over US Highway 22 to junction Interstate Highway 78, then over Interstate Highway 78 to New York, and return over the same route; (39) between junction Interstate Highway 87 and US Highway 202 and Perth Amboy, NJ: From junction Interstate Highway 87 over US Highway 202 to junction Interstate Highway 287, then over Interstate Highway 287 to Perth Amboy, and return over the same route; (40) between Eatonton, GA and Tifton, GA: From Eatonton over US Highway 441 to Jacksonville, GA, then over US Highway 319 to Tifton, and return over the same route; (41) between Harrisburg, PA and junction MD Highway 3 and US Highway 50/301: From Harrisburg over Interstate Highway 83 to Baltimore, MD, then over MD Highway 3 to junction US Highway 50/301, and return over the same route; (42) between Winchester, VA and Frederick, MD: From Winchester over VA Highway 7 to junction US Highway 340, then over US Highway 340 to Frederick, and return over the same route; (43) between Enfield, CT and Springfield, MA: From Enfield over US Highway 5 to Springfield, and return over the same route; (44) between Hartford, CT and junction Interstate Highway 86 and Interstate Highway 90

at interchange #9 in MA: From Hartford over Interstate Highway 86 to junction Interstate Highway 90, and return over the same route; (45) between Scranton, PA and Port Jervis, NY: From Scranton over Interstate Highway 84 to Port Jervis, and return over the same route; (46) between Trenton, NJ and junction US Highways 13 and 301S: From Trenton over US Highway 1 to junction US Highway 13, then over US Highway 13 to junction US Highway 301S, and return over the same route; (47) between junction PA Highway 3 and US Highway 202 and junction US Highway 13 and US Highway 40: From junction PA Highway 3 over US Highway 202 to Wilmington, DE, then over DE Highway 141 to junction US Highway 13, then over US Highway 13 to junction US Highway 40, and return over the same route; (48) between junction US Highway 301 and MD Highway 300 and Dover, DE: From junction US Highway 301 over MD-DE Highway 300 to junction DE Highway 44, then over DE Highway 44 to junction DE Highway 8, then over DE Highway 8 to Dover, and return over the same route; (49) between Wilmington, DE and Waverly, NY: From Wilmington over US Highway 13 to Philadelphia, PA, then over PA Highway 611 to junction PA Highway 309, then over PA Highway 309 to Tunkhannock, PA, then over US Highway 6 to Towanda, PA, then over US Highway 220 to Waverly, and return over the same route; (50) between Murphy, NC and Chattanooga, TN: From Murphy over US Highway 64 to Chattanooga, and return over the same route; (51) between Ocoee, TN and Chatsworth, GA: From Ocoee over US Highway 411 to Chatsworth, and return over the same route; (52) between Trout Run, PA and Horseheads, NY: From Trout Run over PA Highway 14 to junction NY Highway 14, then over NY Highway 14 to Horseheads, and return over the same route; (53) between Havre de Grace, MD and Lancaster, PA: From Havre de Grace over US Highway 222 to lancaster, and return over the same route; (54) between Port Jervis, NY and Philadelphia, PA: From Port Jervis over US Highway 209 to junction PA Highway 611, then over PA Highway 611 to Philadelphia, and return over the same route.

Serving all intermediate points and Commercial Zones thereof on the above routes and serving as off-route points all points in Georgia on and south of US Highway 80 and on and west of US Highway 41, and all points in Florida east of the Apalachicola River and in and west of Leon and Wakulla Counties. Applicant has also filed an underlying ETA seeking 120 days of operating authority. Supporting shipper(s): There are approximately 35 statements of support attached to the application which may be examined at the Interstate Commerce Commission, Regional Complaint and Authority Center, P.O. Box 7520, Atlanta, GA 30309. Send protests to: Interstate Commerce Commission, Regional Complaint Center, P.O. Box 7520, Atlanta, GA 30309.

Note.—Applicant intends to tack the above with its existing authorities under MC 61264 and Subs and to interline with other carriers.

MC 146331 (Sub-3–1–TA), filed November 6, 1980. Applicant: CLIFF GILL, d.b.a. GILL ENTERPRISES, Rt. 1, Box 297–B, P.O. Box 851, Semmes, AL 36575. Representative: Cliff Gill (same as applicant). *Contract Carrier,* irregular routes, *Hazardous and non-hazardous waste* between points in AL, AR, LA, MS, NV, OK, FL and TX, under continuing contract(s) with Environmental Pollution Control, Inc. Supporting shipper: Environmental Pollution Control, Inc., P.O. Box 9336, Mobile, AL 36691.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 144879 (Sub-4–1TA), filed November 7, 1980. Applicant: D AND J TRANSFER COMPANY, INC., Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described by the Commission (except in bulk), from the facilities of Landy Packing Co., at or near St. Cloud, MN to points in the states of IL, IN, IA, KS, KY, MI, MO, NE, ND, SD, OH, and WI. Supporting shipper: Landy Packing Co., P.O. Box 670, First Avenue and 16th Street South, St. Cloud, MN 56301. An underlying ETA seeks 120 days authority.

MC 145371 (Sub-4–2TA), filed November 6, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Automotive chemicals (except in bulk) and packaging materials* from the facilities of Konalrad Products, Inc. at Columbus Grove and Pandora, OH to Murray and Salt Lake City, UT and points in CA, CO, IA, IL, KS, MN, MO, NC, NE, NJ, NY, OK, OR, PA, SC, TX, VA, WA and WI. Supporting shipper: Konalrad Products, Inc., 501 South Basinger Road, Pandora, OH 45877.

MC 126276 (Sub-4–10TA), filed November 6, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Contract carrier,* irregular routes: *Waste paper and newsprint, and materials and supplies used or useful in the manufacture and distribution of the above items,* between Alsip, IL, on the one hand, and, on the other, points in the United States, under a continuing contract or contracts with FSC Paper Corporation, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: FSC Paper Corporation, Inc., 13101 South Pulaski Road, Alsip, IL 60658.

MC 152516 (Sub-4–1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle St., Rm. 1164, Chicago, IL 60601. *Contract;* irregular; *general commodities,* except for articles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous forty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.

MC 150860 (Sub-4–1TA), filed November 6, 1980. Applicant: CAL BETTEN TRUCKING, 4212 44th St. SW., Grandville, MI 49418. Representative: D. Richard Black, Jr., Cottonwood Drive, Jenison, MI 49428. Contract—irregular, *Health and beauty aids, drugs and toilet articles* between Allegan, MI and North Little Rock, AR; Glendale, AZ; Phoenix, AZ and commercial zones; Tempe, AZ and commercial zones; Los Angeles, CA and commercial zones; Sacramento, CA; San Francisco, CA and commercial zones; North Hampton, CT; Fort Lauderdale, FL; Largo, FL; Melbourne, FL; Orlando, FL; Atlanta, GA; East Point, GA; Newnan, GA; Shenandoah, GA; Chicago, IL; Indianapolis, IN; Kansas City, KS; Auburn, MA; Detroit, MI; Hazelwood, MO; St. Louis, MO; Charlotte, NC; Henderson, NC; Berkeley Heights, NJ; Clifton, NJ; Fairless Hills, NJ and surrounding area; Patterson, NJ and surrounding area; Reno, NV; Sparks, NV; Brooklyn, NY and surrounding area; Norwich, NY; Cleveland, OH; Port Clinton, OH; Oklahoma City, OK and commercial zones; Portland, OR; Harrisburg, PA; Morrisville, PA; Somerset, PA; North Augusta, SC; Knoxville, TN; Memphis, TN; Nashville, TN; Dallas, TX; Houston, TX; Tamina, TX; Salt Lake City, UT and commercial zones; Salem, VA; Charleston, WV; Washington, DC. Supporting shipper: L. Perrigo, Inc., 117 Water Street, Allegan, MI.

MC 118202 (Sub-4–13TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packing houses,* from the facilities of Landy, Inc., at St. Cloud, MN to points in CT, DE, IL, IN, IA, KS, KY, ME, MO, MA, MI, MD, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, WI and DC. Supporting shipper: Landy Packing Company, P.O. Box 670, St. Cloud, MN 56301.

MC 128652 (Sub-4–8), filed November 6, 1980. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877 Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. *Contract,* irregular; *Clothing,* and *materials, equipment and supplies used in the manufacture and sale of clothing,* between Hamilton, AL; Burlington, NJ; and Crossville, TN; on the one hand, and on the other, Minneapolis, MN under continuing contract(s) with Munsingwear, Inc. Supporting shipper: Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, MN 55405.

MC 118202 (Sub-4–12TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packinghouses,* from Rochelle, IL to points in Florida. An underlying ETA seeks 120 days authority. Supporting shipper: Swift Independent Packing Co., a division of Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604.

MC 152515 (Sub-4–1TA), filed November 6, 1980. Applicant: WILLIAM J. TURNER, d.b.a. SUPREME PARCEL SERVICE, 1815 Ogden Ave., Lisle, IL. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Electronic and plastic products and parts, and materials, equipment and supplies used in the manufacture, assembly, sale and distribution of electronic and plastic products (except in bulk),* between Lisle, IL, on the one hand, and, on the other, Niles, MI, South Bend, IL, and Milwaukee and West Bend, WI. Supporting shippers: Molex, Inc., Lisle, IL, and Bruck Plastics, Broadview, IL.

MC 119974 (Sub-4–2TA), filed November 6, 1980. Applicant: L. C. L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *Lard and Animal Oil, in tank vehicles,* between Sioux Falls and Huron, SD on the one hand and the states of IL, IA, MN, NE and WI on the other. An underlying ETA seeks 120 days authority. Supporting shipper: Armour & Company, Greyhound Tower, Phoenix, AZ 85077.

MC 59124 (Sub-4–2TA), filed November 6, 1980. Applicant: MAIERS MOTOR FREIGHT COMPANY, 875 E. Huron Ave., Vassar, MI 48764. Representative: Wayne D. Fox (same as applicant). *Castings and materials, equipment and supplies used in the manufacture and distribution of castings* between the facilities of Eaton Corporation at Vassar, MI, on the one hand, and, on the other, points in AL, IA, IL, IN, MI, MN, MO, OH and WI. Supporting shipper: Eaton Corporation, General Products Division, 700 E. Huron Ave., Vassar, MI 48768.

MC 95876 (Sub-4–7TA), filed November 3, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Irrigation systems, equipment,* and *parts* therefor, from Douglas County, GA, to points in the U.S. (including AK but excluding HI). Supporting shipper: Irrifrance U.S.A., P.O. Box 939, Villapak, GA 30180.

MC 124078 (Sub-4–44TA), filed November 3, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevete, P.O. Box 1601, Milwaukee, WI 53201. *Isopropanol Alcohol* (Flammable Liquid) in liquid bulk tank trucks, from Deer Park, TX and Baton Rouge, IA to Augusta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: The Kendall Company P.O. Box 157, Bethune, S.C. 29009.

MC 145748 (Sub-4–2TA), filed November 5, 1980. Applicant: MEYERS TRANSFER, INC., Rt. 64, East, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Transporting *(a) Buildings, structures, KD, prefabricated, precut, or otherwise, and components thereof; Materials, supplies, equipment and appliances built into or used in such buildings or structures; and (b) Equipment, materials, and supplies used or useful in the manufacture, sale or distribution of the commodities described in (a) above,* between points in the U.S. Supporting shipper: Cedar Forest Products Co., 107 West Coloen, Polo, IL 61064.

MC 152489 (Sub-4–1TA), filed November 5, 1980. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Ceramic tile,* from Lexington, NC to Minneapolis, MN commercial zone. Supporting shipper: KATE–LO, Inc., 6750 West Broadway, Minneapolis, MN 55428. An underlying ETA seeks 120 days authority.

MC 152389 (Sub-4–1TA), filed November 5, 1980. Applicant: JIM'S HOT SHOT SERVICE, INC., Box 212, Mandan, ND 58554. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Equipment, materials, parts and supplies* (excluding drilling rigs and liquid commodities in bulk) used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, between points in ND on and west of U.S. Hwy. 83, on the one hand, and, on the other, points in MT, WY, UT, CO, SD, NE, KS, NM, LA, OK and TX. An underlying ETA seeks 120 days authority Supporting shippers: There are 10 statements of support attached.

MC 152516 (Sub-4–1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle Street, Rm. 1164, Chicago, IL 60601. *Contract;* irregular; *general commodities,* except for particles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous fourty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.

MC 152513 (Sub-4–1TA), filed November 6, 1980. Applicant: LARRY JACOBSON, Rural Route No. 2, Williston, ND 58501. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Dry ground corn starch,* from the facilities of Hubinger Company at or near Keokuk, IA to points in ND on and west of U.S. Hwy 83 and to points in MT in and east of Valley, Garfield, Rosebud, and Powder River Counties, MT. Supporting shipper: Hubinger Company, 601 Main St., Keokuk, IA 52632. An

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underlying ETA seeks 120 days authority.

MC 54591 (Sub-4–1TA), filed October 21, 1980. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1207, 1820 West 16th Street, Indianapolis, IN 46206. Representative: J. E. Morley, P.O. Box 1207, 1820 West 16th St., Indianapolis, IN 46206. *Common,* Regular *Passengers and their baggage, and express and newspapers in the same vehicle with passengers,* between Indianapolis, IN and Louisville, KY via interstate Hwy 65, serving all intermediate points. Applicant proposes to tack the authority sought here at Indianapolis, IN with its existing authority and to interline at Indianapolis and Louisville, KY. Supporting shippers: There are 13 statements in support to this application.

MC 112801 (Sub-4–2TA), filed November 5, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Common;* irregular, *Liquid caustic soda, in bulk,* from the facilities of Diamond Shamrock Corporation, at or near St. Louis, MO, to points in IL. Supporting shipper: Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114.

MC 152514 (Sub-4–1TA), filed November 6, 1980. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Such commodities as are sold by retail and wholesale food and drug outlets,* between Racine and Waxdale, WI, on the one hand, and, on the other, points in the U.S. on and east of the Mississippi River. Supporting shipper: S. C. Johnson & Son, Inc., Racine, WI 53403.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 49387 (Sub-5–3), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Common,* regular *General commodities, except Classes A and B explosives and household goods as defined by the Commission,* between St. Louis, MO and its commercial zone, and Nashville, TN and its commercial zone, (1) from St. Louis over Interstate Hwy 64 to junction of Interstate Hwy 64 and U.S. Hwy 41, then over U.S. Hwy 41 to Nashville, and return over the same route; and (2) from St. Louis, MO over Interstate Hwy 64 to junction of Interstate Hwy 64 and Interstate Hwy 57, then over Interstate Hwy 57 to junction of Interstate Hwy 57 and Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, TN, and return over the same route. Applicant intends to tack and interline. There is no supporting shipper.

MC 49387 (Sub-5–4), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Brass, bronze and copper products,* between Kenosha, WI on the one hand, and, on the other, Trenton, Joplin and Jefferson City, MO and Logansport, IN, and their respective commercial zones. Supporting shipper: Anaconda Industries, 1420 63rd St., Kenosha, WI 53410.

MC 53965 (Sub-5–6), filed November 5, 1980. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio Avenue, Post Office Drawer 1387, Salina, KS 67401. Representative: William J. Bather, Executive Vice President, (same address as above), 913–827–0471. Common, regular. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) Between Houston, TX and New Orleans, LA and their commercial zones over Interstate Hwy 10, serving all intermediate points and their commercial zones; and (2) Between Baton Rouge, LA and Dallas, TX and their commercial zones, from Dallas, over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge and return over the same route, serving all intermediate points, and their commercial zones and serving Tyler and Kilgore, TX and their commercial zones as offroute points. (Applicant intends to tack and interline). Supporting shippers: 247.

MC 67234 (Sub-5–11), filed November 5, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, No. 314–727–0777. *Computer Frames* from Pennsauken, NJ to Bristol, TN. Supporting shipper(s): Sperry Univac Corporation, Plant Traffic Manager, Univac Drive, Bristol, TN 37620.

MC 102567 (Sub-5–14TA), filed November 5, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Sodium Hydrosulfide, in bulk, in tank vehicles,* from Big Lake, TX, to points in the states of AL, AR, LA, MS, and TN. Supporting shipper: T & T Chemicals, Inc., P.O. Box 782, El Dorado, AR 71730.

MC 105566 (Sub-5–16TA), filed November 5, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *General Commodities, except commodities in bulk, household goods as defined by the Commission and Classes A and B explosives,* between the facilities utilized by Rohm and Haas Company and its subsidiaries, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.

MC 123993 (Sub-5–27TA), filed November 5, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA. 70526. Representative: Byron Fogleman (same as applicant). *(1) Non-alcoholic beverages (except in bulk); (2) Materials and supplies used in the manufacture, distribution or sale of (1) (except in bulk)* between Jefferson County, TX on the one hand, and, on the other, St. Landry Parish, LA. Supporting shipper: Seven Up R–C Bottling Company, 3375 Port Arthur Road, Beaumont, TX 77701.

MC 133194 (Sub-5–5), filed November 5, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Road, P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr., Airport Road, P.O. Box 1047, Russellville, AR 72801. Common; Regular. (1) *Cloth, dry goods or fabrics and; Clothing; (2) New and used plant equipment used in the manufacturing of clothes,* (1) From the facility of Garan, Inc. at Ozark, AR over U.S. Hwy 64 to Peebe, AR, then over U.S. Hwy 67 to Poplar Bluff, MO, then over U.S. Hwy 60 to Cairo, KY, then over U.S. Hwy 51 to the facility of Garan, Inc. at Clinton, KY and return from the facility of Garan, Inc. at Clinton, KY, over the same above route to Garan, Inc. at Ozark, AR, serving no intermediate points. (2) From Memphis, TN over U.S. Hwy 51 to Garan, Inc. at Clinton, KY, then from Garan, Inc. at Clinton, KY, over U.S. Hwy 51 to Memphis, TN, serving no intermediate points.

MC 140665 (Sub-5–45), filed November 4, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Ann Holcombe, P.O. Box 786, Ravenna, OH 44266. *Chemicals, plastics, and such commodities as are used, dealt or distributed by Rohm and Haas Company (except commodities in bulk),* between the facilities utilized by Rohm and Haas Company at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.

MC 145154 (Sub-5–1TA), filed November 5, 1980. Applicant: YOUNG'S TRANSPORTATION CO., 1616 Bevis Street, Houston, TX 77008. Representative: Eric Meierhoefer and Joseph L. Steinfeld, Jr., Suite 423, 1511 K Street, NW., Washington, DC 20005. *Floor covering, materials, and supplies used in the distribution and sale thereof,* from Lancaster County, PA, to points in TX. Supporting shipper: Reader's Wholesale Distributors, Inc., 1201 Naylor, Houston, TX 77002.

MC 146055 (Sub-5–6TA), filed November 4, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats and packinghouse products,* from Omaha, NE to Sioux City, IA (and points in their respective commercial zones). Supporting shipper: Dubuque Packing Co., 4003 Dahlman Avenue, Omaha, NE 68107

MC 149568 (Sub-5–1TA), filed November 5, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Meat and Meat By-Products,* between points in the US. Supporting shipper: Vernon Calhoun Packing Company, Palestine, TX 75801.

MC 150425 (Sub-5–10TA), filed November 5, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Malt beverages,* from the facilities of Miller Brewing Co., at or near Ft. Worth, TX to Jefferson County, AR. Supporting shipper: Southeastern Distributing Co., Inc., P.O. Box 8868, Pine Bluff, AR 71611.

MC 150783 (Sub-5–15TA), filed November 4, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same as applicant). *Knocked down furniture, set-up furniture, bookcases, and copier cabinets.* From Conway, AR to the 48 continental states. Supporting shipper: Tiffany Stand and Furniture Co., N. Salem Rd., Conway, Arkansas 72032.

MC 152490 (Sub-5–1TA), filed November 5, 1980. Applicant: SABINE TRUCKING, INC., 322 Freeman St., Mineola, TX 75773. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Contract; irregular: *such commodities as are dealt in or used by retail, wholesale, and chain grocery stores, and food business houses, and materials, supplies and equipment used in connection with or incidental to the sale, manufacture, or distribution of such commodities,* between points in the U.S. under continuing contract(s) with Benham & Co., Inc., Phoenix Industries, Inc., Consolidated Mills, Inc., Texas Citrus Exchange, and Texsun Corp. Supporting shippers: Benham & Co., Inc., P.O. Box 29, Mineola, TX 75773; Phoenix Industries, Inc., P.O. Box 29, Mineola, TX 75773; Consolidated Mills, Inc., P.O. Box 3666, Houston, TX 77001; Texas Citrus Exchange, P.O. Box 793, Mission, TX 78572; and Texsun Corp., P.O. Box 327, Weslaco, TX 78596.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36000 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80–30346 appearing on page 65058 in the issue for Wednesday, October 1, 1980, make the following correction:

On page 65061, first column, under MC 123872 (Sub-3–5TA) for W & L MOTOR LINES, INC., in line 15, ". . . ME . . ." should have read ". . NE . . .".

BILLING CODE: 1505-01-M

[Ex Parte No. 394]

Cost Ratio for Recyclables; 1980 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: Section 204 of the Staggers Rail Act of 1980, Pub. L. 96–448, requires rail carriers to maintain rates for the transportation of recyclable materials, other than scrap iron and steel, at revenue-to-variable cost ratio levels equal to or less than a described average revenue-to-variable cost ratio. The Commission has calculated this average cost ratio to be 150%.

DATES: Comments should be filed by December 9, 1980.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: Section 204 of the Staggers Act of 1980 requires rail carriers to reduce and maintain rates for the transportation of recyclable materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. The carriers are required to take all necessary actions within 90 days of October 1, 1980, the effective date of the Staggers Act.

Although section 204 does not specifically direct the Commission to develop this average ratio, it does state that the Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of the section. The legislative history also indicates that Congress intended the Commission to establish the standard, H.R. Rep. No. 96–1430, 96th Cong. 2d Sess. 96 (1980); S. Rep. No. 96–470, 96th Cong., 1st Sess. 18–19, 33–34, 51, 61–62 (1979). We anticipate periodic recalculations of the average ratio.

As discussed in detail below, we have developed the ratio using regional applications of Rail Form A for the year 1977. We expect the base future average ratios upon the Unified Rail Costing System. However, after considering the short time period available for the calculation of this first ratio, and the fact that the new accounting system is not yet fully operational, we have used Rail Form A applications for the latest year available.

Calculation of the Average Ratio

The proposed revenue-to-variable cost ratio was developed in the following manner. Using regional applications of Rail Form A for the year 1977, the total fully allocated costs, that is, total variable costs plus total constant costs including tha allowance for cost of capital at the embedded debt rate, were

added to produce the total costs for the United States. The allowance for cost of capital at the embedded debt rate was removed to produce total operations expenses, rents, and taxes.

The current cost of capital was calculated by applying, to the net investment in transportation property, the composite cost of capital rate of 11.22 percent increased to a pre-tax figure of 18.12 percent using the statutory tax rate. The 11.22 percent rate was developed in Ex Parte No. 381, *Adequacy of Railroad Revenue (1980 Determination)*, decision served.

The current cost of capital was added to the total operating expenses, rents, and taxes to produce the total freight revenues which, after deducting operating expenses, rents, taxes, and federal income taxes would provide the included railroads with the proper cost of capital or fair return as found by the Commission in Ex Parte No. 381. The total freight revenues were then divided by the total variable costs, including the cost of capital at the embedded debt rate, to determine the average revenue-cost ratio which all traffic must produce to provide the proper cost of capital or fair return for the railroads.

Rate Reductions under Section 204

We also request comments concerning rate reduction requirements under the Staggers Act. Section 204 requires the railroads, within 90 days, to take all actions necessary to "reduce and thereafter maintain" rates for recyclables, other than scrap iron and steel, at cost ratio levels equal to or less than the defined average ratio. This wording implies that the carriers are to reduce immediately any above average recyclable rates.

However, section 204 goes on to state that as long as a rate exceeds the average cost ratio, the rate cannot be increased. This suggests that rates do not have to be decreased immediately. This interpretation is supported by the Joint Explanatory Statement of the Committee of Conference, which states the bill would prohibit increases for rates which are currently above the threshold until such time as the rate falls below the average revenue-to-variable cost threshold.

Because of the legislative history, we are inclined toward the interpretation that immediate reductions are not required. However, we invite the public to comment upon the question.

We do not expect that the proceeding will significantly afffect either the quality of the human environment or conservation of energy resources. However, comments on these issues are welcome.

Authority: 49 U.S.C. 10731(e).

Dated: November 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis , and Gilliam. Chairman Gaskins concurring with a separate expression. Commissioner Gilliam dissenting in part with a separate expression. Commissioner Clapp rejecting and dissenting with a separate expression.

Agatha L. Mergenovich,

Secretary.

Chairman Gaskins, concurring:

Section 10731(e) is internally inconsistent and cannot be reconciled to give all of its provisions a fair meaning. At the same time, it speaks of rate reductions, it speaks of rates continuing to exceed the average revenue-to-variable cost ratio level. The Conference Report strongly supports the majority position that railroads can avoid enormous burden of making reductions on all their recyclable rates in excess of the prescribed ratio level. Given the level of inflation, moreover, this question will quickly become moot. Any suggestion that our action "clearly violates" Congressional intent is without foundation.

Commissioner Gilliam, dissenting in part:

I find no Congressional intent to support the suggestion of the majority that railroads need to take no action to reduce rates on recyclables. The statute clearly states that necessary reductions must be made within 90 days. I do, however, agree with Commissioner Clapp that Congress allowed flexibility in making individual rate reductions for practical reasons. The railroads are still required to make the necessary reductions on an average basis within 90 days.

Commissioner Clapp, dissenting:

The suggestion that the railroads need take no action to reduce rates on recyclables clearly violates Congressional intent. I believe that the language which the majority claims is inconsistent merely evinces an awareness that railroads initially may have to make full rate reductions on an average commodity basis. If all carriers were to try to determine individual revenue to variable cost relationships on each and every particular rate, the physical burden would be enormous. Congress seems to contemplate a more practical two part approach. The railroads are to make any needed reductions on an average basis within 90 days. This may mean that some rates will exceed the average; these individual rates can only be increased thereafter to the extent that our revenue to variable cost threshold percentage exceeds the actual relationship for a particular movement.

[FR Doc. 80-36057 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Fortieth meeting of the Board for International Food and Agricultural Development (BIFAD) on December 5, 1980.

The purpose of the meeting is to receive and discuss the report of the Internal Staff Work Group on AID-University Relations; receive and discuss staff recommendations on Women in Development; receive and discuss reports of the Joint Research Committee (JRC); receive and discuss reports of the Joint Committee for Agricultural Development (JCAD); and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m. and will be held in Room 1107 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (AID), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: November 13, 1980.

Dr. Erven J. Long,

A.I.D. Advisory Committee Rep., Board for International Food and Agricultural Development.

[FR Doc. 80-36013 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-14 (Final)]

Plastic Animal Identification Tags From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of the affirmative preliminary determination on October 28, 1980, by the United States Department of Commerce that there is a reasonable basis to believe or suspect that benefits are granted by the Government of New Zealand with respect to the manufacture, production, or exportation of plastic animal identification tags which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 303-TA-14 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Since New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act of 1930 (hereianfter "the Act"), the Commission's investigation is being conducted pursuant to section 303 of the Act, as amended by section 103 of the Trade Agreements Act of 1979. For purposes of this investigation, the term "plastic animal identification tags" means plastic animal identification tags, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS). This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457).

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Case, Staff Investigator, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-0339.

SUPPLEMENTARY INFORMATION: On September 15, 1980, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 303-TA-14 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the TSUS, upon which a subsidy is allegedly provided. As a result of the Commissions determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales. Unless the investigation is extended, the final determination by the Department of Commerce of whether subsidies are being provided by the Government of New Zealand will be made not later than January 8, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before January 27, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on January 12, 1981.

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on January 30, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 12, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on January 14, 1981, in Room 117 at the U.S. International Trade Commission Building. Prehearing statements must be filed on or before January 27, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that "Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with sections 201.6 and 201.8 of this subpart." It is nevertheless the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

Issued: November 7, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36105 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Termination of Investigations Nos. 701-TA-65, 66, and 67 (Preliminary)]

Leather Wearing Apparel from Brazil, Korea, and Taiwan

AGENCY: U.S. International Trade Commission.

ACTION: Termination of preliminary countervailing duty investigations.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Office of Investigations, (202) 523-0368.

SUPPLEMENTARY INFORMATION: On October 15, 1980, following receipt of a petition filed by Ralph Edwards Sportswear, Inc., the Commission instituted preliminary countervailing duty investigations Nos. 701-TA-65, 66, 67, and 68, Leather Wearing Apparel from Brazil, Korea, Taiwan, and Uruguay. The purpose of the investigations was to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by

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reason of allegedly subsidized imports from Brazil, Korea, Taiwan, and Uruguay of leather wearing appeal, provided for in item 791.76 of the Tariff Schedules of the United States. On November 6, 1980, the Commission received advice from the Department of Commerce that it was initiating an investigation solely with regard to Uruguay. Because Commerce had not initiated an investigation on Brazil, Korea, and Taiwan within the prescribed time limits and because of the request of the petitioner to withdraw that portion of its petition applying to those three countries, the Commission's investigations concerning leather wearing apparel from Brazil, Korea, and Taiwan are hereby terminated pursuant to its authority under section 207.13 of the Commission's Rules of Practice and Procedure.

Issued: November 10, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36104 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Violations of an NPDES Permit by American Cyanamid Company at its Chemical Facility in Louisiana

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 7, 1980, a proposed consent decree in *United States* v. *American Cyanamid Company*, (E.D. La. No. 80-4409A(5)), was lodged with the United States District Court for the Eastern District of Louisiana. The proposed consent decree requires the defendant to meet specific effluent limitations and to construct at its Westwego, Louisiana facility a wastewater treatment system (or its equivalent) in compliance with a construction schedule as set forth in the consent decree. In addition, it provides for the payment of civil penalties to the United States ranging from $200 to $3,500 a day for each calendar day after the effective date of this decree that it fails to comply with this consent decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. American Cyanamid Company, (E.D. La. No. 80-4409A(5)).

The proposed consent decree may be examined at the Clerk's office, U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana 70130; and at the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice, Room 1254, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-36106 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Federal Advisory Committee on Immigration and Naturalization; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in New Orleans, Louisiana on December 11–12, 1980.

FOR FURTHER INFORMATION CONTACT: Verne Jervis, Public Information Officer of the Immigration and Naturalization Service, Room 7056, 425 "I" Street, N.W., Washington, D.C. 20536, telephone 202/633–2648.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. The meeting will start at 9:00 a.m. on Thursday, December 11, 1980 at the Postal Services Building, 701 Loyola Avenue, New Orleans, LA, conference room 9028. At 1:00 p.m. on Thursday, December 11 the meeting will be moved to conference room 14035 in the same building, and all additional sessions will be held in that room. The meeting will adjourn at 3:00 p.m. on December 11 and reconvene at 9:00 a.m. on December 12, continuing to approximately 1:00 p.m. (All Subcommittees will have work sessions on December 11 from 3:00 p.m. to 5:00 p.m.)

Federal Advisory Committee Agenda

FAC Meeting—December 11, 1980: 9:00 a.m. to 3:00 p.m.
Call to Order and Roll Call: 9:00 a.m.
Opening remarks by Acting Commissioner David Crosland and introduction of New Orleans District Director Edwin Chauvin, Jr.: 9:30 a.m.
Review of Agenda Topics: 10:30 a.m.
Reading of Minutes: 10:45 a.m.
Staff Presentations: 11:00 a.m.

(Presentations will cover the following: Study of INS by the President's Management Improvement Council, operation of the INS Office of Professional Responsibility, employment of minorities at INS, and INS Outreach program.)

Subcommittee Meetings: 3:00 p.m.
Friday, December 12, 1980:
Meeting reconvenes: 9:00 a.m.
Subcommittee reports: 9:15 a.m.
Public Commentary: 10:15 a.m.
Formal Recommendations to the Commissioner: 11:15 a.m.
Meeting Adjourns: 1:00 p.m.

Attendance is open to the interested public on a space available basis only. Persons or groups wishing to attend the meeting or to make public commentary should address a letter to Mr. Verne Jervis at the address below: U.S. Immigration and Naturalization Service, 425 I Street, N.W., Room 7056, Washington, DC 20536.

Dated: November 3, 1980.

David Dixon,

Acting Commissioner.

[FR Doc. 80-36010 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

November 13, 1980.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2 day meeting on Monday and Tuesday, December 1–2, 1980. The meetings will be held in Room 416, Page Building 1, 2001 Wisconsin Ave., NW., Washington, DC 20235. The meetings will commence at 9:00 a.m. on Monday and 9:30 a.m. on Tuesday.

The Committee, consisting of 18 non-Federal members, appointed by the President from academia, business and industry, State and local government, and public interest groups, was established by Congress by Public Law 95–63, on July 5, 1977. It duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce on the carrying out the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting schedule follows:

December 1, 1980.

Plenary Session

9:00 a.m.–9:30 a.m.
- Opening Remarks—Chairman

9:30 a.m.–10:30 a.m.
- Federal Ocean Program

Speaker: Martin Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration

10:30 a.m.–Noon
- Law of the Sea

Speaker: Ambassador Elliot Richardson

Noon–1:30 p.m.
Lunch

1:00 p.m.–4:00 p.m.
Panel Meetings
- Support for Atmospheric Research Facilities, Louis J. Battan, Chairman

Topic: Computer Facilities
Invited Participants: Dr. Walter Macintyre, National Center for Atmospheric Research; Dr. Fred Mosher, Space Science and Engineering Center, University of Wisconsin-Madison; Dr. James O'Brien, Florida State University; Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, National Oceanic and Atmospheric Administration

1:00 p.m.–4:00 p.m.
- Fisheries—Activity Planning Jay G. Lanzillo & George Tapper, Co-Chairmen, Room B–100

4:00 p.m.–5:00 p.m.
Plenary Session
- National Oceanic Satellite System (NOSS)

5:00 p.m.
Adjourn

December 2, 1980

8:30 a.m.–9:30 a.m.
Closed Session (Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409)

9:30 a.m.–10:30 a.m.
- Steering Committee Meeting

10:30 a.m.–Noon
Panel Meetings
- Waste Management Report—John Knauss, Chairman

Noon–1:00 p.m.
Lunch

1:00 p.m.–1:30 p.m.
Plenary Session
- Hydrological Services Project Proposal—Paul Bock

1:30 p.m.–2:00 p.m.
- Underutilized Species—George Tapper

2:00 p.m.–3:00 p.m.
- Panel Reports

3:00 p.m.
Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Room 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-38930 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Areas Task Force Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, December 4–5, 1980. The Committee will meet in room B–100, Page Building Number 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Thursday session will convene at 9:00 a.m. and the Friday session at 8:30 a.m. All sessions will be open to the public and will adjourn at 4:30 p.m. each day.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established an Independent Areas Task Force (IATF) for NACOA. The IATF, with its subgroups, will be responsible for the preparation of preliminary recommendations in the area of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

This final meeting of the IATF Subgroup on Ocean Operations and Services will be for the purpose of reviewing the first draft of the subgroup's final report. This report details the findings of the subgroup which are based on previous meetings and makes recommendations for national goals and objectives for ocean operations and services during the next decade and beyond.

Ocean services are defined as the informational services provided by government and private industries including navigational and bathymetric maps and charts, navigational aids, advisory services, weather services, tide, current, and other oceanic information.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Subgroup on Ocean Operations and Services, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, Staff Director for the Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-38931 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting

November 13, 1980.

The National Commission on Social Security will hold a public meeting at the Capital Hilton, at 16th and K Streets, N.W., Washington, D.C. on December 4, 5 and 6, 1980. The meeting on December 4 and 5 will be in the Caucus I Room, the meeting on December 6 will be in the Continental Room. The purpose of the meeting is to discuss drafts for the final report of the Commission.

The meeting will begin each day at 9:00 a.m. and continue until the Commission business is completed, but no later than 5:00 p.m. The meeting will be open to the public, in accordance

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with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 125—Pension Building, 440 G Street, N.W., Washington, D.C. 20218, Phone: (202) 376–2622.

Francis J. Crowley,

Executive Director.

[FR Doc. 80–36025 Filed 11–18–80; 8:45 am]

BILLING CODE 6820–AC–M

NATIONAL SCIENCE FOUNDATION

Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee.
Date: December 8 and 9, 1980.
Time: 9:00 am–5:00 pm each day.
Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of Meeting: Open, December 8, 9:00 am–3:00 pm. Closed, December 8, 3:00 pm–5:00 pm. Open, December 9, All day.
Contact Person: Dr. Ben A. Wilcox, Metallurgy, Polymers, and Ceramics Section, Room 411, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357–9789.
Purpose of Subcommittee: To provide advice and recommendations concerning support of research in Metallurgy, Polymers, and Ceramics.

Agenda: December 8, 1980

9:00 AM: Introductory remarks, comments about the Mathematical and Physical Sciences Directorate, the Division of Materials Research and the Metallurgy, Polymers, and Ceramics Section.
10:00 AM: Report by NSF staff on issues discussed at previous meeting.
Report and discussion of the Polymers Program Oversight.
12:00 PM: Lunch.
1:00 PM: Polymers Program Oversight, continued.
3:00 PM: Optional Closed Session. This session is tentatively scheduled to be closed only if (and is limited to) the Committee wishes to discuss specific grants and declinations. Otherwise, the session will be open or not held at all.
5:00 PM: Adjourn.

Agenda: December 9, 1980

9:00 AM: Discussion of Research Trends and Opportunities in Metallurgy, Polymers, and Ceramics.
12:00 PM: Lunch.
1:00 PM: Research Trends and Opportunities, continued.
2:00 PM: Discussion of Instrumentation Needs in Metallurgy, Polymers, and Ceramics.
3:30 PM: Other business, information items.
5:00 PM: Adjourn.

Reason for Closing: The Subcommittee will be reviewing grants and/or declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority To Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 14, 1980

[FR Doc. 80–36080 Filed 11–18–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the NRC Reactor Safety Research Program; Meeting

The ACRS Subcommittee on the NRC Reactor Safety Research Program will hold a meeting on December 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC to discuss new developments in the NRC Reactor Safety Research Program since the issuance of the ACRS Report to NRC (NUREG–0699); NRC's long-range Reactor Safety Research Program plans; preliminary draft chapters or sections of the ACRS Annual Report to Congress on NRC's FY–82 Reactor Safety Research Program Budget; the Department of Energy's (DOE) Light-Water Reactor Safety Technology Program and the associated budget. Notice of this meeting was published October 24.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program Budget. One or more closed sessions may be necessary to discusss such information (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, December 3, 1980, 8:30 a.m. until the conclusion of business:

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC and DOE Staffs, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 and 5:00 p.m., EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 14, 1980.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 80–36067 Filed 11–18–80; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 709–4 (which should be mentioned in all correspondence concerning this draft guide), is a proposed revision to Regulatory Guide 1.80 and is entitled "Preoperational Testing of Instrument and Control Air Systems." This guide is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations with respect to verifying by preoperational testing the proper operation of instrument and control air systems, as well as certain compressed gas systems, and the proper operation of loads supplied by such systems during operation at normal system pressures and to ensure the operability of functions important to safety in the event that system pressure is lost or reduced below normal operating level.

When the active version of this guide is issued following public comment, it will be designated 1.68.23 and added to the 1.68 subseries of guides that provide detailed guidance in the conduct of initial test programs for specific systems important to safety in water-cooled reactor power plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 12, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80–36068 Filed 11–18–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338 OL & 50–339 OL]

Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. Lawrence R. Quarles

Dated: November 12, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80–36066 Filed 11–18–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–409–SC; Prov. Op. Lic. DPR–45]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Prehearing Conference and Evidentiary Hearing

(November 12, 1980.)

Notice is hereby given that, in accordance with the Licensing Board's Memorandum and Order dated November 12, 1980, a prehearing conference in this show-cause proceeding will be held on December 16, 1980, commencing at 9:30 a.m. at Hall of the Presidents, Cartwright Center, University of Wisconsin at La Crosse, La Crosse Wisconsin 54601. The conference is being convened to discuss any motions for summary disposition which may be filed, the manner in which the parties propose to respond to questions which are to be posed by the Licensing Board, and further scheduling for the proceeding.

Notice is also given that the evidentiary hearing in this proceeding will commence immediately following the prehearing conference, on December 16, 1980, at the Hall of the Presidents. The evidentiary hearing will continue on December 17, from 9:00 a.m. until 12:00 noon, at the same location. To the extent necessary, further sessions will be held on December 17, from 1:00 p.m. until 5:00 p.m., and on December 18, beginning at 9:00 a.m., at Room 303, Cartwright Center, University of Wisconsin at La Cross. The hearing will be conducted by an Atomic Safety and Licensing Board consisting of Dr. George C. Anderson, Mr. Ralph S. Decker, and Mr. Charles Bechhoefer, Chairman.

A Notice of Opportunity for Hearing in this proceeding was published on March 3, 1980 (45 FR 13850). Petitions for leave to intervene filed by Anne K. Morse on behalf of the Coulee Region Energy Coalition (CREC), and by Frederick M. Olsen III were subsequently granted, those intervenors were consolidated, and a Notice of Hearing was published on October 7, 1980 (45 FR 66537).

The sole issue to be considered by the Licensing Board at the evidentiary hearing commencing on December 16, 1980, is the risk to the public health and safety of extending *pendente lite* the February 25, 1981 date by which a site dewatering system is currently required to be designed and installed (as further described in the Licensing Board's Memorandum and Order dated November 12, 1980). Direct testimony on that issue must be filed by December 5, 1980.

V 45 NO 19 80 UMI

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in this show-cause proceeding. Limited appearances will be permitted at the commencement of the evidentiary hearing on December 16 and (if necessary) beginning at 9:00 a.m. on December 17, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman

[FR Doc. 80-35999 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21785 (70-6363]

Appalachian Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

November 13, 1980.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application in this proceeding pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder regarding the proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete description of the proposed transactions.

By orders in this proceeding dated December 21, 1979, February 21, 1980, and May 30, 1980 (HCAR Nos. 21353, 21445, and 21599), Appalachian was authorized to issue and sell, from time to time prior to January 1, 1981, short-term notes to a group of banks and commercial paper to a dealer in an amount of up to $200,000,000 outstanding at any one time, such notes and commercial paper maturing no later than June 30, 1981.

It is now proposed that such notes to banks and commercial paper be issued and sold from time to time prior to January 1, 1982, with a maturity no later than June 30, 1982. Appalachian has credit arrangements totaling $463,770,000 with 94 banks. This represents an increase of $25,000,000 in lines of credit shared with affiliates, including Columbus and Southern Ohio Electric Company. Fees and balances for shared lines of credit are borne by Appalachian and participating affiliates in proportion to their respective projected maximum need for such credit facilities. Although the shared lines of credit have been increased, the participation by Columbus and Southern Ohio Electric Company will have the effect of reducing the fees and balances to be borne by Appalachian.

The proceeds of the notes to banks and commercial paper will be used to pay the general obligations of Appalachian, including expenses incurred in its various construction projects. The estimated cost of its construction program for 1981 is approximately $215,000,000.

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $500. It is stated that the State Corporation Commission of Virginia has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36081 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21787 (70-6511)]

Kentucky Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks

November 13, 1980.

Notice is hereby given that Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transactions.

Kentucky proposes to issue and sell short-term notes to a group of banks in an aggregate amount not to exceed $50,000,000 outstanding at any one time. As a September 18, 1980, Kentucky had $13,250,000 aggregate principal amount of short-term debt outstanding. It is proposed that the notes to banks be issued from time to time and be renewed from time to time prior to January 1, 1982, as funds may be required, provided that none of such notes shall mature later than June 30, 1982.

Kentucky has established lines of credit with 20 banks under which it may borrow an aggregate amount not to exceed $371,900,000 outstanding at any one time. The fees and balances for these lines of credit are borne by Kentucky and participating affiliates of Kentucky in proportion to their respective projected maximum need for such credit facilities. The addition of Columbus and Southern Ohio Electric Company, an affiliate of Kentucky, to this participation has the effect of reducing the relative amount of such fees and balances to be borne by Kentucky.

Each note will be prepayable by Kentucky at any time without premium or penalty. It is stated that the effective cost of money to Kentucky under any of its arrangements with the various banks, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 17.5% on the basis of a prime commercial rate of 14%.

The proceeds of the short-term notes will be added to the general funds of Kentucky and used to pay the general obligations of Kentucky, including expenses incurred in its various construction projects and for other corporate purposes. The estimated cost of its construction program for the year 1981 is approximately $47,000,000.

Kentucky requests that the certificates of notification under Rule 24 with respect to issuance by Kentucky of the notes to banks be filed quarterly.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36082 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17289 (SR-NASD-79-5)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

November 13, 1980.

On May 14, 1979, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street N.W., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change that adds a new Section 37 to Article III of the NASD's Rules of Fair Practice concerning standards and filing requirements for member advertising and sales literature. The proposal eliminates the requirement that advertisements be submitted for review within five days of use and adopts a routine "spot check" procedure for advertisements and sales literature. However, members who have not filed advertisements with the NASD for a period of at least one year are required to file with the NASD at least ten days prior to use for a period of one year. In addition, sales literature and advertisements relating to investment companies are required to be filed with the NASD within ten days of use. The proposed rule change also codifies in Section 37 the NASD's Advertising Interpretation under Article III Section I of the Rules of Fair Practice.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15891, June 1, 1979) and by publication in the **Federal Register** (44 FR 33206, June 8, 1979). The first amendment to the proposal was submitted on August 21, 1980. Notice of the amendment was given by publication of a Commission Release (Securities Exchange Act Release No. 17098, August 28, 1980) and by publication in the **Federal Register** (45 FR 58994, September 5, 1980). The NASD submitted a second amendment to the proposal on October 7, 1980 which provided notice of final action on the prior amendment by the NASD Board of Governors.

All written statements with respect to the proposed rule change that were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and in particular, the requirements of Section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36078 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21786; (70-6519)]

System Fuels, Inc., et al.; Proposal To Make Short-Term Bank Borrowings Pursuant to a Loan Agreement; Guarantee of Such Borrowings by Parent Companies

November 13, 1980.

In the matter of System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130, Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson Mississippi 39205, and New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, Louisiana 70112; (70-6519).

Notice is hereby given that System Fuels, Inc. ("SFI"), a fuel procurement subsidiary of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc. (collectively, the "operating companies"), each a public utility subsidiary of Middle South Utilities, Inc. a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(2)

promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 1, 1979 (HCAR No. 21171) SFI was authorized to make unsecured borrowings through December 8, 1980 of up to $75,000,000 at any one time outstanding under a line of credit with Hibernia National Bank in New Orleans ("Hibernia"). As of August 31, 1980, SFI's borrowings under this line of credit aggregated $3,900,000 in principal amount, and it is anticipated that at maturity on December 8, 1980, such borrowings will aggregate approximately $45,000,000 in principal amount. In order to provide SFI funds with which to (a) repay its borrowings from Hibernia at maturity, (b) finance a portion of SFI's fuel oil inventory, (c) finance SFI's acquisition of natural gas and (d) finance other expenditures in connection with its fuel supply program, and to meet SFI's commitment to endeavor to obtain funds for its corporate expenditures from external sources under advantageous arrangements in lieu of making borrowings from its parent companies. SFI proposes to enter into a Loan Agreement ("loan agreement") with Citibank, N.A. ("bank").

Pursuant to and subject to the limitations set forth in the loan agreement, SFI will be entitled to borrow and reborrow from the bank, and the bank will commit itself to lend to SFI, during the period commencing on the effective date of the loan agreement ("effective date") and terminating on December 31, 1982 ("termination date"), up to an aggregate principal amount at any one time outstanding not to exceed $60,000,000 ("commitment"); provided that at no time shall the bank be obligated to make loans to SFI under the loan agreement in an aggregate principal amount at any one time outstanding in excess of the borrowings base. As used in the loan agreement, the borrowing base is defined to mean an amount equal to 85 percent of the net book value of the assets from time to time owned by SFI exclusive of leasehold improvements and construction work in progress ("collateral").

The proposed borrowings will be in addition to other borrowing arrangements currently maintained by SFI for the purpose of securing funds from external sources to finance its fuel supply business and which have previously been authorized by this Commission.

Borrowings by SFI from the bank pursuant to the loan agreement will be evidenced by a single master note of SFI ("note"), representing the obligation of SFI to pay the amount of the commitment or, if less, the aggregate unpaid principal amount of all loans made by the bank thereunder, plus accrued interest. The date and amount of each loan made by the bank, and the date and amount of each payment by SFI of principal of the loans under the loan agreement, will be recorded by the bank on a schedule annexed to the note. The note will be payable to the order of the bank, be dated the effective date, be stated to mature on the termination date, and bear interest on the unpaid principal amount thereof at a rate per annum equal to the rate of interest announced publicly by the bank in New York, New York from time to time as the bank's base rate. Based on the commitment fee of ½ of 1% per annum on the average daily unused portion of the commitment (estimated solely for purposes of the following computation at $24,000,000), and based upon the bank's base rate of 15½% per annum in effect on November 10, 1980, SFI estimates that its cost of money in respect of the proposed borrowings as of that date would be 15.8% per annum.

The loan agreement will provide that SFI may at any time, without premium or penalty, prepay the note, in whole or in part, and that if at any time the unpaid principal amount of the note then outstanding exceeds the borrowing base, SFI will be required, without premium or penalty, to prepay an amount not less that the amount by which such unpaid principal amount of the note then exceeds the borrowing base.

For the bank's commitment under the loan agreement, SFI will pay to the bank a commitment fee for the period from the effective date to the termination date or earlier termination of the commitment, computed at the rate of one-half of one percent per annum on the average daily unused portion of the commitment. The loan agreement will also provide that SFI may, at its option, terminate early, or reduce, from time to time, the commitment.

Pursuant to the terms of the loan agreement, SFI will covenant and agree to keep the collateral free and clear of all liens and encumbrances, except certain permitted encumbrances specified therein, and will further covenant and agree, but only upon receipt of 60 days' prior written notice from the bank, to grant to the bank, to the extent permitted by applicable laws, a first priority, perfected security interest (or other analogous security device) in the collateral, subject to prior permitted encumbrances, to secure the performance by SFI of its obligations to the bank under the loan agreement and the note.

In addition, and as an inducement to the bank to enter into these financing arrangements with SFI, the operating companies proposed to join with SFI as parties to the loan agreement and to covenant and agree with the bank, severally in accordance with their present respective shares of ownership of the common stock of SFI, that they will take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to discharge, and to cause SFI to discharge, its obligations to the bank pursuant to the loan agreement and the note. The operating companies will further covenant and agree that they will, unless otherwise consented to in writing by the bank, maintain their respective shares of ownership of the common stock of SFI, for the period during which any portion of the principal amount of the note remains unpaid, in approximately the same proportions as currently held by them.

The terms of the loan agreement will not require that SFI maintain compensating balances with the bank. It is expected, however, that, over the term of the loan agreement, SFI will maintain working balances with the bank, although fluctuations in these balances will not reflect or depend upon fluctuations in the amount of loans to SFI outstanding.

A statement of the fees, commission and expenses to be incurred in connection with the proposed transaction. It is stated that no state or federal regulatory authority, other then this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 5, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36083 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17285; File No. SR-NYSE-80-35]

Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 29, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies the authority of the Exchange to impose the sanctions contained in this rule upon a member organization that has been restricted without waiting for the 15 consecutive business day requirement to elapse.

The text of the proposed rule change is attached as Exhibit I-A.

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to clarify the intent of the Exchange in originally adopting the Rule on July 15, 1971. Specifically, the rule change would clarify that rule 326 (a) and (b) requires a member organization that carries customer accounts to cease expansion of or reduce business if certain specific conditions relating to their financial responsibilities (326(a)(1)–(4) and (b)(1)–(4)) have existed for more than 15 consecutive business days. One such condition enumerated in the Rule (Rule 326(a)(5) and (b)(5)) is when the Exchange restricts the member organization. The intent of this provision was that the cessation/restriction sanctions under the Rule would become effective for a member organization that has been so restricted without having to wait for 15 days to elapse. The other specifically enumerated financial responsibility criteria (326(a)(1)–(4) and (b)(1)–(4)) are subject to daily fluctuation, so that the 15-day requirement would prevent a member organization from being sanctioned for temporary non-compliance.

Since adoption, the rule has been interpreted to reflect this.

Basis Under the Act

(i) Inapplicable
(ii) Inapplicable
(iii) Inapplicable
(iv) Inapplicable
(v) The proposed rule change is consistent with Section 6(b)(5) in that it protects investors and the public interest by insuring that member organizations which carry customer accounts comply with certain minimum financial standards or be required to cease expansion of or reduce their business.
(vi) Inapplicable
(vii) Inapplicable
(viii) Inapplicable

The proposed amendments are consistent with Section 6(c)(3)(A) which permit a national securities exchange to condition the membership of a broker or dealer that does not meet such standards of financial responsibility as are prescribed by the rules of the Exchange.

Comments Received from Members, Participants or Others

No comments were solicited or received on the proposed rule change.

Burden on Competition

None.

On or before December 24, 1980, or within such longer period: (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 12, 1980.

Exhibit I-A.—*New language in italics*—Deleted language in brackets [ ].

Growth Capital Requirement

Rule 326(a). A member organization which carries customer accounts shall not expand its business during any period in which,

(1) any of the following conditions continue to exist, [which period will commence as soon as such condition has existed] for more than 15 consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] *a* Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or [some] *such* greater percentage *thereof* as may from time to time be designated by the Exchange, or,

[2] *b* If subject to [this] *the aggregate indebtedness* requirement *under SEC Rule 15c3-1,* its aggregate indebtedness is more than 1,000 per centum of its net capital, or

[3] *c* If in lieu of [(2)] *b* above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

[4] *d The deduction of* capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(8)(C)(iii) would result in *any one of* the conditions described in *1a,* [2]*1b* or [3]*1c* [above,] *of Section (a) of this Rule,* or

[5] *(2)* The Exchange restricts the member organization.

Business Reduction Capital Requirement

Rule 326(b). A member organization which carries customer accounts shall forthwith reduce its business;

(1) to a point enabling its available capital to meet the standards *set forth in 1a, 1b or 1c* of Rule 326(a) [whenever] *if* any of the following conditions continue to exist for more than fifteen (15) consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] *a* Its net capital is less than 125 percent of its net capital minimum dollar amount requirement or [some] *such* greater percentage thereof as may from time to time be designated by the Exchange, or

[2] *b* If subject to [this] *the aggregate indebtedness* requirement *under SEC Rule 15c3–1,* its aggregate indebtedness is more than 1,200 per centum of its net capital, or

[3] *c* If in lieu of [(2)] *b* above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers, under SEC Rule 15c3–3 (the alternative net capital requirement) is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

[4] *d If the deduction of* capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(6)(C)(iii) would result in any one of the conditions described in *1a,* [2]*1b* or [3]*1c* [above] *of Section (b) of this Rule* or

[5] *(2) When* the Exchange restricts the member organization.

[FR Doc. 80-36079 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1925; Amendment #1]

Oklahoma; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 69331) is hereby amended by including the following language as reason for the disaster declaration:

77 counties and adjacent counties in the State of Oklahoma constitute a disaster area because of drought and extreme heat causing damage to agriculture, livestock, and products * * *

All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business March 24, 1981, and for filing applications for economic injury is close of business on June 24, 1981.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 7, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-36084 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0417]

Cornwall Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Cornwall Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of $1,000,000.

The Applicant will have its place of business at 237 Mamaroneck Avenue, White Plains, New York 10605, and it intends to conduct operations primarily in the Westchester County area of the State of New York. Applicant expects to broad financing policy spread between equity and loans to concerns. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

Kenneth R. Corn, 11 LeGrande Ave., Greenwich, NY 12834 (Chairman of the Board, Secretary and 10% Stockholder)
Robert A. Wall, 26 Farragut Rd., Scarsdale, NY 10583 (President, Treasurer, Director and 10% Stockholder)
Barry J. Gordon, 63 Karol Place, Muttontown, NY 11753 (Director)

It is anticipated that there will be no more than 35 shareholders, none of which (other than Messrs. Corn and Wall) will own 10% or more of the securities of the Applicant.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 4, 1980, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36015 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0421]

Intercontinental Capital Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Intercontinental Capital Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Jane Y. Mallare, 66, 4th St., New Manila, Quezon City, Manila, Philippines (Director)
James S. Yu, 103 Birch Rd., Briarcliff Manor, NY 10519 (President/Treasurer, Director and General Manager)
Chris Wu, 69–01 35th Ave., Jackson Heights, NY 11372 (Vice President and Director)

The Applicant, a New York corporation, with its principal place of business at 80 Mott Street, New York, New York 10013, will begin operations with $520,000 of paid-in capital and paid-in surplus derived from the sale of 250 shares of common stock.

The Applicant will conduct its activities principally in the State of New York. Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and

character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36016 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0416]

Kwiat Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Kwiat Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $510,000.

The Applicant will have its place of business at 576 Fifth Avenue, New York, New York 10036, and it intends to conduct operations primarily in the State of New York. Applicant expects to emphasize equity investments with particular attention to growth situations. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

David Solomon Kwiat, 369 Everit Ave., Hewlett Harbour, NY 11557 (President and Director)
Lowell Marc Kwiat, 1365 York Ave., New York, NY 10021 (Executive Vice President, General Manager, Director and 33⅓%)
Sheldon Frank Kwiat, 15 Cypress Ave., Kings Point, NY 11024 (Secretary and 33⅓%)
Carol Susan Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director and 33⅓%)
Jeffrey Marc Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director)

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice in the **Federal Register,** submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36017 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5268]

Lucky Star Investment Co.; Issuance of a License To Operate as a Small Investment Company

On August 1, 1980, a notice was published in the **Federal Register** (45 FR 51328), stating that Lucky Star Investment Company, located at 667 Grant Avenue, San Francisco, California 94108, has filed an application with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business on August 16, 1980, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received and, having considered the application and all other pertinent information, the SBA approved the issuance of License No. 09/09-5268 on October 23, 1980, to Lucky Star Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36018 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0275]

Oxford Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by Oxford Capital Corporation, 3700 Wilshire Boulevard, Los Angeles, California 90010, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and stockholders are:

Name and address	Title	Percent of ownership
Joseph N. Mitchell, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Chairman of the Board	
Richard Lorenz, 3700 Wilshire Blvd., Los Angeles, CA 90010.	President, General Manager and Director.	
Marcus Loew, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Vice President, Treasurer and Director.	
Dennis D. Mendel, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Secretary and Director	
Dale Madoff, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Assistant Secretary	
R. T. McNamar, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Director	
Beneficial Standard Corp., 3700 Wilshire Blvd., Los Angeles, CA 90010.		100

Beneficial Standard Corporation is a holding company whose subsidiaries are engaged primarily in the life insurance (including accident and health) and property-casualty insurance businesses.

The Applicant (a Delaware corporation) proposes to begin operations with a capitalization of $1 million. They propose to concentrate their investments in insurance related activities, low technology firms and real estate build-and-sell operations.

Matters involved in SBA's consideration of the application include the general busines reputation and

V 45 N 0 19 80 0 UMI

character of the proposed owner and management, and the probability of successful operations of the new company under this management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36019 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/345]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction; Meeting

There will be a meeting of the Study Group on International Child Abduction, a study group of the subject Advisory Committee, at 9:30 a.m. on Saturday, December 6, 1980 in Room 219, Hastings College of Law, 198 McAllister Street, San Francisco, California. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to review the final text of the Convention on the Civil Aspects of International Child Abduction adopted by the Fourteenth Session of the Hague Conference on Private International Law and to consider in that connection questions of possible United States adherence to that convention.

In order to facilitate arrangements concerning attendance at this meeting, it would be appreciated if members of the public planning to attend would contact Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State, (telephone: (202) 632-8134).

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Advisory Committee on Private International Law.

November 12, 1980

[FR Doc. 80-36054 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-08-M

[Public Notice CM-8/344]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 10, 1980 at 9:30 a.m. in the Forum Room, National Telecommunications and Information Administration, Department of Commerce, 1325 G Street, NW, Washington, D.C.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to consider documents for submission to the international meeting in 1981 and preparation of U.S. input to Interim Working Party 1/3 on the review of Study Group 1 activities.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Deparment, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: November 6, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36053 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/346]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 17, 1980 at 10:00 a.m. in the Theater on the first floor of the Communications Satellite Corporation Building, 950 L'Enfant Plaza, SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meetings is to review results of the international meeting of Study Group 4 (October–November) and establish a program of work in preparation for the next international meeting in 1981.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 13, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36055 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-299 (1 amendment), Nov. 10, 1980]

CIVIL AERONAUTICS BOARD.

Addition and deletion of item's to the November 13, 1980 Board meeting.

TIME AND DATE: 9 a.m., November 13, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Deleted: 4. Docket 29044, Amendments to the Board's smoking rule, Part 252. (BCP, BDA, OGC)

Added: 26. Docket 38605, Application of Air Europe Limited for an initial foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail between the United States and the United Kingdom. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2104-80 Filed 11-14-80; 5:44 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C. eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillence briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2107-80 Filed 11-17-80; 1:10 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.:

TIME AND DATE: 11:30 a.m., November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Status report on Investigation.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2110-80 Filed 11-17-80; 3:55 pm]

BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, November 18, 1980, starting at 9:30 A.M., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

General—1—*Title:* Order in Gen. Docket 79-263, amendment of search fee provision of the Freedom of Information rules (§ 0.466). *Summary:* The Commission will consider adoption of rules it proposed on October 24, 1979 (44 FR 62304). The proposed rules provide for a recalculation of the FOIA search fee based on hourly labor costs for agency employees and require advance payment in appropriate circumstances.

General—2—Memorandum Opinion and Order amending Section 15.309(b) of the Commission's Rules relating to the operation field disturbance sensors.

Private Radio—1—*Title:* Notice of Proposed Rulemaking to revise Part 97, the Amateur Radio Service Rules, into "plain language." *Summary:* The FCC will consider whether to adopt a proposal to revise the Amateur Radio Services Rules into "plain language." The existing Amateur Radio Services Rules are unnecessarily complex and difficult to understand. The purpose of this proposed revision is to make these rules less complex and more understandable by those persons they affect.

Private Radio—2—*Title:* Tactile Paging. *Summary:* The Commission will consider adoption of a Report and Order making two frequencies, 35.02 and 43.64 MHz, available for paging and response techniques, by persons having hearing deficiencies, visual impairments, or other physical handicaps.

Common Carrier—1—Further Notice of Rulemaking in Docket No. 79-35 requesting public comment on whether the Communications Satellite Corporation (Comsat) should be permitted to include, for rate setting purposes, the net expenses and assets of its INMARSAT investment in the revenue requirements for its INTELSAT services.

Assignment and Transfer—1—*Title:* Unrelated requests for issuance of tax certificates in connection with: (1) the assignment of license of AM station KZON, Santa Maria, California from Leonard Kesselman to De Oro Broadcasting Company, Inc. (2) the assignment of license of AM station KIQI, San Francisco, California from San Francisco Wireless Talking Machine Company, Incorporated to Oro Spanish Broadcasting, Inc. *Summary:* The Chief, Broadcast Bureau, pursuant to delegated authority, granted the applications to assign the licenses for AM stations KZON and KIQI on April 21, 1980 and September 5, 1980, respectively. The assignors have requested tax certificates pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—2—*Title:* Request for a tax certificate in connection with the sale of FM station WTWF, Moncks Corner, South Carolina, from Double R Broadcasting, Inc. to Nuance Corporation. *Summary:* On October 20, 1980, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for the voluntary assignment of license of FM station WTWF, Moncks Corner, South Carolina. The Commission will consider whether to issue a tax certificate requested by the assignor, Double R Broadcasting, Inc., pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—3—*Title:* Application (File No. BTCCT-800227KF) for Commission consent to the voluntary transfer of control of Suburban Broadcasting Corporation, licensee of Station WSNL-TV, Channel 67, Smithtown, New York, from Robert Rosen, *et al.*, to Wometco-Long Island, Inc. *Summary:* Wometco Enterprises, Inc., which owns and holds a subscription television ("STV") franchise for WWHT(TV), Channel 68, Newark, New Jersey, seeks to acquire WSNL-TV, Channel 67 Smithtown, (Long Island), New York and operate it as a satellite of WWHT(TV). There is Grade B overlap between the two stations, which together cover much of the New York City market. The Commission will consider whether the circumstances in this case justify a grant of the application under the satellite exception to the TV multiple onwership rule (§ 73.636, Note 9).

Renewal—1—*Title:* Application for renewal of license of Station WNMB, North Myrtle Beach, South Carolina. *Summary:* Commission considers the short-term license renewal application of Station

WNMB filed by North Myrtle Beach Broadcasting Corporation.

Renewals—2—*Title:* License renewal applications of Mission Central Company, as supplemented, for Station KONO, San Antonio, Texas. *Summary:* The Commission considers the employment practices of Station KONO during the 1971 to 1974 license term and its imposition of employment reporting conditions, pursuant to instructions from the Court of Appeals in *Bilingual Bicultural Coalition on Mass Media* v. *F.C.C.*, 193 U.S. App. D.C. 236, 595 F. 2d 621 (1978).

Renewals—3—*Title:* 1977 Renewal Application of Faith Center, Inc. for WHCT–TV, Hartford, Connecticut. *Summary:* The Commission considers the designation for hearing of Faith Center, Inc.'s renewal application for Station WHCT–TV, Hartford, Connecticut.

Renewals—4—*Title:* Petition of the Mississippi Authority for Educational Television for Partial Reconsideration of the Commission's July 24, 1980 Order granting license renewals. *Subject:* The Commission reviews a petition for partial reconsideration filed by the Mississippi Authority for Educational Television in which it challenges the requirement that it submit employment data with its next renewal applications.

Aural—1—*Title:* Applications by the Far East Broadcasting Company, Inc. to license AM Station KSAI, Susupe, Saipan and H. Scott Killgore d/b/a Micronesian Broadcasting Corporation to license Stations WSZE(AM), WSZE–FM, and WSZE–TV, Navy Hill (Rapagan), Saipan. *Summary:* The Commission will consider applications to license broadcast facilities in the Northern Mariana Islands Commonwealth.

Aural—2—*Title:* Application by Oakdale Broadcasting Company, Inc. for additional time to complete construction of new FM Station WDXO, McComb, Mississippi (File No. BMPH–790712AG). *Summary:* The Commission will consider an informal objection to this application by Donald G. Manuel.

Aural—3—*Title:* In re Applications of Allegan County Broadcasters, Inc. and Charles Hedstrom and Ralph Trieger, d/b/a Pinehurst Broadcasting, for a new FM station at Otsego or Plainwell, Michigan, respectively. *Summary:* The Commission considers the above application by the applicant for Otsego, and a drop-out agreement by the applicants concerning the Plainwell application.

Aural—4—*Title:* Memorandum Opinion and Order in re application of Bay Cities Communications Corp. for nighttime authority for daytime AM station WTJZ, Newport News, Virginia; request for waiver of Section 73.24(j) of rules filed by applicant; and petition to deny application filed by Hampton Roads Broadcasting Corp., licensee of AM station WGH, Newport News, Virginia. *Summary:* The Commission considers the above matters, which relate primarily to the proposal's failure to provide interference-free service to all of Newport News.

Broadcast—1—*Title:* Request by NBC for waiver of the "prime time access rule" in connection with its telecast of the NFL championship Super Bowl game on Sunday, Jan. 25, 1981. *Summary:* The Commission considers the question of whether to grant NBC's request for waiver of the prime time access rule so as to permit prime time on Sunday evening, Jan. 25, to be devoted entirely to NBC programs—the Super Bowl, a post-game show, and another entertainment program.

Broadcast—2—*Title:* Consideration of Policy questions affecting the regulation of international broadcasting. *Summary:* This item involves consideration of policies governing (1) the licensing of international broadcast stations and (2) participation in international meeting assigning frequency hours to international broadcast stations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S–2105–80 Filed 11–17–80; 11:39 am]
BILLING CODE 6712–01–M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subjects listed below on Tuesday, November 18, 1980, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for reconsideration filed by Walton Broadcasting, Inc., in the Tucson, Arizona, KIKX renewal proceeding (Docket No. 20287).

Hearing—2—Application for Review of the Hearing Designation Order (Mimeo Number BC–34025, released July 29, 1980) in the West Salem, Wisconsin, comparative FM proceeding (BC Docket Nos. 80–413 and 80–414).

Hearing—3—Motion for Stay, Motions to Strike, and Petition for Reconsideration of the Commission' Memorandum Opinion and Order in the Harriman, Tennessee, FM proceeding (Docket No. 19812).

Hearing—4—Petitions to reopen the record, motion to delete issue, and Petition to intervene in the Mt. Holly, New Jersey, AM comparative renewal proceeding. (Docket Nos. 20738–9).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 14, 1980.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S–2106–80 Filed 11–17–80; 11:39 am]
BILLING CODE 6712–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 24, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed consolidation of Fidelity National Bank of Pa., Williamsport, Pennsylvania, and Commonwealth Bank and Trust Company, Muncy, Pennsylvania.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Memorandum and Resolution re: Amendments to FDIC's Regulations Governing Applications—Public Access to Application Files.

Memorandum re: Proposed Revision to FDIC Employee Grievance Procedures.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S–2108–80 Filed 11–17–80; 3:34 pm]
BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 24, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Bank of Prescott, a proposed new bank, to be located at 1040 Willow Creek Road, Prescott, Arizona.

Wilshire State Bank, a proposed new bank, to be located at 699 South Vermont Avenue, Los Angeles, California.

Morgan County Community Bank, a proposed new bank, to be located at 1342 South Main Street, Jacksonville, Illinois.

First American State Bank, a proposed new bank, to be located at the intersection of Harrison Avenue and Belmont Street, Centralia, Washington.

Fairhaven Savings Bank, Fairhaven, Massachusetts, an operating noninsured mutual savings bank.

New Bedford Five Cents Savings Bank, New Bedford, Massachusetts, an operating noninsured mutual savings bank.

Watertown Savings Bank, Watertown, Massachusetts, an operating noninsured mutual savings bank.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee or an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Request for rescission of conditions imposed in granting consent to change location:

First City Bank of Lewisville, Lewisville, Texas.

Notice of Acquisition of Control:

Richfield State Bank, Richfield, Wisconsin.

Applications for consent to merge an establish branches:

Central Carolina Bank & Trust Company, Durham, North Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with Burlington National Bank, Burlington, North Carolina, and for consent to establish the three offices of Burlington National Bank as branches of the resultant bank.

The Merchants Bank, Burlington, Vermont, an insured State nonmember bank, for consent to merge, under its charter and title, with Catamount Bank, North Bennington, Vermont, and for consent to establish the seven offices of Catamount Bank as branches of the resultant bank.

Application for consent to purchase assets and assume liabilities and establish a branch:

Bank of Pennsylvania, Reading, Pennsylvania, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in The First National Bank of Honey Brook, Honey Brook, Pennsylvania, and for consent to establish the sole full-service office of The First National Bank of Honey Brook as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,468–L—Franklin National Bank, New York, New York.

Case No. 44, 532–SR—American Bank & Trust Company, New York, New York.

Case No. 44,554–L—Fidelity Bank, Utica, Mississippi.

Case No. 44,556–L—American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 44,558–L—Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunsine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Releases of Collateral for Fair Market Value.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S–2109–80 Filed 11–17–80; 3:34 pm]
BILLING CODE 6714–01–M

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Friday, November 14, 1980. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involved individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S–2101–80 Filed 11–14–80; 5:01 pm]
BILLING CODE 6210–01–M

9

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to **Federal Register** on Monday, November 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, November 19, 1980.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed revision of Regulation Z (Truth in Lending) in connection with the passage of the Truth in Lending Simplification and Reform Act. (Proposed earlier for public comment; Docket No. R–0288).

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This matter will be rescheduled for an open meeting on Wednesday, November 26, 1980.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–2102–80 Filed 11–14–80; 5:01 pm]

BILLING CODE 6210–01–M

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FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Monday, November 24, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council.
2. Personnel actions (appointment, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any Agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–2103–80 Filed 11–14–80; 5:01 pm]

BILLING CODE 6210–01–M

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federal register

Wednesday
November 19, 1980

Part II

Nuclear Regulatory Commission

Fire Protection Program for Operating Nuclear Power Plants

V 45 N0 19 80 UMI

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Fire Protection Program for Operating Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require certain provisions for fire protection in operating nuclear power plants. This action is being taken to upgrade fire protection at nuclear power plants licensed to operate prior to January 1, 1979, by requiring resolution of certain contested generic issues in fire protection safety evaluation reports.

EFFECTIVE DATE: February 19, 1981.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review as may be appropriate under the Federal Reports Act, as amended (44 U.S.C. 3512). The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, reflects inclusion of the 45-day period that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: David P. Notley, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–443–5921 or Robert L. Ferguson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–492–7096.

SUPPLEMENTARY INFORMATION: On May 29, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 36082) a notice of proposed rulemaking inviting written suggestions or comments on the proposed rule by June 30, 1980. The notice concerned proposed amendments to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which would require certain minimum provisions for fire protection in nuclear power plants operating prior to January 1, 1979. Fifty-one comment letters were received regarding the proposed amendments. A number of comments pertained to specific requirements in the proposed Appendix R, and these will be dealt with below. However, there were three substantive contentions which were raised by many of the commenters. These three comments are summarized as follows:

1. Most commenters stated that the 30 day comment period was too short to permit adequate detailed response and that the comment period should have been extended.

The Commission does not agree. The NRC has been developing fire protection requirements since 1975. The NRC published comprehensive fire protection guidelines, Branch Technical Position BTP APCSB 9.5–1, and its Appendix A in 1976. Licensees have compared their fire protection programs against these guidelines and have discussed their deviations from these guidelines with the NRC staff for the past four years during the NRC's fire protection reviews of operating reactors. A Safety Evaluation Report and, in most cases, supplements to the Safety Evaluation Report, have been issued for each operating reactor. These reports describe fire protection alternatives that have been proposed by the licensee and found acceptable by the staff as well as unresolved fire protection issues remaining between the staff and the licensee. Proposed Appendix R provided the Commission's requirements for resolving those issues. Thus, it concerns only a limited number of issues derived from the use of the earlier guides. The Commission believes that a 30-day comment period was adequate under these circumstances.

2. Many licensees questioned the need for backfitting all the requirements of Appendix R. They commented that they had previously complied with staff fire protection recommendations in "good faith" and have committed to or completed certain modifications. They contend that the staff has properly determined that these modifications provide at least the level of fire protection described by the guidance contained in Appendix A to Branch Technical Position BTP APCSB 9.5–1. They also contend that these modifications provide a level of protection at least equivalent to that contained in the proposed rule. They express the concern that the proposed rule was written in such specific language that fire protection issues that were thought closed would be reopened and new, but not necessarily better, modifications would be required. These modifications could be accomplished only by the expenditure of considerable engineering, design, and construction effort and at great undue expense. The commenters request that the requirements in the proposed rule be rewritten to specify only the general requirements of what needs to be accomplished.

These comments raise three related issues. The first relates to the need for specific requirements. The general requirements relating to fire protection are already set forth in General Design Criterion 3 of Appendix A to 10 CFR Part 50 and in the NRC guidance documents. These general provisions gave rise to a number of disputes over whether specific methods adequately accomplished the intended goal. The proposed rule is intended to provide sufficient specific guidance to ensure satisfactory resolution of these issues. Thus, reverting to generalized guidance would not accomplish the intended purpose of the proposed rule.

The second issue involved some instances in which the specific wording used resulted in unnecessary and unintended restrictions. For example, the proposed rule called for a "fresh water" supply. For firefighting purposes, brackish water is satisfactory and a "fresh" water supply is unnecessary. Similarly, the proposed rule called for an "underground" yard fire main loop. Often portions of a fire main loop run above ground in and as they enter structures. The Commission had not intended to prohibit running portions of a fire main loop above ground. Other similar changes are discussed in Section III, "Specific Requirements," of this preamble.

The third issue relates to imposition of requirements on plants with presently installed or with existing commitments to install fire protection features previously determined by the staff to satisfy the guidance of Appendix A to BTP APCSB 9.5–1. The Commission generally agrees that, except for three sections that will be back fitted, Appendix R should not be retroactively applied to features that have been previously approved by the NRC staff as satisfying the provisions of Appendix A to BTP APCSB 9.5–1.

The NRC staff had intended, in its original proposal for Appendix R, that the requirements be applicable only for the resolution of unresolved disputed fire protection features. Thus, the staff had not intended the provisions of Appendix R to require modification of previously approved features. This was not clearly described in the proposed rule as published for comment. In fact, the Supplementary Information published with the proposed arule explicitly indicated that "[a]ll licensees will be expected to meet the requirements of this rule, in its effective form, including whatever changes result from public comments."

In determining whether the specific requirements of Appendix R should be imposed on licensees with presently installed or existing commitments to install fire protection features previously determined to satisfy Appendix A to Branch Technical Position BTP APCSB

9.5–1, it is important to recognize that Appendix R addresses only a portion of the specific items contained in the more comprehensive document, Branch Technical Position BTP APCSB 9.5–1 and its Appendix A. Appendix A to BTP APCSB 9.5–1 has been the basic fire protection guidance used by the staff in their fire protection reviews conducted for all operating plants during the past several years. For many plants, licensees proposed systems and features that satisfactorily achieved the fire protection criteria set forth in Appendix A to BTP APCSB 9.5–1 and began to promptly implement such features and systems.

Satisfactory features and systems are already in place and in operation in many plants. There is a reasonable degree of uniformity among most of these approved features for all facilities since they were reviewed against the same criteria of Appendix A to BTP APCSB 9.5–1. In general, the features previously approved by the NRC staff in its reviews of fire protection using the criteria of Appendix A to BTP APCSB 9.5–1 provide an equivalent level of fire protection safety to that provided under the specific provisions of Appendix R. Thus, the further benefit that might be provided by requiring that previously approved features be modified to conform to the specific language set forth in Appendix R is outweighed by the overall benefit of the early implementation of such previously approved features, which in many cases are currently being installed.

Nevertheless, as a result of its continuing review of fire protection matters, the NRC staff has indicated to the Commission that there are requirements in three sections in which the protection afforded by Appendix R over and above that previously accepted, may be desirable. The Commission has decided that these requirements should be retroactively applied to all facilities. This decision is not meant to reflect adversely on previous licensee or staff evaluations; rather its purpose is to take fully into account the increased knowledge and experience developed on fire protection matters over the last several years.

The first of these sections is related to fire protection features for ensuring that systems and associated circuits used to achieve and maintain safe shutdown are free from fire damage. Appendix A to DTP APCSB 9.51 permits a combination of fire-retardant coatings and fire detection and supression systems without specifying a physical separation distance to protection redundant systems (Appendix A, D.1(2)), and such arrangements were accepted in some early fire protection reviews. As a result of some separate effects tests, the staff changed its position on this configuration, and subsequent plans have been required to provide additional protection in the form of fire barriers or substantial physical separation for safe shutdown systems. No credit for such coatings as fire barriers is allowed by Section III.G of Appendix R. Appendix A to Branch Technical Position BTP APCSB 9.5.1 and the proposed Appendix R recognized that there were plant-unique configurations that required fire protection features that are not identical to those listed in Section III.G of Appendix R. For these cases, fire protection features were developed by the licensee and described in a fire hazards analysis. Some of these arrangements were accepted by the staff as providing equivalent protection to the requirements of Section III.G to Appendix R.

Requirements that account for all of the parameters that are important to fire protection and consistent with safety requirements for all plant-unique configurations have not been developed. In light of the experience gained in fire protection evaluations over the past four years, the Commission believes that the licensees should reexamine those previously approved configurations of fire protection that do not meet the requirements as specified in Section III.G to Appendix R. Based on this reexamination the licensee must either meet the requirements of Section III.G of Appendix R or apply for an exemption that justifies alternatives by a fire hazard analysis. However, based on present information, the Commission does not expect to be able to approve exemptions for fire-retardant coatings used as fire barriers.

The second relates to emergency lighting. Section III.J of Appendix R calls for 8-hour emergency lighting, whereas in some cases less than 8-hour emergency lighting has been accepted as satisfying Appendix A to BTP APCSB 9.5–1. While an adequate level of safety may be provided by less than an 8-hour supply, an 8-hour system would provide added protection and would generally involve only a small cost. The Commission therefore believes that licensees should upgrade the previously approved facilities to satisfy the 8-hour lighting requirement of Appendix R.

The third relates to protection against fires in noninerted containments involving reactor coolant pump lubrication oil (Section III.O of Appendix R). The proposed rule permitted either an oil collection system or a fire suppression system. The staff has also accepted an automatic fire suppression system as an acceptable method of fire protection for this application. The Commission has concluded that fire suppression systems do not give adequate protection for fires that may be induced by seismic events. The Commission therefore believes that previously approved suppression systems should be replaced with oil collection systems that can withstand seismic events.

The technical basis on which these three sections are based are further discussed in Section III, "Specific Requirements," of this preamble.

3. Most commenters stated that the implementation schedule contained in the proposed rule is impossible to meet for any of the operating plants. The commenters further stated that if the implementation schedule in the effective rule is the same as that in the proposed rule, the Commission must be prepared to either shutdown each operating nuclear power plant, or process exemption requests.

The commenters then concluded that the implementation schedule should be rewritten to allow an adequate time priod for compliance. The proposed rule stated that "all fire protection and modifications identified by the staff as necessary to satisfy Criterion 3 of Appendix A to this part, whether contained in Appendix R to this part or in other staff fire protection guidance (except for alternate or dedicated shutdown capability) shall be completed by November 1, 1980 unless, for good cause shown, the Commission approves an extension," (proposed paragraph 50.48 1.(c)). The Commission went on to state its intention in the Statement of Consideration to the rule that ". . . no plant would be allowed to continue to operate after November 1, 1980, or beyond an extended date approved by the Comission, unless all modifications (except for alternate or dedicated shutdown capability) have been implemented."

The Commission has reconsidered the implementation schedule and has determined that it should be modified for the following reasons:

- After reviewing the comments and the information developed as a result of completion of fire reviews over the past 6 months, the staff has informed the Commission that the date of November 1, 1980, is not possible because the effective date of the rule will be after that date.
- The staff has informed the Commission that it would expect virtually all licensees to request

exemptions if the new implementation dates do not provide an appropriate period of time for complying with the requirements of Appendix R. The time and manpower resources needed by the licensees to prepare such requests and by the staff to formulate recommendations on these requests is not warranted from the standpoint of timely fire protection improvement.

• The revised implementation schedule provides a careful balance of these considerations, calling for the remaining fire protection modifications to be implemented and installed on a phased schedule that is as prompt as can be reasonably achieved.

The revised schedules distinguish between requirements imposed for the first time on the licensee by Appendix R and those requirements already imposed in license conditions or Technical Specifications issued prior to the effective date of the rule. For requirements imposed by Appendix R, including the items "backfit" to all plants, the schedule provides a reasonable time after publication of the rule for completion of required modifications. For requirements already imposed by license conditions providing for implemention after November 1, 1980, the Commission has reviewed these schedules and has found that in some instances the allotted time for completion of the required modifications may be excessive. Thus, for fire protection features other than those covered by Appendix R, although the Commission has extended the compliance dates beyond the November 1, 1980, date in the proposed rule, the Commission has added a requirement that limits the compliance schedule in existing licenses if such schedules extend beyond what we now believe should have been a reasonable schedule initially. Relief from such limitation may be granted by the Director of Nuclear Reactor Regulation upon a showing that there is good cause for extending such date and that public health and safety is not adversely affected by such extension.

It should also be noted that for licensees whose license conditions imposed a schedule with a compliance date of November 1, 1980, or other date prior to the effective date of § 50.48, the Commission has suspended such compliance dates by promulgating on October 29, 1980, a temporary rule § 50.48 (45 FR 71569), which will be superseded by this rule.

To better understand the nature of the public comments received and the staff's resolution of these comments, the following section will consider each section of Appendix R to this part. In Section III, we provide a summary of the Technical Basis for each requirement, followed by a summary of the public comments and a statement of the staff's disposition of those comments.

Section I. Introduction and Scope

This section has been revised as a result of comments to include a discussion of the importance of safe shutdown capability and the distinction between requirements for "safety-related" equipment and equipment needed for "safe shutdown."

Section II. General Requirements

This section has been substantially rewritten as a result of comments to provide a concise summary of general requirements. The specific requirements were consolidated with the appropriate parts of Section III, "Specific Requirements," except that the credit given for 50-foot separation has been dropped.

Section III. Specific Requirements

The requirements in this rule are based upon principles long accepted within that portion of American industry that has been classified by their insurance carriers as "Improved Risk" or "Highly Protected Risk". In each of these cases, the Commission has decided that the overall interest of public safety is best served by establishing some conservative level of fire protection and ensuring that level of compliance exists at all plants. The following is a list of the specific technical bases and resolution of public comments for each of the specific requirements in Appendix R.

A. *Water Supplies for Fire Suppression Systems Technical Basis.* One of the basic fire protection requirements for a modern industrial site in the United States is a separate water distribution system for fire protection with dual water supplies. Duplicate water supplies are required to ensure uninterrupted fire suppression capability allowing for single failures and periodic maintenance and repair of vital portions of the systems. Duplicate water supplies may consist of separate suctions for fire pumps from a large body of water such as lake, river, or pond or from two water storage tanks.

For nuclear power plants, the distribution system is required to consist of a loop around the plant with suitable valves for isolating portions of the system for maintenance or repair without interrupting the water supply to the various fire suppression systems in the plant. Thus, with dual supplies and a loop concept, an adequate water supply can be ensured to each manual or automatic water suppression system throughout the plant.

An ensured minimum volume of water is set aside and dedicated for fire protection uses to be available at all times regardless of other simultaneous water uses in the plant. This water volume is dedicated for fire service by means of separate storage tanks or separate pump suctions from a large body of water. When common tankage is employed for fire service needs and other water services, the fire pump suctions must be at the bottom of the tank and other water supply suctions must be located at a higher level to ensure that the minimum dedicated water volume is set aside for fire protection needs. Administrative controls by themselves, such as locked valves to ensure adequate water supply for fire fighting needs, are deemed unacceptable at nuclear power plants.

Comment Resolution

Many commenters stated that we were being too restrictive by stipulating an underground yard fire main loop and fresh water supplies. Our intent was only that a yard fire main loop be furnished. We have deleted the specification for an underground loop since special conditions may dictate that part of the loop be above ground or inside safety-related buildings. Such arrangements are acceptable.

With regard to the specification for a fresh water supply, the staff was attempting to avoid potential plant problems that are not associated with fire protection. From a fire protection standpoint, salt or brackish water is acceptable for fire suppression provided the fire protection system is designed and maintained for salt or brackish water. The requirement for fresh water supplies is therefore dropped. Other operational problems unrelated to fire protection that may result from the use of salt or brackish water for fire suppression activities are outside the scope of this regulation.

Several commenters took issue with the requirement for two separate redundant suctions, stating that some plants use a single large intake structure on a lake or a river for all water requirements. The requirement for separate intake structures was not intended and the rule has been clarified.

Several comments called for deleting the requirements for dedicated tanks or use of vertical standpipe for other water services when storage tanks are used for combined service-water/fire-water uses, on the basis that this is overly restrictive and other ways are available to ensure a dedicated supply such as weirs, suction location, etc. Two separate but

related issues are involved here. The first is the requirement for dedicated water storage tanks for fire fighting purposes. The suggestion that the requirement for dedicated tanks be deleted was rejected for the reasons stated in the preceding Technical Basis.

The other point deals with ensuring minimum water storage capacity for fire suppression activities when storage tanks are used for combined service-water/fire-water uses. The term "vertical standpipe for other water service" simply means that the suction for other water uses in common storage tanks will be located sufficiently high to ensure the minimum water volume needs for fire suppression activities. If the commenters were assuming that "vertical standpipe" referred only to pipes inside the tank, this is not the case. In fact a standpipe exterior to the storage tank is more desirable since any leakage would be immediately evident. On an internal standpipe a leak in the pipe could actually allow depletion of the water otherwise to be reserved for fire uses. The rule has been clarified to allow physical alternatives for water supply dedication but to preclude exclusive use of administrative controls for this purpose.

Some commenters objected to the requirement that other water systems used as a backup water supply for fire protection should be permanently connected to the fire main system and suggested that it would be sufficient to provide a water supply capable of being connected to the fire main system within ten minutes of the loss of normal water supply or pumps. The rule does not address backup water supplies. The requirement means that, if another water system is used as one of the redundant water supplies, it must satisfy all of the requirements of the fire protection water supplies. Additional backup supplies need not meet these requirements.

One commenter asked why only a two-hour water supply is required when the Browns Ferry Fire lasted well over two hours. All of the investigations of the Browns Ferry Fire clearly show that if water had been used immediately, the fire would have been extinguished much earlier. Indeed once the manual fire fighting activities were started with the use of only one fire hose stream, the fire was extinguished within one-half hour. The staff would find unacceptable any condition in which a postulated fire that could threaten safe shutdown capability could not be controlled and extinguished within two hours with any combination of manual and automatic fire suppression activities. Therefore, a two-hour water supply is considered adequate. It should also be noted that this minimum dedicated water volume is based on maximum flow rates. Since most fires are controlled and extinguished with much smaller flow rates, this requirement realistically represents a dedicated water volume far in excess of two hours.

B. *Sectional Isolation Valves.*

C. *Hydrant Isolation Valves Technical Basis.* These two requirements are similar and can be treated together. Proper valving is required to isolate portions of the water distribution system for maintenance or repair without interrupting the water supply to manual or automatic fire suppression systems inside the plant. Valves are similarly required to permit isolation of outside yard hydrants from the water distribution system for maintenance or repair without interrupting water supply to fire suppression systems inside the plant. Visually indicating valves such as post indicator valves are preferred so that the position of the valve can be readily determined. However, key-operated valves (commonly known as curb valves) are acceptable for these purposes where plant-specific conditions warrant their use.

B. *Section Control Valves—Comment Resolution.* Many commenters stated that the requirement for "approved visually indicating" sectional control valves was overly restrictive, unnecessary, and not specific with respect to who should give the approval. The Commission has accepted this suggestion; the rule now requires that sectional control valves shall be provided to isolate portions of the fire main for maintenance or repair without shutting off the entire system. Post indicator or key-operated valves are mentioned as two examples of acceptable valves.

C. *Hydrant Block Valves—Comment Resolution.* A number of commenters made suggestions for rewording this section. This section has been clarified to state the requirement for capability to isolate hydrants from the fire main without disrupting the water supply to automatic or manual fire suppression systems in any area containing or presenting a fire hazard to safety-related or safe shutdown equipment.

One commenter suggested that this requirement be dropped in its entirety since it "is a new requirement which has not been subjected to the peer review process." This suggestion was rejected on the basis that Appendix A to BTP APCSB 9.5–1 contains the following sentence: "The lateral to each hydrant from the yard main should be controlled by a visually indicating or key-operated (curb) valve," and there was an opportunity to comment on this document.

D. *Manual Fire Suppression Technical Basis.* Considerable reliance is placed on automatic fire suppression systems throughout a nuclear power plant. However, manual fire fighting activities often can control and extinguish slowly developing fires before an automatic fire suppression system is actuated. In addition, fires that are controlled or extinguished by automatic systems require a certain amount of manual response. Also, some areas of the plant do not warrant the installation of automatic fire suppression systems. Manual response is the only fire suppression available for these areas; thus, it is important that manual fire fighting capability be present in all areas of the plant, and that standpipe and hose stations be located throughout the plant. The standpipe and hose stations are to be located so that at least one effective hose stream can be brought to bear at any location in the plant containing or presenting a hazard to structures, systems, or components important to safety. They are to be supplied from the fire water supply system except for those inside containment, which may be connected to other reliable water supplies if a separate penetration into containment cannot be made for fire water service needs.

Comment Resolution

Several commenters suggested adding a sentence reading "Standpipe and hose stations are not required if sufficient justification can be provided that adequate fire protection features have been provided to account for a given fire area." This suggestion was rejected. The staff has taken the position that the minimum requirements are that at least one effective hose stream that will be able to reach any location that contains or could present an exposure fire hazard to the safety-related equipment. The Commission concluded that no analyses can identify hazards so carefully that this minimum requirement can be further reduced.

E. *Hydrostatic Hose Test Technical Basis.* Fire hoses should be hydrostatically tested periodically to ensure that they will not rupture during use. The requirement for a minimum test pressure of 300 psi comes from NFPA No. 196 (National Fire Protection Association Standard No. 196—Standard for Fire Hose), a nationally recognized consensus standard. This standard contains other guidance for the

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use and care of fire hose that most industries find useful.

Comment Resolution

Many commenters pointed out the erroneous usage of the term "service pressure" rather than "operating pressure" in this requirement. The intended meaning for this requirement is that all hoses would be tested at a pressure greater than the maximum pressure found in the fire protection water distribution systems. The correct terminology is "operating pressure." The rule has been so changed. In addition, the staff added a specific minimum test pressure requirement of 300 psi to meet the NFPA standard.

One commenter also pointed out that hoses should be inspected for mildew, rot, cuts, or other damage. Although this is a valid comment, it is not an unresolved issue with any licensee so it need not be covered by this rule. In addition, such inspections are already being performed in accordance with the plant's Technical Specificaitons.

F. *Automatic Fire Detection Technical Basis.* The requirement that automatic fire detection systems be installed in all areas that contain safe shutdown or safety-related systems or components follows generally accepted fire protection practice. Installation of such fire detection capability is independent of any requirements for automatic or manual fire suppression capability in an area. The purpose of these detection systems is to give early warning of fire conditions in an area so that the fire brigade can initiate prompt actions to minimize fire damage within the plant.

Comment Resolution

Many commenters suggested that the words "automatic fire detection capability" be substituted for "automatic fire detection systems" on the basis that, as worded, the requirements are too limiting. They stated that an automatic sprinkler system with appropriate alarm check valves and central alarm features provides acceptable detection/alarming capability. Several commenters claimed that a separate detection system is not needed in areas covered by sprinkler systems equipped with fusible link sprinkler heads. A fusible link has a time delay before it actuates. However, more importantly, a smoldering localized fire that could do damage may not generate enough heat to melt the fusible link. While we do not disagree that the alarm from an automatic fire suppression system serves as notification that a fire exists, we concluded that the minimum requirement for a separate fire detection system in all such areas should be retained. The fire hazards analysis may call for a separate suppression system, but this would be in addition to the fire detection system.

G. *Protection of Safe Shutdown Capability Technical Basis.* The objective for the protection of safe shutdown capability is to ensure that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire in the plant. Because it is not possible to predict the specific conditions under which fires may occur and propagate, the design basis protective features are specified rather than the design basis fire. Three different means for protecting the safe shutdown capability outside of containment are acceptable. The first means is separation of redundant safe shutdown trains and associated circuits by means of 3-hour fire rated barriers. The second means is a combination of separation of redundant safe shutdown trains and associated circuits by a 1-hour fire rated barrier and automatic fire suppression and detection capability for both redundant trains. The third means, which may be used only when redundant trains and associated circuits are separated by 20 feet or more of clear space, requires automatic fire suppression and detection systems in the area. An alternative or dedicated safe shutdown capability independent of the fire area is required if fire protection for safe shutdown capability cannot be provided as outlined above. For cables and equipment needed for safe shutdown located inside of noninerted containments, a lesser degree of fire protection is permitted because transient exposure fires are less likely inside containment during plant operation. Section III.M, "Fire Barriers," discusses the technical basis for the 3-hour barrier, and Section III.L, "Alternative and Dedicated Shutdown Capability," discusses the technical basis for safe shutdown capability.

Comment Resolution

Many commenters suggested that the first paragraph be changed slightly and the rest of this section deleted. The basis for their contention is that the rule should state simply the requirement to protect cables or equipment of systems necessary for safe shutdown of the plant and leave specific implementation details in some other type of document.

We have modified this section by removing the listing of considerations, deleting Table I, and revising the wording to provide clarification.

H. *Fire Brigade.*

I. *Fire Brigade Training Technical Basis.* Most modern industrial plants with replacement cost values approaching those of a modern nuclear powered electric generating station have a full-time fully equipped fire department, including motorized fire apparatus. Because of the reduced severity of fire hazards in a nuclear generating station as compared to a manufacturing plant, the Commission believes that it is not necessary to mandate a fully staffed fire department. However, manual fire response capability is required at a nuclear plant and a properly equipped and fully trained fire brigade will satisfy this need. The Commission has determined that a brigade of five persons constitutes the minimum size sufficient to perform the actions that may be required by the brigade during the fire and to provide some margin for unanticipated events.[1] Similarly, the training requirements listed are considered the minimum needed to ensure that the fire brigade will be able to function effectively during a fire emergency.

The proposed rule required emergency breathing apparatus without specifying the number of such pieces of apparatus. The rule has been modified to specify the personnel for whom such apparatus is to be provided and to specify reserve air requirements.

H. *Fire Brigade—Comment Resolution.* Many commenters suggested changing this requirement to a simple statement that a trained and equipped, nominal size, site fire brigade of five persons be provided on each shift unless a lesser number is justified. This recommended change was rejected by the Commission for the reasons stated in the Technical Basis.

Some commenters objected to the exclusion of the shift supervisor from the fire brigade. The commenters felt that the shift supervisor should go to the fire and provide the benefit of his expertise and authority. The rule would not prevent this. However, the shift supervisor may have to go elsewhere during the course of a fire that adversely affects plant operation. The fire brigade leader must stay with the fire brigade and be assigned no other responsibilities during a fire emergency, therefore, the shift supervisor must be excluded from membership on the fire brigade.

I. *Fire Brigade Training—Comment Resolution.* Many commenters have stated that NRC used unnecessary detail in spelling out specific requirements for classroom instruction, fire fighting practice, and fire drills. Some commenters felt that these requirements were more detailed than anything the Commission has published with regard to operator training. The Commission here points out that most of the investigations of the TMI accident identified inadequately trained operators as an important factor and that work is now being done in this area. The fact is not that the training requirements spelled out here for the fire brigade members are excessive when compared to training requirements for reactor operators, but that fire brigade training is further along in development, and training parameters that are essential to a comprehensive program have been identified.

J. *Emergency Lighting Technical Basis.* Emergency lighting is required in all nuclear power plants. Battery-powered lights with capacities of 1½ to 2 hours is usually sufficient for emergency egress. However, the postfire emergency lighting requirements in a nuclear power plant are of a different kind. The need is for lighting that aids the access to equipment and components that must be manually operated by plant personnel to effect safe plant shutdown during plant emergencies. Because such activities may extend over a considerable period of time both during and after the fire, it is prudent to provide 8-hour battery emergency lighting capability to allow sufficient time for normal lighting to be restored with a margin for unanticipated events.

Comment Resolution

Many commenters stated that the requirement for emergency lighting is overly restrictive in three specifics: first, that emergency lighting is unnecessary in many of the designated areas; second, that the requirement for sealed beam or fluorescent units is overly restrictive; third, that the requirement for individual 8-hour battery power supply is excessive. Three commenters recommended a 2-hour battery power supply; five commenters recommended a plant-specific power supply; and one commenter recommended that there be no permanent installation.

These suggestions have been accepted in part. Lighting units with 8-hour battery supplies are to be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. The reasoning behind the requirement for an 8-hour battery power supply is that there can be a great deal of other activity during a fire emergency and operators involved in safe plant shutdown should not also have to be concerned with lighting in the area. The small cost differential between 2-hour supply and the substantial additional protection afforded by the 8-hour supply does not warrant reducing this requirement. The Commission has decided to require an 8-hour battery power supply in all areas needed for operation of safe shutdown equipment and in access and egress routes.

K. *Administrative Controls Technical Basis.* The fire protection program uses administrative controls for fire prevention and prefire planning. The items listed in this section are generally accepted within the fire protection community as minimum requirements for an effective administration of the fire protection program. Controls are placed on the storage and use of combustible materials to reduce the fire loading in safety-related areas and on ignition sources to avoid careless operations. Procedures are used to control actions to be taken by individuals who discover a fire and by the fire brigade for the development of preplanned fire fighting strategies and actual fire fighting techniques.

Comment Resolution

Many commenters stated that this requirement was much too detailed for a regulation. Some stated that the requirements should apply only to those areas having safe shutdown equipment. Other commenters stated that a simple statement that administrative procedures should be established to control the various fire hazards throughout the plant was sufficient, and that the details could be spelled out in a regulatory guide or some other similar document.

Minor changes have been made in the wording of this requirement for clarification.

L. *Alternative and Dedicated Shutdown Capability.*

Technical Basis. In some locations (such as the cable spreading room) within operating nuclear power plants, it is not always possible or practicable to protect redundant safe shutdown systems against adverse effects of fire or fire suppression activities only through the use of fire protection features because the redundant safe shutdown systems in a given fire area are too close to each other. Alternative shutdown capability has usually been required to be independent of the control room, cable spreading room, switchgear rooms and cable riser areas because redundant systems in these areas are not adequately separated. When plant modifications to provide alternative shutdown systems are extensive, a dedicated system that is essentially a minimum capability safe shutdown train and is independent of those already existing may be provided. This minimum capability is required to maintain the process variables within those values predicted for a loss of offsite power. The case of loss of offsite power is assumed because fires in certain circumstances (e.g., electrical distribution systems) could cause or be related to such a loss. Fire damage to cold shutdown capability is limited to damage that can be repaired within 72 hours to provide a margin in achieving cold shutdown conditions. Consideration is given to associated circuits because most plants were not designed with this concept in mind. Should either the alternative or dedicated capability be required to function because of a fire, it must not be disabled by fire damage to associated circuits. Also, this capability does not have to meet the single failure criterion because it is only one of several levels of defense. Seismic Category I criteria is not imposed because fires that would require the installation of alternative or dedicated shutdown capability are not seismically induced.

Comment Resolution

Many of the commenters stated that this requirement exceeded the scope of Appendix R by defining alternative shutdown requirements. They stated that the time requirements are excessive and should be dropped. They also contend that this regulation does not take into account the many plant reviews being conducted under the Systematic Evaluation Program (SEP).

It is generally understood that cold shutdown is the ultimate safe shutdown condition and that, for each fire area, different means may be used and may be necessary to achieve cold shutdown. Because a fire in certain areas at some plants would have the capability of disabling systems required to achieve both hot and cold shutdown, it is necessary to specify the minimum capability and time requirement for each condition necessary to achieve safe shutdown. We agree that evaluations being made under the Systematic Evaluation Program (SEP) may also call for alternative or dedicated shutdown capability for reasons other than fire protection. For example, seismic, flooding, or emergency core cooling requirements resulting from the SEP may require additional modifications. Each licensee should be aware of the status of the SEP so that the requirements resulting from SEP can be effectively integrated with those relating to fire

[1] This is discussed at length in the NRC staff's "Evaluation of Minimum Fire Brigade Shift Size", dated June 8, 1979; copies are available from David P. Notley, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

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protection to the extent possible. However, the Commission has decided that the modifications required to complete the fire protection program should not be deferred until the SEP review is completed.

M. *Fire Barriers.*

Technical Basis. The best fire protection for redundant trains of safe shutdown systems is separation by unpierced fire barriers—walls and ceiling-floor assemblies. Because these barriers are passive fire protection features, they are inherently reliable provided they are properly installed and maintained. Fire barriers have been used successfully for many years to subdivide large potential fire losses into smaller, more acceptable risks. Even fire barriers with openings have successfully interrupted the progress of many fires provided the openings were properly protected by fire doors or other acceptable means.

Fire barriers are "rated" for fire resistance by being exposed to a "standard test fire". This standard test fire is defined by the American Society for Testing and Materials in ASTN E–119, "Standard for Fire Resistance of Building Materials." Fire barriers are commonly rated as having a fire resistance of from 1 to 8 hours. Most "Improved Risk" or "Highly Protected Risk" (as classified by insurance carriers) industrial properties in the United States require fire barriers to have a resistance rating of 2 to 4 hours.

While a nuclear power plant has a low fire load, the potential consequences of fire are serious. Therefore, the Commission has selected 3 hours has been as an acceptable minimum fire resistance rating for fire barriers separating redundant trains for safe shutdown systems. This will give ample time for automatic and manual fire suppression activities to control any potential fire and for safe shutdown activities to properly control the reactor. Many operating plants, or plants that are already built but that are not yet operating, have both trains of safe shutdown equipment located in close proximity and a single fire could damage or destroy the functional capability of both redundant trains. If specific plant conditions preclude the installation of a 3-hour fire barrier to separate the redundant trains, a 1-hour fire barrier and automatic fire suppression system for each redundant train will be considered the equivalent of 3-hour barrier.

If the 1-hour fire barrier and automatic fire suppression for each redundant train cannot be provided because of plant-specific conditions, alternative or dedicated shutdowns capability will be required to ensure safe shutdown capability. The use of a 1-hour barrier in conjunction with automatic fire suppression and detection capability for each redundant train of safe shutdown equipment is based on the following considerations. Automatic suppression is required to ensure prompt, effective application of suppressant to a fire that could endanger safe shutdown capability. The activation of an automatic fire detection or suppression system does not occur until sufficient smoke or heat has been developed by the fire. Therefore, the Commission is requiring a 1-hour barrier to ensure that fire damage will be limited to one train until the fire is extinguished.

These requirements have now been incorporated in Section III.G, "Fire Protection of Safety Functions."

Comment Resolution

Several commenters made a number of suggestions of an editorial nature. One suggestion was to add "or unless other fire protection features have been provided to ensure equivalent protection" in the first paragraph, where three-hour rated fire barriers were stipulated unless a lower rating was justified by the fire hazards analysis. The Commission feels that this adds nothing in the way of clarification and the suggestion was not adopted. The second paragraph requires that structural steel forming a part of or supporting any fire barrier have a fire resistance equivalent to that required of the barrier. An example was given of metal lath and plaster covering as being one means of providing equivalent protection. Several commenters stated that they thought this was too narrow and would be interpreted by some people as the only acceptable method permitted. Since the example seemed to be confusing, a decision has been made to eliminate it. Other comments to the effect that the requirement was excessively restrictive with regard to fire barrier penetrations, including fire doors and their associated frames and hardware, and ventilation systems have been acted upon by the staff and the requirement, as it had affected these items, was deleted.

N. *Fire Barrier Cable Penetration Seal Qualification.*

Technical Basis. Unpierced fire barriers offer the best protection for separating redundant trains of safety-related or safe shutdown equipment. However, these barriers must be pierced for both control and power cables. These penetrations must be sealed to achieve a degree of fire resistance equivalent to that required of the barrier that is pierced. ASTM Standard E–119 is the national consensus standard used for testing and rating these cable penetration seals. Since the cables conduct the heat through the barrier, and since the cable insulation is combustible, the acceptance criteria of the ASTM Standard E–119 relating to temperature on the unexposed side must be appropriately modified.

Comment Resolution

Some commenters suggested that this entire section be deleted and replaced with the following two sentences: "Penetration seals shall provide the equivalent protection which is required of the fire barrier. Evaluation of the penetration seals based upon a design review and relevant test data or qualification tests may be made." The commenters felt that sufficient test data are available to permit evaluation of design requirements without full-scale mockup testing and that many of the items spelled out in the regulation, such as the water hose stream test, were too detailed and did not belong in the regulation. The Commission has reconsidered this issue and revised the rule to (a) require the use of noncombustible materials only in the construction of fire barrier penetration seals, (b) require fire barrier penetration seals to be qualified by test; and (c) require such tests to satisfy certain acceptance criteria.

O. *Fire Doors.*

Technical Basis. Door openings in fire walls constitute another breach that must be protected. Fire doors that have been tested and rated for certain fire exposures are installed to protect these openings. Fire doors frequently fail to protect the openings in which they are installed because they are not fully closed. Various methods are available to licensees to ensure that fire doors are in proper operating condition and that they will be closed during a fire. These options are listed in Appendix R.

Comment Resolution

Many commenters stated that this requirement is too detailed and should be deleted. Minor editorial changes have been made in order to more clearly state the requirements.

P. *Reactor Coolant Pump Lubrication System.*

Technical Basis. Each reactor coolant pump motor assembly typically contains 140 to 220 gallons of lube oil. Oil leaking from some portions of the lube oil system may come in contact with surfaces that are hot enough to ignite the oil. The resulting fire could be large, and access to the fire would be delayed because of the time required to enter the containment. Containent air temperature would increase, severe localized environments would develop in the area of the fire, and a large amount of smoke would be generated. These conditions could affect operability of safety-related equipment inside containment. Therefore, an oil collection system is necessary to confine any oil discharged due to leadkage or failure of the lubrication system and to prevent it from becoming a fire hazard by draining it to a safe location. These occurrences could be random or could be seismically induced because the existing lube oil system piping and oil collection systems may not be designed to withstand a design basis seimic event.

Appendix A to BTP APCSB 9.5–1 states that for operating plants, "postulated fires or fire protection system failures need not be considered concurrent with other plant accidents or the most severe natural phenomena." The basis for that statement is two fold. First, nuclear power plants are massive structures, and essential services are designed to withstand earthquakes and other natural phenomena. Second, the history of many fires associated with recent earthquakes have been evaluated. These evaluations showed that such fires usually are due to failure of piping or tanks of flammable gasses or liquids such as municipal natural gas distribution systems or gasoline storage and/or dispensing stations. Where such potential fire hazards exist in nuclear power plants (e.g., hydrogen for generator cooling, or oil fuel for the emergency diesel generator or station space heating boilers) they are designed and installed to withstand the damaging effects of various natural phenomena, and other special fire protection features are provided as necessary. However, General Design Criterion 2 *Design Bases for Protection Against Natural Phenomena* requires that structures, systems, and components important to safety be designed to withstand the effects of earthquakes without loss of capability to perform their safety function. Regulatory Guide 1.29, "Seismic Design Classification," describes an acceptable method for identifying and classifying those features of light-water-cooled nuclear power plants that should be designed to withstand the effects of the Safe Shutdown Earthquake. In this guide, paragraph C.1 applies to systems that are required to remain functional to ensure heat removal capability; paragraph C.2 applies to systems that do not have to remain frunctional for that purpose, but whose failure could reduce the functioning of those systems covered by paragraph C.1. The reactor coolant pump oil collection system is covered by paragraph C.2 because its function is required to protect safety-related systems rather than to perform a safety function. Because the failure of the oil collection system for a seismically induced oil fire should not prevent a safety-related system from performing its safety function (Regulatory Guide 1.29, "Seismic Design Classification," paragraph C.2), the oil collection system should be designed, engineered, and installed so that its failure will not lead to a fire affecting safety-related equipment as a result of an earthquake.

The proposed rule permitted two alternatives—an oil collection system or an automatic fire suppression system. We have deleted the alternative of the suppression system because unacceptable damage may result to the safety-related systems from the burning of oil before the suppression system is actuated and because the fire water supply system is not designed to withstand seismic events. In addition, these pumps are located within the biological shield inside containment, therefore, timely fire brigade action would be difficult if the suppression system malfunctions. Further, if the suppression system becomes inoperable during operation, a fire watch or patrol cannot enter the area during operation.

Comment Resolution

A number of commenters suggested that this section is too detailed and should be substantially modified. This requirement was changed to delete the option of protecting the reactor coolant pump lubrication system with an automatic fire suppression system. We have modified the rule to indicate that the requirement that the oil collection system be designed to provide reasonable assurance that it will withstand the Safe Shutdown Earthquake can be met by satisfying paragraph C.2. of Regulatory Guide 1.29, "Seismic Design Classification," as described above.

Q. *Associated Circuits.*

Technical Basis. When considering the consequences of a fire in a given fire area during the evaluation of safe shutdown capabilities of a plant, the staff must be able to conclude that one train of equipment that can be used immediately to bring the reactor to a hot shutdown condition remains unaffected by that fire. The staff must also be able to conclude that damage to one train of equipment used for achieving cold shutdown will be limited so that the equipment can be returned to an operable condition within 72 hours. (See Technical Basis for Section III.G, "Protection of Safe Shutdown Capability.") In the fire hazards analysis for a plant, the equipment relied upon to perform both functions must be identified for each fire area. It follows that any associated non-safety circuits in the fire area that could adversely affect the identified shutdown equipment by feeding back potentially disabling conditions (e.g., hot shorts or shorts to ground) to the power supplies or control circuits of that equipment must also be evaluated. Of course such disabling conditions must be prevented to provide assurance that the identified safe shutdown equipment will function as designed. These requirements have now been incorporated in Section III.L, "Alternative and Dedicated Shutdown Capability."

Comment Resolution

Many commenters stated that this requirement should be deleted because many older plant designs did not consider associated circuits and this is, therefore, a new design requirement. The commenters felt that the analysis that will be required to satisfy this requirement will be both long and complicated and the requirement should therefore be deleted.

The Commission rejected these suggestions for the following reasons.

1. Virtually all of the fire protection modifications made to date have been required to correct deficiencies that resulted from lack of consideration of certain specific items during initial design and construction.

2. The Browns Ferry fire showed the necessity of divisional separation of the associated circuit of the control cables to prevent the disabling of safety systems by a single fire. This has been discussed with licensees during evaluations of alternative and dedicated shutdown capability and is necessary to ensure that safe shutdown systems will be able to function properly in the event of fire.

3. The staff considers incomplete any fire hazard analysis that does not consider the effects of fire damage to circuits that are associated with safe shutdown systems.

As indicated above, as a result of the comments received on this issue, it is unclear that associated circuits have in fact been adequately considered by licensees in their reviews using the guidance of Appendix A to BTP APCSB 9.5–1. To ensure that the associated circuits are considered, all operating nuclear power plants will be required to meet the requirements of Section III.G of Appendix R.

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General Comments Resolution:

Several commenters contended that Commission regulations mandate that an adjudicatory hearing be conducted prior to a final decision. One commenter labeled the regulation an "order" within the meaning of the Administrative Procedure Act (5 U.S.C. 551(6)) (APA) and asserted that 10 CFR 2.204 of the Commission's regulations, "Order for Modification of License," applies to this rulemaking proceeding.

The Commission disagrees with these comments. A "rule" is defined in the APA to mean "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement * * * or prescribe law or policy * * *" (5 U.S.C. 551(4)). The agency action questioned here is clearly one that treats similarly situated licensees equally and that prescribes future conduct or requirements. For those licensees who have not already provided an equivalent level of fire protection, certain specific fire protection features are required. Various of these requirements would apply to approximately 40 facilities. The commenter's characterization of the rule as an order, along with the assertion that 10 CFR 2.204 mandates a hearing before the rule becomes final is incorrect. On its face, that regulation (which does grant a hearing right) applies only to Commission orders that modify a license.[2] It does not apply to requirements promulgated through a rulemaking action conducted in accordance with the requirements of applicable law.

Several commenters contended that the environmental impact had not been adequately addressed. One commenter, citing the requirements in Section III.A of Appendix R for two water supplies and two separate redundant sections as examples of requirements involving environmental issues, contended that the Commission relied upon its staff's "unsupported determination that, pursuant to 10 CFR § 51.5(d), an environmental impact statement, appraisal, or negative declaration is not required." The Commission has considered Section III.A and has further considered the remaining requirements of Appendix R and remains convinced that the regulations are not substantive and are insignificant from the standpoint of environmental impact.

One commenter suggested that all plants be required to install dedicated shutdown capability. The Commission does not agree. We believe that the Commission's overall fire protection program involving extensive plant-specific fire protection modifications that are based on guidance set forth in Branch Technical Position BTP APCSB 9.5–1 and its Appendix A and the specific requirements of Appendix R to resolve disputed issues provide adequate fire protection.

One commenter stated that the ambiguity of the proposed regulation with regard to critical items requires that it be renoticed. The commenter referenced three portions of the proposed Appendix R as examples of such ambiguity. They were Section III.G, Section III.N, and Section III.Q. We have reviewed these examples.

In reference to the first example, the commenter stated that the first paragraph of Section III.G identifies alternative shutdown capability as an optional protective feature and that paragraph III.G.2.c then identifies alternative shutdown capability as a minimum fire protection feature. We do not agree with this statement. The first paragraph of Section III.G identifies alternative shutdown capability as one option in a combination of fire protection features for a specific fire area. Paragraph III.G.3 indicates when this option should be used.

In reference to the second example, the commenter stated that Section III.N requires a pressure differential across the test specimen during the testing of fire barrier penetration seals but fails to define the pressure differential. This comment is incorrect. The pressure differential called for by the proposed provision was the maximum pressure differential that the barrier would experience in the specific plant installation. In any event, the requirement for pressure differential during such testing has been deleted since only noncombustible material is now being used for such seals.

In reference to the third example, the commenter stated that Section III.Q is totally lacking in definition. We do not agree. Footnote 6 references Regulatory Guide 1.75 and IEEE Std 384–1974. The latter document is a commonly used industry standard that defines associated circuits and provides guidance for ensuring that such circuits do not compromise the independence of the shutdown circuits they are associated with.

Based on the above examples and our review of the other provisions of the proposed rule, we do not believe that the rule as proposed was ambiguous so as to require renoticing. Moreover, it should be noted that, based on other comments received on the proposed regulations, other commenters demonstrated a thorough understanding of the proposed requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50, are published as a document subject to codification.

1. A new § 50.48 is added to read as follows:

§ 50.48 Fire Protection.

(a) Each operating nuclear power plant shall have a fire protection plan that satisfies Criterion 3 of Appendix A to this part. This fire protection plan shall describe the overall fire protection program for the facility, identify the various positions within the licensee's organization that are responsibile for the program, state the authorities that are delegated to each of these positions to implement those responsibilities, and outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage. The plan shall also describe specific features necessary to implement the program described above, such as administrative controls and personnel requirements for fire prevention and manual fire suppression activities, automatic and manually operated fire detection and suppression systems, and the means to limit fire damage to structures, systems, or components important to safety so that the capability to safely shut down the plant is ensured.[3]

(b) Appendix R to this part establishes fire protection features required to satisfy Criterion 3 of Appendix A to this part with respect to certain generic issues for nuclear power plants licensed to operate prior to January 1, 1979. Except for the requirements of Sections III.G, III.J, and III.O, the provisions of Appendix R to this part shall not be applicable to nuclear power plants licensed to operate prior to January 1, 1979, to the extent that fire protection features proposed or implemented by

[2] It should also be noted that § 2.204 is codified in Subpart B of 10 CFR Part 2. The scope of Subpart B is specifically limited to "cases initiated by the staff * * * to impose requirements by *order* on a licensee" (10 CFR 2.200(a)). (Emphasis supplied.)

[3] Basic fire protection guidance for nuclear power plants is contained in two NRC documents:

- Branch Technical Position Auxiliary Power Conversion System Branch BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants," for new plants docketed after July 1, 1976, dated May 1976.
- Appendix A to BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," for plants that were operating or under various stages of design or construction before July 1, 1976, dated August 23, 1976.

Also see Note 4.

the licensee have been accepted by the NRC staff as satisfying the provisions of Appendix A to Branch Technical Position BTP APCSB 9.5–1[4] reflected in staff fire protection safety evaluation reports issued prior to the effective date of this rule, or to the extent that fire protection features were accepted by the staff in comprehensive fire protection safety evaluation reports issued before Appendix A to Branch Technical Position BTP APCSB 9.5–1 was published in August 1976. With respect to all other fire protection features covered by Appendix R, all nuclear power plants licensed to operate prior to January 1, 1979 shall satisfy the applicable requirements of Appendix R to this part, including specifically the requirements of Sections III.G, III.J, and III.O.

(c) All fire protection modifications require to satisfy the provisions of Appendix R to this part or directly affected by such requirements shall be completed on the following schedule:

(1) Those fire protection features that involve revisions of administrative controls, manpower changes, and training, shall be implemented within 30 days after the effective date of this section and Appendix R to this part.

(2) Those fire protection features that involve installation of modifications that do not require prior NRC approval or plant shutdown shall be implemented within 9 months after the effective date of this section and Appendix R to this part.

(3) Those fire protection features, except for those requiring prior NRC approval by paragraph (c)(5) of this section, that involve installation of modifications that do require plant shutdown, the need for which is justified in the plans and schedules required by the provisions of paragraph (c)(5) of this section, shall be implemented before startup after the earliest of the following events commencing 180 days or more after the effective date of this section and Appendix R to this part:

(i) the first refueling outage;

(ii) another planned outage that lasts for at least 60 days; or

(iii) an unplanned outage that lasts for at least 120 days.

(4) Those fire protection features that require prior NRC approval by paragraph (c)(5) of this section, shall be implemented within the following schedule: Dedicated shutdown systems—30 months after NRC approval; modifications requiring plant shutdown—before startup after the earliest of the events given in paragraph (c)(3) commencing 180 days after NRC approval; modifications not requiring plant shutdown—6 months after NRC approval.

(5) Licensees shall make any modifications necessary to comply with these requirements in accordance with the above schedule without prior review and approval by NRC except for modifications required by Section III.G.3 of Appendix R to this part. Licensees shall submit plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3), and (c)(4) within 30 days after the effective date of this section and Appendix R to this part. Licensees shall submit design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R to this part within 30 days after the the effective date of this section and Appendix R to this part.

(6) In the event that a request for exemption from a requirement to comply with one or more of the provisions of Appendix R filed within 30 days of the effective date of this rule is based on an assertion by the licensee that such required modifications would not enhance fire protection safety in the facility or that such modifications may be detrimental to overall facility safety, the schedule requirements of paragraph (c) shall be tolled until final Commission action on the exemption request upon a determination by the Director of Nuclear Reactor Regulation that the licensee has provided a sound technical basis for such assertion that warrants further staff review of the request.

(d) Fire protection features accepted by the NRC staff in Fire Protection Safety Evaluation Reports referred to in paragraph (b) of this section and supplements to such reports, other than features covered by paragraph (c), shall be completed as soon as practicable but no later than the completion date currently specified in license conditions or technical specifications for such facility, or the date determined by paragraphs (d)(1) through (d)(4) of this section, whichever is sooner, unless the Director of Nuclear Reactor Regulation determines, upon a showing by the licensee, that there is good cause for extending such date and that the public health and safety is not adversely affected by such extension. Extensions of such date shall not exceed the dates determined by paragraphs (c)(1) through (c)(4) of this section.

(1) Those fire protection features that involve revisions of administrative controls, manpower changes, and training shall be implemented within 4 months after the date of the NRC staff Fire Protection Evaluation Report accepting or requiring such features.

(2) Those fire protection features involving installation of modifications not requiring prior approval or plant shutdown shall be implemented within 12 months after the date of the NRC staff Fire Protection Safety Evaluation Report accepting or requiring such features.

(3) Those fire protection features, including alternative shutdown capability, involving installation of modifications requiring plant shutdown shall be implemented before the startup after the earliest of the following events commencing 9 months or more after the date of the NRC staff Fire Protection Safety Evaluation Report accepting or requiring such features:

(i) The first refueling outage;

(ii) Another planned outage that lasts for at least 60 days; or

(iii) An unplanned outage that lasts for at least 120 days.

(4) Those fire protection features involving dedicated shutdown capability requiring new buildings and systems shall be implemented within 30 months of NRC approval. Other modifications requiring NRC approval prior to installation shall be implemented within 6 months after NRC approval.

(e) Nuclear power plants licensed to operate after January 1, 1979, shall complete all fire protection modifications needed to satisfy Criterion 3 of Appendix A to this part in accordance with the provisions of their licenses.

2. A new Appendix R is added to 10 CFR Part 50 to read as follows:

Appendix R—Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979

I. Introduction and Scope

This Appendix applies to licensed nuclear power electric generating stations that were operating prior to January 1, 1979, except to the extent set forth in paragraph 50.48(b) of this part. With respect to certain generic issues for such facilities it sets forth fire protection features required to satisfy Criterion 3 of Appendix A to this part.[5]

[4] Clarification and guidance with respect to permissible alternatives to satisfy Appendix A to BTP APCSB 9.5–1 has been provided in four other NRC documents.

- "Supplementary Guidance on Information Needed for Fire Protection Evaluation," dated October 21, 1976.
- "Sample Technical Specification," dated May 12, 1977.
- "Nuclear Plant Fire Protection Functional Responsibilities, Administrative Control and Quality Assurance," dated June 14, 1977.
- "Manpower Requirements for Operating Reactors," dated May 11, 1978.

A Fire Protection Safety Evaluation Report that has been issued for each operating plant states how these guidelines were applied to each facility and identifies open fire protection issues that will be resolved when the facility satisfies the appropriate requirements of Appendix R to this part.

[5] See footnote 4.

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Criterion 3 of Appendix A to this part specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions."

When considering the effects of fire, those systems associated with achieving and maintaining safe shutdown conditions assume major importance to safety because damage to them can lead to core damage resulting from loss of coolant through boiloff.

The phrases "important to safety," or "safety-related," will be used throughout this Appendix R as applying to all safety functions. The phrase "safe shutdown" will be used throughout this Appendix R as applying to both hot and cold shutdown functions.

Because fire may affect safe shutdown systems and because the loss of function of systems used to mitigate the consequences of design basis accidents under postfire conditions does not per se impact public safety, the need to limit fire damage to systems required to achieve and maintain safe shutdown conditions is greater than the need to limit fire damage to those systems required to mitigate the consequences of design basis accidents. Three levels of fire damage limits are established according to the safety functions of the structure, system, or component:

Safety function	Fire damage limits
Hot Shutdown	One train of equipment necessary to achieve hot shutdown from either the control room or emergency control station(s) must be maintained free of fire damage by a single fire, including an exposure fire.[1]
Cold Shutdown	Both trains of equipment necessary to achieve cold shutdown may be damaged by a single fire, including an exposure fire, but damage must be limited so that at least one train can be repaired or made operable within 72 hours using onsite capability.
Design Basis Accidents	Both trains of equipment necessary for mitigation of consequences following design basis accidents may be damaged by a single exposure fire.

[1] *Exposure Fire* An exposure fire is a fire in a given area that involves either in situ or transient combustibles and is external to any structures, systems, or components located in or adjacent to that same area. The effects of such fire (e.g., smoke, heat, or ignition) can adversely affect those structures, systems, or components important to safety. Thus, a fire involving one train of safe shutdown equipment may constitute an exposure fire for the redundant train located in the same area, and a fire involving combustibles other than either redundant train may constitute an exposure fire to both redundant trains located in the same area.

The most stringent fire damage limit shall apply for those systems that fall into more than one category. Redundant systems used to mitigate the consequences of other design basis accidents but not necessary for safe shutdown may be lost to a single exposure fire. However, protection shall be provided so that a fire within only one such system will not damage the redundant system.

II. General Requirements

A. *Fire Protection Program*

A fire protection program shall be established at each nuclear power plant. The program shall establish the fire protection policy for the protection of structures, systems, and components important to safety at each plant and the procedures, equipment, and personnel required to implement the program at the plant site.

The fire protection program shall be under the direction of an individual who has been delegated authority commensurate with the responsibilities of the position and who has available staff personnel knowledgeable in both fire protection and nuclear safety.

The fire protection program shall extend the concept of defense-in-debth to fire protection in fire areas important to safety, with the following objectives:

- to prevent fires from starting;
- to detect rapidly, control, and extinguish promptly those fires that do occur;
- to provide protection for structures, systems, and components important to safety so that a fire that is not promptly extinguished by the fire suppression activities will not prevent the safe shutdown of the plant.

B. *Fire Hazards Analysis*

A fire hazards analysis shall be performed by qualified fire protection and reactor systems engineers to (1) consider potential in situ and transient fire hazards; (2) determine the consequences of fire in any location in the plant on the ability to safely shut down the reactor or on the ability to minimize and control the release of radioactivity to the environment; and (3) specify measures for fire prevention, fire detection, fire suppression, and fire containment and alternative shutdown capability as required for each fire area containing structures, systems, and components important to safety in accordance with NRC guidelines and regulations.

C. *Fire Prevention Features*

Fire protection features shall meet the following general requirements for all fire areas that contain or present a fire hazard to structures, systems, or components important to safety.

1. In situ fire hazards shall be identified and suitable protection provided.

2. Transient fire hazards associated with normal operation, maintenance, repair, or modification activities shall be identified and eliminated where possible. Those transient fire hazards that can not be eliminated shall be controlled and suitable protection provided.

3. Fire detection systems, portable extinguishers, and standpipe and hose stations shall be installed.

4. Fire barriers or automatic suppression systems or both shall be installed as necessary to protect redundant systems or components necessary for safe shutdown.

5. A site fire brigade shall be established, trained, and equipped and shall be on site at all times.

6. Fire detection and suppression systems shall be designed, installed, maintained, and tested by personnel properly qualified by experience and training in fire protection systems.

7. Surveillance procedures shall be established to ensure that fire barriers are in place and that fire suppression systems and components are operable.

D. *Alternative or Dedicated Shutdown Capability*

In areas where the fire protection features cannot ensure safe shutdown capability in the event of a fire in that area, alternative or dedicated safe shutdown capability shall be provided.

III. Specific Requirements

A. *Water Supplies for Fire Suppression Systems*

Two separate water supplies shall be provided to furnish necessary water volume and pressure to the fire main loop.

Each supply shall consist of a storage tank, pump, piping, and appropriate isolation and control valves. Two separate redundant suctions in one or more intake structures from a large body of water (river, lake, etc.) will satisfy the requirement for two separated water storage tanks. These supplies shall be separated so that a failure of one supply will not result in a failure of the other supply.

Each supply of the fire water distribution system shall be capable of providing for a period of 2 hours the maximum expected water demands as determined by the fire hazards analysis for safety-related areas or other areas that present a fire exposure hazard to safety-related areas.

When storage tanks are used for combined service-water/fire-water uses the minimum volume for fire uses shall be ensured by means of dedicated tanks or by some physical means such as a vertical standpipe for other water service. Administrative controls, including locks for tank outlet valves, are unacceptable as the only means to ensure minimum water volume.

Other water systems used as one of the two fire water supplies shall be permanently connected to the fire main system and shall be capable of automatic alignment to the fire main system. Pumps, controls, and power supplies in these systems shall satisfy the requirements for the main fire pumps. The use of other water systems for fire protection shall not be incompatible with their functions required for safe plant shutdown. Failure of the other system shall not degrade the fire main system.

B. *Sectional Isolation Valves*

Sectional isolation valves such as post indicator valves or key operated valves shall be installed in the fire main loop to permit isolation of portions of the fire main loop for maintenance or repair without interrupting the entire water supply.

C. *Hydrant Isolation valves*

Valves shall be installed to permit isolation of outside hydrants from the fire main for maintenance or repair without interrupting the water supply to automatic or manual fire suppression systems in any area containing or presenting a fire hazard to safety-related or safe shutdown equipment.

D. *Manual Fire Suppression*

Standpipe and hose systems shall be installed so that at least one effective hose stream will be able to reach any location that contains or presents an exposure fire hazard to structures, systems, or components important to safety.

Access to permit effective functioning of the fire brigade shall be provided to all areas that contain or present an exposure fire

hazard to structures, systems, or components important to safety.

Standpipe and hose stations shall be inside PWR containments and BWR containments that are not inerted. Standpipe and hose stations inside containment may be connected to a high quality water supply of sufficient quantity and pressure other than the fire main loop if plant-specific features prevent extending the fire main supply inside containment. For BWR drywells, standpipe and hose stations shall be placed outside the dry well with adequate lengths of hose to reach any location inside the dry well with an effective hose stream.

E. *Hydrostatic Hose Tests*

Fire hose shall be hydrostatically tested at a pressure of 300 psi or 50 psi above maximum fire main operating pressure, whichever is greater. Hose stored in outside hose houses shall be tested annually. Interior standpipe hose shall be tested every three years.

F. *Automatic Fire Detection*

Automatic fire detection systems shall be installed in all areas of the plant that contain or present an exposure fire hazard to safe shutdown or safety-related systems or components. These fire detection systems shall be capable of operating with or without offsite power.

G. *Fire Protection of Safe Shutdown Capability*

1. Fire protection features shall be provided for structures, systems, and components important to safe shutdown. These features shall be capable of limiting fire damage so that:

a. One train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) is free of fire damage; and

b. Systems necessary to achieve and maintain cold shutdown from either the control room or emergency control station(s) can be repaired within 72 hours.

2. Except as provided for paragraph G.3 of this section, where cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation due to hot shorts, open circuits, or shorts to ground, or redundant trains of systems necessary to achieve and maintain hot shutdown conditions are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area;

Inside noninerted containments one of the fire protection means specified above or one of the following fire protection means shall be provided:

d. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards;

e. Installation of fire detectors and an automatic fire suppression system in the fire area; or

f. Separation of cables and equipment and associated non-safety circuits of redundant trains by a noncombustible radiant energy shield.

3. Alternative or dedicated shutdown capability and its associated circuits,[6] independent of cables, systems or components in the area, room or zone under consideration, shall be provided:

a. Where the protection of systems whose function is required for hot shutdown does not satisfy the requirement of paragraph G.2 of this section; or

b. Where redundant trains of systems required for hot shutdown located in the same fire area may be subject to damage from fire suppression activities or from the rupture or inadvertent operation of fire suppression systems.

In addition, fire detection and a fixed fire suppression system shall be installed in the area, room, or zone under consideration.

H. *Fire Brigade*

A site fire brigade trained and equipped for fire fighting shall be established to ensure adequate manual fire fighting capability for all areas of the plant containing structures, systems, or components important to safety. The fire brigade shall be at least five members on each shift. The brigade leader and at least two brigade members shall have sufficient training in or knowledge of plant safety-related systems to understand the effects of fire and fire suppressants on safe shutdown capability. The qualification of fire brigade members shall include an annual physical examination to determine their ability to perform stenuous fire fighting activities. The shift supervisor shall not be a member of the fire brigade. The brigade leader shall be competent to assess the potential safety consequences of a fire and advise control room personnel. Such competence by the brigade leader may be evidenced by possession of an operator's license or equivalent knowledge of plant safety-related systems.

The minimum equipment provided for the brigade shall consist of personal protective equipment such as turnout coats, boots, gloves, hard hats, emergency communications equipment, portable lights, portable ventilation equipment, and portable extinguishers. Self-contained breathing apparatus using full-face positive-pressure masks approved by NIOSH (National Institute for Occupational Safety and Health—approval formerly given by the U.S. Bureau of Mines) shall be provided for fire brigade, damage control, and control room personnel. At least 10 masks shall be available for fire brigade personnel. Control room personnel may be furnished breathing air by a manifold system piped from a storage reservoir if practical. Service or rated operating life shall be a minimum of one-half hour for the self-contained units.

At least two extra air bottles shall be located on site for each self-contained breathing unit. In addition, an onsite 6-hour supply of reserve air shall be provided and arranged to permit quick and complete replenishment of exhausted supply air bottles as they are returned. If compressors are used as a source of breathing air, only units approved for breathing air shall be used; compressors shall be operable assuming a loss of offsite power. Special care must be taken to locate the compressor in areas free of dust and contaminants.

I. *Fire Brigade Training*

The fire brigade training program shall ensure that the capability to fight potential fires is established and maintained. The program shall consist of an initial classroom instruction program followed by periodic classroom instruction, fire fighting practice, and fire drills:

1. *Instruction*

a. The initial classroom instruction shall include:

(1) Indoctrination of the plant fire fighting plan with specific identification of each individual's responsibilities.

(2) Identification of the type and location of fire hazards and associated types of fires that could occur in the plant.

(3) The toxic and corrosive characteristics of expected products of combustion.

(4) Identification of the location of fire fighting equipment for each fire area and familiarization with the layout of the plant, including access and egress routes to each area.

(5) The proper use of available fire fighting equipment and the correct method of fighting each type of fire. The types of fires covered should include fires in energized electrical equipment, fires in cables and cable trays, hydrogen fires, fires involving flammable and combustible liquids or hazardous process chemicals, fires resulting from construction or modifications (welding), and record file fires.

(6) The proper use of communication, lighting, ventilation, and emergency breathing equipment.

(7) The proper method for fighting fires inside buildings and confined spaces.

(8) The direction and coordination of the fire fighting activities (fire brigade leaders only).

(9) Detailed review of fire fighting strategies and procedures.

(10) Review of the latest plant modifications and corresponding changes in fire fighting plans.

Note.—Items (9) and (10) may be deleted from the training of no more than two of the non-operations personnel who may be assigned to the fire brigade.

b. The instruction shall be provided by qualified individuals who are knowledgeable,

[6] Alternative shutdown capability is provided by rerouting, relocating or modificating of existing systems; dedicated shutdown capability is provided by installing new structures and systems for the function of post-fire shutdown.

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experienced, and suitably trained in fighting the types of fires that could occur in the plant and in using the types of equipment available in the nuclear power plant.

c. Instruction shall be provided to all fire brigade members and fire brigade leaders.

d. Regular planned meetings shall be held at least every 3 months for all brigade members to review changes in the fire protection program and other subjects as necessary.

e. Periodic refresher training sessions shall be held to repeat the classroom instruction program for all brigade members over a two-year period. These sessions may be concurrent with the regular planned meetings.

2. *Practice*

Practice sessions shall be held for each shift fire brigade on the proper method of fighting the various types of fires that could occur in a nuclear power plant. These sessions shall provide brigade members with experience in actual fire extinguishment and the use of emergency breathing apparatus under strenuous conditions encountered in fire fighting. These practice sessions shall be provided at least once per year for each fire brigade member.

3. *Drills*

a. Fire brigade drills shall be performed in the plant so that the fire brigade can practice as a team.

b. Drills shall be performed at regular intervals not to exceed 3 months for each shift fire brigade. Each fire brigade member should participate in each drill, but must participate in at least t o drills per year.

A sufficient number of these drills, but not less than one for each shift fire brigade per year, shall be unannounced to determine the fire fighting readiness of the plant fire brigade, brigade leader, and fire protection systems and equipment. Persons planning and authorizing an unannounced drill shall ensure that the responding shift fire brigade members are not aware that a drill is being planned until it is begun. Unannounced drills shall not be scheduled closer than four weeks.

At least one drill per year shall be performed on a "back shift" for each shift fire brigade.

c. The drills shall be preplanned to establish the training objectives of the drill and shall be critiqued to determine how well the training objectives have been met. Unannounced drills shall be planned and critiqued by members of the management staff responsible for plant safety and fire protection. Performance deficiencies of a fire brigade or of individual fire brigade members shall be remedied by scheduling additional training for the brigade or members. Unsatisfactory drill performance shall be followed by a repeat drill within 30 days.

d. At 3-year intervals, a randomly selected unannounced drill shall be critiqued by qualified individuals independent of the licensee's staff. A copy of the written report from such individuals shall be available for NRC review.

e. Drills shall as a minimum include the following:

(1) Assessment of fire alarm effectiveness, time required to notify and assemble fire brigade, and selection, placement and use of equipment, and fire fighting strategies.

(2) Assessment of each brigade member's knowledge of his or her role in the fire fighting strategy for the area assumed to contain the fire. Assessment of the brigade member's conformance with established plant fire fighting procedures and use of fire fighting equipment, including self-contained emergency breathing apparatus, communication equipment, and ventilation equipment, to the extent practicable.

(3) The simulated use of fire fighting equipment required to cope with the situation and type of fire selected for the drill. The area and type of fire chosen for the drill should differ from those used in the previous drill so that brigade members are trained in fighting fires in various plant areas. The situation selected should simulate the size and arrangement of a fire that could reasonably occur in the area selected, allowing for fire development due to the time required to respond, to obtain equipment, and organize for the fire, assuming loss of automatic suppression capability.

(4) Assessment of brigade leader's direction of the fire fighting effort as to thoroughness, accuracy, and effectiveness.

4. *Records*

Individual records of training provided to each fire brigade member, including drill critiques, shall be maintained for at least 3 years to ensure that each member receives training in all parts of the training program. These records of training shall be available for NRC review. Retraining or broadened training for fire fighting within buildings shall be scheduled for all those brigade members whose performance records show deficiencies.

J. *Emergency Lighting*

Emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

K. *Administrative Controls*

Administrative controls shall be established to minimize fire hazards in areas containing structures, systems, and components important to safety. These controls shall establish procedures to:

1. Govern the handling and limitation of the use of ordinary combustible materials, combustible and flammable gases and liquids, high efficiency particulate air and charcoal filters, dry ion exchange resins, or other combustible supplies in safety-related areas.

2. Prohibit the storage of combustibles in safety-related areas or establish designated storage areas with appropriate fire protection.

3. Govern the handling of and limit transient fire loads such as combustible and flammable liquids, wood and plastic products, or other combustible materials in buildings containing safety-related systems or equipment during all phases of operating, and especially during maintenance, modification, or refueling operations.

4. Designate the onsite staff member responsible for the inplant fire protection review of proposed work activities to identify potential transient fire hazards and specify required additional fire protection in the work activity procedure.

5. Govern the use of ignition sources by use of a flame permit system to control welding, flame cutting, brazing, or soldering operations. A separate permit shall be issued for each area where work is to be done. If work continues over more than one shift, the permit shall be valid for not more than 24 hours when the plant is operating or for the duration of a particular job during plant shutdown.

6. Control the removal from the area of all waste, debris, scrap, oil spills, or other combustibles resulting from the work activity immediately following completion of the activity, or at the end of each work shift, whichever comes first.

7. Maintain the periodic housekeeping inspections to ensure continued compliance with these administrative controls.

8. Control the use of specific combustibles in safety-related areas. All wood used in safety-related areas during maintenance, modification, or refueling operations (such as lay-down blocks or scaffolding) shall be treated with a flame retardant. Equipment or supplies (such as new fuel) shipped in untreated combustible packing containers may be unpacked in safety-related areas if required for valid operating reasons. However, all combustible materials shall be removed from the area immediately following the unpacking. Such transient combustible material, unless stored in approved containers, shall not be left unattended during lunch breaks, shift changes, or other similar periods. Loose combustible packing material such as wood or paper excelsior, or polyethylene sheeting shall be placed in metal containers with tight-fitting self-closing metal covers.

9. Control actions to be taken by an individual discovering a fire, for example, notification of control room, attempt to extinguish fire, and actuation of local fire suppression systems.

10. Control actions to be taken by the control room operator to determine the need for brigade assistance upon report of a fire or receipt of alarm on control room annunciator panel, for example, announcing location of fire over PA system, sounding fire alarms, and notifying the shift supervisor and the fire brigade leader of the type, size, and location of the fire.

11. Control actions to be taken by the fire brigade after notification by the control room operator of a fire, for example, assembling in a designated location, receiving directions from the fire brigade leader, and discharging specific fire fighting responsibilities including selection and transportation of fire fighting equipment to fire location, selection of protective equipment, operating instructions for use of fire suppression systems, and use of preplanned strategies for fighting fires in specific areas.

12. Define the strategies for fighting fires in all safety-related areas and areas presenting a hazard to safety-related equipment. These strategies shall designate:

a. Fire hazards in each area covered by the specific prefire plans.

b. Fire extinguishants best suited for controlling the fires associated with the fire hazards in that area and the nearest location of these extinguishants.

c. Most favorable direction from which to attack a fire in each area in view of the ventilation direction, access hallways, stairs, and doors that are most likely to be free of fire, and the best station or elevation for fighting the fire. All access and egress routes that involve locked doors should be specifically identified in the procedure with the appropriate precautions and methods for access specified.

d. Plant systems that should be managed to reduce the damage potential during a local fire and the location of local and remote controls for such management (e.g., any hydraulic or electrical systems in the zone covered by the specific fire fighting procedure that could increase the hazards in the area because of overpressurization or electrical hazards).

e. Vital heat-sensitive system components that need to be kept cool while fighting a local fire. Particularly hazardous combustibles that need cooling should be designated.

f. Organization of fire fighting brigades and the assignment of special duties according to job title so that all fire fighting functions are covered by any complete shift personnel complement. These duties include command control of the brigade, transporting fire suppression and support equipment to the fire scenes, applying the extinguishant to the fire, communication with the control room, and coordination with outside fire departments.

g. Potential radiological and toxic hazards in fire zones.

h. Ventilation system operation that ensures desired plant air distribution when the ventilation flow is modified for fire containment or smoke clearing operations.

i. Operations requiring control room and shift engineer coordination or authorization.

j. Instructions for plant operators and general plant personnel during fire.

L. *Alternative and Dedicated Shutdown Capability*

1. Alternative or dedicated shutdown capability provided for a specific fire area shall be able to achieve and maintain subcritical reactivity conditions in the reactor, maintain reactor coolant inventory achieve and maintain hot standby [7] conditions for a PWR (hot shutdown [7] for a BWR) and achieve cold shutdown [7] conditions within 72 hours and maintain cold shutdown conditions thereafter. During the postfire shutdown, the reactor coolant system process variables shall be maintained within those predicted for a loss of normal a.c. power, and the fission product boundary integrity shall not be affected; i.e., there shall be no fuel clad damage, rupture or any primary coolant boundary, or rupture of the containment boundary.

2. The performance goals for the shutdown functions shall be:

a. The reactivity control function shall be capable of achieving and maintaining cold shutdown reactivity conditions.

b. The reactor coolant makeup function shall be capable of maintaining the reactor coolant level above the top of the core for BWRs and be within the level indication in the pressurizer for PWRs.

c. The reactor heat removal function shall be capable of achieving and maintaining decay heat removal.

d. The process monitoring function shall be capable of providing direct readings of the process variables necessary to perform and control the above functions.

e. The supporting functions shall be capable of providing the process cooling, lubrication, etc., necessary to permit the operation of the equipment used for safe shutdown functions.

3. The shutdown capability for specific fire areas may be unique for each such area, or it may be one unique combination of systems for all such areas. In either case, the alternative shutdown capability shall be independent of the specific fire area(s) and shall accommodate postfire conditions where offsite power is available and where offsite power is not available for 72 hours. Procedures shall be in effect to implement this capability.

4. If the capability to achieve and maintain cold shutdown will not be available because of fire damage, the equipment and systems comprising the means to achieve and maintain the hot standby or hot shutdown condition shall be capable of maintaining such conditions until cold shutdown can be achieved. If such equipment and systems will not be capable of being powered by both onsite and offsite electric power systems because of fire damage, an independent onsite power system shall be provided. The number of operating shift personnel, exclusive of fire brigade members, required to operate such equipment and systems shall be on site at all times.

5. Equipment and systems comprising the means to achieve and maintain cold shutdown conditions shall not be damaged by fire; or the fire damage to such equipment and systems shall be limited so that the systems can be made operable and cold shutdown achieved within 72 hours. Materials for such repairs shall be readily available on site and procedures shall be in effect to implement such repairs. If such equipment and systems used prior to 72 hours after the fire will not be capable of being powered by both onsite and offsite electric power systems because of fire damage, an independnet onsite power system shall be provided. Equipment and systems used after 72 hours may be powered by offsite power only.

6. Shutdown systems installed to ensure postfire shutdown capability need not be designed to meet seismic Category I criteria, single failure criteria, or other design basis accident criteria, except where required for other reasons, e.g., because of interface with or impact on existing safety systems, or because of adverse valve actions due to fire damage.

7. The safe shutdown equipment and systems for each fire area shall be known to be isolated from associated non-safety circuits in the fire area so that hot shorts, open circuits, or shorts to ground in the associated circuits will not prevent operation of the safe shutdown equipment. The separation and barriers between trays and conduits containing associated circuits of one safe shutdown division and trays and conduits containing associated circuits or safe shutdown cables from the redundant division, or the isolation of these associated circuits from the safe shutdown equipment, shall be such that a postulated fire involving associated circuits will not prevent safe shutdown.[8]

M. *Fire Barrier Cable Penetration Seal Qualification*

Penetration seal designs shall utilize only noncombustible materials and shall be qualified by tests that are comparable to tests used to rate fire barriers. The acceptance criteria for the test shall include:

1. The cable fire barrier penetration seal has withstood the fire endurance test without passage of flame or ignition of cables on the unexposed side for a period of time equivalent to the fire resistance rating required of the barrier;

2. The temperature levels recorded for the unexposed side are analyzed and demonstrate that the maximum temperature is sufficiently below the cable insulation ignition temperature; and

3. The fire barrier penetration seal remains intact and does not allow projection of water beyond the unexposed surface during the hose stream test.

N. *Fire Doors*

Fire doors shall be self-closing or provided with closing mechanisms and shall be inspected semiannually to verify that automatic hold-open, release, and closing mechanisms and latches are operable.

One of the following measures shall be provided to ensure they will protect the opening as required in case of fire:

1. Fire doors shall be kept closed and electrically supervised at a continuously manned location;

2. Fire doors shall be locked closed and inspected weekly to verify that the doors are in the closed position;

3. Fire doors shall be provided with automatic hold-open and release mechanisms and inspected daily to verify that doorways are free of obstructions; or

4. Fire doors shall be kept closed and inspected daily to verify that they are in the closed position.

The fire brigade leader shall have ready access to keys for any locked fire doors.

Areas protected by automatic total flooding gas suppression systems shall have electrically supervised self-closing fire doors or shall satisfy option 1 above.

O. *Oil Collection System for Reactor Coolant Pump*

The reactor coolant pump shall be equipped with an oil collection system if the containment is not inerted during normal operation. The oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accident conditions and that

[7] As defined in the Standard Technical Specifications.

[8] An acceptable method of complying with this alternative would be to meet Regulatory Guide 1.75 position 4 related to associated circuits and IEEE Std 384–1974 (Section 4.5) where trays from redundant safety divisions are so protected that postulated fires affect trays from only one safety division.

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there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake [9]

Such collection systems shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems. Leakage shall be collected and drained to a vented closed container that can hold the entire lube oil system inventory. A flame arrester is required in the vent if the flash point characteristics of the oil present the hazard of fire flashback. Leakage points to be protected shall include lift pump and piping, overflow lines, lube oil cooler, oil fill and drain lines and plugs, flanged connections on oil lines, and lube oil reservoirs where such features exist on the reactor coolant pumps. The drain line shall be large enough to accommodate the largest potential oil leak.

(Sec. 161b, Pub. L. 83–703, 68 Stat. 948; sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-36175 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

[9] See Regulatory Guide 1.29—"Seismic Design Classification" Paragraph C.2.

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federal register

Wednesday
November 19, 1980

Part III

Environmental Protection Agency

Hazardous Waste Management System: Mining and Cement Kiln Wastes Exemptions; Small Quantity Generator Standards; Generator Waste Accumulation Amendment; Hazardous Waste Spill Response Exemption, and Clarification of Interim Status Requirements

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 1675-1]

Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendment to rule with request for comments.

SUMMARY: This regulation amends the hazardous waste regulations (40 CFR § 261.4(b)) to exclude from regulation under Subtitle C of the Resource Conservation and Recovery Act (1) solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore and (2) cement kiln dust wastes. This action is being taken to bring the regulation into conformance with Section 7 of the recently enacted Solid Waste Disposal Act Amendments of 1980. The Agency, for the time being, is interpreting the scope of these exclusions broadly but is unsure that this interpretation is consistent with the intent of the Congress. Therefore, over the next 90 days, it intends to carefully examine the legislative history of the statutory amendment and consider the public comments being solicited by this action. Based on this review, the Agency, in subsequent rulemaking action, may further narrow the exclusion being promulgated today.

DATE: Effective Date: November 19, 1980.

Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until January 19, 1981.

ADDRESSES: Comments on the amendment should be sent to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact Alfred W. Lindsey, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9185. For information on implementation, contact:

Region I, Dennis Huebner, Chief, Radiation, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5777

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0504/5

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0960

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 881-3016

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6148

Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 787-2645

Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3307

Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221

Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-4606

Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1260

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Today's Amendments

On May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA). See 45 FR 33066-33588. These regulations define solid wastes and hazardous wastes and establish requirements applicable to generators, transporters, treaters, storers and disposers of hazardous wastes. These regulations also require owners and operators of hazardous waste treatment, storage and disposal facilities to obtain RCRA permits.

The definition of solid waste is provided in § 261.2 of these regulations. The definition of hazardous waste is provided in § 261.3 of these regulations. Both definitions are sufficiently broad to include many solid wastes generated in the extraction, beneficiation and processing of ores and minerals, exclusive of mining overburden returned to the mine site (see § 261.4(b)(3).) Specifically, eight mining and mineral processing wastes (EPA hazardous waste Nos. FO13-FO15 and KO64-KO68) were listed as hazardous wastes in §§ 261.31 and 261.32 of the May 19 regulations (see 45 FR 33123-33124). In addition, other mining and mineral processing wastes may be hazardous wastes because they exhibit one or more of the characteristics of hazardous wastes in Subpart C of Part 261. By virtue of these definitions, a number of mining and mineral processing wastes will be subject to the regulations on November 19, 1980, the effective date of the regulations.

Additionally, some cement kiln dust waste could be hazardous waste under the regulations, if it exhibits any of the characteristics of hazardous waste in Subpart C of Part 261. Thus, some cement kiln dust waste may be subject to the regulations on and after November 19, 1980.

In Section 7 of the recently enacted Solid Waste Disposal Act Amendments of 1980 (P.L. 94-482, October 21, 1980), the Congress amended Section 3001 of RCRA to prohibit EPA from regulating certain wastes under Subtitle C of RCRA until after completion of certain studies and certain rulemaking. Among these wastes are (1) "solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore" and (2) "cement kiln dust waste." Accordingly EPA is today amending its regulations, at § 261.4, to incorporate this statutory change.

Several trade associations, representing the mining and cement industries, have asked EPA to amend its regulations by November 19, 1980, the effective date of these regulations, to incorporate the 1980 amendments concerning these wastes. In addition these associations have sought a clarification of the scope of the exclusion, particularly regarding the types of mining operations that are excluded. The statutory exclusion of mining wastes in Section 3001(b)(3) is limited to "solid waste from the extraction, beneficiation and processing of ores and minerals." One mining trade association has argued that this exclusion covers wastes from the exploration, mining, milling, smelting and refining of ores and minerals (including coal.)

In the interest of providing the mining and cement industries clear guidance on whether they are subject to the regulations, EPA is amending the regulations before the November 19 date. At the same time EPA questions whether the Section 3001(b)(3) was to be interpreted as broadly as the trade associations suggest. To resolve these questions, the Agency will have to examine carefully the legislative history and consult with the mining and cement industries and the public. The Agency could not accomplish this by November 19, 1980, given the extremely large workload with which it is burdened in developing the Phase II regulations, in responding to other requests for regulatory amendments and interpretations, and in responding to petitions for judicial review of the regulations.

Consequently, the Agency has decided to provide an immediate but temporary accommodation of the requests on this matter by promulgating today interim final amendments to § 261.4(b) which provide the requested exclusion using the language of the statutory amendments. Until the Agency takes further rulemaking action on this matter, it will interpret the language of today's amendments, with respect to the mining and mineral processing waste exclusion, to include solid waste from the exploration, mining, milling, smelting and refining of ores and minerals.

This exclusion does not, however, apply to solid wastes, such as spent solvents, pesticide wastes, and discarded commercial chemical products, that are not uniquely associated with these mining and allied processing operations, or cement kiln operations. Therefore, should either industry generate any of these non-indigenous wastes and the waste is identified or listed as hazardous under Part 261 of the regulations, the waste is hazardous and must be managed in conformance with the Subtitle C regulations.

II. Intended Reconsideration of Today's Amendments

The Agency fully intends to consider the appropriate scope of the statutory exclusion and may well take rulemaking action to lessen the scope of the exclusion being promulgated today. To aid in this consideration, the Agency is soliciting public comments on this matter. In particular EPA questions whether Congress intended to exclude (1) wastes generated in the smelting, refining and other processing of ores and minerals that are further removed from the mining and beneficiation of such ores and minerals, (2) wastes generated during exploration for mineral deposits and (3) wastewater treatment and air emission control sludges generated by the mining and mineral processing industry. EPA specifically seeks comment on whether such wastes should be part of the exclusion. EPA also seeks comment on how it might distinguish between excluded and non-excluded solid wastes.

If EPA narrows the scope of the exclusion being promulgated today in future rulemaking, those who generate, transport, store, treat or dispose of wastes affected by such a change will have six months to prepare for compliance with the regulations. This six month delay in the effective date is provided under authority of Section 3010(b) of RCRA.

In addition to the consideration of the scope of the exclusion discussed above, the Agency will be considering regulatory amendments to implement other provisions of Section 3001(b)(3). Section 3001(b)(3)(B) recognizes EPA authority to issue regulations under Section 2002 of RCRA to place requirements on owners and operators of disposal sites for excluded wastes. These requirements concern identification and recording of information on the location of disposal sites as well as on the composition of the wastes that are disposed. EPA also invites public comment on how it should formulate such requirements.

III. Effect of Today's Amendments

Today's amendments relieve persons who generate or manage hazardous wastes produced in, and unique to, the exploration, mining, milling, smelting or refining of ores or minerals and persons who generate or manage a cement kiln dust waste from having to comply with EPA's regulations under Subtitle C of RCRA with respect to these wastes. Owners and operators of existing treatment, storage and disposal facilities do not have to submit a Part A, RCRA permit application by November 19, 1980, or comply with the interim status standards of Part 265 after November 19, 1980, with respect to such wastes. Also, owners and operators of new facilities for the treatment, storage or disposal of the subject wastes will not have to apply for and obtain a RCRA permit before constructing or operating such facilities.

Today's action does not relieve persons who generate or manage those wastes herein discussed from compliance with other Federal and State regulations including State regulations designed to implement Subtitle D of RCRA and State regulations being implemented in lieu of the Federal Subtitle C regulations where the State has interim or full authorization under Section 3006 of RCRA.

IV. Relationship to Final Listing of Certain Hazardous Waste in §§ 261.31 and 261.32

On November 12, 1980, in a separate rulemaking action (see 45 FR 74884), the Agency has finalized the list of most of the hazardous wastes listed in §§ 261.31 and 261.32. Included in this action was finalization of seven of the mining and mineral processing wastes mentioned above (EPA hazardous waste nos. F014-15 and K064-68). One of the wastes previously mentioned (F013) was deleted from the list of hazardous waste (§ 261.31) in that separate action. Because of the Agency's uncertainty with respect to the scope of the statutory amendments, as discussed above, it has gone ahead with the finalization of the aforementioned listed wastes. Notwithstanding, the effect of today's action is to suspend those final listings of hazardous wastes, unless and until the Agency reduces the scope of today's exclusion in subsequent rulemaking action.

V. Coal Mining Waste

The Solid Waste Disposal Act Amendments of 1980 also included special provisions (Sections 1006(c) and 3005(f)) designed to coordinate regulation of coal mining waste with the requirements of the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201 *et seq.* EPA believes that these provisions present problems of legal interpretation which cannot be resolved by November 19, 1980. The Agency may seek public comment on its interpretation of those provisions in later rulemaking actions. This interim final rule does not attempt to interpret the scope of Sections 1006(c) and 3005(f). However, since coal is arguably a "mineral or ore" under Section 3001(b)(3), wastes from the extraction, beneficiation and processing of coal are excluded from RCRA Subtitle C regulation in today's amendment to § 261.4(b). Until EPA has had an opportunity to analyze the intended scope of the exclusion, the terms "extraction, beneficiation and processing" will be interpreted broadly to include coal exploration, mining, cleaning, classification, and other processing activities. As with other elements of this exclusion, EPA will be examining this exclusion, particularly the exclusions for classification, and other processing activities, in more detail later and may decide to narrow its scope.

VI. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. The amendments promulgated today, however, serve to put in regulatory form what is already stated in statute. To establish a deferred effective date would only serve to confuse the regulated community. Consequently, the Agency is establishing an immediate effective date for this amendment.

VII. Request for Comments

The Agency invites comments on these amendments and on the issues discussed in this preamble and,

therefore, is providing a 60-day comment period.

Dated: November 14, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended by adding the following paragraphs to § 261.4(b):

§ 261.4 [Amended]

* * * * *

(b) * * *

(6) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(7) Cement kiln dust waste.

These amendments are issued under the authority of Sections 1006, 2002(a) and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a) and 6921.

[FR Doc. 80-36128 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Parts 261 and 262

[SWH-FRL 1675-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste Standards for Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rules and request for comments.

SUMMARY: In regulations promulgated in May, 1980, establishing a federal program for the management of hazardous wastes, EPA excluded from full regulation persons handling hazardous wastes generated in small quantities (40 CFR 261.5, 45 FR 33066, 33120 (May 19, 1980)). This amendment clarifies the operation of the special requirements for hazardous waste generated by small quantity generators. Part 262 of the regulations has also been amended to ensure that these generators determine whether their wastes are hazardous.

DATE: Effective Date: November 19, 1980.

Comment Date: EPA will accept public comments on this regulation until January 19, 1981.

ADDRESSES: Comments on this regulation should be sent to the Docket Clerk [Docket Number 3001], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. and is available for viewing from 9 a.m. to 4 p.m. Monday through Friday, excluding holidays. Among other items, the docket contains the background document for this regulation which has been revised to accommodate these amendments.

FOR FURTHER INFORMATION CONTACT: Robert Holloway, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9200.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. § 6901 *et seq.*, EPA recently promulgated regulations establishing a comprehensive regulatory program for the management and control of hazardous wastes (45 FR 33066 (May 19, 1980)). The regulations, among other things, identify the characteristics of hazardous wastes, list particular wastes as hazardous, and establish standards for generators and transporters of hazardous waste and owners and operators of hazardous waste management facilities.

The regulations also define special requirements for hazardous waste generated by generators who produce less than 1,000 kilograms of hazardous waste during a calendar month. (See 40 CFR 261.5, 45 FR 33120). Hazardous waste generated by a small quantity generator is generally excluded from full regulation provided the generator stores, treats, or disposes of his hazardous waste in facilities specified as acceptable or ensures that his hazardous waste is delivered to such facilities. However, if a small quantity generator generates or accumulates acutely hazardous waste in quantities greater than specified, or if he accumulates more than a total of 1,000 kilograms of hazardous waste at any time, all quantities of hazardous wastes for which an exclusion level is exceeded are fully regulated.

Since the publication of the regulation, members of the regulated community have raised a number of questions concerning the operation of the small quantity exclusion. EPA has been persuaded that, in certain respects, the regulation is ambiguous and does not clearly address certain situations. In addition, the regulation contains certain technical errors which would cause the exclusion to operate in a manner not intended by the Agency or contrary to the manner explained in the preamble to the regulation and the supporting materials. This amendment to the regulation is intended to clarify the original regulation and to correct the errors contained in it.

The revisions to the small quantity generator exclusion principally concern five aspects of the regulation: the determination of who is a small quantity generator; the requirements applicable to hazardous waste accumulated on-site; the requirements applicable to acutely hazardous wastes; the conditions applicable to wastes excluded from full regulation; and the requirements applicable to mixtures. The changes to the regulation are described in this preamble. The underlying rationale and basis for § 261.5 remain unchanged and are set forth in the preamble to the May regulation. (See 45 FR at 33102-33105.)

The background document supporting the requirements for small quantity generators has been revised to explain in greater detail the operation of § 261.5. In addition to describing the changes made by today's amendments, the background document provides guidance on the operation of regulations applicable to the small quantity generator.

It should be noted that the Agency has received a petition from the National Solid Waste Management Association ("NSWMA") which requests the Agency to make substantive revisions to § 261.5. EPA has noticed and requested comments on the petition. (45 68409 (October 15, 1980).) The amendment to § 261.5 published today does not constitute the Agency's response to the NSWMA petition. EPA's action with regard to that petition will be the subject to further notice and/or rulemaking.

II. Amendments to the Regulation

A. *Determination of Small Quantity Generator Status.*

Section 261.5(a) of the May regulation set forth the general test for determining who may qualify as a small quantity generator:

> * * * if a person generates, in a calendar month, a total of less than 1,000 kilograms of hazardous wastes, those wastes are not subject to regulation * * *.

Since publication of the regulation, persons have raised two questions basic to the operation of this section: (a) should the section be keyed to generators rather than persons; and (b) what wastes should be counted in determining the amount of waste generated in a calendar month? The regulation has been revised to resolve both of these questions.

Although it was EPA's intent to key the exclusion levels established in § 261.5 to individual generation sites, the May 19, 1980 regulation refers to "persons" rather than "generators". As these terms are defined in § 260.10 of this Chapter, a corporation (i.e., a person) may comprise numerous facilities that generate hazardous waste, (i.e., generators). Read literally, therefore, § 261.5 makes the Subtitle C regulations and the notification requirements of Section 3010 of RCRA fully applicable to a company which generates, in the aggregate, more than the quantity exclusion level but each of whose facilities generates less than that amount. The revised regulation replaces the prior reference to "persons" with "generators," making it clear that individual facilities which generate hazardous waste in a quantity below the exclusion levels may qualify as small quantity generators.

To provide further clarification, the amended regulation defines a small quantity generator as a generator who generates less than 1000 kilograms of hazardous waste in a calendar month. Thus, this amended regulation makes clear that a generator may be a small quantity generator in one month and a large quantity generator in another month. The recordkeeping and reporting requirements of Part 262 apply, however, only to those periods in which the generator's hazardous waste is subject to full regulation under Part 262. Thus, for example, the annual report of a generator whose waste is subject to full regulation under Part 262 for three months in a year would cover the generator's activity only for those three months.

The second issue resolved by the amended regulation concerns which hazardous wastes should be counted in determining whether a generator generates 1000 kilograms of hazardous waste in a calendar month. One question is how the exclusion of hazardous wastes that are used, re-used, recycled or reclaimed under § 261.6 relates to the § 261.5 requirements. Another set of questions focuses on the potential double-counting of wastes by a generator who removes waste from on-site storage or whose on-site treatment of wastes generates hazardous waste.

The small quantity generator requirements have been revised by the addition of a new paragraph, § 261.5(c), to clarify which hazardous wastes that are being used, re-used, recycled or reclaimed are included in determining small generator status. Section 261.6(a) excludes from regulation wastes that are hazardous because they meet EPA characteristics and that are beneficially used or re-used or legitimately recycled or reclaimed. Wastes that are excluded under § 261.6(a) are not included in the quantity determination of § 261.5. Section 261.6(b), however, makes sludges, listed hazardous wastes, and hazardous wastes containing listed hazardous wastes subject to full regulation during storage and transportation prior to their use, re-use, recycling or reclamation. Because these wastes are subject to Subtitle C regulation, the revised § 261.5 makes clear that these wastes must be included in the quantity determination and are subject to the other requirements of that section. Although this is a result that a careful reading of the May regulation would support, the revised § 261.5 should resolve any ambiguity on this issue.

A number of persons stated that use of the word "generates" in § 261.5 creates some uncertainty about what wastes should be counted in determining eligibility for small quantity generator status. These commenters believed that, without clarification, the rule might lead to double-counting of wastes when they are also treated or stored on-site. If, for example, a generator's manufacturing process generated 600 kilograms of hazardous waste in a month, and he placed that waste in storage, persons were uncertain whether, when that waste was removed from storage, the 600 kilograms was to be counted again in the quantity determination. Counting this quantity a second time would have the effect of substantially lowering the exclusion levels. A new paragraph, § 261.5(d), has been added to make it clear that a generator counts his hazardous waste only when he first generates it. He is not required to count the waste again when he removes it from on-site accumulation or storage [1] or when he produces a hazardous waste from the on-site treatment of his hazardous waste. The amendment is intended to avoid double-counting of wastes and therefore extends only to the on-site treatment or storage of hazardous wastes generated by the small quantity generator. If the generator receives hazardous waste from another person for treatment, the hazardous waste generated by the treatment process must be counted in the generator's quantity determination.

B. *Requirements Applicable to Hazardous Waste Accumulated On-site.*

Section 261.5(b) of the May regulation states that if a generator accumulates more than 1000 kilograms of hazardous waste, these wastes are subject to full Subtitle C regulation. Acutely hazardous wastes, when accumulated, are subject to the lower exclusion limits specified in § 261.5(c) of the May 19, 1980, regulation. After the publication of the regulation, persons questioned how the regulation would apply: whether the generator would be able to use the provisions of § 262.34 allowing on-site storage without a permit for 90 days prior to shipment of the wastes to treatment, storage or disposal facilities; and, if so, how the provisions of that section apply to small quantity generators.

A new paragraph, § 261.5(f), clarifies the manner in which hazardous wastes are regulated when the accumulation limit is exceeded. Because the regulation allows indefinite and unregulated storage of wastes in quantities less than 1000 kilograms, the Agency believes it unreasonable to make this 90 day period start at the time the waste was first generated. Such a result would place generators who exceed the accumulation levels but whose accumulation began more than 90 days prior to exceeding the 1000 kilogram level immediately in violation of the regulatory requirements by storing wastes without a permit or without interim status under Section 3005(e) of RCRA. The revised § 261.5(f) states that at the time the allowable accumulation limit is exceeded, the waste becomes fully regulated and § 262.34 becomes applicable. Section 262.34 provides the generator 90 days to remove the waste from on-site storage without the necessity of having either a permit or interim status for that storage. To take advantage of § 262.34, however, the generator must satisfy the conditions of that section. This will ensure that the generator handles the waste in a satisfactory manner while providing him some time to arrange for proper treatment, storage or disposal.

The revised regulation also clarifies that once the accumulated amounts exceed 1000 kilograms, all of those wastes and those subsequently added to that accumulation are fully regulated until all the waste is sent to a hazardous waste treatment, storage or disposal facility. This rule means that those wastes remain subject to full regulation even if the quantity of wastes accumulated or stored becomes less than 1000 kilograms. In addition, those wastes remain fully regulated regardless of when the wastes are removed from storage or accumulation and regardless of whether the generator is a small

[1] Under the definition of generation, removal from storage is not an act or process that produces a hazardous waste, although it is an act which may subject a waste to regulation. The Agency intends to publish regulations on this subject in the near future.

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quantity generator in the month they are removed from storage. Certain persons thought that only the amount exceeding 1000 kilograms was subject to regulation. This position was not, however, supported by the language in the May regulation which stated that, if a person accumulates more than 1000 kilograms, "those accumulated wastes" would be subject to full regulation. The revised language should resolve any ambiguity that may have been created by the original language. The provisions for acutely hazardous waste apply similarly.

C. *Requirements Applicable to Acutely Hazardous Waste.*

Section 261.5(c) of the May regulation sets lower exclusion levels for acutely hazardous discarded chemical products, their off-specification variants, containers and inner liners that held these wastes, and residue and debris resulting from spills of these wastes. The revised regulation, § 261.5(e), clarifies two ambiguities in the regulation: (a) whether the exclusion levels apply to the total amount of acutely hazardous waste generated and (b) whether the exclusion levels apply only to small quantity generators.

With respect to the first question, the language of the regulation has been revised to state that the exclusion levels apply to the aggregate of all of the acutely hazardous wastes subject to a particular exclusion. Thus, if a generator discards in a calendar month 0.5 kilograms of one commerical chemical product listed in § 262.33(e) and 0.5 kilogram each of two other listed commercial chemical products, the total 1.5 kilograms of acutely hazardous wastes would be subject to full Subtitle C regulation. The exclusion thus applies to acutely hazardous wastes in the same manner as it applies to other hazardous wastes. The rationale for aggregating wastes to determine the amount of wastes generated applies with equal force to acutely hazardous waste as to other hazardous waste. The need for full regulatory control of these wastes is the same whether the total is comprised of one listed substance or three such substances.

Second, the regulation is revised to clarify that the lower exclusion levels for acutely hazardous waste apply only to generators who otherwise are deemed small quantity generators. The Agency believes that a generator who produces more than 1000 kilograms of hazardous waste a month and is therefore subject to full regulation should handle his acutely hazardous wastes in the same manner as his other wastes. The basis for the exclusion levels is the administrative impossibility of EPA regulating all generators of hazardous waste. If a generator is subject to regulation on the basis of generating more than 1000 kilograms of hazardous waste, there is no reason to exclude from regulation his small quantities of those wastes which the Agency has identified as acutely hazardous. There will be no additional drain in the administrative demands placed on the Agency and the protection of human health and the environment will be significantly increased.

A final change to § 261.5 has been made with respect to acutely hazardous wastes. Section 261.5(c) of the May regulation established exclusion levels for containers and inner liners that held acutely hazardous waste. A new section, 261.7, has been added to the regulations under separate rulemaking that excludes "empty" containers from regulation. If a container or inner liner that has held acutely hazardous waste is empty, it is not subject to regulation and not subject to the exclusion levels set in § 261.5. The residues of acutely hazardous waste in nonempty containers or inner liners are subject to the exclusion levels of § 261.5(g) and the requirements of the section. The reference to containers and inner liners that appeared in § 261.5(c) of the May regulations is deleted.

D. *Conditions Applicable to Waste Excluded from Full Regulation.*

Section 261.5(d) of the May regulation specified the facilities in which hazardous waste excluded from full regulation could be managed. The Agency inadvertently omitted facilities that beneficially use or re-use, or legitimately recycle or reclaim waste from the list of acceptable facilities. The Congressional policy of promoting resource recovery, as implemented by the Subtitle C regulatory program in § 261.6, would not be served by denying to small quantity generators the same opportunity to use, re-use, recyle or reclaim their waste which is provided to other generators. Accordingly, the regulation is revised to allow small quantity generators to treat or dispose of their waste in such facilities. The regulation is also redesignated § 261.5(g).

Section 261.5(g) has also been revised to state that hazardous waste must be stored on-site in accordance with § 261.5(f). This latter paragraph, as described above, covers the accumulation and storage of wastes on-site. This revision merely reiterates that storing or accumulating wastes on-site under § 261.5(f) is allowed.

Today's amendments make one additional technical correction to the May regulations. Section 261.5(d) required generators, as a condition of the exclusion from full regulation, to determine under § 262.11 whether their wastes were hazardous. Section 262.11(a), however, stated that, if a generator determined that he was subject only to § 261.5, he did not have to determine whether his waste was hazardous. The Agency has corrected this inconsistency by deleting the reference to § 261.5 in § 262.11. The generator of solid waste must determine whether his waste is hazardous before determining whether his waste is conditionally excluded under § 261.5 from full regulation. Without such a determination the generator of hazardous wastes would not know whether any of the Subtitle C requirements, including the reduced requirements, apply to the waste nor whether, if the exclusion levels were exceeded, the full requirements would apply.

E. *Requirements Applicable to Mixtures.*

Section 261.5(e) of the May regulation established a special mixture provision for hazardous wastes which were excluded from full regulation by § 261.5. This provision is redesignated as § 261.5(h) and has not been revised.

A new paragraph, § 261.5(i), is added to make clear that mixtures of solid waste and hazardous wastes which have exceeded an exclusion level are subject to full Subtitle C regulation. Pursuant to § 261.3(a)(3)(ii), a mixture of solid waste and hazardous wastes is a hazardous waste. Members of the regulated community have asked what exclusion level applies to the mixture; for example, whether a mixture containing an acutely hazardous waste that has exceeded an exclusion level remains subject to the lower exclusion levels applicable to that waste. This new paragraph clarifies that the lower exclusion level applies. A contrary result would encourage generators to mix acutely hazardous wastes subject to full regulation (i.e., because they are generated or accumulated in quantities greater than one kilogram) with other hazardous excluded wastes (e.g., those generated in quantities of less than 1000 kilograms a month) and thus escape the regulatory controls which the Agency has determined are essential for the safe handling and management of hazardous wastes.

III. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the amendment to § 261.5 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the interests of the regulated community and the public. The amended regulation is an integral part of a regulatory program that becomes effective on November 19, 1980. In addition, the principal revisions to the regulation simply clarify and make technical corrections to the regulation. The revisions also allow greater flexibility in the manner in which small quantity generators handle their hazardous waste.

The Agency believes it makes little sense to allow the small quantity generator requirements promulgated on May 19, 1980, to become effective on November 19, 1980, and then to have them substantially revised on a subsequent date by this amendment. Clarification of regulatory requirements and increasing their flexibility are not the types of regulation revision that Congress had in mind when it provided a six month delay between the promulgation and the effective date of revisions to regulations. Consequently, the Agency is setting an effective date of November 19, 1980, for the amendments to §§ 261.5 and 262.11 promulgated in this rulemaking action.

IV. Promulgation in Interim Final Form

These amendments to § 261.5 are designed principally to clarify the manner in which the regulations published in May of 1980 are to operate. EPA has received many questions on the regulation. These questions indicated that there is substantial confusion on the part of the regulated community about the exclusion of generators of small quantities of hazardous waste. Absent immediate effectuation of these clarifying amendments, EPA believes that this confusion will persist after the effective date of the Subtitle C regulations, November 19, 1980. This confusion will lead. EPA believes, to real and substantial hardship for persons subject to the reduced requirements of § 261.5. If uncertain about the rule's application or operation, many responsible generators of hazardous waste may unnecessarily comply with the full Subtitle C regulations. Immediate implementation of the amendment small quantity generator requirements is nece ary in order to avoid inadvertantly imposing substantial burdens on literally thousands of generators who are uncertain whether they are excluded from full regulation under § 261.5. Given the real and substantial cost that delay might create, the Agency finds good cause to promulgate these rules without prior notice and opportunity for comment.

V. Request for Comments

The Agency invites comments on all aspects of these amendments to the regulations and on all issues discussed in this preamble. EPA is hopeful that the regulations as revised are reasonable, understandable, and workable. The Agency will be receptive to comments which would improve the regulation.

VI. Regulatory Impacts

The effect of these amendments is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by clarifying the operation of the regulations and increasing their flexibility. The Agency is unable to estimate these reductions.

Dated: November 14, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 261.5 is revised to read as follows:

§ 261.5 Special requirements for hazardous waste generated by small quantity generators.

(a) A generator is a small quantity generator in a calendar month if he generates less than 1000 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e) and (f) of this section, a small quantity generator's hazardous wastes are not subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA, provided the generator complies with the requirements of paragraph (g) of this section.

(c) Hazardous waste that is beneficially used or re-used or legitimately recycled or reclaimed and that is excluded from regulation by § 261.6(a) is not included in the quantity determinations of this section, and is not subject to any requirements of this section. Hazardous waste that is subject to the special requirements of § 261.6(b) is included in the quantity determinations of this section and is subject to the requirements of this section.

(d) In determining the quantity of hazardous waste he generates, a generator need not include:

(1) His hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment of his hazardous waste.

(e) If a small quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous waste are subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA:

(1) A total of one kilogram of a commercial chemical products and manufacturing chemical intermediates having the generic names listed in § 261.33(e), and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specifications, would have the generic names listed in § 261.33(e); or

(2) A total of 100 kilograms of any residue or contaminated soil, water or other debris resulting from the clean-up of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the generic names listed in § 261.33(e).

(f) A small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous waste, or his acutely hazardous wastes in quantities greater than set forth in paragraphs (e)(1) or (e)(2) of this section, all of those accumulated wastes for which the accumulation limit was exceeded are subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA. The time period of § 262.34 for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed the applicable exclusion level.

(g) In order for hazardous waste generated by a small quantity generator to be excluded from full regulation under this section, the generator must:

(1) Comply with § 262.11 of this chapter;

(2) If he stores his hazardous waste on-site, store it in compliance with the requirements of paragraph (f) of this section; and

(3) Either treat or dispose of his hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which is:

(i) Permitted under Part 122 of this chapter;

(ii) In interim status under Parts 122 and 265 of this chapter;

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(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 123 of this chapter;

(iv) Permitted, licensed or registered by a State to manage municipal or industrial solid waste; or

(v) A facility which:

(A) Beneficially uses or re-uses, or legitimately recycles or reclaims his waste; or

(B) Treats his waste prior to beneficial use or re-use, or legitimate recycling or reclamation.

(h) Hazardous waste subject to the reduced requirements of this section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C.

(i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

2. Section 262.11(a) is revised to read as follows:

§ 262.11 Hazardous waste determination.

(a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.

* * * * *

These amendments are issued under the authority of Sections 1006, 2002(a) and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), and 6922.

[FR Doc. 80-36130 Filed 11-18-80; 8:45 am]
BILLING CODE 6560-30-M

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40 CFR Part 262

[SWH-FRC 1675-4]

Hazardous Waste Management System; Standards Applicable to Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: In regulations promulgated in May, 1980, establishing a federal program for the management of hazardous wastes, EPA placed requirements on generators of hazardous waste that accumulated their waste on the site of generation prior to shipment to off-site hazardous waste management facilities [40 CFR § 262.34, 45 FR 33066, 33143 (May 19, 1980)]. One of these requirements was that a generator ship all accumulated waste off-site in 90 days or less. This amendment eliminates the distinction between accumulation for on-site and off-site treatment, storage or disposal, provided that, within 90 days, the waste is sent to a hazardous waste management facility that is either permitted or in interim status. The other requirements of § 262.34 are not changed by this rule.

DATES: Effective Date: This requirement is effective on November 19, 1980. Comment date: Comments are due January 19, 1981.

ADDRESSES: Comments should be addressed to the Docket Clerk (Docket 3002), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Rolf Hill, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9145.

SUPPLEMENTARY INFORMATION:

I. Introduction

In regulations promulgated in February and May, 1980, EPA established standards applicable to generators of hazardous waste. 40 CFR Part 262, 45 FR 12722 (February 26, 1980), 45 FR 33140 (May 19, 1980). These standards, among other things, require generators to initiate a manifest to track the movement of hazardous waste, maintain records, and provide proper containers, labels and placards for the transportation of hazardous waste. Most of these requirements apply only to generators who send their hazardous wastes off the site of generation for treatment, storage or disposal. Some of these requirements, however, apply to generators who treat, store or dispose of their wastes on the site of generation. (See 40 CFR 262.10(b)).

Recognizing that many generators would accumulate hazardous waste for a period of time prior to shipping the waste to an off-site hazardous waste management facility, EPA set special requirements in § 262.34 which, if met by the generator, would allow him to accumulate the waste on-site without having to obtain a RCRA permit for a storage facility under Part 122 of the regulations or comply with the applicable standards under Parts 264 and 265 of the regulations.

The basis and rationale for these special 90-day accumulation rules appear in the preambles to, and the background documents supporting, the generator regulations first published in Feburary, 1980, and then revised in May, 1980. See 45 FR 12722, 12730 (February 26, 1980) and 45 FR 33140, 33141 (May 19, 1980). By allowing short-term accumulation without a permit, the regulation reflects the congressional intent that the RCRA program not interfere with the manufacturing process. See H.R. Rep. No. 94-1491, 94th Cong. 2d Sess. 26 (Sept. 9, 1976). Generation of hazardous waste necessarily requires some accumulation of that waste prior to taking it to a hazardous waste management facility. On the basis of information received in the comment period, the Agency selected ninety days as a period that provided sufficient time for such accumulation to occur in all reasonable situations.

Holding hazardous waste for a short period, however, entails many of the same risks to human health and environment as long-term storage, and therefore the Agency imposed specific requirements for short-term accumulation. The special requirements of § 262.34 require the generator to (1) ship the wastes off-site within 90 days; (2) place the waste in containers or tanks meeting specified technical standards; (3) mark the date accumulation began on the container or tank; (4) properly label and mark the containers; and, (5) comply with the Part 265 regulations concerning preparedness and prevention, contingency plans and emergency procedures. These requirements are designed to ensure that short-term accumulation of hazardous wastes will be done in a manner that ensures protection of human health and the environment.

Since the publication of the regulations, members of the regulated community have raised two questions that are basic to the application and operation of this regulation. First, these persons have stated that the distinction between accumulation of hazardous waste prior to off-site shipment and accumulation prior to on-site treatment, storage or disposal is arbitrary and that the 90-day accumulation provision should apply to both types of accumulation. Second, these persons have stated that although the special 90-day accumulation requirements of § 262.34 may be appropriate for the more centralized areas and facilities where hazardous wastes are accumulated prior to off-site transport or ultimate on-site disposition, they are more stringent than necessary for the accumulation and very short-term storage of wastes at areas where the wastes are generated and initially

accumulated—often in small containers—prior to movement to the more centralized on-site accumulation and storage areas.

The amendment being promulgated today responds to the first of these concerns. For reasons discussed below, however, EPA believes that more information is necessary prior to ascertaining the need for amending the regulations to respond to the second concern.

II. On-site Accumulation Prior to On-site Treatment, Storage or Disposal

The effect of the current regulations is to allow one class of generators (i.e., those who ship their wastes off-site) to "accumulate" their waste for up to 90-days without having a permit or interim status and to require all other generators (i.e., those who treat, store and dispose of the wastes on-site) to obtain a RCRA permit or interim status for the same activity. The standards applicable to both classes, however, are similar. Generators who accumulate waste on-site under § 262.34 would have to store their wastes in compliance with virtually all of the technical requirements of Part 265 and also satisfy many of the general requirements of that Part, e.g., prepare contingency plans and emergency procedures. The principal difference the Agency had discerned between these two classes of generators that was that the areas used for accumulation by the generator who performed such activities on-site would be included in their permit covering the other on-site treatment, storage and disposal facilities. In addition, certain provisions of the Part 265 regulations apply to the accumulation areas of generators who manage their wastes on-site; these include security, financial responsibility, closure and post-closure requirements.

EPA now believes, however, that the regulations as currently written impose substantially different requirements for generators who ship their wastes off-site as opposed to those who do not. These differences do not appear warranted. The most important of these differences concerns eligibility for interim status if short-term accumulation is considered storage for generators who treat, store or dispose of their wastes on-site. To obtain interim status a storage facility must be "in existence" on November 19, 1980. Section 3005(e), 42 U.S.C. § 6925(e) as amended by the Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980). A generator who sends his wastes off-site would be able to construct a new loading dock or storage shed for short-term accumulation; a generator who does not send his wastes off-site could not construct a new loading dock (i.e., a new storage facility) without obtaining a RCRA permit. Second, although applying for a permit for these accumulation areas may not entail significant increased burden, the terms and conditions of the permit could impose requirements beyond those required for generators who ship their wastes off-site. In addition, other differences between on-site accumulation and on-site storage may emerge as the regulations are interpreted and applied.

EPA believes that there is no basis for the distinction and accordingly has amended the requirement of § 262.34(a)(1) that accumulated wastes be shipped off-site within 90 days. The requirements of § 262.34 are designed to ensure protection of human health and the environment during short-term accumulation. The destination of the waste does not change the protection that this rule ensures. Section 262.34 requires that wastes that are accumulated on-site still must, within 90 days, go to treatment, storage or disposal facilities which are permitted or in interim status. The regulation now provides that such facilities may be on-site as well as off-site; the manner of regulation and the degree of environmental control is the same for these facilities.

The selection of a 90-day period in the original rule reflected the maximum accumulation time that the Agency thought was necessary prior to transporting wastes off-site. The generator does not wholly control the timing of the transportation because arrangements have to be made with the transporter and the hazardous waste management facility. The situation is obviously different if the generator is sending his waste to a treatment, storage or disposal facility located on the site of generation. In this situation, the generator has greater control over the handling of the waste and the timing of its shipment. The Agency solicits information on whether given this difference whether a shorter period, say 30 days, should be provided for generators who subsequently send their wastes to an on-site treatment, storage or disposal facility.

III. Application of Requirements to All Accumulation Areas

In promulgating the regulations establishing the requirements for on-site accumulation, EPA assumed that accumulation generally would occur in discrete areas in the manufacturing complex where wastes would be held prior to shipment to a treatment, storage or disposal facility. Technical standards for tanks or containers, the preparation of contingency plans and similar requirements are appropriate for loading docks, storage buildings and sheds, and other areas in a manufacturing complex where hazardous wastes are collected and accumulated.

Members of the regulated community, however, have pointed out that, within a manufacturing complex, there may be dozens of places where hazardous wastes are collected during daily operations prior to taking a container containing hazardous waste to the loading dock or other accumulation area. These commenters have questioned the appropriateness of applying the requirements of § 262.34 to each place where hazardous wastes may be initially collected.

EPA believes, however, that the requirments of § 262.34 are appropriate for both centralized and satellite accumulation areas. The Agency, however, is soliciting information on whether, in some situations, different requirements should govern these accumulation activities.

Whether at satellite or centralized accumulation areas, the hazardous waste requires proper management in order to minimize the threat to human health and the environment. The requirements of § 262.34 are designed to provide such protection. Containers that meet DOT specifications and tanks that meet Part 265 design and operating requirements appear necessary and appropriate for the accumulation of hazardous waste regardless of whether the accumulation occurs at a centralized facility or in different places within a plant. The other requirements of § 262.34 similarly appear appropriate to all accumulation activities on the site of generation; these include marking and labeling containers; weekly inspections of containers; locating of containers holding ignitable and reactive wastes away from the property line; requirements concerning preparedness and prevention, contingency plans and emergency response and personnel training. The protection that these requirements ensure appear appropriate and necessary wherever hazardous wastes are accumulated.

The Agency recognizes that there may be certain stituations in which the requirements of § 262.34 might not work well for the initial collection and accumulation of hazardous waste. For example, the Agency does not expect a company to engage in major reconstruction of a facility simply to be able to fit a DOT container beneath a hard-to-reach leaky pipe. The Agency does, however, want to ensure that all

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hazardous waste, once generated, are safely and properly handled. The Agency requests comments on situations in which the requirements of § 262.34 may be inappropriate and on the manner in which EPA should handle such situations.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments to § 262.34 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the interests of the regulated community and the public. The regulatory provision that this amendment modifies takes effect on November 19, 1980. In the absence of the immediate effectuation of this amendment, generators who accumulate wastes for on-site treatment, storage or disposal must prepare to operate these facilities as fully regulated hazardous waste storage facilities on and after November 19, 1980. This would include preparation and submission of a Part A permit application covering the accumulation area.

The Agency believes it makes little sense to allow the requirements promulgated on May 19, 1980, to become effective on November 19, 1980, and then have them substantially modified on a subsequent date, i.e., the six-month effective date for these amendments. Leasing of regulatory requirements is not the type of revision to regulations for which Congress intended a six-month delay occur between its promulgation and effective date. Consequently, the Agency is setting an effective date of November 19, 1980, for the amendment to § 262.34 promulgated in this rulemaking action.

V. Interim Final Promulgation

This regulation is being promulgated in interim final form. The reasons for taking this exceptional procedure are similar to those supporting the immediate effective date. The delay involved in initiating normal rulemaking would cause substantial hardship on generators who treat, store or dispose of their hazardous wastes on-site. During the pendency of rulemaking, these generators would not be able to construct new accumulation areas in their manufacturing facilities without obtaining a RCRA permit. Because such areas are intimately tied to the manufacturing process itself, such a delay might in effect create a prohibition of redesign and reconstruction of these manufacturing units.

Although the Agency does not adopt this procedure lightly, the circumstances indicate that the use of interim final promulgation is appropriate. As one court has noted "[i]t is an appropriate safety valve to be used where delay would do real harm." *U.S. Steel Corp.* v. *EPA*, 595 F.2d 207, 214 (5th Cir., 1979). EPA believes that the effect of delaying promulgation of this amendment would cause substantial, and unnecessary, hardship on a large number of manufacturing operations. In this situation, the use of advance notice and comment procedures would be contrary to the public interest and therefore good cause exists for adopting this amendment in interim final form. See 5 U.S.C. § 553(b)(B).

VII. Request for Comments

The Agency invites comments on all aspects of this amendment to the regulation and on all the issues discussed in this preamble. The Agency has recently requested comments of one aspect of § 262.34, its applicability to product storage tanks. 45 CFR 72024 (October 30, 1980). The Agency will consider all comments received on § 262.34 prior to promulgating this rule in final form. EPA desires to formulate sound and sensible regulations concerning the proper handling of hazardous waste. The requirements of § 262.34 are an important aspect of this broader concern, and, if commenters have suggestions on ways to improve this regulation, the Agency would be receptive to their suggestions.

VIII. Regulatory Impacts

The effect of this amendment is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by removing accumulation areas of generators who send accumulated wastes to on-site disposal facilities from full regulation as storage facilities. The Agency is unable to estimate these cost and impact reductions because it does not have an estimate of the number of such areas that otherwise would be fully regulated. For the reasons already discussed, notwithstanding these cost and impact reductions, the Agency believes that human health and environmental protection will not be reduced by this action.

Dated: November 14, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

§ 262.34 [Amended]

1. In § 262.34, paragraph (a)(1) is revised to read as follows.

(a) A generator may accumulate hazardous waste on-site without a permit or without having interim status, provided that:

(1) All such waste is, within 90 days, shipped off-site to a designated facility or placed in an on-site facility that is permitted under Part 122 of this Chapter, has interim status under Parts 122 of this Chapter, or is authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 123 of this Chapter.

* * * * *

These amendments are issued under the authority of Sections 1006, 2002(a), 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6922, 6923, 6924 and 6925.

[FR Doc. 80-36131 Filed 11-18-80; 8:45 am]
BILLING CODE 6560-30-M

40 CFR Parts 122, 260, 264 and 265

[SWH-FRL 1675-5]

Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: In regulations promulgated in May of 1980, the Environmental Protection Agency ("EPA") established a comprehensive program for the handling and management of hazardous wastes. 45 FR 33066 (May 19, 1980). The regulations, among other things, set forth substantive requirements for the treatment and storage of hazardous wastes and require owners and operators of treatment and storage facilities to have Resource Conservation and Recovery Act (RCRA) permits or interim status pursuant to Parts 265 and 122 of the regulations. Certain activities which persons may take in response to spills of hazardous wastes or materials which, when spilled, become hazardous waste might be considered treatment (e.g., absorption, neutralization) or storage (e.g., diking, containment). In this action EPA makes clear that the requirements for treatment and storage are not applicable to actions taken to immediately contain and treat spills of hazardous wastes and materials which, when spilled, become hazardous waste. This action also adds a definition of spill in §§ 260.10 and 122.3.

DATES: Effective date: These amendments become effective on November 19, 1980.

Comment Date: The Agency will accept comments on these amendments until January 19, 1981.

ADDRESS: Comments on these amendments should be addressed to the Docket Clerk (Docket 3004, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact Amy Mills, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. For information on implementation, contact:

Region I, Dennis Hueber, Chief, Radiation, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5777

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0504/5

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0980

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881-3016

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6148

Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 787-2645

Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 347-3307

Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221

Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-4606

Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1260

SUPPLEMENTARY INFORMATION:

I. Introduction

In May of 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). These regulations, among other things, identify and list hazardous wastes (Part 261), establish standards for generators and transporters of hazardous waste (Parts 262 and 263), and set standards and permit requirements for owners and operators of facilities that treat, store or dispose of hazardous waste (Parts 264 and 265 and Parts 122 and 124). 45 FR 33066 (May 19, 1980). These regulations are designed to ensure the proper handling and management of hazardous wastes from their generation through their ultimate disposition.

Because wastes may be produced, handled and disposed of in a large number of ways, the regulations necessarily are cast in broad terms. A generator is anyone whose act or process produces a hazardous waste or whose action first causes a hazardous waste to become subject to regulation. Section 260.10(a), 45 FR 72024 (October 30, 1980). This act or process may be the manufacture of goods or materials, service operations such as cleaning with chemical solvents listed in § 261.31, or the discard of commercial chemical products listed § 261.33. Storage is defined as "the holding of hazardous waste for a temporary period . . .", and treatment as "any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume." Section 260.10(a).

This action concerns how the regulations apply to hazardous wastes that are created by spills of hazardous waste or materials which, when spilled, become hazardous waste. For reasons discussed below, the word "spill" is defined in the amendments published today as "the accidental spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste or material which, when spilled, becomes hazardous waste into or on any land or water." This definition obviously covers spills of those hazardous waste listed in §§ 261.31 and 261.32 and those solid wastes that exhibit any of the characteristics of hazardous wastes defined in Subpart C of Part 261. This definition also covers spills of the commercial chemical products and manufacturing chemical intermediates listed in § 261.33 (e) and (f). The Agency interprets spills of these materials to constitute discarding of such materials (see definitions in § 261.2 (c) and (d)). These materials, when discarded, are hazardous waste (see § 261.33). In addition, other materials, when spilled, are considered solid waste because spilling constitutes discarding and may exhibit the characteristic of hazardous waste defined in Subpart C of Part 261.

Members of the regulated community have asked whether certain activities taken in immediate response to such spills constitute treatment (e.g., neutralizing the hazardous waste) or storage (e.g., containing the waste in order to prevent its spread). These questions have significant practical implications. Treatment and storage of hazardous wastes, under the regulations, must be carried out in facilities that have interim status under Section 3005(e) of RCRA and 40 CFR Part 122 or that have a storage or treatment permit from EPA or a State authorized to run a hazardous waste program under Section 3006.[1] Spills are sudden, unplanned events. In many cases, the treatment or storage necessary to respond to spills will not be covered by a RCRA permit or interim status. This is particularly true for generators who do not treat, store or dispose of hazardous waste and transporters who would have neither a permit nor interim status. It also may be true for owners and operators of treatment, storage or disposal facilities where their permit or interim status may not cover the types of treatment or storage performed in responding to a particular spill. Persons responding to the spills would be placed in the uncomfortable position of taking actions necessary to protect human health and the environment while being in violation of RCRA.[2]

In addition, Parts 264 and 265 set forth the manner in which persons may treat

[1] Under § 122.27 the Regional Administrator is authorized to issue emergency permits if there is an imminent and substantial endangerment to human health or the environment to allow the treatment, storage or disposal of hazardous waste for a nonpermitted facility or activities not covered by a permit. § 122.27 set forth procedures governing the issuance of emergency permits. EPA is presently developing guidance for the issuance of these permits.

[2] Hazardous wastes produced in small quantities are excluded from full Subtitle C regulation under § 261.5. A condition of that exclusion, however, is that wastes subject to § 261.5 must be managed in Subtitle C facilities, facilities approved by the State, or use, re-use, recycling or reclamation facilites. Thus, even for spills by small quantity generators, the same dilemma is posed for persons whose response might constitute treatment or storage.

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or store hazardous wastes. With respect to chemical, physical, and biological treatment, for example, the regulations prescribe such things as general operating requirements, waste analysis and trail tests, inspections, and closure requirements. See 40 CFR 265 Subpart Q. If, for example, reagents are used to absorb or neutralize a chemical product listed in § 261.33 which has spilled in a plant, the treatment requirements specified in the regulations would technically govern the response to the spill.

This amendment is designed to allow appropriate responses to spills of hazardous wastes without being limited by the treatment and storage standards and the permit and interim status requirements of the regulations. It should be noted that EPA is developing regulations which will address in more comprehensive fashion the application of the RCRA regulations to spill response activities. That rulemaking will clarify, among other things, relationship of RCRA and other Federal statutes, particularly the Clean Water Act and the Hazardous Materials Transportation Act, which concern spill activities.

II. What These Amendments Do

The amendments published today add three new elements to the regulations published in May, 1980: they add a definition of spill; exempt immediate containment and treatment activities from the Part 264 and 265 regulations governing treatment and storage; and, amend Part 122 to indicate that such activities do not have to be covered by a RCRA permit or interim status.

The definition of "spill" is the same as the definition of "discharge" in § 260. 10(a), except that the word "intentional" has been deleted from the definition of spill and the phrase "material which, when spilled, becomes hazardous waste" has been added. The exclusion from regulation provided in today's amendments is designed to allow persons to respond immediately to sudden, unplanned occurrences, i.e., accidents, which release materials or wastes into the environment. There does not appear to be any basis to extend today's action to intentional releases which might occur. Releases which occur from burst pipes and ruptured containers would be considered spills; releases which routinely occur from, for example, scheduled maintenance of machinery would not be. The Agency specifically requests comment on whether the definition of spills provides appropriate scope for the substantive amendments published today. For purposes of the RCRA portions of the consolidated permit regulations, a corresponding definition of spill has been added to § 122.3.

The amendments to Parts 264 and 265 state that treatment and containment actions taken in immediate response to spills are not considered treatment or storage of hazardous waste. These response activities are not subject, therefore, to the detailed requirements of those parts governing treatment and storage. The amendment to § 122.21 indicates that these activities do not have to be covered by a RCRA permit.

The amendments only cover activities during the immediate response to a spill. As discussed below, once this response is accomplished, other regulatory provisions apply. Section IV of this preamble provides examples of how these amendments and the other regulatory provisions apply to spill situations. These amendments are designed to allow persons to respond immediately to spills which may pose dangers to human health and the environment. If the Agency believes that anyone is abusing this provision, it will not hesitate to bring enforcement actions, including, under appropriate circumstances, criminal prosecutions.

III. Regulations not Affected by This Amendment

The purpose of today's amendments is to allow persons to treat and contain spills without having engaged in treatment and storage activities and to recognize that spills occur at places which might otherwise not be treatment and storage facilities. These amendments do not affect whether the spilled substance, residue or debris is a hazardous waste or not; Part 261 will govern. They do not affect in an way the application of the generator and transporter requirements; Parts 262 and 263 will govern these activities. After the immediate response activities are completed, the hazardous waste is subject to all the requirements for transportation, treatment, storage, or disposal.

The regulations promulgated in May, 1980, explicitly place specific requirements for certain spills of hazardous waste—discharges occurring during transportation and releases occurring at on-site accumulation areas and in treatment, storage and disposal facilities. These regulations, described briefly below, are unaffected by the amendments published today. These amendments complement the regulations by clarifying that actions taken in response to spills and in compliance with those regulations are not subject to the treatment and storage regulations and do not have to be carried out at a treatment or storage facility with a RCRA permit or in interim status.

Discharges of hazardous waste during transportation are subject to the provisions of Part 263 concerning immediate action, reporting, and cleanup. 40 CFR 263.30 and 263.31, 45 FR 12744 (February 26, 1980), republished at 45 FR 33152 (May 19, 1980). Discharges of hazardous materials during transportation are also subject to the reporting provisions of DOT regulations under the Hazardous Materials Transportation Act. 49 CFR 171.15, 171.16. These regulations will apply to spills during transportation and these requirements are not affected by today's amendment.

The Part 264 and 265 regulations contain extensive requirements for hazardous waste management facilities concerning preparedness and prevention, and contingency plans and emergency procedures. 40 CFR Part 265, Subparts C and D, 45 FR 33236, 33237 (May 19, 1980). To ensure proper response to explosions, fires, and other releases of hazardous waste, these provisions require owners and operators of regulated facilities to have safety equipment and systems, arrangements with relevant local authorities, a contingency plan and emergency procedures covering response activities. These regulations continue to apply to releases at hazardous waste management facilities which present dangers to human health and the environment. For example, §§ 264.56 and 265.56, concerning emergency procedures, have not been exempted. The emergency coordinator must follow the procedures set forth in those sections. Today's amendment simply means that actions taken, for example, under § 265.56(e), are not subject to the treatment and storage requirements of Part 265.

Regulations promulgated under other Federal, state or local laws may apply to spills of hazardous waste and other materials. On the Federal level, two examples are Section 311 of the Clean Water Act and the Hazardous Materials Transportation Act. Under Section 311 of the Clean Water Act, discharges of oils and hazardous substances (which may also be hazardous wastes) are subject to regulation. Hazardous materials, as regulated by DOT under the Hazardous Materials Transportation Act, include hazardous wastes. See 45 FR 3451 (May 22, 1980). The amendments published today concern only RCRA requirements and in no way affect a person's obligations or responsibilities under any other applicable Federal, state or local law.

IV. Examples of How These Amendments Operate

The following examples illustrate the manner in which the amendments published today operate and tie in with the other RCRA regulations.

1. A manufacturer spills a commercial chemical product listed in § 261.33(e) on the floor of his plant. He immediately uses a reagent to absorb or neutralize the spill, whose residue amounts to more than 100 kilograms. He places the residue in containers for subsequent transportation off-site. What regulations apply?

The manufacturer is a generator of a hazardous waste—the spilled chemical as well as the resulting residue. He is not a small quantity generator because he has generated more than 100 kilograms of § 261.33(e) residue. See 40 CFR § 261.5(e)(2). His use of the reagent is not subject to treatment regulations of Parts 264 and 265 and this use does not have to be covered by a RCRA permit or interim status. Once the immediate response is over, however, he becomes subject to the generator requirements of Part 262. These include requirements for accumulation on-site, use of EPA identification numbers prior to transporting the residue off-site, initiation of the manifest, and use of appropriate packaging, labelling, marking and placarding.[3] Manufacturers who anticipate such spills may, as a precautionary measure, make necessary arrangements to comply with the Part 262 regulations in advance. And, the transportation and subsequent treatment, storage or disposal of the spill residue is subject to the requirements of Parts 263, 264, 265 and 122.

2. A tank used to accumulate hazardous waste (under the requirements of § 262.34) ruptures and the wastes spill on to the ground. Because the tank does not have a secondary containment system, the generator immediately builds an emergency dike to contain the spilled waste. He subsequently pumps the spilled waste into drums and, after several weeks, ships those drums off-site to an incinerator.

The design, construction and operation of the emergency containment dike is not subject to the RCRA Subtitle C regulations (however, the overall response to the spill is subject to the requirements of Subparts C and D of Part 265 which apply by reference through § 262.34). The storage of the cleaned-up wastes in drums is subject to the accumulation requirements of § 262.34 if storage in the drums is for less than 90-days before off-site shipment or in a on-site. If storage in the drums exceeds 90-days, then this must be covered by a RCRA permit (an existing permit, a new permit, or an emergency permit) or be covered by interim status, and must be carried out in compliance with the applicable requirements of Parts 264 or 265. The incinerator that the drummed wastes shipped to, must have a RCRA permit or interim status.

If, as part of the immediate clean-up action, the containment soil of the diked containment area is treated (e.g., decontamination of the soil in a mobile treatment unit) or the spilled waste is treated, such activity also would not be subject to regulation. However, if such treatment extends beyond the immediate clean-up action, EPA will require an emergency RCRA permit to be obtained. If contaminated soil is left in place, this constitutes disposal and will require a RCRA permit.

3. A spill of hazardous waste material listed in § 261.33(e) occurs in transportation. What must the transporter do?

Under § 263.30(a), the transporter must take appropriate immediate action to protect human health and the environment. The spill containment or treatment action taken in immediate response is exempt from the treatment and storage requirements of Parts 264 and 265 and the transporter is not required to have a RCRA permit or interim status for such action. If he has generated hazardous waste, he must comply with Part 262 when the immediate actions are over. If he transports the spill residue from the spill site, he must comply with the transporter requirements of Part 263 and transport the residue to a facility with a RCRA permit or interim status.

If required by DOT regulations (see 49 CFR 171.15) or other federal regulations (see, e.g., 40 CFR 117.21 and 33 CFR 153.201), the transporter must notify the National Response Center. If an on-scene coordinator or other official arrives, that official may undertake response activities which are exempted by today's amendments from the RCRA standards and permit requirements for treatment and storage. Under the present regulations, § 263.30(b), these officials may authorize the removal of the waste by transporters without EPA identification numbers and without the preparation of a manifest. The hazardous waste residue must be sent to a hazardous waste management facility with a RCRA permit or interim status. If long-term containment or treatment occurs at the spill site, the site must have a full RCRA permit, interim status, or an emergency permit.

4. A spill occurs on the site of disposal facility which is in interim status. The operator of the facility undertakes immediate containment and clean up. He subsequently disposes of the waste at his facility.

The immediate containment and clean up activities are exempted from the requirements of Part 264 and storage and treatment. The owners and operators of the facility must, however, carry out the provisions of the contingency plan under § 265.51 and follow the emergency procedures § 265.56. The disposal of the hazardous waste is subject to the disposal requirements of Part 265. If the disposal facility is unable to dispose of the spill residue, the owner or operator of the facility, if he has generated a hazardous waste, may accumulate the waste on-site under the provisions of § 262.34, and must comply with all the Part 262 requirements applicable to generators of hazardous waste.

V. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the public interest. The amendments make clear that persons responding to spills are not engaging in treatment and storage activities and that such activities do not have to be done in facilities with a RCRA permit or in interim status. The effect of the amendments will be to relieve these persons of having to comply with a number of impractical requirements with respect to spills response actions. The Agency believes that this is not the type of regulation revision that Congress had in mind

[3] EPA recognizes that certain persons, including manufacturers and transporters of hazardous materials, may not have EPA identification numbers prior to a spill which creates hazardous waste. At this time EPA has decided not to exempt discharges from the requirement of having an EPA ID number. Generators do not need an EPA ID number at the time of generation but rather at the time of treating, storing or disposing of the waste or transporting or offering the waste for transportation. Generators will have an opportunity to obtain an EPA ID number after the spill. And, persons who anticipate that they may generate hazardous waste in the future may obtain an EPA ID number in advance. For these reasons, EPA believes that at this time there is no reason to exempt these generators from this requirement.

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when it provided a six month delay between the promulgation and the effective date of revisions to regulations. Consequently, the Agency is setting an effective date of November 19, 1980, for these amendments.

VI. Promulgation in Interim Final Form

These amendments operate as a clarification of the hazardous waste regulations published in May of 1980. 45 FR 33066 (May 19, 1980). With certain exceptions, those regulations did not address containment and treatment of spills of hazardous wastes or materials which, when spilled, become hazardous wastes. A literal interpretation of the May regulations, however, would mean that such actions constitute storage and disposal fully subject to regulation. These amendments conform the regulations to their original intent. The Agency believes that good cause exists for promulgation of this rule in final form. See 5 U.S.C. 553(b)(B).

Delaying the application of these rules to allow opportunity for public notice and comment would work substantial hardship on persons handling hazardous waste. The regulatory program goes into effect on November 19, 1980. Spills are everyday occurrences in the real world. Without immediate clarification of the regulations, all persons who might in the future spill a hazardous material or hazardous waste would have to the prepared to be in full compliance with the Part 265 regulations governing treatment and storage. Without these clarifying amendments substantial hardship would be imposed, without appreciable benefit, on the regulated community.

VII. Requests for Comments

The Agency is soliciting comments on all aspects of the amendments and on all issues discussed in this preamble. In addition, the Agency may initiate more comprehensive rulemaking in the near future on RCRA's application to spill responses. The amendments published today will be subject to reconsideration at that time. The public may accordingly be provided additional opportunity to comment on the Agency's regulation of spills.

VIII. Regulatory Impacts

The effect of these amendments is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. The Agency is unable to estimate these reductions.

Dated: November 14, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the code of Federal Regulations is amended as follows:

§ 260.10 [Amended]

1. Add the following definition to § 260.10(a)(64a):

"Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

§ 122.3 [Amended]

2. Add the following definition to § 122.3:

"Spill" [RCRA] means the accidental spilling, leaking, pumping, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

§ 264.1 [Amended]

3. Add the following paragraph (g)(8) to § 264.1:

* * * * *

(g) * * *

(8) Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of Subpart C and D of this Part are applicable to owners and operators of treatment, storage and disposal facilities otherwise subject to this Part. [Comment: This paragraph only applies to activities taken in immediate response to a spill. After the immediate response activities are completed, the applicable regulations of this Chapter apply fully to the management of any spill residue or debris which is a hazardous waste under Part 261.]

§ 265.1 [Amended]

4. Add the following paragraph (c)(11) to § 265.1:

* * * * *

(c) * * *

(11) Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of Subpart C and D of this Part are applicable to owners and operators of treatment, storage and disposal facilities otherwise subject to this Part. [Comment: This paragraph only applies to activities taken in immediate response to a spill. After the immediate response activities are completed, the regulations of this Chapter apply fully to the management of any spill residue or debris which is a hazardous waste under Part 261.]

§ 122.21 [Amended]

5. Add the following paragraph (d)(3) to § 122.21:

* * * * *

(d) * * *

(3) Further exclusions. A person is not required to obtain a RCRA permit for those activities he carries out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste. [Comments: This exclusion is intended to relieve persons of the necessity of obtaining a RCRA permit where the treatment or storage of hazardous waste is undertaken as part of an immediate response to a spill. Any treatment, storage or disposal of spilled material or spill residue or debris that is undertaken must be covered by a RCRA permit, an emergency RCRA permit or interim status.]

These amendments are issued under the authority of Sections 1006, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6924 and 6925.

[FR Doc. 80-36132 Filed 11-18-80; 8:45 am]
BILLING CODE 6560-30-M

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40 CFR Part 122

[SWH-FRL 1675-2]

Hazardous Waste Management System: General and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: United States Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: The Environmental Protection Agency ("EPA") is today amending its hazardous waste permit regulations to clarify the circumstances under which hazardous waste management facilities may qualify for interim status. Interim status is the condition under which certain facilities would be treated as having been issued a permit until such time as final administrative action was taken on their permit application. These amendments have been prompted by questions from States and the regulated community concerning the eligibility of various types of facilities for interim status.

This notice also solicits comment on enforcement and regulatory policies which EPA is considering adopting to deal with facilities which miss the notice and application filing deadlines for interim status.

DATES: Effective date: November 19, 1980. Comment Date: Comments on the amendments and policies discussed in this notice are due February 17, 1981.

FOR FURTHER INFORMATION CONTACT: John H. Skinner, Director, State Programs and Resource Recovery Division (WH-564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/755-9107.

ADDRESSES: Comments should be sent to Docket Clerk, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, D.C. The comments should refer to "Docket 3005-Interim status".

SUPPLEMENTARY INFORMATION:

I. Introduction

Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. §§ 6921-6933, requires EPA to establish a comprehensive Federal regulatory program to assure the proper management of hazardous waste. One of the most important features of this program is the rquirement that facilities [1] which treat, store or dispose of hazardous waste obtain a permit from EPA (or a State authorized by EPA to conduct a hazardous waste program) and that hazardous wastes only be designated for, delivered to and treated, stored or disposed of in these permitted facilities (Sections 3002, 3003, 3004 and 3005). Indeed, after the effective date of EPA's regulations identifying hazardous wastes, it is a felony to transport those wastes to an unpermitted facility or to treat, store or dispose of them at an unpermitted facility (Sections 3008(d)(1) and (2)).

Recognizing that EPA and authorized States would not be able to issue permits to all hazardous waste management facilities before the Subtitle C program became effective, Congress provided in Section 3005(e) of RCRA that certain facilities would be treated as having been issued a permit until such time as final administrative action was taken on their permit application. This statutory permit—commonly referred to as "interim status", the title of Section 3005(e)—is conditioned on a facility's meeting the following three requirements:

1. The facility must have been in existence on November 19, 1980.[2]

2. The facility must have "complied with the requirements of section 3010(a)" of RCRA (notification of hazardous waste activity).

3. The facility must have filed an application for a permit under Section 3005.

On May 19, 1980, EPA published regulations defining when a hazardous waste management facility may qualify for interim status. See 40 CFR §§ 122.22(a) and 122.23(a), 45 FR 33433-33434 (May 19, 1980). Those regulations provide that interim status may only be obtained by an existing facility (defined in § 122.3) which has "[n]otified the Administrator within 90 days from the promulgation or revision of Part 261 as required by Section 3010 of RCRA" (§ 122.23(a)(1)) and submitted an application within "six months after the first promulgation of regulations in 40 CFR Part 261 listing and identifying hazardous wastes"—i.e., November 19,1980 (§ 122.22(a)).

EPA has received numerous questions about these provisions since their publication. Most have focused on two major issues: whether facilities can qualify for interim status after November 19, 1980, and whether facilities which missed statutory or regulatory filing deadlines can qualify for iterim status. We have examined these issues carefully and have concluded that §§ 122.22(a) and 122.23 need to be amended to better define the universe of hazardous waste management facilities which are eligible for interim status under Section 3005(e). We have also decided that the Agency needs to establish enforcement and regulatory policies to deal with facilities which have failed to meet applicable deadlines for filing notifications and permit applications. These amendments and policies are discussed below in the context of the three statutory prerequisites for interim status.

II. Requirement That Facilities "Comply With the Requirements of Section 3010(a)"

Section 3005(e)(2) of RCRA conditions interim status on a facility's having "complied with the requirements of Section 3010(a)." Section 3010(a) in turn requires that:

> Not later than ninety days after promulgation of regulations under section 3001 identifying * * * or listing any substance as a hazardous waste . . . any person generating or transporting such substance or owning or operating a facility for the treatment, storage or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs * * *) a notification stating the location and general description of the activity and the identified or listed hazardous wastes handled by such person.

Three major questions have been raised concerning the interrelationship between Sections 3005(e)(2) and 3010(a).

A. *Requirement to notify.*

A number of facilities have pointed out to EPA that they were not required to notify under Section 3010(a). They have asked whether a facility which is not required to notify under Section 3010(a) (and therefore did not submit a timely notification) would be eligible for interim status.

These facilities are correct in their observation that Section 3010(a) does not require all hazardous waste management facilities to notify. The notification requirements of Section 3010 are triggered only by the publication of regulations under Section 3001 "identify by its characteristics or listing any substance as hazardous waste subject to . . . subtitle [C]" and apply only to persons who are handling those substances at the time the regulations are published. See also 45 FR 12747-12748 (February 26, 1980). Moreover, EPA has, by regulation, exempted several classes of facilities which would otherwise be required to notify under Section 3010 from having to comply with any notification requirements (e.g., on-site storage facilities operated by small quantity generators (see § 261.5) and recycling facilities (see § 261.6)).

If a facility is not required to file a Section 3010 notification, it is EPA's opinion that it has "complied with the requirements of Section 3010(a)" and has met that prerequisite for interim status. A contrary construction of Section 3005(e)(2)—which would have eligibility for interim status turn on whether a facility had filed a notification, irrespective of whether it was required to—would condition interim status on a facility's meeting a requirement which was not dictated by either statute or regulation. Indeed, in some cases—e.g., where a facility did not begin handling hazardous waste until after the ninety-day notification deadline—it would condition interim status on a facility's meeting a requirement with which it could not, as a practical matter, comply.

EPA's May 19, 1980, regulations defining when a facility may obtain

[1] Throughout this notice, EPA will use the term "facility" to refer to the owner and operator of a hazardous waste management facility as well as the facility itself. Thus where, for example, the notice speaks of a "facility" being issued a permit, that term should be understood to mean the owner and operator of the facility.

[2] When RCRA was originally enacted, Section 3005(e) provided that a facility had to be in existence as of "the date of enactment of this Act"—i.e., October 21, 1976. Recent amendments to RCRA have changed this date to November 19, 1980. See Section 10 of the Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980).

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interim status did not reflect the distinction between filing a notification and being required to file a notification under Section 3010. To correct this error, EPA is today amending § 122.23(a)(1) to make it clear that a facility which is not required to notify under Section 3010 may obtain interim status without filing a notification if it meets the remaining two prerequisites set forth in Section 3005(e).[3]

B. *Ninety day filing deadline.*

A number of facilities which were required to file a notification as a result of the publication of EPA's May 19, 1980, regulations have advised the Agency that they did not file a notification within ninety days. These facilities have asked whether they will be eligible for interim status if they file a late notification.

As noted above, Section 3010(a) requires facilities handling wastes listed in EPA's May 19, 1980, regulations not only to file a notification, but to file the notification within ninety days (i.e., by August 18, 1980). It is EPA's opinion that a facility which was required to notify as a result of the publication of EPA's May 19, 1980, regulations and did not file a notification by August 18, 1980, has not "complied with the requirements of section 3010(a)" and is not eligible for interim status. A contrary interpretation of Section 3010(a) would essentially read the ninety-day deadline out of the statute.

EPA recognizes that this literal construction may have the effect of preventing some well-managed facilities from ever qualifying for interim status. We have developed two policies to provide relief in these situations. The first deals with facilities whose failure to notify is attributable to ambiguities in EPA's regulations; the second with facilities whose failure to notify is their own fault. In our opinion, these policies will preserve the integrity of the ninety-day deadline in Section 3010 while at the same time providing the administrative flexibility necessary to deal with late filings on a case-by-case basis.

1. *Revised notification requirements.*

Since the publication of EPA's May 19, 1980, regulations, members of the regulated community, States and environmental groups have brought to EPA's attention a number of provisions in the regulations which were not clear, or, as applied to specific waste management situations, did not make sense. In an August 19, 1980, **Federal Register** notice (45 FR 55386), EPA identified approximately twenty of these provisions, and promised to issue regulatory amendments or regulatory interpretation memoranda (RIMs) to correct, modify or clarify them.

Some of these provisions deal with the issue of whether a person was handling a hazardous waste on May 19, 1980, and therefore was required to notify EPA under Section 3010 by August 18, 1980. In most cases, the regulatory amendments and RIMs which are now being developed by EPA will have the effect of narrowing the universe of persons who were required to notify on August 18, 1980 (based on a literal reading of the regulations). In a few cases, however, they may bring within Subtitle C control owners and operators of facilities who could reasonably have concluded, based on a careful reading of the May 19, 1980, regulations, that they were not required to notify on August 18, 1980.

We do not think it is fair to penalize facilities for failing to notify under Section 3010 where that failure is attributable to major ambiguities in EPA's hazardous waste regulations. Although we do not believe we have the authority to waive the ninety-day statutory filing deadline for facilities which were required to notify on August 18, 1980, we do think we have the authority under RCRA to issue a *post hoc* administrative finding that a particular class of facilities was not required to notify at all because of major uncertainties in EPA's regulations. It is our intent, therefore, at the time EPA publishes future **Federal Register** notices announcing amendments to or interpretations of our hazardous waste regulations, (1) to decide whether some class of facilities may have failed to notify because of ambiguities in those regulations and if so, (2) to issue a determination that that class of facilities was not required to notify under Section 3010 on August 18, 1980, and to establish new deadlines for submitting permit applications and complying with interim status standards under 40 CFR Part 265.[4] The effect of this determination will be to make the designated facilities eligible for interim status even though they failed to notify on August 18, 1980.

b. *Enforcement discretion.*

In addition to facilities which failed to file a timely notification because of major ambiguities in EPA's regulations, there are no doubt a number of facilities which failed to notify as a result of clerical errors, oversight or other factors. Some may be well-managed facilities whose continued operation is in the public interest.

Although EPA cannot grant interim status to facilities which failed to file a timely Section 3010 notification, we are prepared to exercise our enforcement discretion to allow such facilities to continue operating after November 19, where their continued operation would be in the public interest. To provide formal assurances to these facilities that they will not be prosecuted for operating without a permit, EPA is considering issuing Interim Status Compliance Letters ("ISCLs") to qualifying facilities stating that the Government will not prosecute them for operating without a permit if they file a permit application and comply with all applicable Part 265 standards. The ISCL would contain similar provisions shielding generators and transporters using these facilities from Federal prosecution for sending wastes to an unpermitted facility. Compliance orders issued under Section 3008 of RCRA (with or without a civil penalty assessment) could also be used to achieve essentially the same result.

Although a facility operating under an ISCL or compliance order and complying with EPA's Part 265 regulations would not be immune from citizen suits under Section 7002 of RCRA because it was technically operating without a permit, we doubt that such suits would ever be successful. Federal courts sitting in equity are not likely to close down facilities which have failed to submit a timely notification under Section 3010 if they are otherwise fully complying with all applicable substantive environmental standards.

An ISCL or compliance order would also assist facilities which must file under Section 13 of the Securities and Exchange Act of 1934, as amended, in making a full disclosure of the extent of their potential liability under RCRA. As noted above, for a facility which is complying with its ISCL or compliance order, potential liability under Section 3008 or 7002 should be negligible.

EPA expressly solicits comment on these approaches. A similar enforcement policy was successfully used by EPA under the Clean Water Act ("CWA") to deal with an inflexible statutory deadline much like the ninety-day deadline in Section 3010.[5] The main difference between the CWA policy and the policy announced above is that under the latter EPA would generally not extend deadlines for complying with applicable regulatory requirements. In this respect, we think it is an even more judicious and envionmentally sound exercise of EPA's enforcement discretion.

3. *A Caveat.*

Facilities should not construe the announcement of the foregoing policies (or the amendments discussed in Section III, below) as an invitation to miss applicable statutory or regulatory filing deadlines. These policies are designed to address situations where facilities have acted reasonably and in good faith or where well-operated facilities have through clerical error or oversight failed to submit a timely notification date. They are not intended for facilities which have made little or no effort to comply with EPA's regulations.

C. *1980 Amendments to Section 3010(a).*

The Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980), amend Section 3010(a) of RCRA to make notifications triggered by amendments to EPA's Section 3001 regulations after October 21, 1980, discretionary with the Administrator. EPA has been asked what effect these amendments will have on facilities' eligibility for interim status.

We see two important consequences for interim status flowing from the enactment of these amendments. First, facilities which handle wastes listed or identified as hazardous wastes by EPA after October 21, 1980, are no longer automatically required to notify under Section 3010. Only if EPA expressly requires facilities to notify will notification under Section 3010(a) be required.

Second, there is no longer any statutory deadline for filing notifications. In the future, all notification deadlines will be set by regulation. This will give EPA the same administrative flexibility to deal with late notifications that it currently has with respect to late permit applications. See Section III, below.

III. Requirement that a Facility Have "Filed an Application Under this Section"

A second statutory prerequisite of interim status is that the owner and operator of a facility have "filed an application under * * * section [3005]". Section 3005(e)(3) EPA's regulations implementing Section 3005 condition eligibility for interim status on a facility's having "complied with the requirements of § 122.22(a) * * * governing submissions of Part A applications." See § 122.23(a)(2). Section 122.22(a)(2) in turn requires that a Part A application be submitted by November 19, 1980.

EPA has been asked whether, in light of these requirements, an existing hazardous waste management facility which is not now subject to EPA's hazardous waste regulations will be able to obtain interim status by filing an application after November 19, 1980, if EPA amends its regulations to bring them into the hazardous waste management system. The answer to this question is yes, if the owner and operator of the facility file a permit application within six months of the amendment to EPA's regulations which first subjects the facility to the requirements of Part 265 or 266. EPA is today amending § 122.23(a) to clarify this point. As noted in the "comment" to this amendment, EPA will make every effort to identify permit filing deadlines in the **Federal Register** publications announcing amendments to its regulations to avoid future confusion about when Part A permit applications must be submitted. *See, e.g.,* 45 FR 47832 (July 16, 1980), 45 FR 74884-74885 (November 12, 1980).

EPA is also adding a paragraph to § 122.22(a) to make it clear that a facility which submits a permit application by a revised filing deadline announced by EPA in a **Federal Register** notice clarifying its regulations (see discussion in Section II.B.1, above) has met the prerequisites of Section 3005(e)(3) and is eligible for interim status.

Some existing hazardous waste management facilities may need to qualify for interim status in the future, not as a result of EPA regulatory action, but because of changes in their own operations. For example, a small quantity generator may start generating over 1,000 kg of hazardous waste a month and need to obtain interim status for an exisitng on-site treatment, storage or disposal facility. Or a facility which properly determined on August 1, 1980, that the solid waste it was treating did not exhibit any of the characteristics of hazardous waste may retest it after November 19, 1980, and find that it exhibits the characteristic of extraction procedure toxicity. We have been asked whether the facilities will be able to qualify for interim status if they do not submit a permit application by November 19, 1980.

EPA believes these facilities should be eligible for interim status if they promptly file a permit application. Accordingly, we are today amending § 122.22(a) to allow these facilities to qualify for interim status if they file a permit application within 30 days after they lose their regulatory exemption or begin handling hazardous waste.

Readers should note that these facilities will technically be operating without a permit until they submit their permit application. EPA will not initiate any enforcement action against them, however, if they contact their EPA Regional Office immediately and file an application within the thirty-day period.

EPA believes these amendments will cover most situations where facilities which are eligible for interim status under Sections 3005(e) (1) and (2) must file a permit application. In the event they do not, and in the event some facilities inadvertently miss the filing deadlines set forth in § 122.23(a), EPA is adding another new provision to that section which allows a facility to obtain interim status if it files a permit application by the deadline set forth in a compliance order issued by EPA under Section 3008.

IV. Requirement that a Facility Be "in Existence on November 19, 1980"

The final statutory prerequisite for obtaining interim status is that a facility have been "in existence on November 19, 1980". EPA regulations define "existing facility" as a "facility in operation," (i.e., a facility "receiving hazardous waste for treatment, storage or disposal") or "facility for which construction has commenced." 40 CFR § 122.3 (definitions of "existing HWM facility" and "in operation"). EPA has been asked if a facility which was handling a solid waste on November 19, 1980, that was not identified or listed as a hazardous waste in EPA's Part 261 regulations prior to November 19, 1980, but was identified or listed in a subsequent amendment to those regulations could qualify as an existing hazardous waste management facility for purposes of obtaining interim status.

In EPA's opinion, if a facility was receiving for treatment, storage or disposal on or before November 19, 1980, a solid waste which is subsequently listed or identified as a hazardous waste by EPA, the facility was "in existence on November 19, 1980" and is eligible for interim status if it files a timely permit application and Section 3010 notification (if required). Limiting eligibility for interim status only to those facilities which were

[3] Facilities which have not submitted a notification under Section 3010(a) would, of course, still be required to file for an EPA identification number. See 40 CFR § 265.11, 45 FR 33234 (May 19, 1980).

[4] If an amendment deals with the issue whether a material is a hazardous waste, EPA may at the same time trigger a new opportunity for notification under Section 3010.

[5] Section 301(b) of the Clean Water Act, 33 U.S.C. § 1331(b), requires all point source dischargers to meet effluent limitations based on the best practicable control technology by July 1, 1977. When it became apparent that some dischargers would not be able to meet July 1, 1977 deadline, EPA began issuing letters and orders to these facilities stating

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that the Agency would not prosecute them for failing to meet the July 1, 1977, date if they met an alternative deadline and accompanying compliance schedule set forth in the letter or order.

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handling a solid waste on November 19, 1980, that had been listed or identified as a hazardous waste prior to that date, would attach too much regulatory significance to the order in which EPA promulgates its hazardous waste listings. It would also prevent any facility which was handling a solid waste now temporarily exempted from Subtitle C controls as a "special waste" from ever obtaining interim status.[6]

Readers should note, however, that for a facility to qualify as an "existing facility" in this situation, the solid waste which the facility was handling on or before November 19, 1980, must be the same waste which is later identified or listed in EPA's hazardous waste regulations. A facility which is handling trash on November 19, 1980, for example, would not qualify as an existing facility simply because after November 19, 1980, it began handling a solid waste which was subsequently listed as a hazardous waste in EPA's Part 261 regulations.

EPA recognizes that it may be difficult for some facilities to establish a precise correlation between solid wastes handled prior to and after November 19, 1980, because of changes in manufacturing processes, wastewater treatment processes, air emission controls, raw materials or other similar components of the manufacturing and waste treatment process. The Agency solicits comment on what types of guidelines it should follow in these situations to determine if the wastes being handled prior to and after November 19, 1980, are the "same waste."

V. Practical application

To assist readers in understanding the amendments and policies which have been outlined above, EPA believes it would be useful to discuss how they would apply in concrete factual situations.

1. The ABC Company completed construction of a hazardous waste incinerator on October 1, 1980. On October 2, 1980, the facility begins incinerating a number of hazardous wastes listed in EPA's May 19, 1980 regulations. The facility submitted a permit application on November 1, 1980, but did not notify on August 18, 1980. Does the facility have interim status?

Yes. The facility was not required to file a Section 3010 notification because it was not handling hazardous waste at the time of promulgation of EPA's May 19, 1980, regulations. Thus, although it has not notified, it has nevertheless "complied with section 3010(a)" within the meaning of Section 3005(e).

The facility also meets the other two prerequisites for interim status.

2. The ABC Company owns a landfill which, since 1978, has been used continuously and exclusively for the disposal of sludges from the treatment of wastewater from widgit production. On January 1, 1982, EPA adds wastewater treatment sludge from the production of widgits to its hazardous waste list. The preamble to the **Federal Register** publication announcing the new listing does not expressly require facilities handling wastewater treatment sludges from widgit production to notify. It does state, however, that such facilities must file a permit application and begin complying with all applicable iterim status standards by July 1, 1982. The ABC Company files a complete permit application by July 1, 1982. Does it have interim status?

Yes. Section 3010(a) of RCRA was amended by the Solid Waste Disposal Act Amendments of 1980 on October 21, 1980, to make Section 3010(a) notifications based on revisions to EPA's hazardous waste list and characteristics discretionary with the Agency. Thus, in the absence of an explicit EPA directive to notify, a company handling a hazardous waste listed in a revision to EPA's Part 261 regulations which was published after October 21, 1980, would not be required to submit a new Section 3010 notification.

The ABC Company landfill also meets the two remaining prerequisites for interim status. Because it was handling a solid waste on November 19, 1980, which was subsequently listed as a hazardous waste by EPA, it was a hazardous waste management facility which was "in existence on November 19, 1980." It also filed a timely permit application.

3. The ABC Company owns an on-site landfill which was handling garbage on November 19, 1980. On January 1, 1981, the company goes into the widgit production business and begins using the landfill to dispose of sludges from the treatment of wastewater generated by the widgit production process. On January 1, 1982, EPA lists wastewater treatment sludges from the production of widgits as a hazardous waste. The preamble to the **Federal Register** publication announcing the new listing requires facilities handling widgit wastewater treatment sludges to notify by March 30, 1982, and submit a permit application by July 1, 1982. The ABC Company files a timely notification and permit application. Does its landfill have interim status?

No. On November 19, 1980, the landfill was not handling a hazardous waste (as defined by EPA in its May 19, or July 16, 1980, regulations) or a solid waste which was subsequently identified or listed as a hazardous waste by EPA. It was therefore not "in existence" as a hazardous waste management facility on November 19, 1980, and cannot qualify for interim status.

4. The ABC Company generates 500 kg per month of a waste listed in EPA's May 19, 1980, regulations. Since 1975, the company has disposed of this waste in an unlicensed on-site landfill Starting on November 19, 1980, the company starts sending its waste to a state approved industrial landfill in order to take advantage of EPA's small quantity generator regulations. Later, EPA lowers the small quantity generator exemption to 100 kg per month. The ABC Company cannot find a nearby hazardous waste management facility to take its waste and would like to reactivate its on-site landfill. Is the landfill eligible for interim status?

Yes. The landfill can meet all three prerequisites for interim status if it submits complete permit application within six months after EPA amends Part 261 to lower the small quantity generator exemption.

5. The ABC Company treats a waste which it believes is exempted as hazardous waste under § 261.4 of EPA's May 19, 1980, regulations. It does not notify on August 18, 1980, or submit a permit application by November 19, 1980. On March 1, 1981, EPA issues an interpretation of § 261.4 which makes it clear that the waste treated by the company is not exempt. The company tests the waste against the characteristics of hazardous waste identifed in Subpart C of Part 261 and the waste exhibits several of the characteristics. Can the company's treatment facility qualify for interim status?

This will depend on the content of the **Federal Register** notice announcing EPA's regulatory interpretation. If the Agency decides that the exemption in § 261.4 was so vague or ambiguous that facilities in the position of the ABC Company could not reasonably have been expected to know that they were required to notify and submit a permit application, it will (1) include as part of its interpretation a formal Agency determination that those facilities were not required to notify and (2) set a new deadline by which those facilities must submit a complete permit application if they wish to qualify for interim status. Thus, if the ABC Company submits a complete application by the new deadline, its treatment facility will have qualified for interim status.

On the other hand, if EPA decides that the regulation was not vague or ambiguous or that Agency's resolution of ambiguities in the regulation does not affect facilities in the position of the ABC Company, it will not modify existing filing and compliance dates for those facilities. In this situation, the treatment facility cannot qualify for interim status because it has not submitted a timely notification and permit application.

[6] The same reasoning applies to facilities which commenced construction by November 19, 1980.

VI. Miscellaneous Issues

A. Protective filings.

We have been advised that a number of facilities which are not now subject to EPA's hazardous waste regulations have filed "protective" notifications and permit applications to comply with EPA's May 19, 1980, Part 122 regulations and thus assure that they will be able to obtain interim status in the future (if necessary). Many of these filings may not be necessary under today's revised regulations.

We urge facilities which have filed unnecessary notifications or permit applications to advise the EPA Regional Office. This will help assure that our list of existing hazardous waste management facilities is accurate for enforcement and other purposes.

B. Units within existing facilities.

Section 122.3 of EPA's May 19, 1980, regulations defines the term "hazardous waste management facility" to include sites consisting of several operational units which handle hazardous waste. A facility, for example, may consist of two hazardous waste storage facilities, a hazardous waste landfill and a hazardous waste incinerator.

Section 122.23(c) restricts the modifications which may be made during interim status to the design capacity of an existing facility and to the processes used by the facility to treat, store or dispose of hazardous waste. EPA has been asked whether, when an individual unit in an interim status facility later qualifies for interim status, that constitutes a "change" in existing design capacity or processes and, if so, whether that change would be subject to the restrictions set forth in § 122.23(c).

The restrictions on modifications in § 123.23(c) are intended to prevent interim status facilities from making major changes in their existing operations which either would be tantamount to the construction of a new facility or should ideally be made after an individual permit is issued. *See* 45 FR 33324 (May 19, 1980). They are not intended to restrict the number of individual units within those facilities which can qualify for interim status. Thus, EPA would not consider the fact that an individual unit within a facility has independently qualified for interim status (or is operating under an ISCL or compliance order, as discussed above) to be a "change" to the facility subject to the restrictions of § 122.23(c). The individual unit would, of course, be subject to those restrictions if the facility sought to enlarge the design capacity of the unit or modify the processes used by the unit to handle hazardous waste.

VII. Interim Final Regulations and Effective Date

A. Interim final regulations.

EPA has determined under Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, that there is good cause for promulgating these amendments without prior notice and comment. As discussed above, EPA's regulations defining when a facility can obtain interim status have erroneoulsy led many facilities to believe that unless they file a permit application by November 19, 1980, they will never be able to obtain interim status. We think it is essential to correct this error before November 19, 1980, or else a significant number of facilities will be filing unnecessary permit applications on November 19, 1980. Readers will have ample opportunity (ninety days) to comment on these amendments before they are issued in "final final" form.

B. Effective date.

Section 3010(b) of RCRA requires that revisions to "regulations * * * respecting * * * requirements [for] permits * * * shall take effect on the date six months after the date of * * * revision." We do not think a literal application of this requirement would make sense in this case. The purpose of Section 3010(b) is to allow persons handling hazardous waste sufficient lead time to prepare to comply with major new regulatory requirements. Delaying the effective date of amendments which reduce existing regulatory requirements is not necessary to carry out this objective. Furthermore, for the reasons stated above, EPA believes an effective date of six months after promulgation would be counterproductive since much of the unnecessary regulatory burden which these amendments seek to avert will already have been imposed. We are therefore making these amendments effective on November 19, 1980, the effective date of the remainder of EPA's May 19, 1980, hazardous waste regulations.

Dated: November 14, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 122.22 is amended by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(4) and (a)(5) respectively, and revising paragraph (a)(1) and adding new paragraphs (a)(2) and (a)(3) to read as follows:

§ 122.22 Application for a permit.

* * * * *

(a) *Existing HWM facilities.* (1) Owners and operators of existing hazardous waste management facilities must submit Part A of their permit application to the Regional Administrator no later than (i) six months after the date of publication of regulations which first require them to comply with the standards set forth in 40 CFR Parts 265 or 266, or (ii) thirty days after the date they first become subject to the standards set forth in 40 CFR Parts 265 or 266, whichever first occurs. [Comment: For facilities which must comply with Part 265 because they handle a waste listed in EPA's May 19, 1980, Part 261 regulations (45 FR 33006 et seq.), the deadline for submitting an application is November 19, 1980. Where other existing facilities must begin complying with Parts 265 or 266 at a later date because of revisions to Parts 260, 261, 265, or 266, the Administrator will specify in the preamble to those revisions when those facilities must submit a permit application.]

(2) The Administrator may by publication in the **Federal Register** extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application if he finds that (i) there has been substantial confusion as to whether the owners and operators of such facilites were required to file a permit application and (ii) such confusion is attributable to ambiguities in EPA's Parts 260, 261, 265, or 266 regulations.

(3) The Administrator may by compliance order issued under Section 3008 of RCRA extend the date by which the owner and operator or an existing hazardous waste management facility must submit Part A of their permit application.

* * * * *

2. Section 122.23 is amended by revising paragraph (a)(1) to read as follows:

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§ 122.23 Interim status.

(a) * * *

(1) Complied with the requirements of Section 3010(a) of RCRA pertaining to notification of hazardous waste activity. [Comment: Some existing facilities may not be required to file a notification under Section 3010(a) of RCRA. These facilities may qualify for interim status by meeting paragraph (a)(2) of this Section.]

* * * * *

These amendments are issued under the authority of Sections 1006, 2002(a) and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a) and 6925.

[FR Doc. 80-36133 Filed 11-18-80; 8:45 am]
BILLING CODE 6560-30-M

V 45 N 019 80 UMI

federal register

Wednesday
November 19, 1980

Part IV

Department of Agriculture

Agricultural Marketing Service

Wheat and Wheat Foods Research and Nutrition Education; Rules of Practice Governing Proceedings on Petitions To Modify or Be Exempted From the Order

V 45

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agriculture Marketing Service issues regulations which establish rules of practice governing proceedings on petitions to modify or to be exempted from provisions of the Wheat and Wheat Foods Research and Nutrition Education Order which was issued May 12, 1980, and published May 16, 1980, at 45 FR 32572. The regulations herein issued are authorized by section 1716 of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3415).

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-2068.

SUPPLEMENTARY INFORMATION: The Wheat and Wheat Foods Research and Nutrition Education Act provides in section 1716 (7 U.S.C. 3415) that the Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the provisions of the act. The regulations herein issued establish rules of practice governing proceedings on petitions to modify or to be exempted from provisions of the Wheat and Wheat Foods Research and Nutrition Education Order which was issued May 12, 1980, and published in the **Federal Register** May 16, 1980, at 45 FR 32572. The statutory authority for such proceedings on petitions filed is found at section 1710(a) of the Act (7 U.S.C. 3409).

It has been determined that under the administrative procedure provisions in 5 U.S.C. 553, it is impractical and unnecessary to allow opportunity for public comment or to delay the effectiveness of these rules of practice until 30 days after publication in the **Federal Register** for the reasons that: (1) No substantive rule or change of rule is involved, and (2) These procedures are patterned directly after existing procedures which have been effectively used in similar programs.

Accordingly, Part 1280 of Chapter XI of Title 7 of the Code of Federal Regulations is amended by adding a new Subpart as follows:

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Order.

Sec.

1280.250 Words in the singular form.
1280.251 Definitions.
1280.252 Institution of proceeding.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401-3417.

§ 1280.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1280.251 Definitions.

As used in this subpart, the terms as defined in the Act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term "Act" means the Wheat and Wheat Foods Research and Nutrition Education Act and as it may be amended (Pub. L. 95-113, 7 U.S.C. 3401 et. seq.);

(b) The term "Department" means the U.S. Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom they may hereinafter be delegated the authority to act in the Secretary's stead;

(d) The term "Administrative Law Judge" or "Judge" means any Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing;

(e) The term "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any other officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead;

(f) The term **Federal Register** means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and act supplementary thereto and amendatory thereof;

(g) The term "order" means any order or any amendment thereto which may be issued pursuant to the Act;

(h) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity, subject to an order or to whom an order is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under an order;

(i) the term "proceeding" means a proceeding before the Secretary arising under section 1710(a) of the Act;

(j) The term "hearing" means that part of the proceeding which involves the submission of evidence.

(k) The term "party" includes the Department;

(l) The term "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.;

(m) The term "Administrative Law Judge's report" means the Administrative Law Judge's report to the Secretary and includes the Administrative Law Judge's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions, and orders submitted by the parties; and

(n) The term "petition" includes an amended petition.

§ 1280.252 Institution of proceeding.

(a) *Filing and service of petition.* Any person subject to an order desiring to complain that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with the law, shall file with the Hearing Clerk, in quadruplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition, the Hearing Clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively;

(b) *Contents of petition.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms and provisions of the order, or the interpretation or application thereof, which are complained of;

(3) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the order or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the order, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Prayers for the specific relief which the petitioner desires the Secretary to grant; and

(6) An affidavit by the petitioner, or if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition.

(c) *Application to dismiss petition.*

(1) If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with the requirements of (b) of this section, the Administrator may, within 30 calendar days after the filing of the petition file with the Hearing Clerk an application to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this section. Such application shall specify the grounds of objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The application may be accompanied by a memorandum of law. Upon receipt of such application, the Hearing Clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such application, including any memorandum of law, must be filed by the petitioner with the Hearing Clerk not later than 20 calendar days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the Hearing Clerk shall transmit all papers which have been filed in connection with the application to the Judge for consideration.

(2) *Decision by Administrative Law Judge.* The Judge, after due consideration shall render a decision upon the motion stating the reasons for the action. Such decision shall be in the form of an order and shall be filed with the Hearing Clerk who shall cause a copy thereof to be served upon the petitioner and a copy thereof to be transmitted to the Administrator. Any such order shall be final unless appealed pursuant to § 900.65, incorporated by (d) of this section: *Provided,* That within 20 calendar days following the service upon the petitioner of a copy of the order of the Judge dismissing the petition, or any portion thereof, on the ground that it does not substantially comply in form and content with the Act or with (b) of this section, the petitioner shall be permitted to file an amended petition.

(3) *Oral argument.* Unless a written application for oral argument is filed by a party with the Hearing Clerk not later than the time fixed for filing papers in opposition to the motion, it shall be considered that the party does not desire oral argument. The granting of a request to make oral argument shall rest in the discretion of the Judge.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from the orders shall be governed by § 900.52a through § 900.71 excluding § 900.70 of the title "Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Marketing Orders" revised October 29, 1973, and any amendments thereto, except that all references to marketing orders shall mean the Order under the Act, and as may hereafter be amended, and the same are incorporated herein and made a part hereof by reference.

Done at Washington, D.C., on November 14, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services

[FR Doc. 80-36103 Filed 11-18-80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

33290 5–19–80 / Consolidated Permit Regulations

33066 5–19–80 / Hazardous Waste Management System: General

72035 10–30–80 / Hazardous waste; identification and listing chromium

72039 10–30–80 / Hazardous waste; interim status standards for owners and operators of treatment, storage, and disposal facilities; closure plan preparation

33084 5–19–80 / Hazardous Waste Management System: Identification and listing of hazardous waste

72024 10–30–80 / Hazardous waste management system; general and identification and listing of hazardous waste; definition of "transport vehicle" and "vessel"

33140 5–19–80 / Standards for generators of hazardous waste

33150 5–19–80 / Standards for transporters of hazardous waste

INTERIOR DEPARTMENT

Fish and Wildlife Service—

69360 10–20–80 / Endangered and threatened wildlife and plants; determination of *Hudsonia montana* (mountain golden heather) be a threatened species with critical habitat

TRANSPORTATION DEPARTMENT

Federal Highway Administration and Urban Mass Transportation Administration—

69390 10–20–80 / Interstate system; withdrawal of nonessential highway routes and use of funds for substitute mass transit projects

Deadlines for Comments on Proposed Rules for the Week of November 23 through November 29, 1980

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

74491 11–10–80 / License fees, increase; comments by 11–25–80

71198 10–27–80 / Milk marketing order, Southwest Idaho—Eastern Oregon area; revised decision and opportunity to file exceptions; comments by 11–26–80

Foreign Agricultural Service—

70873 10–27–80 / Italian-type cheese loaves; import quotas; comments by 11–26–80

CIVIL AERONAUTICS BOARD

63509 9–25–80 / Charters; use of insurance policies to satisfy financial security requirements and use of letter of credit as an arrangement for protecting charter passengers' payments; comments by 11–24–80

COMMODITY FUTURES TRADING COMMISSION

57141 8–27–80 / Large trader reporting to exchanges and reporting open positions; comments by 11–25–80

DEFENSE DEPARTMENT

Army Department—

71373 10–28–80 / Privacy Act records; exemption rules; comments by 11–28–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

66960 10–8–80 / Residential Conservation Service Program; comments by 11–24–80

Federal Energy Regulatory Commission—

71587–71589 10–29–80 / Ceiling prices; high-cost gas produced from tight formations; comments by 11–24–80 (3 documents)

72687 11–3–80 / High cost gas produced from tight formations, ceiling prices; designation of Arkadelphia Formation, La.; comments by 11–28–80

72199 10–31–80 / Procedures for jurisdictional agencies to recommend designation of certain natural gas production areas as tight formations; comments by 11–26–80

Office of the Secretary—

66970 10–8–80 / Energy Auditor Training and Certification Grants; comments by 11–24–80

ENVIRONMENTAL PROTECTION AGENCY

71382 10–28–80 / District of Columbia State Implementation Plan; revision; comments by 11–28–80

68693 10–16–80 / Hazardous Waste Management Program; Oregon's application for interim authorization, Phase I; comments by 11–24–80

68694 10–16–80 / Hazardous Waste Management Plan; Texas; submission for approval of Interim Authorization Plan, Phase I; comments by 11–25–80

71379 10–28–80 / Michigan; ozone control strategy and transportation control plans; comments by 11–28–80

72215 10–31–80 / National ambient air quality standards for carbon monoxide; comments period extended to 11–24–80

[*See also* 45 FR 55066, 8–18–80]

70917 10–27–80 / North Carolina air quality designation areas (2 documents); comments by 11–26–80

63006 9–23–80 / Premanufacture notification requirements and review procedures; clarification of importer reporting responsibilities; comments by 11–24–80

70513 10–24–80 / Revision to Rhode Island State Implementation Plan; comments by 11–24–80

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

64213 9–29–80 / Age discrimination in employment; comments by 11–28–80

FEDERAL COMMUNICATIONS COMMISSION

56116 8–22–80 / Amendment of broadcast equal employment opportunity rules and FCC form 395; reply comments extended to 11–24–80

72719 11–3–80 / Direct broadcasting satellites; satellite-to-home television transmission; comments by 11–28–80

69496 10–21–80 / FM broadcast stations in Farwell and Morton, Tex.; proposed changes in table of assignments; comments by 11–28–80

63302 9–24–80 / FM broadcast station in Hudson, Mich.; proposed changes in table of assignments; reply comments by 11–28–80

62517 9–19–80 / FM broadcast station in Roy and Clearfield, Utah, proposed changes in table of assignments; reply comments by 11–28–80

61649 9–17–80 / FM broadcast station in Show Low, Ariz., proposed changes in table of assignment; comments by 11–7–80, reply comments by 11–28–80

58150 9–2–80 / 9 kHz channel spacing for AM broadcasting; reply comments by 11–24–80

67399 10–10–80 / Radio broadcast stations (FM) in Louisiana, changes in table of assignment; comments by 11–28–80

67400 10–10–80 / TV broadcast stations in Indiana, changes in table of assignments; comments by 11–28–80

FEDERAL EMERGENCY MANAGEMENT AGENCY

63854 9–26–80 / Collection of claims under the Federal Claims Collection Act of 1966; comments by 11–25–80

FEDERAL TRADE COMMISSION

64597 9–30–80 / Farnam Cos. Inc. et al.; consent agreement with analysis to aid public comment; comments by 11–28–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

63845 9–26–80 / Grants for health education-risk reduction, programs to discourage children and adolescents from smoking; and alcohol use; comments by 11–25–80

Food and Drug Administration—

63876 9–26–80 / Anorectal products (OTC); reopening of record for camphor-containing drug products; comments by 11–25–80

63869 9–26–80 / Camphorated oil and camphor-containing drug products for over the-counter human use; comments by 11–25–80

63874 9–26–80 / Cold, cough, allergy bronchodilator, and antiasthmatic products (OTC); reopening of record for camphor-containing drug products, comments by 11–25–80

63878 9–26–80 / External analgesic drug products (OTC); reopening of record for camphor-containing products; comments by 11–25–80

70444 10–24–80 / Food additive regulations; antioxidants and/or stabilizers; objections by 11–24–80

Health Care Financing Administration—

64008 9–26–80 / Medicare, incentive reimbusement for outpatient dialysis and self-care dialysis training; comments by 11–25–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of the Assistant Secretary for Housing—

64211 9–29–80 / Mortgagor and tenant relationship—mortgagor relationship to tenant activities; comments by 11–28–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

57680 8–28–80 / Designation of critical habitat for the endangered Maryland darter fish; comments by 11–26–80

64113 9–26–80 / Merriam's Montezuma quail, removal from List of Endangered and Threatened Wildlife; petition acceptance and status review; comments by 11–25–80

54111 8–14–80 / Proposed threatened status for the leopard in Sub-Saharan Africa; comment period extended to 11–24–80

[*See also* 45 FR 19007, 3–24–80]

Indian Affairs Bureau—

70284 10–23–80 / Land records and title documents; comments by 11–24–80

64472 9–29–80 / Special education, Indian children; comments by 11–28–80

Surface Mining Reclamation and Enforcement Office—

70480 10–24–80 / Abandoned Mine Lands Reclamation Program, comments by 11–24–80

[Orginally published at 45 FR 63002, 9–23–80]

63002 9–23–80 / State reclamation grants; filing of financial and performance reports, and identification of specific forms; comments by 11–24–80

INTERSTATE COMMERCE COMMISSION

70923 10–27–80 / Motor carriers household goods transportation; revision of operational regulations; comments by 11–26–80

LABOR DEPARTMENT

Employment Standards Administration—

70479 10–24–80 / Labor standards for further service contracts; comments period extended to 11–24–80

[*See also* 44 FR 77036, December 28, 1979]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

63506 9–25–80 / Space transportation system; reimbursement for Spacelab service; comments by 11–24–80

NUCLEAR REGULATORY COMMISSION

67099 10–9–80 / Plan to require licensees and applicants to document deviations from the standard review plan; comments by 11–24–80

67018 10–8–80 / Standards for protection against radiation; comments by 11–24–80

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PENSION BENEFIT GUARANTEE CORPORATION

72213 10–31–80 / Proposed agenda of priority regulations under the Multiemployer Pension Plan Amendments Act of 1980; comments by 11–28–80

POSTAL SERVICE

70287 10–23–80 / Locks on rural mailboxes; comments by 11–24–80

SMALL BUSINESS ADMINISTRATION

66807 10–8–80 / Revision to business loan and guarantee standards; comments by 11–24–80

STATE DEPARTMENT

Office of the Secretary—

73100 11–4–80 / Appointment of foreign service officers; comments by 11–27–80

TRANSPORTATION DEPARTMENT

Coast Guard—

67708 10–14–80 / Shipment of bulk liquid hazardous waste cargoes by water; comments by 11–28–80

Federal Aviation Administration—

64207 9–29–80 / Aircraft identification and registration; marking, size requirements; comments extended to 11–28–80

[Originally published at 45 FR 50810, 7–31–80]

72020 10–30–80 / Airworthiness Standards; aircraft and products design and procedural standards for type certificates, type certificate amendments, and supplemental type certificates; comments extended to 11–26–80

[Originally published at 45 FR 57688, 8–28–80]

72017 10–30–80 / FAA access to flight data recorder and cockpit voice recorder tapes; comments extended until 11–26–80

[Originally published at 45 FR 57694, 8–28–80]

59295 9–8–80 / Operations review program; reply comments by 11–23–80

70237 10–23–80 / Solicitation and leafletting procedures at Washington National and Dulles International Airports; comments by 11–24–80

64468 9–29–80 / Highway beautification; on premise signs; comments by 11–28–80

67107 10–9–80 / Parts and accessories necessary for safe operation; rear-vision mirrors; comments by 11–24–80

National Highway Traffic Safety Administration—

70922 10–27–80 / Motor vehicle safety standards; tire sizes and load factors; comment period extended to 11–28–80

[*See also* 45 FR 57466, 8–28–80]

67106 10–9–80 / Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards; comments by 11–24–80

TREASURY DEPARTMENT

Comptroller of the Currency—

64196 9–29–80 / Adjustable rate mortgages; comments by 11–28–80

Customs Service—

70476 10–24–80 / Personal declarations and exemptions provisions; comments by 11–23–80

64211 9–29–80 / Proposed change in the field organization; extending the existing port limits of Sandusky, Ohio; comments by 11–28–80

Internal Revenue Service—

63879 9–26–80 / Employment taxes; interest-free adjustment for erroneous filing of FICA and RRTA returns; comments by 11–25–80

63297 9–24–80 / Interim rule for determining base prices for tier 2 and tier 3 oil; comments by 11–24–80

Deadlines for Comments On Proposed Rules for the Week of November 30 through December 6, 1980

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation—

64588 9–30–80 / Pea Crop Insurance regulations; comments by 12–1–80

Food and Nutrition Service—

65932 10–3–80 / Food Stamps; performance reporting and sanction/incentive system; comments by 12–3–80

Food Safety and Quality Service—

71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80

Rural Electrification Administration—

64596 9–30–80 / Revision of REA Bulletin 181–3; Accounting interpretations for rural electric borrowers; comments by 12–1–80

Soil Conservation Service—

65603 10–3–80 / Small Watershed Protection and Flood Prevention Act; intent to review regulations, policies and procedures; comments by 12–1–80

ALASKA NATURAL GAS TRANSPORTATION SYSTEM, OFFICE OF FEDERAL INSPECTOR

73081 11–4–80 / Reimbursement of costs from sponsoring companies; comments by 12–4–80

ARTS AND HUMANITIES NATIONAL FOUNDATION

65635 10–3–80 / Employers part-time career employment; comments by 11–30–80

CIVIL AERONAUTICS BOARD

71365 10–28–80 / Airlines filing tariffs stating prices as maximum amounts; comments by 12–1–80

73086 11–4–80 / Classification and exemption of air taxi operators; comments by 12–4–80

COMMERCE DEPARTMENT

Census Bureau—

65250 10–2–80 / Miscellaneous amendments to the Foreign Trade Statistics Regulations; comments by 12–1–80

[Corrected at 45 FR 68965, 10–17–80]

Maritime Administration—

66167 10–6–80 / Research and development grant and cooperative agreements regulations; comments by 12–5–80

National Oceanic and Atmospheric Administration—

64996 10–1–80 / Atlantic groundfish fishery; comments by 12–1–80

65641 10–3–80 / Foreign fishing in the Northern Pacific Ocean and Bering Sea; catch documentation and reporting procedures; comments by 12–2–80

DEFENSE DEPARTMENT

Army Department—

73103 11–4–80 / Privacy Act systems of records; amendment of exemption rule; comments by 12–4–80

Engineers Corps—

62732 9–19–80 / Amendment of regulations for controlling certain activities in waters of the United States; comments by 12–1–80

70511 10–24–80 / Florida navigation locks regulations; comments by 11–30–80

National Security Agency—

71373 10–28–80 / Privacy Act systems of records; exemption rules; comments by 12–1–80

EDUCATION DEPARTMENT

Office of the Secretary—

73514 11–5–80 / Minority Institution Science Improvement Program (MISIP); grant regulations; comments by 12–5–80

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

74505 11–10–80 / Natural Gas Policy Act of 1978; alternative fuel price ceilings for incremental pricing; comments by 12–5–80

73692 11–6–80 / Treatment under the incremental pricing program of natural gas used as boiler fuel to raise steam which forms an integral step in the manufacturing process for fertilizer, agricultural chemicals, animal feed, and food; comments extended to 12–1–80

[Originally published at 45 FR 13122, 2–28–80]

ENVIRONMENTAL PROTECTION AGENCY

72708 11–3–80 / Acephate; proposed tolerance in or on mint hay; comments by 12–3–80

72221 10–31–80 / Air programs, Idaho; primary nonferrous smelter order to Bunker Hill Co.; comments by 12–1–80

72219 10–31–80 / Air quality implementation plan, Idaho; control of sulfur dioxide emissions from Bunker Hill Co. lead and zinc smelter; comments by 12–1–80

65630 10–3–80 / Air quality implementation plan, Missouri, approval, promulgation, and designation of areas; comments by 12–2–80

69271 10–20–80 / California, air quality; sulfur-dioxide nonattainment area boundaries for Kern County; comment period extended to 12–1–80

[*See also* 45 FR 55231, 8–19–80 and 45 FR 60931, 9–15–80]

72217 10–31–80 / Consideration of Ohio Implementation Plan revision; comments by 12–1–80

73440 11–4–80 / Guidelines for development and implementation of State solid waste management plans; comments by 12–4–80

60929 9–15–80 / Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act; comments by 11–30–80

62851 9–22–80 / Importation of motor vehicles and motor vehicle engines; comments by 12–3–80

70917 10–27–80 / Michigan air quality implementation plan; comment period extended to 11–30–80

[*See also* 45 FR 59329, 9–9–80]

70287 10–23–80 / Oklahoma; Submission for approval of interim authorization plan, Phase I, hazardous waste management plan; comments by 12–2–80

65633 10–3–80 / Pesticide use violations; procedures governing rescission of State primary enforcement responsibility; comments by 12–2–80

65633 10–3–80 / Pesticide use violations; rescission of States' primary enforcement responsibility; comments by 12–2–80

71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80

65262 10–2–80 / Receipt of revision to take, Great Basin Unified, Modoc, Imperial and San Bernardino Air Pollution Control Districts; comments by 12–1–80

72215 10–31–80 / Request for comments on deadline for remedying of conditionally approved portions of Ohio State Implementation plan; comments by 12–1–80

73520 11–5–80 / Revision of the Delaware State Implementation Plan; comments by 12–5–80

68403 10–15–80 / Rulemaking petition to require that generators and transporters of small quantities of hazardous waste comply with manifest, packaging, labeling and recordkeeping requirements; comments by 12–1–80

72709 11–3–80 / Solid waste disposal facilities and practices, criteria for classification; comments by 12–3–80

64856 9–30–80 / State implementation plans; approval of 1982 ozone and carbon monoxide plan revisions for areas needing an attainment date extension; comments by 12–1–80

71818 10–30–80 / State Solid Waste Management Plans, guidelines for development and implementation; comments by 12–1–80

73601 11–5–80 / Strychrine; preliminary notice of determination concluding the rebuttable presumption against registration of pesticide products; availability of position document; comments by 12–5–80

72232 10–31–80 / Water pollution; ink formulating; point source category effluent limitations guidelines; comments by 12–1–80

72232 10–31–80 / Water pollution; paint formulating; point source category effluent limitations guidelines; comments by 12–1–80

FEDERAL COMMUNICATIONS COMMISSION

37468 6–3–80 / Availability of additional FM frequencies and modification of procedures used in assigning such channels; reply comments by 12–1–80

[*See also* 45 FR 17602, 3–19–80 and 45 Fr 26390, 4–18–80]

63516 9–25–80 / Conversion of radiation patterns for AM Broadcast Stations; reply comments by 12–2–80

69499 10–21–80 / FM broadcast station in Alliance, Nebr.; proposed changes in tables of assignments; comments by 12–2–80

69502 10–21–80 / FM broadcast station in Hilton Head Island, S.C.; proposed changes in table of assignments; comments by 12–2–80

69501 10–21–80 / TV broadcast stations in Madisonville, Owensboro and Princeton, Ky., proposed changes in tables of assignments; comments by 12–2–80

69497 10–21–80 / TV broadcast station in Rio Grande City, Tex.; proposed changes in table of assignments; comments by 12–2–80

64981 10–1–80 / TV broadcast station in Santa Barbara, Calif.; changes in table of assignments; reply comments by 12–5–80

FEDERAL HOME LOAN BANK BOARD

66798 10–7–80 / Graduated payment adjustable mortgage; comments by 12–1–80

66801 10–8–80 / Shared appreciation mortgage; comments by 12–1–80

FEDERAL TRADE COMMISSION

65255 10–2–80 / Darworth Co.; consent agreement with analysis to aid public comment; comments by 12–1–80

65252 10–2–80 / Murata Manufacturing Co., Ltd.; consent agreement with analysis to aid public comment; comments by 12–1–80

[Corrected at 45 FR 67360, 10–10–80]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

64978 10–1–80 / Records management; stationery standards; comments by 12–1–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

65619 10–3–80 / Medical devices; labeling and restrictions to assure safe and effective use; comments by 12–2–80

71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80

Health Care Financing Administration—

71821 10–30–80 / Medicaid program; deeming of income between spouses; comments by 12–1–80

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

73272 11–4–80 / Section 8 and Section 23 Housing Assistance Payments Program; amendment of fair market rent schedules for existing housing; comments by 12–3–80

Office of the Secretary—

65258 10–2–80 / Siting of HUD-assisted project in locations with marginal or unacceptable air quality; comments by 12–1–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

58171 9–2–80 / Endangered and threatened wildlife; review of three southeastern fishes; comments by 12–1–80

Heritage Conservation and Recreation Service—

66179 10–6–80 / Energy conservation by recipients of Federal assistance; comments by 12–5–80

Indian Affairs Bureau—

72699 11–3–80 / Accounting procedures, internal; Indian moneys, proceeds of labor and special deposits; comments by 12–3–80

Land Management Bureau—

68506 10–15–80 / Grazing administration and trespass on public land; comments by 12–1–80

National Park Service—

73518 11–5–80 / Restrictions on consumption of alcoholic beverages within Valley Force National Historical Park; comments by 12–5–80

Surface Mining Reclamation and Enforcement Office—

74513 11–10–80 / Kansas regulatory program, resubmission; comments by 11–26–80

71816 10–30–80 / Surface coal mining reclamation operations, State or Federal programs; comments by 12–1–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

65258 10–2–80 / Review of collection of civil claims; comments by 12–1–80

INTERSTATE COMMERCE COMMISSION

73106 11–4–80 / Feeder railroad development program implementation; comments by 12–4–80

68696 10–16–80 / Procedures to permit carriers to reroute traffic automatically for 30 days when necessary for reason beyond carriers control; comments by 12–1–80

67272 10–9–80 / Public forum on interstate motor carrier study, Washington, D.C. (open), 11–25–80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

64572 9–30–80 / Exempt chemical preparation containing controlled substances; comments by 12–1–80

64572 9–30–80 / Exempt chemical preparation containing controlled substances; comments by 12–1–80

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—

65640 10–3–80 / Federal Acquisition regulations; safeguarding classified information in industry, contractor team arrangements, and defense production and research and development pools; comments by 12–3–80

LABOR DEPARTMENT

Labor Management Standards Enforcement Office—

65926 10–3–80 / Labor organizations; election enforcement procedures; comments by 12–2–80

PENSION BENEFIT GUARANTY CORPORATION

65259 10–2–80 / Allocation of residual assets; comments by 12–1–80

PERSONNEL MANAGEMENT OFFICE

65603 10–3–80 / Political participation by Federal employees in local elections; partial exemption from Hatch Act restrictions for residents of New Carrollton, Md.; comments by 12–2–80

POSTAL SERVICE

73518 11–5–80 / Domestic Mail Manual; definition of the terms "newspaper" and "periodical publication"; comments by 12–4–80

73103 11–4–80 / International express mail rates to Argentina; comments by 12–4–80

SECURITIES AND EXCHANGE COMMISSION

71776 10–30–80 / Debt securities, establishing ceiling limitations on the amount; comments by 11–30–80

74505 11–10–80 / Financial and Operational Combined Uniform Single ("FOCUS") Report; revision of form and filing requirements; comment period extended to 11–30–80

[*See also* 45 FR 62092 9–18–80]

71811 10–30–80 / Report of sales of securities; comments by 12–5–80

72685 11–3–80 / Securities resales; amount limitation, manner of sale and notice requirements; lessening of restrictions; comments by 12–1–80

SMALL BUSINESS ADMINISTRATION

66174 10–6–80 / Proposed business loan policy; comments by 12–5–80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

74940 11–13–80 / Bikeway design and construction criteria; comments extended from 11–3–80 to 12–3–80

[*See also* 45 FR 51720, 8–4–80]

51625 8–4–80 / Consideration of revision of regulations for transportation of migrant workers; comments by 12–2–80

National Highway Traffic Safety Administration—

70282 10–23–80 / Highway safety innovative project grants program; comments by 12–1–80

Research and Special Programs Administration—

69272 10–20–80 / Hazardous materials; withdrawal of certain Bureau of Explosives authority delegations and miscellaneous amendments; comments by 12–5–80

Urban Mass Transportation Administration—

56742 8–25–80 / Section 5 operation assistance regulations, comments by 12–1–80

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

69249 10–20–80 / Distilled Spirits Tax Revision Act of 1979, implementation; comment period extended to 12–1–80

[*See also* 44 FR 71612, 12–11–79 and 45 FR 54087, 8–14–80]

Customs Service—

64601 9–30–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act; comments by 12–3–80

Next Week's Meetings

ARTS AND HUMANITIES, NATIONAL FOUNDATION

71868 10–30–80 / Humanities Panel, Washington, D.C. (closed), 11–24–80

73564 11–5–80 / Visual Arts (Craft Exhibition), Wash., D.C., (closed), 11–24 and 11–25–80

COMMERCE DEPARTMENT

Census Bureau—

71637 10–29–80 / Census Advisory Committee of the American Marketing Association, Suitland, Md. (open), 11–25–80

National Oceanic and Atmospheric Administration—

72242 10–31–80 / Caribbean Fishery Management Council, Scientific and Statistical Committee, Hato Rey, Puerto Rico (open), 11–25–80

73529 11–5–80 / New England Fishery Management Council's Sea Herring Fishery Subpanel, (open) Saugus, Mass., 11–25–80

74003 11–7–80 / North Pacific Fishery Management Council's Inter-Council Salmon Coordination Subcommittees, Portland, Oreg. (open), 11–24–80

Office of the Secretary—

71636 10–29–80 / National Laboratory Accreditation Criteria Committee for freshly mixed field concrete, Washington, D.C. (open), 11–25–80

DEFENSE DEPARTMENT

Air Force Department—

74016 11–7–80 / USAF Scientific Advisory Board, Wright-Patterson Air Force Base, Ohio (closed), 11–24–80

Navy Department—

73119 11–4–80 / Navy Resale System Advisory Committee, New York, N.Y. (partially closed), 11–24–80

Office of the Secretary—

62177 9–18–80 / DOD Wages Committee, Washington, D.C. (closed), 11–25–80

71412 10–28–80 / National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, Washington, D.C. (open), 11–25–80

74960 11–13–80 / National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, Fort Lesley J. McNair, Washington, D.C., (open), 11–25 through 12–2–80

ECONOMIC OPPORTUNITY NATIONAL ADVISORY COUNCIL

73121 11–4–80 / Meetings, Berkeley, Calif. (open), 11–24 and 11–25–80

EDUCATION DEPARTMENT

71643 10–29–80 / National Advisory Committee on Black Higher Education and Black Colleges and Universities, Washington, D.C. (open), 11–24 and 11–25–80

73120 11–4–80 / Vocational Education National Advisory Council, Washington, D.C. (open), 11–24–80

ENVIRONMENTAL PROTECTION AGENCY

74039 11–7–80 / Science Advisory Board, Environmental Health Committee, Washington, D.C. (open), 11–25–80

GOVERNMENT PRINTING OFFICE

72797 11–3–80 / Micropublishing Advisory council to the Public Printer, Washington D.C. (open), 11–24–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

70573 10–24–80 / Ophthalmic Devices Section of the Ophthalmic, Ear, Nose and Throat and Dental Devices Panel, Washington, D.C. (open), 11–24 and 11–25–80

Health Services Administration—

68464 10–15–80 / Board of Scientific Counselors, NICHD, Bethesda, Md. (closed), 11–24–80

National Institutes of Health—

72799 11–3–80 / Heart, Lung, and Blood Research Review Committees A and B, Bethesda, Md. (partially open), 12–5 and 12–6–80 (2 documents)

74263 11–7–80 / Institutional Biosafety Committee Chairpersons, Washington, D.C. (open), 11–24 and 11–25–80

68467 10–15–80 / Minority Access to Research Careers Review Committee, Bethesda, Md. (open and closed), 11–24 and 11–25–80

68468 10–15–80 / National Heart, Lung, and Blood Advisory Council, Bethesda, Md., (open and closed), 11–24 and 11–25–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

73563 11–5–80 / NASA Advisory Council, Aeronautics Advisory Committee (AAC), Moffett Field, Calif., (open) 11–24 and 11–25–80

NUCLEAR REGULATORY COMMISSION

75030 11–13–80 / Advisory Committee on Reactor Safeguards, Three Mile Island Nuclear Plant, Unit No. 1, Subcommittee, Washington, D.C., (open), 11–28 and 11–29–80

RAILROAD RETIREMENT BOARD

69078 10–17–80 / Actuarial Advisory Committee, Chicago, Ill., (open), 11–24–80

TRANSPORTATION DEPARTMENT

Coast Guard—

62949 9–22–80 / Coast Guard Academy Advisory Committee, New London, Conn., (open), 11–24 and 11–25–80

[Rescheduled at 45 FR, 67818; 10–14–80]

Federal Highway Administration—

67272 10–9–80 / Public forum on interstate motor carrier study, Washington, D.C. (open), 11–25–80

VETERANS ADMINISTRATION

59470 9–9–80 / Wage Committee, Washington, D.C., (closed), 11–25–80

Next Week's Public Hearings

CIVIL AERONAUTICS BOARD

70950 10–27–80 / Continental-Western Merger Case, Washington, D.C., 11–24–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

73684 11–6–80 / Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calulation, Washington, D.C., 11–25–80

FEDERAL ENERGY REGULATORY COMMISSION—

74505 11–10–80 / Natural gas; incremental pricing; calculation of alternative fuel price ceilings, Washington, D.C., 11–24–80

ENVIRONMENTAL PROTECTION AGENCY

71538 10–28–80 / Air pollution; standards of performance for new stationary sources; publication rotogravure printing, Research Triangle Park, N.C., 11–25–80

70313 10–23–80 / Clean Air Act program grant to the State of Oregon, Portland, Oreg., 11–24–80

70287 10–23–80 / Oklahoma: Submission for approval of interim authorization plan, Phase I, hazardous waste management plan, Oklahoma City, Okla., 11–25–80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

74513 11–10–80 / Resubmitted Kansas permanent regulatory program, Pittsburgh, Kans., 11–24–80

INTERNATIONAL TRADE COMMISSION

66925 10–8–80 / Certain inclined-field acceleration tubes and components, Washington, D.C., 11–25–80

[Originally scheduled for 10–30–80 *see* 45 FR 63389, 9–24–80]

LABOR DEPARTMENT

Pension and Welfare Benefit Programs Office—

74513 11–10–80 / Single employer plans; individuals benefit reporting and recordkeeping; Washington, D.C., 11–25–80

TREASURY DEPARTMENT

Office of the Secretary—

68686 10–16–80 / Proposed regulations to set standards for opinions by practitioners before the Internal Revenue Service used in promotion of tax shelters, Wash., D.C., 11–25–80

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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96-483 was published in the Reader Aids section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

Rules Going Into Effect

74928 11-13-80 / CSA—State agency assistance funded under Section 231 of the Economic Opportunity Act; policy statement revision and changes in administrative requirements; effective 12-15-80

74900 11-13-80 / Commerce/EDA—Public Works and Development Facilities Programs; clarifying amendments concerning certain types of programs which may be funded; effective 11-13-80

74680 11-10-80 / Interior/OSM—Mining and mineral resources research institutes and mineral research projects, effective 12-10-80

75610 11-14-80 / HUD/NVACP—Neighborhood self-help development program requirements; effective 1-15-81

75568 11-14-80 / OPM—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance; effective 12-15-80

Deadlines for Comments on Proposed Rules

74940 11-13-80 / HUD/CPGD—Community Development Block grants; community development assistance programs; clarification of HUD's policies governing program; comments by 1-12-81

66463 10-7-80 / USDA/FNS—Food Stamp program; demonstration, research, and evaluation projects; comments by 11-14-80

[Corrected at 45 FR 75218, 11-14-80]

Applications Deadlines

75301 11-14-80 / DOE/SOLAR—Loan guarantees for Alcohol fuels and biomass energy projects; apply by 12-31-80

74961 11-13-80 / ED/Office of Postsecondary Education—Strengthening Developing Institutions Program; Apply by 1-19-81

74778 11-12-80 / HHS/HRA—Expanded Function Dental Auxiliary Training; apply by 11-28-80

74776 11-12-80 / HHS/HRA—Physician Assistant Training Programs; apply by 12-8-80

74777 11-12-80 / HHS/HRA—Predoctoral Training in Family Medicine; apply by 11-21-80

74779 11-12-80 / HHS/HRA—Residency Training in General Practice of Dentistry; apply by 12-12-80

Application Deadlines

74612 11-10-80 / Harry S. Truman Scholarship Foundation; nominations from institutions of higher education for Truman Scholarships; apply by 12-1-80

Meetings

74568 11-10-80 / HHS/HDSO—Child Abuse and Neglect Advisory Board, Washington, D.C. (open), 11-13-80

74597 11-10-80 / NFAH—Music Panel (Chorus Section), Washington, D.C. (partially closed), 11-5 through 11-9-80

75369 11-14-80 / NFAH—Music Panel (Orchestra Section), Washington, D.C. (partially open), 11-17 through 11-20-80

75369 11-14-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12-1 through 12-5, 12-8, 12-9, 12-11, 12-12, 12-16 and 12-18-80

75416 11-14-80 / NSF—National Science Board, Washington, D.C. (partially open), 11-20 and 11-21-80

Meetings

74525 11-10-80 / USDA/SEA—Committee of Nine, New Orleans, La. (open), 12-4-80

Other Items of Interest

75045 11-13-80 / DOT/FHA—Public Service Archeology Grant Program Academic Year 1981-82 at the University of South Carolina

75144 11-13-80 / DOT/UMTA—Urbanized Area Formula Apportionments for Fiscal Year 1981

75564 11-14-80 / ED—Education amendments of 1980; intent to develop regulations

74558 11-10-80 / ED—Education Appeal Board; prehearing conference on appeal of State of Arizona contesting audit determinations, Washington, D.C., 12-10 and 12-11-80

74598 11-10-80 / OMB—Agency forms under review

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